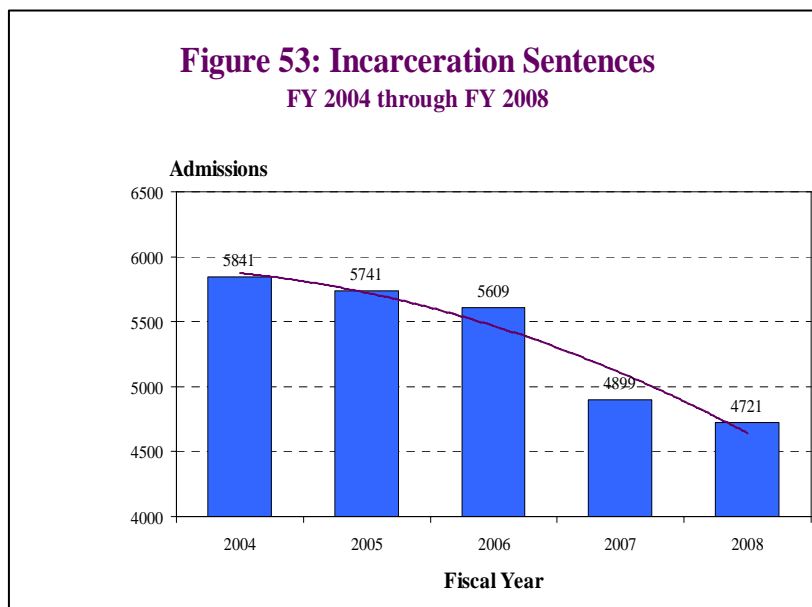


## CHAPTER FOUR SENTENCING TRENDS AND FORECAST

### INCARCERATION SENTENCES

The trend of prison admissions in the past five years is exhibited in Figure 53, demonstrating a declining tendency. The number of admissions in FY 2008 decreased by 178 or 3.6% when compared with that of FY 2007 and decreased significantly by 1,120 offenders or 19.2% compared with that of FY 2004. Table 38 displays the prison admission patterns by month in the past five years.



**Table 38: Prison Admissions by Month**

Month by Fiscal Year	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
July	525	439	407	417	436
August	441	497	570	420	422
September	460	501	534	390	362
October	500	413	473	448	451
November	418	466	473	375	392
December	550	441	459	354	312
January	445	407	461	442	431
February	435	471	443	355	371
March	560	575	472	422	385
April	491	491	409	397	380
May	469	486	492	502	395
June	547	554	416	377	384
<b>Total</b>	<b>5,841</b>	<b>5,741</b>	<b>5,609</b>	<b>4,899</b>	<b>4,721</b>

Table 39 presents the trend of admissions to prison by type in the past five years. The admissions of new court commitments in FY 2008 decreased by 6.7% compared with FY 2007 and decreased by 0.9% compared with FY 2004. The number of probation condition violators admitted to prison in FY 2008 decreased by 7.2% from that of FY 2007 and by 5% from that of FY 2004. This is the second declining of admissions of probation condition violators in the past five years. Probation violators with new sentences admitted to prison in FY 2008 increased significantly by 57.6% compared with FY 2007 and by 5.4% compared with FY 2004.

Conditional release violators and conditional release violators with new sentences are small in number. Therefore, they are included in the groups of parole condition violators and parole violators with new sentences in trend analysis. The number of parole/postrelease/conditional release violators admitted to prison in FY 2008 greatly decreased by 44.7% compared with that of FY 2004 though increased by 2.3% compared with that of FY 2007. On the contrary, the number of parole/post-release/condition release violators with new sentences in FY 2008 increased by 4.7% over that of FY 2004 but decreased by 17.9% from that of FY 2007.

**Table 39: Comparison of Prison Admissions by Type**

Admission Type	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2008-2004 % Difference
New Court Commitment	1,512	1,489	1,610	1,605	1,498	-0.9%
Probation Condition Violator	1,709	1,783	2,038	1,750	1,624	-5.0%
Probation Violator with New Sentence	148	126	142	99	156	5.4%
Parole/Postrelease/CR Condition Violator	2,292	2,138	1,641	1,239	1,268	-44.7%
Parole/Postrelease/CR Violator with New Sentence	149	166	168	190	156	4.7%
Other Types*	31	39	10	16	19	-38.7%
<b>Total</b>	<b>5,841</b>	<b>5,741</b>	<b>5,609</b>	<b>4,899</b>	<b>4,721</b>	<b>-19.2%</b>

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

Table 40 exhibits the admission trend of incarceration drug sentences by severity level in the past five years. In FY 2008, admissions at all drug levels indicated a decrease from those of the previous year, with the exception of admissions at drug level 2 with an increase of 8.8%. The overall admissions of drug offenders in FY 2008 indicated a decrease of 14% compared with FY 2007.

The total number of drug admissions in FY 2008 decreased by 23.3% when compared

with that of FY 2004. The largest decrease was identified at drug severity level 1 by 49.8%, followed by drug severity level 2 by 44.7% and severity level 3 by 35.3%. The number of drug severity level 4 dropped by 0.3%, as well (Table 40).

The admission trend of nondrug offenders in the past five years is provided in Table 41. The total number of nondrug admissions only increased by 1% compared with FY 2007 but decreased by 17.5% from that of FY 2004. The most notable decrease of

nondrug admissions in the past five years were identified at the severity levels containing offenders with the most serious crimes: level 2 with a decrease of 40.4%, level 3 with a decrease of 27.7%, level 4 with a decrease of 34.4% and level 6 with a decrease of 26.3%. Certain fluctuations were also identified in the numbers of sentences at lower nondrug severity levels from FY 2004 to FY 2008 with a decrease of 16.4% at level 7, a decrease of 23.8% at level 8, a decrease of 12.8% at level 9 and a decrease of 15.7% at level 10. Nongrid offenders admitted to prison in FY 2008 were all violators under the crime of DUI (109

offenders), demonstrating a decrease of 26.4% compared with FY 2004 (Table 41).

Except for admissions at nondrug severity level 1 and offgrid, numbers at all nondrug severity levels dropped in FY 2008 compared with FY 2004. The admissions at nondrug severity level 1 increased by 4.6% compared with FY 2004 and by 31.4% compared with FY 2007. As projected, offgrid sentences increased significantly by 102.7% or 38 admissions compared with FY 2004 and by 127.3% or 42 admissions compared with FY 2007. This increasing trend results from Jessica’s Law passed in the 2006 Legislative Session (Table 41).

**Table 40: Comparison of Drug Prison Admissions by Severity Level**

Severity Level	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2008-2007 % Difference	FY 2008-2004 % Difference
D1	229	187	199	149	115	-22.8%	-49.8%
D2	179	132	136	91	99	8.8%	-44.7%
D3	567	516	487	438	367	-16.2%	-35.3%
D4	728	781	820	841	726	-13.7%	-0.3%
<b>Total</b>	<b>1,703</b>	<b>1,616</b>	<b>1,642</b>	<b>1,519</b>	<b>1,307</b>	<b>-14.0%</b>	<b>-23.3%</b>

**Table 41: Comparison of Nondrug Prison Admissions by Severity Level**

Severity Level	FY 2004	FY 2005	FY 2006	FY2007	FY 2008	FY 2008-2007 % Difference	FY 2008-2004 % Difference
N1	108	96	101	86	113	31.4%	4.6%
N2	99	112	84	70	59	-15.7%	-40.4%
N3	559	562	503	391	404	3.3%	-27.7%
N4	151	123	125	99	99	0.0%	-34.4%
N5	586	584	551	513	533	3.9%	-9.0%
N6	171	158	147	120	126	5.0%	-26.3%
N7	825	809	792	675	690	2.2%	-16.4%
N8	458	462	445	396	349	-11.9%	-23.8%
N9	728	737	804	662	635	-4.1%	-12.8%
N10	261	235	228	215	220	2.3%	-15.7%
Offgrid	37	33	38	33	75	127.3%	102.7%
Nongrid	148	206	134	108	109	0.9%	-26.4%
Unknown	7	8	15	12	2	-83.3%	-71.4%
<b>Total</b>	<b>4,138</b>	<b>4,125</b>	<b>3,967</b>	<b>3,380</b>	<b>3,414</b>	<b>1.0%</b>	<b>-17.5%</b>

## PROBATION SENTENCES

Figure 54 presents the sentencing trend of probation sentences in the past five years. The number of probation sentences in FY 2008 increased by 4.8% or by 373 sentences compared with that of FY 2007 and greatly increased by 12.7% or by 912 sentences compared with that of FY 2004. The largest number of probation sentences imposed in the past five years is identified in FY 2008.

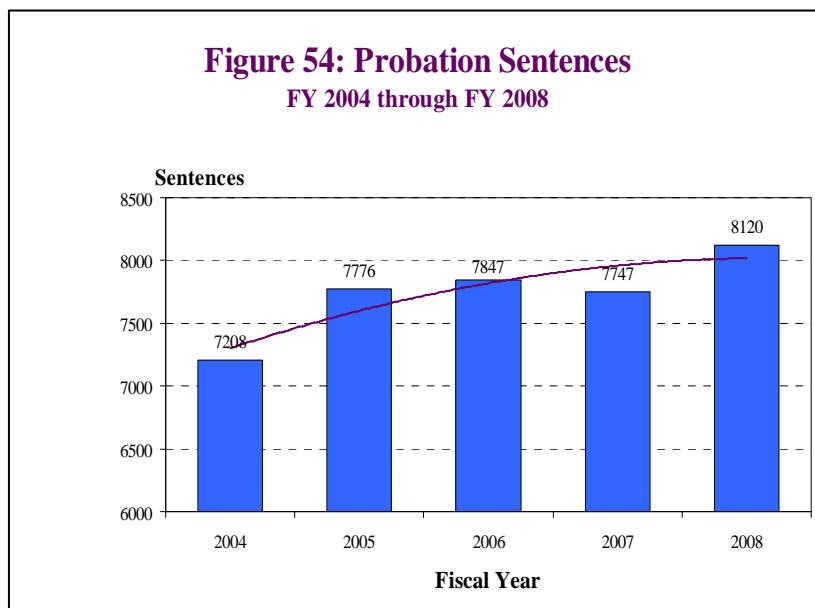


Table 42 demonstrates the sentencing trend of drug probation sentences by severity level during the past five years. Compared with FY 2007, the analysis shows that drug probation sentences at all levels in FY 2008 increased except at drug severity level 1 with a decrease of 39.4%. The largest percentage increase of probation sentences for drug offenses was at drug severity level 2, by an increase of 72.2%. The total number of drug probation sentences in FY 2008 increased by 2.5% over that of FY 2007. When compared with FY 2004, drug probation sentences at severity levels 1, 2 and 3 reduced by 44.4%, 29.5% and 13.1% respectively, while drug probation sentences at severity level 4 increased by 24.4%. This increase at drug severity level 4 continues mirroring 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. However, the total number of drug probation sentences in FY 2008 increased by 12.7% over that of FY 2004.

Trend analysis of nondrug probation sentences indicates that the total number of nondrug probation sentences in FY 2008 increased by 6.1% and 12.6%, respectively, over those of FY 2007 and FY 2004. The largest increase of nondrug probation sentences in the past five years were found at nondrug severity level 4 (an increase of 84.6%) followed by nondrug severity level 6 (an increase of 41.9%) and nondrug severity level 5 (an increase of 39.2%) compared with the data observed in FY 2004. Three offenders at offgrid convicted under Jessica's Law were downward departure to guidelines and sentenced to probation (Table 43).

**Table 42: Comparison of Probation Drug Sentences by Severity Level  
FY 2004 through FY 2008**

Severity Level	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2008-2007 % Difference	FY 2008-2004 % Difference
D1	36	121	63	33	20	-39.4%	-44.4%
D2	44	20	18	18	31	72.2%	-29.5%
D3	633	653	570	542	550	1.5%	-13.1%
D4	1,728	1,983	2,196	2,091	2,149	2.8%	24.4%
<b>Total</b>	<b>2,441</b>	<b>2,777</b>	<b>2,847</b>	<b>2,684</b>	<b>2,750</b>	<b>2.5%</b>	<b>12.7%</b>

**Table 43: Comparison of Probation Nondrug Sentences by Severity Level  
FY 2004 through FY 2008**

Severity Level	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2008-2007 % Difference	FY 2008-2004 % Difference
N1	7	4	4	4	4	0.0%	-42.9%
N2	0	0	2	1	1	0.0%	N/A
N3	48	46	33	49	47	-4.1%	-2.1%
N4	13	4	17	15	24	60.0%	84.6%
N5	212	223	211	236	295	25.0%	39.2%
N6	62	61	95	68	88	29.4%	41.9%
N7	934	1,053	997	1,013	1,067	5.3%	14.2%
N8	781	793	879	972	907	-6.7%	16.1%
N9	1,430	1,539	1,534	1,479	1,671	13.0%	16.9%
N10	557	454	422	420	414	-1.4%	-25.7%
Offgrid	0	0	0	0	3	N/A	N/A
Nongrid	723	822	806	806	849	5.3%	17.4%
<b>Total</b>	<b>4,767</b>	<b>4,999</b>	<b>5,000</b>	<b>5,063</b>	<b>5,370</b>	<b>6.1%</b>	<b>12.6%</b>

**COUNTY JAIL SENTENCES**

The trend analysis of county jail sentences imposed in the past five years is depicted in Figure 55. FY 2008 is the year when the most county jail sentences were imposed in the past five years. The total number of jail sentences compared with that of FY 2007 and an increase of 29.1% or 196 sentences compared with that of FY 2004.

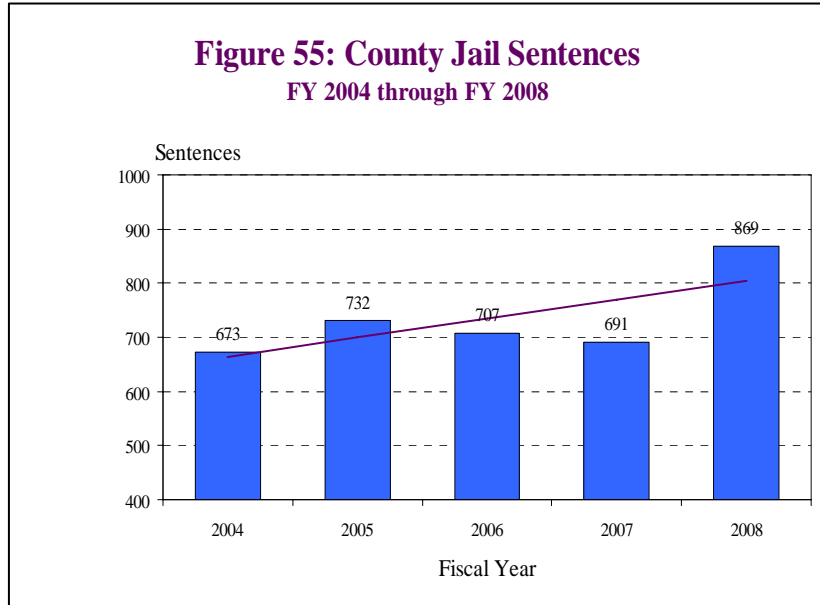


Table 44 presents the offense trend of county jail sentences from FY 2004 through FY 2008. More than 97% of the jail sentences were convicted under the crime of DUI. Further analysis of DUI crime reveals that 4<sup>th</sup> or subsequent conviction of DUI accounted for more than 80% of total county jail sentences. In FY 2008, the number of 4<sup>th</sup> or subsequent conviction of DUI increased by 27.6% and 34.2% respectively compared with FY 2007 and FY 2004, while the

number of 3<sup>rd</sup> conviction of DUI decreased by 7.6% in FY 2008 when compared with that of FY 2004. Though small in number, the crime of domestic battery increased from 4 sentences in FY 2004 to 15 sentences in FY 2008. The crime of cruelty to animals was created in the 2007 Legislative Session. Only 1 offender was convicted of the crime in FY 2007 and 2 offenders were convicted of the crime in FY 2008.

**Table 44: Comparison of County Jail Sentences by Offense FY 2004 through FY 2008**

Offenses	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2008-2007 % Difference	FY 2008-2004 % Difference
3rd DUI	105	115	117	91	97	6.6%	-7.6%
4th or Sub. DUI	559	607	579	588	750	27.6%	34.2%
Domestic battery	4	9	11	11	15	36.4%	275.0%
Cruelty to Animal	0	0	0	1	2	100.0%	N/A
Other	5	1	0	0	5	N/A	0.0%
<b>Total</b>	<b>673</b>	<b>732</b>	<b>707</b>	<b>691</b>	<b>869</b>	<b>25.8%</b>	<b>29.1%</b>

## PRISON POPULATION FORECASTS

The prison population forecasts are based on historical sentencing data, primarily on the data of FY 2008, 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 9,477 by June 30, 2018, which indicates an increase of 839 inmates or 9.7% over the actual prison population on the same date of year 2008. Although the total number of admissions has dropped compared with those of the past five years (Figure 53), a combination of developing admission trends with the impact of the pronounced stacking effect and new sentencing policies has resulted in a continual growth in the state's prison population. The decrease of prison population after FY 2007 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 of the Bill is January 1, 2008 (Figure 56).

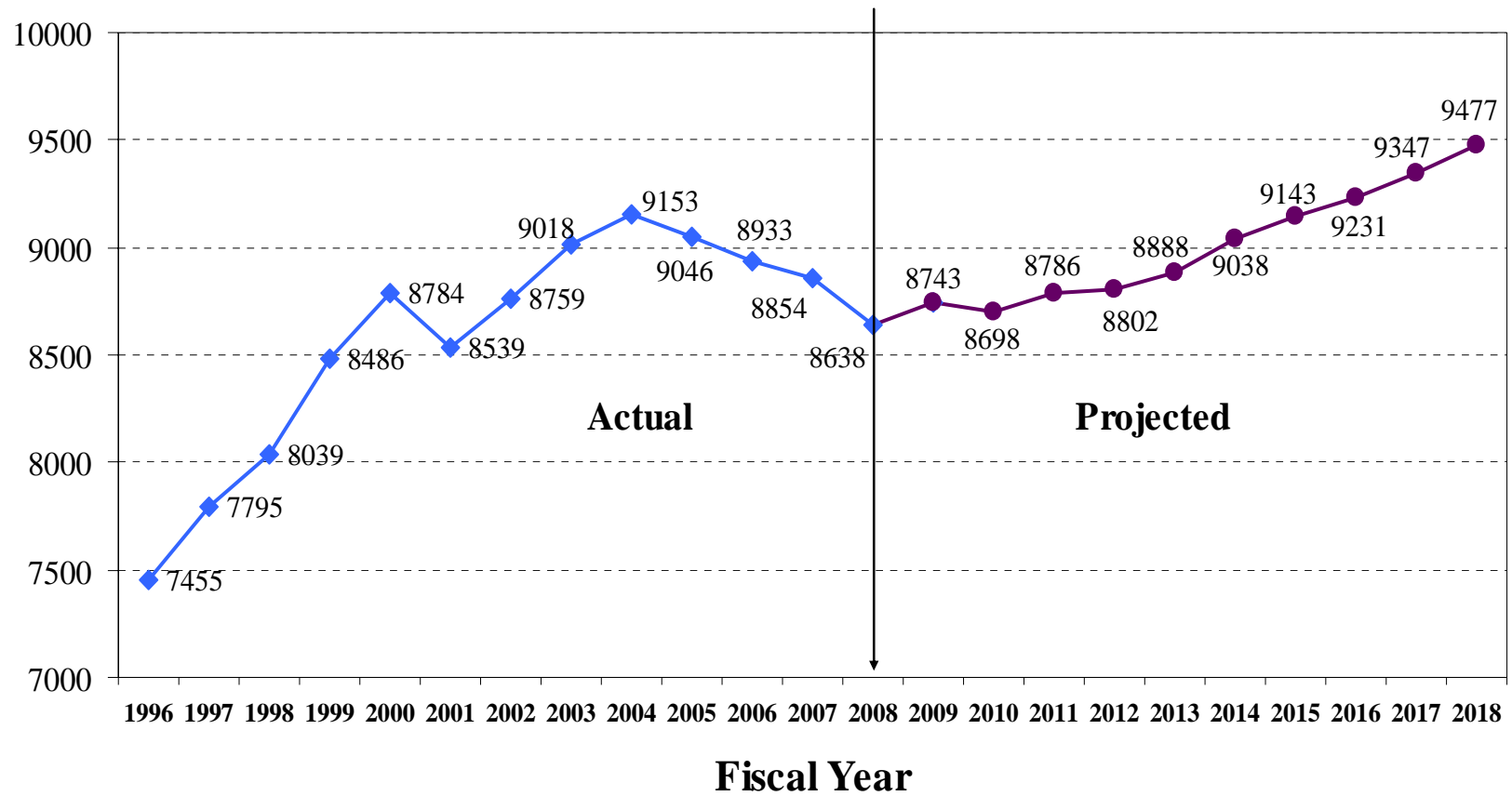
FY 2008 prison population projections by severity levels are presented in Table 45. The most significant increase in both number and percentage of incarcerated populations in the next ten years is identified in the group of offgrid offenders, an increase of 910 offenders or 112.1%. This significant growth 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 321 offenders or 36.4% over the ten-year forecast period. This is due to the "stacking effect" of long sentence length of most serious offenses.

The largest decrease of nondrug population is found at nondrug severity level 7 with a deduction of 103 inmates or 13.3% followed by nondrug severity level 2 with a decrease of 64 inmates or 14.7%, nondrug severity level 4 with a decrease of 8.7% and nondrug severity level 3 with a decrease of 0.9% in the next ten years. This decreasing tendency reflects the implementation of House Bill 2576, as well, which reclassifies certain sex offenses at these levels as offgrid felonies.

The projected prison population of drug offenders at all severity levels displays a declining trend in the ten-year forecast period except drug severity level 2 with a slight increase of 3 offenders. The greatest decrease is identified at drug severity level 3 with a decrease of 121 offenders or 28.7% followed by drug severity level 1 with a decrease of 82 offenders or 21.7% in the next ten years. This declining tendency may result from the implementation of Senate Bill 123, which reclassifies all drug possession offenses under K.S.A. 65-4160 and K.S.A. 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 56 depicts the trend of the actual and projected prison population from FY 1996 through FY 2018.

## Figure 56: Prison Population Actual and Projected



**Table 45: FY 2009 Adult Inmate Prison Population Projections**

Severity Level	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	June 30 2018	Total # Increase	Total % Increase
D1	378	358	354	345	333	318	310	306	298	287	296	-82	-21.7%
D2	160	146	142	138	143	150	156	162	163	172	163	3	1.9%
D3	421	398	376	356	340	335	325	301	320	313	300	-121	-28.7%
D4	659	617	562	556	509	509	527	533	566	565	590	-69	-10.5%
N1	882	928	960	988	1027	1066	1096	1131	1164	1189	1203	321	36.4%
N2	435	430	421	414	416	415	414	409	405	383	371	-64	-14.7%
N3	1321	1310	1311	1330	1343	1328	1320	1327	1300	1309	1309	-12	-0.9%
N4	275	270	278	293	291	271	263	281	266	253	251	-24	-8.7%
N5	1091	1094	1130	1126	1103	1091	1132	1109	1111	1100	1104	13	1.2%
N6	151	171	178	158	171	170	175	161	160	164	167	16	10.6%
N7	775	754	693	723	674	658	652	642	625	653	672	-103	-13.3%
N8	199	215	194	190	177	189	191	199	194	196	192	-7	-3.5%
N9	223	291	300	285	301	282	303	281	278	291	297	74	33.2%
N10	34	54	51	40	34	49	44	47	43	47	42	8	23.5%
OFF GRID	812	893	981	1063	1159	1251	1345	1438	1528	1628	1722	910	112.1%
Condition Parole/PIS Violators	819	814	767	781	781	806	785	816	810	797	798	-21	-2.6%
<b>Total</b>	<b>8638</b>	<b>8743</b>	<b>8698</b>	<b>8786</b>	<b>8802</b>	<b>8888</b>	<b>9038</b>	<b>9143</b>	<b>9231</b>	<b>9347</b>	<b>9477</b>	<b>839</b>	<b>9.7%</b>

\*. The numbers on June 30, 2008 are the actual prison population on that date. Total numbers include two non-grids and one missing.  
 Note: Based on House Bill 2707 enacted into law on July 1, 2008.

**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. The overall custodial classification projections reveal that 243 unclassified beds, 2,905 minimum beds, 2,568 medium low beds, 1,402 medium high beds, 940 maximum beds and 685 special management beds will be needed by the end of FY 2009. The total projected prison beds, by the end of FY 2018, will include 245 unclassified beds, 3,049 minimum beds, 2,674 medium low beds, 1,715 medium high beds, 995 maximum beds and 799 special management beds (Table 46).

The projected percentage distribution of custodial classifications by gender is exhibited in Figure 57, which demonstrates a significant difference between male and female offenders. Females will need 4.8% unclassified, 60.8% minimum, 13.6% medium low, 9.8% medium high, 10% maximum custody and 1% special

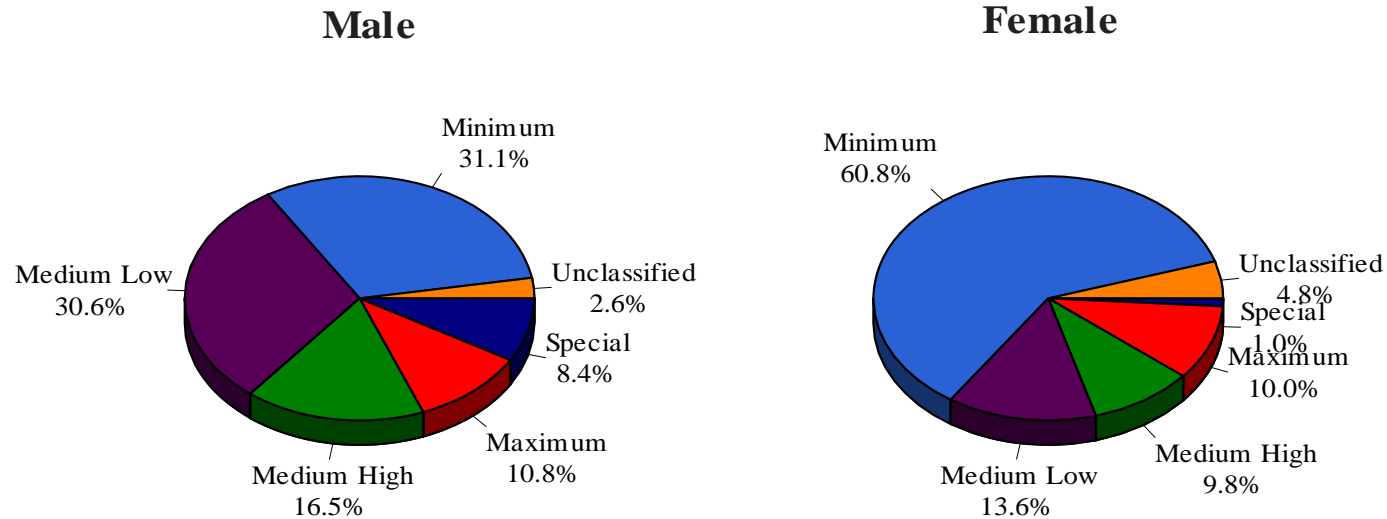
management beds by the end of FY 2009. Males will need 2.6% unclassified, 31.1% minimum, 30.6% medium low, 16.5% medium high, 10.8% maximum custody and 8.4% special management beds by the end of FY 2009. These classification percentages of male and female offenders remain fairly constant during the ten-year forecasting period.

Male beds needed increase at all custody types in the ten-year forecast period. The largest increase is found at the type of medium high beds with an increase of 307. The second largest increase is at the type of minimum beds with an increase of 146 beds. The special management, medium low, maximum custody and unclassified beds demonstrate an increase of 110, 92, 39 and 13, respectively, over the ten-year forecast period. Beds for females, in terms of custody types, do not fluctuate much in the next ten years with an increase of 16 maximum beds and 14 of medium high beds but a decrease of 11 beds for the unclassified group. This forecast assumes no changes in custody practice over the ten-year forecast period.

**Table 46: Ten Years Custody Classification Projection**

June 30 Each Year	Unclassified	Minimum	Medium Low	Medium High	Maximum	Special	Total
2009	243	2,905	2,568	1,402	940	685	8,743
2010	247	2,912	2,499	1,427	904	709	8,698
2011	240	2,950	2,457	1,496	929	714	8,786
2012	249	2,915	2,486	1,459	953	740	8,802
2013	256	2,927	2,454	1,560	972	719	8,888
2014	266	2,938	2,512	1,589	990	743	9,038
2015	247	2,967	2,563	1,593	981	792	9,143
2016	257	3,002	2,569	1,651	942	810	9,231
2017	264	2,975	2,632	1,695	985	796	9,347
2018	245	3,049	2,674	1,715	995	799	9,477

## Figure 57: Projected Percentage Distribution of Custody Classification by Gender



Based on the projected prison population on June 30, 2009 (male = 8,120 and female = 623).