



**F-1
Kansas Prison
Population and
Capacity**

**F-2
Sentencing**

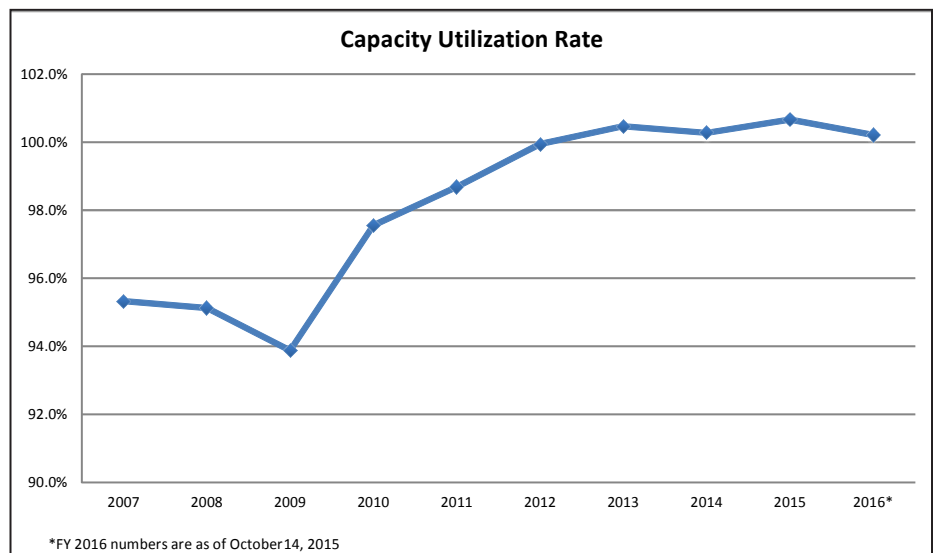
Justin Carroll
Principal Fiscal Analyst
785-296-3181
Justin.Carroll@klrd.ks.gov

Corrections

F-1 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 dealing, in part, with mentally ill inmates and developing a long-term plan to address the capacity issue. The order did not mandate any new construction in its terms, but the immediate, direct result was construction of a new facility which became El Dorado Correctional Facility. 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 (average daily population divided 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 2009 the average daily population decreased by 551 inmates to 8,536 while the total capacity increased by 73 to 9,317 beds, and utilization reached a recent low at 93.9 percent. The average daily population (ADP) has consistently increased since, and the utilization rate reached 101.8 percent in FY 2015.



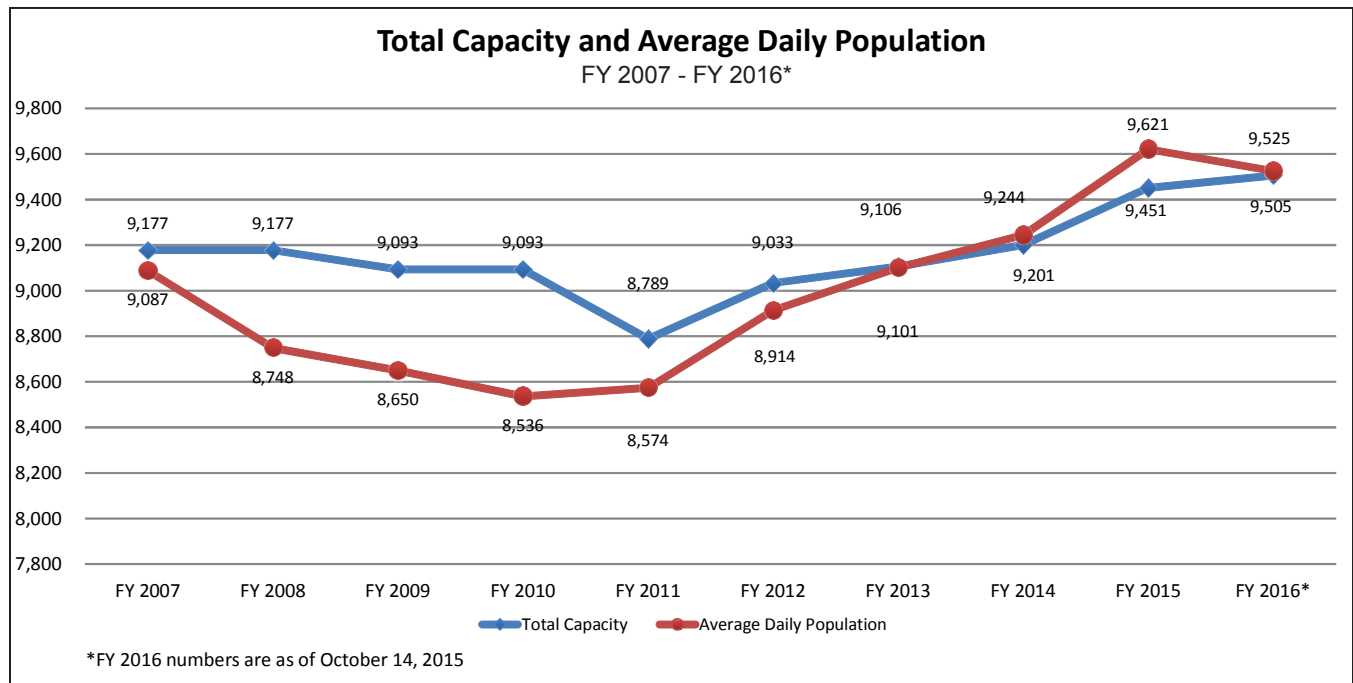
The budget reductions that occurred during FY 2009 prompted the Department of Corrections (DOC) to suspend operations at three smaller minimum-custody facilities (Stockton, Osawatomie, and Toronto) and

close the men’s and women’s conservation camps in Labette County. The Osawatomie facility has since been taken over by the Department for Aging and Disability Services. 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 appropriation for FY 2011 to reopen the Stockton Correctional Facility, which was reopened on September 1, 2010. In addition, prison beds at Larned Correctional Mental Health Facility and Lansing Correctional Facility that were unavailable due to renovation work have been opened again. During the 2012 session, the Governor recommended the Labette facilities be repurposed as a 262-bed geriatric facility set to house inmates

beginning in January 2013 and the Department purchased a property to serve as a 95-bed minimum-security unit in Ellsworth that began housing inmates in September 2012. Current capacity of DOC facilities is 9,505.

The increasing inmate population trend has continued into FY 2016. On October 14, 2015, the average daily inmate population in FY 2016 was 9,525, a utilization rate of 100.2 percent. An additional 199 inmates on average have been held in non-DOC facilities during FY 2016, primarily at Larned State Hospital and county jails. The Department 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.

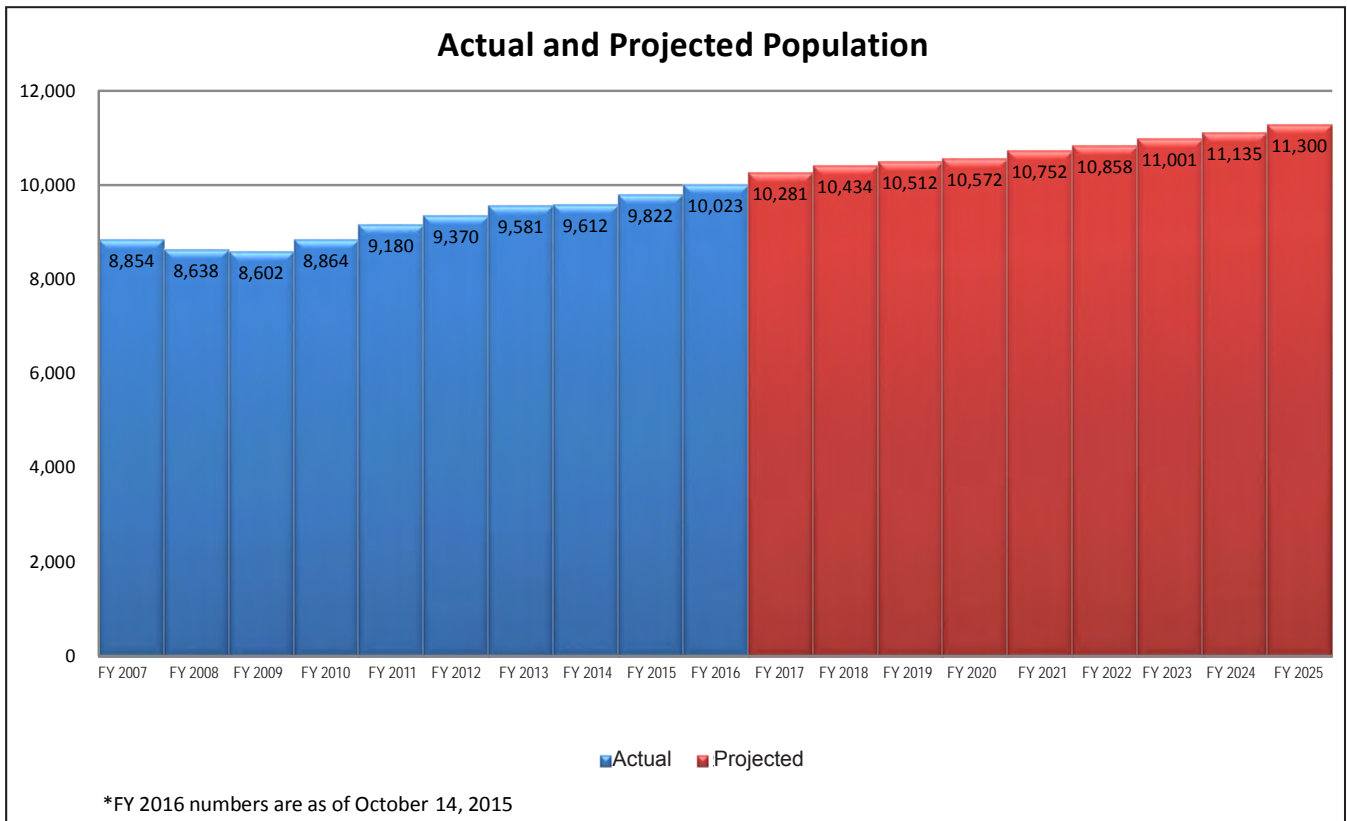


Budget reductions have prompted the Department of Corrections to reduce parole and post-release services and offender program services systemwide. The Department of Corrections continues to be concerned that these reductions will create an increase in the average daily population even after the addition of \$2.0 million in FY 2014 and \$3.0 million in FY 2015 for these programs. The FY 2016 prison population projections released by the Kansas Sentencing Commission project that the inmate population will exceed capacity by up

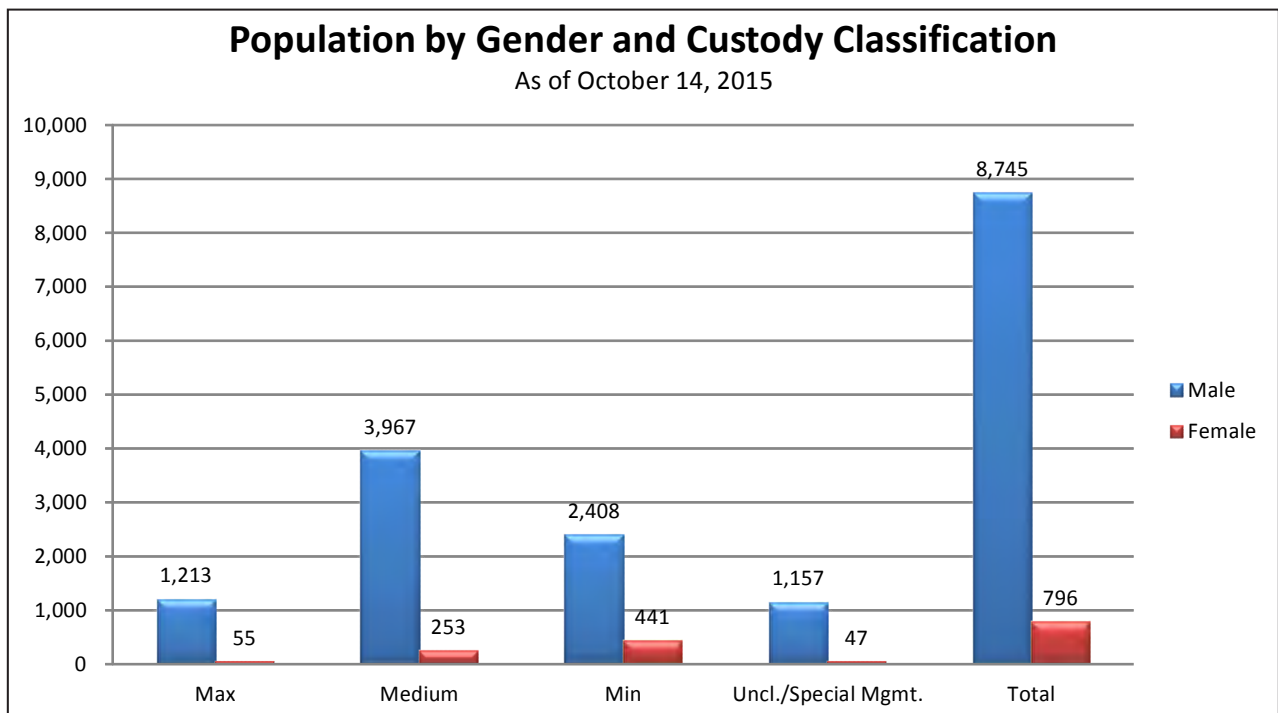
to 387 inmates by the end of FY 2016 and by up to 1664 inmates by the end of FY 2025.

Population and Capacity by Gender and Custody Classification

In addition to total capacity, consideration also must be given to gender and custody classification. The following chart displays capacity and average daily population by gender and custody classification for FY 2016, 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, which 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 Department of Corrections, 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, etc.);
- 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 DOC 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 El Dorado Correctional Facility has a capacity of 102 male inmates with an approximate annual operation cost of \$1.2 million.

There also is the option of new construction to expand the inmate capacity. During the 2007 Legislative Session, the Department of Corrections 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 Department 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. Planning was completed for the expansion of El Dorado Correctional Facility. The Department included plans for construction on two new cell houses at El Dorado in its five-year capital improvement plan beginning in FY 2017 at a cost of \$24.9 million. The cell houses will have up to 256 beds each depending upon the combination of single- and double-occupancy cells.

The Department of Corrections outlines other options for addressing prison capacity issues including:

- Increasing the amount of program credits earned by eligible inmates from 90 days to 120 days;
- Increase the use of electronic monitoring; and
- Housing inmates at county jails.

HB 2170, Justice Reinvestment Act

The 2013 Legislature made several changes to sentencing, post-release supervision, and probation statutes through HB 2170, also known as the Justice Reinvestment Act. The Act was the result of the work 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 population. 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 post-release supervision for offenders who would otherwise complete their underlying sentence while serving time on a sanction.

According to DOC and the Kansas Sentencing Commission, implementation of the Justice Reinvestment 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 Justice Reinvestment Act.

To date, no cost savings have been achieved though the Justice Reinvestment 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 FY

2015. The Department of Corrections was unable to achieve this. The Justice Reinvestment Act did delay construction of two new cell houses at the El

Dorado Correctional Facility totaling \$24.9 million slated to now begin in FY 2017.

For more information, please contact:

Justin Carroll, Principal Fiscal Analyst
Justin.Carroll@klrd.ks.gov

Robert Gallimore, Principal Research Analyst
Robert.Gallimore@klrd.ks.gov

Lauren Douglass, Principal Research Analyst
Lauren.Douglass@klrd.ks.gov

Kansas Legislative Research Department
300 SW 10th Ave., Room 68-West, Statehouse
Topeka, KS 66612
Phone: (785) 296-3181
Fax: (785) 296-3824