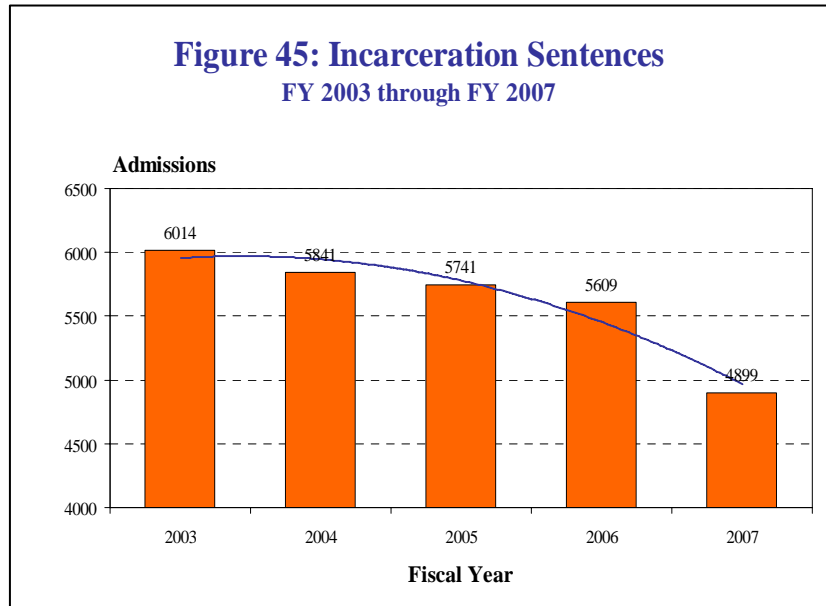


## CHAPTER FOUR SENTENCING TRENDS AND FORECAST

### INCARCERATION SENTENCES

The trend analysis of prison admissions in the past five years demonstrates a very obvious declining tendency. The number of admissions in FY 2007 decreased significantly by 710 or 12.7% when compared with that of FY 2006 and 18.5% compared with that of FY 2003 (Figure 45). Table 35 displays the prison admission patterns by month in the past five years.



**Table 35: Prison Admissions by Month**

Month by Fiscal Year	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
July	523	525	439	407	417
August	569	441	497	570	420
September	521	460	501	534	390
October	577	500	413	473	448
November	479	418	466	473	375
December	475	550	441	459	354
January	472	445	407	461	442
February	440	435	471	443	355
March	460	560	575	472	422
April	520	491	491	409	397
May	466	469	486	492	502
June	512	547	554	416	377
<b>Total</b>	<b>6014</b>	<b>5841</b>	<b>5,741</b>	<b>5,609</b>	<b>4,899</b>

Table 36 presents the trend of admissions to prison by type in the past five years. The admissions of new court commitments in FY 2007 decreased by 0.3% compared with FY 2006 and decreased by 2.7% compared with FY 2003. The number of probation condition violators admitted to prison in FY 2007 decreased by 14.1% from that of FY 2006, which is the first declining of admissions in the past five years. However, when compared with that of FY 2003, probation condition violators admitted in FY 2007 still increased by 16.9%. Probation violators with new sentences admitted to prison in FY 2007 decreased greatly, as well, by 30.3% compared with FY 2006 and by 51.7% compared with FY 2003. The number of parole/post-release supervision condition violators admitted to prison in FY

2007 continued dropping, indicating a decrease of 25.2% and 49.3%, respectively, compared with those in FY 2006 and FY 2003. On the contrary, the number of parole/post-release violators with new sentences in FY 2007 continued growing, demonstrating an increase of 12.5% over that of FY 2006 and 31.3% over that of FY 2003. The largest percentage decrease is identified in the number of conditional release violators, which decreased by 64.7% in the past five years, though increased by 100% compared with that of FY 2006. There was only one admission of conditional release violator with new sentences during FY 2007. As pre-guideline sentences are reducing, these two types of conditional release violators will be eventually out of the prison system.

**Table 36: Comparison of Prison Admissions by Type**

Admission Type	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2007-2003 % Difference
New Court Commitment	1,649	1,512	1,489	1,610	1,605	-2.7%
Probation Violator	1,497	1,709	1,783	2,038	1,750	16.9%
Probation Violator with New Sentence	205	148	126	142	99	-51.7%
Parole/Postrelease Violator	2,406	2,253	2,109	1,632	1,221	-49.3%
Parole/Postrelease Violator with New Sent	144	146	163	168	189	31.3%
Conditional Release Violator	51	39	29	9	18	-64.7%
Conditional Release Violator with New Sent	4	3	3	0	1	-75.0%
Other Types*	58	31	39	10	16	-72.4%
<b>Total</b>	<b>6,014</b>	<b>5,841</b>	<b>5,741</b>	<b>5,609</b>	<b>4,899</b>	<b>-18.5%</b>

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

The admission trend of incarceration drug sentences by severity level in the past five years is exhibited in Table 37. In FY 2007, admissions at all drug levels indicated a decrease from those of the previous year, with the exception of admissions at drug level 4. The overall admissions of drug offenders in FY 2007 indicated a decrease of

7.5% compared with FY 2006 and 16.7% compared with FY 2003.

Further analysis of the drug incarceration sentences demonstrates that the number of drug severity level 4 continued increasing in the past five years with an increase of 9.5% compared with that of FY 2003. The largest

decrease was found at drug severity level 2 during FY 2007, which decreased by 55.4% from that of FY 2003 (Table 37).

The total nondrug admissions to prison kept dropping in the past five years, decreased by 14.8% from that of FY 2006 and by 19.3% from that of FY 2003. The most notable decrease of nondrug sentences in the past five years were identified at the severity levels containing offenders with the most serious crimes: level 2 with a decrease of 42.1%, level 3 with a decrease of 35.3%, level 4 with a decrease of 36.1% and level 6 with a decrease of 42.3%. No significant fluctuations were identified in the numbers

of admissions at lower nondrug severity levels 8, 9 and 10 from FY 2003 to FY 2007 (Table 38).

Though small in number, offgrid sentences decrease by 13.2% compared with FY 2006 and decreased by 32.7% compared with FY 2003. Nevertheless an increase trend should occur in the future resulting from Jessica's Law passed in the 2006 Legislative Session. Nongrid offenders admitted to prison in FY 2007 were all violators under the crime of DUI (108 offenders), demonstrating the largest increase in percentage during the past five years (an increase of 2,060%).

**Table 37: Comparison of Drug Prison Admissions by Severity Level**

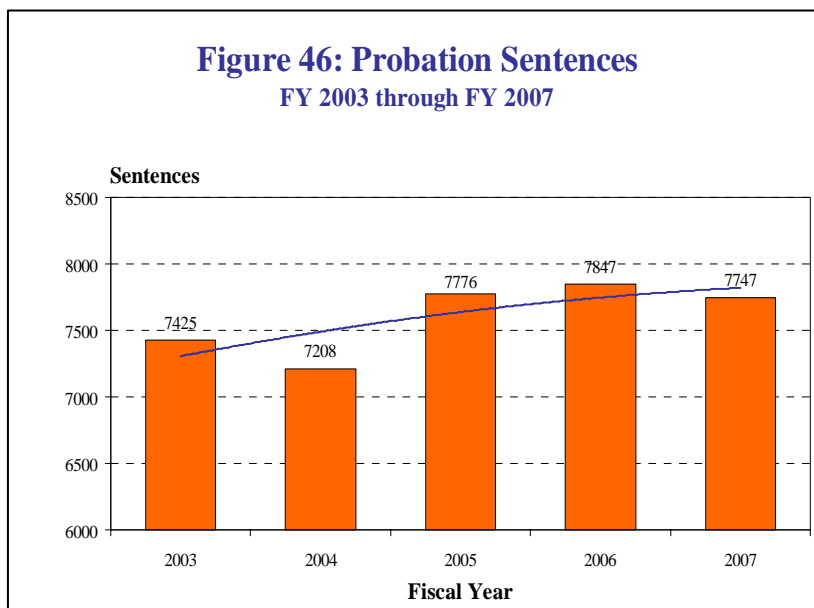
Severity Level	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2007-2006 % Difference	FY 2007-2003 % Difference
D1	235	229	187	199	149	-25.1%	-36.6%
D2	204	179	132	136	91	-33.1%	-55.4%
D3	617	567	516	487	438	-10.1%	-29.0%
D4	768	728	781	820	841	2.6%	9.5%
<b>Total</b>	<b>1,824</b>	<b>1,703</b>	<b>1,616</b>	<b>1,642</b>	<b>1,519</b>	<b>-7.5%</b>	<b>-16.7%</b>

**Table 38: Comparison of Nondrug Prison Admissions by Severity Level**

Severity Level	FY 2003	FY 2004	FY 2005	FY2006	FY 2007	FY 2007-2006 % Difference	FY 2007-2003 % Difference
N1	113	108	96	101	86	-14.9%	-23.9%
N2	121	99	112	84	70	-16.7%	-42.1%
N3	604	559	562	503	391	-22.3%	-35.3%
N4	155	151	123	125	99	-20.8%	-36.1%
N5	718	586	584	551	513	-6.9%	-28.6%
N6	208	171	158	147	120	-18.4%	-42.3%
N7	864	825	809	792	675	-14.8%	-21.9%
N8	424	458	462	445	396	-11.0%	-6.6%
N9	703	728	737	804	662	-17.7%	-5.8%
N10	206	261	235	228	215	-5.7%	4.4%
Offgrid	49	37	33	38	33	-13.2%	-32.7%
Nongrid	5	148	206	134	108	-19.4%	2060.0%
Unknown	20	7	8	15	12	-20.0%	-40.0%
<b>Total</b>	<b>4,190</b>	<b>4,138</b>	<b>4,125</b>	<b>3,967</b>	<b>3,380</b>	<b>-14.8%</b>	<b>-19.3%</b>

## PROBATION SENTENCES

The total sentencing trend of probation sentences in the past five years is displayed in Figure 46. The number of probation sentences in FY 2007 indicated a decrease of 1.3% (100 sentences) compared with that of FY 2006 but an increase of 4.3% (322 sentences) compared with that of FY 2003.



The sentencing trend of the probation sentences by severity level for drug offenses during the past five years is presented in Table 39. The analysis shows that except at drug severity level 2, drug probation sentences at all other levels in FY 2007 decreased compared with FY 2006. The largest decrease of probation sentences for drug offenses was at drug severity level 1, a decrease of 47.6% compared with that of FY 2006. The total number of drug probation sentences in FY 2007 decreased by 5.7% from that of FY 2006. When compared with FY 2003, drug probation sentences at severity levels 1, 2 and 3 reduced by 25%, 74.6% and 4.2% respectively, while drug probation sentences at severity level 4 increased by 18.3%. This increase at drug severity level 4 mirrors the implementation of Senate Bill 123 effective on November 1,

2003, wherein convictions under K.S.A. 65-4160 are all sentenced at drug severity level 4, no matter if the conviction is the first or second offense. Consequently, the numbers of probation sentences at drug severity levels 1 and 2 decreased.

The analysis of nondrug probation sentences indicates that the number of nondrug probation sentences in FY 2007 increased by 1.3% and 1.7%, respectively, compared with those of FY 2006 and FY 2003. The largest increase of nondrug probation sentences in the past five years were found at nondrug severity level 8 (an increase of 17.8%, 147 sentences) followed by nongrid (an increase of 17%, 117 sentences) and nondrug severity level 5 (an increase of 16.8%, 34 sentences) compared with the data observed in FY 2003 (Table 40).

**Table 39: Comparison of Probation Drug Sentences by Severity Level  
FY 2003 through FY 2007**

Severity Level	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2007-2006 % Difference	FY 2007-2003 % Difference
D1	44	36	121	63	33	-47.6%	-25.0%
D2	71	44	20	18	18	0.0%	-74.6%
D3	566	633	653	570	542	-4.9%	-4.2%
D4	1,767	1,728	1,983	2,196	2,091	-4.8%	18.3%
<b>Total</b>	<b>2,448</b>	<b>2,441</b>	<b>2,777</b>	<b>2,847</b>	<b>2,684</b>	<b>-5.7%</b>	<b>9.6%</b>

**Table 40: Comparison of Probation Nondrug Sentences by Severity Level  
FY 2003 through FY 2007**

Severity Level	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2007-2006 % Difference	FY 2007-2003 % Difference
N1	5	7	4	4	4	0.0%	-20.0%
N2	4	0	0	2	1	-50.0%	-75.0%
N3	61	48	46	33	49	48.5%	-19.7%
N4	17	13	4	17	15	-11.8%	-11.8%
N5	202	212	223	211	236	11.8%	16.8%
N6	91	62	61	95	68	-28.4%	-25.3%
N7	1,024	934	1,053	997	1,013	1.6%	-1.1%
N8	825	781	793	879	972	10.6%	17.8%
N9	1,521	1,430	1,539	1,534	1,479	-3.6%	-2.8%
N10	538	557	454	422	420	-0.5%	-21.9%
Nongrid	689	723	822	806	806	0.0%	17.0%
<b>Total</b>	<b>4,977</b>	<b>4,767</b>	<b>4,999</b>	<b>5,000</b>	<b>5,063</b>	<b>1.3%</b>	<b>1.7%</b>

## PRISON POPULATION FORECASTS

The prison population forecasts are based on historical sentencing data, primarily on the data of FY 2007, and the input assumptions formulated by the experts from various criminal justice agencies, who are the members of the Prison Population Consensus Group. The prison population projections predict that the offenders incarcerated in state prisons will reach 9,251 by June 30, 2017, which indicates an increase of 397 inmates or 4.5% over the actual prison population on the same date of year 2007. Although the total number of admissions has dropped compared with those of the past five years, a combination of developing admission trends with the impact of the pronounced stacking effect and new sentencing policies has resulted in a continual growth in the state's prison population. The decrease of prison population after 2009 results from the implementation of House Substitute for Senate Bill 14, passed during the 2007 Legislative Session, which promotes 20% reduction of probation revocation rate, modifies some good time rates from 15% to 20% and provides potential credit for program completion. The effective date is January 1, 2008 (Figure 47).

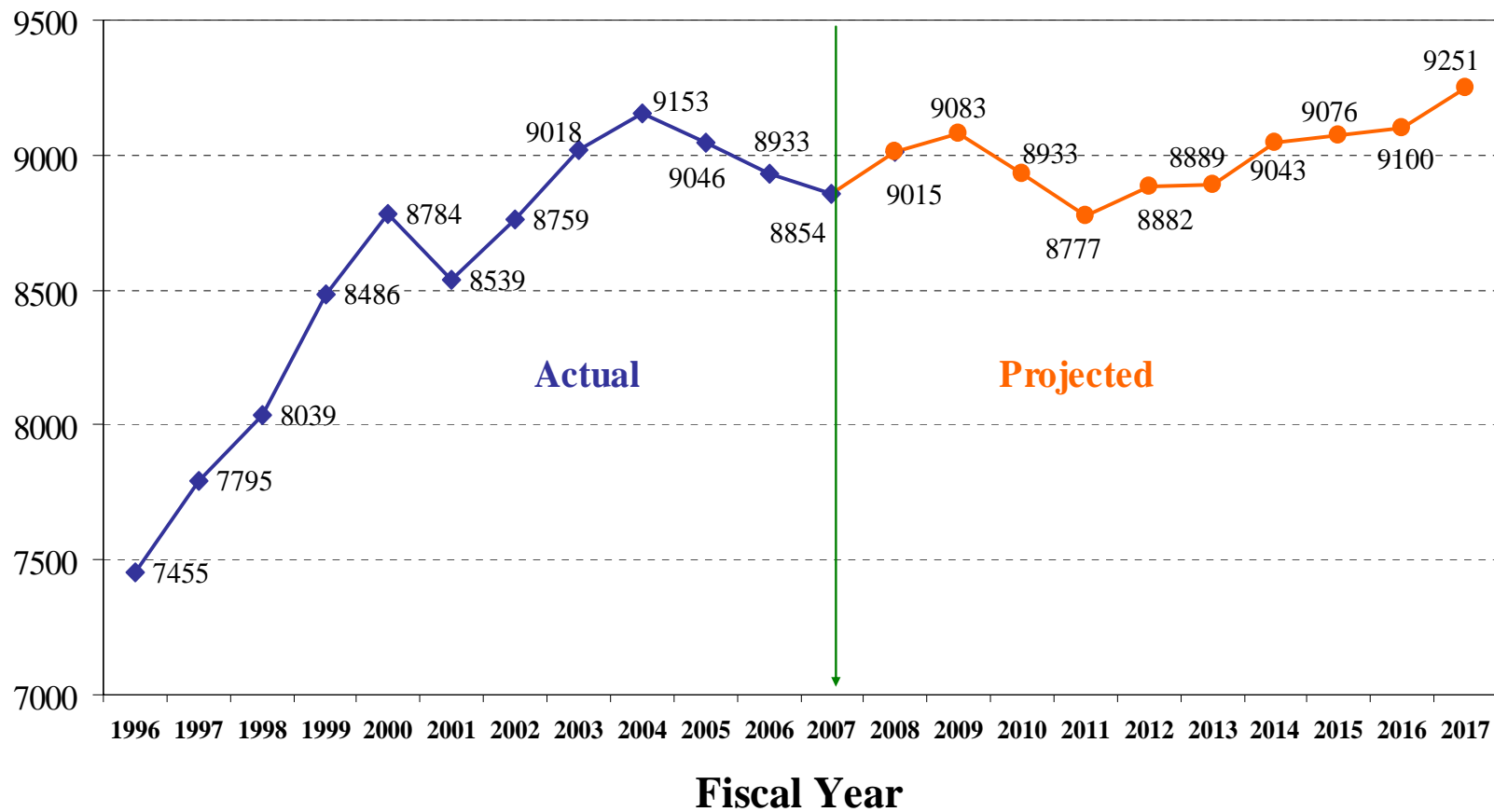
FY 2008 prison population projections by severity levels are presented in Table 41. The most significant increase in both number and percentage of incarcerated populations in the next ten years is identified in the group of offgrid offenders, an increase of 792 offenders or 108.8%. This significant growth is primarily due to the implementation of Jessica's Law (House Bill 2567) passed in the 2006 Legislative Session.

The second largest increase in number falls at nondrug severity level 1, an increase of 184 offenders over the ten-year forecast period. This is due to the "stacking effect" of long sentence length of most serious offenses, even though the number of admissions is decreasing (Table 38).

The largest decrease is found at nondrug severity levels 3 and 7 with a deduction of 198 and 128 offenders respectively in the next ten years. This decreasing tendency reflects the implementation of House Bill 2576, as well, which reclassifies certain sexual offenses at these levels as offgrid felonies.

The prison population of drug offenders at all severity levels displays a declining trend in the ten-year forecast period. This tendency may result from the implementation of Senate Bill 123, which reclassifies all drug possession offenses under KSA 65-4160 and KSA 65-4162 to drug severity level 4 and establishes a non-prison sanction of certified drug abuse treatment programs for the eligible drug offenders supervised by community correctional services. Figure 47 depicts the trend of the actual and projected prison population from FY 1996 through FY 2017.

## Figure 47: Prison Population Actual and Projected



**Table 41: FY 2008 Adult Inmate Prison Population Projections**

Severity Level	June 30 2007*	June 30 2008	June 30 2009	June 30 2010	June 30 2011	June 30 2012	June 30 2013	June 30 2014	June 30 2015	June 30 2016	June 30 2017	Total # Increase	Percent Increase
D1	452	418	398	392	388	399	417	429	433	427	432	-20	-4.4%
D2	187	168	163	152	137	138	133	137	133	128	126	-61	-32.6%
D3	494	528	536	500	494	450	451	476	462	443	443	-51	-10.3%
D4	771	747	792	757	741	764	719	740	739	722	703	-68	-8.8%
N1	847	870	882	896	916	933	946	975	997	1012	1031	184	21.7%
N2	446	454	437	435	441	430	430	417	407	404	397	-49	-11.0%
N3	1333	1328	1303	1290	1266	1245	1223	1198	1169	1167	1135	-198	-14.9%
N4	276	276	272	286	287	279	278	269	282	280	282	6	2.2%
N5	1067	1069	1079	1040	989	999	998	1008	997	1003	1014	-53	-5.0%
N6	162	159	149	134	127	137	122	142	134	123	130	-32	-19.8%
N7	797	868	868	820	722	710	704	660	665	640	669	-128	-16.1%
N8	218	284	252	244	229	221	214	236	216	225	241	23	10.6%
N9	244	308	297	263	248	258	248	245	242	263	255	11	4.5%
N10	46	65	61	50	42	62	58	56	59	45	50	4	8.7%
OFF GRID	728	735	825	905	986	1077	1165	1252	1343	1425	1520	792	108.8%
Condition Parole/PIS Violators	786	738	769	769	764	780	783	803	798	793	823	37	4.7%
<b>Total</b>	<b>8854</b>	<b>9015</b>	<b>9083</b>	<b>8933</b>	<b>8777</b>	<b>8882</b>	<b>8889</b>	<b>9043</b>	<b>9076</b>	<b>9100</b>	<b>9251</b>	<b>397</b>	<b>4.5%</b>

\*. Based on the actual prison population on that date (for the purpose of forecasting, nongrid and missing are analyzed and assigned to each level).  
 Note: Based on House Substitute for Senate Bill 14 enacted into law on July 1, 2007.

## CUSTODY CLASSIFICATION PROJECTION

The prison population projections forecast the total beds needed over the ten-year forecast period, while custody classification projections predict the kinds of beds needed for custody in the next ten years. As demonstrated in Table 42, the overall custodial classification projections indicate that 249 unclassified beds, 3,059 minimum beds, 2,638 medium low beds, 1,438 medium high beds, 936 maximum beds and 695 special management beds will be needed by the end of FY 2008. The total projected prison beds, by the end of FY 2017, will include 225 unclassified beds, 2,996 minimum beds, 2,604 medium low beds, 1,535 medium high beds, 1,028 maximum beds and 863 special management beds.

Figure 48 illustrates the projected percentage distributions of the custodial classifications by gender, which demonstrates a significant difference between male and female offenders. Females will need 4% unclassified, 60.5% minimum, 13.3% medium low, 9.7%

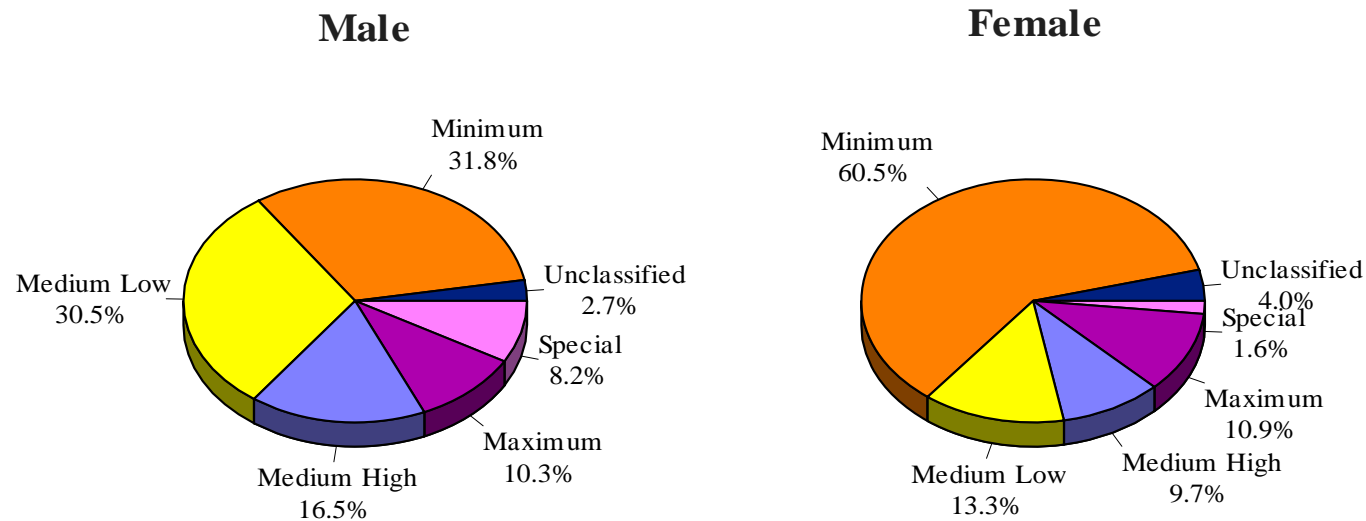
medium high, 10.9% maximum custody and 1.6% special management beds by the end of FY 2008. Males will need 2.7% unclassified, 31.8% minimum, 30.5% medium low, 16.5% medium high, 10.3% maximum custody and 8.2% special management beds by the end of FY 2008. These classification percentages of male and female offenders remain fairly constant during the ten-year forecasting period.

For male offenders, medium high beds indicate an increase of 94, maximum beds shows an increase of 106, special management beds will increase by 171; while the other types of unclassified, minimum and medium low beds demonstrate a decrease of 22, 54 and 47, respectively, over the ten-year forecast period. The beds for females, in terms of custody types, do not fluctuate much in the next ten years with an increase of 13 of medium low beds and a decrease of 14 of maximum beds. This forecast assumes no changes in custody practice over the ten-year forecast period.

**Table 42: Ten Years Custody Classification Projection**

June 30 Each Year	Unclassified	Minimum	Medium Low	Medium High	Maximum	Special	Total
2008	249	3,059	2,638	1,438	936	695	9,015
2009	245	3,034	2,631	1,445	938	790	9,083
2010	227	3,001	2,521	1,446	961	777	8,933
2011	250	2,989	2,447	1,386	914	791	8,777
2012	221	3,023	2,473	1,427	939	799	8,882
2013	234	2,981	2,460	1,453	932	829	8,889
2014	245	3,068	2,510	1,454	960	806	9,043
2015	232	3,008	2,550	1,483	985	818	9,076
2016	238	3,002	2,542	1,479	984	855	9,100
2017	225	2,996	2,604	1,535	1,028	863	9,251

## Figure 48: Projected Percentage Distribution of Custody Classification by Gender



Based on the projected prison population on June 30, 2008 (male = 8,344 and female = 671).