

CHAPTER ONE SENTENCING IN KANSAS

SENTENCES REPORTED IN FISCAL YEAR 2008

In this report, sentences utilized for analyses on sentencing practice and sentencing tendency are based upon the most serious felony offense of a single sentencing event. The analyses of sentences reported in Fiscal Year (FY) 2008 include prison and non-prison or probation sentences. Senate Bill 123 drug treatment sentences are comprised in the type of probation sentences. Besides, county jail sentences are statistically analyzed in FY 2008 Annual Report, which is new compared with the Reports of previous ten years.

During FY 2008, the Kansas Sentencing Commission received a total number of 13,710 felony sentences, which increased by 373 sentences or 2.8% over that of FY 2007. Of that total number of sentences, 4,721 were prison sentences, 8,120 were probation sentences and 869 were county jail sentences. In terms of drug or nondrug crimes, this total included 9,650 nondrug sentences and 4,060 drug sentences. Non-person offenses accounted for 70.4% and person offenses accounted for 29.6% (Figure 1), which remains constant with those of FY 2007.

Figure 2 presents the overall sentencing distribution of FY 2008 by sentence type and offense type at each severity level. Drug incarceration sentences at drug severity level 4 represented 55.5% (726 sentences) of the total drug incarceration sentences. The largest number of nondrug incarceration

offenders was identified at severity level 7 (690 sentences or 20.2%) followed by severity level 9 (635 sentences or 18.6%) and severity level 5 (533 sentences or 15.6%). The examination of probation sentences in FY 2008 demonstrates that 2,149 probation sentences fell at drug severity level 4, representing 78.1% of the total drug probation sentences. Of these 2,149 probation sentences, 61.2% or 1,315 sentences were imposed to SB 123 drug treatment programs. The highest rates of nondrug probation offenders were found at nondrug severity level 9 (31.1% or 1,671 sentences), nondrug severity level 7 (19.9% or 1,067 sentences) and nondrug severity level 8 (16.9% or 907 sentences). The analysis of county jail sentences discloses that more than 99% of the offenders were convicted of nongrid crimes with 1% convicted of other crimes at other low severity levels.

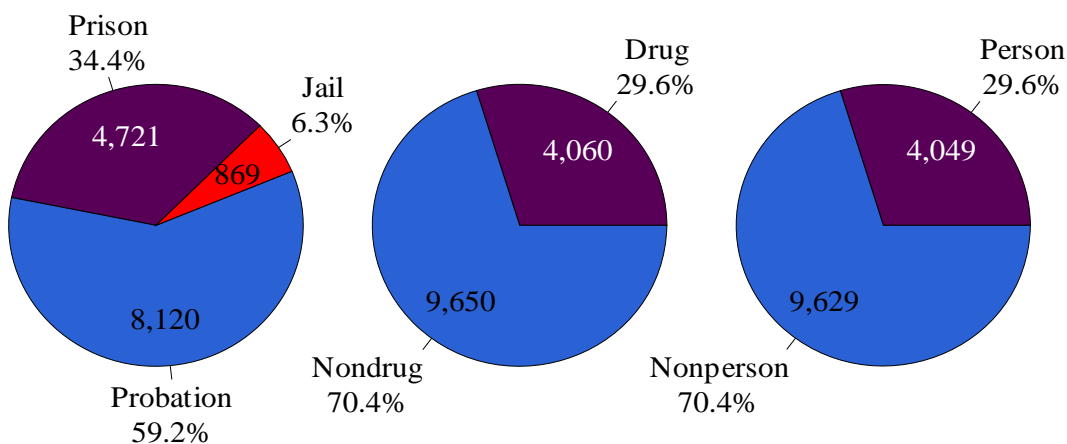
One hundred and three counties in the state submitted sentences to the Commission during FY 2008. No sentences were reported from Gove and Sheridan counties. Most of the counties reported 1 to 100 sentences. Thirteen counties reported 101 to 200 sentences. They are Atchison (115), Barton (148), Cowley (193), Crawford (147), Ellis (156), Franklin (121), Harvey (194), Jackson (104), Leavenworth (198), McPherson (113), Miami (126), Neosho (112) and Seward (150) counties. Ten counties reported 201 to 800 sentences. They are Butler (240), Douglas (262), Finney (275), Ford (301), Geary (271), Lyon (247), Montgomery (207), Riley (253), Reno (455)

and Saline (534) counties. Sedgwick, Johnson, Wyandotte and Shawnee counties remained the top four committing counties, accounting for 50.6% of all sentences imposed in FY 2008, no significant percentage change compared with that of FY 2007 (Figure 3).

The top five offenses committed in FY 2008, including prison and probation and county jail sentences, are crimes of drugs (29.6% or 4,060 sentences), DUI (12.9% or 1,773 sentences), burglary (9.2% or 1,261 sentences, including aggravated burglary), theft (7.8% or 1,074 sentences) and aggravated battery (5.6% or 759 sentences). These top five offenses accounted for 65.1% of the total 13,710 sentences in FY 2008 (Figure 4).

According to the definition of the Uniform Crime Reporting (UCR) Handbook, violent crimes refer to murder (including all types of murder and manslaughter), rape, robbery (including aggravated robbery) and aggravated assault (including aggravated assault on LEO). The distribution of the violent crimes in FY 2008 by county is presented in Figure 5. Most of the violent crimes were found to be committed in the top four counties. Sedgwick County reported the largest number of violent crimes (329 sentences) followed by Wyandotte County (189 sentences), Johnson County (114 sentences) and Shawnee County (96 sentences). Table 1 demonstrates the offenders' characteristics by individual counties. The average age of offenders at sentencing is 32.7 years old, which is 0.7 year older than that of FY 2007.

Figure 1: Sentences Reported in FY 2008



Based on 13,710 felony sentences reported in FY 2008 including 869 jail sentences.

Figure 2: FY 2008 Sentencing Distribution

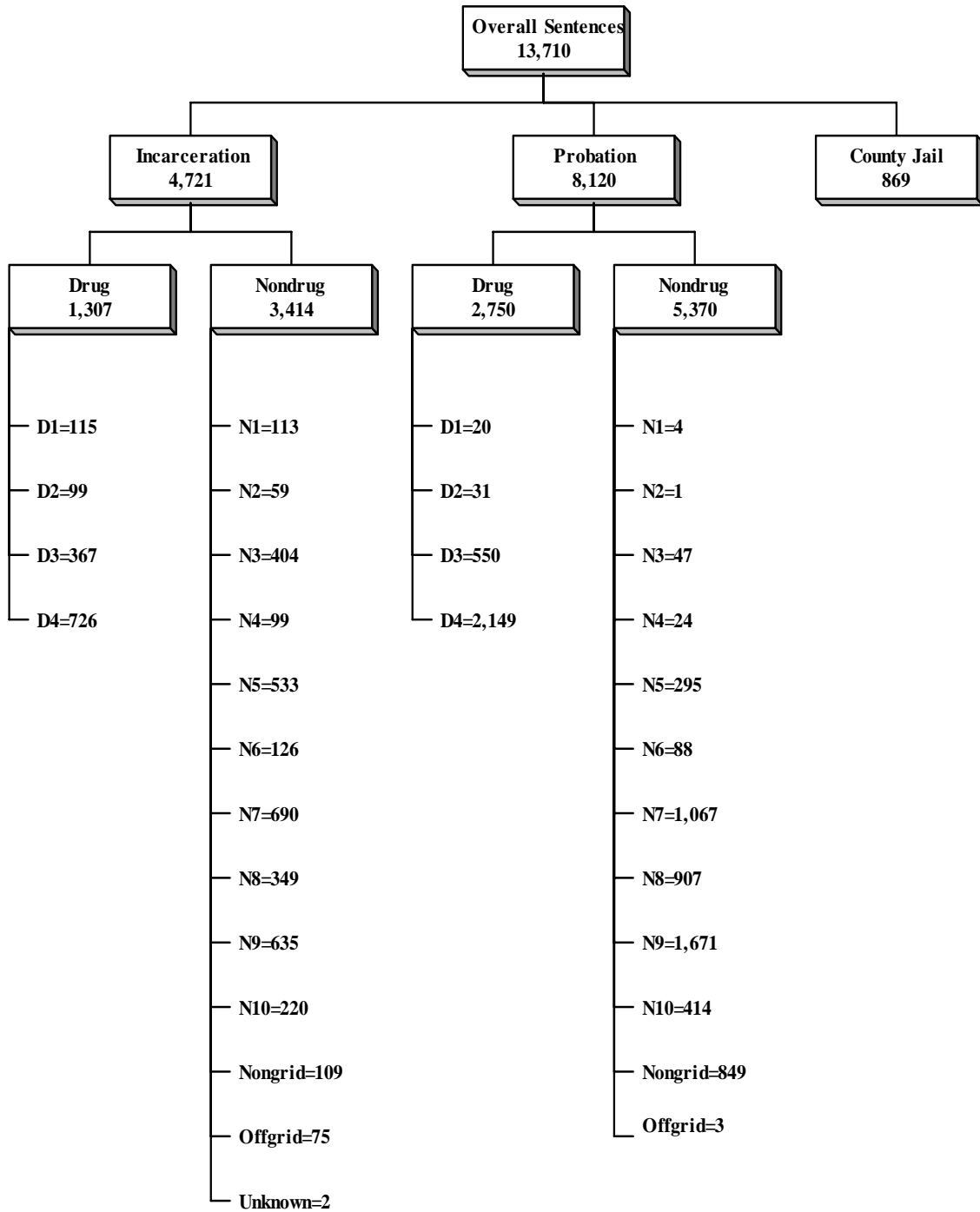


Figure 3: Sentences Reported in FY 2008 by County

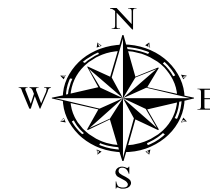
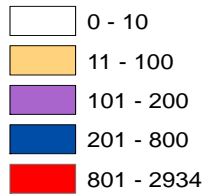
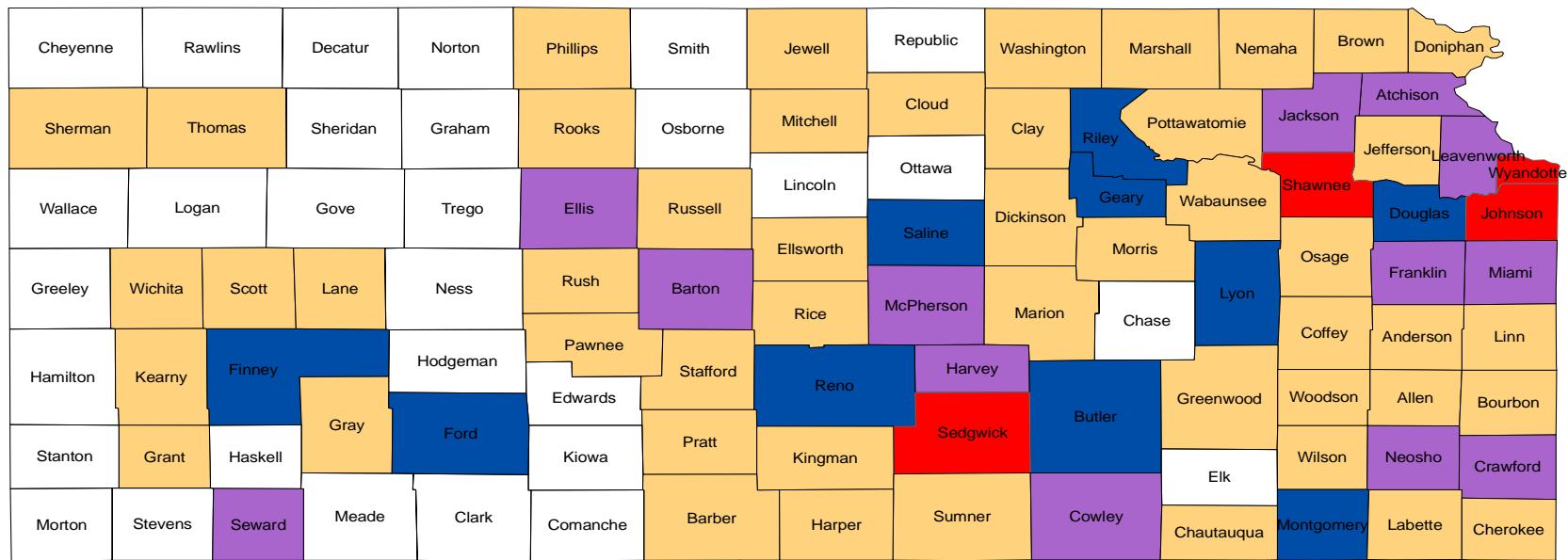
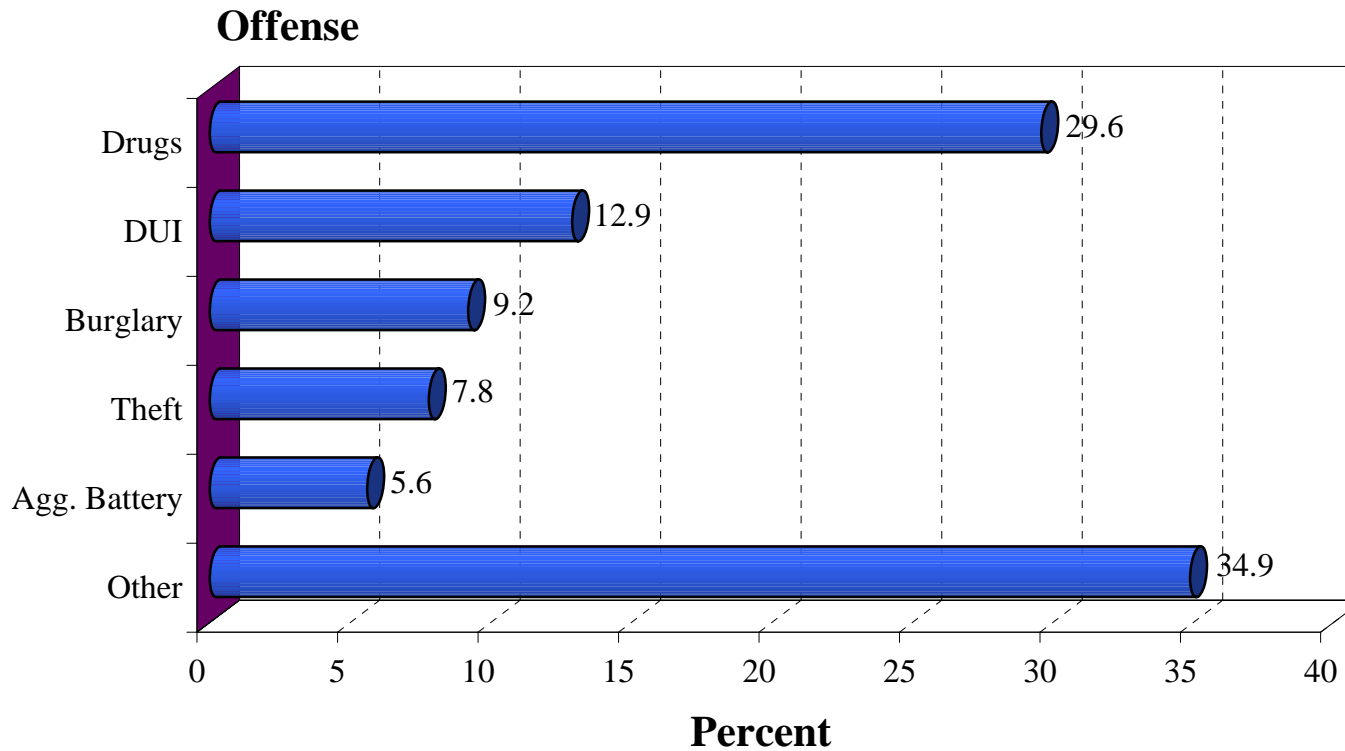
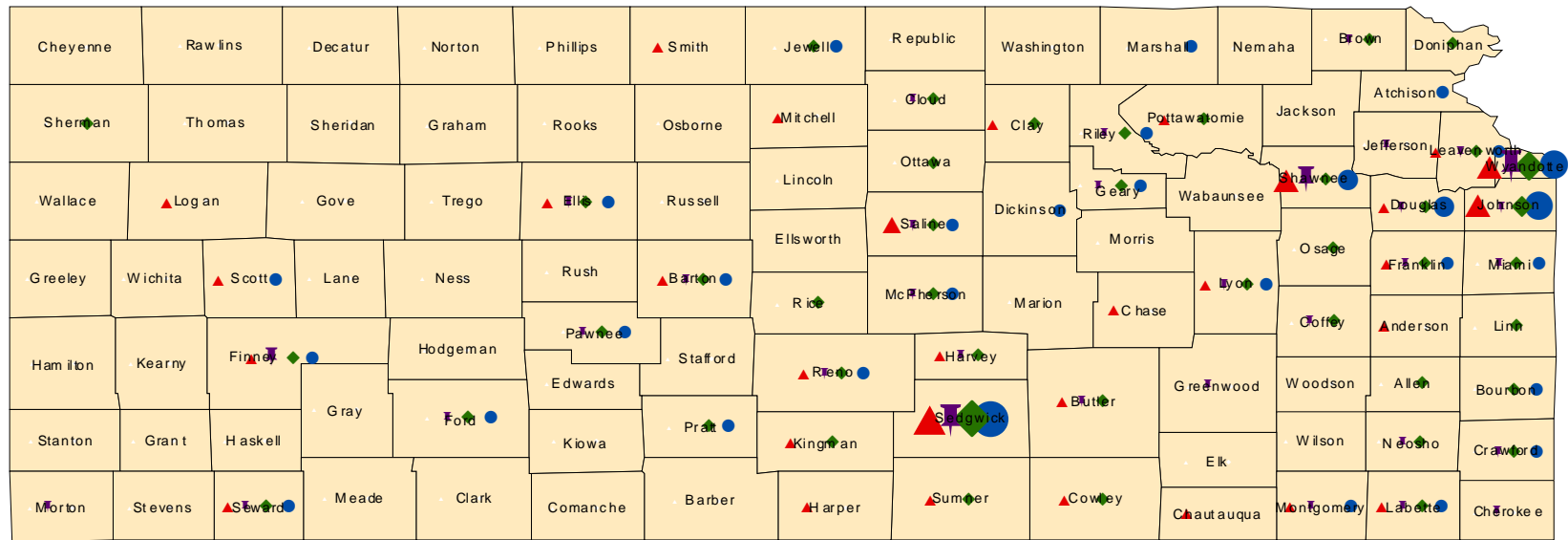


Figure 4: FY 2008 Top Five Offenses of Prison, Probation and Jail Sentences



Based on 13,710 prison, probation and county jail sentences

**Figure 5: FY 2008 UCR Offenses by County
Violent Crime Convictions**



Rape	Murder	Agg. Assault	Robbery
▲ 1 - 5	♣ 1 - 5	◆ 1 - 20	● 1 - 25
▲ 6 - 10	♣ 6 - 10	◆ 21 - 50	● 26 - 50
▲ 11 - 20	♣ 11 - 20	◆ 51 - 75	● 51 - 100
▲ 21 - 27	♣ 21 - 33	◆ 76 - 102	● 101 - 167

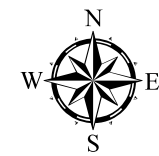


Table 1: FY 2008 Offender Characteristics by County – 1

County	Number of Sentences	Gender		Race			Sentence Type			Offense Type		Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Allen	68	51	15	63	2	1	16	47	5	32	36	32.1
Anderson	34	29	5	33	0	1	13	15	6	29	5	32.5
Atchison	115	91	24	95	18	2	28	80	7	87	28	31.7
Barber	11	9	2	11	0	0	2	8	1	8	3	39.0
Barton	148	117	30	138	6	3	25	114	9	77	71	32.3
Bourbon	77	65	12	60	17	0	32	41	4	53	24	33.9
Brown	58	44	14	45	4	9	13	39	6	39	19	34.8
Butler	240	191	49	220	14	6	76	154	10	172	68	31.2
Chase	9	8	1	9	0	0	3	3	3	6	3	33.8
Chautauqua	15	12	3	14	0	1	5	10	0	10	5	36.6
Cherokee	24	22	2	23	0	1	7	17	0	16	8	32.3
Cheyenne	1	1	0	1	0	0	0	1	0	1	0	21.7
Clark	3	2	1	3	0	0	0	3	0	1	2	29.6
Clay	43	36	7	40	2	1	16	21	6	26	17	32.0
Cloud	22	21	1	19	3	0	8	14	0	21	1	32.0
Coffey	46	36	10	43	2	1	18	25	3	21	25	34.0
Comanche	1	1	0	1	0	0	0	1	0	0	1	28.3
Cowley	193	155	38	164	24	5	52	122	19	120	73	32.6
Crawford	147	122	24	124	19	3	54	91	2	92	55	32.8
Decatur	3	3	0	3	0	0	1	2	0	2	1	43.7
Dickinson	74	62	12	63	11	0	22	51	1	48	26	32.3
Doniphan	29	26	3	27	0	2	11	15	3	26	3	35.6
Douglas	262	220	42	181	61	20	91	162	9	226	36	32.3
Edwards	6	6	0	5	1	0	2	4	0	4	2	22.4
Elk	6	3	3	6	0	0	1	5	0	3	3	38.8
Ellis	156	134	22	131	24	1	43	106	7	110	46	31.3
Ellsworth	18	14	4	18	0	0	4	12	2	14	4	37.5
Finney	275	246	29	248	25	0	84	178	13	204	71	29.7

Table 1: FY 2008 Offender Characteristics by County – 2

County	Number of Sentences	Gender		Race			Sentence Type			Offense Type		Mean Age*
		Male	Female	White	Black	Other	Prison	Probation	Jail	Nondrug	Drug	
Ford	301	259	41	284	10	6	73	207	21	172	129	31.8
Franklin	121	98	23	111	7	3	44	74	3	95	26	33.4
Geary	271	202	69	155	111	5	95	175	1	138	133	30.7
Graham	9	9	0	9	0	0	2	7	0	9	0	25.1
Grant	22	17	5	18	4	0	3	16	3	18	4	38.4
Gray	14	13	1	14	0	0	1	13	0	8	6	27.2
Greeley	8	7	1	8	0	0	0	7	1	5	3	41.9
Greenwood	52	42	10	52	0	0	14	36	2	28	24	37.0
Hamilton	6	5	1	6	0	0	4	1	1	6	0	32.5
Harper	28	23	5	28	0	0	10	18	0	24	4	33.9
Harvey	194	149	44	170	19	3	58	132	4	106	88	30.9
Haskell	2	2	0	1	0	1	2	0	0	1	1	25.5
Hodgeman	2	2	0	2	0	0	1	1	0	2	0	31.3
Jackson	104	76	28	83	4	17	20	74	10	61	43	34.6
Jefferson	44	33	11	38	3	3	8	31	5	35	9	35.1
Jewell	14	10	4	14	0	0	8	6	0	12	2	33.7
Johnson	1,934	1,594	340	1,489	419	25	722	1,006	206	1,510	424	32.8
Kearny	18	14	4	18	0	0	3	14	1	15	3	34.9
Kingman	25	23	2	24	1	0	5	20	0	21	4	31.6
Kiowa	5	5	0	5	0	0	5	0	0	0	5	31.4
Labette	100	78	22	81	16	3	31	66	3	64	36	33.9
Lane	14	12	2	14	0	0	1	12	1	1	13	34.8
Leavenworth	198	154	44	127	64	5	73	119	6	138	60	33.6
Lincoln	3	3	0	3	0	0	1	2	0	3	0	50.4
Linn	42	38	4	41	0	1	16	24	2	35	7	30.9
Logan	4	4	0	4	0	0	1	3	0	4	0	36.9
Lyon	247	195	52	192	46	9	77	159	11	154	93	30.7
Marion	17	15	2	17	0	0	3	13	1	11	6	40.7

Table 1: FY 2008 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	
Marshall	45	39	6	43	2	0	14	30	1	30	15	28.5
McPherson	113	89	23	107	5	0	28	82	3	80	33	31.4
Meade	6	5	1	5	0	0	1	5	0	3	3	37.3
Miami	126	106	20	111	14	1	57	58	11	92	34	29.8
Mitchell	13	11	1	9	1	2	3	9	1	11	2	31.5
Montgomery	207	157	50	138	67	2	107	98	2	112	95	32.2
Morris	19	17	2	18	0	1	3	15	1	10	9	29.1
Morton	10	9	1	9	0	1	3	7	0	7	3	30.7
Nemaha	27	19	8	26	1	0	7	20	0	19	8	32.0
Neosho	112	87	24	100	9	2	27	76	9	66	46	31.9
Ness	5	3	2	5	0	0	0	5	0	2	3	36.8
Norton	5	4	1	5	0	0	4	1	0	4	1	22.3
Osage	67	56	11	62	4	1	14	53	0	51	16	32.7
Osborne	5	4	1	4	0	1	4	0	1	5	0	29.4
Ottawa	4	4	0	4	0	0	4	0	0	1	3	25.1
Pawnee	61	47	14	50	10	1	14	45	2	45	16	35.4
Phillips	11	11	0	10	0	1	4	6	1	10	1	31.5
Pottawatomie	100	71	28	89	7	2	10	87	3	70	30	32.4
Pratt	68	56	12	65	2	1	21	44	3	49	19	32.1
Rawlins	1	1	0	1	0	0	0	1	0	0	1	27.9
Reno	455	340	113	369	77	7	138	289	28	277	178	33.2
Republic	7	6	1	7	0	0	2	5	0	7	0	29.4
Rice	33	25	8	32	1	0	10	23	0	16	17	31.5
Riley	253	204	46	184	61	4	43	193	17	174	79	30.7
Rooks	13	9	3	11	1	0	6	6	1	11	2	33.1
Rush	11	9	2	10	0	1	3	8	0	5	6	30.4
Russell	26	22	4	24	2	0	10	13	3	24	2	32.4
Saline	534	423	106	433	92	4	149	351	34	329	205	32.1

Table 1: FY 2008 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	
Scott	26	26	0	26	0	0	7	19	0	11	15	28.1
Sedgwick	2,934	2,465	467	1,863	992	75	1,122	1,544	268	2,309	625	33.7
Seward	150	114	36	120	29	1	71	76	3	110	40	31.1
Shawnee	831	694	134	555	269	4	307	491	33	591	240	34.1
Sherman	26	21	5	25	0	0	1	23	2	19	7	40.7
Smith	8	7	1	8	0	0	3	5	0	3	5	37.1
Stafford	17	14	3	15	1	1	6	11	0	11	6	39.6
Stanton	2	2	0	2	0	0	2	0	0	1	1	22.7
Stevens	8	6	2	8	0	0	6	2	0	3	5	28.7
Sumner	82	72	10	78	3	0	30	46	6	63	19	30.0
Thomas	19	19	0	19	0	0	5	14	0	13	6	26.1
Trego	4	3	1	4	0	0	1	2	1	3	1	42.3
Wabaunsee	22	20	1	20	1	0	1	19	2	21	1	37.3
Wallace	3	3	0	3	0	0	1	2	0	2	1	31.8
Washington	14	11	3	14	0	0	5	7	2	11	3	33.6
Wichita	12	11	1	11	0	1	1	10	1	9	3	28.4
Wilson	76	56	20	71	5	0	15	55	6	44	32	34.0
Woodson	13	9	4	11	0	2	3	9	1	5	8	39.7
Wyandotte	1,237	1,066	168	601	624	8	534	678	25	781	456	32.4
Unknown	6	5	1	4	1	1	6	0	0	6	0	34.8
TOTAL**	13,710	11,267	2,413	10,185	3,218	263	4,721	8,120	869	9,650	4,060	32.7

Note: Because of missing data, numbers in each category are based on the following: Gender, N=13,680; Race, N=13,666; Sentence Type, N=13,710; Offense Type, N=13,710; and Age, N=13,669.

* Average age at time of sentencing.

** Prison sentences are based on KDOC admissions in FY 2008. Probation and jail sentences are based on the sentencing journal entries reported to KSC during FY 2008.

CHARACTERISTICS OF OFFENDERS AND OFFENSES

This section illustrates the characteristics of the offenders who were sentenced during FY 2008. The crime categories committed by the offenders are descriptively analyzed, as well.

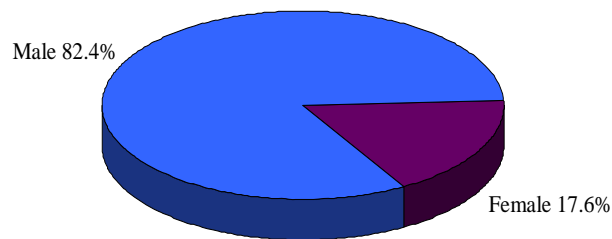
Male offenders represented 82.4% of the total sentences in FY 2008, (Figure 6) and in excess of 90% of most aggravated crimes and violent crimes such as murder, rape, sex offenses, burglary, robbery, kidnapping, firearms, weapons, fleeing or eluding LEO and criminal threat (Table 2).

Female offenders accounted for 17.6% of the sentences in FY 2008, a decrease of 1.2% compared with the percentage rate of FY 2007 (18.8%). The most frequently committed crimes by female offenders (over 40%) were forgery, giving worthless checks, criminal use of financial card and aiding a felon.

White offenders made up 74.5% of the sentences in FY 2008 and 23.5% of the sentences were committed by black offenders. No significant fluctuation is identified in the racial distribution compared to FY 2007 (Figure 7).

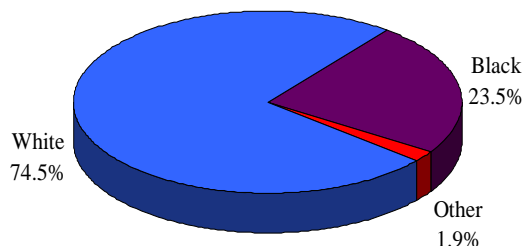
Figures 6, 7, 8, and 9 respectively exhibit the distributions of offenders by gender, race and age. The demographic information of offenders by offense types is presented in Table 2.

Figure 6: Distribution of FY 2008 Sentences by Gender of Offenders



Based on 13,680 sentences reporting gender of offenders

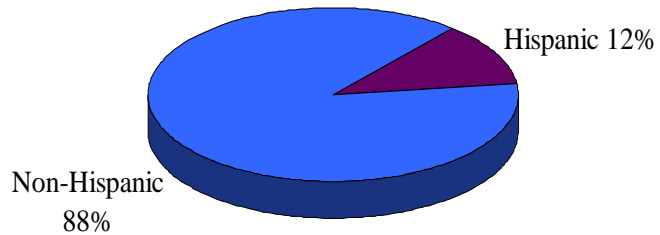
Figure 7: Distribution of FY 2008 Sentences by Race of Offenders



Based on 13,666 sentences reporting race of offenders

The distribution of ethnicity of offenders discloses that 88% of the offenders sentenced in FY 2008 were of Non-Hispanic origin, indicating no significant percentage change compared with that of FY 2007 (Figure 8). This distribution of ethnicity of offenders has been comparatively constant in the past five years.

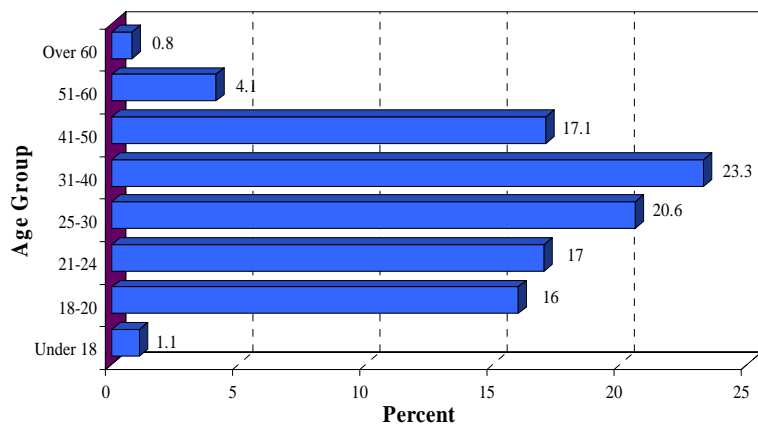
Figure 8: Distribution of FY 2008 Sentences by Ethnicity of Offenders



Based on 13,592 sentences reporting ethnicity of offenders

When analyzing offenders by age at the time of committing the offense, the largest group of offenders was found in the age group ranging from 31 to 40, representing 23.3% of all offenders in FY 2008. This finding is consistent with those in the past five years (Figure 9).

Figure 9: Distribution of FY 2008 Sentences by Age of Offenders



Based on 13,668 sentences reporting age of offenders at time of offense

Table 2: FY 2008 Offender Characteristics by Type of Offense – 1

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
Abuse of Child	34	76.5	23.5	63.6	36.4	0.0	28.3
Agg Arson	11	72.7	27.3	63.6	36.4	0.0	38.0
Agg Assault	293	91.5	8.5	67.9	30.7	1.4	30.7
Agg Assault on LEO	44	97.7	2.3	75.0	22.7	2.3	31.2
Agg Battery	737	88.8	11.2	66.2	31.3	2.5	30.4
Agg Battery on LEO	22	81.8	18.2	54.5	40.9	4.5	29.3
Agg Burglary	146	93.2	6.8	63.7	34.2	2.1	28.2
Agg Criminal Sodomy w/Child	27	100.0	0.0	85.2	14.8	0.0	34.7
Agg Endangering a Child	26	50.0	50.0	84.6	7.7	7.7	32.3
Agg Escape from Custody	93	81.7	18.3	67.0	31.9	1.1	31.9
Agg Failure to Appear	49	71.4	28.6	67.3	32.7	0.0	31.9
Agg False Impersonation	17	70.6	29.4	64.7	35.3	0.0	32.2
Agg Robbery	233	91.8	8.2	34.8	63.9	1.3	25.3
Agg Incest	5	80.0	20.0	100.0	0.0	0.0	38.8
Agg Indecent Liberties w/Child	245	95.1	4.9	86.4	11.5	2.1	29.6
Agg Indecent Solicit w/Child	55	98.2	1.8	80.0	18.2	1.8	27.9
Agg Inter w/Parental Custody	11	90.9	9.1	72.7	27.3	0.0	29.9
Agg Intimidation of a Victim	23	95.7	4.3	60.9	39.1	0.0	27.7
Agg Kidnapping	16	100.0	0.0	75.0	18.8	6.3	29.6
Agg Sexual Battery	48	100.0	0.0	72.9	27.1	0.0	31.2
Agg Weapon Violation	12	100.0	0.0	66.7	33.3	0.0	30.0
Aid Felon	29	48.3	51.7	75.9	20.7	3.4	28.2
Arrange Sale/Purchase Drug	14	35.7	64.3	85.7	7.2	7.1	27.7
Arson	54	94.4	5.6	83.3	13.0	3.7	28.0
Battery on LEO	49	73.5	26.5	73.5	26.5	0.0	31.0
Burglary	1,115	90.7	9.3	81.1	17.3	1.5	27.6
Contribute Child's Misconduct	9	55.6	44.4	77.8	22.2	0.0	27.3
Computer Crime	11	72.7	27.3	54.5	36.4	9.1	28.9
Criminal Damage to Property	118	88.1	11.9	86.4	12.7	0.8	26.7
Criminal Discharge of Firearm	28	96.4	3.6	53.6	46.4	0.0	23.4
Criminal Sodomy w/Child	8	100.0	0.0	62.5	37.5	0.0	35.5
Criminal Threat	337	93.2	6.8	72.2	26.0	1.8	33.0
Criminal Use of Financial Card	24	54.2	45.8	95.8	4.2	0.0	30.7
Domestic Battery	46	95.7	4.3	52.2	45.7	2.2	31.6
Drugs	4,060	78.1	21.9	73.7	24.4	1.8	31.7
Drug, Deliver Simulated Cont. Subs.	5	60.0	40.0	80.0	20.0	0.0	30.0
Drug without Tax Stamps	63	90.5	9.5	61.9	36.5	1.6	29.2

Table 2: FY 2008 Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Mean Age*
		Male	Female	White	Black	Other	
DUI**	1,773	87.8	12.2	89.3	8.3	2.4	39.7
Electronic Solicitation of Child	37	100.0	0.0	86.5	13.5	0.0	30.3
Failure to Register	111	97.3	2.7	77.5	18.9	3.6	34.5
Fleeing or Eluding LEO	325	92.0	8.0	71.6	26.5	1.9	29.0
Forgery	750	54.0	46.0	75.2	21.6	3.2	30.7
False Writing	93	68.8	31.2	73.1	26.9	0.0	33.5
Giving Worthless Checks	48	59.6	40.4	87.2	12.8	0.0	34.3
Identity Theft	185	63.8	36.2	84.2	14.7	1.1	31.1
Indecent Liberties w/Child	82	92.7	7.3	87.8	9.8	2.4	27.3
Indecent Solicitation of Child	38	97.4	2.6	89.5	7.9	2.6	26.6
Involuntary Manslaughter	25	80.0	20.0	72.0	28.0	0.0	35.3
Kidnapping	43	100.0	0.0	60.5	37.2	2.3	27.8
Lewd and Lascivious Behavior	12	100.0	0.0	100.0	0.0	0.0	30.3
Murder in the First Degree	47	91.5	8.5	48.9	44.7	6.4	29.8
Murder in the Second Degree	46	89.1	10.9	58.7	41.3	0.0	28.2
Nonsupport of Child or Spouse	63	95.2	4.8	77.8	22.2	0.0	37.5
Obstructing Legal Process	132	83.3	16.7	70.5	29.5	0.0	29.5
Obtain Prescription Drug by Fraud	16	18.8	81.2	93.8	6.2	0.0	35.9
Perjury	6	33.3	66.7	83.3	16.7	0.0	33.3
Possession of Firearm	113	97.3	2.7	51.3	47.8	0.9	27.7
Rape	120	98.3	1.7	70.0	27.5	2.5	30.2
Robbery	266	91.7	8.3	48.5	49.2	2.3	26.7
Securities Crimes	5	80.0	20.0	80.0	20.0	0.0	46.3
Sex Exploitation of a Child	22	100.0	0.0	100.0	0.0	0.0	39.9
Stalking	11	90.9	9.1	81.8	18.2	0.0	31.8
Theft	1,074	73.8	26.2	70.9	27.5	1.6	32.8
Traffic in Contraband	50	74.0	26.0	72.0	20.0	8.0	28.3
Unlawful Voluntary Sex Relation	25	100.0	0.0	87.5	12.5	0.0	18.9
Voluntary Manslaughter	18	94.4	5.6	61.1	33.3	5.6	25.2
Weapons	10	100.0	0.0	40.0	60.0	0.0	24.6
Other	47	78.7	21.3	78.7	19.2	2.1	32.9
TOTAL	13,710	82.4	17.6	74.5	23.6	1.9	31.8

Note: Offenses with number of cases smaller than 5 are included in the offense type of "Other".
Due to missing data, percentages in each category are based on different numbers: Gender, N=13,680; Race, N=13,666; and Age, N=13,668.

* Average age at time of offense.

** The number of DUI offense includes 109 prison sentences, 817 probation sentences and 847 county jail sentences.

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

Felony DUI under K.S.A. 8-1567(f) (driving under the influence of alcohol or drugs for the third or subsequent conviction) was classified as a severity level 9, nonperson felony offense in 1993, when the Sentencing Guidelines was established. In 1994 Legislative Session, the crime was amended as a nongrid crime subjected to the specific sentencing provisions of K.S.A. 8-1567. Additionally, the offender cannot be sent to a state correctional facility to serve the sentence imposed, K.S.A. 2000 Supp. 21-4704 (i). The crime was further amended by Senate Bill 67 of 2001. As a result, it is possible for an offender convicted of a fourth or subsequent DUI to serve time in the KDOC in the event he/she violates conditions of postrelease supervision, K.S.A. 2001 Supp. 8-1567 (g).

Figure 10 demonstrates the sentencing trends of DUI under K.S.A. 8-1567(f) in FY

2001 and the past five fiscal years. During FY 2001, 614 offenders were convicted of the crime of DUI. Of this number, 12 (2%) were sentenced to prison as condition violators, 434 (70.7%) were sentenced to probation and 168 (27.3%) were sentenced to county jail. During FY 2008, sentences convicted under this crime increased to 1,773 with 109 (6%) sentenced to prison, 817 (46%) sentenced to probation and 847 (48%) sentenced to county jails. The total number of sentences convicted under the crime of DUI increased by 12.7% and by 17.3%, respectively, compared with those of FY 2007 and FY 2004. When compared with that of FY 2001, the number significantly increased by 189%.

The distribution of felony DUI convictions in FY 2008 is displayed in Figure 11 by county. Johnson and Sedgwick counties were the top two counties imposing 354 (20%) and 451 (25.4%) sentences convicted under K.S.A. 8-1567 (f) in FY 2008.

Probation condition violators, parole condition violators and parole violators with new sentences are the majority of the prison sentences, accounting for 99.3% in FY 2004, 97.5% in FY 2005, 100% in FY 2006, 98.1% in FY 2007 and 97.2 in FY 2008 (Figure 10).

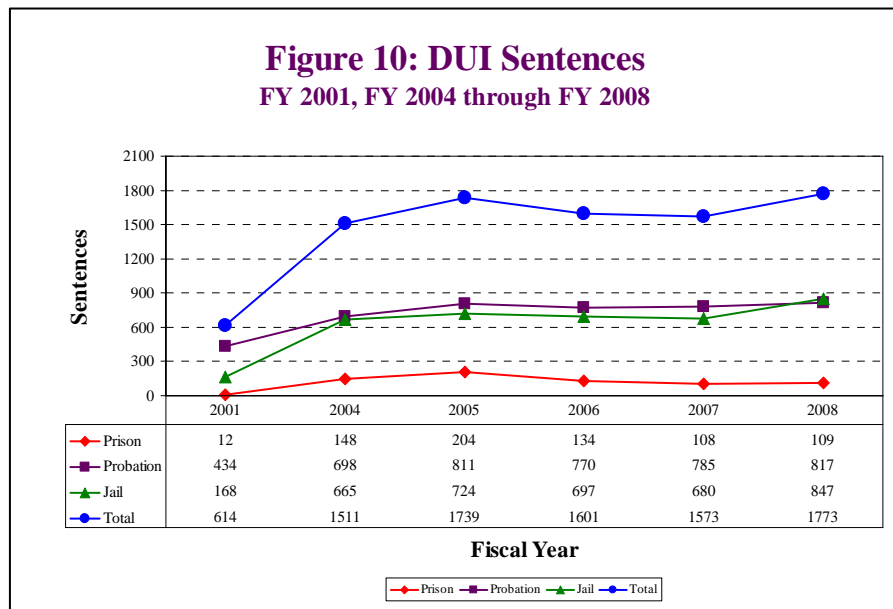
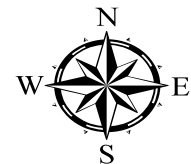
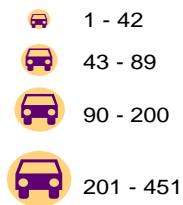
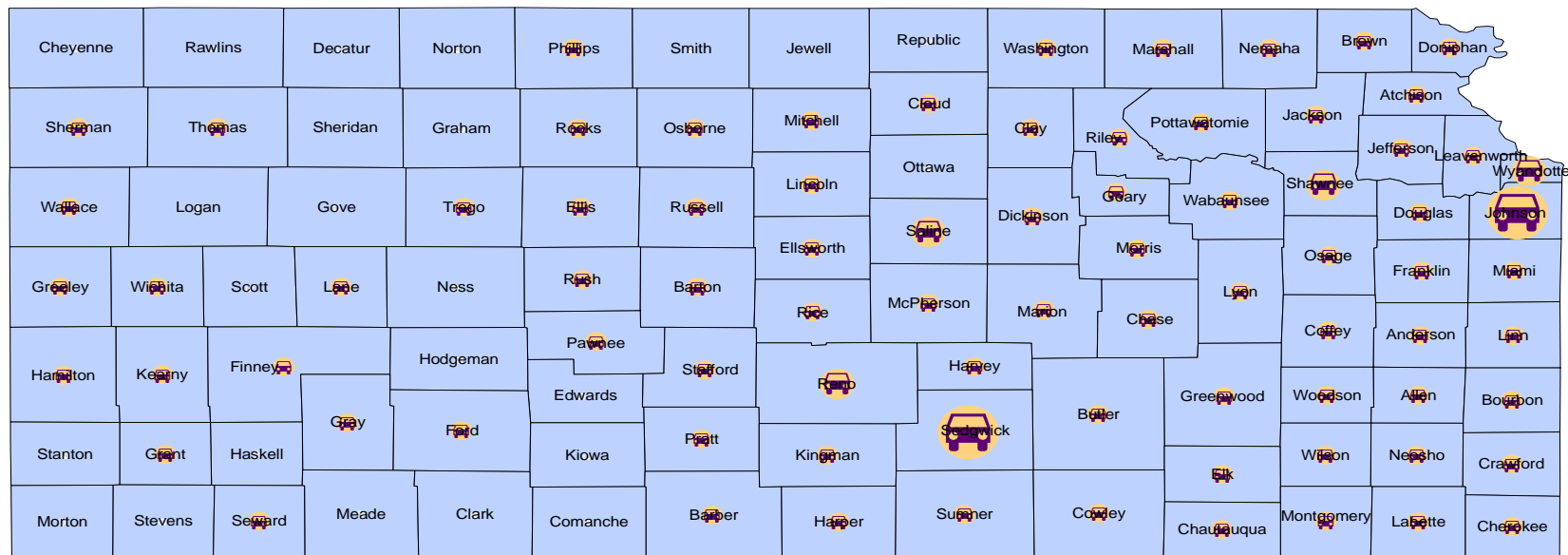


Figure 11: FY 2008 DUI Offense by County



INCARCERATION SENTENCES

Characteristics of Offenders

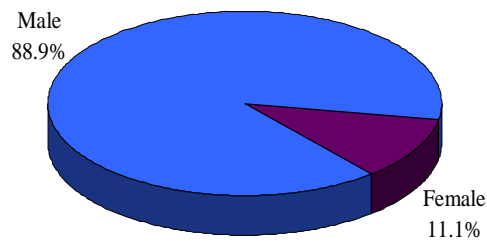
The characteristics of offenders admitted to the state correctional facilities during FY 2008 are presented in Figures 12, 13, 14, 15 and 16.

White males continued to be the predominant offender group admitted to prison in FY 2008 (Figures 12 and 13). Non-Hispanic offenders represented 89.9% of the offenders sentenced to prison (Figure 14). The overall distributions of the offenders by gender, race and ethnicity are comparatively constant compared with those of the past five years.

The largest number of incarcerated offenders were identified in their thirties (26.1%) at the time of admission to prison (Figure 15).

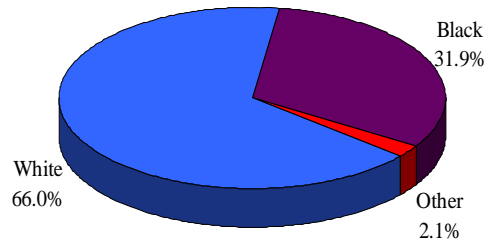
More than 49% of the incarcerated offenders had obtained a high school diploma or GED equivalent (Figure 16).

Figure 12: FY 2008 Incarceration Sentences by Gender of Offenders



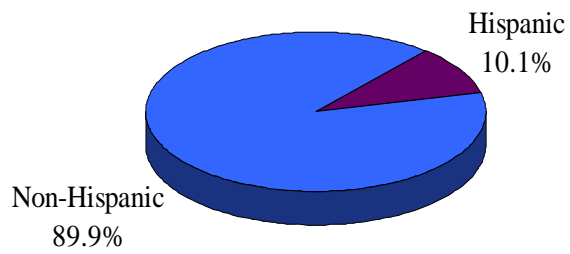
Based on 4,721 incarceration sentences reporting gender of offenders

Figure 13: FY 2008 Incarceration Sentences by Race of Offenders



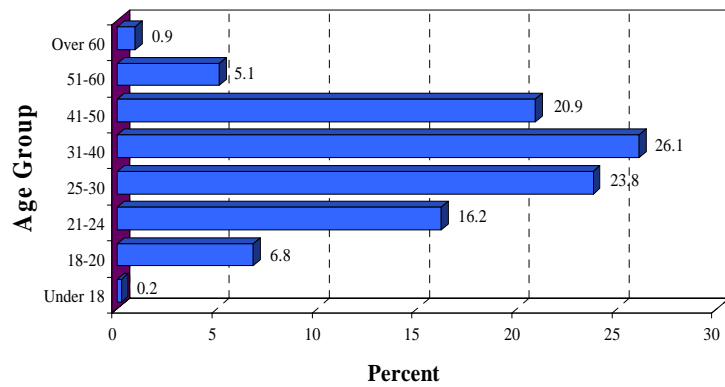
Based on 4,718 incarceration sentences reporting race of offenders

Figure 14: FY 2008 Incarceration Sentences by Ethnicity of Offenders



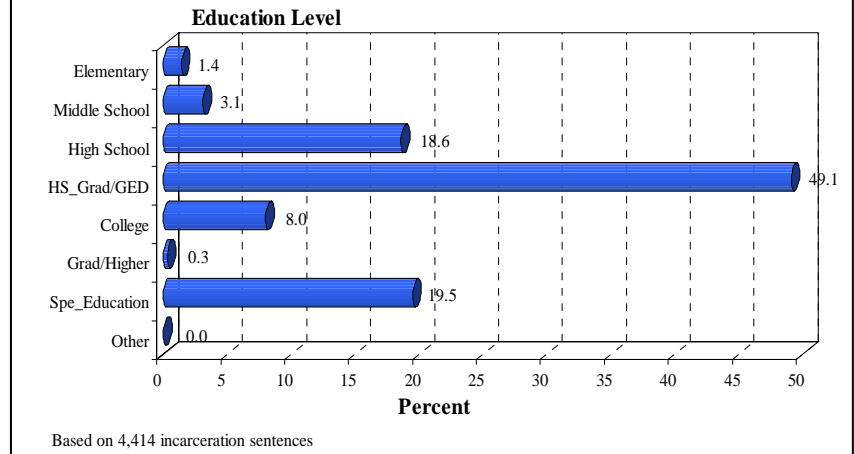
Based on 4,647 incarceration sentences reporting ethnicity of offenders

Figure 15: FY 2008 Incarceration Sentences by Age of Offenders at Admission



Based on 4,721 incarceration sentences reporting age of offenders

Figure 16: FY 2008 Incarceration Sentences by Education Level of Offenders



Incarceration Nondrug Offenses

During FY 2008, 3,414 offenders were admitted to prison for convictions of nondrug crimes, representing 72.3% of the total incarceration sentences (4,721) of the fiscal year. The top ten nondrug crimes included burglary (400 sentences), theft (334 sentences), aggravated battery (315 sentences), forgery (226 sentences), aggravated robbery (203 sentences), aggravated indecent liberties with a child (200 sentences), robbery (170 sentences), aggravated assault (125 sentences), rape (115 sentences) and criminal threat (112 sentences). These top ten crimes accounted for 64.4% of the total nondrug crimes committed by the offenders admitted to prison in FY 2008 (Table 3).

Male offenders committed more than 90% of the top ten crime categories, except forgery and theft. Most sex offenders were

males, indicating no change from the previous year. However, the most frequently committed offenses by female offenders were found in the offense categories of forgery, theft and identity theft (Table 3).

Racial analysis on nondrug offenders reveals that the highest incarceration rates for white offenders (over 70%) were discovered in the areas of most sex offenses, burglary, aggravated assault on LEO, aggravated kidnapping, criminal damage to property, nonsupport of a child or spouse, DUI, failure to register, identity theft and false writing. Nevertheless, blacks were incarcerated more often (over 60%) for the crimes of aggravated robbery, aggravated arson, aggravated false impersonation and drug without tax stamps. The average age of the nondrug offenders was 34 years old at the time of admission to prison in FY 2008, which remains the same with that of FY 2007 (Table 3).

Table 3: FY 2008 Incarceration Nondrug Offender Characteristics by Type of Offense – 1

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Abuse of Child	17	94.1	5.9	76.5	23.5	0.0	28.6
Agg Arson	6	83.3	16.7	33.3	66.7	0.0	39.2
Agg Assault	125	92.0	8.0	63.2	35.2	1.6	32.1
Agg Assault on LEO	30	96.7	3.3	80.0	16.7	3.3	35.2
Agg Battery	315	94.3	5.7	56.8	40.6	2.5	32.5
Agg Battery on LEO	15	93.3	6.7	46.7	46.7	6.6	33.0
Agg Burglary	89	96.6	3.4	66.3	31.5	2.2	33.1
Agg Criminal Sodomy w/Child	26	100.0	0.0	84.6	15.4	0.0	40.5
Agg Escape from Custody	65	87.7	12.3	65.1	33.3	1.6	36.0
Agg Failure to Appear	7	100.0	0.0	42.9	57.1	0.0	32.3
Agg False Impersonation	6	66.7	33.3	33.3	66.7	0.0	40.7
Agg Indecent Liberties w/Child	200	95.0	5.0	85.5	12.5	2.0	34.3
Agg Indecent Solicit w/Child	39	97.4	2.6	76.9	20.5	2.6	29.3
Agg Inter w/Parental Custody	5	100.0	0.0	60.0	40.0	0.0	27.5
Agg Intimidation of a Victim	15	100.0	0.0	53.3	46.7	0.0	31.6
Agg Kidnapping	16	100.0	0.0	75.0	18.8	6.3	38.5
Agg Robbery	203	92.6	7.4	31.0	67.5	1.5	33.9
Agg Sexual Battery	29	100.0	0.0	62.1	37.9	0.0	34.4
Aid Felon	7	100.0	0.0	42.9	57.1	0.0	32.0
Arson	18	100.0	0.0	88.9	11.1	0.0	31.9
Battery on LEO	25	80.0	20.0	64.0	36.0	0.0	32.9
Burglary	400	94.0	6.0	74.5	23.8	1.8	31.3
Criminal Damage to Property	27	100.0	0.0	85.2	14.8	0.0	29.7
Criminal Discharge of Firearm	15	100.0	0.0	66.7	33.3	0.0	22.6
Criminal Sodomy w/Child	7	100.0	0.0	71.4	28.6	0.0	36.8
Criminal Threat	112	93.8	6.3	67.0	31.3	1.8	34.3
Criminal Use Financial Card	6	83.3	16.7	100.0	0.0	0.0	30.4
Drug without Tax Stamps	9	88.9	11.1	33.3	66.7	0.0	31.1
DUI	109	89.0	11.0	85.3	11.0	3.7	43.4
Electronic Solicitation of Child	31	100.0	0.0	87.1	12.9	0.0	31.4
Failure to Register	32	100.0	0.0	71.9	25.0	3.1	35.3
Fleeing or Eluding LEO	82	97.6	2.4	67.1	28.0	4.9	31.8
Forgery	226	68.6	31.4	67.3	28.8	4.0	34.5
False Writing	26	80.8	19.2	73.1	26.9	0.0	36.1
Identity Theft	43	76.7	23.3	76.2	23.8	0.0	34.8
Indecent Liberties w/Child	47	89.4	10.6	80.9	17.0	2.1	34.0
Indecent Solicitation of Child	17	100.0	0.0	82.4	11.8	5.9	29.4

Table 3: FY 2008 Incarceration Nondrug Offender Characteristics by Type of Offense – 2

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Involuntary Manslaughter	18	88.9	11.1	72.2	27.8	0.0	39.1
Kidnapping	37	100.0	0.0	62.2	37.8	0.0	35.5
Lewd and Lascivious Behavior	5	100.0	0.0	100.0	0.0	0.0	31.4
Murder in the First Degree	47	91.5	8.5	48.9	44.7	6.4	36.6
Murder in the Second Degree	46	89.1	10.9	58.7	41.3	0.0	36.0
Nonsupport of Child or Spouse	27	100.0	0.0	77.8	22.2	0.0	45.2
Obstructing Legal Process	32	90.6	9.4	50.0	50.0	0.0	34.5
Possession of Firearm	36	100.0	0.0	52.8	44.4	2.8	29.1
Rape	115	98.3	1.7	68.7	28.7	2.6	37.2
Robbery	170	92.9	7.1	48.2	49.4	2.4	32.4
Sex Exploitation of a Child	11	100.0	0.0	100.0	0.0	0.0	40.7
Theft	334	82.3	17.7	63.8	34.7	1.5	35.8
Traffic in Contraband	19	84.2	15.8	57.9	26.3	15.8	32.5
Unlawful Voluntary Sex Relation	7	100.0	0.0	85.7	14.3	0.0	21.2
Voluntary Manslaughter	18	94.4	5.6	61.1	33.3	5.6	31.4
Weapons/Agg. Weapons	5	100.0	0.0	40.0	60.0	0.0	34.0
Other	40	77.5	22.5	87.5	12.5	0.0	33.5
TOTAL	3,414	90.8	9.2	65.7	32.2	2.1	34.0

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

Incarceration Drug Offenses

Drug offenders, totaling 1,307, accounted for 27.7% of the total admissions to the State Correctional Facilities during FY 2008. Of this total number, 57.6% were incarcerated for convictions of drug possession offenses, indicating an increase of 0.9% compared with that of FY 2007 (56.7%). More than 93% of the drug possession sentences were found at drug severity level 4 (Figure 17).

Males represented 84% of the drug offenders admitted to prison in FY 2008. Most female offenders were convicted of drug crimes of opiates or narcotics possession first offense and opiates or narcotics sale first offense. White offenders were convicted of over 70% of incarceration drug sentences in the drug crime areas of possession of depressants, stimulants or hallucinogenic second offense, possession of depressants, stimulants or hallucinogenic with intent to sell and unlawfully manufacturing controlled substance. Black offenders were incarcerated more frequently (over 40%) for convictions of drug crimes of

opiate or narcotics possession for the second, third and subsequent offenses, and opiate or narcotics sale for the second, third and the subsequent offenses, which remains constant to those of FY 2007. The average age of the drug offenders was 34.2 years old at admission to prison (Table 4), indicating no significant change compared with the age of the drug offenders observed in FY 2007.

The drug crime of possession of precursor drugs under K.S.A. 65-7006 was created in the 1999 Legislative Session. The penalty for a violation of this section was a drug severity level 1 felony. In 2002, the severity level for the crime was reclassified to drug severity level 4 according to the Kansas Court of Appeals' ruling in *State vs. Frazier* and reconfirmed as a drug severity level 1 with length of sentence at drug severity level 4 in the Kansas Supreme Court's decision in *State vs. Campbell* in 2005. However, the crime was amended to a felony drug severity level 2 during the 2006 Legislative Session. Figure 18 presents the conviction trend of the crime in the past nine years.

The drug possession sentences at drug severity level 4 included drug crimes under K.S.A. 65-4160 and K.S.A. 65-4162. Drug possession offenses at drug severity levels 1 and 2 reflected the drug crimes committed before November 1, 2003 (before the implementation of Senate Bill 123).

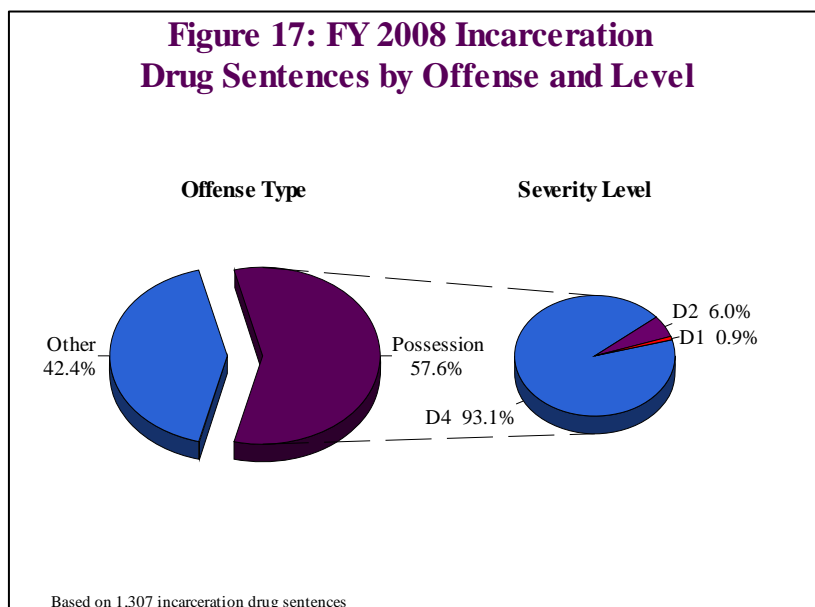
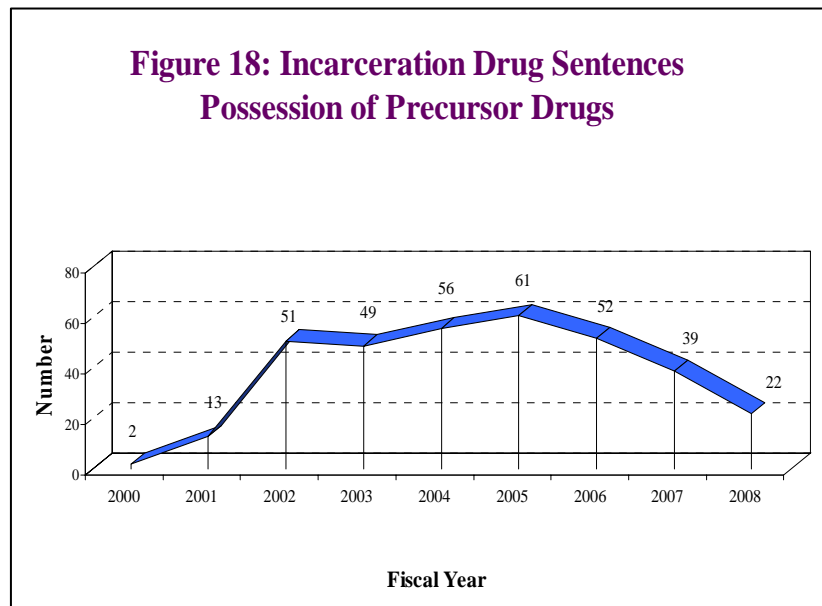


Table 4: FY 2008 Incarceration Drug Offender Characteristics by Type of Offense

Offense Type	Number of Cases	Gender (%)		Race (%)			Average Age at Admission
		Male	Female	White	Black	Other	
Opiates or Narcotics; Poss 1	600	77.2	22.8	65.4	31.8	2.8	34.1
Opiates or Narcotics; Poss 2	45	88.9	11.1	42.2	55.6	2.2	41.2
Opiates or Narcotics; Poss 3	7	85.7	14.3	14.3	85.7	0.0	46.4
Opiates or Narcotics; Sale 1	235	86.4	13.6	54.9	43.4	1.7	34.1
Opiates or Narcotics; Sale 2	13	84.6	15.4	38.5	61.5	0.0	36.6
Opiates or Narcotics; Sale 3	3	33.3	66.7	0.0	100.0	0.0	38.8
Opiates/ Narcotics, Depress, Stim, Hall; Sale w/in 1,000 ft of School	32	84.4	15.6	78.1	21.9	0.0	33.3
Depress, Stim, Hall; Poss 2	101	95.0	5.0	76.2	23.8	0.0	32.6
Depress, Stim, Hall, etc.; Sale, Poss w/Intent to Sell	127	91.3	8.7	70.9	28.3	0.8	31.5
Unlawful Manufacture Controlled Substance	97	91.8	8.2	96.9	0.0	3.1	37.4
Possession of Paraphernalia	24	95.8	4.2	79.2	16.7	4.2	28.3
Possession of Precursor Drugs	22	100.0	0.0	100.0	0.0	0.0	37.2
Receive Proceeds from Violation of Controlled Substance	1	100.0	0.0	0.0	100.0	0.0	31.6
TOTAL	1,307	84.0	16.0	66.8	31.1	2.1	34.2

The drug crime of possession of precursor drugs under K.S.A. 65-7006 kept increasing from FY 2001 through FY 2005. However the admissions to prison under this drug crime dropped to 52 in FY 2006, 39 in FY 2007 and 22 in FY 2008. The offenders were all white males and the average age of the offenders was 37 years old at the time of admission to prison (Table 4).



Types of Admission and Severity Levels

Table 5 presents the distribution of offenders by types of admission to the Kansas Department of Corrections in FY 2008. Condition violators, including probation condition violators, parole/post-release condition violators and conditional release condition violators, comprised 61.3% of all offenders admitted to state correctional facilities during FY 2008. This represents a percentage increase of 0.3% over that of FY 2007 (61%). As in the past years, condition violators admitted to prison had a significant impact on the total admissions to the Department of Corrections in FY 2008.

The analysis on new commitments indicates that new court commitments made up another big proportion of prison admissions, representing 31.7% of total admissions in FY 2008. The percentage of this group decreased by 1% compared with that of FY 2007 (32.7%). 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 6.6%, an increase of 0.7% compared with the percentage of this group of violators (5.9%) in FY 2007.

Table 5: Distribution of FY 2008 Incarceration Sentences by Admission Type

Admission Type	Number of Cases	Percent
New Court Commitment	1,498	31.7
Probation Condition Violator	1,624	34.4
Probation Violator With New Sentence	156	3.3
Inmate Received on Interstate Compact	4	0.1
Parole/Post-release Condition Violator	1,261	26.7
Parole/Post-release Violator With New Sentence	155	3.3
Paroled to Detainer Returned With New Sentence	15	0.2
Conditional Release Condition Violator	7	0.1
Conditional Release Condition Violator with New Sentence	1	0.0
TOTAL	4,721	100.0

Table 6 demonstrates the distribution of all incarcerated offenders admitted in FY 2008 by offense severity level and gender. The highest percentages (over 15%) of all nondrug offenders are found at severity levels 5, 7 and 9 (Figure 19). This severity level distribution of nondrug incarcerated

offenders has remained constant in the past five years. The examination of drug offenders indicates that 55.5% of all drug offenders fell at drug severity level 4 (Figure 20), which is very close to that of FY 2007 (55.4%). Female offenders were convicted more often of drug offenses than of nondrug

offenses (16% vs. 9.2%). The highest percentages of female offenders were found at drug severity level 4 (19.7%) and nondrug severity level 8 (22.6%). The highest

percentage rates of male offenders were identified at drug severity level 1 (90.4%) and offgrid for nondrug crimes (97.3%).

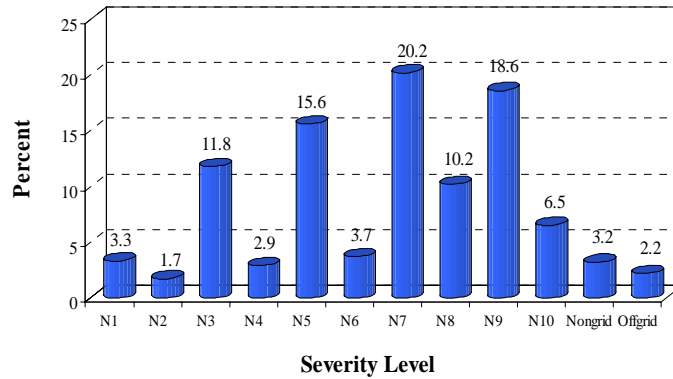
**Table 6: Distribution of FY 2008 Incarceration Sentences
By Severity Level and Gender***

Severity Level	Number	Percent	Gender (%)	
			Male	Female
Drug				
D1	115	8.8	90.4	9.6
D2	99	7.6	87.9	12.1
D3	367	28.1	88.3	11.7
D4	726	55.5	80.3	19.7
Subtotal	1,307	100.0	84.0	16.0
Nondrug				
N1	113	3.3	96.5	3.5
N2	59	1.7	93.2	6.8
N3	404	11.8	95.5	4.5
N4	99	2.9	91.9	8.1
N5	533	15.6	93.6	6.4
N6	126	3.7	93.7	6.3
N7	690	20.2	93.9	6.1
N8	349	10.2	77.4	22.6
N9	635	18.6	87.4	12.6
N10	220	6.5	89.5	10.5
Nongrid	109	3.2	89.0	11.0
Offgrid	75	2.2	97.3	2.7
Subtotal	3,412	100.0	90.8	9.2
TOTAL**	4,721	100.0	88.9	11.1

* Based on 1,307 drug offenders and 3,412 nondrug offenders.

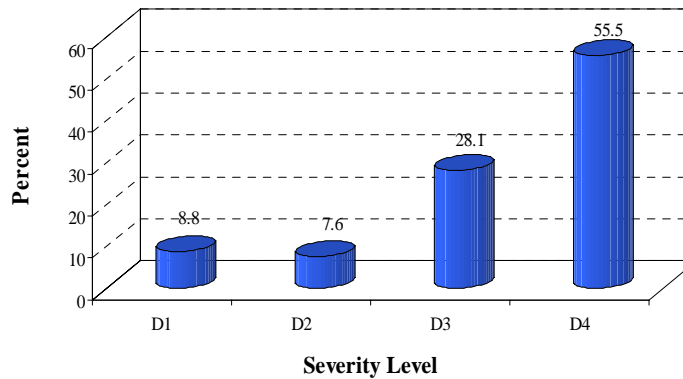
** Total number includes 2 nondrug offenders whose severity levels are unknown.

**Figure 19: FY 2008 Incarceration Sentences
Nondrug Offenders by Severity Level**



Based on 3,412 nondrug offenders

**Figure 20: FY 2008 Incarceration Sentences
Drug Offenders by Severity Level**



Based on 1,307 drug offenders

Table 7 presents the average length of sentence imposed by severity level for guideline new commitment offenders admitted to prison during FY 2008. This group of offenders includes new court commitments, probation condition violators and probation violators with new sentence. Pre-guideline offenders are excluded from this analysis.

drug severity level 1, increased by 16.7 months at drug severity level 2 and increased by 5.1 months at nondrug severity level 6. The average length of sentence at nondrug severity levels 1 and 2 decreased by 46.3 months and 14.1 months respectively. As for other drug and nondrug levels, the average length of sentence did not fluctuate significantly from those observed in FY 2007.

Compared with FY 2007, the average length of sentence increased by 13.9 months at

**Table 7: Guideline New Commitment Admissions
Average Length of Sentence (LOS) Imposed by Severity Level**

Severity Level	FY 2007 LOS (Months)	FY 2008 LOS (Months)	Difference (Months)
D1	71.9	85.8	13.9
D2	50.6	67.3	16.7
D3	30.0	27.4	-2.6
D4	20.5	20.9	0.4
N1	263.8	217.5	-46.3
N2	158.4	144.3	-14.1
N3	89.5	92.0	2.5
N4	71.8	70.3	-1.5
N5	51.9	54.4	2.5
N6	33.2	38.3	5.1
N7	26.3	26.0	-0.3
N8	16.2	16.8	0.6
N9	11.5	12.1	0.6
N10	8.3	8.5	0.2

Note: Based on 3,414 and 3,197 guideline new commitment admissions in FY 2007 and FY 2008 respectively.

Jessica’s Law Sentences

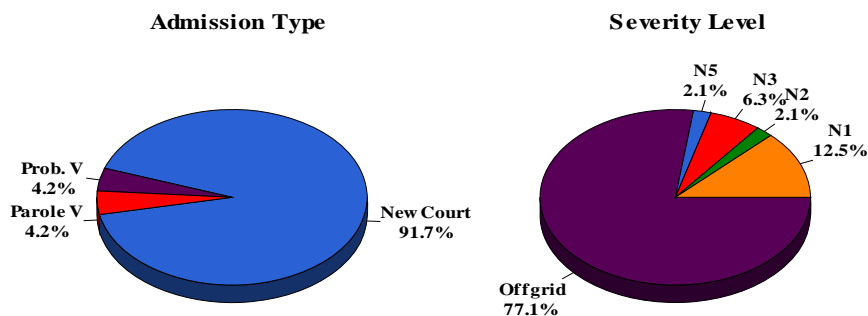
House Bill 2576 became law (Jessica’s Law) in the 2006 Legislative Session. According to this law, aggravated habitual sex offenders shall be sentenced to life imprisonment without possibility of parole (K.S.A. 2006 Supp. 21-4642); child sex offenses, where the offender is 18 years of age or older and the victim is less than 14 years of age, shall be sentenced to mandatory minimum of Hard 25 years for the first offense, mandatory minimum of Hard 40 years for the second offense and life imprisonment without parole for the third offense (K.S.A. 2006 Supp. 21-4643).

During FY 2008, 48 offenders were sentenced and admitted to prison under Jessica’s Law. Forty-four of them (91.7%) were new court commitments, 2 (4.2%) were probation violators with new sentence and 2 (4.2%) were parole/postrelease violators with new sentence. While most jurisdictions identify the severity of these crimes as offgrid, a few note them as the severity level for a downward departure on the nondrug grid. Therefore, of these

offenders, 77.1% (37 offenders) were sentenced at offgrid, 12.5% (6 offenders) were sentenced at nondrug severity level 1, 6.3% (3 offenders) were at nondrug severity level 3 and 2.1% (1 offender) was at nondrug severity levels 2 and 5, respectively (Figure 21). The analysis of the sentence length demonstrates that 50% of the sentences were downward departure to guidelines, with an average sentence length of 95.5 months. Figure 22 displays the distribution of the incarcerated offenders under Jessica’s Law by county. Sedgwick county imposed the most Jessica’s Law prison sentences (13) followed by Wyandotte (5), Shawnee (4) and Saline Counties (4).

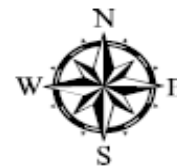
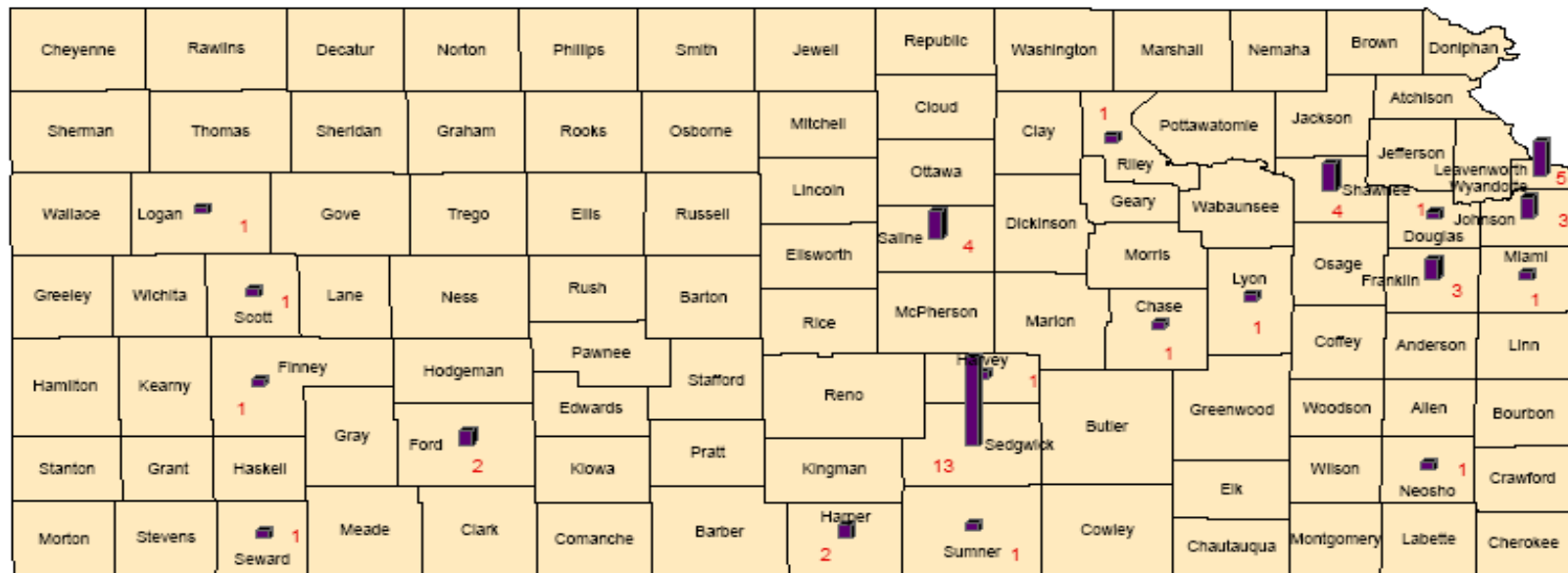
In addition, three offenders were convicted under Jessica’s Law and sentenced to probation during FY 2008 with underlying prison terms of 32 months, 61 months and 147 months respectively. Their major departure reasons are that age of defendant was young with no prior criminal history, victim requested and victim was an aggressor or participant.

Figure 21: FY 2008 Jessica's Law Incarceration Sentences



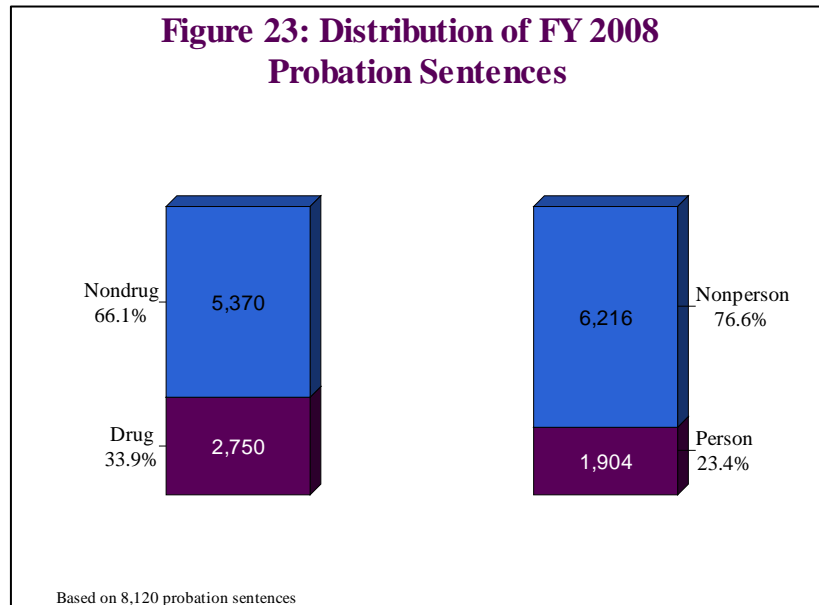
Based on 48 Jessica's Law incarceration sentences.

Figure 22: FY 2008 Jessica's Law Incarceration Sentences by County

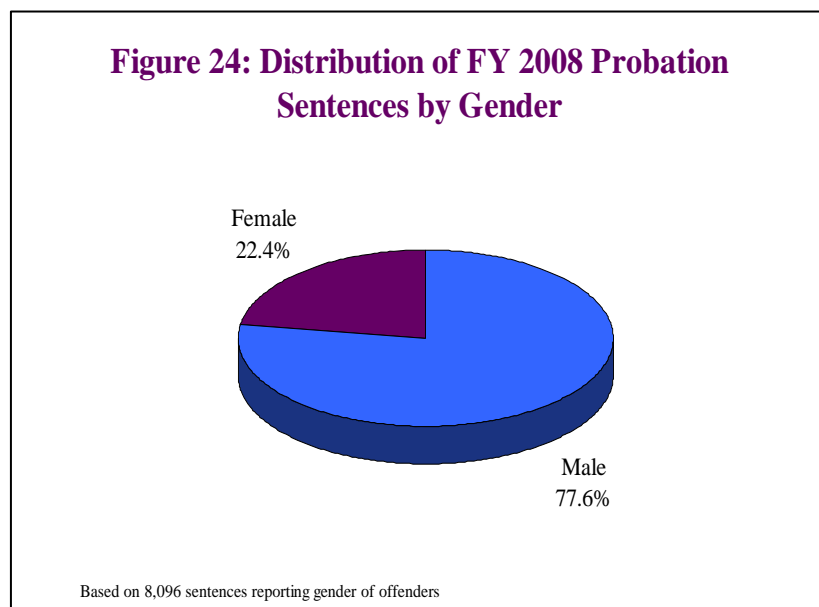


PROBATION SENTENCES

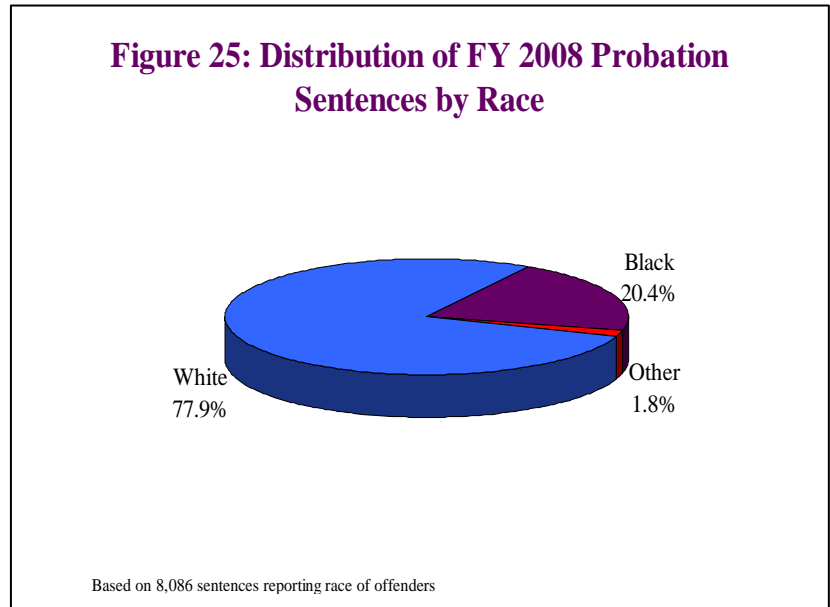
A total number of 8,120 probation sentences were reported to the Kansas Sentencing Commission during FY 2008. Of this number, 5,370 were nondrug sentences and 2,750 were drug sentences; non-person offenses made up 76.6% and person offenses made up 23.4% (Figure 23). The demographic information of this offender group was described in Figures 24, 25 and 26.



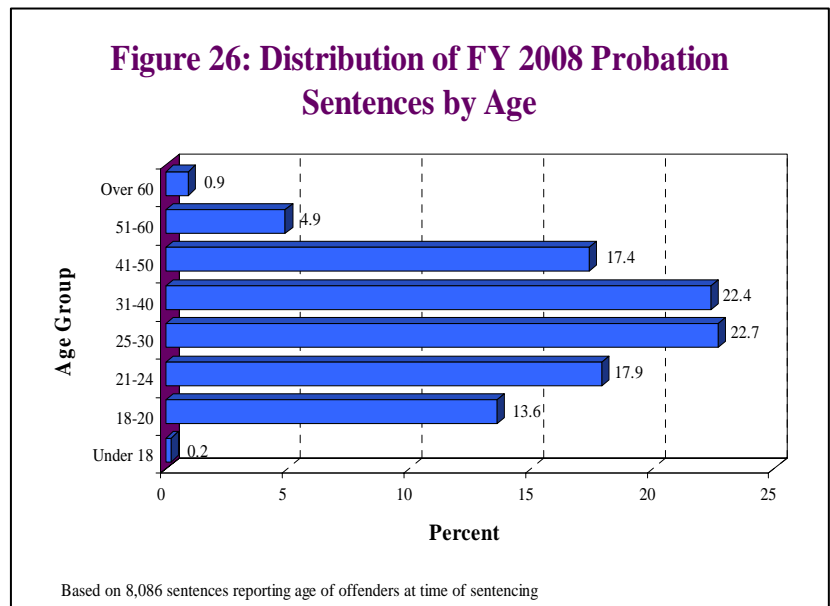
The distribution of offenders by gender demonstrates that male offenders accounted for 77.6% of all probation sentences imposed in FY 2008, indicating an increase of 0.2% compared with that observed (77.4%) in FY 2007 (Figure 24).



Racial analysis discloses that white offenders made up 77.9% of the probation sentences imposed in FY 2008, indicating no percentage change compared with that of FY 2007. The percentages of black offenders and offenders in other races remain comparatively constant compared with those observed in FY 2007 (Figure 25).



The largest population of probation offenders was found in the age group ranging from 25 to 30 years old at the time of sentencing (22.7%), which is different from the age group ranging from 31 to 40 in the past five years (Figure 26).



Type of Offense and Severity Level

The top ten offenses committed by nondrug probation offenders include aggravated assault, aggravated battery, burglary, criminal threat, DUI, fleeing LEO, forgery, identity theft, obstructing legal process and theft. These ten offenses accounted for 76.3% of the total nondrug probation sentences in FY 2008 (Figure 27), a decrease of 0.7% from that of the previous year (77%). In reviewing drug offenders on probation, the largest number of sentences was for possession of drugs, representing 75.6% of all probation drug offenses (Figure 28) and demonstrating an increase of 1.7% compared with that of FY 2007 (73.9%).

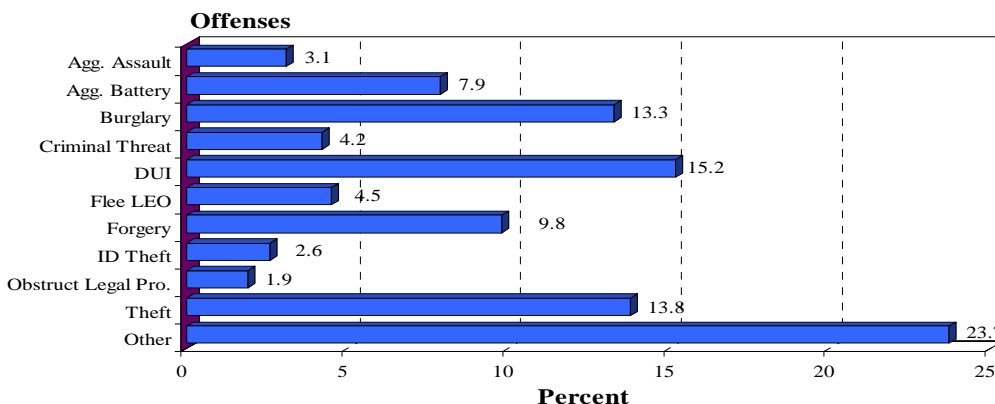
The characteristics of offenders sentenced to probation in FY 2008 are presented by offense type in Tables 8 and 9. Male offenders sentenced to probation during FY 2008 were convicted of over 90% of the sex offenses and violent crimes of probation sentences such as: aggravated assault, arson, criminal threat, failure to register, fleeing or eluding LEO and possession of firearms. The highest percentages of female probation

nondrug offenses (over 50%) included forgery, aiding a felon, criminal use of financial card and obtaining prescribed drug by fraud (Table 8).

White offenders represented 78.3% of all nondrug probation sentences and 77% of all drug offenders on probation in FY 2008. Black offenders on probation had a little lower conviction rate for nondrug offenses than drug crimes (19.9% versus 21.2%). The average age at the time of committing offense was 31.2 years old for nondrug offenders and 31.9 years old for drug offenders, which remains constant with those in FY 2007 (Table 8 & Table 9).

The characteristics of probation offenders by severity level are displayed in Tables 10 and 11. The largest number of probation nondrug sentences were found at nondrug grid severity level 9 (1,671 sentences or 31.1%) and the majority of probation drug sentences were identified at drug grid severity level 4 (2,149 sentences or 78.2%). These distributions are pretty consistent with those in the past five years.

Figure 27: FY 2008 Top Ten Offenses for Probation Nondrug Sentences



Based on 5,370 probation nondrug sentences

Drug possession crimes included opiates or narcotics possession offenses under K.S.A. 65-4160, and depressants, stimulants, hallucinogenic, etc. possession 2nd and subsequent offense under K.S.A. 65-4162. The conviction of opiates or narcotics possession offenses represented 61.3% of the total probation drug sentences in FY 2008 (Table 9).

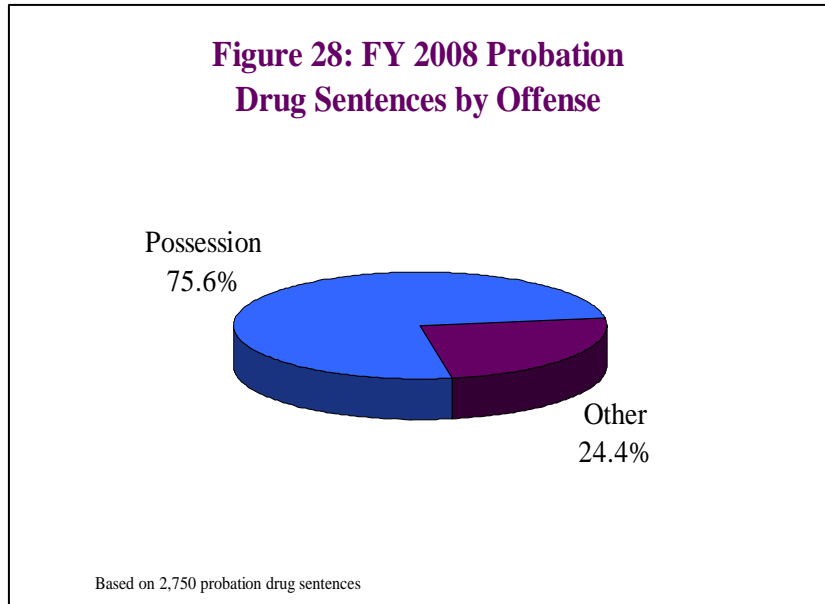


Table 8: Characteristics of Probation Nondrug Offenders by Type of Offense –1

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Abuse of Child	17	0.3	58.8	41.2	50.0	50.0	0.0	30.7
Agg Assault	168	3.1	91.1	8.9	71.4	27.4	1.2	31.1
Agg Assault on LEO	14	0.3	100.0	0.0	64.3	35.7	0.0	26.9
Agg Arson	5	0.1	60.0	40.0	100.0	0.0	0.0	45.3
Agg Battery	422	7.9	84.7	15.3	73.3	24.3	2.4	30.9
Agg Battery on LEO	7	0.1	57.1	42.9	71.4	28.6	0.0	36.5
Agg Burglary	57	1.1	87.7	12.3	59.6	38.6	1.8	26.4
Agg Endangering a Child	24	0.4	50.0	50.0	83.3	8.3	8.3	32.3
Agg Escape from Custody	28	0.5	67.9	32.1	71.4	28.6	0.0	28.1
Agg Fail to Appear	42	0.8	66.7	33.3	71.4	28.6	0.0	32.1
Agg False Impersonation	11	0.2	72.7	27.3	81.8	18.2	0.0	28.8
Agg Ind Lib with a Child	45	0.8	95.5	4.5	90.7	7.0	2.3	26.0
Agg Ind Solicit with a Child	16	0.3	100.0	0.0	87.5	12.5	0.0	31.4
Agg Inter w/Parental Custody	6	0.1	83.3	16.7	83.3	16.7	0.0	33.2
Agg Intimidation of a Victim	8	0.1	87.5	12.5	75.0	25.0	0.0	24.5
Agg Robbery	30	0.6	86.7	13.3	60.0	40.0	0.0	26.9
Agg Sex Battery with Child	19	0.4	100.0	0.0	89.5	10.5	0.0	34.8
Agg Weapon Violation	8	0.1	100.0	0.0	75.0	25.0	0.0	28.3
Aiding Felon	22	0.4	31.8	68.2	86.4	9.1	4.5	27.3
Arrange Sale/Purchase Drug	13	0.2	30.8	69.2	84.6	7.7	7.7	28.4
Arson	36	0.7	91.7	8.3	80.6	13.9	5.6	27.1
Battery on LEO	24	0.4	66.7	33.3	83.3	16.7	0.0	31.6

Table 8: Characteristics of Probation Nondrug Offenders by Type of Offense – 2

Offense Type	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Burglary	715	13.3	88.8	11.2	84.9	13.7	1.4	26.9
Computer Crime	9	0.2	66.7	33.3	44.4	44.4	11.2	28.6
Contribute Child Misconduct	5	0.1	60.0	40.0	80.0	20.0	0.0	29.6
Criminal Damage of Property	91	1.7	84.6	15.4	86.8	12.1	1.1	26.4
Criminal Discharge of Firearm	13	0.2	92.3	7.7	38.5	61.5	0.0	26.1
Criminal Threat	225	4.2	92.9	7.1	74.8	23.4	1.8	33.1
Criminal Use of Financial Card	18	0.3	44.4	55.6	94.4	5.6	0.0	31.6
Criminal Use of Explosives	4	0.1	100.0	0.0	75.0	0.0	25.0	33.2
Domestic Battery	30	0.6	96.7	3.3	46.7	53.3	0.0	31.8
Drug without Tax Stamps	54	1.0	90.7	9.3	66.7	31.5	1.9	29.1
DUI	817	15.2	84.6	15.4	88.8	8.9	2.3	37.8
Electronic Solicitation of Child	6	0.1	100.0	0.0	83.3	16.7	0.0	29.4
Failure to Register	79	1.5	96.2	3.8	79.7	16.5	3.8	34.8
False Writing	66	1.2	63.6	36.4	72.7	27.3	0.0	33.3
Fleeing/Eluding LEO	243	4.5	90.1	9.9	73.1	26.0	0.8	28.7
Forgery	524	9.8	47.7	52.3	78.7	18.5	2.9	30.2
Giving Worthless Check	47	0.9	58.7	41.3	87.0	13.0	0.0	34.0
Identity Theft	142	2.6	59.9	40.1	86.6	12.0	1.4	30.6
Ind. Liberties with a Child	35	0.7	97.1	2.9	97.1	0.0	2.9	26.9
Ind. Solicitation with a Child	21	0.4	95.2	4.8	95.2	4.8	0.0	26.4
Involuntary Manslaughter	7	0.1	57.1	42.9	71.4	28.6	0.0	34.1
Kidnapping	6	0.1	100.0	0.0	50.0	33.3	16.7	26.3
Lewd and Lascivious Behavior	7	0.1	100.0	0.0	100.0	0.0	0.0	31.2
Mistreatment of Dependant Adult	4	0.1	25.0	75.0	75.0	25.0	0.0	39.3
Non-Support of a Child	36	0.7	91.7	8.3	77.8	22.2	0.0	36.5
Obstruct Legal Process	100	1.9	81.0	19.0	77.0	23.0	0.0	28.5
Obtain Prescribed Drug by Fraud	14	0.3	21.4	78.6	92.9	7.1	0.0	36.1
Perjury	6	0.1	33.3	66.7	83.3	16.7	0.0	33.3
Possession of Firearms	77	1.4	96.1	3.9	50.6	49.4	0.0	28.0
Possess Simulated Contr. Subs.	4	0.1	75.0	25.0	100.0	0.0	0.0	32.8
Rape	5	0.1	100.0	0.0	100.0	0.0	0.0	25.7
Robbery	96	1.8	89.6	10.4	49.0	49.0	2.0	24.6
Sex Exploitation of a Child	11	0.2	100.0	0.0	100.0	0.0	0.0	41.3
Stalking	7	0.1	85.7	14.3	71.4	28.6	0.0	34.6
Theft	739	13.8	69.9	30.1	74.1	24.3	1.6	32.4
Traffic in Contraband	31	0.6	67.7	32.3	80.6	16.1	3.2	28.4
Unlawful Voluntary Sex Relation	18	0.3	100.0	0.0	88.2	11.8	0.0	19.0
Weapon	9	0.2	100.0	0.0	44.4	55.6	0.0	24.3
Other	27	0.5	77.8	22.2	70.4	29.6	0.0	36.1
TOTAL	5,370	100.0	78.8	21.2	78.3	19.9	1.8	31.2

Note: Offenses with number of cases smaller than 4 are included in the offense type of "Other".
 Due to missing data, each category is based on different numbers: Gender, N=5,354; Race, N=5,346; and Age, N=5,346.

Table 9: Characteristics of Probation Drug Offenders by Type of Offense

	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
Opiates or Narcotics; Possession	1,686	61.3	71.7	28.3	77.6	20.7	1.7	33.2
Opiates or Narcotics; Sale 1	270	9.8	73.6	26.4	66.9	31.6	1.5	30.4
Opiates or Narcotics; Sale 2	4	0.2	25.0	75.0	75.0	25.0	0.0	29.9
Opiates/ Narcotics, Depress, Stim, Hall; Sell w/in 1,000 feet of School	12	0.4	75.0	25.0	58.3	41.7	0.0	24.7
Depress, Stim, Hall, etc.; Sell, Poss w/Intent to Sell	279	10.2	82.3	17.7	76.2	22.4	1.4	28.4
Depress, Stim, Hall; Poss 2	394	14.3	88.8	11.2	79.0	18.9	2.0	29.7
Possession of Paraphernalia	56	2.0	71.4	28.6	85.7	10.7	3.6	32.5
Possession of Precursor Drugs	19	0.7	57.9	42.1	100.0	0.0	0.0	34.3
Unlawful Manufacture Controlled Substance	20	0.7	63.2	36.8	100.0	0.0	0.0	34.2
Receive Proceeds from Violation of Controlled. Substance	4	0.2	100.0	0.0	100.0	0.0	0.0	27.7
Deliver Any Drug Paraphernalia	6	0.2	83.3	16.7	83.3	16.7	0.0	41.5
TOTAL	2,750	100.0	75.3	24.7	77.0	21.2	1.8	31.9

Note: Due to missing data, each category is based on different numbers: Gender, N=2,742; Race, N=2,740; and Age, N=2,739.

Table 10: Characteristics of Probation Nondrug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
N1	4	0.1	100.0	0.0	100.0	0.0	0.0	21.8
N2	1	0.0	100.0	0.0	100.0	0.0	0.0	13.1*
N3	47	0.9	89.1	10.9	71.7	28.3	0.0	28.6
N4	24	0.4	83.3	16.7	54.2	41.7	4.2	30.4
N5	295	5.5	90.5	9.5	72.0	24.9	3.1	29.0
N6	88	1.6	85.2	14.8	80.7	14.8	4.5	28.7
N7	1,067	19.9	87.2	12.8	77.7	20.8	1.5	29.2
N8	907	16.9	58.4	41.6	77.2	20.6	2.2	30.0
N9	1,671	31.1	79.2	20.8	77.3	21.3	1.4	30.4
N10	414	7.7	76.2	23.8	73.5	25.5	1.0	31.9
Nongrid	849	15.8	85.1	14.9	87.3	10.4	2.2	37.6
Offgrid**	3	0.1	100.0	0.0	100.0	0.0	0.0	21.1
TOTAL	5,370	100.0	78.8	21.2	78.3	19.9	1.8	31.2

Note: Due to missing data, each category is based on different numbers: Gender, N=5,354; Race, N=5,346; and Age, N=5,346.

* A teenage sex offender

** Jessica's Law offenders sentenced downward departure to guidelines.

Table 11: Characteristics of Probation Drug Offenders by Severity Level

Severity Level	N	%	Gender (%)		Race (%)			Offense Age Mean
			Male	Female	White	Black	Other	
D1	20	0.7	60.0	40.0	100.0	0.0	0.0	34.1
D2	31	1.1	58.1	41.9	80.6	19.4	0.0	29.1
D3	550	20.0	78.0	22.0	71.6	26.9	1.5	29.4
D4	2,149	78.2	75.0	25.0	78.2	20.0	1.8	32.6
TOTAL	2,750	100.0	75.3	24.7	77.0	21.2	1.7	31.9

Note: Due to missing data, each category is based on different numbers: Gender, N=2,742; Race, N=2,740 and Age, N=2,739.

SB 123 Drug Treatment Offenders

Senate Bill 123, which became law in 2003, has established a non-prison 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. 65-4160 or 65-4162.

A total number of 1,319 sentences were imposed to SB 123 drug treatment programs during FY 2008, representing almost 48% of the total drug probation sentences (2,750), an increase of 1% compared with that of FY 2007 (47%). Of these sentences, more than 80% were convicted of the crime of drug possession under K.S.A. 65-4160 and 19.3% were convicted of the crime of drug possession under K.S.A. 65-4162. The evaluation of the criminal history of the offenders demonstrates that 93.7% of them were in the criminal history categories from E through I, a decrease of 0.7% compared with that of FY 2007 (94.4%). This data implies that SB 123 was implemented very consistently during FY 2008.

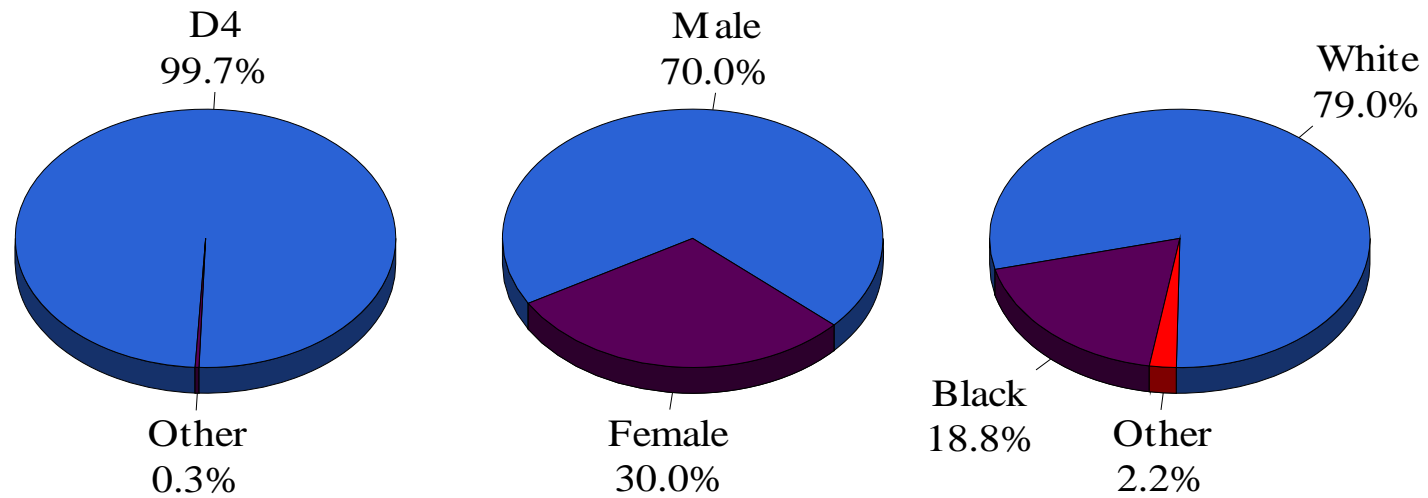
Figure 29 presents a brief summary of the offenders sentenced to SB 123 treatment

programs in FY 2008. The offenders at drug severity level 4 accounted for 99.7% and 0.3% of the offenders fell at other drug severity levels. White males were still the majority of the treatment offenders. The average age of the drug treatment offenders was 32.7 years old, which remains pretty close to that of FY 2007 and FY 2006.

The analysis of the SB 123 drug treatment sentences by county reveals that Sedgwick County imposed the most SB 123 sentences (179) followed by Wyandotte (131), Johnson (108), Shawnee (81) and Saline (68) counties. No SB 123 sentences were reported from 27 counties. The average number of SB 123 sentences imposed by the 78 counties is 17, which is the same with that of FY 2007 (Figure 30).

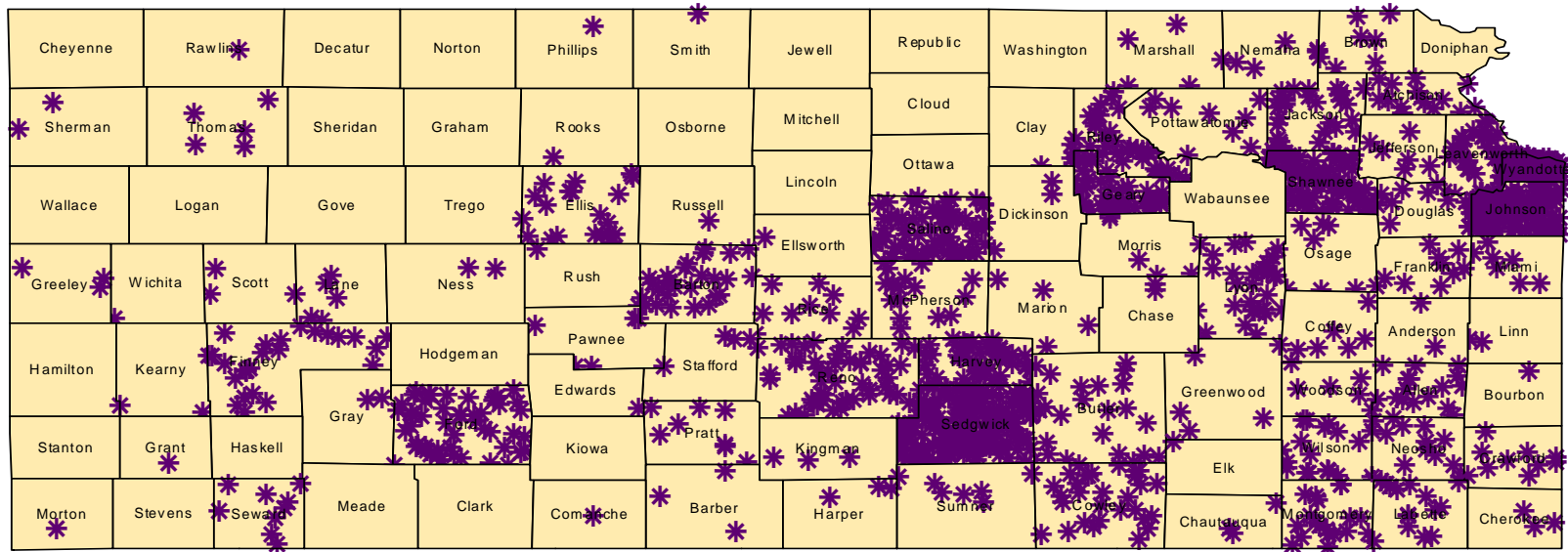
During FY 2008, 443 Senate Bill 123 drug treatment sentences were revoked. Of this number, 196 sentences were revoked to prison, representing 14.9% of SB 123 sentences imposed (1,319 sentences) in FY 2008. The average period between original sentence and revocation hearing was 14.8 months, 2.4 months longer than that of FY 2007 (12.4 months). The average lag time for the second revocation was 5.4 months, very close to that of FY 2007.

Figure 29: Distribution of FY 2008 Senate Bill 123 Drug Treatment Sentences

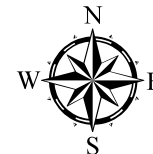


Note: Severity level, N=1,319; Gender, N=1,316; Race, N=1,316

Figure 30: Distribution of Senate Bill 123 Drug Treatment Sentences Imposed by County - FY 2008



Summary
 Total county=105
 Total sentences=1,319
 County w/zero=27
 Minimum=1
 Maximum=179
 Mean=17



Criminal History and Length of Probation

Offenders sentenced to probation with assigned criminal history categories accounted for 90.1% of all the probation sentences (8,120) reported to the Commission in FY 2008, which decreased by 0.3% compared with that of FY 2007 (90.4%). The largest number of this group fell within criminal history category I (29.6% or 2,165 sentences), representing having no previous criminal history or one misdemeanor conviction (Figure 31). Further analysis of the offenders with criminal history category I reveals that they accounted for 28.6% of offenders on the nondrug grid and 31.2% of offenders on the drug grid.

Nondrug offenders who were within the presumptive probation boxes accounted for 85.3% (Table 12), while 66.3% of probation drug offenders were sentenced within the presumptive probation boxes (Table 13). In reviewing border box sentences, only 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, while 17.8% of drug probation sentences fell within severity level 3 with criminal history categories E to I, which are designated as border boxes (Tables 12 and 13).

Drug severity level 4 with criminal history categories E and F have been reclassified as presumptive probation boxes effective on November 1, 2003. The sentencing data in border boxes implies that drug offenders tend to be sentenced to probation more frequently than do nondrug offenders.

The probation terms of probation sentences by each severity level are presented in Tables 12 and 13. The average length of probation for nondrug offenders was 17.7 months, while the average length of probation for drug offenders was 16.5 months. This is very consistent with the average probation lengths over the past five years.

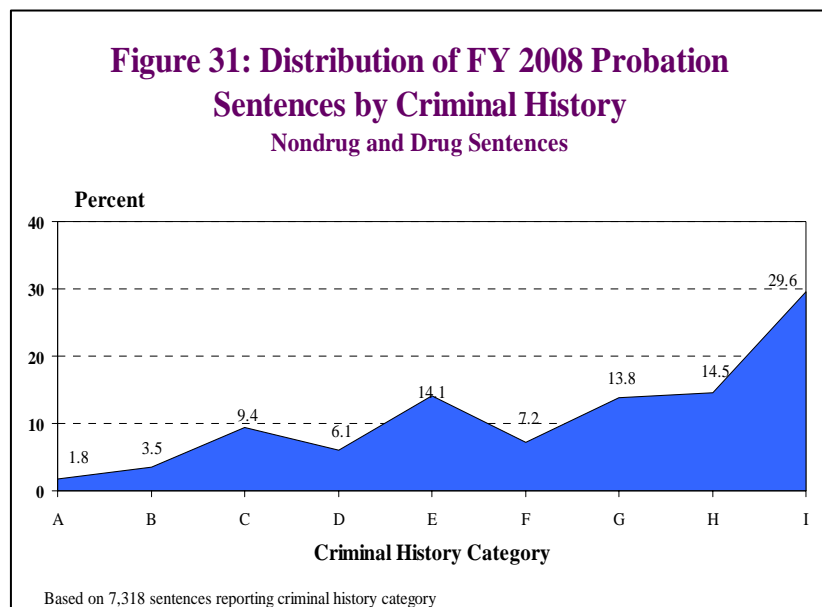


Table 12: Criminal History and Probation Length by Severity Level – Nondrug Offenders

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	0	0	0	0	0	4	48.0
N2	1	0	0	0	0	0	0	0	0	1	36.0
N3	47	2	4	5	3	2	2	5	4	20	39.7
N4	24	2	0	4	4	1	2	4	1	6	38.0
N5	295	6	14	17	15	13	6	27	48	149	35.7
N6	88	2	2	4	0	3	1	13	19	44	24.3
N7	1,067	20	45	137	96	126	65	135	140	302	23.7
N8	907	12	40	110	50	169	68	121	105	232	18.1
N9	1,671	37	56	225	124	269	103	187	245	425	12.7
N10	414	6	8	48	30	57	44	60	55	106	12.4
Nongrid	849	1	3	1	1	5	2	7	12	17	13.1
Offgrid	3	0	0	0	0	0	0	0	0	2	40.0
TOTAL	5,370	88	172	551	323	645	293	559	629	1,308	17.7

Note: Criminal history classes are based on 4,568 cases reporting criminal history category.

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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Table 13: 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	20	0	0	0	0	5	1	6	5	3	33.5
D2	31	1	0	4	2	4	3	4	4	9	35.6
D3	550	6	12	24	19	55	36	86	81	231	18.5
D4	2,149	35	74	112	105	320	193	355	341	614	15.5
TOTAL	2,750	42	86	140	126	384	233	451	431	857	16.5

Legend:

Presumptive Prison	Border Boxes	Presumptive Probation
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COUNTY JAIL SENTENCES

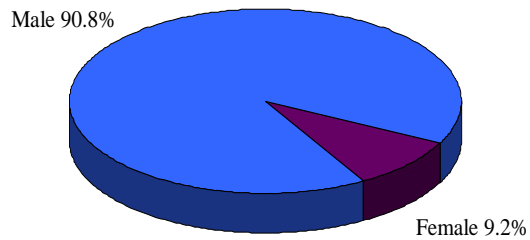
This is the first time that the Commission evaluates county jail sentences statistically in its annual report. During FY 2008, the Commission received a total number of 869 jail sentences. Of this number, male offenders accounted for 90.8% and female offenders accounted for 9.2% (Figure 32).

White offenders represented 89.8%, black offenders represented 7.9% and other races represented 2.3% of the county jail sentences imposed in FY 2008 (Figure 33).

Most offenders were in the age groups ranging from 41 to 50 years old (36.9%) and 31 to 40 years old (27.1%). Their average age at sentencing is 42.1 years old (Figure 34).

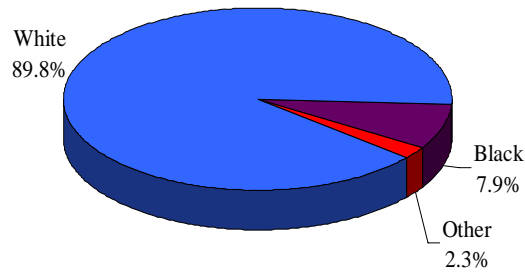
The analysis of the sentence length reveals that the minimum jail term is 3 months, maximum jail term is 16 months and the average jail term is 8.4 months.

Figure 32: Distribution of FY 2008 Jail Sentences by Gender



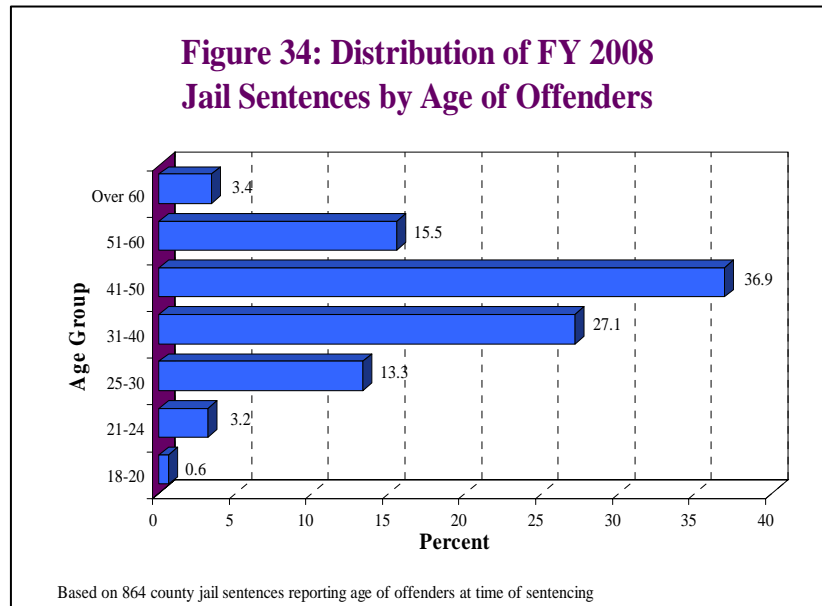
Based on 863 county jail sentences reporting gender of offenders

Figure 33: Distribution of FY 2008 Jail Sentences by Race



Based on 862 county jail sentences reporting race of offenders

The analysis of the crimes of the county jail sentences demonstrates that 97.5% of the sentences were convicted of the crime of felony DUI (847 sentences), 1.7% were convicted of the crime of domestic battery (15 sentences), 0.2% were convicted of the crime of cruelty to animals (2 sentences) and 0.5% were convicted of other crimes (5 sentences). Detailed analysis on the crime of DUI is provided on Page 15 of this report (Figure 35).



The distribution of the county jail sentences is illustrated in Figure 36. Sedgwick County imposed the most jail sentences (268) representing 30.8% followed by Johnson County with 206 jail sentences representing 23.7% of the total county jail sentences imposed in FY 2008.

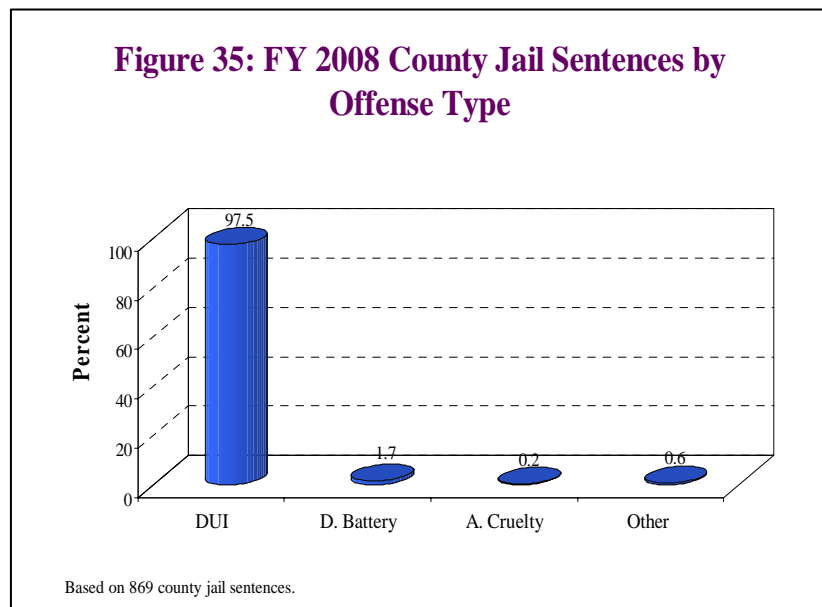


Figure 36: FY 2008 County Jail Sentences by County

