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Dylan Dear  
Managing Fiscal Analyst  
785-296-0665  
Dylan.Dear@klrd.ks.gov

### Judiciary, Corrections, and Juvenile Justice

#### H-6 Kansas Prison Population, Capacity, and Related Facility Issues

##### Background

Historically, the Kansas Department of Corrections (KDOC) and state policymakers have had to address the issue of providing adequate correctional capacity for steady and prolonged growth in the inmate population. In 1863, the Kansas State Penitentiary, later known as Lansing Correctional Facility, opened as Kansas' first correctional facility under the administration of the Board of Directors of the Penitentiary. Currently, the KDOC administers eight adult correctional facilities identified in the table below.

Correctional Facility	Year Opened	Capacity as of FY 2019
El Dorado CF	1991	1,837
Ellsworth CF	1987	915
Hutchinson CF	1895	1,869
Lansing CF	1863	1,910
Larned CMHF	1996	598
Norton CF	1987	996
Topeka CF	1961	953
Winfield CF	1984	804

The State gained control of its second correctional facility in 1911 when the Board of Penal Institutions took control of the Kansas State Industrial Reformatory, later known as Hutchinson Correctional Facility, which had originally opened in 1895. In 1961, the State opened the Kansas State Reception and Diagnostic Center, followed by the Kansas Correctional Vocational Training Center in 1972. These two facilities were combined in 1990 to create the Topeka Correctional Facility.

In the 1980s, capacity at the correctional facilities did not keep pace with populations, which led to the Legislature establishing Winfield Correctional Facility in 1984 and Ellsworth, Norton, Osawatomie, and Stockton Correctional Facilities in 1987. A 1989 federal court order limited inmate populations at Lansing and Hutchinson and required improved conditions for inmates with mental health issues. The direct result of this order was construction of a new facility that

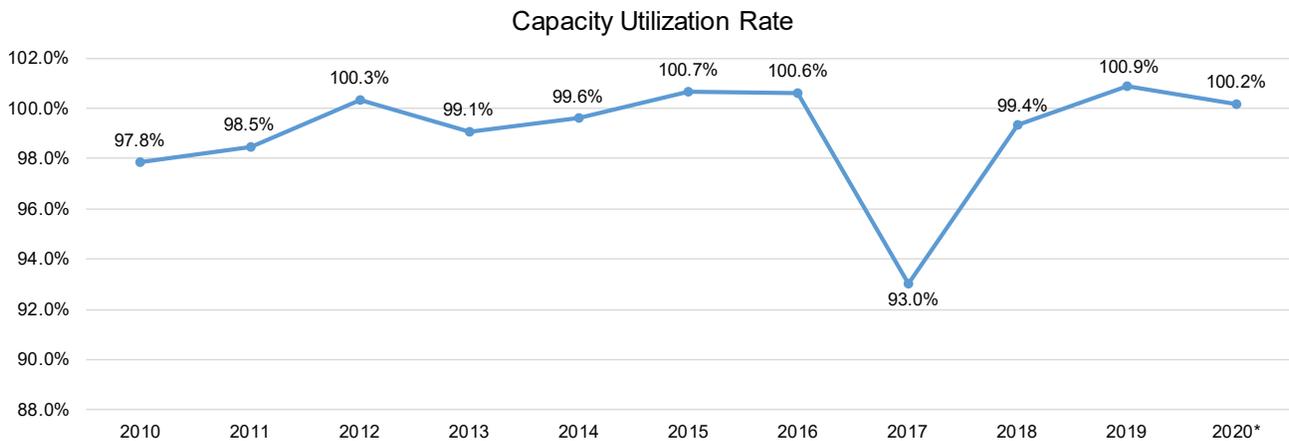
became El Dorado Correctional Facility (EDCF) in 1991. The court order was terminated in 1996 following numerous changes to the correctional system, including the construction of Larned Correctional Mental Health Facility (LCMHF).

Budget reductions in fiscal year (FY) 2009 prompted KDOC to suspend operations at three smaller minimum-custody facilities (Osawatomie, Stockton, and Toronto) and close the men’s and women’s conservation camps in Labette County. Additionally, the Kansas Department for Aging and Disability Services took control over the Osawatomie facility. Due to the increasing inmate population, the 2010 Legislature included a State General Fund appropriation for FY 2011, which allowed the reopening of Stockton Correctional Facility as a satellite unit of Norton Correctional Facility on September 1, 2010.

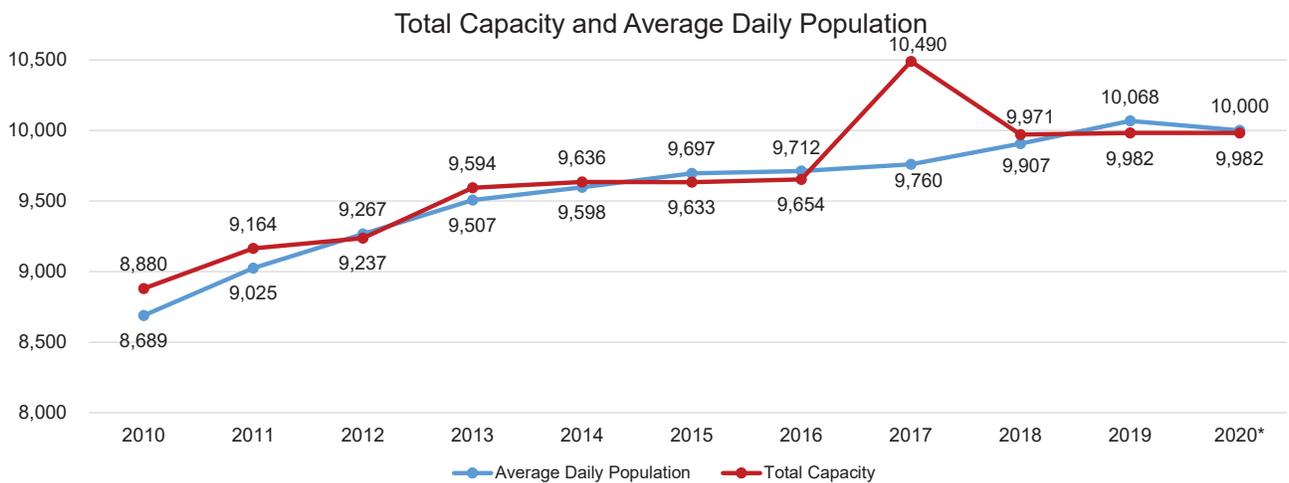
LCMHF has traditionally provided mental health services to inmates in need, but in May 2017, KDOC announced its intention to convert LCMHF into a prison for 18- to 25-year-old inmates. KDOC intends to move the inmates receiving mental health services to EDCF in the coming years. On November 1, 2017, the Secretary of Corrections stated 62 high-acuity behavioral beds were open at EDCF, and expressed KDOC’s intent to open another 124 high-acuity behavioral health beds in EDCF’s Individualized Reintegration Unit.

### Calculating Capacity; Illustrations

KDOC calculates the capacity utilization rate by dividing the average daily population (ADP) by total capacity in order to analyze the percentage of beds that are in use on an average day during



\*FY 2020 numbers are as of August 31, 2019



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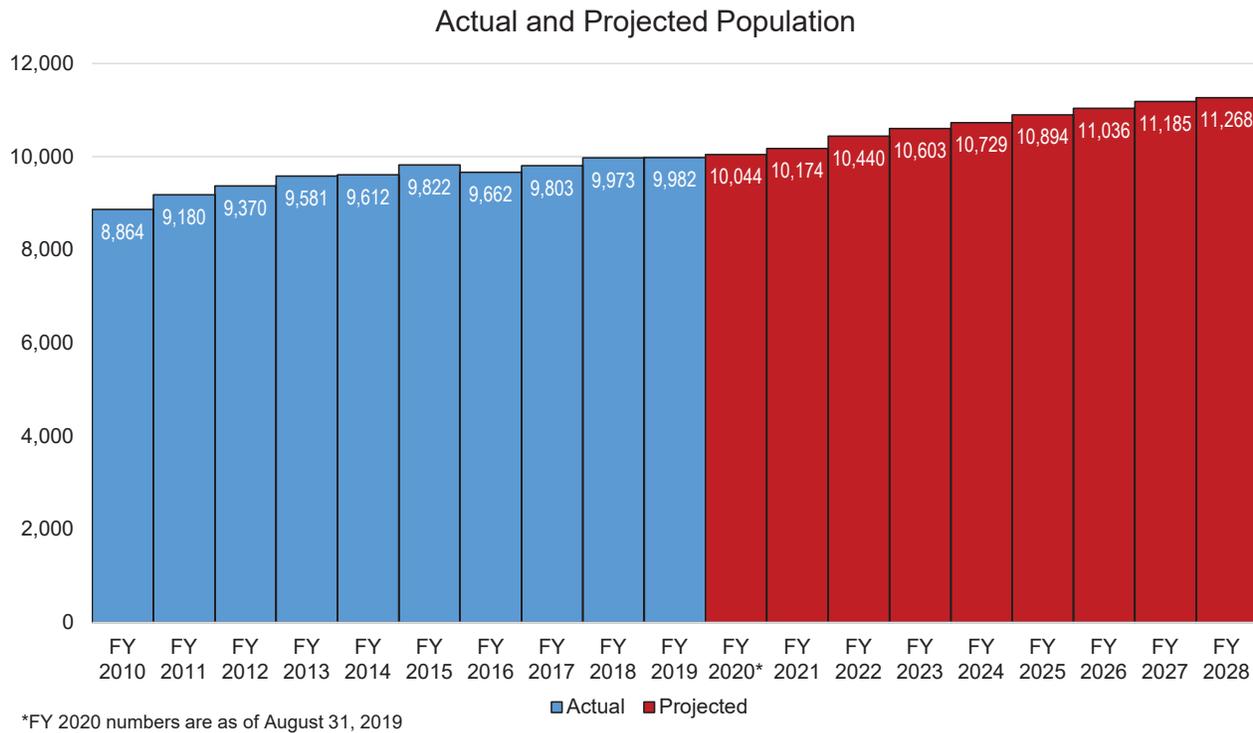
a given fiscal year. In the past ten years, ADP has steadily risen every year, while total capacity has also generally followed that trend. During that time, the capacity utilization rate saw a peak of 100.6 percent in both FY 2015 and FY 2016, which was then followed by its lowest point of 93.0 percent in FY 2017. This 7.6 percent decline was due to the expansion of 800 double-bunked cells at EDCF, LCMHF, and the Norton Correctional Facility during FY 2017. However, the double-bunking did not continue to the end of FY 2018, when the total capacity fell by 519 beds from its highest point in FY 2017. On August 31, 2018, the ADP in FY 2019 was 10,009 inmates, and the capacity utilization rate was 100.4 percent, which are increases from FY 2018 of 36 inmates and 1.0 percent.

KDOC has a limited number of prison beds that are not counted in the official capacity, such as infirmary beds, which allows the population to exceed the official capacity. The September 16, 2019, inmate ADP included 100 inmates held in non-KDOC facilities, which were primarily county jails and Larned State Hospital.

### Actual and Projected Populations

The FY 2020 prison population projections released by the Kansas Sentencing Commission (KSC) anticipate the inmate population will be 258 more than the total capacity by the end of FY 2019 and will exceed capacity by 1,512 inmates by the end of FY 2029.

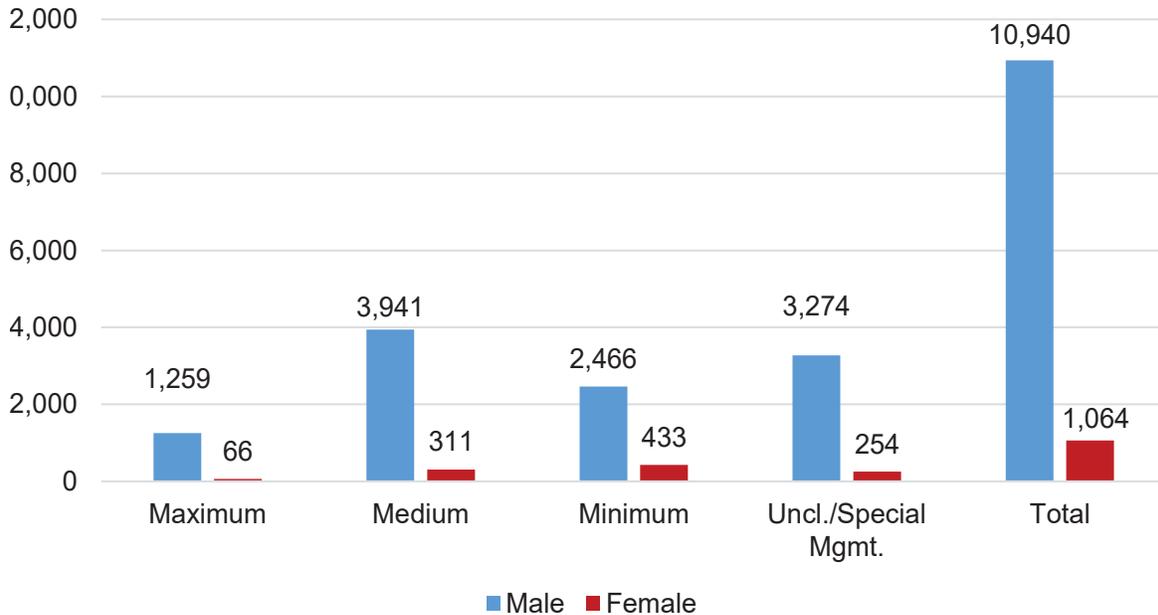
In addition to total capacity, gender and custody classifications are tracked by KDOC. Issues with inadequate capacity are more common among the higher custody levels of inmates. This is due to the fact that higher custody level inmates cannot be placed in a lower custody level cell (e.g., maximum inmates 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. The Population by Gender and Custody Classification chart on the following page displays the total inmate population by gender and custody classification for FY 2020, as of August 31, 2019.



The FY 2019 prison population projections released by the KSC anticipate the male inmate population will be over capacity by 214 inmates in FY 2019 and will increase for every year in its ten-year projection, when there will be 10,399 inmates, or 1,386 over capacity, in FY 2028.

The FY 2019 prison population projections show the female inmate population exceeding capacity by 44 inmates. The KSC projects over ten years, the female population will steadily rise to 1,075 in 2025, then fall off to 1,029, or 126 above capacity, in FY 2029.

Population by Gender and Custody Classification as of September 16, 2019



**Consequences of Operating Close to Capacity**

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

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

**Increasing Capacity through New Construction**

During the 2007 Legislative Session, 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. 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 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, meeting of the Joint Committee on State Building Construction, KDOC asked the Committee to recommend its requests to finance the construction of two facilities at EDCF, then totaling \$27.2 million all from the State General Fund for FY 2019, be deleted

from its five-year capital improvement plan while alternate plans were finalized. KDOC anticipated, based on population projections, the construction of the facilities may be needed by FY 2020.

### **Construction on Medium and Maximum Unit at Lansing Correctional Facility**

During the 2017 Legislative Session, KDOC brought plans before the Legislature to demolish an existing medium-security unit at Lansing Correctional Facility (LCF) and construct a new facility in its place. KDOC asserts the new facility will reduce the need for staff, generating savings over time.

Provisions in 2017 Senate Sub. for HB 2002 allow KDOC to enter into a lease-purchase agreement for the demolition, design, and construction of a new facility at LCF or, if more cost effective, allow the agency to bond with the Kansas Development Finance Authority to demolish, design, and construct a correctional institution at LCF, capping expenditures related to the project at \$155.0 million. The provisions also require the Secretary of Corrections to advise and consult the State Building Advisory Commission for the use of an alternative project delivery procurement process and require KDOC to appear before the State Finance Council for approval of the decision.

On January 24, 2018, the State Finance Council approved a lease-to-own plan where a private

company would build the 2,432-bed facility, and the State would purchase the facility through a 20-year lease for a total of \$362 million. Ground broke on the new facility in April 2018; the maximum and minimum security facilities have anticipated completion dates of October 2019 and November 2019, respectively.

### **Inmate Outsourcing**

In order to reduce inmate overcrowding and eliminate mandatory 12-hour shifts at EDCF, KDOC has contracted 130 beds in county jails. KDOC also submitted a request for proposal at the end of March 2019 regarding out-of-state beds. A contract for medium and maximum security beds with CoreCivic was entered into in August 2019 for the Saguaro Correctional Center in Eloy, Arizona. This is a one-year contract with two one-year renewal options. There are 240 beds available in August 2019, with an additional 120 beds available by December 2019, at a cost of \$74.76 per inmate per day. KDOC's inmate cost per day was \$72.35 in FY 2018.

The 2018 Legislature passed SB 328, which requires prior legislative authorization if any agency wants to outsource the security operations of any state-run correctional facility. The bill further defined security operations as the supervision of inmates at a correctional facility by a correctional officer or warden.

For more information, please contact:

Dylan Dear, Managing Fiscal Analyst  
[Dylan.Dear@klrd.ks.gov](mailto:Dylan.Dear@klrd.ks.gov)

Robert Gallimore, Managing Research Analyst  
[Robert.Gallimore@klrd.ks.gov](mailto:Robert.Gallimore@klrd.ks.gov)

Murl Riedel, Fiscal Analyst  
[Murl.Riedel@klrd.ks.gov](mailto:Murl.Riedel@klrd.ks.gov)

Jordan Milholland, Senior Research Analyst  
[Jordan.Milholland@klrd.ks.gov](mailto:Jordan.Milholland@klrd.ks.gov)

Kansas Legislative Research Department  
300 SW 10th Ave., Room 68-West, Statehouse  
Topeka, KS 66612  
Phone: (785) 296-3181