KANSAS SENTENCING COMMISSION

FY 2016 ANNUAL REPORT

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KANSAS SENTENCING COMMISSION

ANNUAL REPORT
FY 2016

Analysis Of Sentencing Guidelines In Kansas

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EXECUTIVE SUMMARY

MAJOR ACTIVITIES PERFORMED

During Fiscal Year 2016, the Kansas Sentencing Commission continued its efforts to accomplish the statutory obligations assigned to the Commission under K.S.A. 74-9101. The major activities performed are as follows:

1. Made recommendations to the state legislature relating to modification and improvement of current sentencing guidelines and provided the legislature and state agencies with prison bed space impact assessments under any policy change related to the sentencing guidelines;
2. Updated the Kansas Sentencing Guidelines Desk Reference Manual according to sentencing policy changes passed in the 2016 Legislative Session;
3. Produced annual prison population projections and custody classification forecasts for the Kansas Adult Correctional Facilities;
4. Processed statewide felony sentencing and probation revocation journal entries including both prison and non-prison guideline sentences;
5. Developed and maintained the post-implementation monitoring system that allows for a comprehensive evaluation of the sentencing guidelines through constructing and maintaining sentencing databases, which collects statewide sentencing and revocation hearing disposition information for this goal;
6. Published an annual report statistically presenting sentencing practice and policies under Kansas Sentencing Guidelines;
7. Tracked the impact of 2013 House Bill 2170 as a result of the Kansas Justice Reinvestment Initiative;
8. Monitored and evaluated the implementation of 2003 Senate Bill 123 drug treatment programs and processed statewide transactions of the programs;
9. Performed criminal justice research projects funded through federal grant in the area of increasing access to statistic data and measuring criminal justice system performance;
10. Served as an information resource to respond to national, state and county requests regarding sentencing data;
11. Issued newsletters quarterly to provide updates and helpful information relating to Kansas Sentencing Commission programs, publications and forms;
12. Conducted training sessions on sentencing guidelines and various sentencing issues; and
13. Introduced legislation to more effectively monitor and maintain the sentencing guidelines.

FY 2016 Annual Report is based on the sentencing data reported from 104 counties of the state and the adult prison data contributed by the Kansas Department of Correction (KDOC) in FY 2016. This section provides a brief summary of the key sentencing issues discussed in the report. A total number of 15,190 felony sentences were reported to the Commission during FY 2016, indicating an increase of 5.1% over that of FY 2015. Of the total number of

sentences, 6,164 (40.6%) were prison sentences, 8,361 (55%) were probation sentences and 665 (4.6%) were DUI or test refusal post-imprisonment supervision and county jail sentences. Nondrug sentences accounted for 65.7% or 9,974 sentences and drug sentences accounted for 34.3% or 5,216 sentences (page 2).

INCARCERATION SENTENCES

A total number of 6,164 offenders were admitted to KDOC during FY 2016. Male offenders made up 84.8% of the total admissions, a percentage increase of 0.3% over that of FY 2015 (84.5%). More than 85% of the violent and sex offenses were committed by male offenders, such as aggravated assault, aggravated battery, aggravated burglary, aggravated robbery, burglary, criminal threat, fleeing or eluding LEO, murders in the first and second degree, aggravated indecent liberties with a child and rape. However, female offenders were incarcerated more frequently for the crimes of forgery, identity theft, false writing and theft (pages 23 & 24). The analysis of drug crimes indicates that male offenders were convicted of 82.6% of the crime of drug distribution and 91.9% of unlawful manufacture of a controlled substance, while most female offenders committed drug crimes of drug possessions and possession of paraphernalia (page 26).

In FY 2016, white offenders represented 72.7% of the admissions to the state prisons in FY 2016, indicating an increase of 0.9% over that of FY 2015 (71.8%). The offenders with non-Hispanic origin made up 88.1%, a decrease of 2.6% from that of FY 2015 (90.7%). The highest incarceration rates for white offenders (over 70%) were discovered in the areas of burglary, criminal threat, forgery, theft, identity theft, obstruction legal process, traffic in contraband, aggravated assault on LEO, fleeing or eluding LEO, arson, abuse of a child, false writing and most sex offenses. Nevertheless, black offenders were incarcerated more often (over 40%) for the crimes of aggravated robbery, robbery, possession of firearms, murder in the first degree, murder in the second degree, aggravated kidnapping and aggravated intimidation of a victim (pages 23 & 24).

The analysis of offenders by age indicates that the largest population of incarcerated offenders was identified in the age group ranging from 31 to 40 years old (31.7%) and the second largest number of offenders was identified in the group from 25 to 30 years old (24.6%) at the time of admission to prison in FY 2016. This age distribution is consistent with the age data observed in the past three years. As for the educational background of the offenders admitted in FY 2016, approximately 50% of the offenders had attained either a high school diploma or GED equivalent, which is similar to the percentage of the same group observed in FY 2015.

The review of admission types reveals that the three largest groups of admissions are new court commitments, probation condition violators (excluding 16.3% of sanctions from probation violation) and parole or postrelease/CR condition violators. These represent 32.2%, 19.1% and 20.1%, respectively, of the total prison admissions in FY 2016. Most of the drug offenders admitted to KDOC in FY 2016 were drug severity level 5 (1,094 sentences or 58.1%) and drug severity level 4 (341 sentences or 18.1%), while the largest numbers of nondrug offenders were identified at nondrug severity levels 5, 7 and 9 with

admissions of 654, 951 and 1,048, respectively, in FY 2016 (pages 27 & 28).

A further study of sex offenders discloses that 64 sex offenders were convicted under Jessica's Law and admitted to prison during FY 2016. Of this number, 62 offenders (96.9%) were new court commitments and 2 offenders (3.1%) were probation condition violators. While most jurisdictions identify the severity of these crimes as offgrid (81.3%), a few sentenced offenders at the severity level for a downward departure on the nondrug grid. The analysis of sentence length demonstrates that 57.8% of the sentences were downward departures to the guidelines, a decrease of 6% compared with that of FY 2015 (63.8%). The average sentence length of the durational departures was 122.8 months, an increase of 3 months over that observed in FY 2015 (119.8 months). The major departure reasons are: plea agreement between parties, defendant had no prior criminal history and the defendant accepted responsibility (page 33).

PROBATION SENTENCES

A total number of 8,361 probation sentences were reported to the Commission during FY 2016. The analysis of the probation sentences demonstrates that theft (23.1%), burglary (12.6%) and aggravated battery (8.9%) were the top three offenses committed by nondrug probation offenders, representing 44.6% of the total nondrug crimes (page 37). The probation sentences for the crime of drug possession accounted for 77% of all drug probation sentences, an increase of 2.3% over that (74.7%) of FY 2015 (pages 38 & 40).

When examining the criminal history categories of the offenders sentenced to probation in FY 2016, the Commission observed that offenders with criminal history category I accounted for 22.8% of offenders on the nondrug grid and 23% of offenders on the drug grid. The nondrug offenders within the presumptive probation boxes made up 80.1%, a decrease of 1.1% compared with that of FY 2015 (81.2%). The examination of the border box sentences shows that 4.1% of probation nondrug sentences were found to be within the designated border boxes (page 45). The analysis on drug sentences by presumptive probation and border box is not applicable in FY 2013 to FY 2016 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.

HB 2170 GRADUATED SANCTIONS

HB 2170 was passed in the 2013 Legislative Session, which allows the court to impose a series of graduated intermediate sanctions for probation condition violators. The sanctions, codified in K.S.A. 22-3716, include the confinement in jail for 2-3 days, not to exceed 18 days during the entire probation supervision period or remanding the defendant to the custody of KDOC for a period of 120 days or 180 days if the violator already has at least one jail sanction.

Based on the probation revocation disposition data collected by the Commission in FY 2016, a total number of 2,473 probation violators received a jail sanction, an increase of 820 or 49.6% over that of FY 2015 (1,653 jail sanctions). Of the 2,473 jail sanctions, 61.8% served from 1 to 20 days in county jails and the average jail days served is 2.9 days, which is 0.8 day shorter than that of FY 2015 (3.7 days) and is much more consistent with the sentencing

policy of the bill than FY 2014 (26.7 days). FY 2014 is the initial year of implementation of HB 2170. Therefore, there appears to be some diversion of days served in county jails in sentencing practice (pages 62 & 63).

The analysis of KDOC's admission data indicates that 1,003 probation condition violators in FY 2016 were admitted to prison as HB 2170 sanction from probation, an increase of 312 violators (45.2%) compared with FY 2015 (691 violators). Of those 1,003 violators, 694 offenders (69.2%) were remanded for 120 sanction days, 307 offenders (30.6%) were remanded for 180 sanction days and 1 offender (0.1%) was remanded for 90 days and 240 days, respectively, in KDOC. Since FY 2016 is the third year for the implementation of HB 2170, the Commission will continue tracking the impact of the bill on sentencing practice and recidivism rate (pages 31 & 32).

DUI/TEST REFUSAL PIS and 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 sentences in FY 2016 (page 15). The Commission received 665 DUI/Test Refusal post-imprisonment supervision (PIS) and county jail sentences in FY 2016. Of this number, DUI/Test Refusal PIS accounted for 92.8% (617 sentences) and county jail sentences accounted for 7.2% (48 sentences).

The gender analysis of the offenders of this group indicates that male offenders accounted for 83.6% and female offenders accounted for 16.4% of the 665 sentences. The gender distribution does not change when compared with that of FY 2015. White offenders represented 85.3%, black offenders represented 12.5% and other races represented 2.3% of the DUI/Test Refusal PIS and county jail sentences imposed in FY 2016. Their average age at sentencing is 39.7 years old, close to that (39.6) of FY 2015 (page 46).

The study of the crimes committed by this group of offenders displays that 92.3% of the offenders were convicted of felony DUI (614 sentences), 4.8% (32 sentences) were convicted of the crime of DUI/Test Refusal and 2.4% (16 sentences) were convictions of the crime of domestic battery. Johnson County imposed the most sentences of this group (209) representing 31.4%, followed by Sedgwick County with 162 sentences representing 24.4% of the total DUI/Test Refusal PIS and county jail sentences imposed in FY 2016 (page 47).

DRUG SENTENCES

An expanded drug sentencing grid with 5 drug levels has been implemented since July 1, 2012. The admissions and sentences include offenders sentenced under both old and new drug sentencing grids. Therefore, the comparison of drug offenders by severity level is only applied to recent two years when the majority of drug offenders were sentenced under the new sentencing grid (pages 86 & 88).

In FY 2016, the number of drug offenders admitted to prison (1,883 offenders) increased by 8.8% over that of FY 2015 (1,731 offenders) and significantly increased by 44.6% over that of FY 2012 (1,302 offenders). When individual drug severity levels were compared, the admissions increased by 35% at drug severity level 1 and by 10.2% at drug severity level 2 but the

number at drug severity level 3 decreased by 15.9% when compared with FY 2015. Admissions at drug level 4 decreased by 36.3% while admissions at drug level 5 increased by 53% in FY 2016 as compared with those of FY 2015, which reflects the implementation of new drug sentencing grid (page 86).

The examination of drug offenses indicates that 65.5% of the incarceration drug sentences were convictions of drug possession, an increase of 3.7% compared with that of FY 2015 (61.8 %). Approximately 13% of the drug possession sentences were found at drug severity level 4. Offenders at drug severity level 5 accounted for 87% of the drug possession group, a continuous increase of 21.1% over that of FY 2015 (65.9%) after a greatly increase of 29.5% over that of FY 2014. This continuous increase mirrors the implementation of the new drug sentencing grid, as well (page 25).

The analysis of drug probation sentences demonstrations that the number of drug probation sentences in FY 2016 (3,333) increased by 10% compared with that of FY 2015 (3,029) and increased by 36% compared with that of FY 2012 (2,450). The analysis of individual levels reveal that the number of drug probation sentences decreased by 23.1% at drug severity level 1 and by 27.6% at drug severity level 4, but the probation sentences increased by 31.3% at drug level 2, by 6.9% at drug level 3 and by 17.9% at drug level 5 when compared with those of FY 2015 (page 88). The decrease at drug level 4 and the increase at drug level 5 majorly results from the implementation of the new drug sentencing grid.

Further study of drug offenders on probation reveals that during FY 2016, a total number of 1,144 sentences were imposed to 2003 Senate Bill 123 (SB 123) drug treatment programs, representing 34.3% of the total drug probation sentences (3,333), a decrease of 4% compared with that of FY 2015 (38.3%). All of these sentences were convicted of the crime of drug possession under K.S.A. 21-5706 (formerly K.S.A. 21-36a06 or 65-4160 or 65-4162). White male offenders are still the majority of the treatment sentences. The average age of the drug treatment offenders was 32.5 years old, very close to that of FY 2015. The distribution of SB 123 drug treatment sentences imposed by county displays that Sedgwick County continuously imposed the most SB 123 sentences (147) followed by Shawnee (97), Reno (90), Saline (74) and Johnson (72) counties (pages 42 & 43).

In addition, 912 SB 123 drug treatment sentences were violated as probation condition violators during FY 2016. Of this number, 288 sentences were revoked to prison, representing 25.2% of SB 123 sentences imposed (1,144 sentences) in FY 2016, an increase of 2.3% over that of FY 2015 (22.9%). The average period between original sentence and the first revocation hearing was 14.7 months, 18 days shorter than that of FY 2015 (15.3 months).

VIOLATORS

In this report, violators refer to condition violators, which includes probation condition violators, parole/postrelease supervision violators and conditional release violators. Prison sanctions from probation violations are excluded from this analysis. A total number of 2,417 condition violators were admitted to prison in FY 2016, accounting for 39.2% of the total prison

admission events of the fiscal year. Of this number, 1,180 were probation condition violators, 1,236 were parole/postrelease supervision violators and one was conditional release violator, who is merged with the group of parole/postrelease supervision violators in the analyses of the report. The total percentage of condition violators decreased by 4% compared with that (43.2%) of FY 2015 (page 49).

In FY 2016, the number of probation condition violators admitted to prison significantly decreased by 29.8% when compared with FY 2012 and decreased by 10.7% from that of FY 2015. This decrease in the past five years is due to the implementation of prison sanctions for probation violators. The number of parole/postrelease and conditional release violators admitted to prison in FY 2016 increased by 29.5% and 1.5% over those of FY 2012 and FY 2015 respectively (page 85).

The analysis of violators by gender shows that male condition violators sentenced to prison represented the largest number of offenses at severity level 9 of the nondrug grid and severity level 5 of the drug grid, which is a little different from that of FY 2015, when most drug male condition violators were at drug severity level 4. This level change mainly resulted from the implementation of the new drug sentencing grid. Females were most often revoked and placed in prison for condition violations of offenses designated at severity level 9 of the nondrug grid and severity level 5 of the drug grid, which is consistent with the pattern of FY 2015 (page 52).

Based on the probation revocation disposition data collected by the Commission, 735 probation condition violators and 147 probation violators with new convictions were sentenced to either continued or extended probation for a violation in FY 2016. This represents 13.8% of the total number of 5,308 condition probation violators and 13.9% of the total number of 1,058 probation violators with new offenses revoked during FY 2016 (page 60).

CONFORMITY TO SENTENCING GUIDELINES

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

The conformity rates to the sentencing guidelines are based on the 7,063 pure guideline sentences of FY 2016. Of this number, 1,504 were incarceration guideline sentences and 5,559 were probation sentences. Approximately 80% of the guideline sentences imposed fell within the designated guideline sentence range. Dispositional departures accounted for 11% of sentences and durational departures were found in 9.4% of sentences (page 65). The sentence distribution is very consistent with that of FY 2015.

The analysis of incarceration sentences within guidelines displays that 40.5% of the sentences imposed fell within the standard range of the grid cell; 10.4% of all sentences were within the aggravated range; 25.1% were within the mitigated range and 24% were located within designated border boxes (page 66). This distribution of presumptive prison sentences does not fluctuate much compared with that of FY 2015.

When examining the durational departures of the incarceration guideline sentences, the Commission observed that 70.3% of the durational departures were downward durational departures, while 29.7% indicated upward durational departures (page 66). The distribution of durational departures is very constant when compared with that of FY 2015. The comparative study of durational departures between drug and nondrug incarceration sentences indicates that 79.6% of drug durational departure sentences were downward compared to 66.5% for nondrug downward durational departure sentences (page 68). 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 to 4 of the nondrug grid (page 70).

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 5.5% upward dispositional departure rate and drug sentences represented a 5.4% upward dispositional departure rate (page 70). This seems different from the sentencing practice observed in the past nineteen years when judges were more likely to impose fewer upward dispositional sentences for drug offenders than for nondrug offenders.

The review of the probation guideline sentences reveals that as expected, the majority (87.5%) of probation guideline sentences fell beneath the incarceration line, among which 85.6% were within presumptive probation grids and 14.4% were within border boxes. Downward dispositional departures were identified in 12.5% of the probation guideline sentences imposed in FY 2016 (page 67). 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 (15.1% vs. 10.5%). A lot more drug probation sentences resulted from border boxes than did nondrug probation sentences (22.1% vs. 5.4%), which is consistent with the data observed in FY 2015 (page 71).

SPECIAL SENTENCING RULES

Special sentencing rules provide special treatment of certain crimes and sanctions. There was a small number of special sentencing rules in the beginning years of implementation of the guidelines. Only five special rules existed 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 2016 Legislative Session, forty-seven special sentencing rules have been established or amended. The most frequently applied special sentencing rules in the past five years were: crime committed while incarcerated or on probation, parole, etc.;

crime committed while on felony bond; person felony committed with a firearm and third or subsequent drug possession.

In FY 2016, a total number of 742 pure guideline prison sentences and 757 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 42.9% of prison pure guideline admissions (1,729 admissions) and 13.3% of pure guideline probation sentences (5,705) imposed in FY 2016. The percentage of offenders admitted to prison with special sentencing rules increased from 38.5% in FY 2012 to 42.9% in FY 2016. The percentage of probation sentences imposed with special sentencing rules accounted for 11.8% in FY 2012 and increased to 13.3% in FY 2016. The total percentage of both prison and probation sentences applied with special rules increased from 18.2% in FY 2012 to 20.2% in FY 2016 (page 81).

PRISON POPULATION FORECAST

The prison population forecast is based on FY 2016 data of prison admission; inmate stock population and release from KDOC; and felony sentencing data from KSC. It mirrors continuously the sentencing policy changes in previous years, such as 2006 House Bill 2567 (Jessica's Law), 2007 Senate Bill 14 and 2013 House Bill 2170, a justice reinvestment bill, which seeks to reduce the probation condition violator population in Kansas prisons. The prison population projection predicts that by the end of FY 2026, a total of 10,964 prison beds will be needed. This represents a total increase of 13.5% or 1,301 beds over the actual prison population as of June 30, 2016. The total admission in the past five years is in an increasing tendency. 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 (pages 91 & 92).

The review of the projected population at individual severity levels and groups demonstrates that the largest increase in number is identified at the drug offender group in the ten-year forecast period, indicating an increase of 381 offenders or 27.8%. The number at nondrug severity levels 1 to 3 will increase by 140 offenders or 5.7% in the next ten years. This is due to the "stacking effect" of the long sentence length of the most serious offenses even though the trend of violent crimes in Kansas declined in the past five years. The projected population at nondrug severity levels 4 to 6 will increase by 256 offenders or 15.2% during the ten-year forecast period. The prison population at nondrug severity levels 7 to 10 will increase by 284 offenders or 30.5%, which partially results from the application of the special sentencing rules. The incarcerated population at offgrid in the next ten years will increase by 290 offenders or 22%, indicating the second largest category increase in groups of the projection. This growth reflects the continuous impact of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session.

Probation condition violators admitted to prison were required to serve their underlying prison sentence before 2013, but now House Bill 2170 requires probation condition violators to serve graduated sanctions instead, which includes custody in KDOC for a period of 120 days or 180 days. As a result, in the next ten years, the number of prison sanctions from probation will increase by 56 or 50.9%, while the probation condition violators admitted to prison will

decrease by 97 or 9.4%, which reflects the implementation of House Bill 2170.

Condition parole or postrelease condition violators will increase by 113 or 19.3% 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, to serve a postrelease supervision term. Figure 60 illustrates the trend of the actual and projected prison population from FY 2007 through FY 2026.

The custodial classification projection predicts the types of prison beds needed for custody over the next ten years. By the end of FY 2017, KDOC will need 2,936 minimum beds, 2,802 medium low beds, 1,591 medium high beds, 1,295 regular maximum beds, 296 unclassified beds and 802 beds for special management. By the end of FY 2026, the custodial beds in demand will include 3,391 minimum, 3,013 medium low, 1,801 medium high, 1,437 regular maximum, 352 unclassified and 970 special management beds (page 92). These projections assume no substantial change in the method or practice of custody decision-making.

REPORT CONTENTS

The content of the Annual Report is presented in four chapters. Chapter One provides a descriptive statistical summary of statewide guideline sentencing practices in FY 2016. 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, offgrid and nongrid crimes in the past five years. Admissions and population of female offenders are also discussed in this section.

CHAPTER ONE
SENTENCING IN KANSAS

SENTENCES REPORTED IN FISCAL YEAR 2016

In this Annual Report, sentences utilized for analyses on sentencing practice and sentencing tendency are based upon the most serious felony offense of a single sentencing event. The analysis and research in the Report includes prison sentences, nonprison or probation sentences, county jail and DUI post-imprisonment supervision sentences reported to the Kansas Sentencing Commission during FY 2016. Senate Bill 123 drug treatment sentences are comprised in the type of probation sentences.

A total number of 15,190 felony sentences were reported to the Commission in FY 2016, an increase of 738 sentences or 5.1% over that of FY 2015. Of that total number of sentences, 6,164 were prison sentences, 8,361 were probation sentences and 665 were DUI post imprisonment supervision and county jail sentences (County jail sentences made up 48). In terms of drug or nondrug crimes, this total included 9,974 nondrug sentences and 5,216 drug sentences. Nonperson offenses accounted for 67.5% and person offenses accounted for 32.5% (Figure 1), which does not fluctuate much from those of FY 2015.

Figure 2 demonstrates FY 2016 sentencing distribution by sentence type, offense type and severity level. Drug incarceration sentences at drug severity levels 4 and 5 represented 76.2% (1,435 sentences) of the total drug incarceration sentences. The largest number of nondrug incarceration offenders was identified at severity level 9 (1,048 sentences or 24.5%) followed by severity level 7 (951 sentences or 22.2%) and severity level 5 (654 sentences or 15.3%), which is similar with the pattern of FY 2015. The examination of probation sentences in FY 2016 indicates that 2,658 probation sentences fell at drug severity level 5, representing 79.7% of the total drug probation sentences and 346 probation sentences were at drug severity level 4 representing 10.4%. The 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 3,004. Of this number, 85.5% or 2,567 sentences were convicted of the crimes of drug possession. Of the 2,567 drug possession sentences, 44.6% or 1,144 sentences were imposed to SB 123 drug treatment programs, which decreased by 6.6% compared with the percentage (51.2%) of FY 2015. The highest rates of nondrug probation offenders were found at nondrug severity level 9 (43.1% or 2,166 sentences) and nondrug severity level 7 (20.7% or 1,042 sentences). The analysis of DUI post imprisonment supervision and county jail sentences discloses that 99.7% of the offenders were convicted of nongrid crimes with 0.3% sentences convicted of other crimes at nondrug severity levels 8 and 9.

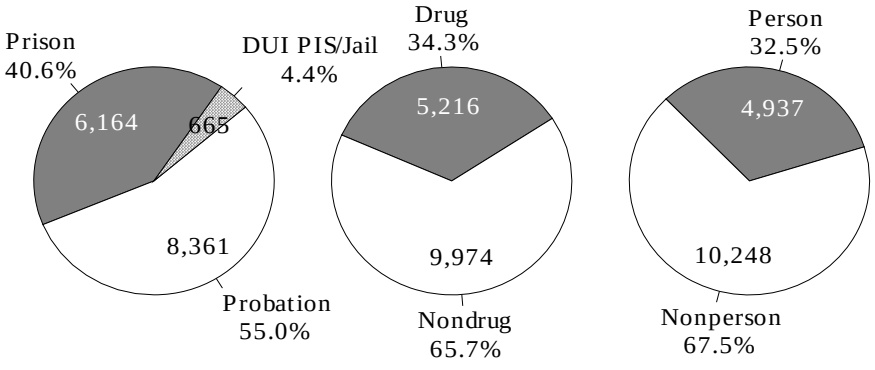
During FY 2016, one hundred and four counties reported felony sentences to the Commission. No sentences were reported

from Gove County. Most of the counties reported 2 to 100 sentences. Eleven counties reported 101 to 200 sentences. They are Atchison (126), Barton (184), Cowley (164), Crawford (183), Dickinson (127), Franklin (127), Jackson (143), Labette (108), McPherson (112), Riley (179) and Sumner (126) counties. Thirteen counties reported 201 to 700 sentences. They are Butler (205), Douglas (349), Ellis (249), Finney (312), Ford (330), Geary (230), Harvey (261), Leavenworth (250), Lyon (213), Montgomery (335), Reno (602), Saline (611), and Seward (218) counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties, accounting for 48.7% of all sentences imposed in FY 2016, a decrease of 0.1% compared with that (49.7%) of FY 2015 (Figure 3).

The analysis of offenses committed in FY 2016 indicates that the top five offenses are crimes of drugs (34.4% or 5,220 sentences), theft (11.5% or 1,742 sentences), burglary (9.8% or 1,487 sentences, including aggravated burglary), aggravated battery (6% or 913 sentences) and DUI/Test Refusal (4.8% or 725 sentences). These top five offenses, including prison, probation, DUI post imprisonment supervision and county jail sentences, accounted for 66.5% of the total 15,190 sentences in FY 2016 (Figure 4).

According to the definition of the Uniform Crime Reporting (UCR) Handbook, the violent crimes in the report refer to murder (including all types of murder and manslaughter), rape, robbery (including aggravated robbery) and aggravated assault (including aggravated assault on LEO). The study 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 (309 sentences) followed by Wyandotte County (151 sentences), Shawnee County (117 sentences) and Johnson County (98 sentences). Figure 5 exhibits the distribution of the violent crimes committed in the top four counties during FY 2016. Table 1 presents the characteristics of offenders by individual counties. The average age of offenders at sentencing is 33.5 years old, which remains very close to that of FY 2015.

Figure 1: Sentences Reported in FY 2016



Based on 15,190 felony sentences reported in FY 2016. DUI or test refusal post-imprisonment supervision accounted for 617 and jail accounted for 48 sentences.

Figure 2: FY 2016 Sentencing Distribution

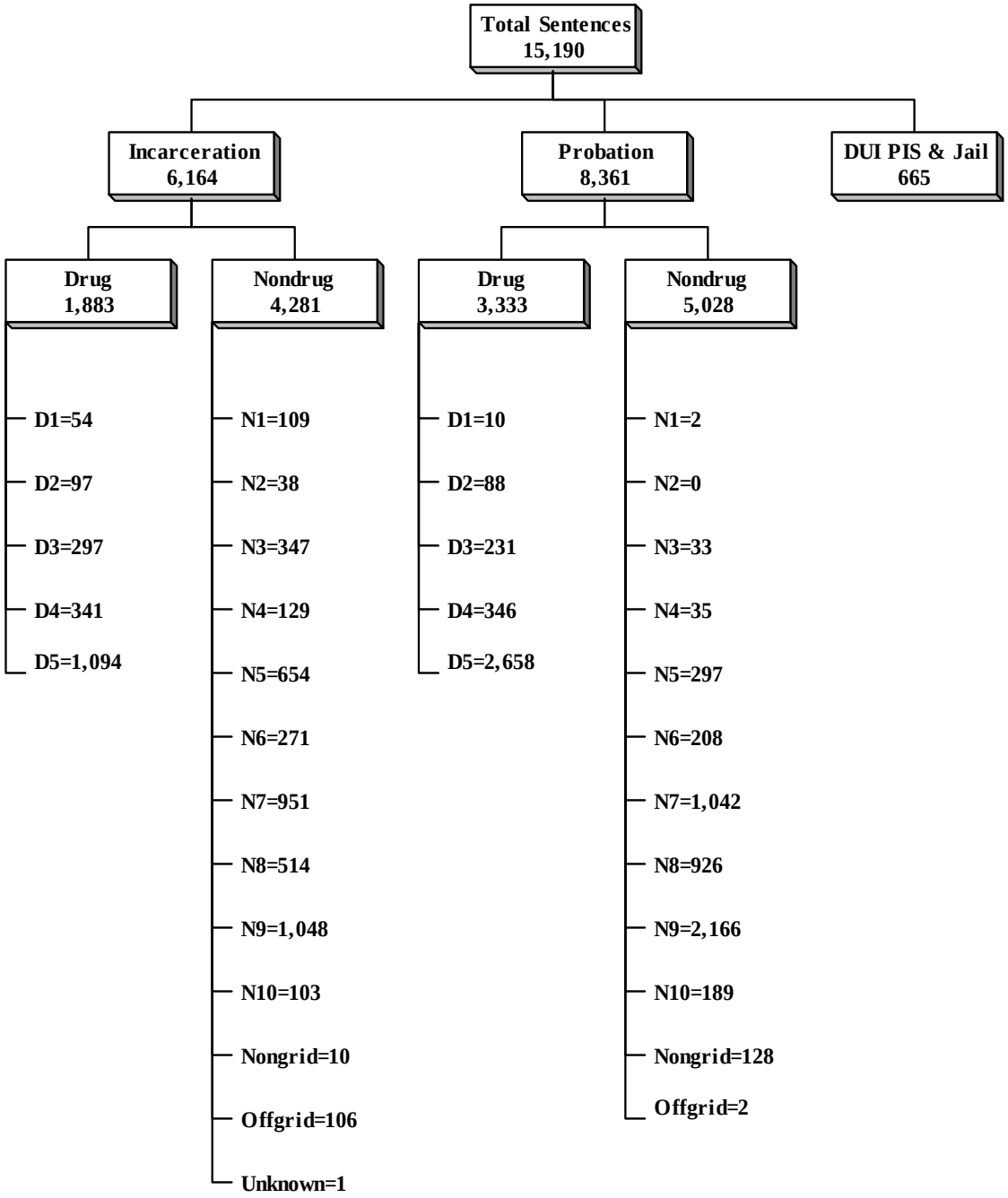


Figure 3: Sentences Reported in FY 2016 by County

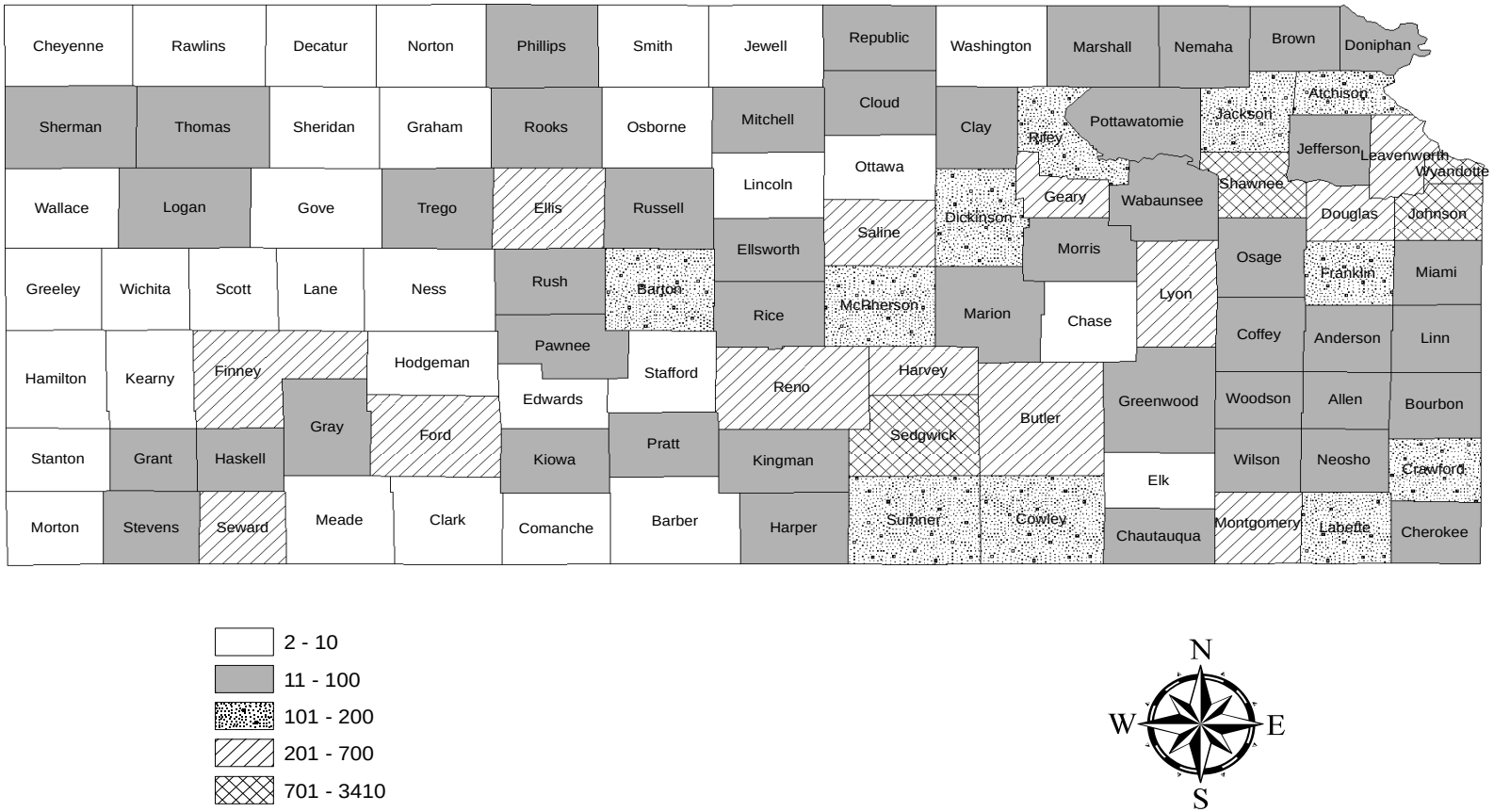
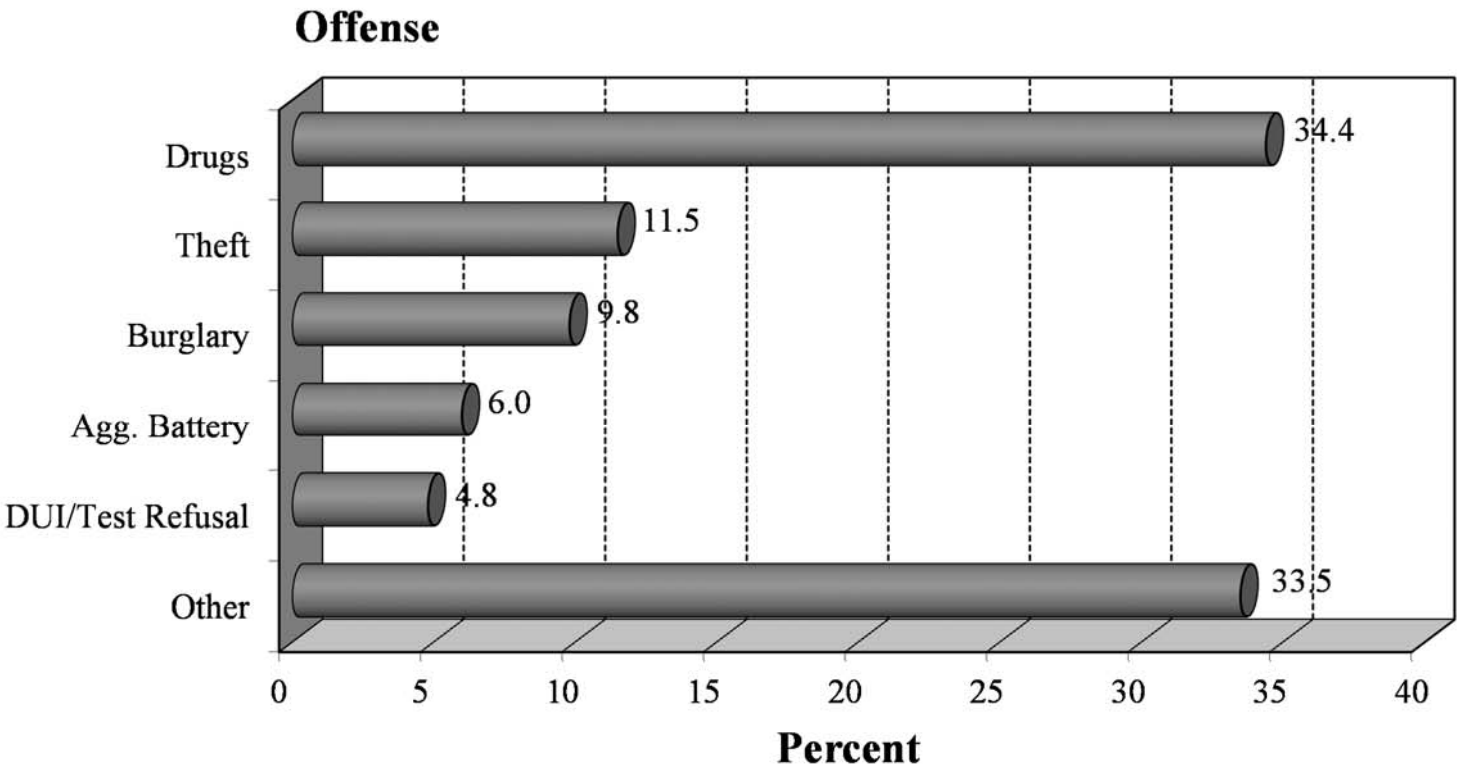


Figure 4: FY 2016 Top Five Offenses of Prison, Probation and Jail Sentences



Based on 15,190 prison, probation, DUI PSI and county jail sentences

Figure 5: FY 2016 UCR Offenses by Top Four Counties - Violent Crime Convictions

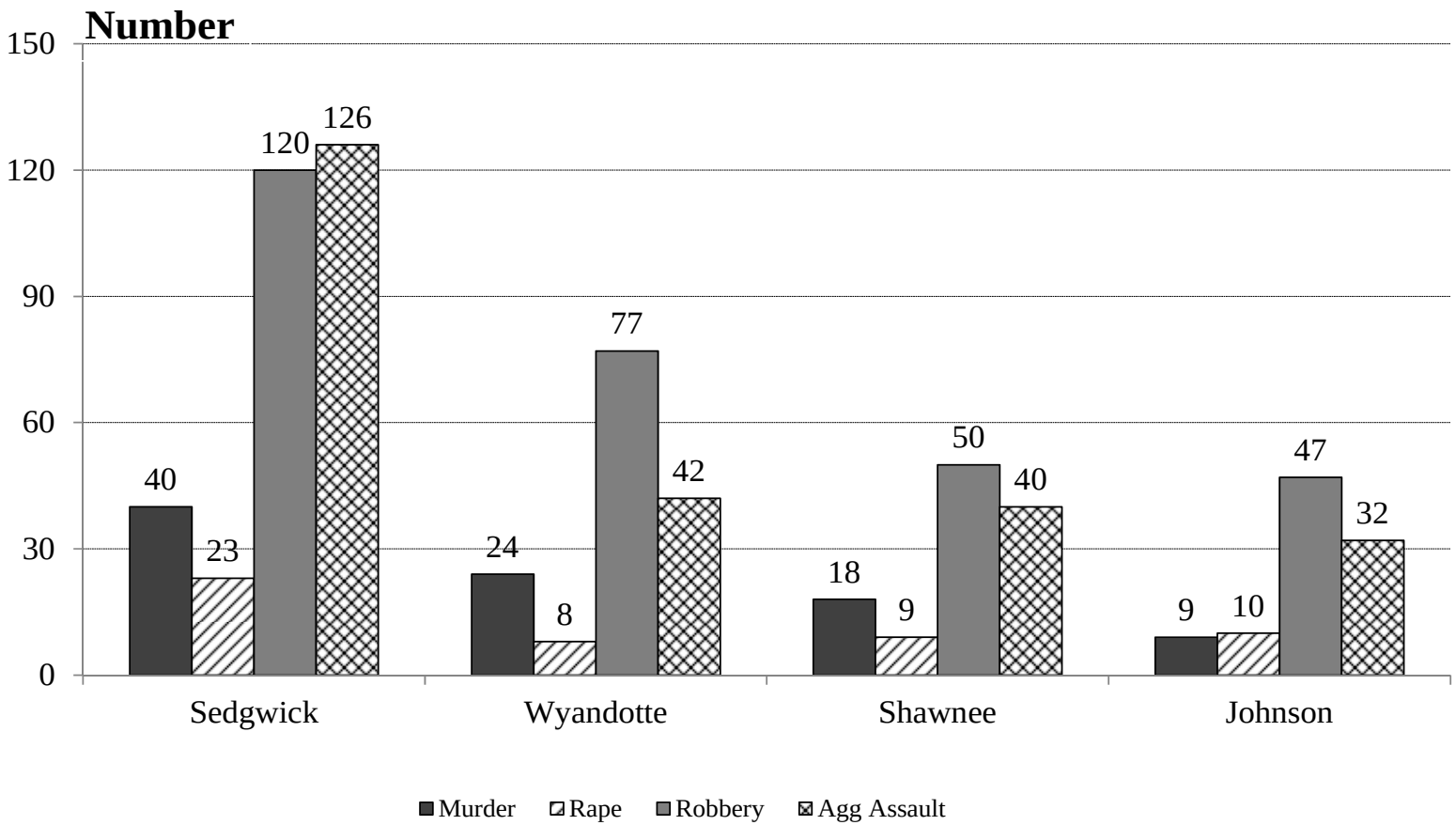


Table 1: FY 2016 Offender Characteristics by County – 1

County	Number Of Sentences	Gender		Race			Sentence Type*			Offense Type		Mean Age**
		Male	Female	White	Black	Other	Prison	Probation	DUI PIS Jail**	Nondrug	Drug	
Allen	91	62	29	79	10	2	24	63	4	45	46	34.1
Anderson	52	48	4	47	4	1	12	34	6	35	17	35.9
Atchison	126	103	23	103	15	8	82	42	2	70	56	33.0
Barber	10	8	2	9	0	1	4	6	0	5	5	35.7
Barton	184	143	41	165	11	8	80	101	3	85	99	35.0
Bourbon	65	57	8	51	10	4	31	31	3	48	17	33.6
Brown	57	43	14	45	3	9	19	35	3	41	16	33.4
Butler	205	158	47	182	19	4	84	115	6	144	61	34.0
Chase	4	3	1	3	1	0	1	3	0	4	0	41.6
Chautauqua	22	16	6	21	1	0	13	9	0	16	6	37.1
Cherokee	79	65	14	74	1	4	31	47	1	56	23	36.3
Cheyenne	3	3	0	3	0	0	1	2	0	2	1	36.3
Clark	6	6	0	5	1	0	4	2	0	3	3	31.7
Clay	74	60	14	70	3	1	22	52	0	26	48	30.6
Cloud	78	63	15	74	4	0	33	44	1	46	32	31.3
Coffey	66	50	16	62	3	1	28	32	6	36	30	33.8
Comanche	4	3	1	4	0	0	1	3	0	1	3	25.3
Cowley	164	124	40	135	22	7	75	86	3	82	82	32.2
Crawford	183	132	51	153	28	2	69	113	1	136	47	33.2
Decatur	3	3	0	3	0	0	1	2	0	2	1	26.6
Dickinson	127	100	27	120	6	1	50	74	3	59	68	33.5
Doniphan	28	22	6	26	2	0	3	23	2	16	12	32.4
Douglas	349	274	75	263	73	13	141	182	26	256	93	31.8
Edwards	8	6	2	8	0	0	4	4	0	6	2	26.5
Elk	6	5	1	6	0	0	3	3	0	5	1	40.1
Ellis	249	198	51	234	14	1	105	130	14	98	151	32.7
Ellsworth	24	22	2	17	6	1	6	18	0	18	6	32.7
Finney	312	259	53	277	27	8	119	183	10	199	113	30.4

Table 1: FY 2016 Offender Characteristics by County – 2

County	Number of Sentences	Gender		Race			Sentence Type*			Offense Type		Mean Age**
		Male	Female	White	Black	Other	Prison	Probation	DUI PIS Jail**	Nondrug	Drug	
Ford	330	267	63	293	28	9	132	178	20	220	110	32.4
Franklin	127	106	21	120	5	2	54	68	5	69	58	33.3
Geary	230	180	50	136	86	8	100	130	0	113	117	32.2
Graham	4	3	1	4	0	0	2	2	0	4	0	35.1
Grant	13	11	2	12	0	1	13	0	0	7	6	32.4
Gray	16	11	5	12	3	1	3	11	2	5	11	35.1
Greeley	5	5	0	5	0	0	1	3	1	5	0	33.0
Greenwood	39	35	4	37	1	1	21	18	0	22	17	37.1
Hamilton	5	4	1	5	0	0	4	1	0	5	0	24.8
Harper	45	26	19	43	0	2	18	25	2	28	17	33.4
Harvey	261	187	74	231	26	4	74	181	6	92	169	34.3
Haskell	14	12	2	13	1	0	8	5	1	10	4	30.9
Hodgeman	6	6	0	5	0	1	1	4	1	4	2	35.9
Jackson	143	99	44	107	6	30	48	90	5	58	85	35.0
Jefferson	53	45	8	50	2	1	22	26	5	43	10	37.1
Jewell	8	7	1	6	2	0	7	1	0	6	2	31.9
Johnson	1,793	1,368	424	1,345	432	16	658	926	209	1,322	471	33.2
Kearny	9	6	3	7	2	0	2	6	1	7	2	28.4
Kingman	26	18	8	23	2	1	8	18	0	19	7	30.3
Kiowa	17	13	4	17	0	0	7	10	0	11	6	31.8
Labette	108	75	33	82	24	2	38	69	1	64	44	32.9
Lane	6	4	2	6	0	0	2	4	0	4	2	34.9
Leavenworth	250	183	67	186	57	7	100	142	8	157	93	34.3
Lincoln	7	7	0	7	0	0	2	5	0	3	4	32.4
Linn	27	23	4	25	2	0	25	2	0	17	10	33.4
Logan	16	12	4	13	2	1	4	11	1	8	8	37.9
Lyon	213	172	41	185	25	3	114	91	8	99	114	31.6

Table 1: FY 2016 Offender Characteristics by County – 3

County	Number of Sentences	Gender		Race			Sentence Type*			Offense Type		Mean Age**
		Male	Female	White	Black	Other	Prison	Probation	DUI PIS Jail**	Nondrug	Drug	
Marion	24	19	5	24	0	0	6	18	0	10	14	31.2
Marshall	50	30	20	49	1	0	15	34	1	27	23	36.2
McPherson	112	91	21	103	6	3	39	68	5	52	60	34.2
Meade	4	3	1	4	0	0	0	4	0	3	1	40.0
Miami	75	67	8	66	8	1	41	34	0	58	17	33.3
Mitchell	21	20	1	20	1	0	6	15	0	9	12	38.4
Montgomery	335	250	85	261	66	8	106	218	11	192	143	33.3
Morris	13	12	1	13	0	0	6	5	2	10	3	30.6
Morton	4	4	0	4	0	0	4	0	0	1	3	34.0
Nemaha	27	22	5	25	2	0	13	13	1	17	10	32.2
Neosho	69	50	19	67	0	2	30	37	2	41	28	33.6
Ness	3	3	0	3	0	0	1	2	0	3	0	27.3
Norton	4	4	0	4	0	0	3	1	0	3	1	25.6
Osage	66	52	14	62	2	2	15	47	4	42	24	34.0
Osborne	7	6	1	7	0	0	5	2	0	6	1	30.5
Ottawa	2	2	0	2	0	0	2	0	0	1	1	34.0
Pawnee	32	26	6	25	7	0	8	24	0	15	17	35.4
Phillips	15	13	2	15	0	0	7	8	0	7	8	29.2
Pottawatomie	72	53	19	65	7	0	25	44	3	49	23	34.0
Pratt	48	42	6	43	5	0	20	28	0	19	29	30.1
Rawlins	3	2	1	3	0	0	0	3	0	3	0	35.3
Reno	602	467	135	512	84	6	200	391	11	343	259	33.1
Republic	15	11	4	14	1	0	9	5	1	8	7	38.9
Rice	63	40	23	58	3	2	37	22	4	38	25	31.7
Riley	179	150	29	117	58	4	84	87	8	126	53	30.4
Rooks	19	15	4	19	0	0	8	10	1	12	7	32.5
Rush	14	13	1	14	0	0	4	10	0	8	6	36.0
Russell	22	17	5	21	1	0	9	13	0	14	8	35.4

Table 1: FY 2016 Offender Characteristics by County – 4

County	Number of Sentences	Gender		Race			Sentence Type*			Offense Type		Mean Age***
		Male	Female	White	Black	Other	Prison	Probation	DUI PIS Jail**	Nondrug	Drug	
Saline	611	463	148	487	107	17	249	359	3	322	289	33.2
Scott	9	8	1	9	0	0	6	3	0	3	6	31.7
Sedgwick	3,410	2,666	744	2,243	1,055	112	1,517	1,731	162	2,650	760	34.1
Seward	228	183	45	186	28	14	74	145	9	154	74	30.9
Shawnee	1,088	865	223	767	296	24	393	668	27	803	285	34.1
Sheridan	2	2	0	2	0	0	2	0	0	2	0	35.8
Sherman	64	62	2	53	7	4	14	49	1	27	37	32.6
Smith	7	5	2	7	0	0	2	5	0	5	2	40.8
Stafford	6	5	1	6	0	0	2	4	0	4	2	35.1
Stanton	4	4	0	3	0	1	2	2	0	2	2	27.3
Stevens	28	25	3	28	0	0	14	13	1	15	13	30.5
Sumner	126	100	26	118	5	3	67	55	4	98	28	35.1
Thomas	85	68	17	81	3	1	24	59	2	28	57	30.6
Trego	33	23	10	25	5	3	2	30	1	6	27	35.8
Wabaunsee	27	22	5	25	2	0	6	17	4	18	9	35.5
Wallace	9	7	2	9	0	0	0	9	0	2	7	40.6
Washington	10	8	2	10	0	0	4	6	0	8	2	30.4
Wichita	4	3	1	4	0	0	4	0	0	2	2	26.7
Wilson	57	40	17	55	2	0	27	29	1	21	36	34.2
Woodson	11	10	1	9	1	1	5	6	0	6	5	29.0
Wyandotte	1,106	888	218	658	425	22	518	562	26	724	382	34.5
Unknown	15	14	1	10	5	0	15	0	0	15	0	27.9
TOTAL	**15,190**	**11,876**	**3,313**	**11,629**	**3,163**	**396**	**6,164**	**8,361**	**665**	**9,974**	**5,216**	**33.5**

* Prison sentences are based on KDOC admissions in FY 2016. Probation, DUI PIS and jail sentences are based on the sentencing journal entries reported to KSC during FY 2016.
** DUI or Test Refusal post-imprisonment supervision sentences accounted for 617 and county jail accounted for 48 sentences.
*** Average age at time of sentencing.

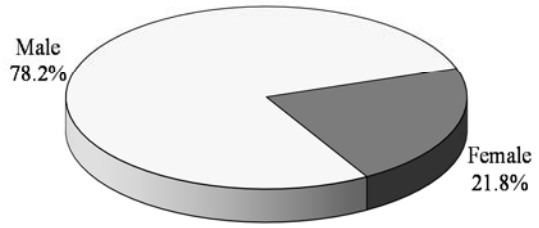
CHARACTERISTICS OF OFFENDERS AND OFFENSES

This section presents the characteristics of the offenders who were sentenced during FY 2016. The crime categories committed by the offenders are analyzed descriptively.

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

The analysis of offenders by gender indicates that male offenders represented 78.2% of the total sentences in FY 2016 (Figure 6) and committed more than 80% of most aggravated and violent crimes such as aggravated assault, aggravated battery, aggravated robbery, rape, burglary, criminal threat, murders and kidnapping.

Figure 6: Distribution of FY 2016 Sentences by Gender of Offenders

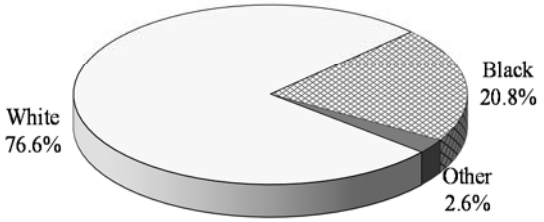


Based on 15,189 sentences reporting gender of offenders

Female offenders accounted for 21.8% of the sentences in FY 2016, an increase of 0.1% compared with that of FY 2015 (21.7%). The most frequently committed crimes by female offenders (over 40%) were forgery, identity theft, aiding felon, computer crime, Medicaid fraud and mistreatment of dependent adults.

In FY 2016, the racial distribution of offenders does not fluctuate much from that of FY 2015. White offenders made up 76.6% of the sentences and 20.8% of the sentences were committed by black offenders (Figure 7).

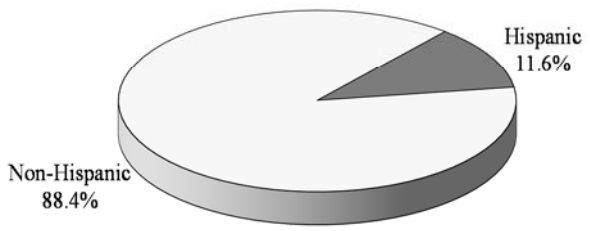
Figure 7: Distribution of FY 2016 Sentences by Race of Offenders



Based on 15,188 sentences reporting race of offenders

The review of the ethnicity of offenders discloses that 88.4% of the offenders in FY 2016 were of Non-Hispanic origin, indicating a decrease of 1.6% when compared with the percentage rate of FY 2015 (90%). This distribution of ethnicity of offenders has been comparatively constant in the past five years (Figure 8).

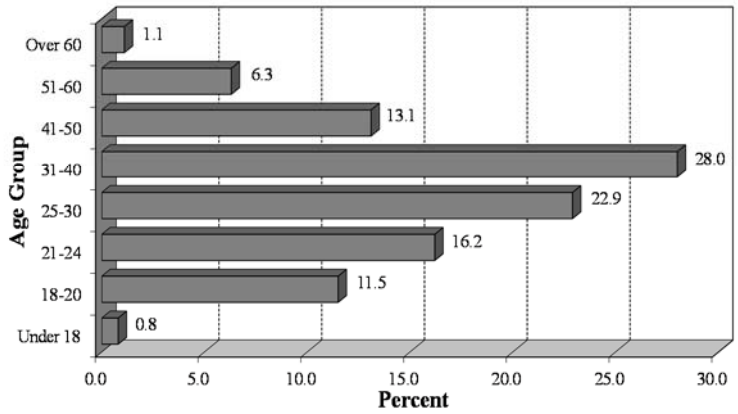
Figure 8: Distribution of FY 2016 Sentences by Ethnicity of Offenders



Based on 15,186 sentences reporting ethnicity of offenders

In FY 2016, 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 28% of all offenders in FY 2016. 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.

Figure 9: Distribution of FY 2016 Sentences by Age of Offenders



Based on 15,187 sentences reporting age of offenders at time of offense

Table 2: FY 2016 Offender Characteristics by Type of Offense – 1

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Abuse of Child	32	81.2	18.8	81.2	18.8	0.0	29.6
Agg. Arson	9	77.8	22.2	66.7	33.3	0.0	29.6
Agg. Assault	336	89.9	10.1	73.2	23.5	3.3	33.1
Agg. Assault on LEO	56	91.1	8.9	82.1	17.9	0.0	33.6
Agg. Battery	886	88.7	11.3	68.4	28.2	3.4	30.9
Agg. Battery on LEO	27	81.5	18.5	77.8	18.5	3.7	31.0
Agg. Burglary	295	78.6	21.4	66.8	31.2	2.0	31.6
Agg. Criminal Sodomy w/Child	29	100.0	0.0	86.2	6.9	6.9	32.9
Agg. Endangering a Child	71	62.0	38.0	83.1	15.5	1.4	33.2
Agg. Escape from Custody	82	84.1	15.9	70.7	25.6	3.7	30.6
Agg. Failure to Appear	35	74.3	25.7	68.6	25.7	5.7	36.8
Agg. False Impersonation	6	66.7	33.3	66.7	33.3	0.0	28.0
Agg. Robbery	233	89.7	10.3	47.2	50.2	2.6	24.0
Agg. Incest	4	100.0	0.0	100.0	0.0	0.0	40.3
Agg. Indecent Liberties w/Child	154	96.8	3.2	83.8	9.1	7.1	31.1
Agg. Indecent Solicit w/Child	62	98.4	1.6	88.7	9.7	1.6	32.9
Agg. Interference w/Parent Custody	6	66.7	33.3	83.3	16.7	0.0	26.8
Agg. Intimidation of a Victim	32	90.6	9.4	59.4	40.6	0.0	33.5
Agg. Kidnapping	18	100.0	0.0	38.9	61.1	0.0	29.3
Agg. Sexual Battery	53	100.0	0.0	67.9	30.2	1.9	33.7
Agg. Trafficking/Trafficking	4	75.0	25.0	25.0	50.0	25.0	27.6
Agg. Weapon Violation	6	100.0	0.0	83.3	16.7	0.0	31.7
Aid Felon	26	53.8	46.2	73.1	26.9	0.0	29.5
Animal Cruelty	10	100.0	0.0	80.0	20.0	0.0	28.5
Arrange Sale/Purchase Drug	33	75.8	24.2	87.9	12.1	0.0	30.6
Arson	45	86.7	13.3	82.2	15.6	2.2	32.6
Auto Failure to Remain	10	60.0	40.0	60.0	40.0	0.0	35.7
Battery on LEO	78	76.9	23.1	67.9	29.5	2.6	29.6
Breach of Privacy	6	100.0	0.0	83.3	16.7	0.0	34.5
Burglary	1,192	85.0	15.0	78.5	19.4	2.1	29.5
Capital Murder	5	100.0	0.0	60.0	40.0	0.0	38.3
Contribute Child's Misconduct	19	84.2	15.8	84.2	10.5	5.3	27.5
Commercial Sex Exploitation of Child	4	75.0	25.0	25.0	75.0	0.0	22.3
Computer Crime	11	36.4	63.6	45.5	36.4	18.2	31.9
Criminal Damage to Property	93	88.2	11.8	72.0	22.6	5.4	31.4
Criminal Discharge of Firearm	19	94.7	5.3	57.9	42.1	0.0	28.1
Criminal Sodomy w/Child	4	100.0	0.0	100.0	0.0	0.0	30.5
Criminal Threat	449	89.8	10.2	75.5	21.6	2.9	34.2
Criminal Use of Financial Card	21	61.9	38.1	90.5	9.5	0.0	30.6
Domestic Battery	66	90.9	9.1	59.1	37.9	3.0	35.3

Table 2: FY 2016 Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Drugs	5,220	73.7	26.3	81.8	15.6	2.5	32.5
Drug without Tax Stamps	19	94.7	5.3	73.7	15.8	10.5	36.2
DUI	691	83.0	17.0	85.8	11.9	2.3	38.5
DUI Test Refusal	34	88.2	11.8	85.3	14.7	0.0	36.2
Electronic Solicitation of Child	18	100.0	0.0	83.3	16.7	0.0	30.1
Failure to Register	406	90.9	9.1	70.2	27.1	2.7	34.4
Fleeing or Eluding LEO	335	85.4	14.6	76.1	20.3	3.6	30.6
Forgery	429	58.3	41.7	80.7	16.6	2.8	33.1
False Writing	104	62.5	37.5	72.1	20.2	7.7	33.3
Giving Worthless Checks	30	83.3	16.7	70.0	26.7	3.3	33.9
Identity Theft	268	53.0	47.0	73.5	24.6	1.9	32.5
Indecent Liberties w/Child	50	90.0	10.0	80.0	20.0	0.0	26.4
Indecent Solicitation of Child	28	96.4	3.6	63.0	29.6	7.4	29.6
Involuntary Manslaughter	29	89.7	10.3	72.4	20.7	6.9	27.1
Kidnapping	27	88.9	11.1	59.3	37.0	3.7	29.5
Lewd and Lascivious Behavior	14	100.0	0.0	100.0	0.0	0.0	31.9
Medicaid Fraud	10	30.0	70.0	20.0	70.0	10.0	40.6
Mistreat Dependant Adult	13	38.5	61.5	92.3	7.7	0.0	45.0
Murder in the First Degree	42	92.9	7.1	50.0	50.0	0.0	26.5
Murder in the Second Degree	72	88.9	11.1	51.4	41.7	6.9	28.5
Nonsupport of Child or Spouse	19	100.0	0.0	78.9	21.1	0.0	38.3
Obstructing Legal Process	197	79.7	20.3	77.2	17.8	5.1	31.2
Obtain Prescription Drug by Fraud	4	50.0	50.0	100.0	0.0	0.0	32.7
Possession of Firearm	234	97.4	2.6	56.0	44.0	0.0	30.7
Rape	102	99.0	1.0	76.5	21.6	2.0	30.8
Robbery	173	87.9	12.1	48.0	49.1	2.9	28.7
Sex Exploitation of a Child	56	100.0	0.0	87.5	10.7	1.8	33.8
Stalking	50	96.0	4.0	74.0	26.0	0.0	36.8
Tamper w/Electronic Monitor Equip.	16	68.8	31.2	75.0	18.8	6.3	32.1
Theft	1,742	65.5	34.5	75.7	22.4	1.9	35.2
Traffic in Contraband	114	60.5	39.5	78.1	16.7	5.3	30.6
Unlawful Sexual Relations	5	60.0	40.0	100.0	0.0	0.0	27.6
Unlawful Use of a Driver's License	11	90.9	9.1	100.0	0.0	0.0	37.3
Unlawful Voluntary Sex Relations	26	96.2	3.8	84.6	15.4	0.0	18.7
Voluntary Manslaughter	20	95.0	5.0	55.0	40.0	5.0	28.1
Weapons	12	100.0	0.0	83.3	16.7	0.0	32.3
Other	43	90.7	9.3	79.1	20.9	0.0	35.0
TOTAL	**15,190**	**78.2**	**21.8**	**76.6**	**20.8**	**2.6**	**32.5**

Note: Offenses with number of cases smaller than 4 are included in the offense type of "Other".
* Average age at time of offense.

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

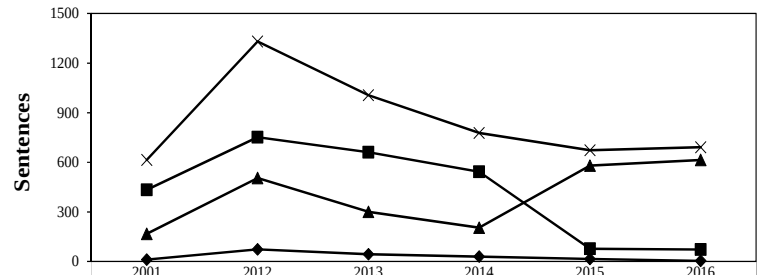
When the Sentencing Guidelines were established in 1993, the felony crime of driving under the influence of alcohol or drugs for the third or subsequent conviction (DUI) under K.S.A. 8-1567(f) was classified as a severity level 9, nonperson felony offense. In the 1994 Legislative Session, the crime was amended as a nongrid crime and subjected to the specific sentencing provisions of K.S.A. 8-1567. Additionally, the offender cannot be ordered 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, 2011 House Substitute for 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 to be served in jail. There are no provisions for postrelease supervision by KDOC parole officers.

The sentencing trends of felony DUI under K.S.A. 8-1567(f) in FY 2001 and the past five fiscal years is displayed in Figure 10. In FY 2001, 614 offenders were convicted 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 2016, a total number of 691 sentences were convicted under this crime with 4 (0.6%) sentenced to prison primarily as parole condition violators, 73 (10.6%) sentenced to probation and 614 (88.9%) sentenced to county jail/post-imprisonment supervision. The total number of sentences convicted under the crime of felony DUI in FY 2016 increased by 2.7% over that of FY 2015 and by 12.5 % over that of FY 2001. When compared with that of FY 2012, the number significantly decreased by 48.1%. The distribution of felony DUI convictions in FY 2016 by county is presented in Figure 11. Johnson and Sedgwick counties were the top two counties imposing 206 (29.8%) and 144 (20.8%) sentences respectively under K.S.A. 8-1567(f) in FY 2016.

Since FY 2012, the population of felony DUI offenders has decreased dramatically, which mirrors the impact of 2011 Senate Bill 6. In this bill, it amends a third DUI conviction to a Class A nonperson misdemeanor. The majority of the prison sentences were parole condition violators.

Figure 10: DUI Sentences

FY 2001, FY 2012 through FY 2016

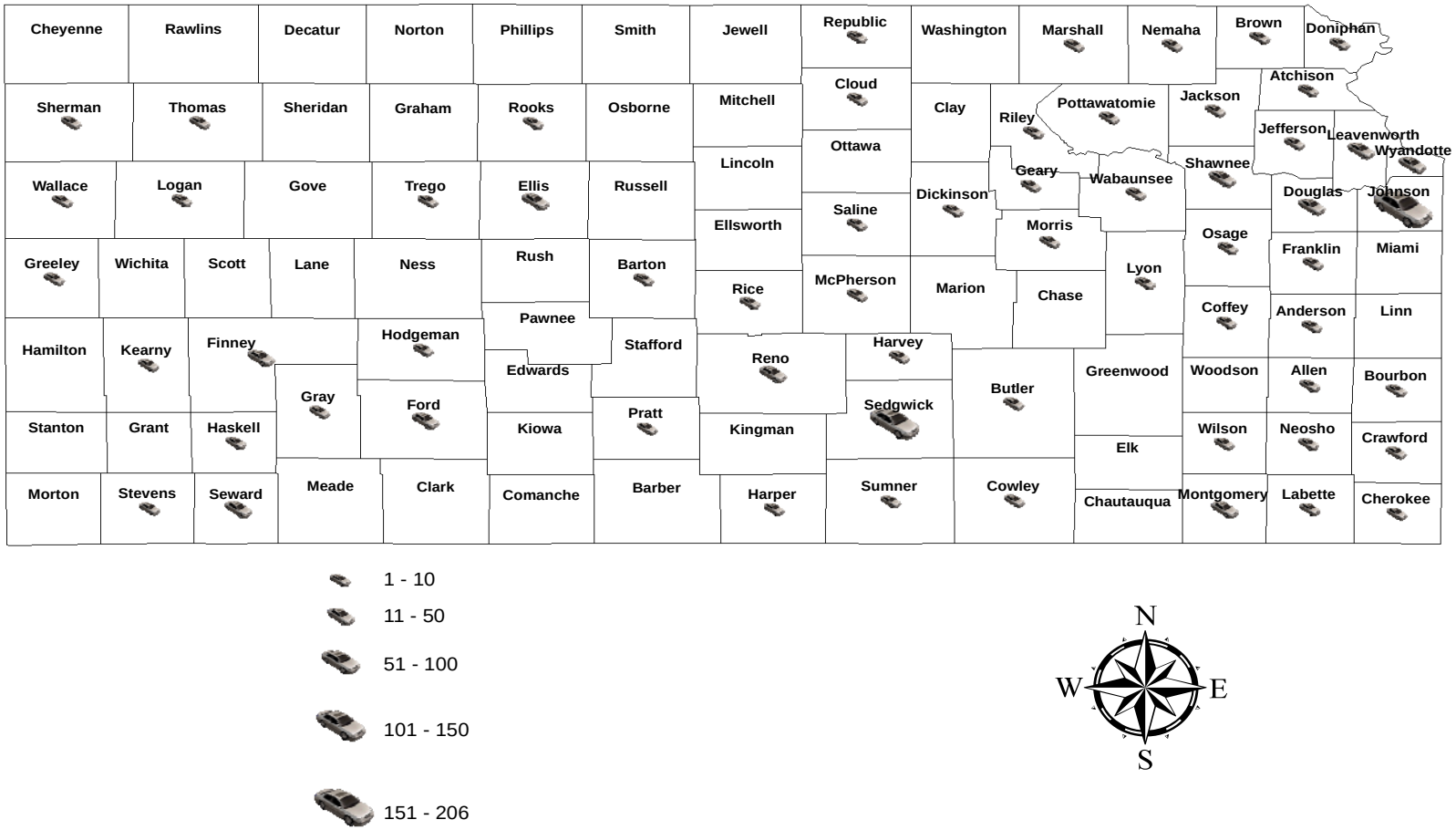


	2001	2012	2013	2014	2015	2016
Prison	12	74	44	30	16	4
Probation	434	752	661	543	77	73
Jail/PIS*	168	505	301	205	580	614
Total	614	1331	1006	778	673	691

Fiscal Year

* FY 2016 Jail/PIS sentences include 28 county jail and 586 DUI or Test Refusal post-imprisonment supervission sentences.

Figure 11: FY 2016 DUI Offenses by County



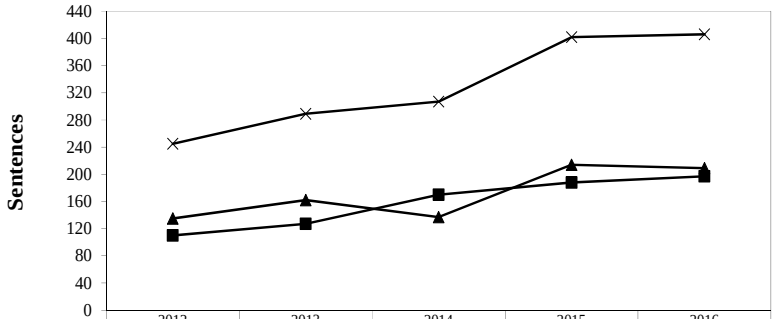
Sentences for Failure to Register under the Kansas Offender Registration Act

The penalty for a failure to register under the Kansas Offender Registration Act (KORA) is listed in K.S.A. 22-4903. 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. The 2011 Legislation further amended the penalties for violations of KORA 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 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 total number of the crime increased each year. During FY 2016, four hundred and six sentences were convicted under this crime, an increase of 1% when compared with FY 2015 and an increase of 65.7% when compared with FY 2012. Of those 406 convictions, 197 were sentenced to prison and 209 were sentenced to probation (Figure 12).

Figure 13 presents the severity level of the crime committed in FY 2016. Twenty-two (5.4%) convictions under this crime were sentenced at nondrug severity level 3, 57 (14%) were sentenced at nondrug severity level 5 and 252 (62.1%) were sentenced at nondrug severity level 6. Sentences at nondrug severity levels 7 and 8 were attempt convictions of the crime, representing 7 (1.7%) and 55 (13.5%) convictions respectively. Twelve sentences were at nondrug severity level 9 and 1 was an attempt conviction at nondrug severity level 10.

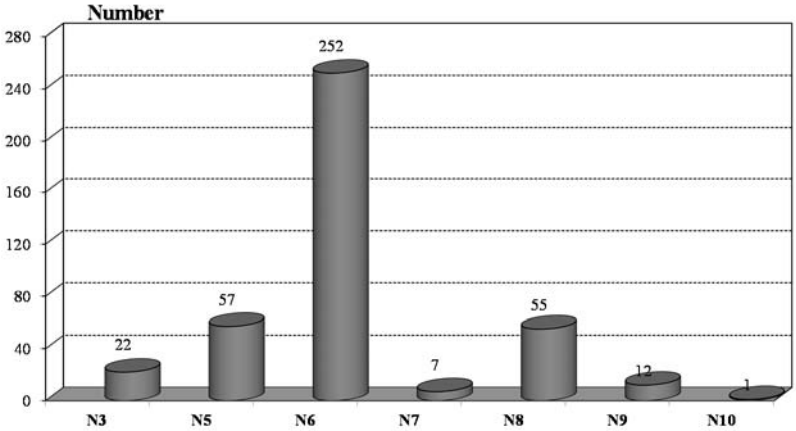
Figure 12: Failure to Register Sentences
By Sentence Imposed - FY 2012 through FY 2016



	2012	2013	2014	2015	2016
Prison	110	127	170	188	197
Probation	135	162	137	214	209
Total	245	289	307	402	406

Fiscal Year

Figure 13: Failure to Register Sentences
By Severity Level - FY 2016

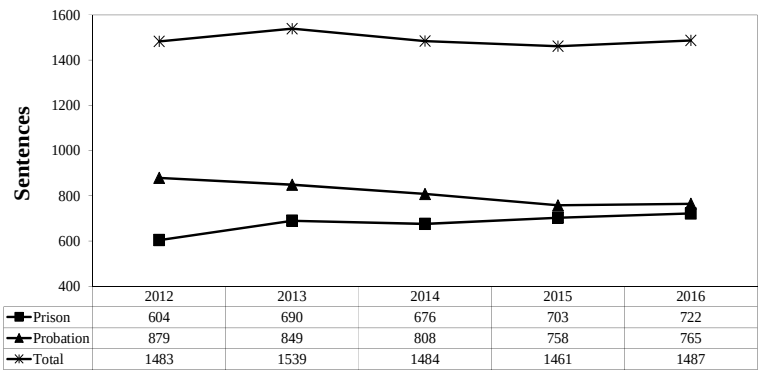


Burglary and Aggravated Burglary

Burglary, including aggravated burglary, is one of the top five offenses committed in the past five years. The penalty for the crime is nondrug severity level 5 for aggravated burglary; nondrug severity level 7 for residential and nonresidential burglary; and nondrug severity level 9 for motor vehicle burglary. In 2016 legislative session, HB 2462 amends the definition and penalties for burglary and aggravated burglary. A burglary with intent to commit the theft of a firearm is a severity level 5, person felony and an aggravated burglary committed by entering into or remaining in a dwelling where there is a human being, with the required intent, is a severity level 4, person felony. Three special sentencing rules related to burglary make a conviction of the crime a presumptive prison sentence. The numbers of burglary offenders sentenced to prison with the three special sentencing rules in the past five years are as follows: 139 in FY 2016, 147 in FY 2015, 150 in FY 2014, 140 in FY 2013 and 129 in FY 2012.

In FY 2016, the total number of burglary sentences increased by 1.8% over that of FY 2015 and by 0.3% over that of FY 2012. The number of prison sentences in FY 2016 increased by 19 sentences compared with FY 2015 and increased by 118 sentences compared with FY 2012. The number of probation sentences increased by 7 compared with FY 2015 but decreased by 114 compared with FY 2012 (Figure 14).

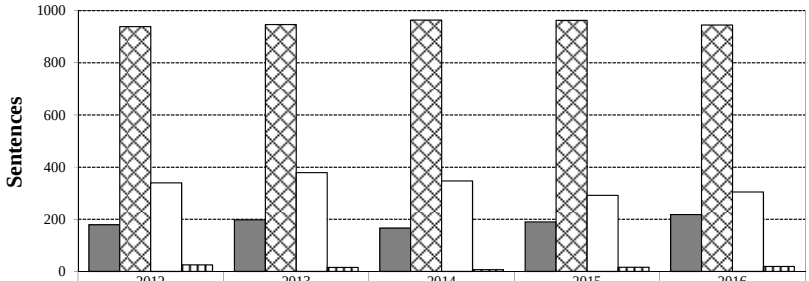
Figure 14: Burglary Sentences
By Sentence Imposed - FY 2012 through FY 2016



	2012	2013	2014	2015	2016
Prison	604	690	676	703	722
Probation	879	849	808	758	765
Total	1483	1539	1484	1461	1487

The distribution of burglary sentences by severity level in the past five years is displayed in Figure 15. The majority of the convictions were sentenced at nondrug severity level 7, representing 63.6% of burglary sentences imposed in FY 2016, 65.9% in FY 2015, 65% in FY 2014, 61.5% in FY 2013 and 63.3% in FY 2012.

Figure 15: Burglary Sentences
By Severity Level - FY 2012 through FY 2016



	2012	2013	2014	2015	2016
N5	179	198	166	190	218
N7	939	947	964	963	945
N9	340	379	347	292	305
N10	25	15	7	16	19

Domestic Violence Cases

In this section, the domestic violence cases refer to the convictions designated by the court as domestic violence cases based upon a 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).

A total number of 342 sentences were designated by court as domestic violence cases in FY 2016. This was an increase of 11 sentences or 3.3% compared with FY 2015 (331 sentences). Of the 342 sentences, 73 (21.3%) were sentenced to prison, 257 (75.2%) were sentenced to probation and 12 (3.5%) were sentenced to county jail. More than 90% of the offenders were male. White offenders accounted for 62%, black offenders accounted for 36.5% and offenders of other races represented 1.5%. Their average age at sentencing was 35 years old, which is close to that of FY 2015. Aggravated battery (39.8%), criminal threat (22.2%), domestic battery (12.9%) and aggravated assault (8.2%) were still the top four offenses committed by this group of offenders when compared with FY 2015.

Table 3: FY 2016 Most Serious Offenses Convicted by Designated Domestic Violent Offenders

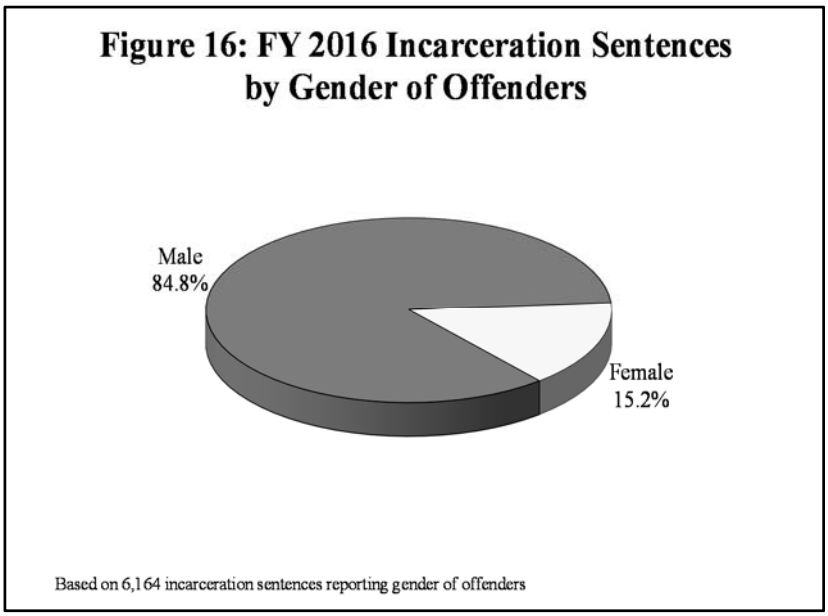
Offense	Number	Percent
Aggravated Assault	28	8.2
Aggravated Battery	136	39.8
Aggravated Kidnapping/Kidnapping	5	1.5
Aggravated Burglary/Burglary	12	3.5
Arson/Agg. Arson	5	1.5
Criminal Damage to Property	4	1.2
Criminal Threat	76	22.2
Domestic Battery	44	12.9
Murder in the First Degree	1	0.3
Murder in the Second Degree	3	0.9
Rape	3	0.9
Robbery	2	0.6
Stalking	12	3.5
Theft	3	0.9
Other	8	2.3
Total	**342**	100.0

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

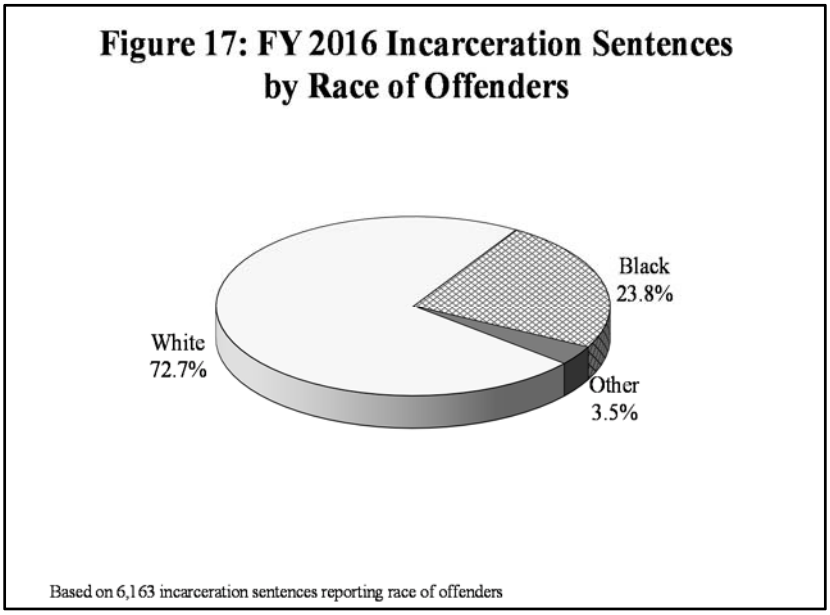
INCARCERATION SENTENCES

Characteristics of Offenders

A total number of 6,164 offenders were admitted to the state correctional facilities during FY 2016. Figures 16 - 20 present the characteristics of the offenders. Males continue to be the predominant offender group making up 84.8% of the offenders admitted to prison in FY 2016 (Figure 16).



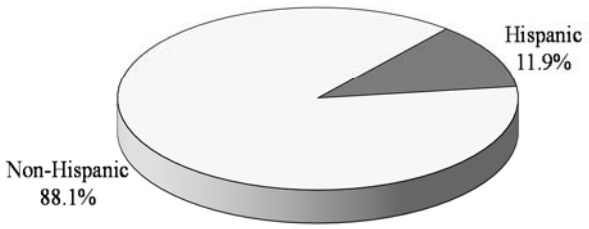
White offenders accounted for 72.7%, black offenders accounted for 23.8% and other races represented 3.5% of the total admissions of FY 2016 (Figure 17). This racial distribution of offenders does not fluctuate much when compared with FY 2015.



Non-Hispanic offenders accounted for 88.1% of the offenders sentenced to prison, a decrease of 2.6% compared with FY 2015 (Figure 18). The overall distributions of the offenders by gender, race and ethnicity are comparatively constant compared with those of the past five years.

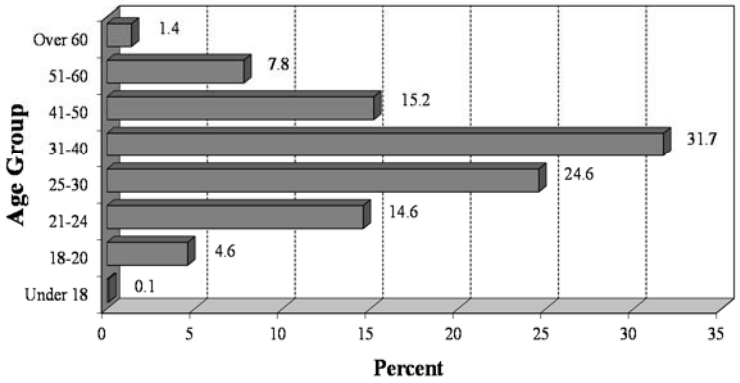
The study of offenders' age reveals that the largest number of incarcerated offenders were found in their thirties (31.7%) at the time of admission to prison. The second largest number of offenders were in the age group ranging from 25 to 30 years old representing 24.6% of the total admission in FY 2016. This age distribution pattern is consistent with the age data observed in FY 2015 (Figure 19).

Figure 18: FY 2016 Incarceration Sentences by Ethnicity of Offenders



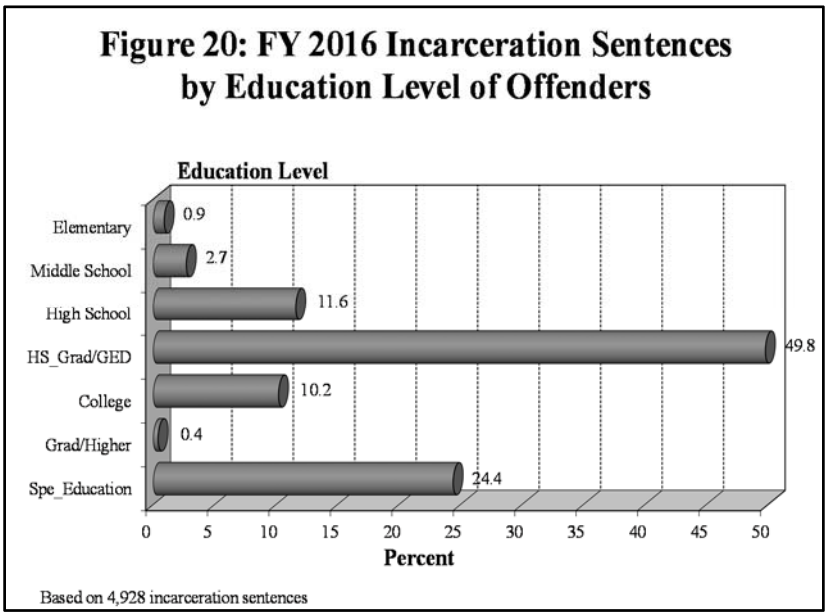
Based on 6,163 incarceration sentences reporting ethnicity of offenders

Figure 19: FY 2016 Incarceration Sentences by Age of Offenders at Admission



Based on 6,164 incarceration sentences reporting age of offenders

Figure 20 presents the education levels of the offenders admitted to prison during FY 2016. The analysis indicates that 49.8% of the offenders had obtained a high school diploma or GED equivalent indicating no change in percentage rate when compared with the same group observed in FY 2015.



Incarceration Nondrug Offenses

Nondrug offenders admitted to prison during FY 2016 represented 69.5% (4,281 offenders) of the total incarceration sentences (6,164) of the fiscal year. The top ten nondrug crimes included theft (579), burglary (559), aggravated battery (438), failure to register (209), aggravated robbery (205), aggravated burglary (163), forgery (162), aggravated assault (162), criminal threat (154) and aggravated indecent liberties with a child (139). These top ten crimes accounted for 64.7% of the total nondrug crimes committed by the offenders admitted to prison in FY 2016 (Table 4).

The further study of offenders by gender indicates that male offenders committed more than 85% of the top ten crime categories, except forgery and theft. Most sex offenders were males, indicating no change from the previous year. However, the most frequently committed offenses by female offenders were found in the offense categories of forgery, identity theft, false writing and theft (Table 4).

The analysis on nondrug offenders by race shown that the highest incarceration rates for white offenders (over 70%) were discovered in the crime areas of burglary, criminal threat, forgery, theft, identity theft, obstruction legal process, traffic in contraband, aggravated assault on LEO, fleeing or eluding LEO, arson, abuse of a child, false writing and most sex offenses. Nevertheless, black offenders were incarcerated more often (over 40%) for the crimes of aggravated robbery, robbery, possession of firearms, murder in the first degree, murder in the second degree, aggravated kidnapping and aggravated intimidation of a victim. The average age of the nondrug offenders was 34.5 years old at the time of admission to prison in FY 2016, which is very similar with those of FY 2015 and FY 2014 (Table 4).

Table 4: FY 2016 Incarceration Nondrug Offender Characteristics by Type of Offense – 1

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Abuse of Child	17	82.4	17.6	82.4	17.6	0.0	33.9
Agg. Arson	5	100.0	0.0	60.0	40.0	0.0	30.0
Agg. Assault	162	92.4	7.6	70.4	26.5	3.1	34.4
Agg. Assault on LEO	38	92.1	7.9	81.6	18.4	0.0	34.9
Agg. Battery	438	91.8	8.2	64.4	31.1	4.6	32.6
Agg. Battery on LEO	22	86.4	13.6	77.3	18.2	4.5	36.4
Agg. Burglary	163	85.3	14.7	59.5	36.8	3.7	34.7
Agg. Criminal Sodomy w/Child	29	100.0	0.0	86.2	6.9	6.9	41.8
Agg. Endangering a Child	21	66.7	33.3	81.0	19.0	0.0	31.4
Agg. Escape from Custody	59	81.4	18.6	71.2	25.4	3.4	35.2
Agg. Failure to Appear	6	66.7	33.3	66.7	16.7	16.7	42.7
Agg. Indecent Liberties w/Child	139	97.1	2.9	82.7	9.4	7.9	36.0
Agg. Indecent Solicit w/Child	44	97.7	2.3	88.6	9.1	2.3	36.9
Agg. Intimidation of a Victim	13	100.0	0.0	30.8	69.2	0.0	34.7
Agg. Kidnapping	17	100.0	0.0	41.2	58.8	0.0	43.9
Agg. Robbery	205	91.7	8.3	45.4	51.7	2.9	29.8
Agg. Sexual Battery	38	100.0	0.0	68.4	31.6	0.0	37.5
Aid Felon	4	50.0	50.0	100.0	0.0	0.0	33.9
Arrange Sale/Purchase Drug	14	92.9	7.1	85.7	14.3	0.0	35.4
Arson	21	95.2	4.8	81.0	19.0	0.0	32.8
Battery on LEO	44	77.3	22.7	59.1	36.4	4.5	34.0
Burglary	559	89.8	10.2	75.0	21.3	3.8	32.5
Capital Murder	5	100.0	0.0	60.0	40.0	0.0	39.9
Contribute Child's Misconduct	4	75.0	25.0	75.0	0.0	25.0	35.8
Criminal Damage to Property	19	94.7	5.3	73.7	15.8	10.5	31.0
Criminal Discharge of Firearm	11	100.0	0.0	45.5	54.5	0.0	27.5
Criminal Sodomy w/Child	4	100.0	0.0	100.0	0.0	0.0	35.5
Criminal Threat	154	93.5	6.5	76.6	20.1	3.2	36.2
Criminal Use of Financial Card	6	66.7	33.3	83.3	16.7	0.0	35.0
Domestic Battery	6	100.0	0.0	16.7	66.7	16.7	36.5
Drug without Tax Stamps	4	100.0	0.0	50.0	50.0	0.0	34.7
DUI	4	100.0	0.0	75.0	25.0	0.0	50.2
Electronic Solicitation of Child	15	100.0	0.0	71.4	21.4	7.1	32.8
Failure to Register	209	94.7	5.3	70.8	25.4	3.8	36.3
Failure to Remain/Report Accident	5	80.0	20.0	40.0	60.0	0.0	37.9
Fleeing or Eluding LEO	125	88.0	12.0	75.2	20.8	4.0	33.3
Forgery	162	63.0	37.0	80.2	16.7	3.1	35.3

Table 4: FY 2016 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	
False Writing	36	66.7	33.3	75.0	11.1	13.9	33.6
Giving Worthless Checks	4	100.0	0.0	100.0	0.0	0.0	43.4
Human Trafficking	4	75.0	25.0	25.0	50.0	25.0	28.9
Identity Theft	76	53.9	46.1	71.1	22.4	6.6	36.3
Indecent Liberties w/Child	36	88.9	11.1	75.0	25.0	0.0	32.4
Indecent Solicitation of Child	12	100.0	0.0	54.5	27.3	18.2	35.7
Involuntary Manslaughter	24	87.5	12.5	70.8	20.8	8.3	30.8
Kidnapping	22	95.5	4.5	59.1	36.4	4.5	36.7
Lewd and Lascivious Behavior	6	100.0	0.0	100.0	0.0	0.0	38.8
Murder in the First Degree	42	92.9	7.1	50.0	50.0	0.0	36.4
Murder in the Second Degree	72	88.9	11.1	51.4	41.7	6.9	32.6
Nonsupport of Child or Spouse	11	100.0	0.0	81.8	18.2	0.0	42.2
Obstructing Legal Process	52	88.5	11.5	73.1	19.2	7.7	31.3
Possession of Firearm	100	96.0	4.0	57.0	43.0	0.0	33.3
Rape	100	99.0	1.0	77.0	21.0	2.0	37.8
Robbery	118	89.0	11.0	49.2	48.3	2.5	32.0
Sex Exploitation of a Child	36	100.0	0.0	83.3	13.9	2.8	34.1
Tamper w/Electronic Monitor Equip.	14	82.4	17.6	71.4	21.4	7.1	35.2
Stalking	24	100.0	0.0	70.8	29.2	0.0	37.7
Theft	579	78.4	21.6	73.7	24.0	2.2	37.8
Traffic in Contraband	57	63.2	36.8	78.9	15.8	5.3	32.8
Unlawful Voluntary Sex Relation	9	100.0	0.0	88.9	11.1	0.0	21.8
Voluntary Manslaughter	20	95.0	5.0	55.0	40.0	5.0	36.2
Weapons/Agg. Weapon Violation	5	100.0	0.0	100.0	0.0	0.0	34.2
Other	31	96.8	3.2	80.6	19.4	0.0	37.0
TOTAL	**4,281**	**87.5**	**12.5**	**69.7**	**26.7**	**3.6**	**34.5**

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

Incarceration Drug Offenses

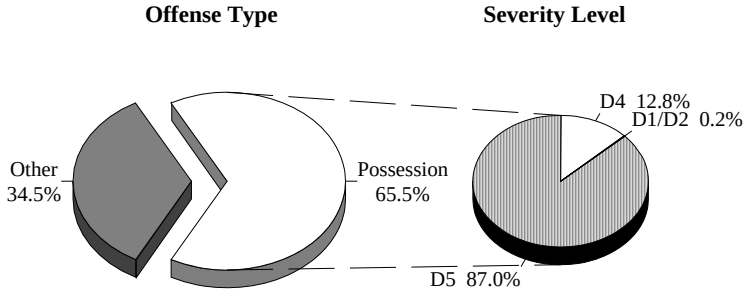
Since July 1, 2012, a new drug sentencing grid with five levels has been effectively adopted. The crimes of drug possession convicted under K.S.A. 21-5706 are reclassified to drug severity level 5. The felony crimes of drug distribution or possession with intention to distribute the drugs convicted under K.S.A. 21-5705 are reclassified to drug severity levels 1 to 4 based on drug type and quantity. Violations occurring within 1,000 feet of any school property increase the severity level by one level. As FY 2016 is the fourth year of implementing the new drug sentencing grid, the distribution of drug severity levels is still a mix of the old and new drug sentencing grids.

In FY 2016, a total number of 1,883 drug offenders were admitted to prison, representing 30.5% of the total admissions to the state correctional facilities. Of this total number, 65.5% were incarcerated for convictions of drug possession offenses, indicating an increase of 3.7% compared with that of FY 2015 (61.8%). Approximately 13% of the drug possession offenders were found at drug severity level 4. Offenders at drug severity level 5 accounted for 87% of the drug possession group. The percentage of offenders admitted at drug severity level 5 increased continuously by 21.1% over that of FY 2015 (65.9%) after a significantly increase of 29.5% over that of FY 2014, which reflects the implementation of the new drug sentencing grid (Figure 21).

Male offenders represented 78.6% of the drug offenders admitted to prison in FY 2016. Most female offenders were convicted of drug crimes for drug possession and possession of paraphernalia. White offenders were convicted of over 80% 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 for convictions of drug crimes of drugs distribution and possession of paraphernalia. The average age of drug offenders was 34.5 years old at admission to prison, very close to that observed in FY 2015 (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 2016 Incarceration Drug Sentences by Offense and Level



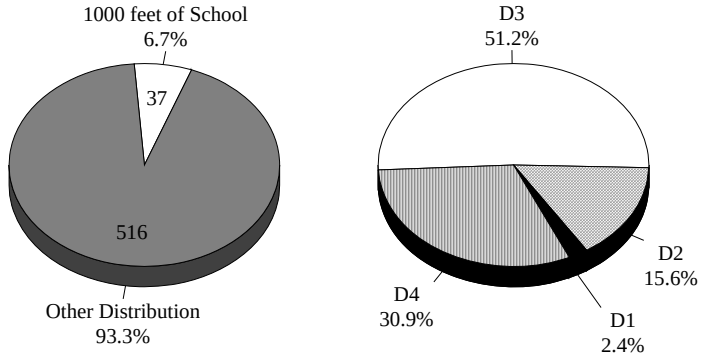
Based on 1,883 incarceration drug sentences

Table 5: FY 2016 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	1,233	76.2	23.8	82.6	14.5	2.8	34.6
Drugs; Distribution/Sale	553	82.6	17.4	70.5	25.3	4.2	33.9
Unlawful Manufacture Controlled Substance	37	91.9	8.1	94.6	2.7	2.7	38.1
Possession of Paraphernalia	30	76.7	23.3	80.0	16.7	3.3	31.9
Possession of Precursor Drugs	26	84.6	15.4	92.3	3.8	3.8	37.1
Receiving Proceeds from Violation	4	100.0	0.0	75.0	0.0	25.0	32.2
TOTAL	**1,883**	**78.6**	**21.4**	**79.4**	**17.3**	**3.3**	**34.5**

A number of 553 offenders (29.4%) were admitted to prison for the crimes of drug distribution or possession with intent to distribute in FY 2016. Of this number, 37 or 6.7% occurred within 1,000 feet of school property. The largest number of the offenders was at drug severity level 3, accounting for 283 or 51.2% of the offenders convicted of drug distribution or possession with intent to distribute (Figure 22).

Figure 22: FY 2016 Incareceration Drug Sentences Distribution Offenses and Severity Level



Based on 553 incarceratted offenders convicted of drug distribution or possession with intent to distribute.

Types of Admission and Severity Levels

Table 6 exhibits the distribution of offenders by types of admission to the Kansas Department of Corrections. New court commitments made up a large proportion of prison admissions in FY 2016, representing 32.2% of the total admissions. The percentage of this group decreased by 0.5% compared with that of FY 2015 (32.7%).

In FY 2016, more than 39% of all offenders admitted to state correctional facilities were condition violators, including probation condition violators, parole/postrelease condition violators and conditional release condition violators. The group of condition violators decreased by 4.1% when compared with that of FY 2015 (43.3%). Sanctions from probation violation accounted for 16.3%, an increase of 4.5% compared with the percentage of FY 2015 (11.8%). This group of offenders will be discussed in further detail below. As in past years, condition violators admitted to prison had a significant impact on the total admissions to the Department of Corrections in FY 2016.

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 10.8%, a decrease of 0.3% from the percentage of this group of violators (11.1%) in FY 2015.

Table 6: Distribution of FY 2016 Incarceration Sentences by Admission Type

Admission Type	Number of Cases	Percent
New Court Commitment	1,986	32.2
Sanction from Probation	1,003	16.3
Probation Condition Violator	1,180	19.1
Probation Violator With New Sentence/New Conviction	519	8.4
Inmate Received on Interstate Compact	15	0.2
Parole/Postrelease/CR Condition Violator	1,237	20.1
Parole/Postrelease Violator With New Sentence	146	2.4
Paroled to Detainer Returned With New Sentence	29	0.5
Other	49	0.8
TOTAL	**6,164**	**100.0**

The distribution of all incarcerated offenders admitted in FY 2016 by offense severity level and gender is provided in Table 7. The highest percentages (over 15%) of all nondrug offenders are found at severity levels 5, 7 and 9 (Figure 23). This severity level distribution of nondrug incarcerated offenders remained constant in the past five years. The examination of drug offenders indicates that 18.1% of all drug offenders fell at drug severity level 4 and 58.1% of the offenders were identified at drug severity

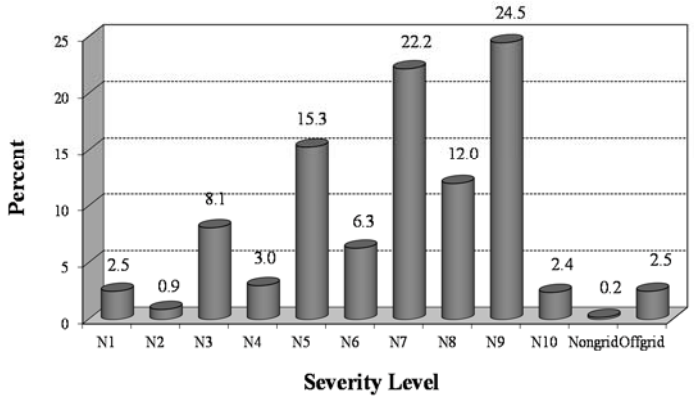
level 5 (Figure 24). Female offenders were convicted more often of drug offenses than of nondrug offenses (21.4% vs. 12.5%). The highest percentages of female offenders were found at drug severity level 5 (23.8%) and nondrug severity level 8 (26.3%). The highest percentage rates of male offenders were identified at drug severity level 1 (88.9%) and nondrug severity level 1 (96.3%).

Table 7: Distribution of FY 2016 Incarceration Sentences By Severity Level and Gender*

Severity Level	Number	Percent	Gender (%)	
			Male	Female
Drug				
D1	54	2.9	88.9	11.1
D2	97	5.2	83.5	16.5
D3	297	15.8	82.2	17.8
D4	341	18.1	80.1	19.9
D5	1,094	58.1	76.2	23.8
Subtotal	**1,883**	**100.0**	**78.6**	**21.4**
Nondrug				
N1	109	2.5	96.3	3.7
N2	38	0.9	94.7	5.3
N3	347	8.1	94.5	5.5
N4	129	3.0	93.8	6.2
N5	654	15.3	90.4	9.6
N6	271	6.3	91.9	8.1
N7	951	22.2	89.4	10.6
N8	514	12.0	73.7	26.3
N9	1,048	24.5	84.4	15.6
N10	103	2.4	90.3	9.7
Nongrid	10	0.2	100.0	0.0
Offgrid	106	2.5	95.3	4.7
Subtotal	**4,280**	**100.0**	**87.5**	**12.5**
TOTAL**	**6,164**	**100.0**	**84.8**	**15.2**

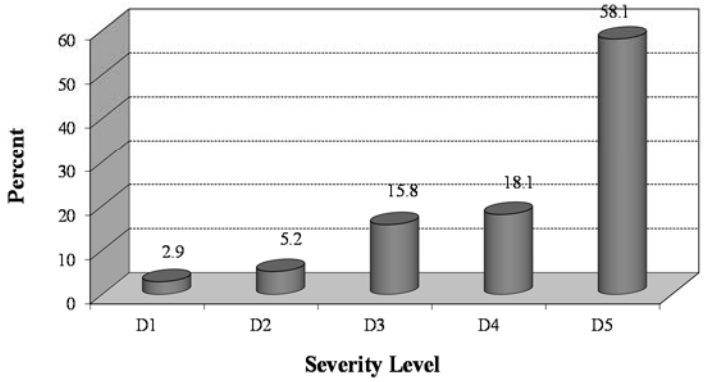
* Based on 1,883 drug offenders and 4,281 nondrug offenders.
** Total number includes 1 nondrug offender whose severity level is unknown.

Figure 23: FY 2016 Incarceration Sentences Nondrug Offenders by Severity Level



Based on 4,280 nondrug offenders

Figure 24: FY 2016 Incarceration Sentences Drug Offenders by Severity Level



Based on 1,883 drug offenders

The guidelines new commitment offenders include direct new court commitments, probation condition violators and probation violators with new sentences or conviction. Violators of sanction from probation and pre-guideline offenders are excluded from this analysis. Table 8 presents the admission numbers and average length of sentences (LOS) of this group admitted to prison during FY 2015 and FY 2016.

In FY 2016, the majority of the drug crimes were sentenced under the new drug sentencing grid. The total admission of drug new commitments increased by 16 (1.5%) compared with FY 2015. The admissions at drug severity levels 1 to 3 did not fluctuate much. The number of drug severity level 4 decreased by 136 but the number of drug level 5 increased by 156 compared with FY 2015, which mirrors the implementation of the new drug sentencing grid. The average LOS decreased by 15.3 months at drug severity level 1 but increased by 8 months at drug severity level 3 compared with FY 2015. Little difference was noticed at other drug severity levels. The analysis of nondrug new commitments indicates that the total number of this group in FY 2016 decreased by 53 (2.1%) when compared with FY 2015. The admissions increased by 24 at nondrug severity levels 5 followed by nondrug severity levels 1 and 4 with an increase of 14 respectively. The most obvious decrease was identified at nondrug severity level 7 declined by 41 offenders and severity level 9 declined by 39. Offenders at severity level 3 decreased by 12. The average LOS in FY 2016 reduced by 11.5 months at nondrug severity level 1, but significantly increased by 80.3 months at nondrug severity level 2 compared with FY 2015. The average LOS of other nondrug severity levels remained constant.

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

Severity Level	FY 2015*		FY 2016*	
	Admission #	Average LOS	Admission #	Average LOS
D1	24	127.2	24	111.9
D2	52	85.5	57	83.0
D3	187	44.9	178	52.9
D4	340	25.8	204	26.4
D5	475	25.8	631	24.8
N1	60	297.5	74	286.0
N2	18	139.3	18	219.6
N3	185	104.3	173	103.6
N4	72	75.5	86	76.8
N5	350	59.1	374	58.9
N6	155	36.7	147	40.5
N7	598	28.1	557	29.9
N8	321	17.8	320	18.4
N9	705	12.8	666	13.0
N10	79	8.5	75	9.5
Total	**3,621**	**N/A**	**3,584**	**N/A**

* Sanction probation violators are excluded.

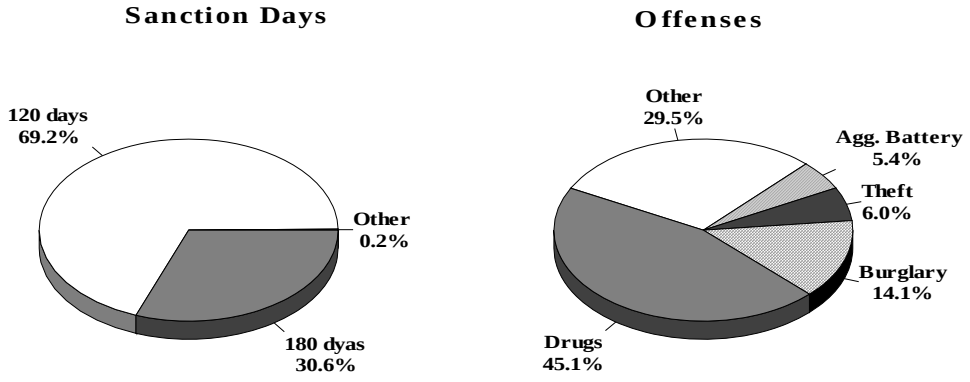
Admissions of Sanction from Probation

Introduced as a result of the Kansas Justice Reinvestment Working Group, House Bill 2170 was passed in the 2013 Legislative Session. Its aim is to increase public safety, reduce recidivism and curb spending. The bill makes numerous changes to sentencing, probation and postrelease supervision statutes, which presents comprehensive changes in the criminal justice system as it relates to sentencing procedure and practice. Graduated sanctions for probation condition violators is one of the changes.

If the original crime of conviction is a felony and a violation is established, the bill allows the court to impose a series of increasing or graduated intermediate violation sanctions including: confinement in jail for 2-3 days, not to exceed 18 days of jail sanctions during the entire probation supervision period; if the violator already has at least one intermediate sanction of confinement in jail, remand the defendant to the custody of KDOC for a period of 120 or 180 days. The bill also provides that the period of time spent in jail or in the custody of KDOC shall not exceed the time remaining on the person's underlying prison sentence.

In FY 2016, a total number of 1,003 probation condition violators were ordered to prison as sanction from probation, an increase of 312 violators (45.2%) compared with FY 2015 (691 violators). Of those 1,003 violators, 694 offenders (69.2%) were remanded for 120 sanction days, 307 offenders (30.6%) were remanded for 180 sanction days and 1 offender (0.1%) was remanded for 90 days and 240 days, respectively, in KDOC. The top four offenses convicted by this group were drug crimes (45.1%), burglary (14.1%), theft (6%) and aggravated battery (5.4%). The majority of the group were males accounting for 74.9% and female offenders comprising 25.1% of the group. White offenders represented 79.7%, black offenders consisted of 17% and other races consisted of 3.3%. The average age of the offenders was 33.

Figure 25: FY 2016 Sanction from Probation Incarceration Sentences



Based on 1,003 sanction from probation incarceration sentences.

Table 9 presents the admission of the offenders of sanction from probation by county. Sedgwick County imposed the largest number of sanction from probation (186 or 18.5%), followed by Wyandotte (90 or 9%), Johnson (63 or 6.3%), Saline (61 or 6.1%), Shawnee (59 or 5.9%) and Reno counties (53 or 5.3).

Table 9: FY 2016 Sanction from Probation Incarceration Sentences Imposed by County

County	Number	Percent	County	Number	Percent
Allen	3	0.3	Linn	8	0.8
Anderson	2	0.2	Logan	3	0.3
Atchison	3	0.3	Lyon	40	4.0
Barton	38	3.8	Marion	1	0.1
Bourbon	3	0.3	Marshall	4	0.4
Brown	3	0.3	McPherson	10	1.0
Butler	14	1.4	Miami	8	0.8
Cherokee	2	0.2	Mitchell	2	0.2
Cheyenne	1	0.1	Montgomery	8	0.8
Clark	1	0.1	Morris	2	0.2
Clay	7	0.7	Nemaha	3	0.3
Cloud	8	0.8	Neosho	6	0.6
Coffey	3	0.2	Osage	6	0.6
Comanche	1	0.1	Osborne	1	0.1
Cowley	14	1.4	Ottawa	1	0.1
Crawford	16	1.6	Philips	4	0.4
Dickson	15	1.5	Pottawatomie	3	0.3
Doniphan	1	0.1	Pawnee	4	0.4
Douglas	1	0.1	Pratt	4	0.4
Edwards	1	0.1	Reno	53	5.3
Ellis	25	2.5	Republic	2	0.2
Ellsworth	1	0.1	Rice	19	1.9
Finney	19	1.9	Riley	22	2.2
Ford	20	2.0	Rooks	4	0.4
Franklin	15	1.5	Russell	5	0.5
Geary	15	1.5	Saline	61	6.1
Grant	2	0.2	Sedgewick	186	18.5
Harper	3	0.3	Seward	3	0.3
Harvey	19	1.9	Shawnee	59	5.9
Jackson	11	1.1	Sherman	2	0.2
Jefferson	7	0.7	Stevens	1	0.1
Jewell	2	0.2	Sumner	7	0.7
Johnson	63	6.3	Thomas	7	0.7
Kiowa	1	0.1	Washington	1	0.1
Labette	11	1.1	Wilson	1	0.1
Leavenworth	8	0.8	Woodson	2	0.2
Lincoln	1	0.1	Wyandotte	90	9.0
Total				**1,003**	**100.0**

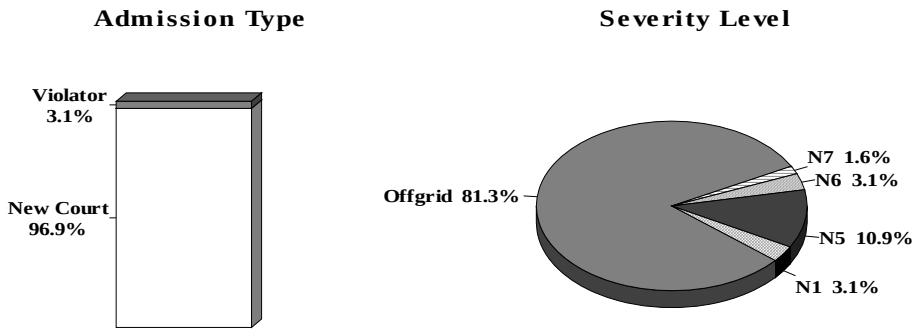
Jessica's Law Sentences

During 2006 Legislative Session, House Bill 2576, known as Jessica's Law, was enacted. 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 64 offenders were sentenced and admitted to prison under Jessica's Law in FY 2016. Of this number, 62 (96.9%) were new court commitments and 2 (3.1%) were probation condition violators. While most jurisdictions identify the severity of these crimes as offgrid, 12 offenders received a downward departure on the nondrug grid. Of these 64 offenders, 52 offenders (81.3%) were sentenced at offgrid, 2 offenders (3.1%) were sentenced at nondrug severity level 1, 7 offenders (10.9%) were sentenced at nondrug severity level 5, 2 offenders (3.1 %) were at nondrug severity level 6 and 1 offender (1.6%) was at nondrug severity level 7 (Figure 26). The analysis of the sentence length demonstrates that 57.8% of the sentences were downward departure to guidelines, a decrease of 6% compared with that of FY 2015 (63.8%). The average sentence length of the durational departures was 122.8 months, an increase of 3 months over that observed in FY 2015 (119.8 months). The major departure reasons were: a plea agreement between parties, defendant had no prior criminal history and defendant accepted responsibility.

Table 10 displays the distribution of the incarcerated offenders under Jessica's Law by county. Sedgwick county imposed the most Jessica's Law prison sentences (19) followed by Ford (6), Johnson (4) and Saline (4) counties.

Figure 26: FY 2016 Jessica's Law Incarceration Sentences



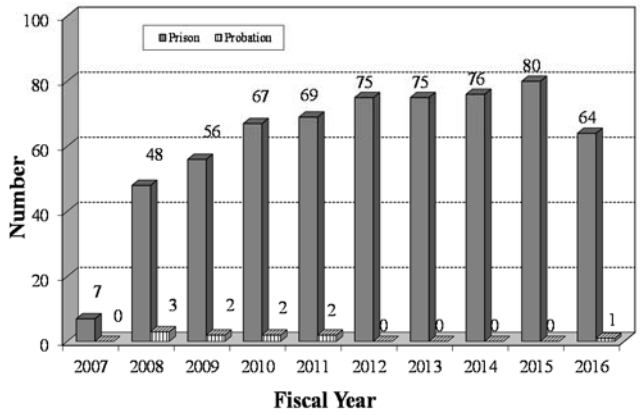
Based on 64 Jessica's Law incarceration sentences.

Table 10: FY 2016 Jessica's Law Incarceration Sentences Imposed by County

County	Number	County	Number	County	Number
Anderson	1	Harvey	1	Seward	1
Bourbon	2	Jackson	1	Wyandotte	2
Brown	1	Johnson	4		
Barton	1	Kearny	1		
Coffey	1	Labette	1		
Cherokee	2	Leavenworth	2		
Cowley	1	Miami	1		
Chautauqua	1	Reno	2		
Ford	6	Saline	4		
Franklin	1	Sheridan	1		
Geary	3	Sedgwick	19		
Gray	1	Shawnee	3		
Total				**64**	

The sentencing trend of Jessica's Law sentencing in the past ten years is illustrated in Figure 27. The total number of Jessica's Law sentences imposed in FY 2016 was 65 including a probation sentence, a decrease of 15 sentences compared with FY 2015 (80 sentences) and an increase of 58 sentences compared with FY 2007 (7 sentences). FY 2007 is the initial year for the implementation of Jessica's Law.

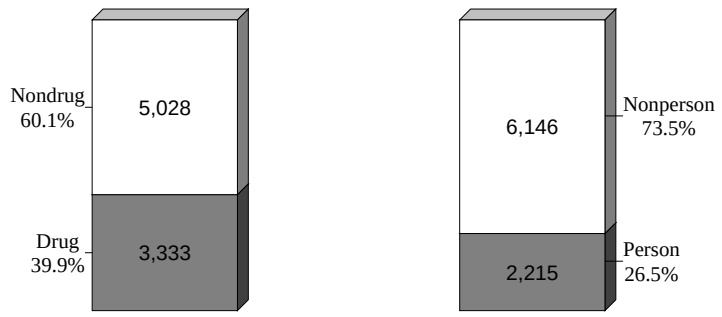
Figure 27: Jessica's Law Sentences Imposed
FY 2007 through FY 2016



PROBATION SENTENCES

A total number of 8,361 probation sentences were reported to the Kansas Sentencing Commission during FY 2016, an increase of 444 sentences or 5.6% compared with FY 2015 (7,917 sentences). Of this number, 5,028 were nondrug sentences and 3,333 were drug sentences; nonperson offenses made up 73.5% and person offenses made up 26.5% (Figure 28). Figures 29 - 31 describe the demographic information of this offender group.

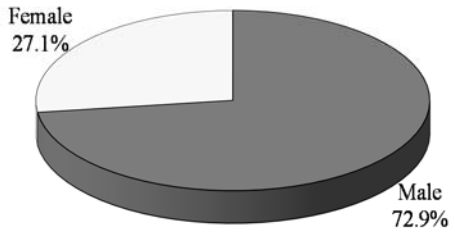
Figure 28: Distribution of FY 2016 Probation Sentences



Based on 8,361 probation sentences

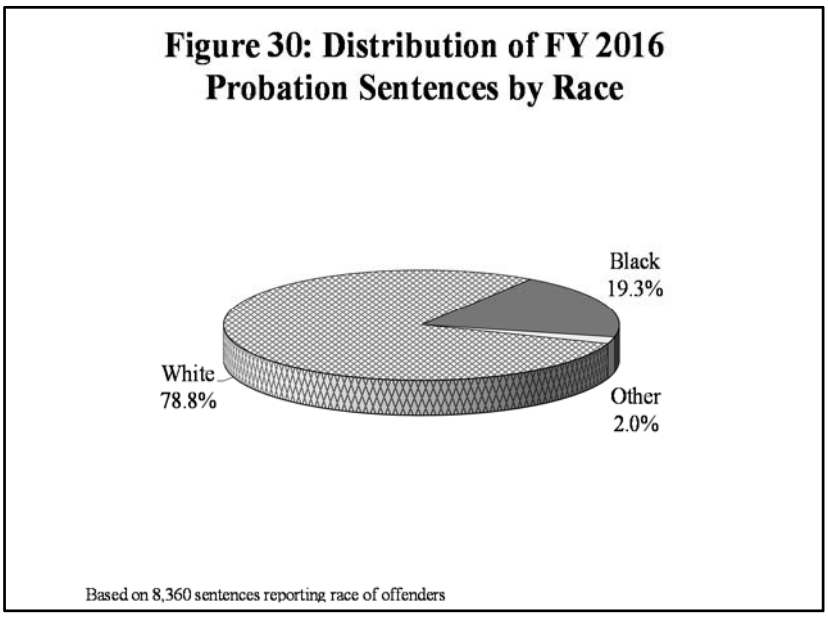
The gender analysis indicates that the distribution of FY 2016 probationers by gender does not fluctuate much from that of FY 2015. Male offenders accounted for 72.9% of all probation sentences imposed in FY 2016, a decrease of 0.3% compared with that observed (73.2%) in FY 2015 (Figure 29).

Figure 29: Distribution of FY 2016 Probation Sentences by Gender

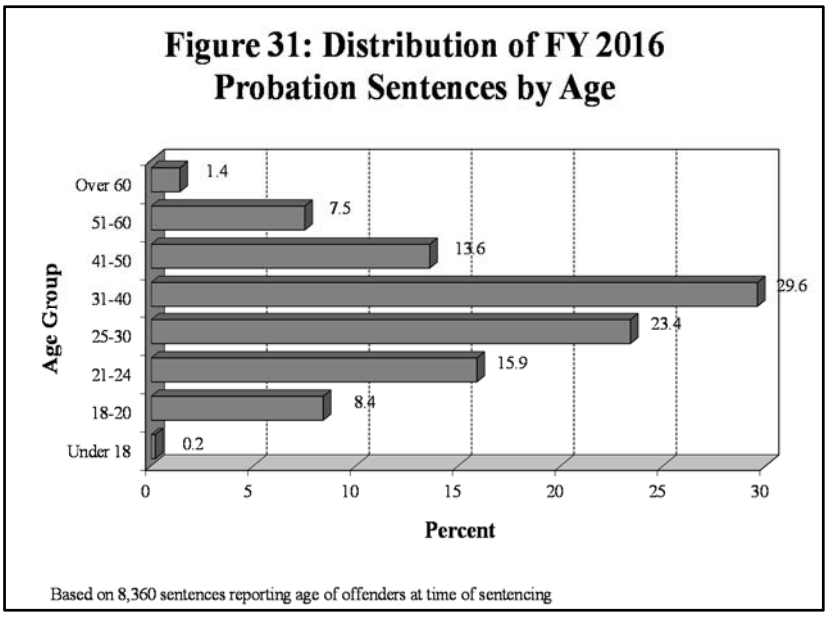


Based on 8,361 sentences reporting gender of offenders

Figure 30 demonstrates that white offenders made up 78.8% of the probation sentences imposed in FY 2016, an increase of 1% compared with that of FY 2015 (77.8%). The percentage of black offenders accounted for 19.3%, a decrease of 0.6% compared with that of FY 2015 (19.9%). The percentage of offenders in other races represented 2%, a decrease of 0.3% compared with FY 2015 (2.3%).



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 (29.6 %) and the second largest group was identified in the age group ranging from 25 to 30 (23.4%). This distribution indicated no change from FY 2015 (Figure 31).



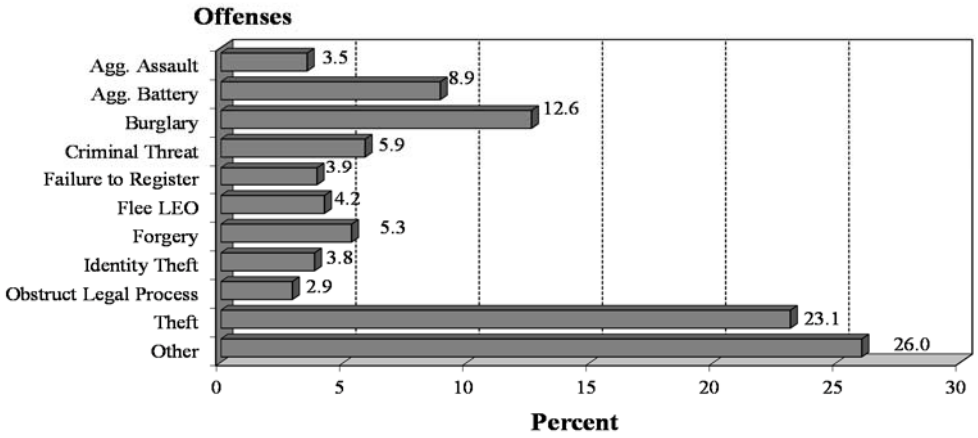
Type of Offense and Severity Level

The top ten offenses committed by nondrug probation offenders during FY 2016 include aggravated assault, aggravated battery, burglary, criminal threat, failure to register, fleeing or eluding LEO, forgery, identity theft, obstructing legal process and theft. These ten offenses accounted for 74% of the total nondrug probation sentences in FY 2015 (Figure 32), a decrease of 1.1% from the previous year (75.1%). In reviewing drug offenders on probation, the largest number of sentences was possession of drugs, representing 77% of all probation drug offenses (Figure 33), an increase of 2.3% over FY 2015 (74.7%). Tables 11 and 12 present the characteristics of offenders sentenced to probation during FY 2016. Male offenders were convicted of over 90% of the sex offenses and 80% of violent crimes of probation sentences imposed in FY 2015 such as: aggravated assault, aggravated battery, burglary, criminal threat, criminal damage of property, domestic battery, fleeing or eluding LEO and possession of firearms and robbery. The highest percentages of female probation nondrug offenses (over 40%) included theft, forgery, identity theft, aiding felon and traffic in contraband.

White offenders represented 75.8% of all nondrug probation sentences and 83.2% of all drug offenders on probation in FY 2016. Black offenders on probation had a higher conviction rate for nondrug offenses than drug crimes (22.3% versus 14.7%). The average age at the time of committing offense was 32.5 years old for nondrug offenders and 32.8 years old for drug offenders, which are very close to those observed in FY 2015 (Tables 11 & 12).

The characteristics of probation offenders by severity level are demonstrated in Table 13 and Table 14. The largest number of probation nondrug sentences were found at nondrug grid severity level 9 (2,166 sentences or 43.1%). Like FY 2015, the majority of probation drug sentences were identified at drug grid severity level 5 (2,658 sentences or 79.7%). This distribution reflects the impact of the new drug sentencing grid as previously discussed.

Figure 32: FY 2016 Top Ten Offenses for Probation Nondrug Sentences



Based on 5,028 probation nondrug sentences

The analysis of the drug probation sentences shows that the felony crimes of drug possession accounted for 77% of the total probation drug sentences imposed in FY 2016, an increase of 2.3% compared with that of FY 2015 (74.7%). These crimes included the offenses of possession of opiates or narcotics and possession of depressants, stimulants, hallucinogenic, etc. for the second and subsequent offenses.

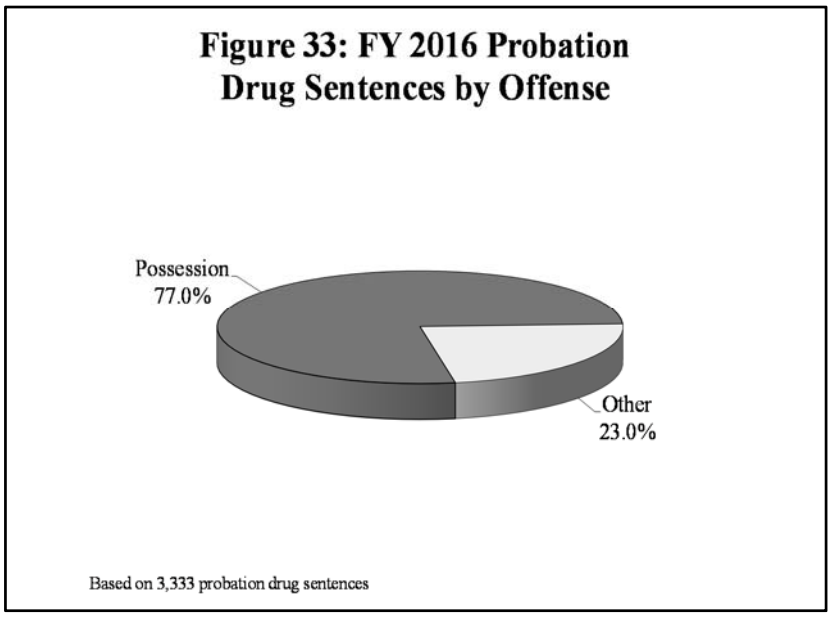


Table 11: Characteristics of Probation Nondrug Offenders by Type of Offense –1

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Abuse of Child	15	0.3	80.0	20.0	80.0	20.0	0.0	27.1
Agg Arson	4	0.1	50.0	50.0	75.0	25.0	0.0	31.3
Agg Assault	174	3.5	84.5	15.5	75.9	20.7	3.4	33.7
Agg Assault on LEO	18	0.4	88.9	11.1	83.3	16.7	0.0	35.8
Agg Battery	448	8.9	85.7	14.3	72.3	25.4	2.2	31.7
Agg Battery on LEO	5	0.1	60.0	40.0	80.0	20.0	0.0	28.2
Agg Burglary	132	2.6	70.5	29.5	75.8	24.2	0.0	31.4
Agg Endangering a Child	50	1.0	60.0	40.0	84.0	14.0	2.0	34.6
Agg Escape from Custody	23	0.5	91.3	8.7	69.6	26.1	4.3	27.2
Agg Failure to Appear	29	0.6	75.9	24.1	69.0	27.6	3.4	36.0
Agg Ind Lib with a Child	15	0.3	93.3	6.7	93.3	6.7	0.0	31.3
Agg Ind Solicit with a Child	18	0.4	100.0	0.0	88.9	11.1	0.0	32.9
Agg Interfere w/Parental Custody	4	0.1	75.0	25.0	75.0	25.0	0.0	23.3
Agg Intimidation of a Victim	19	0.4	84.2	15.8	78.9	21.1	0.0	34.4
Agg Robbery	28	0.6	75.0	25.0	60.7	39.3	0.0	23.3
Agg Sex Battery with Child	15	0.3	100.0	0.0	66.7	26.7	6.7	36.1
Aiding Felon	22	0.4	54.5	45.5	68.2	31.8	0.0	29.0
Animal Cruelty	9	0.2	100.0	0.0	77.8	22.2	0.0	24.6
Arrange Sale/Purchase Drug	19	0.4	63.2	36.8	89.5	10.5	0.0	28.4
Arson	24	0.5	79.2	20.8	83.3	12.5	4.2	35.5
Auto Failure to Remain	5	0.1	40.0	60.0	80.0	20.0	0.0	35.7
Battery on LEO	34	0.7	76.5	23.5	79.4	20.6	0.0	27.4

Table 11: Characteristics of Probation Nondrug Offenders by Type of Offense – 2

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Breach of Privacy	6	0.1	100.0	0.0	83.3	16.7	0.0	34.5
Burglary	633	12.6	80.7	19.3	81.7	17.7	0.6	28.8
Commercial Sex Exploitation of Child	4	0.1	75.0	25.0	25.0	75.0	0.0	22.9
Computer Crime	11	0.2	36.4	63.6	45.5	36.4	18.2	31.9
Contribute Child Misconduct	15	0.3	86.7	13.3	86.7	13.3	0.0	25.8
Criminal Damage of Property	74	1.5	86.5	13.5	71.6	24.3	4.1	32.0
Criminal Discharge of Firearm	8	0.2	87.5	12.5	75.0	25.0	0.0	31.1
Criminal Threat	295	5.9	87.8	12.2	74.9	22.4	2.7	33.9
Criminal Use of Financial Card	15	0.3	60.0	40.0	93.3	6.7	0.0	29.5
Domestic Battery	44	0.9	88.6	11.4	65.9	31.8	2.3	34.8
Drug without Tax Stamps	15	0.3	93.3	6.7	80.0	6.7	13.3	37.2
DUI	73	1.5	82.2	17.8	84.9	13.7	1.4	37.3
Failure to Register	197	3.9	86.8	13.2	69.5	28.9	1.5	35.0
False Writing	68	1.4	60.3	39.7	70.6	25.0	4.4	34.5
Fleeing/Eluding LEO	209	4.2	83.7	16.3	76.6	20.1	3.3	30.1
Forgery	266	5.3	55.3	44.7	80.8	16.5	2.6	33.4
Giving Worthless Check	26	0.5	80.8	19.2	65.4	30.8	3.8	33.1
Identity Theft	192	3.8	52.6	47.4	74.5	25.5	0.0	31.8
Ind. Liberties with a Child	14	0.3	92.9	7.1	92.9	7.1	0.0	23.7
Ind. Solicitation with a Child	16	0.3	93.8	6.2	68.8	31.3	0.0	28.4
Involuntary Manslaughter	5	0.1	100.0	0.0	80.0	20.0	0.0	27.5
Kidnapping	6	0.1	66.7	33.3	50.0	50.0	0.0	28.1
Lewd and Lascivious Behavior	8	0.2	100.0	0.0	100.0	0.0	0.0	29.9
Medicaid Fraud	10	0.2	30.0	70.0	20.0	70.0	10.0	40.6
Mistreatment of Dependant Adult	12	0.2	33.3	66.7	91.7	8.3	0.0	45.0
Non-Support of a Child	8	0.2	100.0	0.0	75.0	25.0	0.0	39.9
Obstruct Legal Process	145	2.9	76.6	23.4	78.6	17.2	4.1	31.7
Possession of Firearms	134	2.7	98.5	1.5	55.2	44.8	0.0	29.9
Robbery	55	1.1	85.5	14.5	45.5	50.9	3.6	28.6
Sex Exploitation of a Child	20	0.4	100.0	0.0	95.0	5.0	0.0	37.6
Stalking	26	0.5	92.3	7.7	76.9	23.1	0.0	37.5
Theft	1,163	23.1	59.1	40.9	76.7	21.6	1.7	34.9
Traffic in Contraband	57	1.1	57.9	42.1	77.2	17.5	5.3	30.9
Unlawful Use of Driver's License	11	0.2	90.9	9.1	100.0	0.0	0.0	37.3
Unlawful Voluntary Sex Relation	17	0.3	94.1	5.9	82.4	17.6	0.0	18.7
Weapons	13	0.3	100.0	0.0	76.9	23.1	0.0	31.9
Other	47	0.9	76.6	23.4	85.1	14.9	0.0	31.6
TOTAL	**5,028**	**100.0**	**74.2**	**25.8**	**75.8**	**22.3**	**1.9**	**32.5**

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

Table 12: Characteristics of Probation Drug Offenders by Type of Offense

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Drugs; Possession	2,567	77.0	68.7	31.3	85.2	12.9	1.8	33.5
Drugs; Distribution/Sale	635	19.1	78.7	21.3	75.7	21.3	3.0	30.9
Unlawful Manufacture Controlled Substance	2	0.1	50.0	50.0	100.0	0.0	0.0	50.2
Possession of Paraphernalia	103	3.1	73.8	26.2	76.7	21.4	1.9	28.8
Possession of Precursor Drugs	5	0.2	40.0	60.0	100.0	0.0	0.0	35.2
Receive Proceeds from Violation of Controlled Substance Act	21	0.6	95.2	4.8	85.7	4.8	9.5	31.2
TOTAL	**3,333**	**100.0**	**70.9**	**29.1**	**83.2**	**14.7**	**2.1**	**32.8**

Table 13: Characteristics of Probation Nondrug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
N1	2	0.1	100.0	0.0	50.0	50.0	0.0	25.5
N2	0	0.0	0.0	0.0	0.0	0.0	0.0	N/A
N3	33	0.7	78.8	21.2	60.6	36.4	3.0	27.8
N4	35	0.7	82.9	17.1	71.4	28.6	0.0	30.4
N5	297	5.9	82.5	17.5	75.8	23.2	1.0	30.6
N6	208	4.1	82.7	17.3	75.5	23.1	1.4	33.1
N7	1,042	20.7	81.1	18.9	76.4	21.8	1.8	31.0
N8	926	18.4	67.3	32.7	73.5	24.8	1.6	32.3
N9	2,166	43.1	71.0	29.0	76.4	21.4	2.2	33.3
N10	189	3.8	85.9	14.1	79.4	18.0	2.6	33.0
Nongrid	128	2.5	85.9	14.1	78.1	20.3	1.6	35.4
Offgrid	2	0.1	100.0	0.0	100.0	0.0	0.0	46.7
TOTAL	**5,028**	**100.0**	**74.2**	**25.8**	**75.8**	**22.3**	**1.9**	**32.5**

Table 14: Characteristics of Probation Drug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
D1	10	0.3	50.0	50.0	80.0	20.0	0.0	38.1
D2	88	2.6	72.7	27.3	87.5	11.4	1.1	32.5
D3	231	6.9	77.5	22.5	71.9	25.1	3.0	32.3
D4	346	10.4	82.4	17.6	74.9	21.7	3.5	29.8
D5	2,658	79.7	68.8	31.2	85.1	13.0	1.9	33.3
TOTAL	**3,333**	**100.0**	**70.9**	**29.1**	**83.2**	**14.7**	**2.1**	**32.8**

SB 123 Drug Treatment Offenders

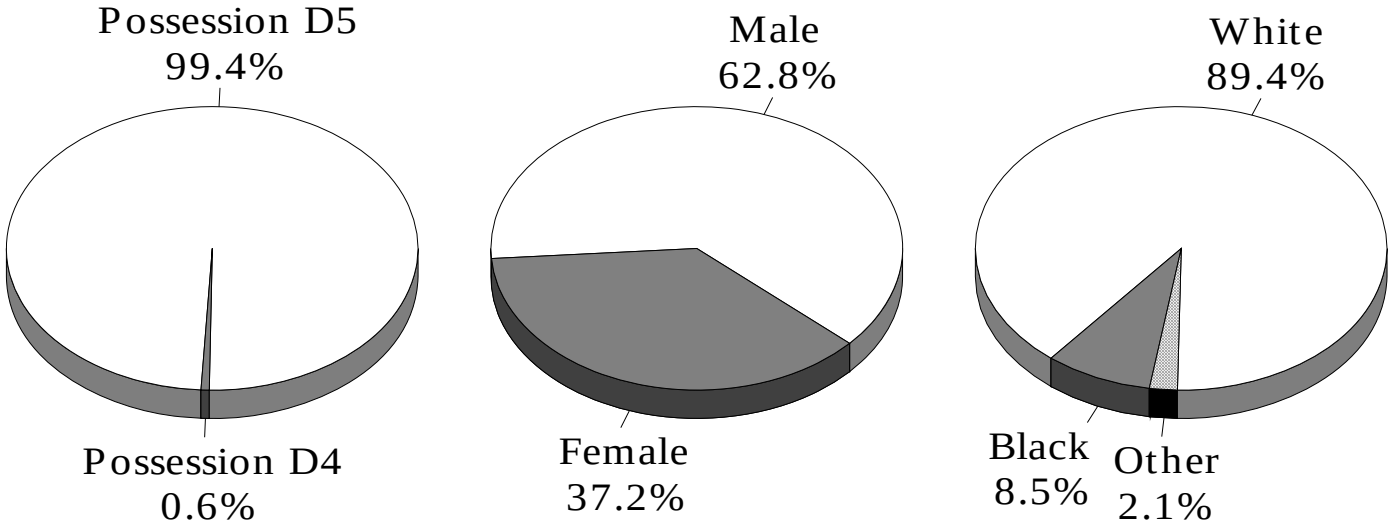
Senate Bill 123, which became law in 2003, establishes a nonprison sanction of certified drug abuse treatment programs for a defined target population of nonviolent adult drug offenders who are sentenced on or after November 1, 2003 with the convictions of drug crimes under K.S.A. 21-5706, or 21-36a06 or 65-4160 or 65-4162.

Kansas courts ordered offenders in 1,144 sentences to SB 123 drug abuse treatment programs during FY 2016, representing 34.3% of the total drug probation sentences (3,333), a decrease of 4% compared with that of FY 2015 (38.3%). All of these sentences were convicted of the crime of drug possession under K.S.A. 21-5706 (formerly 21-36a06 or 65-4160 or 65-4162). The evaluation of the criminal history of the offenders demonstrates that 80.4 % of offenders were in the criminal history categories E through I, a decrease of 1.1% when compared with that of FY 2015 (81.5%). This data implies that the policy of SB 123 was implemented very consistently during FY 2016.

Figure 34 displays a summary of the offenders sentenced to SB 123 treatment programs in FY 2016. The offenders convicted of the crime of drug possession represented 99.4% at drug severity level 5 and 0.6% at drug severity level 4, which reflects the implementation of new five-level drug sentencing grid effective July 1, 2012. White males are still the majority of the treatment offenders. The average age of the drug treatment offenders was 32.5 years old at sentencing, very close to that of FY 2015. Figure 35 demonstrates the distribution of SB 123 drug treatment sentences imposed in FY 2016 by county. Sedgwick County imposed the most SB 123 sentences (147) followed by Shawnee (97), Reno (90), Saline (74) and Johnson (72) counties. No SB 123 sentences were reported from 29 counties. The average number of SB 123 sentences imposed by the 76 counties is 11, a decrease of 5 sentences compared with that of FY 2015 (16 sentences).

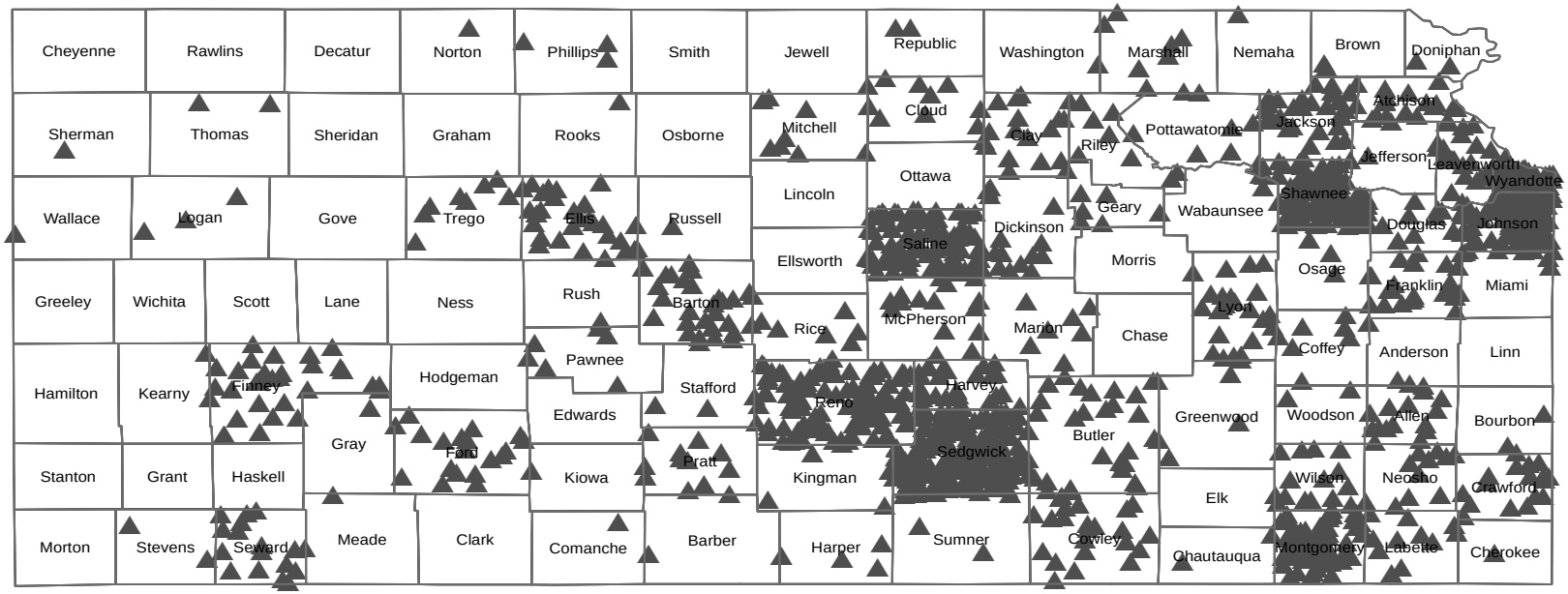
In addition, 912 SB 123 drug treatment sentences were violated as probation condition violators in FY 2016. Of this number, 288 sentences were revoked to prison, representing 25.2 % of SB 123 sentences imposed (1,144 sentences) in FY 2016, an increase of 2.3% over that of FY 2015 (22.9%). The average period between original sentence and revocation hearing was 14.7 months, 18 days shorter than that of FY 2015 (15.3 months).

Figure 34: Distribution of FY 2016 Senate Bill 123 Drug Treatment Sentences



Based on 1,144 SB 123 sentences

Figure 35: Distribution of SB 123 Drug Treatment Sentences Imposed by County - FY 2016



Summary
Total counties=105
Total sentences=1,144
Counties w/zero=29
Minimum=1
Maximum=147
Mean=11

Criminal History and Length of Probation

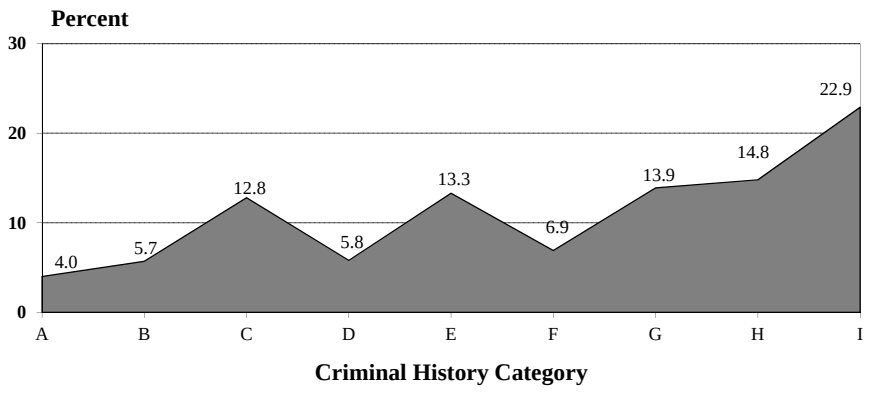
The review of offenders' criminal history indicates that offenders sentenced to probation with assigned criminal history categories accounted for 98.8% of all the probation sentences (8,361) reported to the Commission in FY 2016, which is 0.3% higher than the rate of FY 2015 (98.5%). The largest number of this group fell within criminal history category I (22.9% or 1,887 sentences), representing having no previous criminal history or one misdemeanor conviction (Figure 36). Further analysis of the offenders with criminal history category I reveals that they accounted for 22.8% of offenders on the nondrug grid and 23% of offenders on the drug grid.

The examination of the presumptive probation boxes discloses that nondrug offenders within the presumptive probation boxes made up 80.1% (Table 15), a decrease of 1.1% compared with that of FY 2015 (81.2%). The analysis of the border box sentences reveals that 4.1% 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 15). The percentage of border box in FY 2016 decreased by 0.3% when compared with that of FY 2015 (4.4%).

The analysis on drug sentences by presumptive probation and border box is still not applicable in FY 2016 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.

The probation terms of probation sentences by severity level are presented in Tables 15 and 16. The average length of probation for nondrug offenders was 17.9 months, which is very close to that of FY 2015 (18 months). The average length of probation for drug offenders was 17.3 months, indicating a decrease of 0.3 month or 9 days when compared with that of FY 2015 (17.6 months).

Figure 36: Distribution of FY 2016 Probation Sentences by Criminal History
Nondrug and Drug Sentences



Based on 8,259 sentences reporting criminal history category

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

Severity Level	N	Criminal History Class									Average Probation Length in Months
		A	B	C	D	E	F	G	H	I	
N1	2	0	0	0	0	0	0	0	1	1	36.0
N3	33	2	2	0	4	1	0	2	6	16	36.3
N4	35	1	2	1	3	4	1	2	4	17	35.3
N5	297	13	10	20	15	18	15	26	58	122	35.5
N6	208	11	25	24	22	14	10	23	24	55	24.1
N7	1,042	43	67	139	93	94	57	132	149	268	23.8
N8	926	34	44	136	61	148	69	112	115	207	17.6
N9	2,166	101	151	351	126	329	143	285	281	397	12.4
N10	189	5	11	17	7	41	9	30	36	33	12.3
Nongrid	128	4	5	5	2	3	0	2	3	4	12.2
Offgrid	2	0	0	0	0	0	0	0	0	2	60.0
TOTAL	**5,028**	**214**	**317**	**693**	**333**	**652**	**304**	**614**	**677**	**1,122**	**17.9**

Note: Criminal history classes are based on 4,926 cases reporting criminal history category.
Legend:

Presumptive Prison	Border Boxes	Presumptive Probation

Table 16: 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	10	0	0	2	0	3	0	1	1	3	36.0
D2	88	5	5	4	3	11	7	11	13	29	36.3
D3	231	7	9	19	11	31	9	34	30	81	34.7
D4	346	4	10	17	13	41	27	51	48	135	18.1
D5	2,658	101	130	321	117	358	225	440	449	517	15.0
TOTAL	**3,333**	**117**	**154**	**363**	**144**	**444**	**268**	**537**	**541**	**765**	**17.3**

Note: Criminal history classes are based on 3,333 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.

DUI/TEST REFUSAL POST-INCARCERATION SUPERVISION AND COUNTY JAIL SENTENCES

The Commission received 665 DUI/Test Refusal PIS and county jail sentences in FY 2016. Of this number, DUI/Test Refusal PIS accounted for 92.8% (617 sentences) and county jail accounted for 7.2% (48 sentences). Female offenders made up 16.4% and male offenders accounted for 83.6. The gender distribution does not change compared with that of FY 2015 (Figure 37).

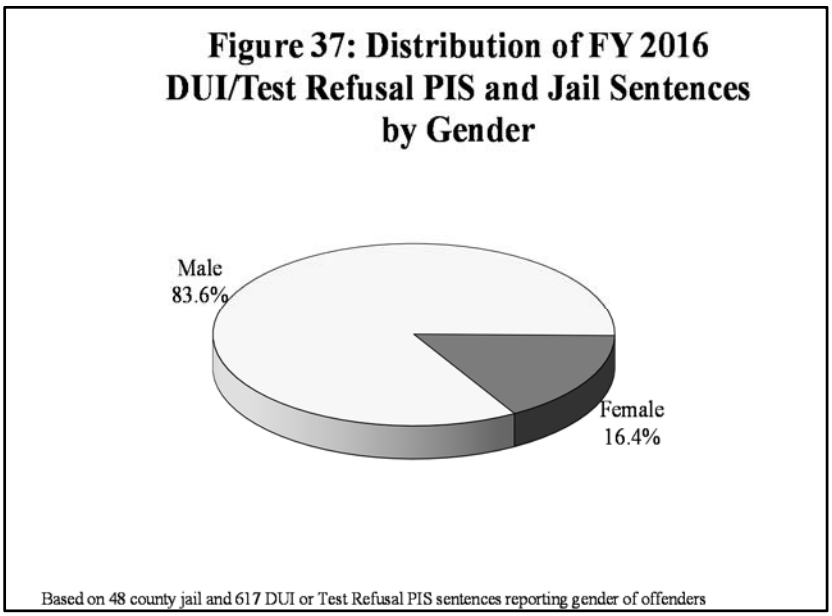


Figure 38 shows that white offenders accounted for 85.3%, black offenders represented 12.5% and other races represented 2.3% of the total DUI/Test Refusal PIS and county jail sentences imposed in FY 2016.

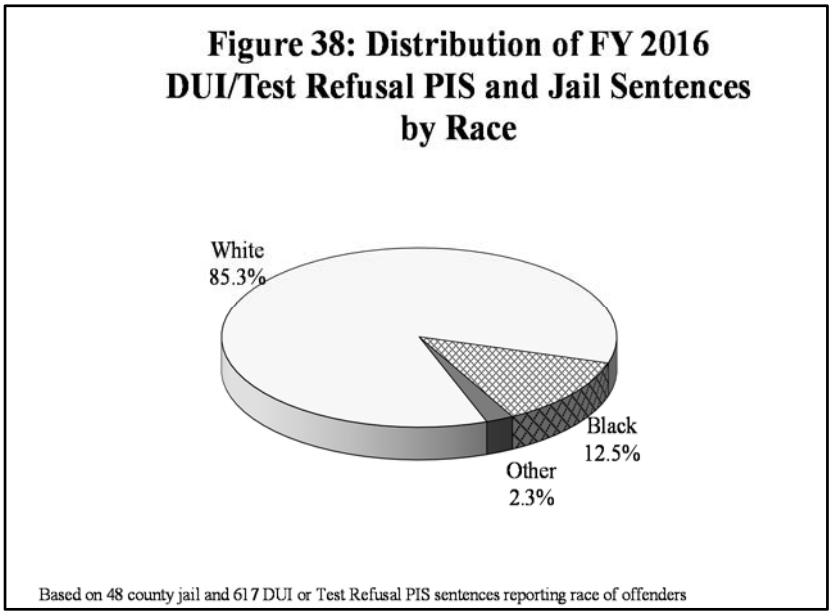


Figure 39 discloses that most offenders were in the age group ranging from 31 to 40 years old (38%), an increase of 3.7% over the data observed in FY 2015 (34.3). Their average age at sentencing is 39.7 years old, close to that of FY 2015 (39.6).

Figure 40 presents the crimes committed by the offenders sentenced to DUI/Test Refusal PIS and county jails. In FY 2016, 92.3% (614 sentences) of the sentences were convicted of the crime of felony DUI, 4.8% (32 sentences) were convicted of the crime of DUI/Test Refusal and 2.4% (16 sentences) were convicted of the crime of domestic battery. A detailed analysis on the crime of DUI is provided on page 15 of this report.

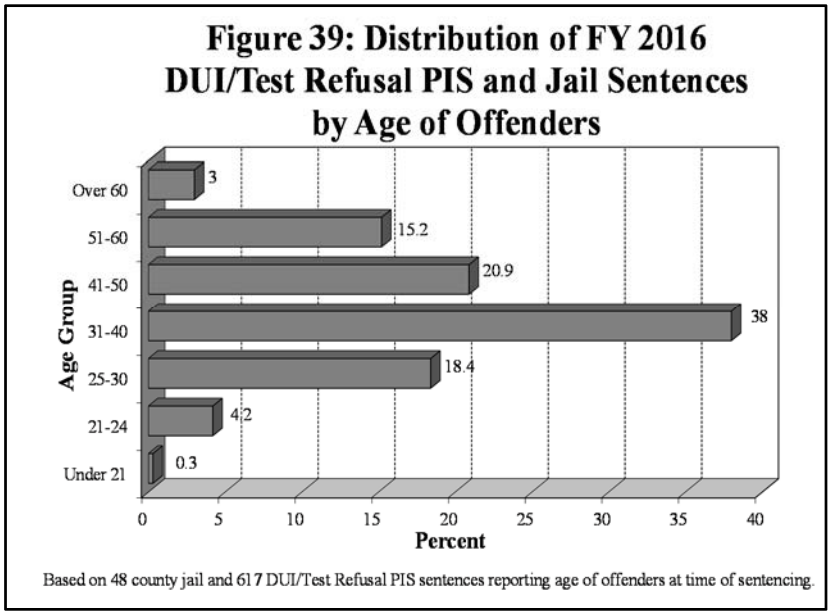


Figure 41 exhibits the distribution of FY 2016 DUI/Test Refusal PIS and county jail sentences by county. Johnson County imposed the most sentences of this group (209) representing 31.4%, followed by Sedgwick County with 162 sentences representing 24.4% of the total DUI/Test Refusal PIS and county jail sentences imposed during FY 2016.

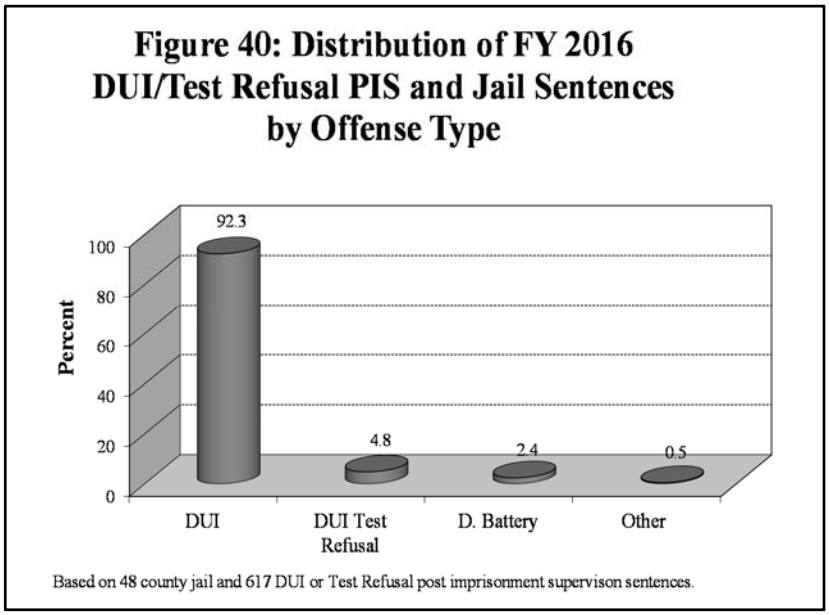
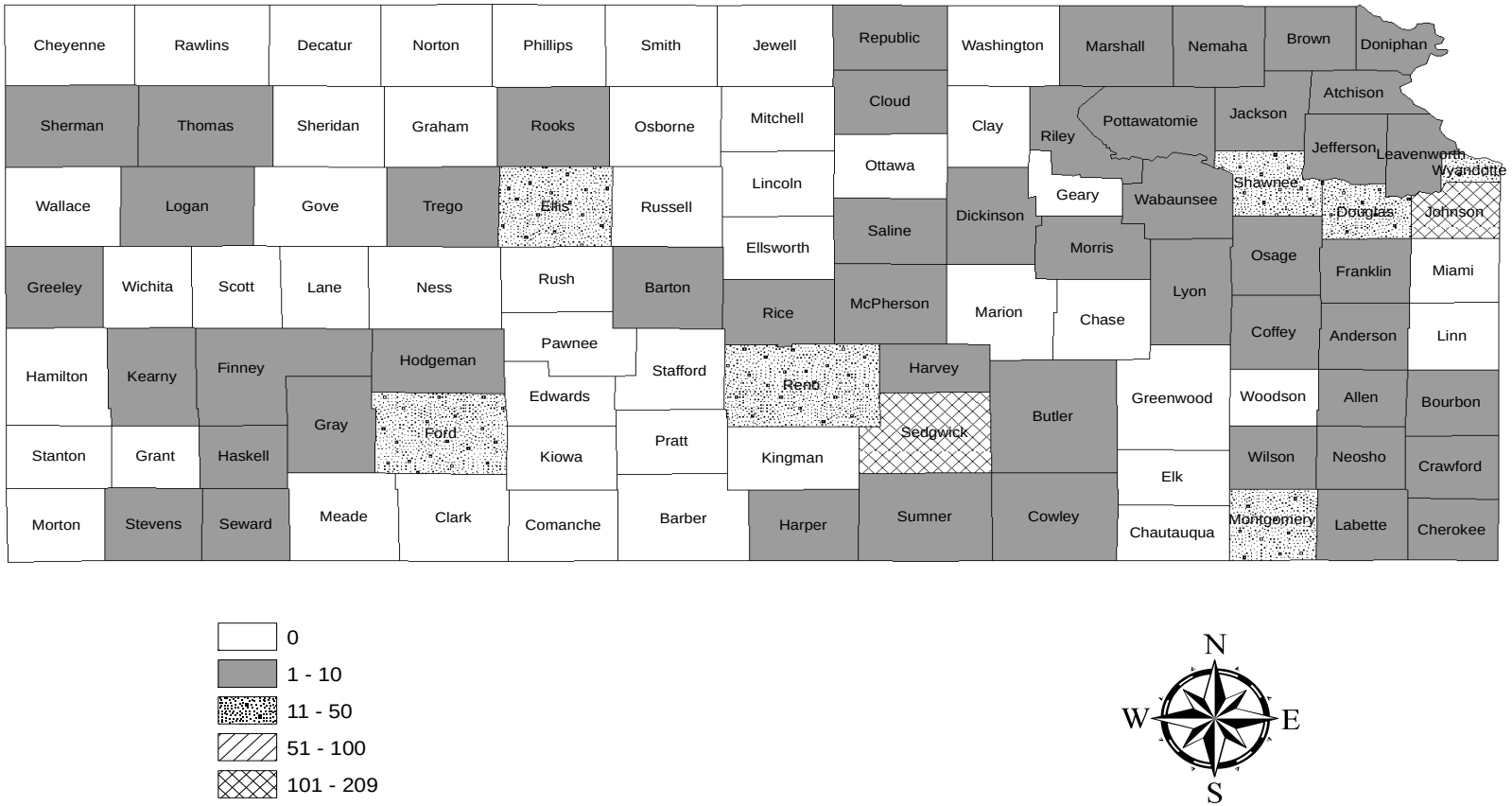


Figure 41: FY 2016 DUI/Test Refusal PIS and Jail Sentences by County



CHAPTER TWO
VIOLATORS

VIOLATIONS RESULTING IN INCARCERATION

Violators are classified in two groups. Offenders who are placed 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.

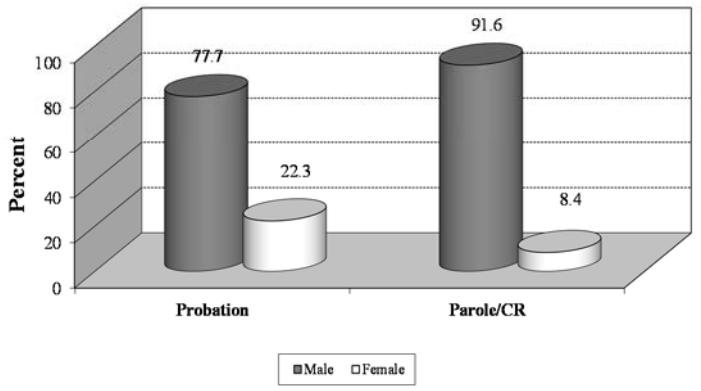
Overview of Condition Violators

"Condition violator" is defined as an offender who violates the conditions of 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 this section, violators include offenders classified as probation, parole/postrelease supervision and conditional release condition violators. HB 2170 prison sanctions from probation violation are excluded from the analysis (refer to page 31).

In FY 2016, a total number of 2,417 condition violators were admitted to prison for their violation of conditions, representing 1,180 probation violators, 1,236 parole or postrelease supervision violators and one conditional release violator. In the following analysis, conditional release violators (one offender) are merged with the group of parole or postrelease supervision violators.

In FY 2016, condition violators accounted for 39.2% of all admissions to prison, a decrease of 4% from FY 2015 (43.2%). The majority of condition violators were male offenders, accounting for 77.7% of probation violators and 91.6% of parole/conditional release violators admitted to prison in FY 2016 (Figure 42).

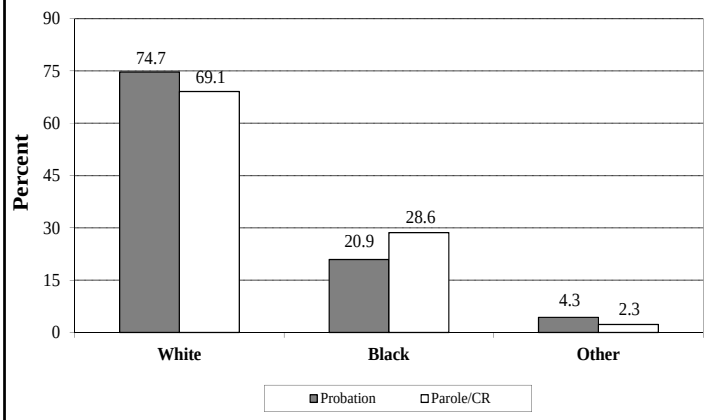
Figure 42: Distribution of FY 2016 Condition Violators by Gender



Based on 1,180 probation condition violators and 1,237 parole/conditional release condition violators

White offenders represented the highest rate (74.7%) in the group of probation violators, while the highest percentage of black offenders (28.6%) was identified in the group of parole or postrelease supervision and conditional release violators (Figure 43).

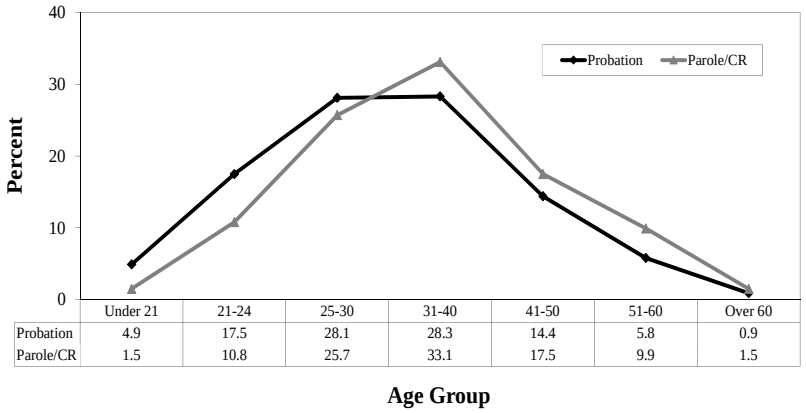
Figure 43: Distribution of FY 2016 Condition Violators by Race



Based on 1,180 probation condition violators and 1,236 parole/conditional release condition violators

Most probation violators were in the age group ranging from 31 to 40 (28.3%), which is consistent with that of FY 2015. The largest number of parole or postrelease supervision and conditional release violators was also found in the age group ranging from 31 to 40 (33.1%) at the time of admission to prison, which is the same as FY 2015 (Figure 44).

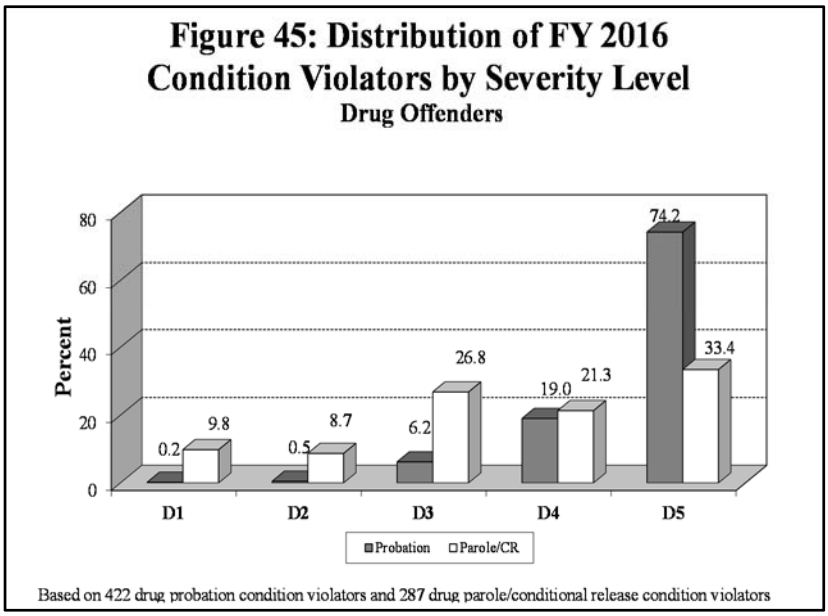
Figure 44: Distribution of FY 2016 Condition Violators by Age Group



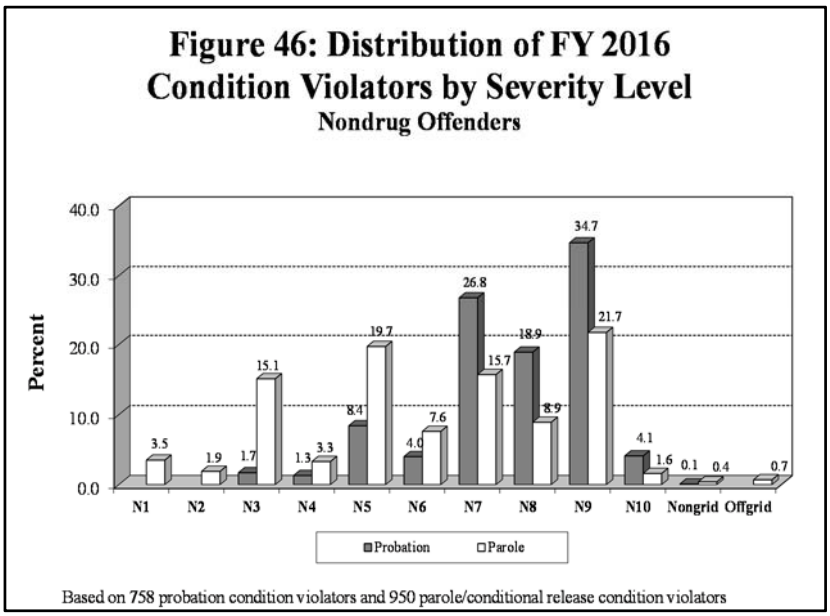
	Under 21	21-24	25-30	31-40	41-50	51-60	Over 60
Probation	4.9	17.5	28.1	28.3	14.4	5.8	0.9
Parole/CR	1.5	10.8	25.7	33.1	17.5	9.9	1.5

Based on 1,180 probation condition violators and 1,237 parole/conditional release condition violators

The largest number of drug probation violators was identified at drug severity level 5, representing 74.2% or 313 offenders, which is the same compared with FY 2015. The highest percentage of drug parole/postrelease and conditional release violators was found at drug severity level 5, as well, accounting for 33.4% or 96 offenders. This distribution is different from FY 2015 when the highest rate of the group was identified at level 3 (Figure 45).



The highest percentage of nondrug probation condition violators were identified at nondrug severity level 9, which represents 34.7% or 263 offenders of nondrug probation condition violators. The highest rate of parole or postrelease and conditional release violators were also found at nondrug severity level 9, representing 21.7% or 206 of this group of violators. This distribution of severity levels is different from that of FY 2015 (Figure 46).



The characteristics of all types of condition violators are presented in Table 17. The largest numbers of males were found at nondrug severity level 9 (387 sentences) and drug severity level 5 (300 sentences). The highest frequencies of females were at nondrug severity level 9 (82 sentences) and drug severity level 5 (300 sentences), as well. Racial analysis of the condition violators demonstrates that drug severity level 5 represented the largest number of white violators (348) and black violators (48). As for nondrug sentences, most violators were found at nondrug severity level 9, at which white offenders accounted for 347 sentences and black offenders accounted for 106 sentences. The average age of the violators was 34.7 years old at the time of admission, which does not fluctuate much from FY 2015 (34.2 years old).

Table 17: 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	29	29	0	25	3	1	38.9
D2	27	23	4	20	6	1	38.8
D3	103	88	15	62	38	3	32.3
D4	141	117	24	98	39	4	34.3
D5	409	300	109	348	48	13	33.7
N1	33	33	0	21	12	0	47.4
N2	18	18	0	15	1	2	52.4
N3	156	148	8	91	61	4	35.4
N4	41	38	3	29	11	1	32.3
N5	251	230	21	163	81	7	34.2
N6	102	100	2	75	23	3	34.6
N7	352	316	36	241	98	13	33.5
N8	228	170	58	160	57	11	34.4
N9	469	387	82	347	106	16	35.3
N10	46	41	5	34	12	0	35.4
Offgrid	7	7	0	5	2	0	50.1
Nongrid	5	5	0	2	3	0	42.9
Total	**2,417**	**2,050**	**367**	**1,736**	**601**	**79**	**34.7**

* Because of data missing, the distribution of race is based on 2,416 sentences reporting race information.

Probation Condition Violators

In FY 2016, a total number of 1,180 probation condition violators were admitted to prison. Of this number, 64.2% (758) were nondrug offenders and 35.8% (422) were drug offenders. Compared with FY 2015, the admissions of probation condition violators demonstrated a decrease of 10.7% or 141 violators. This decrease continuously reflects the impact from the 120/180-day prison sanctions for probation condition violators. Tables 18 and 19 present the characteristics of probation condition violators.

The top ten offenses committed by nondrug probation violators in FY 2016 were aggravated assault, aggravated battery, aggravated burglary, burglary, criminal threat, failure to register, fleeing or eluding LEO, forgery, possession of firearm and theft. These ten offenses represent 76.9% of all nondrug convictions by probation violators. As in previous years, burglary and theft were still the top two offenses committed by probation condition violators (Table 18). The analysis of drug probation violators indicates that possession of drugs was the most frequently convicted drug crime, accounting for 87.9% of all drug offenses committed by the probation condition violators admitted to prison in FY 2016. The crime of drug distribution or possession with intent to distribute represents 9.7% of this group of violators to prison in FY 2016 (Table 19).

The average length of 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. This remains constant with those of FY 2015 and FY 2014. The distribution of probation violators by severity level and criminal history is presented in Table 20.

Table 18: 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	43	95.3	4.7	76.7	18.6	4.7	34.0	36.0
Aggravated Battery	80	85.0	15.0	68.8	26.3	5.0	28.6	31.0
Aggravated Burglary	27	85.2	14.8	55.6	37.0	7.4	28.1	30.7
Burglary	114	86.8	13.2	71.9	22.8	5.3	28.3	30.7
Criminal Threat	38	92.1	7.9	78.9	13.2	7.9	32.2	34.0
Failure to Register	28	92.9	7.1	75.0	21.4	3.6	36.5	38.7
Fleeing or Eluding LEO	20	85.0	15.0	55.0	45.0	0.0	28.4	30.8
Forgery	60	55.0	45.0	76.7	15.0	8.3	31.9	34.4
Possession of Firearm	22	100.0	0.0	54.5	45.5	0.0	30.4	32.3
Theft	151	70.9	29.1	72.8	25.2	2.0	32.7	35.2
Subtotal	**583**	**80.8**	**19.2**	**71.2**	**24.4**	**4.5**	**31.0**	**33.3**
Other	175	78.9	21.1	70.9	24.0	5.1	29.3	32.0
TOTAL	**758**	**80.3**	**19.7**	**71.1**	**24.3**	**4.6**	**30.6**	**33.0**

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

Table 19: 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	371	72.2	27.8	84.1	12.9	3.0	31.7	34.2
Drugs; Distribution/Sale	41	78.0	22.0	56.1	31.7	12.2	27.9	31.5
Possession of Precursor Drugs	2	100.0	0.0	100.0	0.0	0.0	20.4	21.6
Possession of Paraphernalia	7	71.4	28.6	71.4	28.6	0.0	30.8	34.6
Unlawful Manufacture Controlled Substance	1	100.0	0.0	100.0	0.0	0.0	32.6	35.6
TOTAL	**422**	**73.0**	**27.0**	**81.3**	**14.9**	**3.8**	**31.3**	**33.9**

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

Table 20: 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	1	0	0	0	0	1
D2	0	0	0	0	0	1	1	0	0	2
D3	0	1	2	2	3	2	7	6	3	26
D4	2	4	8	3	13	3	11	18	18	80
D5	22	12	38	18	41	33	47	57	45	313
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	1	1	0	0	0	0	1	4	6	13
N4	1	0	0	1	1	0	2	0	5	10
N5	1	2	5	6	3	5	8	18	16	64
N6	0	4	8	3	2	2	2	6	3	30
N7	11	8	29	19	22	11	22	38	43	203
N8	3	5	19	12	27	9	18	27	23	143
N9	16	16	38	24	42	17	33	39	38	263
N10	4	3	4	2	1	1	4	9	3	31
Nongrid	0	0	0	1	0	0	0	0	0	1
TOTAL	**61**	**56**	**151**	**91**	**156**	**84**	**156**	**222**	**203**	**1,180**

Condition Parole/Postrelease Supervision and Conditional Release Violators

A total number of 1,237 condition parole/postrelease supervision and conditional release violators were admitted to prison in FY 2016, indicating an increase of 18 violators or 1.5% when compared with the data observed in FY 2015. Tables 21 and 22 present the characteristics of this offender group.

In FY 2016, the top ten nondrug 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, failure to register, rape, robbery and theft, accounting for 63.5% of the total nondrug offenses. Male offenders represented 93.1% of this group. White offenders committed more than 70% of crimes of aggravated assault, aggravated indecent liberties with a child, burglary, rape and theft. Blacks indicated the highest representation in aggravated burglary, aggravated robbery and robbery (Table 21). Table 22 demonstrates that drug offenders of this group of violators were convicted primarily of the crimes of possession of drugs (46.3%) and drug distribution (40.1%), which is consistent with FY 2015.

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 2016, only 3 DUI violators were admitted to prison, a decrease of 10 violators when compared with FY 2015 (13 violators). Table 23 demonstrates the distribution of parole/postrelease supervision and conditional release violators by severity level and criminal history. The largest numbers of this group of violators were found at severity level 5 of the drug grid (96 offenders) and severity level 9 of the nondrug grid (206 offenders).

Table 21: 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	28	96.4	3.6	71.4	28.6	0.0	29.2	33.2
Aggravated Battery	86	98.8	1.2	64.0	33.7	2.3	28.8	33.7
Aggravated Burglary	41	92.7	7.3	56.1	41.5	2.4	33.1	38.7
Aggravated Robbery	76	93.4	6.6	42.1	56.6	1.3	25.3	35.2
Agg Indecent Liberties w/Child	46	100.0	0.0	87.0	8.7	4.3	24.7	34.0
Burglary	95	91.6	8.4	73.7	26.3	0.0	30.9	33.9
Failure to Register	58	100.0	0.0	69.0	29.3	1.7	31.5	35.7
Rape	31	100.0	0.0	74.2	22.6	3.2	28.0	43.6
Robbery	30	86.7	13.3	30.0	63.3	6.7	30.4	37.7
Theft	112	89.3	10.7	75.9	19.6	4.5	36.0	38.1
Other	347	90.8	9.2	71.4	26.6	2.0	31.1	37.7
TOTAL	**950**	**93.1**	**6.9**	**67.9**	**29.8**	**2.3**	**30.6**	**36.6**

Table 22: 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	133	82.7	17.3	80.5	17.3	2.3	31.0	34.4
Drugs; Distribution/Sale	115	88.7	11.3	58.3	40.0	1.7	27.2	32.5
Possession of Paraphernalia	5	80.0	20.0	80.0	20.0	0.0	33.7	37.5
Possession of Precursor Drugs	13	92.3	7.7	92.3	7.7	0.0	32.8	41.5
Unlawful Manufacture Controlled Substance	21	100.0	0.0	95.2	0.0	4.8	28.5	37.6
TOTAL	**287**	**86.8**	**13.2**	**73.2**	**24.7**	**2.1**	**29.4**	**34.2**

Table 23: 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	2	1	9	1	7	0	1	4	3	28
D2	2	3	4	0	8	4	1	2	1	25
D3	4	10	13	8	15	5	5	9	7	76
D4	10	7	15	2	9	2	7	4	5	61
D5	13	15	11	3	13	10	10	14	7	96
N1	4	2	0	2	1	2	3	3	8	25
N2	1	0	1	1	1	1	0	2	5	12
N3	11	6	24	18	9	12	11	19	22	132
N4	0	5	6	7	4	1	1	0	6	30
N5	19	19	36	11	12	13	20	19	35	184
N6	14	20	10	2	4	4	7	7	4	72
N7	32	28	27	7	15	10	6	10	14	149
N8	23	17	17	1	11	1	8	5	2	85
N9	65	37	27	9	21	4	18	16	9	206
N10	3	8	0	0	1	0	3	0	0	15
Offgrid	0	0	0	0	1	0	0	1	0	2
Nongrid	2	0	0	0	1	0	0	0	0	3
TOTAL	**205**	**178**	**200**	**72**	**133**	**69**	**101**	**115**	**128**	**1,201**

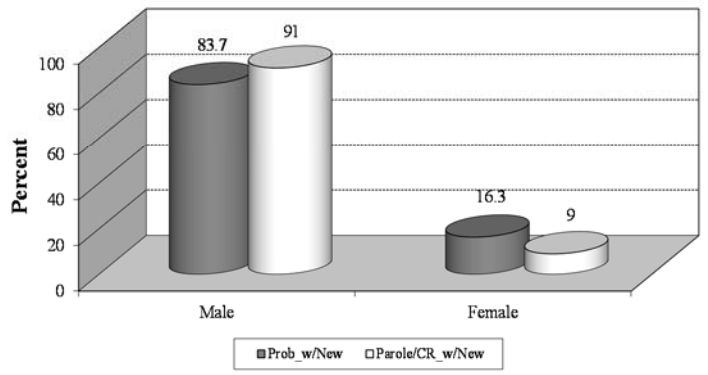
* Due to missing data, criminal history categories are based on 1,201 violators reporting criminal history.

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 7.7% (476 violators) of the total prison admissions in FY 2016, indicating a decrease of 0.4% when compared with the percentage of the same group in FY 2015 (8.1%). Characteristics of this group are illustrated in Figures 47 - 49. Drugs (28.1 %), burglary/aggravated burglary (17.8%), aggravated battery/battery of LEO (10.9%) and failure to register (6.6%) were the major offense categories committed by probation violators with new sentences. Drugs (19.3%), burglary/aggravated burglary (15.9%) and aggravated robbery/robbery (11.3%) represented the top offenses committed by parole/postrelease/conditional release violators with new sentences. Table 24 presents the distribution of the above offenders by severity level. The largest numbers of probation violators with new sentences were identified at nondrug severity levels 5, 7, 8 and 9 (39, 85, 37 and 34 violators) and drug severity level 5 (57 violators). The highest percentages of parole/postrelease/conditional release violators with new sentences were found at nondrug severity levels 3, 5 and 7 (14.5%, 16.6% and 15.9%) and drug severity level 5 (9%). The distribution of severity levels is a little different from that of FY 2015.

In FY 2016, male offenders made up 91% of the parole/postrelease and conditional release violators with new sentences admitted to prison, while female offenders accounted for 16.3% of probation violators with new sentences admitted to prison. This gender distribution is consistent with that of FY 2015 and FY 2014 (Figure 47).

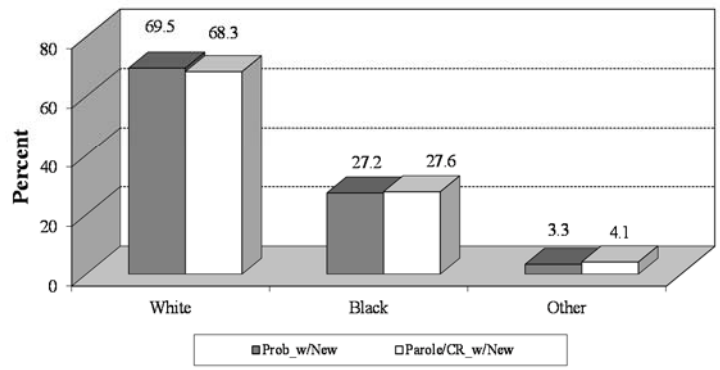
Figure 47: Distribution of FY 2016 Violators with New Sentences by Gender



Note: Probation violators w/new sentence=331; parole/conditional release condition violators w/new sentence=145

White offenders were identified as the largest group of violators with new sentences, representing 69.5% of probation violators with new sentences and 68.3% of parole/postrelease and conditional release violators with new sentences.
The black violators with new sentences accounted for more than 27% of both probation violators and parole/postrelease violators with new sentences, respectively (Figure 48).

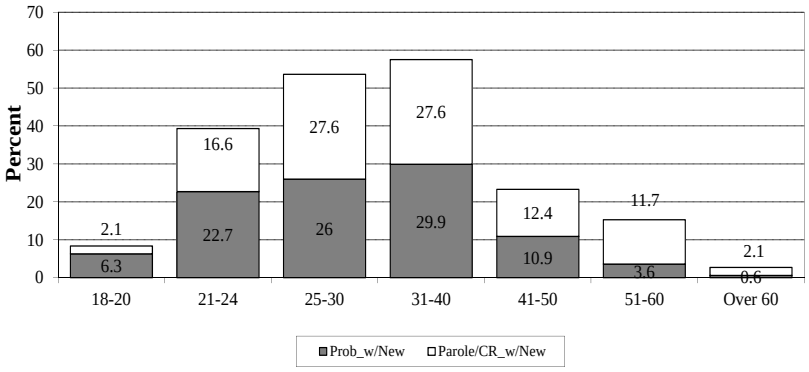
Figure 48: Distribution of FY 2016 Violators with New Sentences by Race



Note: Probation violators w/new sentence=331 and parole/conditional release violators w/new sentence=145

At the time of admission to prison, the highest percentage of probation violators with new sentences were in the age group from 31 to 40 (29.9%), which is different from FY 2015, when the highest rate was in the age group of 25 to 30. The largest proportion parole or postrelease and conditional release violators with new sentences were identified in the age groups of 25-30 and 31-40, accounting for 27.6% respectively of this group. (Figure 49).

Figure 49: Distribution of FY 2016 Violators with New Sentences by Age Group



Note: Probation violators w/new sentence=331 and parole/conditional release violators w/new sentence=145

Table 24: Distribution of FY 2016 Violators with New Sentences By Severity Level

Severity Level	Probation		Parole/Postrelease/Conditional Release	
	Number	Percent	Number	Percent
D1	2	0.6	0	0.0
D2	2	0.6	2	1.4
D3	19	5.7	5	3.4
D4	12	3.6	8	5.5
D5	57	17.2	13	9.0
N1	2	0.6	1	0.7
N2	1	0.3	1	0.7
N3	11	3.3	21	14.5
N4	6	1.8	6	4.1
N5	39	11.8	24	16.6
N6	21	6.3	16	11.0
N7	85	25.7	23	15.9
N8	37	11.2	5	3.4
N9	34	10.3	18	12.4
N10	2	0.6	1	0.7
Offgrid	1	0.3	1	0.7
Nongrid	0	0.0	0	0.0
TOTAL	**331**	**100.0**	**145**	**100.0**

VIOLATORS CONTINUED OR EXTENDED ON PROBATION

This section discusses the violators continued or extended on probation. They are 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 2016, there were 735 probation condition violators and 147 probation violators with new convictions who were continued or extended on probation, representing 13.8% of the total number of 5,308 condition probation violators and 13.9% of the total number of 1,058 probation violators with new offenses, respectively. Drugs (28.4%), theft (21.6%), burglary (10.3%), DUI (6.1%) and forgery (6%) were the top five offenses committed by the group of condition probation violators. Drugs (34%), theft (19.7%) and burglary (8.8%) 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 2015 and FY 2014. Tables 25 and 26 present the criminal history categories by severity level for the two types of violators who were sentenced to continued or extended probation.

Table 25: 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	1	1	0	0	0	0	0	0	0	0
D2	4	0	0	1	0	0	0	0	1	2
D3	12	1	1	1	0	0	1	1	4	3
D4	27	1	1	1	1	3	1	4	7	8
D5	165	5	8	20	5	21	11	28	24	43
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	2	0	0	0	1	0	0	0	0	1
N4	3	0	0	0	0	0	0	0	1	2
N5	13	0	0	2	1	0	1	1	3	5
N6	16	3	0	0	2	1	1	2	4	3
N7	95	5	3	8	9	14	5	10	12	29
N8	94	4	4	9	7	18	7	15	16	14
N9	221	8	9	40	11	29	16	32	31	45
N10	29	0	0	3	2	4	2	2	7	9
TOTAL	**682**	**28**	**26**	**85**	**39**	**90**	**45**	**95**	**110**	**164**

Note: Criminal history classes are based on 682 cases reporting criminal history category.
Legend:

Presumptive Prison	Border Boxes	Presumptive Probation

Table 26: 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	0	0	0	0	0	0	0	0	0	0
D3	4	0	0	0	0	1	0	1	2	0
D4	4	0	0	1	0	0	0	1	2	0
D5	42	3	2	5	2	7	2	8	5	8
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	1	0	0	0	0	0	0	0
N4	0	0	0	0	0	0	0	0	0	0
N5	3	0	0	0	0	0	0	0	1	2
N6	1	0	0	0	0	0	0	0	0	1
N7	17	1	1	5	0	2	2	0	4	2
N8	18	0	0	4	0	4	3	1	3	3
N9	46	3	4	6	1	6	5	6	8	7
N10	5	1	0	1	0	1	0	1	1	0
TOTAL	**141**	**8**	**8**	**22**	**3**	**21**	**12**	**18**	**26**	**23**

Note: Criminal history classes are based on 141 cases reporting criminal history category.
Legend:

Presumptive Prison	Border Boxes	Presumptive Probation

JAIL SANCTION FROM PROBATION VIOLATION

In 2013 House Bill 2170, one of the graduated intermediate violation sanctions for probation condition violators is jail sanction. The bill allows the court to impose intermediate sanction of confinement in jail for 2-3 days, not to exceed 18 days of jail sanctions during the entire probation supervision period. Prison sanctions resulted from probation violations were discussed on page 31.

In FY 2016, a total number of 2,473 probation violators were recipients of a jail sanction, an increase of 820 or 49.6% over that of FY 2015 (1,653 jail sanctions). Of the 2,473 jail sanctions, 61.8% served from 1 to 20 days in county jail and the average jail days served is 2.9 days, which is 0.8 day shorter than that of FY 2015 (3.7 days) and is much more consistent with the sentencing policy of the bill than FY 2014 (26.7 days). FY 2014 is the initial year of implementation of House Bill 2170.

The review of offenders' violation sanction history reveals that 76.7% (1,896) have no sanction history and 23% (570) have sanction history of one to six county jail sanctions. Table 27 present the sanction history of the 570 jail sanction sentences. Of the 570 sentences with one prior jail sanction, 53.3% were imposed by court and 46.7% were imposed by supervising officers. One hundred and eighty-one sentences have two prior jail sanctions with 53.6% imposed by court and 46.4% imposed by supervising officer. Eighty-seven sentences have three prior jail sanctions with 72.4% imposed by court and 27.7% imposed by supervising officer. Forty-seven sentences have four prior jail sanctions, 24 sentences have five prior jail sanctions and 14 have six prior jail sanctions.

Table 27: FY 2016 Violation Sanction History - County Jail Sanction

Prior Sanction	Number	Jail Sanction Imposed by (%)	
		Supervising Officer	Court
First	570	46.7	53.3
Second	181	46.4	53.6
Third	87	27.6	72.4
Fourth	47	27.7	72.3
Fifth	24	16.7	83.3
Sixth	14	28.6	71.4

Note: Based on Kansas Sentencing Commission's revocation disposition database

Table 28 presents jail sanction events imposed by county in FY 2016. Sedgwick County imposed the most jail sanctions accounting for 34.2% (or 846 sanctions) of the 2,473 jail sanctions of FY 2016. Shawnee County imposed the second largest number of jail sanctions (322 sanctions or 13%) followed by Johnson County (275 sanctions or 11.1%) and Reno County (219 sanctions or 8.9%). The top five offenses committed by this group of offenders include crimes of drugs (826 sentences or

33.4%), theft (417 sentences or 16.9%), burglary (246 sentences or 9.9%), forgery (147 sentences or 5.9%) and aggravated battery (106 sentences or 4.3%), which is consistent with the data observed in FY 2015 and FY 2014.

Table 28: FY 2016 Jail Sanctions from Probation Imposed by County

County	Number	Percent	County	Number	Percent
Allen	8	0.3	Logan	1	0.0
Anderson	5	0.2	Lyon	18	0.7
Atchison	1	0.0	Marshall	12	0.5
Barber	4	0.2	McPherson	7	0.3
Barton	26	1.1	Miami	19	0.8
Bourbon	10	0.4	Montgomery	25	1.0
Brown	12	0.5	Nemaha	2	0.1
Butler	32	1.3	Neosho	14	0.6
Chautauqua	4	0.2	Osage	12	0.5
Clay	21	0.8	Pawnee	6	0.2
Cloud	1	0.0	Pottawatomie	5	0.2
Coffey	7	0.3	Prat	10	0.4
Cowley	34	1.4	Reno	219	8.9
Crawford	28	1.2	Republic	2	0.1
Dickinson	9	0.4	Rice	16	0.6
Doniphan	1	0.0	Riley	51	2.1
Ellsworth	2	0.1	Rush	1	0.0
Finney	31	1.3	Russell	6	0.2
Ford	33	1.3	Saline	72	2.9
Franklin	19	0.8	Scott	1	0.0
Geary	33	1.3	Sedgwick	846	34.2
Greenwood	2	0.1	Seward	1	0.0
Harper	9	0.4	Shawnee	322	13.0
Harvey	17	0.7	Stanton	1	0.0
Hodgeman	1	0.0	Sumner	24	1.0
Jackson	14	0.6	Thomas	6	0.2
Johnson	275	11.1	Wabaunsee	2	0.1
Kiowa	1	0.0	Wilson	1	0.0
Labette	6	0.2	Woodson	7	0.3
Leavenworth	53	2.1	Wyandotte	61	2.5
Linn	4	0.2	**Total**	**2,473**	**100.0**

Note: Based on Kansas Sentencing Commission's revocation disposition database

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 Revised 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.

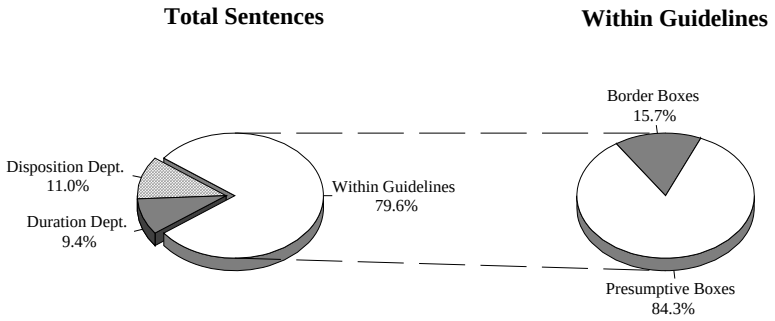
Only pure guideline sentences were utilized for this specific analysis. A pure guideline sentence is defined as a guideline sentence that is not imposed to run concurrent or consecutive with a "pre-guideline" sentence. In addition, the analysis is based on computed variables regarding departures and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

OVERALL CONFORMITY RATES

A total number of 7,063 pure guideline sentences of FY 2016 were utilized for this study, which includes 1,504 incarceration guideline sentences and 5,559 probation sentences. Figure 50 demonstrates that 79.6% of the 7,063 guideline sentences were within the presumptive guideline grids, 9.4% indicated durational departures and 11% were dispositional departures. Of all the sentences within the presumptive guideline grids, 4,738 sentences (84.3%) fell within either the presumptive prison boxes or presumptive probation boxes, while 884 sentences (15.7%) were located on designated border boxes. Figure 51 indicates that 89.4% (695 sentences) of the 777 dispositional departures were downward departures and 10.6% (82 sentences) were upward dispositional departures. More than

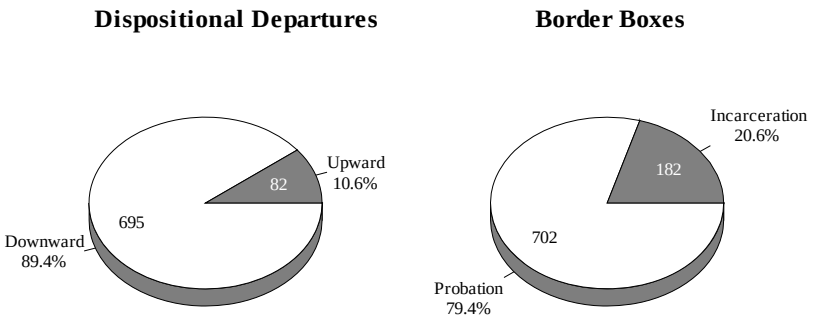
79% of the 884 border box sentences resulted in probation sentences with 20.6% of this group sentenced to prison. The analysis of durational departure sentences is only applicable to presumptive prison sentences.

Figure 50: Distribution of FY 2016 Overall Guideline Sentences



Based on 1,504 prison and 5,559 probation sentences

Figure 51: Distribution of FY 2016 Dispositional Departures and Border Box Sentences



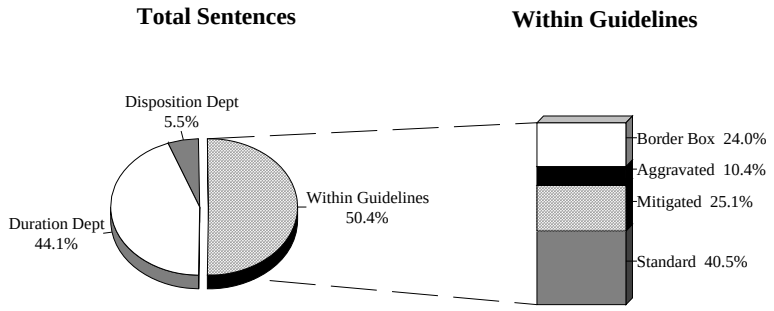
Based on 777 dispositional departures and 884 border box sentences

CONFORMITY OF PRESUMPTIVE PRISON GUIDELINE SENTENCES

Presumptive prison guideline sentences refer to those that are designated above the incarceration line of the sentencing grids. Revocations of probation conditions, either with or without new sentences, which result in prison sentences were excluded from this analysis. A total of 1,504 presumptive prison guideline sentences of FY 2016 were analyzed for this purpose.

In FY 2016, sentences within the presumptive incarceration range accounted for 50.4% of the total incarceration guideline sentences. Of these sentences within the guidelines, the standard sentences accounted for 40.5%, the aggravated sentences accounted for 10.4%, the mitigated sentences accounted for 25.1% and 24% were located within designated border boxes (Figure 52).

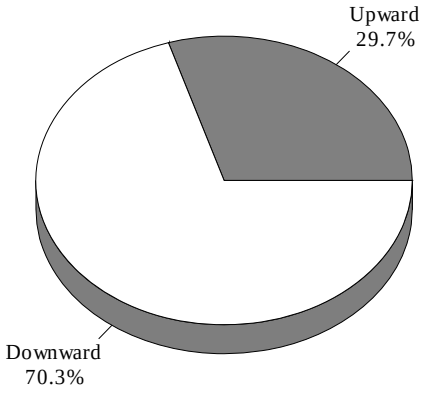
Figure 52: FY 2016 Incarceration Guideline Sentences



Based on 1,504 guideline sentences

Figure 53 indicates that 70.3% of the durational departure sentences departed downward from the sentence lengths indicated on the presumptive range, while 29.7% departed upward from the presumptive guideline ranges. The percentages of the downward and upward durational departures remained constant with those of FY 2015.

Figure 53: FY 2016 Incarceration Durational Departure Sentences

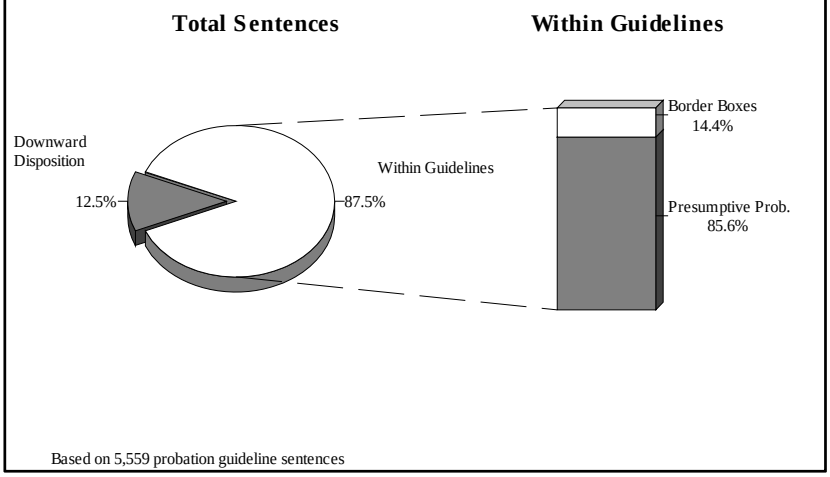


Based on 664 durational departure sentences

CONFORMITY OF PRESUMPTIVE PROBATION GUIDELINE SENTENCES

Sentences that are designated below the incarceration line of the sentencing grids are presumptive probation guideline sentences. The analysis of probation guideline sentences indicates that, as expected, the majority of probation guideline sentences in FY 2016 (87.5% or 4,864 cases) fell within the presumptive guideline range, among which 85.6% were within presumptive probation grids and 14.4% were within border boxes (Figure 54). The sentences within the presumptive guideline range (4,864) accounted for 58.2% of the total probation sentences imposed in FY 2016 (8,361), which decreased by 2.9 % compared with the percentage rate of FY 2015 (61.1%). Further analysis of the dispositional departures indicates that probation sentences reflected downward dispositional departures of 12.5% of the total probation guideline sentences in FY 2016, an increase of 0.5% compared with that of FY 2015 (12%), (Figure 54). Upward dispositional departure sentences were reflected in presumptive incarceration sentences (Refer to Figure 52).

Figure 54: FY 2016 Probation Guideline Sentences

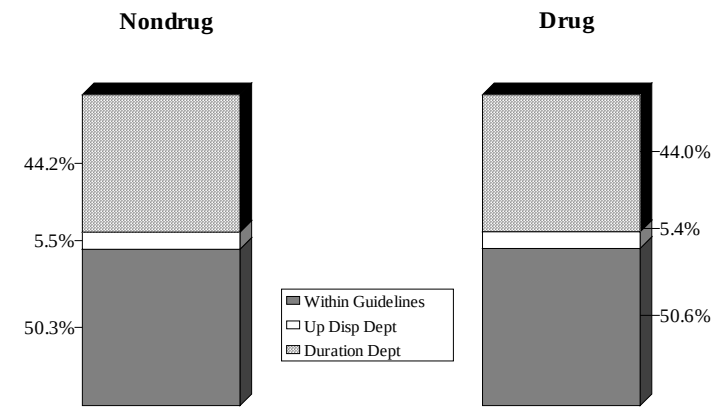


Based on 5,559 probation guideline sentences

CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES

The comparison between nondrug and drug guideline incarceration sentences discloses that 5.5% of nondrug offenders and 5.4% of drug offenders showed upward dispositional departures. Additionally, nondrug offenders represented 44.2% durational departures and drug offenders showed 44% durational departures (Figure 55). This is the first time to observe the similar distributions between drug and nondrug incarceration sentences in recent years.

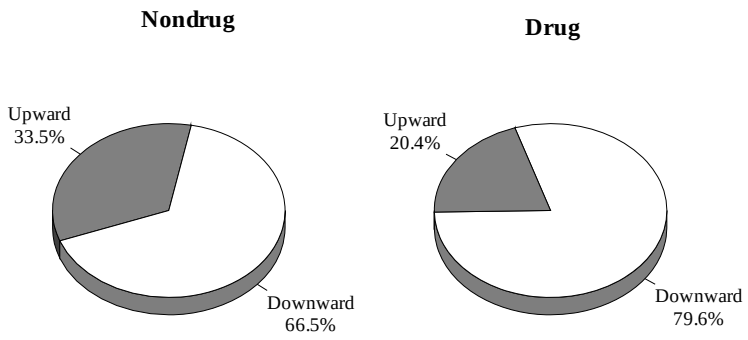
Figure 55: FY 2016 Nondrug and Drug Guideline Sentences - Incarceration



Based on 1,059 nondrug and 445 drug sentences

The analysis of durational departures indicates that downward departures represented 79.61% of the total durational departures on the drug grid. However, on the nondrug grid, 66.5% of durational departures were downward (Figure 56). The majority of the upward departures were found at severity levels 1 to 4 of the nondrug grid, which include the most serious offenses (Table 29).

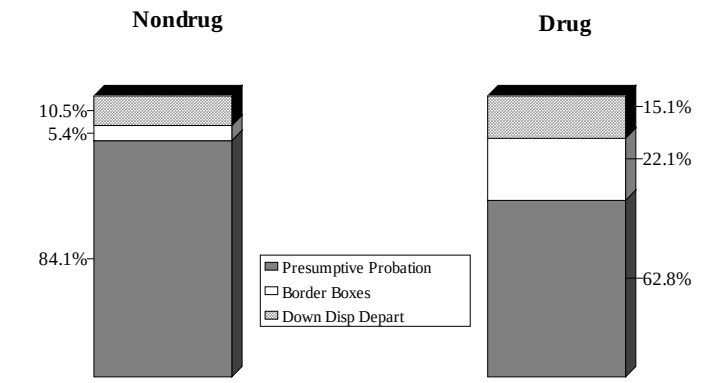
Figure 56: Comparison of Durational Departures between Nondrug and Drug Incarceration Sentences



Based on 468 nondrug and 196 drug durational departure sentences

The sentencing disparities between nondrug and drug offenders on probation is presented in Figure 57. Drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (15.1% vs. 10.5%). The rate of drug probation sentences resulting from border boxes was much higher than that of nondrug probation sentences (22.1% vs. 5.4%), which remains constant when compared with FY 2015.

Figure 57: FY 2016 Nondrug and Drug Guideline Sentences - Probation



Based on 3,152 nondrug and 2,407 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 57).

CONFORMITY RATES TO THE GUIDELINES BY SEVERITY LEVEL

Table 29 presents the conformity rates of incarceration sentences to the guidelines by severity level. Drug incarceration sentences, as a whole, indicated a 16% standard, 2% aggravated, 12.1% mitigated and 20.4% border box sentence distribution. Nondrug sentences revealed a 22.3% standard, 6.6% aggravated, 12.8% mitigated and 8.6% border box sentence distribution. The review of the departure sentences reveals that drug sentences indicated 9% upward durational departures and 35.1% downward durational departures, whereas nondrug sentences showed a 14.8% upward durational departure rate and a 29.4% downward durational departure rate. The highest rate of downward durational departures was identified at drug severity level 1 (94.4%) for drug incarceration sentences and nondrug severity level 10 (48.6%) for nondrug incarceration sentences. When examining dispositional departures, 5.5% of nondrug incarceration sentences were upward dispositional departures and 5.4% of drug incarceration sentences were upward dispositional departures. This seems different from sentencing practice observed in the past nineteen years when judges were more likely to impose fewer upward dispositional sentences for drug offenders than for nondrug offenders.

Table 29: Conformity Rates by Severity Level - Incarceration Sentences

Severity Level	N	Within Guidelines (%)				Departures (%)		
						Durational		Dispositional
		Agg.	Standard	Mit.	Box	Upward	Downward	Upward
D1	18		5.6				94.4	
D2	51	3.9	11.8	9.8		3.9	70.6	
D3	120	2.5	29.2	17.5	3.3	15.0	32.5	
D4	91	4.4	8.8	4.4	58.2	7.7	14.3	2.2
D5	165		12.7	14.5	20.6	7.9	30.9	13.3
Subtotal	**445**	**2.0**	**16.0**	**12.1**	**20.4**	**9.0**	**35.1**	**5.4**
N1	64	9.4	26.6	3.1		39.1	21.9	
N2	14		7.1	42.9		21.4	28.6	
N3	133	7.5	21.8	14.3		19.5	36.8	
N4	64	6.3	31.3	4.7		17.2	40.6	
N5	234	4.3	6.4	7.7	37.6	9.4	34.6	
N6	83	8.4	20.5	13.3	3.6	21.7	25.3	7.2
N7	133	7.5	27.1	15.8		21.8	16.5	11.3
N8	70	8.6	32.9	17.1		14.3	14.3	12.9
N9	229	7.4	34.1	13.1		5.2	29.3	10.9
N10	35			40.0		2.9	48.6	8.6
Subtotal	**1,059**	**6.6**	**22.3**	**12.8**	**8.6**	**14.8**	**29.4**	**5.5**
TOTAL	**1,504**	**5.3**	**20.4**	**12.6**	**12.1**	**13.1**	**31.1**	**5.5**

Table 30 demonstrates the conformity rates of probation sentences to the guidelines by severity level. Probation drug sentences indicated 15.1% downward dispositional departures, which should have been presumptive incarceration, while 10.5% of probation nondrug sentences experienced downward dispositional departures. A significant difference also occurred within the border boxes of the grids. Drug offenders received more probation sentences than nondrug offenders did when their severity levels and criminal history categories fell within the border boxes (22.1% vs. 5.4%). This sentencing pattern of border boxes between drug and nondrug probation 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 twenty years.

Table 30: Conformity Rates by Severity Level - Probation Sentences

Severity Level	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	7			100.0
D2	63			100.0
D3	167		7.2	92.8
D4	276	6.5	83.7	9.8
D5	1,894	78.9	15.3	5.9
Subtotal	**2,407**	**62.8**	**22.1**	**15.1**
N1	2			100.0
N2	0			
N3	22			100.0
N4	22			100.0
N5	212		74.1	25.9
N6	117	53.0	11.1	35.9
N7	725	93.7		6.3
N8	571	94.7		5.3
N9	1,355	92.2		7.8
N10	126	94.4		5.6
Subtotal	**3,152**	**84.1**	**5.4**	**10.5**
TOTAL	**5,559**	**74.9**	**12.6**	**12.5**

CONFORMITY RATES TO THE GUIDELINES BY RACE

The conformity rates to the sentencing guidelines by race for the drug and nondrug offenders admitted to prison in FY 2016 are presented in Tables 31 and 32. The analysis of drug incarceration sentences demonstrates that whites received more standard and border box sentences than blacks (15.5% vs. 14.3%; 21% vs. 19%). However, black offenders represented higher percentage than white offenders at mitigated sentences (17.9% vs. 10.6%). Only white offenders received aggravated sentences. The analysis of departures demonstrates that white offenders received more downward durational departures and upward dispositional departures than black offenders (36.8% vs. 31%; 5.7% vs. 3.6%), while black offenders received more upward durational departures (14.3% vs. 7.8%).

The investigation of nondrug incarceration sentences within guidelines shows that black offenders received more aggravated and mitigated sentences than white offenders (6.9% vs. 6.6%; 19.7% vs. 9.8%), while white offenders represented higher percentages than black offenders at standard and border box sentences (22.7% vs. 21.3%; 9.6% vs. 6%). The review of departures reveals that whites represented higher rates than blacks in both upward durational departures and upward dispositional departures (15.5% vs. 12.9%; 6.9% vs. 3.1%), whereas blacks received more downward durational departures (30.1% vs. 28.9%) than whites for nondrug offenses.

Table 31: 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	18		5.6				94.4	
D2	White	41	4.9	9.8	7.3		4.9	73.2	
	Black	7		14.3				85.7	
	Other	3		33.3	66.7				
D3	White	94	3.2	27.7	18.1	2.1	16.0	33.0	
	Black	22		31.8	18.2	9.1	9.1	31.8	
	Other	4		50.0			25.0	25.0	
D4	White	66	6.1	7.6	1.5	65.2	6.1	12.1	1.5
	Black	21		9.5	14.3	38.1	14.3	19.0	4.8
	Other	4		25.0		50.0		25.0	
D5	White	129		14.0	12.4	21.7	4.7	32.6	14.7
	Black	34		5.9	23.5	17.6	20.6	26.5	5.9
	Other	2		50.0					50.0
Total	**White**	**348**	**2.6**	**15.5**	**10.6**	**21.0**	**7.8**	**36.8**	**5.7**
	Black	**84**		**14.3**	**17.9**	**19.0**	**14.3**	**31.0**	**3.6**
	Other	**13**		**38.5**	**15.4**	**15.4**	**7.7**	**15.4**	**7.7**

Note: Based on 445 drug incarceration guideline sentences reporting race of offenders.

Table 32: 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	38	10.5	23.7			36.8	28.9	
	Black	24	4.2	33.3	8.3		41.7	12.5	
	Other	2	50.0				50.0		
N2	White	7			57.1		28.6	14.3	
	Black	5		20.0	40.0		20.0	20.0	
	Other	2						100.0	
N3	White	78	10.3	21.8	10.3		23.1	34.6	
	Black	47	4.3	21.3	19.1		12.8	42.6	
	Other	8		25.0	25.0		25.0	25.0	
N4	White	45	8.9	24.4	2.2		17.8	46.7	
	Black	11		45.5	18.2		18.2	18.2	
	Other	8		50.0			12.5	37.5	
N5	White	156	3.8	7.1	4.5	42.9	9.6	32.1	
	Black	70	5.7	4.3	14.3	22.9	10.0	42.9	
	Other	8		12.5	12.5	62.5		12.5	
N6	White	56	10.7	21.4	14.3		21.4	25.0	7.1
	Black	25	4.0	20.0	12.0	12.0	20.0	24.0	8.0
	Other	2					50.0	50.0	
N7	White	80	6.3	30.0	7.5		23.6	18.8	13.8
	Black	46	8.7	23.9	30.4		17.4	10.9	8.7
	Other	7	14.3	14.3	14.3		28.6	28.6	40.0
N8	White	48	2.1	31.3	14.6		20.8	14.6	16.7
	Black	22	22.7	36.4	22.7			13.6	4.5
	Other	0							
N9	White	166	7.2	35.5	10.8		5.4	27.7	13.3
	Black	58	8.6	29.3	20.7		3.4	32.8	5.2
	Other	5		40.0			20.0	40.0	
N10	White	22			40.9		4.5	40.9	13.6
	Black	11			36.4			63.6	
	Other	2			50.0			50.0	
Total	**White**	**696**	**6.6**	**22.7**	**9.8**	**9.6**	**15.5**	**28.9**	**6.9**
	Black	**319**	**6.9**	**21.3**	**19.7**	**6.0**	**12.9**	**30.1**	**3.1**
	Other	**44**	**4.5**	**22.7**	**11.4**	**11.4**	**18.2**	**31.8**	

Note: Based on 1,059 nondrug incarceration guideline sentences reporting race of offenders.

The conformity rates by race for offenders sentenced to probation during FY 2016 are presented in Tables 33 and 34. White offenders received more presumptive probation sentences for drug offenses than black offenders (66.1% vs. 43.4%) but black drug offenders had a higher rate of border box sentences (30.6% vs. 20.7%) and downward dispositional departures (25.9% vs. 13.2%) than white drug offenders (Table 33). This racial conformity rate pattern is consistent with those of the past five years.

The analysis on conformity rates of the probation sentences of the nondrug offenders indicates a similar pattern with that of the drug offenders. White nondrug offenders received a little more presumptive probation sentences than black nondrug offenders (84.9% vs. 81.4%), while black offenders represented a higher percentage of downward dispositional departures (13.2% vs. 9.7%) than white offenders for nondrug offenses. Both white and black offenders received the same rate (5.4%) of border box sentences (Table 34).

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

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	White	7			100.0
	Black	0			100.0
	Other	0			
D2	White	55			100.0
	Black	7			100.0
	Other	1			100.0
D3	White	120		10.0	90.0
	Black	41			100.0
	Other	6			100.0
D4	White	210	5.2	86.7	8.1
	Black	56	10.7	73.2	16.1
	Other	10	10.0	80.0	10.0
D5	White	1,640	81.2	13.8	5.0
	Black	216	61.6	26.4	12.0
	Other	37	75.7	16.2	8.1
Total	**White**	**2,032**	**66.1**	**20.7**	**13.2**
	Black	**320**	**43.4**	**30.6**	**25.9**
	Other	**54**	**53.7**	**25.9**	**20.4**

Note: Based on 2,406 drug probation sentences reporting race of offenders.

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

Severity Level	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	White	1			100.0
	Black	1			100.0
	Other	0			
N2	White	0			
	Black	0			
	Other	0			
N3	White	14			100.0
	Black	7			100.0
	Other	1			100.0
N4	White	17			100.0
	Black	5			100.0
	Other	0			
N5	White	161		75.2	24.8
	Black	49		69.4	30.6
	Other	2		100.0	
N6	White	95	52.6	9.5	37.9
	Black	20	60.0	10.0	30.0
	Other	2		100.0	
N7	White	565	94.9		5.1
	Black	148	89.2		10.8
	Other	12	91.7		8.3
N8	White	422	95.7		4.3
	Black	142	92.3		7.7
	Other	7	85.7		14.3
N9	White	1,045	92.9		7.1
	Black	275	90.2		9.8
	Other	35	85.7		14.3
N10	White	104	93.3		6.7
	Black	19	100.0		
	Other	3	100.0		
Total	**White**	**2,424**	**84.9**	**5.4**	**9.7**
	Black	**666**	**81.4**	**5.4**	**13.2**
	Other	**62**	**80.6**	**6.5**	**12.9**

Note: Based on 3,152 nondrug probation sentences reporting race of offenders.

CONFORMITY RATES TO THE GUIDELINES BY GENDER

This section discusses the conformity rates to the sentencing guidelines between male and female offenders admitted to prison in FY 2016. Male drug offenders represented higher rates than female drug offenders in mitigated sentences (13.3% vs. 3.8%). Females received more standard sentences and border box sentences than males (20.8% vs. 15.3%; 22.6% vs. 20.2%). Little rate difference was found between male and female drug offenders in aggravated sentences (2% vs. 1.9%). The examination of departure sentences reveals that female drug offenders received more than male drug offenders in both upward and downward durational departures (9.4% vs. 8.9%; 39.6% vs. 34.4%), while males had a higher rate of upward dispositional departures than their counterparts (5.9% vs. 1.9%), (Table 35).

The exploration of nondrug incarceration sentences indicates that within guidelines, males represented a higher percentage than females in aggravated sentences (6.8% vs. 3.9%), standard sentences (22.7% vs. 17.1%) and mitigated sentences (13.2% vs. 7.9%) for nondrug crimes, while female offenders received more border box sentences than male offenders (15.8% vs. 8%). The analysis of departure sentences reveals that male nondrug offenders represented a higher percentage of downward durational departures than female offenders (30% vs. 21.1%). However, female offenders received more sentences than male offenders in both upward durational departures and upward dispositional departures (17.1% vs. 14.6 %; 17.1% vs. 4.6%), (Table 36).

Table 35: 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	12						100.0	
	Female	6		16.7				83.3	
D2	Male	42	4.8	9.5	11.9		4.8	69.0	
	Female	9		22.2				77.8	
D3	Male	97	2.1	27.8	20.6	3.1	14.4	32.0	
	Female	23	4.3	34.8	4.3	4.3	17.4	34.8	
D4	Male	80	5.0	10.0	5.0	52.5	8.8	16.3	2.5
	Female	11				100.0			
D5	Male	161		13.0	14.3	21.1	7.5	31.1	13.0
	Female	4			25.0		25.0	25.0	25.0
Total	**Male**	**392**	**2.0**	**15.3**	**13.3**	**20.2**	**8.9**	**34.4**	**5.9**
	Female	**53**	**1.9**	**20.8**	**3.8**	**22.6**	**9.4**	**39.6**	**1.9**

Note: Based on 445 drug incarceration guideline sentences.

Table 36: 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	60	10.0	28.3	3.3		36.7	21.7	
	Female	4					75.0	25.0	
N2	Male	12		8.3	50.0		25.0	16.7	
	Female	2						100.0	
N3	Male	125	7.2	21.6	14.4		18.4	38.4	
	Female	8	12.5	25.0	12.5		37.5	12.5	
N4	Male	60	6.7	31.7	3.3		16.7	41.7	
	Female	4		25.0	25.0		25.0	25.0	
N5	Male	213	4.2	6.6	8.0	35.7	9.4	36.2	
	Female	21	4.8	4.8	4.8	57.1	9.5	19.0	
N6	Male	75	9.3	21.3	14.7	4.0	21.3	22.7	6.7
	Female	8		12.5			25.0	50.0	12.5
N7	Male	125	8.0	26.4	16.0		22.4	16.8	10.4
	Female	8		37.5	12.5		12.5	12.5	25.0
N8	Male	63	9.5	33.3	17.5		15.9	15.9	7.9
	Female	7		28.6	14.3				57.1
N9	Male	215	7.4	34.9	13.5		5.1	30.2	8.8
	Female	14	7.1	21.4	7.1		7.1	14.3	42.9
N10	Male	35			40.0		2.9	48.6	8.6
	Female	0							
Total	**Male**	**983**	**6.8**	**22.7**	**13.2**	**8.0**	**14.6**	**30.0**	**4.6**
	Female	**76**	**3.9**	**17.1**	**7.9**	**15.8**	**17.1**	**21.1**	**17.1**

Note: Based on 1,059 nondrug incarceration guideline sentences.

Tables 37 and 38 provide the conformity rates of the probation sentences by gender. The analysis of the offenders on probation shows that females on both drug and nondrug grids received fewer downward dispositional departures than males (9.2% vs. 17.5%, Table 37; 4.8% vs. 12.5%, Table 38), which is consistent with those in the past four years. 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 36). Females were less likely to receive a downward dispositional departure to probation if their sentences fell within a presumptive prison box (Tables 37 & 38). The above findings continue the trend that has been present in the past twenty years (Annual Reports of FY 1996 - FY 2015).

Table 37: Conformity Rates by Gender - Probation Sentences
Drug Offenders

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	Male	4			100.0
	Female	3			100.0
D2	Male	47			100.0
	Female	16			100.0
D3	Male	132		6.8	93.2
	Female	35		8.6	91.4
D4	Male	225	6.7	82.2	11.1
	Female	51	5.9	90.2	3.9
D5	Male	1,291	73.2	19.1	7.7
	Female	603	91.0	7.0	2.0
Total	**Male**	**1,699**	**56.5**	**26.0**	**17.5**
	Female	**708**	**78.0**	**12.9**	**9.2**

Note: Based on 2,407 drug probation sentences reporting gender of offenders.

Table 38: 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			100.0
N2	Male	0			
	Female	0			
N3	Male	17			100.0
	Female	5			100.0
N4	Male	18			100.0
	Female	4			100.0
N5	Male	182		75.8	24.2
	Female	30		63.3	36.7
N6	Male	99	53.5	8.1	38.4
	Female	18	50.0	27.8	22.2
N7	Male	584	92.5		7.5
	Female	141	98.6		1.4
N8	Male	384	92.7		7.3
	Female	187	98.9		1.1
N9	Male	965	90.2		9.8
	Female	390	97.2		2.8
N10	Male	93	92.5		7.5
	Female	33	100.0		
Total	**Male**	**2,344**	**81.3**	**6.2**	**12.5**
	Female	**808**	**92.2**	**3.0**	**4.8**

Note: Based on 3,152 nondrug probation sentences reporting gender of offenders.

SPECIAL SENTENCING RULES

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

There was a small number of special sentencing rules in the initial years of implementing the guidelines. In 1994 and 1995, only five existed. 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 2016 Legislative Session, forty-seven special sentencing rules have been established or amended. The most frequently applied special sentencing rules in the past five years have been: crime committed while incarcerated or on probation, parole, etc.; crime committed while on felony bond; person felony committed with a firearm and third or subsequent drug possession.

Tables 39 and 40 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 38.5% in FY 2012 to 42.9% in FY 2016. FY 2016 represented the highest number (742 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 13.3% in FY 2016, a decrease of 0.2% from that of FY 2015 but an increase of 1.5% when compared with that of FY 2012 (Table 39). The total percentage of both prison and probation sentences applied with special rules increased from 18.2% in FY 2012 to 20.2% in FY 2016 (Table 40).

A number of 742 pure guideline prison sentences and 757 pure guideline probation sentences were imposed with special sentencing rules in FY 2016, which accounted for 42.9% of prison pure guideline admissions (1,729 admissions) and 13.3% of pure guideline probation sentences (5,705) imposed in FY 2016 (Tables 39).

In FY 2016, the top three special sentencing rules applied to prison sentences in sentencing practice were: crime committed while incarcerated or on probation, parole, etc. (395 sentences) representing 53.2% of 742 prison sentences applied with special sentencing rules; crime committed while on felony bond (138 sentences) representing 18.6% and person felony committed with a firearm (124 sentences) making up 16.7% of prison admissions with special sentencing rules during FY 2016 (Table 41).

The top three special sentencing rules applied most frequently to probation sentences in FY 2016 included crime committed while incarcerated or on probation, parole, etc. (264 sentences) accounted for 34.9 %; crime committed while on felony bond (200 sentences) accounted for 26.4%; and third or subsequent drug possession (103 sentences) accounted for 13.6 % of the total 757 probation sentences applied with special sentencing rules (Table 42).

Table 39: Pure Guideline Sentences Applied with Special Sentencing Rules
By Prison and Probation
FY 2012 through FY 2016

Fiscal Year	Prison Admissions			Probation Sentences		
	Guideline	with Special Rules		Guideline	with Special Rules	
		Number	Percent		Number	Percent
2012	1713	660	38.5	5395	635	11.8
2013	1653	649	39.3	5349	614	11.5
2014	1608	675	42.0	5711	696	12.2
2015	1665	719	43.2	5641	761	13.5
2016	1729	742	42.9	5705	757	13.3

Table 40: Pure Guideline Sentences Applied with Special Sentencing Rules
By Total Sentences
FY 2012 through FY 2016

Fiscal Year	Guideline	with Special Rules	
		Number	Percent
2012	7108	1295	18.2%
2013	7002	1263	18.0%
2014	7319	1371	18.7%
2015	7306	1480	20.3%
2016	7434	1499	20.2%

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

Table 41: Distribution of Special Sentencing Rules Applied To Prison Sentences – FY 2016

Special Rules Applied to Sentences	Number	Percent
Crime committed while incarcerated, probation, parole, etc.	395	53.2
Crime committed while on felony bond	138	18.6
Person felony committed with a firearm	124	16.7
Theft with 3 or more prior theft, burglary, aggravated burglary	52	7.0
Burglary with 2 or more prior theft, burglary, aggravated burglary	36	4.9
Third or subsequent drug possession	35	4.7
Resident burglary with a prior residential, nonresidential or aggravated burglary conviction	14	1.9
Aggravated assault of a LEO	9	1.2
Second or subsequent identity theft or fraud	7	0.9
Persistent sex offender	6	0.8
Extended Juvenile jurisdiction	6	0.8
Involuntary manslaughter by DUI	5	0.7
Second forgery	4	0.5
Drug felony with a firearm	4	0.5
Aggravated endangering a child	3	0.4
Aggravated battery of a LEO	2	0.3
Third or subsequent Forgery	2	0.3
Crime committed while incarcerated in Juvenile facility	2	0.3
Battery on a LEO resulting in bodily harm	2	0.3
Felony committed after early discharge	2	0.3
Crime committed for benefit of criminal street gang	1	0.1
Felony domestic battery	1	0.1
Kansas Security Act	1	0.1
Third or subsequent criminal deprivation of a motor	1	0.1
Leaving the scene of an accident, person felony	1	0.1

Note: The number and percentage are mutually exclusive.

Table 42: Distribution of Special Sentencing Rules Applied To Probation Sentences – FY 2016

Special Rules Applied to Sentences	Number	Percent
Crime committed while incarcerated, probation, parole, etc.	264	34.9
Crime committed while on felony bond	200	26.4
Third or subsequent drug possession	103	13.6
Burglary with 2 or more prior theft, burglary, aggravated burglary	54	7.1
Theft with 3 or more prior theft, burglary, aggravated burglary	53	7.0
Person felony committed with a firearm	43	5.7
Aggravated endangering a child	29	3.8
Third or subsequent Forgery	24	3.2
Resident burglary with a prior residential, nonresidential or aggravated burglary conviction	13	1.7
Crime committed while incarcerated in Juvenile facility	11	1.5
Second forgery	8	1.1
Aggravated assault of a LEO	7	0.9
Drug felony with a firearm	4	0.5
Second or subsequent identity theft or fraud	4	0.5
Third or subsequent flee/elude, presumed prison	4	0.5
Aggravated battery by DUI	4	0.5
Battery on a LEO resulting in bodily harm	3	0.4
Felony committed after early discharge	3	0.4
Extended Juvenile jurisdiction imposed	3	0.4
Leaving the scene of an accident, person felony	2	0.3
Unlawful sexual relations	1	0.1
Persistent sex offender	1	0.1
Other	4	0.5

Note: The number and percentage are mutually exclusive.

CHAPTER FOUR
SENTENCING TRENDS AND FORECAST

INCARCERATION SENTENCES

The trend analysis exhibits that the total number of admissions to KDOC has grown in the past five years. The number of offenders admitted to prison in FY 2016 reached 6,164, which increased by 288 offenders or 4.9% when compared with FY 2015 and by 1,171 offenders or 23.5% when compared with FY 2012. (Figure 58). Table 43 presents the prison admission pattern by month in the past five years.

Figure 58: Incarceration Sentences
FY 2012 through FY 2016

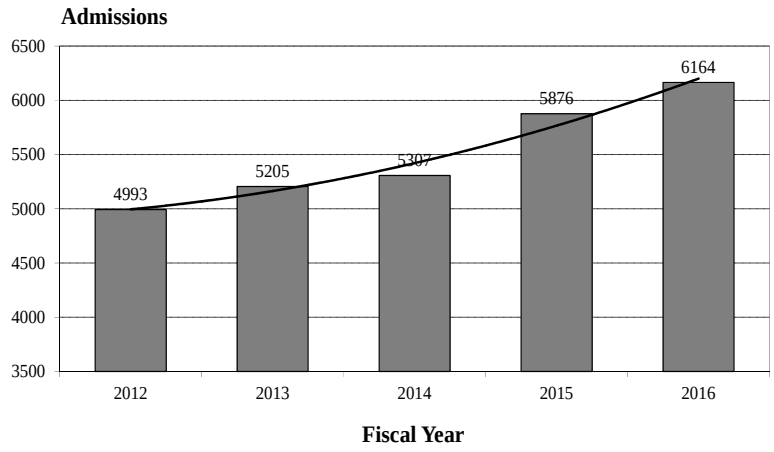


Table 43: Prison Admissions by Month

Month by Fiscal Year	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
July	385	471	472	520	538
August	495	489	418	472	459
September	399	411	400	515	495
October	401	455	492	500	499
November	416	388	398	453	440
December	418	395	438	531	553
January	368	464	446	368	478
February	394	352	392	475	540
March	411	468	472	543	640
April	402	488	495	516	472
May	515	408	434	437	527
June	389	416	450	546	523
Total	**4,993**	**5,205**	**5,307**	**5,876**	**6,164**

The trend of prison admissions by type in the past five years is shown in Table 44. The number of admissions of new court commitments in FY 2016 increased by 0.6% over that of FY 2012 and by 3.3% over that of FY 2015. Probation condition violators admitted to prison in FY 2016 significantly decreased by 29.8% when compared with FY 2012 and decreased by 10.7% compared with FY 2015. The decrease of probation condition violators in the past three years results from the implementation of prison sanctions for probation violators. In FY 2016, 1,003 offenders were admitted to prison to serve 120/180-day prison sanctions, which increased by 45.2% when compared with FY 2015. Probation violators with new sentence/new conviction admitted to prison in FY 2016 significantly increased by 188.3% compared with FY 2012 and increased by 4% compared with FY 2015. The large increase of probation violators with new sentence/conviction is due to KDOC's new rule of computation of this group and direct new court commitments. As a result, direct court commitments decreased from FY 2012 to FY 2014. The number of parole/postrelease and conditional release violators admitted to prison in FY 2016 increased by 29.5% and 1.5%% respectively over those of FY 2012 and FY 2015. Parole/postrelease and condition release violators with new sentences admitted in FY 2016 increased by 3.5% compared with FY 2012 but decreased by 3.3% from that of FY 2015.

Table 44: Comparison of Prison Admissions by Type

Admission Type	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2016-2012 % Difference.
New Court Commitment	1,975	1,894	1,844	1,922	1,986	0.6%
Sanction from Probation	N/A	N/A	323	691	1,003	N/A
Probation Condition Violator	1,682	1,629	1,368	1,321	1,180	-29.8%
Probation Violator With New Sentence/New Conviction	180	198	391	499	519	188.3%
Parole/Post-release/CR Condition Violator	955	1,234	1,122	1,219	1,237	29.5%
Parole/Post-release/CR Violator With New Sentence	141	177	185	151	146	3.5%
Other Types*	60	73	74	73	93	55.0%
Total	**4,993**	**5,205**	**5,307**	**5,876**	**6,164**	**23.5%**

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

The admission trends of incarceration sentences by severity level in the past five years are presented in Table 45 and Table 46. The total admissions of drug offenders in FY 2016 increased by 8.8% and 44.6% respectively when compared with FY 2015 and FY 2012. A new drug sentencing grid has been implemented since July 1, 2012. The admissions included offenders sentenced under both old and new grids of sentencing. Therefore, the comparison of prison admissions is only applied to recent two years when the majority of drug offenders were sentenced under the new sentencing grid. In FY 2016, the admissions increased by 35% at drug severity level 1 and by 10.2% at drug level 2 but the number at drug severity level 3 decreased by 15.9% when compared with FY 2015. Admissions at drug level 4 decreased by 36.3% while admissions at drug level 5 increased by 53% in FY 2016 as compared with those of FY

2015. This reflects the implementation of new drug sentencing grid (Table 45).

The total number of nondrug admissions increased by 3.3% over that of FY 2015 and by 16% over that of FY 2012. In the past five years, the most significant increase of nondrug admissions was found at nondrug severity level 6, an increase of 133.6%. The admissions at levels 4, 7, 8 and 9 increased, respectively, by 11.2%, 13.5%, 15.3% and 41.8%. The most significant decrease in the past five years was found at nongrid with a decrease of 86.5%. The number of Offgrid offenders admitted to prison in FY 2016 did not change compared with FY 2012. When compared with FY 2015, the number at nondrug severity level 1 increased by 19.8%, followed by level 6 with an increase of 12.9%, level 7 with an increase of 6.6% and level 8 with an increase of 6%. The number of admissions at nongrid decreased by 56.5% followed by level 2 with a decrease of 13.6% and offgrid with a decrease of 10.2%. The admissions at other nondrug levels fluctuated little when compared with those of FY 2015 (Table 46).

Table 45: Comparison of Drug Prison Admissions by Severity Level

Severity Level	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2016-2015 % Difference	FY 2016-2012 % Difference
D1	85	79	59	40	54	35%	
D2	85	73	72	88	97	10.2%	
D3	396	405	384	353	297	-15.9%	**N/A**
D4	736	715	606	535	341	-36.3%	
D5		56	307	715	1,094	53.0%	
Total	**1,302**	**1,328**	**1,428**	**1,731**	**1,883**	**8.8%**	**44.6%**

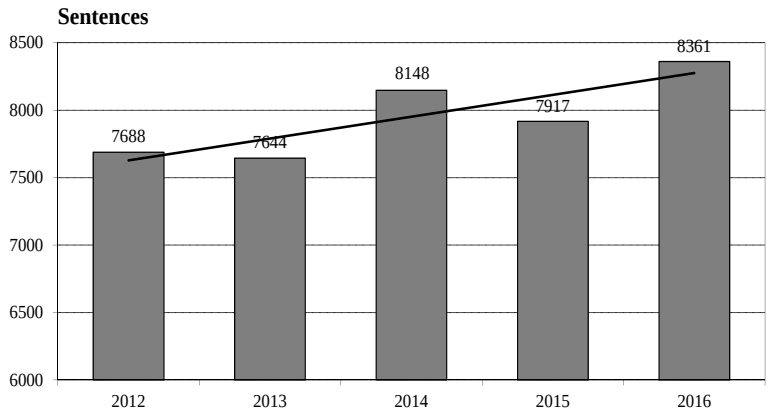
Table 46: Comparison of Nondrug Prison Admissions by Severity Level

Severity Level	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2016-2015 % Difference	FY 2016-2012 % Difference
N1	107	125	109	91	109	19.8%	1.9%
N2	39	39	44	44	38	-13.6%	-2.6%
N3	357	359	319	357	347	-2.8%	-2.8%
N4	116	116	127	131	129	-1.5%	11.2%
N5	641	623	670	647	654	1.1%	2.0%
N6	116	195	197	240	271	12.9%	133.6%
N7	838	870	858	892	951	6.6%	13.5%
N8	446	443	455	485	514	6.0%	15.3%
N9	739	845	878	1007	1,048	4.1%	41.8%
N10	109	105	91	108	103	-4.6%	-5.5%
Offgrid	106	110	95	118	106	-10.2%	0.0%
Nongrid	74	46	34	23	10	-56.5%	-86.5%
Unknown	3	1	2	2	1	-50.0%	-66.7%
Total	**3,691**	**3,877**	**3,879**	**4,145**	**4,281**	**3.3%**	**16.0%**

PROBATION SENTENCES

In the past five years, the number of probation sentences imposed has fluctuated. The total number of probation sentences in FY 2016 increased by 5.6% or 444 sentences compared with that of FY 2015 and increased by 8.8% or 673 sentences compared with that of FY 2012. The largest number of probation sentences imposed in the past five years is identified in FY 2016 (Figure 59).

Figure 59: Probation Sentences
FY 2012 through FY 2016



The total drug probation sentences in FY 2016 increased by 10% or 304 sentences over that of FY 2015 and increased by 36% or 883 sentences over that of FY 2012. Owing to the implementation of the new drug sentencing grid with five levels, probation sentences imposed in the past five years 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 only applied to FY 2016 and 2015 when the majority of the drug sentences were imposed under the new drug sentencing grid. In FY 2016, the number of drug probation sentences decreased by 23.1% at drug severity level 1 and by 27.6% at drug severity level 4, but the probation sentences increased by 31.3% at drug level 2, by 6.9% at drug level 3 and by 17.9% at drug level 5 when compared with those of FY 2015. The decrease at drug level 4 and the increase at drug level 5 mirrors the implementation of the new drug sentencing grid (Table 47).

The sentencing trend of nondrug probation sentences in the past five years is demonstrated in Table 48. The total number of nondrug probation sentences in FY 2016 increased by 2.9% over that of FY 2015 but decreased by 4% from that of FY 2012. The largest decline of nondrug probation sentences in the past five years was found with the nongrid crimes (-83.7%), followed by nondrug severity level 10 (-27%), severity level 3 (-26.7%) and severity level 5 (-11.1%). The largest increase of nondrug probation sentences in the past five years was identified at nondrug severity level 6 (123.7%), followed by nondrug severity level 4 (40%) and severity level 9 (26%), when compared with the data observed in FY 2012.

Table 47: Comparison of Probation Drug Sentences by Severity Level
FY 2012 through FY 2016

Severity Level	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2016-2015 % Difference	FY 2016-2012 % Difference
D1	9	11	13	13	10	-23.1%	
D2	32	23	36	67	88	31.3%	
D3	694	509	297	216	231	6.9%	**N/A**
D4	1715	1268	709	478	346	-27.6%	
D5		581	1,800	2,255	2,658	17.9%	
Total	**2,450**	**2,392**	**2,855**	**3,029**	**3,333**	**10.0%**	**36.0%**

Table 48: Comparison of Probation Nondrug Sentences by Severity Level
FY 2012 through FY 2016

Severity Level	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2016-2015 % Difference	FY 2016-2012 % Difference
N1	2	3	1	3	2	-33.3%	0.0%
N2	2	0	0	0	0	N/A	N/A
N3	45	46	31	38	33	-13.2%	-26.7%
N4	25	32	27	33	35	6.1%	40.0%
N5	334	316	243	283	297	4.9%	-11.1%
N6	93	156	162	218	208	-4.6%	123.7%
N7	1,136	1,086	1,068	1,031	1,042	1.1%	-8.3%
N8	836	826	919	914	926	1.3%	10.8%
N9	1,719	1,853	1,969	2,031	2,166	6.6%	26.0%
N10	259	223	223	218	189	-13.3%	-27.0%
Offgrid	0	0	0	0	02	N/A	N/A
Nongrid	787	711	650	119	128	7.6%	-83.7%
Total	**5,238**	**5,252**	**5,293**	**4,888**	**5,028**	**2.9%**	**-4.0%**

PRISON POPULATION FORECAST

The prison population projection is based on FY 2016 data of prison admission, inmate stock population and release from KDOC, and felony sentencing data from KSC. It mirrors continuously the changes of sentencing policy in previous years, such as 2006 House Bill 2567 (Jessica's Law), 2007 Senate Bill 14 and 2013 House Bill 2170, a justice reinvestment bill, 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 10,964 by June 30, 2026, an increase of 1,301 inmates or 13.5% over the actual prison population on the same date in 2016. The total admission in the past five years exhibits an increasing tendency (Figure 58). 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, increases lower severity level good time rates from 15% to 20% and provides potential credit for program completion (Figure 60).

FY 2017 prison population projection by offender group is presented in Table 49. In the ten-year forecast period, the largest increase in number is identified at the drug offender group, an increase of 381 offenders or 27.8%. The number at nondrug severity levels 1 to 3 will increase by 140 offenders or 5.7% in the next ten years. This is due to the "stacking effect" of long, mandatory minimum sentences of the most serious offenses, even though the trend of violent crimes in Kansas has declined in the past five years. The projected population at nondrug severity levels 4 to 6 will increase by 256 offenders or 15.2 % during the ten-year forecast period. The prison population at nondrug severity levels 7 to 10 will increase by 284 offenders or 30.5%, which partially results from the application of the special sentencing rules. The incarcerated population at offgrid in the next ten years will increase by 290 offenders or 22%, indicating the second largest increase in number of the projection. This growth reflects the continuous impact of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session.

Probation condition violators admitted to prison were required to serve their underlying prison sentence before 2013, but now House Bill 2170 requires probation condition violators to serve graduated sanctions instead, which includes a custody in KDOC for a period of 120 days or 180 days. As a result, in the next ten years, the number of prison sanctions from probation will increase by 56 or 50.9%, while the probation condition violators admitted to prison will decrease by 97 or 9.4%, which reflects the implementation of House Bill 2170. Parole/postrelease condition violators will increase by 113 or 19.3% 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 serve a postrelease supervision term. The trend of the actual and projected prison population from FY 2007 through FY 2026 is presented in Figure 60.

Figure 60: Prison Population Actual and Projected

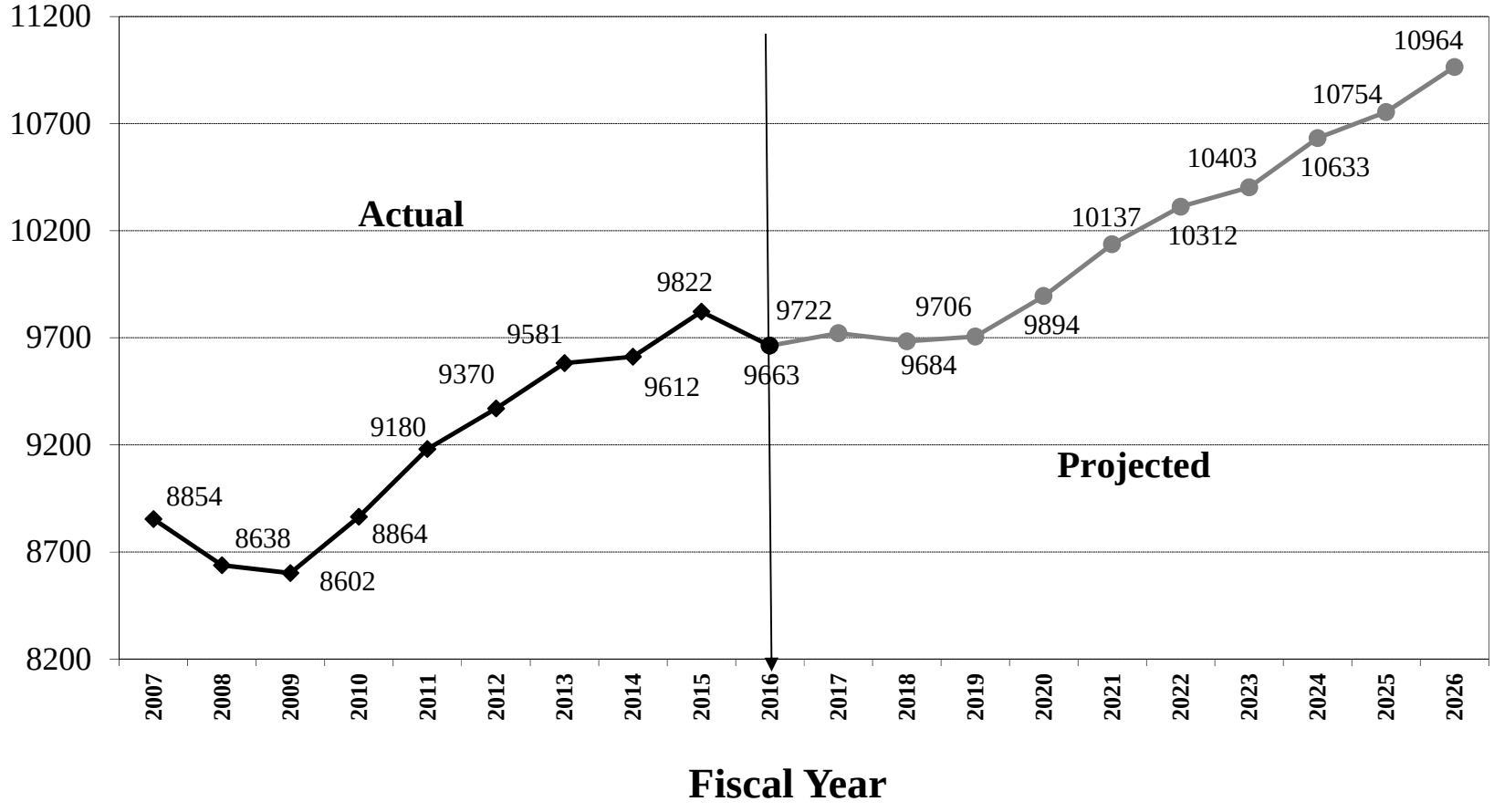


Table 49: FY 2017 Adult Inmate Prison Population Projections

Offender Group	2016*	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	# Change	% Change
Drug	1370	1311	1321	1362	1469	1577	1607	1655	1665	1712	1751	**381**	**27.8%**
N1 to N3	2464	2482	2474	2452	2473	2476	2503	2519	2560	2573	2604	**140**	**5.7%**
N4 to N6	1683	1712	1682	1671	1681	1740	1810	1812	1893	1923	1939	**256**	**15.2%**
N7 to N10	930	949	984	1020	1054	1083	1088	1121	1152	1200	1214	**284**	**30.5%**
Sanction	110	147	144	143	158	148	159	139	155	150	166	**56**	**50.9%**
Probation Condition Violators	1033	1014	958	920	883	927	931	926	931	897	936	**-97**	**-9.4%**
Offgrid Including Old Law Lifer	1318	1316	1350	1387	1422	1451	1480	1504	1535	1572	1608	**290**	**22.0%**
Parole/Post Release Violators	587	637	636	638	650	643	656	658	685	675	700	**113**	**19.3%**
Old Law Inmates	168	154	135	113	104	92	78	69	57	52	46	**-122**	**-72.6%**
Total	**9663**	**9722**	**9684**	**9706**	**9894**	**10137**	**10312**	**10403**	**10633**	**10754**	**10964**	**1301**	**13.5%**

* The numbers of 2016 are the actual prison population on that date.

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 by the end of FY 2017, 296 unclassified beds, 2,936 minimum beds, 2,802 medium low beds, 1,591 medium high beds, 1,295 maximum beds and 802 special management beds will be needed. The total projected prison beds, by the end of FY 2026 will include 352 unclassified beds, 3,391 minimum beds, 3,013 medium low beds, 1,801 medium high beds, 1,437 maximum beds and 970 special management beds (Table 50).

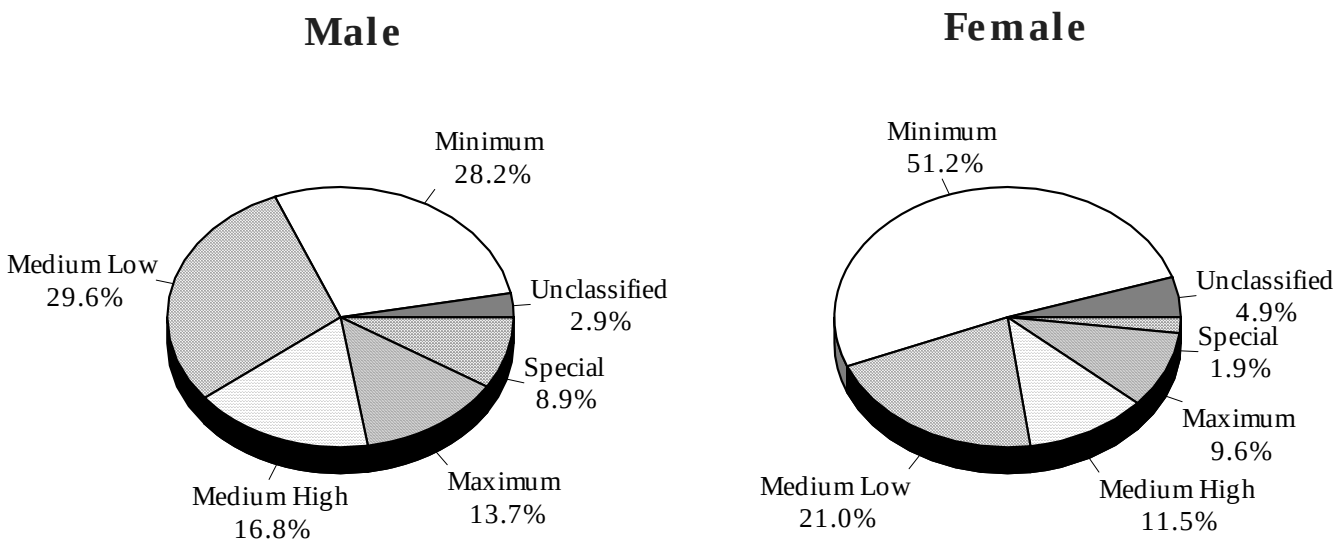
The projected percentage distribution of custodial classifications by gender is exhibited in Figure 61. The distribution demonstrates a significant difference between male and female offenders. Females will need 4.9% unclassified, 51.2% minimum, 21% medium low, 11.5% medium high, 9.6% maximum custody and 1.9% special management beds by the end of FY 2017. Males will need 2.9% unclassified, 28.2% minimum, 29.6% medium low, 16.8% medium high, 13.7% maximum custody and 8.9% special management beds by the end of FY 2017. 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 minimum beds with an increase of 404. The second largest increase is for medium low beds with an increase of 221 beds. The medium high beds, special management beds, maximum custody beds and unclassified beds show an increase of 202, 166, 141 and 53, respectively, over the ten-year forecast period. Beds for females, in terms of custody types, fluctuate slightly in the next ten years except for minimum beds with an increase of 51. This forecast assumes no changes in custody practice over the ten-year forecast period.

Table 50: Ten-Year Custody Classification Projection

Fiscal Year	Unclassified	Special	Maximum	Medium High	Medium Low	Minimum	Total
2017	296	802	1,295	1,591	2,802	2,936	9,722
2018	297	857	1,267	1,528	2,782	2,953	9,684
2019	312	848	1,248	1,517	2,778	3,003	9,706
2020	339	859	1,300	1,552	2,776	3,068	9,894
2021	316	893	1,318	1,613	2,828	3,169	10,137
2022	297	961	1,356	1,636	2,837	3,225	10,312
2023	339	943	1,360	1,678	2,894	3,189	10,403
2024	316	930	1,438	1,780	2,933	3,236	10,633
2025	319	940	1,404	1,748	3,005	3,338	10,754
2026	352	970	1,437	1,801	3,013	3,391	10,964

Figure 61: Projected Percentage Distribution of Custody Classification by Gender

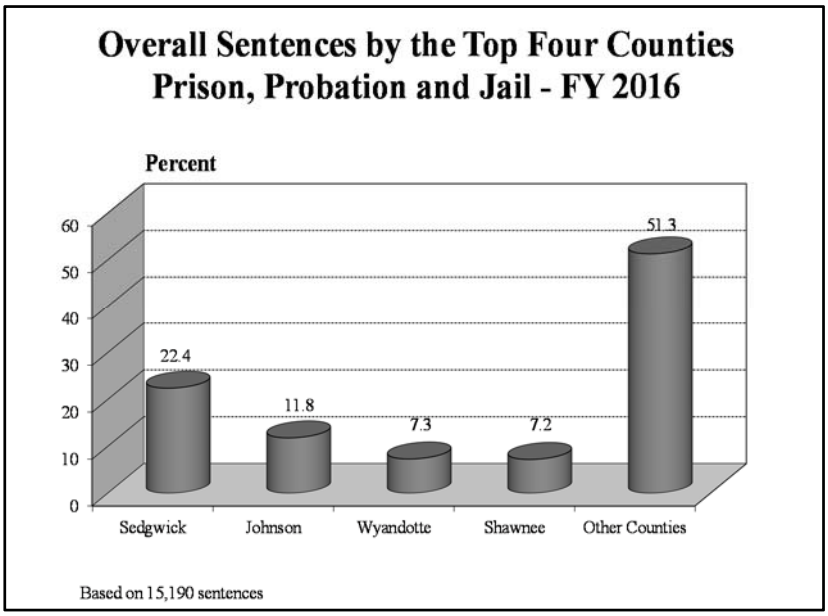


Based on the projected prison population on June 30, 2017 (male = 8,878 and female = 844).

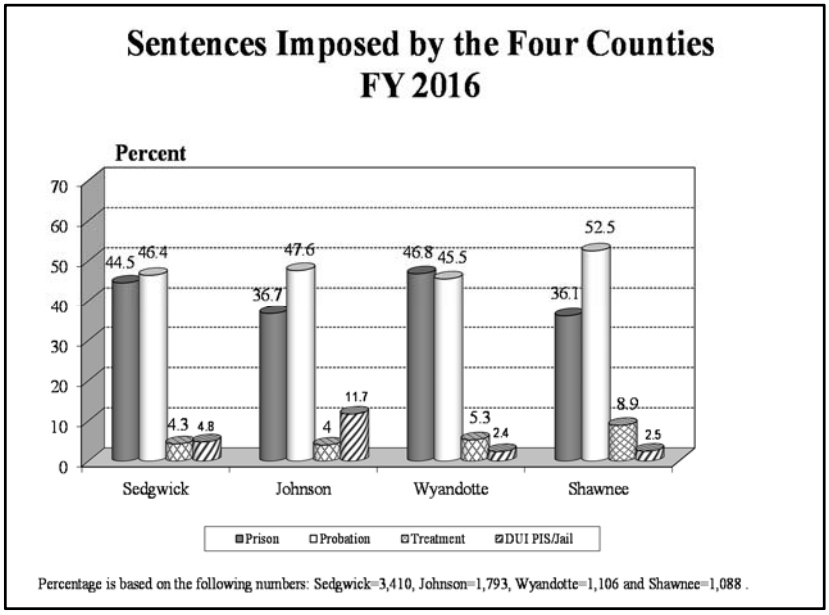
APPENDIX I
SENTENCES FROM THE TOP FOUR COUNTIES

In this section, sentences utilized for analyses include incarceration, probation, DUI/Test Refusal PIS and county jail sentences submitted to the Commission during FY 2016. The analysis on the sentences indicates that Sedgwick County, Johnson County, Wyandotte County and Shawnee County remained the top four counties, whose sentences imposed accounted for 48.7% of the total state sentences, a decrease of 1% compared with that of FY 2015 (49.7%). Sedgwick County continued to have the highest number of overall felony sentences, followed by Johnson County, Wyandotte County and Shawnee County. This distribution is comparatively consistent with those of previous years. When compared with the sentencing data of FY 2015, the percentages of sentences from these four counties in FY 2016 do not fluctuate much. Sentences from Sedgwick County increased by 1.2% but sentences from Wyandotte County and Shawnee County decreased respectively by 1.8% and 0.4%. The percentage of sentences from Johnson County indicated no change. The characteristics of offenses and offenders from the four counties in FY 2016 are presented in the following figures and tables.

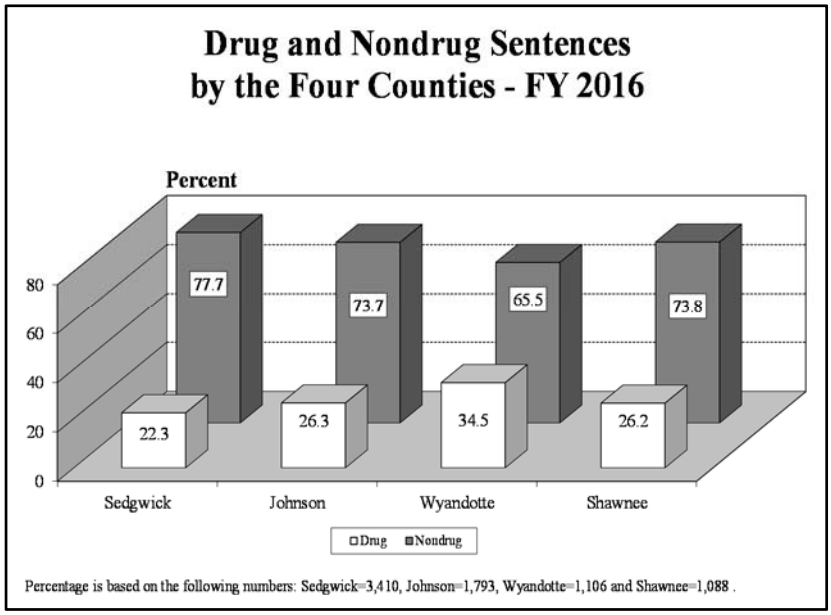
The Sedgwick, Johnson, Wyandotte and Shawnee counties were the top four counties reporting the greatest overall felony sentencing events. Sedgwick County imposed 22.4% sentences of the total state sentence events in FY 2016, followed by Johnson County (11.8%), Wyandotte County (7.3%) and Shawnee County (7.2%).



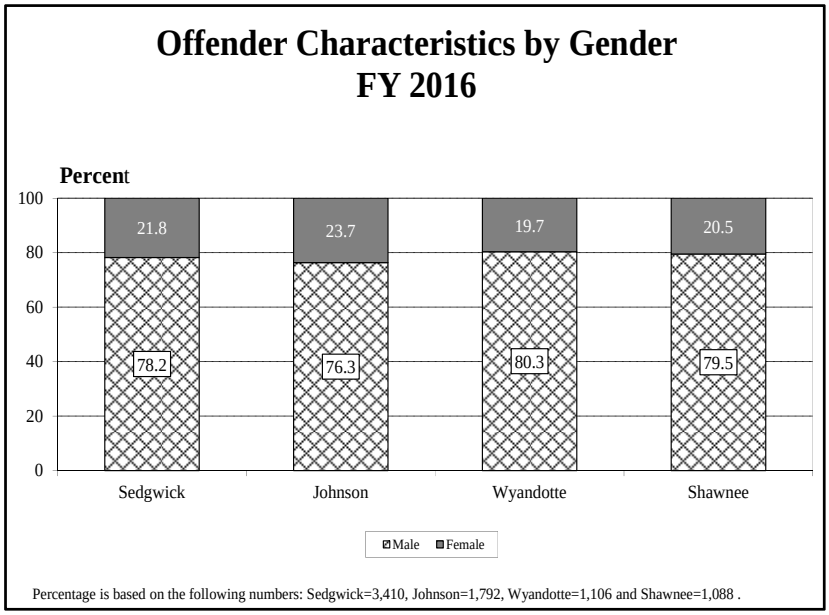
In FY 2016, the highest percentage of prison sentences in FY 2016 was found in Wyandotte County (46.8%), while Shawnee County imposed a higher rate of probation sentences than the other three counties (52.5%). Shawnee County also imposed the highest rate of Senate Bill 123 drug treatment sentences (8.9%) among the four counties. The highest percentage of DUI/Test Refusal PIS and county jail sentences was identified in Johnson County (11.7%).



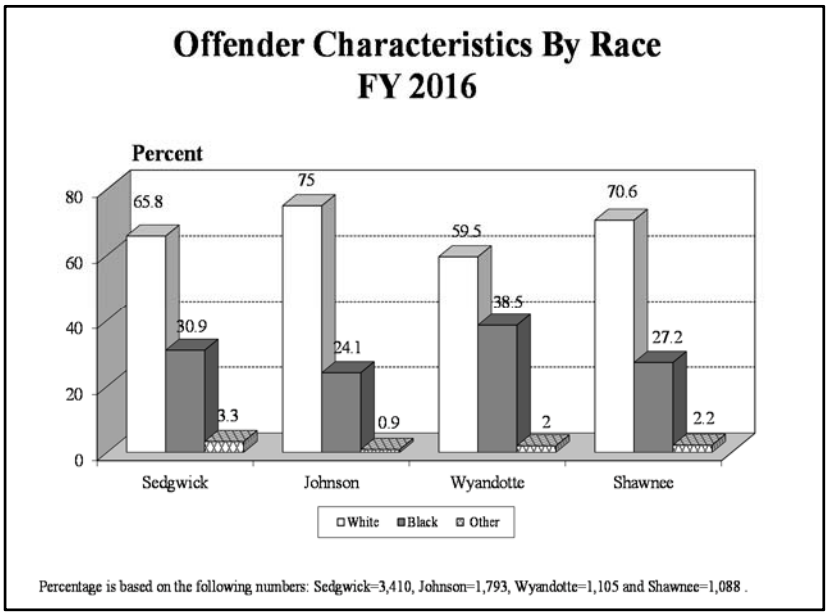
In terms of drug and nondrug crimes, the analysis reveals that in FY 2016, Sedgwick County imposed the largest proportion of nondrug sentences (77.7%), while Wyandotte County represented the highest percentage of drug sentences (34.5%) among the four counties. This distribution pattern is consistent with those of FY 2015 and FY 2014.



The gender analysis of offenders in FY 2016 shows that Wyandotte County represented the highest percentage of male offenders (80.3%), while Johnson County reported the highest rate of female offenders (23.7%) among the four counties during FY 2016. This is consistent with the data observed in FY 2015 and FY 2014.



The review of offenders by race reveals that in FY 2016, Johnson County reported more white offenders (75%), while Wyandotte County reported more black offenders (38.5%) than the other three counties respectively. This racial distribution has remained constant in the past five years.



FY 2016 Sentences from the Four Counties by Severity Level
Prison, Probation, DUI/Test Refusal PIS and County Jail Sentences

Severity Level	Sedgwick		Johnson		Wyandotte		Shawnee	
	N	%	N	%	N	%	N	%
D1	3	0.1	1	0.1	2	0.2	2	0.2
D2	40	1.2	14	0.8	15	1.4	1	0.1
D3	97	2.8	68	3.8	44	4.0	7	0.6
D4	80	2.3	85	4.7	32	2.9	27	2.5
D5	540	15.8	303	16.9	289	26.1	248	22.8
N1	27	0.8	10	0.6	18	1.6	12	1.1
N2	14	0.4	4	0.2	4	0.4	3	0.3
N3	96	2.8	28	1.6	66	6.0	34	3.1
N4	47	1.4	19	1.1	21	1.9	9	0.8
N5	294	8.6	98	5.5	79	7.1	76	7.0
N6	140	4.1	44	2.5	34	3.1	27	2.5
N7	560	16.4	156	8.7	130	11.8	197	18.1
N8	370	10.9	281	15.7	81	7.3	108	9.9
N9	860	25.4	422	23.5	219	19.8	261	24.0
N10	38	1.1	32	1.8	25	2.3	25	2.3
Nongrid	184	5.4	222	12.4	38	3.4	42	3.9
Offgrid	20	0.6	6	0.3	9	0.8	9	0.8
Total	**3,410**	**100.0**	**1,793**	**100.0**	**1,106**	**100.0**	**1,088**	**100.0**

FY 2016 Top Ten Offenses Committed by Offenders in the Four Counties – 1

Offense Type	Sedgwick County		Offense Type	Johnson County	
	N	%		N	%
Drugs	761	22.3	Drugs	472	26.3
Theft	525	15.4	Theft	277	15.4
Burglary	282	8.3	DUI	206	11.5
Aggravated Battery	269	7.9	Identity Theft	142	7.9
DUI	144	4.2	Burglary	106	5.9
Failure to Register	124	3.6	Aggravated Battery	86	4.8
Criminal Threat	122	3.6	Forgery	45	2.5
Possession of Firearm	115	3.4	Criminal Threat	44	2.5
Aggravated Assault	109	3.2	Aggravated Robbery	27	1.5
Aggravated Burglary	107	3.1	Aggravated Escape from Custody	26	1.5
Total	**2,558**	**75.0**	**Total**	**1,431**	**79.8**

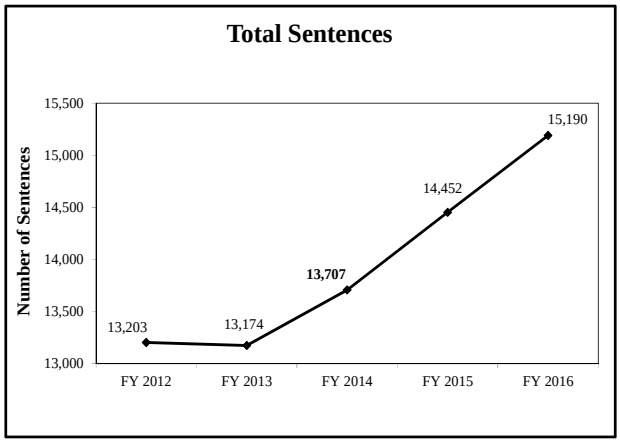
FY 2016 Top Ten Offenses Committed by Offenders in the Four Counties – 2

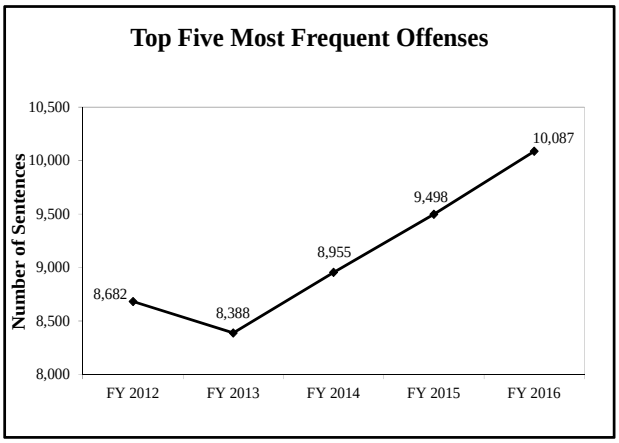
Offense Type	Wyandotte County		Offense Type	Shawnee County	
	N	%		N	%
Drugs	382	34.5	Drugs	285	26.2
Theft	119	10.8	Theft	141	13.0
Burglary	77	7.0	Aggravated Battery	76	7.0
Aggravated Battery	63	5.7	Burglary	72	6.6
Aggravated Robbery	47	4.2	Aggravated Burglary	58	5.3
Fleeing or Eluding LEO	46	4.2	Failure to Register	56	5.1
Forgery	44	4.0	Aggravated Assault	39	3.6
Failure to Register	38	3.4	Criminal Threat	37	3.4
DUI	36	3.3	Forgery	32	2.9
Aggravated Assault	35	3.2	DUI	27	2.5
Total	**887**	**80.3**	**Total**	**823**	**75.6**

APPENDIX II
TRENDS OF SELECTED OFFENSES

TOP FIVE MOST FREQUENT OFFENSES

In the past five years, the crimes of drugs, DUI, burglary, theft and aggravated battery were the top five most frequently convicted offenses. Of the total offenses, including incarceration, probation, DUI/Test Refusal PIS and county jail sentences, these top five offenses represented 65.8% in FY 2012, 63.7% in FY 2013, 65.3% in FY 2014, 65.7% in FY 2015 and 66.4% in FY 2016. The following figures and table present the sentencing trends of the top five offenses from FY 2012 to FY 2016. The sentence number of the top five offenses was up and down generally in the pattern of the total number of incarceration, probation, DUI or Test Refusal PIS and county jail sentences in the past five years.





Top Five Most Frequent Offenses
Incarceration, Probation, DUI/Test Refusal PIS and County Jail Sentences

Top Five Offenses	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Drugs	3,752	3,720	4,285	4,762	5,220
DUI	1,331	1,006	855	728	725
Burglary	1,483	1,539	1,484	1,461	1,487
Theft	1,290	1,367	1,490	1,732	1,742
Aggravated Battery	826	756	841	815	913
Subtotal	**8,682**	**8,388**	**8,955**	**9,498**	**10,087**
Total Offenses	**13,203**	**13,174**	**13,707**	**14,452**	**15,190**

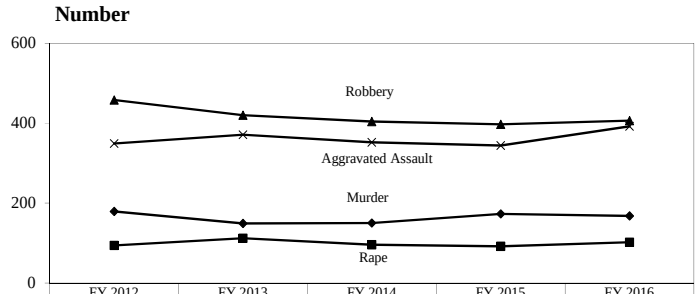
UNIFORM CRIME REPORTING (UCR) OFFENSES

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 2012 to FY 2016, 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 2016, the conviction of murder crimes decreased by 2.9% compared with FY 2015 and decreased by 6.1% compared with FY 2012. The number of rape crimes increased by 10.9% compared with FY 2015 and by 8.5% compared with FY 2012. Robbery convictions increased by 2.3% compared with FY 2015 but decreased by 11.4% compared with FY 2012. The number of aggravated assaults increased by 14% and 12.3% respectively over those of FY 2015 and FY 2012.

Burglary crimes in FY 2016 increased respectively by 1.8% and 0.3% over those of FY 2015 and FY 2012. The number of theft crimes increased by 0.6% over FY 2015 and significantly increased by 35% over that of FY 2012. The crime of arson increased by 12.5% over that of FY 2015 but decreased by 8.5% from that of FY 2012.

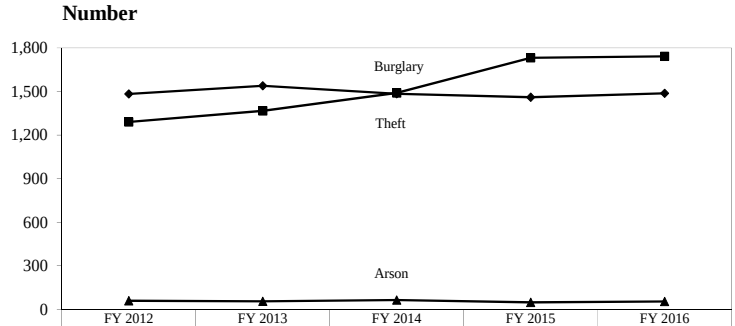
UCR Offenses: Violent Crime
FY 2012 through FY 2016



	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Murder	179	149	150	173	168
Rape	94	112	96	92	102
Robbery	458	420	404	397	406
Agg. Assault	349	371	352	344	392

Both incarceration and probation sentences are included.

UCR Offenses: Property Crime
FY 2012 through FY 2016



	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Burglary	1,483	1,539	1,484	1,461	1,487
Theft	1,290	1,367	1,490	1,732	1,742
Arson	59	55	64	48	54

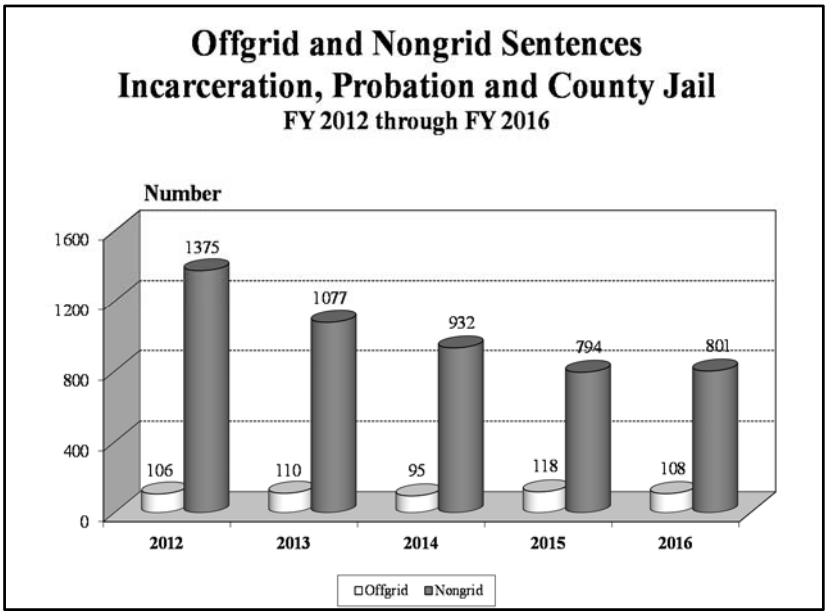
Both incarceration and probation sentences are included.

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 50 years in confinement for premeditated first-degree murder, or 25 years in certain premeditated first-degree murder cases in which mitigating 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 but prior to July 1, 2014. Felony murder crimes committed on or after July 1, 2014, carry a life sentence with parole eligibility after serving a mandatory 25-year sentence.

Nongrid crimes are not assigned severity levels on either sentencing guidelines grids under the revised 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) and felony cruelty to animals (K.S.A. 21-6412 and 21-6416) are categorized as nongrid crimes. The applicable sentence of each of the nongrid crimes is specified within the individual criminal statute defining the crime. For example, the sentence for the crime of felony domestic battery specifies that the offender "shall be sentenced to no less than 90 days or more than one year's imprisonment." Further, a felony domestic battery offender must serve at least 48 consecutive hours imprisonment before being eligible for any type of release program.

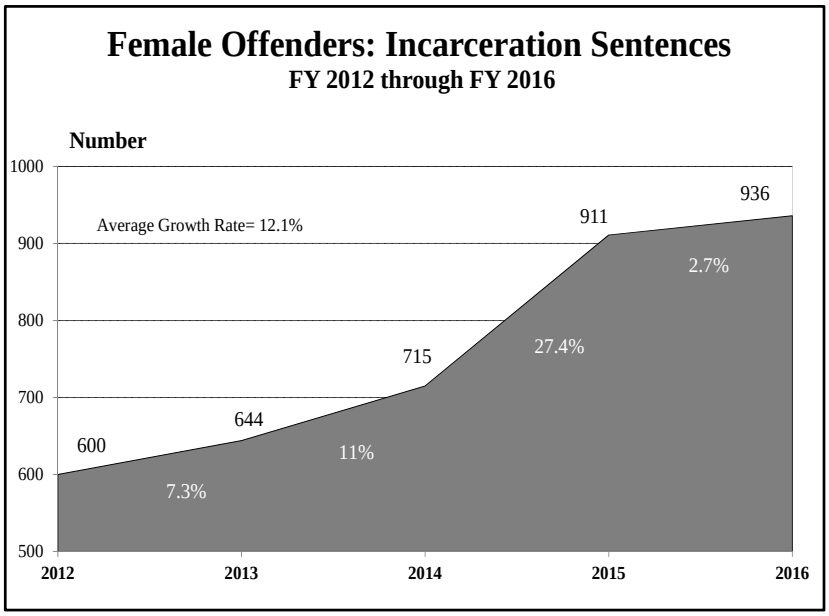
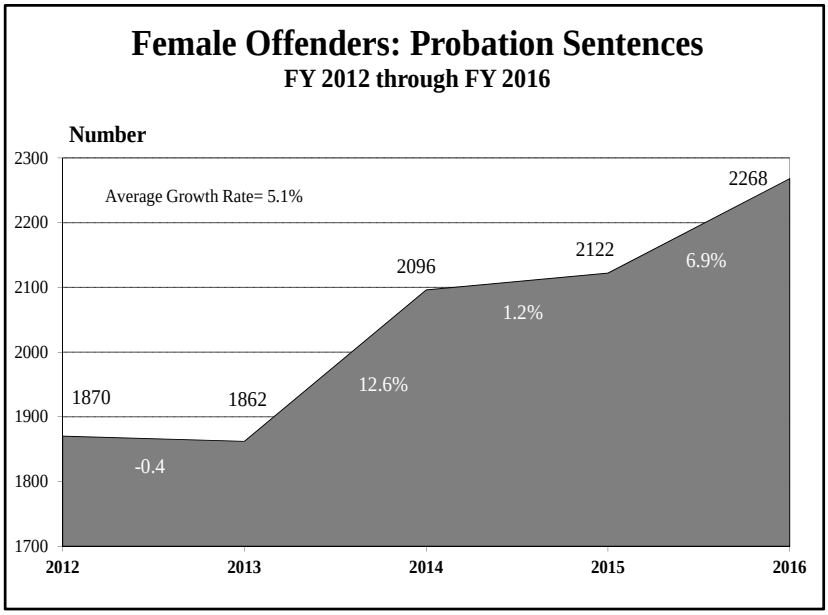
In FY 2016, the number of offgrid crimes decreased by 8.5% from that of FY 2015 but increased by 1.9% over that of FY 2012. The majority of the offgrid sentences were convicted under the Jessica's Law, which implies that the policy was implemented consistently in the past five years. Nongrid sentences in FY 2016, including incarceration, probation and county jail sentences, increased by 7 (0.9%) compared with FY 2015 but greatly decreased by 574 (41.7%) from that of FY 2012, which mirrors the 2011 policy changes on felony DUI (Page 15).



FEMALE OFFENDERS

The admission of female offenders demonstrates an increasing trend in the past five years. The number of female admissions in FY 2016 increased by 2.7% compared with that of FY 2015 and significantly increased by 56% compared with that of FY 2012. The average growth rate in the past five years is 12.1%. The numbers of female offenders on probation has grown from year to year since FY 2013. In FY 2016, female offenders on probation increased by 6.9% over that of FY 2015 and significantly increased by 21.3% when compared with FY 2012. The average growth rate is 5.1% in the past five years. Females were sentenced to prison or probation most frequently for the crimes of drugs, forgery and theft, which is consistent with the data observed in previous years.

The female offenders incarcerated in prison increased by 7.3% in FY 2013, by 11% in FY 2014, and greatly increased by 27.4% in FY 2015 when compared with those of the previous years. The population in FY 2016 is the highest number (936) of female admissions to prison in the past five years, an increase of 2.7% over that of FY 2015.



In FY 2013, the female population sentenced to probation decreased by 0.4% when compared with FY 2012. However, the female probationers increased greatly by 12.6% in FY 2014, by 1.2% in FY 2015 and continued to increase by 6.9% in FY 2016 when compared with the previous years.