



History, Legislative Impacts, Annual Report, Projections, & Substance Abuse Treatment

BY SCOTT SCHULTZ, EXECUTIVE DIRECTOR

Agenda

- ▶ History of the Sentencing Commission & the Sentencing Guidelines
- ▶ Anatomy of a Legislative Impact
- ▶ Annual Report
- ▶ Prison Population Projections
- ▶ Substance Abuse Treatment Programs: SB 123 & RAFT

2023 Commission Members

Honorable W. Lee Fowler, Chair

District Judge, 5th Judicial District

Honorable Benjamin Sexton, Vice Chair

Chief Judge, 8th Judicial District

Honorable Stephen Hill

Kansas Court of Appeals

Jessica Glendening

Chief Public Defender, 3rd Judicial District

Carolyn McGinn

Kansas Senate

Jeff Zmuda

Acting Secretary of Corrections

David B. Haley

Kansas Senate

Jonathan Ogletree

Kansas Prisoner Review Board

Vacant

Kansas House of Representatives

Dennis “Boog” Highberger

Kansas House of Representatives

Jessica Domme

Attorney General’s Office

Mark A. Dupree, Sr.

Wyandotte County District Attorney

Vacant

Private Attorney

Shelly Williams

Director of Corrections, Riley County

Jermaine Wilson

Public Member

Patricia Colloton

Public Member

Spence Koehn

Office of Judicial Administration

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

Duties and Responsibilities

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

Duties and Responsibilities (cont'd)

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



▶ 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	498 467 442	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 25	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				Cultivate	Dosage Units	Postrelease	Probation	Good Time
	Cocaine	Meth & Heroin	Marijuana	Manufacture (all)					
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

Why Presumptive Guidelines?

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

2023 Legislative Session

Anatomy of a Legislative Impact Statement



The Highlights

- ▶ The Box
- ▶ Summary of the Bill
- ▶ Findings
- ▶ Impact Assessment
- ▶ Proportionality Comparison

MEMORANDUM

To: Leyton Gunn, Division of the Budget
From: Scott M. Schultz, Executive Director
Date: January 14, 2022
Re: Prison Bed Impact Assessment, **HB 2455** - Authorizing prison inmates to earn blood donation credit for early discharge from prison.

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill has **no** impact on prison admissions.
- **Impact on Prison Beds:** This bill will save **223, 170, or 114** beds in FY 2023, and **2,035, 1,524, or 1,026** beds in 2032, depending on the scenario.
- **Impact on the Workload of the Commission:** This bill will result in **no** additional journal entry workload of the Commission.

SUMMARY OF THE BILL

Section 1. K.S.A. 2021 Supp. 21-6821 is amended to authorize blood donations as a system for obtaining good time credit for inmates. The secretary of corrections shall adopt rules and regulations for such a program. The inmate must be serving a sentence for a drug severity level 1 through 5 crime; there shall be a procedure whereby the blood donation credit can be earned and forfeited; and there must be a method for testing blood quality. The amount of credit that can be earned is 10 percent of the prison sentence for each donation. A prisoner may only donate once every three months. The secretary of corrections shall report the data on blood donation credit calculations to the Kansas sentencing commission and the Kansas reentry policy council.

KEY ASSUMPTIONS

- The target inmates as defined in this bill include offenders who are convicted of drug crimes of **D1 to D5** and **admitted to KDOC**, as both new admissions and probation violators.
- Projected admission to prison for the target offenders is assumed to increase by an annual average of 1% beginning in FY 2023, which is the same percentage used in relation to the



The Box

IMPACT ASSESSMENT

- **Impact on Prison Admissions:** This bill would reduce **39** prison admissions in FY 2023 and **44** prison admissions in FY 2032.
- **Impact on Prison Beds:** This bill would save **39** prison beds in FY 2023 and **51** prison beds in FY 2032.
- **Impact on the Commission Workload:** This bill would reduce the workload of the Commission by **70** journal entries each year.

Findings

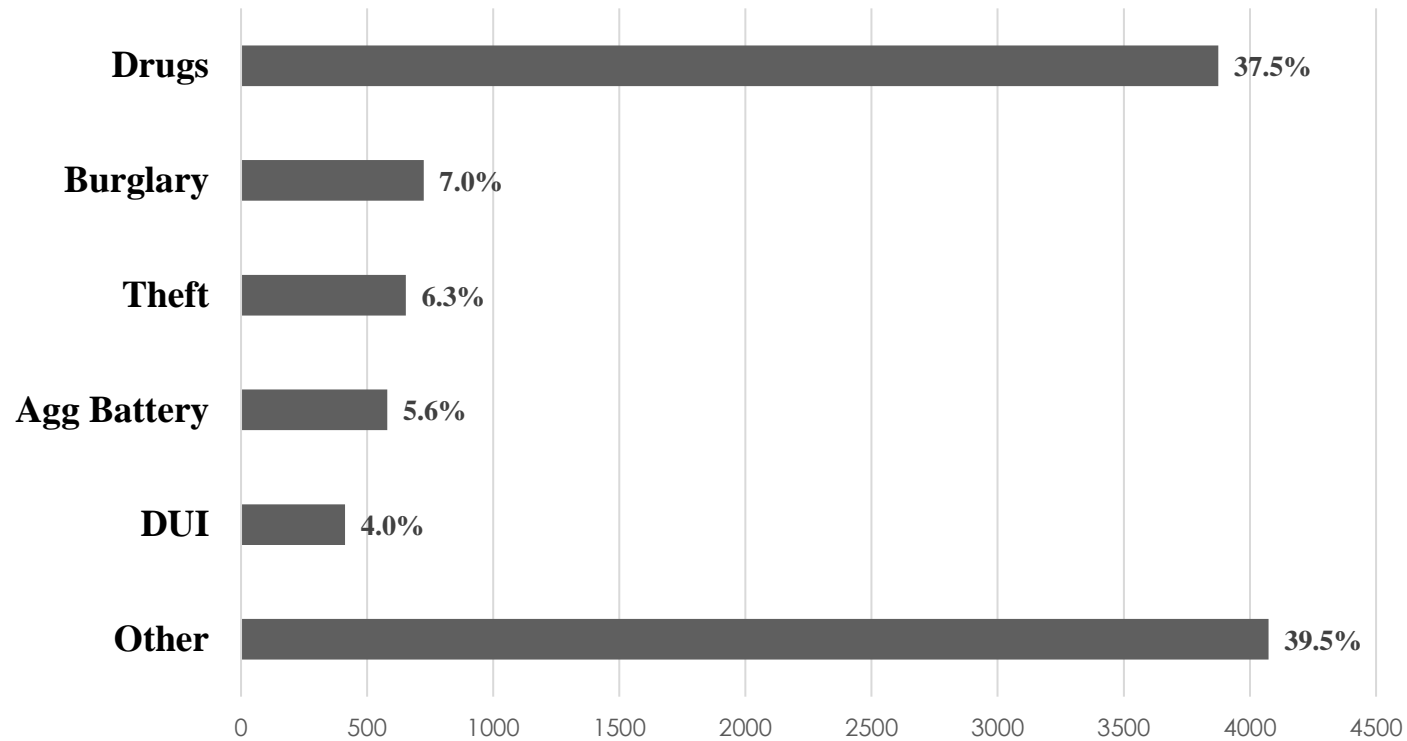
- ▶ In FY 2021, **83** D3 offenders were admitted to prison who committed the crime on or after July 1, 2012.
- ▶ On June 30, 2020, **96** D3 offenders were incarcerated in KDOC who committed the crime on or after July 1, 2012.
- ▶ In FY 2021, 3,444 offenders admitted to KDOC were eligible for 2008 SB 14 program credit.
- ▶ On June 30, 2020, 4,296 offenders incarcerated in KDOC were eligible for 2008 SB 14 program credit.
- ▶ Based on KDOC's FY 2021 releases, 73% of the eligible offenders earned program credit with an average 57.4 days.

Proportionality Comparison

21-5426(a)(3)(D)	(c)(1)	Human Trafficking; Knowingly coercing employment by obtaining or maintaining labor or services that are performed or provided by another through threatening to withhold food, lodging or clothing	2	4	4	5	Person
21-5426(a)(3)(E)	(c)(1)	Human Trafficking; Knowingly coercing employment by obtaining or maintaining labor or services that are performed or provided by another through knowingly destroying, concealing, removing, confiscating or possessing any actual or purported government iden	2	4	4	5	Person
21-5426(a)(4)	(c)(1)	Human Trafficking; Knowingly hold another in condition of peonage (involuntary servitude) in satisfaction of debt owed	2	4	4	5	Person
21-5503(a)(4)	(b)(1)(C)	Rape; Sexual intercourse; Consent obtained through knowing misrepresentation that sexual intercourse is medically or therapeutically necessary	2	4	4	5	Person
21-5408(a)(1)	(c)(1)	Kidnapping; For ransom, or as a shield or hostage	3	5	5	6	Person
21-5408(a)(2)	(c)(1)	Kidnapping; To facilitate flight or the commission of any crime	3	5	5	6	Person
22-4903(a)	(c)(1)(C)	Kansas Offender Registration Act; Failure to register as required; 3rd and subs. conviction	3	5	5	6	Person
22-4903(b)	(c)(2)	Kansas Offender Registration Act; Aggravated failure to register as required	3	5	5	6	Person
21-5413(d)(1)(A)	(g)(4)(A)	Aggravated Battery; State, county or city law enforcement officer; knowingly causing great bodily harm or disfigurement	3	5	5	6	Person
21-5413(d)(1)(B)	(g)(4)(A)	Aggravated Battery; Campus or university police officer; knowingly causing great bodily harm or disfigurement	3	5	5	6	Person
21-5506(b)(2)(A)	(c)(2)(B)	Aggravated Indecent Liberties with a Child; Nonconsensual lewd fondling/touching; child 14 or more but less than 16	4	6	6	7	Person
21-5506(b)(2)(B)	(c)(2)(B)	Aggravated Indecent Liberties with a Child; Causing child to engage in lewd fondling/touching without consent; child 14 or more but less than 16	4	6	6	7	Person
21-5512(a)(5)	(b)(1)	Unlawful Sexual Relations; Consensual; between JJA staff or contract staff and inmate 16 or older	4	6	6	7	Person

Annual Report

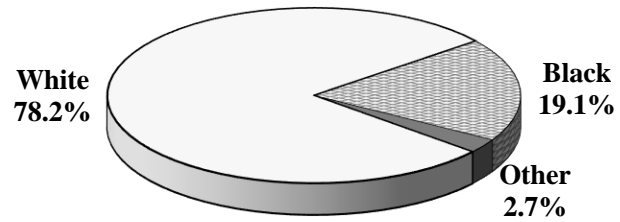
**Figure 4: FY 2021 Top 5 Offenses of
Prison, Probation, and Jail Sentences**



Based upon 10,321 prison, probation, DUI/PIS, and County Jail Sentences

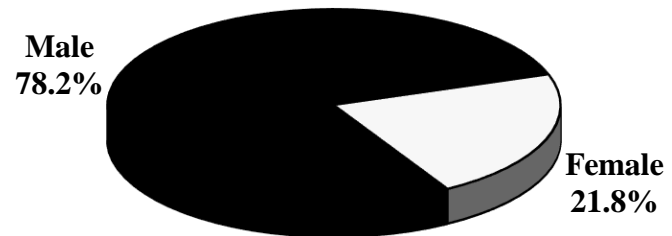
Top 5
Offenses

Figure 7: Distribution of FY 2021 Sentences by Race of Offenders



Based on 10,321 sentences reporting race of offenders

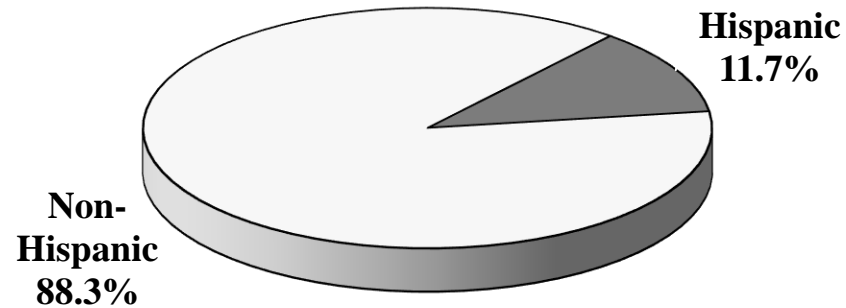
Figure 6: Distribution of FY 2021 Sentences by Gender of Offenders



Based on 10,321 sentences reporting gender of offenders

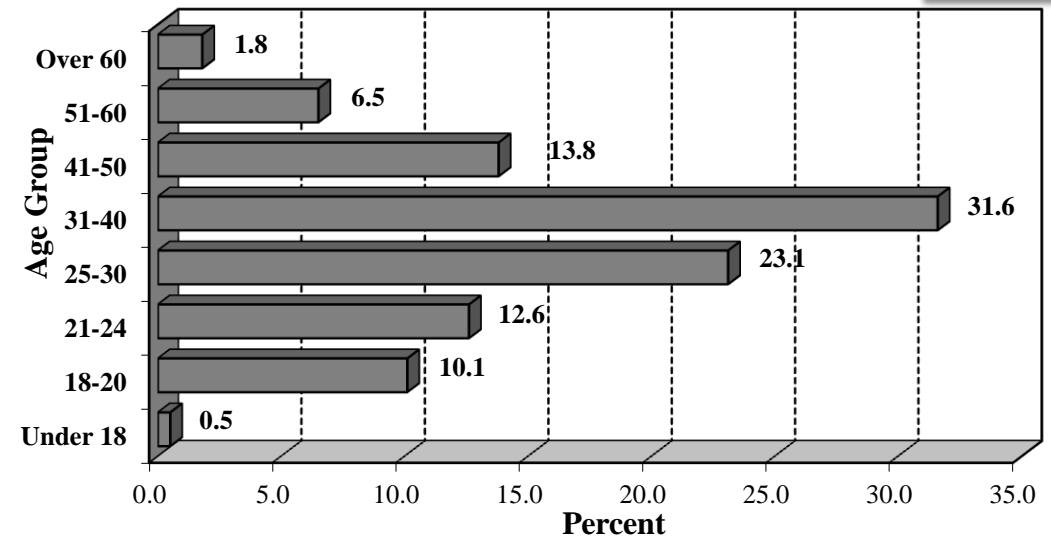
Race & Gender Distribution

Figure 8: Distribution of FY 2021 Sentences by Ethnicity of Offenders



Based on 10,321 sentences reporting ethnicity of offenders

Figure 9: Distribution of FY 2021 Sentences by Age of Offenders



Based on 10,321 sentences reporting age of offenders at time of offense

Ethnicity & Age Distribution

Prison Sentences

In FY 2021, the total number of admissions to KDOC reached 3,491.

This was a decrease of 22% or 982 offenders when compared with FY 2020 (4,473 admissions).

Drop in admissions due to COVID-19 pandemic.

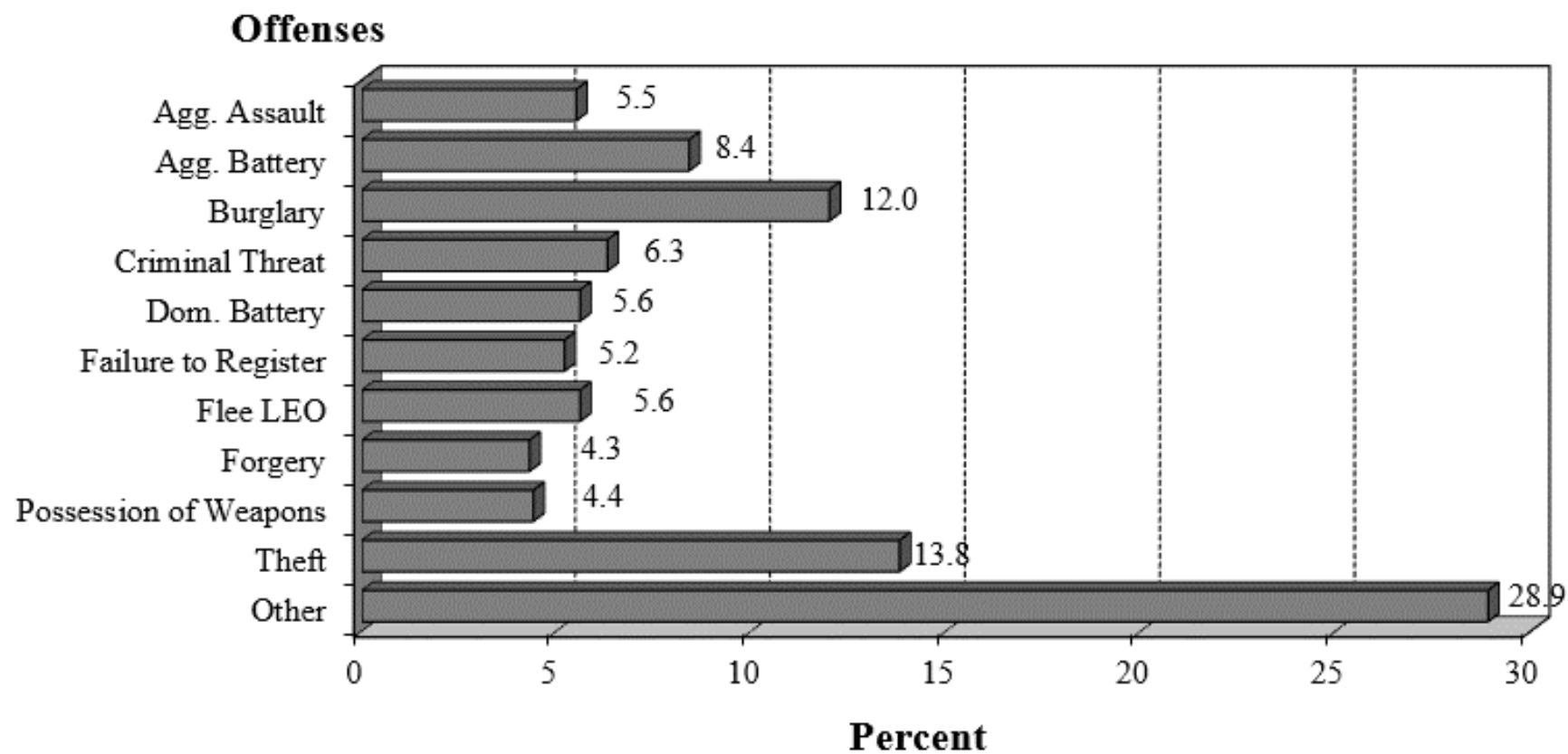
Males continue to be the predominant offender group making up 85.6% of the offenders admitted to prison in FY 2021.

White offenders accounted for 73.4%, black offenders accounted for 23.0%, and other races represented 3.6% of the total admissions of FY 2021.

Probation Sentences

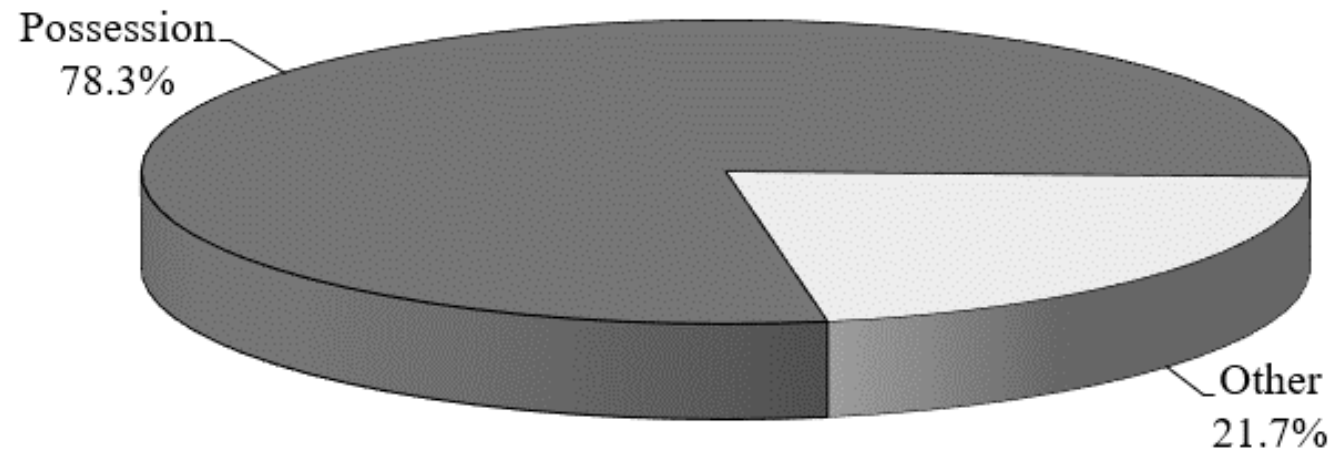
- ▶ During FY 2021, 6,409 probation sentences were reported to the Commission, a decrease of 7.9% (552 sentences) compared with FY 2020 (6,961 sentences).
 - ▶ ***Decrease was due to COVID-19 pandemic***
- ▶ Of this number, 3,578 were nondrug sentences and 2,831 were drug sentences.

Figure 32: FY 2021 Top Ten Offenses for Probation Nondrug Sentences



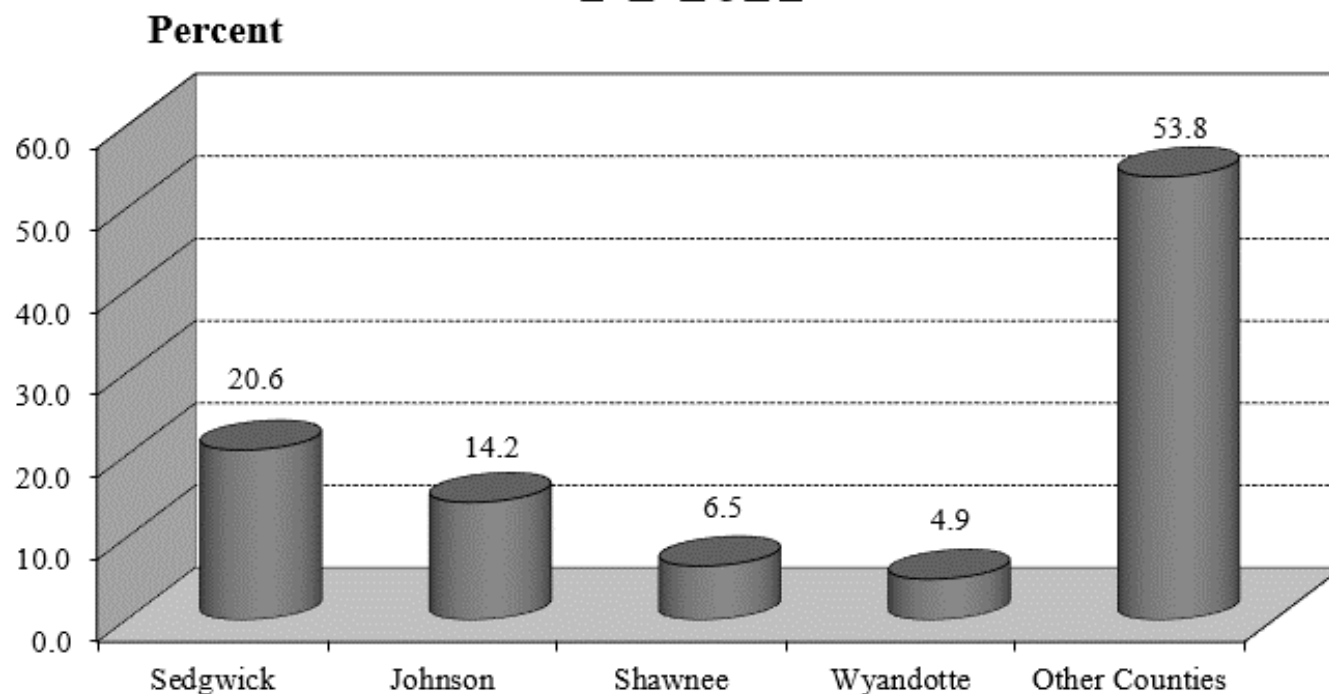
Based on 3,578 probation nondrug sentences

**Figure 33: FY 2021 Probation
Drug Sentences by Offense**




Based on 2,831 probation drug sentences

**Figure 62: Overall Sentences by the
Top Four Counties-Prison, Probation & Jail
FY 2021**



Based on 10,316 sentences

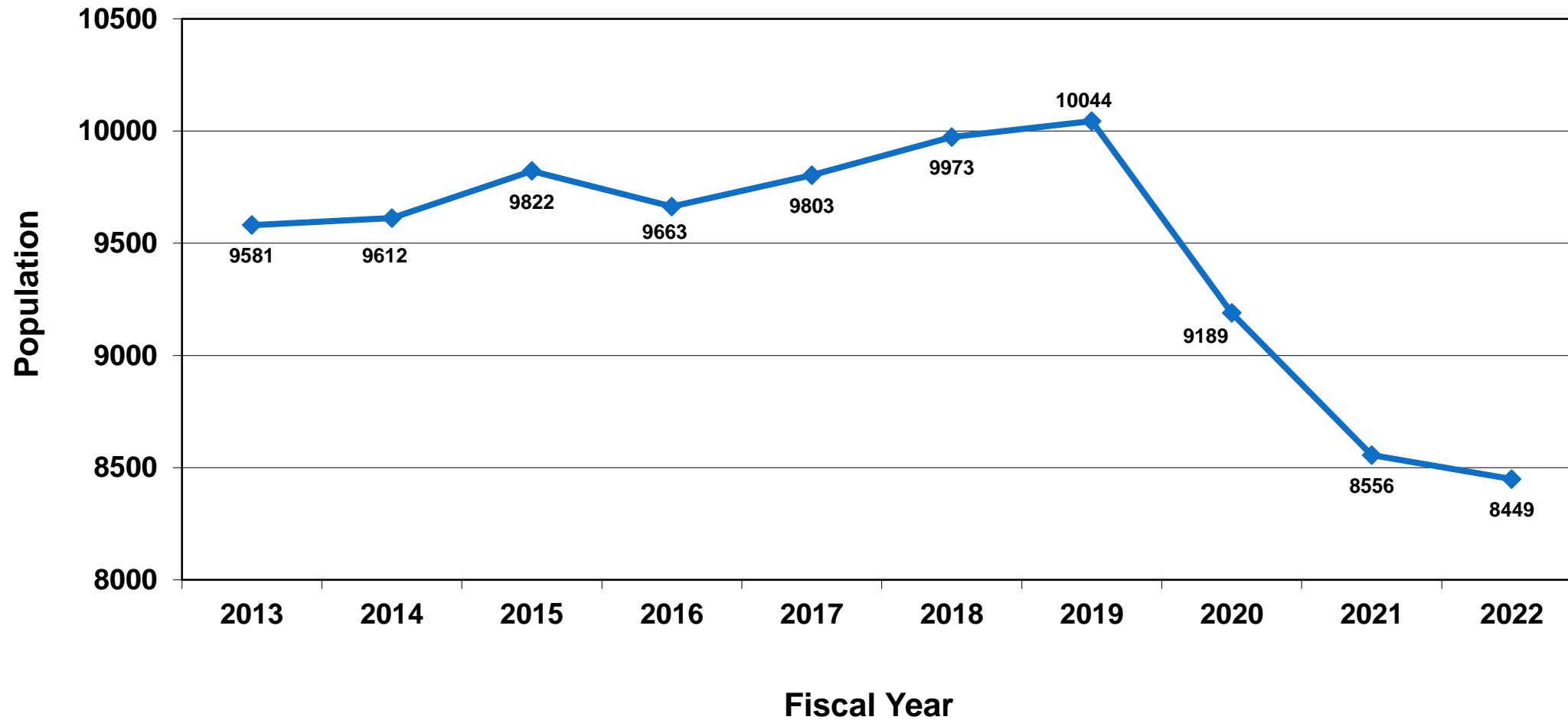
Four County
Felony
Sentencing
Trends



FY 2023 Prison Population Projections

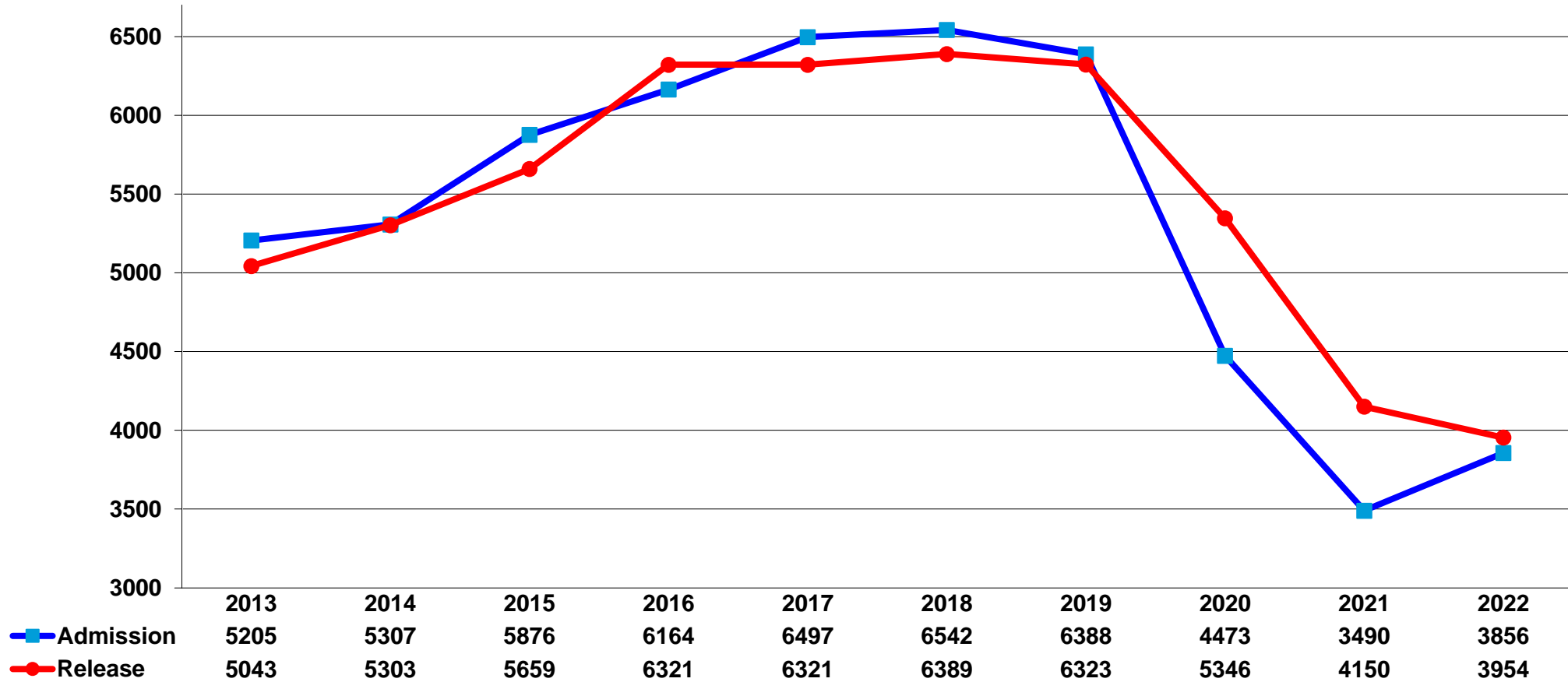
KANSAS PRISON POPULATION TRENDS

Total Prison Population



Source: KDOC prison population files
FY 2020, FY 2021 and FY 2022 numbers low due to Covid-19 pandemic

Prison Admissions and Releases FY 2013 to FY 2022

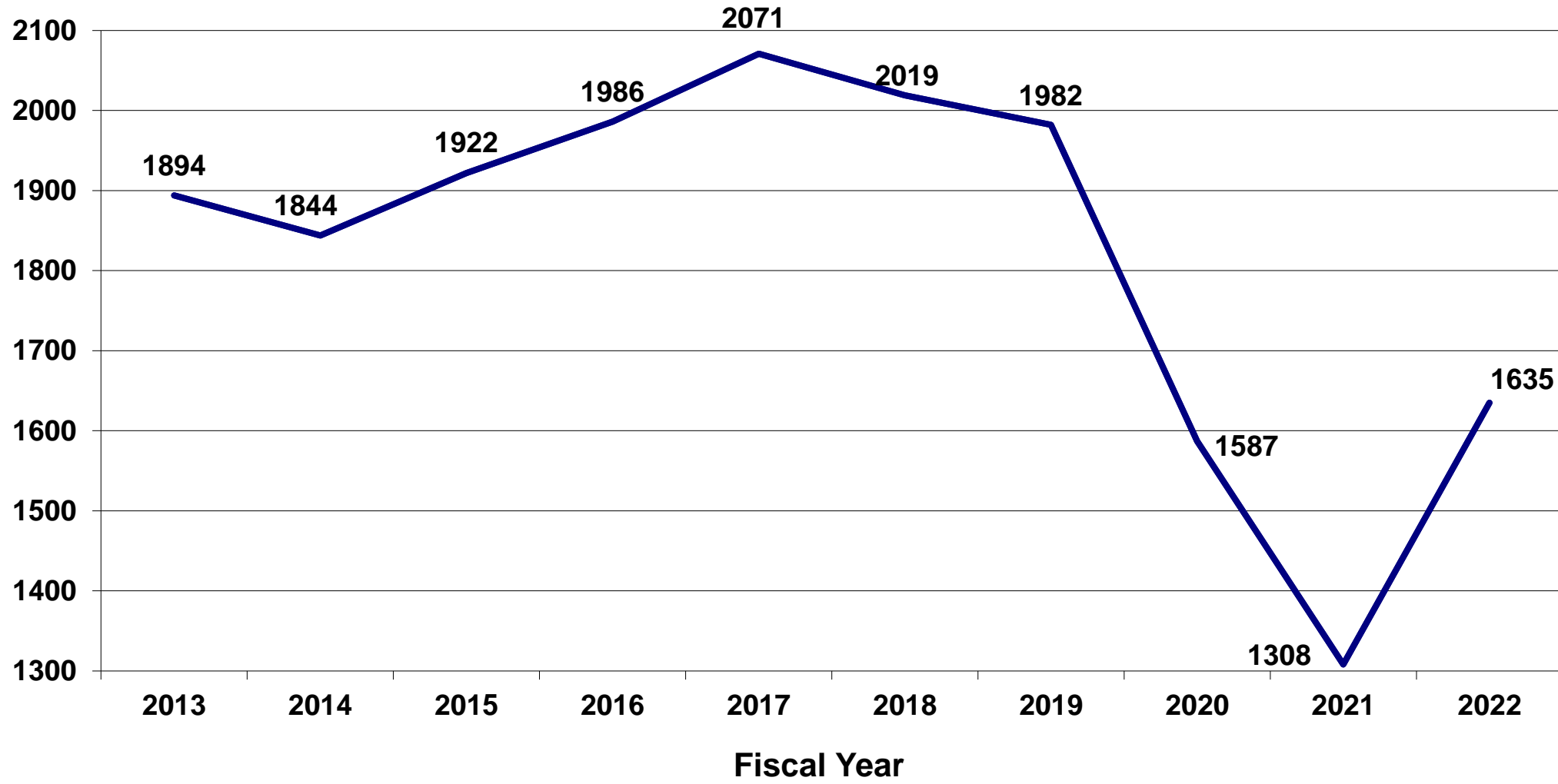


Fiscal Year

Source: KDOC admission and release files

KANSAS PRISON ADMISSION TRENDS

Direct New Court Commitments

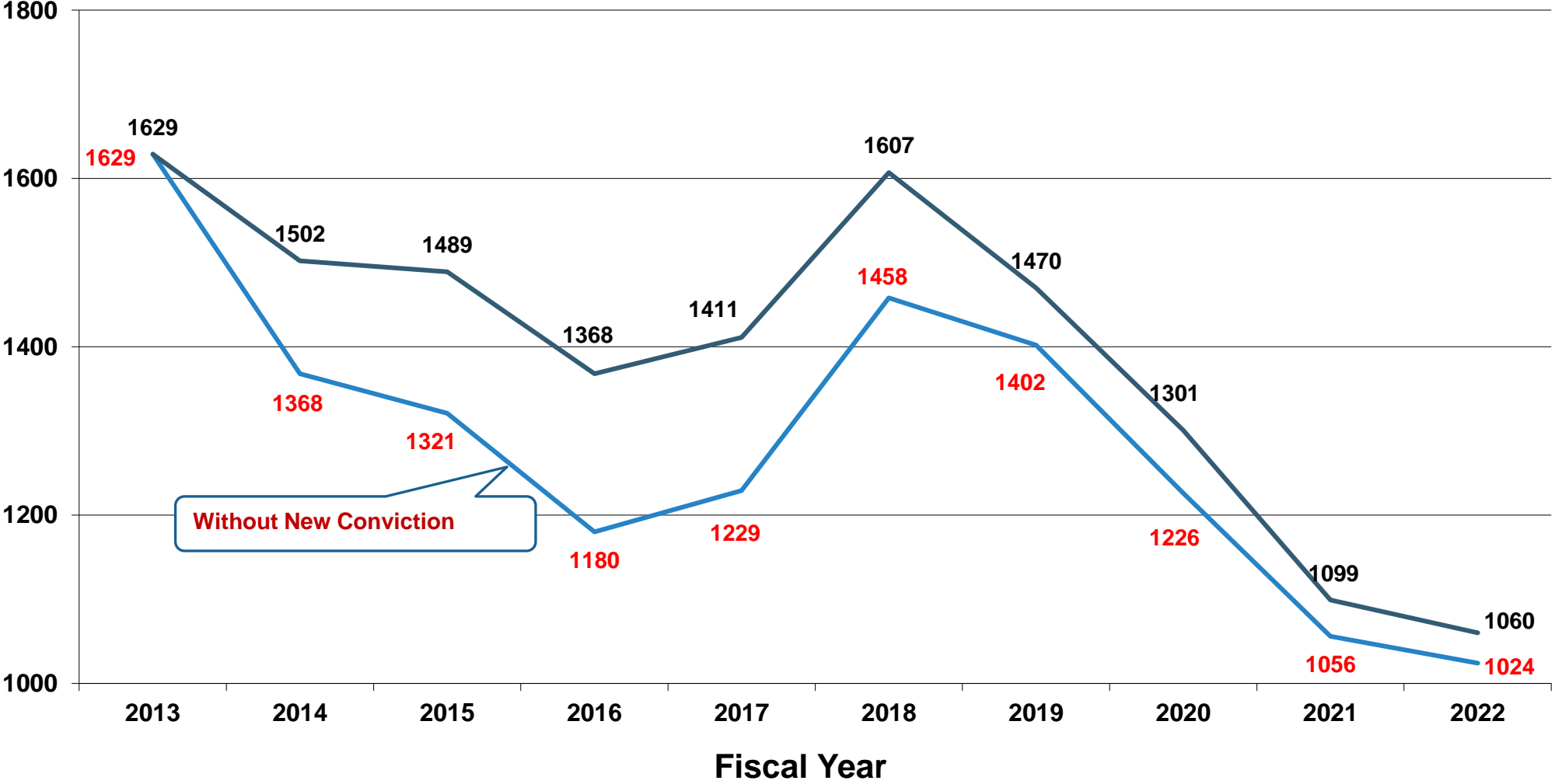


Source: KDOC admission files

FY 2020, FY 2021 and FY 2022 Numbers low due to Covid-19 pandemic

KANSAS PRISON ADMISSION TRENDS

Probation Condition Violators

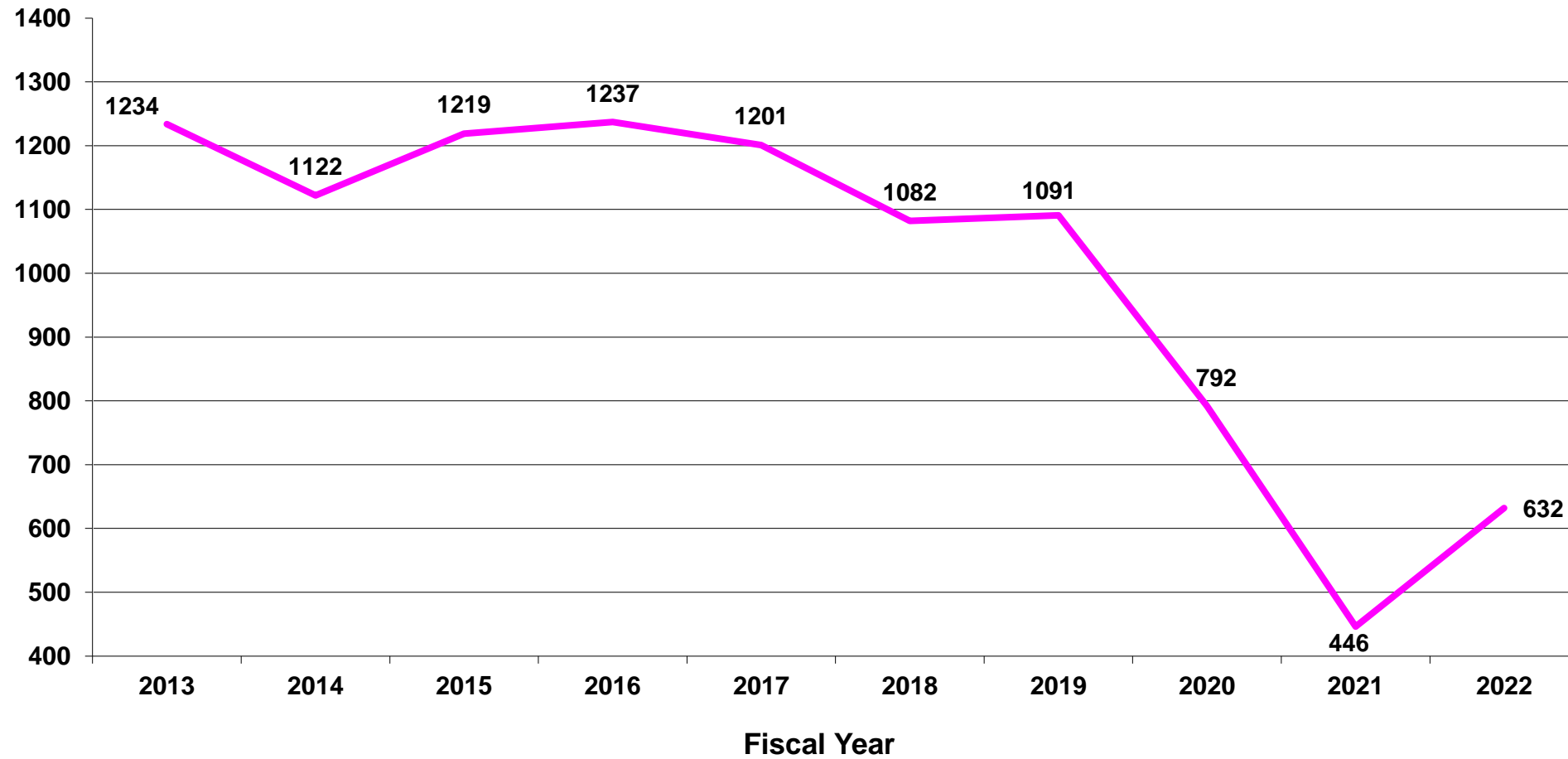


Source: KDOC prison population files

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

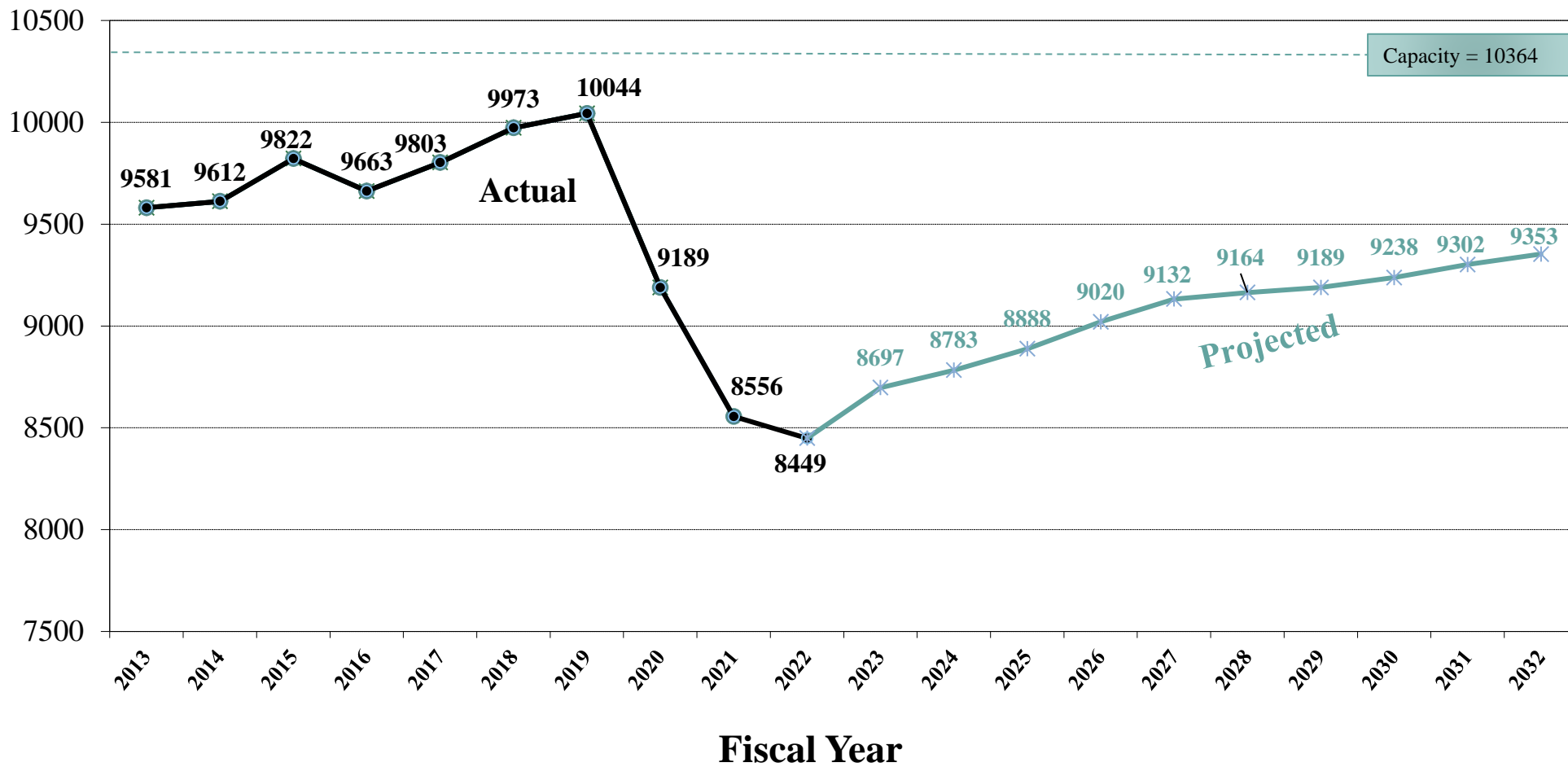
Note: Including condition conditional-release violators

FY 2022 Prison Population Projections By Offender Group

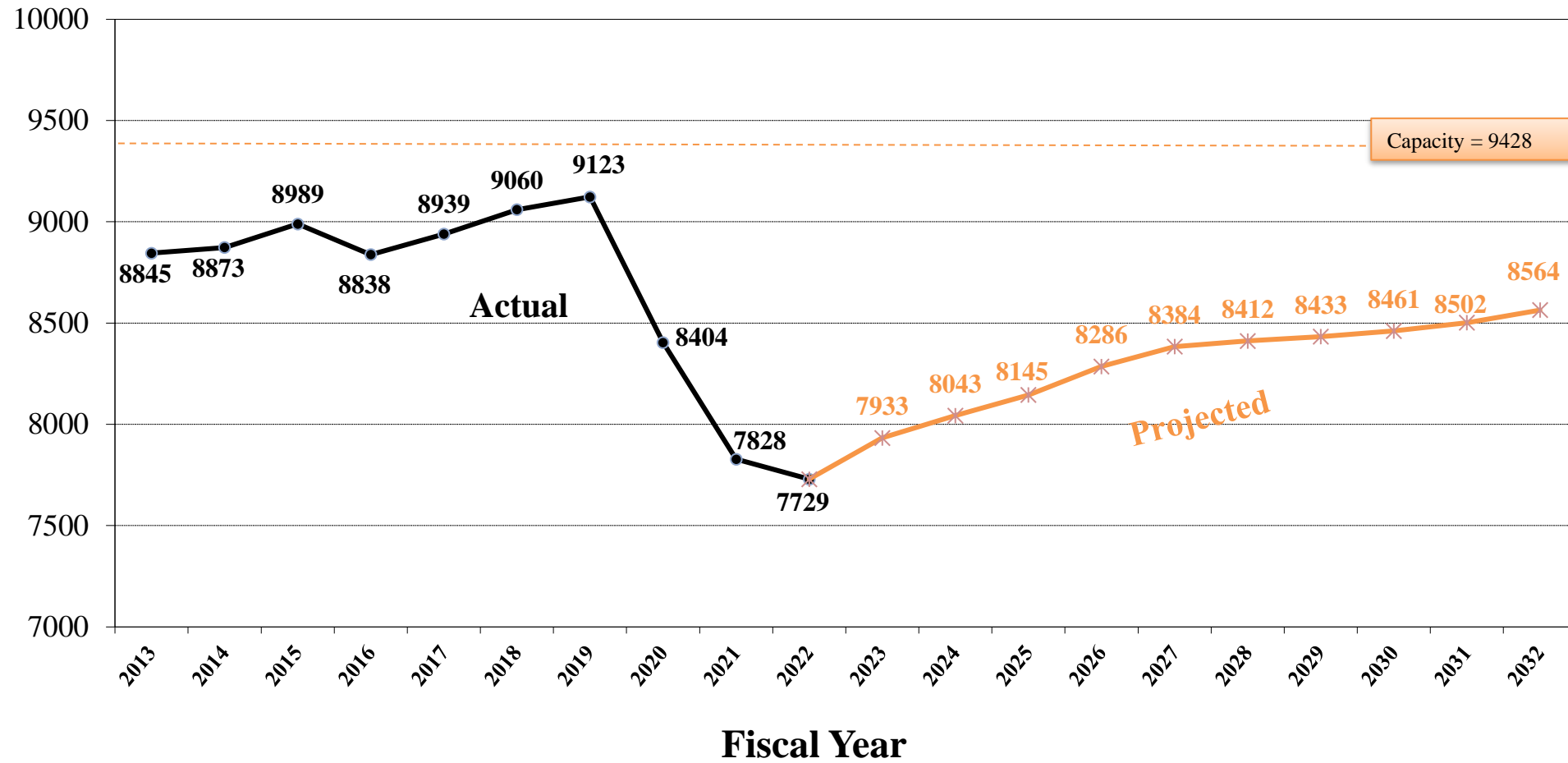
Offender Group	2022*	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	# Change	% Change
Drug	1169	1214	1189	1202	1233	1234	1230	1198	1158	1168	1196	27	2.3%
N1 to N3	2501	2478	2530	2591	2667	2729	2798	2825	2884	2956	2978	477	19.1%
N4 to N6	1336	1435	1460	1493	1501	1516	1506	1523	1506	1494	1543	207	15.5%
N7 to N10	679	739	749	722	711	724	718	732	740	747	712	33	4.9%
Sanction	12	8	8	0	0	0	0	0	0	0	0	-12	-100.0%
Probation Condition Violators	941	1073	1131	1178	1190	1213	1230	1229	1268	1262	1284	343	36.5%
Offgrid Including Old Law Lifer	1369	1387	1372	1377	1376	1376	1375	1360	1349	1348	1337	-32	-2.3%
Parole/Post Release Violators	362	293	280	275	297	306	278	296	315	312	288	-74	-20.4%
Old Law Inmates	80	70	64	50	45	34	29	26	18	15	15	-65	-81.3%
Total	8449	8697	8783	8888	9020	9132	9164	9189	9238	9302	9353	904	10.7%

* Actual prison population June 30, 2022

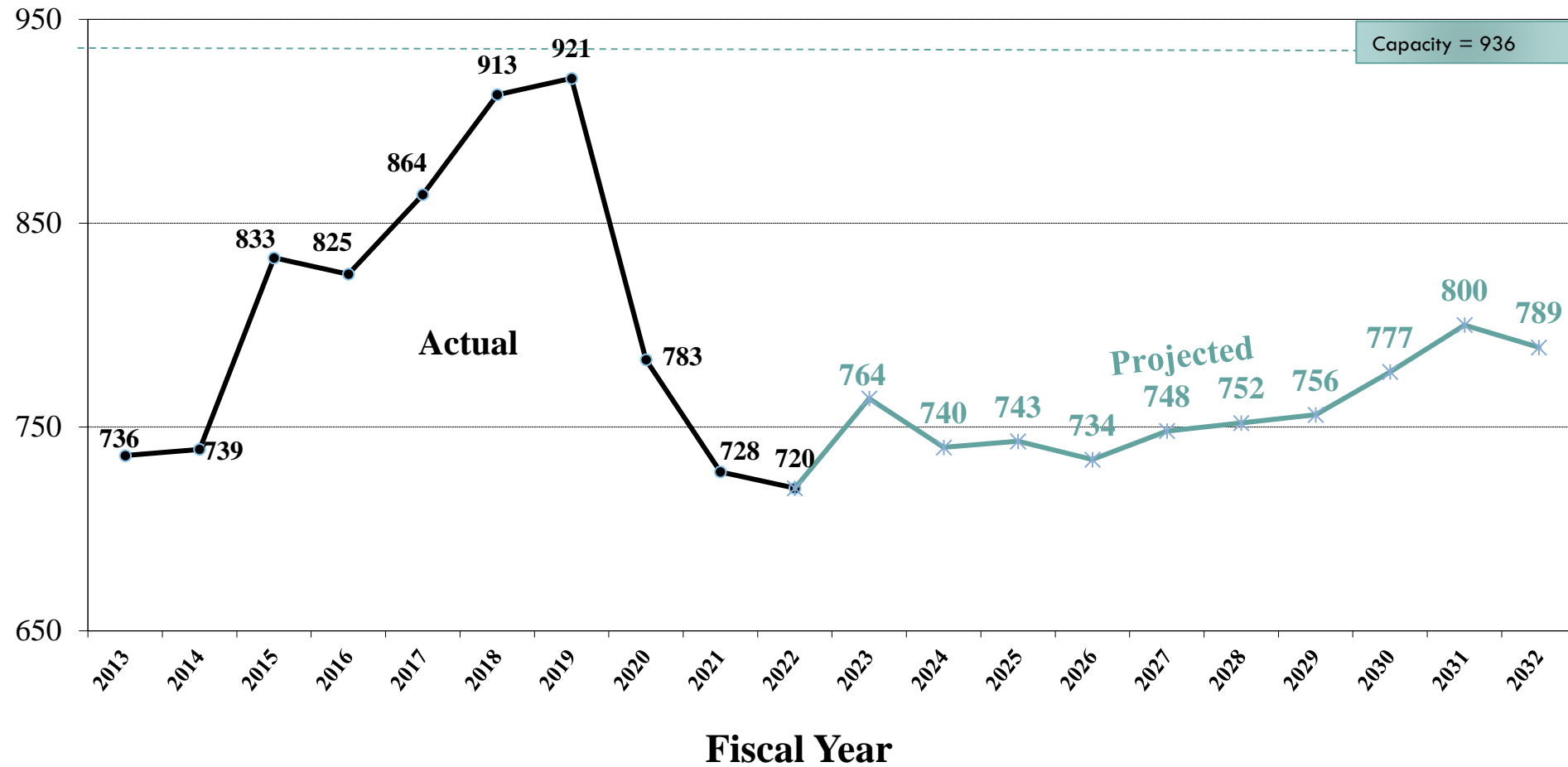
KS Prison Population: Actual and Projected



KS Male Prison Population: Actual and Projected



KS Female Prison Population: Actual and Projected



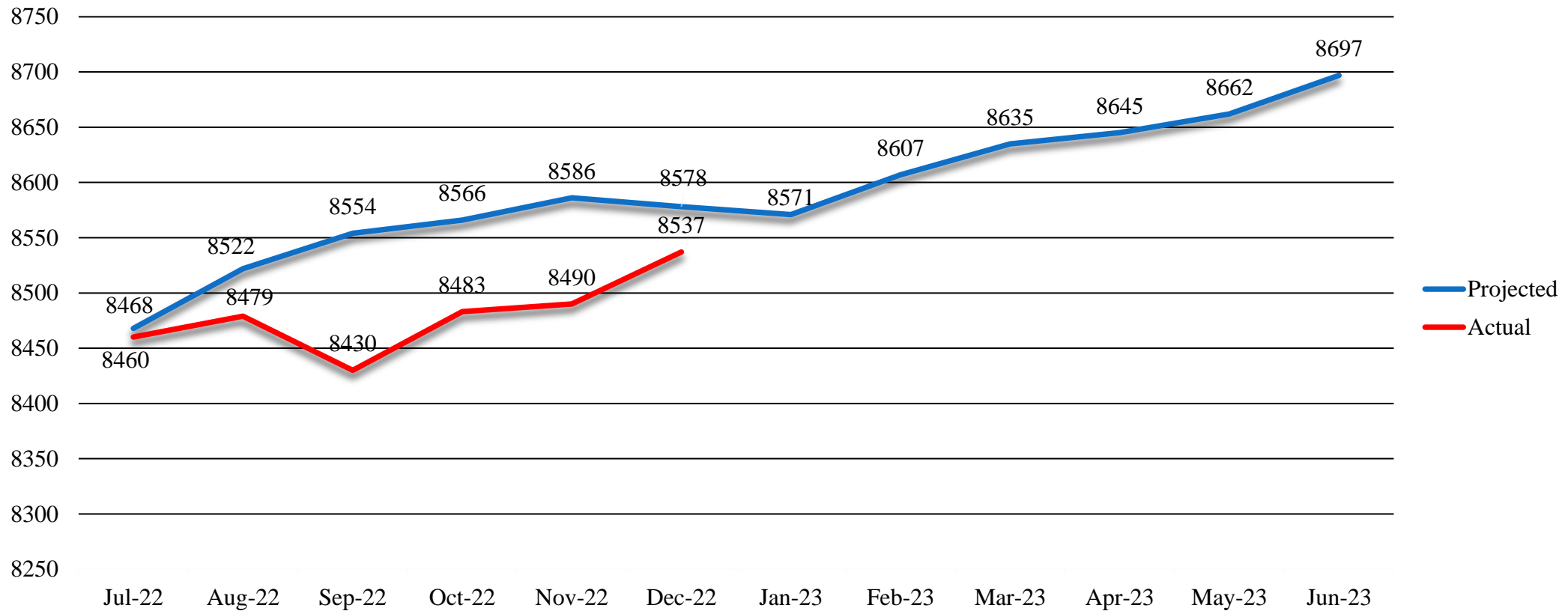
PRISON POPULATION MONTHLY MONITORING REPORT FY 2022 MODEL

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	8400	-137	-1.6%
November 2021	8549	8345	-204	-2.4%
December 2021	8551	8351	-200	-2.3%
January 2022	8536	8326	-210	-2.5%
February 2022	8529	8273	-256	-3.0%
March 2022	8502	8331	-171	-2.0%
April 2022	8508	8318	-190	-2.2%
May 2022	8542	8377	-165	-1.9%
June 2022	8538	8449	-89	-1.0%

PRISON POPULATION MONTHLY MONITORING REPORT FY 2023 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2022	8468	8460	8	0.1%
August 2022	8522	8479	43	0.5%
September 2022	8554	8430	124	1.5%
October 2022	8566	8483	83	1.0%
November 2022	8586	8490	96	1.1%
December 2022	8578	8537	41	0.5%
January 2023	8571			
February 2023	8607			
March 2023	8635			
April 2023	8645			
May 2023	8662			
June 2023	8697			

FY 2023 Actual v. Projected Prison Population




PRISON POPULATION MONTHLY MONITORING REPORT FY 2023 MODEL – (MALE)

Month/Year	Projected	Actual	Difference	Percent Error
July 2022	7741	7729	12	0.2%
August 2022	7788	7761	17	0.4%
September 2022	7810	7719	91	1.2%
October 2022	7813	7765	48	0.6%
November 2022	7835	7778	57	1.0%
December 2022	7823	7816	7	>0.1%
January 2023	7814			
February 2023	7844			
March 2023	7878			
April 2023	7886			
May 2023	7905			
June 2023	7933			

PRISON POPULATION MONTHLY MONITORING REPORT FY 2023 MODEL – (FEMALE)

Month/Year	Projected	Actual	Difference	Percent Error
July 2022	727	731	4	0.5%
August 2022	734	718	16	2.2%
September 2022	743	711	32	4.3%
October 2022	753	718	35	4.6%
November 2022	751	712	39	5.2%
December 2022	755	721	34	4.5%
January 2023	757			
February 2023	763			
March 2023	757			
April 2023	759			
May 2023	757			
June 2023	764			



KSSC Substance Abuse Treatment 2003 SB 123 & RAFT

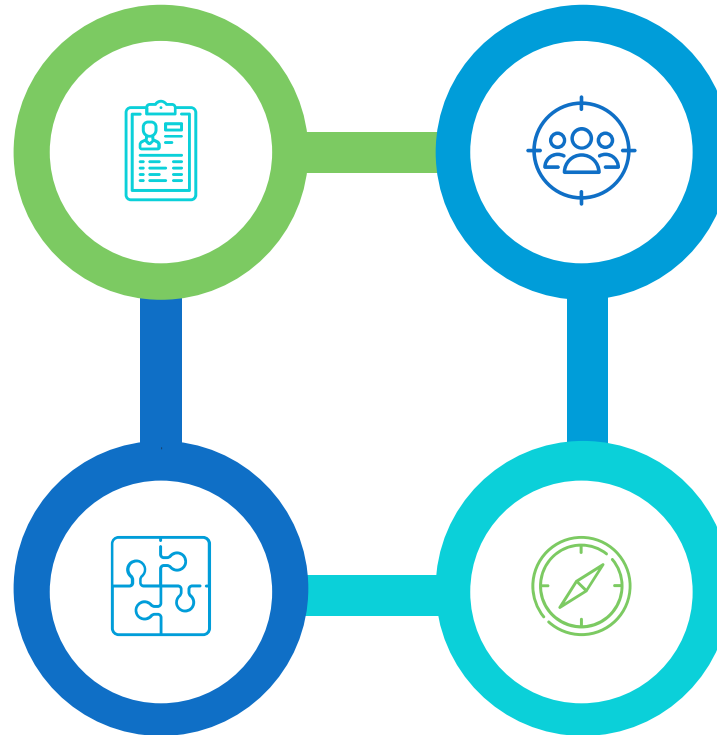
Update on Existing Trends

COVID-19

Service disruption,
continued effects

Continuum of Care

Improvement, but
continued difficulty in
applying continuum
of care



Court Disruptions

Continued delays
and disruptions in
sentencing

Telehealth

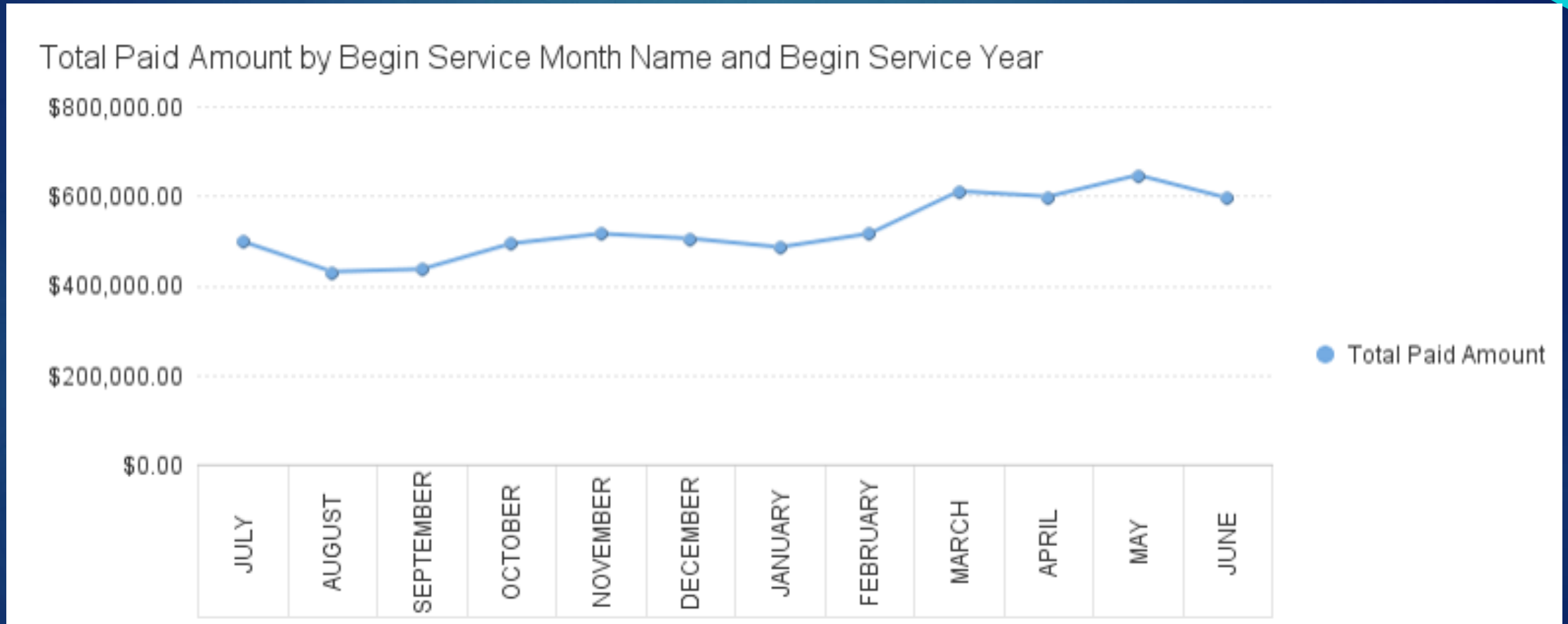
Continued need
for flexibility of
telehealth
services

FY22 Total Annual Expenditures

- Post-sentence assessment and treatment
 - **\$6,325,264** [FY21 = \$5,678,580]
 - Average cost per offender: **\$4,057** [FY21 = \$3,640]
- Presentence assessment
 - **\$239,400** [FY21 = \$197,400]
- **Total**
 - **\$6,564,664** [FY21 = \$5,875,980]

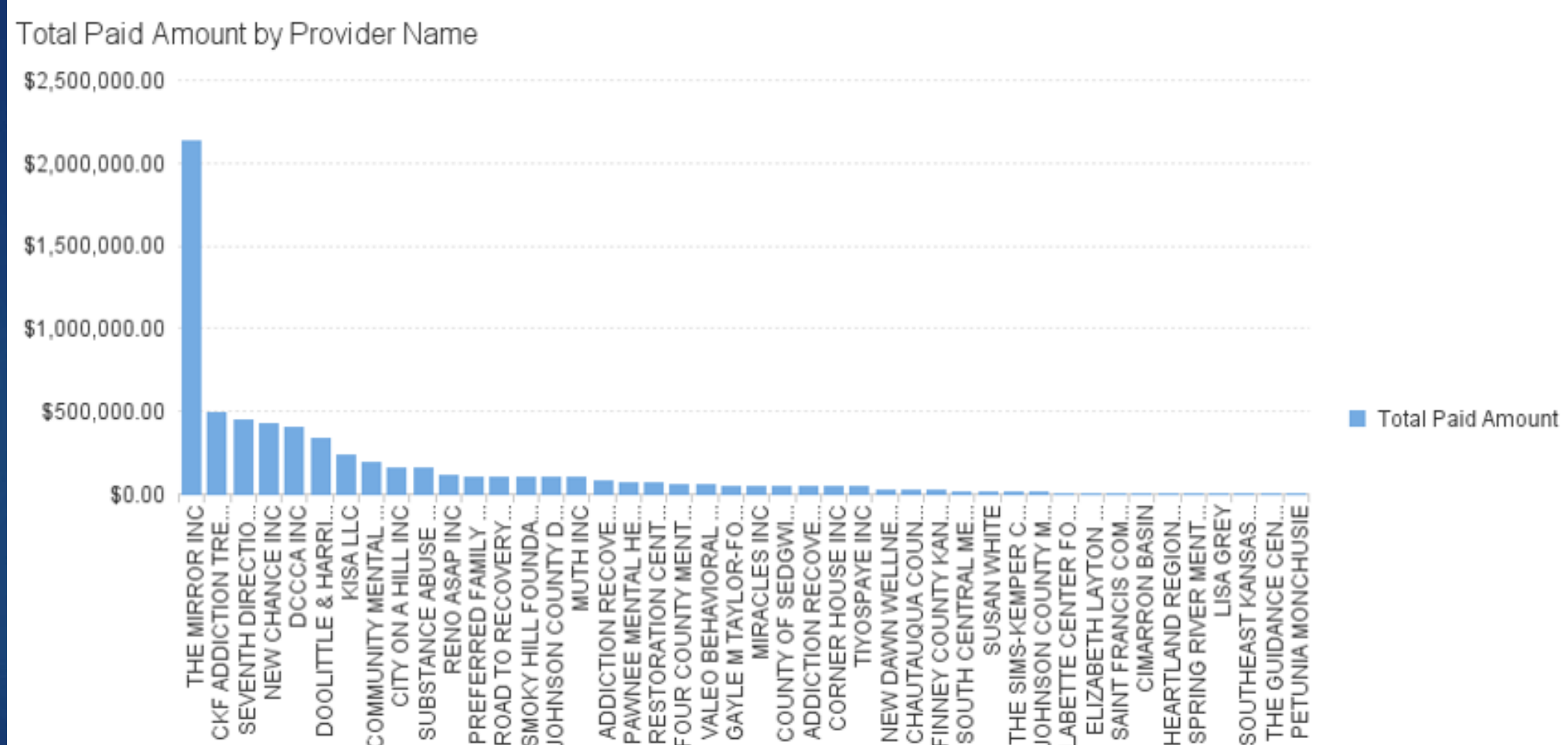
FY 22 saw a return to average programmatic expenditures and a trend toward increased utilization per offender.

FY22 Total Expenditures by Month



- Reflects amount paid for offender services by Beacon Health Options; final amounts may vary for FY

FY22 Total Expenditures per Provider

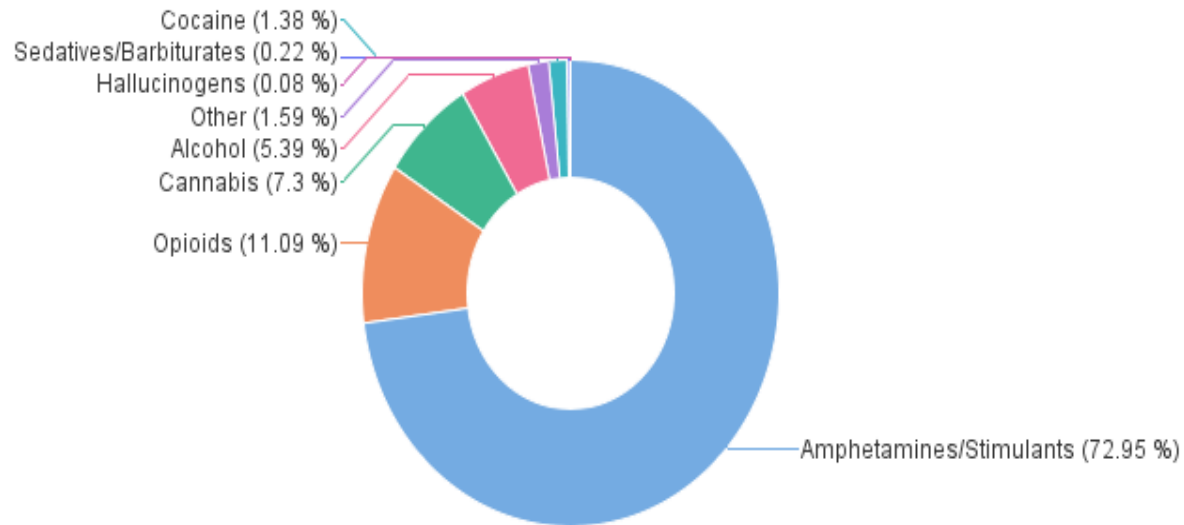


- Reflects amount paid for offender services by Beacon Health Options; final amounts may vary for FY

FY22 Expenditures by Diagnosis

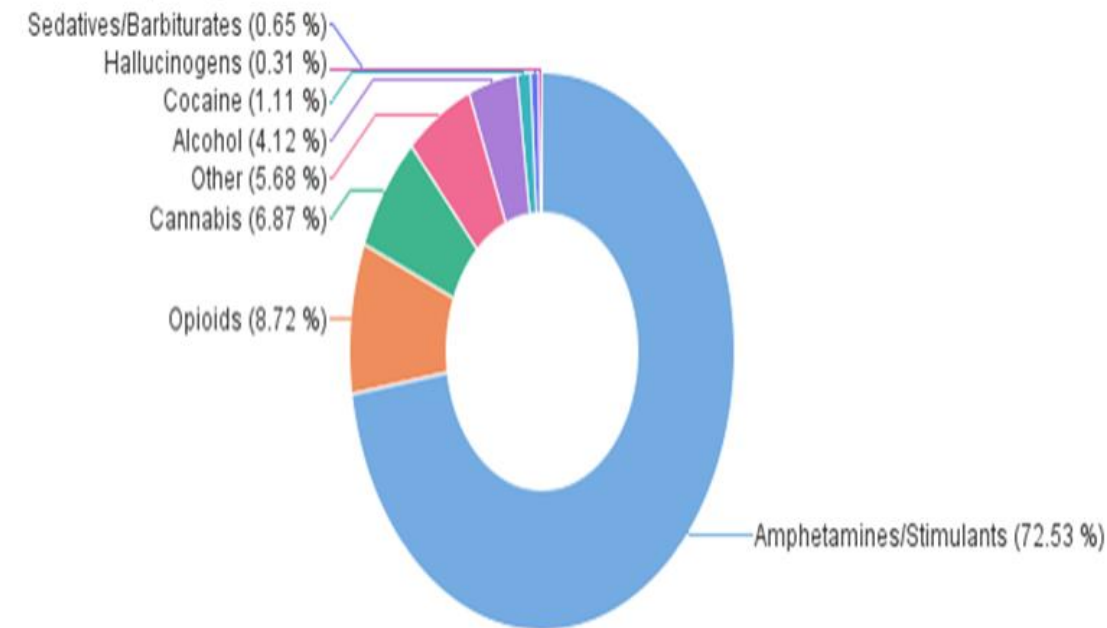
FY22

Total Paid Amount by Diagnosis



FY21

Total Paid Amount by Diagnosis

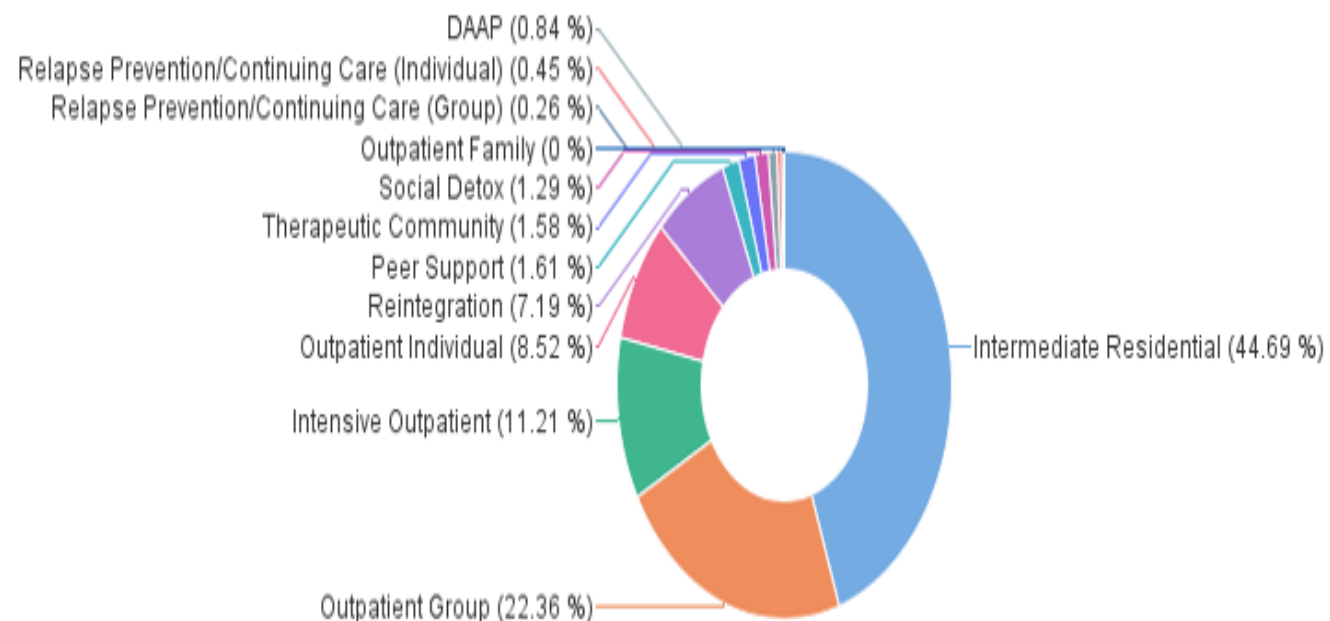


Note: Opioid diagnosis increased from 7.3% in FY20 to 11% in FY22.

FY22 Expenditures by Modality

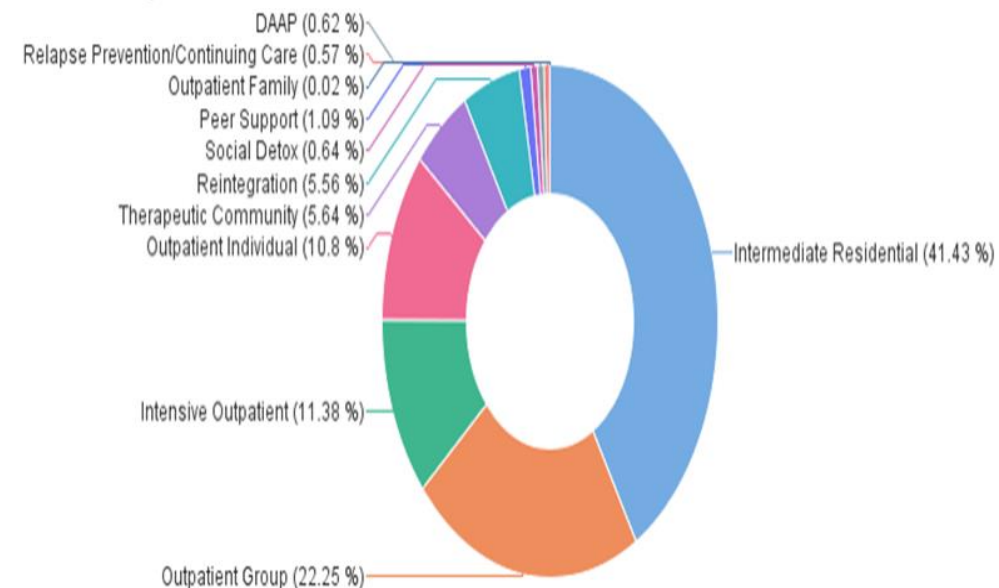
FY22

Total Paid Amount by Service



FY21

Total Paid Amount by Service



Program Updates



RAFT Diversion Program

2021 HB 2026 - **two offenders have been treated** under this program to date. An online eligibility form is available.



SB 18 Expansion to Small Sales

Over the past 3 years, use has grown from **1** severity level 4 offender in **FY19** to **50** in **FY21**.

QUESTIONS?

THANK YOU

(785) 296-0923

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January 12, 2023