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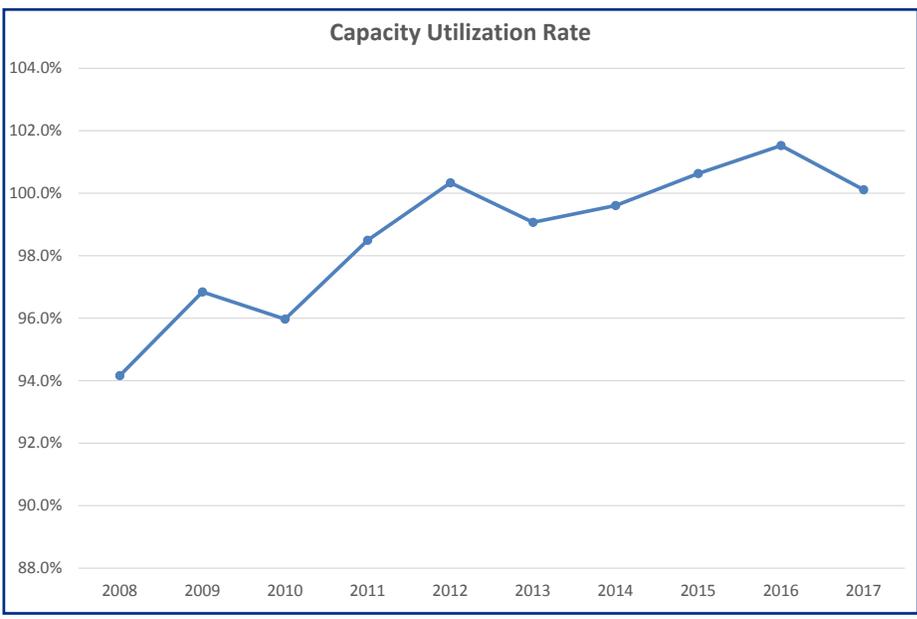
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Judiciary, Corrections, and Juvenile Justice

G-6 Kansas Prison Population and Capacity

Historically, the Kansas Department of Corrections' managers and state policymakers have had to address the issue of providing adequate correctional capacity for steady and prolonged growth in the inmate population. In the late 1980s, capacity did not keep pace with the population, which, along with related issues, resulted in a federal court order in 1989. The order dealt, in part, with mentally ill inmates and developing a long-term plan to address the capacity issue, but did not mandate any new construction. Nonetheless, the immediate, direct result was construction of a new facility that became El Dorado Correctional Facility (EDCF). The court order was terminated in 1996 following numerous changes to the correctional system, including the construction of Larned Correctional Mental Health Facility. During the last half of the 1990s, increases in the inmate population were matched by capacity increases, but capacity utilization rates, which divide average daily population (ADP) by total capacity, remained consistently high.

The population and capacity concerns continued into the early part of the 2000s. The utilization rate reached a peak of 99.0 percent in FY 2006. Between FY 2006 and FY 2008, the ADP decreased by 314 inmates to 8,773, while the total capacity increased by 73 to 9,317 beds, and utilization reached a recent low at 94.1 percent. The ADP has trended upward since, except in FY 2010 and FY 2013. The utilization rate reached 101.5 percent in FY 2016.



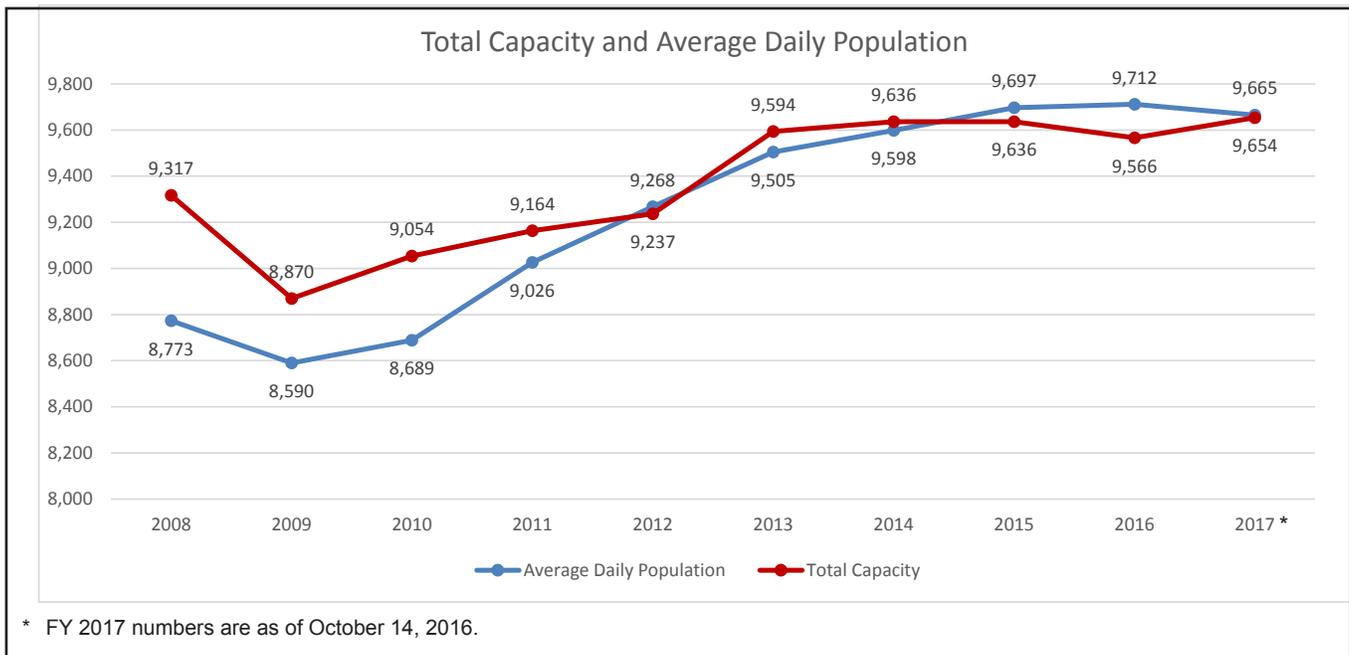
* FY 2017 numbers are as of October 14, 2016.

Budget reductions in FY 2009 prompted the Kansas Department of Corrections (KDOC) to suspend operations at three smaller minimum-custody facilities (Stockton, Osawatomie, and Toronto) and close the men’s and women’s conservation camps in Labette County. Additionally, the Department for Aging and Disability Services has since taken over the Osawatomie facility. These suspensions and closings resulted in a decrease in total capacity by 447 beds.

Due to the increasing inmate population, the 2010 Legislature included a State General Fund (SGF) appropriation for FY 2011 to reopen the Stockton Correctional Facility, which reopened September 1, 2010. In addition, prison beds at Larned Correctional Mental Health Facility and Lansing Correctional Facility that had been unavailable due to renovation work were opened again. During the 2012 Legislative Session, the Governor

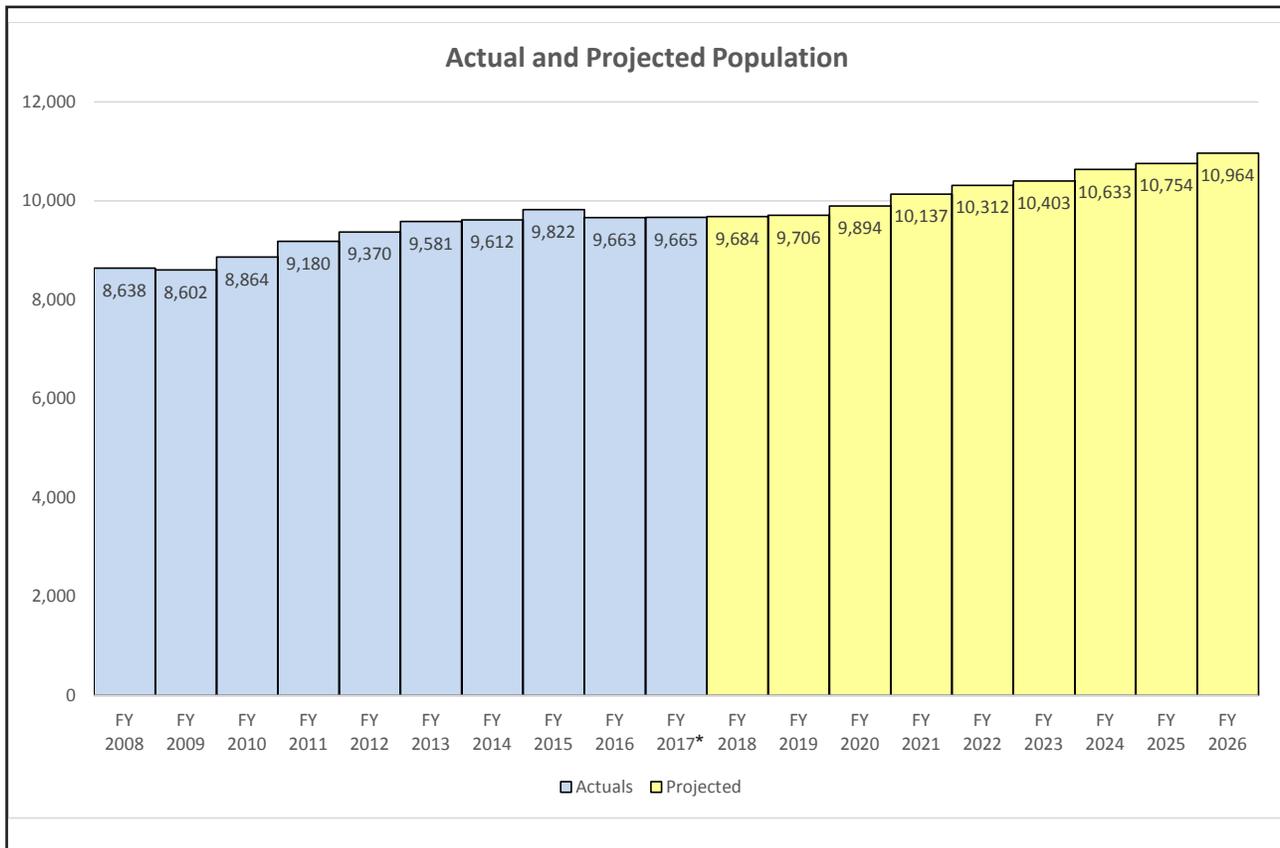
recommended the Labette facilities be repurposed as a 262-bed geriatric facility set to house inmates beginning in January 2013, and KDOC purchased a property to serve as a 95-bed minimum-security unit in Ellsworth that began housing inmates in September 2012. Current capacity of KDOC facilities is 9,654.

The inmate ADP increased each fiscal year from FY 2009 through FY 2016, although the FY 2017 inmate ADP has decreased from the FY 2016 peak. On October 14, 2016, the inmate ADP in FY 2017 was 9,665, bringing the utilization rate to 100.1 percent. The October 14, 2016 inmate ADP included 109 inmates (on average) held in non-KDOC facilities during FY 2017, primarily at Larned State Hospital and county jails. The KDOC has a limited number of prison beds that are not counted in the official capacity, such as infirmary beds, that allow the population to exceed the official capacity.



Budget reductions have prompted the KDOC to reduce parole and postrelease services and offender program services systemwide. The KDOC continues to be concerned these reductions will create an increase in the ADP even after the addition of \$2.0 million in FY 2014 and \$3.0 million in FY 2015 for these programs. The FY 2017

prison population projections released by the Kansas Sentencing Commission (KSC) anticipate the inmate population will exceed capacity by up to 97 inmates by the end of FY 2017 and by up to 1,398 inmates by the end of FY 2026. Actual and projected populations are detailed in the following chart.

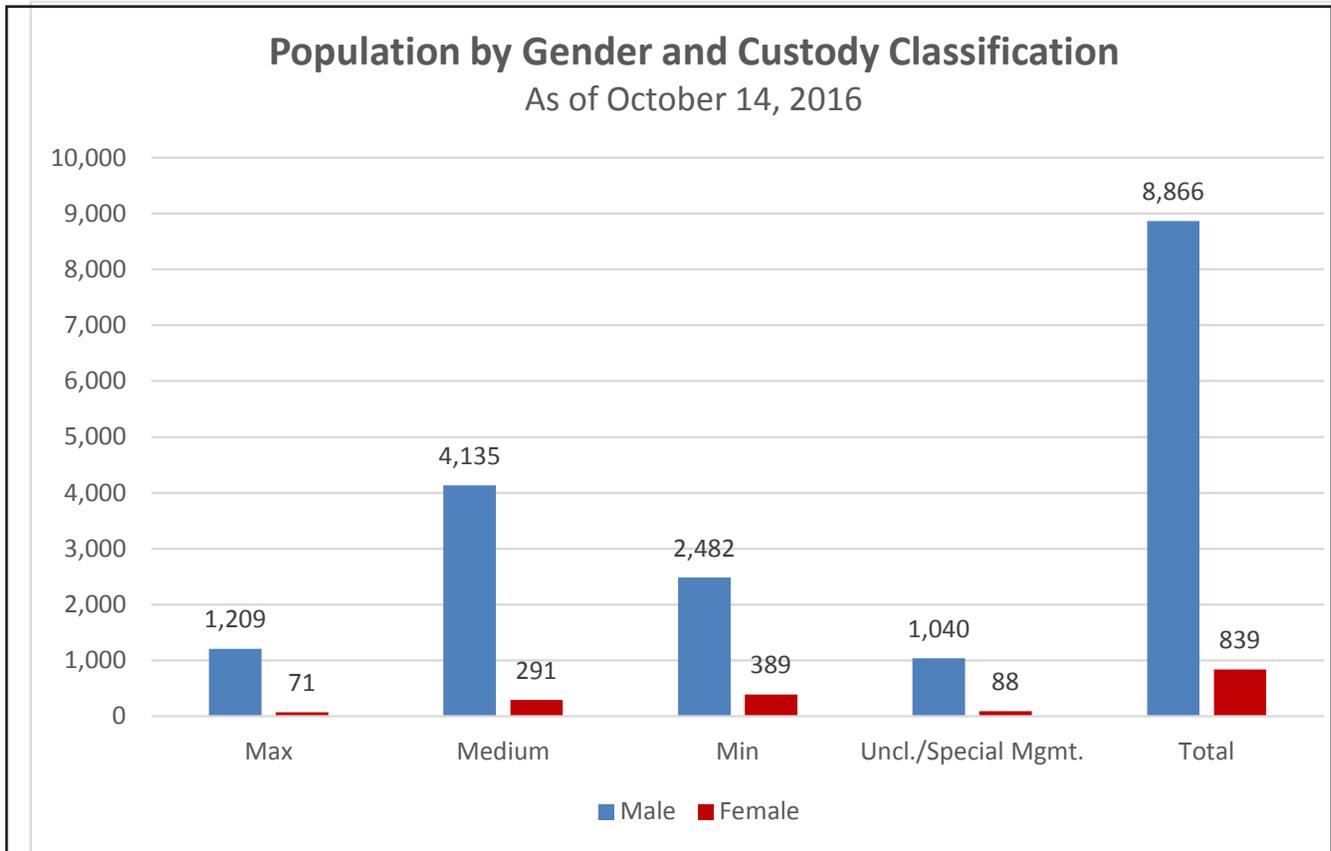


* FY 2017 numbers are as of October 14, 2016.

Population and Capacity by Gender and Custody Classification

In addition to total capacity, consideration also must be given to gender and custody classification. The chart on the next page displays capacity and ADP by gender and custody classification for FY 2017, to date.

Issues with inadequate capacity are more common among the higher custody levels of inmates. This is due to the fact that higher custody level inmates cannot be placed in a lower custody level cell (e.g., maximum inmates cannot be placed in medium or minimum cells). That is not the case for the lower custody level inmates, who can be placed in higher custody level cells. In addition, capacity in all-male or all-female facilities are not available for housing inmates of the opposite gender.



Consequences of Operating Close to Capacity

According to the KDOC, the following list illustrates some of the consequences of operating close to capacity:

- Excessive inmate movement;
- More difficult to manage emergencies;
- More difficult to separate inmates with conflicts (gangs, grudges, and such);
- Greater reliance on segregation;
- Greater reliance on contract jail beds; and
- Inability to keep inmates near to their families, which creates more problematic releases.

Options for Increasing Capacity

If the need to increase inmate capacity arises, there are several options available. Two of the minimum-custody facilities that were “moth-balled” in FY 2009 to achieve budget savings remain closed under KDOC ownership. The facility at Toronto has

a capacity of 70 male inmates with an approximate annual operation cost of \$966,500, and the north unit at EDCF has a capacity of 102 male inmates with an approximate annual operation cost of \$1.2 million.

New construction is also an option to expand inmate capacity. During the 2007 Legislative Session, the KDOC received bonding authority totaling \$40.5 million for new construction including adding cell houses at El Dorado, Stockton, and Ellsworth Correctional Facilities and a new facility in Yates Center. The KDOC issued \$1.7 million in bonds for architectural planning at the four proposed sites, but the balance of the bonding authority was rescinded during the 2008 and 2009 Legislative Sessions. KDOC completed planning for expansion of the EDCF and, beginning in FY 2017, included plans for construction on two new cell houses at EDCF in its five-year capital improvement plan at a total cost of \$24.9 million. Each cell house would contain up to 256 beds

depending on the combination of single- and double-occupancy cells.

During the October 4, 2016, Joint Committee on State Building Construction, the KDOC asked the Committee to recommend that its requests to finance the construction of two facilities at EDCF, then totaling \$27.2 million, all from the SGF, for FY 2019 be deleted from its five-year capital improvement plan. The KDOC anticipates that, based on population projections, the construction of the facilities may be needed by FY 2020.

HB 2170, Justice Reinvestment Act

The 2013 Legislature made several changes to sentencing, postrelease supervision, and probation statutes through HB 2170, also known as the Justice Reinvestment Act. The Act was the result of the Justice Reinvestment Working Group, which was established in 2012 to develop options to increase public safety and reduce corrections spending, including spending due to prison populations. The four main objectives of HB 2170 are:

- Provide for swift and certain responses to offender non-compliance in the community;
- Provide graduated sanctioning options for judges;
- Establish presumptive discharge from supervision for certain low-risk offenders; and
- Mandate postrelease supervision for offenders who would otherwise complete their underlying sentence while serving time on a sanction.

According to KDOC and the KSC, implementation of the Act was slower than anticipated. Prosecutors across the state had concerns regarding some of the Act's technical provisions. The 2014 Legislature passed HB 2448 to modify and improve the Act.

Through October 2016, no cost savings were achieved though the Act. Original projections estimated costs savings of approximately \$350,000 in FY 2014 and \$1.4 million in FY 2015 based on the closing of a cell house starting in the fourth quarter of FY 2014 and carrying on through 2015. The KDOC was unable to achieve this. According to the KDOC, the Act allowed the agency to delay construction of two new cell houses at the EDCF totaling \$27.2 million as of the publication of this article.

HB 2447, Concerning Good Time and Program Credits

The 2016 Legislature enacted HB 2447, which amended KSA 21-6821 to increase the maximum number of days an inmate's sentence can be reduced for earning program credits from 90 days to 120 days. The provisions of the bill will be construed and applied retroactively, and HB 2447 directs the Secretary of Corrections to make the program credit calculations authorized by the bill no later than January 1, 2017.

The bill also permits the dismissal of parole, conditional release, or postrelease supervision violation charges to be conditioned upon a released inmate agreeing to credit being withheld for the period of time from the date the Secretary of Corrections issued a warrant to the date the offender was arrested and returned to Kansas. The bill requires the time be credited to the released inmate's sentence if the violation charge was dismissed without the agreement described above or the violation is not established to the satisfaction of the Prisoner Review Board.

The KSC estimated the impact of HB 2447 will save 115 prison beds in FY 2017 and save 149 prison beds in FY 2026.

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