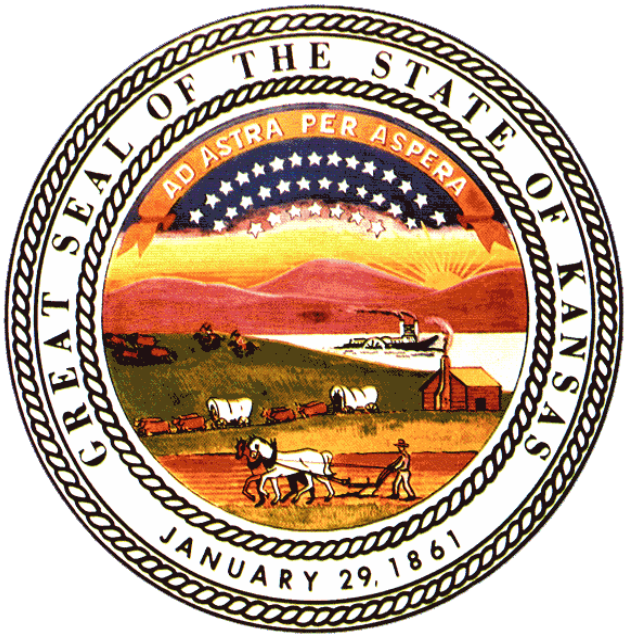
KANSAS SENTENCING COMMISSION

FY 2010 ANNUAL REPORT



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KANSAS SENTENCING COMMISSION

ANNUAL REPORT
FY 2010

Analysis Of Sentencing Guidelines In Kansas

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EXECUTIVE SUMMARY

The Kansas Sentencing Commission continued its effort to accomplish the statutory obligations assigned to the Commission and performed the following major activities during FY 2010:

a. Developing and maintaining the post-implementation monitoring system that allows for a comprehensive evaluation of the sentencing guidelines;
b. Making recommendations to the state legislature relating to modification and improvement of current sentencing guidelines;
c. Providing the legislature and state agencies with prison bed-space impact assessments under any policy change related to sentencing guidelines;
d. Conducting and producing annual prison population projections and custody classification forecasts for Kansas Adult Correctional Facilities;
e. Processing statewide felony sentencing journal entries including both prison and non-prison guideline sentences;
f. Processing statewide transactions of 2003 Senate Bill 123 drug treatment programs and monitoring the implementation of the programs including the evaluation of recidivism after implementation of 2003 Senate Bill 123;
g. Updating Kansas Sentencing Guidelines Desk Reference Manual according to sentencing policy changes passed during the 2010 Legislative Session;
h. Issuing an Annual Report statistically analyzing sentencing practice and policies under Kansas Sentencing Guidelines;
i. Conducting training sessions on sentencing guidelines and various sentencing issues and
j. Serving as an information resource to respond to national, state and county requests regarding sentencing data.

This section presents a summary of the key sentencing issues discussed in the Annual Report. During FY 2010, the Commission received a total number of 13,810 felony sentences, indicating an increase of 3.1% over that of FY 2009. Of the total number of sentences, 4,966 (36%) were prison sentences, 7,966 (57.7%) were probation sentences and 878 (6.4%) were county jail sentences. Nondrug sentences represented 72% or 9,949 sentences and drug sentences accounted for 28% or 3,861 sentences (page 2).

INCARCERATION SENTENCES

A total number of 4,966 offenders were admitted to the Kansas Department of Corrections (KDOC) in FY 2010. Male offenders represented 88.8% of the total admissions, a percentage increase of 0.6% over that of FY 2009 (88.2%). Nearly 90% of the violent and sex offenses were committed by male offenders, such as aggravated assault, aggravated battery, aggravated robbery, burglary, murder, rape and aggravated indecent liberties with a child. However, female offenders were incarcerated more frequently for the crimes of forgery, theft and identity theft (pages 22 & 23). The analysis of drug crimes indicates that male offenders were convicted of more

than 80% of drug sale first and third offenses and unlawful manufacture of controlled substance, while most female offenders committed drug crimes of opiates or narcotics possession first offense and opiates or narcotics sale first offense (page 25).

In FY 2010, white offenders made up 66.2% of the admissions to state prisons indicating a decrease of 0.9% from that of FY 2009 (67.1%). The offenders with non-Hispanic origin represented 90.1%, very close to that of FY 2009 (89.4%). The highest incarceration rates for white offenders (over 70%) were found in the offense categories of burglary, DUI, failure to register, forgery, identity theft and most sex offenses. Nevertheless, blacks were incarcerated more often (over 45%) for the crimes of aggravated arson, aggravated robbery, robbery, murder in the first degree, possession of firearms and voluntary manslaughter (pages 22 & 23).

Reviewing the offenders by age, the Commission notices that the largest population of incarcerated offenders (25%) was found in the age group ranging from 31 to 40 years old and the second largest number of offenders (23.9%) was identified in the group from 25 to 30 years old at the time of admission to prison in FY 2010. This age distribution is different from that of FY 2009 when the largest number of offenders was found in the age group of 25 to 30 years old. As for the educational background of the offenders admitted in FY 2010, more than 46% of the offenders had attained either a high school diploma or GED equivalent, a decrease of 3% compared with that of FY 2009 (49%).

The analysis of offenders by type of admissions demonstrates that new court commitments, probation condition violators and parole/post-release condition violators are the three largest groups representing 38.4%, 34.6% and 21.8%, respectively, of the total prison admissions in FY 2010. Most of the drug offenders admitted to KDOC in FY 2010 fell at drug severity level 3 (29.1%) and drug severity level 4 (56.5%), while the largest numbers of nondrug offenders were identified at nondrug severity levels 7 and 9 with admissions of 790 and 684, respectively, in FY 2010 (Pages 26 & 27).

The examination of offenders convicted under Jessica's Law reveals that 67 sex offenders were sentenced and admitted to prison under Jessica's Law during FY 2010. All of them were new court commitments. While most jurisdictions identify the severity of these crimes as offgrid (80.6%), a few sentenced them at the severity level for a downward departure on the nondrug grid. The analysis of sentence length demonstrates that approximately 58.2% of the sentences were downward departure to guidelines, with an average sentence length of 119.3 months, a decrease of 11.4 months from that observed in FY 2009 (130.7 months). In addition, 2 offenders convicted under Jessica's Law were sentenced to probation during FY 2010, whose offense dates were before July 1, 2008. Their underlying prison terms were 72 months and 155 months respectively. The major departure reasons are that the defendant had no prior criminal history and accepted responsibility; the offender was physically or mentally impaired (Page 30).

PROBATION SENTENCES

In FY 2010, the Commission received a total number of 7,966 probation sentences. The analysis of the probation sentences discloses

that DUI (16.7%), theft (14.3%), burglary (13%) and forgery (8.6%) continued to be the top four offenses committed by nondrug probation offenders representing 52.6% of the total nondrug crimes (page 34), very close to the total percentage of those crimes in FY 2009 (52.5%). The probation sentences for the crime of drug possession accounted for 66.3% of all drug probation sentences, a decrease of 5.6% from that (71.9%) of FY 2009 (pages 35 & 37).

The examination of the criminal history categories of the offenders sentenced to probation in FY 2010 indicates that offenders with criminal history category I accounted for 30.7% of offenders on the nondrug grid and 31.2% of offenders on the drug grid. Eighty-four percent of nondrug offenders were within the presumptive probation boxes (Table 13), while 58.9% of probation drug offenders were sentenced within the presumptive probation boxes (Table 14). Meanwhile, only 5.3% of probation nondrug sentences were found to be within the designated border boxes compared to 23.1% of probation drug sentences. This significant percentage difference indicates that drug offenders were more likely to receive probation sentences than nondrug offenders when their offense types and criminal history categories fell within the border boxes (page 42).

COUNTY JAIL SENTENCES

A total number of 878 felony jail sentences were reported to the Commission in FY 2010, an increase of 29 sentences or 3.4% when compared with the data of FY 2009 (849 sentences). Of this number, male offenders accounted for 90.2% and female offenders accounted for 9.8%, which is the same as the gender distribution of FY 2009. White offenders represented 89.7%, black offenders represented 8.7% and other races represented 1.6% of the county jail sentences imposed in FY 2010. Their average age at sentencing is 43.7 years old (Page 43).

The analysis of the crimes demonstrates that approximately 99% of the jail sentences were convictions of felony DUI (868 sentences), 0.3% were convictions of domestic battery (3 sentences), 0.1% were convictions of cruelty to animals (1 sentence) and 0.6% were convictions of other crimes (6 sentences). The average jail term was 8 months, very close to that of FY 2009 (8.1 months). Johnson County imposed the most jail sentences (220) representing 25.1%, followed by Sedgwick County with 181 jail sentences representing 20.6% of the total county jail sentences imposed in FY 2010 (page 45).

DRUG SENTENCES

The trend analysis of drug offenders admitted to prison demonstrates that the number of drug incarceration sentences (1,329) in FY 2010 increased by 10.6% compared with that of FY 2009 (1,202) but significantly decreased by 19.1% compared with that of FY 2006 (1,642). When individual drug severity levels were compared, all drug severity levels in FY 2010 demonstrated a decrease from those of FY 2006. The most significant decrease was identified at drug severity level 1, a decrease of 50.8%, followed by drug severity level 2, a decrease of 31.6% in the past five years (page 81).

Approximately 57% of the incarceration drug sentences were convictions of drug possession, demonstrating an increase of 1.4% compared with that of FY 2009 (55.3%). More than 96% of the drug

possession sentences were found at drug severity level 4, representing an increase of 2% over that (94%) of FY 2009 (page 24).

In FY 2010, the total number of drug probation sentences increased by 0.7% compared with that of FY 2009 but decreased by 11.1% compared with that of FY 2006. The analysis of individual levels indicates that compared with FY 2006, drug probation sentences decreased by 61.9% at severity level 1 and by 17.3% at severity level 4, but the numbers of drug probation sentences at severity levels 2 and 3 increased by 5.6% and 18.1% respectively (page 83). Probation sentences at drug severity level 4 accounted for 71.7% of the probation drug sentences imposed in FY 2010, a decrease of 4% from that (75.7%) of FY 2009 (page 38).

Further study of drug offenders on probation displays that a total number of 1,062 sentences were imposed to Senate Bill 123 (SB 123) drug treatment programs during FY 2010, representing 42% of the total drug probation sentences (2,531), a decrease of 4.5% compared with that of FY 2009 (46.5%). Of these offenders, more than 77% were convicted of the crime of drug possession under K.S.A. 65-4160 (or 21-36a06) and 22.4% were convicted of the crime of drug possession under K.S.A. 65-4162 (or 21-36a06). The offenders at drug severity level 4 accounted for 99.9%. White male offenders were still the majority of the treatment sentences. The average age of the drug treatment offenders was 32 years old at sentencing, which remains very close to those of FY 2009 and FY 2008.

Sedgwick County imposed the most SB 123 drug treatment sentences (219) followed by Wyandotte (111), Johnson (77) and Shawnee (67) counties (pages 39 and 40). In addition, 499 SB 123 drug treatment sentences were revoked during FY 2010. Of this number, 216 sentences were revoked to prison, representing 20.3% of SB 123 sentences imposed (1,062 sentences) in FY 2010. The average period between original sentence and the first revocation hearing was 15 months and the average lag time for the second revocation was 6.5 months, which is 0.3 month and 1.7 months longer respectively than those of FY 2009.

VIOLATORS

Violators refer to condition violators including probation condition violators, parole/postrelease supervision violators and conditional release violators. In FY 2010, a total number of 2,801 condition violators were admitted to prison, accounting for 56.4% of the total prison admission events of the fiscal year. Of this number, 1,717 were probation condition violators, 1,081 were parole/postrelease supervision violators and 3 were conditional release violators, who are merged with the group of parole/postrelease supervision violators in the analyses of the report. The total percentage of condition violators decreased by 1% compared with that (57.4%) of FY 2009 (page 46).

The admission trend by type of violators in the past five years indicates that the number of probation condition violators admitted to prison in FY 2010 increased by 17.4% over that of FY 2009 but decreased by 15.8% from that of FY 2006. The number of parole/postrelease and conditional release violators admitted to prison in FY 2010 decreased by 6.1% compared with that of FY 2009 and decreased significantly by 33.9% compared with that of FY 2006. FY 2010 represents the lowest number of prison admissions of parole/postrelease and

conditional release violators in the past five years (page 80).

The gender analysis of the violators shows that male condition violators sentenced to prison represented the largest number of offenses at severity level 7 of the nondrug grid and severity level 4 of the drug grid. However, females were most often revoked and placed in prison for condition violations of offenses designated at severity level 9 of the nondrug grid and severity level 4 of the drug grid (page 49).

In addition, 2,403 probation condition violators and 269 probation violators with new convictions were sentenced to either continued or extended probation for a violation in FY 2010. This represents 55.5% of the total number of 4,332 condition probation violators and 35.3% of the total number of 762 probation violators with new offenses revoked during FY 2010 (page 57). Compared with the percentages of FY 2009, probation condition violators sentenced to continued or extended probation for a violation decreased by 1.4%, while probation violators with new convictions who had their probation sentence either continued or extended decreased by 6.4%.

CONFORMITY TO SENTENCING GUIDELINES

The comparison of the actual sentence imposed to the sentence identified under the Sentencing Guidelines Act provides a measure of whether the designated sentence is viewed as appropriate. Under sentencing guidelines, departures may be imposed to sentence an offender to a sentence length or type that differs from the sentence set forth under the guidelines. Therefore departures, whether durational or dispositional, serve as a measure of conformity. Only new court commitments of guideline sentences were utilized for this specific analysis. Consecutive sentences and sentences applied with special sentencing rules related to sentence disposition are excluded from this analysis. In addition, the analysis is based on computed variables regarding departures.

The conformity rates to the sentencing guidelines in this Annual Report are based on the 7,071 pure guideline sentences of FY 2010. Of this number, 1,458 were incarceration guideline sentences and 5,613 were probation sentences. Eighty-two of the guideline sentences imposed fell within the designated guideline sentence range. Dispositional departures accounted for 10% of sentences and durational departures were found in 8% of sentences (page 60).

The evaluation of incarceration sentences within guidelines discloses that 41.3% of the sentences imposed fell within the standard range of the grid cell; 10.7% of all sentences were within the aggravated range; 23% were within the mitigated range and 25.1% were located within designated border boxes (page 61). This distribution of presumptive prison sentences does not fluctuate significantly compared with that of FY 2009.

The analysis of the durational departures of the incarceration guideline sentences reveals that 70.2% of the durational departures were downward durational departures, while 29.8% indicated upward durational departures (page 61). The percentage of downward durational departures increased by 0.7% compared with that of FY 2009. The comparative study of durational departures between drug and nondrug incarceration sentences indicates that 84.4% of drug durational departure sentences were downward compared to 64.8% for nondrug

downward durational departure sentences (page 63). Downward durational departures were most frequently identified at severity levels 1 and 2 of the drug grid. Upward durational departures were found most frequently at severity levels 1, 2, 3 and 6 of the nondrug grid (page 65). This pattern of durational departures has remained consistent over the past five years.

Dispositional departures are identified when the sentence imposed, prison or nonprison, is different from the sentence disposition designated under the sentencing guidelines. Upward dispositional departures are only applicable when prison sentences are imposed. When drug and nondrug sentences were compared, nondrug sentences indicated a 11.3% upward dispositional departure rate while drug sentences only represented a 4.3% upward dispositional departure rate (page 65).

The study of probation guideline sentences demonstrates that as expected, the majority (89.8%) of probation guideline sentences fell beneath the incarceration line, among which 85.4% were within presumptive probation grids and 14.6% were within border boxes. Downward dispositional departure was identified in 10.2% of the probation guideline sentences imposed in FY 2010 (page 62). Durational departures are not applicable to probation sentences.

Further analysis of downward dispositional departures of probation sentences discloses that drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (14.8% vs. 7.5%). More drug probation sentences resulted from border boxes than did nondrug probation sentences (24.9% vs. 6.2%), (page 64).

SPECIAL SENTENCING RULES

Special sentencing rules provide special treatment of certain crimes and sanctions. There were small numbers of special sentencing rules at the initial years of implementation of the guidelines, such as five special rules in 1994 and 1995. With the modification of sentencing guidelines and amendments of sentencing policies in each legislative year, the number of special sentencing rules has increased. As of the 2010 Legislative Session, 30 special sentencing rules have been established or amended. The most frequently applied special sentencing rules in the past five years were: person felony committed with a firearm; crime committed while incarcerated or on probation, parole, etc. and crime committed while on felony bond.

In FY 2010, a total number of 550 pure guideline prison sentences and 664 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 33.6% of prison pure guideline admissions (1,636 admissions) and 11.6% of pure guideline probation sentences (5,730) imposed in FY 2010. The percentage of offenders admitted to prison with special sentence rules increased from 28.9% in FY 2006 to 33.6% in FY 2010. The percentage of probation sentences imposed with special sentencing rules accounted for 8.3% in FY 2006 and increased to 11.6% in FY 2010. The total percentage of both prison and probation sentences applied with special rules increased from 12.4% in FY 2006 to 16.5% in FY 2010 (page 76).

PRISON POPULATION FORECAST

The prison population forecasts are based on historical sentencing data, primarily on the data of FY 2010, and the input assumptions

formulated by the experts from various criminal justice agencies, who are the members of the Prison Population Consensus Group. The prison population projection predicts that by the end of FY 2020, a total of 10,968 prison beds will be needed. This represents a total increase of 23.7% or 2,104 beds over the actual prison population as of June 30th, 2010. Although the total admission trend in the past five years is declining with an increase in FY 2010, a combination of developing admission trends with the impact of the pronounced stacking effect and new sentencing policies had resulted in a continual growth in the state's prison population. The decrease of prison population after FY 2007 results from the implementation of House Substitute for Senate Bill 14, passed during the 2007 Legislative Session, which promotes 20% reduction of probation revocation rate, modifies some good time rates from 15% to 20% and provides potential credit for program completion (Pages 86 and 87).

When looking into projected population at individual severity levels over the next ten years, the most significant increase in both number and percentage of incarcerated population is identified in the group of offgrid offenders, an increase of 762 offenders or 78.5%. This significant growth is primarily due to the implementation of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session. The second largest increase in number falls at nondrug severity level 3, an increase of 436 offenders or 32.3% over the ten-year forecast period. The number at nondrug severity level 1 will increase by 100 offenders or 10.2% in the ten years. This is due to the "stacking effect" of long sentence lengths of most serious offenses. Prison population will increase by 29.6% or 354 offenders at nondrug severity level 5 in the next ten years. Condition parole or postrelease violators will increase by 127 or 20%. As for population at other nondrug severity levels, no significant changes are projected in the ten-year forecast period.

The projected prison population of drug offenders at all severity levels does not fluctuate much in the ten-year forecast. The number of offenders will increase by 68 at drug severity level 1, by 81 at drug severity level 2, by 46 at drug severity level 3 but decrease by 9 at drug severity level 4 in the ten-year forecast period (Pages 86 & 87).

In terms of types of prison beds needed for custody over the next ten years, custodial classification projections demonstrate that by the end of FY 2011, KDOC will need 2,820 minimum beds, 2,574 medium low beds, 1,575 medium high beds, 1,023 regular maximum beds, 362 unclassified beds and 764 beds for special management. By the end of FY 2020, the custodial beds in demand will include 3,286 minimum, 2,905 medium low, 2,115 medium high, 1,320 regular maximum, 409 unclassified and 933 special management beds (page 88). These projections assume no substantial change in the method or practice of custody decision-making.

REPORT CONTENTS

The FY 2010 Annual Report is presented in four chapters. A descriptive statistical summary of statewide guideline sentencing practices in FY 2010 is illustrated in Chapter One. Chapter Two describes the types and characteristics of violators incarcerated in the state correctional facilities. In Chapter Three, the pure prison and probation sentences imposed under the sentencing guidelines are examined to evaluate the

conformity to the sentencing guidelines. Chapter Four contains analyses on sentencing trends and prison population projections.

Appendix I analyzes sentences of felony convictions from the top four contributing counties of the State of Kansas. Appendix II tracks the trends of the top five felonies, Uniform Crime Reporting (UCR) offenses and offgrid and nongrid crimes in the past five years. Admissions and population of female offenders are analyzed in this section as well.

CHAPTER ONE
SENTENCING IN KANSAS

SENTENCES REPORTED IN FISCAL YEAR 2010

In this report, sentences utilized for analyses on sentencing practice and sentencing tendency are based upon the most serious felony offense of a single sentencing event. The analyses of sentences reported in Fiscal Year (FY) 2010 include prison sentences, non-prison or probation sentences and county jail sentences. Senate Bill 123 drug treatment sentences are comprised in the type of probation sentences.

During FY 2010, The Kansas Sentencing Commission received a total number of 13,810 felony sentences, which increased by 403 sentences or 3.1% over that of FY 2009. Of that total number of sentences, 4,966 were prison sentences, 7,966 were probation sentences and 878 were county jail sentences. In terms of drug or nondrug crimes, this total included 9,949 nondrug sentences and 3,861 drug sentences. Non-person offenses accounted for 68.9% and person offenses accounted for 31.1% (Figure 1), which does not fluctuate much from those of FY 2009.

Figure 2 demonstrates the overall sentencing distribution of FY 2010 at each severity level by sentence type and offense type. Drug incarceration sentences at drug severity level 4 represented 56.5% (751 sentences) of the total drug incarceration sentences. The largest number of nondrug incarceration offenders was identified at severity level 7 (790 sentences or 21.7%) followed by severity level 9 (684 sentences or 18.8%) and severity level 5 (596 sentences or 16.4%). The examination of probation sentences in FY 2010 demonstrates that 1,815 probation sentences fell at drug severity level 4, representing 71.7% of the total drug probation sentences. Of these 1,815 probation sentences, 58.5% or 1,061 sentences were imposed to SB 123 drug treatment programs, which decreased by 2.8% compared the percentage (61.2%) of FY 2009. The highest rates of nondrug probation offenders were found at nondrug severity level 9 (29.4% or 1,599 sentences) and nondrug severity level 7 (19.7% or 1,073 sentences). The analysis of county jail sentences discloses that 99.4% of the offenders were convicted of nongrid crimes with 0.6% convicted of other crimes at other severity levels.

One hundred and two counties in the state reported felony sentences to the Commission during FY 2010 except Ottawa, Sheridan and Trego counties. Most of the counties reported 1 to 100 sentences. Nine counties reported 101 to 200 sentences. They are Atchison (121), Barton (112), Cowley (159), Crawford (162), Franklin (118), Harvey (156), Jackson (105), Labette (119) and Seward (142) counties. Eleven counties reported 201 to 700 sentences. They are Butler (235), Douglas (271), Finney (266), Ford (262), Geary (339), Leavenworth (221), Lyon (227), Montgomery (245), Reno (443), Riley (205), and Saline (492) counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties, accounting for 53.1% of all sentences

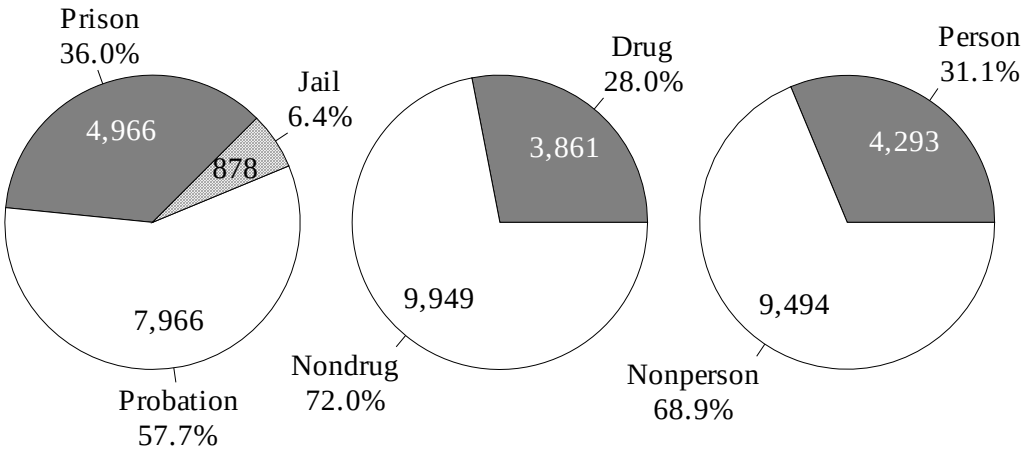
imposed in FY 2010, an increase of 3.1% compared with that (50%) of FY 2009 (Figure 3).

The top five offenses committed in FY 2010, including prison, probation and county jail sentences, are crimes of drugs (28% or 3,859 sentences), DUI (13.6% or 1,880 sentences), burglary (9.9% or 1,151 sentences, including aggravated burglary), theft (7.9% or 1,096 sentences) and aggravated battery (5.5% or 751 sentences). These top five offenses accounted for 64.9% of the total 13,810 sentences in FY 2010 (Figure 4).

Violent crimes refer to murder (including all types of murder and manslaughter), rape, robbery (including aggravated robbery) and aggravated assault (including aggravated assault on LEO) according to the definition of the Uniform Crime Reporting (UCR) Handbook.

The analysis of the violent crimes indicates that most of the violent crimes were found to be committed in the top four counties. Sedgwick County reported the largest number of violent crimes (324 sentences) followed by Wyandotte County (188 sentences), Johnson County (120 sentences) and Shawnee County (101 sentences). The distribution of the violent crimes committed in the top four counties in FY 2010 is presented in Figure 5. Offenders' characteristics by individual counties are demonstrated in Table 1. The average age of offenders at sentencing is 33.1 years old, which is 0.2 year older than that of FY 2009.

Figure 1: Sentences Reported in FY 2010



Based on 13,810 felony sentences reported in FY 2010 including 878 jail sentences.

Figure 2: FY 2010 Sentencing Distribution

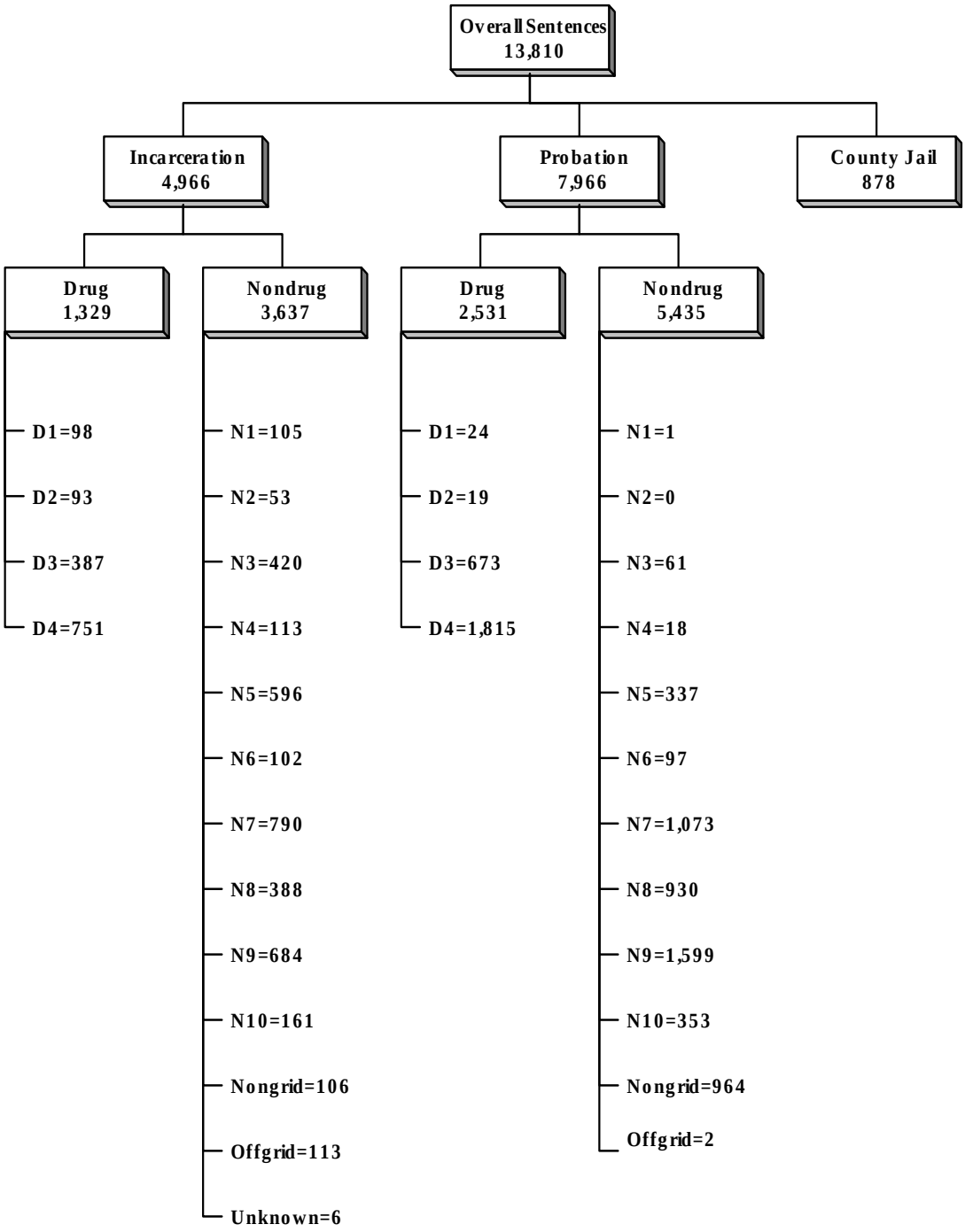


Figure 3: Sentences Reported in FY 2010 by County

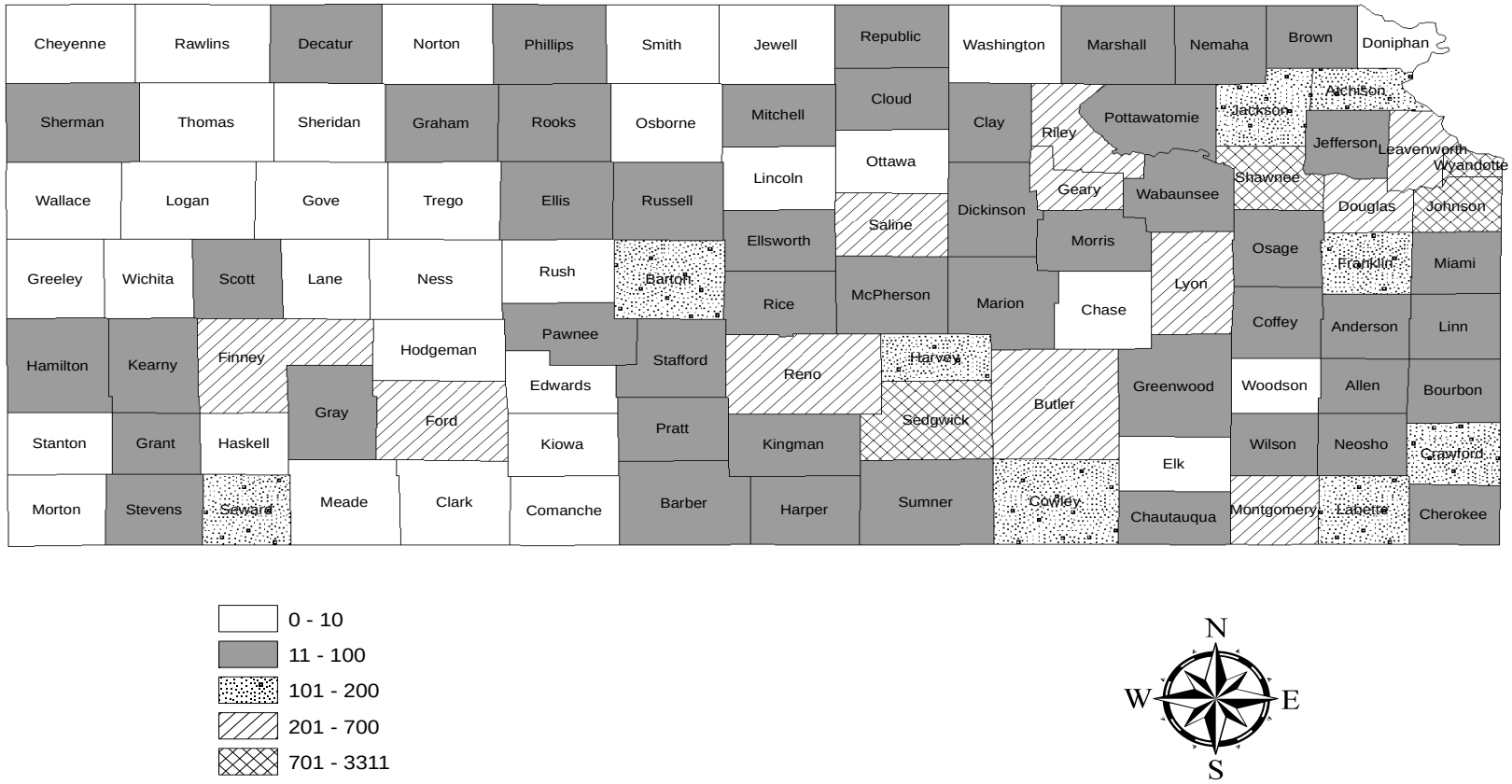
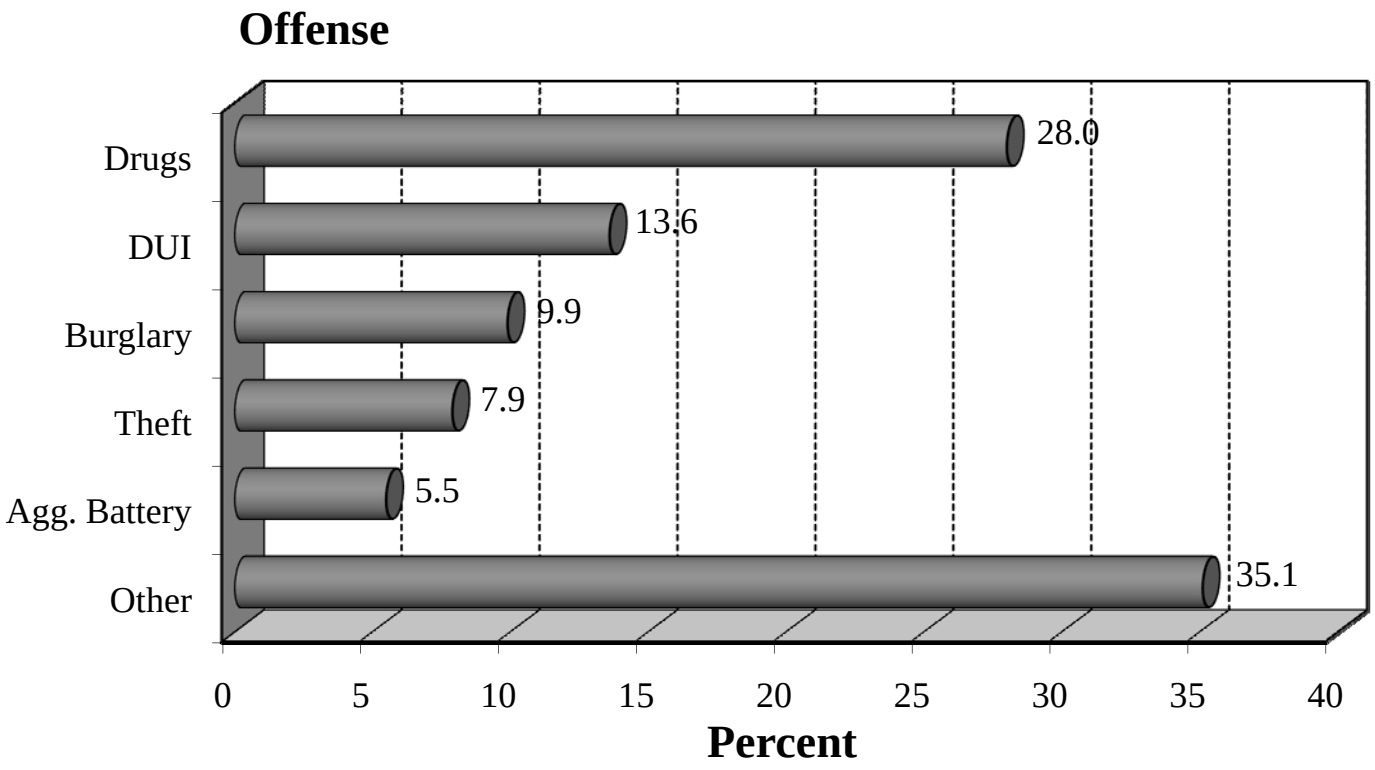


Figure 4: FY 2010 Top Five Offenses of Prison, Probation and Jail Sentences



Based on 13,810 prison, probation and county jail sentences

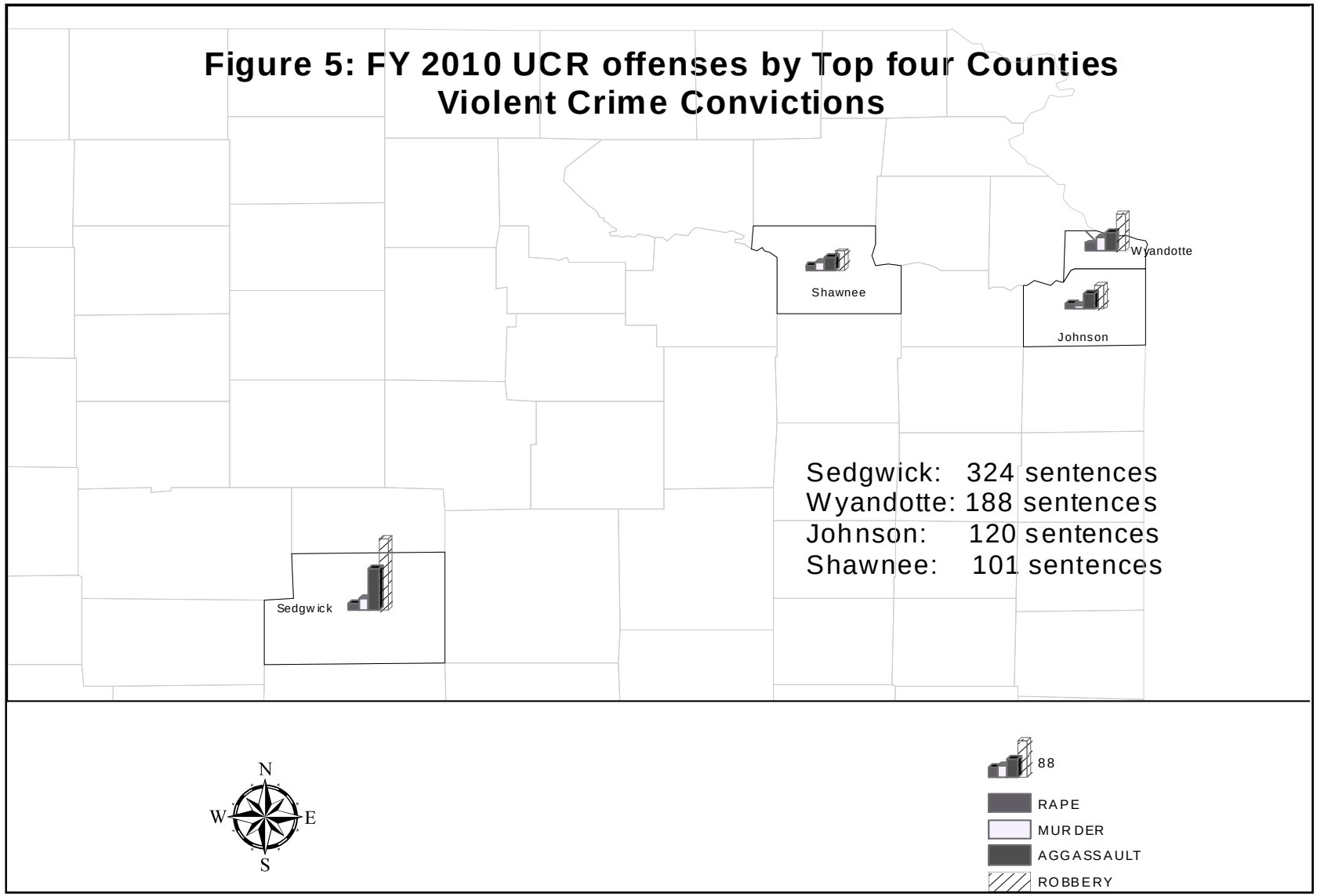


Figure 5: FY 2010 UCR offenses by Top four Counties
Violent Crime Convictions
Wyandotte
Shawnee
Johnson
Sedgwick
Sedgwick: 324 sentences
Wyandotte: 188 sentences
Johnson: 120 sentences
Shawnee: 101 sentences
N
W
E
S
88
RAPE
MURDER
AGGASSAULT
ROBBERY

Table 1: FY 2010 Offender Characteristics by County – 1

County	Number Of Sentences	Gender		Race			Sentence Type*		Offense Type			Mean Age**
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Allen	65	55	10	62	3	0	15	45	5	48	17	33.2
Anderson	31	29	2	29	1	1	8	18	5	28	3	33.8
Atchison	121	90	31	102	17	2	48	65	8	84	37	34.5
Barber	11	11	0	11	0	0	1	10	0	8	3	36.8
Barton	112	97	15	105	6	1	31	78	3	57	55	34.1
Bourbon	65	55	10	51	13	1	31	32	2	42	23	33.6
Brown	63	49	14	51	1	11	19	42	2	48	15	31.9
Butler	235	191	44	223	11	1	70	137	28	171	64	34.9
Chase	7	7	0	6	1	0	4	2	1	5	2	33.0
Chautauqua	22	15	7	22	0	0	4	17	1	12	10	36.2
Cherokee	48	40	8	42	1	5	20	28	0	32	16	32.3
Cheyenne	1	1	0	1	0	0	1	0	0	0	1	25.8
Clark	5	5	0	3	2	0	0	5	0	0	5	27.8
Clay	36	30	6	35	0	1	9	23	4	20	16	35.0
Cloud	40	34	6	36	2	2	15	24	1	26	14	30.2
Coffey	49	36	13	48	0	1	16	26	7	25	24	35.8
Comanche	5	3	2	5	0	0	3	2	0	1	4	24.3
Cowley	159	142	17	133	17	9	76	66	17	102	57	34.4
Crawford	162	134	28	131	31	0	64	96	2	123	39	33.3
Decatur	15	14	1	14	1	0	1	13	1	11	4	35.5
Dickinson	92	81	11	87	5	0	27	60	5	64	28	33.9
Doniphan	1	1	0	1	0	0	1	0	0	1	0	25.0
Douglas	271	228	43	180	76	15	95	157	19	219	52	30.9
Edwards	8	8	0	7	1	0	1	7	0	6	2	36.2
Elk	6	5	1	5	0	1	1	5	0	6	0	38.1
Ellis	91	82	9	72	17	2	22	66	3	56	35	31.3
Ellsworth	19	15	4	14	1	4	5	13	1	7	12	34.1
Finney	266	225	41	236	26	4	92	160	14	185	81	31.6

Table 1: FY 2010 Offender Characteristics by County – 2

County	Number Of Sentences	Gender		Race			Sentence Type*		Offense Type			Mean Age**
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Ford	262	214	48	234	19	9	67	176	19	164	98	31.9
Franklin	118	99	19	108	6	4	31	74	13	81	37	35.3
Geary	339	263	76	168	165	6	129	203	7	216	123	30.5
Gove	3	3	0	3	0	0	3	0	0	3	0	56.5
Graham	11	9	2	10	1	0	3	8	0	7	4	29.6
Grant	35	26	9	34	1	0	14	20	1	26	9	31.5
Gray	13	10	3	12	1	0	6	6	1	7	6	39.7
Greeley	4	3	1	4	0	0	0	4	0	4	0	22.5
Greenwood	38	29	9	36	1	1	16	21	1	27	11	32.5
Hamilton	12	10	2	12	0	0	6	6	0	6	6	28.2
Harper	35	28	7	33	0	2	8	27	0	25	10	32.4
Harvey	156	120	36	140	11	5	53	99	4	90	66	34.4
Haskell	4	3	1	4	0	0	2	2	0	3	1	33.8
Hodgeman	6	5	1	6	0	0	0	6	0	4	2	48.3
Jackson	105	84	21	79	12	14	21	80	4	72	33	37.2
Jefferson	48	41	7	45	1	2	10	35	3	42	6	38.1
Jewell	5	4	1	5	0	0	3	2	0	4	1	22.7
Johnson	1,773	1,475	298	1,346	399	28	630	923	220	1,407	366	33.3
Kearny	15	13	2	15	0	0	4	11	0	9	6	29.0
Kingman	25	21	4	25	0	0	9	16	0	21	4	33.5
Kiowa	2	2	0	1	1	0	1	1	0	2	0	21.5
Labette	119	92	27	84	29	6	36	82	1	75	44	31.5
Lane	9	7	2	9	0	0	3	5	1	5	4	35.5
Leavenworth	221	171	50	145	69	7	85	128	8	162	59	33.2
Lincoln	2	1	1	2	0	0	1	1	0	2	0	35.9
Linn	50	40	10	49	1	0	15	32	3	39	11	34.5
Logan	8	7	1	7	1	0	2	6	0	8	0	30.9
Lyon	227	190	37	184	39	4	84	125	18	144	83	31.9

Table 1: FY 2010 Offender Characteristics by County – 3

County	Number Of Sentences	Gender		Race			Sentence Type*		Offense Type			Mean Age**
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Marion	15	13	2	14	1	0	4	11	0	11	4	36.7
Marshall	45	37	8	44	1	0	18	26	1	34	11	31.1
McPherson	89	76	13	80	9	0	26	58	5	69	20	32.4
Meade	4	1	3	4	0	0	1	3	0	3	1	33.8
Miami	64	56	8	59	5	0	37	21	6	48	16	31.2
Mitchell	23	19	4	22	1	0	15	7	1	17	6	26.9
Montgomery	245	193	52	175	64	6	79	147	19	159	86	32.6
Morris	29	28	1	29	0	0	10	17	2	19	10	27.9
Morton	9	7	2	9	0	0	4	5	0	5	4	30.4
Nemaha	25	22	3	24	0	1	7	13	5	20	5	32.4
Neosho	47	43	4	46	1	0	16	29	2	31	16	32.7
Ness	10	10	0	10	0	0	3	7	0	5	5	44.0
Norton	5	5	0	4	0	1	2	3	0	4	1	28.3
Osage	55	49	6	53	1	1	24	29	2	40	15	37.6
Osborne	6	5	1	5	1	0	3	3	0	6	0	27.0
Pawnee	50	45	5	46	4	0	16	34	0	41	9	34.1
Phillips	11	10	1	10	0	1	3	7	1	6	5	31.5
Pottawatomie	87	64	23	79	8	0	20	65	2	73	14	32.2
Pratt	51	41	10	49	1	1	17	33	1	29	22	32.5
Rawlins	1	1	0	1	0	0	1	0	0	1	0	43.2
Reno	443	354	89	374	64	5	150	269	24	286	157	33.8
Republic	14	12	2	14	0	0	5	9	0	9	5	33.3
Rice	44	33	11	43	0	1	12	30	2	30	14	32.3
Riley	205	171	34	154	51	0	58	129	18	135	70	30.6
Rooks	30	23	7	28	2	0	4	26	0	17	13	30.3
Rush	10	8	2	10	0	0	7	2	1	5	5	26.7
Russell	26	23	2	26	0	0	3	23	0	14	12	28.8
Saline	492	384	108	387	96	9	121	339	32	356	136	32.0

Table 1: FY 2010 Offender Characteristics by County – 4

County	Number Of Sentences	Gender		Race			Sentence Type*		Offense Type			Mean Age**
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Scott	24	22	2	24	0	0	10	13	1	15	9	33.2
Sedgwick	3,311	2,706	599	2,023	1,206	77	1,402	1,728	181	2,520	791	33.6
Seward	142	121	21	117	20	5	77	59	6	100	42	31.4
Shawnee	993	809	183	664	312	14	292	631	70	800	193	33.5
Sherman	20	17	3	19	1	0	6	14	0	11	9	34.8
Smith	9	7	2	9	0	0	2	7	0	4	5	30.9
Stafford	21	16	5	21	0	0	7	14	0	6	15	31.1
Stanton	10	9	1	9	1	0	7	3	0	9	1	30.0
Stevens	18	14	4	18	0	0	7	11	0	13	5	30.6
Sumner	80	72	8	75	4	1	32	40	8	65	15	34.9
Thomas	8	7	1	8	0	0	2	6	0	7	1	30.5
Wabaunsee	23	19	4	20	3	0	4	18	1	19	4	37.7
Wallace	2	2	0	2	0	0	0	2	0	2	0	22.5
Washington	9	6	3	9	0	0	3	4	2	7	2	41.7
Wichita	6	6	0	6	0	0	3	2	1	5	1	25.6
Wilson	68	58	10	65	3	0	20	43	5	34	34	30.1
Woodson	6	4	2	5	1	0	1	4	1	5	1	36.3
Wyandotte	1,256	1,047	209	593	650	11	485	726	45	795	461	33.1
Unknown	18	17	1	14	3	1	18	0	0	17	1	30.5
TOTAL	**13,810**	**11,345**	**2,457**	**10,012**	**3,504**	**284**	**4,966**	**7,966**	**878**	**9,949**	**3,861**	**33.1**

Note: Because of missing data, numbers in each category are based on the following: Gender, N=13,802; Race, N=13,800; Sentence Type, N=13,810; Offense Type, N=13,810; and Age, N=13,797.

* Prison sentences are based on KDOC admissions in FY 2010. Probation and jail sentences are based on the sentencing journal entries reported to KSC during FY 2010.

** Average age at time of sentencing.

CHARACTERISTICS OF OFFENDERS AND OFFENSES

This section presents the characteristics of the offenders who were sentenced during FY 2010. The crime categories committed by the offenders are descriptively analyzed, as well.

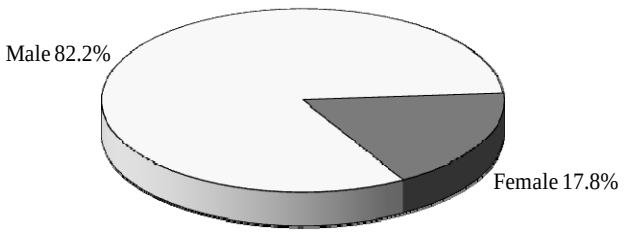
Figures 6, 7, 8, and 9 exhibit the distributions of offenders by gender, race and age, respectively. The demographic information of offenders by offense types is illustrated in Table 2.

Male offenders accounted for 82.2% of the total sentences in FY 2010 (Figure 6) and were in excess of 85% of most aggravated crimes and violent crimes such as murder, rape, sex offenses, burglary, kidnapping, firearms, weapons, fleeing or eluding LEO and criminal threat (Table 2).

Female offenders represented 17.8% of the sentences in FY 2010, a decrease of 0.9% compared with the percentage rate of FY 2009 (18.7%). The most frequently committed crimes by female offenders (over 40%) were forgery, identity theft, criminal use of financial card and obtain prescription drug by fraud.

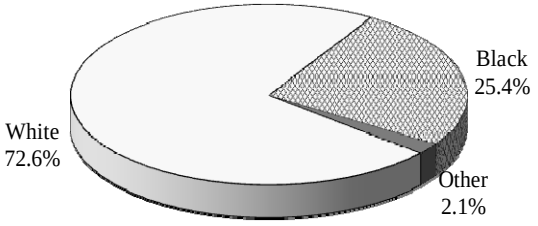
White offenders made up 72.6% of the sentences in FY 2010 and 25.4% of the sentences were committed by black offenders. No significant fluctuation is identified in the racial distribution compared to FY 2009 (Figure 7).

Figure 6: Distribution of FY 2010 Sentences by Gender of Offenders



Based on 13,802 sentences reporting gender of offenders

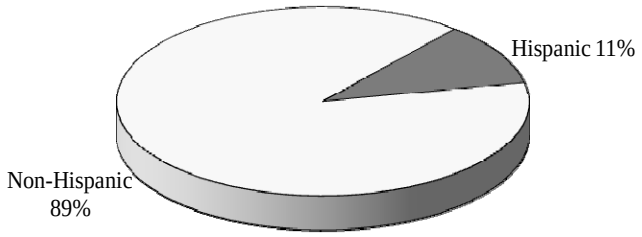
Figure 7: Distribution of FY 2010 Sentences by Race of Offenders



Based on 13,800 sentences reporting race of offenders

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

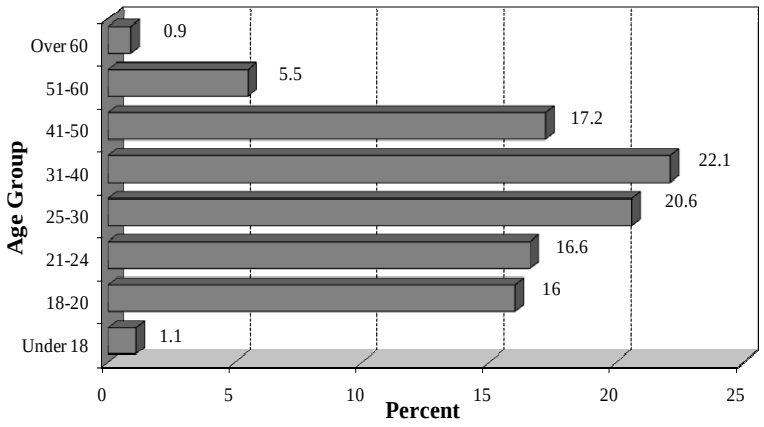
Figure 8: Distribution of FY 2010 Sentences by Ethnicity of Offenders



Based on 13,799 sentences reporting ethnicity of offenders

The review of the offenders' age discloses that the largest group of offenders was found in the age group ranging from 31 to 40 at the time of committing the offense, which represented 22.1% of all offenders in FY 2010. This finding is consistent with those in the past five years (Figure 9).

Figure 9: Distribution of FY 2010 Sentences by Age of Offenders



Based on 13,797 sentences reporting age of offenders at time of offense

Table 2: FY 2010 Offender Characteristics by Type of Offense – 1

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Abuse of Child	20	65.0	35.0	85.0	15.0	0.0	27.8
Agg. Arson	22	95.5	4.5	45.5	50.0	4.5	34.0
Agg. Assault	310	95.5	4.5	65.8	32.3	1.9	30.9
Agg. Assault on LEO	51	90.2	9.8	72.5	25.5	2.0	34.8
Agg. Battery	726	90.7	9.3	62.3	33.4	4.3	29.5
Agg. Battery on LEO	25	80.0	20.0	52.0	44.0	4.0	28.4
Agg. Burglary	221	90.0	10.0	61.5	36.7	1.8	27.0
Agg. Criminal Sodomy w/Child	39	100.0	0.0	75.8	18.2	6.0	29.4
Agg. Endangering a Child	31	74.2	25.8	73.3	26.7	0.0	29.3
Agg. Escape from Custody	87	80.5	19.5	64.9	32.0	3.1	33.6
Agg. Failure to Appear	51	84.3	15.7	57.9	42.1	0.0	31.8
Agg. False Impersonation	11	72.7	27.3	63.6	27.3	9.1	29.5
Agg. Robbery	256	92.2	7.8	41.4	56.3	2.3	25.5
Agg. Incest	5	100.0	0.0	80.0	20.0	0.0	35.4
Agg. Indecent Liberties w/Child	241	97.5	2.5	78.4	18.7	2.9	30.5
Agg. Indecent Solicit w/Child	58	100.0	0.0	79.3	17.2	3.4	30.4
Agg. Inter w/Parental Custody	7	71.4	28.6	100.0	0.0	0.0	30.9
Agg. Intimidation of a Victim	16	100.0	0.0	68.8	25.0	6.3	32.0
Agg. Kidnapping	7	85.7	14.3	57.1	42.9	0.0	31.1
Agg. Sexual Battery	40	100.0	0.0	77.5	20.0	2.5	32.5
Agg. Weapon Violation	12	100.0	0.0	83.3	8.3	8.3	31.6
Aid Felon	38	73.7	26.3	71.1	26.3	2.6	27.5
Arrange Sale/Purchase Drug	12	83.3	16.7	83.3	8.3	8.3	29.7
Arson	56	73.2	26.8	96.4	1.8	1.8	30.3
Failure to Remain at Accident	5	80.0	20.0	80.0	20.0	0.0	39.0
Battery on LEO	80	75.0	25.0	61.3	36.3	2.5	26.9
Burglary	1,151	91.7	8.3	77.4	20.6	2.0	27.0
Contribute Child's Misconduct	16	93.8	6.3	87.5	6.3	6.3	25.6
Computer Crime	9	55.6	44.4	66.7	33.3	0.0	32.3
Criminal Damage to Property	99	83.8	16.2	87.9	9.1	3.0	26.0
Criminal Discharge of Firearm	34	94.1	5.9	70.6	29.4	0.0	22.9
Criminal Sodomy w/Child	11	100.0	0.0	72.7	27.3	0.0	31.3
Criminal Threat	283	92.9	7.1	70.7	26.5	2.8	32.5
Criminal Use of Financial Card	20	40.0	60.0	75.0	20.0	5.0	29.8
Cruelty to Animals	5	100.0	0.0	80.0	20.0	0.0	36.7
Domestic Battery	57	94.7	5.3	49.1	49.1	1.8	33.1
Drugs	3,859	78.0	22.0	70.5	27.7	1.9	31.7
Drug, Deliver Simulated Cont. Subs.	7	85.7	14.3	71.4	28.6	0.0	32.3
Drug without Tax Stamps	66	75.8	24.2	66.7	31.8	1.5	27.8

Table 2: FY 2010 Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
DUI	1,880	88.0	12.0	89.2	8.6	2.2	41.2
Electronic Solicitation of Child	38	100.0	0.0	92.1	5.3	2.6	32.5
Failure to Register	193	95.9	4.1	69.4	28.5	2.1	33.5
Fleeing or Eluding LEO	332	91.0	9.0	64.5	33.4	2.1	29.8
Forgery	645	53.2	46.8	75.9	22.7	1.4	32.8
False Writing	146	66.4	33.6	71.2	25.3	3.4	34.4
Giving Worthless Checks	42	64.3	35.7	71.4	26.2	2.4	35.2
Identity Theft	169	56.8	43.2	81.7	16.6	1.8	32.1
Indecent Liberties w/Child	55	96.4	3.6	81.8	16.4	1.8	29.9
Indecent Solicitation of Child	26	96.2	3.8	88.5	11.5	0.0	26.1
Involuntary Manslaughter	32	75.0	25.0	62.5	34.4	3.1	27.3
Kidnapping	53	88.7	11.3	58.5	41.5	0.0	26.3
Lewd and Lascivious Behavior	9	88.9	11.1	100.0	0.0	0.0	26.7
Medicaid Fraud	7	28.6	71.4	100.0	0.0	0.0	40.9
Mistreat Dependant Adult	11	18.2	81.8	81.8	18.2	0.0	42.7
Murder in the First Degree	49	91.8	8.2	52.1	45.8	2.1	28.8
Murder in the Second Degree	62	91.9	8.1	59.7	38.7	1.6	26.1
Nonsupport of Child or Spouse	53	94.3	5.7	75.5	24.5	0.0	37.0
Obstructing Legal Process	130	80.8	19.2	81.5	17.7	0.8	29.3
Obtain Prescription Drug by Fraud	15	20.0	80.0	100.0	0.0	0.0	37.2
Perjury	8	62.5	37.5	62.5	37.5	0.0	35.7
Possession of Firearm	130	96.9	3.1	50.0	47.7	2.3	28.4
Rape	107	99.1	0.9	65.4	32.7	1.9	29.1
Robbery	237	85.7	14.3	49.8	49.4	0.8	27.6
Securities Crimes	13	92.3	7.7	100.0	0.0	0.0	45.0
Sex Exploitation of a Child	39	100.0	0.0	94.9	2.6	2.6	35.3
Stalking	14	92.9	7.1	100.0	0.0	0.0	36.7
Theft	1,096	69.0	31.0	68.6	29.8	1.6	33.8
Traffic in Contraband	56	76.8	23.2	82.1	17.9	0.0	30.8
Unlawful Sex Relations	9	55.6	44.4	77.8	22.2	0.0	31.3
Unlawful Voluntary Sex Relations	43	97.7	2.3	83.7	16.3	0.0	18.9
Voluntary Manslaughter	17	88.2	11.8	52.9	47.1	0.0	25.4
Weapons	11	100.0	0.0	72.7	27.3	0.0	23.8
Other	39	82.1	17.9	82.1	17.9	0.0	37.5
TOTAL	**13,810**	**82.2**	**17.8**	**72.6**	**25.4**	**2.1**	**32.2**

Note: Offenses with number of cases smaller than 5 are included in the offense type of "Other".
Due to missing data, percentages in each category are based on different numbers: Gender, N=13,802; Race, N=13,800; and Age, N=13,797.

* Average age at time of offense.

Felony DUI under K.S.A. 8-1567 (f)

Felony DUI under K.S.A. 8-1567(f) (driving under the influence of alcohol or drugs for the third or subsequent conviction) was classified as a severity level 9, nonperson felony offense in 1993, when the Sentencing Guidelines were established. In the 1994 Legislative Session, the crime was amended as a nongrid crime subjected to the specific sentencing provisions of K.S.A. 8-1567. Additionally, the offender cannot be sent to a state correctional facility to serve the sentence imposed, K.S.A. 2000 Supp. 21-4704 (i). The crime was further amended by Senate Bill 67 of 2001. As a result, it is possible for an offender convicted of a fourth or subsequent DUI to serve time in the KDOC in the event he/she violates conditions of postrelease supervision, K.S.A. 2001 Supp. 8-1567 (g).

The sentencing trends of DUI under K.S.A. 8-1567(f) in FY 2001 and the past five fiscal years were demonstrated in Figure 10.

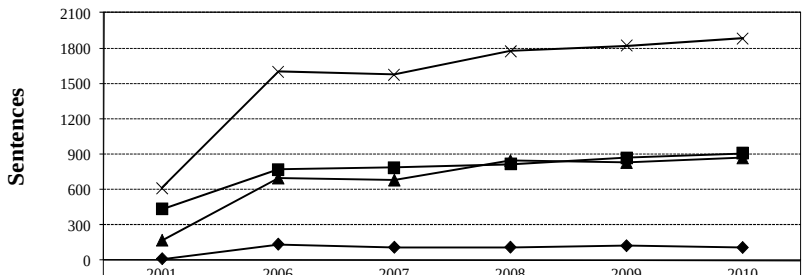
During FY 2001, 614 offenders were convicted of the crime of DUI. Of this number, 12 (2%) were sentenced to prison as condition violators, 434 (70.7%) were sentenced to probation and 168 (27.3%) were sentenced to county jail. During FY 2010, sentences convicted under this crime increased to 1,881 with 106 (5.6%) sentenced to prison as condition violators, 906 (48.2%) sentenced to probation and 869 (46.2%) sentenced to county jails. The total number of sentences convicted under the crime of DUI increased by 3.5% and by 17.5%, respectively, compared with those of FY 2009 and FY 2006. When compared with that of FY 2001, the number significantly increased by 206.4%.

The distribution of felony DUI convictions in FY 2010 by county is presented in Figure 11. Johnson and Sedgwick counties were the top two counties imposing 403 (21.4%) and 343 (18.2%) sentences convicted under K.S.A. 8-1567 (f) in FY 2010.

Probation condition violators, parole condition violators and parole violators with new sentences are the majority of the prison sentences, accounting for 100% in FY 2006, 98.1% in FY 2007, 97.2 in FY 2008, 98.3% in FY 2009 and 97.2% in FY 2010 (Figure 10).

Figure 10: DUI Sentences

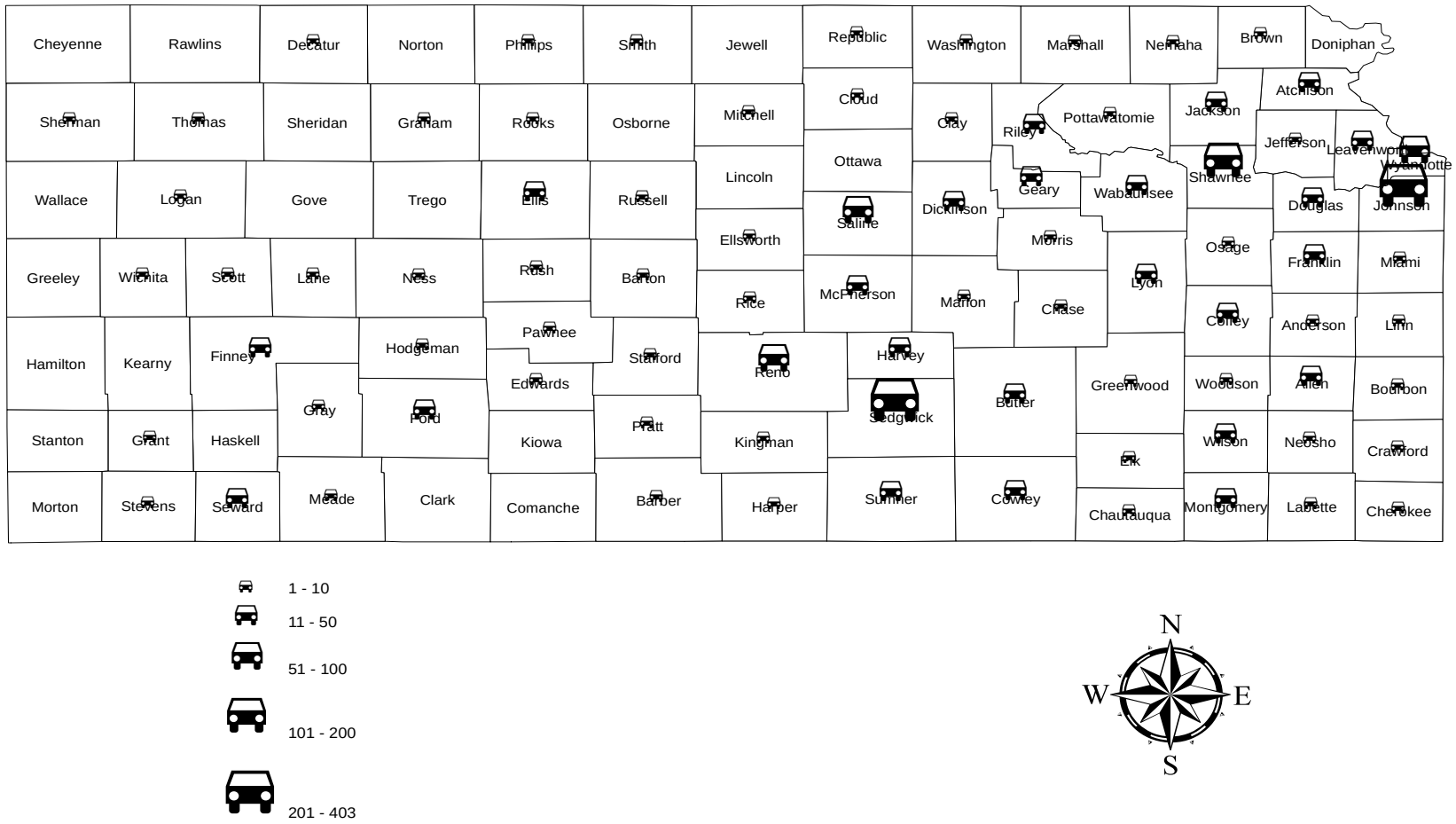
FY 2001, FY 2006 through FY 2010



	2001	2006	2007	2008	2009	2010
Prison	12	134	108	109	121	106
Probation	434	770	785	817	868	906
Jail	168	697	680	847	830	869
Total	614	1601	1573	1773	1819	1881

Fiscal Year

Figure 11: FY 2010 DUI Offense by County

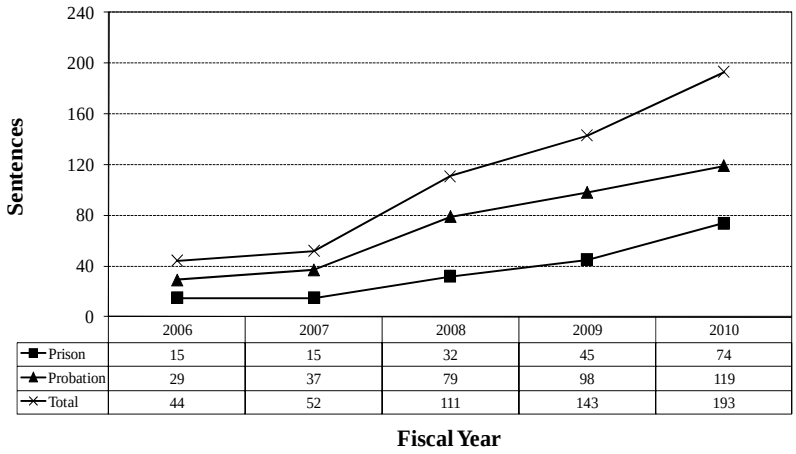


Sentences for Failure to Register under the Kansas Offender Registration Act

K.S.A. 22-4903 lists the penalty for a failure to register under the Kansas Offender Registration Act. The statute was amended to increase the penalty from a Class A, nonperson misdemeanor to a severity level 10, nonperson felony during the 1999 Legislative Session. The penalty for the crime was amended again in the 2006 Legislative Session, which increased the penalty to a severity level 5, person felony. Since then, the conviction of failure to register under the Kansas Offender Registration Act has been a severity level 5, person felony.

In the past five years, the total number of sentences imposed on the crime of failure to register has been increasing. During FY 2010, 193 sentences were convicted under this crime, an increase of 35% and 339% respectively when compared with those of FY 2009 and FY 2006. Of these 193 convictions, 74 were sentenced to prison and 119 were sentenced to probation.

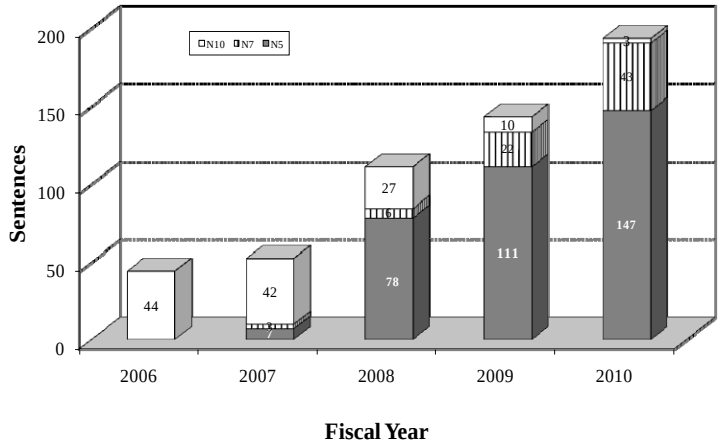
Figure 12: Failure to Register Sentences
By Sentence Imposed - FY 2006 through FY 2010



	2006	2007	2008	2009	2010
Prison	15	15	32	45	74
Probation	29	37	79	98	119
Total	44	52	111	143	193

In FY 2006, all convictions under this crime were sentenced at nondrug severity level 10.
Since FY 2007, the number of sentences at nondrug severity level 5 has increased from 13.5% (7 sentences) of the crime convicted in FY 2007 to 76.2% (147 sentences) of the crime convicted in FY 2009. Sentences at nondrug severity level 7 were attempt convictions of the crime.

Figure 13: Failure to Register Sentences
By Severity Level - FY 2006 through FY 2010

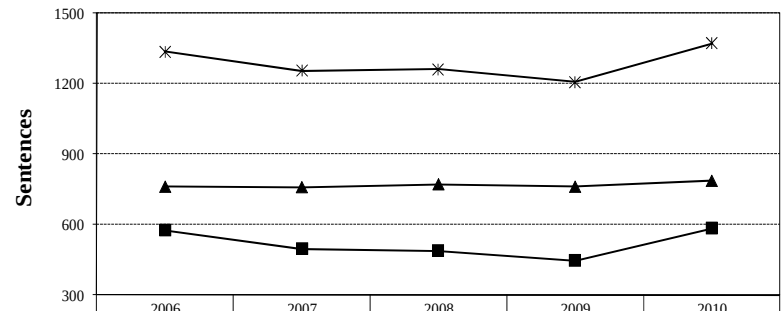


Burglary and Aggravated Burglary

Burglary including aggravated burglary is the top third crime committed in the past five years. The penalty for the crime is nondrug severity 5 for aggravated burglary, nondrug severity level 7 for residential and nonresidential burglaries and nondrug severity level 9 for motor vehicle burglary. Two special sentencing rules related to burglary make a conviction of the crime a presumptive prison sentence. The number of burglary offenders sentenced to prison with the two special sentencing rules is 92 during FY 2010, 49 in FY 2009, 40 in FY 2008, 38 in FY 2007and 37 in FY 2006.

From FY 2006 to FY 2009, the trend of burglary sentences is declining. However, in FY 2010 the total number of burglary increased by 13.7% and 2.7% respectively over those of FY 2009 and FY 2006. The number of prison sentences in FY 2010 increased by 139 sentences compared with FY 2009 and increased by 10 sentences compared with FY 2006. The probation sentences increased by 26 respectively compared with FY 2009 and FY 2006.

Figure 14: Burglary Sentences
By Sentence Imposed - FY 2006 through FY 2010

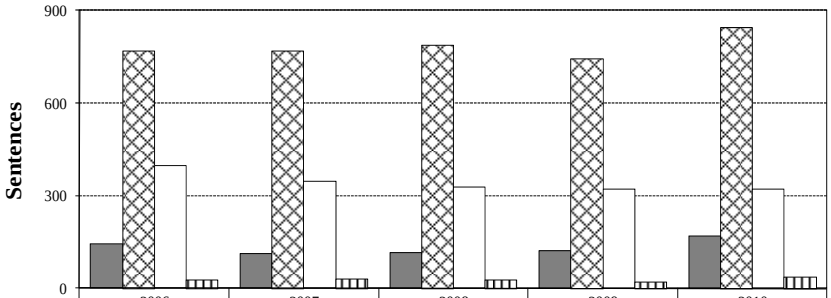


	2006	2007	2008	2009	2010
Prison	575	497	489	446	585
Probation	761	759	772	761	787
Total	1336	1256	1261	1207	1372

Fiscal Year

The majority of the convictions were sentenced at nondrug severity level 7, representing 61.5% of burglary sentences imposed in 2010, 61.6% in FY 2009, 62.5% in FY 2008, 61.1% in FY 2007and 57.4% in FY 2006.

Figure 15: Burglary Sentences
By Severity Level - FY 2006 through FY 2010



	2006	2007	2008	2009	2010
N5	143	111	117	121	169
N7	767	767	788	743	845
N9	398	348	329	321	323
N10	28	30	27	22	35

Fiscal Year

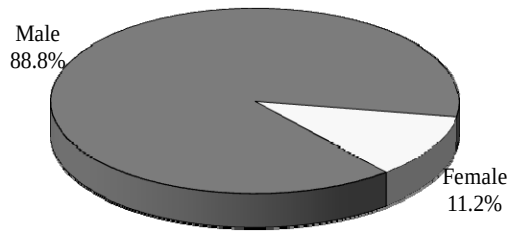
INCARCERATION SENTENCES

Characteristics of Offenders

The characteristics of offenders admitted to the state correctional facilities during FY 2010 were presented in Figures 16, 17, 18, 19 and 20. White males continued to be the predominant offender group admitted to prison in FY 2010 (Figures 16 and 17). Non-Hispanic offenders represented 90.1% of the offenders sentenced to prison (Figure 18). The overall distributions of the offenders by gender, race and ethnicity are comparatively constant compared with those of the past five years.

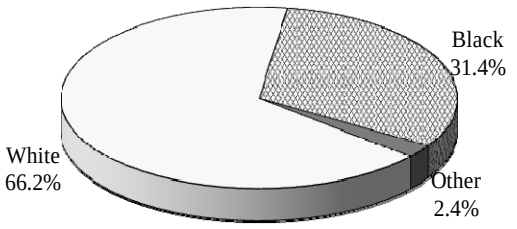
The largest number of incarcerated offenders were found in their thirties (25%) at the time of admission to prison, which is different from the previous year when the largest number of offenders were identified in the age group ranging from 25 to 30 years old (Figure 19).

Figure 16: FY 2010 Incarceration Sentences by Gender of Offenders



Based on 4,966 incarceration sentences reporting gender of offenders

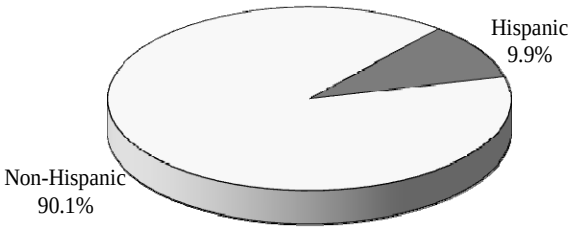
Figure 17: FY 2010 Incarceration Sentences by Race of Offenders



Based on 4,963 incarceration sentences reporting race of offenders

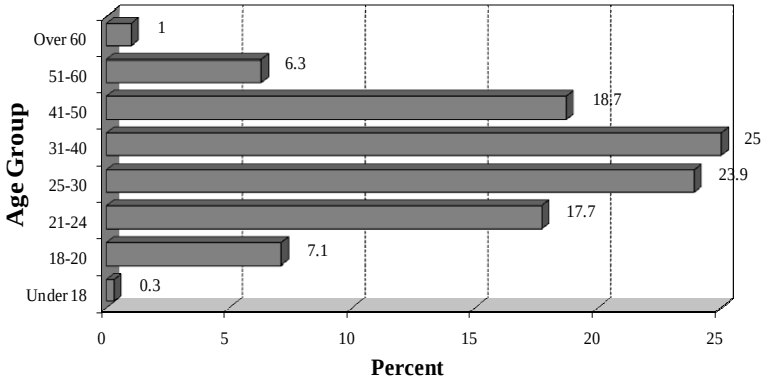
More than 46% of the incarcerated offenders had obtained a high school diploma or GED equivalent (Figure 20). This percentage remains very consistent in the past five years.

Figure 18: FY 2010 Incarceration Sentences by Ethnicity of Offenders



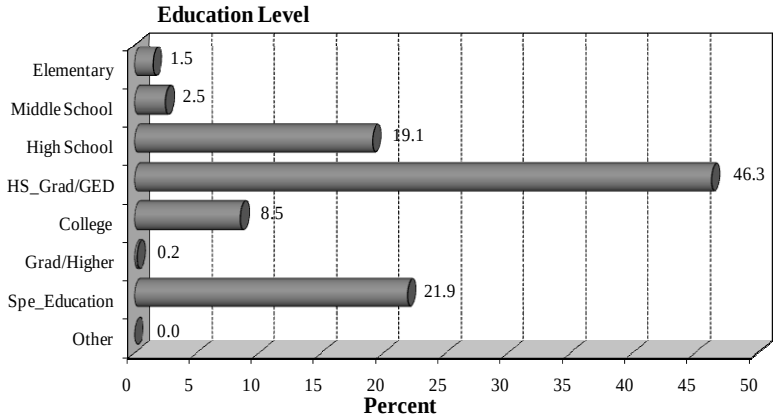
Based on 4,962 incarceration sentences reporting ethnicity of offenders

Figure 19: FY 2010 Incarceration Sentences by Age of Offenders at Admission



Based on 4,966 incarceration sentences reporting age of offenders

Figure 20: FY 2010 Incarceration Sentences by Education Level of Offenders



Based on 4,631 incarceration sentences

Incarceration Nondrug Offenses

In FY 2010, a total number of 3,637 offenders were admitted to prison for convictions of nondrug crimes, representing 73.2% of the total incarceration sentences (4,966) of the fiscal year. The top ten nondrug crimes included burglary (442 sentences), aggravated battery (340 sentences), theft (320 sentences), aggravated robbery (214 sentences), aggravated indecent liberties with a child (201 sentences), forgery (178 sentences), robbery (172 sentences), aggravated burglary (143 sentences), aggravated assault (140 sentences) and fleeing or eluding LEO (123 sentences). These top ten crimes accounted for 62.5% of the total nondrug crimes committed by the offenders admitted to prison in FY 2010 (Table 3).

The analysis of offenders by gender indicates that male offenders committed almost 90% of the top ten crime categories, except forgery, robbery and theft. Most sex offenders were males, indicating no change from the previous year. However, the most frequently committed offenses by female offenders were found in the offense categories of forgery, theft and identity theft (Table 3).

Racial analysis on nondrug offenders reveals that the highest incarceration rates for white offenders (over 70%) were discovered in the areas of most sex offenses, burglary, DUI, failure to register, forgery, identity theft, nonsupport of a child or spouse and obstructing legal process. Nevertheless, blacks were incarcerated more often (over 50%) for the crimes of aggravated arson, aggravated robbery, possession of firearms, voluntary manslaughter and drug without tax stamps. The average age of the nondrug offenders was 33.6 years old at the time of admission to prison in FY 2010, which remains very close to that of FY 2009 (Table 3).

Table 3: FY 2010 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	6	100.0	0.0	83.3	16.7	0.0	32.6
Agg. Arson	11	100.0	0.0	36.4	54.5	9.1	36.2
Agg. Assault	140	95.7	4.3	62.1	35.7	2.1	31.4
Agg. Assault on LEO	32	90.6	9.4	62.5	34.4	3.1	35.7
Agg. Battery	340	93.2	6.8	59.1	37.4	3.5	31.6
Agg. Battery on LEO	19	94.7	5.3	63.2	36.8	0.0	34.4
Agg. Burglary	143	92.3	7.7	61.5	36.4	2.1	30.9
Agg. Criminal Sodomy w/Child	39	100.0	0.0	76.9	23.1	0.0	36.5
Agg. Escape from Custody	64	82.8	17.2	51.6	43.8	4.7	34.7
Agg. Failure to Appear	9	100.0	0.0	77.8	22.2	0.0	34.8
Agg. False Impersonation	5	80.0	20.0	60.0	40.0	0.0	30.0
Agg. Indecent Liberties w/Child	201	99.0	1.0	78.6	18.4	3.0	35.2
Agg. Indecent Solicit w/Child	31	100.0	0.0	74.2	19.4	6.5	33.3
Agg. Intimidation of a Victim	6	100.0	0.0	66.7	16.7	16.7	34.2
Agg. Kidnapping	7	85.7	14.3	57.1	42.9	0.0	32.6
Agg. Robbery	214	92.5	7.5	39.7	57.9	2.3	31.8
Agg. Sexual Battery	26	100.0	0.0	73.1	26.9	0.0	33.2
Aid Felon	13	84.6	15.4	76.9	15.4	7.7	30.5
Arson	18	83.3	16.7	88.9	5.6	5.6	33.5
Battery on LEO	43	79.1	20.9	60.5	37.2	2.3	27.6
Burglary	442	94.3	5.7	72.6	24.0	3.4	30.5
Contribute Child's Misconduct	7	85.7	14.3	85.7	0.0	14.3	28.2
Criminal Damage to Property	15	86.7	13.3	80.0	13.3	6.7	31.5
Criminal Discharge of Firearm	19	94.7	5.3	68.4	31.6	0.0	24.6
Criminal Sodomy w/Child	8	100.0	0.0	75.0	25.0	0.0	34.6
Criminal Threat	110	100.0	0.0	60.9	35.5	3.6	35.0
Drug without Tax Stamps	6	100.0	0.0	50.0	50.0	0.0	25.6
DUI	106	91.5	8.5	90.6	6.6	2.8	45.0
Electronic Solicitation of Child	34	100.0	0.0	94.1	5.9	0.0	33.2
Failure to Register	74	98.6	1.4	71.6	24.3	4.1	36.2
Fleeing or Eluding LEO	123	97.6	2.4	65.9	30.9	3.3	33.3
Forgery	178	68.0	32.0	74.0	24.3	1.7	35.7
False Writing	38	86.8	13.2	65.8	28.9	5.3	40.6
Giving Worthless Checks	9	66.7	33.3	77.8	11.1	11.1	39.8
Identity Theft	46	60.9	39.1	82.6	15.2	2.2	36.9
Indecent Liberties w/Child	38	100.0	0.0	84.2	15.8	0.0	35.2
Indecent Solicitation of Child	8	100.0	0.0	87.5	12.5	0.0	26.9

Table 3: FY 2010 Incarceration Nondrug Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Involuntary Manslaughter	25	80.0	20.0	60.0	36.0	4.0	31.4
Kidnapping	45	86.7	13.3	60.0	40.0	0.0	32.2
Murder in the First Degree	49	91.8	8.2	52.1	45.8	2.1	34.7
Murder in the Second Degree	62	91.9	8.1	59.7	38.7	1.6	34.4
Nonsupport of Child or Spouse	27	92.6	7.4	77.8	22.2	0.0	43.5
Obstructing Legal Process	42	90.5	9.5	71.4	28.6	0.0	30.5
Possession of Firearm	56	98.2	1.8	46.4	51.8	1.8	29.0
Rape	103	99.0	1.0	67.0	31.1	1.9	34.9
Robbery	172	89.0	11.0	53.5	45.9	0.6	31.9
Sex Exploitation of a Child	21	100.0	0.0	95.2	0.0	4.8	37.4
Theft	320	77.5	22.5	63.1	35.3	1.6	36.9
Traffic in Contraband	19	84.2	15.8	68.4	31.6	0.0	30.3
Unlawful Voluntary Sex Relation	8	100.0	0.0	100.0	0.0	0.0	21.0
Voluntary Manslaughter	16	87.5	12.5	50.0	50.0	0.0	33.7
Other	44	88.6	11.4	86.4	13.6	0.0	37.3
TOTAL	**3,637**	**90.6**	**9.4**	**65.9**	**31.6**	**2.5**	**33.6**

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

Incarceration Drug Offenses

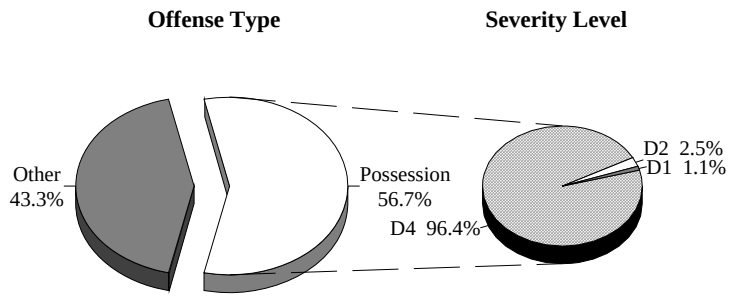
A total number of 1,329 drug offenders were admitted to prison during FY 2010, accounting for 26.8% of the total admissions to the State Correctional Facilities. Of this total number, 56.7% were incarcerated for convictions of drug possession offenses, indicating an increase of 1.4% compared with that of FY 2009 (55.3%). More than 96% of the drug possession sentences were found at drug severity level 4 (Figure 21).

In FY 2010, males represented 83.9% of the drug offenders admitted to prison. Most female offenders were convicted of drug crimes for opiates or narcotics possession and opiates or narcotics sale first offense. White offenders were convicted of over 70% of incarceration drug sentences in the drug crime areas of possession of paraphernalia, possession of precursor drugs and unlawfully manufacturing controlled substance. Black offenders were incarcerated more frequently (over 40%) for convictions of drug crimes of opiate or narcotics possession for the second offense, and opiate or narcotics sale for the second, third and the subsequent offenses, which remains constant to those of FY 2009. The average age of the drug offenders was 34.3 years old at admission to prison (Table 4), indicating a little change compared with the age of the drug offenders observed in FY 2009.

The drug crime of possession of precursor drugs under K.S.A. 65-7006 was created in the 1999 Legislative Session. The penalty for a violation of this section was a drug severity level 1 felony. In 2002, the severity level for the crime was reclassified to drug severity level 4 according to the Kansas Court of Appeals' ruling in *State vs. Frazier* and reconfirmed as a drug severity level 1 with length of sentence at drug severity level 4 in the Kansas Supreme Court's decision in *State vs. Campbell* in 2005. However, the crime was amended to a felony drug severity level 2 during the 2006 Legislative Session. Figure 22 presents the conviction trend of the crime in the past eleven years.

The drug possession sentences at drug severity level 4 included drug crimes under K.S.A. 65-4160 and K.S.A. 65-4162 or K.S.A.21-36a06. Drug possession offenses at drug severity levels 1 and 2 reflected the drug crimes committed before November 1, 2003 (before the implementation of Senate Bill 123).

Figure 21: FY 2010 Incarceration Drug Sentences by Offense and Level



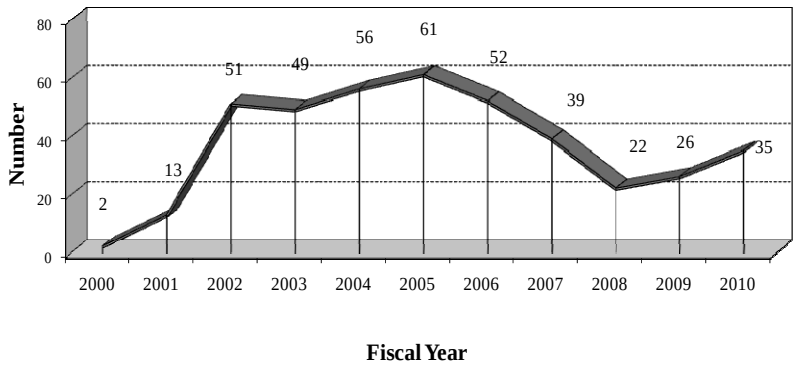
Based on 1,329 incarceration drug sentences

Table 4: FY 2010 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	623	81.4	18.6	66.4	31.8	1.8	35.2
Opiates or Narcotics; Poss. 2	19	89.5	10.5	52.6	42.1	5.3	43.3
Opiates or Narcotics; Poss. 3	8	62.5	37.5	62.5	37.5	0.0	47.1
Opiates or Narcotics; Sale 1	274	82.5	17.5	58.8	38.3	2.9	33.2
Opiates or Narcotics; Sale 2	13	69.2	30.8	53.8	46.2	0.0	35.7
Opiates or Narcotics; Sale 3	5	80.0	20.0	40.0	60.0	0.0	44.0
Opiates/ Narcotics, Depress, Stim., Hall; Sale w/in 1,000 ft of School	40	90.0	10.0	60.0	37.5	2.5	31.2
Depress, Stim., Hall; Poss. 2	104	89.4	10.6	64.4	31.7	3.8	30.2
Depress, Stim., Hall, etc.; Sale, Poss. w/Intent to Sell	111	91.9	8.1	67.6	30.6	1.8	30.7
Unlawful Manufacture Controlled Substance	73	86.3	13.7	98.6	1.4	0.0	38.6
Possession of Paraphernalia	21	95.2	4.8	81.0	19.0	0.0	29.3
Possession of Precursor Drugs	35	85.7	14.3	97.1	0.0	2.9	38.0
Other	3	100.0	0.0	100.0	0.0	0.0	35.3
TOTAL	**1,329**	**83.9**	**16.1**	**67.0**	**30.9**	**2.1**	**34.3**

The drug crime of possession of precursor drugs under K.S.A. 65-7006 kept increasing from FY 2001 through FY 2005. However, the admissions to prison under this drug crime dropped all the way from FY 2006 through FY 2008 with 22 admissions. The admissions increased to 26 and 35, respectively, in FY 2009 and FY 2010. They were almost all white offenders and the average age of the offenders was 38 years old at the time of admission to prison (Table 4).

Figure 22: Incarceration Drug Sentences Possession of Precursor Drugs



Types of Admission and Severity Levels

Table 5 presents the distribution of offenders by types of admission to the Kansas Department of Corrections in FY 2010. Condition violators, including probation condition violators, parole/post-release condition violators and conditional release condition violators, comprised 56.4% of all offenders admitted to state correctional facilities during FY 2010. This represents a percentage decrease of 1% from that of FY 2009 (57.4%), indicating the lowest rate of admission in the past five years. As in the past years, condition violators admitted to prison had a significant impact on the total admissions to the Department of Corrections in FY 2010.

In FY 2010, new court commitments made up another big proportion of prison admissions, representing 38.4% of the total admissions. The percentage of this group increased by 0.6% compared with that of FY 2009 (37.8%), representing the highest rate of admission in the past five years. Violators with new sentences, including probation violators with new sentences, parole or postrelease violators with new sentences and conditional release violators with new sentences, accounted for 4.5%, very close to the percentage of this group of violators (4.4%) in FY 2009.

Table 5: Distribution of FY 2010 Incarceration Sentences by Admission Type

Admission Type	Number of Cases	Percent
New Court Commitment	1,908	38.4
Probation Condition Violator	1,717	34.6
Probation Violator With New Sentence	84	1.7
Inmate Received on Interstate Compact	11	0.2
Parole/Postrelease Condition Violator	1,081	21.8
Parole/Postrelease Violator With New Sentence	141	2.8
Paroled to Detainer Returned With New Sentence	21	0.4
Conditional Release Condition Violator	3	0.1
Conditional Release Condition Violator with New Sentence	0	0.0
TOTAL	**4,966**	**100.0**

Table 6 demonstrates the distribution of all incarcerated offenders admitted in FY 2010 by offense severity level and gender. The highest percentages (over 15%) of all nondrug offenders are found at severity levels 5, 7 and 9 (Figure 23). This severity level distribution of nondrug incarcerated offenders has remained constant in the past five years. The examination of drug offenders indicates that 56.5% of all drug offenders fell at drug severity level 4 (Figure 24), an increase of 2.3% compared with that of FY 2009 (54.2%). Female offenders were convicted more often of drug offenses than

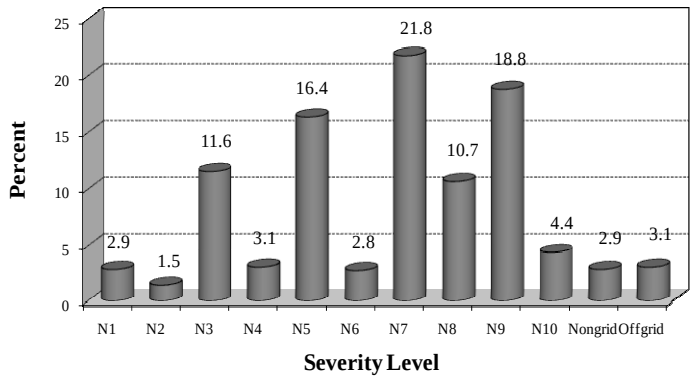
of nondrug offenses (16.1% vs. 9.4%). The highest percentages of female offenders were found at drug severity level 4 (17%) and nondrug severity level 8 (21.9%). The highest percentage rates of male offenders were identified at drug severity level 2 (86%) and nondrug severity level 1 for nondrug crimes (98.1%).

Table 6: Distribution of FY 2010 Incarceration Sentences By Severity Level and Gender*

Severity Level	Number	Percent	Gender (%)	
			Male	Female
Drug				
D1	98	7.4	83.7	16.3
D2	93	7.0	86.0	14.0
D3	387	29.1	85.3	14.7
D4	751	56.5	83.0	17.0
Subtotal	**1,329**	**100.0**	**83.9**	**16.1**
Nondrug				
N1	105	2.9	98.1	1.9
N2	53	1.5	90.6	9.4
N3	420	11.6	94.8	5.2
N4	113	3.1	95.6	4.4
N5	596	16.4	93.3	6.7
N6	102	2.8	93.1	6.9
N7	790	21.8	93.2	6.8
N8	388	10.7	78.1	21.9
N9	684	18.8	86.8	13.2
N10	161	4.4	87.6	12.4
Nongrid	106	2.9	91.5	8.5
Offgrid	113	3.1	96.5	3.5
Subtotal	**3,631**	**100.0**	**90.6**	**9.4**
TOTAL**	**4,966**	**100.0**	**88.2**	**11.8**

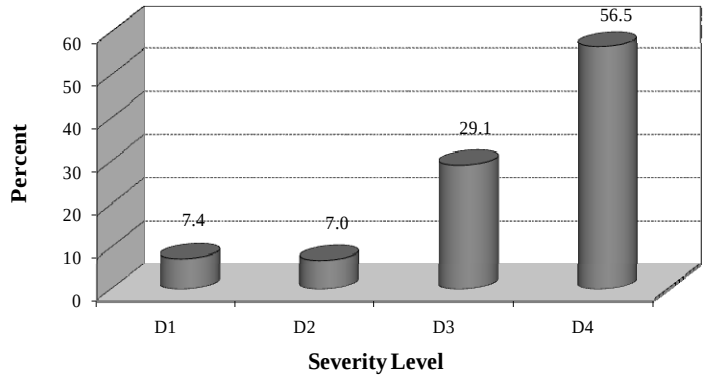
* Based on 1,329 drug offenders and 3,631 nondrug offenders.
** Total number includes 6 nondrug offenders whose severity levels are unknown.

Figure 23: FY 2010 Incarceration Sentences Nondrug Offenders by Severity Level



Based on 3,631 nondrug offenders

Figure 24: FY 2010 Incarceration Sentences Drug Offenders by Severity Level



Based on 1,329 drug offenders

Table 7 presents the average length of sentences imposed by severity level for guideline new commitment offenders admitted to prison during FY 2010. This group of offenders includes new court commitments, probation condition violators and probation violators with new sentences. Pre-guideline offenders are excluded from this analysis.

Compared with FY 2009, the average length of sentence increased by 12.5 months at drug severity level 1 and increased by 3.9 at nondrug severity level 5. The average length of sentence decreased by 4.9 months at drug severity level 2, by 4.1 months at nondrug severity level 3 and significantly by 36.6 months at nondrug severity level 2. As for other drug and nondrug severity levels, the average length of sentence did not fluctuate significantly from those observed in FY 2009.

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

Severity Level	FY 2009 LOS (Months)	FY 2010 LOS (Months)	Difference (Months)
D1	92.0	104.5	12.5
D2	56.0	51.1	-4.9
D3	30.7	29.6	-1.1
D4	22.8	22.1	-0.7
N1	249.8	243.9	-5.9
N2	203.6	167.0	-36.6
N3	90.9	86.8	-4.1
N4	63.8	65.3	1.5
N5	54.9	58.8	3.9
N6	36.8	33.9	-2.9
N7	27.8	27.2	-0.6
N8	16.7	18.5	1.8
N9	12.2	12.8	0.6
N10	8.6	8.5	-0.1

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

Jessica's Law Sentences

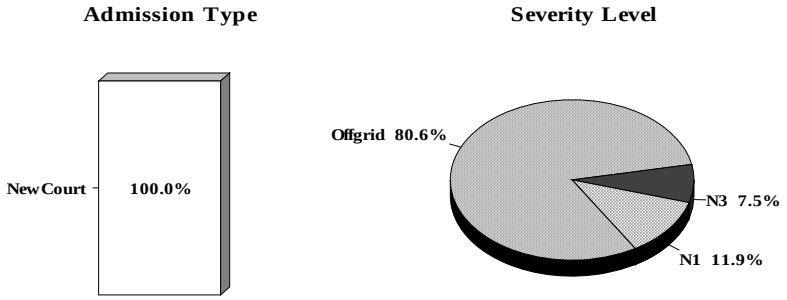
House Bill 2576 became law (Jessica's Law) in the 2006 Legislative Session. According to this law, aggravated habitual sex offenders shall be sentenced to life imprisonment without possibility of parole (K.S.A. 2006 Supp. 21-4642); child sex offenses, where the offender is 18 years of age or older and the victim is less than 14 years of age, shall be sentenced to mandatory minimum of Hard 25 years for the first offense, mandatory minimum of Hard 40 years for the second offense and life imprisonment without parole for the third offense (K.S.A. 2006 Supp. 21-4643).

During FY 2010, a total number of 67 offenders were sentenced and admitted to prison under Jessica's Law. All of them were new court commitments. While most jurisdictions identify the severity of these crimes as offgrid, a few sentenced them at the severity level for a downward departure on the nondrug grid. Therefore, of these offenders, 80.6% (54 offenders) were sentenced at offgrid, 11.9% (8 offenders) were sentenced at nondrug severity level 1, and 7.5% (5 offenders) were at nondrug severity levels 3 (Figure 25). The analysis of the sentence length demonstrates that 58.2% of the sentences were downward departure to guidelines, a decrease of 0.8% compared with that of FY 2009 (59%). The average sentence length of the durational departures was 119.3 months, a decrease of 11.4 months from that observed in FY 2009 (130.7 months).

The distribution of the incarcerated offenders under Jessica's Law by county is displayed in Table 8. Sedgwick county imposed the most Jessica's Law prison sentences (22) followed by Wyandotte (9), Johnson (4) and Douglas (4).

In addition, two offenders were convicted under Jessica's Law and sentenced to probation during FY 2010, whose offense dates were before July 1, 2008. Their underlying prison terms were 72 months and 155 months respectively. The major departure reasons are that the defendant had no prior criminal history and accepted responsibility; the offender was physically or mentally impaired.

Figure 25: FY 2010 Jessica's Law Incarceration Sentences



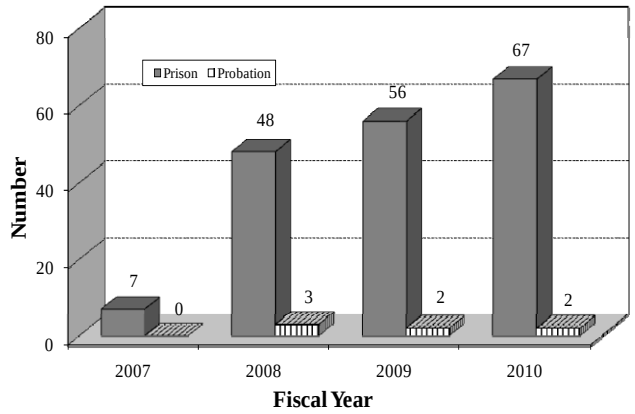
Based on 67 Jessica's Law incarceration sentences.

Table 8: FY 2010 Jessica's Law Incarceration Sentences Imposed by County

County	Number	County	Number
Bourbon	1	Labette	3
Coffey	1	Leavenworth	2
Crawford	1	Montgomery	1
Douglas	4	Marion	1
Finney	1	Riley	2
Franklin	1	Reno	3
Geary	1	Saline	2
Harvey	1	Sedgwick	22
Jackson	1	Shawnee	2
Jefferson	1	Sumner	1
Johnson	4	Seward	1
Kiowa	1	Wyandotte	9
Total			**67**

Figure 26 illustrates the sentencing trend of Jessica's Law convictions from FY 2007 through FY 2010. The total number of Jessica's Law sentences imposed in FY 2010 was 69 including both prison and probation sentences, an increase of 11 sentences compared with that of FY 2009 (58 sentences) and an increase of 62 sentences compared with that of FY 2007 (7 sentences). FY 2007 is the initial year for the implementation of Jessica's Law.

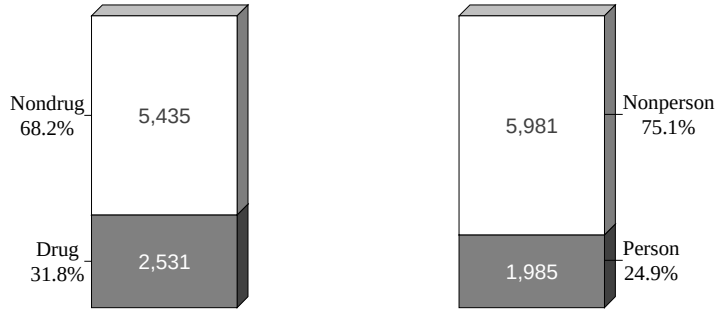
Figure 26: Jessica's Law Sentences Imposed
FY2007 through FY 2010



PROBATION SENTENCES

A total number of 7,966 probation sentences were reported to the Kansas Sentencing Commission in FY 2010. Of this number, 5,435 were nondrug sentences and 2,531 were drug sentences; non-person offenses made up 75.1% and person offenses made up 24.9% (Figure 27). The demographic information of this offender group was described in Figures 28, 29 and 30.

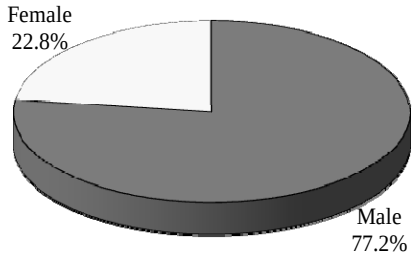
Figure 27: Distribution of FY 2010 Probation Sentences



Based on 7,966 probation sentences

Figure 28 demonstrates the distribution of offenders by gender. Male offenders accounted for 77.2% of all probation sentences imposed in FY 2010, indicating an increase of 0.8% compared with that observed (76.4%) in FY 2009 (Figure 28).

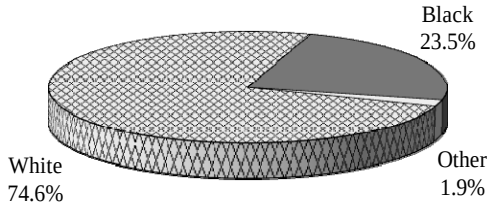
Figure 28: Distribution of FY 2010 Probation Sentences by Gender



Based on 7,958 sentences reporting gender of offenders

Racial analysis discloses that white offenders made up 74.6% of the probation sentences imposed in FY 2010, a decrease of 1.9% compared with that of FY 2009 (76.5%). The percentages of black offenders increased by 1.8% in FY 2010 compared with that of FY 2009 (21.7%). The percentage of offenders in other races remains constant compared with that observed in FY 2009 (Figure 29).

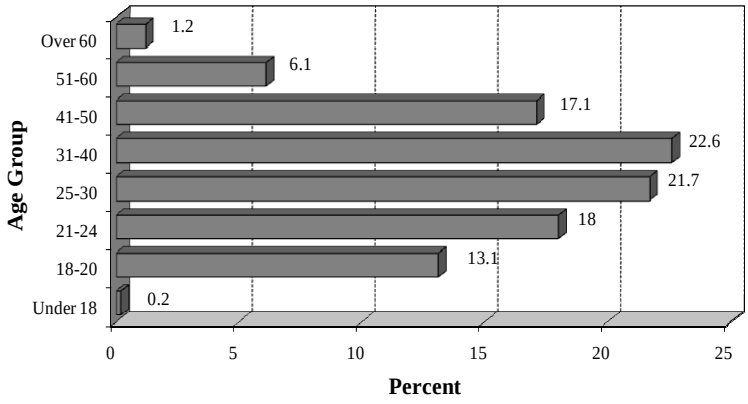
Figure 29: Distribution of FY 2010 Probation Sentences by Race



Based on 7,960 sentences reporting race of offenders

The examination of offenders by age discloses that the largest population of probation offenders was found in the age group ranging from 31 to 40 years old at the time of sentencing (22.6%) and the second largest group was identified in the age group ranging from 25 to 30 (21.7%). This distribution is the same with that of FY 2009 (Figure 30).

Figure 30: Distribution of FY 2010 Probation Sentences by Age



Based on 7,960 sentences reporting age of offenders at time of sentencing

Type of Offense and Severity Level

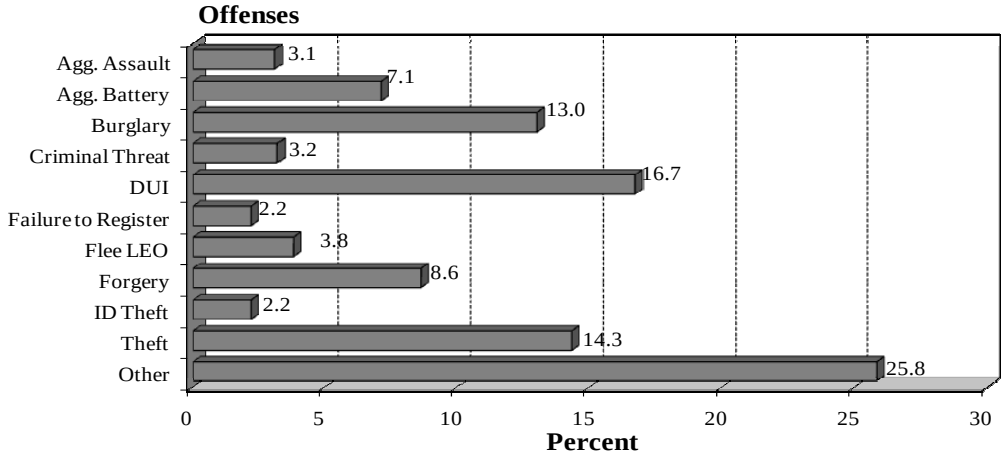
The analysis of offenses committed by nondrug probation offenders indentifies the following top ten offenses: aggravated assault, aggravated battery, burglary, criminal threat, DUI, failure to register, fleeing LEO, forgery, identity theft and theft. These ten offenses accounted for 74.2% of the total nondrug probation sentences in FY 2010 (Figure 31), a decrease of 2.1% from that of the previous year (76.3%). In reviewing drug offenders on probation, the largest number of sentences was for possession of drugs, representing 66.3% of all probation drug offenses (Figure 32) and indicating a decrease of 5.6% from that of FY 2009 (71.9%).

The characteristics of offenders sentenced to probation in FY 2010 by offense type are demonstrated in Tables 9 and 10. Male offenders sentenced to probation during FY 2010 were convicted of over 90% of the sex offenses and violent crimes of probation sentences such as: aggravated robbery, burglary, domestic battery, failure to register and possession of firearms. The highest percentages of female probation nondrug offenses (over 50%) included forgery, criminal use of financial card, mistreatment of dependant adult and obtaining prescribed drugs by fraud (Table 9).

White offenders represented 75.7% of all nondrug probation sentences and 72.3% of all drug offenders on probation in FY 2010. Black offenders on probation had a lower conviction rate for nondrug offenses than drug crimes (22.3% versus 26%). The average age at the time of committing offense was 32 years old for nondrug offenders and 31.7 years old for drug offenders, which remains very close to those in FY 2009 (Table 9 & Table 10).

The characteristics of probation offenders by severity level are presented in Tables 11 and 12. The largest number of probation nondrug sentences were found at nondrug grid severity level 9 (1,599 sentences or 29.4%) and the majority of probation drug sentences were identified at drug grid severity level 4 (1,815 sentences or 71.7%). These distributions are pretty consistent with those in the past five years.

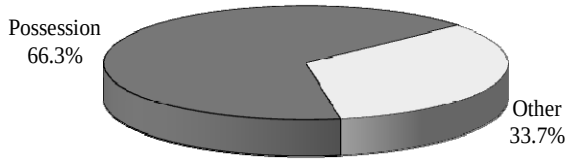
Figure 31: FY 2010 Top Ten Offenses for Probation Nondrug Sentences



Based on 5,435 probation nondrug sentences

Drug possession crimes included opiates or narcotics possession offenses and depressants, stimulants, hallucinogenic, etc. possession second and subsequent offense. The conviction of opiates or narcotics possession offenses represented 52.3% of the total probation drug sentences in FY 2010 (Table 10).

Figure 32: FY 2010 Probation Drug Sentences by Offense



Based on 2,531 probation drug sentences

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

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Abuse of Child	14	0.3	50.0	50.0	85.7	14.3	0.0	27.1
Agg Assault	170	3.1	89.4	10.6	68.8	29.4	1.8	32.2
Agg Assault on LEO	19	0.3	89.5	10.5	89.5	10.5	0.0	38.0
Agg Arson	11	0.2	90.9	9.1	54.5	45.5	0.0	34.0
Agg Battery	386	7.1	88.5	11.5	65.2	29.8	5.0	30.0
Agg Battery on LEO	6	0.1	33.3	66.7	16.7	66.7	16.7	30.8
Agg Burglary	78	1.4	85.9	14.1	61.5	37.2	1.3	25.3
Agg Endangering a Child	28	0.5	71.4	28.6	85.7	14.3	0.0	29.4
Agg Escape from Custody	23	0.4	73.9	26.1	78.3	17.4	4.3	34.5
Agg Fail to Appear	42	0.8	81.0	19.0	69.0	31.0	0.0	31.7
Agg False Impersonation	6	0.1	66.7	33.3	66.7	33.3	0.0	32.7
Agg Ind Lib with a Child	40	0.7	90.0	10.0	77.5	20.0	2.5	25.5
Agg Ind Solicit with a Child	27	0.5	100.0	0.0	85.2	14.8	0.0	30.1
Agg Inter w/Parental Custody	5	0.1	80.0	20.0	100.0	0.0	0.0	31.7
Agg Intimidation of a Victim	10	0.2	100.0	0.0	70.0	30.0	0.0	31.3
Agg Robbery	42	0.8	90.5	9.5	50.0	47.6	2.4	25.6
Agg Sex Battery with Child	14	0.3	100.0	0.0	85.7	7.1	7.1	37.2
Agg Weapon Violation	9	0.2	100.0	0.0	77.8	11.1	11.1	32.1
Aiding Felon	25	0.5	68.0	32.0	68.0	32.0	0.0	27.9
Arrange Sale/Purchase Drug	11	0.2	81.8	18.2	81.8	9.1	9.1	29.2
Arson	38	0.7	68.4	31.6	100.0	0.0	0.0	30.2
Battery on LEO	37	0.7	70.3	29.7	62.2	35.1	2.7	28.4
Burglary	708	13.0	90.1	9.9	80.3	18.6	1.1	26.2
Computer Crime	8	0.1	50.0	50.0	75.0	25.0	0.0	33.6

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

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Contribute Child Misconduct	9	0.2	100.0	0.0	88.9	11.1	0.0	24.9
Criminal Damage of Property	84	1.5	83.3	16.7	89.3	8.3	2.4	25.4
Criminal Discharge of Firearm	15	0.3	93.3	6.7	73.3	26.7	0.0	22.1
Criminal Threat	173	3.2	88.4	11.6	76.9	20.8	2.3	32.1
Criminal Use of Financial Card	17	0.3	41.2	58.8	76.5	17.6	5.9	30.3
Cruelty to Animals	4	0.1	100.0	0.0	100.0	0.0	0.0	41.7
Domestic Battery	54	1.0	94.4	5.6	48.1	50.0	1.9	33.4
Drug without Tax Stamps	59	1.1	72.9	27.1	69.5	28.8	1.7	28.4
DUI	906	16.7	85.7	14.3	88.3	8.9	2.8	39.5
Electronic Solicitation of Child	4	0.1	100.0	0.0	75.0	0.0	25.0	38.1
Failure to Register	119	2.2	94.1	5.9	68.1	31.1	0.8	32.8
Failure to remain at Accident	5	0.1	80.0	20.0	80.0	0.0	20.0	39.0
False Writing	108	2.0	59.3	40.7	73.1	24.1	2.8	32.9
Fleeing/Eluding LEO	206	3.8	86.9	13.1	63.1	35.4	1.5	28.9
Forgery	467	8.6	47.5	52.5	76.7	22.1	1.3	32.6
Giving Worthless Check	33	0.6	63.6	36.4	69.7	30.3	0.0	35.0
Identity Theft	123	2.3	55.3	44.7	81.3	17.1	1.6	31.9
Ind. Liberties with a Child	17	0.3	88.2	11.8	76.5	17.6	5.9	28.8
Ind. Solicitation with a Child	18	0.3	94.4	5.6	88.9	11.1	0.0	27.0
Involuntary Manslaughter	7	0.1	57.1	42.9	71.4	28.6	0.0	23.7
Kidnapping	8	0.1	100.0	0.0	50.0	50.0	0.0	25.8
Lewd and Lascivious Behavior	7	0.1	85.7	14.3	100.0	0.0	0.0	30.7
Medicaid Fraud	7	0.1	28.6	71.4	100.0	0.0	0.0	40.9
Mistreatment of Dependant Adult	11	0.2	18.2	81.8	81.8	18.2	0.0	42.7
Non-Support of a Child	26	0.5	96.2	3.8	73.1	26.9	0.0	37.3
Obstruct Legal Process	88	1.6	76.1	23.9	86.4	12.5	1.1	29.7
Obtain Prescribed Drug by Fraud	13	0.2	15.4	84.6	100.0	0.0	0.0	36.9
Perjury	8	0.1	62.5	37.5	62.5	37.5	0.0	35.7
Possession of Firearms	74	1.4	95.9	4.1	52.7	44.6	2.7	29.6
Rape	4	0.1	100.0	0.0	25.0	75.0	0.0	19.2
Robbery	65	1.2	76.9	23.1	40.0	58.6	1.5	26.4
Securities Act Violations	10	0.2	90.0	10.0	100.0	0.0	0.0	43.6
Sex Exploitation of a Child	18	0.3	100.0	0.0	94.4	5.6	0.0	35.1
Stalking	12	0.2	91.7	8.3	100.0	0.0	0.0	35.1
Theft	776	14.3	65.5	34.5	70.9	27.6	1.5	33.3
Traffic in Contraband	37	0.7	73.0	27.0	89.2	10.8	0.0	31.9
Unlawful Sex Relations	9	0.2	55.6	44.4	77.8	22.2	0.0	31.3
Unlawful Voluntary Sex Relation	35	0.6	97.1	2.9	80.0	20.0	0.0	18.9
Weapon	10	0.2	100.0	0.0	80.0	20.0	0.0	23.1
Other	32	0.6	78.1	21.9	75.0	25.0	0.0	36.0
TOTAL	**5,435**	**100.0**	**78.3**	**21.7**	**75.7**	**22.3**	**2.0**	**32.0**

Note: Offenses with number of cases smaller than 4 are included in the offense type of "Other".
Due to missing data, each category is based on different numbers: Gender, N=5,428; Race, N=5,429; and Age, N=5,429.

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

	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Opiates or Narcotics; Possession	1,324	52.3	70.4	29.6	75.8	22.3	1.9	33.3
Opiates or Narcotics; Sale 1	294	11.6	73.5	26.5	58.2	40.1	1.7	31.2
Opiates/ Narcotics, Depress, Stim, Hall; Sell w/in 1,000 feet of School	4	0.2	75.0	25.0	25.0	75.0	0.0	27.3
Depress, Stim, Hall, etc.; Sell, Poss w/Intent to Sell	378	14.9	83.9	16.1	68.8	29.9	1.3	28.9
Depress, Stim, Hall; Poss 2	355	14.0	82.8	17.2	68.7	30.7	0.6	29.4
Possession of Paraphernalia	133	5.3	75.9	24.1	81.2	14.3	4.5	30.0
Possession of Precursor Drugs	14	0.6	78.6	21.4	92.9	0.0	7.1	37.0
Unlawful Manufacture Controlled Substance	23	0.9	65.2	34.8	100.0	0.0	0.0	37.3
Deliver/Poss. Simulated Controlled Substance	3	0.1	100.0	0.0	100.0	0.0	0.0	31.0
Other	3	0.1	66.7	33.3	100.0	0.0	0.0	33.5
TOTAL	**2,531**	**100.0**	**74.9**	**25.1**	**72.3**	**26.0**	**1.7**	**31.7**

Note: Due to missing data, each category is based on different numbers: Gender, N=2,530; Race, N=2,531; and Age, N=2,531.

Table 11: Characteristics of Probation Nondrug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
N1	1	0.1	100.0	0.0	0.0	100.0	0.0	13.9
N3	61	1.1	90.2	9.8	60.7	37.7	1.6	26.5
N4	18	0.3	85.7	14.3	35.7	57.1	7.1	26.8
N5	337	6.2	84.0	16.0	64.7	32.0	3.3	28.7
N6	97	1.8	79.4	20.6	79.4	20.6	0.0	33.0
N7	1,073	19.7	88.9	11.1	73.8	24.2	2.1	29.4
N8	930	17.1	60.9	39.1	74.1	23.9	2.0	31.5
N9	1,599	29.4	76.2	23.8	75.3	23.2	1.5	30.9
N10	353	6.5	72.0	28.0	73.1	26.1	0.8	30.8
Nongrid	964	17.7	86.2	13.8	86.1	11.2	2.7	39.2
Offgrid*	2	0.1	100.0	0.0	50.0	50.0	0.0	24.5
TOTAL	**5,435**	**100.0**	**78.3**	**21.7**	**75.7**	**22.3**	**2.0**	**32.0**

Note: Due to missing data, each category is based on different numbers: Gender, N=5,428; Race, N=5,429; and Age, N=5,429.
* Jessica's Law offenders sentenced downward departure to guidelines, whose offense dates were before July 1, 2008.

Table 12: Characteristics of Probation Drug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
D1	24	0.9	66.7	33.3	100.0	0.0	0.0	37.0
D2	19	0.8	78.9	21.1	78.9	15.8	5.3	34.8
D3	673	26.6	79.2	20.8	64.2	34.3	1.5	29.9
D4	1,815	71.7	73.3	26.7	74.9	23.3	1.8	32.3
TOTAL	**2,531**	**100.0**	**74.9**	**25.1**	**72.3**	**26.0**	**1.7**	**31.7**

Note: Due to missing data, each category is based on different numbers: Gender, N=2,530; Race, N=2,531 and Age, N=2,531.

SB 123 Drug Treatment Offenders

Senate Bill 123, which became law in 2003, has established a non-prison sanction of certified drug abuse treatment programs for a defined target population of nonviolent adult drug offenders who are sentenced on or after November 1, 2003 with the convictions of drug crimes under K.S.A. 65-4160 or 65-4162 or 21-36a06.

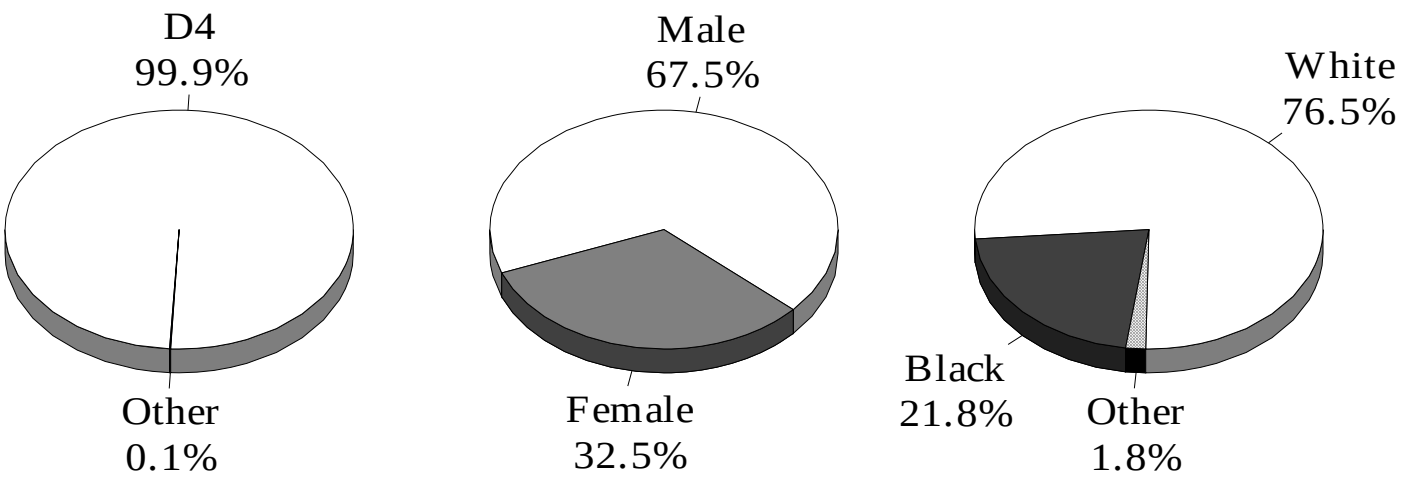
A total number of 1,062 sentences were imposed to SB 123 drug treatment programs during FY 2010, representing 42% of the total drug probation sentences (2,531), a decrease of 4.5% compared with that of FY 2009 (46.5%). Of these sentences, 77% were convicted of the crime of drug possession under K.S.A. 65-4160 (21-36a06) and 22.4% were convicted of the crime of drug possession under K.S.A. 65-4162 (21-36a06). The evaluation of the criminal history of the offenders demonstrates that 92.6% of them were in the criminal history categories from E through I, a decrease of 1.8% compared with that of FY 2009 (94.4%). This data implies that SB 123 was implemented very consistently during FY 2010.

Figure 33 presents a summary of the offenders sentenced to SB 123 treatment programs in FY 2010. The offenders at drug severity level 4 accounted for 99.9%. White males were still the majority of the treatment offenders. The average age of the drug treatment offenders was 32 years old at sentencing, which remains pretty close to those of FY 2009 and FY 2008.

Figure 34 demonstrates the distribution of SB 123 drug treatment sentences imposed in FY 2010 by county. Sedgwick County imposed the most SB 123 sentences (219) followed by Wyandotte (111), Johnson (77) and Shawnee (67) counties. No SB 123 sentences were reported from 34 counties. The average number of SB 123 sentences imposed by the 71 counties is 15, which is very close to that (16) of FY 2009.

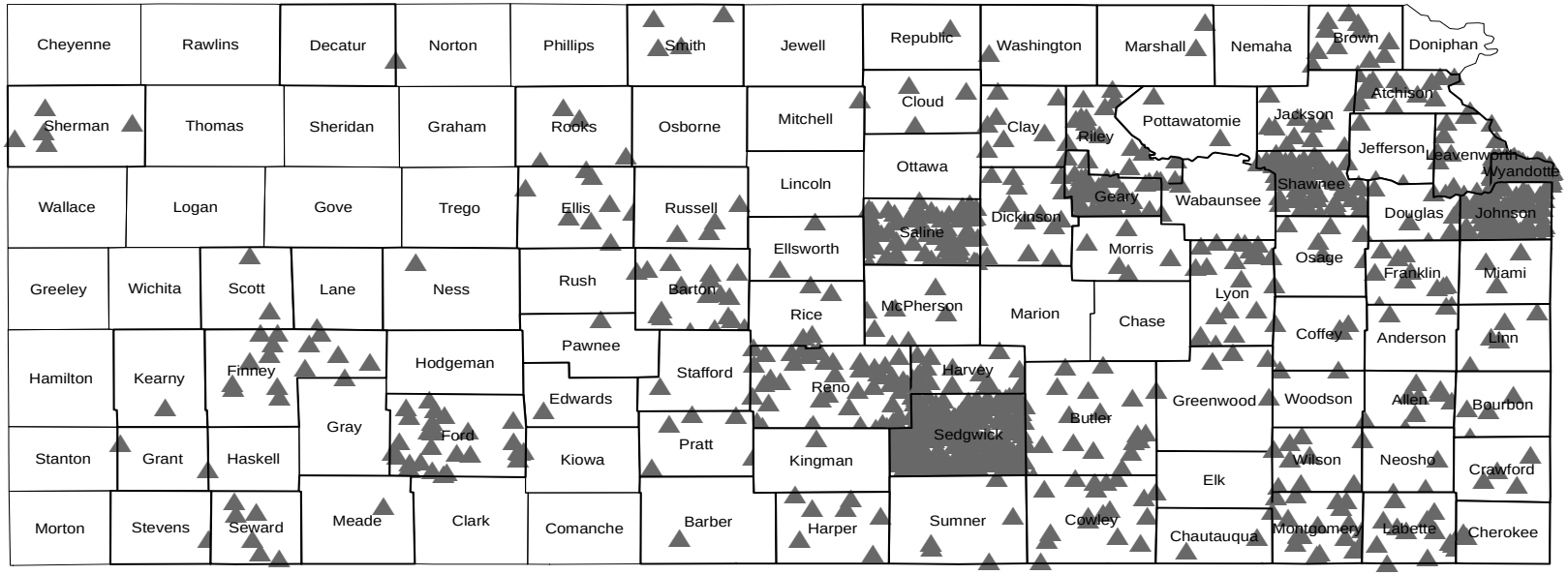
Besides, during FY 2010, 499 SB 123 drug treatment sentences were revoked. Of this number, 216 sentences were revoked to prison, representing 20.3% of SB 123 sentences imposed (1,062 sentences) in FY 2010. The average period between original sentence and revocation hearing was 15 months and the average lag time for the second revocation was 6.5 months, which is 0.3 month and 1.7 months longer respectively than those of FY 2009.

Figure 33: Distribution of FY 2010 Senate Bill 123 Drug Treatment Sentences



Note: Severity level, N=1,062; Gender, N=1,161; Race, N=1,062

Figure 34: Distribution of SB 123 Drug Treatment Sentences Imposed by County - FY 2010



Summary
Total counties=105
Total sentences=1,062
Counties w/zero=33
Minimum=1
Maximum=219
Mean=15

Criminal History and Length of Probation

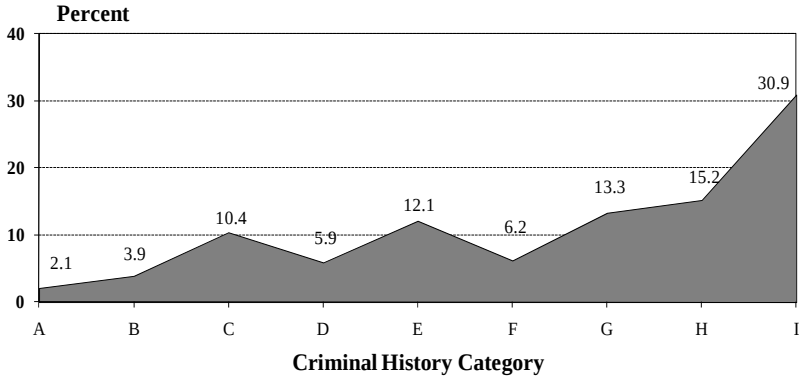
Offenders sentenced to probation with assigned criminal history categories accounted for 88.2% of all the probation sentences (7,966) reported to the Commission in FY 2010, which remains very close to that of FY 2009 (88.9%). The largest number of this group fell within criminal history category I (30.9% or 2,171 sentences), representing having no previous criminal history or one misdemeanor conviction (Figure 35). Further analysis of the offenders with criminal history category I reveals that they accounted for 30.7% of offenders on the nondrug grid and 31.2% of offenders on the drug grid.

Nondrug offenders who were within the presumptive probation boxes accounted for 84% (Table 13), while 58.9% of probation drug offenders were sentenced within the presumptive probation boxes (Table 14). In reviewing border box sentences, only 5.3% of nondrug offenders were found to be at severity level 5 with criminal history categories H and I and severity level 6 with criminal history category G, while 23.1% of drug probation sentences fell within severity level 3 with criminal history categories E to I, which are designated as border boxes (Tables 13 and 14).

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

The probation terms of probation sentences by each severity level are presented in Tables 13 and 14. The average length of probation for nondrug offenders was 17.7 months, very consistent with those of the past five years. The average length of probation for drug offenders was 15.9 months, indicating a very small change in months compared with that (15.4 months) of FY 2009.

Figure 35: Distribution of FY 2010 Probation Sentences by Criminal History
Nondrug and Drug Sentences



Based on 7,024 sentences reporting criminal history category

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

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
N1	1	0	0	0	0	1	0	0	0	0	36.0
N3	61	2	8	1	7	2	1	1	8	31	37.4
N4	18	0	3	0	1	0	0	1	2	11	36.9
N5	337	7	14	17	19	19	6	22	75	157	35.5
N6	97	3	4	6	3	2	3	6	20	50	25.1
N7	1,073	27	41	152	95	87	45	132	151	343	23.6
N8	930	20	26	105	47	167	52	121	119	273	17.7
N9	1,599	39	75	231	106	208	119	208	210	403	12.5
N10	353	5	18	41	21	47	15	48	53	105	12.7
Nongrid	964	0	3	1	2	1	3	1	5	7	13.3
Offgrid	2	0	0	0	0	0	0	1	0	1	36.0
TOTAL	**5,435**	**103**	**192**	**554**	**301**	**534**	**244**	**541**	**643**	**1,381**	**17.7**

Note: Criminal history classes are based on 4,493 cases reporting criminal history category.
Legend:

Presumptive Prison	Border Boxes	Presumptive Probation

Table 14: Criminal History and Probation Length by Severity Level – Drug Offenders

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
D1	24	1	1	3	1	7	0	4	3	4	35.0
D2	19	0	1	0	0	3	2	5	3	5	35.1
D3	673	14	17	30	27	59	42	89	105	290	18.2
D4	1,815	34	60	143	88	246	146	295	312	491	14.6
TOTAL	**2,531**	**49**	**79**	**176**	**116**	**315**	**190**	**393**	**423**	**790**	**15.9**

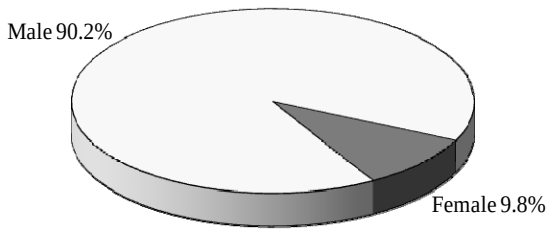
Legend:

Presumptive Prison	Border Boxes	Presumptive Probation

COUNTY JAIL SENTENCES

A total number of 878 jail sentences were reported to the Commission during FY 2010, an increase of 29 sentences or 3.4% when compared with the data of FY 2009 (849 sentences). Of this number, male offenders accounted for 90.2% and female offenders accounted for 9.8% (Figure 36).

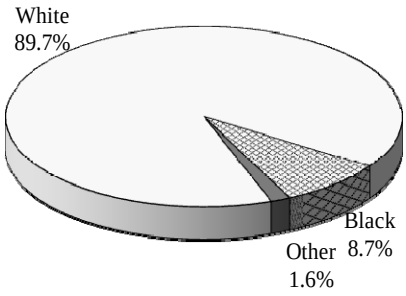
Figure 36: Distribution of FY 2010 Jail Sentences by Gender



Based on 878 county jail sentences reporting gender of offenders

White offenders represented 89.7%, black offenders represented 8.7% and other races represented 1.6% of the county jail sentences imposed in FY 2010 (Figure 37).

Figure 37: Distribution of FY 2010 Jail Sentences by Race



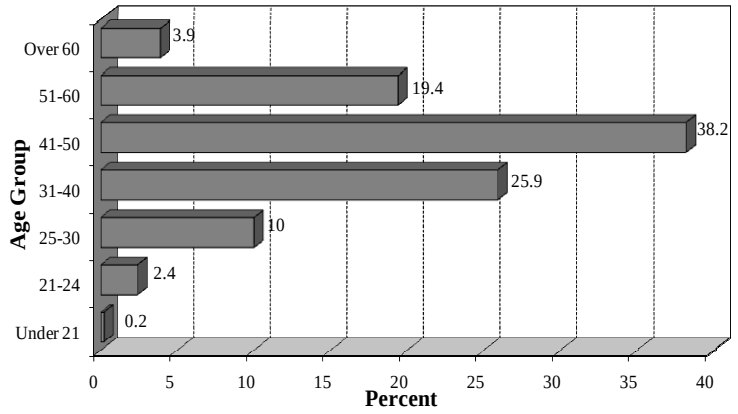
Based on 877 county jail sentences reporting race of offenders

Most offenders were in the age groups ranging from 41 to 50 years old (38.2%), which is consistent with the data observed in FY 2009. Their average age at sentencing is 43.7 years old (Figure 38).

The analysis of the sentence length reveals that the minimum jail term is 10 days, maximum jail term is 24 months and the average jail term is 8 months.

The crimes committed by the offenders sentenced to county jails during FY 2010 are demonstrated in Figure 39. Approximately 99% of the sentences were convicted of the crime of felony DUI (868 sentences), 0.3% were convicted of the crime of domestic battery (3 sentences), 0.1% were convicted of the crime of cruelty to animals (1 sentences) and 0.6% were convicted of other crimes (6 sentences). Detailed analysis on the crime of DUI is provided on Page 15 of this report.

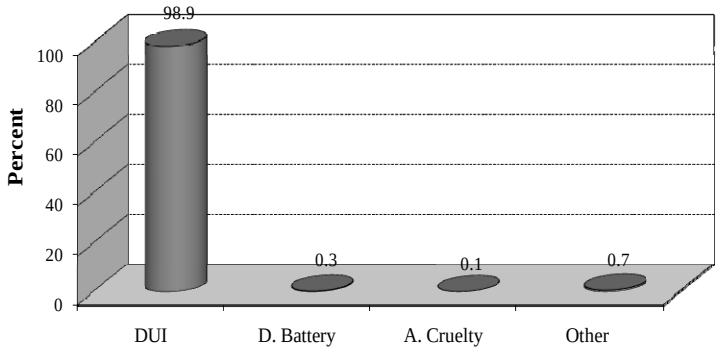
Figure 38: Distribution of FY 2010 Jail Sentences by Age of Offenders



Based on 877 county jail sentences reporting age of offenders at time of sentencing

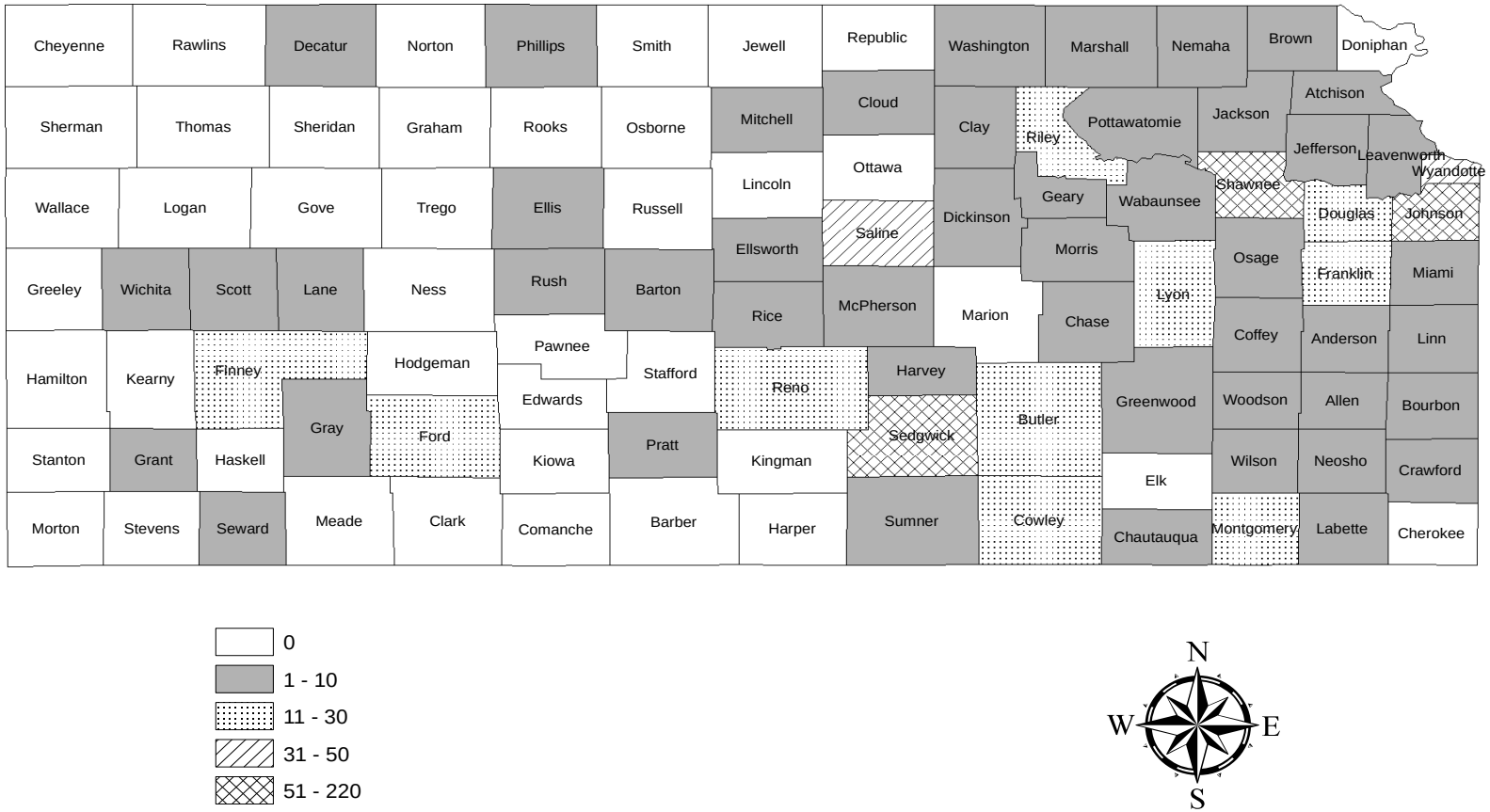
The distribution of FY 2010 jail sentences by county is displayed in Figure 40. Johnson County imposed the most jail sentences (220) representing 25.1% followed by Sedgwick County with 181 jail sentences representing 20.6% of the total county jail sentences imposed in FY 2010.

Figure 39: FY 2010 County Jail Sentences by Offense Type



Based on 878 county jail sentences.

Figure 40: FY 2010 County Jail Sentences by County



CHAPTER TWO
VIOLATORS

VIOLATIONS RESULTING IN INCARCERATION

Violators are classified in two ways. Offenders on some form of supervision who commit an offense for which they receive a new sentence are defined as “violators with new sentences.” Offenders who are on probation, parole/postrelease supervision and violate the conditions of their supervision but do not receive a new sentence are defined as "condition violators.” Both types of violations can result in revocation and subsequently, incarceration. This section presents an overview of both types of violators whose revocations resulted in incarceration. Violators with or without new convictions who continue on probation will be discussed after this section.

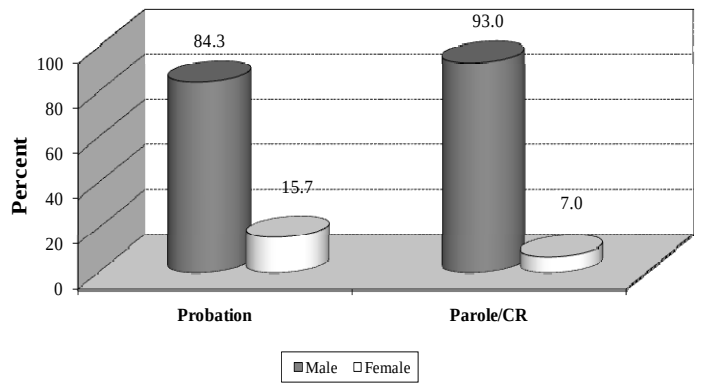
Overview of Condition Violators

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

During FY 2010, a total number of 2,801 condition violators were admitted to prison for their violation of conditions, representing 1,717 probation violators, 1,081 parole or postrelease supervision violators and 3 conditional release violators respectively.

In FY 2010, condition violators accounted for 56.4% of all admissions to prison, indicating a decrease of 1% when compared with FY 2009 (57.4%). Characteristics of condition violators by gender, race, and age are depicted in Figures 41, 42, and 43. Conditional release violators (only 3) are merged with the group of parole or postrelease supervision violators in the following analyses.

Figure 41: Distribution of FY 2010 Condition Violators by Gender

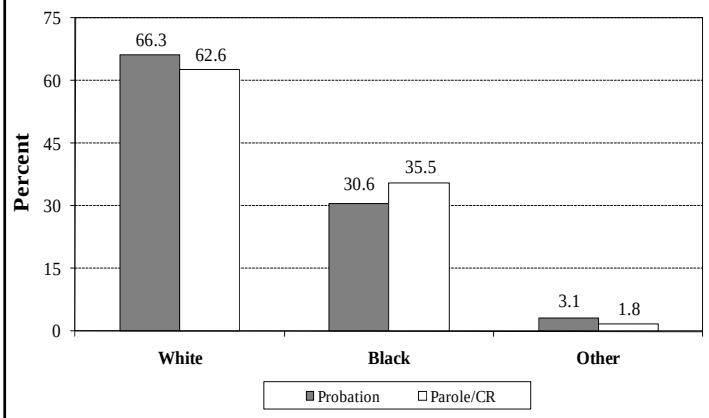


Based on 1,717 probation condition violators and 1,084 parole/conditional release condition violators

Male offenders were the majority of condition violators, representing 84.3% of probation violators and 93% of parole/conditional release violators admitted to prison in FY 2010 (Figure 41).

The highest percentage of white offenders was identified in the group of probation violators (66.3%), while black offenders represented a higher rate (35.5%) in the group of parole or postrelease supervision and conditional release violators (Figures 42).

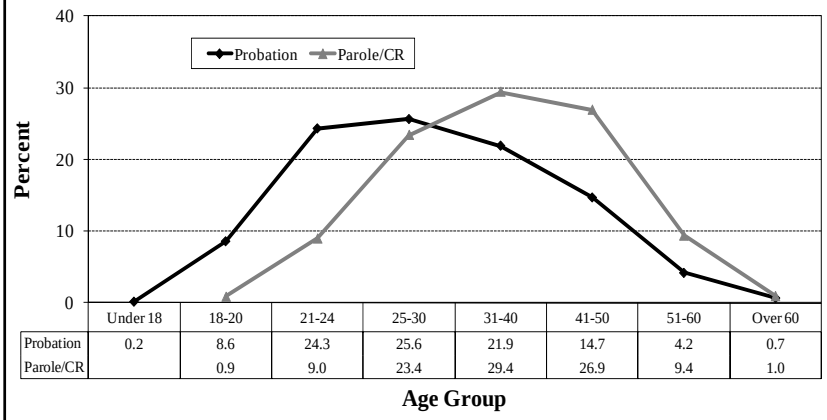
Figure 42: Distribution of FY 2010 Condition Violators by Race



Based on 1,715 probation condition violators and 1,084 parole/conditional release condition violators

Most probation violators were in the age group ranging from 25 to 30 (25.6%). The largest number of parole or postrelease supervision and conditional release violators was found in the age group of their thirties (29.4%) at the time of admission to prison (Figure 43). The distribution of age group is consistent with that of FY 2009.

Figure 43: Distribution of FY 2010 Condition Violators by Age Group

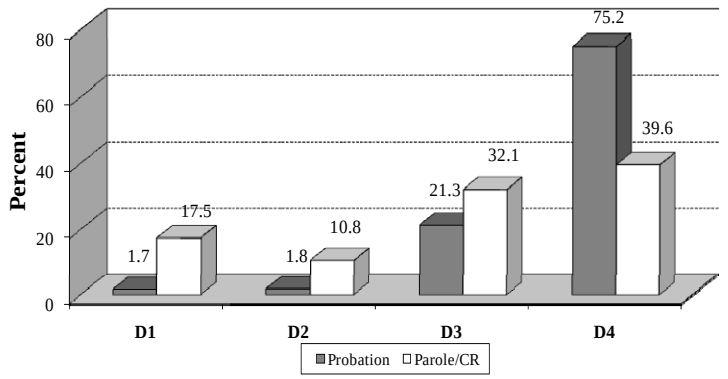


	Under 18	18-20	21-24	25-30	31-40	41-50	51-60	Over 60
Probation	0.2	8.6	24.3	25.6	21.9	14.7	4.2	0.7
Parole/CR		0.9	9.0	23.4	29.4	26.9	9.4	1.0

Based on 1,717 probation condition violators and 1,084 parole/conditional release condition violators

Figures 44 and 45 exhibit the distributions of all violators by severity level. The largest proportion of drug probation violators was identified at drug severity level 4 (75.2%, 430 offenders) and the highest percentage of drug parole/postrelease and conditional release violators was at drug severity level 4, as well, accounting for 39.6% or 106 offenders (Figure 44).

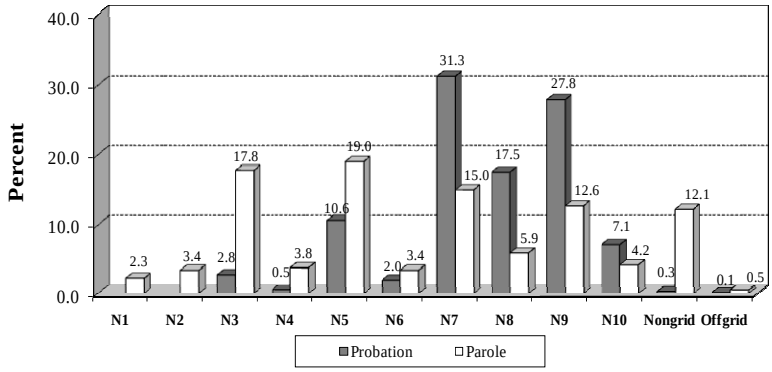
Figure 44: Distribution of FY 2010 Condition Violators by Severity Level
Drug Offenders



Based on 572 drug probation condition violators and 268 drug parole/conditional release condition violators

Nondrug probation violators represented the highest percentage at nondrug severity level 7 (31.2%, 357 offenders), which is different from that of FY 2009, while the largest numbers of nondrug parole/postrelease and conditional release violators were found at nondrug severity levels 5, representing 19% or 155 offenders of this group in FY 2010 (Figure 45).

Figure 45: Distribution of FY 2010 Condition Violators by Severity Level
Nondrug Offenders



Based on 1142 probation condition violators and 816 parole/conditional release condition violators

The characteristics of all types of condition violators are described in Table 15. The largest numbers of males were found at nondrug severity level 7 (447 sentences) and drug severity level 4 (433 sentences). However, the highest frequencies of females were at nondrug severity level 9 (57 sentences) and drug severity level 4 (103 sentences). Racial analysis of the condition violators demonstrates that drug severity level 4 represented the largest numbers of violators for both whites and blacks. White offenders accounted for 358 sentences and black offenders made up 168 sentences at drug severity level 4. As for nondrug sentences, most white violators were found at nondrug severity level 9 (276 sentences) and black offenders accounted for the largest number at nondrug severity level 7 (146 sentences). The average age of the violators was almost 34 years old at the time of admission, which is constant with that of FY 2009.

Table 15: Characteristics of Overall Violators by Severity Level, Race and Gender

Severity Level	Number of Cases	Gender		Race*			Average Age at Admission
		Male	Female	White	Black	Other	
D1	57	46	11	53	3	1	39.2
D2	39	33	6	21	17	1	37.9
D3	208	172	36	123	80	5	31.8
D4	536	433	103	358	168	9	34.2
N1	19	19	0	9	10	0	41.2
N2	28	28	0	17	10	1	40.8
N3	177	171	6	86	86	5	36.8
N4	37	37	0	22	13	2	35.9
N5	276	258	18	163	106	7	32.3
N6	51	48	3	31	18	2	31.8
N7	479	447	32	317	146	16	30.3
N8	248	198	50	167	75	6	32.6
N9	421	364	57	276	132	13	34.0
N10	115	100	15	77	35	2	34.9
Offgrid	5	5	0	1	4	0	42.7
Nongrid	102	93	9	92	7	3	45.1
Unknown	3	3	0	3	0	0	37.3
Total	**2,801**	**2,455**	**346**	**1,816**	**910**	**73**	**33.8**

* Based on 2,799 sentences reporting race of offenders.

Condition Probation Violators

During FY 2010, a total number of 1,717 condition probation violators were admitted to prison. Of this number, 66.7% (1,145) were nondrug offenders and 33.3% (572) were drug offenders. Compared with FY 2009, the admissions of condition probation violators demonstrated an increase of 17.4% or 255 violators. The characteristics of this group of violators are presented in Tables 16 and 17.

The top ten offenses committed most frequently by nondrug probation violators in FY 2010 included aggravated assault, aggravated battery, aggravated burglary, burglary, criminal threat, failure to register, fleeing or eluding LEO, forgery, robbery and theft. These ten offenses represented 72.1% of all nondrug convictions by probation violators. As the previous year, burglary and theft were the most frequently committed offenses for which there were a large number of probation violators (Table 16).

The crime of possession of drugs was the most frequently convicted offense type by drug probation violators, accounting for 72.9% of all drug offenses, while the crime of opiates or narcotics possession represented 61.9% of the total drug offenses committed by the condition probation violators admitted to prison in FY 2010 (Table 17).

The average length of lag time from the age of offense to the age of admission to prison was 2.5 years for nondrug probation violators and 2.4 years for drug probation violators. The distribution of probation violators by severity level and criminal history is exhibited in Table 18.

Table 16: Top 10 Offenses Committed by Nondrug Probation Violators

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean*	Admit Age Mean**
		Male	Female	White	Black	Other		
Aggravated Assault	57	93.0	7.0	70.2	24.6	5.3	28.8	30.9
Aggravated Battery	109	94.5	5.5	56.0	40.4	3.7	28.7	30.9
Aggravated Burglary	33	87.9	12.1	51.5	42.4	6.1	25.4	27.4
Burglary	214	93.5	6.5	76.2	20.1	3.7	25.4	27.9
Criminal Threat	43	100.0	0.0	48.8	46.5	4.7	31.2	33.3
Failure to Register	31	96.8	3.2	67.7	25.8	6.5	31.4	33.3
Fleeing or Eluding LEO	50	96.0	4.0	62.0	36.0	2.0	31.4	33.3
Forgery	98	67.3	32.7	72.2	25.8	2.1	30.3	32.6
Robbery	43	90.7	9.3	44.2	53.5	2.3	26.3	28.7
Theft	147	74.1	25.9	66.0	30.6	3.4	33.5	35.5
Subtotal	**825**	**87.3**	**12.7**	**65.5**	**30.8**	**3.6**	**29.1**	**31.3**
Other	320	86.9	13.1	68.1	28.1	3.8	27.4	30.3
TOTAL	**1145**	**87.2**	**12.8**	**66.3**	**30.1**	**3.7**	**28.6**	**31.1**

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

Table 17: Characteristics of Drug Probation Violators by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Opiates or Narcotics; Possession	354	75.4	24.6	67.1	31.2	1.7	32.0	34.5
Opiates or Narcotics; Sale 1	74	75.7	24.3	51.4	44.6	4.1	27.7	30.2
Depress, Stim, Hall; Poss 2nd	63	85.7	14.3	69.8	27.0	3.2	27.9	30.0
Depress, Stim, Hall, etc.; Sell, Poss w/Intent to Sell	48	93.8	6.2	64.6	35.4	0.0	24.4	26.9
Opiates/ Narcotics, Depress, Stim, Hall; Sale w/in 1,000 ft of School	3	100.0	0.0	33.3	66.7	0.0	24.1	27.2
Possession of Paraphernalia	13	100.0	0.0	92.3	7.7	0.0	25.1	27.4
Possession of Precursor Drugs	7	71.4	28.6	100.0	0.0	0.0	31.7	34.2
Unlawful Manufacture Controlled Substance	7	57.1	42.9	100.0	0.0	0.0	29.6	32.5
Other	3	66.7	33.3	66.7	33.3	0.0	31.9	33.3
TOTAL	**572**	**78.5**	**21.5**	**66.4**	**31.7**	**1.9**	**30.1**	**32.5**

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

Severity Level	Criminal History Category									Subtotal
	A	B	C	D	E	F	G	H	I	
D1	1	0	0	2	4	1	1	1	0	10
D2	1	0	0	1	6	0	1	0	1	10
D3	1	7	9	2	10	14	25	21	33	122
D4	13	19	49	27	65	44	68	66	79	430
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	2	3	1	1	5	0	3	6	11	32
N4	0	0	1	0	1	0	0	1	3	6
N5	6	13	15	10	9	1	11	19	37	121
N6	1	0	2	1	1	0	4	6	8	23
N7	13	24	52	40	38	20	35	61	74	357
N8	9	14	32	15	32	9	32	29	28	200
N9	15	25	52	31	48	18	34	49	46	318
N10	2	7	3	7	10	4	12	20	16	81
TOTAL	**64**	**112**	**216**	**137**	**229**	**111**	**226**	**279**	**336**	**1,710**

* Due to missing data, criminal history categories are based on 1,710 probation violators reporting criminal history.

Condition Parole/Postrelease Supervision and Conditional Release Violators

A total number of 1,084 condition parole/post-release supervision and conditional release violators were admitted to prison in FY 2010, indicating a decrease of 70 violators or 6.1% when compared with the data observed in FY 2009. The characteristics of this offender group are presented in Tables 19 and 20.

The top ten offenses most frequently committed by parole/postrelease and conditional release violators were aggravated battery, aggravated burglary, aggravated robbery, aggravated indecent liberties with a child, burglary, DUI, fleeing LEO, rape, robbery and theft, accounting for 69% of the total nondrug offenses. Male offenders represented 94.7% of this group. White offenders committed more than 65% of crimes of aggravated indecent liberties with a child, burglary, DUI and robbery, which is very consistent with the data observed in FY 2009. Blacks indicated the highest representation in aggravated robbery and rape (Table 19). Table 20 demonstrates that drug offenders of this group of violators were convicted primarily of the crimes of possession of drugs (47.4%) and sale of opiates or narcotics (26.1%), which is very consistent with that of FY 2009.

Postrelease supervision violators for the crime of DUI are subject to imprisonment if the offenders committed the crime on or after July 1, 2001. In FY 2010, 99 DUI violators were admitted to prison, a decrease of 16 violators or 13.9% when compared with those (115) in FY 2009 (Table 19). The distribution of parole/postrelease supervision and conditional release violators by severity level and criminal history is displayed in Table 21. The largest numbers of this group of violators were found at severity level 4 of the drug grid (106 offenders) and severity level 5 of the nondrug grid (145 offenders) indicating no change from those of FY 2009.

Table 19: Top 10 Offenses Committed by Parole/Postrelease/Conditional Release Nondrug Violators

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Aggravated Battery	67	92.5	7.5	55.2	41.8	3.0	29.0	34.8
Aggravated Burglary	35	97.1	2.9	65.7	34.3	0.0	28.7	35.6
Aggravated Robbery	85	94.1	5.9	36.5	60.0	3.5	26.4	38.7
Agg Indecent Liberties w/Child	50	100.0	0.0	68.0	30.0	2.0	28.3	35.9
Burglary	69	98.6	1.4	76.8	21.7	1.4	29.8	33.8
DUI	99	90.9	9.1	89.9	7.1	3.0	41.9	45.1
Fleeing or Eluding LEO	25	100.0	0.0	56.0	36.0	8.0	32.5	35.3
Rape	29	100.0	0.0	41.4	55.2	3.4	25.2	37.7
Robbery	50	88.0	12.0	68.0	32.0	0.0	28.4	35.8
Theft	54	88.9	11.1	59.3	40.7	0.0	35.0	37.8
Other	253	96.0	4.0	56.9	42.3	0.8	29.5	36.9
TOTAL	**816**	**94.7**	**5.3**	**61.6**	**36.5**	**1.8**	**30.9**	**37.5**

Table 20: Characteristics of Parole/Postrelease/Conditional Release Drug Violators by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Offense Age Mean	Admit Age Mean
		Male	Female	White	Black	Other		
Opiates or Narcotics; Poss 1	94	91.5	8.5	60.9	38.3	1.1	33.7	37.6
Opiates or Narcotics; Poss 2	16	93.8	6.3	50.0	50.0	0.0	35.4	43.4
Opiates or Narcotics; Poss 3	8	62.5	37.5	62.5	37.5	0.0	39.0	47.1
Opiates or Narcotics; Sale 1	67	80.6	19.4	55.2	41.8	3.0	29.0	36.0
Opiates or Narcotics; Sale 2/3	3	100.0	0.0	33.3	66.7	0.0	33.2	44.9
Opiates/Narcotics, Depress, Stim, Hall; Sell w/in 1,000 ft of School	11	90.9	9.1	54.5	36.4	9.1	27.1	34.0
Depress, Stim, Hall; Poss 2	9	100.0	0.0	66.7	33.3	0.0	26.7	30.3
Depress, Stim, Hall, etc.; Sell, Poss w/Intent to Sell	17	88.2	11.8	88.2	1.8	0.0	28.0	35.4
Possession of Paraphernalia	3	100.0	0.0	66.7	33.3	0.0	23.0	27.5
Possession of Precursor Drugs	11	81.8	18.2	90.9	0.0	9.1	31.1	37.7
Unlawful Manufacture Controlled Substance	29	89.7	10.3	100.0	0.0	0.0	31.9	39.3
TOTAL	**268**	**87.7**	**12.3**	**65.7**	**32.5**	**1.9**	**31.5**	**37.4**

Table 21: Distribution of Parole/Postrelease/Conditional Release Violators By Severity Level and Criminal History*

Severity Level	Criminal History Category									Subtotal
	A	B	C	D	E	F	G	H	I	
D1	3	3	10	3	9	4	8	4	3	47
D2	0	3	8	2	4	4	3	4	0	28
D3	8	6	9	1	10	9	8	12	13	76
D4	24	24	30	6	14	1	2	3	2	106
N1	1	0	3	1	0	2	1	1	3	12
N2	0	2	2	0	0	1	1	4	4	14
N3	7	2	21	11	10	7	14	11	28	111
N4	0	2	7	3	2	3	3	4	3	27
N5	12	22	26	8	12	9	14	20	22	145
N6	0	4	2	2	6	3	4	4	1	26
N7	27	30	20	8	17	4	7	4	3	120
N8	13	12	6	1	10	1	3	2	0	48
N9	30	28	13	5	18	2	3	4	0	103
N10	12	9	3	1	0	2	3	3	1	34
TOTAL	**137**	**147**	**160**	**52**	**112**	**52**	**74**	**80**	**83**	**897**

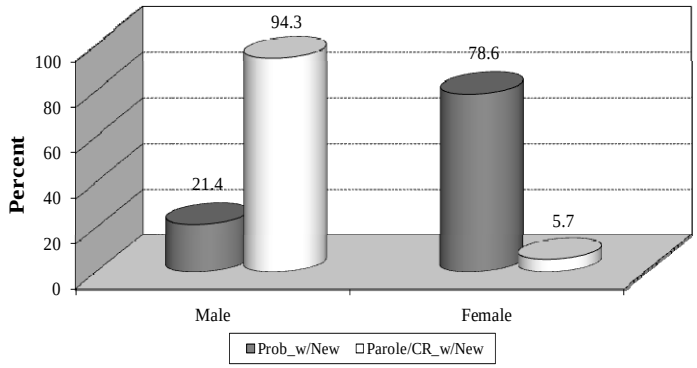
* Due to missing data, criminal history categories are based on 897 violators reporting criminal history.

Violators with New Sentences

Violators with new sentences analyzed in this section include probation, parole/postrelease and conditional release violators convicted of an offense for which they received a new sentence. This group of violators represented 4.5% (225 violators) of the total prison admissions in FY 2010, indicating an increase of 0.2% compared with the percentage (4.3%) of FY 2009. Characteristics of this group are illustrated in Figures 46, 47 and 48. Drugs (25%), forgery (16.7%) and theft (14.3%) were the major offense categories committed by probation violators with new convictions. Drugs (19.9%), burglary/aggravated burglary (17.7%) and aggravated robbery/robbery (19.1%), represented the top offenses committed by parole/postrelease/conditional release violators with new sentences. Table 22 presents the distribution of the above offenders by severity levels. The largest numbers of probation violators with new sentences were identified at nondrug severity levels 7, 8 and 9 (18, 24 and 12 violators) and drug severity level 4 (13 violators), while nondrug severity levels 3, 5 and 7 (14.9%, 22% and 17%) and drug severity levels 3 and 4 (8.5% and 7.8%) represented the highest percentages of parole/postrelease/conditional release violators with new sentences.

Figure 46 indicates that male offenders represented 94.3% of the parole/postrelease and conditional release violators with new sentences admitted to prison in FY 2010, while female offenders accounted for 78.6% of probation violators with new sentences. This gender distribution is different from that of FY 2009 (Figure 46).

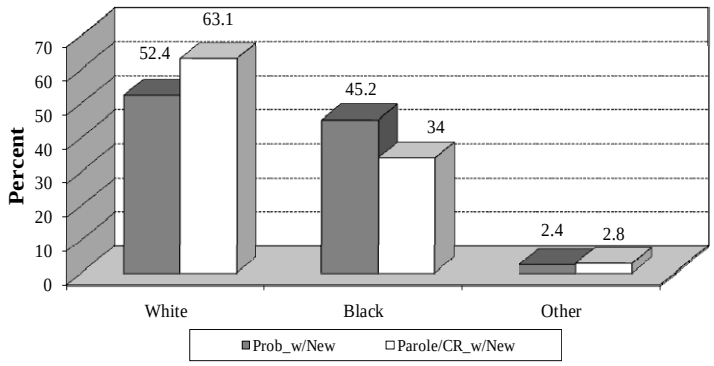
Figure 46: Distribution of FY 2010 Violators with New Sentences by Gender



Note: Probation violators w/new sentence=84; parole/conditional release condition violators w/new sentence=141

White offenders made up the largest number of the violators with new sentences, representing 52.4% of probation violators with new sentences and 63.1% of parole/postrelease and conditional release violators with new sentences. More black offenders (45.2%) were found in the group of probation violators with new sentences (Figure 47).

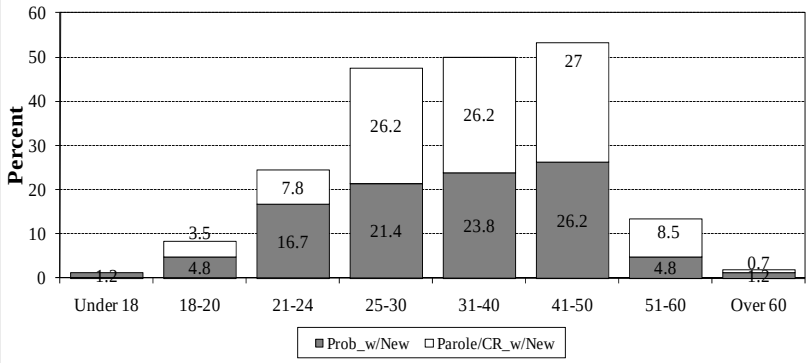
Figure 47: Distribution of FY 2010 Violators with New Sentences by Race



Note: Probation violators w/new sentence=84 and parole/conditional release violators w/new sentence=141

The highest percentage of probation violators with new sentences were in the age group from 41 to 50 (26.2%) at the time of admission to prison, which is different from that of FY 2009 (21-24 years old). However, parole or postrelease and conditional release violators with new sentences represented the largest proportion in the age groups of 25 to 30 (26.2%) and 41 to 50 (26.2%), which is different from that of FY 2009 (Figure 48).

Figure 48: Distribution of FY 2010 Violators with New Sentences by Age Group



Note: Probation violators w/new sentence=84 and parole/conditional release violators w/new sentence=141.

Table 22: Distribution of FY 2010 Violators with New Sentences By Severity Level

Severity Level	Probation		Parole/Postrelease/Conditional Release	
	Number	Percent	Number	Percent
D1	0	0.0	1	0.7
D2	1	1.2	4	2.8
D3	7	8.3	12	8.5
D4	13	15.5	11	7.8
N1	1	1.2	1	0.7
N2	0	0.0	3	2.1
N3	3	3.6	21	14.9
N4	0	0.0	6	4.3
N5	3	3.6	31	22.0
N6	0	0.0	5	3.5
N7	18	21.4	18	12.8
N8	24	28.6	3	2.1
N9	12	14.3	24	17.0
N10	1	1.2	0	0.0
Offgrid	1	1.2	0	0.0
Nongrid	0	0.0	1	0.7
TOTAL	**84**	**100.0**	**141**	**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 2010, there were 2,403 condition probation violators and 269 probation violators with new convictions who were continued or extended on probation, representing 55.5% of the total number of 4,332 condition probation violators and 35.3% of the total number of 762 probation violators with new offenses, respectively. Drugs (27.6%), burglary (12.6%), theft (11.5%), forgery (9.1%), and DUI (6.7%) were the top five offenses committed by the group of condition probation violators. Drugs (29%), burglary (14.1%), forgery (7.8%) and theft (12.3%), were the top four offenses committed by probation violators with new convictions. Most top offenses committed by both groups were the same when compared with those of FY 2009. Tables 23 and 24 present the criminal history categories by severity level for the two types of violators who were sentenced to continued or extended probation.

Table 23: Criminal History by Severity Levels of Condition Probation Violators Continuing and Extending on Probation

Severity Level	Number of Cases	Criminal History Class								
		A	B	C	D	E	F	G	H	I
D1	6	0	1	0	0	2	1	0	2	0
D2	6	1	1	0	1	1	0	0	2	0
D3	126	2	4	9	4	11	6	19	30	41
D4	526	15	14	39	32	99	58	77	80	112
N1	1	0	0	0	0	0	0	0	0	1
N2	0	0	0	0	0	0	0	0	0	0
N3	23	0	1	2	3	1	0	0	4	12
N4	13	1	1	2	1	2	2	1	1	2
N5	104	4	7	5	10	8	5	7	21	37
N6	21	1	0	0	0	1	0	3	4	12
N7	395	4	13	40	35	44	24	43	76	116
N8	357	3	9	51	18	66	28	55	62	65
N9	524	6	18	76	37	84	43	61	102	97
N10	119	3	3	11	9	17	4	18	21	33
Offgrid	1	0	0	0	0	0	0	0	0	1
Nongrid	2	0	0	0	0	0	1	0	0	1
TOTAL	**2,224**	**40**	**72**	**235**	**150**	**336**	**172**	**284**	**405**	**530**

Note: Criminal history classes are based on 2,224 cases reporting criminal history category.
Legend:

Presumptive Prison	Border Boxes	Presumptive Probation

Table 24: Criminal History by Severity Levels of Probation Violators with New Convictions Continuing and Extending on Probation

Severity Level	Number of Cases	Criminal History Class								
		A	B	C	D	E	F	G	H	I
D1	1	0	0	0	0	0	1	0	0	0
D2	4	0	0	0	0	3	1	0	0	0
D3	24	0	0	2	1	6	2	1	5	7
D4	49	0	0	3	1	9	3	12	7	14
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	2	0	0	0	0	0	0	0	1	1
N4	1	0	0	0	0	0	0	1	0	0
N5	7	0	0	0	1	1	0	1	1	3
N6	4	0	0	0	0	0	0	0	1	3
N7	59	0	0	3	8	3	5	13	14	13
N8	36	0	1	7	0	5	2	7	10	4
N9	57	2	1	7	5	5	5	11	10	11
N10	12	0	0	2	0	4	1	0	4	1
Nongrid	0	0	0	0	0	0	0	0	0	0
TOTAL	**256**	**2**	**2**	**24**	**16**	**36**	**20**	**46**	**53**	**57**

Note: Criminal history classes are based on 256 cases reporting criminal history category.
Legend:

Presumptive Prison	Border Boxes	Presumptive Probation

CHAPTER THREE
CONFORMITY TO THE SENTENCING GUIDELINES

The analysis of conformity to the sentencing guidelines involves the comparison of the actual sentence imposed to the sentence identified under the Sentencing Guidelines Act. A sentence is considered to conform to the guidelines if it falls within the range of sentence lengths for a guideline grid box at a specific designated severity level and criminal history category. A sentence that falls at the mid-point of a relative grid box is regarded as standard. A sentence that falls at either the upper end or lower end of the relative grid box is considered as an aggravated or mitigated sentence, respectively. All other sentence lengths imposed are considered to be a departure from the guidelines unless the grid box is a designated border box. A sentence length above the aggravated level is defined as "departure upward" and a sentence length less than the mitigated level is defined as "departure downward."

Departures from the designated guideline sentence can be further categorized into two types: dispositional departures and durational departures. A dispositional departure occurs when the guidelines recommend a period of incarceration or probation but the reverse type of sentence is imposed. For example, the grid box indicates a period of incarceration, but a probation sentence is imposed. Sentences imposed in "border boxes" or violations resulting from a probation sentence are not considered departures. A durational departure occurs when a sentence is pronounced but the imposed length of incarceration is either greater or less than the number of months designated by the guidelines.

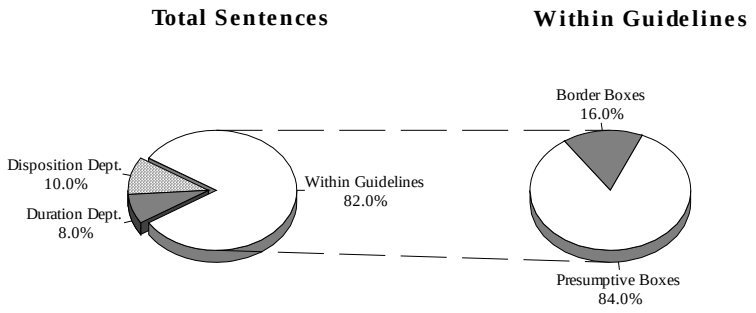
Only pure guideline sentences were utilized for this specific analysis. A pure guideline sentence is defined as a guideline sentence that is not imposed to run concurrent or consecutive with a "pre-guideline" sentence. In addition, the analysis is based on computed variables regarding departures and the consecutive sentences are excluded from this analysis. Sentences applied with special sentencing rules related to sentence disposition are excluded from this analysis, as well. The analyses on sentences applied with special sentencing rules are discussed at the end of the Chapter.

OVERALL CONFORMITY RATES

In FY 2010, a total number of 7,071 pure guideline sentences were utilized for this analysis, including 1,458 incarceration guideline sentences and 5,613 probation sentences. Figure 49 demonstrates that 82% of the 7,071 guideline sentences were within the presumptive guideline grids, 8% indicated durational departures and 10% were dispositional departures. Of all the sentences within the presumptive guideline grids, 4,870 sentences (84%) fell within either the presumptive prison boxes or presumptive probation boxes, while 928 sentences (16%) were located on designated border boxes. Figure 50 indicates that 80.7% (573 sentences) of the 710 dispositional departures were downward departures and 19.3% (137 sentences) were upward dispositional departures. Approximately

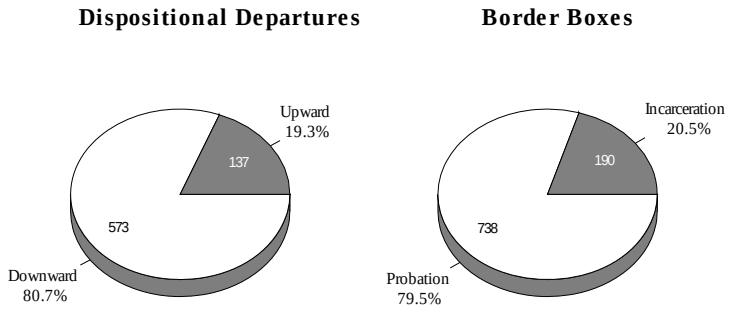
80% of the 928 border box sentences resulted in probation sentences with only 20% of this group sentenced to prison. The analysis of durational departure sentences is only applicable to presumptive prison sentences.

Figure 49: Distribution of FY 2010 Overall Guideline Sentences



Based on 1,458 prison and 5,613 probation sentences

Figure 50: Distribution of FY 2010 Dispositional Departure and Border Box Sentences



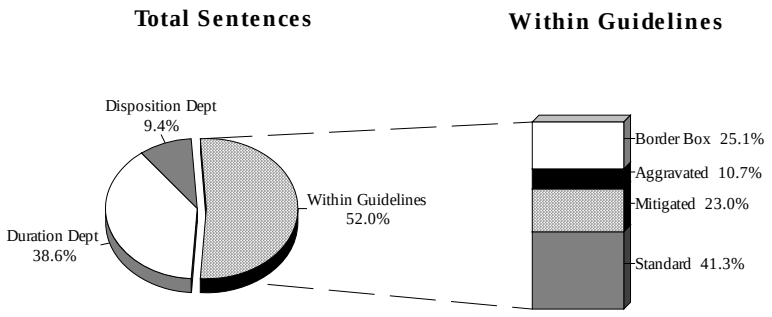
Based on 710 dispositional departures and 928 border box sentences

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 1,458 presumptive prison guideline sentences of FY 2010 were analyzed for this purpose.

Fifty-two percent of the total sentences fell within the presumptive incarceration range. Of these sentences within the guidelines, 41.3% were within the standard range, 10.7% were within the aggravated range, 23% were within the mitigated range and 25.1% were located within designated border boxes (Figure 51). This distribution of sentences remains constant compared with FY 2009.

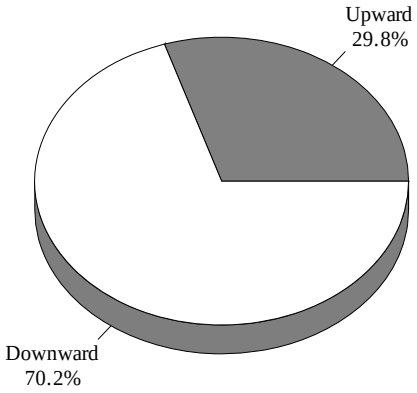
Figure 51: FY 2010 Incarceration Guideline Sentences



Based on 1,458 guideline sentences

More than 70% of the durational departure sentences departed downward from the sentence lengths indicated on the presumptive range, while 29.8% departed upward from the presumptive guideline ranges. The percentage change of the downward durational departure sentences is a 0.7% increase over that of FY 2009 (Figure 52).

Figure 52: FY 2010 Incarceration Durational Departure Sentences

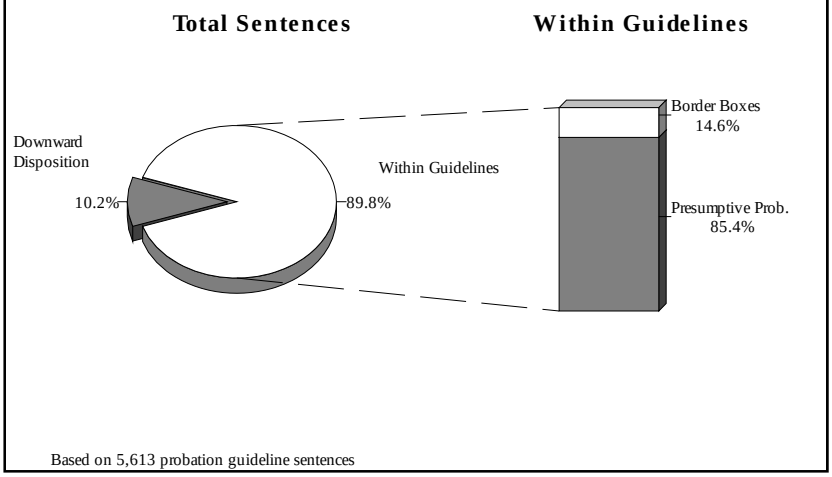


Based on 563 durational departure sentences

CONFORMITY OF PRESUMPTIVE PROBATION GUIDELINE SENTENCES

Presumptive probation guideline sentences refer to 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 in FY 2010 (89.8% or 5,040 cases) fell within the presumptive guideline range, among which 85.4% were within presumptive probation grids and 14.6% were within border boxes (Figure 53). The sentences within the presumptive guideline range (5,040) accounted for 63.3% of the total probation sentences imposed in FY 2010 (7,966), which decreased by 0.9% compared to the percentage rate of FY 2009 (64.2%). Further analysis of the dispositional departures indicates that probation sentences reflected downward dispositional departures of 10.2% of the total probation guideline sentences in FY 2010 (Figure 53). Upward dispositional departure sentences were reflected in presumptive incarceration sentences (Refer to Figure 51).

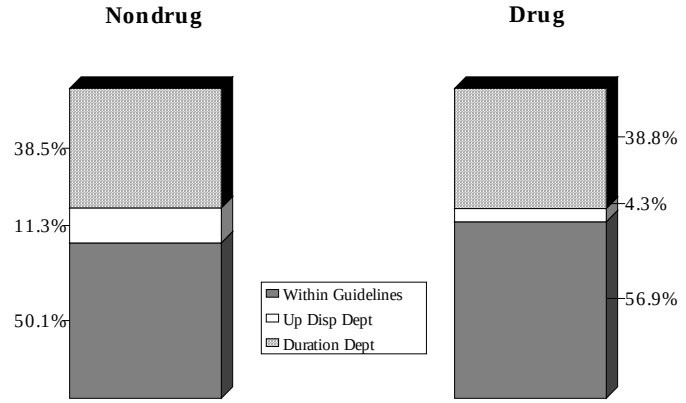
Figure 53: FY 2010 Probation Guideline Sentences



CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES

The comparative study of nondrug and drug guideline incarceration sentences reveals that 11.3% of nondrug offenders showed upward dispositional departures, while 4.3% of drug offenders indicated upward dispositional departures. Additionally, nondrug offenders represented 38.5% durational departures while drug offenders showed 38.8% durational departures (Figure 54).

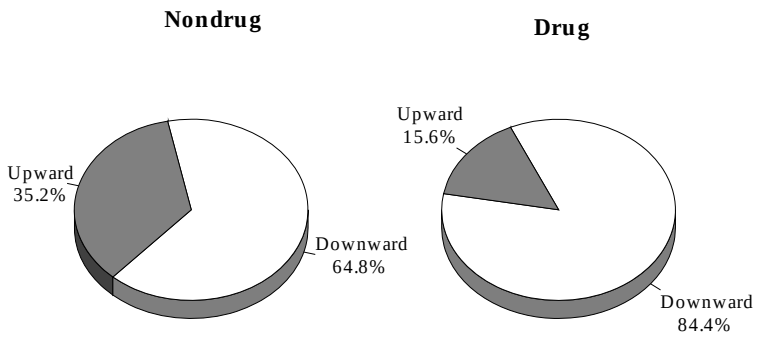
Figure 54: FY 2010 Nondrug and Drug Guideline Sentences - Incarceration



Based on 1,061 nondrug and 397 drug sentences

The examination of durational departures indicates that downward departures represented 84.4% of the total durational departures on the drug grid. However, on the nondrug grid, 64.8% of durational departures were downward (in Figure 55). The majority of the upward departures were found at severity levels 1, 2, 3 and 6 of the nondrug grid, which include the most serious offenses (Table 25).

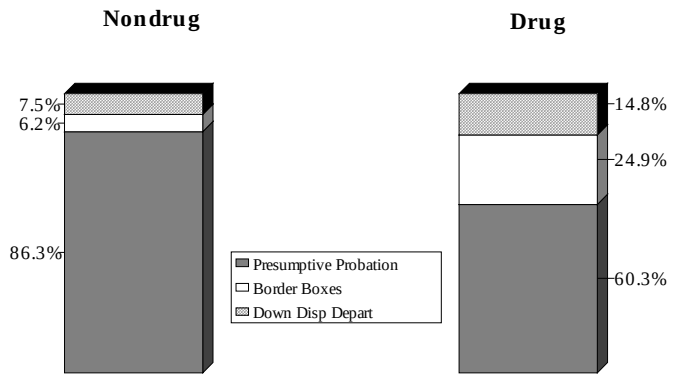
Figure 55: Comparison of Durational Departures between Nondrug and Drug Incarceration Sentences



Based on 409 nondrug and 154 drug durational departure sentences

Figure 56 presents the disparities between nondrug and drug offenders on probation, as well. Drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (14.8% vs. 7.5%). The rate of drug probation sentences resulting from border boxes was much higher than that of nondrug probation sentences (24.9% vs. 6.2%).

Figure 56: FY 2010 Nondrug and Drug Guideline Sentences - Probation



Based on 3,526 nondrug and 2,087 drug guideline sentences

The sentencing trend in Kansas seems to indicate that there is a tendency to depart downward more often with drug sentences than with nondrug sentences. The sentencing trend also indicates that drug offenders tend to be sentenced to probation sentences more frequently than do nondrug offenders when their offense types and criminal history categories are within the border boxes (Figure 56).

CONFORMITY RATES TO THE GUIDELINES BY SEVERITY LEVEL

Table 25 presents the conformity rates of incarceration sentences to the guidelines at each severity level. Drug incarceration sentences, as a whole, indicated a 17.1% standard, 1.8% aggravated, 10.6% mitigated and 27.5% border box sentence distribution. Nondrug sentences revealed a 23.1% standard, 7% aggravated, 12.4% mitigated and 7.6% border box sentence distribution. As for the departure sentences, drug sentences showed 6% upward durational departures and 32.7% downward durational departures, whereas nondrug sentences showed a 13.6% upward durational departure rate and a 25% downward durational departure rate. The highest rate of downward durational departures was identified at drug severity level 1 (86.8%) for drug incarceration sentences and nondrug severity level 3 (39.3%) for nondrug incarceration sentences. When examining dispositional departures, 11.3% of nondrug incarceration sentences were upward dispositional departures. By contrast, only 4.3% of drug incarceration sentences were upward dispositional departures. This would imply that judges are more likely to impose fewer upward dispositional sentences for drug offenders than for nondrug offenders. This finding has been supported by the data observed in the past fourteen years.

Table 25: Conformity Rates by Severity Level - Incarceration Sentences

Severity Level	N	Within Guidelines (%)				Departures (%)		
						Durational		Dispositional
		Agg.	Standard	Mit.	Box	Upward	Downward	Upward
D1	38		10.5			2.6	86.8	
D2	47	2.1	25.5	17.0		6.4	48.9	
D3	143	2.1	11.2	5.6	54.5	4.9	21.7	
D4	169	1.8	21.3	15.4	18.3	7.7	25.4	10.1
Subtotal	**397**	**1.8**	**17.1**	**10.6**	**27.5**	**6.0**	**32.7**	**4.3**
N1	76	13.2	21.1	9.2		22.4	34.2	
N2	20	20.0	15.0	15.0		25.0	25.0	
N3	201	5.0	20.9	13.9		20.9	39.3	
N4	61	8.2	31.1	13.1		18.0	29.5	
N5	254	3.5	16.1	10.6	30.7	9.4	29.5	
N6	36	8.3	16.7	5.6	8.3	30.6	22.2	8.3
N7	152	7.9	25.7	11.2		13.2	16.4	25.7
N8	68	8.8	17.6	11.8		8.8	5.9	47.1
N9	158	8.9	34.2	16.5		5.1	15.2	20.3
N10	35	2.9	37.1	17.1			2.9	40.0
Subtotal	**1,061**	**7.0**	**23.1**	**12.4**	**7.6**	**13.6**	**25.0**	**11.3**
TOTAL	**1,458**	**5.6**	**21.5**	**11.9**	**13.0**	**11.5**	**27.1**	**9.4**

The conformity rates of probation sentences to the guidelines by severity level are displayed in Table 26. Probation drug sentences indicated 14.8% downward dispositional departures, which should have been presumptive incarceration, while only 7.5% of probation nondrug sentences experienced downward dispositional departures. A significant difference also occurred within the border boxes of the grids. Drug offenders received more probation sentences than nondrug offenders did when their severity levels and criminal history categories fell within the border boxes (24.9% versus 6.2%). The comparison of probation drug and nondrug sentences reveals the same trend as indicated with incarceration sentences: the tendency is to impose more non-prison sentences for drug offenders than for nondrug offenders. This trend has been consistent in the past thirteen years.

Table 26: Conformity Rates by Severity Level - Probation Sentences

Severity Level	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	13			100.0
D2	14			100.0
D3	580		89.0	11.0
D4	1,480	85.0	0.3	14.7
Subtotal	**2,087**	**60.3**	**24.9**	**14.8**
N1	1			100.0
N2	0			
N3	45			100.0
N4	11			100.0
N5	282		75.5	24.5
N6	83	81.9	6.0	12.0
N7	883	96.0		4.0
N8	724	97.0		3.0
N9	1,228	95.0		5.0
N10	269	96.3		3.7
Subtotal	**3,526**	**86.3**	**6.2**	**7.5**
TOTAL	**5,613**	**76.6**	**13.1**	**10.2**

CONFORMITY RATES TO THE GUIDELINES BY RACE

Tables 27 and 28 present the conformity rates to the sentencing guidelines by race, respectively, for the drug and nondrug offenders admitted to prison in FY 2010. The examination of drug incarceration sentences within guidelines indicates that blacks received more standard sentences (19.7% vs. 16.6%) and mitigated sentences (17.9% vs. 7.4%) than whites. However, white offenders represented a higher percentage in border box sentences (29.2% vs. 23.9%) than black offenders. Only white offenders received aggravated sentences. When reviewing sentence departures, whites indicated a lower percentage of upward durational departures (5.2% vs. 7.7%) and a higher percentage of downward durational departures (34.3% vs. 29.9%) than black offenders, while black offenders received a much lower rate of upward dispositional departures (0.9% vs. 5.5%) than white offenders (Table 27).

The analysis of nondrug incarceration sentences demonstrates that white nondrug offenders represented higher percentages in standard sentences (24% vs. 21%), border box sentences (8.6% vs. 5.4%), upward durational departures (14.3% vs. 12.7%) and upward dispositional departures (12.3% vs. 9.2%) than black nondrug offenders. Black offenders received higher rates of mitigated sentences (17.2 % vs. 10.4%) and downward durational departure sentences (27.4% vs. 23.3%) for nondrug offenses than whites. White and black offenders received the same rate of aggravated sentences (Table 28).

Table 27: Conformity Rates by Race - Incarceration Sentences
Drug Offenders

Severity Level	Race	N	Within Guidelines (%)				Departures (%)		
							Durational		Dispositional
			Agg.	Standard	Mit.	Box	Upward	Downward	Upward
D1	White	34		8.8			2.9	88.2	
	Black	4		25.0			75.0		
	Other	0							
D2	White	37	2.7	27.0	18.9		5.4	45.9	
	Black	10		20.0	10.0		10.0	60.0	
	Other	0							
D3	White	90	3.3	11.1		62.2	4.4	18.9	
	Black	50		12.0	16.0	40.0	4.0	28.0	
	Other	3				66.7	33.3		
D4	White	110	0.9	20.0	11.8	20.9	6.4	26.4	13.6
	Black	53		26.4	22.6	15.1	11.3	22.6	1.9
	Other	6	33.3		16.7			33.3	16.7
Total	**White**	**271**	**1.8**	**16.6**	**7.4**	**29.2**	**5.2**	**34.3**	**5.5**
	Black	**117**		**19.7**	**17.9**	**23.9**	**7.7**	**29.9**	**0.9**
	Other	**9**	**22.2**		**11.1**	**22.2**	**11.1**	**22.2**	**11.1**

Note: Based on 397 drug incarceration guideline sentences reporting race of offenders.

Table 28: Conformity Rates by Race - Incarceration Sentences
Nondrug Offenders

Severity Level	Race	N	Within Guidelines (%)				Departures (%)		
							Durational		Dispositional
			Agg.	Standard	Mit.	Box	Upward	Downward	Upward
N1	White	60	11.7	21.7	6.7		21.7	38.3	
	Black	13	15.4	23.1	23.1		30.8	7.7	
	Other	2	50.0					50.0	
N2	White	14	28.6	7.1	14.3		28.6	21.4	
	Black	6		33.3	16.7		16.7	33.3	
	Other	0							
N3	White	133	7.5	24.8	12.0		19.5	36.1	
	Black	64		14.1	17.2		25.0	43.8	
	Other	4			25.0			75.0	
N4	White	46	8.7	34.8	10.9		15.2	30.4	
	Black	12	8.3	16.7	25.0		33.3	16.7	
	Other	3		33.3				66.7	
N5	White	178	4.5	16.3	8.4	33.7	11.8	25.3	
	Black	75	1.3	16.0	16.0	22.7	4.0	40.0	
	Other	1				100.0			
N6	White	27	3.7	18.5	3.7	11.1	29.6	22.2	11.1
	Black	8	25.0	12.5	12.5		37.5	12.5	
	Other	1						100.0	
N7	White	91	6.6	22.0	8.8		15.4	18.7	28.6
	Black	58	10.3	29.3	13.8		10.3	13.8	22.4
	Other	3		66.7	33.3				
N8	White	47	6.4	19.1	8.5		10.6		55.3
	Black	19	15.8	10.5	21.1		5.3	15.8	31.6
	Other	2		50.0				50.0	
N9	White	105	6.7	37.1	16.2		5.7	13.3	21.0
	Black	52	13.5	28.8	17.3		3.8	19.2	17.3
	Other	1							100.0
N10	White	28	3.6	35.7	14.3				46.4
	Black	7		42.9	28.6			14.3	14.3
	Other	0							
Total	**White**	**729**	**7.0**	**24.0**	**10.4**	**8.6**	**14.3**	**23.3**	**12.3**
	Black	**314**	**7.0**	**21.0**	**17.2**	**5.4**	**12.7**	**27.4**	**9.2**
	Other	**17**	**5.9**	**23.5**	**11.8**	**5.9**		**47.1**	**5.9**

Note: Based on 1,060 nondrug incarceration guideline sentences reporting race of offenders.

The conformity rates by race for offenders sentenced to probation during FY 2010 are exhibited in Tables 29 and 30. White offenders received more presumptive probation sentences for drug offenses than black offenders (64% vs. 49.9%) but black drug offenders indicated a higher rate of border box sentences (29% vs. 23.4%) and downward dispositional departures (21.1% vs. 12.6%) than white drug offenders (Table 29). This racial conformity-rate pattern is consistent with that of FY 2009.

The analysis of conformity rates of the probation sentences of the nondrug offenders reveals that similar to the drug sentence pattern, white nondrug offenders received more presumptive probation sentences than black nondrug offenders (87.7% vs. 82.5%), while black offenders represented a higher percentage of border box sentences (8.6% vs. 5.3%) and a little higher percentage of downward dispositional departures than white offenders for nondrug offenses (8.9% vs. 7.1%). This sentencing conformity-rate distribution by race for nondrug offenders did not fluctuate much as compared with that of FY 2009 (Table 30).

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

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	White	13			100.0
	Black	0			
	Other	0			
D2	White	10			100.0
	Black	3			100.0
	Other	1			100.0
D3	White	380		92.4	7.6
	Black	190		81.6	18.4
	Other	10		100.0	
D4	White	1,108	87.3	0.3	12.5
	Black	342	78.1		21.9
	Other	30	80.0	3.3	16.7
Total	**White**	**1,511**	**64.0**	**23.4**	**12.6**
	Black	**535**	**49.9**	**29.0**	**21.1**
	Other	**41**	**58.5**	**26.8**	**14.6**

Note: Based on 2,087 drug probation sentences reporting race of offenders.

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

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	White	0			
	Black	1			100.0
	Other	0			
N2	White	0			
	Black	0			
	Other	0			
N3	White	29			100.0
	Black	16			100.0
	Other	0			
N4	White	5			100.0
	Black	5			100.0
	Other	1			100.0
N5	White	185		73.0	27.0
	Black	87		80.5	19.5
	Other	10		80.0	20.0
N6	White	69	84.1	4.3	11.6
	Black	14	71.4	14.3	14.3
	Other	0			
N7	White	655	95.9		4.1
	Black	208	96.2		3.8
	Other	18	100.0		
N8	White	530	98.1		1.9
	Black	177	93.8	6.2	
	Other	17	94.1	5.9	
N9	White	948	95.0		5.0
	Black	262	95.0		5.0
	Other	18	94.4		5.6
N10	White	200	95.5		4.5
	Black	66	98.5		1.5
	Other	3	100.0		
Total	**White**	**2,621**	**87.7**	**5.3**	**7.1**
	Black	**836**	**82.5**	**8.6**	**8.9**
	Other	**67**	**80.6**	**11.9**	**7.5**

Note: Based on 3,524 nondrug probation sentences reporting race of offenders.

CONFORMITY RATES TO THE GUIDELINES BY GENDER

This section discusses the conformity rates to the sentencing guidelines between male and female offenders admitted to prison in FY 2010. Male drug offenders represented higher rates in standard sentences (18% vs. 8.6%) and mitigated sentences (11% vs. 5.7%). All aggravated sentences were committed by males. While females received more border box sentences for drug crimes than males (31.4% vs. 27.1%). The examination of departure sentences demonstrates that only male drug offenders received upward durational departures (6.6%), while female drug offenders represented a higher rate in downward durational departures (48.6% vs. 31.2%) and upward dispositional departures (5.7% vs. 4.1%) than their counterparts (Table 31).

The evaluation of nondrug incarceration sentences reveals that within guidelines, females represented a higher percentage than males in aggravated sentences (9% vs. 6.8%), which is different from the data observed in FY 2009. Male nondrug offenders received more standard sentences (23.1% vs. 22.4%), mitigated sentences (12.6% vs. 10.4%) and border box sentences than female nondrug offenders (7.9% vs. 3%). The analysis of departure sentences demonstrates that male nondrug offenders stood for the higher rate of upward durational departure sentences (13.8% vs. 10.4%) than females. However, females represented a higher percentage in downward durational departures (25.4% vs. 24.9%) and upward dispositional departures (19.4% vs. 10.8%) than their counterparts, which is different with the findings of FY 2009 (Table 32).

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

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
							Durational		Dispositional
			Agg	Standard	Mit.	Box	Upward	Downward	Upward
D1	Male	33		12.1			3.0	84.8	
	Female	5						100.0	
D2	Male	41	2.4	24.4	19.5		7.3	46.3	
	Female	6		33.3				66.7	
D3	Male	133	2.3	11.3	6.0	53.4	5.3	21.8	
	Female	10		10.0		70.0		20.0	
D4	Male	155	1.9	23.2	15.5	17.4	8.4	23.9	9.7
	Female	14			14.3	28.6		42.9	14.3
Total	**Male**	**362**	**1.9**	**18.0**	**11.0**	**27.1**	**6.6**	**31.2**	**4.1**
	Female	**35**		**8.6**	**5.7**	**31.4**	**0**	**48.6**	**5.7**

Note: Based on 397 drug incarceration guideline sentences.

Table 32: Conformity Rates by Gender - Incarceration Sentences
Nondrug Offenders

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
							Durational		Dispositional
			Agg.	Standard	Mit.	Box	Upward	Downward	Upward
N1	Male	74	13.5	21.6	9.5		21.6	33.8	
	Female	2					50.0	50.0	
N2	Male	15	20.0	13.3	13.3		26.7	26.7	
	Female	5	20.0	20.0	20.0		20.0	20.0	
N3	Male	188	3.7	20.7	13.3		21.3	41.0	
	Female	13	23.1	23.1	23.1		15.4	15.4	
N4	Male	57	8.8	31.6	14.0		19.3	26.3	
	Female	4		25.0				75.0	
N5	Male	237	3.4	15.2	10.1	32.1	9.7	29.5	
	Female	17	5.9	29.4	17.6	11.8	5.9	29.4	
N6	Male	32	6.3	18.8	6.3	9.4	34.4	18.8	6.2
	Female	4	25.0					50.0	25.0
N7	Male	147	8.2	26.5	11.6		12.2	17.0	24.5
	Female	5					40.0		60.0
N8	Male	62	9.7	17.7	12.9		9.7	6.5	43.5
	Female	6		16.7					83.3
N9	Male	151	9.3	33.8	17.2		5.3	14.6	19.9
	Female	7		42.9				28.6	28.6
N10	Male	31	3.2	38.7	19.4				38.7
	Female	4		25.0				25.0	50.0
Total	**Male**	**994**	**6.8**	**23.1**	**12.6**	**7.9**	**13.8**	**24.9**	**10.8**
	Female	**67**	**9.0**	**22.4**	**10.4**	**3.0**	**10.4**	**25.4**	**19.4**

Note: Based on 1,061 nondrug incarceration guideline sentences.

The conformity rates of the probation sentences by gender are demonstrated in Tables 33 and 34. The analyses of the offenders on probation show that females on both drug and nondrug grids received less downward dispositional departures than males (7.8% vs. 17.3%), (Table 33); (3.4% vs. 8.8%), (Table 34). This finding indicates that except for incarceration drug sentences in FY 2003 and FY 2009, females were more likely to be incarcerated than males when both upward and downward dispositional departures were compared for incarceration and probation sentences. Females had a higher likelihood of an upward dispositional departure to prison even when their offenses were designated within the presumptive probation portion of the grid (Tables 31 and 32). Females were less likely to receive a downward dispositional departure to probation if their sentences fell within a presumptive prison box (Tables 33 and 34). The above findings continue the trend that was present in the past fourteen years (Annual Reports of FY 1996, FY 1997, FY 1998, FY 1999, FY 2000, FY 2001, FY 2002, FY 2003, FY 2004, FY 2005, FY 2006, FY 2007 FY 2008 and FY 2009).

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

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	Male	9			100.0
	Female	4			100.0
D2	Male	11			100.0
	Female	3			100.0
D3	Male	454		87.2	12.8
	Female	126		95.2	4.8
D4	Male	1,064	82.0	0.4	17.7
	Female	416	92.8		7.2
Total	**Male**	**1,538**	**56.7**	**26.0**	**17.3**
	Female	**549**	**70.3**	**21.9**	**7.8**

Note: Based on 2,087 drug probation sentences reporting gender of offenders.

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

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	Male	1			100.0
	Female	0			
N2	Male	0			
	Female	0			
N3	Male	39			100.0
	Female	6			100.0
N4	Male	10			100.0
	Female	1			100.0
N5	Male	234		76.1	23.9
	Female	48		72.9	27.1
N6	Male	66	78.8	6.1	15.2
	Female	17	94.1	5.9	
N7	Male	776	95.6		4.4
	Female	105	99.0		1.0
N8	Male	446	96.2		3.8
	Female	278	98.2		1.8
N9	Male	928	93.6		6.4
	Female	299	99.3		0.7
N10	Male	190	94.7		5.3
	Female	79	100.0		
Total	**Male**	**2,690**	**84.5**	**6.8**	**8.8**
	Female	**833**	**92.3**	**4.3**	**3.4**

Note: Based on 3,523 nondrug probation sentences reporting gender of offenders.

SPECIAL SENTENCING RULES

Special sentencing rules provide special treatment of certain crimes and sanctions. These special rules establish policies for the determination of criminal history and the imposition and computation of sentences in atypical situations which are not otherwise addressed by the sentencing guidelines. In addition, these special rules serve to assign appropriate severity rankings to crimes that are in some significant respect unusual and therefore not readily amenable to the standardized treatment afforded by the grids.

There were small numbers of special sentencing rules at the initial years of implementation of the guidelines, such as five special rules in 1994 and 1995. With the modification of sentencing guidelines and amendments of sentencing policies in each legislative year, the number of special sentencing rules has increased. As of the 2010 Legislative Session, thirty special sentencing rules have been established or amended. The most frequently applied special sentencing rules in the past five years were: person felony committed with a firearm; crime committed while incarcerated or on probation, parole, etc. and crime committed while on felony bond.

Since 2006, SB 123 mandatory drug treatment has not been considered as a special sentencing rule. Therefore it is excluded in the following analyses. Tables 35 and 36 present numbers and percentages of sentencing practice with special sentencing rules in the past five years. The percentage of offenders admitted to prison with special sentencing rules increased from 28.9% in FY 2006 to 33.6% in FY 2010. FY 2010 indicated the highest number (550 admissions) or percentage (33.6%) of special sentencing rules applied to prison sentences in the past five years. The percentage of probation sentences imposed with special sentencing rules accounted for 8.3% in FY 2006 and increased to 11.6% in FY 2010 (Table 35). The total percentage of both prison and probation sentences applied with special rules increased from 12.4% in FY 2006 to 16.5% in FY 2010 (Table 36).

During FY 2010, a number of 550 pure guideline prison sentences and 664 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 33.6% of prison pure guideline admissions (1,636 admissions) and 11.6% of pure guideline probation sentences (5,730) imposed in FY 2010 (Tables 35).

In FY 2010, the top three special sentencing rules applied to prison sentences in sentencing practice were “person felony committed with a firearm” (127 sentences) representing 23.1% of 550 prison sentences applied with special sentencing rules; “crime committed while incarcerated or on probation, parole, etc.” (289 sentences) representing 52.5%; and “crime committed while on felony bond” (82 sentences) making up 14.9% of prison admissions with special sentencing rules during FY 2010 (Table 37).

These three special sentencing rules were applied most frequently to probation sentences imposed in FY 2010, as well. The special rule of “person felony committed with a firearm” (77 sentences) accounted for 11.6% of the total 664 probation sentences applied with special sentencing rules, “crime committed while incarcerated or on probation, parole, etc.” (265 sentences) accounted for 39.9% and “crime committed while on felony bond” (153 sentences) accounted for 23% (Table 38).

Table 35: Pure Guideline Sentences Applied with Special Sentencing Rules
By Prison and Probation
FY 2006 through FY 2010

Fiscal Year	Prison Admissions			Probation Sentences		
	Guideline	with Special Rules		Guideline	with Special Rules	
		Number	Percent		Number	Percent
2006	1448	418	28.9	5936	494	8.3
2007	1459	428	29.3	5802	538	9.3
2008	1316	352	26.7	6009	602	10.0
2009	1491	440	29.5	5782	696	12.0
2010	1636	550	33.6	5730	664	11.6

Table 36: Pure Guideline Sentences Applied with Special Sentencing Rules
By Total Sentences
FY 2006 through FY 2010

Fiscal Year	Guideline	with Special Rules	
		Number	Percent
2006	7384	912	12.4
2007	7261	966	13.3
2008	7325	954	13.0
2009	7273	1136	15.6
2010	7366	1214	16.5

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

Table 37: Distribution of Special Sentencing Rules Applied To Prison Sentences – FY 2010

Special Rules Applied to Sentences	Number	Percent
Person felony committed with a firearm	127	23.1
Aggravated battery of a LEO	1	0.2
Aggravated assault of a LEO	8	1.5
Crime committed for benefit of a criminal street gang	3	0.5
Persistent sex offender	9	1.6
Crime committed while incarcerated or on probation, parole, etc.	289	52.5
Crime committed while on felony bond	82	14.9
Extended juvenile jurisdiction imposed	5	0.9
2nd /subsequent manufacture controlled substance	1	0.2
Residential burglary with a prior residential, nonresidential or aggravated burglary conviction	21	3.8
Second forgery	1	0.2
Third or subsequent forgery	3	0.5
Violation of Kansas Security Act	1	0.2
Third or subsequent drug possession	8	1.5
Burglary with 2 or more prior theft, burglary, aggravated burglary	31	5.6
Theft with 3 or more prior theft, burglary, aggravated burglary	20	3.6
Crime committed while incarcerated in a Juvenile correctional facility	2	0.4

Note: The number and percentage are mutually exclusive.

Table 38: Distribution of Special Sentencing Rules Applied To Probation Sentences – FY 2010

Special Rules Applied to Sentences	Number	Percent
Person felony committed with a firearm	77	11.6
Aggravated assault of a LEO	15	2.3
Crime committed for benefit of a criminal street gang	3	0.5
Persistent sex offender	2	0.3
Crime committed while incarcerated or on probation, parole, etc.	265	39.9
Crime committed while on felony bond	153	23.0
Extended juvenile jurisdiction imposed	9	1.4
Residential burglary with a prior residential, nonresidential or aggravated burglary conviction	15	2.3
Second forgery	35	5.3
Third or subsequent forgery	56	8.4
Third or subsequent drug possession	15	2.3
Burglary with 2 prior burglary convictions	29	4.4
Crime committed while incarcerated in a juvenile correction (felony)	1	0.2
Theft with 3 or more prior felony theft, burglary, aggravated burglary	17	2.6
KDOC intensive treatment program	1	0.2
Other	24	3.6

Note: The number and percentage are mutually exclusive.

CHAPTER FOUR
SENTENCING TRENDS AND FORECAST

INCARCERATION SENTENCES

From FY 2006 to FY 2009, the numbers of incarceration sentences declined. However the number of admissions in FY 2010 increased by 405 or 8.9% compared with that of FY 2009 but decreased by 643 offenders or 11.5% compared with that of FY 2006 (Figure 57). Table 39 displays the prison admission patterns by month in the past five years.

Figure 57: Incarceration Sentences
FY 2006 through FY 2010

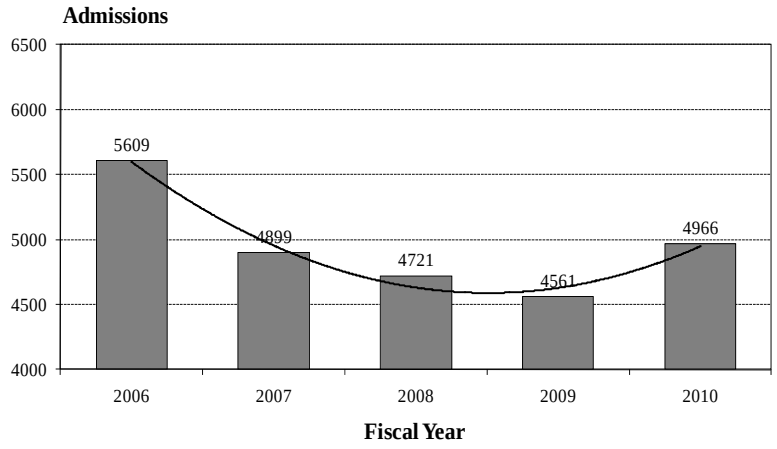


Table 39: Prison Admissions by Month

Month by Fiscal Year	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
July	407	417	436	417	450
August	570	420	422	308	384
September	534	390	362	398	412
October	473	448	451	366	415
November	473	375	392	345	384
December	459	354	312	364	423
January	461	442	431	359	352
February	443	355	371	361	405
March	472	422	385	451	497
April	409	397	380	408	432
May	492	502	395	333	362
June	416	377	384	451	450
Total	**5,609**	**4,899**	**4,721**	**4,561**	**4,966**

The trend of admissions to prison by type in the past five years is presented in Table 40. Consistent with the declining tendency of total admission, admissions of different types of offenders decreased in FY 2010 except new court commitments and a small number of other types. The admission number of new court commitments in FY 2010 increased by 10.7% compared with FY 2009 and by 18.5% compared with FY 2006. FY 2010 represents the highest number of admissions of new court commitments in the past five years. The number of probation condition violators admitted to prison in FY 2010 increased by 17.4% over that of FY 2009 but decreased by 15.8% from that of FY 2006. Probation violators with new sentences admitted to prison in FY 2010 decreased by 5.6% compared with FY 2009 and significantly decreased by 40.8% compared with FY 2006. The number of parole/postrelease and conditional release violators admitted to prison in FY 2010 greatly decreased by 33.9% compared with that of FY 2006 and decreased by 6.1% compared with that of FY 2009. The number of parole/post-release/condition release violators with new sentences in FY 2010 decreased by 16.1% from that of FY 2006.

Table 40: Comparison of Prison Admissions by Type

Admission Type	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2010-2006 % Difference
New Court Commitment	1,610	1,605	1,498	1,724	1,908	18.5%
Probation Condition Violator	2,038	1,750	1,624	1,462	1,717	-15.8%
Probation Violator with New Sentence	142	99	156	89	84	-40.8%
Parole/Postrelease/CR Condition Violator	1,641	1,239	1,268	1,154	1,084	-33.9%
Parole/Postrelease/CR Violator with New Sentence	168	190	156	109	141	-16.1%
Other Types*	10	16	19	23	32	220.0%
Total	**5,609**	**4,899**	**4,721**	**4,561**	**4,561**	-11.5%

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

The admission trend of incarceration drug sentences by severity level in the past five years is exhibited in Table 41. In FY 2010, admissions at all drug levels indicated a decrease from those of FY 2006. The overall admissions of drug offenders in FY 2010 decreased by 19.1% compared with that of FY 2006. The largest decrease in the past five years was identified at drug severity level 1 by 50.8%, followed by drug severity level 2 by 31.6% and severity level 3 by 20.5%. The number of drug severity level 4 dropped by 8.4% compared with FY 2006. When compared with FY 2009, the total number of drug offenders admitted to prison in FY 2010 increased by 10.6%. The numbers at drug levels 3 and 4 increased by 11.5% and 15.2% respectively. No number change was found at drug severity level 2 but drug offenders admitted at severity level 1 decreased by 10.9%.

Table 42 demonstrates the admission trend of nondrug offenders in the past five years. The total number of nondrug admissions increased by 8.3% compared with FY 2009 but decreased by 8.3% from that of FY 2006. The most notable decrease of nondrug

admissions in the past five years were identified at the severity levels containing offenders with the most serious crimes: level 2 with a decrease of 36.9%, level 3 with a decrease of 16.5% and level 6 with a decrease of 30.6%. Certain fluctuations were also identified in the numbers of sentences at lower nondrug severity levels from FY 2006 to FY 2010 with a decrease of 12.8% at level 8, a decrease of 14.9% at level 9, and a decrease of 29.4% at level 10. Nongrid offenders admitted to prison in FY 2010 were all violators under the crime of DUI (106 offenders), demonstrating a decrease of 20.9% compared with FY 2006 and a decrease of 12.4% compared with FY 2009 (Table 42).

In FY 2010, numbers at all nondrug severity levels dropped except for admissions at nondrug severity levels 1, 5 and offgrid when compared with those of FY 2006. The admissions at nondrug severity levels 1 and 5 increased by 4% and 8.2% respectively compared with FY 2006. As projected, offgrid sentences increased significantly by 197.4% or 75 admissions compared with FY 2006 and by 8.7% or 9 admissions compared with FY 2009. This increasing trend results from Jessica's Law passed in the 2006 Legislative Session (Table 42).

Table 41: Comparison of Drug Prison Admissions by Severity Level

Severity Level	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2010-2009 % Difference	FY 2010-2006 % Difference
D1	199	149	115	110	98	**-10.9%**	**-50.8%**
D2	136	91	99	93	93	**0.0%**	**-31.6%**
D3	487	438	367	347	387	**11.5%**	**-20.5%**
D4	820	841	726	652	751	**15.2%**	**-8.4%**
Total	**1,642**	**1,519**	**1,307**	**1,202**	**1,329**	**10.6%**	**-19.1%**

Table 42: Comparison of Nondrug Prison Admissions by Severity Level

Severity Level	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2010-2009 % Difference	FY 2010-2006 % Difference
N1	101	86	113	97	105	**8.2%**	**4.0%**
N2	84	70	59	46	53	**15.2%**	**-36.9%**
N3	503	391	404	387	420	**8.5%**	**-16.5%**
N4	125	99	99	123	113	**-8.1%**	**-9.6%**
N5	551	513	533	532	596	**12.0%**	**8.2%**
N6	147	120	126	116	102	**-12.1%**	**-30.6%**
N7	792	675	690	665	790	**18.8%**	**-0.3%**
N8	445	396	349	355	388	**9.3%**	**-12.8%**
N9	804	662	635	622	684	**10.0%**	**-14.9%**
N10	228	215	220	187	161	**-13.9%**	**-29.4%**
Offgrid	38	33	75	104	113	**8.7%**	**197.4%**
Nongrid	134	108	109	121	106	**-12.4%**	**-20.9%**
Unknown	15	12	2	4	6	**50.0%**	**-60.0%**
Total	**3,967**	**3,380**	**3,414**	**3,359**	**3,637**	**8.3%**	**-8.3%**

PROBATION SENTENCES

The trend analysis of probation sentences in the past five years is demonstrated in Figure 58. The number of probation sentences in FY 2010 decreased by 0.3% or by 25 sentences compared with that of FY 2009 but increased by 1.5% or by 119 sentences compared with that of FY 2006. The largest number of probation sentences imposed in the past five years is identified in FY 2008.

Figure 58: Probation Sentences
FY 2006 through FY 2010

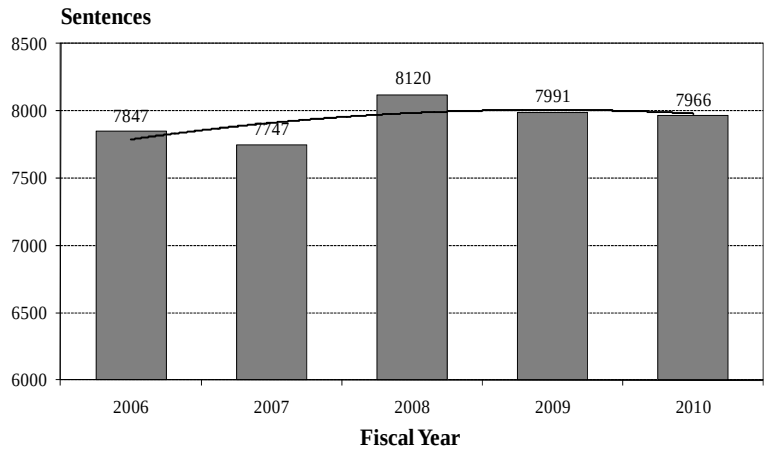


Table 43 presents the sentencing trend of drug probation sentences by severity level in the past five years. Compared with FY 2009, the analysis shows that drug probation sentences at all levels in FY 2010 decreased except at drug severity level 3 with an increase of 21.9%. The largest percentage decrease of probation sentences for drug offenses was at drug severity level 2, by a decrease of 44.1%. However, the total number of drug probation sentences in FY 2010 increased by 0.7% over that of FY 2009. When compared with FY 2006, drug probation sentences decreased by 61.9% at severity level 1, decreased by 17.3% at severity level 4, but the numbers of drug probation sentences at severity levels 2 and 3 increased by 5.6% and 18.1% respectively. The total number of drug probation sentences in FY 2010 decreased by 11.1% from that of FY 2006.

The sentencing trend of nondrug probation sentences in the past five years is displayed in Table 44. The total number of nondrug probation sentences in FY 2010 decreased by 0.8% from that of FY 2009 but increased by 8.7% over that of FY 2006. The largest increase of nondrug probation sentences in the past five years were found at nondrug severity level 3 (an increase of 84.8%) followed by nondrug severity level 5 (an increase of 59.7%) compared with the data observed in FY 2006. The greatest decrease of nondrug probations sentences were identified at nondrug severity level 1 (a decrease of 75%) and followed by nondrug severity level 10 (a decrease of 16.4%). Two offenders at offgrid convicted under Jessica's Law were downward departure to guidelines and sentenced to probation, whose offense dates are before July 1, 2008.

Table 43: Comparison of Probation Drug Sentences by Severity Level FY 2006 through FY 2010

Severity Level	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2010-2009 % Difference	FY 2010-2006 % Difference
D1	63	33	20	25	24	**-4.0%**	**-61.9%**
D2	18	18	31	34	19	**-44.1%**	**5.6%**
D3	570	542	550	552	673	**21.9%**	**18.1%**
D4	2,196	2,091	2,149	1,903	1,815	**-4.6%**	**-17.3%**
Total	**2,847**	**2,684**	**2,750**	**2,514**	**2,531**	**0.7%**	**-11.1%**

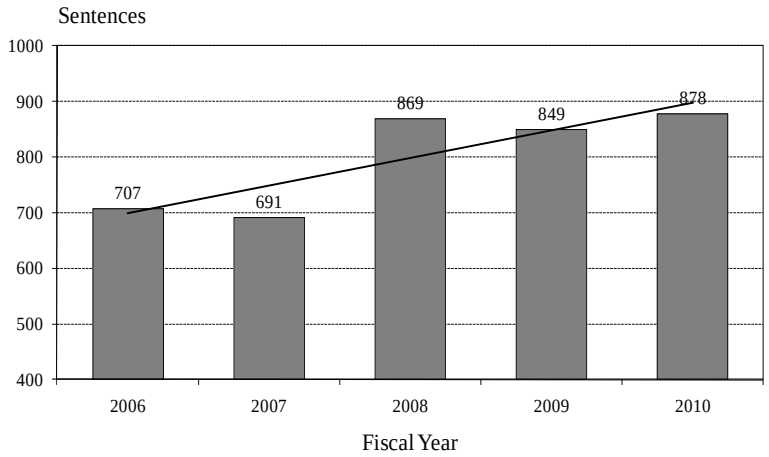
Table 44: Comparison of Probation Nondrug Sentences by Severity Level FY 2006 through FY 2010

Severity Level	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2010-2009 % Difference	FY 2010-2006 % Difference
N1	4	4	4	3	1	**-66.7%**	**-75.0%**
N2	2	1	1	1	0	**N/A**	**N/A**
N3	33	49	47	55	61	**10.9%**	**84.8%**
N4	17	15	24	18	18	**0.0%**	**5.9%**
N5	211	236	295	321	337	**5.0%**	**59.7%**
N6	95	68	88	92	97	**5.4%**	**2.1%**
N7	997	1,013	1,067	1,047	1,073	**2.5%**	**7.6%**
N8	879	972	907	927	930	**0.3%**	**5.8%**
N9	1,534	1,479	1,671	1,654	1,599	**-3.3%**	**4.2%**
N10	422	420	414	448	353	**-21.2%**	**-16.4%**
Offgrid	0	0	3	2	2	**0.0%**	**N/A**
Nongrid	806	806	849	909	964	**6.1%**	**19.6%**
Total	**5,000**	**5,063**	**5,370**	**5,477**	**5,435**	**-0.8%**	**8.7%**

COUNTY JAIL SENTENCES

Figure 59 depicts the trend of county jail sentences imposed in the past five years. The total number of jail sentences imposed in FY 2010 demonstrated an increase of 3.4% or 29 sentences compared with that of FY 2009 and a significant increase of 24.2% or 171 sentences compared with that of FY 2006. FY 2008 represents the highest number of county jail sentences imposed in the past five years.

Figure 59: County Jail Sentences
FY 2006 through FY 2010



The offense trend of county jail sentences from FY 2006 through FY 2010 is presented in Table 45. Approximately 99% of the jail sentences were convictions of the crime of DUI. Further analysis of DUI crime reveals that the 4th or subsequent conviction of DUI accounted for 89.5% of total county jail sentences. In FY 2010, the number of the 4th or subsequent conviction of DUI increased by 6.1% compared with FY 2009 and increased by 35.8% compared with FY 2006. The number of the 3rd conviction of DUI in FY 2010 decreased by 7.9% and 29.9% respectively when compared with those of FY 2009 and FY 2006. Though small in number, the crime of domestic battery decreased from 11 sentences in FY 2006 to 3 sentences in FY 2010. The crime of cruelty to animals was created in the 2007 Legislative Session. Only 1 offender was convicted of the crime in FY 2010.

Table 45: Comparison of County Jail Sentences by Offense
FY 2006 through FY 2010

Offenses	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2010-2009 % Difference	FY 2010-2006 % Difference
3rd DUI	117	91	97	89	82	**-7.9%**	**-29.9%**
4th or Sub. DUI	579	588	750	741	786	**6.1%**	**35.8%**
Domestic battery	11	11	15	12	3	**-75.0%**	**-72.7%**
Cruelty to Animals	0	1	2	3	1	**-66.7%**	**N/A**
Other	0	0	5	4	6	**50.0%**	**N/A**
Total	**707**	**691**	**869**	**849**	**878**	**3.4%**	**24.2%**

PRISON POPULATION FORECASTS

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

The prison population projections predict that the offenders incarcerated in state prisons will reach 10,968 by June 30, 2020, which indicates an increase of 2,104 inmates or 23.7% over the actual prison population on the same date of year 2010. Although the total admission trend in the past five years is declining with an increase in FY 2010 (Figure 57), a combination of developing admission trends with the impact of the pronounced stacking effect and new sentencing policies has resulted in a continual growth in the state's prison population. The decrease of prison population after FY 2007 results from the implementation of House Substitute for Senate Bill 14, passed during the 2007 Legislative Session, which promotes 20% reduction of probation revocation rate, modifies some good time rates from 15% to 20% and provides potential credit for program completion. The effective date of the Bill is January 1, 2008 (Figure 60).

Table 46 presents FY 2011 prison population projections by severity levels. The most significant increase in both number and percentage of incarcerated populations in the next ten years is identified in the group of offgrid offenders, an increase of 762 offenders or 78.5%. This significant growth is primarily due to the implementation of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session.

The second largest increase in number falls at nondrug severity level 3, an increase of 436 offenders or 32.3% over the ten-year forecast period. The number at nondrug severity level 1 will increase by 100 offenders or 10.2% in the ten years. This is due to the "stacking effect" of long sentence length of the most serious offenses.

Prison population will increase by 29.6% or 354 offenders at nondrug severity level 5 in the next ten years. Condition parole or postrelease violators will increase by 127 or 20%. As for population at other nondrug severity levels, no significant changes are projected in the ten-year forecast period.

The projected prison population of drug offenders at all severity levels does not fluctuate significantly in the ten-year forecast. The number of offenders will increase by 68 at drug severity level 1, by 81 at drug severity level 2, by 46 at drug severity level 3 but decrease by 9 at drug severity level 4 in the ten-year forecast period. Figure 60 depicts the trend of the actual and projected prison population from FY 1996 through FY 2020.

Figure 60: Prison Population Actual and Projected

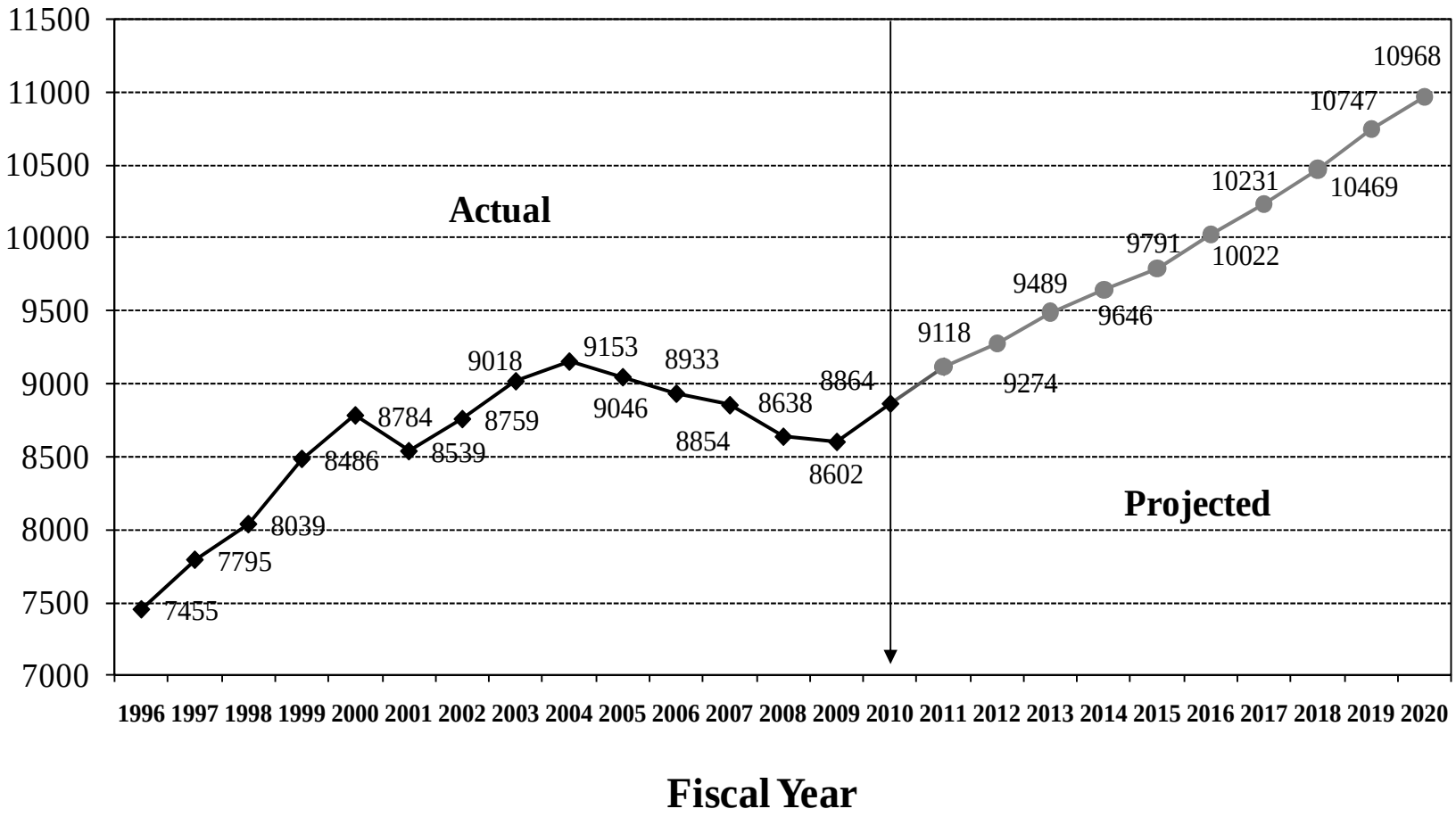


Table 46: FY 2011 Adult Inmate Prison Population Projections

Severity Level	June 30 2010*	June 30 2011	June 30 2012	June 30 2013	June 30 2014	June 30 2015	June 30 2016	June 30 2017	June 30 2018	June 30 2019	June 30 2020	Total # Increase	Total % Increase
D1	273	263	273	301	301	313	300	311	325	334	341	68	24.9%
D2	172	183	192	206	198	205	211	217	225	238	253	81	47.1%
D3	461	488	501	490	473	461	467	493	498	502	507	46	10.0%
D4	649	636	605	599	614	595	592	590	595	614	640	-9	-1.4%
N1	976	991	1003	1002	1023	1037	1043	1045	1059	1072	1076	100	10.2%
N2	394	390	388	396	398	397	395	392	386	386	380	-14	-3.6%
N3	1350	1419	1442	1504	1548	1585	1612	1672	1733	1773	1786	436	32.3%
N4	304	316	348	349	355	345	358	366	370	369	378	74	24.3%
N5	1194	1235	1286	1306	1338	1361	1435	1423	1465	1517	1548	354	29.6%
N6	156	145	148	154	143	149	152	137	135	144	145	-11	-7.1%
N7	815	810	840	829	793	806	809	854	849	848	859	44	5.4%
N8	227	237	206	209	223	198	220	229	218	232	257	30	13.2%
N9	259	255	245	245	256	252	263	248	272	284	273	14	5.4%
N10	25	28	33	32	40	41	46	31	40	31	30	5	20.0%
OFF GRID	971	1035	1117	1194	1277	1350	1433	1501	1583	1653	1733	762	78.5%
Condition Parole/PIS Violators	635	687	647	673	666	696	686	722	716	750	762	127	20.0%
Total	8864	9118	9274	9489	9646	9791	10022	10231	10469	10747	10968	2104	23.7%

*. The numbers on June 30, 2010 are the actual prison population on that date. Total number includes two non-grids and one missing.

CUSTODY CLASSIFICATION PROJECTION

The prison population projections forecast the total beds needed over the ten-year forecast period, while custody classification projections predict the kinds of beds needed for custody in the next ten years. The overall custodial classification projections reveal that 362 unclassified beds, 2,820 minimum beds, 2,574 medium low beds, 1,575 medium high beds, 1,023 maximum beds and 764 special management beds will be needed by the end of FY 2011. The total projected prison beds, by the end of FY 2020, will include 409 unclassified beds, 3,286 minimum beds, 2,905 medium low beds, 2,115 medium high beds, 1,320 maximum beds and 933 special management beds (Table 47).

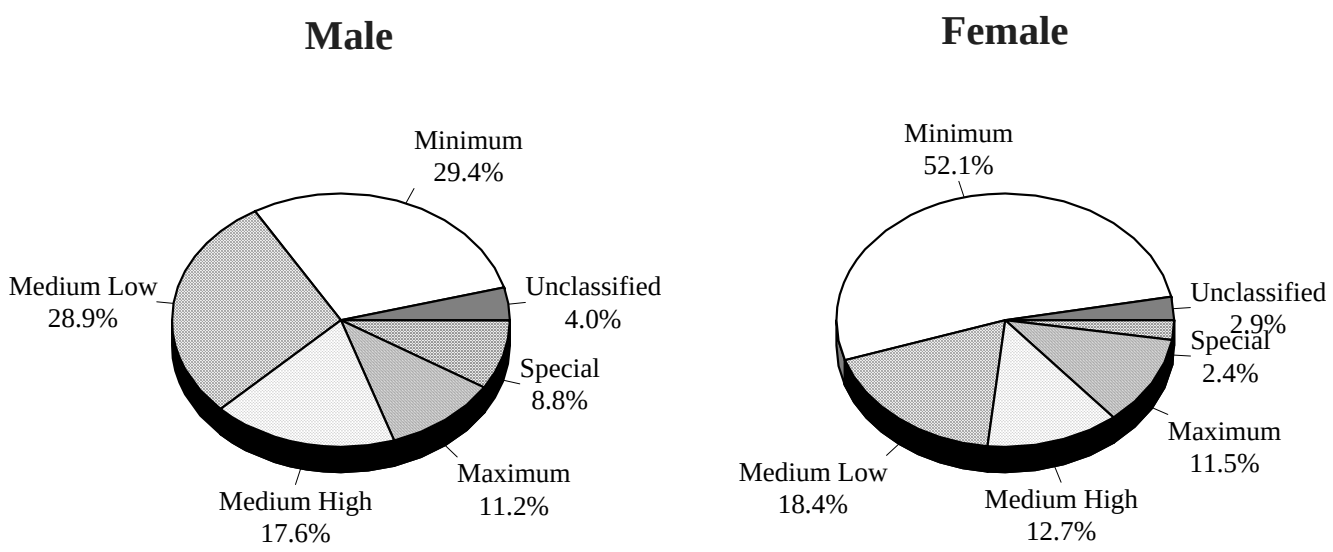
The projected percentage distribution of custodial classifications by gender is illustrated in Figure 61, which demonstrates a significant difference between male and female offenders. Females will need 2.9% unclassified, 52.1% minimum, 18.4% medium low, 12.7% medium high, 11.5% maximum custody and 2.4% special management beds by the end of FY 2011. Males will need 4% unclassified, 29.4% minimum, 28.9% medium low, 17.6% medium high, 11.2% maximum custody and 8.8% special management beds by the end of FY 2011. These classification percentages of male and female offenders remain fairly constant during the ten-year forecasting period.

The needs of male beds increase at all custody types in the ten-year forecast period. The largest increase is found at the type of medium high beds with an increase of 519. The second largest increase is at the type of minimum beds with an increase of 423 beds. The maximum custody beds, medium low custody beds, special management beds and unclassified beds demonstrate an increase of 283, 295, 161 and 44, respectively, over the ten-year forecast period. Beds for females, in terms of custody types, do not fluctuate much in the next ten years with an increase of 43 minimum beds, 36 medium low beds, 21 medium high beds and 14 maximum beds. This forecast assumes no changes in custody practice over the ten-year forecast period.

Table 47: Ten Years Custody Classification Projection

June 30 Each Year	Unclassified	Minimum	Medium Low	Medium High	Maximum	Special	Total
2011	362	2,820	2,574	1,575	1,023	764	9,118
2012	374	2,841	2,537	1,625	1,069	828	9,274
2013	382	2,876	2,611	1,685	1,114	821	9,489
2014	400	2,859	2,584	1,768	1,146	889	9,646
2015	412	2,946	2,606	1,750	1,187	890	9,791
2016	404	3,002	2,680	1,856	1,206	874	10,022
2017	400	3,037	2,709	1,945	1,227	913	10,231
2018	388	3,205	2,714	1,996	1,255	911	10,469
2019	425	3,257	2,733	2,116	1,288	928	10,747
2020	409	3,286	2,905	2,115	1,320	933	10,968

Figure 61: Projected Percentage Distribution of Custody Classification by Gender

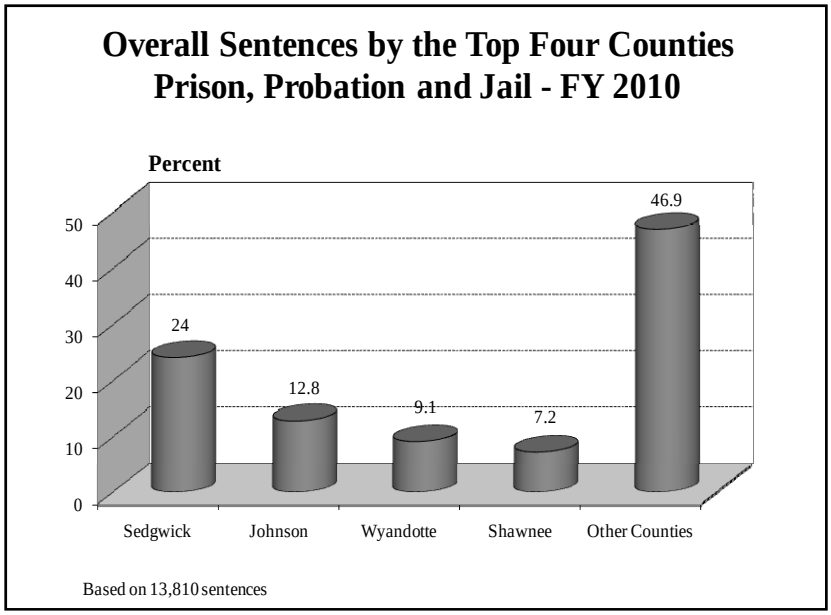


Based on the projected prison population on June 30, 2011 (male = 8,494 and female = 624).

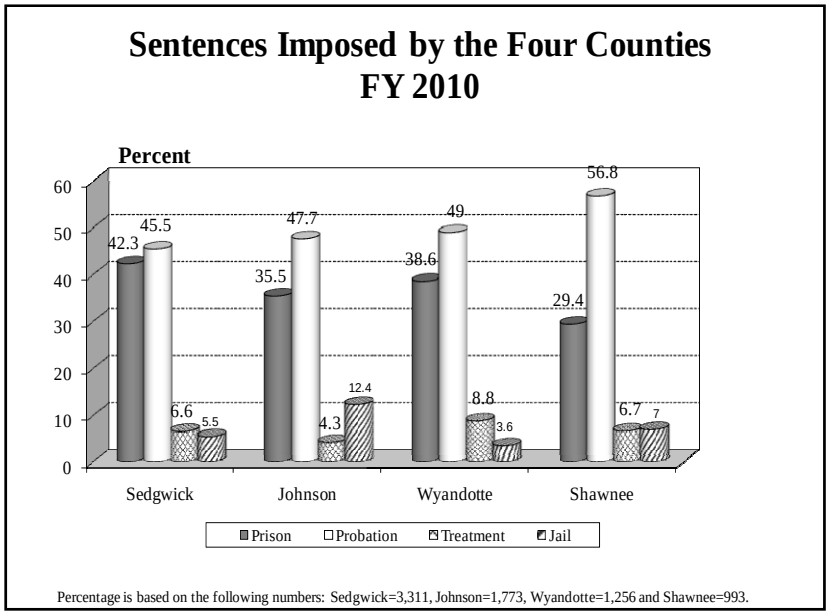
APPENDIX I
SENTENCES FROM THE TOP FOUR COUNTIES

Sentences utilized for analyses in this section include incarceration, probation and county jail sentences submitted to the Commission during FY 2010. The analysis on the sentences indicates that Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four counties, whose sentences imposed accounted for 53.1% of the total state sentences, an increase of 3.1% compared with that (50%) of FY 2009. Sedgwick continued to be the top-committing county followed by Johnson, Wyandotte and Shawnee counties, which is consistent with the distributions of previous years. In comparison with the sentencing data of FY 2009, no significant changes were identified in the percentages of sentences from the four counties. Sentences from Sedgwick County increased by 1.5%; sentences from Johnson and Wyandotte counties increased by 0.1% respectively. Shawnee County increased by 1.4%. The following figures and tables display the characteristics of offenses and offenders from the four counties in FY 2010.

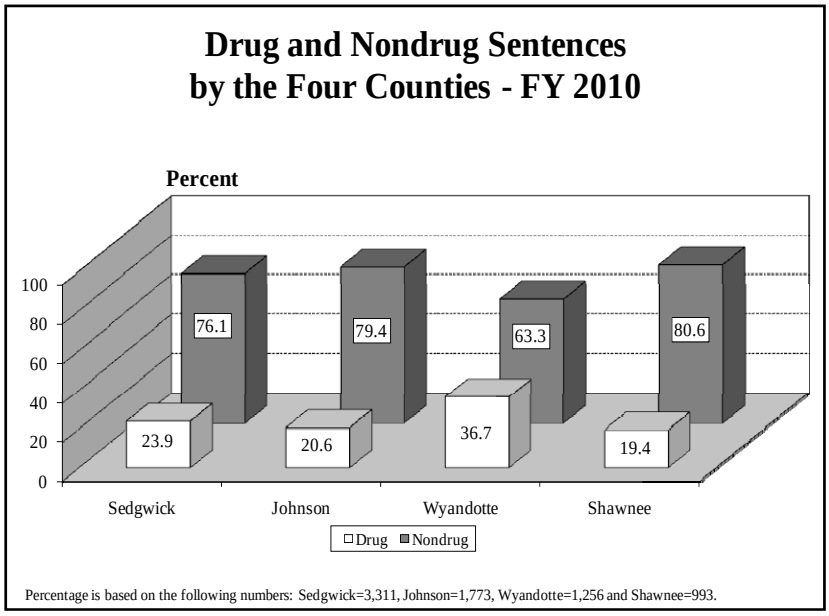
Sedgwick, Johnson, Wyandotte and Shawnee Counties were the top four committing counties with sentencing events accounting for 53.1% of the total state sentences imposed in FY 2010, an increase of 3.1% over that of FY 2009 (50%).



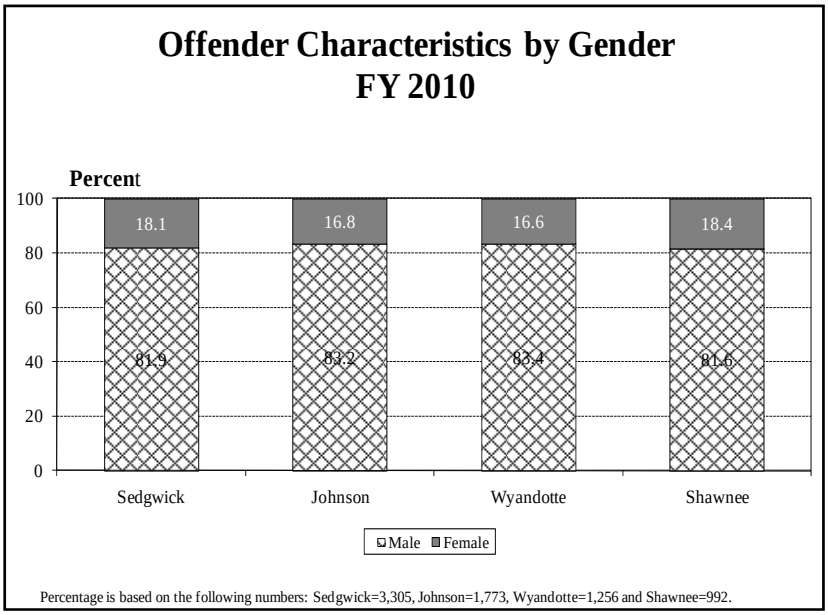
Sedgwick County imposed the higher percentage of prison sentences (42.3%) than the other three counties, while the highest rate of probation sentences was identified in Shawnee County (56.8%). Wyandotte County imposed the highest rate of Senate Bill 123 drug treatment sentences (8.8%) among the four counties. The highest percentage of county jail sentences was found in Johnson County (12.4%).



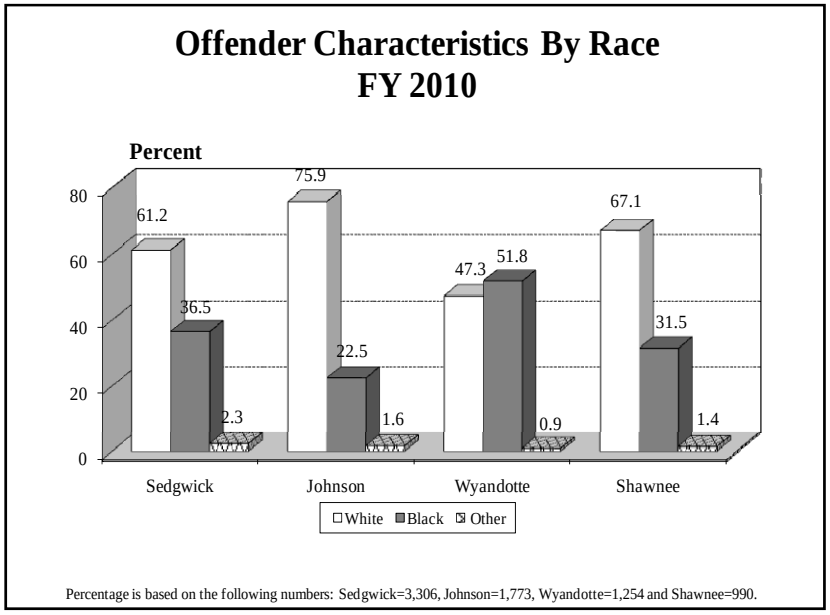
The examination of sentences imposed by types of drug and nondrug discloses that Wyandotte County represented the highest percentage of drug sentences (36.7%), while Shawnee County imposed the largest proportion of nondrug sentences (80.6%) among the four counties.



The analysis of offenders by gender indicates that Shawnee County represented the highest percentage of female offenders (18.4%), while Wyandotte County reported the highest rate of male offenders (83.4%).



Racial analysis on offenders reveals that Johnson County reported more white offenders (75.9%), while Wyandotte County reported more black offenders (51.8%) than the other three counties respectively, which remained constant as compared to FY 2009.



FY 2009 Sentences from the Four Counties by Severity Level
Prison, Probation and County Jail Sentences

Severity Level	Sedgwick		Johnson		Wyandotte		Shawnee	
	N	%	N	%	N	%	N	%
D1	17	0.5	5	0.3	2	0.2	4	0.4
D2	19	0.6	7	0.4	4	0.3	7	0.7
D3	191	5.8	151	8.5	98	7.8	60	6.0
D4	564	17.0	203	11.4	357	28.4	122	12.3
N1	18	0.5	15	0.8	11	0.9	5	0.5
N2	13	0.4	5	0.3	6	0.5	9	0.9
N3	167	5.0	65	3.7	80	6.4	35	3.5
N4	41	1.2	4	0.2	16	1.3	13	1.3
N5	314	9.5	81	4.8	102	8.1	62	6.2
N6	35	1.1	18	1.0	18	1.4	13	1.3
N7	531	16.0	166	9.4	137	10.9	160	16.1
N8	343	10.4	194	10.9	74	5.9	124	12.5
N9	608	18.4	298	16.8	159	12.7	182	18.3
N10	51	1.5	147	8.3	75	6.0	33	3.3
Nongrid	370	11.2	409	23.1	95	7.5	153	15.4
Offgrid	29	0.9	5	0.3	22	1.7	11	1.1
Total	**3,311**	**100.0**	**1,773**	**100.0**	**1,256**	**100.0**	**993**	**100.0**

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

Offense Type	Sedgwick County		Offense Type	Johnson County	
	N	%		N	%
Drugs	791	23.9	DUI	403	22.7
DUI	343	10.4	Drugs	366	20.6
Theft	313	9.5	Theft	196	11.1
Burglary	288	8.7	Burglary	103	5.8
Aggravated Battery	241	7.3	Identity Theft	73	4.1
Forgery	163	4.9	Forgery	68	3.8
Aggravated Robbery	112	3.4	Aggravated Battery	65	3.7
Fleeing or Eluding LEO	105	3.2	False Writing	42	2.4
Aggravated Assault	93	2.8	Criminal Threat	37	2.1
Aggravated Burglary	76	2.3	Nonsupport of a Child or Spouse	37	2.1
Total	**2,525**	**76.4**	**Total**	**1,390**	**78.4**

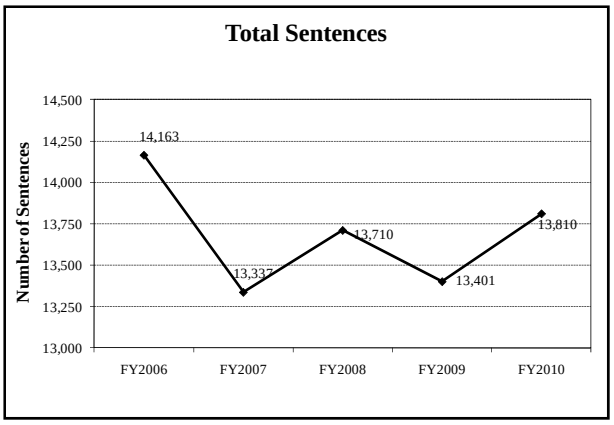
FY 2009 Top Ten Offenses Committed by Offenders in the Four Counties – 2

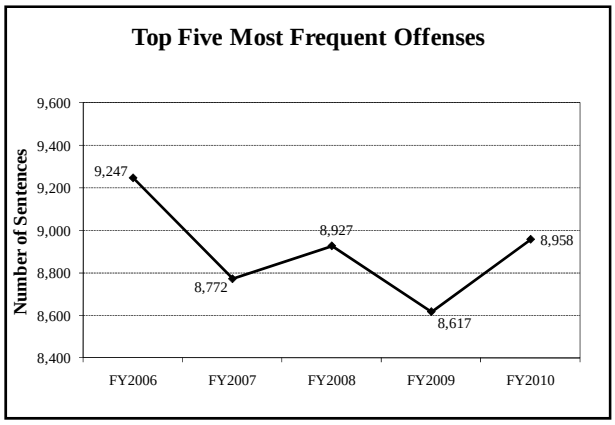
Offense Type	Wyandotte County		Offense Type	Shawnee County	
	N	%		N	%
Drugs	461	36.7	Drugs	193	19.4
DUI	94	7.5	DUI	142	14.3
Burglary	79	6.3	Burglary	110	11.1
Theft	77	6.1	Theft	77	7.8
Fleeing or Eluding LEO	76	6.1	Forgery	68	6.8
Aggravated Battery	62	4.9	Aggravated Battery	58	5.8
Forgery	49	3.9	Robbery	29	2.9
Aggravated Robbery	48	3.8	Fleeing or Eluding LEO	25	2.5
Robbery	41	3.3	Aggravated Assault	24	2.4
Aggravated Assault	38	3.0	Failure to Register	21	2.1
Total	**1,025**	**81.6**	**Total**	**747**	**75.1**

APPENDIX II
TRENDS OF SELECTED OFFENSES

TOP FIVE MOST FREQUENT OFFENSES

The crimes of drugs, DUI, burglary, theft and aggravated battery were the top five most frequently convicted offenses in the past five years. Of the total offenses, including incarceration, probation and county jail sentences, these top five offenses represented 65.3% in FY 2006, 65.8% in FY 2007, 65.1% in FY 2008, 64.3% in FY 2009 and 64.9% in FY 2010. The sentencing trends of the top five offenses from FY 2006 to FY 2010 are exhibited in the following figures and table. The sentence number of the top five offenses was up and down generally in the pattern of the total number of incarceration, probation and county jail sentences in the past five years.





Top Five Most Frequent Offenses
Incarceration, Probation and County Jail Sentences

Top Five Offenses	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Drugs	4,489	4,203	4,060	3,717	3,859
DUI*	1,601	1,573	1,773	1,819	1,880
Burglary	1,336	1,256	1,261	1,207	1,372
Theft	1,090	1,048	1,074	1,108	1,096
Aggravated Battery	731	692	759	766	751
Subtotal	**9,247**	**8,772**	**8,927**	**8,617**	**8,958**
Total Offenses	**14,163**	**13,337**	**13,710**	**13,401**	**13,810**

***** The offense of DUI includes county jail sentences.

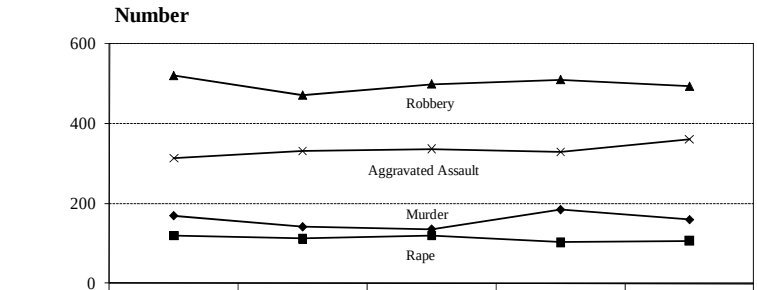
UNIFORM CRIME REPORTING (UCR) OFFENSES

The UCR offenses include murder, rape, robbery, aggravated assault, burglary, larceny-theft/motor vehicle theft and arson. These are serious crimes by nature and/or volume, which are most likely to be reported and most likely to occur with sufficient frequency to provide an adequate basis for comparison (UCR Handbook). Murder, rape, robbery and aggravated assault are classified as violent crimes, while burglary, theft and arson are classified as property crimes. In the following trend analyses on the UCR offenses from FY 2006 to FY 2010, 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.

In FY 2010, the number of the murder crime sentences decreased by 13.5% and 5.9% respectively compared with FY 2009 and FY 2006. The number of rape crime in FY 2010 increased by 3.9% compared with FY 2009 but decreased by 10.8% compared with FY 2006. The convictions of robbery in FY 2010 decreased by 3.3% and 5.2% respectively compared with FY 2009 and FY 2006. The numbers of convictions of aggravated assault in FY 2010 increased by 9.4% and 15.3% respectively over those of FY 2009 and FY 2006.

In FY 2010, burglary crimes increased by 13.7% and 2.7% respectively compared with FY 2009 and FY 2006; the crime of arson increased by 2.6% and 11.4% respectively over those of FY 2009 and FY 2006; the convictions of theft did not fluctuate much in the past five years.

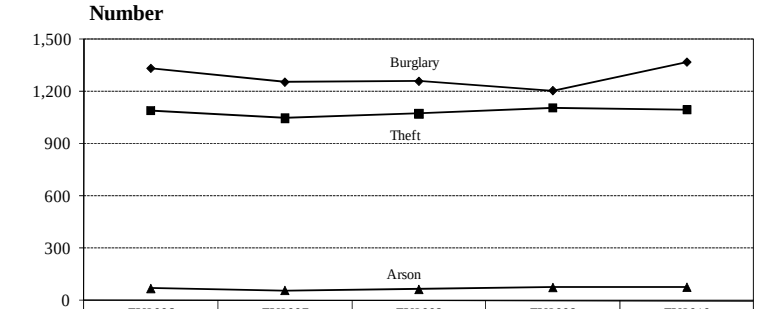
UCR Offenses: Violent Crime
FY 2006 through FY 2010



	FY2006	FY2007	FY2008	FY2009	FY2010
Murder	170	142	136	185	160
Rape	120	112	120	103	107
Robbery	520	471	499	510	493
Agg. Assault	313	331	337	330	361

Both incarceration and probation sentences are included.

UCR Offenses: Property Crime
FY 2006 through FY 2010



	FY2006	FY2007	FY2008	FY2009	FY2010
Burglary	1,336	1,256	1,261	1,207	1,372
Theft	1,090	1,048	1,074	1,108	1,096
Arson	70	59	65	76	78

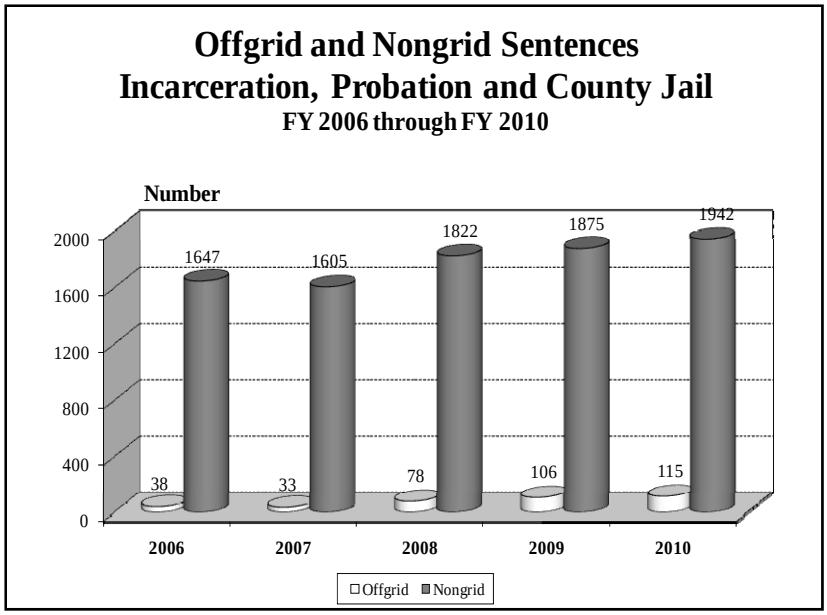
Both incarceration and probation sentences are included.

OFFGRID AND NONGRID CRIMES

Offgrid crimes are crimes that carry "life" sentences, meaning the length of imprisonment is life. The crimes of capital murder (K.S.A. 21-3439), murder in the first degree (K.S.A. 21-3401), treason (K.S.A. 21-3801) and certain sex offenses under Jessica's Law (Senate Substitute for House Bill 2576) are designated as offgrid crimes. Persons convicted of offgrid crimes will be eligible for parole after serving 25 years in confinement for premeditated first-degree murder, or 40 or 50 years in certain premeditated first-degree murder cases, in which aggravating circumstances are found by the sentencing court. Offenders convicted of intentional second-degree murder for crimes committed prior to July 1, 1999, will be eligible for parole after serving 10 years of confinement. The Kansas law also provides for the imposition of a death penalty, under specified circumstances, for a conviction of capital murder. Felony murder and treason carry a term of life imprisonment with a 20-year parole eligibility date for crimes committed on or after July 1, 1999.

Nongrid crimes are not assigned severity levels on either sentencing guideline grid under the Kansas Sentencing Guidelines Act (K.S.A. 21-4701, *et seq.*). The crimes of felony "driving under the influence of alcohol or drugs" (K.S.A. 8-1567), felony "domestic battery" (K.S.A. 21-3412a) and felony "cruelty to animals" (K.S.A. 2006 Supp. 21-4310 and 21-4318) are categorized as nongrid crimes. The applicable sentence of each of the nongrid crimes is specified within the individual criminal statute defining the crime. For example, the "sentence" for the crime of felony domestic battery specifies that the offender "shall be sentenced to no less than 90 days nor more than one year's imprisonment." Further, a felony domestic battery offender must serve at least 48 consecutive hours imprisonment before being eligible for any type of release program.

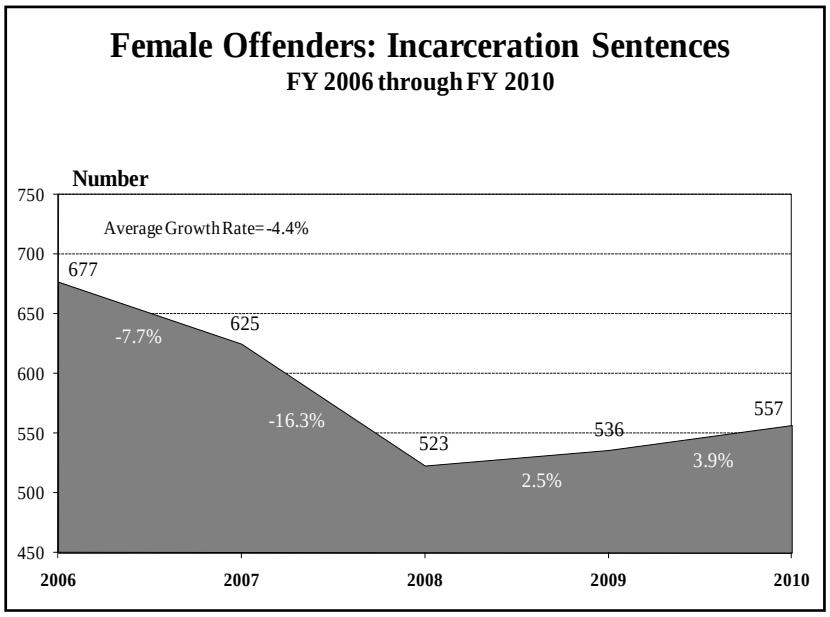
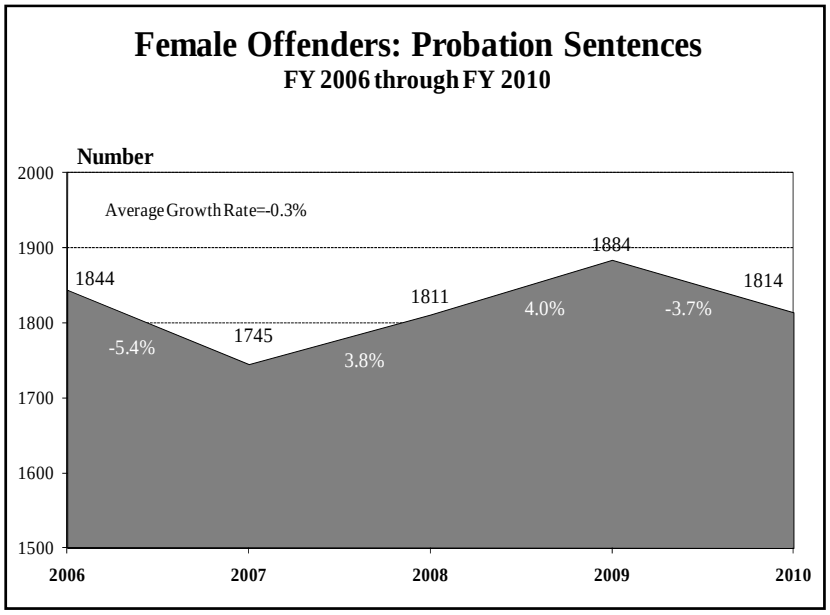
With the implementation of Jessica's Law, the number of offgrid crimes significantly increased in FY 2010, with an increase of 77 offenders (202.6%) compared with that of FY 2006 and an increase of 9 offenders (8.5%) compared with that of FY 2009. Nongrid sentences in FY 2010, including incarceration, probation and county jail sentences, increased by 67 (3.6%) and 295 (17.9%), respectively, compared with FY 2009 and FY 2006.



FEMALE OFFENDERS

The admission trend of female offenders was declining in the past five years. However, the number of female admissions in FY 2010 increased by 3.9% compared with that of FY 2009 but decreased by17.7% compared with that of FY 2006. This declining tendency is consistent with the pattern of total prison admissions (Page 79). The average decrease rate in the past five years is 4.4%. The number of female offenders on probation was up and down from year to year. The average decrease rate is 0.3% in the past five years. Females were sentenced to prison or probation most frequently for the crimes of drugs, forgery and theft in the past five years.

The number of females incarcerated in prison decreased by 7.7% in FY 2007, 16.3% in FY 2008 and then increased by 2.5% in FY 2009 and 3.9% in FY 2010 compared with those of the previous years. The population in FY 2006 is the highest number of female admissions to prison in the past five years.



The population of females sentenced to probation decreased by 5.4% in FY 2007 but increased by 3.8% and 4% respectively in FY 2008 and FY 2009 compared with the previous years. In FY 2010, the number of females on probation decreased by 3.7% from that of FY 2009.