KANSAS SENTENCING COMMISSION

FY 2013 ANNUAL REPORT

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KANSAS SENTENCING COMMISSION

ANNUAL REPORT
FY 2013

Analysis Of Sentencing Guidelines In Kansas

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EXECUTIVE SUMMARY

Pursuant to the statutory obligations assigned to the Kansas Sentencing Commission under K.S.A. 74-9101, during Fiscal Year 2013, the Kansas Sentencing Commission (KSC) continued its efforts to carry out the following major activities: 1) developing and maintaining the post-implementation monitoring system that allows for a comprehensive evaluation of the sentencing guidelines; 2) making recommendations to the state legislature relating to modification and improvement of current sentencing guidelines and providing the legislature and state agencies with prison bed-space impact assessments under any policy change related to the sentencing guidelines; 3) updating the Kansas Sentencing Guidelines Desk Reference Manual according to sentencing policy changes passed during the 2013 Legislative Session; 4) producing annual prison population projections and custody classification forecasts for the Kansas Adult Correctional Facilities; 5) publishing an annual report statistically presenting sentencing practice and policies under Kansas Sentencing Guidelines; 6) processing statewide felony sentencing journal entries including both prison and non-prison guideline sentences; 7) monitoring and evaluating the implementation of 2003 Senate Bill 123 drug treatment programs and processing statewide transactions of the programs; 8) conducting training sessions on sentencing guidelines and various sentencing issues; 9) issuing newsletters quarterly to provide updates and helpful information relating to Kansas Sentencing Commission programs, publications and forms; 10) updating Kansas Criminal Justice Resource Directory, which provides contacts, addresses and phone numbers of many statewide criminal justice professionals; 11) performing criminal justice research projects funded through federal grant including the program of reporting Arrest-Related Deaths to the Bureau of Justice Statistics; and 12) serving as an information resource to respond to national, state and county requests regarding sentencing data.

This section provides a brief summary of the key sentencing issues discussed in the FY 2013 Annual Report. The Report is based on the sentencing data reported from 102 of the 105 counties of the state and the adult prison data contributed by the Kansas Department of Corrections (KDOC) in FY 2013. A total number of 13,174 felony sentences were reported to the Commission during FY 2013, indicating a decrease of 0.2% from that of FY 2012. Of the total number of sentences, 5,205 (39.5%) were prison sentences, 7,644 (58%) were probation sentences and 325 (2.5%) were county jail sentences. Nondrug sentences accounted for 71.8% or 9,454 sentences and drug sentences accounted for 28.2% or 3,720 sentences (page 2).

INCARCERATION SENTENCES

During FY 2013, a total number of 5,205 offenders were admitted to the Kansas Department of Corrections. Male offenders made up 87.6% of the total admissions, a percentage decrease of 0.4% from that of FY

2012 (88%). Nearly 90% of the violent and sex offenses were committed by male offenders, such as aggravated assault, aggravated battery, burglary, criminal threat, robbery, murder in the second degree and rape. However, female offenders were incarcerated more frequently for the crimes of forgery, false writing, giving worthless checks and criminal use of financial card (pages 23 & 24). The analysis of drug crimes indicates that male offenders were convicted of more than 85% of the crimes of drug distribution and unlawful manufacture of controlled substance, while most female offenders committed drug crimes of drug possessions and possession of precursor drugs (page 26).

Racial analysis of the offenders demonstrates that white offenders represented 69.3% of the admissions to the state prisons in FY 2013, indicating an increase of 2.2% over that of FY 2012 (67.1%). The offenders with non-Hispanic origin made up 90.9%, the same percentage rate compared with that of FY 2012. The highest incarceration rates for white offenders (over 70%) were discovered in the areas of burglary, criminal threat, aggravated escape from custody, DUI, forgery, theft, identity theft, fleeing or eluding LEO and most sex offenses. Nevertheless, black offenders were incarcerated more often (over 40%) for the crimes of aggravated assault, robbery, murder in the first degree, voluntary manslaughter, possession of firearms, criminal discharge of firearms and stalking (pages 23 & 24).

When examining offenders' age, the Commission found that the largest population of incarcerated offenders (26.8%) was identified in the age group ranging from 31 to 40 years old and the second largest number of offenders (23.9%) was identified in the group from 25 to 30 years old at the time of admission to prison in FY 2013. This age distribution is consistent with the age data observed in FY 2012. As for the educational background of the offenders admitted in FY 2013, a little more than 50% of the offenders had attained either a high school diploma or GED equivalent, which is very close to the percentage of the same group observed in FY 2012.

The analysis of admission type indicates that the three largest groups of admissions are new court commitments, probation condition violators and parole/postrelease condition violators representing 36.4%, 31.3% and 23.7%, respectively, of the total prison admissions in FY 2013. Most of the drug offenders admitted to KDOC in FY 2013 fell at drug severity level 4 (53.8%) and drug severity level 3 (30.5%), while the largest numbers of nondrug offenders were identified at nondrug severity levels 7 and 9 with admissions of 870 and 845, respectively, in FY 2013 (Pages 27 & 28).

The review 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 2013. All of them were new court commitments except 5 or 6.7% parole condition violators. 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 50.7% of the sentences were downward departure to guidelines, a decrease of 8% compared with that of FY 2012 (58.7%). The average sentence length of the durational departures was 126.2 months, a decrease of 0.8 month from that observed in FY 2012 (127

months). The major departure reasons were: there is a plea agreement between parties, the defendant had no prior criminal history and accepted responsibility (Page 31).

PROBATION SENTENCES

A total number of 7,644 probation sentences were reported to the Commission in FY 2013. The research of the probation sentences reveals that theft (17.6%), burglary (14%) and DUI (12.6%) continued to be the top three offenses committed by nondrug probation offenders representing 44.2% of the total nondrug crimes (page 35), a decrease of 2.1% from that of those crimes in FY 2012 (46.3%). The probation sentences for the crime of drug possession accounted for 70% of all drug probation sentences, an increase of 4.9% over that (65.1%) of FY 2012 (pages 36 & 38).

The analysis of the criminal history categories of the offenders sentenced to probation in FY 2013 discloses that offenders with criminal history category I accounted for 26.1% of offenders on the nondrug grid and 27% of offenders on the drug grid. The nondrug offenders within the presumptive probation boxes made up 80.7%, a decrease of 2.3% compared with that of FY 2012 (83%). The examination of the border box sentences shows that 5.1% of probation nondrug sentences were found to be within the designated border boxes (page 43). The analysis on drug sentences by presumptive probation and border box is not applicable in FY 2013 because the sentences were imposed according to both old (with four drug levels) and new (with five drug levels) drug sentencing grids, which have different designations for presumptive probation and border box.

COUNTY JAIL SENTENCES

House Substitute for 2011 Senate Bill 6, which amends a third DUI conviction to a Class A nonperson misdemeanor, continued impacting felony jail sentence in FY 2013 (page 15). A total number of 325 felony jail sentences were reported to the Commission during FY 2013, a significant decrease of 197 sentences or 37.7% when compared with the data of FY 2012 (522 sentences). Of this number, male offenders accounted for 86.5% and female offenders accounted for 13.5%. The percentage of female offenders sentenced to jail increased by 1.2% when compared with that of FY 2012 (12.3%). White offenders represented 81.2%, black offenders represented 16.3% and other races represented 2.5% of the county jail sentences imposed in FY 2013. Their average age at sentencing is 42 years old, a decrease of 2 years from that of FY 2012 (page 44).

The analysis of offenses indicates that approximately 94% of the jail sentences were convictions of felony DUI (305 sentences), 4.6% were convictions of domestic battery (15 sentences) and 1.5% were convictions of other crimes (5 sentences). The average jail term was 7.8 months, indicating 0.2 month shorter than that of FY 2012 (8 months). Sedgwick County imposed the most jail sentences (126) representing 38.8%, followed by Johnson County with 87 jail sentences representing 26.8% of the total county jail sentences imposed in FY 2013 (page 45).

DRUG SENTENCES

Since July 1, 2012, a new drug sentencing grid with 5 drug levels has been implemented. The admissions and sentences in FY 2013 include offenders sentenced

under both old and new drug sentencing grids. Therefore, the comparison of drug offenders by severity level is not applicable at present (pages 82 & 84).

The analysis of drug incarceration sentences discloses that the number of drug offenders admitted to prison (1,328 offenders) in FY 2013 increased by 2% compared with that of FY 2012 (1,302 offenders) and by 10.5% compared with that of FY 2009 (1,202 offenders). The examination of drug offenses indicates that 56.2% of the incarceration drug sentences were convictions of drug possession, an increase of 0.6% compared with that of FY 2012 (55.6%). Approximately 92% of the drug possession sentences were found at drug severity level 4. Offenders at drug severity level 5 accounted for 7.2% of the drug possession group. The percentage of offenders admitted at drug severity level 5 will increase in future years as the implementation of the new drug sentencing grid with five levels continues (page 25).

The total number of drug probation sentences (2,392) in FY 2013 decreased by 2.4% compared with that (2,450) of FY 2012 and decreased by 4.9% compared with that (2,514) of FY 2009. Probation sentences at drug severity level 4 represented 53% of the probation drug sentences imposed in FY 2013 and drug severity level 5 accounted for 24.3%. Further examination of drug offenders on probation discloses that during FY 2013, a total number of 1,018 sentences were imposed to 2003 Senate Bill 123 (SB 123) drug treatment programs, representing 42.6% of the total drug probation sentences (2,392), an increase of 0.8% compared with that of FY 2012 (41.8%). Of these sentences, 99.8% were convicted of the crime of drug possession under K.S.A. 21-5706 (formerly 21-36a06 or 65-4160 or 65-4162) and 0.2% were convicted of other drug crimes. The offenders at drug severity levels 4 and 5 accounted for 99.8%. White male offenders were still the majority of the treatment sentences. The average age of the drug treatment offenders was 32.8 years old at sentencing, which remains very close to that of FY 2012 (32.1 years old). The distribution of SB 123 drug treatment sentences imposed by county displays that Sedgwick County imposed the most SB 123 sentences (140) followed by Wyandotte (93), Johnson (72) and Saline (67) counties (pages 40 & 41). In addition, 560 SB 123 drug treatment sentences were revoked during FY 2013. Of this number, 229 sentences were revoked to prison, representing 22.5% of SB 123 sentences imposed (1,018 sentences) in FY 2013. The average period between original sentence and the first revocation hearing was 16 months, which indicates no change from that of FY 2012.

VIOLATORS

Violators in the report refer to condition violators and include probation condition violators, parole/postrelease supervision violators and conditional release violators. In FY 2013, a total number of 2,863 condition violators were admitted to prison, accounting for 55% of the total prison admission events of the fiscal year. Of this number, 1,629 were probation condition violators, 1,232 were parole/postrelease supervision violators and 2 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 increased by 2.2% compared with that (52.8%) of FY 2012 (page 47).

The analysis of the admission trend of violators in the past five years demonstrates that the number of probation condition violators admitted to prison in FY 2013 decreased by 3.2% from that of FY 2012 but increased by 11.4% over that of FY 2009. The number of parole/postrelease and conditional release violators admitted to prison in FY 2013 greatly increased by 29.2% compared with that of FY 2012 and increased by 6.9% compared with that of FY 2009. FY 2013 represents the highest 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 2012 (page 50).

In addition, 2,353 probation condition violators and 280 probation violators with new convictions were sentenced to either continued or extended probation for a violation in FY 2013. This represents 56.2% of the total number of 4,186 condition probation violators and 38.6% of the total number of 725 probation violators with new offenses revoked during FY 2013 (page 58). Compared with the percentages of FY 2012, probation condition violators sentenced to continued or extended probation for a violation increased by 0.2%, while probation violators with new convictions who had their probation sentence either continued or extended increased by 6%.

CONFORMITY TO SENTENCING GUIDELINES

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

A total number of 6,670 pure guideline sentences in FY 2013 were utilized for the study of conformity rates to the sentencing guidelines. Of this number, 1,446 were incarceration guideline sentences and 5,224 were probation sentences. More than 80% of the guideline sentences imposed fell within the designated guideline sentence range. Dispositional departures accounted for 10.2% of sentences and durational departures were found in 9.3% of sentences (page 61). The sentence distribution is very consistent with that of FY 2012.

The analysis of incarceration sentences within guidelines shows that 39.1% of the sentences imposed fell within the standard range of the grid cell; 10.3% of all sentences were within the aggravated range; 23.7% were within the mitigated range and 26.8% were located within designated border boxes (page 62). This distribution of presumptive

prison sentences does not fluctuate much compared with that of FY 2012.

In the process of evaluating the durational departures of the incarceration guideline sentences, the Commission noticed that 64.7% of the durational departures were downward durational departures, while 35.3% indicated upward durational departures (page 62). The percentage of downward durational departures decreased by 3.3% compared with that of FY 2012. The comparative study of durational departures between drug and nondrug incarceration sentences indicates that 83.6% of drug durational departure sentences were downward compared to 57.8% 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 9.5% upward dispositional departure rate while drug sentences only represented a 2.7% upward dispositional departure rate (page 66).

The examination of probation guideline sentences reveals that as expected, the majority (89.1%) of probation guideline sentences fell beneath the incarceration line, among which 85.5% were within presumptive probation grids and 14.5% were within border boxes. Downward dispositional departure was identified in 10.9% of the probation guideline sentences imposed in FY 2013 (page 63). Durational departures are not applicable to probation sentences. Further research of downward dispositional departures of probation sentences discloses that drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (13.7% vs. 9.3%). More drug probation sentences resulted from border boxes than did nondrug probation sentences (25.2% vs. 5.9%), (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 beginning years of implementation of the guidelines, such as only 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 2013 Legislative Session, forty 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.

During FY 2013, a total number of 649 pure guideline prison sentences and 614 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 39.3% of prison pure guideline admissions (1,653 admissions) and 11.5% of pure guideline probation sentences (5,349) imposed in FY 2013. The percentage

of offenders admitted to prison with special sentence rules increased from 29.5% in FY 2009 to 39.3% in FY 2013. The percentage of probation sentences imposed with special sentencing rules accounted for 12% in FY 2009 and decreased to 11.5% in FY 2013. The total percentage of both prison and probation sentences applied with special rules increased from 15.6% in FY 2009 to 18% in FY 2013 (page 77).

PRISON POPULATION FORECAST

FY 2014 prison population projections reflect the policy changes of a justice reinvestment bill, House Bill 2170, passed during the 2013 Legislative Session. This bill makes numerous changes to sentencing, postrelease supervision and probation statutes, which seeks to reduce the probation condition violator population in Kansas prisons.

The prison population projection predicts that by the end of FY 2023, a total of 10,381 prison beds will be needed. This represents a total increase of 8.3% or 800 beds over the actual prison population as of June 30, 2013. Although the total admission trend in the past four years is comparatively stable with a slow increase in FY 2013, 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 resulted from the implementation of House Substitute for Senate Bill 14, passed during the 2007 Legislative Session, which promotes a 20% reduction of the probation revocation rate, modifies lower severity level good time rates from 15% to 20% and provides potential credit for program completion. The decrease after FY 2013 until FY 2015 in the ten-year forecast period would reflect the implementation of House Bill 2170 (Pages 87 & 88).

The examination of the projected population at individual severity levels demonstrates that the largest increase in number falls at nondrug severity levels 1 to 3, an increase of 343 offenders or 13.9% in the ten-year forecast period. The number at nondrug severity levels 4 to 6 will increase by 319 offenders or 20.1% in the next ten years. This is due to the "stacking effect" of the long sentence length of the most serious offenses. The prison population at nondrug severity levels 7 to10 will increase by 156 offenders or 18.5% in the next ten years. The incarcerated population at offgrid in the next ten years will increase by 205 offenders or 17.5%. This growth is primarily due to the implementation of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session. Drug inmate population during the forecast period will increase by 46 inmates or 4.2%. The slight increase of drug population in prison mirrors the impact of House Bill 2170. In the past projections, drug probation condition violators were grouped together with drug direct new court commitments and probation violators with new sentence.

The probation condition violators admitted to prison will decrease by 147 or 9.3% in the next ten years, which results from implementing House Bill 2170. Previously, probation condition violators admitted to prison were required to serve their underlying prison sentence, but now House Bill 2170 requires probation condition violators to serve graduated sanctions instead. Condition parole or postrelease violators will slowly increase by 74 or 11.9% in the next ten years. This is the impact of House Bill 2170 as well, which

requires that probation condition violators who are released from prison after July 1, 2013 will receive a postrelease supervision period.

In the effort to predict types of prison beds needed for custody over the next ten years, custodial classification projections indicate that by the end of FY 2014, KDOC will need 2,914 minimum beds, 2,714 medium low beds, 1,544 medium high beds, 1,204 regular maximum beds, 321 unclassified beds and 773 beds for special management. By the end of FY 2023, the custodial beds in demand will include 3,176 minimum, 2,793 medium low, 1,882 medium high, 1,314 regular maximum, 341 unclassified and 875 special management beds (page 89). These projections assume no substantial change in the method or practice of custody decision-making.

REPORT CONTENTS

The Fiscal Year 2013 Annual Report is presented in four chapters. A descriptive statistical summary of statewide guideline sentencing practices in FY 2013 is presented 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 2013

The analysis and research in the FY 2013 Annual Report includes prison sentences, nonprison or probation sentences and county jail sentences reported to the Kansas Sentencing Commission during FY 2013. Senate Bill 123 drug treatment sentences are comprised in the type of probation sentences. Sentences utilized for analyses on sentencing practice and sentencing tendency in the report are based upon the most serious felony offense of a single sentencing event.

During FY 2013, the Commission received a total number of 13,174 felony sentences, which decreased by 29 sentences or 0.2% from that of FY 2012. Of that total number of sentences, 5,205 were prison sentences, 7,644 were probation sentences and 325 were county jail sentences. In terms of drug or nondrug crimes, this total included 9,454 nondrug sentences and 3,720 drug sentences. Nonperson offenses accounted for 64.7% and person offenses accounted for 35.3% (Figure 1), which does not fluctuate much from those of FY 2012.

FY 2013 sentencing distribution is presented in Figure 2. Drug incarceration sentences at drug severity level 4 represented 53.8% (715 sentences) of the total drug incarceration sentences. The largest number of nondrug incarceration offenders was identified at severity level 7 (870 sentences or 22.4%) followed by severity level 9 (845 sentences or 21.8%) and severity level 5 (623 sentences or 16.1%). The examination of probation sentences in FY 2013 indicates that 1,268 probation sentences fell at drug severity level 4, representing 53% of the total drug probation sentences and 581 probation sentences were at drug severity level 5 representing 24.3%. A new drug sentencing grid with five severity levels became effective on July 1, 2012. Pure drug possession crimes convicted under K.S.A. 21-5706 are sentenced at drug severity level 5. The total number of drug probation sentences at drug severity levels 4 and 5 is 1,849. Of this number, 90.6% or 1,675 sentences were convicted of the crimes of drug possession. Of the 1,675 drug possession sentences, 60.7% or 1,016 sentences were imposed to SB 123 drug treatment programs, which increased by 1% compared with the percentage (59.7%) of FY 2012. The highest rates of nondrug probation offenders were found at nondrug severity level 9 (35.3% or 1,853 sentences) and nondrug severity level 7 (20.7% or 1,086 sentences). The analysis of county jail sentences discloses that 98.5% of the offenders were convicted of nongrid crimes with 1.5% sentences convicted of other crimes at nondrug severity levels 8 and 9.

During FY 2013, one hundred and two counties in the state reported felony sentences to the Commission except Gove, Sheridan and Stanton counties. Most of the counties reported 1 to 100 sentences. Twelve counties reported 101 to 200 sentences. They are Atchison (126), Barton (105), Cowley (146), Crawford (171), Ellis (198), Franklin (105), Harvey (167), Jackson (118), Labette (103), Lyon (173), Riley

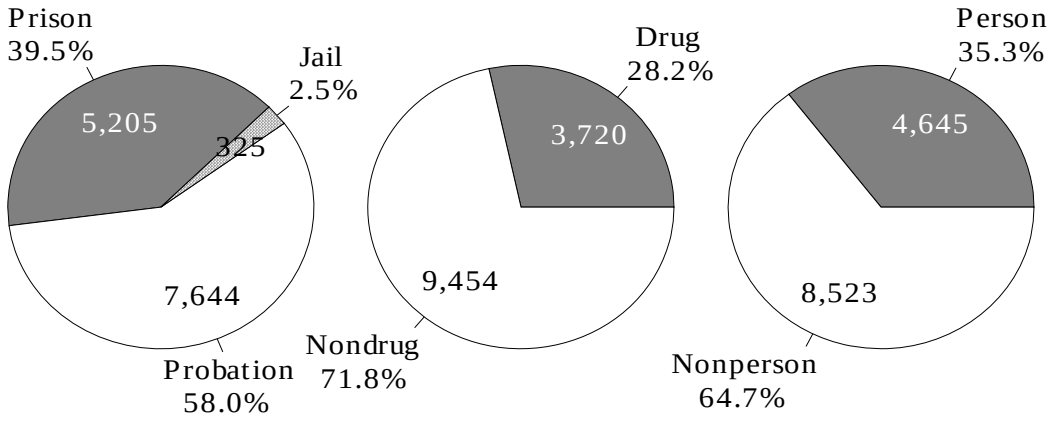
(180) and Sumner (114) counties. Nine counties reported 201 to 700 sentences. They are Butler (212), Douglas (337), Finney (221), Ford (280), Geary (248), Leavenworth (221), Montgomery (305), Reno (473) and Saline (543) counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties, accounting for 51.5% of all sentences imposed in FY 2013, a decrease of 0.4% compared with that (51.9%) of FY 2012 (Figure 3).

The top five offenses committed in FY 2013, including prison, probation and county jail sentences, are crimes of drugs (28.2% or 3,720 sentences), burglary (11.7% or 1,539 sentences, including aggravated burglary), theft (10.4% or 1,367 sentences) DUI (7.6% or 1,006 sentences) and aggravated battery (5.9% or 776 sentences). These top five offenses accounted for 63.8% of the total 13,174 sentences in FY 2013 (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 demonstrates 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 (312 sentences) followed by Wyandotte County (130 sentences), Shawnee County (118 sentences) and Johnson County (103 sentences). Figure 5 exhibits the distribution of the violent crimes committed in the top four counties during FY 2013. Table 1 presents the characteristics of offenders by individual counties. The average age of offenders at sentencing is 33 years old, which remains very close to that of FY 2012.

Figure 1: Sentences Reported in FY 2013



Based on 13,174 felony sentences reported in FY 2013 including 325 jail sentences.

Figure 2: FY 2013 Sentencing Distribution

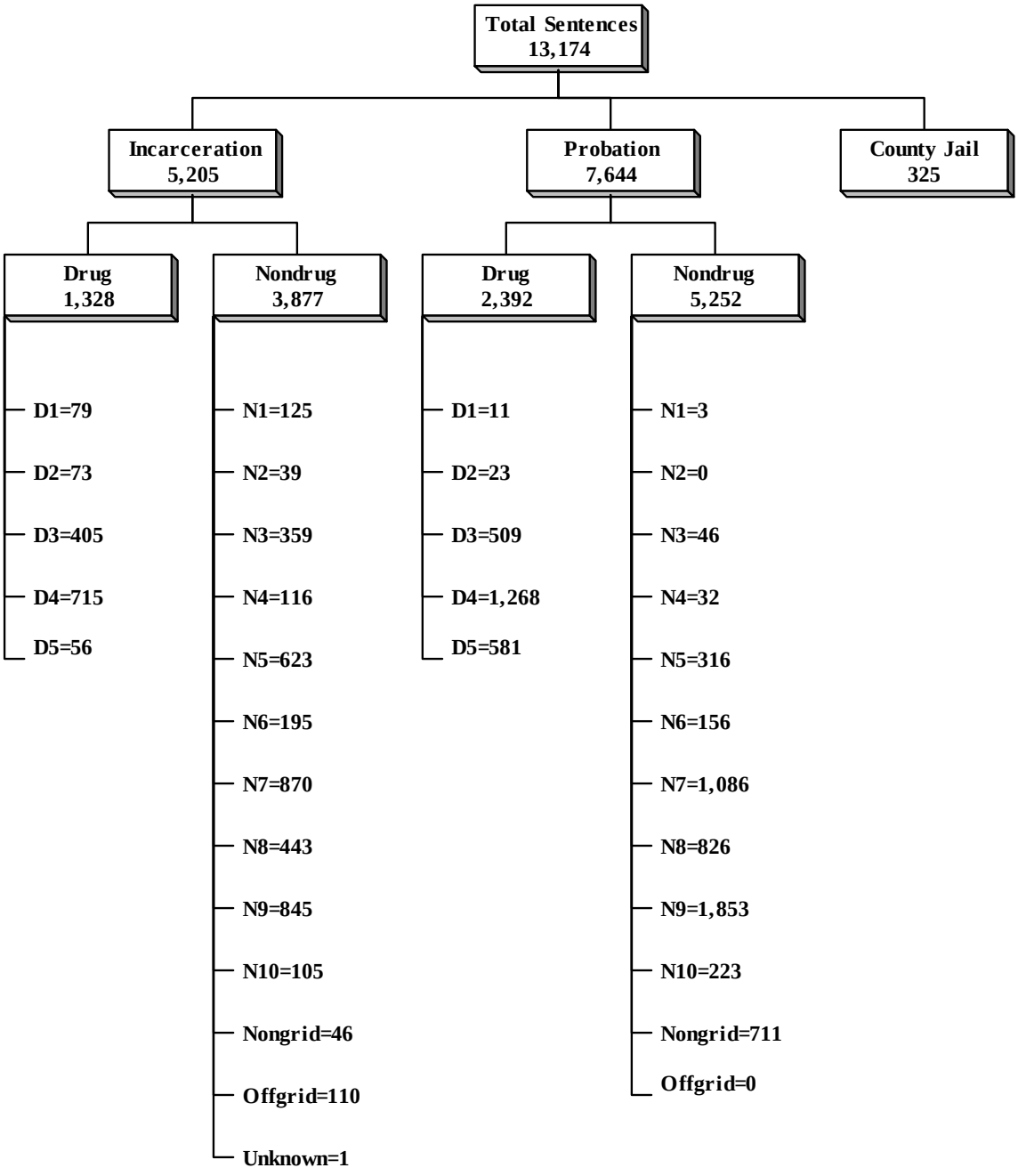


Figure 3: Sentences Reported in FY 2013 by County

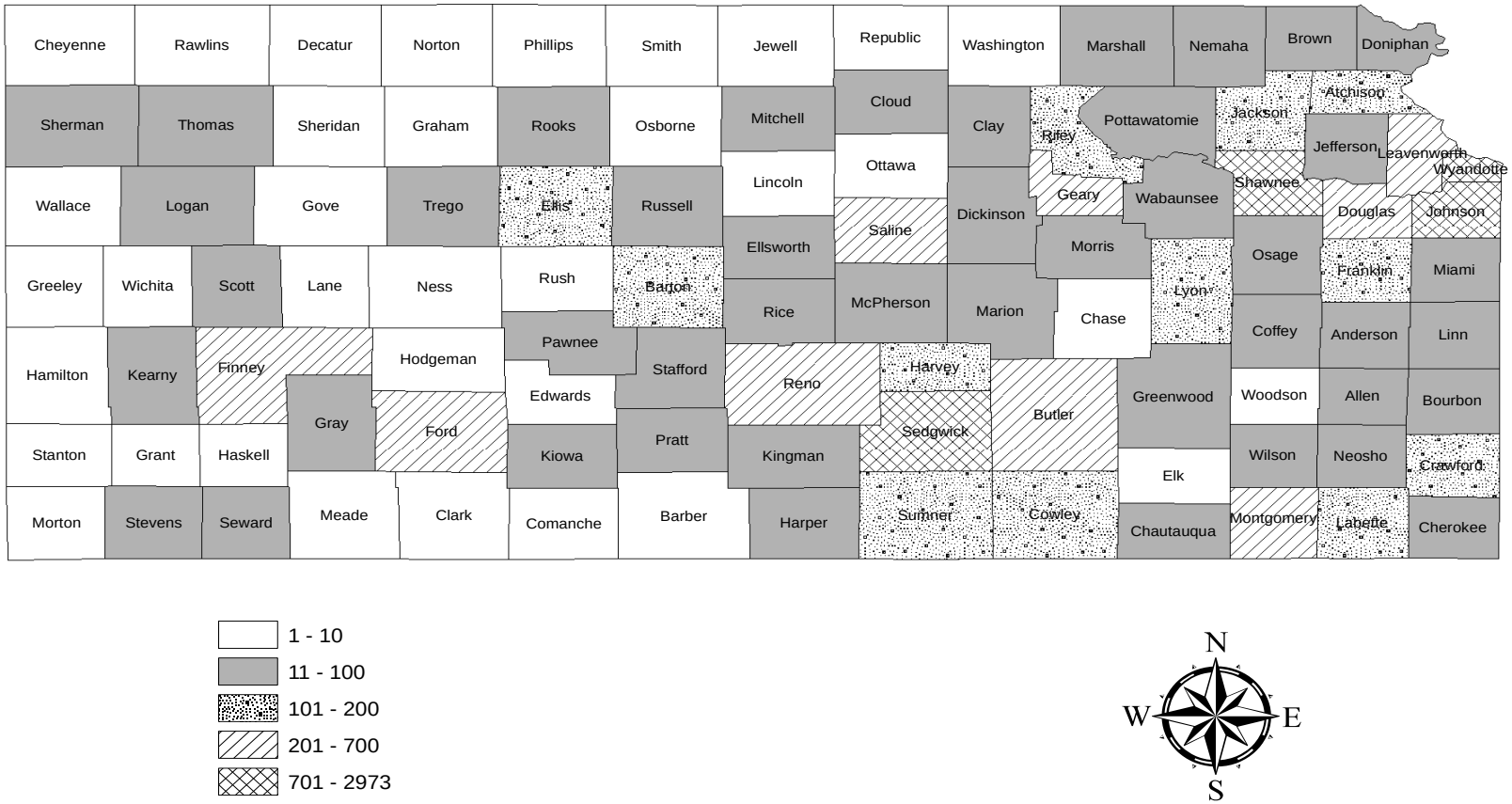
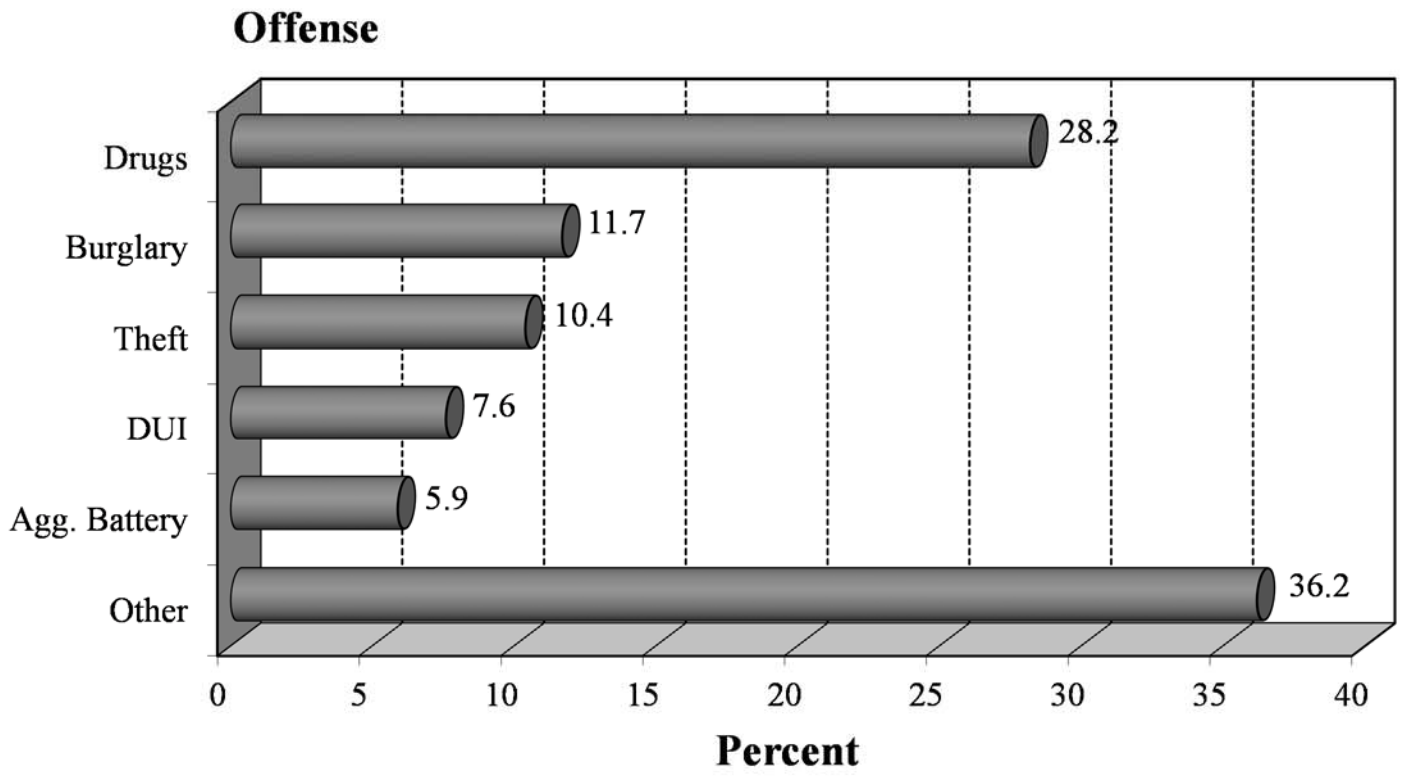


Figure 4: FY 2013 Top Five Offenses of Prison, Probation and Jail Sentences



Based on 13,174 prison, probation and county jail sentences

Figure 5: FY 2013 UCR Offenses by Top Four Counties - Violent Crime Convictions

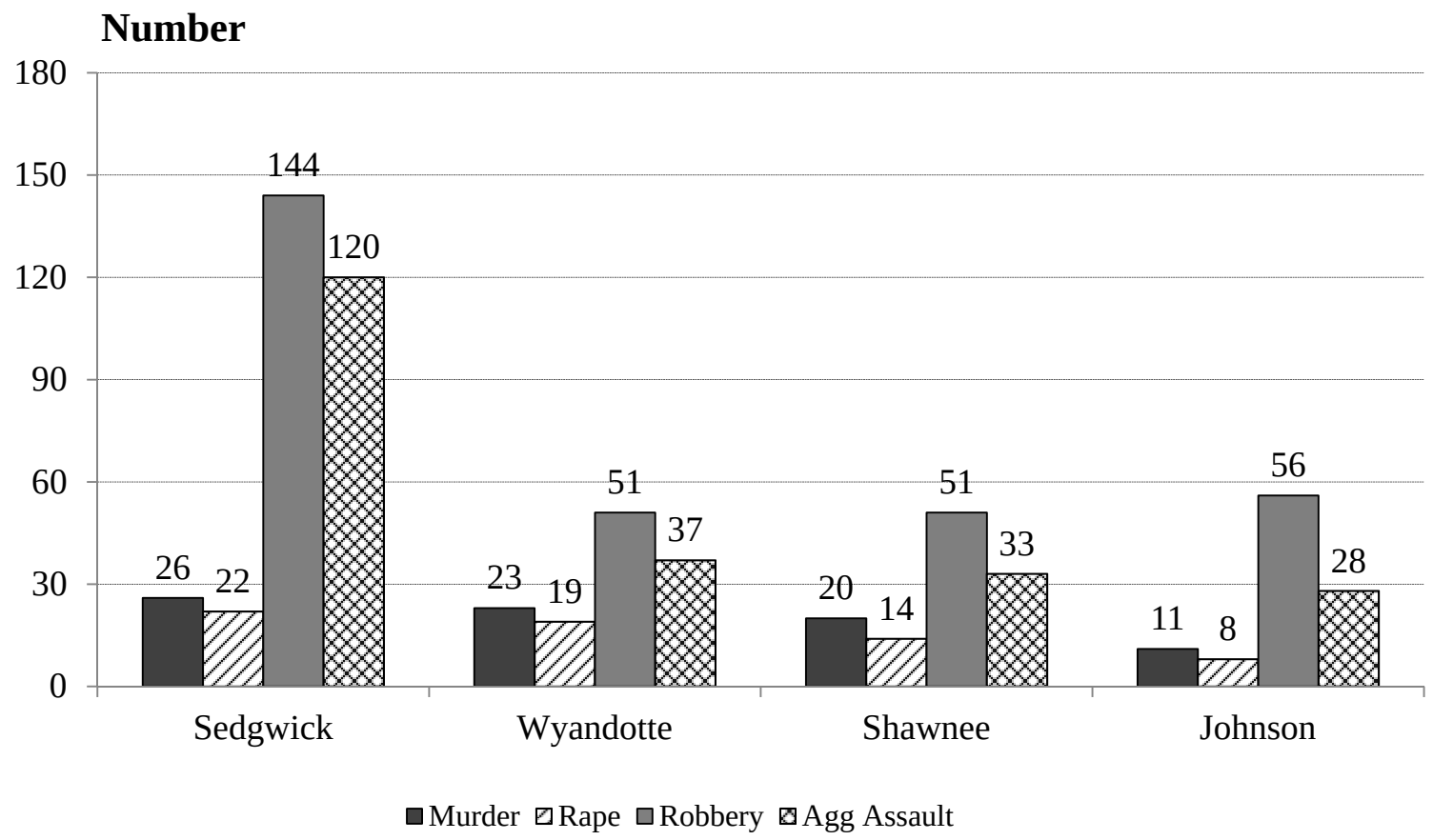


Table 1: FY 2013 Offender Characteristics by County – 1

County	Number Of Sentences	Gender		Race			Sentence Type*		Offense Type			Mean Age**
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Allen	57	43	14	52	4	1	18	39	0	37	20	33.4
Anderson	38	27	11	38	0	0	14	23	1	26	12	33.9
Atchison	126	97	29	99	25	2	67	58	1	93	33	31.5
Barber	8	7	1	8	0	0	4	4	0	7	1	36.8
Barton	105	88	17	99	5	1	41	63	1	52	53	33.5
Bourbon	46	36	10	35	9	2	45	1	0	24	22	34.9
Brown	43	32	11	29	4	10	27	16	0	34	9	30.8
Butler	212	172	40	204	7	1	68	143	1	154	58	32.4
Chase	5	4	1	5	0	0	0	5	0	3	2	38.2
Chautauqua	30	20	10	28	0	2	10	20	0	16	14	38.4
Cherokee	42	36	6	41	0	1	15	26	1	30	12	35.7
Cheyenne	4	4	0	4	0	0	1	3	0	4	0	28.3
Clark	10	10	0	8	0	2	4	6	0	6	4	31.8
Clay	40	32	8	38	1	1	10	28	2	25	15	36.5
Cloud	42	34	8	40	2	0	15	27	0	32	10	28.9
Coffey	29	17	12	29	0	0	15	14	0	18	11	33.7
Comanche	1	1	0	1	0	0	0	1	0	1	0	40.8
Cowley	146	122	24	128	14	4	61	84	1	103	43	31.1
Crawford	171	131	40	141	28	2	65	103	3	123	48	32.8
Decatur	7	7	0	7	0	0	6	1	0	7	0	29.4
Dickinson	84	61	23	78	6	0	19	64	1	64	20	33.8
Doniphan	22	20	2	20	2	0	9	13	0	14	8	30.9
Douglas	337	277	60	235	86	16	131	185	21	275	62	33.0
Edwards	7	7	0	7	0	0	4	3	0	6	1	31.2
Elk	6	5	1	6	0	0	5	1	0	6	0	30.5
Ellis	198	167	31	176	21	1	50	148	0	107	91	30.2
Ellsworth	11	11	0	10	1	0	3	8	0	11	0	34.4
Finney	221	178	43	197	21	3	78	141	2	157	64	31.1

Table 1: FY 2013 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	280	235	45	257	18	5	101	174	5	185	95	30.6
Franklin	105	88	17	98	6	1	33	69	3	84	21	33.4
Geary	248	189	59	146	94	8	102	146	0	143	105	29.6
Graham	9	8	1	8	1	0	1	8	0	8	1	31.0
Grant	8	8	0	8	0	0	4	4	0	6	2	29.6
Gray	16	12	4	15	0	1	3	13	0	11	5	34.7
Greeley	6	6	0	6	0	0	1	5	0	5	1	41.2
Greenwood	26	21	5	25	0	1	11	15	0	19	7	35.3
Hamilton	10	8	2	10	0	0	4	5	1	7	3	31.6
Harper	37	31	6	35	1	1	11	26	0	20	17	30.7
Harvey	167	129	38	153	12	2	60	105	2	80	87	33.1
Haskell	4	4	0	4	0	0	1	3	0	2	2	32.5
Hodgeman	7	7	0	6	1	0	3	4	0	4	3	41.0
Jackson	118	78	40	87	10	21	39	79	0	49	69	35.2
Jefferson	57	51	6	55	2	0	11	45	1	48	9	33.3
Jewell	3	3	0	3	0	0	1	2	0	3	0	31.0
Johnson	1,553	1,245	308	1,166	370	17	528	938	87	1,202	351	32.8
Kearny	21	17	4	21	0	0	3	18	0	13	8	37.0
Kingman	17	16	1	16	1	0	9	8	0	12	5	31.2
Kiowa	15	10	5	15	0	0	2	13	0	6	9	34.2
Labette	103	82	21	75	28	0	35	68	0	72	31	31.3
Lane	3	3	0	3	0	0	2	1	0	1	2	45.0
Leavenworth	221	169	52	155	64	2	87	129	5	132	89	32.2
Lincoln	2	2	0	1	1	0	1	1	0	2	0	31.0
Linn	18	16	2	17	1	0	14	4	0	10	8	39.3
Logan	11	9	2	11	0	0	4	6	1	7	4	27.9
Lyon	173	128	45	145	25	3	69	102	2	81	92	314

Table 1: FY 2013 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	12	9	3	11	1	0	5	7	0	9	3	34.3
Marshall	50	38	12	49	1	0	22	28	0	24	26	31.9
McPherson	91	80	11	79	9	3	32	58	1	59	32	32.4
Meade	3	3	0	3	0	0	3	0	0	3	0	25.7
Miami	68	59	9	62	6	0	29	38	1	44	24	32.1
Mitchell	26	22	4	23	3	0	7	19	0	13	13	32.6
Montgomery	305	222	83	246	53	6	123	178	4	202	103	33.4
Morris	18	18	0	18	0	0	12	6	0	12	6	27.9
Morton	8	8	0	8	0	0	1	7	0	6	2	33.7
Nemaha	26	23	3	26	0	0	9	17	0	20	6	31.4
Neosho	80	64	16	76	4	0	31	48	1	56	24	31.0
Ness	5	4	1	5	0	0	1	4	0	2	3	37.3
Norton	7	5	2	7	0	0	5	2	0	6	1	40.8
Osage	47	38	9	45	2	0	19	28	0	39	8	36.5
Osborne	10	8	2	9	0	1	2	8	0	7	3	36.0
Ottawa	1	1	0	1	0	0	1	0	0	1	0	47.7
Pawnee	42	37	5	40	2	0	18	24	0	30	12	32.8
Phillips	7	6	1	7	0	0	5	2	0	7	0	30.9
Pottawatomie	65	50	15	62	3	0	18	47	0	49	16	31.2
Pratt	44	38	6	43	1	0	16	27	1	29	15	34.0
Rawlins	2	0	2	2	0	0	0	2	0	2	0	27.8
Reno	473	377	96	397	72	4	182	288	3	310	163	32.0
Republic	10	8	2	9	1	0	4	6	0	3	7	30.4
Rice	52	43	9	49	2	1	21	31	0	39	13	32.6
Riley	180	147	33	121	57	2	75	99	6	110	70	29.1
Rooks	25	17	8	24	0	1	9	16	0	11	14	36.5
Rush	9	5	4	9	0	0	3	6	0	5	4	31.4
Russell	31	29	2	28	3	0	12	19	0	22	9	27.0

Table 1: FY 2013 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	
Saline	543	403	140	437	95	11	194	345	4	350	193	32.1
Scott	12	11	1	12	0	0	5	7	0	9	3	28.4
Sedgwick	2,973	2,437	536	1,865	1,037	71	1,342	1,505	126	2,392	581	33.5
Seward	97	88	9	85	12	0	55	41	1	82	15	29.8
Shawnee	1,077	880	197	744	316	17	396	656	25	848	229	34.3
Sherman	39	34	5	34	4	1	8	31	0	25	14	27.7
Smith	6	5	1	6	0	0	0	6	0	5	1	35.5
Stafford	12	9	3	12	0	0	3	9	0	8	4	29.9
Stevens	11	9	2	10	1	0	6	5	0	8	3	30.1
Sumner	114	97	17	106	6	2	43	68	3	84	30	32.8
Thomas	34	27	7	31	3	0	8	26	0	23	11	30.4
Trego	15	13	2	15	0	0	0	15	0	11	4	29.9
Wabaunsee	12	12	0	10	2	0	2	10	0	11	1	34.8
Wallace	4	4	0	4	0	0	0	4	0	2	2	34.7
Washington	4	2	2	4	0	0	2	2	0	4	0	35.3
Wichita	4	4	0	4	0	0	4	0	0	2	2	24.3
Wilson	39	32	7	39	0	0	19	20	0	23	16	33.9
Woodson	6	5	1	6	0	0	3	3	0	5	1	27.9
Wyandotte	1,179	964	215	637	533	9	515	657	7	787	392	33.9
Unknown	10	8	2	4	6	0	10	0	0	8	2	30.4
TOTAL	**13,174**	**10,624**	**2,550**	**9,828**	**3,106**	**240**	**5,205**	**7,644**	**325**	**9,454**	**3,720**	**32.9**

* Prison sentences are based on KDOC admissions in FY 2013. Probation and jail sentences are based on the sentencing journal entries reported to KSC during FY 2013.
** Average age at time of sentencing.

CHARACTERISTICS OF OFFENDERS AND OFFENSES

This section presents the characteristics of the offenders who were sentenced during FY 2013. The crime categories committed by the offenders are descriptively analyzed as well.

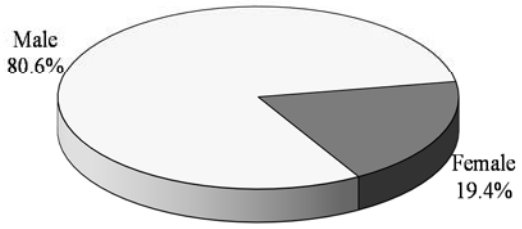
The distributions of offenders by gender, race and age are illustrated respectively in Figures 6 - 9. Table 2 presents the demographic information of offenders by offense types.

In FY 2013, male offenders represented 80.6% of the total sentences (Figure 6) and committed more than 80% of most aggravated crimes and violent crimes such as aggravated assault, burglary, robbery, criminal threat, fleeing or eluding LEO, rape and kidnapping.

Female offenders accounted for 19.4% of the sentences in FY 2013, an increase of 0.2% compared with the percentage rate of FY 2012 (19.2%). The most frequently committed crimes by female offenders (over 40%) were forgery, criminal use of financial card, giving worthless checks and aggravated endangering a child.

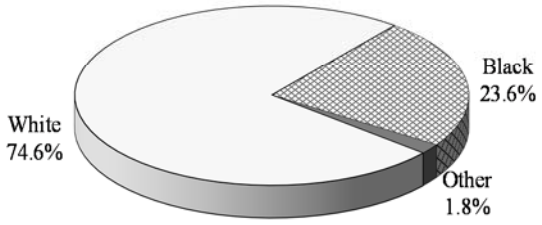
In FY 2013, white offenders made up 74.6% of the sentences and 23.6% of the sentences were committed by black offenders. No significant fluctuation is identified in the racial distribution compared with FY 2012 (Figure 7).

Figure 6: Distribution of FY 2013 Sentences by Gender of Offenders



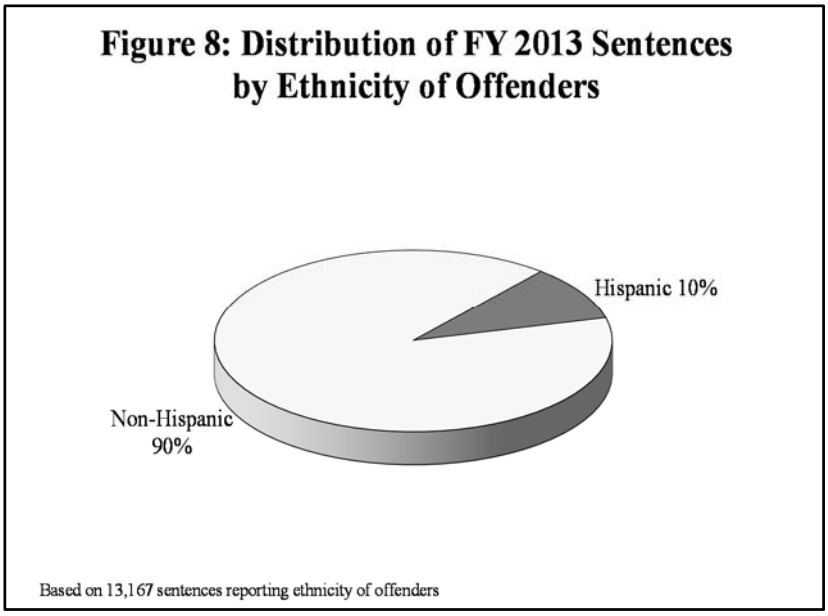
Based on 13,174 sentences reporting gender of offenders

Figure 7: Distribution of FY 2013 Sentences by Race of Offenders



Based on 13,174 sentences reporting race of offenders

In FY 2013, 90% of the offenders were of Non-Hispanic origin, indicating no change in percentage when compared with that of FY 2012. This distribution of ethnicity of offenders has been comparatively constant in the past five years (Figure 8).



In FY 2013, 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 23.6% of all offenders in FY 2013. The second largest offender population was identified in the age group ranging from 25 to 30 (Figure 9). This finding is consistent with those in the past five years.

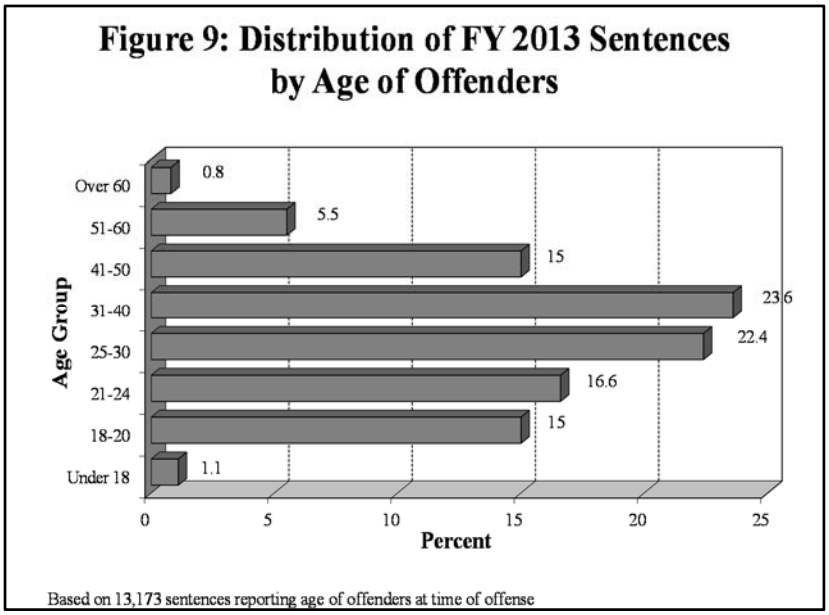


Table 2: FY 2013 Offender Characteristics by Type of Offense – 1

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Abuse of Child	34	82.4	17.6	64.7	35.3	0.0	28.2
Agg. Arson	7	85.7	14.3	42.9	42.9	14.2	28.7
Agg. Assault	316	91.8	8.2	63.6	34.5	1.9	32.0
Agg. Assault on LEO	55	92.7	7.3	78.2	18.2	3.6	32.3
Agg. Battery	756	90.1	9.9	65.7	32.3	2.0	30.7
Agg. Battery on LEO	20	80.0	20.0	85.0	15.0	0.0	32.7
Agg. Burglary	287	84.0	16.0	65.9	33.1	1.0	30.4
Agg. Criminal Sodomy w/Child	40	92.5	7.5	87.5	7.5	5.0	31.9
Agg. Endangering a Child	63	55.6	44.4	85.7	11.1	3.2	31.4
Agg. Escape from Custody	64	85.9	14.1	76.6	21.9	1.6	28.7
Agg. Failure to Appear	37	73.0	27.0	62.2	32.4	5.4	31.2
Agg. False Impersonation	6	66.7	33.3	66.7	33.3	0.0	30.0
Agg. Robbery	221	90.0	10.0	51.1	47.5	1.4	24.8
Agg. Incest	4	100.0	0.0	75.0	25.0	0.0	37.0
Agg. Indecent Liberties w/Child	202	97.5	2.5	86.6	12.4	1.0	30.3
Agg. Indecent Solicit w/Child	64	98.4	1.6	87.5	7.8	4.7	32.8
Agg. Intimidation of a Victim	27	92.6	7.4	59.3	37.0	3.7	27.9
Agg. Kidnapping	25	88.0	12.0	72.0	24.0	4.0	29.3
Agg. Sexual Battery	53	100.0	0.0	67.9	30.2	1.9	32.7
Agg. Weapon Violation	14	92.9	7.1	57.1	14.3	28.6	32.4
Aid Felon	28	39.3	60.7	71.4	21.4	7.1	25.6
Arrange Sale/Purchase Drug	20	75.0	25.0	90.0	5.0	5.0	34.4
Arson	48	89.6	10.4	89.6	10.4	0.0	28.7
Auto Failure to Remain	5	80.0	20.0	20.0	60.0	20.0	30.9
Battery on LEO	69	75.4	24.6	73.9	26.1	0.0	27.1
Blackmail	4	100.0	0.0	75.0	25.0	0.0	28.2
Burglary	1,252	88.8	11.2	78.7	19.8	1.5	28.1
Contribute Child's Misconduct	15	73.3	26.7	80.0	13.3	6.7	25.2
Computer Crime	12	58.3	41.7	58.3	41.7	0.0	30.6
Criminal Damage to Property	89	86.5	13.5	83.1	16.9	0.0	29.7
Criminal Discharge of Firearm	29	89.7	10.3	48.3	51.7	0.0	30.1
Criminal Sodomy w/Child	11	90.9	9.1	90.9	9.1	0.0	24.1
Criminal Threat	362	90.9	9.1	75.4	21.8	2.8	33.4
Criminal Use of Explosives	8	87.5	12.5	87.5	12.5	0.0	27.2
Criminal Use of Financial Card	23	52.2	47.8	95.7	4.3	0.0	32.6
Domestic Battery	61	93.4	6.6	57.4	41.0	1.6	32.9
Drugs	3,720	76.6	23.4	76.0	22.3	1.7	32.1
Drugs, Deliver Simulated Cont. Subs.	3	66.7	33.3	66.7	0.0	33.3	29.4

Table 2: FY 2013 Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Drug without Tax Stamps	45	80.0	20.0	73.3	24.4	2.2	29.3
DUI	1,006	84.1	15.9	87.3	10.7	2.0	38.6
DUI Test Refusal	8	100.0	0.0	87.5	12.5	0.0	35.3
Electronic Solicitation of Child	26	96.2	3.8	88.5	7.7	3.8	28.1
Failure to Register	289	92.7	7.3	68.9	28.7	2.4	33.4
Fleeing or Eluding LEO	295	90.8	9.2	71.9	25.8	2.4	31.2
Forgery	585	54.0	46.0	77.3	21.2	1.5	31.9
False Writing	99	62.6	37.4	71.7	27.3	1.0	31.3
Giving Worthless Checks	26	57.7	42.3	92.3	7.7	0.0	33.2
Identity Theft	159	62.9	37.1	76.1	22.0	1.9	32.0
Indecent Liberties w/Child	64	89.1	10.9	89.1	7.8	3.1	27.8
Indecent Solicitation of Child	35	94.3	5.7	65.7	31.4	2.9	27.1
Involuntary Manslaughter	33	87.9	12.1	81.8	18.2	0.0	29.2
Kidnapping	39	87.2	12.8	66.7	30.8	2.6	27.4
Lewd and Lascivious Behavior	11	90.9	9.1	90.9	0.0	9.1	27.2
Medicaid Fraud	16	25.0	75.0	81.3	18.8	0.0	42.3
Mistreat Dependant Adult	6	66.7	33.3	100.0	0.0	0.0	49.8
Murder in the First Degree	39	79.5	20.5	56.4	41.0	2.6	28.0
Murder in the Second Degree	61	91.8	8.2	59.0	36.1	4.9	26.7
Nonsupport of Child or Spouse	24	100.0	0.0	66.7	29.2	4.2	38.3
Obstructing Legal Process	137	85.4	14.6	75.9	23.4	0.7	31.4
Obtain Prescription Drug by Fraud	7	28.6	71.4	100.0	0.0	0.0	41.9
Possession of Firearm	132	97.0	3.0	56.1	43.2	0.8	29.2
Rape	112	96.4	3.6	70.5	25.0	4.5	31.6
Robbery	199	89.9	10.1	46.7	52.8	0.5	26.7
Sex Exploitation of a Child	50	100.0	0.0	94.0	6.0	0.0	37.5
Stalking	47	95.7	4.3	57.4	40.4	2.1	33.9
Tamper w/Electronic Monitor Equip.	11	81.8	18.2	81.8	18.2	0.0	29.0
Theft	1,367	68.4	31.6	75.6	23.1	1.3	34.7
Traffic in Contraband	88	71.6	28.4	71.6	27.3	1.1	31.5
Unlawful Voluntary Sex Relations	31	96.8	3.2	74.2	22.6	3.2	18.4
Voluntary Manslaughter	16	93.8	6.2	43.8	56.3	0.0	30.8
Weapons	10	90.0	10.0	80.0	20.0	0.0	28.2
Other	47	66.0	34.0	74.5	23.4	2.1	31.3
TOTAL	**13,174**	**80.6**	**19.4**	**74.6**	**23.6**	**1.8**	**31.9**

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=13,174; Race, N=13,174; and Age, N=13,173

* Average age at time of offense.

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

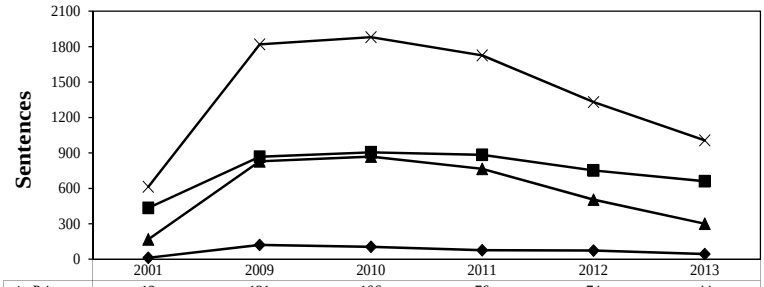
The felony crime of driving under the influence of alcohol or drugs for the third or subsequent conviction (DUI) under K.S.A. 8-1567(f) was classified as a severity level 9, nonperson felony offense in 1993 when the Sentencing Guidelines were established. In the 1994 Legislative Session, the crime was 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 as set forth in K.S.A. 21-6804(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 prison 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 provisions for postrelease supervision by KDOC parole officers.

Figure 10 exhibits the sentencing trends of felony DUI under K.S.A. 8-1567(f) in FY 2001 and the past five fiscal years. During FY 2001, 614 offenders were convicted of the crime of felony 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 2013, sentences convicted under this crime increased to 1,006 with 44 (4.4%) sentenced to prison as parole condition violators, 661 (65.7%) sentenced to probation and 301 (29.9%) sentenced to county jails. The total number of sentences convicted under the crime of felony DUI in FY 2013 decreased by 24.4% from that of FY 2012 and 44.7 % from that of FY 2009. When compared with that of FY 2001, the number significantly increased by 63.8%. The distribution of felony DUI convictions in FY 2013 by county is presented in Figure 11. Sedgwick and Johnson counties were the top two counties imposing 277 (27.5%) and 237 (23.6%) sentences convicted under K.S.A. 8-1567(f) in FY 2013.

The decrease of DUI sentences since FY 2011 mirrors the impact of 2011 Senate Bill 6, which amends a third DUI conviction to a Class A nonperson misdemeanor. The majority of the prison sentences include probation condition violators, parole condition violators and parole violators with new sentences (Figure 10).

Figure 10: DUI Sentences

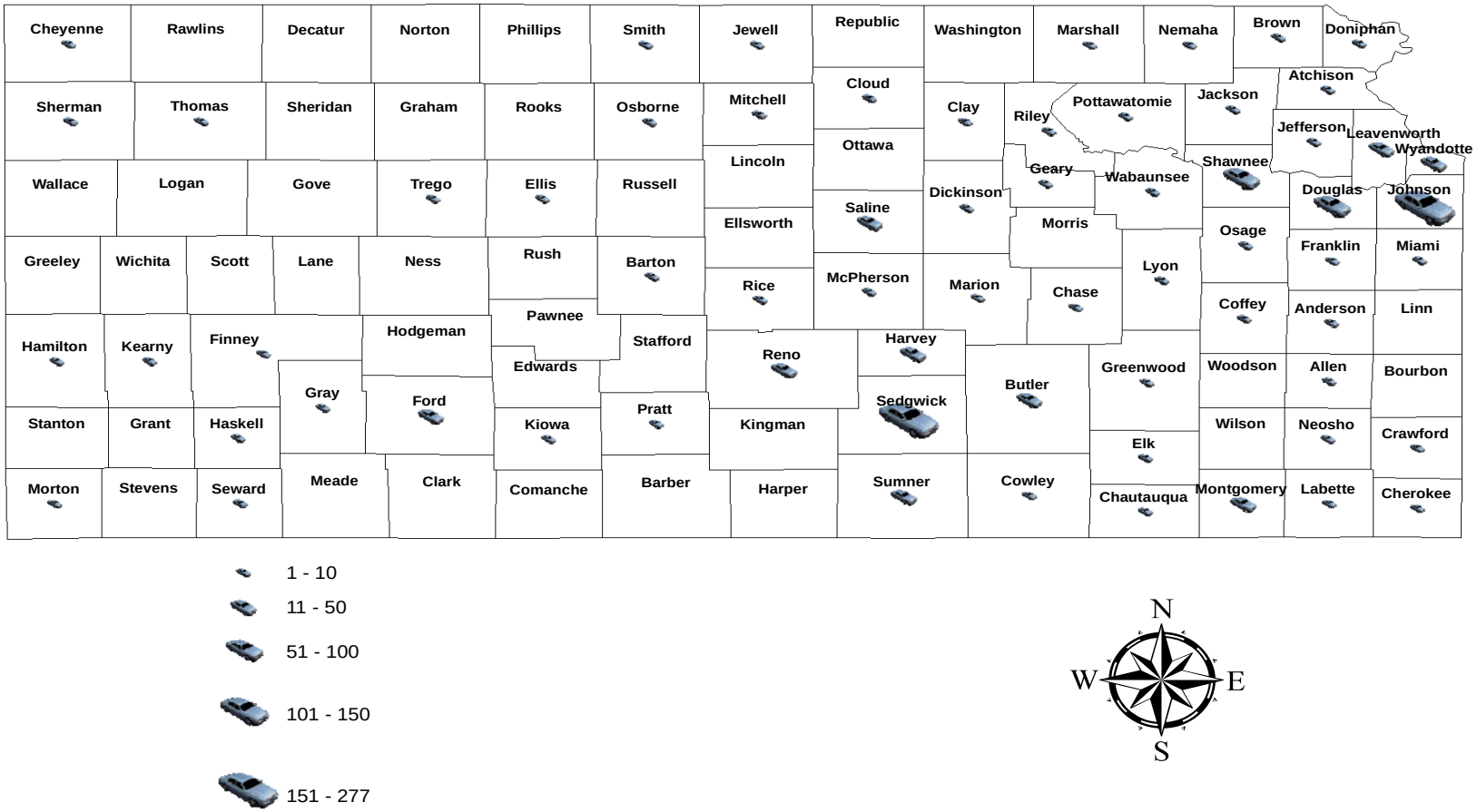
FY 2001, FY 2009 through FY 2013



	2001	2009	2010	2011	2012	2013
Prison	12	121	106	76	74	44
Probation	434	868	906	884	752	661
Jail	168	830	869	766	505	301
Total	614	1819	1881	1726	1331	1006

Fiscal Year

Figure 11: FY 2013 DUI Offenses by County

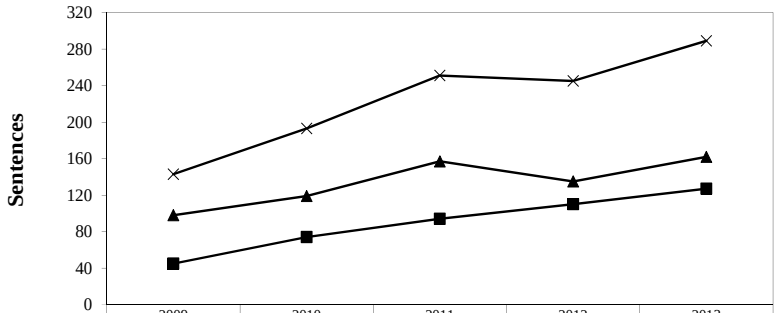


Sentences for Failure to Register under the Kansas Offender Registration Act (KORA)

K.S.A. 22-4903 lists the penalty for a failure to register under the Kansas Offender Registration Act. The statute was amended to increase the penalty from a Class A, nonperson misdemeanor to a severity level 10, nonperson felony during the 1999 Legislative Session. The penalty for the crime was amended again in the 2006 Legislative Session, which increased the penalty to a severity level 5, person felony. During the 2011 Legislation, the penalties for violations of KORA were further amended as 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 or aggravated failure to register as requested. The 2013 Legislation created a severity level 9, person felony for the conviction of failure to remit two or more full payments as required by K.S.A. 22-4905(k).

The trend of the crime of failure to register increased from FY 2009 to FY 2013 with a decrease in FY 2012. During FY 2013, 289 sentences were convicted under this crime, an increase of 18% when compared with FY 2012 and an increase of 101.1% when compared with FY 2009. Of those 289 convictions, 127 were sentenced to prison and 162 were sentenced to probation (Figure 12).

Figure 12: Failure to Register Sentences
By Sentence Imposed - FY 2009 through FY 2013

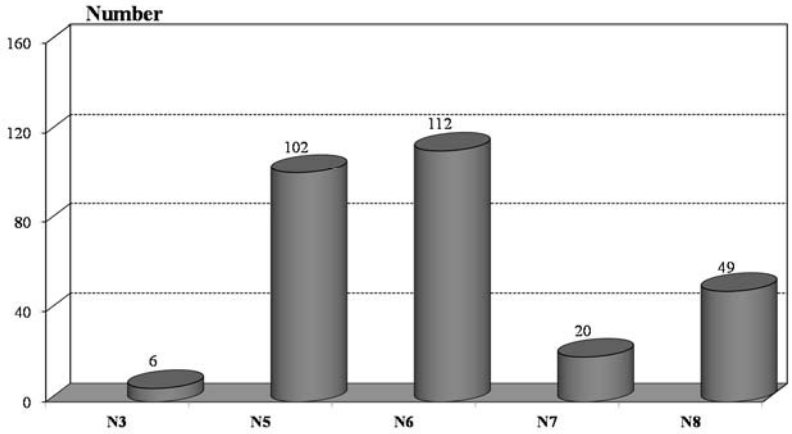


	2009	2010	2011	2012	2013
Prison	45	74	94	110	127
Probation	98	119	157	135	162
Total	143	193	251	245	289

Fiscal Year

In FY 2013, six (2.1%) convictions under this crime were sentenced at nondrug severity level 3, 102 (35.3%) were sentenced at nondrug severity level 5 and 112 (38.8%) were sentenced at nondrug severity level 6. Sentences at nondrug severity levels 7 and 8 were attempt convictions of the crime, representing 20 (6.9%) and 49 (17%) convictions respectively (Figure 13).

Figure 13: Failure to Register Sentences
By Severity Level - FY 2013

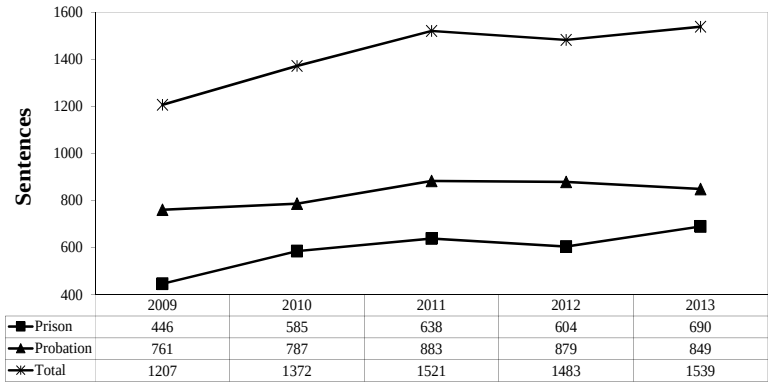


Burglary and Aggravated Burglary

Burglary, including aggravated burglary, is the second most committed crime in the past two years. The penalty for the crime is nondrug severity level 5 for aggravated burglary, nondrug severity level 7 for residential and nonresidential burglary and nondrug severity level 9 for motor vehicle burglary. Two special sentencing rules related to burglary make a conviction of the crime a presumptive prison sentence. The number of burglary offenders sentenced to prison with the two special sentencing rules has been increasing since FY 2009; 140 during FY 2013, 129 in FY 2012, 111 in FY 2011, 92 in FY 2010 and 49 in FY 2009.

Figure 14 presents the sentencing trend of the crimes in the past five years. During FY 2013, the total number of burglary sentences increased by 3.8% over that of FY 2012 and increased by 27.5% over that of FY 2009. The number of prison sentences in FY 2013 increased by 86 sentences compared with FY 2012 and increased by 244 sentences compared with FY 2009. The number of probation sentences decreased by 30 compared with FY 2012 but increased by 88 compared with FY 2009.

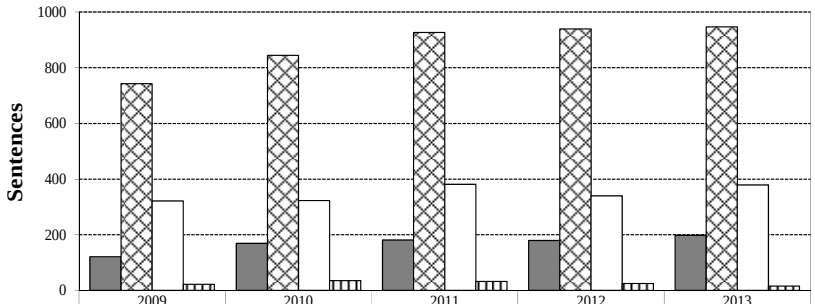
Figure 14: Burglary Sentences
By Sentence Imposed - FY 2009 through FY 2013



	2009	2010	2011	2012	2013
Prison	446	585	638	604	690
Probation	761	787	883	879	849
Total	1207	1372	1521	1483	1539

The analysis of severity levels of the crimes indicates that the majority of the convictions were sentenced at nondrug severity level 7, representing 61.5% of burglary sentences imposed in FY 2013, 63.3% in FY 2012, 60.9% in FY 2011, 61.6% in 2010 and 61.6% in FY 2009 (Figure 15).

Figure 15: Burglary Sentences
By Severity Level - FY 2009 through FY 2013



	2009	2010	2011	2012	2013
N5	121	169	181	179	198
N7	743	845	927	939	947
N9	321	323	381	340	379
N10	22	35	32	25	15

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. 22-4616).

During FY 2013, a total number of 195 sentences were designated by court as domestic violence cases, increasing by 94 or 93% compared with FY 2012 (101 sentences). Of the 195 sentences, 43 (22.1%) were sentenced to prison, 143 (73.3%) were sentenced to probation and 9 (4.6%) were sentenced to county jail. Approximately 95% of the offenders were male. White offenders accounted for 64%, black offenders accounted for 34% and offenders of other races represented 2%. Their average age at sentencing was 33.4 years old, which is very close to that of FY 2012. Aggravated battery (29.2%), criminal threat (23.1%) and domestic battery (19%) were still the top three offenses committed by this group of offenders compared with the data observed in FY 2012.

Table 3: FY 2013 Most Serious Offenses Convicted by Designated Domestic Violent Offenders

Offense	Number	Percent
Aggravated Assault	16	8.2
Aggravated Battery	57	29.2
Aggravated Kidnapping/Kidnapping	4	2.1
Burglary	5	2.6
Criminal Damage to Property	3	1.5
Criminal Threat	45	23.1
Domestic Battery	37	19.0
Murder in the First Degree	1	0.5
Murder in the Second Degree	4	2.1
Possession of Firearm	1	0.5
Robbery/Aggravated Robbery	5	2.6
Sexual Offenses	4	2.1
Stalking	7	3.6
Voluntary Manslaughter	1	0.5
Other	5	2.6
Total	**195**	**100.0**

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

INCARCERATION SENTENCES

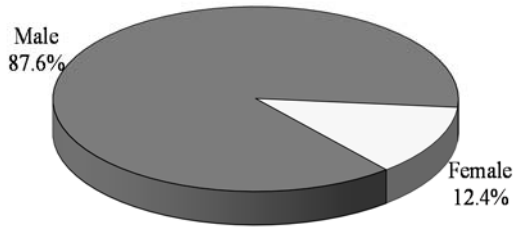
Characteristics of Offenders

The characteristics of offenders admitted to the state correctional facilities during FY 2013 are presented in Figures 16 - 20. Male offenders continued to be the predominant offender group representing 87.6% of the offenders admitted to prison in FY 2013 (Figure 16).

In FY 2013, white offenders represented 69.3%, black offenders represented 28.5% and other races accounted for 2.2% of the total admissions of the year (Figure 17). This racial distribution of offenders does not fluctuate much when compared with that of FY 2012.

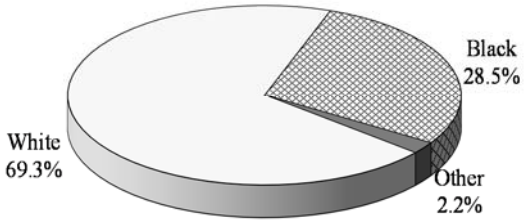
Non-Hispanic offenders accounted for 90.9% of the offenders sentenced to prison (Figure 18). The overall distributions of the offenders by gender, race and ethnicity are comparatively constant compared with those of the past five years.

Figure 16: FY 2013 Incarceration Sentences by Gender of Offenders



Based on 5,205 incarceration sentences reporting gender of offenders

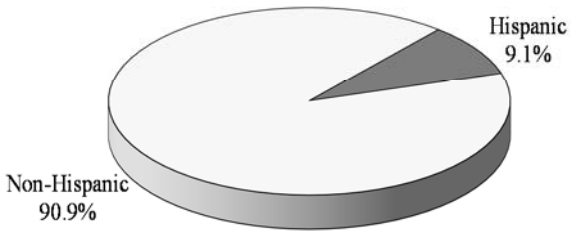
Figure 17: FY 2013 Incarceration Sentences by Race of Offenders



Based on 5,205 incarceration sentences reporting race of offenders

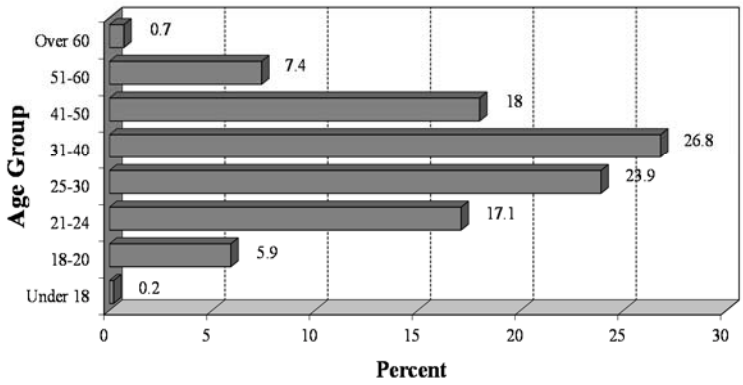
The analysis of offenders' age reveals that the largest number of incarcerated offenders were found in their thirties (26.8%) at the time of admission to prison. The second largest number of offenders were in the age group ranging from 25 to 30 years old representing 23.9% of the total admission in FY 2013 This age distribution pattern is consistent with the age data observed in FY 2012 (Figure 19).

Figure 18: FY 2013 Incarceration Sentences by Ethnicity of Offenders



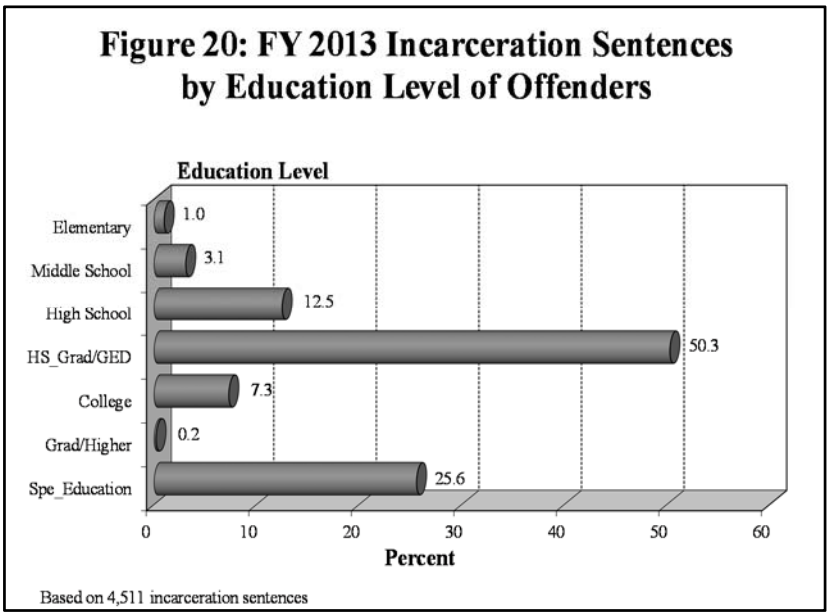
Based on 5,199 incarceration sentences reporting ethnicity of offenders

Figure 19: FY 2013 Incarceration Sentences by Age of Offenders at Admission



Based on 5,205 incarceration sentences reporting age of offenders

The examination of the education levels of the offenders admitted to prison during FY 2013 demonstrates that more than fifty percent of the offenders had obtained a high school diploma or GED equivalent, which is very close to the percentage of the same group observed in FY 2012 (Figure 20).



Incarceration Nondrug Offenses

In FY 2013, a total number of 3,877 offenders were admitted to prison for convictions of nondrug crimes, representing 74.5% of the total incarceration sentences (5,205) of the fiscal year. The top ten nondrug crimes included burglary (513 sentences), theft (439 sentences), aggravated battery (362 sentences), forgery (218 sentences), aggravated robbery (184 sentences), aggravated burglary (177 sentences), aggravated indecent liberties with a child (177 sentences), aggravated assault (151 sentences), robbery (147 sentences) and failure to register (127 sentences). These top ten crimes accounted for 64.4% of the total nondrug crimes committed by the offenders admitted to prison in FY 2013 (Table 4).

The analysis of offenders by gender indicates that male offenders committed more than 90% of the top ten crime categories, except forgery and theft. Most sex offenders were males, indicating no change from the previous year. However, the most frequently committed offenses by female offenders were found in the offense categories of forgery, false writing, giving worthless checks and criminal use of financial card (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, criminal threat, aggravated escape from custody, DUI, forgery, theft, identity theft, fleeing or eluding LEO and most sex offenses. Nevertheless, black offenders were incarcerated more often (over 40%) for the crimes of aggravated assault, robbery, murder in the first degree, voluntary manslaughter, possession of firearms, criminal discharge of firearms and stalking. The average age of the nondrug offenders was 33.9 years old at the time of admission to prison in FY 2013, which remains the same with that of FY 2012 (Table 4).

Table 4: FY 2013 Incarceration Nondrug Offender Characteristics by Type of Offense – 1

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Abuse of Child	16	81.3	18.7	56.3	43.7	0.0	30.2
Agg. Arson	5	80.0	20.0	40.0	40.0	20.0	33.0
Agg. Assault	151	90.7	9.3	55.6	43.0	1.3	31.7
Agg. Assault on LEO	38	89.5	10.5	73.7	21.1	5.3	34.1
Agg. Battery	362	94.2	5.8	64.1	33.7	2.2	33.3
Agg. Battery on LEO	13	84.6	15.4	84.6	15.4	0.0	34.1
Agg. Burglary	177	91.0	9.0	62.1	36.7	1.1	33.9
Agg. Criminal Sodomy w/Child	40	92.5	7.5	87.5	7.5	5.0	38.8
Agg. Endangering a Child	14	71.4	28.6	64.3	35.7	0.0	27.7
Agg. Escape from Custody	48	85.4	14.6	77.1	22.9	0.0	32.4
Agg. Failure to Appear	10	90.0	10.0	80.0	20.0	0.0	36.3
Agg. Incest	4	100.0	0.0	75.0	25.0	0.0	48.3
Agg. Indecent Liberties w/Child	177	97.7	2.3	84.7	14.1	1.1	35.4
Agg. Indecent Solicit w/Child	40	100.0	0.0	82.5	10.0	7.5	36.0
Agg. Intimidation of a Victim	18	100.0	0.0	61.1	33.3	5.6	32.3
Agg. Kidnapping	24	91.7	8.3	70.8	25.0	4.2	41.7
Agg. Robbery	184	92.4	7.6	50.0	48.4	1.6	31.0
Agg. Sexual Battery	31	100.0	0.0	67.7	32.3	0.0	33.7
Aid Felon	8	62.5	37.5	87.5	12.5	0.0	27.3
Arson	23	95.7	4.3	95.7	4.3	0.0	31.8
Battery on LEO	42	83.3	16.7	71.4	28.6	0.0	29.8
Burglary	513	91.8	8.2	75.2	23.0	1.8	31.7
Contribute Child's Misconduct	5	100.0	0.0	100.0	0.0	0.0	24.9
Criminal Damage to Property	17	100.0	0.0	76.5	23.5	0.0	34.7
Criminal Discharge of Firearm	17	100.0	0.0	35.3	64.7	0.0	28.5
Criminal Sodomy w/Child	8	87.5	12.5	100.0	0.0	0.0	29.5
Criminal Threat	115	97.4	2.6	70.4	25.2	4.3	35.2
Criminal Use of Financial Card	5	40.0	60.0	100.0	0.0	0.0	38.8
Drug without Tax Stamps	5	60.0	40.0	100.0	0.0	0.0	31.0
DUI	44	90.9	9.1	88.6	9.1	2.3	44.3
Electronic Solicitation of Child	19	94.7	5.3	89.5	5.3	5.3	29.9
Failure to Register	127	96.9	3.1	63.0	33.1	3.9	34.5
Fleeing or Eluding LEO	121	96.7	3.3	71.1	26.4	2.5	34.1
Forgery	218	59.6	40.4	81.7	17.4	0.9	34.8
False Writing	25	52.0	48.0	76.0	20.0	4.0	33.5
Giving Worthless Checks	8	62.5	37.5	87.5	12.5	0.0	30.3
Identity Theft	50	68.0	32.0	80.0	18.0	2.0	35.2

Table 4: FY 2013 Incarceration Nondrug Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Indecent Liberties w/Child	47	93.6	6.4	87.2	8.5	4.3	31.6
Indecent Solicitation of Child	15	93.3	6.7	73.3	26.7	0.0	29.2
Involuntary Manslaughter	22	90.9	9.1	77.3	22.7	0.0	31.8
Kidnapping	37	89.2	10.8	64.9	32.4	2.7	33.5
Murder in the First Degree	39	79.5	20.5	56.4	41.0	2.6	34.1
Murder in the Second Degree	61	91.8	8.2	59.0	36.1	4.9	32.9
Nonsupport of Child or Spouse	7	100.0	0.0	71.4	14.3	14.3	47.9
Obstructing Legal Process	28	96.4	3.6	71.4	28.6	0.0	37.0
Possession of Firearm	57	100.0	0.0	56.1	42.1	1.8	29.2
Rape	111	96.4	3.6	70.3	25.2	4.5	37.8
Robbery	147	92.5	7.5	43.5	55.8	0.7	30.3
Sex Exploitation of a Child	21	100.0	0.0	90.5	9.5	0.0	41.0
Tamper w/Electronic Monitor Equip.	6	83.3	16.7	100.0	0.0	0.0	27.7
Stalking	21	100.0	0.0	57.1	42.9	0.0	33.3
Theft	439	81.1	18.9	72.2	26.0	1.8	37.8
Traffic in Contraband	40	85.0	15.0	62.5	35.0	2.5	32.7
Unlawful Voluntary Sex Relation	8	100.0	0.0	62.5	37.5	0.0	21.2
Voluntary Manslaughter	16	93.8	6.2	43.8	56.3	0.0	33.8
Weapons/Agg. Weapon Violation	12	91.7	8.3	66.7	8.3	25.0	34.3
Other	21	76.2	23.8	78.8	21.2	0.0	32.5
TOTAL	**3,877**	**89.0**	**11.0**	**69.3**	**28.6**	**2.1**	**33.9**

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

Incarceration Drug Offenses

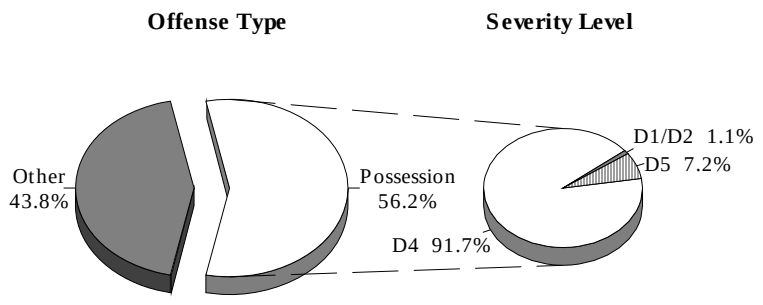
During the 2012 Legislative Session, a new drug sentencing grid with five levels was adopted, which became effective on July 1, 2012. The crimes of drug possession convicted under K.S.A. 21-5706 are reclassified to drug severity level 5. The felony crimes of drug distribution or possession with intention to distribute the drugs convicted under K.S.A. 21-5705 are reclassified to drug severity levels 1 to 4 based on drug types and quantity. Violations occurring within 1,000 feet of any school property increase the severity level by one level. As FY 2013 is the initial year of implementing the new dug sentencing grid with five levels, the distribution of drug severity levels is the mix of the old and new drug sentencing grids.

A total number of 1,328 drug offenders were admitted to prison during FY 2013, representing 25.5% of the total admissions to the State Correctional Facilities. Of this total number, 56.2% were incarcerated for convictions of drug possession offenses, indicating an increase of 0.6% compared with that of FY 2012 (55.6%). Approximately 92% of the drug possession offenders were found at drug severity level 4. Offenders at drug severity level 5 accounted for 7.2% of the drug possession group. The percentage of offenders admitted at drug severity level 5 will increase in future years as the implementation of the new drug sentencing grid with five levels continues (Figure 21).

Males represented 83.6% of the drug offenders admitted to prison in FY 2013. Most female offenders were convicted of drug crimes for drug possession, possession of paraphernalia and possession of precursor drugs. White offenders were convicted of over 70% of incarceration drug sentences in the drug crime areas of possession of drugs including precursor drugs and unlawfully manufacturing controlled substance. Black offenders were incarcerated more frequently (over 30%) for convictions of drug crimes of drugs distribution and possession of paraphernalia. The average age of the drug offenders was 34.3 years old at admission to prison, indicating little change compared with that observed in FY 2012 (Table 5).

The drug possession sentences at drug severity levels 4 and 5 included drug crimes under K.S.A. 21-5706, or K.S.A. 21-36a06, K.S.A. 65-4160 and K.S.A. 65-4162. 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 2013 Incarceration Drug Sentences by Offense and Level



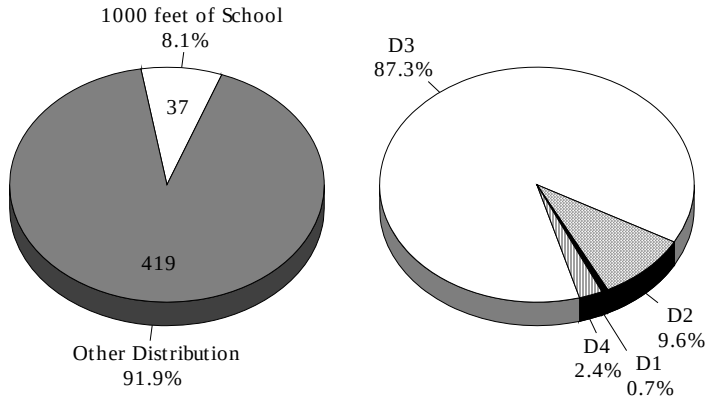
Based on 1,328 incarceration drug sentences

Table 5: FY 2013 Incarceration Drug Offender Characteristics by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Drugs; Possession	746	82.2	17.8	70.6	27.3	2.0	34.6
Drugs; Distribution/Sale	456	85.3	14.7	62.3	35.5	2.2	32.9
Unlawful Manufacture Controlled Substance	77	89.6	10.4	93.5	3.9	2.6	38.4
Possession of Paraphernalia	19	84.2	15.8	52.6	36.8	10.5	34.4
Possession of Precursor Drugs	26	76.9	23.1	92.3	3.8	3.8	38.8
Other	4	75.0	25.0	100.0	0.0	0.0	26.3
TOTAL	**1,328**	**83.6**	**16.4**	**69.4**	**28.4**	**2.3**	**34.3**

During FY 2013, 456 offenders (34.3%) were admitted to prison for the crimes of drug distribution or possession with intent to distribute. Of this number, 37 or 8.1% occurred within 1,000 feet of school. The largest number of the offenders was at drug severity level 3, accounting for 87.3% (or 398) of the offenders convicted of drug distribution or possession with intent to distribute (Figure 22).

Figure 22: FY 2013 Incareceration Drug Sentences Distribution Offenses and Severity Level



Based on 456 incarceratted offenders convicted of drug distribution or possession with intent to distribute.

Types of Admission and Severity Levels

The distribution of offenders by types of admission to the Kansas Department of Corrections in FY 2013 is presented in Table 6. New court commitments made up a big proportion of prison admissions in FY 2013, representing 36.4% of the total admissions. The percentage of this group decreased by 3.2% compared with that of FY 2012 (39.6%).

Condition violators, including probation condition violators, parole/postrelease condition violators and conditional release condition violators, comprised 55% of all offenders admitted to state correctional facilities during FY 2013. This represents a percentage increase of 2.2% over that of FY 2012 (52.8%). 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 2013.

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 7.2%, an increase of 0.8% over the percentage of this group of violators (6.4%) in FY 2012.

Table 6: Distribution of FY 2013 Incarceration Sentences by Admission Type

Admission Type	Number of Cases	Percent
New Court Commitment	1,894	36.4
Probation Condition Violator	1,629	31.3
Probation Violator With New Sentence	198	3.8
Inmate Received on Interstate Compact	9	0.2
Parole/Postrelease Condition Violator	1,232	23.7
Parole/Postrelease Violator With New Sentence	177	3.4
Paroled to Detainer Returned With New Sentence	33	0.6
Conditional Release Condition Violator	2	0.1
Other	31	0.6
TOTAL	**5,205**	**100.0**

Table 7 demonstrates the distribution of all incarcerated offenders admitted in FY 2013 by offense severity level and gender. The highest percentages (over 16%) 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 53.8% of all drug offenders fell at drug severity level 4 and 30.5% of the offenders were identified at drug severity level 3 (Figure 24). Female offenders were convicted more often of drug offenses than of nondrug offenses (16.4% vs. 11%). The highest percentages of female

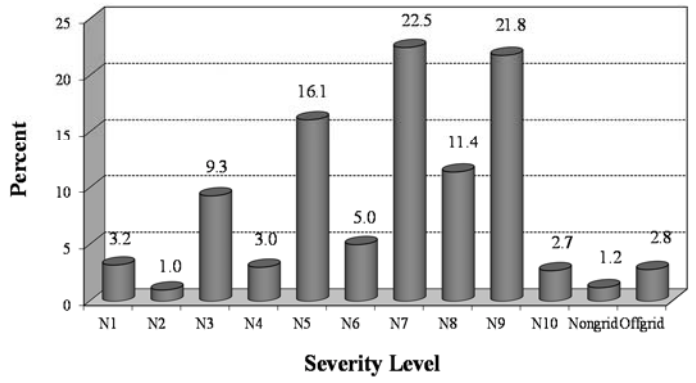
offenders were found at drug severity level 5 (19.6%) and nondrug severity level 8 (27.5%). The highest percentage rates of male offenders were identified at drug severity level 1 (89.9%) and nondrug severity level 3 (95%).

Table 7: Distribution of FY 2013 Incarceration Sentences By Severity Level and Gender*

Severity Level	Number	Percent	Gender (%)	
			Male	Female
Drug				
D1	79	6.0	89.9	10.1
D2	73	5.5	86.3	13.7
D3	405	30.5	84.2	15.8
D4	715	53.8	82.5	17.5
D5	56	4.2	80.4	19.6
Subtotal	**1,328**	**100.0**	**83.6**	**16.4**
Nondrug				
N1	125	3.2	92.8	7.2
N2	39	1.0	84.6	15.4
N3	359	9.3	95.0	5.0
N4	116	3.0	93.1	6.9
N5	623	16.1	92.5	7.5
N6	195	5.0	92.3	7.7
N7	870	22.5	92.0	8.0
N8	443	11.4	72.5	27.5
N9	845	21.8	87.5	12.5
N10	105	2.7	87.6	12.4
Nongrid	46	1.2	91.3	8.7
Offgrid	110	2.8	92.7	7.3
Subtotal	**3,876**	**100.0**	**89.0**	**11.0**
TOTAL**	**5,205**	**100.0**	**87.6**	**12.4**

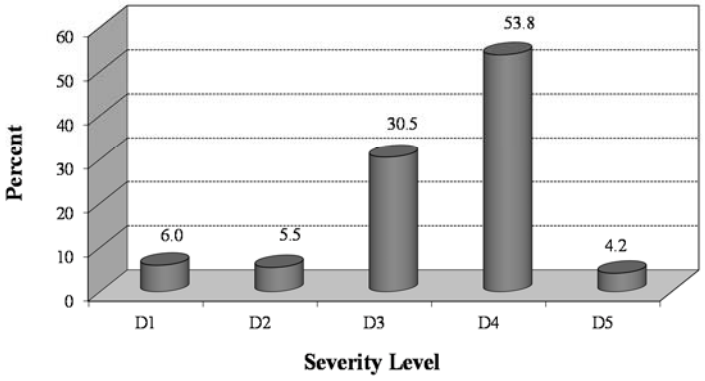
* Based on 1,328 drug offenders and 3,876 nondrug offenders.
** Total number includes 1 nondrug offenders whose severity level is unknown.

Figure 23: FY 2013 Incarceration Sentences Nondrug Offenders by Severity Level



Based on 3,877 nondrug offenders

Figure 24: FY 2013 Incarceration Sentences Drug Offenders by Severity Level



Based on 1,328 drug offenders

In this analysis, the guideline new commitment offenders includes direct new court commitments, probation condition violators and probation violators with new sentences. Pre-guideline offenders are excluded from this analysis. Table 8 presents the admission numbers and average length of sentences imposed by severity level for this group of offenders admitted to prison during FY 2012 and FY 2013.

Because of the implementation of the new 5-level drug sentencing grid, the admission numbers and average length of stay of drug offenders are not comparable with those of FY 2012, when the drug sentencing grid with only 4 levels was applied.

The comparative analysis of nondrug new commitment offenders between FY 2012 and FY 2013 indicates that in FY 2013, the admissions at severity levels 6 and 9 increased by 50 and 47 offenders respectively, while offenders at severity levels 3 and 5 decrease by 30 and 81 offenders respectively. The average sentence length in FY 2013 increase by 29.2 months at severity level 1 but decreased by 51.7 months at severity level 2 and by 14.9 months at severity level 3 when compared with those observed in FY 2012. No significant differences of average length of stay were identified at other nondrug severity levels.

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

	FY 2012		FY 2013	
Severity Level	**Admission #**	**Average LOS**	**Admission #**	**Average LOS**
D1	54	99.7	55	99.6
D2	60	58.1	45	62.5
D3	301	30.6	278	34.0
D4	629	22.2	555	22.6
D5			52	26.4
N1	85	237.2	87	266.4
N2	15	189.6	11	137.9
N3	225	109.8	195	94.9
N4	81	76.6	76	76.9
N5	474	55.0	393	56.6
N6	76	37.9	126	40.3
N7	661	26.8	659	27.0
N8	365	18.2	347	16.9
N9	606	12.7	653	12.6
N10	94	9.5	78	9.1
Total	**3,726**	**N/A**	**3,610**	**N/A**

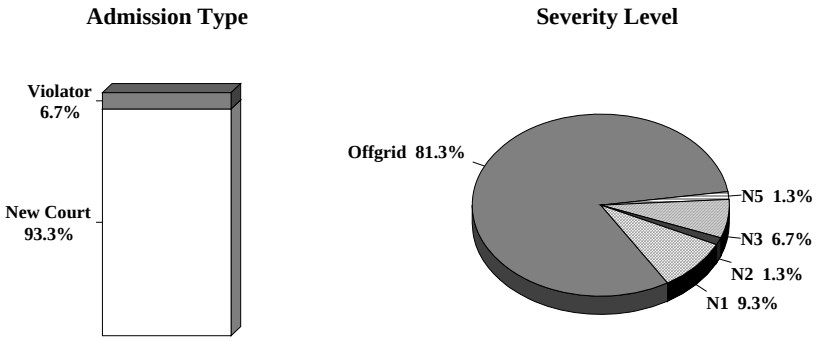
Jessica's Law Sentences

Jessica's Law was enacted in the 2006 Legislative Session with House Bill 2576. According to this law, aggravated habitual sex offenders shall be sentenced to life imprisonment without possibility of parole (K.S.A. 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. 21-6626).

A total number of 75 offenders were sentenced and admitted to prison under Jessica's Law in FY 2013. All were new court commitments except 5 (6.7%) parole condition violators. While most jurisdictions identify the severity of these crimes as offgrid, 14 offenders received a downward departure on the nondrug grid. Of these 75 offenders, 61 offenders (81.3%) were sentenced at offgrid, 7 offenders (9.3%) were sentenced at nondrug severity level 1, one offender (1.3%) was sentenced at nondrug severity level 2, 5 offenders (6.7%) were at nondrug severity level 3 and 1 offender (1.3%) was at nondrug severity level 5 (Figure 25). The analysis of the sentence length demonstrates that 50.7% of the sentences were downward departure to guidelines, a decrease of 8% compared with that of FY 2012 (58.7%). The average sentence length of the durational departures was 126.2 months, a decrease of 0.8 month from that observed in FY 2012 (127 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 (24) followed by Saline (6) and Wyandotte (5) counties.

Figure 25: FY 2013 Jessica's Law Incarceration Sentences

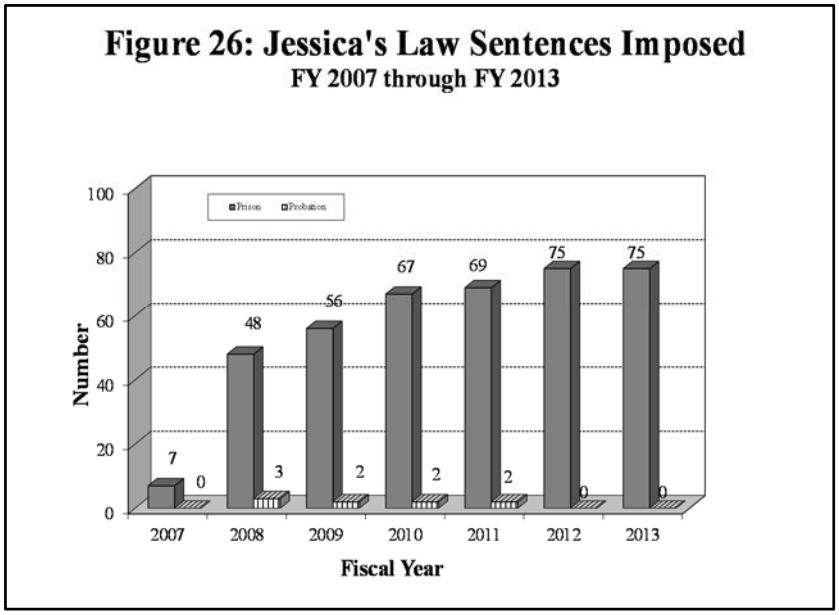


Based on 75 Jessica's Law incarceration sentences.

Table 9: FY 2013 Jessica's Law Incarceration Sentences Imposed by County

County	Number	County	Number	County	Number
Allen	1	Harvey	1	Rice	1
Anderson	1	Jackson	3	Riley	1
Barton	1	Johnson	1	Reno	2
Butler	1	Labette	1	Saline	6
Cowley	2	Lane	1	Sedgwick	24
Crawford	1	Leavenworth	1	Shawnee	3
Clay	1	Lyon	1	Sumner	1
Douglas	3	Montgomery	1	Seward	1
Elk	1	Morris	1	Washington	1
Ellsworth	1	Neosho	1	Wyandotte	5
Ford	2	Ness	1		
Harper	1	Pratt	1		
Total				**75**	

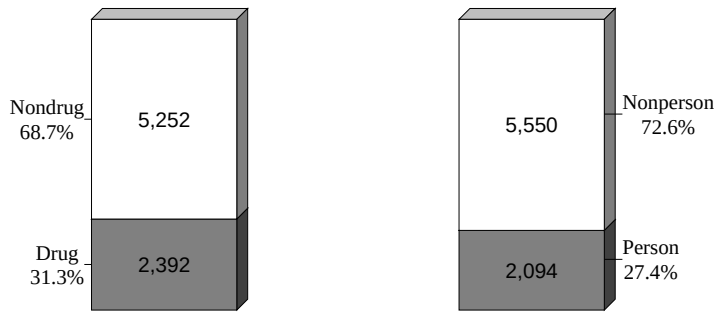
Figure 26 presents the sentencing trend in the past seven years. The total number of Jessica's Law sentences imposed in FY 2013 was 75, indicating no change compared with that of FY 2012 (75 sentences) but an increase of 68 sentences compared with that of FY 2007 (7 sentences). FY 2007 is the initial year for the implementation of Jessica's Law.



PROBATION SENTENCES

During FY 2013, a total number of 7,644 probation sentences were reported to the Kansas Sentencing Commission. Of this number, 5,252 were nondrug sentences and 2,392 were drug sentences; nonperson offenses made up 72.6% and person offenses made up 27.4% (Figure 27). The demographic information of this offender group is described in Figures 28 - 30.

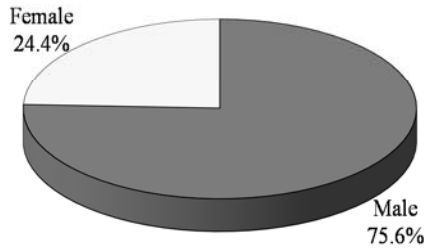
Figure 27: Distribution of FY 2013 Probation Sentences



Based on 7,644 probation sentences

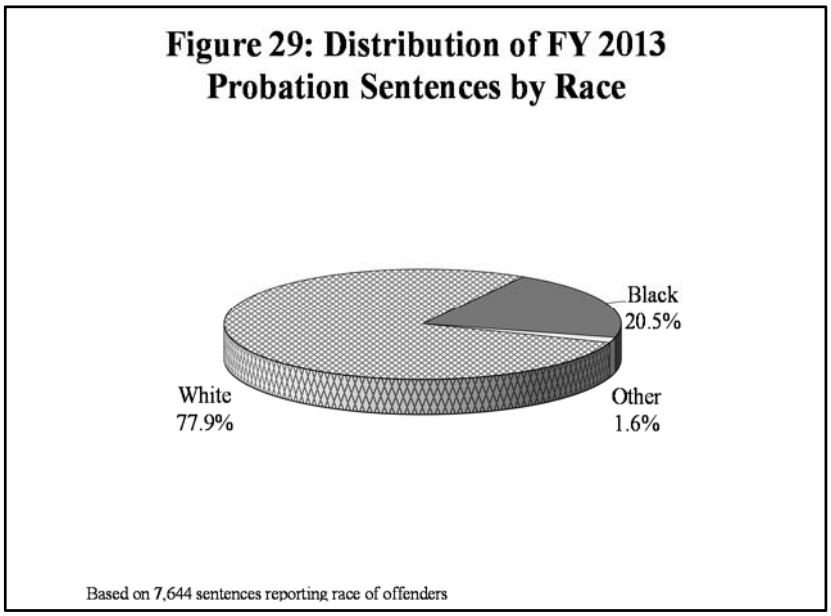
In terms of offenders' gender, the analysis discloses that male offenders accounted for 75.6% of all probation sentences imposed in FY 2013, very close to that observed (75.7%) in FY 2012 (Figure 28).

Figure 28: Distribution of FY 2013 Probation Sentences by Gender

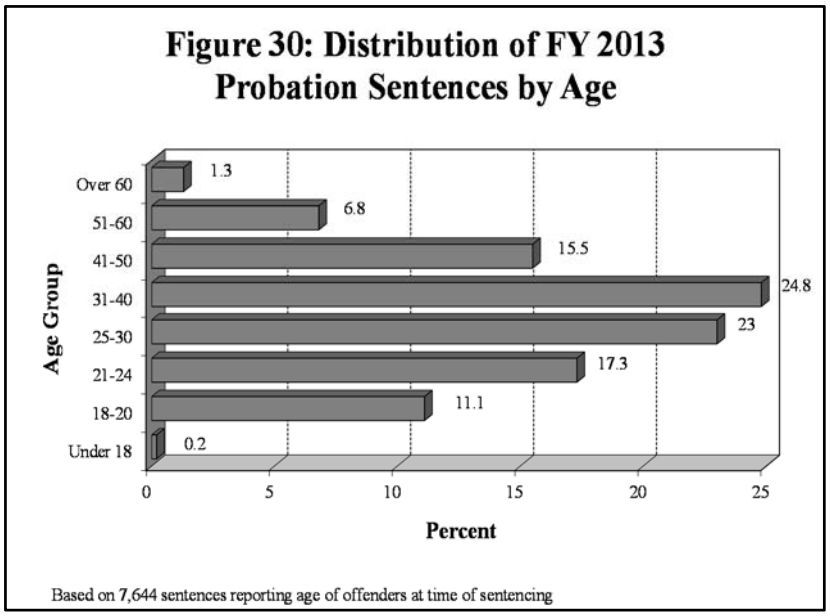


Based on 7,644 sentences reporting gender of offenders

White offenders made up 77.9% of the probation sentences imposed in FY 2013, an increase of 0.3% compared with that of FY 2012 (77.6%). The percentage of black offenders accounted for 20.5%, a decrease of 0.2% compared with that of FY 2012 (20.7%). The percentage of offenders in other races remains constant compared with that observed in FY 2012 (Figure 29).



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 (24.8%) and the second largest group was identified in the age group ranging from 25 to 30 (23%). This distribution indicated no change from that of FY 2012 (Figure 30).



Type of Offense and Severity Level

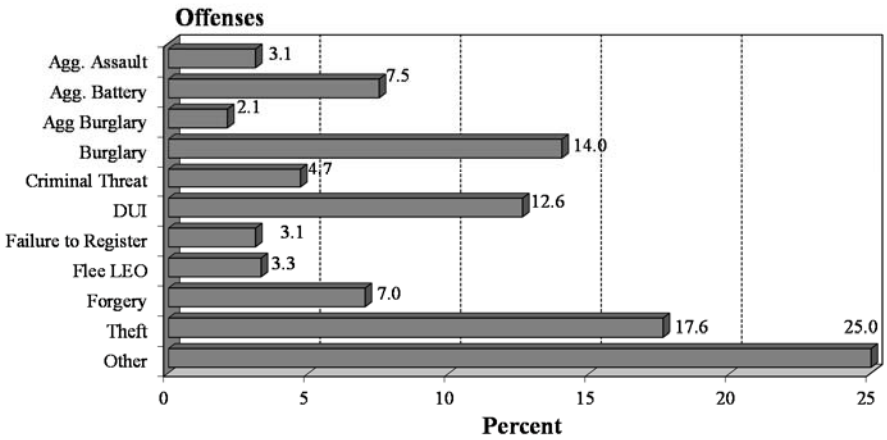
The top ten offenses committed by nondrug probation offenders in FY 2013 include aggravated assault, aggravated battery, aggravated burglary, burglary, criminal threat, DUI, failure to register, fleeing LEO, forgery and theft. These ten offenses accounted for 75% of the total nondrug probation sentences in FY 2013 (Figure 31), a decrease of 1.1% from that of the previous year (76.1%). In reviewing drug offenders on probation, the largest number of sentences was for possession of drugs, representing 70% of all probation drug offenses (Figure 32), an increase of 4.9% from that of FY 2012 (65.1%).

Tables 10 and 11 demonstrate the characteristics of offenders sentenced to probation in FY 2013 by offense type. Male offenders sentenced to probation during FY 2013 were convicted of over 90% of the sex offenses and 80% of violent crimes of probation sentences such as: aggravated assault, aggravated battery, burglary, criminal threat, fleeing or eluding LEO, criminal damage of property and possession of firearms. The highest percentages of female probation nondrug offenses (over 40%) included aggravated endangering a child, aiding felon, criminal use of financial card, forgery, giving worthless checks and Medicaid fraud.

In FY 2013, white offenders represented 77.1% of all nondrug probation sentences and 79.6% of all drug offenders on probation. Black offenders on probation had a little higher conviction rate for nondrug offenses than drug crimes (21.3% versus 18.9%). 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 2012 (Tables 10 & 11).

Tables 12 and 13 present the characteristics of probation offenders by severity level. The largest number of probation nondrug sentences were found at nondrug grid severity level 9 (1,853 sentences or 35.3%) and the majority of probation drug sentences were identified at drug grid severity level 4 (1,268 sentences or 53%).

Figure 31: FY 2013 Top Ten Offenses for Probation Nondrug Sentences



Based on 5,252 probation nondrug sentences

The felony crimes of drug possession included the offenses of possession of opiates or narcotics and possession of depressants, stimulants, hallucinogenic, etc. for the second and subsequent offenses, which represented 70% of the total probation drug sentences imposed in FY 2013 (Table 11).

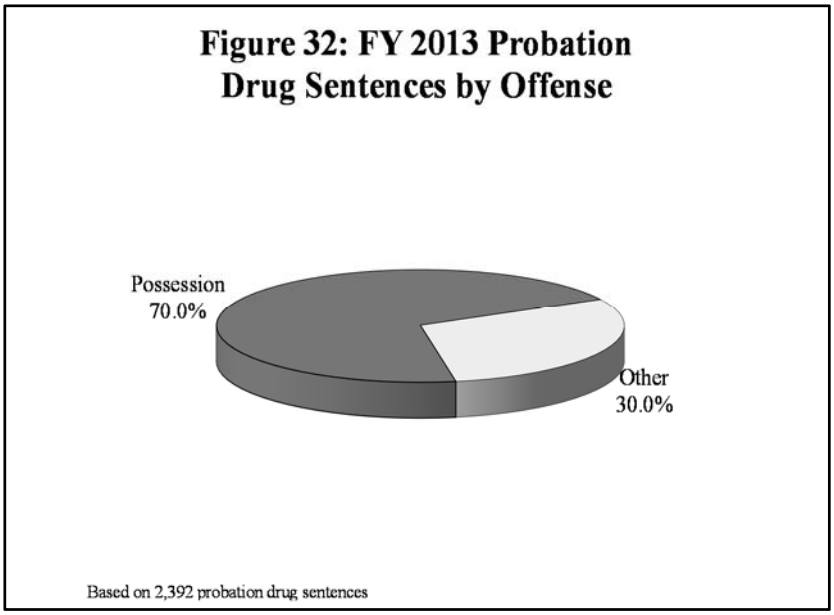


Table 10: Characteristics of Probation Nondrug Offenders by Type of Offense –1

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Abuse of Child	18	0.3	83.3	16.7	72.2	27.8	0.0	28.7
Agg Assault	165	3.1	92.7	7.3	70.9	26.7	2.4	34.2
Agg Assault on LEO	17	0.3	100.0	0.0	88.2	11.8	0.0	33.9
Agg Battery	394	7.5	86.3	13.7	67.3	31.0	1.8	30.7
Agg Battery on LEO	7	0.1	71.4	28.6	85.7	14.3	0.0	38.0
Agg Burglary	110	2.1	72.7	27.3	71.8	27.3	0.9	29.8
Agg Endangering a Child	49	0.9	51.0	49.0	91.8	4.1	4.1	32.6
Agg Escape from Custody	16	0.3	87.5	12.5	75.0	18.8	6.3	25.5
Agg Failure to Appear	27	0.5	66.7	33.3	55.6	37.0	7.4	30.2
Agg False Impersonation	4	0.1	50.0	50.0	50.0	50.0	0.0	29.6
Agg Ind Lib with a Child	25	0.5	96.0	4.0	100.0	0.0	0.0	22.7
Agg Ind Solicit with a Child	24	0.5	95.8	4.2	95.8	4.2	0.0	32.5
Agg Intimidation of a Victim	9	0.2	77.8	22.2	55.6	44.4	0.0	24.4
Agg Robbery	37	0.7	72.7	27.3	56.8	43.2	0.0	25.7
Agg Sex Battery with Child	22	0.4	100.0	0.0	68.2	27.3	4.5	35.0
Agg Weapon Violation	5	0.1	100.0	0.0	60.0	20.0	20.0	31.3
Aiding Felon	20	0.4	30.0	70.0	65.0	25.0	10.0	25.7
Arrange Sale/Purchase Drug	18	0.3	72.2	27.8	88.9	5.6	5.6	33.6
Arson	25	0.5	84.0	16.0	84.0	16.0	0.0	27.7
Auto Failure to Remain	5	0.1	80.0	20.0	20.0	60.0	20.0	30.9
Battery on LEO	27	0.5	63.0	37.0	77.8	22.2	0.0	28.8
Burglary	739	14.1	86.7	13.3	81.1	17.6	1.4	27.2

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	10	0.2	60.0	40.0	70.0	30.0	0.0	32.2
Contribute Child Misconduct	10	0.2	60.0	40.0	70.0	20.0	10.0	26.1
Criminal Damage of Property	71	1.4	83.1	16.9	84.5	15.5	0.0	28.7
Criminal Discharge of Firearm	12	0.2	75.0	25.0	66.7	33.3	0.0	34.6
Criminal Threat	247	4.7	87.9	12.1	77.7	20.2	2.0	33.3
Criminal Use of Explosives	7	0.1	85.7	14.3	85.7	14.3	0.0	28.3
Criminal Use of Financial Card	18	0.3	55.6	44.4	94.4	5.6	0.0	31.4
Domestic Battery	44	0.8	90.9	9.1	61.4	36.4	2.3	32.8
Drug without Tax Stamps	40	0.8	82.5	17.5	70.0	27.5	2.5	29.5
DUI	661	12.6	83.1	16.9	89.3	9.1	1.7	37.3
DUI Test Refusal	4	0.1	100.0	0.0	100.0	0.0	0.0	31.7
Electronic Solicitation of Child	7	0.1	100.0	0.0	85.7	14.3	0.0	28.9
Failure to Register	162	3.1	89.5	10.5	73.5	25.3	1.2	34.3
False Writing	73	1.4	65.8	34.2	69.9	30.1	0.0	31.2
Fleeing/Eluding LEO	172	3.3	86.6	13.4	72.7	25.0	2.3	30.5
Forgery	366	7.0	50.5	49.5	74.6	23.5	1.9	31.7
Giving Worthless Check	18	0.3	55.6	44.4	94.4	5.6	0.0	35.8
Identity Theft	109	2.1	60.6	39.4	74.3	23.9	1.8	31.5
Ind. Liberties with a Child	17	0.3	76.5	23.5	94.1	5.9	0.0	27.1
Ind. Solicitation with a Child	20	0.4	95.0	5.0	60.0	35.0	5.0	27.9
Involuntary Manslaughter	11	0.2	81.8	18.2	90.9	9.1	0.0	32.3
Lewd and Lascivious Behavior	10	0.2	90.0	10.0	90.0	0.0	10.0	28.1
Medicaid Fraud	16	0.3	25.0	75.0	81.3	18.8	0.0	42.3
Mistreatment of Dependant Adult	5	0.1	60.0	40.0	100.0	0.0	0.0	49.2
Non-Support of a Child	17	0.3	100.0	0.0	64.7	35.3	0.0	37.1
Obstruct Legal Process	109	2.1	82.6	17.4	77.1	22.0	0.9	30.4
Obtain Prescription Drug by Fraud	6	0.1	33.3	66.7	100.0	0.0	0.0	43.7
Possession of Firearms	75	1.4	94.7	5.3	56.0	44.0	0.0	30.5
Robbery	52	1.0	82.7	17.3	55.8	44.2	0.0	26.4
Sex Exploitation of a Child	29	0.6	100.0	0.0	96.6	3.4	0.0	36.1
Stalking	26	0.5	92.3	7.7	57.7	38.5	3.8	35.2
Tamper w/Electronic Monitor Equip.	5	0.1	80.0	20.0	60.0	40.0	0.0	32.3
Theft	928	17.7	62.4	37.6	77.2	21.8	1.1	34.2
Traffic in Contraband	48	0.9	60.4	39.6	79.2	20.8	0.0	31.9
Unlawful Voluntary Sex Relation	23	0.4	95.7	4.3	78.3	17.4	4.3	18.5
Weapon	7	0.1	85.7	14.3	71.4	28.6	0.0	26.8
Other	54	1.0	70.4	29.6	74.1	22.2	3.7	30.5
TOTAL	**5,252**	**100.0**	**76.9**	**23.1**	**77.1**	**21.3**	**1.6**	**32.0**

Note: Offenses with number of cases smaller than 4 are included in the offense type of "Other".

Table 11: Characteristics of Probation Drug Offenders by Type of Offense

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Drugs; Possession	1,675	70.0	70.6	29.4	81.6	16.9	1.5	33.5
Drugs; Distribution/Sale	591	24.7	79.2	20.8	71.9	26.2	1.9	29.6
Unlawful Manufacture Controlled Substance	11	0.5	81.8	18.2	100.0	0.0	0.0	27.5
Possession of Paraphernalia	91	3.8	75.8	24.2	86.8	13.2	0.0	32.1
Possession of Precursor Drugs	19	0.8	52.6	47.4	100.0	0.0	0.0	34.0
Receive Proceeds from violation of Controlled Substance Act	5	0.2	60.0	40.0	80.0	20.0	0.0	25.9
TOTAL	**2,392**	**100.0**	**72.8**	**27.2**	**79.6**	**18.9**	**1.5**	**32.4**

Table 12: Characteristics of Probation Nondrug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
N1	3	0.1	66.7	33.3	100.0	0.0	0.0	29.1
N2	0	0.0	0.0	0.0	0.0	0.0	0.0	N/A
N3	46	0.9	82.6	17.4	78.3	21.7	0.0	26.5
N4	32	0.6	90.6	9.4	62.5	37.5	0.0	30.4
N5	316	6.0	85.8	14.2	71.2	28.2	0.6	29.7
N6	156	3.0	87.8	12.2	73.1	24.4	2.6	31.6
N7	1,086	20.7	84.1	15.9	76.2	22.7	1.2	30.5
N8	826	15.7	64.0	36.0	72.9	24.9	2.2	31.2
N9	1,853	35.3	73.3	26.7	78.6	19.9	1.6	31.9
N10	223	4.2	75.8	24.2	64.6	32.7	2.7	32.1
Nongrid	711	13.5	83.7	16.3	87.6	10.7	1.7	37.0
TOTAL	**5,252**	**100.0**	**76.9**	**23.1**	**77.1**	**21.3**	**1.6**	**32.0**

Table 13: Characteristics of Probation Drug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
D1	11	0.5	81.8	18.2	90.9	9.1	0.0	29.1
D2	23	1.0	52.2	47.8	73.9	26.1	0.0	33.3
D3	509	21.3	79.8	20.2	71.9	25.9	2.2	29.9
D4	1,268	53.0	70.8	29.2	79.4	19.4	1.2	32.9
D5	581	24.3	71.6	28.4	86.9	11.4	1.7	33.5
TOTAL	**2,392**	**100.0**	**72.8**	**27.2**	**79.6**	**18.9**	**1.5**	**32.4**

SB 123 Drug Treatment Offenders

Senate Bill 123, which became law in 2003, establishes a nonprison 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. 21-5706, or 21-36a06 or 65-4160 and 65-4162.

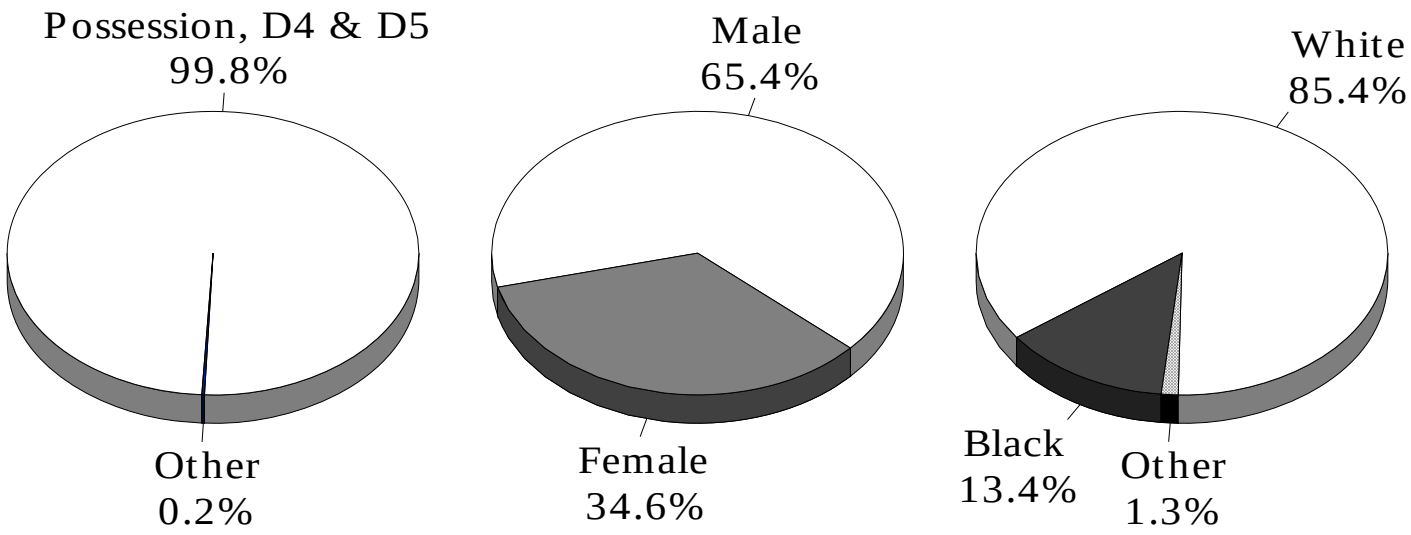
In FY 2013, a total number of 1,018 sentences were imposed, accounting for 42.6% of the total drug probation sentences (2,392), an increase of 0.8% compared with that of FY 2012 (41.8%). Of these sentences, 99.8% were convicted of the crime of drug possession under K.S.A. 21-5706 (formerly 21-36a06 or 65-4160 or 65-4162) and 0.2% were convicted of other drug crimes. The evaluation of the criminal history of the offenders demonstrates that 89.4% of offenders were in the criminal history categories E through I, a decrease of 2.2% compared with that of FY 2012 (91.6%). This data implies that the policy of SB 123 drug treatment programs was implemented very consistently during FY 2013.

A summary of the distribution of the offenders sentenced to SB 123 treatment programs in FY 2013 is exhibited in Figure 33. The offenders at drug severity levels 4 and 5 accounted for 99.8%. White males are still the majority of the treatment offenders. The average age of the drug treatment offenders is 32.8 years old at sentencing, which remains close to FY 2012 (32.1 years old).

The distribution of SB 123 drug treatment sentences imposed in FY 2013 by county is demonstrated in Figure 34. Sedgwick County imposed the most SB 123 sentences (140) followed by Wyandotte (93), Shawnee (90), Johnson (72) and Saline (67) 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 remains the same with that of FY 2012.

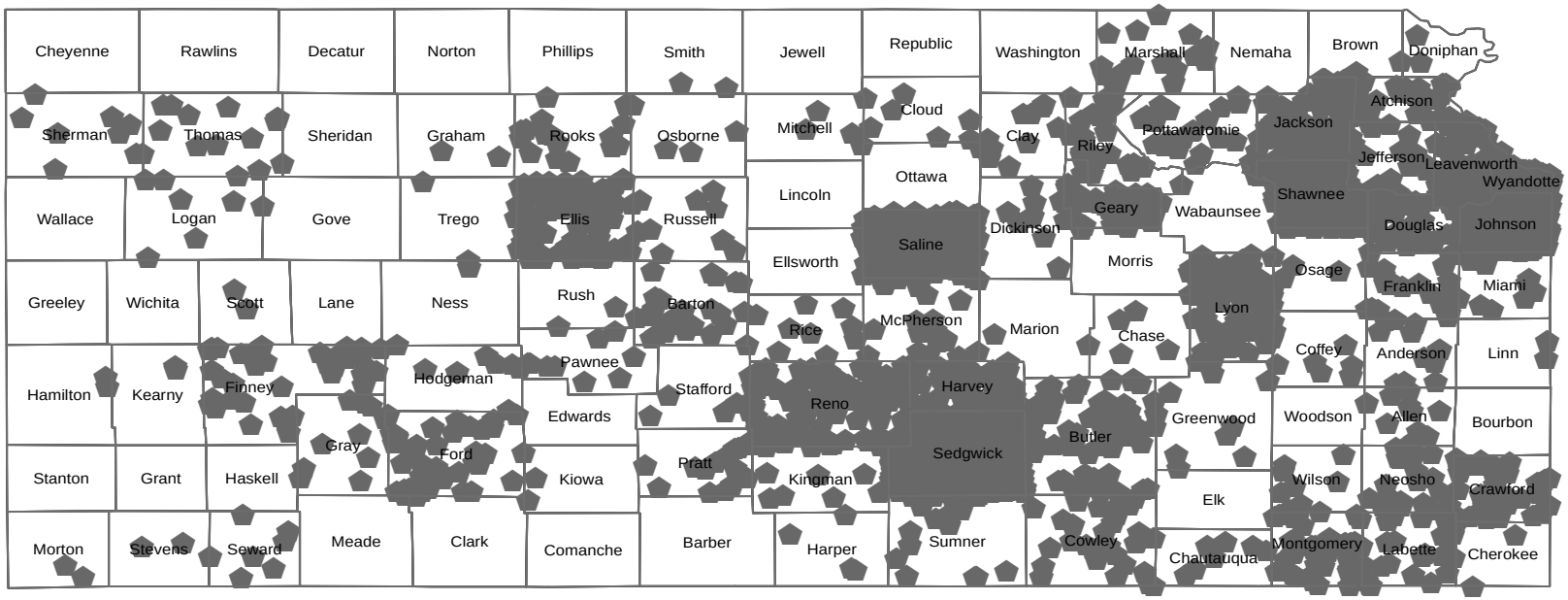
During FY 2013, 560 SB 123 drug treatment sentences were revoked. Of this number, 229 sentences were revoked to prison, representing 22.5% of SB 123 sentences imposed (1,018 sentences) in FY 2013, which is close to that of FY 2012 (22.6%). The average period between original sentence and revocation hearing was 16 months, which indicates no change from that of FY 2012.

Figure 33: Distribution of FY 2013 Senate Bill 123 Drug Treatment Sentences

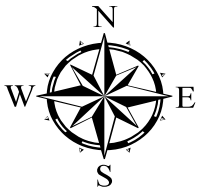


Based on 1,018 SB 123 sentences

Figure 34: Distribution of SB 123 Drug Treatment Sentences Imposed by County - FY 2013



Summary
Total counties=105
Total sentences=1,018
Counties w/zero=31
Minimum=1
Maximum=140
Mean=14



Criminal History and Length of Probation

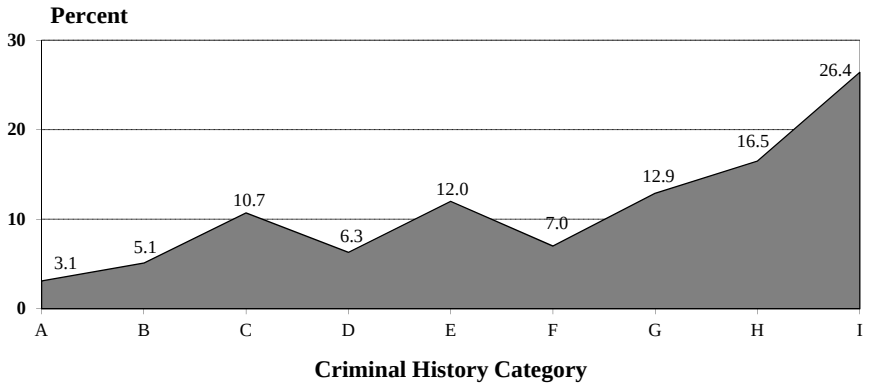
The analysis of offenders' criminal history indicates that offenders sentenced to probation with assigned criminal history categories accounted for 91% of all the probation sentences (7,644) reported to the Commission in FY 2013, which is 1.1% higher than the rate of FY 2012 (89.9%). The largest number of this group fell within criminal history category I (26.4% or 1,837 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 26.1% of offenders on the nondrug grid and 27% of offenders on the drug grid.

When looking into the presumptive probation boxes, the Commission noticed that nondrug offenders within the presumptive probation boxes made up 80.7% (Table 14), a decrease of 2.3% compared with that of FY 2012 (83%). The examination of the border box sentences discloses that 5.1% 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, which are designated as border boxes (Table 14). The percentage of border box in FY 2013 increased by 0.4% when compared with that of FY 2012 (4.7%).

The analysis on drug sentences by presumptive probation and border box is not applicable in FY 2013 because the sentences were imposed according to both old (with four drug levels) and new (with five drug levels) drug sentencing grids, which have different designations for presumptive probation and border box.

Tables 14 and 15 present the probation terms of probation sentences by each severity level. The average length of probation for nondrug offenders was 17.8 months, which is very consistent with those of the past five years. The average length of probation for drug offenders was 16.8 months, indicating a very small change when compared with that (16.7 months) of FY 2012.

Figure 35: Distribution of FY 2013 Probation Sentences by Criminal History
Nondrug and Drug Sentences



Based on 6,957 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	3	0	0	0	0	0	0	0	0	3	36.0
N3	46	1	1	1	6	1	0	4	10	22	38.2
N4	32	1	1	3	2	1	0	0	6	18	38.3
N5	316	2	15	22	14	13	6	27	68	148	36.3
N6	156	9	14	14	18	10	6	18	23	44	24.8
N7	1,086	38	53	113	96	94	66	129	187	309	23.8
N8	826	30	49	99	59	134	64	101	112	176	17.9
N9	1,853	71	105	280	128	238	127	223	282	398	12.4
N10	223	11	11	22	18	29	15	21	29	67	12.4
Nongrid	711	4	2	2	2	2	4	2	6	6	12.2
TOTAL	**5,252**	**167**	**251**	**556**	**343**	**522**	**288**	**525**	**723**	**1,191**	**17.8**

Note: Criminal history classes are based on 4,566 cases reporting criminal history category.
Legend:

Presumptive Prison	Border Boxes	Presumptive Probation

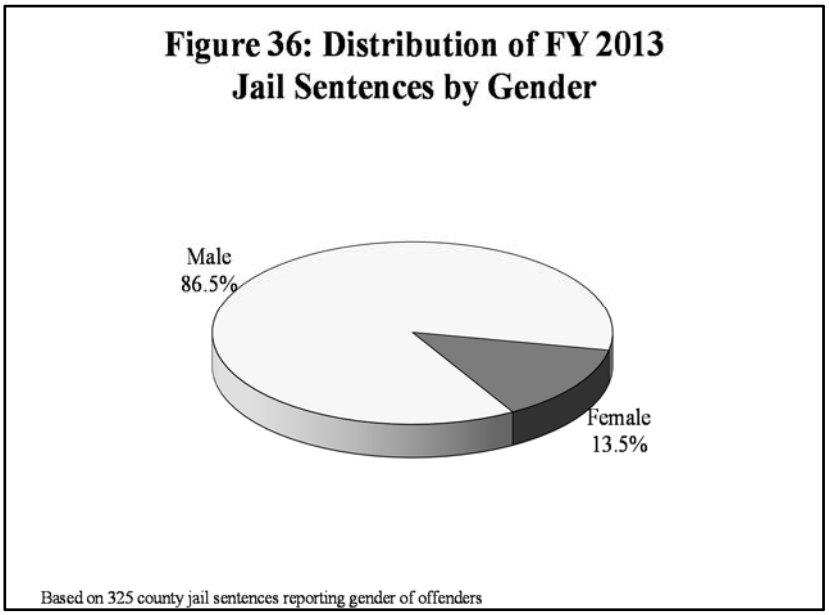
Table 15: Criminal History and Probation Length by Severity Level – Drug Offenders

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
D1	11	0	1	2	1	2	1	0	1	3	37.1
D2	23	0	0	1	1	2	2	2	5	10	27.7
D3	509	5	17	32	25	65	33	69	83	180	19.2
D4	1,268	28	62	109	44	162	121	185	237	319	15.7
D5	581	16	26	46	26	82	41	114	96	134	15.8
TOTAL	**2,392**	**49**	**106**	**190**	**97**	**313**	**198**	**370**	**422**	**646**	**16.8**

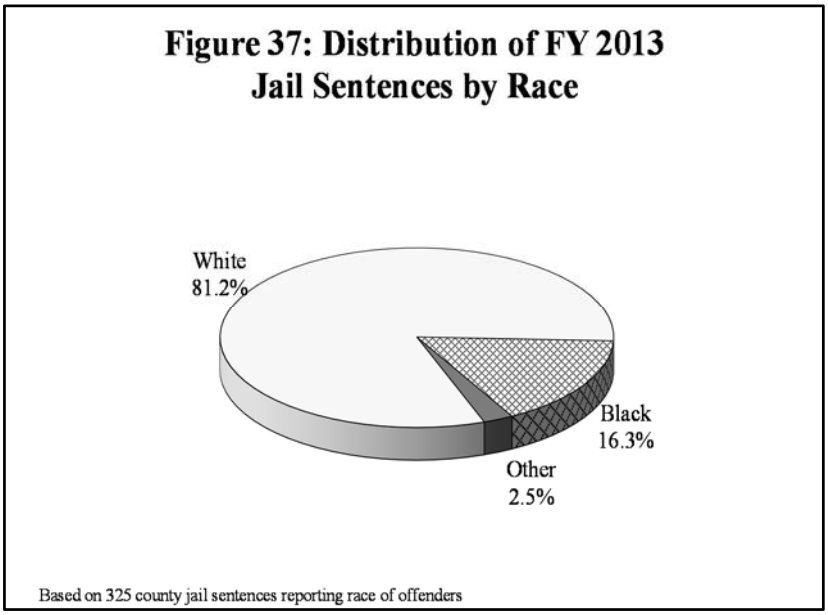
Note: Criminal history classes are based on 2,391 cases reporting criminal history category.
Border boxes and presumptive probation numbers are not highlighted because the numbers were the mixture of the old and new drug sentencing grids.

COUNTY JAIL SENTENCES

During FY 2013, a total number of 325 jail sentences were reported to the Commission, a significant decrease of 179 sentences or 37.7% when compared with the data of FY 2012 (See felony DUI on page 15). Of this number, male offenders accounted for 86.5% and female offenders accounted for 13.5%, an increase of 1.2% when compared with the female rate (12.3%) observed in FY 2012 (Figure 36).



White offenders represented 81.2%, black offenders represented 16.3% and other races represented 2.5% of the county jail sentences imposed in FY 2013 (Figure 37).

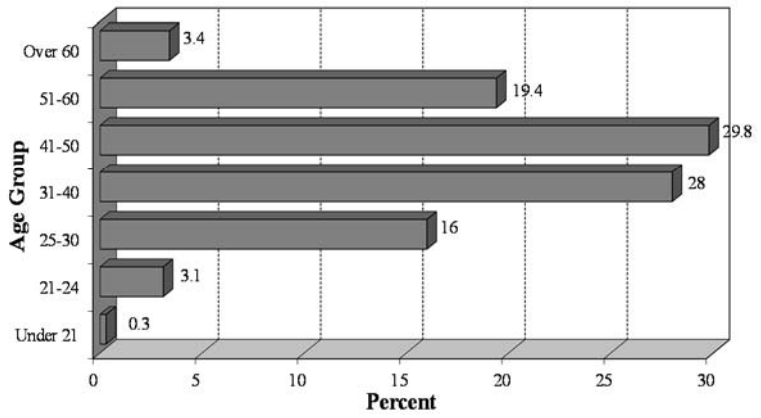


Most offenders were in the age groups ranging from 41 to 50 years old (29.8%), which is consistent with the data observed in FY 2012. Their average age at sentencing is 42 years old (Figure 38). The analysis of the sentence length reveals that the minimum jail term is 0.2 months, maximum jail term is 12 months and the average jail term is 7.8 months.

The analysis of the crimes committed by the offenders sentenced to county jails indicates that approximately 94% of the sentences in FY 2013 were convicted of the crime of felony DUI (305 sentences) and 4.6% were convicted of the crime of domestic battery (15 sentences). Though small in number, the crime of domestic battery increased by 8 sentences compared with the number of FY 2012 (7 sentences). A detailed analysis on the crime of DUI is provided on Page 15 of this report (Figure 39).

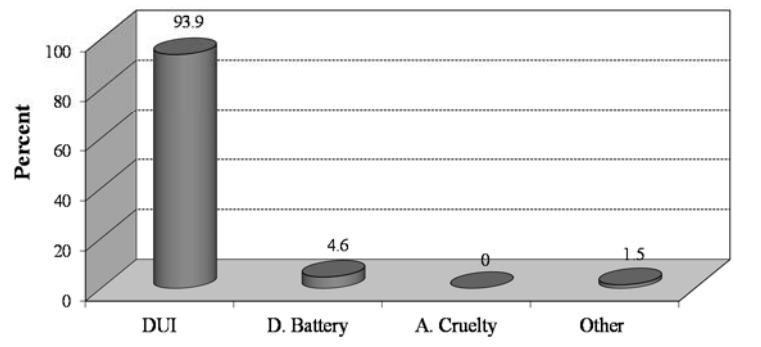
The distribution of FY 2013 jail sentences by county is demonstrated in Figure 40. Sedgwick County imposed the most jail sentences (126) representing 38.8% followed by Johnson County with 87 jail sentences representing 26.8% of the total county jail sentences imposed during FY 2013.

Figure 38: Distribution of FY 2013 Jail Sentences by Age of Offenders



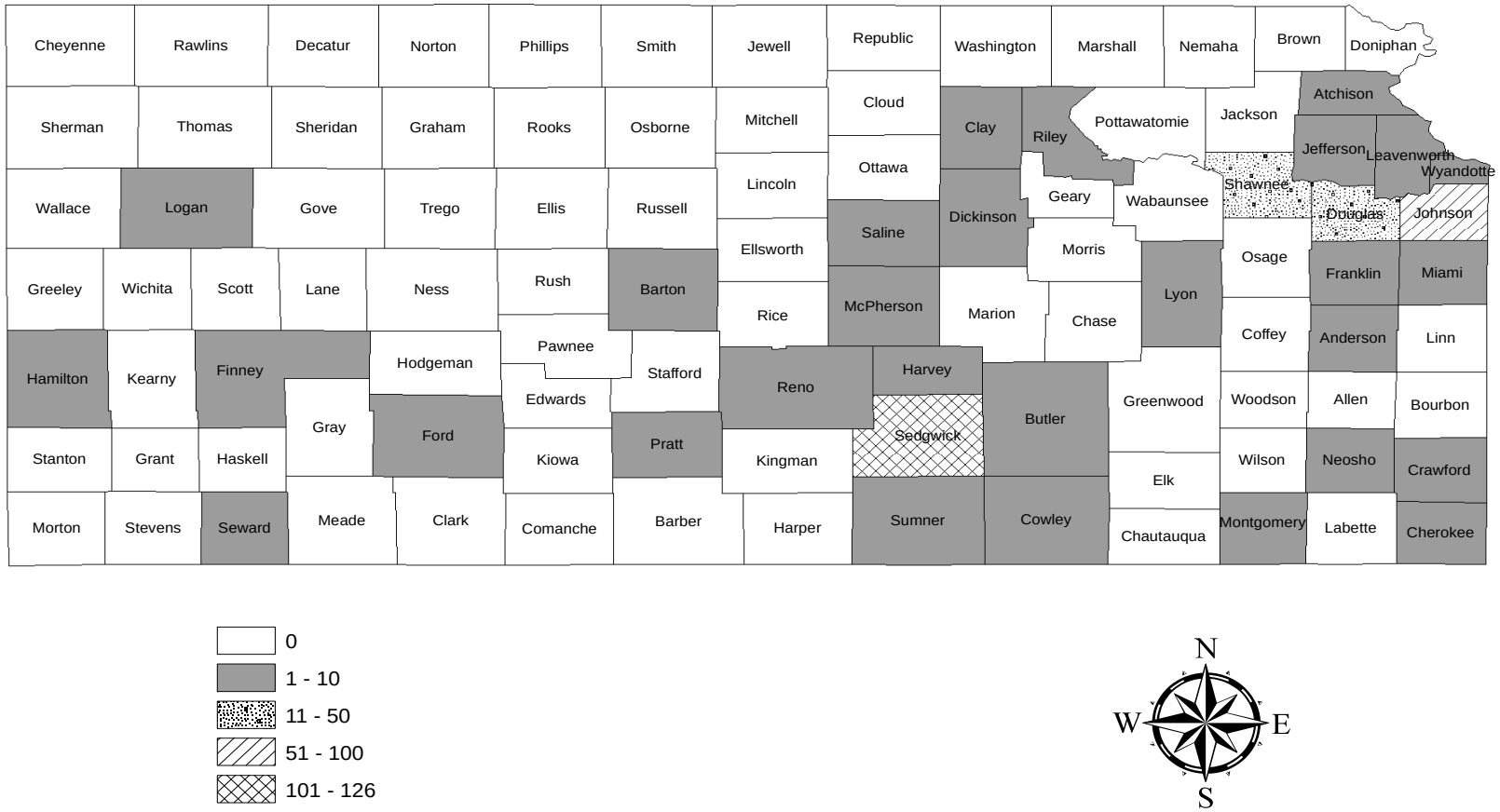
Based on 325 county jail sentences reporting age of offenders at time of sentencing

Figure 39: FY 2013 County Jail Sentences by Offense Type



Based on 325 county jail sentences.

Figure 40: FY 2013 County Jail Sentences by County



CHAPTER TWO
VIOLATORS

VIOLATIONS RESULTING IN INCARCERATION

Violators are classified in two groups. 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". Offenders on some form of supervision who commit an offense for which they receive a new sentence are defined as "violators with new sentences". 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.

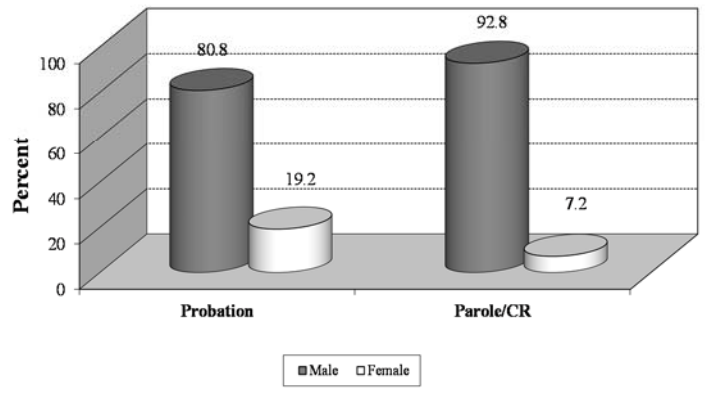
Overview of Condition Violators

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 the discussion of this section, violators include offenders classified as probation, parole/postrelease supervision and conditional release condition violators.

A total number of 2,863 condition violators were admitted to prison in FY 2013 for their violation of conditions, representing 1,629 probation violators, 1,232 parole or postrelease supervision violators and 2 conditional release violators respectively.

Condition violators accounted for 55% of all admissions to prison in FY 2013, indicating an increase of 2.2% when compared with FY 2012 (52.8%). Characteristics of condition violators by gender, race, and age are depicted in Figures 41, 42, and 43. Conditional release violators (2 offenders) are merged with the group of parole or postrelease supervision violators in the following analyses.

Figure 41: Distribution of FY 2013 Condition Violators by Gender



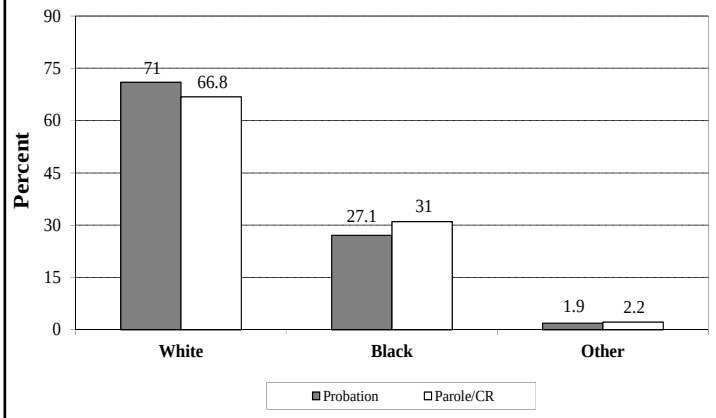
Based on 1,629 probation condition violators and 1,234 parole/conditional release condition violators

Male offenders were the majority of condition violators, accounting for 80.8% of probation violators and 92.8% of parole/conditional release violators admitted to prison in FY 2013 (Figure 41).

White offenders represented the highest rate (71%) in the group of probation violators, while the highest percentage of black offenders (31%) was identified in the group of parole or postrelease supervision and conditional release violators (Figure 42).

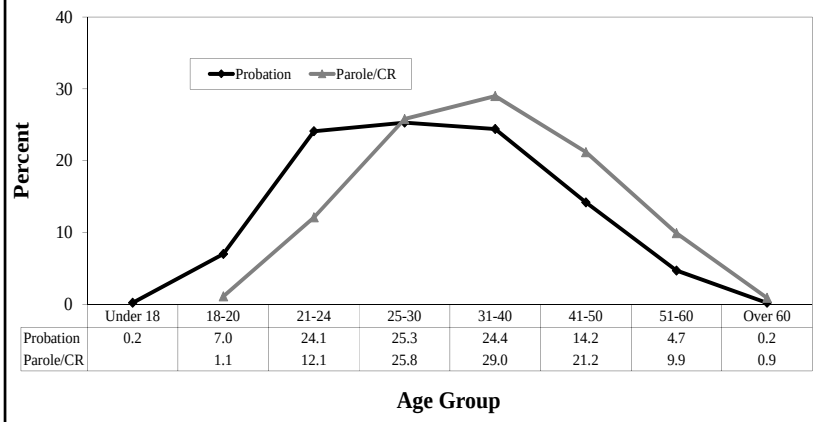
Figure 43 shows that most probation violators were in the age group ranging from 25 to 30 (25.3%). The largest number of parole or postrelease supervision and conditional release violators was found in the age group ranging from 31 to 40 (29%) at the time of admission to prison.

Figure 42: Distribution of FY 2013 Condition Violators by Race



Based on 1,629 probation condition violators and 1,234 parole/conditional release condition violators

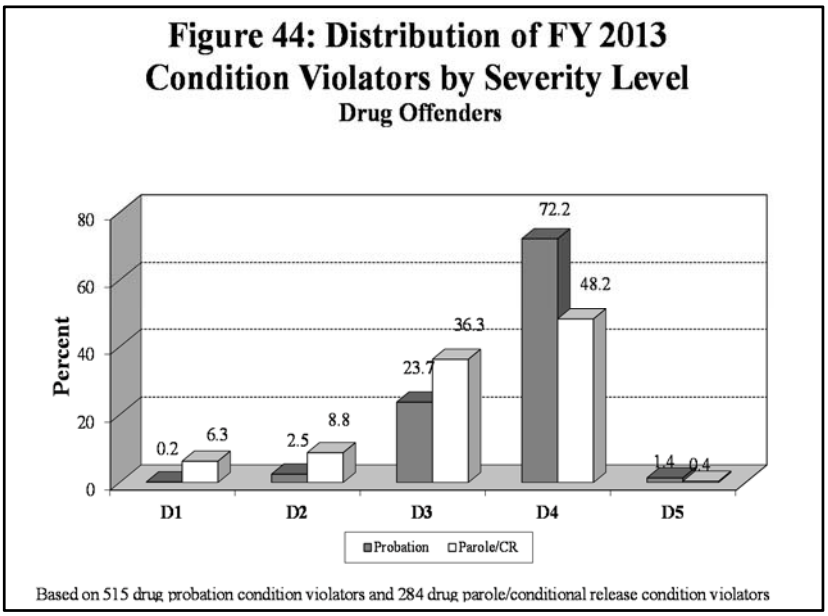
Figure 43: Distribution of FY 2013 Condition Violators by Age Group



	Under 18	18-20	21-24	25-30	31-40	41-50	51-60	Over 60
Probation	0.2	7.0	24.1	25.3	24.4	14.2	4.7	0.2
Parole/CR		1.1	12.1	25.8	29.0	21.2	9.9	0.9

Based on 1,629 probation condition violators and 1,234 parole/conditional release condition violators

The largest proportion of drug probation violators was identified at drug severity level 4 (72.2% or 372 offenders). Similarly, the highest percentage of drug parole/postrelease and conditional release violators was also at drug severity level 4, accounting for 48.2% or 137 offenders (Figure 44).



The highest percentage of nondrug condition violators were identified at nondrug severity level 7, which represents 30.9% or 344 offenders of nondrug probation condition violators. The highest rate of parole or postrelease and conditional release violators were found at nondrug severity level 5 representing 18.8% or 178 of this group of violators (Figure 45).

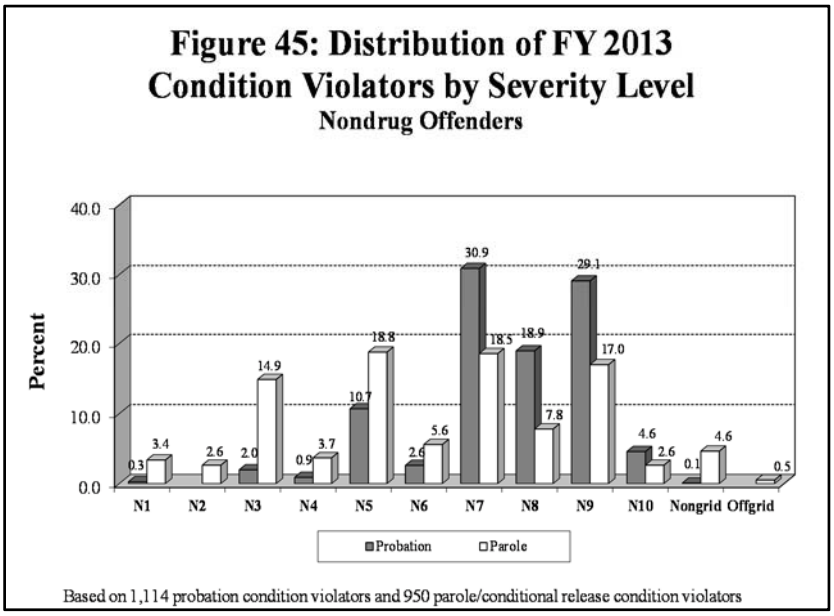


Table 16 presents the characteristics of all types of condition violators. The largest numbers of males were found at nondrug severity level 7 (474 sentences) and drug severity level 4 (413 sentences). However, the highest frequencies of females were at nondrug severity level 8 (90 sentences) and drug severity level 4 (96 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 365 sentences and black offenders made up 135 sentences at drug severity level 4. As for nondrug sentences, most violators were found at nondrug severity level 7. White offenders accounted for 360 sentences and black offenders accounted for 148 sentences. The average age of the violators was almost 34 years old at the time of admission, which is constant with that of FY 2012.

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	19	19	0	15	3	1	39.6
D2	38	35	3	28	9	1	35.6
D3	225	184	41	144	79	2	31.8
D4	509	413	96	365	135	9	33.9
D5	8	7	1	6	2	0	37.6
N1	35	35	0	22	13	0	43.0
N2	25	23	2	15	9	1	46.1
N3	163	154	9	101	59	3	36.0
N4	45	43	2	27	18	0	36.3
N5	297	276	21	179	111	7	32.1
N6	82	75	7	57	24	1	31.4
N7	520	474	46	360	148	12	31.5
N8	285	195	90	212	67	6	33.0
N9	485	416	69	349	124	12	34.1
N10	76	65	11	58	16	2	36.6
Offgrid	5	5	0	4	1	0	44.5
Nongrid	45	41	4	39	5	1	43.9
Total	**2,863***	**2,460**	**402**	**1,981**	**823**	**58**	**33.7**

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

Condition Probation Violators

A total number of 1,629 condition probation violators were admitted to prison in FY 2013. Of this number, 68.4% (1,114) were nondrug offenders and 31.6% (515) were drug offenders. Compared with FY 2012, the admissions of condition probation violators demonstrated a decrease of 3.2% or 53 violators. The characteristics of this group of violators are presented in Tables 17 and 18.

In FY 2013, the top ten offenses committed by nondrug probation violators 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 76.8% of all nondrug convictions by probation violators. As in the previous year, burglary and theft were still the most frequently committed offenses for which there were a large number of probation violators (Table 17).

The analysis of drug probation violators indicates that possession of drugs was the most frequently convicted drug crime, accounting for 71.1% of all drug offenses committed by the condition probation violators admitted to prison in FY 2013. The crimes of drug distribution or possession with intent to distribute represented 25.2% of this group of violators to prison in FY 2013 (Table 18).

The average length of lag time from the age of offense to the age of admission to prison was 2.4 years for nondrug probation violators and 2.6 years for drug probation violators, which remains constant with those of FY 2012. 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	49	89.8	10.2	59.2	38.8	2.0	29.8	31.8
Aggravated Battery	115	95.7	4.3	63.5	33.9	2.6	29.4	31.8
Aggravated Burglary	43	86.0	14.0	60.5	39.5	0.0	28.0	30.1
Burglary	208	89.4	10.6	78.4	19.7	1.9	26.3	28.8
Criminal Threat	44	97.7	2.3	72.7	25.0	2.3	30.9	32.8
Failure to Register	34	97.1	2.9	50.0	47.1	2.9	31.5	33.8
Fleeing or Eluding LEO	35	88.6	11.4	74.3	25.7	0.0	29.7	31.8
Forgery	122	46.7	53.3	77.0	21.3	1.6	30.7	33.4
Robbery	31	93.5	6.5	51.6	48.4	0.0	26.4	28.3
Theft	175	75.4	24.6	74.3	24.6	1.1	32.5	34.8
Subtotal	**856**	**82.0**	**18.0**	**70.8**	**27.6**	**1.6**	**29.5**	**31.8**
Other	258	81.0	19.0	73.3	24.0	2.7	28.0	30.3
TOTAL	**1,114**	**81.8**	**18.2**	**71.4**	**26.8**	**1.9**	**29.1**	**31.5**

* 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		
Drugs; Possession	366	77.9	22.1	74.3	24.3	1.4	30.4	32.8
Drugs; Distribution/Sale	130	80.8	19.2	59.2	39.2	1.5	27.7	30.0
Possession of Paraphernalia	11	72.7	27.3	45.5	36.4	18.2	31.0	33.7
Possession of Precursor Drugs	5	100.0	0.0	100.0	0.0	0.0	33.5	36.4
Other	3	66.7	33.3	100.0	0.0	0.0	35.8	27.4
TOTAL	**515**	**78.6**	**21.4**	**70.3**	**28.0**	**1.7**	**29.7**	**32.3**

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

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	0	0	0	0	0	0	0	0	1	1
D2	0	2	1	1	2	1	1	0	5	13
D3	7	5	10	2	14	10	26	24	24	122
D4	9	25	37	15	47	32	50	65	92	372
D5	1	1	2	0	2	0	0	1	0	7
N1	2	0	0	0	0	1	0	0	0	3
N2	0	0	0	0	0	0	0	0	0	0
N3	0	2	1	3	1	0	3	5	7	22
N4	2	0	1	1	1	0	0	2	3	10
N5	7	9	9	6	8	4	11	21	44	119
N6	1	4	4	2	0	1	4	6	7	29
N7	19	17	47	39	39	18	50	58	57	344
N8	4	9	31	15	26	13	31	52	30	211
N9	18	12	36	20	43	24	32	67	72	324
N10	5	5	6	2	9	2	4	7	11	51
Nongrid	0	0	0	1	0	0	0	0	0	1
TOTAL	**75**	**91**	**185**	**107**	**192**	**106**	**212**	**308**	**315**	**1,629**

Condition Parole/Postrelease Supervision and Conditional Release Violators

In FY 2013, a total number of 1,234 condition parole/postrelease supervision and conditional release violators were admitted to prison, indicating an increase of 279 violators or 29.2% when compared with the data observed in FY 2012. The characteristics of this offender group are presented in Tables 20 and 21.

The top ten offenses most frequently committed by parole/postrelease and conditional release violators were aggravated assault, aggravated battery, aggravated burglary, aggravated robbery, aggravated indecent liberties with a child, burglary, criminal threat, DUI, robbery and theft, accounting for 63.1% of the total nondrug offenses. Male offenders represented 93.9% 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 burglary, 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 (50.4%) and drug distribution (37.7%), which is consistent with that of FY 2012.

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 2013, forty-four DUI violators were admitted to prison (Table 20), a significant decrease of 29 violators when compared with FY 2012 (73 violators). 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 (137 offenders) and severity level 7 of the nondrug grid (175 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	50	88.0	12.0	66.0	32.0	2.0	28.6	32.9
Aggravated Battery	80	93.8	6.2	62.5	35.0	2.5	30.0	35.6
Aggravated Burglary	42	97.6	2.4	54.8	42.9	2.4	29.4	36.5
Aggravated Robbery	75	92.0	8.0	45.3	53.3	1.3	24.6	36.3
Agg Indecent Liberties w/Child	58	100.0	0.0	79.3	20.7	0.0	27.1	35.4
Burglary	91	93.4	6.6	73.6	24.2	2.2	29.7	33.1
Criminal Threat	34	100.0	0.0	67.6	23.5	8.8	33.2	35.3
DUI	44	90.9	9.1	88.6	9.1	2.3	41.9	44.3
Robbery	52	90.4	9.6	34.6	65.4	0.0	24.3	30.5
Theft	73	91.8	8.2	61.6	34.2	4.1	38.7	41.2
Other	351	94.6	5.4	71.2	25.9	2.8	29.3	36.9
TOTAL	**950**	**93.9**	**6.1**	**66.1**	**31.4**	**2.5**	**30.0**	**36.3**

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		
Drugs; Possession	143	90.9	9.1	65.0	33.6	1.4	33.1	37.5
Drugs; Distribution/Sale	107	85.0	15.0	68.2	30.8	0.9	27.7	32.6
Possession of Paraphernalia	2	100.0	0.0	50.0	50.0	0.0	30.5	33.2
Possession of Precursor Drugs	12	83.3	16.7	100.0	0.0	0.0	35.1	39.5
Unlawful Manufacture Controlled Substance	20	100.0	0.0	85.0	10.0	5.0	29.1	41.5
TOTAL	**284**	**89.1**	**10.9**	**69.0**	**29.6**	**1.4**	**30.8**	**36.0**

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	6	2	2	2	1	2	0	18
D2	3	0	5	2	7	0	5	0	3	25
D3	6	8	15	4	19	8	10	17	12	99
D4	23	28	42	13	16	4	4	3	4	137
D5	0	0	0	0	1	0	0	0	0	1
N1	5	1	1	0	0	1	3	1	5	17
N2	0	0	1	0	0	0	1	4	9	15
N3	5	9	18	18	13	10	6	10	31	120
N4	4	2	3	2	3	3	1	2	9	29
N5	14	25	26	23	14	7	10	26	26	171
N6	9	5	11	3	5	1	8	8	2	52
N7	33	43	29	11	17	7	14	12	9	175
N8	21	12	11	4	13	5	4	3	1	74
N9	56	40	27	5	16	3	6	4	4	161
N10	15	5	2	0	1	1	0	0	1	25
Offgrid	1	0	0	0	0	0	0	0	2	3
Nongrid	3	1	2	0	6	0	0	3	0	15
TOTAL	**199**	**181**	**199**	**87**	**133**	**52**	**73**	**95**	**118**	**1,137**

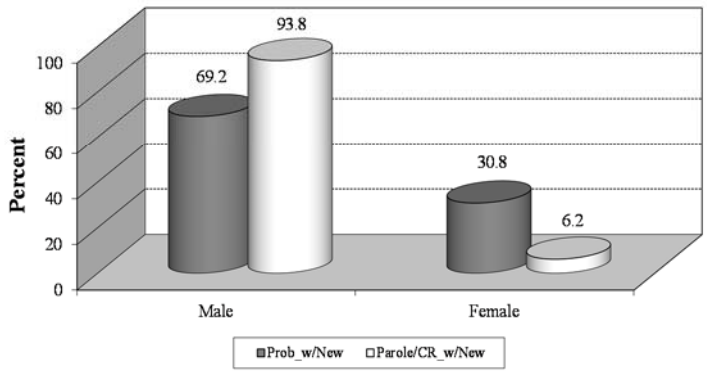
* Due to missing data, criminal history categories are based on 1,137 violators reporting criminal history.

Violators with New Sentences

Violators with new sentences, in this section, include probation, parole or postrelease and conditional release violators convicted of an offense for which they received a new sentence. This group of violators represented 7.2% (375 violators) of the total prison admissions in FY 2013, indicating an increase of 0.8% compared with the percentage (6.4%) of FY 2012. Characteristics of this group are illustrated in Figures 46 - 48. Drugs (28.3%), burglary/aggravated burglary (14.6%) and theft (7.6%) were the major offense categories committed by probation violators with new convictions. Drugs (20.3%), burglary/aggravated burglary (15.8%) and aggravated robbery/robbery (16.3%), 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, 25 and 32 violators) and drug severity level 4 (30 violators). The highest percentages of parole/postrelease/conditional release violators with new sentences were found at nondrug severity levels 3, 5, and 7 (11.3%, 24.9% and 11.3%) and drug severity level 3 (10.7%).

Male offenders made up 93.8% of the parole/postrelease and conditional release violators with new sentences admitted to prison in FY 2013, while female offenders accounted for 30.8% of probation violators with new sentences. This gender distribution is consistent with that of FY 2012 (Figure 46).

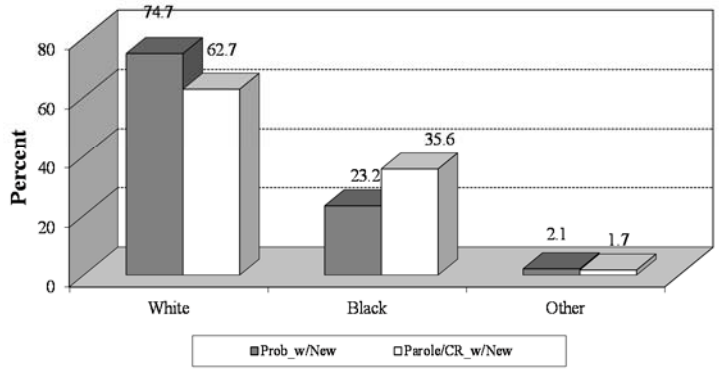
Figure 46: Distribution of FY 2013 Violators with New Sentences by Gender



Note: Probation violators w/new sentence=198; parole/conditional release condition violators w/new sentence=177

White offenders were identified as the largest group of the violators with new sentences, representing 74.7% of probation violators with new sentences and 62.7% of parole/postrelease and conditional release violators with new sentences. More black offenders (35.6%) were found in the group of parole/postrelease and conditional release violators with new sentences (Figure 47).

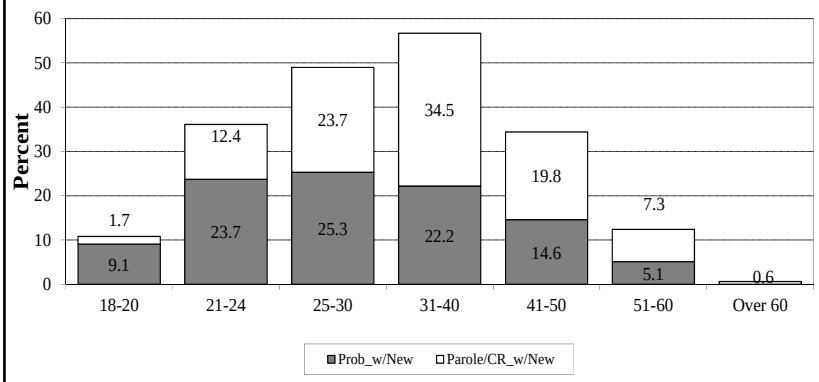
Figure 47: Distribution of FY 2013 Violators with New Sentences by Race



Note: Probation violators w/new sentence=198 and parole/conditional release violators w/new sentence=177

At the time of admission to prison, the highest percentage of probation violators with new sentences were in the age group from 25 to 30 (25.3%), which is consistent with that of FY 2012. Parole or postrelease and conditional release violators with new sentences represented the largest proportion in the age groups of 31 to 40 (34.5%), which is different from that of FY 2012, when the highest rate was in the age group of 41 to 50 (Figure 48).

Figure 48: Distribution of FY 2013 Violators with New Sentences by Age Group



Note: Probation violators w/new sentence=198 and parole/conditional release violators w/new sentence=177

Table 23: Distribution of FY 2013 Violators with New Sentences By Severity Level

Severity Level	Probation		Parole/Postrelease/Conditional Release	
	Number	Percent	Number	Percent
D1	2	1.0	5	2.8
D2	2	1.0	1	0.6
D3	18	9.1	19	10.7
D4	30	15.2	8	4.5
D5	4	2.0	3	1.7
N1	0	0.0	4	2.3
N2	0	0.0	3	1.7
N3	9	4.5	20	11.3
N4	2	1.0	5	2.8
N5	24	12.1	44	24.9
N6	8	4.0	13	7.3
N7	40	20.2	20	11.3
N8	25	12.6	14	7.9
N9	32	16.2	16	9.0
N10	1	0.5	0	0.0
Offgrid	1	0.5	2	1.1
Nongrid	0	0.0	0	0.0
TOTAL	**198**	**100.0**	**177**	**100.0**

VIOLATORS CONTINUED OR EXTENDED 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 2013, there were 2,353 condition probation violators and 280 probation violators with new convictions who were continued or extended on probation, representing 56.2% of the total number of 4,186 condition probation violators and 38.6% of the total number of 725 probation violators with new offenses, respectively. Drugs (28.2%), burglary (13.4%), theft (13.2%), forgery (7.1%), and DUI (5.9%) were the top five offenses committed by the group of condition probation violators. Drugs (24.6%), burglary (15.4%) and theft (15.4%), 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 2012. 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 Continued or Extended on Probation

Severity Level	Number of Cases	Criminal History Class								
		A	B	C	D	E	F	G	H	I
D1	8	0	0	2	1	2	1	0	0	2
D2	9	0	1	2	0	1	0	0	1	4
D3	129	4	5	8	8	18	4	18	33	31
D4	502	13	24	38	25	63	52	67	108	112
D5	15	0	0	0	0	2	2	5	4	2
N1	1	0	0	0	0	0	0	0	0	1
N2	0	0	0	0	0	0	0	0	0	0
N3	11	0	0	0	2	3	0	0	2	4
N4	12	2	0	1	0	0	1	0	5	3
N5	110	3	9	5	5	9	3	8	26	42
N6	32	2	2	1	2	2	3	1	10	9
N7	392	3	12	52	38	33	21	46	80	107
N8	313	5	7	39	20	56	25	44	56	61
N9	579	14	27	86	36	89	32	86	113	96
N10	74	1	0	11	7	10	7	10	11	17
TOTAL	**2,187**	**47**	**87**	**245**	**144**	**288**	**151**	**285**	**449**	**491**

Note: Criminal history classes are based on 2,187 cases reporting criminal history category. Border boxes and presumptive probation cells of drug grid are not highlighted because the numbers were the mixture of the old and new drug sentencing grids.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation

Table 25: Criminal History by Severity Levels of Probation Violators with New Convictions Continued or Extended 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	2	0	0	0	0	1	0	1	0	0
D3	20	0	0	0	0	2	0	3	4	11
D4	47	0	0	4	3	5	7	10	11	7
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	1	0	0	0	0	0	0	0	0	1
N4	1	0	0	0	0	0	0	0	1	0
N5	11	0	0	0	0	1	0	1	5	4
N6	2	0	1	0	0	1	0	0	0	0
N7	55	2	1	6	4	6	4	4	7	21
N8	37	0	0	5	0	2	3	3	9	15
N9	73	0	4	10	6	3	5	14	12	19
N10	12	0	0	2	1	2	0	2	2	3
TOTAL	**261**	**2**	**6**	**27**	**14**	**23**	**19**	**38**	**51**	**81**

Note: Criminal history classes are based on 261 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.

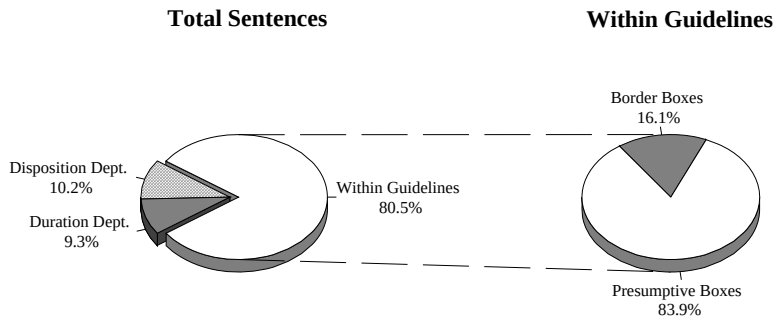
Only pure guideline sentences were utilized for this specific analysis. A pure guideline sentence is defined as a guideline sentence that is not imposed to run concurrent or consecutive with a "pre-guideline" sentence. In addition, the analysis is based on computed variables regarding departures and 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 this section, a total number of 6,670 pure guideline sentences of FY 2013 were utilized for analysis, including 1,446 incarceration guideline sentences and 5,224 probation sentences. Figure 49 demonstrates that 80.5% of the 6,670 guideline sentences were within the presumptive guideline grids, 9.3% indicated durational departures and 10.2% were dispositional departures. Of all the sentences within the presumptive guideline grids, 4,504 sentences (83.9%) fell within either the presumptive prison boxes or presumptive probation boxes, while 867 sentences (16.1%) were located on designated border boxes. Figure 50 indicates that 83.6% (569 sentences) of the 681 dispositional departures were downward departures and 16.4% (112 sentences) were upward dispositional departures.

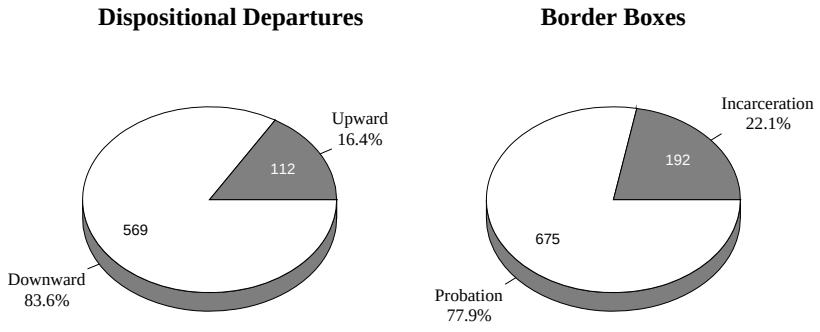
Approximately 78% of the 867 border box sentences resulted in probation sentences with 22% of this group sentenced to prison. The analysis of durational departure sentences is only applicable to presumptive prison sentences.

Figure 49: Distribution of FY 2013 Overall Guideline Sentences



Based on 1,446 prison and 5,224 probation sentences

Figure 50: Distribution of FY 2013 Dispositional Departure and Border Box Sentences



Based on 681 dispositional departures and 867 border box sentences

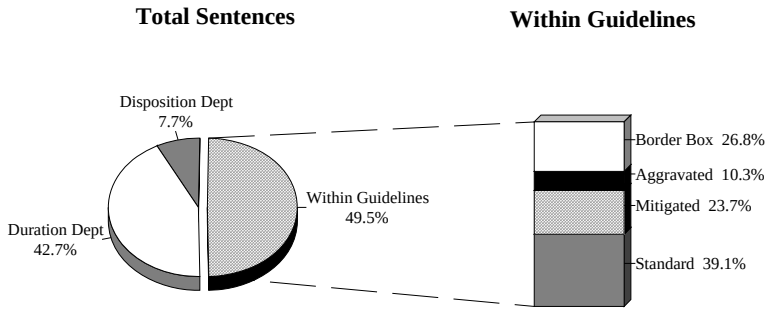
CONFORMITY OF PRESUMPTIVE PRISON GUIDELINE SENTENCES

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

Revocations of probation conditions, either with or without new sentences, which result in prison sentences were excluded from this analysis. A total of 1,446 presumptive prison guideline sentences of FY 2013 were analyzed for this purpose.

Sentences within the presumptive incarceration range accounted for 49.5% of the total incarceration guideline sentences in FY 2013. Of these sentences within the guidelines, the standard sentences accounted for 39.1%, the aggravated sentences accounted for 10.3%, the mitigated sentences accounted for 23.7% and 26.8% were located within designated border boxes (Figure 51). This distribution of sentences remains comparatively constant with FY 2012.

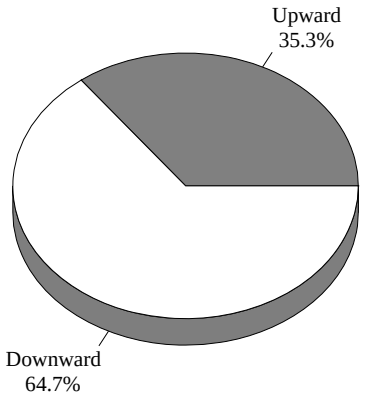
Figure 51: FY 2013 Incarceration Guideline Sentences



Based on 1,446 guideline sentences

Almost 65% 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 3.3% decrease from that of FY 2012 (Figure 52).

Figure 52: FY 2013 Incarceration Durational Departure Sentences

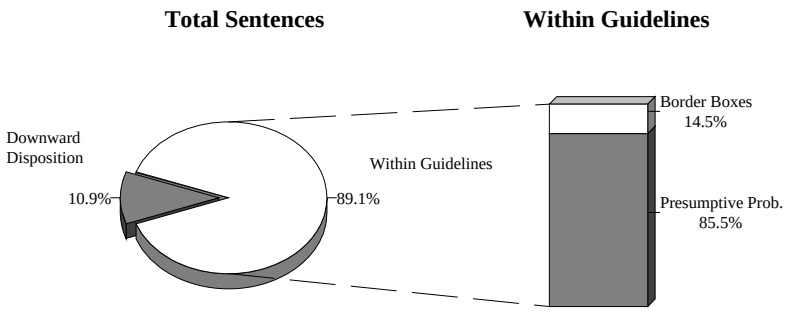


Based on 618 durational departure sentences

CONFORMITY OF PRESUMPTIVE PROBATION GUIDELINE SENTENCES

Presumptive probation guideline sentences refer to sentences that are designated below the incarceration line of the sentencing grids. The analysis of probation guideline sentences indicates that, as expected, the majority of probation guideline sentences in FY 2013 (89.1% or 4,655 cases) fell within the presumptive guideline range, among which 85.5% were within presumptive probation grids and 14.5% were within border boxes (Figure 53). The sentences within the presumptive guideline range (4,655) accounted for 60.9% of the total probation sentences imposed in FY 2013 (7,644), which increased by 0.4% compared with the percentage rate of FY 2012 (60.5%). Further analysis of the dispositional departures indicates that probation sentences reflected downward dispositional departures of 10.9% of the total probation guideline sentences in FY 2013 (Figure 53). Upward dispositional departure sentences were reflected in presumptive incarceration sentences (Refer to Figure 51).

Figure 53: FY 2013 Probation Guideline Sentences

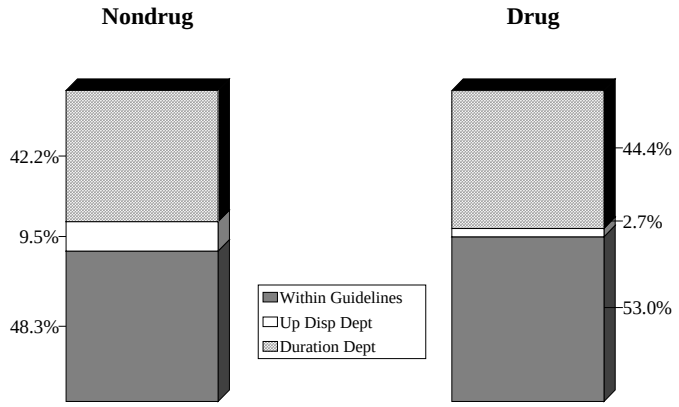


Based on 5,224 probation guideline sentences

CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES

The comparative study of nondrug and drug guideline incarceration sentences discloses that 9.5% of nondrug offenders showed upward dispositional departures, while 2.7% of drug offenders indicated upward dispositional departures. Additionally, nondrug offenders represented 42.2% durational departures and drug offenders showed 44.4% durational departures (Figure 54).

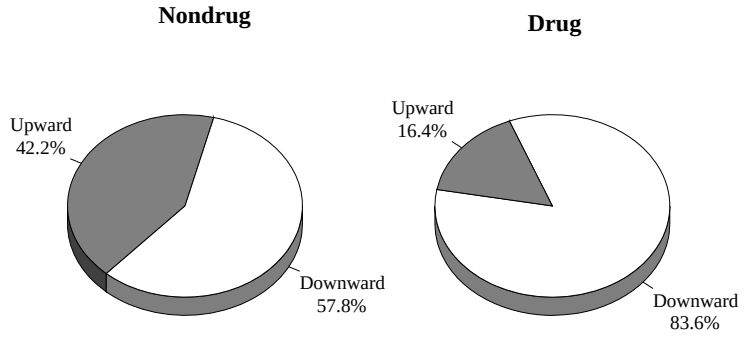
Figure 54: FY 2013 Nondrug and Drug Guideline Sentences - Incarceration



Based on 1,074 nondrug and 372 drug sentences

The examination of durational departures indicates that downward departures represented 83.6% of the total durational departures on the drug grid. However, on the nondrug grid, 57.8% 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).

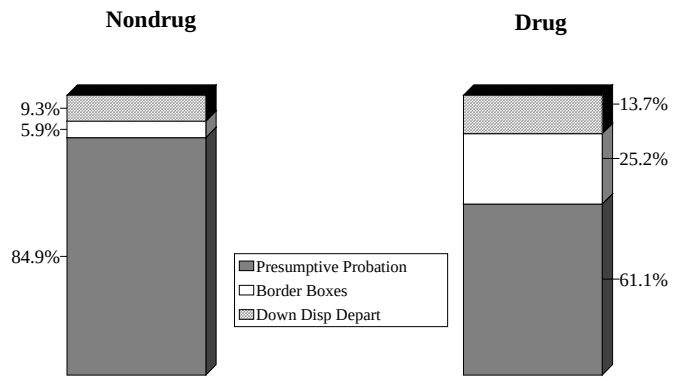
Figure 55: Comparison of Durational Departures between Nondrug and Drug Incarceration Sentences



Based on 453 nondrug and 165 drug durational departure sentences

Disparities also exist between nondrug and drug offenders on probation (Figure 56). Drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (13.7% vs. 9.3%). The rate of drug probation sentences resulting from border boxes was much higher than that of nondrug probation sentences (25.2% vs. 5.9%).

Figure 56: FY 2013 Nondrug and Drug Guideline Sentences - Probation



Based on 3,316 nondrug and 1,908 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

The conformity rates of incarceration sentences to the guidelines at each severity level are provided in Table 26. Drug incarceration sentences, as a whole, indicated a 16.7 % standard, 1.1% aggravated, 8.3% mitigated and 26.9% border box sentence distribution. Nondrug sentences revealed a 20.3% standard, 6.5% aggravated, 12.9% mitigated and 8.6% border box sentence distribution. The review of the departure sentences reveals that drug sentences indicated 7.3% upward durational departures and 37.1% downward durational departures, whereas nondrug sentences showed a 17.8% upward durational departure rate and a 24.4% downward durational departure rate. The highest rate of downward durational departures was identified at drug severity level 1 (86.3%) for drug incarceration sentences and nondrug severity level 2 (45.5%) for nondrug incarceration sentences. When examining dispositional departures, 9.5% of nondrug incarceration sentences were upward dispositional departures. By contrast, only 2.7% 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 seventeen 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	51		5.9	3.9		3.9	86.3	
D2	27		29.6	7.4		7.4	55.6	
D3	128	2.3	14.8	7.8	47.7	5.5	21.9	
D4	139	0.7	21.6	9.4	21.6	10.1	30.9	5.8
D5	27		7.4	14.8	33.3	7.4	29.6	7.4
Subtotal	**372**	**1.1**	**16.7**	**8.3**	**26.9**	**7.3**	**37.1**	**2.7**
N1	79	12.7	16.5	6.3		36.7	27.8	
N2	11			9.1		45.5	45.5	
N3	155	9.0	23.2	15.5		22.6	29.7	
N4	59	5.1	16.9	13.6		32.2	32.2	
N5	230	3.5	12.2	6.1	37.0	9.1	32.2	
N6	78	5.1	26.9	14.1	9.0	26.9	15.4	2.6
N7	170	8.2	22.4	15.3		15.9	14.1	24.1
N8	67	4.5	26.9	14.9		14.9	13.4	25.4
N9	202	6.9	26.7	15.3		11.4	20.3	19.3
N10	23			39.1		4.3	43.5	13.0
Subtotal	**1,074**	**6.5**	**20.3**	**12.9**	**8.6**	**17.8**	**24.4**	**9.5**
TOTAL	**1,446**	**5.1**	**19.4**	**11.8**	**13.3**	**15.1**	**27.7**	**7.7**

The conformity rates of probation sentences to the guidelines by severity level are presented in Table 27. Probation drug sentences indicated 13.7% downward dispositional departures, which should have been presumptive incarceration, while 9.3% of probation nondrug sentences experienced downward dispositional departures. A significant difference also occurred within the border boxes of the grids. Drug offenders received more probation sentences than nondrug offenders did when their severity levels and criminal history categories fell within the border boxes (25.2% versus 5.9%). The comparison of probation drug and nondrug sentences reveals the same trend as indicated with incarceration sentences: the tendency is to impose more nonprison sentences for drug offenders than for nondrug offenders. This trend has been consistent in the past seventeen years.

Table 27: Conformity Rates by Severity Level - Probation Sentences

Severity Level	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	6			100.0
D2	15			100.0
D3	424		82.1	17.9
D4	991	78.0	8.0	14.0
D5	472	83.3	11.2	5.5
Subtotal	**1,908**	**61.1**	**25.2**	**13.7**
N1	2			100.0
N2	0			100.0
N3	24			100.0
N4	23			100.0
N5	231		79.7	20.3
N6	100	59.0	11.0	30.0
N7	839	95.0		5.0
N8	573	93.0		7.0
N9	1,356	93.4		6.6
N10	168	94.6		5.4
Subtotal	**3,316**	**84.9**	**5.9**	**9.3**
TOTAL	**5,224**	**76.2**	**12.9**	**10.9**

CONFORMITY RATES TO THE GUIDELINES BY RACE

Tables 28 and 29 exhibit the conformity rates to the sentencing guidelines by race for the drug and nondrug offenders admitted to prison in FY 2013. The analysis of drug incarceration sentences demonstrates that whites received more border box and downward durational departures than blacks (27.5% vs. 26.3%; 40% vs. 32.2%). However, except border box sentences, black offenders represented higher percentages than white offenders within all guideline sentences and upward durational departures (1.7% vs. 0.8%; 20.3% vs. 14.6%; 9.3% vs. 7.9%; 7.6% vs. 6.7%). Both white and black offenders received 2.5% upward dispositional departures.

The examination of nondrug incarceration sentences within guidelines shows that black offenders received more aggravated and standard sentences than white offenders (7.8% vs. 5.8%; 25.9% vs. 18.5%), while white offenders represented higher percentages than black offenders in mitigated and border box sentences (13% vs. 12.3%; 9.8% vs. 5.2%). The review of departures reveals that blacks represented higher rates than whites in both upward and downward durational departures (18.1% vs. 17.7%; 24.9% vs. 23.8%), whereas whites received more upward dispositional departures (11.3% vs. 5.8%) than blacks for nondrug offenses. This distribution of departures by race remains constant compared with that of FY 2012.

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	50		6.0	4.0		4.0	86.0	
	Black	1						100.0	
D2	White	19		31.6	5.3		5.3	57.9	
	Black	6		16.7	16.7			66.7	
	Other	2		50.0			50.0		
D3	White	73	2.7	9.6	9.6	54.8	6.8	16.4	
	Black	50	2.0	20.0	6.0	40.0	4.0	28.0	
	Other	5		40.0		20.0		40.0	
D4	White	77		22.1	6.5	23.4	10.4	31.2	6.5
	Black	57	1.8	22.8	12.3	17.5	10.5	29.8	5.3
	Other	5			20.0	40.0		40.0	
D5	White	21		9.5	19.0	38.1		28.6	4.8
	Black	4				25.0	25.0	50.0	
	Other	2					50.0		50.0
Total	**White**	**240**	**0.8**	**14.6**	**7.9**	**27.5**	**6.7**	**40.0**	**2.5**
	Black	**118**	**1.7**	**20.3**	**9.3**	**26.3**	**7.6**	**32.2**	**2.5**
	Other	**14**		**21.4**	**7.1**	**21.4**	**14.3**	**28.6**	**7.1**

Note: Based on 372 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	60	15.0	15.0	6.7		38.3	25.0	
	Black	16	6.3	25.0			37.5	31.3	
	Other	3			33.3			66.7	
N2	White	8					50.0	50.0	
	Black	2			50.0			50.0	
	Other	1					100.0		
N3	White	103	9.7	24.3	16.5		21.4	28.2	
	Black	49	6.1	22.4	14.3		24.5	32.7	
	Other	3	33.3				33.3	33.3	
N4	White	41	4.9	19.5	9.8		31.7	34.1	
	Black	17	5.9	11.8	17.6		35.3	29.4	
	Other	1			100.0				
N5	White	155	2.6	12.3	5.8	43.9	7.1	28.4	
	Black	70	5.7	12.9	7.1	20.0	14.3	40.0	
	Other	5				60.0		40.0	
N6	White	56	1.8	17.9	17.9	8.9	32.1	17.9	3.6
	Black	20	10.0	55.0	5.0	10.0	15.0	5.0	
	Other	2	50.0					50.0	
N7	White	112	6.3	22.3	14.3		14.3	15.2	27.7
	Black	57	12.3	22.8	17.5		17.5	12.3	17.5
	Other	1					100.0		
N8	White	56	5.4	19.6	14.3		16.1	14.3	30.4
	Black	11		63.6	18.2		9.1	9.1	
	Other	0							
N9	White	137	5.1	22.6	16.1		11.7	21.2	23.4
	Black	61	9.8	37.7	11.5		11.5	18.0	11.5
	Other	4	25.0		50.0			25.0	
N10	White	241 16			43.8			43.8	12.4
	Black	6			33.3		16.7	33.3	16.7
	Other	1						100.0	
Total	**White**	**744**	**5.8**	**18.5**	**13.0**	**9.8**	**17.7**	**23.8**	**11.3**
	Black	**309**	**7.8**	**25.9**	**12.3**	**5.2**	**18.1**	**24.9**	**5.8**
	Other	**21**	**14.3**		**19.0**	**14.3**	**14.3**	**38.1**	

Note: Based on 1,074 nondrug incarceration guideline sentences reporting race of offenders.

Tables 30 and 31 present the conformity rates by race for offenders sentenced to probation during FY 2013. White offenders received more presumptive probation sentences for drug offenses than black offenders (65.2% vs. 43.5%) but black drug offenders had a higher rate of border box sentences (30.9% vs. 23.7%) and downward dispositional departures (25.5% vs. 11.1%) than white drug offenders (Table 30). This racial conformity rate pattern is consistent with that of FY 2012 and FY 2011.

The research on conformity rates of the probation sentences of the nondrug offenders discloses a very similar pattern with that of the drug offenders. White nondrug offenders received more presumptive probation sentences than black nondrug offenders (86% vs. 80.7%). Black offenders represented a higher percentage of downward dispositional departures (13.3% vs. 8%) than white offenders for nondrug offenses. White and black nondrug offenders represent the same percentage of 5.9% in border box sentences (Table 31).

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

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	White	5			100.0
	Black	1			100.0
	Other	0			
D2	White	11			100.0
	Black	4			100.0
	Other	0			
D3	White	316		83.2	16.8
	Black	99		77.8	22.2
	Other	9		88.9	11.1
D4	White	801	81.0	8.0	11.0
	Black	178	64.0	8.4	27.5
	Other	12	83.3		16.7
D5	White	412	86.9	9.5	3.6
	Black	51	60.8	21.6	17.6
	Other	9	44.4	33.3	22.2
Total	**White**	**1,545**	**65.2**	**23.7**	**11.1**
	Black	**333**	**43.5**	**30.9**	**25.5**
	Other	**30**	**46.7**	**36.7**	**16.7**

Note: Based on 1,908 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	2			100.0
	Black	0			
	Other	0			
N2	White	0			
	Black	0			
	Other	0			
N3	White	20			100.0
	Black	4			100.0
	Other	0			
N4	White	14			100.0
	Black	9			100.0
	Other	0			
N5	White	169		82.8	17.2
	Black	60		70.0	30.0
	Other	2		100.0	
N6	White	78	59.0	12.8	28.2
	Black	20	60.0	5.0	35.0
	Other	2	50.0		50.0
N7	White	654	96.2		3.8
	Black	173	90.8		9.2
	Other	12	91.7		8.3
N8	White	411	94.2		5.8
	Black	149	89.9		10.1
	Other	13	92.3		7.7
N9	White	1,073	93.8		6.2
	Black	262	92.4		7.6
	Other	21	85.7		14.3
N10	White	114	99.1		0.9
	Black	50	84.0		16.0
	Other	4	100.0		
Total	**White**	**2,535**	**86.0**	**5.9**	**8.0**
	Black	**727**	**80.7**	**5.9**	**13.3**
	Other	**54**	**85.2**	**3.7**	**11.1**

Note: Based on 3,316 nondrug probation sentences reporting race of offenders.

CONFORMITY RATES TO THE GUIDELINES BY GENDER

This section presents the conformity rates to the sentencing guidelines between male and female offenders admitted to prison in FY 2013. Male drug offenders represented higher rates than female drug offenders in standard sentences (17.2% vs. 12.5%) and mitigated sentences (8.4% vs. 7.5%). All aggravated sentences were committed by male offenders. Females received more border box sentences for drug crimes than males (40% vs. 25.3%). The examination of departure sentences reveals that male drug offenders received more than female drug offenders in both upward and downward durational departures (7.5% vs. 5%; 38% vs. 30%), while female drug offenders had a higher rate of upward dispositional departures (5% vs. 2.4%) than their counterparts (Table 32).

The analysis of nondrug incarceration sentences indicates that within guidelines, females represented a higher percentage than males in aggravated sentences (8.2% vs. 6.4%), standard sentences (20.5% vs. 20.3%) and border box sentences (9.6% vs. 8.5%) for nondrug crimes. The analysis of departure sentences reveals that male nondrug offenders had a higher rate of upward durational departures (18.1% vs. 13.7%) than female offenders. However female offenders represented higher percentages of downward durational departures (26% vs. 24.3%) and upward dispositional departures (12.3% vs. 9.3%) than their counterparts (Table 33), which remains consistent with the findings of FY 2012.

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	45		6.7	4.4		4.4	84.4	
	Female	6						100.0	
D2	Male	21		28.6	9.5		9.5	52.4	
	Female	6		33.3			66.7		
D3	Male	115	2.6	15.7	7.8	45.2	5.2	23.5	
	Female	13		7.7	7.7	69.2	7.7	7.7	
D4	Male	127	0.8	22.0	8.7	19.7	10.2	33.1	5.5
	Female	12		16.7	16.7	41.7	8.3	8.3	8.3
D5	Male	24		8.3	16.7	29.2	8.3	33.3	4.2
	Female	3				66.7			33.3
Total	**Male**	**332**	**1.2**	**17.2**	**8.4**	**25.3**	**7.5**	**38.0**	**2.4**
	Female	**40**		**12.5**	**7.5**	**40.0**	**5.0**	**30.0**	**5.0**

Note: Based on 372 drug incarceration guideline sentences.

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

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
							Durational		Dispositional
			Agg.	Standard	Mit.	Box	Upward	Downward	Upward
N1	Male	71	12.7	16.9	7.0		38.0	25.4	
	Female	8	12.5	12.5			26.0	50.0	
N2	Male	7			14.3		28.6	57.1	
	Female	4					75.0	25.0	
N3	Male	147	8.2	23.1	15.0		23.1	30.6	
	Female	8	25.0	25.0	25.0		12.5	12.5	
N4	Male	54	3.7	16.7	14.8		35.2	29.6	
	Female	5	20.0	20.0			60.0		
N5	Male	215	3.7	11.6	6.5	36.3	9.3	32.6	
	Female	15		20.0		46.7	6.7	26.7	
N6	Male	73	4.1	28.8	13.7	9.6	27.4	13.7	2.7
	Female	5	20.0		20.0		20.0	40.0	
N7	Male	165	8.5	21.8	15.8		15.8	14.5	23.6
	Female	5		40.0			20.0		40.0
N8	Male	55	3.6	25.5	16.4		16.4	14.5	23.6
	Female	12	8.3	33.3	8.3		8.3	8.3	33.3
N9	Male	192	7.3	27.1	14.6		12.0	20.3	18.8
	Female	10		20.0	30.0			20.0	30.0
N10	Male	22			40.9		4.5	40.9	13.6
	Female	1						100.0	
Total	**Male**	**1,001**	**6.4**	**20.3**	**13.2**	**8.5**	**18.1**	**24.3**	**9.3**
	Female	**73**	**8.2**	**20.5**	**9.6**	**9.6**	**13.7**	**26.0**	**12.3**

Note: Based on 1,074 nondrug incarceration guideline sentences.

The conformity rates of the probation sentences by gender are presented in Tables 34 and 35. The analysis of the offenders on probation shows that females on both drug and nondrug grids received less downward dispositional departures than males (5.7% vs. 16.8%, Table 34; 2.6% vs. 11.4%, Table 35), which is consistent with those of FY 2012. 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 & 33). Females were less likely to receive a downward dispositional departure to probation if their sentences fell within a presumptive prison box (Tables 34 & 35). The above findings continue the trend that was present in the past seventeen years (Annual Reports of FY 1996 - FY 2012).

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	9			100.0
	Female	6			100.0
D3	Male	343		79.6	20.4
	Female	81		92.6	7.4
D4	Male	690	73.5	8.4	18.1
	Female	301	88.4	7.0	4.7
D5	Male	339	80.2	12.7	7.1
	Female	133	91.0	7.5	1.5
Total	**Male**	**1,385**	**56.2**	**27.0**	**16.8**
	Female	**523**	**74.0**	**20.3**	**5.7**

Note: Based on 1,908 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	2			100.0
	Female	0			
N2	Male	0			
	Female	0			
N3	Male	21			100.0
	Female	3			100.0
N4	Male	23			100.0
	Female	0			
N5	Male	196		79.1	20.9
	Female	35		82.9	17.1
N6	Male	91	58.2	9.9	31.9
	Female	9	66.7	22.2	11.1
N7	Male	700	94.0		6.0
	Female	139	100.0		
N8	Male	357	89.6	10.4	
	Female	216	98.6		1.4
N9	Male	983	91.7		8.3
	Female	373	97.9		2.1
N10	Male	128	93.0		7.0
	Female	40	100.0		
Total	**Male**	**2,501**	**82.0**	**6.6**	**11.4**
	Female	**815**	**93.6**	**3.8**	**2.6**

Note: Based on 3,316 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.

In the initial years of implementing the guidelines, there were small numbers of special sentencing rules, 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 2013 Legislative Session, forty 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.

SB 123 mandatory drug treatment has not been considered as a special sentencing rule since 2006, therefore, it is excluded in the following analyses. Tables 36 and 37 present the numbers and percentages of sentencing practice with special sentencing rules in the past five years. The percentage of offenders admitted to prison with special sentencing rules increased from 29.5% in FY 2009 to 39.3% in FY 2013. FY 2013 represented the second highest number (649 admissions) 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 11.5% in FY 2013, a decrease of 0.3% and 0.5% when compared with those of FY 2012 and 2009 respectively (Table 36). The total percentage of both prison and probation sentences applied with special rules increased from 15.6% in FY 2009 to 18% in FY 2013 (Table 37).

During FY 2013, a number of 649 pure guideline prison sentences and 614 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 39.3% of prison pure guideline admissions (1,653 admissions) and 11.5% of pure guideline probation sentences (5,349) imposed in FY 2013 (Tables 36).

The top three special sentencing rules applied to prison sentences in sentencing practice during FY 2013 were “crime committed while incarcerated or on probation, parole, etc.” (326 sentences) representing 50.2% of 649 prison sentences applied with special sentencing rules; “person felony committed with a firearm” (130 sentences) representing 20%; and “crime committed while on felony bond” (105 sentences) making up 16.2% of prison admissions with special sentencing rules during FY 2013 (Table 38).

These three special sentencing rules were applied most frequently to probation sentences imposed in FY 2013, as well. The special rule of “crime committed while incarcerated or on probation, parole, etc.” (236 sentences) accounted for 38.4%; “crime committed while on felony bond” (124 sentences) accounted for 20.2%; and “person felony committed with a firearm” (63 sentences) accounted for 10.3 % of the total 614 probation sentences applied with special sentencing rules (Table 39).

Table 36: Pure Guideline Sentences Applied with Special Sentencing Rules
By Prison and Probation
FY 2009 through FY 2013

Fiscal Year	Prison Admissions			Probation Sentences		
	Guideline	with Special Rules		Guideline	with Special Rules	
		Number	Percent		Number	Percent
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
2013	1653	649	39.3	5349	614	11.5

Table 37: Pure Guideline Sentences Applied with Special Sentencing Rules
By Total Sentences
FY 2009 through FY 2013

Fiscal Year	Guideline	with Special Rules	
		Number	Percent
2009	7273	1136	15.6%
2010	7366	1214	16.5%
2011	7516	1259	16.8%
2012	7108	1295	18.2%
2013	7002	1263	18.0%

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

Table 38: Distribution of Special Sentencing Rules Applied To Prison Sentences – FY 2013

Special Rules Applied to Sentences	Number	Percent
Crime committed while incarcerated, probation, parole, etc.	326	50.2
Person felony committed with a firearm	130	20.0
Crime committed while on felony bond	105	16.2
Burglary with 2 or more prior theft, burglary, aggravated burglary	45	6.9
Theft with 3 or more prior theft, burglary, aggravated burglary	45	6.9
Residential burglary with a prior residential, nonresidential or aggravated burglary conviction	33	5.1
Third or subsequent drug possession	27	4.2
Persistent sex offender	10	1.5
Third or subsequent forgery	8	1.2
Aggravated assault of a LEO	6	0.9
Aggravated endangering a child	4	0.6
Battery on a LEO resulting in bodily harm	3	0.5
Extended Juvenile jurisdiction	2	0.3
Aggravated battery of a LEO	1	0.2
Crime committed for benefit of a criminal street gang	1	0.2
Felony criminal deprivation of a motor vehicle	1	0.2
Second or subsequent manufacture controlled substance	1	0.2
Second forgery	1	0.2
Aggravated habitual sex offender-life no parole, HB2576	1	0.2
Crime committed while incarcerated in Juvenile facility.	1	0.2
Drug felony with a firearm	1	0.2
Second or subsequent identity theft or fraud	1	0.2

Note: The number and percentage are mutually exclusive.

Table 39: Distribution of Special Sentencing Rules Applied To Probation Sentences – FY 2013

Special Rules Applied to Sentences	Number	Percent
Crime committed while incarcerated or on probation, parole, etc.	236	38.4
Crime committed while on felony bond	124	20.2
Person felony committed with a firearm	63	10.3
Third or subsequent drug possession	51	8.3
Theft with =>3 prior felony theft, burglary, aggravated burglary	36	5.9
Burglary with 2 prior burglary convictions	33	5.4
Second forgery	23	3.7
Third or subsequent forgery	21	3.4
Aggravated endangering a child	20	3.3
Residential burglary with a prior residential, nonresidential or aggravated burglary conviction	15	2.4
Aggravated assault LEO	7	1.1
Second or subsequent identity theft or identity fraud	4	0.7
Drug felony with a firearm	3	0.5
Battery on a LEO resulting in bodily harm	3	0.5
Extended juvenile jurisdiction imposed	2	0.3
Crime committed for benefit of criminal street gang	1	0.2
Unlawful sexual relations	1	0.2
Other	18	2.9

Note: The number and percentage are mutually exclusive.

CHAPTER FOUR
SENTENCING TRENDS AND FORECAST

INCARCERATION SENTENCES

In the past five years, the total number of prison admissions indicates a growing tendency. In FY 2013, the total number of offenders admitted to prison reached 5,205, which increased by 212 or 4.2% when compared with FY 2012 and by 644 or 14.1% when compared with FY 2009. (Figure 57). Table 40 displays the prison admission patterns by month in the past five years.

Figure 57: Incarceration Sentences
FY 2009 through FY 2013

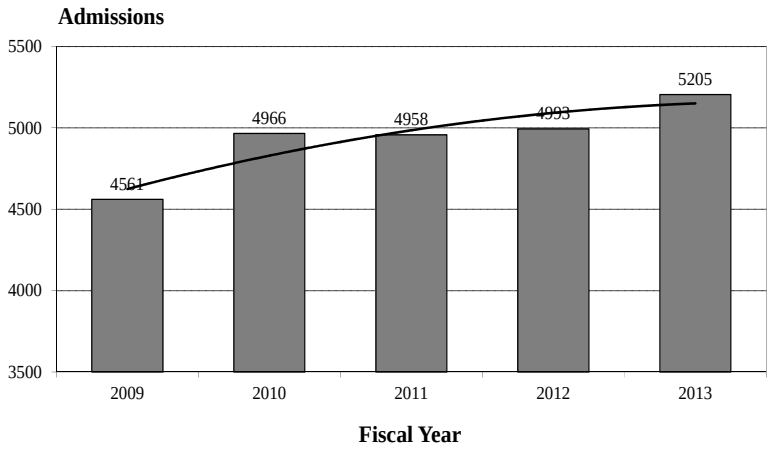


Table 40: Prison Admissions by Month

Month by Fiscal Year	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
July	417	450	410	385	471
August	308	384	413	495	489
September	398	412	430	399	411
October	366	415	366	401	455
November	345	384	418	416	388
December	364	423	444	418	395
January	359	352	358	368	464
February	361	405	387	394	352
March	451	497	467	411	468
April	408	432	392	402	488
May	333	362	441	515	408
June	451	450	432	389	416
Total	**4,561**	**4,966**	**4,958**	**4,993**	**5,205**

Table 41 presents the trend of admissions to prison by type in the past five fiscal years. Compared with FY 2009, the numbers of admissions increased at all types of offenders in FY 2013. The admission number of new court commitments in FY 2013 increased by 9.9% over that of FY 2009 but decreased by 4.1% from that of FY 2012. FY 2013 represents the second lowest admission number of new court commitments in the past five years. The number of probation condition violators admitted to prison in FY 2013 increased by 11.4% compared with FY 2009 but decreased by 3.2% compared with FY 2012. Probation violators with new sentences admitted to prison in FY 2013 significantly increased by 122.5% compared with FY 2009 and increased by 10% compared with FY 2012. The large increase of probation violators with new sentences is due to KDOC's new rule of computation of this group and direct new court commitments. That is why direct court commitments has decreased since FY 2011.The number of parole/postrelease and conditional release violators admitted to prison in FY 2013 increased by 6.9% over that of FY 2009 and greatly increased by 29.2% over that of FY 2012. Parole/postrelease/condition release violators with new sentences admitted in FY 2013 greatly increased by 62.4% and 25.5% respectively over those of FY 2009 and FY 2012.

Table 41: Comparison of Prison Admissions by Type

Admission Type	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2013-2009 % Difference.
New Court Commitment	1,724	1,908	1,995	1,975	1,894	9.9%
Probation Condition Violator	1,462	1,717	1,626	1,682	1,629	11.4%
Probation Violator With New Sentence	89	84	91	180	198	122.5%
Parole/Postrelease/CR Condition Violator	1,154	1,084	1,027	955	1,234	6.9%
Parole/Postrelease/CR Violator With New Sentence	109	141	161	141	177	62.4%
Other Types*	23	32	58	60	73	217.4%
Total	**4,561**	**4,966**	**4,958**	**4,993**	**5,205**	**14.1%**

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

Table 42 demonstrates the admission trend of incarceration drug sentences by severity level in the past five fiscal years. The total admissions of drug offenders in FY 2013 increased by 2% when compared with that of FY 2012 and by 10.5% when compared with that of FY 2009. Since July 1, 2012, a new five-level drug sentencing grid has been implemented. The admissions in FY 2013 include offenders sentenced under both old and new sentencing grids. Therefore, the comparison of drug prison admission by severity level is not applicable at present.

The admission trend of nondrug offenders in the past five is exhibited in Table 43. The total number of nondrug admissions increased by 5% over that of FY 2012 and by 15.4% over that of FY 2009. The most notable increase of nondrug admissions in the past five years was identified at nondrug severity level 6, an increase by 68.1%. The admissions at levels 1, 5, 7, 8 and 9

increased, respectively, by 28.9%, 17.1%, 30.8%, 24.8% and 35.9%. The most significant decrease in the past five years was found at nongrid with a decrease of 62% followed by level 10 with a decrease of 43.9% and level 2 with a decrease of 15.2%. Certain changes were also identified in the numbers of sentences at nondrug severity level 3 with a decrease of 7.2% and level 4 with a decrease of 5.7% from those of FY 2009. Offgrid offenders admitted to prison in FY 2013 increased by 5.8% over that of FY 2009 (Table 43).

When compared with FY 2012, the number at nondrug severity level 6 increased significantly by 68.1%, followed by level 1 with an increase of 16.8% and level 9 with an increase of 14.3%. The number of admissions at nongrid decreased by 37.8%. The admissions at other nondrug levels did not fluctuate much when compared with those of FY 2012 (Table 43).

Table 42: Comparison of Drug Prison Admissions by Severity Level

Severity Level	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2013-2012 % Difference	FY 2013-2009 % Difference
D1	110	98	111	85	79		
D2	93	93	99	85	73		
D3	347	387	418	396	405	**N/A**	**N/A**
D4	652	751	706	736	715		
D5					56		
Total	**1,202**	**1,329**	**1,334**	**1,302**	**1,328**	**2.0%**	**10.5%**

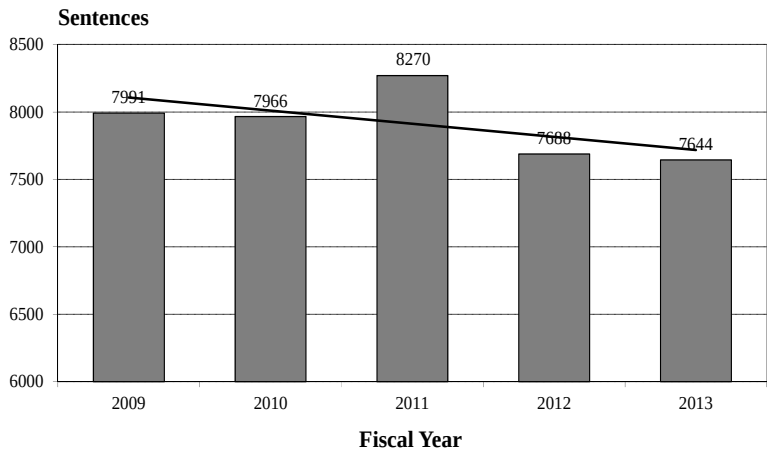
Table 43: Comparison of Nondrug Prison Admissions by Severity Level

Severity Level	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2013-2012 % Difference	FY 2013-2009 % Difference
N1	97	105	102	107	125	16.8%	28.9%
N2	46	53	48	39	39	0.0%	-15.2%
N3	387	420	409	357	359	0.6%	-7.2%
N4	123	113	114	116	116	0.0%	-5.7%
N5	532	596	593	641	623	-2.8%	17.1%
N6	116	102	126	116	195	68.1%	68.1%
N7	665	790	809	838	870	3.8%	30.8%
N8	355	388	395	446	443	-0.7%	24.8%
N9	622	684	719	739	845	14.3%	35.9%
N10	187	161	105	109	105	-3.7%	-43.9%
Off-grid	104	113	126	106	110	3.8%	5.8%
Non-grid	121	106	77	74	46	-37.8%	-62.0%
Unknown	4	6	1	3	1	-66.7%	-75.0%
Total	**3,359**	**3,637**	**3,624**	**3,691**	**3,877**	**5.0%**	**15.4%**

PROBATION SENTENCES

The overall trend of probation sentences imposed in the past five fiscal years is declining. The number of probation sentences in FY 2013 decreased by 0.6% or by 44 sentences compared with that of FY 2012 and decreased by 4.3% or by 347 sentences compared with that of FY 2009. The largest number of probation sentences imposed in the past five years is identified in FY 2011 (Figure 58).

Figure 58: Probation Sentences
FY 2009 through FY 2013



The sentencing trend of drug probation sentences by severity level in the past five years is presented in Table 44. The total drug probation sentences in FY 2013 decreased by 2.4% or by 58 sentences from that of FY 2012 and decreased by 4.9% or 122 sentences from that of FY 2009. Owing to the implementation of the new drug sentencing grid with five levels, probation sentences imposed in FY 2013 include offenders sentenced under both old and new sentencing grids according to their offense dates. As a result, the comparison of drug probation sentences by severity level is not applicable.

Table 45 presents the sentencing trend of nondrug probation sentences in the past five years. The total number of nondrug probation sentences in FY 2013 increased by 0.3% over that of FY 2012 but decreased by 4.1% from that of FY 2009. The largest decline of nondrug probation sentences in the past five years was found at nondrug severity level 10 (a decrease of 50.2%) followed by nongrid (a decrease of 21.8%) and nondrug severity level 3 (a decrease of 16.4%). The largest increase of nondrug probation sentences in the past five years was identified at nondrug severity level 4 (an increase of 77.8%) followed by nondrug severity level 6 (an increase of 69.6%) compared with the data observed in FY 2009.

Table 44: Comparison of Probation Drug Sentences by Severity Level
FY 2009 through FY 2013

Severity Level	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2013-2012 % Difference	FY 2013-2009 % Difference
D1	25	24	16	9	11		
D2	34	19	36	32	23		
D3	552	673	737	694	509	**N/A**	**N/A**
D4	1903	1815	1821	1715	1268		
D5					581		
Total	**2,514**	**2,531**	**2,610**	**2,450**	**2,392**	**-2.4%**	**-4.9%**

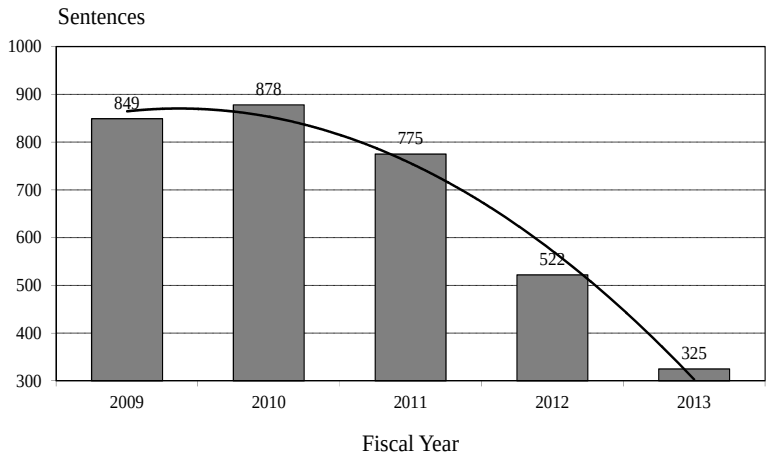
Table 45: Comparison of Probation Nondrug Sentences by Severity Level
FY 2009 through FY 2013

Severity Level	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2013-2012 % Difference	FY 2013-2009 % Difference
N1	3	1	0	2	3	50.0%	0.0%
N2	1	0	0	2	0	N/A	N/A
N3	55	61	45	45	46	2.2%	-16.4%
N4	18	18	28	25	32	28.0%	77.8%
N5	321	337	398	334	316	-5.4%	-1.6%
N6	92	97	93	93	156	67.7%	69.6%
N7	1,047	1,073	1,194	1,136	1,086	-4.4%	3.7%
N8	927	930	960	836	826	-1.2%	-10.9%
N9	1,654	1,599	1,717	1,719	1,853	7.8%	12.0%
N10	448	353	288	259	223	-13.9%	-50.2%
Off-grid	2	2	2	0	0	N/A	N/A
Non-grid	909	964	935	787	711	-9.7%	-21.8%
Total	**5,477**	**5,435**	**5,660**	**5,238**	**5,252**	**0.3%**	**-4.1%**

COUNTY JAIL SENTENCES

The total number of county jail sentences imposed in FY 2013 decreased by 37.7% or 197 sentences compared with that of FY 2012 and significantly decreased by 61.7% or 524 sentences compared with that of FY 2009. FY 2013 represents the lowest number of county jail sentences imposed in the past five years, which primarily resulted from the implementation of House Substitute for 2011 Senate Bill 6 (page 15).

Figure 59: County Jail Sentences
FY 2009 through FY 2013



The offense trend of county jail sentences from FY 2009 through FY 2013 is shown in Table 46. Approximately 94% 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 72.6% of county jail sentences. In FY 2013, the number of the 4th or subsequent conviction of DUI decreased by 47.1% compared with FY 2012 and by 68.2% compared with FY 2009. The number of the 3rd conviction of DUI in FY 2013 increased by 16.9% over that of FY 2012, but decreased by 22.5% from that of FY 2009. Though small in number, the crime of domestic battery increased by 114.3% and 25% over those of FY 2012 and 2009 respectively. No sentences were reported under the crime of cruelty to animals in FY 2013. This crime 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 2009 through FY 2013

Offenses	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2013-2012 % Difference	FY 2013-2009 % Difference
3rd DUI	89	82	69	59	69	**16.9%**	**-22.5%**
4th or Sub. DUI	741	786	696	446	236	**-47.1%**	**-68.2%**
Domestic battery	12	3	9	7	15	**114.3%**	**25.0%**
Cruelty to Animals	3	1	0	2	0	**N/A%**	**N/A**
Other	4	6	1	8	5	**-37.5%**	**25.0%**
Total	**849**	**878**	**775**	**522**	**325**	**-37.7%**	**-61.7%**

PRISON POPULATION FORECASTS

FY 2014 prison population projection reflects the policy changes of a justice reinvestment bill, House Bill 2170, passed in the 2013 Legislative Session. This bill makes numerous changes to sentencing, postrelease supervision and probation statutes, which seeks to reduce the probation condition violator population in Kansas prisons.

The prison population projection predicts that offenders incarcerated in state prisons will reach 10,381 by June 30, 2023, which indicates an increase of 800 inmates or 8.3% over the actual prison population on the same date in 2013. Although the total admission trend in the past four years is comparatively stable with a slow increase in FY 2013 (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 resulted from the implementation of House Substitute for Senate Bill 14, passed during the 2007 Legislative Session, which promotes a 20% reduction of probation revocation rate, modifies lower severity level good time rates from 15% to 20% and provides potential credit for program completion. The decrease after FY 2013 until FY 2015 in the-ten year forecast period would reflect the implementation of House Bill 2170 passed in the 2013 Legislation Session (Figure 60).

Table 47 presents FY 2014 prison population projections by severity levels. The largest increase in number falls at nondrug severity levels 1 to 3, an increase of 343 offenders or 13.9% in the ten-year forecast period. The number at nondrug severity levels 4 to 6 will increase by 319 offenders or 20.1% in the next ten years. This is due to the "stacking effect" of long sentence length of the most serious offenses. The prison population at nondrug severity levels 7 to10 will increase by 156 offenders or 18.5% in the next ten years. The incarcerated population at offgrid in the next ten years will increase by 205 offenders or 17.5%. This growth is primarily due to the implementation of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session. Drug inmate population during the forecast period will increase by 46 inmates or 4.2%. The slight increase of drug population in prison mirrors the impact of House Bill 2170. In the past projections, drug probation condition violators were grouped together with drug direct new court commitments and probation violators with new sentence called new commitments.

The probation condition violators admitted to prison is expected to decrease by 147 or 9.3% in the next ten years, which results from implementing House Bill 2170. Previously, probation condition violators admitted to prison were required to serve their underlying prison sentence, but now House Bill 2170 requires probation condition violators to serve graduated sanctions instead.

Condition parole or postrelease violators will slowly increase by 74 or 11.9% in the next ten years. This is the impact of House Bill 2170 as well, which requires that probation condition violators who are released from prison after July 1, 2013 will receive a postrelease supervision period. Figure 60 illustrates the trend of the actual and projected prison population from FY 2004 through FY 2023.

Figure 60: Prison Population Actual and Projected

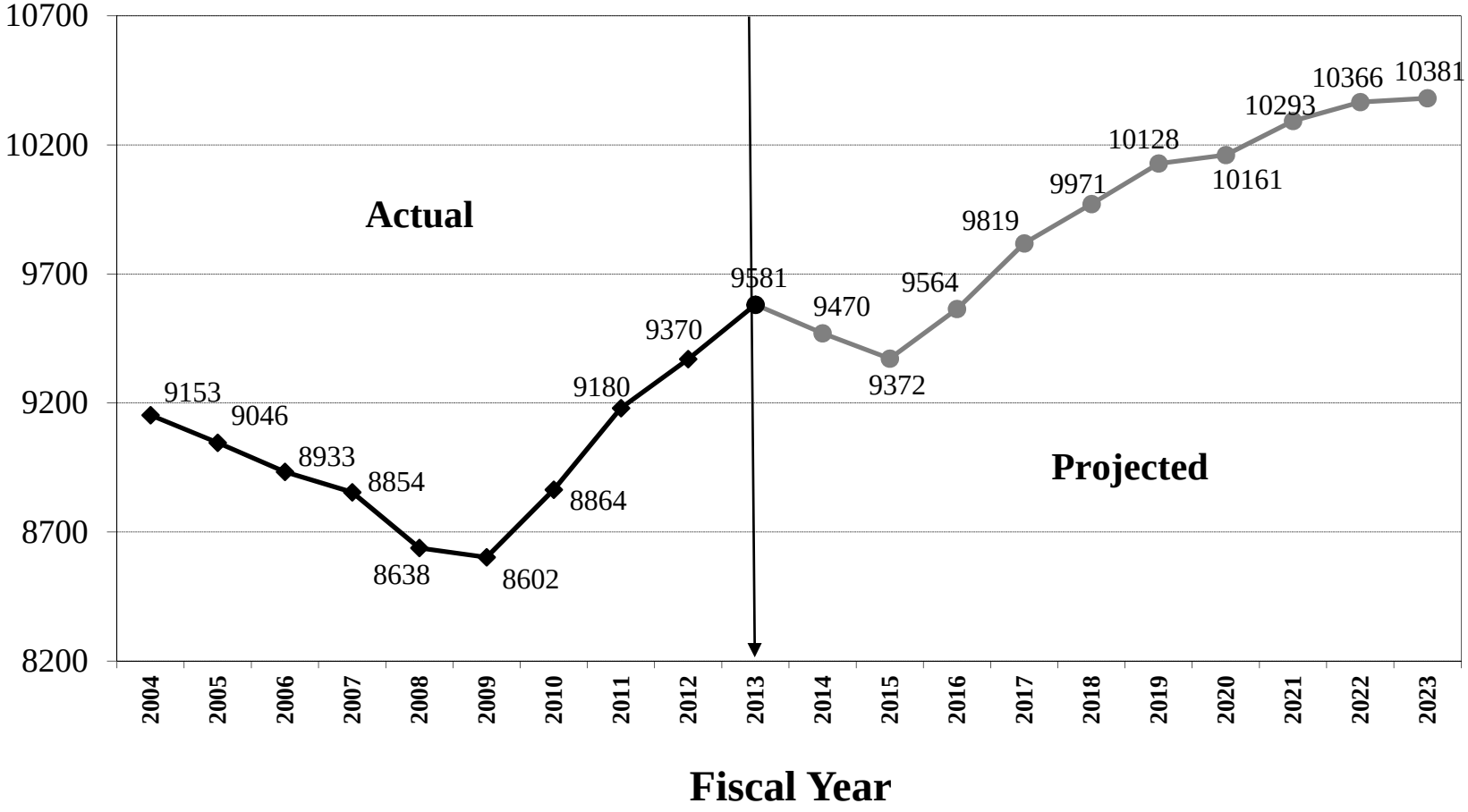


Table 47: FY 2014 Adult Inmate Prison Population Projections

Severity Level	2013*	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	# Change	% Change
Drug	1087	1121	1189	1168	1194	1178	1170	1167	1147	1138	1133	46	4.2%
N1 to N3	2469	2500	2530	2550	2608	2648	2685	2694	2751	2782	2812	343	13.9%
N4 to N6	1584	1728	1775	1771	1794	1830	1852	1887	1939	1939	1903	319	20.1%
N7 to N10	844	926	929	924	940	933	955	974	980	969	1000	156	18.5%
Probation Condition Violators	1573	1207	975	1172	1245	1345	1397	1367	1369	1439	1426	-147	-9.3%
Off-grid Including Old Law Lifer	1174	1203	1234	1253	1292	1318	1349	1347	1352	1363	1379	205	17.5%
Parole/Post Release Violators	623	610	592	610	658	644	660	672	711	700	697	74	11.9%
Old Law Inmates	226	175	148	116	88	75	60	53	44	36	31	-195	-86.3%
Total	**9581**	**9470**	**9372**	**9564**	**9819**	**9971**	**10128**	**10161**	**10293**	**10366**	**10381**	**800**	**8.3%**

* The numbers of 2013 are the actual prison population on that date. Total number includes one unknown.

CUSTODY CLASSIFICATION PROJECTION

The prison population projections forecast the total beds needed over the ten-year forecast period, while custody classification projections predict the types of beds needed for custody in the next ten years. The overall custodial classification projections reveal that 321 unclassified beds, 2,914 minimum beds, 2,714 medium low beds, 1,544 medium high beds, 1,204 maximum beds and 773 special management beds will be needed by the end of FY 2014. The total projected prison beds, by the end of FY 2023, will include 341 unclassified beds, 3,176 minimum beds, 2,793 medium low beds, 1,882 medium high beds, 1,314 maximum beds and 875 special management beds (Table 48).

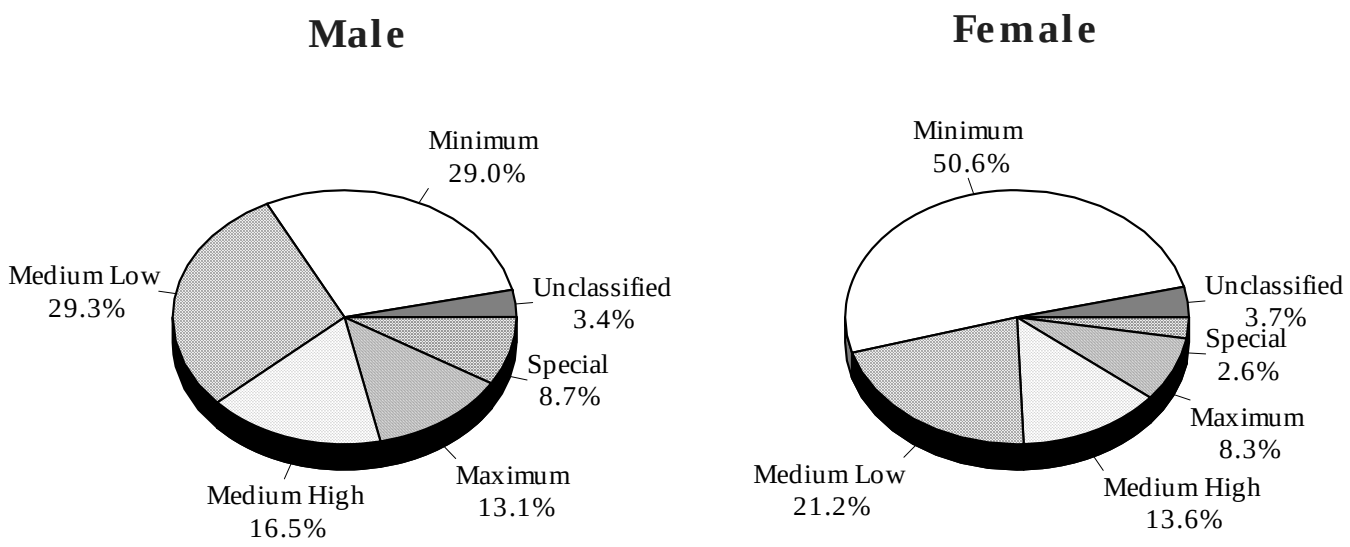
Figure 61 illustrates the projected percentage distribution of custodial classifications by gender, which demonstrates a significant difference between male and female offenders. Females will need 3.7% unclassified, 50.6% minimum, 21.2% medium low, 13.6% medium high, 8.3% maximum custody and 2.6% special management beds by the end of FY 2014. Males will need 3.4% unclassified, 29% minimum, 29.3% medium low, 16.5% medium high, 13.1% maximum custody and 8.7% special management beds by the end of FY 2014. These classification percentages of male and female offenders remain fairly constant during the ten-year forecast period.

The need for male beds increases at all custody types in the ten-year forecast period. The largest increase is found for medium high beds with an increase of 338. The second largest increase is for minimum beds with an increase of 262 beds. The maximum custody beds, special management beds, medium low custody beds and unclassified beds show an increase of 110, 102, 79 and 20, respectively, over the ten-year forecast period. Beds for females, in terms of custody types, fluctuate little in the next ten years. This forecast assumes no changes in custody practice over the ten-year forecast period.

Table 48: Ten-Year Custody Classification Projection

Fiscal Year	Unclassified	Special	Maximum	Medium High	Medium Low	Minimum	Total
2014	321	773	1,204	1,544	2,714	2,914	9,470
2015	322	818	1,131	1,521	2,684	2,896	9,372
2016	318	849	1,176	1,557	2,729	2,935	9,564
2017	353	831	1,190	1,683	2,694	3,068	9,819
2018	353	876	1,228	1,717	2,700	3,097	9,971
2019	338	904	1,224	1,770	2,714	3,178	10,128
2020	328	910	1,259	1,776	2,750	3,138	10,161
2021	359	863	1,274	1,797	2,822	3,178	10,293
2022	328	870	1,289	1,826	2,877	3,176	10,366
2023	341	875	1,314	1,882	2,793	3,176	10,381

Figure 61: Projected Percentage Distribution of Custody Classification by Gender

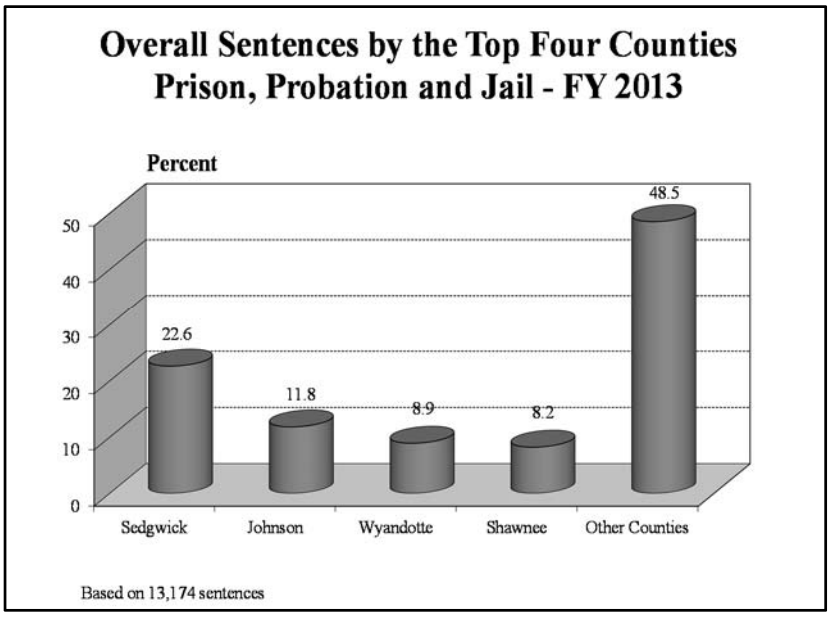


Based on the projected prison population on June 30, 2014 (male = 8,696 and female = 774).

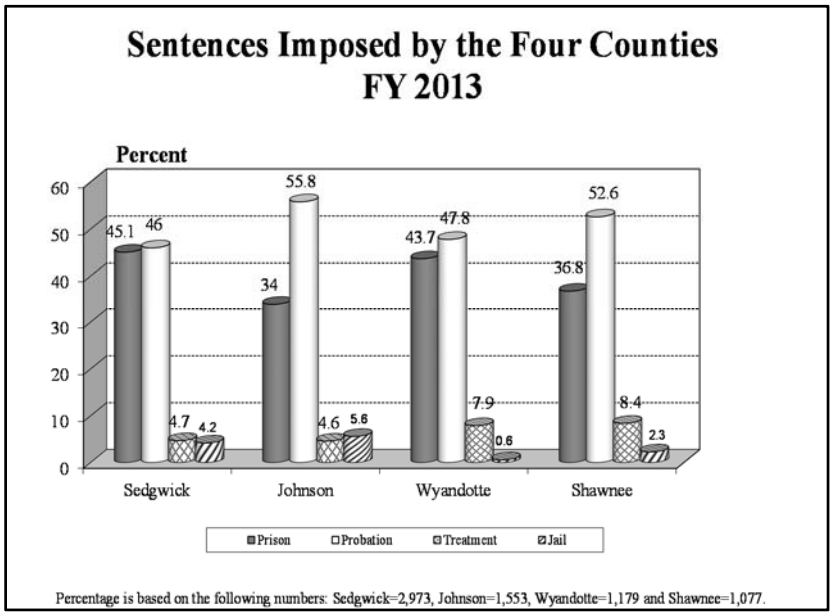
APPENDIX I
SENTENCES FROM THE TOP FOUR COUNTIES

Sentences utilized for analyses in this section include incarceration, probation and county jail sentences submitted to the Commission during FY 2013. The analysis on the sentences indicates that Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four counties, whose sentences imposed accounted for 51.5% of the total state sentences, a decrease of 0.4% compared with that (51.9%) of FY 2012. 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 2012, no significant changes were identified in the percentages of sentences from the four counties. Sentences from Sedgwick County and Wyandotte Counties decreased respectively by 0.3% and 0.1%. Johnson and Shawnee Counties indicated no change in percentage. The following figures and tables display the characteristics of offenses and offenders from the four counties in FY 2013.

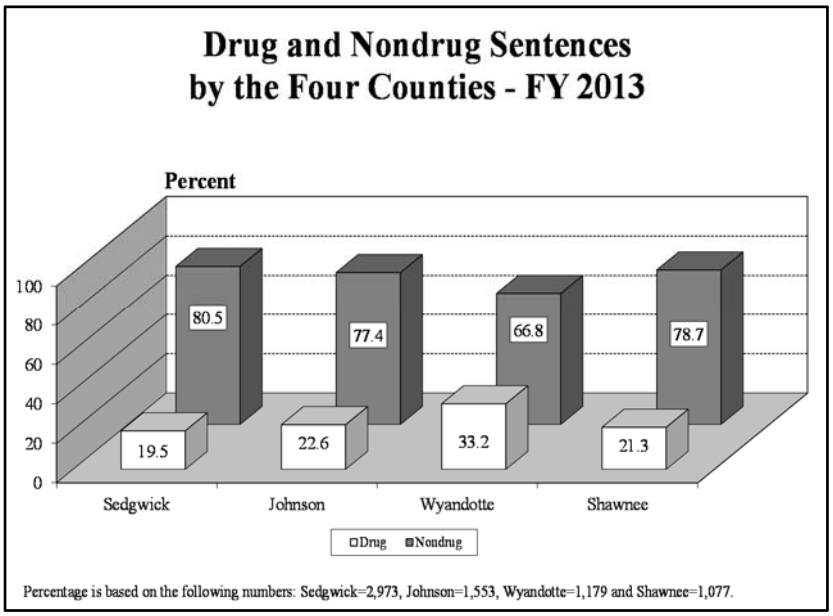
Sedgwick, Johnson, Wyandotte and Shawnee Counties were the top four committing counties with sentencing events. Sedgwick County imposed 22.6% sentences of the total state sentence events in FY 2013, followed by Johnson County accounting for 11.8%, Wyandotte County accounting for 8.9% and Shawnee County accounting for 8.2%.



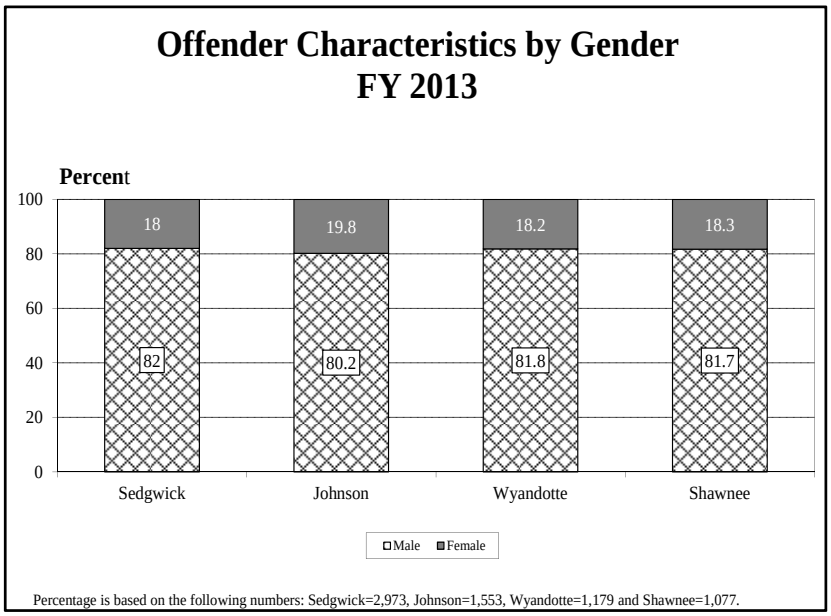
In FY 2013, Sedgwick County imposed the higher percentage of prison sentences (45.1%) than the other three counties, while the highest rate of probation sentences was identified in Johnson County (55.8%). Shawnee County imposed the highest rate of Senate Bill 123 drug treatment sentences (8.4%) among the four counties. The highest percentage of county jail sentences was found in Johnson County (5.6%).



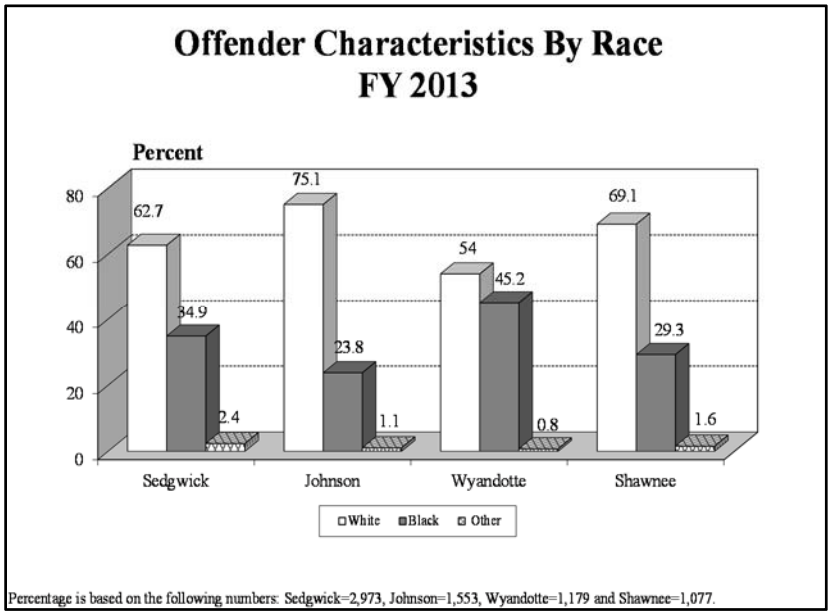
The examination of sentences imposed by types of drug and nondrug discloses that in FY 2013, Wyandotte County represented the highest percentage of drug sentences (33.2%), while Sedgwick County imposed the largest proportion of nondrug sentences (80.5%) among the four counties. This distribution pattern is different from that of FY 2012.



The analysis of offenders by gender indicates that Sedgwick County represented the highest percentage of male offenders (82%), while Johnson County reported the highest rate of female offenders (19.8%) during FY 2013.



Racial analysis on offenders reveals that in FY 2013, Johnson County reported more white offenders (75.1%), while Wyandotte County reported more black offenders (45.2%) than the other three counties respectively. This racial distribution remains constant as compared to those of FY 2010 - FY 2012.



FY 2013 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	5	0.2	4	0.3	1	0.1	0	0.0
D2	9	0.3	9	0.6	5	0.4	1	0.1
D3	172	5.8	123	7.9	90	7.6	33	3.1
D4	386	13.0	140	9.0	232	19.7	123	11.4
D5	9	0.3	75	4.8	64	5.4	72	6.7
N1	26	0.9	16	1.0	25	2.1	13	1.2
N2	9	0.3	0	0.0	2	0.2	9	0.8
N3	133	4.5	44	2.8	57	4.8	27	2.5
N4	38	1.3	4	0.3	31	2.6	10	0.9
N5	301	10.1	102	6.6	77	6.5	73	6.8
N6	98	3.3	16	1.0	16	1.4	27	2.5
N7	542	18.2	144	9.3	145	12.3	186	17.3
N8	268	9.0	234	15.1	83	7.0	92	8.5
N9	599	20.1	343	22.1	259	22.0	280	26.0
N10	36	1.2	51	3.3	39	3.3	46	4.3
Nongrid	307	10.3	246	15.8	45	3.8	78	7.2
Offgrid	35	1.2	2	0.1	8	0.7	7	0.6
Total	**2,973**	**100.0**	**1,553**	**100.0**	**1,179**	**100.0**	**1,077**	**100.0**

FY 2013 Top Ten Offenses Committed by Offenders in the Four Counties – 1

Offense Type	Sedgwick County		Offense Type	Johnson County	
	N	%		N	%
Drugs	581	19.5	Drugs	351	22.6
Theft	364	12.2	DUI	237	15.3
DUI	277	9.3	Theft	229	14.7
Burglary	266	8.9	Burglary	116	7.5
Aggravated Battery	235	7.9	Identity Theft	81	5.2
Forgery	122	4.1	Forgery	80	5.2
Aggravated Assault	105	3.5	Aggravated Battery	62	4.0
Failure to Register	98	3.3	False Writing	33	2.1
Criminal Threat	86	2.9	Criminal Threat	31	2.0
Aggravated Burglary	85	2.9	Robbery	30	1.9
Total	**2,219**	**74.5**	**Total**	**1,250**	**80.5**

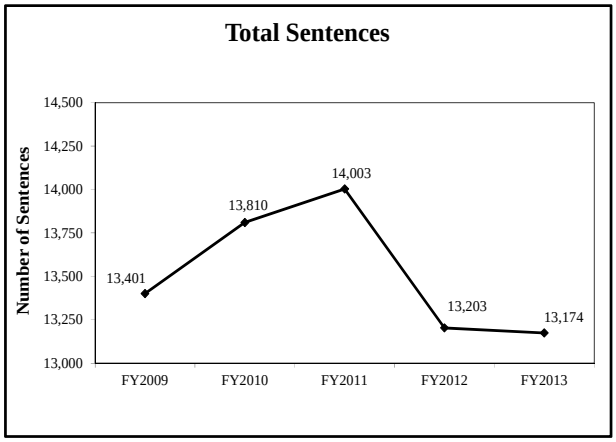
FY 2013 Top Ten Offenses Committed by Offenders in the Four Counties – 2

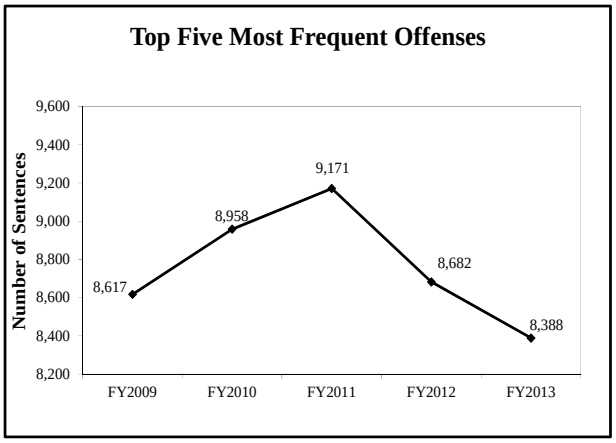
Offense Type	Wyandotte County		Offense Type	Shawnee County	
	N	%		N	%
Drugs	392	33.2	Drugs	229	21.3
Theft	120	10.2	Theft	140	13.0
Burglary	107	9.1	Burglary	84	7.8
Aggravated Battery	63	5.3	Aggravated Battery	72	6.7
Fleeing or Eluding LEO	62	5.3	Aggravated Burglary	70	6.5
Forgery	52	4.4	DUI	66	6.1
DUI	45	3.8	Failure to Register	51	4.7
Aggravated Robbery	35	3.0	Criminal Threat	48	4.5
Aggravated Assault	31	2.6	Fleeing or Eluding LEO	40	3.7
Aggravated Burglary	29	2.5	Forgery	38	3.5
Total	**936**	**79.4**	**Total**	**838**	**77.8**

APPENDIX II
TRENDS OF SELECTED OFFENSES

TOP FIVE MOST FREQUENT OFFENSES

In the past five years, the top five most frequently convicted offenses 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 64.3% in FY 2009, 64.9% in FY 2010, 65.5% in FY 2011, 65.8% in FY 2012 and 63.7% in FY 2013. The following figures and table present the sentencing trends of the top five offenses from FY 2009 to FY 2013. 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 2009	FY 2010	FY 2011	FY 2012	FY 2013
Drugs	3,717	3,859	3,944	3,752	3,720
DUI	1,819	1,880	1,725	1,331	1,006
Burglary	1,207	1,372	1,521	1,483	1,539
Theft	1,108	1,096	1,157	1,290	1,367
Aggravated Battery	766	751	824	826	756
Subtotal	**8,617**	**8,958**	**9,171**	**8,682**	**8,388**
Total Offenses	**13,401**	**13,810**	**14,003**	**13,203**	**13,174**

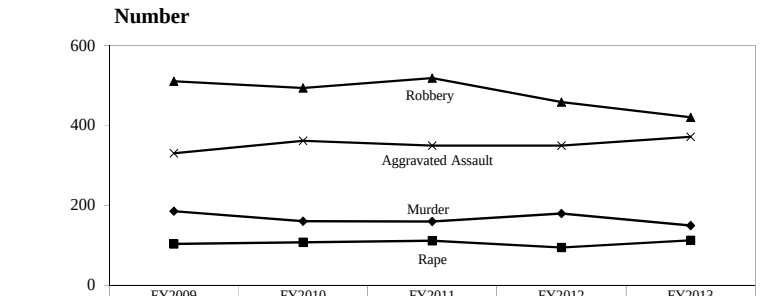
UNIFORM CRIME REPORTING (UCR) OFFENSES

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. 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 2009 to FY 2013, 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 2013, the number of the murder crimes decreased by 16.8% compared with FY 2012 and by 19.5% compared with FY 2009. The number of rape crimes increased by 19.1% compared with FY 2012 and by 8.7% compared with FY 2009. Robbery convictions decreased by 8.3% and 17.6% respectively compared with FY 2012 and FY 2009. The number of aggravated assaults increased by 6.3% and 12.4% respectively over those of FY 2012 and FY 2009.

During FY 2013, burglary crimes increased by 3.8% compared with FY 2012 and increased significantly by 27.5% over that of FY 2009. The number of theft crimes increased by 6% and 23.4% over those of FY 2012 and FY 2009 respectively. The crime of arson continued to decrease by 6.8% and 27.6% respectively compared with FY 2012 and FY 2009.

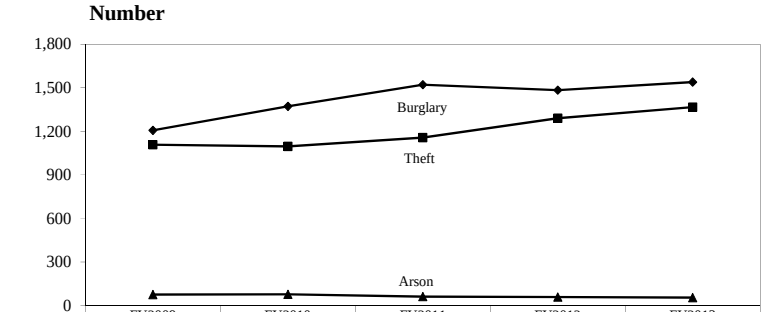
UCR Offenses: Violent Crime
FY 2009 through FY 2013



	FY2009	FY2010	FY2011	FY2012	FY2013
Murder	185	160	159	179	149
Rape	103	107	111	94	112
Robbery	510	493	518	458	420
Agg. Assault	330	361	349	349	371

Both incarceration and probation sentences are included.

UCR Offenses: Property Crime
FY 2009 through FY 2013



	FY2009	FY2010	FY2011	FY2012	FY2013
Burglary	1,207	1,372	1,521	1,483	1,539
Theft	1,108	1,096	1,157	1,290	1,367
Arson	76	78	62	59	55

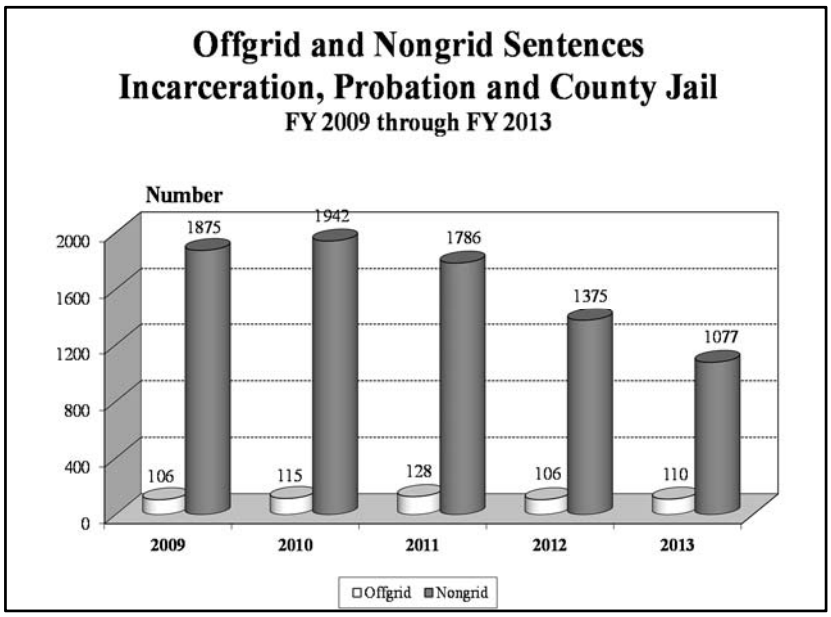
Both incarceration and probation sentences are included.

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. 21-5401 or 21-3439), murder in the first degree (K.S.A. 21-5402 or 21-3401), treason (K.S.A. 21-5901 or 21-3801) 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. 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 15-year parole eligibility date for crimes committed after July 1, 1993 but prior to July 1, 1999, and 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 test refusal (K.S.A. 8-1025), felony domestic battery (K.S.A. 21-5414 or 21-3412a) and felony cruelty to animals (K.S.A. 21-6412 and 21-6416 or 21-4310 and 21-4318) are categorized as nongrid crimes. The applicable sentence of each of the nongrid crimes is specified within the individual criminal statute defining the crime. For example, the sentence for the crime of felony domestic battery specifies that the offender "shall be sentenced to no less than 90 days 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.

In FY 2013, the number of offgrid crimes increased by 4 or 3.7% compared with those of FY 2012 and FY 2009 respectively. The majority of the offgrid sentences were convicted under the Jessica's Law, which implies that the policy has been implemented very consistently in the past five years. Nongrid sentences in FY 2013, including incarceration, probation and county jail sentences, continued to decrease by 298 (21.7%) and 798 (42.6%) respectively from those of FY 2012 and FY 2009, which mirrors the 2011 policy changes on felony DUI (Page 15).

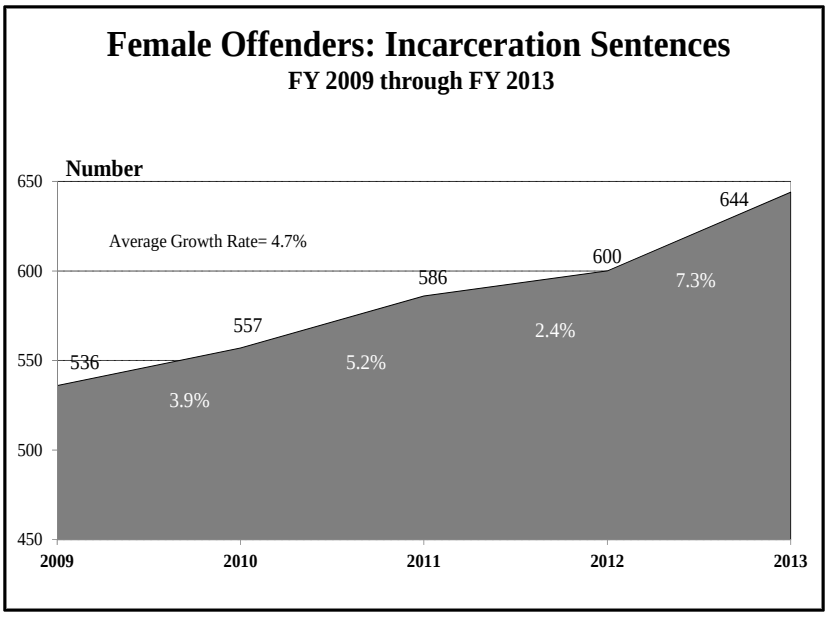
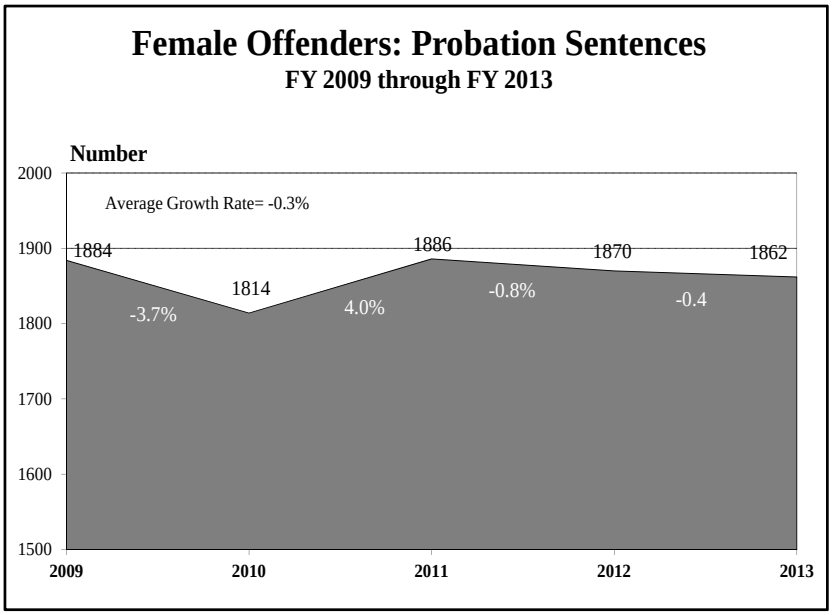


FEMALE OFFENDERS

In the past five years, the admission of female offenders demonstrates an increasing trend. The number of female admissions in FY 2013 increased by 7.3% compared with that of FY 2012 and increased by 20.1% compared with that of FY 2009. The average growth rate in the past five years is 4.7%.

The numbers of female offenders on probation did not fluctuate much in the past five years except FY 2010 with a decrease of 3.7% from that of FY 2009. The average growth rate is -0.3% in the past five years. Females were sentenced to prison or probation most frequently for the crimes of drugs, forgery and theft.

The number of females incarcerated in prison increased by 3.9% in FY 2010, 5.2% in FY 2011, 2.4% in FY 2012 and 7.3% in FY 2013 when compared with those of the previous years. The population in FY 2013 is the highest number (644) of female admissions to prison in the past five years.



The population of females sentenced to probation decreased by 3.7% in FY 2010, increased by 4% in FY 2011, decreased both again by 0.8% in FY 2012 and by 0.4% in FY 2013 when compared with those of the previous years.