# KANSAS SENTENCING COMMISSION

## FY 2017 ANNUAL REPORT

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# KANSAS SENTENCING COMMISSION

## ANNUAL REPORT
## FY 2017

# *Analysis Of Sentencing Guidelines In Kansas*

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**Chair**

**Honorable W. Lee Fowler**
**Vice Chair**

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

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# EXECUTIVE SUMMARY

Fiscal Year (FY) 2017 Annual Report is the twenty-third report released by the Kansas Sentencing Commission. It provides a descriptive analysis of felony sentencing pattern under the sentencing guidelines during FY 2017, which includes a summary of sentences reported to the Commission, analysis of sentence conformity to the guidelines, sentencing trends and prison population projections. The following presents the major activities performed by the Commission and the key sentencing issues discussed in this year's report.

## MAJOR ACTIVITIES PERFORMED

To accomplish its statutory obligations assigned to the Kansas Sentencing Commission under K.S.A. 74-9101, during FY 2017, the Commission continued its efforts in performing the following activities: a) 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; b) processed statewide felony sentencing and probation revocation journal entries including both prison and non-prison guideline sentences; c) 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; d) updated the Kansas Sentencing Guidelines Desk Reference Manual according to sentencing policy changes passed in the 2017 Legislative Session; e) produced annual prison population projections and custody classification forecasts for the Kansas Adult Correctional Facilities; f) published an annual report statistically presenting sentencing practice and policies under Kansas Sentencing Guidelines; g) tracked the impact of 2013 House Bill 2170 as a result of the Kansas Justice Reinvestment Initiative; h) monitored and evaluated the implementation of 2003 Senate Bill 123 drug treatment programs and processed statewide transactions of the programs; i) performed criminal justice research projects funded through federal grant in the area of increasing access to statistic data and measuring criminal justice system performance; j) served as an information resource to respond to national, state and county requests regarding sentencing data; k) conducted training sessions on sentencing guidelines and various sentencing issues; and l) introduced legislation to more effectively monitor and maintain the sentencing guidelines.

FY 2017 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 2017. A total number of 15,045 felony sentences were reported to the Commission during FY 2017, indicating a decrease of 1% from that of FY 2016. Of the total number of sentences, 6,497 (43.2%) were prison

sentences, 7,934 (52.7%) were probation sentences and 614 (4.1%) were DUI or test refusal post-imprisonment supervision and county jail sentences. Nondrug sentences accounted for 63.7% or 9,577 sentences and drug sentences accounted for 36.3% or 5,468 sentences (page 2).

**INCARCERATION SENTENCES**

In FY 2017, the total number of admissions to KDOC reached 6,497, an increase of 5.4% or 333 offenders when compared with FY 2016 (6,164 admissions). Male offenders made up 83.9% of the total admissions, a percentage decrease of 0.9% from that of FY 2016 (84.8%). 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, 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 80.2% of the crime of drug distribution and 95.5% of unlawful manufacture of a controlled substance, while most female offenders committed drug crimes of drug possessions, drug distribution and possession of paraphernalia (page 26).

White offenders represented 73.4% of the admissions to the state prisons in FY 2017, indicating an increase of 0.7% over that of FY 2016 (72.7%). The offenders with non-Hispanic origin made up 89.1%, an increase of 1% over that of FY 2016 (88.1%). The highest incarceration rates for white offenders (over 70%) were discovered in the crime areas of burglary, criminal threat, failure to register, forgery, theft, identity theft, obstruction legal process, aggravated assault on LEO, fleeing or eluding LEO, aggravated escape from custody, criminal damage to property, traffic in contraband and most sex offenses. Nevertheless, black offenders were incarcerated more often (over 40%) for the crimes of aggravated robbery, robbery, aggravated kidnapping, murder in the first degree, involuntary manslaughter and aggravated battery on LEO (pages 23 & 24).

When examining the age of offenders, the data discloses that the largest population of incarcerated offenders was identified in the age group ranging from 31 to 40 years old (32.3%) and the second largest number of offenders was identified in the group from 25 to 30 years old (24.8%) at the time of admission to prison in FY 2017. This age distribution is consistent with the age data observed in the past four years. As for the educational background of the offenders admitted in FY 2017, 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 2016.

The analysis of admission types demonstrates that the three largest groups of admissions are new court commitments, probation condition violators (excluding 18.3% of sanctions from probation violation) and parole or postrelease/CR condition violators. These three groups represent 31.9%, 18.9% and 18.5%, respectively, of the total prison admissions in FY 2017. Most of the drug offenders admitted to KDOC in FY 2017 were at drug severity level 5 (1,348 sentences or 65.8%) and drug severity level 4 (298 sentences or 14.5%), while the largest numbers of nondrug offenders were identified at nondrug severity levels 5, 7 and 9 with

admissions of 615, 945 and 1,171, respectively, in FY 2017 (pages 27 & 28).

The tracking study of Jessica's Law reveals that 66 sex offenders were convicted under this law and admitted to prison during FY 2017. Of this number, 52 offenders (84.8%) were new court commitments and 10 offenders (15.2%) were parole condition and probation condition violators. While most jurisdictions identify the severity of these crimes as offgrid (83.3%), a few sentenced offenders at the severity level for a downward departure on the nondrug grid. The analysis of sentence length demonstrates that 59.1% of the sentences were downward departures to the guidelines, an increase of 1.3% compared with that of FY 2016 (57.8%). The average sentence length of the durational departures was 109.8 months, a decrease of 13 months from that observed in FY 2016 (122.8 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**

The number of probation sentences reported to the Commission during FY 2017 declined to 7,934, a decrease of 5.1% compared with that of FY 2016 (8,361). The analysis of the probation sentences demonstrates that theft (19.6%), burglary (12.6%) and aggravated battery (9.6%) were the top three offenses committed by nondrug probation offenders, representing 41.8% of the total nondrug crimes (page 37). The probation sentences for the crime of drug possession accounted for 76% of all drug probation sentences, a decrease of 1% from that (77%) of FY 2016 (pages 38 & 40).

The analysis of the criminal history categories of the offenders sentenced to probation in FY 2017 indicates that offenders with criminal history category I accounted for 22.1% of offenders on the nondrug grid and 24.3% of offenders on the drug grid. The nondrug offenders within the presumptive probation boxes made up 79.9%, a decrease of 0.2% compared with that of FY 2016 (80.1%). The examination of the border box sentences shows that 4.3% of probation nondrug sentences were found to be within the designated border boxes (page 45). The study on drug sentences by presumptive probation and border box resumes in FY 2017. The drug offenders within presumptive probation sentences accounted for 58.8% and the drug offenders within the border box represented 23.4% of the probationers sentenced during FY 2017.

**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.

In FY 2017, a total number of 2,727 probation violators received a jail sanction based on the probation revocation disposition data collected by the Commission. This is an increase of 254 or 10.3% over that of FY 2016 (2,473 jail sanctions). Of the 2,727 jail sanctions, 61.3% served from 1 to 60 days in county jails and the average jail days served is 3 days, which is very consistent with the

sentencing policy of the bill compared with FY 2016 (2.9 days), FY 2015 (3.7 days) and 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).

When reviewing the KDOC's admission data, the Commission noticed that 1,192 probation condition violators in FY 2017 were admitted to prison as HB 2170 sanction from probation, an increase of 189 violators (18.8%) compared with FY 2016 (1,003 violators). Of those 1,192 violators, 727 offenders (61%) were remanded for 120 sanction days, 464 offenders (38.9%) were remanded for 180 sanction days and 1 offender (0.1%) was remanded for 300 days in KDOC. Since FY 2017 is the fourth year for the implementation of HB 2170, the Commission will continue monitoring 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 2017 (page 15). The Commission received 614 DUI/Test Refusal post-imprisonment supervision (PIS) and county jail sentences in FY 2017. Of this number, DUI/Test Refusal PIS accounted for 88.8% (545 sentences) and county jail sentences accounted for 11.2% (69 sentences).

The analysis of this group of offenders by gender specifies that male offenders accounted for 83.1% and female offenders accounted for 16.9% of the 614 sentences. The gender distribution does not change much when compared with that of FY 2016. White offenders represented 80.1%, black offenders represented 16% and other races represented 3.9 % of the DUI/Test Refusal PIS and county jail sentences imposed in FY 2017. Their average age at sentencing is 40 years old, very close to that (39.7) of FY 2016 (page 46).

The study of the crimes committed by the offenders displays that 96.9% of the offenders were convicted of felony DUI (595 sentences), 0.5% (3 sentences) were convicted of the crime of DUI/Test Refusal and 2.3% (14 sentences) were convictions of the crime of domestic battery. Johnson County imposed the most sentences of this group (151) representing 24.6%, followed by Sedgwick County with 127 sentences representing 20.7% of the total DUI/Test Refusal PIS and county jail sentences imposed in FY 2017 (page 47).

**DRUG SENTENCES**

A new drug sentencing grid with 5 drug severity levels has been executed 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).

The number of drug offenders admitted to prison in FY 2017 (2,049 offenders) increased by 8.8% over that of FY 2016 (1,883 offenders) and significantly increased by 54.3% over that of FY 2013 (1,328 offenders). When individual drug severity levels were compared, the admissions decreased by 35.2% at drug severity level 1 and by 9.8% at drug level 3 and by 12.6% at

drug level 4 compared with FY 2016. However the number of admissions increased by 3.1% at drug severity level 2 and by 23.2% at drug severity level 5 when compared with those of FY 2016. The decrease of admissions at drug level 4 and the increase of admissions at drug level 5 in FY 2017continuously reflects the implementation of the new drug sentencing grid (page 86).

The analysis of drug offenses demonstrates that 68.2% of the incarceration drug sentences were convictions of drug possession, an increase of 2.7% compared with that of FY 2016 (65.5 %). Approximately 6% of the drug possession sentences were found at drug severity level 4. Offenders at drug severity level 5 accounted for 94.1% of the drug possession group, a continuous increase of 7.1% over that of FY 2016 (87%) after a greatly increase of 21.1% over that of FY 2015 and 29.5% over that of FY 2014. This continuous increase mirrors the implementation of the new drug sentencing grid (page 25).

The research of drug probation sentences indicates that the number of drug probation sentences in FY 2017 (3,419) increased by 2.6% compared with that of FY 2016 (3,333) and greatly increased by 42.9% compared with that of FY 2013 (2,392). The analysis of individual levels reveal that the number of drug probation sentences in FY 2017 decreased by 6.8% at drug severity level 2, but increased by 3.9% at drug level 3, by 13.6% at drug level 4 and by 1.4% at drug level 5 when compared with those of FY 2016. The number of probation sentences at drug severity level 1 indicates no change when compared with FY 2016 (page 88).

Further study of drug offenders on probation reveals that during FY 2017, a total number of 1,190 sentences were imposed to 2003 Senate Bill 123 (SB 123) drug treatment programs, representing 34.8% of the total drug probation sentences (3,419), an increase of 0.5% compared with that of FY 2016 (34.3%). More than 99% 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 33 years old, very close to that of FY 2016. The distribution of SB 123 drug treatment sentences imposed by county displays that Sedgwick County continuously imposed the most SB 123 sentences (127) followed by Shawnee (101), Johnson (88), Reno (82) and Saline (69) counties (pages 42 & 43).

In addition, 1,049 SB 123 drug treatment sentences were violated as probation condition violators during FY 2017. Of this number, 256 sentences were revoked to prison, representing 21.5% of SB 123 sentences imposed (1,190 sentences) in FY 2017, a decrease of 3.7% from that of FY 2016 (25.2%). The average period between original sentence and the first revocation hearing was 15.3 months, 18 days longer than that of FY 2016 (14.7 months).

## VIOLATORS

Violators, discussed in this report, 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 2,430 condition violators were admitted

to prison in FY 2017, accounting for 37.4% of the total prison admission events of the fiscal year. Of this number, 1,229 were probation condition violators, 1,200 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 1.8% compared with that (39.2%) of FY 2016 (page 49).

The number of probation condition violators admitted to prison in FY 2017 significantly decreased by 24.6% when compared with FY 2013 but increased by 4.2% over that of FY 2016. This decrease from FY 2014 to FY 2016 results from the implementation of prison sanctions for probation violators. The number of parole/postrelease and conditional release violators admitted to prison in FY 2017 decreased by 2.7% and 2.9%, respectively, from those of FY 2013 and FY 2016 (page 85). When examining the gender of violators, the data discloses that both male and female 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 consistent with the data observed in FY 2016 (page 52).

Based on the probation revocation disposition data collected by the Commission, 550 probation condition violators and 88 probation violators with new convictions were sentenced to either continued or extended probation for a violation in FY 2017. This represents 10.4% of the total number of 5,311 condition probation violators and 10.9% of the total number of 808 probation violators with new offenses revoked during FY 2017 (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 study of the conformity rates to the sentencing guidelines is based on the 6,702 pure guideline sentences reported in FY 2017. Of this number, 1,523 were incarceration guideline sentences and 5,179 were probation sentences. Seventy-nine percent 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 10% of sentences (page 65). The sentence distribution is very consistent with those of FY 2016 and FY 2015.

The analysis of incarceration sentences within guidelines displays that 35.3% of the sentences imposed fell within the standard range of the grid cell, a decrease of 5.2% when compared with that of FY 2016 (40.5%). More than 15% of all sentences were within the aggravated range; 23.7% were within the mitigated range and 25.9%

were located within designated border boxes (page 66).

The review of the durational departures of the incarceration guideline sentences shows that 67.6% of the durational departures were downward durational departures, while 32.4% indicated upward durational departures (page 66). The distribution is different from that of FY 2016 with 70.3% downward durational departures and 29.7% upward durational departures. The comparative study of durational departures between drug and nondrug incarceration sentences indicates that 81.6% of drug durational departure sentences were downward compared to 61.8% 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 6.9% upward dispositional departure rate and drug sentences represented a 6.2% upward dispositional departure rate (page 70). This is consistent with data observed in FY 2016 but seems different from the sentencing practice observed in the nineteen years before FY 2016 when judges were more likely to impose fewer upward dispositional sentences for drug offenders than for nondrug offenders.

The examination of the probation guideline sentences reveals that as expected, the majority (87.7%) of probation guideline sentences fell beneath the incarceration line, among which 83.5% were within presumptive probation grids and 16.5% were within border boxes. Downward dispositional departures were identified in 12.3% of the probation guideline sentences imposed in FY 2017 (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 (15.2% vs. 9.6%). A lot more drug probation sentences resulted from border boxes than did nondrug probation sentences (23.8% vs. 6.1%), which is consistent with the data observed in FY 2016 (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 2017 Legislative Session, forty-eight 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 2017, a total number of 812 pure guideline prison sentences and 756 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 45.6% of prison pure guideline admissions (1,780 admissions) and 14.2% of pure guideline probation sentences (5,324) imposed in FY 2017. The percentage of offenders admitted to prison with special sentencing rules increased from 39.3% in FY 2013 to 45.6% in FY 2076. The percentage of probation sentences imposed with special sentencing rules accounted for 11.5% in FY 2013 and increased to 14.2% in FY 2017. The total percentage of both prison and probation sentences applied with special rules increased from 18% in FY 2013 to 22.1% in FY 2017 (page 81).

**PRISON POPULATION FORECAST**

The Commission conducts the prison population forecast according to the data of prison admission, inmate stock population and release from KDOC, and felony sentencing data from KSSC in FY 2017. 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 2027, a total of 11,455 prison beds will be needed. This represents a total increase of 16.9% or 1,652 beds over the actual prison population as of June 30, 2017. 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 90 & 91).

The analysis of the projected population at individual severity levels and groups exhibits that the largest increase in number is identified at the drug offender group in the ten-year forecast period, indicating an increase of 437 offenders or 29.6%. The number at nondrug severity levels 1 to 3 will increase by 387 offenders or 15.8% 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 322 offenders or 18.8% during the ten-year forecast period. The prison population at nondrug severity levels 7 to 10 will increase by 160 offenders or 16.7%, which partially results from the application of the special sentencing rules. The incarcerated population at offgrid in the next ten years will increase by 258 offenders or 19%. This growth reflects the continuous impact of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session.

Before 2013, probation condition violators admitted to prison were required to serve their underlying prison sentence, but now House Bill 2170 requires probation condition violators to serve graduated sanctions instead, 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 to 144 or an increase of 5.1% over the actual number of FY 2017 (137). The probation condition violators admitted to prison will increase by 72 or 7.2% and the parole or postrelease condition violators will increase by 29 or 5.3% 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 2008 through FY 2027.

The custodial classification projection predicts the types of prison beds needed for custody over the next ten years. By the end of FY 2018, KDOC will need 3,175 minimum beds, 2,813 medium low beds, 1,627 medium high beds, 1,451 regular maximum beds, 341 unclassified beds and 723 beds for special management. By the end of FY 2027, the custodial beds in demand will include 3,594 minimum, 3,179 medium low, 1,838 medium high, 1,641 regular maximum, 386 unclassified and 817 special management beds (page 92). These projections assume no substantial change in the method or practice of custody decision-making.

**REPORT CONTENTS**

The Annual Report is presented in four chapters. Chapter One provides a descriptive statistical summary of statewide guideline sentencing practices in FY 2017. 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 2017

This Annual Report includes statistical analysis, evaluation and research findings on prison sentences, nonprison or probation sentences, county jail and DUI post-imprisonment supervision sentences reported to the Kansas Sentencing Commission during FY 2017. The Senate Bill 123 drug treatment sentences are comprised in the type of probation sentences. Sentences utilized for analyses on sentencing practice and sentencing tendency are based upon the most serious felony offense of a single sentencing event of an offender.

In FY 2017, a total number of 15,045 felony sentences were reported to the Commission, a decrease of 145 sentences or 1% from that of FY 2016. Of that total number of sentences, 6,497 were prison sentences, 7,934 were probation sentences and 614 were DUI post imprisonment supervision and county jail sentences (County jail sentences made up 69). In terms of drug or nondrug crimes, this total included 9,577 nondrug sentences and 5,468 drug sentences. Nonperson offenses accounted for 67.6% and person offenses accounted for 32.4% (Figure 1), which does not fluctuate much from those of FY 2016.

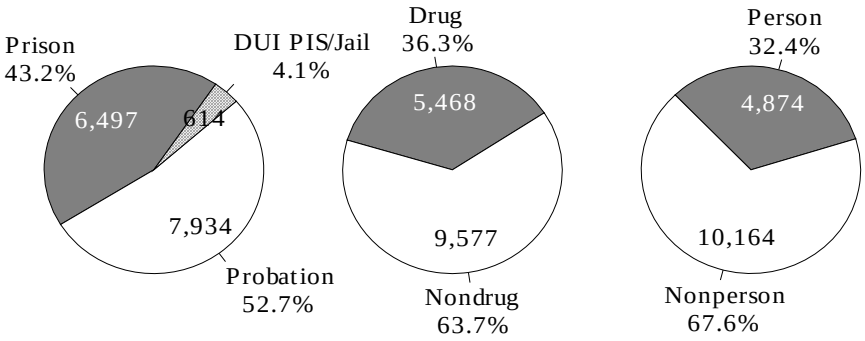
FY 2017 sentencing distribution by sentence type, offense type and severity level is demonstrated in Figure 2. Incarceration sentences at drug severity levels 4 and 5 represented 80.3% (1,646 sentences) of the total drug incarceration sentences. The largest number of nondrug incarceration offenders was identified at severity level 9 (1,171 sentences or 26.3%) followed by severity level 7 (945 sentences or 21.2%) and severity level 5 (615 sentences or 13.8%), which is similar with the pattern of FY 2016. The examination of probation sentences in FY 2017 indicates that 2,694 probation sentences fell at drug severity level 5, representing 78.8% of the total drug probation sentences and 393 probation sentences were at drug severity level 4 representing 11.5%. 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 3,087. Of this number, 84.1% or 2,597 sentences were convicted of the crimes of drug possession. Of the 2,597 drug possession sentences, 45.7% or 1,188 sentences were imposed to SB 123 drug treatment programs, which increased by 1.1% compared with the percentage (44.6%) of FY 2016. The highest rates of nondrug probation offenders were found at nondrug severity level 9 (41% or 1,850 sentences) and nondrug severity level 7 (21.9% or 988 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, which is consistent with the data observed in FY 2016.

The review of sentences by county indicates that 104 counties reported felony sentences to the Commission in FY 2017. No sentences were reported from Sheridan County. Most of the counties reported 2 to 100 sentences. Ten counties reported 101 to 200 sentences. They are Atchison (136), Barton (186), Cherokee (107), Cowley (129), Dickinson (105), Franklin (137), Jackson (137), Leavenworth (188), Riley (174) and Sumner (120) counties. Twelve counties reported 201 to 700 sentences. They are Butler (219), Crawford (209), Douglas (424), Ellis (241), Finney (277), Ford (303), Geary (331), Harvey (276), Lyon (237), Montgomery (317), Reno (525) and Seward (250) counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties, accounting for 47.1% of all sentences imposed in FY 2017, a decrease of 1.6% compared with that (48.7%) of FY 2016 (Figure 3).

The top five offenses committed in FY 2017 are crimes of drugs (36.3% or 5,468 sentences), theft (9.9% or 1,493 sentences), burglary (8.5% or 1,274 sentences, including aggravated burglary), aggravated battery (6.1% or 925 sentences) and DUI/Test Refusal (4.3% or 642 sentences). The top five offenses, including prison, probation, DUI post imprisonment supervision and county jail sentences, accounted for 65.1% of the total 15,045 sentences in FY 2017 (Figure 4).

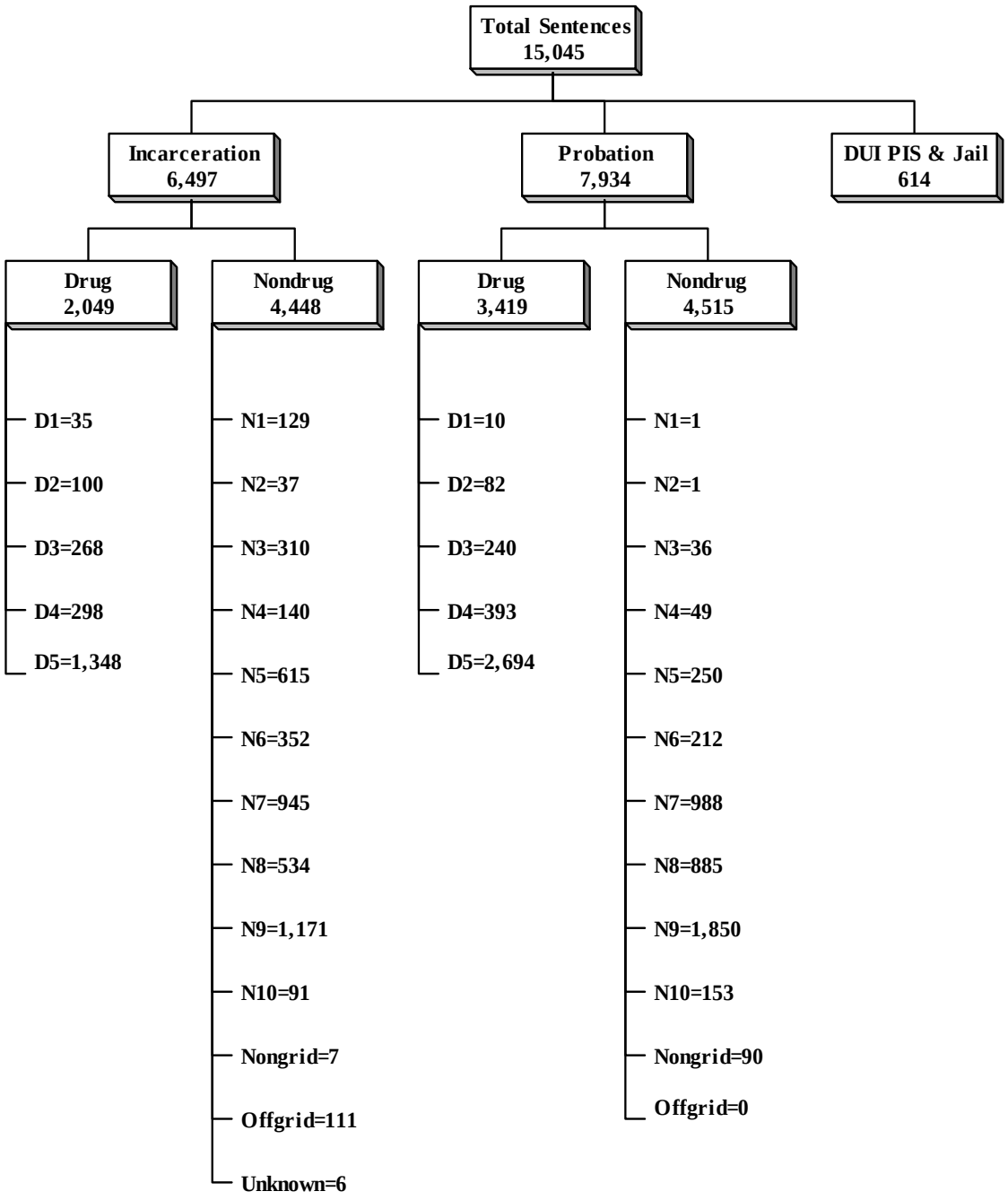
According to the definition of the Uniform Crime Reporting (UCR) Handbook, the violent crimes in the report refer to murder (including all types of murder and manslaughter), rape, robbery (including aggravated robbery) and aggravated assault (including aggravated assault on LEO). The study of the violent crimes indicates that most of the violent crimes were found to be committed in the top four counties. Sedgwick County reported the largest number of violent crimes (352 sentences) followed by Wyandotte County (147 sentences), Johnson County (116 sentences), and Shawnee County (83 sentences). Figure 5 exhibits the distribution of the violent crimes committed in the top four counties during FY 2017. The characteristics of offenders by individual counties are presented in Table 1.

## Figure 1: Sentences Reported in FY 2017

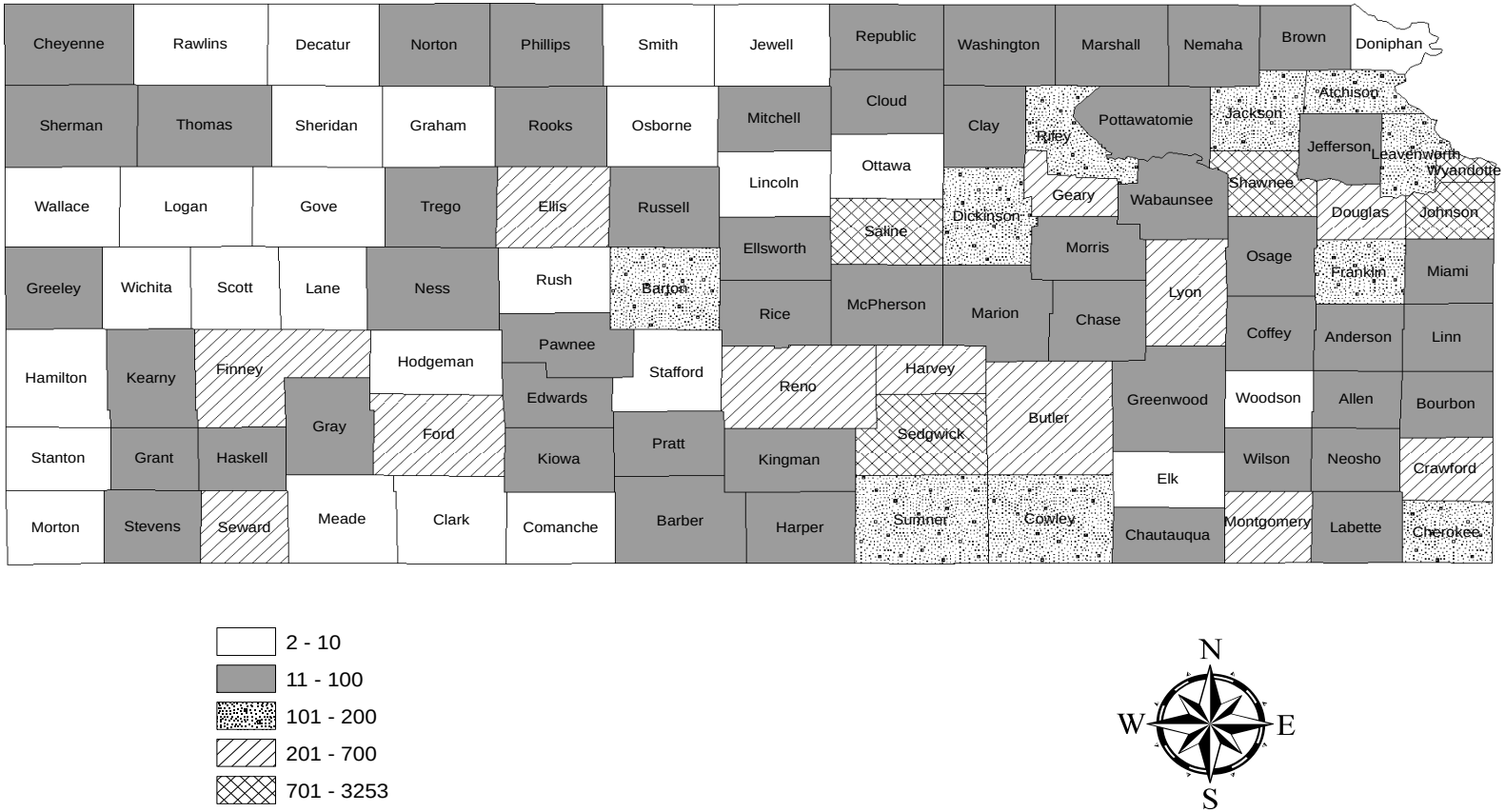



Based on 15,045 felony sentences reported in FY 2017. DUI or test refusal post-imprisonment supervision accounted for 545 and jail accounted for 69 sentences.

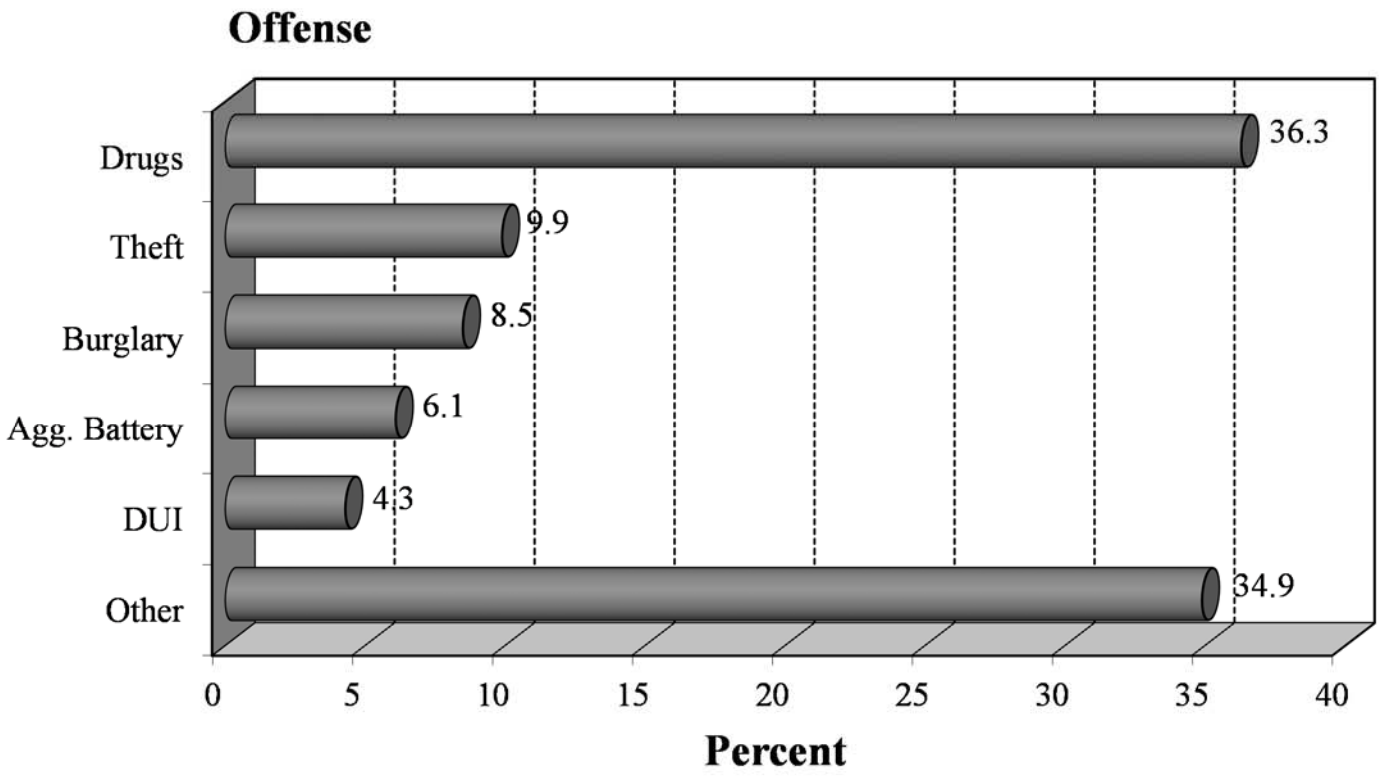
# Figure 2: FY 2017 Sentencing Distribution



## Figure 3: Sentences Reported in FY 2017 by County

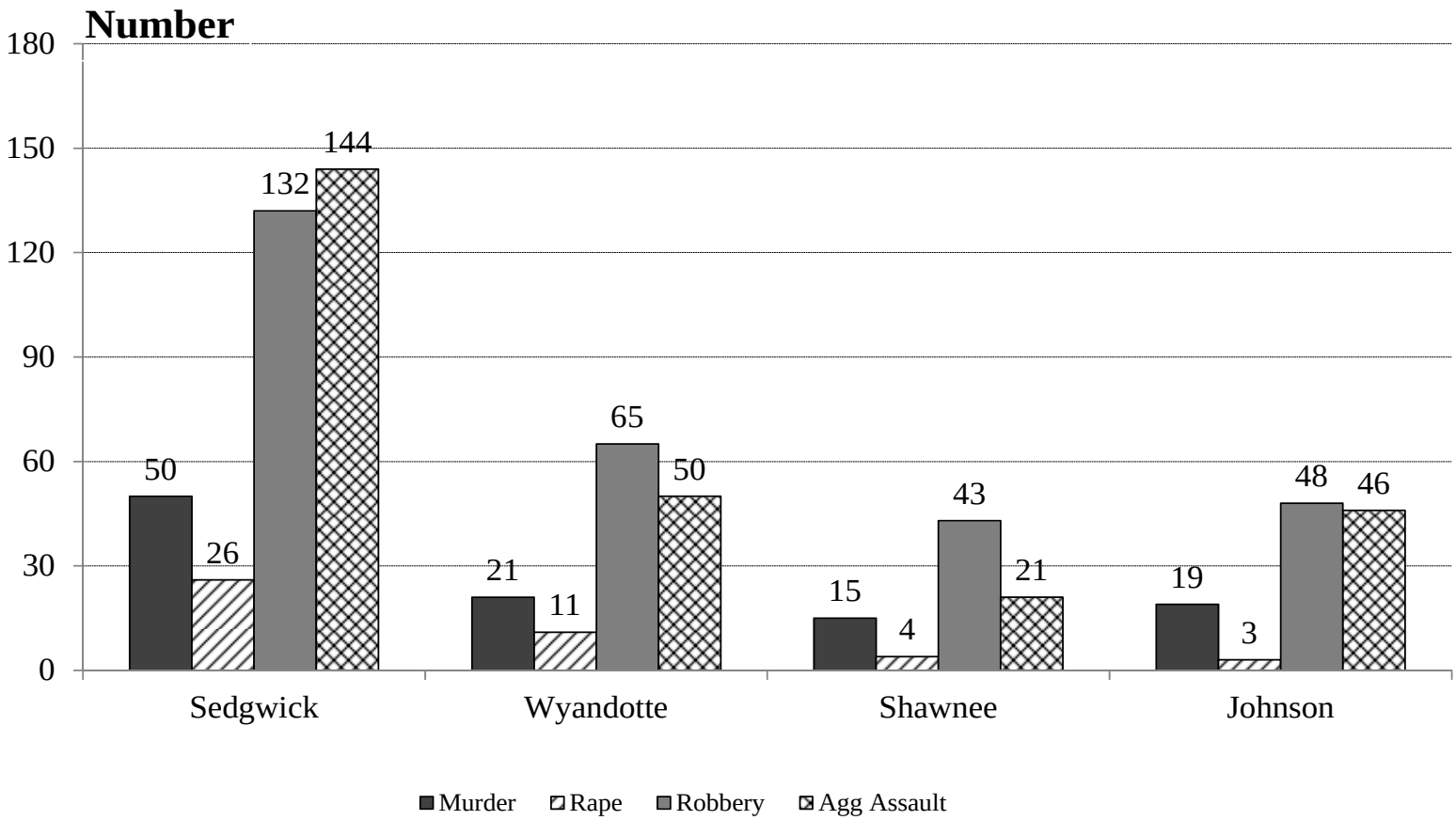


# Figure 4: FY 2017 Top Five Offenses of Prison, Probation and Jail Sentences




Based on 15,045 prison, probation, DUI PSI and county jail sentences

# Figure 5: FY 2017 UCR Offenses by Top Four Counties - Violent Crime Convictions



## Table 1: FY 2017 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 | 70 | 48 | 22 | 62 | 7 | 1 | 28 | 41 | 1 | 20 | 50 | 32.1 |
| Anderson | 56 | 45 | 11 | 53 | 3 | 0 | 16 | 38 | 2 | 31 | 25 | 34.7 |
| Atchison | 136 | 106 | 30 | 110 | 22 | 4 | 79 | 55 | 2 | 78 | 58 | 31.9 |
| Barber | 14 | 13 | 1 | 14 | 0 | 0 | 5 | 9 | 0 | 7 | 7 | 28.3 |
| Barton | 186 | 144 | 42 | 169 | 14 | 3 | 66 | 120 | 0 | 72 | 114 | 33.2 |
| Bourbon | 80 | 65 | 15 | 71 | 6 | 3 | 35 | 42 | 3 | 52 | 28 | 33.4 |
| Brown | 57 | 42 | 15 | 43 | 5 | 9 | 23 | 29 | 5 | 33 | 24 | 33.3 |
| Butler | 219 | 167 | 52 | 195 | 17 | 7 | 73 | 141 | 5 | 141 | 78 | 33.2 |
| Chase | 13 | 9 | 4 | 13 | 0 | 0 | 5 | 6 | 2 | 9 | 4 | 37.9 |
| Chautauqua | 29 | 19 | 10 | 26 | 1 | 2 | 11 | 18 | 0 | 15 | 14 | 34.2 |
| Cherokee | 107 | 83 | 24 | 96 | 6 | 5 | 32 | 74 | 1 | 64 | 43 | 35.2 |
| Cheyenne | 11 | 9 | 2 | 9 | 0 | 2 | 5 | 6 | 0 | 9 | 2 | 34.0 |
| Clark | 9 | 7 | 2 | 8 | 0 | 1 | 4 | 5 | 0 | 5 | 4 | 29.0 |
| Clay | 79 | 57 | 22 | 78 | 1 | 0 | 25 | 52 | 2 | 29 | 50 | 35.8 |
| Cloud | 58 | 42 | 16 | 58 | 0 | 0 | 31 | 27 | 0 | 27 | 31 | 32.6 |
| Coffey | 68 | 52 | 16 | 64 | 4 | 0 | 24 | 39 | 5 | 34 | 34 | 32.5 |
| Comanche | 8 | 6 | 2 | 8 | 0 | 0 | 6 | 2 | 0 | 2 | 6 | 30.1 |
| Cowley | 129 | 99 | 30 | 110 | 12 | 7 | 61 | 64 | 4 | 77 | 52 | 32.5 |
| Crawford | 209 | 162 | 47 | 179 | 27 | 3 | 110 | 97 | 2 | 131 | 78 | 33.2 |
| Decatur | 6 | 6 | 0 | 6 | 0 | 0 | 1 | 4 | 1 | 4 | 2 | 33.7 |
| Dickinson | 105 | 85 | 20 | 94 | 10 | 1 | 44 | 58 | 3 | 53 | 52 | 32.8 |
| Doniphan | 6 | 6 | 0 | 3 | 3 | 0 | 3 | 2 | 1 | 4 | 2 | 35.9 |
| Douglas | 424 | 338 | 86 | 305 | 80 | 39 | 158 | 214 | 52 | 301 | 123 | 33.3 |
| Edwards | 11 | 8 | 3 | 11 | 0 | 0 | 3 | 8 | 0 | 7 | 4 | 31.7 |
| Elk | 9 | 7 | 2 | 9 | 0 | 0 | 3 | 6 | 0 | 7 | 2 | 40.1 |
| Ellis | 241 | 177 | 64 | 221 | 18 | 2 | 104 | 125 | 12 | 82 | 159 | 32.4 |
| Ellsworth | 11 | 11 | 0 | 10 | 1 | 0 | 7 | 4 | 0 | 9 | 2 | 36.5 |
| Finney | 277 | 222 | 55 | 249 | 24 | 4 | 130 | 142 | 5 | 153 | 124 | 31.0 |

## Table 1: FY 2017 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 | 303 | 256 | 47 | 271 | 23 | 9 | 135 | 148 | 20 | 189 | 114 | 32.6 |
| Franklin | 137 | 104 | 33 | 127 | 6 | 4 | 56 | 77 | 4 | 74 | 63 | 33.2 |
| Geary | 331 | 268 | 63 | 188 | 133 | 10 | 86 | 235 | 10 | 164 | 167 | 31.3 |
| Gove | 4 | 4 | 0 | 4 | 0 | 0 | 2 | 2 | 0 | 1 | 3 | 30.2 |
| Graham | 6 | 5 | 1 | 6 | 0 | 0 | 2 | 4 | 0 | 6 | 0 | 29.9 |
| Grant | 15 | 12 | 3 | 14 | 0 | 1 | 15 | 0 | 0 | 10 | 5 | 34.8 |
| Gray | 18 | 15 | 3 | 18 | 0 | 0 | 9 | 6 | 3 | 10 | 8 | 37.5 |
| Greeley | 13 | 10 | 3 | 13 | 0 | 0 | 2 | 10 | 1 | 9 | 4 | 34.8 |
| Greenwood | 34 | 26 | 8 | 33 | 0 | 1 | 16 | 16 | 2 | 14 | 20 | 38.4 |
| Hamilton | 9 | 8 | 1 | 9 | 0 | 0 | 4 | 5 | 0 | 9 | 0 | 32.0 |
| Harper | 48 | 31 | 17 | 46 | 0 | 2 | 17 | 29 | 2 | 28 | 20 | 33.7 |
| Harvey | 276 | 192 | 84 | 250 | 23 | 3 | 87 | 182 | 7 | 100 | 176 | 35.6 |
| Haskell | 17 | 5 | 12 | 16 | 1 | 0 | 5 | 12 | 0 | 5 | 12 | 39.7 |
| Hodgeman | 5 | 5 | 0 | 4 | 1 | 0 | 0 | 5 | 0 | 5 | 0 | 27.5 |
| Jackson | 137 | 88 | 49 | 96 | 11 | 30 | 58 | 76 | 3 | 51 | 86 | 33.5 |
| Jefferson | 31 | 25 | 6 | 30 | 1 | 0 | 10 | 18 | 3 | 24 | 7 | 31.3 |
| Jewell | 7 | 7 | 0 | 6 | 1 | 0 | 4 | 2 | 1 | 4 | 3 | 33.1 |
| Johnson | 1,822 | 1,401 | 421 | 1,350 | 439 | 33 | 732 | 939 | 151 | 1,261 | 561 | 33.0 |
| Kearny | 11 | 10 | 1 | 9 | 2 | 0 | 7 | 4 | 0 | 9 | 2 | 28.5 |
| Kingman | 26 | 20 | 6 | 24 | 1 | 1 | 14 | 12 | 0 | 18 | 8 | 32.1 |
| Kiowa | 14 | 11 | 3 | 13 | 1 | 0 | 8 | 5 | 1 | 6 | 8 | 32.9 |
| Labette | 77 | 60 | 17 | 62 | 11 | 4 | 40 | 33 | 4 | 56 | 21 | 36.5 |
| Lane | 2 | 2 | 0 | 2 | 0 | 0 | 1 | 1 | 0 | 2 | 0 | 36.4 |
| Leavenworth | 188 | 153 | 35 | 145 | 38 | 5 | 84 | 98 | 6 | 134 | 54 | 34.7 |
| Lincoln | 4 | 4 | 0 | 4 | 0 | 0 | 1 | 2 | 1 | 3 | 1 | 40.3 |
| Linn | 60 | 50 | 10 | 58 | 1 | 1 | 29 | 31 | 0 | 40 | 20 | 31.7 |
| Logan | 10 | 9 | 1 | 10 | 0 | 0 | 3 | 7 | 0 | 9 | 1 | 33.6 |
| Lyon | 237 | 175 | 62 | 203 | 28 | 6 | 122 | 105 | 10 | 129 | 108 | 30.8 |

## Table 1: FY 2017 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 | 33 | 25 | 8 | 31 | 2 | 0 | 14 | 18 | 1 | 20 | 13 | 35.5 |
| Marshall | 29 | 23 | 6 | 24 | 4 | 1 | 13 | 16 | 0 | 17 | 12 | 31.2 |
| McPherson | 97 | 79 | 18 | 90 | 5 | 2 | 39 | 56 | 2 | 43 | 54 | 32.7 |
| Meade | 10 | 9 | 1 | 9 | 1 | 0 | 2 | 6 | 2 | 6 | 4 | 39.0 |
| Miami | 66 | 57 | 9 | 59 | 6 | 1 | 37 | 27 | 2 | 45 | 21 | 35.5 |
| Mitchell | 37 | 34 | 3 | 35 | 2 | 0 | 14 | 23 | 0 | 18 | 19 | 33.8 |
| Montgomery | 317 | 237 | 80 | 245 | 64 | 8 | 130 | 184 | 3 | 169 | 148 | 33.8 |
| Morris | 11 | 10 | 1 | 9 | 0 | 2 | 3 | 8 | 0 | 8 | 3 | 31.8 |
| Morton | 8 | 7 | 1 | 7 | 1 | 0 | 6 | 2 | 0 | 7 | 1 | 45.3 |
| Nemaha | 33 | 29 | 4 | 28 | 3 | 2 | 14 | 14 | 5 | 22 | 11 | 35.2 |
| Neosho | 76 | 61 | 15 | 74 | 2 | 0 | 29 | 47 | 0 | 38 | 38 | 32.4 |
| Ness | 11 | 11 | 0 | 11 | 0 | 0 | 4 | 7 | 0 | 4 | 7 | 30.4 |
| Norton | 14 | 13 | 1 | 14 | 0 | 0 | 9 | 4 | 1 | 9 | 5 | 33.0 |
| Osage | 77 | 60 | 17 | 69 | 7 | 1 | 39 | 31 | 7 | 55 | 22 | 35.2 |
| Osborne | 5 | 5 | 0 | 5 | 0 | 0 | 4 | 1 | 0 | 3 | 2 | 43.6 |
| Ottawa | 3 | 3 | 0 | 3 | 0 | 0 | 3 | 0 | 0 | 2 | 1 | 27.8 |
| Pawnee | 33 | 27 | 6 | 29 | 4 | 0 | 11 | 20 | 2 | 20 | 13 | 34.6 |
| Phillips | 23 | 18 | 5 | 22 | 0 | 1 | 10 | 13 | 0 | 11 | 12 | 30.5 |
| Pottawatomie | 85 | 72 | 13 | 79 | 6 | 0 | 31 | 52 | 2 | 55 | 30 | 32.9 |
| Pratt | 37 | 29 | 8 | 31 | 5 | 1 | 21 | 16 | 0 | 11 | 26 | 29.0 |
| Rawlins | 8 | 6 | 2 | 8 | 0 | 0 | 0 | 8 | 0 | 3 | 5 | 40.2 |
| Reno | 525 | 400 | 125 | 451 | 66 | 8 | 202 | 309 | 14 | 288 | 237 | 34.3 |
| Republic | 13 | 10 | 3 | 13 | 0 | 0 | 9 | 4 | 0 | 10 | 3 | 40.8 |
| Rice | 54 | 39 | 15 | 51 | 2 | 1 | 23 | 31 | 0 | 30 | 24 | 35.5 |
| Riley | 174 | 145 | 29 | 119 | 48 | 7 | 76 | 87 | 11 | 114 | 60 | 30.5 |
| Rooks | 25 | 25 | 0 | 24 | 1 | 0 | 7 | 17 | 1 | 11 | 14 | 38.2 |
| Rush | 7 | 5 | 2 | 6 | 0 | 1 | 1 | 6 | 0 | 4 | 3 | 32.8 |
| Russell | 29 | 23 | 6 | 27 | 2 | 0 | 11 | 18 | 0 | 14 | 15 | 32.5 |

## Table 1: FY 2017 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 | 729 | 554 | 175 | 606 | 109 | 14 | 294 | 420 | 15 | 400 | 329 | 33.3 |
| Scott | 4 | 2 | 2 | 4 | 0 | 0 | 4 | 0 | 0 | 1 | 3 | 37.3 |
| Sedgwick | 3,253 | 2,586 | 667 | 2,141 | 995 | 117 | 1,658 | 1,468 | 127 | 2,554 | 699 | 34.4 |
| Seward | 250 | 202 | 48 | 206 | 30 | 14 | 97 | 146 | 7 | 147 | 103 | 30.6 |
| Shawnee | 1,015 | 771 | 244 | 697 | 291 | 27 | 406 | 585 | 24 | 708 | 307 | 35.3 |
| Sherman | 89 | 73 | 16 | 69 | 16 | 4 | 18 | 70 | 1 | 25 | 64 | 30.4 |
| Smith | 6 | 5 | 1 | 6 | 0 | 0 | 3 | 2 | 1 | 4 | 2 | 34.1 |
| Stafford | 10 | 9 | 1 | 10 | 0 | 0 | 2 | 6 | 2 | 9 | 1 | 30.8 |
| Stanton | 4 | 4 | 0 | 4 | 0 | 0 | 4 | 0 | 0 | 0 | 4 | 28.6 |
| Stevens | 41 | 33 | 8 | 40 | 1 | 0 | 15 | 25 | 1 | 23 | 18 | 30.2 |
| Sumner | 120 | 91 | 29 | 114 | 2 | 4 | 58 | 54 | 8 | 98 | 22 | 34.3 |
| Thomas | 54 | 42 | 12 | 51 | 2 | 1 | 22 | 28 | 4 | 33 | 21 | 33.1 |
| Trego | 34 | 28 | 6 | 25 | 9 | 0 | 6 | 28 | 0 | 9 | 25 | 32.0 |
| Wabaunsee | 35 | 28 | 7 | 32 | 3 | 0 | 5 | 30 | 0 | 18 | 17 | 31.7 |
| Wallace | 7 | 4 | 3 | 7 | 0 | 0 | 2 | 5 | 0 | 1 | 6 | 32.7 |
| Washington | 13 | 12 | 1 | 13 | 0 | 0 | 5 | 8 | 0 | 8 | 5 | 40.9 |
| Wichita | 3 | 3 | 0 | 3 | 0 | 0 | 2 | 1 | 0 | 2 | 1 | 41.8 |
| Wilson | 50 | 40 | 10 | 48 | 1 | 1 | 15 | 33 | 2 | 18 | 32 | 33.1 |
| Woodson | 10 | 8 | 2 | 10 | 0 | 0 | 4 | 5 | 1 | 7 | 3 | 37.3 |
| Wyandotte | 1,001 | 812 | 189 | 579 | 410 | 12 | 467 | 503 | 31 | 642 | 359 | 34.1 |
| Unknown | 7 | 7 | 0 | 5 | 2 | 0 | 7 | 0 | 0 | 7 | 0 | 39.1 |
| **TOTAL** | **15,045** | **11,767** | **3,278** | **11,528** | **3,084** | **433** | **6,497** | **7,934** | **614** | **9,577** | **5,468** | **33.6** |

* Prison sentences are based on KDOC admissions in FY 2017. Probation, DUI PIS and jail sentences are based on the sentencing journal entries reported to KSC during FY 2017.

** DUI or Test Refusal post-imprisonment supervision sentences accounted for 545 and county jail accounted for 69 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 2017. The crime categories committed by the offenders are analyzed descriptively.

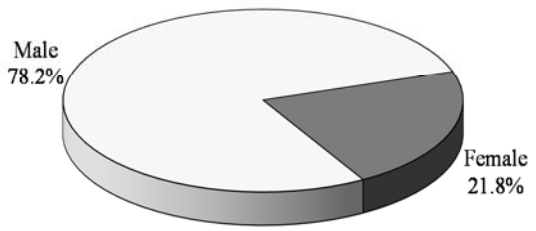
The distributions of offenders by gender, race and age are demonstrated respectively in Figures 6 - 9. The demographic information of offenders by offense types is presented in Table 2.

In FY 2017, male offenders represented 78.2% of the total sentences (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.

Female offenders made up 21.8% of the sentences in FY 2017, indicating no change compared with that of FY 2016. The most frequently committed crimes by female offenders (over 40%) were forgery, identity theft, mistreatment of dependent adults, aiding felon, computer crime and criminal use of financial cards.

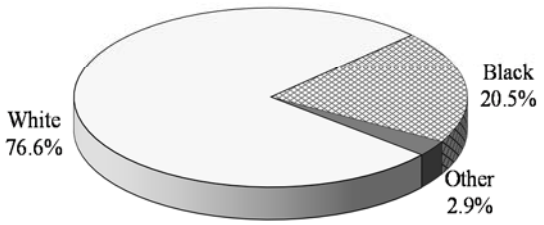
The racial distribution of offenders in FY 2017 does not fluctuate much from that of FY 2016. White offenders made up 76.6% of the sentences and 20.5% of the sentences were committed by black offenders (Figure 7).

**Figure 6: Distribution of FY 2017 Sentences by Gender of Offenders**



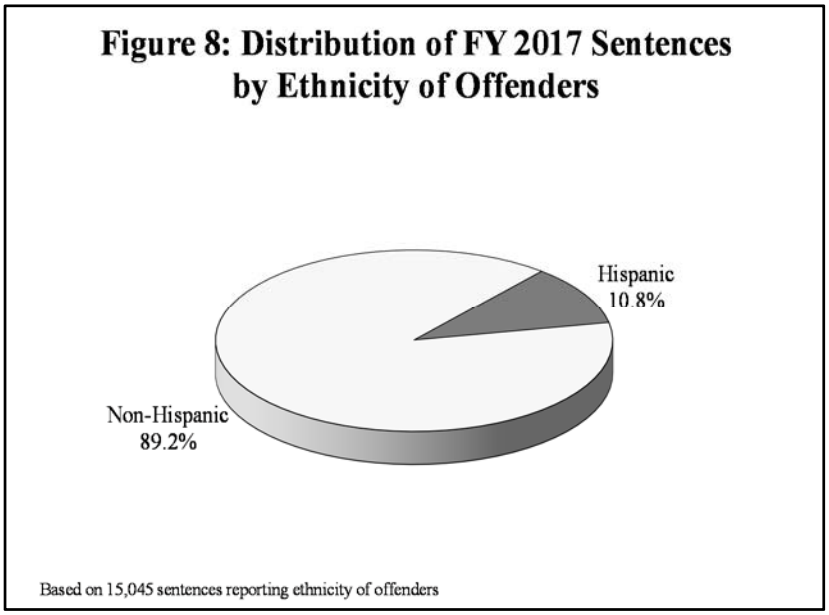

Based on 15,045 sentences reporting gender of offenders

**Figure 7: Distribution of FY 2017 Sentences by Race of Offenders**

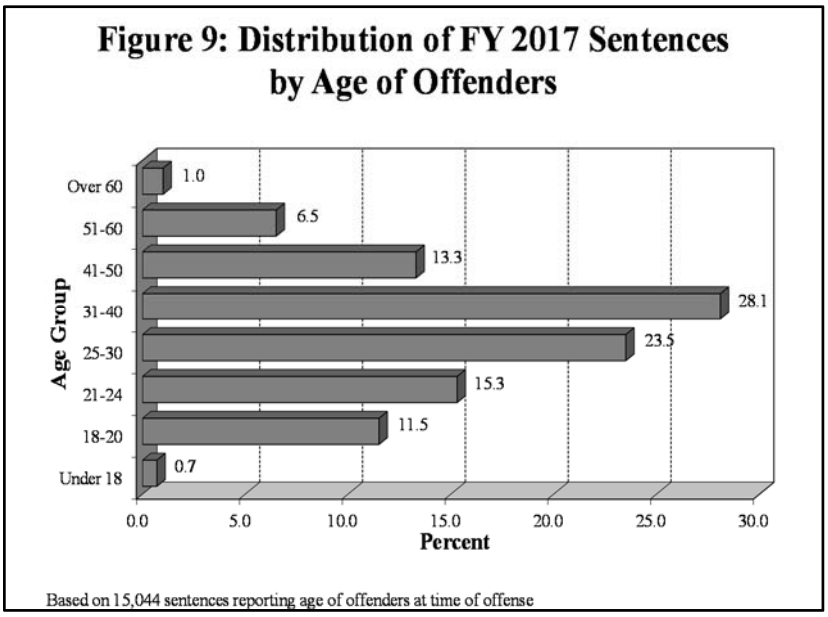



Based on 15,045 sentences reporting race of offenders

The analysis of the ethnicity of offenders discloses that 89.2% of the offenders in FY 2017 were of Non-Hispanic origin, indicating an increase of 0.8% when compared with the percentage rate of FY 2016 (88.4%). This distribution of ethnicity of offenders has been comparatively constant in the past five years (Figure 8).




The review of offenders' age reveals that 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 28.1% of all offenders in FY 2017. The second largest offender population was identified in the age group ranging from 25 to 30 (Figure 9). This finding is consistent with those in the past five years.



## Table 2: FY 2017 Offender Characteristics by Type of Offense – 1

| Offense Type | Number of Cases | Gender (%) | | Race (%) | | | Mean Age* |
|---|---|---|---|---|---|---|---|
| | | Male | Female | White | Black | Other | |
| Abuse of Child | 19 | 73.7 | 26.3 | 78.9 | 21.1 | 0.0 | 29.0 |
| Agg. Arson | 23 | 78.3 | 21.7 | 60.9 | 34.8 | 4.3 | 33.7 |
| Agg. Assault | 354 | 91.0 | 9.0 | 68.1 | 28.0 | 4.0 | 32.3 |
| Agg. Assault on LEO | 62 | 93.5 | 6.5 | 82.3 | 14.5 | 3.2 | 31.6 |
| Agg. Battery | 910 | 89.9 | 10.1 | 69.0 | 27.0 | 4.0 | 31.3 |
| Agg. Battery on LEO | 15 | 73.3 | 26.7 | 66.7 | 33.3 | 0.0 | 32.4 |
| Agg. Burglary | 221 | 87.3 | 12.7 | 69.7 | 28.1 | 2.3 | 30.1 |
| Agg. Criminal Sodomy w/Child | 38 | 100.0 | 0.0 | 71.1 | 23.7 | 5.3 | 32.2 |
| Agg. Endangering a Child | 50 | 60.0 | 40.0 | 70.0 | 24.0 | 6.0 | 29.6 |
| Agg. Escape from Custody | 79 | 87.3 | 12.7 | 72.2 | 25.3 | 2.5 | 32.4 |
| Agg. Failure to Appear | 26 | 61.5 | 38.5 | 60.0 | 40.0 | 0.0 | 31.8 |
| Agg. False Impersonation | 5 | 100.0 | 0.0 | 60.0 | 40.0 | 0.0 | 29.5 |
| Agg. Robbery | 205 | 90.2 | 9.8 | 42.0 | 56.6 | 1.5 | 23.7 |
| Agg. Incest | 4 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 32.7 |
| Agg. Indecent Liberties w/Child | 150 | 95.3 | 4.7 | 85.3 | 12.0 | 2.7 | 31.3 |
| Agg. Indecent Solicit w/Child | 44 | 90.9 | 9.1 | 79.5 | 18.2 | 2.3 | 29.0 |
| Agg. Interference w/Parent Custody | 4 | 75.0 | 25.0 | 50.0 | 50.0 | 0.0 | 29.1 |
| Agg. Intimidation of a Victim | 37 | 89.2 | 10.8 | 64.9 | 32.4 | 2.7 | 32.2 |
| Agg. Kidnapping | 18 | 100.0 | 0.0 | 55.6 | 44.4 | 0.0 | 29.9 |
| Agg. Sexual Battery | 52 | 100.0 | 0.0 | 71.2 | 26.9 | 1.9 | 30.4 |
| Agg. Weapon Violation | 12 | 91.7 | 8.3 | 66.7 | 33.3 | 0.0 | 35.1 |
| Aid Felon | 23 | 56.5 | 43.5 | 87.0 | 13.0 | 0.0 | 27.4 |
| Arrange Sale/Purchase Drug | 31 | 71.0 | 29.0 | 83.9 | 16.1 | 0.0 | 32.9 |
| Arson | 60 | 80.0 | 20.0 | 80.0 | 13.3 | 6.7 | 32.3 |
| Auto Failure to Remain | 11 | 81.8 | 18.2 | 72.7 | 27.3 | 0.0 | 36.3 |
| Battery on LEO | 84 | 77.4 | 22.6 | 78.6 | 17.9 | 3.6 | 29.5 |
| Breach of Privacy | 4 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 45.1 |
| Burglary | 1,053 | 85.0 | 15.0 | 77.9 | 19.9 | 2.2 | 30.1 |
| Contribute Child's Misconduct | 22 | 90.9 | 9.1 | 68.2 | 22.7 | 9.1 | 28.5 |
| Computer Crime | 13 | 46.2 | 53.8 | 61.5 | 38.5 | 0.0 | 28.2 |
| Criminal Damage to Property | 125 | 82.4 | 17.6 | 76.8 | 19.2 | 4.0 | 32.6 |
| Criminal Discharge of Firearm | 34 | 94.1 | 5.9 | 67.6 | 32.4 | 0.0 | 29.0 |
| Criminal Sodomy w/Child | 6 | 66.7 | 33.3 | 83.3 | 0.0 | 16.7 | 28.9 |
| Criminal Threat | 508 | 89.6 | 10.4 | 71.9 | 25.6 | 2.6 | 34.4 |
| Criminal Use of Explosives | 9 | 88.9 | 11.1 | 100.0 | 0.0 | 0.0 | 30.4 |
| Criminal Use of Financial Card | 27 | 48.1 | 51.9 | 66.7 | 29.6 | 3.7 | 32.6 |
| Domestic Battery | 64 | 95.3 | 4.7 | 65.6 | 31.3 | 3.1 | 32.8 |

## Table 2: FY 2017 Offender Characteristics by Type of Offense – 2

| Offense Type | Number of Cases | Gender (%) | | Race (%) | | | Mean Age* |
|---|---|---|---|---|---|---|---|
| | | Male | Female | White | Black | Other | |
| Drugs | 5,468 | 73.0 | 27.0 | 81.6 | 15.6 | 2.8 | 32.9 |
| Drug without Tax Stamps | 12 | 91.7 | 8.3 | 83.3 | 16.7 | 0.0 | 26.6 |
| DUI | 642 | 83.2 | 16.8 | 80.7 | 15.7 | 3.6 | 39.2 |
| Electronic Solicitation of Child | 16 | 100.0 | 0.0 | 68.8 | 18.8 | 12.5 | 30.8 |
| Failure to Register | 442 | 87.8 | 12.2 | 69.9 | 26.2 | 3.8 | 35.2 |
| Fleeing or Eluding LEO | 331 | 88.2 | 11.8 | 78.2 | 18.7 | 3.0 | 31.2 |
| Forgery | 433 | 55.9 | 44.1 | 81.3 | 16.2 | 2.5 | 33.6 |
| False Writing | 112 | 64.3 | 35.7 | 74.1 | 24.1 | 1.8 | 35.6 |
| Giving Worthless Checks | 28 | 46.4 | 53.6 | 78.6 | 17.9 | 3.6 | 40.6 |
| Identity Theft | 245 | 55.5 | 44.5 | 74.3 | 23.7 | 2.0 | 31.6 |
| Indecent Liberties w/Child | 39 | 94.9 | 5.1 | 84.6 | 12.8 | 2.6 | 26.5 |
| Indecent Solicitation of Child | 20 | 90.0 | 10.0 | 75.0 | 15.0 | 10.0 | 30.4 |
| Involuntary Manslaughter | 39 | 89.7 | 10.3 | 53.8 | 38.5 | 7.7 | 29.3 |
| Kidnapping | 22 | 95.5 | 4.5 | 72.7 | 27.3 | 0.0 | 28.8 |
| Lewd and Lascivious Behavior | 13 | 100.0 | 0.0 | 84.6 | 7.7 | 7.7 | 31.9 |
| Medicaid Fraud | 7 | 0.0 | 100.0 | 85.7 | 14.3 | 0.0 | 34.9 |
| Mistreat Dependent Adult | 24 | 20.8 | 79.2 | 95.8 | 4.2 | 0.0 | 45.6 |
| Murder in the First Degree | 54 | 94.4 | 5.6 | 48.1 | 48.1 | 3.7 | 31.0 |
| Murder in the Second Degree | 71 | 84.5 | 15.5 | 66.2 | 28.2 | 5.6 | 29.3 |
| Nonsupport of Child or Spouse | 5 | 100.0 | 0.0 | 80.0 | 0.0 | 20.0 | 37.5 |
| Obstructing Legal Process | 241 | 76.8 | 23.2 | 85.1 | 10.8 | 4.1 | 31.3 |
| Possession of Weapons | 237 | 95.4 | 4.6 | 61.2 | 37.1 | 1.7 | 30.0 |
| Rape | 95 | 100.0 | 0.0 | 71.6 | 22.1 | 6.3 | 30.6 |
| Robbery | 201 | 89.6 | 10.4 | 53.7 | 43.3 | 3.0 | 28.2 |
| Sex Exploitation of a Child | 57 | 100.0 | 0.0 | 89.5 | 7.0 | 3.5 | 35.7 |
| Stalking | 45 | 93.3 | 6.7 | 88.9 | 11.1 | 0.0 | 39.2 |
| Tamper w/Electronic Monitor Equip. | 30 | 80.0 | 20.0 | 76.7 | 20.0 | 3.3 | 33.3 |
| Theft | 1,493 | 68.0 | 32.0 | 76.9 | 21.3 | 1.8 | 34.6 |
| Traffic in Contraband | 94 | 61.7 | 38.3 | 76.6 | 19.1 | 4.3 | 31.9 |
| Unlawful Sexual Relations | 5 | 60.0 | 40.0 | 100.0 | 0.0 | 0.0 | 29.9 |
| Unlawful Use of a Driver's License | 10 | 80.0 | 20.0 | 100.0 | 0.0 | 0.0 | 40.4 |
| Unlawful Voluntary Sex Relations | 27 | 96.3 | 3.7 | 85.2 | 14.8 | 0.0 | 19.0 |
| Voluntary Manslaughter | 30 | 86.7 | 13.3 | 46.7 | 46.7 | 6.7 | 29.5 |
| Weapons | 6 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 29.3 |
| Other | 49 | 69.4 | 30.6 | 71.4 | 22.4 | 6.1 | 33.1 |
| **TOTAL** | **15,045** | **78.2** | **21.8** | **76.6** | **20.5** | **2.9** | **32.7** |

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)**

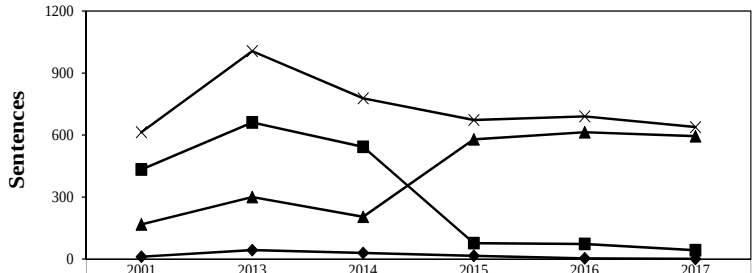
The felony crime of driving under the influence of alcohol or drugs for the third or subsequent conviction (DUI) under K.S.A. 8-1567(f) was classified as a severity level 9, nonperson felony offense in 1993 when the Sentencing Guidelines were established. During the 1994 Legislative Session, the crime 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 are to be served in jail regardless of the number of priors. There are no provisions for postrelease supervision by KDOC parole officers.

Figure 10 demonstrates the sentencing trends of felony DUI under K.S.A. 8-1567(f) in FY 2001 and the past five fiscal years. 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 2017, a total number of 639 sentences were convicted under this crime with 1 (0.2%) sentenced to prison, 43 (6.7%) sentenced to probation and 595 (93.1%) sentenced to county jail/post-imprisonment supervision. The total number of sentences convicted under the crime of felony DUI in FY 2017 decreased by 7.5% from that of FY 2016 but increased by 4.1 % over that of FY 2001. When compared FY 2013, the number significantly decreased by 36.5%. Figure 11 displays the distribution of felony DUI convictions in FY 2017 by county. Johnson and Sedgwick counties were the top two counties imposing 150 (23.5%) and 117 (18.3%) sentences respectively under K.S.A. 8-1567(f) in FY 2017.

The trend analysis indicates that the number of felony DUI offenders has decreased dramatically since FY 2013, 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 2013 through FY 2017**

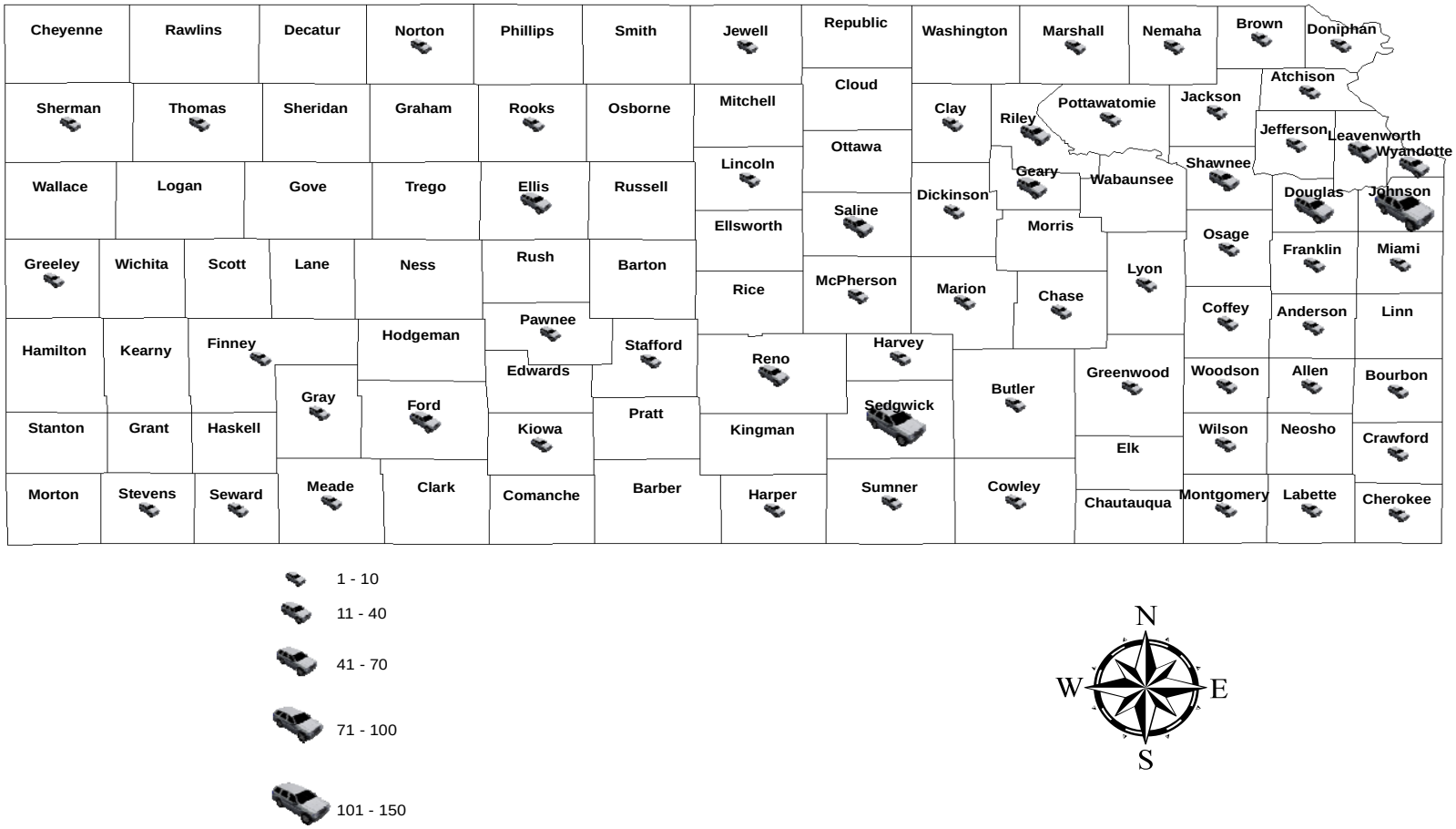



| | 2001 | 2013 | 2014 | 2015 | 2016 | 2017 |
|---|---|---|---|---|---|---|
| Prison | 12 | 44 | 30 | 16 | 4 | 1 |
| Probation | 434 | 661 | 543 | 77 | 73 | 43 |
| Jail/PIS* | 168 | 301 | 205 | 580 | 614 | 595 |
| Total | 614 | 1006 | 778 | 673 | 691 | 639 |

**Fiscal Year**

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

## Figure 11: FY 2017 DUI Offenses by County

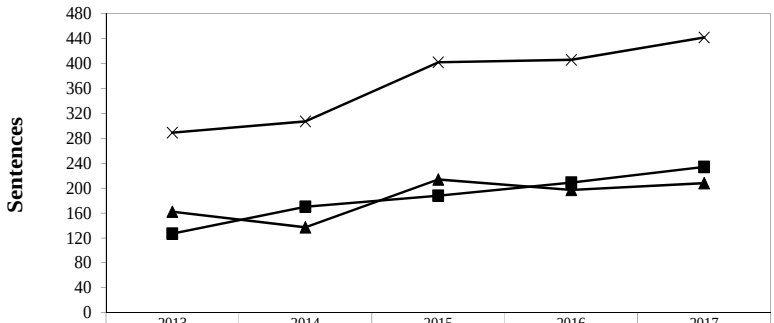


**Sentences for Failure to Register under the Kansas Offender Registration Act**

K.S.A. 22-4903 lists the penalty for a failure to register under the Kansas Offender Registration Act (KORA). 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).

During FY 2017, four hundred and forty-two sentences were reported under this crime, an increase of 8.9% when compared with FY 2016 and an increase of 52.9% when compared with FY 2013. Of those 442 convictions, 234 were sentenced to prison and 208 were sentenced to probation. The crime indicates an increasing trend in the past the five years (Figure 12).

**Figure 12: Failure to Register Sentences**
**By Sentence Imposed - FY 2013 through FY 2017**

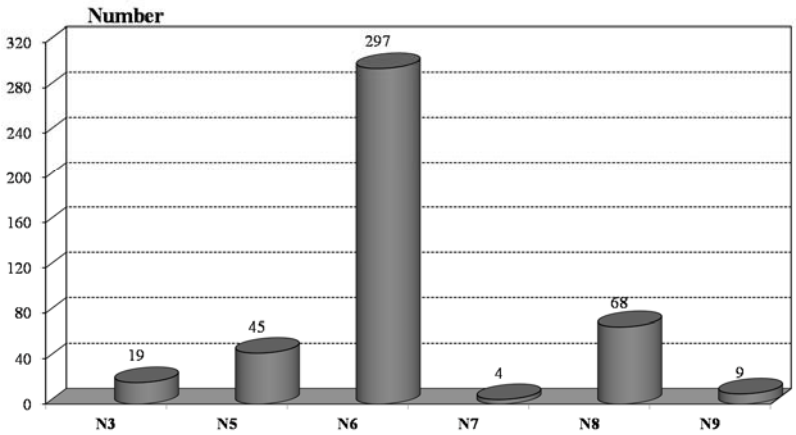



| | 2013 | 2014 | 2015 | 2016 | 2017 |
|---|---|---|---|---|---|
| Prison | 127 | 170 | 188 | 209 | 234 |
| Probation | 162 | 137 | 214 | 197 | 208 |
| Total | 289 | 307 | 402 | 406 | 442 |

Fiscal Year

The distribution of the severity levels of the crime committed in FY 2017 is presented in Figure 13. Nineteen (4.3%) convictions under this crime were sentenced at nondrug severity level 3, 45 (10.2%) were sentenced at nondrug severity level 5 and 297 (67.2%) were sentenced at nondrug severity level 6. Sentences at nondrug severity levels 7 and 8 were attempt convictions of the crime, representing 4 (0.9%) and 68 (15.4%) convictions respectively. Nine sentences were at nondrug severity level 9.

**Figure 13: Failure to Register Sentences**
**By Severity Level - FY 2017**

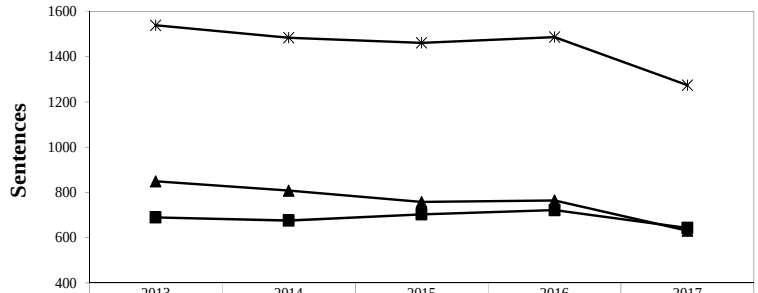


**Burglary and Aggravated Burglary**

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: 137 in FY 2017, 130 in FY 2016, 147 in FY 2015, 150 in FY 2014 and 140 in FY 2013.

Figure 14 exhibits a declining trend of the burglary sentences in the past five years. The total number of burglary sentences in FY 2017 decreased by 14, from those of FY 2016 and FY 2013. The number of prison sentences in FY 2017 decreased by 79 sentences compared with FY 2016 and by 47 sentences compared with FY 2013. The number of probation sentences decreased by 134 compared with FY 2016 and decreased by 218 compared with FY 2013.

**Figure 14: Burglary Sentences**
**By Sentence Imposed - FY 2013 through FY 2017**

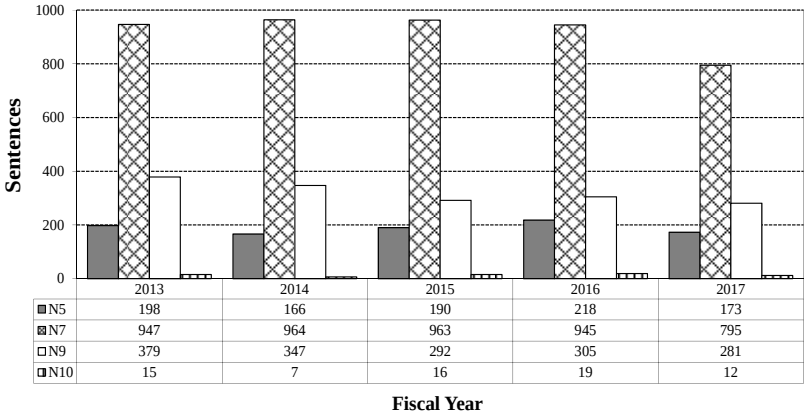



| | 2013 | 2014 | 2015 | 2016 | 2017 |
|---|---|---|---|---|---|
| Prison | 690 | 676 | 703 | 722 | 643 |
| Probation | 849 | 808 | 758 | 765 | 631 |
| Total | 1539 | 1484 | 1461 | 1487 | 1274 |

**Fiscal Year**

Figure 15 demonstrates the distribution of burglary sentences by severity level in the past five years. The majority of the convictions were sentenced at nondrug severity level 7, representing 62.4% of burglary sentences imposed in FY 2017, 63.6% in FY 2016, 65.9% in FY 2015, 65% in FY 2014 and 61.5% in FY 2013.

**Figure 15: Burglary Sentences**
**By Severity Level - FY 2013 through FY 2017**




| | 2013 | 2014 | 2015 | 2016 | 2017 |
|---|---|---|---|---|---|
| N5 | 198 | 166 | 190 | 218 | 173 |
| N7 | 947 | 964 | 963 | 945 | 795 |
| N9 | 379 | 347 | 292 | 305 | 281 |
| N10 | 15 | 7 | 16 | 19 | 12 |

**Fiscal Year**

In addition, FY 2017 includes 9 sentences at N4 and 4 sentences at N6.

**Domestic Violence Cases**

The domestic violence cases discussed in the section 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).

In FY 2017, a total number of 369 sentences were designated by court as domestic violence cases. This was an increase of 27 sentences or 7.9% compared with FY 2016 (342 sentences). Of the 369 sentences, 81 (22%) were sentenced to prison, 275 (74.5%) were sentenced to probation and 13 (3.5%) were sentenced to county jail. More than 91% of the offenders were male. White offenders accounted for 63.4%, black offenders accounted for 33.6% and offenders of other races represented 3%. Their average age at sentencing was 34.4 years old, which is close to that of FY 2016. Aggravated battery (35.7%), criminal threat (24.7%), domestic battery (12.7%) and aggravated assault (11.6%) were still the top four offenses committed by this group of offenders when compared with FY 2016.

**Table 3: FY 2017 Most Serious Offenses Convicted by Designated Domestic Violent Offenders**

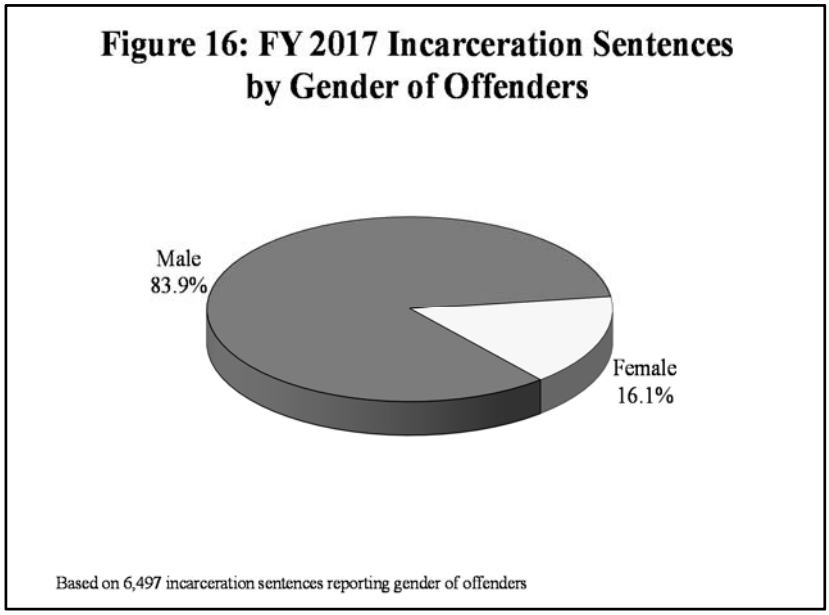
| Offense | Number | Percent |
|---|---:|---:|
| Aggravated Arson | 3 | 0.8 |
| Aggravated Assault | 43 | 11.7 |
| Aggravated Battery | 132 | 35.8 |
| Aggravated Burglary/Burglary | 12 | 3.2 |
| Aggravated Intimidation of a Victim | 3 | 0.8 |
| Aggravated Sexual Battery | 3 | 0.8 |
| Criminal Damage to Property | 4 | 1.1 |
| Criminal Threat | 91 | 24.7 |
| Domestic Battery | 47 | 12.7 |
| Murder in the First Degree | 1 | 0.3 |
| Murder in the Second Degree | 2 | 0.5 |
| Robbery | 4 | 1.1 |
| Stalking | 14 | 3.8 |
| Other | 10 | 2.7 |
| **Total** | **369** | 100.0 |

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

## INCARCERATION SENTENCES

### Characteristics of Offenders

During FY 2017, a total number of 6,497 offenders were admitted to the state correctional facilities. Figures 16 - 20 present the characteristics of the offenders. Males continue to be the predominant offender group making up 83.9% of the offenders admitted to prison in FY 2017 (Figure 16).




The analysis discloses that the racial distribution of offenders in FY 2017 does not fluctuate much when compared with FY 2016. White offenders accounted for 73.4%, black offenders accounted for 23.2% and other races represented 3.4% of the total admissions of FY 2017 (Figure 17).

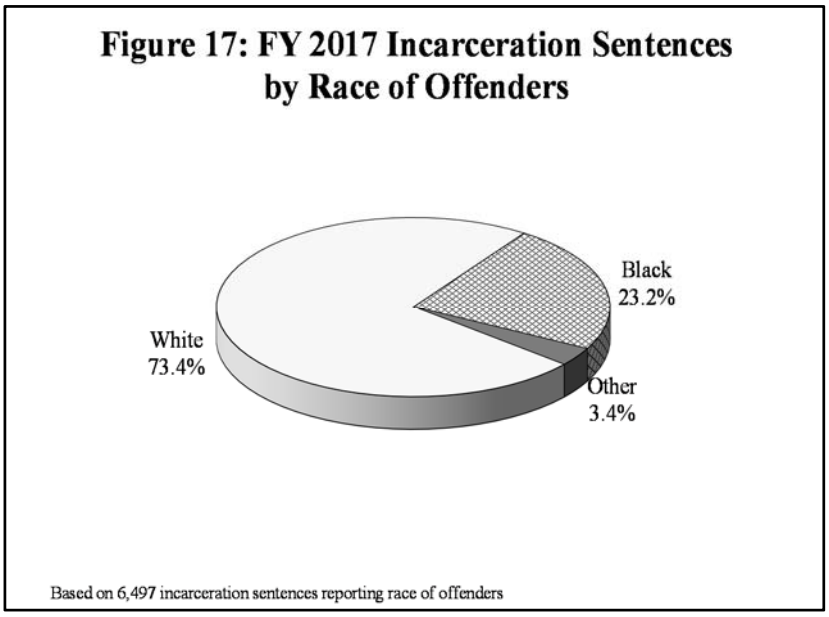
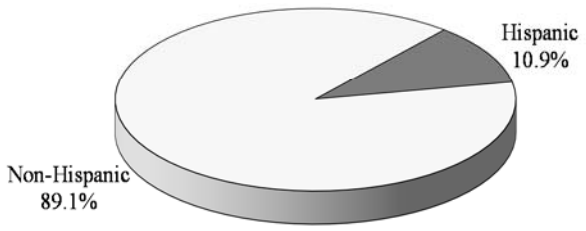



Figure 18 displays that non-Hispanic offenders accounted for 89.1% of the offenders sentenced to prison, an increase of 1% compared with FY 2016. The overall distributions of the offenders by gender, race and ethnicity are comparatively constant compared with those of the past five years.

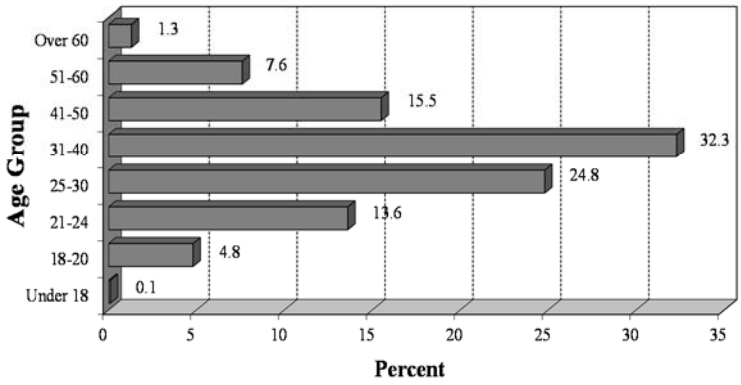
Figure 19 demonstrates the distribution of offenders' age at admission in FY 2017. The largest number of incarcerated offenders were found in their thirties (32.3%) at the time of admission to prison. The second largest number of offenders were in the age group ranging from 25 to 30 years old representing 24.8% of the total admission in FY 2017. This age distribution pattern is consistent with the age data observed in FY 2016.

**Figure 18: FY 2017 Incarceration Sentences by Ethnicity of Offenders**



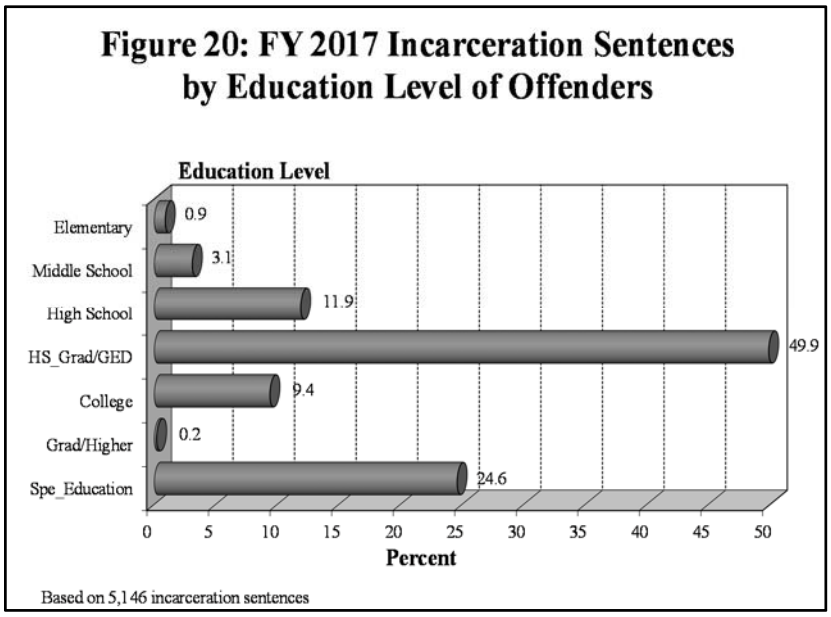

Based on 6,497 incarceration sentences reporting ethnicity of offenders

**Figure 19: FY 2017 Incarceration Sentences by Age of Offenders at Admission**




Based on 6,497 incarceration sentences reporting age of offenders

Figure 20 presents the education levels of the offenders admitted to prison during FY 2017. The analysis indicates that 49.9% of the offenders had obtained a high school diploma or GED equivalent indicating little change in percentage rate when compared with the same group observed in FY 2016.




**Incarceration Nondrug Offenses**

In FY 2017, nondrug offenders admitted to prison represented 68.5% (4,448 offenders) of the total incarceration sentences (6,497) of the fiscal year. The top ten nondrug crimes included theft (609), burglary (486), aggravated battery (476), failure to register (234), criminal threat (212), aggravated robbery (181), aggravated assault (168), forgery (160), aggravated burglary (157) and robbery (149). These top ten crimes accounted for 63.7% of the total nondrug crimes committed by the offenders admitted to prison in FY 2017 (Table 4).

When review the offenders by gender, the data shows 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 racial analysis on nondrug offenders indicates that the highest incarceration rates for white offenders (over 70%) were discovered in the crime areas of burglary, criminal threat, failure to register, forgery, theft, identity theft, obstruction legal process, aggravated assault on LEO, fleeing or eluding LEO, aggravated escape from custody, criminal damage to property, traffic in contraband and most sex offenses. Nevertheless, black offenders were incarcerated more often (over 40%) for the crimes of aggravated robbery, robbery, aggravated kidnapping, murder in the first degree, voluntary manslaughter and aggravated battery on LEO. The average age of the nondrug offenders was 34.4 years old at the time of admission to prison in FY 2017, which is very consistent with those of the past three fiscal years (Table 4).

**Table 4: FY 2017 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 | 12 | 75.0 | 25.0 | 91.7 | 8.3 | 0.0 | 32.3 |
| Agg. Arson | 15 | 86.7 | 13.3 | 66.7 | 33.3 | 0.0 | 36.3 |
| Agg. Assault | 168 | 95.8 | 4.2 | 63.7 | 31.5 | 4.8 | 33.1 |
| Agg. Assault on LEO | 48 | 97.9 | 2.1 | 83.3 | 12.5 | 4.2 | 32.3 |
| Agg. Battery | 476 | 92.9 | 7.1 | 66.4 | 29.0 | 4.6 | 33.1 |
| Agg. Battery on LEO | 10 | 80.0 | 20.0 | 50.0 | 50.0 | 0.0 | 35.7 |
| Agg. Burglary | 157 | 87.9 | 12.1 | 67.5 | 29.9 | 2.5 | 32.7 |
| Agg. Criminal Sodomy w/Child | 37 | 100.0 | 0.0 | 70.3 | 24.3 | 5.4 | 41.6 |
| Agg. Endangering a Child | 14 | 71.4 | 28.6 | 71.4 | 21.4 | 7.1 | 30.8 |
| Agg. Escape from Custody | 60 | 88.3 | 11.7 | 75.0 | 23.3 | 1.7 | 35.0 |
| Agg. Indecent Liberties w/Child | 142 | 95.8 | 4.2 | 85.2 | 12.0 | 2.8 | 37.3 |
| Agg. Indecent Solicit w/Child | 32 | 93.8 | 6.2 | 78.1 | 18.8 | 3.1 | 31.5 |
| Agg. Intimidation of a Victim | 26 | 92.3 | 7.7 | 61.5 | 34.6 | 3.8 | 32.8 |
| Agg. Kidnapping | 18 | 100.0 | 0.0 | 55.6 | 44.4 | 0.0 | 40.9 |
| Agg. Robbery | 181 | 92.3 | 7.7 | 39.2 | 59.1 | 1.7 | 29.4 |
| Agg. Sexual Battery | 34 | 100.0 | 0.0 | 67.6 | 29.4 | 2.9 | 36.2 |
| Aid Felon | 9 | 77.8 | 22.2 | 88.9 | 11.1 | 0.0 | 33.4 |
| Arson | 31 | 87.1 | 12.9 | 81.0 | 19.0 | 0.0 | 35.1 |
| Battery on LEO | 48 | 81.3 | 18.7 | 79.2 | 16.7 | 4.2 | 30.0 |
| Burglary | 486 | 88.7 | 11.3 | 71.4 | 25.9 | 2.7 | 32.9 |
| Contribute Child's Misconduct | 11 | 100.0 | 0.0 | 81.8 | 18.2 | 0.0 | 28.3 |
| Criminal Damage to Property | 43 | 86.0 | 14.0 | 79.1 | 14.0 | 7.0 | 37.4 |
| Criminal Discharge of Firearm | 15 | 100.0 | 0.0 | 60.0 | 40.0 | 0.0 | 27.8 |
| Criminal Sodomy w/Child | 6 | 66.7 | 33.3 | 83.3 | 0.0 | 16.7 | 32.5 |
| Criminal Threat | 212 | 94.3 | 5.7 | 75.5 | 22.6 | 1.9 | 35.5 |
| Criminal Use of Explosives | 6 | 83.3 | 16.7 | 100.0 | 0.0 | 0.0 | 30.6 |
| Criminal Use of Financial Card | 10 | 50.0 | 50.0 | 80.0 | 20.0 | 0.0 | 29.4 |
| Domestic Battery | 6 | 83.3 | 16.7 | 50.0 | 50.0 | 0.0 | 32.4 |
| Electronic Solicitation of Child | 15 | 100.0 | 0.0 | 66.7 | 20.0 | 13.3 | 35.6 |
| Failure to Register | 234 | 89.7 | 10.3 | 76.1 | 19.7 | 4.3 | 36.5 |
| Fleeing or Eluding LEO | 138 | 89.1 | 10.9 | 72.5 | 23.2 | 4.3 | 34.3 |
| Forgery | 160 | 60.6 | 39.4 | 78.8 | 16.3 | 5.0 | 35.4 |
| False Writing | 34 | 76.5 | 23.5 | 61.8 | 38.2 | 0.0 | 38.2 |
| Giving Worthless Checks | 11 | 72.7 | 27.3 | 72.7 | 18.2 | 9.1 | 42.8 |
| Identity Theft | 98 | 58.2 | 41.8 | 70.4 | 29.6 | 0.0 | 34.4 |

**Table 4: FY 2017 Incarceration Nondrug Offender Characteristics by Type of Offense – 2**

| Offense Type | Number of Cases | Gender (%) | | Race (%) | | | Average Age at Admission |
|---|---|---|---|---|---|---|---|
| | | Male | Female | White | Black | Other | |
| Indecent Liberties w/Child | 28 | 96.4 | 3.6 | 82.1 | 17.9 | 0.0 | 32.1 |
| Indecent Solicitation of Child | 15 | 93.3 | 6.7 | 80.0 | 13.3 | 6.7 | 32.5 |
| Involuntary Manslaughter | 34 | 91.2 | 8.8 | 58.8 | 32.4 | 8.8 | 33.0 |
| Kidnapping | 20 | 95.0 | 5.0 | 70.0 | 30.0 | 0.0 | 31.0 |
| Lewd and Lascivious Behavior | 7 | 100.0 | 0.0 | 85.7 | 14.3 | 0.0 | 31.2 |
| Mistreat Dependent Adult | 4 | 25.0 | 75.0 | 100.0 | 0.0 | 0.0 | 35.0 |
| Murder in the First Degree | 53 | 94.3 | 5.7 | 47.2 | 49.1 | 3.8 | 37.5 |
| Murder in the Second Degree | 70 | 84.3 | 15.7 | 67.1 | 28.6 | 4.3 | 32.8 |
| Obstructing Legal Process | 78 | 79.5 | 20.5 | 82.1 | 12.8 | 5.1 | 32.9 |
| Possession of Firearm | 72 | 98.6 | 1.4 | 59.7 | 38.9 | 1.4 | 31.7 |
| Rape | 95 | 100.0 | 0.0 | 71.6 | 22.1 | 6.3 | 39.6 |
| Robbery | 149 | 93.3 | 6.7 | 50.3 | 47.0 | 2.7 | 33.0 |
| Sex Exploitation of a Child | 34 | 100.0 | 0.0 | 82.4 | 11.8 | 5.9 | 37.3 |
| Tamper w/Electronic Monitor Equip. | 24 | 83.3 | 16.7 | 75.0 | 20.8 | 4.2 | 34.8 |
| Stalking | 19 | 100.0 | 0.0 | 89.5 | 10.5 | 0.0 | 40.2 |
| Theft | 609 | 76.8 | 23.2 | 75.4 | 22.2 | 2.5 | 37.2 |
| Traffic in Contraband | 44 | 65.9 | 34.1 | 72.7 | 20.5 | 6.8 | 33.9 |
| Unlawful Voluntary Sex Relation | 9 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 21.0 |
| Voluntary Manslaughter | 28 | 85.7 | 14.3 | 46.4 | 46.4 | 7.1 | 33.8 |
| Weapons/Agg. Weapon Violation | 9 | 100.0 | 0.0 | 66.7 | 33.3 | 0.0 | 31.7 |
| Other | 44 | 75.0 | 25.0 | 77.3 | 20.5 | 2.3 | 34.0 |
| **TOTAL** | **4,448** | **87.0** | **13.0** | **70.2** | **26.4** | **3.4** | **34.4** |

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

**Incarceration Drug Offenses**

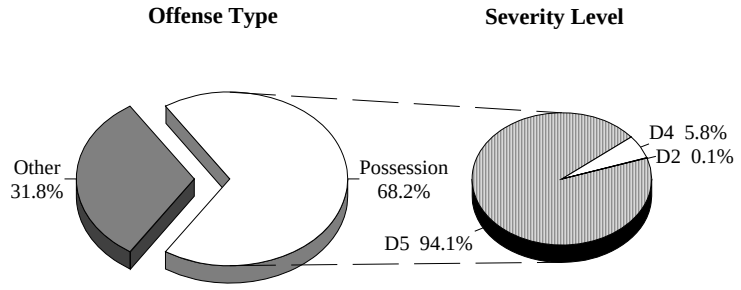
A new drug sentencing grid with five severity levels has been effectively adopted since July 1, 2012. The crimes of drug possession convicted under K.S.A. 21-5706 are reclassified to drug severity level 5. The felony crimes of drug distribution or possession with intention to distribute the drugs convicted under K.S.A. 21-5705 are reclassified to drug severity levels 1 to 4 based on drug type and quantity. Violations occurring within 1,000 feet of any school property increase the severity level by one level. FY 2017 is the fifth year of implementing the new drug sentencing grid. The majority of drug sentences are imposed under the new drug sentencing grids.

During FY 2017, a total number of 2,049 drug offenders were admitted to prison, representing 31.5% of the total admissions to the state correctional facilities. Of this total number, 68.2% were incarcerated for convictions of drug possession offenses, indicating an increase of 2.7% compared with that of FY 2016 (65.5%). Approximately 6% of the drug possession offenders were found at drug severity level 4. While offenders at drug severity level 5 accounted for 94.1% of the drug possession group. The percentage of offenders admitted at drug severity level 5 increased continuously by 7.1% over that of FY 2016 (87%) after a significantly increase of 21.1% and 29.5% over that of FY 2015 and FY 2014 respectively, which reflects the implementation of the new drug sentencing grid (Figure 21).

In FY 2017, male offenders represented 77.2% of the drug offenders admitted to prison. Most female offenders were convicted of drug crimes for drug possession and drug distribution or sale. 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 35 years old at admission to prison, very close to that observed in FY 2016 (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 level 2 reflected the drug crimes committed before November 1, 2003 (before the implementation of Senate Bill 123).

**Figure 21: FY 2017 Incarceration Drug Sentences by Offense and Level**



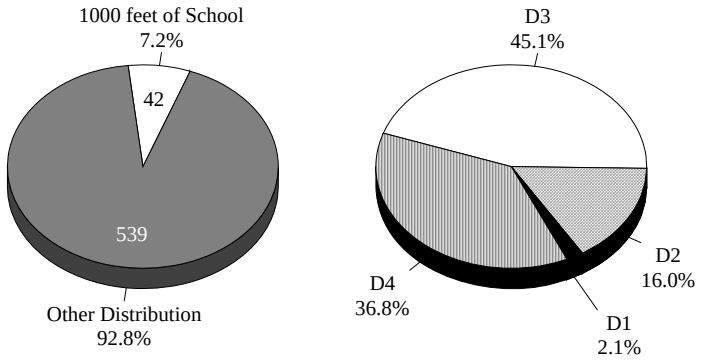

Based on 2,049 incarceration drug sentences

**Table 5: FY 2017 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 | 1,398 | 75.4 | 24.6 | 82.3 | 14.4 | 3.3 | 35.2 |
| Drugs; Distribution/Sale | 581 | 80.2 | 19.8 | 75.4 | 21.0 | 3.6 | 34.5 |
| Unlawful Manufacture Controlled Substance | 22 | 95.5 | 4.5 | 90.9 | 9.1 | 0.0 | 39.7 |
| Possession of Paraphernalia | 33 | 81.8 | 18.2 | 72.7 | 24.2 | 3.0 | 31.3 |
| Possession of Precursor Drugs | 13 | 92.3 | 7.7 | 92.3 | 7.7 | 0.0 | 44.0 |
| Receiving Proceeds from Violation | 2 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 38.1 |
| **TOTAL** | **2,049** | **77.2** | **22.8** | **80.4** | **16.3** | **3.3** | **35.0** |

A number of 581 offenders (28.4%) were admitted to prison for the crimes of drug distribution or possession with intent to distribute in FY 2017. Of this number, 42 or 7.2% occurred within 1,000 feet of school property. The largest number of the offenders was at drug severity level 3, accounting for 262 or 45.1% of the offenders convicted of drug distribution or possession with intent to distribute (Figure 22).

**Figure 22: FY 2017 Incareceration Drug Sentences Distribution Offenses and Severity Level**




Based on 581 incarceratted offenders convicted of drug distribution or possession with intent to distribute.

**Types of Admission and Severity Levels**

The distribution of offenders by types of admission to the Kansas Department of Corrections is presented in Table 6. New court commitments made up a large proportion of prison admissions in FY 2017, representing 31.9% of the total admissions. The percentage of this group decreased by 0.3% compared with that of FY 2016 (32.2%).

More than 37.4% of all offenders admitted to state correctional facilities in FY 2017 were condition violators, including probation condition violators, parole/postrelease condition violators and conditional release condition violators. The group of condition violators decreased by 1.6% when compared with that of FY 2016 (39%). Sanctions from probation violation accounted for 18.3%, an increase of 2% compared with the percentage of FY 2016 (16.3%). 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 2017.

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 11%, an increase of 0.2% from the percentage of this group of violators (10.8%) in FY 2016.

**Table 6: Distribution of FY 2017 Incarceration Sentences by Admission Type**

| Admission Type | Number of Cases | Percent |
|---|---|---|
| New Court Commitment | 2,071 | 31.9 |
| Sanction from Probation | 1,192 | 18.3 |
| Probation Condition Violator | 1,229 | 18.9 |
| Probation Violator With New Sentence/New Conviction | 522 | 8.0 |
| Inmate Received on Interstate Compact | 6 | 0.1 |
| Parole/Postrelease/CR Condition Violator | 1,201 | 18.5 |
| Parole/Postrelease Violator With New Sentence | 196 | 3.0 |
| Paroled to Detainer Returned With New Sentence | 28 | 0.4 |
| Other | 52 | 0.8 |
| **TOTAL** | **6,497** | **100.0** |

Table 7 displays the distribution of all incarcerated offenders admitted in FY 2017 by offense severity level and gender. The highest percentages (over 13%) 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 14.5% of all drug offenders

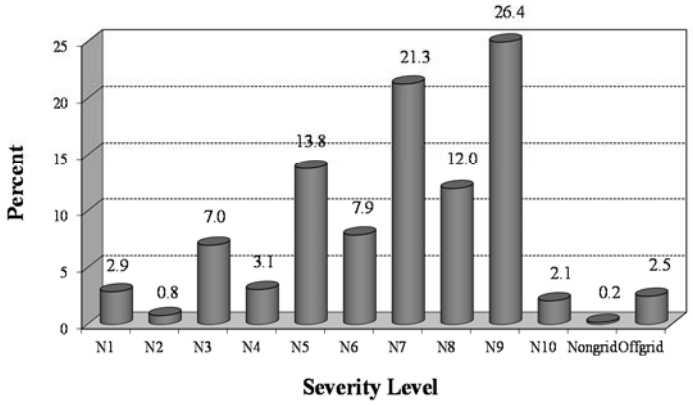
fell at drug severity level 4 and 65.8% of the offenders were identified at drug severity level 5 (Figure 24). Female offenders were convicted more often of drug offenses than of nondrug offenses (22.8% vs. 13%). The highest percentages of female offenders were found at drug severity level 2 (28%) and nondrug severity level 8 (26.3%). The highest percentage rates of male offenders were identified at drug severity level 1 (91.4%) and nondrug severity level 1 (96.3%).

**Table 7: Distribution of FY 2017 Incarceration Sentences By Severity Level and Gender***

| Severity Level | Number | Percent | Gender (%) | |
|---|---|---|---|---|
| | | | Male | Female |
| **Drug** | | | | |
| D1 | 35 | 1.7 | 91.4 | 8.6 |
| D2 | 100 | 4.9 | 72.0 | 28.0 |
| D3 | 268 | 13.1 | 83.2 | 16.8 |
| D4 | 298 | 14.5 | 80.5 | 19.5 |
| D5 | 1,348 | 65.8 | 75.3 | 24.7 |
| **Subtotal** | **2,049** | **100.0** | **77.2** | **22.8** |
| **Nondrug** | | | | |
| N1 | 129 | 2.9 | 96.3 | 3.7 |
| N2 | 37 | 0.8 | 94.7 | 5.3 |
| N3 | 310 | 7.0 | 94.5 | 5.5 |
| N4 | 140 | 3.1 | 93.8 | 6.2 |
| N5 | 615 | 13.8 | 90.4 | 9.6 |
| N6 | 352 | 7.9 | 91.9 | 8.1 |
| N7 | 945 | 21.2 | 89.4 | 10.6 |
| N8 | 534 | 12.0 | 73.7 | 26.3 |
| N9 | 1,171 | 26.3 | 84.4 | 15.6 |
| N10 | 91 | 2.0 | 90.3 | 9.7 |
| Nongrid | 7 | 0.2 | 100.0 | 0.0 |
| Offgrid | 111 | 2.5 | 95.3 | 4.7 |
| **Subtotal** | **4,442** | **100.0** | **87.0** | **13.0** |
| **TOTAL**** | **6,497** | **100.0** | **83.9** | **16.1** |

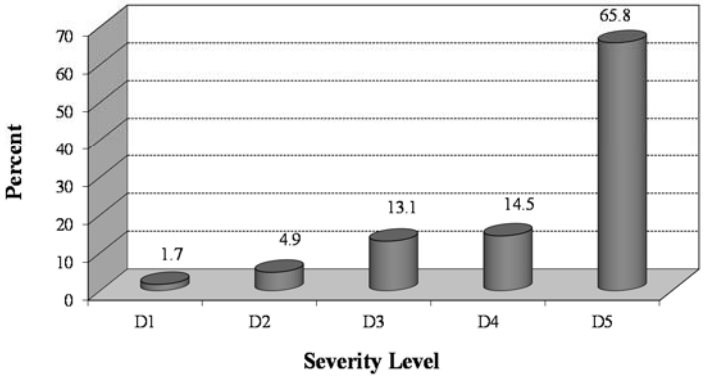
* Based on 2,049 drug offenders and 4,442 nondrug offenders.
** Total number includes 6 nondrug offenders whose severity levels are unknown.

**Figure 23: FY 2017 Incarceration Sentences Nondrug Offenders by Severity Level**




Based on 4,442 nondrug offenders

**Figure 24: FY 2017 Incarceration Sentences Drug Offenders by Severity Level**




Based on 2,049 drug offenders

Table 8 presents the admission numbers and average length of sentences (LOS) of the guidelines new commitment offenders admitted to prison in FY 2016 and FY 2017. This group of 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. The total admission of drug new commitments significantly decreased by 390 (35.6%) compared with FY 2016. The admissions at drug severity levels 1 to 2 did not fluctuate much. The number of drug offenders decreased by 26 at drug severity level 3, by 92 at drug severity level 4 and by 262 at drug severity level 5 compared with FY 2016. However, the average LOS increased by 9.3 months at drug severity level 1, by 5 months at severity level 2, by 1.2 months at severity level 3, by 4 months at severity level 4 and by 6.9 months at severity level 5 compared with FY 2016. The analysis of nondrug new commitments indicates that the total number in FY 2017 decreased by 710 (28.5%) when compared with FY 2016. The admissions increased by 11 at nondrug severity level 1 and by 28 at nondrug severity level 6. However, the admissions decreased at all other levels. The most obvious decrease was identified at nondrug severity level 9 declined by 257 offenders and severity level 7 declined by 196 offenders. Offenders at severity level 5 decreased by 92. The average LOS in FY 2017 reduced by 13.7 months at nondrug severity level 1 and reduced significantly by 49.2 months at severity level 2. The average LOS increased by 12.1 months, 4.9 month and 4.4 months respectively at severity levels 3 – 5 compared with FY 2016. The average LOS of other nondrug severity levels didn't fluctuate much.

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

| Severity Level | FY 2016* | | FY 2017* | |
|---|---|---|---|---|
| | Admission # | Average LOS | Admission # | Average LOS |
| D1 | 24 | 111.9 | 14 | 121.2 |
| D2 | 57 | 83 | 57 | 88.0 |
| D3 | 178 | 52.9 | 152 | 54.1 |
| D4 | 204 | 26.4 | 112 | 30.4 |
| D5 | 631 | 24.8 | 369 | 31.7 |
| N1 | 74 | 286 | 85 | 272.3 |
| N2 | 18 | 219.6 | 16 | 170.4 |
| N3 | 173 | 103.6 | 155 | 115.7 |
| N4 | 86 | 76.8 | 77 | 81.7 |
| N5 | 374 | 58.9 | 282 | 63.3 |
| N6 | 147 | 40.5 | 175 | 38.8 |
| N7 | 557 | 29.9 | 361 | 33.1 |
| N8 | 320 | 18.4 | 183 | 21.9 |
| N9 | 666 | 13 | 409 | 16.3 |
| N10 | 75 | 9.5 | 37 | 11.8 |
| **Total** | **3,584** | **N/A** | **2,484** | **N/A** |

* Sanction probation violators are excluded.

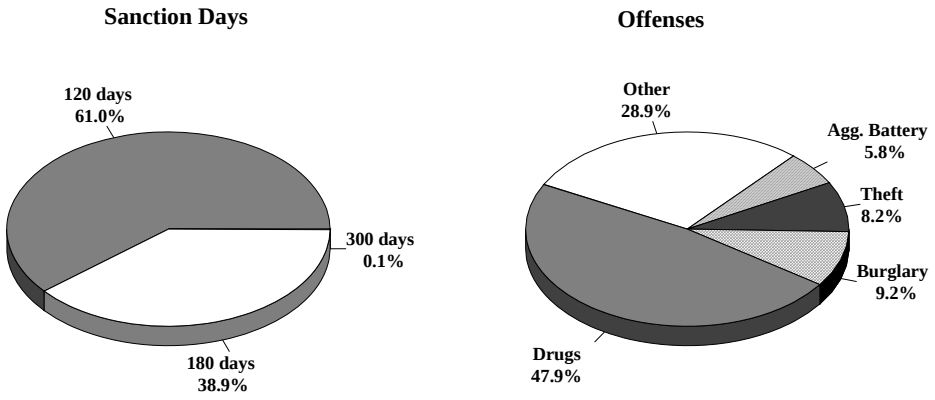
**Prison Admissions of Sanction from Probation**

House Bill 2170 was passed in the 2013 Legislative Session, which was introduced as a result of the Kansas Justice Reinvestment Working Group. 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.

A total number of 1,192 probation condition violators were ordered to prison as sanction from probation during FY 2017, an increase of 189 violators (18.8%) compared with FY 2016 (1,003 violators). Of those 1,192 violators, 727 offenders (61%) were remanded for 120 sanction days, 464 offenders (38.9%) were remanded for 180 sanction days and 1 offender (0.1%) was remanded for 300 days in KDOC. The top four offenses convicted by this group were drug crimes (47.9%), burglary (9.2%), theft (8.2%) and aggravated battery (5.8%). The majority of the group were males accounting for 74.8% and female offenders comprising 25.2% of the group. White offenders represented 81.5%, black offenders consisted of 16.2% and other races consisted of 2.3%. The average age of the offenders was 33.

## Figure 25: FY 2017 Sanction from Probation Incarceration Sentences




Based on 1,192 sanction from probation incarceration sentences.

The admission of the offenders of sanction from probation by county is presented in Table 9. Sedgwick County imposed the largest number of sanction from probation (265 or 22.2%), followed by Johnson (88 or 7.4%), Shawnee (85 or 7.1%), Reno (79 or 6.6%), Saline (75 or 6.3%) and Wyandotte counties (73 or 6.1)).

**Table 9: FY 2017 Sanction from Probation Incarceration Sentences Imposed by County**

| County | Number | Percent | County | Number | Percent |
|---|---|---|---|---|---|
| Allen | 6 | 0.5 | Linn | 7 | 0.6 |
| Anderson | 5 | 0.4 | Logan | 1 | 0.1 |
| Atchison | 14 | 1.2 | Lyon | 24 | 2.0 |
| Barber | 1 | 0.1 | Marion | 3 | 0.2 |
| Barton | 22 | 1.8 | Marshall | 4 | 0.3 |
| Bourbon | 7 | 0.6 | McPherson | 14 | 1.2 |
| Brown | 8 | 0.7 | Miami | 11 | 0.9 |
| Butler | 11 | 0.9 | Mitchell | 2 | 0.2 |
| Chase | 1 | 0.1 | Montgomery | 13 | 1.1 |
| Cherokee | 5 | 0.4 | Morris | 1 | 0.1 |
| Clay | 5 | 0.4 | Morton | 1 | 0.1 |
| Cloud | 5 | 0.4 | Nemaha | 5 | 0.4 |
| Coffey | 4 | 0.3 | Neosho | 4 | 0.3 |
| Comanche | 1 | 0.1 | Ness | 2 | 0.2 |
| Cowley | 12 | 1.0 | Norton | 3 | 0.2 |
| Crawford | 28 | 2.3 | Osage | 15 | 1.3 |
| Dickson | 14 | 1.2 | Osborne | 1 | 0.1 |
| Douglas | 6 | 0.5 | Pawnee | 3 | 0.2 |
| Edwards | 1 | 0.1 | Philips | 2 | 0.2 |
| Ellis | 28 | 2.3 | Pottawatomie | 3 | 0.2 |
| Ellsworth | 1 | 0.1 | Pratt | 1 | 0.1 |
| Finney | 23 | 1.9 | Reno | 79 | 6.6 |
| Ford | 28 | 2.3 | Republic | 1 | 0.1 |
| Franklin | 14 | 1.2 | Rice | 9 | 0.8 |
| Geary | 12 | 1.0 | Riley | 14 | 1.2 |
| Grant | 2 | 0.2 | Rooks | 3 | 0.2 |
| Gray | 2 | 0.2 | Russell | 2 | 0.2 |
| Greeley | 2 | 0.2 | Saline | 75 | 6.3 |
| Greenwood | 2 | 0.2 | Sedgewick | 265 | 22.2 |
| Haskell | 2 | 0.2 | Seward | 10 | 0.8 |
| Harper | 4 | 0.3 | Shawnee | 85 | 7.1 |
| Harvey | 26 | 2.2 | Sherman | 4 | 0.3 |
| Jackson | 9 | 0.8 | Stanton | 2 | 0.2 |
| Jefferson | 1 | 0.1 | Sumner | 11 | 0.9 |
| Jewell | 1 | 0.1 | Thomas | 6 | 0.5 |
| Johnson | 88 | 7.4 | Trego | 1 | 0.1 |
| Kearny | 3 | 0.2 | Wallace | 2 | 0.2 |
| Kingman | 2 | 0.2 | Washington | 2 | 0.2 |
| Kiowa | 2 | 0.2 | Wilson | 3 | 0.2 |
| Labette | 13 | 1.1 | Wyandotte | 73 | 6.1 |
| Leavenworth | 4 | 0.3 | **Total** | **1,192** | **100.0** |

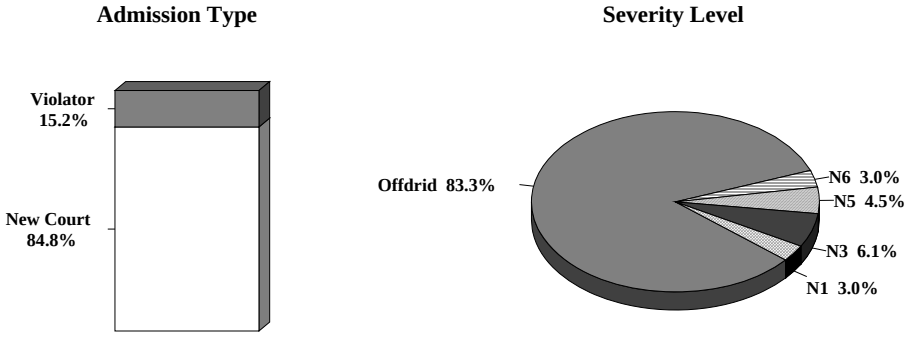
**Jessica's Law Sentences**

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

In FY 2017, a total number of 66 offenders were sentenced and admitted to prison under Jessica's Law. Of this number, 52 (84.8%) were new court commitments and 10 (15.2%) were parole condition and probation condition violators. While most jurisdictions identify the severity of these crimes as offgrid, 11 offenders received a downward departure on the nondrug grid. Of these 66 offenders, 55 offenders (83.3%) were sentenced at offgrid, 2 offenders (3%) were sentenced at nondrug severity level 1, 4 offenders (6.1%) were sentenced at nondrug severity level 3, 3 offenders (4.5 %) were at nondrug severity level 5 and 2 offender (3%) was at nondrug severity level 6 (Figure 26). The analysis of the sentence length demonstrates that 59.1% of the sentences were downward departure to guidelines, an increase of 1.3% compared with that of FY 2016 (57.8%). The average sentence length of the durational departures was 109.8 months, a decrease of 13 months from that observed in FY 2016 (122.8 months). The major departure reasons were: a plea agreement between parties, defendant had no prior criminal history and defendant accepted responsibility.

The distribution of the incarcerated offenders under Jessica's Law by county is provided in Table 10. Sedgwick county imposed the most Jessica's Law prison sentences (13) followed by Wyandotte (5), Ford (4) and Shawnee (4) counties.

## Figure 26: FY 2017 Jessica's Law Incarceration Sentences

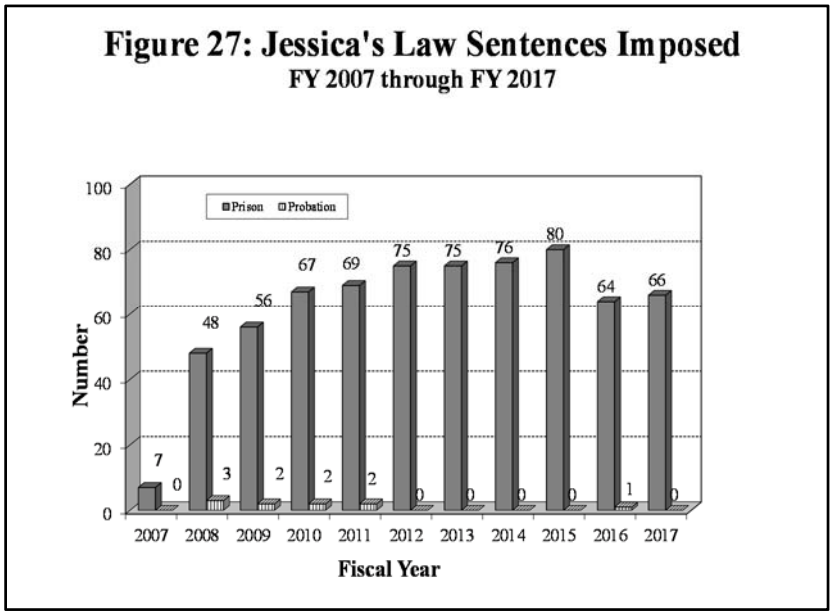



Based on 66 Jessica's Law incarceration sentences.

**Table 10: FY 2017 Jessica's Law Incarceration Sentences Imposed by County**

| County | Number | County | Number | County | Number |
|---|---|---|---|---|---|
| Atchison | 1 | Harvey | 3 | Riley | 1 |
| Cherokee | 1 | Jackson | 1 | Reno | 1 |
| Comanche | 1 | Johnson | 3 | Saline | 3 |
| Cheyenne | 1 | Kingman | 1 | Sedgwick | 13 |
| Crawford | 1 | Leavenworth | 2 | Shawnee | 4 |
| Douglas | 1 | Lyon | 2 | Seward | 1 |
| Doniphan | 1 | Mitchell | 1 | Trego | 1 |
| Ellsworth | 1 | Montgomery | 1 | Wyandotte | 5 |
| Ford | 4 | Miami | 1 | | |
| Franklin | 3 | Marion | 2 | | |
| Geary | 1 | Pottawatomie | 1 | | |
| Gray | 2 | Rice | 1 | | |
| **Total** | | | | **66** | |

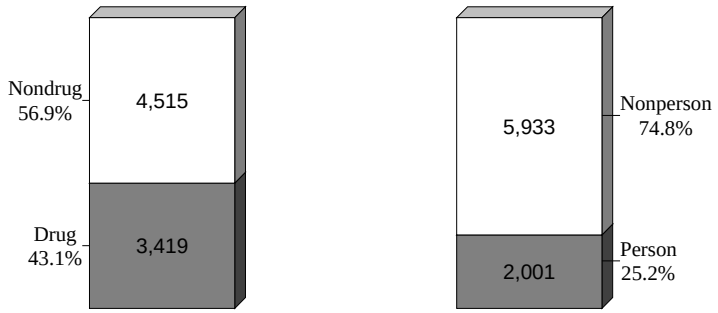
Figure 27 presents the sentencing trend of Jessica's Law sentences in the past eleven years. The total number of Jessica's Law sentences imposed in FY 2017 was 66, an increase of 2 sentences compared with FY 2016 (64 sentences) and an increase of 59 sentences compared with FY 2007 (7 sentences). FY 2007 is the initial year for the implementation of Jessica's Law.



**PROBATION SENTENCES**

During FY 2017, a total number of 7,934 probation sentences were reported to the Kansas Sentencing Commission, a decrease of 427 sentences or 5.1% compared with FY 2016 (8,361 sentences). Of this number, 4,515 were nondrug sentences and 3,419 were drug sentences; nonperson offenses made up 74.8% and person offenses made up 25.2% (Figure 28). Figures 29 - 31 describe the demographic information of this offender group.

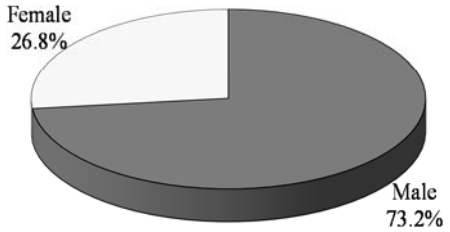
**Figure 28: Distribution of FY 2017 Probation Sentences**




Based on 7,934 probation sentences

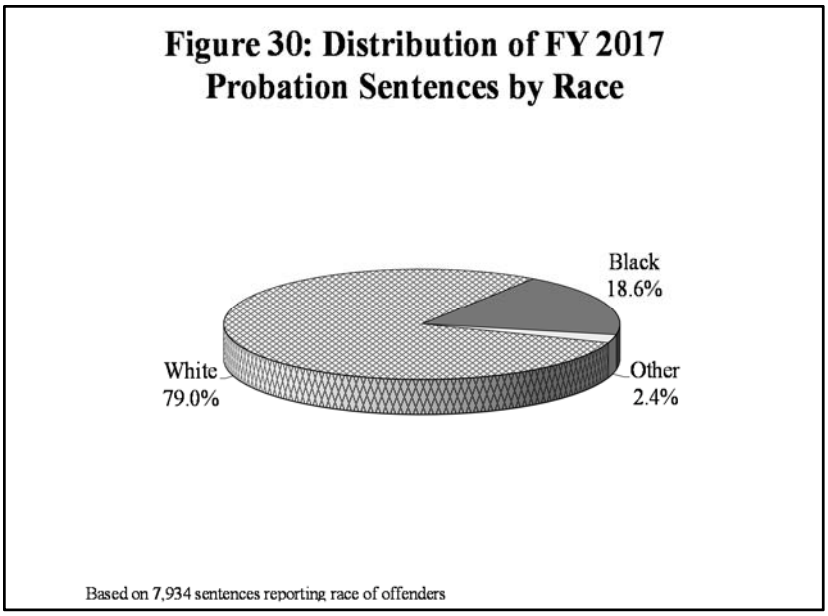
The gender analysis indicates that the distribution of FY 2017 probationers by gender does not fluctuate much from that of FY 2016. Male offenders accounted for 73.2% of all probation sentences imposed in FY 2017, an increase of 0.3% compared with that observed (72.9%) in FY 2016 (Figure 29).

**Figure 29: Distribution of FY 2017 Probation Sentences by Gender**

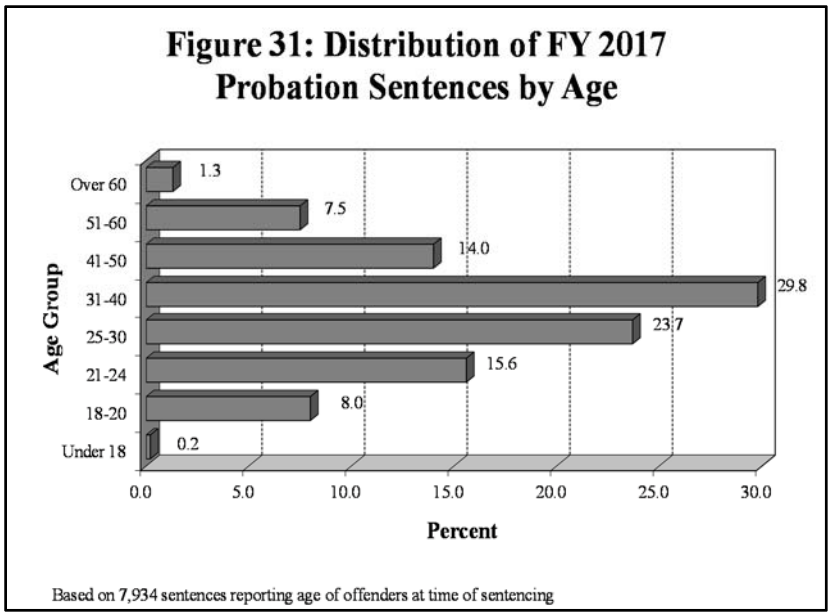



Based on 7,934 sentences reporting gender of offenders

Figure 30 demonstrates that white offenders made up 79% of the probation sentences imposed in FY 2017, an increase of 0.2% compared with that of FY 2016 (78.8%). The percentage of black offenders accounted for 18.6%, a decrease of 0.7% compared with that of FY 2016 (19.3%). The percentage of offenders in other races represented 2.4%, an increase of 0.4% compared with FY 2016 (2%).




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 (29.8 %) and the second largest group was identified in the age group ranging from 25 to 30 (23.7%). This distribution indicated no change from FY 2016 (Figure 31).



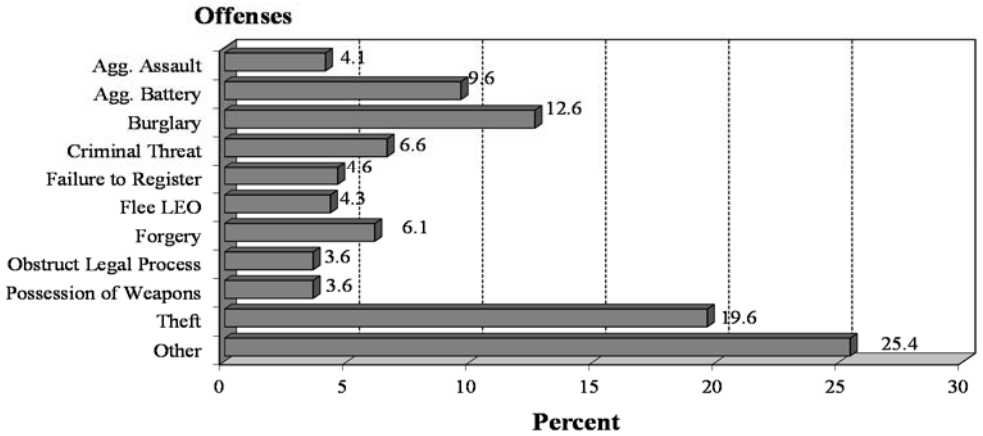
**Type of Offense and Severity Level**

In FY 2017, the top ten offenses committed by nondrug probation offenders include aggravated assault, aggravated battery, burglary, criminal threat, failure to register, fleeing or eluding LEO, forgery, obstructing legal process, possession of weapons and theft. These ten offenses accounted for 74.6% of the total nondrug probation sentences in FY 2017 (Figure 32), an increase of 0.6% from the previous year (74%). In reviewing drug offenders on probation, the largest number of sentences was possession of drugs, representing 76% of all probation drug offenses (Figure 33), a decrease of 1% from FY 2016 (77%). Tables 11 and 12 present the characteristics of offenders sentenced to probation during FY 2017. Male offenders were convicted of over 90% of the sex offenses and 80% of violent crimes of probation sentences imposed in FY 2017 such as: aggravated assault, aggravated battery, burglary, criminal threat, criminal damage of property, domestic battery, fleeing or eluding LEO and possession of weapons and robbery. The highest percentages of female probation nondrug offenses (over 40%) included forgery, identity theft, aggravated endangering a child, mistreatment of dependent adult and traffic in contraband.

White offenders represented 76.4% of all nondrug probation sentences and 82.3% of all drug offenders on probation in FY 2017. Black offenders on probation had a higher conviction rate for nondrug offenses than drug crimes (21.2% versus 15.2%). The average age at the time of committing offense was 32.6 years old for nondrug offenders and 33 years old for drug offenders, which are very close to those observed in FY 2016 (Tables 11 & 12).

Table 13 and Table 14 demonstrate the characteristics of probation offenders by severity level. The largest number of probation nondrug sentences were found at nondrug grid severity level 9 (1,850 sentences or 41%). The majority of probation drug sentences were identified at drug grid severity level 5 (2,694 sentences or 78.8%). This distribution reflects the impact of the new drug sentencing grid as previously discussed.

**Figure 32: FY 2017 Top Ten Offenses for Probation Nondrug Sentences**




Based on 4,515 probation nondrug sentences

The analysis of the drug probation sentences shows that the felony crimes of drug possession accounted for 76% of the total probation drug sentences imposed in FY 2017, a decrease of 1% compared with that of FY 2016 (77%). These crimes included the offenses of possession of opiates or narcotics and possession of depressants, stimulants, hallucinogenic, etc. for the second and subsequent offenses.

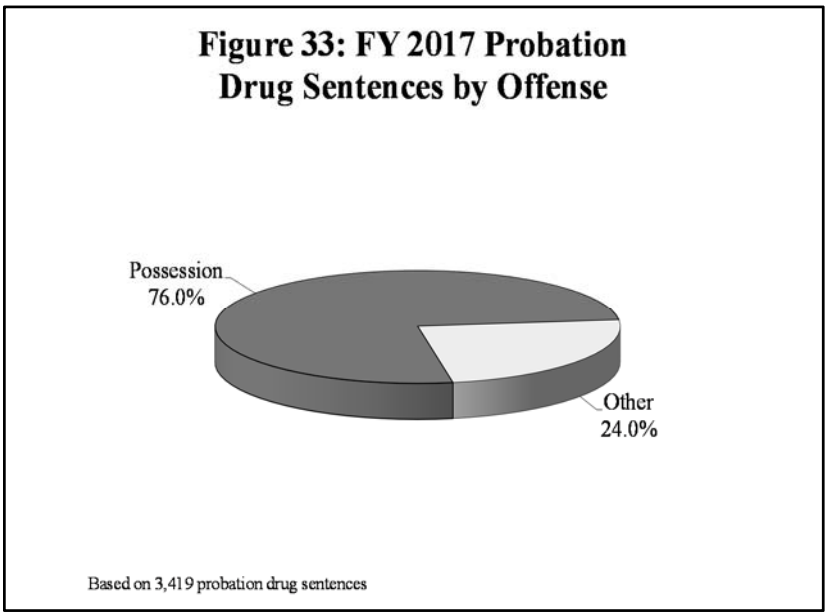



**Table 11: Characteristics of Probation Nondrug Offenders by Type of Offense –1**

| Offense Type | N | % | Gender (%) | | Race (%) | | | Offense Age Mean |
|---|---|---|---|---|---|---|---|---|
| | | | Male | Female | White | Black | Other | |
| Abuse of Child | 7 | 0.2 | 71.4 | 28.6 | 57.1 | 42.9 | 0.0 | 28.5 |
| Agg Arson | 8 | 0.2 | 62.5 | 37.5 | 50.0 | 37.5 | 12.5 | 33.3 |
| Agg Assault | 186 | 4.1 | 86.6 | 13.4 | 72.0 | 24.7 | 3.2 | 33.4 |
| Agg Assault on LEO | 14 | 0.3 | 78.6 | 21.4 | 78.6 | 21.4 | 0.0 | 35.5 |
| Agg Battery | 434 | 9.6 | 86.6 | 13.4 | 71.9 | 24.9 | 3.2 | 32.0 |
| Agg Battery on LEO | 5 | 0.1 | 60.0 | 40.0 | 100.0 | 0.0 | 0.0 | 34.2 |
| Agg Burglary | 64 | 1.4 | 85.9 | 14.1 | 75.0 | 23.4 | 1.6 | 30.4 |
| Agg Endangering a Child | 36 | 0.8 | 55.6 | 44.4 | 69.4 | 25.0 | 5.6 | 29.9 |
| Agg Escape from Custody | 19 | 0.4 | 84.2 | 15.8 | 63.2 | 31.6 | 5.3 | 30.6 |
| Agg Failure to Appear | 23 | 0.5 | 65.2 | 34.8 | 87.0 | 13.0 | 0.0 | 32.0 |
| Agg False Impersonation | 5 | 0.1 | 100.0 | 0.0 | 60.0 | 40.0 | 0.0 | 29.5 |
| Agg Ind Lib with a Child | 8 | 0.2 | 87.5 | 12.5 | 87.5 | 12.5 | 0.0 | 22.1 |
| Agg Ind Solicit with a Child | 12 | 0.3 | 83.3 | 16.7 | 83.3 | 16.7 | 0.0 | 34.7 |
| Agg Intimidation of a Victim | 11 | 0.2 | 81.8 | 18.2 | 72.7 | 27.3 | 0.0 | 36.5 |
| Agg Robbery | 24 | 0.5 | 75.0 | 25.0 | 62.5 | 37.5 | 0.0 | 22.8 |
| Agg Sex Battery with Child | 18 | 0.4 | 100.0 | 0.0 | 77.8 | 22.2 | 0.0 | 29.1 |
| Aiding Felon | 14 | 0.3 | 42.9 | 57.1 | 85.7 | 14.3 | 0.0 | 25.2 |
| Arrange Sale/Purchase Drug | 29 | 0.6 | 69.0 | 31.0 | 82.8 | 17.2 | 0.0 | 33.3 |
| Arson | 29 | 0.6 | 72.4 | 27.6 | 79.3 | 13.8 | 6.9 | 31.1 |
| Auto Failure to Remain | 11 | 0.2 | 81.8 | 18.2 | 72.7 | 27.3 | 0.0 | 36.3 |
| Battery on LEO | 36 | 0.8 | 72.2 | 27.8 | 77.8 | 19.4 | 2.8 | 31.6 |

## 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 | 4 | 0.1 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 45.1 |
| Burglary | 567 | 12.6 | 81.8 | 18.2 | 83.4 | 14.8 | 1.8 | 29.7 |
| Computer Crime | 10 | 0.2 | 50.0 | 50.0 | 70.0 | 30.0 | 0.0 | 29.2 |
| Contribute Child Misconduct | 11 | 0.2 | 81.8 | 18.2 | 54.5 | 27.3 | 18.2 | 31.1 |
| Criminal Damage of Property | 82 | 1.8 | 80.5 | 19.5 | 75.6 | 22.0 | 2.4 | 31.1 |
| Criminal Discharge of Firearm | 19 | 0.4 | 89.5 | 10.5 | 73.7 | 26.3 | 0.0 | 31.4 |
| Criminal Threat | 296 | 6.6 | 86.1 | 13.9 | 69.3 | 27.7 | 3.0 | 34.8 |
| Criminal Use of Financial Card | 17 | 0.4 | 47.1 | 52.9 | 58.8 | 35.3 | 5.9 | 35.8 |
| Domestic Battery | 44 | 1.0 | 95.5 | 4.5 | 70.5 | 27.3 | 2.3 | 33.4 |
| Drug without Tax Stamps | 9 | 0.2 | 88.9 | 11.1 | 88.9 | 11.1 | 0.0 | 31.4 |
| DUI | 43 | 1.0 | 88.4 | 11.6 | 79.1 | 20.9 | 0.0 | 38.9 |
| Failure to Register | 208 | 4.6 | 85.6 | 14.4 | 63.0 | 33.7 | 3.4 | 36.5 |
| False Writing | 78 | 1.7 | 59.0 | 41.0 | 79.5 | 17.9 | 2.6 | 35.6 |
| Fleeing/Eluding LEO | 193 | 4.3 | 87.6 | 12.4 | 82.4 | 15.5 | 2.1 | 30.2 |
| Forgery | 274 | 6.1 | 55.3 | 44.7 | 83.2 | 15.7 | 1.1 | 34.0 |
| Giving Worthless Check | 17 | 0.4 | 29.4 | 70.6 | 82.4 | 17.6 | 0.0 | 41.0 |
| Identity Theft | 147 | 3.3 | 53.7 | 46.3 | 76.9 | 19.7 | 3.4 | 31.0 |
| Ind. Liberties with a Child | 11 | 0.2 | 90.9 | 9.1 | 90.9 | 0.0 | 9.1 | 26.0 |
| Ind. Solicitation with a Child | 5 | 0.1 | 80.0 | 20.0 | 60.0 | 20.0 | 20.0 | 34.6 |
| Involuntary Manslaughter | 5 | 0.1 | 80.0 | 20.0 | 20.0 | 80.0 | 0.0 | 29.9 |
| Lewd and Lascivious Behavior | 6 | 0.1 | 100.0 | 0.0 | 83.3 | 0.0 | 16.7 | 34.7 |
| Medicaid Fraud | 7 | 0.2 | 100.0 | 0.0 | 85.7 | 14.3 | 0.0 | 34.9 |
| Mistreatment of Dependent Adult | 20 | 0.4 | 20.0 | 80.0 | 95.0 | 5.0 | 0.0 | 48.4 |
| Murder | 4 | 0.1 | 100.0 | 0.0 | 50.0 | 25.0 | 25.0 | 30.5 |
| Obstruct Legal Process | 162 | 3.6 | 75.3 | 24.7 | 86.4 | 9.9 | 3.7 | 31.4 |
| Possession of Weapons | 165 | 3.7 | 93.9 | 6.1 | 61.8 | 36.4 | 1.8 | 30.0 |
| Robbery | 52 | 1.2 | 78.8 | 21.2 | 63.5 | 32.7 | 3.8 | 25.3 |
| Sex Exploitation of a Child | 23 | 0.5 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 36.9 |
| Stalking | 26 | 0.6 | 88.5 | 11.5 | 88.5 | 11.5 | 0.0 | 39.9 |
| Tamper w/Electronic Monitor Equipment | 6 | 0.1 | 66.7 | 33.3 | 83.3 | 16.7 | 0.0 | 31.4 |
| Theft | 884 | 19.6 | 61.9 | 38.1 | 77.9 | 20.7 | 1.4 | 34.2 |
| Traffic in Contraband | 50 | 1.1 | 58.0 | 42.0 | 80.0 | 18.0 | 2.0 | 33.0 |
| Unlawful Use of Driver's License | 10 | 0.2 | 80.0 | 20.0 | 100.0 | 0.0 | 0.0 | 40.4 |
| Unlawful Voluntary Sex Relation | 18 | 0.4 | 94.4 | 5.6 | 77.8 | 22.2 | 0.0 | 19.1 |
| Weapons | 9 | 0.2 | 88.9 | 11.1 | 88.9 | 11.1 | 0.0 | 35.9 |
| Other | 40 | 0.9 | 75.0 | 25.0 | 75.0 | 17.5 | 7.5 | 34.5 |
| **TOTAL** | **4,515** | **100.0** | **75.2** | **24.8** | **76.4** | **21.2** | **2.3** | **32.6** |

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 | 2,597 | 76.0 | 67.8 | 32.2 | 84.9 | 12.8 | 2.3 | 33.8 |
| Drugs; Distribution/Sale | 711 | 20.8 | 80.3 | 19.7 | 72.6 | 24.2 | 3.2 | 30.6 |
| Unlawful Manufacture Controlled Substance | 1 | 0.1 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 31.6 |
| Possession of Paraphernalia | 94 | 2.7 | 72.3 | 27.7 | 86.2 | 9.6 | 4.3 | 28.9 |
| Possession of Precursor Drugs | 3 | 0.1 | 33.3 | 66.7 | 100.0 | 0.0 | 0.0 | 38.8 |
| Receive Proceeds from Violation of Controlled Substance Act | 13 | 0.4 | 76.9 | 23.1 | 61.5 | 38.5 | 0.0 | 30.4 |
| **TOTAL** | **3,419** | **100.0** | **70.5** | **29.5** | **82.3** | **15.2** | **2.5** | **33.0** |

## Table 13: Characteristics of Probation Nondrug Offenders by Severity Level

| Severity Level | N | % | Gender (%) | | Race (%) | | | Offense Age Mean |
|---|---|---|---|---|---|---|---|---|
| | | | Male | Female | White | Black | Other | |
| N1 | 1 | 0.0 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 27.0 |
| N2 | 1 | 0.0 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 32.6 |
| N3 | 36 | 0.8 | 88.9 | 11.1 | 58.3 | 38.9 | 2.8 | 30.2 |
| N4 | 49 | 1.1 | 81.6 | 18.4 | 61.2 | 38.8 | 0.0 | 33.3 |
| N5 | 250 | 5.5 | 81.6 | 18.4 | 77.6 | 21.2 | 1.2 | 30.1 |
| N6 | 212 | 4.7 | 81.6 | 18.4 | 70.8 | 25.9 | 3.3 | 34.8 |
| N7 | 988 | 21.9 | 82.3 | 17.7 | 77.4 | 19.3 | 3.2 | 32.1 |
| N8 | 885 | 19.6 | 66.7 | 33.3 | 74.9 | 23.1 | 2.0 | 32.5 |
| N9 | 1,850 | 41.0 | 73.1 | 26.9 | 76.4 | 21.4 | 2.2 | 32.9 |
| N10 | 153 | 3.4 | 68.6 | 31.4 | 78.4 | 19.0 | 2.6 | 31.2 |
| Nongrid | 90 | 2.0 | 91.1 | 8.9 | 74.4 | 24.4 | 1.1 | 36.0 |
| **TOTAL** | **4,515** | **100.0** | **75.2** | **24.8** | **76.4** | **21.2** | **2.3** | **32.6** |

**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 | 80.0 | 20.0 | 80.0 | 10.0 | 10.0 | 41.0 |
| D2 | 82 | 2.4 | 70.7 | 29.3 | 73.2 | 18.3 | 8.5 | 35.8 |
| D3 | 240 | 7.0 | 79.2 | 20.8 | 68.3 | 28.8 | 2.9 | 31.0 |
| D4 | 393 | 11.5 | 82.7 | 17.3 | 74.8 | 22.9 | 2.3 | 29.3 |
| D5 | 2,694 | 78.8 | 68.0 | 32.0 | 85.0 | 12.7 | 2.3 | 33.6 |
| **TOTAL** | **3,419** | **100.0** | **70.5** | **29.5** | **82.3** | **15.2** | **2.5** | **33.0** |

**SB 123 Drug Treatment Offenders**

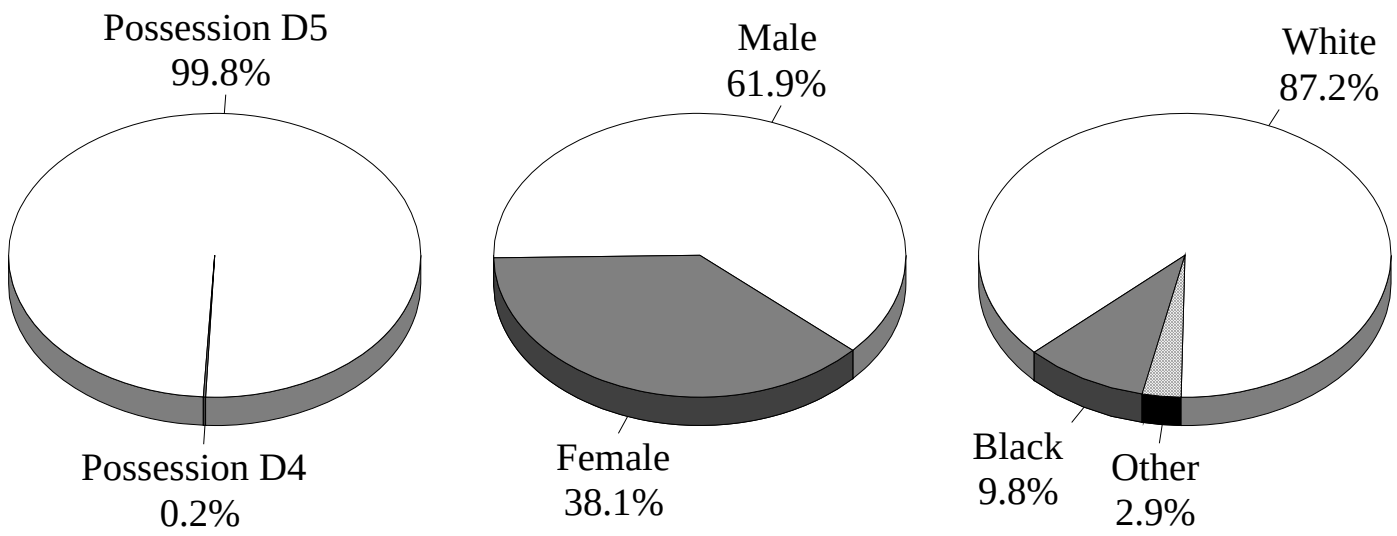
Senate Bill 123, which became law in 2003, establishes a nonprison sanction of certified drug abuse treatment programs for a defined target population of nonviolent adult drug offenders who are sentenced on or after November 1, 2003 with the convictions of drug crimes under K.S.A. 21-5706, or 21-36a06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

During FY 2017, Kansas courts ordered offenders in 1,190 sentences to SB 123 drug abuse treatment programs, representing 34.8% of the total drug probation sentences (3,419), an increase of 0.5% compared with that of FY 2016 (34.3%). More than 99% 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 76.6 % of offenders were in the criminal history categories E through I, a decrease of 3.8% when compared with that of FY 2016 (80.4%). This data implies that the policy of SB 123 was implemented very consistently during FY 2017.

A summary of the offenders sentenced to SB 123 treatment programs in FY 2017 is provided in Figure 34. The offenders convicted of the crime of drug possession represented 99.8% at drug severity level 5 and 0.2% at drug severity level 4, which reflects the implementation of the 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 33 years old at sentencing, very close to that of FY 2016 (32.5). Figure 35 demonstrates the distribution of SB 123 drug treatment sentences imposed in FY 2017 by county. Sedgwick County imposed the most SB 123 sentences (127) followed by Shawnee (101), Johnson (88), Reno (82) and Saline (69) counties. No SB 123 sentences were reported from 27 counties. The average number of SB 123 sentences imposed by the 78 counties is 15, an increase of 4 sentences compared with that of FY 2016 (11 sentences).

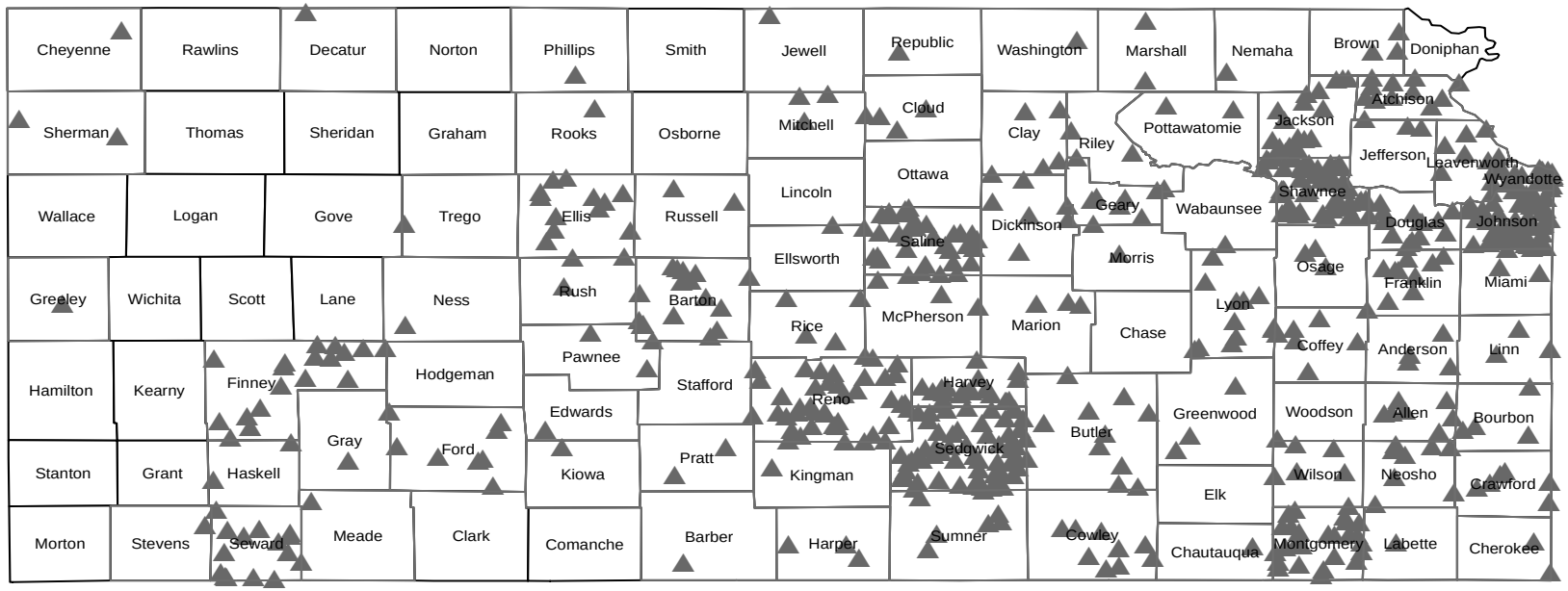
In addition, 1,049 SB 123 drug treatment sentences were violated as probation condition violators in FY 2017. Of this number, 256 sentences were revoked to prison, representing 21.5 % of SB 123 sentences imposed (1,190 sentences) in FY 2017, a decrease of 3.7% from that of FY 2016 (25.2%). The average period between original sentence and revocation hearing was 15.3 months, 18 days longer than that of FY 2016 (14.7 months).

# Figure 34: Distribution of FY 2017 Senate Bill 123 Drug Treatment Sentences

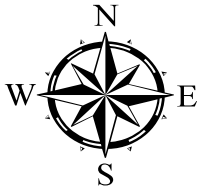



Based on 1,190 SB 123 sentences

## Figure 35: Distribution of SB 123 Drug Treatment Sentences Imposed by County - FY 2017




Summary
Total counties=105
Total sentences=1,190
Counties w/zero=27
Minimum=1
Maximum=127
Mean=15



**Criminal History and Length of Probation**

When examining offenders' criminal history, the Commission noticed that offenders sentenced to probation with assigned criminal history categories accounted for 99.1% of all the probation sentences (7,934) reported to the Commission in FY 2017, which is 0.3% higher than the rate of FY 2016 (98.8%). The largest number of this group fell within criminal history category I (23.1% or 1,815 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 22.1% of offenders on the nondrug grid and 24.3% of offenders on the drug grid.

The review of the presumptive probation boxes discloses that nondrug offenders within the presumptive probation boxes made up 79.9% (Table 15), very close to that of FY 2016 (80.1%). The analysis of the border box sentences reveals that 4.3% of nondrug offenders were found to be at severity level 5 with criminal history categories H and I and severity level 6 with criminal history category G, which are designated as border boxes (Table 15). The percentage of border box in FY 2017 decreased by 0.2% when compared with that of FY 2016 (4.1%).

The study on drug sentences by presumptive probation and border box resumes in FY 2017. The drug offenders within presumptive probation sentences accounted for 58.8% and the drug offenders within the border box represented 23.4% of the probationers sentenced during FY 2017.

Tables 15 and 16 present the probation terms of probation sentences by severity level. The average length of probation for nondrug offenders was 18.3 months, which is 12 days longer than that of FY 2016 (17.9 months). The average length of probation for drug offenders was 17.3 months, no change from that of FY 2016.

**Figure 36: Distribution of FY 2017 Probation Sentences by Criminal History**
**Nondrug and Drug Sentences**

Based on 7,864 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 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 60.0 |
| N2 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 36.0 |
| N3 | 36 | 3 | 1 | 3 | 1 | 1 | 2 | 3 | 7 | 15 | 36.0 |
| N4 | 49 | 2 | 0 | 8 | 4 | 4 | 2 | 10 | 9 | 10 | 35.8 |
| N5 | 250 | 9 | 7 | 11 | 19 | 14 | 6 | 19 | 38 | 127 | 35.5 |
| N6 | 212 | 21 | 23 | 25 | 14 | 27 | 2 | 26 | 28 | 46 | 24.3 |
| N7 | 988 | 36 | 53 | 118 | 72 | 102 | 53 | 122 | 177 | 254 | 23.9 |
| N8 | 885 | 28 | 52 | 133 | 49 | 147 | 61 | 115 | 124 | 175 | 17.8 |
| N9 | 1,850 | 85 | 122 | 301 | 116 | 311 | 126 | 220 | 241 | 328 | 12.5 |
| N10 | 153 | 9 | 11 | 19 | 3 | 24 | 13 | 23 | 27 | 24 | 12.5 |
| Nongrid | 90 | 3 | 3 | 4 | 1 | 3 | 1 | 2 | 2 | 5 | 12.2 |
| **TOTAL** | **4,515** | **196** | **272** | **623** | **279** | **633** | **266** | **540** | **654** | **984** | **18.3** |

Note: Criminal history classes are based on 4,447 cases reporting criminal history category.
Legend:

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

## Table 16: Criminal History and Probation Length by Severity Level – Drug Offenders

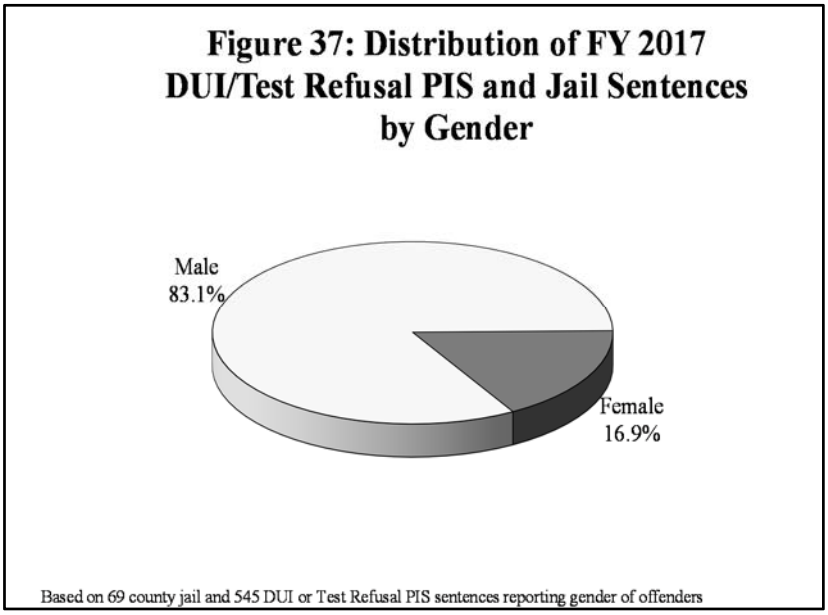
| Severity Level | N | Criminal History Class | | | | | | | | | Average Probation Length in Months |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | A | B | C | D | E | F | G | H | I | |
| D1 | 10 | 0 | 0 | 1 | 1 | 2 | 0 | 1 | 0 | 3 | 36.0 |
| D2 | 82 | 3 | 2 | 4 | 5 | 14 | 5 | 8 | 13 | 28 | 35.9 |
| D3 | 240 | 5 | 4 | 17 | 10 | 16 | 19 | 32 | 29 | 108 | 35.6 |
| D4 | 393 | 6 | 12 | 25 | 12 | 32 | 29 | 53 | 69 | 155 | 18.2 |
| D5 | 2,694 | 96 | 125 | 330 | 132 | 361 | 233 | 444 | 434 | 537 | 14.8 |
| **TOTAL** | **3,419** | **110** | **143** | **377** | **160** | **425** | **286** | **538** | **547** | **831** | **17.3** |

Note: Criminal history classes are based on 3,417 cases reporting criminal history category.
Legend:

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

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

In FY 2017, a total number of 614 DUI/Test Refusal PIS and county jail sentences were reported to the Commission. Of this number, DUI/Test Refusal PIS accounted for 88.8% (545 sentences) and county jail accounted for 11.2% (69 sentences). Female offenders made up 16.9% and male offenders accounted for 83.1%. The gender distribution remains constant when compared with FY 2016 (Figure 37).




White offenders accounted for 80.1%, black offenders represented 16% and other races represented 3.9% of the total DUI/Test Refusal PIS and county jail sentences imposed in FY 2017 (Figure 38).

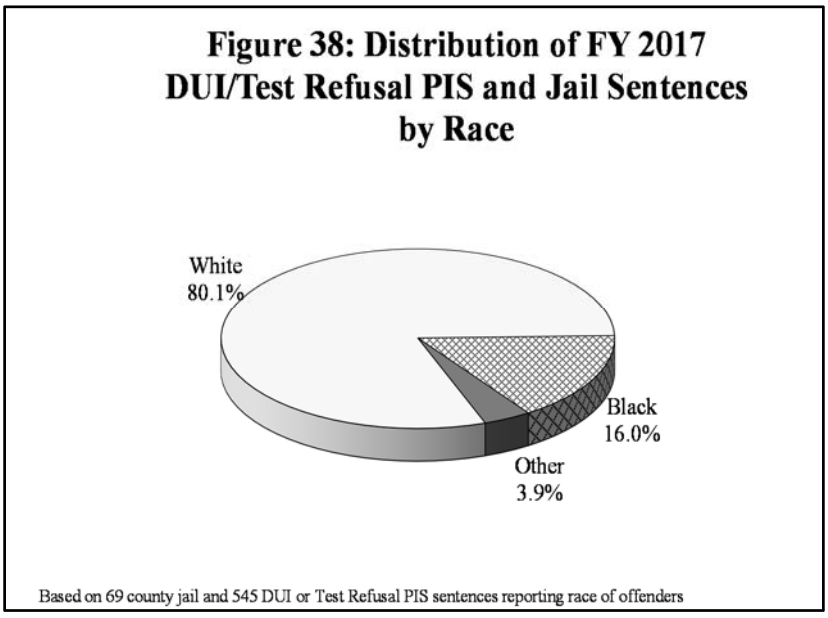



Figure 39 discloses that most offenders were in the age group ranging from 31 to 40 years old (36.2%), a decrease of 1.8% from the data observed in FY 2016 (38%). Their average age at sentencing is 40 years old, close to that of FY 2017 (39.7).

Figure 40 presents the crimes committed by the offenders sentenced to DUI/Test Refusal PIS and county jails. In FY 2017, 96.9% (595 sentences) of the sentences were convicted of the crime of felony DUI, 0.5% (3 sentences) were convicted of the crime of DUI/Test Refusal and 2.3% (14 sentences) were convicted of the crime of domestic battery and 0.3% (2) were convicted of other crimes. A detailed analysis on the crime of DUI is provided on page 15 of this report.

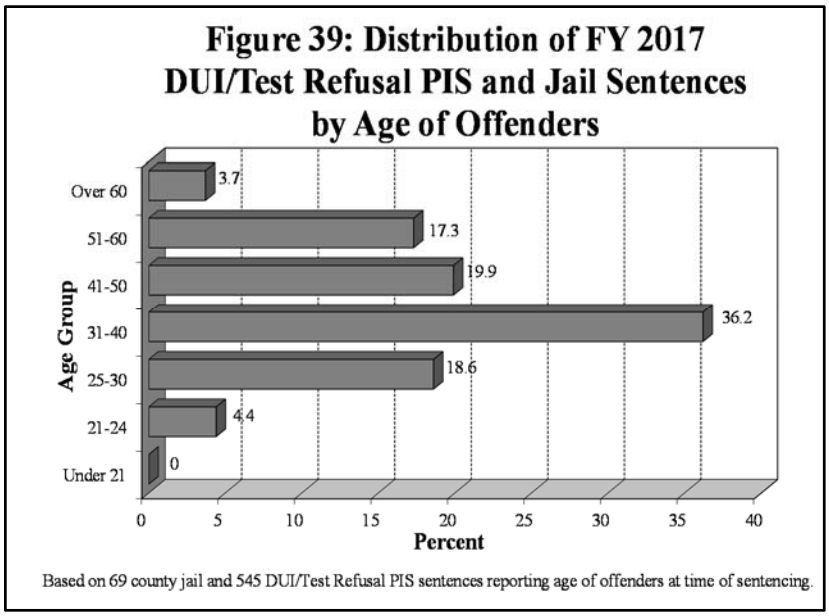
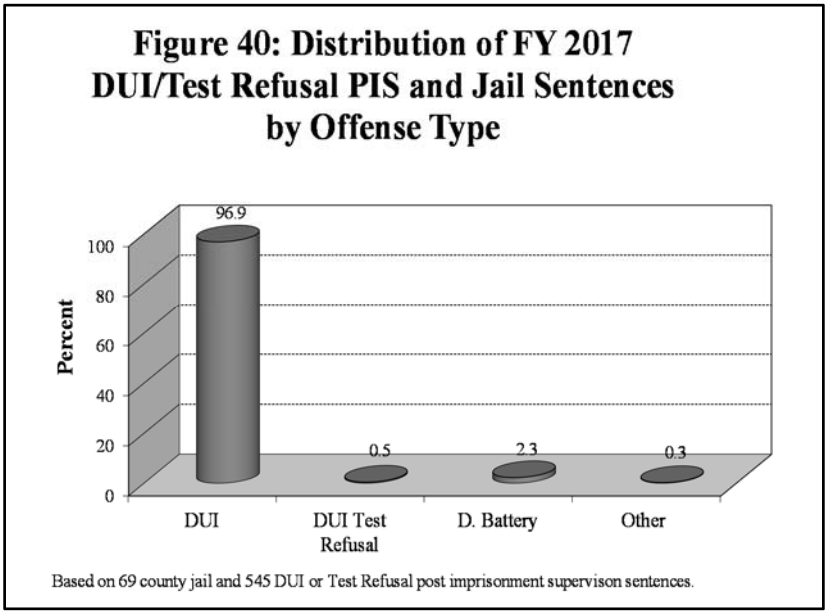
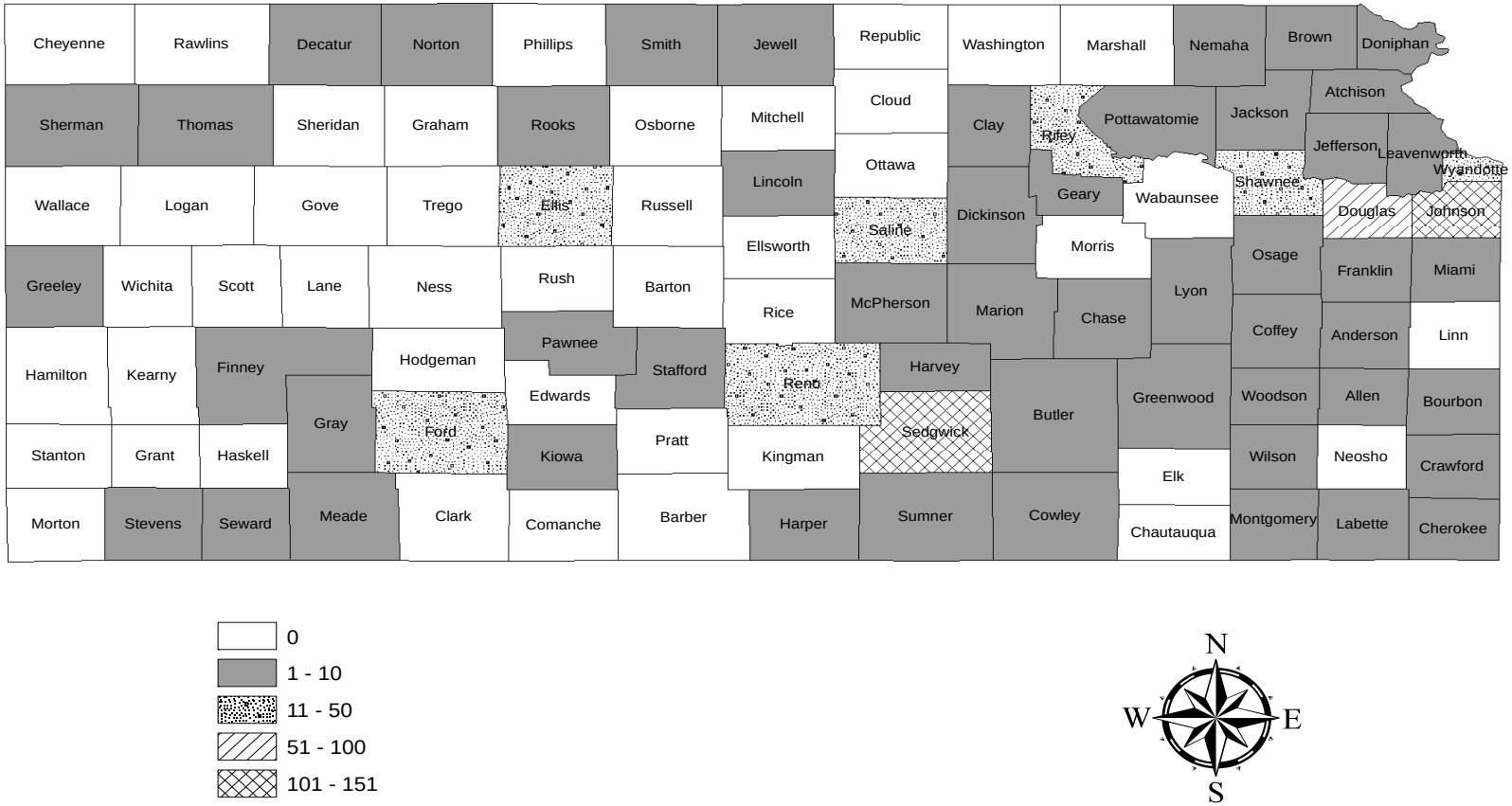



Figure 41 exhibits the distribution of FY 2017 DUI/Test Refusal PIS and county jail sentences by county. Johnson County imposed the most sentences of this group (151) representing 24.6%, followed by Sedgwick County with 127 sentences representing 20.7% of the total DUI/Test Refusal PIS and county jail sentences imposed during FY 2017.



## Figure 41: FY 2017 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.

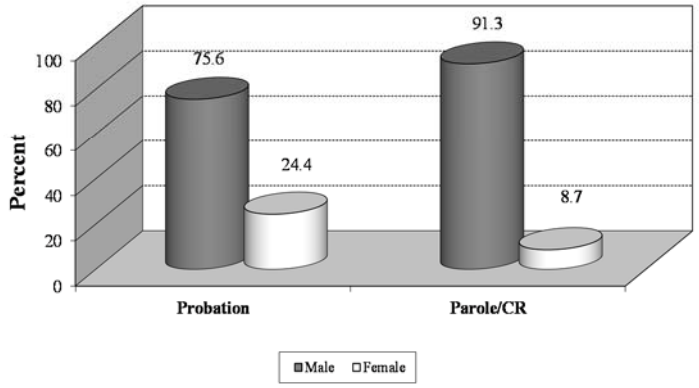
### Overview of Condition Violators

"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).

A total number of 2,430 condition violators were admitted to prison for their violation of conditions in FY 2017, representing 1,229 probation violators, 1,200 parole or postrelease supervision violators and one conditional release violator. In the following analysis, conditional release violators (1 offender) are merged with the group of parole or postrelease supervision violators.

In FY 2017, condition violators accounted for 37.4% of all admissions to prison, a decrease of 1.8% from FY 2016 (39.2%). The majority of condition violators were male offenders, accounting for 75.6% of probation violators and 91.3% of parole/conditional release violators admitted to prison in FY 2017 (Figure 42).

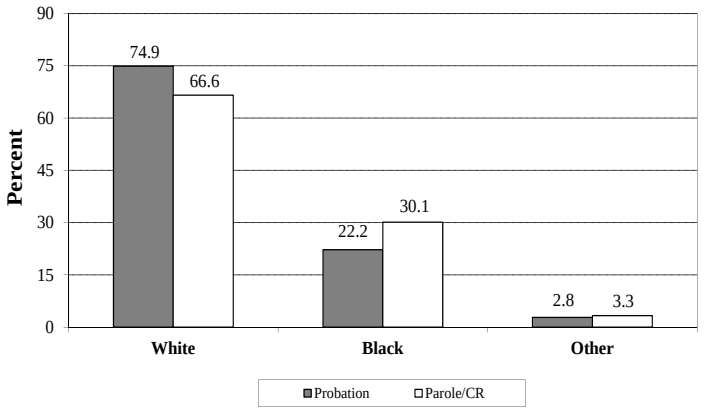
**Figure 42: Distribution of FY 2017 Condition Violators by Gender**




Based on 1,229 probation condition violators and 1,201 parole/conditional release condition violators

White offenders represented the highest rate (74.9%) in the group of probation violators, while the highest percentage of black offenders (30.1%) was identified in the group of parole or postrelease supervision and conditional release violators (Figure 43).

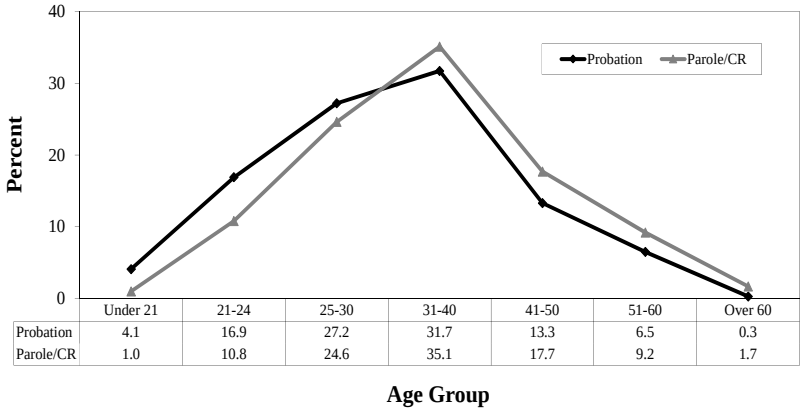
**Figure 43: Distribution of FY 2017 Condition Violators by Race**




Based on 1,229 probation condition violators and 1,201 parole/conditional release condition violators

Most probation violators were in the age group ranging from 31 to 40 (31.7%). The largest number of parole or postrelease supervision and conditional release violators was also found in the age group ranging from 31 to 40 (35.1%) at the time of admission to prison. The age patterns of FY 2017 are the same as those of FY 2016 (Figure 44).

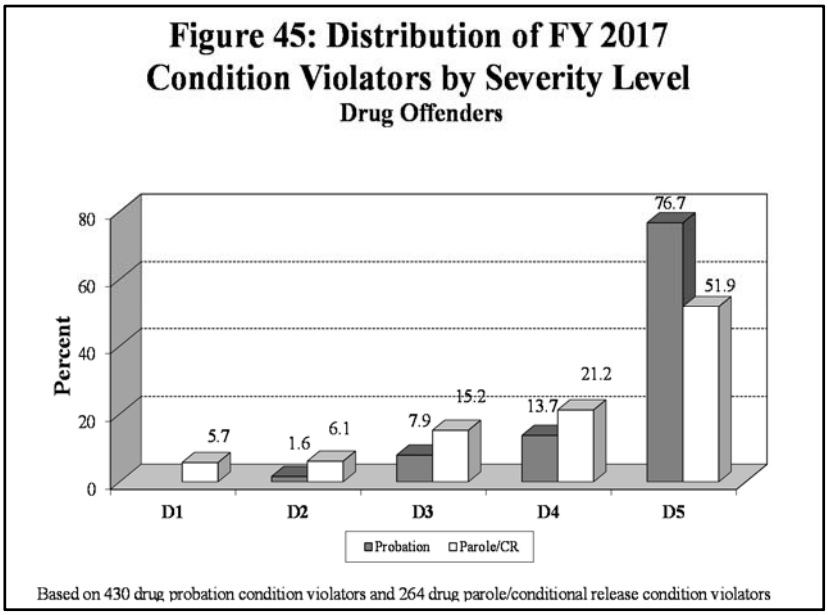
**Figure 44: Distribution of FY 2017 Condition Violators by Age Group**




| | Under 21 | 21-24 | 25-30 | 31-40 | 41-50 | 51-60 | Over 60 |
|---|---|---|---|---|---|---|---|
| Probation | 4.1 | 16.9 | 27.2 | 31.7 | 13.3 | 6.5 | 0.3 |
| Parole/CR | 1.0 | 10.8 | 24.6 | 35.1 | 17.7 | 9.2 | 1.7 |

Based on 1,229 probation condition violators and 1,201 parole/conditional release condition violators

The largest number of drug probation violators was identified at drug severity level 5, representing 76.7% or 330 offenders. The highest percentage of drug parole/postrelease and conditional release violators was found at drug severity level 5, as well, accounting for 51.9% or 137 offenders. The severity level distributions of drug condition violators remained constant with the data observed in FY 2016 (Figure 45).




The highest percentage of nondrug probation condition violators were identified at nondrug severity level 9, which represents 39% or 312 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 22.2% or 208 of this group of violators. This distribution of severity levels is the same with that of FY 2016 (Figure 46).

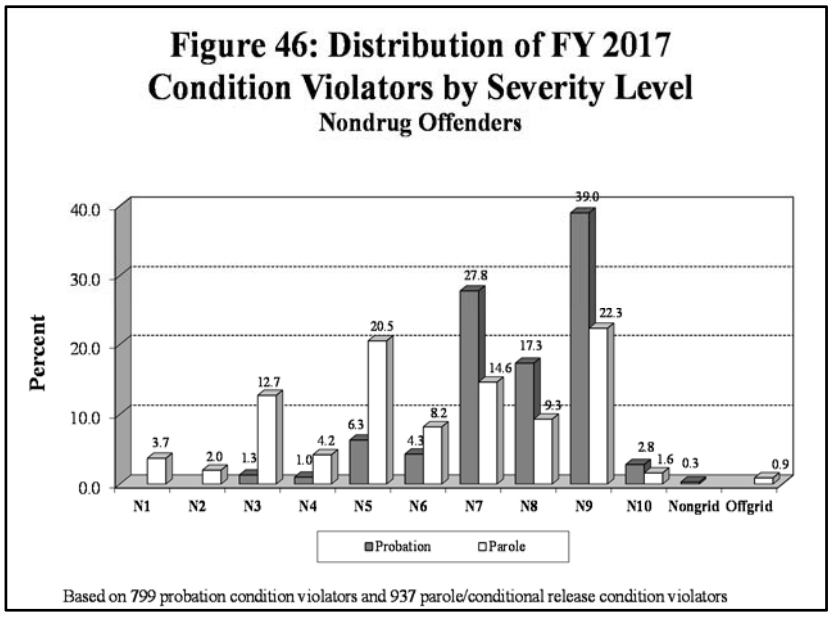


Table 17 presents the characteristics of all types of condition violators. The largest numbers of males were found at nondrug severity level 9 (426 sentences) and drug severity level 5 (341 sentences). The highest frequencies of females were at nondrug severity level 9 (94 sentences) and drug severity level 5 (126 sentences), as well. Racial analysis of the condition violators demonstrates that drug severity level 5 represented the largest number of white violators (375) and black violators (70). As for nondrug sentences, most violators were found at nondrug severity level 9, at which white offenders accounted for 386 sentences and black offenders accounted for 116 sentences. The average age of the violators was 34.7 years old at the time of admission, which does not change from FY 2016.

**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 | 15 | 14 | 1 | 13 | 2 | 0 | 40.1 |
| D2 | 23 | 17 | 6 | 18 | 4 | 1 | 35.7 |
| D3 | 74 | 61 | 13 | 49 | 24 | 1 | 34.0 |
| D4 | 115 | 98 | 17 | 78 | 33 | 4 | 33.1 |
| D5 | 467 | 341 | 126 | 375 | 70 | 22 | 34.5 |
| N1 | 35 | 35 | 0 | 21 | 13 | 1 | 46.3 |
| N2 | 19 | 18 | 1 | 11 | 6 | 2 | 49.0 |
| N3 | 129 | 121 | 8 | 62 | 64 | 3 | 35.9 |
| N4 | 47 | 42 | 5 | 34 | 13 | 0 | 34.6 |
| N5 | 241 | 223 | 18 | 145 | 87 | 9 | 33.5 |
| N6 | 111 | 104 | 7 | 91 | 19 | 1 | 34.4 |
| N7 | 359 | 322 | 37 | 243 | 109 | 7 | 33.4 |
| N8 | 225 | 161 | 64 | 155 | 66 | 4 | 33.9 |
| N9 | 520 | 426 | 94 | 386 | 116 | 18 | 35.5 |
| N10 | 37 | 29 | 8 | 29 | 6 | 2 | 33.2 |
| Offgrid | 8 | 8 | 0 | 8 | 0 | 0 | 40.4 |
| Nongrid | 2 | 2 | 0 | 0 | 2 | 0 | 35.1 |
| **Total** | **2,427** | **2,022** | **405** | **1,718** | **634** | **75** | **34.7** |

* Because of data missing, the distribution of race is based on 2,427 sentences reporting race information.

**Probation Condition Violators**

A total number of 1,229 probation condition violators were admitted to prison during FY 2017. Of this number, 65% (799) were nondrug offenders and 35% (430) were drug offenders. Compared with FY 2016, the admissions of probation condition violators demonstrated an increase of 4.2% or 49 violators. Tables 18 and 19 present the characteristics of probation condition violators.

In FY 2017, the top ten offenses committed by nondrug probation violators were aggravated assault, aggravated battery, aggravated burglary, burglary, criminal threat, failure to register, fleeing or eluding LEO, forgery, identity theft and theft. These ten offenses represent 78.7% 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 80.5% of all drug offenses committed by the probation condition violators admitted to prison in FY 2017. The crime of drug distribution or possession with intent to distribute represents 15.8% of this group of violators to prison in FY 2017 (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 2.7 years for drug probation violators. This remains constant with those of FY 2016 and FY 2015. 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 | 40 | 92.5 | 7.5 | 85.0 | 12.5 | 2.5 | 31.4 | 33.8 |
| Aggravated Battery | 69 | 81.2 | 18.8 | 68.1 | 30.4 | 1.4 | 28.5 | 31.0 |
| Aggravated Burglary | 22 | 77.3 | 22.7 | 59.1 | 40.9 | 0.0 | 26.8 | 29.4 |
| Burglary | 132 | 85.6 | 14.4 | 75.0 | 24.2 | 0.8 | 28.5 | 31.2 |
| Criminal Threat | 66 | 92.4 | 7.6 | 75.8 | 24.2 | 0.0 | 32.0 | 33.7 |
| Failure to Register | 24 | 91.7 | 8.3 | 79.2 | 20.8 | 0.0 | 33.8 | 36.3 |
| Fleeing or Eluding LEO | 29 | 69.0 | 31.0 | 75.9 | 20.7 | 3.4 | 30.7 | 32.5 |
| Forgery | 51 | 58.8 | 41.2 | 80.4 | 15.7 | 3.9 | 32.7 | 36.0 |
| Identity Theft | 30 | 40.0 | 60.0 | 70.0 | 30.0 | 0.0 | 28.9 | 31.5 |
| Theft | 166 | 71.7 | 28.3 | 72.9 | 23.5 | 3.6 | 32.8 | 35.0 |
| **Subtotal** | **629** | **77.4** | **22.6** | **74.2** | **23.8** | **1.9** | **30.8** | **33.2** |
| Other | 170 | 81.8 | 18.2 | 65.9 | 32.4 | 1.8 | 29.3 | 31.9 |
| **TOTAL** | **799** | **78.3** | **21.7** | **72.5** | **25.7** | **1.9** | **30.5** | **32.9** |

* 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 | 346 | 68.8 | 31.2 | 80.9 | 14.5 | 4.7 | 31.8 | 34.3 |
| Drugs; Distribution/Sale | 68 | 76.5 | 23.5 | 70.6 | 23.5 | 5.9 | 29.5 | 32.6 |
| Possession of Precursor Drugs | 2 | 50.0 | 50.0 | 100.0 | 0.0 | 0.0 | 36.0 | 41.9 |
| Possession of Paraphernalia | 12 | 83.3 | 16.7 | 83.3 | 16.7 | 0.0 | 23.8 | 26.9 |
| Receiving proceeds from Violation | 2 | 100.0 | 0.0 | 100.0 | 0.0 | 0.0 | 36.1 | 38.1 |
| **TOTAL** | **430** | **70.5** | **29.5** | **79.5** | **15.8** | **4.7** | **31.2** | **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 | 0 | 0 | 0 | 0 | 0 | 0 |
| D2 | 0 | 1 | 0 | 0 | 4 | 0 | 0 | 0 | 2 | 7 |
| D3 | 1 | 1 | 2 | 2 | 4 | 2 | 4 | 7 | 11 | 34 |
| D4 | 2 | 0 | 7 | 3 | 10 | 6 | 7 | 10 | 14 | 59 |
| D5 | 15 | 18 | 31 | 20 | 36 | 34 | 55 | 69 | 52 | 330 |
| N1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N3 | 3 | 0 | 2 | 0 | 1 | 2 | 1 | 0 | 1 | 10 |
| N4 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 2 | 4 | 8 |
| N5 | 2 | 2 | 5 | 3 | 1 | 3 | 6 | 16 | 12 | 50 |
| N6 | 4 | 0 | 2 | 4 | 4 | 2 | 3 | 7 | 8 | 34 |
| N7 | 7 | 11 | 39 | 17 | 21 | 18 | 36 | 35 | 38 | 222 |
| N8 | 8 | 7 | 19 | 6 | 20 | 8 | 17 | 29 | 24 | 138 |
| N9 | 17 | 20 | 55 | 22 | 45 | 26 | 37 | 54 | 36 | 312 |
| N10 | 0 | 0 | 2 | 2 | 4 | 1 | 1 | 3 | 9 | 22 |
| Nongrid | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 2 |
| **TOTAL** | **59** | **60** | **166** | **79** | **150** | **103** | **167** | **233** | **211** | **1,228** |

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

In FY 2017, 1,201 parole or postrelease supervision and conditional release violators were admitted to prison, indicating a decrease of 36 violators or 2.9% when compared with the data observed in FY 2016. Tables 21 and 22 present the characteristics of this offender group.

The top ten nondrug offenses most frequently committed by parole/postrelease and conditional release violators were aggravated assault, aggravated battery, aggravated robbery, aggravated indecent liberties with a child, burglary, criminal threat, failure to register, rape, robbery and theft, accounting for 64.7% of the total nondrug offenses in FY 2017. Male offenders represented 92.6% of this group. White offenders committed more than 70% of crimes of aggravated indecent liberties with a child, burglary, criminal threat, failure to register and theft. Blacks indicated the highest representation in aggravated assault, 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 (60.2%), an increase of 13.9% over that of FY 2016 (46.3%); and drug distribution or sale (31.4%), a decrease of 8.7% from that of FY 2016 (40.1%).

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 2017, no DUI violators were admitted to prison. Only 3 DUI violators were admitted to prison in FY 2016. The observed data mirrors the implementation of the policy. 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 (137 offenders) and severity level 9 of the nondrug grid (208 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 | 33 | 100.0 | 0.0 | 48.5 | 48.5 | 3.0 | 30.6 | 34.0 |
| Aggravated Battery | 90 | 97.8 | 2.2 | 60.0 | 32.2 | 7.8 | 30.7 | 35.3 |
| Aggravated Robbery | 73 | 91.8 | 8.2 | 32.9 | 67.1 | 0.0 | 23.5 | 33.4 |
| Agg Indecent Liberties w/Child | 48 | 97.9 | 2.1 | 81.3 | 16.7 | 2.1 | 27.7 | 37.7 |
| Burglary | 72 | 97.2 | 2.8 | 66.7 | 30.6 | 2.8 | 31.5 | 34.5 |
| Criminal Threat | 37 | 100.0 | 0.0 | 73.0 | 21.6 | 5.4 | 35.8 | 37.9 |
| Failure to Register | 57 | 94.7 | 5.3 | 78.9 | 19.3 | 1.8 | 31.3 | 35.8 |
| Rape | 40 | 100.0 | 0.0 | 60.0 | 32.5 | 7.5 | 25.1 | 42.7 |
| Robbery | 40 | 92.5 | 7.5 | 37.5 | 62.5 | 0.0 | 30.9 | 39.0 |
| Theft | 116 | 82.8 | 17.2 | 75.0 | 22.4 | 2.6 | 37.5 | 39.8 |
| Other | 331 | 90.3 | 9.7 | 69.5 | 26.9 | 3.6 | 29.6 | 35.8 |
| **TOTAL** | **937** | **92.6** | **7.4** | **65.0** | **31.6** | **3.4** | **30.5** | **36.5** |

## 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 | 159 | 84.3 | 15.7 | 75.5 | 20.8 | 3.8 | 32.7 | 35.9 |
| Drugs; Distribution/Sale | 83 | 88.0 | 12.0 | 63.9 | 33.7 | 2.4 | 28.0 | 32.9 |
| Possession of Paraphernalia | 3 | 100.0 | 0.0 | 33.3 | 66.7 | 0.0 | 24.4 | 30.0 |
| Possession of Precursor Drugs | 6 | 100.0 | 0.0 | 83.3 | 16.7 | 0.0 | 31.1 | 40.1 |
| Unlawful Manufacture Controlled Substance | 13 | 92.3 | 7.7 | 92.3 | 7.7 | 0.0 | 28.3 | 39.6 |
| **TOTAL** | **264** | **86.4** | **13.6** | **72.3** | **24.6** | **3.0** | **30.9** | **35.2** |

## 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 | 1 | 1 | 3 | 0 | 3 | 1 | 2 | 0 | 4 | 15 |
| D2 | 0 | 3 | 2 | 0 | 5 | 2 | 1 | 1 | 2 | 16 |
| D3 | 3 | 10 | 5 | 4 | 5 | 3 | 5 | 3 | 2 | 40 |
| D4 | 3 | 11 | 12 | 4 | 6 | 0 | 7 | 9 | 4 | 56 |
| D5 | 23 | 14 | 15 | 8 | 23 | 12 | 11 | 19 | 12 | 137 |
| N1 | 5 | 1 | 2 | 0 | 1 | 3 | 2 | 3 | 9 | 26 |
| N2 | 2 | 0 | 1 | 2 | 2 | 0 | 1 | 2 | 3 | 13 |
| N3 | 8 | 6 | 22 | 11 | 4 | 7 | 8 | 16 | 27 | 109 |
| N4 | 5 | 6 | 8 | 6 | 1 | 3 | 1 | 3 | 5 | 38 |
| N5 | 27 | 25 | 26 | 12 | 21 | 10 | 11 | 18 | 37 | 187 |
| N6 | 17 | 8 | 15 | 10 | 5 | 2 | 7 | 8 | 5 | 77 |
| N7 | 29 | 23 | 24 | 7 | 17 | 8 | 13 | 7 | 9 | 137 |
| N8 | 19 | 14 | 16 | 3 | 17 | 3 | 7 | 5 | 3 | 87 |
| N9 | 50 | 35 | 29 | 9 | 29 | 7 | 14 | 21 | 14 | 208 |
| N10 | 7 | 4 | 0 | 1 | 0 | 0 | 2 | 1 | 0 | 15 |
| Offgrid | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 6 | 8 |
| Nongrid | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| **TOTAL** | **199** | **161** | **180** | **78** | **139** | **61** | **92** | **117** | **142** | **1,169** |

* Due to missing data, criminal history categories are based on 1,169 violators reporting criminal history.

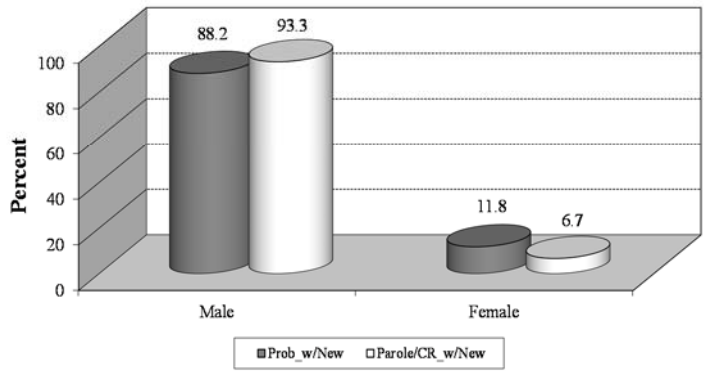
**Violators with New Sentences**

In this section, violators with new sentences 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 8.2% (535 violators) of the total prison admissions in FY 2017, indicating an increase of 0.5% when compared with the percentage of the same group in FY 2016 (7.7%). Characteristics of this group are illustrated in Figures 47 - 49. Drugs (33.8%), burglary/aggravated burglary (13.2%), aggravated battery/battery of LEO (8.8%), failure to register (7.9%) and theft (6.8%) were the major offense categories committed by probation violators with new sentences.

Drugs (25.6%), burglary/aggravated burglary (10.8%) and aggravated battery/battery of LEO (9.7%) 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 (41, 67, 36 and 39 violators) and drug severity level 5 (86 violators). The highest percentages of parole/postrelease/conditional release violators with new sentences were found at nondrug severity levels 3, 5, 7 and 9 (9.7%, 14.4%, 11.3% and 12.8%) and drug severity level 5 (13.8%). The distributions of severity levels of both drug and nondrug crimes are very similar to those of FY 2016.

Male offenders made up 93.3% of the parole/postrelease and conditional release violators with new sentences admitted to prison in FY 2017, while female offenders accounted for 11.8% of probation violators with new sentences admitted to prison. This gender distribution is consistent with in the past three fiscal years (Figure 47).

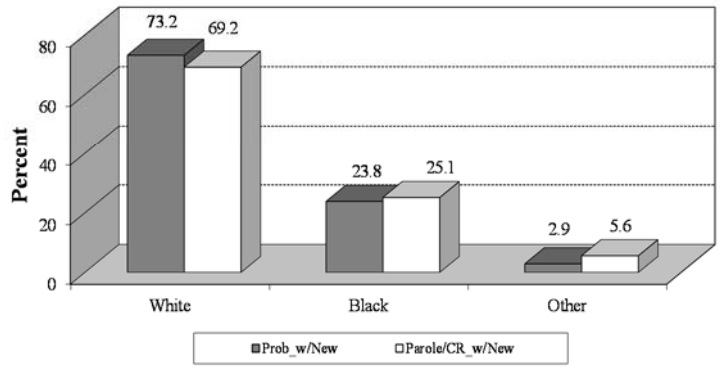
**Figure 47: Distribution of FY 2017 Violators with New Sentences by Gender**




Note: Probation violators w/new sentence=340; parole/conditional release condition violators w/new sentence=195

White offenders were identified as the largest group of violators with new sentences, representing 73.2% of probation violators with new sentences and 69.2% of parole/postrelease and conditional release violators with new sentences. The black violators with new sentences accounted for 23.8% of probation violators and 25.1% of parole/postrelease violators (Figure 48).

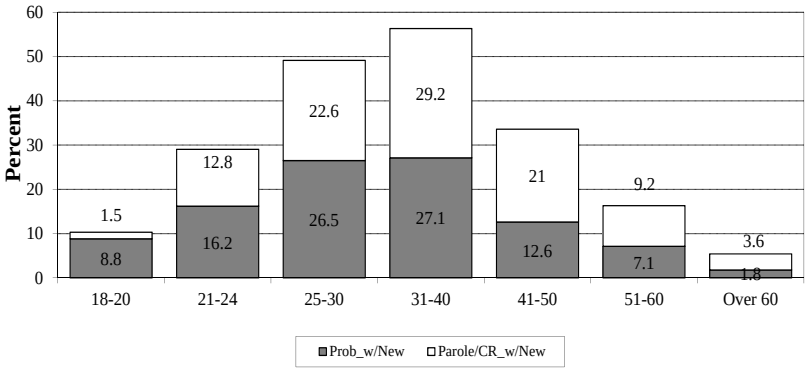
**Figure 48: Distribution of FY 2017 Violators with New Sentences by Race**




Note: Probation violators w/new sentence=340 and parole/conditional release violators w/new sentence=195

The analysis of age of the violators at admission indicates that the highest percentage of probation violators with new sentences were in the age group from 31 to 40 (27.1%), which remains constant compared with FY 2016. The largest proportion parole or postrelease and conditional release violators with new sentences were identified in the age groups of 31 to 40, as well, accounting for 29.2%, indicating no change from the age pattern of the group in FY 2016 (Figure 49).

**Figure 49: Distribution of FY 2017 Violators with New Sentences by Age Group**




Note: Probation violators w/new sentence=340 and parole/conditional release violators w/new sentence=195

**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 | 0 | 0.0 | 3 | 1.5 |
| D2 | 6 | 1.8 | 3 | 1.5 |
| D3 | 13 | 3.8 | 9 | 4.6 |
| D4 | 10 | 2.9 | 8 | 4.1 |
| D5 | 86 | 25.3 | 27 | 13.8 |
| N1 | 2 | 0.6 | 7 | 3.6 |
| N2 | 0 | 0.0 | 1 | 0.5 |
| N3 | 7 | 2.1 | 19 | 9.7 |
| N4 | 5 | 1.5 | 8 | 4.1 |
| N5 | 41 | 12.1 | 28 | 14.4 |
| N6 | 24 | 7.1 | 16 | 8.2 |
| N7 | 67 | 19.7 | 22 | 11.3 |
| N8 | 36 | 10.6 | 11 | 5.6 |
| N9 | 39 | 11.5 | 25 | 12.8 |
| N10 | 1 | 0.3 | 2 | 1.0 |
| Offgrid | 3 | 0.9 | 6 | 3.1 |
| Nongrid | 0 | 0.0 | 0 | 0.0 |
| **TOTAL** | **340** | **100.0** | **195** | **100.0** |

## VIOLATORS CONTINUED OR EXTENDED ON PROBATION

The violators continued or extended on probation, in this section, refer to probation violators with or without new convictions, whose violations did not result in incarceration but rather a continuation or an extension of the probation. In FY 2017, there were 550 probation condition violators and 88 probation violators with new convictions who were continued or extended on probation, representing 10.4% of the total number of 5,311 condition probation violators and 10.9% of the total number of 808 probation violators with new offenses, respectively. Drugs (29.1%), theft (19.3%), burglary (9.5%), forgery (5.6%) and DUI (5.1%) were the top five offenses committed by the group of condition probation violators. Drugs (34.1%), theft (23.9%) and burglary (11.4%) were the top three offenses committed by probation violators with new convictions. Most top offenses committed by both groups were the same when compared with those of the past three years 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 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| D2 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| D3 | 7 | 0 | 0 | 0 | 0 | 1 | 2 | 1 | 1 | 2 |
| D4 | 16 | 0 | 0 | 0 | 0 | 3 | 3 | 1 | 5 | 4 |
| D5 | 134 | 2 | 6 | 17 | 11 | 28 | 6 | 14 | 26 | 24 |
| N1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| N4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N5 | 15 | 1 | 1 | 2 | 4 | 1 | 1 | 0 | 0 | 5 |
| N6 | 8 | 1 | 0 | 0 | 0 | 1 | 0 | 2 | 0 | 4 |
| N7 | 74 | 5 | 4 | 13 | 4 | 7 | 4 | 12 | 8 | 17 |
| N8 | 78 | 2 | 5 | 5 | 2 | 21 | 5 | 11 | 11 | 16 |
| N9 | 162 | 5 | 12 | 24 | 8 | 36 | 13 | 22 | 12 | 30 |
| N10 | 17 | 0 | 2 | 3 | 0 | 3 | 1 | 2 | 2 | 4 |
| **TOTAL** | **515** | **16** | **31** | **64** | **29** | **101** | **35** | **66** | **65** | **108** |

Note: Criminal history classes are based on 515 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 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| D4 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 |
| D5 | 27 | 0 | 2 | 2 | 2 | 3 | 3 | 3 | 5 | 7 |
| N1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |
| N4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| N5 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| N6 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |
| N7 | 17 | 1 | 0 | 1 | 3 | 2 | 2 | 3 | 4 | 1 |
| N8 | 10 | 0 | 2 | 2 | 1 | 3 | 0 | 0 | 1 | 1 |
| N9 | 25 | 2 | 3 | 4 | 1 | 5 | 3 | 1 | 3 | 3 |
| N10 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| **TOTAL** | **86** | **3** | **7** | **9** | **9** | **13** | **8** | **8** | **16** | **13** |

Note: Criminal history classes are based on 86 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 a jail sanction. The bill allows the court to impose an 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.

A total number of 2,727 probation violators in FY 2017 were recipients of a jail sanction, an increase of 254 or 10.3% over that of FY 2016 (2,473 jail sanctions). Of the 2,727 jail sanctions, 61.3% served from 1 to 60 days in county jail and the average jail days served is 3 days, which is very consistent with the sentencing policy of the bill compared with FY 2016 (2.9 days), FY 2015 (3.7 days) and FY 2014 (26.7 days). FY 2014 is the initial year of implementation of House Bill 2170.

The examination of offenders' violation sanction history reveals that 72% (1,963) have no sanction history and 27.5% (749) have sanction history of one to six county jail sanctions. Table 27 present the sanction history of the 749 jail sanction sentences. Of the 749 sentences with one prior jail sanction, 58.5% were imposed by court and 41.5% were imposed by supervising officers. A number of 226 sentences have two prior jail sanctions with 43.8% imposed by court and 56.2% imposed by supervising officer. Offenders with three prior jail sanctions accounted for 68, with 47.1% imposed by court and 52.9% imposed by supervising officer. Thirty-three sentences have four prior jail sanctions, 15 sentences have five prior jail sanctions and 8 sentences have six prior jail sanctions.

**Table 27: FY 2017 Violation Sanction History - County Jail Sanction**

| Prior Sanction | Number | Jail Sanction Imposed by (%) | |
|---|---|---|---|
| | | Supervising Officer | Court |
| First | 749 | 41.5 | 58.5 |
| Second | 226 | 56.2 | 43.8 |
| Third | 68 | 52.9 | 47.1 |
| Fourth | 33 | 39.4 | 60.6 |
| Fifth | 15 | 40.0 | 60.0 |
| Sixth | 8 | 25.0 | 75.0 |

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

The jail sanction events imposed by county in FY 2017 are presented in Table 28. Sedgwick County imposed the most jail sanctions accounting for 29.4% (or 801 sanctions) of the 2,727 jail sanctions of FY 2017. Shawnee County imposed the second largest number of jail sanctions (349 sanctions or 12.8%) followed by Reno County (314 sanctions or 11.5%) and Johnson County (269 sanctions or 9.9%). The top five offenses committed by this group of offenders include crimes of drugs

(1,022 sentences or 37.5%), theft (400 sentences or 14.7%), burglary (266 sentences or 9.8%), forgery (137 sentences or 5%) and aggravated battery (111 sentences or 4.1%), which is consistent with the data observed in the previous three years.

**Table 28: FY 2017 Jail Sanctions from Probation Imposed by County**

| County | Number | Percent | County | Number | Percent |
|---|---|---|---|---|---|
| Allen | 6 | 0.2 | Linn | 9 | 0.3 |
| Anderson | 14 | 0.5 | Logan | 1 | 0.0 |
| Barton | 67 | 2.5 | Lyon | 17 | 0.6 |
| Bourbon | 16 | 0.6 | Marshall | 11 | 0.4 |
| Brown | 20 | 0.7 | McPherson | 13 | 0.5 |
| Butler | 41 | 1.5 | Miami | 16 | 0.6 |
| Chautauqua | 3 | 0.1 | Mitchell | 3 | 0.1 |
| Cherokee | 3 | 0.1 | Montgomery | 50 | 1.8 |
| Clay | 9 | 0.3 | Morris | 1 | 0.0 |
| Cloud | 2 | 0.1 | Nemaha | 10 | 0.4 |
| Coffey | 5 | 0.2 | Neosho | 9 | 0.3 |
| Comanche | 1 | 0.0 | Osage | 11 | 0.4 |
| Cowley | 28 | 1.0 | Pawnee | 9 | 0.3 |
| Crawford | 15 | 0.6 | Pottawatomie | 11 | 0.4 |
| Decatur | 1 | 0.0 | Pratt | 6 | 0.2 |
| Dickinson | 26 | 1.0 | Reno | 314 | 11.5 |
| Ellis | 1 | 0.0 | Rice | 15 | 0.6 |
| Finney | 48 | 1.8 | Riley | 40 | 1.5 |
| Ford | 42 | 1.5 | Russell | 8 | 0.3 |
| Franklin | 19 | 0.7 | Saline | 99 | 3.6 |
| Geary | 68 | 2.5 | Sedgwick | 801 | 29.4 |
| Greenwood | 6 | 0.2 | Seward | 3 | 0.1 |
| Harper | 13 | 0.5 | Shawnee | 349 | 12.8 |
| Harvey | 39 | 1.4 | Sherman | 7 | 0.3 |
| Jackson | 10 | 0.4 | Stevens | 2 | 0.1 |
| Johnson | 269 | 9.9 | Sumner | 28 | 1.0 |
| Kearny | 1 | 0.0 | Thomas | 1 | 0.0 |
| Kingman | 3 | 0.1 | Trego | 1 | 0.0 |
| Kiowa | 1 | 0.0 | Wilson | 10 | 0.4 |
| Labette | 6 | 0.2 | Woodson | 2 | 0.1 |
| Leavenworth | 28 | 1.0 | Wyandotte | 59 | 2.2 |
| **Total** | | | **2,727** | | |

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.

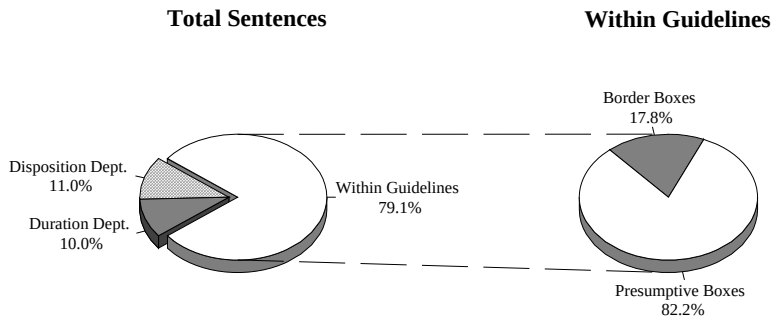
Only pure guideline sentences were utilized for this specific analysis. A pure guideline sentence is defined as a guideline sentence that is not imposed to run concurrent or consecutive with a "pre-guideline" sentence. In addition, the analysis is based on computed variables regarding departures and 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 6,702 pure guideline sentences of FY 2017 were utilized for this study, which includes 1,523 incarceration guideline sentences and 5,179 probation sentences. Figure 50 demonstrates that 79% of the 6,702 guideline sentences were within the presumptive guideline grids, 10% indicated durational departures and 11% were dispositional departures. Of all the sentences within the presumptive guideline grids, 4,353 sentences (82.2%) fell within either the presumptive prison boxes or presumptive probation boxes, while 945 sentences (17.8%) were located on designated border boxes. Figure 51 indicates that 86.2% (635 sentences) of the 737 dispositional departures were downward departures and 13.8% (102 sentences) were upward dispositional departures. More than

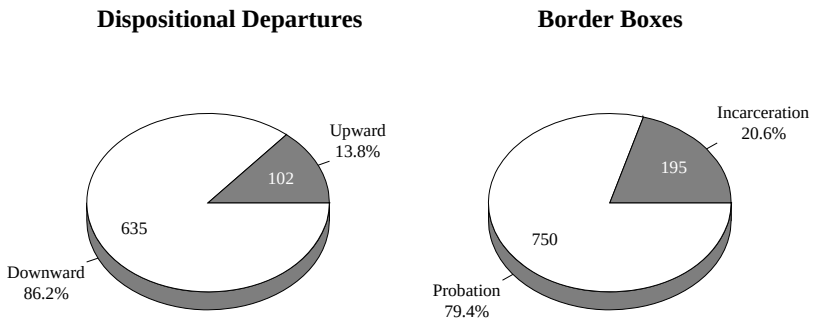
79% of the 945 border box sentences resulted in probation sentences with 20.6% of this group sentenced to prison. The ratios remain constant with those of FY 2016. The analysis of durational departure sentences is only applicable to presumptive prison sentences.

**Figure 50: Distribution of FY 2017 Overall Guideline Sentences**




Based on 1,523 prison and 5,179 probation sentences

**Figure 51: Distribution of FY 2017 Dispositional Departure and Border Box Sentences**




Based on 737 dispositional departures and 945 border box sentences

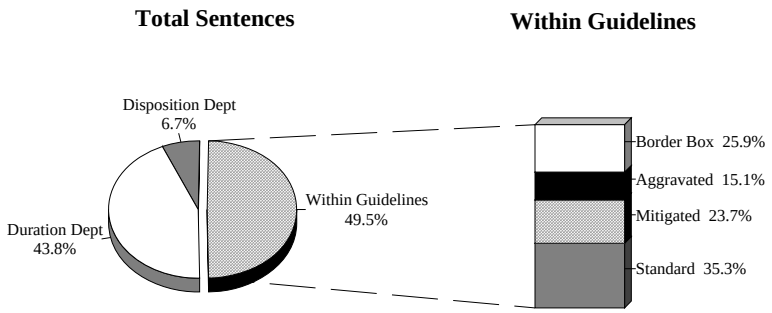
## CONFORMITY OF PRESUMPTIVE PRISON GUIDELINE SENTENCES

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 1,523 presumptive prison guideline sentences of FY 2017 were analyzed for this purpose.

Sentences within the presumptive incarceration range accounted for 49.5% of the total incarceration guideline sentences in FY 2017. Of these sentences within the guidelines, the standard sentences accounted for 35.3%, the aggravated sentences accounted for 15.1%, the mitigated sentences accounted for 23.7% and 25.9% were located within designated border boxes (Figure 52).

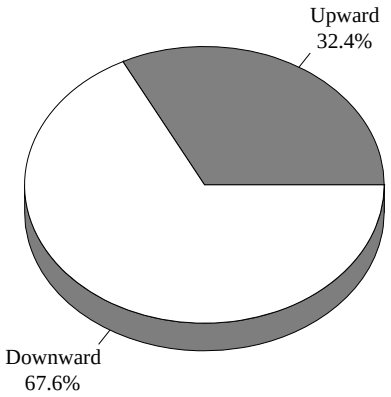
**Figure 52: FY 2017 Incarceration Guideline Sentences**




Based on 1,523 guideline sentences

Figure 53 shows that 67.6% of the durational departure sentences departed downward from the sentence lengths indicated on the presumptive range, while 32.4% departed upward from the presumptive guideline ranges. The percentage of the downward durational departures decreased by 2.7% compared with that of FY 2016 (70.3%).

**Figure 53: FY 2017 Incarceration Durational Departure Sentences**

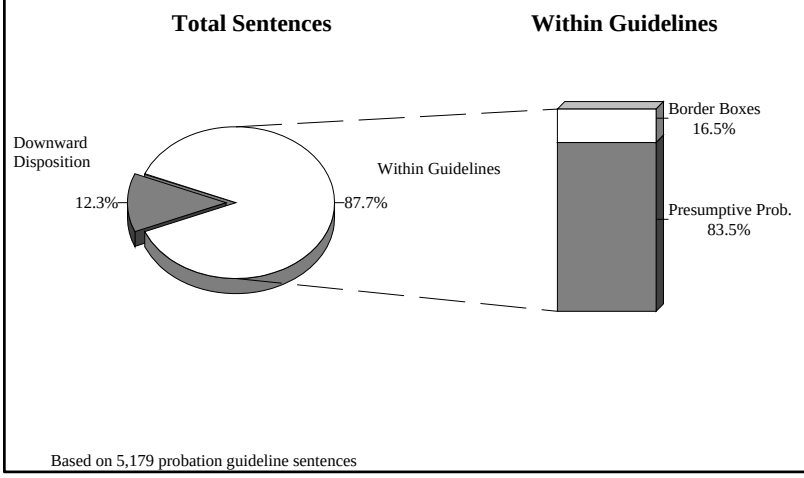



Based on 667 durational departure sentences

## 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 2017 (87.7% or 4,544 cases) fell within the presumptive guideline range, among which 83.5% were within presumptive probation grids and 16.5% were within border boxes (Figure 54). The sentences within the presumptive guideline range (4,544) accounted for 57.3% of the total probation sentences imposed in FY 2017 (7934), which decreased by 0.9 % compared with the percentage rate of FY 2016 (58.2%). Further analysis of the dispositional departures indicates that probation sentences reflected downward dispositional departures of 12.3% of the total probation guideline sentences in FY 2017, a decrease of 0.2% compared with that of FY 2016 (12.5%), (Figure 54). Upward dispositional departure sentences were reflected in presumptive incarceration sentences (Refer to Figure 52).

**Figure 54: FY 2017 Probation Guideline Sentences**

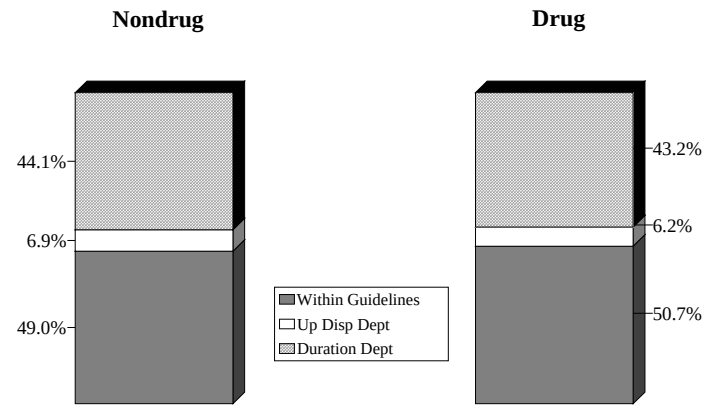



Based on 5,179 probation guideline sentences

## CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES

The comparison between nondrug and drug guideline incarceration sentences discloses that 6.9% of nondrug offenders and 6.2% of drug offenders showed upward dispositional departures. Additionally, nondrug offenders represented 44.1% durational departures and drug offenders showed 43.2% durational departures (Figure 55). These similar distributions between drug and nondrug incarceration sentences remain constant with those of FY 2016.

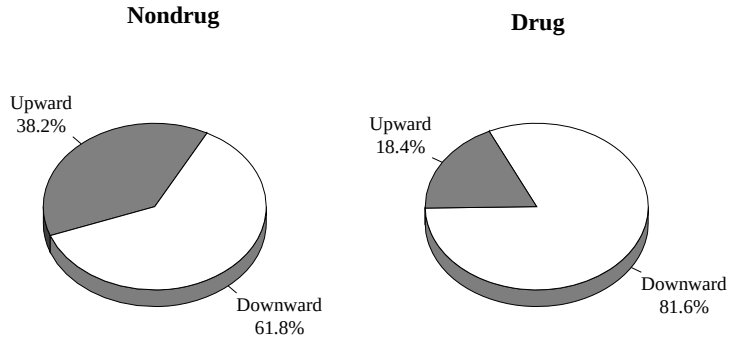
**Figure 55: FY 2017 Nondrug and Drug Guideline Sentences - Incarceration**




Based on 1,069 nondrug and 454 drug sentences

The analysis of durational departures indicates that downward departures represented 81.6% of the total durational departures on the drug grid. However, on the nondrug grid, 61.8% 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).

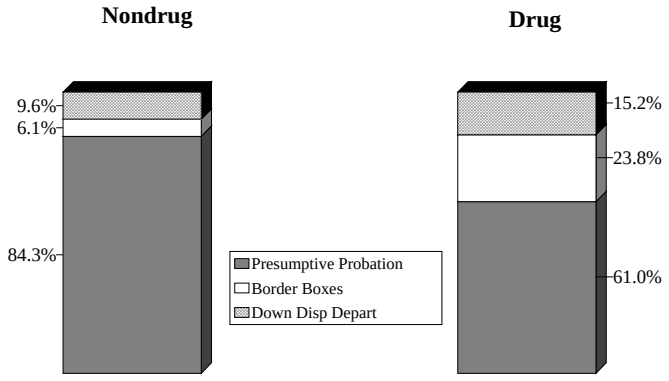
**Figure 56: Comparison of Durational Departures between Nondrug and Drug Incarceration Sentences**




Based on 471 nondrug and 196 drug durational departure sentences

Figure 57 presents the sentencing disparities between nondrug and drug offenders on probation. Drug sentences represented a higher percentage of downward dispositional departures than nondrug sentences (15.2% vs. 9.6%). The rate of drug probation sentences resulting from border boxes was much higher than that of nondrug probation sentences (23.8% vs. 6.1%), which remains constant when compared with FY 2016.

**Figure 57: FY 2017 Nondrug and Drug Guideline Sentences - Probation**




Based on 2,723 nondrug and 2,456 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

The conformity rates of incarceration sentences to the guidelines by severity level are presented in Table 29. Drug incarceration sentences, as a whole, indicated a 13.7% standard, 3.1% aggravated, 11% mitigated and 22.9% border box sentence distribution. Nondrug sentences revealed a 19.1% standard, 9.4% aggravated, 12.1% mitigated and 8.5% border box sentence distribution. The review of the departure sentences reveals that drug sentences indicated 7.9% upward durational departures and 35.2% downward durational departures, whereas nondrug sentences showed a 16.8% upward durational departure rate and a 27.2% downward durational departure rate. The highest rate of downward durational departures was identified at drug severity level 2 (73.9%) for drug incarceration sentences and nondrug severity level 10 (60%) for nondrug incarceration sentences. When examining dispositional departures, 6.9% of nondrug incarceration sentences were upward dispositional departures and 6.2% of drug incarceration sentences were upward dispositional departures. This is the second year followed FY 2016 to show data different from sentencing practice observed in the past twenty 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 | 12 | 16.7 | 8.3 | | | 8.3 | 66.7 | |
| D2 | 46 | 2.2 | 8.7 | 10.9 | | 4.3 | 73.9 | |
| D3 | 132 | 4.5 | 26.5 | 16.7 | 1.5 | 12.9 | 37.9 | |
| D4 | 91 | 1.1 | 11.0 | 4.4 | 65.9 | 4.4 | 13.2 | |
| D5 | 173 | 2.3 | 6.9 | 11.0 | 24.3 | 6.9 | 32.4 | 16.2 |
| **Subtotal** | **454** | **3.1** | **13.7** | **11.0** | **22.9** | **7.9** | **35.2** | **6.2** |
| N1 | 74 | 13.5 | 17.6 | 12.2 | | 39.2 | 17.6 | |
| N2 | 16 | 6.3 | 6.3 | 31.3 | | 37.5 | 18.8 | |
| N3 | 133 | 13.5 | 23.3 | 10.5 | | 29.3 | 23.3 | |
| N4 | 63 | 9.5 | 17.5 | 14.3 | | 25.4 | 33.3 | |
| N5 | 210 | 3.3 | 7.1 | 6.2 | 37.1 | 11.0 | 35.2 | |
| N6 | 116 | 9.5 | 12.9 | 12.9 | 11.2 | 12.9 | 40.5 | |
| N7 | 147 | 15.0 | 20.4 | 15.6 | | 18.4 | 15.0 | 15.6 |
| N8 | 79 | 8.9 | 22.8 | 16.5 | | 11.4 | 20.3 | 20.3 |
| N9 | 206 | 8.7 | 34.0 | 9.2 | | 7.8 | 23.8 | 16.5 |
| N10 | 25 | | | 36.0 | | | 60.0 | 4.0 |
| **Subtotal** | **1,069** | **9.4** | **19.1** | **12.1** | **8.5** | **16.8** | **27.2** | **6.9** |
| **TOTAL** | **1,523** | **7.5** | **17.5** | **11.8** | **12.8** | **14.2** | **29.6** | **6.7** |

Table 30 demonstrates the conformity rates of probation sentences to the guidelines by severity level. Probation drug sentences indicated 15.2% downward dispositional departures, which should have been presumptive incarceration, while 9.6% 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 (23.8% vs. 6.1%). 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-one years.

**Table 30: Conformity Rates by Severity Level - Probation Sentences**

| Severity Level | N | Presumptive Probation (%) | Border Boxes (%) | Downward Disposition (%) |
|---|---|---|---|---|
| D1 | 6 | | | 100.0 |
| D2 | 57 | | | 100.0 |
| D3 | 182 | | 1.6 | 98.4 |
| D4 | 332 | 0.6 | 88.0 | 11.4 |
| D5 | 1,879 | 79.7 | 15.4 | 4.9 |
| **Subtotal** | **2,456** | **61.0** | **23.8** | **15.2** |
| N1 | 1 | | | 100.0 |
| N2 | 0 | | | |
| N3 | 16 | | | 100.0 |
| N4 | 26 | | | 100.0 |
| N5 | 186 | | 79.0 | 21.0 |
| N6 | 110 | 52.7 | 17.3 | 30. |
| N7 | 663 | 94.1 | | 5.9 |
| N8 | 539 | 94.4 | | 5.6 |
| N9 | 1,085 | 93.5 | | 6.5 |
| N10 | 97 | 91.8 | | 8.2 |
| **Subtotal** | **2,723** | **84.3** | **6.1** | **9.6** |
| **TOTAL** | **5,179** | **73.3** | **14.5** | **12.3** |

## CONFORMITY RATES TO THE GUIDELINES BY RACE

Tables 31 and 32 present the conformity rates to the sentencing guidelines by race for the drug and nondrug offenders admitted to prison in FY 2017. The analysis of drug incarceration sentences demonstrates that whites received more standard and border box sentences than blacks (14.1% vs. 8.8%; 23.6% vs. 19.8%). However, black offenders represented higher percentage than white offenders at aggravated and mitigated sentences (4.4% vs. 2.9%; 14.3% vs. 10.3%). The analysis of departures demonstrates that white offenders received more upward dispositional departures than black offenders (7.5% vs. 2.2%), while black offenders received more downward durational departures (42.9% vs. 33.9%). The rates of upward durational departures for both white and black offenders are very close (7.8% vs. 7.8%).

The study of nondrug incarceration sentences within guidelines discovers that black offenders received a little more aggravated sentences than white offenders (9.8% vs. 8.7%), while white offenders represented higher percentages than black offenders at mitigated, standard and border box sentences (12.2% vs. 11.8%; 19.8% vs. 18%; 9.8% vs. 4.3%). The review of departures reveals that blacks represented higher rates than whites in both upward and downward durational departures (18% vs. 16.7%; 35.4% vs. 23.9%), whereas whites received more upward dispositional departures than blacks for nondrug offenses (8.8% vs. 2.6%).

**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 | 9 | 22.2 | | | | | 77.8 | |
| | Black | 3 | | 33.3 | | | 33.3 | 33.3 | |
| D2 | White | 38 | 2.6 | 7.9 | 10.5 | | 5.3 | 73.7 | |
| | Black | 7 | | 14.3 | 14.3 | | | 71.4 | |
| | Other | 1 | | | | | | 100.0 | |
| D3 | White | 102 | 4.9 | 27.5 | 17.6 | 2.0 | 12.7 | 35.3 | |
| | Black | 24 | 4.2 | 12.5 | 16.6 | | 12.5 | 54.2 | |
| | Other | 6 | | 66.7 | | | 16.7 | 16.7 | |
| D4 | White | 68 | 1.5 | 13.2 | 1.5 | 66.2 | 4.4 | 13.2 | |
| | Black | 18 | | 5.6 | 11.1 | 61.1 | 5.6 | 16.7 | |
| | Other | 5 | | | 20.0 | 80.0 | | | |
| D5 | White | 131 | 0.8 | 6.9 | 9.9 | 26.7 | 6.9 | 29.0 | 19.8 |
| | Black | 39 | 7.7 | 5.1 | 15.4 | 17.9 | 5.1 | 43.6 | 5.1 |
| | Other | 3 | | 33.3 | | | 33.3 | 33.3 | |
| **Total** | **White** | **348** | **2.9** | **14.1** | **10.3** | **23.6** | **7.8** | **33.9** | **7.5** |
| | **Black** | **91** | **4.4** | **8.8** | **14.3** | **19.8** | **7.7** | **42.9** | **2.2** |
| | **Other** | **15** | | **33.3** | **6.7** | **26.7** | **13.3** | **20.0** | |

Note: Based on 454 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 | 52 | 15.4 | 21.2 | 15.4 | | 38.5 | 9.6 | |
| | Black | 20 | 10.0 | 5.0 | 5.0 | | 40.0 | 40.0 | |
| | Other | 2 | | 50.0 | | | 50.0 | | |
| N2 | White | 12 | | 8.3 | 25.0 | | 41.7 | 25.0 | |
| | Black | 3 | | | 66.7 | | 33.3 | | |
| | Other | 1 | 100.0 | | | | | | |
| N3 | White | 77 | 11.7 | 27.3 | 6.5 | | 31.2 | 23.4 | |
| | Black | 49 | 14.3 | 20.4 | 14.3 | | 26.5 | 24.5 | |
| | Other | 7 | 28.6 | | 28.6 | | 28.6 | 14.3 | |
| N4 | White | 38 | 10.5 | 13.2 | 18.4 | | 28.9 | 28.9 | |
| | Black | 22 | 9.1 | 22.7 | 9.1 | | 18.2 | 40.9 | |
| | Other | 3 | | 33.3 | | | 33.3 | 33.3 | |
| N5 | White | 146 | 2.7 | 8.2 | 6.8 | 41.8 | 11.0 | 29.5 | |
| | Black | 54 | 3.7 | 5.6 | 5.6 | 20.4 | 13.0 | 51.9 | |
| | Other | 10 | 10.0 | | | 60.0 | | 30.0 | |
| N6 | White | 83 | 9.6 | 9.6 | 13.3 | 10.8 | 14.5 | 42.2 | |
| | Black | 23 | 8.7 | 21.7 | 8.7 | 8.7 | 13.0 | 39.1 | |
| | Other | 10 | 10.0 | 20.0 | 20.0 | 20.0 | | 30.0 | |
| N7 | White | 92 | 14.1 | 20.7 | 15.2 | | 15.2 | 13.0 | 21.7 |
| | Black | 49 | 14.3 | 20.4 | 18.4 | | 24.5 | 18.4 | 4.1 |
| | Other | 6 | 33.3 | 16.7 | | | 16.7 | 16.7 | 16.7 |
| N8 | White | 52 | 5.8 | 26.9 | 15.4 | | 9.6 | 16.4 | 26.9 |
| | Black | 21 | 14.3 | 19.0 | 19.0 | | 14.3 | 28.6 | 4.8 |
| | Other | 6 | 16.7 | | 16.7 | | 16.7 | 33.3 | 16.7 |
| N9 | White | 144 | 9.0 | 34.7 | 9.0 | | 8.3 | 19.4 | 19.4 |
| | Black | 55 | 9.1 | 30.9 | 9.1 | | 7.3 | 34.5 | 9.1 |
| | Other | 7 | | 42.9 | 14.3 | | | 28.6 | 14.3 |
| N10 | White | 16 | | | 50.0 | | | 43.8 | 6.3 |
| | Black | 9 | | | 11.1 | | | 88.9 | |
| | Other | 0 | | | | | | | |
| **Total** | **White** | **712** | **8.7** | **19.8** | **12.2** | **9.8** | **16.7** | **23.9** | **8.8** |
| | **Black** | **305** | **9.8** | **18.0** | **11.8** | **4.3** | **18.0** | **35.4** | **2.6** |
| | **Other** | **52** | **15.4** | **15.4** | **11.5** | **15.4** | **11.5** | **25.0** | **5.8** |

Note: Based on 1,069 nondrug incarceration guideline sentences reporting race of offenders.

Tables 33 and 34 present the conformity rates by race for offenders sentenced to probation during FY 2017. White offenders received more presumptive probation sentences for drug offenses than black offenders (64.5% vs. 44%) but black drug offenders had a higher rate of border box sentences (29.3% vs. 22.7%) and downward dispositional departures (26.7% vs. 12.8%) than white drug offenders (Table 33). This racial conformity rate pattern is consistent with those of the past six years.

The analysis on conformity rates of the probation sentences of the nondrug offenders indicates that white nondrug offenders received more presumptive probation sentences than black nondrug offenders (85.3% vs. 79.9%), while black offenders represented a higher percentage of downward dispositional departures (14.6% vs. 8.3%) than white offenders for nondrug offenses. The rates of border box sentences were 6.4% for white offenders and 5.5% for black offenders (Table 34).

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

| Severity Level | Race | N | Presumptive Probation (%) | Border Boxes (%) | Downward Disposition (%) |
|---|---|---|---|---|---|
| D1 | White | 4 | | | 100.0 |
| | Black | 1 | | | 100.0 |
| | Other | 1 | | | 100.0 |
| D2 | White | 42 | | | 100.0 |
| | Black | 10 | | | 100.0 |
| | Other | 5 | | | 100.0 |
| D3 | White | 127 | | 0.8 | 99.2 |
| | Black | 51 | | 3.9 | 96.1 |
| | Other | 4 | | | 100.0 |
| D4 | White | 245 | 0.4 | 90.2 | 9.4 |
| | Black | 78 | 1.3 | 80.8 | 17.9 |
| | Other | 9 | | 88.9 | 11.1 |
| D5 | White | 1,595 | 81.3 | 14.7 | 3.9 |
| | Black | 235 | 69.8 | 19.1 | 11.1 |
| | Other | 49 | 73.5 | 18.4 | 8.2 |
| **Total** | **White** | **2,013** | **64.5** | **22.7** | **12.8** |
| | **Black** | **375** | **44.0** | **29.3** | **26.7** |
| | **Other** | **68** | **52.9** | **25.0** | **22.1** |

Note: Based on 2,456 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 | 0 | | | |
| | Other | 0 | | | |
| N2 | White | 0 | | | |
| | Black | 0 | | | |
| | Other | 0 | | | |
| N3 | White | 9 | | | 100.0 |
| | Black | 6 | | | 100.0 |
| | Other | 1 | | | 100.0 |
| N4 | White | 18 | | | 100.0 |
| | Black | 8 | | | 100.0 |
| | Other | 0 | | | |
| N5 | White | 150 | | 81.3 | 18.7 |
| | Black | 33 | | 72.7 | 27.3 |
| | Other | 3 | | 33.3 | 66.7 |
| N6 | White | 82 | 57.3 | 17.1 | 25.6 |
| | Black | 25 | 36.0 | 20.0 | 44.0 |
| | Other | 3 | 66.7 | | 33.3 |
| N7 | White | 529 | 94.9 | | 5.1 |
| | Black | 116 | 91.4 | | 8.6 |
| | Other | 18 | 88.9 | | 11.1 |
| N8 | White | 412 | 96.6 | | 3.4 |
| | Black | 118 | 87.3 | | 12.7 |
| | Other | 9 | 88.9 | | 11.1 |
| N9 | White | 856 | 93.7 | | 6.3 |
| | Black | 205 | 92.2 | | 7.8 |
| | Other | 24 | 100.0 | | |
| N10 | White | 77 | 92.2 | | 7.8 |
| | Black | 16 | 87.5 | | 12.5 |
| | Other | 4 | 100.0 | | |
| **Total** | **White** | **2,134** | **85.3** | **6.4** | **8.3** |
| | **Black** | **527** | **79.9** | **5.5** | **14.6** |
| | **Other** | **62** | **87.1** | **1.6** | **11.3** |

Note: Based on 2,723 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 2017. Male drug offenders represented higher rate than female drug offenders in standard sentences (14.3% vs. 10.1%). Females received more mitigated and border box sentences than males (11.6% vs. 10.9%; 29% vs. 21.8%). Only males received aggravated sentences (3.6%) for the drug crimes. The examination of departure sentences reveals that female drug offenders received more than male drug offenders in both upward durational departures and upward dispositional departures (8.7% vs. 7.8%; 13.0% vs. 4.9%), while males had a higher rate of downward durational departures (36.6% vs. 27.5%), (Table 35).

The exploration of nondrug incarceration sentences indicates that within guidelines, males represented a higher percentage than females in aggravated sentences (10% vs. 2.3%), standard sentences (19.7% vs. 11.6%) and mitigated sentences (12.3% vs. 9.3%) for nondrug crimes, while female offenders received more border box sentences than male offenders (16.3% vs. 7.8%). This gender conformity rate pattern is consistent with that of FY 2016. The analysis of departure sentences reveals that male nondrug offenders represented a higher percentage of upward durational departures than female offenders (17% vs. 15.1%). However, female offenders received more sentences than male offenders in both downward durational departures and upward dispositional departures (29.1% vs. 27.1 %; 16.3% vs. 6.1%), (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 | 11 | 18.2 | 9.1 | | | 9.1 | 63.6 | |
| | Female | 1 | | | | | | 100.0 | |
| D2 | Male | 36 | 2.8 | 8.3 | 11.1 | | 2.8 | 75.0 | |
| | Female | 10 | | 10.0 | 10.0 | | 10.0 | 70.0 | |
| D3 | Male | 110 | 5.5 | 29.1 | 15.5 | 1.8 | 11.8 | 36.4 | |
| | Female | 22 | | 13.6 | 22.7 | | 18.2 | 45.5 | |
| D4 | Male | 72 | 1.4 | 11.1 | 4.2 | 61.1 | 5.6 | 16.7 | |
| | Female | 19 | | 10.5 | 5.3 | 84.2 | | | |
| D5 | Male | 156 | 2.6 | 7.1 | 11.5 | 24.4 | 7.1 | 35.3 | 12.2 |
| | Female | 17 | | 5.9 | 5.9 | 23.5 | 5.9 | 5.9 | 52.9 |
| **Total** | **Male** | **385** | **3.6** | **14.3** | **10.9** | **21.8** | **7.8** | **36.6** | **4.9** |
| | **Female** | **69** | | **10.1** | **11.6** | **29.0** | **8.7** | **27.5** | **13.0** |

Note: Based on 454 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 | 69 | 14.5 | 17.4 | 11.6 | | 39.1 | 17.4 | |
| | Female | 5 | | 20.0 | 20.0 | | 40.0 | 20.0 | |
| N2 | Male | 12 | 8.3 | 8.3 | 33.3 | | 33.3 | 16.7 | |
| | Female | 4 | | | 25.0 | | 50.0 | 25.0 | |
| N3 | Male | 121 | 14.0 | 24.8 | 10.7 | | 29.8 | 20.7 | |
| | Female | 12 | 8.3 | 8.3 | 8.3 | | 25.0 | 50.0 | |
| N4 | Male | 58 | 10.3 | 19.0 | 13.8 | | 25.9 | 31.0 | |
| | Female | 5 | | | 20.0 | | 20.0 | 60.0 | |
| N5 | Male | 189 | 3.7 | 6.3 | 5.8 | 35.4 | 12.2 | 36.5 | |
| | Female | 21 | | 14.3 | 9.5 | 52.4 | | 23.8 | |
| N6 | Male | 105 | 10.5 | 12.4 | 14.3 | 9.5 | 12.4 | 41.0 | |
| | Female | 11 | | 18.2 | | 27.3 | 18.2 | 36.4 | |
| N7 | Male | 137 | 15.3 | 20.4 | 16.8 | | 19.0 | 15.3 | 13.1 |
| | Female | 10 | 10.0 | 20.0 | | | 10.0 | 10.0 | 50.0 |
| N8 | Male | 71 | 9.9 | 23.9 | 18.3 | | 9.9 | 22.5 | 15.5 |
| | Female | 8 | | 12.5 | | | 25.0 | | 62.5 |
| N9 | Male | 196 | 9.2 | 35.7 | 8.7 | | 8.2 | 23.0 | 15.3 |
| | Female | 10 | | | 20.0 | | | 40.0 | 40.0 |
| N10 | Male | 25 | | | 36.0 | | | 60.0 | 4.0 |
| | Female | 0 | | | | | | | |
| **Total** | **Male** | **983** | **10.0** | **19.7** | **12.3** | **7.8** | **17.0** | **27.1** | **6.1** |
| | **Female** | **86** | **2.3** | **11.6** | **9.3** | **16.3** | **15.1** | **29.1** | **16.3** |

Note: Based on 1,069 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 (9.1 % vs. 17.8%, Table 37; 4.2% vs. 11.5%, Table 38), which is consistent with those in the past five 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 35 & 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-one years (Annual Reports of FY 1996 - FY 2016).

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

| Severity Level | Gender | N | Presumptive Probation (%) | Border Boxes (%) | Downward Disposition (%) |
|---|---|---|---|---|---|
| D1 | Male | 5 | | | 100.0 |
| | Female | 1 | | | 100.0 |
| D2 | Male | 41 | | | 100.0 |
| | Female | 16 | | | 100.0 |
| D3 | Male | 141 | | 2.1 | 97.9 |
| | Female | 41 | | | 100.0 |
| D4 | Male | 277 | 0.7 | 87.0 | 12.3 |
| | Female | 55 | | 92.7 | 7.3 |
| D5 | Male | 1,248 | 74.4 | 18.7 | 7.0 |
| | Female | 631 | 90.2 | 8.9 | 1.0 |
| **Total** | **Male** | **1,712** | **54.3** | **27.9** | **17.8** |
| | **Female** | **744** | **76.5** | **14.4** | **9.1** |

Note: Based on 2,456 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 | 1 | | | 100.0 |
| | Female | 0 | | | |
| N2 | Male | 0 | | | |
| | Female | 0 | | | |
| N3 | Male | 13 | | | 100.0 |
| | Female | 3 | | | 100.0 |
| N4 | Male | 20 | | | 100.0 |
| | Female | 6 | | | 100.0 |
| N5 | Male | 154 | | 79.2 | 20.8 |
| | Female | 32 | | 78.1 | 21.9 |
| N6 | Male | 90 | 50.0 | 15.6 | 34.4 |
| | Female | 20 | 65.0 | 25.0 | 10.0 |
| N7 | Male | 541 | 93.2 | | 6.8 |
| | Female | 122 | 98.4 | | 1.6 |
| N8 | Male | 350 | 92.3 | | 7.7 |
| | Female | 189 | 98.4 | | 1.6 |
| N9 | Male | 793 | 91.9 | | 8.1 |
| | Female | 292 | 97.9 | | 2.1 |
| N10 | Male | 64 | 87.5 | | 12.5 |
| | Female | 33 | 100.0 | | |
| **Total** | **Male** | **2,026** | **81.8** | **6.7** | **11.5** |
| | **Female** | **697** | **91.5** | **4.3** | **4.2** |

Note: Based on 2,723 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 special sentencing rules 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 2017 Legislative Session, forty-eight 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 39.3% in FY 2013 to 45.6% in FY 2017. FY 2017 represented the highest number (812 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 14.2% in FY 2017, an increase of 0.9% over that of FY 2016 and an increase of 2.7% when compared with that of FY 2013 (Table 39). The total percentage of both prison and probation sentences applied with special rules increased from 18% in FY 2013 to 22.1% in FY 2017 (Table 40).

In FY 2017, a number of 812 pure guideline prison sentences and 756 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 45.6% of prison pure guideline admissions (1,780 admissions) and 14.2% of pure guideline probation sentences (5,324) imposed in FY 2017 (Tables 39).

In FY 2017, the top three special sentencing rules applied to prison sentences in sentencing practice were: crime committed while incarcerated or on probation, parole, etc. (424 sentences) representing 52.2% of 812 prison sentences applied with special sentencing rules; crime committed while on felony bond (187 sentences) representing 23% and person felony committed with a firearm (134 sentences) making up 16.5% of prison admissions with special sentencing rules during FY 2017 (Table 41).

The top three special sentencing rules applied most frequently to probation sentences in FY 2017 included crime committed while incarcerated or on probation, parole, etc. (257 sentences) accounted for 34 %; crime committed while on felony bond (202 sentences) accounted for 26.7%; and third or subsequent drug possession (94 sentences) accounted for 12.4% of the total 756 probation sentences applied with special sentencing rules (Table 42).

**Table 39: Pure Guideline Sentences Applied with Special Sentencing Rules**
**By Prison and Probation**
**FY 2013 through FY 2017**

| Fiscal Year | Prison Admissions | | | Probation Sentences | | |
|---|---|---|---|---|---|---|
| | Guideline | with Special Rules | | Guideline | with Special Rules | |
| | | Number | Percent | | Number | Percent |
| 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 |
| 2017 | 1780 | 812 | 45.6 | 5324 | 756 | 14.2 |

**Table 40: Pure Guideline Sentences Applied with Special Sentencing Rules**
**By Total Sentences**
**FY 2013 through FY 2017**

| Fiscal Year | Guideline | with Special Rules | |
|---|---|---|---|
| | | Number | Percent |
| 2013 | 7002 | 1263 | 18.0% |
| 2014 | 7319 | 1371 | 18.7% |
| 2015 | 7306 | 1480 | 20.3% |
| 2016 | 7434 | 1499 | 20.2% |
| 2017 | 7104 | 1568 | 22.1% |

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

**Table 41: Distribution of Special Sentencing Rules Applied To Prison Sentences – FY 2017**

| Special Rules Applied to Sentences | Number | Percent |
|---|---|---|
| Crime committed while incarcerated, probation, parole, etc. | 424 | 52.2 |
| Crime committed while on felony bond | 187 | 23.0 |
| Person felony committed with a firearm | 134 | 16.5 |
| Burglary with 2 or more prior theft, burglary, aggravated burglary | 51 | 6.3 |
| Third or subsequent drug possession | 43 | 5.3 |
| Theft with 3 or more prior theft, burglary, aggravated burglary | 41 | 5.0 |
| Aggravated assault of a LEO | 18 | 2.2 |
| Resident burglary with a prior residential, nonresidential or aggravated burglary conviction | 16 | 2.0 |
| Drug felony with a firearm | 8 | 1.0 |
| Offender Registration Act Violation – presumed prison | 8 | 1.0 |
| Persistent sex offender | 7 | 0.9 |
| Battery on a LEO resulting in bodily harm | 7 | 0.9 |
| Third or subsequent Forgery | 5 | 0.6 |
| Extended Juvenile jurisdiction | 3 | 0.4 |
| Crime committed while incarcerated in Juvenile facility | 3 | 0.4 |
| Third or subsequent flee/elude – presumed prison | 3 | 0.4 |
| Crime committed for benefit of criminal street gang | 2 | 0.2 |
| Second forgery | 2 | 0.2 |
| Aggravated endangering a child | 2 | 0.2 |
| Second or subsequent identity theft or fraud | 2 | 0.2 |
| Felony committed after early discharge | 2 | 0.2 |
| Involuntary manslaughter by DUI | 2 | 0.2 |
| Aggravated battery by DUI | 2 | 0.2 |
| Third or subsequent criminal deprivation of a motor | 2 | 0.2 |
| Aggravated battery of a LEO | 1 | 0.1 |
| Felony DUI | 1 | 0.1 |
| Felony domestic battery | 1 | 0.1 |
| Kansas Securities Act | 1 | 0.1 |

Note: The number and percentage are mutually exclusive.

**Table 42: Distribution of Special Sentencing Rules Applied To Probation Sentences – FY 2017**

| Special Rules Applied to Sentences | Number | Percent |
|---|---|---|
| Crime committed while incarcerated, probation, parole, etc. | 257 | 34.0 |
| Crime committed while on felony bond | 202 | 26.7 |
| Third or sub. drug possession | 94 | 12.4 |
| Person felony committed with a firearm | 60 | 7.9 |
| Burglary with 2 or more prior felony theft, burglary, aggravated burglary | 39 | 5.2 |
| Felony theft with 3 or more prior theft, burglary, aggravated burglary | 37 | 4.9 |
| Third or subsequent forgery | 25 | 3.3 |
| Aggravated endangering a child | 19 | 2.5 |
| Offender Registration Act violation | 18 | 2.4 |
| Drug felony with a firearm | 15 | 2.0 |
| Second forgery | 12 | 1.6 |
| Resident burglary with a prior residential, nonresidential or aggravated burglary conviction | 9 | 1.2 |
| Aggravated assault of a LEO | 8 | 1.1 |
| Battery on a LEO resulting in bodily harm | 6 | 0.8 |
| Aggravated battery by DUI | 6 | 0.8 |
| Extended juvenile jurisdiction imposed | 3 | 0.4 |
| Kansas Securities Act | 2 | 0.3 |
| Fraudulent Insurance Act | 2 | 0.3 |
| Second or sub. identity theft or identity fraud | 2 | 0.3 |
| Felony committed after early discharge | 2 | 0.3 |
| Leaving the scene of an accident, person felony | 2 | 0.3 |
| Crime committed for benefit of criminal street gang | 1 | 0.1 |
| Persistent sex offender | 1 | 0.1 |
| Felony domestic battery | 1 | 0.1 |
| Crime committed while incarcerated in a juvenile facility | 1 | 0.1 |
| Involuntary manslaughter by DUI | 1 | 0.1 |
| Residential burglary with criminal history 7c, 7d or 7e | 1 | 0.1 |
| Other | 5 | 0.7 |

Note: The number and percentage are mutually exclusive.

# CHAPTER FOUR
# SENTENCING TRENDS AND FORECAST

## INCARCERATION SENTENCES

The total number of admissions to KDOC has grown in the past five years. The number of offenders admitted to prison in FY 2017 reached 6,497, which increased by 333 offenders or 5.4% when compared with FY 2016 and by 1,292 offenders or 24.8% when compared with FY 2013. (Figure 58). Table 43 presents the prison admission pattern by month in the past five years.

**Figure 58: Incarceration Sentences**
**FY 2013 through FY 2017**

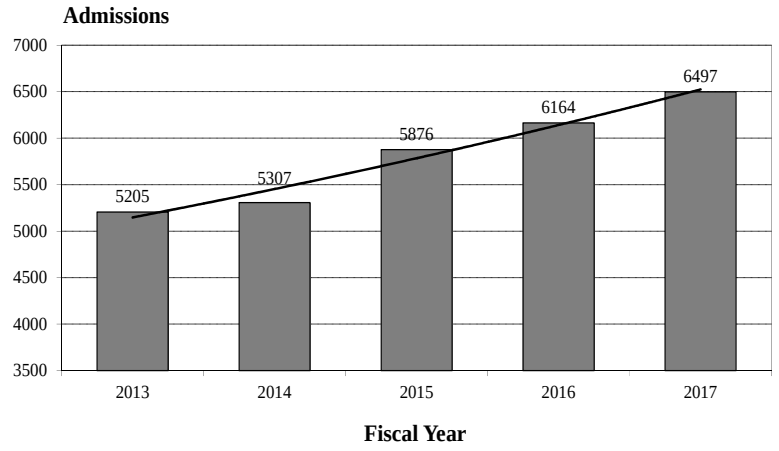



**Table 43: Prison Admissions by Month**

| Month by Fiscal Year | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 |
|---|---|---|---|---|---|
| July | 471 | 472 | 520 | 538 | 470 |
| August | 489 | 418 | 472 | 459 | 542 |
| September | 411 | 400 | 515 | 495 | 532 |
| October | 455 | 492 | 500 | 499 | 600 |
| November | 388 | 398 | 453 | 440 | 576 |
| December | 395 | 438 | 531 | 553 | 537 |
| January | 464 | 446 | 368 | 478 | 535 |
| February | 352 | 392 | 475 | 540 | 505 |
| March | 468 | 472 | 543 | 640 | 573 |
| April | 488 | 495 | 516 | 472 | 483 |
| May | 408 | 434 | 437 | 527 | 609 |
| June | 416 | 450 | 546 | 523 | 535 |
| **Total** | **5,205** | **5,307** | **5,876** | **6,164** | **6,497** |

Table 44 demonstrates the trend of prison admissions by type in the past five years. The number of admissions of new court commitments in FY 2017 increased by 9.3% over that of FY 2013 and by 4.3% over that of FY 2016. Probation condition violators admitted to prison in FY 2017 significantly decreased by 24.6% when compared with FY 2013 but increased by 4.2% compared with FY 2016. The decrease of probation condition violators from FY 2014 to FY 2016 results from the implementation of prison sanctions for probation violators. In FY 2017, 1,192 offenders were admitted to prison to serve 120/180-day prison sanctions, which increased by 18.8% when compared with FY 2016. Probation violators with new sentence/new conviction admitted to prison in FY 2017 significantly increased by 163.6% compared with FY 2013 and increased by 0.6% compared with FY 2016. 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. The number of parole/postrelease and conditional release violators admitted to prison in FY 2017 decreased by 2.7% and 2.9% respectively from those of FY 2013 and FY 2016. Parole/postrelease and condition release violators with new sentences admitted in FY 2017 increased by 10.7% compared with FY 2013 and increase by 34.2% over that of FY 2016.

**Table 44: Comparison of Prison Admissions by Type**

| Admission Type | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2017-2013 % Difference |
|---|---|---|---|---|---|---|
| New Court Commitment | 1,894 | 1,844 | 1,922 | 1,986 | 2,071 | 9.3% |
| Sanction from Probation | N/A | 323 | 691 | 1,003 | 1,192 | N/A |
| Probation Condition Violator | 1,629 | 1,368 | 1,321 | 1,180 | 1,229 | -24.6% |
| Probation Violator With New Sentence/New Conviction | 198 | 391 | 499 | 519 | 522 | 163.6% |
| Parole/Post-release/CR Condition Violator | 1,234 | 1,122 | 1,219 | 1,237 | 1,201 | -2.7% |
| Parole/Post-release/CR Violator With New Sentence | 177 | 185 | 151 | 146 | 196 | 10.7% |
| Other Types* | 73 | 74 | 73 | 93 | 86 | 17.8% |
| **Total** | **5,205** | **5,307** | **5,876** | **6,164** | **6,497** | **24.8%** |

* 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 2017 increased by 8.8% and 54.3% respectively when compared with FY 2016 and FY 2013. 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 2017, the admissions decreased by 35.2% at drug severity level 1 and by 9.8% at drug level 3 and by 12.6% at drug level 4 when compared with FY 2016. However the number of admissions increased by 3.1% at drug severity level 2 and by 23.2% at drug severity level 5 when compared with those of FY 2016. The

decrease of admissions at drug level 4 and the increase of admissions at drug level 5 in FY 2017 continuously reflects the implementation of the new drug sentencing grid (Table 45).

The total number of nondrug admissions increased by 3.9% over that of FY 2016 and by 14.7% over that of FY 2013. In the past five years, the most significant increase of nondrug admissions was found at nondrug severity level 6, an increase of 80.5%. The admissions at levels 4, 7, 8 and 9 increased, respectively, by 20.7%, 8.6%, 20.5% and 38.6%. The most significant decrease in the past five years was found at nongrid with a decrease of 84.8%. The number of Offgrid offenders admitted to prison in FY 2017 did not fluctuate much compared with FY 2013. When compared with FY 2016, the most significant increase in admission was found at nondrug severity level 6 by 29.9% followed by severity level 1 by 18.3%, severity level 9 by 11.7% and severity level 4 by 8.5%. The number of admissions at nongrid decreased by 30% followed by level 10 with a decrease of 11.7% and level 3 with a decrease of 10.7%. The admissions at other nondrug levels fluctuated little when compared with those of FY 2016 (Table 46).

**Table 45: Comparison of Drug Prison Admissions by Severity Level**

| Severity Level | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2017-2016 % Difference | FY 2017-2013 % Difference |
|---|---|---|---|---|---|---|---|
| D1 | 79 | 59 | 40 | 54 | 35 | -35.2% | |
| D2 | 73 | 72 | 88 | 97 | 100 | 3.1% | |
| D3 | 405 | 384 | 353 | 297 | 268 | -9.8% | N/A |
| D4 | 715 | 606 | 535 | 341 | 298 | -12.6% | |
| D5 | 56 | 307 | 715 | 1,094 | 1,348 | 23.2% | |
| **Total** | **1,328** | **1,428** | **1,731** | **1,883** | **2,049** | **8.8%** | **54.3%** |

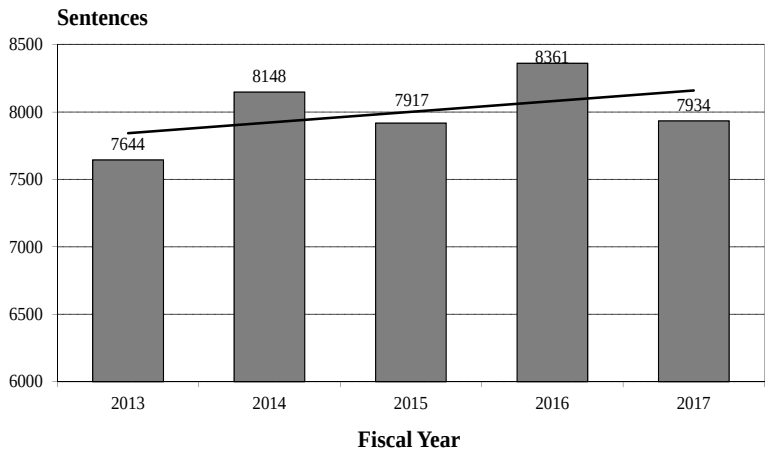
**Table 46: Comparison of Nondrug Prison Admissions by Severity Level**

| Severity Level | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2017-2016 % Difference | FY 2017-2013 % Difference |
|---|---|---|---|---|---|---|---|
| N1 | 125 | 109 | 91 | 109 | 129 | 18.3% | 3.2% |
| N2 | 39 | 44 | 44 | 38 | 37 | -2.6% | -5.1% |
| N3 | 359 | 319 | 357 | 347 | 310 | -10.7% | -13.6% |
| N4 | 116 | 127 | 131 | 129 | 140 | 8.5% | 20.7% |
| N5 | 623 | 670 | 647 | 654 | 615 | -6.0% | -1.3% |
| N6 | 195 | 197 | 240 | 271 | 352 | 29.9% | 80.5% |
| N7 | 870 | 858 | 892 | 951 | 945 | -0.6% | 8.6% |
| N8 | 443 | 455 | 485 | 514 | 534 | 3.9% | 20.5% |
| N9 | 845 | 878 | 1007 | 1,048 | 1,171 | 11.7% | 38.6% |
| N10 | 105 | 91 | 108 | 103 | 91 | -11.7% | -13.3% |
| Off-grid | 110 | 95 | 118 | 106 | 111 | 4.7% | 0.9% |
| Non-grid | 46 | 34 | 23 | 10 | 7 | -30.0% | -84.8% |
| Unknown | 1 | 2 | 2 | 1 | 6 | 500.0% | 500.0% |
| **Total** | **3,877** | **3,879** | **4,145** | **4,281** | **4,448** | **3.9%** | **14.7%** |

## PROBATION SENTENCES

The number of probation sentences imposed has fluctuated in the past five years. The total number of probation sentences in FY 2017 decreased by 5.1% or 427 sentences compared with that of FY 2016 but increased by 3.8% or 290 sentences compared with that of FY 2013. The largest number of probation sentences imposed in the past five years is identified in FY 2016 (Figure 59).

**Figure 59: Probation Sentences**
**FY 2013 through FY 2017**




In FY 2017, the total drug probation sentences increased by 2.6% or 86 sentences over that of FY 2016 and greatly increased by 42.9% or 1,027 sentences over that of FY 2013. 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 2017 and 2016 when the majority of the drug sentences were imposed under the new drug sentencing grid. In FY 2017, the number of drug probation sentences decreased by 6.8% at drug severity level 2, but increased by 3.9% at drug level 3, by 13.6% at drug level 4 and by 1.4% at drug level 5 when compared with those of FY 2016. The number of probation sentences at drug severity level 1 indicates no change when compared with FY 2016 (Table 47).

Table 48 displays the sentencing trend of nondrug probation sentences in the past five years. The total number of nondrug probation sentences in FY 2017 decreased by 10.2% from that of FY 2016 and by 14% from that of FY 2013. The largest decline of nondrug probation sentences in the past five years was found with the nongrid crimes (87.3%), followed by nondrug severity level 1 (66.7%), severity level 10 (31.4%) and severity level 3 (21.7%). The largest increase of nondrug probation sentences in the past five years was identified at nondrug severity level 4 (53.1 %), followed by nondrug severity level 6 (35.9%), when compared with the data observed in FY 2013.

**Table 47: Comparison of Probation Drug Sentences by Severity Level FY 2013 through FY 2017**

| Severity Level | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2017-2016 % Difference | FY 2017-2013 % Difference |
|---|---|---|---|---|---|---|---|
| D1 | 11 | 13 | 13 | 10 | 10 | 0.0% | |
| D2 | 23 | 36 | 67 | 88 | 82 | -6.8% | |
| D3 | 509 | 297 | 216 | 231 | 240 | 3.9% | N/A |
| D4 | 1268 | 709 | 478 | 346 | 393 | 13.6% | |
| D5 | 581 | 1,800 | 2,255 | 2,658 | 2,694 | 1.4% | |
| **Total** | **2,392** | **2,855** | **3,029** | **3,333** | **3,419** | **2.6%** | **42.9%** |

**Table 48: Comparison of Probation Nondrug Sentences by Severity Level FY 2013 through FY 2017**

| Severity Level | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2017-2016 % Difference | FY 2017-2013 % Difference |
|---|---|---|---|---|---|---|---|
| N1 | 3 | 1 | 3 | 2 | 1 | -50.0% | -66.7% |
| N2 | 0 | 0 | 0 | 0 | 1 | N/A | N/A |
| N3 | 46 | 31 | 38 | 33 | 36 | 9.1% | -21.7% |
| N4 | 32 | 27 | 33 | 35 | 49 | 40.0% | 53.1% |
| N5 | 316 | 243 | 283 | 297 | 250 | -15.8% | -20.9% |
| N6 | 156 | 162 | 218 | 208 | 212 | 1.9% | 35.9% |
| N7 | 1,086 | 1,068 | 1,031 | 1,042 | 988 | -5.2% | -9.0% |
| N8 | 826 | 919 | 914 | 926 | 885 | -4.4% | 7.1% |
| N9 | 1,853 | 1,969 | 2,031 | 2,166 | 1,850 | -14.6% | -0.2% |
| N10 | 223 | 223 | 218 | 189 | 153 | -19.0% | -31.4% |
| Off-grid | 0 | 0 | 0 | 2 | 0 | N/A | N/A |
| Non-grid | 711 | 650 | 119 | 128 | 90 | -29.7% | -87.3% |
| **Total** | **5,252** | **5,293** | **4,888** | **5,028** | **4,515** | **-10.2%** | **-14.0%** |

## PRISON POPULATION FORECAST

The prison population projection is based on FY 2017 data of prison admission, inmate stock population and release from KDOC, and felony sentencing data from KSSC. 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 11,455 by June 30, 2027, an increase of 1,652 inmates or 16.9% over the actual prison population on the same date in 2017. 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).

Table 49 presents FY 2018 prison population projection by offender group. In the ten-year forecast period, the largest increase in number is identified at the drug offender group, an increase of 437 offenders or 29.6%. The number at nondrug severity levels 1 to 3 will increase by 387 offenders or 15.8% 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 322 offenders or 18.8 % during the ten-year forecast period. The prison population at nondrug severity levels 7 to 10 will increase by 160 offenders or 16.7%, which partially results from the application of the special sentencing rules. The incarcerated population at offgrid in the next ten years will increase by 258 offenders or 19%. 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 to 144 or an increase of 5.1% over the actual number of FY 2017 (137). The probation condition violators admitted to prison will increase by 72 or 7.2% and the parole/postrelease condition violators will increase by 29 or 5.3% 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. Pre-guideline (old law) inmate population, excluding old law offgrid, will gradually decrease over the ten-year forecast period. The trend of the actual and projected prison population from FY 2008 through FY 2027 is presented in Figure 60.

# Figure 60: Prison Population Actual and Projected

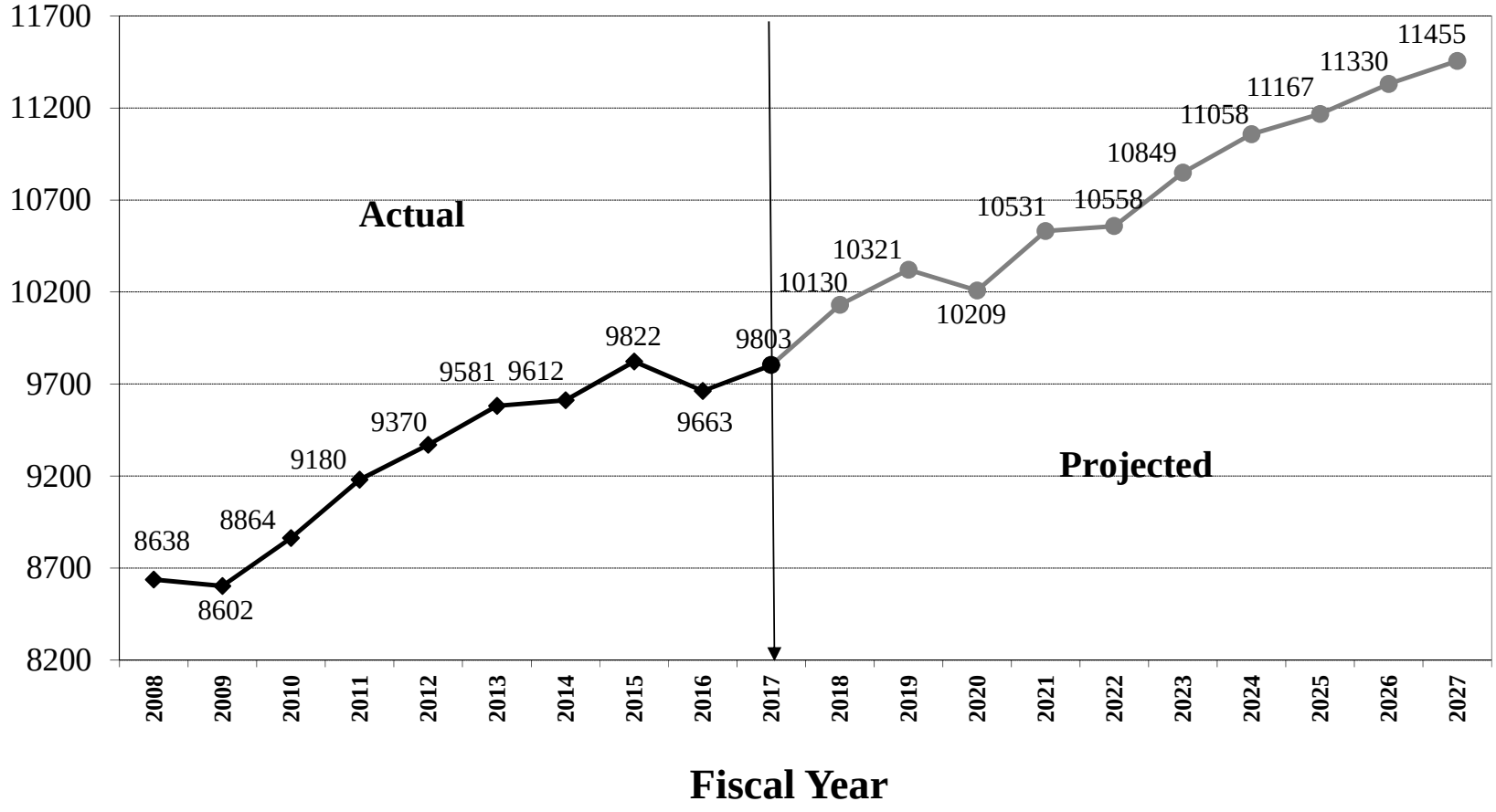


**Table 49: FY 2018 Adult Inmate Prison Population Projections**

| Offender Group | 2017* | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | # Change | % Change |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Drug | 1475 | 1570 | 1632 | 1537 | 1659 | 1687 | 1779 | 1811 | 1829 | 1862 | 1912 | **437** | **29.6%** |
| N1 to N3 | 2455 | 2484 | 2526 | 2587 | 2606 | 2620 | 2691 | 2711 | 2748 | 2781 | 2842 | **387** | **15.8%** |
| N4 to N6 | 1715 | 1818 | 1871 | 1872 | 1897 | 1844 | 1904 | 1984 | 1985 | 2018 | 2037 | **322** | **18.8%** |
| N7 to N10 | 957 | 981 | 985 | 873 | 966 | 965 | 1034 | 1047 | 1085 | 1100 | 1117 | **160** | **16.7%** |
| Sanction | 137 | 168 | 138 | 154 | 160 | 139 | 163 | 161 | 156 | 167 | 144 | **7** | **5.1%** |
| Probation Condition Violators | 1004 | 1054 | 1064 | 1052 | 1077 | 1072 | 1038 | 1078 | 1084 | 1085 | 1076 | **72** | **7.2%** |
| Offgrid Including Old Law Lifer | 1360 | 1377 | 1413 | 1446 | 1480 | 1517 | 1544 | 1569 | 1575 | 1602 | 1618 | **258** | **19.0%** |
| Parole/Post Release Violators | 547 | 528 | 542 | 540 | 541 | 573 | 557 | 559 | 569 | 580 | 576 | **29** | **5.3%** |
| Old Law Inmates | 153 | 150 | 150 | 148 | 145 | 141 | 139 | 138 | 136 | 135 | 133 | **-20** | **-13.1%** |
| **Total** | **9803** | **10130** | **10321** | **10209** | **10531** | **10558** | **10849** | **11058** | **11167** | **11330** | **11455** | **1652** | **16.9%** |

* The numbers of 2017 are the actual prison population on June 30, 2017.

## 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 2018, 341 unclassified beds, 3,175 minimum beds, 2,813 medium low beds, 1,627 medium high beds, 1,451 maximum beds and 723 special management beds will be needed. The total projected prison beds, by the end of FY 2027 will include 386 unclassified beds, 3,594 minimum beds, 3,179 medium low beds, 1,838 medium high beds, 1,641 maximum beds and 817 special management beds (Table 50).

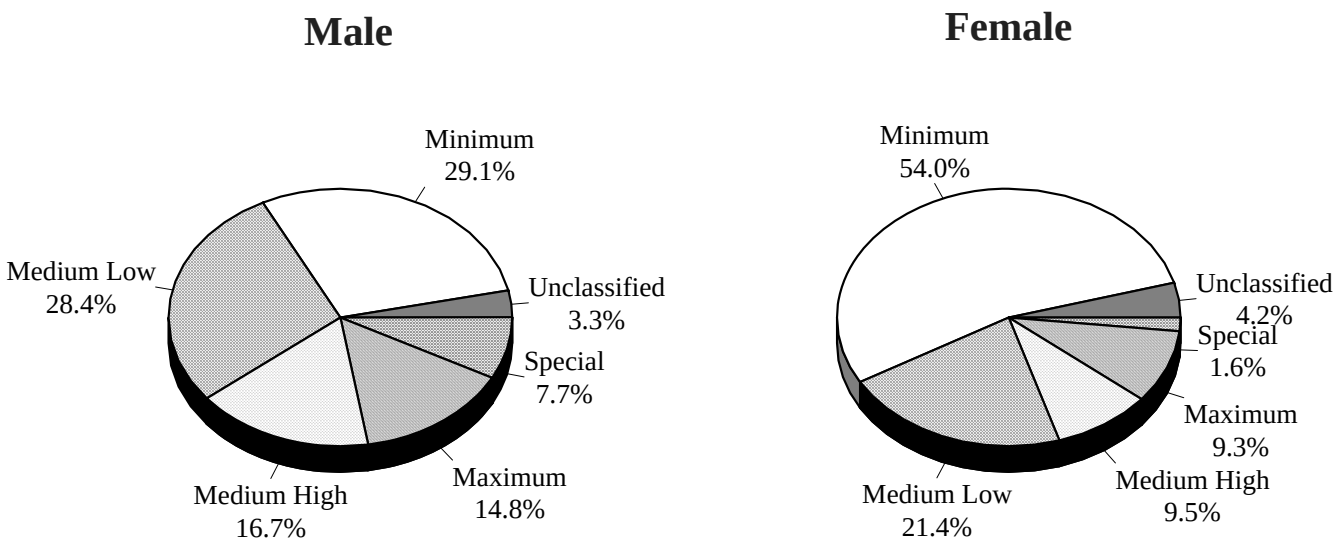
Figure 61 exhibits the projected percentage distribution of custodial classifications by gender. The distribution demonstrates a significant difference between male and female offenders. Females will need 4.2% unclassified, 54% minimum, 21.4% medium low, 9.5% medium high, 9.3% maximum custody and 1.6% special management beds by the end of FY 2018. Males will need 3.3% unclassified, 29.1% minimum, 28.4% medium low, 16.7% medium high, 14.8% maximum custody and 7.7% special management beds by the end of FY 2018. These classification percentages of male and female offenders remain fairly constant during the ten-year forecast period.

In the ten-year forecast period, the need for male beds increases at all custody types. The largest increase is found for minimum beds with an increase of 348. The second largest increase is for medium low beds with an increase of 339 beds. The medium high beds, maximum custody beds, special management beds and unclassified beds show an increase of 199, 178, 92 and 39, 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 71. 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 |
|---|---|---|---|---|---|---|---|
| 2018 | 341 | 723 | 1,451 | 1,627 | 2,813 | 3,175 | 10,130 |
| 2019 | 348 | 736 | 1,479 | 1,658 | 2,865 | 3,235 | 10,321 |
| 2020 | 344 | 728 | 1,463 | 1,639 | 2,834 | 3,201 | 10,209 |
| 2021 | 355 | 751 | 1,508 | 1,691 | 2,924 | 3,302 | 10,531 |
| 2022 | 356 | 751 | 1,511 | 1,694 | 2,929 | 3,317 | 10,558 |
| 2023 | 365 | 774 | 1,554 | 1,742 | 3,011 | 3,403 | 10,849 |
| 2024 | 372 | 788 | 1,584 | 1,776 | 3,069 | 3,469 | 11,058 |
| 2025 | 376 | 796 | 1,599 | 1,791 | 3,098 | 3,507 | 11,167 |
| 2026 | 381 | 808 | 1,623 | 1,819 | 3,144 | 3,555 | 11,330 |
| 2027 | 386 | 817 | 1,641 | 1,838 | 3,179 | 3,594 | 11,455 |

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

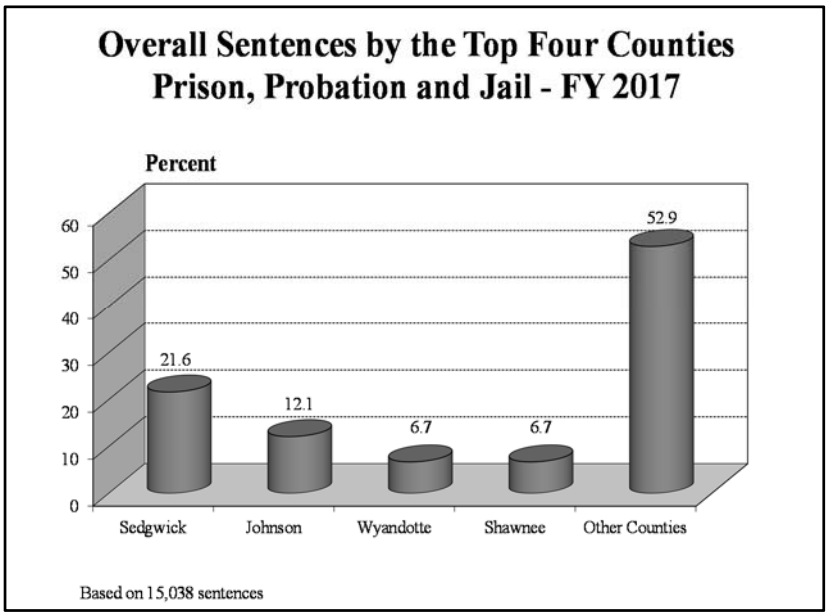



Based on the projected prison population on June 30, 2018 (male = 9,212 and female = 918).

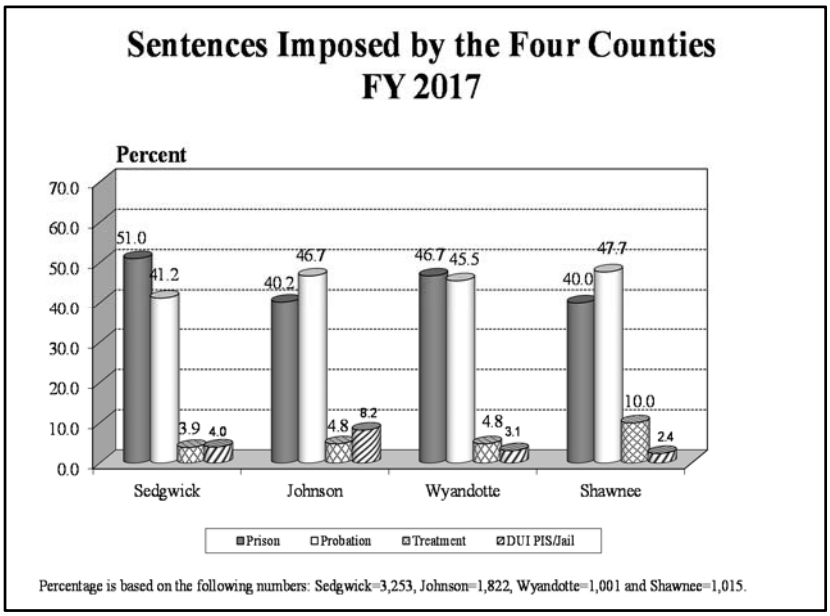
# APPENDIX I
# SENTENCES FROM THE TOP FOUR COUNTIES

Sentences utilized for analyses in this section include incarceration, probation, DUI/Test Refusal PIS and county jail sentences submitted to the Commission during FY 2017. 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 47.1% of the total state sentences, a decrease of 1.6% compared with that of FY 2016 (48.7%). 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 2016, the percentages of sentences from these four counties in FY 2017 do not fluctuate much. Sentences from Sedgwick County decreased by 0.8% but sentences from Johnson County increased by 0.3%. The percentage of sentences from Wyandotte County and Shawnee County decreased respectively by 0.6% and 0.5%. The characteristics of offenses and offenders from the four counties in FY 2017 are presented in the following figures and tables.

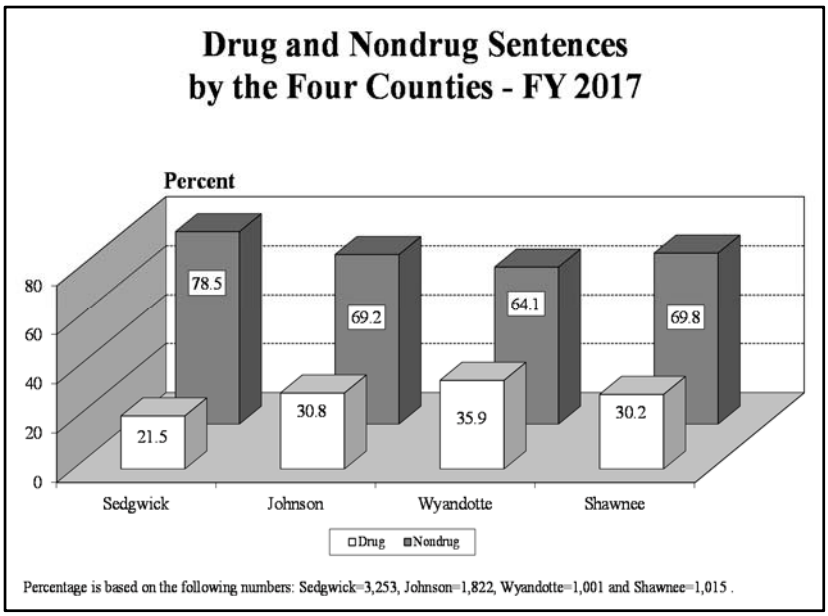
The Sedgwick, Johnson, Wyandotte and Shawnee counties were the top four counties reporting the greatest overall felony sentencing events. Sedgwick County imposed 21.6% sentences of the total state sentence events in FY 2017, followed by Johnson County (12.1%), Wyandotte County (6.7%) and Shawnee County (6.7%).



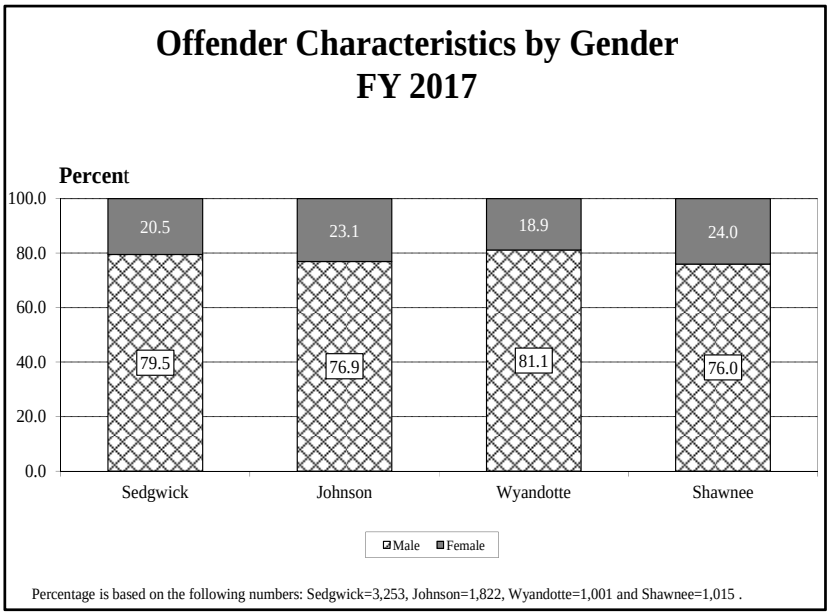
The highest percentage of prison sentences in FY 2017 was found in Sedgwick County (51%), while Shawnee County imposed a higher rate of probation sentences than the other three counties (47.7%). Shawnee County also imposed the highest rate of Senate Bill 123 drug treatment sentences (10%) among the four counties. The highest percentage of DUI/Test Refusal PIS and county jail sentences was identified in Johnson County (8.2%).



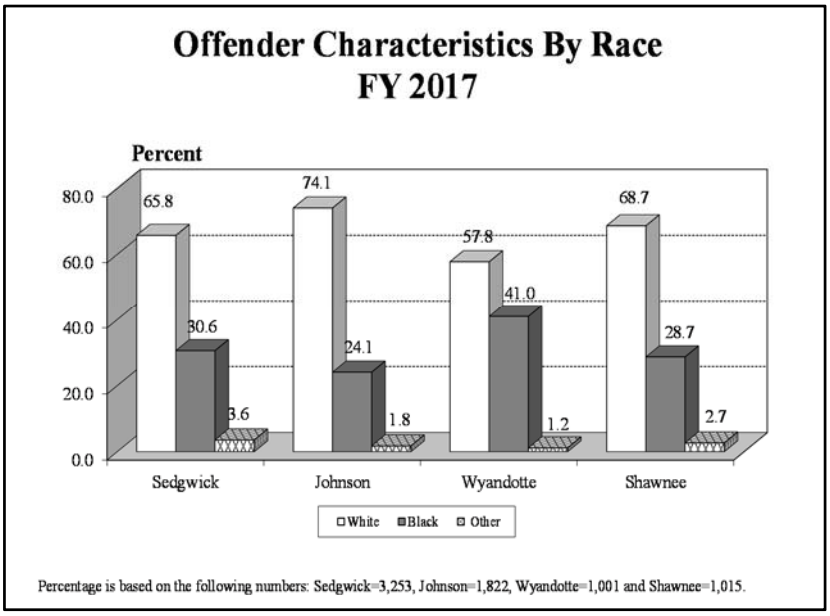

In terms of drug and nondrug crimes, the analysis reveals that in FY 2017, Sedgwick County imposed the largest proportion of nondrug sentences (78.5%), while Wyandotte County represented the highest percentage of drug sentences (35.9%) among the four counties. This distribution pattern is consistent with those of the past three fiscal years.



The analysis of offenders by gender shows that Wyandotte County represented the highest percentage of male offenders (81.1%), while Shawnee County reported the highest rate of female offenders (24%) among the four counties during FY 2017. This is different from the data observed in the past three year.




The review of offenders by race reveals that in FY 2017, Johnson County reported more white offenders (74.1%), while Wyandotte County reported more black offenders (41%) than the other three counties respectively. This racial distribution has remained constant in the past six years.



**FY 2017 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 | 1 | 0.1 | 1 | 0.1 |
| D2 | 43 | 1.3 | 16 | 0.9 | 22 | 2.2 | 6 | 0.6 |
| D3 | 63 | 1.9 | 65 | 3.6 | 41 | 4.1 | 15 | 1.5 |
| D4 | 46 | 1.4 | 96 | 5.3 | 31 | 3.1 | 33 | 3.3 |
| D5 | 544 | 16.7 | 383 | 21.0 | 264 | 26.4 | 252 | 24.8 |
| N1 | 31 | 1.0 | 11 | 0.6 | 14 | 1.4 | 11 | 1.1 |
| N2 | 10 | 0.3 | 7 | 0.4 | 5 | 0.5 | 3 | 0.3 |
| N3 | 92 | 2.8 | 33 | 1.8 | 63 | 6.3 | 29 | 2.9 |
| N4 | 61 | 1.9 | 14 | 0.8 | 31 | 3.1 | 10 | 1.0 |
| N5 | 256 | 7.9 | 92 | 5.0 | 81 | 8.1 | 55 | 5.4 |
| N6 | 143 | 4.4 | 62 | 3.4 | 41 | 4.1 | 42 | 4.1 |
| N7 | 567 | 17.4 | 175 | 9.6 | 124 | 12.4 | 149 | 14.7 |
| N8 | 365 | 11.2 | 271 | 14.9 | 71 | 7.1 | 112 | 11.0 |
| N9 | 835 | 25.7 | 419 | 23.0 | 144 | 14.4 | 219 | 21.6 |
| N10 | 23 | 0.7 | 14 | 0.8 | 19 | 1.9 | 33 | 3.3 |
| Nongrid | 142 | 4.4 | 154 | 8.5 | 41 | 4.1 | 39 | 3.8 |
| Offgrid | 26 | 0.8 | 9 | 0.5 | 8 | 0.8 | 6 | 0.6 |
| **Total** | **3,250** | **100.0** | **1,822** | **100.0** | **1,001** | **100.0** | **1,015** | **100.0** |

## FY 2017 Top Ten Offenses Committed by Offenders in the Four Counties – 1

| Offense Type | Sedgwick County | | Offense Type | Johnson County | |
|---|---|---|---|---|---|
| | N | % | | N | % |
| Drugs | 699 | 21.5 | Drugs | 561 | 30.8 |
| Theft | 476 | 14.6 | Theft | 238 | 13.1 |
| Aggravated Battery | 266 | 8.2 | DUI | 150 | 8.2 |
| Burglary | 240 | 7.4 | Identity Theft | 134 | 7.4 |
| Criminal Threat | 166 | 5.1 | Burglary | 94 | 5.2 |
| Failure to Register | 142 | 4.4 | Aggravated Battery | 80 | 4.4 |
| Aggravated Assault | 135 | 4.2 | Forgery | 49 | 2.7 |
| DUI | 117 | 3.6 | Criminal Threat | 48 | 2.6 |
| Possession of Firearm | 113 | 3.5 | Aggravated Assault | 40 | 2.2 |
| Fleeing or Eluding LEO | 103 | 3.2 | Obstructing Legal Process | 31 | 1.7 |
| **Total** | **2,457** | **76.0** | **Total** | **1,425** | **78.3** |

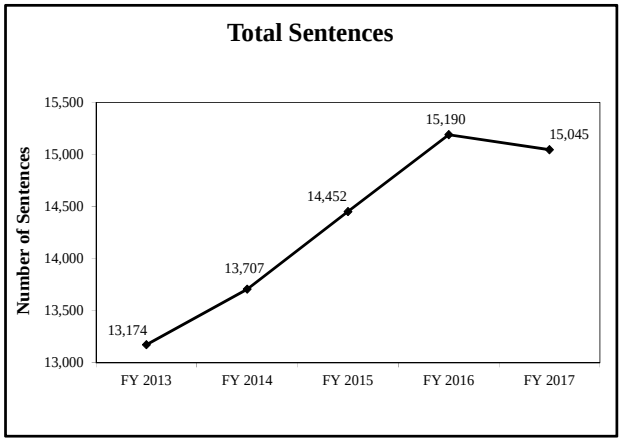
## FY 2017 Top Ten Offenses Committed by Offenders in the Four Counties – 2

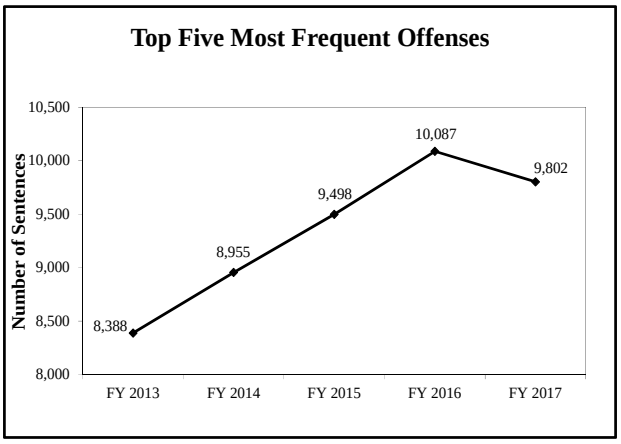
| Offense Type | Wyandotte County | | Offense Type | Shawnee County | |
|---|---|---|---|---|---|
| | N | % | | N | % |
| Drugs | 359 | 35.9 | Drugs | 307 | 30.2 |
| Aggravated Battery | 76 | 7.6 | Theft | 122 | 12.0 |
| Theft | 75 | 7.5 | Burglary | 81 | 8.0 |
| Burglary | 60 | 6.0 | Aggravated Battery | 61 | 6.0 |
| Aggravated Robbery | 41 | 4.1 | Failure to Register | 59 | 5.8 |
| DUI | 40 | 4.0 | Forgery | 42 | 4.1 |
| Aggravated Assault | 33 | 3.3 | Criminal Threat | 36 | 3.5 |
| Fleeing or Eluding LEO | 33 | 3.3 | Aggravated Burglary | 35 | 3.4 |
| Forgery | 30 | 3.0 | DUI | 28 | 2.8 |
| Possession of Firearm | 24 | 2.4 | Aggravated Robbery | 23 | 2.3 |
| **Total** | **771** | **77.1** | **Total** | **794** | **78.1** |

# APPENDIX II
# TRENDS OF SELECTED OFFENSES

## TOP FIVE MOST FREQUENT OFFENSES

The top five most frequently convicted offenses in the past five years included the crimes of drugs, DUI, burglary, theft and aggravated battery. Of the total offenses, including incarceration, probation, DUI/Test Refusal PIS and county jail sentences, these top five offenses represented 63.7% in FY 2013, 65.3% in FY 2014, 65.7% in FY 2015, 66.4% in FY 2016 and 65.2% in FY 2017. The following figures and table present the sentencing trends of the top five offenses from FY 2013 to FY 2017. 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 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 |
|---|---|---|---|---|---|
| Drugs | 3,720 | 4,285 | 4,762 | 5,220 | 5,468 |
| Theft | 1,367 | 1,490 | 1,732 | 1,742 | 1,493 |
| Burglary | 1,539 | 1,484 | 1,461 | 1,487 | 1,274 |
| Aggravated Battery | 756 | 841 | 815 | 913 | 925 |
| DUI | 1,006 | 855 | 728 | 725 | 642 |
| **Subtotal** | **8,388** | **8,955** | **9,498** | **10,087** | **9,802** |
| **Total Offenses** | **13,174** | **13,707** | **14,452** | **15,190** | **15,045** |

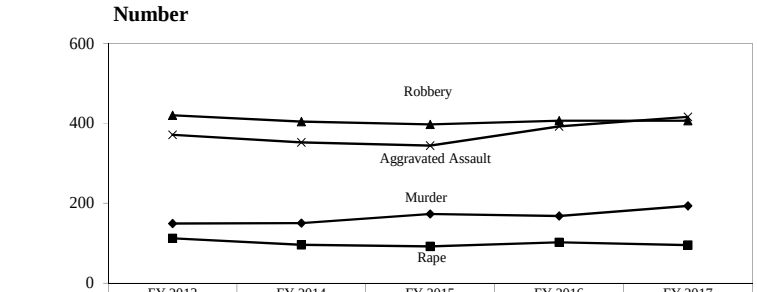
## UNIFORM CRIME REPORTING (UCR) OFFENSES

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 2013 to FY 2017, 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.

The conviction of murder crimes in FY 2017 increased by 14.9% compared with FY 2016 and by 29.5% compared with FY 2013. The number of rape crimes decreased by 6.9% compared with FY 2016 and by 15.2% compared with FY 2013. Robbery convictions decreased by 3.3% compared with FY 2013 but indicated no change compared with FY 2016. The number of aggravated assaults increased by 6.1% and 12.1% respectively over those of FY 2016 and FY 2013.

In FY 2017, burglary crimes decreased respectively by 14.3% and 17.2% from those of FY 2016 and FY 2013. The number of theft crimes decreased by 14.3% from FY 2016 but increased by 9.2% over that of FY 2013. The crime of arson increased by 53.7% and 50.9% respectively over those of FY 2016 and FY 2013.

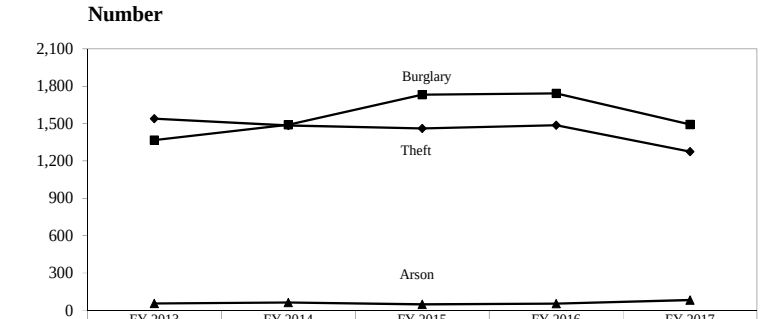
**UCR Offenses: Violent Crime**
**FY 2013 through FY 2017**




| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 |
|---|---|---|---|---|---|
| Murder | 149 | 150 | 173 | 168 | 193 |
| Rape | 112 | 96 | 92 | 102 | 95 |
| Robbery | 420 | 404 | 397 | 406 | 406 |
| Agg. Assault | 371 | 352 | 344 | 392 | 416 |

Both incarceration and probation sentences are included.

**UCR Offenses: Property Crime**
**FY 2013 through FY 2017**




| | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 |
|---|---|---|---|---|---|
| Burglary | 1,539 | 1,484 | 1,461 | 1,487 | 1,274 |
| Theft | 1,367 | 1,490 | 1,732 | 1,742 | 1,493 |
| Arson | 55 | 64 | 48 | 54 | 83 |

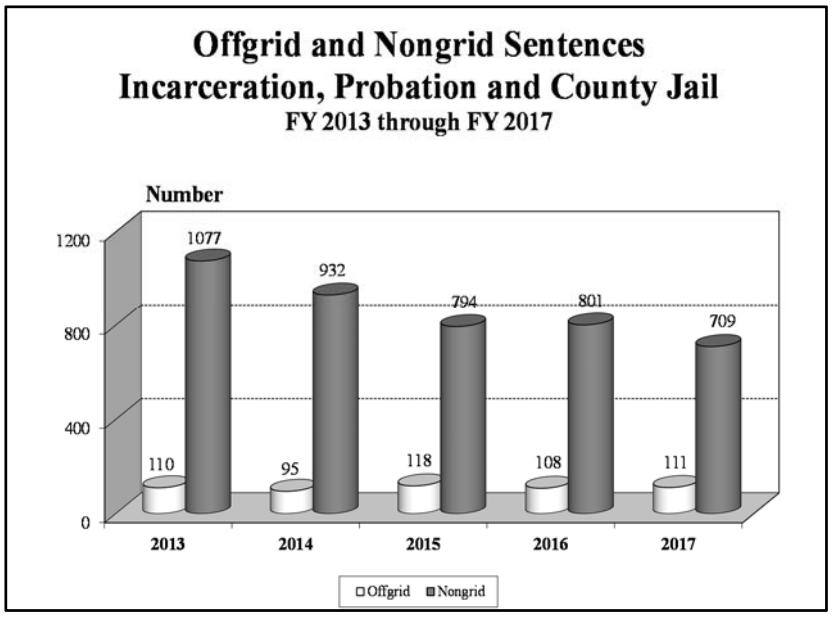
Both incarceration and probation sentences are included.

**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.

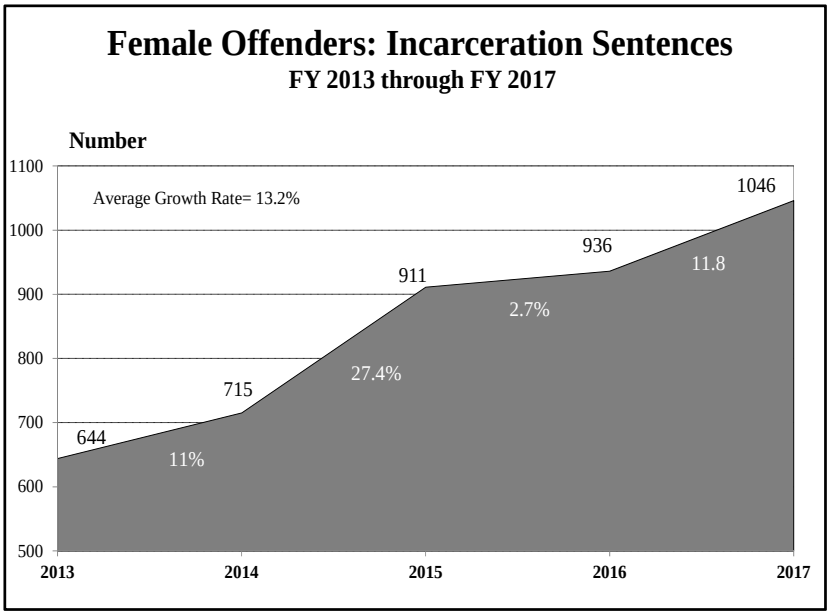
In FY 2017, the number of offgrid crimes increased by 3 (2.8%) over that of FY 2016 and by 1(1%) over that of FY 2013. The majority of the offgrid sentences were convicted under the Jessica's Law, which implies that the policy was implemented consistently in the past five years. Nongrid sentences in FY 2017, including incarceration, probation and county jail sentences, decreased by 11.5% compared with FY 2016 and significantly decreased by 34.2% from that of FY 2013, which mirrors the 2011 policy changes on felony DUI (Page 15).

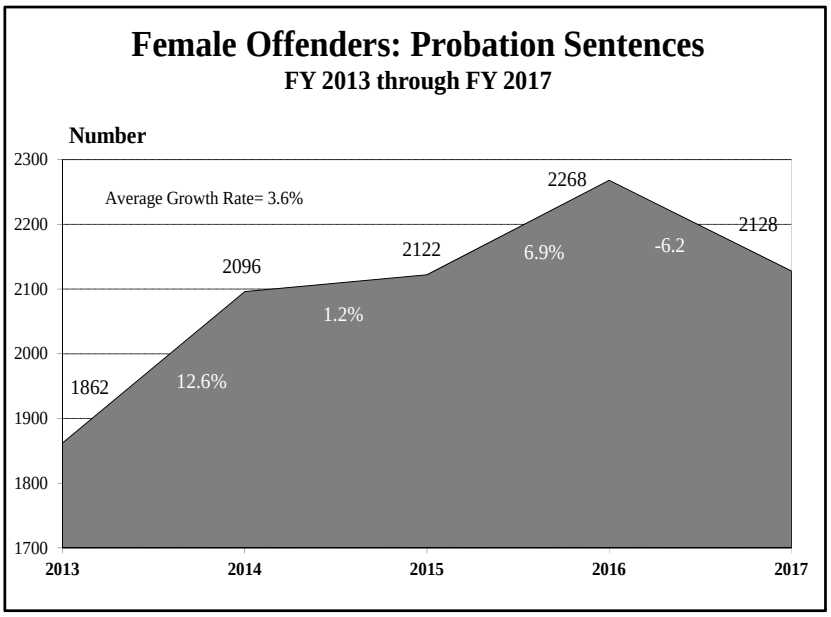


## FEMALE OFFENDERS

In the past five years, the admission of female offenders shows an increasing tendency. The number of female admissions in FY 2017 increased by 11.8% compared with that of FY 2016 and significantly increased by 62.4% compared with that of FY 2013. The average growth rate in the past five years is 13.2%. The numbers of female offenders on probation has grown from year to year since FY 2013. In FY 2017, female offenders on probation decreased by 6.2% from that of FY 2016 but increased by 14.3% when compared with FY 2013. The average growth rate is 3.6% 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 11% in FY 2014, greatly increased by 27.4% in FY 2015 and kept growing another 2.7% when compared with those of the previous years. The population in FY 2017 is the highest number (1,046) of female admissions to prison in the past five years, an increase of 11.8% over that of FY 2016.




In FY 2014, the female population sentenced to probation increased greatly by 12.6% in FY 2014 when compared with FY 2013. Then the female probationers increased by 1.2% in FY 2015 and continued to increase by 6.9% in FY 2016 when compared with the previous years. However, females on probation in FY 2017 decrease by 6.2% from that of FY 2016.