



# North Carolina Sentencing and Policy Advisory Commission

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January 2017

## Prison Population Projections: Fiscal Year 2017 to Fiscal Year 2026

### Introduction

North Carolina General Statute §164-40 sets forth the North Carolina Sentencing and Policy Advisory Commission's original mandate to develop a computerized simulation model to be used to prepare prison population projections. The projections are prepared on an annual basis in conjunction with the North Carolina Department of Public Safety's (DPS) Division of Adult Correction and Juvenile Justice (DACJJ) and are used to help determine long-term resource needs.

The prison population projections contained herein were completed in two parts. The Sentencing Commission prepared prison population projections for all offenders sentenced on or after July 1, 2016 (new population). The Rehabilitative Programs and Services Section of the DACJJ prepared projections for all offenders in prison as of June 30, 2016 (resident prison population). The final combined projections take into account the decline of the resident prison population (Structured Sentencing Act releases, Fair Sentencing Act releases, and pre-Fair Sentencing Act releases) and the buildup of the new inmate population (new prison admissions that occur through the imposition of active sentences or as the result of violations of probation or post-release supervision).<sup>1</sup> The ten-year prison population projections include all inmates considered part of the state prison system.

### Prison Population Projections and Capacity

The prison population projections were developed using SAS® Simulation Studio. The simulation model utilizes empirical information about how offenders are processed through the criminal justice system to produce the projections. The composition of the current and projected prison populations is primarily determined by the empirical distribution of offenders convicted and sentenced under the Structured Sentencing Act. Data on convictions and sentences imposed in FY 2016 (July 1, 2015 through June 30, 2016) provide the foundation for the prison population projections. By using the most recent empirical data available, the projections account for changes in criminal justice trends (arrests, court filings, dispositions, and convictions) that occur from year to year.

For the majority of the past decade, the accuracy of the prison population projections has been within 2%. The projected prison population for June 2016 was 37,095. The actual average population for June 2016 was 36,634 – a difference of 461 beds, or about 1%.

Following the 2011 Session of the North Carolina General Assembly, North Carolina implemented substantial changes to the state's sentencing practices and correctional policies in response to the

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<sup>1</sup> The Structured Sentencing Act applies to offenses committed on or after October 1, 1994. There is no parole for offenders sentenced under the Structured Sentencing Act, with the exception of the possibility of life with parole for offenders convicted of first degree murder who were under age 18 at the time of offense. Otherwise, only those offenders sentenced under the Fair Sentencing Act or pre-Fair Sentencing Act may be eligible for parole.

passage of the Justice Reinvestment Act (JRA) of 2011. Technical and clarifying changes to the JRA were made during subsequent legislative sessions. These changes to the criminal justice system have impacted prison admissions, prison releases, and time to be served – all critical factors in determining the prison population.

Table 1 and Figure 1 present the projected prison population and capacity for FY 2017 through FY 2026. Prison capacity projections were provided by Prisons Administration of the DPS and are based on projects funded or authorized. The prison population projections and capacity estimates exclude probationers who are housed in Confinement in Response to Violation (CRV) Centers.<sup>2</sup>

As shown in the Current Projection column in Table 1, the prison population is projected to increase from 36,774 in June 2017 to 38,442 in June 2026 – an increase of about 5%. The current projection is lower than the previous year’s projection, which is consistent with continued declines in criminal justice trends and with decreases in felony convictions over the previous year. Expanded Operating Capacity (EOC) is projected to be 37,617 and Standard Operating Capacity (SOC) is projected to be 32,152 for each year of the ten-year projection. A comparison of the projections with EOC indicates that the projected prison population will be below prison capacity for all but the last two years of the ten-year projection period.

Figure 1 and Figure 2 provide a historical examination of the prison population, while Figure 1 also graphically presents the ten-year prison population projection within the context of prison capacity. The prison population experienced consistent growth from FY 2004 through FY 2009, with an overall increase of nearly 17% and an average yearly increase of about 3%. From FY 2009 through FY 2011, the prison population leveled off as a result of declines in criminal justice trend indicators (such as arrests and convictions) and in response to legislative changes in 2009 to the minimum sentence lengths and prior record point distributions in the felony punishment chart. The declines in the first half of FY 2012 (from July to December 2011) can be attributed to changes to earned time credits for prisoners that went into effect in June 2011, while the declines in the second half of FY 2012 can be attributed to changes in prison entries as a result of the JRA. While the intent of the JRA is to reduce the prison population by changing offender behavior, this initial decline resulted from two immediate changes: shifting most misdemeanants from prison to local jails through the establishment of the Statewide Misdemeanant Confinement Program (SMCP), and the legal change that placed limits on revocations of probation and established 90-day CRV for technical violations of probation.

The prison population remained around FY 2006 levels from FY 2013 through FY 2015. However, the prison population was trending upward for much of 2014 until legislative changes went into effect that resulted in further decreases to the prison population. The legislative changes shifted the remainder of offenders sentenced for misdemeanor offenses and offenders sentenced for impaired driving offenses to local jails through the SMCP (effective for sentences on or after October 1, 2014, and January 1, 2015, respectively). With the reclassification of CRV Center beds as treatment beds (effective January 1, 2016), the prison population decreased further and is currently around FY 2005 levels.

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<sup>2</sup> The DPS opened two pilot CRV Centers in December 2014. During the initial pilot, CRV Center beds were classified as prison beds. Effective January 1, 2016, the DPS reclassified CRV Center beds as treatment beds. As a result, probationers who receive 90-day confinement in a CRV Center are no longer considered part of the prison population.

**NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION**

**Table 1  
Prison Population Projections and Capacity  
January 2017**

**Prepared in Conjunction with the  
North Carolina Department of Public Safety’s Division of Adult Correction and Juvenile Justice**

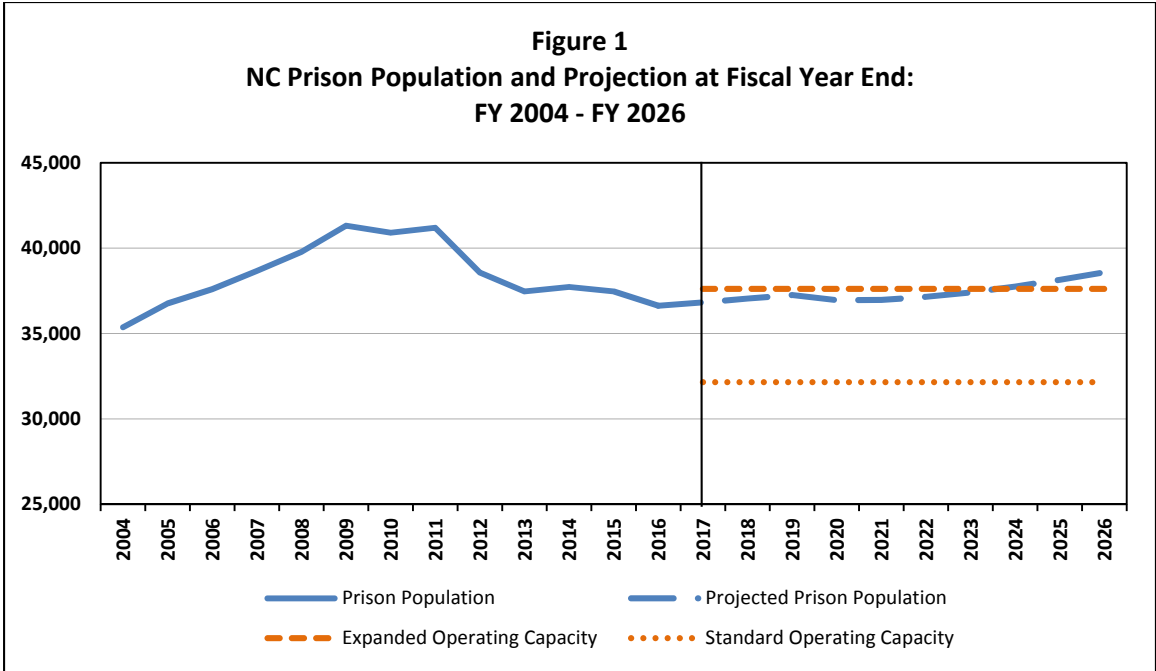
Fiscal Year End	Prison Population as of June 30 <sup>3</sup>		Expanded Operating Capacity <sup>4,5</sup>	Difference between Current Projection and Capacity <sup>6</sup>
	Previous Projection	Current Projection		
<b>2017</b>	37,304	36,774	37,617	843
<b>2018</b>	37,601	36,906	37,617	711
<b>2019</b>	37,367	37,116	37,617	501
<b>2020</b>	37,385	36,814	37,617	803
<b>2021</b>	37,642	36,821	37,617	796
<b>2022</b>	37,927	37,010	37,617	607
<b>2023</b>	38,395	37,268	37,617	349
<b>2024</b>	38,868	37,612	37,617	5
<b>2025</b>	39,224	38,003	37,617	-386
<b>2026</b>	N/A	38,442	37,617	-825

<sup>3</sup> See <http://www.nccourts.org/Courts/CRS/Councils/spac/Publication/Projections/Adult.asp> for previous prison population projections. The current projection excludes offenders in Confinement in Response to Violation (CRV) Centers.

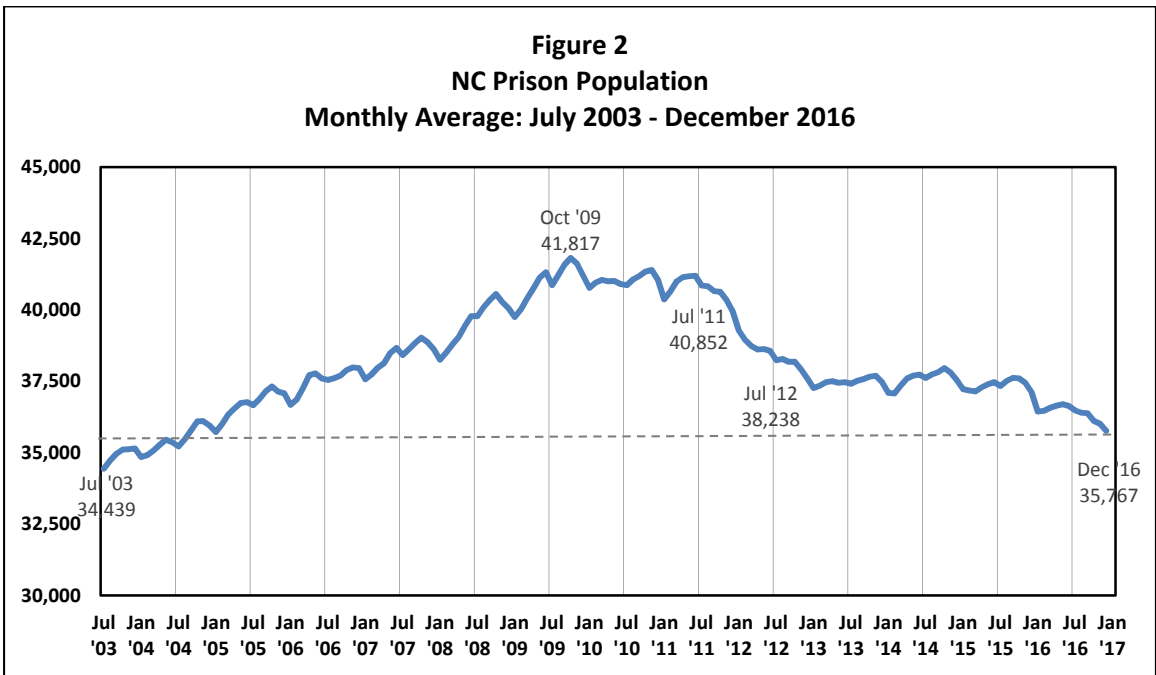
<sup>4</sup> Prison capacity estimates were updated by Prisons Administration of the NC Department of Public Safety (DPS). Expanded Operating Capacity (EOC) is the number of inmates housed in dormitories that operate at varying percentages (not to exceed 130%) beyond their Standard Operating Capacity, plus the number of single cells with one inmate per cell, plus the number of single cells that house two inmates per cell. Standard Operating Capacity (SOC) is the number of single cells with one inmate per cell plus the number of inmates who can be housed in dormitories by dividing the gross square feet of each dormitory by 50 square feet and rounding to the closest double bunk configuration. SOC is projected to be 32,152 for each year of the ten-year projection.

<sup>5</sup> Capacity estimates are based on projects funded or authorized. The capacity estimates take into account the consolidation of Brown Creek Correctional Institution and Lanesboro Correctional Institution, representing a net decrease of 756 EOC and 668 SOC. Effective January 1, 2016, CRV Center beds were reclassified as treatment beds by the DPS and are excluded from EOC and SOC estimates (Burke CRV Center: 200 SOC, 248 EOC; Robeson CRV Center: 152 SOC, 192 EOC; Eastern Correctional Institution: 96 SOC, 96 EOC).

<sup>6</sup> Positive numbers indicate that the current projected population is lower than capacity, while negative numbers indicate that the current projected population is higher than capacity.



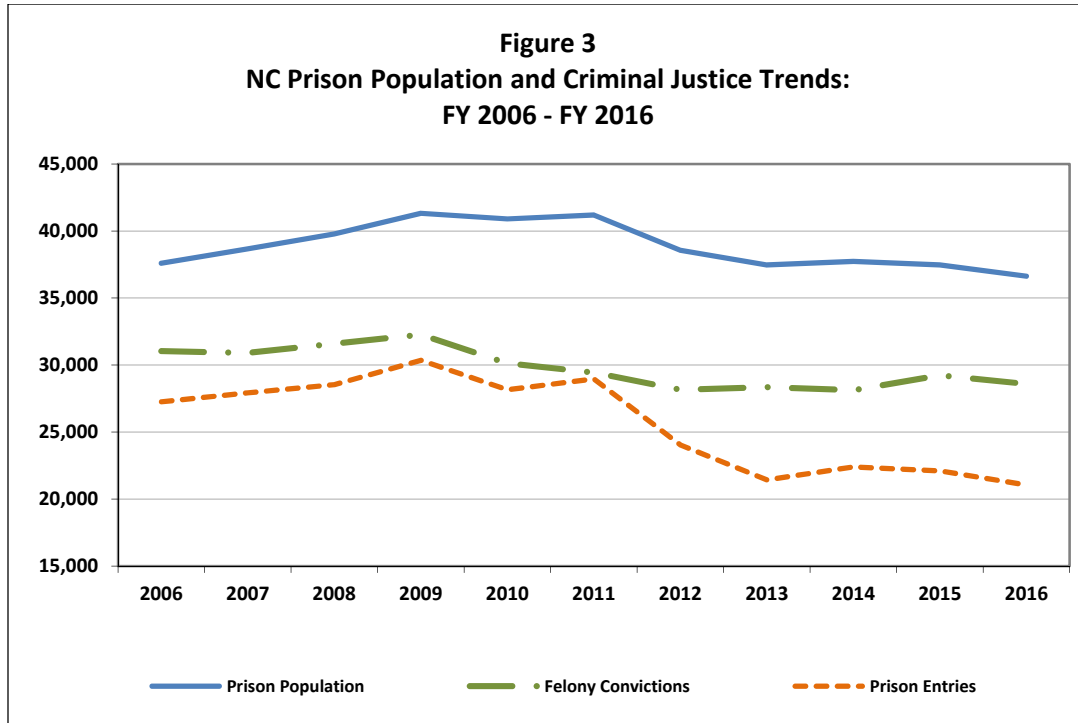
SOURCE: NC Sentencing and Policy Advisory Commission and NC Department of Public Safety



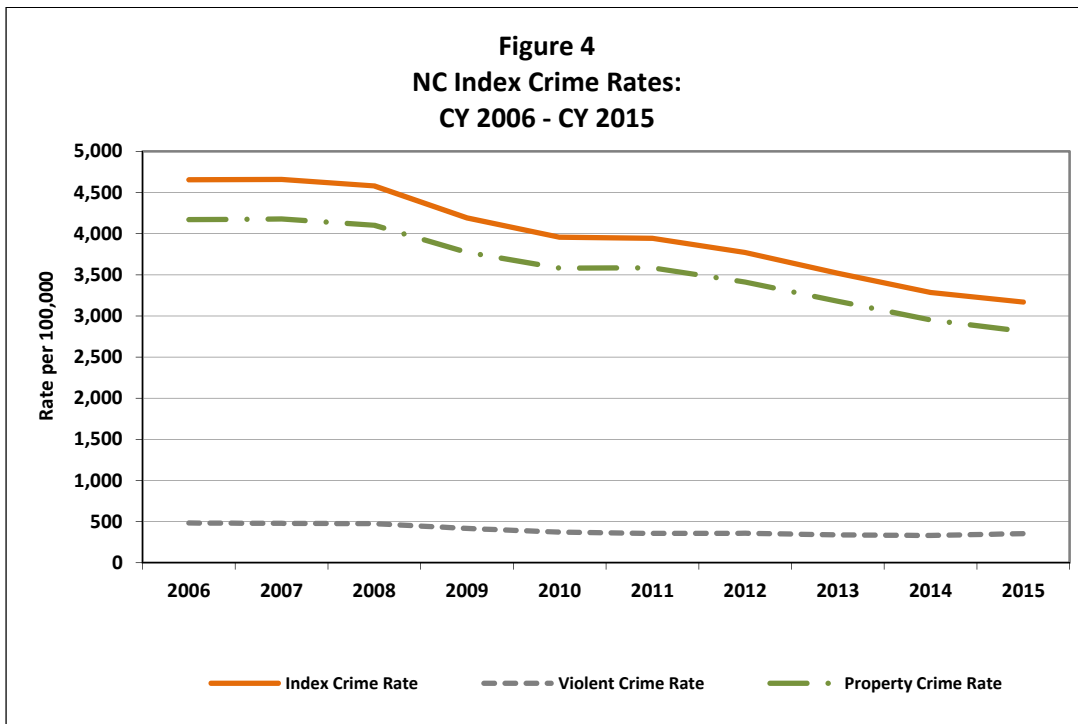
Note: Solid vertical lines separate each fiscal year. The dashed horizontal line allows for a comparison of the current prison population with historical prison populations.

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Daily Unit Population Reports and Inmates on Backlog Reports

Figure 3 and Figure 4 highlight criminal justice trends that factor into the lower prison population. As shown in Figure 3, felony convictions and prison entries have both decreased from their highest point in FY 2009, and correspond with decreases in the prison population. Prison entries experienced a sharp decrease as a result of the changes under the JRA, beginning with a 17% decline from FY 2011 to FY 2012.



SOURCE: NC Sentencing and Policy Advisory Commission and NC Department of Public Safety



SOURCE: NC Department of Public Safety, State Bureau of Investigation, *Crime in North Carolina*

Declines in prison entries over the past two years have occurred as legislative and policy changes shifted additional populations out of the prison population (as described above). Over the past year, the prison population, felony convictions, and prison entries all decreased (2%, 2%, and 5% respectively).

Consistent with national trends, North Carolina's crime rate has also been declining (see Figure 4). In addition to declines in Index, Violent, and Property crime rates since CY 2008, there has been a decline in the overall number of arrests for Index and non-Index crimes.

## Assumptions

This section details the assumptions that were used to develop the prison population projections for FY 2017 through FY 2026. The assumptions were determined using data from the most recent fiscal year (FY 2016) and assume there will be no significant changes in demographics, crime rates, or criminal justice laws and policies in North Carolina.

- *Growth Rates:* As adopted by the Sentencing Commission's *Forecasting Technical Advisory Group*, the projections assume no growth in felony convictions for FY 2017 and FY 2018, and 1% growth for the remaining years of the projection. The projected growth rates for felony convictions were adopted after considering continued decreases in juvenile justice system and criminal justice system indicators. The continued slowing of the growth rate for the state's population (particularly for males ages 16 – 24, the group most likely to be arrested) was also a factor in determining the growth rates.<sup>7</sup>
- *Punishment Chart:* The projections assume all new felony convictions will be sentenced under the punishment chart effective for offenses committed on or after December 1, 2013. This punishment chart incorporates changes to the minimum sentence lengths and prior record point distributions that were passed during the 2009 Session and changes to maximum sentence lengths that were passed during the 2011 Session and the 2013 Session of the General Assembly.
- *Court Practices:* The projections assume no change in judicial or prosecutorial behavior relating to convictions and sentencing, including practices relating to the imposition of Advanced Supervised Release (ASR) and relating to the conviction and sentencing of habitual offenders.
- *Prison Admissions:* The distribution of prison admissions is expected to match the distribution from FY 2016. In FY 2016, 57% of all felony admissions to prison resulted from active sentences for a new conviction, 20% resulted from probation revocations other than conviction for a new crime, and 23% resulted from post-release supervision (PRS) revocations other than conviction for a new crime. As expected, this distribution has changed considerably with the implementation of the JRA, primarily resulting from the use of different responses for probation violations and from the increasing population of and changing composition of offenders supervised on PRS. Subsequent legislative changes (i.e., expansion of the SMCP) and policy changes (i.e., removal of probationers housed in CRV Centers from the prison population) have also affected this distribution.

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<sup>7</sup> The *Forecasting Technical Advisory Group* adopts growth rates for convictions on an annual basis. The *Group* consists of representatives from the Sentencing Commission, Administrative Office of the Courts, Conference of District Attorneys, Conference of Clerks of Superior Court, Office of Indigent Defense Services, Division of Adult Correction and Juvenile Justice, State Bureau of Investigation, Office of State Budget and Management, UNC School of Government, and Fiscal Research Division of the General Assembly. The group forecasts growth rates after reviewing demographic trends, crime trends, arrest trends, court filing and disposition trends, and prison entry and exit trends.

- *Active Rates and Time Served for Active Sentences:* In FY 2016, 38% of felons received an active sentence, with an average estimated time served of 35 months. Overall, it is assumed that the rates of active sentences for new felony convictions and average estimated time served will match the rates for FY 2016.
- *Percent of Active Sentence Served:* The projections assume that, on average, all Structured Sentencing Act (SSA) felons will serve 107% of their minimum active sentences (the average percentage served by SSA felons released from prison during FY 2016).<sup>8</sup> The percentage of sentence served varies by offense class with prisoners in the more serious offense classes serving a lower percentage of their maximum sentence since they have the potential to accrue more earned time due to their longer sentence lengths (e.g., 102% for Class C, 116% for Class I).
- *Probation:* It is assumed that probation revocation rates, lag-time from placement on probation to revocation, and time served will match FY 2016 figures. In FY 2016, 23% of exits from probation for felons resulted from revocation of probation.
- *Post-Release Supervision (PRS):* It is assumed that PRS revocation rates, lag-time from placement on PRS to revocation, and time served will match FY 2016 figures. In FY 2016, 24% of exits from PRS resulted from revocation.
- *Confinement in Response to Violation (CRV) Centers:* A 90-day CRV may be imposed for probationers who commit technical violations of the conditions of their supervision.<sup>9</sup> It is assumed that the majority of these probationers will be housed in CRV Centers, although some may serve their CRV in prison due to medical or mental health issues, program non-compliance, or other reasons. On December 31, 2016, there were 344 probationers in CRV Centers and 134 in prison facilities.
- *Misdemeanor Sentences:* Misdemeanants sentenced under the SSA and offenders sentenced for impaired driving are mandated to serve any active sentence imposed in jail rather than prison. The projections assume that nearly all of these offenders will serve their sentences in local jails, although a small number may serve their sentences in prison due to medical or other reasons as part of the SMCP. On December 31, 2016, the SMCP population was 1,086.
- *Sentences under the Fair Sentencing Act (FSA) and Prior:* Prison population projections continue to be affected by parole practices due to the number of FSA and pre-FSA offenders currently in prison. On November 30, 2016, there were 2,208 FSA and pre-FSA offenders in prison (including 1,733 with life sentences and 61 with death sentences), representing 6% of the state's inmates.
- *Legislative Changes to Criminal Penalties:* The projections do not include any potential impact from legislative changes to criminal penalties from the past legislative session. The potential impact for these changes cannot be determined because the legislative changes either created new offenses for which there are no historical data or amended penalties for existing offenses with elements that could not be modeled.

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<sup>8</sup> The maximum sentence length is set at 120% of the minimum sentence length rounded to the next highest month plus the period of PRS.

<sup>9</sup> Technical violations of conditions of supervision include, for example, missing appointments, curfew violations, and positive drug screens.