



Annual Report, Prison Population Projections, & Policy Recommendations

BY SCOTT SCHULTZ, EXECUTIVE DIRECTOR

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Vacant

Private Attorney

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Public Member

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Public Member

Spence Koehn

Office of Judicial Administration

Duties and Responsibilities

- ▶ Legislative
 - ▶ Impacts during the session
 - ▶ Presentation to this committee
- ▶ State Statistical Analysis Center for Criminal Justice
 - ▶ Maintain database of sentencing journal entries, PSIs and probation revocation journal entries
- ▶ Maintain, monitor and update the Kansas Sentencing Guidelines Desk Reference Manual (DRM)
- ▶ Annual prison bed population and inmate classification projections for KDOC
- ▶ Annual Report

Duties and Responsibilities (cont'd)

- ▶ Administration of SB 123 and 2021 HB 2026 payments to drug abuse treatment providers
- ▶ Private research requests
- ▶ Training and information resource for criminal justice agencies
 - ▶ Development of sentencing manuals and related training
 - ▶ Q & A helpline

Staff

- ▶ Currently 13 team members
- ▶ Major functional areas:
 - ▶ Research and data maintenance
 - ▶ SB 123 and 2021 HB 2026 (provider payments and data tracking)
 - ▶ Legislative issues (bed impacts and special requests)
 - ▶ Legal issues (JE revisions, PSI questions, DRM updates)

HISTORY

▶ 1988

- Prison overcrowding litigation
- Court Order – Reduce Kansas prison population by 100 inmates per month
- Criminal Justice Coordinating Council
 - ▶ Recommended establishing the Kansas Sentencing Commission in 1989
- DISPARITY BASED ON RACE AND GEOGRAPHY
- PROPORTIONALITY
- TRUTH IN SENTENCING

HISTORY

- ▶ Sentencing Commission created 1989
- ▶ Mission Statement: The Kansas Sentencing Commission is charged with the development and maintenance of uniform sentencing guidelines that establish a range of presumptive sentences.
- ▶ Presumptive sentences are based upon the assumptions that:
 - ▶ Incarceration is reserved for the most serious offenders
 - ▶ Primary purposes of prison are incapacitation and punishment

Why Presumptive Guidelines?

- ▶ Establishes equity among offenders in typical cases
- ▶ Allows departures in atypical cases
- ▶ Allows for more certainty in predicting prison populations



▶ Annually

- ▶ Commission reviews and suggests legislative and administrative changes to the Governor and Legislature
- ▶ Our office tracks and reviews all relevant bills that are introduced and provides prison bed impacts
- ▶ Revisions made every year to reflect new or amended laws

SENTENCING RANGE – NONDRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanor	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 26	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

Probation Terms are:

- 36 months recommended for felonies classified in Severity Levels 1-5
- 24 months recommended for felonies classified in Severity Levels 6-7
- 18 months (up to) for felonies classified in Severity Level 8
- 12 months (up to) for felonies classified in Severity Levels 9-10

Postrelease Supervision Terms are:

- 36 months for felonies classified in Severity Levels 1-4
- 24 months for felonies classified in Severity Levels 5-6
- 12 months for felonies classified in Severity Levels 7-10

Postrelease for felonies committed before 4/20/95 are:

- 24 months for felonies classified in Severity Levels 1-6
- 12 months for felonies classified in Severity Level 7-10

LEGEND
Presumptive Probation
Border Box
Presumptive Imprisonment

SENTENCING RANGE- DRUG OFFENSES

Categories→	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felony	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	144 136 130	137 130 122	130 123 117	124 117 111	116 111 105	113 108 101	110 104 99	108 100 96	103 98 92
III	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
IV	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	26 24 23	23 22 20	19 18 17	16 15 14
V	42 40 37	36 34 32	32 30 28	26 24 23	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

Presumptive Probation
Border Box
Presumptive Imprisonment

•Fines not to exceed \$500,000 (SL1-SL2), \$300,000 (SL3-SL4), \$100,000 (SL5)

•Severity level of offense increases one level if controlled substance or analog is distributed or possessed w/ intent to distribute on or w/in 1000 ft of any school property.

Levels	Distribute or Possess w/ intent to Distribute								
	Cocaine	Meth & Heroin	Marijuana	Manufacture (all)	Cultivate	Dosage Units	Postrelease	Probation	Good Time
I	≥ 1 kg	≥ 100 g	≥ 30 kg	2nd or Meth	>100 plants	>1000	36	36	15%
II	100 g - 1 kg	3.5 g - 100 g	450 g - 30 kg	1st	50-99 plants	100-999	36	36	15%
III	3.5 g - 100 g	1 g - 3.5 g	25 g - 450 g		5-49 plants	10-99	36	36	**20%
IV	< 3.5 g	< 1 g	< 25 g			<10	24	*≤ 18	20%
V	Possession	Possession	Possession-3rd offense				12	*≤12	20%

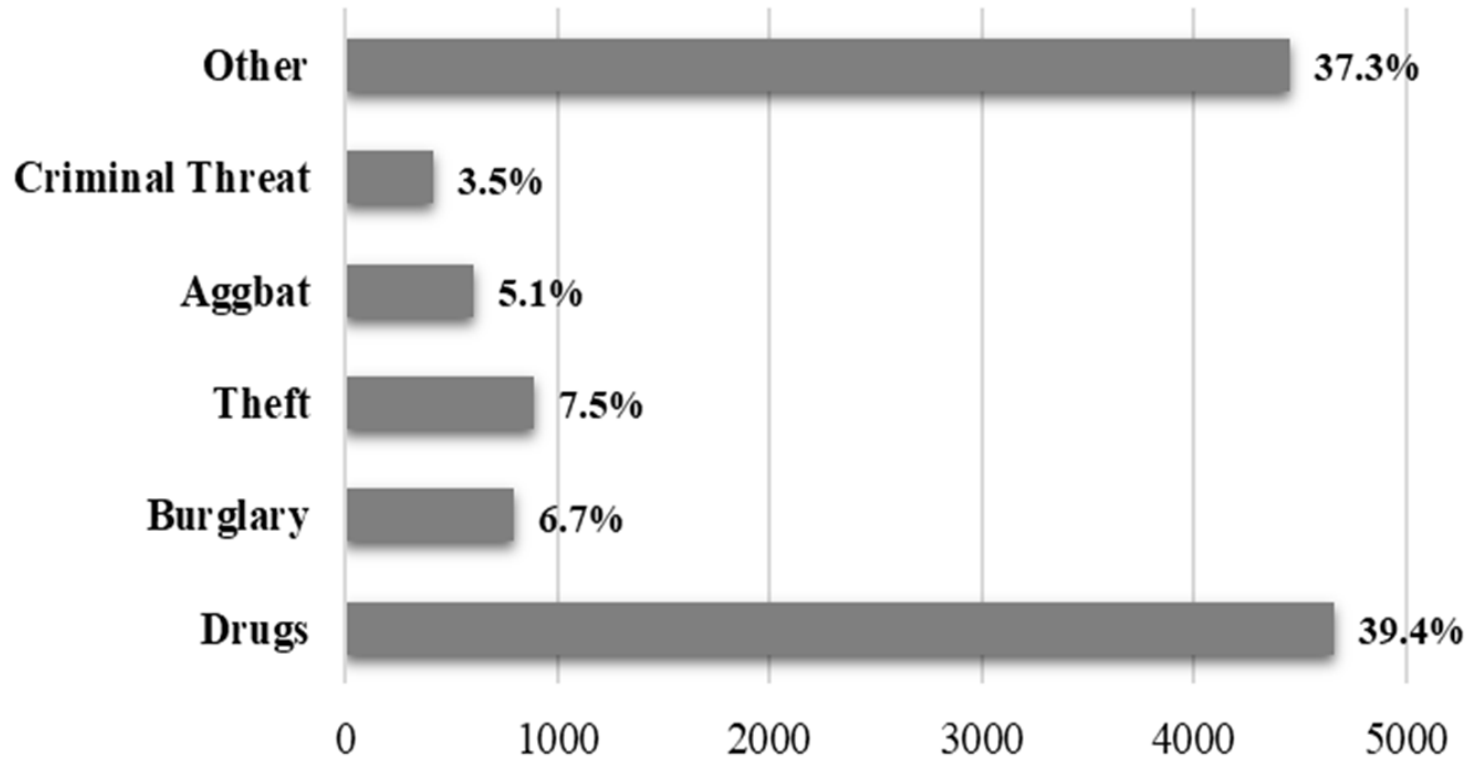
* ≤ 18 months for 2003 SB123 offenders

** Retroactive application for offense committed on or after July 1, 2012

*** Severity Level increases one level if on or w/in 1000 ft of any school property

Annual Report

Figure 4: FY 2020 Top 5 Offenses of Prison, Probation, and Jail Sentences



Based upon 11,823 prison, probation, DUI/PIS, and County Jail Sentences

Top 5
Offenses

Figure 7: Distribution of FY 2020 Sentences by Race of Offenders

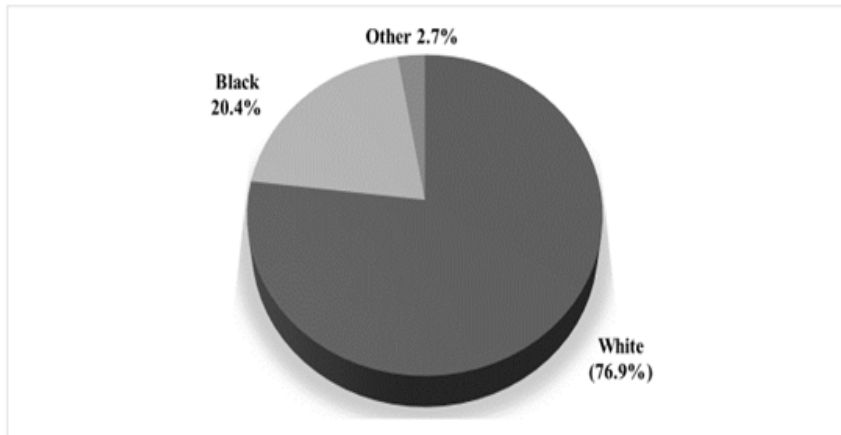
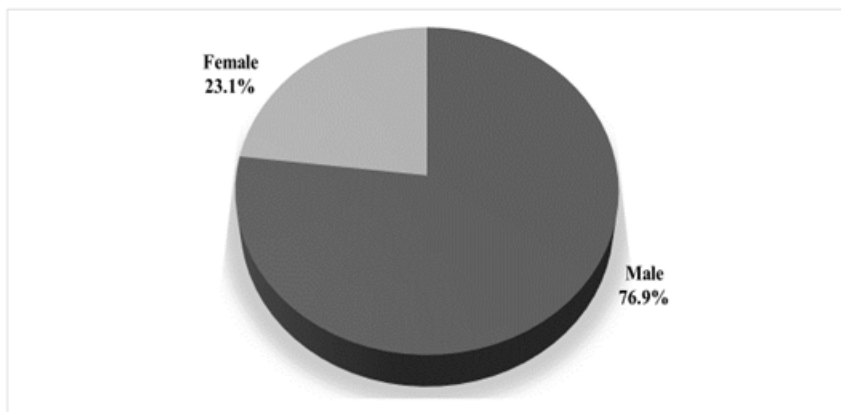


Figure 6: Distribution of FY 2020 Sentences by Gender of Offenders



Race & Gender Distribution

Figure 8: Distribution of FY 2020 Sentences by Ethnicity of Offenders

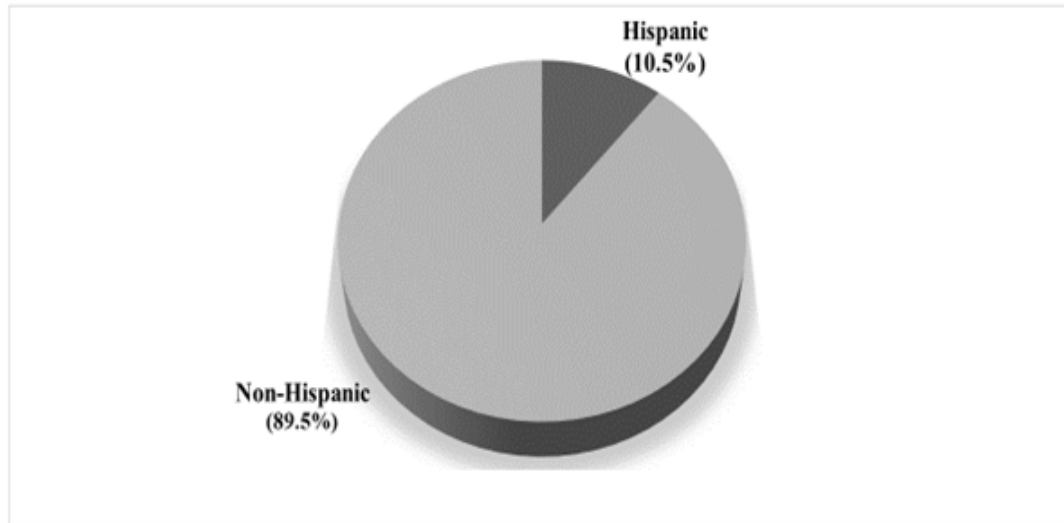
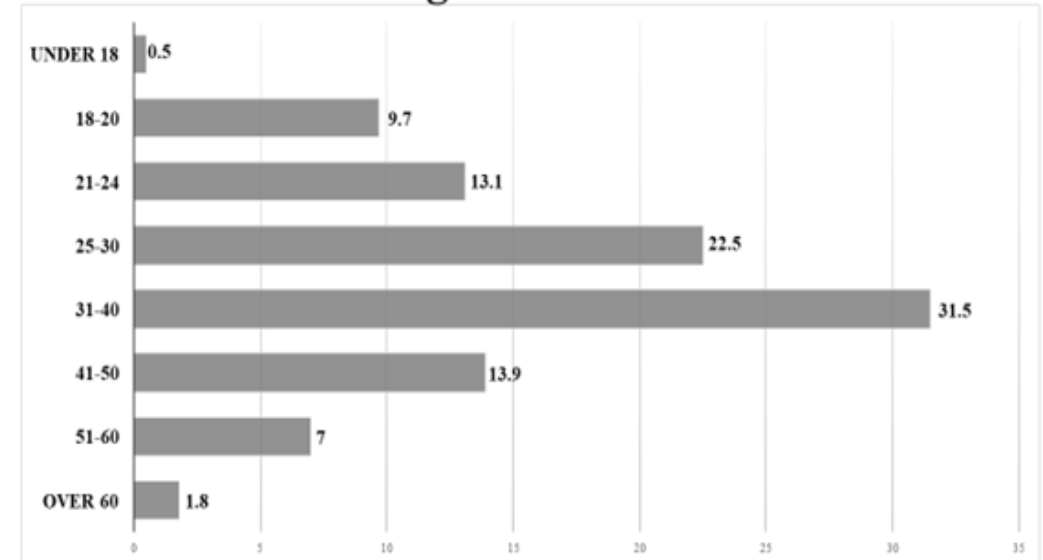


Figure 9: Distribution of FY 2020 Sentences by Age of Offenders



Ethnicity & Age Distribution

Prison Sentences

In FY 2020, the total number of admissions to KDOC reached 4,473.

This was a decrease of 29% or 1,915 offenders when compared with FY 2019 (6,388 admissions).

Drop in admissions due to COVID-19 pandemic.

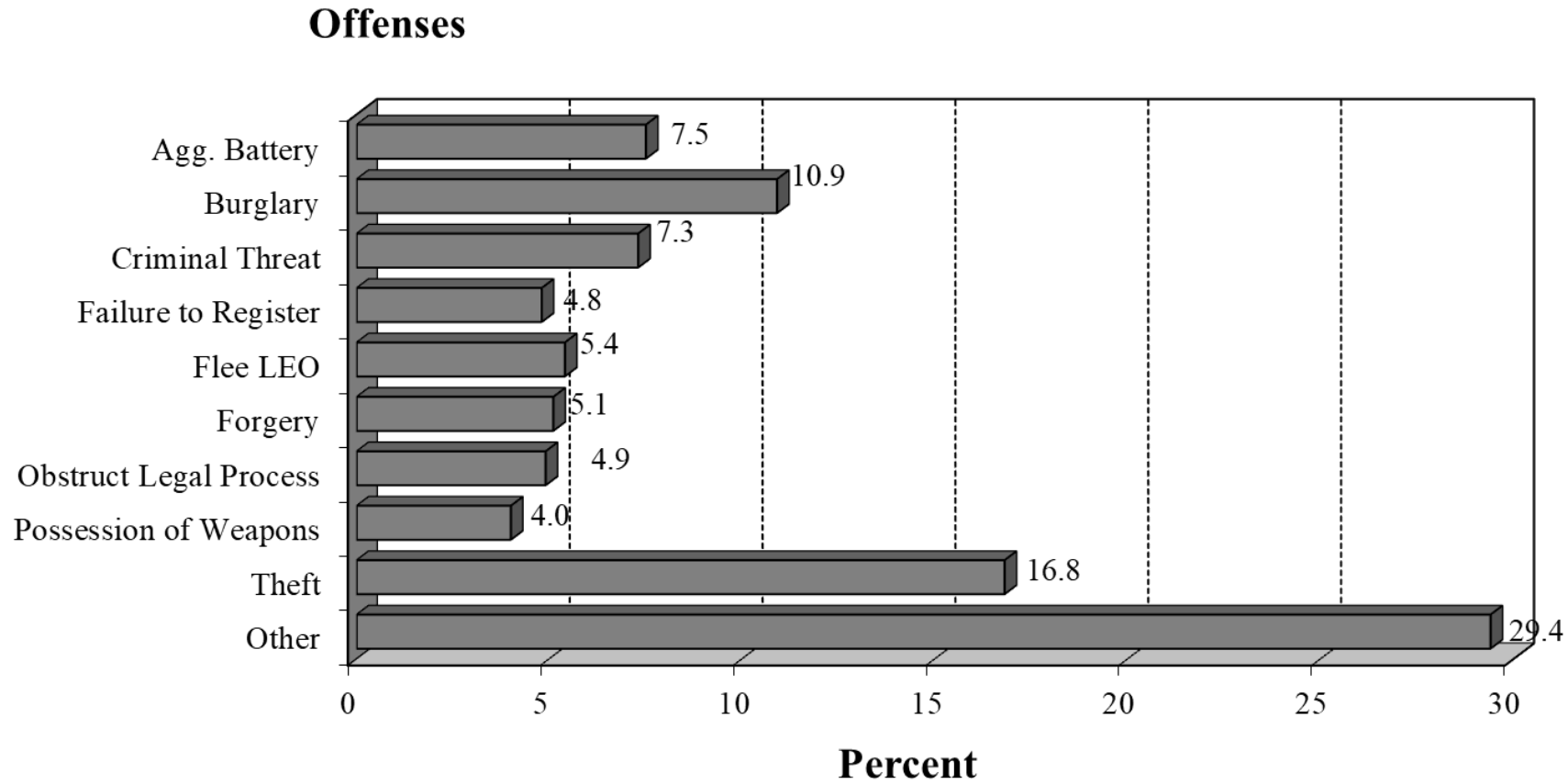
Males continue to be the predominant offender group making up 84.3% of the offenders admitted to prison in FY 2020.

White offenders accounted for 73.4%, black offenders accounted for 23.0%, and other races represented 3.6% of the total admissions of FY 2020.

Probation Sentences

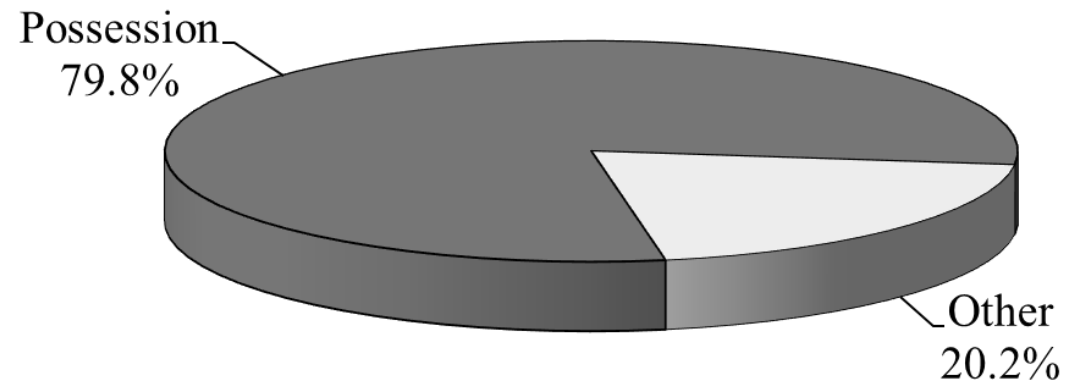
- ▶ During FY 2020, 6,961 probation sentences were reported to the Commission, a decrease of 23.2% (2,021 sentences) compared with FY 2019 (8,712 sentences).
 - ▶ ***Decrease was due to COVID-19 pandemic***
 - ▶ Of this number, 3,734 were nondrug sentences and 3,227 were drug sentences.

Figure 32: FY 2020 Top Ten Offenses for Probation Nondrug Sentences



Based on 3,732 probation nondrug sentences

Figure 33: FY 2020 Probation Drug Sentences by Offense

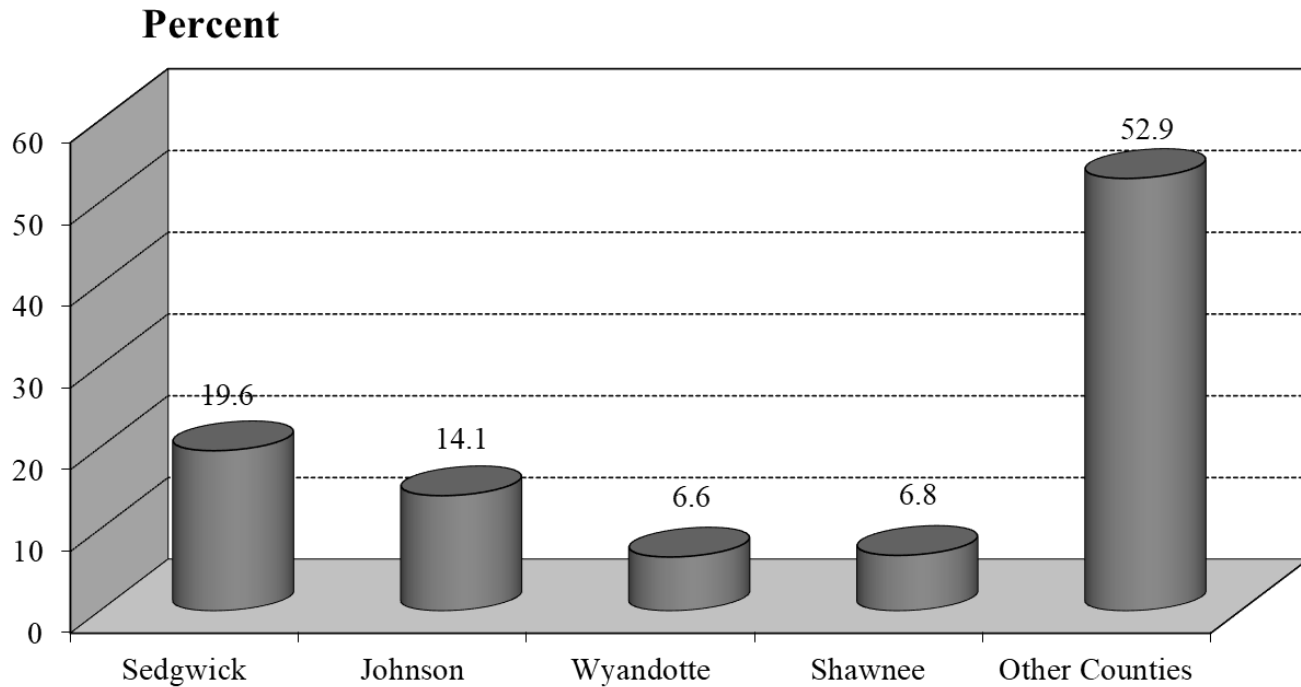


Based on 3,227 probation drug sentences

DUI-PIS and County Jail Sentences


- ▶ In FY 2020, 389 DUI-PIS and county jail sentences were reported to the Commission.
 - ▶ Of this number, DUI-PIS accounted for 88.4% (344 sentences) and county jail accounted 11.6% (45 sentences).
 - ▶ 95.4% (371 sentences) of the sentences were convicted of the crime of felony DUI
 - ▶ 0.3% (1 sentence) were convicted of animal cruelty; and
 - ▶ 3.1% (12 sentences) were convicted of the crime of domestic battery.
 - ▶ Johnson County imposed the most sentences of this group (115) representing 29.6%, followed by Sedgwick County with 48 sentences representing 12.3% of the total DUI-PIS and county jail sentences imposed during FY 2020.

Overall Sentences by the Top Four Counties Prison, Probation and Jail - FY 2020



Based on 11,823 sentences

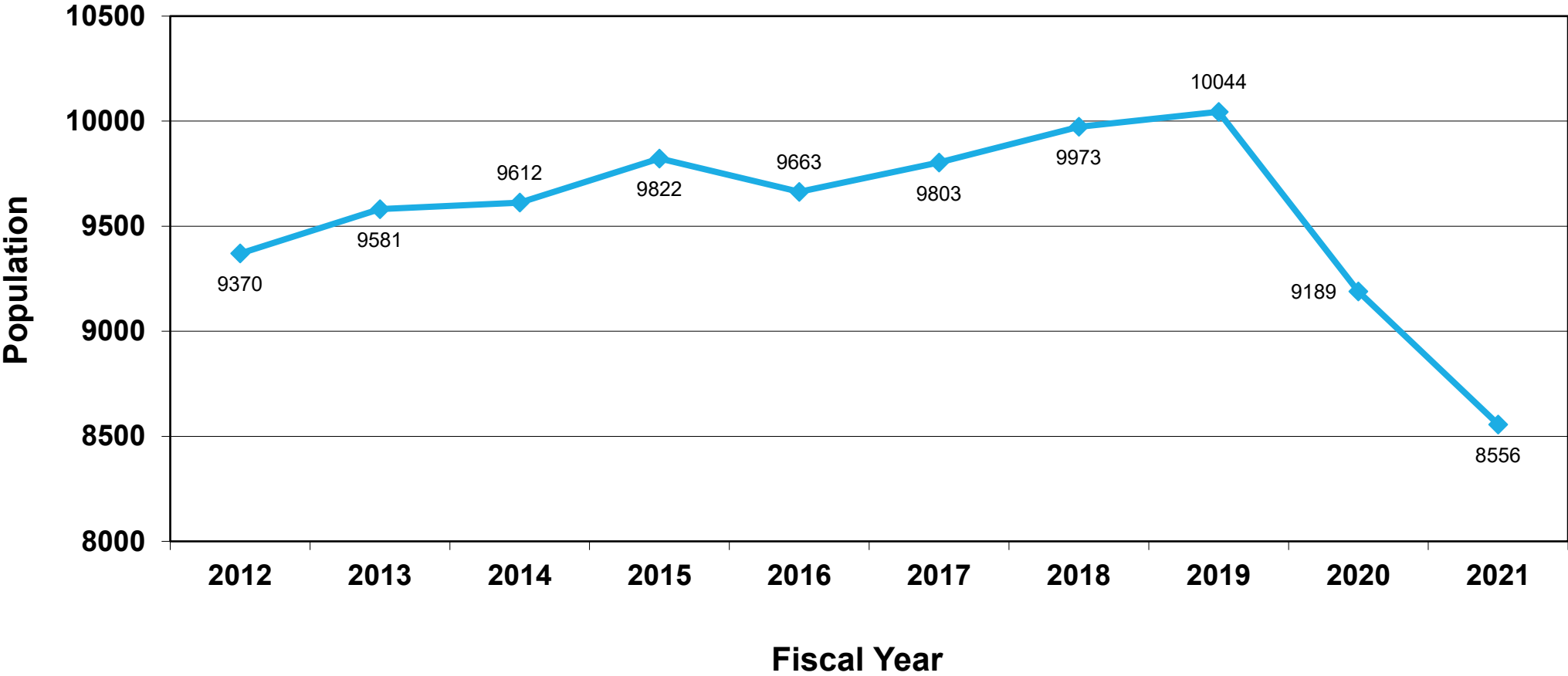
Four County Felony Sentencing Trends



FY 2022 Prison Population Projections

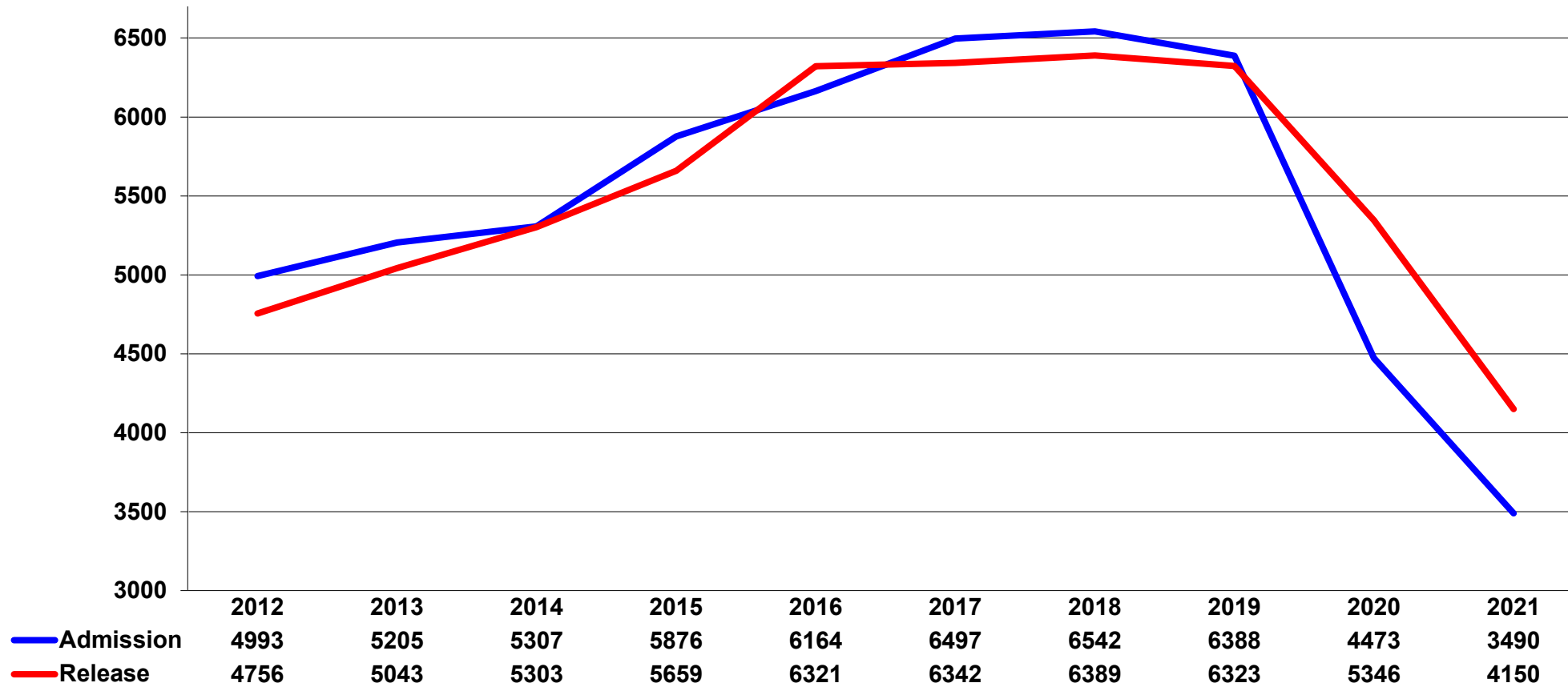
KANSAS PRISON POPULATION TRENDS

Total Prison Population



Source: KDOC prison population files
FY 2020 and FY 2021 numbers low due to Covid-19 pandemic

Prison Admissions and Releases FY 2012 to FY 2021

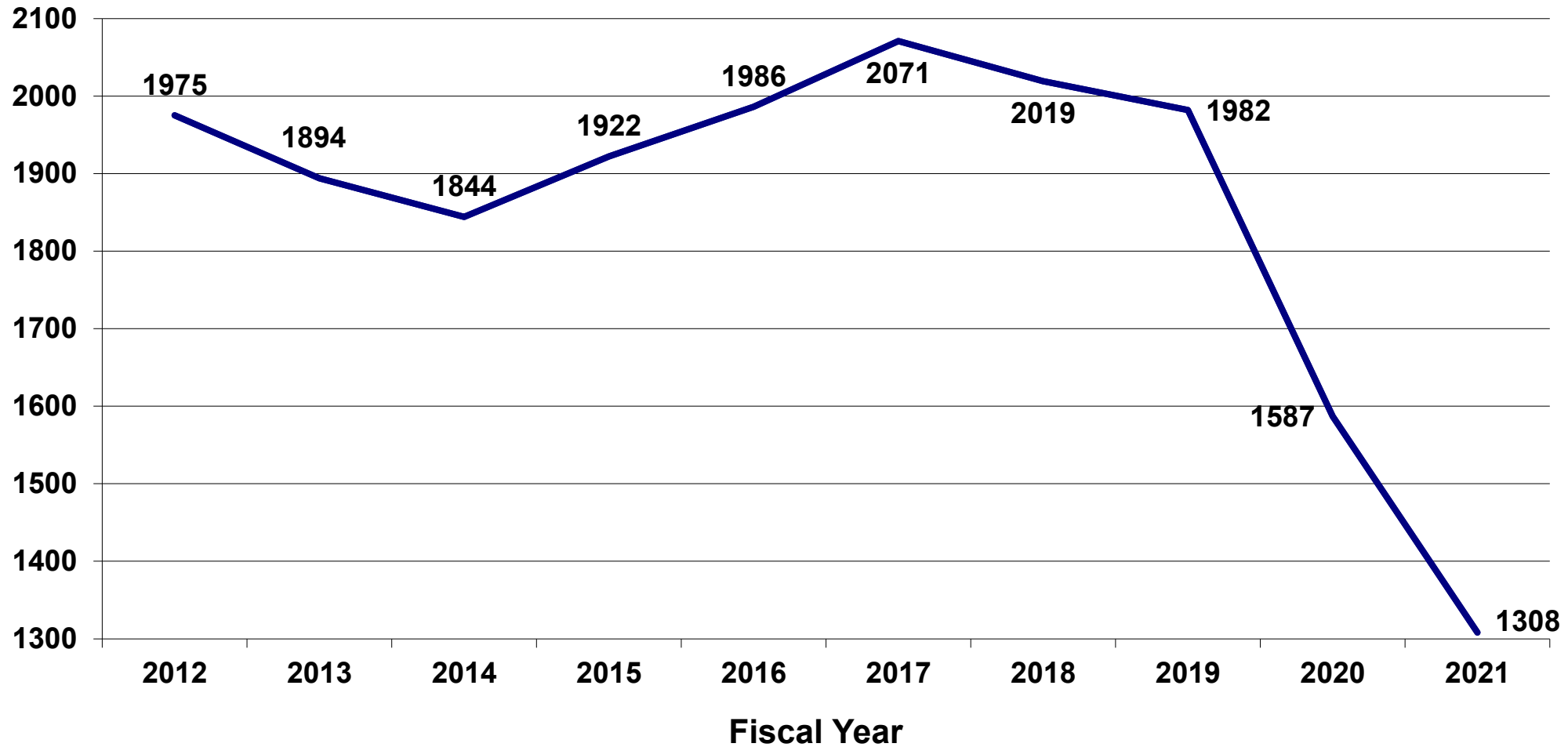


Source: KDOC admission and release files

Fiscal Year

KANSAS PRISON ADMISSION TRENDS

Direct New Court Commitments

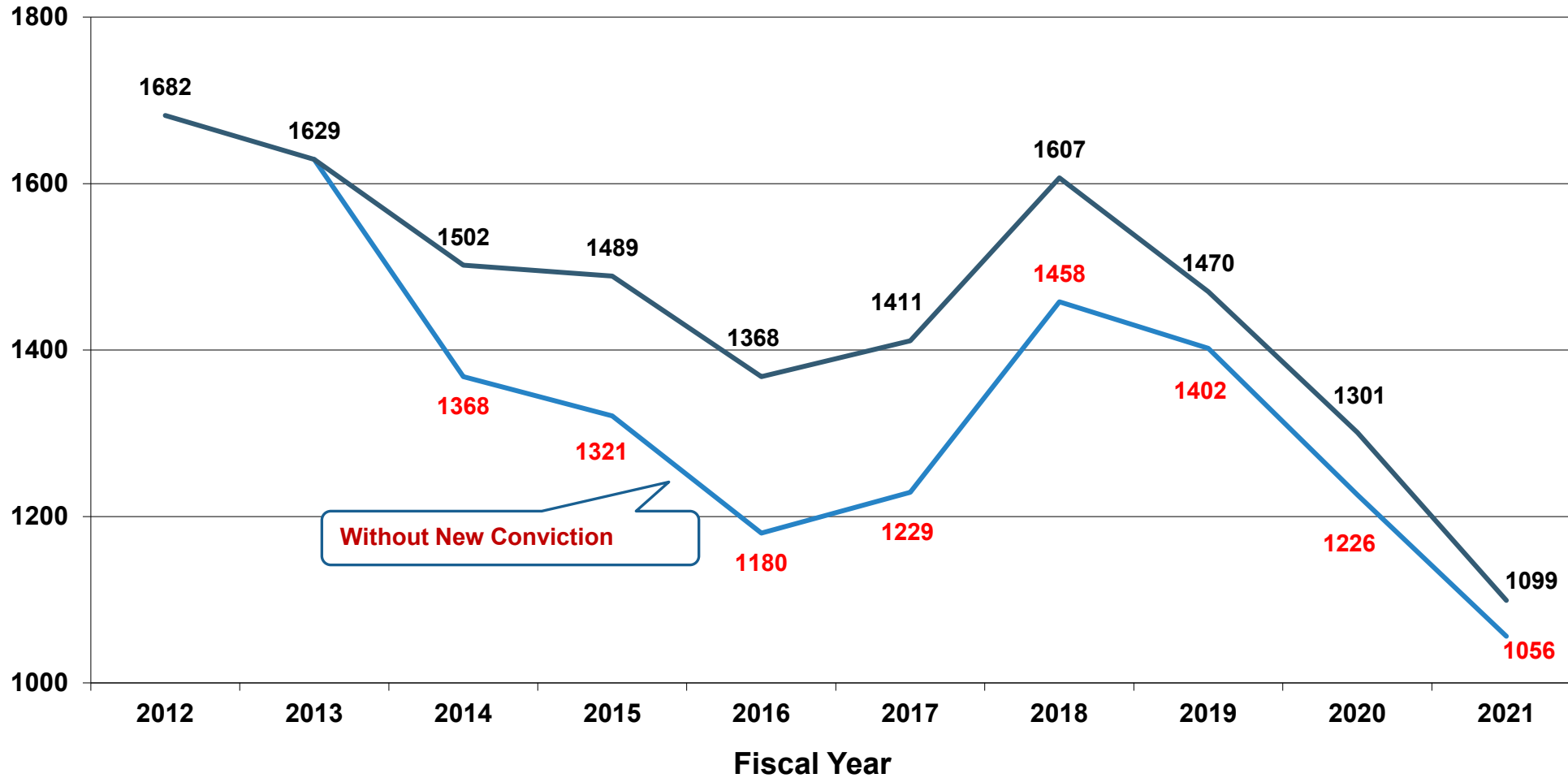


Source: KDOC admission files

FY 2020 and FY 2021 numbers low due to Covid-19 pandemic

KANSAS PRISON ADMISSION TRENDS

Probation Condition Violators

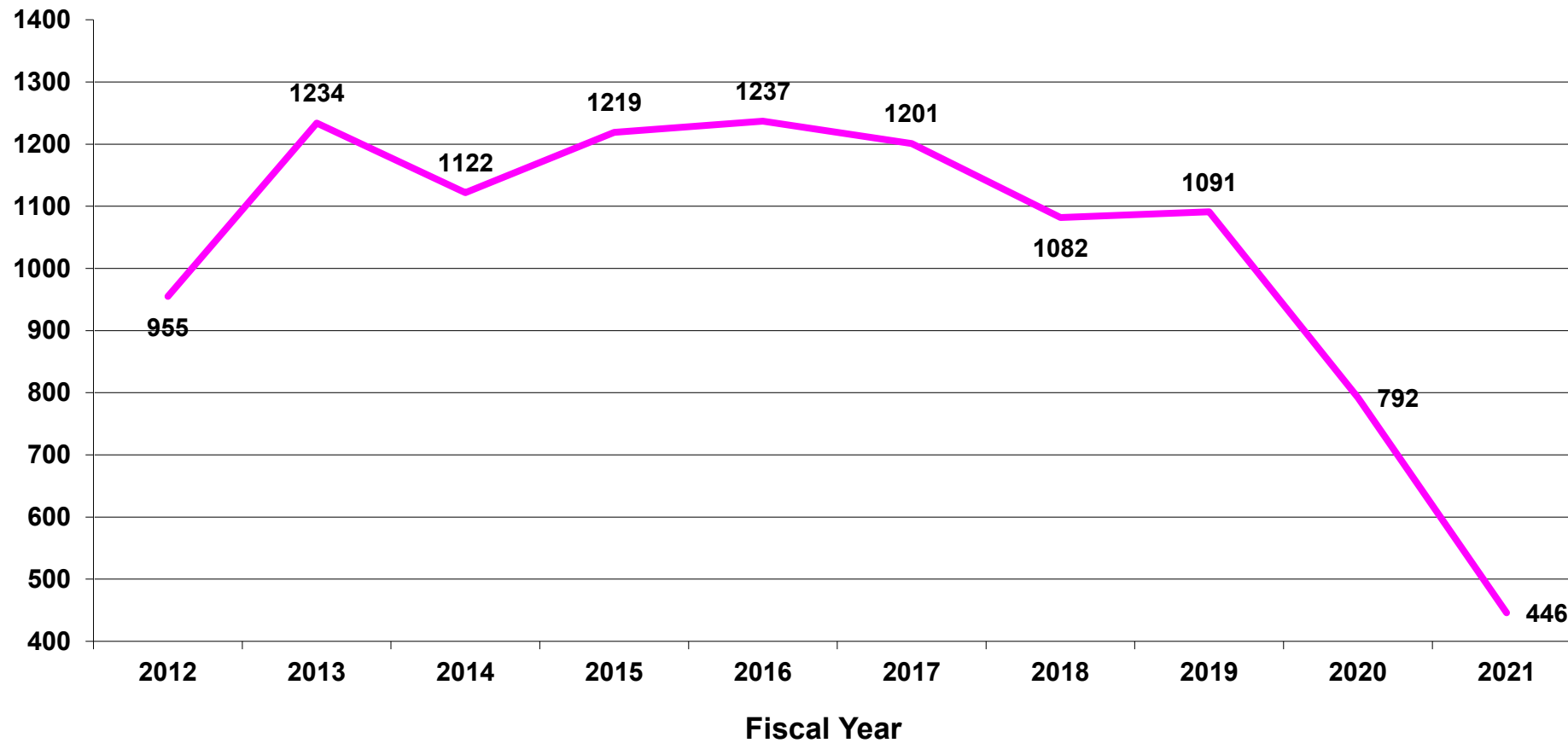


Source: KDOC prison population files

Note: New conviction has been separated from probation condition violators since FY 2014.

KANSAS PRISON ADMISSION TRENDS

Parole/Postrelease Condition Violators

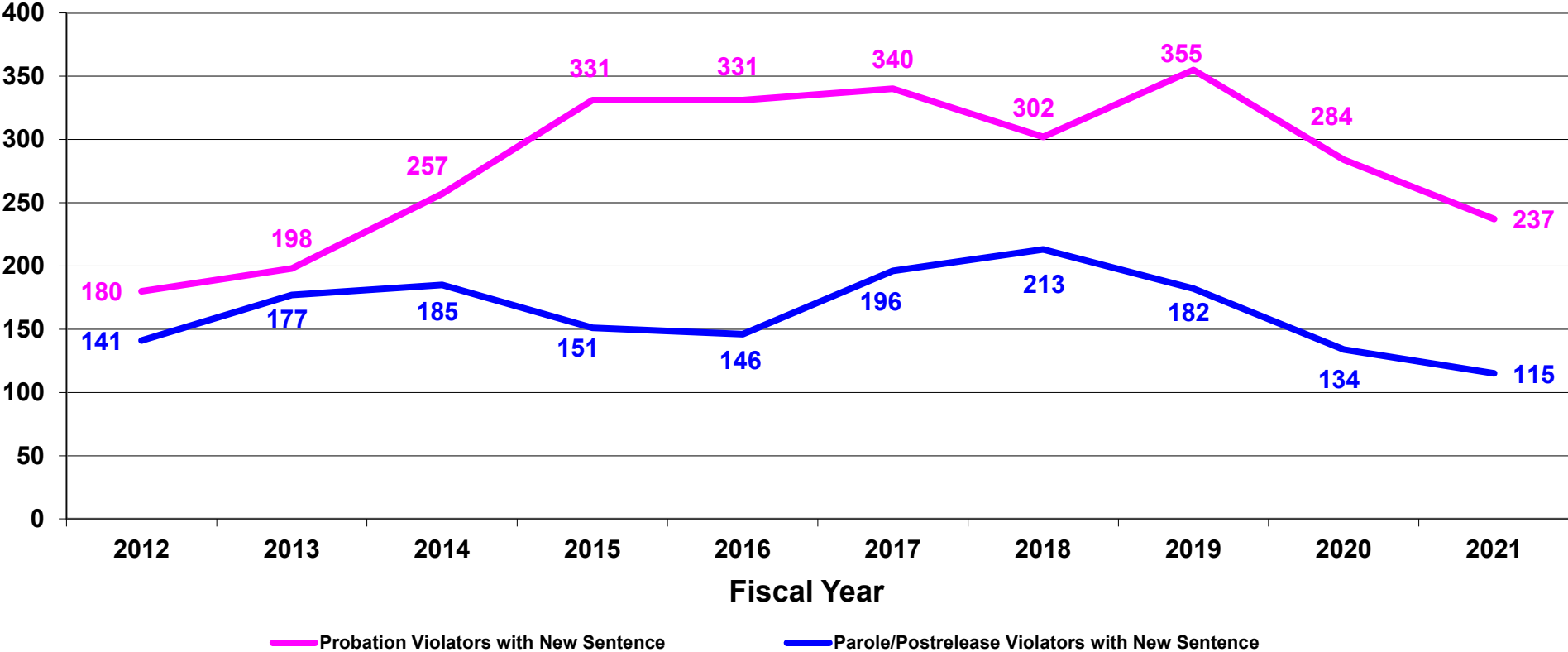


Source: KDOC admission files

Note: Including condition conditional-release violators

KANSAS PRISON ADMISSION TRENDS

Comparison between Probation and Parole/Postrelease Violators with New Sentence



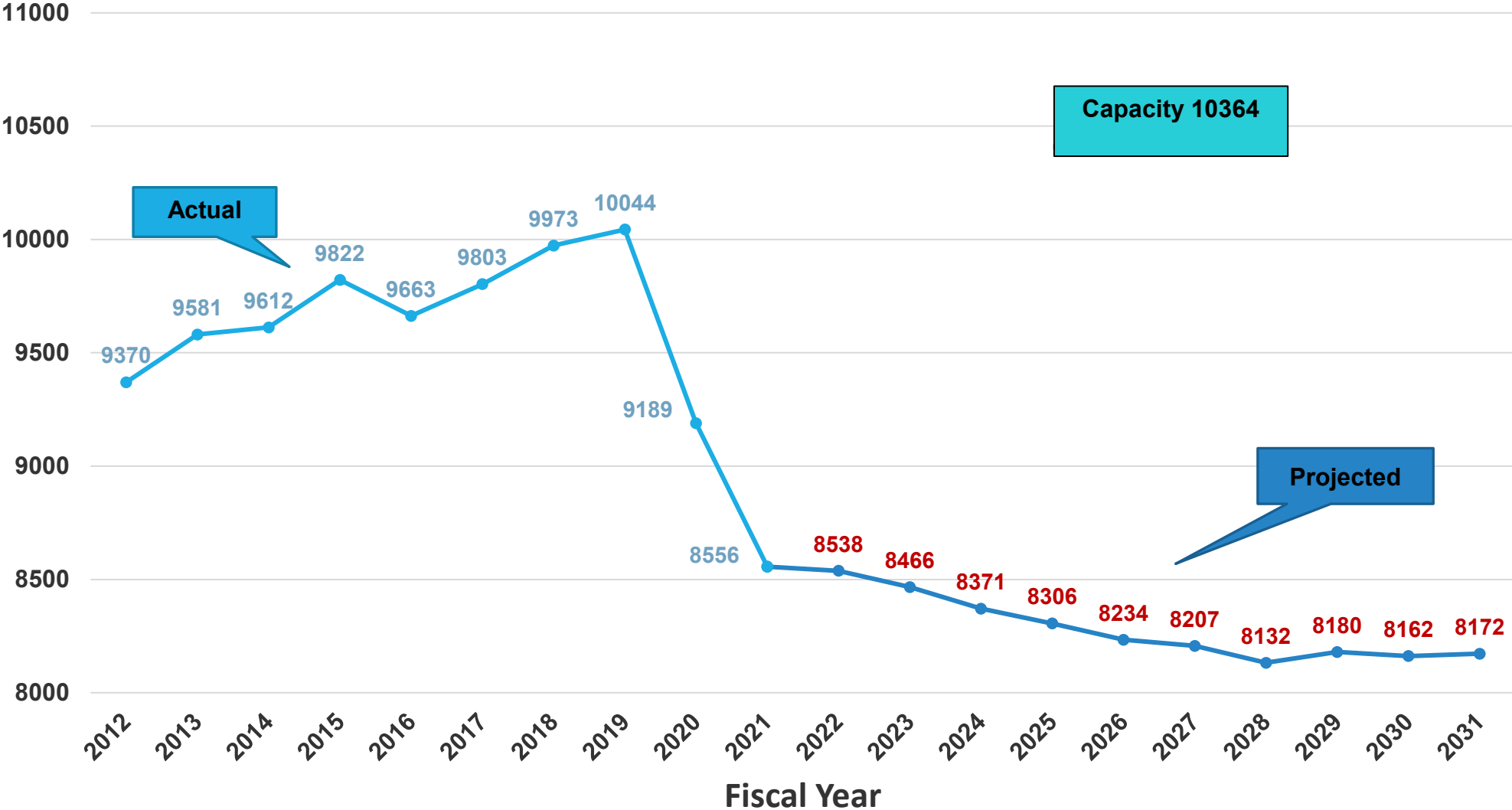
Source: KDOC admission files

FY 2022 Prison Population Projection By Offender Group

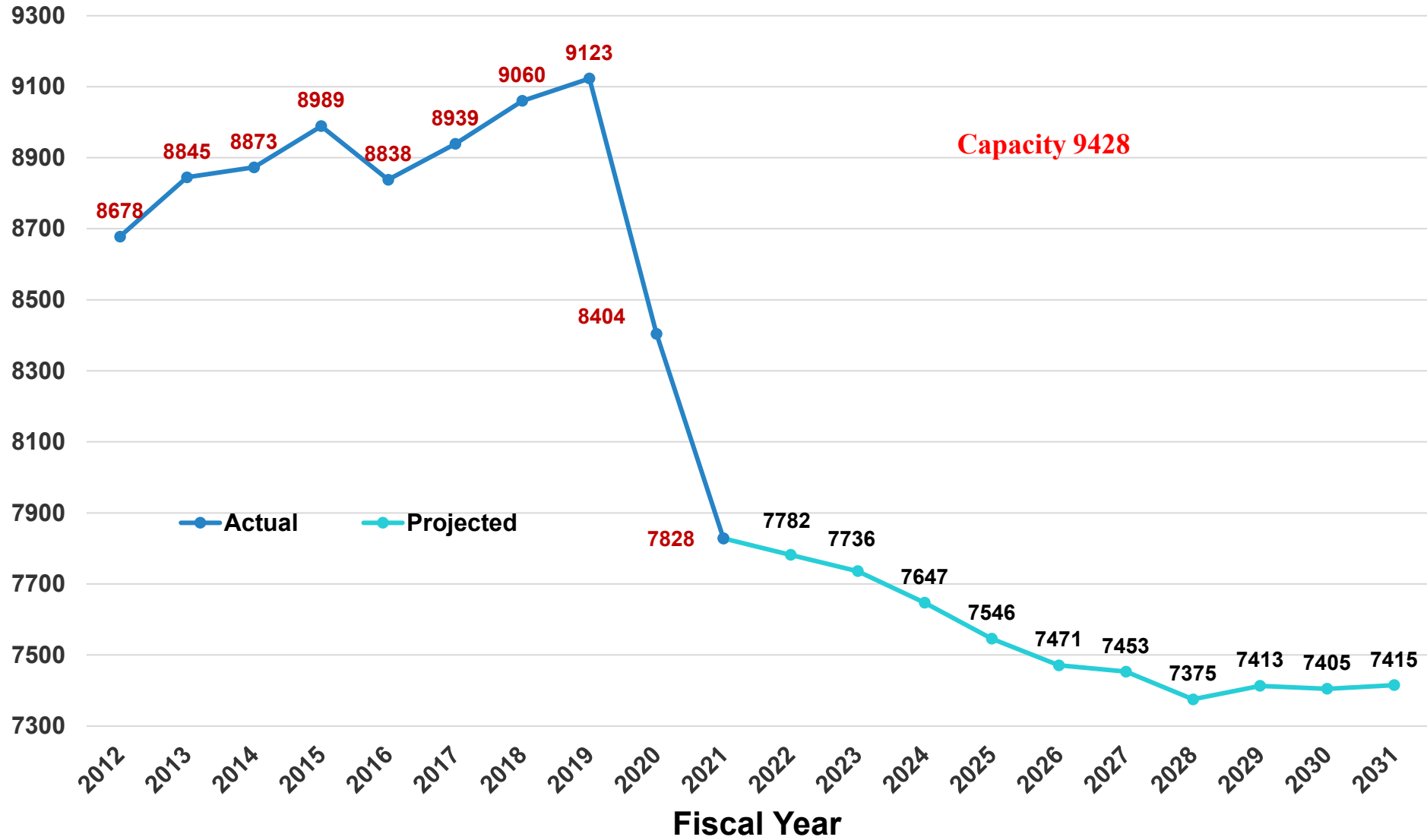
Offender Group	2021*	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	# Change	% Change
Drug	1214	1169	1169	1165	1136	1135	1110	1105	1103	1117	1149	-65	-5.4%
N1 to N3	2480	2337	2295	2258	2260	2241	2238	2226	2227	2240	2238	-242	-9.8%
N4 to N6	1472	1458	1433	1406	1380	1378	1396	1377	1470	1402	1383	-89	-6.0%
N7 to N10	680	767	813	804	821	828	842	844	868	893	892	212	31.2%
Sanction	20	19	12	6	0	0	0	0	0	0	0	-20	-100.0%
Probation Condition Violators	974	1112	1140	1144	1162	1139	1121	1126	1141	1111	1129	155	15.9%
Offgrid Including Old Law Lifer	1349	1375	1339	1301	1255	1238	1210	1174	1115	1147	1125	-224	-16.6%
Parole/Post Release Violators	282	221	195	225	238	228	252	250	232	233	244	-38	-13.5%
Old Law Inmates	85	80	70	62	54	47	38	30	24	19	12	-73	-85.9%
Total	8556	8538	8466	8371	8306	8234	8207	8132	8180	8162	8172	-384	-4.5%

*Actual prison population on June 30, 2021

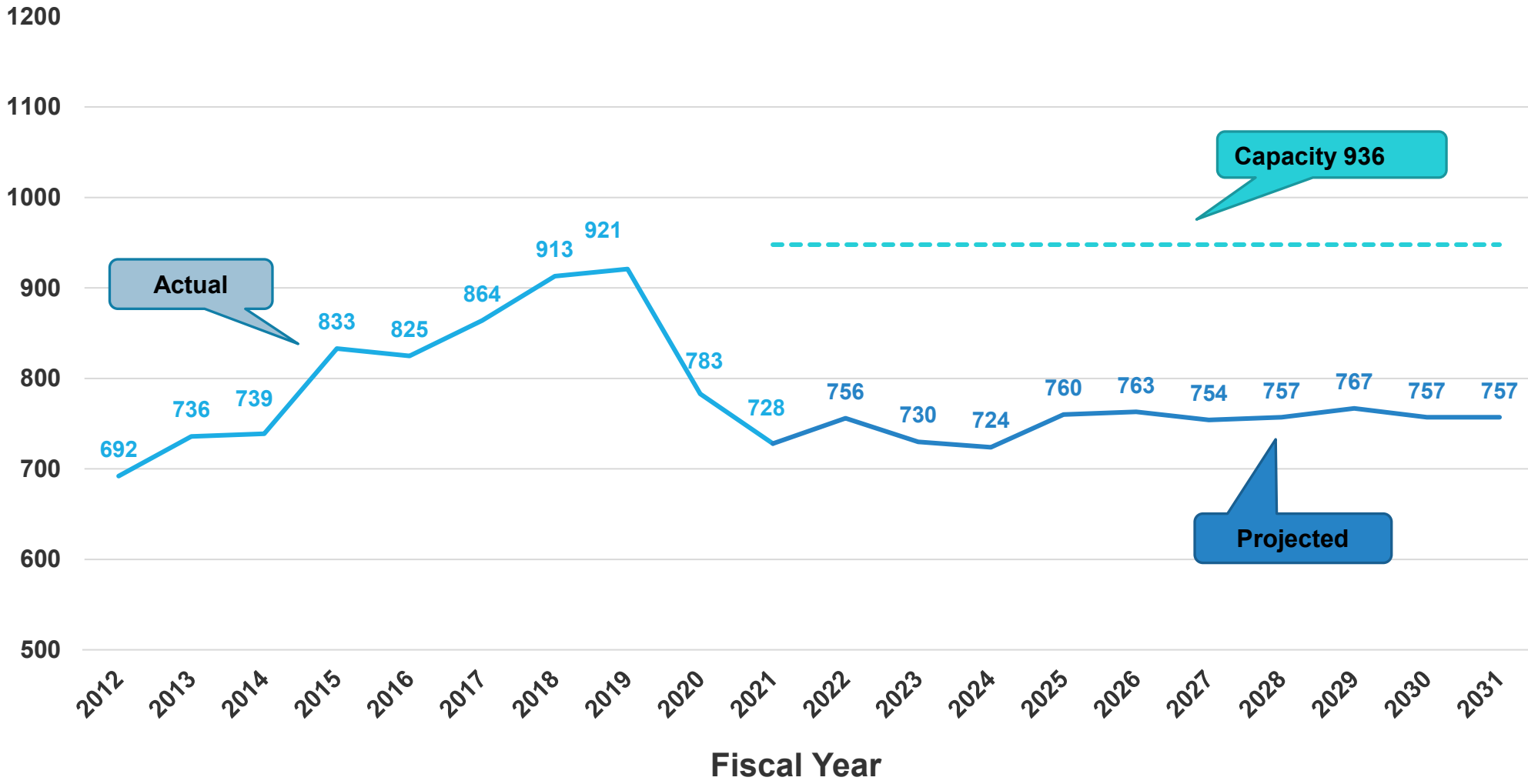
Kansas Prison Population - Actual and Projected



Male Prison Population - Actual and Projected



Female Prison Population - Actual and Projected



PRISON POPULATION MONTHLY MONITORING REPORT FY 2021 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2020	8958	8938	20	0.22%
August 2020	8853	8783	70	0.80%
September 2020	8779	8682	97	1.12%
October 2020	8727	8607	120	1.39%
November 2020	8651	8597	54	0.63%
December 2020	8597	8642	-45	-0.52%
January 2021	8570	8729	-159	-1.82%
February 2021	8623	8735	-112	-1.28%
March 2021	8671	8749	-78	-0.89%
April 2021	8743	8686	57	0.66%
May 2021	8793	8654	139	1.26%
June 2021	8880	8556	324	3.65%

PRISON POPULATION MONTHLY MONITORING REPORT FY 2021 MODEL – (MALE)

Month/Year	Projected	Actual	Difference	Percent Error
July 2020	8183	8167	16	0.20%
August 2020	8075	8020	55	0.69%
September 2020	8015	7928	87	1.10%
October 2020	7966	7853	113	1.44%
November 2020	7904	7849	55	0.70%
December 2020	7866	7891	-25	-0.32%
January 2021	7854	7979	-125	-1.57%
February 2021	7904	7994	-90	-1.13%
March 2021	7949	8005	-56	-0.70%
April 2021	8010	7937	73	0.92%
May 2021	8045	7905	140	1.74%
June 2021	8133	7828	305	3.75%

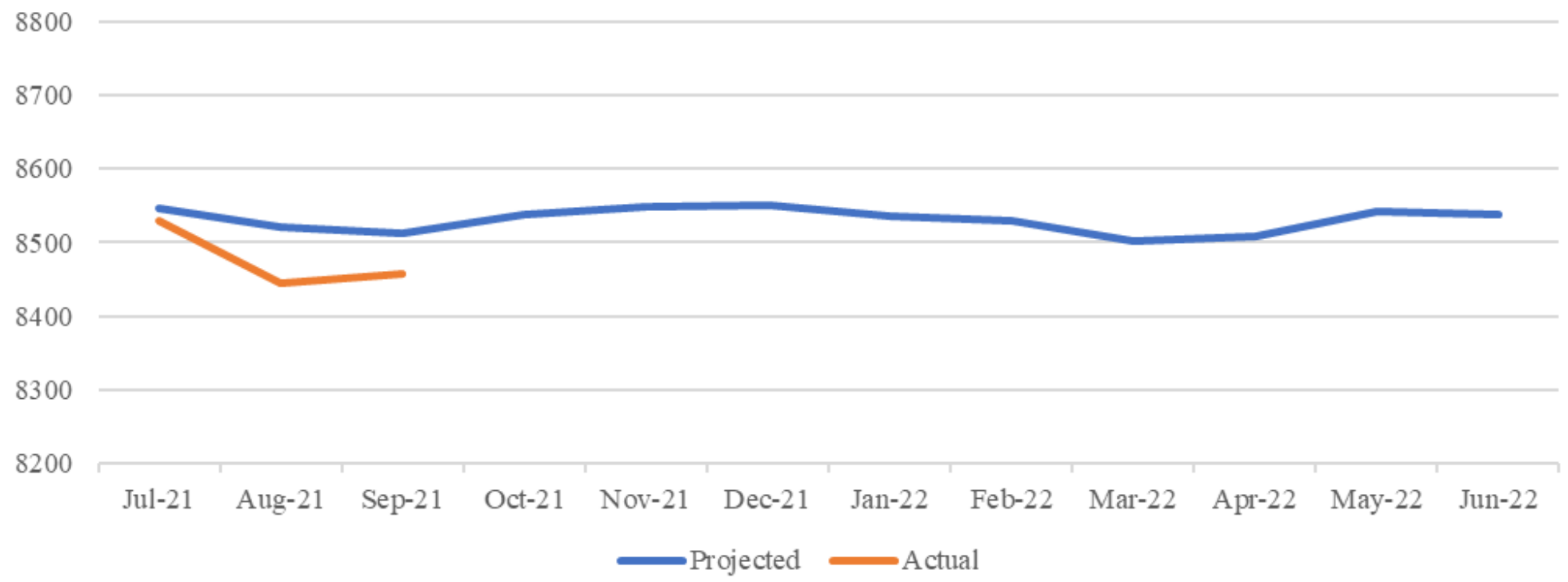
PRISON POPULATION MONTHLY MONITORING REPORT FY 2021 MODEL – (FEMALE)

Month/Year	Projected	Actual	Difference	Percent Error
July 2020	775	771	4	0.52%
August 2020	778	763	15	1.97%
September 2020	764	754	10	1.33%
October 2020	761	754	7	0.93%
November 2020	747	748	-1	-0.13%
December 2020	731	751	-20	-2.66%
January 2021	716	750	-34	-4.53%
February 2021	719	741	-22	-2.97%
March 2021	722	744	-22	-2.96%
April 2021	733	749	-16	-2.14%
May 2021	748	749	-1	-0.13%
June 2021	747	728	19	2.55%

PRISON POPULATION MONTHLY MONITORING REPORT FY 2022 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2021	8546	8530	-16	-0.2%
August 2021	8520	8445	-75	-0.9%
September 2021	8512	8457	-55	-0.6%
October 2021	8537			
November 2021	8549			
December 2021	8551			
January 2022	8536			
February 2022	8529			
March 2022	8502			
April 2022	8508			
May 2022	8542			
June 2022	8538			

Actual v. Projected Prison Population FY 2022



PRISON POPULATION MONTHLY MONITORING REPORT FY 2022 MODEL – (MALE)

Month/Year	Projected	Actual	Difference	Percent Error
July 2021	7809	7795	-14	-0.2%
August 2021	7776	7716	-60	-0.8%
September 2021	7756	7714	-42	-0.5%
October 2021	7778			
November 2021	7790			
December 2021	7797			
January 2022	7781			
February 2022	7787			
March 2022	7761			
April 2022	7753			
May 2022	7781			
June 2022	7782			

PRISON POPULATION MONTHLY MONITORING REPORT FY 2022 MODEL – (FEMALE)

Month/Year	Projected	Actual	Difference	Percent Error
July 2021	737	735	-2	-0.2%
August 2021	744	729	-15	-2.0%
September 2021	756	743	-13	-1.7%
October 2021	759			
November 2021	759			
December 2021	754			
January 2022	755			
February 2022	742			
March 2022	741			
April 2022	755			
May 2022	761			
June 2022	756			

2022 KSSSC Policy Recommendations

Establish a More Robust KDOC Compassionate Release Policy

- ▶ **HB 2030 extends eligibility of incarcerated persons to be released**
 - ▶ Those may be released with conditions likely to cause death within 120 days
 - ▶ Current eligibility is 30 days and one of, if not the most stringent, in the U.S.
 - ▶ Multiple KDOC criteria already in place for public safety consideration
 - ▶ Passed House and is in Senate Judiciary

N/A	FY2023
N/A	FY2032



Incentivizing Offenders to Be Successful in Prison

- ▶ **HB 2031 allows earned discharge credit while in prison**
 - ▶ Current 15%-20% good time credit modified to 25% for person felonies and 40% for nonperson felonies
 - ▶ Current eligible program credit would be modified from 120 days to 150 days
 - ▶ In HCJJ committee

40	FY2023
381	FY2032



Incentivizing Offenders to Be Successful on Probation

- ▶ **HB 2084 allows for earned discharge credit while on probation**
 - ▶ Limits the term of probation to twice the original supervision term
 - ▶ Allows for up to 50% decrease of probation term if there is substantial compliance with terms of probation
 - ▶ Seven days credit for each 30-day compliance period
 - ▶ In HCJJ committee

248, 289, or 326 FY2023
263, 306, or 305 FY2032



Modify Offender Registries

▶ **HB 2092- Offender Registration**

- ▶ Removes drug offenders from registration.
- ▶ Removes enhanced penalty for failure to remit payment to sheriff's office
- ▶ No research supports use of registries to deter or reduce recidivism
- ▶ Offenders have already served their punishment for the underlying crime that required registration
- ▶ In HCJJ committee

34	FY2023
65	FY2032



Clarifying Multiple Sentencing of Offenders

▶ HB 2081

- ▶ Allows for judicial discretion to run sentences consecutive or concurrent if on bond.
Special Rule #10
- ▶ Amend language to allow only prior convictions to be eligible for use of Special Rule #26 in KSA 21-6805(f)(1) (drug possession)
- ▶ Amend language to clarify that prior convictions required to be eligible for use of Special Rule #12 in KSA 21-6805(e) (drug mfr.)
- ▶ Passed House and in Senate Judiciary

unk FY2023

unk FY2032



Early Release for Certain Drug Offenders

- ▶ **HB 2147 -Drug offenders SL 2-5 released to probation**

- ▶ Offender must satisfy criteria set by Prisoner Review Board before release to probation
- ▶ Only eligible after service of 50% of prison sentence
- ▶ Can be revoked back to prison if noncompliance with terms and conditions of probation
- ▶ In HCJJ committee

200	FY2023
184	FY2032



Sentencing Proportionality for Drug Possession Offenses

- ▶ **HB 2139 - Simple drug possession proportional with SL 8 nondrug crimes**

- ▶ Decreases prison time for offenders sentenced for only possession, not sale, distribution or manufacture
- ▶ Recognizes issue as public health over punishment.
- ▶ Maintains sentence length for adequate offender treatment
- ▶ **Joint recommendation of KS Criminal Justice Reform Commission**
- ▶ In HCJJ committee

44	FY2023
47	FY2032



Sentencing Drug Grid Modification to Reflect Sentencing Realities

- ▶ **2021 HB 2146 Expands presumptive probation and border boxes on drug grid**
 - ▶ Expand presumptive probation to 4G-I, and 5D
 - ▶ Expand border box to 4C-D, & 5G
 - ▶ 5A-I length of sentence decreased
 - ▶ Passed HCJJ committee as amended but died
 - ▶ KSSC plans to reintroduce with HB 2139

178	FY2023
217	FY2032



Sentencing Nondrug Grid Modification to Reflect Sentencing Realities

- ▶ **HB 2350 expands presumptive probation and border boxes on nondrug grid**

- ▶ Expand nondrug border boxes to grid blocks 4H, 4I, 5G, 6B-F, 7B, 8B, 9B or 10B. Currently, there are three border boxes (5H, 5I, and 6G).
- ▶ Expand presumptive probation to 6G
- ▶ In HCJJ committee

112	FY2023
169	FY2032



Sentencing Proportionality of Property Crimes

- ▶ **SB 5 increases property crime felony thresholds from \$1,000 to \$1,500**
 - ▶ Applicable to 11 property crimes
 - ▶ \$1,500 already threshold for theft (2016) and mistreatment of dependent adult (2018)
 - ▶ Makes other property crimes proportional.
 - ▶ **Joint recommendation of KS Criminal Justice Reform Commission**
 - ▶ In SJ

2	FY2023
2	FY2032



QUESTIONS?

THANK YOU

Joint Committee on Corrections and
Juvenile Justice Oversight
Leavenworth Public Library
October 25, 2021