



Justice Center
THE COUNCIL OF STATE GOVERNMENTS

Justice Reinvestment in Kansas

House Corrections and Juvenile Justice

February 10, 2020

Presentation Overview

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Justice Reinvestment in
Kansas

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Current Challenges and Drug
Grid Recommendation



Justice Center

THE COUNCIL OF STATE GOVERNMENTS

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.

How We Work

- We bring people together
- We drive the criminal justice field toward with original research
- We build momentum for policy change
- We provide expert assistance

Our Goals

- Break the cycle of incarceration
- Advance health, opportunity, and equity
- Use data to improved safety and justice



What is Justice Reinvestment?

A data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism.

The Justice Reinvestment Initiative is funded principally by the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** with additional funding from **The Pew Charitable Trusts**.

Technical assistance for states participating in the Justice Reinvestment Initiative is provided by the **CSG Justice Center** and **Community Resources for Justice's Crime and Justice Institute**.

The Kansas Criminal Justice Reform Commission (KCJRC) and CSG Justice Center have conducted a comprehensive system analysis.

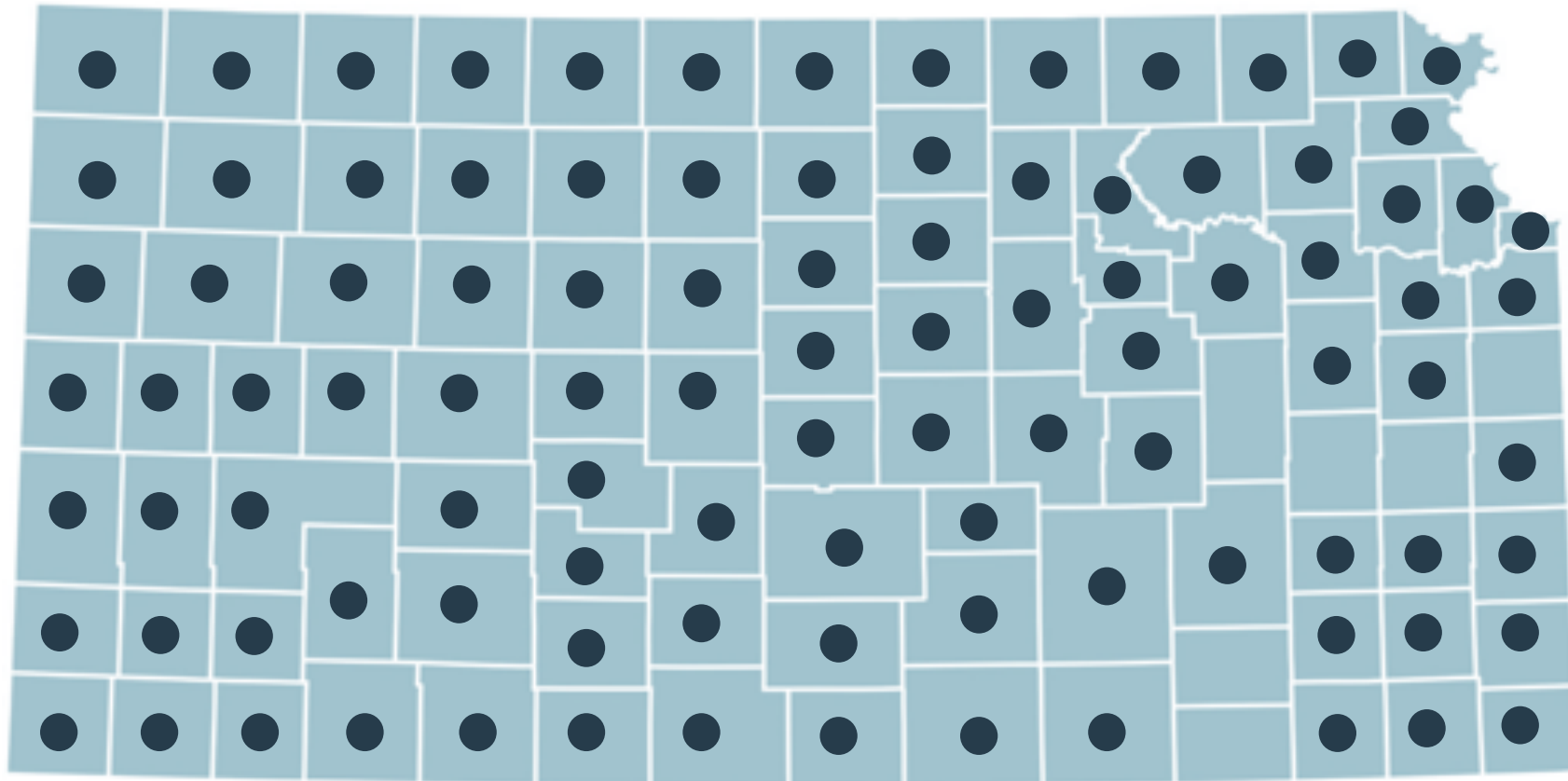
Based on the KCJRC goals, CSG Justice Center staff requested data for the Justice Reinvestment Initiative to explore ways to

- Prioritize prison for people who pose a threat to public safety by **managing expensive prison population growth/pressure;**
- Increase support for **victims of crime;**
- **Strengthen community supervision and resources** to change behavior and reduce recidivism/revocations; and
- Break the cycle of recidivism by ensuring that criminal justice system practitioners have the resources they need in facilities and in the community to help people succeed, including **access to mental health/substance use treatment, and employment/housing support.**

**A number
of assessments are part of
the Justice Reinvestment
Initiative in Kansas.**

- Victim Services
- Violent Crime
- Sentencing
- Supervision
- Behavioral Health
- Reentry

Team members have connected with stakeholders from 99 of Kansas's 105 counties and spoken with more than 180 people.



The CSG Justice Center's Justice Reinvestment team in Kansas

Patrick Armstrong, Project Manager

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The CSG Justice Center's Justice Reinvestment team in Kansas

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**Current Challenges and Drug
Grid Recommendation**

Like many states, Kansas is engaging in critical conversations about the efficiency and effectiveness of its criminal justice system given the projected budget deficits.



In April, the projected budget deficit was an estimated \$1.4 billion for the next fiscal year.

As of Friday Nov. 6 the deficit projected was \$152 million.

“The key word really for this year is uncertainty.”

“Do we think things are better now? Yes. Do we think they’re really good now? No.”

--The Hutchinson News

The state is facing a potentially unprecedented budget deficit and must prioritize corrections investments that work to **reduce recidivism and maintain public safety.**

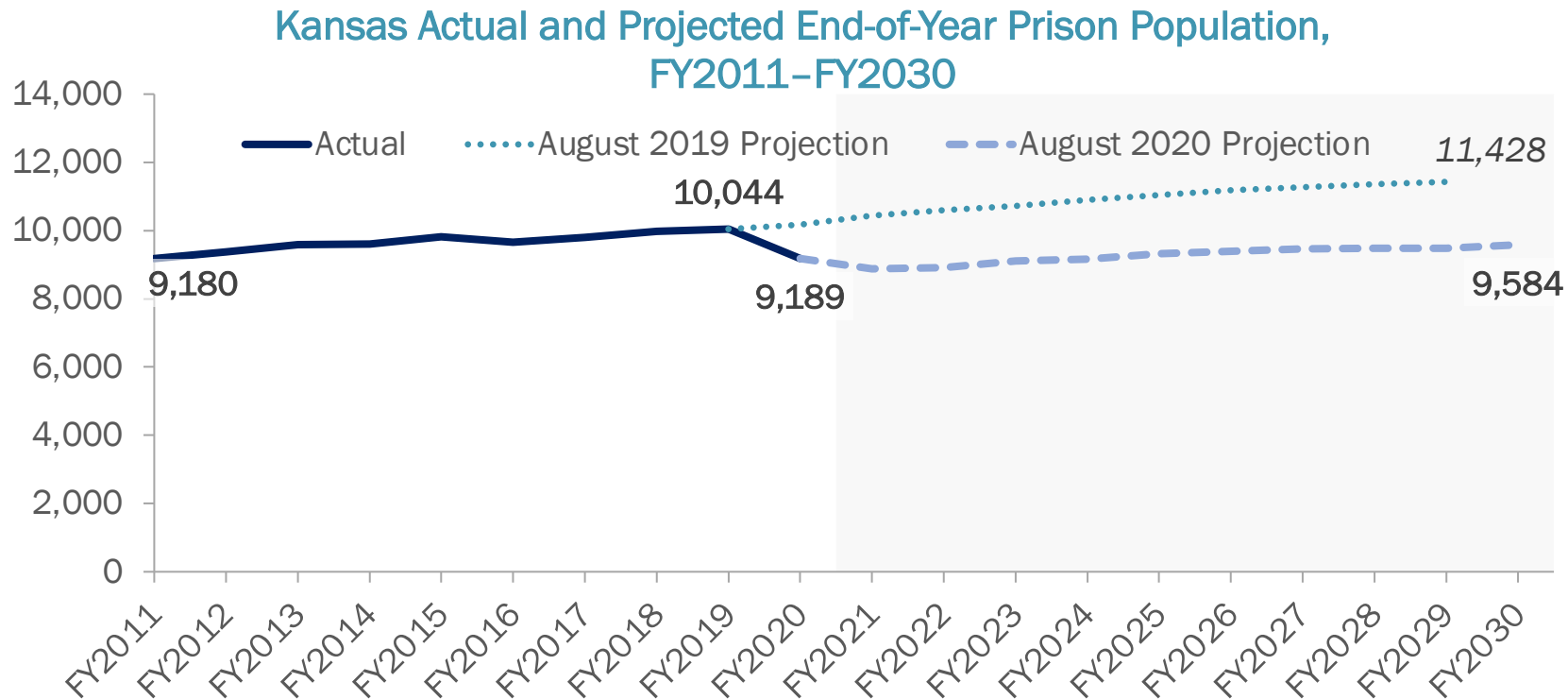
Without meaningful system changes and investment in supervision and treatment, Kansans will continue paying for an expensive system without the benefit of improved public safety.

- Kansas needs to **prioritize maintaining public safety, reducing recidivism, and using limited taxpayer dollars efficiently**, especially in the face of a projected budget deficit of over \$150 million.
- The recent decline in the prison population masks the possibility of the prison population returning to previously projected levels in the near future. Even with momentary relief, **delaying meaningful sentencing changes could compound the problem, making it harder to manage** as years go by.
- Last year, the KSSC projected an increase of 1,384 people in prison by 2030. **A new prison for 1,200 people would cost about \$145 million to build**, which would not include millions in annual operating costs.

Without meaningful system changes and investment in supervision and treatment, Kansans will continue paying for an expensive system without the benefit of improved public safety.

- A **comprehensive approach to public safety includes efficiently using expensive prison resources and investing in a strong and effective community supervision and treatment** system to hold people accountable, change behavior, reduce the number of offenses committed, reduce criminal justice system involvement, and reduce prison costs.
- Proposed sentencing grid changes could shift up to 500 dispositions from prison to probation, and **averted correctional costs should be invested in supervision** and treatment to account for the population shift and reduce recidivism.

Prison population projections have changed based on the reduced population in 2020, with KDOC at 82 percent of capacity.



Kansas Sentencing Commission, Fiscal Year 2020 Adult Inmate Prison Population Projections (Topeka, KS: Kansas Sentencing Commission, 2019); Kansas Sentencing Commission, Fiscal Year 2021 Adult Inmate Prison Population Projections (Topeka, KS: Kansas Sentencing Commission, 2020); Kansas Department of Corrections, Fiscal Year 2019 Annual Report (Topeka, KS: Kansas Department of Corrections, 2020); "End of Month Inmate Population: FY 2020 To Date (June 2020)," Kansas Department of Corrections, accessed August 5, 2020, <https://www.doc.ks.gov/publications/population/eom>.

Sustaining recent prison population reductions could save the state \$26 million in incarceration costs annually.

Slide updated on November 4, 2020. Cost estimates are based on the FY2019 and FY2020 total year-end prison populations and the FY2020 annual average operating cost per inmate for KDOC facilities (\$82.47 daily cost * 365).

Average operating cost vs. marginal cost:
FY2020 average operating cost per person per day = \$82.47; i.e., total prison budget divided by total number of inmates
FY2020 marginal cost per person per day = \$10.18; i.e., cost for one additional inmate (e.g., food and clothing)

Source: Kansas Department of Corrections, *Fiscal Year 2019 Annual Report* (Topeka, KS: Kansas Department of Corrections, 2020); "End of Month Inmate Population: FY 2020 To Date (June 2020)," Kansas Department of Corrections, accessed August 5, 2020, <https://www.doc.ks.gov/publications/population/eom>; Meeting between The Council of State of State Governments Justice Center and Kansas Department of Corrections, November 4, 2020.

Maintaining public safety and permanently interrupting cycles of recidivism must drive decisions to sustain the reduced number of people who are incarcerated in Kansas.

Drug-related crime creates growing pressure at each point in the system.

- From 2010 to 2018,*
 - Total reported arrests decreased 40 percent; and
 - **Arrests** for drug offenses **increased 19 percent.**
- From FY2010 to FY2019,
 - The number of felony drug **cases filed** in district court **increased 125 percent;** and
 - The **proportion** of felony drug cases filed in district court, out of all felony filings, **increased from 13 percent to 27 percent.**

*Arrest figures for 2019 were not available as of September 11, 2020.

Kansas Bureau of Investigation Incident Based Reporting Unit, *Kansas Adult Arrests 2008-2018* (Topeka, KS: Kansas Bureau of Investigation, 2009-2019); Supreme Court of Kansas, *Annual Report of the Courts of Kansas Fiscal Year 2010-2019* (Topeka, KS: Supreme Court of Kansas, 2011-2020).

Drug-related crime creates growing pressure at each point in the system.

- From FY2010 to FY2019,
 - **Community Corrections (CC) starts** for felony drug offenses **increased 52 percent**;^{*}
 - The number of **women** starting CC for felony drug offenses **increased 91 percent**;
 - Felony **sentences** for drug offenses overall **increased 63 percent**;^{**}
 - **Sentences to prison** for drug offenses **increased 79 percent**;^{**} and
 - Drug offense **prison sentence lengths** **increased from 38 to 43 months**.^{***}

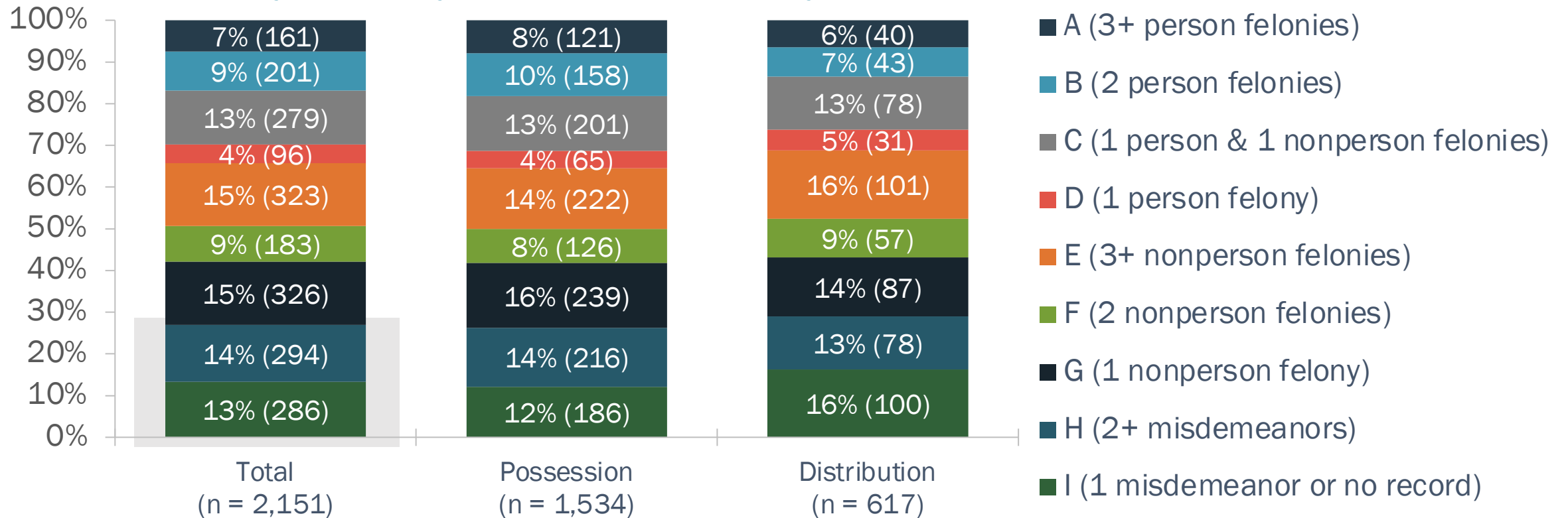
^{*}Starts are counted per person and probation start date; i.e., if a person started more than one probation term on the same date, they are only counted once. Offense level and type are based on the most serious offense per person and probation start date.

^{**}Sentences to prison are based on admissions to prison to match Kansas Sentencing Commission analysis methodology. Figures here are based on admissions to prison by court action only (i.e., parole condition violations and interjurisdictional transfers are excluded).

^{***}Prison sentence length was only available for new court commitments.

Of all admissions to prison for drug offenses in FY2019, 27 percent were for people with no prior felonies.

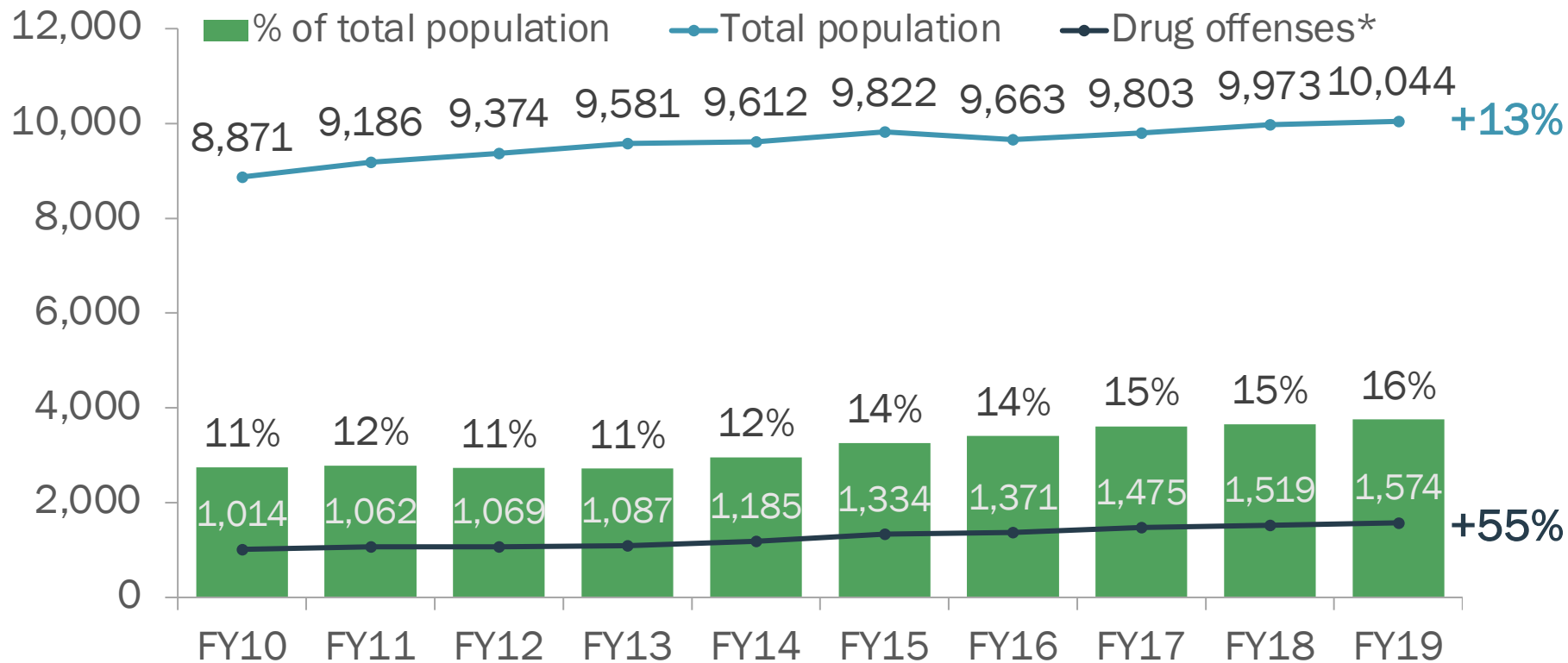
FY2019 Prison Admissions for Drug Offenses, by Offense Type* and Criminal History Classification



*Offense type is based on offense description; distribution offenses include drug manufacturing or sale offenses. 2 admissions for drug offenses were missing criminal history classification information.

A substantial and growing proportion of the prison population consists of people who were sentenced for drug offenses.

Prison Population by Type and Year



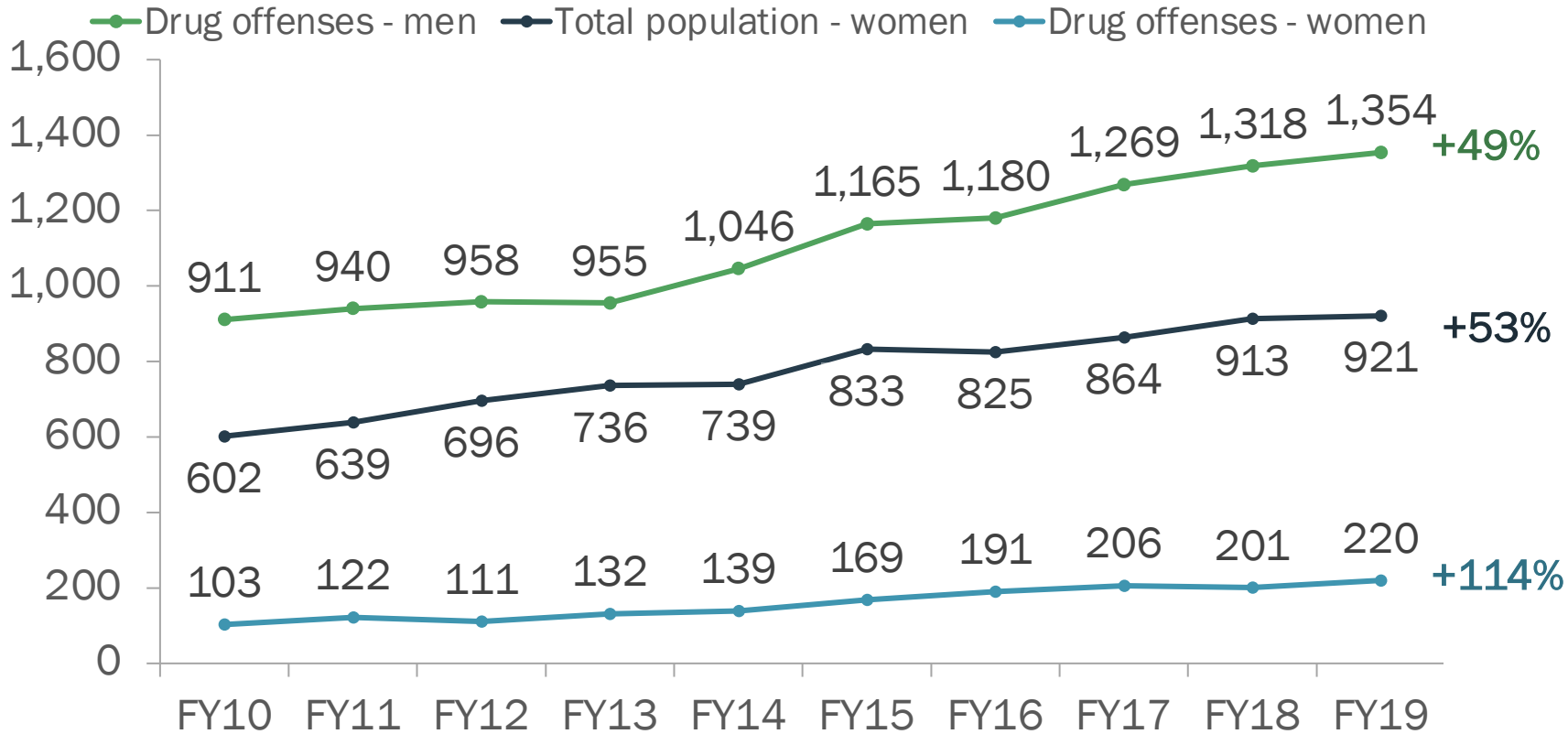
Additional takeaways:

- Over half of people in prison were sentenced for a violent offense.
- People who violated conditions of supervision make up about 1/5 of the prison population.
- **The number of people in prison for drug offenses has increased 3-4x more than other groups.**

*The prison population for drug offenses excludes people who were sent to prison for a supervision condition violation or probation sanction where the original offense was a drug offense. Less than 1 percent of the prison population each year was missing offense information.

The number of women in prison for drug offenses has increased dramatically.

Prison Population by Gender, Type, and Year



Less than 1 percent of the prison population each year was missing offense information. The prison population for drug offenses excludes people who were sent to prison for a supervision condition violation or probation sanction where the original offense was a drug offense.

CSG Justice Center analysis of KDOC prison population data, May 2020.

Additional takeaways:

- The number of women in prison for drug offenses doubled between FY10 and FY19.
- People convicted of nonviolent offenses make up the smallest portion of the prison population for both men and women.
- The number of women in prison for supervision condition violations increased from FY10 to FY19, while the number of men decreased.

**It cost an estimated \$41
million to incarcerate
people for drug offenses in
FY2019.**

Cost estimates are based on the FY2019 year-end prison population and the FY2019 annual average operating cost per inmate for KDOC facilities (\$26,188).

CSG Justice Center analysis of KDOC prison population data, July 2020; Kansas Department of Corrections, *Fiscal Year 2019 Annual Report* (Topeka, KS: Kansas Department of Corrections, 2020).

Glossary of terms about Kansas sentencing

Sentencing Grids: Determinate sentencing is based on sentencing charts or “grids.” Each sentencing grid is a two-dimensional crime severity and criminal history classification tool. The grid’s vertical axis is the crime severity scale, which classifies current crimes of conviction.

Dispositions: A thick, black dispositional line cuts across both grids. Above the dispositional line the grid blocks are designated as presumptive prison sentences. Below the dispositional line are shaded grid blocks, which are designated as presumptive probation sentences. In “border boxes,” the presumption is prison, but the court has the power to grant probation without departing from the grid (which otherwise would require a finding of substantial and compelling reasons).

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

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	603 600 592	618 606 594	585 572 558	567 553 540	546 534 521	526 514 503	503 496 484	486 476 466	465 455 447
II	493 487 442	480 478 436	416 406 394	400 390 381	384 374 365	368 360 352	354 346 338	338 331 323	323 317 309
III	347 333 321	328 316 306	307 296 286	280 270 260	264 254 244	248 240 232	234 226 218	218 211 203	203 197 189
IV	172 162 154	162 154 144	140 130 124	120 110 104	104 96 88	96 88 80	84 76 68	76 68 60	68 60 52
V	136 130 122	128 120 114	116 108 102	100 92 86	84 76 70	76 68 62	68 60 54	60 52 46	52 44 38
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	24 22 20	22 20 18
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	21 19 17	19 18 17	17 16 15	15 14 13
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	10 9 8	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	6 5 4	5 4 3

Glossary of terms about Kansas sentencing (cont.)

Sentence Ranges: Within each grid block are three numbers, representing months of imprisonment. The three numbers provide the sentencing court with a range for sentencing. The sentencing court has discretion to sentence at any point within the range. The middle number in the grid block is the standard number and is intended to be the appropriate sentence for typical cases.

Departures: A sentence outside of the ranges in the applicable grid block is a “durational departure,” either “upward” or “downward.” A sentence that is not the presumptive disposition (i.e., prison or probation) is a “dispositional departure.”

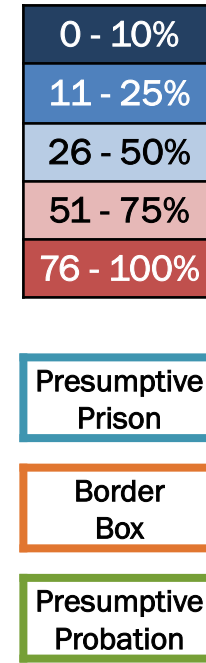
Off-Grid Offenses: Off-grid offenses include the most serious of criminal offenses, such as capital murder and first-degree murder.

Nongrid Offenses: Not to be confused with off-grid offenses, these offenses each contain specific penalties and other provisions within their respective statutes. DUI and felony domestic battery are common examples.

Percent of sentences to prison per box in the drug grid illustrates dispositional departure patterns.

FY2019 Felony Drug Sentences by Grid Cell – Percent Sentenced to Prison

		Criminal History Category								
		A	B	C	D	E	F	G	H	I
Severity Level	D01	75%	71%	50%	n/a	75%	100%	50%	100%	60%
	D02	69%	75%	66%	50%	39%	36%	34%	27%	26%
	D03	78%	59%	45%	29%	65%	38%	42%	32%	16%
	D04	74%	67%	47%	32%	40%	33%	23%	12%	4%
	D05	43%	37%	15%	3%	14%	10%	3%	1%	1%



Criminal History Categories

A	3+ Person Felonies
B	2 Person Felonies
C	1 Person & 1 Nonperson Felonies
D	1 Person Felony
E	3+ Nonperson Felonies
F	2 Nonperson Felonies
G	1 Nonperson Felony
H	2+ Misdemeanors
I	1 Misd. or No Record

The grid cell for 5 drug grid sentences could not be determined due to missing criminal history information.

**Smarter corrections
investments will work
better and save Kansas
money.**

Kansas cannot afford business as usual and can use this opportunity to improve the overall outcomes of the criminal justice system and permanently interrupt cycles of recidivism.

Thank You!

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