

KANSAS SENTENCING COMMISSION

FY 2011 ANNUAL REPORT



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THE KANSAS SENTENCING COMMISSION

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KANSAS SENTENCING COMMISSION

**ANNUAL REPORT
FY 2011**

Analysis Of Sentencing Guidelines In Kansas

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EXECUTIVE SUMMARY

Throughout the past year, the Kansas Sentencing Commission continued performing its statutory obligations assigned to the Commission and carried out the major activities as follows: processing statewide felony sentencing journal entries including both prison and non-prison guideline sentences; 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; developing and maintaining the post-implementation monitoring system that allows for a comprehensive evaluation of the sentencing guidelines; making recommendations to the state legislature relating to modification and improvement of current sentencing guidelines; providing the legislature and state agencies with prison bed-space impact assessments under any policy change related to sentencing guidelines; updating Kansas Sentencing Guidelines Desk Reference Manual according to sentencing policy changes passed during the 2011 Legislative Session; issuing an Annual Report statistically analyzing sentencing practice and policies under Kansas Sentencing Guidelines; producing annual prison population projections and custody classification forecasts for Kansas Adult Correctional Facilities; conducting training sessions on sentencing guidelines and various sentencing issues and serving as an information resource to respond to national, state and county requests regarding sentencing data.

A summary of the key sentencing issues discussed in the Annual Report is presented in this section. During FY 2011, the Commission received a total number of 14,003 felony sentences, indicating an increase of 1.4% over that of FY 2010. Of the total number of sentences, 4,958 (35.4%) were prison sentences, 8,270 (59.1%) were probation sentences and 775 (5.5%) were county jail sentences. Non-drug sentences represented 71.8% or 10,059 sentences and drug sentences accounted for 28.2% or 3,944 sentences (page 2).

INCARCERATION SENTENCES

In FY 2011, a total number of 4,958 offenders were admitted to the Kansas Department of Corrections (KDOC). Male offenders represented 88.2% of the total admissions, a percentage decrease of 0.6% from that of FY 2010 (88.8%). Nearly 90% of the violent and sex offenses were committed by male offenders, such as aggravated assault, aggravated battery, burglary, murder in the first degree, rape and robbery. However, female offenders were incarcerated more frequently for the crimes of forgery, theft and false writing (pages 22 & 23). The analysis of drug crimes indicates that male offenders were convicted of more than 85% of drug sale first and third offenses, drug possession of depressants second offense and unlawful manufacture of controlled substance, while most female offenders committed drug crimes of opiates or narcotics possession first or third offense and opiates or narcotics or depressants sale within 1,000 feet of school (page 25).

The racial analysis of the offenders indicates that white offenders made up 66.4% of the admissions to state prisons in FY 2011, indicating a decrease of 0.2% from that of FY 2010 (66.2%). The offenders with non-Hispanic origin represented 90%, very close to that of FY 2010 (90.1%). The highest incarceration rates for white offenders (over 70%) were found in the offense categories of burglary, criminal threat, DUI, forgery, identity theft, obstructing legal process and most sex offenses. Nevertheless, blacks were incarcerated more often (over 45%) for the crimes of aggravated arson, aggravated robbery, robbery, voluntary manslaughter, aggravated arsons and aggravated kidnapping (pages 22 & 23).

When examining the offenders by age, the Commission notices that the largest population of incarcerated offenders (25.3%) was found in the age group ranging from 31 to 40 years old and the second largest number of offenders (23.3) was identified in the group from 25 to 30 years old at the time of admission to prison in FY 2011. This age distribution is consistent with the age data observed in FY 2010. As for the educational background of the offenders admitted in FY 2011, more than 47% of the offenders had attained either a high school diploma or GED equivalent, an increase of 1% compared with that of FY 2010 (46%).

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 40.2%, 32.8% and 20.6%, respectively, of the total prison admissions in FY 2011. Most of the drug offenders admitted to KDOC in FY 2011 fell at drug severity level 3 (31.3%) and drug severity level 4 (52.9%), while the largest numbers of nondrug

offenders were identified at nondrug severity levels 7 and 9 with admissions of 809 and 719, respectively, in FY 2011 (Pages 26 & 27).

The review of offenders convicted under Jessica's Law reveals that during FY 2011, 69 sex offenders were sentenced and admitted to prison under Jessica's Law. All of them were new court commitments except one probation condition and one parole violator with new sentence. While most jurisdictions identify the severity of these crimes as offgrid (81.2%), a few sentenced them at the severity level for a downward departure on the nondrug grid. The analysis of sentence length demonstrates that approximately 53.6% of the sentences were downward departure to guidelines, a decrease of 4.6% compared with that of FY 2010 (58.2%). The average sentence length of the durational departures was 145 months, an increase of 25.7 months over that observed in FY 2010 (119.3 months). In addition, 2 offenders convicted under Jessica's Law were sentenced to probation during FY 2011, whose offense dates were before July 1, 2008. Their underlying prison terms were 61 months and 72 months respectively. The major departure reasons are that the defendant had no prior criminal history and accepted responsibility (Page 30).

PROBATION SENTENCES

A total number of 8,270 probation sentences were reported to the Commission in FY 2011. The analysis of the probation sentences discloses that DUI (15.6%), theft (14.5%), burglary (13.9%) and forgery (8.1%) continued to be the top four offenses committed by nondrug probation offenders representing 52.1% of the total nondrug crimes (page 34), a decrease of 0.5% from

that of those crimes in FY 2010 (52.6%). The probation sentences for the crime of drug possession accounted for 65.3% of all drug probation sentences, a decrease of 1% from that (66.3%) of FY 2010 (pages 35 & 37).

The examination of the criminal history categories of the offenders sentenced to probation in FY 2011 indicates that offenders with criminal history category I accounted for 30.1% of offenders on the nondrug grid and 30.3% of offenders on the drug grid. Almost 83% of nondrug offenders were within the presumptive probation boxes (Table 13), while 57% 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 24.2% 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

During FY 2011, the Commission received a total number of 775 felony jail sentences, a decrease of 103 sentences or 11.7% when compared with the data of FY 2010 (878 sentences). Of this number, male offenders accounted for 92.3% and female offenders accounted for 7.7%. The percentage of female offenders sentenced to jail decreased by 2.1% when compared with that of FY 2010 (9.8%). White offenders represented 86.3%, black offenders represented 12.3% and other races represented 1.4% of the county jail sentences imposed in FY 2011. Their average age at sentencing is 43.7 years

old, which is the same with that of FY 2010 (Page 43).

Approximately 99% of the jail sentences were convictions of felony DUI (765 sentences), 1.2% were convictions of domestic battery (9 sentences) and 0.1% was conviction of the crime of forgery (1 sentence). The average jail term was 8 months, indicating no change from that of FY 2010. Johnson County imposed the most jail sentences (190) representing 24.5%, followed by Sedgwick County with 172 jail sentences representing 22.2% of the total county jail sentences imposed in FY 2011 (page 45).

DRUG SENTENCES

In FY 2011, the number of drug offenders admitted to prison (1,334 offenders) increased by 0.4% compared with that of FY 2010 (1,329 offenders) but significantly decreased by 12.2% compared with that of FY 2007 (1,519 offenders). When individual drug severity levels were compared, all drug severity levels in FY 2011 demonstrated a decrease from those of FY 2007 except drug level 2. The most significant decrease was identified at drug severity level 1, a decrease of 25.5%, followed by drug severity level 4, a decrease of 16.1% in the past five years (page 81).

The analysis of drug offenses demonstrates that approximately 52.5% of the incarceration drug sentences were convictions of drug possession, demonstrating a decrease of 4.2% compared with that of FY 2010 (56.7%). More than 97% of the drug possession sentences were found at drug severity level 4, very close to that (96.4%) of FY 2010 (page 24).

The study of drug probation sentences discovers that the total number of drug probation sentences in FY 2011 increased by 3.1% compared with that of FY 2010 but decreased by 2.8% compared with that of FY 2007. The analysis of individual levels indicates that compared with FY 2007, drug probation sentences decreased by 51.5% at severity level 1 and by 12.9% at severity level 4, but the numbers of drug probation sentences at severity levels 2 and 3 increased by 100% and 36% respectively (page 83). Probation sentences at drug severity level 4 accounted for 69.8% of the probation drug sentences imposed in FY 2011, a decrease of 1.9% from that (71.7%) of FY 2010 (page 38).

Further examination of drug offenders on probation displays that a total number of 1,072 sentences were imposed to Senate Bill 123 (SB 123) drug treatment programs during FY 2011, representing 41.1% of the total drug probation sentences (2,610), a decrease of 0.9% compared with that of FY 2010 (42%). Of these offenders, more than 74% were convicted of the crime of drug possession under K.S.A. 65-4160 (or 21-36a06) and 25.6% 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 99.8%. White male offenders were still the majority of the treatment sentences. The average age of the drug treatment offenders was 32.8 years old at sentencing, which remains very close to those of FY 2010, 2009 and FY 2008.

Sedgwick County imposed the most SB 123 drug treatment sentences (195) followed by Johnson (95), Wyandotte (93) and Shawnee (72) counties (pages 39 and 40). In addition, 530 SB 123 drug treatment sentences were revoked during FY 2011. Of this number, 210 sentences were revoked to prison,

representing 19.6% of SB 123 sentences imposed (1,072 sentences) in FY 2011. The average period between original sentence and the first revocation hearing was 15 months, which remains the same as that of FY 2010.

VIOLATORS

In the report, violators refer to condition violators including probation condition violators, parole/postrelease supervision violators and conditional release violators. In FY 2011, a total number of 2,653 condition violators were admitted to prison, accounting for 53.5% of the total prison admission events of the fiscal year. Of this number, 1,626 were probation condition violators, 1,023 were parole/postrelease supervision violators and 4 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 2.9% compared with that (56.4%) of FY 2010 (page 46).

The trend analysis of violators by admission type in the past five years demonstrates that the number of probation condition violators admitted to prison in FY 2011 decreased by 5.3% from that of FY 2010 and decreased by 7.1% from that of FY 2007. The number of parole/postrelease and conditional release violators admitted to prison in FY 2011 decreased by 5.3% compared with that of FY 2010 and decreased greatly by 17.1% compared with that of FY 2007. FY 2011 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 8 of the nondrug grid and severity level 4 of the drug grid (page 49).

Additionally, during FY 2011, 2,576 probation condition violators and 299 probation violators with new convictions were sentenced to either continued or extended probation for a violation in FY 2011. This represents 57.4% of the total number of 4,488 condition probation violators and 36.9% of the total number of 810 probation violators with new offenses revoked during FY 2011 (page 57). Compared with the percentages of FY 2010, probation condition violators sentenced to continued or extended probation for a violation increased by 1.9%, while probation violators with new convictions who had their probation sentence either continued or extended increased by 1.6%.

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.

In this report, the conformity rates to the sentencing guidelines are based on the 7,191 pure guideline sentences of FY 2011. Of this number, 1,496 were incarceration guideline sentences and 5,695 were probation sentences. Approximately 82% of the guideline sentences imposed fell within the designated guideline sentence range. Dispositional departures accounted for 10.4% of sentences and durational departures were found in 8.1% of sentences (page 60). The sentence distribution is very consistent with that of FY 2010

The analysis of incarceration sentences within guidelines indicates that 39.8% of the sentences imposed fell within the standard range of the grid cell; 10.8% of all sentences were within the aggravated range; 22.8% were within the mitigated range and 26.6% were located within designated border boxes (page 61). This distribution of presumptive prison sentences does not fluctuate much compared with that of FY 2010.

Upon examining the durational departures of the incarceration guideline sentences, the Commission notices that 69.1% of the durational departures were downward durational departures, while 30.9% indicated upward durational departures (page 61). The percentage of downward durational departures increased by 1.1% compared with that of FY 2010. The comparative study of durational departures between drug and nondrug incarceration sentences indicates that 86.2% of drug durational departure sentences were downward compared to 61.3% 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 and 3 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 12.3% upward dispositional departure rate while drug sentences only represented a 4.1% upward dispositional departure rate (page 65).

The analysis of probation guideline sentences demonstrates that as expected, the majority (89.5%) of probation guideline sentences fell beneath the incarceration line, among which 84.8% were within presumptive probation grids and 15.2% were within border boxes. Downward dispositional departure was identified in 10.5% of the probation guideline sentences imposed in FY 2011 (page 62). Durational departures are not applicable to probation sentences.

Further evaluation of downward dispositional departures of probation sentences discloses that drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (15.3% vs. 7.7%). More drug probation sentences resulted from border boxes than did nondrug probation sentences (25.7% vs. 6.7%), (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 2011 Legislative Session, thirty-one 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.

A total number of 610 pure guideline prison sentences and 649 pure guideline probation sentences were imposed with special sentencing rules in FY 2011, which accounted for 36.1% of prison pure guideline admissions (1,690 admissions) and 11.1% of pure guideline probation sentences (5,826) imposed in FY 2011. The percentage of offenders admitted to prison with special sentence rules increased from 29.3% in FY 2007 to 36.1% in FY 2011. The percentage of probation sentences imposed with special sentencing rules accounted for 9.3% in FY 2007 and increased to 11.1% in FY 2011. The total percentage of both prison and probation sentences applied with special rules increased from 13.3% in FY 2007 to 16.8% in FY 2011 (page 76).

PRISON POPULATION FORECAST

The prison population forecasts are based on historical sentencing data, primarily on the data of FY 2011, 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 2021, a total of 11,284 prison beds will be needed. This represents a total increase of 22.9% or 2,104 beds over the actual prison population as of June 30th, 2011. Although the total admission trend in the past five years is declining then increasing in FY 2010 and FY 2011, 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, the largest increase in number falls at nondrug severity level 3, an increase of 609 offenders or 46.4% in the ten-year forecast period. The number at nondrug severity level 1 will increase by 239 offenders or 27.6% 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 376 offenders or 29.7% at nondrug severity level 5 and will increase by 121 offenders or 37.6% at nondrug severity level 4 in the next ten years. Condition parole or postrelease violators will increase by 173 or 29.1%. As for population at other nondrug severity levels, no significant changes are projected in the ten-year forecast period.

The incarcerated population at offgrid in the next ten years will increase by 298 offenders or 28%. This significant growth is primarily due to the implementation of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session.

The projected prison population of drug offenders at all severity levels will increase except drug severity level 4 with a decrease of 28 offenders or 4.4% in the next ten years. The number of offenders will increase by 200 or 72.2% at drug severity level 1, by 62 or 30.8% at drug severity level 2 and by 146 or 30.8% at drug severity level 3 in the ten-year forecast period (Pages 86 & 87).

In the effort to predict types of prison beds needed for custody over the next ten years, custodial classification projections demonstrate that by the end of FY 2012, KDOC will need 2,854 minimum beds, 2,705 medium low beds, 1,696 medium high beds, 1,163 regular maximum beds, 364 unclassified beds and 622 beds for special management. By the end of FY 2021, the custodial beds in demand will include 3,294 minimum, 3,066 medium low, 2,359 medium high, 1,330 regular maximum, 398 unclassified and 837 special management beds (page 88). These projections assume no substantial change in the method or practice of custody decision-making.

REPORT CONTENTS

The content of the Annual Report is presented in four chapters. A descriptive statistical summary of statewide guideline sentencing practices in FY 2011 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 2011

The analyses of sentences in this report include prison sentences, non-prison or probation sentences and county jail sentences reported to the Kansas Sentencing Commission during Fiscal Year (FY) 2011. Senate Bill 123 drug treatment sentences are comprised in the type of probation sentences. Sentences utilized for analyses on sentencing practice and sentencing tendency are based upon the most serious felony offense of a single sentencing event.

The Kansas Sentencing Commission received a total number of 14,003 felony sentences in FY 2011, which increased by 193 sentences or 1.4% over that of FY 2010. Of that total number of sentences, 4,958 were prison sentences, 8,270 were probation sentences and 775 were county jail sentences. In terms of drug or nondrug crimes, this total included 10,059 nondrug sentences and 3,944 drug sentences. Non-person offenses accounted for 67.6% and person offenses accounted for 32.4% (Figure 1), which does not fluctuate much from those of FY 2010.

The overall sentencing distribution of FY 2011 at each severity level by sentence type and offense type is demonstrated in Figure 2. Drug incarceration sentences at drug severity level 4 represented 52.9% (706 sentences) of the total drug incarceration sentences. The largest number of nondrug incarceration offenders was identified at severity level 7 (809 sentences or 22.3%)

followed by severity level 9 (719 sentences or 19.8%) and severity level 5 (593 sentences or 16.4%). The examination of probation sentences in FY 2011 demonstrates that 1,821 probation sentences fell at drug severity level 4, representing 69.8% of the total drug probation sentences. Of these 1,821 probation sentences, 58.8% or 1,070 sentences were imposed to SB 123 drug treatment programs, which increased by 0.3% compared the percentage (58.5%) of FY 2010. The highest rates of nondrug probation offenders were found at nondrug severity level 9 (30.3% or 1,717 sentences) and nondrug severity level 7 (21.1% or 1,194 sentences). The analysis of county jail sentences discloses that 99.9% of the offenders were convicted of nongrid crimes with one sentence convicted of other crime at nondrug severity level 8.

During FY 2011, One hundred and four counties in the state reported felony sentences to the Commission except Gove County. Most of the counties reported 1 to 100 sentences. Eight counties reported 101 to 200 sentences. They are Atchison (105), Barton (134), Cowley (128), Ellis (143), Franklin (109), Jackson (124), Labette (108) and Miami (115) counties. Thirteen counties reported 201 to 700 sentences. They are Butler (219), Crawford (235), Douglas (337), Finney (260), Ford (244), Geary (304), Harvey (222), Leavenworth (211), Lyon (214), Montgomery (282), Reno (531), Riley (260), and Saline (499) counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties, accounting for 51.4%

of all sentences imposed in FY 2011, a decrease of 1.7% compared with that (53.1%) of FY 2010 (Figure 3).

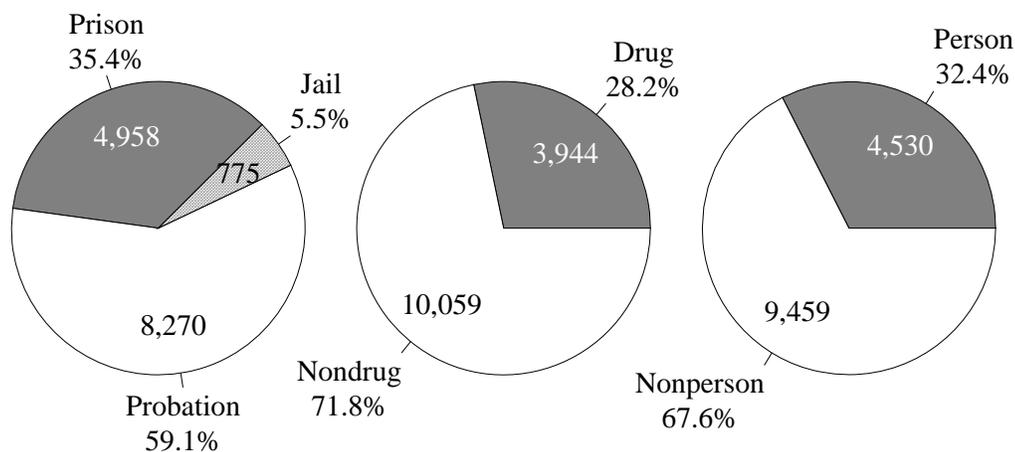
The top five offenses committed in FY 2011 including prison, probation and county jail sentences, are crimes of drugs (28.2% or 3,944 sentences), DUI (12.3% or 1,725 sentences), burglary (10.9% or 1,521 sentences, including aggravated burglary), theft (8.3% or 1,157 sentences) and aggravated battery (5.9% or 824 sentences). These top five offenses accounted for 65.5% of the total 14,003 sentences in FY 2011 (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 (328 sentences) followed by Wyandotte County (148 sentences), Johnson County (130 sentences) and Shawnee County (119 sentences). The distribution of the violent crimes committed in the top four counties in FY 2011 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 remains the same with that of FY 2010.

Figure 1: Sentences Reported in FY 2011



Based on 14,003 felony sentences reported in FY 2011 including 775 jail sentences.

Figure 2: FY 2011 Sentencing Distribution

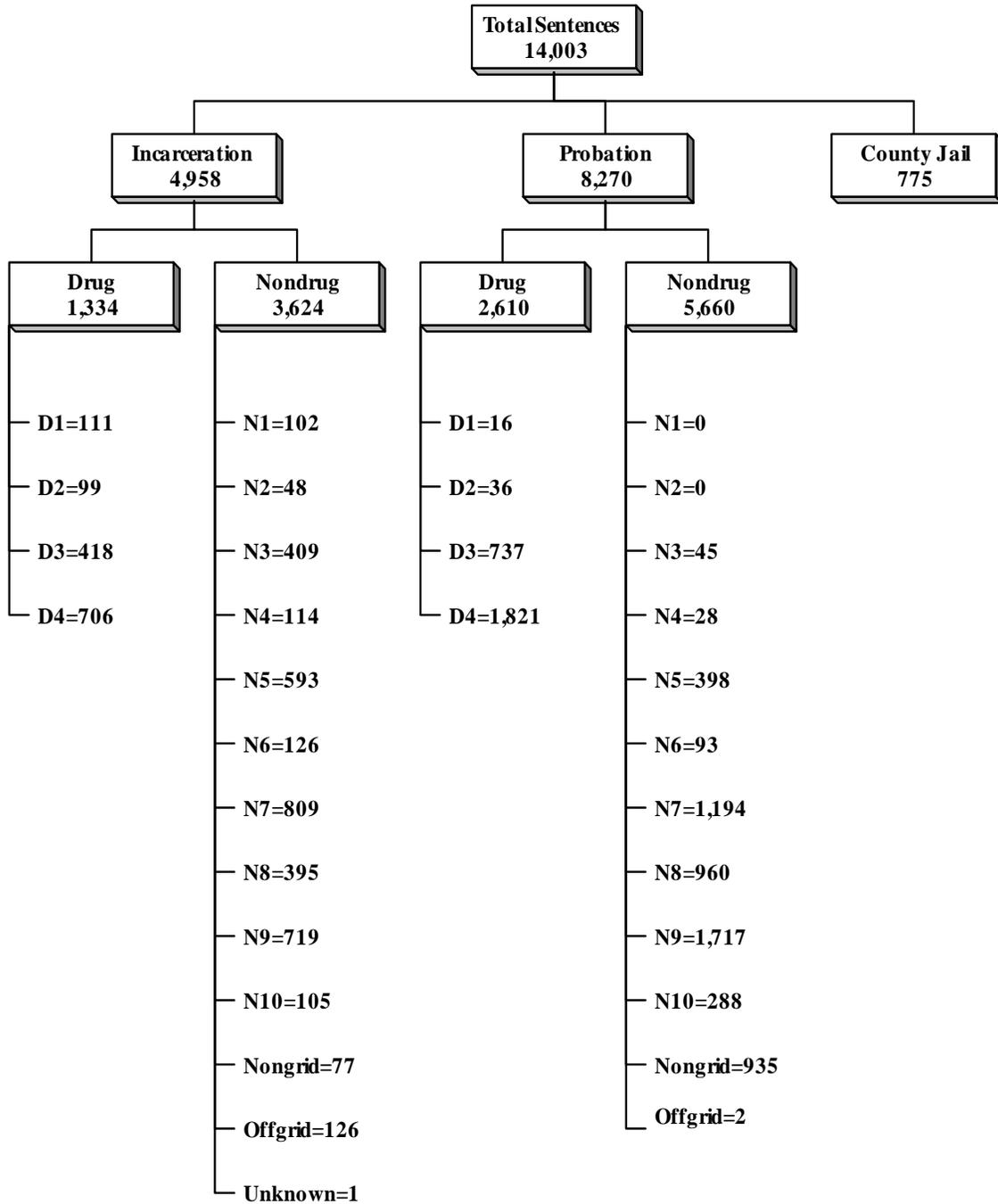
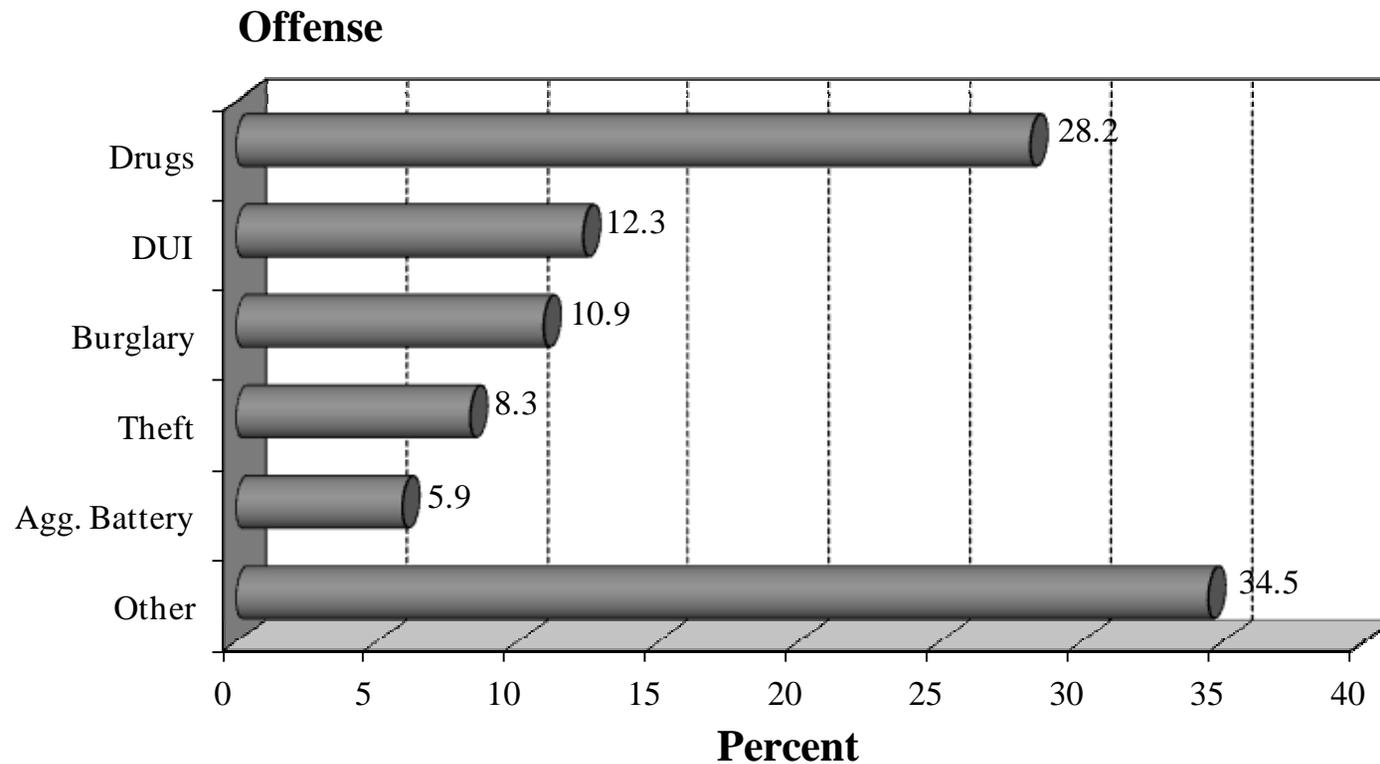


Figure 4: FY 2011 Top Five Offenses of Prison, Probation and Jail Sentences



Based on 14,003 prison, probation and county jail sentences

Figure 5: FY 2011 UCR Offenses by Top Four Counties - Violent Crime Convictions

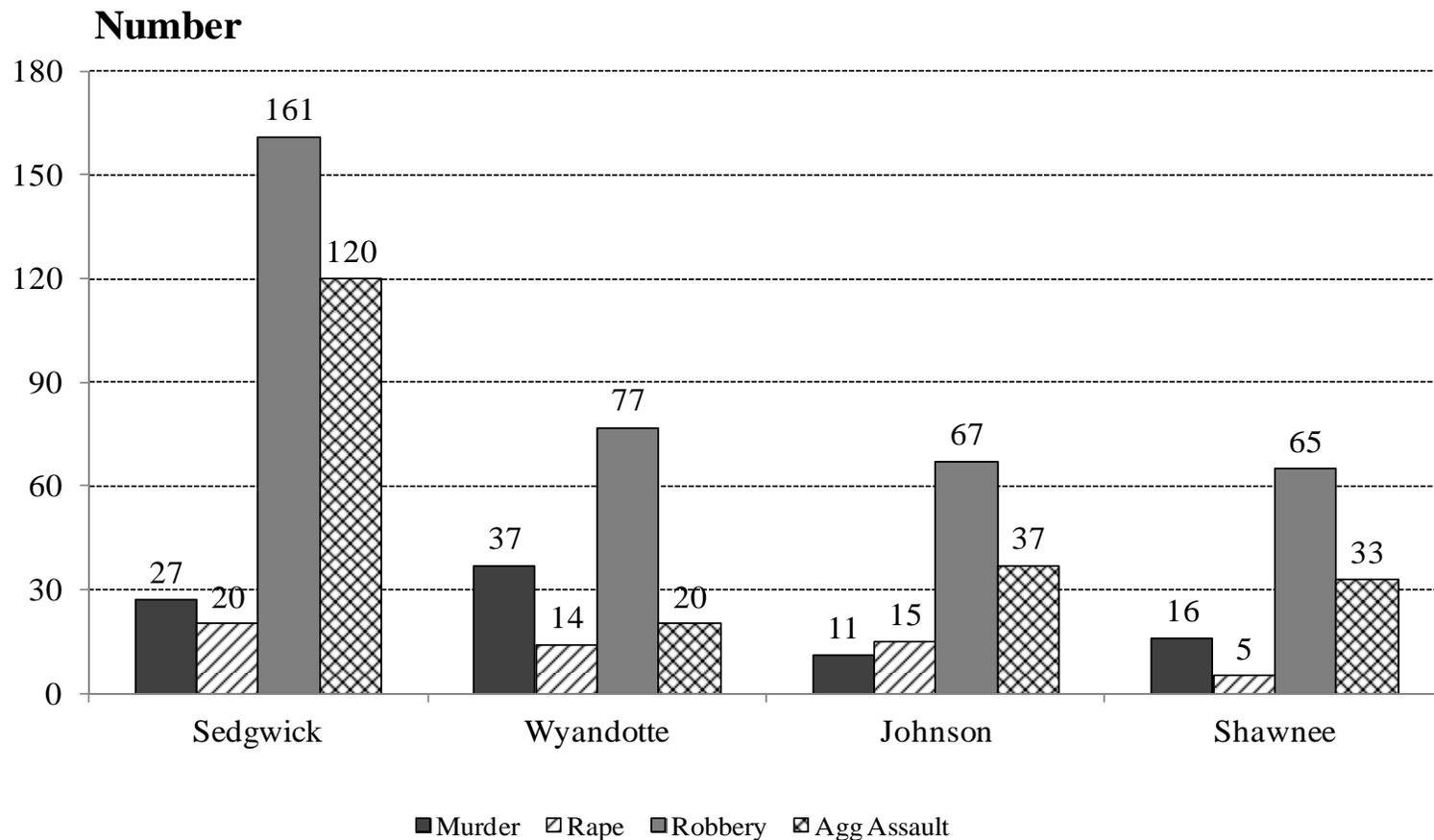


Table 1: FY 2011 Offender Characteristics by County – 1

County	Number Of Sentences	Gender		Race			Sentence Type*			Offense Type		Mean Age**
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Allen	62	55	7	54	5	3	22	38	2	42	20	32.9
Anderson	39	35	4	38	1	0	7	27	5	28	11	36.6
Atchison	105	84	21	87	18	0	42	56	7	79	26	33.3
Barber	7	5	2	6	0	1	0	6	1	4	3	30.8
Barton	134	111	23	119	12	3	44	79	11	85	49	34.4
Bourbon	76	60	16	70	6	0	26	43	7	57	19	31.3
Brown	65	54	11	47	1	17	22	39	4	46	19	31.5
Butler	219	182	37	208	8	3	58	140	21	171	48	34.2
Chase	6	4	2	6	0	0	1	4	1	3	3	36.7
Chautauqua	31	16	15	31	0	0	11	20	0	11	20	34.9
Cherokee	19	16	3	19	0	0	3	15	1	13	6	34.5
Cheyenne	3	3	0	3	0	0	0	3	0	2	1	36.5
Clark	7	7	0	5	2	0	3	4	0	4	3	33.2
Clay	59	53	6	59	0	0	21	32	6	40	19	33.3
Cloud	40	37	3	39	1	0	9	28	3	31	9	27.3
Coffey	44	33	11	42	1	1	13	23	8	22	22	38.6
Comanche	2	2	0	2	0	0	2	0	0	2	0	20.7
Cowley	128	98	30	104	16	8	58	64	6	68	60	31.9
Crawford	235	183	52	209	25	1	63	162	10	157	78	33.1
Decatur	5	5	0	5	0	0	3	1	1	5	0	35.9
Dickinson	95	76	19	90	4	1	23	68	4	66	29	31.5
Doniphan	12	12	0	10	2	0	7	5	0	7	5	40.9
Douglas	337	285	52	237	76	24	112	212	13	272	65	31.4
Edwards	12	8	4	12	0	0	3	9	0	5	7	35.2
Elk	4	4	0	3	1	0	1	3	0	4	0	24.9
Ellis	143	121	22	129	14	0	30	111	2	88	55	31.2
Ellsworth	26	23	3	21	4	1	5	21	0	14	12	35.9
Finney	260	204	56	230	27	3	87	163	10	170	90	31.8

Table 1: FY 2011 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	244	203	41	227	15	2	90	143	11	163	81	29.8
Franklin	109	94	15	102	4	2	30	69	10	76	33	36.1
Geary	304	251	53	178	119	7	108	194	2	203	101	31.3
Graham	10	10	0	9	1	0	3	7	0	9	1	26.2
Grant	27	22	5	27	0	0	12	13	2	19	8	30.3
Gray	8	7	1	8	0	0	2	6	0	7	1	29.5
Greeley	8	6	2	8	0	0	1	6	1	8	0	33.7
Greenwood	30	26	4	28	1	1	11	19	0	19	11	37.4
Hamilton	7	7	0	7	0	0	2	1	4	6	1	37.7
Harper	47	36	11	45	0	2	10	37	0	32	15	32.3
Harvey	222	174	48	201	20	1	68	140	14	125	97	34.5
Haskell	10	9	1	10	0	0	1	8	1	6	4	34.8
Hodgeman	7	5	2	6	1	0	1	6	0	4	3	31.6
Jackson	124	95	29	98	6	20	40	81	3	80	44	35.2
Jefferson	45	38	7	41	4	0	17	24	4	35	10	34.6
Jewell	9	9	0	9	0	0	3	6	0	8	1	34.7
Johnson	1,854	1,498	356	1,395	442	17	613	1,051	190	1,445	409	32.9
Kearny	19	16	3	18	1	0	6	12	1	14	5	31.3
Kingman	25	21	4	24	0	1	4	19	2	19	6	35.3
Kiowa	15	11	4	15	0	0	7	8	0	10	5	33.3
Labette	108	90	18	84	22	2	32	75	1	70	38	30.1
Lane	9	9	0	9	0	0	4	5	0	7	2	34.6
Leavenworth	211	172	39	151	56	4	64	135	12	159	52	32.7
Lincoln	3	3	0	2	1	0	1	2	0	3	0	30.2
Linn	35	33	2	33	2	0	14	19	2	27	8	31.5
Logan	12	12	0	11	1	0	6	6	0	9	3	31.7
Lyon	214	180	34	164	43	7	86	115	13	111	103	31.2
Marion	12	10	2	11	1	0	1	11	0	8	4	40.3

Table 1: FY 2011 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	
Marshall	46	33	13	45	0	1	9	34	3	30	16	31.4
McPherson	79	67	12	69	8	2	23	54	2	52	27	33.8
Meade	6	6	0	6	0	0	1	5	0	6	0	31.5
Miami	115	102	13	101	11	3	42	60	13	87	28	36.5
Mitchell	23	19	4	22	0	1	13	10	0	19	4	27.4
Montgomery	282	221	61	201	74	6	96	182	4	182	100	32.4
Morris	23	21	2	22	1	0	4	18	1	20	3	27.0
Morton	19	15	4	16	1	2	11	8	0	13	6	29.7
Nemaha	29	26	3	27	0	2	5	22	2	21	8	33.6
Neosho	55	47	8	50	3	2	22	32	1	33	22	28.8
Ness	1	0	1	1	0	0	0	1	0	0	1	37.8
Norton	14	10	4	14	0	0	7	7	0	12	2	29.3
Osage	55	47	8	54	1	0	13	39	3	40	15	34.1
Osborne	4	3	1	2	2	0	3	1	0	4	0	28.8
Ottawa	1	1	0	1	0	0	1	0	0	1	0	30.9
Pawnee	43	37	6	39	3	1	17	26	0	33	10	31.7
Phillips	5	5	0	5	0	0	1	4	0	2	3	31.3
Pottawatomie	82	62	20	74	8	0	20	58	4	58	24	33.8
Pratt	57	42	15	53	3	1	18	38	1	37	20	32.3
Rawlins	2	2	0	2	0	0	2	0	0	2	0	34.2
Reno	531	404	127	455	66	10	156	356	19	345	186	33.1
Republic	13	9	4	13	0	0	2	11	0	8	5	32.3
Rice	57	41	16	50	4	3	13	43	1	34	23	34.0
Riley	260	217	43	183	72	5	75	163	22	187	73	29.5
Rooks	30	24	6	29	1	0	14	14	2	17	13	34.3
Rush	16	12	4	16	0	0	6	10	0	6	10	31.7
Russell	20	16	4	16	3	1	2	18	0	14	6	32.1
Saline	499	401	98	385	107	7	192	291	16	346	153	31.9

Table 1: FY 2011 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	9	8	1	8	1	0	2	5	2	6	3	37.9
Sedgwick	3,174	2,641	533	1,915	1,173	85	1,255	1,747	172	2,434	740	33.4
Seward	92	79	13	73	17	2	80	9	3	69	23	31.3
Shawnee	1,017	828	189	660	333	24	325	634	58	827	190	35.0
Sheridan	1	1	0	1	0	0	1	0	0	0	1	33.0
Sherman	27	24	3	26	1	0	8	19	0	18	9	36.6
Smith	5	3	2	5	0	0	1	4	0	3	2	40.3
Stafford	14	11	3	14	0	0	8	6	0	5	9	35.0
Stanton	7	7	0	7	0	0	2	4	1	5	2	30.5
Stevens	27	24	3	25	2	0	16	11	0	23	4	28.7
Sumner	99	83	16	93	3	3	44	48	7	77	22	31.6
Thomas	17	13	4	14	3	0	2	15	0	7	10	36.0
Trego	8	8	0	8	0	0	0	8	0	3	5	43.4
Wabaunsee	12	11	1	9	3	0	1	11	0	9	3	33.3
Wallace	4	4	0	4	0	0	1	3	0	4	0	37.5
Washington	8	8	0	8	0	0	3	4	1	7	1	41.1
Wichita	8	8	0	8	0	0	4	2	2	7	1	33.6
Wilson	39	31	8	37	2	0	18	20	1	18	21	34.6
Woodson	12	9	3	12	0	0	3	8	1	5	7	37.2
Wyandotte	1,145	950	195	574	562	9	495	613	37	737	408	33.8
Unknown	8	7	1	5	2	1	8	0	0	8	0	42.4
TOTAL	14003	11,471	2,532	10,263	3,434	303	4,958	8,270	775	10,059	3,944	33.1

Note: Because of missing data, numbers in each category are based on the following: Gender, N=14,003; Race, N=14,000; Sentence Type, N=14,003; Offense Type, N=14,003; and Age, N=14,000.

* Prison sentences are based on KDOC admissions in FY 2011. Probation and jail sentences are based on the sentencing journal entries reported to KSC during FY 2011.

** Average age at time of sentencing.

CHARACTERISTICS OF OFFENDERS AND OFFENSES

The characteristics of the offenders who were sentenced during FY 2011 are presented in this section. The crime categories committed by the offenders are descriptively analyzed, as well.

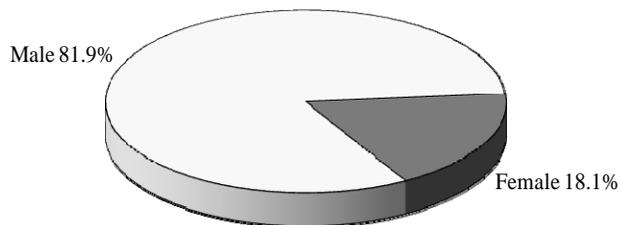
In FY 2011, male offenders represented 81.9% of the total sentences (Figure 6) and were in excess of 85% of most aggravated crimes and violent crimes such as burglary, criminal threat, fleeing or eluding LEO, kidnapping, possession of firearms, murder and rape (Table 2).

Female offenders accounted for 18.1% of the sentences in FY 2011, an increase of 0.3% compared with the percentage rate of FY 2010 (17.8%). The most frequently committed crimes by female offenders (over 35%) were forgery, identity theft, criminal use of financial card and computer crime.

In FY 2011, white offenders made up 73.3% of the sentences and 24.5% of the sentences were committed by black offenders. No significant fluctuation is identified in the racial distribution compared to FY 2010 (Figure 7).

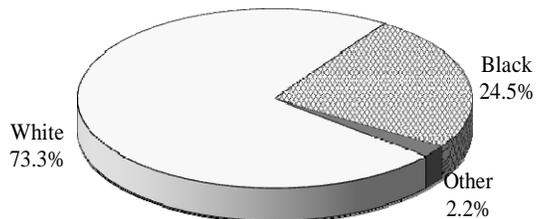
The distributions of offenders by gender, race and age are respectively exhibited in Figures 6, 7, 8 and 9. Table 2 illustrates the demographic information of offenders by offense types.

Figure 6: Distribution of FY 2011 Sentences by Gender of Offenders



Based on 14,003 sentences reporting gender of offenders

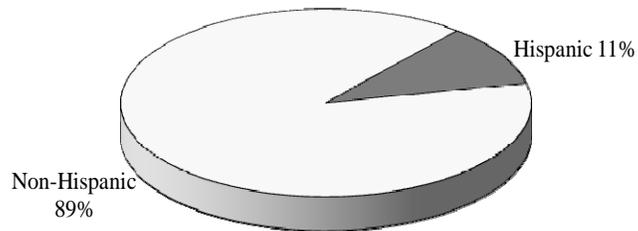
Figure 7: Distribution of FY 2011 Sentences by Race of Offenders



Based on 14,000 sentences reporting race of offenders

In FY 2011, eighty-nine percent of the offenders were of Non-Hispanic origin, indicating no percentage change compared with that of FY 2010 and FY 2009 (Figure 8). This distribution of ethnicity of offenders has been comparatively constant in the past five years.

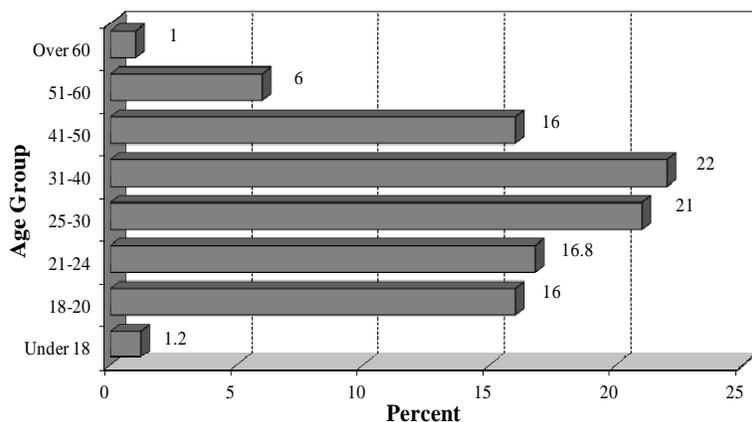
Figure 8: Distribution of FY 2011 Sentences by Ethnicity of Offenders



Based on 13,969 sentences reporting ethnicity of offenders

The analysis of offenders' age indicates 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% of all offenders in FY 2011. This finding is consistent with those in the past five years (Figure 9).

Figure 9: Distribution of FY 2011 Sentences by Age of Offenders



Based on 14,002 sentences reporting age of offenders at time of offense

Table 2: FY 2011 Offender Characteristics by Type of Offense – 1

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Abuse of Child	38	73.7	26.3	73.7	23.7	2.6	26.3
Agg. Arson	14	64.3	35.7	64.3	28.6	7.1	36.3
Agg. Assault	302	91.1	8.9	68.2	30.1	1.7	30.6
Agg. Assault on LEO	47	91.5	8.5	70.2	25.5	4.3	34.6
Agg. Battery	812	91.1	8.9	67.4	28.8	3.8	30.3
Agg. Battery on LEO	12	75.0	25.0	83.3	8.3	8.3	29.8
Agg. Burglary	233	88.4	11.6	59.2	39.5	1.3	30.4
Agg. Criminal Sodomy w/Child	45	97.8	2.2	73.3	26.7	0.0	32.4
Agg. Endangering a Child	52	63.5	36.5	88.5	9.6	1.9	29.1
Agg. Escape from Custody	90	82.2	17.8	52.2	43.3	4.4	34.0
Agg. Failure to Appear	38	73.7	26.3	57.9	42.1	0.0	32.2
Agg. False Impersonation	7	57.1	42.9	28.6	71.4	0.0	32.8
Agg. Robbery	296	89.9	10.1	44.9	52.4	2.7	25.0
Agg. Indecent Liberties w/Child	194	98.5	1.5	86.6	11.9	1.5	30.9
Agg. Indecent Solicit w/Child	70	95.7	4.3	84.3	7.1	8.6	31.9
Agg. Intimidation of a Victim	31	93.5	6.5	74.2	19.4	6.5	29.7
Agg. Kidnapping	8	100.0	0.0	50.0	50.0	0.0	30.2
Agg. Sexual Battery	60	100.0	0.0	81.7	16.7	1.7	32.4
Agg. Weapon Violation	8	100.0	0.0	75.0	25.0	0.0	31.4
Aid Felon	41	65.9	34.1	68.3	29.3	2.4	27.0
Arrange Sale/Purchase Drug	21	61.9	38.1	81.0	14.3	4.8	26.6
Arson	48	91.7	8.3	81.3	14.6	4.2	31.8
Battery on LEO	62	77.4	22.6	66.1	30.6	3.2	28.2
Blackmail	9	66.7	33.3	55.6	44.4	0.0	33.9
Burglary	1,288	90.5	9.5	78.4	18.9	2.7	27.1
Contribute Child's Misconduct	20	65.0	35.0	75.0	25.0	0.0	26.7
Computer Crime	19	47.4	52.6	63.2	31.6	5.3	30.5
Criminal Damage to Property	88	81.8	18.2	84.1	12.5	3.4	28.6
Criminal Discharge of Firearm	35	97.1	2.9	60.0	34.3	5.7	23.7
Criminal Sodomy w/Child	10	80.0	20.0	60.0	40.0	0.0	27.0
Criminal Threat	337	94.1	5.9	75.1	23.4	1.5	34.3
Criminal Use of Financial Card	25	36.0	64.0	84.0	16.0	0.0	30.4
Domestic Battery	59	93.2	6.8	62.7	37.3	0.0	30.3
Drugs	3,944	78.4	21.6	72.2	25.8	2.0	31.7
Drug without Tax Stamps	52	80.8	19.2	78.8	21.2	0.0	27.4
DUI	1,725	88.4	11.6	87.1	10.8	2.1	40.8
Electronic Solicitation of Child	20	100.0	0.0	85.0	5.0	10.0	33.5
Failure to Register	251	93.2	6.8	70.9	27.1	2.0	33.3

Table 2: FY 2011 Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Fleeing or Eluding LEO	264	91.3	8.7	69.3	29.2	1.5	30.0
Forgery	642	54.0	46.0	79.0	20.2	0.8	32.1
False Writing	135	61.5	38.5	68.9	28.1	3.0	32.3
Giving Worthless Checks	40	62.5	37.5	77.5	20.0	2.5	36.6
Identity Theft	170	61.2	38.8	80.0	18.8	1.2	32.5
Indecent Liberties w/Child	53	100.0	0.0	92.4	3.8	3.8	26.1
Indecent Solicitation of Child	31	100.0	0.0	83.9	16.1	0.0	24.3
Involuntary Manslaughter	29	79.3	20.7	75.9	17.2	6.9	36.5
Kidnapping	57	98.2	1.8	66.7	31.6	1.8	29.0
Lewd and Lascivious Behavior	10	90.0	10.0	90.	10.0	0.0	48.3
Mistreat Dependant Adult	14	35.7	64.3	92.3	7.7	0.0	47.6
Murder in the First Degree	56	91.1	8.9	57.1	41.1	1.8	26.3
Murder in the Second Degree	57	87.7	12.3	64.9	35.1	0.0	30.0
Nonsupport of Child or Spouse	36	86.1	13.9	75.0	19.4	5.6	36.6
Obstructing Legal Process	143	81.1	18.9	72.7	27.3	0.0	30.6
Obtain Prescription Drug by Fraud	4	0.0	100.0	100.0	0.0	0.0	30.7
Possession of Firearm	117	96.6	3.4	54.7	42.7	2.6	27.8
Rape	111	99.1	0.9	63.1	34.2	2.7	29.4
Robbery	222	89.6	10.4	53.6	44.6	1.8	26.5
Securities Crimes	7	100.0	0.0	100.0	0.0	0.0	41.7
Sex Exploitation of a Child	42	100.0	0.0	97.6	2.4	0.0	34.6
Stalking	23	95.7	4.3	73.9	21.7	4.3	35.9
Tamper w/Electronic Monitor Equip.	4	75.0	25.0	75.0	25.0	0.0	34.4
Theft	1,157	65.8	34.2	67.9	30.7	1.4	34.0
Traffic in Contraband	50	74.0	26.0	78.0	16.0	6.0	30.9
Tribal Gaming Oversight	4	100.0	0.0	50.0	0.0	50.0	45.5
Unlawful Sex Relations	8	50.0	50.0	75.0	25.0	0.0	31.6
Unlawful Voluntary Sex Relations	37	97.3	2.7	67.6	27.0	5.4	18.9
Voluntary Manslaughter	17	88.2	11.8	41.2	52.9	5.9	27.3
Weapons	5	100.0	0.0	60.0	40.0	0.0	37.2
Other	47	70.2	29.8	80.9	19.1	0.0	32.2
TOTAL	14,003	81.9	18.1	73.3	24.5	2.2	32.1

Note: Offenses with number of cases smaller than 4 are included in the offense type of "Other".
 Due to missing data, percentages in each category are based on different numbers: Gender, N=14,003; Race, N=14,000; and Age, N=14,002.

* Average age at time of offense.

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

In 1993, when the Sentencing Guidelines were established, 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 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). However, House Substitute for 2011 Senate Bill 6 amends a third DUI conviction to a Class A nonperson misdemeanor, unless the offender has a prior conviction which occurred within the preceding 10 years. The bill further amends that all imprisonment for DUI regardless of the number of priors, are served in jail; there are no provision for

postrelease supervision by KDOC parole officers.

Figure 10 demonstrates the sentencing trends of DUI under K.S.A. 8-1567(f) in FY 2001 and the past five fiscal years. 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 2011, sentences convicted under this crime increased to 1,726 with 76 (4.4%) sentenced to prison as condition violators, 884 (51.2%) sentenced to probation and 766 (44.4%) sentenced to county jails. The total number of sentences convicted under the crime of DUI in FY 2011 decreased by 8.2% from FY 2010 but increased by 9.7% over FY 2007. When compared with that of FY 2001, the number significantly increased by 181.1%. The distribution of felony DUI convictions in FY 2011 by county is presented in Figure 11. Johnson and Sedgwick counties were the top two counties imposing 389 (22.6%) and 339 (19.7%) sentences convicted under K.S.A. 8-1567 (f) in FY 2011.

The majority of the prison sentences include Probation condition violators, parole condition violators and parole violators with new sentences, which accounts for 98.1% in FY 2007, 97.2% in FY 2008, 98.3% in FY 2009, 97.2% in FY 2010 and 96.1% in FY 2011 (Figure 10).

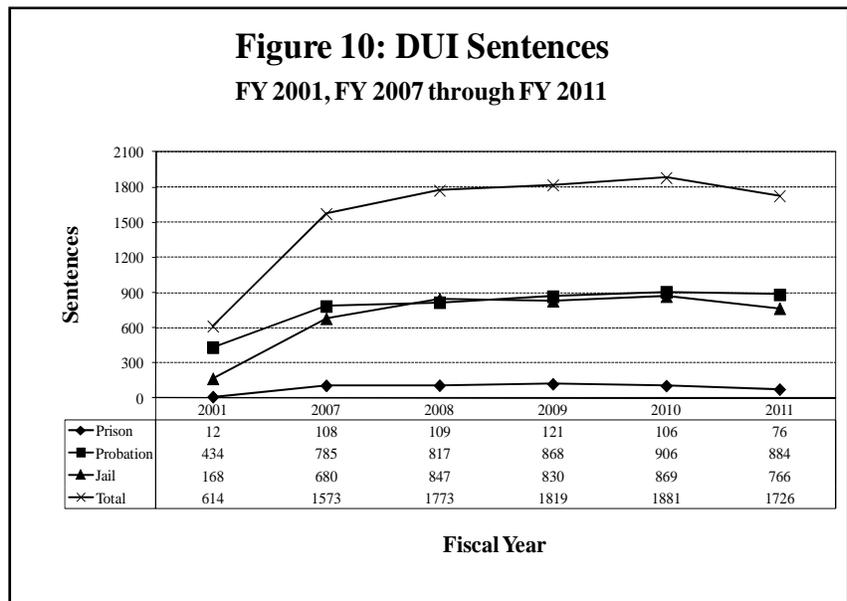
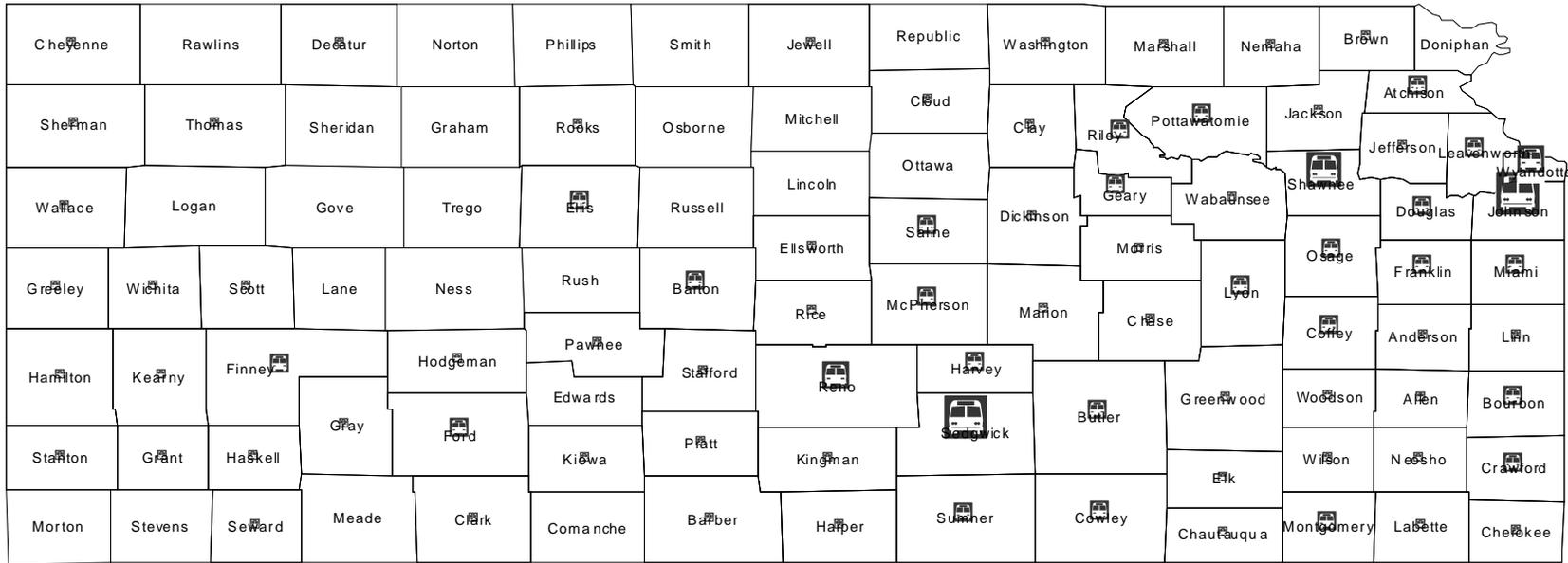
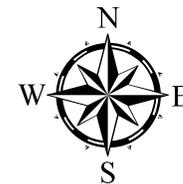


Figure 11: FY 2011 DUI Offense by County



-  1 - 10
-  11 - 50
-  51 - 100
-  101 - 200
-  201 - 389



Sentences for Failure to Register under the Kansas Offender Registration Act (KORA)

K.S.A. 2011 Supp. 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. During the 2011 Legislation, the penalties for violations of KORA are a severity level 6, person felony, for the first violation; a severity level 5, person felony for the second violation and a severity level 3, person felony for the third or subsequent violation.

The total number of sentences imposed on the crime of failure to register has been increasing in the past five years,. During FY 2011, 251 sentences were convicted under this crime, an increase of 30.1% and 382.7% respectively when compared with those of FY 2010 and FY 2007. Of these 251 convictions, 94 were sentenced to prison and 157 were sentenced to probation.

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 68.1% (171 sentences) of the crime convicted in FY 2011. Sentences at nondrug severity level 7 were attempt convictions of the crime.

Figure 12: Failure to Register Sentences By Sentence Imposed - FY 2007 through FY 2011

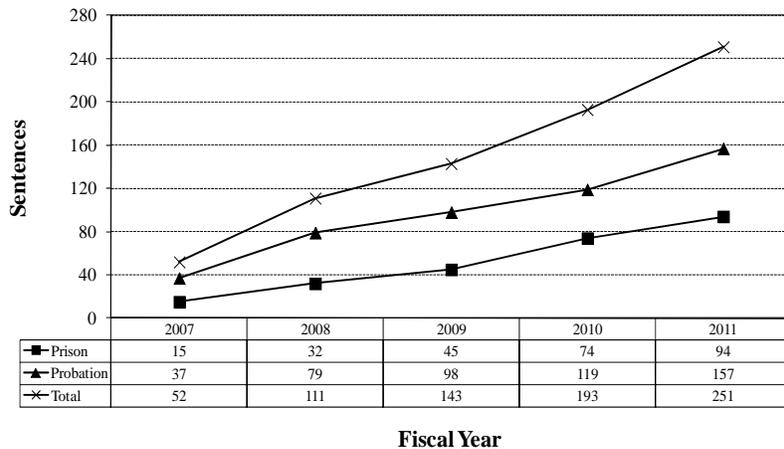
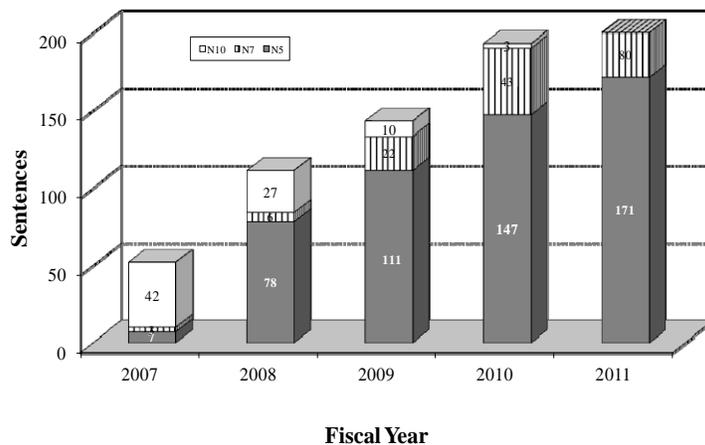


Figure 13: Failure to Register Sentences By Severity Level - FY 2007 through FY 2011



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 level 5 for aggravated burglary, nondrug severity level 7 for residential and nonresidential burglary 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 111 during FY 2011, 92 in FY 2010, 49 in FY 2009, 40 in FY 2008 and 38 in FY 2007.

The trend of burglary sentences is declining from FY 2007 to FY 2009. However, in FY 2011 the total number of burglary sentences increased by 10.9% and 21.1% respectively over those of FY 2010 and FY 2007. The number of prison sentences in FY 2011 increased by 53 sentences compared with FY 2010 and increased by 141 sentences compared with FY 2007. The probation sentences increased by 96 and 124 sentences respectively compared with FY 2010 and FY 2007.

The analysis of severity levels of the crimes indicates that the majority of the convictions were sentenced at nondrug severity level 7, representing 60.9% of burglary sentences imposed in FY 2011, 61.6% in 2010, 61.6% in FY 2009, 62.5% in FY 2008, and 61.1% in FY 2007.

Figure 14: Burglary Sentences
By Sentence Imposed - FY 2007 through FY 2011

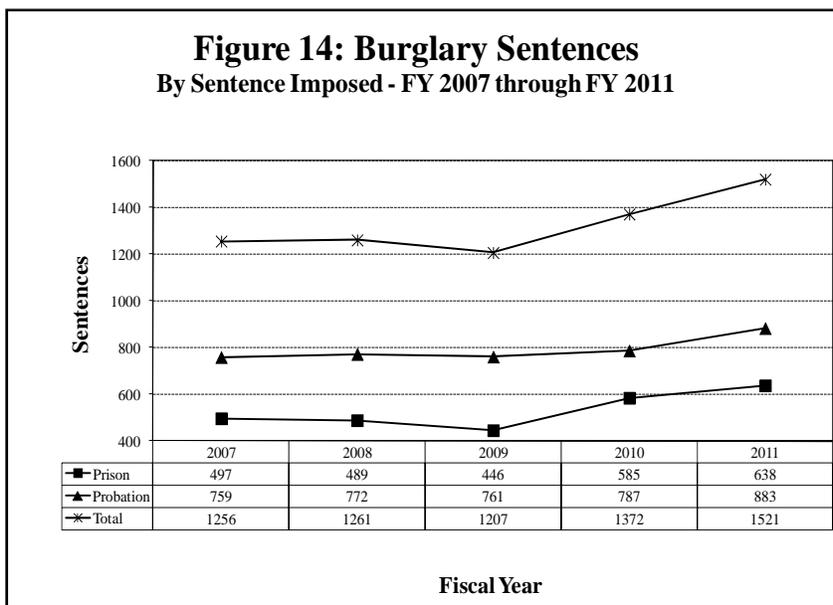
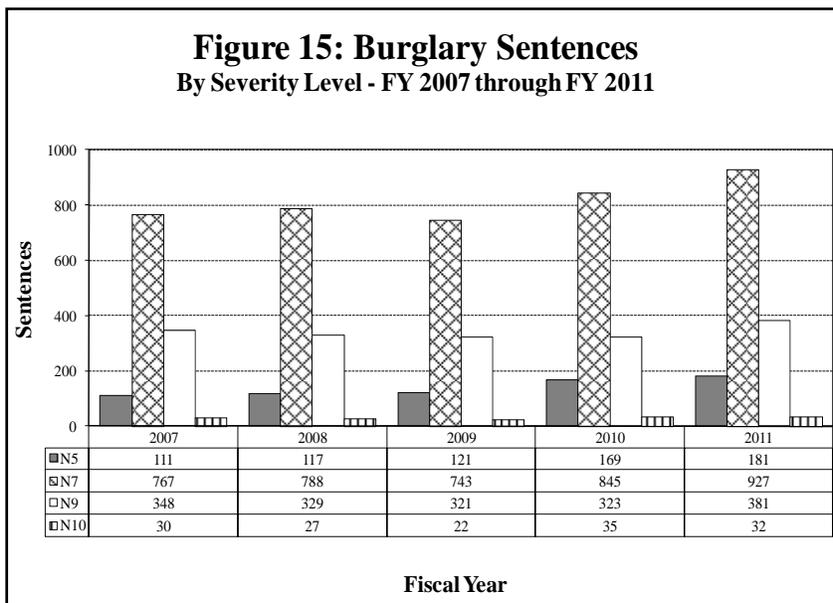


Figure 15: Burglary Sentences
By Severity Level - FY 2007 through FY 2011



INCARCERATION SENTENCES

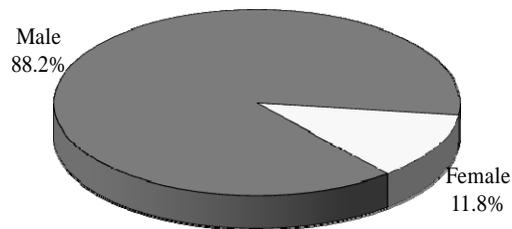
Characteristics of Offenders

Figures 16, 17, 18, 19 and 20 present the characteristics of offenders admitted to the state correctional facilities during FY 2011. Male offenders continued to be the predominant offender group representing 88.2% of the offenders admitted to prison in FY 2011 (Figure 16).

White offenders accounted for 66.4%, black offenders accounted for 30.8% and other races accounted for 2.8% of the total admissions in FY 2011 (Figure 17). This racial distribution of offenders is very consistent with that of FY 2010.

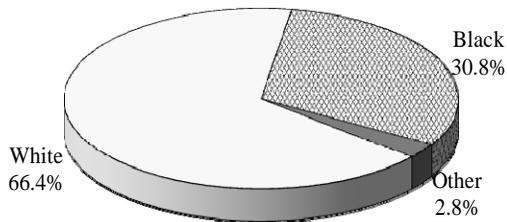
Non-Hispanic offenders represented 90% of the offenders sentenced to prison (Figure 18). The overall distributions of the offenders by gender, race and ethnicity are comparatively constant compared with those of the past five years.

Figure 16: FY 2011 Incarceration Sentences by Gender of Offenders



Based on 4,959 incarceration sentences reporting gender of offenders

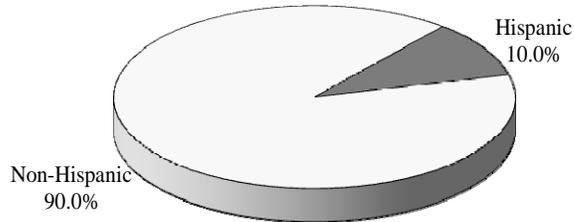
Figure 17: FY 2011 Incarceration Sentences by Race of Offenders



Based on 4,957 incarceration sentences reporting race of offenders

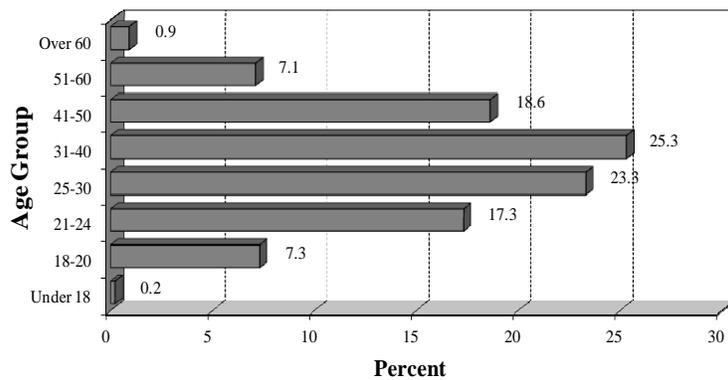
The largest number of incarcerated offenders were found in their thirties (25.3%) at the time of admission to prison, which is consistent with the age data observed in FY 2010 (Figure 19).

Figure 18: FY 2011 Incarceration Sentences by Ethnicity of Offenders



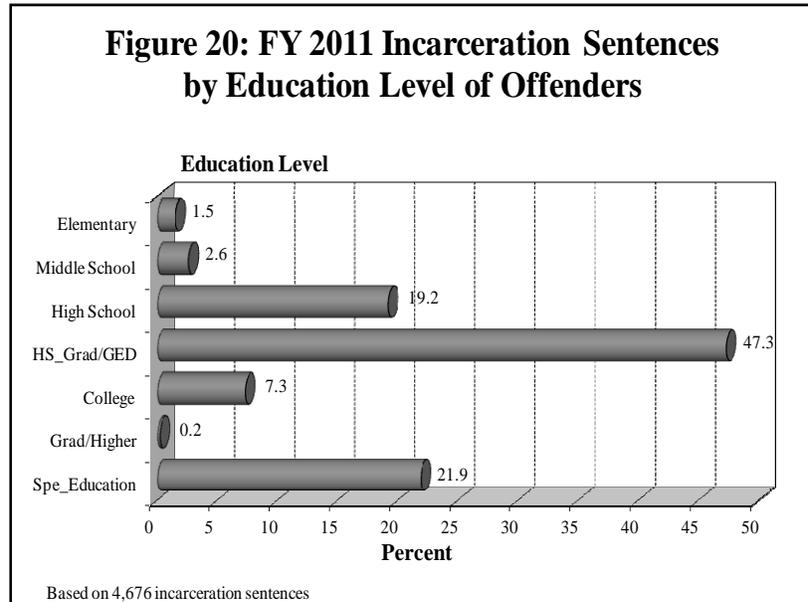
Based on 4,929 incarceration sentences reporting ethnicity of offenders

Figure 19: FY 2011 Incarceration Sentences by Age of Offenders at Admission



Based on 4,958 incarceration sentences reporting age of offenders

More than 47% 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.



Incarceration Nondrug Offenses

In FY 2011, a total number of 3,624 offenders were admitted to prison for convictions of nondrug crimes, representing 73.1% of the total incarceration sentences (4,958) of the fiscal year. The top ten nondrug crimes included burglary (502 sentences), aggravated battery (359 sentences), theft (336 sentences), aggravated robbery (244 sentences), forgery (181 sentences), aggravated indecent liberties with a child (166 sentences), robbery (145 sentences), aggravated assault (136 sentences), aggravated burglary (136 sentences) and rape (111 sentences). These top ten crimes accounted for 63.9% of the total nondrug crimes committed by the offenders admitted to prison in FY 2011 (Table 3).

The analysis of offenders by gender indicates that male offenders committed

almost 90% of the top ten crime categories, except forgery 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 false writing (Table 3).

Racial analysis on nondrug offenders reveals that the highest incarceration rates for white offenders (over 70%) were discovered in the areas of burglary, criminal threat, DUI, forgery, identity theft, obstructing legal process and most sex offenses. Nevertheless, blacks were incarcerated more often (over 45%) for the crimes of aggravated arson, aggravated robbery, robbery, voluntary manslaughter, battery on LEO and aggravated kidnapping. The average age of the nondrug offenders was 33.8 years old at the time of admission to prison in FY 2011, which remains very close to that of FY 2010 (Table 3).

Table 3: FY 2011 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	17	82.4	17.6	76.5	23.5	0.0	27.6
Agg. Arson	8	100.0	0.0	37.5	50.0	12.5	44.5
Agg. Assault	136	92.6	7.4	62.5	36.0	1.5	31.2
Agg. Assault on LEO	30	100.0	0.0	66.7	26.7	6.7	38.3
Agg. Battery	359	93.6	6.4	60.2	36.8	3.1	33.3
Agg. Battery on LEO	11	72.7	27.3	81.8	9.1	9.1	34.2
Agg. Burglary	136	90.4	9.6	56.6	41.9	1.5	34.2
Agg. Criminal Sodomy w/Child	45	97.8	2.2	73.3	26.7	0.0	37.8
Agg. Endangering a Child	14	64.3	35.7	78.6	21.4	0.0	27.7
Agg. Escape from Custody	65	78.5	21.5	49.2	44.6	6.2	37.1
Agg. Indecent Liberties w/Child	166	98.2	1.8	85.5	12.7	1.8	34.9
Agg. Indecent Solicit w/Child	45	97.8	2.2	84.4	6.7	8.9	36.7
Agg. Intimidation of a Victim	15	100.0	0.0	66.7	26.7	6.7	33.1
Agg. Kidnapping	8	100.0	0.0	50.0	50.0	0.0	37.2
Agg. Robbery	244	89.8	10.2	45.1	52.5	2.5	30.6
Agg. Sexual Battery	38	100.0	0.0	78.9	18.4	2.6	36.4
Aid Felon	10	100.0	0.0	60.0	40.0	0.0	25.9
Arson	18	94.4	5.6	94.4	0.0	5.6	31.8
Battery on LEO	33	87.9	12.1	51.5	45.5	3.0	31.2
Burglary	502	95.0	5.0	74.9	22.1	3.0	31.0
Contribute Child's Misconduct	6	83.3	16.7	83.3	16.7	0.0	30.1
Criminal Damage to Property	21	81.0	19.0	90.5	4.8	4.8	32.4
Criminal Discharge of Firearm	17	100.0	0.0	52.9	41.2	5.9	24.4
Criminal Sodomy w/Child	7	71.4	28.6	57.1	42.9	0.0	32.3
Criminal Threat	102	96.1	3.9	70.6	28.4	1.0	36.2
Drug without Tax Stamps	5	80.0	20.0	60.0	40.0	0.0	25.6
DUI	76	86.8	13.2	81.6	9.2	9.2	45.2
Electronic Solicitation of Child	13	100.0	0.0	84.6	7.7	7.7	37.9
Failure to Register	94	96.8	3.2	63.8	31.9	4.3	36.0
Fleeing or Eluding LEO	110	92.7	7.3	68.2	28.2	3.6	31.7
Forgery	181	58.6	41.4	80.7	19.3	0.0	34.8
False Writing	24	70.8	29.2	54.2	37.5	8.3	33.9
Identity Theft	49	81.6	18.4	79.6	20.4	0.0	36.2
Indecent Liberties w/Child	30	100.0	0.0	90.0	6.7	3.3	31.3
Indecent Solicitation of Child	13	100.0	0.0	76.9	23.1	0.0	24.7
Involuntary Manslaughter	23	78.3	21.7	69.6	21.7	8.7	36.9
Kidnapping	50	98.0	2.0	68.0	30.0	2.0	34.4

Table 3: FY 2011 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	
Lewd and Lascivious Behavior	4	75.0	25.0	100.0	0.0	0.0	44.3
Murder in the First Degree	56	91.1	8.9	57.1	41.1	1.8	32.7
Murder in the Second Degree	57	87.7	12.3	64.9	35.1	0.0	34.3
Nonsupport of Child or Spouse	9	88.9	11.1	77.8	22.2	0.0	40.5
Obstructing Legal Process	38	89.5	10.5	78.9	21.1	0.0	32.4
Possession of Firearm	48	97.9	2.1	56.3	41.7	2.1	29.5
Rape	111	99.1	0.9	63.1	34.2	2.7	35.9
Robbery	145	91.0	9.0	47.6	49.7	2.8	30.7
Sex Exploitation of a Child	16	100.0	0.0	93.8	6.2	0.0	37.1
Tamper w/Electronic Monitor Equip.	4	75.0	25.0	75.0	25.0	0.0	36.1
Stalking	7	85.7	14.3	57.1	28.6	14.3	35.0
Theft	336	77.7	22.3	66.1	32.7	1.2	37.5
Traffic in Contraband	14	85.7	14.3	71.4	21.4	7.1	34.8
Unlawful Voluntary Sex Relation	4	75.0	25.0	75.0	25.0	0.0	21.7
Voluntary Manslaughter	17	88.2	11.8	41.2	52.9	5.9	33.9
Other	37	81.1	18.9	56.8	40.5	2.7	34.6
TOTAL	3,624	89.4	10.6	66.6	30.7	2.7	33.8

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

Incarceration Drug Offenses

During FY 2011, a total number of 1,334 drug offenders were admitted to prison, accounting for 26.9% of the total admissions to the State Correctional Facilities. Of this total number, 52.5% were incarcerated for convictions of drug possession offenses, indicating a decrease of 4.2% compared with that of FY 2010 (56.7%). More than 97% of the drug possession sentences were found at drug severity level 4 (Figure 21).

Males represented 84.8% of the drug offenders admitted to prison in FY 2011. Most female offenders were convicted of drug crimes for opiates or narcotics possession and opiates or narcotics or depressants sale within 1,000 feet of school. White offenders were convicted of over 70% of incarceration drug sentences in the drug crime areas of possession of precursor drugs, unlawfully manufacturing controlled substance and opiates or narcotics or depressants sale within 1,000 feet of school. Black offenders were incarcerated more frequently (over 40%) for convictions of drug crimes of opiates or narcotics

possession for the second and third offense, opiates or narcotics or depressants sale for the first offense and opiates or narcotics sale for the second, third and the subsequent offenses. The average age of the drug offenders was 34.5 years old at admission to prison (Table 4), indicating little change compared with the age of the drug offenders observed in FY 2010.

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).

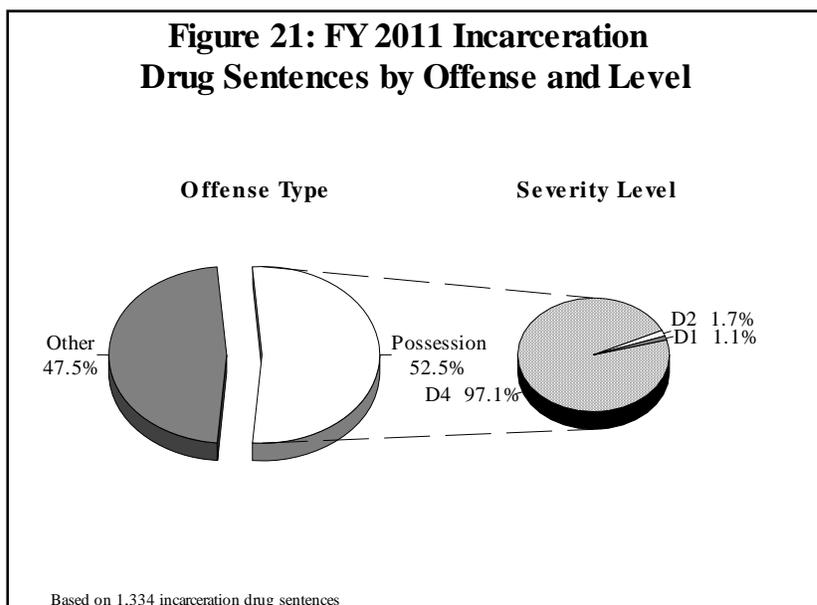
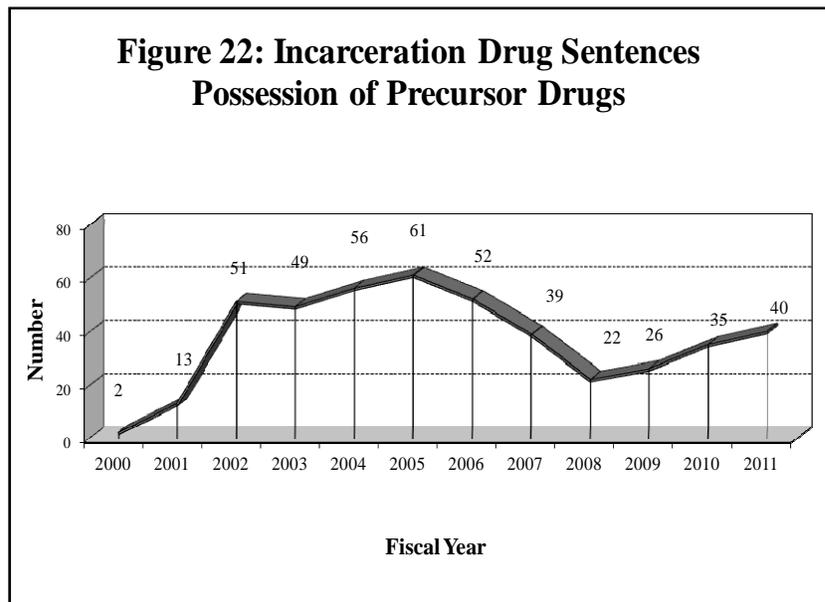


Table 4: FY 2011 Incarceration Drug Offender Characteristics by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Opiates or Narcotics; Poss. 1	557	79.2	20.8	65.4	30.9	3.8	34.8
Opiates or Narcotics; Poss. 2	12	91.7	8.3	58.3	41.7	0.0	43.6
Opiates or Narcotics; Poss. 3	8	75.0	25.0	50.0	50.0	0.0	48.2
Opiates or Narcotics; Depress, Stim., Hall.; Poss. w/Intent to Sell; Sale 1	417	89.0	11.0	56.3	41.3	2.4	33.3
Opiates or Narcotics; Sale 2	22	77.3	22.7	54.5	45.5	0.0	36.7
Opiates or Narcotics; Sale 3	7	85.7	14.3	71.4	28.6	0.0	37.9
Opiates/ Narcotics, Depress, Stim., Hall; Sale w/in 1,000 ft of School	35	77.1	22.9	74.3	22.9	2.9	37.3
Depress, Stim., Hall; Poss. 2	123	94.3	5.7	65.9	30.1	4.1	30.6
Unlawful Manufacture Controlled Substance	86	87.2	12.8	97.6	1.2	1.2	37.6
Possession of Paraphernalia	24	95.8	4.2	70.8	20.8	8.3	30.8
Possession of Precursor Drugs	40	87.5	12.5	100.0	0.0	0.0	39.4
Other	3	100.0	0.0	66.7	0.0	33.3	44.0
TOTAL	1,334	84.8	15.2	65.7	31.2	3.1	34.5

From FY 2001 through FY 2005, the drug crime of possession of precursor drugs under K.S.A. 65-7006 or 21-5709(a) kept increasing. Then, the admissions to prison under this drug crime dropped all the way from FY 2006 through FY 2008. However, the admissions started increasing again in FY 2009 and the admissions to prison reached to 40 in FY 2011. They were all white offenders and the average age of the offenders was 39 years old at the time of admission (Table 4).



Types of Admission and Severity Levels

The distribution of offenders by types of admission to the Kansas Department of Corrections in FY 2011 is presented in Table 5. Condition violators, including probation condition violators, parole/post-release condition violators and conditional release condition violators, comprised 53.5% of all offenders admitted to state correctional facilities during FY 2011. This represents a percentage decrease of 2.9% from that of FY 2010 (56.4%), 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.

New court commitments made up another big proportion of prison admissions in FY 2011, representing 40.2% of the total admissions. The percentage of this group increased by 1.8% compared with that of FY 2010 (38.4%), 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 5%, an increase of 0.5% over the percentage of this group of violators (4.5%) in FY 2010.

Table 5: Distribution of FY 2011 Incarceration Sentences by Admission Type

Admission Type	Number of Cases	Percent
New Court Commitment	1,995	40.2
Probation Condition Violator	1,626	32.8
Probation Violator With New Sentence	91	1.8
Inmate Received on Interstate Compact	8	0.2
Parole/Postrelease Condition Violator	1,023	20.6
Parole/Postrelease Violator With New Sentence	161	3.2
Paroled to Detainer Returned With New Sentence	25	0.5
Conditional Release Condition Violator	4	0.1
Other	25	0.5
TOTAL	4,958	100.0

Table 6 demonstrates the distribution of all incarcerated offenders admitted in FY 2011 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 52.9% of all drug offenders fell at drug severity level 4 (Figure 24), a decrease of 3.6% compared with that of FY 2010 (56.5%). Female offenders were convicted more often of drug offenses than

of nondrug offenses (15.2% vs. 10.6%). The highest percentages of female offenders were found at drug severity level 2 (18.2%) and nondrug severity level 8 (27.3%). The

highest percentage rates of male offenders were identified at drug severity level 3 (89%) and nondrug severity level 6 for nondrug crimes (96.8%).

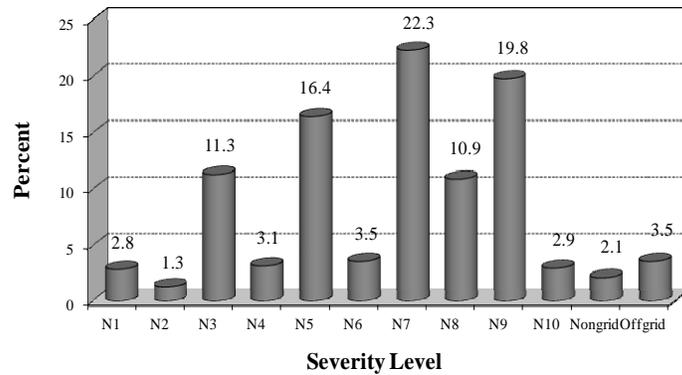
**Table 6: Distribution of FY 2011 Incarceration Sentences
By Severity Level and Gender***

Severity Level	Number	Percent	Gender (%)	
			Male	Female
Drug				
D1	111	8.3	86.5	13.5
D2	99	7.4	81.8	18.2
D3	418	31.3	89.0	11.0
D4	706	52.9	82.4	17.6
Subtotal	1,334	100.0	84.8	15.2
Nondrug				
N1	102	2.8	96.1	3.9
N2	48	1.3	93.8	6.2
N3	409	11.3	93.4	6.6
N4	114	3.1	94.7	5.3
N5	593	16.4	92.6	7.4
N6	126	3.5	96.8	3.2
N7	809	22.3	93.9	6.1
N8	395	10.9	72.7	27.3
N9	719	19.8	86.1	13.9
N10	105	2.9	80.0	20.0
Nongrid	77	2.1	87.0	13.0
Offgrid	126	3.5	94.4	5.6
Subtotal	3,623	100.0	89.4	10.6
TOTAL**	4,958	100.0	88.2	11.8

* Based on 1,334 drug offenders and 3,624 nondrug offenders.

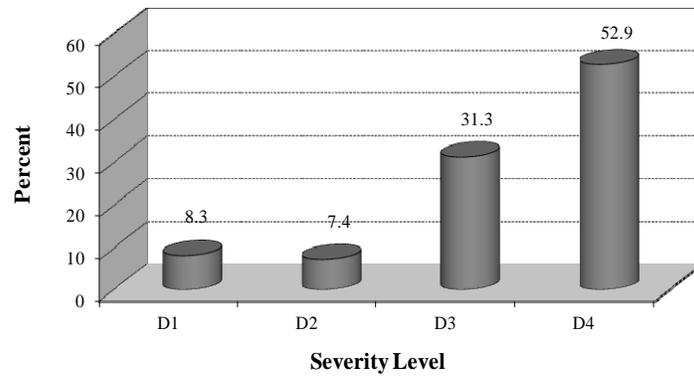
** Total number includes 1 nondrug offender whose severity level is unknown.

**Figure 23: FY 2011 Incarceration Sentences
Nondrug Offenders by Severity Level**



Based on 3,623 nondrug offenders

**Figure 24: FY 2011 Incarceration Sentences
Drug Offenders by Severity Level**



Based on 1,334 drug offenders

Table 7 presents the average length of sentences imposed by severity level for guideline new commitment offenders admitted to prison during FY 2011. 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 2010, the average length of sentence decreased by 18.8 months at

nondrug severity level 1, and slightly decreased by 1.7 months at nondrug severity level 2. The average length of sentence increased by 10.1 months at drug severity level 1, by 3.8 months at drug severity level 3, by 15.4 months at nondrug severity level 3, and by 6.2 months at nondrug severity level 4. As for other drug and nondrug severity levels, the average length of sentence did not fluctuate significantly from those observed in FY 2010.

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

Severity Level	FY 2010 LOS (Months)	FY 2011 LOS (Months)	Difference (Months)
D1	104.5	114.6	10.1
D2	51.1	51.5	0.4
D3	29.6	33.4	3.8
D4	22.1	21.5	-0.6
N1	243.9	225.1	-18.8
N2	167.0	165.3	-1.7
N3	86.8	102.2	15.4
N4	65.3	71.5	6.2
N5	58.8	58.6	-0.2
N6	33.9	35.5	1.6
N7	27.2	27.3	0.1
N8	18.5	17.2	-1.3
N9	12.8	12.7	-0.1
N10	8.5	8.5	0.0

Note: Based on 3,585 and 3,584 guideline new commitment admissions in FY 2010 and FY 2011 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 a Hard 25 years for the first offense, mandatory minimum of a Hard 40 years for the second offense and life imprisonment without parole for the third offense (K.S.A. 2006 Supp. 21-4643).

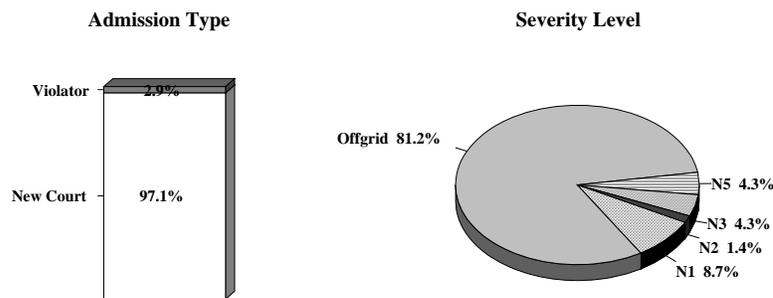
A total number of 69 offenders were sentenced and admitted to prison under Jessica’s Law during FY 2011. All of them were new court commitments except one probation condition violator and one parole violator with new sentence. While most jurisdictions identify the severity of these crimes as offgrid, a few sentenced them at the severity level for a downward departure on the nondrug grid. Therefore, of these offenders, 81.2% (56 offenders) were sentenced at offgrid, 8.7% (6 offenders)

were sentenced at nondrug severity level 1, 1.4 (1 offender) was at nondrug severity levels 2 and 4.3% (3 offenders) were respectively at nondrug severity levels 3 and 5 (Figure 25). The analysis of the sentence length demonstrates that 53.6% of the sentences were downward departure to guidelines, a decrease of 4.6% compared with that of FY 2010 (58.2%). The average sentence length of the durational departures was 145 months, an increase of 25.7 months over that observed in FY 2010 (119.3 months).

Table 8 displays the distribution of the incarcerated offenders under Jessica’s Law by county. Wyandotte county imposed the most Jessica’s Law prison sentences (11) followed by Sedgwick (10), Saline (8) and Harvey (6) counties.

In addition, two offenders were convicted under Jessica’s Law and sentenced to probation during FY 2011, whose offense dates were before July 1, 2008. Their underlying prison terms were 61 months and 72 months respectively. The major departure reasons are that the defendant had no prior criminal history and accepted responsibility.

Figure 25: FY 2011 Jessica's Law Incarceration Sentences

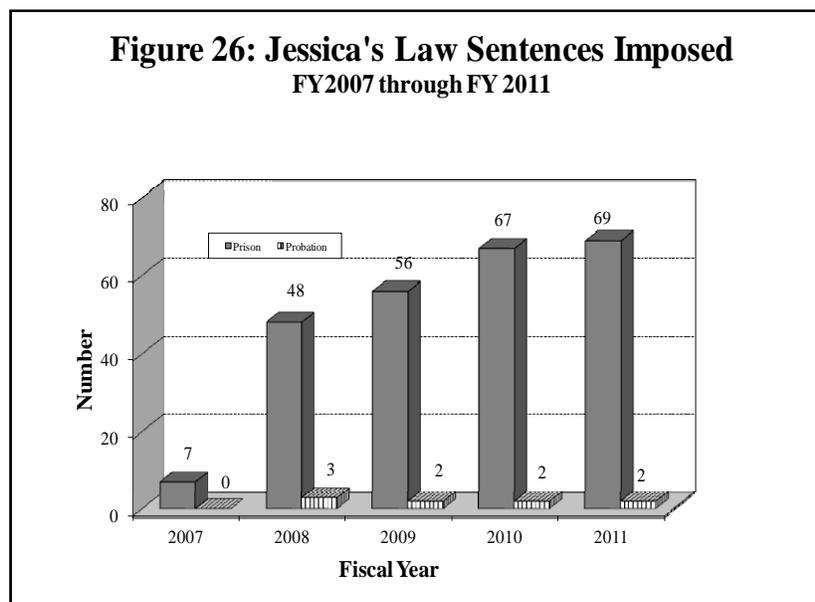


Based on 69 Jessica's Law incarceration sentences.

Table 8: FY 2011 Jessica’s Law Incarceration Sentences Imposed by County

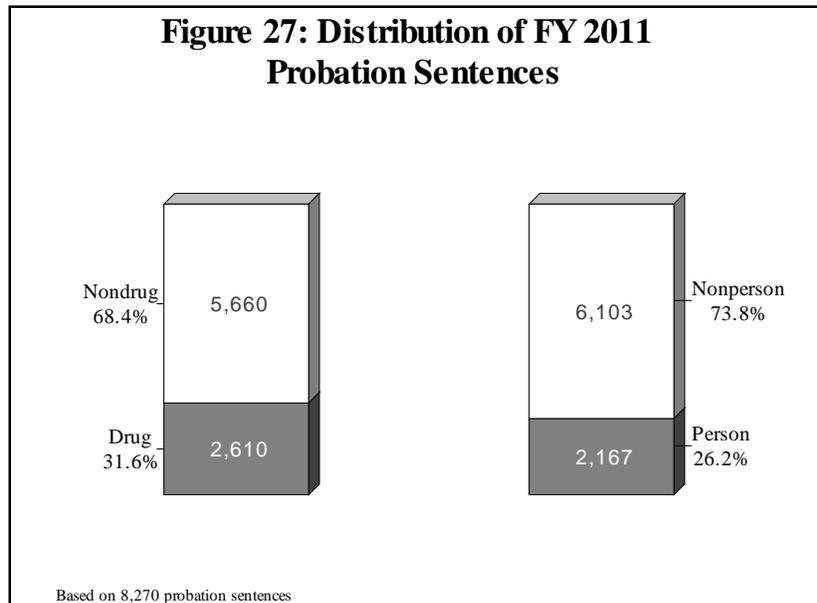
County	Number	County	Number
Anderson	1	Miami	1
Atchison	1	McPherson	1
Brown	3	Nemaha	1
Butler	1	Osage	1
Douglas	4	Pottawatomie	1
Finney	1	Reno	4
Ford	1	Saline	8
Geary	2	Sedgwick	10
Harvey	6	Sherman	1
Jefferson	1	Shawnee	1
Johnson	3	Sumner	2
Lyon	1	Wallace	1
Meade	1	Wyandotte	11
Total			69

Figure 26 illustrates the sentencing trend of Jessica’s Law convictions from FY 2007 through FY 2011. The total number of Jessica’s Law sentences imposed in FY 2011 was 71 including both prison and probation sentences, an increase of 2 sentences compared with that of FY 2010 (69 sentences) and an increase of 64 sentences compared with that of FY 2007 (7 sentences). FY 2007 is the initial year for the implementation of Jessica’s Law.

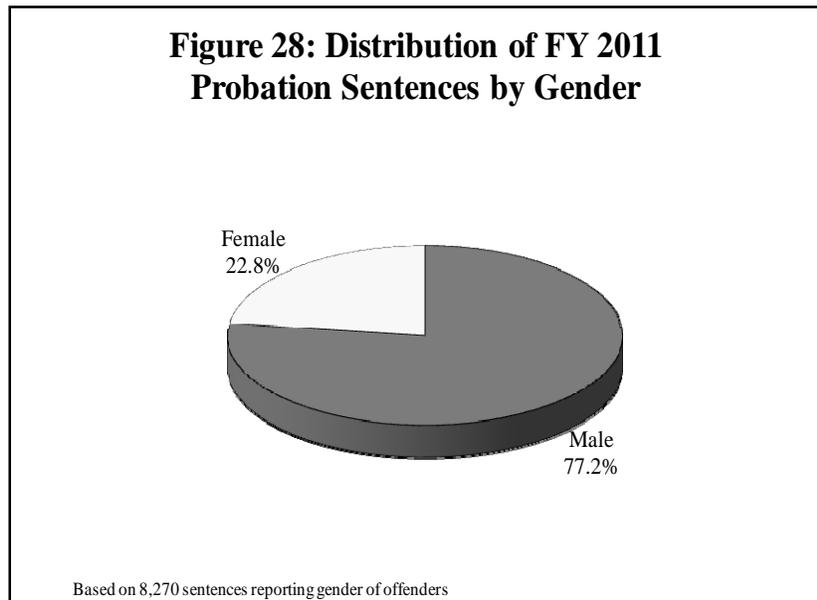


PROBATION SENTENCES

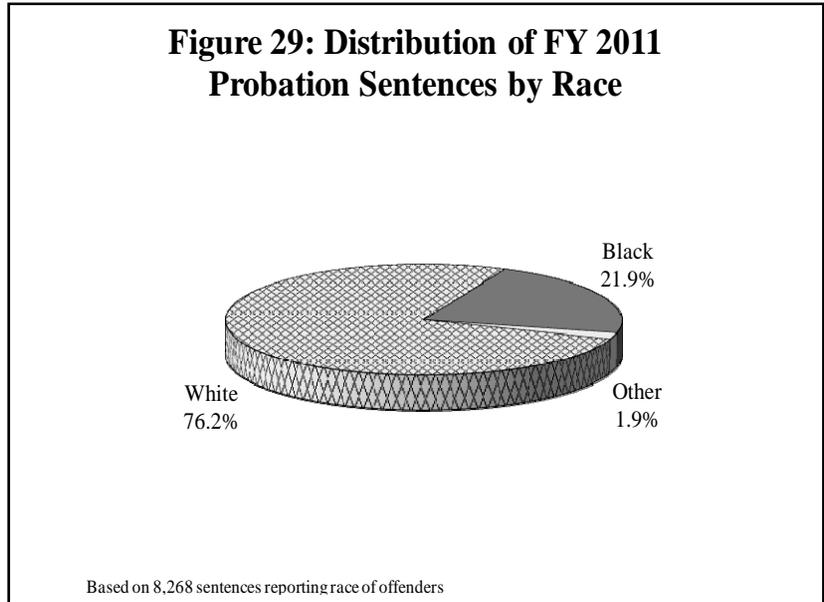
In FY 2011, a total number of 8,270 probation sentences were reported to the Kansas Sentencing Commission. Of this number, 5,660 were nondrug sentences and 2,610 were drug sentences; non-person offenses made up 73.8% and person offenses made up 26.2% (Figure 27). The demographic information of this offender group was described in Figures 28, 29 and 30.



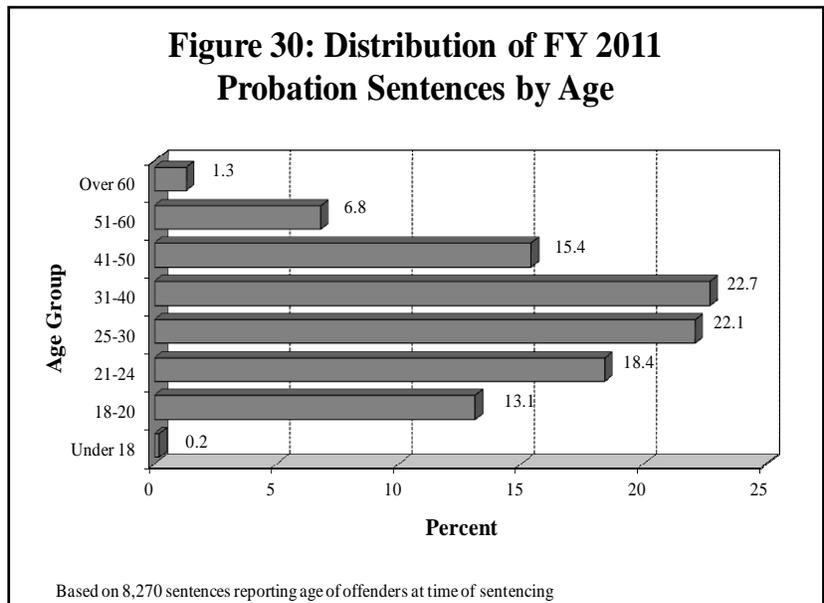
Male offenders accounted for 77.2% of all probation sentences imposed in FY 2011, indicating no percentage change compared with that observed (77.2%) in FY 2010 (Figure 28).



White offenders made up 76.2% of the probation sentences imposed in FY 2011, an increase of 1.6% compared with that of FY 2010 (74.6 %). The percentages of black offenders decreased by 2% in FY 2011 compared with that of FY 2010 (23.9%). The percentage of offenders in other races remains constant compared with that observed in FY 2010 (Figure 29).



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 (22.7%) and the second largest group was identified in the age group ranging from 25 to 30 (22.1%). This distribution is the same with that of FY 2010 (Figure 30).



Type of Offense and Severity Level

The analysis of offenses committed by nondrug probation offenders identifies 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 74.8% of the total nondrug probation sentences in FY 2011 (Figure 31), an increase of 0.6% from that of the previous year (74.2%). In reviewing drug offenders on probation, the largest number of sentences was for possession of drugs, representing 65.3% of all probation drug offenses (Figure 32) and indicating a decrease of 1% from that of FY 2010 (66.3%).

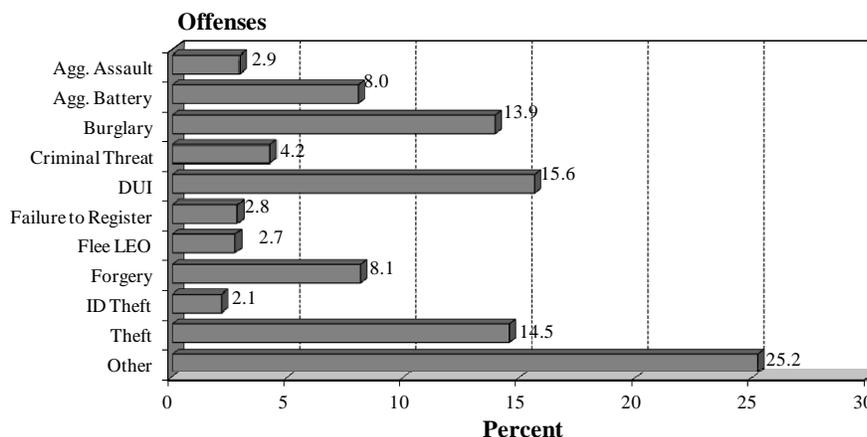
Tables 9 and 10 demonstrate the characteristics of offenders sentenced to probation in FY 2011 by offense type. Male offenders sentenced to probation during FY 2011 were convicted of over 90% of the sex offenses and violent crimes of probation sentences such as: criminal threat, domestic battery, fleeing or eluding LEO, aggravated

robbery and possession of firearms. The highest percentages of female probation nondrug offenses (over 50%) included computer crimes, criminal use of financial card and mistreatment of dependant adult.

In FY 2011, white offenders represented 76.6% of all nondrug probation sentences and 75.5% of all drug offenders on probation. Black offenders on probation had a little lower conviction rate for nondrug offenses than drug crimes (21.4% versus 23%). The average age at the time of committing offense was 32 years old for both nondrug offenders and drug offenders, which remains very close to those in FY 2010 (Table 9 & Table 10).

Tables 11 and 12 present the characteristics of probation offenders by severity level. The largest number of probation nondrug sentences were found at nondrug grid severity level 9 (1,717 sentences or 30.3%) and the majority of probation drug sentences were identified at drug grid severity level 4 (1,821 sentences or 69.8%). These distributions are consistent with those in the past five years.

Figure 31: FY 2011 Top Ten Offenses for Probation Nondrug Sentences



Based on 5,660 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 49.3% of the total probation drug sentences in FY 2011 (Table 10).

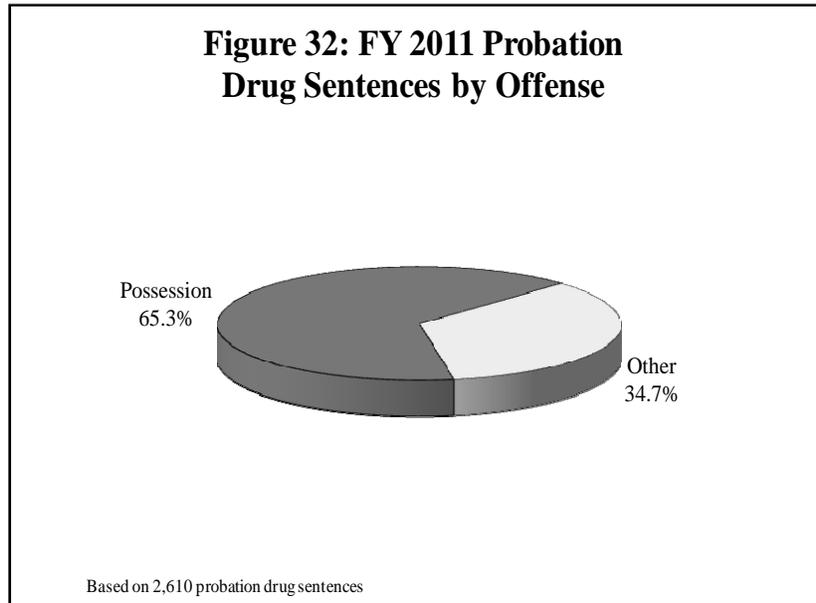


Table 9: Characteristics of Probation Nondrug Offenders by Type of Offense –1

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Abuse of Child	21	0.4	66.7	33.3	71.4	23.8	4.8	27.0
Agg Assault	166	2.9	89.8	10.2	72.8	25.3	1.8	31.8
Agg Assault on LEO	17	0.3	76.5	23.5	76.5	23.5	0.0	32.1
Agg Arson	6	0.1	16.7	83.3	100.0	0.0	0.0	36.8
Agg Battery	453	8.0	89.2	10.8	73.1	22.5	4.4	30.0
Agg Burglary	97	1.7	85.6	14.4	62.9	36.1	1.0	29.8
Agg Endangering a Child	38	0.7	63.2	36.8	92.1	5.3	2.6	30.1
Agg Escape from Custody	25	0.4	92.0	8.0	60.0	40.0	0.0	31.8
Agg Fail to Appear	35	0.6	74.3	25.7	60.0	40.0	0.0	32.8
Agg False Impersonation	5	0.1	40.0	60.0	40.0	60.0	0.0	30.7
Agg Ind Lib with a Child	28	0.5	100.0	0.0	92.9	7.1	0.0	29.3
Agg Ind Solicit with a Child	25	0.4	92.0	8.0	84.0	8.0	8.0	27.4
Agg Intimidation of a Victim	16	0.3	87.5	12.5	81.3	12.5	6.3	28.5
Agg Robbery	52	0.9	90.4	9.6	44.2	51.9	3.8	23.3
Agg Sex Battery with Child	22	0.4	100.0	0.0	86.4	13.6	0.0	32.3
Agg Weapon Violation	5	0.1	100.0	0.0	80.0	20.0	0.0	35.7
Aiding Felon	31	0.5	54.8	45.2	71.0	25.8	3.2	28.1
Arrange Sale/Purchase Drug	20	0.4	65.0	35.0	80.0	15.0	5.0	27.0
Arson	30	0.5	90.0	10.0	73.3	23.3	3.3	33.1
Battery on LEO	29	0.5	65.5	34.5	82.8	13.8	3.4	28.6
Blackmail	7	0.1	57.1	42.9	57.1	42.9	0.0	35.3
Burglary	786	13.9	87.7	12.3	80.6	16.8	2.5	25.9

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	
Computer Crime	16	0.3	43.8	56.2	68.8	31.2	0.0	29.7
Contribute Child Misconduct	14	0.2	57.1	42.9	71.4	28.6	0.0	27.2
Criminal Damage of Property	67	1.2	82.1	17.9	82.1	14.9	3.0	28.2
Criminal Discharge of Firearm	18	0.3	94.4	5.6	66.7	27.8	5.6	24.6
Criminal Threat	235	4.2	93.2	6.8	77.0	21.3	1.7	34.2
Criminal Use of Financial Card	22	0.4	31.8	68.2	86.4	13.6	0.0	30.2
Domestic Battery	49	0.9	91.8	8.2	65.3	34.7	0.0	30.4
Drug without Tax Stamps	47	0.8	80.9	19.1	80.9	19.1	0.0	27.9
DUI	884	15.6	85.3	14.7	87.9	10.0	2.1	28.9
Electronic Solicitation of Child	7	0.1	100.0	0.0	85.7	0.0	14.3	27.8
Failure to Register	157	2.8	91.1	8.9	75.2	24.2	0.6	32.7
False Writing	111	2.0	59.5	40.5	72.1	26.1	1.8	32.4
Fleeing/Eluding LEO	154	2.7	90.3	9.7	70.1	29.9	0.0	30.0
Forgery	460	8.1	52.2	47.8	78.3	20.7	1.1	32.0
Giving Worthless Check	37	0.7	59.5	40.5	81.1	16.2	2.7	36.7
Identity Theft	121	2.1	52.9	47.1	80.2	18.2	1.6	31.8
Ind. Liberties with a Child	23	0.4	100.0	0.0	95.7	0.0	4.3	25.8
Ind. Solicitation with a Child	18	0.3	100.0	0.0	88.9	11.1	0.0	26.4
Involuntary Manslaughter	6	0.1	83.3	16.7	100.0	0.0	0.0	47.8
Kidnapping	7	0.1	100.0	0.0	57.1	42.9	0.0	26.1
Lewd and Lascivious Behavior	6	0.1	100.0	0.0	83.3	16.7	0.0	51.8
Mistreatment of Dependant Adult	12	0.2	33.3	66.7	91.7	8.3	0.0	48.4
Non-Support of a Child	27	0.5	85.2	14.8	74.1	18.5	7.4	36.8
Obstruct Legal Process	105	1.9	78.1	21.9	70.5	29.5	0.0	30.7
Possession of Firearms	69	1.2	95.7	4.3	53.6	43.5	2.9	27.5
Robbery	77	1.4	87.0	13.0	64.9	35.1	0.0	25.8
Securities Act Violations	4	0.1	100.0	0.0	100.0	0.0	0.0	37.1
Sex Exploitation of a Child	26	0.5	100.0	0.0	100.0	0.0	0.0	34.2
Stalking	16	0.3	100.0	0.0	81.3	18.7	0.0	36.7
Theft	821	14.5	60.9	39.1	68.7	29.8	1.5	33.3
Traffic in Contraband	36	0.6	69.4	30.6	80.6	13.9	5.6	30.2
Tribal Gaming Oversight	4	0.1	100.0	0.0	50.0	0.0	50.0	45.5
Unlawful Sex Relations	8	0.1	50.0	50.0	75.0	25.0	0.0	31.6
Unlawful Voluntary Sex Relation	33	0.6	100.0	0.0	66.7	27.3	6.1	18.8
Weapon	5	0.1	100.0	0.0	60.0	40.0	0.0	37.2
Other	44	0.8	63.6	36.4	84.1	15.9	0.0	32.4
TOTAL	5,660	100.0	78.2	21.8	76.6	21.4	2.1	31.8

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=5,660; Race, N=5,658; and Age, N=5,660.

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

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Opiates or Narcotics; Possession	1,287	49.3	70.3	29.7	78.9	19.6	1.6	33.7
Opiates or Narcotics; Depress, Stim., Hall.; Poss. w/Intent to Sell; Sale 1	736	28.2	78.1	21.9	70.1	28.5	1.4	29.6
Opiates or Narcotics; Sale 2	4	0.2	100.0	0.0	50.0	50.0	0.0	30.6
Opiates/ Narcotics, Depress, Stim, Hall; Sell w/in 1,000 feet of School	17	0.7	64.7	35.3	58.8	41.2	0.0	31.1
Depress, Stim, Hall; Poss 2	418	16.0	85.2	14.8	73.0	25.6	1.4	30.1
Possession of Paraphernalia	112	4.3	74.1	25.9	79.5	18.8	1.8	28.7
Possession of Precursor Drugs	16	0.6	68.8	31.2	100.0	0.0	0.0	34.9
Unlawful Manufacture Controlled Substance	13	0.5	69.2	30.8	100.0	0.0	0.0	36.0
Other	7	0.3	85.7	14.3	71.4	29.6	0.0	40.2
TOTAL	2,610	100.0	75.1	24.9	75.5	23.0	1.5	31.8

Table 11: Characteristics of Probation Nondrug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
N3	45	0.8	93.3	6.7	66.7	31.1	2.2	23.9
N4	28	0.5	96.4	3.6	57.1	32.1	10.7	29.8
N5	398	7.0	87.9	12.1	72.9	25.1	2.0	29.6
N6	93	1.6	79.6	20.4	84.8	13.0	2.2	30.2
N7	1,194	21.1	86.4	13.6	76.9	20.5	2.6	28.9
N8	960	17.0	62.5	37.5	75.2	22.6	2.2	30.9
N9	1,717	30.3	74.6	25.4	73.3	25.2	1.5	31.6
N10	288	5.1	74.7	25.3	72.6	25.7	1.7	31.6
Nongrid	935	16.5	85.7	14.3	86.6	11.3	2.0	38.4
Offgrid*	2	0.1	100.0	0.0	100.0	0.0	0.0	59.0
TOTAL	5,660	100.0	78.2	21.8	76.6	21.4	2.1	31.8

Note: Due to missing data, each category is based on different numbers: Gender, N=5,660; Race, N=5,658; and Age, N=5,660.
 * 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	16	0.6	62.5	37.5	87.5	12.5	0.0	37.2
D2	36	1.4	72.2	27.8	75.0	25.0	0.0	32.3
D3	737	28.2	78.2	21.8	70.1	28.5	1.4	29.6
D4	1,821	69.8	74.0	26.0	77.6	20.9	1.5	32.6
TOTAL	2,610	100.0	75.1	24.9	75.5	23.0	1.5	31.8

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 or 21-5706.

During FY 2011, a total number of 1,072 sentences were imposed to SB 123 drug treatment programs, representing 41.1% of the total drug probation sentences (2,610), a decrease of 0.9% compared with that of FY 2010 (42%). Of these sentences, 74% were convicted of the crime of drug possession under K.S.A. 65-4160 (21-36a06) and 25.6% 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 91.9% of them were in the criminal history categories from E through I, a decrease of 0.7% compared with that of FY 2010 (92.6%). This data implies that SB 123 was implemented very consistently during FY 2011.

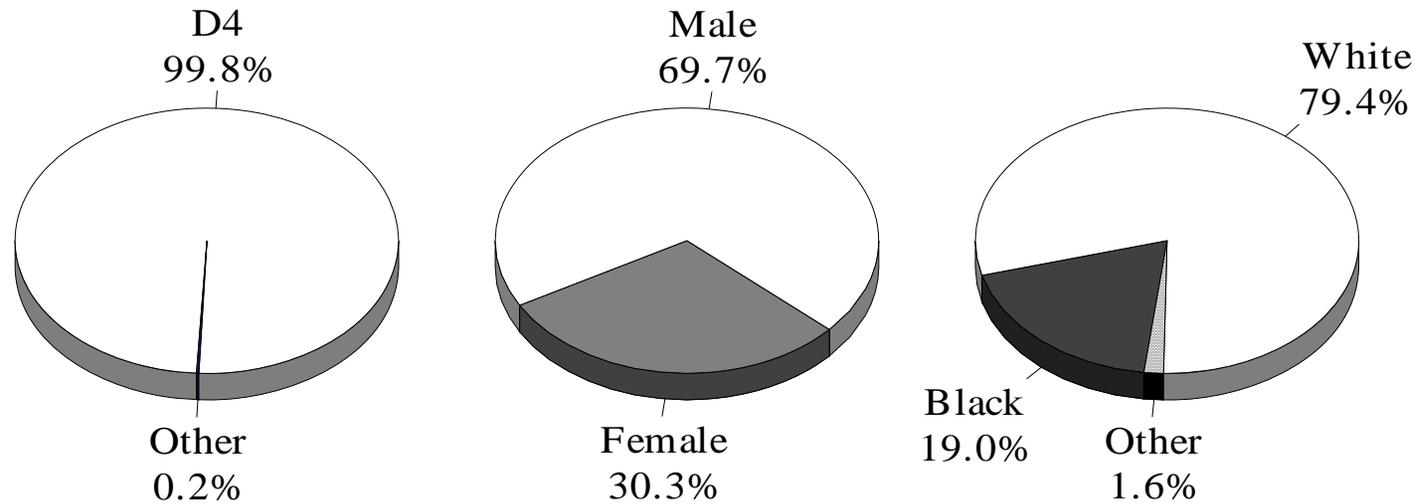
A summary of the offenders sentenced to SB 123 treatment programs in FY 2011 is

presented in Figure 33. The offenders at drug severity level 4 accounted for 99.8%. White males were still the majority of the treatment offenders. The average age of the drug treatment offenders was 32.8 years old at sentencing, which remains pretty close to those of FY 2010 and FY 2009.

The distribution of SB 123 drug treatment sentences imposed in FY 2011 by county is demonstrated in Figure 34. Sedgwick County imposed the most SB 123 sentences (195) followed by Johnson (95), Wyandotte (93) and Shawnee (72) counties. No SB 123 sentences were reported from 33 counties. The average number of SB 123 sentences imposed by the 72 counties is 15, which is the same as that of FY 2010.

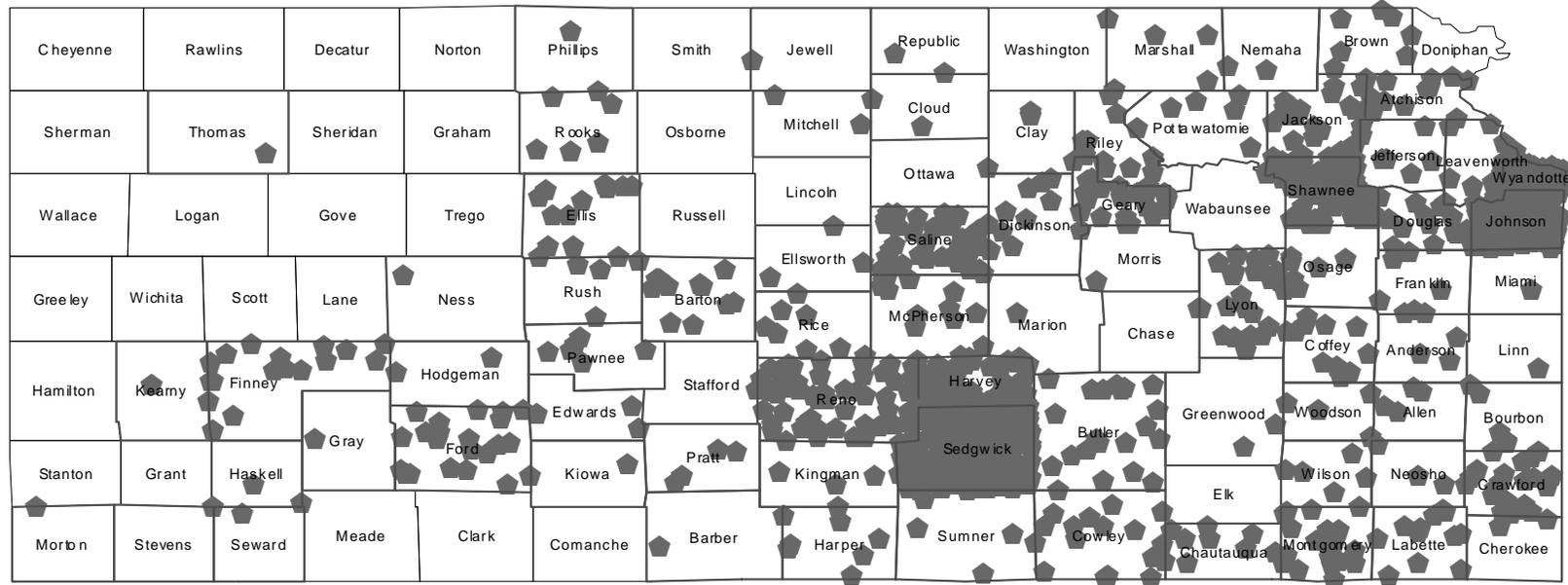
In addition, during FY 2011, 530 SB 123 drug treatment sentences were revoked. Of this number, 210 sentences were revoked to prison, representing 19.6% of SB 123 sentences imposed (1,072 sentences) in FY 2011. The average period between original sentence and revocation hearing was 15 months, which remains the same as that of FY 2010.

Figure 33: Distribution of FY 2011 Senate Bill 123 Drug Treatment Sentences

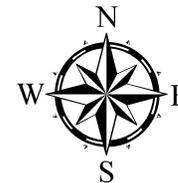


Based on 1,072 SB 123 sentences

Figure 34: Distribution of SB 123 Drug Treatment Sentences Imposed by County - FY 2011



Summary
 Total counties=105
 Total sentences=1,072
 Counties w/zero=33
 Minimum=1
 Maximum=195
 Mean=15



Criminal History and Length of Probation

In FY 2011, offenders sentenced to probation with assigned criminal history categories accounted for 88.9% of all the probation sentences (8,270) reported to the Commission, which remains very close to that of FY 2010 (88.2%). The largest number of this group fell within criminal history category I (30.2% or 2,217 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 30.1% of offenders on the nondrug grid and 30.3% of offenders on the drug grid.

Nondrug offenders who were within the presumptive probation boxes accounted for 82.8% (Table 13), while 57% of probation drug offenders were sentenced within the presumptive probation boxes (Table 14). The examination of the border box sentences discloses that 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 24.2% 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). The sentencing data in border boxes implies that drug offenders tend to be sentenced to probation more frequently than do nondrug offenders.

Tables 13 and 14 present the probation terms of probation sentences by each severity level. The average length of probation for nondrug offenders was 17.9 months, very consistent with those of the past five years. The average length of probation for drug offenders was 16.5 months, indicating a very small change in months compared with that (15.9 months) of FY 2010

Figure 35: Distribution of FY 2011 Probation Sentences by Criminal History Nondrug and Drug Sentences

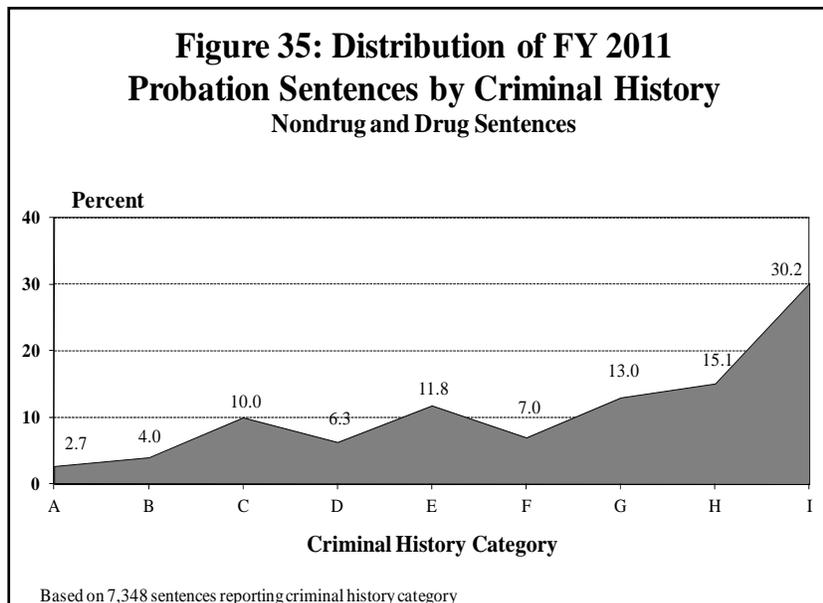


Table 13: Criminal History and Probation Length by Severity Level – Nondrug Offenders

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
N3	45	0	1	2	2	4	1	5	6	24	36.3
N4	28	0	1	2	3	0	1	1	10	10	34.1
N5	398	16	18	26	14	20	19	39	70	176	35.4
N6	93	2	5	5	4	5	2	5	21	44	24.6
N7	1,194	39	54	126	123	90	58	146	170	388	23.7
N8	960	26	33	124	48	151	65	121	135	256	17.8
N9	1,717	57	73	226	135	218	115	211	254	427	12.3
N10	288	4	11	39	18	44	14	27	36	95	12.4
Nongrid	935	0	4	0	2	0	2	3	1	5	13.1
Offgrid	2	0	0	0	0	0	0	1	0	1	36.0
TOTAL	5,660	144	200	550	349	532	277	559	703	1,426	17.9

Note: Criminal history classes are based on 4,740 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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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	16	0	1	1	1	3	2	3	0	5	34.3
D2	36	0	2	2	0	4	6	5	2	15	35.5
D3	737	12	33	28	31	72	63	103	112	281	18.3
D4	1,821	41	60	151	80	255	167	286	291	490	15.1
TOTAL	2,610	53	96	182	112	334	238	397	405	791	16.5

Note: Criminal history classes are based on 2,608 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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COUNTY JAIL SENTENCES

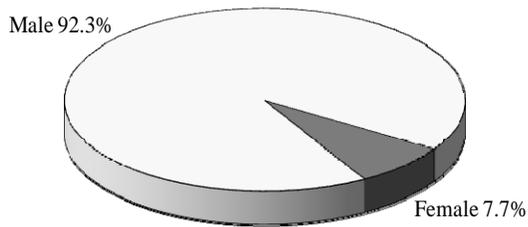
During FY 2011, a total number of 775 jail sentences were reported to the Commission, a decrease of 103 sentences or 11.7% when compared with the data of FY 2010 (878 sentences). Of this number, male offenders accounted for 92.3% and female offenders accounted for 7.7% (Figure 36).

White offenders represented 86.3%, black offenders represented 12.3% and other races represented 1.4% of the county jail sentences imposed in FY 2011 (Figure 37).

Most offenders were in the age groups ranging from 41 to 50 years old (36.8%), which is consistent with the data observed in FY 2010. Their average age at sentencing is 43.7 years old (Figure 38).

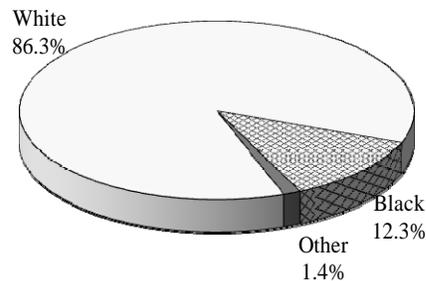
The analysis of the sentence length reveals that the minimum jail term is 3 months, maximum jail term is 18 months and the average jail term is 8 months.

Figure 36: Distribution of FY 2011 Jail Sentences by Gender



Based on 775 county jail sentences reporting gender of offenders

Figure 37: Distribution of FY 2011 Jail Sentences by Race



Based on 775 county jail sentences reporting race of offenders

Figure 39 demonstrates the crimes committed by the offenders sentenced to county jails during FY 2011. Approximately 99% of the sentences were convicted of the crime of felony DUI (765 sentences), 1.2% were convicted of the crime of domestic battery (9 sentences) and 0.1% was convicted of the crime of forgery (1 sentence). Detailed analysis on the crime of DUI is provided on Page 15 of this report.

The distribution of FY 2011 jail sentences by county is displayed in Figure 40. Johnson County imposed the most jail sentences (190) representing 24.5% followed by Sedgwick County with 172 jail sentences representing 22.2% of the total county jail sentences imposed in FY 2011.

Figure 38: Distribution of FY 2011 Jail Sentences by Age of Offenders

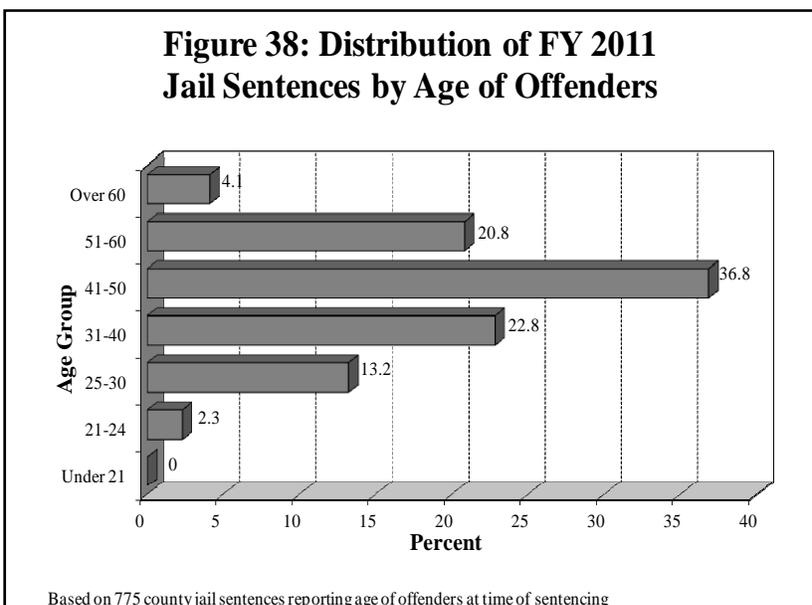


Figure 39: FY 2011 County Jail Sentences by Offense Type

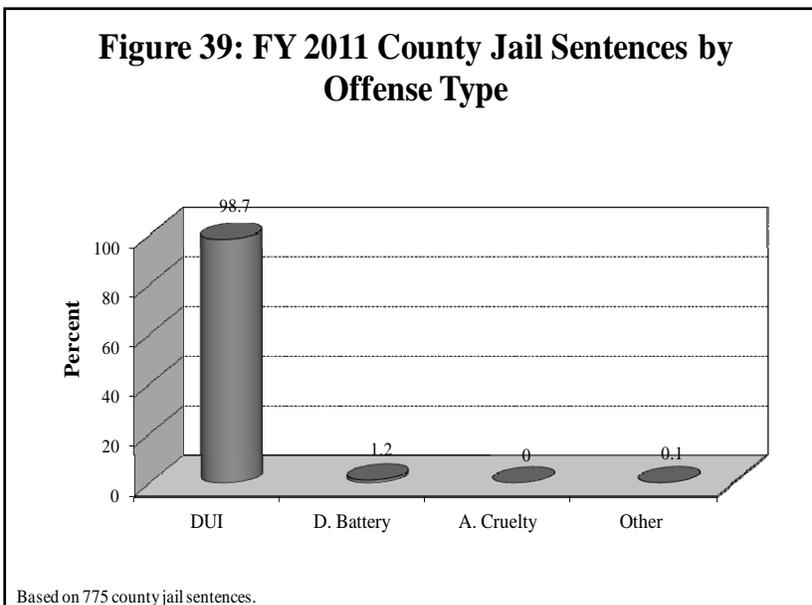
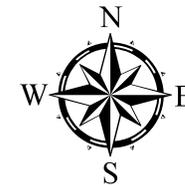
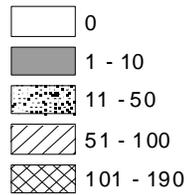
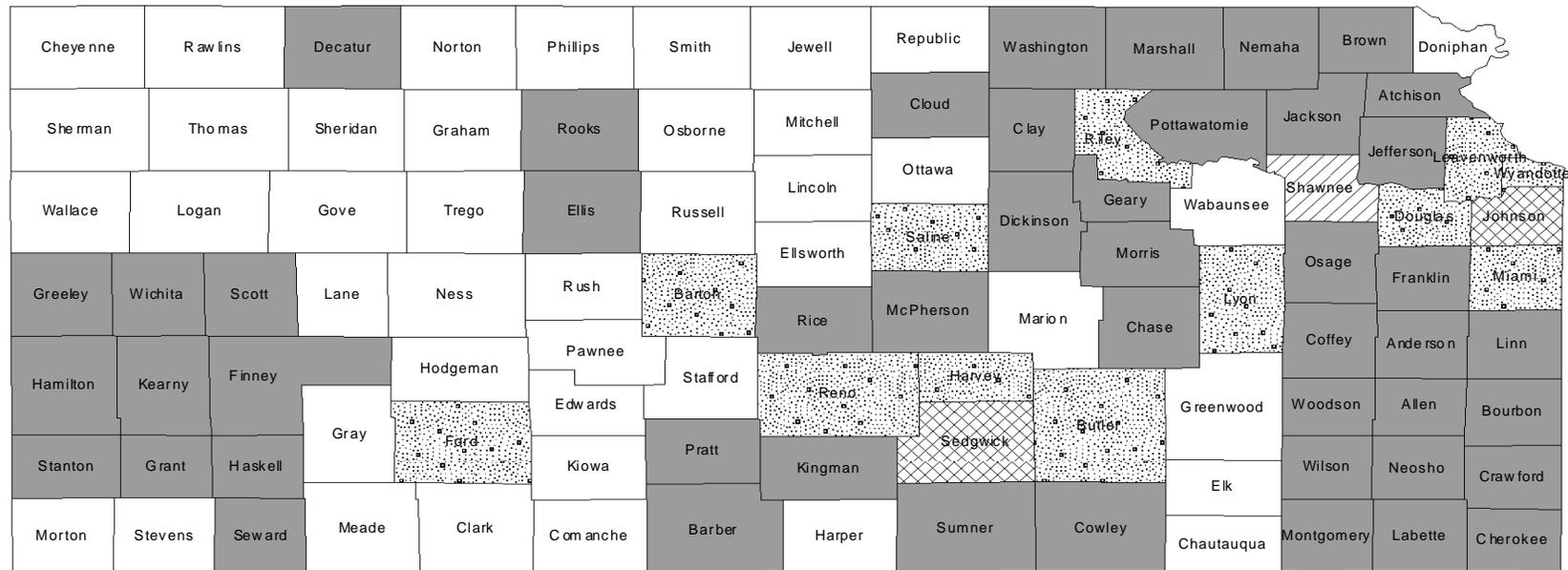


Figure 40: FY 2011 County Jail Sentences by County



CHAPTER TWO VIOLATORS

VIOLATIONS RESULTING IN INCARCERATION

Violators are classified in two groups. 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.

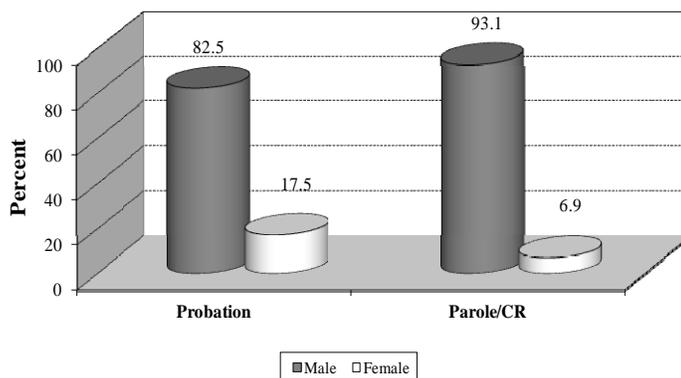
Condition violators accounted for 53.5% of all admissions to prison in FY 2011, indicating a decrease of 2.9% when compared with FY 2010 (56.4%). Characteristics of condition violators by gender, race, and age are depicted in Figures 41, 42, and 43. Conditional release violators (only 4) are merged with the group of parole or postrelease supervision violators in the following analyses.

Overview of Condition Violators

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

A total number of 2,653 condition violators were admitted to prison for their violation of conditions during FY 2011, representing 1,626 probation violators, 1,023 parole or postrelease supervision violators and 4 conditional release violators respectively.

Figure 41: Distribution of FY 2011 Condition Violators by Gender

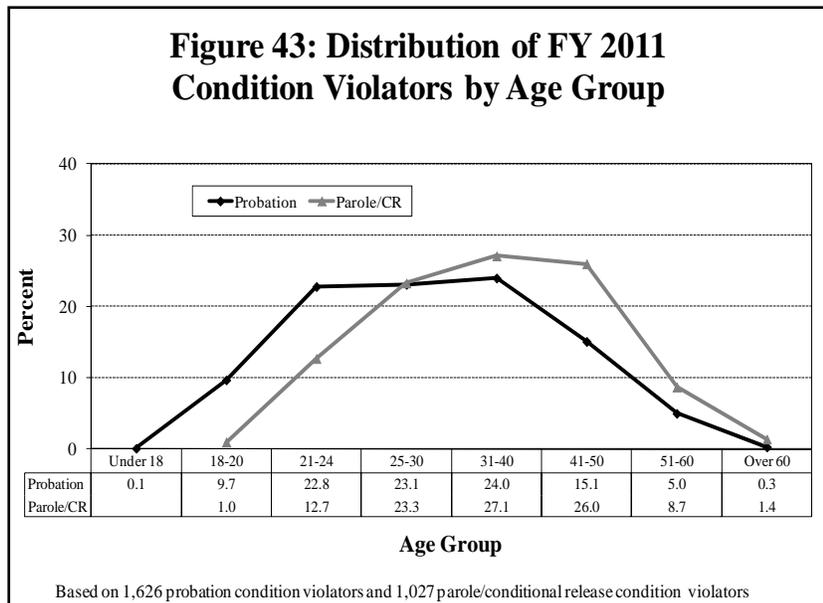
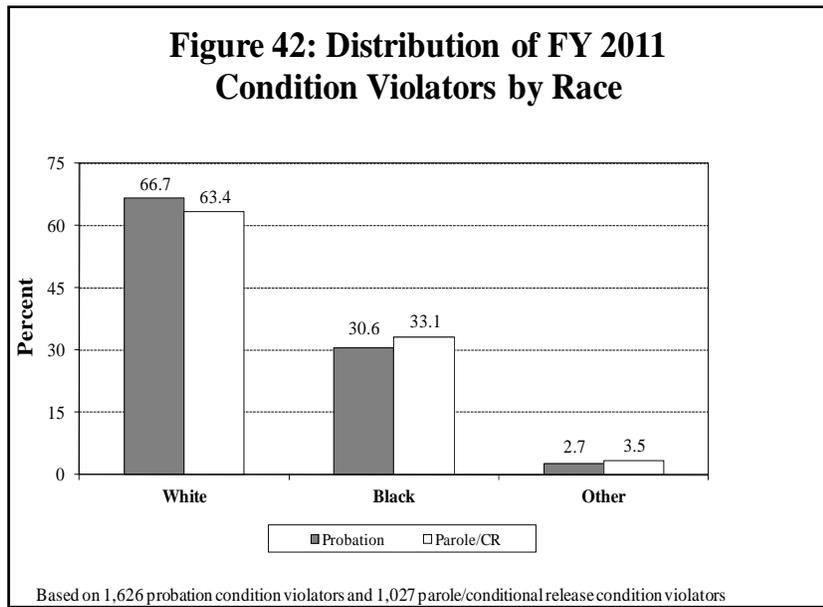


Based on 1,626 probation condition violators and 1,027 parole/conditional release condition violators

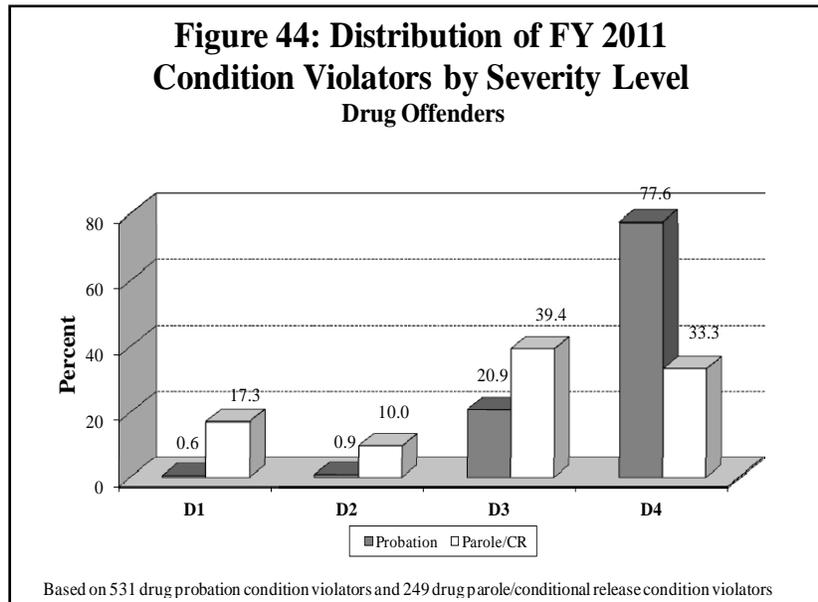
Male offenders were the majority of condition violators, representing 82.5% of probation violators and 93.1% of parole/conditional release violators admitted to prison in FY 2011 (Figure 41).

The highest percentage of white offenders was identified in the group of probation violators (66.7%), while black offenders represented a higher rate (33.1%) in the group of parole or postrelease supervision and conditional release violators (Figures 42).

Most probation violators were in the age group ranging from 31 to 40 (24%). The largest number of parole or postrelease supervision and conditional release violators was found in this age group, as well (27.1%) at the time of admission to prison (Figure 43).



The distributions of all violators by severity level are exhibited in Figures 44 and 45. The largest proportion of drug probation violators was identified at drug severity level 4 (77.6%, 412 offenders) and the highest percentage of drug parole/postrelease and conditional release violators was at drug severity level 3, accounting for 39.4% or 98 offenders (Figure 44).



Nondrug probation violators represented the highest percentage at nondrug severity level 7 (31.5%, 345 offenders), while the largest numbers of nondrug parole or postrelease and conditional release violators were found at nondrug severity levels 5, representing 19.8% or 154 offenders of this group in FY 2011. This distribution of severity levels is consistent with that of FY 2010 (Figure 45).

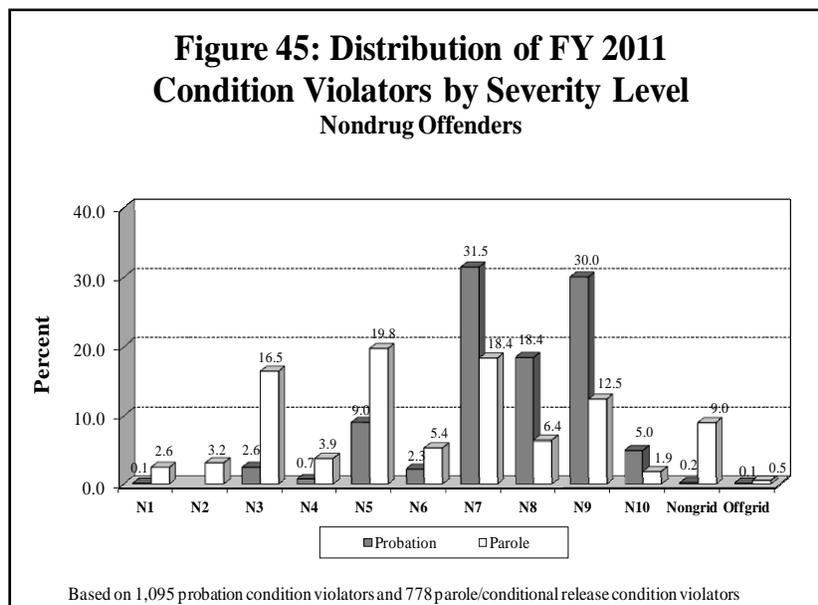


Table 15 describes the characteristics of all types of condition violators. The largest numbers of males were found at nondrug severity level 7 (454 sentences) and drug severity level 4 (398 sentences). However, the highest frequencies of females were at nondrug severity level 8 (71 sentences) and drug severity level 4 (97 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 319 sentences and black offenders made up 154 sentences at drug severity level 4. As for nondrug sentences, most violators were found at nondrug severity level 7. White offenders accounted for 317 sentences and black offenders accounted for 159 sentences. The average age of the violators was almost 34 years old at the time of admission, which is constant with that of FY 2010.

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	46	41	5	42	3	1	38.6
D2	30	28	2	23	7	0	40.0
D3	209	183	26	116	87	6	32.6
D4	495	398	97	319	154	22	33.9
N1	21	21	0	12	9	0	38.3
N2	25	25	0	18	7	0	40.6
N3	156	149	7	92	60	4	36.2
N4	38	36	2	24	11	3	34.4
N5	253	236	17	137	106	10	33.8
N6	67	64	3	51	15	1	34.3
N7	488	454	34	317	159	12	30.7
N8	252	181	71	170	76	6	33.4
N9	426	359	67	299	119	8	33.5
N10	70	56	14	53	16	1	32.4
Offgrid	5	5	0	3	2	0	46.9
Nongrid	72	62	10	59	6	7	45.2
Total	2,653	2,298	355	1,735	837	81	33.8

Condition Probation Violators

During FY 2011, a total number of 1,626 condition probation violators were admitted to prison. Of this number, 67.3% (1,095) were nondrug offenders and 32.7% (531) were drug offenders. Compared with FY 2010, the admissions of condition probation violators demonstrated a decrease of 5.3% or 91 violators. The characteristics of this group of violators are presented in Tables 16 and 17.

In FY 2011, the top ten offenses committed most frequently by nondrug probation violators 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 77.1% 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 most frequently convicted offense type by drug probation violators was the crime of possession of drugs, accounting for 75.7% of all drug offenses. The crime of opiates or narcotics possession represented 61% of the total drug offenses committed by the condition probation violators admitted to prison in FY 2011 (Table 17).

The average length of lag time from the age of offense to the age of admission to prison was 2.4 years for nondrug probation violators and 2.6 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	55	85.5	14.5	63.6	36.4	0.0	30.4	32.4
Aggravated Battery	107	87.9	12.1	59.8	37.4	2.8	29.7	31.9
Aggravated Burglary	25	92.0	8.0	48.0	52.0	0.0	28.1	30.0
Burglary	239	93.3	6.7	73.2	22.6	4.2	26.2	28.6
Criminal Threat	38	94.7	5.3	71.1	28.9	0.0	34.2	36.5
Failure to Register	29	100.0	0.0	51.7	44.8	3.4	33.3	35.7
Fleeing or Eluding LEO	54	85.2	14.8	64.8	31.5	3.7	27.6	29.6
Forgery	115	57.4	42.6	81.7	18.3	0.0	31.7	34.5
Robbery	35	91.4	8.6	31.4	68.6	0.0	24.5	26.9
Theft	147	74.8	25.2	72.8	25.9	1.4	32.6	35.2
Subtotal	844	83.6	16.4	68.1	29.7	2.1	29.5	31.9
Other	251	84.5	15.5	69.3	27.1	3.6	26.7	29.1
TOTAL	1,095	83.8	16.2	68.4	29.1	2.5	28.8	31.2

* 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	324	74.7	25.3	63.9	32.1	4.0	32.0	34.7
Opiates or Narcotics; Depress, Stim., Hall.; Poss. w/Intent to Sell; Sale 1	110	84.5	15.5	55.5	44.5	0.0	27.4	30.2
Depress, Stim, Hall; Poss 2nd	78	91.0	9.0	66.7	29.5	3.8	27.7	30.0
Possession of Paraphernalia	10	90.0	10.0	60.0	20.0	20.0	29.0	31.0
Possession of Precursor Drugs	3	100.0	0.0	100.0	0.0	0.0	33.7	35.7
Unlawful Manufacture Controlled Substance	3	100.0	0.0	100.0	0.0	0.0	29.5	32.6
Other	3	100.0	0.0	100.0	0.0	0.0	30.4	33.5
TOTAL	531	79.8	20.2	63.1	33.5	3.4	30.4	33.0

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	0	1	1	0	1	0	0	0	0	3
D2	0	1	0	0	0	1	0	1	2	5
D3	3	7	7	10	16	11	14	16	27	111
D4	18	18	26	27	65	29	72	78	78	411
N1	0	0	0	0	0	0	0	0	1	1
N2	0	0	0	0	0	0	0	0	0	0
N3	1	4	2	4	0	1	2	3	11	28
N4	0	1	1	0	1	0	1	1	3	8
N5	9	5	9	6	11	2	8	20	29	99
N6	1	1	4	0	1	1	2	7	8	25
N7	17	15	54	38	33	15	39	69	65	345
N8	8	7	37	12	32	8	32	32	33	201
N9	11	23	49	27	48	20	36	53	61	328
N10	3	5	5	6	7	3	5	7	14	55
TOTAL	71	88	195	130	215	91	211	287	332	1,620

* Due to missing data, criminal history categories are based on 1,620 probation violators reporting criminal history.

Condition Parole/Postrelease Supervision and Conditional Release Violators

In FY 2011, a total number of 1,027 condition parole/post-release supervision and conditional release violators were admitted to prison, indicating a decrease of 57 violators or 5.3% when compared with the data observed in FY 2010. 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 assault, aggravated battery, aggravated burglary, aggravated robbery, aggravated indecent liberties with a child, burglary, DUI, rape, robbery and theft, accounting for 67% of the total nondrug offenses. Male offenders represented 93.8% of this group. White offenders committed more than 75% of crimes of aggravated indecent liberties with a child, burglary and DUI, which is very consistent with the data

observed in FY 2010. 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 (39%) and sale of opiates or narcotics or depressants (41.4%), which is consistent with that of FY 2010.

Postrelease supervision violators for the crime of DUI are subject to imprisonment if the offenders committed the crime on or after July 1, 2001 and before July 1, 2011. In FY 2011, 70 DUI violators were admitted to prison (Table 19), a decrease of 29 violators when compared with FY 2010 (99).

Table 21 displays the distribution of parole/postrelease supervision and conditional release violators by severity level and criminal history. The largest numbers of this group of violators were found at severity level 3 of the drug grid (86 offenders) and severity level 7 of the nondrug grid (143 offenders).

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 Assault	35	97.1	2.9	57.1	40.0	2.9	27.8	31.5
Aggravated Battery	88	94.3	5.7	53.4	44.3	2.3	30.7	36.9
Aggravated Burglary	32	90.6	9.4	50.0	50.0	0.0	29.6	38.5
Aggravated Robbery	68	92.6	7.4	44.1	54.4	1.5	26.0	39.0
Agg Indecent Liberties w/Child	38	100.0	0.0	81.6	18.4	0.0	27.5	35.5
Burglary	65	98.5	1.5	75.4	23.1	1.5	29.4	32.7
DUI	70	87.1	12.9	82.9	8.6	8.6	43.5	45.3
Rape	35	100.0	0.0	45.7	51.4	2.9	24.6	37.5
Robbery	48	87.5	12.5	54.2	39.6	6.3	27.8	35.3
Theft	42	85.7	14.3	52.4	47.6	0.0	37.7	39.9
Other	257	95.3	4.7	66.5	29.6	3.9	29.6	36.2
TOTAL	778	93.8	6.2	62.5	34.3	3.2	30.6	37.1

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	71	90.1	9.9	62.0	32.4	5.6	31.8	35.3
Opiates or Narcotics; Poss 2	11	90.9	9.1	63.6	36.4	0.0	34.2	43.1
Opiates or Narcotics; Poss 3	6	66.7	33.3	66.7	33.3	0.0	37.2	46.8
Opiates or Narcotics; Depress, Stim., Hall.; Poss. w/Intent to Sell; Sale 1	98	90.8	9.2	55.1	38.8	6.1	28.2	35.1
Opiates or Narcotics; Sale 2/3	5	100.0	0.0	60.0	40.0	0.0	33.0	43.1
Opiates/Narcotics, Depress, Stim, Hall; Sell w/in 1,000 ft of School	9	88.9	11.1	88.9	11.1	0.0	31.6	38.7
Depress, Stim, Hall; Poss 2	9	100.0	0.0	77.8	22.2	0.0	26.0	29.2
Possession of Paraphernalia	3	100.0	0.0	100.0	0.0	0.0	30.7	34.2
Possession of Precursor Drugs	11	90.9	9.1	100.0	0.0	0.0	32.0	39.0
Unlawful Manufacture Controlled Substance	26	92.3	7.7	92.3	3.8	3.8	29.6	37.2
TOTAL	249	90.8	9.2	66.3	29.3	4.4	30.2	36.2

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	1	3	11	2	12	6	1	5	2	43
D2	1	3	4	1	7	3	2	1	2	24
D3	5	6	10	7	13	10	8	13	14	86
D4	15	10	23	9	13	3	4	3	3	83
N1	0	0	3	0	0	0	3	3	6	15
N2	1	4	1	0	1	2	0	1	5	15
N3	4	3	23	12	9	5	15	8	16	95
N4	2	2	6	5	2	2	2	1	5	27
N5	17	29	17	14	10	2	9	23	18	139
N6	10	13	4	2	3	0	3	2	3	40
N7	33	40	17	7	12	7	9	13	5	143
N8	10	8	9	3	10	3	3	3	1	50
N9	27	28	14	2	20	3	0	2	1	97
N10	5	4	2	0	2	0	1	1	0	15
TOTAL	131	153	144	64	114	46	60	79	81	872

* Due to missing data, criminal history categories are based on 872 violators reporting criminal history.

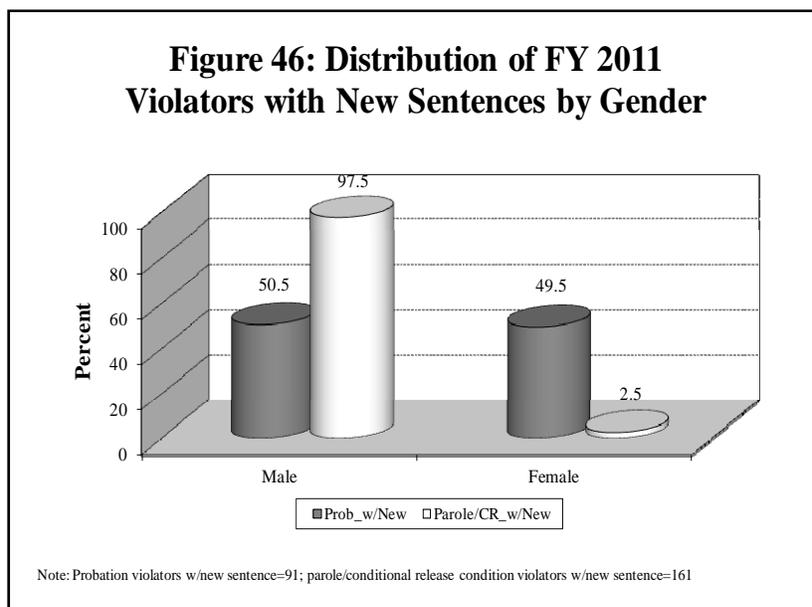
Violators with New Sentences

In this section, violators with new sentences include probation, parole/postrelease and conditional release violators convicted of an offense for which they received a new sentence. This group of violators represented 5% (252 violators) of the total prison admissions in FY 2011, indicating an increase of 0.5% compared with the percentage (4.5%) of FY 2010.

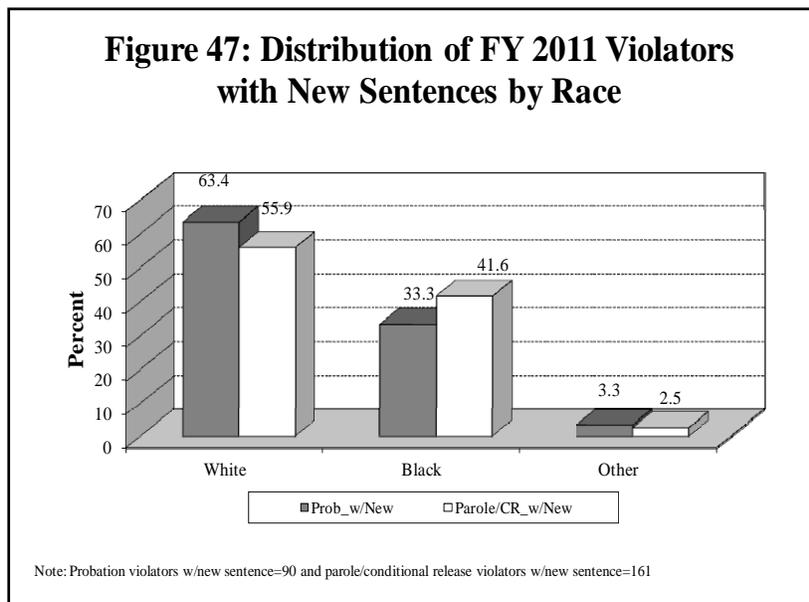
Characteristics of this group are illustrated in Figures 46, 47 and 48. Drugs (31.9%), burglary/aggravated burglary (15.4%) and theft (10%) were the major offense categories committed by probation violators with new convictions. Drugs (25.5%),

burglary/aggravated burglary (15.5%) and aggravated robbery/robbery (16.2%), 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 (16, 12 and 11 violators) and drug severity level 4 (22 violators), while nondrug severity levels 3, 5 and 7 (14.3%, 19% and 12.4%) and drug severity levels 3 and 4 (9.3% and 8.7%) represented the highest percentages of parole/postrelease/conditional release violators with new sentences.

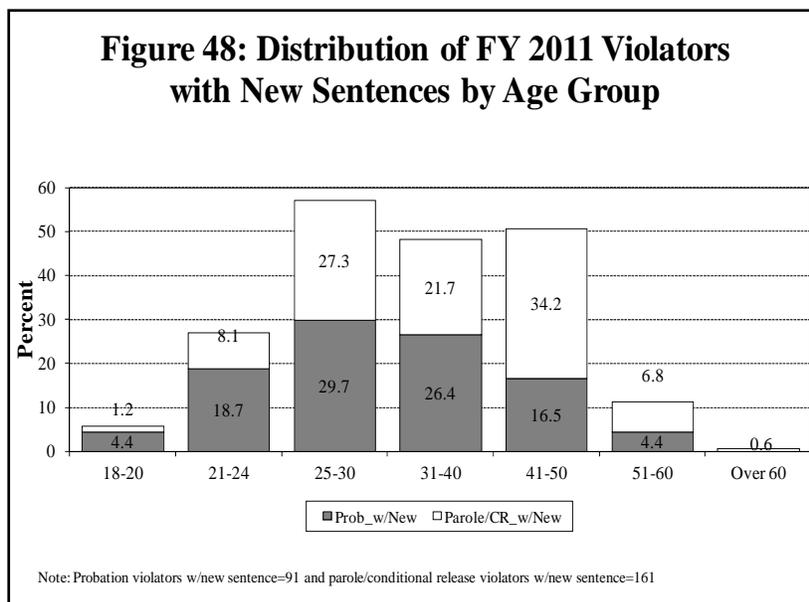
Male offenders represented 97.5% of the parole/postrelease and conditional release violators with new sentences admitted to prison in FY 2011, while female offenders accounted for 49.5% of probation violators with new sentences. This gender distribution is consistent with that of FY 2010 (Figure 46).



White offenders made up the largest number of the violators with new sentences, representing 63.4% of probation violators with new sentences and 55.9% of parole/postrelease and conditional release violators with new sentences. More black offenders (41.6%) were found in the group of parole/postrelease and conditional release violators with new sentences. More black offenders (41.6%) were found in the group of parole/postrelease and conditional release violators with new sentences (Figure 47).



The highest percentage of probation violators with new sentences were in the age group from 25 to 30 (29.7%) at the time of admission to prison, which is different from that of FY 2010 (31-40 years old). However, parole or postrelease and conditional release violators with new sentences represented the largest proportion in the age groups of 41 to 50 (34.2%), which is similar with that of FY 2010 (Figure 48).



**Table 22: Distribution of FY 2011 Violators with New Sentences
By Severity Level**

Severity Level	Probation		Parole/Postrelease/Conditional Release	
	Number	Percent	Number	Percent
D1	0	0.0	7	4.3
D2	1	1.1	5	3.1
D3	6	6.6	15	9.3
D4	22	24.2	14	8.7
N1	0	0.0	3	1.9
N2	0	0.0	6	3.7
N3	5	5.5	23	14.3
N4	0	0.0	6	3.7
N5	12	13.2	32	19.9
N6	3	3.3	5	3.1
N7	16	17.6	20	12.4
N8	12	13.2	7	4.3
N9	11	12.1	15	9.3
N10	0	0.0	0	0.0
Offgrid	2	2.2	2	1.2
Nongrid	1	1.1	1	0.6
TOTAL	91	100.0	161	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 2011, there were 2,576 condition probation violators and 299 probation violators with new convictions who were continued or extended on probation, representing 57.4% of the total number of 4,488 condition probation violators and 36.9% of the total number of 810 probation violators with new offenses,

respectively. Drugs (27.2%), burglary (12.5%), theft (12.7%), forgery (10.2%), and aggravated battery (5.8%) were the top five offenses committed by the group of condition probation violators. Drugs (28.1%), burglary (14%), forgery (7.4%) and theft (13.7%), 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 2010. 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	5	0	0	0	0	0	1	0	2	2
D2	10	0	1	0	0	0	0	3	4	2
D3	156	7	4	6	8	10	12	32	37	40
D4	528	14	20	49	26	84	39	98	90	108
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	23	0	2	1	0	3	1	1	8	7
N4	4	0	1	0	0	0	0	1	1	1
N5	111	3	3	7	8	12	8	3	24	43
N6	29	0	0	2	2	0	0	0	9	16
N7	438	11	11	53	52	28	22	66	81	114
N8	431	7	14	54	22	73	32	52	95	82
N9	602	9	27	67	38	86	59	83	111	122
N10	80	0	2	15	5	10	5	6	11	26
TOTAL	2,417	51	85	254	161	306	179	345	473	563

Note: Criminal history classes are based on 2,417 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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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	0	0	0	1
D2	3	0	0	0	0	1	1	1	0	0
D3	18	0	0	1	2	2	2	1	2	8
D4	62	0	0	3	4	15	6	11	11	12
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	5	1	0	0	1	0	0	1	1	1
N4	2	0	1	0	0	1	0	0	0	0
N5	7	0	1	0	1	0	0	2	3	0
N6	2	0	0	0	0	0	0	0	1	1
N7	40	1	0	3	4	2	2	8	9	11
N8	41	0	0	6	3	4	3	6	11	8
N9	84	0	2	9	6	15	6	13	15	18
N10	16	0	1	2	3	4	0	3	1	2
TOTAL	281	2	5	24	24	44	20	46	54	62

Note: Criminal history classes are based on 281 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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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 an "upward departure" and a sentence length less than the mitigated level is defined as a "downward departure."

Departures from the designated guideline sentence can be further categorized into two types: dispositional and durational. 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.

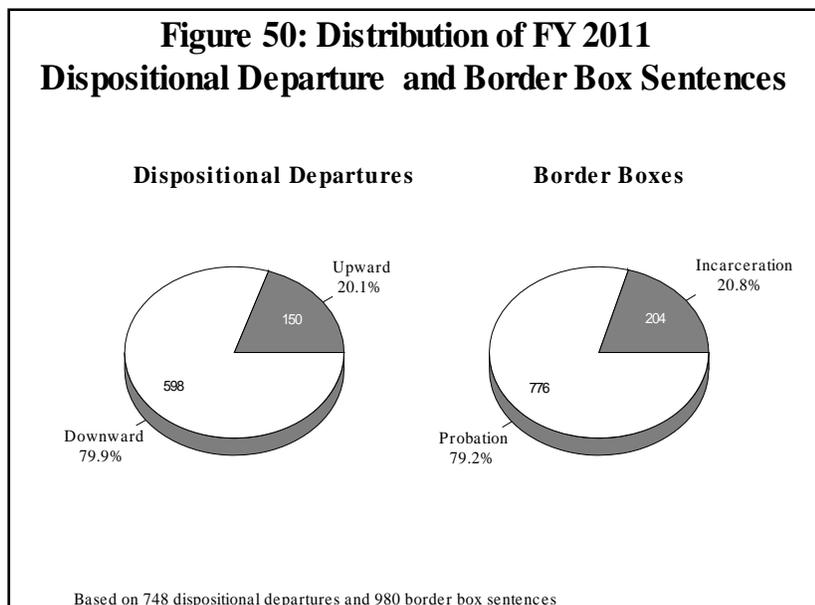
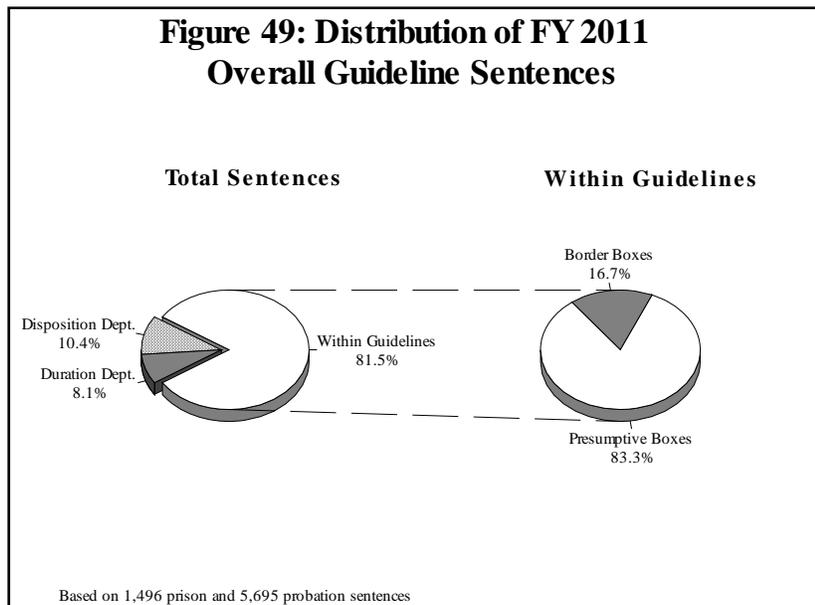
Only pure guideline sentences were utilized for this specific analysis. A pure guideline sentence is defined as a guideline sentence that is not imposed to run concurrent or consecutive with a "pre-guideline" sentence. In addition, the analysis is based on computed variables regarding departures and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

OVERALL CONFORMITY RATES

In FY 2011, a total number of 7,191 pure guideline sentences were utilized for this analysis, including 1,496 incarceration guideline sentences and 5,695 probation sentences. Figure 49 demonstrates that 81.5% of the 7,191 guideline sentences were within the presumptive guideline grids, 8.1% indicated durational departures and 10.4% were dispositional departures. Of all the sentences within the presumptive guideline grids, 4,884 sentences (83.3%) fell within either the presumptive prison boxes or presumptive probation boxes, while 980 sentences (16.7%) were located on designated border boxes. Figure 50 indicates that 79.9% (598 sentences) of the 748 dispositional departures were downward departures and 20.1% (150 sentences) were upward dispositional departures. More than

79% of the 980 border box sentences resulted in probation sentences with only 20.8% of this group sentenced to prison. The analysis of durational departure sentences is

only applicable to presumptive prison sentences.

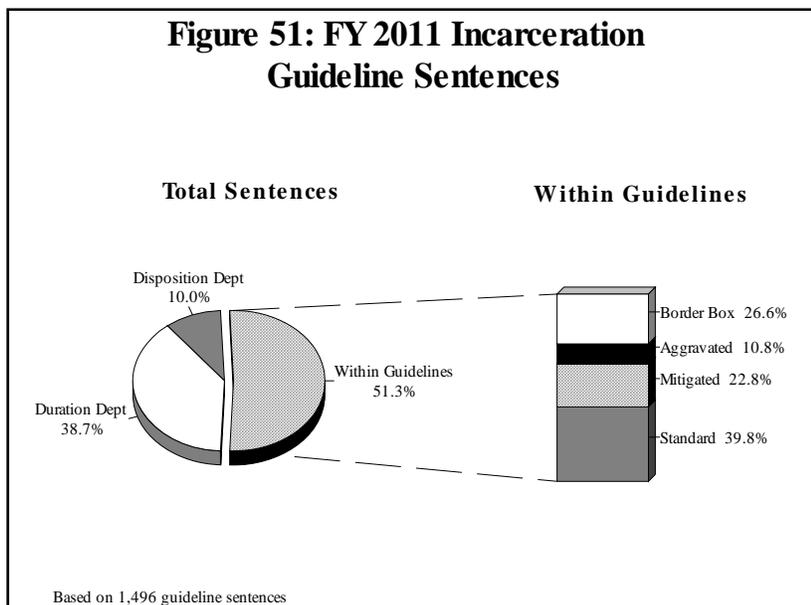


CONFORMITY OF PRESUMPTIVE PRISON GUIDELINE SENTENCES

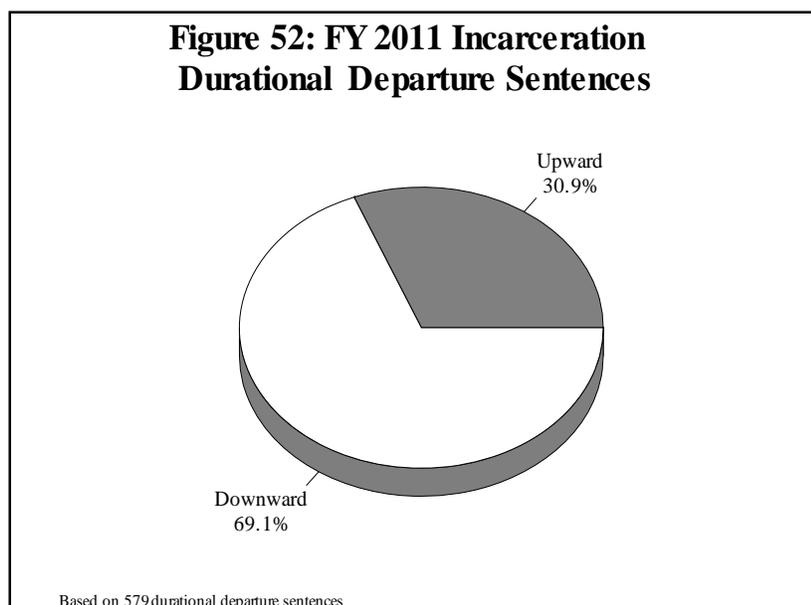
Presumptive prison guideline sentences refer to sentences that are designated above the incarceration line of the sentencing grids.

Revocations of probation conditions, either with or without new sentences, which result in prison sentences were excluded from this analysis. A total of 1,496 presumptive prison guideline sentences of FY 2011 were analyzed for this purpose.

More than 51% of the total sentences fell within the presumptive incarceration range. Of these sentences within the guidelines, 39.8% were within the standard range, 10.8% were within the aggravated range, 22.8% were within the mitigated range and 26.6% were located within designated border boxes (Figure 51). This distribution of sentences remains constant compared with FY 2010.



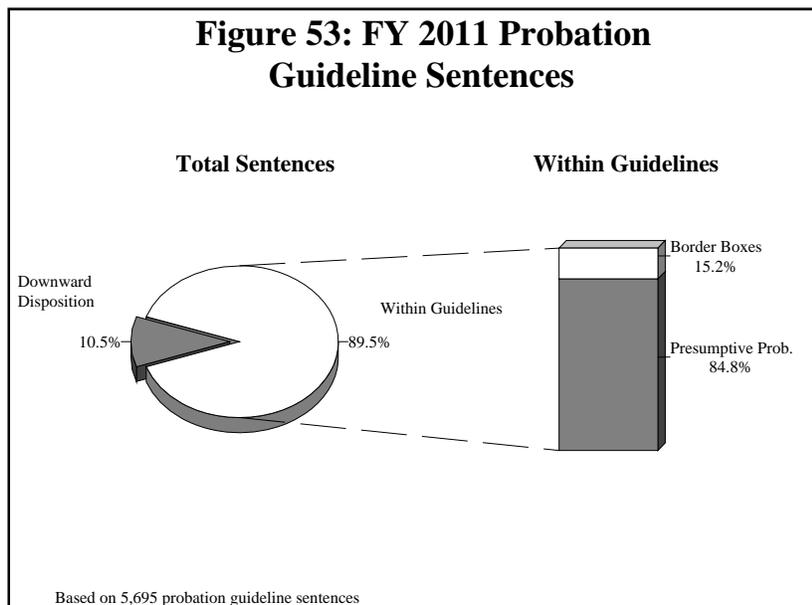
More than 69% of the durational departure sentences departed downward from the sentence lengths indicated on the presumptive range, while 30.9% departed upward from the presumptive guideline ranges. The percentage change of the downward durational departure sentences is a 1.1% decrease from that of FY 2010 (Figure 52).



CONFORMITY OF PRESUMPTIVE PROBATION GUIDELINE SENTENCES

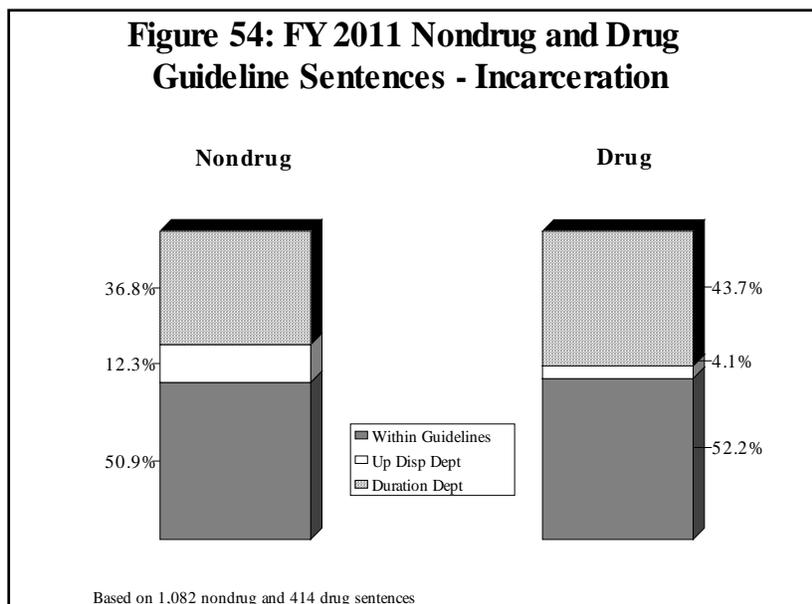
Sentences that are designated below the incarceration line of the sentencing grids are presumptive probation guideline sentences. The analysis of probation guideline sentences demonstrates that as expected, the majority of probation guideline sentences in FY 2011 (89.5% or 5,097 cases) fell within the presumptive guideline range, among which 84.8% were within presumptive probation grids and 15.2% were within

border boxes (Figure 53). The sentences within the presumptive guideline range (5,097) accounted for 61.6% of the total probation sentences imposed in FY 2011 (8,270), which decreased by 1.7% compared to the percentage rate of FY 2010 (63.3%). Further analysis of the dispositional departures indicates that probation sentences reflected downward dispositional departures of 10.5% of the total probation guideline sentences in FY 2011 (Figure 53). Upward dispositional departure sentences were reflected in presumptive incarceration sentences (Refer to Figure 51).



CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES

The comparative study of nondrug and drug guideline incarceration sentences reveals that 12.3% of nondrug offenders showed upward dispositional departures, while 4.1% of drug offenders indicated upward dispositional departures. Additionally, nondrug offenders represented 36.8% durational departures while drug offenders showed 43.7% durational departures (Figure 54).



The examination of durational departures indicates that downward departures represented 86.2% of the total durational departures on the drug grid. However, on the nondrug grid, 61.3% of durational departures were downward (in Figure 55). The majority of the upward departures were found at severity levels 1, 2 and 3 of the nondrug grid, which include the most serious offenses (Table 25).

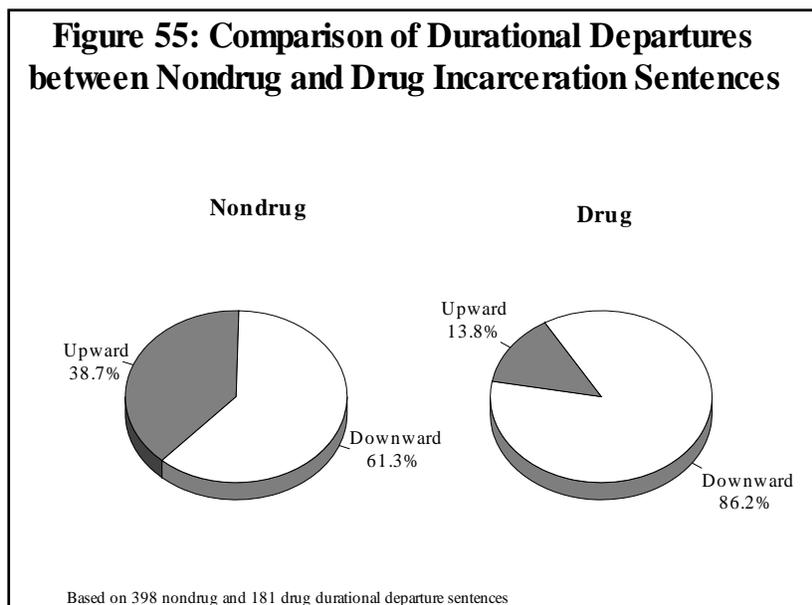
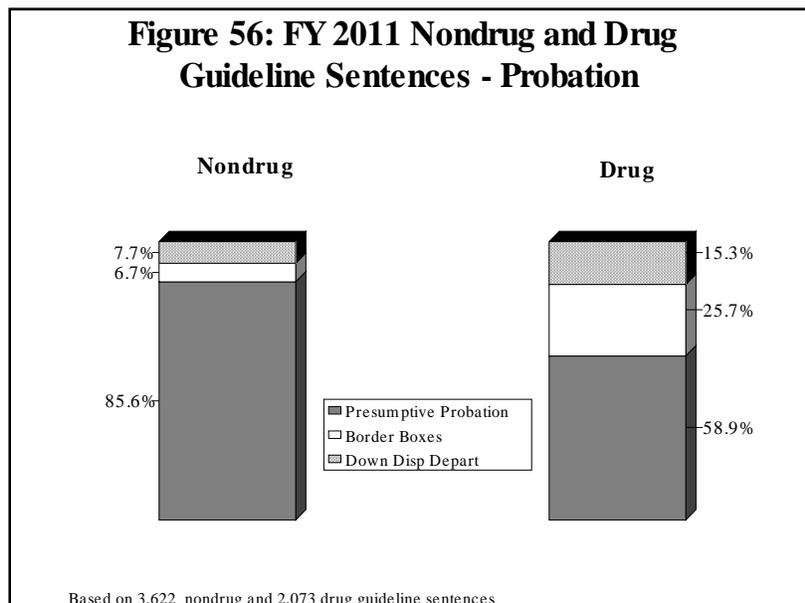


Figure 56 presents the disparities between nondrug and drug offenders on probation, as well. Drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (15.3% vs. 7.7%). The rate of drug probation sentences resulting from border boxes was much higher than that of nondrug probation sentences (25.7% vs. 6.7%).



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 13.8% standard, 1.9% aggravated, 9.7% mitigated and 26.8% border box sentence distribution. Nondrug sentences revealed a 22.9% standard, 6.9% aggravated, 12.5% mitigated and 8.6% border box sentence distribution. As for the departure sentences, drug

sentences showed 6% upward durational departures and 37.7% downward durational departures, whereas nondrug sentences showed a 14.2% upward durational departure rate and a 22.6% downward durational departure rate. The highest rate of downward durational departures was identified at drug severity level 1 (80.4%) for drug incarceration sentences and nondrug severity level 4 (45.2%) for nondrug incarceration sentences. When examining dispositional departures, 12.3% of nondrug incarceration sentences were upward dispositional departures. By contrast, only 4.1% 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 fifteen years.

Table 25: Conformity Rates by Severity Level - Incarceration Sentences

Severity Level	N	Within Guidelines (%)				Departures (%)		
		Agg.	Standard	Mit.	Box	Durational		Dispositional
						Upward	Downward	Upward
D1	51	2.0	11.8	3.9		2.0	80.4	
D2	59	3.4	18.6	16.9		8.5	52.5	
D3	150	0.7	14.0	4.7	50.0	7.3	23.3	
D4	154	2.6	12.3	13.6	23.4	5.2	31.8	11.0
Subtotal	414	1.9	13.8	9.7	26.8	6.0	37.7	4.1
N1	72	5.6	27.8	4.2		36.1	26.4	
N2	17	11.8	29.4	5.9		23.5	29.4	
N3	207	7.7	23.2	14.0		21.7	33.3	
N4	62	9.7	16.1	12.9		16.1	45.2	
N5	262	7.3	12.2	11.5	35.1	9.5	24.4	
N6	37	2.7	35.1	16.2	2.7	16.2	21.6	5.4
N7	162	4.3	19.1	14.8		15.4	9.9	36.4
N8	71	4.2	28.2	14.1		4.2	11.3	38.0
N9	172	9.3	33.1	11.6		5.8	15.7	24.4
N10	20	5.0	60.0	20.0				15.0
Subtotal	1,082	6.9	22.9	12.5	8.6	14.2	22.6	12.3
TOTAL	1,496	5.5	20.4	11.7	13.6	12.0	26.7	10.0

Table 26 displays the conformity rates of probation sentences to the guidelines by severity level. Probation drug sentences indicated 15.3% downward dispositional departures, which should have been presumptive incarceration, while only 7.7% 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 (25.7% versus 6.7%). 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 fifteen years.

Table 26: Conformity Rates by Severity Level - Probation Sentences

Severity Level	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	12			100.0
D2	24			100.0
D3	606		88.0	12.0
D4	1,431	85.4		14.6
Subtotal	2,073	58.9	25.7	15.3
N1	0			
N2	0			
N3	26			100.0
N4	19			100.0
N5	322		73.9	26.1
N6	75	81.3	6.7	12.0
N7	956	94.8		5.2
N8	710	96.5		3.5
N9	1,292	95.4		4.6
N10	222	96.4		3.6
Subtotal	3,622	85.6	6.7	7.7
TOTAL	5,695	75.9	13.6	10.5

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 2011. The examination of drug incarceration sentences within guidelines indicates that whites received more sentences of all aggravated, standard, mitigated and border box sentences than blacks. However, black offenders represented a higher percentage than white offenders in both upward and downward durational departure sentences (11.7% vs. 3.9%; 39.2% vs. 38.2%). When reviewing sentence dispositional departures,

whites indicated a higher percentage of upward dispositional departures (4.6% vs. 3.3%) than black offenders (Table 27).

The analysis of nondrug incarceration sentences demonstrates that white nondrug offenders represented higher percentages in aggravated sentences (7.1% vs. 6.6%), border box sentences (10.8% vs. 3.8%) and upward dispositional departures (13.6% vs. 9.1%) than black nondrug offenders. Black offenders received higher rates than whites at standard sentences (26.4 % vs. 21.7%), upward durational departure sentences (15.4% vs. 13.2%) and downward durational departure sentences (23.9% vs. 21.9%) for nondrug offenses (Table 28).

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

Severity Level	Race	N	Within Guidelines (%)				Departures (%)		
			Agg.	Standard	Mit.	Box	Durational		Dispositional
							Upward	Downward	Upward
D1	White	50	2.0	10.0	4.0		2.0	82.0	
	Black	1		100.0					
	Other	0							
D2	White	46	4.3	19.6	19.6		4.3	52.2	
	Black	12		16.7			25.0	58.3	
	Other	1			100.0				
D3	White	85	1.2	14.1	4.7	60.0	3.5	16.5	
	Black	61		14.8	4.9	32.8	13.1	34.4	
	Other	4				100.0			
D4	White	104	1.9	13.5	11.5	26.9	4.8	28.8	12.5
	Black	46	4.3	8.7	17.4	13.0	6.5	41.3	8.7
	Other	4		25.0	25.0	50.0			
Total	White	285	2.1	14.0	9.5	27.7	3.9	38.2	4.6
	Black	120	1.7	13.3	9.2	21.7	11.7	39.2	3.3
	Other	9		11.1	22.2	66.7			

Note: Based on 414 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 (%)		
			Agg.	Standard	Mit.	Box	Durational		Dispositional
							Upward	Downward	Upward
N1	White	47	8.5	23.4	6.4		40.4	21.3	
	Black	22		36.4			27.3	36.4	
	Other	3		33.3			33.3	33.3	
N2	White	13		75.0					25.0
	Black	4		33.3	16.7		16.7	33.3	
	Other	0							
N3	White	119	10.1	23.5	13.4		18.5	34.5	
	Black	81	3.7	24.7	16.0		24.7	30.9	
	Other	7	14.3				42.9	42.9	
N4	White	44	9.1	15.9	11.4		18.2	45.5	
	Black	17	11.8	17.6	17.6		5.9	47.1	
	Other	1					100.0		
N5	White	193	5.7	11.4	10.4	40.9	8.8	22.8	
	Black	62	11.3	14.5	16.1	17.7	11.3	29.0	
	Other	7	14.3	14.3		28.6	14.3	28.6	
N6	White	24	4.2	41.7	12.5		12.5	20.8	8.3
	Black	11		27.3	27.3	9.1	18.2	18.2	
	Other	2					50.0	50.0	
N7	White	108	2.8	21.3	14.8		13.9	10.2	37.0
	Black	47	8.5	14.9	14.9		19.1	10.6	31.9
	Other	7		14.3	14.3		14.3		57.1
N8	White	53	3.8	26.4	13.2		3.8	11.3	41.5
	Black	17	5.9	35.3	11.8		5.9	11.8	29.4
	Other	1			100.0				
N9	White	120	10.0	28.3	10.8		5.8	16.7	28.3
	Black	50	8.0	42.0	14.0		6.0	14.0	16.0
	Other	2		100.0					
N10	White	13	7.7	61.5	15.4				15.4
	Black	7		57.1	28.6				14.3
	Other	0							
Total	White	734	7.1	21.7	11.7	10.8	13.2	21.9	13.6
	Black	318	6.6	26.4	14.8	3.8	15.4	23.9	9.1
	Other	30	6.7	16.7	6.7	6.7	26.7	23.3	13.3

Note: Based on 1,082 nondrug incarceration guideline sentences reporting race of offenders.

Tables 29 and 30 exhibit the conformity rates by race for offenders sentenced to probation during FY 2011. White offenders received more presumptive probation sentences for drug offenses than black offenders (62.2% vs. 48.1%) but black drug offenders indicated a higher rate of border box sentences (29.3% vs. 24.7%) and downward dispositional departures (22.6% vs. 13.2%) than white drug offenders (Table 29). This racial conformity rate pattern is consistent with that of FY 2010.

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 (86.2% vs. 83.6%), while black offenders represented a higher percentage of downward dispositional departures than white offenders for nondrug offenses (10.2% vs. 7%). As for border box sentences white offenders represented a higher rate (6.8% vs. 6.3%) than black offenders (Table 30).

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

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	White	10			100.0
	Black	2			100.0
	Other	0			
D2	White	20			100.0
	Black	4			100.0
	Other	0			
D3	White	432		90.3	9.7
	Black	167		81.4	18.6
	Other	7		100.0	
D4	White	1,118	87.8		12.2
	Black	291	76.6		23.4
	Other	22	77.3		22.7
Total	White	1,580	62.2	24.7	13.2
	Black	464	48.1	29.3	22.6
	Other	29	58.6	24.1	17.2

Note: Based on 2,073 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	0			
	Other	0			
N2	White	0			
	Black	0			
	Other	0			
N3	White	20			100.0
	Black	5			100.0
	Other	1			100.0
N4	White	13			100.0
	Black	3			100.0
	Other	3			100.0
N5	White	240		75.4	24.6
	Black	75		66.7	33.3
	Other	7		100.0	
N6	White	63	82.5	7.9	9.5
	Black	9	66.7		33.3
	Other	2	100.0		
N7	White	740	95.1		4.9
	Black	185	93.0		7.0
	Other	30	96.7		3.3
N8	White	535	96.6		3.4
	Black	159	95.6		4.4
	Other	16	100.0		
N9	White	961	96.7		3.3
	Black	312	92.3		7.7
	Other	19	84.2		15.8
N10	White	168	95.8		4.2
	Black	49	98.0		2.0
	Other	5	100.0		
Total	White	2,740	86.2	6.8	7.0
	Black	797	83.6	6.3	10.2
	Other	83	81.9	8.4	9.6

Note: Based on 3,620 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 2011. Male drug offenders represented higher rates than female drug offenders in standard sentences (14% vs. 11.8%), mitigated sentences (9.9% vs. 7.8%) and border box sentences (27.3% vs. 23.5%). Females received more aggravated sentences for drug crimes than males (3.9% vs. 1.7%). The examination of departure sentences demonstrates that male drug offenders received more than female drug offenders at upward durational departures (6.6% vs. 2%) and upward dispositional departures (4.1% vs. 3.9%) while female drug offenders represented a higher rate in downward durational departures (47.1% vs. 36.4%) than their counterparts (Table 31).

The evaluation of nondrug incarceration sentences reveals that within guidelines, females represented a higher percentage than males in mitigated sentences (12.8% vs. 12.5%) and border box sentences (10.3% vs. 8.5%). Male nondrug offenders received more aggravated sentences (7.1% vs. 5.1%) and standard sentences (23.4% vs. 16.7%), than female nondrug offenders. The analysis of departure sentences demonstrates that male nondrug offenders stood for the higher rate of both upward durational departures (14.3% vs. 12.8%) and downward durational departures (22.7% vs. 20.5%) than females. However, females represented a higher percentage in upward dispositional departures (21.8% vs. 11.6%) than their counterparts, which is consistent with the findings of FY 2010 (Table 32).

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

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
			Agg	Standard	Mit.	Box	Durational		Dispositional
							Upward	Downward	Upward
D1	Male	41	2.4	12.2	4.9		2.4	78.0	
	Female	10		10.0				90.0	
D2	Male	44		22.7	18.2		9.1	50.0	
	Female	15	13.3	6.7	13.3		6.7	60.0	
D3	Male	137	0.7	13.9	4.4	48.9	8.0	24.1	
	Female	13		15.4	7.7	61.5		15.4	
D4	Male	141	2.8	12.1	14.2	22.7	5.7	31.9	10.6
	Female	13		15.4	7.7	30.8		30.8	15.4
Total	Male	363	1.7	14.0	9.9	27.3	6.6	36.4	4.1
	Female	51	3.9	11.8	7.8	23.5	2.0	47.1	3.9

Note: Based on 414 drug incarceration guideline sentences.

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

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
			Agg.	Standard	Mit.	Box	Durational		Dispositional
							Upward	Downward	Upward
N1	Male	68	5.9	27.9	2.9		35.3	27.9	
	Female	4		25.0	25.0		50.0		
N2	Male	14	14.3	28.6			28.6	28.6	
	Female	3		33.3	33.3				33.3
N3	Male	189	7.4	23.8	14.8		20.6	33.3	
	Female	18	11.1	16.7	5.6		33.3	33.3	
N4	Male	58	8.6	15.5	12.1		17.2	46.6	
	Female	4	25.0	25.0	25.0		25.0		
N5	Male	242	7.4	12.4	12.0	34.7	9.5	24.0	
	Female	20	5.0	10.0	5.0	40.0	10.0	30.0	
N6	Male	37	2.7	35.1	16.2	2.7	16.2	21.6	5.4
	Female	0							
N7	Male	159	4.4	19.5	14.5		15.7	10.1	35.8
	Female	3			33.3				66.7
N8	Male	59	5.1	30.5	13.6		5.1	11.9	33.9
	Female	12		16.7	16.7			8.3	58.3
N9	Male	160	10.0	34.4	11.9		6.3	16.3	21.3
	Female	12		16.7	8.3			8.3	66.7
N10	Male	18	5.6	61.1	16.7				16.7
	Female	2		50.0	50.0				
Total	Male	1004	7.1	23.4	12.5	8.5	14.3	22.7	11.6
	Female	78	5.1	16.7	12.8	10.3	12.8	20.5	21.8

Note: Based on 1,082 nondrug incarceration guideline sentences.

Tables 33 and 34 demonstrate the conformity rates of the probation sentences by gender. The analysis of the offenders on probation shows that females on both drug and nondrug grids received less downward dispositional departures than males (9.7% vs. 17.2%), (Table 33); (2.5% vs. 9.3%), (Table 34). This finding indicates that except for incarceration drug sentences in 2011 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 fifteen years (Annual Reports of FY 1996 - FY 2010).

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

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	Male	6			100.0
	Female	6			100.0
D2	Male	16			100.0
	Female	8			100.0
D3	Male	474		86.5	13.5
	Female	132		93.2	6.8
D4	Male	1,052	82.8		17.2
	Female	379	92.6		7.4
Total	Male	1,548	56.3	26.5	17.2
	Female	525	66.9	23.4	9.7

Note: Based on 2,073 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	0			
	Female	0			
N2	Male	0			
	Female	0			
N3	Male	24			100.0
	Female	2			100.0
N4	Male	18			100.0
	Female	1			100.0
N5	Male	286		73.4	26.6
	Female	36		77.8	22.2
N6	Male	61	78.7	8.2	13.1
	Female	14	92.9		7.1
N7	Male	831	94.3		5.7
	Female	125	97.6		2.4
N8	Male	434	94.7		5.3
	Female	276	99.3		0.7
N9	Male	970	94.2		5.8
	Female	322	99.1		0.9
N10	Male	163	95.7		4.3
	Female	59	98.3		1.7
Total	Male	2,787	83.0	7.7	9.3
	Female	835	94.1	3.4	2.5

Note: Based on 3,622 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 2011 Legislative Session, thirty-one 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 29.3% in FY 2007 to 36.1% in FY 2011. FY 2011 indicated the highest number (610 admissions) or percentage (36.1%) 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 9.3% in FY 2007 and increased to 11.1% in FY 2011 (Table 35). The total percentage of both prison and probation sentences applied with special rules increased from 13.3% in FY 2007 to 16.8% in FY 2011 (Table 36).

During FY 2011, a number of 610 pure guideline prison sentences and 649 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 36.1% of prison pure guideline admissions (1,690 admissions) and 11.1% of pure guideline probation sentences (5,826) imposed in FY 2011 (Tables 35).

The top three special sentencing rules applied to prison sentences in sentencing practice during FY 2011 were “person felony committed with a firearm” (128 sentences) representing 21% of 610 prison sentences applied with special sentencing rules, “crime committed while incarcerated or on probation, parole, etc.” (304 sentences) representing 49.8% and “crime committed while on felony bond” (81 sentences) making up 13.3% of prison admissions with special sentencing rules during FY 2011 (Table 37).

These three special sentencing rules were applied most frequently to probation sentences imposed in FY 2011, as well. The special rule of “person felony committed with a firearm” (82 sentences) accounted for 12.6% of the total 649 probation sentences applied with special sentencing rules, “crime committed while incarcerated or on probation, parole, etc.” (242 sentences) accounted for 37.3% and “crime committed while on felony bond” (153 sentences) accounted for 24% (Table 38).

**Table 35: Pure Guideline Sentences Applied with Special Sentencing Rules
By Prison and Probation
FY 2007 through FY 2011**

Fiscal Year	Prison Admissions			Probation Sentences		
	Guideline	with Special Rules		Guideline	with Special Rules	
		Number	Percent		Number	Percent
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
2011	1690	610	36.1	5826	649	11.1

**Table 36: Pure Guideline Sentences Applied with Special Sentencing Rules
By Total Sentences
FY 2007 through FY 2011**

Fiscal Year	Guideline	with Special Rules	
		Number	Percent
2007	7261	966	13.3
2008	7325	954	13.0
2009	7273	1136	15.6
2010	7366	1214	16.5
2011	7516	1259	16.8

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

Table 37: Distribution of Special Sentencing Rules Applied To Prison Sentences – FY 2011

Special Rules Applied to Sentences	Number	Percent
Person felony committed with a firearm	128	21.0
Aggravated assault of a LEO	8	1.3
Crime committed for benefit of a criminal street gang	2	0.3
Persistent sex offender	8	1.3
Crime committed while incarcerated or on probation, parole, etc.	304	49.8
Crime committed while on felony bond	81	13.3
Extended juvenile jurisdiction imposed	7	1.1
2 nd /subsequent manufacture controlled substance	1	0.2
Residential burglary with a prior residential, nonresidential or aggravated burglary conviction	22	3.6
Second forgery	1	0.2
Third or subsequent forgery	5	0.8
Violation of Kansas Security Act	3	0.5
Third or subsequent drug possession	15	2.5
Burglary with 2 or more prior theft, burglary, aggravated burglary	39	6.4
Theft with 3 or more prior theft, burglary, aggravated burglary	28	4.6
Crime committed while incarcerated in a Juvenile correctional facility	4	0.7
Third or subsequent criminal deprivation of a motor vehicle	1	0.2
Drug felony with a firearm	1	0.2
Battery on a LEO resulting in bodily harm	1	0.2

Note: The number and percentage are mutually exclusive.

Table 38: Distribution of Special Sentencing Rules Applied To Probation Sentences – FY 2011

Special Rules Applied to Sentences	Number	Percent
Person felony committed with a firearm	82	12.6
Aggravated battery of a LEO	1	0.2
Aggravated assault of a LEO	9	1.4
Crime committed for benefit of a criminal street gang	2	0.3
Persistent sex offender	1	0.2
Crime committed while incarcerated or on probation, parole, etc.	242	37.3
Crime committed while on felony bond	156	24.0
Extended juvenile jurisdiction imposed	1	0.2
Residential burglary with a prior residential, nonresidential or aggravated burglary conviction	11	1.7
Second forgery	23	3.5
Third or subsequent forgery	44	6.8
Third or subsequent drug possession	50	7.7
Burglary with 2 prior burglary convictions	26	4.0
Crime committed while incarcerated in a juvenile correction (felony)	2	0.3
Theft with 3 or more prior felony theft, burglary, aggravated burglary	26	4.0
Drug felony with a firearm	1	0.2
Battery on a LEO resulting in bodily harm	4	0.6
Aggravated endangering a child	9	1.4
Other	16	2.5

Note: The number and percentage are mutually exclusive.

CHAPTER FOUR

SENTENCING TRENDS AND FORECAST

INCARCERATION SENTENCES

The admission trend of incarceration sentences declined from FY 2007 to FY 2009. However the number of admissions in FY 2010 increased by 405 or 8.9% compared with that of FY 2009. The admissions in FY 2011 decreased by 0.2% or 8 offenders compared with that of FY 2010 but increased by 1.2% or 59 offenders compared with that of FY 2007 (Figure 57). Table 39 displays the prison admission patterns by month in the past five years.

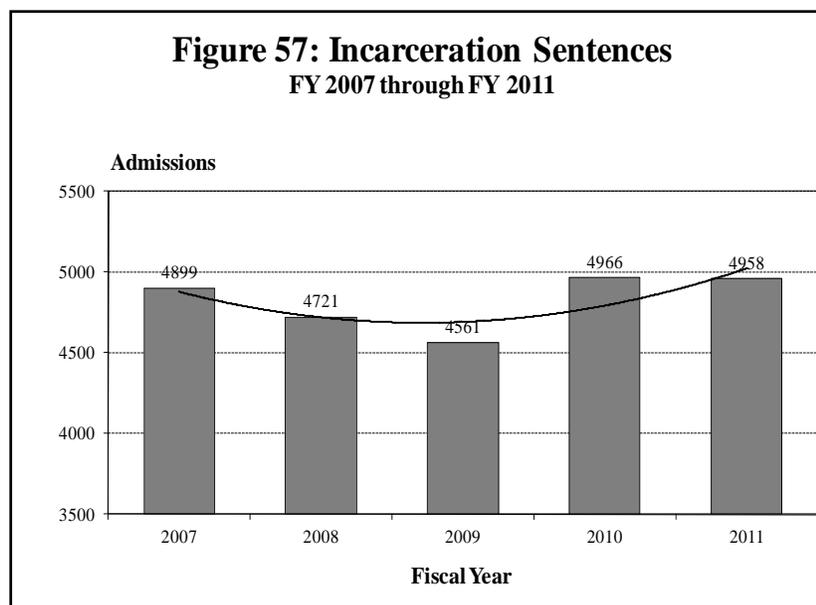


Table 39: Prison Admissions by Month

Month by Fiscal Year	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
July	417	436	417	450	410
August	420	422	308	384	413
September	390	362	398	412	430
October	448	451	366	415	366
November	375	392	345	384	418
December	354	312	364	423	444
January	442	431	359	352	358
February	355	371	361	405	387
March	422	385	451	497	467
April	397	380	408	432	392
May	502	395	333	362	441
June	377	384	451	450	432
Total	4,899	4,721	4,561	4,966	4,958

Table 40 presents the trend of admissions to prison by type in the past five fiscal years. Admissions of different types of offenders decreased in FY 2011 except new court commitments and a small number of other types. The admission number of new court commitments in FY 2011 increased by 4.6% compared with FY 2010 and by 24.3% compared with FY 2007. FY 2011 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 2011 decreased by 5.3% from that of FY 2010 and decreased by 7.1% from that of FY

2007. Probation violators with new sentences admitted to prison in FY 2011 increased by 8.3% compared with FY 2010 but decreased by 8.1% compared with FY 2007. The number of parole/postrelease and conditional release violators admitted to prison in FY 2011 greatly decreased by 17.1% compared with that of FY 2007 and decreased by 5.3% compared with that of FY 2010. The number of parole/post-release/condition release violators with new sentences in FY 2011 decreased by 15.3% from that of FY 2007 but increased by 14.2% over that of FY 2010.

Table 40: Comparison of Prison Admissions by Type

Admission Type	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2011-2007 % Difference
New Court Commitment	1,605	1,498	1,724	1,908	1,995	24.3%
Probation Condition Violator	1,750	1,624	1,462	1,717	1,626	-7.1%
Probation Violator with New Sentence	99	156	89	84	91	-8.1%
Parole/Postrelease/CR Condition Violator	1,239	1,268	1,154	1,084	1,027	-17.1%
Parole/Postrelease/CR Violator with New Sentence	190	156	109	141	161	-15.3%
Other Types*	16	19	23	32	58	262.5%
Total	4,899	4,721	4,561	4,966	4,958	1.2%

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

Table 41 exhibits the admission trend of incarceration drug sentences by severity level in the past five fiscal years. In FY 2011, admissions at all drug levels indicated a decrease from those of FY 2007 except drug level 2 with an increase of 8.8%. The overall admissions of drug offenders in FY 2011 decreased by 12.2% compared with that of FY 2007. The largest decrease in the past five years was identified at drug severity level 1 by 25.5%, followed by drug severity level 4 by 16.1%. When compared with FY 2010, the total number of drug offenders admitted to prison in FY 2011

only increased by 0.4%. The numbers at drug levels 1, 2 and 3 increased by 13.3%, 6.5% and 8% respectively over those of FY 2010, while the admissions at drug level 4 decreased by 6% from that of FY 2010.

The admission trend of nondrug offenders in the past five years is demonstrated in Table 42. The total number of nondrug admissions increased by 7.2% over that of FY 2007. The most notable increase of nondrug admissions in the past five years were identified at the off-grid increased by 281.8%, contributed most from Jessica's

Law offenders (Jessica’s Law passed in the 2006 Legislative Session). The admissions at levels 1, 4, 5 and 7 increased, respectively, by 18.6%, 15.2%, 15.6% and 19.9%. The most significant decrease in the past five years was found at level 10 with a decrease of 51.2% followed by level 2 with a decrease of 31.4%. Certain fluctuations were also identified in the numbers of sentences at other nondrug severity levels from FY 2007 to FY 2011 with an increase of 4.6% at level 3, an increase of 5% at level 6 and an increase of 8.6% at level 9. Nongrid offenders admitted to prison in FY 2011 were all violators under the crime of DUI (77 offenders), demonstrating a

decrease of 28.7% compared with FY 2007 and a decrease of 27.4% compared with FY 2010 (Table 42).

When compared with FY 2010, the total number of nondrug admissions in FY 2011 slightly decreased by 0.4%. The numbers at all nondrug severity levels dropped except for admissions at nondrug severity levels 6, 7, 8, 9 and offgrid. The admissions increased by 23.5% at nondrug severity level 6, by 2.4% at level 7, by 1.8% at level 8 and by 5.1% at level 9. As projected, offgrid sentences increased by 11.5% resulting from the impact of Jessica’s Law (Table 42).

Table 41: Comparison of Drug Prison Admissions by Severity Level

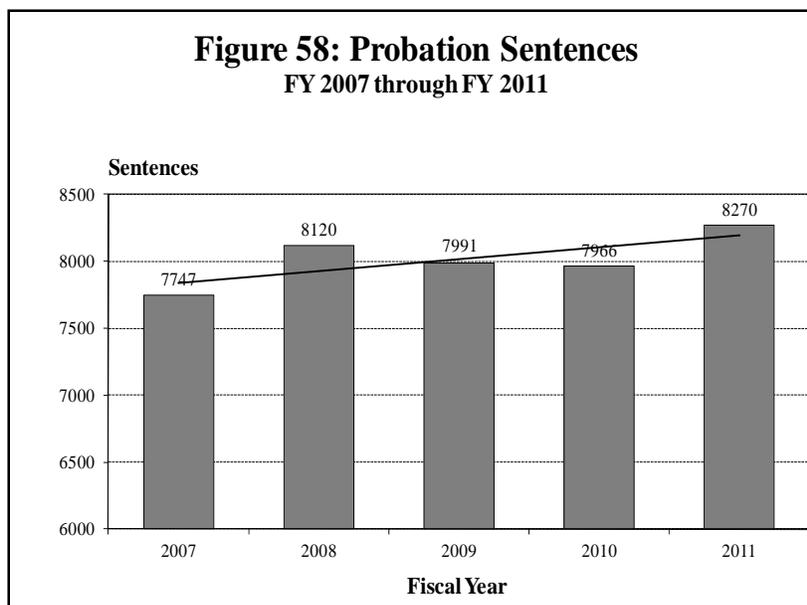
Severity Level	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2011-2010 % Difference	FY 2011-2007 % Difference
D1	149	115	110	98	111	13.3%	-25.5%
D2	91	99	93	93	99	6.5%	8.8%
D3	438	367	347	387	418	8.0%	-4.6%
D4	841	726	652	751	706	-6.0%	-16.1%
Total	1,519	1,307	1,202	1,329	1,334	0.4%	-12.2%

Table 42: Comparison of Nondrug Prison Admissions by Severity Level

Severity Level	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2011-2010 % Difference	FY 2011-2007 % Difference
N1	86	113	97	105	102	-2.9%	18.6%
N2	70	59	46	53	48	-9.4%	-31.4%
N3	391	404	387	420	409	-2.6%	4.6%
N4	99	99	123	113	114	0.9%	15.2%
N5	513	533	532	596	593	-0.5%	15.6%
N6	120	126	116	102	126	23.5%	5.0%
N7	675	690	665	790	809	2.4%	19.9%
N8	396	349	355	388	395	1.8%	-0.3%
N9	662	635	622	684	719	5.1%	8.6%
N10	215	220	187	161	105	-34.8%	-51.2%
Offgrid	33	75	104	113	126	11.5%	281.8%
Nongrid	108	109	121	106	77	-27.4%	-28.7%
Unknown	12	2	4	6	1	-83.3%	-91.7%
Total	3,380	3,414	3,359	3,637	3,624	-0.4%	7.2%

PROBATION SENTENCES

Figure 58 demonstrates the trend of probation sentences imposed in the past five fiscal years. The number of probation sentences in FY 2011 increased by 3.8% or by 304 sentences compared with that of FY 2010 and increased by 6.8% or by 523 sentences compared with that of FY 2007. The largest number of probation sentences imposed in the past five years is identified in FY 2011.



The sentencing trend of drug probation sentences by severity level in the past five years is presented in Table 43. Compared with FY 2010, the analysis shows that drug probation sentences at all levels in FY 2011 increased except at drug severity level 1 with a decrease of 33.3%. The largest percentage increase of probation sentences for drug offenses was at drug severity level 2, by an increase of 89.5%. The total number of drug probation sentences in FY 2011 increased by 3.1% over that of FY 2010. When compared with FY 2007, drug probation sentences decreased by 51.5% at severity level 1, decreased by 12.9% at severity level 4, but the numbers of drug probation sentences at severity levels 2 and 3 increased by 100% and 36% respectively. The total number of drug probation sentences in FY 2011 decreased by 2.8% from that of FY 2007.

Table 44 displays the sentencing trend of nondrug probation sentences in the past five years. The total number of nondrug probation sentences in FY 2011 increased by 4.1% over that of FY 2010 and increased by 11.8% over that of FY 2007. The largest increase of nondrug probation sentences in the past five years were found at nondrug severity level 4 (an increase of 86.7%), followed by nondrug severity level 5 (an increase of 68.6%) and nondrug severity level 6 (an increase of 36.8%) compared with the data observed in FY 2007. Two offenders were convicted of an offgrid offense under Jessica's Law received downward departures to the guidelines and sentenced to probation, whose offense dates are before July 1, 2008.

**Table 43: Comparison of Probation Drug Sentences by Severity Level
FY 2007 through FY 2011**

Severity Level	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2011-2010 % Difference	FY 2011-2007 % Difference
D1	33	20	25	24	16	-33.3%	-51.5%
D2	18	31	34	19	36	89.5%	100.0%
D3	542	550	552	673	737	9.5%	36.0%
D4	2,091	2,149	1,903	1,815	1,821	0.3%	-12.9%
Total	2,684	2,750	2,514	2,531	2,610	3.1%	-2.8%

**Table 44: Comparison of Probation Nondrug Sentences by Severity Level
FY 2007 through FY 2011**

Severity Level	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2011-2010 % Difference	FY 2011-2007 % Difference
N1	4	4	3	1	0	-100.0%	-100.0%
N2	1	1	1	0	0	N/A	-100.0%
N3	49	47	55	61	45	-26.2%	-8.2%
N4	15	24	18	18	28	55.6%	86.7%
N5	236	295	321	337	398	18.1%	68.6%
N6	68	88	92	97	93	-4.1%	36.8%
N7	1,013	1,067	1,047	1,073	1,194	11.3%	17.9%
N8	972	907	927	930	960	3.2%	-1.2%
N9	1,479	1,671	1,654	1,599	1,717	7.4%	16.1%
N10	420	414	448	353	288	-18.4%	-31.4%
Offgrid	0	3	2	2	2	0.0%	N/A
Nongrid	806	849	909	964	935	-3.0%	16.0%
Total	5,063	5,370	5,477	5,435	5,660	4.1%	11.8%

COUNTY JAIL SENTENCES

The total number of jail sentences imposed in FY 2011 demonstrated a decrease of 11.7% or 103 sentences compared with that of FY 2010 but an increase of 12.2% or 84 sentences compared with that of FY 2007. FY 2010 represents the highest number of county jail sentences imposed in the past five years.

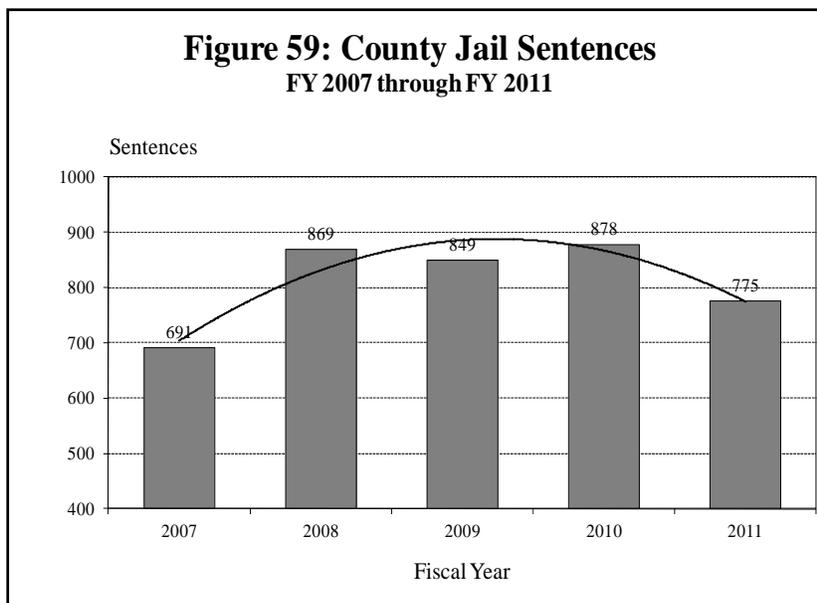


Table 45 presents the offense trend of county jail sentences from FY 2007 through FY 2011. Approximately 99% of the jail sentences were convictions of the crime of DUI. Further analysis of DUI crime reveals that the 4th or subsequent conviction of DUI accounted for 89.8% of total county jail sentences. In FY 2011, the number of the 4th or subsequent conviction of DUI decreased by 11.5% compared with FY 2010 but increased by 18.4% compared with FY

2007. The number of the 3rd conviction of DUI in FY 2010 decreased by 15.9% and 24.2% respectively when compared with those of FY 2010 and FY 2007. Though small in number, the crime of domestic battery decreased from 11 sentences in FY 2007 to 9 sentences in FY 2011. The crime of cruelty to animals was created in the 2007 Legislative Session. Only a few offenders were convicted of the crime in the past five years.

Table 45: Comparison of County Jail Sentences by Offense FY 2007 through FY 2011

Offenses	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2011-2010 % Difference	FY 2011-2007 % Difference
3rd DUI	91	97	89	82	69	-15.9%	-24.2%
4th or Sub. DUI	588	750	741	786	696	-11.5%	18.4%
Domestic battery	11	15	12	3	9	200.0%	-18.2%
Cruelty to Animals	1	2	3	1	0	-100.0%	-100.0%
Other	0	5	4	6	1	-83.3%	N/A
Total	691	869	849	878	775	-11.7%	12.2%

PRISON POPULATION FORECASTS

Producing official inmate population projections annually for the Kansas Department of Corrections is one of the statutory tasks of the Kansas Sentencing Commission. 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 KDOC 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 11,284 by June 30, 2021, which indicates an increase of 2,104 inmates or 22.9% over the actual prison population on the same date of year 2011. Although the total admission trend in the past five years is declining then increasing in FY 2010 and FY 2011 compared with FY 2007 (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).

FY 2011 prison population projections by severity levels are presented in Table 46.

The largest increase in number falls at nondrug severity level 3, an increase of 609 offenders or 46.4% in the ten-year forecast period. The number at nondrug severity level 1 will increase by 239 offenders or 27.6% 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 376 offenders or 29.7% at nondrug severity level 5 and will increase by 121 offenders or 37.6% at nondrug severity level 4 in the next ten years. Condition parole or postrelease violators will increase by 173 or 29.1%. As for population at other nondrug severity levels, no significant changes are projected in the ten-year forecast period.

The incarcerated population at offgrid in the next ten years will increase by 298 offenders or 28%. This significant growth is primarily due to the implementation of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session.

The projected prison population of drug offenders at all severity levels will increase except drug severity level 4 with a decrease of 4.4% or 28 offenders in the next ten years. The number of offenders will increase by 200 at drug severity level 1, by 62 at drug severity level 2 and by 146 at drug severity level 3 in the ten-year forecast period. Figure 60 depicts the trend of the actual and projected prison population from FY 1996 through FY 2021.

Figure 60: Prison Population Actual and Projected

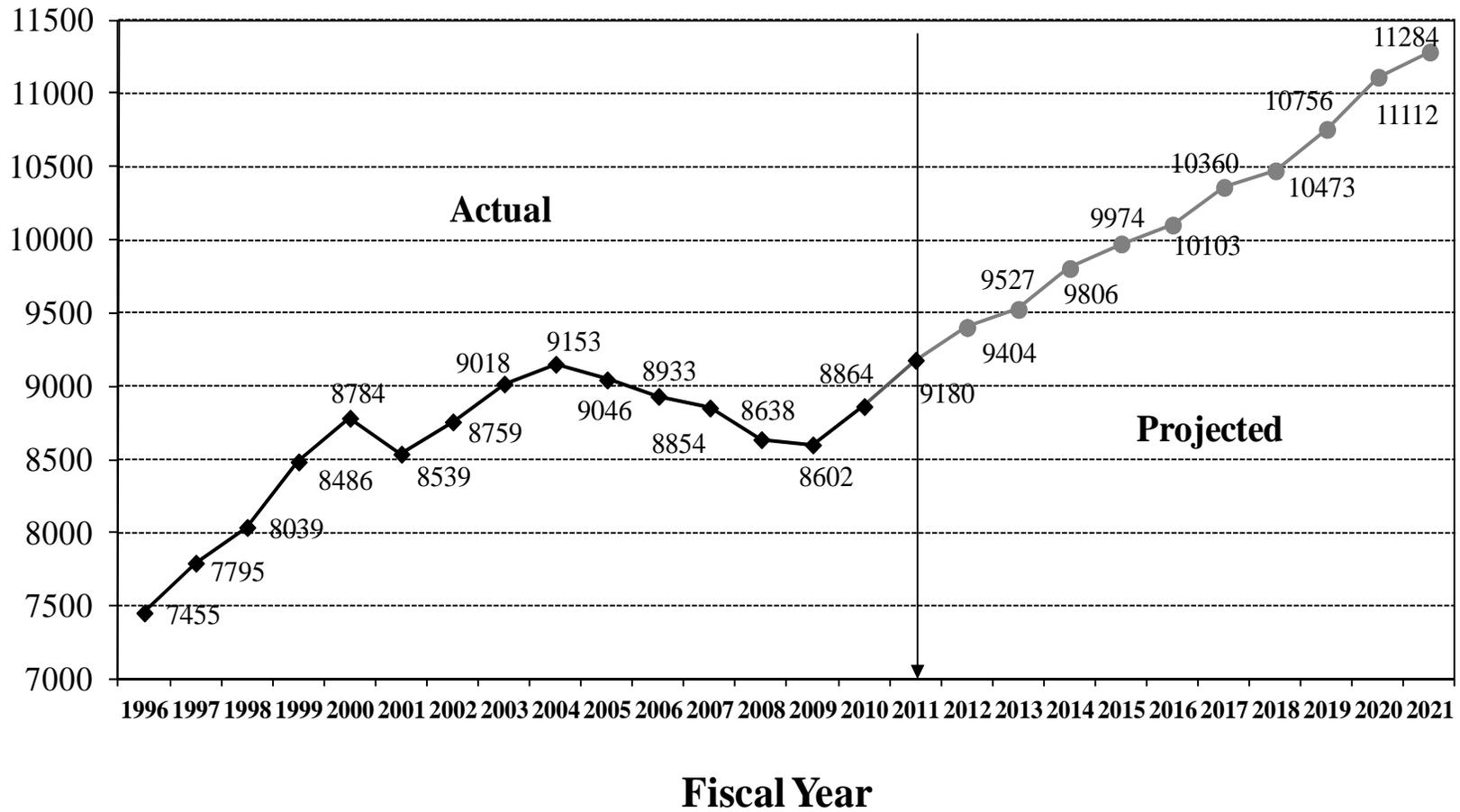


Table 46: FY 2012 Adult Inmate Prison Population Projections

Severity Level	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	June 30 2021	Total # Increase	Total % Increase
D1	277	306	337	367	396	421	429	433	454	469	477	200	72.2%
D2	201	206	227	224	231	243	233	241	236	251	263	62	30.8%
D3	486	513	522	548	564	553	561	579	602	602	632	146	30.0%
D4	635	614	593	577	583	568	591	564	550	582	607	-28	-4.4%
N1	866	871	897	920	945	962	984	1015	1060	1085	1105	239	27.6%
N2	292	305	303	308	315	315	329	335	345	343	348	56	19.2%
N3	1312	1386	1448	1518	1565	1618	1678	1740	1811	1875	1921	609	46.4%
N4	322	325	349	358	369	379	391	415	420	434	443	121	37.6%
N5	1266	1329	1372	1411	1450	1505	1543	1550	1583	1612	1642	376	29.7%
N6	163	173	171	180	179	169	169	181	203	199	211	48	29.4%
N7	832	857	810	808	808	822	837	826	847	890	892	60	7.2%
N8	232	212	226	204	228	203	215	218	228	242	236	4	1.7%
N9	282	250	235	269	282	306	305	288	328	312	291	9	3.2%
N10	21	28	22	27	25	21	32	22	19	29	30	9	42.9%
Off-grid Including Old Lifer	1064	1095	1145	1182	1186	1212	1232	1259	1287	1326	1362	298	28.0%
Condition Parole/PIS Violators	594	653	632	709	681	668	716	712	703	795	767	173	29.1%
Old Law Non-Lifer	330	281	238	196	167	138	115	95	80	66	57	-273	-82.7%
Total	9180	9404	9527	9806	9974	10103	10360	10473	10756	11112	11284	2104	22.9%

*. The numbers on June 30, 2011 are the actual prison population on that date. Total number includes two non-grids.

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 364 unclassified beds, 2,854 minimum beds, 2,705 medium low beds, 1,696 medium high beds, 1,163 maximum beds and 622 special management beds will be needed by the end of FY 2012. The total projected prison beds, by the end of FY 2021, will include 398 unclassified beds, 3,294 minimum beds, 3,066 medium low beds, 2,359 medium high beds, 1,330 maximum beds and 837 special management beds (Table 47).

Figure 61 illustrates the projected percentage distribution of custodial classifications by gender, which demonstrates a significant difference between male and female offenders. Females will need 3.7% unclassified, 51.4% minimum, 20.6% medium low, 10.7% medium high, 11.3% maximum custody and 2.3% special

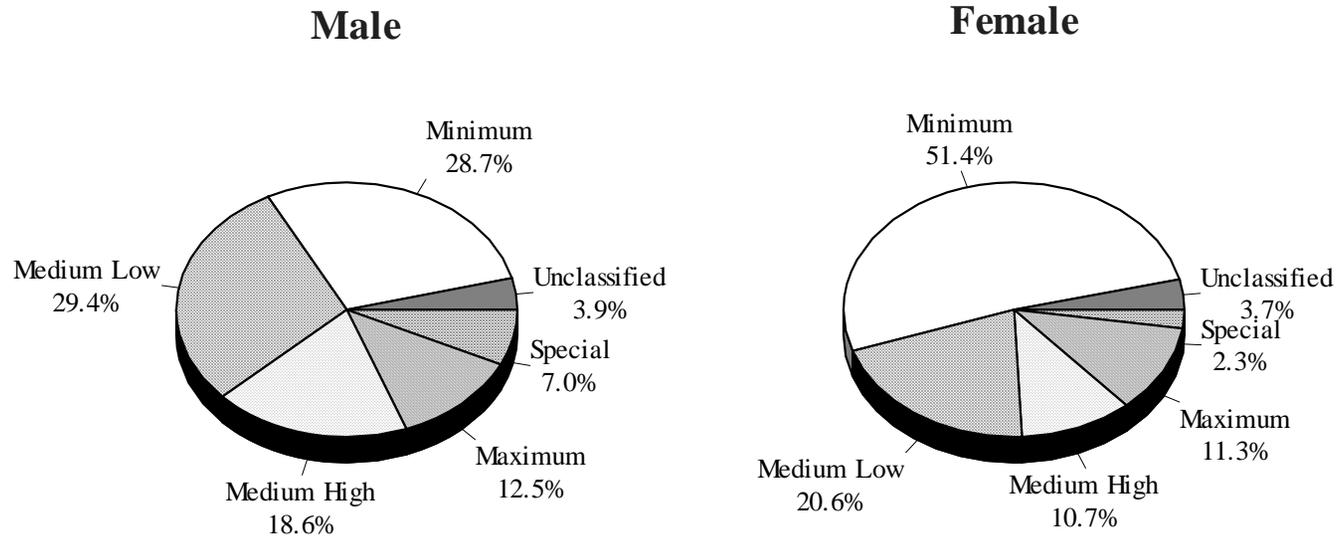
management beds by the end of FY 2012. Males will need 3.9% unclassified, 28.7% minimum, 29.4% medium low, 18.6% medium high, 12.5% maximum custody and 7% special management beds by the end of FY 2012. These classification percentages of male and female offenders remain fairly constant during the ten-year 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 626. The second largest increase is at the type of minimum beds with an increase of 376 beds. The medium low custody beds, maximum custody beds, special management beds and unclassified beds demonstrate an increase of 307, 131, 196 and 26, respectively, over the ten-year forecast period. Beds for females, in terms of custody types, do not fluctuate in the next ten years with an increase of 64 minimum beds, 54 medium low beds, 37 medium high beds and 36 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
2012	364	2,854	2,705	1,696	1,163	622	9,404
2013	334	2,864	2,777	1,708	1,154	690	9,527
2014	365	2,880	2,871	1,787	1,180	723	9,806
2015	368	2,911	2,864	1,892	1,198	741	9,974
2016	373	2,927	2,853	1,974	1,209	767	10,103
2017	412	3,071	2,837	2,043	1,218	779	10,360
2018	389	3,090	2,977	2,046	1,204	767	10,473
2019	388	3,176	2,971	2,167	1,284	770	10,756
2020	390	3,256	3,060	2,317	1,273	816	11,112
2021	398	3,294	3,066	2,359	1,330	837	11,284

Figure 61: Projected Percentage Distribution of Custody Classification by Gender



Based on the projected prison population on June 30, 2012 (male = 8,704 and female = 700).

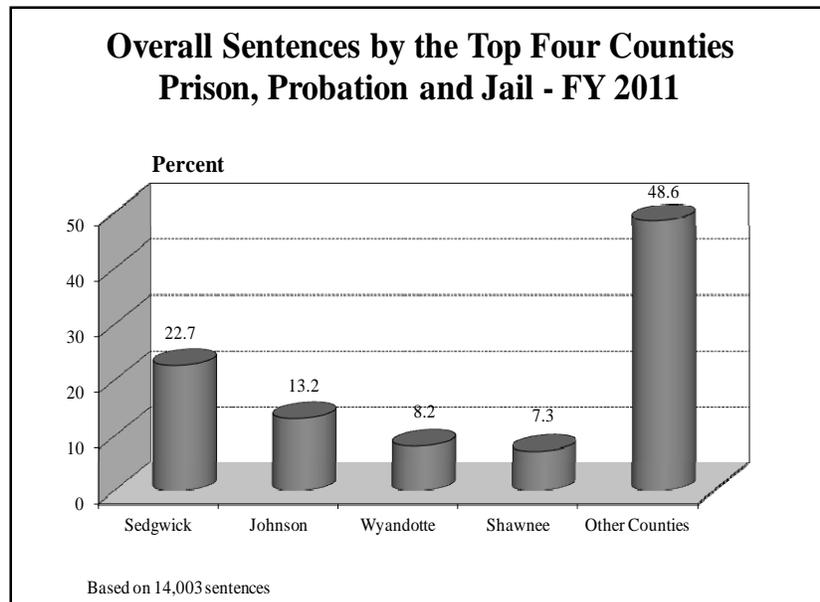
APPENDIX I

SENTENCES FROM THE TOP FOUR COUNTIES

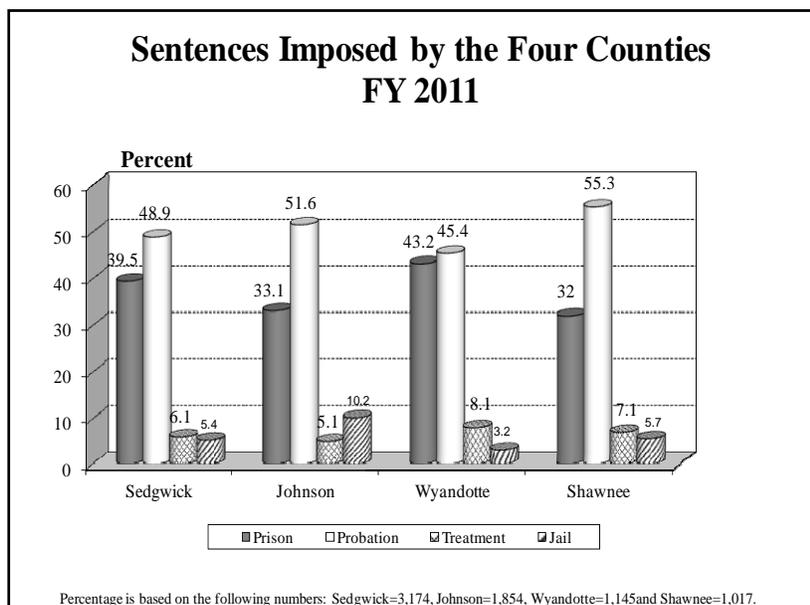
In this section, sentences utilized for analyses include incarceration, probation and county jail sentences submitted to the Commission during FY 2011. The analysis on the sentences indicates that Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four counties, whose sentences imposed accounted for 51.4% of the total state sentences, a decrease of 1.7% compared with that (53.1%) of FY 2010. 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 2010, no significant changes were identified in the percentages of sentences from the four counties. Sentences from Sedgwick County and Wyandotte County decreased by 1.3% and 0.9% respectively, while sentences from Johnson County and Shawnee County increased by 0.4% and 0.1% respectively. The following figures and tables display the characteristics of offenses and offenders from the four counties in FY 2011.

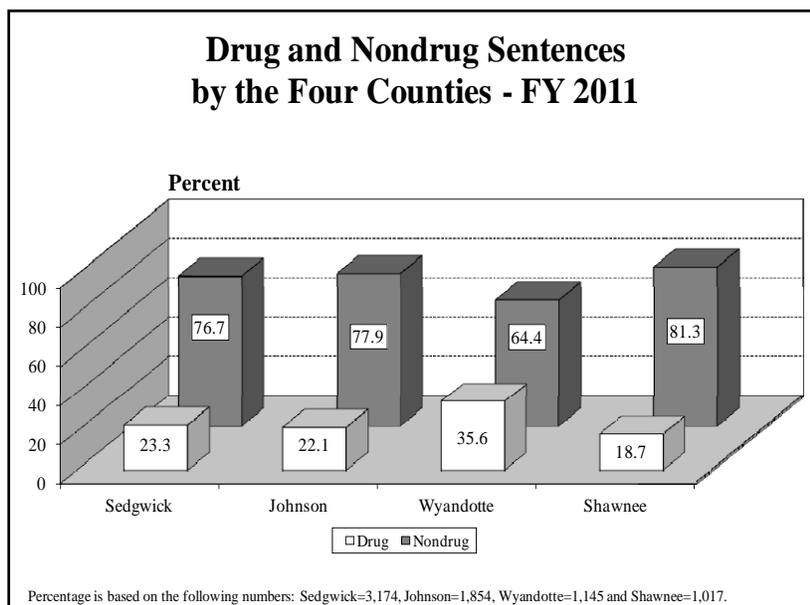
Sedgwick, Johnson, Wyandotte and Shawnee Counties were the top four committing counties with sentencing events. Sedgwick County imposed 22.7% sentences of the total state sentence events in FY 2011, followed by Johnson County accounting for 13.2%, Wyandotte County accounting for 8.2% and Shawnee County accounting for 7.3%.



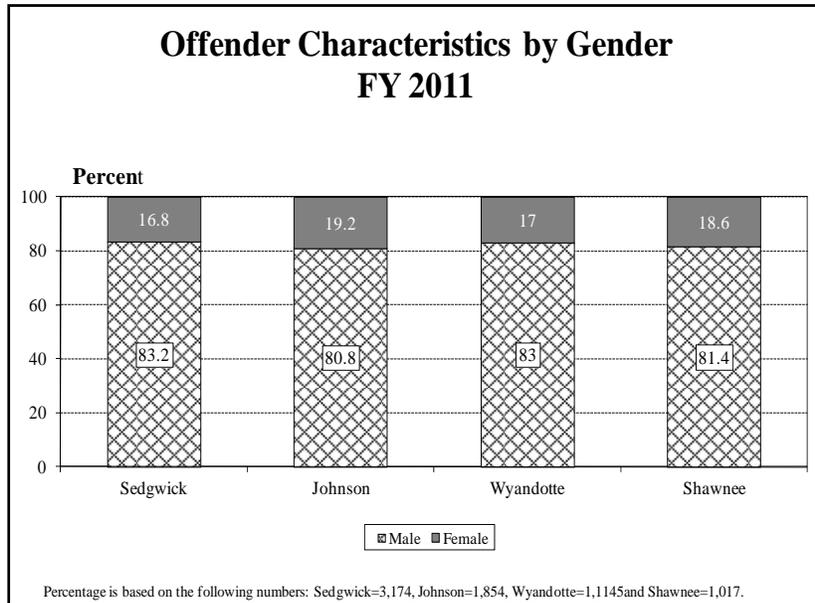
Wyandotte County imposed the higher percentage of prison sentences (43.2%) than the other three counties, while the highest rate of probation sentences was identified in Shawnee County (55.3%). Wyandotte County also imposed the highest rate of Senate Bill 123 drug treatment sentences (8.1%) among the four counties. The highest percentage of county jail sentences was found in Johnson County (10.2%).



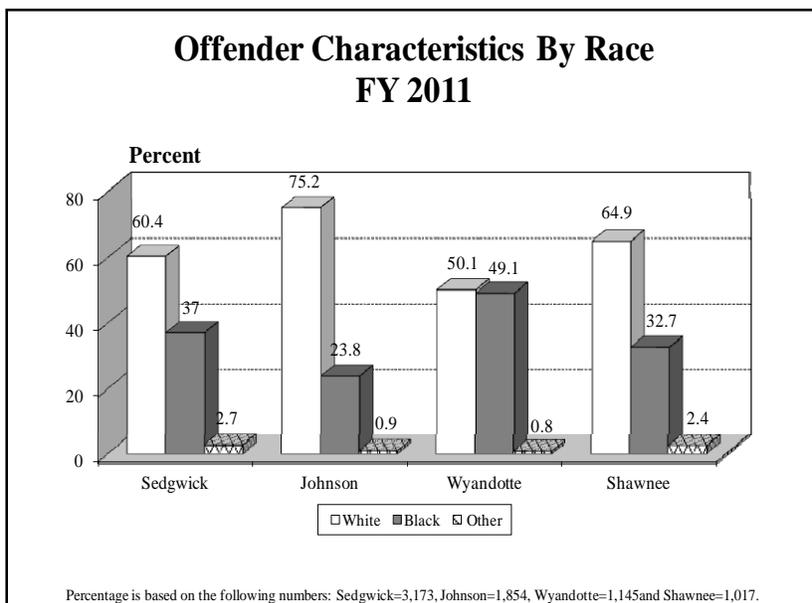
The examination of sentences imposed by types of drug and nondrug discloses that Wyandotte County represented the highest percentage of drug sentences (35.6%), while Shawnee County imposed the largest proportion of nondrug sentences (81.3%) among the four counties.



The analysis of offenders by gender indicates that Johnson County represented the highest percentage of female offenders (19.2%), while Sedgwick County reported the highest rate of male offenders (83.2%).



Racial analysis on offenders reveals that Johnson County reported more white offenders (75.2%), while Wyandotte County reported more black offenders (49.1%) than the other three counties respectively, which remained constant as compared to FY 2010.



**FY 2011 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	3	0.2	2	0.2	4	0.4
D2	21	0.7	7	0.4	6	0.5	3	0.3
D3	219	6.9	182	9.8	111	9.7	31	3.0
D4	483	15.2	217	11.7	289	25.2	152	14.9
N1	13	0.4	14	0.8	21	1.8	7	0.7
N2	7	0.2	4	0.2	6	0.5	6	0.6
N3	137	4.3	63	3.4	78	6.8	40	3.9
N4	39	1.2	10	0.5	26	2.3	8	0.8
N5	319	10.1	109	5.9	75	6.6	62	6.1
N6	45	1.4	25	1.3	21	1.8	15	1.5
N7	544	17.1	169	9.1	97	8.5	216	21.2
N8	349	11.0	213	11.5	84	7.3	94	9.2
N9	554	17.5	336	18.1	164	14.3	226	22.2
N10	37	1.2	99	5.3	42	3.7	25	2.5
Nongrid	364	11.5	397	21.4	95	8.3	122	12.0
Offgrid	26	0.8	6	0.3	28	2.4	6	0.6
Total	3,174	100.0	1,854	100.0	1,145	100.0	1,017	100.0

FY 2011 Top Ten Offenses Committed by Offenders in the Four Counties – 1

Offense Type	Sedgwick County		Offense Type	Johnson County	
	N	%		N	%
Drugs	740	23.3	Drugs	409	22.1
DUI	339	10.7	DUI	389	21.0
Theft	312	9.8	Theft	230	12.4
Burglary	288	9.1	Burglary	128	6.9
Aggravated Battery	249	7.8	Aggravated Battery	77	4.2
Forgery	158	5.0	Identity Theft	74	4.0
Aggravated Assault	108	3.4	Forgery	67	3.6
Aggravated Robbery	102	3.2	Aggravated Robbery	39	2.1
Fleeing or Eluding LEO	82	2.6	Criminal Threat	35	1.9
Aggravated Burglary	81	2.6	False Writing	35	1.9
Total	2,459	77.5	Total	1,483	80.1

FY 2011 Top Ten Offenses Committed by Offenders in the Four Counties – 2

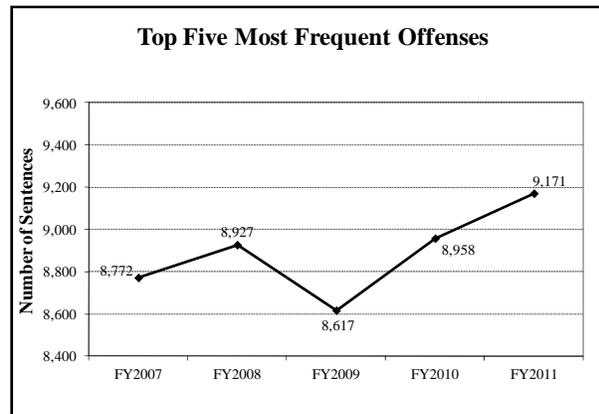
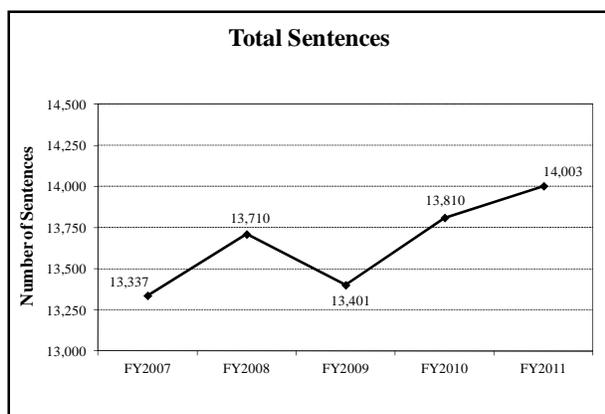
Offense Type	Wyandotte County		Offense Type	Shawnee County	
	N	%		N	%
Drugs	408	35.6	Drugs	190	18.7
DUI	95	8.3	DUI	112	11.0
Burglary	80	7.0	Theft	109	10.7
Theft	71	6.2	Burglary	104	10.2
Aggravated Battery	66	5.8	Aggravated Battery	75	7.4
Forgery	54	4.7	Forgery	54	5.3
Aggravated Robbery	58	5.1	Robbery	40	3.9
Fleeing or Eluding LEO	48	4.1	Failure to Register	39	3.8
Agg. Indecent Lib. w/Child	23	2.0	Aggravated Burglary	38	3.7
Aggravated Burglary	21	1.8	Aggravated Assault	28	2.8
Total	924	80.6	Total	789	77.5

APPENDIX II TRENDS OF SELECTED OFFENSES

TOP FIVE MOST FREQUENT OFFENSES

The top five most frequently convicted offenses in the past five years were the crimes of drugs, DUI, burglary, theft and aggravated battery. Of the total offenses, including incarceration, probation and county jail sentences, these top five offenses represented 65.8% in FY 2007, 65.1% in FY

2008, 64.3% in FY 2009, 64.9% in FY 2010 and 65.5% in FY 2011. The sentencing trends of the top five offenses from FY 2007 to FY 2011 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 2007	FY 2008	FY 2009	FY 2010	FY 2011
Drugs	4,203	4,060	3,717	3,859	3,944
DUI*	1,573	1,773	1,819	1,880	1,725
Burglary	1,256	1,261	1,207	1,372	1,521
Theft	1,048	1,074	1,108	1,096	1,157
Aggravated Battery	692	759	766	751	824
Subtotal	8,772	8,927	8,617	8,958	9,171
Total Offenses	13,337	13,710	13,401	13,810	14,003

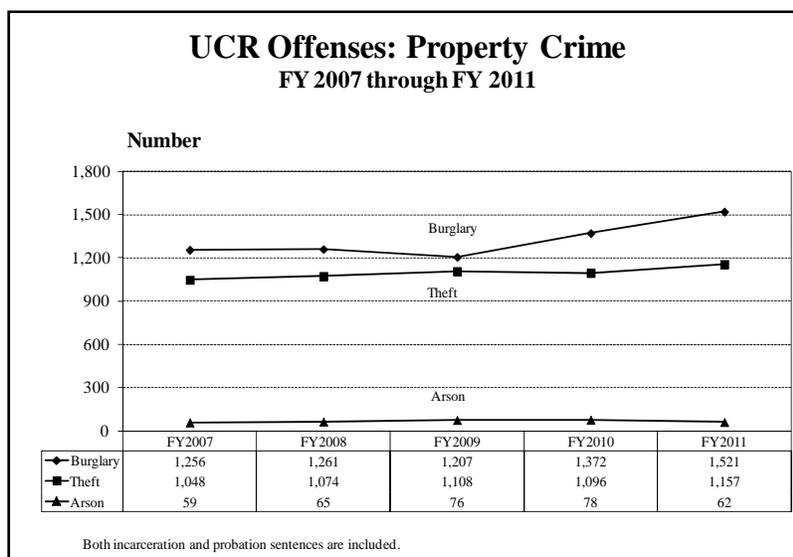
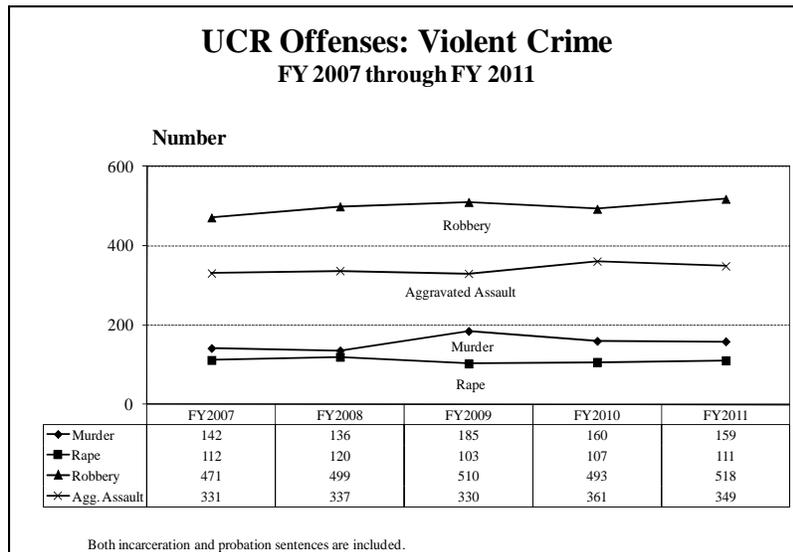
* The offense of DUI includes county jail sentences.

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 2007 to FY 2011, 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 2011, the number of the murder crimes decreased by 1 sentence compared with FY 2010 but increased by 17 sentences (12%) compared with FY 2007. The number of rape crime increased by 3.7% compared with FY 2010 but decreased by 1 sentence compared with FY 2007. The convictions of robbery increased by 5.1% and 10% respectively compared with FY 2010 and FY 2007. The numbers of convictions of aggravated assault decreased by 3.3% from that of FY 2010 but increased by 5.4% over that of FY 2007. Burglary crimes increased by 10.9% and 21.7% respectively compared with FY 2010 and FY 2007; the convictions of theft increased by 5.6% and 10.4% over those of FY 2010 and FY 2007 respectively. The crime of arson decrease by 20.5% compared with FY 2010 but increased by 5.1% compares with FY 2007.



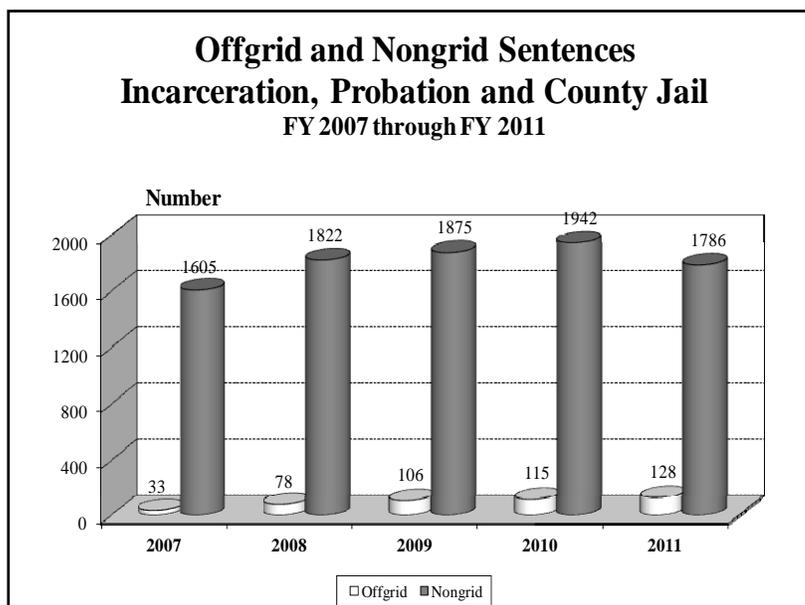
OFFGRID AND NONGRID CRIMES

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 or 21-5401), murder in the first degree (K.S.A. 21-3401 or 21-5402), treason (K.S.A. 21-3801 or 21-5901) 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

With the implementation of Jessica’s Law, the number of offgrid crimes significantly increased in FY 2011, with an increase of 95 offenders (287.9%) compared with that of FY 2007 and an increase of 13 offenders (11.3%) compared with that of FY 2010. Nongrid sentences in FY 2011, including incarceration, probation and county jail sentences, decreased by 156 (8%) compared with FY 2010 but increased by 181 (11.3%) compared with FY 2007.

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 guidelines grids 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 or 21-5414) and felony “cruelty to animals” (K.S.A. 2006 Supp. 21-4310 and 21-4318 or 21-6412 or 21-6416) 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 or 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.

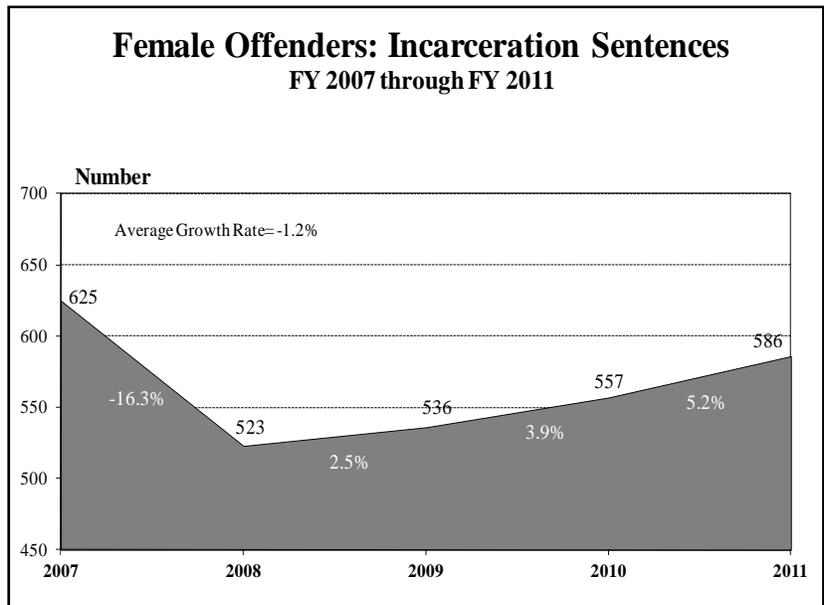


FEMALE OFFENDERS

In the past five years, the admission trend of female offenders has been increasing since a significant declining in FY 2008 (a decrease of 16.3%). The number of female admissions in FY 2011 increased by 5.2% compared with that of FY 2010 but decreased by 0.6% compared with that of

FY 2007. The average growth rate in the past five years is negative 1.2%. The numbers of female offenders on probation exhibit an increasing tendency. The average growth rate is 2% in the past five years. Females were sentenced to prison or probation most frequently for the crimes of drugs, forgery and theft.

The number of females incarcerated in prison decreased by 16.3% in FY 2008 and then increased by 2.5% in FY 2009, 3.9% in FY 2010 and 5.2% in FY 2011, compared with those of the previous years. The population in FY 2007 is the highest number (625) of female admissions to prison in the past five years.



The population of females sentenced to probation 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. However the number of females on probation increased by 4% in FY 2011, which is the highest in the past five years.

