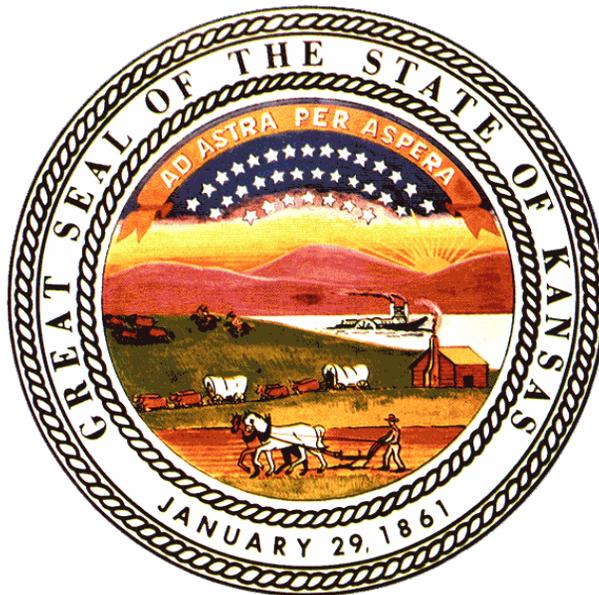


KANSAS SENTENCING COMMISSION

FY 2004 ANNUAL REPORT



APRIL 2005

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.accesskansas.org/ksc/SiteMap.htm](http://www.accesskansas.org/ksc/SiteMap.htm)



KANSAS SENTENCING COMMISSION

**ANNUAL REPORT
FY 2004**

Analysis Of Sentencing Guidelines In Kansas

**Honorable Ernest Johnson
Chair**

**Paul Morrison
Vice Chair**

**Patricia Biggs
Executive Director**

MEMBERSHIP OF THE KANSAS SENTENCING COMMISSION

Honorable Ernest L. Johnson, Chair
District Judge, 29th Judicial District

Paul J. Morrison, Vice Chair
Johnson County District Attorney

Honorable Christel Marquardt
Kansas Court of Appeals

John L. Vratil
Kansas Senate

Honorable Eric S. Rosen
District Judge, 3rd Judicial District

Greta H. Goodwin
Kansas Senate

Eric K. Rucker
Kansas Deputy Attorney General

Janice L. Pauls
Kansas House of Representatives

Roger K. Werholtz
Secretary of Corrections

Jeff Goering
Kansas House of Representatives

Kathleen M. Lynch
Private Defense Attorney

Rick A. Kittel
Appellate Defender

Annie E. Grevas
Community Corrections

Jaime D. Richardson
Public Member

Marilyn Scafe
Kansas Parole Board

Donald E. Jackson
Public Member

Chris A. Mechler
Court Services

THE STAFF OF THE KANSAS SENTENCING COMMISSION

Patricia Biggs
Executive Director

Kunlun Chang
Director of Research

Julia Butler
Staff Attorney

Fengfang Lu
Senior Research Analyst

Brenda K. Harmon
Administrative Assistant II

Lora Moison
Research Analyst I

Janice Brasher
Grant Administrator

Carolyn Krusor
Research Data Entry II

Marty Schmiedeler
Accountant II

Heidi Zimmerman
Research Analyst

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



KANSAS

KATHLEEN SEBELIUS, GOVERNOR

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

April 1, 2005

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

Fiscal year 2004 marks the eleventh anniversary of the implementation of the Sentencing Guidelines Act. On this occasion, we respectfully submit for your review the FY 2004 Annual Report of the Sentencing Commission.

Pursuant to the statutory obligations assigned to the Kansas Sentencing Commission under K.S.A. 74-9101, in the past eleven years, the Commission has spent considerable amount of time developing post-implementation monitoring procedures and reporting methods to evaluate the effectiveness of the Kansas Sentencing Guidelines in meeting specific goals underlying its initial creation. The Commission has examined the appropriateness or proportionality of current sentencing practices and conducted assessments of the impact of any change of sentencing policies on state prison population.

This annual report provides policy makers and law practitioners with an overview of felony sentencing practices and sentencing trends in the state of Kansas in FY 2004. It evaluates the conformity to Sentencing Guidelines for both prison and non-prison felony sentences. Finally, the report presents prison population projections and custody classifications for a period of ten years for the state correctional facilities. The information provided in the report is extracted from the felony sentencing database operated and maintained by the Sentencing Commission and reflects sentencing data provided to the Commission from each Judicial District in the state through pre-sentence reports and sentencing journal entry of judgment forms submitted.

On the publication of the Report, the Commission would like to acknowledge those agencies and individuals whose long-term effort devoted to the Sentencing Guidelines enables us to produce this report. If you have any questions regarding this report, please contact our office.

Respectfully Submitted,

Patricia Biggs
Executive Director

TABLE OF CONTENTS

EXECUTIVE SUMMARY	xi
CHAPTER ONE: SENTENCING IN KANSAS	1
Sentences Reported in FY 2004	1
Characteristics of Offenders and Offenses	7
Incarceration Sentences	11
Probation Sentences	21
CHAPTER TWO: VIOLATORS.....	30
Violations Resulting in Incarceration	30
Violators Continuing and Extending on Probation	42
CHAPTER THREE: CONFORMITY TO THE SENTENCING GUIDELINES	44
Overall Conformity Rates	44
Conformity of Presumptive Prison Guideline Sentences	46
Conformity of Presumptive Probation Guideline Sentences	47
Conformity of Nondrug and Drug Guideline Sentences	48
Conformity Rates to the Guidelines by Severity Level	49
Conformity Rates to the Guidelines by Race	52
Conformity Rates to the Guidelines by Gender	56
CHAPTER FOUR: SENTENCING TRENDS AND FORECAST	60
Incarceration Sentences	60
Probation Sentences	63
Prison Population Forecasts.....	65
Custody Classification Projection.....	67
APPENDIX I: SENTENCES FROM THE TOP FOUR COUNTIES	69
APPENDIX II: TRENDS OF SELECTED OFFENSES.....	74

LIST OF TABLES

Table 1	FY 2004 Offender Characteristics by County	3
Table 2	FY 2004 Offender Characteristics by Type of Offense	9
Table 3	FY 2004 Incarceration Nondrug Offender Characteristics by Type of Offense	14
Table 4	FY 2004 Incarceration Drug Offender Characteristics by Type of Offense	17
Table 5	Distribution of FY 2004 Incarceration Sentences by Admission Type	18
Table 6	Distribution of FY 2004 Incarceration Sentences by Severity Level and Gender	19
Table 7	Characteristics of Probation Nondrug Offenders by Type of Offense	24
Table 8	Characteristics of Probation Drug Offenders by Type of Offense	26
Table 9	Characteristics of Probation Nondrug Offenders by Severity Level	26
Table 10	Characteristics of Probation Drug Offenders by Severity Level	27
Table 11	Criminal History and Probation Length by Severity Level: Nondrug Offenders	29
Table 12	Criminal History and Probation Length by Severity Level: Drug Offenders	29
Table 13	Characteristics of Overall Violators by Severity Level, Race, and Gender	33
Table 14	Top 10 Most Frequent Committing Offenses of Nondrug Probation Violators	34
Table 15	Characteristics of Drug Probation Violators by Type of Offense	35
Table 16	Distribution of Probation Violators by Severity Level and Criminal History	35
Table 17	Top 10 Most Frequent Committing Offenses of Parole/Postrelease Supervision Nondrug Violators	36
Table 18	Characteristics of Parole/Postrelease Drug Violators by Type of Offense	37
Table 19	Distribution of Parole/Postrelease Supervision Violators by Severity Level and Criminal History	37
Table 20	Most Frequent Committing Offenses of Conditional Release Violators: Nondrug and Drug Offenders	38
Table 21	Distribution of FY 2004 Violators with New Sentences by Severity Level	41
Table 22	Criminal History by Severity Levels of Condition Probation Violators Continuing and Extending on Probation	42
Table 23	Criminal History by Severity Levels of Probation Violators with New Convictions Continuing and Extending on Probation	43
Table 24	Conformity Rates by Severity Level - Incarceration Sentences	50
Table 25	Conformity Rates by Severity Level - Probation Sentences.....	51
Table 26	Conformity Rates by Race - Incarceration Sentences: Drug Offenders	52
Table 27	Conformity Rates by Race - Incarceration Sentences: Nondrug Offenders	53
Table 28	Conformity Rates by Race - Probation Sentences: Drug Offenders	54
Table 29	Conformity Rates by Race - Probation Sentences: Nondrug Offenders	55
Table 30	Conformity Rates by Gender - Incarceration Sentences: Drug Offenders	56
Table 31	Conformity Rates by Gender - Incarceration Sentences: Nondrug Offenders	57

LIST OF TABLES (CONTINUED)

Table 32	Conformity Rates by Gender - Probation Sentences: Drug Offenders	58
Table 33	Conformity Rates by Gender - Probation Sentences: Nondrug Offenders	59
Table 34	Prison Admissions by Month	60
Table 35	Comparison of Prison Admissions by Type: FY 2000 through FY 2004.....	61
Table 36	Comparison of Drug Prison Admissions by Severity Level FY 2000 through FY 2004	62
Table 37	Comparison of Nondrug Prison Admissions by Severity Level FY 2000 through FY 2004.....	62
Table 38	Comparison of Probation Drug Sentences by Severity Level FY 2000 through FY 2004	64
Table 39	Comparison of Probation Nondrug Sentences by Severity Level FY 2000 through FY 2004.....	64
Table 40	Ten-Year Inmate Prison Population Projection	66
Table 41	Ten Years Custody Classification Projection	67

LIST OF FIGURES

Figure 1	Sentences Reported in FY 2004	1
Figure 2	FY 2004 Sentencing Distribution	2
Figure 3	Distribution of FY 2004 Sentences by Gender of Offenders	7
Figure 4	Distribution of FY 2004 Sentences by Race of Offenders	7
Figure 5	Distribution of FY 2004 Sentences by Ethnicity of Offenders	8
Figure 6	Distribution of FY 2004 Sentences by Age of Offenders at Time of Offense	8
Figure 7	FY 2004 Incarceration Sentences by Gender of Offenders	11
Figure 8	FY 2004 Incarceration Sentences by Race of Offenders	11
Figure 9	FY 2004 Incarceration Sentences by Ethnic Origin of Offenders	12
Figure 10	FY 2004 Incarceration Sentences by Age of Offenders at Time of Admission	12
Figure 11	FY 2004 Incarceration Sentences by Education Level of Offenders	13
Figure 12	FY 2004 Incarceration Drug Sentences by Offense and Level	16
Figure 13	FY 2004 Incarceration Drug Sentences: Possession of Precursor Drugs	17
Figure 14	FY 2004 Incarceration Sentences: Nondrug Offenders by Severity Level	20
Figure 15	FY 2004 Incarceration Sentences: Drug Offenders by Severity Level	20
Figure 16	Distribution of FY 2004 Probation Sentence.....	21
Figure 17	Distribution of FY 2004 Probation Sentences by Gender	21
Figure 18	Distribution of FY 2004 Probation Sentences by Race	22
Figure 19	Distribution of FY 2004 Probation Sentences by Age at Time of Sentence	22
Figure 20	FY 2004 Top Ten Offenses for Probation Nondrug Sentences	23
Figure 21	FY 2004 Probation Drug Sentences by Offense.....	24
Figure 22	Distribution of FY 2004 Senate Bill 123 Drug Treatment Offenders	27
Figure 23	Distribution of FY 2004 Probation Sentences by Criminal History.....	28
Figure 24	Distribution of FY 2004 Condition Violators by Gender	30
Figure 25	Distribution of FY 2004 Condition Violators by Race	31
Figure 26	Distribution of FY 2004 Condition Violators by Age Group.....	31
Figure 27	Distribution of FY 2004 Condition Violators by Severity Level: Drug Offenders	32
Figure 28	Distribution of FY 2004 Condition Violators by Severity Level: Nondrug Offenders	32
Figure 29	Distribution of Conditional Release Violators.....	38
Figure 30	Distribution of FY 2004 Violators with New Sentences by Gender	39
Figure 31	Distribution of FY 2004 Violators with New Sentences by Race	40
Figure 32	Distribution of FY 2004 Violators with New Sentences by Age Group	40
Figure 33	Distribution of FY 2004 Overall Guideline Sentences	45
Figure 34	Distribution of Dispositional Departure and Border Box Sentences.....	45
Figure 35	Incarceration Guideline Sentences	46
Figure 36	Distribution of Durational Departure Sentences	46
Figure 37	Probation Guideline Sentences	47
Figure 38	Nondrug and Drug Guideline Sentences - Incarceration	48

LIST OF FIGURES (CONTINUED)

Figure 39	Comparison of Durational Departures between Nondrug and Drug Incarceration Sentences	48
Figure 40	Nondrug and Drug Guideline Sentences - Probation	49
Figure 41	Incarceration Sentences: FY 2000 through FY 2004	60
Figure 42	Probation Sentences: FY 2000 through FY 2004	63
Figure 43	Actual and Projected Prison Population	65
Figure 44	Projected Percentage Distribution of Custody Classifications by Gender	68

EXECUTIVE SUMMARY

The major activities performed by the Kansas Sentencing Commission, during FY 2004, included:

1. Processing statewide felony sentencing journal entries including both prison and nonprison guideline sentences, examining and conducting research on sentencing issues related to sentencing guidelines;
2. Supervising and monitoring the implementation of Senate Bill 123 drug treatment programs including holding training seminars, processing and tracking treatment transactions and collecting treatment evaluation data;
3. Producing annual prison population projections and custody classification forecasts for both Kansas Adult Correctional Facilities and Kansas Juvenile Correctional Facilities;
4. Presenting recommendations to the state legislature relating to modification and improvement of current sentencing guidelines;
5. Providing the legislature and state agencies with prison bed-space impact assessments under any policy change related to sentencing guidelines;
6. Serving as an information resource to respond to national, state and county requests regarding sentencing data;
7. Conducting training sessions on sentencing guidelines and various sentencing issues.

The following is a brief summary of the major sentencing issues presented in the Annual Report of FY 2004.

In FY 2004, the Commission received a total number of 13,049 felony sentences, which decreased by 2.9% from that of FY 2003. Of the total number of sentences, 5,841 were prison sentences and 7,208 were probation sentences. Non-drug sentences accounted for 68.2% (8,905 sentences) and drug sentences accounted for 31.8% (4,144 sentences).

INCARCERATION SENTENCES

The analysis on the characteristics of offenders admitted to prison in FY 2004 demonstrates that males remained the predominant offender group, representing 89% of all offenders sentenced to prison, which is constant to that of FY 2003 (90%). More than 90% of the violent and sex offenses were committed by males, such as, the crimes of murder, burglary, robbery, battery, assault, kidnapping, possession of firearms and weapons and sex offenses. However, females were incarcerated more frequently for the offenses of forgery, false writing, giving worthless checks, criminal use of financial card and identity theft (pages 14 & 15). For drug crimes, male offenders were convicted of more offenses of drug sales and unlawful manufactures of controlled substance but female offenders committed more offenses of drug possession (page 17).

White offenders represented approximately 65% of individuals incarcerated in state prisons, which indicated a percentage increase of 3% over that in FY 2003. Nearly 92% of all offenders were of non-Hispanic origin, which remained constant compared with that of FY 2003. The highest incarceration rates (over 70%) for Caucasians were found in the offense categories of sex offenses, aggravated escape from custody, aggravated kidnapping, burglary, DUI, involuntary manslaughter and traffic in contraband. Nevertheless, African Americans were incarcerated more often (over 50%) for the crimes of murders, voluntary manslaughter, aggravated robbery, robbery and discharge of firearms (pages 14 & 15).

As in previous years, the largest proportion of incarcerated offenders (29.1%) was in the age group ranging from 31 to 40 years old at the time of admission to prison in FY 2004. Almost 53% of the offenders had attained either a high school diploma or GED equivalent.

PROBATION SENTENCES

The examination of the probation sentences received in FY 2004 reveals that burglary, DUI, theft and forgery were the top four offenses for non-drug probation offenders representing approximately 55% of the total non-drug crimes (page 23), which indicates an increase of 2% compared with those in FY 2003 (53%). Nearly 63% of the drug probation sentences were for pure possession of drugs, presenting little variation from that of FY 2003 (62%, page 26).

Reviewing the criminal history categories of the offenders on probation, the Commission

noticed that offenders with criminal history category I accounted for 33% of offenders on the non-drug grid and 38.5% of offenders on the drug grid. Approximately 87% of non-drug offenders fell within the presumptive probation boxes (Table 11), while 61.6% of probation drug offenders were sentenced within the presumptive probation boxes (Table 12). Meanwhile, only 4% of probation non-drug sentences were found to be within the designated border boxes compared to 23.3% of probation drug sentences. This significant percentage difference indicates that drug sentences tend to be to probation more frequently than do non-drug sentences when their offense types and offender criminal history categories fell within the border boxes. The data also indicates that downward dispositional departures were another primary source of non-prison sentences found on the drug grid.

DRUG SENTENCES

The number of drug incarceration sentences in FY 2004 decreased by 6.6% when compared to that of FY 2003, but increased by 4.1% compared to that in FY 2000. When individual drug grid severity levels were compared with those of FY 2003, all drug levels demonstrate decreases and the most significant decrease was identified at drug level two (-12.3%) followed by drug level three (-8.1%, page 62).

When examining the offenses of the drug incarceration sentences, 45.7% of the incarceration drug sentences were convictions of drug possession and 86.3% of the drug possession sentences fell at drug severity level four. This distribution of drug possession offenses and severity levels remains quite similar with that of FY 2003.

The analysis of the drug probation sentences demonstrates the same decreasing tendency as that of drug incarceration sentences in FY 2004. The number of drug probation sentences decreased by 0.3% compared to that of FY 2003 but still significantly increased by 51% compared to that in FY 2000. The number of drug probation sentences at all levels decreased except for drug level 3, which increased by 11.8% compared with that of FY 2003 (page 64). Further analysis on the types of offense reveals that drug possession sentences represented 62.6% of probation drug sentences in FY 2004 and approximately 71% of the probation drug sentences fell at drug severity level four (pages 24 & 27).

In addition, during FY 2004, 360 SB 123 drug treatment program sentences were imposed. Of these offenders, 81% were convicted of the crime of drug possession under K.S.A. 65-4160 and 15% were convicted of the crime of drug possession under K.S.A. 65-4162. More than 99% of the offenders fell at drug severity level 4. Sixty-five percent of these offenders were under the drug treatment programs for 18 months and 35% of them for 12 months. The average drug treatment term was 16 months. White male offenders were the majority of the treatment sentences. The average age of the drug treatment offenders was approximately 32 years old (page 27).

VIOLATORS

In FY 2004, there were a total number of 4,001 condition violators admitted to prison, representing 1,709 probation violators, 2,253 parole/postrelease supervision violators, and 39 conditional release violators. Condition violators accounted for nearly 69% of the total prison admission events in FY 2004, indicating an increase of

1.2% over that of FY 2003 (page 30). Further analyses indicate that the increase of condition violators resulted from an increase of probation violators, who increased by 14.2% compared with FY 2003, while parole/postrelease supervision condition violators and conditional release condition violators admitted to prison in FY 2004 decreased by 6.4% and 23.5% respectively, compared with those of FY 2003. Though the total number of condition violators in FY 2004 is 1.2% over that of FY 2003 Senate Bill 323, which has modified the periods of postrelease supervision and was passed into law in May 2000, continues its impact on the rate of condition violators returned to prison (page 61).

The largest number of male condition violators sentenced to prison was classified as having offenses on severity level seven of the nondrug grid and severity level four of the drug grid. However, females were most often revoked and placed in prison for condition violations of offenses designated on severity level eight of the nondrug grid and severity level four of the drug grid (page 33). This severity level distribution pattern of condition violators is consistent with data findings in FY 2003.

Apart from the condition violators admitted to prison, during FY 2004 there were 2,397 probation condition violators and 188 probation violators with new convictions, who were sentenced to either continued or extended probation for a violation. This represents 52.2% of the total number of 4,589 condition probation violators and 38.4% of the total number of 489 probation violators with new offenses, respectively. Compared with the data of FY 2003, probation condition violators sentenced to continued or extended probation for a violation increased by 18.3% and probation

violators with new convictions who had their probation sentence either continued or extended increased by 8.7% respectively (page 42).

CONFORMITY TO SENTENCING GUIDELINES

The conformity rate of sentences imposed compared to that called for under sentencing guidelines is an important indicator to monitor the effectiveness of implementation of sentencing guidelines. The comparison of the actual sentence imposed to the sentence identified under the Sentencing Guidelines Act provides a measure of whether the designated sentence is viewed as appropriate. Under sentencing guidelines, departures may be imposed to sentence an offender to a sentence length or type that differs from the sentence set forth under the guidelines. Thus departures, whether durational or dispositional, serve as a measure of conformity.

In the Annual Report of FY 2004, 6,985 pure guideline sentences, including 1,393 incarceration guideline sentences and 5,592 probation sentences, were reviewed to determine conformity to the sentencing guidelines. More than 82% of the guideline sentences imposed fell within the designated guideline sentence range. Dispositional departures accounted for 11.2% of sentences and durational departures were found in 6.6% of sentences (page 45). The total conformity rates of FY 2004 remained constant compared with those of FY 2003.

In evaluating presumptive prison sentences, 39% of the sentences imposed fell within the standard range of the grid cell; 12.8% of all sentences were within the aggravated range; 22.4% were within the mitigated range;

25.8% were located within designated border boxes (page 46).

The examination of durational departures of the incarceration guideline sentences demonstrates that almost 74% of the durational departures were designated as downward durational departures, while only 26% indicated upward durational departures (page 46). The percentage of downward durational departures increased by 6% over that of FY 2003.

Further analysis of durational departures along the drug and non-drug incarceration sentences reveals that 90.8% of drug departure sentences were downward compared to 58.5% for non-drug departure sentences (page 48). Downward durational departures were most frequent on severity levels one and two of the drug grid. Upward durational departures were found most frequently on severity levels one, two, three and four of the nondrug grid (page 50). This pattern of durational departures has remained fairly consistent over the past five years.

Dispositional departures are identified when the sentence imposed, prison or nonprison, is different from the sentence disposition designated under the sentencing guidelines. Upward dispositional departures are only applicable when prison sentences are imposed. When drug and nondrug sentences were compared, nondrug sentences indicated a 23.7% upward dispositional departure rate while drug sentences only represented a 4.1% upward dispositional departure rate (page 50).

The analysis of probation guideline sentences indicates that, as expected, the majority (90.3%) of probation guideline

sentences fell beneath the incarceration line, among which 82.7% fell within presumptive probation grids and 17.3% were within border boxes. Downward dispositional departure was only identified in 9.7% of the probation guideline sentences imposed (page 47).

The comparison between drug and non-drug probation sentences illustrates that drug sentences represented a higher percentage of downward dispositional departures than non-drug sentences (14% vs. 6.9%). More drug probation sentences resulted from border boxes than did non-drug probation sentences (33.2% vs. 4.5%, page 49).

PRISON POPULATION FORECAST

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

Based on the sentencing data of FY 2004 and the input assumptions formulated by the experts from various criminal justice agencies, who are the members of the Prison Population Consensus Group, the prison population forecast projects that by the end of FY 2014, a total of 10,492 prison beds will be needed. This represents a total

increase of 14.6% or 1,339 beds over the actual prison population at the close of FY 2004. Although the total number of admissions has dropped compared with those of the past five years, a combination of developing admission trends with the impact of the pronounced stacking effect has been resulting in a slow but continual growth in the state's prison population.

In the next ten years, the largest projected prison bed increase is needed to meet the demands of non-drug severity level one offenders and off-grid offenders. This reflects the pronounced "stacking effect" due to long sentences, even though the number of admissions to prison each year does not escalate at that rate. Drug severity level one also indicates a notable projected increase in the number of prison beds required over the forecast period due to both increase in admissions and long lengths of sentences imposed (page 66).

The custodial classification projections forecast that by the end of FY 2005, the needs of prison beds in terms of custodial types are as follows: 2,990 minimum beds, 3,731 medium beds and 1,488 regular maximum beds; 188 beds are anticipated to be unclassified and 847 beds are projected to be for special management. By the end of FY 2014, the custodial beds needed include 3,452 minimum, 4,283 medium, 1,592 regular maximum, 194 unclassified and 971 special management beds (page 67). These projections assume no substantial change in the method or practice of custody decision making.

REPORT CONTENTS

The Annual Report consists of four chapters. Chapter One presents a descriptive statistical summary of statewide guideline sentencing

practices in FY 2004. Chapter Two illustrates the types and characteristics of violators incarcerated in correctional facilities. In Chapter Three, the pure prison and probation sentences imposed under the sentencing guidelines are examined to evaluate the conformity to the sentencing guidelines. Chapter Four contains analyses on sentencing trends and forecasts, including prison population and custody classification projections.

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

CHAPTER ONE SENTENCING IN KANSAS

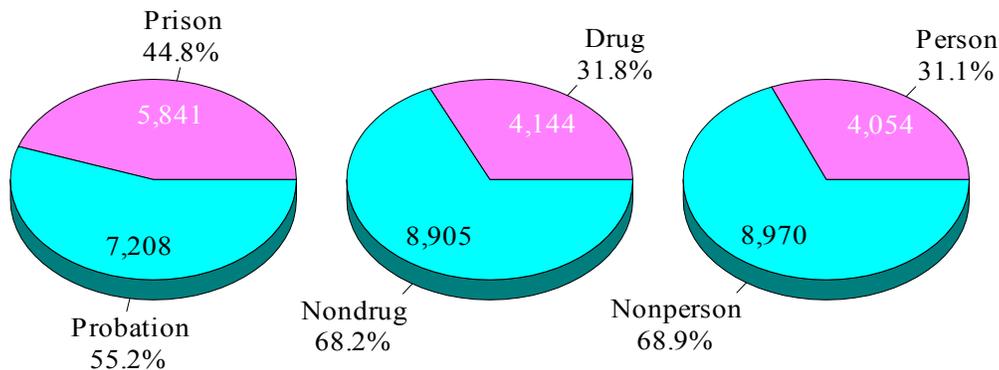
SENTENCES REPORTED IN FISCAL YEAR 2004

In this report, sentences utilized for analyses on sentencing practices and sentencing tendency are based upon the most serious felony offense of a single sentencing event. The analyses of sentences include both prison and non-prison or probation sentences. Senate Bill 123 drug treatment sentences are comprised in the type of probation sentences.

During fiscal year (FY) 2004, the Sentencing Commission received a total number of 13,049 felony sentences, which decreased by 2.9% from that of FY 2003. Of that total number of sentences, 5,841 were

prison sentences and 7,208 were probation sentences, which included 8,905 non-drug sentences and 4,144 drug sentences. Non-person offenses accounted for 68.9% (8,970 sentences) and person offenses accounted for 31.1% (4,054 sentences, Figure 1). The overall sentencing distribution by sentence type and offense type at each severity level is displayed in Figure 2. In FY 2004, 104 counties in the state reported sentences to the Commission. Table 1 demonstrates the sentences reported by individual counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained to be the top four committing counties, accounting for 49.5% of all sentences during FY 2004, a decrease of 1% from last year.

Figure 1: Sentences Reported in FY 2004



Based on 13,049 felony sentences reported in FY 2004 (July 1, 2003 through June 30, 2004)

Figure 2: FY 2004 Sentencing Distribution

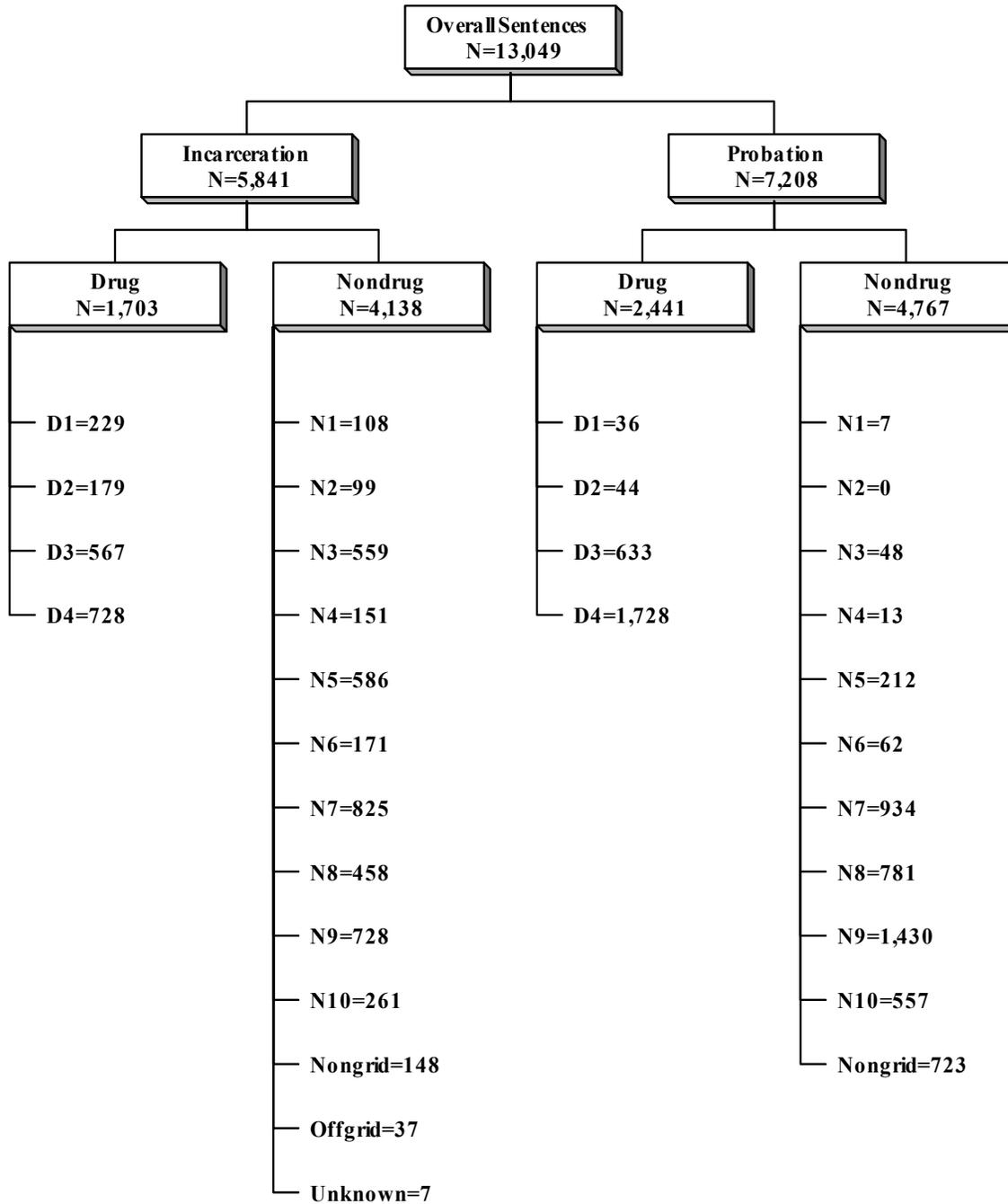


Table 1: FY 2004 Offender Characteristics by County - 1

County	Number of Sentences	Gender		Race			Sentence Type		Offense Type		Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Nondrug	Drug	
Allen	60	55	5	53	7	0	17	43	42	18	31.3
Anderson	40	34	6	40	0	0	8	32	23	17	29.2
Atchison	98	76	22	73	22	3	36	62	65	33	31.1
Barber	7	6	1	7	0	0	2	5	7	0	30.3
Barton	108	93	15	98	9	1	54	54	64	44	31.4
Bourbon	77	56	21	63	12	2	19	58	64	13	28.8
Brown	82	63	19	68	3	11	25	57	33	49	32.1
Butler	248	194	54	225	22	1	74	174	163	85	31.7
Chase	21	16	5	21	0	0	11	10	8	13	32.1
Chautauqua	7	7	0	6	1	0	7	0	5	2	34.8
Cherokee	27	23	4	25	0	2	3	24	16	11	34.6
Cheyenne	13	12	1	13	0	0	3	10	10	3	26.0
Clark	2	2	0	2	0	0	2	0	0	2	24.6
Clay	19	19	0	18	0	1	7	12	13	6	25.3
Cloud	21	18	3	20	1	0	11	10	11	10	28.1
Coffey	31	22	9	30	0	1	13	18	16	15	31.0
Comanche	2	2	0	2	0	0	1	1	2	0	54.9
Cowley	105	86	19	92	11	2	65	40	64	41	29.7
Crawford	209	170	39	178	31	0	74	135	129	80	30.6
Decatur	2	2	0	2	0	0	1	1	2	0	58.9
Dickinson	31	29	2	26	3	2	28	3	22	9	31.3
Doniphan	23	20	3	21	2	0	14	9	12	11	33.8
Douglas	297	257	39	198	80	17	96	201	229	68	29.6
Edwards	11	10	1	11	0	0	5	6	7	4	30.4
Elk	9	8	1	9	0	0	2	7	6	3	29.0
Ellis	154	130	24	145	9	0	35	119	90	64	31.1
Ellsworth	39	33	6	32	6	1	20	19	27	12	32.0
Finney	264	223	40	243	17	3	91	173	191	73	30.8

Table 1: FY 2004 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	
Ford	154	141	12	139	6	8	76	78	110	44	29.1
Franklin	164	127	37	152	6	5	54	110	103	61	30.7
Geary	189	139	48	82	102	2	122	67	98	91	29.9
Gove	2	2	0	2	0	0	2	0	1	1	41.7
Graham	6	6	0	5	1	0	1	5	3	3	26.1
Grant	13	13	0	13	0	0	13	0	11	2	28.7
Gray	9	7	2	9	0	0	2	7	4	5	27.0
Greeley	9	8	1	9	0	0	2	7	3	6	34.5
Greenwood	34	27	6	32	1	0	15	19	21	13	34.9
Hamilton	1	1	0	1	0	0	1	0	1	0	22.5
Harper	32	24	8	31	1	0	7	25	26	6	31.9
Harvey	269	230	38	229	37	2	88	181	136	133	32.7
Haskell	6	6	0	6	0	0	6	0	2	4	29.0
Hodgeman	3	3	0	3	0	0	0	3	3	0	32.4
Jackson	46	36	10	42	0	4	12	34	23	23	33.4
Jefferson	34	29	4	31	0	2	18	16	26	8	32.1
Jewell	11	11	0	11	0	0	5	6	11	0	34.9
Johnson	1,659	1,362	294	1,190	446	20	742	917	1,255	404	31.2
Kearny	38	34	4	36	2	0	10	28	24	14	30.4
Kingman	36	32	4	35	1	0	9	27	28	8	31.1
Kiowa	8	7	1	7	1	0	8	0	3	5	30.5
Labette	97	81	16	78	15	4	36	61	67	30	31.7
Lane	10	9	1	10	0	0	2	8	4	6	35.8
Leavenworth	208	175	33	138	67	2	99	109	156	52	31.8
Lincoln	2	2	0	2	0	0	2	0	1	1	19.5
Linn	29	27	2	27	2	0	15	14	21	8	28.1
Logan	6	6	0	5	1	0	2	4	5	1	41.3
Lyon	299	245	53	254	39	5	126	173	154	145	29.6

Table 1: FY 2004 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	
Marion	38	33	5	38	0	0	5	33	18	20	30.6
Marshall	52	39	13	51	0	1	16	36	32	20	25.9
McPherson	121	102	19	114	7	0	48	73	67	54	29.1
Meade	6	6	0	6	0	0	1	5	4	2	32.3
Miami	110	94	15	97	12	0	53	57	83	27	30.2
Mitchell	17	15	2	17	0	0	5	12	16	1	27.2
Montgomery	226	174	52	161	57	8	107	119	136	90	31.5
Morris	17	12	4	16	0	0	6	11	13	4	30.8
Morton	9	8	1	9	0	0	9	0	4	5	29.7
Nemaha	22	19	3	21	0	1	9	13	15	7	33.7
Neosho	131	107	23	123	2	3	37	94	82	49	31.3
Ness	8	7	1	8	0	0	1	7	0	8	39.8
Norton	30	28	2	28	2	0	11	19	24	6	31.0
Osage	54	46	7	50	3	0	14	40	27	27	31.9
Osborne	11	8	3	11	0	0	3	8	7	4	29.3
Ottawa	2	2	0	2	0	0	2	0	1	1	31.5
Pawnee	45	35	10	38	6	1	26	19	32	13	28.5
Phillips	2	2	0	2	0	0	0	2	2	0	38.1
Pottawatomie	57	50	7	53	3	1	15	42	42	15	30.8
Pratt	60	53	7	55	4	1	30	30	36	24	32.5
Rawlins	9	8	1	9	0	0	3	6	9	0	37.8
Reno	491	399	92	413	70	8	206	285	249	242	31.9
Republic	13	9	4	11	1	1	8	5	11	2	29.7
Rice	49	43	6	46	3	0	21	28	30	19	31.0
Riley	116	98	18	77	34	5	36	80	70	46	26.6
Rooks	29	22	7	29	0	0	5	24	19	10	34.7
Rush	8	6	2	8	0	0	4	4	5	3	37.5
Russell	28	24	4	24	4	0	9	19	15	13	31.5

Table 1: FY 2004 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	
Saline	585	473	105	444	116	17	247	338	409	176	30.5
Scott	14	12	2	14	0	0	7	7	7	7	29.0
Sedgwick	2,551	2,139	412	1,567	917	63	1,371	1,180	1,810	741	31.5
Seward	113	96	17	97	15	1	49	64	83	30	28.2
Shawnee	836	696	140	503	309	23	354	482	583	253	32.6
Sherman	36	33	2	32	3	0	10	26	24	12	28.2
Smith	6	5	1	6	0	0	1	5	6	0	26.3
Stafford	9	8	1	8	0	0	3	6	6	3	33.0
Stanton	1	1	0	1	0	0	1	0	1	0	26.6
Stevens	31	28	3	31	0	0	23	8	11	20	27.9
Sumner	100	87	13	83	12	4	43	57	68	32	32.5
Thomas	34	29	5	32	1	1	6	28	26	8	29.7
Trego	7	7	0	7	0	0	2	5	3	4	27.4
Wabaunsee	34	29	5	25	8	1	10	24	13	21	31.6
Wallace	3	2	1	3	0	0	0	3	0	3	38.3
Washington	17	14	3	17	0	0	5	12	14	3	29.1
Wichita	8	6	2	8	0	0	3	5	3	5	31.5
Wilson	73	60	13	70	2	0	18	55	45	28	30.4
Woodson	13	7	6	12	1	0	0	13	6	7	32.8
Wyandotte	1,428	1,241	186	671	743	13	791	637	1,109	319	31.0
Unknown	8	8	0	8	0	0	8	0	8	0	33.7
TOTAL	13,049	10,886	2,138	9,456	3,299	254	5,841	7,208	8,905	4,144	31.1

Note: Because of missing data, numbers in each category are based on the following: Gender, N=13,024; Race, N=13,009; Sentence Type, N=13,049; Offense Type, N=13,049; and Age, N=13,002.

* Average age at time of sentencing.

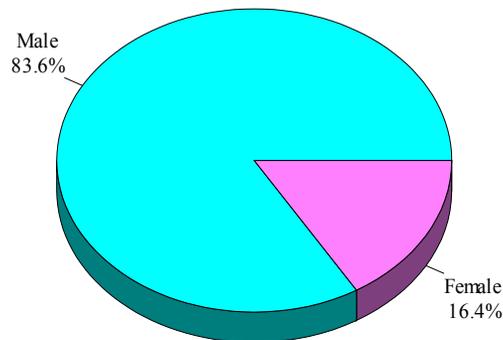
CHARACTERISTICS OF OFFENDERS AND OFFENSES

The characteristics of the offenders who were sentenced during FY 2004 and their offense categories are descriptively analyzed in this section.

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

The gender distribution of offenders sentenced in FY 2004 is constant to that of FY 2003. Male offenders comprised nearly 84% of all sentences (Figure 3) and in excess of 90% of most aggravated crimes, murders, rapes, sex offenses, burglaries, robberies, kidnapping, firearms, arson, fleeing or eluding LEO, domestic battery, obstructing legal process and other types of offenses (Table 2).

Figure 3: Distribution of FY 2004 Sentences by Gender of Offenders

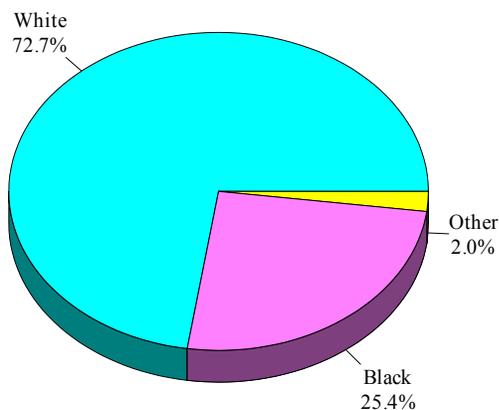


Based on 13,024 sentences reporting gender of offender

Female offenders made up 16% of the sentences in FY 2004. The most frequently committed crimes by female offenders (over 40%) were forgery, making false writing, giving worthless checks, criminal use of financial cards and identity theft.

White offenders accounted for almost 73% of all sentences, increasing 2%, while black offenders decreased by 2% when compared with those in FY 2003 (Figure 4).

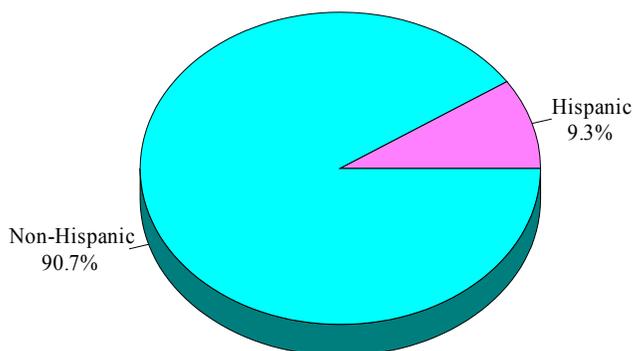
Figure 4: Distribution of FY 2004 Sentences by Race of Offenders



Based on 13,009 sentences reporting race of offender

In terms of the ethnicity of offenders, the sentencing data reveals that 90.7% of all offenders were of Non-Hispanic origin, indicating a decrease of 1.4 % compared with that of FY 2003 (Figure 5). However, the distribution of ethnicity of offenders is still pretty consistent with those in the past five years.

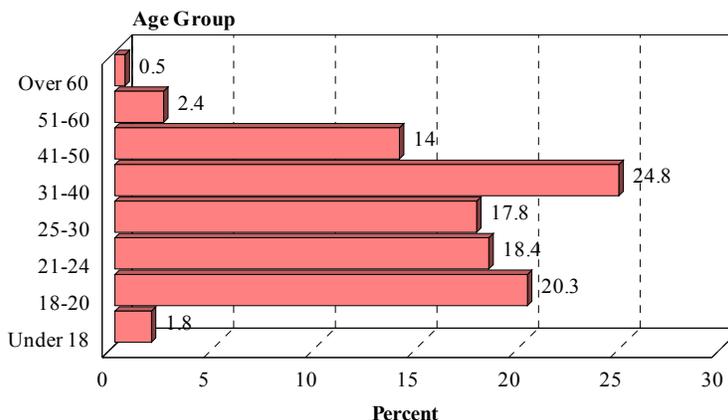
Figure 5: Distribution of FY 2004 Sentences by Ethnicity of Offenders



Based on 12,991 sentences reporting ethnicity of offender

The offenders in the age group ranging from 31 to 40 represented the highest percentage of offenders (24.8%) when analyzing their age at the time of committing the offense, which remains constant compared with those in the past five years (Figure 6).

Figure 6: Distribution of FY 2004 Sentences by Age of Offenders at Time of Offense



Based on 13,002 sentences reporting age of offender

Table 2: FY 2004 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	64.9	35.1	70.3	29.7	0.0	30.3
Agg Arson	22	90.9	9.1	68.2	31.8	0.0	27.4
Agg Assault	213	91.1	8.9	72.3	26.8	0.9	31.4
Agg Assault on LEO	34	94.1	5.9	70.6	29.4	0.0	30.7
Agg Battery	655	91.0	9.0	64.1	33.3	2.6	29.0
Agg Battery on LEO	33	81.8	18.2	66.7	33.3	0.0	29.8
Agg Burglary	151	92.7	7.3	56.3	42.4	1.3	28.4
Agg Criminal Sodomy w/Child	49	95.9	4.1	77.6	20.4	2.0	30.6
Agg Escape from Custody	102	86.3	13.7	72.5	26.5	1.0	30.8
Agg Failure to Appear	49	77.6	22.4	75.5	22.4	2.0	33.6
Agg False Impersonation	17	88.2	11.8	82.4	17.6	0.0	26.8
Agg Robbery	314	96.2	3.8	41.1	57.0	1.9	23.8
Agg Incest	8	100.0	0.0	87.5	12.5	0.0	42.1
Agg Indecent Liberties w/Child	310	98.4	1.6	77.3	19.1	3.6	28.4
Agg Inter w/Parental Custody	5	60.0	40.0	80.0	20.0	0.0	33.7
Agg Indecent Solicit w/Child	82	98.8	1.2	80.5	17.1	2.4	28.0
Agg Intimidation of a Victim	13	100.0	0.0	92.3	7.7	0.0	27.2
Agg Kidnapping	20	90.0	10.0	85.0	15.0	0.0	30.3
Agg Sexual Battery	71	98.6	1.4	60.6	36.6	2.8	29.7
Agg Weapon Violation	6	83.3	16.7	33.3	50.0	16.7	36.6
Aid Felon	45	75.0	25.0	72.7	25.0	2.3	25.8
Arrange Sale/Purchase Drug	9	88.9	11.1	77.8	11.1	11.1	27.9
Arson	47	91.5	8.5	91.5	6.4	2.1	26.9
Battery on LEO	55	81.5	18.5	59.3	37.0	3.7	27.3
Burglary	1,239	91.8	8.2	80.1	17.3	2.5	27.0
Contribute Child's Misconduct	25	84.0	16.0	68.0	24.0	8.0	23.6
Computer Crime	10	80.0	20.0	80.0	10.0	10.0	33.7
Criminal Damage to Property	138	89.1	10.9	79.0	18.8	2.2	26.4
Criminal Discharge of Firearm	21	95.2	4.8	61.9	38.1	0.0	23.9
Criminal Sodomy w/Child	9	88.9	11.1	55.6	44.4	0.0	28.2
Criminal Threat	309	89.6	10.4	65.9	31.5	2.6	30.6
Criminal Use of Explosives	7	100.0	0.0	100.0	0.0	0.0	25.4
Criminal Use of Financial Card	50	55.1	44.9	63.3	36.7	0.0	29.2
Domestic Battery	25	96.0	4.0	72.0	24.0	4.0	34.4
Driving While a Habitual Violator	9	100.0	0.0	77.8	22.2	0.0	26.4

Table 2: FY 2004 Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Drugs	4,143	80.7	19.3	75.6	22.6	1.8	30.8
Drug without Tax Stamps	107	86.9	13.1	71.7	28.3	0.0	28.4
DUI	846	87.8	12.2	90.8	7.5	1.7	39.2
Failure to Register	55	100.0	0.0	69.1	27.3	3.6	32.6
Fleeing or Eluding LEO	221	92.3	7.7	65.2	31.7	3.2	28.7
Forgery	881	55.5	44.5	70.6	27.4	1.9	30.8
False Writing	89	59.6	40.4	56.2	43.8	0.0	32.4
Giving Worthless Checks	70	52.9	47.1	90.0	8.6	1.4	34.2
Identity Theft	69	47.8	52.2	60.9	36.2	2.9	34.0
Indecent Liberties w/Child	107	98.1	1.9	82.2	17.8	0.0	25.7
Indecent Solicitation of Child	54	92.6	7.4	75.5	20.8	3.8	25.7
Involuntary Manslaughter	57	86.0	14.0	75.4	22.8	1.8	28.0
Kidnapping	50	96.0	4.0	58.0	38.0	4.0	26.5
Lewd and Lascivious Behavior	16	100.0	0.0	100.0	0.0	0.0	31.5
Medicaid Fraud	6	66.7	33.3	100.0	0.0	0.0	42.8
Murder in the First Degree	54	92.6	7.4	42.6	53.7	3.7	28.8
Murder in the Second Degree	51	96.1	3.9	35.3	62.7	2.0	25.5
Nonsupport of Child or Spouse	86	89.5	10.5	84.7	14.1	1.2	34.0
Obstructing Legal Process	118	92.2	7.8	73.3	24.1	2.6	31.5
Possession of Firearm	110	96.3	3.7	61.5	38.5	0.0	28.0
Rape	138	100.0	0.0	65.2	33.3	1.4	29.8
Robbery	312	91.0	9.0	43.6	55.1	1.3	26.7
Securities Crimes	6	83.3	16.7	100.0	0.0	0.0	38.7
Sex Exploitation of a Child	15	93.3	6.7	100.0	0.0	0.0	43.7
Stalking	21	95.2	4.8	76.2	23.8	0.0	39.3
Theft	987	76.5	23.5	71.1	27.1	1.8	30.2
Traffic in Contraband	52	73.1	26.9	86.5	13.5	0.0	29.1
Unlawful Voluntary Sex Relation	36	100.0	0.0	83.3	16.7	0.0	18.6
Voluntary Manslaughter	40	92.5	7.5	32.5	62.5	5.0	29.2
Weapons	9	100.0	0.0	100.0	0.0	0.0	33.6
Other	54	72.2	27.8	79.6	14.8	5.6	33.0
TOTAL	13,049	83.6	16.4	72.7	25.4	2.0	30.2

Note: Due to missing data, percentages in each category are based on different numbers: Gender, N=13,024; Race, N=13,009; and Age, N=13,002.

* Average age at time of offense.

INCARCERATION SENTENCES

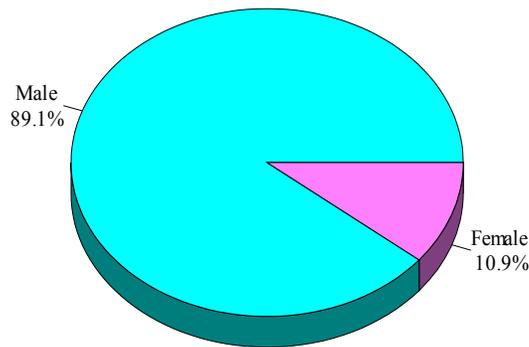
Offenders Characteristics

The analyses of offenders admitted to the state correctional facilities during FY 2004 are presented in Figures 7, 8, 9, 10 and 11.

White males continued to be the predominant offender group in FY 2004 (Figures 7 and 8). Non-Hispanic offenders represented almost 92% of the offenders sentenced to prison (Figure 9). The overall distributions of gender, race and ethnic origin of the offenders admitted to prison have been constant for the past five years.

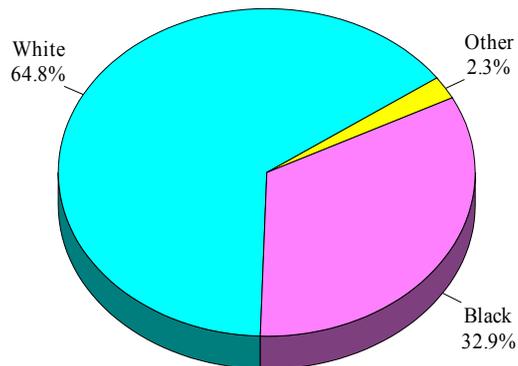
The largest proportion of incarcerated offenders were in their thirties (29.1%) at the time of admission to prison (Figure 10). Nearly 53% of the incarcerated offenders had obtained a high school diploma or GED equivalent (Figures 11).

Figure 7: FY 2004 Incarceration Sentences by Gender of Offenders



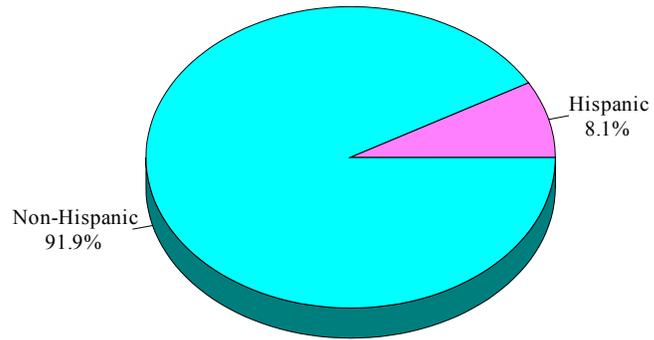
Based on 5,841 incarceration sentences reporting gender of offenders

Figure 8: FY 2004 Incarceration Sentences by Race of Offenders



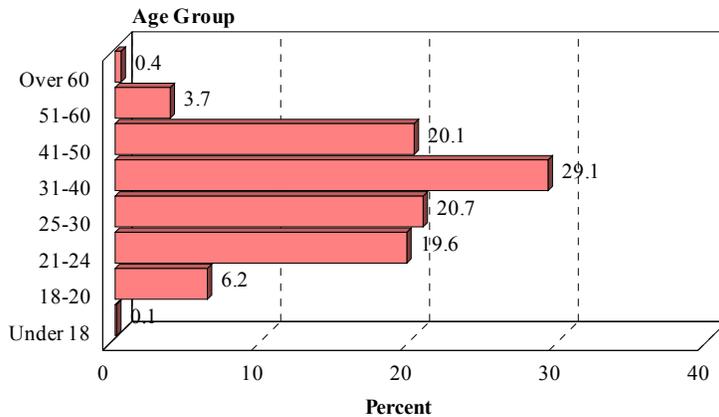
Based on 5,841 incarceration sentences reporting race of offenders

Figure 9: FY 2004 Incarceration Sentences by Ethnic Origin of Offenders

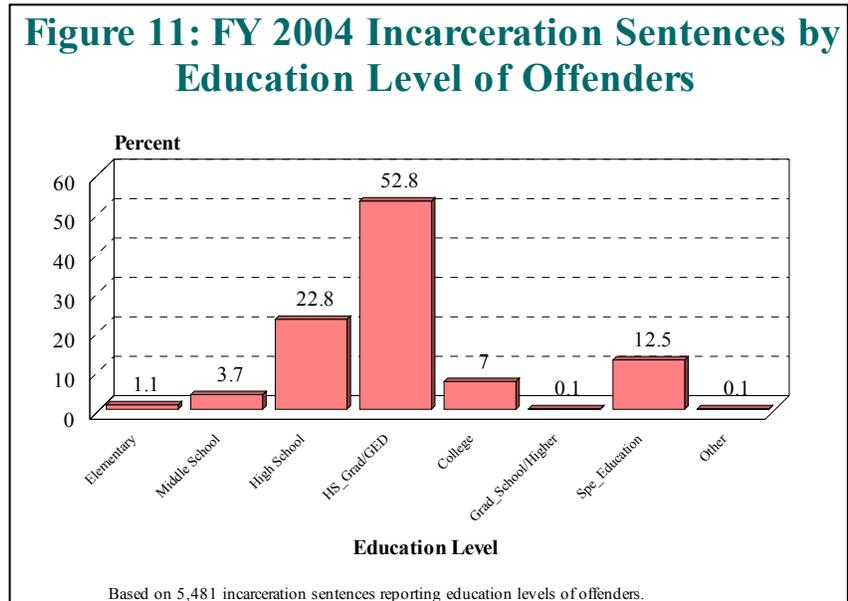


Based on 5,831 incarceration sentences reporting ethnic origin of offenders

Figure 10: FY 2004 Incarceration Sentences by Age of Offenders at Time of Admission



Based on 5,841 incarceration sentences reporting age of offenders



Incarceration Nondrug Offenses

Approximately 71% (4,138 sentences) of the total incarceration sentences (5,841) in FY 2004 were nondrug offenses. The top ten nondrug offenses included aggravated battery, aggravated indecent liberties with a child, aggravated robbery, burglary, criminal threat, DUI, forgery, rape, robbery and theft (Table 3).

Males represented the highest percentage (over 90%) of sentences in the top ten crime categories except forgery and theft. Most sex offenders were males, indicating no change from the previous year. However, the highest percentage of sentenced females (over 30%) were only found in the offense categories of criminal use of financial card, forgery and identity theft, which is

consistent with the sentencing data of female offenders observed in FY 2003 (Table 3).

When reviewing the race characteristics of offenders, the data demonstrated that the highest incarceration rates for whites (over 70%) were discovered in the areas of sex offenses, aggravated escape from custody, aggravated kidnapping, burglary, DUI, involuntary manslaughter and traffic in contraband. Nevertheless, blacks were incarcerated more often (over 50%) for the crimes of murders, voluntary manslaughter, aggravated robbery, robbery and discharge of firearms. The average age of the nondrug offenders was 33 years old at the time of admission to prison in FY 2004 (Table 3), which is very close to that of FY 2003.

Table 3: FY 2004 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	16	75.0	25.0	75.0	25.0	0.0	33.1
Agg Arson	18	100.0	0.0	66.7	33.3	0.0	37.6
Agg Assault	97	93.8	6.2	60.8	37.1	2.1	32.8
Agg Assault on LEO	28	92.9	7.1	67.9	32.1	0.0	33.8
Agg Battery	343	92.7	7.3	56.6	40.2	3.2	32.3
Agg Battery on LEO	26	84.6	15.4	69.2	30.8	0.0	33.1
Agg Burglary	96	92.7	7.3	51.0	47.9	1.0	34.2
Agg Criminal Sodomy w/Child	48	97.9	2.1	77.1	20.8	2.1	37.3
Agg Escape from Custody	71	85.9	14.1	78.9	19.7	1.4	35.2
Agg Failure to Appear	16	87.5	12.5	68.8	25.0	6.2	35.5
Agg False Impersonation	5	100.0	0.0	80.0	20.0	0.0	30.7
Agg Incest	8	100.0	0.0	87.5	12.5	0.0	48.8
Agg Indecent Liberties w/Child	254	98.8	1.2	76.8	19.7	3.5	32.6
Agg Indecent Solicit w/Child	53	100.0	0.0	81.1	18.9	0.0	32.1
Agg Intimidation of a Victim	7	100.0	0.0	85.7	14.3	0.0	29.9
Agg Kidnapping	19	89.5	10.5	84.2	15.8	0.0	39.0
Agg Robbery	287	97.2	2.8	41.5	56.8	1.7	32.6
Agg Sexual Battery	45	100.0	0.0	57.8	37.8	4.4	33.7
Aid Felon	17	82.4	17.6	58.8	35.3	5.9	27.6
Arson	9	100.0	0.0	77.8	11.1	11.1	35.8
Battery on LEO	40	87.5	12.5	57.5	37.5	5.0	29.6
Burglary	525	93.0	7.0	73.0	23.8	3.2	31.2
Contribute Child's Misconduct	8	100.0	0.0	50.0	37.5	12.5	21.2
Criminal Damage to Property	27	96.3	3.7	74.1	25.9	0.0	31.7
Criminal Sodomy w/Child	7	100.0	0.0	71.4	28.6	0.0	31.7
Criminal Threat	132	95.5	4.5	59.1	38.6	2.3	30.7
Criminal Use Financial Card	15	60.0	40.0	53.3	46.7	0.0	30.9
Discharge of Firearm	13	92.3	7.7	46.2	53.8	0.0	26.3
Drug without Tax Stamps	19	73.7	26.3	57.9	42.1	0.0	28.3
Driving While a Habitual Violator	8	100.0	0.0	75.0	25.0	0.0	31.4
DUI	148	91.9	8.1	92.6	6.1	1.4	42.4
Failure to Register	20	100.0	0.0	65.0	30.0	5.0	34.9
Fleeing or Eluding LEO	79	91.1	8.9	65.8	30.4	3.8	32.4
Forgery	312	64.4	35.6	63.8	34.0	2.2	34.6
False Writing	24	70.8	29.2	25.0	75.0	0.0	33.9

Table 3: FY 2004 Incarceration Nondrug Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Giving Worthless Checks	9	77.8	22.2	77.8	22.2	0.0	33.7
Identity Theft	21	61.9	38.1	47.6	47.6	4.8	36.6
Indecent Liberties w/Child	81	98.8	1.2	79.0	21.0	0.0	33.0
Indecent Solicitation of Child	36	94.4	5.6	66.7	27.8	5.6	27.8
Involuntary Manslaughter	47	87.2	12.8	74.5	23.4	2.1	31.5
Kidnapping	47	95.7	4.3	59.6	36.2	4.3	35.0
Lewd and Lascivious Behavior	7	100.0	0.0	100.0	0.0	0.0	38.3
Murder in the First Degree	54	92.6	7.4	42.6	53.7	3.7	32.4
Murder in the Second Degree	51	96.1	3.9	35.3	62.7	2.0	31.0
Nonsupport of Child or Spouse	25	96.0	4.0	68.0	32.0	0.0	37.1
Obstructing Legal Process	32	90.6	9.4	62.5	37.5	0.0	32.3
Possession of Firearm	49	98.0	2.0	63.3	36.7	0.0	27.8
Rape	127	100.0	0.0	63.8	34.6	1.6	37.2
Robbery	246	93.5	6.5	42.3	56.1	1.6	32.4
Sex Exploitation of a Child	6	83.3	16.7	100.0	0.0	0.0	47.3
Stalking	7	100.0	0.0	71.4	28.6	0.0	41.6
Theft	347	86.5	13.5	65.7	31.7	2.6	32.9
Traffic in Contraband	31	87.1	12.9	83.9	16.1	0.0	31.4
Unlawful Voluntary Sex Relation	9	100.0	0.0	77.8	22.2	0.0	20.7
Voluntary Manslaughter	40	92.5	7.5	32.5	62.5	5.0	36.5
Other	26	84.6	15.4	84.6	15.4	0.0	34.9
TOTAL	4,138	90.8	9.2	63.5	34.2	2.3	33.1

Incarceration Drug Offenses

During FY 2004, 1,703 offenders were admitted to prison for conviction of drug crimes, representing 29% of the total admission to the State Correctional Facilities. Of the total 1,703 incarceration drug sentences, 45.7% were offenses of pure drug possession and 86.3% of the pure drug possession sentences fell at drug severity level four (Figure 12). This drug offense distribution indicates no change compared with that of FY 2003. More than 85% of the drug offenders were males and female offenders represented the highest percent (over 15%) in the drug crimes of opiates or narcotics possession first offense, opiates or narcotics sale second offense and possession of precursor drugs. White offenders were convicted of over 90% of incarceration drug sentences in the drug crime areas of unlawfully manufacturing controlled substance, possession of paraphernalia and possession of precursor drugs. Black offenders made up over 40% of

incarceration drug sentences in the drug crimes of the opiate or narcotics possession, opiate or narcotics sale for the first and the second offenses, which demonstrates little difference from those of FY 2003. The average age of the drug offenders was 34 years old at admission to prison (Table 4), very close to the age of the drug offenders observed in FY 2003 (34.2 years old).

The 1999 Legislation created the drug crime of possession of precursor drugs under K.S.A. 65-7006. The penalty for a violation of this section is a drug severity level one felony. During FY 2004, fifty-six drug offenders were sentenced to prison under this drug crime and the majority of the offenders were white males (Table 4). The trend analysis of the offense in the past five years demonstrates that the number of the incarceration sentences under this section has kept increasing from 2 sentences in FY 2000 to 56 in FY 2004 (Figure 13).

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

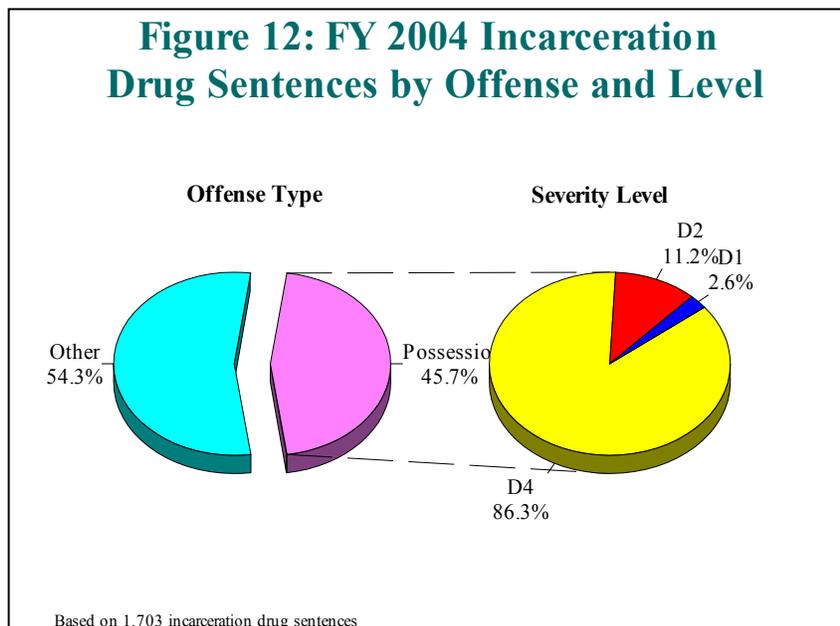
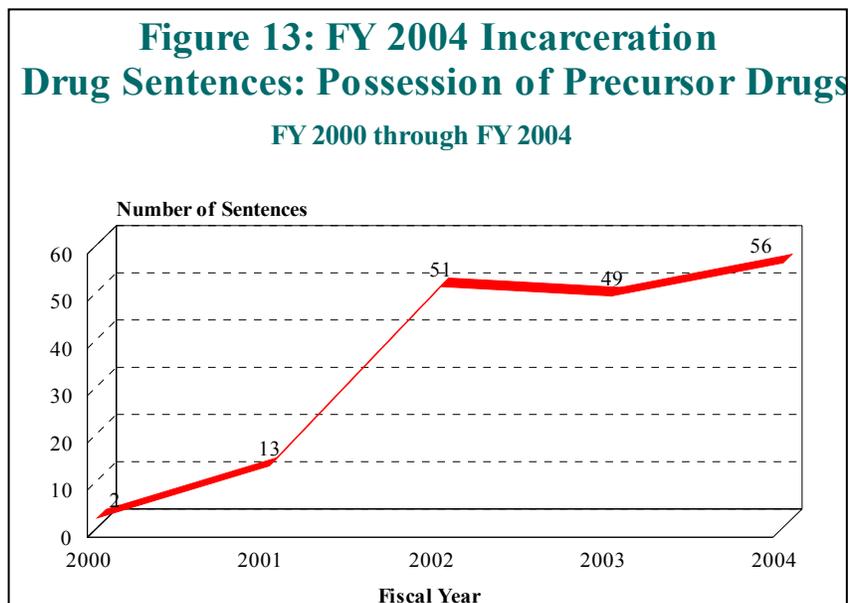


Table 4: FY 2004 Incarceration Drug Offender Characteristics by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Opiates or narcotics; poss 1	571	77.6	22.4	64.8	31.9	3.3	33.7
Opiates or narcotics; poss 2	87	88.5	11.5	51.7	47.1	1.1	38.9
Opiates or narcotics; poss 3	20	85.0	15.0	45.0	55.0	0.0	37.4
Opiates or narcotics; sale 1	377	88.9	11.1	56.2	42.7	1.1	34.0
Opiates or narcotics; sale 2	22	81.8	18.2	36.4	63.6	0.0	40.3
Opiates/ narcotics, depress, stim, hall; sale w/in 1,000 ft of school	52	92.3	7.7	73.1	25.0	1.9	33.4
Depress, stim, hall; poss 2	101	97.0	3.0	67.3	29.7	3.0	31.7
Depress, stim, hall, etc.; sale, poss w/intent to sale	186	89.8	10.2	69.4	28.0	2.7	31.8
Unlawful manufacture controlled substance	174	86.2	13.8	97.7	1.1	1.1	35.4
Possession of paraphernalia	55	92.7	7.3	98.2	0.0	1.8	31.3
Possession of precursor drugs	56	80.4	19.6	96.4	1.8	1.8	33.4
Other	2	100.0	0.0	50.0	50.0	0.0	35.3
TOTAL	1,703	85.2	14.8	68.0	29.8	2.2	34.0

The severity level for the crime of possession of precursor drugs was reclassified to drug severity level four according to the Kansas Court of Appeals' ruling over *State vs. Frazier* in March 2002. However, in the Kansas Supreme Court's decision on *State vs. Campbell* issued in January 2005, the crime is reconfirmed as a drug severity level one felony with length of sentence at drug level four (Figure 13).



Types of Admission and Severity Levels

Table 5 displays the distribution of types of offenders admitted to the Kansas Department of Corrections (KDOC) in FY 2004. Condition probation violators, condition parole/post-release violators, and conditional release condition violators comprised 68.5% of all offenders admitted to state correctional facilities during FY 2004. This represents a percentage increase of 2.8% over FY 2003 and a percentage increase of 3.4% over FY 2002. As usual, condition violators admitted to prison had a

significant impact on the total admissions to the Department of Corrections in FY 2004.

New court commitments and violators with new sentences together contributed another 30.9% to the total admissions, on the contrary, indicating a decrease of 2.4% from that of FY 2003 and a decrease of 3.6% from that of FY 2002. The declining trend of new commitments is consistent with the dropping crime rates observed statewide and nationwide.

Table 5: Distribution of FY 2004 Incarceration Sentences by Admission Type

Admission Type	Number of Cases	Percent
New Court Commitment	1,512	25.9
Probation Condition Violator	1,709	29.3
Probation Violator With New Sentence	148	2.5
Inmate Received on Interstate Compact	1	0.0
Parole/Post-release Condition Violator	2,253	38.6
Parole/Post-release Violator With New Sentence	146	2.5
Paroled to Detainer Returned with New Sentence	30	0.5
Conditional Release Condition Violator	39	0.7
Conditional Release Violator With New Sentence	3	0.1
TOTAL	5,841	100.0

A distribution of all incarcerated offenders by offense severity level and gender is illustrated in Table 6. The highest percentages (over 14%) of all nondrug offenders are found in severity levels 5, 7 and 9 (Figure 14). This pattern of distribution has remained constant in the past four years. Approximately 43% of all

drug offenders fell on drug severity level 4 (Figure 15). This is consistent with that in FY 2003. Female offenders were convicted more often of drug offenses than of nondrug offenses (14.8% vs. 9.2%). The highest percentages of female offenders were found on drug severity level 4 (18.5%) and nondrug severity level 8 (26.6%, Table 6).

**Table 6: Distribution of FY 2004 Incarceration Sentences
By Severity Level and Gender***

Severity Level	Number of Cases	Gender (%)		Subtotal (%)
		Male	Female	
Drug				
1	229	85.2	14.8	13.4
2	179	87.7	12.3	10.5
3	567	89.2	10.8	33.3
4	728	81.5	18.5	42.7
Subtotal	1,703	85.2	14.8	100.0
Nondrug				
1	108	97.2	2.8	2.6
2	99	99.0	1.0	2.4
3	559	97.5	2.5	13.5
4	151	94.0	6.0	3.7
5	586	94.2	5.8	14.2
6	171	94.2	5.8	4.1
7	825	91.8	8.2	20.0
8	458	73.4	26.6	11.1
9	728	90.0	10.0	17.6
10	261	87.4	12.6	6.3
Nongrid	148	91.9	8.1	3.6
Offgrid	37	91.9	8.1	0.9
Subtotal	4,131	90.8	9.2	100.0
TOTAL**	5,841	89.1	10.9	100.0

* Based on 1,703 drug offenders and 4,131 nondrug offenders.

** Total number includes 7 offenders whose severity levels are unknown.

Figure 14: FY 2004 Incarceration Sentences Nondrug Offenders by Severity Level

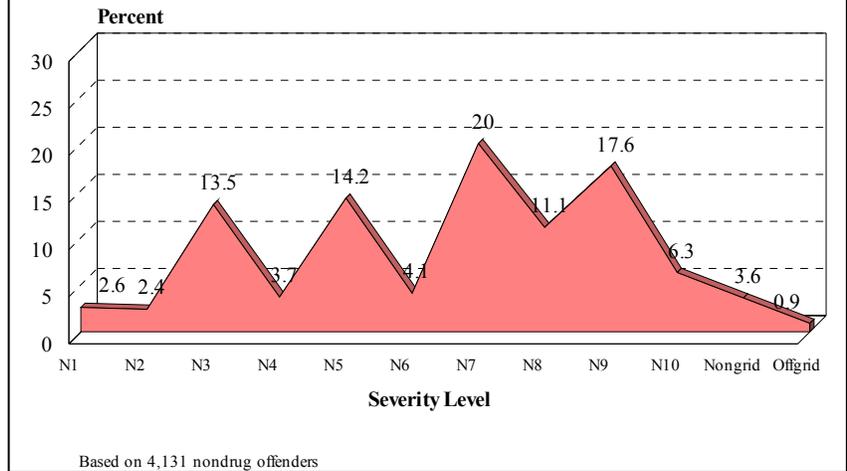
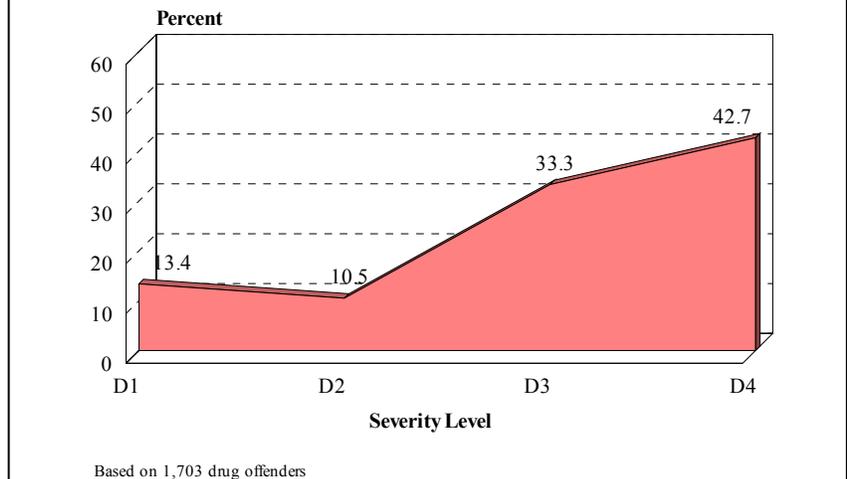
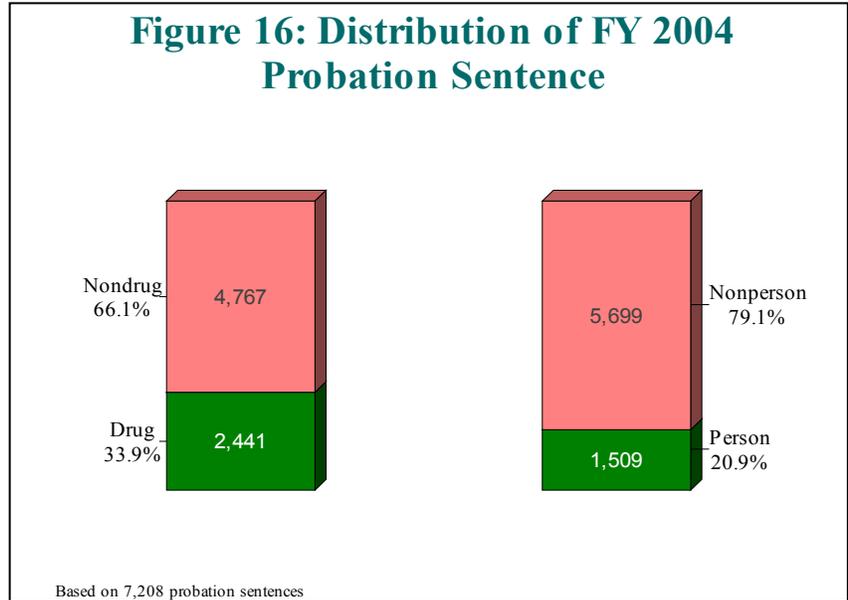


Figure 15: FY 2004 Incarceration Sentences Drug Offenders by Severity Level

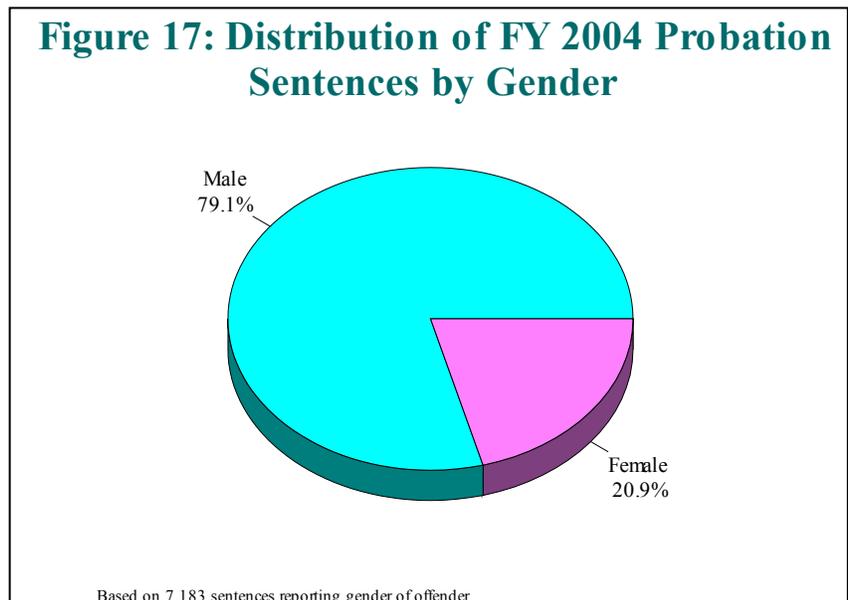


PROBATION SENTENCES

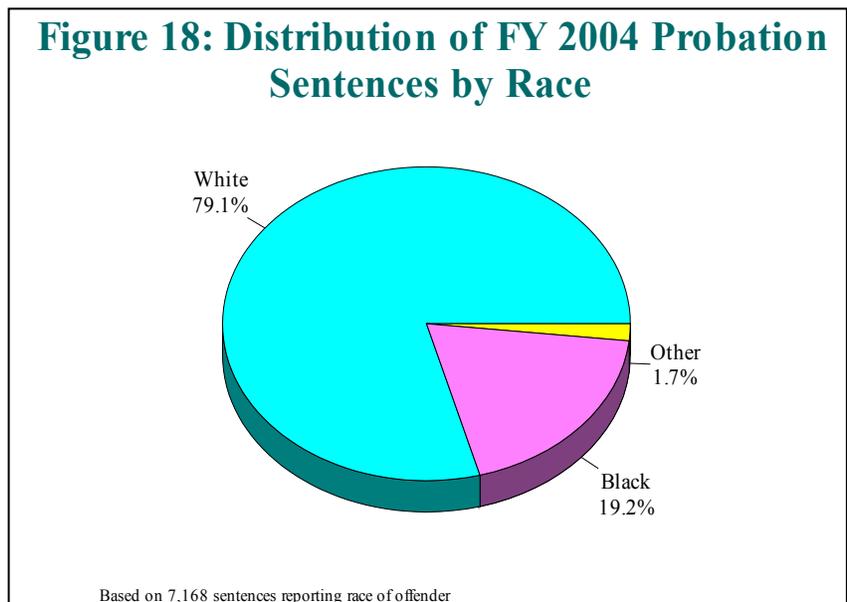
A total number of 7,208 probation sentences were reported to the Kansas Sentencing Commission during FY 2004. Of this number, 4,767 were non-drug sentences and 2,441 were drug sentences; non-person offenses made up 79% (5,699 sentences) and person offenses made up 21% (1,509 sentences, Figure 16). Figures 17, 18 and 19 demonstrate the characteristics of this offender group.



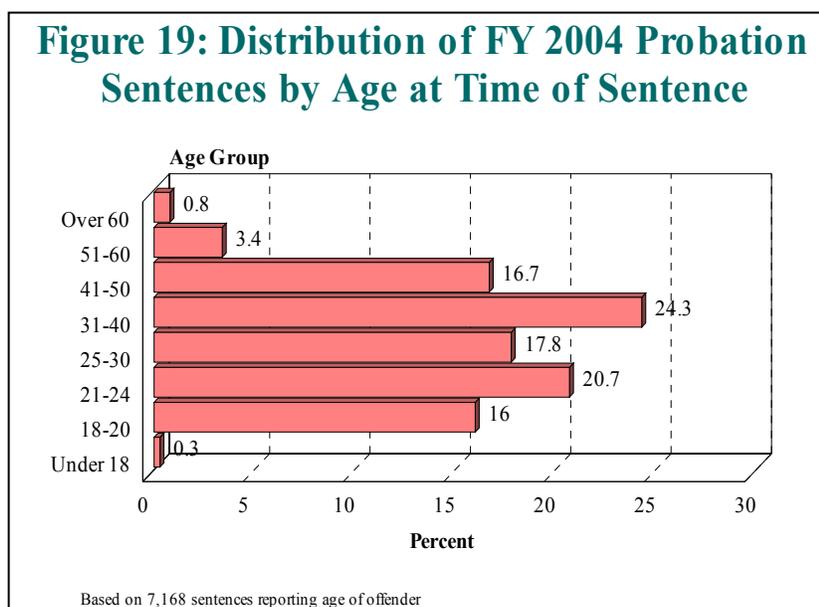
Male offenders represented a little over 79% of all probation sentences in FY 2004, indicating little change from that in FY 2003 (Figure 17).



The analysis on racial distribution of probation sentences reveals that 79.1% of the offenders were white and 19.2% of the offenders were non-white (Figure 18). The percentage change of the white offenders indicates an increase of 1% compared with that of FY 2003 and an increase of 3% compared with that of FY 2002.



Probation offenders in their thirties at the time of sentence were found to be the biggest of all the age groups (24.3%), demonstrating no change in the past five years (Figure 19).



Type of Offense and Severity Level

Tables 7 and 8 demonstrate the characteristics of probation offenders by offense type. The top ten offenses committed by non-drug offenders on probation include aggravated assault, aggravated battery, burglary, criminal damage to property, criminal threat, drug without tax stamps, DUI, fleeing LEO, forgery and theft, representing nearly 75% of the total nondrug probation sentences in FY 2004 (Figure 20), the same percentage rate as that of the previous year. In reviewing drug offenders on probation, the largest number of sentences was for possession of drugs, accounting for almost 63% of all probation drug offenses (Figure 21).

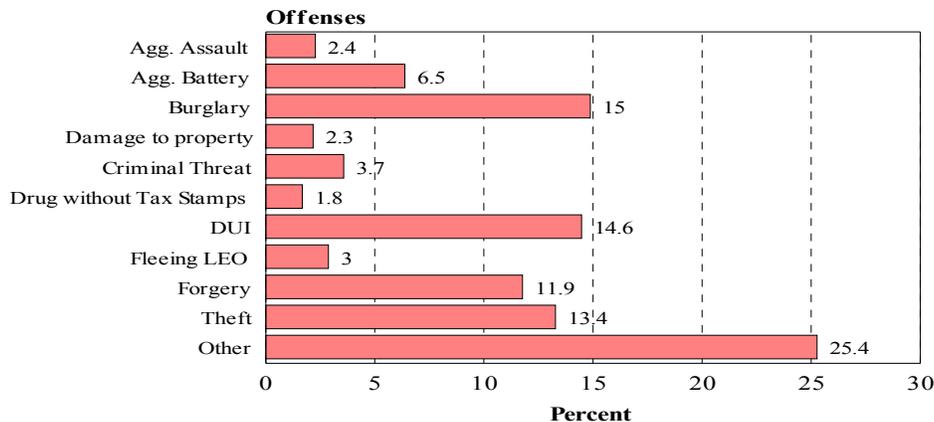
Gender analysis shows that males were convicted of over 90% of the sex offenses and violent crimes of probation sentences such as: aggravated assault on LEO, battery on LEO, aggravated burglary, burglary, domestic battery, fleeing LEO and possession of firearms. The highest

percentages of female probation nondrug offenses (over 45%) included aggravated arson, forgery, identity theft, giving worthless checks and traffic in contraband (Table 7).

Whites were responsible for 78.2% of all nondrug crimes and 80.9% of all drug offenses. Blacks had a little higher conviction percentage for non-drug offenses than drug crimes (20% versus 17.6%). The average age at the time of committing offense was 30.6 years old for nondrug offenders and 30.9 years old for drug offenders (Table 7 & Table 8), which don't show much difference from those in FY 2003.

Tables 9 and 10 present the characteristics of probation offenders by severity level. The largest number of probation non-drug sentences fell within nondrug grid severity level 9 (30%) and the highest percentage of probation drug sentences fell at drug grid severity level 4 (70.8%). These distributions are consistent with those in FY 2003 and FY 2002 (Table 7 & Table 8).

Figure 20: FY 2004 Top Ten Offenses for Probation Nondrug Sentences



Based on 4,767 probation nondrug sentences.

Drug possession crimes included opiates or narcotics; possession 1st, 2nd, 3rd and subsequent offenses; depressants, stimulants, hallucinogenics, etc. possession 2nd and subsequent offense (Figure 21). The conviction of opiates or narcotics possession 1st represented 51.6% of the total probation drug sentences in FY 2004 (Table 8).

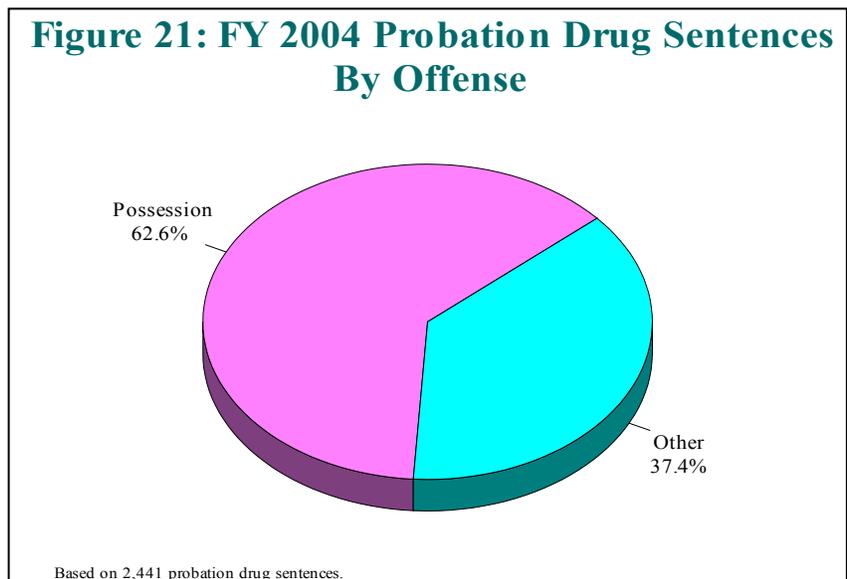


Table 7: Characteristics of Probation Nondrug Offenders by Type of Offense –1

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Abuse of Child	21	0.4	57.1	42.9	66.7	33.3	0.0	31.2
Agg Arson	4	0.1	50.0	50.0	75.0	25.0	0.0	20.9
Agg Assault	116	2.4	88.8	11.2	81.9	18.1	0.0	32.3
Agg Assault on LEO	6	0.1	100.0	0.0	83.3	16.7	0.0	31.7
Agg Battery	312	6.5	89.1	10.9	72.3	25.7	1.9	29.1
Agg Battery on LEO	7	0.1	71.4	28.6	57.1	42.9	0.0	34.2
Agg Burglary	55	1.2	92.7	7.3	65.5	32.7	1.8	26.9
Agg Escape from Custody	31	0.7	87.1	12.9	58.1	41.9	0.0	30.2
Agg Fail to Appear	33	0.7	72.7	27.3	78.8	21.2	0.0	33.6
Agg False Impersonation	12	0.3	83.3	16.7	83.3	16.7	0.0	27.0
Agg Ind Lib with a Child	56	1.2	96.4	3.6	80.0	16.4	3.6	27.7
Agg Ind Solicit with a Child	29	0.6	96.6	3.4	79.3	13.8	6.9	27.8
Agg Intimidation of a Victim	6	0.1	100.0	0.0	100.0	0.0	0.0	26.7
Agg Robbery	27	0.6	85.2	14.8	37.0	59.3	3.7	22.7
Agg Sex Battery with Child	26	0.5	96.2	3.8	65.4	34.6	0.0	29.8
Agg Weapon Violation	5	0.1	80.0	20.0	40.0	40.0	20.0	36.3
Aiding Felon	28	0.6	70.4	29.6	81.5	18.5	0.0	25.7

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

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Arrange Sale/Purchase Drug	9	0.2	88.9	11.1	77.8	11.1	11.1	27.9
Arson	38	0.8	89.5	10.5	94.7	5.3	0.0	25.6
Battery on LEO	15	0.3	64.3	35.7	64.3	35.7	0.0	28.1
Burglary	714	15.0	91.0	9.0	85.5	12.5	2.0	25.7
Computer Crime	10	0.2	80.0	20.0	80.0	10.0	10.0	33.7
Contribute Child Misconduct	17	0.4	76.5	23.5	76.5	17.6	5.9	25.8
Crim Damage of Property	111	2.3	87.4	12.6	80.2	17.1	2.7	25.6
Crim Discharge of Firearm	8	0.2	100.0	0.0	87.5	12.5	0.0	22.3
Criminal Threat	177	3.7	85.2	14.8	71.0	26.1	2.8	32.1
Criminal Use of Explosives	7	0.1	100.0	0.0	100.0	0.0	0.0	25.4
Crim Use of Financial Card	35	0.7	52.9	47.1	67.6	32.4	0.0	29.5
Domestic Battery	25	0.5	96.0	4.0	72.0	24.0	4.0	34.4
Drug without Tax Stamps	88	1.8	89.8	10.2	74.7	25.3	0.0	28.9
DUI	698	14.6	86.9	13.1	90.4	7.8	1.7	38.9
Failure to Register	35	0.7	100.0	0.0	71.4	25.7	2.9	32.2
False Writing	65	1.4	55.4	44.6	67.7	32.3	0.0	32.5
Fleeing/Eluding LEO	142	3.0	93.0	7.0	64.8	32.4	2.8	27.8
Forgery	569	11.9	50.6	49.4	74.4	23.8	1.8	30.2
Giving Worthless Check	61	1.3	49.2	50.8	91.8	6.6	1.6	34.8
Identity Theft	48	1.0	41.7	58.3	66.7	31.3	2.1	33.5
Ind Liberties with a Child	26	0.5	96.2	3.8	92.3	7.7	0.0	27.2
Ind Solicitation with a Child	18	0.4	88.9	11.1	94.1	5.9	0.0	28.2
Involuntary Manslaughter	10	0.2	80.0	20.0	80.0	20.0	0.0	31.2
Lewd and Lascivious Behavior	9	0.2	100.0	0.0	100.0	0.0	0.0	27.9
Medicaid Fraud	6	0.1	66.7	33.3	100.0	0.0	0.0	42.8
Non-Support of a Child	61	1.3	86.9	13.1	91.7	6.7	1.6	35.1
Obstruct Legal Process	86	1.8	92.9	7.1	77.4	19.0	3.6	31.9
Possession of Firearms	61	1.3	95.0	5.0	60.0	40.0	0.0	29.7
Rape	11	0.2	100.0	0.0	81.8	18.2	0.0	25.1
Robbery	66	1.4	81.8	18.2	48.5	51.5	0.0	24.5
Securities Crimes	4	0.1	75.0	25.0	100.0	0.0	0.0	38.4
Sex Exploitation of a Child	9	0.2	100.0	0.0	100.0	0.0	0.0	44.1
Stalking	14	0.3	92.9	7.1	78.6	21.4	0.0	39.0
Theft	640	13.4	71.2	28.8	74.0	24.6	1.4	30.0
Traffic in Contraband	21	0.4	52.4	47.6	90.5	9.5	0.0	30.5
Unlawful Sexual Relations	4	0.1	75.0	25.0	75.0	0.0	25.0	29.3
Unlawful Voluntary Sex Relation	27	0.6	100.0	0.0	85.2	14.8	0.0	18.6
Weapon	8	0.2	100.0	0.0	100.0	0.0	0.0	33.8
Other	40	0.8	65.0	35.0	70.0	25.0	5.0	34.4
TOTAL	4,767	100.0	79.8	20.2	78.2	20.0	1.8	30.6

Note: Due to missing data, each category is based on different numbers: Gender, N=4,747; Race, N=4,736; and Age, N=4,736.

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

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Opiates or narcotics; poss 1	1,259	51.6	73.4	26.6	78.9	19.5	1.6	32.0
Opiates or narcotics; poss 2	33	1.4	81.8	18.2	60.6	39.4	0.0	35.7
Opiates or narcotics; poss 3	6	0.2	83.3	16.7	33.3	50.0	16.7	37.7
Opiates or narcotics; sale 1	308	12.6	82.4	17.6	73.5	25.8	0.7	30.4
Opiates/ narcotics, depress, stim, hall; sale w/in 1,000 ft of school	10	0.4	60.0	40.0	70.0	30.0	0.0	25.6
Depress, stim, hall, etc.; sale, poss w/intent to sale	305	12.5	87.9	12.1	84.5	13.8	1.6	27.8
Depress, stim, hall; poss 2	231	9.5	89.5	10.5	86.0	12.3	1.8	28.7
Possession of paraphernalia	155	6.3	64.5	35.5	90.3	7.7	1.9	30.7
Possession of precursor drugs	78	3.2	70.5	29.5	97.4	2.6	0.0	31.8
Simulated controlled substances	4	0.2	100.0	0.0	75.0	25.0	0.0	35.5
Unlawful manufacture controlled substance	47	1.9	84.8	15.2	97.8	0.0	2.2	31.4
Other	5	0.2	80.0	20.0	100.0	0.0	0.0	29.6
TOTAL	2,441	100.0	77.6	22.4	80.9	17.6	1.5	30.9

Note: Due to missing data, each category is based on different numbers: Gender, N=2,436; Race, N=2,432; and Age, N=2,432.

Table 9: Characteristics of Probation Nondrug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
N1	7	0.1	100.0	0.0	100.0	0.0	0.0	21.1
N3	48	1.0	89.4	10.6	57.4	38.3	4.3	26.4
N4	13	0.3	76.9	23.1	84.6	15.4	0.0	32.3
N5	212	4.4	88.2	11.8	67.9	31.6	0.5	27.4
N6	62	1.3	83.9	16.1	80.6	16.1	3.2	29.4
N7	934	19.6	86.6	13.4	80.2	18.3	1.5	28.2
N8	781	16.4	60.7	39.3	74.3	24.1	1.7	29.9
N9	1,430	30.0	81.0	19.0	77.9	20.0	2.1	29.0
N10	557	11.7	78.1	21.9	71.3	27.1	1.6	30.7
Nongrid	723	15.2	87.2	12.8	89.8	8.4	1.8	38.7
TOTAL	4,767	100.0	79.8	20.2	78.2	20.0	1.8	30.6

Note: Due to missing data, each category is based on different numbers: Gender, N=4,747; Race, N=4,736; and Age, N=4,736.

Table 10: Characteristics of Probation Drug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
D1	36	1.5	88.6	11.4	85.7	8.6	5.7	30.7
D2	44	1.8	77.3	22.7	65.9	34.1	0.0	34.0
D3	633	25.9	84.8	15.2	79.7	19.2	1.1	29.3
D4	1,728	70.8	74.7	25.3	81.7	16.8	1.6	31.4
TOTAL	2,441	100.0	77.6	22.4	80.9	17.6	1.5	30.9

Note: Due to missing data, each category is based on different numbers: Gender, N=2,436; Race, N=2,432 and Age, N=2,432.

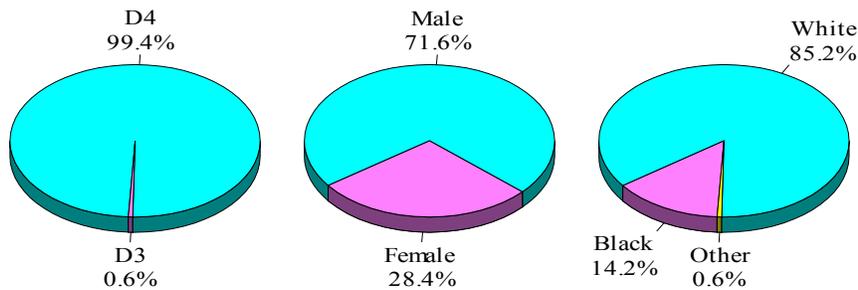
SB 123 Drug Treatment Offenders

Senate Bill 123 became law in 2003. The implementation of the law started on November 1st, 2003. Senate Bill 123 provides for mandatory certified drug abuse treatment for a defined target population of nonviolent adult drug offenders who have been convicted of K.S.A. 65-4160 or 65-4162.

During FY 2004, 360 SB 123 drug treatment program sentences were imposed. Of these offenders, 81% were convicted of the crime

of drug possession first offense under K.S.A. 65-4160 and 15% were convicted of the crime of drug possession under K.S.A. 65-4162. More than 99% of the offenders fell at drug severity level 4 and 0.6% at drug severity level 3. Sixty-five percent of these offenders were under the drug treatment programs for 18 months and 35% of them for 12 months. The average drug treatment term was 16 months. White males were still the majority of the treatment sentences (Figure 22). The average age of the drug treatment offenders was approximately 32 years old.

Figure 22: Distribution of FY 2004 Senate Bill 123 Drug Treatment Offenders



Note: Severity level, N=360; Gender, N=359; Race, N=359

Criminal History and Length of Probation

The examination of the criminal history of the probation sentences received in FY 2004 indicates that 91% (6,570 sentences) of all the probation sentences reported to the Commission were with assigned criminal history categories. The largest number of this group fell within criminal history category I (35%, N=2,300), representing no previous criminal history or one misdemeanor conviction (Figure 23).

Offenders with criminal history category I accounted for 33% of offenders on the nondrug grid and 38.5% of offenders on the drug grid. Approximately 87% of nondrug offenders fell within the presumptive probation boxes (Table 11), while 61.6% of probation drug offenders were sentenced within the presumptive probation boxes (Table 12).

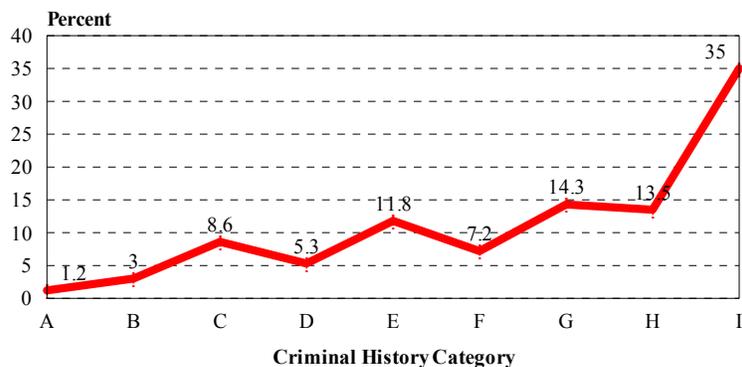
In reviewing border box sentences, only 4% of non-drug offenders were found to be at

severity level 5 criminal history categories H and I and severity level 6 criminal history category G, while 23.3% of drug probation sentences fell within severity level 3 criminal history categories E to I, which are designated as border boxes (Tables 11 and 12). In the Legislation of year 2003, drug severity level 4 with criminal history categories E and F are reclassified as presumptive probation boxes, effective on November 1, 2003. The sentencing data in border boxes implies that drug offenders tend to be sentenced to probation more frequently than do non-drug offenders when their offense types and criminal history categories fell within the border boxes.

The probation terms of probation sentences by severity levels are exhibited in Tables 11 and 12. The average length of probation for nondrug offenders was 17.5 months, while the average length of probation for drug offenders was 15.8 months, which are almost constant to those in FY 2001, FY 2002 and FY 2003.

Figure 23: Distribution of FY 2004 Probation Sentences by Criminal History

Nondrug and Drug Sentences



Based on 6,570 sentences reporting criminal history category

Table 11: Criminal History and Probation Length by Severity Level – Nondrug Offenders

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
N1	7	0	0	0	1	0	0	1	1	4	48.0
N2	0	0	0	0	0	0	0	0	0	0	N/A
N3	48	1	1	1	5	0	1	2	6	31	41.8
N4	13	0	1	0	1	1	2	1	2	5	33.2
N5	212	4	3	11	9	6	4	18	43	114	36.2
N6	62	1	2	1	0	2	1	7	10	38	26.9
N7	934	11	31	112	63	92	54	115	135	321	23.3
N8	781	9	24	71	44	139	78	102	94	220	18.3
N9	1,430	23	41	187	90	211	94	191	176	417	12.8
N10	557	8	26	56	33	74	47	83	52	177	12.5
Nongrid	723	1	3	6	7	4	5	12	16	33	13.9
TOTAL	4,767	58	132	445	253	529	286	532	535	1,360	17.5

Note: Criminal history classes are based on 4,130 cases reporting criminal history category.

Legend:

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

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

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
D1	36	1	1	2	1	5	5	5	6	10	32.0
D2	44	2	1	7	0	8	5	6	4	11	36.6
D3	633	2	12	23	27	50	47	97	81	294	19.1
D4	1,728	19	48	88	69	182	132	301	263	625	13.6
TOTAL	2,441	24	62	120	97	245	189	409	354	940	15.8

Note: Criminal history classes are based on 2,440 cases reporting criminal history category.

Legend:

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

CHAPTER TWO VIOLATORS

VIOLATIONS RESULTING IN INCARCERATION

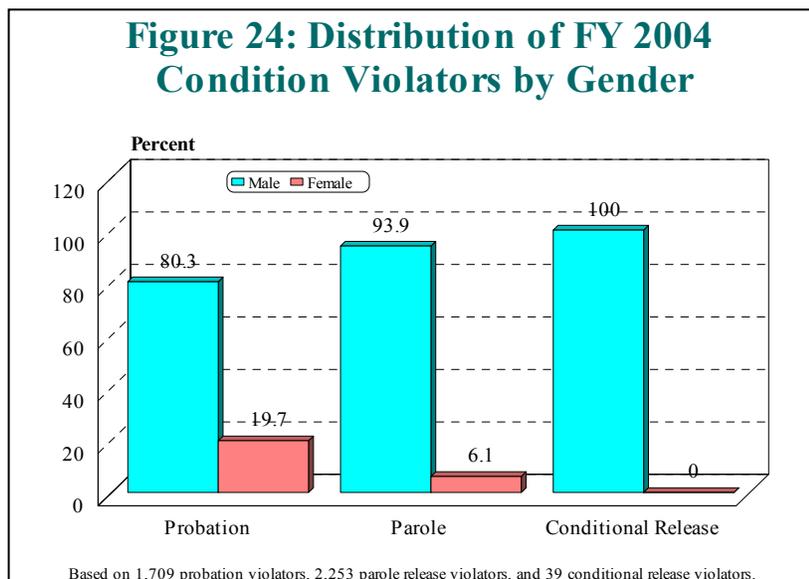
Violators are classified in two ways. Offenders on some form of supervision who commit an offense for which they receive a new sentence are defined as “violators with new sentences.” Offenders who are on probation, parole/postrelease supervision, who violate the conditions of their supervision but do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

Condition violators alone accounted for 68.5% of all admissions to prison in FY 2004. Characteristics of condition violators by gender, race, and age are shown in Figures 24, 25, and 26.

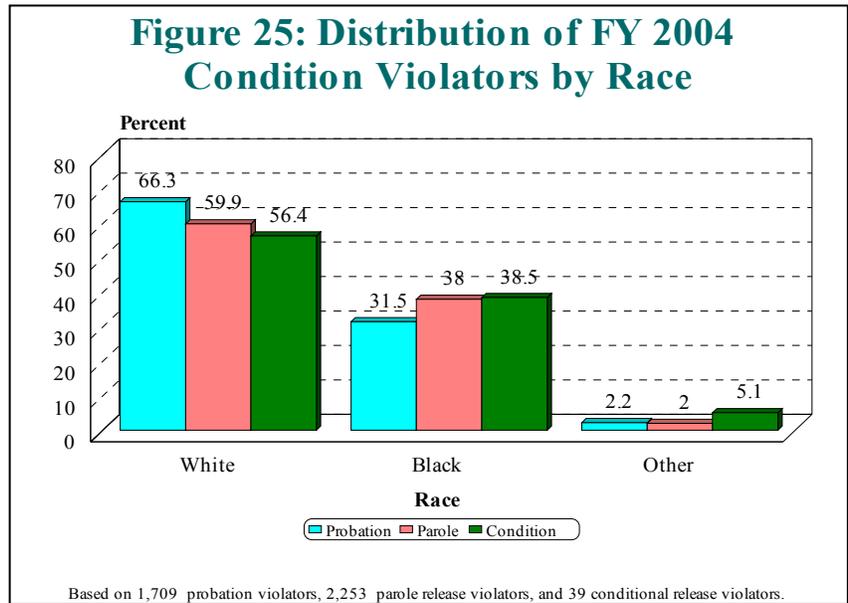
Overview of Condition Violators

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

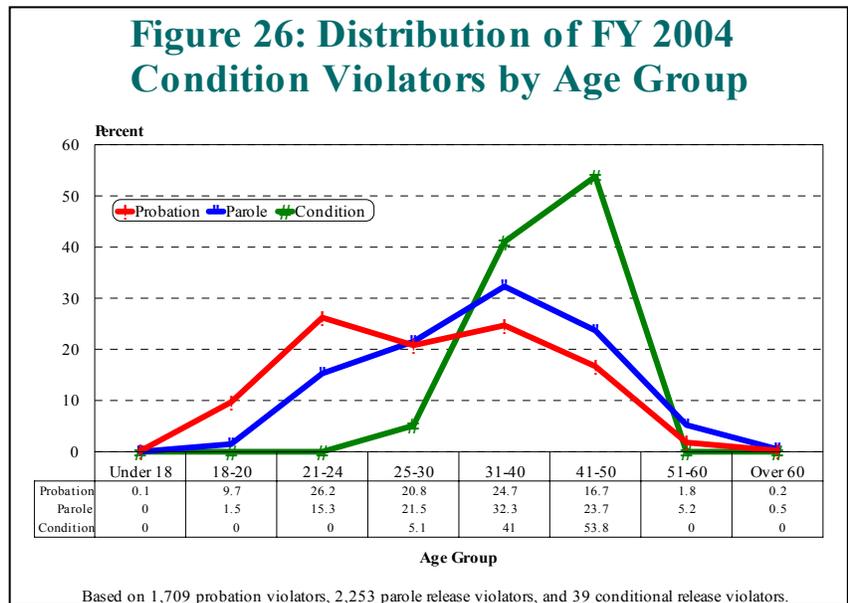
A total number of 4,001 condition violators were incarcerated for their violation of conditions in FY 2004, representing 1,709 probation violators, 2,253 parole/postrelease supervision violators, and 39 conditional release violators respectively.



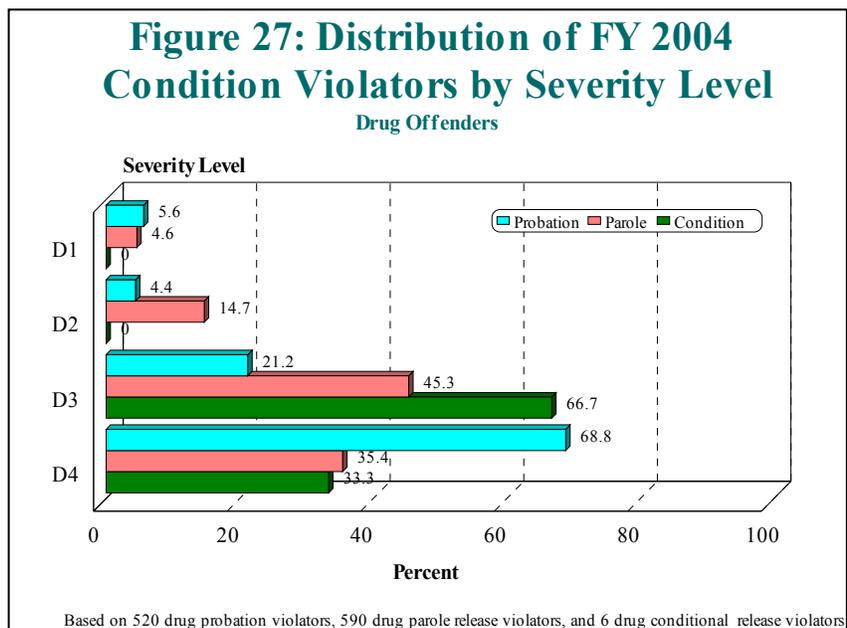
White males represented the highest percentages (Figures 24 and 25) of all three types of violators.



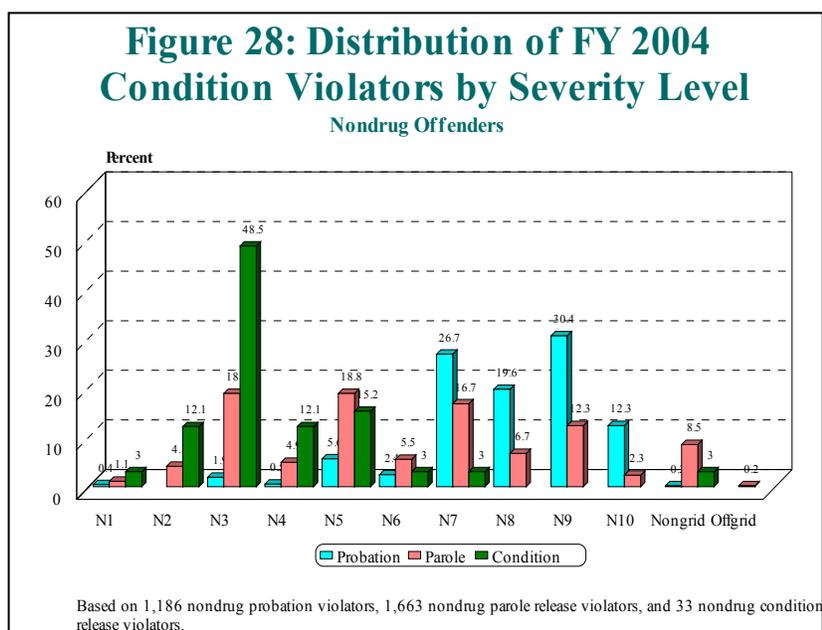
The largest numbers of violators of the three categories were found to be in the age group ranging from 31 to 40 at the time of admission to prison (Figure 26). This age pattern is consistent with that of the total incarceration sentences of FY 2004 (Figure 10) and demonstrates no change when compared with the age pattern of the group observed in FY 2003.



Figures 27 and 28 present the characteristics of all violators by severity level. 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 27). This severity level distribution is the same as those in the past three years.



The largest percentage of probation violators fell on nondrug severity level nine (30.4%, N=361), parole/postrelease supervision violators represented the largest number on nondrug severity level five (18.8%, N=312) and conditional release violators accounted for the highest percentage on nondrug severity level three (48.5%, N=16) (Figure 28). This pattern is slightly different from that of FY 2003.



The characteristics of all types of condition violators by severity level, race, and gender are described in Table 13. The largest numbers for males were found on nondrug severity level 7 (548 sentences) and drug severity level 4 (454 sentences). However, the highest frequencies of females fell on nondrug severity level 8 (97 sentences) and drug severity level 4 (115 sentences). These gender characteristics by severity level have not changed much compared with those of

the previous year. Nondrug level 7 and drug level 4 represented the largest numbers of violators for both whites and blacks, which is consistent with the distribution of FY 2003. White offenders accounted for 372 sentences at nondrug level 7 and 381 sentences at drug level 4, while black offenders made up 207 sentences at nondrug level 7 and 174 sentences at drug level 4. The average age of the violators at admission was 33.6 years old (Table 13).

Table 13: Characteristics of Overall Violators by Severity Level, Race and Gender

Severity Level	Number of Cases	Gender		Race			Average Age at Admission
		Male	Female	White	Black	Other	
D1	56	44	12	45	11	0	34.5
D2	110	95	15	59	50	1	37.9
D3	381	338	43	222	155	4	33.8
D4	569	454	115	381	174	14	33.2
N1	25	25	0	13	11	1	35.4
N2	73	73	0	39	32	2	40.6
N3	351	342	9	172	166	13	36.4
N4	91	86	5	49	40	2	34.3
N5	383	361	22	209	171	3	32.5
N6	121	115	6	90	29	2	33.1
N7	595	548	47	372	207	16	32.1
N8	344	247	97	224	114	6	32.6
N9	566	503	63	372	177	17	31.2
N10	185	158	27	120	62	3	32.4
Offgrid	4	4	0	2	2	0	46.5
Nongrid	144	132	12	133	9	2	42.3
Unknown	3	3	0	3	0	0	28.3
Total	4,001	3,528	473	2,505	1,410	86	33.6

Condition Probation Violators

Condition probation violators admitted to prison in FY 2004 include 1,189 nondrug offenders and 520 drug offenders. Totaling 1,709, the number of condition probation violators demonstrates an increase of 14% compared with that of FY 2003. Tables 14 and 15 depict the characteristics of this group.

The top 10 most frequent committing nondrug offenses include aggravated assault, aggravated battery, aggravated indecent liberties with a child, burglary, criminal threat, fleeing or eluding LEO, forgery, possession of firearm, robbery and theft. These top 10 offenses represented 74.3% of all nondrug offenses. Burglary, forgery and theft were the three most frequent sentencing offenses for which there were a

large number of probation violators (Table 14).

The examination of drug offenses indicates that possession of drugs was the most frequent offense type for probation violators on the drug grid, accounting for 70% of all drug offenses, while the crime of opiates or narcotics possession 1st represented 53.8% of the total drug offenses for the condition probation violators (Table 15).

The average length of lag time from the age of offense to the age of admission to prison was 2.3 years for both nondrug and drug probation violators, which remains very close with the length of lag time of the probation violators in FY 2003. Table 16 exhibits the distribution of probation violators by severity level and criminal history.

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

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean*	Admit Age Mean**
		Male	Female	White	Black	Other		
Aggravated Assault	32	93.8	6.3	40.6	56.3	3.1	31.1	32.8
Aggravated Battery	107	86.0	14.0	54.2	44.9	0.9	28.0	30.1
Agg Indecent Liberties w/Child	22	100.0	0.0	68.2	22.7	9.1	23.7	26.1
Burglary	222	88.3	11.7	78.4	18.9	2.7	26.7	28.8
Criminal Threat	63	92.1	7.9	61.9	34.9	3.2	27.9	29.6
Fleeing or Eluding LEO	40	87.5	12.5	65.0	30.0	5.0	29.2	31.1
Forgery	172	58.7	41.3	65.1	33.7	1.2	30.6	33.0
Possession of Firearm	21	100.0	0.0	66.7	33.3	0.0	24.2	25.8
Robbery	38	94.7	5.3	47.4	50.0	2.6	26.1	28.1
Theft	167	80.2	19.8	63.5	34.7	1.8	29.4	31.8
Subtotal	884	82.0	18.0	65.0	32.7	2.3	28.3	30.5
Other	305	83.9	16.1	63.0	35.1	2.0	28.8	31.3
TOTAL	1,189	82.5	17.5	64.5	33.3	2.2	28.4	30.7

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

Table 15: Characteristics of Drug Probation Violators by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Opiates or narcotics; poss 1	280	68.2	31.8	69.3	27.9	2.9	31.2	33.4
Opiates or narcotics; poss 2	15	80.0	20.0	33.3	66.7	0.0	34.9	37.2
Opiates or narcotics; sale 1	69	81.2	18.8	58.0	40.6	1.4	29.1	31.6
Opiates /narcotics, depress, stim, hall, etc.; sale w/in 1,000 ft of school	6	66.7	33.3	83.3	16.7	0.0	23.5	25.4
Depress, stim, hall; poss 2nd	52	96.2	3.8	75.0	23.1	1.9	26.6	29.0
Depress, stim, hall, etc.; sale, poss w/intent to sale	41	85.4	14.6	73.2	22.0	4.9	25.4	28.0
Possession of paraphernalia	26	88.5	11.5	100.0	0.0	0.0	26.9	29.2
Possession of precursor drugs	14	64.3	35.7	100.0	0.0	0.0	30.7	32.5
Unlawful manufacture controlled substance	13	69.2	30.8	92.3	7.7	0.0	31.4	33.4
Other	4	75.0	25.0	25.0	75.0	0.0	38.2	39.9
TOTAL	520	75.4	24.6	70.4	27.3	2.3	29.8	32.1

Table 16: Distribution of Probation Violators by Severity Level and Criminal History*

Severity Level	Criminal History Category									Subtotal
	A	B	C	D	E	F	G	H	I	
D1	1	0	2	0	4	2	7	4	9	29
D2	1	4	4	1	0	2	7	2	2	23
D3	3	6	7	7	7	12	18	15	35	110
D4	8	10	23	16	42	35	56	62	106	358
N1	0	0	1	0	2	0	0	0	2	5
N2	0	0	0	0	0	0	0	0	0	0
N3	0	0	1	3	1	2	2	5	8	22
N4	0	0	1	1	0	0	0	1	2	5
N5	2	1	4	7	5	2	6	11	28	66
N6	0	2	1	0	0	0	4	5	17	29
N7	5	14	43	28	39	23	46	48	70	316
N8	3	7	31	11	57	17	30	33	43	232
N9	7	13	48	21	60	23	42	67	75	356
N10	3	7	19	10	21	11	15	20	38	144
TOTAL	33	64	185	105	238	129	233	273	435	1,695

* Due to missing data, criminal history categories are based on 1,695 probation violators reporting criminal history.

Condition Parole/Postrelease Supervision Violators

In FY 2004, 2,253 condition parole/post-release supervision violators were admitted to the custody of the Department of Corrections (DOC), contributing the largest percentage (38.6%) of all admissions to DOC. Characteristics of this offender group are presented in Tables 17 and 18.

Aggravated battery, aggravated robbery, aggravated indecent liberties with a child, burglary, DUI, forgery, indecent liberties with a child, rape, robbery and theft were the top 10 most frequent committing offenses of nondrug parole/postrelease violators, accounting for more than 68% of the total nondrug offenses. More than 95% of this group was males. Females represented the highest percentage (nearly 25%) for the crime of forgery. The highest percentage of whites was found in the offense categories of aggravated indecent liberties with a child and indecent liberties with a child, whereas

blacks indicated the highest representation in aggravated robbery and robbery (Table 17), which is consistent with the data observed in FY 2003. Drug parole/postrelease violators were convicted primarily for possession of opiates or narcotics (37.3%) and sale of opiates or narcotics (34.4%, Table 18).

Postrelease violators for the crime of DUI are subject to imprisonment if the offenders committed the crime on or after July 1, 2001. In FY 2004, 141 DUI violators were admitted to prison and 92.2% of them were whites (Table 17).

Distribution of parole/postrelease supervision violators by severity level and criminal history is shown in Table 19. The largest number of parole/postrelease supervision violators fell on severity levels 3 and 4 of the drug grid and severity levels 5 and 7 of the nondrug grid. This distribution remains constant compared with that in FY 2003.

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

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Aggravated battery	115	97.4	2.6	51.3	44.3	4.3	29.1	35.1
Aggravated robbery	174	98.9	1.1	40.2	58.6	1.1	23.8	36.1
Agg Indecent Liberties w/Child	123	98.4	1.6	71.5	24.4	4.1	26.1	32.6
Burglary	164	97.6	2.4	66.5	29.9	3.7	29.5	33.6
DUI	141	91.5	8.5	92.2	6.4	1.4	40.8	42.4
Forgery	74	74.3	25.7	60.8	33.8	5.4	32.7	36.6
Indecent Liberties w/Child	56	100.0	0.0	73.2	26.8	0.0	24.7	34.4
Rape	61	100.0	0.0	50.8	47.5	1.6	28.1	39.5
Robbery	134	94.0	6.0	38.1	60.4	1.5	27.1	34.9
Theft	92	91.3	8.7	65.2	32.6	2.2	30.6	34.1
Other	529	95.8	4.2	61.6	36.5	1.9	27.4	34.1
TOTAL	1,663	95.2	4.8	60.7	36.9	2.3	28.7	35.3

Table 18: Characteristics of Parole/Postrelease Drug Violators by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Opiates or narcotics; poss 1	171	88.3	11.7	56.1	41.5	2.3	31.2	34.8
Opiates or narcotics; poss 2	37	89.2	10.8	43.2	54.1	2.7	33.8	38.7
Opiates or narcotics; poss 3	12	75.0	25.0	41.7	58.3	0.0	28.9	34.7
Opiates or narcotics; sale 1	190	91.1	8.9	51.6	48.4	0.0	28.6	35.9
Opiates or narcotics; sale 2	13	84.6	15.4	15.4	84.6	0.0	34.1	42.9
Opiates/narcotics, Depress, stim, hall; sale w/in 1,000 ft of school	21	100.0	0.0	61.9	38.1	0.0	30.1	36.5
Depress, stim, hall; poss 2	26	96.2	3.8	53.8	42.3	3.8	30.9	35.0
Depress, stim, hall, etc.; sale, poss w/intent to sale	76	90.8	9.2	69.7	28.9	1.3	25.9	33.2
Possession of paraphernalia	11	100.0	0.0	100.0	0.0	0.0	26.6	30.0
Possession of precursor drugs	10	100.0	0.0	100.0	0.0	0.0	34.2	36.9
Unlawful manufacture controlled substance	22	86.4	13.6	100.0	0.0	0.0	33.3	38.4
Knowingly receiving proceeds	1	100.0	0.0	0.0	100.0	0.0	19.9	22.3
TOTAL	590	90.3	9.7	57.6	41.2	1.2	29.8	35.5

Table 19: Distribution of Parole/Postrelease Supervision Violators by Severity Level and Criminal History*

Severity Level	Criminal History Category									Subtotal
	A	B	C	D	E	F	G	H	I	
D1	0	2	1	0	9	3	6	0	2	23
D2	4	6	13	6	18	10	9	14	2	82
D3	6	13	22	14	33	20	31	19	37	195
D4	7	29	46	28	55	13	9	10	11	208
N1	0	1	0	1	2	0	0	1	0	5
N2	0	0	1	0	0	1	3	5	12	22
N3	6	2	18	13	17	7	21	12	47	143
N4	2	3	9	7	3	2	5	6	13	50
N5	4	13	31	24	28	22	27	31	55	235
N6	10	7	19	6	9	4	5	9	9	78
N7	42	38	63	13	27	21	26	18	21	269
N8	10	22	22	4	23	10	8	8	1	108
N9	55	50	22	9	28	9	13	7	10	203
N10	9	9	3	5	4	3	1	1	4	39
TOTAL	155	195	270	130	256	125	164	141	224	1,660

* Due to missing data, criminal history categories are based on 1,660 violators reporting criminal history.

Conditional Release Violators

Conditional release violators made up the smallest group of condition violators totaling 39 in FY 2004 (Figure 29). In examining offense types, the analysis demonstrates that sex offenders accounted for 25.6% of the conditional release violators. Robbery including aggravated robbery represented another 25.6% of the

crimes committed by the conditional release violators. Drug offenses attributed to 15.4% of this specific population. Table 20 presents the characteristics of conditional release violators. All violators were males in this group. White offenders represented more than 56% and black offenders represented 38.5% of this type of violators. The average age of conditional release violators was 40.4 at the time of admission.

Conditional release violators decreased by 23.5% when compared with that in FY 2003 (N=51), decreased by 31.6% compared with that in FY 2002 (N=57) and decreased by 64.2% compared with the number in FY 2001 (N=109). Conditional release violators are governed by pre-guideline sentences, therefore, this group of violators will be eventually out of the prison system.

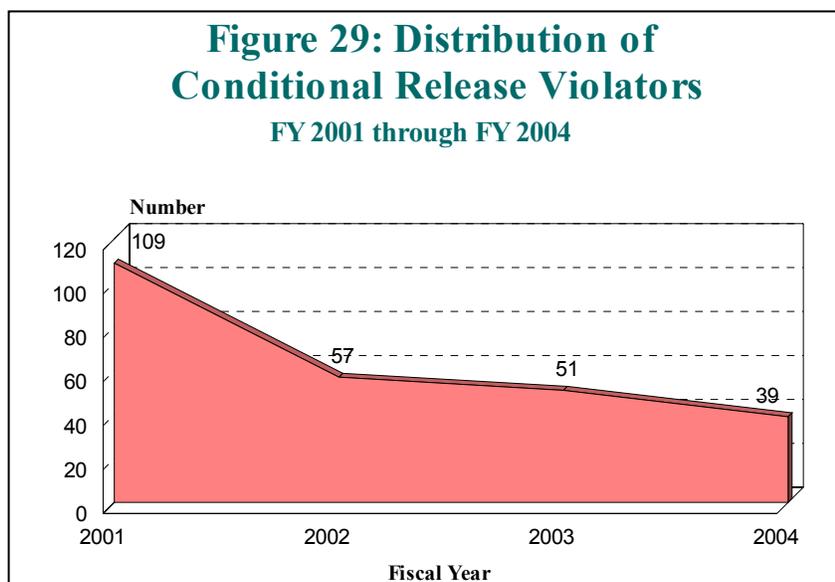


Table 20: Most Frequent Committing Offenses of Conditional Release Violators Nondrug and Drug Offenders

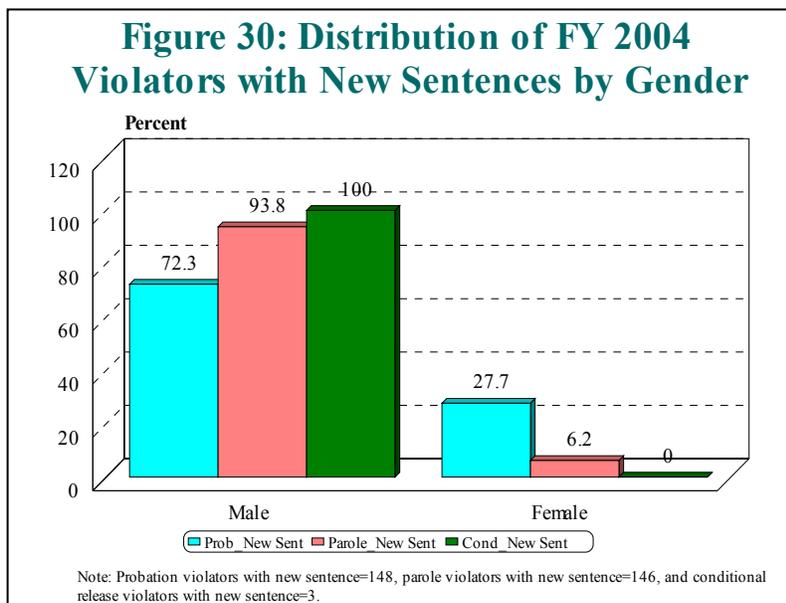
Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Aggravated Battery	4	100.0		50.0	25.0	25.0	23.8	40.0
Agg. Robbery/Robbery	10	100.0		80.0	20.0		21.7	36.8
Voluntary Manslaughter	2	100.0			100.0		21.1	38.4
Sex offenses	10	100.0		60.0	40.0		27.1	43.2
Drug	6	100.0		16.7	83.3		31.8	43.4
Other	7	100.0		71.4	14.3	14.3	28.3	39.8
TOTAL	39	100.0		56.4	38.5	5.1	26.9	40.4

Violators with New Sentences

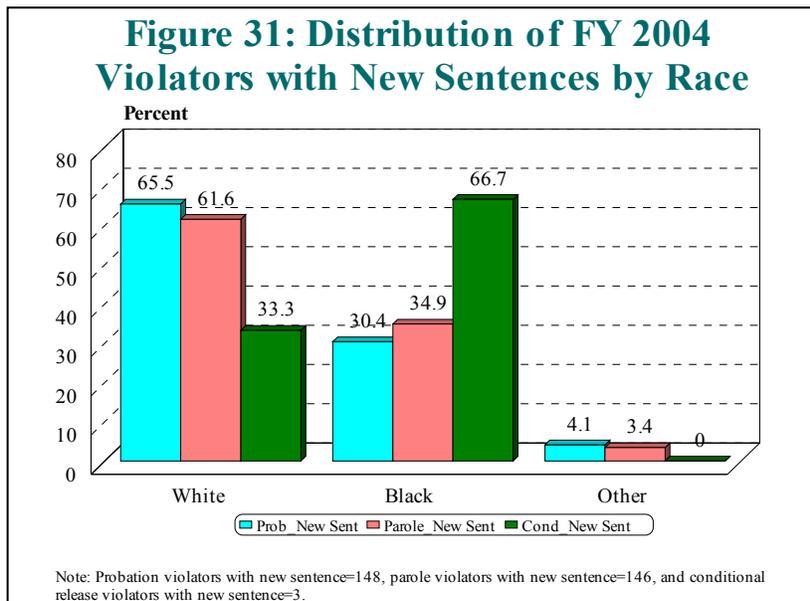
Violators with new sentences analyzed in this section include probation, parole/postrelease and conditional release violators convicted of an offense for which they received a new sentence. This group represented 5% (297 violators) of the total prison admissions in FY 2004, indicating one percentage decrease compared with FY 2003 and FY 2002. Characteristics of this group are depicted in Figures 30 to 32. Drugs (31.8%), burglary/aggravated burglary (13.5%) and forgery (9.5%) were the major committing offense categories for probation violators with new convictions. Drugs (27.4%), aggravated robbery/robbery (18.5%) and aggravated battery (9.6%)

represented the top committing offenses for parole/postrelease violators with new sentences. There were only three conditional release violators with new sentences who committed the crimes of aggravated burglary, murder in the second degree and rape. Table 21 illustrates the distribution of the above offenders by severity levels. The largest numbers of probation violators with new sentences fell at nondrug severity level 7 (N=32) and drug severity level 4 (N=21), while nondrug severity level 7 (16.4%) and drug severity level 3 (9.6) represented the highest percentages of parole/postrelease violators with new sentences. The conditional release violators with new sentences in FY 2004 were all nondrug offenders at severity levels 1, 2 and 7.

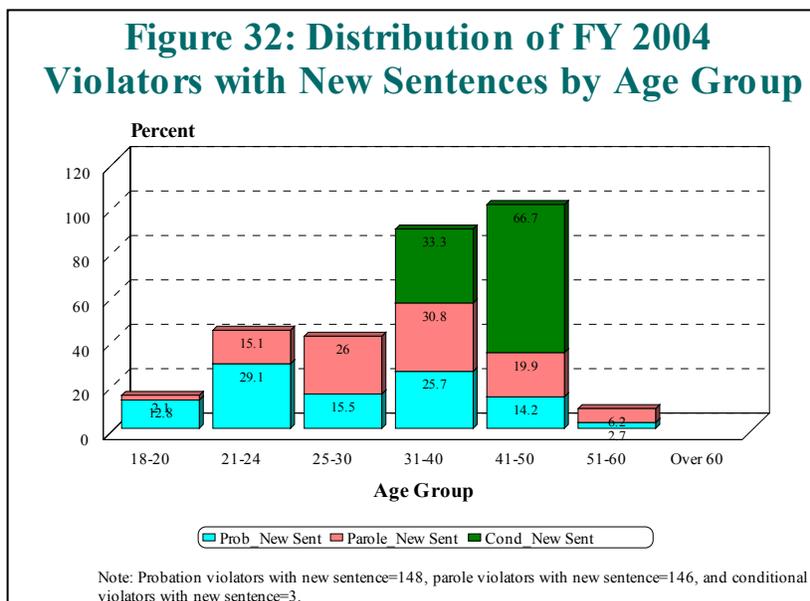
Males were obviously the predominant gender of all the three types of violators with new sentences, which is consistent with those of previous years (Figure 30).



White offenders represented the highest percentage of both probation violators (65.5%) and parole or post-release violators with new sentences (61.6), while the highest rate of conditional release violators with new sentences was found in black offenders (66.7%, Figure 31).



The highest percentage of probation violators (29.1%) were found in the age group from 21 to 24 at the time of admission to prison, while most of parole/post-release violators (30.8%) were between 31 and 40 years old and conditional release violators with new sentences represented the largest proportion (66.7%) in the age group between 41 and 50 (Figure 32).



**Table 21: Distribution of FY 2004 Violators with New Sentences
By Severity Level**

Severity Level	Probation		Parole/Postrelease		Conditional Release	
	N	%	N	%	N	%
D1	11	7.4	6	4.1	0	0.0
D2	5	3.4	12	8.2	0	0.0
D3	10	6.8	14	9.6	0	0.0
D4	21	14.2	8	5.5	0	0.0
N1	1	0.7	6	4.1	1	33.3
N2	2	1.4	4	2.7	1	33.3
N3	4	2.7	21	14.4	0	0.0
N4	3	2.0	4	2.7	0	0.0
N5	16	10.8	22	15.1	0	0.0
N6	1	0.7	7	4.8	0	0.0
N7	32	21.6	24	16.4	1	33.3
N8	24	16.2	5	3.4	0	0.0
N9	12	8.1	6	4.1	0	0.0
N10	4	2.7	3	2.1	0	0.0
Off-grid	2	1.4	1	0.7	0	0.0
Nongrid	0	0.0	3	2.1	0	0.0
TOTAL	148	100.0	146	100.0	3	100.0

VIOLATORS CONTINUING AND EXTENDING ON PROBATION

Violators continued or extended on probation refer to probation violators with or without new convictions, whose violations did not result in incarceration but rather a continuation or an extension of the probation. In FY 2004, there were 2,397 condition probation violators and 188 probation violators with new convictions who were continued or extended on probation, representing 52.2% of the total number of 4,589 condition probation violators and 38.4% of the total number of

489 probation violators with new offenses, respectively. Drugs (32.9%), burglary (11.8%), forgery (10.9%), theft (9.4) and aggravated battery (5%) were the top five committing offenses for the group of condition probation violators. Drugs (35.6%), burglary (12.8%) and forgery (11.7%) were the top three committing offenses for probation violators with new convictions. The most committing offenses for both groups were the same with those of FY 2003. Tables 22 and 23 display criminal history by severity levels of the two types of violators who were sentenced to continued or extended probation.

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

Severity Level	Number of Cases	Criminal History Class								
		A	B	C	D	E	F	G	H	I
D1	13	0	0	1	0	0	0	2	5	5
D2	20	0	0	0	0	5	3	4	3	5
D3	142	1	2	5	9	17	14	20	23	50
D4	613	4	11	27	25	56	38	101	123	228
N1	6	0	0	0	1	0	1	0	1	3
N2	0	0	0	0	0	0	0	0	0	0
N3	15	0	0	0	0	1	1	0	3	10
N4	2	0	0	0	0	0	0	0	1	1
N5	60	2	0	3	1	2	1	9	9	33
N6	32	0	1	2	3	2	1	3	4	16
N7	356	5	8	34	29	36	23	53	65	102
N8	320	1	7	34	21	53	29	48	45	82
N9	510	7	11	40	42	65	44	73	73	155
N10	183	1	5	19	11	14	16	29	29	59
Nongrid	125	0	3	3	0	0	2	1	4	6
TOTAL	2,397	21	48	168	142	251	173	343	388	755

Note: Criminal history classes are based on 2,289 cases reporting criminal history category.

Legend:

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

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

Severity Level	Number of Cases	Criminal History Class								
		A	B	C	D	E	F	G	H	I
D1	1	0	0	0	0	0	0	0	1	0
D2	2	0	0	1	0	0	0	0	0	1
D3	11	0	0	0	1	1	1	2	1	5
D4	53	1	0	0	2	5	3	13	16	13
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	1	0	0	0	0	0	0	0	0	1
N4	1	0	0	1	0	0	0	0	0	0
N5	6	0	0	0	0	0	0	1	2	3
N6	3	0	0	1	0	0	0	0	0	2
N7	26	0	0	5	4	3	5	4	2	3
N8	28	0	0	3	3	3	2	2	7	8
N9	45	1	0	4	3	5	3	10	4	15
N10	7	0	0	1	1	0	1	0	3	1
Nongrid	4	0	0	0	0	0	0	0	0	0
TOTAL	188	2	0	16	14	17	15	32	36	52

Note: Criminal history classes are based on 184 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 2004. 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. Besides, the analysis is based on computed variables regarding departures and the consecutive sentences are excluded from this analysis.

OVERALL CONFORMITY RATES

A total number of 6,985 pure guideline sentences of FY 2004 were utilized for this analysis, including 1,393 incarceration guideline sentences and 5,592 probation sentences. Figure 33 demonstrates that 82.3% of the 6,985 guideline sentences fell within the presumptive guideline grids; 6.6% indicated durational departures, and 11.1% were dispositional departures. Of all the sentences within the presumptive guideline grids, 4,696 sentences (81.7%) fell within either the presumptive prison boxes or presumptive probation boxes, while 1,051 sentences (18.3%) were located on designated border boxes. Figure 34 indicates that 69.3% (540 sentences) of the 779 dispositional departures were downward departures and 30.7% (239 sentences) were upward dispositional departures. Approximately 83% of the 1,051 border box sentences resulted in probation sentences with only 17% of this group sentenced to prison. The analysis of durational departure sentences is only applicable to presumptive prison sentences.

Figure 33: Distribution of FY 2004 Overall Guideline Sentences

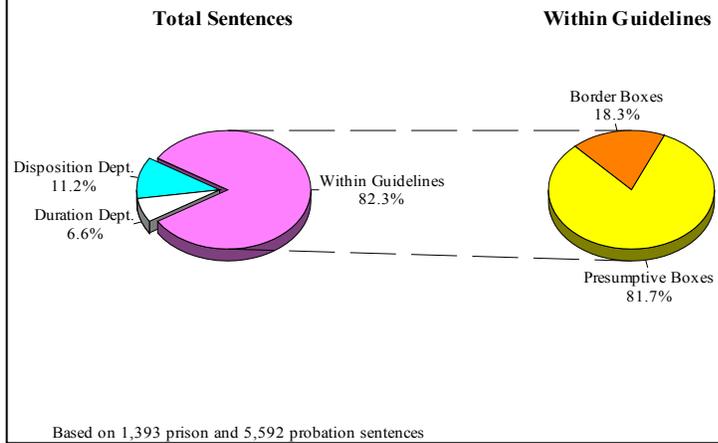
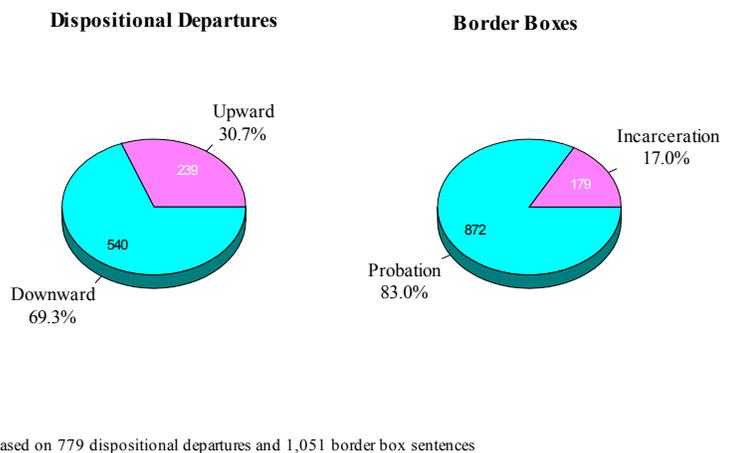


Figure 34: Distribution of Dispositional Departure and Border Box Sentences

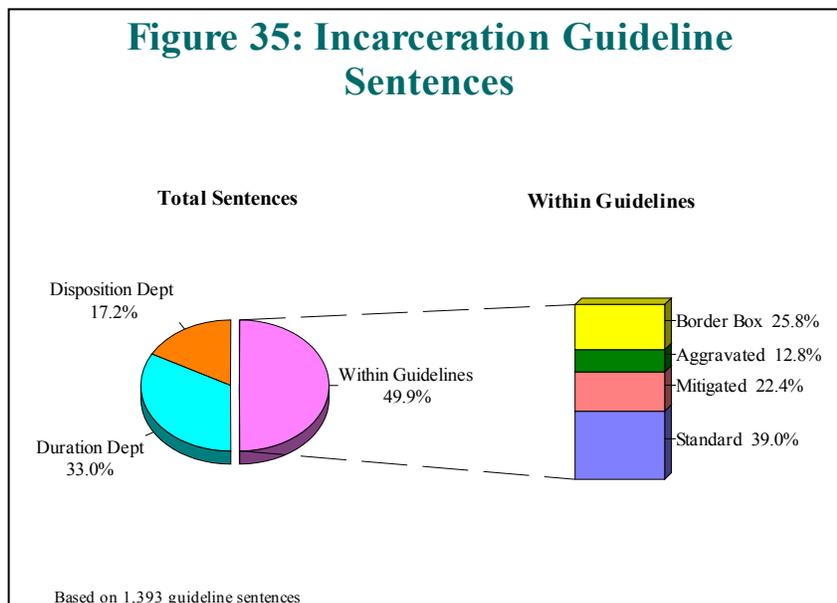


CONFORMITY OF PRESUMPTIVE PRISON GUIDELINE SENTENCES

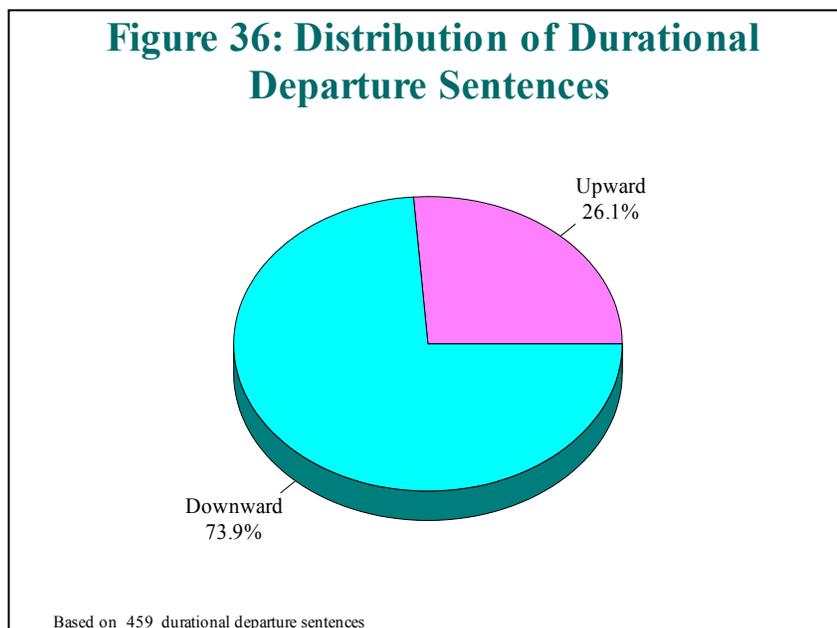
Sentences that are designated above the incarceration line of the sentencing grids are presumptive prison guideline sentences.

Revocations of probation conditions, either with or without new sentences, which result in prison sentences were excluded from this analysis. A total of 1,393 presumptive prison guideline sentences of FY 2004 were analyzed for this purpose.

Nearly 50% of total sentences fell within the presumptive incarceration range. Of this percentage, 39% fell within the standard range, 12.8% were within the aggravated range, and 22.4% were within the mitigated range. Almost 26% were located within designated border boxes (Figure 35).



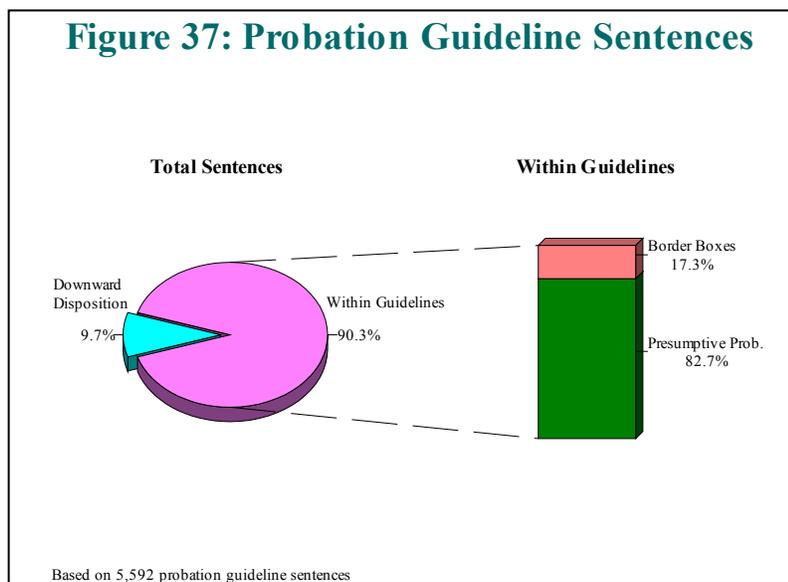
Among the durational departure sentences, 74% departed downward from the sentence lengths indicated on the presumptive range, while only 26% departed upward from the presumptive guideline ranges. The percentage change of the upward durational departure sentences is a 6% decrease from that in FY 2003 (Figure 36).



CONFORMITY OF PRESUMPTIVE PROBATION GUIDELINE SENTENCES

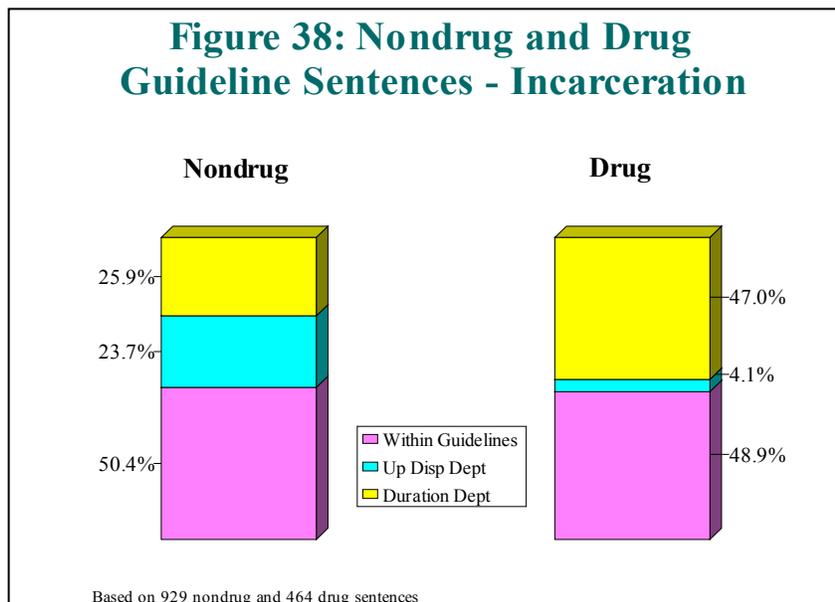
Presumptive probation guideline sentences refer to the sentences that are designated below the incarceration line of the sentencing grids. The analysis of probation guideline sentences demonstrates that as expected, the majority of probation guideline sentences (90.3% or 5,052 cases) fell within presumptive guideline range, among which 82.7% fell within presumptive

probation grids and 17.3% were within border boxes (Figure 37). This distribution accounted for 70% of the total probation sentences in FY 2004 (7,208). Further analysis of the dispositional departures indicates that probation sentences reflected downward dispositional departures of 9.7% (Figure 37), which is the same percentage rate with that of FY 2003. Upward dispositional departure sentences were reflected in presumptive incarceration sentences (See Figure 35).

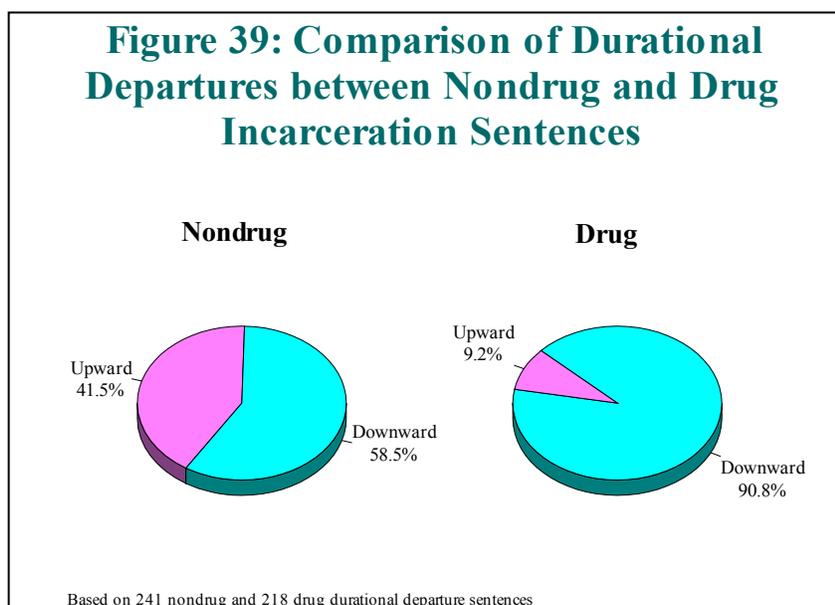


CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES

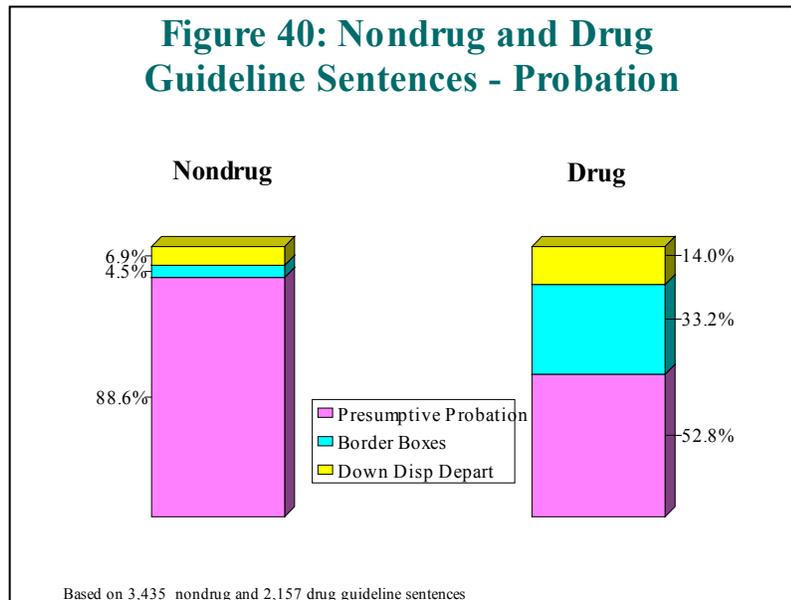
The comparative analysis of guideline incarceration sentences in terms of nondrug and drug sentences indicates that 23.7% of nondrug offenders showed upward dispositional departures, while drug offenders only revealed 4.1% upward dispositional departures. Besides, nondrug offenders represented 25.9% durational departures while drug offenders showed 47% durational departures (Figure 38).



When reviewing the durational departures, the data shows that downward departures represented 90.8% of the total durational departures on the drug grid. However, on the nondrug grid, only 58.5% of durational departures were downward (in Figure 39). 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.



Examination of probation sentences reveals that significant differences were also identified between nondrug and drug grids. Drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (14% vs. 6.9%). The rate of drug probation sentences resulted from border boxes was much higher than that of nondrug probation sentences (33.2% vs. 4.5%, Figure 40).



The sentencing trend in Kansas seems to indicate that there is a tendency to depart downward more often with drug sentences than with nondrug sentences. The sentencing trend also indicates that drug offenders tend to be sentenced to probation sentences more frequently than do nondrug offenders when their offense types and criminal history categories fell within the border boxes (Figure 40).

CONFORMITY RATES TO THE GUIDELINES BY SEVERITY LEVEL

In addition to the drug or nondrug offense classifications, conformity rates vary depending on severity levels. The conformity rates of incarceration sentences by severity level are presented in Table 24. Drug incarceration sentences, as a whole, indicated a 14.9% standard, 1.5% aggravated, 6.9% mitigated

and 25.6% border box sentence distribution. Nondrug sentences revealed a 21.7% standard, 8.8% aggravated, 13.3% mitigated and 6.5% border box sentence distribution. As for the departure sentences, drug sentences showed 4.3% upward durational departures and 42.7% downward durational departures, whereas nondrug sentences showed a 10.8% upward durational departure rate and a 15.2% downward durational departure rate. When examining dispositional departures, nondrug sentences upward dispositional departures were present in 23.7%. By contrast, drug sentences showed only 4.1% upward dispositional departures. This would imply that judges are more likely to impose fewer upward dispositional sentences for drug offenders than for nondrug offenders. This finding has been supported by data over the past nine years.

Table 24: Conformity Rates by Severity Level - Incarceration Sentences

Severity Level	N	Within Guidelines (%)				Departures (%)		
		Agg	Stand	Miti	Box	Durational		Dispositional
						Upward	Downward	Upward
D1	149	0.7	4.0	1.3		1.3	92.6	
D2	48	4.2	31.3	22.9		4.2	37.5	
D3	147	0.7	7.5	6.1	66.0	6.8	12.9	
D4	120	2.5	30.8	8.3	18.3	5.0	19.2	15.8
Subtotal	464	1.5	14.9	6.9	25.6	4.3	42.7	4.1
N1	71	19.7	19.7	15.5		21.1	23.9	
N2	18	5.6	22.2	5.6		27.8	38.9	
N3	174	10.3	27.0	18.4		17.8	26.4	
N4	52	23.1	21.2	15.4		15.4	25.0	
N5	153	7.8	16.3	17.0	36.6	7.8	14.4	
N6	39	2.6	28.2	10.3	10.3	15.4	15.4	17.9
N7	145	8.3	18.6	11.7		7.6	6.9	46.9
N8	81	7.4	21.0	3.7		8.6	4.9	54.3
N9	130	2.3	19.2	12.3		3.8	10.0	52.3
N10	66	4.5	31.8	9.1			4.5	50.0
Subtotal	929	8.8	21.7	13.3	6.5	10.8	15.2	23.7
TOTAL	1,393	6.4	19.5	11.2	12.8	8.6	24.3	17.2

The conformity rates for probation sentences by severity levels are displayed in Table 25. Probation drug sentences indicated 14% downward dispositional departures for sentences, which should have been presumptive incarceration, while only 6.9% of nondrug sentences experienced downward dispositional departures. The significant differences also occurred within the border box grids. Drug offenders received more probation sentences than

nondrug offenders did when their severity levels and criminal history categories fell within the border boxes (33.2% versus 4.5%). 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 nine years.

Table 25: Conformity Rates by Severity Level - Probation Sentences

Severity Level	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	29			100.0
D2	33			100.0
D3	568		90.7	9.3
D4	1,527	74.5	13.2	12.3
Subtotal	2,157	52.8	33.2	14.0
N1	7			100.0
N2	0			N/A
N3	46			100.0
N4	13			100.0
N5	197		76.6	23.4
N6	58	82.8	8.6	8.6
N7	811	95.8		4.2
N8	633	97.0		3.0
N9	1,200	96.3		3.7
N10	470	95.1		4.9
Subtotal	3,435	88.6	4.5	6.9
TOTAL	5,592	74.7	15.6	9.7

CONFORMITY RATES TO THE GUIDELINES BY RACE

Tables 26 and 27 respectively analyze the conformity rates to sentencing guidelines by race for drug and nondrug offenders admitted to prison in FY 2004. The examination of drug incarceration sentences within guidelines indicates that blacks received more standard sentences (22.4% vs. 12.8%) and mitigated sentences (14.1% vs. 5.2%) than whites. Besides, black offenders represented a little bit higher percentage in border box sentences than white offenders (28.2% vs. 24.9%). However, when reviewing sentence departures, whites indicated a much higher percentage in downward durational departures (47.5% vs. 23.5%) and a lower percentage in upward

durational departures (3.6% vs. 7.1%) than blacks (Table 26).

The analysis of nondrug incarceration sentences demonstrates that no significant percentage differences were identified between white and black nondrug offenders in aggravated sentences and standard sentences. Nevertheless, the conformity rates varied in mitigated, border box and departure sentences. Blacks received more mitigated sentences (16.9% vs. 11.9%) and downward durational departures (17.3% vs. 14.5%) than whites, whereas whites represented higher percentages in border box sentences (8% vs. 2.9%), upward durational departures (11.9% vs. 7.6%) and upward dispositional departures (24% vs. 21.9) than blacks (Table 27).

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

Severity Level	Race	N	Within Guidelines (%)				Departures (%)		
			Agg	Stand	Miti	Box	Durational		Dispositional
							Upward	Downward	Upward
D1	White	144	0.7	4.2	1.4		1.4	92.4	
	Black	3						100.0	
	Other	2						100.0	
D2	White	37	2.7	35.1	16.2		2.7	43.2	
	Black	11	9.1	18.2	45.5		9.1	18.2	
	Other	0							
D3	White	100	1.0	6.0	4.0	74.0	6.0	9.0	
	Black	43		11.6	9.3	48.8	7.0	23.3	
	Other	4			25.0	50.0	25.0		
D4	White	85	3.5	25.9	8.2	20.0	4.7	18.8	18.8
	Black	28		42.9	10.7	10.7	7.1	17.9	10.7
	Other	7		42.9		28.6		28.6	
Total	White	366	1.6	12.8	5.2	24.9	3.6	47.5	4.4
	Black	85	1.2	22.4	14.1	28.2	7.1	23.5	3.5
	Other	13		23.1	7.7	30.8	7.7	30.8	

Note: Based on 464 drug incarceration guideline sentences reporting race of offenders.

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

Severity Level	Race	N	Within Guidelines (%)				Departures (%)		
			Agg	Stand	Miti	Box	Durational		Dispositional
							Upward	Downward	Upward
N1	White	47	21.3	19.1	19.1		19.1	21.3	
	Black	23	17.4	17.4	8.7		26.1	30.4	
	Other	1		100.0					
N2	White	14	7.1	21.4	7.1		21.4	42.9	
	Black	3		33.3			33.3	33.3	
	Other	1					100.0		
N3	White	108	8.3	27.8	14.8		23.1	25.9	
	Black	63	14.3	25.4	23.8		7.9	28.6	
	Other	3		33.3	33.3		33.3		
N4	White	41	19.5	26.8	14.6		12.2	26.8	
	Black	11	36.4		18.2		27.3	18.2	
	Other	0							
N5	White	105	7.6	13.3	14.3	44.8	8.6	11.4	
	Black	43	9.3	23.3	25.6	16.3	4.7	20.9	
	Other	5		20.0		40.0	20.0	20.0	
N6	White	30	3.3	20.0	13.3	10.0	20.0	20.0	13.3
	Black	9		55.6		11.1			33.3
	Other	0							
N7	White	100	8.0	21.0	8.0		8.0	9.0	46.0
	Black	41	9.8	14.6	22.0		7.3	2.4	43.9
	Other	4							100.0
N8	White	56	3.6	19.6	5.4		12.5	3.6	55.4
	Black	24	16.7	25.0				8.3	50.0
	Other	1							100.0
N9	White	82	3.7	17.1	9.8		3.7	6.1	59.8
	Black	42		23.8	16.7		2.4	16.7	40.5
	Other	6		16.7	16.7		16.7	16.7	33.3
N10	White	45	4.4	33.3	11.1			4.4	46.7
	Black	19	5.3	26.3	5.3			5.3	57.9
	Other	2		50.0					50.0
Total	White	628	8.3	21.3	11.9	8.0	11.9	14.5	24.0
	Black	278	10.8	22.7	16.9	2.9	7.6	17.3	21.9
	Other	23		21.7	8.7	8.7	17.4	8.7	34.8

Note: Based on 929 nondrug incarceration guideline sentences reporting race of offenders.

Tables 28 and 29 present the conformity rates by race for offenders sentenced to probation during FY 2004. White offenders received more presumptive probation sentences (54.5% vs. 45.4%) than black offenders for drug offenses but black drug offenders indicated a higher rate in downward dispositional departures than white drug offenders (22.4% vs. 12%). A little percentage difference was shown in border box sentences between white and black drug offenders (Table 28). This sentence pattern for drug offenders remains constant in the past three years.

The examination of the probation sentences of the nondrug offenders indicates that like drug sentence pattern, white nondrug offenders received more presumptive probation sentences (90.1% vs. 83.5%) than black nondrug offenders, while black offenders represented higher percentage of downward dispositional departures (10.9% vs. 5.6%) than white offenders for nondrug offenses. Apart from this, black nondrug offenders had a little higher rate in border box sentences than white nondrug offenders (5.6% vs. 4.3%, Table 29).

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

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	White	23			100.0
	Black	3			100.0
	Other	2			100.0
D2	White	22			100.0
	Black	11			100.0
	Other	0			
D3	White	455		92.5	7.5
	Black	105		82.9	17.1
	Other	5		80.0	20.0
D4	White	1,231	76.7	12.8	10.5
	Black	269	65.4	14.1	20.4
	Other	23	69.6	17.4	13.0
Total	White	1,731	54.5	33.4	12.0
	Black	388	45.4	32.2	22.4
	Other	30	53.3	26.7	20.0

Note: Based on 2,149 drug probation sentences reporting race of offenders.

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

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	White	7			100.0
	Black	0			
N2	White	0			
	Black	0			
N3	White	26			100.0
	Black	18			100.0
	Other	1			100.0
N4	White	11			100.0
	Black	2			100.0
N5	White	133		81.2	18.8
	Black	63		66.7	33.3
	Other	1		100.0	
N6	White	47	85.1	8.5	6.4
	Black	10	70.0	10.0	20.0
	Other	1	100.0		
N7	White	648	96.5		3.5
	Black	146	93.2		6.8
	Other	13	92.3		7.7
N8	White	470	97.2		2.8
	Black	151	96.7		3.3
	Other	8	100.0		
N9	White	923	97.6		2.4
	Black	246	92.3		7.7
	Other	26	92.3		7.7
N10	White	325	95.4		4.6
	Black	134	94.8		5.2
	Other	8	100.0		
Total	White	2,590	90.1	4.3	5.6
	Black	770	83.5	5.6	10.9
	Other	58	91.4	1.7	6.9

Note: Based on 3,418 nondrug probation sentences reporting race of offenders.

CONFORMITY RATES TO THE GUIDELINES BY GENDER

Conformity rates to the sentencing guidelines between male and female offenders are evaluated in this section. For the drug incarceration sentences, only males received aggravated sentences, which is consistent with data in the past three years. In addition, male drug offenders represented higher rates in standard sentences (16.2% vs. 2.2%) and mitigated sentences (7.2% vs. 4.4%). However, females represented a higher rate in border box sentences (31.1% vs. 25.1%) and downward durational departures (57.8% vs. 41.1%) than their counterparts. Upward durational departures were only identified in male drug offenders. No significant rate difference was found in

the upward dispositional departures between male and female drug offenders (Table 30).

When examining the nondrug incarceration sentences, the sentencing data shows that within guidelines, males represent higher percentages than females in aggravated sentences (8.9% vs. 7.5%), standard sentences (22.4% vs. 11.3%), mitigated sentences (13.9% vs. 3.8%) and border box sentences (6.6% vs. 3.8%). The analysis of departure sentences indicates that females received more downward durational departures (17% vs. 15.1%) and much more upward dispositional departures (49.1% vs. 22.1%) than males, but male non-drug offenders incarcerated received more upward durational departures than their counterparts (11.1% vs. 7.5%, Table 31).

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

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
			Agg	Stand	Miti	Box	Durational		Dispositional
							Upward	Downward	Upward
D1	Male	129	0.8	3.9	1.6		1.6	92.2	
	Female	20		5.0				95.0	
D2	Male	43	4.7	34.9	23.3		4.7	32.6	
	Female	5			20.0			80.0	
D3	Male	132	0.8	8.3	6.1	64.4	7.6	12.9	
	Female	15			6.7	80.0		13.3	
D4	Male	115	2.6	32.2	8.7	17.4	5.2	19.1	14.8
	Female	5				40.0		20.0	40.0
Total	Male	419	1.7	16.2	7.2	25.1	4.8	41.1	4.1
	Female	45		2.2	4.4	31.1		57.8	4.4

Note: Based on 464 drug incarceration guideline sentences.

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

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
			Agg	Stand	Miti	Box	Durational		Dispositional
							Upward	Downward	Upward
N1	Male	69	18.8	20.3	15.9		20.3	24.6	
	Female	2	50.0				50.0		
N2	Male	17	5.9	23.5	5.9		29.4	35.3	
	Female	1						100.0	
N3	Male	171	10.5	26.9	18.7		18.1	25.7	
	Female	3		33.3				66.7	
N4	Male	49	22.4	22.4	16.3		14.3	24.5	
	Female	3	33.3				33.3	33.3	
N5	Male	145	7.6	15.2	17.9	37.2	8.3	13.8	
	Female	8	12.5	37.5		25.0		25.0	
N6	Male	36	2.8	30.6	8.3	11.1	13.9	16.7	16.7
	Female	3			33.3		33.3		33.3
N7	Male	133	9.0	19.5	12.0		7.5	5.3	46.6
	Female	12		8.3	8.3		8.3	25.0	50.0
N8	Male	69	8.7	23.2	4.3		10.1	5.8	47.8
	Female	12		8.3					91.7
N9	Male	125	2.4	20.0	12.8		4.0	10.4	50.4
	Female	5							100.0
N10	Male	62	3.2	33.9	9.7			4.8	48.4
	Female	4	25.0						75.0
Total	Male	876	8.9	22.4	13.9	6.6	11.1	15.1	22.1
	Female	53	7.5	11.3	3.8	3.8	7.5	17.0	49.1

Note: Based on 929 nondrug incarceration guideline sentences.

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

of an upward dispositional departure to prison even when their offenses fell within the presumptive probation portion of the grid (Table 30 and Table 31). Females also had less chance for a downward departure to probation if their sentences fell within a presumptive prison box (Table 32 and 33). The above findings continue a trend that was present in the past eight years (Annual Reports of FY 1996, FY 1997 and FY 1998, FY 1999 and FY 2000, FY 2001, FY 2002 and FY 2003).

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

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	Male	24			100.0
	Female	4			100.0
D2	Male	25			100.0
	Female	8			100.0
D3	Male	480		89.4	10.6
	Female	87		97.7	2.3
D4	Male	1,145	71.5	13.5	14.9
	Female	380	83.4	12.1	4.5
Total	Male	1,674	48.9	34.9	16.2
	Female	479	66.2	27.3	6.5

Note: Based on 2,153 drug probation sentences reporting gender of offenders.

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

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	Male	7			100.0
N2	Male	0			
N3	Male	41			100.0
	Female	4			100.0
N4	Male	10			100.0
	Female	3			100.0
N5	Male	174		76.4	23.6
	Female	23		78.3	21.7
N6	Male	49	83.7	8.2	8.2
	Female	9	77.8	11.1	11.1
N7	Male	704	95.5		4.5
	Female	105	98.1		1.9
N8	Male	384	95.6		4.4
	Female	245	99.6		0.4
N9	Male	961	96.0		4.0
	Female	235	97.9		2.1
N10	Male	358	94.1		5.9
	Female	111	98.2		1.8
Total	Male	2,688	87.1	5.1	7.8
	Female	735	94.3	2.6	3.1

Note: Based on 3,423 nondrug probation sentences reporting gender of offenders.

CHAPTER FOUR SENTENCING TRENDS AND FORECAST

INCARCERATION SENTENCES

The total number of incarceration sentences in FY 2004 decreased by 173 admissions or nearly a decrease of 3% when compared with that of FY 2003 and a decrease of 10.3% from the 6,513 admissions reported in FY 2000. Admissions in FY 2004 represented the lowest number in the past five years (Figure 41). Table 34 demonstrates prison admission trends by month from FY 2000 through FY 2004.

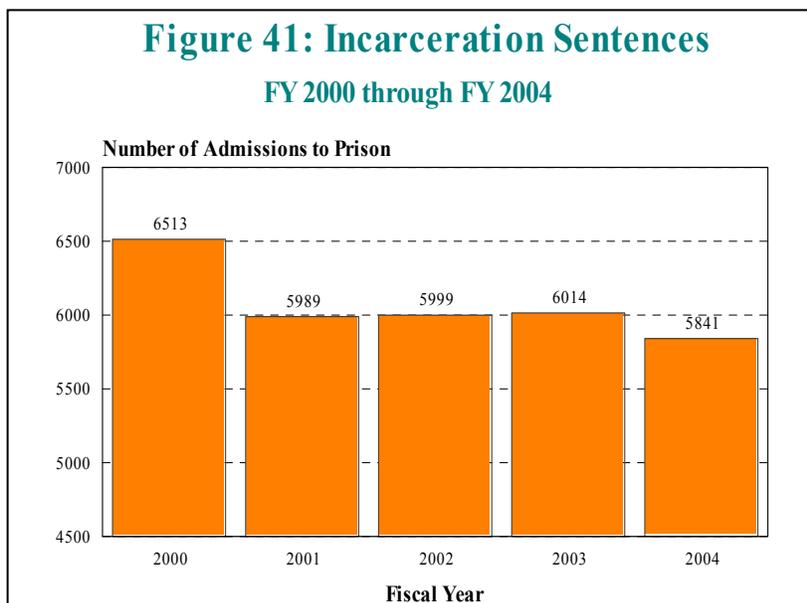


Table 34: Prison Admissions by Month

Month by Fiscal Year	2000	2001	2002	2003	2004
July	493	559	489	523	525
August	456	616	517	569	441
September	493	501	339	521	460
October	593	463	462	577	500
November	500	440	558	479	418
December	530	384	533	475	550
January	532	446	501	472	445
February	592	488	487	440	435
March	593	584	542	460	560
April	592	443	531	520	491
May	507	523	490	466	469
June	632	542	550	512	547
Total	6,513	5,989	5,999	6,014	5,841

The types of admissions to prison during the past five years are described in Table 35. The admissions of new court commitments in FY 2004 indicated a decrease of 8.3% when compared with that of FY 2003 but an increase of 13.9% when compared with that of FY 2000. The number of probation condition violators in FY 2004 represented the highest in the past five years. Probation violators with new sentence and parole/post-release supervision condition violators in FY 2004 indicated the lowest admissions to prison over the previous five years, representing a decrease of 30.2% and

26.9%, respectively, compared with FY 2000. The number of parole/post-release violators with new sentence in FY 2004 remained constant during the previous four years, but decreased by nearly 49% from that of FY 2000. The large percentage decreases are identified in the numbers of conditional release violators and conditional release violators with new sentences in the past five years. As pre-guideline sentences (old law sentences) are reducing, these two types of offenders will be eventually out of the prison system.

**Table 35: Comparison of Prison Admissions by Type
FY 2000 through FY 2004**

Admission Type	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2004-2000 % Difference
New Court Commitment	1,328	1,601	1,702	1,649	1512	13.9%
Probation Violator	1,441	1,330	1,454	1,497	1709	18.6%
Probation Violator with New Sentence	212	203	221	205	148	-30.2%
Parole/Postrelease Violator	3,084	2,552	2,396	2,406	2253	-26.9%
Parole/Postrelease Violator with New Sent	284	145	136	144	146	-48.6%
Conditional Release Violator	104	109	57	51	39	-62.5%
Conditional Release Violator with New Sent	7	10	3	4	3	-57.1%
Other Types*	53	39	30	58	31	-41.5%
Total	6,513	5,989	5,999	6,014	5,841	-10.3%

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

The analysis on incarceration drug sentences by severity level demonstrates that sentences at all drug levels indicated a decrease from those of the previous year. This is the first time that drug prison admissions decreased over the past five years (Table 36). Table 37 reveals a different pattern of nondrug admissions to prison by severity level from FY 2000 to FY 2004. The most notable changes of nondrug sentences during FY 2004 were the decrease of incarceration of

the serious offenders and increase of lower level offenders when compared with the previous year.

The overall incarceration rate of drug offenders during the past five years has increased by 4.1%, while the overall nondrug incarceration rate has decreased by 15.2%. However, when compared with FY 2003, both drug and nondrug incarcerations in FY 2004 decreased (Tables 36 and 37).

Further examination of the drug incarceration sentences indicates that the number of drug level 1 decreased during FY 2004 compared with FY 2003. The largest decrease in percentage was found on drug level 2 and the largest decrease in number was on drug level 3. Drug level 3 presents the lowest admissions since FY 2000. For nondrug offenses, except the severity level labeled “other,” which includes 148 DUI

violators, the largest increase in percentage during the past five years fell on nondrug level 1 (61.2%) and the largest decrease in percentage occurred in nondrug severity level 9 (37.2%). Offgrid sentences, which include capital murder and murder in the first degree (intentional), decreased by 24.5% from the previous year and 17.8% from FY 2000.

**Table 36: Comparison of Drug Prison Admissions by Severity Level
FY 2000 through FY 2004**

Severity Level	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2004-2003 % Difference	FY 2004-2000 % Difference
D1	33	108	227	235	229	-2.6%	594.0%
D2	146	163	186	204	179	-12.3%	22.6%
D3	688	715	628	617	567	-8.1%	-17.6%
D4	769	655	676	768	728	-5.2%	-5.3%
Total	1,636	1,641	1,717	1,824	1,703	-6.6%	4.1%

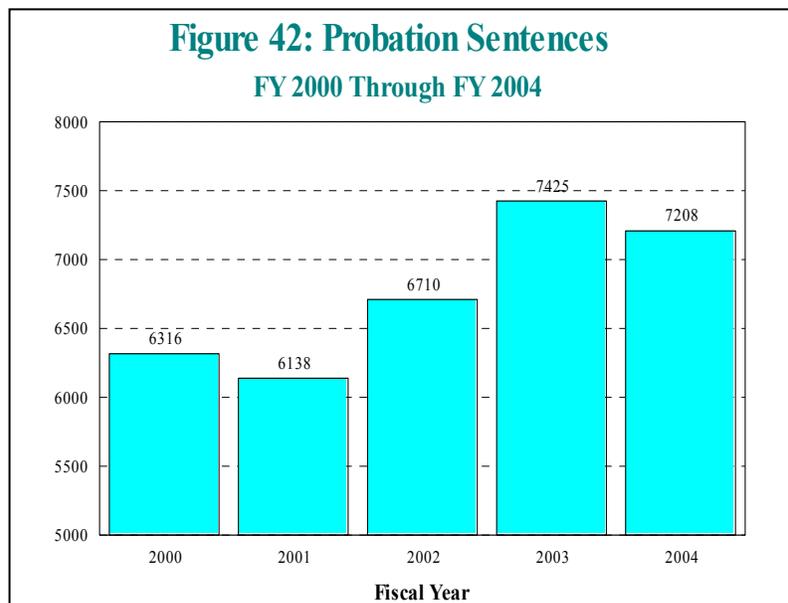
**Table 37: Comparison of Nondrug Prison Admissions by Severity Level
FY 2000 through FY 2004**

Severity Level	FY 2000	FY 2001	FY 2002	FY 2003	FY2004	FY 2004-2003 % Difference	FY 2004-2000 % Difference
N1	67	99	92	113	108	-4.4%	61.2%
N2	109	138	121	121	99	-18.2%	-9.2%
N3	529	612	645	604	559	-7.5%	5.7%
N4	135	145	162	155	151	-2.6%	11.9%
N5	626	751	671	718	586	-18.4%	-6.4%
N6	196	207	195	208	171	-17.8%	-12.8%
N7	1,031	889	890	864	825	-4.5%	-20.0%
N8	630	454	449	424	458	8.0%	-27.3%
N9	1,160	789	773	703	728	3.6%	-37.2%
N10	284	194	227	206	261	26.7%	-8.1%
Off-grid	45	36	38	49	37	-24.5%	-17.8%
Other*	65	34	19	25	155	520.0%	138.5%
Total	4,877	4,348	4,282	4,190	4,138	-1.2%	-15.2%

* Other includes nongrid and unknown.

PROBATION SENTENCES

Figure 42 illustrates the trend of probation sentences in the past five years. In FY 2004, probation sentences indicated a decrease of almost 3% (217 sentences) when compared with FY 2003. However, the number of probation sentences still represented the second largest in the past five years.



The trend analysis by severity levels was performed on the probation sentences for drug offenses during the past five years. The result shows that all drug probation sentences in FY 2004 decreased except sentences on drug level 3. This is the first time that drug probation sentences have demonstrated a drop since FY 2000. The largest percentage decrease of probation sentences for drug offenses fell on drug level 2, followed by drug level 1 when compared with those of FY 2003. The decrease of drug level 2 and drug level 1 reflects the impact of Senate Bill 123 enacted into law during 2003 (Table 38).

Like drug probation sentences, nondrug probation sentences in FY 2004 indicated a decrease of 4.2% from FY 2003, but a slight increase of 1.4% over FY 2000. The largest decrease in number of nondrug probation sentences over the five years fell within nondrug severity level 9, while the largest increase in number and percent is found on non-grid (Table 39). The decrease of nondrug severity level 9 offenses and the increase of non-grid offenses mirror the changes of sentencing policies from felony provisions to misdemeanors for the offenses of driving while suspended and driving while a habitual violator during the 1999 Legislative Session.

**Table 38: Comparison of Probation Drug Sentences by Severity Level
FY 2000 through FY 2004**

Severity Level	FY 2000	FY 2001	FY 2002	FY2003	FY2004	FY 2004-2003 % Difference	FY 2004-2000 % Difference
D1	2	17	49	44	36	-18.2%	1700.0%
D2	34	41	44	71	44	-38.0%	29.4%
D3	395	507	555	566	633	11.8%	60.3%
D4	1,186	1,313	1,498	1,767	1728	-2.2%	45.7%
Total	1,617	1,878	2,146	2,448	2,441	-0.3%	51.0%

**Table 39: Comparison of Probation Nondrug Sentences by Severity Level
FY 2000 through FY 2004**

Severity Level	FY 2000	FY 2001	FY 2002	FY 2003	FY2004	FY 2004-2003 % Difference	FY 2004-2000 % Difference
N1	5	3	5	5	7	40.0%	40.0%
N2	2	2	2	4	0	-100.0%	-100.0%
N3	38	32	37	61	48	-21.3%	26.3%
N4	17	15	16	17	13	-23.5%	-23.5%
N5	198	180	225	202	212	5.0%	7.1%
N6	91	89	76	91	62	-31.9%	-31.9%
N7	868	898	962	1024	934	-8.8%	7.6%
N8	664	682	756	825	781	-5.3%	17.6%
N9	1,927	1,419	1,451	1,521	1,430	-6.0%	-25.8%
N10	472	485	546	538	557	3.5%	18.0%
Non-grid	417	455	488	689	723	4.9%	73.4%
Total	4,699	4,260	4,564	4,977	4,767	-4.2%	1.4%

PRISON POPULATION FORECASTS

The prison population forecasts project that the offenders incarcerated in state prisons will reach 10,492 by June 30, 2014, which indicates an increase of 1,339 inmates or 14.6% from the actual prison population on the same date of year 2004. Prison inmate population projections by severity levels are presented in Table 40.

As demonstrated in Table 40, the largest increase in both number and percentage of incarcerated populations during the next ten years fall on nondrug severity level 1 (an increase of 549 offenders or 72.1%) followed by off-grid (an increase of 363

offenders or 52.5%) and drug severity level 1 (an increase of 207 offenders or 32.9%). The largest decrease both in number and percentage fall on drug severity level 2 (a decrease of 112 offenders or 30.7%). The overall increases of drug offenders to be incarcerated indicate a small increase (154 offenders) over the ten-year forecast period. This reflects the penalty change resulting from the Senate Bill 123 passed during the 2003 Legislative Session, which has enhanced penalties by diverting drug possession offenders to drug treatment programs rather than incarcerating them in prison.

Figure 43 depicts the trend of the actual and projected prison population from FY 1996 through FY 2014.

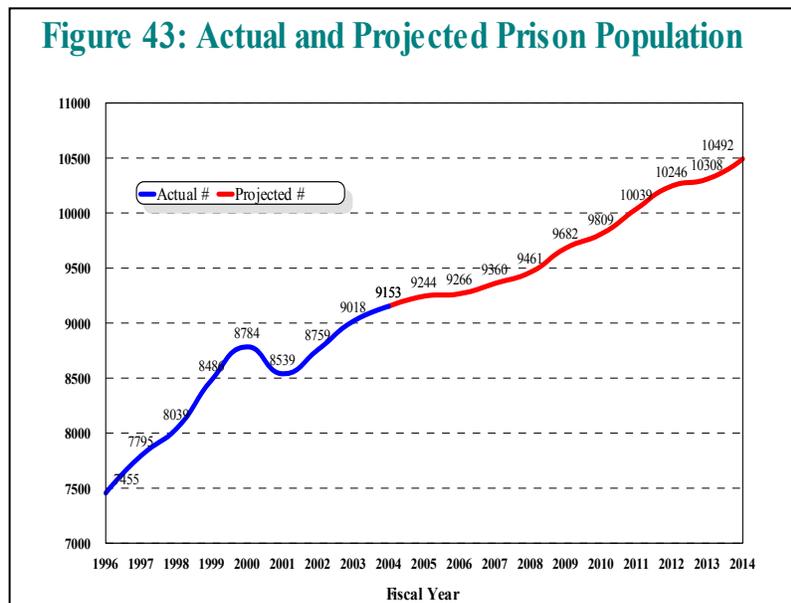


Table 40: FY 2005 Adult Inmate Prison Population Projections

Severity Level	June 30 2004*	June 30 2005	June 30 2006	June 30 2007	June 30 2008	June 30 2009	June 30 2010	June 30 2011	June 30 2012	June 30 2013	June 30 2014	Total # Increase	Percent Increase
D1	630	656	686	729	764	786	796	808	837	841	837	207	32.9%
D2	365	321	310	290	270	275	283	283	275	266	253	-112	-30.7%
D3	440	484	507	520	528	538	569	558	566	564	583	143	32.5%
D4	530	418	404	412	412	407	402	414	423	413	446	-84	-15.8%
N1	761	828	890	947	1001	1055	1106	1151	1218	1260	1310	549	72.1%
N2	482	487	491	489	506	514	521	528	527	527	528	46	9.5%
N3	1336	1333	1335	1326	1338	1358	1386	1391	1421	1458	1479	143	10.7%
N4	273	271	285	290	278	284	282	278	278	287	278	5	1.8%
N5	1010	965	938	937	931	938	940	957	911	924	958	-52	-5.1%
N6	156	166	149	144	143	155	142	135	132	142	135	-21	-13.5%
N7	730	756	776	791	793	758	773	787	801	778	772	42	5.8%
N8	263	293	291	290	283	300	305	316	315	319	323	60	22.8%
N9	213	285	251	240	260	237	245	256	288	271	267	54	25.4%
N10	57	82	60	59	48	69	61	66	75	65	69	12	21.1%
OFF GRID	691	719	755	787	827	865	899	935	975	1013	1054	363	52.5%
Condition Parole/PIS Violators	1216	1180	1138	1109	1079	1143	1099	1176	1204	1180	1200	-16	-1.3%
Total	9153	9244	9266	9360	9461	9682	9809	10039	10246	10308	10492	1339	14.6%

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

Note: D4 includes KSA 65-4160 D1 and D2 offenders whose severity levels are modified as D4 by Senate Bill 123.

CUSTODY CLASSIFICATION PROJECTION

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

that 188 unclassified beds, 2,990 minimum beds, 3,731 medium beds, 1,488 maximum beds and 847 special management beds are needed by the end of FY 2005. The total projected prison beds, by the end of FY 2014, will include 194 unclassified beds, 3,452 minimum beds, 4,283 medium beds, 1,592 maximum beds and 971 special management beds.

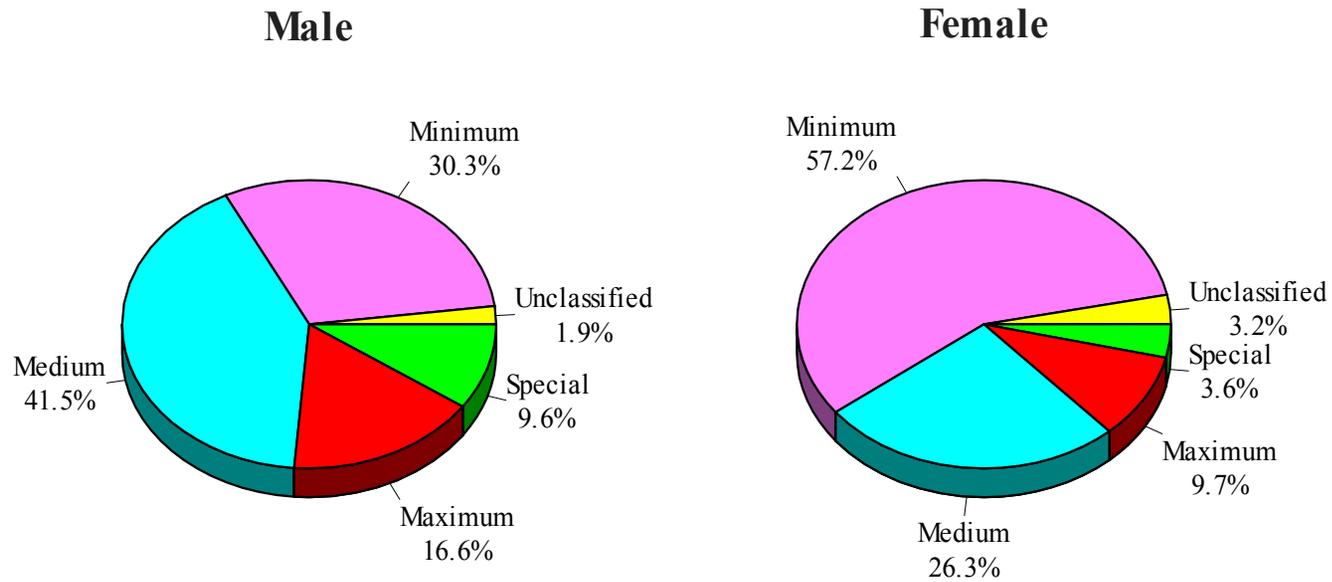
Table 41: Ten Years Custody Classification Projection

June 30, Each Year	Unclassified	Minimum	Medium	Maximum	Special	Total
2005	188	2990	3731	1488	847	9244
2006	202	3056	3690	1468	850	9266
2007	188	3059	3812	1452	849	9360
2008	185	3122	3823	1477	854	9461
2009	207	3256	3827	1497	895	9682
2010	201	3253	3948	1496	911	9809
2011	221	3343	4003	1562	910	10039
2012	203	3451	4131	1562	899	10246
2013	212	3383	4215	1590	908	10308
2014	194	3452	4283	1592	971	10492

The percentage distributions of the custodial classifications in terms of types of beds needed demonstrate a significant difference between male and female offenders (Figure 45). Female needs 3.2% unclassified, 57.2% minimum, 26.3% medium, 9.7% maximum custody and 3.6% special management beds by the end of FY 2005. Male needs 1.9% unclassified, 30.3% minimum, 41.5% medium, 16.6% maximum custody and 9.6% special management beds by the end of FY 2005. These classification percentages remain fairly constant during the ten-year forecasting period. Medium beds for female

indicate an increase of 73 beds, minimum beds shows a slight increase and the rest types of beds remain constant over the ten-year forecast period. The largest increase for male is the medium custody beds, which will increase by 476 beds. Minimum custody beds for male will increase by 443 beds and maximum beds will go up by 107 beds. Special management beds for male offenders indicate an increase of 125 beds and the least increase of beds for male offenders is the unclassified beds during the ten-year forecast period. This forecast assumes no changes in custody practice over the ten-year forecast period.

Figure 44: Projected Percentage Distribution of Custody Classifications by Gender



Based on the projected prison population on June 30, 2005 (male = 8,555 and female = 689).

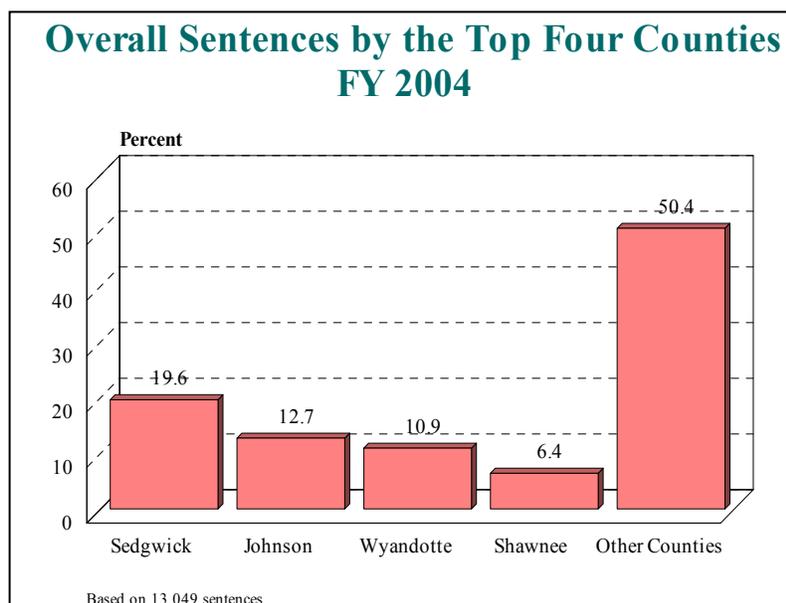
APPENDIX I

SENTENCES FROM THE TOP FOUR COUNTIES

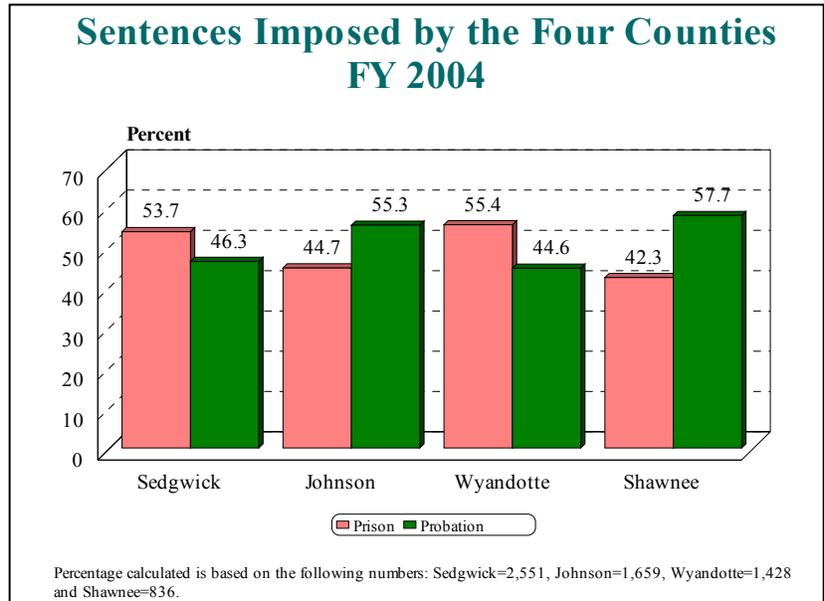
The analysis of the sentences reported to the Commission in FY 2004 demonstrates that Sedgwick, Johnson, Wyandotte and Shawnee counties accounted for 49.6% of the total state sentences. This percentage has decreased by 1% from FY 2003. Sedgwick remained the top-committing county followed by Johnson, Wyandotte and Shawnee counties, which is consistent with previous years. In comparison with FY 2003

sentences, the numbers of sentences from Sedgwick County and Wyandotte County decreased by 2% and 0.5% respectively, while Johnson County and Shawnee County's sentences increased by 0.5% and 1%, respectively. Characteristics of offenses and offenders from the four counties in FY 2004 are displayed in the following figures and tables.

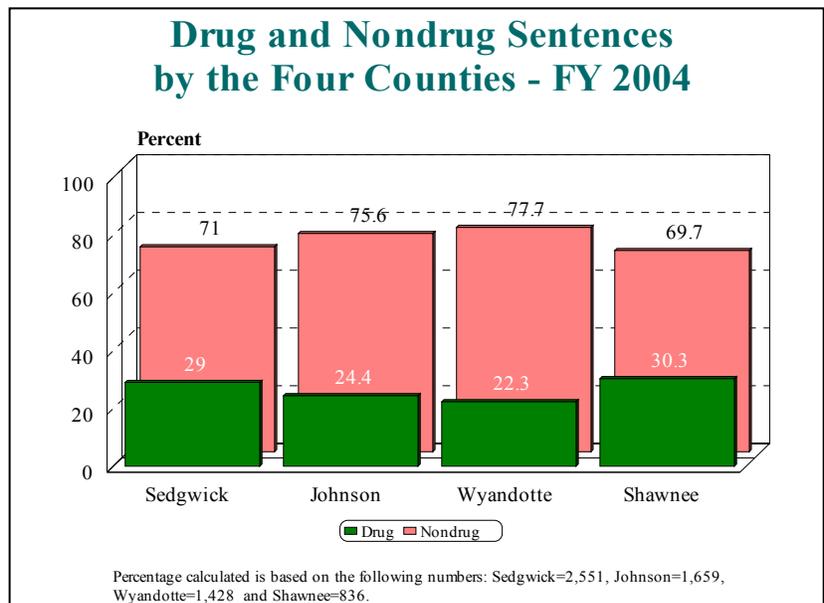
Sedgwick, Johnson, Wyandotte and Shawnee Counties were the top four committing counties accounting for 49.6% of the total state sentences in FY 2004.



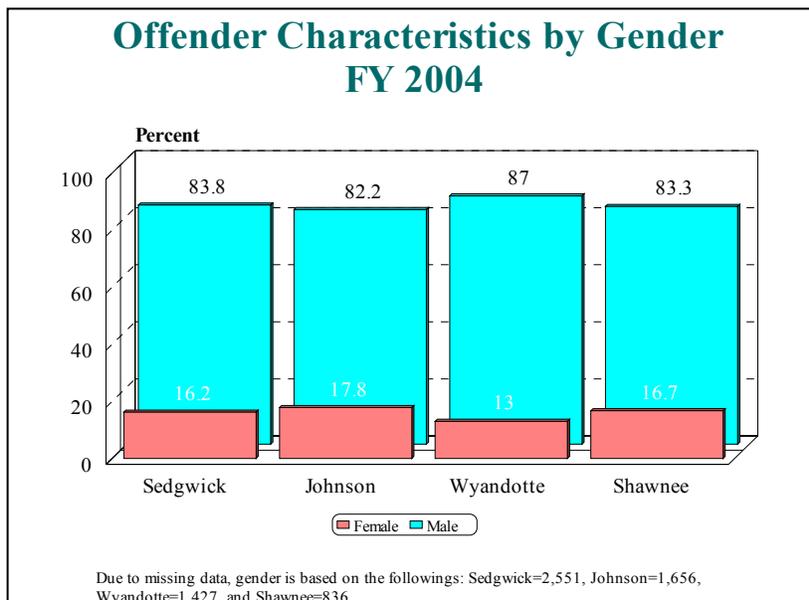
Wyandotte County had the highest percentage of prison sentences (54.4%) among the four counties, while Shawnee County imposed more probation sentences (57.7%) than the other three counties.



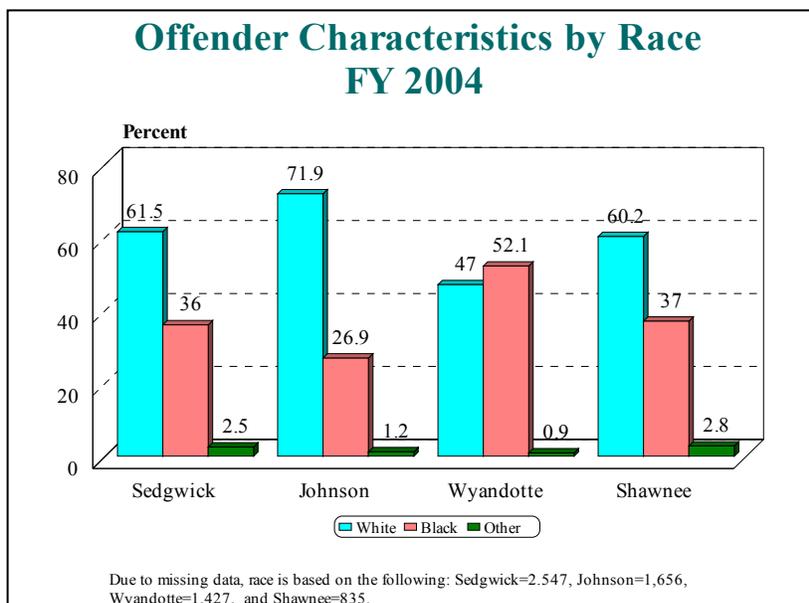
Shawnee County represented the highest percentage of drug sentences (30.3%), while Wyandotte County imposed the largest number of nondrug sentences (77.7%).



Wyandotte County indicated the most male offenders (87%), while Johnson County indicated the highest percentage of female offenders (17.8%).



Wyandotte County reported more black offenders (52.1%), while Johnson County reported more white offenders (71.9%), which remain constant compared with those of FY 2003.



FY 2004 Sentences from the Four Counties by Severity Level

Severity Level	Sedgwick		Johnson		Wyandotte		Shawnee	
	N	%	N	%	N	%	N	%
D1	52	2.0	10	0.6	3	0.2	15	1.8
D2	75	2.9	11	0.7	8	0.6	8	1.0
D3	189	7.4	137	8.3	78	5.5	90	10.8
D4	425	16.7	246	14.8	230	16.0	140	16.7
N1	31	1.2	9	0.5	18	1.3	15	1.8
N2	18	0.7	4	0.2	25	1.8	9	1.1
N3	224	8.8	50	3.0	79	5.5	38	4.5
N4	41	1.6	12	0.7	29	2.0	11	1.3
N5	204	8.0	76	4.6	130	9.1	48	5.7
N6	36	1.4	19	1.1	34	2.4	9	1.1
N7	406	15.9	196	11.8	218	15.3	82	9.8
N8	316	12.4	141	8.5	103	7.2	57	6.8
N9	350	13.7	368	22.2	207	14.5	148	17.7
N10	65	2.5	242	14.6	194	13.6	71	8.5
Nongrid	114	4.5	133	8.0	60	4.2	91	10.9
Offgrid	5	0.2	5	0.3	12	0.8	4	0.5
Total	2,551	100.0	1,659	100.0	1,428	100.0	836	100.0

FY 2004 Top Ten Most Common Offenses by the Four Counties – 1

Offense Type	Sedgwick County		Offense Type	Johnson County	
	N	%		N	%
Drugs	741	29.0	Drugs	404	24.4
Burglary	243	9.5	Theft	250	15.1
DUI	112	4.4	Burglary	131	7.9
Forgery	203	8.0	DUI	127	7.7
Aggravated Battery	183	7.2	Forgery	106	6.4
Aggravated Robbery	134	5.3	Criminal Threat	66	4.0
Theft	118	4.6	Aggravated Battery	64	3.9
Robbery	76	3.0	Nonsupport of Child or Spouse	47	2.8
Agg Indecent Lib w/Child	73	2.9	False Writing	45	2.7
Fleeing or Eluding LEO	65	2.5	Identity Theft	35	2.1
Total	1,948	76.4	Total	1,275	76.9

FY 2004 Top Ten Most Common Offenses by the Four Counties – 2

Offense Type	Wyandotte County		Offense Type	Shawnee County	
	N	%		N	%
Drugs	319	22.3	Drugs	253	30.3
Burglary	136	9.5	DUI	88	10.5
Theft	122	8.5	Theft	71	8.5
Aggravated Battery	99	6.9	Burglary	68	8.1
Robbery	89	6.2	Forgery	54	6.5
Forgery	84	5.9	Aggravated Battery	45	5.4
DUI	60	4.2	Robbery	34	4.1
Aggravated Robbery	43	3.0	Fleeing or Eluding LEO	32	3.8
Aggravated Assault	40	2.8	Aggravated Robbery	28	3.3
Fleeing or Eluding LEO	39	2.7	Criminal Threat	22	2.6
Total	1,031	72.2	Total	695	83.1

APPENDIX II TRENDS OF SELECTED OFFENSES

TOP FIVE MOST FREQUENT OFFENSES

In the past five years, the crimes of drugs, burglary, theft, forgery and aggravated battery were the top five most frequently convicted offenses. Of the total offenses including both incarceration and probation sentences, these top five offenses accounted

for 58.7% (N=7,529) in FY 2000, 60.4% (N=7,325) in FY 2001, 61.9% (N=7,865) in FY 2002, 61% (N=8,198) in FY 2003 and 62% (N=8,089) in FY 2004. The following table displays the trends of the top five offenses from FY 2000 to FY 2004.

Top Five Most Frequent Offenses: Incarceration and Probation Sentences FY 2000 through FY 2004

Top Five Offenses	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Drugs	3,254	3,517	3,863	4,272	4,143
Burglary	1,512	1,352	1,336	1,370	1,390
Theft	1,158	963	1,030	959	987
Forgery	967	791	850	832	881
Aggravated Battery	638	702	786	765	688
Subtotal	7,529	7,325	7,865	8,198	8,089
Total Offenses	12,829	12,127	12,709	13,439	13,049

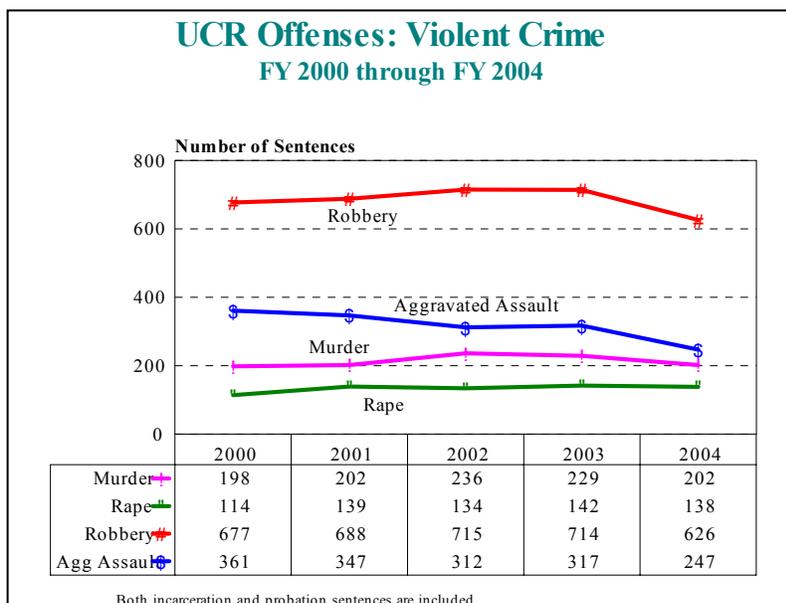
UNIFORM CRIME REPORTING (UCR) OFFENSES

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,

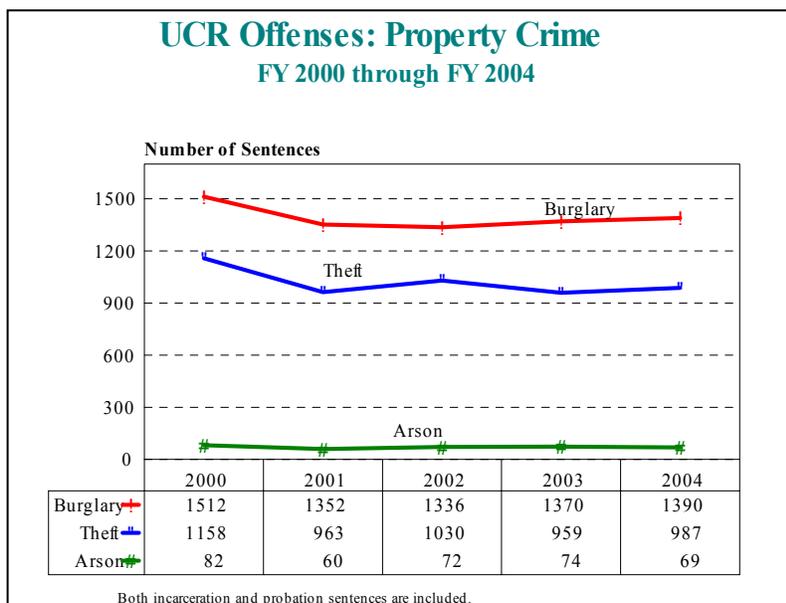
rape, robbery and aggravated assault are classified as violent crimes, while burglary, theft and arson are classified as property crimes. In the following trend analyses on the UCR offenses from FY 2000 to FY 2004, murder includes capital murder, murder in the first degree, murder in the second degree, 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.

All violent crimes in FY 2004 dropped compared with those in FY 2003. Aggravated assault and robbery decreased significantly by 22% and 12.3% respectively from those of the previous year.



The analysis on the property crimes indicates that the crime of arson has a dropping tendency though the difference in the numbers was not big from FY 2000 to FY 2004. The crimes of theft and burglary reveal a slight increase compared with those in FY 2003.



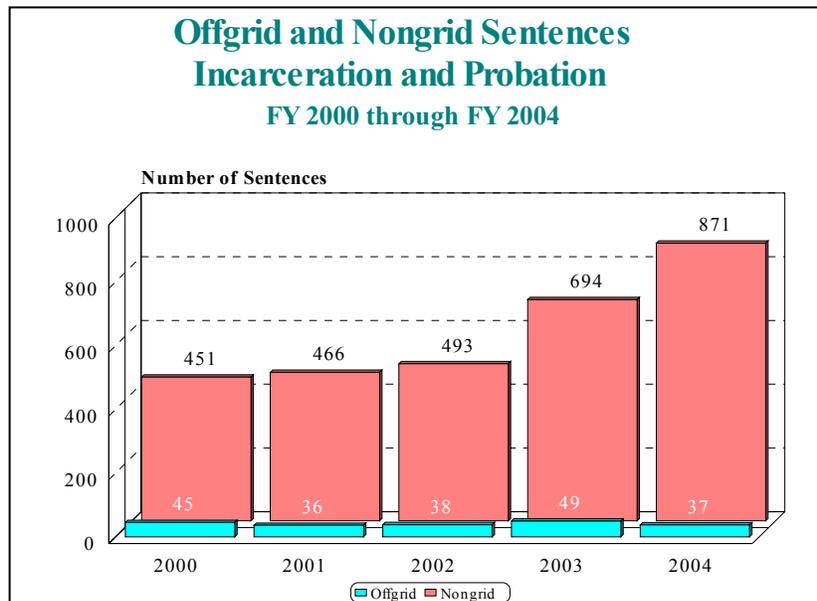
OFF-GRID AND NON-GRID CRIMES

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. The Kansas law also provides for the imposition of a death penalty, under specified circumstances, for a conviction of capital murder. Felony murder and treason carry a term of life

imprisonment with a 20-year parole eligibility date.

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

The non-grid sentences demonstrated an obvious increasing trend from FY 2000 through FY 2004. The considerable increase occurred in FY 2003 and FY 2004 by 40.8% and 25.5% respectively when compared with their previous years. Nevertheless, the off-grid crimes revealed a decreasing trend in the past five years.

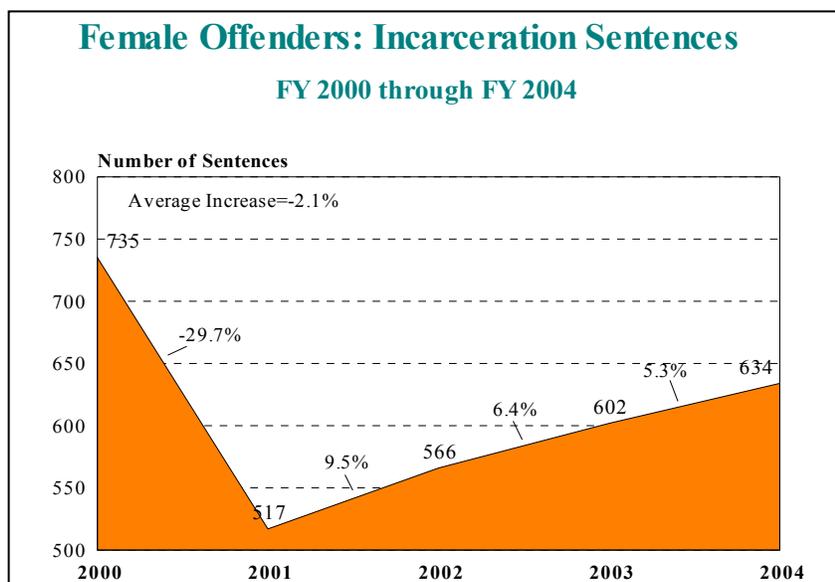


FEMALE OFFENDERS

Due to the implementation of SB 323, the admissions of female offenders to prison decreased significantly by almost 30% in FY 2001 when compared with those in FY 2000. Then the admission number of female offenders started growing again with an increase rate of 9.5% in FY 2002, 6.4% in FY 2003 and 5.3% in FY 2004. The number

of female offenders on probation in FY 2004 decreased by 4.4% when compared with that of FY 2003, but increased by 29.4% when compared with that of FY 2000. The fluctuation pattern is consistent with that of the total probation population (Page 63). Females were sentenced to prison or probation most frequently for the offenses of drugs, forgery and theft in the past five years.

Though the female population incarcerated in prison has kept growing since FY 2001, the average growth rate for the female offenders sentenced to prison in the past five years is -2% because of the offsetting effect of sharp decreasing (29.7%) in FY 2001.



Female probation sentences steadily increased from FY 2001 to FY 2003, but dropped by 4.4% in FY 2004 compared with the previous year. The average increase rate is 7% in the period of the past five years.

