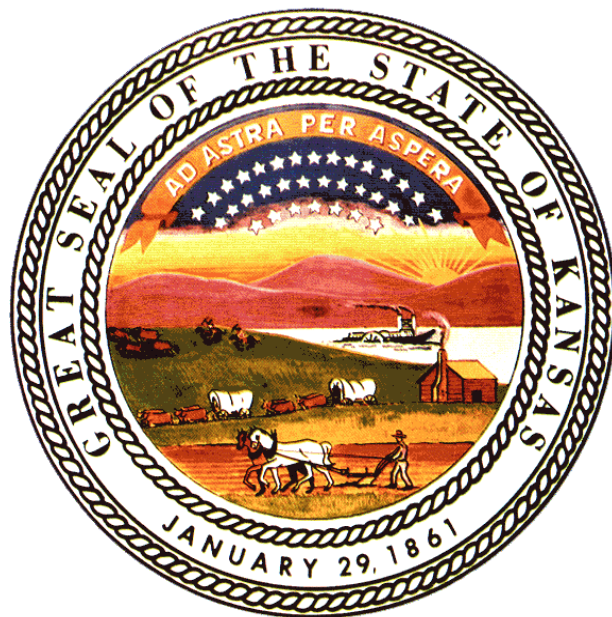


# KANSAS SENTENCING COMMISSION

FY 2001 ANNUAL REPORT



JUNE 2002

**THE KANSAS SENTENCING COMMISSION**

**Jayhawk Tower**

**700 S.W. Jackson, Suite 501**

**Topeka, KS 66603-3757**

**Phone: (785) 296-0923      Facsimile: (785) 296-0927**

**Web Site: <http://www.ink.org/public/ksc/>**



# **KANSAS SENTENCING COMMISSION**

**ANNUAL REPORT  
FY 2001**

## *Analysis Of Sentencing Guidelines In Kansas*

**Honorable Paul E. Miller  
Chair**

**Paul Morrison  
Vice Chair**

**Barbara S. Tomb  
Executive Director**



---

## MEMBERSHIP OF THE KANSAS SENTENCING COMMISSION

**Honorable Paul E. Miller, Chair**  
Chief Judge, 21st Judicial District

**Paul Morrison, Vice Chair**  
District Attorney

**Honorable Robert L. Lewis, Jr.**  
Kansas Court of Appeals

**David Adkins**  
Kansas Senate

**Honorable Ernest Johnson**  
District Judge, 29<sup>th</sup> Judicial District

**Greta Goodwin**  
Kansas Senate

**Robert Claus**  
Kansas Deputy Attorney General

**Janice Pauls**  
Kansas House of Representatives

**Charles E. Simmons**  
Secretary of Corrections

**Shari Weber**  
Kansas House of Representatives

**Irving Shaw**  
Private Defense Attorney

**Rick Kittel**  
Public Defender

**Annie Grevas**  
Community Corrections

**Dan R. Hoisington**  
Mayor of Paradise, Kansas

**Marilyn Scafe**  
Kansas Parole Board

**Patricia O'Day**  
Public Member

**Chris Mechler**  
Court Services

---

## THE STAFF OF THE KANSAS SENTENCING COMMISSION

**Barbara S. Tombs**  
*Executive Director*

**Kunlun Chang**  
*Director of Research*

**Joe Herold**  
*Staff Attorney*

**Brenda K. Harmon**  
*Executive Assistant*

**Janice Brasher**  
*Director of Statistical Analysis  
Center*

**Fengfang Lu**  
*Research Analyst II*

**Jim Frederick**  
*Director of Fiscal Services*

**Lora Moison**  
*Research Analyst*

**Ronald D. McVeigh**  
*Management Systems Analyst*

**Paula Daniels**  
*Office Specialist*

**Yolanda Taylor**  
*Grant Specialist*

---

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

---



**State of Kansas**  
**KANSAS SENTENCING COMMISSION**

Honorable Paul E. Miller, Chairman  
District Attorney Paul Morrison, Vice Chairman  
Barbara S. Tombs, Executive Director

June 3, 2002

To: The Honorable Bill Graves, 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

K.S.A. 2000 Supp. 74-9101 outlines the duties and responsibilities of the Kansas Sentencing Commission, which include the monitoring and evaluation of Sentencing Guidelines. Pursuant to this statutory obligation, we respectfully submit for your review the 2001 Annual Report of the Sentencing Commission.

Information provided in this report is extracted from the felony sentencing database that is maintained by the Sentencing Commission and reflects sentencing data provided to the Commission through sentencing journal entry forms submitted from each Judicial District in the state. This report provides a comprehensive examination of felony sentences imposed during fiscal year 2001. In addition, the report provides an analysis of conformity to guidelines for both prison and nonprison felony sentences and sentencing trends for the state. Finally, the report presents the ten-year prison population projections for state correctional facilities.

Fiscal year 2001 marks the eighth anniversary of the implementation of the Sentencing Guidelines Act. The Commission spent a considerable amount of time over the past year examining the effectiveness of sentencing guidelines in meeting specific objectives set forth by its designers. The Commission reviewed issues of proportionality in sentencing and the impact of current sentencing policy on prison population growth. This report is intended to provide policy makers and practitioners with an overview of felony sentencing practices and trends for the state of Kansas.

The Commission wishes to acknowledge those individuals in the field whose diligent work with the guidelines enables us to produce this report. If you have any questions regarding this report or the Sentencing Commission in general, please contact our office.

Respectfully Submitted,

Barbara S. Tombs  
Executive Director





---

---

# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>ix</b>
<b>CHAPTER ONE: SENTENCING IN KANSAS .....</b>	<b>1</b>
Sentences Reported in FY 2001 .....	1
Characteristics of Offenders and Offenses .....	7
Incarceration Sentences.....	11
Probation Sentences .....	20
<b>CHAPTER TWO: VIOLATORS.....</b>	<b>28</b>
Violations Resulting in Incarceration .....	28
Violators Continuing and Extending on Probation .....	40
<b>CHAPTER THREE: CONFORMITY TO THE SENTENCING GUIDELINES .....</b>	<b>42</b>
Overall Conformity Rates .....	42
Conformity of Presumptive Prison Guideline Sentences .....	44
Conformity of Presumptive Probation Guideline Sentences .....	45
Conformity of Nondrug and Drug Guideline Sentences .....	46
Conformity Rates to the Guidelines by Severity Level .....	47
Conformity Rates to the Guidelines by Race .....	50
Conformity Rates to the Guidelines by Gender .....	54
<b>CHAPTER FOUR: SENTENCING TRENDS AND FORECAST .....</b>	<b>58</b>
Incarceration Sentences .....	58
Probation Sentences.....	60
Prison Population Forecasts.....	62
Custody Classification Projection.....	65
<b>APPENDIX I: SENTENCES FROM THE TOP FOUR COUNTIES .....</b>	<b>67</b>
<b>APPENDIX II: TRENDS OF SELECTED OFFENSES .....</b>	<b>72</b>
<b>APPENDIX III: THE KANSAS SENTENCING COMMISSION.....</b>	<b>76</b>

## LIST OF TABLES

Table 1	Number of FY 2001 Sentences Reported by Month .....	1
Table 2	FY 2001 Offender Characteristics by County .....	3
Table 3	FY 2001 Offender Characteristics by Type of Offense .....	9
Table 4	FY 2001 Incarceration Nondrug Offender Characteristics by Type of Offense .....	14
Table 5	FY 2001 Incarceration Drug Offender Characteristics by Type of Offense .....	16
Table 6	Distribution of FY 2001 Incarceration Sentences by Admission Type .....	17
Table 7	Distribution of FY 2001 Incarceration Sentences by Severity Level and Gender .....	18
Table 8	Characteristics of Probation Nondrug Offenders by Type of Offense.....	23
Table 9	Characteristics of Probation Drug Offenders by Type of Offense .....	25
Table 10	Characteristics of Probation Nondrug Offenders by Severity Level .....	25
Table 11	Characteristics of Probation Drug Offenders by Severity Level .....	26
Table 12	Criminal History and Probation Length by Severity Level: Nondrug Offenders .....	27
Table 13	Criminal History and Probation Length by Severity Level: Drug Offenders .....	27
Table 14	Characteristics of Overall Violators by Severity Level, Race, and Gender .....	31
Table 15	Top 10 Most Frequent Committing Offenses of Probation Nondrug Violators .....	32
Table 16	Characteristics of Drug Probation Violators by Type of Offense .....	33
Table 17	Distribution of Probation Violators by Severity Level and Criminal History .....	33
Table 18	Top 10 Most Frequent Committing Offenses of Parole/Postrelease Nondrug Violators .....	34
Table 19	Characteristics of Parole/Postrelease Drug Violators by Type of Offense .....	35
Table 20	Distribution of Parole/Postrelease Supervision Violators by Severity Level and Criminal History .....	35
Table 21	Top 10 Most Frequent Committing Offenses of Conditional Release Violators: Nondrug Offenders .....	36
Table 22	Characteristics of Conditional Release Violators by Type of Offense: Drug Offenders .....	36
Table 23	Distribution of FY 2001 Violators with New Sentences by Severity Level .....	39
Table 24	Criminal History by Severity Levels of Condition Probation Violators Continuing and Extending on Probation .....	40
Table 25	Criminal History by Severity Levels of Probation Violators with New Convictions Continuing and Extending on Probation .....	41
Table 26	Conformity Rates by Severity Level - Incarceration Sentences .....	48
Table 27	Conformity Rates by Severity Level - Probation Sentences .....	49
Table 28	Conformity Rates by Race - Incarceration Sentences: Drug Offenders .....	50
Table 29	Conformity Rates by Race - Incarceration Sentences: Nondrug Offenders .....	51
Table 30	Conformity Rates by Race - Probation Sentences: Drug Offenders .....	52
Table 31	Conformity Rates by Race - Probation Sentences: Nondrug Offenders .....	53

---

---

## LIST OF TABLES (CONTINUED)

Table 32	Conformity Rates by Gender - Incarceration Sentences: Drug Offenders .....	54
Table 33	Conformity Rates by Gender - Incarceration Sentences: Nondrug Offenders .....	55
Table 34	Conformity Rates by Gender - Probation Sentences: Drug Offenders .....	56
Table 35	Conformity Rates by Gender - Probation Sentences: Nondrug Offenders .....	57
Table 36	Prison Admissions by Month .....	58
Table 37	Comparison of Prison Admissions by Type: FY 1997 Through FY 2001 .....	59
Table 38	Comparison of Incarceration Drug Sentences by Severity Level FY 1997 Through FY 2001 .....	59
Table 39	Comparison of Incarceration Nondrug Sentences by Severity Level FY 1997 Through FY 2001 .....	60
Table 40	Comparison of Probation Drug Sentences by Severity Level FY 1997 Through FY 2001 .....	61
Table 41	Comparison of Probation Nondrug Sentences by Severity Level FY 1997 Through FY 2001 .....	62
Table 42	Ten Years Inmate Prison Population Projection.....	64
Table 43	Ten Years Custody Classification Projection .....	65

---



---

## LIST OF FIGURES

Figure 1	Distribution of FY 2001 Sentences by Gender of Offenders .....	7
Figure 2	Distribution of FY 2001 Sentences by Race of Offenders .....	7
Figure 3	Distribution of FY 2001 Sentences by Ethnicity of Offenders .....	8
Figure 4	Distribution of FY 2001 Sentences by Age of Offenders at Time of Offense .....	8
Figure 5	FY 2001 Incarceration Sentences by Gender of Offenders .....	11
Figure 6	FY 2001 Incarceration Sentences by Race of Offenders .....	11
Figure 7	FY 2001 Incarceration Sentences by Ethnic Origin of Offenders .....	12
Figure 8	FY 2001 Incarceration Sentences by Age of Offenders at Time of Admission .....	12
Figure 9	FY 2001 Incarceration Sentences by Education Level of Offenders .....	13
Figure 10	FY 2001 Incarceration Sentences: Nondrug Offenders by Severity Level .....	19
Figure 11	FY 2001 Incarceration Sentences: Drug Offenders by Severity Level .....	19
Figure 12	Distribution of FY 2001 Probation Sentences by Gender .....	20
Figure 13	Distribution of FY 2001 Probation Sentences by Race .....	20
Figure 14	Distribution of FY 2001 Probation Sentences by Age at Time of Sentence .....	21
Figure 15	Distribution of FY 2001 Probation Nondrug Sentences by Severity Level .....	21
Figure 16	Distribution of FY 2001 Probation Drug Sentences by Severity Level .....	22
Figure 17	Distribution of Condition Violators by Gender .....	28
Figure 18	Distribution of Condition Violators by Race .....	29
Figure 19	Distribution of Condition Violators by Age Group.....	29
Figure 20	Distribution of Condition Violators by Severity Level: Drug Offenders .....	30
Figure 21	Distribution of Condition Violators by Severity Level: Nondrug Offenders .....	30
Figure 22	Distribution of Violators with New Sentences by Gender .....	37
Figure 23	Distribution of Violators with New Sentences by Race .....	38
Figure 24	Distribution of Violators with New Sentences by Age Group.....	38
Figure 25	Distribution of FY 2001 Overall Guideline Sentences .....	43
Figure 26	Distribution of Dispositional Departure and Border Box Sentences .....	43
Figure 27	Incarceration Guideline Sentences .....	44
Figure 28	Distribution of Durational Departure Sentences .....	44
Figure 29	Probation Guideline Sentences .....	45
Figure 30	Nondrug and Drug Guideline Sentences - Incarceration .....	46
Figure 31	Comparison of Durational Departures between Nondrug and Drug Incarceration Sentences .....	46
Figure 32	Comparison between Nondrug and Drug Probation Guideline Sentences .....	47
Figure 33	Incarceration Sentences: FY 1997 Through FY 2001 .....	58
Figure 34	Probation Sentences: FY 1997 Through FY 2001.....	61
Figure 35	Actual and Projected Prison Population .....	62
Figure 36	Projected Percentage Distribution of Custody Classifications .....	66

---

## EXECUTIVE SUMMARY

---

Activities focused on during FY 2001 by the Kansas Sentencing Commission included processing all felony sentencing journal entries, monitoring both prison and nonprison guideline sentences statewide, responding to national, state, and county requests regarding sentencing data, conducting training seminars on guidelines and various sentencing issues, producing annual state prison population projections, custody classification forecasts and providing prison bedspace impacts to the legislature and serving as an information resource for various state criminal justice agencies. The Commission spent considerable time and energy examining sentencing issues related to the implementation of sentencing guidelines. The following identifies some of the major sentencing issues presented in the report and significant developments that occurred during FY 2001.

### VIOLATORS

In examining the types and number of violators sentenced to prison during FY 2001, condition probation violators, parole/postrelease supervision condition violators and conditional release violators accounted for almost 67% (3,991) of the total prison admissions in FY 2001, representing a decrease of 13.8% from FY 2000. Of the total number of violators sentenced to prison, there were 1,330 condition probation violators, 2,552 parole/postrelease supervision condition violators, and 109 conditional release violators (page 28). Further analyses

indicated that the largest decrease in condition violators was found among the parole/postrelease supervision condition violator group, which indicated a decrease of 17% from FY 2000. SB 323, which was passed into law in May 2000, modified periods of postrelease supervision which directly impacted the reduction in the number of condition violators returned to prison. Condition probation violators also decreased by nearly 8% when compared to FY 2000. This is the second year that the number of condition probation violators admitted to prison has decreased since the guidelines were implemented in 1993. The first time a decrease of condition probation violators occurred was in FY 2000 (page 59).

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 three 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 31). This pattern of the female condition violators is consistent with data findings in FY 1998, FY 1999 and FY 2000.

When compared with FY 2000 data, condition probation violators who were either sentenced to continued or extended probation for a violation in FY 2001 increased from 1,430 to 1,477. However, condition probation violators with new

convictions who had their probation sentence either continued or extended decreased from 167 to 151. These offender groups represent 46.8% of the total 3,154 condition probation violators in FY 2001 and 35.2% of the total 429 probation violators with new convictions respectively (page 40).

### **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 2001, 7,076 pure guideline sentences were analyzed to determine conformity to the guidelines. Approximately 83% (5,864 sentences) of the guideline sentences fell within the designated guideline sentence range. Dispositional departures accounted for 11.2% of sentences and durational departures were found in 5.9% of sentences (page 43).

In examining presumptive prison sentences, 32.2 % of the sentences imposed fell within the standard range of the grid cell. In addition, 11.4% of all sentences were designated in the aggravated range; 21.2%

in the mitigated range and 35.2% were classified as border box sentences (page 44).

In an examination of durational departures, 51.8% of the durational departures were designated as downward durational departures, while 48.2% indicated upward durational departures (page 44). These percentages demonstrate a fairly equal distribution between the two types of durational departure sentences imposed.

However, further analysis of drug departure sentences revealed at 75.5% of durational departures were downward compared to only 37.9% for nondrug departure sentences (page 46).

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 48). This pattern of durational departures has remained fairly consistent over the past three years.

Dispositional departures are indicated when the sentence imposed, prison or nonprison, is different than the sentence designated under the sentencing guidelines. Only upward dispositional departures are applicable to prison sentences imposed. When drug and nondrug sentences are compared, nondrug sentences indicate a 31.2% upward dispositional departure rate while drug sentences only represented a 6.1% upward dispositional departure rate. When comparing data between FY 2000 and FY 2001, nondrug upward dispositional departures increased by 1.6% while drug dispositional departures decreased by 1.1% (page 46).

## **INCARCERATION SENTENCES**

The Commission reviews data on characteristics of offenders sentenced to prison, including gender, race and offense type. Males continued to be the predominant offender type, accounting for 91.4% of all offenders sentenced to prison. In addition, males also accounted for over 90% of the offenses of murder in the second degree, sex offenses, kidnapping, robbery, burglary, possession of firearms, traffic in contraband, criminal damage to property, sale of drugs and other aggravated crimes. Females were incarcerated more often for the offenses of forgery, false writing, giving worthless checks and possession of drugs (pages 14, 15 & 16).

White offenders represented almost 61% of individuals incarcerated in state prisons and 93.7% of all offenders were of non-Hispanic origin. The highest percentages of offenders incarcerated were in their 30's and 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, aggravated arson, arson, contributing to child's misconduct, criminal damage to property and DUI. Whereas blacks indicate the highest incarceration rates (over 50%) for the crimes of aggravated battery on law enforcement officers (LEO), aggravated kidnapping, kidnapping, aggravated robbery, robbery, and criminal use of financial cards (pages 14 & 15).

## **PROBATION SENTENCES**

In FY 2001, the Commission received a total of 6,138 felony probation sentences, which represent convictions for 4,260 nondrug

offenses and 1,878 drug offenses. The distribution of probation sentences indicates that 1,453 sentences were for person offenses, while 4,685 sentences were for nonperson offenses.

Among drug offenders receiving probation sentences, more than 70% of the sentences were for possession of drugs (page 31). Furthermore, an examination of criminal history classification indicates that 43% of drug probation offenders fell within criminal history category I, whereas only 36% of nondrug probation offenders fell within that same criminal history category.

Nearly 53% of probation drug offenders fell within the presumptive probation grid cells compared to 88% of nondrug offenders. Meanwhile, 36% of probation drug sentences fell within the designated border box grids compared to 4% of nondrug offenders. This percentage difference can be accounted for by the increased number of border boxes on the drug grid compared to the nondrug grid. The data indicates that dispositional departures were the primary source of non-prison sentences found on the drug grid.

The number of reported probation sentences decreased for the second time since FY 1996. The initial decrease was noted in FY 2000. The decrease primarily occurred among the non-person and nondrug sentences. This decrease is the continuous reflection of changes in classification from felony to misdemeanors for the offenses of driving while suspended and driving while a habitual violator, which occurred during the 1999 Legislative session.

## **DRUG SENTENCES**

A comparison of the distribution of drug offenders sentenced to prison indicates an overall increase of 19.7% between FY 1997 to FY 2001. When compared to FY 2000, drug prison sentences in FY 2001 only increased by 5 sentences; however when individual drug grid severity levels are examined, all drug levels indicated an increase, with the exception of drug level four. The most significant increase in drug prison sentences were noted on drug severity level one, representing an increase of 227% or 75 sentences (page 59).

Drug probation sentences in FY 2001 also showed an increase of 16% when compared to FY 2000. Overall drug probation sentences have increased more than 44% over the past five years. The largest number increase can be found on the drug severity level four (page 61).

## **PRISON POPULATION FORECAST**

By statute, the Kansas Sentencing Commission is responsible for developing annual prison population projections for state correctional facilities. In a cooperative effort with the Department of Corrections, data from felony journal entries, inmate stock population files and release files are analyzed and programmed into a Monte Carlo simulation projection model known as Prophet, which is used to forecast prison population over a ten-year projection period. Prison population projections are utilized by the Department of Corrections and various legislative committees in planning resources allocations, as well as, policy development relating to sentencing and other criminal justice related areas.

Analysis of overall sentences in FY 2001 reveals that offenders were sentenced most frequently for drug offenses, followed by burglary and theft (pages 9 and 10). The largest number of offenders sentenced to prison were found on severity level seven of the nondrug grid (889), followed by severity level nine (789), severity level five (751) and severity level three of the drug grid (715). Primarily, offenders at lower levels sentenced to prison were due to probation revocations.

Probation sentences were most often received on the nondrug grid for the offenses of burglary, theft, and forgery (pages 23 and 24). In addition, a total of 1,878 offenders received probation sentences for drug offenses, of which nearly 97% fell on levels three and four of drug grids (page 26).

The prison population forecast projects that by FY 2011, a total of 9,585 prison beds will be needed, indicating a total increase of 12.3% or 1,046 beds over the actual prison population in FY 2001. Although the total admissions have decreased and the projected prison population is lower than before the implementation of SB 323, 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 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 a projected decline in the number of condition violators admitted to prison. Over the past five years this specific offender group has had direct impact on the increasing number of



admissions annually to state correctional facilities.

The second factor contributing to the decrease in the prison population over the ten-year forecast period can be found on nondrug severity level nine. This decrease results from the offense reclassification from a felony to a misdemeanor for two offenses - driving while suspended and driving while a habitual violator, that occurred during the 1999 Legislative Session (page 64).

The largest projected prison bed increase is for nondrug severity level one offenses, followed by nondrug severity level three and off-grid offenders, which indicates 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 admissions and lengths of sentences imposed (page 64).

### COMMISSION ACTIVITIES

In August 2001, the Sentencing Commission held its annual retreat. During the retreat the Commission reviewed the recommendations from the Drug Policy Subcommittee and discussed the national drug policy trends, issues related to the current state drug policy and treatment options available for offenders incarcerated or on probation, community corrections and parole/postrelease supervision. The issues discussed included: the changes in society’s overall philosophy regarding drug use and addiction; the need for a comprehensive statewide policy on the treatment of drug offenders; pathways to treatment; the assessment process of offenders; inadequate number of treatment

programs; how the services are funded, and what ancillary services are available.

Commission members discussed the issue of alternatives to incarceration for non-violent drug users. Significant discussion focused on defining the target population of non-violent offenders. At the end of the discussion, the members reached consensus that the Commission would support the concept of diverting non-violent offenders convicted of drug possession and use from prison to treatment options and recommend a comprehensive statewide treatment structure to ensure adequate treatment options for this target population. With the instruction from the Commission, at present, the Drug Policy Subcommittee continues working toward defining a target population for diversion to treatment and identifying a statewide treatment structure that would be necessary for the proposed policy change.

In August 2001, the Commission also hosted the Eighth Annual Conference of National Association of Sentencing Commission in Kansas City. One hundred and thirteen conference participants from Washington, DC and twenty-three states attended the conference. The participants were the representatives of the federal, state and local criminal justice policy advisors and decision-makers, criminal justice practitioners, managers and researchers. The mission of the conference was exploring a “Rational Sentencing in an Ill-Rational World of Crime.” The major topics addressed at the conference: Changing Correctional Population; the Media and Sentencing; and the Impact of Sentencing Policy. These topics were discussed from various criminal justice perspectives during the conference. At the plenary sessions, panels discussed the issues and concerns surrounding the challenges in the

development and retention of rational sentencing policy from various perspectives, dwelled on “Pathways to Rational Sentencing” and presented the trends in new drug growth and patterns throughout the United States. The round table discussion provided opportunities for conference participants to exchange ideas, discuss issues or concerns and learn what assistance is available to them. Sentencing Commissions also received an update on funding sources from National Institute of Justice and Office of Justice Programs and an opportunity to provide feedback identifying research priorities of various sentencing commissions.

## **REPORT CONTENTS**

The content of the Annual Report is presented in five chapters. Chapter One presents a descriptive statistical summary of statewide guideline sentencing practices in FY 2001. 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 and custody classification projections. Appendix I and Appendix II analyze sentences from the top four counties of felony convictions, the top five offenses, UCR offenses, off-grid and non-grid crimes, and female offenders. Appendix III summarizes the background, history, and activities of the Sentencing Commission since its creation in 1989.

## CHAPTER ONE SENTENCING IN KANSAS

### SENTENCES REPORTED IN FISCAL YEAR 2001

The analyses of sentences and sentencing trends presented in this report are based upon the most serious offense of a single sentencing event. Sentences analyzed during fiscal year (FY) 2001 include both prison and non-prison/probation sentences.

In FY 2001, a total of 12,127 felony sentences were reported to the Commission, representing a decrease of 5.5% from FY 2000. The distribution of sentences included 5,989 incarceration sentences and 6,138

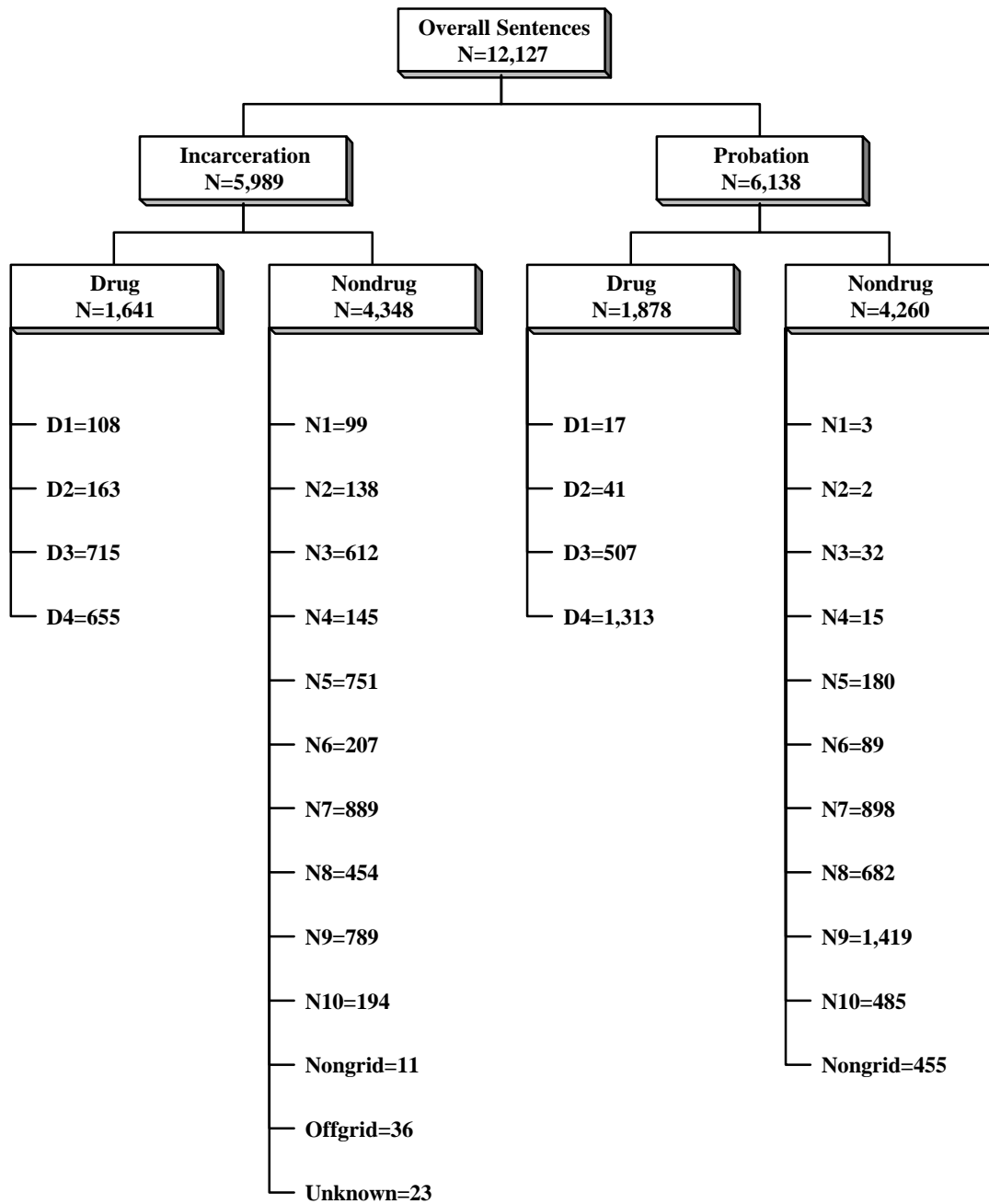
probation sentences (see Sentencing Distribution Chart). Of that total number of sentences, 8,608 were nondrug sentences and 3,519 were for drug offenses. Sentences were reported from 99 counties in the state. Table 1 displays total sentences reported to the Commission during FY 2001 by month of sentence. Sentences reported by individual counties are displayed in Table 2. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties, accounting for 53.8% of all sentences during FY 2001, a decrease of 1.4% from last year (Table 2).

**Table 1: Number of Sentences Reported by Month in FY 2001\***

Month	Number of Sentences	Sentence Type		Offense Type		Percent
		Prison	Probation	Drug	Nondrug	
July	1,016	559	457	281	735	8.4
August	1,130	616	514	312	818	9.3
September	989	501	488	311	678	8.2
October	970	463	507	273	697	8.0
November	956	440	516	295	661	7.9
December	828	384	444	235	593	6.8
January	1,008	446	562	290	718	8.3
February	933	488	445	270	663	7.7
March	1,152	584	568	312	840	9.5
April	946	443	503	274	672	7.8
May	1,100	523	577	327	773	9.1
June	1,099	542	557	339	760	9.1
<b>Total</b>	<b>12,127</b>	<b>5,989</b>	<b>6,138</b>	<b>3,519</b>	<b>8,608</b>	<b>100.0</b>

\* FY 2001 (July 1, 2000 through June 30, 2001)

## FY 2001 Sentencing Distribution Chart



**Table 2: FY 2001 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	72	63	8	65	4	3	20	52	48	24	28.2
Anderson	26	23	3	25	0	1	11	15	20	6	30.8
Atchison	79	68	11	58	18	3	39	40	52	27	29.1
Barber	5	4	0	4	0	0	1	4	5	0	34.7
Barton	106	87	18	92	9	3	42	64	53	53	29.7
Bourbon	72	47	12	49	9	1	25	47	46	26	30.8
Brown	55	48	7	42	5	8	22	33	27	28	30.8
Butler	197	171	25	181	13	2	77	120	135	62	30.1
Chase	5	5	0	5	0	0	2	3	4	1	28.7
Chautauqua	5	5	0	4	0	1	5	0	5	0	28.0
Cherokee	66	55	11	48	2	1	16	50	32	34	32.8
Cheyenne	2	1	1	2	0	0	0	2	2	0	53.8
Clay	29	24	5	28	0	1	14	15	16	13	30.3
Cloud	34	29	5	33	0	0	13	21	23	11	31.9
Coffey	35	28	7	31	1	2	14	21	18	17	30.7
Cowley	122	102	20	92	24	6	74	48	78	44	28.5
Crawford	186	152	32	156	23	4	61	125	137	49	28.8
Decatur	4	4	0	4	0	0	2	2	4	0	32.3
Dickinson	52	50	2	48	4	0	24	28	38	14	32.1
Doniphan	9	6	1	7	0	0	4	5	8	1	34.3
Douglas	241	216	25	143	75	23	101	140	182	59	29.5
Edwards	10	8	1	7	1	1	4	6	7	3	32.2
Elk	11	10	1	11	0	0	4	7	9	2	34.7
Ellis	156	133	20	144	8	1	29	127	85	71	27.6
Ellsworth	36	33	3	30	6	0	13	23	30	6	27.9
Finney	119	107	10	105	9	3	82	37	95	24	29.3
Ford	185	164	20	162	17	5	64	121	128	57	27.9
Franklin	123	100	23	151	5	2	35	88	73	50	29.2

**Table 2: FY 2001 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	
Geary	244	199	44	101	140	2	115	129	154	90	29.0
Gove	1	1	0	1	0	0	1	0	1	0	50.4
Graham	2	0	2	2	0	0	0	2	2	0	29.0
Grant	3	3	0	3	0	0	3	0	3	0	29.1
Gray	12	12	0	12	0	0	3	9	6	6	31.0
Greeley	2	2	0	2	0	0	2	0	2	0	41.4
Greenwood	34	30	4	33	0	0	6	28	23	11	32.7
Hamilton	2	2	0	2	0	0	2	0	1	1	35.2
Harper	8	6	2	8	0	0	4	4	8	0	24.5
Harvey	194	159	35	168	22	4	70	124	133	61	30.1
Haskell	7	6	1	7	0	0	7	0	3	4	30.8
Jackson	49	42	7	41	0	8	17	32	28	21	33.2
Jefferson	52	47	5	45	2	5	28	24	36	16	31.5
Jewell	11	11	0	9	2	0	7	4	11	0	36.7
Johnson	1,558	1,257	295	1,101	427	23	663	895	1,207	351	30.4
Kearny	27	24	3	26	1	0	13	14	22	5	31.2
Kingman	10	6	2	7	1	0	4	6	7	3	29.7
Kiowa	9	8	1	8	0	1	8	1	3	6	31.7
Labette	55	50	5	40	13	2	42	13	36	19	31.3
Lane	6	6	0	5	1	0	1	5	5	1	34.0
Leavenworth	176	151	25	104	64	6	110	66	132	44	30.0
Lincoln	2	1	1	2	0	0	1	1	1	1	28.8
Linn	40	36	4	39	0	0	19	21	25	15	28.9
Logan	4	4	0	4	0	0	1	3	4	0	32.9
Lyon	242	209	31	197	39	4	125	117	147	95	29.1
Marion	12	11	1	12	0	0	5	7	11	1	30.4
Marshall	14	10	4	8	2	0	9	5	9	5	28.9
McPherson	98	82	16	84	13	1	53	45	72	26	27.6

**Table 2: FY 2001 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	
Meade	2	2	0	2	0	0	0	2	1	1	28.8
Miami	95	82	13	78	16	0	49	46	73	22	30.2
Mitchell	14	11	1	12	0	0	9	5	12	2	28.5
Montgomery	216	170	40	133	74	3	104	112	126	90	30.8
Morris	7	5	1	6	0	0	0	7	5	2	24.5
Morton	2	2	0	2	0	0	2	0	1	1	45.6
Nemaha	13	12	1	11	0	1	6	7	12	1	26.8
Neosho	90	73	16	79	7	1	34	56	55	35	30.3
Ness	7	6	1	7	0	0	0	7	6	1	37.9
Norton	21	11	3	13	1	0	5	16	20	1	31.8
Osage	95	69	24	87	1	5	30	65	33	62	32.4
Osborne	11	10	1	11	0	0	3	8	6	5	30.8
Ottawa	4	4	0	4	0	0	4	0	3	1	29.8
Pawnee	54	48	5	40	9	4	30	24	42	12	33.9
Pottawatomie	39	31	7	33	2	2	18	21	33	6	27.7
Pratt	59	49	10	52	7	0	32	27	36	23	33.0
Rawlins	6	5	1	5	0	0	1	5	5	1	27.2
Reno	407	346	56	326	70	5	195	212	268	139	30.7
Republic	13	11	2	13	0	0	7	6	11	2	33.3
Rice	11	9	2	11	0	0	11	0	7	4	33.3
Riley	134	118	14	98	31	3	57	77	81	53	29.3
Rooks	16	12	2	14	0	0	6	10	12	4	32.1
Rush	12	9	3	11	0	1	5	7	8	4	32.8
Russell	9	9	0	8	1	0	9	0	6	3	28.3
Saline	463	389	74	351	84	13	188	275	314	149	30.0
Scott	18	14	4	18	0	0	9	9	10	8	29.2
Sedgwick	2,954	2,540	396	1,700	1,164	70	1,800	1,154	2,148	806	31.2
Seward	126	105	19	94	24	5	58	68	98	28	27.3

**Table 2: FY 2001 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	652	540	96	351	269	6	317	335	446	206	31.8
Sherman	28	21	1	21	1	0	8	20	17	11	28.3
Smith	2	1	1	0	1	1	1	1	1	1	32.2
Stafford	15	9	2	8	3	0	4	11	9	6	31.4
Stanton	5	5	0	5	0	0	5	0	3	2	33.7
Stevens	11	11	0	11	0	0	9	2	10	1	22.6
Sumner	96	85	10	87	4	4	58	38	65	31	29.4
Thomas	14	12	2	5	9	0	3	11	9	5	32.4
Trego	1	1	0	0	1	0	1	0	1	0	19.7
Wabaunsee	18	14	2	12	0	1	2	16	12	6	25.7
Washington	16	14	2	16	0	0	3	13	11	5	27.3
Wichita	7	5	2	6	0	1	3	4	4	3	36.2
Wilson	65	59	6	64	0	1	31	34	39	26	28.1
Woodson	6	5	1	6	0	0	3	3	4	2	27.4
Wyandotte	1,354	1,202	150	637	698	12	729	625	1,070	284	30.4
Unknown	23	23	0	14	8	1	23	0	23	0	**
<b>Total</b>	<b>12,127</b>	<b>10,277</b>	<b>1,724</b>	<b>8,224</b>	<b>3,445</b>	<b>267</b>	<b>5,989</b>	<b>6,138</b>	<b>8,608</b>	<b>3,519</b>	<b>30.4</b>

Note: Because of missing data, numbers in each category are based on the following: Gender (N=12,001), Race (N=11,936), Sentence Type (N=12,127), Offense Type (N=12,127), and Age (N=11,980).

\*\* Data is not available.



## CHARACTERISTICS OF OFFENDERS AND OFFENSES

This section provides an overview of offender characteristics for individuals who were sentenced during FY 2001, and offense

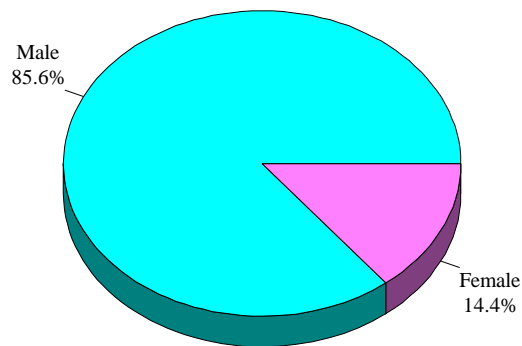
categories. Figures 1, 2, 3 and 4 summarize graphically the distribution of offenders by gender, race, and age respectively.

Male offenders accounted for almost 86% of all sentences (Figure 1) and in excess of 90% of most aggravated crimes, murder in the second degree, rapes, sex offenses, burglaries, robberies, kidnapping, firearms, criminal damage of property, criminal threat, DUI and other types of offenses (Table 3).

Female participation was highest (over 30%) for aggravated false impersonation, aggravated interference with parental custody, aiding felon, computer crime, criminal use of financial cards, forgery, making false writing, giving worthless checks and obtaining prescription drugs (Table 3).

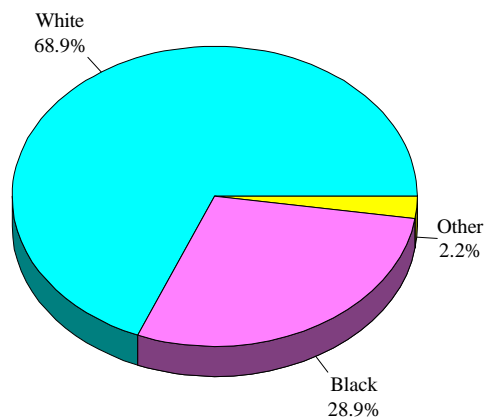
White offenders represented 68.9% of all sentences (Figure 2).

**Figure 1: Distribution of FY 2001 Sentences by Gender of Offenders**



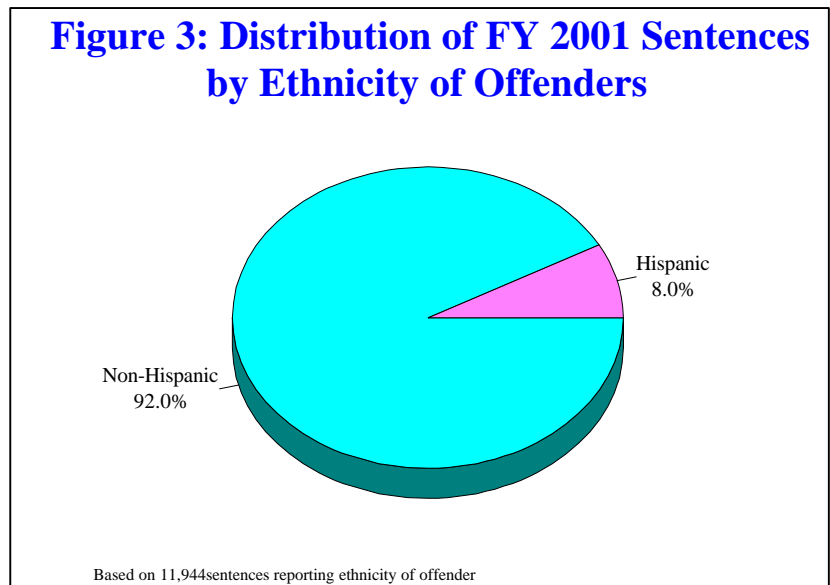
Based on 12,001 sentences reporting gender of offender

**Figure 2: Distribution of FY 2001 Sentences by Race of Offenders**

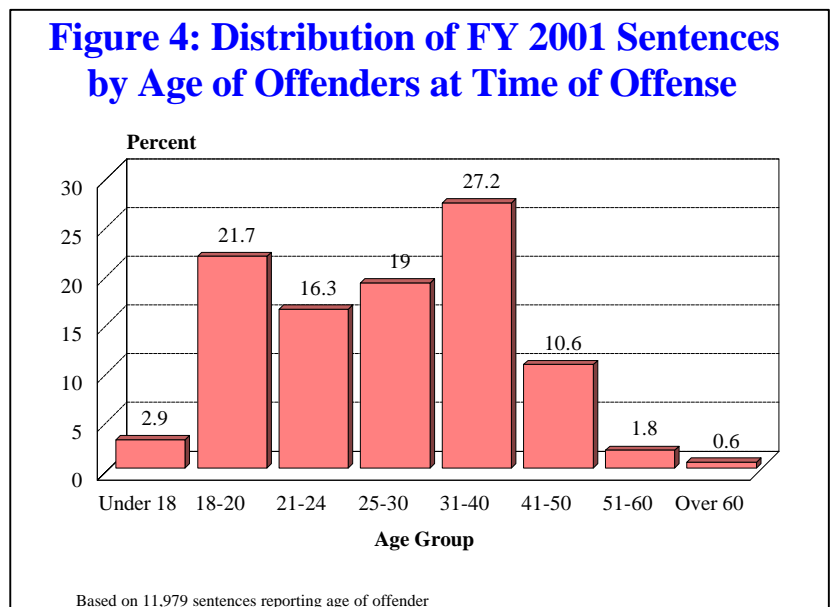


Based on 11,936 sentences reporting race of offender

Figure 3 indicates that 92% of all offenders were of Non-Hispanic origin.



The highest percentage of offenders (27.2%) was between the ages of 31 to 40 at the time of offense (Figure 4).



**Table 3: FY 2001 Offender Characteristics by Type of Offense – 1**

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Abuse of Child	37	81.1	18.9	75.7	18.9	5.4	30.1
Agg Arson	16	93.8	6.3	87.5	12.5	0.0	26.8
Agg Assault	304	93.9	6.1	69.2	28.1	2.7	29.6
Agg Assault on LEO	43	97.7	2.3	69.8	30.2	0.0	30.1
Agg Battery	689	91.3	8.7	63.6	32.2	4.3	28.9
Agg Battery on LEO	13	84.6	15.4	46.2	46.1	7.7	29.8
Agg Burglary	185	92.4	7.6	58.7	38.6	2.7	27.1
Agg Criminal Sodomy w/Child	73	94.4	5.6	93.1	6.9	0.0	32.7
Agg Escape from Custody	136	85.2	14.8	70.4	28.1	1.5	29.2
Agg Failure to Appear	54	77.8	22.2	59.6	38.5	1.9	28.9
Agg False Impersonation	15	50.0	50.0	28.6	71.4	0.0	31.2
Agg Robbery	347	95.7	4.3	36.9	61.7	1.4	24.7
Agg Incest	40	100.0	0.0	87.2	12.8	0.0	33.2
Agg Indecent Liberties w/Child	321	98.1	1.9	78.9	18.9	2.2	31.2
Agg Inter w/Parental Custody	7	57.1	42.9	85.7	0.0	14.3	33.4
Agg Indecent Solicit w/Child	97	97.9	2.1	83.3	16.7	0.0	32.5
Agg Intimidation of a Victim	19	100.0	0.0	68.4	26.3	5.3	27.6
Agg Kidnapping	18	100.0	0.0	22.2	77.8	0.0	28.6
Agg Sexual Battery	83	98.8	1.2	75.9	24.1	0.0	31.6
Agg Weapon Violation	10	100.0	0.0	70.0	20.0	10.0	28.8
Aid Felon	22	68.2	31.8	71.4	19.0	9.5	27.2
Arrange Sale/Purchase Drug	13	76.9	23.1	53.8	46.2	0.0	31.8
Arson	44	86.4	13.6	90.5	9.5	0.0	28.6
Battery on LEO	24	83.3	16.7	58.3	33.3	8.3	27.3
Burglary	1,167	93.6	6.4	75.4	22.2	2.4	25.6
Contribute Child's Misconduct	19	84.2	15.8	89.5	10.5	0.0	26.2
Computer Crime	14	35.7	64.3	85.7	14.3	0.0	30.5
Criminal Damage to Property	143	90.1	9.9	88.7	9.9	1.4	25.5
Criminal Deprivation Vehicle	8	100.0	0.0	75.0	0.0	25.0	23.6
Criminal Discharge of Firearm	29	100.0	0.0	58.6	27.6	13.8	23.8
Criminal Sodomy w/Child	9	100.0	0.0	77.8	22.2	0.0	31.3
Criminal Threat	316	94.6	5.4	66.6	29.6	3.8	31.9
Criminal Use Financial Card	55	61.1	38.9	51.9	48.1	0.0	26.7
Domestic Battery	22	95.2	4.8	76.2	23.8	0.0	30.7
Driving While a Habitual Viol	174	91.1	8.9	71.0	26.6	2.4	32.4

**Table 3: FY 2001 Offender Characteristics by Type of Offense – 2**

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Driving While Suspended	79	91.1	8.9	59.0	41.0	0.0	29.6
Drugs	3,517	82.0	18.0	69.9	28.5	1.6	31.0
Drug without Tax Stamps	65	90.6	9.4	84.1	15.9	0.0	29.9
DUI	446	90.8	9.2	88.6	9.5	1.9	36.3
Failure to Register	9	100.0	0.0	100.0	0.0	0.0	32.2
Fleeing or Eluding LEO	148	88.3	11.7	59.7	34.7	5.6	28.1
Forgery	791	60.1	39.9	66.5	30.7	2.8	30.1
False Writing	61	59.0	41.0	72.1	27.9	0.0	30.0
Giving Worthless Checks	74	59.4	40.6	80.6	16.4	3.0	32.0
Identity Theft	5	80.0	20.0	40.0	60.0	0.0	26.9
Indecent Liberties w/Child	155	96.8	3.2	83.8	11.7	4.5	29.2
Indecent Solicitation of Child	57	96.5	3.5	78.9	17.5	3.5	26.0
Involuntary Manslaughter	71	90.1	9.9	70.4	25.4	4.2	26.7
Kidnapping	72	90.3	9.7	47.2	50.0	2.8	25.9
Lewd and Lascivious Behavior	15	100.0	0.0	93.3	6.7	0.0	30.0
Murder in the First Degree	52	88.5	11.5	53.8	44.2	1.9	27.6
Murder in the Second Degree	52	94.2	5.8	61.5	34.6	3.8	29.8
Nonsupport of Child or Spouse	51	98.0	2.0	78.4	15.7	5.9	31.7
Obstructing Legal Process	76	84.2	15.8	69.7	30.3	0.0	29.8
Obtain Prescription Drug	8	50.0	50.0	100.0	0.0	0.0	35.8
Possession of Firearm	96	96.9	3.1	47.4	49.5	3.2	24.9
Rape	139	100.0	0.0	60.1	37.0	2.9	30.4
Robbery	341	93.0	7.0	40.0	59.1	0.9	25.6
Securities Crimes	9	100.0	0.0	100.0	0.0	0.0	44.9
Sex Exploitation of a Child	20	100.0	0.0	100.0	0.0	0.0	39.3
Stalking	6	100.0	0.0	100.0	0.0	0.0	43.8
Theft	963	77.7	22.3	70.5	27.5	2.0	29.0
Traffic in Contraband	53	84.6	15.4	63.5	32.7	3.8	26.6
Unlawful Voluntary Sex Relation	16	87.5	12.5	87.5	12.5	0.0	18.7
Voluntary Manslaughter	27	85.2	14.8	40.7	48.1	11.1	30.0
Weapons	11	100.0	0.0	72.7	27.3	0.0	26.5
Other	76	82.4	17.6	67.1	31.5	1.4	31.8
<b>TOTAL</b>	<b>12,127</b>	<b>85.6</b>	<b>14.4</b>	<b>68.9</b>	<b>28.9</b>	<b>2.2</b>	<b>29.6</b>

Note: Due to missing data, percentages in each category are based on different numbers: Gender (N=12,001); Race (N=11,936); Age (N=11,979).

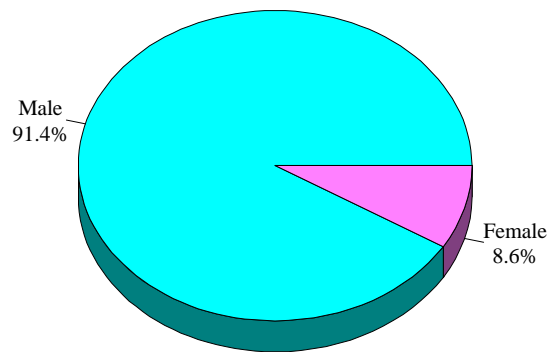
\* Average age at time of offense.

## INCARCERATION SENTENCES

### Offenders and Offense Characteristics

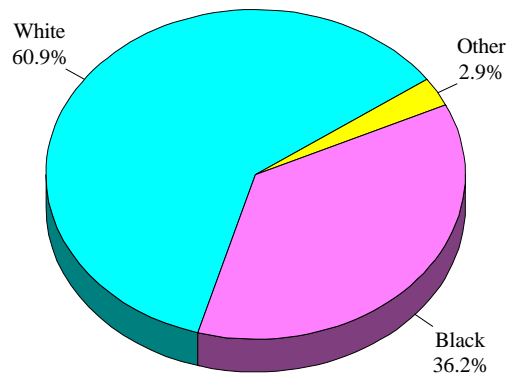
Figures 5, 6, 7, 8 and 9 represent the characteristics of offenders incarcerated in state correctional facilities by gender, race, ethnic origin, age, and educational level respectively. White males remained the predominant offender type admitted to prison during fiscal year 2001 (Figures 5 and 6). The largest proportion of incarcerated offenders were in their 30's and had obtained a high school diploma or GED equivalent (Figures 8 and 9).

**Figure 5: FY 2001 Incarceration Sentences by Gender of Offenders**



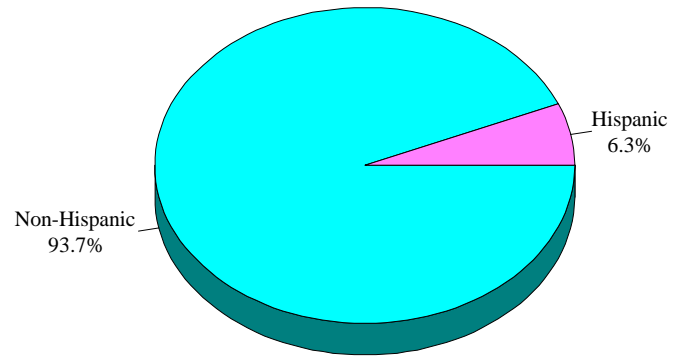
Based on 5,989 incarceration sentences reporting gender of offenders

**Figure 6: FY 2001 Incarceration Sentences by Race of Offenders**



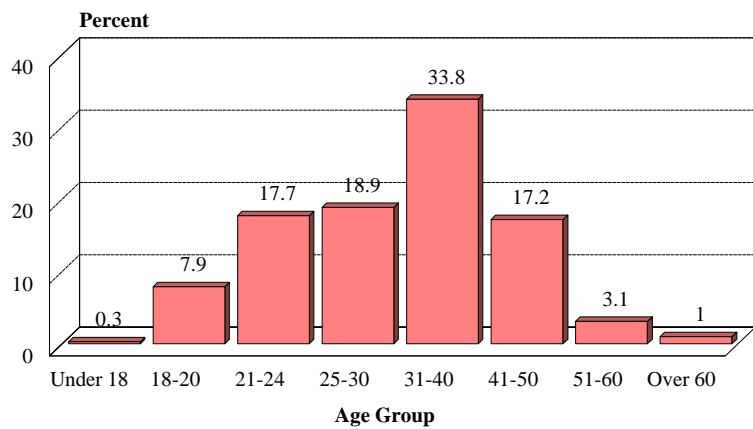
Based on 5,985 incarceration sentences reporting race of offenders

**Figure 7: FY 2001 Incarceration Sentences by Ethnic Origin of Offenders**



Based on 5,969 incarceration sentences reporting ethnic origin of offenders

**Figure 8: FY 2001 Incarceration Sentences by Age of Offenders at Time of Admission**



Based on 5,986 incarceration sentences reporting age of offenders

**Figure 9: FY 2001 Incarceration Sentences by Education Level of Offenders**

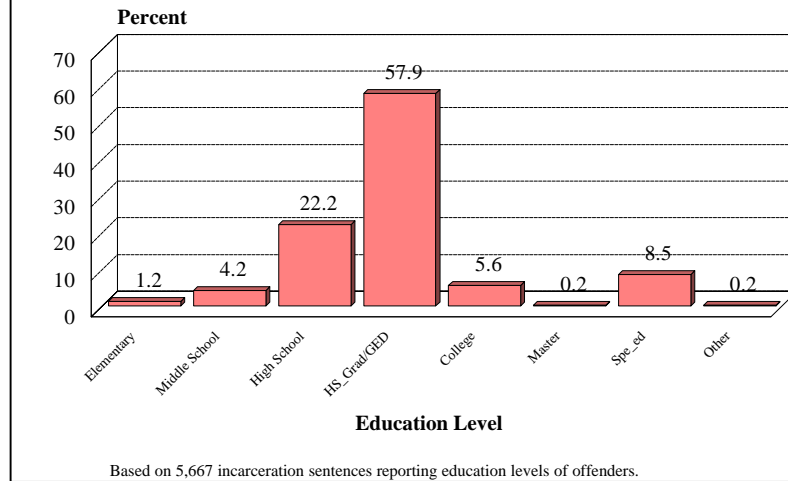


Table 4 indicates that males represented the highest percentage (over 80%) of sentences in both the violent and non-violent crime categories. Most sex offenders were males, which represented no change from the previous year. Males were also incarcerated at a much higher rate than females for drug offenses (Table 5). However, the highest percentage of sentenced females (over 20%) was only found in the offense categories of forgery, false writing, giving worthless checks (Table 4) and opiates or narcotics-possession 3 (Table 5).

The highest incarceration rates for whites (over 80%) were found in the areas of sex offenses, aggravated arson, arson, contributing to child’s misconduct, criminal damage to property and DUI. Blacks were incarcerated more often (over 50%) for the crimes of aggravated battery on LEO, aggravated kidnapping, kidnapping, aggravated robbery, robbery and criminal use of financial card (Table 4). Black offenders were also incarcerated over 50% for the drug offenses of drug possession 3 and drug sale 2 (Table 5).

**Table 4: FY 2001 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	21	100.0	0.0	76.2	14.3	9.5	31.9
Agg Arson	7	100.0	0.0	85.7	14.3	0.0	29.4
Agg Assault	148	98.0	2.0	63.5	31.8	4.7	29.3
Agg Assault on LEO	25	100.0	0.0	60.0	40.0	0.0	32.0
Agg Battery	351	94.3	5.7	56.4	37.6	6.0	31.7
Agg Battery on LEO	6	100.0	0.0	16.7	66.7	16.7	34.0
Agg Burglary	143	93.0	7.0	55.2	43.4	1.4	33.0
Agg Criminal Sodomy w/Child	71	94.4	5.6	93.0	7.0	0.0	39.6
Agg Escape from Custody	103	85.4	14.6	68.0	31.1	1.0	33.7
Agg Failure to Appear	6	100.0	0.0	66.7	33.3	0.0	27.4
Agg Incest	37	100.0	0.0	89.2	10.8	0.0	40.9
Agg Indecent Liberties w/Child	269	98.1	1.9	77.6	19.8	2.6	34.6
Agg Indecent Solicit w/Child	68	98.5	1.5	80.9	19.1	0.0	33.5
Agg Intimidation of a Victim	9	100.0	0.0	66.7	22.2	11.1	31.6
Agg Kidnapping	18	100.0	0.0	22.2	77.8	0.0	34.4
Agg Robbery	325	96.0	4.0	36.9	61.5	1.5	33.7
Agg Sexual Battery	66	100.0	0.0	74.2	25.8	0.0	38.4
Arson	17	82.4	17.6	82.4	17.6	0.0	33.2
Battery on LEO	19	89.5	10.5	52.6	42.1	5.3	28.2
Burglary	532	95.9	4.1	69.7	26.9	3.4	30.1
Contribute Child's Misconduct	8	87.5	12.5	100.0	0.0	0.0	32.1
Criminal Damage to Property	37	91.9	8.1	86.5	8.1	5.4	28.2
Criminal Deprivation Vehicle	6	100.0	0.0	66.7	0.0	33.3	27.6
Criminal Sodomy w/Child	6	100.0	0.0	100.0	0.0	0.0	33.6
Criminal Threat	106	95.3	4.7	58.5	38.7	2.8	32.6
Criminal Use Financial Card	14	85.7	14.3	21.4	78.6	0.0	27.3
Discharge of Firearm	16	100.0	0.0	50.0	25.0	25.0	25.5
Drug without Tax Stamps	8	87.5	12.5	75.0	25.0	0.0	28.5
Driving While a Habitual Viol	112	94.6	5.4	65.2	31.3	3.6	35.6
Driving While Suspended	44	97.7	2.3	63.6	36.4	0.0	33.0
DUI	12	100.0	0.0	91.7	0.0	8.3	35.4
Fleeing or Eluding LEO	46	93.5	6.5	56.5	34.8	8.7	31.4
Forgery	277	70.4	29.6	59.2	36.1	4.7	33.6
False Writing	17	76.5	23.5	76.5	23.5	0.0	31.7
Giving Worthless Checks	9	66.7	33.3	77.8	0.0	22.2	34.0



**Table 4: FY 2001 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	
Indecent Liberties w/Child	128	100.0	0.0	80.3	14.2	5.5	37.3
Indecent Solicitation of Child	25	96.0	4.0	84.0	12.0	4.0	28.8
Involuntary Manslaughter	59	89.8	10.2	67.8	28.8	3.4	31.5
Kidnapping	62	93.5	6.5	45.2	53.2	1.6	33.9
Murder in the First Degree	52	88.5	11.5	53.8	44.2	1.9	30.0
Murder in the Second Degree	51	94.1	5.9	60.8	35.3	3.9	36.3
Nonsupport of Child or Spouse	17	100.0	0.0	70.6	17.6	11.8	34.9
Obstructing Legal Process	30	90.0	10.0	63.3	36.7	0.0	32.7
Possession of Firearm	52	96.2	3.8	46.2	50.0	3.8	27.0
Rape	135	100.0	0.0	60.4	36.6	3.0	37.1
Robbery	292	94.2	5.8	37.0	62.3	0.7	31.1
Sex Exploitation of a Child	11	100.0	0.0	100.0	0.0	0.0	42.7
Theft	351	86.9	13.1	64.1	33.6	2.3	31.6
Traffic in Contraband	26	96.2	3.8	65.4	34.6	0.0	29.1
Voluntary Manslaughter	27	85.2	14.8	40.7	48.1	11.1	36.9
Other	71	88.7	11.3	69.0	29.6	1.4	34.5
<b>TOTAL</b>	<b>4,348</b>	<b>92.9</b>	<b>7.1</b>	<b>61.6</b>	<b>35.2</b>	<b>3.2</b>	<b>32.8</b>

Note: Due to missing data, percentages in each category are based on different numbers: Gender (N=4,348); Race (N=4,345); Age (N=4,4345).

**Table 5: FY 2001 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	742	86.1	13.9	52.6	45.6	1.9	35.1
Opiates or narcotics; poss 2	78	84.6	15.4	57.7	42.3	0.0	37.2
Opiates or narcotics; poss 3	14	64.3	35.7	35.7	57.1	7.1	35.9
Opiates or narcotics; sale 1	328	85.7	14.3	51.2	47.0	1.8	33.4
Opiates or narcotics; sale 2	24	100.0	0.0	29.2	70.8	0.0	37.4
Depress, stim, hall, etc.; sale, poss w/intent to sale	180	91.7	8.3	76.5	19.6	3.9	31.2
Depress, stim, hall; poss 2	75	93.3	6.7	68.0	28.0	4.0	31.6
Depress, stim, hall; sale w/in 1,000 ft of school	7	100.0	0.0	71.4	28.6	0.0	36.0
Unlawful manufacture controlled substance	164	89.6	10.4	82.9	13.4	3.7	37.3
Possession of paraphernalia	13	92.3	7.7	100.0	0.0	0.0	30.5
Possession of ephedrine	13	92.3	7.7	100.0	0.0	0.0	34.9
Other	3	66.7	33.3	0.0	100.0	0.0	34.8
<b>TOTAL</b>	<b>1,641</b>	<b>87.4</b>	<b>12.6</b>	<b>59.1</b>	<b>38.6</b>	<b>2.3</b>	<b>34.5</b>

Note: Due to missing data, percentages in each category are based on different numbers: Gender (N=1,641); Race (N=1,640); Age (N=1,641).

### Types of Admission and Severity Levels

Table 6 indicates the distribution of offenders incarcerated in FY 2001 by types of admission to the Kansas Department of Corrections (KDOC). Condition probation violators, condition parole/post-release violators, and conditional release condition violators represented 66.6% of all offenders admitted to state correctional facilities during FY 2001. This represents a

percentage decrease of 4.4% from FY 2000. New court commitments and violators with new sentences together contributed another 32.7% to the total admissions, indicating an increase of 4.5% over that of FY 2000. The number of condition violators admitted to prison demonstrates a significant impact on the total admissions to the Department of Corrections.

**Table 6: Distribution of FY 2001 Incarceration Sentences by Admission Type**

<b>Admission Type</b>	<b>Number of Cases</b>	<b>Percent</b>
New Court Commitment	1,601	26.7
Probation Condition Violator	1,330	22.2
Probation Violator With New Sentence	203	3.4
Inmate Received on Interstate Compact	8	0.1
Parole/Post-release Condition Violator	2,552	42.6
Parole/Post-release Violator With New Sentence	145	2.4
Paroled to Detainer Returned with New Sentence	30	0.5
Conditional Release Condition Violator	109	1.8
Conditional Release Violator With New Sentence	10	0.2
Offender Returned to Prison in Lieu of Revocation	1	0.0
<b>Total</b>	<b>5,989</b>	<b>100.0</b>

Table 7 displays a distribution of all incarcerated offenders by offense severity level and gender. The highest percentage (over 15%) of all non-drug offenders are found in severity levels 5, 7 and 9 (Figure 10), and almost 44% of all drug offenders fell on drug severity level 3 (Figure 11). This is different from FY 2000 when most

drug offenders fell on drug severity level 4, but consistent with the pattern in FY 1999 when most drug offenders fell on drug severity level 3. Females were convicted more often of drug offenses than of non-drug offenses. The highest percentages of female offenders were found on drug severity level 1 and non-drug severity level 8 (Table 7).

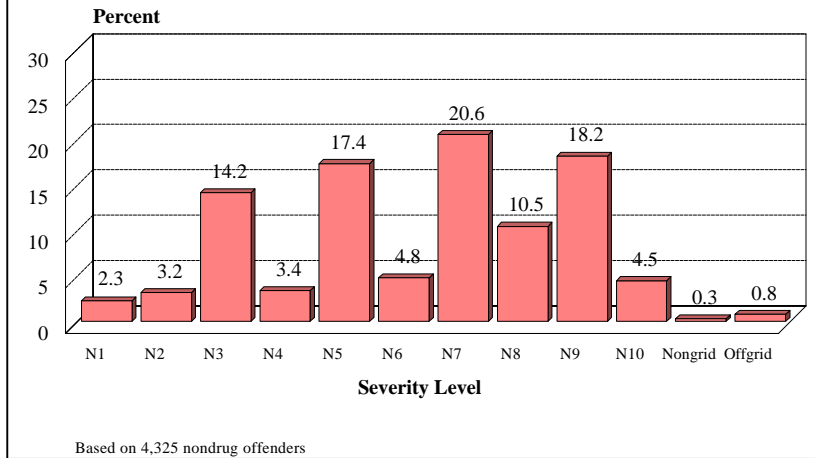
**Table 7: Distribution of FY 2001 Incarceration Sentences by Severity Level and Gender\***

Severity Level	Number of Cases	Gender(%)		Subtotal (%)
		Male	Female	
<b>Drug</b>				
1	108	85.2	14.8	6.6
2	163	87.7	12.3	9.9
3	715	88.4	11.6	43.6
4	655	86.6	13.4	39.9
<b>Subtotal</b>	<b>1,641</b>	<b>87.4</b>	<b>12.6</b>	<b>100.0</b>
<b>Nondrug</b>				
1	99	96.0	4.0	2.3
2	138	96.4	3.6	3.2
3	612	96.7	3.3	14.2
4	145	95.2	4.8	3.4
5	751	95.3	4.7	17.4
6	207	97.6	2.4	4.8
7	889	94.7	5.3	20.6
8	454	79.1	20.9	10.5
9	789	91.8	8.2	18.2
10	194	87.6	12.4	4.5
Nongrid	11	100.0	0.0	0.3
Offgrid	36	91.7	8.3	0.8
<b>Subtotal</b>	<b>4,325</b>	<b>92.9</b>	<b>7.1</b>	<b>100.0</b>
<b>Total**</b>	<b>5,989</b>	<b>91.4</b>	<b>8.6</b>	<b>100.0</b>

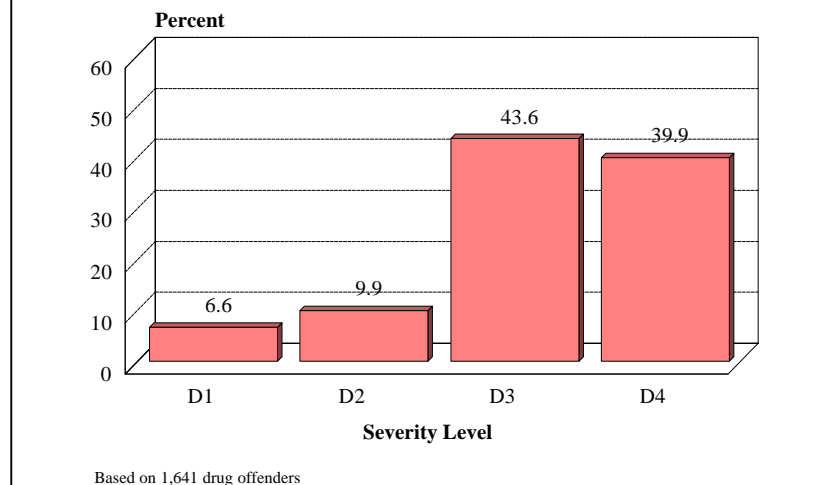
\* Based on 1,641 drug offenders and 4,325 nondrug offenders.

\*\* Total number includes 23 offenders whose severity levels are unknown.

**Figure 10: FY 2001 Incarceration Sentences  
Nondrug Offenders by Severity Level**



**Figure 11: FY 2001 Incarceration Sentences  
Drug Offenders by Severity Level**



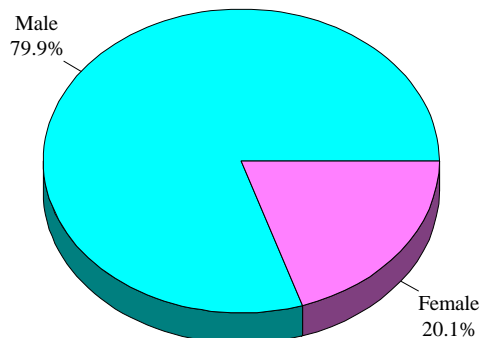
## PROBATION SENTENCES

A total number of 6,138 probation sentences were received by the Kansas Sentencing Commission in fiscal year 2001, representing 1,878 drug sentences and 4,260 nondrug sentences. Of this number there were 1,453 cases for person offenses and 4,685 cases for nonperson offenses. Characteristics of this offender group are illustrated in Figures 12 and 13.

Males represented nearly 80% of all probation sentences (Figure 12).

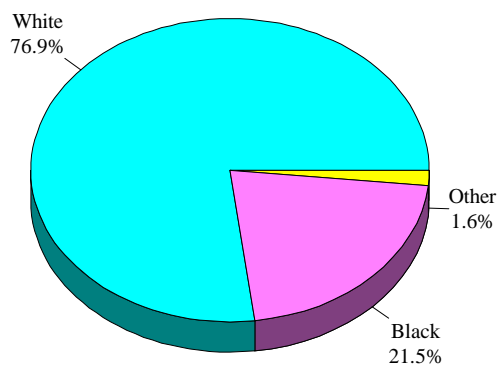
Racial Distribution of probation sentences indicates that approximately 77% of the offenders were white and 23% of the offenders were non-white (Figure 13).

**Figure 12: Distribution of FY 2001 Probation Sentences by Gender**



Based on 6,012 sentences reporting gender of offender

**Figure 13: Distribution of FY 2001 Probation Sentences by Race**



Based on 5,951 sentences reporting race of offender

The highest percentage of probation offenders were found to be in their 30's at the time of sentence (Figure 14).

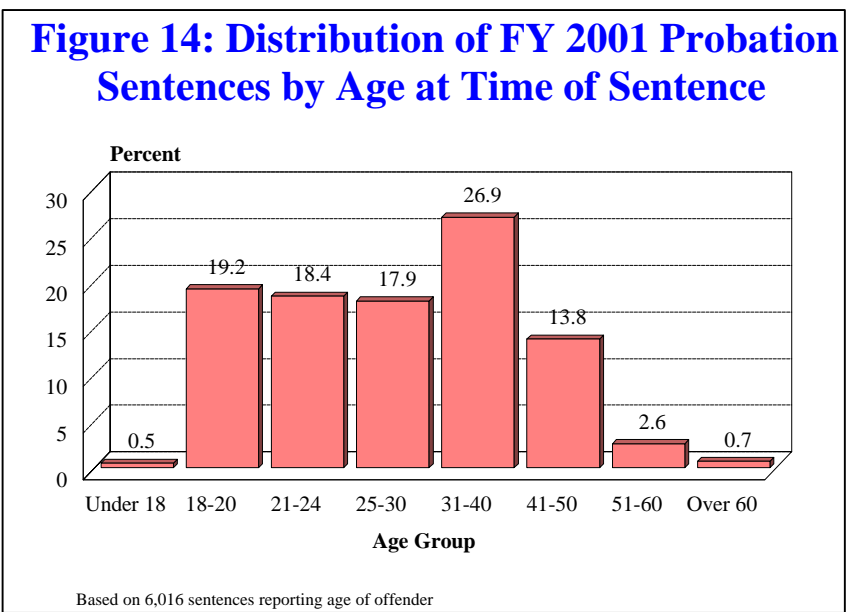


Figure 15 illustrates nondrug probation sentences by severity levels. The largest number of probation sentences fell within nondrug grid severity level 9 (33.3% of all nondrug sentences).

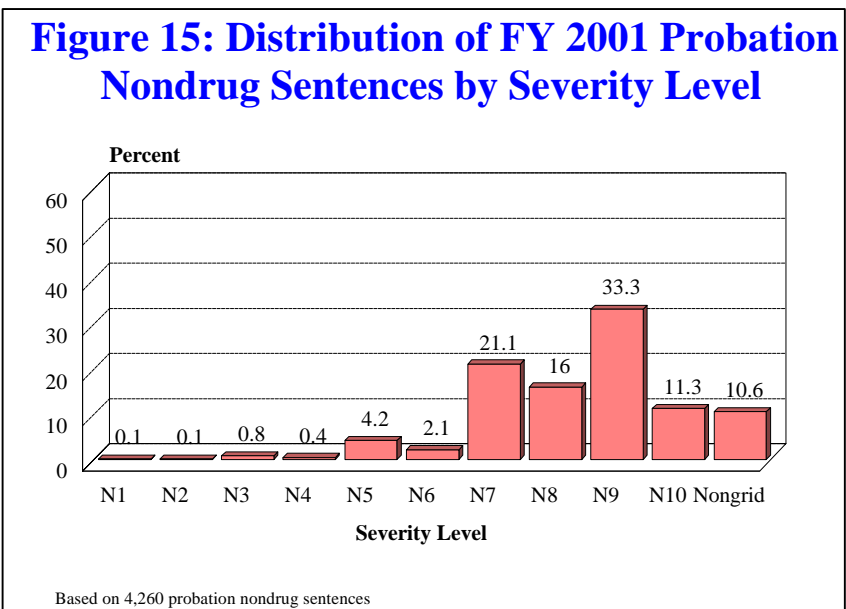
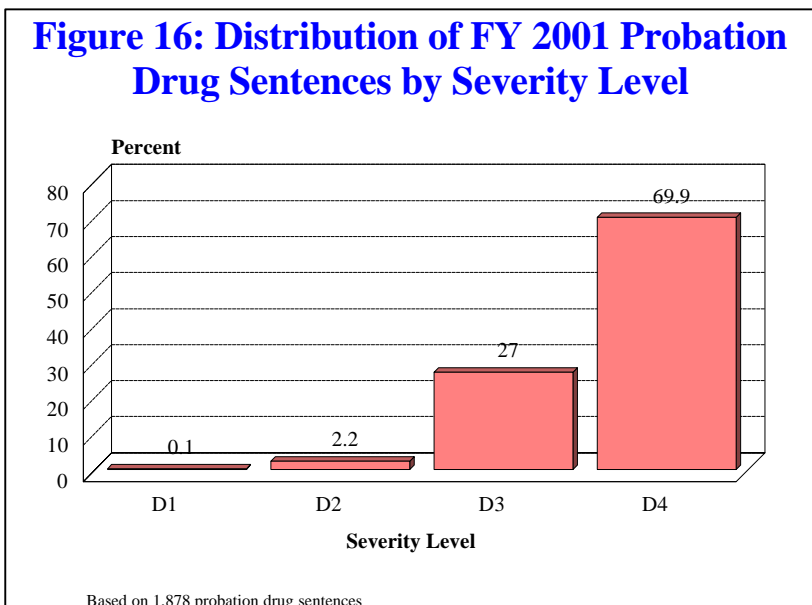


Figure 16 indicates that the largest number of drug probation sentences fell within severity level 4, which represented almost 70% of the total drug probation sentences.



### Type of Offense and Severity Level

Characteristics of probation offenders by offense type are exhibited in Tables 8 and 9. Aggravated assault, aggravated battery, burglary, theft, fleeing LEO, criminal damage of property, criminal threat, DUI, forgery and giving a worthless check are classified as the top ten offenses for nondrug probation offenders, representing nearly 75% of the total nondrug crimes (Table 8). In reviewing drug offenders with probation sentences, the largest number of sentences was for possession of drugs, accounting for more than 70% of all drug offenses (Table 9).

Males accounted for over 90% of the following offenses: aggravated assault on LEO, aggravated intimidation of a victim, aggravated robbery, aggravated burglary, burglary, weapon violations, possession of firearms, sex offenses, criminal threat, domestic battery, non-support of a child or

spouse, drug without tax stamps, involuntary manslaughter and DUI. The highest percentages of female probation offenses (over 40%) included abuse of child, aggravated false impersonation, aggravated interference with parental custody, computer crime, criminal use of financial card, false writing, forgery, giving worthless checks and obtaining prescription drugs. Females were also found to be convicted of more drug offenses than nondrug offenses (22.9% versus 18.8%).

Whites were responsible for 75.8% of all nondrug crimes and 79.5% of all drug offenses. Blacks had a little bit higher conviction percentage for nondrug offenses than drug crimes (22.4% versus 19.6%). The average age at the time of offense was 29.4 years old for nondrug offenders and 31 years old for drug offenders. Characteristics of probation offenders by severity level are presented in Tables 10 and 11.



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

Offense Type	N	%	Gender (%)		Race (%)			Mean Age*
			Male	Female	White	Black	Other	
Abuse of Child	16	0.4	56.3	43.8	75.0	25.0	0.0	30.9
Agg Arson	9	0.2	88.9	11.1	88.9	11.1	0.0	29.7
Agg Assault	156	3.7	89.9	10.1	74.8	24.5	0.7	32.5
Agg Assault on LEO	18	0.4	94.4	5.6	83.3	16.7	0.0	35.1
Agg Battery	338	7.9	88.2	11.8	71.3	26.3	2.4	29.7
Agg Battery on LEO	7	0.2	71.4	28.6	71.4	28.6	0.0	32.9
Agg Burglary	42	1.0	90.2	9.8	70.7	22.0	7.3	26.0
Agg Escape from Custody	33	0.8	84.4	15.6	78.1	18.8	3.1	27.9
Agg Fail to Appear	48	1.1	75.0	25.0	58.7	39.1	2.2	29.3
Agg False Impersonation	12	0.3	36.4	63.6	36.4	63.6	0.0	28.7
Agg Ind Lib with a Child	52	1.2	98.0	2.0	86.0	14.0	0.0	30.2
Agg Ind Solicit with a Child	29	0.7	96.6	3.4	89.3	10.7	0.0	38.0
Agg Int w/Parent Custody	7	0.2	57.1	42.9	85.7	0.0	14.3	33.4
Agg Intimidation of a Victim	10	0.2	100.0	0.0	70.0	30.0	0.0	27.6
Agg Robbery	22	0.5	90.9	9.1	36.4	63.6	0.0	19.8
Agg Sex Battery with Child	17	0.4	94.1	5.9	82.4	17.6	0.0	28.2
Agg Weapon Violation	6	0.1	100.0	0.0	66.7	16.7	16.7	27.5
Aiding Felon	18	0.4	72.2	27.8	70.6	17.6	11.8	26.5
Arrange Sale/Purchase Drug	11	0.3	72.7	27.3	45.5	54.5	0.0	33.8
Arson	27	0.6	88.9	11.1	96.0	4.0	0.0	28.8
Battery on LEO	5	0.1	60.0	40.0	80.0	0.0	20.0	29.8
Burglary	635	14.9	91.6	8.4	80.4	18.1	1.5	24.4
Computer Crime	14	0.3	35.7	64.3	85.7	14.3	0.0	30.5
Contribute Child Misconduct	11	0.3	81.8	18.2	81.8	18.2	0.0	24.3
Crim Damage of Property	106	2.5	89.4	10.6	89.4	10.6	0.0	25.2
Crim Discharge of Firearm	13	0.3	100.0	0.0	69.2	30.8	0.0	23.7
Criminal Threat	210	4.9	94.2	5.8	70.7	25.0	4.3	32.4
Crim Use of Financial Card	41	1.0	52.5	47.5	62.5	37.5	0.0	27.5
Domestic Battery	20	0.5	94.7	5.3	73.7	26.3	0.0	31.1
Driving while Hab Violator	62	1.5	84.2	15.8	82.5	17.5	0.0	31.6
Driving w/ Suspended-Third	35	0.8	82.9	17.1	52.9	47.1	0.0	29.4
Drug without Tax Stamps	57	1.3	91.1	8.9	85.5	14.5	0.0	30.4
DUI	434	10.2	90.5	9.5	88.5	9.8	1.7	36.4
Failure to Register	9	0.2	100.0	0.0	100.0	0.0	0.0	32.2
False Writing	44	1.0	52.3	47.7	70.5	29.5	0.0	30.4

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

Offense Type	N	%	Gender (%)		Race (%)			Mean Age*
			Male	Female	White	Black	Other	
Fleeing/Eluding LEO	102	2.4	85.9	14.1	61.2	34.7	4.1	27.1
Forgery	514	12.1	54.5	45.5	70.4	27.8	1.8	29.6
Giving Worthless Check	65	1.5	58.3	41.7	81.0	19.0	0.0	32.2
Identity Theft	5	0.1	80.0	20.0	40.0	60.0	0.0	26.9
Ind Liberties with a Child	27	0.6	81.5	18.5	100.0	0.0	0.0	28.9
Ind Solicitation with a Child	32	0.8	96.9	3.1	75.0	21.9	3.1	26.3
Involuntary Manslaughter	12	0.3	91.7	8.3	83.4	8.3	8.3	23.7
Kidnapping	10	0.2	70.0	30.0	60.0	30.0	10.0	26.5
Lewd and Lascivious Behavior	15	0.4	100.0	0.0	93.3	6.7	0.0	30.0
Non-Support of a Child	34	0.8	97.1	2.9	82.4	14.7	2.9	31.7
Obstruct Legal Process	46	1.1	80.4	19.6	73.9	26.1	0.0	29.3
Obtain Prescription Drug	6	0.1	50.0	50.0	100.0	0.0	0.0	35.2
Possession of Firearms	44	1.0	97.7	2.3	48.8	48.8	2.3	25.0
Rape	4	0.1	100.0	0.0	50.00	50.0	0.0	27.7
Robbery	49	1.2	85.7	14.3	58.30	39.6	2.1	23.9
Securities Crimes	6	0.1	100.0	0.0	100.0	0.0	0.0	43.4
Sex Exploitation of a Child	9	0.2	100.0	0.0	100.0	0.0	0.0	40.2
Stalking	4	0.1	100.0	0.0	100.0	0.0	0.0	45.5
Theft	612	14.4	72.3	27.7	74.3	23.8	1.8	29.0
Traffic in Contraband	27	0.6	73.1	26.9	61.5	30.8	7.7	27.1
Unlawful Sexual Relations	4	0.1	100.0	0.0	75.0	25.0	0.0	28.6
Unlawful Voluntary Sex Rel	16	0.4	87.5	12.5	87.5	12.5	0.0	18.7
Weapon	8	0.2	100.0	0.0	75.0	25.0	0.0	25.6
Other	35	0.8	74.2	25.8	76.7	23.3	0.0	31.8
<b>Total</b>	<b>4,260</b>	<b>100.0</b>	<b>81.2</b>	<b>18.8</b>	<b>75.8</b>	<b>22.4</b>	<b>1.8</b>	<b>29.4</b>

Note: Due to missing data, each category is based on different numbers: Gender, N=4,171; Race, N=4,131; and Age, N=4,170.  
 \* Average age at time of offense.

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

Offense Type	N	%	Gender (%)		Race (%)			Mean Age*
			Male	Female	White	Black	Other	
Opiates or narcotics; poss 1	1,042	55.5	72.9	27.1	77.6	21.8	0.6	32.2
Opiates or narcotics; poss 2	19	1.0	63.2	36.8	84.2	10.5	5.3	36.3
Opiates or narcotics; sale 1	260	13.8	75.9	24.1	73.1	25.7	1.2	30.9
Depress, stim, hall, etc.; sale, poss w/intent to sale	248	13.2	91.7	8.3	81.6	17.2	1.3	27.7
Depress, stim, hall; poss 2	197	10.5	86.7	13.3	85.4	12.5	2.1	30.2
Depress, stim, hall; sale w/in 1,000 ft of school	10	0.5	80.0	20.0	100.0	0.0	0.0	23.5
Possession of paraphernalia	73	3.9	67.6	32.4	100.0	0.0	0.0	29.9
Possession of ephedrine	4	0.2	50.0	50.0	100.0	0.0	0.0	20.6
Unlawful manufacture controlled substance	11	0.6	80.0	20.0	100.0	0.0	0.0	32.0
Other	14	0.7	92.9	7.1	64.3	35.7	0.0	36.0
<b>Total</b>	<b>1,878</b>	<b>100.0</b>	<b>77.1</b>	<b>22.9</b>	<b>79.5</b>	<b>19.6</b>	<b>0.9</b>	<b>31.1</b>

Note: Due to missing data, each category is based on different numbers: Gender, N=1,841; Race, N=1,820; and Age, N=1,845.  
 \* Average age at time of offense.

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

Severity Level	N	%	Gender (%)		Race (%)			Mean Age*
			Male	Female	White	Black	Other	
N1	3	0.1	66.7	33.3	66.7	33.3	0.0	20.8
N2	2	0.1	100.0	0.0	100.0	0.0	0.0	22.2
N3	32	0.8	87.5	12.5	61.3	38.7	0.0	24.8
N4	15	0.4	85.7	14.3	85.7	14.3	0.0	28.5
N5	180	4.2	86.9	13.1	73.1	23.4	3.4	27.8
N6	89	2.0	93.3	6.7	86.4	13.6	0.0	33.7
N7	898	21.0	88.0	12.0	76.7	21.8	1.5	28.0
N8	682	16.0	64.1	35.9	72.3	25.3	2.4	29.0
N9	1,419	33.3	82.0	18.0	75.4	22.6	2.0	28.4
N10	485	11.4	76.4	23.6	68.8	29.9	1.3	29.4
Nongrid	455	10.7	90.7	9.3	87.9	10.5	1.6	36.1
<b>Total</b>	<b>4,260</b>	<b>100.0</b>	<b>81.2</b>	<b>18.8</b>	<b>75.8</b>	<b>22.4</b>	<b>1.8</b>	<b>29.4</b>

Note: Due to missing data, each category is based on different numbers: Gender, N=4,171; Race, N=4,131; and Age, N=4,170.  
 \* Average age at time of offense.

**Table 11: Characteristics of Probation Drug Offenders by Severity Level**

Severity Level	N	%	Gender (%)		Race (%)			Mean Age*
			Male	Female	White	Black	Other	
D1	17	1.0	72.2	27.8	83.3	16.7	0.0	29.5
D2	41	2.2	72.5	27.5	84.6	12.8	2.6	33.6
D3	507	27.0	83.8	16.2	77.3	21.5	1.2	29.2
D4	1,313	69.9	74.8	25.2	80.1	19.1	0.8	31.8
<b>Total</b>	<b>1,878</b>	<b>100.0</b>	<b>77.1</b>	<b>22.9</b>	<b>79.5</b>	<b>19.6</b>	<b>0.9</b>	<b>31.1</b>

Note: Due to missing data, each category is based on different numbers: Gender, N=1,841; Race, N=1,820 and Age, N=1,845.  
 \* Average age at time of offense.

### Criminal History and Length of Probation

The data indicates that 5,746 probation sentences with assigned criminal history categories were reported in FY 2001, accounting for almost 94% of all probation sentences received by the Commission. The largest number of this group (38%, N=2,191) fell within criminal history category I, representing no previous criminal history or one misdemeanor conviction.

Offenders with criminal history category I were found to account for almost 36% of offenders on the nondrug grid, while criminal history category I offenders accounted for 43% of offenders on the drug grid. More than 88% of nondrug offenders fell within the presumptive probation boxes (Table 12), while approximately 53% of probation drug offenders were sentenced within the presumptive probation boxes (Table 13).

Only 4% 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 nearly 36% 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 12 and 13). 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 5.5% downward dispositional departure, while drug probation sentences reported 11.2% downward dispositional departure.

Lengths of probation sentences by severity levels are exhibited in Tables 12 and 13. The average length of probation for nondrug offenders was 17.7 months, while the average length of probation for drug offenders was 15.5 months.

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

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
N1	3	0	0	0	0	0	0	0	0	3	44.0
N2	2	0	0	0	0	0	0	0	0	2	48.0
N3	32	2	2	1	2	1	0	4	4	16	37.3
N4	15	0	0	3	3	0	1	0	2	6	28.8
N5	180	1	3	2	6	1	4	16	34	113	35.3
N6	89	0	2	7	0	3	3	6	15	53	25.8
N7	898	12	15	72	69	86	68	123	118	334	23.5
N8	682	5	19	57	24	116	47	101	88	224	17.9
N9	1,419	20	54	125	89	198	96	182	207	444	13.2
N10	485	5	8	50	28	51	40	80	53	170	12.7
Nongrid	455	1	2	4	9	7	5	11	12	19	15.1
<b>Total</b>	<b>4,260</b>	<b>46</b>	<b>105</b>	<b>321</b>	<b>230</b>	<b>463</b>	<b>264</b>	<b>523</b>	<b>533</b>	<b>1384</b>	<b>17.7</b>

Note: Criminal history classes are based on 3,869 cases reporting criminal history category.

Legend:

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

**Table 13: Criminal History and Probation Length by Severity Level - Drug Offenders**

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
D1	17	1	0	0	0	3	1	2	1	8	34.7
D2	41	1	1	5	0	4	3	11	3	13	35.6
D3	507	1	5	18	8	32	37	80	75	251	19.2
D4	1,313	19	29	52	34	110	82	213	239	535	13.1
<b>Total</b>	<b>1,878</b>	<b>22</b>	<b>35</b>	<b>75</b>	<b>42</b>	<b>149</b>	<b>123</b>	<b>306</b>	<b>318</b>	<b>807</b>	<b>15.5</b>

Note: Criminal history classes are based on 1,877 cases reporting criminal history category.

Legend:

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

## CHAPTER TWO VIOLATORS

### VIOLATIONS RESULTING IN INCARCERATION

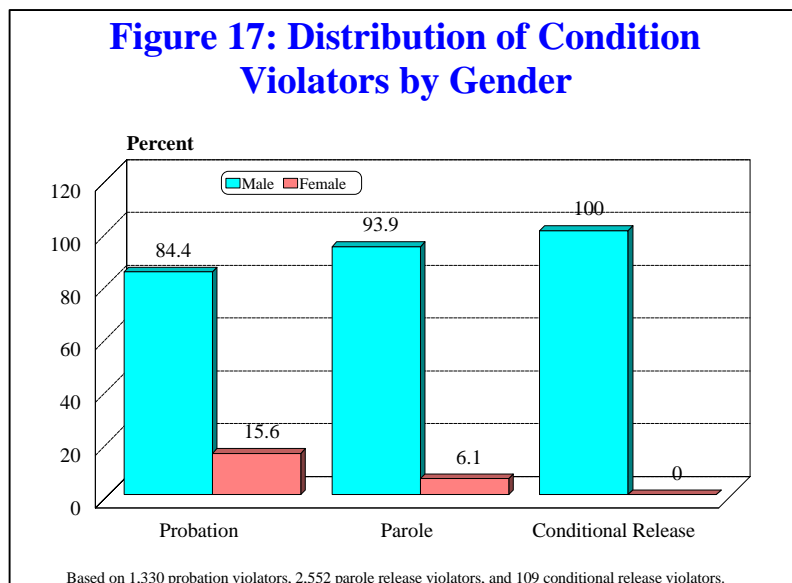
Violators are classified in two ways. Offenders on some form of supervision who commit an offense for which they receive a new sentence are defined as “violators with new sentences.” Offenders who are on probation, parole/postrelease supervision, who violate the conditions of their supervision but do 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 in the following section.

violators alone accounted for 66.6% of all FY 2001 prison admissions. Characteristics of condition violators by gender, race, and age are shown in Figures 17, 18, and 19.

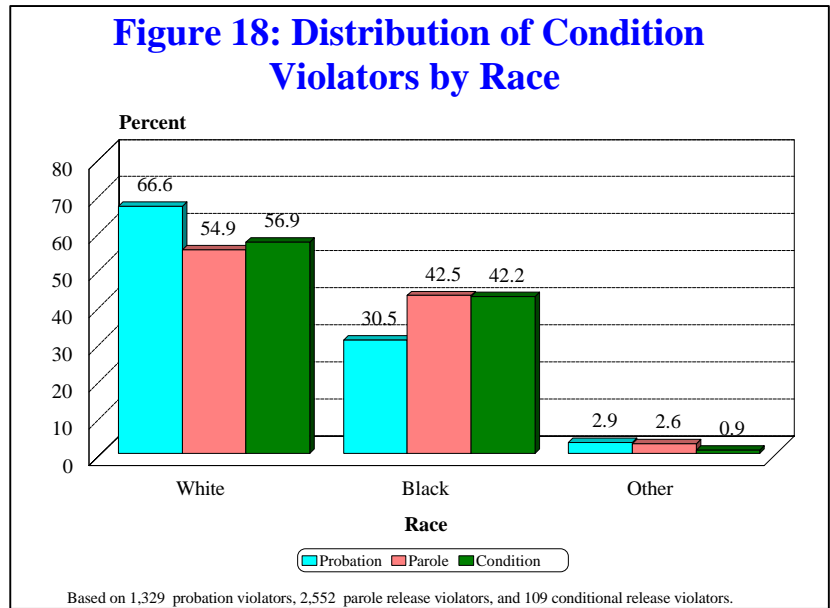
### Overview of Condition Violators

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.

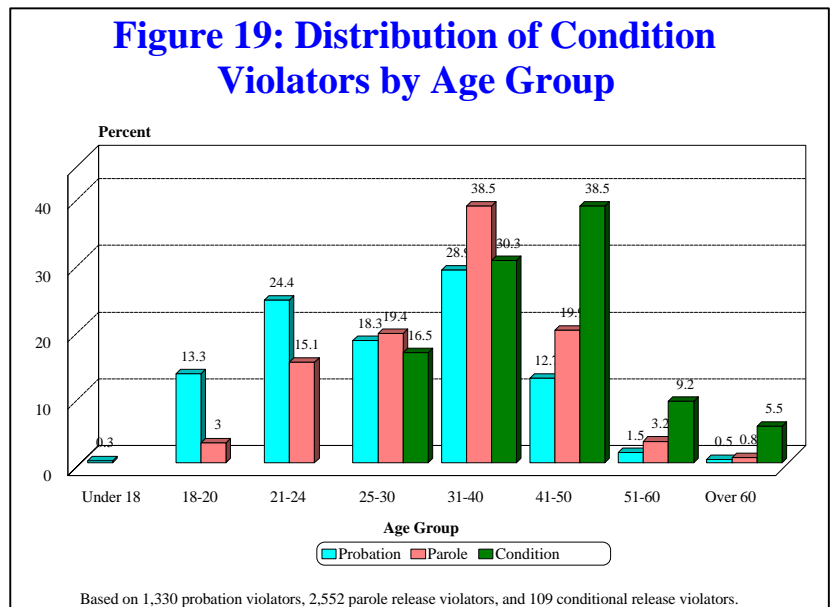
In FY 2001, there were a total number of 3,991 condition violators, representing 1,330 probation violators, 2,552 parole/postrelease supervision violators, and 109 conditional release violators respectively. Condition



White males represented the highest percentages (Figures 17 and 18) of all three types of violators.

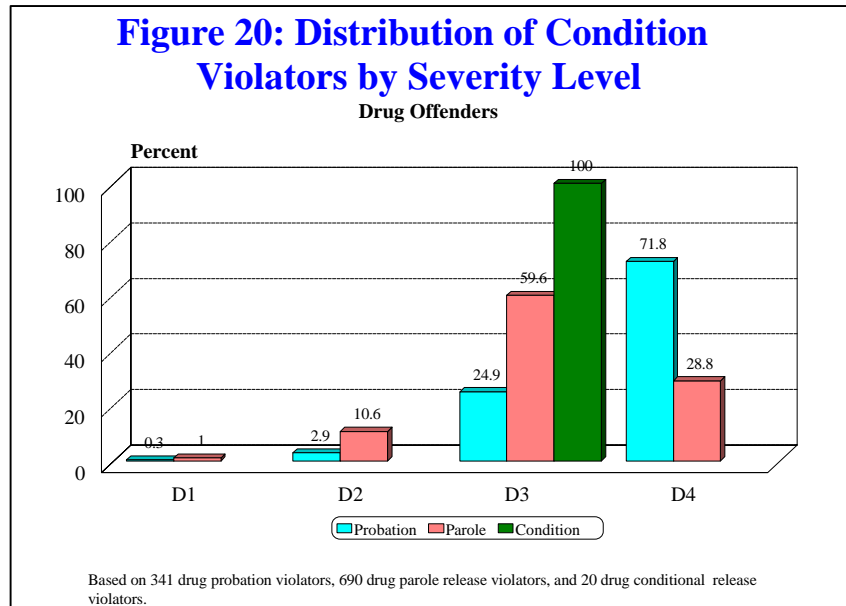


The largest proportions of probation violators and parole/postrelease supervision violators were found to be in their 30's, while the conditional release violators were in their 40's at the time of admission to prison (Figure 19).



Characteristics of all violators by severity level are presented in Figures 20 and 21.

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 20).



The largest percentage of probation violators (N=374) fell on nondrug severity level 9, parole/postrelease supervision violators (N=428) represented the largest number on nondrug severity level 5 and conditional release violators accounted for the highest percentage on nondrug severity level 3 (N=33 Figure 21).

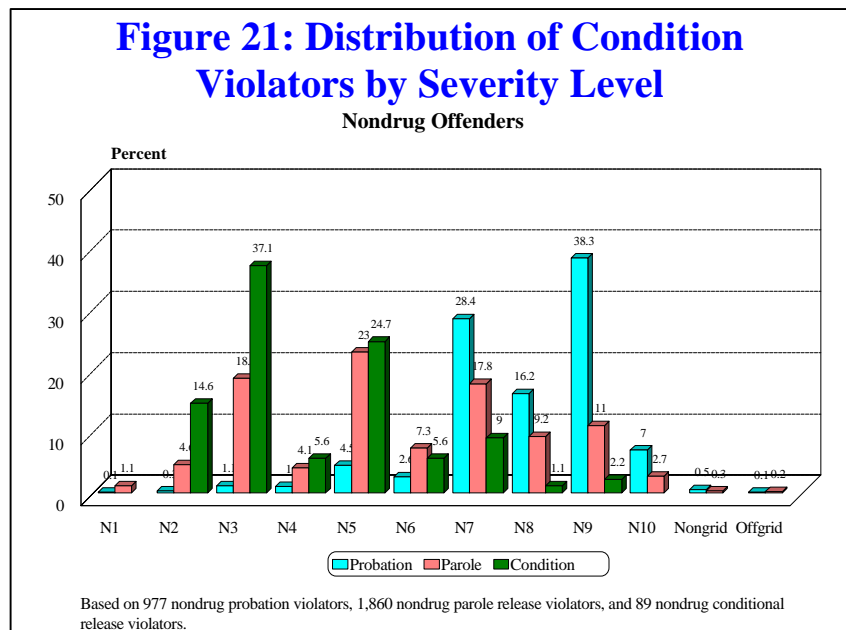




Table 14 displays the characteristics of all types of condition violators by severity level, race, and gender. The highest frequencies for males were found on nondrug severity level 7 and drug severity level 3. However, the largest numbers of

females fell on nondrug severity level 8 and drug severity level 4. Whites represented the highest numbers in nondrug level 7 and drug level 4, while nondrug level 5 and drug level 3 accounted for the largest numbers of violators for blacks (Table 14).

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

Severity Level	Number of Cases	Gender		Race			Average Age at Admission
		Male	Female	White	Black	Other	
D1	8	6	2	2	5	1	33.8
D2	83	71	12	30	53	0	36.4
D3	516	455	61	252	252	12	34.8
D4	444	375	69	279	157	8	33.8
N1	21	20	1	13	8	0	44.6
N2	101	98	3	71	29	1	38.7
N3	391	382	9	197	186	8	37.4
N4	92	86	6	50	42	0	34.3
N5	494	474	20	278	205	11	34.0
N6	165	160	5	101	55	9	32.0
N7	617	581	36	399	197	21	30.5
N8	331	257	74	207	110	14	32.3
N9	581	531	50	383	180	18	31.6
N10	119	104	15	69	47	3	32.4
Offgrid	4	3	1	1	3	0	34.8
Nongrid	10	10	0	10	0	0	36.0
Unknown	14	14	0	7	7	0	33.7
<b>Total</b>	<b>3,991</b>	<b>3,627</b>	<b>364</b>	<b>2,349</b>	<b>1,536</b>	<b>106</b>	<b>33.5</b>

### Condition Probation Violators

During FY 2001, 1,330 condition probation violators were admitted to the custody of the Department of Corrections (DOC). This number represents a decrease of 111 offenders, or 7.7% decrease compared with FY 2000 figure. More than 98% of condition probation violators had received guideline sentences. Characteristics of this group, by the top 10 most frequent committing offenses, are shown on Tables 15 and 16.

Aggravated assault, aggravated battery, burglary, criminal damage of property, criminal threat, driving while a habitual violator, driving while suspended, forgery, robbery, and theft were among the top 10 most frequent committing offenses for nondrug probation violators, accounting for

almost 76% of all nondrug offenses (Table 15). Possession of drugs was the most frequent offense type for probation violators on the drug grid, accounting for nearly 74% of all drug offenses (Table 16). Burglary, theft and forgery were the three most frequent sentencing offenses for which there were a large number of probation violators. The average length of lag time for nondrug probation violators from the age of offense to the age of admission to prison was 2.3 years, which decreased by 0.2 year or 2.4 months compared with the length of lag time in FY 2000. The average length of lag time for drug violators was 2.3 years, which decreased by 1.2 months from that of drug condition probation violators in FY 2000. Distributions of probation violators by severity level and criminal history are exhibited in Table 17.

**Table 15: Top 10 Most Frequent Committing Offenses of Probation Nondrug Violators**

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean*	Admit Age Mean**
		Male	Female	White	Black	Other		
Aggravated assault	37	100.0	0.0	75.7	21.6	2.7	28.5	30.5
Aggravated battery	86	88.4	11.6	64.0	30.2	5.8	27.8	29.9
Burglary	184	92.4	7.6	71.2	26.1	2.7	25.4	27.7
Criminal damage of property	23	91.3	8.7	87.0	4.3	8.7	24.3	26.2
Criminal threat	45	93.3	6.7	68.9	31.1	0.0	30.9	32.6
Driving while a habitual violator	57	96.5	3.5	61.4	36.8	1.8	33.0	35.5
Driving while suspended	28	96.4	3.6	67.9	32.1	0.0	28.5	31.5
Forgery	110	59.1	40.9	63.6	33.6	2.7	29.5	31.8
Robbery	28	89.3	10.7	42.9	57.1	0.0	24.0	25.8
Theft	151	81.5	18.5	70.9	26.5	2.6	28.0	30.4
<b>Subtotal</b>	<b>749</b>	<b>85.6</b>	<b>14.4</b>	<b>67.8</b>	<b>29.4</b>	<b>2.8</b>	<b>27.9</b>	<b>30.1</b>
Other	240	89.6	10.4	67.4	29.7	2.9	27.0	29.5
<b>TOTAL</b>	<b>989</b>	<b>86.6</b>	<b>13.4</b>	<b>67.7</b>	<b>29.5</b>	<b>2.8</b>	<b>27.7</b>	<b>30.0</b>

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

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

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean*	Admit Age Mean**
		Male	Female	White	Black	Other		
Depress, stim, hall, etc.; sale, poss w/intent to sale	34	76.5	23.5	61.8	29.4	8.8	26.2	28.4
Depress, stim, hall; poss 2nd	27	85.2	14.8	81.5	18.5	0.0	26.1	28.3
Opiates or narcotics; poss 1	215	77.2	22.8	62.8	34.4	2.8	31.4	33.7
Opiates or narcotics; poss 2	5	60.0	40.0	60.0	40.0	0.0	27.1	29.1
Opiates or narcotics; sale 1	49	77.6	22.4	49.0	49.0	2.0	30.6	32.8
Possession of paraphernalia	5	80.0	20.0	100.0	0.0	0.0	23.6	26.0
Unlawful manufacture controlled substance	6	100.0	0.0	100.0	0.0	0.0	31.3	32.8
<b>TOTAL</b>	<b>341</b>	<b>78.0</b>	<b>22.0</b>	<b>63.3</b>	<b>33.7</b>	<b>2.9</b>	<b>30.1</b>	<b>32.4</b>

\* Average age at time of offense.

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

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

Severity Level	Criminal History Category									Subtotal
	A	B	C	D	E	F	G	H	I	
D2		1	1			1	4		2	9
D3		2	4	1	9	5	17	15	27	80
D4	1	5	16	9	17	12	42	58	80	240
N1									1	1
N2							1		2	3
N3		1			1		2	3	4	11
N4		2	1			1	2		4	10
N5		2	1	2	2	1	5	11	18	42
N6			3			1		5	14	23
N7	2	3	28	23	25	24	43	42	67	257
N8		2	14	8	21	15	21	28	32	141
N9	4	10	40	21	48	27	52	58	75	335
N10		2	6	2	5	4	13	15	14	61
<b>Total</b>	<b>7</b>	<b>30</b>	<b>114</b>	<b>66</b>	<b>128</b>	<b>91</b>	<b>202</b>	<b>235</b>	<b>340</b>	<b>1,213</b>

\* Due to missing data, criminal history categories are based on 1,213 probation violators reporting criminal history.

### Condition Parole/Postrelease Supervision Violators

Condition parole/postrelease supervision violators contributed the largest percentage of FY 2001 admissions. Totalling 2,552 admissions, this group accounted for approximately 43% of all admissions to DOC. Characteristics of this offender group are presented on Tables 18 and 19. The top 10 most frequent committing offenses of nondrug parole/postrelease violators included aggravated battery, aggravated burglary, aggravated robbery, aggravated indecent liberties with child, burglary, forgery, indecent liberties with child, rape, robbery and theft, accounting for more than

67% of the total offenses. More than 95% of this group was males. Females represented the highest percentage (over 20%) for the crime of forgery. The highest percentage of whites was found in the offense categories of indecent liberties with child, aggravated indecent liberties with child and burglary, whereas blacks indicated the highest representation in aggravated robbery and robbery (Table 18). Parole/postrelease drug violators were convicted primarily for possession of opiates or narcotics (Table 19).

Distribution of parole/postrelease supervision violators by severity level and criminal history is shown on Table 20.

**Table 18: 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		
Aggravated battery	145	94.5	5.5	48.3	44.1	7.6	27.5	33.3
Aggravated burglary	85	91.8	8.2	51.8	45.9	2.4	27.1	35.0
Aggravated robbery	209	97.1	2.9	35.4	63.6	1.0	24.5	36.2
Agg Indecent Liberties w/Child	125	96.8	3.2	72.0	24.8	3.2	28.0	33.2
Burglary	189	98.4	1.6	67.2	29.6	3.2	27.8	32.5
Forgery	92	78.3	21.7	51.1	41.3	7.6	32.1	36.1
Indecent Liberties w/Child	77	100.0	0.0	76.6	18.2	5.2	28.0	36.9
Rape	61	100.0	0.0	52.5	45.9	1.6	25.5	36.5
Robbery	179	95.5	4.5	38.0	61.5	0.6	26.1	32.9
Theft	91	95.6	4.4	57.1	41.8	1.1	28.0	32.6
Other	609	95.6	4.4	65.5	31.9	2.6	28.3	34.6
<b>TOTAL</b>	<b>1,862</b>	<b>95.3</b>	<b>4.7</b>	<b>57.0</b>	<b>40.0</b>	<b>3.0</b>	<b>27.5</b>	<b>34.4</b>

\* Average age at time of offense.

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

**Table 19: 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		
Depress, stim, hall, etc.; sale, poss w/intent to sale	91	96.7	3.3	78.0	20.9	1.1	26.7	31.4
Depress, stim, hall; sale w/in 1,000 ft of school	3	100.0	0.0	100.0	0.0	0.0	26.2	33.4
Depress, stim, hall; poss 2	20	100.0	0.0	65.0	30.0	5.0	30.1	33.5
Opiates or narcotics; poss 1	315	89.5	10.5	46.3	53.0	0.6	30.1	36.3
Opiates or narcotics; poss 2	34	82.4	17.6	47.1	52.9	0.0	30.9	37.2
Opiates or narcotics; poss 3	6	66.7	33.3	16.7	66.7	16.7	28.9	34.6
Opiates or narcotics; sale 1	144	86.8	13.2	36.8	61.1	2.1	29.4	33.6
Opiates or narcotics; sale 2	17	100.0	0.0	11.8	88.2	0.0	29.7	36.7
Opiates or narcotics; sale 3	1	100.0	0.0	0.0	100.0	0.0	28.5	32.3
Unlawful manufacture controlled substance	59	89.8	10.2	59.3	35.6	5.1	28.6	39.8
<b>TOTAL</b>	<b>690</b>	<b>90.0</b>	<b>10.0</b>	<b>49.3</b>	<b>49.1</b>	<b>1.6</b>	<b>29.4</b>	<b>35.3</b>

\* Average age at time of offense.

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

**Table 20: 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		1						1		2
D2	2	1			10	5	8	5	2	33
D3	4	10	20	10	30	22	27	33	42	198
D4	7	16	32	11	42	27	18	17	19	189
N1								1		1
N2			2					2	4	8
N3		2	3	1		2	7	6	31	52
N4		1			1	2	4		8	16
N5	2	5	20	14	14	7	36	20	67	185
N6	3	4	14	8	13	7	10	4	24	87
N7	28	39	39	23	35	22	20	19	35	260
N8	17	20	23	1	29	16	19	14	12	151
N9	29	45	26	9	39	7	16	10	14	195
N10	7	9	8	2	7	2	6	7	1	49
<b>Total</b>	<b>99</b>	<b>153</b>	<b>187</b>	<b>79</b>	<b>220</b>	<b>119</b>	<b>171</b>	<b>139</b>	<b>259</b>	<b>1,426</b>

\* Due to missing data, criminal history categories are based on 1,426 violators reporting criminal history.

**Conditional Release Violators**

Tables 21 and 22 illustrate the characteristics of conditional release violators. In examining offense types, the analysis found that the highest percentage of this group was classified as sex offenders,

which attributed to almost 51% of all nondrug offenders. Drug offenders represented only 18.3% of this specific population (n=109). All conditional release violators had missing criminal history categories since they are governed by pre-guideline sentences.

**Table 21: Top 10 Most Frequent Committing Offenses of Conditional Release Violators Nondrug Offenders**

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean*	Admit Age Mean**
		Male	Female	White	Black	Other		
Agg criminal sodomy w/child	6	100.0		83.3	16.7		31.8	44.0
Agg escape from custody	4	100.0		25.0	75.0		34.6	43.8
Aggravated battery	3	100.0		33.3	66.7		28.6	41.4
Aggravated robbery	9	100.0		22.2	77.8		27.3	39.5
Aggravated incest	5	100.0		100.0			27.6	36.9
Agg sexual battery on child	2	100.0		100.0			52.5	63.8
Burglary	5	100.0		60.0	40.0		27.9	37.1
Indecent liberties w/child	22	100.0		90.9	9.1		35.0	46.8
Rape	10	100.0		50.0	50.0		27.8	41.5
Robbery	8	100.0		12.5	75.0	12.5	27.7	37.5
Other	15	100.0		66.7	33.3		28.7	39.0
<b>TOTAL</b>	<b>89</b>	<b>100.0</b>	<b>0.0</b>	<b>61.8</b>	<b>37.1</b>	<b>1.1</b>	<b>30.8</b>	<b>42.1</b>

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

**Table 22: Characteristics of Conditional Release Violators by Type of Offense Drug Offenders**

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean*	Admit Age Mean**
		Male	Female	White	Black	Other		
Opiates or narcotics; poss 1	14	100.0	0.0	14.3	85.7	0.0	31.8	40.9
Opiates or narcotics; sale 1	1	100.0	0.0	100.0	0.0	0.0	42.2	50.9
Unlawful manufacture controlled substance	5	100.0	0.0	80.0	20.0	0.0	29.1	38.8
<b>TOTAL</b>	<b>20</b>	<b>100.0</b>	<b>0.0</b>	<b>35.0</b>	<b>65.0</b>	<b>0.0</b>	<b>31.7</b>	<b>40.9</b>

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

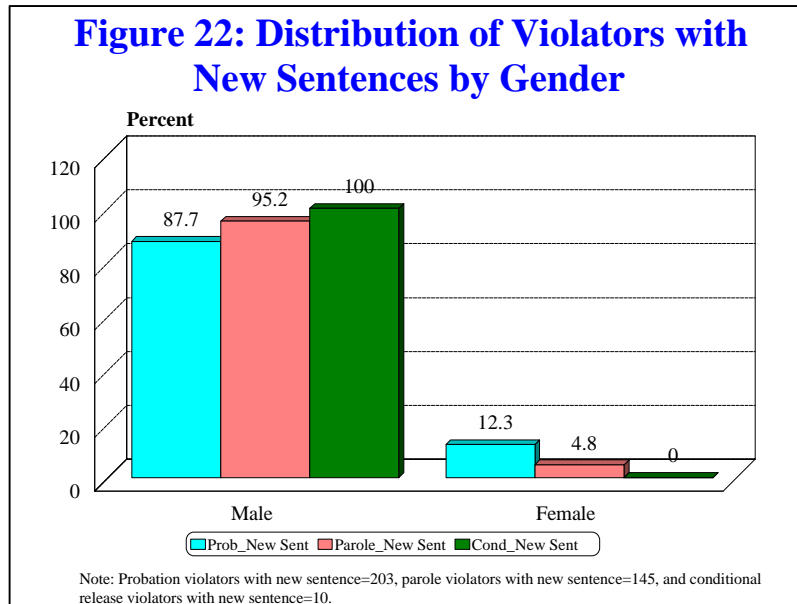
### Violators with New Sentences

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, indicating a 1.8% decrease when compared with FY 2000. Characteristics of this group are presented in Figures 22 to 24.

White males are the predominant gender for this population (Figures 22 and 23). The highest percentages of probation violators, parole/postrelease violators and conditional release violators with new sentences were found in the age group between 31 to 40 years old at the time of admission to prison (Figure 24).

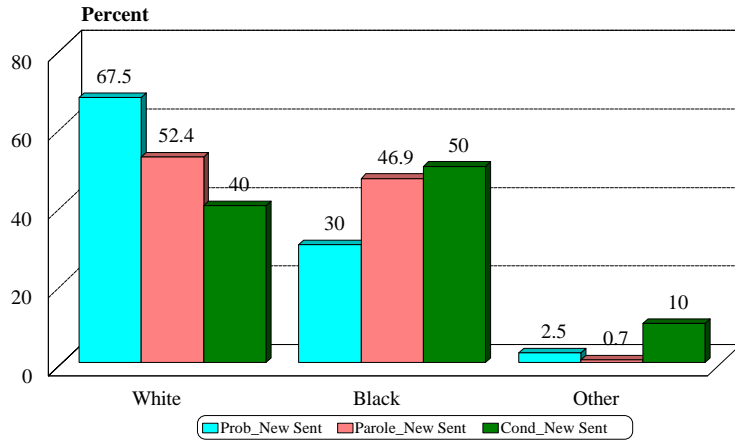
**Figure 22: Distribution of Violators with New Sentences by Gender**



Drugs (29.6%), burglary (14.8%) and forgery (6.9%) were the major committing offense categories for probation violators with new convictions. Drugs (26.2%), theft (10.3%) and burglary (9.0%) represented the major committing offenses for

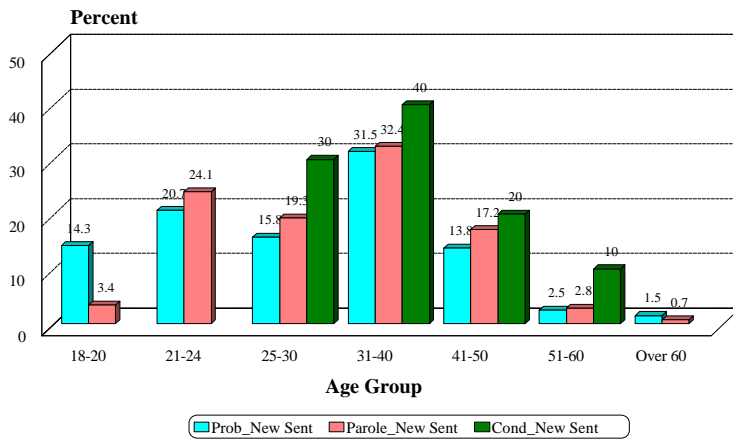
parole/postrelease violators with new sentences. The predominant committing offense for conditional release violators with new sentences was drugs (30%), as well. Table 23 illustrates the distribution of the above offenders by severity levels.

**Figure 23: Distribution of Violators with New Sentences by Race**



Note: Probation violators with new sentence=203, parole violators with new sentence=145, and conditional release violators with new sentence=10.

**Figure 24: Distribution of Violators with New Sentences by Age Group**



Note: Probation violators with new sentence=203, parole violators with new sentence=145, and conditional violators with new sentence=10.



**Table 23: Distribution of FY 2001 Violators with New Sentences  
by Severity Level**

Severity Level	Probation		Parole/Postrelease		Conditional Release	
	N	%	N	%	N	%
D1	5	2.5	0	0.0	0	0.0
D2	11	5.4	7	4.8	0	0.0
D3	18	8.9	18	12.4	2	20.0
D4	26	12.8	13	9.0	1	10.0
N1	0	0.0	1	0.7	0	0.0
N2	0	0.0	2	1.4	0	0.0
N3	8	3.9	14	9.7	2	20.0
N4	1	0.5	5	3.4	0	0.0
N5	21	10.3	20	13.8	3	30.0
N6	6	3.0	5	3.4	0	0.0
N7	44	21.7	21	14.5	1	10.0
N8	31	15.3	12	8.3	0	0.0
N9	24	11.8	23	15.9	0	0.0
N10	8	3.9	3	2.1	1	10.0
Offgrid	0	0.0	0	0.0	0	0.0
Nongrid	0	0.0	0	0.0	0	0.0
Unknown	0	0.0	1	0.7	0	0.0
<b>Total</b>	<b>203</b>	<b>100.0</b>	<b>145</b>	<b>100.0</b>	<b>10</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 revocation of the probation but rather a continuation or an extension of the probation. In FY 2001, there were 1,477 condition probation violators and 151 probation violators with new convictions representing 46.8% of the total number of 3,154 condition probation violators and 35.2% of the total number of 429 probation violators with new offenses

respectively, who were continued or extended on probation. Drugs (25.5%), theft (12.5%), burglary (10.6%), forgery (9.5%) and driving while a habitual violator (7.4%) were the top five committing offenses for this group of condition violators. Drugs (25.2%), burglary (15.2%), forgery (12.6%), theft (7.3%) and driving while a habitual violator (6%) were also the top five committing offenses for probation violators with new convictions. Tables 24 and 25 present criminal history by severity levels of the two types of violators who were sentenced to continued or extended probation.

**Table 24: 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	4	0	0	1	0	1	1	0	0	1	
D2	8	0	0	0	0	0	2	4	0	2	
D3	90	0	3	4	1	5	9	18	12	38	
D4	274	3	3	11	6	16	11	60	51	106	
N1	2	0	0	0	0	0	0	0	0	2	
N2	1	0	0	0	0	0	0	0	0	1	
N3	7	0	1	0	0	1	0	1	0	3	
N4	6	0	0	0	0	0	1	1	1	3	
N5	30	0	0	4	2	1	1	1	10	11	
N6	14	0	0	0	2	0	0	2	2	7	
N7	216	1	0	19	16	23	30	31	32	61	
N8	177	0	4	11	7	24	15	23	20	69	
N9	458	12	12	48	21	67	35	79	57	120	
N10	111	0	0	17	6	19	11	24	10	22	
Nongrid	79	0	0	3	2	1	0	10	6	4	
<b>Total</b>	<b>1,477</b>	<b>16</b>	<b>23</b>	<b>118</b>	<b>63</b>	<b>158</b>	<b>116</b>	<b>254</b>	<b>201</b>	<b>450</b>	

Note: Criminal history classes are based on 1,399 cases reporting criminal history category.

Legend:

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

**Table 25: 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
D3	9	0	0	0	0	0	0	3	3	3
D4	29	0	0	1	0	2	3	6	9	8
N3	2	0	0	0	0	0	0	0	1	1
N4	1	0	0	0	0	0	0	0	1	0
N5	7	0	0	0	0	0	0	2	1	4
N6	2	0	0	0	0	0	0	0	1	1
N7	22	0	0	3	1	0	2	3	7	6
N8	22	0	0	1	2	5	2	5	2	5
N9	41	0	1	1	2	3	3	7	8	14
N10	12	0	0	2	2	1	1	1	1	4
Nongrid	4	0	0	0	0	0	0	1	0	0
<b>Total</b>	<b>151</b>	<b>0</b>	<b>1</b>	<b>8</b>	<b>7</b>	<b>11</b>	<b>11</b>	<b>28</b>	<b>34</b>	<b>46</b>

Note: Criminal history classes are based on 146 cases reporting criminal history category.

Legend:

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

## CHAPTER THREE

# CONFORMITY TO THE SENTENCING GUIDELINES

---

Conformity to the sentencing guidelines refers to presumptive prison and probation sentences imposed under the sentencing guidelines for offenders sentenced during FY 2001. 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.

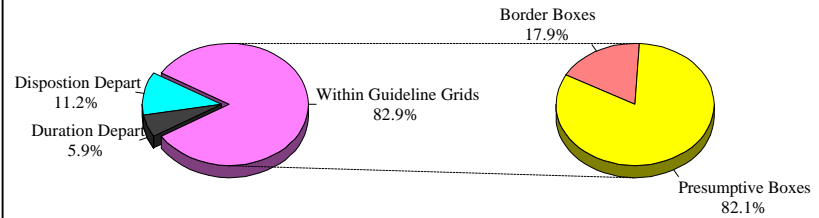
### OVERALL CONFORMITY RATES

In FY 2001, there were 7,076 pure guideline sentences, including 1,399 incarceration guideline sentences and 5,677 probation sentences. Figure 25 demonstrates that nearly 83% (5,864 sentences) of the 7,076 guideline sentences fell within the presumptive guideline grids; 5.9% (419 sentences) indicated durational departures, and 11.2% (793 sentences) were dispositional departures. Of all the sentences within the presumptive guideline grids, 4,815 sentences (82.1%) fell within either the presumptive prison boxes or presumptive probation boxes, while 1,049 sentences (17.9%) were located on designated border boxes.

Figure 26 indicates that more than 58% (463 sentences) of the 793 dispositional departures were downward departures and almost 42% (330 sentences) were upward dispositional departures. More than 78% of the 1,049 border box sentences resulted in probation sentences with only 22% of this group sentenced to prison (Figure 26).

The analysis of durational departure sentences is applicable to presumptive prison sentences only.

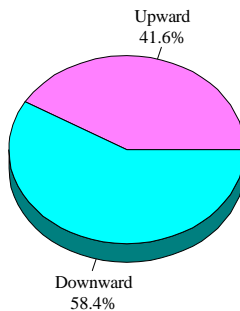
**Figure 25: Distribution of FY 2001 Overall Guideline Sentences**



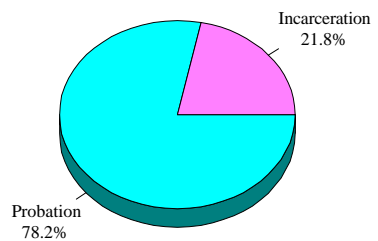
Based on 1,399 prison and 5,677 probation sentences

**Figure 26: Distribution of Dispositional Departure and Border Box Sentences**

**Dispositional Departures**



**Border Boxes**



Based on 793 dispositional departures and 1,049 border boxes

### 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 1,399 presumptive prison guideline sentences were utilized for this analysis.

Figure 27 indicates that 46.5% of total sentences fell within the presumptive incarceration range. Of this percentage, 32.2% fell within the standard range, 11.4% were within the aggravated range, and 21.2% were within the mitigated range. 35.2% were located within designated border boxes. 23.6% were dispositional departures and 29.9% were durational departures.

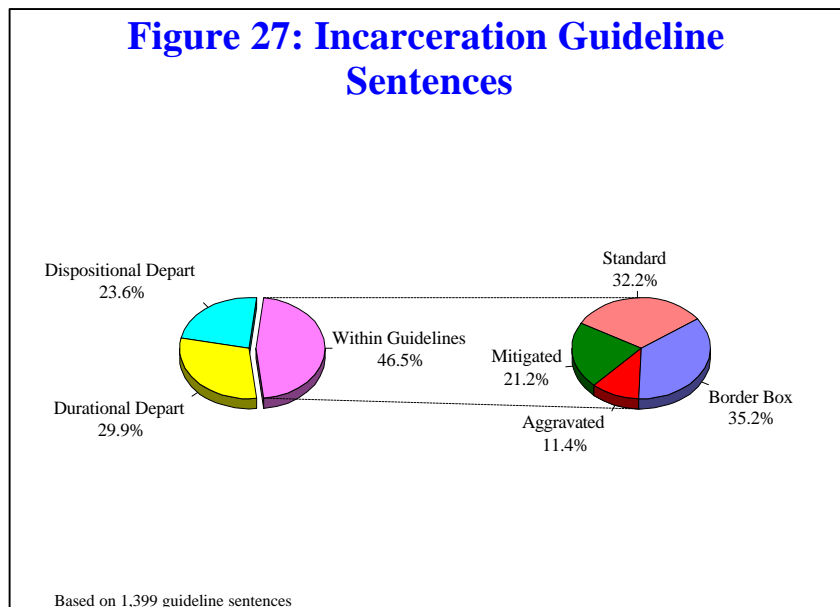
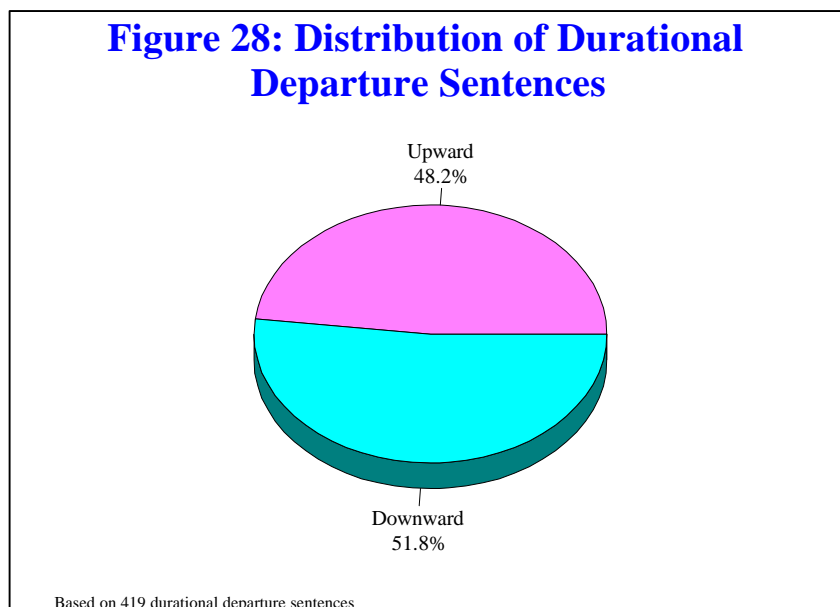


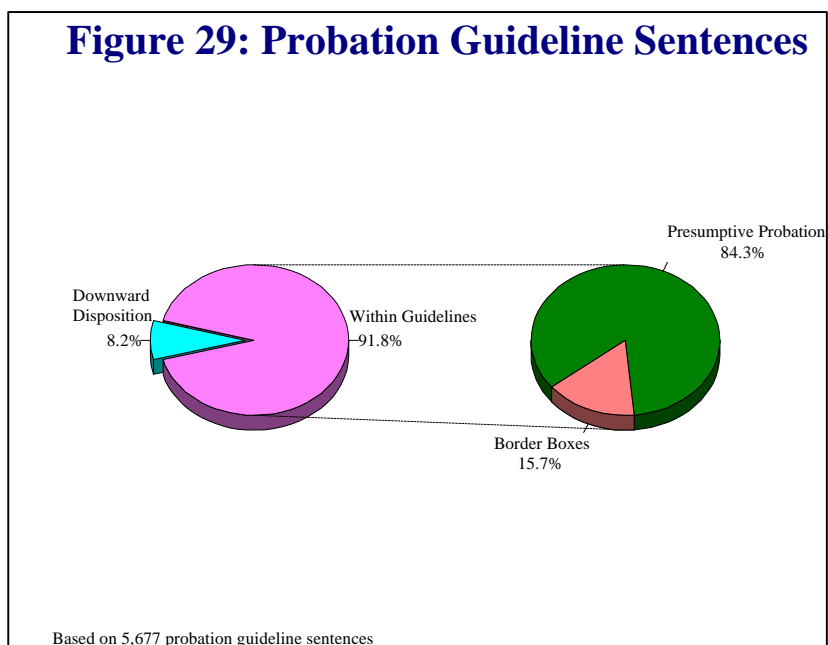
Figure 28 indicates that among the durational departure sentences, 48.2% departed upward from the presumptive guideline ranges, while 51.8% departed downward from the sentence lengths indicated on the presumptive range.



### CONFORMITY OF PRESUMPTIVE PROBATION GUIDELINE SENTENCES

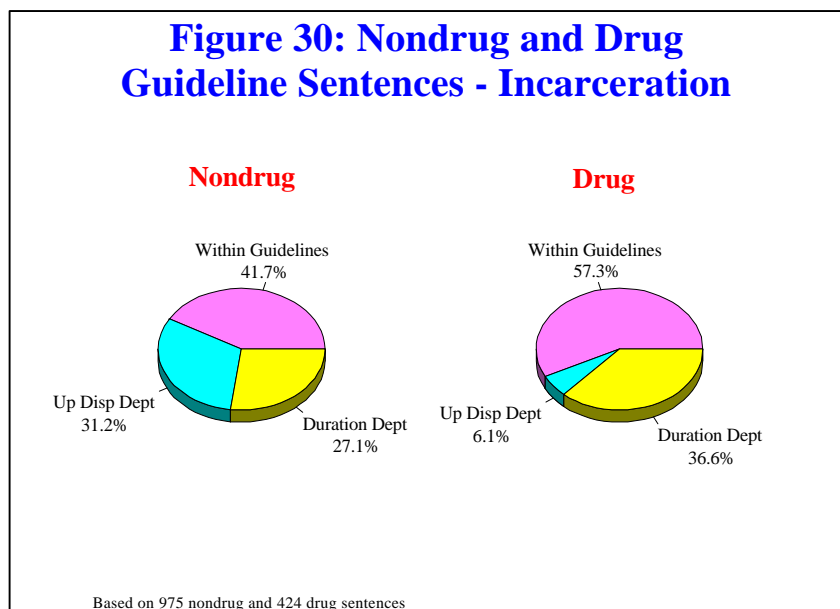
As expected, probation guideline sentences overwhelmingly (91.8%, 5,214 cases) fell beneath the incarceration line, with only 15.7% falling within border boxes (Figure

29). This distribution accounted for 85% of the total probation sentences during FY 2001 (6,138). Probation sentences reflected downward dispositional departures of 8.2%, while upward dispositional departure sentences were reflected in presumptive prison sentences (See Figure 26, page 45).

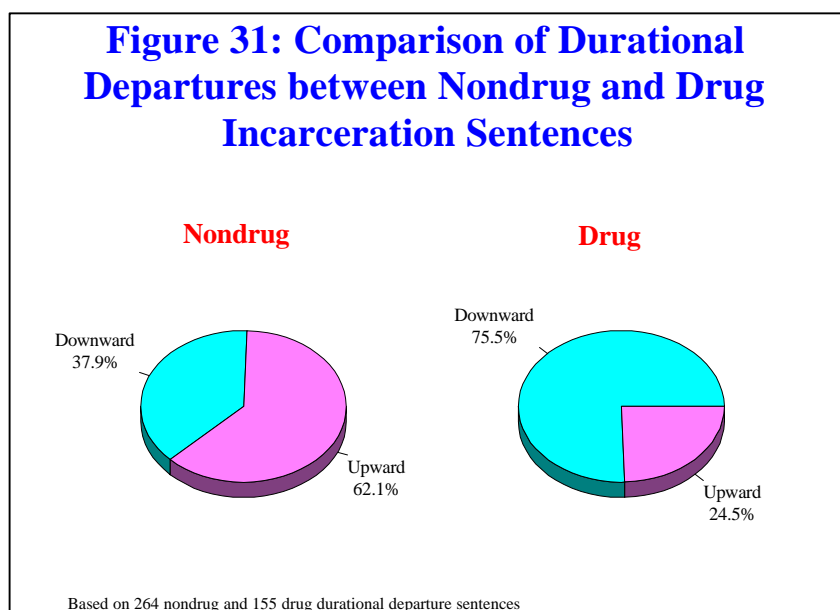


### CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES

Figure 30 indicates that among nondrug offenders, the data showed 31.2% upward dispositional departures, while drug offenders only revealed 6.1% upward dispositional departures. Nondrug offenders indicate 27.1% durational departures while drug offenders show 36.6% durational departures.

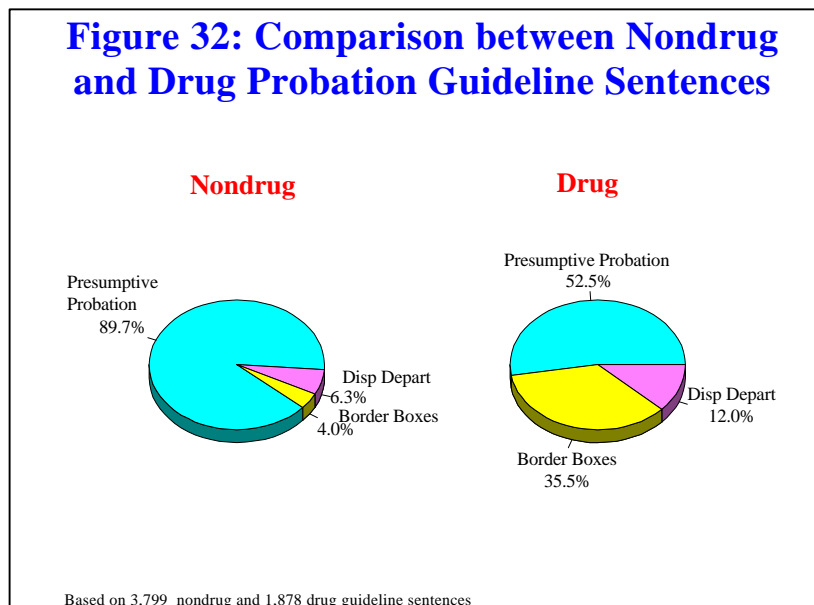


Examination of durational departures in Figure 31 indicates that downward departures represent 75.5% of the total durational departures on the drug grid. However, on the nondrug grid, only 37.9% of durational departures are downward. The majority of the upward departures were found on severity levels 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 represent higher percentage of downward dispositional departures than nondrug sentences (12% versus 6.3%, Figure 32).



The sentencing trend in Kansas seems to indicate that drug offenders tend to be sentenced to probation sentences when their offense types and criminal history categories fell within the border boxes, more often than do nondrug offenders (Figure 32). The sentencing trend also indicates that there is a higher tendency to depart downward more often with drug sentences than with nondrug sentences.

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

Table 26 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 an 11.1% standard, 2.1% aggravated, 8.3% mitigated

and 35.8% border box sentence distribution. Nondrug sentences revealed a 16.6% standard, 6.7% aggravated, 10.6% mitigated and 7.9% border box sentence distribution. As for the departure sentences, drug sentences showed 9% upward durational departures and 27.6% downward durational departures, whereas nondrug sentences showed a 16.8% upward durational departure rate and a 10.3% downward durational departure rate. When examining dispositional departures, nondrug sentences upward dispositional departures were present in 31.2%. By contrast, drug sentences showed only 6.1% upward dispositional departures. This would indicate 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 six years.

**Table 26: Conformity Rates by Severity Level - Incarceration Sentences**

Severity Level	N	Within Guidelines (%)				Departures (%)		
		Agg	Stand	Miti	Box	Durational		Dispositional
						Upward	Downward	Upward
D1	82	1.2	4.9	8.5		3.7	81.7	
D2	54	5.6	16.7	20.4		25.9	31.5	
D3	143	1.4	4.2	1.4	77.6	7.7	7.7	
D4	145	2.1	19.3	10.3	28.3	6.9	15.2	17.9
<b>Subtotal</b>	<b>424</b>	<b>2.1</b>	<b>11.1</b>	<b>8.3</b>	<b>35.8</b>	<b>9.0</b>	<b>27.6</b>	<b>6.1</b>
N1	70	11.4	11.4	14.3		42.9	20.0	
N2	34	5.9	26.5	14.7		26.5	26.5	
N3	182	12.6	17.6	23.1		31.9	14.8	
N4	45	17.8	26.7	17.8		22.2	15.6	
N5	195	6.7	19.0	6.7	38.5	14.4	14.9	
N6	24	4.2	25.0	8.3	8.3	20.8		33.3
N7	178	3.9	11.8	3.9		8.4	3.4	68.5
N8	64	1.6	9.4	6.3		3.1	1.6	78.1
N9	130	0.8	16.2	6.9		5.4	4.6	66.2
N10	53	1.9	18.9	5.7			1.9	71.7
<b>Subtotal</b>	<b>975</b>	<b>6.7</b>	<b>16.6</b>	<b>10.6</b>	<b>7.9</b>	<b>16.8</b>	<b>10.3</b>	<b>31.2</b>
<b>TOTAL</b>	<b>1,399</b>	<b>5.3</b>	<b>14.9</b>	<b>9.9</b>	<b>16.4</b>	<b>14.4</b>	<b>15.5</b>	<b>23.6</b>

Table 27 displays conformity rates for probation sentences by severity levels. Probation drug sentences indicated 12% downward dispositional departures for sentences, which should have been presumptive incarceration, while only 6.3% 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 (35.5% versus 4%). 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 six years.

**Table 27: Conformity Rates by Severity Level - Probation Sentences**

Severity Level	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	17			100.0
D2	41			100.0
D3	507		93.7	6.3
D4	1,313	75.2	14.6	10.2
<b>Subtotal</b>	<b>1,878</b>	<b>52.5</b>	<b>35.5</b>	<b>12.0</b>
N1	3			100.0
N2	2			100.0
N3	32			100.0
N4	15			100.0
N5	180		81.7	18.3
N6	89	76.4	6.7	16.9
N7	897	97.0		3.0
N8	681	96.5		3.5
N9	1,415	94.8		5.2
N10	485	97.3		2.7
<b>Subtotal</b>	<b>3,799</b>	<b>89.7</b>	<b>4.0</b>	<b>6.3</b>
<b>TOTAL</b>	<b>5,677</b>	<b>77.4</b>	<b>14.4</b>	<b>8.2</b>

**CONFORMITY RATES TO THE GUIDELINES BY RACE**

Tables 28 and 29 indicate varying conformity rates between drug and nondrug incarceration sentences by severity level and race. Table 28 shows that for drug incarceration sentences, blacks received

more standard sentences (15.5%) and mitigated sentences (15.5%) than whites. However, when examining sentence departures, whites indicated higher percentages in both durational departures and upward dispositional departures than blacks.

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

Severity Level and Race	N	Departures (%)						
		Within Guidelines (%)				Departures (%)		
		Agg	Stand	Miti	Box	Durational Upward	Durational Downward	Dispositional Upward
<b>D1</b>								
White	76	1.3	5.3	9.2		3.9	80.3	
Black	3						100.0	
Other	3						100.0	
<b>D2</b>								
White	39	5.1	20.5	12.8		33.3	28.2	
Black	15	6.7	6.7	40.0		6.7	40.0	
<b>D3</b>								
White	107	0.9	1.9	1.9	79.4	7.5	8.4	
Black	30	3.3	13.3		66.7	10.0	6.7	
Other	5				100.0			
<b>D4</b>								
White	84	3.6	16.7	4.8	29.8	7.1	10.7	27.4
Black	55		20.0	18.2	27.3	7.3	21.8	5.5
Other	6		50.0	16.7	16.7		16.6	
<b>TOTAL</b>								
White	306	2.3	9.2	5.9	35.9	9.8	29.4	7.5
Black	103	1.9	15.5	15.5	34.0	7.8	22.3	2.9
Other	14		21.4	7.1	42.9		28.6	

Based on 423 drug incarceration guideline sentences reporting race of offenders.

Examining nondrug incarceration sentences on Table 29, blacks received more aggravated sentences than whites (9.1% vs. 5%), whereas whites represented a higher percentage in border box sentences than

blacks (9.7% vs.4.7%). As for standard sentences, mitigated sentences and departure sentences, there was not a significant percentage difference between white offenders and black offenders.

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

Severity Level and Race	N	Within Guidelines (%)				Departures (%)		
						Durational		Dispositional
		Agg	Stand	Miti	Box	Upward	Downward	Upward
<b>N1</b>								
White	38	7.9	10.5	10.5		47.4	23.7	
Black	30	16.7	13.3	16.7		36.7	16.7	
Other	2			50.0		50.0		
<b>N2</b>								
White	29	6.9	31.0	13.8		17.2	31.0	
Black	2					100.0		
Other	3			33.3		66.7		
<b>N3</b>								
White	120	11.7	20.0	20.8		32.5	15.0	
Black	54	14.8	13.0	25.9		29.6	16.7	
Other	7	14.3	14.3	28.6		42.9		
<b>N4</b>								
White	30	13.3	26.7	23.3		23.3	13.3	
Black	14	21.4	28.6	7.1		21.4	21.4	
Other	1	100.0						
<b>N5</b>								
White	130	3.8	19.2	5.4	46.2	13.8	11.5	
Black	59	11.9	18.6	10.2	23.7	13.6	22.0	
Other	5	20.0	20.0			40.0	20.0	
<b>N6</b>								
White	15		20.0	13.3	13.3	13.3		40.0
Black	7	14.3	28.6			28.6		28.6
Other	2		50.0			50.0		
<b>N7</b>								
White	114	0.9	12.3	3.5		9.6	3.5	70.2
Black	52	5.8	11.5	3.8		5.8	3.8	69.2
Other	12	25.0	8.3	8.3		8.3		50.0
<b>N8</b>								
White	43	2.3	7.0	7.0		4.7	2.3	76.7
Black	19		15.8	5.3				78.9
Other	2							100.0
<b>N9</b>								
White	85	1.2	14.1	7.1		3.5	4.7	69.4
Black	40		22.5	7.5		7.5	5.0	57.5
Other	5					20.0		80.0
<b>N10</b>								
White	33	3.0	15.2	3.0			3.0	75.8
Black	20		25.0	10.0				65.0
<b>TOTAL</b>								
<b>White</b>	<b>637</b>	<b>5.0</b>	<b>16.8</b>	<b>9.9</b>	<b>9.7</b>	<b>16.5</b>	<b>10.2</b>	<b>31.9</b>
<b>Black</b>	<b>297</b>	<b>9.1</b>	<b>17.2</b>	<b>11.4</b>	<b>4.7</b>	<b>16.2</b>	<b>11.4</b>	<b>30.0</b>
<b>Other</b>	<b>39</b>	<b>15.4</b>	<b>10.3</b>	<b>12.8</b>		<b>28.2</b>	<b>2.6</b>	<b>30.8</b>

Based on 973 nondrug incarceration guideline sentences reporting race of offenders.

Conformity rates for probation sentences by race indicate that white offenders received more presumptive probation sentences (55.1%) but fewer downward dispositional departures (10.4%) than black offenders for drug offenses (Table 30). A similar pattern was found with nondrug sentences (Table 31). Black nondrug offenders accounted for a lower percentage of presumptive probation sentences (86.5% vs. 90.7%) but a higher

percentage of downward dispositional departures (9.5% vs. 5.3%) than whites. No percentage difference was found in the nondrug border box sentences between white and black offenders (Table 31) but black drug offenders were more likely than whites to receive probation sentences when the offenders fell within the border box range of the sentence grid (38.4% vs. 34.4%, Table 30).

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

Severity Level and Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1				
White	14			100.0
Black	3			100.0
D2				
White	33			100.0
Black	5			100.0
Other	1			100.0
D3				
White	377		94.7	5.3
Black	105		89.5	10.5
Other	6		100.0	
D4				
White	1,022	78.1	13.8	8.1
Black	244	61.5	17.6	20.9
Other	10	80.0	20.0	
<b>TOTAL</b>				
<b>White</b>	<b>1,446</b>	<b>55.1</b>	<b>34.4</b>	<b>10.4</b>
<b>Black</b>	<b>357</b>	<b>42.0</b>	<b>38.4</b>	<b>19.6</b>
<b>Other</b>	<b>17</b>	<b>47.1</b>	<b>47.1</b>	<b>5.9</b>

Based on 1,820 drug probation sentences reporting race of offenders.

**Table 31: Conformity Rates by Race - Probation Sentences  
Nondrug Offenders**

<b>Severity Level and Race</b>	<b>N</b>	<b>Presumptive Probation (%)</b>	<b>Border Boxes (%)</b>	<b>Downward Disposition (%)</b>
N1				
White	2			100.0
Black	1			100.0
N2				
White	1			100.0
N3				
White	19			100.0
Black	12			100.0
N4				
White	12			100.0
Black	2			100.0
N5				
White	128		82.0	18.0
Black	41		80.5	19.5
Other	6		83.3	16.7
N6				
White	76	82.9	5.3	11.8
Black	12	33.3	16.7	50.0
N7				
White	660	97.1		2.9
Black	188	95.7		4.3
Other	13	100.0		
N8				
White	481	97.1		2.9
Black	169	95.3		4.7
Other	16	87.5		12.5
N9				
White	1,034	96.2		3.8
Black	310	89.4		10.6
Other	28	100.0		
N10				
White	327	97.6		2.4
Black	142	96.5		3.5
Other	6	100.0		
<b>TOTAL</b>				
<b>White</b>	<b>2,740</b>	<b>90.7</b>	<b>4.0</b>	<b>5.3</b>
<b>Black</b>	<b>877</b>	<b>86.5</b>	<b>4.0</b>	<b>9.5</b>
<b>Other</b>	<b>69</b>	<b>88.4</b>	<b>7.2</b>	<b>4.3</b>

Based on 3,686 nondrug probation sentences reporting race of offenders.

**CONFORMITY RATES TO THE GUIDELINES BY GENDER**

Table 32 illustrates that for drug incarceration sentences, conformity rates also vary depending on severity level and gender. Only males received aggravated sentences and standard sentences. However, females represented a lower rate in mitigated sentences than males (2.2% vs. 9%) and

received more prison sentences when the offenders fell within the border boxes than their counterparts (43.5% vs. 34.9%). As for departure sentences, males received more upward durational departures (9.8% vs. 2.2%) and fewer downward durational departures (25.9% vs. 41.3%) than females, while females received a greater number of upward dispositional departures than males (10.9% vs. 5.6%).

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

Severity Level and Gender	N	Within Guidelines (%)				Departures (%)		
		Agg	Stand	Miti	Box	Durational		Dispositional
						Upward	Downward	Upward
D1								
Male	70	1.4	5.7	8.6		4.3	80.0	
Female	12			8.3			91.7	
D2								
Male	50	6.0	18.0	22.0		28.0	26.0	
Female	4						100.0	
D3								
Male	126	1.6	4.8	1.6	76.2	7.9	7.9	
Female	17				88.2	5.9	5.9	
D4								18.0
Male	132	2.3	21.2	11.4	27.3	7.6	14.4	15.9
Female	13				38.5		23.1	38.5
<b>TOTAL</b>								
<b>Male</b>	<b>378</b>	<b>2.4</b>	<b>12.4</b>	<b>9.0</b>	<b>34.9</b>	<b>9.8</b>	<b>25.9</b>	<b>5.6</b>
<b>Female</b>	<b>46</b>			<b>2.2</b>	<b>43.5</b>	<b>2.2</b>	<b>41.3</b>	<b>10.9</b>

Based on 424 drug incarceration guideline sentences.

Table 33 demonstrates the sentence pattern of the nondrug incarceration sentences. Within guidelines males received a little fewer standard sentences (16.5% vs. 17.7%) but a lot more mitigated sentences (11.2% vs. 1.6%) than females. There was not much percentage difference in aggravated sentences between males and females. However, similar with the pattern of drug incarceration border box sentences, females

received prison sentences at a significantly higher rate than males when their sentences fell within border boxes (16.1% vs. 7.3%). Nondrug incarceration departure sentences followed the same trend of FY 2000, in which males accounted for higher percentages in both upward and downward durational departures than females, but females had a higher percentage in upward dispositional departure than males (41.9%



vs. 30.4%). Based on gender alone, it would appear to imply that females are more likely to receive a prison sentence than males for both drug and nondrug sentences. This sentencing practice has remained unchanged

for the last six years and will continue to be closely monitored in future analysis (see Kansas Sentencing Commission 2000, 1999, 1998, 1997 and 1996 Annual Reports).

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

Severity Level and Gender	N	Within Guidelines (%)				Departures (%)		
						Durational		Dispositional
		Agg	Stand	Miti	Box	Upward	Downward	Upward
N1								
Male	67	11.9	11.9	14.9		41.8	19.4	
Female	3					66.7	33.3	
N2								
Male	32	6.3	21.9	15.6		28.1	28.1	
Female	2		100.0					
N3								
Male	171	11.7	15.8	24.6		33.3	14.6	
Female	11	27.3	45.5			9.1	18.2	
N4								
Male	44	18.2	27.3	18.2		22.7	13.6	
Female	1						100.0	
N5								
Male	181	6.6	19.9	7.2	35.9	14.9	15.5	
Female	14	7.1	7.1		71.4	7.1	7.1	
N6								
Male	24	4.2	25.0	8.3	8.3	20.8		33.3
N7								
Male	171	4.1	12.3	4.1		8.8	3.5	67.3
Female	7							100.0
N8								
Male	55	1.8	9.1	5.5		3.6	1.8	78.2
Female	9		11.1	11.1				77.8
N9								
Male	123	0.8	16.3	7.3		4.9	4.9	65.9
Female	7		14.3			14.3		71.4
N10								
Male	45	2.2	20.0	6.7			2.2	68.9
Female	8		12.5					87.5
<b>TOTAL</b>								
<b>Male</b>	<b>913</b>	<b>6.7</b>	<b>16.5</b>	<b>11.2</b>	<b>7.3</b>	<b>17.4</b>	<b>10.4</b>	<b>30.4</b>
<b>Female</b>	<b>62</b>	<b>6.5</b>	<b>17.7</b>	<b>1.6</b>	<b>16.1</b>	<b>8.1</b>	<b>8.1</b>	<b>41.9</b>

Based on 975 nondrug incarceration guideline sentences.

Analyses of overall probation sentences show that females, on both the drug and nondrug grids, received less downward dispositional departures than males (Tables 34 and 35). This finding indicates that females were more likely to be incarcerated than males when both upward and downward dispositional departures are compared for prison and probation sentences. Females have a higher likelihood

of an upward dispositional departure to prison even when their offenses fell within the presumptive probation portion of the grid. Females also had less chance for a downward departure to probation if their sentences fell within a presumptive prison box. The above findings continue a trend that was present in the FY 1996, FY 1997 and FY 1998, FY 1999 and FY 2000 data.

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

Severity Level and Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1				
Male	12			100.0
Female	5			100.0
D2				
Male	29			100.0
Female	11			100.0
D3				
Male	414		93.0	7.0
Female	80		97.5	2.5
D4				
Male	965	71.8	15.1	13.1
Female	325	85.2	12.3	2.5
<b>TOTAL</b>				
<b>Male</b>	<b>1,420</b>	<b>48.7</b>	<b>37.4</b>	<b>13.9</b>
<b>Female</b>	<b>421</b>	<b>65.8</b>	<b>28.0</b>	<b>6.2</b>

Based on 1,841 drug probation sentences reporting gender of offenders.

**Table 35: Conformity Rates by Gender - Probation Sentences  
Nondrug Offenders**

<b>Severity Level and Gender</b>	<b>N</b>	<b>Presumptive Probation (%)</b>	<b>Border Boxes (%)</b>	<b>Downward Disposition (%)</b>
N1				
Male	2			100.0
Female	1			100.0
N2				
Male	1			100.0
N3				
Male	28			100.0
Female	4			100.0
N4				
Male	12			100.0
Female	2			100.0
N5				
Male	153		80.4	19.6
Female	23		91.3	8.7
N6				
Male	83	74.7	7.2	18.1
Female	6	100.0		
N7				
Male	769	96.6		3.4
Female	105	99.0		1.0
N8				
Male	432	94.7		5.3
Female	242	99.6		0.4
N9				
Male	1,131	93.8		6.2
Female	249	99.2		0.8
N10				
Male	366	96.4		3.6
Female	113	100.0		
<b>TOTAL</b>				
<b>Male</b>	<b>2,977</b>	<b>88.3</b>	<b>4.3</b>	<b>7.4</b>
<b>Female</b>	<b>745</b>	<b>95.4</b>	<b>2.8</b>	<b>1.7</b>

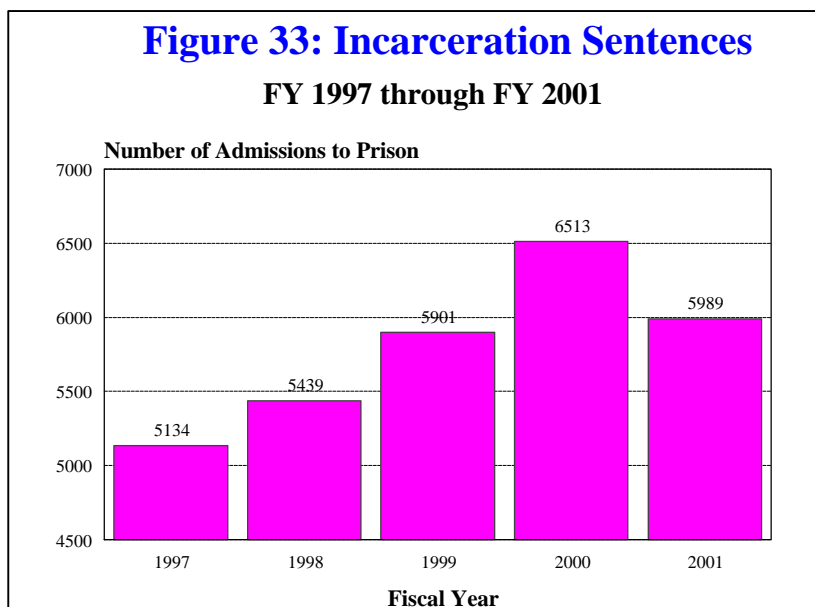
Based on 3,722 nondrug probation sentences reporting gender of offenders.

## CHAPTER FOUR SENTENCING TRENDS AND FORECAST

### INCARCERATION SENTENCES

In FY 2001, the total number of incarceration sentences decreased by 8% compared with that of FY 2000. The total number of FY 2001 prison admissions indicated an increase of 16.7% from the 5,134 admissions reported in FY 1997 (Figure 33).

Monthly prison admissions in FY 2001 demonstrate a different pattern when compared with previous years (Table 36). The highest monthly admission rate in FY 2001 is in August, that is the second month of the fiscal year.



**Table 36: Prison Admissions by Month**

Month by Fiscal Year	1997	1998	1999	2000	2001
July	427	411	486	493	559
August	429	396	479	456	616
September	426	502	457	493	501
October	450	466	441	593	463
November	446	419	427	500	440
December	472	479	554	530	384
January	396	458	436	532	446
February	382	467	500	592	488
March	446	457	586	593	584
April	417	455	539	592	443
May	446	460	471	507	523
June	397	469	525	632	542
<b>Total</b>	<b>5,134</b>	<b>5,439</b>	<b>5,901</b>	<b>6,513</b>	<b>5,989</b>

Table 37 presents the types of admissions to prison during the past five years. The total number of admissions to prison in FY 2001 indicated a decrease of 8% when compared with the total number in FY 2000. Further comparison with FY 2000 demonstrated that the admissions of new court commitments increased by 20.6% and other types of admissions either decreased or remained constant. When compared with FY 1997,

direct new court admissions to prison increased by 16%, while parole/postrelease violators with new sentences decreased by 46%. The largest increase in numbers and percentage during the past five years is parole/postrelease condition violators, which indicated an increase of 57% or 928 admissions. When compared with that number of FY 1997, conditional release violators went up by 28%.

**Table 37: Comparison of Prison Admissions by Type  
FY 1997 through FY 2001**

Admission Type	FY1997	FY 1998	FY1999	FY 2000	FY 2001	FY 2001-1997 % Difference
New Court Admission	1380	1247	1340	1328	1601	16.0%
Probation Violator	1320	1515	1579	1441	1330	0.8%
Probation Violator with New Sentence	206	204	226	212	203	-1.5%
Parole/Postrelease Violator	1624	1847	2236	3084	2552	57.1%
Parole/Postrelease Violator with New Sent	269	262	295	284	145	-46.1%
Conditional Release Violator	85	113	118	104	109	28.2%
Conditional Release Violator with New Sent	10	15	13	7	10	0.0%
Other Types*	240	236	94	53	39	-83.8%
<b>Total</b>	<b>5134</b>	<b>5439</b>	<b>5901</b>	<b>6513</b>	<b>5989</b>	<b>16.7%</b>

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

As illustrated in Table 38, drug sentences during the past five years have increased, especially drug levels 1 and 2. The most significant increase in drug sentences was drug level 1 during the past five years. Table 39 demonstrates the different patterns of

nondrug admissions to prison during the past five years from FY 1997 to FY 2001 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.

**Table 38: Comparison of Incarceration Drug Sentences by Severity Level  
FY 1997 through FY 2001**

Severity Level	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2001-2000 % Difference	FY 2001-1997 % Difference
D1	6	12	15	33	108	227.3%	1700.0%
D2	76	92	123	146	163	11.6%	114.5%
D3	772	541	707	688	715	3.9%	-7.4%
D4	517	762	679	769	655	-14.8%	26.7%
<b>Total</b>	<b>1371</b>	<b>1407</b>	<b>1524</b>	<b>1636</b>	<b>1641</b>	<b>0.3%</b>	<b>19.7%</b>

**Table 39: Comparison of Incarceration Nondrug Sentences by Severity Level  
FY 1997 through FY 2001**

Severity Level	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2001-2000 %Difference	FY 2001-1997 % Difference
N1	37	37	63	67	99	47.8%	167.6%
N2	82	87	78	109	138	26.6%	68.3%
N3	363	370	444	529	612	15.7%	68.6%
N4	130	82	126	135	145	7.4%	11.5%
N5	510	492	520	626	751	20.0%	47.3%
N6	184	109	173	196	207	5.6%	12.5%
N7	860	862	871	1031	889	-13.8%	3.4%
N8	468	541	531	630	454	-27.9%	-3.0%
N9	855	1035	1116	1160	789	-32.0%	-7.7%
N10	170	222	267	284	194	-31.7%	14.1%
Offgrid	47	46	56	45	36	-20.0%	-23.4%
Other*	57	149	132	65	34	-47.7%	-40.4%
<b>Total</b>	<b>3763</b>	<b>4032</b>	<b>4377</b>	<b>4877</b>	<b>4348</b>	<b>-10.8%</b>	<b>15.5%</b>

\* Other includes nongrid and unknown.

The overall incarceration rate of drug offenders in FY 2001, when compared with that in FY 2000, indicated a slight increase of 0.3%, while the overall nondrug incarceration rate decreased by 11%. However, when compared with FY 1997, the overall drug incarceration increased by nearly 20% while nondrug incarceration increased by 15.5% (Table 38 and Table 39). Further examination of the drug incarceration sentences indicated that the number of drug levels 1 and 2 increased significantly during the past five years. The largest increase in percentage of drug offenders in FY 2001 fell on drug grid level 1, which increased by 227% from FY 2000 and 1700% from FY 1997. The largest increase in numbers for drug offenders fell on drug severity level 3 compared with FY 2000 (Table 38). For nondrug offenses, the largest increase in percentage fell on nondrug level 1 and the largest decrease in number and percentage occurred in nondrug severity level 9, which dropped by 371

admissions or 32% from the previous year. 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

### PROBATION SENTENCES

Distributions of probation sentences for the past five years are illustrated in Figure 34. Unlike incarceration sentences, probation sentences demonstrate a decrease trend in FY 2001 over FY 2000 and remained constant from FY 1997. The decrease of probation sentences in FY 2001 was due to the continuous 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.

The total number of probation sentences in FY 2001 indicated a decrease of 2.9% from the previous year and reflects a minimal change from that in FY 1997.

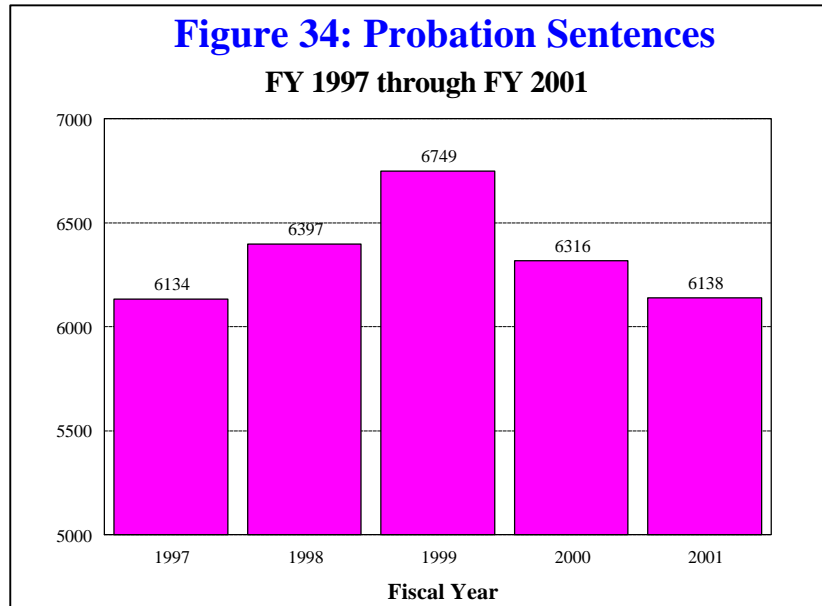


Table 40 illustrates the changes of probation sentences for drug offenses by severity levels during the past five years. The total number of drug probation sentences in FY 2001 increased by 16.1% from that of FY 2000 and 44.4% from FY 1997. The largest percentage increase of probation sentences

for drug offenses fell within drug level 1. 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

**Table 40: Comparison of Probation Drug Sentences by Severity Level FY 1997 through FY 2001**

Severity Level	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2001-2000 % Difference	FY 2001-1997 % Difference
D1	2	2	0	2	17	750.0%	750.0%
D2	28	21	42	34	41	20.6%	46.4%
D3	396	377	380	395	507	28.4%	28.0%
D4	870	938	1067	1186	1313	10.7%	50.9%
<b>Total</b>	<b>1301*</b>	<b>1338</b>	<b>1490*</b>	<b>1617</b>	<b>1878</b>	<b>16.1%</b>	<b>44.4%</b>

\* FY 1999 total number includes 1 unknown and FY 1997 total number includes 5 unknowns.

As demonstrated in Table 41, the FY 2001 probation sentences for nondrug offenses indicated a decrease of 9.3% from FY 2000 and 11.9% from FY 1997. This is the second

consecutive year that probation sentences present a decline trend. The largest decrease in numbers of probation sentences fell within nondrug severity level 9, while the

largest percentage increase is indicated on the level of nongrid. The increase of nongrid offenses and the decrease of nondrug

severity level 9 offenses reflect the legislative changes regarding the lower level offenses during the past two years.

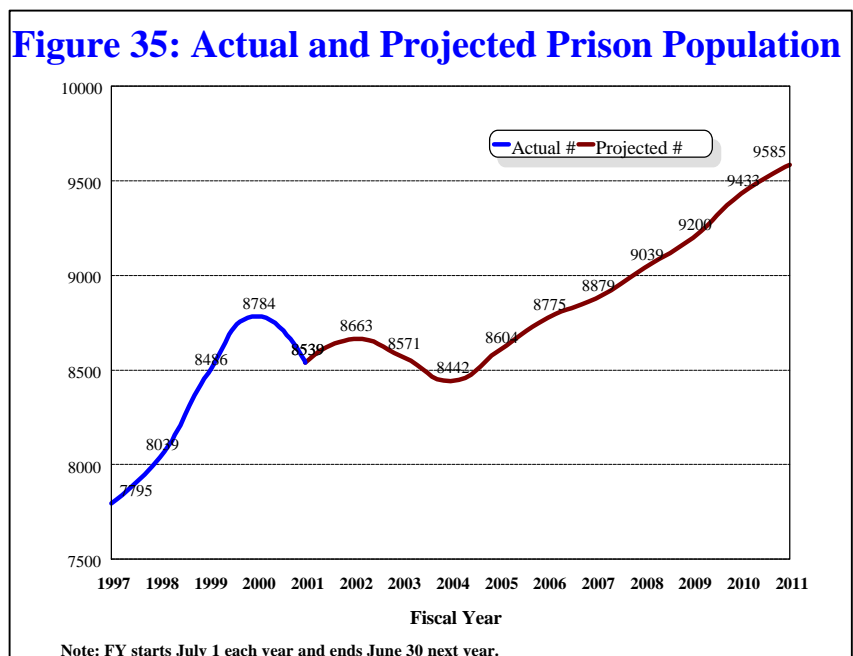
**Table 41: Comparison of Probation Nondrug Sentences by Severity Level FY 1997 through FY 2001**

Severity Level	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2001-2000 % Difference	FY 2001-1997 % Difference
N1	7	6	3	5	3	-40.0%	-57.1%
N2	7	5	6	2	2	0.0%	-71.4%
N3	40	44	26	38	32	-15.8%	-20.0%
N4	12	13	25	17	15	-11.8%	25.0%
N5	147	149	167	198	180	-9.1%	22.4%
N6	83	104	80	91	89	-2.2%	7.2%
N7	860	858	901	868	898	3.5%	4.4%
N8	682	642	678	664	682	2.7%	0.0%
N9	2252	2412	2508	1927	1419	-26.4%	-37.0%
N10	388	442	448	472	485	2.8%	25.0%
Nongrid	321	384	390	417	455	9.1%	41.7%
<b>Total</b>	<b>4833*</b>	<b>5059</b>	<b>5259*</b>	<b>4699</b>	<b>4260</b>	<b>-9.3%</b>	<b>-11.9%</b>

\*FY 1999 total number includes 27 unknowns and 1997 total number includes 34 unknowns.

### PRISON POPULATION FORECASTS

Figure 35 indicates the actual and projected prison populations from FY 1997 through FY 2011.





Offenders incarcerated in state prisons are projected to reach 9,585 by June 30, 2011, which indicates a significant increase of 1,046 inmates or 12% from the FY 2001 actual prison population. Prison inmate population projections by severity levels are presented on Table 42.

The largest number of increase during the next ten years falls on nondrug severity level 1 followed by nondrug severity levels 3 and offgrid. The largest increase in percentage falls on drug severity level 1. The largest decrease in percentage in the ten-year forecast period falls on nondrug severity level 9. The above increase and decrease reflect the penalty changes passed during the 1999 Legislation. The enactment of this

Legislation, such as Substitute for HB 2469, enhanced penalties by elevating the severity level and correspondingly increased sentence lengths. The prison bed need for drug severity level 1 will increase by 150% from 164 beds to 410 beds over the ten-year projection period.

The decrease in number of population for nondrug severity levels 6 and 9 offenders during the forecasting period are due to the continuous impacts of Senate Bill 323 that passed in the 2000 Legislature. In return, the decrease of those less serious and violent offenders admitted to prison result in the decrease of beds for condition parole/postrelease violators.

**Table 42: Ten Years Inmate Prison Population Projection**

Severity Level	June 30 Each Fiscal Year											Total # Increase	Percent Increase
	2001*	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011		
D1	164	243	294	328	335	363	375	382	387	415	410	246	150.0%
D2	303	288	288	292	311	314	327	342	335	324	322	19	6.3%
D3	435	420	438	426	453	492	485	471	472	494	493	58	13.3%
D4	440	451	451	500	547	541	519	511	501	501	526	86	19.5%
N1	618	668	738	799	849	899	936	973	1023	1070	1102	484	78.3%
N2	512	512	523	532	546	556	555	569	571	577	595	83	16.2%
N3	1247	1275	1289	1322	1360	1385	1404	1454	1473	1503	1554	307	24.6%
N4	276	275	277	272	278	280	274	274	275	277	276	0	0.0%
N5	894	842	865	881	881	876	899	917	949	1002	1031	137	15.3%
N6	167	142	130	124	126	123	123	117	121	132	107	-60	-35.9%
N7	764	722	697	697	735	739	763	792	793	793	790	26	3.4%
N8	242	257	256	270	244	255	247	249	249	261	267	25	10.3%
N9	295	258	211	161	153	144	158	146	159	163	168	-127	-43.1%
N10	48	54	47	47	54	62	55	57	59	68	54	6	12.5%
OFF GRID	599	626	651	682	710	743	775	806	843	872	900	301	50.3%
Condition Parole Violators	1535	1630	1416	1109	1022	1003	984	979	990	981	990	-545	-35.5%
<b>Total</b>	<b>8539</b>	<b>8663</b>	<b>8571</b>	<b>8442</b>	<b>8604</b>	<b>8775</b>	<b>8879</b>	<b>9039</b>	<b>9200</b>	<b>9433</b>	<b>9585</b>	<b>1046</b>	<b>12.3%</b>

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

**CUSTODY CLASSIFICATION PROJECTION**

While Table 42 indicates the total beds needed over the ten-year forecast period, Table 43 demonstrates the kinds of beds needed over the next ten years. As illustrated in Table 43, by the end of FY 2002, the forecasted prison population will reach 8,663. Of that total population, it is projected that 176 unclassified beds, 2,585 minimum beds, 3,627 medium beds, 1,758 maximum beds, and 517 special management beds will be needed by the end of FY 2002. By the end of FY 2011, the total prison population is expected to reach 9,585 and the projected beds needed at each custody level will be 148 unclassified beds, 2,848 minimum beds, 4,044 medium beds,

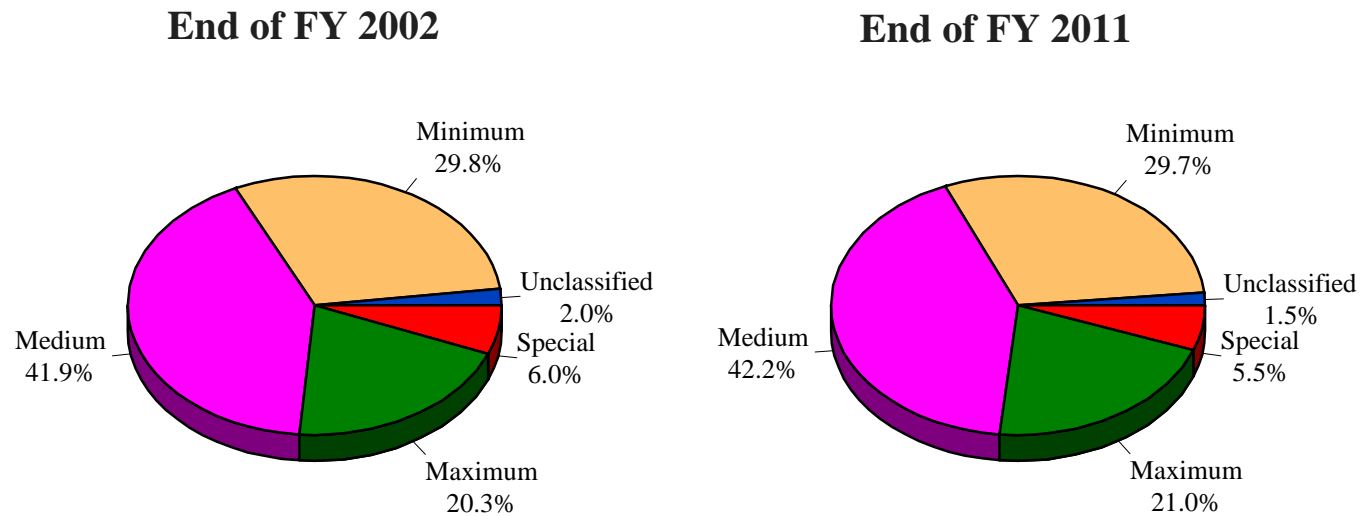
2,016 maximum beds, and 529 special management beds.

Projected custody classification percentages are shown in Figure 36. The classification percentage distribution of the total population by the end of FY 2002 is projected to be 2% for unclassified, 29.8% for minimum custody, 41.9% for medium custody, 20.3% for maximum custody, and 6% for special management. This percentage distribution remains nearly constant for the minimum and medium beds during the ten-year forecasting period. However, as a percentage of the total, the unclassified and special management beds will decrease by 0.5% respectively and the maximum custody beds will increase by 0.7% in FY 2011.

**Table 43: 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>
2002	176	2,585	3,627	1,758	517	8,663
2003	169	2,625	3,519	1,735	523	8,571
2004	137	2,586	3,496	1,735	488	8,442
2005	129	2,720	3,501	1,753	501	8,604
2006	155	2,684	3,596	1,829	511	8,775
2007	175	2,633	3,677	1,855	539	8,879
2008	137	2,720	3,744	1,888	550	9,039
2009	143	2,811	3,780	1,944	522	9,200
2010	165	2,856	3,880	1,988	544	9,433
2011	148	2,848	4,044	2,016	529	9,585

## Figure 36: Projected Percentage Distribution of Custody Classifications



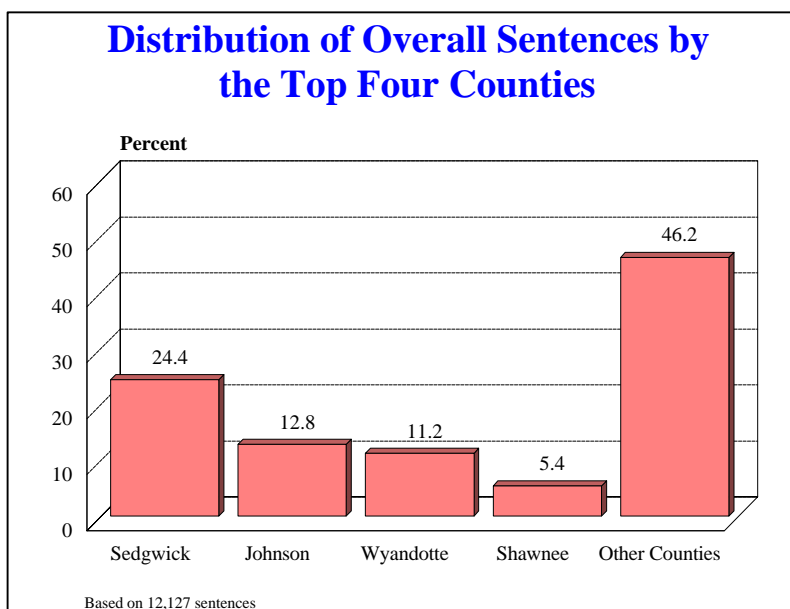
Compared with end of FY 2002 percentages, by the end of FY 2011, percentages of minimum beds and medium beds will remain constant, while the percentage of maximum beds will increase by 0.7%.

## APPENDIX I SENTENCES FROM THE TOP FOUR COUNTIES

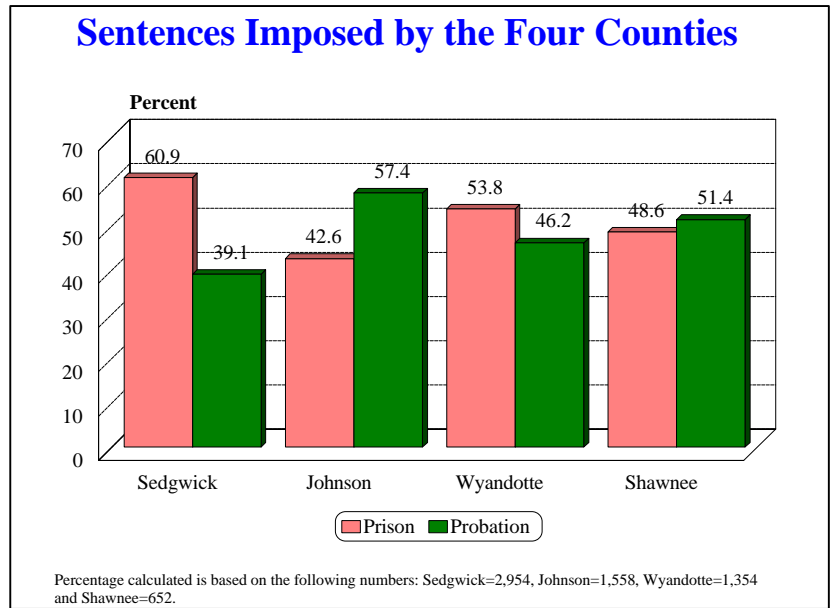
Sentences received by the Commission in FY 2001 demonstrated that Sedgwick, Johnson, Wyandotte and Shawnee counties accounted for 53.8% of the total state sentences. This percentage has decreased by 1.6% from FY 2000. Sedgwick remained the top-committing county followed by Johnson, Wyandotte and Shawnee counties. In comparison with the FY 2000 sentences,

Shawnee County's sentences decreased by 1.1% followed by Sedgwick County (0.9%) and Wyandotte County (0.9%), while Johnson County's sentences increased by 1.3%. Characteristics of offenses and offenders from the four counties are displayed in the following figures and tables.

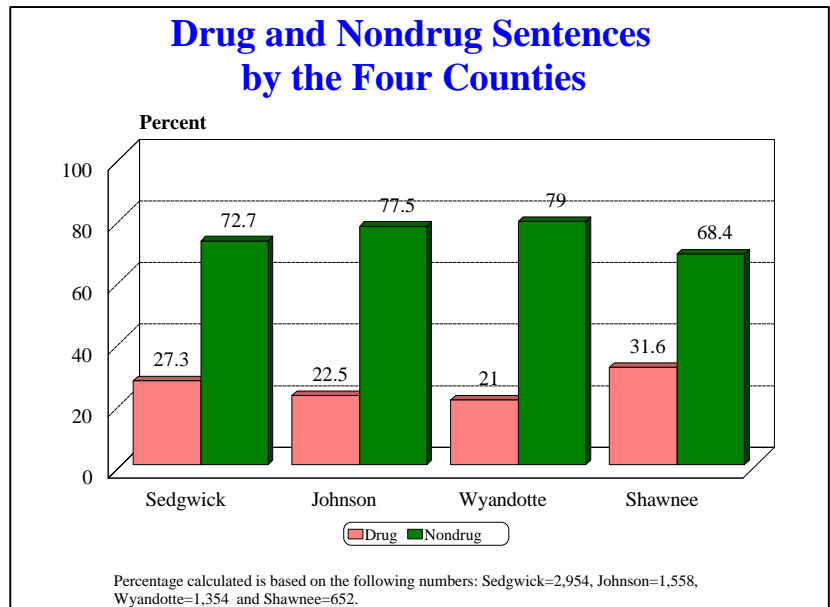
Sedgwick, Johnson, Wyandotte and Shawnee Counties accounted for 53.8% of the total state sentences in FY 2001.



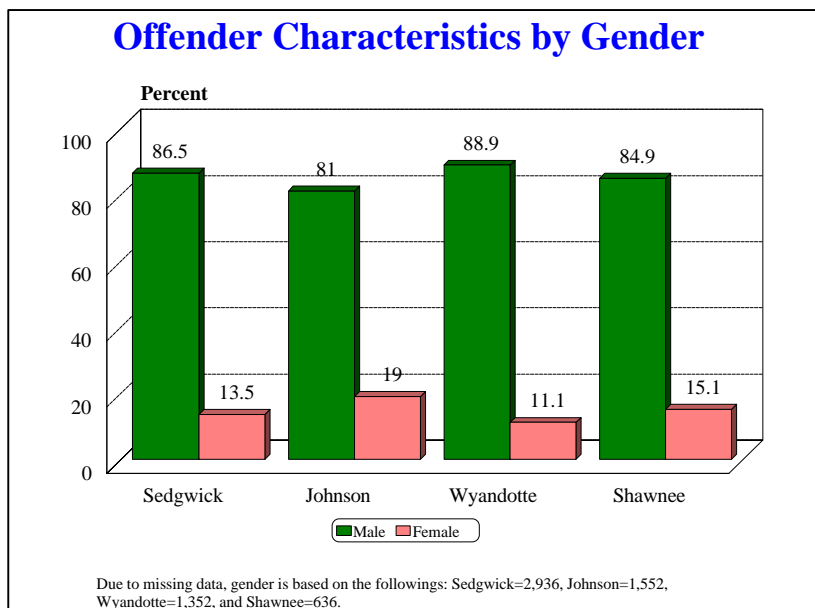
Johnson County imposed more probation sentences (57.4%) than the other three counties, while Sedgwick County had the highest percentage of prison sentences among the four counties.



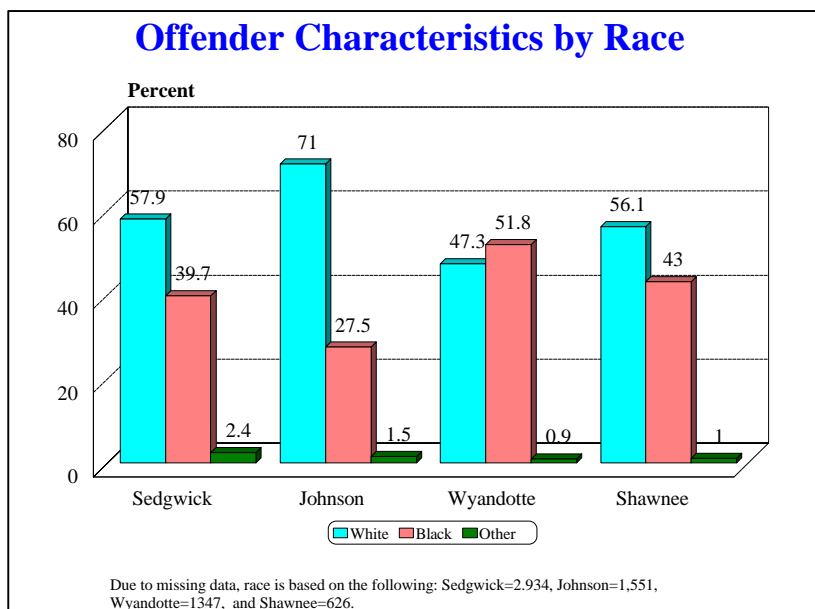
Shawnee County had the highest percentage of drug sentences (31.6%), while Wyandotte County imposed the largest number of nondrug sentences (79%).



Johnson County indicated the highest percentage of female offenders (19%), while Wyandotte County indicated the most male offenders (88.9%).



Wyandotte County reported more black offenders (51.8%), while Johnson County reported more white offenders (71%).



**FY 2001 Sentences from the Four Counties by Severity Level**

Severity Level	Sedgwick		Johnson		Wyandotte		Shawnee	
	N	%	N	%	N	%	N	%
D1	26	0.9	2	0.1	8	0.6	10	1.5
D2	83	2.8	10	0.6	9	0.7	4	0.6
D3	329	11.1	131	8.4	73	5.4	71	10.9
D4	368	12.5	208	13.4	194	14.4	121	18.6
N1	36	1.2	10	0.6	11	0.8	5	0.8
N2	46	1.6	12	0.8	15	1.1	6	0.9
N3	228	7.7	44	2.8	93	6.9	24	3.7
N4	48	1.6	10	0.6	18	1.3	16	2.5
N5	292	9.9	90	5.8	119	8.8	44	6.7
N6	53	1.8	22	1.4	44	3.2	18	2.8
N7	459	15.5	175	11.2	220	16.2	93	14.3
N8	287	9.7	173	11.1	89	6.6	55	8.4
N9	494	16.7	349	22.5	248	18.4	131	20.0
N10	73	2.5	237	15.2	155	11.4	31	4.8
Nongrid	123	4.2	82	5.3	44	3.2	23	3.5
Offgrid	8	0.3	3	0.2	14	1.0	0	0.0
Unknown	1	0.0	0	0.0	0	0.0	0	0.0
<b>Total</b>	<b>2,954</b>	<b>100.0</b>	<b>1,558</b>	<b>100.0</b>	<b>1,354</b>	<b>100.0</b>	<b>652</b>	<b>100.0</b>



### Top Ten Most Common Offenses by the Four Counties – 1

Offense Type	Sedgwick County		Offense Type	Johnson County	
	N	%		N	%
Drugs	807	27.3	Drugs	351	22.5
Burglary	256	8.7	Theft	249	16.0
Aggravated Battery	216	7.3	Forgery	167	10.7
Forgery	153	5.2	Burglary	150	9.6
Theft	150	5.1	DUI	77	4.9
Aggravated Robbery	130	4.4	Aggravated Battery	70	4.5
DUI	120	4.1	Criminal Threat	43	2.8
Robbery	112	3.8	Agg Indecent Lib w/Child	37	2.4
Driving While a Hab Viol	100	3.4	Robbery	31	2.0
Aggravated Assault	82	2.8	Aggravated Robbery	30	1.9
<b>Total</b>	<b>2,126</b>	<b>72.1</b>	<b>Total</b>	<b>1,205</b>	<b>77.3</b>

### Top Ten Most Common Offenses by the Four Counties – 2

Offense Type	Wyandotte County		Offense Type	Shawnee County	
	N	%		N	%
Drugs	284	21.0	Drugs	206	31.6
Theft	157	11.6	Aggravated Battery	52	8.0
Burglary	132	9.7	Burglary	49	7.5
Aggravated Battery	83	6.1	Forgery	41	6.3
Forgery	70	5.2	Theft	38	5.8
Robbery	70	5.2	Robbery	33	5.1
Aggravated Robbery	60	4.4	Criminal Threat	24	3.7
Aggravated Assault	55	4.1	DUI	23	3.5
Agg Indecent Lib w/Child	48	3.5	Aggravated Robbery	22	3.4
DUI	43	3.2	Driving While Suspended	21	3.2
<b>Total</b>	<b>1,002</b>	<b>74.0</b>	<b>Total</b>	<b>509</b>	<b>78.1</b>

## APPENDIX II TRENDS OF SELECTED OFFENSES

### TOP FIVE MOST FREQUENT OFFENSES

The top five most frequent offenses from FY 1997 through FY 2000 are drugs, burglary, theft, forgery and driving while a habitual violator. Of the total offenses including both incarceration and probation sentences, these

top five offenses accounted for 61.3% (N=6,910) in FY 1997, 60.6% (N=7,167) in FY 1998, 60.7% (N=7,678) in FY 1999, 59.5% (N=7,631) in FY 2000 and 53% (N=6,797) in FY 2001. The following table displays the trends of the top five offenses from FY 1997 to FY 2001.

### Top Five Most Frequent Offenses: Incarceration and Probation Sentences FY 1997 through FY 2001

Top Five Offenses	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
Drugs	2,675	2,745	3,014	3,254	3,517
Burglary	1,529	1,427	1,515	1,512	1,352
Theft	1,103	1,084	1,211	1,158	963
Forgery	849	836	873	967	791
Habitual Violator*	754	1,075	1,065	740	174
<b>Subtotal</b>	<b>6,910</b>	<b>7,167</b>	<b>7,678</b>	<b>7,631</b>	<b>6,797</b>
<b>Total Offenses</b>	<b>11,268</b>	<b>11,836</b>	<b>12,650</b>	<b>12,829</b>	<b>12,127</b>

\* The offense of driving while a habitual violator has been reclassified as misdemeanor since July 1, 1999.

### UNIFORM CRIME REPORTING (UCR) OFFENSES

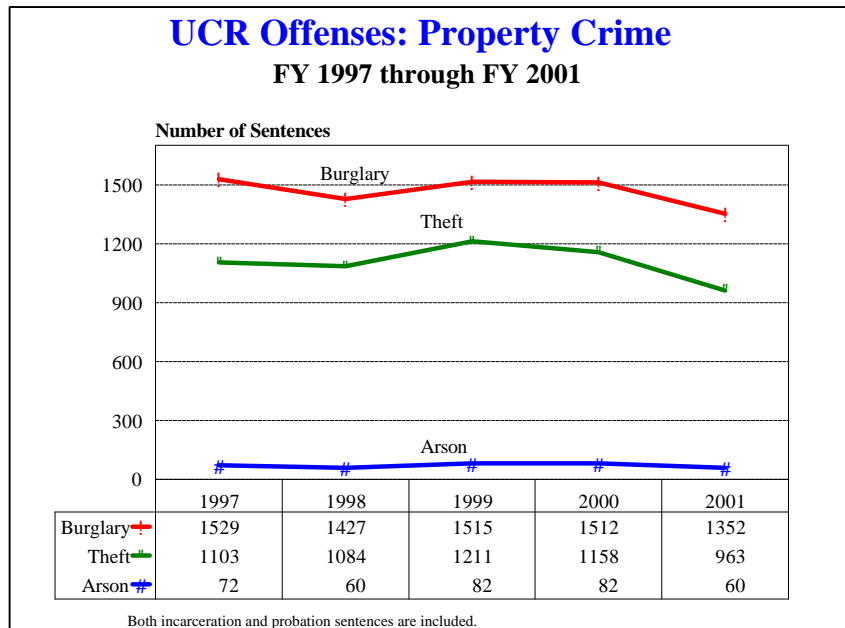
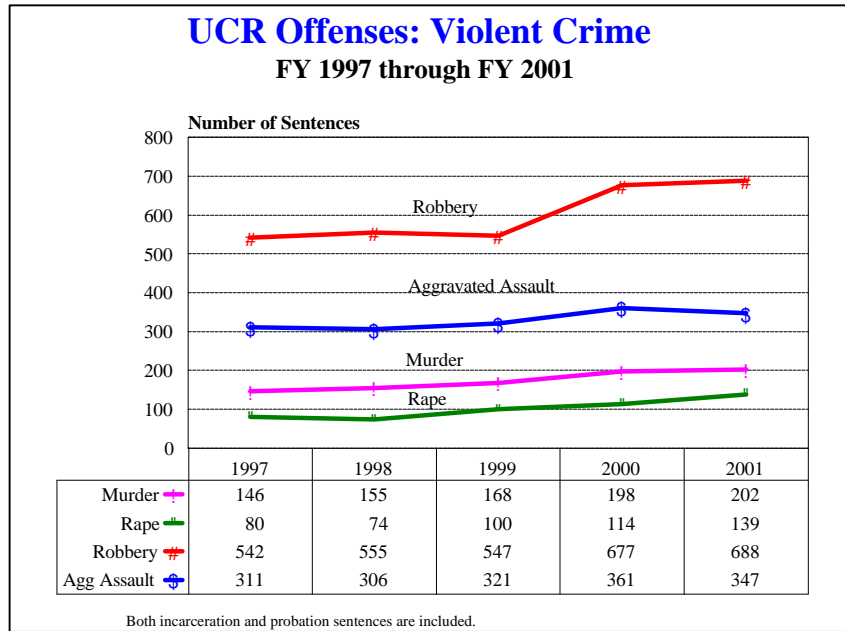
The UCR offenses are murder, rape, robbery, aggravated assault, burglary, larceny-theft/motor vehicle theft and arson. These are serious crimes by nature and/or volume, which are most likely to be reported and most likely to occur with sufficient frequency to provide an adequate basis for comparison (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 1997 to FY 2001, 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.

For the violent crimes, the sentencing trends were comparatively consistent up to FY 1999. However, the rising tendency was obvious for each of the violent crimes except aggravated assault since FY 2000, especially the offense of robbery with an increase of almost 24% in FY 2000 compared with the number of sentences in FY 1999.

The analysis on the property crimes indicates that there was not much difference in the numbers of the crime of arson from FY 1997 to FY 2001. The crime of theft from FY 1997 to FY 1999 showed a growing tendency, but it started decreasing in FY 2000 and continued decreasing by 16.8% in FY 2001 compared with the previous year. The crime of burglary dropped 10.6% in FY 2001 compared with that in FY 2000. It may continue to drop in the subsequent years due to the new special sentencing rules passed in the 1999 Kansas Legislature.



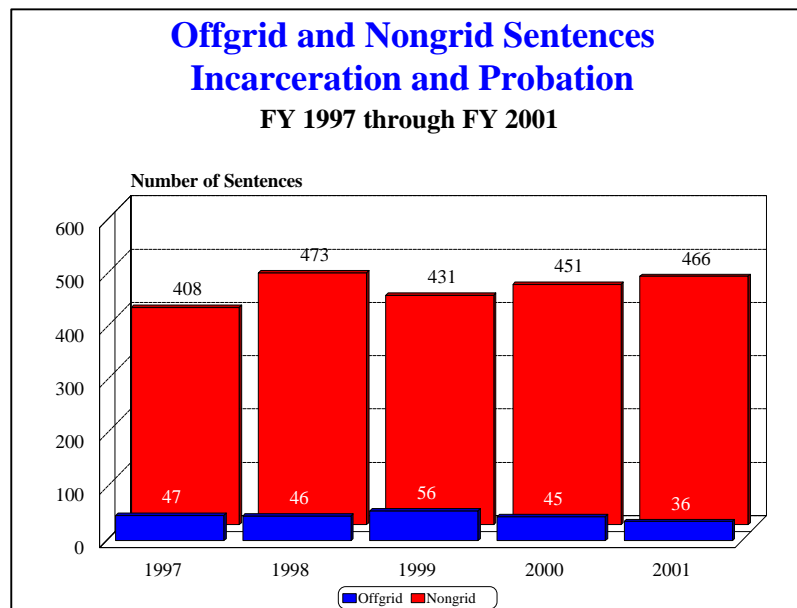
## OFF-GRID AND NON-GRID CRIMES

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 off-grid 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. 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). The crimes of felony “driving under the influence of alcohol or -1567) and felony “domestic battery” (K.S.A. 21-3412(c)(3)) 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 remained very stable from FY 1997 to FY 2000 except FY 1999, when the off-grid sentences increased by 21.7% compared with that in FY 1998. In FY 2001 off-grid sentences decreased by 20% compared with the previous year. The non-grid crimes from FY 1997 to FY 2001 demonstrated an increasing pattern with the highest sentence number in FY 1998 (N=473).

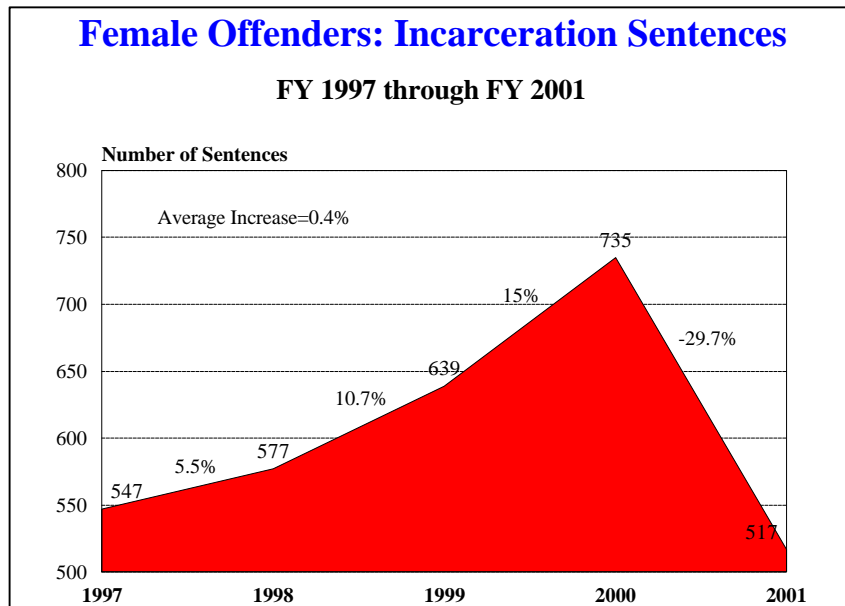


**FEMALE OFFENDERS**

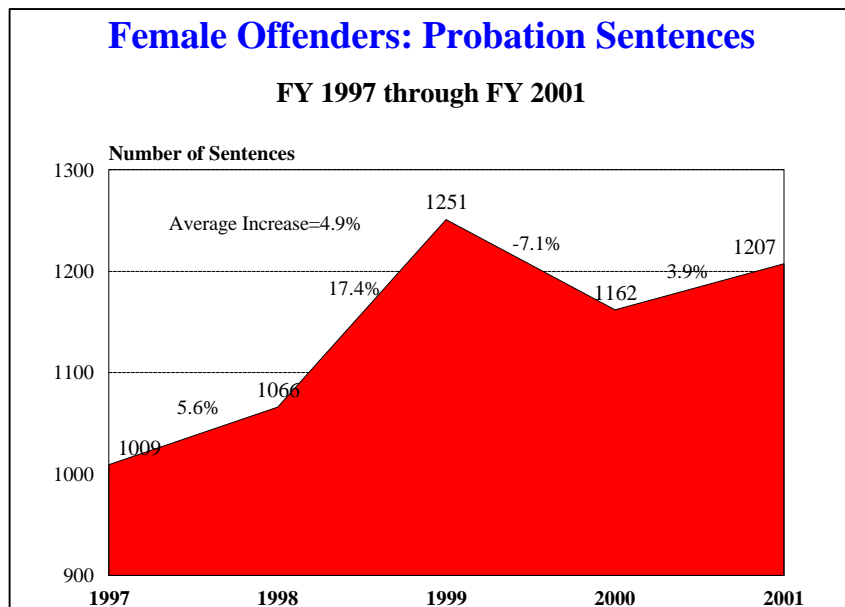
The number of female offenders in prison kept increasing from FY 1997 to FY 2000 and decreased nearly 30% in FY 2001 compared with FY 2000, which is consistent with the rising and falling tendency of the total number of incarceration sentences

(Page 64). The sentencing pattern of female offenders on probation reveals a rising tendency from FY 1997 to FY 1999 and falling in FY 2000 and rising again in FY 2001. Females were sentenced to prison or probation most frequently for the offenses of drugs, forgery, and theft from FY 1997 to FY 2001.

The average growth rate for the female offenders sentenced to prison from FY 1997 to FY 2001 is 0.4% 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 peaked in FY 1999 with an increase of 17.4% from the previous year, decreased 7.1% in FY 2000 when compared with that in FY 1999 and increased again in FY 2001 by 3.9%. The average increase rate from FY 1997 to FY 2001 is 4.9%.



## APPENDIX III

# 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 appointed by

the president of the senate, the senate minority leader, the speaker of the house of representatives, and the house minority leader, were to serve on the Commission as ex-officio, nonvoting members (L. 1989, Ch. 225, Sec. 2). The membership of the Sentencing Commission was amended during the 1997 session to designate the four legislative members of the Sentencing Commission as voting members (Senate Bill 363).

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 same 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 guideline 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 that, 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 provided 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 explains on the record the reasons for a departure, and that a decision to depart is subject to appeal. The Commission recommended that statutory enactments and amendments to implement a sentencing guideline system become effective on July

1, 1992 (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 many debates in the Senate, and then in 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. 21-4701 et seq.

## CURRENT ROLE OF THE KANSAS SENTENCING COMMISSION

### Monitoring

Since the sentencing guidelines have been implemented in Kansas, the primary focus of the Kansas Sentencing Commission has shifted to monitoring, evaluation and research related to the sentencing guidelines. Among the mandatory duties assigned to the Commission under K.S.A. 2000 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 sentencing 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. A report to the legislature is due by February 1<sup>st</sup> of each year, outlining modifications or adjustments to current sentencing policy that could reduce prison population. The Sentencing Commission performs two functions, which are essential to the discharge of these statutory duties: on-going analysis of sentencing guideline data and prison population projections.

First, the Commission receives pre-sentence investigation (PSI) reports and journal entries for all persons who are sentenced for crimes committed on or after July 1, 1993 (K.S.A. 2000 Supp. 74-9101(b)(5)). State

sentencing information extracted from the PSIs and journal entries is maintained in a database, from which the Commission staff can 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. 2000 Supp. 74-9101(b)(1) and Recommendations of the Kansas Sentencing Commission 1991, at pp. 2, 8-26). The Sentencing Commission is currently in the final stages of completing a study on "Sentencing Disparity Under Sentencing Guidelines," which is scheduled to be distributed in the summer of 2002. This study examines the impact sentencing guidelines have had in addressing the issue of racial disparity in sentencing, especially with regard to departures and border box sentencing options.

Starting on July 1, 1999 (the beginning of FY 2000), the Commission began to collect parole/post-release violators' data. This data is used to identify and evaluate supervision trends and behaviors of offenders on parole and supervision.



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's sentencing structure and policy environment. With the PROPHET model, offenders enter the prison system and are placed in a designated status for a determined period of time; then exited from the system. Offender population and movement through the prison system can be forecasted on an annual basis as far as twenty years into the future. The first official ten-year baseline projections of the adult prison population, using the PROPHET model, were released in November 1995. Annual prison population projections are required, by statute, to be completed by the Commission in the fall of each year. The annual projections incorporate any changes or amendments from the previous legislative session pertaining to criminal acts or modifications to the sentencing guidelines. The model also allows staff analysts to determine changes in specific offender populations and their corresponding lengths of stay on an annual basis.

In October of 1999, the Commission modified the PROPHET model to enable prison population projections to be completed by institutional custody classification level to assist the Department of Corrections in more effective planning, of not only the number of prison beds required, but the type of prison beds, such as minimum, medium or maximum custody. Custody classification projections are

released annually following the completion of prison population projections.

The PROPHET model can also be programmed to statistically 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 (K.S.A. 2000 Supp. 74-9101(b)(8)). During the 2001 Legislative Session, the Sentencing Commission completed more than 165 individual legislative impacts on various proposed bills or proposed policy changes.

Currently, the Sentencing Commission is working on the development of a separate parole/postrelease projection model. This model would enable more accurate and detailed analysis of issues relating to the projection of the parole/postrelease population and the return to prison of condition violators.

Most importantly, the Commission utilizes the PROPHET projection model to analyze proposed sentencing policy changes and to assist in its development of recommendation to the Kansas Legislature. Proposals can be developed that indicate both short and long term impacts, quantify prison beds needed or saved and identify the specific resources associated with the proposal.

The PROPHET model has also been used to project various populations in addition to adult felony offenders. In January 1996, the Sentencing Commission developed a projection model to forecast the juvenile detention population for Sedgwick County. This model served as a pilot for juvenile detentions and was also utilized in Northeast Juvenile Detention Center in Douglas County.

In May of 1996, the PROPHET contract was extended again to complete the Phase I Needs Assessment Study requested by the Youth Authority. The study required the development of a statewide Youth Center database. Staff of the Commission manually gathered an entire year of admission data for all state youth centers. The data was then entered into a database from which a simulation projection model was developed. Similar to the adult prison projection model, the PROPHET model permitted the projection of admissions, lengths of stay, movement between youth centers and release types. In addition to the baseline projections, various scenarios were produced, which assisted in the development of the Placement Matrix adopted by the Youth Authority. Since then, the Commission has consecutively produced four juvenile correctional population projections for the Juvenile Justice Authority and the Kansas Legislature.

### **Training**

Another duty of the Sentencing Commission is to assist in the process of training judges, attorneys at county and district levels, court services officers, state parole officers, correctional officers, law enforcement officials and other criminal justice groups (K.S.A. 2000 Supp. 74-9101(b)(4)). Since 1993 the Commission staff has 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. Training and informational presentations are provided by staff to both Washburn University and the University of Kansas Law School, as well as numerous county Bar Associations. In addition, Commission

staff presented sentencing information for the state of Kansas at numerous nationwide conferences and the National Association of Sentencing Commissions.

The Commission also publishes the Sentencing Guidelines Desk Reference Manual and an Annual Report. A revised edition of the Desk Reference Manual is issued each year by the Commission following the Kansas legislative session. The Manual is available either in print or on computer diskette. The Desk Reference Manual is used by all judges, prosecutors, defense attorneys, court services officers and community corrections agencies in the state. In addition, the Commission also compiles and distributes quarterly updates on recent Kansas Supreme and Appellate court decisions that pertain to sentencing guidelines.

The Sentencing Commission's Annual Report provides an overview of sentencing trends for each year and provides comparison data of changes in sentencing patterns among the various years. Sentencing data is presented by offense type, county, gender, race and various other data elements. The report serves as a reference to sentencing information statewide.

### **Information Resource**

The Commission has and continues to serve as an information resource for the legislature and various state criminal justice agencies. During FY 2001 the Commission received 8,496 felony journal entries, 3,746 probation revocation journals and 5,517 parole/postrelease hearing data. Now, the Commission has maintained six years of complete felony sentencing data and two years parole/postrelease hearing data.

During the past six years, on average, the Commission annually responded to more than 200 individual requests for sentencing information to various individual counties, judicial districts, federal and other state agencies upon request. In addition, at the request of the legislature, the Commission has conducted various research projects and has published a selection of reports. Publications include: "Sentencing Disparity under Guidelines," "Impact of Extended Jurisdiction Juvenile Prosecution on the Adult Correctional System," "Kansas State Juvenile Correctional Facilities: Population Projections and Trends," "An Evaluation of School Resource Officer Program In Kansas," "Preliminary Evaluation of Drug Abuse Resistance Education in Kansas," "Study of Intermediate Sanctions," "Report on Juvenile Offenders," "Intermediate Sanctions Throughout the United States" and etc.

With the development of a web site on the Internet at [www.ink.org/public/ksc/](http://www.ink.org/public/ksc/) information regarding the activities of the Sentencing Commission, research studies, statistical data and sentencing information is readily available to criminal justice agencies and the general public. The web site also allows for specific sentencing questions or concerns to be submitted to the agency for response.