



Justice Center
THE COUNCIL OF STATE GOVERNMENTS

Justice Reinvestment in Kansas

Update to the Kansas Sentencing Commission

September 16, 2020

Presentation Overview

1 Kansas Challenges

2 Upcoming Analyses

The Kansas Criminal Justice Reform Commission (KCJRC) has guided the CSG Justice Center analysis.

Based on the KCJRC goals, CSG Justice Center staff have requested data for the Justice Reinvestment Initiative to begin exploring ways to

- Prioritize prison for people who pose a threat to public safety by **managing expensive prison population growth/pressure;**
- Increase support for **victims of crime;**
- **Strengthen community supervision and resources** to change behavior and reduce recidivism/revocations; and
- Break the cycle of recidivism by ensuring that criminal justice system practitioners have the resources they need in facilities and in the community to help people succeed, including **access to mental health/substance use treatment, and employment/housing support.**

Like many states, Kansas is engaging in critical conversations about the efficiency and effectiveness of its criminal justice system given the projected budget deficits.



“Kansas is facing a projected 8.1% shortfall in its next state budget after a new fiscal forecast slashed projections for expected tax collections over the next 15 months by nearly \$1.37 billion.”
--Associated Press

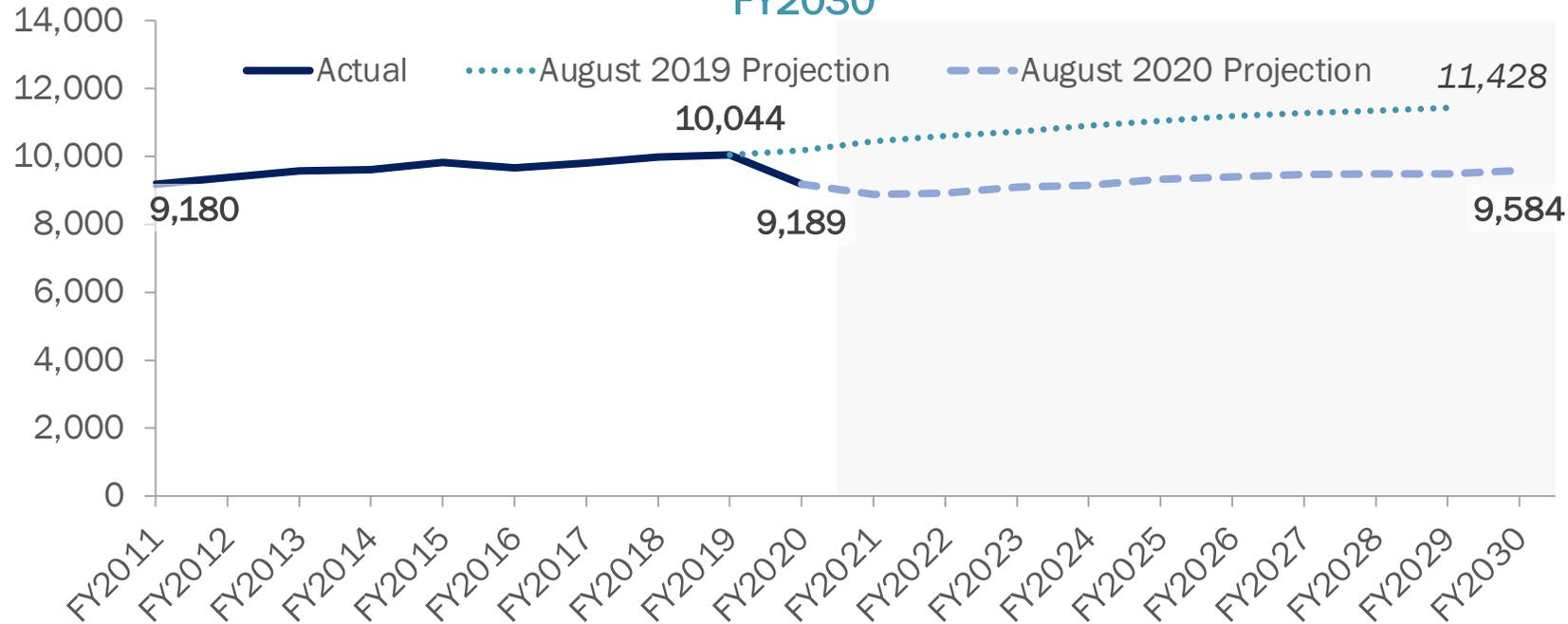
The state is facing an unprecedented budget deficit and must prioritize corrections investments that work to **reduce recidivism and maintain public safety.**

“When I took over as Governor, our corrections system was in dire straits. Overpopulation and understaffing led to dangerous conditions in our prisons. It **costs Kansas taxpayers nearly \$30,000 annually to keep each person** incarcerated in Kansas. Safely reducing that price tag gives us the **chance to invest** in substance use programs and mental health services that help stop the cycle of reoffending. We must re-focus on **protecting public safety and rehabilitating** [people] so that they can return to society with the skills they need to hold a job, find stable housing, and succeed. That’s how the system can work for both the people it’s responsible for rehabilitating and for all the people of this great state, because it will **make us all safer in the end.**”

—Governor Kelly

Prison population projections have changed based on the reduced population in 2020, with KDOC at 82 percent of capacity.

Kansas Actual and Projected End-of-Year Prison Population, FY2011–FY2030



Maintaining the population at current levels would cost the state an estimated \$241 million annually, as opposed to the \$263 million estimated annual cost for the FY2019 prison population.

Estimated cost is calculated by multiplying the prison population by the FY2019 annual operating cost per person for KDOC facilities (\$26,188). Estimates assume a one-year length of stay in prison.

Kansas Sentencing Commission, *Fiscal Year 2020 Adult Inmate Prison Population Projections* (Topeka, KS: Kansas Sentencing Commission, 2019); Kansas Department of Corrections, *Fiscal Year 2019 Annual Report* (Topeka, KS: Kansas Department of Corrections, 2020); "End of Month Inmate Population: FY 2020 To Date (June 2020)," Kansas Department of Corrections, accessed August 5, 2020, <https://www.doc.ks.gov/publications/population/eom>; Kansas Sentencing Commission, *Fiscal Year 2021 Adult Inmate Prison Population Projections* (Topeka, KS: Kansas Sentencing Commission, August 2020).

On August 28, 2020, the Kansas Sentencing Commission released updated prison population projections. The title and graph were modified on 9/11/2020 to more accurately reflect this.

Sustaining recent prison population reductions could save the state \$22 million in incarceration costs annually.

Maintaining public safety and permanently interrupting cycles of recidivism must drive decisions to sustain the reduced number of people who are incarcerated in Kansas.

Cost estimates are based on the FY2019 and FY2020 year-end prison population and the FY2019 operating cost expenditures per inmate for KDOC facilities.

Source: Kansas Department of Corrections, *Fiscal Year 2019 Annual Report* (Topeka, KS: Kansas Department of Corrections, 2020); "End of Month Inmate Population: FY 2020 To Date (June 2020)," Kansas Department of Corrections, accessed August 5, 2020, <https://www.doc.ks.gov/publications/population/eom>.

Drug-related crime creates growing pressure at each point in the system.

- From 2010 to 2018,*
 - Total reported arrests decreased 40 percent; and
 - **Arrests** for drug offenses **increased 19 percent**.
- From FY2010 to FY2019,
 - The number of felony drug **cases filed** in district court **increased 125 percent**; and
 - The **proportion** of felony drug cases filed in district court, out of all felony filings, **increased from 13 percent to 27 percent**.

*Arrest figures for 2019 were not available as of September 11, 2020.

Kansas Bureau of Investigation Incident Based Reporting Unit, *Kansas Adult Arrests 2008-2018* (Topeka, KS: Kansas Bureau of Investigation, 2009-2019); Supreme Court of Kansas, *Annual Report of the Courts of Kansas Fiscal Year 2010-2019* (Topeka, KS: Supreme Court of Kansas, 2011-2020).

Drug-related crime creates growing pressure at each point in the system.

- From FY2010 to FY2019,
 - **Community Corrections (CC) starts** for felony drug offenses **increased 52 percent**;^{*}
 - The number of **women** starting CC for felony drug offenses **increased 91 percent**;
 - Felony **sentences** for drug offenses overall **increased 63 percent**;^{**}
 - **Sentences to prison** for drug offenses **increased 79 percent**;^{**} and
 - Drug offense **prison sentence lengths** **increased from 38 to 43 months**.^{***}

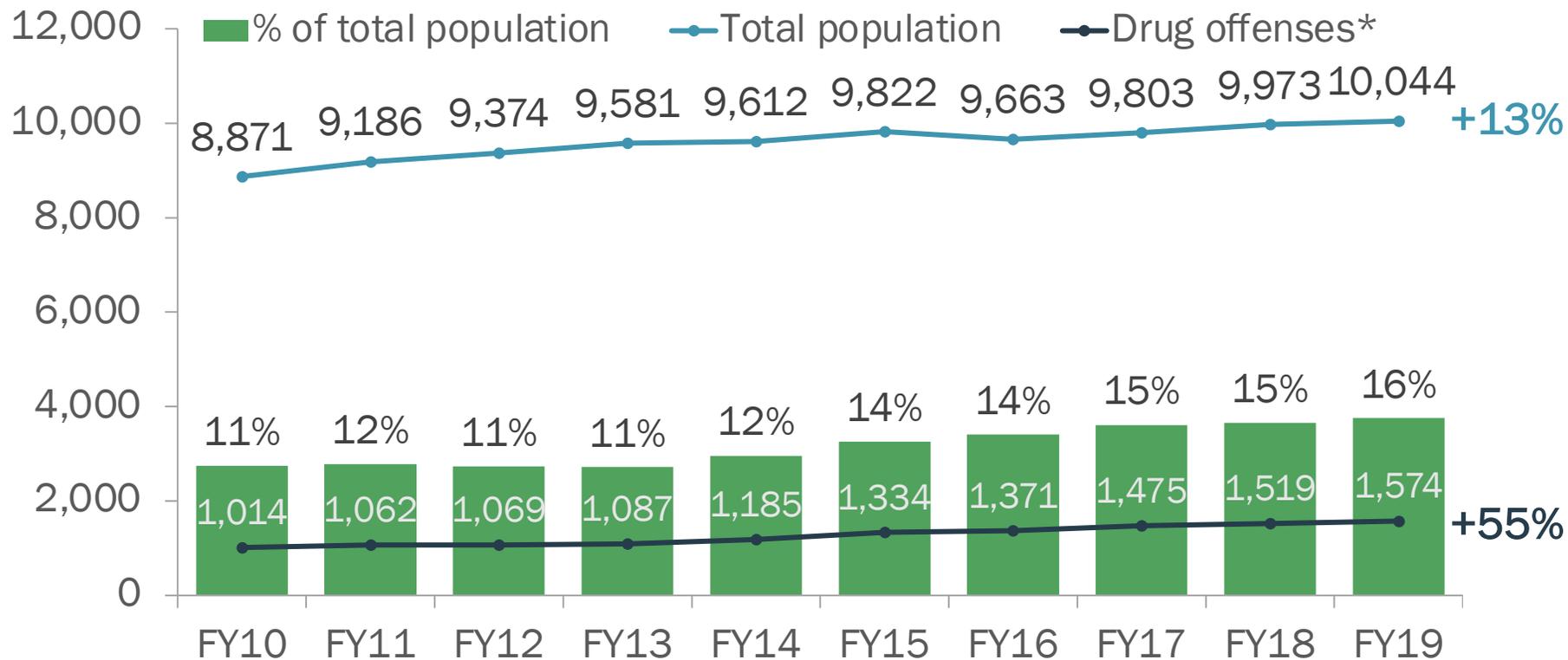
^{*}Starts are counted per person and probation start date; i.e., if a person started more than one probation term on the same date, they are only counted once. Offense level and type are based on the most serious offense per person and probation start date.

^{**}Sentences to prison are based on admissions to prison to match Kansas Sentencing Commission analysis methodology. Figures here are based on admissions to prison by court action only (i.e., parole condition violations and interjurisdictional transfers are excluded).

^{***}Prison sentence length was only available for new court commitments.

A substantial and growing proportion of the prison population consists of people who were sentenced for drug offenses.

Prison Population by Type and Year

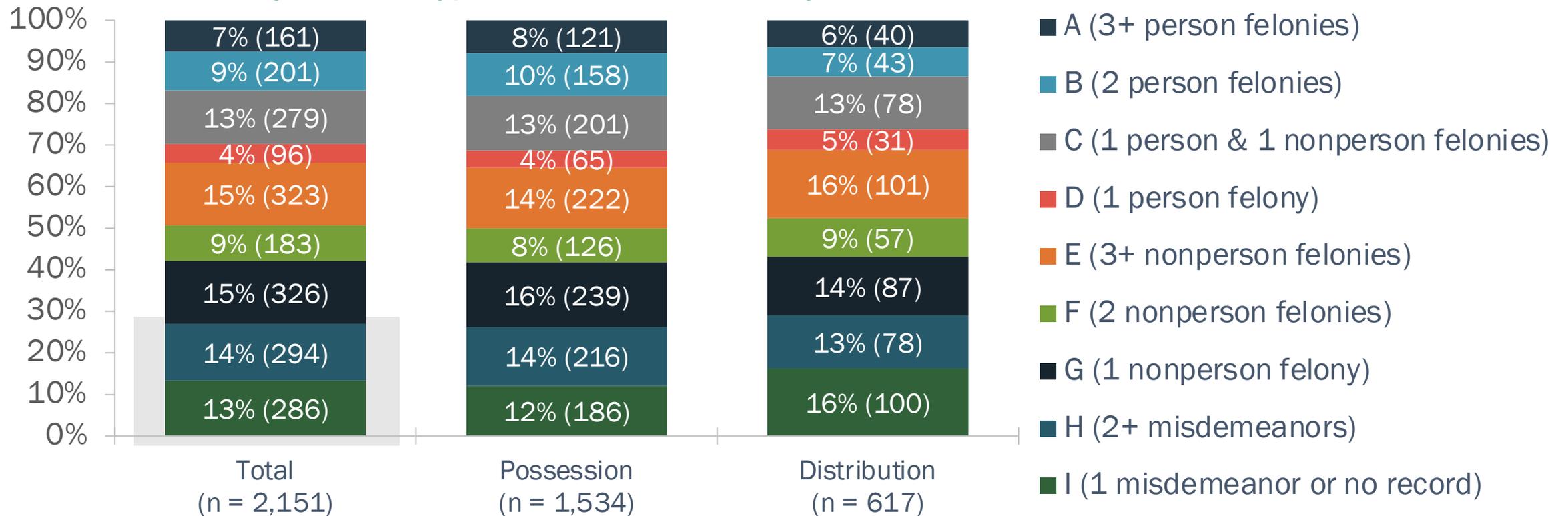


- Additional takeaways:
- Over half of people in prison were sentenced for a violent offense.
 - People who violated conditions of supervision make up about 1/5 of the prison population.
 - **The number of people in prison for drug offenses has increased 3-4x more than other groups.**

*The prison population for drug offenses excludes people who were sent to prison for a supervision condition violation or probation sanction where the original offense was a drug offense. Less than 1 percent of the prison population each year was missing offense information.

Of all admissions to prison for drug offenses in FY2019, 27 percent were for people with no prior felonies.

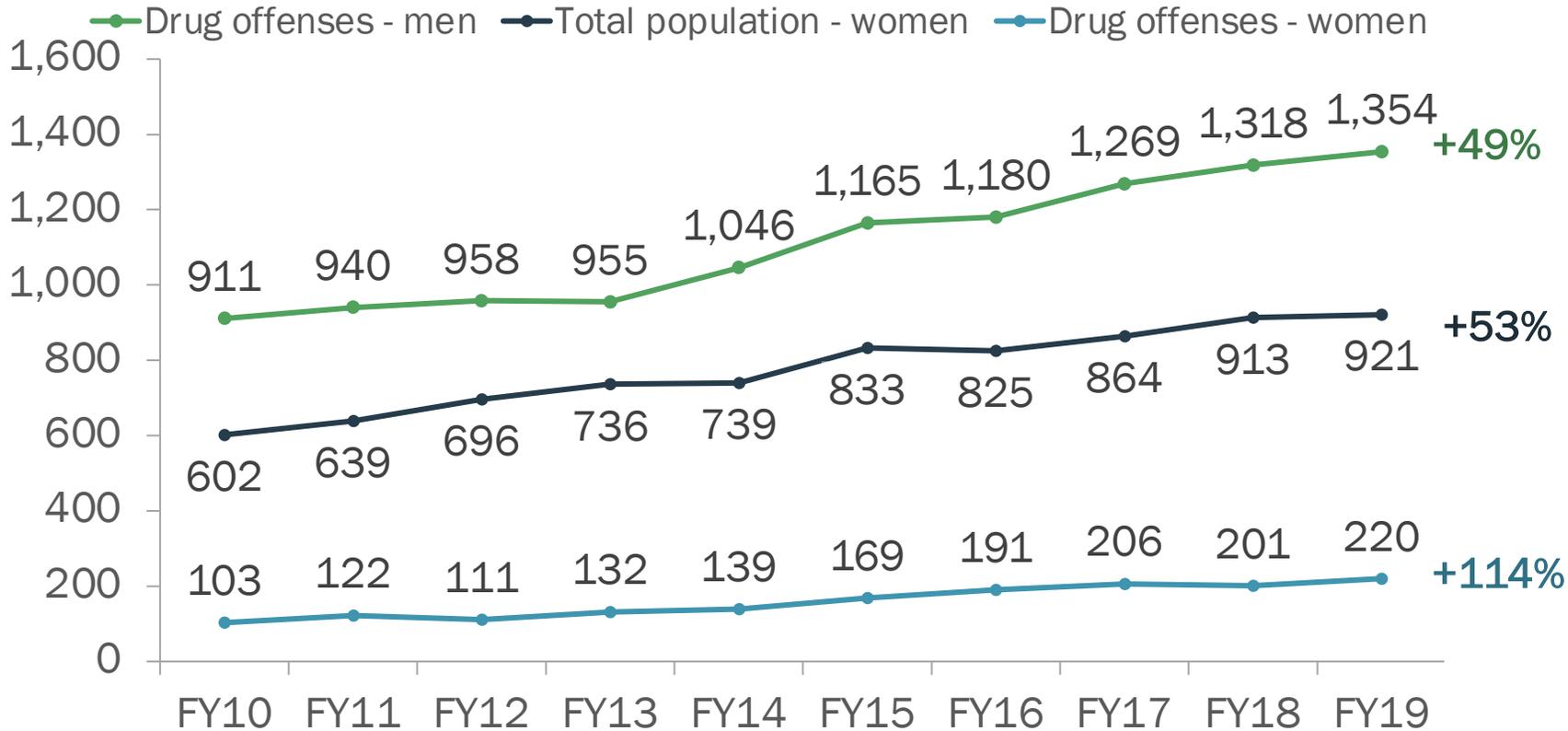
FY2019 Prison Admissions for Drug Offenses, by Offense Type* and Criminal History Classification



*Offense type is based on offense description; distribution offenses include drug manufacturing or sale offenses. 2 admissions for drug offenses were missing criminal history classification information.

The number of women in prison for drug offenses has increased dramatically.

Prison Population by Gender, Type, and Year



Less than 1 percent of the prison population each year was missing offense information. The prison population for drug offenses excludes people who were sent to prison for a supervision condition violation or probation sanction where the original offense was a drug offense.

CSG Justice Center analysis of KDOC prison population data, May 2020.

Additional takeaways:

- The number of women in prison for drug offenses doubled between FY10 and FY19.
- People convicted of nonviolent offenses make up the smallest portion of the prison population for both men and women.
- The number of women in prison for supervision condition violations increased from FY10 to FY19, while the number of men decreased.

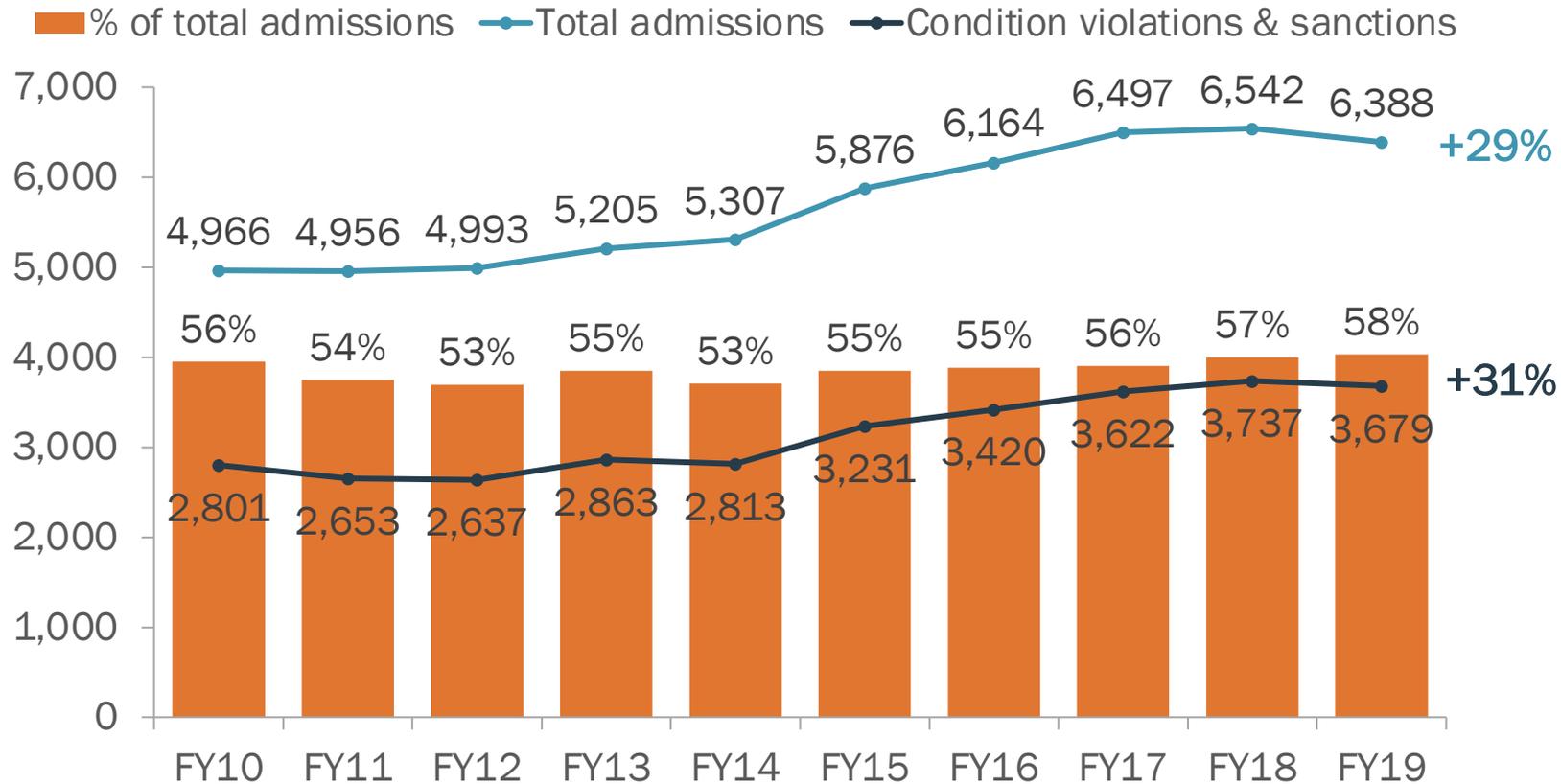
**It cost an estimated \$41
million to incarcerate
people for drug offenses in
FY2019.**

Cost estimates are based on the FY2019 year-end prison population and the FY2019 operating cost expenditures per inmate for KDOC facilities.

CSG Justice Center analysis of KDOC prison population data, July 2020; Kansas Department of Corrections, *Fiscal Year 2019 Annual Report* (Topeka, KS: Kansas Department of Corrections, 2020).

People who commit supervision violations account for a substantial and growing proportion of prison admissions.

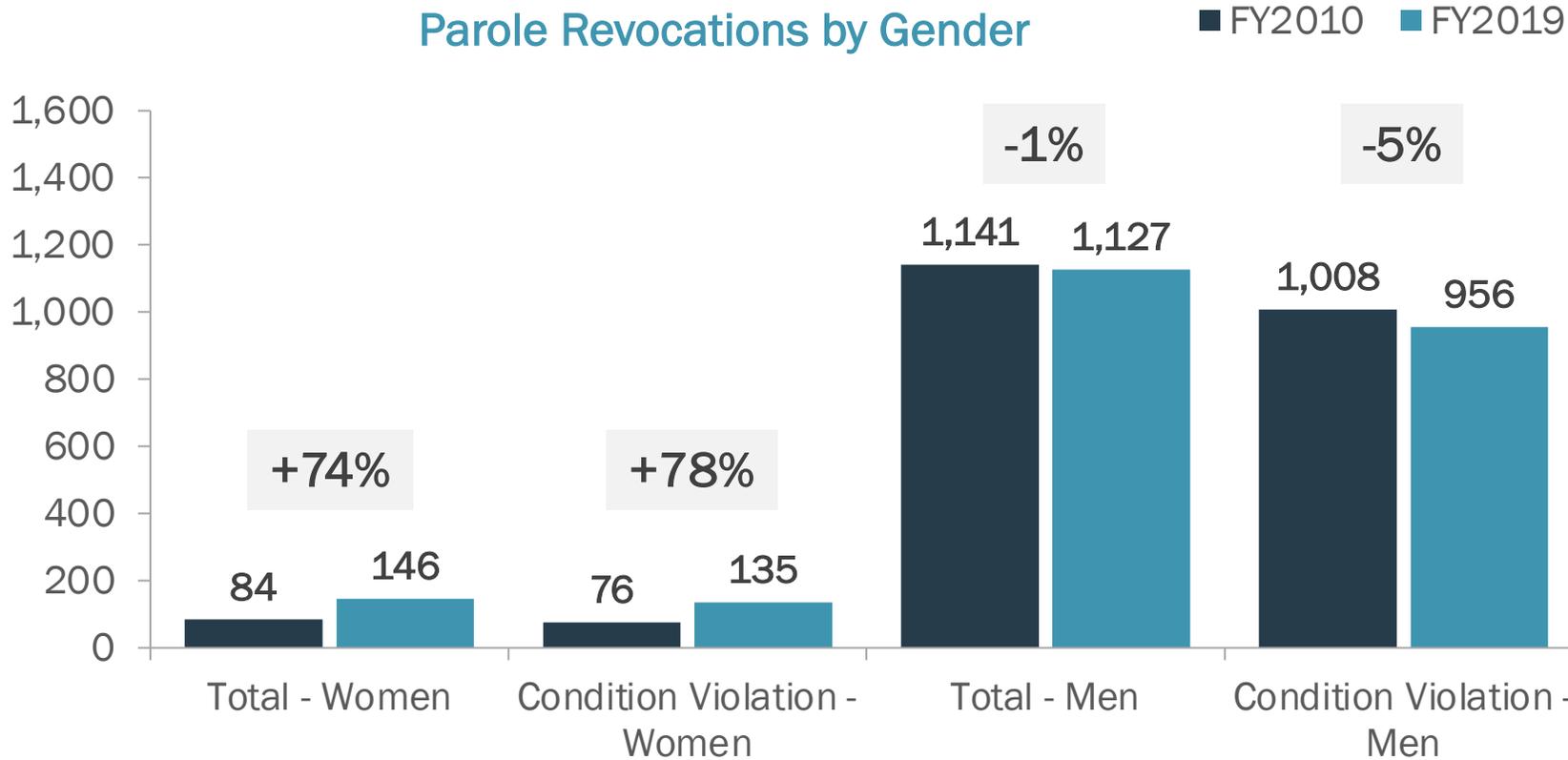
Prison Admissions by Type and Year



Additional takeaways:

- Drug offenses saw the largest increase from FY10 to FY19.
- Nonviolent offenses and supervision condition violations increased at about the same rate from FY10 to FY19.
- The majority of admissions to prison each year are for supervision condition violations.
- Each group’s percent of the total number of admissions remained fairly stable from FY10 to FY19.

Parole revocations for condition violations increased 78 percent for women between 2010 and 2019 but decreased 5 percent for men.



Additional takeaways:

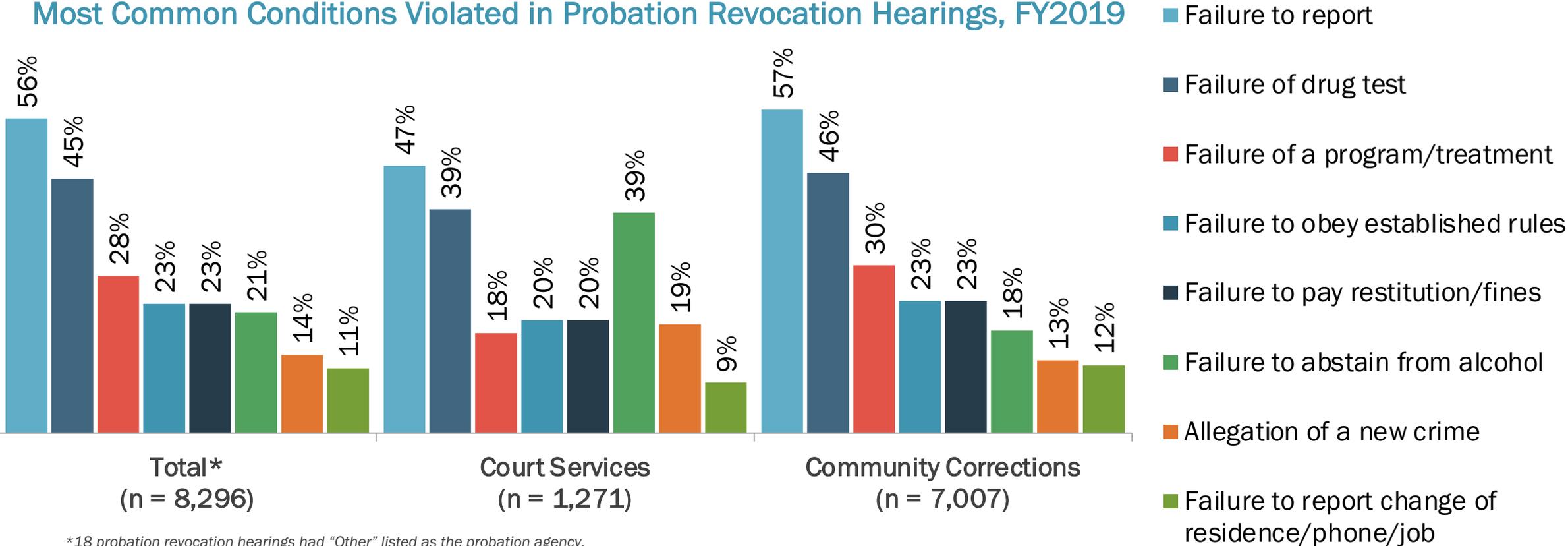
- In FY19, 92 percent of revocations for women were due to condition violations, compared to 85 percent for men.
- In FY10, women made up 7 percent of parole revocations, but 11 percent in FY19.

Parole revocations are measured by admissions to prison for parole revocation.

CSG Justice Center analysis of KDOC prison admission data, August 2020.

“Failure to report” is the most cited violation in revocation hearings, which could be exacerbated by excessive conditions and dual supervision.

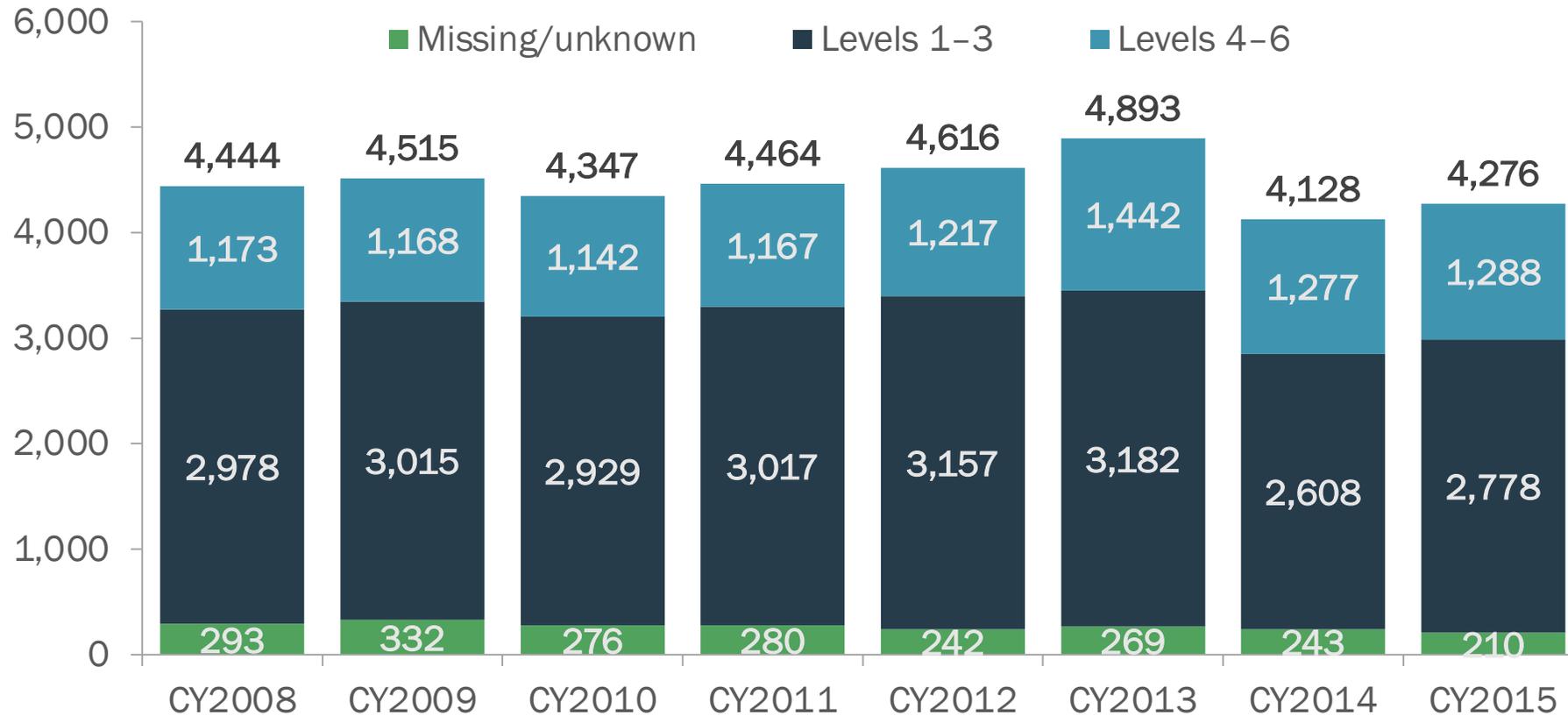
Most Common Conditions Violated in Probation Revocation Hearings, FY2019



*18 probation revocation hearings had “Other” listed as the probation agency. Conditions violated in fewer than 10% of revocation hearings are not shown. The number of violations is more than the number of hearings because each hearing can involve multiple violations. New offense revocations can also have violations alleged.

Over a quarter of the people released from prison each year have mental health needs requiring some level of treatment or services.

Prison Releases by Mental Health Disorder Levels, 2010–2015



Mental Health Disorder Level Treatment Needs**	
Levels 1 and 2	Generally do not require behavioral health services
Level 3	Transient mental disorders unlikely to cause much functional impairment
Level 4	Typically require behavioral health services or special needs monitoring
Levels 5 and 6	Serious mental health diagnoses and treatment needs

*Mental Health Disorder Levels are at time of release. Approximately 6 percent of people released each year did not have a mental health level. **Per descriptions on page 12 of the KDOC Fiscal Year 2018 Annual Report
 Kansas Department of Corrections recidivism numbers provided to CSG Justice Center staff on August 14, 2019.

It cost an estimated \$43 million to incarcerate people who violated supervision conditions in FY2019.

Supervising a person in prison costs about 10 times as much as supervising them in the community. And, community supervision may be more effective at reducing recidivism than incarceration.

- \$71.75/day to incarcerate
- \$7.42/day to supervise in the community

Cost estimates are based on the FY2019 year-end prison population and the FY2019 operating cost expenditures per inmate for KDOC facilities.

CSG Justice Center analysis of KDOC prison population data, July 2020; Kansas Department of Corrections, *Fiscal Year 2019 Annual Report* (Topeka, KS: Kansas Department of Corrections, 2020).

**Smarter corrections
investments will work
better and save Kansas
money.**

Kansas cannot afford business as usual and can use this opportunity to improve the overall outcomes of the criminal justice system and permanently interrupt cycles of recidivism.

Presentation Overview

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2 Upcoming Analyses

Sentencing guidelines provide an opportunity for detailed analysis that non-guidelines states lack.

Example:

Washington State Standard Grid

“The 2013 on-hand prison population is concentrated in the upper left and lower right sections of the grid.”

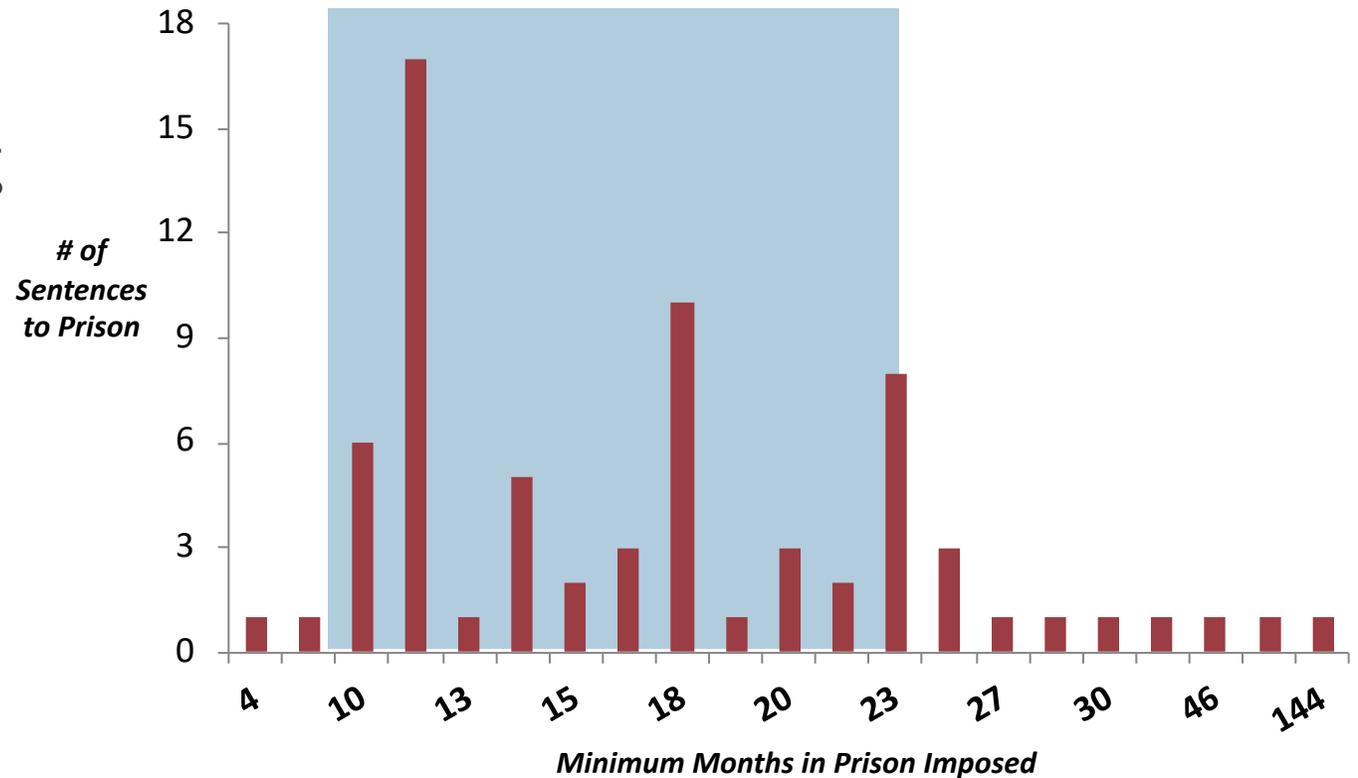
Shaded grid cells represent a population over 100

		Offender Score									Unknown Offender Score	
		0	1	2	3	4	5	6	7	8		9+
S e r i o u s n e s s L e v e l	LEVEL XVI	LIFE SENTENCE WITHOUT PAROLE/DEATH PENALTY										
	LEVEL XV	158										808
	LEVEL XIV	204										250
	LEVEL XIII											
	LEVEL XII	303		108	235			124			217	597
	LEVEL XI	164			118							180
	LEVEL X	164			126			101			140	160
	LEVEL IX	143		137				100			369	272
	LEVEL VIII											
	LEVEL VII							125			349	
	LEVEL VI											
	LEVEL V					108	106				204	
	LEVEL IV	106		137	146	128	180	214	195	134	817	180
	LEVEL III					177	151	170	181	174	733	102
	LEVEL II								103	149	712	
	LEVEL I										341	

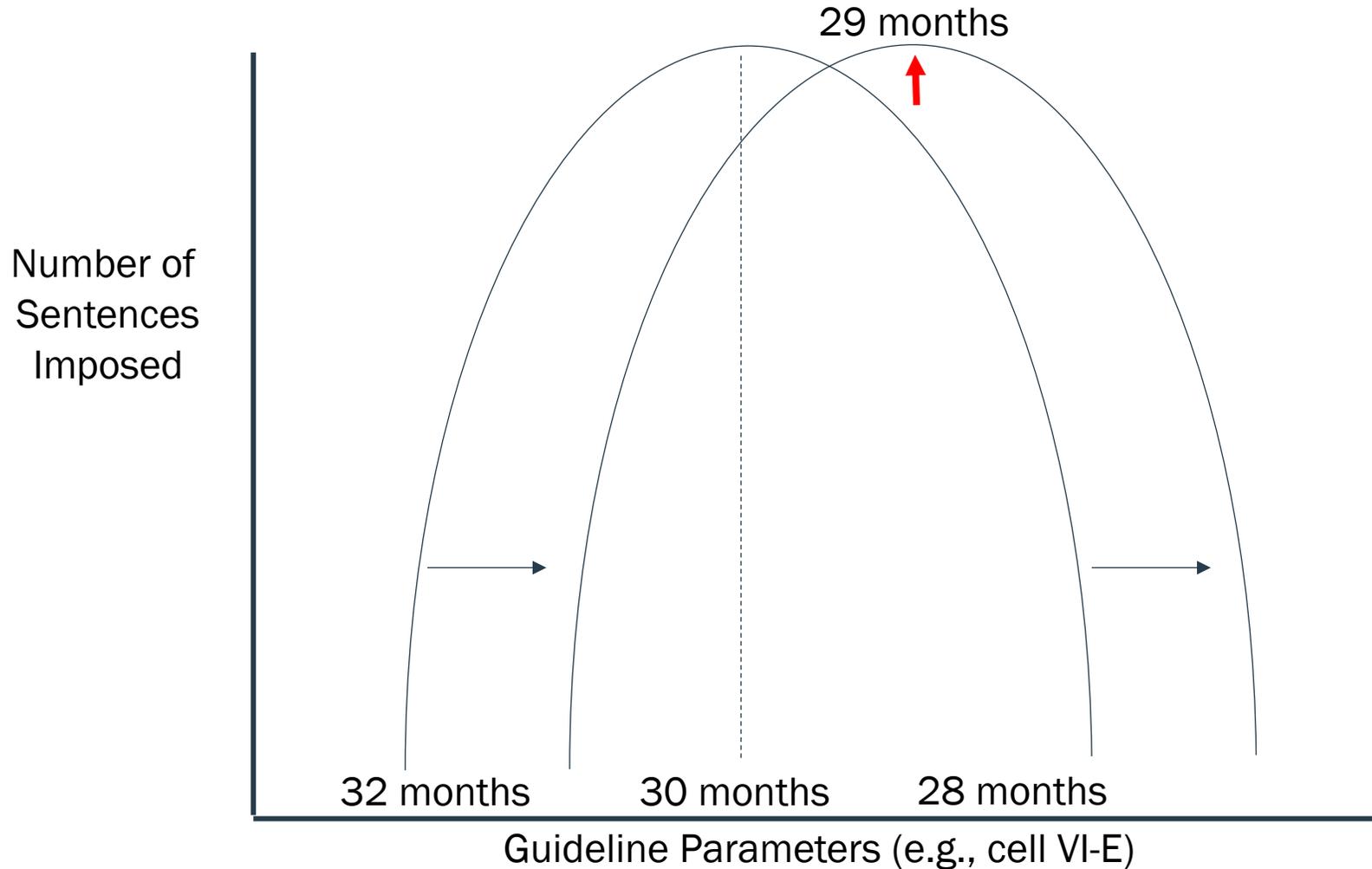
Sentencing patterns within a single grid cell can be illuminating.

Example:

Michigan minimum prison sentence distribution for drug delivery within a single “straddle cell” [border box in Kansas] over time (2008 – 2012)



Guideline standard sentences may not be the actual central tendency in many cells.



Nondrug grid: 64.9% of the durational departure sentences departed downward from the sentence lengths indicated on the presumptive range

Drug grid: 81.5% of durational departures are downward

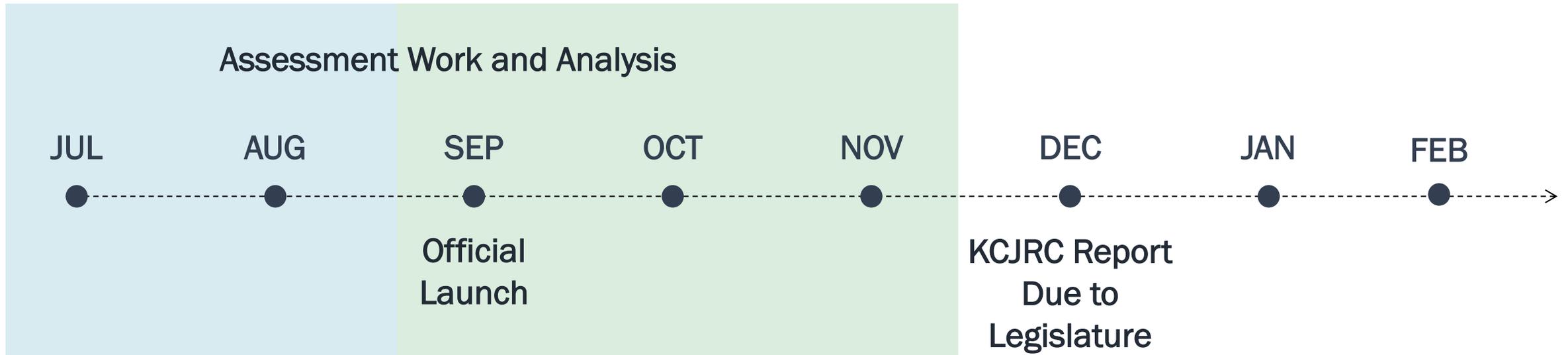
Sentencing analysis ideas for discussion.

- Illustrating cells where high-volume cases appear in the sentencing grids.
- Examining the range and central tendency of sentences imposed in high volume cells.
- Examining factors that lead to dispositional departures to probation in presumptive prison cells.

**The victim, violent crime,
sentencing, supervision,
behavioral health, housing, and
employment assessment teams
presented to subcommittees
of the Kansas Criminal Justice
Reform Commission
on September 9, 2020.**

- Members of these subcommittees are working with CSG Justice Center staff to put forward policy options for the CJRC in November.
- The September presentations were emailed to each Commission member.

The Justice Reinvestment team will continue to work with Commission and subcommittee members to identify policy options to address the criminal justice challenges in Kansas.



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