KANSAS SENTENCING COMMISSION

FY 2019 ANNUAL REPORT

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ANNUAL REPORT
FY 2019

Analysis Of Sentencing Guidelines In Kansas

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EXECUTIVE SUMMARY

Fiscal Year (FY) 2019 Annual Report is the twenty-fifth report released by the Kansas Sentencing Commission. It provides a descriptive analysis of felony sentencing patterns under the sentencing guidelines during FY 2019, 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 2019, the Commission continued its efforts in performing the following activities: a) developing and maintaining 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) processing statewide felony sentencing and probation revocation journal entries including both prison and non-prison guideline sentences; c) making recommendations to the state legislature relating to modification and improvement of current sentencing guidelines and providing the legislature and state agencies with prison bed space impact assessments under any policy change related to the sentencing guidelines; d) updating the Kansas Sentencing Guidelines Desk Reference Manual according to sentencing policy changes passed in the 2019 Legislative Session; e) producing annual prison population projections and custody classification forecasts for the Kansas Adult Correctional Facilities; f) publishing an annual report statistically presenting sentencing practice and policies under Kansas Sentencing Guidelines; g) tracking the impact of 2013 House Bill 2170 as a result of the Kansas Justice Reinvestment Initiative; h) monitoring and evaluating the implementation of 2003 Senate Bill 123 drug treatment programs and processing statewide transactions of the programs; i) performing criminal justice research projects funded through federal grant in the area of increasing access to statistic data and measuring criminal justice system performance; j) serving as an information resource to respond to national, state and county requests regarding sentencing data; k) conducting training sessions on sentencing guidelines and various sentencing issues; and l) introducing legislation to more effectively monitor and maintain the sentencing guidelines.

FY 2019 Annual Report is based on the sentencing data reported from 105 counties of the state and the adult prison data contributed by the Kansas Department of Correction (KDOC) in FY 2019. A total number of 15,614 felony sentences were reported to the Commission during FY 2019, indicating an increase of 3% from that of FY 2018. Of the total number of sentences, 6,388 (40.9%) were prison

sentences, 8,712 (55.8%) were probation sentences and 514 (3.3%) were DUI post-imprisonment supervision and county jail sentences. Nondrug sentences accounted for 61.0% or 9,524 sentences and drug sentences accounted for 39.0% or 6,090 sentences (page 1).

INCARCERATION SENTENCES

In FY 2019, the total number of admissions to KDOC reached 6,388, a decrease of 2.4% or 154 offenders when compared with FY 2018 (6,542 admissions). Male offenders made up 82.6% of the total admissions, a percentage decrease of 0.2% from that of FY 2018 (82.8%). More than 85% of the violent and sex offenses were committed by male offenders, such as aggravated assault, aggravated battery, aggravated robbery, burglary, criminal threat, fleeing or eluding LEO, 1st degree murder, 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 78.5% of the crimes of drug distribution and 85.0% 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 73.2% of the admissions to state prisons in FY 2019, indicating a 0.2% decrease compared to that of FY 2018 (73.4%). The offenders with non-Hispanic origin made up 89.5%, an increase of 0.7% over that of FY 2018 (88.8%). The highest incarceration rates for white offenders (over 70%) were discovered in the crime areas of burglary, forgery, theft, obstruction legal process, aggravated assault on LEO, fleeing or eluding LEO, aggravated escape from custody, criminal damage to property, trafficking contraband and most sex offenses. Nevertheless, black offenders were incarcerated more often (over 40%) for the crimes of aggravated robbery, robbery, possession of a firearm, aggravated intimidation of a witness, aiding a felon, and voluntary manslaughter (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 (35.0%) and the second largest number of offenders was identified in the group from 25 to 30 years old (23.5%) at the time of admission to prison in FY 2019. This age distribution is consistent with the age data observed in the past five years. As for the educational background of the offenders admitted in FY 2019, approximately 50.8% 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 2018 (50.0%).

The analysis of admission types demonstrates that the three largest groups of admissions are new court commitments, probation condition violators (excluding 18.6% of sanctions from probation violation) and parole/postrelease condition violators. These three groups represent 31.0%, 21.9% and 17.1%, respectively, of the total prison admissions in FY 2019. Most of the drug offenders admitted to KDOC in FY 2019 were at drug severity level 5 (1,537 sentences or 71.5%) and drug severity level 3 (245 sentences or 11.4%), while the largest numbers of nondrug offenders were identified at nondrug severity levels 5, 7 and 9 with admissions of 550, 974 and 1,037, respectively, in FY 2019 (pages 27 & 28).

The tracking study of Jessica's Law reveals that 55 sex offenders were convicted under this law and admitted to prison during FY 2019. Of this number, 42 (76.4%) were new court commitments, 12 (21.7%) were parole/postrelease condition violators and 1 (1.9%) was a probation condition violator. While most jurisdictions identify the severity of these crimes as off-grid (83.6%), a few (15) sentenced offenders at the severity level for a downward departure on the nondrug grid. The analysis of sentence length demonstrates that 45.2% of the sentences were downward departures to the guidelines, a decrease of 8.5% compared with that of FY 2018 (53.7%). The average sentence length of the durational departures was 96.4 months, an increase of 13.4 months from that observed in FY 2018 (109.8 months). The major departure reasons were a plea agreement between parties, the 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 2019 increased to 8,712, an increase of 7.0% compared with that of FY 2018 (8,142). The analysis of the probation sentences demonstrates that theft (15.7%), burglary (12.8%) and aggravated battery (8.8%) were the top three offenses committed by nondrug probation offenders, representing 37.3% of the total nondrug crimes (page 37). The probation sentences for the crime of drug possession accounted for 77.8% of all drug probation sentences, an increase of 3.3% from that (74.5%) of FY 2018 (pages 38 & 40).

The analysis of the criminal history categories of the offenders sentenced to probation in FY 2019 indicates that offenders with criminal history category I accounted for 23.1% of offenders on the nondrug grid and 24.0% of offenders on the drug grid. The nondrug offenders within the presumptive probation boxes made up 78.8%, a decrease of 0.7% compared with that of FY 2018 (79.5%). The examination of the border box sentences shows that 4.6% 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 continues in FY 2019. The drug offenders within presumptive probation sentences accounted for 60.3% and the drug offenders within the border box represented 21.8% of the probationers sentenced during FY 2019.

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 2019, a total number of 3,486 probation violators received a jail sanction based on the probation revocation disposition data collected by the Commission. This is an increase of 280 or 8.7% over that of FY 2018 (3,206 jail sanctions). Of the 3,486 jail sanctions, 60.4% served from 1 to 3 days in county jails and the average jail days served was 3.1 days, which is very consistent with the

sentencing policy of the bill compared with FY 2018, (3.0 days), FY 2017 (3.0 days), FY 2016 (2.9 days), FY 2015 (3.7 days) and FY 2014 (2.7 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 1,186 probation condition violators in FY 2019 were admitted to prison as HB 2170 sanction from probation, a decrease of 11 violators (0.9%) compared with FY 2018(1,197 violators). Of those 1,186 violators, 771 offenders (65.0%) were remanded for 120 sanction days, 413 offenders (34.8%) were remanded for 180 sanction days and 2 offenders (0.2%) were remanded for 360 days in KDOC. Senate Bill 18, passed in 2019, omitted use of sanctions for probation violations. Thus, it is anticipated that there will be no more prison sanction admissions into KDOC within the next five years. Nonetheless, the Commission will continue monitoring the impact of the bill on sentencing practice and recidivism rate (pages 31 & 32).

DUI 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 2019 (page 15). The Commission received 514 DUI post-imprisonment supervision (PIS) and county jail sentences in FY 2019. Of this number, DUI PIS accounted for 88.9% (457 sentences) and county jail sentences accounted for 11.1% (57 sentences).

The analysis of this group of offenders by gender specifies that male offenders accounted for 82.3% and female offenders accounted for 17.7% of the 514 sentences. The gender distribution does not change much when compared with that of FY 2018. White offenders represented 84.6%, black offenders represented 13.2% and other races represented 2.1 % of the DUI PIS and county jail sentences imposed in FY 2019. Their average age at sentencing is 42 years old, very close to that (41) of FY 2018 (page 46).

The study of the crimes committed by the offenders displays that 97.3% of the offenders were convicted of felony DUI (500 sentences), 0.2% (1 sentence) were convicted of the crime of animal cruelty and 2.5% (13 sentences) were convicted of the crime of domestic battery. Johnson County imposed the most sentences of this group (146) representing 28.4%, followed by Sedgwick County with 59 sentences representing 11.5% of the total DUI and county jail sentences imposed in FY 2019 (page 47).

DRUG SENTENCES

A new drug sentencing grid with 5 drug severity levels was passed into law on 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 the 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 2019 remained the same with that of FY 2018 (both 2,151 offenders) but significantly increased by 19.5% over that of

FY 2015 (1,731 offenders). Comparing statistics between FY 2019 and FY 2015, the admissions increased by 20.0% at drug severity level 1, by 34.3% at drug severity level 2 and by 53.5% at drug severity level5. However, the number of admissions decreased by 44.1% at drug severity level 3 and by 189.2% at drug severity level 4. The decrease of admissions at drug level 4 and the increase of admissions at drug level 5 in FY 2019 continuously reflects the implementation of the new drug sentencing grid (page 86).

The analysis of drug offenses demonstrates that 71.1% of the incarceration drug sentences were convictions of drug possession, an increase of 0.6% compared with that of FY 2018 (70.5%). Approximately 1.1% of the drug possession sentences were found at drug severity level 4. Offenders at drug severity level 5 accounted for 98.9% of the drug possession group, a continuous increase of 0.9% over that of FY 2018 (98.0%) after higher increases of the years before, which reflects 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 2019 (3,939) increased by 8.8% compared with that of FY 2018 (3,620) and greatly increased by 30.0% compared with that of FY 2015 (3,029). Comparing drug sentences to probation between FY 2019 and 2015, statistics displays that the number of drug probation sentences decreased by 7.7% at drug severity level 1 and by 22.2% at drug severity level 4. However, probation sentences increased by 106.0% at drug severity level 2, by 8.8% at drug severity level 3 and by 41.1% at drug severity level 5. (page 88).

Further study of drug offenders on probation reveals that during FY 2019, a total number of 1,477 sentences were ordered to 2003 Senate Bill 123 (SB 123) drug treatment programs, representing 37.5% of the total drug probation sentences (3,939), an increase of 1.8% compared with that of FY 2018 (35.7%). Ninety-nine 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 33.8 years old, very close to that of FY 2018. The distribution of SB 123 drug treatment sentences imposed by county displays that Sedgwick County imposed the most SB 123 sentences (165) followed by Johnson (122), Shawnee (121), Reno (81) and Saline (77) counties (pages 42 & 43).

In addition, 1,459 SB 123 drug treatment sentences were violated as probation condition violators during FY 2019. Of this number, 367 sentences were revoked to prison, representing 24.8 of SB 123 sentences imposed (1,477 sentences) in FY 2019, a decrease of 3.1% from that of FY 2018 (27.9%). The average period between original sentence and the first revocation hearing was 14.8 months, 24 days less than that of FY 2018 (15.6 months).

VIOLATORS

Violators, discussed in this report, refer to condition violators, which includes probation condition violators, parole/postrelease violators and conditional release violators. Prison sanctions from probation violations are excluded from this analysis. A total number of 2,493 condition violators were admitted to prison in FY

2019, accounting for 39.0% of the total prison admission events of the fiscal year. Of this number, 1,402 were probation condition violators, 1,090 were parole/postrelease violators and one was a conditional release violator, who is merged with the group of parole/postrelease violators in the analyses of the report. The total percentage of condition violators increased by 0.2% compared with that (38.8%) of FY 2018 (page 49).

The number of probation condition violators admitted to prison in FY 2019 increased by 6.1% when compared with FY 2015 but decreased by 3.8% over that of FY 2018. The number of parole/postrelease condition violators admitted to prison in FY 2019 decreased by 10.5%, but increased by 0.8%, respectively, from those of FY 2015 and FY 2018 (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 2018 (page 52).

Based on the probation revocation disposition data collected by the Commission, 521 probation condition violators and 57 probation violators with new convictions were sentenced to either continued or extended probation for a violation in FY 2019. This represents 8.3% of the total number of 6,295 condition probation violators and 13.7% of the total number of 417 probation violators with new offenses revoked during FY 2019 (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 ordered 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 6,981 pure guideline sentences reported in FY 2019. Of this number, 1,427 were incarceration guideline sentences and 5,554 were probation sentences. Seventy-nine-point nine percent of the guideline sentences imposed fell within the designated guideline sentence range. Dispositional departures accounted for 11.2% of sentences and durational departures were found in 8.8% of sentences (page 65). The sentence distribution is very consistent with those of FY 2018 and FY 2017.

The analysis of incarceration sentences within guidelines displays that 35.4% of the sentences imposed fell within the standard range of the grid cell, a decrease of 1.3% when compared with that of FY 2018 (36.7%). Fifteen-point-six percent of all sentences were within the aggravated range, 25.7% were within the mitigated range and 23.3% were located within designated border boxes (page 66).

The review of the durational departures of the incarceration guideline sentences shows that 64.9% of the durational departures were downward durational departures, while 35.1% indicated upward durational departures (page 66). The distribution is similar from that of FY 2018 with 69.3% downward durational departures and 30.7% upward durational departures. The comparative study of durational departures between drug and nondrug incarceration sentences indicates that 81.5% of drug durational departure sentences were downward compared to 57.2% 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 3 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 7.1% upward dispositional departure rate and drug sentences represented a 4.7% upward dispositional departure rate (page 70). This is consistent with data observed in FY 2018 but appears to be a departure 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 (87.5%) of probation guideline sentences fell beneath the incarceration line, among which 86.0% were within presumptive probation grids and 14.0% were within border boxes. Downward dispositional departures were identified in 12.5% of the probation guideline sentences imposed in FY 2019 (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 (14.7% vs 10.3%). Substantially more drug probation sentences resulted from border boxes than did nondrug probation sentences (22.2% vs. 5.8%), which is consistent with the data observed in FY 2018 (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 2019 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 2019, a total number of 840 pure guideline prison sentences and 918 pure guideline probation sentences were imposed with special sentencing rules, which

accounted for 49.0% of prison pure guideline admissions (1,716 admissions) and 16.0% of pure guideline probation sentences (5,750) imposed in FY 2019. The percentage of offenders admitted to prison with special sentencing rules increased from 43.2% in FY 2015 to 49.0% in FY 2019. The percentage of probation sentences imposed with special sentencing rules accounted for 13.5% in FY 2015 and increased to 16.0% in FY 2019. The total percentage of both prison and probation sentences applied with special rules increased from 20.3% in FY 2015 to 23.5% in FY 2019 (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 2019. 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 estimates that by the end of FY 2029, a total of 11,428 prison beds will be needed. This represents a total increase of 13.8% or 1,384 beds over the actual prison population as of June 30, 2019. The total admission in the past five years represents an increasing trend. 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 nondrug severity levels 7 to 10 group in the ten-year forecast period, indicating an increase of 369 offenders or 41.4%. This partially results from the application of the special sentencing rules. The number at nondrug severity levels 1 to 3 will increase by 134 offenders or 5.4% 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 128 offenders or 7.3% during the ten-year forecast period. The incarcerated population at off-grid in the next ten years will increase by 261 offenders or 18.2%. 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 House Bill 2170 required probation condition violators to serve graduated sanctions instead, which includes custody in KDOC for a period of 120 days or 180 days. However, 2019 Senate Bill 18 included language that will phase out the use of prison sanctions. Thus, in the next ten years, the number of prison sanctions from probation will decrease to 0. The probation condition violators admitted to prison is expected to increase by 297 or 25.4% and the parole or postrelease condition violators will increase by 48 or 10.2% 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 (page 90) illustrates the trend of the actual

and projected prison population from FY 2010 through FY 2029.

The custodial classification projection predicts the types of prison beds needed for custody over the next ten years. By the end of FY 2020, KDOC will need 3,054 minimum beds, 2,910 medium low beds, 1,552 medium high beds, 1,455 regular maximum beds, 320 unclassified beds and 883 beds for special management. By the end of FY 2029, the custodial beds in demand will include 3,425 minimum, 3,270 medium low, 1,745 medium high, 1,637 regular maximum, 358 unclassified and 994 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 2019. Chapter Two describes the types and characteristics of violators incarcerated in the state correctional facilities. In Chapter Three, the pure prison and probation sentences imposed under the sentencing guidelines are examined to evaluate the conformity to the sentencing guidelines. Chapter Four contains analyses on sentencing trends and prison population projections. Appendix I analyzes sentences of felony convictions from the top four contributing counties of the State of Kansas. Appendix II tracks the trends of the top five felonies; Uniform Crime Reporting (UCR) offenses; and off-grid 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 2019

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 2019. The Senate Bill 123 drug treatment sentences are included 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 2019, a total number of 15,614 felony sentences were reported to the Commission, an increase of 415 sentences or 3% from that of FY 2018. Of that total number of sentences, 6,388 were prison sentences, 8,712 were probation sentences and 514 were DUI post imprisonment supervision and county jail sentences (County jail sentences made up 57). In terms of drug or nondrug crimes, this total included 9,524 nondrug sentences and 6,090 drug sentences. Nonperson offenses accounted for 68.5% and person offenses accounted for 31.5% (Figure 1), which does not fluctuate much from those of FY 2018.

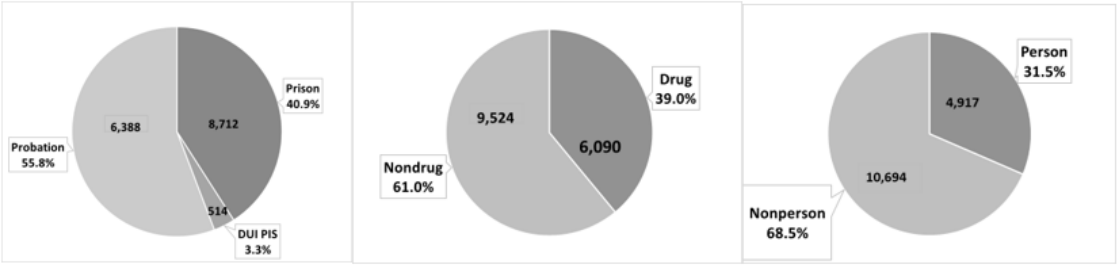
FY 2019 sentencing distribution by sentence type, offense type and severity level is demonstrated in Figure 2. Incarceration sentences at drug severity levels 4 and 5 represented 80.1% (1,722 sentences) of the total drug incarceration sentences. The largest number of nondrug incarceration offenders was identified at severity level 9 (1,037 sentences or 24.5%) followed by severity level 7 (974 sentences or 23.0%) and severity level 5 (550 sentences or 13.0%), which is similar with the pattern of FY 2018. The examination of probation sentences in FY 2019 indicates that 3,182 probation sentences fell at drug severity level 5, representing 80.8% of the total drug probation sentences and 372 probation sentences were at drug severity level 4 representing 9.4%. The new drug sentencing grid with five severity levels became effective on July 1, 2012. Pure drug possession crimes convicted under K.S.A. 21-5706 are sentenced at drug severity level 5. The total number of drug probation sentences at drug severity levels 4 and 5 is 3,554. Of this number, 86.3% or 3,066 sentences were convicted of the crimes of drug possession. Of the 3,066 drug possession sentences, 48.1% or 1,476 sentences were ordered to SB 123 drug treatment programs, which increased by 0.1% compared with the percentage (48.0%) of FY 2018. The highest rates of nondrug probation offenders were found at nondrug severity level 9 (37.2% or 1,775 sentences) and nondrug severity level 7 (23.9% or 1,142 sentences). The analysis of DUI post imprisonment supervision and county jail sentences discloses that 100% of the offenders were convicted of nongrid crimes.

The review of sentences by county indicates that 105 counties reported felony sentences to the Commission in FY 2019. Most of the counties reported 1 to 100 sentences. Thirteen counties reported 101 to 200 sentences. They are Atchison (123), Bourbon (119), Cherokee (127), Cowley (141), Franklin (156), Jackson (151), Labette (101), Leavenworth (174), McPherson (143), Neosho (113), Riley (176), Seward (195) and Sumner (104) counties. Thirteen counties reported 201 to 700 sentences. They are Barton (211), Butler (227), Crawford (284), Douglas (487), Ellis (216), Finney (271), Ford (354), Geary (265), Harvey (262), Lyon (216), Montgomery (262), Reno (526) and Saline (645) counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties, accounting for 46.9% of all sentences imposed in FY 2019, an increase of 0.9% compared with that (45.7%) of FY 2018 (Figure 3).

The top five offenses committed in FY 2019 are crimes of drugs (39.0% or 6,090 sentences), burglary (7.4% or 1,156) sentences, including aggravated burglary), theft (7.3% or 1,138 sentences), aggravated battery (5.7% or 883 sentences) and DUI (3.2% or 504 sentences). The top five offenses, including prison, probation, DUI post imprisonment supervision and county jail sentences, accounted for 62.6% of the total 15,614 sentences in FY 2019 (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 (334 sentences) followed by Wyandotte County (147 sentences), Shawnee County (105 sentences and Johnson County (78 sentences). Figure 5 exhibits the distribution of the violent crimes committed in the top four counties during FY 2019. The characteristics of offenders by individual counties are presented in Table 1.

Figure 1: Sentences Reported in FY 2019



Based on 15,614 felony sentences reported in FY 2019. DUI post-imprisonment supervision accounted for 457 and jail accounted for 57 sentences.

Figure 2: FY 2019 Sentencing Distribution

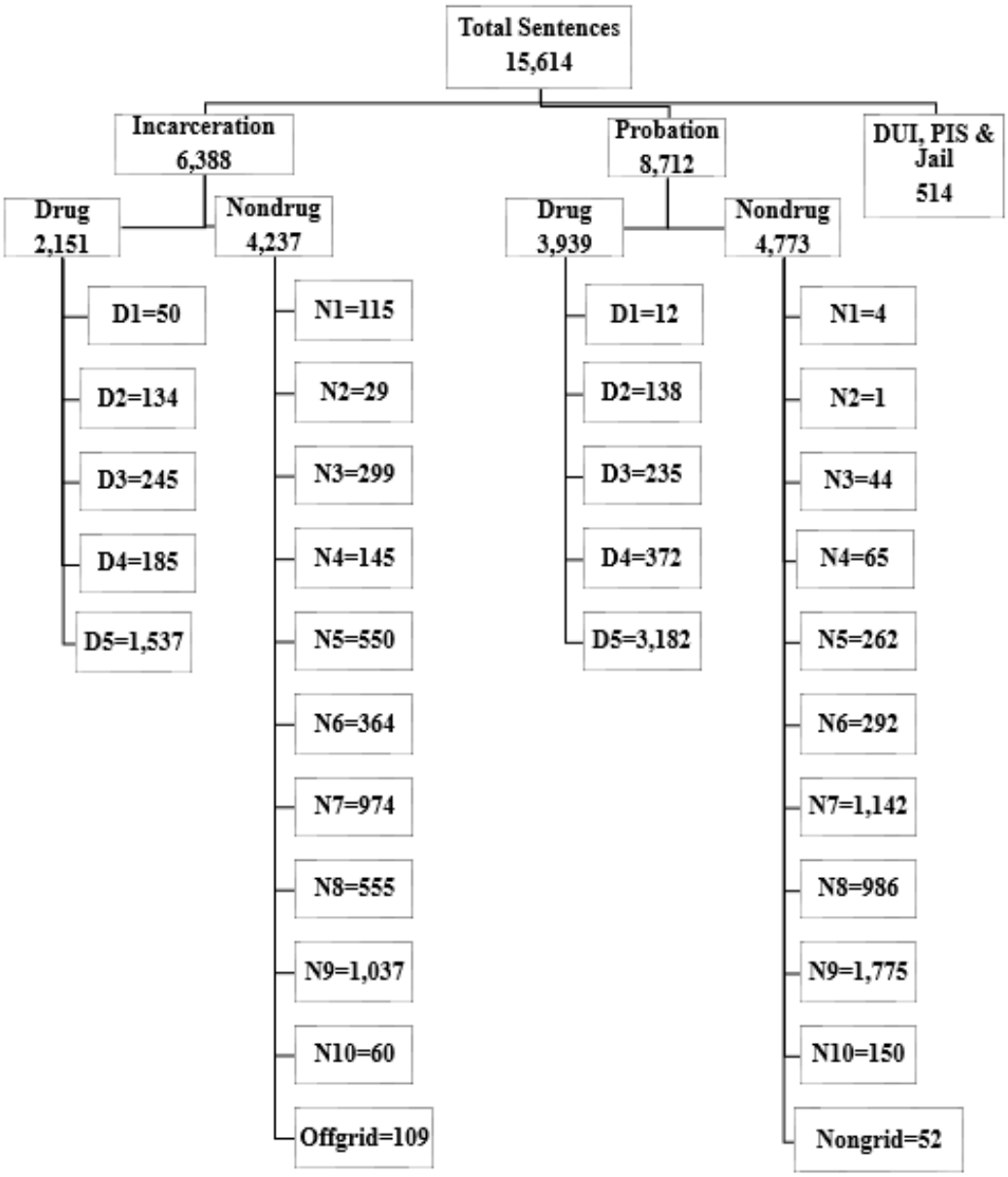


Figure 3: Sentences Reported in FY 2019 by County

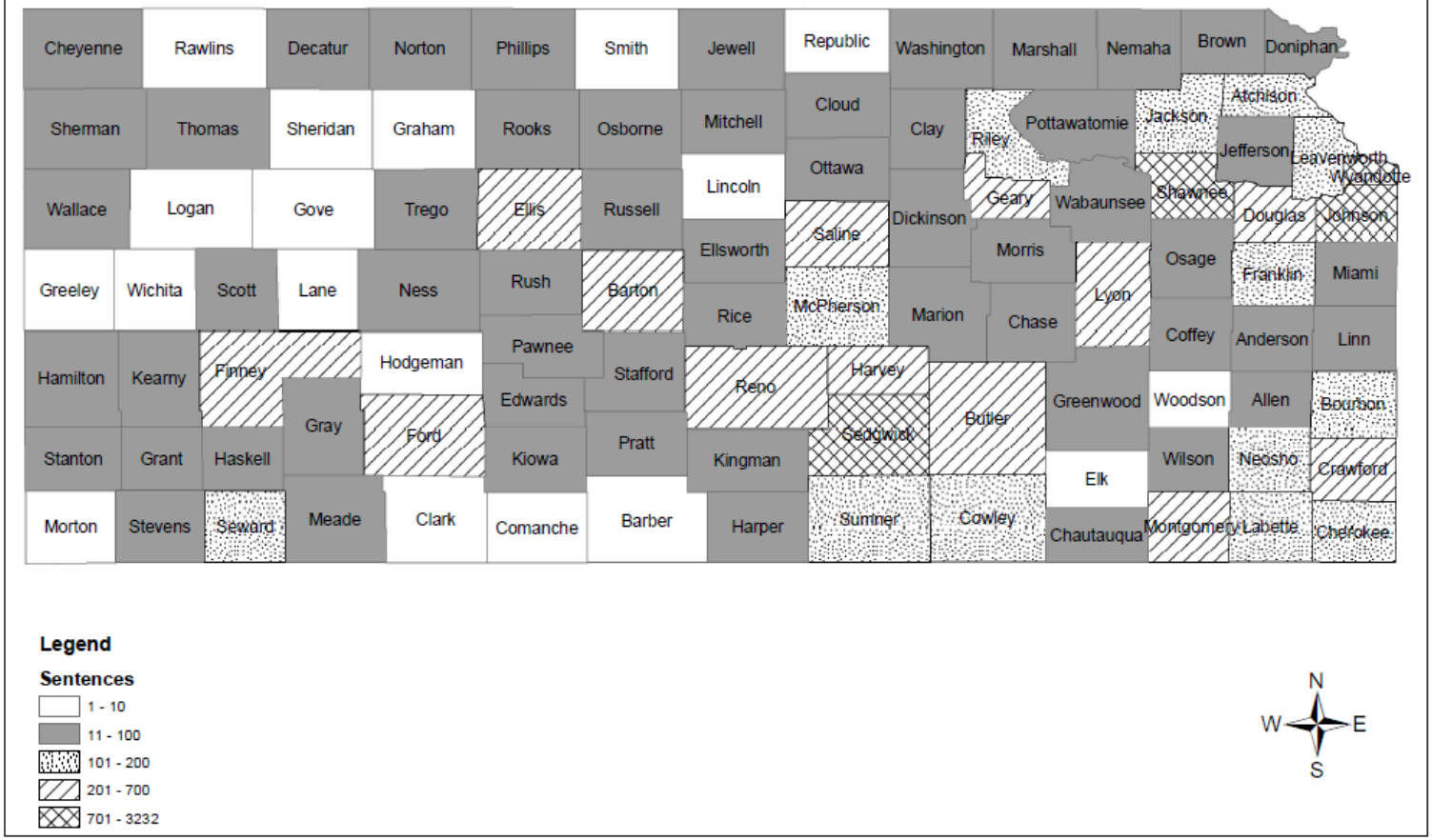
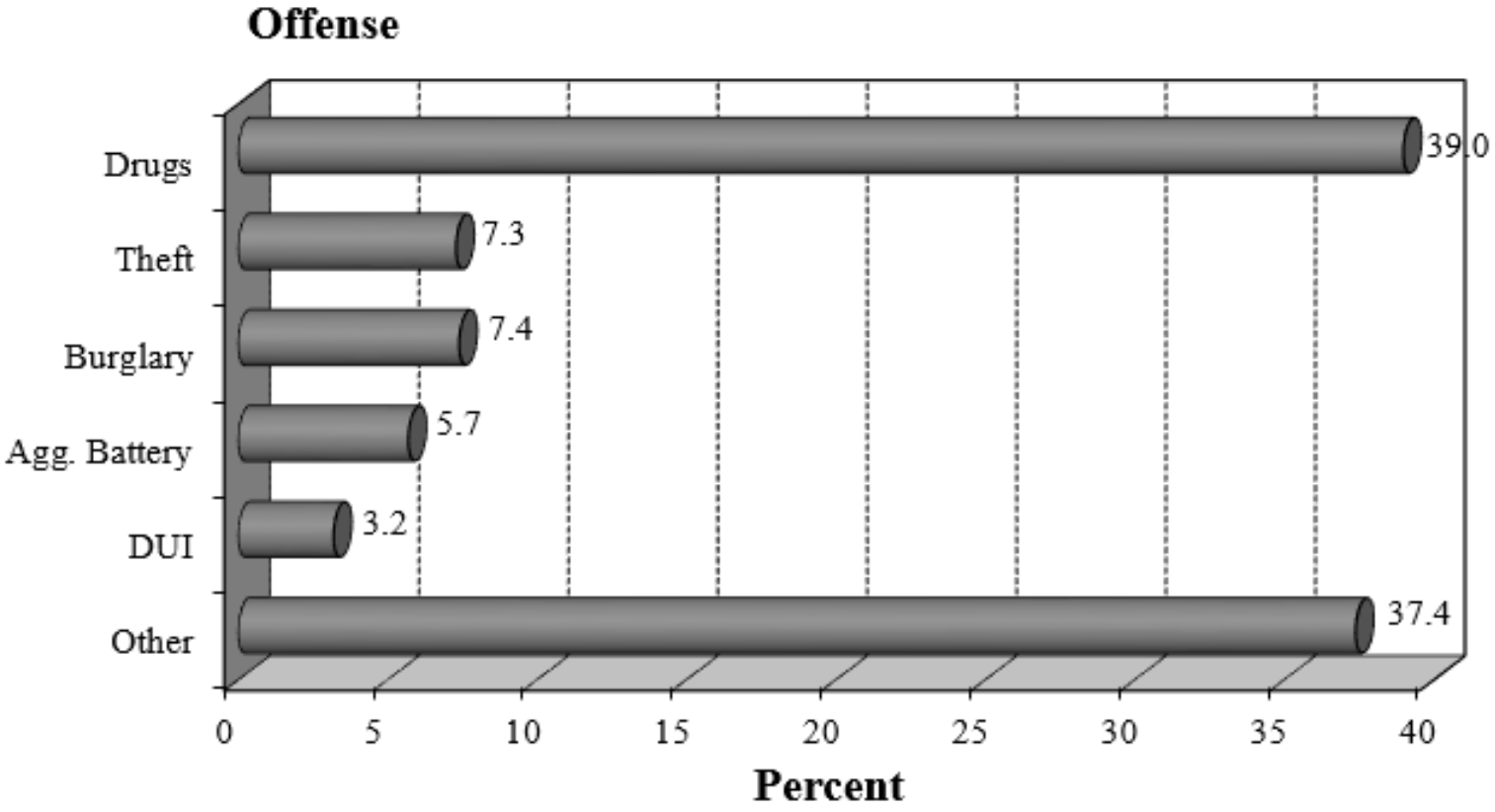


Figure 4: FY 2019 Top Five Offenses of Prison, Probation and Jail Sentences



Based on 15,614 prison, probation, DUI PIS and county jail sentences

Figure 5: FY 2019 UCR Offenses by Top Four Counties - Violent Crime Convictions

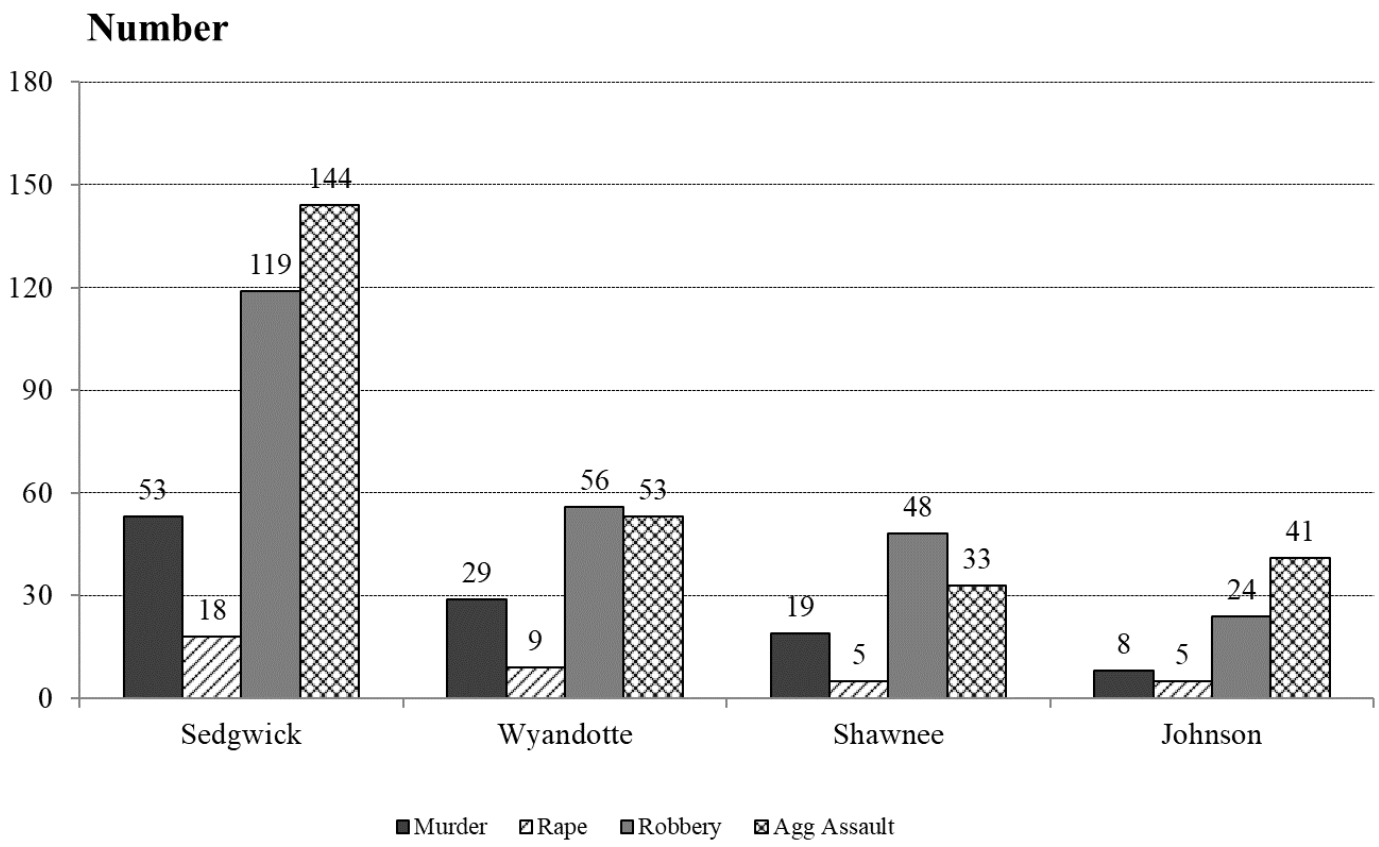


Table 1: FY 2019 Offender Characteristics by County – 1

County	Number Of Sentences	Gender		Race			Sentence Type		Offense Type			Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Allen	64	44	20	59	4	1	22	39	3	30	34	34.1
Anderson	48	37	11	43	3	2	21	24	3	29	19	35.7
Atchison	123	85	38	97	24	2	71	51	1	68	55	33.8
Barber	10	10	0	9	0	1	3	7	0	7	3	32.8
Barton	211	148	63	192	19	0	69	139	3	90	121	34.2
Bourbon	119	88	31	101	16	2	47	69	3	57	62	33.3
Brown	42	31	11	31	2	9	20	22	0	20	22	31.8
Butler	227	165	62	203	20	4	88	134	5	141	86	33.5
Chase	17	15	2	15	2	0	11	4	2	13	4	31.9
Chautauqua	23	19	4	19	2	2	11	9	3	14	9	33.5
Cherokee	127	104	23	117	5	5	52	75	0	82	45	36.2
Cheyenne	15	13	2	15	0	0	2	12	1	12	3	30.2
Clark	8	6	2	8	0	0	4	4	0	3	5	30.7
Clay	54	35	19	52	2	0	19	34	1	21	33	35.2
Cloud	83	49	34	75	5	3	28	54	1	30	53	35.1
Coffey	54	41	13	50	4	0	22	30	2	31	23	31.9
Comanche	3	3	0	3	0	0	1	2	0	2	1	29.6
Cowley	141	110	31	120	12	9	55	79	7	80	61	34.5
Crawford	284	212	72	224	57	3	105	177	2	149	135	34.1
Decatur	14	11	3	14	0	0	6	8	0	2	12	39.0
Dickinson	91	71	20	81	9	1	20	66	5	47	44	34.5
Doniphan	20	19	1	18	1	1	4	15	1	13	7	35.9
Douglas	487	405	82	340	125	22	256	223	8	318	169	32.8
Edwards	12	11	1	12	0	0	4	7	1	5	7	36.9
Elk	3	3	0	2	0	1	2	1	0	3	0	28.1
Ellis	216	174	42	186	28	2	85	123	8	99	117	33.8
Ellsworth	37	28	9	29	8	0	6	29	2	14	23	35.0
Finney	271	211	60	249	18	4	111	152	8	134	137	31.2
Ford	354	276	78	317	25	12	156	189	9	179	175	32.1

Table 1: FY 2019 Offender Characteristics by County – 2

County	Number Of Sentences	Gender		Race			Sentence Type			Offense Type		Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Franklin	156	121	35	145	9	2	79	74	3	74	82	32.1
Geary	265	198	67	165	92	8	75	180	10	122	143	33.3
Gove	1	1	0	1	0	0	1	0	0	1	0	26.2
Graham	5	4	1	4	1	0	0	5	0	4	1	44.8
Grant	38	33	5	36	2	0	17	17	4	15	23	37.0
Gray	20	15	5	19	1	0	4	15	1	11	9	36.3
Greeley	8	7	1	6	2	0	1	6	1	5	3	29.5
Greenwood	67	46	21	63	1	3	21	42	4	27	40	37.5
Hamilton	30	21	9	30	0	0	3	27	0	6	24	32.1
Harper	30	24	6	26	2	2	13	14	3	22	8	33.4
Harvey	262	199	63	213	45	4	75	178	9	90	172	35.1
Haskell	23	16	7	22	1	0	3	18	2	9	14	37.1
Hodgeman	7	6	1	5	1	1	2	5	0	2	5	37.1
Jackson	151	102	49	115	14	22	56	89	6	72	79	35.4
Jefferson	46	35	11	44	2	0	19	21	6	34	12	36.3
Jewell	12	9	3	11	0	1	6	6	0	8	4	39.0
Johnson	1,958	1,436	522	1,463	475	20	696	1,116	146	1,288	670	33.9
Kearny	12	12	0	9	2	1	7	4	1	8	4	30.7
Kingman	34	28	6	33	1	0	11	22	1	20	14	34.2
Kiowa	11	7	4	10	1	0	5	5	1	5	6	42.1
Labette	101	79	22	81	17	3	59	39	3	61	40	34.5
Lane	7	6	1	7	0	0	1	6	0	3	4	35.6
Leavenworth	174	134	40	134	38	2	73	96	5	119	55	36.1
Lincoln	5	4	1	3	2	0	3	2	0	4	1	37.7
Linn	57	48	9	55	2	0	33	23	1	40	17	32.3
Logan	4	3	1	4	0	0	3	1	0	4	0	30.9
Lyon	216	145	71	185	26	5	101	108	7	105	111	32.6
Marion	38	28	10	36	2	0	9	29	0	24	14	37.5
Marshall	53	42	11	51	1	1	18	33	2	23	30	37.4

Table 1: FY 2019 Offender Characteristics by County – 3

County	Number Of Sentences	Gender		Race			Sentence Type			Offense Type		Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
McPherson	143	104	39	121	20	2	52	81	10	73	70	34.2
Meade	17	12	5	15	0	2	13	4	0	4	13	32.3
Miami	78	69	9	71	5	2	35	37	6	56	22	34.4
Mitchell	32	20	12	32	0	0	13	19	0	13	19	36.6
Montgomery	262	189	73	211	45	6	129	133	0	136	126	35.9
Morris	21	13	8	20	1	0	5	14	2	20	1	32.1
Morton	7	5	2	7	0	0	1	6	0	5	2	29.4
Nemaha	43	37	6	40	3	0	16	24	3	26	17	36.9
Neosho	113	80	33	108	2	3	51	60	2	53	60	33.9
Ness	11	6	5	11	0	0	2	9	0	3	8	32.8
Norton	30	25	5	27	2	1	7	22	1	16	14	30.9
Osage	64	49	15	61	2	1	37	25	2	46	18	35.5
Osborne	11	8	3	11	0	0	1	10	0	4	7	38.3
Ottawa	16	13	3	16	0	0	3	13	0	14	2	37.9
Pawnee	47	37	10	41	6	0	13	34	0	34	13	37.0
Phillips	18	16	2	17	1	0	4	13	1	5	13	44.9
Pottawatomie	92	73	19	85	5	2	25	61	6	58	34	32.9
Pratt	50	42	8	47	1	2	28	20	2	20	30	35.1
Rawlins	6	4	2	6	0	0	3	3	0	3	3	36.4
Reno	526	403	122	446	71	8	212	299	15	245	281	33.7
Republic	5	4	1	3	0	2	1	4	0	1	4	29.4
Rice	71	53	18	70	1	0	27	43	1	47	24	39.0
Riley	176	133	43	122	52	2	68	100	8	102	74	32.6
Rooks	18	14	4	18	0	0	7	11	0	12	6	39.2
Rush	16	11	5	16	0	0	3	13	0	4	12	40.9
Russell	59	45	14	57	2	0	19	38	2	30	29	35.0
Saline	645	490	155	529	97	19	300	325	20	353	292	33.5
Scott	24	18	6	23	1	0	6	16	2	12	12	38.4

Table 1: FY 2019 Offender Characteristics by County – 4

County	Number Of Sentences	Gender		Race			Sentence Type			Offense Type		Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Sedgwick	3,232	2,615	617	2,116	1007	108	1,515	1,658	59	2,456	776	34.1
Seward	195	162	33	169	20	6	86	96	13	107	88	31.5
Shawnee	1,031	788	243	712	278	41	381	624	26	684	347	34.9
Sheridan	1	1	0	1	0	0	1	0	0	1	0	35.4
Sherman	91	74	17	75	10	6	19	72	0	28	63	31.9
Smith	5	4	1	4	0	1	3	1	1	4	1	44.6
Stafford	19	14	5	19	0	0	4	15	0	12	7	33.3
Stanton	23	10	13	23	0	0	4	19	0	6	17	32.5
Stevens	27	24	3	26	0	1	11	16	0	12	15	36.7
Sumner	104	88	16	89	8	7	55	45	4	78	26	34.7
Thomas	51	35	16	46	2	3	16	34	1	35	16	30.2
Trego	37	31	6	31	4	2	11	25	1	14	23	31.2
Wabaunsee	41	33	8	32	8	1	10	31	0	19	22	33.7
Wallace	33	24	9	32	1	0	6	27	0	2	31	31.3
Washington	12	11	1	12	0	0	3	7	2	11	1	41.0
Wichita	9	9	0	9	0	0	6	2	1	5	4	31.8
Wilson	42	31	11	39	3	0	8	33	1	18	24	35.9
Woodson	5	5	0	5	0	0	3	2	0	5	0	33.2
Wyandotte	1,102	905	197	674	411	17	466	609	27	730	372	34.6
Unknown	4	4	0	3	1	0	4	0	0	3	1	27.8
TOTAL	**15,614**	**12,074**	**3,539**	**12,005**	**3,201**	**406**	**6,388**	**8,712**	**514**	**9,524**	**6,090**	**34.1**

* Prison sentences are based on KDOC admissions in FY 2019. Probation, DUI PIS and jail sentences are based on the sentencing journal entries reported to KSC during FY 2019.
** DUI post-imprisonment supervision sentences accounted for 457 and county jail accounted for 57 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 2019. The crime categories committed by the offenders are analyzed descriptively.

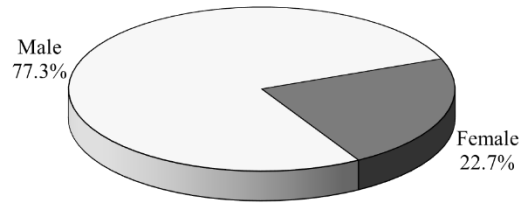
In FY 2019, male offenders represented 77.3% of the total sentences (Figure 6) and committed more than 80% of most aggravated and violent crimes such as aggravated assault, aggravated battery, aggravated robbery, rape, burglary, criminal threat, murders and kidnapping.

Female offenders made up 22.7% of the sentences in FY 2019, indicating an increase of 0.4% compared with that of FY 2018. The most frequently committed crimes by female offenders (over 40%) was forgery, identity theft, mistreatment of dependent adults and trafficking contraband in a correctional facility.

The racial distribution of offenders in FY 2019 does not fluctuate much from that of FY 2018. White offenders made up 76.9% of the sentences and 20.5% of the sentences were committed by black offenders (Figure 7).

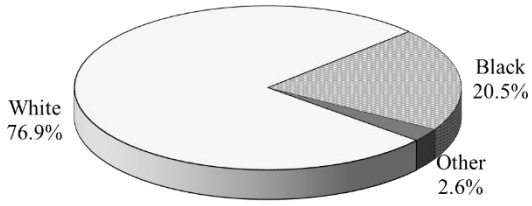
The distributions of offenders by gender, race and age are demonstrated respectively in Figures 6 - 9. The demographic information of offenders by offense types is presented in Table 2.

Figure 6: Distribution of FY 2019 Sentences by Gender of Offenders



Based on 15,613 sentences reporting gender of offenders

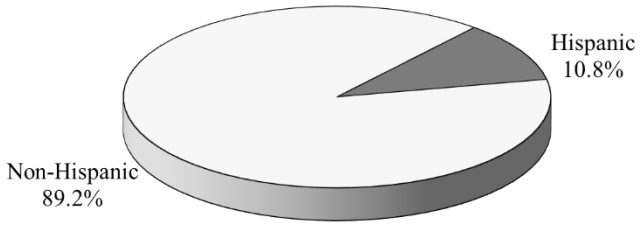
Figure 7: Distribution of FY 2019 Sentences by Race of Offenders



Based on 15,612 sentences reporting race of offenders

The analysis of the ethnicity of offenders discloses that 89.2% of the offenders in FY 2019 were of Non-Hispanic origin, indicating an increase of 0.3% when compared with the percentage rate of FY 2018 (88.9%). This distribution of ethnicity of offenders has been comparatively constant in the past five years (Figure 8).

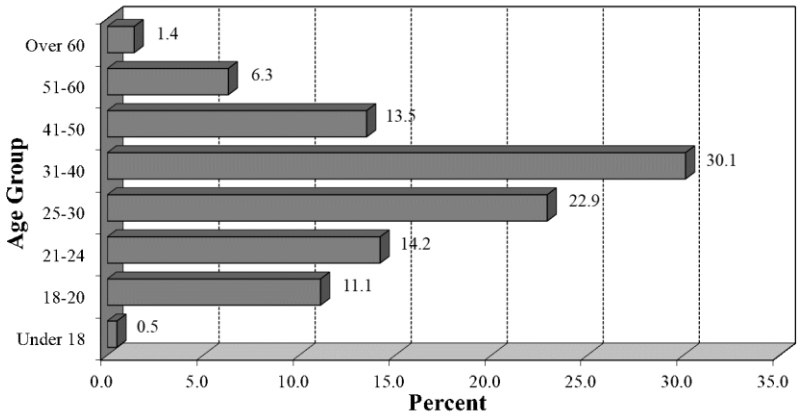
Figure 8: Distribution of FY 2019 Sentences by Ethnicity of Offenders



Based on 15,613 sentences reporting ethnicity of offenders

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 30.1% of all offenders in FY 2019. The second largest offender population was identified in the age group ranging from 25 to 30 (Figure 9). This finding is consistent with those in the past five years.

Figure 9: Distribution of FY 2019 Sentences by Age of Offenders



Based on 15,605 sentences reporting age of offenders at time of offense

Table 2: FY 2019 Offender Characteristics by Type of Offense – 1

Offense Type	Number Of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Abuse of Child	25	76.0	24.0	76.0	16.0	8.0	30.9
Agg. Arson	26	61.5	38.5	69.2	26.9	3.8	33.0
Agg. Assault	382	88.5	11.5	68.1	27.0	5.0	32.1
Agg. Assault on LEO	71	85.9	14.1	74.6	22.5	2.8	32.6
Agg. Battery	883	86.5	13.5	70.0	26.4	3.6	32.0
Agg. Battery on LEO	15	80.0	20.0	80.0	20.0	0.0	29.1
Agg. Burglary	76	84.2	15.8	64.5	32.9	2.6	28.1
Agg. Criminal Sodomy w/Child	29	100.0	0.0	79.3	17.2	3.4	31.8
Agg. Endangering a Child	66	63.6	36.4	87.9	12.1	0.0	31.2
Agg. Escape from Custody	71	76.1	23.9	70.4	28.2	1.4	31.2
Agg. Failure to Appear	23	65.2	34.8	78.3	21.7	0.0	30.4
Agg. False Impersonation	4	50.0	50.0	75.0	25.0	0.0	31.7
Agg. Robbery	173	92.5	7.5	46.8	50.3	2.9	25.5
Agg. Indecent Liberties w/Child	145	96.6	3.4	80.0	13.8	6.2	30.9
Agg. Indecent Solicit w/Child	32	96.9	3.1	93.8	3.1	3.1	30.6
Agg. Interference w/Parent Custody	9	77.8	22.2	66.7	33.3	0.0	35.3
Agg. Intimidation of a Victim	36	91.7	8.3	63.9	36.1	0.0	30.4
Agg. Kidnapping	13	92.3	7.7	100.0	0.0	0.0	28.0
Agg. Sexual Battery	53	100.0	0.0	75.5	22.6	1.9	32.5
Agg. Weapon Violation	15	86.7	13.3	66.7	13.3	20.0	32.4
Aid Felon	14	64.3	35.7	50.0	50.0	0.0	27.4
Arrange Sale/Purchase Drug	22	59.1	40.9	90.9	4.5	4.5	32.5
Arson	45	88.9	11.1	91.1	6.7	2.2	33.4
Auto Failure to Remain	10	90.0	10.0	80.0	20.0	0.0	35.2
Battery on LEO	108	75.9	24.1	58.3	35.2	6.5	30.9
Breach of Privacy	10	100.0	0.0	80.0	20.0	0.0	40.4
Burglary	1,156	83.3	16.7	81.2	15.7	3.1	30.8
Contribute Child's Misconduct	11	81.8	18.2	72.7	27.3	0.0	31.8
Computer Crime	17	70.6	29.4	70.6	11.8	17.6	38.3
Criminal Damage to Property	106	83.0	17.0	80.2	18.9	0.9	32.7
Criminal Discharge of Firearm	41	92.7	7.3	68.3	29.3	2.4	27.9
Crim Deprivation of Property	5	100.0	0.0	40.0	60.0	0.0	26.9
Criminal Sodomy w/Child	11	81.8	18.2	72.7	27.3	0.0	24.4
Criminal Threat	478	91.4	8.6	70.1	27.6	2.3	34.2
Criminal Use of Explosives	10	100.0	0.0	100.0	0.0	0.0	36.9
Criminal Use of Financial Card	16	68.8	31.3	62.5	37.5	0.0	32.1
Domestic Battery	257	96.5	3.5	68.9	28.8	2.3	32.6

Table 2: FY 2019 Offender Characteristics by Type of Offense – 2

Offense Type	Number Of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Drugs	6,090	70.9	29.1	82.0	15.6	2.4	33.7
Drug without Tax Stamps	13	84.6	15.4	84.6	15.4	0.0	34.6
DUI	504	81.9	18.1	85.3	12.7	2.0	41.2
Electronic Solicitation of Child	17	100.0	0.0	100.0	0.0	0.0	33.2
Failure to Register	454	86.6	13.4	69.6	26.9	3.5	37.2
Fleeing or Eluding LEO	444	89.0	11.0	72.3	24.1	3.6	31.4
Forgery	422	57.3	42.7	81.8	16.1	2.1	34.4
False Writing	110	69.1	30.9	79.1	20.0	0.9	32.8
Giving Worthless Checks	22	68.2	31.8	77.3	18.2	4.5	38.8
Identity Theft	257	54.9	45.1	70.8	27.2	1.9	32.3
Indecent Liberties w/Child	32	96.9	3.1	81.3	18.8	0.0	26.1
Indecent Solicitation of Child	15	100.0	0.0	60.0	40.0	0.0	29.6
Involuntary Manslaughter	32	87.5	12.5	68.8	31.3	0.0	30.6
Kidnapping	38	89.5	10.5	68.4	31.6	0.0	27.1
Lewd and Lascivious Behavior	13	100.0	0.0	92.3	7.7	0.0	33.1
Mistreat Dependent Adult	27	29.6	70.4	81.5	18.5	0.0	44.7
Murder in the First Degree	68	88.2	11.8	64.7	32.4	2.9	29.0
Murder in the Second Degree	67	85.1	14.9	68.7	28.4	3.0	28.2
Nonsupport of Child or Spouse	5	60.0	40.0	100.0	0.0	0.0	36.4
Obstructing Legal Process	272	77.2	22.8	75.7	21.3	2.9	32.3
Possession of Weapons	401	97.0	3.0	55.6	41.9	2.5	32.0
Rape	67	100.0	0.0	65.7	26.9	7.5	29.9
Robbery	204	87.7	12.3	52.5	45.6	2.0	25.7
Sex Exploitation of a Child	58	98.3	1.7	82.8	15.5	1.7	37.1
Stalking	37	100.0	0.0	91.9	5.4	2.7	39.8
Tamper w/Electronic Monitor Equip.	70	61.4	38.6	77.1	21.4	1.4	32.6
Theft	1,138	67.7	32.3	78.6	20.5	0.9	33.8
Trafficking Contraband	132	56.8	43.2	81.1	15.2	3.8	32.6
Unlawful Sexual Relations	7	85.7	14.3	71.4	28.6	0.0	32.4
Unlawful Voluntary Sex Relations	22	100.0	0.0	63.6	36.4	0.0	19.0
Voluntary Manslaughter	12	83.3	16.7	58.3	41.7	0.0	26.6
Weapons	22	95.5	4.5	81.8	18.2	0.0	28.5
Other	78	78.2	21.8	67.9	25.6	6.4	35.1
Total	15,614	77.3	22.7	76.9	20.5	2.6	33.1

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

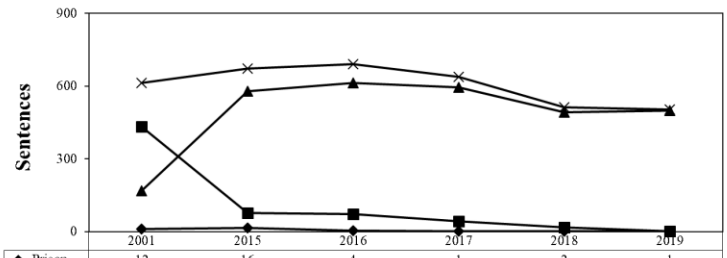
Felony DUI under K.S.A. 8-1567

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 was possible for an offender convicted of a fourth or subsequent DUI to serve time in prison in the event he/she violated 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 is to be served in jail regardless of the number of priors. There are no provisions for postrelease supervision by KDOC parole officers. Current felony crimes for DUI are found in K.S.A. 8-1567(b)(1)(D) and (E).

Figure 10 demonstrates the sentencing trends of felony DUI under K.S.A. 8-1567 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 2019, a total number of 504 sentences were convicted under this crime with 1 (0.2%) sentenced to prison, 3 (0.6%) sentenced to probation and 500 (99.2%) sentenced to county jail/post-imprisonment supervision. The total number of sentences for those convicted under the crime of felony DUI in FY 2019 decreased by 1.8% from that of FY 2018 and decreased by 17.9% over that of FY 2001. When compared to FY 2015, the number significantly decreased by 25.1%. Figure 11 displays the distribution of felony DUI convictions in FY 2019 by county. Johnson and Sedgwick counties were the top two counties imposing 143 (28.4%) and 56 (11.1%) sentences respectively under K.S.A. 8-1567(b)(1)(D) and (E) in FY 2019.

Figure 10: DUI Sentences

FY 2001, FY 2015 through FY 2019



	2001	2015	2016	2017	2018	2019
Prison	12	16	4	1	2	1
Probation	434	77	73	43	18	3
Jail/PIS*	168	580	614	595	493	500
Total	614	673	691	639	513	504

Fiscal Year

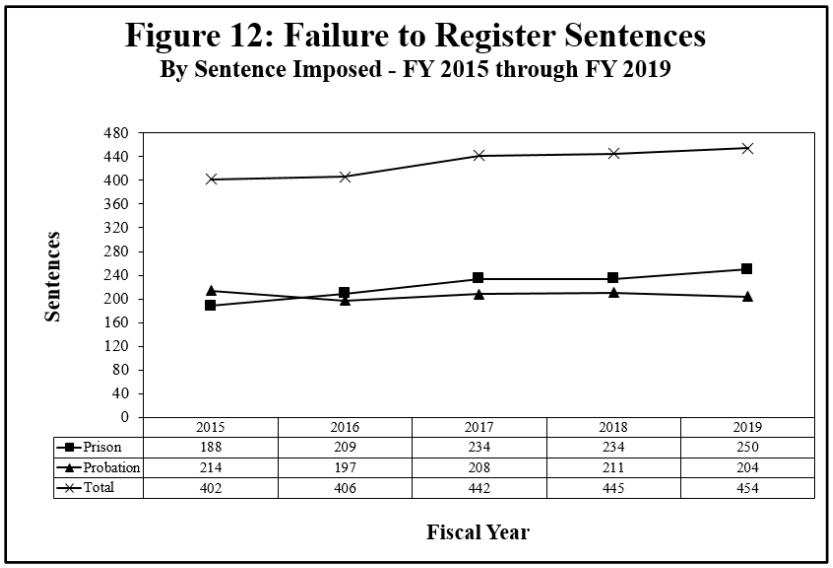
* FY 2019 Jail/PIS sentences include 3 county jail and 500 DUI or Test Refusal post-imprisonment supervission sentences.

Figure 11: FY 2019 DUI Offenses by County

Sentences for Failure to Register under the Kansas Offender Registration Act

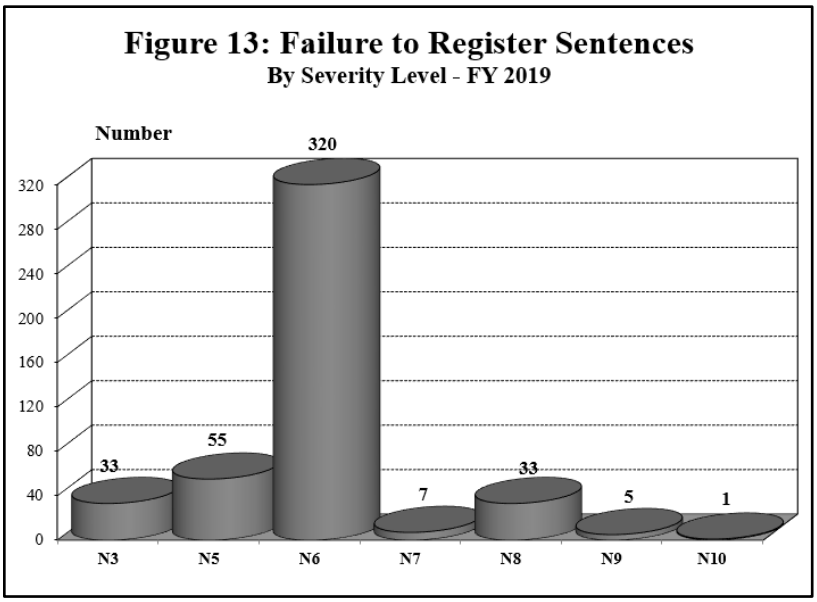
K.S.A. 22-4903 lists the penalty for a failure to register under the Kansas Offender Registration Act (KORA). The statute was amended to increase the penalty from a class A, nonperson misdemeanor to a severity level 10, nonperson felony during the 1999 Legislative Session. The penalty for the crime was 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 2019, four hundred and fifty-four sentences were reported under this crime, an increase of 2.0% when compared with FY 2018 and of 12.9% when compared with FY 2015. Of those 454 convictions, 250 were sentenced to prison and 204 were sentenced to probation. The findings indicates a decrease in the trend seen in the past five years (Figure 12).



	2015	2016	2017	2018	2019
Prison	188	209	234	234	250
Probation	214	197	208	211	204
Total	402	406	442	445	454

The distribution of the severity levels of the crime committed in FY 2019 is presented in Figure 13. Thirty-three (7.3%) convictions under this crime were sentenced at nondrug severity level 3, 55 (12.1%) were sentenced at nondrug severity level 5 and 320 (70.5%) were sentenced at nondrug severity level 6. Sentences at nondrug severity levels 7, 8, 9 and 10 were attempt convictions of the crime, representing 7 (1.5%), 33 (7.3%), 5 (1.1%) and 1 (0.2 %) convictions respectively.



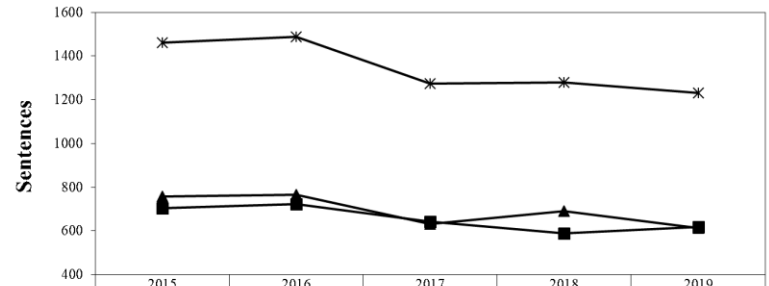
Burglary and Aggravated Burglary

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 the 2016 legislative session, HB 2462 amended 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: 159 in 2019, 180 in FY 2018, 137 in FY 2017, 130 in FY 2016, and 147 in FY 2015.

Figure 14 exhibits a varying trend of the burglary sentences in the past five years. The total number of burglary sentences in FY 2019 decreased by 47 from those of FY 2018 and by 229 from that of FY 2015. The number of prison sentences in FY 2019 increased by 31 sentences compared with FY 2018 and decreased by 84 sentences compared with FY 2015. The number of probation sentences decreased by 78 compared with FY 2018 and by 145 compared with FY 2015.

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 60.8% of burglary sentences imposed in FY 2019, 59.9% in FY 2018, 62.4% in FY 2017, 63.6% in FY 2016, and 65.9% in FY 2015.

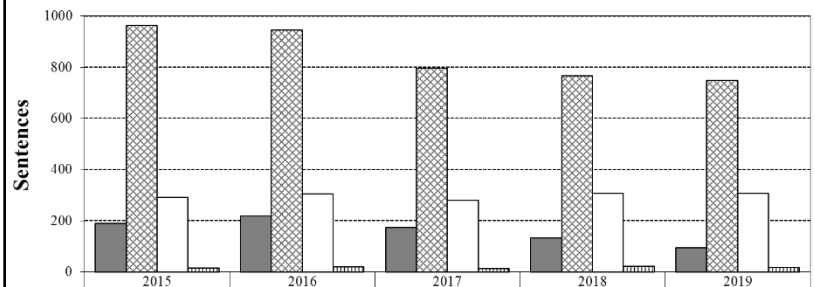
Figure 14: Burglary Sentences
By Sentence Imposed - FY 2015 through FY 2019



	2015	2016	2017	2018	2019
Prison	703	722	643	588	619
Probation	758	765	631	691	613
Total	1461	1487	1274	1279	1232

Fiscal Year

Figure 15: Burglary Sentences
By Severity Level - FY 2015 through FY 2019



	2015	2016	2017	2018	2019
N5	190	218	173	133	94
N7	963	945	795	766	749
N9	292	305	281	308	307
N10	16	19	12	23	17

Fiscal Year

In addition, FY 2019 includes 41 sentences at N4 and 27 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 2019, a total number of 485 sentences were designated by the court as domestic violence cases. This was an increase of 65 sentences or 15.5% compared with FY 2018 (420 sentences). Of the 485 sentences, 117 (24.1%) were sentenced to prison, 359 (74.0%) were sentenced to probation and 9 (1.9%) were sentenced to county jail. 91.8% of the offenders were male. White offenders accounted for 69.5%, black offenders accounted for 28.5% and offenders of other races represented 2.1%. Their average age at sentencing was 34.4 years old, which is close to that of FY 2018. Domestic battery (34.4%), aggravated battery (23.7%), criminal threat (19.2%), and aggravated assault (9.5%) were still the top four offenses committed by this group of offenders when compared with FY 2018.

Table 3: FY 2019 Most Serious Offenses Convicted by Designated Domestic Violent Offenders

Offense	Number	Percent
Aggravated Assault	46	9.5%
Aggravated Battery	115	23.7%
Aggravated Kidnapping/Kidnapping	4	0.8%
Aggravated Robbery	1	0.2%
Aggravated Burglary/Burglary	15	3.1%
Aggravated Sexual Battery of a Child	2	0.4%
Aggravated Intimidation of Witness/Victim	6	1.2%
Arson/Agg. Arson	2	0.4%
Criminal Damage to Property	4	0.8%
Criminal Threat	93	19.2%
Domestic Battery	167	34.4%
Murder in the First Degree	3	0.6%
Murder in the Second Degree	1	0.2%
Interference with Law Enforcement	2	0.4%
Robbery	2	0.4%
Stalking	17	3.5%
Other	5	1.0%
Total	**485**	100.0%

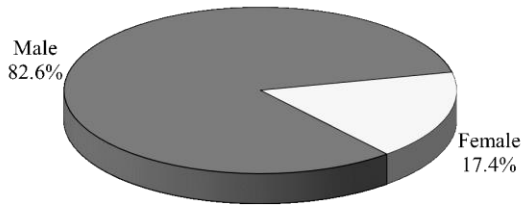
Note: Based on Kansas Sentencing Commission's sentencing data.

INCARCERATION SENTENCES

Characteristics of Offenders

During FY 2019, a total number of 6,388 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 82.6% of the offenders admitted to prison in FY 2019 (Figure 16).

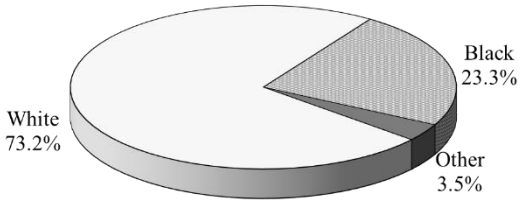
Figure 16: FY 2019 Incarceration Sentences by Gender of Offenders



Based on 6,388 incarceration sentences reporting gender of offenders

The analysis discloses that the racial distribution of offenders in FY 2019 does not fluctuate much when compared with FY 2018. White offenders accounted for 73.2%, black offenders accounted for 23.3% and other races represented 3.5% of the total admissions of FY 2019 (Figure 17).

Figure 17: FY 2019 Incarceration Sentences by Race of Offenders

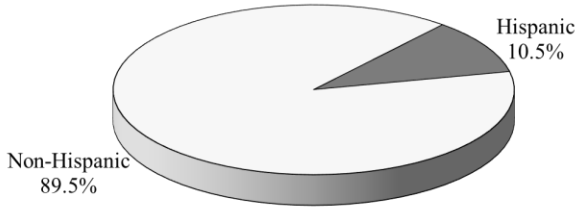


Based on 6,388 incarceration sentences reporting race of offenders

Figure 18 displays that non-Hispanic offenders accounted for 89.5% of the offenders sentenced to prison, an increase of 0.7% compared with FY 2018. The overall distributions of the offenders by gender, race and ethnicity are comparatively constant compared with those of the past five years.

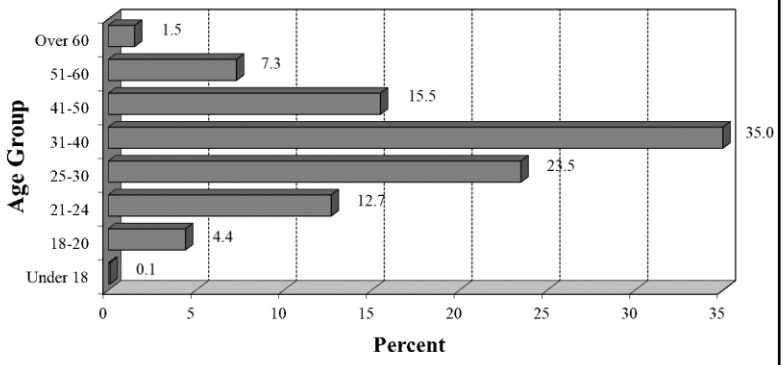
Figure 19 demonstrates the distribution of offenders' age at admission in FY 2019. The largest number of incarcerated offenders were found in their thirties (35.0%) at the time of admission to prison. The second largest number of offenders were in the age group ranging from 25 to 30 years old representing 23.5% of the total admission in FY 2019. This age distribution pattern is consistent with the age data observed in FY 2018.

Figure 18: FY 2019 Incarceration Sentences by Ethnicity of Offenders



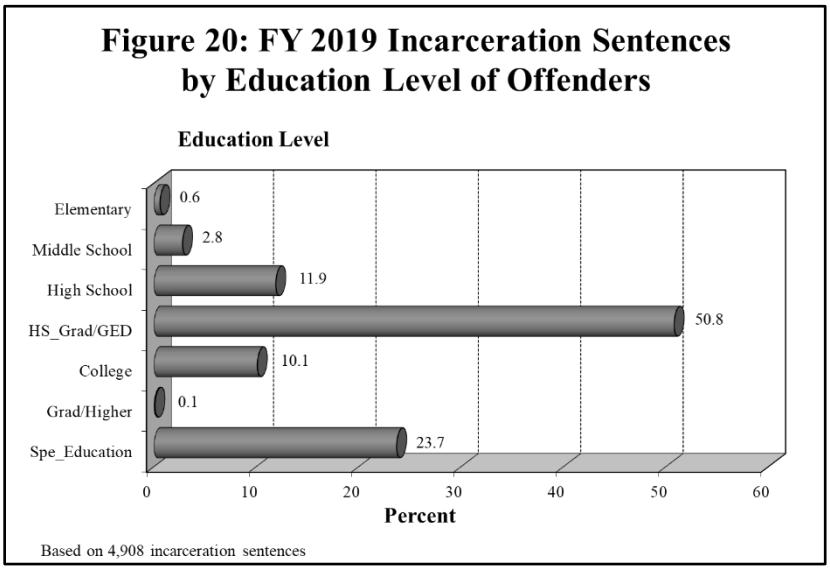
Based on 6,388 incarceration sentences reporting ethnicity of offenders

Figure 19: FY 2019 Incarceration Sentences by Age of Offenders at Admission



Based on 6,388 incarceration sentences reporting age of offenders

Figure 20 presents the education levels of the offenders admitted to prison during FY 2019. The analysis indicates that 50.8% 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 2018.



Incarceration Nondrug Offenses

In FY 2019, nondrug offenders admitted to prison represented 66.3% (4,237 offenders) of the total incarceration sentences (6,388) of the fiscal year. The top ten nondrug offenses were burglary (546), aggravated battery (461), theft (390), failure to register (250), aggravated assault (189), criminal threat (186), fleeing and eluding (170), possession of a firearm (159), aggravated robbery (151), and forgery (146). These top ten crimes accounted for 58.2% of the total nondrug crimes committed by the offenders admitted to prison in FY 2019 (Table 4).

When reviewing the offenders by gender, the data shows that male offenders committed more than 85% of the top ten crime categories, except burglary, 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, forgery, theft, obstruction of legal process, aggravated assault on LEO, fleeing or eluding LEO, aggravated escape from custody, criminal damage to property, trafficking contraband and most sex offenses. Nevertheless, black offenders were incarcerated more often (over 40%) for the crimes of aggravated robbery, robbery, possession of a firearm, aggravated intimidation of a witness, aiding a felon, indecent solicitation of a child, unlawful sexual relations, and voluntary manslaughter. The average age of the nondrug offenders was 34.5 years old at the time of admission to prison in FY 2019, which is very consistent with those of the past three fiscal years (Table 4).

Table 4: FY 2019 Incarceration Nondrug Offender Characteristics by Type of Offense – 1

Offense Type	Number Of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Abuse of Child	11	72.7	27.3	81.8	9.1	9.1	34.5
Agg. Arson	18	55.6	44.4	66.7	27.8	5.6	36.1
Agg. Assault	189	93.1	6.9	60.8	32.3	6.9	33.4
Agg. Assault on LEO	48	89.6	10.4	75.0	20.8	4.2	33.6
Agg. Battery	461	90.2	9.8	65.1	30.2	4.8	33.9
Agg. Battery on LEO	9	100.0	0.0	77.8	22.2	0.0	31.1
Agg. Burglary	73	83.6	16.4	65.8	31.5	2.7	33.4
Agg. Criminal Sodomy w/Child	27	100.0	0.0	77.8	18.5	3.7	38.7
Agg. Endangering a Child	18	50.0	50.0	88.9	11.1	0.0	35.2
Agg. Escape from Custody	40	82.5	17.5	72.5	25.0	2.5	34.7
Agg. Indecent Liberties w/Child	135	96.3	3.7	79.3	14.1	6.7	36.5
Agg. Indecent Solicit w/Child	24	95.8	4.2	91.7	4.2	4.2	34.8
Agg. Intimidation of a Victim	20	90.0	10.0	55.0	45.0	0.0	30.0
Agg. Kidnapping	12	91.7	8.3	100.0	0.0	0.0	35.5
Agg. Robbery	151	94.0	6.0	46.4	50.3	3.3	32.0
Agg. Sexual Battery	37	100.0	0.0	73.0	27.0	0.0	37.6
Aid Felon	6	66.7	33.3	33.3	66.7	0.0	26.7
Arson	23	78.3	21.7	82.6	13.0	4.3	37.9
Battery on LEO	63	76.2	23.8	55.6	36.5	7.9	33.5
Burglary	546	84.6	15.4	77.7	17.9	4.4	33.4
Criminal Damage to Property	29	96.6	3.4	72.4	24.1	3.4	34.6
Criminal Discharge of Firearm	26	100.0	0.0	69.2	30.8	0.0	29.0
Criminal Sodomy w/Child	10	80.0	20.0	70.0	30.0	0.0	29.2
Criminal Threat	186	91.4	8.6	68.3	28.5	3.2	36.1
Criminal Use of Financial Card	4	75.0	25.0	25.0	75.0	0.0	22.9
Domestic Battery	64	100.0	0.0	64.1	31.3	4.7	34.1
Electronic Solicitation of Child	11	100.0	0.0	100.0	0.0	0.0	34.6
Failure to Register	250	88.0	12.0	63.6	31.6	4.8	38.6
Failure to Remain at an Accident	5	100.0	0.0	80.0	20.0	0.0	39.9
Fleeing or Eluding LEO	170	92.4	7.6	70.0	21.8	8.2	33.5
Forgery	150	68.0	32.0	78.0	20.7	1.3	36.5
False Writing	37	83.8	16.2	75.7	24.3	0.0	37.9
Giving Worthless Checks	7	42.9	57.1	71.4	28.6	0.0	51.3
Identity Theft	79	65.8	34.2	69.6	25.3	5.1	34.7

Table 4: FY 2019 Incarceration Nondrug Offender Characteristics by Type of Offense – 2

Offense Type	Number Of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Indecent Liberties w/Child	23	100.0	0.0	91.3	8.7	0.0	35.0
Indecent Solicitation of Child	8	100.0	0.0	50.0	50.0	0.0	33.3
Involuntary Manslaughter	27	88.9	11.1	66.7	33.3	0.0	31.7
Kidnapping	37	91.9	8.1	67.6	32.4	0.0	31.9
Lewd and Lascivious Behavior	7	100.0	0.0	85.7	14.3	0.0	30.4
Murder in the First Degree	68	88.2	11.8	64.7	32.4	2.9	37.7
Murder in the Second Degree	65	84.6	15.4	67.7	29.2	3.1	33.6
Obstructing Legal Process	90	92.2	7.8	76.7	21.1	2.2	34.9
Possession of Firearm	159	99.4	0.6	52.2	45.3	2.5	33.1
Rape	66	100.0	0.0	65.2	27.3	7.6	38.5
Robbery	140	90.0	10.0	52.1	45.7	2.1	28.5
Sex Exploitation of a Child	29	96.6	3.4	72.4	24.1	3.4	38.7
Tamper w/Electronic Monitor	42	69.0	31.0	71.4	26.2	2.4	34.6
Stalking	10	100.0	0.0	90.0	10.0	0.0	51.4
Theft	390	73.8	26.2	74.4	24.4	1.3	36.0
Trafficking Contraband	70	58.6	41.4	84.3	11.4	4.3	33.0
Unlawful Voluntary Sex Relation	4	100.0	0.0	50.0	50.0	0.0	22.2
Voluntary Manslaughter	11	81.8	18.2	54.5	45.5	0.0	29.9
Weapons/Agg. Weapon Violation	7	85.7	14.3	71.4	0.0	28.6	34.7
Other	45	80.0	20.0	64.4	35.6	0.0	33.3
TOTAL	**4,237**	**3,660**	**577**	**2,916**	**1,161**	**160**	**34.5**

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

Incarceration Drug Offenses

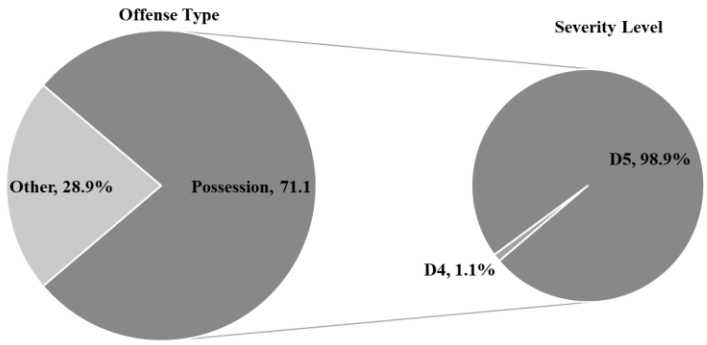
A new drug sentencing grid with five severity levels has been adopted since July 1, 2012. The crimes of drug possession convicted under K.S.A. 21-5706 are reclassified to drug severity level 5. The felony crimes of drug distribution or possession with intent to distribute the drugs convicted under K.S.A. 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 2019 is the seventh year of implementing the new drug sentencing grid. The majority of drug sentences are imposed under the new drug sentencing grid.

During FY 2019, a total number of 2,151 drug offenders were admitted to prison, representing 33.7% of the total admissions to the state correctional facilities. Of this total number, 71.1% were incarcerated for convictions of drug possession offenses, indicating an increase of 0.6% compared with that of FY 2018 (70.5%). Approximately 1.1% of the drug possession offenders were found at drug severity level 4. Offenders at drug severity level 5 accounted for 98.9% of the drug possession group. The percentage of offenders admitted at drug severity level 5 increased by 0.9% over that of FY 2018 (98.0%) after higher increases of the years before, which reflects the implementation of the new drug sentencing grid (Figure 21).

In FY 2019, male offenders represented 75.2% 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 drug distribution. The average age of drug offenders was 35.6 years old at admission to prison, very close to that observed in FY 2018 (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 2019 Incaceration Drug Sentences by Offense and Level



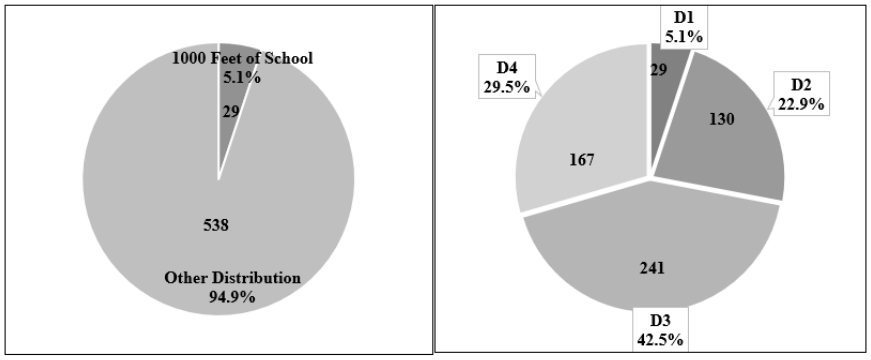
Based on 2,151 Incaceration Drug Sentences

Table 5: FY 2019 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	1,529	73.9	26.1	82.8	14.1	3.1	36.0
Drugs; Distribution/Sale	567	78.5	21.5	78.7	18.9	2.5	34.6
Unlawful Manufacture Controlled Substance	20	85.0	15.0	100.0	0.0	0.0	37.0
Possession of Paraphernalia	25	68.0	32.0	88.0	8.0	4.0	33.0
Possession of Precursor Drugs	7	85.7	14.3	100.0	0.0	0.0	36.9
Other	3	66.7	33.3	33.3	33.3	33.3	55.7
TOTAL	**2,151**	**75.2**	**24.8**	**81.9**	**15.2**	**2.9**	**35.6**

Five hundred sixty-seven offenders (26.4%) were admitted to prison for the crimes of drug distribution or possession with intent to distribute in FY 2019. Of this number, 29 or 5.1% occurred within 1,000 feet of school property. The largest number of the offenders was at drug severity level 3, accounting for 241 or 42.5% of the offenders convicted of drug distribution or possession with intent to distribute (Figure 22).

Figure 22: FY 2019 Incarceration Drug Sentences Distribution offenses and Severity Level



Based on 567 incarcerated 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 2019, representing 31.0% of the total admissions. The percentage of this group increased by 0.1% compared with that of FY 2018 (30.9%).

Thirty-nine percent of all offenders admitted to state correctional facilities in FY 2019 were condition violators, including probation condition violators and parole/postrelease condition violators. The group of condition violators increased by 0.2% when compared with that of FY 2018 (38.8%). Sanctions from probation violation accounted for 18.6%, which is an increase of 0.3% when compared with that of FY 2018 (18.3%). 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 2019.

Violators with new sentences, including probation violators with new sentences, parole/postrelease violators with new sentences and conditional release violators with new sentences, accounted for 9.4%, a decrease of 0.7% from the percentage of this group of violators (10.1%) in FY 2018.

Table 6: Distribution of FY 2019 Incarceration Sentences by Admission Type

Admission Type	Number of Cases	Percent
New Court Commitment	1,982	31.0%
Sanction from Probation	1,186	18.6%
Probation Condition Violator	1,402	21.9%
Probation Violator with New Sentence/New Conviction	423	6.6%
Inmate Received on Interstate Compact	4	0.1%
Parole/Postrelease/CR Condition Violator	1,091	17.1%
Parole/Postrelease Violator with New Sentence	182	2.8%
Paroled to Detainer Returned with New Sentence	83	1.3%
Other	35	0.5%
TOTAL	**6,388**	100.0%

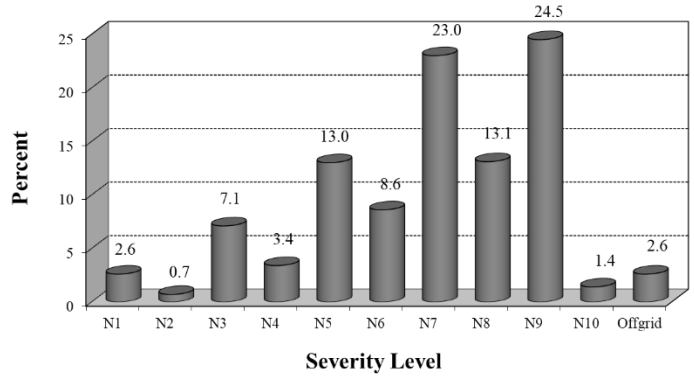
Table 7 displays the distribution of all incarcerated offenders admitted in FY 2019 by offense severity level and gender. The highest percentages (13% or over) of all nondrug offenders are found at severity levels 5, 7, 8 and 9 (Figure 23). This severity level distribution of nondrug incarcerated offenders remained constant in the past five years. The examination of drug offenders indicates that 8.6% of all drug offenders fell at drug severity level 4 and 71.5% 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 (24.8% vs. 13.6%). The highest percentages of female offenders were found at drug severity levels 3 and 4 (both 28.4%) and nondrug severity level 8 (18.9%). The highest percentage rates of male offenders were identified at drug severity level 1 (88.0%) and nondrug severity level 1 (95.7%).

Table 7: Distribution of FY 2019 Incarceration Sentences By Severity Level and Gender*

Severity Level	Number	Percent	Gender (%)	
			Male	Female
Drug				
D1	50	2.3	88.0	12.0
D2	134	6.2	71.6	28.4
D3	245	11.4	81.6	28.4
D4	185	8.6	77.8	22.2
D5	1,537	71.5	73.7	26.3
Subtotal	**2,151**	100	**75.2**	**24.8**
Nondrug				
N1	115	2.6	95.7	4.3
N2	29	0.7	82.8	17.2
N3	299	7.1	93.0	7.0
N4	145	3.4	89.7	10.3
N5	550	13.0	88.0	12.0
N6	364	8.6	83.5	16.5
N7	974	23.0	88.3	11.7
N8	555	13.1	81.1	18.9
N9	1,037	24.5	83.6	16.4
N10	60	1.4	85.0	15
Off-grid	109	2.6	93.6	6.4
Subtotal	**4,237**	**100**	**86.4**	**13.6**
TOTAL**	**6,388**	**100**	**82.6**	**17.4**

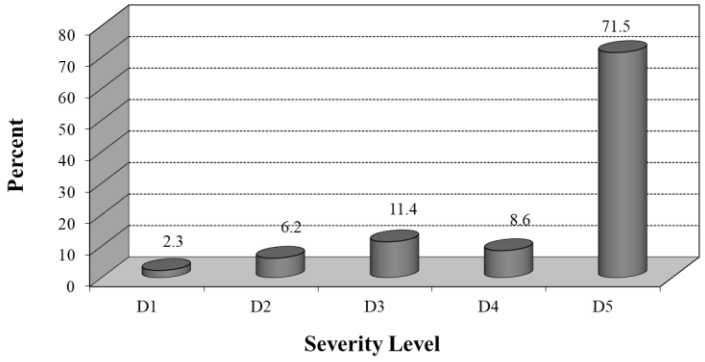
* Based on 2,151 drug offenders and 4,237 nondrug offenders.

Figure 23: FY 2019 Incarceration Sentences Nondrug Offenders by Severity Level



Based on 4,237 nondrug offenders

Figure 24: FY 2019 Incarceration Sentences Drug Offenders by Severity Level



Based on 2,151 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 2018 and FY 2019. This group of offenders includes 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 decreased by 6 (0.9%) compared with FY 2018. The admissions at drug severity levels 1 increased by 9 (50.0%), by 35 (60.3%) at drug severity level 2 and by 8 (6.5%) at severity level 3. The number of drug offenders decreased by 32 (27.6%) at drug severity level 4 and by 26 (.6.9%) at severity level 5 compared with FY 2018. The average LOS decreased by 16.4 months a drug severity level 1 and by 6.9 months at severity level 2, but increased by 2.6 months at severity levels 3 and 4 and by 0.7 months at severity level 5 compared with FY 2018. The analysis of nondrug new commitments indicates that the total number in FY 2019 decreased by 70 (4.1%) when compared with FY 2018. The admissions decreased by 30 at nondrug severity level 1, by 5 at severity level 2, by 23 at severity level 3, by 5 at severity level 4, by 21 at severity level 5 and by 18 at severity level 9. However, the admissions increased at all other levels including by 8 at severity level 7, by 3 at severity level 8 and by 9 at severity level 10. The average LOS in FY 2019 was reduced by 90.5 months at nondrug severity level 2, by 3.6 months at severity level 3, by 1.5 months at severity level 4 and by 1.4 months at severity level 6. The average LOS increased by 100.8 months at severity level 1 and by 0.5 months at severity level 5, by 2.8 months at severity level 8 and by 0.3 months at severity level 10 when compared with FY 2018.

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

Severity Level	FY 2018*		FY 2019*	
	Admission #	Average LOS	Admission #	Average LOS
D1	18	123.3	27	106.9
D2	58	91.1	93	84.2
D3	123	58.1	131	60.7
D4	116	31.0	84	33.6
D5	378	29.4	352	30.1
N1	99	244.5	69	345.3
N2	19	195.6	14	105.1
N3	175	113.6	152	110
N4	88	64.4	83	62.9
N5	276	60.6	255	61.1
N6	142	40.0	154	38.6
N7	334	35.1	342	37.9
N8	175	19.0	178	20.5
N9	363	15.4	345	16.1
N10	23	10.8	32	11.1
Total	**2,387**	**N/A**	**2,311**	**N/A**

*Sanction probation violators are excluded.

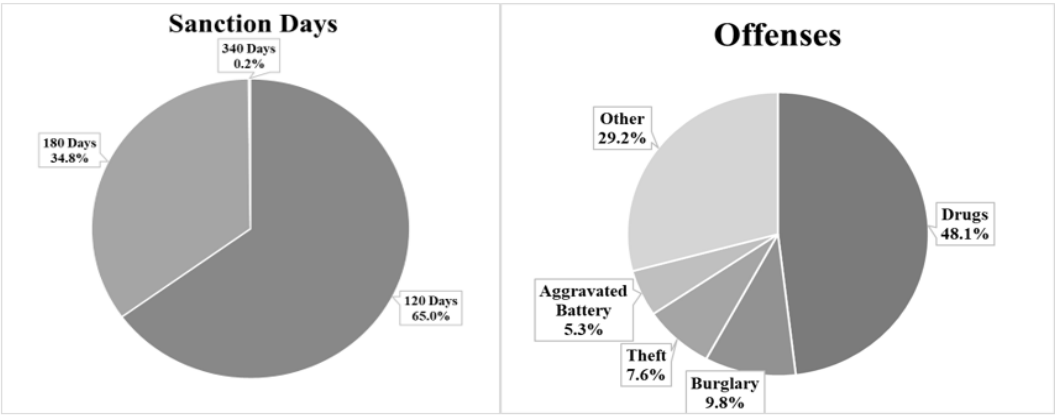
Prison Admissions of Sanction from Probation

House Bill 2170 was passed in the 2013 Legislative Session, which was introduced as a result of the Kansas Justice Reinvestment Working Group. The bill's purpose was to increase public safety, reduce recidivism and curb spending. The bill made numerous changes to sentencing, probation and postrelease supervision statutes, which presented comprehensive changes in the criminal justice system as it relates to sentencing procedure and practice. Graduated sanctions for probation condition violators was 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 had at least one intermediate sanction of confinement in jail, the bill allowed the court to remand the defendant to the custody of KDOC for a period of 120 or 180 days. The bill also provided that the 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 1,186 probation condition violators were ordered to prison as a sanction from probation during FY 2019, a decrease of 11 violators (0.9%) compared with FY 2018 (1,197 violators). Of those 1,186 violators, 771 offenders (65.0%) were remanded for 120 sanction days, 413 offenders (34.8%) were remanded for 180 sanction days and 2 offenders (0.2%) were remanded for 360 days in KDOC. The top four offenses convicted by this group were drug crimes (48.1%), burglary (9.8%), theft (7.6%) and aggravated battery (5.3%). The majority of the group were males accounting for 73.0% and female offenders comprising 27.0% of the group. White offenders represented 76.4%, black offenders consisted of 20.7% and other races consisted of 2.9%. The average age of the offenders was 34.1.

Figure 25: FY 2019 Sanction from Probation Incarceration Sentences



Based on 1,186 sanction from sentences.

The admission of the offenders of sanction from probation by county is presented in Table 9. Sedgwick County imposed the largest number of sanctions from probation (245 or 20.7%), followed by Johnson (111 or 9.4%), Saline (93 or 7.8), Shawnee (79 or 6.7%) and Wyandotte (73 or 6.2%) counties.

Table 9: FY 2019 Sanction from Probation Incarceration Sentences Imposed by County

County	Number	Percent	County	Number	Percent
Allen	3	0.3	Linn	3	0.3
Anderson	3	0.3	Logan	2	0.2
Atchison	14	1.2	Lyon	32	2.7
Barton	15	1.3	Marion	3	0.3
Bourbon	12	1.0	Marshall	3	0.3
Brown	5	0.4	McPherson	19	1.6
Butler	17	1.4	Meade	2	0.2
Chase	3	0.3	Miami	7	0.6
Cherokee	16	1.3	Mitchell	5	0.4
Clay	1	0.1	Montgomery	9	0.8
Cloud	6	0.5	Morris	1	0.1
Coffey	6	0.5	Nemaha	2	0.2
Cowley	13	1.1	Neosho	8	0.7
Crawford	34	2.9	Ness	1	0.1
Decatur	1	0.1	Norton	2	0.2
Dickinson	1	0.1	Osage	14	1.2
Doniphan	2	0.2	Ottawa	1	0.1
Douglas	17	1.4	Pawnee	3	0.3
Edwards	1	0.1	Pottawatomie	3	0.3
Ellis	23	1.9	Pratt	2	0.2
Ellsworth	1	0.1	Rawlins	1	0.1
Finney	33	2.8	Reno	64	5.4
Ford	22	1.9	Rice	8	0.7
Franklin	17	1.4	Riley	9	0.8
Geary	11	0.9	Rooks	1	0.1
Grant	1	0.1	Russell	5	0.4
Gray	1	0.1	Saline	93	7.8
Greenwood	2	0.2	Scott	3	0.3
Hamilton	1	0.1	Sedgwick	245	20.7
Harper	2	0.2	Seward	13	1.1
Harvey	16	1.3	Shawnee	79	6.7
Haskell	1	0.1	Sheridan	1	0.1
Hodgeman	1	0.1	Sherman	4	0.3
Jackson	7	0.6	Smith	1	0.1
Jefferson	2	0.2	Stafford	1	0.1
Jewell	2	0.2	Sumner	9	0.8
Johnson	111	9.4	Thomas	4	0.3
Kearny	2	0.2	Trego	1	0.1
Kingman	2	0.2	Wabaunsee	2	0.2
Kiowa	1	0.1	Wallace	2	0.2
Labette	13	1.1	Wichita	1	0.1
Leavenworth	2	0.2	Wyandotte	73	6.2
			Total	**1,186**	**100.0**

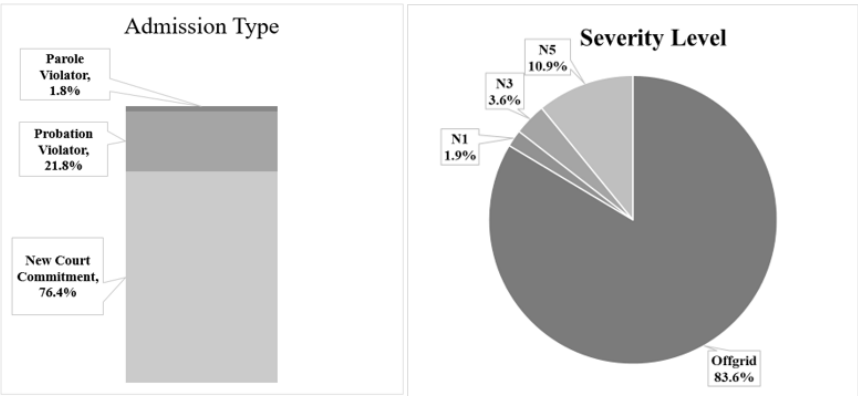
Jessica's Law Sentences

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 the 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 a mandatory minimum of a Hard 25 years for the first offense, a 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 2019, a total number of 55 offenders were sentenced and admitted to prison under Jessica's Law. Of this number, 42 (76.4%) were new court commitments, 12 (21.8%) were parole condition and 1 (1.8%) was a probation condition violator. While most jurisdictions identify the severity of these crimes as off-grid, 15 offenders received a downward departure on the nondrug grid. Of these 55 offenders, 46 offenders (83.6%) were sentenced at off-grid, 1 offender (1.9%) was sentenced at nondrug severity level 1, 2 offenders (3.6%) were sentenced at nondrug severity level 3 and 6 offenders (10.9 %) were sentenced at nondrug severity level 5. The analysis of the sentence length demonstrates that 45.2% of the sentences were downward departure to guidelines, a decrease of 8.5% compared with that of FY 2018 (53.7%). The average sentence length of the durational departures was 96.4 months, a decrease of 13.4 months from that observed in FY 2018 (109.8 months). The major departure reasons were: a plea agreement between parties, the defendant had no prior criminal history and the 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 (21) followed by Wyandotte (3), Montgomery (3) and Ford (3) counties.

Figure 26: FY 2019 Jessica's Law Incarceration Sentences



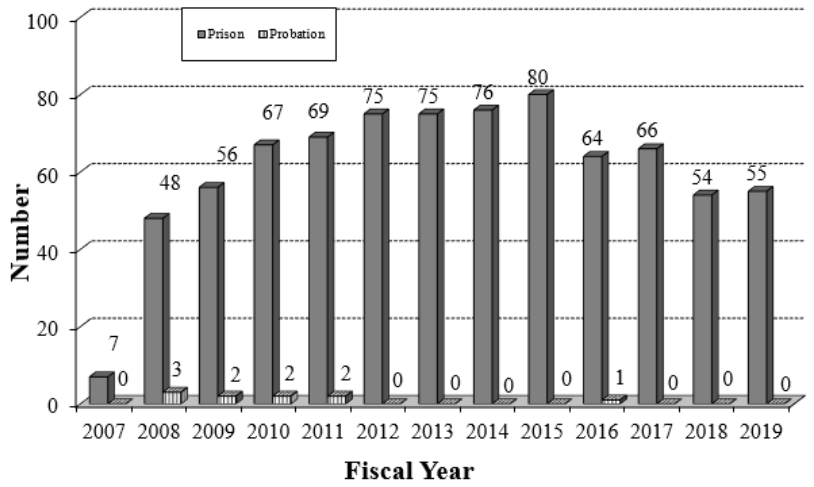
Based on 55 Jessica's Law incarceration sentences.

Table 10: FY 2019 Jessica's Law Incarceration Sentences Imposed by County

County	Number	County	Number
Coffey	2	McPherson	2
Cherokee	1	Nemaha	1
Douglas	1	Pratt	1
Ellsworth	1	Reno	2
Finney	2	Saline	1
Ford	3	Stafford	1
Greenwood	1	Sedgwick	21
Harvey	2	Shawnee	2
Johnson	1	Seward	1
Lyon	2	Wyandotte	3
Meade	1	Republic	1
Montgomery	3	Riley	2
Total		**55**	

Figure 27 presents the sentencing trend of Jessica's Law sentences in the past twelve years. The total number of Jessica's Law sentences imposed in FY 2019 was 55, an increase of 1 sentence compared with FY 2018 (54 sentences), but an increase of 48 sentences compared with FY 2007 (7 sentences). FY 2007 is the initial year for the implementation of Jessica's Law.

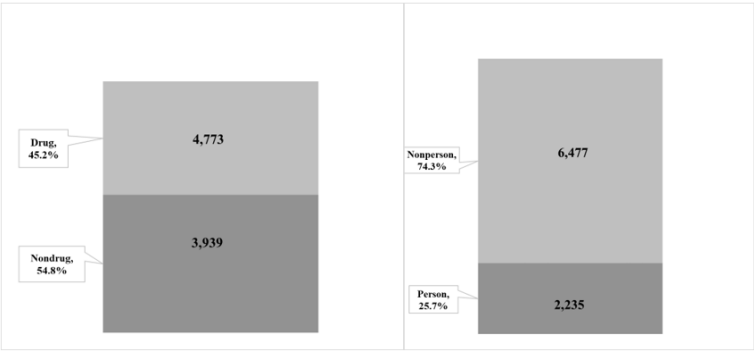
Figure 27: Jessica's Law Sentences Imposed
FY 2007 through FY 2019



PROBATION SENTENCES

During FY 2019, a total number of 8,712 probation sentences were reported to the Kansas Sentencing Commission, an increase of 570 sentences or 7.0% compared with FY 2018 (8,142 sentences). Of this number, 4,773 were nondrug sentences and 3,939 were drug sentences; nonperson offenses made up 74.3% and person offenses made up 25.7% (Figure 28). Figures 29 - 31 describe the demographic information of this offender group.

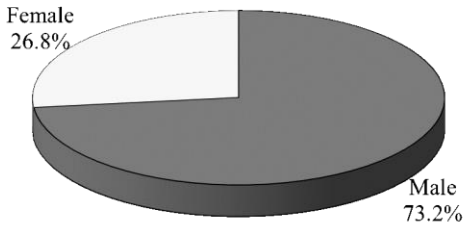
Figure 28: Distribution of FY 2019 Probation Sentences



Based on 8,712 probation cases

The gender analysis indicates that the distribution of FY 2019 probationers by gender does not fluctuate much from that of FY 2018. Male offenders accounted for 73.2% of all probation sentences imposed in FY 2019, a decrease of 0.1% compared with that observed (73.3%) in FY 2018 (Figure 29).

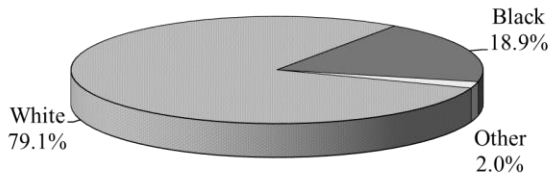
Figure 29: Distribution of FY 2019 Probation Sentences by Gender



Based on 8,711 sentences reporting gender of offenders

Figure 30 demonstrates that white offenders made up 79.1% of the probation sentences imposed in FY 2019, a decrease of 0.6% compared with that of FY 2018 (79.7%). The percentage of black offenders accounted for 18.9%, an increase of 0.8% compared with that of FY 2018 (18.1%). The percentage of offenders in other races represented 2.0%, a decrease of 0.8% compared with FY 2018 (2.8%).

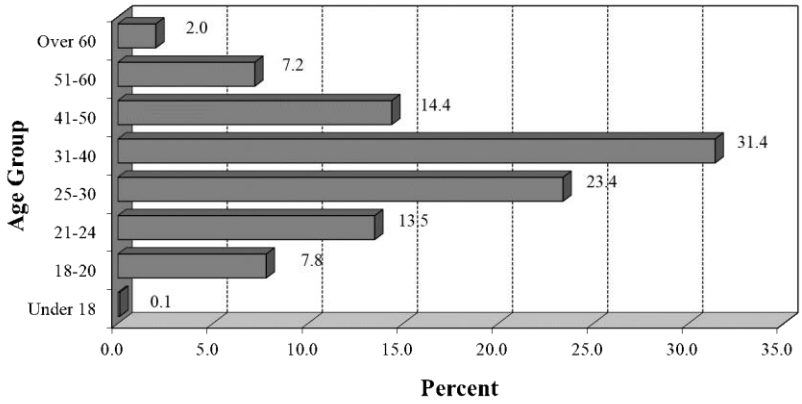
Figure 30: Distribution of FY 2019 Probation Sentences by Race



Based on 8,710 sentences reporting race of offenders

The examination of offenders by age indicates that the largest population of probation offenders was found in the age group ranging from 31 to 40 years old at the time of sentencing (31.4 %) and the second largest group was identified in the age group ranging from 25 to 30 (23.4%). This distribution indicated only a slight change from FY 2018 (Figure 31).

Figure 31: Distribution of FY 2019 Probation Sentences by Age



Based on 8,704 sentences reporting age of offenders at time of sentencing

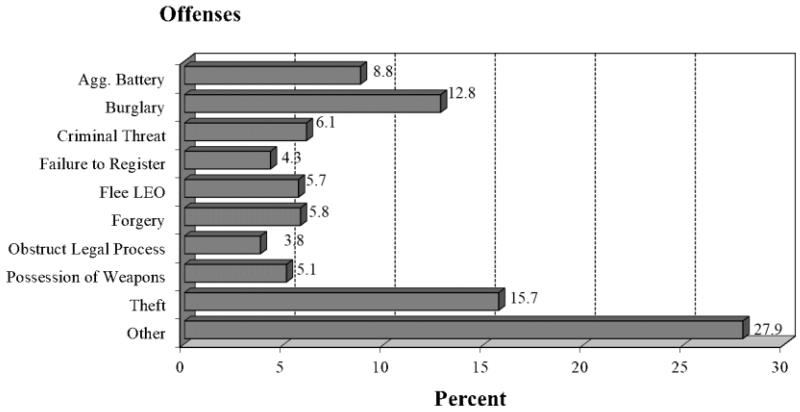
Type of Offense and Severity Level

In FY 2019, 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 72.1% of the total nondrug probation sentences in FY 2019 (Figure 32), a decrease of 1.2% from the previous year (73.3%). In reviewing drug offenders on probation, the largest number of sentences was possession of drugs, representing 77.8% of all probation drug offenses (Figure 33), an increase of 3.3% from FY 2018 (74.5%). Tables 11 and 12 present the characteristics of offenders sentenced to probation during FY 2019. Male offenders were convicted of over 90% of the sex offenses and 80% of violent crimes of probation sentences imposed in FY 2019 such as: aggravated assault, aggravated battery, burglary, criminal threat, domestic battery, fleeing or eluding LEO and possession of weapons and robbery. The highest percentages of female probation nondrug offenses (over 40%) included arranging the sale/purchase of drugs, forgery, identity theft, mistreatment of dependent adult and trafficking contraband.

White offenders represented 76.7% of all nondrug probation sentences and 82.0% of all drug offenders on probation in FY 2019. Black offenders on probation had a higher conviction rate for nondrug offenses than drug crimes (21.4% versus 15.8%). The average age at the time of committing an offense was 32.8 years old for nondrug offenders and 34.0 years old for drug offenders, which are very close to those observed in FY 2018 (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 (1,775 sentences or 37.2%). The majority of probation drug sentences were identified at drug grid severity level 5 (3,182 sentences or 80.8%). This distribution reflects the impact of the new drug sentencing grid as previously discussed.

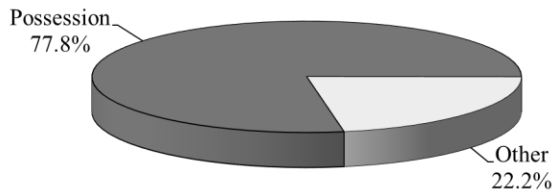
Figure 32: FY 2019 Top Ten Offenses for Probation Nondrug Sentences



Based on 4,773 probation nondrug sentences

The analysis of the drug probation sentences shows that the felony crimes of drug possession accounted for 77.8% of the total probation drug sentences imposed in FY 2019, an increase of 3.3% compared with that of FY 2018 (74.5%). These crimes included the offenses of possession of opiates or narcotics and possession of depressants, stimulants, hallucinogens, etc. for the second and subsequent offenses.

Figure 33: FY 2019 Probation Drug Sentences by Offense



Based on 3,939 probation drug sentences

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

			Gender (%)		Race (%)			Offense Age
Offense Type	**N**	**%**	**Male**	**Female**	**White**	**Black**	**Other**	**Mean**
Abuse of Child	14	0.29	78.6	21.4	71.4	21.4	7.1	29.4
Agg Arson	8	0.17	75.0	25.0	75.0	25.0	0.0	34.9
Agg Assault	193	4.04	83.9	16.1	75.1	21.8	3.1	33.0
Agg Assault on LEO	23	0.48	78.3	21.7	73.9	26.1	0.0	34.2
Agg Battery	422	8.84	82.5	17.5	75.4	22.3	2.4	32.7
Agg Battery on LEO	6	0.13	50.0	50.0	83.3	16.7	0.0	31.0
Agg Endangering a Child	48	1.01	68.8	31.3	87.5	12.5	0.0	30.5
Agg Escape from Custody	31	0.65	67.7	32.3	67.7	32.3	0.0	28.4
Agg Failure to Appear	21	0.44	71.4	28.6	76.2	23.8	0.0	30.3
Agg Ind Lib with a Child	10	0.21	100.0	0.0	90.0	10.0	0.0	25.6
Agg Ind Solicit with a Child	8	0.17	100.0	0.0	100.0	0.0	0.0	31.7
Agg Intimidation of a Victim	16	0.34	93.8	6.3	75.0	25.0	0.0	33.7
Agg. Interfere Parental Custody	6	0.13	83.3	16.7	83.3	16.7	0.0	38.8
Agg Robbery	22	0.46	81.8	18.2	50.0	50.0	0.0	24.8
Agg Sex Battery with Child	16	0.34	100.0	0.0	81.3	12.5	6.3	28.9
Agg. Weapons Violation	11	0.23	90.9	9.1	72.7	18.2	9.1	32.0
Aiding Felon	8	0.17	62.5	37.5	62.5	37.5	0.0	30.5
Animal Cruelty	4	0.08	100.0	0.0	75.0	0.0	25.0	35.7
Arrange Sale/Purchase Drug	17	0.36	52.9	47.1	94.1	0.0	5.9	32.5
Arson	22	0.46	100.0	0.0	100.0	0.0	0.0	31.1
Auto Failure to Remain	5	0.10	80.0	20.0	80.0	20.0	0.0	34.7
Battery on LEO	45	0.94	75.6	24.4	62.2	33.3	4.4	31.7

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

			Gender (%)		Race (%)			Offense Age
Offense Type	**N**	**%**	**Male**	**Female**	**White**	**Black**	**Other**	**Mean**
Breach of Privacy	10	0.21	100.0	0.0	80.0	20.0	0.0	40.4
Burglary	610	12.78	82.1	17.9	84.4	13.6	2.0	30.5
Computer Crime	16	0.34	68.8	31.3	68.8	12.5	18.8	39.4
Contribute Child Misconduct	8	0.17	87.5	12.5	87.5	12.5	0.0	29.4
Criminal Damage of Property	77	1.61	77.9	22.1	83.1	16.9	0.0	32.7
Criminal Discharge of Firearm	15	0.31	80.0	20.0	66.7	26.7	6.7	31.8
Criminal Threat	292	6.12	91.4	8.6	71.2	27.1	1.7	34.0
Criminal Use of Financial Card	12	0.25	66.7	33.3	75.0	25.0	0.0	35.8
Criminal Use of Explosives	7	0.15	100.0	0.0	100.0	0.0	0.0	41.2
Deface ID	5	0.10	100.0	0.0	60.0	40.0	0.0	21.8
Domestic Battery	180	3.77	95.6	4.4	70.6	27.8	1.7	32.2
Drug without Tax Stamps	11	0.23	81.8	18.2	81.8	18.2	0.0	25.7
Failure to Register	204	4.27	84.8	15.2	77.0	21.1	2.0	38.6
False Writing	73	1.53	61.6	38.4	80.8	17.8	1.4	32.3
Fleeing/Eluding LEO	274	5.74	86.9	13.1	73.7	25.5	0.7	31.1
Forgery	276	5.78	52.2	47.8	83.3	14.1	2.5	34.7
Electronic Solicitation of a Child	6	0.13	100.0	0.0	100.0	0.0	0.0	33.7
Giving Worthless Check	15	0.31	80.0	20.0	80.0	13.3	6.7	35.2
Identity Theft	178	3.73	50.0	50.0	71.3	28.1	0.6	32.3
Ind. Liberties with a Child	9	0.19	88.9	11.1	55.6	44.4	0.0	22.5
Ind. Solicitation with a Child	7	0.15	100.0	0.0	71.4	28.6	0.0	32.1
Involuntary Manslaughter	5	0.10	80.0	20.0	80.0	20.0	0.0	37.6
Lewd and Lascivious Behavior	6	0.13	100.0	0.0	100.0	0.0	0.0	35.0
Mistreatment of Dependent Adult	26	0.54	30.8	69.2	84.6	15.4	0.0	45.3
Obstruct Legal Process	182	3.81	69.8	30.2	75.3	21.4	3.3	31.9
Possession of Weapons	242	5.07	95.5	4.5	57.9	39.7	2.5	32.2
Promote Sale of Sex	4	0.08	100.0	0.0	50.0	50.0	0.0	34.2
Robbery	64	1.34	82.8	17.2	53.1	45.3	1.6	26.3
Sex Exploitation of a Child	29	0.61	100.0	0.0	93.1	6.9	0.0	38.7
Stalking	27	0.57	100.0	0.0	92.6	3.7	3.7	36.0
Tamper w/Electronic Monitor Equipment	28	0.59	50.0	50.0	85.7	14.3	0.0	31.1
Theft	748	15.67	64.4	35.6	80.7	18.4	0.7	33.8
Trafficking Contraband	62	1.30	54.8	45.2	77.4	19.4	3.2	34.7
Unlawful Sexual Relations	4	0.08	75.0	25.0	75.0	25.0	0.0	35.7
Unlawful Voluntary Sex Relation	18	0.38	100.0	0.0	66.7	33.3	0.0	18.9
Weapons Violations	19	0.40	94.7	5.3	78.9	21.1	0.0	27.7
Other	68	1.42	70.6	29.4	79.4	16.2	4.4	34.4
TOTAL	**4,773**	**100**	**77.0**	**23.0**	**76.7**	**21.4**	**1.8**	**32.8**

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			Gender (%)		Race (%)			Offense Age
	N	%	Male	Female	White	Black	Other	Mean
Drugs; Possession	3,066	77.8	66.3	33.7	84.6	13.4	2.0	34.7
Drugs; Distribution/Sale	751	19.1	75.9	24.1	72.4	24.7	2.9	31.6
Possession of Paraphernalia	109	2.8	80.7	19.3	78.0	21.1	0.9	30.9
Distribution of Paraphernalia	3	0.1	66.7	33.3	100.0	0.0	0.0	35.4
Receiving Drug Proceeds	8	0.2	100.0	0.0	25.0	62.5	12.5	26.7
Other	2	0.1	50.0	50.0	100.0	0.0	0.0	25.7
TOTAL	**3,939**	**100**	**68.5**	**31.4**	**82.0**	**15.8**	**2.2**	**34.0**

Table 13: Characteristics of Probation Nondrug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age
			Male	Female	White	Black	Other	Mean
N1	4	0.1	75.0	25.0	75.0	25.0	0.0	22.7
N2	1	0.0	100.0	0.0	0.0	100.0	0.0	20.7
N3	44	0.9	93.2	6.8	72.7	27.3	0.0	32.1
N4	65	1.4	75.4	24.6	70.8	29.2	0.0	31.8
N5	262	5.5	83.2	16.8	79.0	19.5	1.5	32.1
N6	292	6.1	80.8	19.2	78.1	20.2	1.7	35.8
N7	1142	23.9	81.8	18.2	77.2	20.5	2.3	32.4
N8	986	20.7	68.2	31.8	73.4	24.3	2.2	32.8
N9	1,775	37.2	76.5	23.5	78.7	20.0	1.4	32.7
N10	150	3.1	76.7	23.3	74.0	23.3	2.7	32.7
Nongrid	52	1.1	92.3	7.7	63.5	32.7	3.8	34.0
TOTAL	**4,773**	**100**	**77.0**	**23.0**	**76.7**	**21.4**	**1.8**	**32.8**

Table 14: Characteristics of Probation Drug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age
			Male	Female	White	Black	Other	Mean
D1	12	0.3	83.3	16.7	100.0	0.0	0.0	30.1
D2	138	3.5	73.0	27.0	76.6	16.8	6.6	33.0
D3	235	6.0	75.7	24.3	69.4	27.2	3.4	32.1
D4	372	9.4	76.9	23.1	71.2	27.4	1.3	31.0
D5	3,182	80.8	66.8	33.2	84.4	13.6	2.0	34.5
TOTAL	**3,939**	**100.0**	**68.5**	**31.4**	**82.0**	**15.8**	**2.2**	**34.0**

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. The program has been expanded to include those convicted under K.S.A. 21-5705 who meet eligibility requirements.

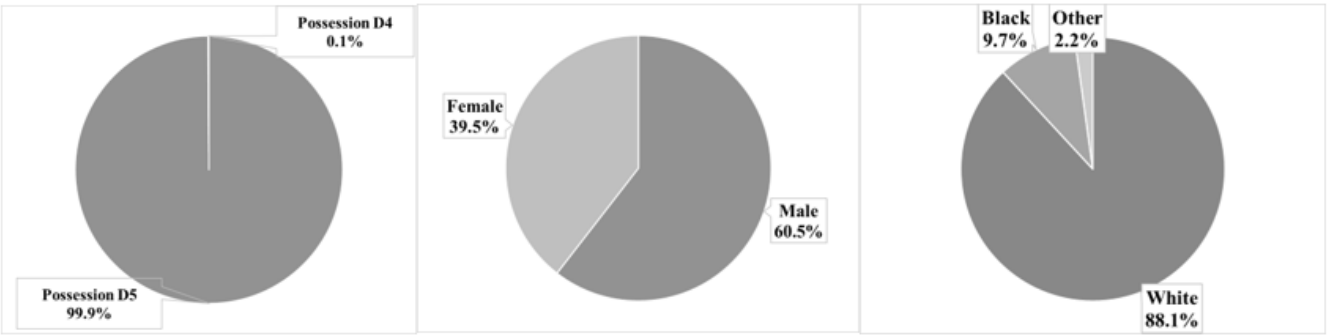
During FY 2019, Kansas courts ordered offenders in 1,477 sentences to SB 123 drug abuse treatment programs, representing 37.5% of the total drug probation sentences (3,939), an increase of 1.8% compared with that of FY 2018 (35.7%). Ninety-nine-point nine percent (1,476 cases) were for drug possession under K.S.A. 21-5706 (formerly 21-36a06 or 65-4160 or 65-4162) and 0.1% (1 case) was for distribution. Senate Bill 18 passed, following the 2019 legislative session, made offenders convicted of small sales (SL 4) eligible for SB 123 if they meet program criteria. Thus, the number of offenders on SB 123 convicted of drug distribution will likely increase in the upcoming years.

The evaluation of the criminal history of the offenders demonstrates that 77.7% of offenders were in the criminal history categories E through I, a decrease of 0.4% when compared with that of FY 2018 (78.1%). This data implies that the policy of SB 123 was implemented very consistently during FY 2018.

A summary of the offenders sentenced to SB 123 treatment programs in FY 2019 is provided in Figure 34. The offenders convicted of the crime of drug possession at drug severity level 5 represented all of this population, 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 (88.1%). The average age of the drug treatment offenders was 33.8 years old at sentencing, very close to that of FY 2018 (33.3). Figure 35 demonstrates the distribution of SB 123 drug treatment sentences imposed in FY 2019 by county. Sedgwick County imposed the most SB 123 sentences (165) followed by Johnson (122), Shawnee (121), Reno (81) and Saline (77) counties. No SB 123 sentences were reported from 24 counties. The average number of SB 123 sentences imposed by the 81 counties is 18, an increase of 2 sentences compared with that of FY 2018 (16 sentences).

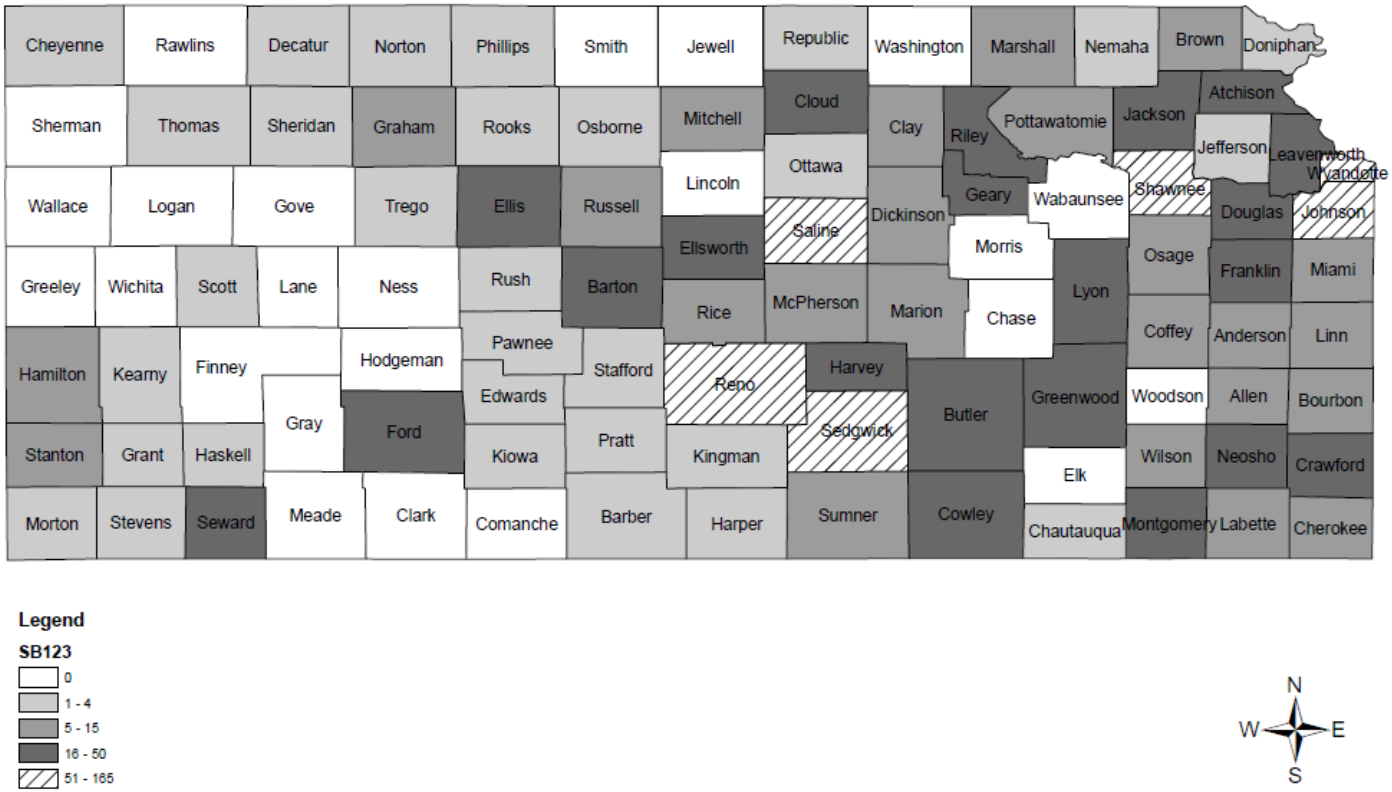
In addition, 1,459 SB 123 drug treatment sentences were violated as probation condition violators in FY 2019. Of this number, 367 sentences were revoked to prison, representing 24.8% of SB 123 sentences imposed (1,477 sentences) in FY 2019, a decrease of 3.1% from that of FY 2018 (27.9%). The average period between original sentence and revocation hearing was 14.8 months, 24 days less than that of FY 2018 (15.6 months).

Figure 34: Distribution of FY 2019 Senate Bill 123 Drug Treatment Sentences



Based on 1,477 SB 123 Sentences

Figure 35: Distribution of SB 123 Drug Treatment Sentences Imposed by County - FY 2019



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 99.5% of all the probation sentences (8,712) reported to the Commission in FY 2019, which is 0.3% higher than the rate of FY 2018 (99.2%). The largest number of this group fell within criminal history category I (23.5% or 2,038 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 23.1% of offenders on the nondrug grid and 24.0% of offenders on the drug grid.

The review of the presumptive probation boxes discloses that nondrug offenders within the presumptive probation boxes made up 78.8% (Table 15), very close to that of FY 2018 (79.5%). The analysis of the border box sentences reveals that 4.6% 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 2019 increased by 0.1% when compared with that of FY 2018 (4.5%).

The study on drug sentences by presumptive probation and border box resumes in FY 2019. The drug offenders within presumptive probation sentences accounted for 60.3% and the drug offenders within the border box represented 21.8% of the probationers sentenced during FY 2019.

Tables 15 and 16 present the probation terms of probation sentences by severity level. The average length of probation for nondrug offenders was 18.7 months, which is three days longer than that of FY 2018 (18.6 months). The average length of probation for drug offenders was 17.5 months, which is 15 days less than that of FY 2018 (17.8 months).

Figure 36: Distribution of FY 2019 Probation Sentences by Criminal History
Nondrug and Drug Sentences

Based on 8,669 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	4	0	0	0	1	0	0	0	0	3	36.0
N2	1	0	0	0	0	1	0	0	0	0	36.0
N3	43	2	3	7	1	2	1	6	7	14	37.5
N4	65	5	4	5	4	4	5	6	8	24	36.3
N5	262	8	10	22	20	13	6	25	32	126	35.4
N6	292	24	23	37	25	32	12	58	28	53	23.9
N7	1,141	41	62	160	108	95	66	118	192	299	23.6
N8	986	40	59	144	62	184	79	129	104	185	17.7
N9	1,775	71	118	280	118	267	152	190	224	355	12.4
N10	150	6	7	21	8	30	11	18	14	35	12.2
Nongrid	63	3	4	2	1	0	0	1	1	1	13.0
TOTAL	**4,782**	**200**	**290**	**678**	**348**	**628**	**332**	**551**	**610**	**1,095**	**18.7**

Note: Criminal history classes are based on 4,732 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	12	1	2	2	0	1	0	2	0	4	40.0
D2	138	5	3	13	1	20	23	19	19	35	35.7
D3	234	5	7	22	10	16	20	30	30	94	35.2
D4	372	6	10	17	13	35	24	46	45	176	18.3
D5	3,181	119	153	401	133	505	276	520	440	634	15.1
TOTAL	**3,937**	**136**	**175**	**455**	**157**	**577**	**343**	**617**	**534**	**943**	**17.5**

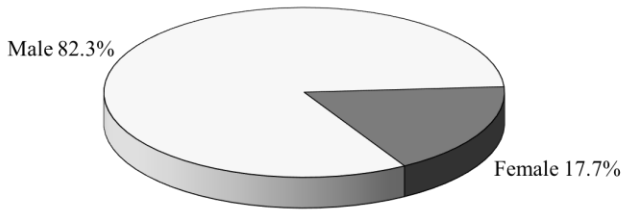
Note: Criminal history classes are based on 3,937 cases reporting criminal history category.
Legend:

Presumptive Prison	Border Boxes	Presumptive Probation

DUI POST-IMPRISONMENT SUPERVISION AND COUNTY JAIL SENTENCES

In FY 2019, a total number of 514 DUI PIS and county jail sentences were reported to the Commission. Of this number, DUI PIS accounted for 88.9% (457 sentences) and county jail accounted for 11.1% (57 sentences). Female offenders made up 17.7% and male offenders accounted for 82.3%. The gender distribution remains consistent when compared with FY 2018 (Figure 37).

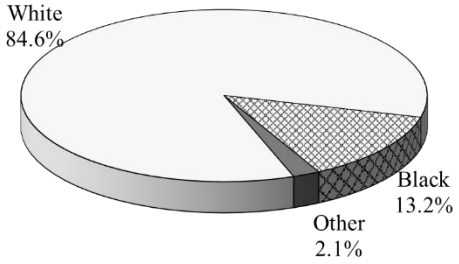
Figure 37: Distribution of FY 2019 DUI PIS and Jail Sentences by Gender



Based on 57 county jail and 457 DUI PIS sentences reporting gender of offenders

White offenders accounted for 84.6%, black offenders represented 13.2% and other races represented 2.1% of the total DUI PIS and county jail sentences imposed in FY 2019 (Figure 38).

Figure 38: Distribution of FY 2019 DUI PIS and Jail Sentences by Race

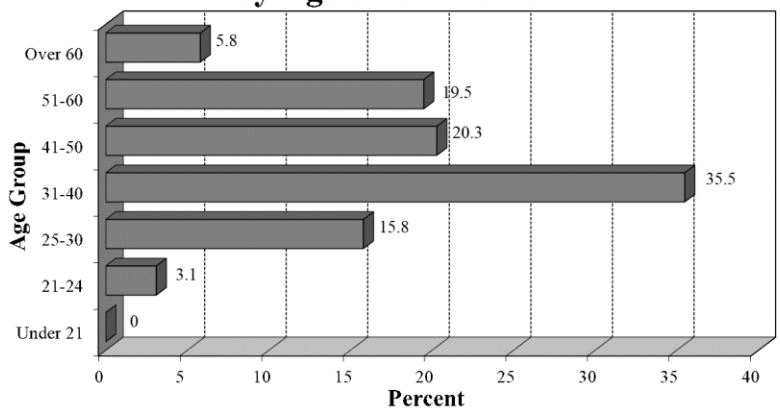


Based on 57 county jail and 457 DUI PIS sentences reporting race of offenders

Figure 39 discloses that most offenders were in the age group ranging from 31 to 40 years old (35.4%), a decrease of 5.8% from the data observed in FY 2018 (41.2%). Their average age at sentencing is 42 years old, close to that of FY 2018 (41).

Figure 40 presents the crimes committed by the offenders sentenced to DUI PIS and county jails. In FY 2019, 97.3% (500 sentences) of the sentences were convicted of the crime of felony DUI, 0.2% (1 sentence) was convicted of the crime of animal cruelty and 2.5% (13 sentences) were convicted of the crime of domestic battery. A detailed analysis of the crime of DUI is provided on page 15 of this report.

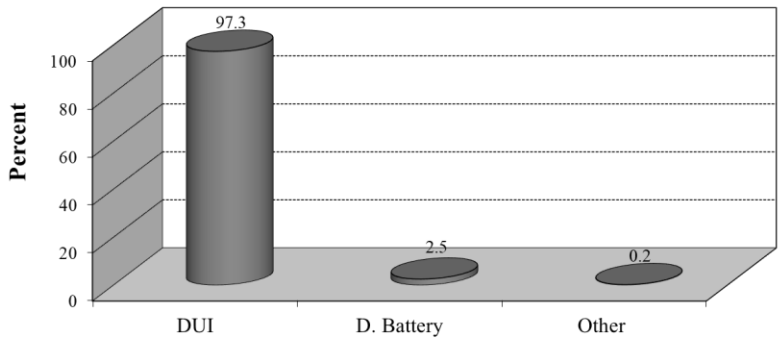
Figure 39: Distribution of FY 2019 DUI PIS and Jail Sentences by Age of Offenders



Based on 57 county jail and 456 DUI PIS sentences reporting age of offenders at time of sentencing.

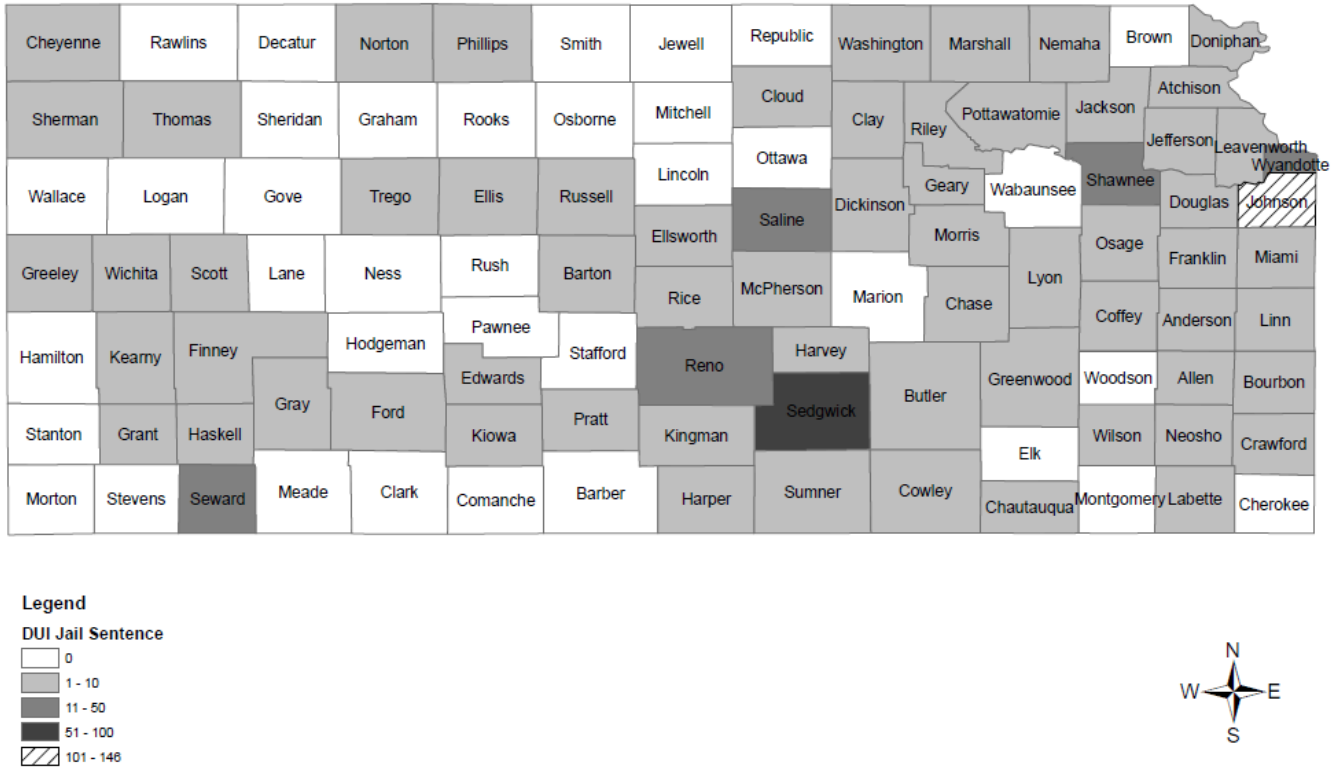
Figure 41 exhibits the distribution of FY 2019 DUI PIS and county jail sentences by county. Johnson County imposed the most sentences of this group (146) representing 28.4%, followed by Sedgwick County with 59 sentences representing 11.5% of the total DUI PIS and county jail sentences imposed during FY 2019.

Figure 40: Distribution of FY 2019 PIS and Jail Sentences by Offense Type



Based on 57 county jail and 457 DUI post imprisonment supervison sentences.

Figure 41: FY 2019 DUI/PIS Jail Sentences by County



CHAPTER TWO
VIOLATORS

VIOLATIONS RESULTING IN INCARCERATION

Violators are classified into 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 subsequent incarceration. This section presents an overview of both types of violators whose revocations resulted in incarceration.

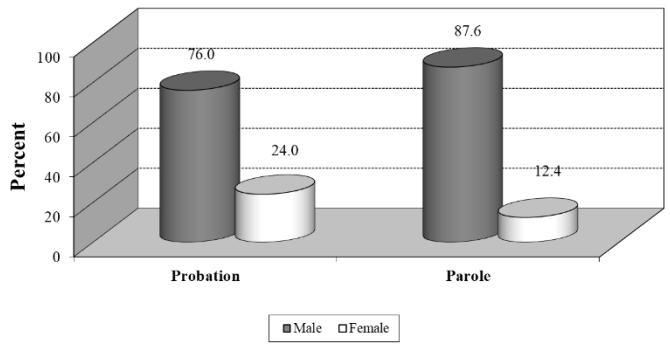
Overview of Condition Violators

"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 and conditional release condition violators. HB 2170 prison sanctions from probation violations are excluded from the analysis (page 31).

A total number of 2,493 condition violators were admitted to prison for their violation of conditions in FY 2019, representing 1,402 probation violators, 1,090 parole/postrelease supervision violators and one conditional release violator. In the following analysis, conditional release violators are merged with the group of parole/postrelease condition violators.

In FY 2019, condition violators accounted for 39.0% of all admissions to prison, an increase of 0.2% from FY 2018 (38.8%). The majority of condition violators were male offenders, accounting for 76.0% of probation violators and 87.6% of parole/postrelease condition violators admitted to prison in FY 2019 (Figure 42).

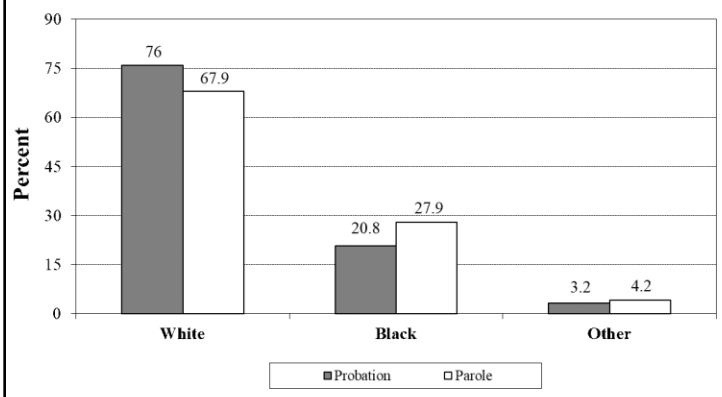
Figure 42: Distribution of FY 2019 Condition Violators by Gender



Based on 1,402 probation condition violators and 1,091 parole/postrelease condition violators

White offenders represented the highest rate (76.0%) in the group of probation violators, while the highest percentage of black offenders (27.9%) was identified in the group of parole/postrelease condition violators (Figure 43).

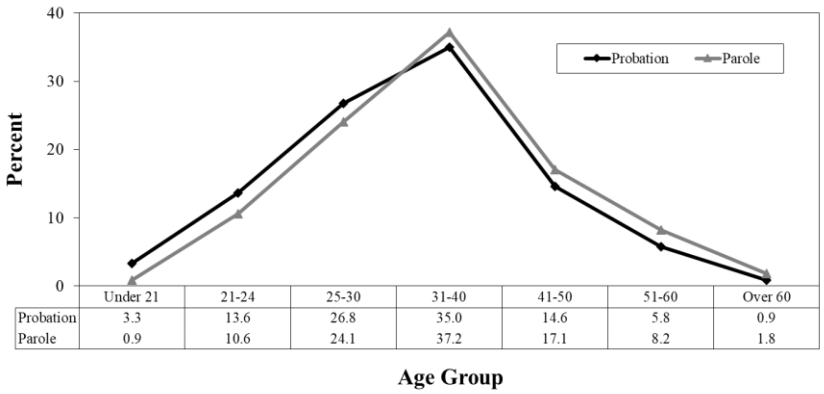
Figure 43: Distribution of FY 2019 Condition Violators by Race



Based on 1,402 probation condition violators and 1,091 parole/postrelease condition violators

Most probation violators were in the age group ranging from 31 to 40 (35.0%). The largest number of parole/postrelease condition violators was also found in the age group ranging from 31 to 40 (37.2%) at the time of admission to prison. The age patterns of FY 2019 are the same as those of FY 2018 (Figure 44).

Figure 44: Distribution of FY 2019 Condition Violators by Age Group

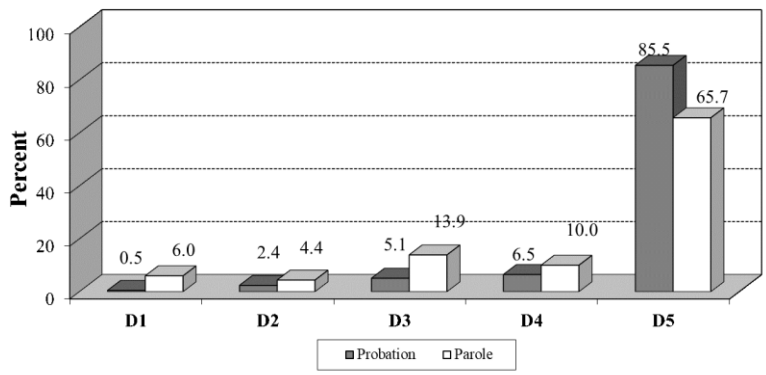


	Under 21	21-24	25-30	31-40	41-50	51-60	Over 60
Probation	3.3	13.6	26.8	35.0	14.6	5.8	0.9
Parole	0.9	10.6	24.1	37.2	17.1	8.2	1.8

Based on 1,402 probation condition violators and 1,091 parole/postrelease condition violators

The largest number of drug probation violators was identified at drug severity level 5, representing 85.5% or 490 offenders. The highest percentage of drug parole/postrelease condition violators was found at drug severity level 5, as well, accounting for 65.7% or 165 offenders. The severity level distributions of drug condition violators remained constant with the data observed in FY 2018 (Figure 45).

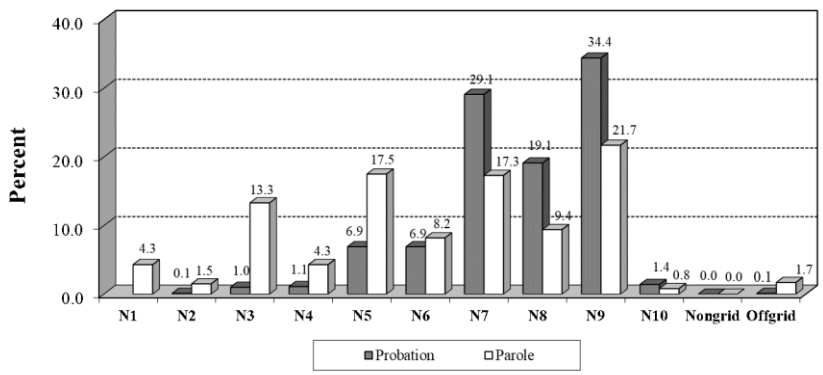
Figure 45: Distribution of FY 2019 Condition Violators by Severity Level
Drug Offenders



Based on 573 drug probation condition violators and 251 drug parole/postrelease condition violators

The highest percentage of nondrug probation condition violators was identified at nondrug severity level 9, which represents 34.4% or 285 offenders of nondrug probation condition violators. The highest rate of parole/postrelease condition violators was also found at nondrug severity level 9, representing 21.7% or 182 of this group of violators. This distribution of severity levels is the same as that of FY 2018 (Figure 46).

Figure 46: Distribution of FY 2019 Condition Violators by Severity Level
Nondrug Offenders



Based on 840 probation condition violators and 829 parole/postrelease condition violators

Table 17 presents the characteristics of all types of condition violators. The largest numbers of males were found at nondrug severity level 9 (377 sentences) and drug severity level 5 (462 sentences). The highest frequencies of females were at nondrug severity level 9 (90 sentences) and drug severity level 5 (193 sentences), as well. Racial analysis of the condition violators demonstrates that drug severity level 5 represented the largest number of white violators (542) and black violators (94). As for nondrug sentences, most violators were found at nondrug severity level 9, at which white offenders accounted for 345 sentences and black offenders accounted for 108 sentences. The average age of the violators was 35.0 years old at the time of admission, which does not change from FY 2018.

Table 17: Characteristics of Overall Violators by Severity Level, Race and Gender

		Gender		Race			
Severity Level	**Number of Cases**	**Male**	**Female**	**White**	**Black**	**Other**	**Average Age at Admission**
D1	18	15	3	18	0	0	36.3
D2	25	16	9	18	5	2	37.1
D3	64	52	12	47	15	2	34.4
D4	62	52	10	45	15	2	33.4
D5	655	462	193	542	94	19	35.4
N1	36	36	0	23	11	2	48.6
N2	14	13	1	9	5	0	39.7
N3	120	113	7	69	47	4	37.2
N4	45	41	4	30	15	0	33.2
N5	204	179	25	132	64	8	33.0
N6	126	105	21	80	38	8	36.9
N7	386	344	42	262	102	22	33.9
N8	237	190	47	163	69	5	34.1
N9	467	377	90	345	108	14	34.7
N10	19	12	7	15	3	1	34.7
Off-grid	15	14	1	9	4	2	35.2
Nongrid	0	0	0	0	0	0	0.0
Total	**2,493**	**2,021**	**472**	**1,807**	**595**	**91**	**35.0**

* Because of data missing, the distribution of race is based on 2,493 sentences reporting race information

Probation Condition Violators

A total number of 1,402 probation condition violators were admitted to prison during FY 2019. Of this number, 59.1% (829) were nondrug offenders and 40.9% (573) were drug offenders. Compared with FY 2018, the admissions of probation condition violators demonstrated a decrease of 3.8% or 56 violators. Tables 18 and 19 present the characteristics of probation condition violators.

In FY 2019, the top ten offenses committed by nondrug probation condition 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 75.2% 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 condition violators indicates that possession of drugs was the most frequently convicted drug crime, accounting for 85.0% of all drug offenses committed by the probation condition violators admitted to prison in FY 2019. The crime of drug distribution or possession with intent to distribute represents 12.9% of this group of violators admitted to prison in FY 2019 (Table 19).

The average length of time from the age of offense to the age of admission to prison was 2.5 years for nondrug probation condition violators and 2.6 years for drug probation condition violators. This remains consistent with those of FY 2018 and FY 2017. 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 Condition Violators

		Gender (%)		Race (%)				
Offense Type	**Number of Cases**	**Male**	**Female**	**White**	**Black**	**Other**	**Offense Age Mean***	**Admit Age Mean****
Aggravated Assault	41	95.1	4.9	65.9	24.4	9.8	29.7	32.0
Aggravated Battery	88	90.9	9.1	75.0	20.5	4.5	31.2	33.6
Possession of a Firearm	37	100.0	0.0	48.6	51.4	0.0	29.2	30.8
Burglary	135	82.2	17.8	77.8	15.6	6.7	30.1	32.8
Criminal Threat	55	89.1	10.9	65.5	30.9	3.6	33.6	35.6
Failure to Register	40	82.5	17.5	65.0	27.5	7.5	36.9	39.4
Fleeing or Eluding LEO	35	82.9	17.1	82.9	8.6	8.6	31.9	33.9
Forgery	48	56.3	43.8	89.6	8.3	2.1	33.9	36.6
Identity Theft	27	63.0	37.0	85.2	11.1	3.7	28.8	31.4
Theft	117	65.8	34.2	75.2	24.8	0.0	31.6	34.1
Subtotal	**623**	**80.1**	**19.9**	**74.0**	**21.7**	**4.3**	**31.5**	**34.0**
Other	**206**	**80.1**	**19.9**	**65.5**	**32.5**	**1.9**	**30.0**	**32.2**
TOTAL	**829**	**80.1**	**19.9**	**71.9**	**24.4**	**3.7**	**30.8**	**33.3**

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

Table 19: Characteristics of Drug Probation Condition Violators by Type of Offense

		Gender (%)		Race (%)				
Offense Type	**Number of Cases**	**Male**	**Female**	**White**	**Black**	**Other**	**Offense Age Mean***	**Admit Age Mean****
Drugs; Possession	487	69.4	20.6	83.0	14.6	2.5	32.9	35.4
Drugs; Distribution/Sale	74	75.7	24.3	74.3	24.3	1.4	31.4	34.4
Possession of Precursor Drugs	1	100.0	0.0	100.0	0.0	0.0	26.9	31.4
Possession of Paraphernalia	9	55.6	44.4	100.0	0.0	0.0	31.4	34.2
Manufacturing Drug Paraphernalia	1	0.0	100.0	0.0	0.0	100.0	36.8	40.9
Unlawful or Attempt to Manufacture Controlled Substance	1	100.0	0.0	100.0	0.0	0.0	21.7	29.3
TOTAL	**573**	**70.0**	**30.0**	**82.0**	**15.5**	**2.4**	**32.6**	**35.2**

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

Table 20: Distribution of Probation Condition 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	2	0	1	0	0	0	0	3
D2	0	1	2	1	1	4	4	1	0	14
D3	1	2	3	1	2	3	5	6	6	29
D4	2	1	4	4	6	4	4	4	8	37
D5	26	39	49	23	62	41	87	90	73	490
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	1	0	0	0	0	0	1
N3	0	1	0	0	0	1	2	0	4	8
N4	0	2	1	0	2	1	2	0	1	9
N5	3	1	4	3	9	4	9	12	12	57
N6	8	6	4	6	7	2	8	9	7	57
N7	14	24	35	26	25	12	21	45	39	241
N8	5	11	19	10	29	11	17	38	18	158
N9	17	26	31	23	30	19	27	68	43	284
N10	1	1	1	0	2	1	1	5	0	12
Nongrid	0	0	0	0	0	0	0	0	0	0
Off-grid	0	0	0	0	0	0	0	0	1	1
TOTAL	**77**	**115**	**155**	**98**	**176**	**103**	**187**	**278**	**212**	**1401**

* Due to missing data, criminal history categories are based on 1,401 violators reporting criminal history.

Parole/Postrelease Condition Violators

In FY 2019, 1,091 parole/postrelease condition violators were admitted to prison, indicating an increase of violators or 0.8% when compared with the data observed in FY 2019. Tables 21 and 22 present the characteristics of this offender group.

The top ten nondrug offenses most frequently committed by parole/postrelease condition violators were aggravated assault, aggravated battery, aggravated burglary, aggravated robbery, aggravated indecent liberties with a child, burglary, criminal threat, failure to register, robbery and theft, accounting for 77.0% of the total nondrug offenses in FY 2019. Male offenders represented 90.5% of this group. White offenders committed more than 70% of aggravated indecent liberties with a child, burglary, and theft. Blacks indicated the highest representation in aggravated robbery, failure to register, 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 (67.3%), an increase of 4.6% over that of FY 2018 (62.7%); and drug distribution or sale (25.1%), a decrease of 2.4% from that of FY 2018 (27.5%).

Postrelease supervision violators for the crime of DUI are subject to state imprisonment if the offenders committed the crime on or after July 1, 2001 and before July 1, 2011. Similar to FY 2018, in FY 2019, no DUI violators were admitted to prison. The observed data mirrors the implementation of the policy. Table 23 demonstrates the distribution of parole/postrelease condition 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 (165 offenders) and severity level 9 of the nondrug grid (182 offenders).

Table 21: Top 10 Offenses Committed by Parole/Postrelease Condition Nondrug Violators

		Gender (%)		Race (%)				
Offense Type	**Number of Cases**	**Male**	**Female**	**White**	**Black**	**Other**	**Offense Age Mean**	**Admit Age Mean**
Aggravated Assault	36	97.2	2.8	55.6	41.7	2.8	28.9	32.8
Aggravated Battery	95	88.4	11.6	55.8	40.0	4.2	31.2	36.3
Aggravated Burglary	34	85.3	14.7	64.7	35.3	0.0	30.8	37.2
Aggravated Robbery	59	91.5	8.5	40.7	54.2	5.1	25.5	38.0
Agg Indecent Liberties w/Child	45	97.8	2.2	71.1	20.0	8.9	25.5	35.6
Burglary	68	91.2	8.8	77.9	17.6	4.4	31.2	34.4
Criminal Threat	33	87.9	12.1	69.7	27.3	3.0	34.6	36.8
Failure to Register	44	97.7	2.3	54.5	43.2	2.3	32.7	37.3
Robbery	31	93.5	6.5	48.4	48.4	3.2	24.3	30.7
Theft	73	80.8	19.2	74.0	24.7	1.4	35.1	37.9
Other	322	90.7	9.3	68.6	26.4	5.0	29.2	36.9
TOTAL	**840**	**90.5**	**9.5**	**64.4**	**31.4**	**4.2**	**29.9**	**36.3**

Table 22: Characteristics of Parole/Postrelease Condition 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	169	75.1	24.9	80.5	14.8	4.7	32.1	35.5
Drugs; Distribution/Sale	63	84.1	15.9	100.0	0.0	0.0	29.0	34.0
Possession of Paraphernalia	1	100.0	0.0	100.0	0.0	0.0	18.6	22.7
Possession of Precursor Drugs	2	100.0	0.0	100.0	0.0	0.0	27.0	35.9
Unlawful Manufacture Controlled Substance	15	80.0	20.0	100.0	0.0	0.0	38.2	37.4
Other	1	100.0	0.0	0.0	100.0	0.0	27.2	56.1
TOTAL	**251**	**78.1**	**21.9**	**79.7**	**15.9**	**4.4**	**30.9**	**35.3**

Table 23: Distribution of Parole/Postrelease Condition Violators By Severity Level and Criminal History*

Severity Level	Criminal History Category									
	A	B	C	D	E	F	G	H	I	Subtotal
D1	1	1	2	0	5	0	3	1	2	15
D2	1	0	0	0	4	0	1	1	3	10
D3	4	0	4	3	8	3	8	3	2	35
D4	1	4	2	4	3	3	3	3	2	25
D5	22	25	26	9	21	13	21	16	12	165
N1	1	0	6	3	0	0	2	8	2	22
N2	0	0	4	0	0	0	4	1	4	13
N3	8	5	28	11	8	7	5	12	18	102
N4	4	3	3	4	2	3	5	3	9	36
N5	11	31	24	9	9	7	6	26	21	144
N6	15	21	9	3	4	2	6	4	5	69
N7	39	25	30	6	13	3	11	10	7	144
N8	18	10	9	5	6	6	6	14	5	79
N9	41	31	28	8	22	8	15	17	12	182
N10	2	0	0	1	1	0	1	1	1	7
Off-grid	2	0	0	1	1	0	2	4	4	0
Nongrid	0	0	0	0	0	0	0	0	0	0
TOTAL	**170**	**156**	**175**	**67**	**107**	**55**	**99**	**124**	**109**	**1062**

* Due to missing data, criminal history categories are based on 1,062 violators reporting criminal history.

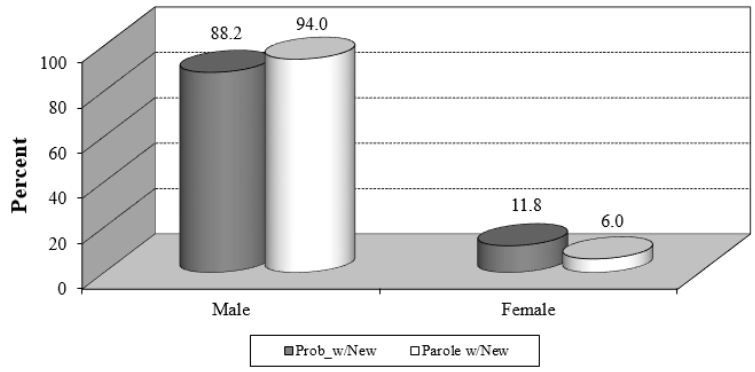
Violators with New Sentences

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 8.4% (537 violators) of the total prison admissions in FY 2019, indicating an increase of 0.5% when compared with the percentage of the same group in FY 2018 (7.9%). Characteristics of this group are illustrated in Figures 47 - 49. Drugs (33.5%), burglary/aggravated burglary (14.7%), failure to register (8.2%), aggravated battery/battery of LEO (8.0%), and aggravated assault (5.4%) were the major offense categories committed by probation violators with new sentences.

Male offenders made up 94.0% of the parole/postrelease and conditional release violators with new sentences admitted to prison in FY 2019, while female offenders accounted for 11.8% of probation violators with new sentences admitted to prison. This gender distribution is consistent with findings from the past three fiscal years (Figure 47).

Drugs (19.2%), burglary/aggravated burglary (15.9%), aggravated battery/battery of LEO (11.5%), robbery/aggravated robbery (9.8%), and failure to register (8.8%) were the top five offenses committed by parole/postrelease violators with new sentences. Table 24 presents the distribution of the above offenders by severity level. The largest numbers of probation violators with new sentences were identified at nondrug severity levels 5, 7, 8 and 9 (39, 87, 31 and 34 violators) and drug severity level 5 (89 violators). The highest percentages of parole/postrelease violators with new sentences were found at nondrug severity levels 5, 6, 7 and 9 (18.7%, 12.1%, 17.6% and 9.3%) and drug severity level 5 (13.7%). The distributions of severity levels of both drug and nondrug crimes are very similar to those of FY 2018.

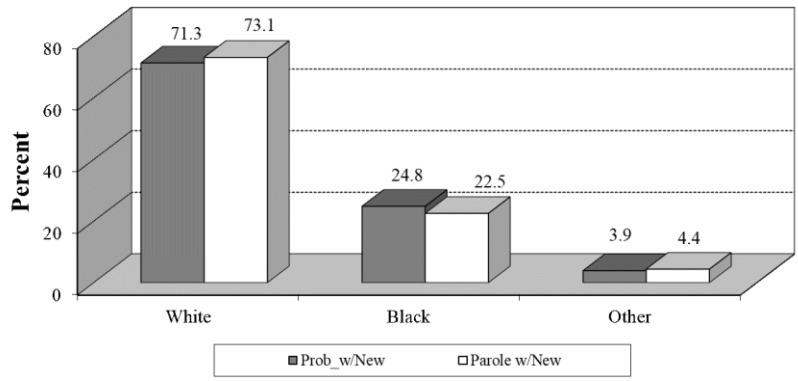
Figure 47: Distribution of FY 2019 Violators with New Sentences by Gender



Note: Probation violators w/new sentence=355; parole/postrelease condition violators w/new sentence=182

White offenders were identified as the largest group of violators with new sentences, representing 71.3% of probation violators with new sentences and 73.1% of parole/postrelease violators with new sentences. The black violators with new sentences accounted for 24.8% of probation violators and 22.5% of parole/postrelease violators (Figure 48).

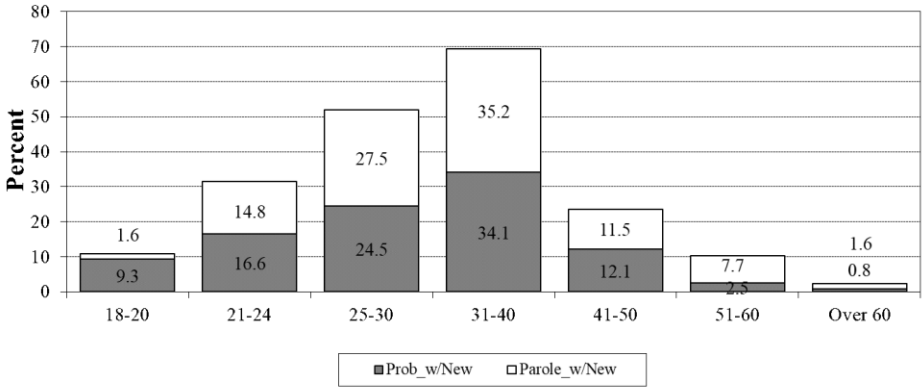
Figure 48: Distribution of FY 2019 Violators with New Sentences by Race



Note: Probation violators w/new sentence=355 and parole/postrelease violators w/new sentence=182

The analysis of the 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 (35.2%), indicating an increase of 3.4% compared with that of FY 2018 (31.8%). The largest proportion of parole/postrelease violators with new sentences were identified in the age groups of 31 to 40, as well, accounting for 34.1%, indicating an increase of 1.6% compared with that of FY 2018 (32.5%) (Figure 49).

Figure 49: Distribution of FY 2019 Violators with New Sentences by Age Group



Note: Probation violators w/new sentence=355 and parole/postrelease violators w/new sentence=182

Table 24: Distribution of FY 2019 Violators with New Sentences By Severity Level

Severity Level	Probation		Parole/Postrelease/Conditional Release	
	Number	**Percent**	**Number**	**Percent**
D1	2	0.6	4	2.2
D2	8	2.3	0	0.0
D3	9	2.5	5	2.7
D4	11	3.1	1	0.5
D5	89	25.1	25	13.7
N1	0	0.0	7	3.8
N2	0	0.0	1	0.5
N3	14	3.9	13	7.1
N4	6	1.7	8	4.4
N5	39	11.0	34	18.7
N6	22	6.2	22	12.1
N7	87	24.5	32	17.6
N8	31	8.7	9	4.9
N9	34	9.6	17	9.3
N10	2	0.6	1	0.5
Off-grid	1	0.3	3	1.6
Nongrid	0	0.0	0	0.0
TOTAL	**355**	**100**	**182**	**100**

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 2019, there were 521 probation condition violators and 57 probation violators with new convictions who were continued or extended on probation, representing 8.3% of the total number of 6,295 condition probation violators and 13.7% of the total number of 417 probation violators with new offenses, respectively. Drugs (39.3%), theft (14.0%), burglary (10.9%), forgery (4.0%) and aggravated battery (3.8%) were the top five offenses committed by the group of condition probation violators. Drugs (38.6%), theft (19.3%), burglary (7.0%), forgery (8.9%), aggravated battery (5.3%) and criminal threat (5.3%) were the top five 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	2	0	0	0	0	1	0	0	0	1
D3	8	0	0	2	0	1	1	0	1	3
D4	16	1	0	1	0	2	0	3	5	4
D5	179	7	15	26	4	31	11	30	26	29
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	2	0	0	0	0	0	0	2	0	0
N4	6	0	0	0	1	1	0	1	1	2
N5	16	3	1	0	1	1	1	2	2	5
N6	8	0	0	3	0	1	1	2	1	0
N7	73	3	4	14	11	7	2	9	9	14
N8	59	2	2	9	7	9	4	8	9	9
N9	132	3	12	21	5	28	10	10	18	25
N10	11	0	2	1	0	0	1	1	2	4
TOTAL	**512**	**19**	**36**	**77**	**29**	**82**	**31**	**68**	**74**	**96**

Note: Criminal history classes are based on 512 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	2	0	0	0	0	0	0	2	0	0
D4	6	1	0	1	1	0	0	0	1	2
D5	14	0	0	1	0	3	0	2	4	4
N1	0	0	0	0	0	0	0	0	0	0
N2	0	0	0	0	0	0	0	0	0	0
N3	0	0	0	0	0	0	0	0	0	0
N4	0	0	0	0	0	0	0	0	0	0
N5	1	0	0	0	0	0	0	1	0	0
N6	0	0	0	0	0	0	0	0	0	0
N7	5	0	0	0	2	0	1	0	2	0
N8	7	0	1	1	0	1	1	1	0	2
N9	18	1	0	1	0	7	4	2	2	1
N10	1	0	0	1	0	0	0	0	0	0
TOTAL	54	**2**	**1**	**5**	**3**	**11**	**6**	**8**	**9**	**9**

Note: Criminal history classes are based on 54 cases reporting criminal history category.
Legend:

Presumptive Prison	Border Boxes	Presumptive Probation

JAIL SANCTION FROM PROBATION VIOLATION

From 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 3,486 probation violators in FY 2019 were recipients of a jail sanction, an increase of 280 or 8.7% over that of FY 2018 (3,206 jail sanctions). Of the 3,486 jail sanctions, 60.4% served from 1 to 30 days in county jail and the average jail days served is 3.1 days, which is very consistent with the sentencing policy of the bill compared with FY 2018 (3.0 days), FY 2017 (3.0 days), 2016 (2.9 days), FY 2015 (3.7 days) and FY 2014 (2.7 days). FY 2014 is the initial year of implementation of House Bill 2170.

The examination of offenders' violation sanction history reveals that 65.9% (2,296) have no sanction history and 34.1% (1,190) have sanction history of one to nine county jail sanctions. Table 27 presents the sanction history of the 1,190 jail sanction sentences. Of the 1,164 sentences with one prior jail sanction, 47.8% were imposed by the court and 51.5% were imposed by the supervising officers. A number of 385 sentences have two prior jail sanctions with 52.5% imposed by the court and 46.2% imposed by the supervising officer. Offenders with three prior jail sanctions accounted for 148 sentences, with 47.3% imposed by the court and 51.4% imposed by the supervising officer. Fifty-five sentences have four prior jail sanctions, 18 sentences have five prior jail sanctions, 7 sentences have six prior jail sanctions and 1 sentence was administered to those with seven, eight and nine prior jail sanctions each.

Table 27: FY 2019 Violation Sanction History - County Jail Sanction

Prior Sanction	Number	Jail Sanction Imposed by (%)	
		Supervising Officer	Court
First	1,164	51.5	47.8
Second	385	52.5	46.2
Third	148	47.3	51.4
Fourth	55	50.9	45.5
Fifth	18	55.6	44.4
Sixth	7	57.1	42.9
Seventh	1	100.0	0.0
Eighth	1	100.0	0.0
Ninth	1	100.0	0.0

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

The jail sanction events imposed by county in FY 2019 are presented in Table 28. Sedgwick County imposed the most jail sanctions accounting for 27.6% (or 963 sanctions) of the 3,486 jail sanctions of FY 2019. Johnson County imposed the second largest number of jail sanctions (373 sanctions or 10.7 %) followed by Shawnee County (331 sanctions or 9.5%) and Reno County (314 sanctions or 9.0%).

The top five offenses committed by this group of offenders include crimes of drugs (1,445 sentences or 41.5%), theft (346 sentences or 9.9%), burglary (315 sentences or 9.0%), aggravated battery (148 sentences or 4.2% and forgery (145 sentences or 4.2%), which is consistent with the data observed in the previous three years.

Table 28: FY 2019 Jail Sanctions from Probation Imposed by County

County	Number	Percent	County	Number	Percent
Allen	8	0.2	Leavenworth	30	0.9
Anderson	16	0.5	Linn	5	0.1
Atchison	1	0.0	Lyon	7	0.2
Barber	2	0.1	Marion	5	0.1
Barton	52	1.5	Marshall	11	0.3
Bourbon	25	0.7	McPherson	16	0.5
Brown	6	0.2	Miami	25	0.7
Butler	52	1.5	Mitchell	4	0.1
Cherokee	14	0.4	Montgomery	19	0.5
Clay	10	0.3	Morris	13	0.4
Cloud	6	0.2	Nemaha	4	0.1
Coffey	11	0.3	Neosho	7	0.2
Cowley	29	0.8	Norton	2	0.1
Crawford	80	2.3	Osage	17	0.5
Dickinson	25	0.7	Ottawa	1	0.0
Doniphan	1	0.0	Pawnee	9	0.3
Douglas	66	1.9	Pottawatomie	27	0.8
Ellis	12	0.3	Pratt	11	0.3
Ellsworth	8	0.2	Reno	314	9.0
Finney	64	1.8	Rice	29	0.8
Ford	36	1.0	Riley	24	0.7
Franklin	64	1.8	Rush	1	0.0
Geary	70	2.0	Russell	12	0.3
Grant	1	0.0	Saline	146	4.2
Gray	2	0.1	Scott	5	0.1
Greeley	1	0.0	Sedgwick	963	27.6
Greenwood	5	0.1	Seward	7	0.2
Hamilton	5	0.1	Shawnee	331	9.5
Harper	10	0.3	Sheridan	1	0.0
Harvey	34	1.0	Sherman	2	0.1
Jackson	6	0.2	Sumner	25	0.7
Jefferson	1	0.0	Thomas	5	0.1
Johnson	373	10.7	Trego	1	0.0
Kearny	1	0.0	Wabaunsee	6	0.2
Kingman	11	0.3	Wallace	1	0.0
Labette	5	0.1	Wilson	12	0.3
Lane	3	0.1	Wyandotte	272	7.8
Total			**3,486**		

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.

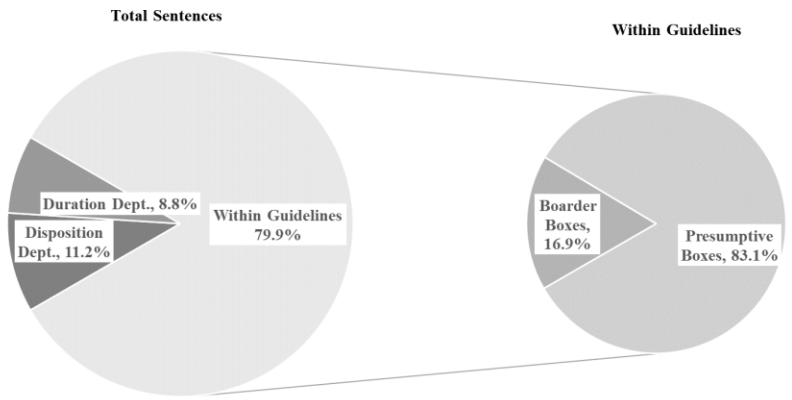
Only pure guideline sentences were utilized for this specific analysis. A pure guideline sentence is defined as a guideline sentence that is not imposed to run concurrent or consecutive with a "pre-guideline" sentence. In addition, the analysis is based on computed variables regarding departures and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

OVERALL CONFORMITY RATES

A total number of 6,981 pure guideline sentences of FY 2019 were utilized for this study, which includes 1,427 incarceration guideline sentences and 5,554 probation sentences. Figure 50 demonstrates that 79.9% of the 6,891 guideline sentences were within the presumptive guideline grids, 11.2% indicated durational departures and 8.8% were dispositional departures. Of all the sentences within the presumptive guideline grids, 4,636 sentences (83.1%) fell within either the presumptive prison boxes or presumptive probation boxes, while 944 sentences (16.9%) were located on designated border boxes. Figure 51 indicates that 88.4% (694 sentences) of the 785 dispositional departures were downward departures and 11.6% (91 sentences) were upward dispositional departures. 82.2% of

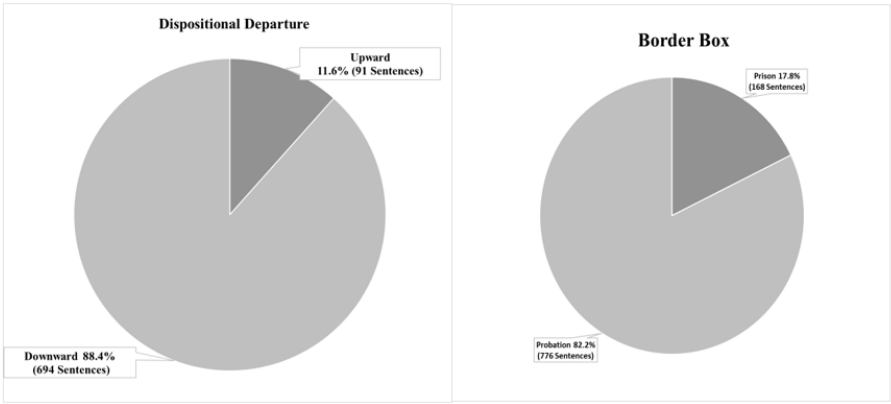
the 944 border box sentences resulted in probation sentences with 17.8% of this group sentenced to prison. The ratios remain constant with those of FY 2018. The analysis of durational departure sentences is only applicable to presumptive prison sentences.

Figure 50: Distribution of FY 2019 Overall Guideline Sentences



Based on 1,427 prison and 5,554 probation sentences

Figure 51: Distribution of FY 2019 Dispositional Departure and Border Box Sentences

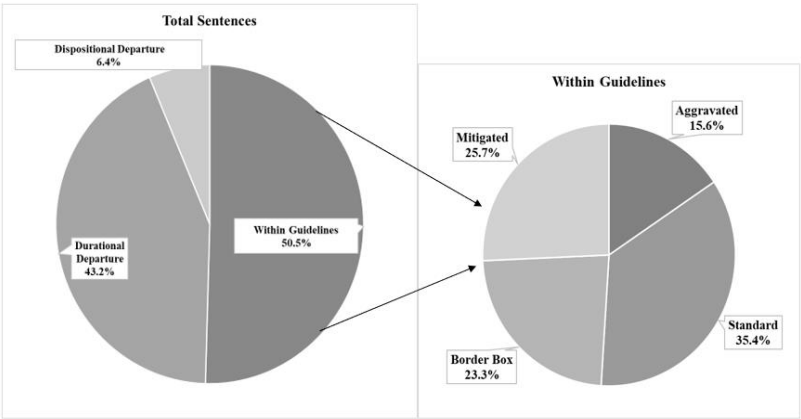


Based on 785 Dispositional Departures and 944 Border Box Sentences

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 1,427 presumptive prison guideline sentences of FY 2019 were analyzed for this purpose.

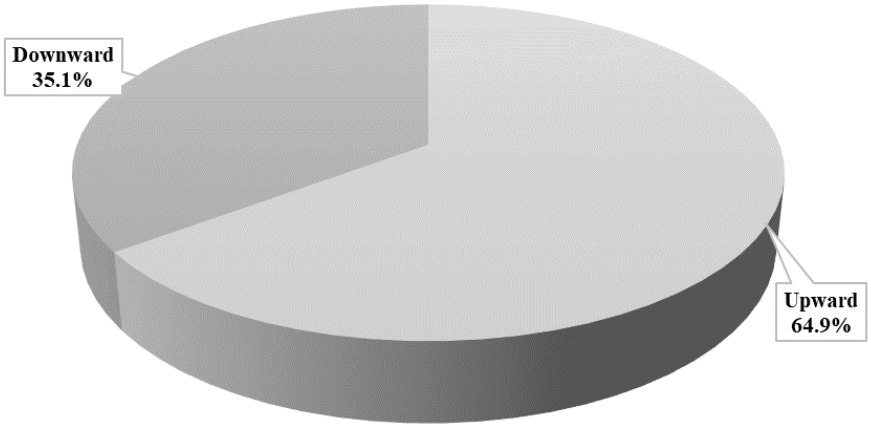
Figure 52: FY 2019 Incarceration Guideline Sentences



Based on 1,427 guideline sentences

Sentences within the presumptive incarceration range accounted for 50.5% of the total incarceration guideline sentences in FY 2019. Of these sentences within the guidelines, the standard sentences accounted for 35.4%, the aggravated sentences accounted for 15.6%, the mitigated sentences accounted for 25.7%, and 23.3% were located within designated border boxes (Figure 52).

Figure 53: FY 2019 Incaceration Durational Departure Sentences



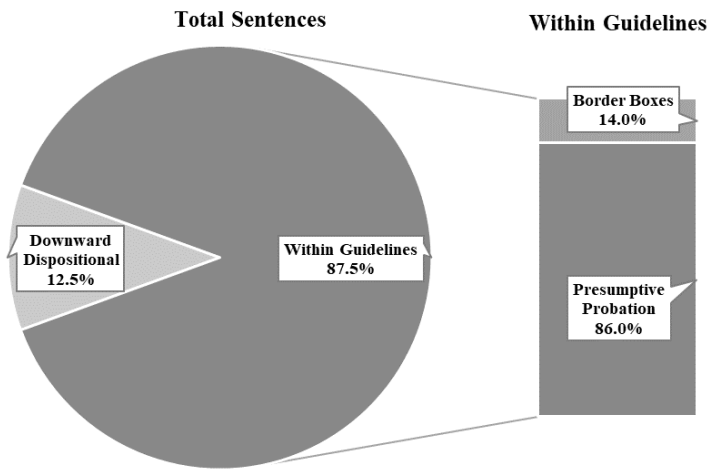
Based on 616 durational departure sentences

Figure 53 shows that 64.9% of the durational departure sentences departed downward from the sentence lengths indicated on the presumptive range, while 35.1% departed upward from the presumptive guideline ranges. The percentage of the downward durational departures decreased by 4.4% compared with that of FY 2018 (69.3%).

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 2019 (87.5% or 4,860 cases) fell within the presumptive guideline range, among which 86.0% were within presumptive probation grids and 14.0% were within border boxes (Figure 54). The sentences within the presumptive guideline range (4,860) accounted for 55.8% of the total probation sentences imposed in FY 2019 (8,712), which decreased by 1.9 % compared with the percentage rate of FY 2018 (57.7%). Further analysis of the dispositional departures indicates that probation sentences reflected downward dispositional departures of 12.5% of the total probation guideline sentences in FY 2019, a decrease of 1.0% compared with that of FY 2018 (13.5%), (Figure 54). Upward dispositional departure sentences were reflected in presumptive incarceration sentences (Refer to Figure 52).

Figure 54: FY 2019 Probation Guideline Sentences

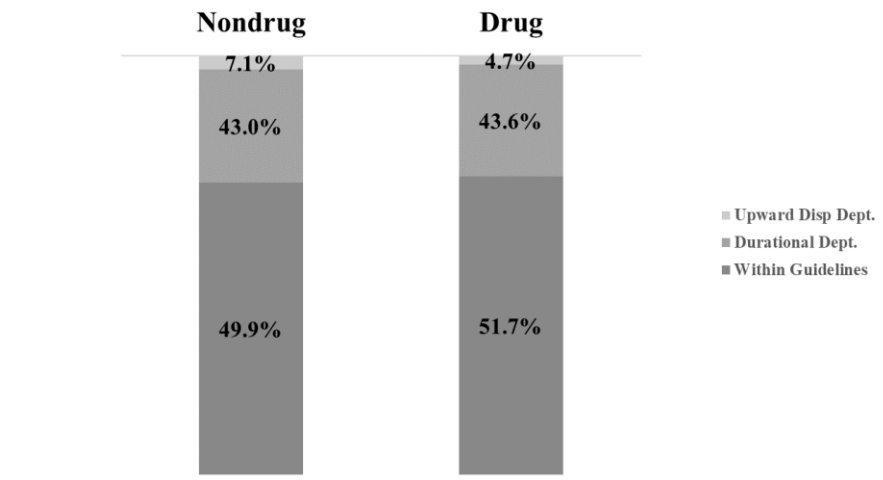


Based on 5,554 probation guideline sentences

CONFORMITY OF NONDRUG AND DRUG GUIDELINE SENTENCES

The comparison between nondrug and drug guideline incarceration sentences discloses that 7.1% of nondrug offenders and 4.7% of drug offenders showed upward dispositional departures. Additionally, nondrug offenders represented 43.0% durational departures and drug offenders showed 43.7% durational departures (Figure 55). These similar distributions between drug and nondrug incarceration sentences remain constant with those of FY 2018.

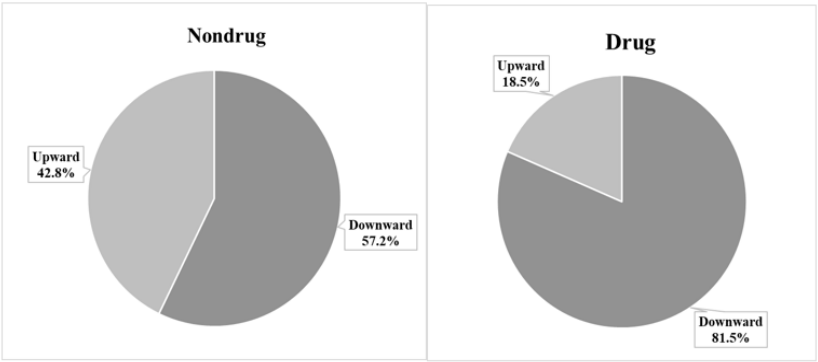
Figure 55: FY 2019 Nondrug and Drug Guideline Sentences-Incarceration



Based on 980 nondrug and 447 drug sentences

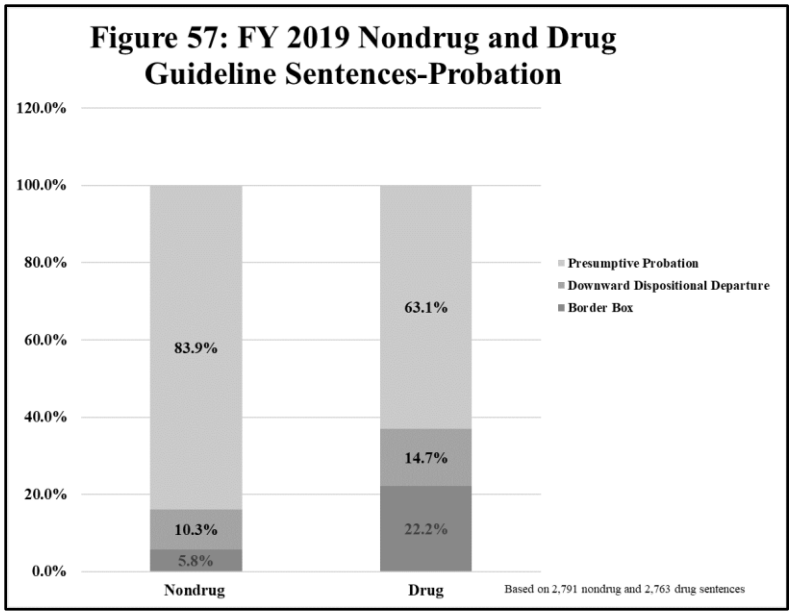
The analysis of durational departures indicates that downward departures represented 81.5% of the total durational departures on the drug grid. However, on the nondrug grid, 57.2% of durational departures were downward (Figure 56). The majority of the upward departures were found at severity levels 1 to 4 of the nondrug grid, which includes the most serious offenses (Table 29).

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



Based on 421 nondrug and 195 drug 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 (14.7% vs. 10.3%). The rate of drug probation sentences resulting from border boxes was much higher than that of nondrug probation sentences (22.2% vs. 5.8%), which remains constant when compared with FY 2018.



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. It further 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 15.7% standard, 4.9% aggravated, 13.0% mitigated and 18.1% border box sentence distribution. Nondrug sentences revealed an 18.9% standard, 9.2% aggravated, 13.0% mitigated and 8.9% border box sentence distribution. The review of the departure sentences reveals that drug sentences indicated 8.1% upward durational departures and 35.6% downward durational departures, whereas nondrug sentences showed an 18.4% upward durational departure rate and a 24.6% downward durational departure rate. The highest rate of downward durational departures was identified at drug severity level 1 (79.2%) for drug incarceration sentences and nondrug severity level 2 (50.0%) for nondrug incarceration sentences. When examining dispositional departures, 7.1% of nondrug incarceration sentences were upward dispositional departures and 4.7% of drug incarceration sentences were upward dispositional departures. This is the fourth year in a row that shows data different from sentencing practices 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	24	8.3	8.3			4.2	79.2	
D2	77	3.9	6.5	15.6		6.5	67.5	
D3	115	9.6	28.7	20.9		15.7	25.2	
D4	66	1.5	13.6	6.1	57.6	4.5	15.2	1.5
D5	165	3.0	12.7	10.9	26.1	5.5	29.7	12.1
Subtotal	**447**	**4.9**	**15.7**	**13.0**	**18.1**	**8.1**	**35.6**	**4.7**
N1	65	12.3	12.3	13.8		46.2	15.4	
N2	14	7.1	7.1	7.1		28.6	50.0	
N3	121	5.0	22.3	8.3		37.2	27.3	
N4	70	14.3	20.0	14.3		14.3	37.1	
N5	198	4.5	11.1	7.6	39.4	6.6	30.8	
N6	105	9.5	11.4	21.9	8.6	20.0	26.7	1.9
N7	123	13.8	19.5	15.4		26.0	12.2	13.0
N8	81	11.1	22.2	17.3		8.6	19.8	21.0
N9	176	11.4	33.5	9.7		9.7	18.8	17.0
N10	27			33.3		3.7	44.4	18.5
Subtotal	**980**	**9.2**	**18.9**	**13.0**	**8.9**	**18.4**	**24.6**	**7.1**
TOTAL	**1,427**	**7.8**	**17.9**	**13.0**	**11.8**	**15.1**	**28.0**	**6.4**

Table 30 demonstrates the conformity rates of probation sentences to the guidelines by severity level. Probation drug sentences indicated 14.7% downward dispositional departures, which should have been presumptive incarceration, while 10.3% of probation nondrug sentences experienced downward dispositional departures. A significant difference also occurred within the border boxes of the grids. Drug offenders received more probation sentences than nondrug offenders did when their severity levels and criminal history categories fell within the border boxes (22.2% vs. 5.8%). 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-two years.

Table 30: Conformity Rates by Severity Level - Probation Sentences

Severity Level	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	9			100.0
D2	83			100.0
D3	166		1.2	98.8
D4	313	0.6	90.4	8.9
D5	2,192	79.4	15.0	5.6
Subtotal	**2,763**	**63.1**	**22.2**	**14.7**
N1	2			100.0
N2				
N3	18			100.0
N4	35			100.0
N5	175		76.6	23.4
N6	140	45.7	20.0	34.3
N7	726	94.6		5.4
N8	552	94.2		5.8
N9	1,042	93.8		6.2
N10	101	92.1		7.9
Subtotal	**2,791**	**83.9**	**5.8**	**10.3**
TOTAL	**5,554**	**73.5**	**14.0**	**12.5**

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 2019. The analysis of drug incarceration sentences demonstrates that whites received more border box sentences than blacks (19.8% vs. 13.8%). However, black offenders represented a higher percentage than white offenders at aggravated and standard sentences (8.8% vs. 4.0%; 20.0% vs. 14.4%). The analysis of departures demonstrates that white offenders received more downward durational and upward dispositional departures than black offenders (34.7% vs. 33.8%; 5.6% vs. 1.3%), while black offenders received more upward durational departures (10.0% vs. 7.9%).

The study of nondrug incarceration sentences within guidelines indicates that black offenders received more aggravated and mitigated sentences than white offenders (9.5% vs. 8.6%; 14.5% vs. 12.2%), while white offenders represented higher percentages than black offenders at standard and border box sentences (19.5% vs. 16.4%; 9.5% vs. 7.6%). The review of departures reveals that blacks represented higher rates than whites in both upward and downward durational departures (20.7% vs. 17.9%; 26.5; 23.8), whereas whites received more upward dispositional departures than blacks for nondrug offenses (8.6% vs. 4.7%).

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	20	5.0	10.0				85.0	
	Black	4	25.0				25.0	50.0	
D2	White	65	4.6	4.6	15.4			67.7	7.7
	Black	7		14.3	28.6			57.1	
	Other	5		20.0				80.0	
D3	White	88	8.0	27.3	23.9			25.0	15.9
	Black	24	12.5	33.3	12.5			25.0	16.7
	Other	3	33.3	33.3				33.3	
D4	White	53		13.2	3.8	64.2	3.8	13.2	1.9
	Black	13	7.7	15.4	15.4	30.8	7.7	23.1	
D5	White	128	2.3	11.7	11.7	28.1	5.5	25.8	14.8
	Black	32	6.3	15.6	9.4	21.9	6.3	37.5	3.1
	Other	5		20.0				80.0	
Total	**White**	**354**	**4.0**	**14.4**	**13.6**	**19.8**	**7.9**	**34.7**	**5.6**
	Black	**80**	**8.8**	**20.0**	**12.5**	**13.8**	**10.0**	**33.8**	**1.3**
	Other	**13**	**7.7**	**23.1**			**69.2**		

Note: Based on 447 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	46	15.2	15.2	8.7		43.5	17.4	
	Black	18	5.6		27.8		55.6	11.1	
	Other	1		100.0					
N2	White	11	9.1	9.1	9.1		27.3	45.5	
	Black	2					50.0	50.0	
	Other	1						100.0	
N3	White	81		25.9	8.6		37.0	28.4	
	Black	36	13.9	16.7	8.3		36.1	25.0	
	Other	4	25.0				50.0	25.0	
N4	White	44	18.2	15.9	15.9		13.6	36.4	
	Black	23	8.7	26.1	4.3		17.4	43.5	
	Other	3		33.3	66.7				
N5	White	141	4.3	11.3	6.4	41.1	5.7	31.2	
	Black	48	6.3	10.4	8.3	35.4	6.3	33.3	
	Other	9		11.1	22.2	33.3	22.2	11.2	
N6	White	72	8.3	16.7	23.6	6.9	15.3	26.4	2.8
	Black	26	7.7		19.2	15.4	38.5	19.2	
	Other	7	28.6		14.3			57.1	
N7	White	79	12.7	17.7	15.2		29.1	8.9	16.5
	Black	40	10.0	25.0	17.5		22.5	17.5	7.5
	Other	4	75.0					25.0	
N8	White	52	11.5	19.2	13.5		11.5	21.2	23.1
	Black	25	12.0	20.0	24.0		4.0	20.0	20.0
	Other	4		75.0	25.0				
N9	White	120	10.8	35.0	10.0		9.2	13.3	21.7
	Black	49	12.2	26.5	10.2		12.2	30.6	8.2
	Other	7	14.3	57.1				28.6	
N10	White	19			26.3		5.3	47.4	21.1
	Black	8			50.0			37.5	12.5
Total	**White**	**665**	**8.6**	**19.5**	**12.2**	**9.5**	**17.9**	**23.8**	**8.6**
	Black	**275**	**9.5**	**16.4**	**14.5**	**7.6**	**20.7**	**26.5**	**4.7**
	Other	**40**	**17.5**	**25.0**	**15.0**	**7.5**	**10.0**	**25.0**	

Note: Based on 980 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 2019. White offenders received more presumptive probation sentences for drug offenses than black offenders (66.6% vs. 45.4%) but black drug offenders had a higher rate of border box sentences (32.8% vs. 20.3%) and downward dispositional departures (21.8% vs. 13.1%) than white drug offenders (Table 33). This racial conformity rate pattern is consistent with those of the past seven 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 (84.4% vs. 81.1%), while black offenders represented a higher percentage of downward dispositional departures (14.0% vs. 9.5%) than white offenders for nondrug offenses. The rates of border box sentences were 6.1% for white offenders and 4.9% for black offenders (Table 34).

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

	Race	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	White	9			100.0
D2	White	64			100.0
	Black	11			100.0
	Other	7			100.0
D3	White	119		1.7	98.3
	Black	41			100.0
	Other	6			100.0
D4	White	225	0.4	91.1	8.4
	Black	83	1.2	89.2	9.6
	Other	5		80.0	20.0
D5	White	1,882	81.3	13.8	4.9
	Black	268	67.9	21.6	10.4
	Other	42	69.0	26.2	4.8
Total	**White**	**2,299**	**66.6**	**20.3**	**13.1**
	Black	**403**	**45.4**	**32.8**	**21.8**
	Other	**60**	**48.3**	**25.0**	**26.7**

Note: Based on 2,672 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	2			100.0
N2	White	0			
	Black	0			
	Other	0			
N3	White	14			100.0
	Black	4			100.0
N4	White	25			100.0
	Black	10			100.0
N5	White	142		78.9	21.1
	Black	32		65.6	34.4
	Other	1		100.0	
N6	White	113	49.6	18.6	31.9
	Black	26	26.9	26.9	46.2
	Other	1	100.0		
N7	White	568		94.9	5.1
	Black	141	92.9		7.1
	Other	17	100.0		
N8	White	405	94.3		5.7
	Black	137	93.4	6.6	
	Other	10	100.0		
N9	White	836	94.9		5.1
	Black	196	88.8		11.2
	Other	10			100.0
N10	White	74	91.9		8.1
	Black	24	91.7		8.3
	Other	3	100.0		
Total	**White**	**2,179**	**84.4**	**6.1**	**9.5**
	Black	**570**	**81.1**	**4.9**	**14.0**
	Other	**42**	**97.6**	**2.4**	

Note: Based on 2,791 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 2019. Male drug offenders represented a higher rate than female drug offenders in aggravated and standard sentences (5.7% vs. 1.3%; 15.7% vs. 14.3%). However, females received more mitigated and border box sentences than males (14.3% v. 12.7%; 29.9% vs 15.7%). The examination of departure sentences reveals that female drug offenders received more than male drug offenders in upward dispositional departures (7.8% vs. 4.1%), while males had a higher rate of upward and downward durational departures (8.9% vs. 3.9%: 37.0% vs. 28.6%), (Table 35).

The exploration of nondrug incarceration sentences indicates that within guidelines, males represented a higher percentage than females in aggravated sentences (9.5% vs. 6.3%) and mitigated sentences (13.4% vs. 8.4%) for nondrug crimes, while female offenders received more standard (20.0% vs. 18.8%) and border box sentences (13.7% vs. 8.4%) than male offenders. This gender conformity rate pattern is consistent with that of FY 2018. The analysis of departure sentences reveals that male nondrug offenders represented a higher percentage of upward and downward durational departures than female offenders (18.6% vs. 15.8%; and 25.0% vs. 21.1%). However, female offenders received more sentences than male offenders in upward dispositional departures (14.7% vs. 6.3 %), (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	23	8.7	8.7			4.3	78.3	
	Female	1						100.0	
D2	Male	58	5.2	6.9	15.5		5.2	67.2	
	Female	19		5.3	15.8		10.5	68.4	
D3	Male	96	10.4	26.0	20.8		18.8	24.0	
	Female	19	5.3	42.1	21.1			31.6	
D4	Male	47	2.1	17.0	8.5	44.7	6.4	19.1	2.1
	Female	19		5.3		89.5		5.3	
D5	Male	146	3.4	13.7	9.6	25.3	5.5	32.9	9.6
	Female	19		5.3	21.1	31.6	31.6	5.3	5.3
Total	**Male**	**370**	**5.7**	**15.7**	**12.7**	**15.7**	**8.9**	**37.0**	**4.1**
	Female	**77**	**1.3**	**14.3**	**14.3**	**29.9**	**3.9**	**28.6**	**7.8**

Note: Based on 447 drug incarceration guideline sentences.

Table 36: Conformity Rates by Gender - Incarceration Sentences Nondrug Offenders

Severity Level	Gender	N	Within Guidelines (%)				Departures (%)		
							Durational		Dispositional
			Agg.	Standard	Mit.	Box	Upward	Downward	Upward
N1	Male	60	11.7	11.7	13.3		46.7	16.7	
	Female	5	20.0	20.0	20.0		40.0		
N2	Male	10	10.0	10.0			30.0	50.0	
	Female	4			25.0		25.0	50.0	
N3	Male	110	5.5	20.9	8.2		36.4	29.1	
	Female	11		36.4	9.1		45.5	9.1	
N4	Male	60	16.7	20.0	15.0		15.0	33.3	
	Female	10		20.0	10.0		10.0	60.0	
N5	Male	177	5.1	9.6	7.9	39.0	6.8	31.6	
	Female	21		23.8	4.8	42.9	4.8	23.8	
N6	Male	89	9.0	10.1	23.6	5.6	21.3	29.2	1.1
	Female	16	12.5	18.8	12.5	25.0	12.5	12.5	6.3
N7	Male	112	13.4	18.8	16.1		27.7	12.5	11.6
	Female	11	18.2	27.3	9.1		9.1	9.1	27.3
N8	Male	72	11.1	23.6	19.4		8.3	20.8	16.7
	Female	9	11.1	11.1			11.1	11.1	55.6
N9	Male	169	11.8	34.9	10.1		9.5	18.3	15.4
	Female	7	28.6				14.3		57.1
N10	Male	26			34.6		3.8	46.2	15.4
	Female	1							100.0
Total	**Male**	**885**	**9.5**	**18.8**	**13.4**	**8.4**	**18.6**	**25.0**	**6.3**
	Female	**95**	**6.3**	**20.0**	**8.4**	**13.7**	**15.8**	**21.1**	**14.7**

Note: Based on 980 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 (9.0% vs. 17.5%, Table 37; and 5.0% vs. 12.0%, 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-two years (Annual Reports of FY 1996 - FY 2018).

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

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
D1	Male	8			100.0
	Female	1			100.0
D2	Male	59			100.0
	Female	23			100.0
D3	Male	122		1.6	98.4
	Female	44			100.0
D4	Male	245	0.8	88.6	10.6
	Female	68		97.1	2.9
D5	Male	1,410	74.2	18.1	7.7
	Female	782	88.9	9.5	1.7
Total	**Male**	**1,844**	**56.8**	**25.7**	**17.5**
	Female	**918**	**75.7**	**15.3**	**9.0**

Note: Based on 2,762 drug probation sentences reporting gender of offenders.

Table 38: Conformity Rates by Gender - Probation Sentences
Nondrug Offenders

Severity Level	Gender	N	Presumptive Probation (%)	Border Boxes (%)	Downward Disposition (%)
N1	Male	2			100.0
	Female	0			
N2	Male	0			
	Female	0			
N3	Male	17			100.0
	Female	1			100.0
N4	Male	28			100.0
	Female	7			100.0
N5	Male	146		76.0	24.0
	Female	29		79.3	20.7
N6	Male	115	44.3	18.3	37.4
	Female	25	52.0	28.0	20.0
N7	Male	594	93.8		6.2
	Female	132	98.5		1.5
N8	Male	350	92.3		7.7
	Female	202	97.5		2.5
N9	Male	804	92.8		7.2
	Female	238	97.1		2.9
N10	Male	77	89.6		10.4
	Female	24	100.0		
Total	**Male**	**2,133**	**81.9**	**6.2**	**12.0**
	Female	**658**	**90.4**	**4.6**	**5.0**

Note: Based on 2,791 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 that 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 2019 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 43.2% in FY 2015 to 49.0% in FY 2019. FY 2019 represented the highest number (840 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 16.0% in FY 2019, an increase of 0.9% over that of FY 2018 and an increase of 2.5% when compared with that of FY 2015 (Table 39). The total percentage of both prison and probation sentences applied with special rules increased from 20.3% in FY 2015 to 23.5% in FY 2019 (Table 40).

In FY 2019, a number of 840 pure guideline prison sentences and 918 pure guideline probation sentences were imposed with special sentencing rules, which accounted for 49.0% of prison pure guideline admissions (1,716 admissions) and 16.0% of pure guideline probation sentences (5,750) imposed in FY 2019 (Table 39).

In FY 2019, the top three special sentencing rules applied to prison sentences in sentencing practice were: crime committed while incarcerated or on probation, parole, etc. (429 sentences) representing 51.1% of 840 prison sentences applied with special sentencing rules; crime committed while on felony bond (177 sentences) representing 21.1% and person felony committed with a firearm (129 sentences) making up 15.4% of prison admissions with special sentencing rules during FY 2019 (Table 41).

The top three special sentencing rules applied most frequently to probation sentences in FY 2019 included crime committed while incarcerated or on probation, parole, etc. (320 sentences) accounted for 34.7%; crime committed while on felony bond (254 sentences) accounted for 27.0%; and third or subsequent drug possession (118 sentences) accounted for 12.0% of the total 918 probation sentences applied with special sentencing rules (Table 42).

Table 39: Pure Guideline Sentences Applied with Special Sentencing Rules
By Prison and Probation
FY 2015 through FY 2019

Fiscal Year	Prison Admissions			Probation Sentences		
	Guideline	with Special Rules		Guideline	with Special Rules	
		Number	Percent		Number	Percent
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
2018	1829	814	44.5	5576	840	15.1
2019	1716	840	49.0	5750	918	16.0

Table 40: Pure Guideline Sentences Applied with Special Sentencing Rules
By Total Sentences
FY 2015 through FY 2019

Fiscal Year	Guideline	with Special Rules	
		Number	Percent
2015	7306	1480	20.3%
2016	7434	1499	20.2%
2017	7104	1568	22.1%
2018	7405	1654	21.1%
2019	7466	1758	23.5%

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

Table 41: Distribution of Special Sentencing Rules Applied To Prison Sentences – FY 2019

Special Rules Applied to Sentences	Number	Percent
Crime committed while incarcerated, probation, parole, etc.	429	51.1
Crime committed while on felony bond	177	21.1
Person felony committed with a firearm	129	15.4
Third or subsequent drug possession	53	6.3
Burglary with 2 or more prior theft, burglary, aggravated burglary	42	5.0
Offender Registration Act Violation – presumed prison	42	5.0
Theft with 3 or more prior theft, burglary, aggravated burglary	22	2.6
Drug felony with a firearm	10	1.2
Aggravated battery by DUI	10	1.2
Resident burglary with a prior residential, nonresidential or aggravated burglary conviction	9	1.1
Aggravated assault of a LEO	7	0.8
Battery on a LEO resulting in bodily harm	7	0.8
Second or subsequent identity theft or fraud	7	0.8
Involuntary manslaughter by DUI	6	0.7
Third or subsequent flee/elude – presumed prison	6	0.7
Resident burglary with Criminal History C, D, E	4	0.5
Third or subsequent Forgery	4	0.5
Extended Juvenile jurisdiction	3	0.4
Persistent sex offender	3	0.4
2nd Forgery	3	0.4
Leaving the scene of an accident	3	0.4
Aggravated battery of a LEO	2	0.2
Crime committed for benefit of criminal street gang	2	0.2
Felony committed after early discharge	2	0.2
Unlawful Sexual Relations	2	0.2
Aggravated endangering a child	1	0.1

Note: The number and percentage are mutually exclusive.

Table 42: Distribution of Special Sentencing Rules Applied To Probation Sentences – FY 2019

Special Rules Applied to Sentences	Number	Percent
Crime committed while incarcerated, probation, parole, etc.	320	34.7
Crime committed while on felony bond	254	27.0
Third or sub. drug possession	118	12.0
Offender Registration Act violation	48	5.2
Person felony committed with a firearm	45	4.9
Burglary with 2 or more prior felony theft, burglary, aggravated burglary	39	4.0
Felony theft with 3 or more prior theft, burglary, aggravated burglary	31	3.4
Third or Subsequent Forgery	21	2.2
Second forgery	16	1.7
Battery on a LEO resulting in bodily harm	16	1.7
Drug felony with a firearm	11	1.2
Residential burglary with criminal history 7c, 7d or 7e	10	1.1
Aggravated assault of a LEO	10	1.1
Aggravated battery by DUI	10	1.1
Resident burglary with a prior residential, nonresidential or aggravated burglary conviction	8	0.9
Extended juvenile jurisdiction imposed	5	0.5
Second or sub. identity theft or identity fraud	5	0.5
Crime committed for benefit of street gang	3	0.3
Third or subsequent flee/elude, presumed prison	2	0.2
Kansas Securities Act	2	0.2
Felony committed after early discharge	2	0.2
Felony Domestic Battery	2	0.2
Leaving the scene of an accident, person felony	1	0.1
Unlawful sexual relations	1	0.1
Involuntary manslaughter by DUI	1	0.1
Felony DUI	1	0.1
Aggravated criminal damage to property	1	0.1

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 2019 reached 6,388, which decreased by 154 offenders or 2.4% when compared with FY 2018 but increased by 512 offenders or 8.7% when compared with FY 2015. (Figure 58). Table 43 presents the prison admission pattern by month for the past five years.

Figure 58: Incarceration Sentences
FY 2015 through FY 2019

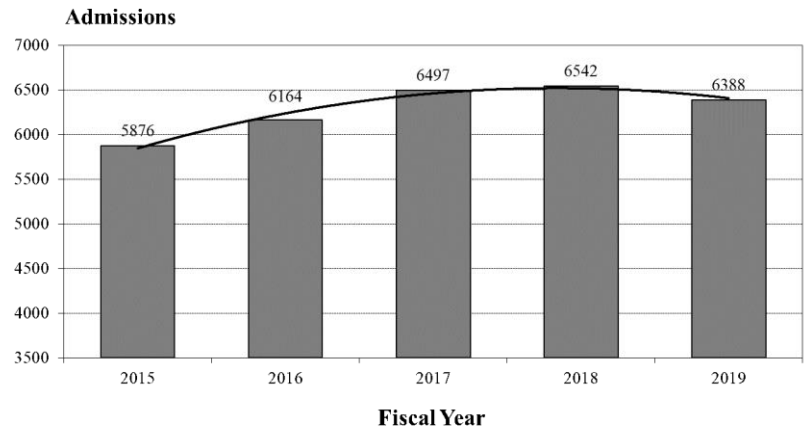


Table 43: Prison Admissions by Month

Month by Fiscal Year	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
July	520	538	470	542	598
August	472	459	542	636	588
September	515	495	532	493	480
October	500	499	600	596	569
November	453	440	576	456	472
December	531	553	537	470	505
January	368	478	535	531	578
February	475	540	505	478	486
March	543	640	573	626	545
April	516	472	483	565	572
May	437	527	609	654	520
June	546	523	535	495	475
Total	**5,876**	**6,164**	**6,497**	**6,542**	**6,388**

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 2019 increased by 3.1% over that of FY 2015 but decreased 1.8% over that of FY 2018. HB 2170 120/180-day prison sanctions were first implemented in FY 2014 and since 2015 admissions have significantly increased (71.6%) when compared to the total of 2019. However, examining differences from FY 2018 to FY 2019 display that sanctions from probation actually decreased by 0.9%. It is important to note that 2018 SB 18 removed the use of prison sanctions. Thus, we anticipate that the use of prison sanctions will phase out within the next few years. Probation condition violators admitted to prison in FY 2019 increased by 6.1% when compared with FY 2015 but decreased by 3.8% compared with FY 2018. Probation violators with new sentence/new conviction admitted to prison in FY 2019 decreased by 15.2% compared with FY 2015 and by 6.2% when compared with that of FY 2018. The number of parole/postrelease and conditional release violators admitted to prison in FY 2019 decreased by 10.5%, but increased by 0.8% respectively from those of FY 2015 and FY 2018. Parole/postrelease and condition release violators with new sentences admitted in FY 2019 increased by 20.5% when compared with FY 2015 but decreased by 14.6% over that of FY 2018.

Table 44: Comparison of Prison Admissions by Type

Admission Type	FY2015	FY2016	FY2017	FY2018	FY2019	FY 2019-2015 % Difference
New Court Commitment	1,922	1,986	2,071	2,019	1,982	3.1%
Sanction from Probation	691	1,003	1,192	1,197	1,186	71.6%
Probation Condition Violator	1,321	1,180	1,229	1,458	1,402	6.1%
Probation Violator With New Sentence/New Conviction	499	519	522	451	423	-15.2%
Parole/Post-release/CR Condition Violator	1,219	1,237	1,201	1,082	1,091	-10.5%
Parole/Post-release/CR Violator With New Sentence	151	146	196	213	182	20.5%
Other Types*	73	93	86	122	122	67.1%
Total	**5,876**	**6,164**	**6,497**	**6,542**	**6,388**	**8.7%**

* Other admissions include: compact inmate, parole detainer w/new sentence, non-violator return no new sentence, and admit in lieu of revocation of parole/cr.

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 2019 remained the same as that of FY 2018 (both 2,151) but increased by 19.5% when compared with FY 2015. Comparing statistics between FY 2019 and FY 2015, the admissions increased by 20.0% at drug severity level 1, by 34.3% at drug severity level 2 and by 53.5% at drug severity level 5. However, the number of admissions decreased by 44.1% at drug severity level 3 and by 189.2% at drug severity level 4. It is important to keep in mind that a new drug sentencing grid was implemented on July 1, 2012, thus 2015 statistics reflect the early years of the new grid compared to full implementation by FY 2019. When comparing statistics between FY 2019 and FY 2018, the admissions increased by 31.6% at drug severity level 1, by 35.4% at severity drug severity level 2, by 7.5% at severity level 3 and by 0.8% at drug level 5. However, the number of admissions decreased by 29.1% at drug severity level 4

when compared with those of FY 2019. The decrease of admissions at drug level 4 and the increase of admissions at drug level 5 in FY 2019 continuously reflects the implementation of the new drug sentencing grid (Table 45).

The total number of nondrug admissions decreased by 3.5% over that of FY 2018 but increased by 2.2% over that of FY 2015. In the past five years, the most significant increase of nondrug admissions was found at nondrug severity level 6, an increase of 51.7%. The admissions at levels 1, 4, 7, 8 and 9 increased, respectively, by 26.4%, 10.7%, 9.2%, 14.4%, and 3.0%.The most significant decrease in the past five years was found at nongrid and unknown with decreases of 100.0% as there were no admissions for this group in 2019. The number of off-grid offenders admitted to prison in FY 2019 decreased by 7.6% when compared with FY 2015. When compared with FY 2018, the most significant increase in admission was off-grid admissions (25.3%), followed by severity level 6 admissions (10.3%). The admissions at nondrug severity levels 1, 3, 4, 5, 7, 8 and 9 decreased, respectively, by 24.3%, 12.8%, 4.6%, 4.3%, 2.8%, 2.5% and 4.0% between that of FY 2019 and FY 2018. FY 2019 nondrug severity levels 2 and 10 totals remained the same as that of 2018. Additionally, nongrid and "unknown" levels decreased by 100% as there were no admissions in FY 2019 for these groups (Table 46).

Table 45: Comparison of Drug Prison Admissions by Severity Level

Severity Level	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2019-2018 % Difference	FY 2019-2015 % Difference
D1	40	54	35	38	50	31.6%	20.0%
D2	88	97	100	99	134	35.4%	34.3%
D3	353	297	268	228	245	7.5%	-44.1%
D4	535	341	298	261	185	-29.1%	-189.2%
D5	715	1,094	1,348	1,525	1,537	0.8%	53.5%
Total	**1,731**	**1,883**	**2,049**	**2,151**	**2,151**	**0.0%**	**19.5%**

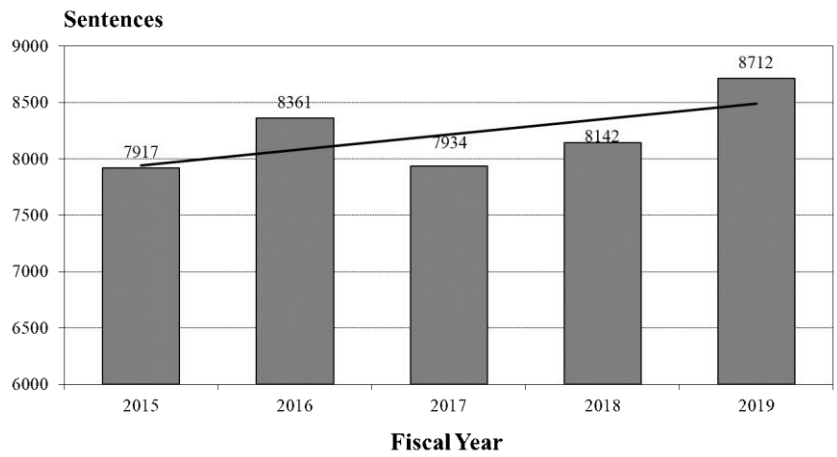
Table 46: Comparison of Nondrug Prison Admissions by Severity Level

Severity Level	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2019-2018 % Difference	FY 2019-2015 % Difference
N1	91	109	129	152	115	-24.3%	26.4%
N2	44	38	37	29	29	0.0%	-34.1%
N3	357	347	310	343	299	-12.8%	-16.2%
N4	131	129	140	152	145	-4.6%	10.7%
N5	647	654	615	575	550	-4.3%	-15.0%
N6	240	271	352	330	364	10.3%	51.7%
N7	892	951	945	1002	974	-2.8%	9.2%
N8	485	514	534	569	555	-2.5%	14.4%
N9	1007	1048	1,171	1,080	1,037	-4.0%	3.0%
N10	108	103	91	60	60	0.0%	-44.4%
Off-grid	118	106	111	87	109	25.3%	-7.6%
Nongrid	23	10	7	9	0	-100.0%	-100.0%
Unknown	2	1	6	3	0	-100.0%	-100.0%
Total	**4,145**	**4,281**	**4,448**	**4,391**	**4,237**	**-3.5%**	**2.2%**

PROBATION SENTENCES

The number of probation sentences imposed has fluctuated in the past five years. The total number of probation sentences in FY 2019 increased by 7.0% or 570 sentences compared with that of FY 2018 and by 10.0% or 795 sentences compared with that of FY 2015. The largest number of probation sentences imposed in the past five years is identified in FY 2019 (Figure 59).

Figure 59: Probation Sentences
FY 2015 through FY 2019



In FY 2019, the total drug probation sentences increased by 8.8% or 351 sentences over that of FY 2018 and greatly increased by 30.0% or 927 sentences over that of FY 2015. 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. Comparing drug sentences to probation between FY 2019 and 2015, statistics demonstrate that the number of drug probation sentences decreased by 7.7% at drug severity level 1 and by 22.2% at drug severity level 4. However, probation sentenced increased by 106.0% at drug severity level 2, by 8.8% at drug severity level 3 and by 41.1% at drug severity level 5. Again, it is important to note that the new drug grid was implemented on June 1, 2012 and may account for the large disparity of numbers at various levels when comparing FY 2019 numbers to FY 2015.

Moreover, in comparing data from FY 2019 and FY 2018, the number of drug probation sentences decreased by 20.6% at drug severity level 3 and by 3.9% at drug severity level 4. However, drug probation sentences increased by 71.4% at drug level 1, by 39.4% at drug level 2 and by 12.4% at drug level 5 (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 2019 increased by 5.6% from that of FY 2018 but decreased by 2.4% from that of FY 2015. The largest decline of nondrug probation sentences in the past five years was found with the nongrid crimes (56.3%), followed by nondrug severity level 10 (31.2%) and severity level 9 (12.6%). The largest increase of nondrug probation sentences in the past five years was identified at nondrug severity level 4 (97.0%), followed by nondrug severity level 6 (33.9%) and nondrug severity level 1 (33.3%), when compared with the data observed in FY 2015.

Table 47: Comparison of Probation Drug Sentences by Severity Level FY 2015 through FY 2019

Severity Level	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2019-2018 % Difference	FY 2019-2015 % Difference
D1	13	10	10	7	12	71.4%	-7.7%
D2	67	88	82	99	138	39.4%	106.0%
D3	216	231	240	296	235	-20.6%	8.8%
D4	478	346	393	387	372	-3.9%	-22.2%
D5	2,255	2,658	2,694	2,831	3,182	12.4%	41.1%
Total	**3,029**	**3,333**	**3,419**	**3,620**	**3,939**	8.8%	30.0%

Table 48: Comparison of Probation Nondrug Sentences by Severity Level FY 2015 through FY 2019

Severity Level	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2019-2018 % Difference	FY 2019-2015 % Difference
N1	3	2	1	1	4	300.0%	33.3%
N2	0	0	1	1	1	0.0%	N/A
N3	38	33	36	44	44	0.0%	15.8%
N4	33	35	49	66	65	-1.5%	97.0%
N5	283	297	250	243	262	7.8%	-7.4%
N6	218	208	212	285	292	2.5%	33.9%
N7	1,031	1,042	988	990	1,142	15.4%	10.8%
N8	914	926	885	901	986	9.4%	7.9%
N9	2,031	2,166	1,850	1,775	1,775	0.0%	-12.6%
N10	218	189	153	153	150	-2.0%	-31.2%
Off-grid	0	2	0	0	0	N/A	N/A
Nongrid	119	128	90	63	52	-17.5%	-56.3%
Total	**4,888**	**5,028**	**4,515**	**4,522**	**4,773**	**5.6%**	**-2.4%**

PRISON POPULATION FORECAST

The prison population projection is based on FY 2019 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 11,428 by June 30, 2029, an increase of 1,384 inmates or 13.8% over the actual prison population on the same date in 2019. 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 have resulted in a continual growth in the state's prison population.

Table 49 presents FY 2019 prison population projection by offender group. In the ten-year forecast period, the largest increase in number is for nondrug severity levels 7 to 10, which is expected to increase by 369 offenders or 41.4%. The next highest group are drug offenders, who are expected to increase by 384 offenders or 24.4%. The projected population at nondrug severity levels 1 to 3 will increase by 134 offenders or 5.4% during the ten-year forecast period. The prison population at nondrug severity levels 4 to 6 will increase by 128 offenders or 7.3%. The off-grid incarceration group in the next ten years will increase by 261 offenders or 18.2%. This growth reflects the continued impact of Jessica's Law (House Bill 2567) passed in 2006.

Probation condition violators admitted to prison were required to serve their underlying prison sentence before 2013, but 2013 House Bill 2170 required probation condition violators to serve graduated sanctions instead, which included custody in KDOC for 120 days or 180 days. However, 2019 Senate Bill 18 included language that will phase out the use of prison sanctions. Thus, in the next ten years, the number of prison sanctions from probation will decrease to 0. The probation condition violators admitted to prison will increase by 297 or 25.4% and the parole/postrelease condition violators will increase by 48 or 10.2% 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 off-grid, will gradually decrease over the ten-year forecast period. The trend of the actual and projected prison population from FY 2010 through FY 2029 is presented in Figure 60.

Figure 60: Prison Population Actual and Projected

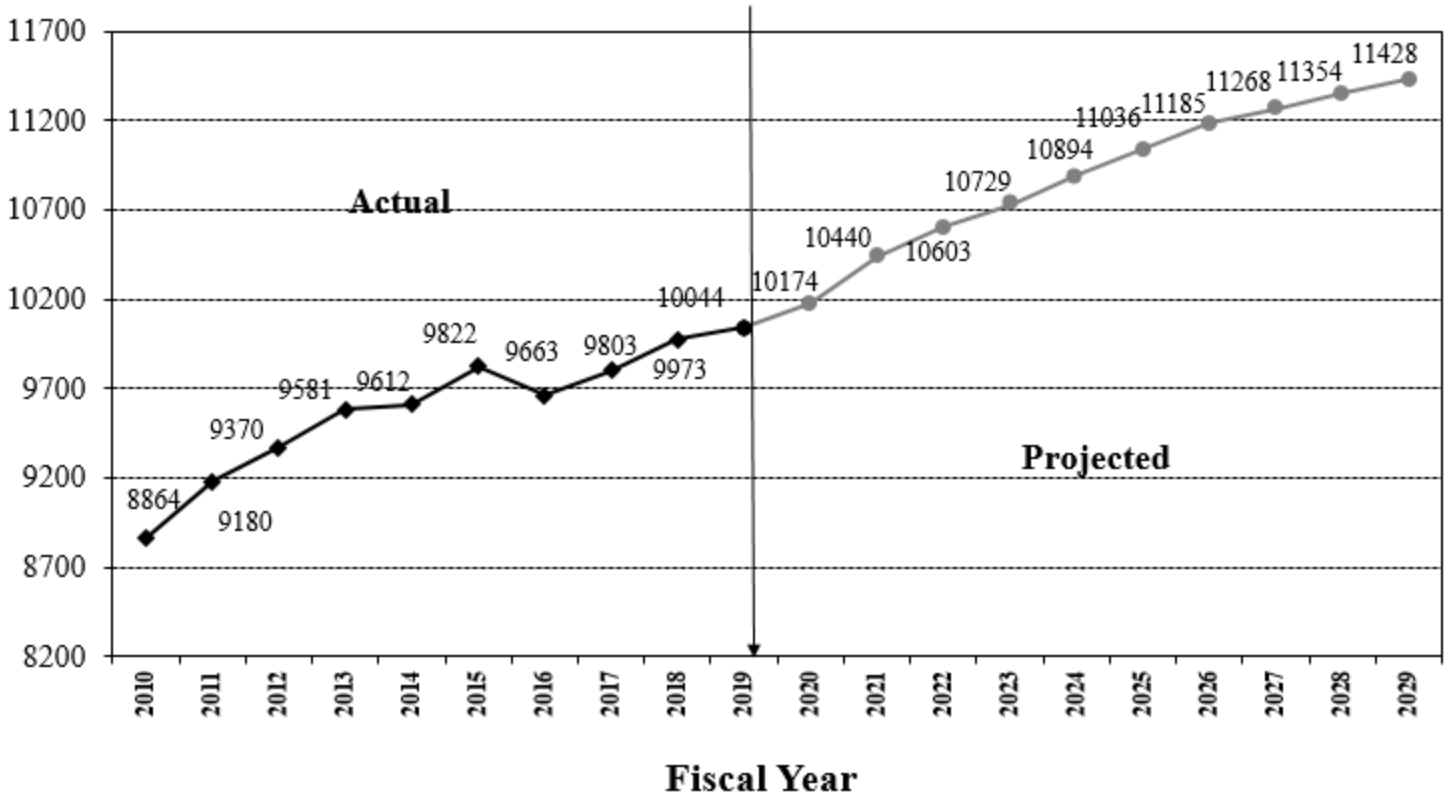


Table 49: FY 2020 Adult Inmate Prison Population Projections

Offender Group	2019*	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	# Change	% Change
Drug	1574	1583	1663	1747	1780	1828	1849	1915	1948	1951	1958	384	24.4%
N1 to N3	2504	2504	2515	2537	2541	2557	2596	2591	2589	2629	2638	134	5.4%
N4 to N6	1749	1772	1790	1777	1810	1815	1826	1860	1892	1856	1877	128	7.3%
N7 to N10	892	966	1052	1097	1140	1173	1209	1194	1210	1246	1261	369	41.4%
Sanction	131	73	11	0	0	0	0	0	0	0	0	-131	-100.0%
Probation Condition Violators	1167	1276	1345	1402	1389	1432	1446	1463	1467	1477	1464	297	25.4%
Off-grid Including Old Law Lifer	1437	1442	1485	1520	1542	1565	1597	1629	1648	1661	1698	261	18.2%
Parole/Post Release Violators	469	466	501	463	474	481	477	504	487	514	517	48	10.2%
Old Law Inmates	121	92	78	60	53	43	36	29	27	20	15	-106	-87.6%
Total	10044	10174	10440	10603	10729	10894	11036	11185	11268	11354	11428	1384	13.8%

* The numbers of 2019 are the actual prison population on June 30, 2019.

CUSTODY CLASSIFICATION PROJECTION

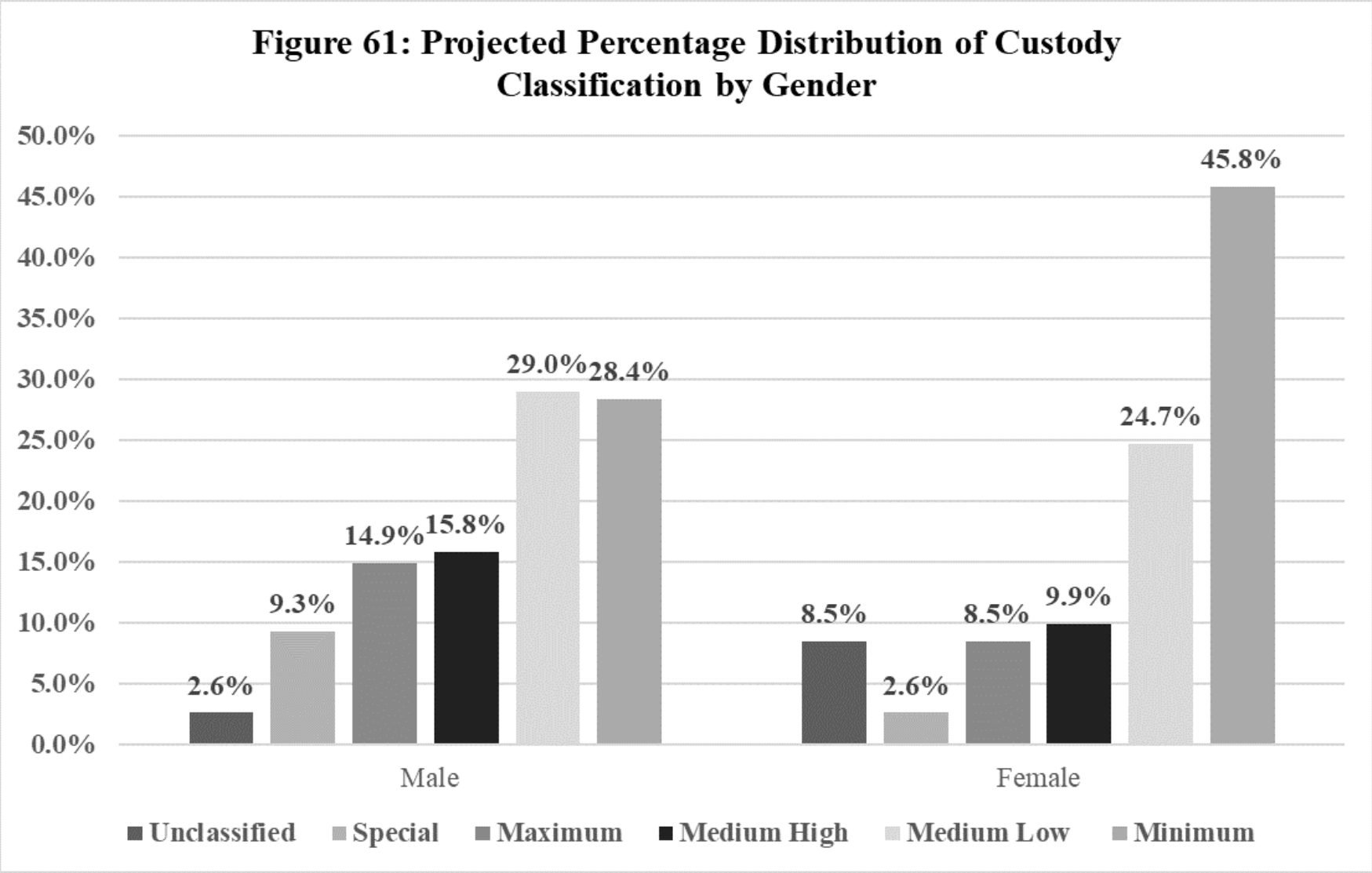
The prison population projections forecast the total beds needed over the ten-year forecast period, while custody classification projections predict the types of beds needed for custody in the next ten years. The overall custodial classification projections reveal that by the end of FY 2020, 320 unclassified beds, 3,054 minimum beds, 2,910 medium low beds, 1,552 medium high beds, 1,455 maximum beds and 883 special management beds will be needed. The total projected prison beds, by the end of FY 2029 will include 358 unclassified beds, 3,425 minimum beds, 3,270 medium low beds, 1,745 medium high beds, 1,637 maximum beds and 994 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 the following beds: 8.5% unclassified, 45.8% minimum, 24.7% medium low, 9.9% medium high, 8.5% maximum custody and 2.6% special management beds by the end of FY 2020. Males will need 2.6% unclassified, 28.4% minimum, 29.0% medium low, 15.8% medium high, 14.9% maximum custody and 9.3% special management beds by the end of FY 2020. 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 medium low beds with an increase of 340. The second largest increase is for minimum beds with an increase of 333 beds. The medium high beds, maximum custody beds, special management beds and unclassified beds show an increase of 185, 174, 109 and 30, respectively, over the ten-year forecast period. Beds for females, in terms of custody types, only fluctuate slightly in the next ten years except for minimum beds with an increase of 37 and medium low beds with an increase of 20. 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
2020	320	883	1,455	1,552	2,910	3,054	10,174
2021	329	905	1,493	1,592	2,985	3,135	10,440
2022	335	919	1,516	1,616	3,032	3,185	10,603
2023	338	931	1,534	1,636	3,068	3,222	10,729
2024	343	945	1,558	1,662	3,116	3,270	10,894
2025	350	954	1,576	1,680	3,154	3,321	11,036
2026	353	969	1,599	1,705	3,198	3,361	11,185
2027	356	976	1,610	1,717	3,221	3,387	11,268
2028	356	986	1,625	1,733	3,248	3,405	11,354
2029	358	994	1,637	1,745	3,270	3,425	11,428

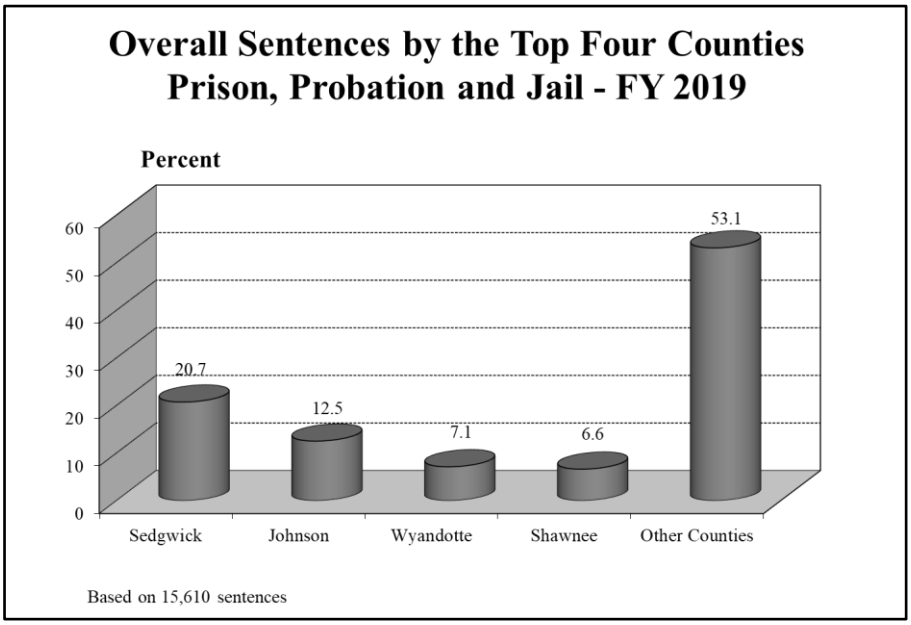


Based on projected prison population on June 30, 2020 (male=9,227 and female=947).

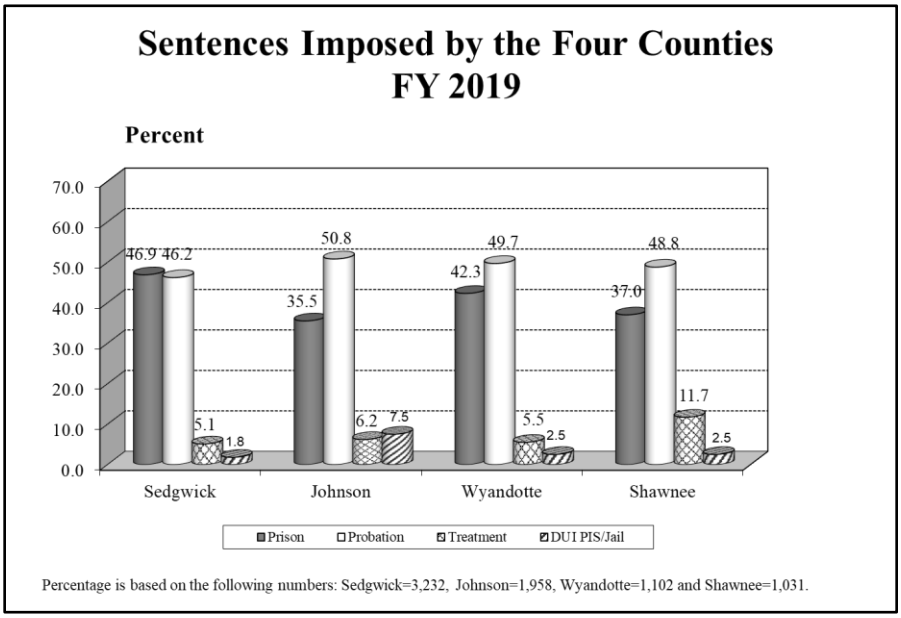
APPENDIX I
SENTENCES FROM THE TOP FOUR COUNTIES

Sentences utilized for analyses in this section include incarceration, probation, DUI PIS and county jail sentences submitted to the Commission during FY 2019. The analysis of the sentences indicates that Sedgwick County, Johnson County, Wyandotte County and Shawnee County remained the top four counties, whose sentences imposed accounted for 46.9% of the total state sentences, an increase of 1.2% compared with that of FY 2018 (45.7%). 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 2018, the percentages of sentences from these four counties in FY 2019 do not fluctuate much. Sentences from Sedgwick County increased by 0.9% and for Shawnee County by 0.1%, but the percentage of sentences from Johnson and Wyandotte Counties decreased both by 0.4%. The characteristics of offenses and offenders from the four counties in FY 2019 are presented in the following figures and tables.

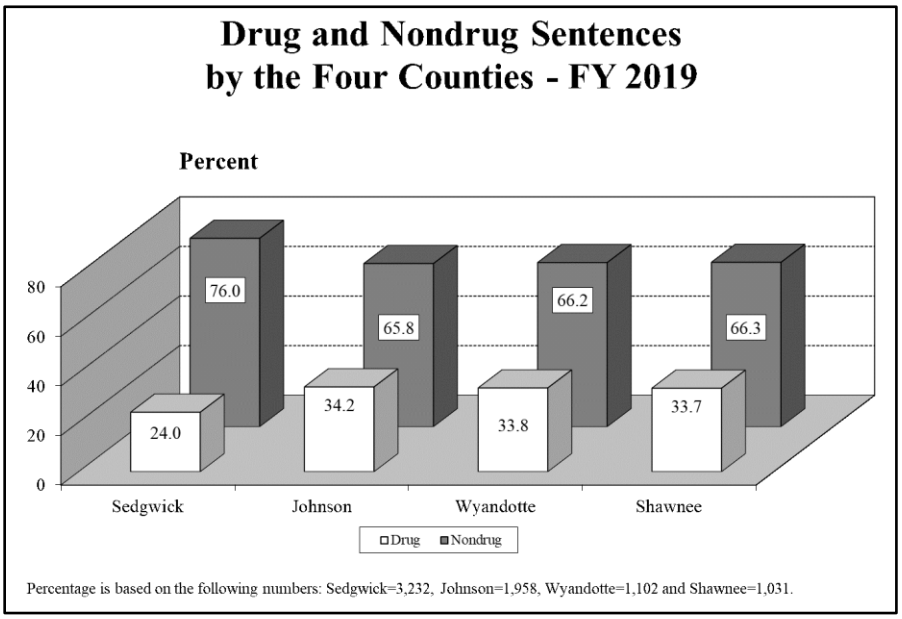
The Sedgwick, Johnson, Wyandotte and Shawnee counties were the top four counties reporting the greatest overall felony sentencing events. Sedgwick County imposed 20.7% sentences of the total state sentence events in FY 2019, followed by Johnson County (12.5%), Wyandotte County (7.1%) and Shawnee County (6.6%).



The highest percentage of prison sentences in FY 2019 was found in Sedgwick County (46.9%), while Johnson County imposed a higher rate of probation sentences than the other three counties (50.8%). Shawnee County imposed the highest rate of Senate Bill 123 drug treatment sentences (11.7%) among the four counties. The highest percentage of DUI PIS and county jail sentences was identified in Johnson County (7.5%).

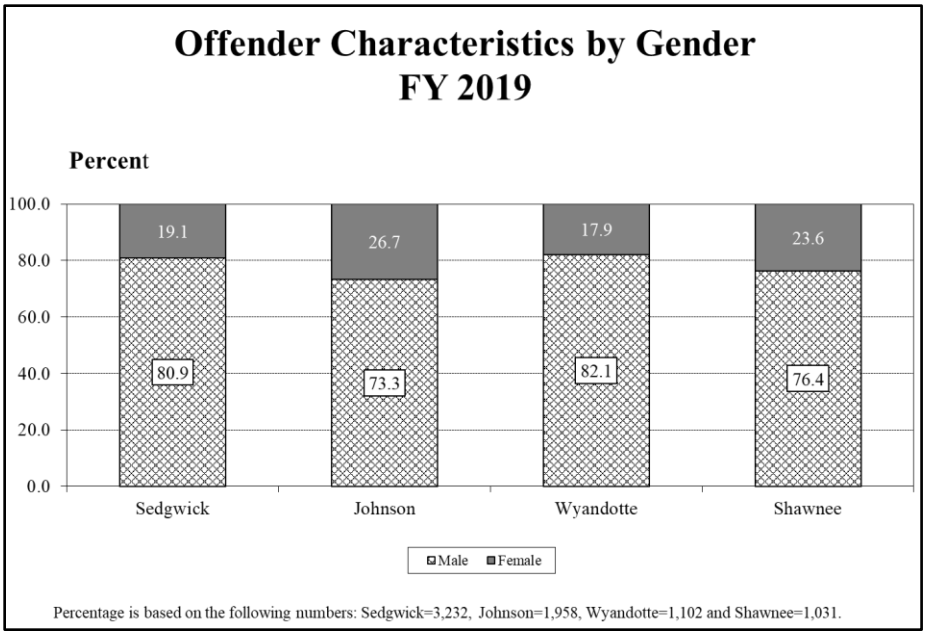


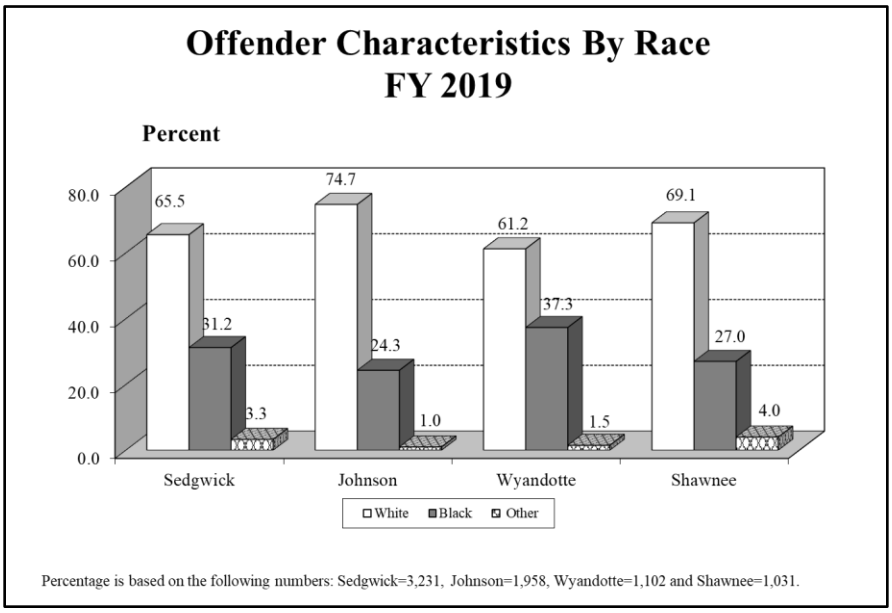
In terms of drug and nondrug crimes, the analysis reveals that in FY 2019, Sedgwick County imposed the largest proportion of nondrug sentences (76.0%), while Johnson County represented the highest percentage of drug sentences (34.2%) among the four counties.



The analysis of offenders by gender shows that Wyandotte County represented the highest percentage of male offenders (82.1%), while Johnson County reported the highest rate of female offenders (26.7%) among the four counties during FY 2019. This is different from the data observed in the past three years.

The review of offenders by race reveals that in FY 2019, Johnson County reported more white offenders (74.7%), while Wyandotte County reported more black offenders (37.3%) than the other three counties respectively. This racial distribution has remained constant in the past six years.





FY 2019 Sentences from the Four Counties by Severity Level
Prison, Probation, DUI PIS and County Jail Sentences

Severity Level	Sedgwick		Johnson		Wyandotte		Shawnee	
	N	%	N	%	N	%	N	%
D1	1	0.0	3	0.2	0	0.0	2	0.2
D2	51	1.6	18	0.9	15	1.4	5	0.5
D3	64	2.0	40	2.0	27	2.5	6	0.6
D4	29	0.9	70	3.6	16	1.5	22	2.1
D5	631	19.5	539	27.5	314	28.5	312	30.3
N1	27	0.8	7	0.4	25	2.3	14	1.4
N2	4	0.1	2	0.1	11	1.0	3	0.3
N3	83	2.6	18	0.9	55	5.0	37	3.6
N4	51	1.6	26	1.3	29	2.6	15	1.5
N5	249	7.7	78	4.0	76	6.9	62	6.0
N6	174	5.4	79	4.0	43	3.9	54	5.2
N7	649	20.1	200	10.2	123	11.2	130	12.6
N8	402	12.4	318	16.2	106	9.6	118	11.4
N9	682	21.1	390	19.9	210	19.1	196	19.0
N10	14	0.4	17	0.9	17	1.6	11	1.1
Nongrid	75	2.3	150	7.7	29	2.6	35	3.4
Off-grid	46	1.4	3	0.2	6	0.5	9	0.9
Total	**3,232**	**100**	**1,958**	**100**	**1,102**	**100**	**1,031**	**100**

FY 2019 Top Ten Offenses Committed by Offenders in the Four Counties – 1

Offense Type	Sedgwick County		Offense Type	Johnson County	
	N	%		N	%
Drugs	776	24.0	Drugs	670	34.2
Burglary	286	8.8	Theft	231	11.8
Aggravated Battery	275	8.5	Identity Theft	146	7.5
Theft	271	8.4	DUI	143	7.3
Possession of Firearm	197	6.1	Burglary	111	5.7
Criminal Threat	160	5.0	Aggravated Battery	86	4.4
Failure to Register	151	4.7	Criminal Threat	77	3.9
Aggravated Assault	133	4.1	Forgery	47	2.4
Fleeing or Eluding LEO	116	3.6	Electronic Monitoring	42	2.1
Domestic Battery	86	2.7	Aggravated Assault	36	1.8
Total	**2,451**	**75.9**	**Total**	**1,589**	**81.1**

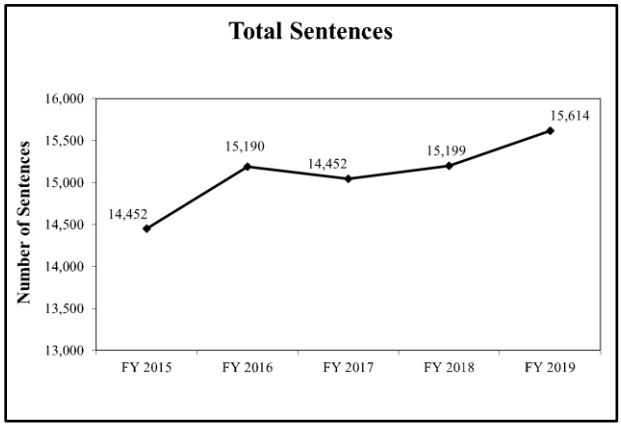
FY 2019 Top Ten Offenses Committed by Offenders in the Four Counties – 2

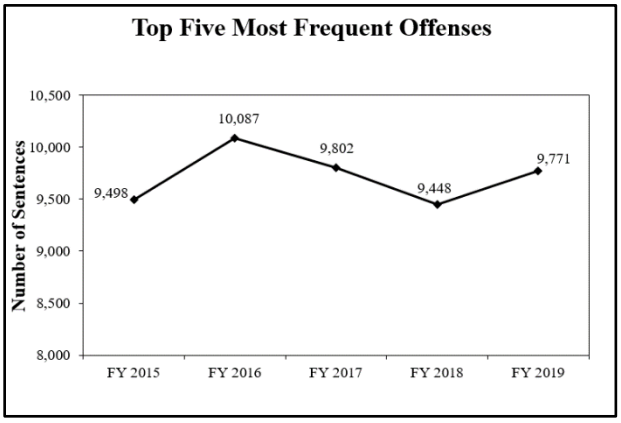
Offense Type	Wyandotte County		Offense Type	Shawnee County	
	N	%		N	%
Drugs	372	33.8	Drugs	347	33.7
Fleeing or Eluding LEO	88	8.0	Theft	87	8.4
Aggravated Battery	74	6.7	Burglary	64	6.2
Theft	74	6.7	Aggravated Battery	61	5.9
Burglary	62	5.6	Failure to Register	53	5.1
Possession of Firearm	52	4.7	Forgery	35	3.4
Aggravated Assault	41	3.7	Obstructing Legal Process	33	3.2
Aggravated Robbery	37	3.4	Aggravated Assault	31	3.0
Forgery	36	3.3	Fleeing or Eluding LEO	27	2.6
Failure to Register	30	2.7	DUI	26	2.5
Total	**866**	**78.6**	**Total**	**764**	**74.0**

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 PIS and county jail sentences, these top five offenses represented 65.7% in FY 2015, 66.4% in FY 2016, 65.2% in FY 2017 62.2% in 2018 and 62.6% in 2019. The following figures and table present the sentencing trends of the top five offenses from FY 2015 to FY 2019. The sentence number of the top five offenses correspond generally to the pattern of total incarceration, probation, DUI PIS and county jail sentences in the past five years.



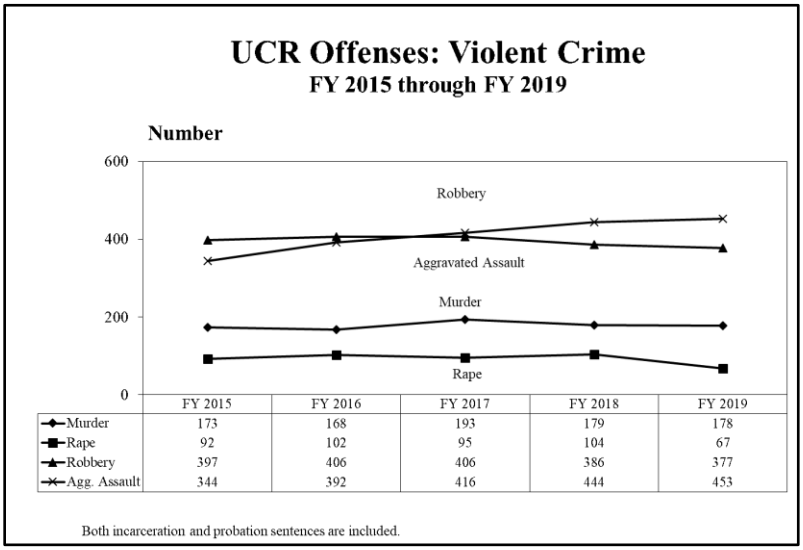


Top Five Most Frequent Offenses
Incarceration, Probation, DUI PIS and County Jail Sentences

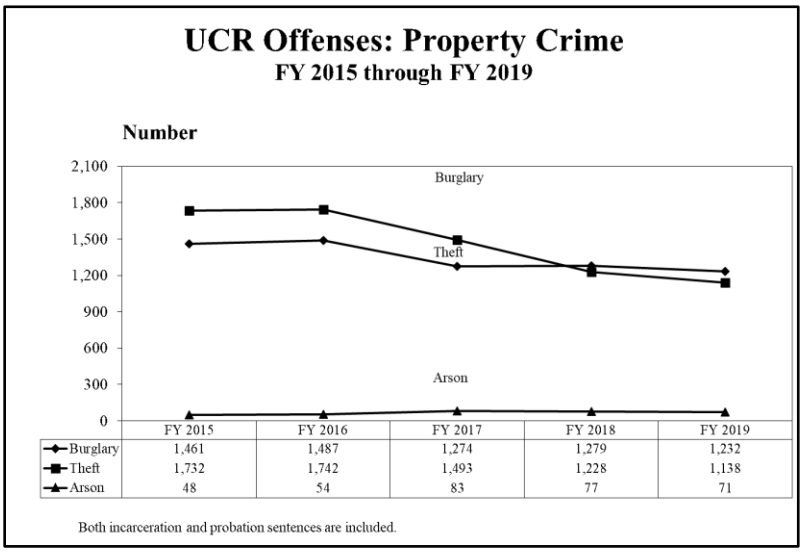
Top Five Offenses	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Drugs	4,762	5,220	5,468	5,771	6,090
Theft	1,732	1,742	1,493	1,128	1,138
Burglary	1,461	1,487	1,274	1,162	1,156
Aggravated Battery	815	913	925	874	883
DUI	728	725	642	513	504
Subtotal	**9,498**	**10,087**	**9,802**	**9,448**	**9,771**
Total Offenses	**14,452**	**15,190**	**15,045**	**15,199**	**15,614**

UNIFORM CRIME REPORTING (UCR) OFFENSES FOR KANSAS

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 2015 to FY 2019, 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 2019 decreased by 0.6% compared with FY 2018 but increased by 2.9% compared with FY 2015. The number of rape crimes decreased by 35.6% compared with FY 2018 and by 27.2% compared with FY 2015. Robbery convictions decreased by 2.3% compared with FY 2015 and by 5.0% when compared with FY 2018. The number of aggravated assaults increased by 2.0% and 31.7% respectively over those of FY 2018 and FY 2015.



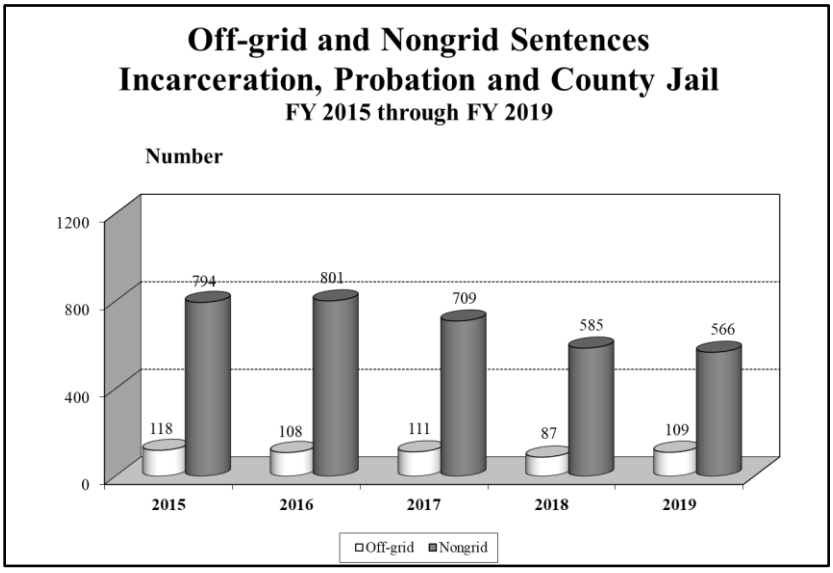
In FY 2019, burglary crimes decreased by 3.7% compared with FY 2018 and by 15.7 % compared with FY 2015. The number of theft crimes decreased by 7.3% from FY 2018 and by 34.3% compared with that of FY 2015. The crime of arson decreased by 7.8% compared to FY 2018, but increased 47.9% over that of FY 2015.

OFF-GRID AND NONGRID CRIMES

Off-grid crimes are the most serious of 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 off-grid crimes. Persons convicted of off-grid 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.

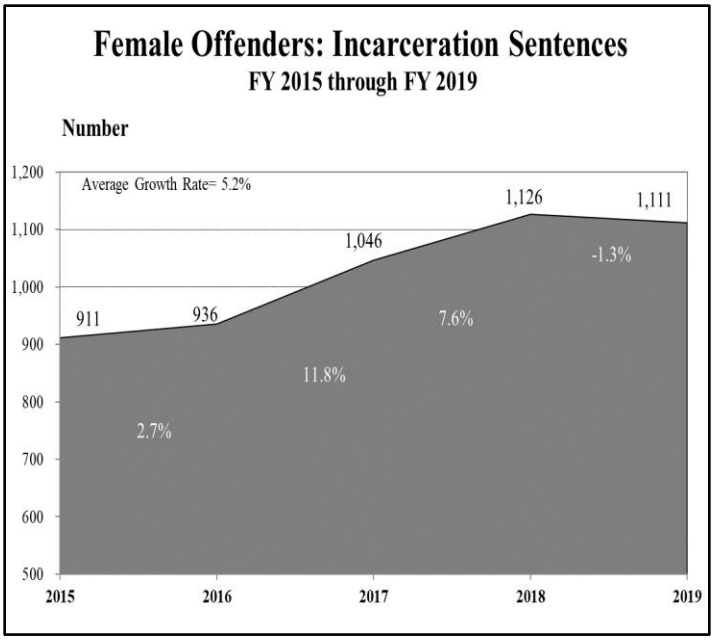
Nongrid crimes are not assigned severity levels on either sentencing guidelines grids under the revised Kansas Sentencing Guidelines Act (K.S.A. 21-4701, *et seq.*). The crimes of felony driving under the influence of alcohol or drugs (K.S.A. 8-1567), felony domestic battery (K.S.A. 21-5414) and felony 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 not 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.

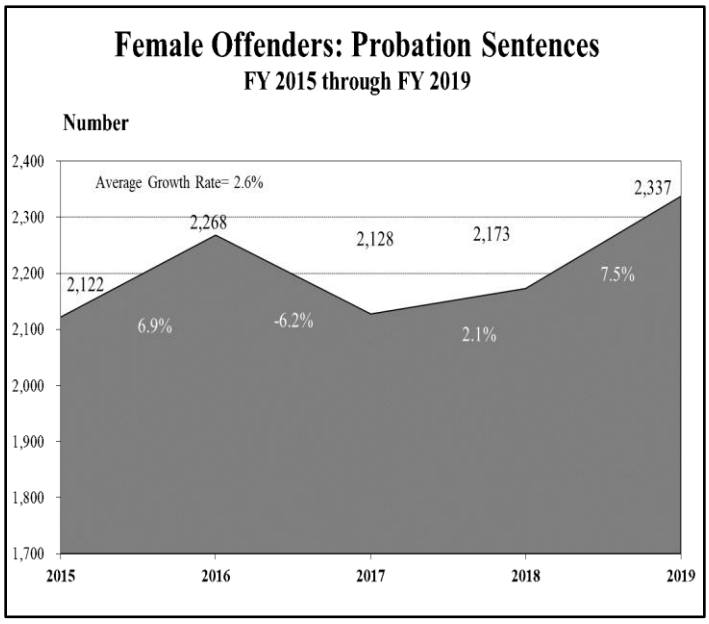
In FY 2019, the number of off-grid crimes decreased by 22 (20.2%) over that of FY 2018 and by 9 (7.6%) over that of FY 2015. The majority of the Off-grid sentences were convicted under Jessica's Law, which implies that the policy was implemented consistently in the past five years. Nongrid sentences in FY 2019, including incarceration, probation and county jail sentences, decreased by 3.2% compared with FY 2018 and significantly decreased by 28.7% from that of FY 2015, 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. Although the number of female admissions in FY 2019 decreased by 1.3% compared with that of FY 2018, it increased by 22.0% compared with that of FY 2015. The average growth rate in the past five years is 5.2%. The number of female offenders on probation has grown from year to year since FY 2015, except for in FY 2017. In FY 2019, female offenders on probation increased by 7.5% from that of 2018 and by 10.1 compared to that of 2015. The average growth rate is 2.6% 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 2.7% in FY 2016, by 11.8% in FY 2017, by 7.6% in FY 2018, but decreased by 1.3% in FY 2019. Female prison admissions reached the highest number in FY 2018 (1,126) in the past five years.

The female population sentenced to probation increased by 6.9% in FY 2016, by 2.1% in FY 2018 and by 7.5% in 2019. However, females on probation in FY 2017 decreased by 6.2% from FY 2016.