# KANSAS SENTENCING COMMISSION

## FY 2012 ANNUAL REPORT

APRIL 2013

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# KANSAS SENTENCING COMMISSION

## ANNUAL REPORT
## FY 2012

# *Analysis Of Sentencing Guidelines In Kansas*

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**Chair**

**Honorable Evelyn Z. Wilson**
**Vice Chair**

**Scott M. Schultz**
**Executive Director**

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

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# EXECUTIVE SUMMARY

During Fiscal Year 2012, the Kansas Sentencing Commission (KSC) continued its efforts to carry out the statutory obligations assigned to the Commission. The major activities performed are as follows:

1. 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 the sentencing guidelines;
2. Producing annual prison population projections and custody classification forecasts for the Kansas Adult Correctional Facilities;
3. Processing statewide felony sentencing journal entries including both prison and non-prison guideline sentences;
4. Monitoring and evaluating the implementation of 2003 Senate Bill 123 drug treatment programs and processing statewide transactions of the programs;
5. Developing and maintaining the post-implementation monitoring system that allows for a comprehensive evaluation of the sentencing guidelines;
6. Updating Kansas Sentencing Guidelines Desk Reference Manual according to sentencing policy changes passed during the 2012 Legislative Session;
7. Publishing an Annual Report statistically presenting sentencing practice and policies under Kansas Sentencing Guidelines;
8. Issuing E-Newsletters quarterly to provide updates and helpful information relating to Kansas Sentencing Commission programs, publications and forms.
9. Updating Kansas Criminal Justice Resource Directory, which provides contacts, addresses and phone numbers of many statewide criminal justice professionals.
10. Performing criminal justice research projects funded by Federal grant including the program of reporting Arrest-Related Deaths to the Bureau of Justice Statistics;
11. Conducting training sessions on sentencing guidelines and various sentencing issues; and
12. Serving as an information resource to respond to national, state and county requests regarding sentencing data.

FY 2012 Annual Report is based on the sentencing data reported from 103 counties of the state and the adult prison data contributed by the Kansas Department of Corrections (KDOC) in FY 2012. This section presents a brief summary of the key sentencing issues discussed in the report. A total number of 13,203 felony sentences were reported to the Commission during FY 2012, indicating a decrease of 5.7% from that of FY 2011. Of the total number of sentences, 4,993 (37.8%) were prison sentences, 7,688 (58.2%) were probation sentences and 522 (4%) were county jail sentences. Nondrug sentences accounted for 71.6% or 9,451 sentences and drug sentences accounted for 28.4% or 3,752 sentences (page 2).

**INCARCERATION SENTENCES**

A total number of 4,993 offenders were admitted to the Kansas Department of Corrections in FY 2012. Eighty-eight percent of the total admissions were male offenders, a percentage decrease of 0.2% from that of FY 2011 (88.2%). Nearly 90% of the violent and sex offenses were committed by male offenders, such as aggravated assault, aggravated battery, burglary, criminal threat, kidnapping, murder in the first degree and rape. However, female offenders were incarcerated more frequently for the crimes of forgery, theft and false writing (pages 23 & 24). The analysis of drug crimes indicates that male offenders were convicted of more than 83% of drug sale first, second 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, possession of precursor drugs and drug sale first offense (page 26).

In FY 2012, white offenders represented 67.1% of the admissions to state prisons, indicating an increase of 0.7% over that of FY 2011 (66.4%). The offenders with non-Hispanic origin made up 90.9%, an increase of 0.9% over that of FY 2011 (90%). The highest incarceration rates for white offenders (over 70%) were found in the offense categories of burglary, DUI, forgery, identity theft, involuntary manslaughter and most sex offenses. Nevertheless, blacks were incarcerated more often (over 45%) for the crimes of aggravated arson, aggravated robbery, robbery, voluntary manslaughter, murder in the first degree and possession of firearm (pages 23 & 24).

The analysis on offenders by age indicates that the largest population of incarcerated offenders (25.7%) was found in the age group ranging from 31 to 40 years old and the second largest number of offenders (23.4%) was identified in the group from 25 to 30 years old at the time of admission to prison in FY 2012. This age distribution is consistent with the age data observed in FY 2011. As for the educational background of the offenders admitted in FY 2012, fifty percent of the offenders had attained either a high school diploma or GED equivalent, an increase of 3% compared with that of FY 2011 (47%).

In terms of admission type, the analysis demonstrates that new court commitments, probation condition violators and parole/post-release condition violators are the three largest groups representing 39.6%, 33.7% and 19.1%, respectively, of the total prison admissions in FY 2012. Most of the drug offenders admitted to KDOC in FY 2012 fell at drug severity level 3 (30.4%) and drug severity level 4 (56.5%), while the largest numbers of nondrug offenders were identified at nondrug severity levels 7 and 9 with admissions of 838 and 739, respectively, in FY 2012 (Pages 27 & 28).

Further examination of the offenders convicted under Jessica's Law reveals that 75 sex offenders were sentenced and admitted to prison under Jessica's Law during FY 2012. All of them were new court commitments except one probation condition violator and one parole condition violator. While most jurisdictions identify the severity of these crimes as offgrid (81.3%), a few sentenced them at the severity level for a downward departure on the nondrug grid. The analysis of sentence length demonstrates that 58.7% of the sentences were downward departure to

guidelines, an increase of 5.1% compared with that of FY 2011 (53.6%). The average sentence length of the durational departures was 127 months, a decrease of 27 months from that observed in FY 2011 (154 months). The major departure reasons are that there was a plea agreement between parties, the defendant had no prior criminal history and accepted responsibility (Page 31).

**PROBATION SENTENCES**

During FY 2012, the Commission received a total number of 7,688 probation sentences. The analysis of the probation sentences discloses that theft (17.5%), burglary (14.4%) and DUI (14.4%) continued to be the top three offenses committed by nondrug probation offenders representing 46.3% of the total nondrug crimes (page 35), an increase of 2.3% over that of those crimes in FY 2011 (44%). The probation sentences for the crime of drug possession accounted for 65.1% of all drug probation sentences, a decrease of 0.2% from that (65.3%) of FY 2011 (pages 36 & 38).

When reviewing of the criminal history categories of the offenders sentenced to probation in FY 2012, the Commission noticed that offenders with criminal history category I accounted for 26.6% of offenders on the nondrug grid and 29.9% of offenders on the drug grid. Eighty-three percent of nondrug offenders were within the presumptive probation boxes (Table 14), while 56% of probation drug offenders were sentenced within the presumptive probation boxes (Table 15). Meanwhile, only 4.7% of probation nondrug sentences were found to be within the designated border boxes compared to 24.4% 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 43).

**COUNTY JAIL SENTENCES**

A total number of 522 felony jail sentences were reported to the Commission during FY 2012, a significant decrease of 253 sentences or 32.6% when compared with the data of FY 2011 (775 sentences). Of this number, male offenders accounted for 87.7% and female offenders accounted for 12.3%. The percentage of female offenders sentenced to jail increased by 4.6% when compared with that of FY 2011 (7.7%). White offenders represented 86.6%, black offenders represented 11.5% and other races represented 1.9% of the county jail sentences imposed in FY 2012. Their average age at sentencing is 44 years old, which is very close to that (43.7 years old) of FY 2011 (Page 44).

The analysis of offenses indicates that approximately 97% of the jail sentences were convictions of felony DUI (505 sentences), 1.3% were convictions of domestic battery (7 sentences) and 0.4% were convictions of cruelty to animals (2 sentence). The average jail term was 8 months, indicating no change from that of FY 2011. Sedgwick County imposed the most jail sentences (152) representing 29.1%, followed by Johnson County with 125 jail sentences representing 23.9% of the total county jail sentences imposed in FY 2012 (page 45).

**DRUG SENTENCES**

The study of drug incarceration sentences discloses that the number of drug offenders admitted to prison (1,302 offenders) in FY

2012 decreased by 2.4% compared with that of FY 2011 (1,334 offenders) and decreased by 0.4% compared with that of FY 2008 (1,307 offenders). When individual drug severity levels were compared, drug offenders at severity levels 1 and 2 in FY 2012 decreased by 26.1% and 14.1% respectively from those of FY 2008. While offenders at severity levels 3 and 4 increased by 7.9% and 1.4% respectively over those of FY 2008 (page 82).

The analysis of drug offenses demonstrates that 55.6% of the incarceration drug sentences were convictions of drug possession, an increase of 3.1% compared with that of FY 2011 (52.5%). Approximately 99% of the drug possession sentences were found at drug severity level 4, an increase of 2% over that (97%) of FY 2011 (page 25).

In FY 2012, the total number of drug probation sentences decreased by 6.1% compared with that of FY 2011 and decreased by 10.9% compared with that of FY 2008. The analysis of individual levels indicates that compared with FY 2008, drug probation sentences decreased by 50% at severity level 1 and by 20.2% at severity level 4, but the numbers of drug probation sentences at severity levels 2 and 3 increased by 3.2% and 26.2% respectively (page 84). Probation sentences at drug severity level 4 accounted for 70% of the probation drug sentences imposed in FY 2012, a decrease of 0.2% from that (69.8%) of FY 2011 (page 39).

Further examination of drug offenders on probation discovers that during FY 2012, a total number of 1,025 sentences were imposed to Senate Bill 123 (SB 123) drug treatment programs, representing 41.8% of the total drug probation sentences (2,450), an increase of 0.7% compared with that of FY 2011 (41.1%). Of these offenders, more than 75.6% were convicted of the crime of drug possession under K.S.A. 21-5706(a) (formerly 21-36a06(a) or 65-4160) and 23.9% were convicted of the crime of drug possession under K.S.A. 21-5706(b) (formerly 21-36a06(b) or 65-4162). 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 32.1 years old at sentencing, which remains very close to those of FY 2011, FY 2010 and FY 2009.

The distribution of SB 123 drug treatment sentences imposed by county displays that Sedgwick County imposed the most SB 123 sentences (150) followed by Wyandotte (98), Johnson (80) and Shawnee (74) counties (pages 40 and 41). In addition, 539 SB 123 drug treatment sentences were revoked during FY 2012. Of this number, 232 sentences were revoked to prison, representing 22.6% of SB 123 sentences imposed (1,025 sentences) in FY 2012. The average period between original sentence and the first revocation hearing was 16 months, which is one month longer than that of FY 2011.

## VIOLATORS

In the report, violators refer to condition violators including probation condition violators, parole/postrelease supervision violators and conditional release violators. In FY 2012, a total number of 2,637 condition violators were admitted to prison, accounting for 52.8% of the total prison admission events of the fiscal year. Of this number, 1,682 were probation condition violators, 952 were parole/postrelease supervision violators and 3 were conditional

release violators, who are merged with the group of parole/postrelease supervision violators in the analyses of the report. The total percentage of condition violators decreased by 0.7% compared with that (53.5%) of FY 2011 (page 47).

In the past five years, the admission trend of violators indicates that the number of probation condition violators admitted to prison in FY 2012 increased by 3.4% over that of FY 2011 and increased by 3.6% over that of FY 2008. The number of parole/postrelease and conditional release violators admitted to prison in FY 2012 decreased by 7% compared with that of FY 2011 and decreased greatly by 24.7% compared with that of FY 2008. FY 2012 represents the lowest number of prison admissions of parole/postrelease and conditional release violators in the past five years (page 81).

The analysis of violators by gender 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, which is consistent with the pattern of FY 2011(page 50).

In addition, 2,506 probation condition violators and 252 probation violators with new convictions were sentenced to either continued or extended probation for a violation in FY 2012. This represents 56% of the total number of 4,475 condition probation violators and 32.6% of the total number of 773 probation violators with new offenses revoked during FY 2012 (page 58). Compared with the percentages of FY 2011, probation condition violators sentenced to continued or extended probation for a violation decreased by 1.4%, while probation violators with new convictions who had their probation sentence either continued or extended decreased by 4.3%.

**CONFORMITY TO SENTENCING GUIDELINES**

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

The conformity rates to the sentencing guidelines in this report are based on the 6,742 pure guideline sentences of FY 2012. Of this number, 1,517 were incarceration guideline sentences and 5,225 were probation sentences. More than 80% of the guideline sentences imposed fell within the designated guideline sentence range. Dispositional departures accounted for 10.5% of sentences and durational departures were found in 9.2% of sentences (page 61). The sentence distribution is very consistent with that of FY 2011.

The evaluation of incarceration sentences within guidelines indicates that 36.8% of the

sentences imposed fell within the standard range of the grid cell; 12.5% of all sentences were within the aggravated range; 21.8% were within the mitigated range and 28.9% were located within designated border boxes (page 62). This distribution of presumptive prison sentences does not fluctuate much compared with that of FY 2011.

When examining the durational departures of the incarceration guideline sentences, the Commission notices that 68% of the durational departures were downward durational departures, while 32% indicated upward durational departures (page 62). The percentage of downward durational departures decreased by 1.1% compared with that of FY 2011. The comparative study of durational departures between drug and nondrug incarceration sentences indicates that 84.2% of drug durational departure sentences were downward compared to 62% for nondrug downward durational departure sentences (page 64). 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 66). 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 10.4% upward dispositional departure rate while drug sentences only represented a 4% upward dispositional departure rate (page 66).

The analysis of probation guideline sentences demonstrates that as expected, the majority (89%) of probation guideline sentences fell beneath the incarceration line, among which 84.7% were within presumptive probation grids and 15.3% were within border boxes. Downward dispositional departure was identified in 11% of the probation guideline sentences imposed in FY 2012 (page 63). Durational departures are not applicable to probation sentences.

Further analysis of downward dispositional departures of probation sentences discloses that drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (16.1% vs. 8%). More drug probation sentences resulted from border boxes than did nondrug probation sentences (26.1% vs. 6.1%), (page 65).

**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 2012 Legislative Session, thirty-nine special sentencing rules have been established or amended. The most frequently applied special sentencing rules in the past five years were: person felony committed with a firearm; crime committed while incarcerated or on probation, parole, etc. and crime committed while on felony bond.

In FY 2012, a total number of 660 pure guideline prison sentences and 635 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 38.5% of prison pure guideline admissions (1,713 admissions) and 11.8% of pure guideline probation sentences (5,395) imposed in FY 2012. The percentage of offenders admitted to prison with special sentence rules increased from 26.7% in FY 2008 to 38.5% in FY 2012. The percentage of probation sentences imposed with special sentencing rules accounted for 10% in FY 2008 and increased to 11.8% in FY 2012. The total percentage of both prison and probation sentences applied with special rules increased from 13% in FY 2008 to 18.2% in FY 2012 (page 77).

**PRISON POPULATION FORECAST**

The prison population forecasts are based on historical sentencing data, primarily on the data of FY 2012, 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 2022, a total of 11,484 prison beds will be needed. This represents a total increase of 22.6% or 2,114 beds over the actual prison population as of June 30, 2012. Although the total admission trend in the past three years is comparatively stable with a slow increase, 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. The effective date of the Bill is January 1, 2008 (Pages 87 and 88).

The review of the projected population at individual severity levels displays that the largest increase in number falls at nondrug severity level 1, an increase of 372 offenders or 39.3% in the ten-year forecast period. The number at nondrug severity level 3 will increase by 271 offenders or 20% in the next ten years. This is due to the "stacking effect" of long sentence length of the most serious offenses. Prison population will increase by 307 offenders or 22% at nondrug severity level 5, by 135 offenders or 40.9% at nondrug severity level 4 and by 111 offenders or 13.7% at nondrug severity level 7 in the next ten years. Condition parole or postrelease violators will increase by 28 or 5%. As for population at other nondrug severity levels, no significant changes are projected in the ten-year forecast period.

In the next ten years, the incarcerated population at offgrid will increase by 361 offenders or 32.1%. This significant growth is primarily due to the implementation of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session.

The analysis of the projected prison population of drug offenders indicates that the number of offenders will decrease by 97 or 32.6% at drug severity level 1 and by 218 or 35.7% at drug severity level 4; while the number of offenders will increase by 77 or 36.5% at drug severity level 2, by 103 or 20.8% at drug severity level 3 and by 748 at drug severity level 5 in the ten-year forecast period. The decrease or increase of drug

population at different drug levels is primarily due to the passage of Senate Substitute of House Bill 2318, which was enacted on July 1, 2012 and creates five drug severity levels and reclassifies drug distribution by quantities (Pages 87 & 88).

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 2013, KDOC will need 3,028 minimum beds, 2,767 medium low beds, 1,660 medium high beds, 1,132 regular maximum beds, 349 unclassified beds and 744 beds for special management. By the end of FY 2022, the custodial beds in demand will include 3,641 minimum, 3,098 medium low, 2,193 medium high, 1,293 regular maximum, 374 unclassified and 885 special management beds (page 89). 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 2012 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 2012

In this Annual Report, sentences utilized for analyses on sentencing practice and sentencing tendency are based upon the most serious felony offense of a single sentencing event. The analyses and research in this report include prison sentences, non-prison or probation sentences and county jail sentences reported to the KSC during FY 2012. Senate Bill 123 drug treatment sentences are comprised in the type of probation sentences.

During FY 2012, a total number of 13,203 felony sentences were reported to the Commission, which decreased by 800 sentences or 5.7% from that of FY 2011. Of that total number of sentences, 4,993 were prison sentences, 7,688 were probation sentences and 522 were county jail sentences. In terms of drug or nondrug crimes, this total included 9,451 nondrug sentences and 3,752 drug sentences. Non-person offenses accounted for 66.8% and person offenses accounted for 33.2% (Figure 1), which does not fluctuate much from those of FY 2011.

Figure 2 demonstrates the overall sentencing distribution of FY 2012 at each severity level by sentence type and offense type. Drug incarceration sentences at drug severity level 4 represented 56.5% (736 sentences) of the total drug incarceration sentences. The largest number of nondrug incarceration offenders was identified at severity level 7 (838 sentences or 22.7%) followed by severity level 9 (739 sentences or 20%) and severity level 5 (641 sentences or 17.4%). The examination of probation sentences in FY 2012 demonstrates that 1,715 probation sentences fell at drug severity level 4, representing 70% of the total drug probation sentences. Of these 1,715 probation sentences, 59.7% or 1,023 sentences were imposed to SB 123 drug treatment programs, which increased by 0.9% compared the percentage (58.8%) of FY 2011. The highest rates of nondrug probation offenders were found at nondrug severity level 9 (32.8% or 1,719 sentences) and nondrug severity level 7 (21.7% or 1,136 sentences). The analysis of county jail sentences discloses that 98.5% of the offenders were convicted of nongrid crimes with 8 sentences convicted of other crimes at nondrug severity levels 8 and 9.

One hundred and three counties in the state reported felony sentences to the Commission except Meade and Sheridan counties during FY 2012. Most of the counties reported 1 to 100 sentences. Nine counties reported 101 to 200 sentences. They are Barton (125), Butler (176), Cowley (172), Ellis (134), Franklin (123), Harvey (192), Jackson (112), Labette (103) and McPherson (101) counties. Eleven counties reported 201 to 700 sentences. They are Crawford (201), Douglas (300), Finney (261), Ford (260), Geary (257), Leavenworth (222), Lyon (208), Montgomery (266), Reno (522), Riley (209) and Saline (468) counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties,

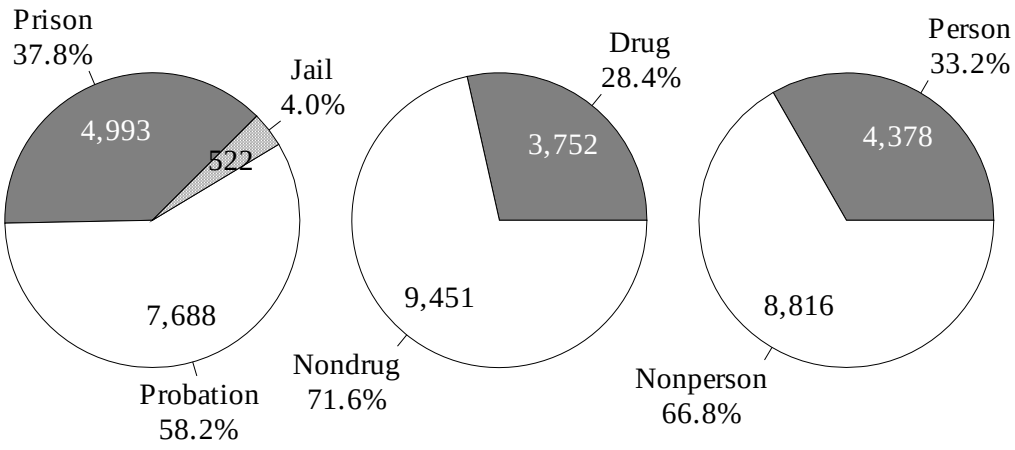
accounting for 51.9% of all sentences imposed in FY 2012, an increase of 0.5% compared with that (51.4%) of FY 2011 (Figure 3).

In FY 2012, the top five offenses committed, including prison, probation and county jail sentences, are crimes of drugs (28.4% or 3,752 sentences), DUI (10.1% or 1,331 sentences), burglary (11.2% or 1,483 sentences, including aggravated burglary), theft (9.8% or 1,290 sentences) and aggravated battery (6.3% or 826 sentences). These top five offenses accounted for 65.8% of the total 13,203 sentences in FY 2012 (Figure 4).

In the report, 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.

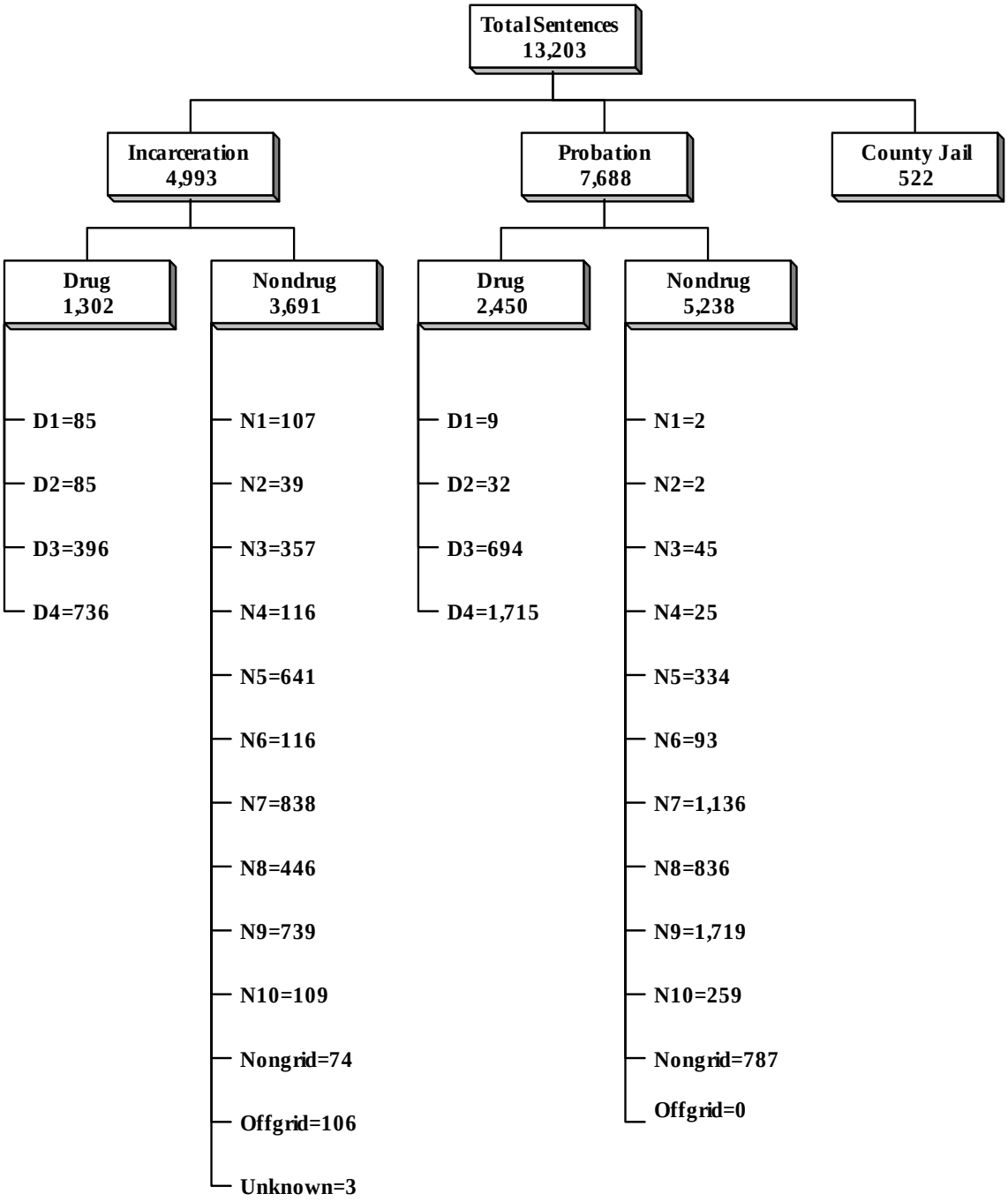
The analysis of the violent crimes indicates that most of the violent crimes were found to be committed in the top four counties. Sedgwick County reported the largest number of violent crimes (337 sentences) followed by Wyandotte County (163 sentences), Shawnee County (104 sentences) and Johnson County (103 sentences). The distribution of the violent crimes committed in the top four counties in FY 2012 is presented in Figure 5. Offenders' characteristics by individual counties are demonstrated in Table 1. The average age of offenders at sentencing is 33.2 years old, which remains very close to that of FY 2011.

# Figure 1: Sentences Reported in FY 2012

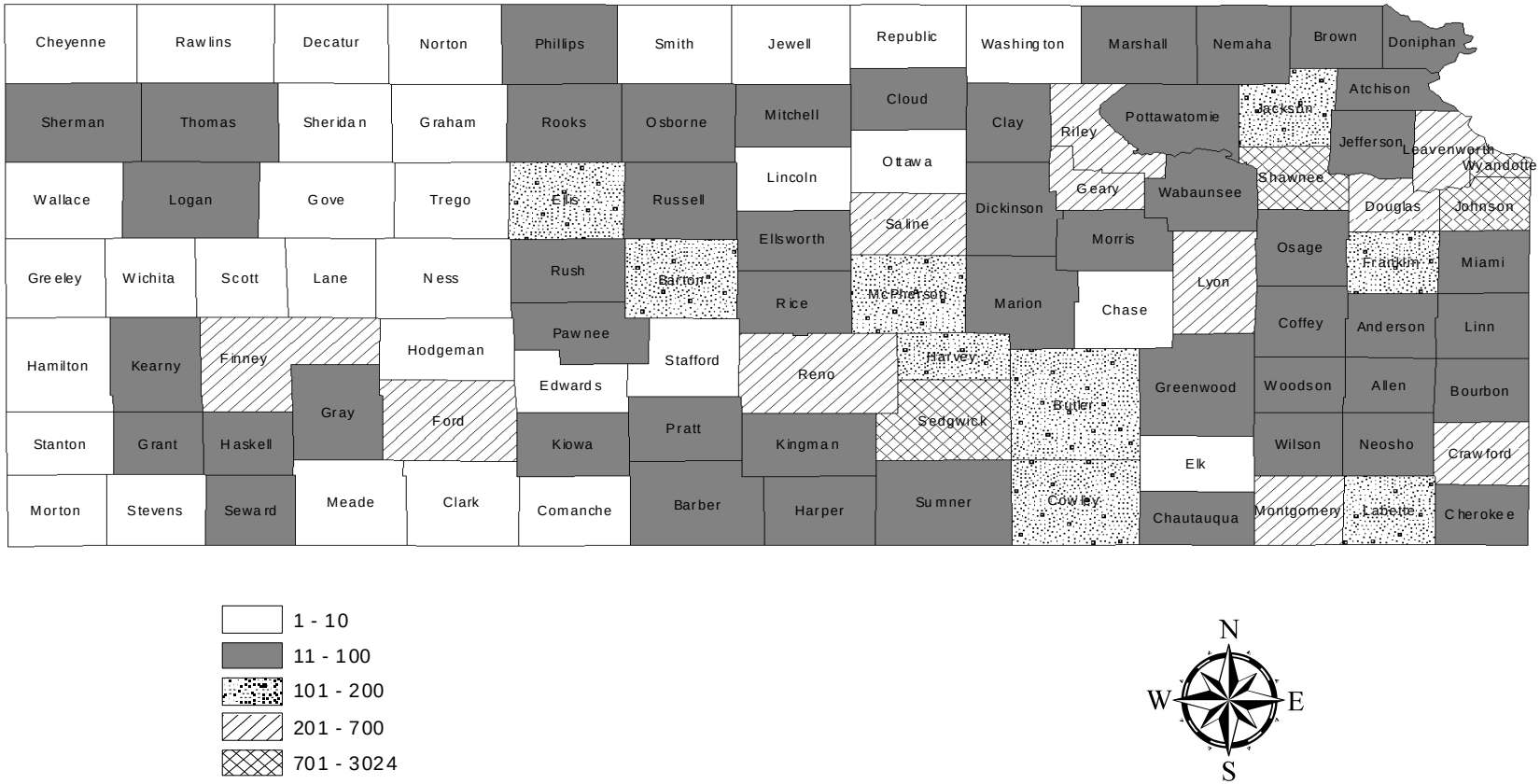



Based on 13,203 felony sentences reported in FY 2012 including 522 jail sentences.

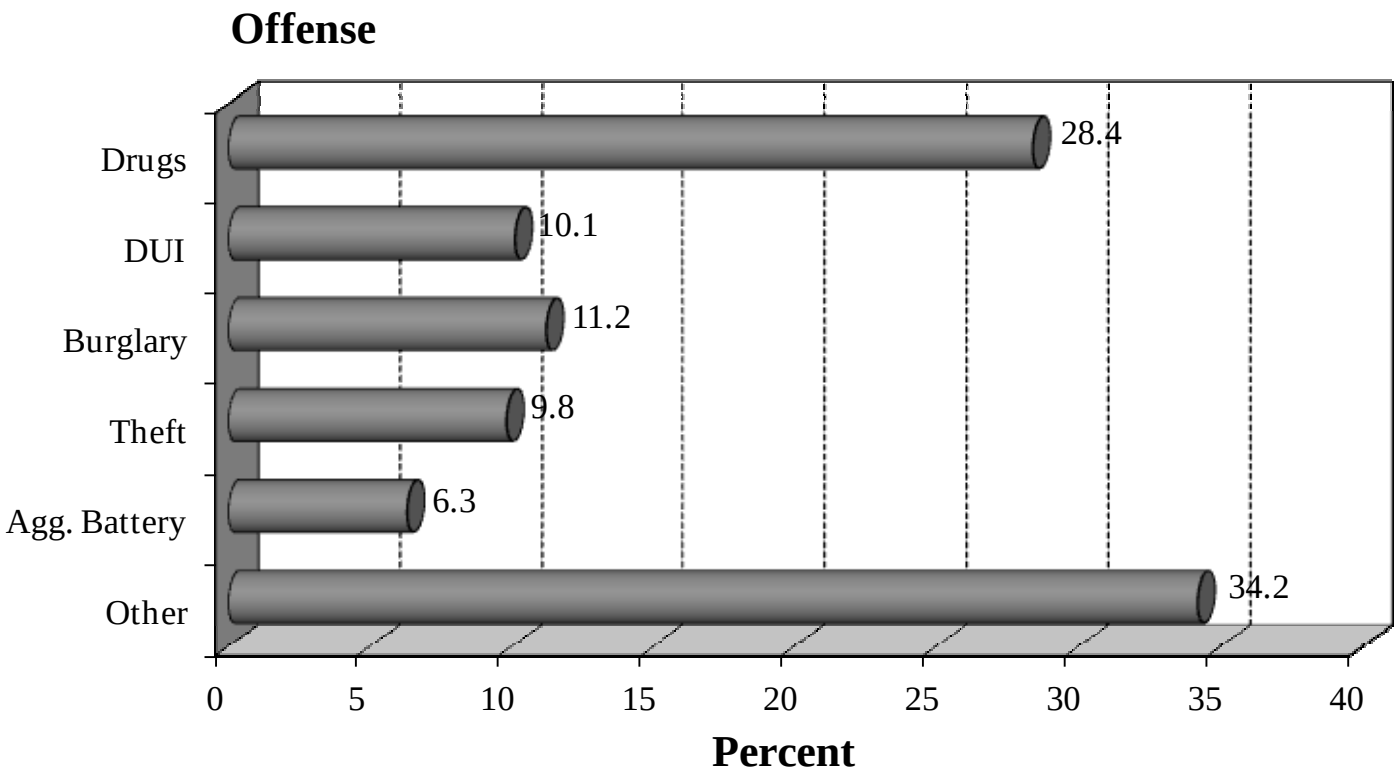
# Figure 2: FY 2012 Sentencing Distribution



## Figure 3: Sentences Reported in FY 2012 by County

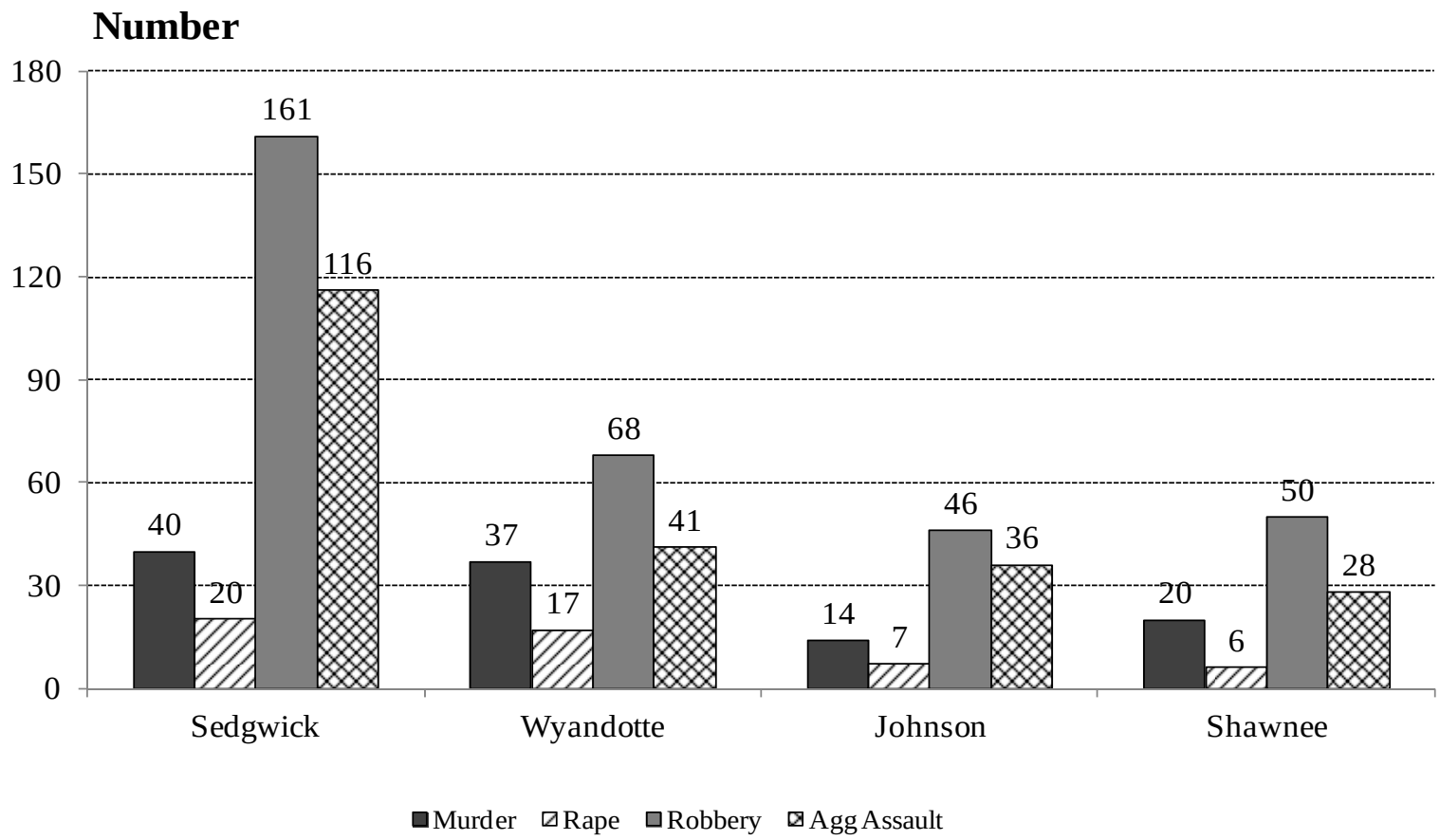


# Figure 4: FY 2012 Top Five Offenses of Prison, Probation and Jail Sentences




Based on 13,203 prison, probation and county jail sentences

# Figure 5: FY 2012 UCR Offenses by Top Four Counties - Violent Crime Convictions



## Table 1: FY 2012 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 | 56 | 50 | 6 | 53 | 3 | 0 | 23 | 30 | 3 | 35 | 21 | 32.3 |
| Anderson | 25 | 20 | 5 | 25 | 0 | 0 | 8 | 17 | 0 | 16 | 9 | 37.8 |
| Atchison | 95 | 75 | 20 | 79 | 13 | 3 | 44 | 49 | 2 | 72 | 23 | 34.6 |
| Barber | 13 | 10 | 3 | 13 | 0 | 0 | 4 | 8 | 1 | 11 | 2 | 31.7 |
| Barton | 125 | 102 | 23 | 115 | 9 | 1 | 48 | 70 | 7 | 79 | 46 | 33.5 |
| Bourbon | 47 | 40 | 7 | 45 | 2 | 0 | 19 | 27 | 1 | 29 | 18 | 30.2 |
| Brown | 60 | 46 | 14 | 45 | 3 | 12 | 25 | 34 | 1 | 44 | 16 | 35.0 |
| Butler | 176 | 131 | 45 | 160 | 14 | 2 | 56 | 109 | 11 | 136 | 40 | 34.7 |
| Chase | 5 | 5 | 0 | 4 | 0 | 1 | 2 | 2 | 1 | 5 | 0 | 34.3 |
| Chautauqua | 26 | 18 | 8 | 26 | 0 | 0 | 10 | 16 | 0 | 17 | 9 | 36.5 |
| Cherokee | 19 | 14 | 5 | 17 | 0 | 2 | 0 | 19 | 0 | 14 | 5 | 37.8 |
| Cheyenne | 8 | 7 | 1 | 8 | 0 | 0 | 6 | 2 | 0 | 6 | 2 | 37.1 |
| Clark | 7 | 5 | 2 | 6 | 1 | 0 | 2 | 5 | 0 | 3 | 4 | 34.3 |
| Clay | 35 | 29 | 6 | 30 | 3 | 2 | 10 | 22 | 3 | 19 | 16 | 34.9 |
| Cloud | 45 | 40 | 5 | 43 | 2 | 0 | 16 | 27 | 2 | 36 | 9 | 30.4 |
| Coffey | 41 | 33 | 8 | 36 | 4 | 1 | 16 | 24 | 1 | 20 | 21 | 31.2 |
| Comanche | 1 | 1 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 22.7 |
| Cowley | 172 | 139 | 33 | 151 | 15 | 6 | 66 | 101 | 5 | 89 | 83 | 32.6 |
| Crawford | 201 | 148 | 53 | 174 | 26 | 1 | 77 | 117 | 7 | 142 | 59 | 33.9 |
| Decatur | 8 | 7 | 1 | 8 | 0 | 0 | 2 | 6 | 0 | 8 | 0 | 29.2 |
| Dickinson | 71 | 58 | 13 | 71 | 0 | 0 | 19 | 48 | 4 | 46 | 25 | 31.7 |
| Doniphan | 12 | 12 | 0 | 10 | 2 | 0 | 6 | 5 | 1 | 9 | 3 | 35.8 |
| Douglas | 300 | 247 | 53 | 218 | 64 | 18 | 111 | 173 | 16 | 245 | 55 | 33.0 |
| Edwards | 7 | 7 | 0 | 6 | 1 | 0 | 4 | 3 | 0 | 6 | 1 | 35.8 |
| Elk | 9 | 8 | 1 | 7 | 2 | 0 | 3 | 6 | 0 | 9 | 0 | 24.6 |
| Ellis | 134 | 116 | 18 | 116 | 18 | 0 | 37 | 96 | 1 | 77 | 57 | 31.3 |
| Ellsworth | 12 | 4 | 8 | 12 | 0 | 0 | 3 | 9 | 0 | 10 | 2 | 35.2 |
| Finney | 261 | 215 | 46 | 228 | 24 | 9 | 82 | 168 | 11 | 176 | 85 | 33.8 |

## Table 1: FY 2012 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 | 260 | 204 | 56 | 236 | 19 | 5 | 81 | 167 | 12 | 168 | 92 | 32.1 |
| Franklin | 123 | 106 | 17 | 118 | 5 | 0 | 41 | 77 | 5 | 101 | 22 | 31.2 |
| Geary | 257 | 199 | 58 | 174 | 76 | 7 | 100 | 153 | 4 | 154 | 103 | 30.3 |
| Gove | 7 | 6 | 1 | 7 | 0 | 0 | 0 | 6 | 1 | 5 | 2 | 34.1 |
| Graham | 8 | 6 | 2 | 8 | 0 | 0 | 4 | 4 | 0 | 8 | 0 | 29.0 |
| Grant | 13 | 12 | 1 | 13 | 0 | 0 | 5 | 5 | 3 | 10 | 3 | 33.2 |
| Gray | 21 | 18 | 3 | 19 | 2 | 0 | 7 | 13 | 1 | 15 | 6 | 30.6 |
| Greeley | 6 | 5 | 1 | 6 | 0 | 0 | 1 | 5 | 0 | 3 | 3 | 35.4 |
| Greenwood | 25 | 21 | 4 | 25 | 0 | 0 | 9 | 15 | 1 | 18 | 7 | 31.4 |
| Hamilton | 7 | 7 | 0 | 7 | 0 | 0 | 4 | 3 | 0 | 7 | 0 | 35.5 |
| Harper | 33 | 24 | 9 | 29 | 1 | 3 | 11 | 20 | 2 | 23 | 10 | 36.3 |
| Harvey | 192 | 154 | 38 | 174 | 16 | 1 | 69 | 118 | 5 | 123 | 69 | 34.0 |
| Haskell | 12 | 10 | 2 | 12 | 0 | 0 | 6 | 6 | 0 | 11 | 1 | 34.0 |
| Hodgeman | 9 | 6 | 3 | 8 | 1 | 0 | 2 | 7 | 0 | 8 | 1 | 37.0 |
| Jackson | 112 | 75 | 37 | 81 | 9 | 22 | 28 | 80 | 4 | 63 | 49 | 36.3 |
| Jefferson | 45 | 35 | 10 | 44 | 0 | 1 | 8 | 37 | 0 | 34 | 11 | 34.4 |
| Jewell | 10 | 10 | 0 | 10 | 0 | 0 | 7 | 3 | 0 | 10 | 0 | 34.2 |
| Johnson | 1,557 | 1,242 | 313 | 1,172 | 368 | 15 | 540 | 892 | 125 | 1,179 | 378 | 33.6 |
| Kearny | 19 | 16 | 3 | 16 | 3 | 0 | 10 | 9 | 0 | 14 | 5 | 32.5 |
| Kingman | 26 | 19 | 7 | 25 | 1 | 0 | 9 | 17 | 0 | 23 | 3 | 31.8 |
| Kiowa | 14 | 11 | 3 | 12 | 2 | 0 | 2 | 12 | 0 | 11 | 3 | 35.4 |
| Labette | 103 | 87 | 16 | 74 | 26 | 3 | 41 | 61 | 1 | 57 | 46 | 32.3 |
| Lane | 7 | 7 | 0 | 7 | 0 | 0 | 4 | 3 | 0 | 5 | 2 | 27.5 |
| Leavenworth | 222 | 174 | 48 | 159 | 61 | 2 | 66 | 145 | 11 | 159 | 63 | 33.2 |
| Lincoln | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 30.7 |
| Linn | 48 | 38 | 10 | 45 | 2 | 1 | 19 | 27 | 2 | 28 | 20 | 33.6 |
| Logan | 11 | 9 | 2 | 11 | 0 | 0 | 3 | 8 | 0 | 6 | 5 | 35.5 |
| Lyon | 208 | 180 | 28 | 172 | 32 | 4 | 80 | 114 | 14 | 122 | 86 | 31.5 |

## Table 1: FY 2012 Offender Characteristics by County – 3

| County | Number Of Sentences | Gender | | Race | | | Sentence Type* | | Offense Type | | | Mean Age** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Male | Female | White | Black | Other | Prison | Probation | Jail | Nondrug | Drug | |
| Marion | 21 | 19 | 2 | 20 | 1 | 0 | 6 | 14 | 1 | 17 | 4 | 35.8 |
| Marshall | 34 | 27 | 7 | 33 | 1 | 0 | 12 | 22 | 0 | 27 | 7 | 30.2 |
| McPherson | 101 | 86 | 15 | 92 | 6 | 3 | 32 | 68 | 1 | 62 | 39 | 31.9 |
| Miami | 74 | 66 | 8 | 70 | 4 | 0 | 28 | 42 | 4 | 58 | 16 | 32.0 |
| Mitchell | 17 | 16 | 1 | 16 | 0 | 1 | 3 | 13 | 1 | 15 | 2 | 29.8 |
| Montgomery | 266 | 197 | 69 | 206 | 53 | 7 | 100 | 158 | 8 | 170 | 96 | 33.3 |
| Morris | 20 | 17 | 3 | 20 | 0 | 0 | 5 | 15 | 0 | 13 | 7 | 29.5 |
| Morton | 3 | 2 | 1 | 3 | 0 | 0 | 2 | 1 | 0 | 1 | 2 | 40.4 |
| Nemaha | 30 | 24 | 6 | 30 | 0 | 0 | 9 | 21 | 0 | 21 | 9 | 31.4 |
| Neosho | 61 | 47 | 14 | 61 | 0 | 0 | 15 | 46 | 0 | 37 | 24 | 32.8 |
| Ness | 3 | 3 | 0 | 2 | 1 | 0 | 1 | 2 | 0 | 2 | 1 | 31.9 |
| Norton | 10 | 6 | 4 | 10 | 0 | 0 | 1 | 9 | 0 | 5 | 5 | 29.2 |
| Osage | 57 | 45 | 12 | 55 | 2 | 0 | 20 | 36 | 1 | 41 | 16 | 32.9 |
| Osborne | 16 | 10 | 6 | 11 | 1 | 4 | 4 | 12 | 0 | 10 | 6 | 32.7 |
| Ottawa | 3 | 3 | 0 | 3 | 0 | 0 | 3 | 0 | 0 | 3 | 0 | 30.5 |
| Pawnee | 45 | 41 | 4 | 43 | 2 | 0 | 24 | 21 | 0 | 30 | 15 | 32.5 |
| Phillips | 11 | 9 | 2 | 9 | 0 | 2 | 6 | 5 | 0 | 11 | 0 | 29.3 |
| Pottawatomie | 69 | 53 | 16 | 61 | 7 | 1 | 14 | 51 | 4 | 59 | 10 | 32.2 |
| Pratt | 43 | 31 | 12 | 34 | 8 | 0 | 17 | 26 | 0 | 27 | 16 | 30.4 |
| Rawlins | 3 | 2 | 1 | 3 | 0 | 0 | 1 | 2 | 0 | 3 | 0 | 34.5 |
| Reno | 522 | 406 | 116 | 446 | 72 | 4 | 169 | 348 | 5 | 338 | 184 | 33.2 |
| Republic | 7 | 7 | 0 | 7 | 0 | 0 | 0 | 7 | 0 | 7 | 0 | 40.5 |
| Rice | 48 | 36 | 12 | 42 | 5 | 1 | 16 | 32 | 0 | 30 | 18 | 35.7 |
| Riley | 209 | 165 | 44 | 146 | 58 | 4 | 69 | 134 | 6 | 126 | 83 | 28.3 |
| Rooks | 13 | 13 | 0 | 12 | 1 | 0 | 9 | 4 | 0 | 8 | 5 | 25.6 |
| Rush | 16 | 13 | 3 | 16 | 0 | 0 | 3 | 13 | 0 | 10 | 6 | 36.3 |
| Russell | 32 | 25 | 7 | 28 | 3 | 1 | 8 | 24 | 0 | 20 | 12 | 34.7 |
| Saline | 468 | 360 | 108 | 371 | 93 | 4 | 150 | 310 | 8 | 305 | 163 | 32.0 |

## Table 1: FY 2012 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 | 9 | 0 | 0 | 5 | 4 | 0 | 6 | 3 | 27.9 |
| Sedgwick | 3,024 | 2,464 | 559 | 1,891 | 1,044 | 86 | 1,404 | 1,468 | 152 | 2,368 | 656 | 33.7 |
| Seward | 66 | 60 | 6 | 45 | 18 | 3 | 57 | 9 | 0 | 52 | 14 | 28.1 |
| Shawnee | 1,080 | 867 | 212 | 729 | 329 | 21 | 356 | 686 | 38 | 868 | 212 | 34.4 |
| Sherman | 39 | 31 | 8 | 37 | 1 | 1 | 12 | 25 | 2 | 25 | 14 | 28.9 |
| Smith | 7 | 5 | 2 | 7 | 0 | 0 | 4 | 3 | 0 | 5 | 2 | 40.0 |
| Stafford | 7 | 7 | 0 | 7 | 0 | 0 | 5 | 2 | 0 | 4 | 3 | 29.1 |
| Stanton | 3 | 2 | 1 | 3 | 0 | 0 | 1 | 2 | 0 | 3 | 0 | 28.8 |
| Stevens | 9 | 8 | 1 | 8 | 1 | 0 | 4 | 5 | 0 | 5 | 4 | 29.6 |
| Sumner | 73 | 63 | 10 | 66 | 4 | 3 | 27 | 43 | 3 | 57 | 16 | 34.4 |
| Thomas | 41 | 32 | 9 | 39 | 2 | 0 | 6 | 35 | 0 | 8 | 33 | 32.3 |
| Trego | 5 | 2 | 3 | 5 | 0 | 0 | 1 | 4 | 0 | 3 | 2 | 37.0 |
| Wabaunsee | 20 | 18 | 2 | 17 | 2 | 1 | 7 | 13 | 0 | 19 | 1 | 35.1 |
| Wallace | 2 | 2 | 0 | 2 | 0 | 0 | 0 | 2 | 0 | 2 | 0 | 38.1 |
| Washington | 7 | 6 | 1 | 7 | 0 | 0 | 2 | 5 | 0 | 5 | 2 | 32.4 |
| Wichita | 6 | 6 | 0 | 6 | 0 | 0 | 1 | 4 | 1 | 3 | 3 | 29.8 |
| Wilson | 57 | 43 | 14 | 54 | 1 | 2 | 19 | 36 | 2 | 24 | 33 | 32.6 |
| Woodson | 20 | 16 | 4 | 20 | 0 | 0 | 5 | 15 | 0 | 12 | 8 | 33.7 |
| Wyandotte | 1,188 | 1,016 | 172 | 580 | 602 | 6 | 482 | 690 | 16 | 789 | 399 | 33.4 |
| Unknown | 11 | 11 | 0 | 8 | 2 | 1 | 11 | 0 | 0 | 11 | 0 | 35.7 |
| **TOTAL** | **13,203** | **10,665** | **2,534** | **9,762** | **3,154** | **278** | **4,993** | **7,688** | **522** | **9,451** | **3,752** | **33.2** |

Note: Because of missing data, numbers in each category are based on the following: Gender, N=13,199; Race, N=13,194; Sentence Type, N=13,203; Offense Type, N=13,203; and Age, N=13,196.

* Prison sentences are based on KDOC admissions in FY 2012. Probation and jail sentences are based on the sentencing journal entries reported to KSC during FY 2012.

** Average age at time of sentencing.

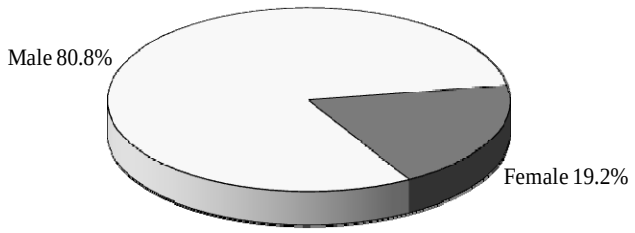
## CHARACTERISTICS OF OFFENDERS AND OFFENSES

This section presents the characteristics of the offenders who were sentenced during FY 2012. The crime categories committed by the offenders are descriptively analyzed, as well.

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

Male offenders accounted for 80.8% of the total sentences in FY 2012 (Figure 6) and were in excess of 80% of most aggravated crimes and violent crimes such as burglary, robbery, criminal threat, fleeing or eluding LEO, kidnapping, rape, possession of firearms and murder (Table 2).

**Figure 6: Distribution of FY 2012 Sentences by Gender of Offenders**

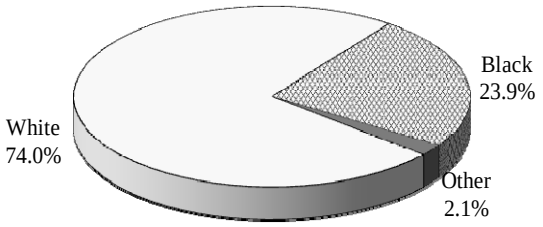



Based on 13,119 sentences reporting gender of offenders

Female offenders represented 19.2% of the sentences in FY 2012, an increase of 1.1% compared with the percentage rate of FY 2011 (18.1%). The most frequently committed crimes by female offenders (over 40%) were forgery, false writing, identity theft, aggravated endangering a child and aiding felon.

In FY 2012, white offenders made up 74% of the sentences and 24% of the sentences were committed by black offenders. No significant fluctuation is identified in the racial distribution compared to FY 2011 (Figure 7).

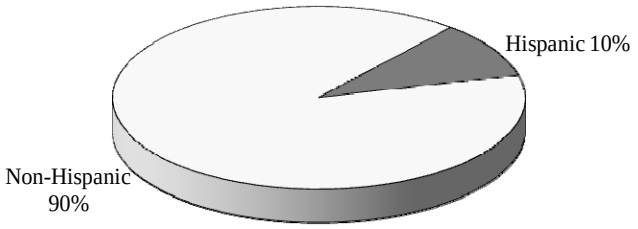
**Figure 7: Distribution of FY 2012 Sentences by Race of Offenders**




Based on 13,194 sentences reporting race of offenders

Figure 8 indicates that 90% of the offenders in FY 2012 were of Non-Hispanic origin, indicating no significant change in percentage compared with that of FY 2011. This distribution of ethnicity of offenders has been comparatively constant in the past five years.

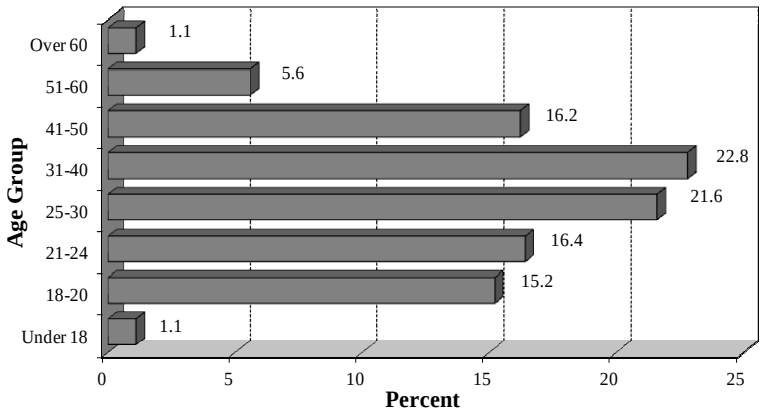
**Figure 8: Distribution of FY 2012 Sentences by Ethnicity of Offenders**




Based on 13,188 sentences reporting ethnicity of offenders

In FY 2012, the largest group of offenders was found in the age group ranging from 31 to 40 years old at the time of committing the offense, which represented 22.8% of all offenders in FY 2012. This finding is consistent with those in the past five years (Figure 9).

**Figure 9: Distribution of FY 2012 Sentences by Age of Offenders**




Based on 13,196 sentences reporting age of offenders at time of offense

## Table 2: FY 2012 Offender Characteristics by Type of Offense – 1

| Offense Type | Number of Cases | Gender (%) | | Race (%) | | | Mean Age* |
|---|---|---|---|---|---|---|---|
| | | Male | Female | White | Black | Other | |
| Abuse of Child | 29 | 79.3 | 20.7 | 82.8 | 13.8 | 3.4 | 29.7 |
| Agg. Arson | 17 | 70.6 | 29.4 | 52.9 | 47.1 | 0.0 | 32.5 |
| Agg. Assault | 306 | 87.9 | 12.1 | 69.0 | 29.4 | 1.6 | 30.0 |
| Agg. Assault on LEO | 43 | 86.0 | 14.0 | 65.1 | 30.2 | 4.7 | 29.1 |
| Agg. Battery | 812 | 90.8 | 9.2 | 65.3 | 31.9 | 2.8 | 30.9 |
| Agg. Battery on LEO | 14 | 85.7 | 14.3 | 71.4 | 28.6 | 0.0 | 32.8 |
| Agg. Burglary | 275 | 81.1 | 18.9 | 65.1 | 31.6 | 3.3 | 30.5 |
| Agg. Criminal Sodomy w/Child | 35 | 97.1 | 2.9 | 97.1 | 2.9 | 0.0 | 30.3 |
| Agg. Endangering a Child | 42 | 54.8 | 45.2 | 71.4 | 26.2 | 2.4 | 30.5 |
| Agg. Escape from Custody | 67 | 85.1 | 14.9 | 73.1 | 20.9 | 6.0 | 32.2 |
| Agg. Failure to Appear | 36 | 77.8 | 22.2 | 77.8 | 22.2 | 0.0 | 33.5 |
| Agg. False Impersonation | 7 | 71.4 | 28.6 | 71.4 | 28.6 | 0.0 | 25.9 |
| Agg. Robbery | 265 | 92.8 | 7.2 | 51.7 | 46.8 | 1.5 | 25.4 |
| Agg. Indecent Liberties w/Child | 164 | 99.4 | 0.6 | 82.9 | 15.9 | 1.2 | 31.4 |
| Agg. Indecent Solicit w/Child | 55 | 92.7 | 7.3 | 81.8 | 14.5 | 3.6 | 32.0 |
| Agg. Intimidation of a Victim | 19 | 89.5 | 10.5 | 68.4 | 21.1 | 10.5 | 31.3 |
| Agg. Inter. w/Parental Custody | 5 | 80.0 | 20.0 | 60.0 | 40.0 | 0.0 | 35.2 |
| Agg. Kidnapping | 12 | 100.0 | 0.0 | 66.7 | 33.3 | 0.0 | 28.7 |
| Agg. Sexual Battery | 47 | 100.0 | 0.0 | 66.0 | 34.0 | 0.0 | 31.9 |
| Agg. Weapon Violation | 10 | 90.0 | 10.0 | 80.0 | 20.0 | 0.0 | 34.3 |
| Aid Felon | 31 | 41.9 | 58.1 | 58.1 | 29.0 | 12.9 | 29.6 |
| Arrange Sale/Purchase Drug | 23 | 60.9 | 39.1 | 69.6 | 21.7 | 8.7 | 34.3 |
| Arson | 42 | 92.9 | 7.1 | 81.0 | 16.7 | 2.4 | 31.6 |
| Battery on LEO | 85 | 81.0 | 19.0 | 67.9 | 31.0 | 1.2 | 29.7 |
| Burglary | 1,208 | 89.7 | 10.3 | 80.3 | 18.0 | 1.7 | 27.6 |
| Contribute Child's Misconduct | 14 | 78.6 | 21.4 | 92.9 | 7.1 | 0.0 | 27.4 |
| Computer Crime | 16 | 18.8 | 81.2 | 87.5 | 12.5 | 0.0 | 31.7 |
| Criminal Damage to Property | 83 | 88.0 | 12.0 | 85.5 | 13.3 | 1.2 | 31.4 |
| Criminal Discharge of Firearm | 30 | 96.7 | 3.3 | 53.3 | 43.3 | 3.3 | 24.3 |
| Criminal Sodomy w/Child | 8 | 100.0 | 0.0 | 75.0 | 25.0 | 0.0 | 34.2 |
| Criminal Threat | 318 | 94.0 | 6.0 | 71.4 | 25.5 | 3.1 | 33.9 |
| Criminal Use of Explosives | 12 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 32.3 |
| Criminal Use of Financial Card | 13 | 61.5 | 38.5 | 92.3 | 0.0 | 7.7 | 34.0 |
| Cruelty to Animals | 4 | 75.0 | 25.0 | 100.0 | 0.0 | 0.0 | 31.4 |
| Domestic Battery | 40 | 92.5 | 7.5 | 57.5 | 40.0 | 2.5 | 32.8 |
| Drugs | 3,752 | 77.4 | 22.6 | 75.0 | 23.2 | 1.8 | 31.9 |
| Drugs, Deliver Simulated Cont. Subs. | 5 | 80.0 | 20.0 | 40.0 | 60.0 | 0.0 | 28.6 |
| Drug without Tax Stamps | 54 | 81.5 | 18.5 | 74.1 | 24.1 | 1.9 | 30.2 |
| DUI | 1,331 | 85.8 | 14.2 | 87.4 | 10.4 | 2.2 | 40.7 |

## Table 2: FY 2012 Offender Characteristics by Type of Offense – 2

| Offense Type | Number of Cases | Gender (%) | | Race (%) | | | Mean Age* |
|---|---|---|---|---|---|---|---|
| | | Male | Female | White | Black | Other | |
| Electronic Solicitation of Child | 19 | 100.0 | 0.0 | 73.7 | 10.5 | 15.8 | 27.2 |
| Failure to Register | 245 | 94.3 | 5.7 | 67.3 | 29.4 | 3.3 | 33.6 |
| Fleeing or Eluding LEO | 266 | 94.4 | 5.6 | 72.6 | 24.8 | 2.6 | 30.0 |
| Forgery | 593 | 53.5 | 46.5 | 75.5 | 23.3 | 1.2 | 32.8 |
| False Writing | 137 | 52.6 | 47.4 | 70.1 | 28.5 | 1.5 | 33.0 |
| Giving Worthless Checks | 39 | 69.2 | 30.8 | 79.5 | 17.9 | 2.6 | 33.5 |
| Identity Theft | 130 | 56.2 | 43.8 | 77.7 | 20.8 | 1.5 | 32.5 |
| Indecent Liberties w/Child | 49 | 95.9 | 4.1 | 79.6 | 12.2 | 8.2 | 27.5 |
| Indecent Solicitation of Child | 25 | 96.0 | 4.0 | 80.0 | 12.0 | 8.0 | 30.1 |
| Involuntary Manslaughter | 47 | 74.5 | 25.5 | 78.7 | 17.0 | 4.3 | 30.8 |
| Kidnapping | 53 | 96.2 | 3.8 | 66.0 | 30.2 | 3.8 | 29.8 |
| Lewd and Lascivious Behavior | 6 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 30.9 |
| Medicaid Fraud | 4 | 25.0 | 75.0 | 25.0 | 75.0 | 0.0 | 30.6 |
| Mistreat Dependant Adult | 12 | 41.7 | 58.3 | 100.0 | 0.0 | 0.0 | 46.2 |
| Murder in the First Degree | 47 | 93.6 | 6.4 | 51.1 | 46.8 | 2.1 | 27.3 |
| Murder in the Second Degree | 64 | 87.5 | 12.5 | 54.7 | 40.6 | 4.7 | 26.8 |
| Nonsupport of Child or Spouse | 26 | 92.3 | 7.7 | 84.6 | 7.7 | 7.7 | 36.2 |
| Obstructing Legal Process | 118 | 83.9 | 16.1 | 72.0 | 25.4 | 2.5 | 32.5 |
| Obtain Prescription Drug by Fraud | 7 | 14.3 | 85.7 | 100.0 | 0.0 | 0.0 | 36.9 |
| Perjury | 4 | 25.0 | 75.0 | 75.0 | 25.0 | 0.0 | 24.2 |
| Possession of Firearm | 138 | 96.4 | 3.6 | 50.7 | 47.8 | 1.4 | 29.6 |
| Rape | 94 | 98.9 | 1.1 | 70.2 | 27.7 | 2.1 | 31.8 |
| Robbery | 193 | 88.6 | 11.4 | 49.2 | 48.7 | 2.1 | 27.1 |
| Securities Crimes | 4 | 75.0 | 25.0 | 100.0 | 0.0 | 0.0 | 44.4 |
| Sex Exploitation of a Child | 53 | 98.1 | 1.9 | 96.2 | 3.8 | 0.0 | 33.5 |
| Stalking | 30 | 96.7 | 3.3 | 73.3 | 23.3 | 3.3 | 34.6 |
| Tamper w/Electronic Monitor Equip. | 6 | 50.0 | 50.0 | 100.0 | 0.0 | 0.0 | 26.2 |
| Theft | 1,290 | 66.3 | 33.7 | 71.1 | 27.6 | 1.3 | 34.4 |
| Traffic in Contraband | 75 | 70.7 | 29.3 | 72.0 | 22.7 | 5.3 | 31.7 |
| Unlawful Sex Relations | 4 | 75.0 | 25.0 | 75.0 | 25.0 | 0.0 | 28.1 |
| Unlawful Voluntary Sex Relations | 29 | 96.6 | 3.4 | 82.8 | 13.8 | 3.4 | 18.6 |
| Voluntary Manslaughter | 21 | 85.7 | 14.3 | 47.6 | 47.6 | 4.8 | 29.3 |
| Weapons | 11 | 100.0 | 0.0 | 90.9 | 0.0 | 9.1 | 30.0 |
| Other | 35 | 77.1 | 22.9 | 85.7 | 11.4 | 2.9 | 32.4 |
| **TOTAL** | **13,203** | **80.8** | **19.2** | **74.0** | **23.9** | **2.1** | **32.2** |

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=13,199; Race, N=13,194; and Age, N=13,196.

* Average age at time of offense.

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

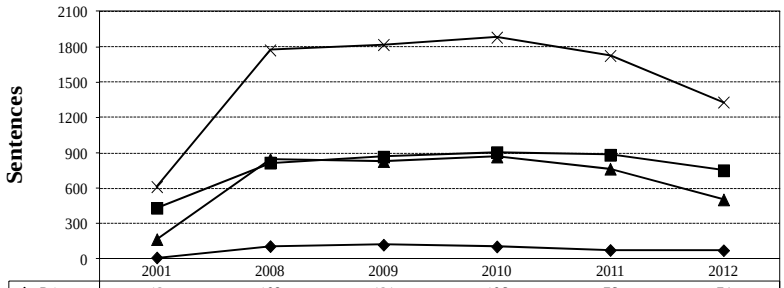
When the Sentencing Guidelines were established in 1993, the felony crime of driving under the influence of alcohol or drugs for the third or subsequent conviction (DUI) under K.S.A. 8-1567(f) was classified as a severity level 9, nonperson felony offense. In the 1994 Legislative Session, the crime was amended as a nongrid crime and 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 in 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.

The sentencing trends of DUI under K.S.A. 8-1567(f) in FY 2001 and the past five fiscal years were demonstrated in Figure 10. During FY 2001, 614 offenders were convicted of the crime of DUI. Of this number, 12 (2%) were sentenced to prison as condition violators, 434 (70.7%) were sentenced to probation and 168 (27.4%) were sentenced to county jail. During FY 2012, sentences convicted under this crime increased to 1,331 with 74 (5.6%) sentenced to prison as condition violators, 752 (56.5%) sentenced to probation and 505 (37.9%) sentenced to county jails. The total number of sentences convicted under the crime of DUI in FY 2012 decreased by 22.9% from that of FY 2011 and 24.9% from that of FY 2008. When compared with that of FY 2001, the number significantly increased by 116.8%. The distribution of felony DUI convictions in FY 2012 by county is presented in Figure 11. Johnson and Sedgwick counties were the top two counties imposing 274 (20.6%) and 294 (22.1%) sentences convicted under K.S.A. 8-1567(f) in FY 2012.

The majority of the prison sentences include Probation condition violators, parole condition violators and parole violators with new sentences, which accounts for 97.2% in FY 2008, 98.3% in FY 2009, 97.2% in FY 2010 and 96.1% in FY 2011 and 98.6% in FY 2012 (Figure 10).

**Figure 10: DUI Sentences**

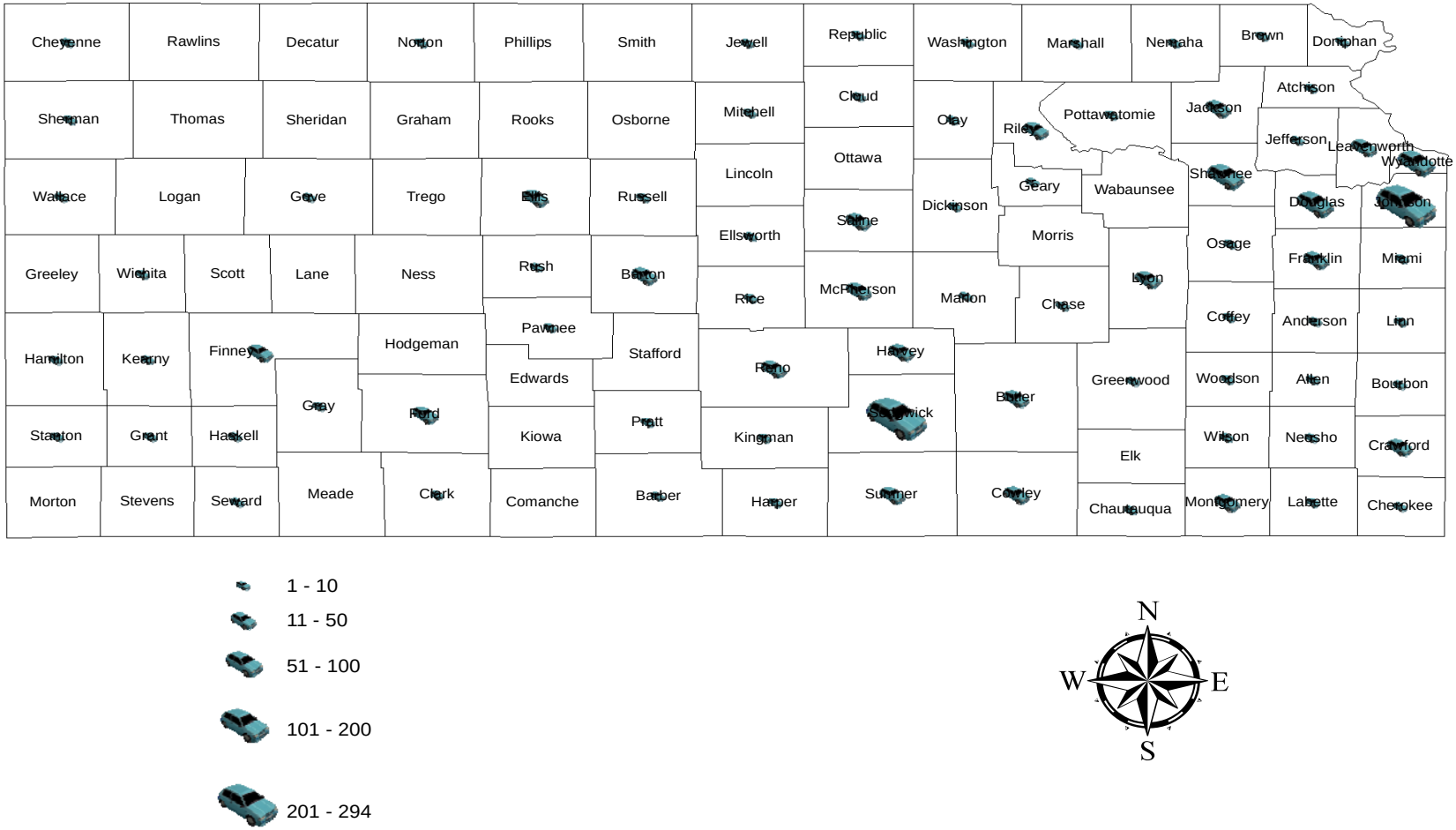
**FY 2001, FY 2008 through FY 2012**




| | 2001 | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|---|---|
| Prison | 12 | 109 | 121 | 106 | 76 | 74 |
| Probation | 434 | 817 | 868 | 906 | 884 | 752 |
| Jail | 168 | 847 | 830 | 869 | 766 | 505 |
| Total | 614 | 1773 | 1819 | 1881 | 1726 | 1331 |

**Fiscal Year**

## Figure 11: FY 2012 DUI Offenses by County



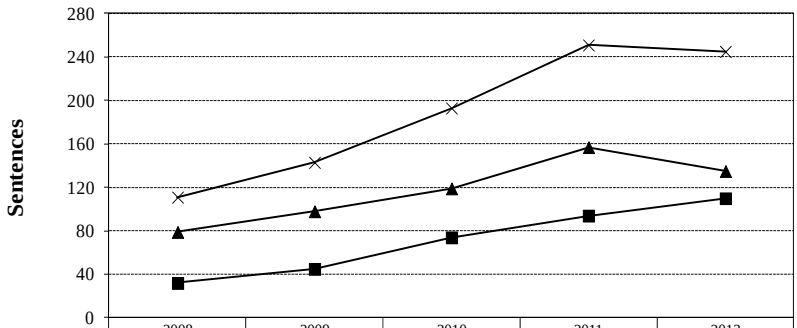
**Sentences for Failure to Register under the Kansas Offender Registration Act (KORA)**

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 increased from FY 2008 to FY 2011. However the total number decreased in FY 2012 compared with FY 2011. During FY 2012, 245 sentences were convicted under this crime, a decrease of 2.4% when compared with FY 2011 but an increase of 120.7% when compared with FY 2008. Of those 245 convictions, 110 were sentenced to prison and 135 were sentenced to probation.

In FY 2012, 147 (60%) convictions under this crime were sentenced at nondrug severity level 5 and 24 (9.8%) were sentenced at nondrug severity level 6. Sentences at nondrug severity levels 7 and 8 were attempt convictions of the crime, representing 59 (24%) and 13 (5.3%) convictions respectively.

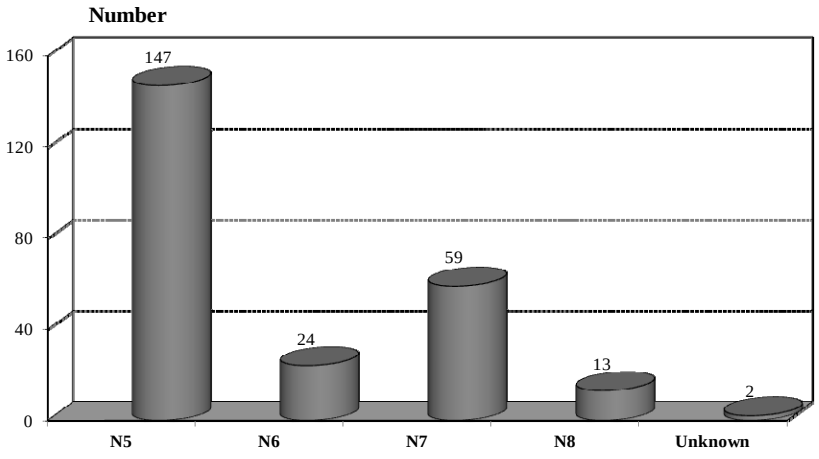
**Figure 12: Failure to Register Sentences**
**By Sentence Imposed - FY 2008 through FY 2012**




| | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|---|
| Prison | 32 | 45 | 74 | 94 | 110 |
| Probation | 79 | 98 | 119 | 157 | 135 |
| Total | 111 | 143 | 193 | 251 | 245 |

Fiscal Year

**Figure 13: Failure to Register Sentences**
**By Severity Level - FY 2012**

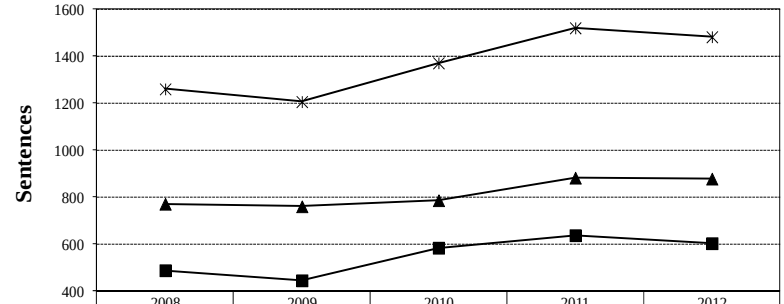


**Burglary and Aggravated Burglary**

In the past five years, burglary including aggravated burglary is the top third crime committed. 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 has been increasing in the past five years. It is 129 during FY 2012, 111 in FY 2011, 92 in FY 2010, 49 in FY 2009 and 40 in FY 2008.

The number of burglary sentences declined from FY 2008 to FY 2009 then increased in FY 2010 and FY 2011. During FY 2012, the total number of burglary sentences decreased by 2.5% from that of FY 2011 but increased by 17.6% over that of FY 2008. The number of prison sentences in FY 2012 decreased by 34 sentences compared with FY 2011 but increased by 115 sentences compared with FY 2008. The number of probation sentences decreased by 4 compared with FY 2011 but increased by 107 compared with FY 2008.

**Figure 14: Burglary Sentences**
**By Sentence Imposed - FY 2008 through FY 2012**

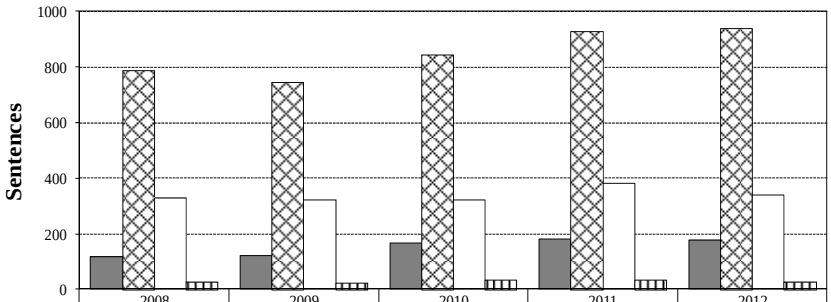



| | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|---|
| Prison | 489 | 446 | 585 | 638 | 604 |
| Probation | 772 | 761 | 787 | 883 | 879 |
| Total | 1261 | 1207 | 1372 | 1521 | 1483 |

Fiscal Year

The analysis of severity levels of the crimes indicates that the majority of the convictions were sentenced at nondrug severity level 7, representing 63.3% of burglary sentences imposed in FY 2012, 60.9% in FY 2011, 61.6% in 2010, 61.6% in FY 2009 and 62.5% in FY 2008.

**Figure 15: Burglary Sentences**
**By Severity Level - FY 2008 through FY 2012**




| | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|---|
| N5 | 117 | 121 | 169 | 181 | 179 |
| N7 | 788 | 743 | 845 | 927 | 939 |
| N9 | 329 | 321 | 323 | 381 | 340 |
| N10 | 27 | 22 | 35 | 32 | 25 |

Fiscal Year

**Domestic Violence Cases**

During FY 2012, the Commission started collecting information of domestic violence cases. In this section, the domestic violence cases refer to the convictions designated by court as domestic violence cases based upon special finding. Under these convictions, the trier of fact determined that the offender committed a domestic violence offense; the court found that the offender had prior domestic violence conviction(s) or diversion(s); and the offender used the present domestic violence offense to coerce, control or punish the victim K.S.A. 2011 Supp. 22-4616.

A total number of 101 sentences were designated by court as domestic violence cases in FY 2012. Of this number, 28 cases (27.7%) were sentenced to prison, 71 (70.3%) were sentenced to probation and 2 (2%) were sentenced to county jail. Ninety-two percent of the offenders were male. White offenders accounted for 71%, black offenders accounted for 26.7% and offenders of other races represented 2%. Their average age at sentencing was 33 years old. Table 3 demonstrates the most serious offenses convicted by those offenders. Aggravated battery (40.6%), criminal threat (15.8%) and domestic battery (15.8%) were the top three offenses.

**Table 3: FY 2012 Most Serious Offenses Convicted by Designated Domestic Violent Offenders**

| Offense | Number | Percent |
|---|---:|---:|
| Aggravated Assault | 9 | 8.9 |
| Aggravated Battery | 41 | 40.6 |
| Aggravated Burglary | 2 | 2.0 |
| Aggravated Indecent Liberties with a Child | 1 | 1.0 |
| Aggravated kidnapping | 1 | 1.0 |
| Criminal Threat | 16 | 15.8 |
| Domestic Battery | 16 | 15.8 |
| Kidnapping | 2 | 2.0 |
| Murder in the First Degree | 3 | 3.0 |
| Murder in the Second Degree | 1 | 1.0 |
| Perjury | 1 | 1.0 |
| Possession of Firearm | 1 | 1.0 |
| Robbery | 1 | 1.0 |
| Stalking | 4 | 4.0 |
| Theft | 1 | 1.0 |
| Voluntary Manslaughter | 1 | 1.0 |
| **Total** | **101** | **100.0** |

Note: Based on Kansas Sentencing Commission's sentencing data.

## INCARCERATION SENTENCES

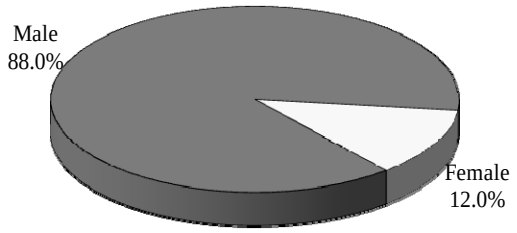
### Characteristics of Offenders

The characteristics of offenders admitted to the state correctional facilities during FY 2012 are presented in Figures 16, 17, 18, 19 and 20. Male offenders continued to be the predominant offender group representing 88% of the offenders admitted to prison in FY 2012 (Figure 16).

White offenders accounted for 67.1%, black offenders accounted for 30.1% and other races accounted for 2.8% of the total admissions in FY 2012 (Figure 17). This racial distribution of offenders is very consistent with that of FY 2011.

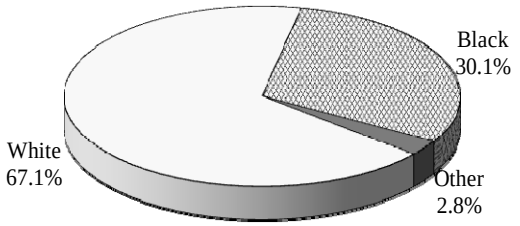
Non-Hispanic offenders represented 90.9% of the offenders sentenced to prison (Figure 18). The overall distributions of the offenders by gender, race and ethnicity are comparatively constant compared with those of the past five years.

**Figure 16: FY 2012 Incarceration Sentences by Gender of Offenders**




Based on 4,993 incarceration sentences reporting gender of offenders

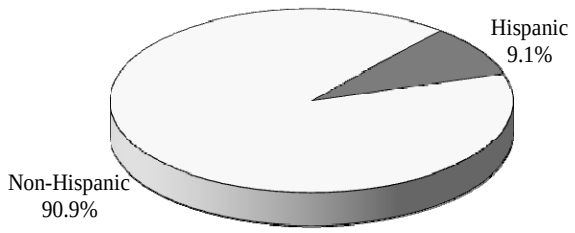
**Figure 17: FY 2012 Incarceration Sentences by Race of Offenders**




Based on 4,991 incarceration sentences reporting race of offenders

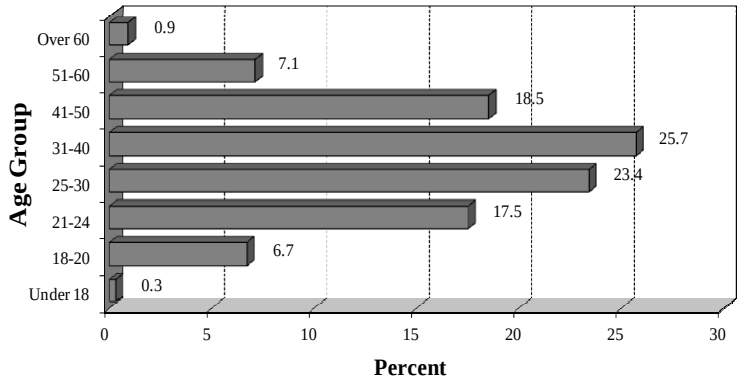
The largest number of incarcerated offenders were found in their thirties (25.7%) at the time of admission to prison, which is consistent with the age data observed in FY 2011 (Figure 19).

**Figure 18: FY 2012 Incarceration Sentences by Ethnicity of Offenders**




Based on 4,984 incarceration sentences reporting ethnicity of offenders

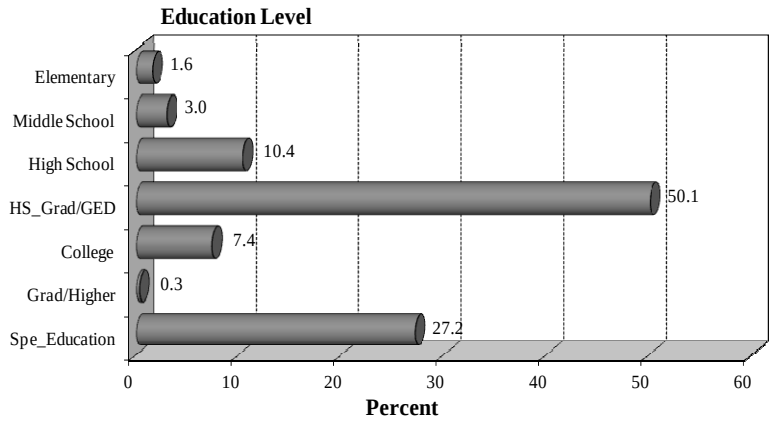
**Figure 19: FY 2012 Incarceration Sentences by Age of Offenders at Admission**




Based on 4,993 incarceration sentences reporting age of offenders

Fifty percent of the incarcerated offenders had obtained a high school diploma or GED equivalent, an increase of 3% when compared with the same group (47%) of FY 2011 (Figure 20).

**Figure 20: FY 2012 Incarceration Sentences by Education Level of Offenders**




Based on 4,354 incarceration sentences

**Incarceration Nondrug Offenses**

A total number of 3,691 offenders were admitted to prison for convictions of nondrug crimes in FY 2012, representing 73.9% of the total incarceration sentences (4,993) of the fiscal year. The top ten nondrug crimes included burglary (456 sentences), aggravated battery (407 sentences), theft (374 sentences), aggravated robbery (224 sentences), forgery (211 sentences), aggravated indecent liberties with a child (148 sentences), aggravated burglary (148 sentences), aggravated assault (147 sentences), robbery (134 sentences), and criminal threat (122 sentences). These top ten crimes accounted for 64.2% of the total nondrug crimes committed by the offenders admitted to prison in FY 2012 (Table 4).

The analysis of offenders by gender indicates that male offenders committed more than 85% 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, false writing and giving worthless checks (Table 4).

Racial analysis on nondrug offenders reveals that the highest incarceration rates for white offenders (over 70%) were discovered in the areas of burglary, aggravated escape from custody, DUI, forgery, identity theft, involuntary manslaughter, traffic in contraband and most sex offenses. Nevertheless, black offenders were incarcerated more often (over 40%) for the crimes of aggravated arson, aggravated robbery, robbery, murders, voluntary manslaughter, possession of firearms and criminal discharge of firearms.. The average age of the nondrug offenders was 33.9 years old at the time of admission to prison in FY 2012, which remains very close to that (33.8) of FY 2011 (Table 4).

## Table 4: FY 2012 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 | 15 | 86.7 | 13.3 | 86.7 | 6.7 | 6.6 | 29.1 |
| Agg. Arson | 11 | 81.8 | 18.2 | 54.5 | 45.5 | 0.0 | 37.1 |
| Agg. Assault | 147 | 90.5 | 9.5 | 60.5 | 37.4 | 2.0 | 30.6 |
| Agg. Assault on LEO | 30 | 86.7 | 13.3 | 60.0 | 36.7 | 3.3 | 32.1 |
| Agg. Battery | 407 | 93.9 | 6.1 | 61.9 | 34.2 | 3.9 | 33.2 |
| Agg. Battery on LEO | 12 | 83.3 | 16.7 | 66.7 | 33.3 | 0.0 | 37.2 |
| Agg. Burglary | 148 | 87.2 | 12.8 | 62.2 | 33.8 | 4.1 | 33.5 |
| Agg. Criminal Sodomy w/Child | 33 | 97.0 | 3.0 | 96.9 | 3.1 | 0.0 | 37.0 |
| Agg. Endangering a Child | 8 | 87.5 | 12.5 | 62.5 | 37.5 | 0.0 | 30.8 |
| Agg. Escape from Custody | 58 | 86.2 | 13.8 | 70.7 | 22.4 | 6.9 | 35.2 |
| Agg. Failure to Appear | 7 | 85.7 | 14.3 | 57.1 | 42.9 | 0.0 | 40.3 |
| Agg. Indecent Liberties w/Child | 148 | 99.3 | 0.7 | 83.8 | 15.5 | 0.7 | 35.8 |
| Agg. Indecent Solicit w/Child | 34 | 91.2 | 8.8 | 76.5 | 17.6 | 5.9 | 34.0 |
| Agg. Intimidation of a Victim | 13 | 100.0 | 0.0 | 69.2 | 23.1 | 7.7 | 31.5 |
| Agg. Kidnapping | 11 | 100.0 | 0.0 | 63.6 | 36.4 | 0.0 | 34.4 |
| Agg. Robbery | 224 | 94.6 | 5.4 | 49.6 | 48.7 | 1.8 | 31.1 |
| Agg. Sexual Battery | 34 | 100.0 | 0.0 | 61.8 | 38.2 | 0.0 | 33.6 |
| Aid Felon | 7 | 71.4 | 28.6 | 42.9 | 28.6 | 28.6 | 30.3 |
| Arson | 15 | 93.3 | 6.7 | 73.3 | 26.7 | 0.0 | 35.0 |
| Battery on LEO | 56 | 85.7 | 14.3 | 67.9 | 32.1 | 0.0 | 31.3 |
| Burglary | 456 | 94.5 | 5.5 | 74.6 | 22.8 | 2.6 | 31.5 |
| Criminal Damage to Property | 17 | 94.1 | 5.9 | 76.5 | 17.6 | 5.9 | 37.5 |
| Criminal Discharge of Firearm | 19 | 94.7 | 5.3 | 52.6 | 42.1 | 5.3 | 25.1 |
| Criminal Sodomy w/Child | 4 | 100.0 | 0.0 | 75.0 | 25.0 | 0.0 | 38.9 |
| Criminal Threat | 122 | 96.7 | 3.3 | 66.4 | 31.1 | 2.5 | 35.8 |
| Drug without Tax Stamps | 8 | 100.0 | 0.0 | 62.5 | 37.5 | 0.0 | 32.6 |
| DUI | 74 | 95.9 | 4.1 | 86.5 | 9.5 | 4.1 | 46.8 |
| Electronic Solicitation of Child | 14 | 100.0 | 0.0 | 71.4 | 7.1 | 21.4 | 29.8 |
| Failure to Register | 110 | 92.7 | 7.3 | 65.5 | 29.1 | 5.5 | 34.7 |
| Fleeing or Eluding LEO | 97 | 97.9 | 2.1 | 68.0 | 29.9 | 2.1 | 32.6 |
| Forgery | 211 | 63.5 | 36.5 | 72.5 | 26.1 | 1.4 | 35.8 |
| False Writing | 33 | 78.8 | 21.2 | 66.7 | 30.3 | 3.0 | 36.6 |
| Giving Worthless Checks | 8 | 62.5 | 37.5 | 62.5 | 25.0 | 12.5 | 37.0 |
| Identity Theft | 28 | 85.7 | 14.3 | 89.3 | 10.7 | 0.0 | 37.3 |
| Indecent Liberties w/Child | 36 | 97.2 | 2.8 | 77.8 | 13.9 | 8.3 | 31.7 |
| Indecent Solicitation of Child | 7 | 100.0 | 0.0 | 85.7 | 14.3 | 0.0 | 27.7 |
| Involuntary Manslaughter | 39 | 79.5 | 20.5 | 79.5 | 15.4 | 5.1 | 34.4 |

## Table 4: FY 2012 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 | |
| Kidnapping | 46 | 95.7 | 4.3 | 65.2 | 30.4 | 4.3 | 34.6 |
| Murder in the First Degree | 47 | 93.6 | 6.4 | 51.1 | 46.8 | 2.1 | 31.9 |
| Murder in the Second Degree | 62 | 87.1 | 12.9 | 54.8 | 40.3 | 4.8 | 32.4 |
| Nonsupport of Child or Spouse | 7 | 85.7 | 14.3 | 71.4 | 28.6 | 0.0 | 39.4 |
| Obstructing Legal Process | 33 | 97.0 | 3.0 | 63.6 | 33.3 | 3.0 | 33.4 |
| Possession of Firearm | 59 | 96.6 | 3.4 | 50.8 | 47.5 | 1.7 | 29.7 |
| Rape | 92 | 98.9 | 1.1 | 70.7 | 27.2 | 2.1 | 37.2 |
| Robbery | 134 | 88.1 | 11.9 | 50.7 | 47.0 | 2.2 | 30.9 |
| Sex Exploitation of a Child | 22 | 100.0 | 0.0 | 95.5 | 4.5 | 0.0 | 34.7 |
| Tamper w/Electronic Monitor Equip. | 6 | 50.0 | 50.0 | 100.0 | 0.0 | 0.0 | 26.9 |
| Stalking | 7 | 100.0 | 0.0 | 85.7 | 14.3 | 0.0 | 34.4 |
| Theft | 374 | 78.9 | 21.1 | 63.4 | 35.0 | 1.6 | 38.0 |
| Traffic in Contraband | 33 | 75.8 | 24.2 | 72.7 | 18.2 | 9.1 | 31.0 |
| Unlawful Voluntary Sex Relation | 10 | 100.0 | 0.0 | 70.0 | 30.0 | 0.0 | 21.6 |
| Voluntary Manslaughter | 19 | 89.5 | 10.5 | 47.4 | 47.4 | 5.3 | 36.2 |
| Weapons/Agg. Weapon Violation | 6 | 100.0 | 0.0 | 83.3 | 16.7 | 0.0 | 35.6 |
| Other | 33 | 75.8 | 24.2 | 78.8 | 21.2 | 0.0 | 35.2 |
| **TOTAL** | **3,691** | **89.6** | **10.4** | **66.7** | **30.5** | **2.8** | **33.9** |

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

**Incarceration Drug Offenses**

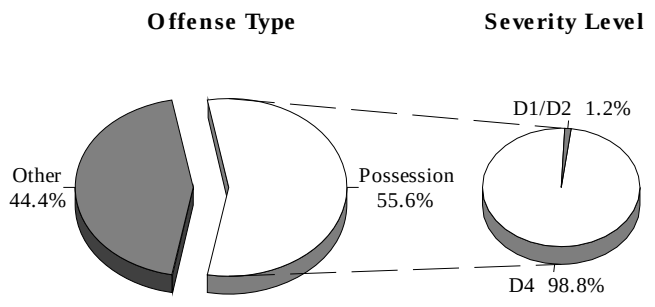
A total number of 1,302 drug offenders were admitted to prison during FY 2012, accounting for 26.1% of the total admissions to the State Correctional Facilities. Of this total number, 55.6% were incarcerated for convictions of drug possession offenses, indicating an increase of 3.1% compared with that of FY 2011 (52.5%). Approximately 99% of the drug possession sentences were found at drug severity level 4 (Figure 21).

In FY 2012, males represented 83.4% of the drug offenders admitted to prison. Most female offenders were convicted of drug crimes for opiates or narcotics possession, possession of paraphernalia and opiates or narcotics or depressants sale for the first offense. White offenders were convicted of over 70% of incarceration drug sentences in the drug crime areas of possession of depressants second offense, possession of precursor drugs and unlawfully manufacturing controlled substance. Black offenders were incarcerated more frequently (over 30%) for convictions of drug crimes of opiates or narcotics possession, opiates or narcotics or depressants sale for the first offense and opiates or narcotics sale for the first offense and opiates , narcotics or depressants sale within 1,000 feet of school. The average age of the drug offenders was 34.2 years old at admission to prison (Table 5), indicating little change compared with that observed in FY 2011.

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 thirteen 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 and K.S.A. 21-5706. Drug possession offenses at drug severity levels 1 and 2 reflected the drug crimes committed before November 1, 2003 (before the implementation of Senate Bill 123).

**Figure 21: FY 2012 Incarceration Drug Sentences by Offense and Level**



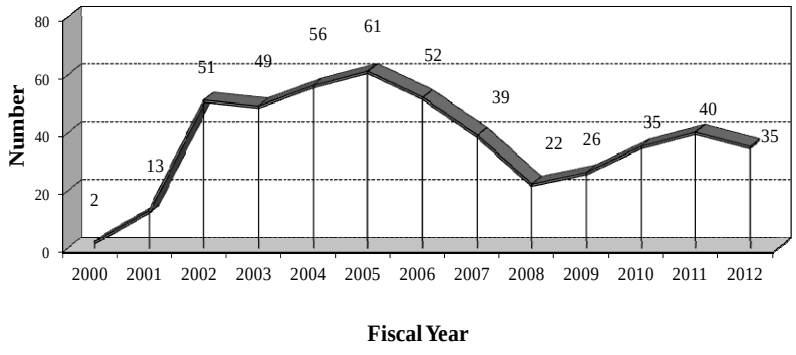

Based on 1,302 incarceration drug sentences

**Table 5: FY 2012 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; Possession | 620 | 81.3 | 18.7 | 66.6 | 30.2 | 3.2 | 35.9 |
| Opiates or Narcotics; Depress, Stim., Hall.; Poss. w/Intent to Sell; Sale 1 | 396 | 85.9 | 14.1 | 62.9 | 35.1 | 2.0 | 31.8 |
| Opiates or Narcotics; Sale 2 | 20 | 90.0 | 10.0 | 65.0 | 30.0 | 5.0 | 35.9 |
| Opiates or Narcotics; Sale 3 | 8 | 100.0 | 0.0 | 50.0 | 37.5 | 12.5 | 42.1 |
| Opiates/ Narcotics, Depress, Stim., Hall; Sale w/in 1,000 ft of School | 31 | 90.3 | 9.7 | 61.3 | 38.7 | 0.0 | 30.0 |
| Depress, Stim., Hall; Poss. 2 | 104 | 87.5 | 12.5 | 70.2 | 26.0 | 3.8 | 30.9 |
| Unlawful Manufacture Controlled Substance | 67 | 83.6 | 16.4 | 98.5 | 0.0 | 1.5 | 37.9 |
| Possession of Paraphernalia | 20 | 65.0 | 35.0 | 73.7 | 26.3 | 0.0 | 34.0 |
| Possession of Precursor Drugs | 35 | 77.1 | 22.9 | 100.0 | 0.0 | 0.0 | 36.4 |
| Distribute, Possess or Manufacture drug Paraphernalia | 1 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 25.7 |
| **TOTAL** | **1,302** | **83.4** | **16.6** | **68.2** | **29.1** | **2.7** | **34.2** |

The drug crime of possession of precursor drugs under K.S.A. 65-7006 or 21-5709(a) kept increasing from FY 2001 through FY 2005. 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 35 in FY 2012, which is the second highest number in the past five years. They were all white offenders with an average age of 36 at the time of admission (Table 5).

**Figure 22: Incarceration Drug Sentences Possession of Precursor Drugs**



**Types of Admission and Severity Levels**

Table 6 presents the distribution of offenders by types of admission to the Kansas Department of Corrections in FY 2012. New court commitments made up a big proportion of prison admissions in FY 2012, representing 39.6% of the total admissions. The percentage of this group decreased by 0.6% compared with that of FY 2011 (40.2%).

Condition violators, including probation condition violators, parole/post-release condition violators and conditional release condition violators, comprised 52.8% of all offenders admitted to state correctional facilities during FY 2012. This represents a percentage decrease of 0.7% from that of FY 2011 (53.5%), 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 2012.

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 6.4%, an increase of 1.4% over the percentage of this group of violators (5%) in FY 2011.

**Table 6: Distribution of FY 2012 Incarceration Sentences by Admission Type**

| Admission Type | Number of Cases | Percent |
|---|---|---|
| New Court Commitment | 1,975 | 39.6 |
| Probation Condition Violator | 1,682 | 33.7 |
| Probation Violator With New Sentence | 180 | 3.6 |
| Inmate Received on Interstate Compact | 10 | 0.2 |
| Parole/Postrelease Condition Violator | 952 | 19.1 |
| Parole/Postrelease Violator With New Sentence | 141 | 2.8 |
| Paroled to Detainer Returned With New Sentence | 19 | 0.4 |
| Conditional Release Condition Violator | 3 | 0.1 |
| Other | 31 | 0.6 |
| **TOTAL** | **4,993** | **100.0** |

The distribution of all incarcerated offenders admitted in FY 2012 by offense severity level and gender is demonstrated in Table 7. The highest percentages (over 17%) of all nondrug offenders are found at severity levels 5, 7 and 9 (Figure 23). This severity level distribution of nondrug incarcerated offenders has remained constant in the past five years. The examination of drug offenders indicates that 56.5% of all drug offenders fell at drug severity level 4 (Figure 24), an increase of 3.6% compared with that of FY 2011 (52.9%). Female offenders were convicted more often of drug offenses than

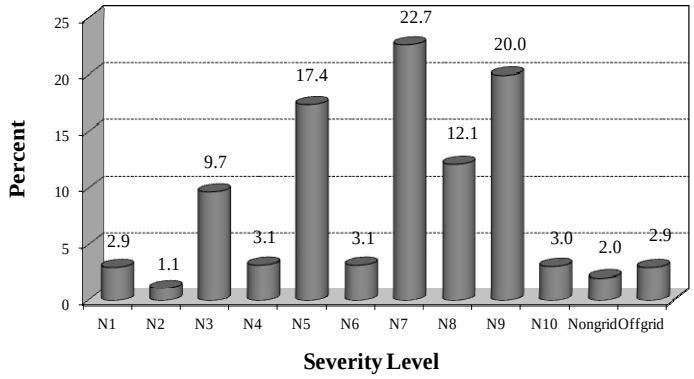
of nondrug offenses (16.6% vs. 10.4%). The highest percentages of female offenders were found at drug severity level 4 (18.3%) and nondrug severity level 8 (22.9%). The highest percentage rates of male offenders were identified at drug severity levels 2 and 3 (85.9%) and off-grid for nondrug crimes (99.1%).

**Table 7: Distribution of FY 2012 Incarceration Sentences By Severity Level and Gender***

| Severity Level | Number | Percent | Gender (%) | |
|---|---|---|---|---|
| | | | Male | Female |
| **Drug** | | | | |
| D1 | 85 | 6.5 | 84.7 | 15.3 |
| D2 | 85 | 6.5 | 85.9 | 14.1 |
| D3 | 396 | 30.4 | 85.9 | 14.1 |
| D4 | 736 | 56.5 | 81.7 | 18.3 |
| **Subtotal** | **1,302** | **100.0** | **83.4** | **16.6** |
| **Nondrug** | | | | |
| N1 | 107 | 2.9 | 94.4 | 5.6 |
| N2 | 39 | 1.1 | 94.9 | 5.1 |
| N3 | 357 | 9.7 | 94.4 | 5.6 |
| N4 | 116 | 3.1 | 87.9 | 12.1 |
| N5 | 641 | 17.4 | 91.1 | 8.9 |
| N6 | 116 | 3.1 | 87.1 | 12.9 |
| N7 | 838 | 22.7 | 92.2 | 7.8 |
| N8 | 446 | 12.1 | 77.1 | 22.9 |
| N9 | 739 | 20.0 | 87.7 | 12.3 |
| N10 | 109 | 3.0 | 92.7 | 7.3 |
| Nongrid | 74 | 2.0 | 95.9 | 4.1 |
| Offgrid | 106 | 2.9 | 99.1 | 0.9 |
| **Subtotal** | **3,688** | **100.0** | **89.6** | **10.4** |
| **TOTAL**** | **4,993** | **100.0** | **88.0** | **12.0** |

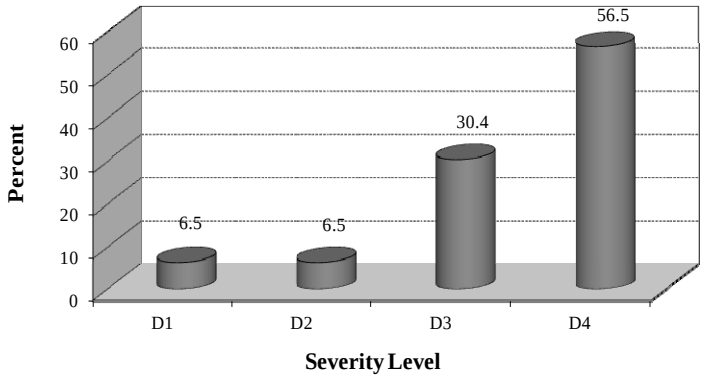
* Based on 1,302 drug offenders and 3,688 nondrug offenders.
** Total number includes 3 nondrug offenders whose severity level is unknown.

**Figure 23: FY 2012 Incarceration Sentences Nondrug Offenders by Severity Level**




Based on 3,688 nondrug offenders

**Figure 24: FY 2012 Incarceration Sentences Drug Offenders by Severity Level**




Based on 1,302 drug offenders

Table 8 presents the average length of sentences imposed by severity level for guideline new commitment offenders admitted to prison during FY 2012. 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.

When compared with FY 2011, the average length of sentence imposed in FY 2012 increased by 12.1 months at nondrug severity level 1, by 24.3 months at nondrug severity level 2, by 7.6 months at nondrug severity level 3 and by 5.1 months at nondrug severity level 4. The average length of sentence decreased by 14.9 months at drug severity level 1 but increased by 6.6 months at drug severity level 2. As for other drug and nondrug severity levels, the average length of sentence did not fluctuate significantly from those observed in FY 2011.

**Table 8: Guideline New Commitment Admissions**
**Average Length of Sentence (LOS) Imposed by Severity Level**

| Severity Level | FY 2011 LOS (Months) | FY 2012 LOS (Months) | Difference (Months) |
|---|---|---|---|
| D1 | 114.6 | 99.7 | -14.9 |
| D2 | 51.5 | 58.1 | 6.6 |
| D3 | 33.4 | 30.6 | -2.8 |
| D4 | 21.5 | 22.2 | 0.7 |
| N1 | 225.1 | 237.2 | 12.1 |
| N2 | 165.3 | 189.6 | 24.3 |
| N3 | 102.2 | 109.8 | 7.6 |
| N4 | 71.5 | 76.6 | 5.1 |
| N5 | 58.6 | 55.0 | -3.6 |
| N6 | 35.5 | 37.9 | 2.4 |
| N7 | 27.3 | 26.8 | -0.5 |
| N8 | 17.2 | 18.2 | 1.0 |
| N9 | 12.7 | 12.7 | 0.0 |
| N10 | 8.5 | 9.5 | 1.0 |

Note: Based on 3,584 and 3,726 guideline new commitment admissions in FY 2011 and FY 2012 respectively.

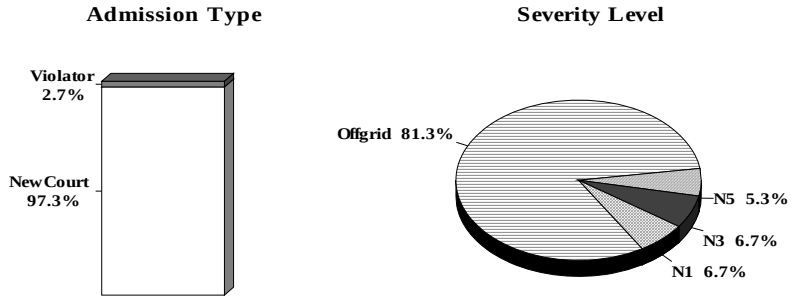
**Jessica's Law Sentences**

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).

During FY 2012, a total number of 75 offenders were sentenced and admitted to prison under Jessica's Law. All of them were new court commitments except one probation condition violator and one parole condition violator. 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, 81.3% (61 offenders) were sentenced at offgrid, 6.7% (5 offenders) were sentenced at nondrug severity level 1, 6.7% (5 offenders) were at nondrug severity level 3 and 5.3% (4 offenders) were at nondrug severity level 5 (Figure 25). The analysis of the sentence length demonstrates that 58.7% of the sentences were downward departure to guidelines, an increase of 5.1% compared with that of FY 2011 (53.6%). The average sentence length of the durational departures was 127 months, a decrease of 27 months from that observed in FY 2011 (154 months). The major departure reasons are that there was a plea agreement between parties, the defendant had no prior criminal history and accepted responsibility.

The distribution of the incarcerated offenders under Jessica's Law by county is displayed in Table 9. Sedgwick county imposed the most Jessica's Law prison sentences (21) followed by Wyandotte (15), Johnson (4) and Leavenworth (4) counties.

**Figure 25: FY 2012 Jessica's Law Incarceration Sentences**



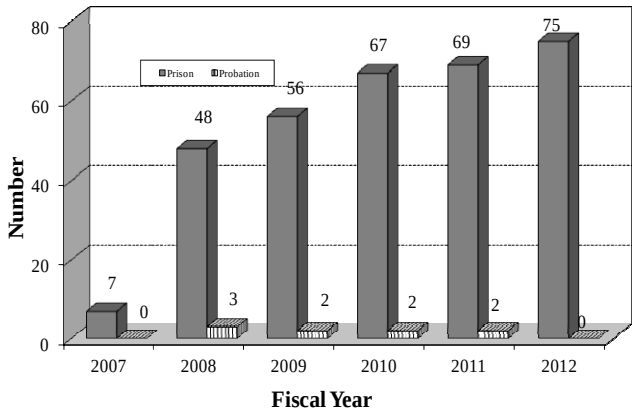

Based on 75 Jessica's Law incarceration sentences.

**Table 9: FY 2012 Jessica's Law Incarceration Sentences Imposed by County**

| County | Number | County | Number |
|---|---|---|---|
| Allen | 1 | Labette | 1 |
| Butler | 1 | Leavenworth | 4 |
| Coffey | 1 | McPherson | 1 |
| Crawford | 1 | Osage | 2 |
| Douglas | 3 | Phillips | 1 |
| Edwards | 1 | Riley | 1 |
| Ford | 1 | Reno | 1 |
| Franklin | 1 | Saline | 3 |
| Geary | 1 | Sedgwick | 21 |
| Haskell | 2 | Shawnee | 2 |
| Harvey | 2 | Sumner | 2 |
| Johnson | 4 | Seward | 1 |
| Jewell | 1 | Wyandotte | 15 |
| **Total** | | | **75** |

The total number of Jessica's Law sentences imposed in FY 2012 was 75, an increase of 4 sentences compared with that of FY 2011 (71 sentences) and an increase of 68 sentences compared with that of FY 2007 (7 sentences). FY 2007 is the initial year for the implementation of Jessica's Law (Figure 26).

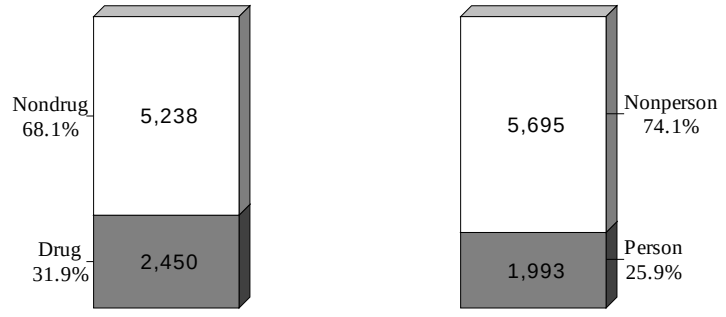
**Figure 26: Jessica's Law Sentences Imposed**
**FY2007 through FY 2012**



## PROBATION SENTENCES

A total number of 7,688 probation sentences were reported to the Kansas Sentencing Commission in FY 2012. Of this number, 5,238 were nondrug sentences and 2,450 were drug sentences; nonperson offenses made up 74.1% and person offenses made up 25.9% (Figure 27). The demographic information of this offender group was described in Figures 28, 29 and 30.

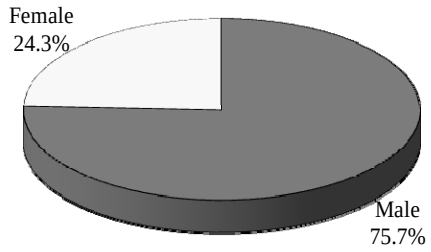
**Figure 27: Distribution of FY 2012 Probation Sentences**




Based on 7,688 probation sentences

Gender analysis of offenders discloses that male offenders accounted for 75.7% of all probation sentences imposed in FY 2012, indicating a percentage decrease of 1.5% compared with that observed (77.2%) in FY 2011 (Figure 28).

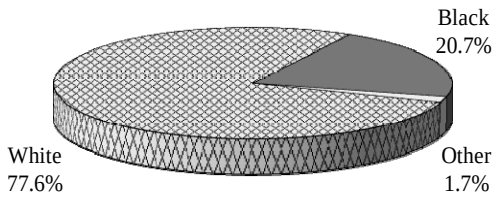
**Figure 28: Distribution of FY 2012 Probation Sentences by Gender**




Based on 7,685 sentences reporting gender of offenders

In terms of racial distribution, white offenders made up 77.6% of the probation sentences imposed in FY 2012, an increase of 1.4% compared with that of FY 2011 (76.2 %). The percentage of black offenders decreased by 1.2% in FY 2012 compared with that of FY 2011 (21.9%). The percentage of offenders in other races remains constant compared with that observed in FY 2011 (Figure 29).

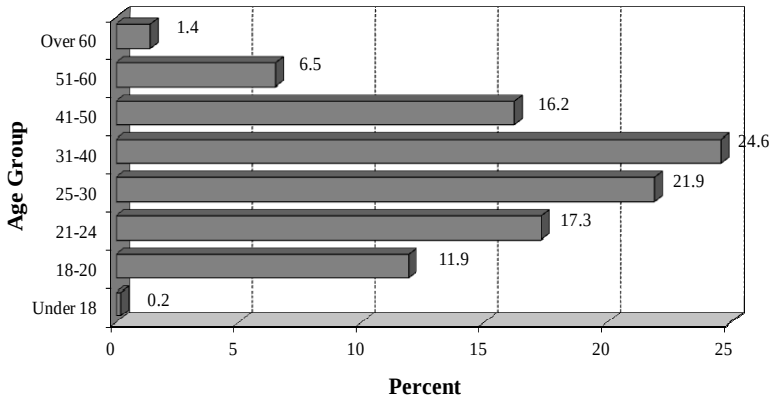
**Figure 29: Distribution of FY 2012 Probation Sentences by Race**




Based on 7,682 sentences reporting race of offenders

The examination of offenders by age indicates 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 (24.6%) and the second largest group was identified in the age group ranging from 25 to 30 (22.9%). This distribution is the same with that of FY 2011 (Figure 30).

**Figure 30: Distribution of FY 2012 Probation Sentences by Age**




Based on 7,683 sentences reporting age of offenders at time of sentencing

**Type of Offense and Severity Level**

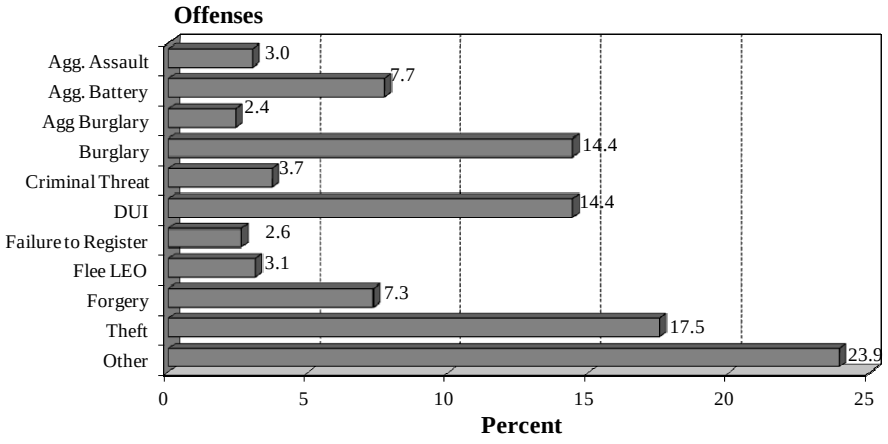
In FY 2012, the top ten offenses committed by nondrug probation offenders include aggravated assault, aggravated battery, aggravated burglary, burglary, criminal threat, DUI, failure to register, fleeing LEO, forgery and theft. These ten offenses accounted for 76.1% of the total nondrug probation sentences in FY 2012 (Figure 31), an increase of 1.3% over that of the previous year (74.8%). In reviewing drug offenders on probation, the largest number of sentences was for possession of drugs, representing 65.1% of all probation drug offenses (Figure 32) and indicating a decrease of 0.2% from that of FY 2011 (65.3%).

The characteristics of offenders sentenced to probation in FY 2012 by offense type are presented in Table 10 (nondrug offenders) and Table 11 (drug offenders). Male offenders sentenced to probation during FY 2012 were convicted of over 90% of the sex offenses and violent crimes of probation sentences such as: arson, criminal threat, domestic battery, fleeing or eluding LEO, kidnapping and possession of firearms. The highest percentages of female probation nondrug offenses (over 50%) included false writing, forgery, identity theft, computer crimes and aggravated endangering a child.

In FY 2012, white offenders represented 77.1% of all nondrug probation sentences and 78.7% of all drug offenders on probation. Black offenders on probation had a little higher conviction rate for nondrug offenses than drug crimes (21% versus 20%). 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 2011 (Table 10 & Table 11).

The characteristics of probation offenders by severity level are demonstrated in Tables 12 and 13. The largest number of probation nondrug sentences were found at nondrug grid severity level 9 (1,719 sentences or 32.8%) and the majority of probation drug sentences were identified at drug grid severity level 4 (1,715 sentences or 70%). These distributions are consistent with those in the past five years.

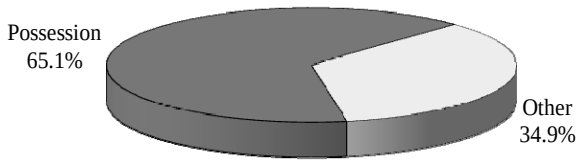
**Figure 31: FY 2012 Top Ten Offenses for Probation Nondrug Sentences**




Based on 5,238 probation nondrug sentences

The felony crimes of drug possession 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 49.6% of the total probation drug sentences in FY 2012 (Table 11).

**Figure 32: FY 2012 Probation Drug Sentences by Offense**




Based on 2,450 probation drug sentences

**Table 10: Characteristics of Probation Nondrug Offenders by Type of Offense –1**

| Offense Type | N | % | Gender (%) | | Race (%) | | | Offense Age Mean |
|---|---|---|---|---|---|---|---|---|
| | | | Male | Female | White | Black | Other | |
| Abuse of Child | 14 | 0.3 | 71.4 | 28.6 | 78.6 | 21.4 | 0.0 | 33.0 |
| Agg Assault | 159 | 3.0 | 85.5 | 14.5 | 76.7 | 22.0 | 1.3 | 31.3 |
| Agg Assault on LEO | 13 | 0.2 | 84.6 | 15.4 | 76.9 | 15.4 | 7.7 | 29.2 |
| Agg Arson | 6 | 0.1 | 50.0 | 50.0 | 50.0 | 50.0 | 0.0 | 30.2 |
| Agg Battery | 405 | 7.7 | 87.7 | 12.3 | 68.6 | 29.6 | 1.7 | 31.1 |
| Agg Burglary | 127 | 2.4 | 74.0 | 26.0 | 68.5 | 29.1 | 2.4 | 30.5 |
| Agg Endangering a Child | 34 | 0.6 | 47.1 | 52.9 | 73.5 | 23.5 | 2.9 | 30.9 |
| Agg Escape from Custody | 9 | 0.2 | 77.8 | 22.2 | 88.9 | 11.1 | 0.0 | 30.0 |
| Agg Failure to Appear | 29 | 0.6 | 75.9 | 24.1 | 82.8 | 17.2 | 0.0 | 32.6 |
| Agg False Impersonation | 5 | 0.1 | 80.0 | 20.0 | 80.0 | 20.0 | 0.0 | 26.7 |
| Agg Ind Lib with a Child | 16 | 0.3 | 100.0 | 0.0 | 75.0 | 18.8 | 6.3 | 28.4 |
| Agg Ind Solicit with a Child | 21 | 0.4 | 95.2 | 4.8 | 90.5 | 9.5 | 0.0 | 34.0 |
| Agg Intimidation of a Victim | 6 | 0.1 | 66.7 | 33.3 | 66.7 | 16.7 | 16.6 | 34.9 |
| Agg Robbery | 41 | 0.8 | 82.9 | 17.1 | 63.4 | 36.6 | 0.0 | 25.6 |
| Agg Sex Battery with Child | 13 | 0.2 | 100.0 | 0.0 | 76.9 | 23.1 | 0.0 | 33.5 |
| Agg Weapon Violation | 7 | 0.1 | 85.7 | 14.3 | 85.7 | 14.3 | 0.0 | 35.3 |
| Aiding Felon | 24 | 0.5 | 33.3 | 66.7 | 62.5 | 29.2 | 8.3 | 29.8 |
| Arrange Sale/Purchase Drug | 20 | 0.4 | 55.0 | 45.0 | 70.0 | 20.0 | 10.0 | 34.8 |
| Arson | 27 | 0.5 | 92.6 | 7.4 | 85.2 | 11.1 | 3.7 | 31.0 |
| Battery on LEO | 29 | 0.6 | 71.4 | 28.6 | 67.9 | 28.6 | 3.6 | 30.2 |
| Burglary | 752 | 14.4 | 86.7 | 13.3 | 83.8 | 15.0 | 1.2 | 26.4 |

## Table 10: 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 | 13 | 0.2 | 15.4 | 84.6 | 92.3 | 7.7 | 0.0 | 31.4 |
| Contribute Child Misconduct | 12 | 0.2 | 75.0 | 25.0 | 91.7 | 8.3 | 0.0 | 28.7 |
| Criminal Damage of Property | 66 | 1.3 | 86.4 | 13.6 | 87.9 | 12.1 | 0.0 | 30.6 |
| Criminal Discharge of Firearm | 11 | 0.2 | 100.0 | 0.0 | 54.5 | 45.5 | 0.0 | 25.9 |
| Criminal Sodomy w/Child | 4 | 0.1 | 100.0 | 0.0 | 75.0 | 25.0 | 0.0 | 33.5 |
| Criminal Threat | 196 | 3.7 | 92.3 | 7.7 | 74.5 | 21.9 | 3.6 | 33.6 |
| Criminal Use of Explosives | 10 | 0.2 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 32.8 |
| Criminal Use of Financial Card | 11 | 0.2 | 63.6 | 36.4 | 90.9 | 0.0 | 9.1 | 33.2 |
| Domestic Battery | 33 | 0.6 | 90.9 | 9.1 | 63.6 | 33.3 | 3.0 | 33.2 |
| Drug without Tax Stamps | 46 | 0.9 | 78.3 | 21.7 | 76.1 | 21.7 | 2.2 | 30.2 |
| DUI | 752 | 14.4 | 83.5 | 16.5 | 87.4 | 10.2 | 2.4 | 38.6 |
| Electronic Solicitation of Child | 5 | 0.1 | 100.0 | 0.0 | 80.0 | 20.0 | 0.0 | 25.7 |
| Failure to Register | 135 | 2.6 | 95.6 | 4.4 | 68.9 | 29.6 | 1.5 | 34.3 |
| False Writing | 104 | 2.0 | 44.2 | 55.8 | 71.2 | 27.9 | 1.0 | 32.6 |
| Fleeing/Eluding LEO | 163 | 3.1 | 92.0 | 8.0 | 76.1 | 22.1 | 1.8 | 29.9 |
| Forgery | 380 | 7.3 | 48.2 | 51.8 | 77.1 | 21.8 | 1.1 | 32.5 |
| Giving Worthless Check | 31 | 0.6 | 71.0 | 29.0 | 83.9 | 16.1 | 0.0 | 33.3 |
| Identity Theft | 102 | 1.9 | 48.0 | 52.0 | 74.5 | 23.5 | 2.0 | 31.7 |
| Ind. Liberties with a Child | 13 | 0.2 | 92.3 | 7.7 | 84.6 | 7.7 | 7.7 | 27.3 |
| Ind. Solicitation with a Child | 18 | 0.3 | 94.4 | 5.6 | 77.8 | 11.1 | 11.1 | 31.9 |
| Involuntary Manslaughter | 8 | 0.2 | 50.0 | 50.0 | 75.0 | 25.0 | 0.0 | 29.8 |
| Kidnapping | 7 | 0.1 | 100.0 | 0.0 | 71.4 | 28.6 | 0.0 | 29.8 |
| Lewd and Lascivious Behavior | 5 | 0.1 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 32.0 |
| Medicaid Fraud | 4 | 0.1 | 25.0 | 75.0 | 25.0 | 75.0 | 0.0 | 31.6 |
| Mistreatment of Dependant Adult | 10 | 0.2 | 40.0 | 60.0 | 100.0 | 0.0 | 0.0 | 47.2 |
| Non-Support of a Child | 19 | 0.4 | 94.7 | 5.3 | 89.5 | 0.0 | 10.5 | 37.4 |
| Obstruct Legal Process | 85 | 1.6 | 78.8 | 21.2 | 75.3 | 22.4 | 2.4 | 32.9 |
| Obtain Prescription Drug by Fraud | 5 | 0.1 | 20.0 | 80.0 | 100.0 | 0.0 | 0.0 | 33.8 |
| Possession of Firearms | 79 | 1.5 | 96.2 | 3.8 | 50.6 | 48.1 | 1.3 | 30.6 |
| Robbery | 59 | 1.1 | 89.8 | 10.2 | 45.8 | 52.5 | 1.7 | 26.3 |
| Sex Exploitation of a Child | 31 | 0.6 | 96.8 | 3.2 | 96.8 | 3.2 | 0.0 | 34.1 |
| Stalking | 23 | 0.4 | 95.7 | 4.3 | 69.6 | 26.1 | 4.3 | 35.1 |
| Theft | 916 | 17.5 | 61.1 | 38.9 | 74.2 | 24.6 | 1.2 | 33.7 |
| Traffic in Contraband | 42 | 0.8 | 66.7 | 33.3 | 71.4 | 26.2 | 2.4 | 33.7 |
| Unlawful Sex Relations | 4 | 0.1 | 75.0 | 25.0 | 75.0 | 25.0 | 0.0 | 28.1 |
| Unlawful Voluntary Sex Relation | 19 | 0.4 | 94.7 | 5.3 | 89.5 | 5.3 | 5.3 | 18.5 |
| Voluntary Manslaughter | 4 | 0.1 | 75.0 | 25.0 | 50.0 | 50.0 | 0.0 | 24.2 |
| Weapon | 8 | 0.2 | 100.0 | 0.0 | 87.5 | 0.0 | 12.5 | 27.7 |
| Other | 48 | 0.9 | 70.8 | 29.2 | 83.3 | 14.6 | 2.1 | 31.5 |
| **TOTAL** | **5,238** | **100.0** | **76.3** | **23.7** | **77.1** | **21.0** | **1.9** | **32.2** |

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=5,237; Race, N=5,236; and Age, N=5,236.

## Table 11: 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 | 1,215 | 49.6 | 69.0 | 31.0 | 81.0 | 17.6 | 1.4 | 33.3 |
| Opiates or Narcotics; Depress, Stim., Hall.; Poss. w/Intent to Sell; Sale 1 | 694 | 28.3 | 77.1 | 22.9 | 75.9 | 23.4 | 0.7 | 30.7 |
| Opiates or Narcotics; Sale 2 | 9 | 0.4 | 77.8 | 22.2 | 44.4 | 55.6 | 0.0 | 36.4 |
| Opiates/ Narcotics, Depress, Stim, Hall; Sell w/in 1,000 feet of School | 15 | 0.6 | 66.7 | 33.3 | 60.0 | 33.3 | 6.7 | 35.7 |
| Depress, Stim, Hall; Poss 2 | 381 | 15.6 | 86.9 | 13.1 | 76.9 | 21.5 | 1.6 | 30.8 |
| Possession of Paraphernalia | 108 | 4.4 | 75.9 | 24.1 | 79.6 | 18.5 | 1.9 | 30.8 |
| Possession of Precursor Drugs | 6 | 0.2 | 66.7 | 33.3 | 100.0 | 0.0 | 0.0 | 33.0 |
| Receive Proceeds from violation of Controlled Substance Act | 7 | 0.3 | 57.1 | 42.9 | 71.4 | 28.6 | 0.0 | 23.4 |
| Unlawful Manufacture Controlled Substance | 9 | 0.4 | 66.7 | 33.3 | 100.0 | 0.0 | 0.0 | 36.1 |
| Other | 6 | 0.2 | 33.3 | 66.7 | 83.3 | 0.0 | 16.7 | 36.4 |
| **TOTAL** | **2,450** | **100.0** | **74.3** | **25.7** | **78.7** | **20.0** | **1.3** | **32.1** |

## Table 12: Characteristics of Probation Nondrug Offenders by Severity Level

| Severity Level | N | % | Gender (%) | | Race (%) | | | Offense Age Mean |
|---|---|---|---|---|---|---|---|---|
| | | | Male | Female | White | Black | Other | |
| N1 | 2 | 0.0 | 100.0 | 0.0 | 50.0 | 50.0 | 0.0 | 25.9 |
| N2 | 2 | 0.0 | 100.0 | 0.0 | 50.0 | 50.0 | 0.0 | 22.3 |
| N3 | 45 | 0.9 | 86.7 | 13.3 | 71.1 | 26.7 | 2.2 | 26.9 |
| N4 | 25 | 0.5 | 84.0 | 16.0 | 64.0 | 36.0 | 0.0 | 28.6 |
| N5 | 334 | 6.4 | 85.9 | 14.1 | 69.5 | 29.3 | 1.2 | 30.4 |
| N6 | 93 | 1.8 | 89.2 | 10.8 | 73.1 | 22.6 | 4.3 | 33.2 |
| N7 | 1,136 | 21.7 | 84.8 | 15.2 | 76.6 | 21.8 | 1.6 | 29.6 |
| N8 | 836 | 16.0 | 57.8 | 42.2 | 74.6 | 23.3 | 2.0 | 31.8 |
| N9 | 1,719 | 32.8 | 74.1 | 25.9 | 76.3 | 22.0 | 1.7 | 32.1 |
| N10 | 259 | 4.9 | 71.0 | 29.0 | 78.4 | 20.1 | 1.5 | 31.1 |
| Nongrid | 787 | 15.0 | 83.7 | 16.3 | 86.4 | 11.2 | 2.4 | 38.4 |
| **TOTAL** | **5,238** | **100.0** | **76.3** | **23.7** | **77.1** | **21.0** | **1.8** | **32.2** |

Note: Due to missing data, each category is based on different numbers: Gender, N=5,237; Race, N=5,236; and Age, N=5,236.

**Table 13: Characteristics of Probation Drug Offenders by Severity Level**

| Severity Level | N | % | Gender (%) | | Race (%) | | | Offense Age Mean |
|---|---|---|---|---|---|---|---|---|
| | | | Male | Female | White | Black | Other | |
| D1 | 9 | 0.4 | 66.7 | 33.3 | 100.0 | 0.0 | 0.0 | 36.1 |
| D2 | 32 | 1.3 | 65.6 | 34.4 | 65.6 | 31.3 | 3.1 | 35.1 |
| D3 | 694 | 28.3 | 77.1 | 22.9 | 75.9 | 23.4 | 0.7 | 30.7 |
| D4 | 1,715 | 70.0 | 73.3 | 26.7 | 80.0 | 18.5 | 1.5 | 32.6 |
| **TOTAL** | **2,450** | **100.0** | **74.3** | **25.7** | **78.7** | **20.0** | **1.3** | **32.1** |

**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.

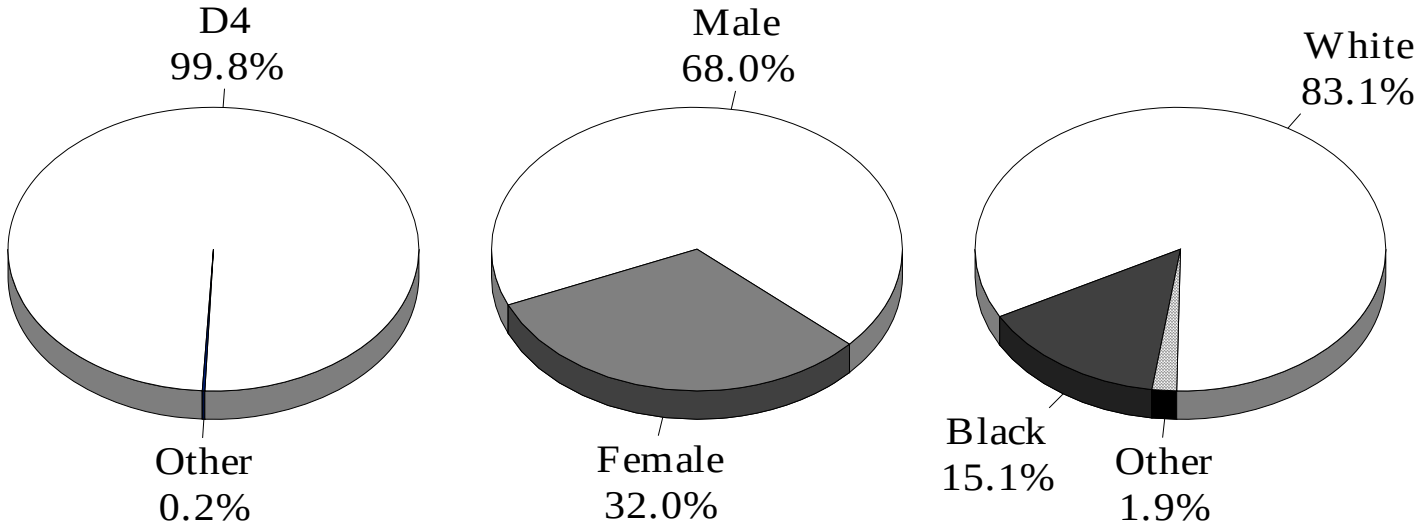
A total number of 1,025 sentences were imposed to SB 123 drug treatment programs during FY 2012, representing 41.8% of the total drug probation sentences (2,450), an increase of 0.7% compared with that of FY 2011 (41.1%). Of these sentences, 75.6% were convicted of the crime of drug possession under K.S.A. 21-5706(a) (formerly 21-36a06(a) or 65-4160) and 23.9% were convicted of the crime of drug possession under K.S.A. 21-5706(b) (formerly 21-36a06(b) or 65-4162). The evaluation of the criminal history of the offenders demonstrates that 91.6% of them were in the criminal history categories from E through I, a decrease of 0.3% compared with that of FY 2011 (91.9%). This data implies that the policy of SB 123 drug treatment programs was implemented very consistently during FY 2012.

Figure 33 presents a summary of the distribution of the offenders sentenced to SB 123 treatment programs in FY 2012. 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 32.1 years old at sentencing, which remains very close to those of FY 2011 and FY 2010.

Figure 34 demonstrates the distribution of SB 123 drug treatment sentences imposed in FY 2012 by county. Sedgwick County imposed the most SB 123 sentences (150) followed by Wyandotte (98), Johnson (80), Shawnee (74) and Reno (58) counties. No SB 123 sentences were reported from 31 counties. The average number of SB 123 sentences imposed by the 74 counties is 14, which is very close to that of FY 2011, which was 15.

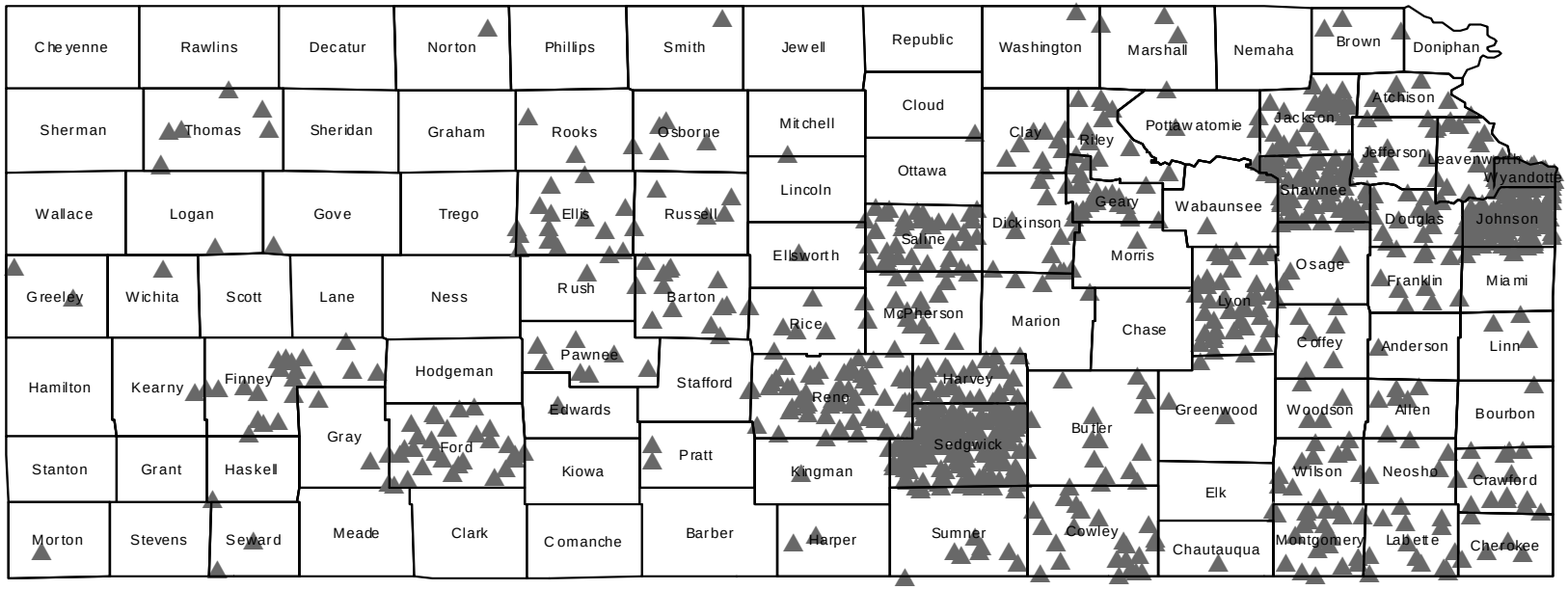
In addition, 539 SB 123 drug treatment sentences were revoked during FY 2012. Of this number, 232 sentences were revoked to prison, representing 22.6% of SB 123 sentences imposed (1,025 sentences) in FY 2012. The average period between original sentence and revocation hearing was 16 months, which is one month longer than that of FY 2011.

# Figure 33: Distribution of FY 2012 Senate Bill 123 Drug Treatment Sentences




Based on 1,025 SB 123 sentences

## Figure 34: Distribution of SB 123 Drug Treatment Sentences Imposed by County - FY 2012




Summary
Total counties=105
Total sentences=1,025
Counties w/zero=31
Minimum=1
Maximum=150
Mean=14

**Criminal History and Length of Probation**

The review of offenders' criminal history indicates that offenders sentenced to probation with assigned criminal history categories accounted for 89.9% of all the probation sentences (7,688) reported to the Commission in FY 2012, which is 1% higher than the rate of FY 2011 (88.9%). The largest number of this group fell within criminal history category I (27.8% or 1,920 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 26.6% of offenders on the nondrug grid and 29.9% of offenders on the drug grid.

The analysis of the presumptive probation boxes reveals that nondrug offenders within the presumptive probation boxes accounted for 83% (Table 14), while only 56% of probation drug offenders were within the presumptive probation boxes (Table 15).

The examination of the border box sentences discloses that only 4.7% 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 24.4% of drug probation sentences fell within severity level 3 with criminal history categories E to I, which are designated as border boxes (Tables 14 and 15). The sentencing data in border boxes implies that drug offenders tend to be sentenced to probation more frequently than do nondrug offenders.

The probation terms of probation sentences by each severity level are presented in Tables 14 and 15. The average length of probation for nondrug offenders was 17.8 months, very consistent with those of the past five years. The average length of probation for drug offenders was 16.7 months, indicating a very small change in months compared with that (16.5 months) of FY 2011.

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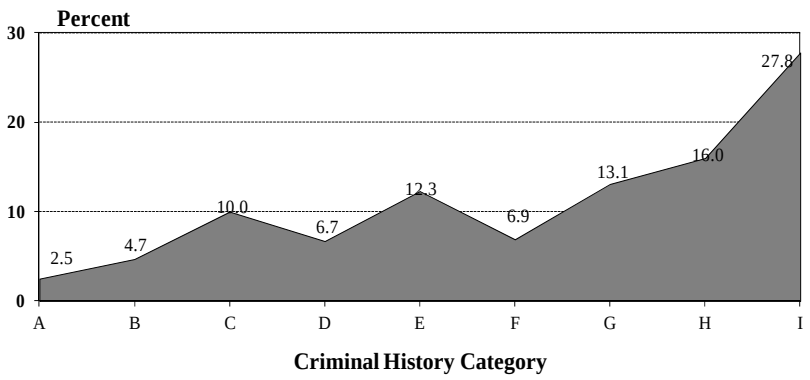
**Figure 35: Distribution of FY 2012 Probation Sentences by Criminal History**
**Nondrug and Drug Sentences**




Based on 6,915 sentences reporting criminal history category

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

| Severity Level | N | Criminal History Class | | | | | | | | | Average Probation Length in Months |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | A | B | C | D | E | F | G | H | I | |
| N1 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 36.0 |
| N2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 36.0 |
| N3 | 45 | 1 | 2 | 0 | 5 | 2 | 3 | 4 | 10 | 18 | 36.3 |
| N4 | 25 | 2 | 0 | 1 | 1 | 1 | 0 | 2 | 7 | 11 | 36.0 |
| N5 | 334 | 8 | 18 | 18 | 23 | 21 | 11 | 30 | 53 | 152 | 35.8 |
| N6 | 93 | 1 | 6 | 5 | 5 | 6 | 4 | 6 | 17 | 42 | 24.1 |
| N7 | 1,136 | 35 | 50 | 142 | 117 | 108 | 70 | 137 | 170 | 307 | 23.6 |
| N8 | 836 | 23 | 28 | 93 | 48 | 131 | 59 | 106 | 133 | 214 | 17.7 |
| N9 | 1,719 | 49 | 94 | 233 | 121 | 258 | 118 | 226 | 253 | 366 | 12.4 |
| N10 | 259 | 6 | 10 | 31 | 19 | 31 | 15 | 39 | 39 | 69 | 12.1 |
| Nongrid | 787 | 1 | 2 | 2 | 3 | 0 | 0 | 3 | 4 | 7 | 12.7 |
| **TOTAL** | **5,238** | **126** | **210** | **525** | **342** | **559** | **280** | **554** | **686** | **1,188** | **17.8** |

Note: Criminal history classes are based on 4,470 cases reporting criminal history category.
Legend:

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

## Table 15: 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 | 9 | 1 | 1 | 2 | 0 | 1 | 1 | 0 | 0 | 3 | 36.0 |
| D2 | 32 | 0 | 2 | 2 | 2 | 4 | 4 | 6 | 4 | 8 | 31.7 |
| D3 | 694 | 6 | 24 | 30 | 36 | 81 | 45 | 94 | 111 | 265 | 18.2 |
| D4 | 1,715 | 44 | 87 | 132 | 83 | 206 | 145 | 250 | 309 | 456 | 15.5 |
| **TOTAL** | **2,450** | **51** | **114** | **166** | **121** | **292** | **195** | **350** | **424** | **732** | **16.7** |

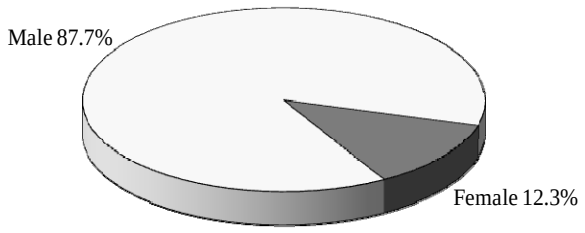
Note: Criminal history classes are based on 2,445 cases reporting criminal history category.
Legend:

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

## COUNTY JAIL SENTENCES

A total number of 522 jail sentences were reported to the Commission during FY 2012, a significant decrease of 253 sentences or 32.6% when compared with the data of FY 2011 (Please refer to felony DUI on page 15). Of this number, male offenders accounted for 87.7% and female offenders accounted for 12.3%, an increase of 4.6% when compared with the female rate (7.7%) observed in FY 2011 (Figure 36).

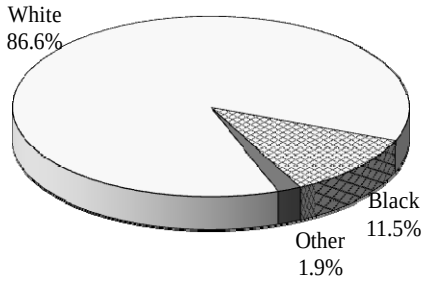
**Figure 36: Distribution of FY 2012 Jail Sentences by Gender**




Based on 521 county jail sentences reporting gender of offenders

White offenders represented 86.6%, black offenders represented 11.5% and other races represented 1.9% of the county jail sentences imposed in FY 2012 (Figure 37).

**Figure 37: Distribution of FY 2012 Jail Sentences by Race**




Based on 521 county jail sentences reporting race of offenders

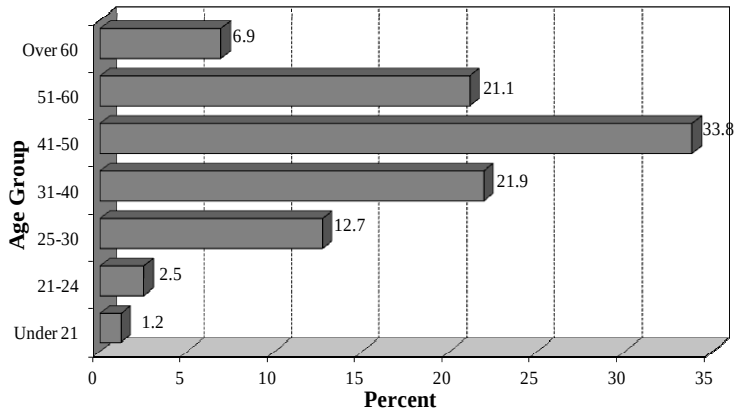
Most offenders were in the age groups ranging from 41 to 50 years old (33.8%), which is consistent with the data observed in FY 2011. Their average age at sentencing is 44 years old (Figure 38).

The analysis of the sentence length reveals that the minimum jail term is 0.3 months, maximum jail term is 14 months and the average jail term is 8 months.

The crimes committed by the offenders sentenced to county jails during FY 2012 are demonstrated in Figure 39. Approximately 97% of the sentences were convicted of the crime of felony DUI (505 sentences), 1.3% were convicted of the crime of domestic battery (7 sentences) and 0.4% were convicted of the crime of cruelty to animals (2 sentences). A detailed analysis on the crime of DUI is provided on Page 15 of this report.

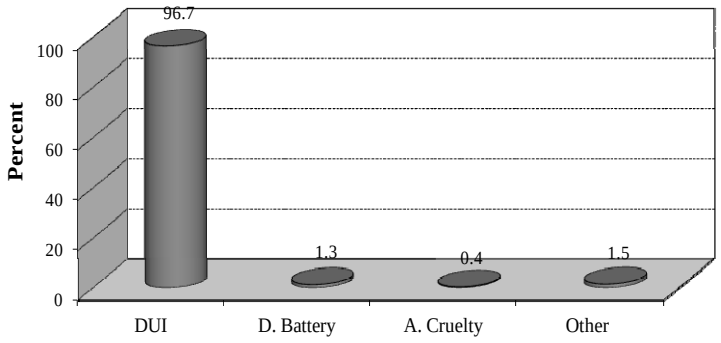
Figure 40 presents the distribution of FY 2012 jail sentences by county. Sedgwick County imposed the most jail sentences (152) representing 29.1% followed by Johnson County with 125 jail sentences representing 23.9% of the total county jail sentences imposed in FY 2012.

**Figure 38: Distribution of FY 2012 Jail Sentences by Age of Offenders**



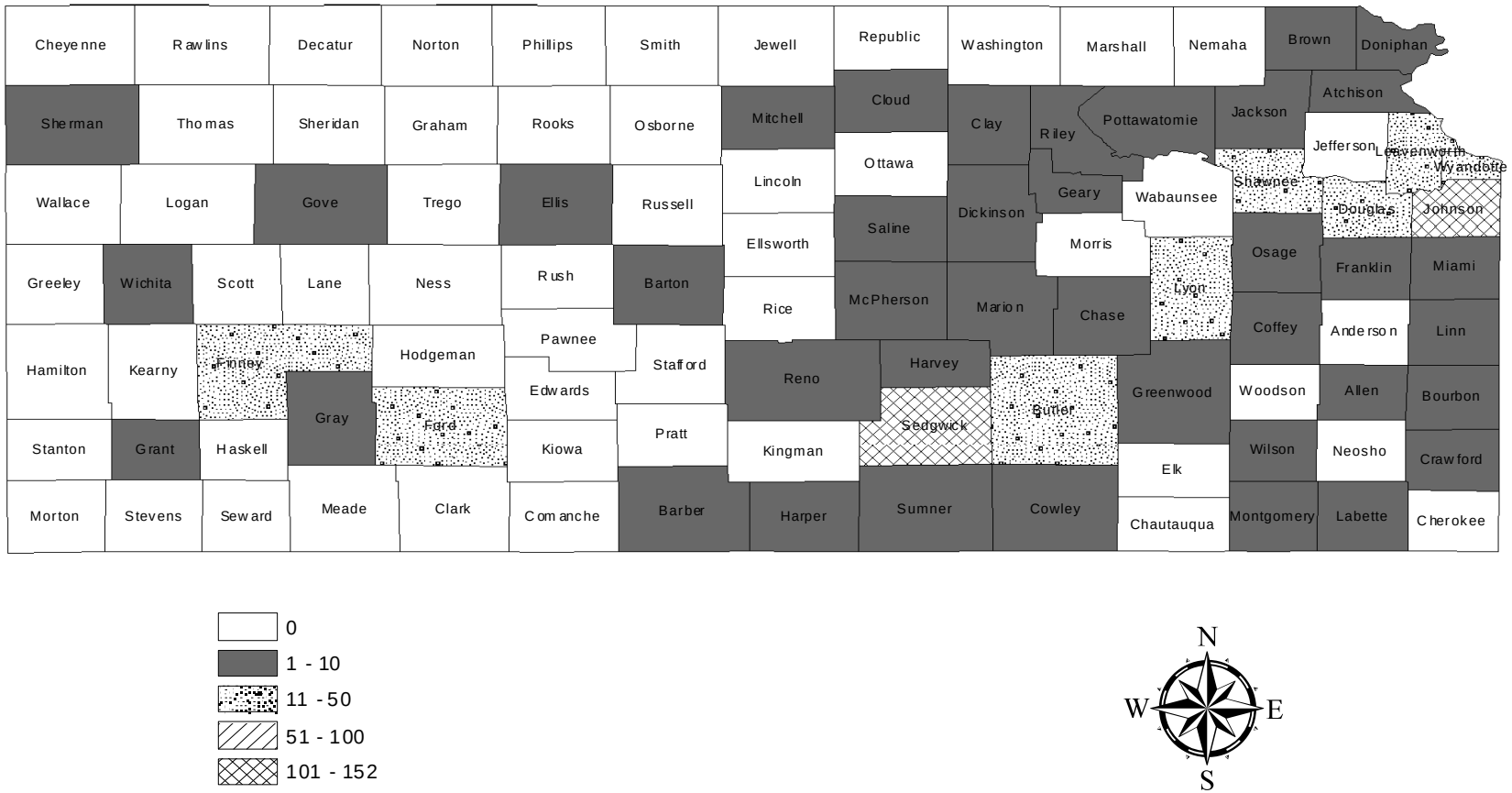

Based on 521 county jail sentences reporting age of offenders at time of sentencing

**Figure 39: FY 2012 County Jail Sentences by Offense Type**




Based on 522 county jail sentences.

## Figure 40: FY 2012 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.

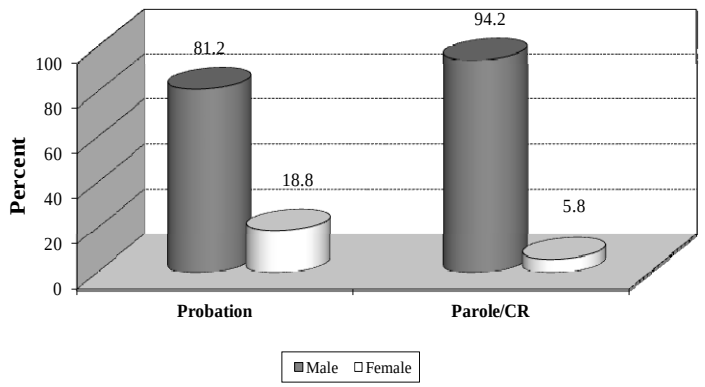
### Overview of Condition Violators

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.

In FY 2012, a total number of 2,637 condition violators were admitted to prison for their violation of conditions, representing 1,682 probation violators, 952 parole or postrelease supervision violators and 3 conditional release violators respectively.

In FY 2012, condition violators accounted for 52.8% of all admissions to prison, indicating a decrease of 0.7% when compared with FY 2011 (53.5%). Characteristics of condition violators by gender, race, and age are depicted in Figures 41, 42, and 43. Conditional release violators (3) are merged with the group of parole or postrelease supervision violators in the following analyses.

**Figure 41: Distribution of FY 2012 Condition Violators by Gender**

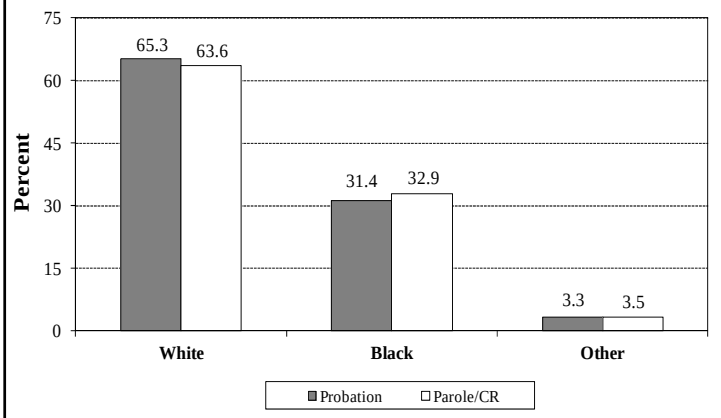



Based on 1,682 probation condition violators and 955 parole/conditional release condition violators

Figure 41 indicates that male offenders were the majority of condition violators, representing 81.2% of probation violators and 94.2% of parole/conditional release violators admitted to prison in FY 2012.

White offenders represented the highest rate (65.3%) in the group of probation violators, while the highest percentage of black offenders (32.9%) was identified in the group of parole or postrelease supervision and conditional release violators (Figures 42).

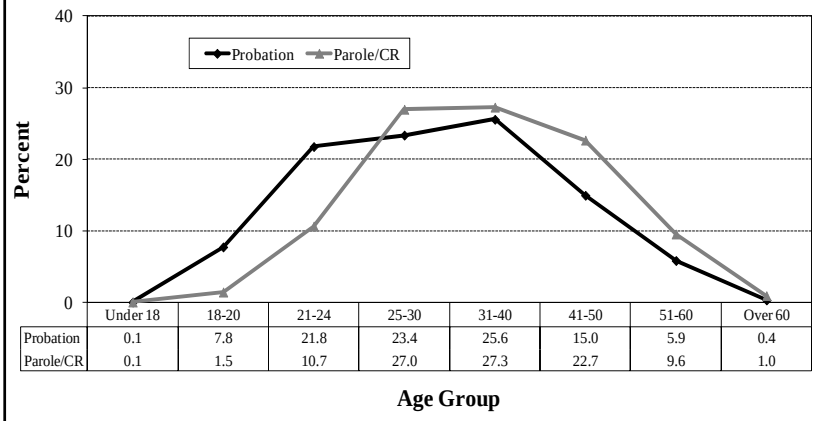
**Figure 42: Distribution of FY 2012 Condition Violators by Race**




Based on 1,681 probation condition violators and 955 parole/conditional release condition violators

Age analysis demonstrates that most probation violators were in the age group ranging from 31 to 40 (25.6%). The largest number of parole or postrelease supervision and conditional release violators was found in this age group, as well (27.3%) at the time of admission to prison (Figure 43). The age distribution is consistent with the age patterns of FY 2011.

**Figure 43: Distribution of FY 2012 Condition Violators by Age Group**

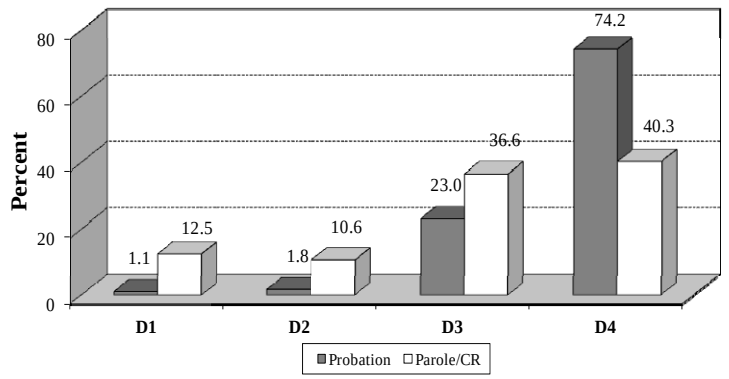



| | Under 18 | 18-20 | 21-24 | 25-30 | 31-40 | 41-50 | 51-60 | Over 60 |
|---|---|---|---|---|---|---|---|---|
| Probation | 0.1 | 7.8 | 21.8 | 23.4 | 25.6 | 15.0 | 5.9 | 0.4 |
| Parole/CR | 0.1 | 1.5 | 10.7 | 27.0 | 27.3 | 22.7 | 9.6 | 1.0 |

Based on 1,682 probation condition violators and 955 parole/conditional release condition violators

The largest proportion of drug probation violators was identified at drug severity level 4 (74.2% or 422 offenders) and the highest percentage of drug parole/postrelease and conditional release violators was at drug severity level 4, as well, accounting for 40.3% or 87 offenders (Figure 44).

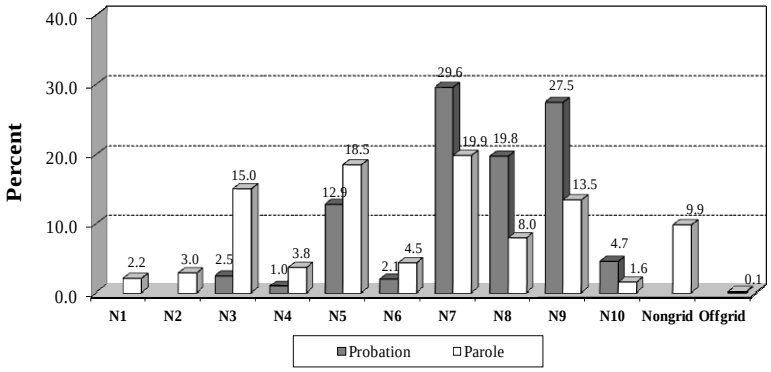
**Figure 44: Distribution of FY 2012 Condition Violators by Severity Level**
**Drug Offenders**




Based on 569 drug probation condition violators and 216 drug parole/conditional release condition violators

The highest percentages of condition violators were identified at nondrug severity level 7, which represents 29.6% or 329 offenders of nondrug probation condition violators and 19.9% or 147 offenders of nondrug parole or postrelease and conditional release violators. This distribution of severity levels is different from that of FY 2011 (Figure 45).

**Figure 45: Distribution of FY 2012 Condition Violators by Severity Level**
**Nondrug Offenders**




Based on 1,112 probation condition violators and 739 parole/conditional release condition violators

The characteristics of all types of condition violators are described in Table 16. The largest numbers of males were found at nondrug severity level 7 (441 sentences) and drug severity level 4 (401 sentences). However, the highest frequencies of females were at nondrug severity level 8 (74 sentences) and drug severity level 4 (108 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 341 sentences and black offenders made up 150 sentences at drug severity level 4. As for nondrug sentences, most violators were found at nondrug severity level 7. White offenders accounted for 322 sentences and black offenders accounted for 137 sentences. The same number of 137 black offenders was also found at nondrug severity level 9. The average age of the violators was almost 34 years old at the time of admission, which is constant with that of FY 2011.

**Table 16: 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 | 33 | 30 | 3 | 28 | 4 | 1 | 38.3 |
| D2 | 33 | 28 | 5 | 26 | 7 | 0 | 35.5 |
| D3 | 210 | 167 | 43 | 123 | 81 | 6 | 31.1 |
| D4 | 509 | 401 | 108 | 341 | 150 | 17 | 34.6 |
| N1 | 16 | 16 | 0 | 6 | 9 | 1 | 42.9 |
| N2 | 22 | 22 | 0 | 16 | 5 | 1 | 40.5 |
| N3 | 139 | 138 | 1 | 67 | 65 | 7 | 35.3 |
| N4 | 39 | 35 | 4 | 23 | 14 | 2 | 35.9 |
| N5 | 280 | 252 | 28 | 161 | 107 | 12 | 32.8 |
| N6 | 56 | 49 | 7 | 36 | 19 | 1 | 32.8 |
| N7 | 476 | 441 | 35 | 322 | 137 | 17 | 31.0 |
| N8 | 279 | 205 | 74 | 190 | 78 | 11 | 33.1 |
| N9 | 406 | 352 | 54 | 258 | 137 | 11 | 34.6 |
| N10 | 64 | 58 | 6 | 43 | 21 | 0 | 36.5 |
| Offgrid | 1 | 1 | 0 | 0 | 1 | 0 | 27.3 |
| Nongrid | 73 | 70 | 3 | 63 | 7 | 3 | 46.9 |
| **Total** | **2,637*** | **2,265** | **371** | **1,703** | **842** | **90** | **33.9** |

*The total number includes one offender whose severity level is unknown.

**Condition Probation Violators**

During FY 2012, a total number of 1,682 condition probation violators were admitted to prison. Of this number, 66.2% (1,113) were nondrug offenders and 33.8% (569) were drug offenders. Compared with FY 2011, the admissions of condition probation violators demonstrated an increase of 3.4% or 56 violators. The characteristics of this group of violators are presented in Tables 17 and 18.

The top ten offenses committed by nondrug probation violators in FY 2012 were 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 17).

As for drug probation violators, possession of drugs was the most frequently convicted offense type, accounting for 72.1% of all drug offenses. The crime of opiates or narcotics possession represented 60.5% of the total drug offenses committed by the condition probation violators admitted to prison in FY 2012 (Table 18).

The examination of offenders' age indicates that the average length of lag time from the age of offense to the age of admission to prison was 2.3 years for nondrug probation violators and 2.5 years for drug probation violators. The distribution of probation violators by severity level and criminal history is exhibited in Table 19.

**Table 17: Top 10 Offenses Committed by Nondrug Probation Violators**

| Offense Type | Number of Cases | Gender (%) | | Race (%) | | | Offense Age Mean* | Admit Age Mean** |
|---|---|---|---|---|---|---|---|---|
| | | Male | Female | White | Black | Other | | |
| Aggravated Assault | 57 | 82.5 | 17.5 | 54.4 | 42.1 | 3.5 | 27.5 | 29.5 |
| Aggravated Battery | 135 | 92.6 | 7.4 | 58.5 | 36.3 | 5.2 | 29.8 | 31.9 |
| Aggravated Burglary | 46 | 87.0 | 13.0 | 58.7 | 37.0 | 4.3 | 28.5 | 30.7 |
| Burglary | 177 | 92.1 | 7.9 | 77.4 | 18.6 | 4.0 | 26.7 | 29.0 |
| Criminal Threat | 52 | 94.2 | 5.8 | 51.9 | 46.2 | 1.9 | 34.1 | 35.7 |
| Failure to Register | 52 | 90.4 | 9.6 | 65.4 | 32.7 | 1.9 | 31.0 | 33.4 |
| Fleeing or Eluding LEO | 34 | 100.0 | 0.0 | 55.9 | 38.2 | 5.9 | 28.3 | 30.7 |
| Forgery | 121 | 56.2 | 43.8 | 71.1 | 27.3 | 1.7 | 32.1 | 34.8 |
| Robbery | 28 | 82.1 | 17.9 | 57.1 | 39.3 | 3.6 | 24.2 | 26.7 |
| Theft | 156 | 75.0 | 25.0 | 61.5 | 35.9 | 2.6 | 33.9 | 36.3 |
| **Subtotal** | **858** | **83.1** | **16.9** | **64.3** | **32.3** | **3.4** | **30.1** | **32.4** |
| Other | 255 | 85.9 | 14.1 | 65.9 | 31.0 | 3.1 | 28.4 | 30.9 |
| **TOTAL** | **1,113** | **83.7** | **16.3** | **64.7** | **32.0** | **3.3** | **29.7** | **32.0** |

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

## Table 18: 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 | 344 | 74.1 | 25.9 | 65.7 | 30.2 | 4.1 | 32.7 | 35.1 |
| Opiates or Narcotics; Depress, Stim., Hall.; Poss. w/Intent to Sell; Sale 1 | 131 | 75.6 | 24.4 | 61.1 | 36.6 | 2.3 | 27.2 | 29.8 |
| Depress, Stim, Hall; Poss 2nd | 66 | 89.4 | 10.6 | 71.2 | 25.8 | 3.0 | 26.9 | 29.4 |
| Possession of Paraphernalia | 12 | 66.7 | 33.3 | 81.8 | 18.2 | 0.0 | 26.9 | 30.1 |
| Possession of Precursor Drugs | 5 | 60.0 | 40.0 | 100.0 | 0.0 | 0.0 | 31.7 | 34.3 |
| Unlawful Manufacture Controlled Substance | 6 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 35.1 | 37.9 |
| Other | 5 | 80.0 | 20.0 | 80.0 | 20.0 | 0.0 | 32.7 | 35.1 |
| **TOTAL** | **569** | **76.3** | **23.7** | **66.4** | **30.3** | **3.3** | **30.6** | **33.1** |

## Table 19: Distribution of Probation Violators by Severity Level and Criminal History*

| Severity Level | Criminal History Category | | | | | | | | | Subtotal |
|---|---|---|---|---|---|---|---|---|---|---|
| | A | B | C | D | E | F | G | H | I | |
| D1 | 1 | 1 | 1 | 0 | 2 | 1 | 0 | 0 | 0 | 6 |
| D2 | 0 | 1 | 1 | 0 | 3 | 2 | 1 | 1 | 1 | 10 |
| D3 | 6 | 8 | 11 | 6 | 15 | 16 | 16 | 27 | 26 | 131 |
| D4 | 11 | 25 | 49 | 21 | 63 | 39 | 64 | 90 | 60 | 422 |
| N1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N3 | 1 | 3 | 3 | 2 | 2 | 2 | 2 | 8 | 5 | 28 |
| N4 | 0 | 1 | 2 | 1 | 1 | 1 | 2 | 3 | 0 | 11 |
| N5 | 11 | 10 | 13 | 12 | 11 | 8 | 10 | 29 | 39 | 143 |
| N6 | 2 | 2 | 3 | 0 | 1 | 0 | 0 | 8 | 7 | 23 |
| N7 | 16 | 27 | 52 | 30 | 29 | 16 | 29 | 56 | 74 | 329 |
| N8 | 8 | 14 | 29 | 9 | 35 | 16 | 28 | 42 | 39 | 220 |
| N9 | 17 | 21 | 46 | 19 | 35 | 15 | 33 | 67 | 52 | 305 |
| N10 | 2 | 7 | 5 | 4 | 9 | 4 | 4 | 5 | 12 | 52 |
| **TOTAL** | **75** | **120** | **215** | **104** | **206** | **120** | **189** | **336** | **315** | **1,680** |

* Due to missing data, criminal history categories are based on 1,680 probation violators reporting criminal history.

**Condition Parole/Postrelease Supervision and Conditional Release Violators**

A total number of 955 condition parole/post-release supervision and conditional release violators were admitted to prison in FY 2012, indicating a decrease of 72 violators or 7% when compared with the data observed in FY 2011. Tables 20 and 21 present the characteristics of this offender group.

The top ten offenses most frequently committed by parole/postrelease and conditional release violators were aggravated assault, aggravated battery, aggravated burglary, aggravated escape from custody, aggravated robbery, aggravated indecent liberties with a child, burglary, DUI, robbery and theft, accounting for 68.9% of the total nondrug offenses. Male offenders represented 95.8% of this group. White offenders committed more than 70% of crimes of aggravated indecent liberties with a child, burglary and DUI. Blacks indicated the highest representation in aggravated robbery and robbery (Table 20). Table 21 demonstrates that drug offenders of this group of violators were convicted primarily of the crimes of possession of drugs (43.9%) and sale of opiates or narcotics or depressants (40.3%), which is consistent with that of FY 2011.

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 2012, 73 DUI violators were admitted to prison (Table 20), an increase of 3 violators when compared with FY 2011 (70).

The distribution of parole/postrelease supervision and conditional release violators by severity level and criminal history is demonstrated in Table 22. The largest numbers of this group of violators were found at severity level 4 of the drug grid (86 offenders) and severity level 7 of the nondrug grid (147 offenders).

**Table 20: 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 | 37 | 100.0 | 0.0 | 51.4 | 45.9 | 2.7 | 27.5 | 31.3 |
| Aggravated Battery | 83 | 96.4 | 3.6 | 54.2 | 41.0 | 4.8 | 29.2 | 34.5 |
| Aggravated Burglary | 23 | 100.0 | 0.0 | 60.9 | 39.1 | 0.0 | 28.9 | 37.9 |
| Aggravated Escape from Custody | 22 | 90.9 | 9.1 | 59.1 | 27.3 | 13.6 | 33.7 | 38.2 |
| Aggravated Robbery | 61 | 100.0 | 0.0 | 45.9 | 50.8 | 3.3 | 25.3 | 39.2 |
| Agg Indecent Liberties w/Child | 45 | 100.0 | 0.0 | 73.3 | 24.4 | 2.2 | 25.8 | 34.1 |
| Burglary | 76 | 100.0 | 0.0 | 76.3 | 22.4 | 1.3 | 30.0 | 33.3 |
| DUI | 73 | 95.9 | 4.1 | 86.3 | 9.6 | 4.1 | 44.9 | 46.9 |
| Robbery | 39 | 89.7 | 10.3 | 35.9 | 61.5 | 2.6 | 27.7 | 34.6 |
| Theft | 50 | 90.0 | 10.0 | 60.0 | 40.0 | 0.0 | 37.0 | 39.2 |
| Other | 230 | 93.9 | 6.1 | 64.8 | 29.6 | 5.7 | 28.1 | 35.6 |
| **TOTAL** | **739** | **95.8** | **4.2** | **63.1** | **33.0** | **3.9** | **30.4** | **36.7** |

## Table 21: 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 | 80 | 91.3 | 8.7 | 65.0 | 35.0 | 0.0 | 33.2 | 37.9 |
| Opiates or Narcotics; Depress, Stim., Hall.; Poss. w/Intent to Sell; Sale 1 | 79 | 86.1 | 13.9 | 54.4 | 41.8 | 3.8 | 27.1 | 33.1 |
| Opiates or Narcotics; Sale 2 | 5 | 80.0 | 20.0 | 80.0 | 20.0 | 0.0 | 33.8 | 39.2 |
| Opiates or Narcotics; Sale 3 | 3 | 100.0 | 0.0 | 33.3 | 66.7 | 0.0 | 40.5 | 49.6 |
| Opiates/Narcotics, Depress, Stim, Hall; Sell w/in 1,000 ft of School | 9 | 100.0 | 0.0 | 66.7 | 33.3 | 0.0 | 27.6 | 34.1 |
| Depress, Stim, Hall; Poss 2 | 15 | 86.7 | 13.3 | 73.3 | 20.0 | 6.7 | 30.6 | 35.4 |
| Possession of Precursor Drugs | 9 | 77.8 | 22.2 | 100.0 | 0.0 | 0.0 | 30.4 | 37.2 |
| Unlawful Manufacture Controlled Substance | 16 | 93.8 | 6.2 | 93.8 | 0.0 | 6.2 | 27.0 | 34.9 |
| **TOTAL** | **216** | **88.9** | **11.1** | **65.3** | **32.4** | **2.3** | **30.1** | **35.8** |

## Table 22: 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 | 2 | 7 | 2 | 4 | 5 | 1 | 3 | 2 | 27 |
| D2 | 1 | 1 | 4 | 3 | 8 | 1 | 1 | 3 | 1 | 23 |
| D3 | 5 | 10 | 12 | 4 | 5 | 11 | 8 | 10 | 8 | 73 |
| D4 | 19 | 18 | 23 | 8 | 14 | 2 | 0 | 2 | 0 | 86 |
| N1 | 1 | 0 | 1 | 0 | 2 | 0 | 1 | 0 | 3 | 8 |
| N2 | 1 | 1 | 1 | 1 | 0 | 1 | 0 | 4 | 5 | 14 |
| N3 | 1 | 8 | 10 | 11 | 8 | 5 | 6 | 10 | 25 | 84 |
| N4 | 1 | 3 | 3 | 9 | 1 | 2 | 3 | 3 | 1 | 26 |
| N5 | 18 | 16 | 15 | 12 | 12 | 1 | 14 | 14 | 25 | 127 |
| N6 | 5 | 11 | 6 | 1 | 3 | 0 | 4 | 0 | 2 | 32 |
| N7 | 29 | 42 | 28 | 3 | 15 | 8 | 11 | 6 | 5 | 147 |
| N8 | 10 | 11 | 16 | 3 | 7 | 3 | 4 | 4 | 1 | 59 |
| N9 | 33 | 28 | 7 | 2 | 18 | 3 | 4 | 2 | 3 | 100 |
| N10 | 6 | 4 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 12 |
| **TOTAL** | **131** | **155** | **134** | **59** | **98** | **42** | **57** | **61** | **81** | **818** |

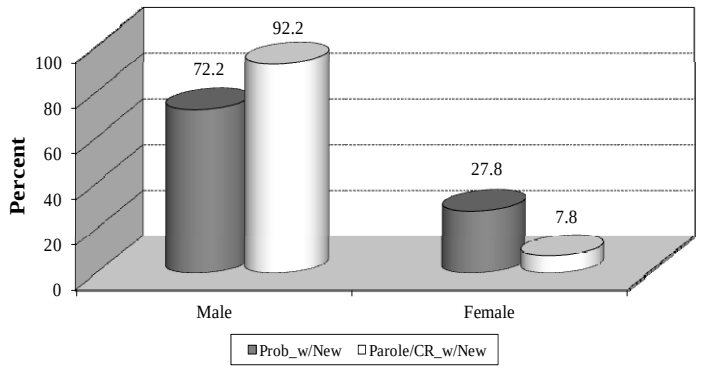
* Due to missing data, criminal history categories are based on 818 violators reporting criminal history.

**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 6.4% (321 violators) of the total prison admissions in FY 2012, indicating an increase of 1.4% compared with the percentage (5%) of FY 2011. Characteristics of this group are illustrated in Figures 46, 47 and 48. Drugs (22.8%), burglary/aggravated burglary (15%) and theft (10.6%) were the major offense categories committed by probation violators with new convictions. Drugs (19.1%), burglary/aggravated burglary (17.7%) and aggravated robbery/robbery (13.4%), represented the top offenses committed by parole/postrelease/conditional release violators with new sentences. Table 23 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 (40, 15 and 37 violators) and drug severity level 4 (25 violators), while nondrug severity levels 5, 7 and 9 (19.1%, 15.6% and 17%) and drug severity level 3 (9.9%) represented the highest percentages of parole/postrelease/conditional release violators with new sentences.

Male offenders represented 92.2% of the parole/postrelease and conditional release violators with new sentences admitted to prison in FY 2012, while female offenders accounted for 27.8% of probation violators with new sentences. This gender distribution is consistent with that of FY 2011 (Figure 46).

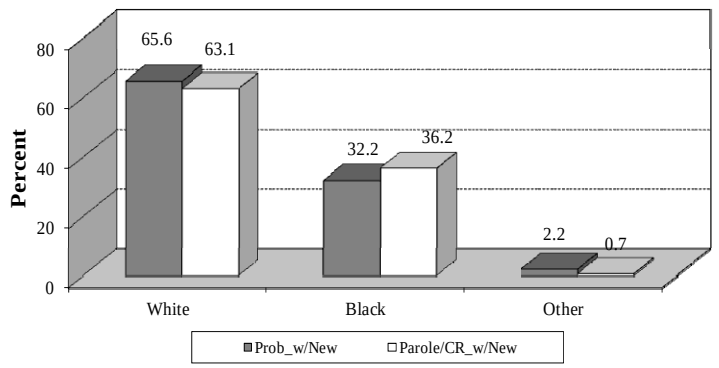
**Figure 46: Distribution of FY 2012 Violators with New Sentences by Gender**




Note: Probation violators w/new sentence=180; parole/conditional release condition violators w/new sentence=141

White offenders made up the largest number of the violators with new sentences, representing 65.6% of probation violators with new sentences and 63.1% of parole/postrelease and conditional release violators with new sentences. More black offenders (36.2%) were found in the group of parole/postrelease and conditional release violators with new sentences (Figure 47).

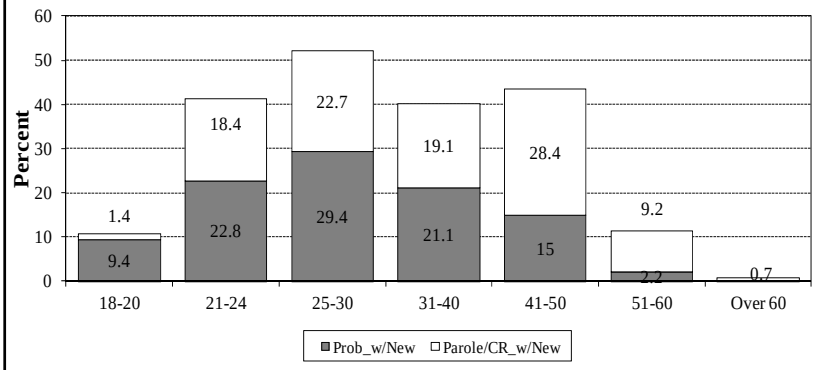
**Figure 47: Distribution of FY 2012 Violators with New Sentences by Race**




Note: Probation violators w/new sentence=180 and parole/conditional release violators w/new sentence=141

The highest percentage of probation violators with new sentences were in the age group from 25 to 30 (29.4%) at the time of admission to prison, which is consistent with that of FY 2011. Parole or postrelease and conditional release violators with new sentences represented the largest proportion in the age groups of 41 to 50 (28.4%), which is similar with that of FY 2011 (Figure 48).

**Figure 48: Distribution of FY 2012 Violators with New Sentences by Age Group**




Note: Probation violators w/new sentence=180 and parole/conditional release violators w/new sentence=141

**Table 23: Distribution of FY 2012 Violators with New Sentences By Severity Level**

| Severity Level | Probation | | Parole/Postrelease/Conditional Release | |
|---|---|---|---|---|
| | Number | Percent | Number | Percent |
| D1 | 1 | 0.6 | 3 | 2.1 |
| D2 | 0 | 0.0 | 2 | 1.4 |
| D3 | 15 | 8.3 | 14 | 9.9 |
| D4 | 25 | 13.9 | 8 | 5.7 |
| N1 | 2 | 1.1 | 2 | 1.4 |
| N2 | 0 | 0.0 | 1 | 0.7 |
| N3 | 7 | 3.9 | 15 | 10.6 |
| N4 | 3 | 1.7 | 6 | 4.3 |
| N5 | 25 | 13.9 | 27 | 19.1 |
| N6 | 6 | 3.3 | 6 | 4.3 |
| N7 | 40 | 22.2 | 22 | 15.6 |
| N8 | 15 | 8.3 | 10 | 7.1 |
| N9 | 37 | 20.6 | 24 | 17.0 |
| N10 | 4 | 2.2 | 0 | 0.0 |
| Offgrid | 0 | 0.0 | 1 | 0.7 |
| Nongrid | 0 | 0.0 | 0 | 0.0 |
| **TOTAL** | **180** | **100.0** | **141** | **100.0** |

## VIOLATORS CONTINUING AND EXTENDING ON PROBATION

Violators continued or extended on probation refer to probation violators with or without new convictions, whose violations did not result in incarceration but rather a continuation or an extension of the probation. In FY 2012, there were 2,506 condition probation violators and 252 probation violators with new convictions who were continued or extended on probation, representing 56% of the total number of 4,475 condition probation violators and 32.6% of the total number of 773 probation violators with new offenses, respectively. Drugs (26.1%), burglary (13.7%), theft (12.5%), forgery (9.2%), and DUI (6.3%) were the top five offenses committed by the group of condition probation violators. Drugs (25.4%), burglary (17.1%) and theft (13.5%), were the top three offenses committed by probation violators with new convictions. Most top offenses committed by both groups were the same when compared with those of FY 2011. Tables 24 and 25 present the criminal history categories by severity level for the two types of violators who were sentenced to continued or extended probation.

**Table 24: Criminal History by Severity Levels of Condition Probation Violators Continuing and Extending on Probation**

| Severity Level | Number of Cases | Criminal History Class | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | A | B | C | D | E | F | G | H | I |
| D1 | 3 | 0 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 |
| D2 | 11 | 0 | 0 | 1 | 0 | 1 | 3 | 3 | 2 | 1 |
| D3 | 156 | 9 | 7 | 6 | 10 | 12 | 15 | 17 | 22 | 58 |
| D4 | 484 | 9 | 15 | 53 | 22 | 61 | 47 | 66 | 99 | 112 |
| N1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 |
| N3 | 19 | 0 | 0 | 3 | 5 | 2 | 0 | 0 | 2 | 7 |
| N4 | 12 | 2 | 0 | 1 | 0 | 1 | 0 | 0 | 6 | 2 |
| N5 | 130 | 3 | 8 | 10 | 9 | 14 | 6 | 15 | 22 | 43 |
| N6 | 25 | 0 | 1 | 0 | 1 | 1 | 2 | 2 | 7 | 11 |
| N7 | 451 | 8 | 18 | 63 | 46 | 45 | 18 | 48 | 70 | 135 |
| N8 | 388 | 7 | 9 | 59 | 22 | 57 | 29 | 55 | 71 | 79 |
| N9 | 578 | 7 | 26 | 84 | 49 | 94 | 51 | 61 | 104 | 102 |
| N10 | 80 | 1 | 1 | 11 | 4 | 16 | 7 | 13 | 7 | 20 |
| **TOTAL** | **2,338** | **46** | **85** | **293** | **169** | **304** | **178** | **281** | **412** | **570** |

Note: Criminal history classes are based on 2,338 cases reporting criminal history category.
Legend:

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

## Table 25: Criminal History by Severity Levels of Probation Violators with New Convictions Continuing and Extending on Probation

| Severity Level | Number of Cases | Criminal History Class | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | A | B | C | D | E | F | G | H | I |
| D1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| D2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| D3 | 19 | 0 | 0 | 2 | 0 | 0 | 0 | 1 | 3 | 13 |
| D4 | 45 | 0 | 0 | 1 | 3 | 11 | 4 | 11 | 10 | 5 |
| N1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N3 | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| N4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N5 | 14 | 1 | 0 | 2 | 0 | 1 | 1 | 2 | 3 | 4 |
| N6 | 4 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 3 |
| N7 | 42 | 0 | 1 | 4 | 4 | 7 | 3 | 8 | 6 | 9 |
| N8 | 33 | 0 | 0 | 3 | 3 | 2 | 2 | 4 | 12 | 7 |
| N9 | 68 | 0 | 0 | 10 | 1 | 9 | 6 | 4 | 18 | 20 |
| N10 | 8 | 0 | 0 | 1 | 1 | 0 | 0 | 2 | 2 | 2 |
| **TOTAL** | **236** | **2** | **1** | **23** | **12** | **30** | **17** | **32** | **55** | **64** |

Note: Criminal history classes are based on 236 cases reporting criminal history category.
Legend:

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

# CHAPTER THREE
# CONFORMITY TO THE SENTENCING GUIDELINES

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

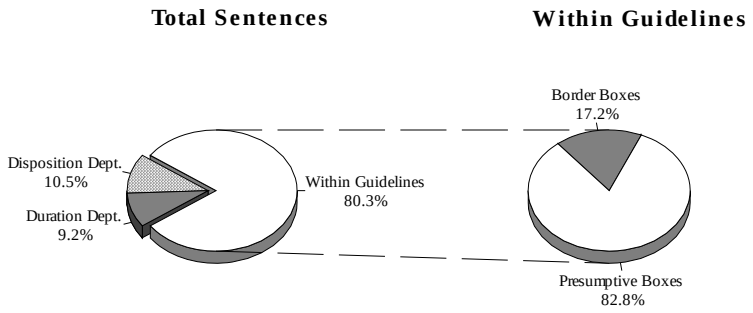
Only pure guideline sentences were utilized for this specific analysis. A pure guideline sentence is defined as a guideline sentence that is not imposed to run concurrent or consecutive with a "pre-guideline" sentence. In addition, the analysis is based on computed variables regarding departures and 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 2012, a total number of 6,742 pure guideline sentences were utilized for this analysis, including 1,517 incarceration guideline sentences and 5,225 probation sentences. Figure 49 demonstrates that 80.3% of the 6,742 guideline sentences were within the presumptive guideline grids, 9.2% indicated durational departures and 10.5% were dispositional departures. Of all the sentences within the presumptive guideline grids, 4,482 sentences (82.8%) fell within either the presumptive prison boxes or presumptive probation boxes, while 934 sentences (17.2%) were located on designated border boxes. Figure 50 indicates that 81.4% (576 sentences) of the 708 dispositional departures were downward departures and 18.6% (132 sentences) were upward dispositional departures. More than

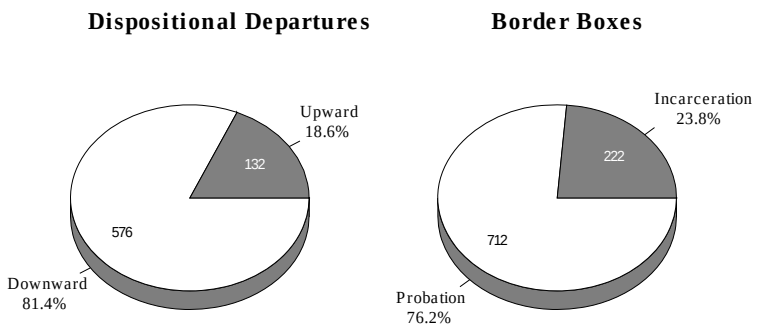
76% of the 934 border box sentences resulted in probation sentences with 23.8% of this group sentenced to prison. The analysis of durational departure sentences is only applicable to presumptive prison sentences.

**Figure 49: Distribution of FY 2012 Overall Guideline Sentences**




Based on 1,517 prison and 5,225 probation sentences

**Figure 50: Distribution of FY 2012 Dispositional Departure and Border Box Sentences**



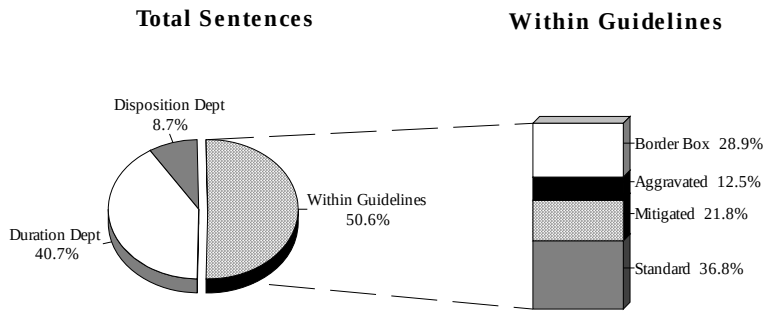

Based on 708 dispositional departures and 934 border box sentences

## 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 1,517 presumptive prison guideline sentences of FY 2012 were analyzed for this purpose.

Approximately 51% of the total sentences fell within the presumptive incarceration range. Of these sentences within the guidelines, 36.8% were within the standard range, 12.5% were within the aggravated range, 21.8% were within the mitigated range and 28.9% were located within designated border boxes (Figure 51). This distribution of sentences remains comparatively constant compared with FY 2011.

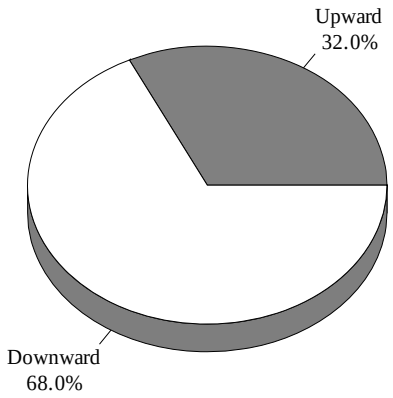
**Figure 51: FY 2012 Incarceration Guideline Sentences**




Based on 1,517 guideline sentences

Sixty-eight percent of the durational departure sentences departed downward from the sentence lengths indicated on the presumptive range, while 32% 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 2011 (Figure 52).

**Figure 52: FY 2012 Incarceration Durational Departure Sentences**

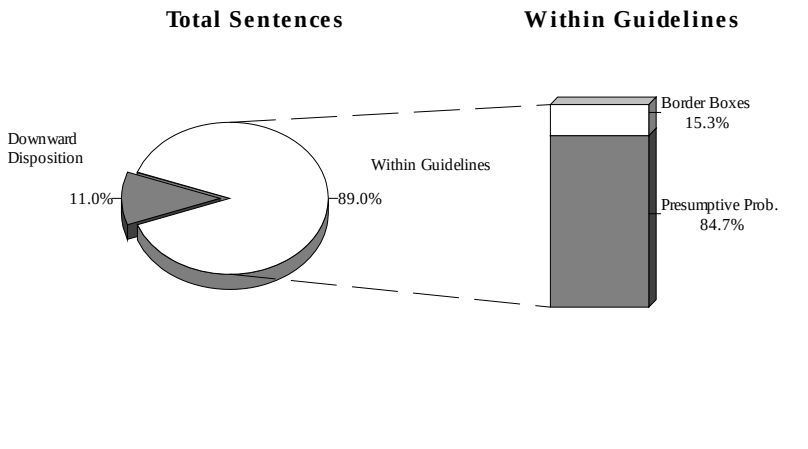



Based on 618 durational departure sentences

## 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 2012 (89% or 4,649 cases) fell within the presumptive guideline range, among which 84.7% were within presumptive probation grids and 15.3% were within border boxes (Figure 53). The sentences within the presumptive guideline range (4,649) accounted for 60.5% of the total probation sentences imposed in FY 2012 (7,688), which decreased by 1.1% compared to the percentage rate of FY 2011 (61.6%). Further analysis of the dispositional departures indicates that probation sentences reflected downward dispositional departures of 11% of the total probation guideline sentences in FY 2012 (Figure 53). Upward dispositional departure sentences were reflected in presumptive incarceration sentences (Refer to Figure 51).

**Figure 53: FY 2012 Probation Guideline Sentences**

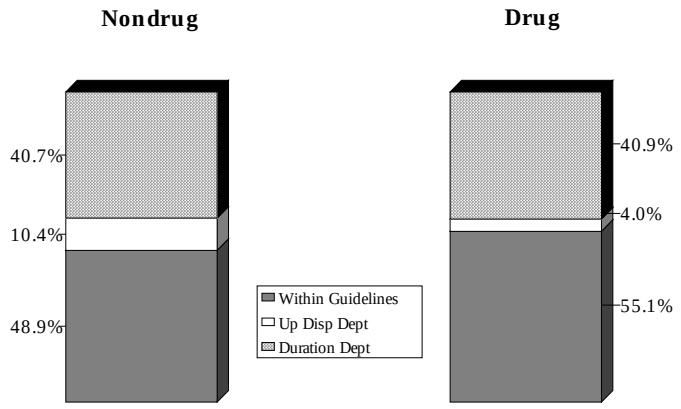



Based on 5,225 probation guideline sentences

## CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES

The comparative study of nondrug and drug guideline incarceration sentences reveals that 10.4% of nondrug offenders showed upward dispositional departures, while 4% of drug offenders indicated upward dispositional departures. Additionally, nondrug offenders represented 40.7% durational departures and drug offenders showed 40.9% durational departures (Figure 54).

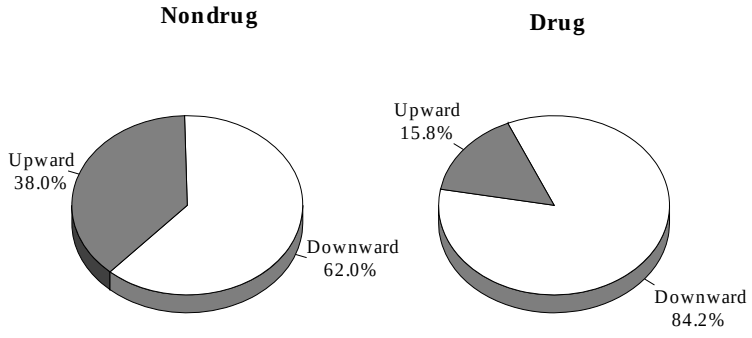
**Figure 54: FY 2012 Nondrug and Drug Guideline Sentences - Incarceration**




Based on 1,114 nondrug and 403 drug sentences

The examination of durational departures indicates that downward departures represented 84.2% of the total durational departures on the drug grid. However, on the nondrug grid, 62% of durational departures were downward (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 26).

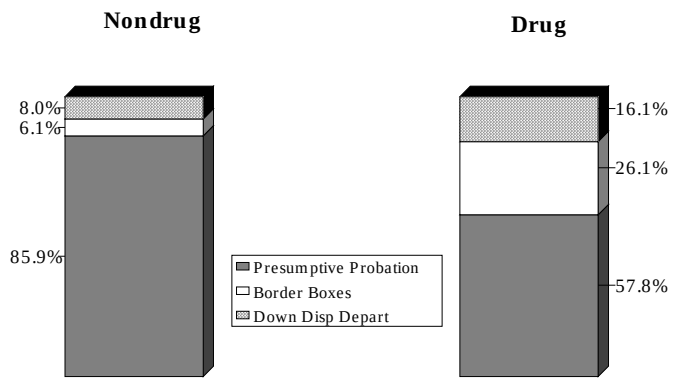
**Figure 55: Comparison of Durational Departures between Nondrug and Drug Incarceration Sentences**




Based on 453 nondrug and 165 drug durational departure sentences

Figure 56 presents the disparities between nondrug and drug offenders on probation, as well. Drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (16.1% vs. 8%). The rate of drug probation sentences resulting from border boxes was much higher than that of nondrug probation sentences (26.1% vs. 6.1%).

**Figure 56: FY 2012 Nondrug and Drug Guideline Sentences - Probation**




Based on 3,259 nondrug and 1,966 drug guideline sentences

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

## CONFORMITY RATES TO THE GUIDELINES BY SEVERITY LEVEL

Table 26 presents the conformity rates of incarceration sentences to the guidelines at each severity level. Drug incarceration sentences, as a whole, indicated a 13.9 % standard, 2% aggravated, 8.4% mitigated and 30.8% border box sentence distribution. Nondrug sentences revealed a 20.3% standard, 7.9% aggravated, 11.9% mitigated and 8.8% border box sentence distribution. As for the departure sentences, drug sentences showed 6.5% upward durational departures and 34.5% downward durational departures, whereas nondrug sentences showed a 15.4% upward durational departure rate and a 25.2% downward durational departure rate. The highest rate of downward durational departures was identified at drug severity level 1 (91.3%) for drug incarceration sentences and nondrug severity level 3 (35.3%) for nondrug incarceration sentences. When examining dispositional departures, 10.4% of nondrug incarceration sentences were upward dispositional departures. By contrast, only 4% 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 sixteen years.

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

| Severity Level | N | Within Guidelines (%) | | | | Departures (%) | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | Durational | | Dispositional |
| | | Agg. | Standard | Mit. | Box | Upward | Downward | Upward |
| D1 | 46 | | 6.5 | 2.2 | | | 91.3 | |
| D2 | 47 | 2.1 | 23.4 | 8.5 | | 21.3 | 44.7 | |
| D3 | 142 | 1.4 | 7.7 | 7.7 | 64.8 | 4.2 | 14.1 | |
| D4 | 168 | 3.0 | 18.5 | 10.7 | 19.0 | 6.0 | 33.3 | 9.5 |
| **Subtotal** | **403** | **2.0** | **13.9** | **8.4** | **30.8** | **6.5** | **34.5** | **4.0** |
| N1 | 77 | 11.7 | 16.9 | 9.1 | | 35.1 | 27.3 | |
| N2 | 13 | 15.4 | 15.4 | 23.1 | | 23.1 | 23.1 | |
| N3 | 170 | 5.9 | 27.1 | 8.2 | | 23.5 | 35.3 | |
| N4 | 63 | 19.0 | 22.2 | 9.5 | | 19.0 | 30.2 | |
| N5 | 283 | 5.3 | 13.8 | 4.2 | 32.9 | 10.6 | 33.2 | |
| N6 | 35 | 8.6 | 22.9 | 5.7 | 14.3 | 20.0 | 22.9 | 5.7 |
| N7 | 171 | 5.3 | 17.0 | 15.8 | | 16.4 | 18.7 | 26.9 |
| N8 | 93 | 5.4 | 18.3 | 21.5 | | 12.9 | 10.8 | 31.2 |
| N9 | 181 | 11.6 | 26.0 | 19.9 | | 6.1 | 15.5 | 21.0 |
| N10 | 28 | 7.1 | 39.3 | 21.4 | | 7.1 | 21.4 | 3.6 |
| **Subtotal** | **1,114** | **7.9** | **20.3** | **11.9** | **8.8** | **15.4** | **25.2** | **10.4** |
| **TOTAL** | **1,517** | **6.3** | **18.6** | **11.0** | **14.6** | **13.1** | **27.7** | **8.7** |

Table 27 displays the conformity rates of probation sentences to the guidelines by severity level. Probation drug sentences indicated 16.1% downward dispositional departures, which should have been presumptive incarceration, while only 8% 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 (26.1% versus 6.1%). 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 sixteen years.

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

| Severity Level | N | Presumptive Probation (%) | Border Boxes (%) | Downward Disposition (%) |
|---|---|---|---|---|
| D1 | 6 | | | 100.0 |
| D2 | 22 | | | 100.0 |
| D3 | 579 | | 88.8 | 11.2 |
| D4 | 1,359 | 83.6 | | 16.4 |
| **Subtotal** | **1,966** | **57.8** | **26.1** | **16.1** |
| N1 | 1 | | | 100.0 |
| N2 | 1 | | | 100.0 |
| N3 | 29 | | | 100.0 |
| N4 | 20 | | | 100.0 |
| N5 | 260 | | 75.0 | 25.0 |
| N6 | 74 | 70.3 | 4.1 | 25.7 |
| N7 | 842 | 96.4 | | 3.6 |
| N8 | 648 | 95.7 | | 4.3 |
| N9 | 1,178 | 95.0 | | 5.0 |
| N10 | 206 | 96.1 | | 3.9 |
| **Subtotal** | **3,259** | **85.9** | **6.1** | **8.0** |
| **TOTAL** | **5,225** | **75.9** | **13.6** | **10.5** |

## CONFORMITY RATES TO THE GUIDELINES BY RACE

Tables 28 and 29 present the conformity rates to the sentencing guidelines by race, respectively, for the drug and nondrug offenders admitted to prison in FY 2012. The examination of drug incarceration sentences within guidelines indicates that except mitigated sentences, whites received more sentences of aggravated, standard and border box sentences than blacks. However, black offenders represented a higher percentage than white offenders in both upward and downward durational departure sentences (7.7% vs. 5.9%; 39.4% vs. 32.4%). When reviewing sentence dispositional departures, whites indicated a higher percentage of upward dispositional departures (4.8% vs. 1%) than black offenders (Table 28).

The analysis of nondrug incarceration sentences demonstrates the same distribution patterns with the drug offenders. White nondrug offenders represented higher percentages in aggravated sentences (8.6% vs. 6.2%), standard (21.1% vs. 19%) and border box sentences (9.4% vs. 6.8%) except mitigated sentences. Black nondrug offenders represented higher rates than white nondrug offenders in both upward and downward durational departures (16% vs. 15.3%; 29.7% vs. 23.3%). White offenders received more upward dispositional departures (11.7% vs. 7.7%) than black offenders for nondrug offenses (Table 29).

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

| Severity Level | Race | N | Within Guidelines (%) | | | | Departures (%) | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Durational | | Dispositional |
| | | | Agg. | Standard | Mit. | Box | Upward | Downward | Upward |
| D1 | White | 44 | | 6.8 | 2.3 | | | 90.9 | |
| | Black | 1 | | | | | | 100.0 | |
| | Other | 1 | | | | | | 100.0 | |
| D2 | White | 34 | 2.9 | 29.4 | 8.8 | | 17.6 | 41.2 | |
| | Black | 12 | | 8.3 | 8.3 | | 25.0 | 58.3 | |
| | Other | 1 | | | | | 100.0 | | |
| D3 | White | 101 | 1.0 | 7.9 | 6.9 | 69.3 | 4.0 | 10.9 | |
| | Black | 39 | 2.6 | 7.7 | 10.3 | 51.3 | 5.1 | 23.1 | |
| | Other | 2 | | | | 100.0 | | | |
| D4 | White | 111 | 3.6 | 20.7 | 9.9 | 20.7 | 6.3 | 26.1 | 12.6 |
| | Black | 52 | 1.9 | 15.4 | 13.5 | 15.4 | 5.8 | 46.2 | 1.9 |
| | Other | 5 | | | | 20.0 | | 60.0 | 20.0 |
| **Total** | **White** | **290** | **2.1** | **15.2** | **7.6** | **32.1** | **5.9** | **32.4** | **4.8** |
| | **Black** | **104** | **1.9** | **11.5** | **11.5** | **26.9** | **7.7** | **39.4** | **1.0** |
| | **Other** | **9** | | | | **33.3** | **11.1** | **44.4** | **11.1** |

Note: Based on 403 drug incarceration guideline sentences reporting race of offenders.

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

| Severity Level | Race | N | Within Guidelines (%) | | | | Departures (%) | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Durational | | Dispositional |
| | | | Agg. | Standard | Mit. | Box | Upward | Downward | Upward |
| N1 | White | 52 | 9.6 | 15.4 | 11.5 | | 36.5 | 26.9 | |
| | Black | 23 | 13.0 | 21.7 | 4.3 | | 30.5 | 30.5 | |
| | Other | 2 | 50.0 | | | | 50.0 | | |
| N2 | White | 7 | 14.3 | 14.3 | 42.9 | | 14.3 | 14.3 | |
| | Black | 6 | 16.7 | 16.7 | | | 33.3 | 33.3 | |
| | Other | 0 | | | | | | | |
| N3 | White | 115 | 7.0 | 25.2 | 7.0 | | 26.1 | 34.8 | |
| | Black | 53 | 3.8 | 28.3 | 11.3 | | 18.9 | 37.7 | |
| | Other | 2 | | 100.0 | | | | | |
| N4 | White | 41 | 19.5 | 22.0 | 7.3 | | 22.0 | 29.3 | |
| | Black | 21 | 19.0 | 23.8 | 9.5 | | 14.3 | 33.3 | |
| | Other | 1 | | | 100.0 | | | | |
| N5 | White | 192 | 6.3 | 15.6 | 2.1 | 34.4 | 10.4 | 31.3 | |
| | Black | 84 | 3.6 | 9.5 | 9.5 | 27.4 | 11.9 | 38.1 | |
| | Other | 7 | | 14.3 | | 57.1 | | 28.6 | |
| N6 | White | 30 | 6.7 | 26.7 | 6.7 | 16.7 | 20.0 | 16.7 | 6.7 |
| | Black | 5 | 20.0 | | | | 20.0 | 60.0 | |
| | Other | 0 | | | | | | | |
| N7 | White | 104 | 4.8 | 17.3 | 13.5 | | 12.5 | 14.4 | 37.5 |
| | Black | 60 | 6.7 | 18.3 | 16.7 | | 21.7 | 26.7 | 10.0 |
| | Other | 7 | | | 42.9 | | 28.6 | 14.3 | 14.3 |
| N8 | White | 64 | 7.8 | 20.3 | 15.6 | | 14.1 | 9.4 | 32.8 |
| | Black | 28 | | 14.3 | 35.7 | | 10.7 | 14.3 | 25.0 |
| | Other | 1 | | | | | | | 100.0 |
| N9 | White | 123 | 13.8 | 27.6 | 19.5 | | 4.9 | 13.8 | 20.3 |
| | Black | 53 | 5.7 | 24.5 | 20.8 | | 9.4 | 15.1 | 24.5 |
| | Other | 5 | 20.0 | | 20.0 | | | 60.0 | |
| N10 | White | 24 | 8.3 | 37.5 | 20.8 | | 8.3 | 20.8 | 4.2 |
| | Black | 4 | | 50.0 | 25.0 | | | 25.0 | |
| | Other | 0 | | | | | | | |
| **Total** | **White** | **752** | **8.6** | **21.1** | **10.5** | **9.4** | **15.3** | **23.3** | **11.7** |
| | **Black** | **337** | **6.2** | **19.0** | **14.5** | **6.8** | **16.0** | **29.7** | **7.7** |
| | **Other** | **25** | **8.0** | **12.0** | **20.0** | **16.0** | **12.0** | **24.0** | **8.0** |

Note: Based on 1,114 nondrug incarceration guideline sentences reporting race of offenders.

Tables 30 and 31 exhibit the conformity rates by race for offenders sentenced to probation during FY 2012. White offenders received more presumptive probation sentences for drug offenses than black offenders (60.1% vs. 46.8%) but black drug offenders indicated a higher rate of border box sentences (30.1% vs. 25.4%) and downward dispositional departures (23.1% vs. 14.4%) than white drug offenders (Table 30). This racial conformity rate pattern is consistent with that of FY 2011.

The analysis of conformity rates of the probation sentences of the nondrug offenders reveals that similar to the drug sentence pattern, white nondrug offenders received more presumptive probation sentences than black nondrug offenders (87.2% vs. 80.9%), while black offenders represented a higher percentage of border box sentences (7.5% vs. 5.7%) and downward dispositional departures (11.6% vs. 7%) than white offenders for nondrug offenses (Table 31).

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

| Severity Level | Race | N | Presumptive Probation (%) | Border Boxes (%) | Downward Disposition (%) |
|---|---|---|---|---|---|
| D1 | White | 6 | | | 100.0 |
| | Black | 0 | | | |
| | Other | 0 | | | |
| D2 | White | 15 | | | 100.0 |
| | Black | 6 | | | 100.0 |
| | Other | 1 | | | 100.0 |
| D3 | White | 445 | | 89.0 | 11.0 |
| | Black | 129 | | 87.6 | 12.4 |
| | Other | 4 | | 100.0 | |
| D4 | White | 1,092 | 85.8 | | 14.2 |
| | Black | 241 | 73.0 | | 27.0 |
| | Other | 24 | 87.5 | | 12.5 |
| **Total** | **White** | **1,558** | **60.1** | **25.4** | **14.4** |
| | **Black** | **376** | **46.8** | **30.1** | **23.1** |
| | **Other** | **29** | **72.4** | **13.8** | **13.8** |

Note: Based on 1,963 drug probation sentences reporting race of offenders.

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

| Severity Level | Race | N | Presumptive Probation (%) | Border Boxes (%) | Downward Disposition (%) |
|---|---|---|---|---|---|
| N1 | White | 0 | | | |
| | Black | 1 | | | 100.0 |
| | Other | 0 | | | |
| N2 | White | 1 | | | 100.0 |
| | Black | 0 | | | |
| | Other | 0 | | | |
| N3 | White | 23 | | | 100.0 |
| | Black | 5 | | | 100.0 |
| | Other | 1 | | | 100.0 |
| N4 | White | 13 | | | 100.0 |
| | Black | 7 | | | 100.0 |
| | Other | 0 | | | |
| N5 | White | 181 | | 78.5 | 21.5 |
| | Black | 76 | | 67.1 | 32.9 |
| | Other | 3 | | 66.7 | 33.3 |
| N6 | White | 56 | 71.4 | 3.6 | 25.0 |
| | Black | 14 | 57.1 | 7.1 | 35.7 |
| | Other | 4 | 100.0 | | |
| N7 | White | 655 | 96.8 | | 3.2 |
| | Black | 174 | 95.4 | | 4.6 |
| | Other | 12 | 91.7 | | 8.3 |
| N8 | White | 495 | 97.0 | | 3.0 |
| | Black | 140 | 90.7 | | 9.3 |
| | Other | 13 | 100.0 | | |
| N9 | White | 922 | 95.3 | | 4.7 |
| | Black | 238 | 93.3 | | 6.7 |
| | Other | 18 | 100.0 | | |
| N10 | White | 163 | 95.7 | | 4.3 |
| | Black | 41 | 97.6 | | 2.4 |
| | Other | 2 | 100.0 | | |
| **Total** | **White** | **2,509** | **87.2** | **5.7** | **7.0** |
| | **Black** | **696** | **80.9** | **7.5** | **11.6** |
| | **Other** | **53** | **90.6** | **3.8** | **5.7** |

Note: Based on 3,258 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 2012. Male drug offenders represented higher rates than female drug offenders in standard sentences (14% vs. 7%) and mitigated sentences (8.6% vs. 7%). All aggravated sentenced were committed by male offenders. Females received more border box sentences for drug crimes than males (32.6% vs. 30.6%). The examination of departure sentences demonstrates that male drug offenders received more than female drug offenders at upward durational departures (6.9% vs. 2.3%) while female drug offenders represented a higher rate in downward durational departures (41.9% vs. 33.6%) and upward dispositional departures (9.3% vs. 3.3 %) than their counterparts (Table 32).

The evaluation of nondrug incarceration sentences reveals that within guidelines, males represented a higher percentage than females in aggravated sentences (8% vs. 6.8%), standard sentences (20.7% vs. 14.9%) and mitigated sentences (12.3% vs. 6.8%). While females received higher rate of border box sentences than male offenders for nondrug crimes (12.2% vs. 8.6%). The analysis of departure sentences reveals that male nondrug offenders stood for the higher rate of upward durational departures (15.8% vs. 10.8%) than female offenders. However female offenders represented higher percentages of downward durational departures (28.4% vs. 25%) and upward dispositional departures (20.3% vs. 9.7%) than their counterparts (Table 33), which is different from the findings of FY 2011.

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

| Severity Level | Gender | N | Within Guidelines (%) | | | | Departures (%) | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Durational | | Dispositional |
| | | | Agg | Standard | Mit. | Box | Upward | Downward | Upward |
| D1 | Male | 36 | | 8.3 | 2.8 | | | 88.9 | |
| | Female | 10 | | | | | | 100.0 | |
| D2 | Male | 40 | 2.5 | 22.5 | 7.5 | | 25.0 | 42.5 | |
| | Female | 7 | | 28.6 | 14.3 | | | 57.1 | |
| D3 | Male | 131 | 1.5 | 8.4 | 7.6 | 64.1 | 4.6 | 13.7 | |
| | Female | 11 | | | 9.1 | 72.7 | | 18.2 | |
| D4 | Male | 153 | 3.3 | 19.6 | 11.1 | 17.0 | 5.9 | 35.3 | 7.8 |
| | Female | 15 | | 6.7 | 6.7 | 40.0 | 6.7 | 13.3 | 26.7 |
| **Total** | **Male** | **360** | **2.2** | **14.7** | **8.6** | **30.6** | **6.9** | **33.6** | **3.3** |
| | **Female** | **43** | | **7.0** | **7.0** | **32.6** | **2.3** | **41.9** | **9.3** |

Note: Based on 403 drug incarceration guideline sentences.

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

| Severity Level | Gender | N | Within Guidelines (%) | | | | Departures (%) | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Durational | | Dispositional |
| | | | Agg. | Standard | Mit. | Box | Upward | Downward | Upward |
| N1 | Male | 72 | 12.5 | 16.7 | 9.7 | | 34.7 | 26.4 | |
| | Female | 5 | | 20.0 | | | 40.0 | 40.0 | |
| N2 | Male | 11 | 9.1 | 18.2 | 27.3 | | 27.3 | 18.2 | |
| | Female | 2 | 50.0 | | | | | 50.0 | |
| N3 | Male | 154 | 6.5 | 27.3 | 8.4 | | 23.4 | 34.4 | |
| | Female | 16 | | 25.0 | 6.3 | | 25.0 | 43.8 | |
| N4 | Male | 55 | 18.2 | 20.0 | 10.9 | | 20.0 | 30.9 | |
| | Female | 8 | 25.0 | 37.5 | | | 12.5 | 25.0 | |
| N5 | Male | 263 | 5.3 | 14.1 | 4.2 | 31.9 | 11.4 | 33.1 | |
| | Female | 20 | 5.0 | 10.0 | 5.0 | 45.0 | | 35.0 | |
| N6 | Male | 33 | 9.1 | 24.2 | 6.1 | 15.2 | 18.2 | 21.2 | 6.1 |
| | Female | 2 | | | | | 50.0 | 50.0 | |
| N7 | Male | 167 | 5.4 | 17.4 | 15.6 | | 16.8 | 19.2 | 25.7 |
| | Female | 4 | | | 25.0 | | | | 75.0 |
| N8 | Male | 87 | 5.7 | 19.5 | 20.7 | | 13.8 | 11.5 | 28.7 |
| | Female | 6 | | | 33.3 | | | | 66.7 |
| N9 | Male | 171 | 11.7 | 26.9 | 21.1 | | 6.4 | 16.4 | 17.5 |
| | Female | 10 | 10.0 | 10.0 | | | | | 80.0 |
| N10 | Male | 27 | 7.4 | 40.7 | 22.2 | | 7.4 | 18.5 | 3.7 |
| | Female | 1 | | | | | | 100.0 | |
| **Total** | **Male** | **1,040** | **8.0** | **20.7** | **12.3** | **8.6** | **15.8** | **25.0** | **9.7** |
| | **Female** | **74** | **6.8** | **14.9** | **6.8** | **12.2** | **10.8** | **28.4** | **20.3** |

Note: Based on 1,114 nondrug incarceration guideline sentences.

Tables 34 and 35 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 (7% vs. 19.3%, Table 34; 3.2% vs. 9.6%, Table 35), which is consistent with those of FY 2011. This finding indicates that 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 32 and 33). Females were less likely to receive a downward dispositional departure to probation if their sentences fell within a presumptive prison box (Tables 34 and 35). The above findings continue the trend that was present in the past sixteen years (Annual Reports of FY 1996 - FY 2011).

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

| Severity Level | Gender | N | Presumptive Probation (%) | Border Boxes (%) | Downward Disposition (%) |
|---|---|---|---|---|---|
| D1 | Male | 4 | | | 100.0 |
| | Female | 2 | | | 100.0 |
| D2 | Male | 15 | | | 100.0 |
| | Female | 7 | | | 100.0 |
| D3 | Male | 448 | | 87.5 | 12.5 |
| | Female | 130 | | 93.1 | 6.9 |
| D4 | Male | 986 | 79.2 | | 20.8 |
| | Female | 372 | 95.2 | | 4.8 |
| **Total** | **Male** | **1,453** | **53.8** | **27.0** | **19.3** |
| | **Female** | **511** | **69.3** | **23.7** | **7.0** |

Note: Based on 1,964 drug probation sentences reporting gender of offenders.

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

| Severity Level | Gender | N | Presumptive Probation (%) | Border Boxes (%) | Downward Disposition (%) |
|---|---|---|---|---|---|
| N1 | Male | 1 | | | 100.0 |
| | Female | 0 | | | |
| N2 | Male | 1 | | | 100.0 |
| | Female | 0 | | | |
| N3 | Male | 25 | | | 100.0 |
| | Female | 4 | | | 100.0 |
| N4 | Male | 16 | | | 100.0 |
| | Female | 4 | | | 100.0 |
| N5 | Male | 222 | | 73.0 | 27.0 |
| | Female | 38 | | 86.8 | 13.2 |
| N6 | Male | 65 | 70.8 | 3.1 | 26.2 |
| | Female | 9 | 66.7 | 11.1 | 22.2 |
| N7 | Male | 702 | 96.3 | | 3.7 |
| | Female | 139 | 97.1 | | 2.9 |
| N8 | Male | 375 | 93.1 | | 6.9 |
| | Female | 273 | 99.3 | | 0.7 |
| N9 | Male | 873 | 93.8 | | 6.2 |
| | Female | 305 | 98.4 | | 1.6 |
| N10 | Male | 140 | 95.0 | | 5.0 |
| | Female | 66 | 98.5 | | 1.5 |
| **Total** | **Male** | **2,420** | **83.6** | **6.8** | **9.6** |
| | **Female** | **838** | **92.7** | **4.1** | **3.2** |

Note: Based on 3,258 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 2012 Legislative Session, thirty-nine 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 36 and 37 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 26.7% in FY 2008 to 38.5% in FY 2012. FY 2012 indicated the highest number (660 admissions) or percentage (38.5%) 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 10% in FY 2008 and increased to 11.8% in FY 2012 (Table 36). The total percentage of both prison and probation sentences applied with special rules increased from 13% in FY 2008 to 18.2% in FY 2012 (Table 37).

During FY 2012, a number of 660 pure guideline prison sentences and 635 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 38.5% of prison pure guideline admissions (1,713 admissions) and 11.8% of pure guideline probation sentences (5,395) imposed in FY 2012 (Tables 36).

The top three special sentencing rules applied to prison sentences in sentencing practice during FY 2012 were “person felony committed with a firearm” (122 sentences) representing 18.5% of 660 prison sentences applied with special sentencing rules, “crime committed while incarcerated or on probation, parole, etc.” (339 sentences) representing 51.4% and “crime committed while on felony bond” (108 sentences) making up 16.4% of prison admissions with special sentencing rules during FY 2012 (Table 38).

These three special sentencing rules were applied most frequently to probation sentences imposed in FY 2012, as well. The special rule of “person felony committed with a firearm” (56 sentences) accounted for 8.8% of the total 635 probation sentences applied with special sentencing rules, “crime committed while incarcerated or on probation, parole, etc.” (252 sentences) accounted for 39.7% and “crime committed while on felony bond” (161 sentences) accounted for 25.4% (Table 39).

**Table 36: Pure Guideline Sentences Applied with Special Sentencing Rules**
**By Prison and Probation**
**FY 2008 through FY 2012**

| Fiscal Year | Prison Admissions | | | Probation Sentences | | |
|---|---|---|---|---|---|---|
| | Guideline | with Special Rules | | Guideline | with Special Rules | |
| | | Number | Percent | | Number | Percent |
| 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 |
| 2012 | 1713 | 660 | 38.5 | 5395 | 635 | 11.8 |

**Table 37: Pure Guideline Sentences Applied with Special Sentencing Rules**
**By Total Sentences**
**FY 2008 through FY 2012**

| Fiscal Year | Guideline | with Special Rules | |
|---|---|---|---|
| | | Number | Percent |
| 2008 | 7325 | 954 | 13.0% |
| 2009 | 7273 | 1136 | 15.6% |
| 2010 | 7366 | 1214 | 16.5% |
| 2011 | 7516 | 1259 | 16.8% |
| 2012 | 7108 | 1295 | 18.2% |

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

**Table 38: Distribution of Special Sentencing Rules Applied To Prison Sentences – FY 2012**

| Special Rules Applied to Sentences | Number | Percent |
|---|---|---|
| Crime committed while incarcerated or on probation, parole, etc. | 339 | 51.4 |
| Person felony committed with a firearm | 122 | 18.5 |
| Crime committed while on felony bond | 108 | 16.4 |
| Burglary with 2 or more prior theft, burglary, aggravated burglary | 44 | 6.7 |
| Theft with 3 or more prior theft, burglary, aggravated burglary | 34 | 5.2 |
| Residential burglary with a prior residential, nonresidential or aggravated burglary conviction | 27 | 4.1 |
| Third or subsequent drug possession | 19 | 2.9 |
| Persistent sex offender | 10 | 1.5 |
| Third or subsequent forgery | 8 | 1.2 |
| Aggravated assault of a LEO | 5 | 0.8 |
| Crime committed for benefit of a criminal street gang | 5 | 0.8 |
| Battery on a LEO resulting in bodily harm | 5 | 0.8 |
| Extended juvenile jurisdiction imposed | 2 | 0.3 |
| Aggravated endangering a child | 2 | 0.3 |
| Aggravated battery of a LEO | 1 | 0.2 |
| Felony criminal deprivation of a motor vehicle | 1 | 0.2 |
| Felony domestic battery | 1 | 0.2 |
| 2nd /subsequent manufacture controlled substance | 1 | 0.2 |
| Second forgery | 1 | 0.2 |

Note: The number and percentage are mutually exclusive.

**Table 39: Distribution of Special Sentencing Rules Applied To Probation Sentences – FY 2012**

| Special Rules Applied to Sentences | Number | Percent |
|---|---|---|
| Crime committed while incarcerated or on probation, parole, etc. | 252 | 39.7 |
| Crime committed while on felony bond | 161 | 25.4 |
| Person felony committed with a firearm | 56 | 8.8 |
| Third or subsequent drug possession | 41 | 6.5 |
| Theft with 3 or more prior felony theft, burglary, aggravated burglary | 35 | 5.5 |
| Burglary with 2 prior burglary convictions | 32 | 5 |
| Third or subsequent forgery | 31 | 4.9 |
| Second forgery | 23 | 3.6 |
| Residential burglary with a prior residential, nonresidential or aggravated burglary conviction | 18 | 2.8 |
| Aggravated endangering a child | 9 | 1.4 |
| Aggravated assault of a LEO | 6 | 0.9 |
| Drug felony with a firearm | 4 | 0.6 |
| Battery on a LEO resulting in bodily harm | 4 | 0.6 |
| Extended juvenile jurisdiction imposed | 3 | 0.5 |
| Second or subsequent identity theft or identity fraud | 3 | 0.5 |
| Crime committed for benefit of a criminal street gang | 1 | 0.2 |
| Crime committed while incarcerated in a juvenile correction (felony) | 1 | 0.2 |
| Unlawful sexual relations | 1 | 0.2 |
| Other | 15 | 2.4 |

Note: The number and percentage are mutually exclusive.

# CHAPTER FOUR
# SENTENCING TRENDS AND FORECAST

## INCARCERATION SENTENCES

The total prison admission in the past five years indicates a growing trend. The number of admissions in FY 2012 increased by 272 or 5.8% compared with FY 2008, by 27 or 0.5% compared with FY 2010 and by 35 or 0.7% compared with FY 2011. In the recent three years, admissions remain comparatively constant with little fluctuation (Figure 57). Table 40 displays the prison admission patterns by month in the past five years.

**Figure 57: Incarceration Sentences**
**FY 2008 through FY 2012**

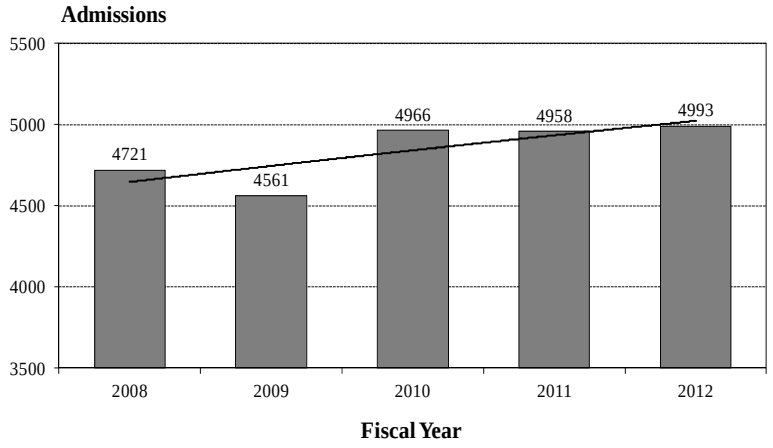



**Table 40: Prison Admissions by Month**

| Month by Fiscal Year | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|---|---|---|---|---|---|
| July | 436 | 417 | 450 | 410 | 385 |
| August | 422 | 308 | 384 | 413 | 495 |
| September | 362 | 398 | 412 | 430 | 399 |
| October | 451 | 366 | 415 | 366 | 401 |
| November | 392 | 345 | 384 | 418 | 416 |
| December | 312 | 364 | 423 | 444 | 418 |
| January | 431 | 359 | 352 | 358 | 368 |
| February | 371 | 361 | 405 | 387 | 394 |
| March | 385 | 451 | 497 | 467 | 411 |
| April | 380 | 408 | 432 | 392 | 402 |
| May | 395 | 333 | 362 | 441 | 515 |
| June | 384 | 451 | 450 | 432 | 389 |
| **Total** | **4,721** | **4,561** | **4,966** | **4,958** | **4,993** |

The trend of admissions to prison by type in the past five fiscal years is demonstrated in Tale 41. Compares with FY 2008, admissions of different types of offenders increased in FY 2012 except parole/postrelease/CR condition violators and parole/postrelease/CR violators with new sentences. The admission number of new court commitments in FY 2012 increased by 31.8% over that of FY 2008 but decreased by 1% from that of FY 2011, which 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 2012 increased by 3.6% compared with FY 2008 and by 3.4% compared with FY 2011. Probation violators with new sentences admitted to prison in FY 2012 increased by 15.4% compared with FY 2008 and significantly increased by 97.8% compared with FY 2011. The number of parole/postrelease and conditional release violators admitted to prison in FY 2012 greatly decreased by 24.7% from that of FY 2008 and by 7% from that of FY 2011. The number of parole/post-release/condition release violators with new sentences in FY 2012 decreased by 9.6% and 12.4% respectively from those of FY 2008 and FY 2011.

**Table 41: Comparison of Prison Admissions by Type**

| Admission Type | FY2008 | FY2009 | FY2010 | FY2011 | FY2012 | FY 2012-2008 % Difference |
|---|---|---|---|---|---|---|
| New Court Commitment | 1,498 | 1,724 | 1,908 | 1,995 | 1,975 | 31.8% |
| Probation Condition Violator | 1,624 | 1,462 | 1,717 | 1,626 | 1,682 | 3.6% |
| Probation Violator with New Sentence | 156 | 89 | 84 | 91 | 180 | 15.4% |
| Parole/Postrelease/CR Condition Violator | 1,268 | 1,154 | 1,084 | 1,027 | 955 | -24.7% |
| Parole/Postrelease/CR Violator with New Sentence | 156 | 109 | 141 | 161 | 141 | -9.6% |
| Other Types* | 19 | 23 | 32 | 58 | 60 | 215.8% |
| **Total** | **4,721** | **4,561** | **4,966** | **4,958** | **4,993** | 5.8% |

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

The admission trend of incarceration drug sentences by severity level in the past five fiscal years is presented in Table 42. In FY 2012, admissions of drug offenders at drug levels 1 and 2 decreased by 26.1% and 14.1% respectively from those of FY 2008. While admissions of drug offenders at drug levels 3 and 4 increased by 7.9% and 1.4% respectively over those of FY 2008. When compared with FY 2011, admissions at all drug levels indicated a decrease except drug level 4 with an increase of 4.2% over that of FY 2011. The total number of drug offenders admitted to prison in FY 2012 decreased by 0.4% compared with that of FY 2008 and decreased by 2.4% compared with that of FY 2011.

Table 43 exhibits the admission trend of nondrug offenders in the past five. The total number of nondrug admissions increased by 8.1% over that of FY 2008. The most notable increase of nondrug admissions in the past five years were identified at the off-grid increased by 41.3%. The admissions at levels 4, 5, 7, 8 and 9 increased,

respectively, by 17.2%, 20.3%, 21.4%, 27.8% and 16.4%. The most significant decrease in the past five years was found at level 10 with a decrease of 50.5% followed by level 2 with a decrease of 33.9%, nongrid with a decrease of 32.1% and level 3 with a decrease of 11.6%. Certain changes were also identified in the numbers of sentences at nondrug severity level 1 with a decrease of 5.3% and level 6 with a decrease of 7.9% from those of FY 2008. Nongrid offenders admitted to prison in FY 2012 were all violators under the crime of DUI (74 offenders), demonstrating a decrease of 35 offenders or 32.1% compared with FY 2008 and a decrease of 3 offenders compared with FY 2011 (Table 43).

When compared with FY 2011, the total number of nondrug admissions in FY 2012 increased by 1.8%. The number at nondrug severity level 8 increased by 12.9%, followed by level 5 with an increase of 8.1% and level 1 with an increase of 4.9%. The number of admissions at level 2 decreased by 18.8% followed by offgrid with a decrease of 15.9%, level 3 with a decrease of 12.7% and level 6 with a decrease of 7.9%. The admissions at other nondrug levels did not fluctuate much compared with those of FY 2011 (Table 43).

**Table 42: Comparison of Drug Prison Admissions by Severity Level**

| Severity Level | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2012-2011 % Difference | FY 2012-2008 % Difference |
|---|---|---|---|---|---|---|---|
| D1 | 115 | 110 | 98 | 111 | 85 | **-23.4%** | **-26.1%** |
| D2 | 99 | 93 | 93 | 99 | 85 | **-14.1%** | **-14.1%** |
| D3 | 367 | 347 | 387 | 418 | 396 | **-5.3%** | **7.9%** |
| D4 | 726 | 652 | 751 | 706 | 736 | **4.2%** | **1.4%** |
| **Total** | **1,307** | **1,202** | **1,329** | **1,334** | **1,302** | **-2.4%** | **-0.4%** |

**Table 43: Comparison of Nondrug Prison Admissions by Severity Level**

| Severity Level | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2012-2011 % Difference | FY 2012-2008 % Difference |
|---|---|---|---|---|---|---|---|
| N1 | 113 | 97 | 105 | 102 | 107 | **4.9%** | **-5.3%** |
| N2 | 59 | 46 | 53 | 48 | 39 | **-18.8%** | **-33.9%** |
| N3 | 404 | 387 | 420 | 409 | 357 | **-12.7%** | **-11.6%** |
| N4 | 99 | 123 | 113 | 114 | 116 | **1.8%** | **17.2%** |
| N5 | 533 | 532 | 596 | 593 | 641 | **8.1%** | **20.3%** |
| N6 | 126 | 116 | 102 | 126 | 116 | **-7.9%** | **-7.9%** |
| N7 | 690 | 665 | 790 | 809 | 838 | **3.6%** | **21.4%** |
| N8 | 349 | 355 | 388 | 395 | 446 | **12.9%** | **27.8%** |
| N9 | 635 | 622 | 684 | 719 | 739 | **2.8%** | **16.4%** |
| N10 | 220 | 187 | 161 | 105 | 109 | **3.8%** | **-50.5%** |
| Off-grid | 75 | 104 | 113 | 126 | 106 | **-15.9%** | **41.3%** |
| Non-grid | 109 | 121 | 106 | 77 | 74 | **-3.9%** | **-32.1%** |
| Unknown | 2 | 4 | 6 | 1 | 3 | **200.0%** | **50.0%** |
| **Total** | **3,414** | **3,359** | **3,637** | **3,624** | **3,691** | **1.8%** | **8.1%** |

## PROBATION SENTENCES

Figure 58 demonstrates the trend of probation sentences imposed in the past five fiscal years. The number of probation sentences in FY 2012 decreased by 7% or by 582 sentences compared with that of FY 2011 and decreased by 5.3% or by 432 sentences compared with that of FY 2008. The largest number of probation sentences imposed in the past five years is identified in FY 2011.

**Figure 58: Probation Sentences**
**FY 2008 through FY 2012**

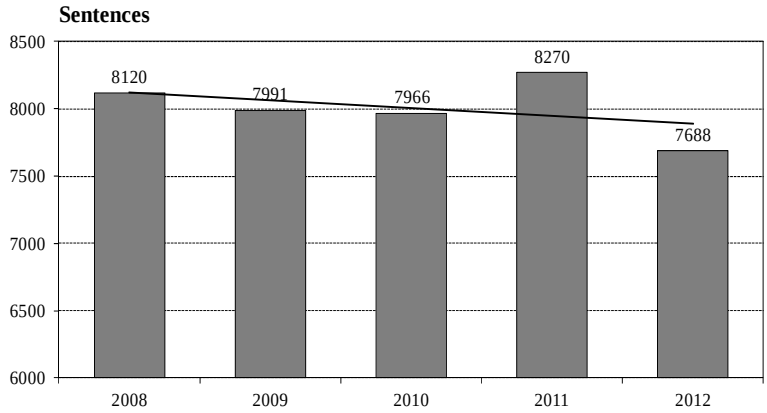



Table 44 displays the sentencing trend of drug probation sentences by severity level in the past five years. Compared with FY 2011, the analysis shows that a decrease of drug probation sentences was found at all levels in FY 2012. The largest percentage decrease of probation sentences for drug offenses was at drug severity level 1, by a decrease of 43.8% followed by drug level 2 with a decrease of 11.1%. Drug levels 3 and 4 decreased by 5.8% respectively. The total number of drug probation sentences in FY 2012 decreased by 6.1% from that of FY 2011. When compared with FY 2008, drug probation sentences decreased by 55% at severity level 1 and decreased by 20.2% at severity level 4, but the numbers of drug probation sentences increased by 3.2% at severity levels 2 and increased by 26.2% at severity level 3. The total number of drug probation sentences in FY 2012 decreased by 10.9% from that of FY 2008.

The sentencing trend of nondrug probation sentences in the past five years is presented in Table 45. The total number of nondrug probation sentences in FY 2012 decreased by 7.5% from that of FY 2011 and decreased by 2.5% from that of FY 2008. The largest number of decrease of nondrug probation sentences in the past five years was found at nondrug severity level 10 (an increase of 37.4%), followed by nondrug severity level 8 (a decrease of 7.8%). The largest increase of nondrug probation sentences in the past five years was identified at nondrug severity level 5 (an increase of 13.2%) compared with the data observed in FY 2008.

**Table 44: Comparison of Probation Drug Sentences by Severity Level FY 2008 through FY 2012**

| Severity Level | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2012-2011 % Difference | FY 2012-2008 % Difference |
|---|---|---|---|---|---|---|---|
| D1 | 20 | 25 | 24 | 16 | 9 | **-43.8%** | **-55.0%** |
| D2 | 31 | 34 | 19 | 36 | 32 | **-11.1%** | **3.2%** |
| D3 | 550 | 552 | 673 | 737 | 694 | **-5.8%** | **26.2%** |
| D4 | 2,149 | 1,903 | 1,815 | 1,821 | 1,715 | **-5.8%** | **-20.2%** |
| **Total** | **2,750** | **2,514** | **2,531** | **2,610** | **2,450** | **-6.1%** | **-10.9%** |

**Table 45: Comparison of Probation Nondrug Sentences by Severity Level FY 2008 through FY 2012**

| Severity Level | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2012-2011 % Difference | FY 2012-2008 % Difference |
|---|---|---|---|---|---|---|---|
| N1 | 4 | 3 | 1 | 0 | 2 | **N/A** | **-50.0%** |
| N2 | 1 | 1 | 0 | 0 | 2 | **N/A** | **100.0%** |
| N3 | 47 | 55 | 61 | 45 | 45 | **0.0%** | **-4.3%** |
| N4 | 24 | 18 | 18 | 28 | 25 | **-10.7%** | **4.2%** |
| N5 | 295 | 321 | 337 | 398 | 334 | **-16.1%** | **13.2%** |
| N6 | 88 | 92 | 97 | 93 | 93 | **0.0%** | **5.7%** |
| N7 | 1,067 | 1,047 | 1,073 | 1,194 | 1,136 | **-4.9%** | **6.5%** |
| N8 | 907 | 927 | 930 | 960 | 836 | **-12.9%** | **-7.8%** |
| N9 | 1,671 | 1,654 | 1,599 | 1,717 | 1,719 | **0.1%** | **2.9%** |
| N10 | 414 | 448 | 353 | 288 | 259 | **-10.1%** | **-37.4%** |
| Off-grid | 3 | 2 | 2 | 2 | 0 | **-100.0%** | **N/A** |
| Non-grid | 849 | 909 | 964 | 935 | 787 | **-15.8%** | **-7.3%** |
| **Total** | **5,370** | **5,477** | **5,435** | **5,660** | **5,238** | **-7.5%** | **-2.5%** |

## COUNTY JAIL SENTENCES

In FY 2012, the total number of jail sentences imposed decreased significantly by 32.6% or 253 sentences compared with that of FY 2011 and by 39.9% or 347 sentences compared with that of FY 2008. FY 2012 represents the lowest number of county jail sentences imposed in the past five years, which majorly resulted from the passage of House Substitute for 2011 Senate Bill 6 (page 15).

**Figure 59: County Jail Sentences**
**FY 2008 through FY 2012**

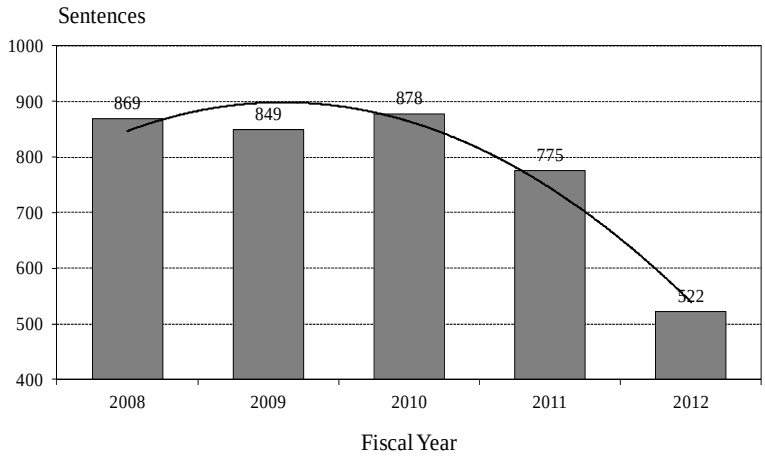



Table 46 presents the offense trend of county jail sentences from FY 2008 through FY 2012. Approximately 97% of the jail sentences were convictions of the crime of DUI. Further analysis of DUI crime reveals that the 4th or subsequent conviction of DUI accounted for 85.4% of total county jail sentences. In FY 2012, the number of the 4th or subsequent conviction of DUI decreased by 35.9% compared with FY 2011 and by 40.5% compared with FY 2008. The number of the 3rd conviction of DUI in FY 2012 decreased by 14.5% and 39.2% respectively when compared with those of FY 2011 and FY 2008. Though small in number, the crime of domestic battery decreased from 15 sentences in FY 2008 to 7 sentences in FY 2012. 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 46: Comparison of County Jail Sentences by Offense**
**FY 2008 through FY 2012**

| Offenses | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2012-2011 % Difference | FY 2012-2008 % Difference |
|---|---|---|---|---|---|---|---|
| 3rd DUI | 97 | 89 | 82 | 69 | 59 | **-14.5%** | **-39.2%** |
| 4th or Sub. DUI | 750 | 741 | 786 | 696 | 446 | **-35.9%** | **-40.5%** |
| Domestic battery | 15 | 12 | 3 | 9 | 7 | **-22.2%** | **-53.3%** |
| Cruelty to Animals | 2 | 3 | 1 | 0 | 2 | **N/A** | **0.0%** |
| Other | 5 | 4 | 6 | 1 | 8 | **700.0%** | **N/A** |
| **Total** | **869** | **849** | **878** | **775** | **522** | **-32.6%** | **-39.9%** |

## PRISON POPULATION FORECASTS

Producing official inmate population projections annually for the Kansas Department of Corrections is one of the statutory duties 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.

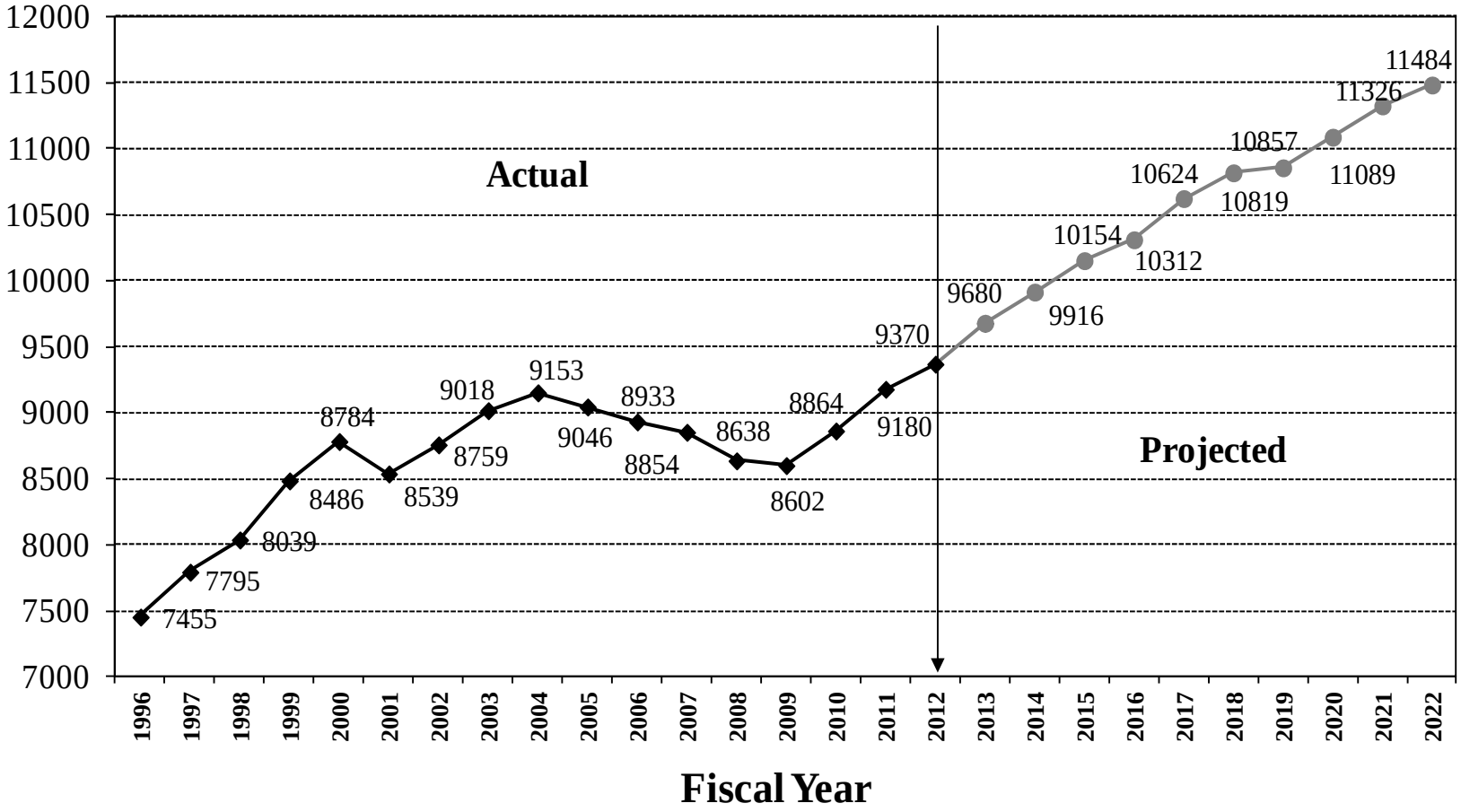
The prison population projections predict that the offenders incarcerated in state prisons will reach 11,484 by June 30, 2022, which indicates an increase of 2,114 inmates or 22.6% over the actual prison population on the same date of year 2012. Although the total admission trend in the past three years is comparatively stable with a slow increase (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 2012 prison population projections by severity levels are presented in Table 47. The largest increase in number falls at nondrug severity level 1, an increase of 372 offenders or 39.3% in the ten-year forecast period. The number at nondrug severity level 3 will increase by 271 offenders or 20% in the next ten years. This is due to the "stacking effect" of long sentence length of the most serious offenses.

Prison population will increase by 307 offenders or 22% at nondrug severity level 5, by 135 offenders or 40.9% at nondrug severity level 4 and by 111 offenders or 13.7% at nondrug severity level 7 in the next ten years. Condition parole or postrelease violators will increase by 28 or 5% in the next ten years. 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 361 offenders or 32.1%. This 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 indicates that the number of offenders will decrease by 97 or 32.6% at drug severity level 1 and by 218 or 35.7% at drug severity level 4; while the number of offenders will increase by 77 or 36.5% at drug severity level 2, by 103 or 20.8% at drug severity level 3 and by 748 at drug severity level 5 in the ten-year forecast period. The decrease or increase of drug population at different drug levels is primarily due to the passage of Senate Substitute of House Bill 2318, which was enacted on July 1, 2012 and creates five drug severity levels and reclassifies drug distribution by quantities. Figure 60 depicts the trend of the actual and projected prison population from FY 1996 through FY 2022.

# Figure 60: Prison Population Actual and Projected



## Table 47: FY 2013 Adult Inmate Prison Population Projections

| Severity Level | 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 | June 30 2022 | Total # Increase | Total % Increase |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| D1 | 298 | 298 | 278 | 261 | 251 | 229 | 226 | 204 | 206 | 207 | 201 | -97 | -32.6% |
| D2 | 211 | 215 | 212 | 204 | 210 | 237 | 236 | 248 | 270 | 284 | 288 | 77 | 36.5% |
| D3 | 495 | 522 | 507 | 551 | 572 | 588 | 590 | 578 | 584 | 581 | 598 | 103 | 20.8% |
| D4 | 611 | 680 | 526 | 437 | 387 | 365 | 381 | 372 | 385 | 390 | 393 | -218 | -35.7% |
| D5 | 0 | 190 | 498 | 586 | 652 | 689 | 684 | 703 | 721 | 748 | 748 | 748 | N/A |
| N1 | 946 | 939 | 983 | 1021 | 1065 | 1097 | 1149 | 1195 | 1242 | 1282 | 1318 | 372 | 39.3% |
| N2 | 298 | 269 | 267 | 262 | 265 | 271 | 273 | 265 | 265 | 264 | 263 | -35 | -11.7% |
| N3 | 1356 | 1338 | 1360 | 1394 | 1417 | 1473 | 1514 | 1536 | 1567 | 1590 | 1627 | 271 | 20.0% |
| N4 | 330 | 325 | 346 | 360 | 382 | 410 | 440 | 448 | 457 | 469 | 465 | 135 | 40.9% |
| N5 | 1398 | 1434 | 1457 | 1540 | 1544 | 1570 | 1598 | 1623 | 1668 | 1678 | 1705 | 307 | 22.0% |
| N6 | 155 | 167 | 165 | 164 | 174 | 191 | 184 | 176 | 170 | 191 | 188 | 33 | 21.3% |
| N7 | 809 | 828 | 788 | 833 | 833 | 890 | 897 | 857 | 894 | 907 | 920 | 111 | 13.7% |
| N8 | 234 | 248 | 266 | 274 | 273 | 293 | 287 | 282 | 284 | 301 | 304 | 70 | 29.9% |
| N9 | 271 | 265 | 292 | 293 | 289 | 299 | 303 | 287 | 304 | 309 | 321 | 50 | 18.5% |
| N10 | 19 | 29 | 35 | 34 | 37 | 35 | 32 | 32 | 35 | 31 | 38 | 19 | 100.0% |
| Off Grid-Include Old Lifer | 1123 | 1129 | 1175 | 1209 | 1249 | 1295 | 1336 | 1375 | 1397 | 1448 | 1484 | 361 | 32.1% |
| Condition Parole/PIS Violators | 555 | 568 | 560 | 565 | 571 | 572 | 595 | 599 | 571 | 591 | 583 | 28 | 5.0% |
| Old Law Non-Lifer | 255 | 236 | 201 | 166 | 141 | 120 | 94 | 77 | 69 | 55 | 40 | -215 | -84.3% |
| Total | 9370 | 9680 | 9916 | 10154 | 10312 | 10624 | 10819 | 10857 | 11089 | 11326 | 11484 | 2114 | 22.6% |

* The numbers on June 30, 2012 are the actual prison population on that date. Total number includes one nongrid and five missing.

## CUSTODY CLASSIFICATION PROJECTION

The prison population projections forecast the total beds needed over the ten-year forecast period, while custody classification projections predict the kinds of beds needed for custody in the next ten years. The overall custodial classification projections reveal that 349 unclassified beds, 3,028 minimum beds, 2,767 medium low beds, 1,660 medium high beds, 1,132 maximum beds and 744 special management beds will be needed by the end of FY 2013. The total projected prison beds, by the end of FY 2022, will include 374 unclassified beds, 3,641 minimum beds, 3,098 medium low beds, 2,193 medium high beds, 1,293 maximum beds and 885 special management beds (Table 48).

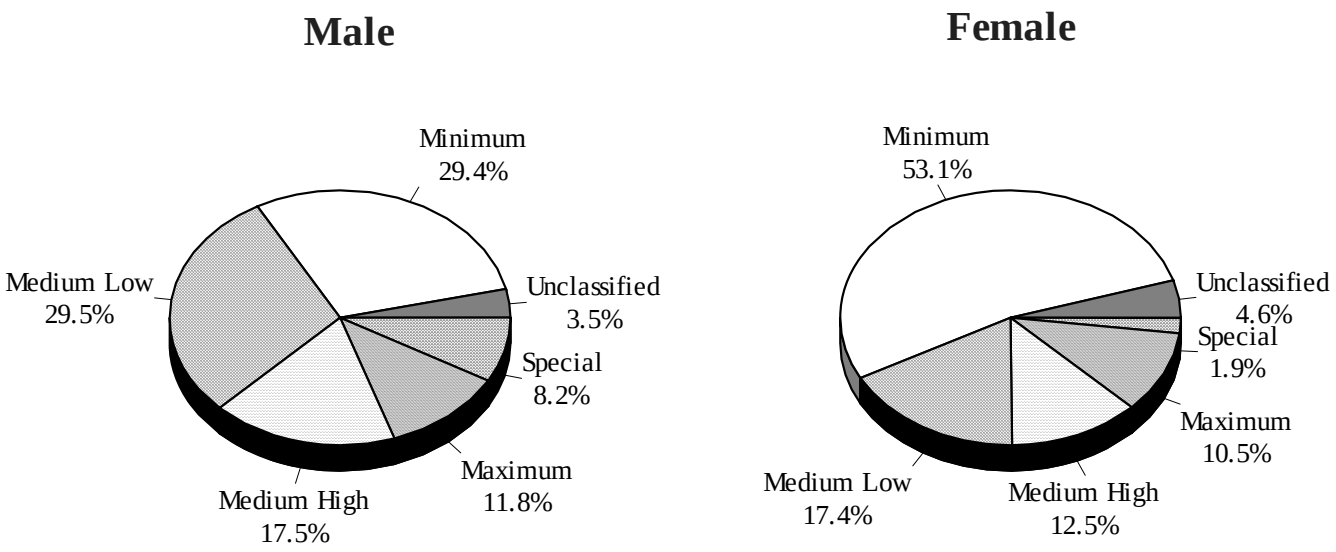
Figure 61 illustrates the projected percentage distribution of custodial classifications by gender, which demonstrates a significant difference between male and female offenders. Females will need 4.6% unclassified, 53.1% minimum, 17.4% medium low, 12.5% medium high, 10.5% maximum custody and 1.9% special management beds by the end of FY 2013. Males will need 3.5% unclassified, 29.4% minimum, 29.5% medium low, 17.5% medium high, 11.8% maximum custody and 8.2% special management beds by the end of FY 2013. These classification percentages of male and female offenders remain fairly constant during the ten-year forecast 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 minimum beds with an increase of 528. The second largest increase is at the type of medium high beds with an increase of 466 beds. The medium low custody beds, maximum custody beds, special management beds and unclassified beds demonstrate an increase of 315, 150, 135 and 23, respectively, over the ten-year forecast period. Beds for females, in terms of custody types, do not fluctuate much in the next ten years with an increase of 85 minimum beds, 67 medium high beds, 16 medium high beds and 11 maximum beds. This forecast assumes no changes in custody practice over the ten-year forecast period.

**Table 48: Ten Years Custody Classification Projection**

| June 30 Each Year | Unclassified | Minimum | Medium Low | Medium High | Maximum | Special | Total |
|---|---|---|---|---|---|---|---|
| 2013 | 349 | 3,028 | 2,767 | 1,660 | 1,132 | 744 | 9,680 |
| 2014 | 350 | 3,154 | 2,819 | 1,688 | 1,116 | 789 | 9,916 |
| 2015 | 363 | 3,239 | 2,799 | 1,800 | 1,156 | 797 | 10,154 |
| 2016 | 351 | 3,338 | 2,810 | 1,870 | 1,118 | 825 | 10,312 |
| 2017 | 356 | 3,426 | 2,848 | 1,892 | 1,209 | 893 | 10,624 |
| 2018 | 395 | 3,443 | 2,842 | 1,997 | 1,234 | 908 | 10,819 |
| 2019 | 393 | 3,447 | 2,867 | 2,017 | 1,270 | 863 | 10,857 |
| 2020 | 410 | 3,470 | 2,971 | 2,106 | 1,291 | 841 | 11,089 |
| 2021 | 395 | 3,540 | 3,016 | 2,200 | 1,321 | 854 | 11,326 |
| 2022 | 374 | 3,641 | 3,098 | 2,193 | 1,293 | 885 | 11,484 |

# Figure 61: Projected Percentage Distribution of Custody Classification by Gender

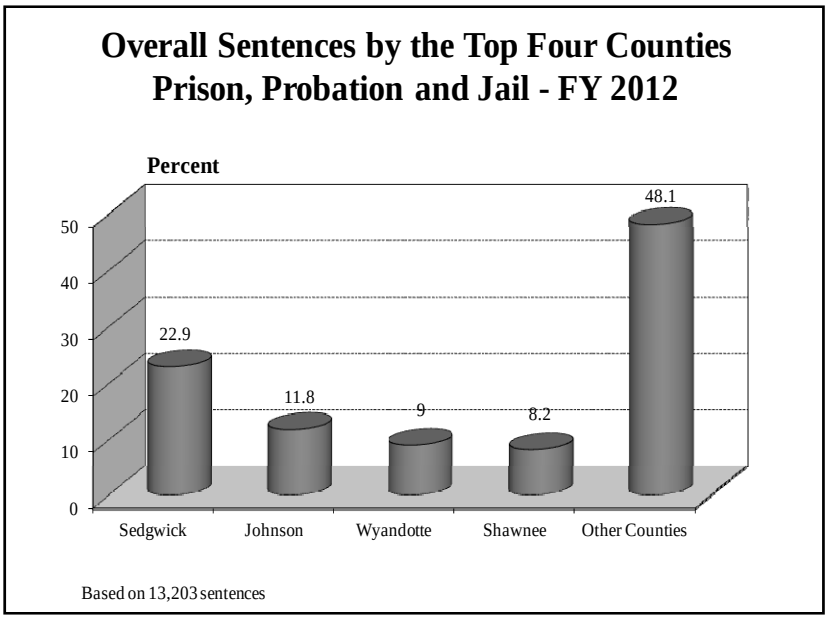



Based on the projected prison population on June 30, 2013 (male = 8,927 and female = 753).

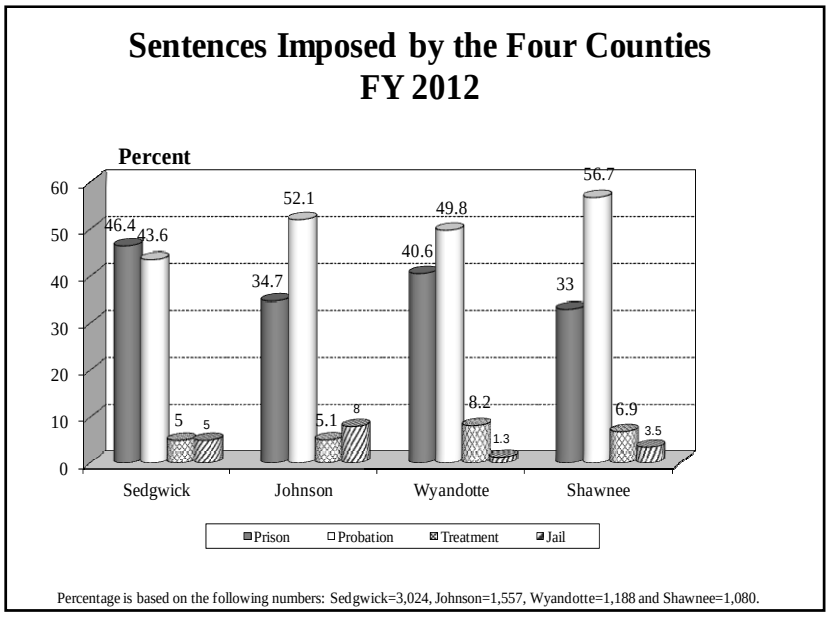
# APPENDIX I
# SENTENCES FROM THE TOP FOUR COUNTIES

In this section, sentences utilized for analyses include incarceration, probation and county jail sentences submitted to the Commission during FY 2012. The analysis on the sentences indicates that Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four counties, whose sentences imposed accounted for 51.9% of the total state sentences, an increase of 0.5% compared with that (51.4%) of FY 2011. 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 2011, no significant changes were identified in the percentages of sentences from the four counties. Sentences from Sedgwick County, Wyandotte County and Shawnee County increased respectively by 0.2%, 0.8% and 0.9%, while sentences from Johnson County decreased by 1.4%. The following figures and tables display the characteristics of offenses and offenders from the four counties in FY 2012.

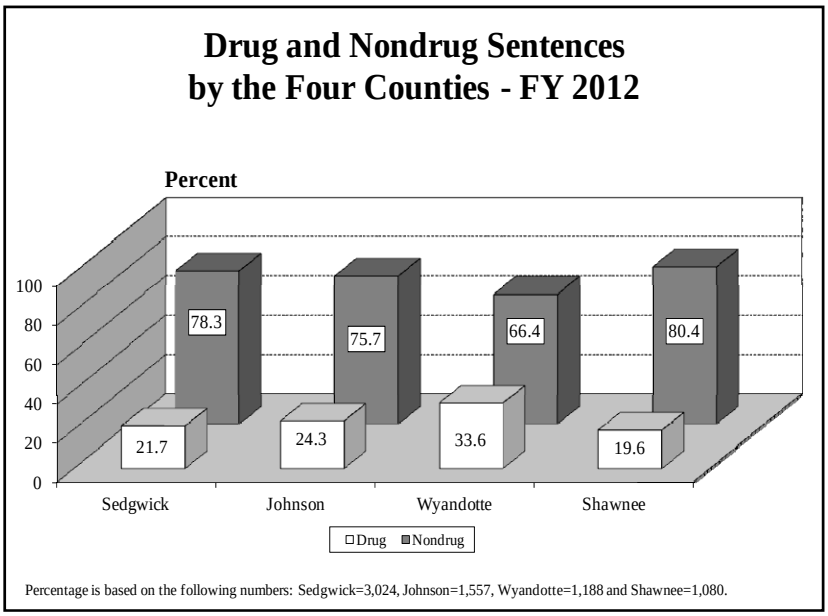
Sedgwick, Johnson, Wyandotte and Shawnee Counties were the top four committing counties with sentencing events. Sedgwick County imposed 22.9% sentences of the total state sentence events in FY 2012, followed by Jonson County accounting for 11.8%, Wyandotte County accounting for 9% and Shawnee County accounting for 8.2%.



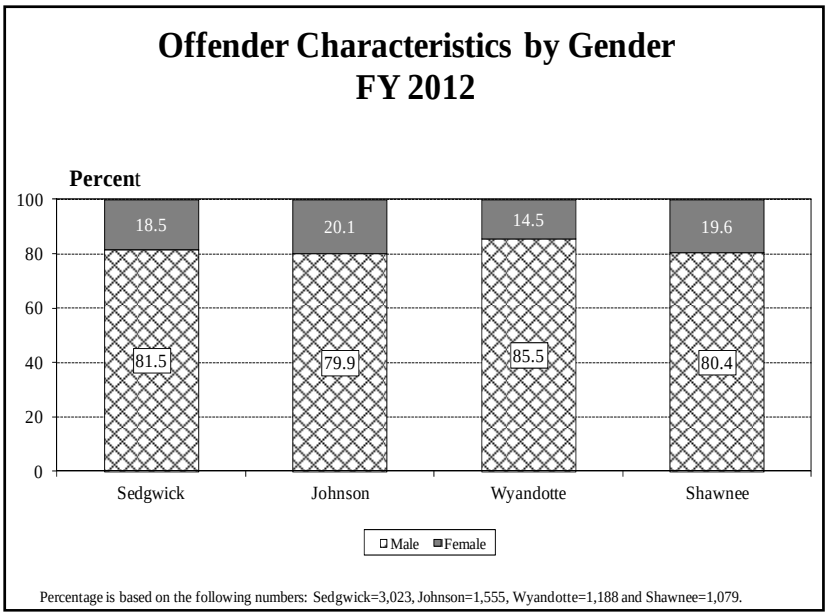
Sedgwick County imposed the higher percentage of prison sentences (46.4%) than the other three counties, while the highest rate of probation sentences was identified in Shawnee County (56.7%). Wyandotte County imposed the highest rate of Senate Bill 123 drug treatment sentences (8.2%) among the four counties. The highest percentage of county jail sentences was found in Johnson County (8%).



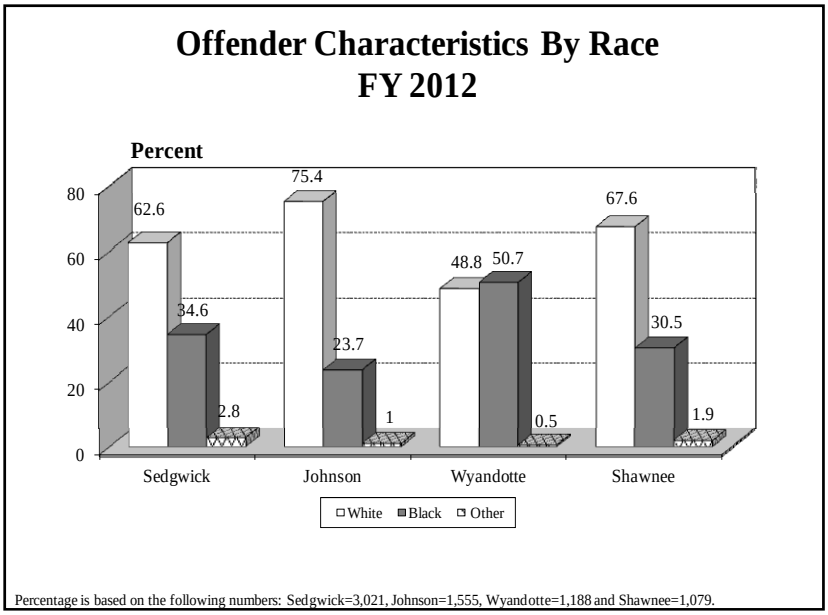

The examination of sentences imposed by types of drug and nondrug discloses that Wyandotte County represented the highest percentage of drug sentences (33.6%), while Shawnee County imposed the largest proportion of nondrug sentences (80.4%) among the four counties. This distribution pattern is consistent with that of FY 2011.



The analysis of offenders by gender indicates that Wyandotte County represented the highest percentage of male offenders (85.5%), while Johnson County reported the highest rate of female offenders (20.1%).




Racial analysis on offenders reveals that Johnson County reported more white offenders (75.4%), while Wyandotte County reported more black offenders (50.7%) than the other three counties respectively, which remains constant as compared to FY 2011 and FY 2010.



**FY 2012 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 | 10 | 0.3 | 3 | 0.2 | 0 | 0.0 | 1 | 0.1 |
| D2 | 17 | 0.6 | 6 | 0.4 | 7 | 0.6 | 4 | 0.4 |
| D3 | 184 | 6.1 | 161 | 10.3 | 102 | 8.6 | 37 | 3.4 |
| D4 | 445 | 14.7 | 208 | 13.4 | 290 | 24.4 | 170 | 15.7 |
| N1 | 20 | 0.7 | 10 | 0.6 | 27 | 2.3 | 9 | 0.8 |
| N2 | 12 | 0.4 | 2 | 0.1 | 6 | 0.5 | 5 | 0.5 |
| N3 | 126 | 4.2 | 44 | 2.8 | 67 | 5.6 | 30 | 2.8 |
| N4 | 37 | 1.2 | 10 | 0.6 | 22 | 1.9 | 8 | 0.7 |
| N5 | 307 | 10.2 | 104 | 6.7 | 88 | 7.4 | 92 | 8.5 |
| N6 | 41 | 1.4 | 18 | 1.2 | 21 | 1.8 | 13 | 1.2 |
| N7 | 519 | 17.2 | 155 | 10.0 | 146 | 12.3 | 221 | 20.5 |
| N8 | 348 | 11.5 | 168 | 10.8 | 85 | 7.2 | 97 | 9.0 |
| N9 | 571 | 18.9 | 332 | 21.3 | 205 | 17.3 | 253 | 23.4 |
| N10 | 47 | 1.6 | 46 | 3.0 | 40 | 3.4 | 49 | 4.5 |
| Nongrid | 313 | 10.4 | 278 | 17.9 | 65 | 5.5 | 86 | 8.0 |
| Offgrid | 26 | 0.9 | 12 | 0.8 | 17 | 1.4 | 5 | 0.5 |
| **Total** | **3,023** | **100.0** | **1,557** | **100.0** | **1,188** | **100.0** | **1,080** | **100.0** |

## FY 2012 Top Ten Offenses Committed by Offenders in the Four Counties – 1

| Offense Type | Sedgwick County | | Offense Type | Johnson County | |
|---|---|---|---|---|---|
| | N | % | | N | % |
| Drugs | 656 | 21.7 | Drugs | 378 | 24.3 |
| Theft | 329 | 10.9 | DUI | 274 | 17.6 |
| DUI | 294 | 9.7 | Theft | 229 | 14.7 |
| Aggravated Battery | 248 | 8.2 | Burglary | 91 | 5.8 |
| Burglary | 246 | 8.1 | Aggravated Battery | 81 | 5.2 |
| Forgery | 168 | 5.6 | Identity Theft | 54 | 3.5 |
| Aggravated Assault | 107 | 3.5 | Forgery | 46 | 3.0 |
| Aggravated Robbery | 104 | 3.4 | Criminal Threat | 36 | 2.3 |
| Aggravated Burglary | 90 | 3.0 | Aggravated Assault | 32 | 2.1 |
| Failure to Register | 82 | 2.7 | False Writing | 32 | 2.1 |
| **Total** | **2,324** | **76.8** | **Total** | **1,253** | **80.6** |

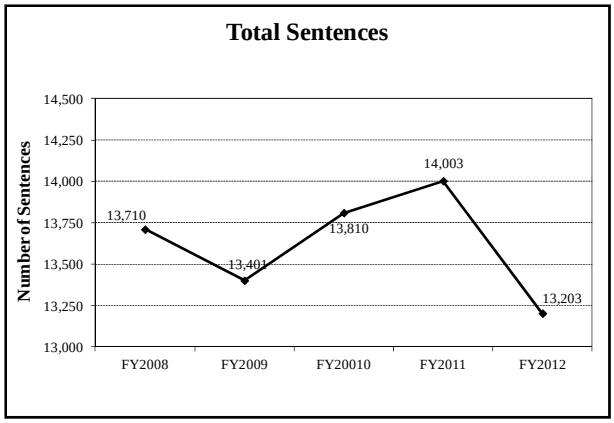
## FY 2012 Top Ten Offenses Committed by Offenders in the Four Counties – 2

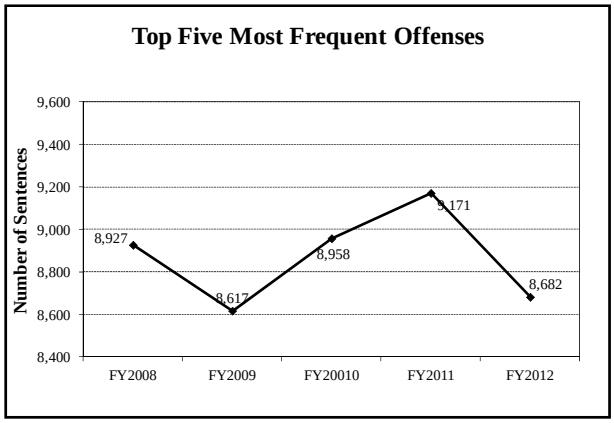
| Offense Type | Wyandotte County | | Offense Type | Shawnee County | |
|---|---|---|---|---|---|
| | N | % | | N | % |
| Drugs | 399 | 33.6 | Drugs | 212 | 19.6 |
| Theft | 108 | 9.1 | Theft | 116 | 10.7 |
| Burglary | 100 | 8.4 | Burglary | 106 | 9.8 |
| Aggravated Battery | 70 | 5.9 | DUI | 82 | 7.6 |
| DUI | 65 | 5.5 | Aggravated Burglary | 73 | 6.8 |
| Forgery | 54 | 4.5 | Aggravated Battery | 71 | 6.6 |
| Fleeing or Eluding LEO | 50 | 4.2 | Forgery | 61 | 5.6 |
| Aggravated Robbery | 48 | 4.0 | Failure to Register | 49 | 4.5 |
| Aggravated Assault | 31 | 2.6 | Fleeing or Eluding LEO | 42 | 3.9 |
| Aggravated Burglary | 21 | 1.8 | Robbery | 27 | 2.5 |
| **Total** | **946** | **79.6** | **Total** | **839** | **77.6** |

# 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 65.1% in FY 2008, 64.3% in FY 2009, 64.9% in FY 2010, 65.5% in FY 2011 and 65.8% in FY 2012. The sentencing trends of the top five offenses from FY 2008 to FY 2012 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 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|---|---|---|---|---|---|
| Drugs | 4,060 | 3,717 | 3,859 | 3,944 | 3,752 |
| DUI | 1,773 | 1,819 | 1,880 | 1,725 | 1,331 |
| Burglary | 1,261 | 1,207 | 1,372 | 1,521 | 1,483 |
| Theft | 1,074 | 1,108 | 1,096 | 1,157 | 1,290 |
| Aggravated Battery | 759 | 766 | 751 | 824 | 826 |
| **Subtotal** | **8,927** | **8,617** | **8,958** | **9,171** | **8,682** |
| **Total Offenses** | **13,710** | **13,401** | **13,810** | **14,003** | **13,203** |

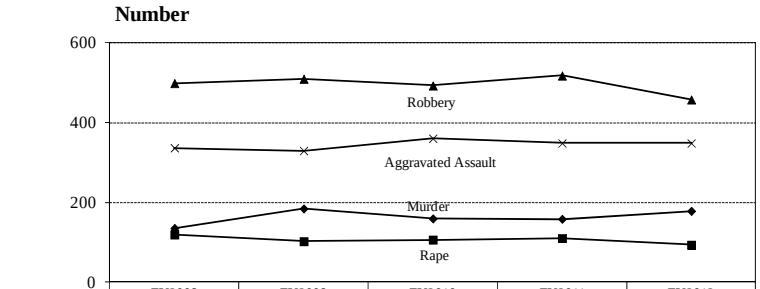
## UNIFORM CRIME REPORTING (UCR) OFFENSES

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 2008 to FY 2012, 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 2012, the number of the murder crimes increased by 12.6% compared with FY 2011 and by 31.6% compared with FY 2008. The number of rape crime decreased by 15.3% compared with FY 2011 and by 21.7% compared with FY 2008. The convictions of robbery decreased by 11.6% and 8.2% respectively compared with FY 2011 and FY 2008. The number of aggravated assault indicated no change from FY 2011 but increased by 3.6% over that of FY 2008.

During FY 2012, burglary crimes decreased by 2.5% from that of FY 2011 but increased by 17.6% over that of FY 2008. The number of theft crimes increased by 11.5% and 20% over those of FY 2011 and FY 2008 respectively. The crime of arson decrease by 4.8% and 9.2% respectively compared with FY 2011 and FY 2008.

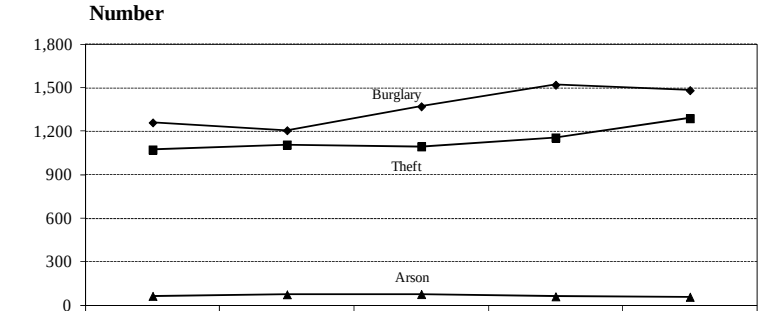
**UCR Offenses: Violent Crime**
**FY 2008 through FY 2012**




| | FY2008 | FY2009 | FY2010 | FY2011 | FY2012 |
|---|---|---|---|---|---|
| Murder | 136 | 185 | 160 | 159 | 179 |
| Rape | 120 | 103 | 107 | 111 | 94 |
| Robbery | 499 | 510 | 493 | 518 | 458 |
| Agg. Assault | 337 | 330 | 361 | 349 | 349 |

Both incarceration and probation sentences are included.

**UCR Offenses: Property Crime**
**FY 2008 through FY 2012**




| | FY2008 | FY2009 | FY2010 | FY2011 | FY2012 |
|---|---|---|---|---|---|
| Burglary | 1,261 | 1,207 | 1,372 | 1,521 | 1,483 |
| Theft | 1,074 | 1,108 | 1,096 | 1,157 | 1,290 |
| Arson | 65 | 76 | 78 | 62 | 59 |

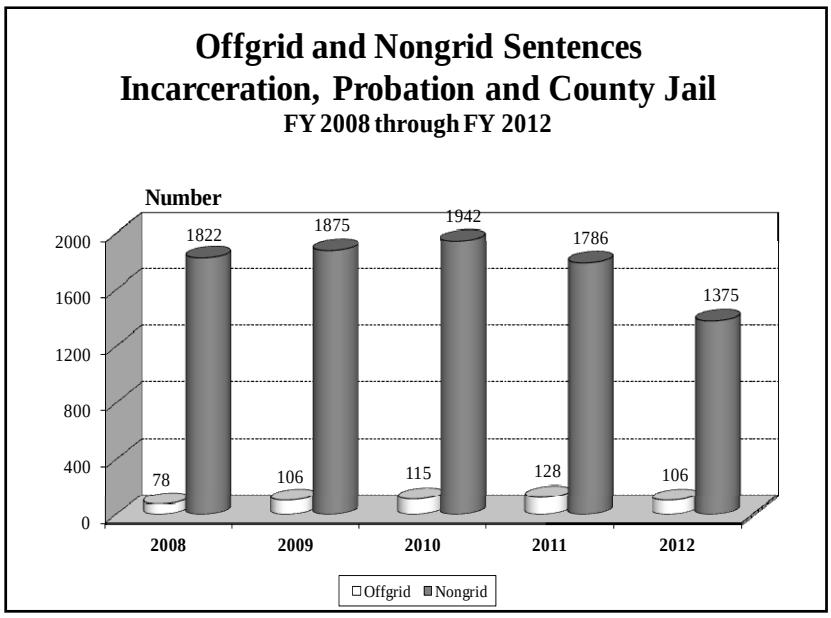
Both incarceration and probation sentences are included.

## OFFGRID AND NONGRID CRIMES

Offgrid crimes are crimes that carry "life" sentences, meaning the length of imprisonment is life. The crimes of capital murder (K.S.A. 21-3439 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 (2006 Senate Substitute for House Bill 2576) are designated as offgrid crimes. Persons convicted of offgrid crimes will be eligible for parole after serving 25 years in confinement for premeditated first-degree murder, or 40 or 50 years in certain premeditated first-degree murder cases in which aggravating circumstances are found by the sentencing court. Offenders convicted of intentional second-degree murder for crimes committed prior to July 1, 1999, will be eligible for parole after serving 10 years of confinement. The Kansas law also provides for the imposition of a death penalty, under specified circumstances, for a conviction of capital murder. Felony murder and treason carry a term of life imprisonment with a 20-year parole eligibility date for crimes committed on or after July 1, 1999.

Nongrid crimes are not assigned severity levels on either sentencing 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.

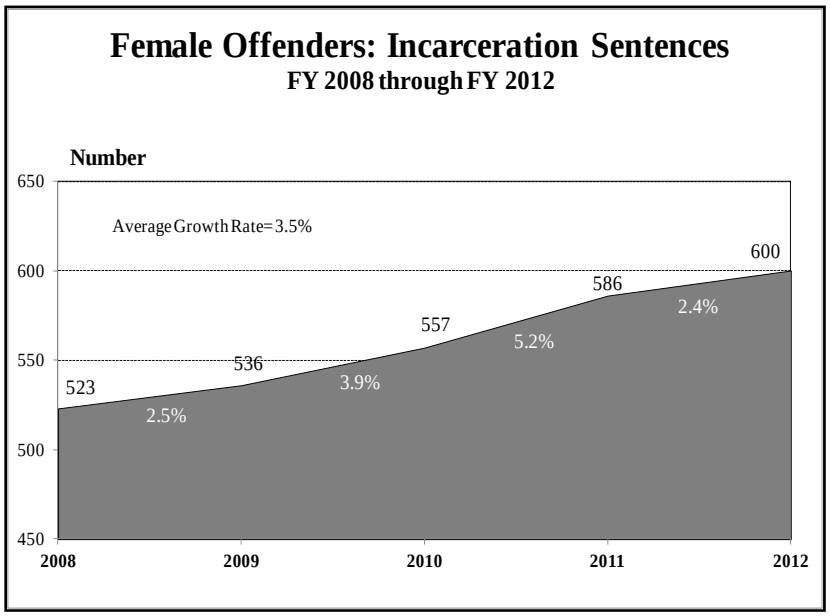
With the implementation of Jessica's Law, the number of offgrid crimes in FY 2012 significantly increased by 28 or 35.9% compared with that of FY 2008 but decreased by 22 offenders or 17% compared with that of FY 2011. Nongrid sentences in FY 2012, including incarceration, probation and county jail sentences, decreased by 411 (23%) and 447 (24.5%) respectively from those of FY 2011 and FY 2008.

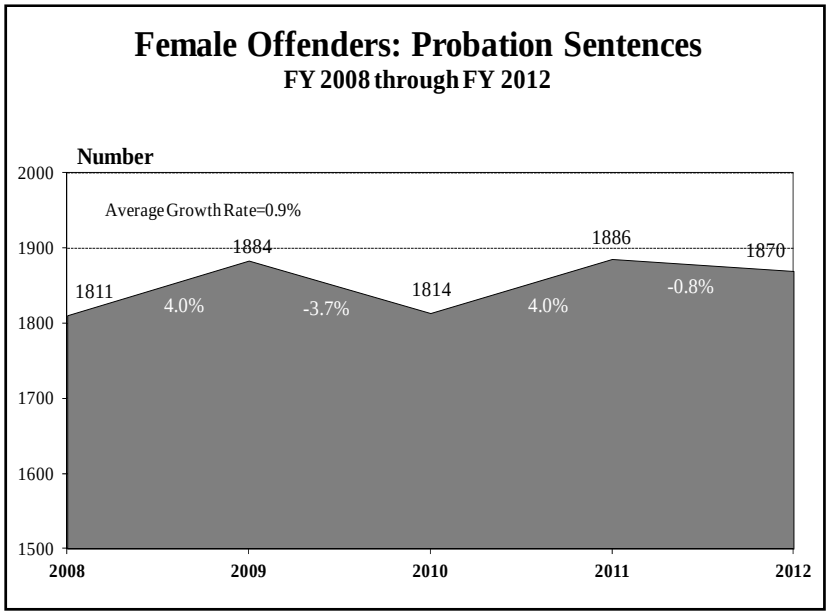


## FEMALE OFFENDERS

The admission trend of female offenders has been increasing in the past five years. The number of female admissions in FY 2012 increased by 2.4% compared with that of FY 2011 and increased by 14.7% compared with that of FY 2008. The average growth rate in the past five years is 3.5%. The numbers of female offenders on probation fluctuate from year to year. The average growth rate is 0.9% 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 increased by 2.5% in FY 2009, 3.9% in FY 2010 5.2% in FY 2011 and 2.4% in FY 2012 when compared with those of the previous years. The population in FY 2012 is the highest number (600) of female admissions to prison in the past five years.




The population of females sentenced to probation increased by 4% in FY 2009, decreased by 3.7% in FY 2010, increased again by 4% in FY 2011 but decreased again by 0.8% in FY 2012 when compared with those of the previous years.