

# Joint Committee on Corrections and Juvenile Justice Oversight Statehouse – 112-N November 14, 2016

Scott M. Schultz, Executive Director

[www.sentencing.ks.gov](http://www.sentencing.ks.gov)

(785) 296-0923

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# Agenda

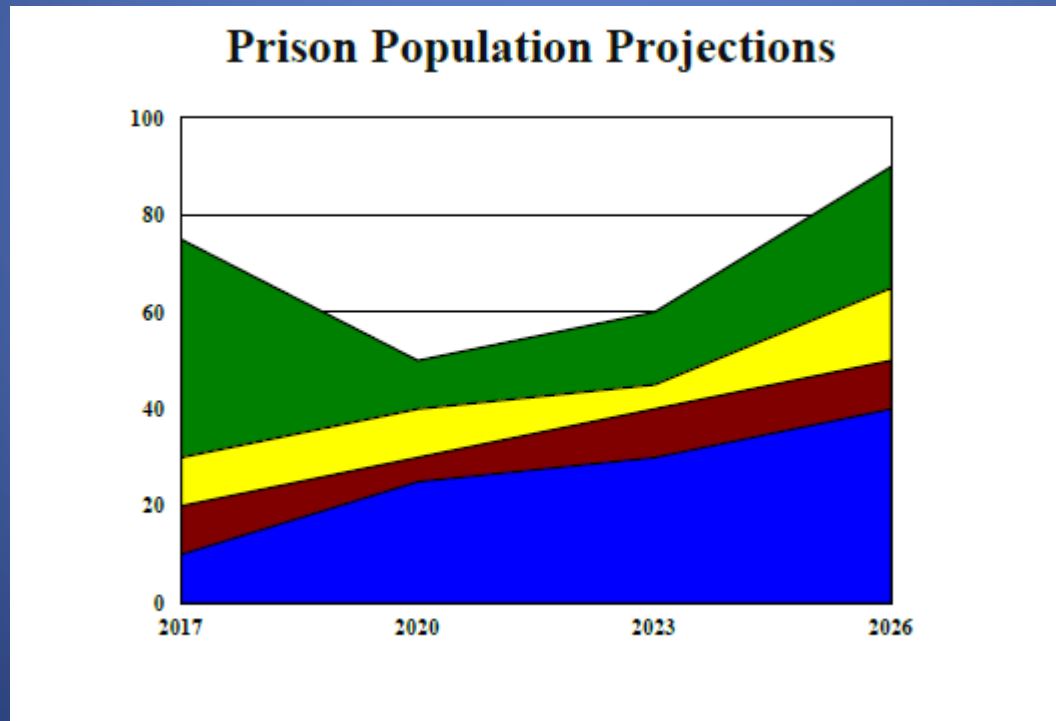
FY 2017 Adult  
Prison Population  
Projections

2013 HB 2170  
Process and Data

2017 Legislative  
Recommendations

# KANSAS SENTENCING COMMISSION

## Fiscal Year 2017 Adult Inmate Prison Population Projections



## Primary Basis for Projections

1. Number of offenders admitted to prison; and
2. Length of sentence

Full Report Available at:  
<http://www.sentencing.ks.gov/newsitemdetail/2016/08/30/fy-2017-prison-population-projection-report>

# PRISON POPULATION CHARACTERISTICS

## JUNE 30, 2016

Severity Level	Pre-Guideline		Guideline		Total	
	Number	Percent	Number	Percent	Number	Percent
D1	0	0.0%	247	2.6%	247	2.6%
D2	0	0.0%	177	1.8%	177	1.8%
D3	1	0.0%	352	3.6%	353	3.7%
D4	0	0.0%	199	2.1%	199	2.1%
D5	0	0.0%	394	4.1%	394	4.1%
N1	85	0.9%	999	10.3%	1084	11.2%
N2	66	0.7%	242	2.5%	308	3.2%
N3	53	0.5%	1182	12.2%	1235	12.8%
N4	2	0.0%	317	3.3%	319	3.3%
N5	3	0.0%	1117	11.6%	1120	11.6%
N6	0	0.0%	248	2.6%	248	2.6%
N7	2	0.0%	575	6.0%	577	6.0%
N8	0	0.0%	142	1.5%	142	1.5%
N9	0	0.0%	194	2.0%	194	2.0%
N10	0	0.0%	14	0.1%	14	0.1%
Offgrid	182	1.9%	1136	11.8%	1318	13.6%
Probation Condition Violators	1	0.0%	1032	10.7%	1033	10.7%
Sanction from Probation	0	0.0%	110	1.1%	110	1.1%
Parole/Postrelease Condition Violators	130	1.3%	457	4.7%	587	6.1%
Subtotal	525	5.4%	9134	94.5%	9659	100.0%
Nongrid/Missing					4	0.0%
Total					9663	100.0%

# COMPARISON OF ACTUAL PRISON POPULATION BETWEEN FY 2015 AND FY 2016

Offender Group	2015	2016	Difference
Drug	1332	1370	38
N1 to N3	2434	2464	30
N4 to N6	1668	1683	15
N7 to N10	937	930	-7
Sanction from Probation	118	110	-8
Probation Condition Violators	1250	1033	-217
Offgrid Including Old Law Lifer	1276	1318	42
Parole/Post Release Violators	621	587	-34
Old Law Inmates	186	168	-18
Total	9822	9663	-159

# FIVE YEAR PRISON ADMISSION TREND BY ADMISSION TYPE

## FY 2012 THROUGH FY 2016

Admission Type	FY 2012	FY 2013	FY 2014*	FY 2015*	FY 2016*	% Change FY 2012-FY 2016	% Change FY 2015-FY 2016
	N	N	N	N	N		
New Court Commitment	1975	1894	1844	1922	1986	0.6%	3.3%
Probation Condition Violator	1682	1629	1368	1321	1180	-29.8%	-10.7%
Probation Prison Sanction	0	0	323	691	1003	N/A	45.2%
Probation Violator With New Sentence	180	198	257	331	331	83.9%	0.0%
Probation Violator With New Conviction*	0	0	134	168	188	N/A	11.9%
Inmate Received on Interstate Compact	10	9	16	8	15	50.0%	87.5%
Parole/Post-release/CR Condition Violator	955	1234	1122	1219	1237	29.5%	1.5%
Parole/Post-release/CR Violator With New Sentence	141	177	185	151	146	3.5%	-3.3%
Paroled to Detainer Returned With New Sentence	19	33	34	27	29	52.6%	7.4%
Non Violator Return- New Sentence	29	28	20	35	49	69.0%	40.0%
Non Violator Return- No New Sentence	2	3	4	3	0	-100.0%	-100.0%
<b>Total</b>	<b>4993</b>	<b>5205</b>	<b>5307</b>	<b>5876</b>	<b>6164</b>	<b>23.5%</b>	<b>4.9%</b>

Source: DOC admission files.

\*. Probation violator with new conviction has been separated from probation condition violator since FY 2014.

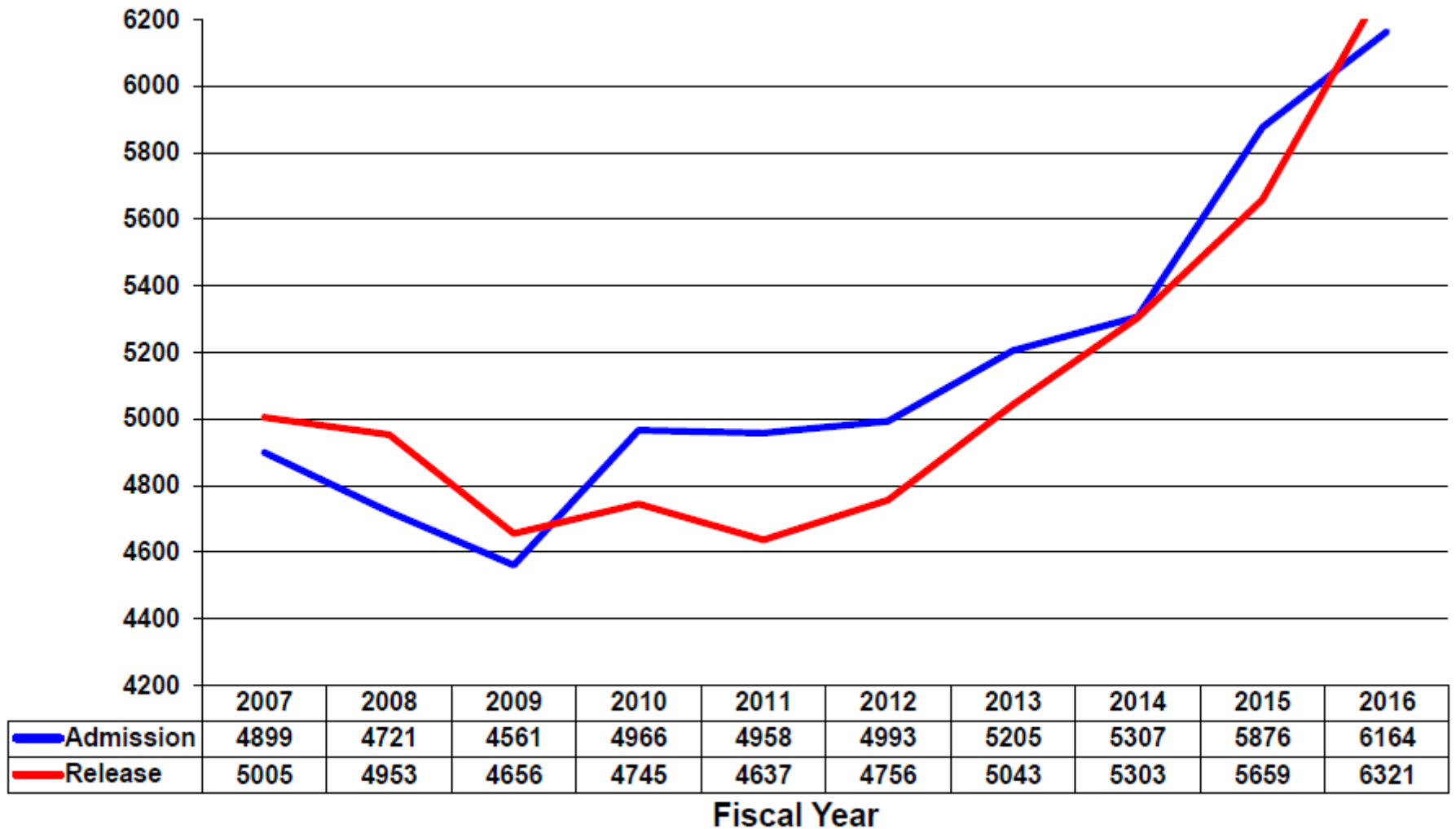
Note: FY 2014 to FY 2016 parole violator with new sentence includes parole violator pending new sentence.

# COMPARISON OF GUIDELINE NEW COMMITMENTS AVERAGE LENGTH OF SENTENCE BY SEVERITY LEVEL AND OFFENSE

Severity Level & Offense	FY2012	FY 2015	FY 2016	Difference Between 2012 & 2016 (Month)	Difference Between 2015 & 2016 (Month)
N1	236.2	286.8	275.3	39.1	-11.5
N2	186.8	139.3	219.6	32.8	80.3
N3	109.8	104.3	103.6	-6.2	-0.7
N4	76.6	75.1	76.8	0.2	1.7
N5	55	59.1	59.4	4.4	0.3
N6	37.9	36.7	40.5	2.6	3.8
N7	26.8	28.1	29.9	3.1	1.8
N8	18.2	17.7	18.4	0.2	0.7
N9	12.7	12.8	13.0	0.3	0.2
N10	9.5	8.5	9.5	0.0	1.0
Drug	30.8	34.3	34.6	3.8	0.3

Source: DOC admission file.

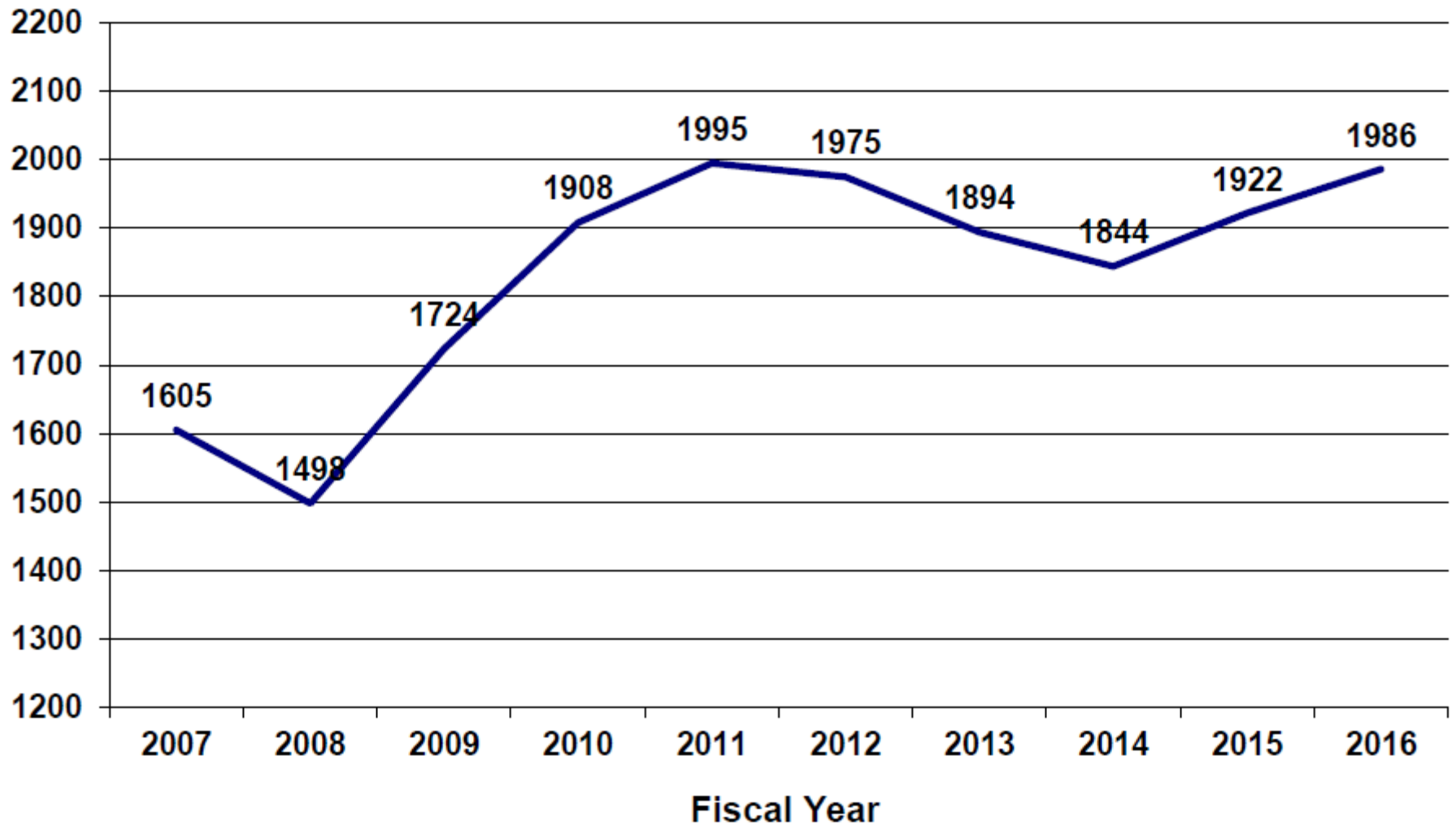
## Prison Admissions vs. Releases FY 2007 through FY 2016



Source: KDOC admission and release files

# KANSAS PRISON ADMISSION TRENDS

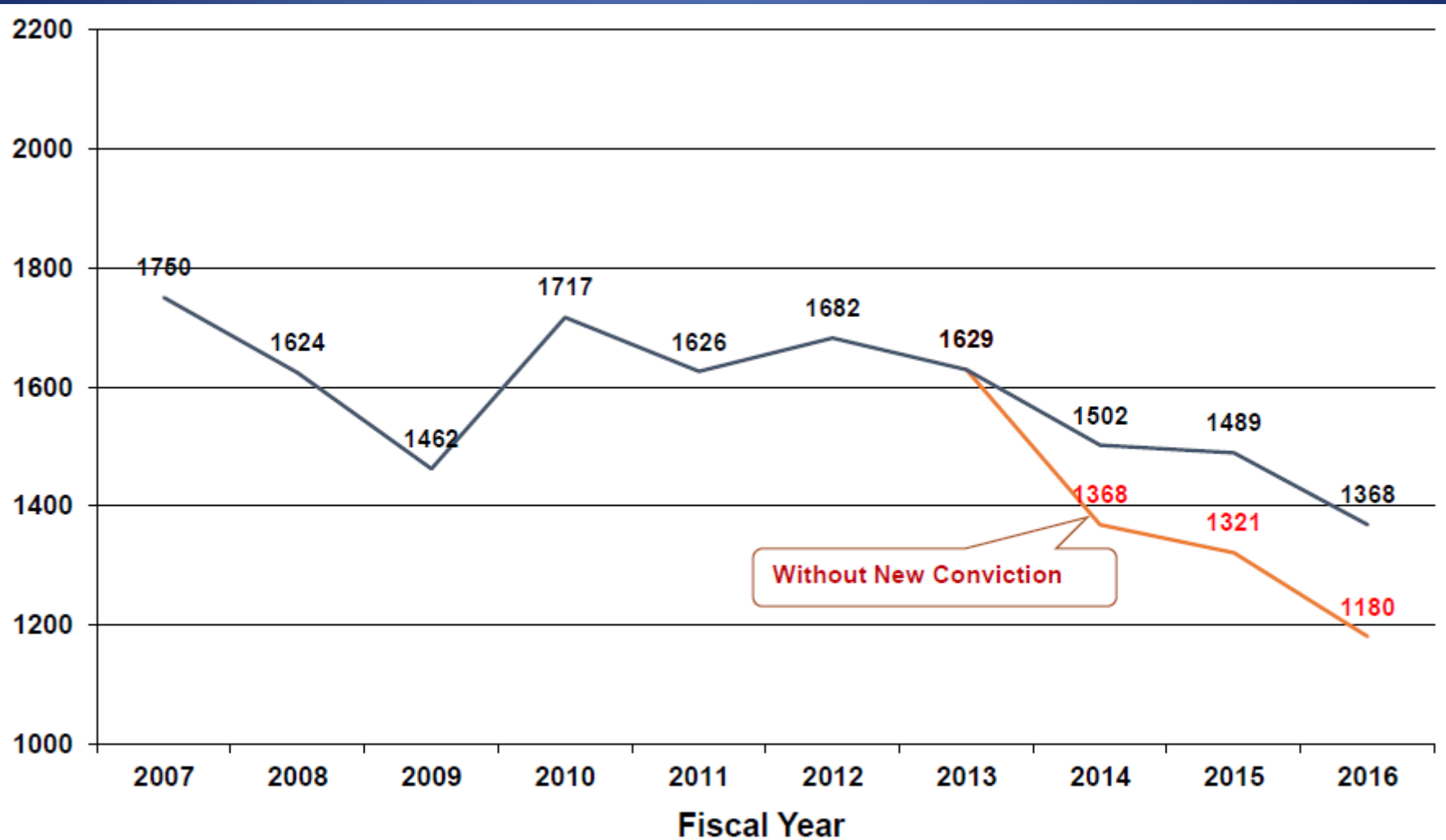
## Direct New Court Commitments



Source: KDOC admission files

# KANSAS PRISON ADMISSION TRENDS

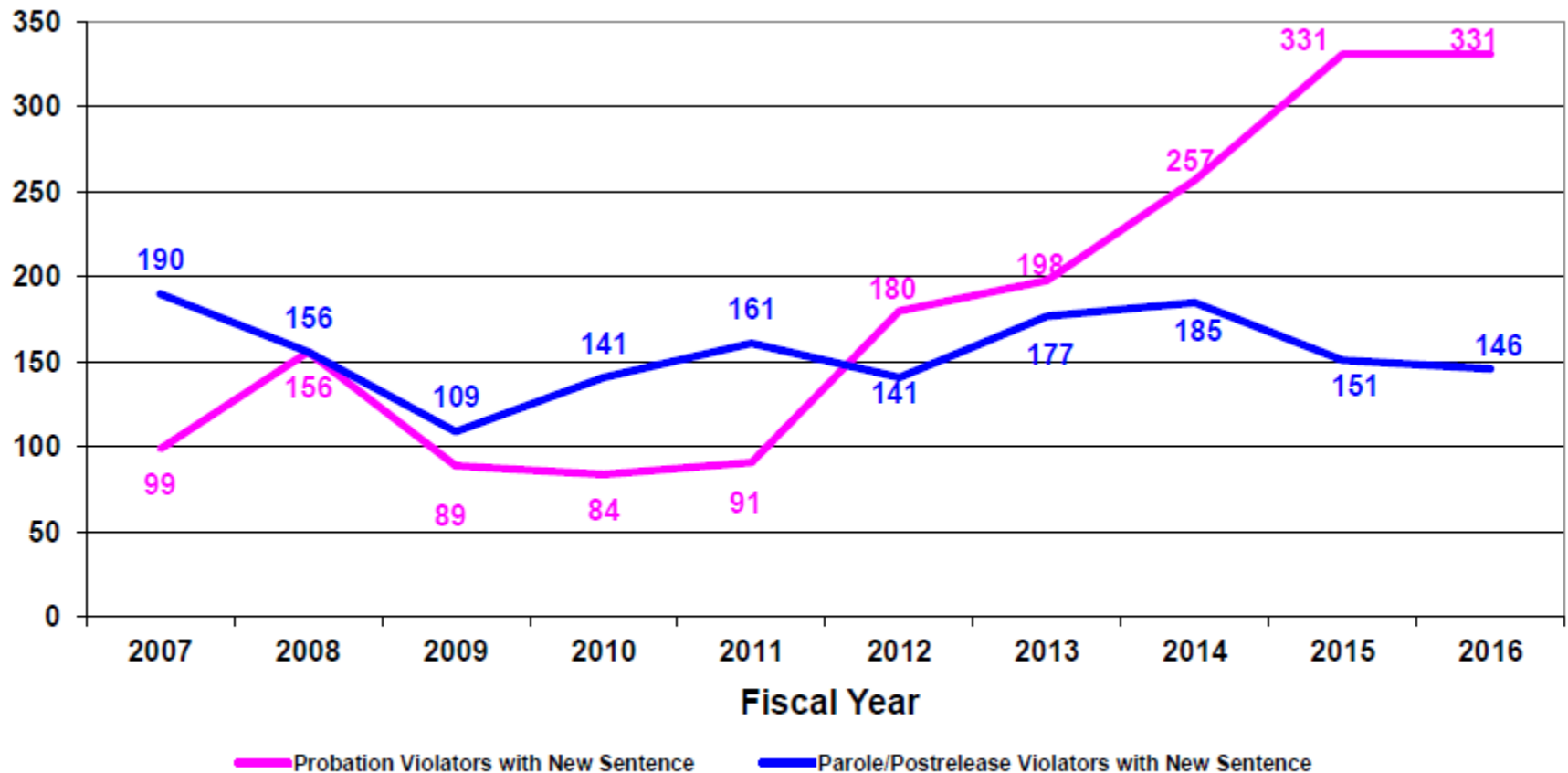
## Probation Condition Violators



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

# KANSAS PRISON ADMISSION TRENDS

## Comparison between Probation and Parole/Postrelease Violators with New Sentence

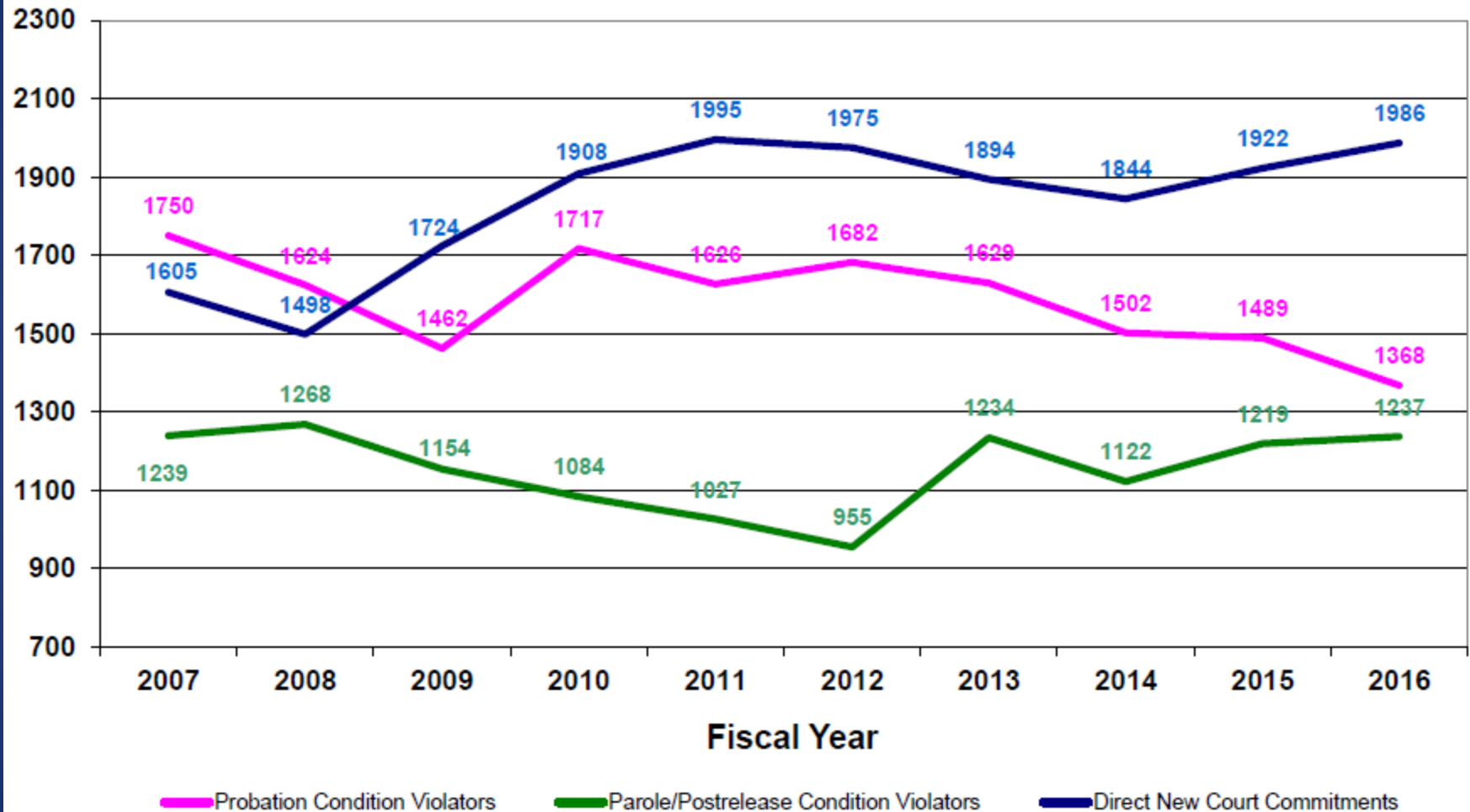


Source: KDOC admission files.

KDOC has changed probation violator with new sentence coding policy since FY 2011.

# KANSAS PRISON ADMISSION TRENDS

## Admissions by Three Major Types



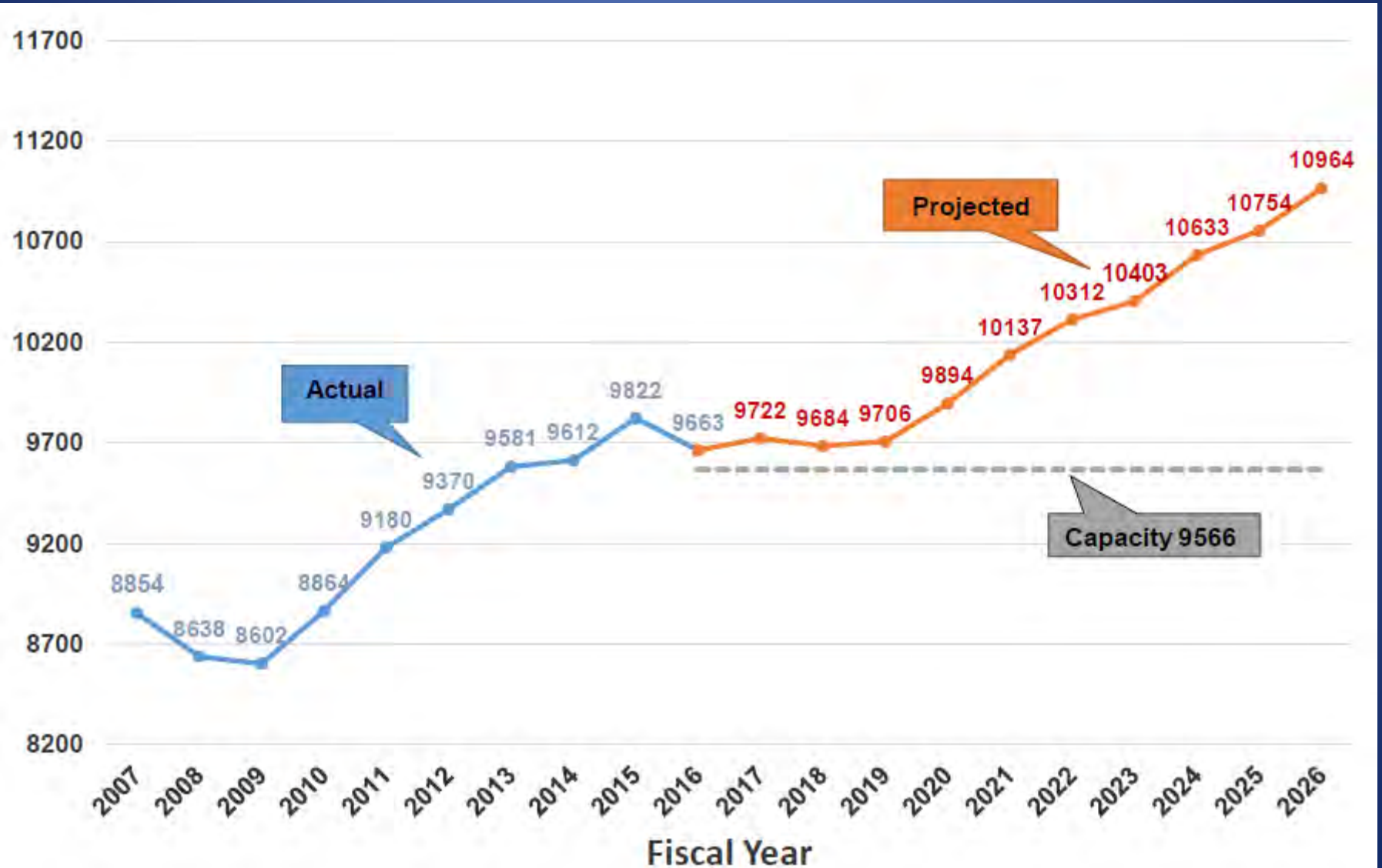
Note: FY 2014 through FY 2016 probation condition violators include probation violators with new conviction.

## FY 2016 Prison Population Projection by Offender Group

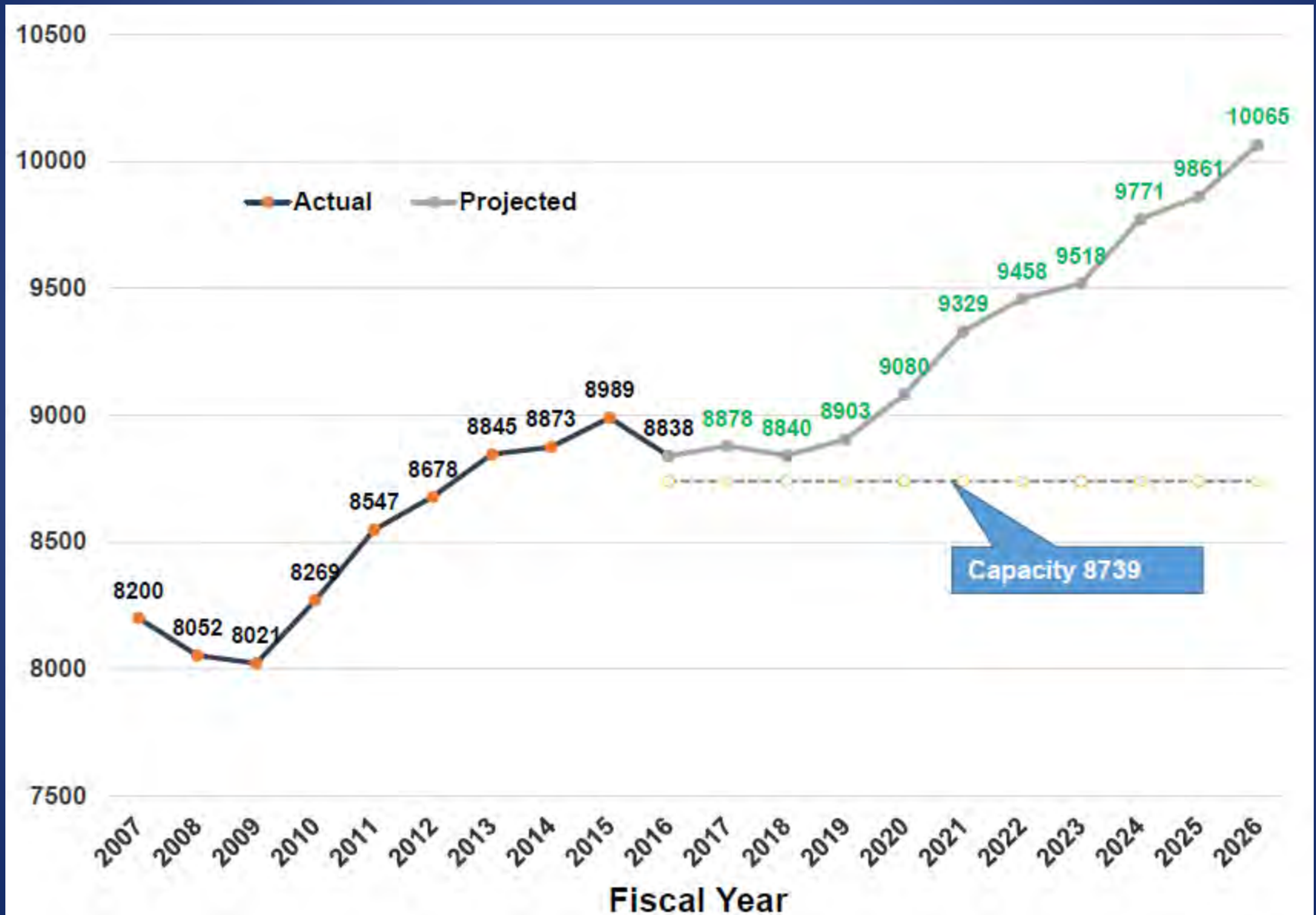
Offender Group	2016*	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	# Change	% Change
Drug	1370	1311	1321	1362	1469	1577	1607	1655	1665	1712	1751	381	27.8%
N1 to N3	2464	2482	2474	2452	2473	2476	2503	2519	2560	2573	2604	140	5.7%
N4 to N6	1683	1712	1682	1671	1681	1740	1810	1812	1893	1923	1939	256	15.2%
N7 to N10	930	949	984	1020	1054	1083	1088	1121	1152	1200	1214	284	30.5%
Sanction	110	147	144	143	158	148	159	139	155	150	166	56	50.9%
Probation Condition Violators	1033	1014	958	920	883	927	931	926	931	897	936	-97	-9.4%
Offgrid Including Old Law Lifer	1318	1316	1350	1387	1422	1451	1480	1504	1535	1572	1608	290	22.0%
Parole/Post Release Violators	587	637	636	638	650	643	656	658	685	675	700	113	19.3%
Old Law Inmates	168	154	135	113	104	92	78	69	57	52	46	-122	-72.6%
<b>Total</b>	<b>9663</b>	<b>9722</b>	<b>9684</b>	<b>9706</b>	<b>9894</b>	<b>10137</b>	<b>10312</b>	<b>10403</b>	<b>10633</b>	<b>10754</b>	<b>10964</b>	<b>1301</b>	<b>13.5%</b>

\* Actual prison population on June 30, 2016.

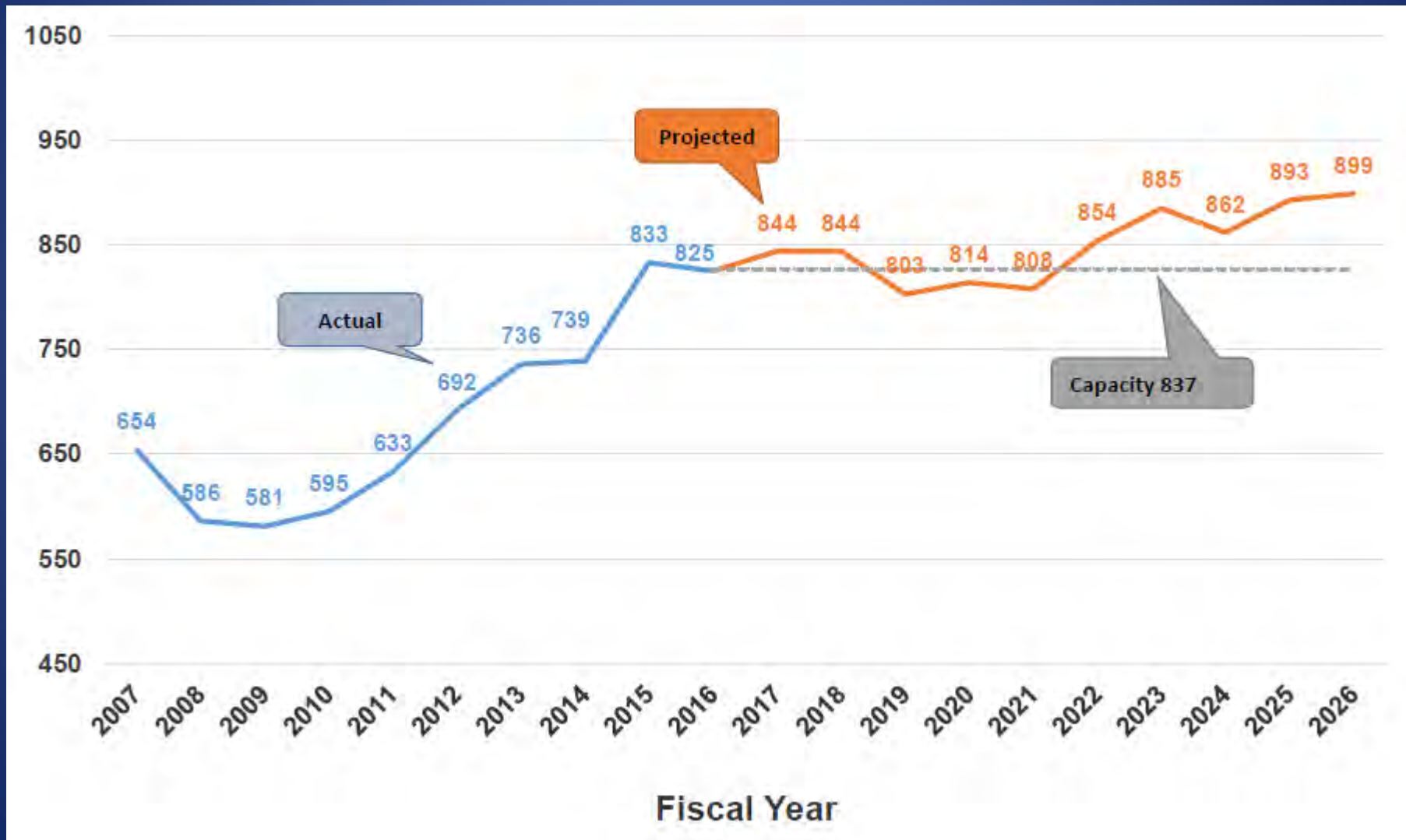
# KANSAS PRISON POPULATION – ACTUAL AND PROJECTED



# MALE PRISON POPULATION – ACTUAL AND PROJECTED



## FEMALE PRISON POPULATION – ACTUAL AND PROJECTED



# PRISON POPULATION MONTHLY MONITORING REPORT FY 2016 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2015	9765	9734	31	0.32%
August 2015	9761	9721	40	0.41%
September 2015	9813	9710	103	1.06%
October 2015	9809	9675	134	1.39%
November 2015	9857	9681	176	1.82%
December 2015	9885	9712	173	1.78%
January 2016	9901	9717	184	1.89%
February 2016	9927	9701	226	2.33%
March 2016	9977	9821	156	1.59%
April 2016	9990	9667	323	3.34%
May 2016	10009	9670	339	3.51%
June 2016	10023	9663	360	3.73%

Note: The decrease of prison population is due to HB 2447 implemented on April 14, 2016.

# MALE PRISON POPULATION MONTHLY MONITORING REPORT FY 2016 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2015	8932	8910	22	0.25%
August 2015	8909	8917	-8	-0.09%
September 2015	8948	8917	31	0.35%
October 2015	8944	8879	65	0.73%
November 2015	8987	8880	107	1.20%
December 2015	9006	8878	128	1.44%
January 2016	9017	8882	135	1.52%
February 2016	9041	8866	175	1.97%
March 2016	9077	8961	116	1.29%
April 2016	9096	8852	244	2.76%
May 2016	9115	8858	257	2.90%
June 2016	9125	8838	287	3.25%

## FEMALE PRISON POPULATION MONTHLY MONITORING REPORT FY 2016 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2015	833	824	9	1.09%
August 2015	852	804	48	5.97%
September 2015	865	793	72	9.08%
October 2015	865	796	69	8.67%
November 2015	870	801	69	8.61%
December 2015	879	834	45	5.40%
January 2016	884	835	49	5.87%
February 2016	886	835	51	6.11%
March 2016	900	860	40	4.65%
April 2016	894	815	79	9.69%
May 2016	894	812	82	10.10%
June 2016	898	825	73	8.85%

# PRISON POPULATION MONTHLY MONITORING REPORT FY 2017 MODEL

## PRISON POPULATION MONTHLY MONITORING REPORT

### FY 2017 MODEL

Month/Year	Projected	Actual	Difference	Percent Error
July 2016	9690	9663	27	0.28%
August 2016	9709	9701	8	0.08%
September 2016	9719	9662	57	0.59%
October 2016	9690	9720	-30	-0.31%
November 2016	9650			
December 2016	9600			
January 2017	9609			
February 2017	9636			
March 2017	9688			
April 2017	9694			
May 2017	9703			
June 2017	9722			

# HB 2170

## Process

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# Intended Impacts of 2013 HB 2170

1. Increased Public Safety by Focusing Resources on Higher Risk Offenders

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2. Reduction in Correctional Spending

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3. Reduction in Prison Beds Demands

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4. Increased Access to Community Programming

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# HB 2170: What Does the Law State?

- Provides for swift & certain responses to offender noncompliance in the community

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- Provides graduated sanctioning options

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- Establishes presumptive discharge from supervision for certain low-risk offenders

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- Mandates postrelease supervision for offenders who are probation violators

# Why Swift & Certain (Jail) Sanctions?

**Ignoring** minor noncompliance sends the message that bad behavior is okay; in fact, it **reinforces it!**

2-3 day jail sanctions are one response in a range of intermediate sanctions to address offender noncompliance. While jail admissions may increase, the short stays mitigate overall population changes.

Swift & certain responses are more cost-effective for changing behavior than are longer, more costly prison stays. Short jail sanctions cause less disruption to an offender's prosocial network (i.e., they are less likely to lose a job, or home) than if they served a long period in state prison.

# Graduated Judicial Sanctions

**An array of judicial options to respond to technical probation violations**



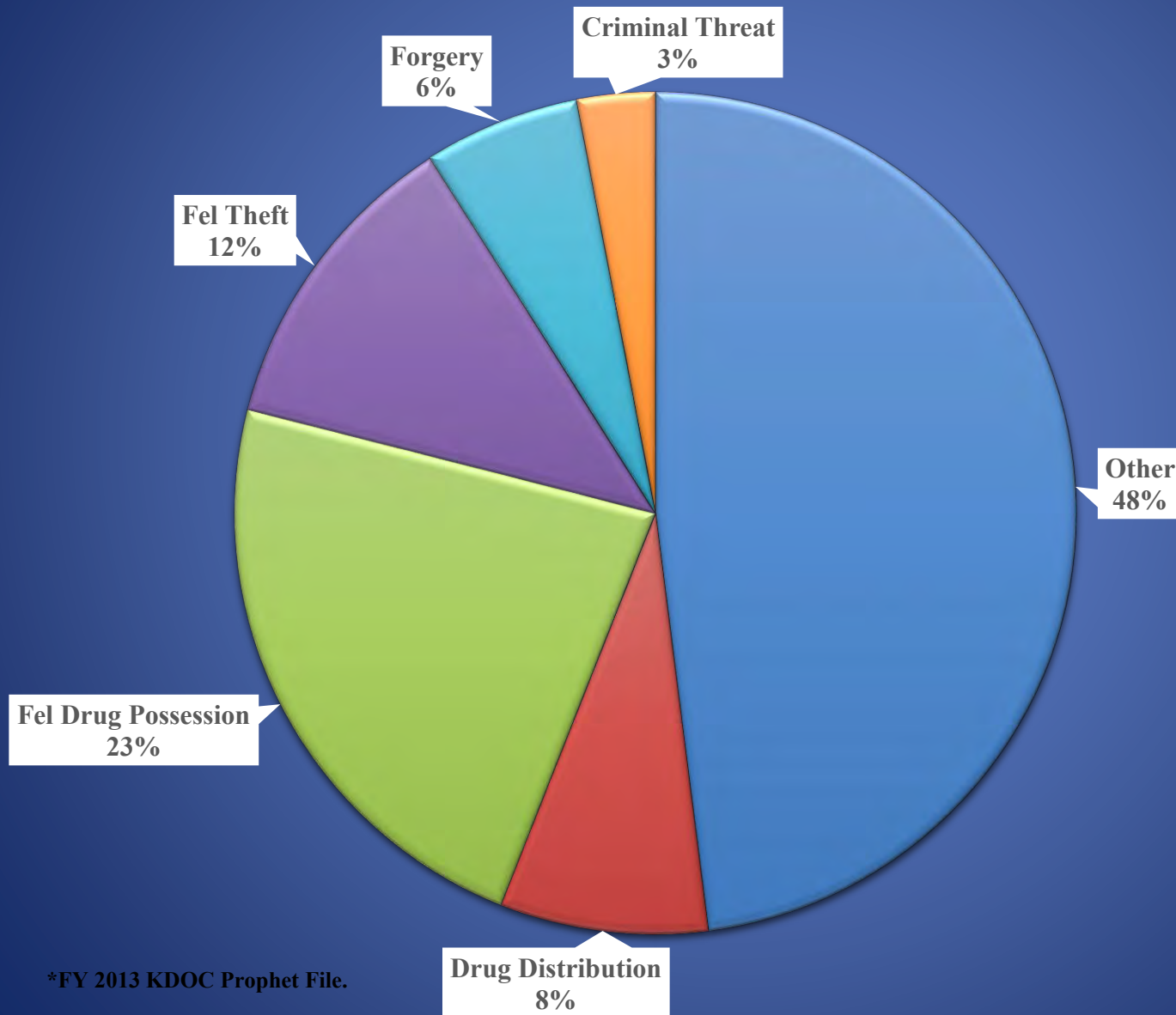
# HB 2170

State Data for FY 2016

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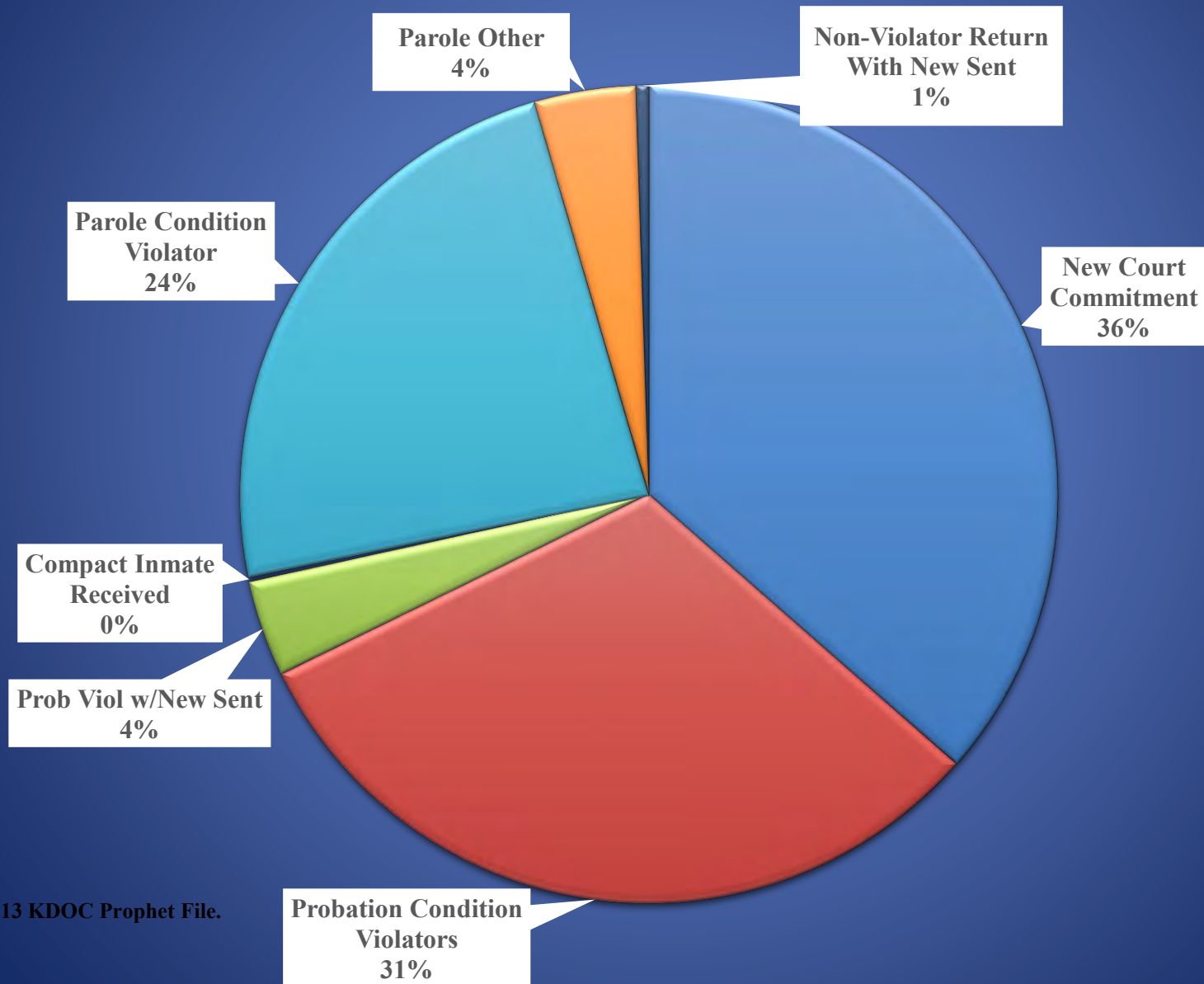


# FY 13 Top 5 Primary Convictions for Condition Violators Admitted to KDOC



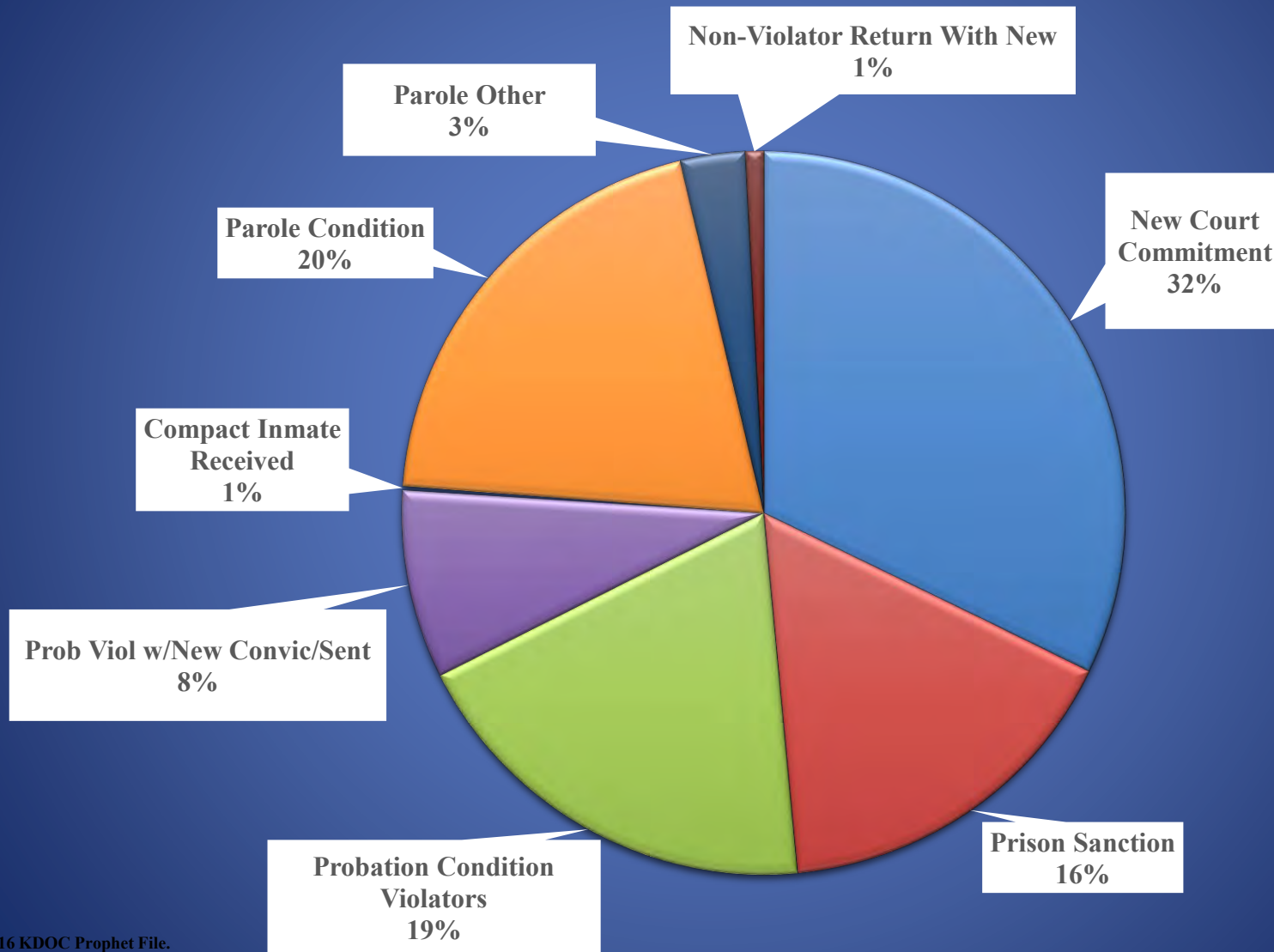
\*FY 2013 KDOC Prophet File.

# FY 13 KDOC Admissions

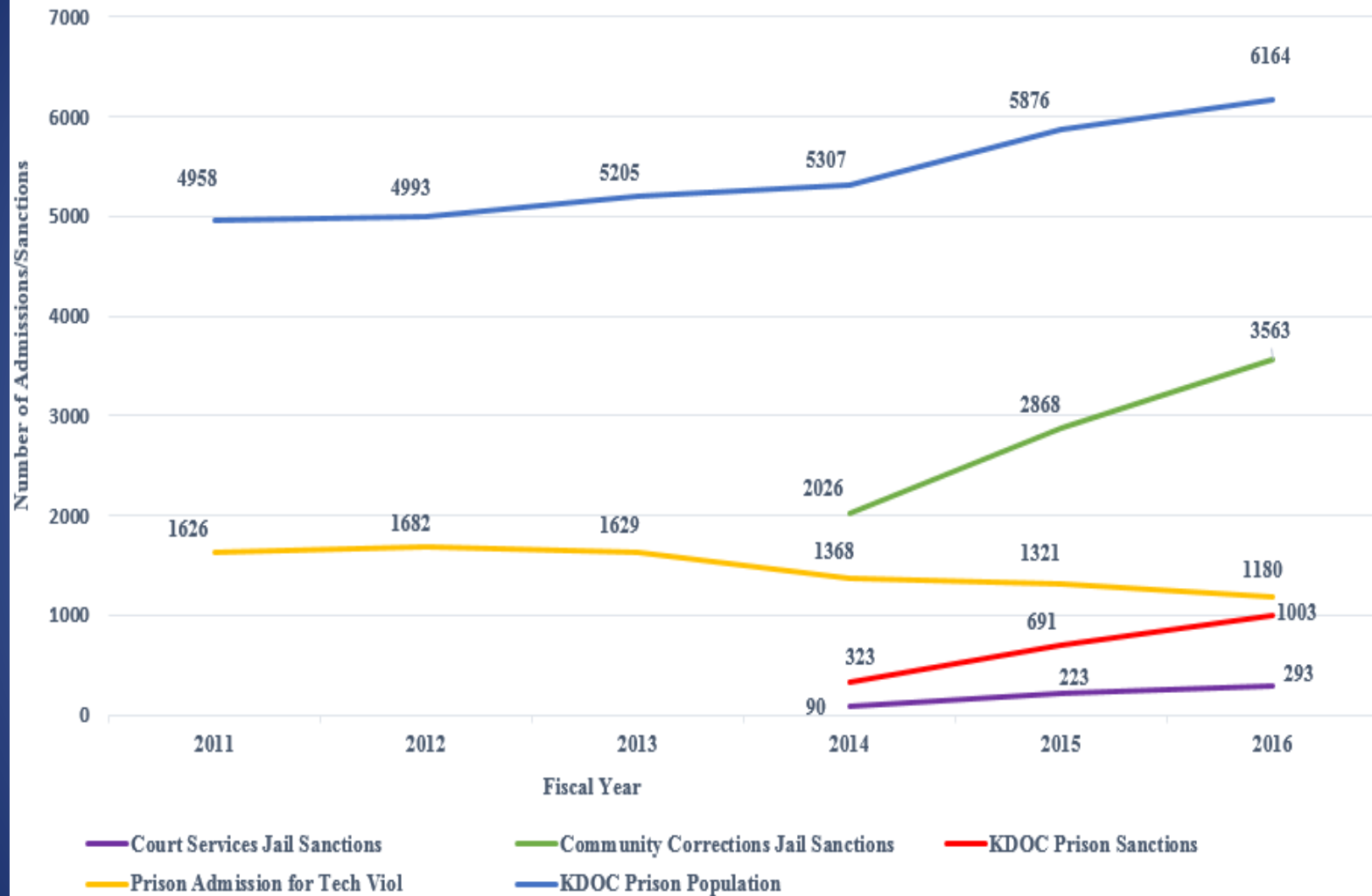


\*FY 2013 KDOC Prophet File.

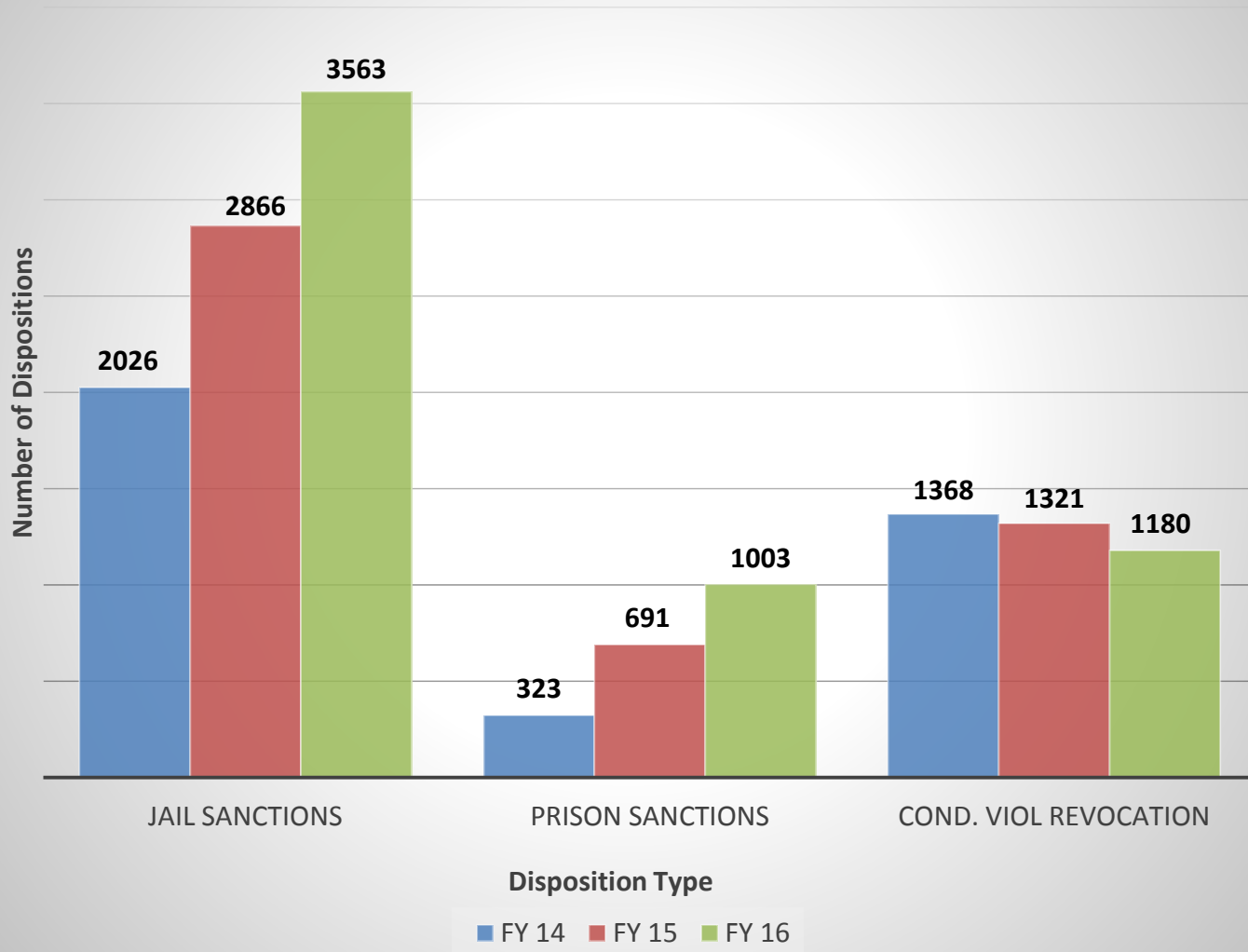
# FY 16 KDOC Admissions



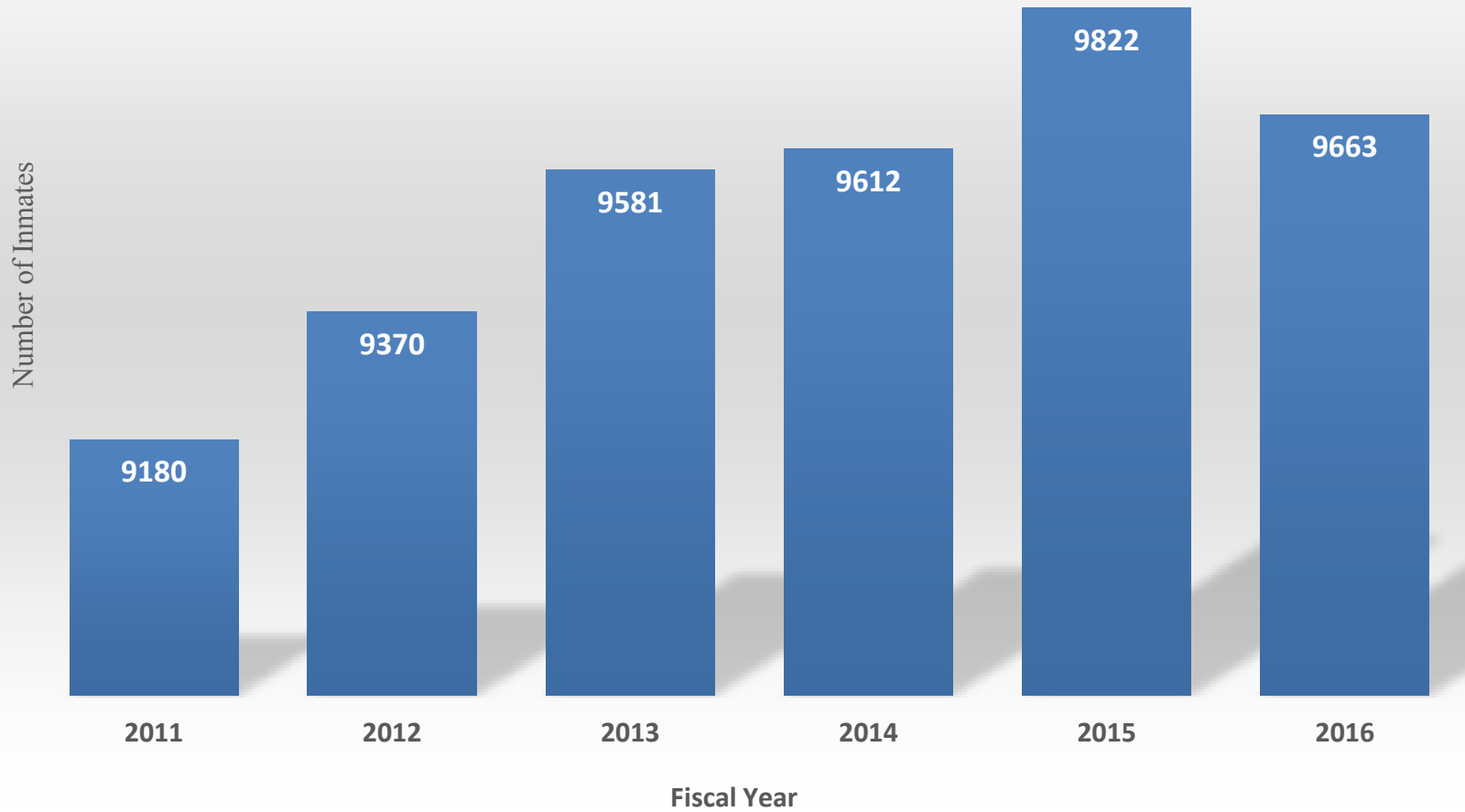
## KDOC Prison Admissions and JRI Sanctions Through FY 16



## Condition Violation Dispositions

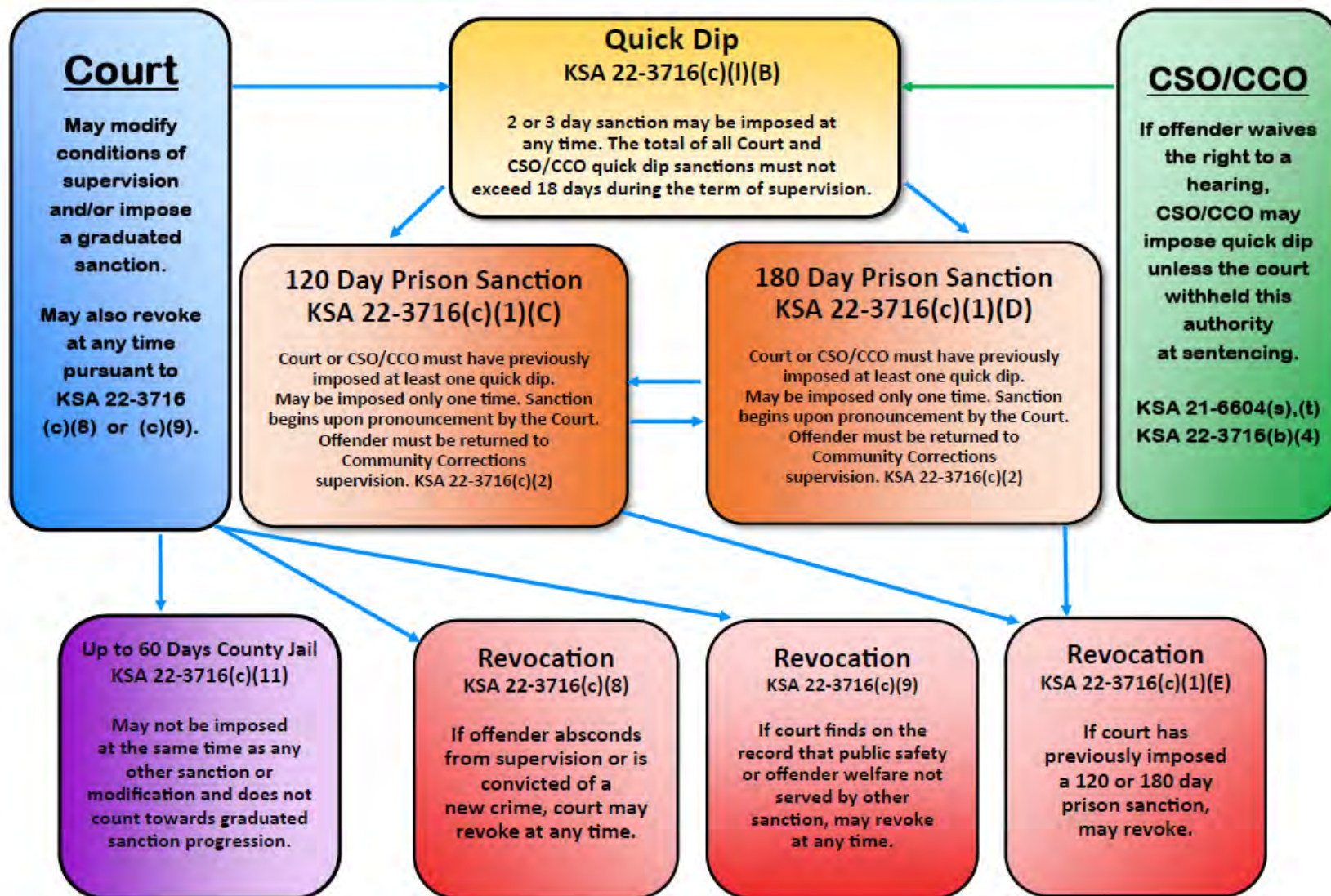


## KDOC Prison Population



# HB 2170 Felony Flowchart

## Graduated Felony Sanctions as of July 1, 2014



# HB 2170

## Why We Should Care

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Kansas  
Crime



Prison  
Population

# GOAL



Victimization



Offender  
Compliance



97% of  
KDOC  
inmates  
will be  
released

# Legislative Recommendations

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## SENTENCING RANGE- DRUG OFFENSES

Categories→ Severity Level ↓	A	B	C	D	E	F	G	H	I
	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 48	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.

Distribute or Possess w/ intent to Distribute									
Levels	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	15%
IV	<3.5 g	<1 g	<25 g			<10	24	≤18	20%
V	Possession		Possession-2nd offense				12	*≤12	20%

\* ≤18 months for 2003 SB123 offenders

# SB 123 Expansion

1. Pre-trial 2003 SB 123 Program - Expand current post-sentencing program to include diversions to incentivize and divert offenders from the system and lower costs to law enforcement, prosecutors and the courts
2. Expand 2003 SB 123 substance abuse treatment eligibility to drug severity level 4 small sales
3. Repeal Special Sentencing Rule 26 Third Time Drug Possession

# **Unlawfully Tampering with Electronic Monitoring Equipment in K.S.A. 21-6322**

4. Amend penalty from severity level 6 to a severity level 8 felony for those offenders on felony supervision and a class A misdemeanor for misdemeanor or civil cases involving electronic monitoring
  - Same as 2016 HB 2459 as amended

# Increase Felony Threshold for Property Crimes

5. Increase felony loss thresholds to \$1,500 for miscellaneous property crimes consistent with current felony theft loss threshold



# Offender Registration Act

6. Remove distribution and attempt to distribute from the drug offenses in K.S.A. 22-4902(f) required to register under the act
7. Remove felony violation, making all failure to pay offender registration fee violations of K.S.A. 22-4903(c)(3) misdemeanor crimes

# Criminal History Scoring

8. All juvenile adjudications, except offgrid and nondrug severity levels 1-4, will not be counted for criminal history purposes if the offender has no new adjudications within five years from the date of discharge of the final adjudication
  - Same language as 2016 HB 2463

# Postrelease Supervision

9. Postrelease Supervision When Considering K.S.A. 22-3717(d)(1)(D) and (G) - Seek to resolve a potential conflict between the two subsections that relate to the length of supervision for sex-related convictions
10. Sentencing of Juveniles Certified as Adults – Introduce postrelease supervision policy that is constitutional in accordance with *State v. Dull*, 302 Kan. 32 (2015) cert. denied, 2016 U.S. Lexis 1701 (Mar. 7, 2016)

# Better Tools for You

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- Website – [sentencing.ks.gov](http://sentencing.ks.gov)
- eNewsletter – website signup
- HB 2170 FAQ – incl. video
- Desk Reference Manual
- Forms – updated frequently
- Educational outreach
- Hotline – sentencing guidelines assistance staffed by attorneys



# Thank You

Scott M. Schultz, Executive Director

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