

Justice Reinvestment Initiative in Kansas

Presentation to the Joint Committee on Corrections
and Juvenile Justice Oversight

November 30, 2022



Justice Center
THE COUNCIL OF STATE GOVERNMENTS



**Justice
Reinvestment
Initiative**
Kansas

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The Council of State Governments

Founded in 1933, The Council of State Governments (CSG) is our nation's only organization serving all three branches of state government. CSG is a region-based forum that fosters the exchange of insights and ideas to help state officials shape public policy. This offers unparalleled regional, national, and international opportunities to network, develop leaders, collaborate, and create problem-solving partnerships.



**The Council
of State
Governments**



Justice Center

THE COUNCIL OF STATE GOVERNMENTS

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.



How We Work

- We bring people together.
- We drive the criminal justice field forward with original research.
- We build momentum for policy change.
- We provide expert assistance.

Our Goals

- Break the cycle of incarceration.
- Advance health, opportunity, and equity.
- Use data to improve safety and justice.

Equity and Inclusion Statement



**Justice
Center**

The CSG Justice Center is committed to advancing racial equity internally and through our work with states, local communities, and Tribal Nations.

We support efforts to dismantle racial inequities within the criminal and juvenile justice systems by providing rigorous and high-quality research and analysis to decision-makers and helping stakeholders navigate the critical, and at times uncomfortable, issues the data reveal. Beyond empirical data, we rely on:

- stakeholder engagement and other measures to advance equity,
- provide guidance and technical assistance, and
- improve outcomes across all touchpoints in the justice, behavioral health, crisis response, and reentry systems.



Justice Reinvestment Initiative

A data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism.

The Justice Reinvestment Initiative is supported and funded by the U.S. Department of Justice's Office of Justice Programs, Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts.

Over the past 15 years, the CSG Justice Center has helped 34 states control corrections spending and reinvest in strategies to increase public safety.

States that Have Used a Justice Reinvestment Initiative Approach with Assistance from The Council of State Governments Justice Center*

\$3.2 billion
estimated saved or averted

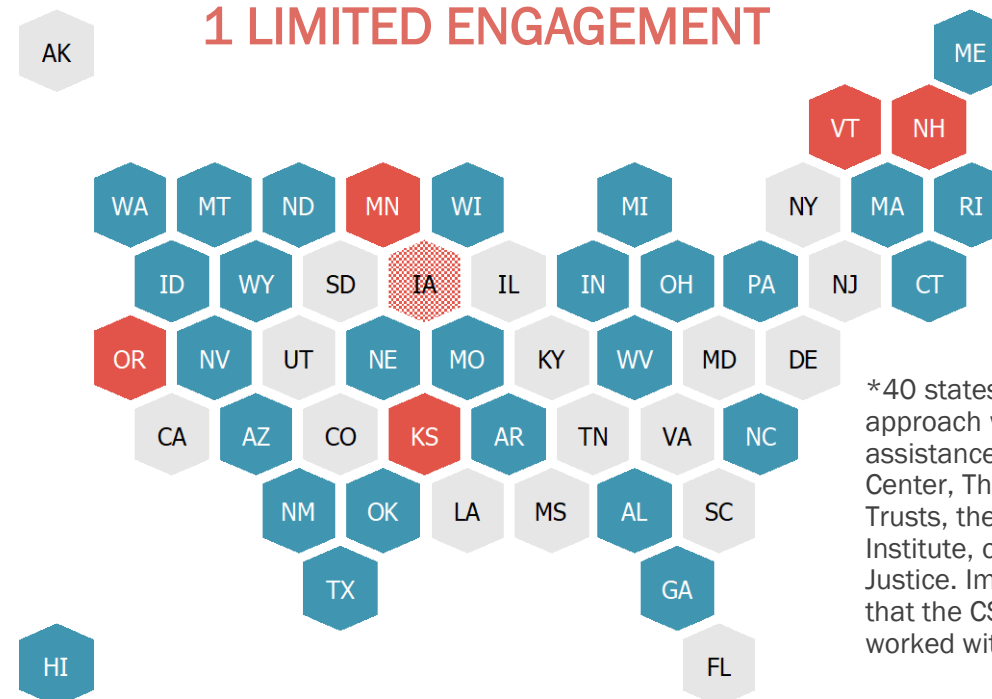
Reinvested more than
\$650 million

Averted prison population growth
by over **82,000 people**

28 PAST STATES

5 CURRENT STATES

1 LIMITED ENGAGEMENT



*40 states have pursued a JRI approach with technical assistance from the CSG Justice Center, The Pew Charitable Trusts, the Crime and Justice Institute, or the Vera Institute of Justice. Impacts relate to states that the CSG Justice Center has worked with on JRI.

Today's presentation reviews Kansas's JRI project, implementation progress, and next steps to sustain progress.

- Review **challenges identified** through the JRI process.
- Review **JRI recommendations** in four categories: diversion and specialty courts, community supervision, behavioral health, and reentry.
- Discuss **progress made implementing changes** in each category.
- Review **data trends and challenges** in tracking outcomes.
- Present **recommendations to further JRI efforts** and Kansas's goals.



**Justice
Reinvestment
Initiative**
Kansas

Overview

1

**Kansas JRI Overview and
Implementation Progress**

2

Remaining Challenges

3

Sustainability and Next Steps

Justice Reinvestment is a process that includes analysis, policy development, implementation, and sustainability.

Phase I



**Bipartisan,
Interbranch
Working Group**

Data Analysis

**Stakeholder
Engagement**

**Policy Option
Development**

Phase II



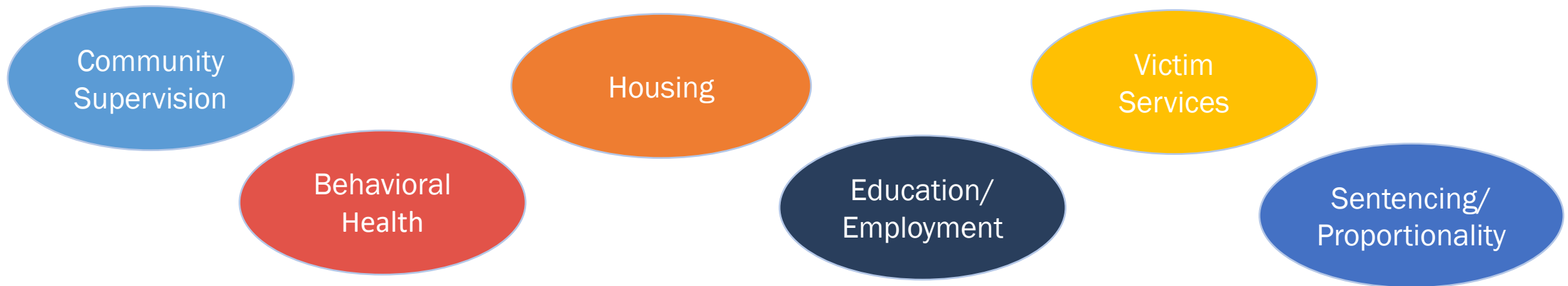
**Policy
Implementation**

**Monitoring
through Data**

Phase I of JRI in Kansas was a collaboration among the Kansas Criminal Justice Reform Commission (KCJRC) and several key stakeholders.

The CSG Justice Center's technical assistance began in January 2020. The work has involved Kansas policy groups including

- KCJRC (2020 and 2021) and its subcommittees,
- Kansas Sentencing Commission (KSSC), and
- Legislative Joint Committee on Corrections and Juvenile Justice Oversight.



The Justice Reinvestment process helped identify three key challenges in Kansas.



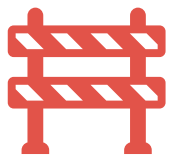
Increases in sentences to prison for drug offenses

Admissions to prison for drug offenses saw the largest increase from fiscal year (FY)2010 to FY2019.



Use of prison to sanction people who violate supervision conditions

In FY2019, 58 percent of prison admissions were for condition violations and sanctions, which is a 31 percent increase from FY2010.



Barriers to work and limited behavioral health and reentry supports

Access to any occupational license in Kansas can be restricted by a felony conviction. Access to community-based mental health (MH) and substance use disorder (SUD) treatment is challenging, especially in rural and frontier areas. Twenty percent of people leaving Kansas Department of Corrections (KDOC) facilities each year have no stable housing.

As a result, the KCJRC made numerous administrative and legislative recommendations in 2020 and 2021 on a broad range of topics.

Topics	# of Recs 2020	# of Recs 2021
Pretrial, Diversion, and Specialty Courts	9	1
Indigent Defense, Sentencing, and Proportionality	15	5
Gang Definitions and Drug Registry	N/A	5
Community Supervision	8	5
Compassionate Release, Reentry, Employment, and Housing	17	1
Behavioral Health and Crisis Response	15	3
Data Collection and Race Equity	6	N/A

The JRI recommendations were aimed at achieving goals in four policy areas.

Diversion and Specialty Courts

GOAL: Create pre-conviction and post-conviction diversion opportunities, especially for people who have MH and SUD needs, and expand expungement opportunities.

Community Supervision

GOAL: Promote best practices and improve system effectiveness by reducing redundancies and inefficiencies and improving coordination and collaboration between supervision agencies.

Behavioral Health

GOAL: Increase access to mental health and substance use disorder treatment and continuums of care, which include expanded services, crisis response, and reentry coordination.

Reentry

GOAL: Expand access to housing resources, increase education and employment opportunities, and leverage collaborations between agencies to improve coordinated care.

Seven JRI policies resulted in legislation and one Supreme Court Rule.

Policy Options	Enacted Bills	Year Enacted
1. Build on Senate Bill (SB) 123's infrastructure to encourage more prosecutor diversions.	HB 2026	2021
2. Establish a definition of absconder status.	HB 2121	2021
3. Formalize the approach of the KDOC to parole supervision violations.	HB 2121	2021
4. Extend the KCJRC until December 2021.	HB 2077	2021
5. Ensure that people on supervision are supervised by only one entity.	SB 408	2022
6. Create a mechanism for some people to be removed from the public online drug registry.	SB 366	2022
7. Establish a funding advisory committee for specialty courts and allow expungement after completion.	HB 2361	2022
8. Create a specialty court committee for the development and administration of specialty courts.	Rule 191	2021

Implementation and monitoring is occurring across the four JRI policy categories.

- 1. Diversion and Specialty Courts**
- 2. Community Supervision**
- 3. Behavioral Health**
- 4. Reentry**

Diversions and Specialty Courts Implementation Progress

CSG Justice Center Technical Assistance

- Provided national resources on specialty courts to members of the judiciary who are leading the work on specialty courts
- Connected Kansas judge with peers in Missouri who have already completed similar work

Kansas Progress

- ✓ Supreme Court Rule enacted for the administration and oversight of specialty courts
- ✓ Committee on specialty court funding appointed
- ✓ Recovery from Addiction Funded Treatment (RAFT) program created
- ✓ Training provided to the courts and stakeholders on the RAFT program

Community Supervision Implementation Progress

CSG Justice Center Technical Assistance

- Organized and assisted an interagency supervision work group
- Partnered with the Center for Effective Public Policy (CEPP) to facilitate the interagency supervision work group and provide additional training and technical assistance as needed
- Conducted stakeholder engagement with members of the judiciary and court staff to incorporate input

Kansas Progress

- ✓ Representatives from Office of Judicial Administration (OJA), Court Services, Community Corrections, KDOC, and the Prisoner Review Board (PRB) are collectively working to implement supervision-related recommendations
- ✓ Draft MOU to ensure a person on supervision does not have more than one primary supervision officer is being finalized with execution of MOU scheduled for early 2023
- ✓ Support provided for standardized general conditions of supervision

Behavioral Health Implementation Progress

CSG Justice Center Technical Assistance

- Partnership with PRA to provide a regional Sequential Intercept Model (SIM) Summit using JRI technical assistance funding
- Coordination with the Kansas Department for Aging and Disability Services (KDADS) and the Kansas Statewide Stepping Up Coordinator on the implementation of administrative policy recommendations

Kansas Progress

- ✓ Western region SIM Summit completed and plans for KDADS to fund two additional regional SIM Summits
- ✓ Cross-system collaboration to expand behavioral health in rural and frontier communities
- ✓ Jail liaison positions implemented
- ✓ Mobile crisis and co-responder programs expanded

Reentry Implementation Progress

CSG Justice Center Technical Assistance

- Ongoing coordination with KDOC to monitor the implementation of administrative reentry recommendations
- Partnered with CEPP to provide targeted training to the PRB in October 2022

Kansas Progress

- ✓ Use of American Rescue Plan (ARP) funding to expand rapid re-housing opportunities for people leaving jails and prison
- ✓ KDOC and KDADS collaboration during the reentry process to prioritize people leaving prison, without stable housing and with a serious mental illness, for appointments at Community Mental Health Centers (CMHCs)
- ✓ KDOC sought out and signed contracts with 10 new education providers
- ✓ KDOC and the Governor's Council on Education Talent Pipeline subcommittee are collaborating to address collateral consequences of conviction

As part of the CSG Justice Center’s technical assistance, Kansas received nearly **\$500,000** in subaward grant funding from the Bureau of Justice Assistance to support implementation efforts.

- KSSC requested **\$276,000** to support upgrades to the e-filing system. It will help revolutionize how presentencing, journal entry, and probation revocation data for felonies are captured and processed in the state.
- PRB requested **\$37,280** to fund equipment needs. Up-to-date equipment will ensure the quality of communication needed to make informed decisions.
- KDOC requested **\$90,000** to improve the effectiveness of their new Athena data system. Funding will be used to conduct a “sprint,” or group of computer programming tasks, to enhance functionality to track and report on JRI-related policy changes.
- OJA requested **\$91,875** to make upgrades to its case management software system. It will improve the state’s ability to understand sentencing outcomes and criminal histories to promote better data collection and analysis.

Total Subaward Amount: \$495,155



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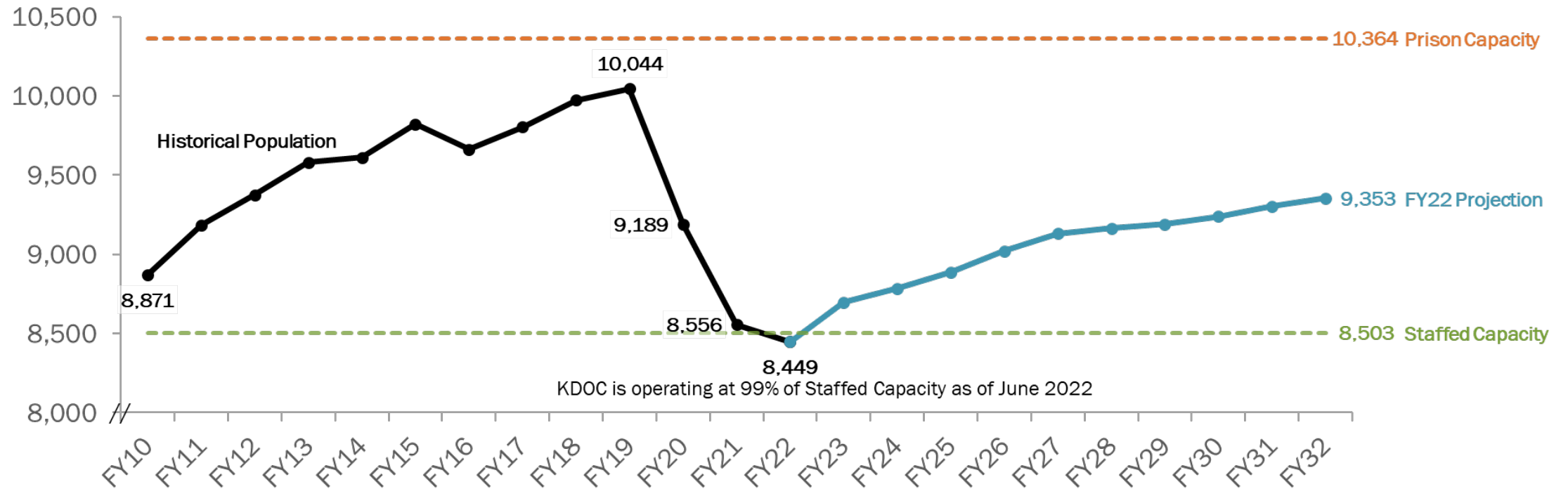
CSG Justice Center staff worked with Kansas stakeholders to identify key metrics and establish benchmarks for monitoring progress.



State monitoring is the process of collecting, monitoring, analyzing, and using data about a state's criminal justice system to improve outcomes and inform technical assistance.

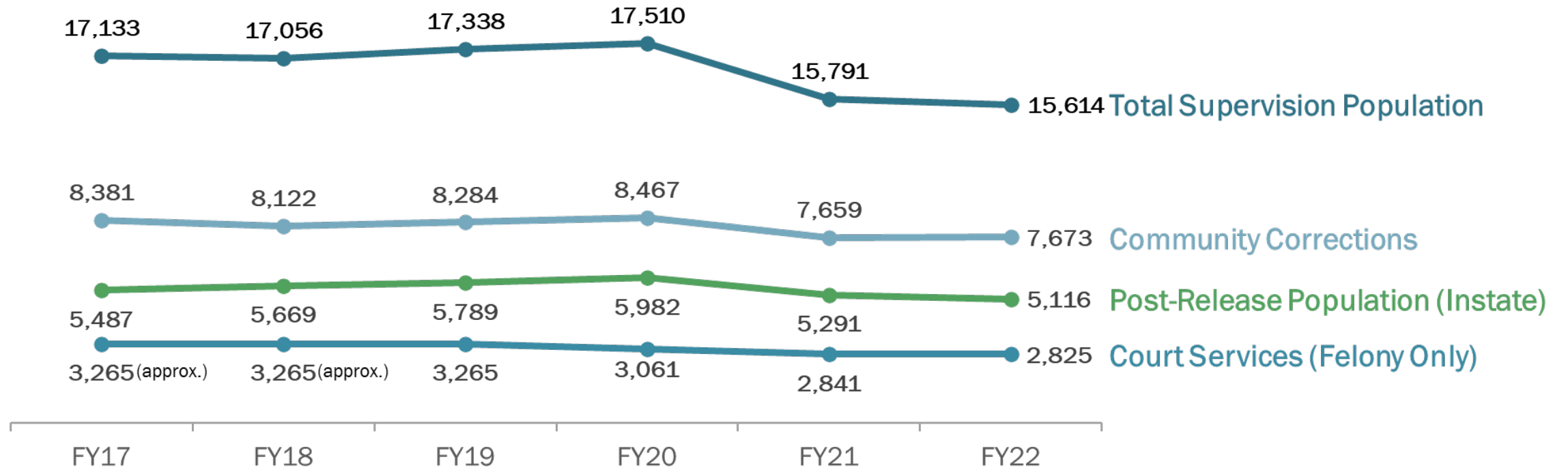
The prison population is projected to grow over the next 10 years, and KDOC is currently operating at staffed capacity.

Prison Population Projection with Prison Capacity and Staffed Capacity



The population supervised in the community has decreased but a full picture of supervision trends is unknown.

Kansas Adult Felony Community Supervision Population



* Data exclude people in specialty court, people who have absconded, misdemeanors, and pretrial populations.

A lack of clear guidance limits the ability of supervision agencies to improve the effectiveness and efficiency of Kansas's trifurcated supervision system.

Supervision System

Supervision agencies agree on the benefits of

- A comprehensive behavior management system to issue incentives and sanctions;
- Coordinated interagency trainings; and
- Statewide guidance and support on quality assurance and continuous quality improvement practices.

Competing priorities, local control concerns, and the lack of a guidance or mandate **impact the ability to implement policies administratively.**

Implementation of new data systems limits our short-term ability to monitor progress with data.

Kansas Department of Corrections

Recently implemented **ATHENA**, which replaces the client management system for KDOC and Community Corrections agencies. KDOC is using subaward funding to implement additional functionality.

Office of Judicial Administration

Tyler Supervision, a statewide client management system, is in the process of a staggered rollout scheduled through 2023.

Odyssey, a judicial case management system, is in the process of a staggered rollout scheduled through 2023.

Additional data challenges exist in Kansas even after new data systems are fully implemented and operational (cont.).

Community Supervision

Even when ATHENA and Tyler Supervision are fully operational, the systems are **not linked in a way that allows easy tracking of people** on supervision with multiple agencies simultaneously.

Diversion Programs

There is **not a systematic way to track prosecutorial decision-making** or prosecutor-led diversion programs, especially if implemented as a prefiling diversion program, as there is no court record generated.

RAFT program participants are only tracked if state-funded treatment is utilized; there is no way to track individuals who use insurance to pay for treatment.

Additional data challenges exist in Kansas even after new data systems are fully implemented and operational.

Specialty Courts

Specialty courts operate at the local level and use Court Services or Community Corrections agencies to administer supervision. **Data are not collected at the state level** to monitor the amounts, types, and effectiveness of specialty courts in Kansas.

Comprehensive Adult Criminal Justice System Data

The KSSC scope of work is at the felony level. There is **no entity in Kansas that looks comprehensively at the entire adult criminal justice system** including arrests, charging decisions, pretrial decision-making, misdemeanor and felony sentencing, supervision across all agencies and populations, and institutional placements.

Kansas has an opportunity to curb the growing prison population, continue to enhance supervision practices, and build on the state's history of making data-driven decisions.



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The CSG Justice Center has several objectives for technical assistance through March 2023.

- Continue **monitoring implementation** of JRI policies.
- **Assist supervision agencies** with implementation.
- Solidify **data monitoring** metrics.
- **Monitor subaward** projects and funding distribution.
- **Engage stakeholders** on implementation progress and needs.

KCJRC recommendations that were not previously enacted would reinforce JRI efforts and help advance Kansas’s goal to maintain public safety, reduce recidivism, and use limited taxpayer dollars efficiently.

POLICY	IMPACTS
1. Standardize general conditions of supervision (HB 2658)	Improve supervision processes
2. Expand the number of presumptive probation and border grid blocks in the sentencing grid for drug crimes and allow more access to SB 123 treatment (HB 2146)	164 beds in the first year; up to 240 beds in 10 years
3. Expand the number of presumptive probation and border grid blocks in the sentencing grid for nondrug crimes (HB 2350)	191 beds in the first year; up to 265 beds in 10 years
4. Expand good time credits and program credits in prison (HB 2031)	114 beds in the first year; up to 941 beds in 10 years

Policy Recommendation

Standardize general conditions of supervision (HB 2658).

Goal of Recommendation:

Provide an equitable baseline of conditions for people on supervision across the state.

Current Challenges

- Every court jurisdiction creates its own set of general conditions of supervision.
- General conditions of supervision vary in length, complexity, and readability.
- Some jurisdictions have over 50 general conditions.
- People on supervision with multiple jurisdictions must navigate conflicting and complex conditions.

Benefits of Policy Adoption

- Ensure conditions used meet best practices and are easy to understand.
- Reduce violations resulting from overly complex or competing conditions across jurisdictions.
- Ease monitoring of conditions if a person is supervised by another jurisdiction.

Policy Recommendation

Expand presumptive probation and border grid blocks for drug crimes (HB 2146) and nondrug crimes (HB 2350).

Goal of Recommendation:

Bring the sentencing grids more in line with judicial decision-making and allow increased access to state-funded treatment.

Current Challenges

- Judges are using dispositional departures more than half the time on several “presumptive prison” grid blocks.
- Dispositional departures require extra work and justification by judges.
- Admissions to prison for drug offenses saw the largest increase from FY2010 to FY2019.

Benefits of Policy Adoption

- Reduce the necessity for downward departures to avoid a prison sentence when treatment is indicated.
- Allow more people to receive treatment through SB 123 and reduce recidivism.
- Ensure prison space is available for people convicted of the most serious crimes.

Glossary of Terms about Kansas Sentencing

Sentencing Grids: Each sentencing grid is a two-dimensional crime severity and criminal history classification tool.

Dispositions: Above the black dispositional line, the grid blocks are designated “presumptive prison.” Below the dispositional line, the green shaded grid blocks are designated as “presumptive probation.” In blue “border boxes,” the presumption is prison, but the court has the power to grant probation without departing from the grid.

Criminal History Categories

A	3+ Person Felonies
B	2 Person Felonies
C	1 Person & 1 Nonperson Felonies
D	1 Person Felony
E	3+ Nonperson Felonies
F	2 Nonperson Felonies
G	1 Nonperson Felony
H	2+ Misdemeanors
I	1 Misd. or No Record

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	196 186	187 178	179 170	170 162	167 158	162 154	161 150	154 146
II	144 136	137 130	130 123	124 117	116 111	113 108	110 104	108 100	103 98
III	83 78	77 73	72 68	68 64	62 59	59 56	57 54	54 51	51 49
IV	51 49	47 44	42 40	36 34	32 30	26 24	23 22	19 18	16 15
V	42 40	36 34	32 30	26 24	22 20	18 17	16 15	14 13	12 11
	37	32	28	23	18	16	14	12	10































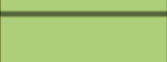
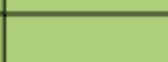
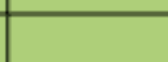
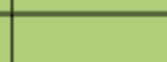
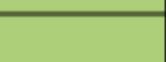
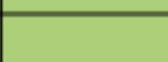
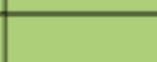

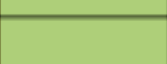
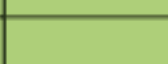
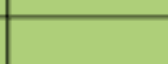
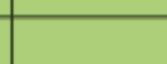
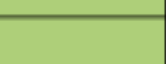
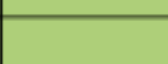
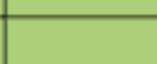
SENTENCING RANGE – NONDRUG OFFENSES

Category → Severity Level ↓	A	B	C	D	E	F	G	H	I
	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanor	1 Misdemeanor No Record
I	653 620	618 586	285 272	287 253	246 234	226 214	203 195	186 176	165 155
II	493 467	460 438	216 206	200 190	184 174	168 160	154 146	138 131	123 117
III	247 238	228 216	107 102	100 94	92 88	83 79	77 72	71 66	61 59
IV	172 162	162 154	75 71	69 66	64 60	59 56	52 50	48 45	43 41
V	136 130	128 120	60 57	55 52	51 49	47 44	43 41	38 36	34 32
VI	46 43	41 39	38 36	36 34	32 30	29 27	26 24	21 20	19 18
VII	34 32	31 29	29 27	26 24	23 21	19 18	17 16	14 13	13 12
VIII	23 21	20 19	19 18	17 16	15 14	13 12	11 10	11 10	9 8
IX	17 16	15 14	13 12	13 12	11 10	10 9	9 8	8 7	7 6
X	13 12	12 11	11 10	10 9	9 8	8 7	7 6	7 6	6 5

Amend the nondrug grid to better reflect actual sentencing and reduce downward departures by expanding presumptive probation and border box zones.

Current and Proposed Nondrug Grid Designations

 Current Probation
  Current Border
  New Probation
  New Border

SL	A	B	C	D	E	F	G	H	I
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

Amend the drug grid to better reflect actual sentencing and reduce downward departures by expanding presumptive probation and border box zones.

Current and Proposed Drug Grid Designations



SL	A	B	C	D	E	F	G	H	I
1									
2									
3									
4									
5									

* Proposed drug grid is based on introduced version of HB 2146 and does not include any amendments.

Policy Recommendation

Expand good time credits and program credits in prison (HB 2031).

Goal of Recommendation:

Use incentives to reduce recidivism and promote positive behavior of people in prison.

Current Challenges

- KDOC is operating at 99 percent of staffed capacity.
- The prison population is projected to increase by more than 700 people over the next 10 years, stretching KDOC's staffing resources.
- KDOC cannot fill currently allocated staff positions.

Benefits of Policy Adoption

- Improve institutional behavior.
- Increase motivation to attend rehabilitative programming.
- Reduce recidivism.
- Prioritize prison space for people convicted of the most serious crimes and for people engaged in misconduct.

Kansas must employ and invest in several strategies to ensure the sustainability and impact of policy changes.



Create **data monitoring** structures.



Utilize an **oversight body** that will monitor the criminal justice system.



Ensure that relevant **stakeholders are engaged**.



Monitor criminal justice related **legislative policies**.



Continue **data system enhancements**.



Incorporate **racial equity measures**.

Sustainability Recommendation

Expand the mission of KSSC to allow for more expansive analysis of the Kansas criminal justice system.

Goal of Recommendation:

Provide robust data analysis capabilities across the entire criminal justice continuum with the ability to understand the race equity impacts of legislative and administrative policy implementation.

Current Kansas Sentencing Commission Limitations

- Limited to felony crimes
- Scope centered on sentencing guidelines and prison population projections

Recommended Changes

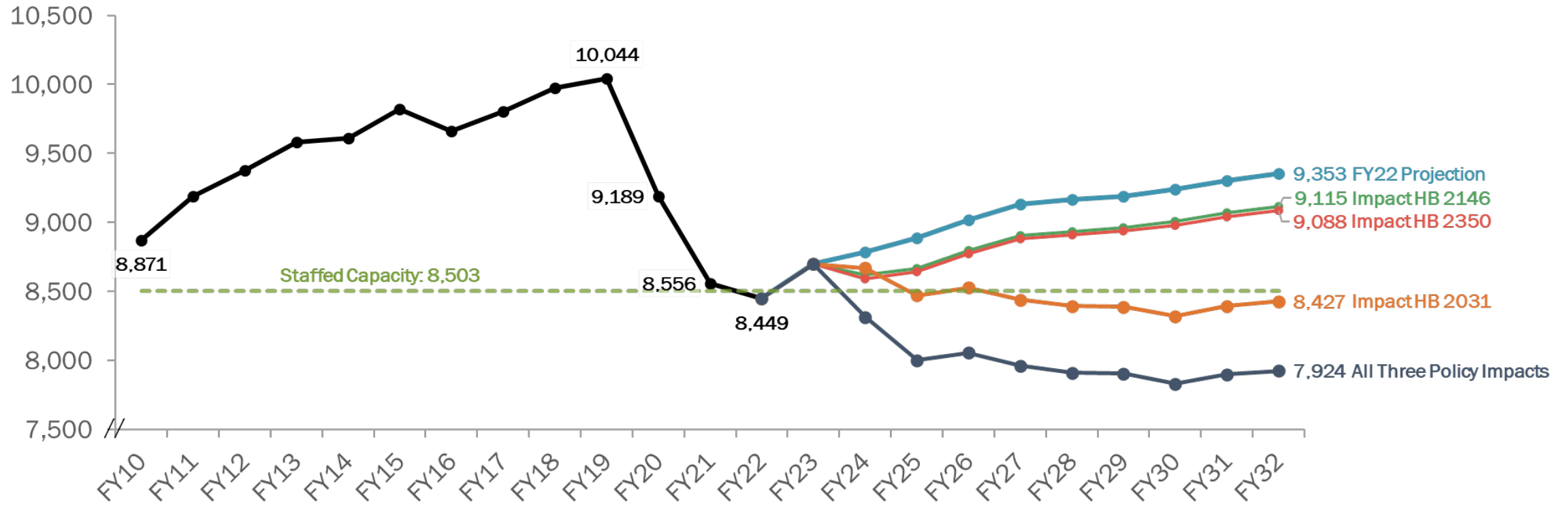
- Expand purview of KSSC to include the entire criminal justice continuum beginning at arrest.
- Expand membership of KSSC to include
 - A member of law enforcement;
 - A person directly impacted by the criminal justice system in Kansas; and
 - A victim representative.

Benefits of Adoption

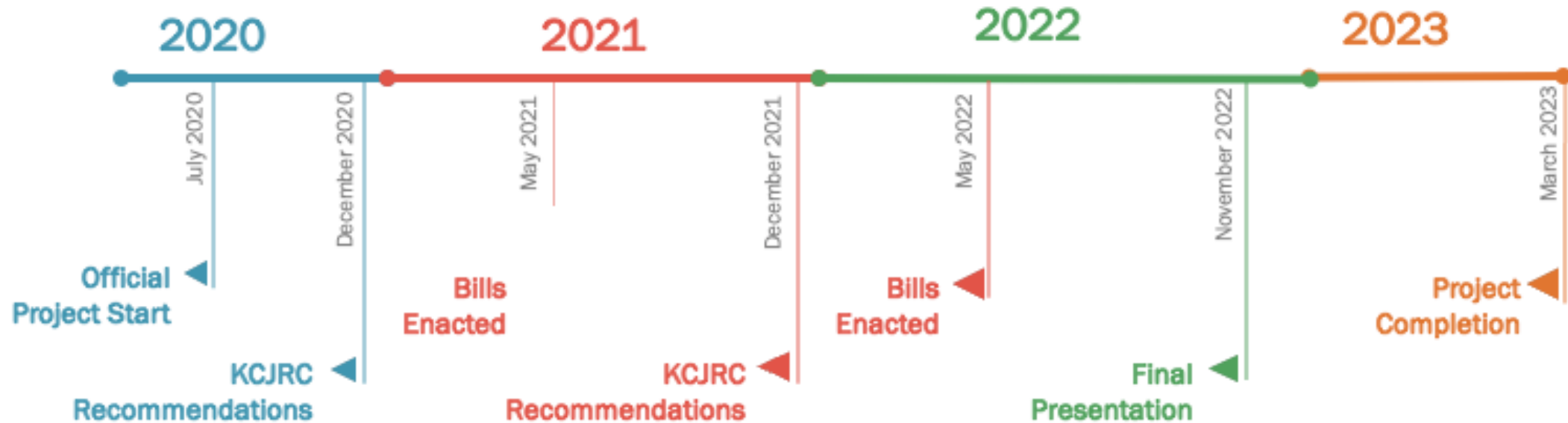
- Legislature will be able to make more decisions based on data.
- Understand race equity impacts on areas of the criminal justice system other than sentencing.
- Assess the effectiveness of treatment courts.
- Understand misdemeanor trends.

Kansas is facing pressures with the growing prison population, but various policy options could help contain the growth.

Prison Population Projection and Policy Impact Projections



This meeting marks the final presentation of Kansas's JRI project.



The CSG Justice Center has partnered with Kansas on a wide range of projects and remains a resource for Kansans.



The Justice Reinvestment Initiative is a data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism. Justice Reinvestment focuses on adults in the criminal justice system.



Stepping Up is a national initiative calling on counties across the country to reduce the prevalence of people with mental illnesses and co-occurring substance addictions being held in county jails.



JPLI aims to stimulate, support, and enhance efforts by judges and psychiatrists to improve judicial, community, and systemic responses to people with behavioral health needs involved in the justice system.

Smart Supervision

Smart Supervision is a competitive grant from the Bureau of Justice Assistance designed to reduce the prison population, save money, and create safer communities.

Citations

Slide 11: CSG Justice Center analysis of KDOC prison admission data, May 2020; Jeff Zmuda, “Kansas Department of Corrections Presentation to the Criminal Justice Reform Commission” (PowerPoint presentation, Kansas Criminal Justice Reform Commission, Topeka, KS, October 28, 2019).

Slide 12: Marc Bennett, *Report of the Kansas Criminal Justice Reform Commission to the 2022 Kansas Legislature*, (Kansas Legislative Research Department, December 2021), <http://www.kslegresearch.org/KLRD-web/Publications/Resources/Documents/Justice-Reform/KCJRC-final-report-Dec-2021.pdf>.

Slide 23: Kansas Sentencing Commission, “FY 2023 Prison Population Projections” (PowerPoint presentation, Kansas Sentencing Commission Meeting, Topeka, KS, August 25, 2022).

Slide 24: Community Corrections and Post-Supervision trends pulled from Kansas Department of Corrections Annual Report FY2021. Court Services trends provided by Spence Koehn in email, 11/17/22, for FY 2019 – FY 2022. Numbers for FY 2017 and FY 2018 are approximated based on FY 2019 data.

Slide 34: CSG Justice Center analysis of Kansas Sentencing Commission felony sentencing data, September 2020; CSG Justice Center analysis of KDOC prison admission data, May 2020.

Slide 35: Kansas Sentencing Commission, *Kansas Sentencing Guidelines Desk Reference Manual 2019* (Kansas Sentencing Commission, 2019), https://cdn.oits.ks.gov/media/docs/sentencinglibraries/desk-reference-manuals/2019/2019-drm-text-only.pdf?sfvrsn=b1127582_3.

Slide 36: CSG Justice Center analysis of Kansas Sentencing Commission felony sentencing data, September 2020. The grid cell for 7 nondrug grid sentences could not be determined due to missing criminal history information.

Slide 39: Kansas Sentencing Commission, “FY 2023 Prison Population Projections” (PowerPoint presentation, Kansas Sentencing Commission Meeting, Topeka, KS, August 25, 2022).

Slide 42: Kansas Department of Corrections historical prison trends; Kansas Sentencing Commission FY22 Prison Population Projection; Policy projections provided by KSSC in Fiscal Notes for HB 2031, HB 2146, and HB 2350.

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