

JUSTICE REINVESTMENT ACT

IMPLEMENTATION EVALUATION REPORT

2019



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DIVISION OF ADULT CORRECTION AND JUVENILE JUSTICE
OF THE NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY

SUBMITTED PURSUANT TO N.C. GEN. STAT. § 164-50 (2018)

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I. INTRODUCTION

In 2011, the North Carolina General Assembly directed the Sentencing and Policy Advisory Commission (Sentencing Commission) and the Division of Adult Correction and Juvenile Justice (DACJJ) of the Department of Public Safety (DPS) to jointly conduct ongoing evaluations regarding the implementation of the Justice Reinvestment Act (JRA).¹ This report constitutes the eighth report in compliance with the directive.

The Sentencing Commission's implementation evaluation reports have followed the process from the early stages of implementation of the JRA to the current, more settled phase of implementation. This report highlights recent legislative changes to the JRA, policies and practices that have been adjusted in 2018, new initiatives undertaken by agencies to further the goals of the JRA, and data examining the usage of JRA tools and preliminary outcomes under the JRA.²

The information for the report comes from updates provided by agencies at meetings with Sentencing Commission staff, from agency and organizational reports submitted to the Legislature, and from data collected by agencies. Given that the correctional system was most affected by the changes under the JRA, the management information system used by DPS, the Offender Population Unified System (OPUS), is the primary source for data presented in this report. Much of the information was obtained from DACJJ's Rehabilitative Programs and Services Section, as well as from their online Automated System Query (ASQ). Information about the Statewide Misdemeanant Confinement Program (SMCP) was obtained from the North Carolina Sheriffs' Association (NCSA).³

This first section of the report provides background on the JRA and subsequent, related legislation that made changes to it. Section II of the report includes information related to sentencing practices under the JRA (e.g., data on special probation and habitual felon status offenses). Section III provides information on community supervision including recent policy changes and data on the population of offenders on supervision in North Carolina. Section IV details the effect of the JRA on incarceration practices for both local confinement facilities and state prisons. Section V summarizes key findings from the report.

Justice Reinvestment Implementation Report Subcommittee

In response to the mandate to conduct ongoing evaluations of the implementation of the JRA, the Sentencing Commission established the Justice Reinvestment Implementation Report Subcommittee. The purpose of the Subcommittee is to review information, and data when available, and report to the Commission any recommendations regarding the implementation of the JRA.

Background

In 2009, North Carolina's executive, legislative, and judicial leadership requested technical assistance from the Council of State Governments (CSG) Justice Center to study North Carolina's criminal justice system. The bi-partisan request was made in response to the state's increasing prison population and

¹ N.C. Gen. Stat. (G.S.) § 164-50.

² See Appendix A for a full timeline of the JRA implementation.

³ See Appendix B for a full list of acronyms used in this report.

with the hope CSG would determine ways North Carolina could curb expenditures for building prisons as well as ways to reinvest in strategies to reduce corrections spending overall.⁴

From 2009 to 2010, CSG analyzed North Carolina data, examined the criminal justice system, and engaged stakeholders and policymakers to identify potential areas for improvement in sentencing, supervision, and treatment practices. CSG found that probation revocations and various sentence enhancements were two factors straining the prison system. CSG also noted the lack of supervision for many offenders leaving prison, as well as inadequately targeted treatment in the community. CSG developed and recommended a legislative package designed to increase public safety while curbing spending on corrections by reinvesting in community treatment.⁵

The policy options presented by CSG were incorporated into House Bill 642, The Justice Reinvestment Act. Representatives Bordsen, Faircloth, Guice, and Parmon introduced HB 642 in the North Carolina General Assembly during the 2011 Session. Both the House of Representatives and Senate ultimately passed the legislation with overwhelming support. Governor Perdue signed the JRA into law on June 23, 2011.

Major Provisions of the Justice Reinvestment Act

The JRA makes changes to North Carolina's court system and corrections system (encompassing prisons, probation, and post-release supervision (PRS)). The JRA also creates a statewide confinement program for misdemeanants, refocuses community resources, creates a new habitual breaking and entering felony offense, and modifies the punishment for habitual felons. A summary of the major provisions of the JRA is provided below, by system.⁶

Changes to the Court System

The JRA expands the existing drug diversion program⁷ to make it mandatory. All first-time offenders convicted of a misdemeanor or Class I felony possession of drugs or paraphernalia offense are placed in the program. However, the General Assembly subsequently amended the statute to allow a judge to find that an offender is inappropriate for the program⁸ (see Related Legislation).

A habitual breaking and entering status offense is created; offenders who commit their second felony breaking and entering offense are eligible and, if convicted, are sentenced in Class E according to the felony punishment chart.⁹

⁴ Due to a confluence of factors, the prison population in North Carolina has declined since 2009. Legislative changes made to the felony punishment chart in 2009, as well as changes to earned time credits made in 2011, contributed to the decline. North Carolina has also experienced changes in demographic trends (including a decrease in the rate of growth in the state's population, particularly for males ages 16-24) and decreases in crime trends overall. (For a full report on North Carolina's prison population, see NC Sentencing and Policy Advisory Commission, *Prison Population Projections FY 2017-FY 2026*).

⁵ For the full report from CSG, see Council of State Governments Justice Center, *Justice Reinvestment in North Carolina, Analysis and Policy Framework to Reduce Spending on Corrections and Reinvest in Strategies to Increase Public Safety*, April 2011.

⁶ Additional information on the JRA is available in multiple places. See NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report, 2012-2016*, available at <http://www.nccourts.org/Courts/CRS/Councils/spac/Publication/JRIReports.asp>; *The North Carolina Justice Reinvestment Act* by James Markham, UNC SOG, published December 7, 2012; and <http://www.sog.unc.edu/node/2044>.

⁷ G.S. 90-96.

⁸ Session Law (S.L.) 2013-210.

⁹ G.S. 14-7.31.

The existing habitual felon law is modified under the JRA; habitual felons are sentenced four classes higher than the class of the current offense, but no higher than Class C.¹⁰

The JRA redefines Community and Intermediate punishments.¹¹ Community punishment is defined as any sentence other than an Active punishment, drug treatment court, or special probation (split sentence). Intermediate punishment is defined as supervised probation. It may include any other condition of probation. Drug treatment court and special probation (split sentence) are limited to Intermediate punishment sentences. The court has the discretion to impose supervised probation with no additional conditions as an Intermediate punishment.

The JRA creates short periods of confinement (“quick dips”) in jail as a new condition of probation.¹² The court is authorized to impose up to six days per month in jail. This condition can be imposed as part of a Community or Intermediate punishment.

Advanced Supervised Release (ASR) is created under JRA for certain offenders receiving active sentences.¹³ ASR allows judges, without objection from the prosecutor, to decide at sentencing whether eligible offenders will be ordered to this prison program which, if completed, leads to their release after serving a reduced minimum sentence.

Changes to Probation

The JRA codifies the use of risk and need assessments as a strategy in managing offenders and allocating resources in the community and directs DACJJ to perform an assessment on all offenders.¹⁴ Supervision and other resources are targeted based on offenders’ levels of risk and need.

The JRA expands delegated authority for probation officers. They are authorized to impose most of the current conditions of probation and to respond to violations by imposing quick dips. The officer may impose a quick dip without a court hearing if the offender signs a waiver.¹⁵

Under the JRA, prison time imposed for technical violations of probation (i.e., violations other than absconding or commission of a new crime) is limited. Originally, the penalty for a first or second technical violation of probation was set at 90 days imprisonment for a felon and up to 90 days for a misdemeanor.¹⁶ Subsequently, the law was amended to eliminate the Confinement in Response to Violation (CRV) period for misdemeanants sentenced to probation under the Structured Sentencing Act (SSA).¹⁷

Changes to Prisons

See Advanced Supervised Release above – “Changes to Court System.”

¹⁰ G.S. 14-7.6.

¹¹ G.S. 15A-1340.11(2), (6).

¹² G.S. 15A-1343 (a1)(3).

¹³ G.S. 15A-1340.18.

¹⁴ G.S. 15A-1343.2(b1).

¹⁵ G.S. 15A-1343.2(e) and (f).

¹⁶ G.S. 15A-1344(d2).

¹⁷ S.L. 2015-191.

Changes to Post-Release Supervision

PRS under the JRA is expanded to include all felons. After serving an active sentence, a period of nine months of supervision is required for Class F-I felons and five years of supervision is required for Class F-I felons convicted of a sex offense. The revocation period for these offenders is nine months. PRS for Class B1-E felons who are not convicted of a sex offense is expanded to twelve months; the revocation period is expanded to twelve months as well.¹⁸

Similar to probation, prison time imposed for technical violations on PRS (i.e., violations other than absconding or commission of a new crime) is limited. The penalty for a first, second, or third technical violation is set at three months of imprisonment. Upon the fourth technical violation, the Post-Release Supervision and Parole (PRSP) Commission may revoke PRS and impose the rest of the prison sentence.¹⁹

Resources

The Criminal Justice Partnership Program (CJPP) is repealed under the JRA and the Treatment for Effective Community Supervision (TECS) program is created.²⁰ DACJJ is authorized to enter into contractual agreements with eligible entities for the operation of community-based corrections programs. TECS focuses on certain offenders: (1) offenders convicted of a felony; (2) offenders participating in the felony drug diversion program; and (3) offenders who are identified by DACJJ to have a high likelihood of re-offending and who have a moderate to high need for substance abuse treatment. Programs eligible for funding include substance abuse treatment programs, cognitive-behavioral programming, and other evidence-based programming (EBP).

Under the JRA, the SMCP is created.²¹ Most misdemeanants will be housed in local jails instead of state prisons. NCSA operates the SMCP, which was funded by court costs that went to the Statewide Misdemeanant Confinement (SMC) Fund; however, the General Assembly has subsequently changed funding to a direct appropriation.²² The SMCP finds space to house eligible misdemeanants in participating local jails. If the participating local jails are full, DACJJ houses the offenders. Originally, misdemeanants who received a sentence of between 91 and 180 days of confinement, excluding sentences for impaired driving²³ offenses, were placed under the SMCP; misdemeanants who received a sentence greater than 180 days were housed in the state prison system. However, the General Assembly subsequently amended the statutes to provide that all misdemeanants who receive a sentence greater than 90 days, and all offenders convicted of impaired driving offenses regardless of sentence length, will serve their time in participating local jails through the SMCP²⁴ (see Related Legislation).

Effective Dates

The JRA went into effect in 2011 and early 2012 (see Table 1). Tracking the effective dates and events that determine offender eligibility is critical to proper application of the law.

¹⁸ G.S. 15A-1368.1 to -1368.2.

¹⁹ G.S. 15A-1368.3(c).

²⁰ G.S. 143B-1150 to -1160.

²¹ G.S. 148-32.1(b2) to (b4).

²² S.L. 2015-241.

²³ Impaired driving is also referred to as "driving while impaired" or "DWI."

²⁴ S.L. 2014-100.

The varied effective dates of the JRA created difficulties for agencies with regard to implementation. There is not a simple distinction between “old” and “new” law; practitioners must be aware of when each provision went into effect in order to determine which offenders are eligible for certain offenses, conditions, and punishments. The General Assembly has also amended the JRA (see Related Legislation), creating additional effective dates for new and amended JRA provisions which also must be tracked to ensure proper application of the law.

Table 1
JRA Effective Dates by Provision

Date	Application	Provision
July 1, 2011	N/A	TECS program SMC Fund
December 1, 2011	Probation violations occurring on or after:	CRV
	Offenses committed on or after:	Habitual Breaking and Entering Habitual Felon Redefine Community and Intermediate punishment Expand Delegated Authority Expand PRS
January 1, 2012	Pleas or guilty findings on or after:	Drug diversion ASR
	Sentences imposed on or after:	SMCP

Having multiple effective dates also created some inconsistencies: for example, an offender who committed a Class F-H offense prior to December 1, 2011, but who is not found guilty until after January 1, 2012, could be eligible for the ASR program even though they would not be subject to PRS. As more time passes under the new law, however, these inconsistencies will phase out (i.e., fewer cases will have offense dates prior to December 1, 2011).

Related Legislation

The Legislature passed the JRA in June 2011 and has made several amendments and clarifying changes since then. Table 2 provides a list of all JRA amendments, their effective dates, and their application. The first clarifying changes came in September 2011 before the JRA went into effect. S.L. 2011-412 clarified probation officers’ delegated authority for Community and Intermediate punishments. Confinement periods imposed through delegated authority must run concurrently and may total no more than six days per month for offenders on probation for multiple judgments. The legislation also specified that any time spent in confinement awaiting a hearing for a probation violation must be credited towards the CRV period, and that CRV periods must run concurrently for offenders on probation for multiple offenses. This statute was amended in 2014 to prohibit any credit from being applied to the CRV period (*see infra*).

In June 2012, the Legislature made additional clarifications to the JRA. S.L. 2012-188 clarified that offenders sentenced to Community or Intermediate punishments and ordered to perform community service shall pay a community service fee. This provision became effective July 16, 2012, and applies to any community service conditions ordered as part of a Community or Intermediate punishment on or after that date. The legislation amended the requirements for probation officers exercising delegated

authority to allow two probation officers to witness a probationer's waiver of rights (previously one probation officer and his/her supervisor had to witness the waiver). It also clarified that judges can impose a CRV period of less than 90 days for misdemeanants (effective July 16, 2012). The legislation provides that the period of PRS is tolled during confinement for offenders re-imprisoned for violating conditions of PRS. This provision became effective on July 16, 2012, and applies to supervisees violating conditions of PRS on or after that date. S.L. 2012-188 amended the maximum sentences for drug trafficking convictions to allow for twelve months of PRS for drug trafficking convictions in Classes B1-E and nine months of PRS for drug trafficking convictions in Classes F-I. These maximum sentence lengths are effective for offenses committed on or after December 1, 2012. Lastly, S.L. 2012-188 granted the PRSP Commission expanded authority to conduct hearings using videoconferencing, effective December 1, 2012.

In June 2013, the Legislature again made clarifications to the JRA. S.L. 2013-101 amended the regular conditions of probation to make it clear that the requirement to not abscond applies to offenders on supervised probation only. It also amended the CRV statute to make it clear that the confinement period must consist of consecutive days (i.e., they cannot be separated). The legislation repealed the requirement that the Sentencing Commission report biennially on recidivism rates for offenders on probation, parole, and PRS participating in programming funded by the TECS program. These changes became effective June 12, 2013. The legislation also amended three maximum sentences specified for Class B1-E felonies that were incorrectly calculated in the original JRA bill. These maximum sentences are effective for offenses committed on or after October 1, 2013.

At the same time, the General Assembly changed one of the policies in the original JRA. S.L. 2013-210 allows the court to determine, with a written finding and agreement of the District Attorney, that an offender is inappropriate for conditional discharge under G.S. 90-96 for factors related to the offense. The JRA originally made this provision mandatory for certain offenders. This change applies to offenses committed on or after December 1, 2013.

In 2014, the Legislature made changes to the SMCP. Session Law 2014-100 eliminated the provision that mandates longer misdemeanor sentences be served in the state prison system, and instead required them to be served in local jails. Pursuant to the change, misdemeanants with sentences greater than 90 days, other than those sentenced for impaired driving, will serve their sentences in local jails that participate in the SMCP (misdemeanor sentences of 90 days or less will continue to be served in local jails). This change applies to persons placed on probation or sentenced to imprisonment on or after October 1, 2014. In addition, S.L. 2014-100 amended the statutes to require that all misdemeanants sentenced for impaired driving offenses, regardless of sentence length, serve their sentences in local jails that participate in the SMCP. This change applies to persons placed on probation or sentenced to imprisonment on or after January 1, 2015.

The General Assembly also changed the policy regarding the awarding of credit to the CRV period for felons. Session Law 2014-100 provided that the term of any CRV shall not be reduced by credit for time already served in the case. Any such credit shall instead be applied to the suspended sentence. Originally, the judge was required to award prehearing credit to the CRV period. This change applies to probation violations occurring on or after October 1, 2014.

In 2015, the Legislature again made changes to the application of CRVs. Session Law 2015-191 eliminated the CRVs for misdemeanants sentenced to probation under the SSA; the CRV remains as a sanction for offenders sentenced to probation for impaired driving offenses. The amendment also

provided that the court may revoke probation for the misdemeanor after they have received two separate periods of short-term confinement, which may be imposed either by the court or by the probation officer through delegated authority. This change applies to persons placed on probation on or after December 1, 2015.

Table 2
JRA Amendment Effective Dates by Provision

Date	Application	Provision
July 16, 2012	PRS violations occurring on or after:	PRS period tolled during reimprisonment
	CRVs imposed on or after:	CRVs less than 90 days authorized for misdemeanants
December 1, 2012	Offenses committed on or after:	Drug trafficking maximum sentences increased
October 1, 2013	Offenses committed on or after:	Certain Class B1-E maximum sentences increased
December 1, 2013	Offenses committed on or after:	Drug diversion change
October 1, 2014	Probation violations occurring on or after:	Credit for time already served cannot be applied to CRV period
October 1, 2014	Persons placed on probation or sentenced to imprisonment on or after:	Misdemeanor sentences greater than 90 days (not impaired driving) to be served in SMCP
January 1, 2015	Persons placed on probation or sentenced to imprisonment on or after:	Misdemeanor impaired driving sentences to be served in SMCP
December 1, 2015	Persons placed on probation on or after:	SSA misdemeanants not eligible for CRVs
		SSA misdemeanants eligible for revocation after two previously imposed quick dips
December 1, 2016	Offenses committed on or after:	Credit for time served on concurrent CRVs only applies to one sentence upon revocation
		Credit for time spent in custody as a result of PRS revocation applies to maximum sentence and not three-month reimprisonment

In 2016, the Legislature addressed two issues relating to credit for time served. Session Law 2016-77 clarified that upon revocation of two or more consecutive sentences as a result of a probation violation, the credit for time served on concurrent CRVs will be credited to only one sentence.²⁵ In addition, S. L. 2016-77 eliminated the application of credit for time spent in custody as a result of a PRS revocation against the three-month period of reimprisonment; the credit is applied toward the maximum prison term instead. These changes apply to offenses committed on or after December 1, 2016.

²⁵ For the Sentencing Commission’s study of CRV credit and consecutive sentences, see NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report, 2015*.

The General Assembly also changed one of the original provisions of the JRA. Session Law 2016-77 eliminated the State Community Corrections Advisory Board that was established as part of the TECS program and created the Justice Reinvestment Council, effective July 1, 2016. The purposes of the Council are to recommend policy enhancements to the JRA, assist in the continued education of criminal justice system stakeholders, support implementation of the JRA, and identify new initiatives that further the implementation of the JRA and the Adult Corrections Recidivism Reduction Plan. Finally, S.L. 2016-77 authorized the PRSP Commission and hearing officers to conduct all hearings regarding violations of PRS by videoconference, effective July 1, 2016.

II. SENTENCING PRACTICES

The primary changes to sentencing under the JRA included redefining Community and Intermediate punishments, modifications to the existing habitual felon status offense, the creation of a new status offense for habitual breaking and entering, and the establishment of ASR. The utilization of ASR and habitual felon status offenses could have an impact on prison bed resources; however, these options are currently used for only a portion of eligible offenders. The usage of these tools reflects the practices within local jurisdictions and therefore varies across the state.

Community and Intermediate Punishments

With the redefinition of Community and Intermediate punishments under the JRA, special probation (split sentence) is one of two punishment conditions limited to Intermediate punishment sentences (the other, drug treatment court, is not available statewide).

Table 3 examines the use of special probation from CY 2011 to CY 2018, with a breakdown by origin – whether special probation was ordered as part of the sentence at initial judgment or whether it was ordered through a modification of probation conditions. Of the 16,928 special probation sentences ordered in CY 2018, 85% were ordered as part of the sentence at initial judgment. Between CY 2017 to CY 2018, the data indicate an 8% decrease in the use of special probation at initial judgment and a 6% decrease in the use of special probation at probation modification. Felons and misdemeanants were nearly equally likely to have their special probation sentences ordered at initial judgment (84% and 86% respectively) and through a modification (16% and 14% respectively).

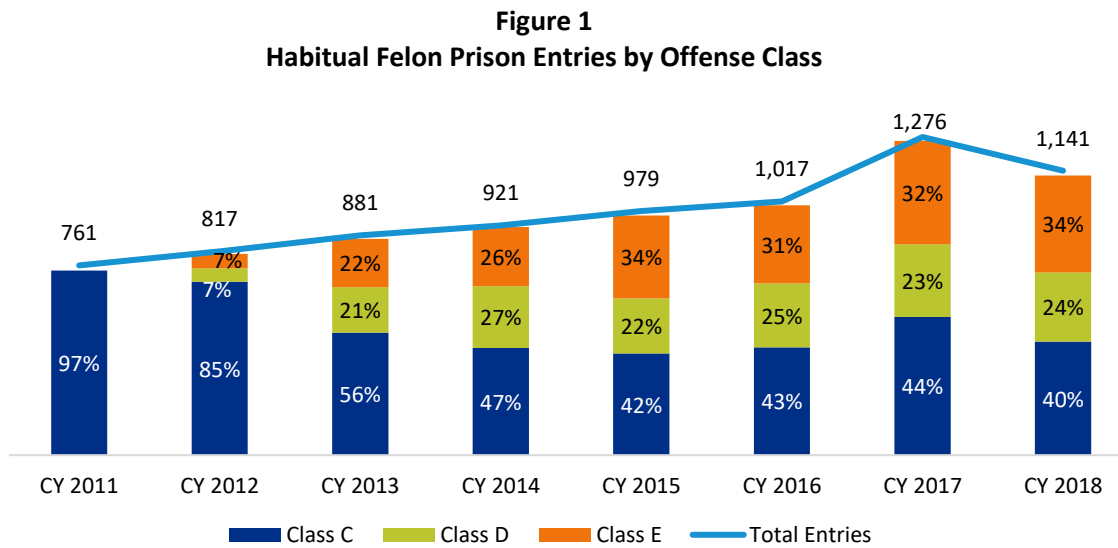
Table 3
Special Probation by Origin

Origin	CY 2011	CY 2012	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017	CY 2018
Initial Judgment	85%	83%	86%	89%	88%	87%	85%	85%
Probation Modification	15%	17%	14%	11%	12%	13%	15%	15%
Total	19,943	20,184	19,792	18,799	18,377	18,263	18,361	16,928

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

Habitual Felon

The effect of the modifications under the JRA to the habitual felon law can be seen by examining the composition of habitual felon sentences by offense class. Under the JRA, habitual felons are sentenced in Class C, D, or E depending on the offense class of their substantive offense. Figure 1 shows the number of habitual felon convictions by offense class from CY 2011 to CY 2018. Overall, the volume of habitual felon prison entries increased 50% from CY 2011 (prior to the JRA) to CY 2018. The number of habitual felon prison entries decreased 11% over the past year, following a 25% increase between CY 2016 and CY 2017. This decrease is most likely related to the number of inmates awaiting transfer from county jails to prison during the last quarter of CY 2018.²⁶ Conviction data indicate a 10% increase in habitual felon convictions from FY 2017 to FY 2018.²⁷ Habitual felon penalties that are more proportional to the underlying offense have likely contributed to the increase in habitual felon convictions that occurred following implementation of the JRA. The volume of habitual felon entries in Class C has continued to decrease with a corresponding increase in the volume of Class D and Class E prison entries noted since implementation.



Note: Overall prison entries for CY 2018 are reduced due to inmates in county jails waiting for transfer to the state prison system. On December 31, 2018, there were 866 inmates backlogged in county jails. Habitual felon prison entries with an “other” class (i.e., safekeepers, CRVs, and possible discrepant data) are excluded from the table. As such, percentages do not add to 100%.

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

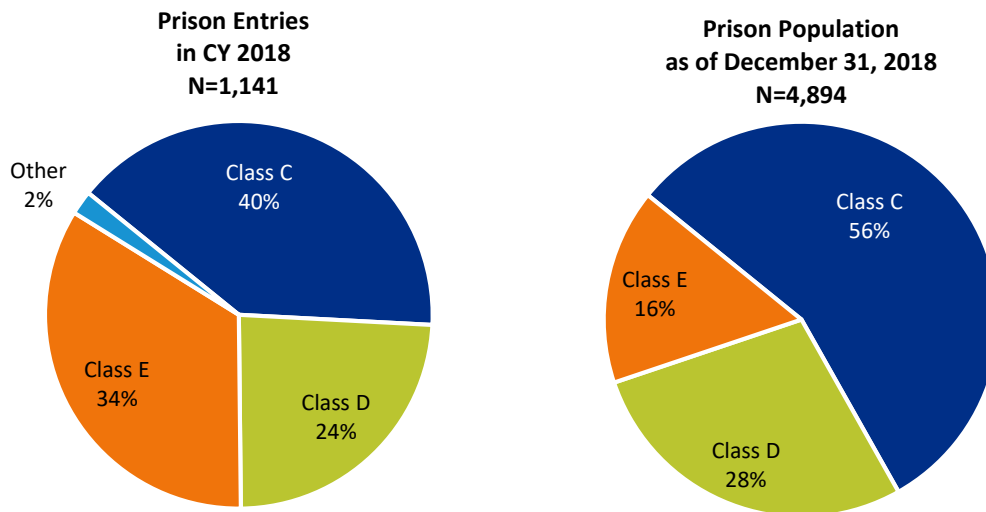
Figure 2 examines the offense class distribution of habitual felon prison entries and the habitual felon prison population. In CY 2018, most habitual felon prison entries were sentenced as Class C (40%). As of December 31, 2018, the majority of the habitual felon prison population (56%) was sentenced in Class C. Since implementation, the difference in the offense class distribution for entries compared to population has been narrowing from year to year; the proportion of offenders sentenced in Class C has decreased, with a corresponding increase occurring for those sentenced in Class D and Class E. However,

²⁶ Reasons for jail backlog include weather events and current staffing levels at the prisons.

²⁷ See NC Sentencing and Policy Advisory Commission, *Structured Sentencing Statistical Report for Felonies and Misdemeanors*.

since habitual felons sentenced in Class D and Class E receive shorter sentences than those sentenced in Class C, most of the habitual felon prison population will continue to be comprised of Class C offenders.

Figure 2
Habitual Felon Prison Entries and Population by Offense Class



Note: Overall prison entries for CY 2018 are reduced due to inmates in county jails waiting for transfer to the state prison system. On December 31, 2018, there were 866 inmates backlogged in county jails. The category “other” includes safekeepers, CRVs, and possible discrepant data.

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Although modifications to the habitual felon law have affected the offense class composition of habitual felon convictions and possibly the volume of convictions, the practice of sentencing habitual felons in the mitigated range has continued. In FY 2018, 54% of Class C, 73% of Class D, and 55% of Class E habitual felons were sentenced in the mitigated range.²⁸

Based on DPS’s broad categorization of offenses, habitual felons account for the largest proportion of the prison population. Overall, habitual felons accounted for 14% (or 4,894) of the December 31, 2018, prison population of 35,752 (including jail backlog and excluding offenders in CRV centers). Although there was a substantial increase in habitual felon prison entries over the same time period, the population of habitual felons in prison has decreased 7% since December 31, 2011 (population of 5,269).

While nearly all habitual felons are sentenced to active punishment, based on the statute, it is possible that a habitual felon in Class E could receive a non-active sentence, depending on prior record level. ASQ indicates there were no Class E habitual felon entries to probation in CY 2018.

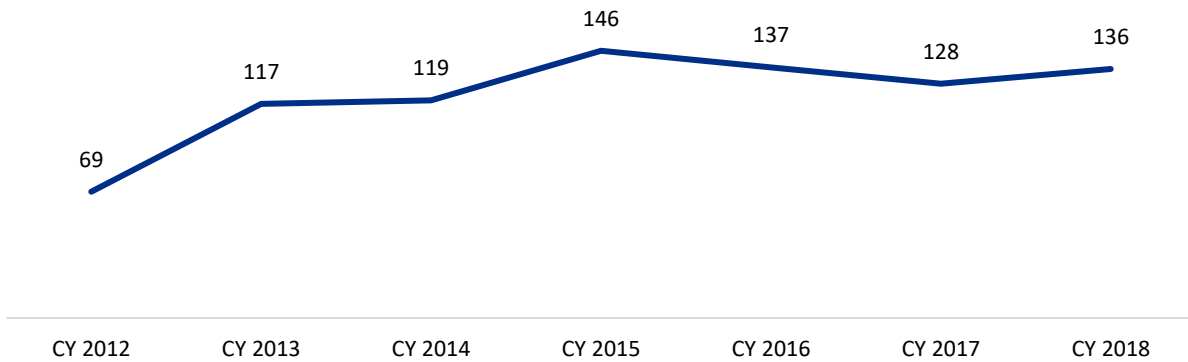
Habitual Breaking and Entering Felon

There were 136 entries to prison in CY 2018 for offenders convicted and sentenced for the habitual breaking and entering offense, which is a Class E felony (see Figure 3). Usage increased 6% from CY 2017

²⁸ See NC Sentencing and Policy Advisory Commission, *Structured Sentencing Statistical Report for Felonies and Misdemeanors*.

(with 128 prison entries). Since implementation, felony habitual breaking and entering has been infrequently used, despite the potentially large pool of offenders eligible to be convicted and sentenced for this status offense.

Figure 3
Habitual Felon Breaking and Entering Prison Entries



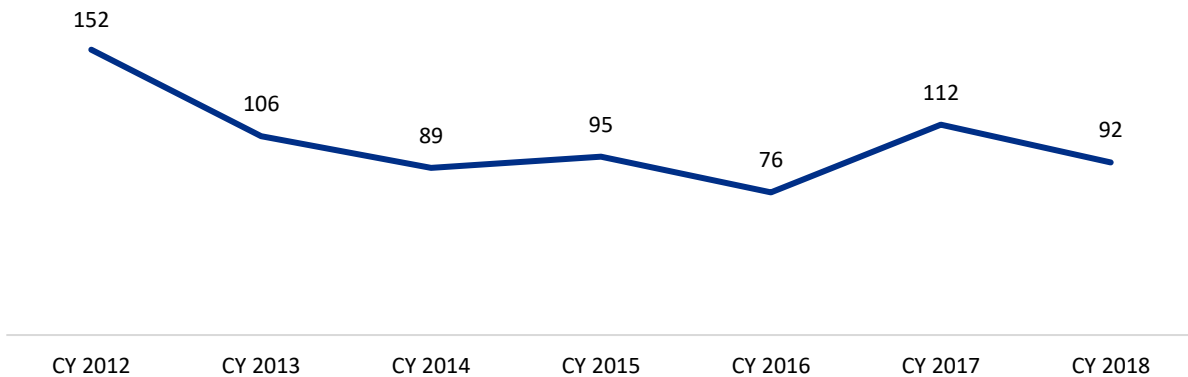
Note: Overall prison entries for CY 2018 are reduced due to inmates in county jails waiting for transfer to the state prison system. On December 31, 2018, there were 866 inmates backlogged in county jails.

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Advanced Supervised Release

Data from DPS indicate the continued limited usage of ASR. Figure 4 provides information on the overall number of inmates receiving ASR sentences since implementation of the sentencing option. The number of inmates receiving ASR sentences decreased from CY 2017 to CY 2018 (from 112 to 92 respectively) and is similar to the number of inmates receiving an ASR sentence in CY 2015. The offense class composition of ASR sentences has been fairly consistent over the past few years. Half of offenders (50%) receiving ASR sentences were sentenced in Class D and Class E for their most serious offense. However, the most serious offense may not be the offense for which ASR was imposed.

Figure 4
Inmates Receiving ASR Sentences



Note: Overall prison entries for CY 2018 are reduced due to inmates in county jails waiting for transfer to the state prison system. On December 31, 2018, there were 866 inmates backlogged in county jails.

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

Data on ASR usage by county of conviction indicate that ASR has been used in 73 of the 100 counties in the state since CY 2012. In CY 2018, it was used in 37 counties, with 5 counties accounting for 37% (or 34) of inmates receiving an ASR sentence.

In CY 2018, 117 inmates with an ASR sentence exited prison. DPS data indicate that the majority (86%) were released at their ASR date (i.e., after serving their reduced minimum sentence length).

Expansion of Initiatives

To further the principles set forward in the JRA, DPS has worked to identify and extend targeted services and EBP to be used at the sentencing stage. One initiative (described below), the Pre-Sentence Investigation Pilot, has been expanded since its inception, with plans to expand further in the future.

Pre-Sentence Investigation Pilot

In 2014, DPS started a Pre-Sentence Investigation (PSI) pilot program in Chatham County and subsequently expanded it to Orange County. In this program, probation officers compile information on offenders and prepare reports for the court's use at sentencing. Officers use the same risk and need assessment (RNA) they use at intake with offenders who are sentenced to probation. DPS reports that these PSIs will provide more information to help the court make sentencing decisions based on risk and needs, decide whether an ASR sentence would be appropriate, and determine what specific supervision conditions should be imposed. In addition, the PSI will help the court match conditions based on offender risk and potentially provide pathways for certain offenders to move from supervised to unsupervised probation. PSIs will also assist DPS in assigning those offenders sentenced to probation to the appropriate officers and allow identified treatment services to begin immediately after sentencing. Since 2015, DPS has been training probation officers in the nine surrounding counties on how to conduct PSIs for offenders sentenced in Orange or Chatham counties. Not enough individuals have left supervision yet to evaluate the pilot. In 2017, DPS requested ten new probation officer positions to expand this pilot; however, the General Assembly did not authorize these positions.

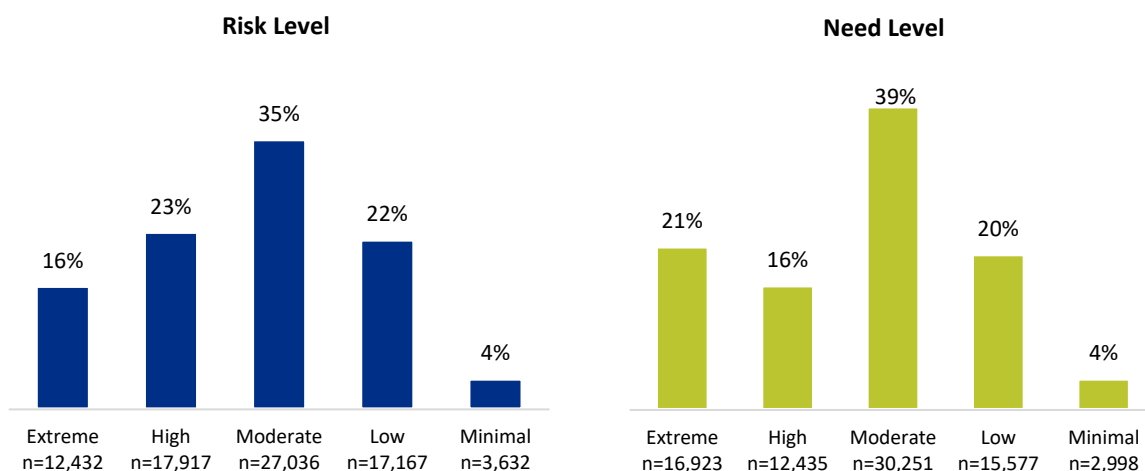
III. COMMUNITY SUPERVISION

The majority of the changes under the JRA affected how offenders are supervised in the community. Community supervision has continued evolving as JRA provisions have been further amended by legislation, adjusted by policy, or reexamined based on initial outcomes. Each year following the enactment of the JRA, the field becomes more settled and established in its understanding and usage of the available tools. Correspondingly, each year offers more information and data related to the use of available tools, their effectiveness, and whether practices have been implemented with fidelity to the intent of the JRA. DPS has demonstrated willingness to continually reexamine its policies and practices for improvement and has made enhancements to existing practices, many in response to available data. The information provided below describes any changes in policies and practices that affected Community Corrections (where relevant) alongside data (where available). As a point of reference for this section, the community corrections population (which includes both probationers and post-release supervisees) was 96,825 on December 31, 2018.

Risk and Need Assessment and Supervision Level²⁹

For supervision of the community corrections population, the JRA requires DPS to use a validated instrument to assess each offender’s risk of reoffending and criminogenic needs to place the offender in the appropriate supervision level. The Offender Traits Inventory-Revised (OTI-R) is used to assess offender risk, while the Offender Self-Report and the Officer Interview and Impressions are used to assess offender need. Using these instruments, there are five risk levels and five need levels: extreme, high, moderate, low, and minimal. Figure 5 examines the risk and need level distribution of the community corrections population. Most offenders were assessed as either moderate risk or moderate need (35% and 39% respectively); a small proportion were assessed as either minimal risk or minimal need (4% each).

Figure 5
Risk and Need Level for the Assessed
Community Corrections Population on December 31, 2018



SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

An offender’s supervision level, which determines the minimum contact requirements for supervision, is determined by the intersection of the offender’s risk and need level. There are five supervision levels; Level 1 is the most restrictive. As shown in Figure 6, most of the community corrections population was in Supervision Level 2 (35%), while the smallest proportion of the community corrections population was in Supervision Level 5 (3%).³⁰ Since the risk assessment was updated in 2012 from the OTI to the OTI-R, the supervision level distribution has remained stable from year-to-year.

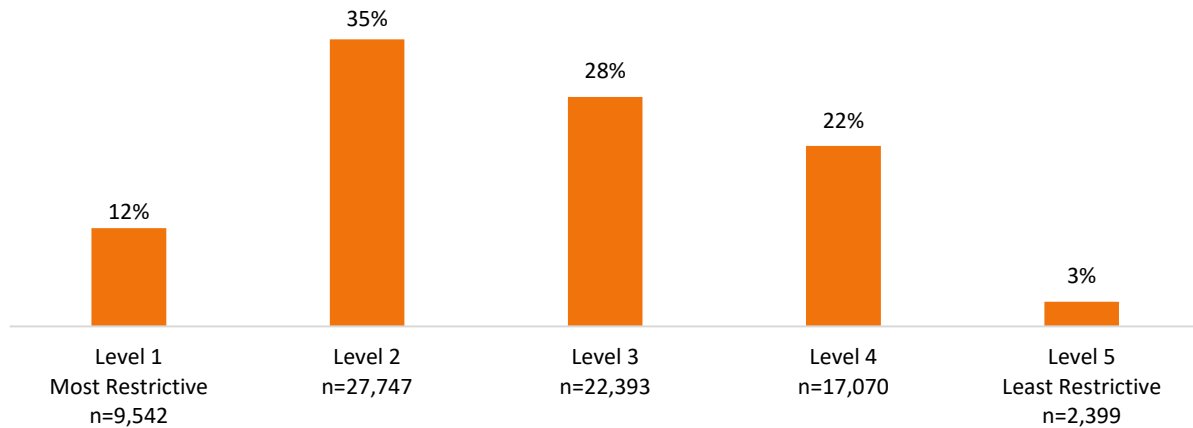
Community Corrections supervises all offenders on probation and PRS in the community based on their risk, need, and supervision level. Little variation was found when comparing the supervision level composition of felony and misdemeanor probationers. The supervision level composition of all offenders on probation was compared to offenders on PRS (see Figure 7). When comparing the two populations, the PRS population was more likely to be supervised in the more restrictive supervision levels (i.e., Levels 1 and 2) than the probation population. Seventy-seven percent of offenders on PRS

²⁹ See NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report, 2013*, for a more detailed description of these instruments.

³⁰ The supervision level distribution for Figure 5 is based on DPS’s RNA process. Additional risk assessments are completed for sex offenders and impaired driving offenders that may result in supervision at a higher level than indicated by the RNA.

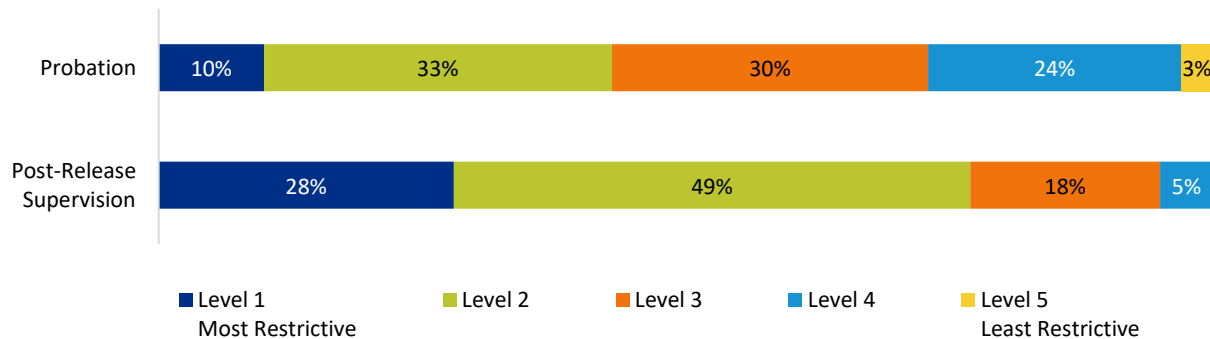
were in Supervision Level 1 (28%) and Supervision Level 2 (49%), the most restrictive supervision levels, while only 43% of probationers were in Supervision Level 1 (10%) and Supervision Level 2 (33%).

Figure 6
Supervision Level for the Assessed
Community Corrections Population on December 31, 2018



SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

Figure 7
Supervision Level for the Assessed
Community Corrections Population on December 31, 2018



Note: There were 12 Level 5 post-release supervisees on December 31, 2018.

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

Case Management

Caseloads

The JRA set a caseload goal for probation officers of 60 probationers to 1 officer for offenders who are determined to be high or moderate risk.³¹ To achieve this goal, DPS created a new template model. The model, implemented in 2014, separates offenders by risk level, reducing caseloads for officers with

³¹ G.S. 15A-1343.2(c).

higher risk offenders and increasing caseloads for officers with lower risk offenders. In some of the more rural areas across the state, probation officers maintain an “All Risk” template because staffing levels, frequency of court sessions, and/or the makeup of the offender population do not make it feasible to separate caseloads by risk. To assist DPS in reaching its caseload goal, the General Assembly appropriated funding for 175 new probation officer positions. In 2015, DPS completed the hiring process for all 175 positions. As a result of the new template model and the additional positions, DPS achieved and maintains caseloads of 60 high or moderate risk offenders to 1 officer and 120 low risk offenders to 1 officer.

Automated Case Review

In 2017, the Department enhanced the existing standard case review process. Under this enhanced process, the Chief Probation and Parole Officer (PPO) reviews the handling of cases with PPOs. This allows the Chief PPO to measure the quality of the supervision strategies the officer is using, and it serves as a teaching tool to help develop the officers’ skill sets. The form used to guide the case review has been automated and went live in 2018. To assist in implementation, the Department provided webinar training for the automated system through its learning management software modules. By automating the process, DACJJ brings all the information for case review together in one place.

Mental Health Random Control Study

As reported in 2015, DPS launched a random control study with the UNC School of Social Work in 2014 to develop more effective responses to the increasing population of offenders under community supervision with mental health needs.³² Officers participating in the study carry specialized caseloads and utilize evidence-based strategies for managing offenders with serious and persistent mental illness (SPMI). The caseload goal is 40 probationers to 1 officer. DPS received a grant from the Governor’s Crime Commission to support the study and conducted it in two counties, Wake and Sampson.

A study conducted by the UNC School of Social Work in 2017 suggested PPOs’ perceptions of stigma toward those with mental health decreased after receiving mental health training modules. Promising results from the Sampson and Wake Specialty Mental Health Probation (SMHP) pilots indicated SMHP probationers had fewer violations than standard probationers and SMHP officers initiated substance abuse treatment and mental health action steps more frequently than standard probation officers.³³

In 2016, DPS received additional funding to expand the study. With the help of a Smart Supervision Grant from the U.S. Department of Justice, DPS implemented the study in six counties: Brunswick, Durham, Guilford, McDowell, Mecklenburg, and Orange. As part of the expansion, DPS looked at the lessons they learned in the first phase of the study and made improvements. First, they developed a new selection process for identifying the officers who participate in the study. Under this process, DPS reviews the officer’s past case planning activities and also surveys offenders he or she supervised. In the survey, the offender is asked to rate the officer’s fairness toward them, whether they worked to establish trust, and whether they held the offender accountable. DPS found this selection process to be more effective and intends to use it in the future to identify appropriate officers for other pilot

³² According to DPS, as of March, 2018, 30% of the community corrections population was identified as having a mental health issue while 15 to 25% of the population was identified as having a mental illness.

³³For more information, see “Statewide Mental Health Training and Specialty Mental Health Probation: A project funded by the Governor’s Crime Commission.”

programs as well. In addition, officers, as well as their chief probation officers, received additional training in identifying and responding to SPMI offenders, including Crisis Intervention Training, where it is available, and Mental Health First Aid.³⁴ Grant funding has been extended into the fall of 2019.

The Department is utilizing licensed social workers to oversee the clinical supervision of this special population and, in 2018, the Department reallocated a position for a Director of Clinical Social Work. However, the chief probation officer is included in the oversight of the clinical supervision to make sure that the Department is responding to the offender's behavior and not just focusing on their treatment.

Finally, DPS is piloting a Functional Ability Rating System (FARS) for each offender; this is in addition to the RNA. The officer will complete the tool each month and review the results with the social worker. This additional information will enhance the officer's supervision strategies for these offenders. Using the FARS will also allow the officer to provide the first step of screening more quickly than trying to schedule and have UNC complete its mini-screener for the offender. As of July 2018, the Department automated FARS in all of the participating counties.

In 2018, grant funding ended with the UNC School of Social Work; however, UNC will still partner with DPS to collect data and work on policy protocols and training requirements. Since the end of the grant, the Department has ended randomized controls, meaning all eligible offenders may now participate in the pilot. As a result, the caseload has expanded. In 2018 the Department reported 251 offenders were enrolled in the second phase of the study, up from 150 offenders in 2017. There are 14 officers carrying specialized mental health caseloads.

In addition, 47 counties in North Carolina are participating in the Stepping Up Initiative, and DPS believes they could use this specialized caseload strategy in conjunction with that initiative.³⁵ To expand the use of the specialized mental health caseloads, the Department is requesting 4 licensed clinical social workers, 37 probation and parole officers, and 9 chief probation and parole officers in 2019.³⁶

Absconder Initiative

Under the JRA, the concept of absconding was defined in statute for the first time. Absconding is defined as willfully avoiding supervision or willfully making their whereabouts unknown to the supervising officer.³⁷ The courts continue to clarify what behavior constitutes absconding as they interpret the statutory definition.³⁸

In 2018 Community Corrections leadership developed an initiative to reduce the number of absconders and comply with recent court opinions. Five districts are participating in the pilot program with a plan to expand to several other districts in 2019. The primary focus of the initiative is to locate offenders who are not complying with supervision prior to alleging an absconder violation. The pilot involves extending the time frame of the current absconder investigation and utilizing a specialized officer to spend more

³⁴ Mental Health First Aid is a course that teaches citizens how to help and respond to people that may be experiencing mental health issues and/or crisis. For more information, see <https://www.mentalhealthfirstaid.org/cs/>.

³⁵ The Stepping Up Initiative is a national initiative to reduce the number of people with mental illnesses in local jails. For more information on the Initiative, see <https://stepuptogether.org/>.

³⁶ The Sentencing Commission supports increasing the number of mental health PPOs, see Appendix C.

³⁷ G.S. 15A-1343(b)(3a).

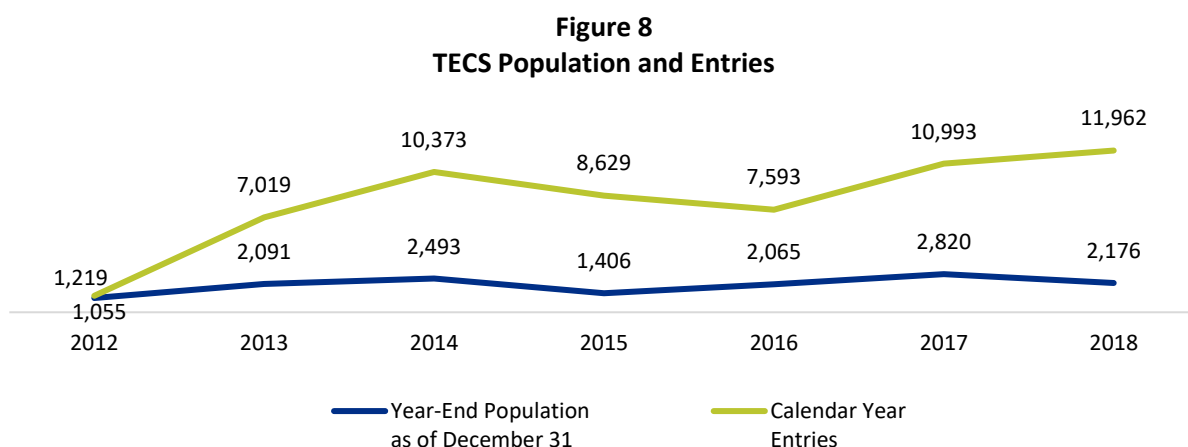
³⁸ See e.g., *State v. Johnson*, 246 N.C. App. 139, 783 S.E.2d 21 (2016); *State v. Williams*, 243 N.C. App. 198, 776 S.E.2d 741 (2015).

time and resources in locating these offenders. The goal is to reduce the numbers of absconders statewide and ensure that all efforts have been exhausted to locate offenders prior to alleging an absconding violation. A specialized team of officers in each district is assigned a list of offenders to determine if they have in fact absconded or locate them and address any existing technical violations.

Treatment for Effective Community Supervision

TECS programs provide EBP to reduce recidivism. Priority populations for TECS include offenders convicted of a felony and those identified as having a high likelihood of reoffending and a moderate/high need for substance abuse treatment.³⁹ TECS programs are funded through an appropriation from the General Assembly and the Department uses the funding to contract with vendors for the provision of services and the operation of community-based programming. CY 2013 represented the first full year of operation of the TECS program.

In CY 2018, 11,962 offenders entered the TECS program; 2,176 offenders were enrolled in TECS on December 31, 2018 (see Figure 8). While the year-end TECS population decreased substantially over the past year (23%), the number of TECS entries increased 9%.



SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

Of the 12,040 offenders exiting TECS in CY 2018, the majority were in Supervision Levels 2 and 3 (6,599 or 55%). Very few offenders were in Supervision Level 5 (29).⁴⁰ Figure 9 shows completion rates for all offenders exiting TECS in CY 2018 by supervision level.^{41,42} TECS completion rates increased overall and for each supervision level from CY 2017 to CY 2018. In CY 2018, the overall completion rate for all TECS participants was 29% compared to 21% in CY 2017. Completion rates were highest for participants in Supervision Level 5 (55%) and lowest for participants in Supervision Level 1 (22%).

³⁹ G.S. 143B-1154.

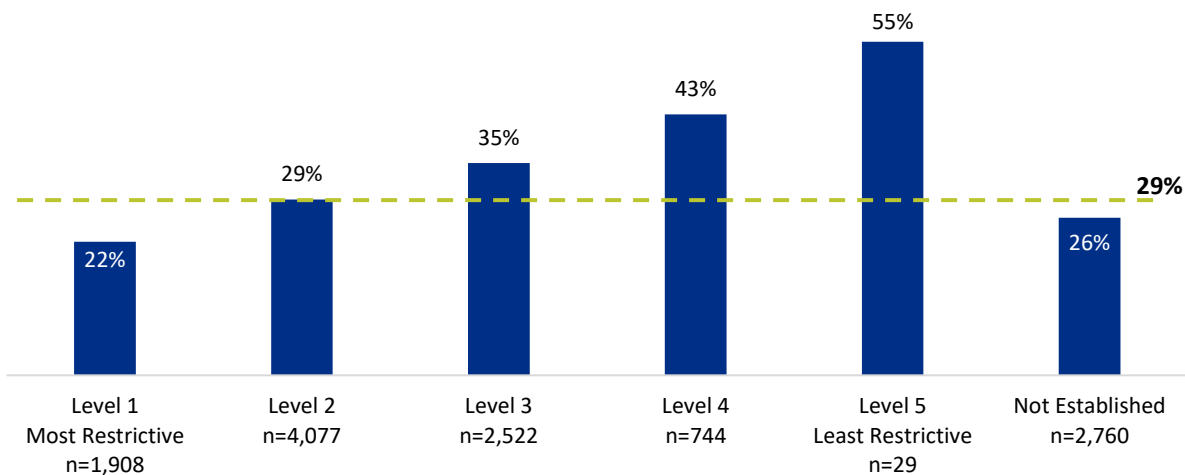
⁴⁰ Throughout the report, results for offenders in Supervision Level 5 should be interpreted with caution due to small numbers and, when applicable, are noted in figures and tables.

⁴¹ Completed means the offender completed all the requirements of the program. Reasons for not completing TECS include probation violations, participation refusal, inappropriate referral, absconding, never reporting to the program, and being released.

⁴² Offenders with no supervision level established are typically offenders within the first 60 days of supervision during which the RNA process is being completed or offenders who have absconded supervision prior to completion of the RNA process.

TECS services include the two traditional TECS programs, substance abuse and cognitive behavioral intervention (CBI) classes (now referred to as Recidivism Reduction Services, or RRS), as well as transitional housing, temporary housing, intensive outpatient treatment (IOP), and local reentry councils.⁴³

Figure 9
Completion Rates for TECS Exits in CY 2018
N=12,040



Note: Results for offenders in Supervision Level 5 should be interpreted with caution due to small numbers.
 SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

Recidivism Reduction Services

The overwhelming majority of offenders served through TECS programs have participated in RRS programs. In 2015 DPS issued a request for proposals (RFP) soliciting vendors for RRS to provide four core services: CBI, CBI Boosters, regular outpatient substance abuse therapy, and aftercare/relapse prevention. In addition, vendors were required to offer mandatory supportive services of employment skill building, education, and health and nutrition classes, with optional services of family counseling, parenting, and child care education courses to supplement the curriculum. The contracts issued in 2015 were three-year contracts and were extended by 1 year with an expiration of June 30, 2019. New contracts will begin on July 1, 2019. Presently, recidivism reduction services contracts cover all 100 counties of the state.

Transitional/Temporary Housing

Recognizing the importance of stable housing to offender success, DPS has added housing programs under TECS; however, the ability to acquire housing options has been met with mixed success. Transitional housing is provided for homeless, non-sex offender, adults. Currently, the Department has 120 total beds provided by 6 vendors, these consist of 92 male beds and 28 female beds. There are 78 beds available in transitional housing, 10 of which are beds for females. While there is not a target risk

⁴³ The Department added community intervention centers (CICs) to TECS in 2014. CICs are non-residential centers that serve high-risk and high-need offenders who are not complying with the conditions of probation. As the TECS program developed, these centers no longer fit the model of delivering services. The Department reported that, as of October 2016, all CIC programs have been closed.

or need level for transitional housing eligibility, the Department reports that the population is usually more medium and high risk offenders. While offenders stay in transitional housing, they have the ability to receive CBI programming and employment skill-building through RRS programs. Temporary housing, which is reserved for sex offenders, has been more difficult to obtain due to the lack of availability across the state. This is short term housing, up to 90 days, and there is no programming available. The Department also contracted for 42 Post Release Step Down Housing beds, 18 of which are for beds for females. Post Release Step Down Housing is similar to transitional housing, except that it is in designated areas with active local reentry councils that provide additional resources in conjunction with the supervising officer.

In 2018, DPS did not use TECS funds for IOP services. IOP services are a particular challenge because while not many offenders need the services, it is a very expensive service for those who do. The Department is reviewing the need for IOP services and is considering taking a regional approach, dividing the state into clusters and contracting vendors by clusters.

Reentry Councils

Local reentry councils coordinate local services to help offenders released from prison reintegrate into the community. The councils began in July 2017. DPS reported that there are fourteen councils that are currently funded and sixteen additional counties interested in creating councils.⁴⁴ The Department started with the Community Automated Reentry Tool (CART) as the case management software but in 2019 is preparing a request for proposal for a new system, the North Carolina Reentry Automated Case Management System (NCTRACS). Once available, all the local reentry councils will receive training on NCTRACS. The Department plans to incorporate a risk/needs assessment into NCTRACS to identify priorities for what specific programming an individual may need. A State Reentry Council Collaborative was established in 2017 and has developed a Reentry Action Plan, focusing on capacity building and technical support for local reentry councils, expanding and formalizing faith-based and community engagement, resolving warrants and pending charges prior to release, and addressing major reentry barriers such as housing, transportation, employment, and substance misuse and mental health.⁴⁵

Delegated Authority

Prior to the JRA, probation officers had delegated authority from the court that enabled them to graduate sanctions in response to non-compliant offenders on probation. The JRA expanded probation officers' delegated authority in order to provide more tools for addressing offenders' risk and needs and to better manage offenders unwilling to comply with conditions of probation. Delegated authority was never authorized for the supervision of offenders on PRS, so the tools reported in this section cannot be used on the PRS population. It should be noted that the Department is seeking statutory authorization to use delegated authority on PRS offenders.⁴⁶ Information reported below is limited to the probation population, unless otherwise noted.

The Department adopted a "Swift and Certain Sanctions" model to deal with offender non-compliance; officers respond to all detected offender non-compliance as soon as possible by imposing additional

⁴⁴ For more information, see <https://www.ncdps.gov/news/news-release/2017/12/11%20/dps-establish-five-new-reentry-councils-help-former-inmates-prevent>.

⁴⁵ For more information, see <https://www.ncdps.gov/blog/2018/02/07/governor-cooper-unveils-state-reentry-action-plan>.

⁴⁶ The Sentencing Commission supports giving PPOs delegated authority to use with offenders on PRS, see Appendix C.

conditions of probation or other sanctions. Available sanctions for probationers include quick dips, curfews, electronic house arrest, community service, and/or increased reporting requirements. This model also informs how probation officers “staff” cases; decisions related to offender non-compliance are made based on the nature of the violation(s) and the appropriate corresponding response. Responses are intended to be graduated in terms of severity, with officers first using less restrictive responses (where appropriate) to address non-compliance before using the more restrictive options. However, these responses can only be used to address non-compliance with conditions imposed by the court, the officer cannot use them to address non-compliance with conditions previously imposed by a PPO under delegated authority.

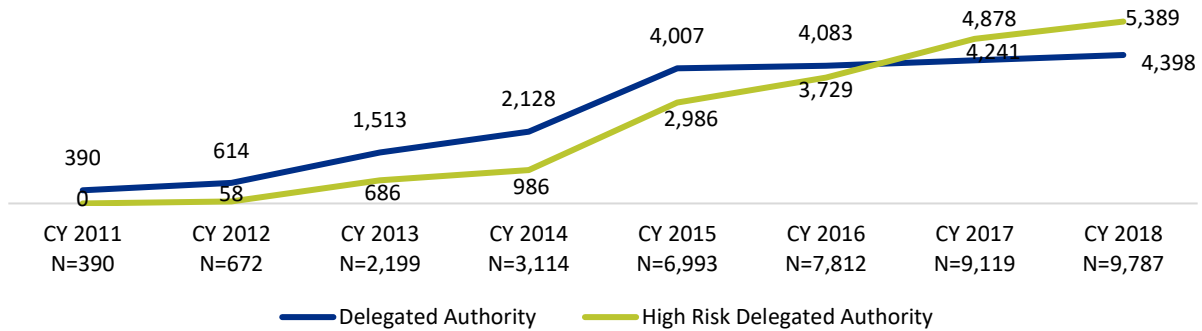
For high risk offenders, officers have the additional option to use high risk delegated authority. Those offenders determined to be high risk according to the Department’s risk assessment tool, the OTI-R, are eligible to have conditions added to their probation without being in violation. An OTI-R score of 50 or higher is considered to be high risk. Officers staff high risk delegated authority cases with chief probation officers to decide when and which offenders may need additional conditions. Available conditions include referrals to substance abuse treatment or CBI classes, electronic house arrest, or other controlling conditions. Quick dips may not be imposed through high risk delegated authority.

The use of delegated authority and high risk delegated authority has increased substantially over the past few years. It should be noted that probation officers can only use delegated authority on offenders sentenced to probation under Structured Sentencing. Since driving while impaired (DWI) offenses are not sentenced under Structured Sentencing, probation officers supervising those offenders cannot use delegated authority on them. Instead, they must take those offenders back to court in order to address violations, which can take up to six months. The probation officer lacks the ability to respond immediately to probation violations, and some studies have indicated that immediate responses to violations may reduce recidivism among impaired driving offenders. In addition, having different rules for different offenders makes the probation officer’s job more complicated as he or she has to use different case management strategies depending on the offender’s offense. The Department is seeking statutory authorization to use delegated authority on driving while impaired (DWI) offenders.

Delegated authority as examined in this section includes all responses to violations except for quick dips, which are analyzed separately. As shown in Figure 10, probation officers used delegated authority and high risk delegated authority 9,787 times in CY 2018, a 7% increase over CY 2017 (9,119).⁴⁷ The use of high risk delegated authority, which increased 10% in the past year, largely accounts for that increase, with CY 2018 being the second consecutive year high risk delegated authority was used more frequently than delegated authority. Following a sharp increase in use from CY 2014 to CY 2015, the use of delegated authority has continued to increase but at a decreasing rate.

⁴⁷ An offender may be represented more than once in these data if there are multiple violation dates.

Figure 10
Use of Delegated Authority



SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

Short-Term Jail Confinement

Short-term jail confinement, referred to as a quick dip, is a tool of delegated authority used as an immediate response to offender non-compliance. While quick dips can be ordered by the court at sentencing or at a probation violation hearing, they are most often used by probation officers through expanded delegated authority under the JRA. Quick dips are imposed in two- or three-day increments, and cannot exceed six days per month during any three separate months of the offender’s period of probation.

DPS continues to refine policies regarding the use of quick dips. DPS emphasizes that when staffing cases officers consider all of the graduated sanctions available to respond to non-compliance; quick dips are not appropriate for all violations. For example, it is Departmental policy that quick dips should not be the first response to non-compliance and cannot be used as a response to non-willful violations (e.g., monetary violations).

Offenders have the statutory right to a court hearing before a quick dip can be issued, but offenders may waive their right to a hearing through written waiver with DPS; DPS reports that approximately 3% of offenders decline to waive this right.

The use of quick dips decreased for the first time in CY 2018 (7%); its use had been increasing at a decreasing rate over the past several years following substantial increases during the first few years of implementation (see Table 4). Overall, 5,037 offenders accounted for 5,926 quick dips in CY 2018 (a decrease of 7% in the number of offenders from CY 2017). Of the 5,926 quick dips ordered in CY 2018, 51% were for two-day periods and 49% were for three-day periods.

Also shown in Table 4, quick dips were ordered nearly equally for felons and misdemeanants from CY 2013 to CY 2018. For the past two years, the number of quick dips ordered for misdemeanants have been greater than the number of quick dips ordered for felons. The court may revoke probation for misdemeanants following two separate periods of a quick dip, which may be imposed either by the court or by the probation officer through delegated authority.⁴⁸

⁴⁸ G.S. 15A-1344(d2), as amended by S.L. 2015-191.

**Table 4
Quick Dips Ordered**

Offense Type	CY 2013		CY 2014		CY 2015		CY 2016		CY 2017		CY 2018	
	#	%	#	%	#	%	#	%	#	%	#	%
Felony	332	48	912	48	2,698	52	3,041	51	3,049	48	2,833	48
Misdemeanor	367	52	973	52	2,485	48	2,900	49	3,317	52	3,093	52
Total	699	100	1,885	100	5,183	100	5,941	100	6,366	100	5,926	100

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

Although offenders in all supervision levels were eligible for quick dips in CY 2018, the overwhelming majority (73%) of quick dips ordered in CY 2018 were for offenders in Supervision Levels 2 and 3 (see Table 5).⁴⁹ The largest proportion of felons receiving quick dips were in Supervision Level 2 (41%). The largest proportion of misdemeanants receiving quick dips were in Supervision Level 2 (38%) and Supervision Level 3 (36%). A higher percentage of felons with quick dips ordered were in Supervision Level 1 compared to misdemeanants (20% compared to 15% respectively).

**Table 5
Quick Dips Ordered by Supervision Level in CY 2018**

Supervision Level	Felon		Misdemeanant		Total	
	#	%	#	%	#	%
Level 1 (Most Restrictive)	561	20	465	15	1,026	17
Level 2	1,168	41	1,183	38	2,351	40
Level 3	856	30	1,098	36	1,954	33
Level 4	214	8	308	10	522	9
Level 5 (Least Restrictive)	4	0	9	0	13	0
Not Established	30	1	30	1	60	1
Total	2,833	100	3,093	100	5,926	100

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

Offenders serve quick dips in the local jail and, as a result, have some impact on that resource. The North Carolina Jail Administrators' Association (NCJAA) reported that these offenders were difficult to process at first because of their short sentences but that it became easier once they became familiar with the judgments. NCJAA also pointed out that, because of the immediacy of the sanction, these offenders tend to bring more contraband into the jail than other offenders. Overall, this population has caused an increase in the jail populations, especially on the weekends when more offenders serve their quick dips. DPS and NCJAA continue to work together to try and resolve these issues and reduce the impact of quick dips on the local jails.

⁴⁹ From initial implementation (July 1, 2012) through November 30, 2015, offenders eligible for quick dips were only those in Supervision Levels 1, 2, and 3 – offenders with the highest levels of supervision. In response to legislative changes, effective December 1, 2015, DPS revised its policy to reflect that offenders in all supervision levels are eligible for quick dips.

Behavior Response Pilot

The Department launched an Administrative Response Pilot in June of 2013 (renamed to the Behavior Response Pilot in 2018) to collect and track information on offender outcomes related to officer responses to behavior. Participating probation offices track when officers respond to offender behavior and the effect of officer actions on offender behavior. The information tracked serves to remind officers to respond to non-compliance as soon as possible. In 2016, the pilot was expanded to at least one officer and one chief in all 31 districts, as well as to five full units across the state. In 2019, the Department's goal is to expand the program to one entire district in each division.

The Department learned through the pilot that while their graduated sanction model was successful in responding to negative behavior, the model needed a robust incentive program to offer responses to positive behavior. While some areas established local incentive programs, incentives to encourage positive behavior had not been part of the Department's statewide approach. The use of both positive and negative responses creates a more holistic behavior log that officers can use to inform the judiciary when and if the offender must return to court. DPS also reported the usefulness of the automated components of the program. For those participating in the pilot, there is an additional screen included in the automated case plan that shows a list of incentives available for the officer to use when an offender exhibits positive behavior (e.g., negative drug screen). In 2016, DPS developed an incentive grid to guide the officer's use of incentives; however, the Department found that using the same incentives in every situation was not effective. Upon further study, DPS elected to take a more individualized approach to incentivize behavior. The Department grouped responses into categories to help staff respond appropriately: "basic," which are used in response to a single positive behavior (e.g., a negative drug test), "short term" for behaviors that last up to 30 days (e.g., remaining in a stable school or work environment), and "long term" for major events like 90 days or more of a positive behavior (e.g., completing a residential treatment program). In addition, DPS put into policy the requirement that Judicial District Managers help PPOs develop more meaningful and appropriate responses to positive behavior.

Confinement in Response to Violations

CRVs were designed as a response to technical violations of probation that would address offender non-compliance, while also reducing the number of offenders whose probation is revoked. Probationers on supervision for a felony, or for a misdemeanor (sentenced prior to December 1, 2015),⁵⁰ can be ordered to serve a CRV. The General Assembly and the Department made substantial changes to the practice of the CRV for felons in 2014 and 2015 (*see supra*, Related Legislation). Significant legislative changes were made affecting misdemeanor CRVs in 2015, based on a recommendation from the Sentencing Commission. Those legislative changes in effect created a pathway to revocation for misdemeanor probationers via quick dip, providing that the court may revoke probation for the misdemeanant after they have received two separate periods of short-term confinement, which may be imposed either by the court or by the probation officer through delegated authority. This change went into effect for misdemeanants placed on probation on or after December 1, 2015.⁵¹

Felons who are found in violation of their probation for technical violations (e.g., missed appointments, positive drug screens) can be ordered to serve a 90-day CRV period. In 2017, the majority of offenders

⁵⁰ G.S. 15A-1344(d2).

⁵¹ G.S. 15A-1344(d2), as amended by S.L. 2015-191.

sentenced to a CRV were eligible to serve that period of confinement in the CRV Centers (*see infra*, CRV Centers). On December 31, 2018, 381 offenders were serving a CRV with just over half (198 or 52%) serving their CRV periods in a CRV Center.⁵² The average length of stay for CRV dispositions increased from 59 days in CY 2012 to 72 days in CY 2018. This is due in part to the General Assembly changing the policy regarding the awarding of credit to the CRV period for felons.⁵³

Probation data for CY 2018 indicate a total of 3,612 CRV dispositions ordered as a result of probation violation hearings – 74% for felons and 26% for misdemeanants (*see* Table 6). The majority of CRV dispositions (97% or n=3,509) were for offenders with a single CRV disposition. Overall, there was a 17% decrease in CRV dispositions over the past year, with a 1% increase in CRV dispositions for felons and a 45% decrease in CRV dispositions for misdemeanants. The continued decrease in CRV dispositions for misdemeanants is likely attributable to the legislative change that went into effect just before the end of CY 2015.⁵⁴

Table 6
Offenders with CRV Dispositions

Offense Type	CY 2013		CY 2014		CY 2015		CY 2016		CY 2017		CY 2018	
	#	%	#	%	#	%	#	%	#	%	#	%
Felony	3,025	34	3,087	34	2,853	35	2,775	45	2,662	61	2,676	74
Misdemeanor	5,896	66	6,086	66	5,331	65	3,356	55	1,694	39	936	26
Total	8,921	100	9,173	100	8,184	100	6,131	100	4,356	100	3,612	100

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

The Department is partnering with the Urban Institute to conduct a targeted analysis of CRVs. This analysis would employ both quantitative and qualitative methods to measure implementation and results stemming from the usage of CRVs. The goals of this project are to assess the impact of CRVs on correctional populations and supervision outcomes, highlight implementation successes, and identify potential areas for improvement. The Department will utilize the results of this study to further improve the use of CRVs.

CRV Centers

As DPS continued to expand and update policies and programs to further the rehabilitative goals of the JRA, it sought to improve and tailor its approach to the CRV population. In 2014, DPS began its pilot program for designated CRV Centers, where offenders serving CRVs would go to specific facilities and not be included in the general prison population. To create the CRV Centers, the Department repurposed two previously closed prison facilities in Burke and Robeson counties. The Burke CRV Center has a capacity of 248 beds for male offenders and the CRV Center in Robeson has beds for 192 male

⁵² DPS opened two pilot CRV Centers in December 2014. During the initial pilot, CRV Center beds were classified as prison beds. Following the pilot, DPS reclassified CRV Center beds as treatment beds effective January 1, 2016. From January 2016 forward, offenders in CRV Centers are not considered part of the prison population.

⁵³ Pursuant to S.L. 2014-100, effective October 1, 2014, the term of any CRV shall not be reduced by credit for time already served in the case, any such credit shall instead be applied to the suspended sentence.

⁵⁴ Pursuant to S.L. 2015-191, effective December 1, 2015, CRVs are eliminated as an available sanction for misdemeanants sentenced to probation under Structured Sentencing; the CRV remains a sanction available for offenders sentenced to probation for impaired driving offenses.

offenders. The CRV Centers began receiving offenders in December of 2014.⁵⁵ In February 2018, the CRV Centers began receiving post-release supervisees to serve their three-month revocation period (see *supra*, Violations of PRS).

All felons ordered to serve a CRV serve it in a CRV Center unless they are found ineligible. According to DPS policy, an offender is ineligible for acceptance at a CRV Center if any of the following criteria apply:

- The offender is female.
- The offender has pending charges that are a Class E felony or higher.
- The offender has a concurrent active sentence they are also serving.
- The offender has chronic medical issues that are unstable or is under psychotropic medications.

As of 2016, the screening process for both centers has been centralized in Raleigh. Eligible offenders are sent to the CRV Center location closest to them. If an offender is later found to be ineligible, they are transported back to a prison facility.

Each CRV Center is managed by a facility director and assistant facility director, a residential manager, and several unit and assistant unit supervisors. The CRV Centers also have case managers (former correctional officers), probation officers, and chief probation officers on staff.

While serving their CRV period, offenders' days are structured with mandatory programming, chores, free time, and community service projects. Vendors providing intensive behavior modification programming are contracted through a bidding process; for 2016, the Department solicited bids and awarded a contract for their identified core services of CBI, substance abuse education, and journaling, as well as the computer lab. DPS has been able to increase programming to six days and evenings a week and has connected with community resources to bring additional programs into the CRV Centers. The Department has also secured additional computer lab programming. The Department is working to determine if offenders can have access to secure computer programs so they can work independently.

The sites use an evidence-based behavior management system which employs incentives and sanctions to reinforce or change behavior. Offenders are rewarded with certain privileges (e.g., use of a radio) for positive behavior (e.g., providing peer support when participating in programs). Conversely, any earned privileges can be taken away in response to negative behavior. Offenders also participate in weekly group facility meetings, designed to give them the opportunity to share grievances and issues with case managers and supervisors. The Department reports that these structured meetings have reduced the number of complaints from offenders and have increased compliance in the CRV Centers. Geo Reentry Services provides programming to reduce criminal thinking patterns as measured by Criminal Thinking Scales for offenders. Based on pre- and post-tests on the Criminal Thinking Scales (CTS), early evaluation shows participants in the treatment reduced criminal thinking. Offenders at Burke and Robeson CRV Centers saw a decrease of 2 points in their average CTS score (which equates to a 7% and 8% reduction at the respective facilities), and those who completed more Moral Reconciliation Therapy (MRT) steps saw further declines. It is unclear to what extent personal characteristics and willingness to participate factor into the results.

⁵⁵ Around the same time, DPS converted Eastern Correctional Institute into a hybrid facility, with a wing exclusively for female CRV offenders. Female CRV offenders are currently housed in a dorm at North Piedmont Correctional Institution (see *infra*, CRV Center Enhancements).

CRV Center Enhancements

DPS collected and examined information from the CRV Center pilot stage (2014-2015) to determine what enhancements were needed to improve the model. During the pilot phase, DPS identified several issues to be addressed including: improved mental health and medical care, the need for certain types of programming, eligibility for certain offenders, continued non-compliance at the CRV Centers, and implementing a stand-alone facility for females. Plans for CRV Center changes and enhancements are described below.

Offenders with mental health issues and severe medical issues are currently not eligible for the CRV Centers because the facilities do not have staff on hand with the expertise to provide such specialized care. The Department continues to work towards being able to provide this type of care in the CRV Centers, and has looked to neighboring prison facilities for resources to support some inmates with less severe mental health and medical issues. Because offenders are housed in CRV Centers for a long period of time (90 days), they are more likely to require routine medical and dental care while in the CRV Center. Providing routine medical and dental care at the CRV Centers is challenging because the CRV Centers do not have medical facilities on-site; DPS has 2 facilities nearby that can be relied on for some resources and 1 has a PPO assigned to it. The Department is also looking at the residential treatment facilities of DART Cherry and Black Mountain, which faced similar issues, for ways to address these needs.

DPS reports that many offenders entering the CRV Centers need substance abuse treatment (different from the substance abuse intervention provided) and general education. Substance abuse treatment programs are typically much longer than the 90 days allotted for the felony CRV period, and DPS reports that partial programming can be more detrimental to the offender than not providing any substance abuse programming. It is difficult for other aspects of the programming to be successful if an offender has a serious substance abuse problem and is not able to receive treatment. The Department is exploring options to address this issue.

While DPS reports that offenders were generally receptive to the model of the CRV Center, some offenders continued to be non-compliant. DPS developed a disciplinary process a step above the sanctions that come along with the behavior management system. In 2017, the Department created a Behavioral Adjustment Center at the Robeson CRV Center for those with chronic disciplinary issues; it has programming and allows offenders to work their way back down. The lengths of stay at the Behavioral Adjustment Center are typically 3 days or 6 days, but never more than 15 days. Three consecutive days of successful participation in programming can result in an offender being sent back to the CRV Center earlier. If needed, an offender can still be sent to restrictive housing at a local prison for two to five days. DPS continues to work on plans for chronic violators, recognizing that some offenders may remain non-compliant and negatively impact the other offenders in the CRV Centers.

Given the initial success of the model serving male offenders, DPS recognized the development of a stand-alone female center as a top priority. In 2017, the General Assembly provided funding for a 200-bed CRV Center for females. DPS decided to convert North Piedmont Correctional Institution (NPCI) into the female CRV Center. Currently, DPS is housing females that were ordered to a CRV in a designated dorm at NPCI and providing them with some programming. While work continues on the facility, The Department is in the process of hiring staff for the Center and appointing a Director and Assistant Superintendent, with the intent of opening the Center in 2019. Unlike the male centers, the new female CRV Center will have the capacity to accept females with high acuity mental health and medical issues.

In addition, DPS has contracted with Geo Reentry Services for the provision of certain types of programming for the pods, including MRT, Step Ahead employment training, Stephanie Covington trauma-informed programming, and trauma informed substance abuse classes. As part of the long-term planning for the new CRV Center, DPS plans to create a space for a computer lab to offer additional programming. In the meantime, the Department is exploring other technological solutions such as providing tablets.

Another population that is currently excluded from the eligible pool of offenders for the CRV Centers is youthful offenders, categorized as offenders under the age of 18. There are federal requirements regarding housing youthful offenders in the same facilities as adult offenders, and currently, the CRV Centers are not equipped to meet those requirements. The males are housed at Foothills Correctional Institution and the females at North Carolina Correctional Institution for Women (NCCIW). The offenders receive some additional programming in the units; at Foothills, probation officers from the Burke CRV Center go to the unit to provide social skill building sessions. DPS reported efforts to implement the juvenile justice model with this population whereby the family is incorporated into the offender's treatment. This is a small population and it must be housed separately, but DPS continues to look for ways to apply aspects of the CRV Center model. In 2017, the General Assembly enacted the Juvenile Justice Reinvestment Act which will raise the age of juvenile jurisdiction from 16 to 18 beginning December 1, 2019.⁵⁶ The Department anticipates a further reduction in this population after that date.

Finally, the Department continues to revise its policies, to improve the programming offered to offenders at the CRV Centers, and to learn as the Centers grow and develop. Currently, the Department surveys offenders when they leave the Centers; they provide feedback on the program and offer suggestions. This has resulted in changes such as a parenting class being offered at the Centers. DPS is planning to automate that survey in order to be more consistent and better evaluate the responses. DPS is also looking at using technology to provide video visitation for offenders. One of the problems with having only two CRV Centers in the state is that offenders may be placed far away from their families, making it difficult for them to visit. DPS is exploring the option of using video visitations to allow the offender to stay in contact with family, to which they may be returning upon release, and keep the family involved in the offender's progress.

Probation Outcomes

As the JRA was intended to limit certain types of entry to prison (e.g., revocations of probation for technical violations), it is important to examine data related to probation outcomes. Below, data are provided detailing exits from probation due to revocation and entries to prison for probation violations by type (e.g., absconding).

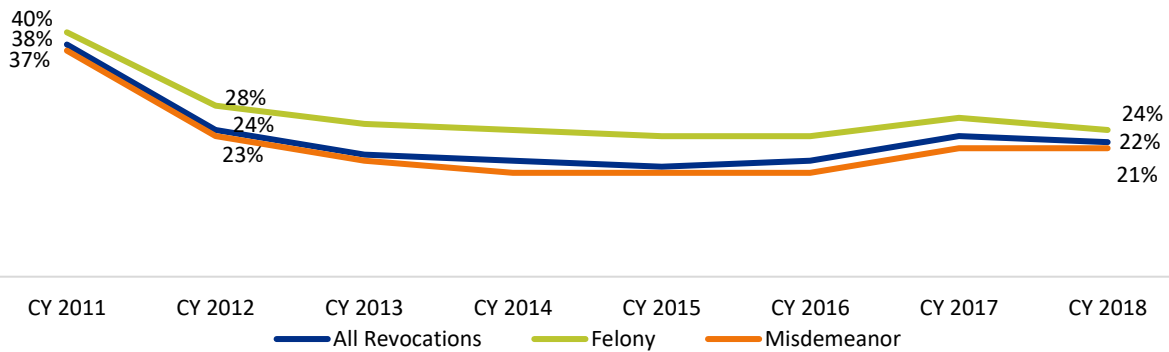
Probation Revocation Rates

Figure 11 shows probation revocations have stabilized following a large decline from CY 2011 to CY 2012. Overall, decreases in revocation rates occurred from year to year from CY 2011 to CY 2015, with increases noted for the first time since implementation in CY 2016, likely attributed to an increase in the number of probationers entering prison for absconding (see Table 7). A slight decrease occurred from CY

⁵⁶ S.L. 2017-57.

2017 to CY 2018. CY 2017 and CY 2018 revocation rates are most similar to those in CY 2012, but revocation rates are still much lower than CY 2011 rates.

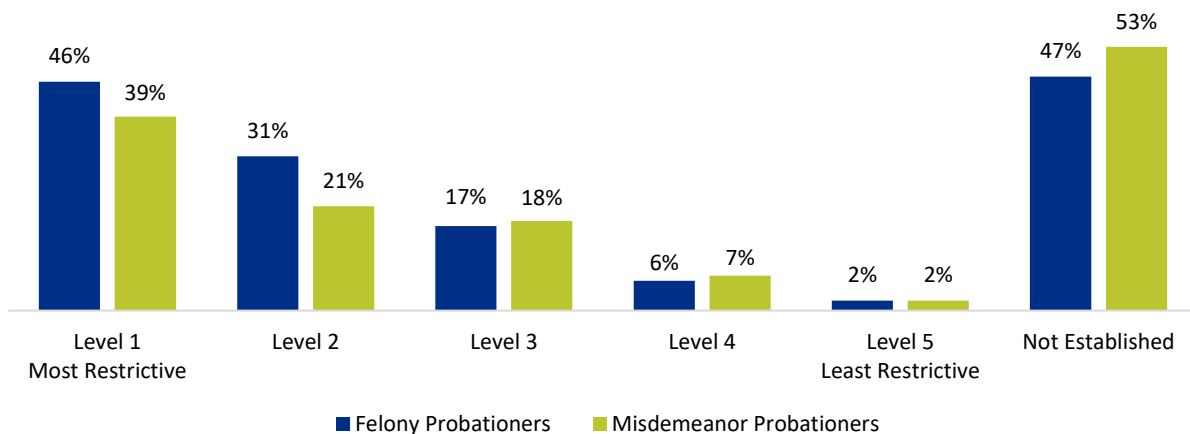
Figure 11
Probation Revocation Rates



SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Figure 12 examines probation revocation rates by supervision level. For those assigned a supervision level, revocation rates were highest for probationers in Supervision Level 1 (46% for felony probationers and 39% for misdemeanor probationers), with a decreasing rate of revocations for Supervision Levels 2, 3, and 4. Felony probationers in Supervision Levels 1 and 2 had higher revocation rates than misdemeanor probationers in the same levels. The revocation rates for felony and misdemeanor probationers whose supervision level had not been established were most closely aligned with the revocation rates for probationers in Supervision Level 1.

Figure 12
Probation Revocation Rates by Supervision Level in CY 2018



Note: Results for offenders in Supervision Level 5 should be interpreted with caution due to small numbers.
SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Felony Prison Entries^{57,58}

As shown in Table 7, the distribution of felony probation violation entries by prison entry type has continued to shift over the past few years. In CY 2018, absconding supervision continued to account for the largest proportion of probation violation entries (37%), followed by CRV (22%). Prison entries for CRV and terminal CRV increased greatly over CY 2017. New crime with a conviction and alleged new crime both decreased from CY 2017. Prison entries for revocation following the imposition of 2 prior CRVs continue to occur infrequently. Entries for pre-JRA technical revocations have continued to decrease (to 14 in CY 2018).

Table 7
Felony Prison Entries for Probation Violations by Type

Prison Entry Type	CY 2014		CY 2015		CY 2016		CY 2017		CY 2018	
	#	%	#	%	#	%	#	%	#	%
New Crime	1,578	22	1,463	20	1,370	22	1,437	22	1,227	17
Alleged New Crime¹	849	12	819	11	814	13	975	15	835	11
Technical²	110	2	95	1	79	1	92	2	70	1
CRV³	1,647	23	1,726	24	784	13	610	9	1,574	22
Revoked After 2 CRVs	27	0	29	0	40	1	38	1	7	0
Terminal CRV⁴	580	8	612	9	716	11	349	5	865	12
Absconding	2,351	32	2,421	34	2,409	39	3,010	46	2,729	37
Pre-JRA Technical	94	1	57	1	27	0	21	0	14	0
Total	7,236	100	7,222	100	6,239	100	6,532	100	7,321	100

¹ Prison entries for an alleged new crime may include those for new crimes proven in a violation hearing or those with a conviction that is not represented in the data (e.g., convictions resulting in credit for time served, convictions resulting in unsupervised probation, or those without a conviction at data collection).

² It is not known whether prison entries for technical violations are revocations or are discrepant data.

³ Offenders in CRV Centers in CY 2017 are not included as prison entries.

⁴ Data were not available to break out terminal CRVs in CY 2013. As a result, any terminal CRVs would be included in the CRV category for CY 2013.

Note: Overall prison entries for CY 2018 are reduced due to inmates in county jails waiting for transfer to the state prison system. On December 31, 2018, there were 866 inmates backlogged in county jails.

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

IV. INCARCERATION AND REENTRY

The JRA and subsequent related legislation made substantial changes to the confinement location for felons and misdemeanants in North Carolina. Gradually, from 2011 to 2015, misdemeanants were shifted out of state prisons to local confinement facilities. The bifurcation of the confinement location for felons and misdemeanants has been fully established and implemented as of CY 2015, with felons

⁵⁷ This section focuses only on felony prison entries since nearly all misdemeanants serve their sentences in local jail facilities. See *infra*, Incarceration in Local Confinement Facilities.

⁵⁸ As noted previously, DPS opened two pilot CRV Centers in December 2014. During the initial pilot, CRV Center beds were classified as prison beds. Following the pilot, DPS reclassified CRV Center beds as treatment beds effective January 1, 2016. From January 2016 forward, offenders in CRV Centers are not considered part of the prison population.

servicing active sentences in state prisons and almost all misdemeanants servicing active sentences in local jails.⁵⁹ Information provided in this section is divided into two parts: policies and data related to misdemeanants servicing active sentences in local confinement facilities (including the SMCP), and policies and data related to felons servicing active sentences in prison. Particular focus is also given to felons exiting prison onto PRS, due to the expansion of PRS under the JRA and recent initiatives by DPS to improve reentry efforts for inmates returning to the community.

Incarceration in Local Confinement Facilities

Because incarceration in state prisons is the costliest correctional option for managing offenders, it should be reserved for those who commit the most serious offenses and pose the greatest public safety threat. One of the ways the JRA addressed its goal of reducing correctional spending was shifting the less serious offenders (misdemeanants) out of costly state prisons and into local confinement facilities. This shift brought North Carolina in line with most other states in that misdemeanants are now housed in jails as opposed to the state-run prison system.

Beyond the confinement location mandated for misdemeanants under the JRA, there are other provisions in the legislation affecting jails. Quick dips imposed by probation officers through delegated authority for both felons and misdemeanants are served in local jails. Some CRVs (those imposed for misdemeanants prior to December 1, 2015 and those imposed for misdemeanants convicted of impaired driving offenses) are also served in jails. Much of the impact of these provisions on jails in terms of capacity and resources is not measurable at this stage because North Carolina lacks a statewide automated jail database.

Statewide Misdemeanant Confinement Program

Nearly all misdemeanants who receive an active sentence under Structured Sentencing, as well as misdemeanants convicted of impaired driving offenses, serve their sentences in local jails either directly or through the SMCP. Following the initial increase in the SMCP population and entries from the program expansions, the SMCP population has stabilized over the past three years, with slight shifts in SMCP entries during that same time period. As shown in Table 8, the DWI prison population has decreased considerably since implementation (84 on December 31, 2018, compared to 732 on December 31, 2014).

Table 8
Year-End (December 31) Misdemeanor DWI Population

Sentence Location	2014		2015		2016		2017		2018	
	#	%	#	%	#	%	#	%	#	%
Prison	732	100	330	49	207	34	99	16	84	15
SMCP	n/a	n/a	347	51	408	66	511	84	491	85
Total	732	100	677	100	615	100	610	100	575	100

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

⁵⁹ The Section of Prisons (SOP) continues to receive all felons, as well as misdemeanants with heightened needs such as medical or safekeeping; there is also a small population of misdemeanants remaining in prison who were sentenced prior to their respective effective dates. SOP will receive any misdemeanants in the event that space in the SMCP runs out in the future.

As noted in 2015, changes in funding for the SMCP occurred when the General Assembly authorized a recurring direct appropriation in the amount of \$22.5 million per fiscal year, effective July 1, 2015.⁶⁰ NCSA reported it paid out \$20.9 million in county reimbursements in 2018 (including approximately \$1.4 million in medical payments).

In its operations, the SMCP is supported by counties volunteering excess bed space to receive inmates from other jurisdictions (i.e., “receiving counties”), for which the county receives a reimbursement rate of \$40 a day.⁶¹ Counties that send inmates are reimbursed for costs associated with transporting inmates between jurisdictions and housing prior to their transport. Not surprisingly, the decision to participate in the SMCP as a receiving county is dependent upon the availability of bed space. NCJAA reported other factors contributing to local jails’ decisions about participating as a receiving county including staffing levels, geographic location, and the reimbursement amount. According to NCJAA, most areas reported the reimbursement rate for housing an inmate under the SMCP is below the average daily cost incurred by the facility, leading some areas to not participate.

From 2017 to 2018, the SMCP saw an increase in the number of receiving counties, from 64 to 66 counties, but a decrease in the number of beds, from 1,674 to 1,646 beds (see Table 9). While overall capacity for the program is slightly lower, there continues to be excess capacity to manage the sentenced misdemeanants. Additionally, the increase in the number of counties participating in the program has allowed the SMCP to house more inmates in their county of conviction. If needed, inmates with longer sentences are those more likely to be moved to receiving counties who volunteer more bed space.

**Table 9
Statewide Misdemeanant Confinement Program (SMCP)**

SMCP Capacity and Population	Dec. 31, 2012	Dec. 31, 2013	Dec. 31, 2014	Dec. 31, 2015	Dec. 31, 2016	Dec. 31, 2017	Dec. 31, 2018
Receiving Counties	50	54	56	57	59	64	66
Capacity	1,604	1,691	1,756	1,825	1,759	1,674	1,646
Population	697	631	579	979	1,116	1,233	1,188
SMCP Entries	CY 2012	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017	CY 2018
SSA ≥91 Days	3,126	2,721	2,651	2,558	2,464	2,567	2,486
CRV Entries	30	224	309	374	340	193	169
DWI Entries	n/a	n/a	n/a	1,180	1,170	1,448	1,378
Total Entries	3,156	2,945	2,960	4,112	3,974	4,208	4,033

Note: As noted previously, the JRA required misdemeanants with a sentence imposed of more than 90 days and up to 180 days to be housed in county jails through the SMCP. During the 2014 Session, the SMCP was expanded to include misdemeanants with sentences greater than 180 days, as well as those sentenced for impaired driving. SOURCE: NC Sheriffs’ Association

While capacity has exceeded the SMCP population thus far, it is important for policymakers to know of any future changes in capacity since DACJJ would be responsible for housing any misdemeanants the

⁶⁰ S.L. 2015-241.

⁶¹ Receiving counties are also reimbursed for medical expenses associated with SMCP inmates.

SMCP does not have capacity to house. As such, in 2018, the General Assembly directed the Sentencing Commission, with assistance from the NCSA, to develop five-year projections of available bed space for the SMCP and to study the feasibility of developing population projections for the SMCP.⁶² Table 10 shows the two different scenarios the Sentencing Commission developed for SMCP capacity based on factors such as planned new jail construction and local situations. In both scenarios, the five-year capacity is projected to decline by FY 2023 (by 5% in Scenario 1 and 2% in Scenario 2).

Table 10
SMCP Capacity Projections: Scenario Totals

	12/31/2018 Capacity	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Scenario 1 Total	1,646	1,622	1,642	1,617	1,603	1,572
Scenario 2 Total	1,646	1,637	1,657	1,632	1,645	1,614

SOURCE: NC Sentencing and Policy Advisory Commission

While the capacity is projected to decline, it is not known whether that capacity will be sufficient for the needs of the SMCP. Another critical factor to consider is the projected population for the same time period. As a counterpart to the SMCP capacity projection mandate, the Sentencing Commission was also directed to study the feasibility of developing population projections for the SMCP. The study encompassed a review of available data to produce a projection of the SMCP population and potential projection methods. Based on this review, it was determined that the SMCP database contains the most comprehensive data for this population and includes the critical information needed to produce a projection. The available data would support a variety of projection methods. As a result, the Sentencing Commission concluded that it would be possible to project the SMCP population. By having projections of both population and capacity, it would be possible to assess whether capacity will meet future population needs.

The shift of misdemeanants to the SMCP increased the number of inmates housed in local jails and many of these inmates have longer sentences than other inmates. DWI entries, which accounted for 34% of total entries in CY 2018, are subject to sentences that are longer than the average Structured Sentencing misdemeanor, up to three years for the most serious punishment level.⁶³ As of March 12, 2019, the SMCP reported 61 DWI inmates with active sentences of three years or longer. Additionally, inmates housed in local jails may not have the same opportunities to earn credit off their sentence as prison inmates do. Inmates are allowed to earn credits by attending treatment and education programs and working in the facility but most local jails do not have the resources to provide substance abuse treatment on site and the opportunities for inmate labor vary greatly based on location.

The issue of treatment for DWI offenders is more than just one of credit; DWI offenders are required by statute to complete substance abuse treatment as part of their sentence to be eligible for parole.⁶⁴ Prior to JRA, some DWI offenders were able to satisfy this requirement during their incarceration period within the prison facility. Since the shift of DWI offenders to local jails, the remaining option for many

⁶² Full reports available at www.NCSPAC.org.

⁶³ See G.S. 20-179 and 15A-1340.23.

⁶⁴ See G.S. 20-179(p)(3). Defendants sentenced to active punishment for DWI are only eligible for release on parole if, after serving the mandatory minimum period of imprisonment, the defendant “has obtained a substance abuse assessment and completed any recommended treatment or training program or is paroled into a residential treatment program.”

DWI offenders is to be paroled to treatment. However, the PRSP Commission reports issues with paroling offenders to the residential treatment facilities, DART Cherry for men and Black Mountain for women. The substance abuse treatment program at Neuse Correctional has closed.

In April 2018 the NCSA launched new software to provide enhanced reporting capabilities. The software allows the NCSA to distinguish between the different populations housed through the SMCP including Structured Sentencing misdemeanants, DWI misdemeanants, those serving a CRV, and those serving a revocation of probation. Examining the populations independently will give the NCSA the ability to look at data points such as average length of stay while controlling for the type of sentence served, providing a more thorough analysis of how these populations impact the program overall.

The NCSA continues to provide annual trainings; in 2018, five trainings were provided – two in the eastern part of the state, two in the west, and one in Wake County.

The SMCP populations, including DWI offenders, will continue to be monitored. At this point, the SMCP appears to have the capacity to manage the sentenced misdemeanants. It is possible DWI direct entries and probation revocations, along with longer DWI sentences, may have an impact on the SMCP. The new software launch may help to inform these issues, providing more data than the system could previously track. As more data become available over time, it will be possible to examine trends in DWI entries and the SMCP population.

Prisons

As noted previously, the majority of provisions in the JRA primarily affected offenders under community supervision. However, as DPS has seen success in the implementation of evidence-based policies and practices related to Community Corrections, it has shifted focus to expanding those types of practices in prisons. DPS reported efforts within Section of Prisons (SOP) on enhanced behavioral health services and reduction in the use of restricted housing.

With regards to all efforts within SOP, the Department is limited by its current vacancy rate. While DPS has invested in the Crisis Intervention Team (CIT) training and pursuant to General Assembly funding, significant pay raises for the correctional officers, the vacancy rate for correctional officers is almost 17%. Full utilization of new tools requires an increase in the number of correctional officers.

Risk and Need Assessments

In 2017, the Department applied the RNA to all male inmates, completing the process in October. In 2018, the Department began assessing the female population. The majority of the female population has been assessed and all new admissions at NCCIW receive the RNA.

Advanced Supervised Release

ASR allows judges to decide at sentencing whether eligible offenders will be ordered to this prison program which, if completed, leads to their release at a reduced minimum sentence. In order for inmates to be released on their ASR date, they not only must have been ordered into the ASR program at sentencing, without objection from the prosecutor, but they must also complete the recommended prison programs while maintaining positive behavior during their incarceration.

Inmates with ASR sentences are housed in the same facilities as non-ASR inmates; at this time, there are no dedicated facilities to house ASR inmates. During intake, inmates with ASR sentences receive a Structured Sentencing release date and an ASR release date. ASR inmates also complete an RNA at diagnostic processing, as do non-ASR inmates, which informs the creation of the inmate's ASR case plan.

The ASR case plan includes the recommended prison programs the inmate will need to complete in order to be released on their ASR release date. ASR inmates have a case manager who monitors and tracks their progress on their ASR plan. Any non-compliance with the ASR case plan or repeated disciplinary infractions may lead to disqualification. However, DPS data indicate that the majority (86%) of ASR inmates who exited prison in CY 2018 were released at their ASR date. The prison population of 35,752 on December 31, 2018, included 214 inmates with ASR sentences.

Behavioral Health Services

DPS reported that in March 2018, the prison population included roughly 6,226 inmates (17%) receiving behavioral health services. From 2008 to 2018, the prison population has decreased while the percentage of inmates receiving services has increased. This change is a result of enhanced awareness and improved screening. During this same time, the Department has seen the prison population shift to more offenders with serious mental health issues. These offenders require additional resources, such as psychiatrists, psychologists, and social workers.

In response to the increasing behavioral health needs of the inmate population, DPS reported developing Therapeutic Diversion Units (TDUs). Participants referred to the program are typically in long term restrictive housing and have a mental health diagnosis. A TDU provides a standardized treatment structure guided by a multi-disciplinary treatment team that embraces the offender and provides support and active treatment. The entire team trains together and is focused on a treatment model with emphasis on symptom management and skill building.

Pursuant to an appropriation by the General Assembly, the Department opened four TDUs in 2016 and three in 2017. As of March 2018, seven TDUs had been activated; however, one of these programs has been temporarily suspended due to correctional officer staffing vacancies. In 2019, the Department plans to activate a new TDU at Anson Correctional Institution, bringing the total back up to seven TDUs statewide.

Through March 2019, the Department reported that there were 542 admissions to the TDUs and 464 exits. The TDUs had a 63% completion rate. In contrast, similar residential treatment programs in prisons or in the community report an average of 40-45% participant completion rates. Offenders who did not complete the full TDU were still exposed to an average 3 months of TDU programming.

As of March 2019, the Department reported staffing levels of 60% for the six currently operating TDUs. Correctional Officer staffing was impacted by vacancies and facility security needs. Nurse staffing was affected by vacancies and repurposed positions. Unfilled staff positions across all disciplines remains a challenge. When the seventh TDU at Anson is activated and fully staffed, 76% of TDU positions allocated will be filled. American Correctional Association Behavioral Health Certification training will be provided to 50 additional TDU staff prior to this activation. As of March 2019, 149 TDU staff, facility managers, and administrators have been American Correctional Association Behavioral Health certified. Eventually, all TDU staff will complete American Correctional Association Behavioral Health

Certification and Crisis Intervention Team (CIT) training. The Department has also begun an in-house CIT training program for correctional officers. Approximately 6,155 staff had been trained as of March 2019.

Reentry Planning

The purpose of offering rehabilitative EBP while in custody is, ultimately, to prepare the offender for entry back into the community.⁶⁵ There are three phases of reentry in the Department's "Connecting the Dots" Model: the institutional phase, the transitional phase, and the community phase. The institutional phase focuses on enhanced programming, as well as establishing pre-release planning conducted in collaboration with Community Corrections. The transitional phase draws on this collaboration to streamline the process for offenders as they exit prison onto PRS. Lastly, the community phase works to connect offenders with resources in their home community.

The institutional phase saw a significant change with the remissioning of two reentry facilities in June of 2017 in Wake and Lincoln counties. These two facilities were remissioned as part of a directed Reentry Strategic Transition Engagement Plan and, at the end of 2017, housed 92 offenders (39 in Wake County and 53 in Lincoln County). Offenders who are interested in reentry assistance can volunteer for the program and have their housing assignment transferred to one of the facilities. To qualify, the offender must be within one to two years from release in either of the two counties or their surrounding counties. Offenders receive assistance with employment, housing, transportation, and parenting. The next four facilities, Johnston, Orange, Gaston, and Caldwell, were oriented in February of 2018 and were fully operational by June 1, 2018. DPS oriented an additional six facilities, Carteret, New Hanover, Green, Hoke, Davidson, and NCCIW in Raleigh, in November 2018. These institutions were operational on March 1, 2019.

There are designated reentry PPOs within the facilities that work with community PPOs to coordinate the transition of the offenders into the community. They are assigned for 75% of their time to the prison unit and 25% to the community. Similar to the officers in DPS' residential substance abuse treatment programs and CRV facilities, these officers help guide the offender through pre-release planning and prepare him or her for PRS. Nine months prior to the offender's release, the PPO connects the offender to their supervising PPO in their release area. The PPOs and case managers utilize a Transition Document Envelope which contains all the important documents needed to aid in the effective supervision of the offender. DPS reports that having these officers as part of the transition process helps offenders maintain compliance with their supervision during what can be a particularly risky time. In 2018, reentry PPOs were located in each of the twelve reentry facilities.

SOP has identified common needs of offenders when they exit prison and is working to address them where they are able as part of the pre-release planning process. One such need is the procurement of an identification card, which is necessary for a number of reasons including applying for public benefits. Currently, offenders are released with a duplicate prison identification card which, while eligible for exchange for a North Carolina identification card at all NC Division of Motor Vehicle (DMV) offices, has not been as successful as hoped. Instead, DPS has partnered with the DMV to have DMV mobile units come to a prison facility and aid offenders in the pre-release planning stage in obtaining an identification card or a license if they are otherwise eligible. Both reentry facilities have DMV mobile units as part of their transition plans.

⁶⁵ The Sentencing Commission encourages DACJJ to enhance existing evidence-based prison programs that improve reentry, see Appendix C.

Another need SOP is working to address is the challenge offenders face applying for and ultimately acquiring a job after release from prison. In addition to the many vocational programs offered while in custody, DPS is partnering with the Division of Workforce Solutions to help offenders with application assistance, such as helping them draft letters explaining their prior conviction(s). Additionally, the Division of Workforce Solutions employs six former offender specialists as part of the Workforce Enhancement Initiative, who will visit prison facilities to assist offenders with resume and interview preparation.

SOP, and DPS in general, has a long-standing working partnership with the Department of Health and Human Services (DHHS), Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, which continues to be enhanced by the partnership with Community Corrections and mental health probation officers (*see supra*, Mental Health Random Control Study). Community Corrections has developed a process for referrals to DHHS for offenders that may be in need of mental health or substance abuse services, and SOP is working to make sure that offenders who were identified with such needs, or participants in such services while in custody, have a plan for continuing care upon exit.

Offenders often lose public benefits while they are incarcerated and have difficulty recovering them upon exit; the gap in coverage can be very difficult for the offender. To assist these offenders, DPS has looked to the local communities to create assistance for offenders in need of food stamp applications and has received support from the Food Bank of Central and Eastern North Carolina. DPS is working with the Department of Social Services and the Food Bank to create a process whereby offenders can apply for food stamps at their local social services office with expert assistance.

DPS is also working with community-based organizations to develop support systems for offenders within their community. As mentioned earlier, Community Corrections is working to expand local reentry council models as part of their TECS programming. (*See supra*, Recidivism Reduction Services.) The local reentry council works to help offenders connect with local services and reintegrate them into their community. As offenders return to the community, their needs vary and can be many; a council with multiple areas of expertise helps provide a coordinated approach to what the offender may need. Additionally, DPS reports receiving strong support from local faith-based organizations providing mentoring to offenders.

Prison Exits

Under the JRA, all felony inmates sentenced for offenses committed on or after December 1, 2011, who receive an active sentence must be released onto PRS. Class F-I felons are released onto nine months of PRS, Class B1-E felons are released onto 12 months of PRS, and felons who are required to register as sex offenders are released onto five years of PRS. PRS requires coordination between SOP, Community Corrections, and the PRSP Commission. As the number of offenders exiting prison and onto supervision continues to increase, these entities have worked to increase efficiency in the release process and better manage the transition of offenders back into the community. This expansion of PRS has had a significant impact on the PRSP Commission in processing prison releases and on Community Corrections in supervising this increasing population.

Exits onto PRS

The PRSP Commission sets the conditions of PRS and responds to possible violations of those conditions. To determine the conditions of PRS, the PRSP Commission relies heavily on the work of the parole case

analysts and their work in conjunction with Community Corrections staff. The role of the parole case analyst is to determine parole/PRS eligibility, to make appropriate requests for information that include research and consultation with Community Corrections and Prison staff, and to prepare written reports about the offender with recommendations to the Commissioners. The case analyst presents an offender's case review plan to the PRSP Commissioners for a vote approving PRS conditions or recommending other actions on the plan.

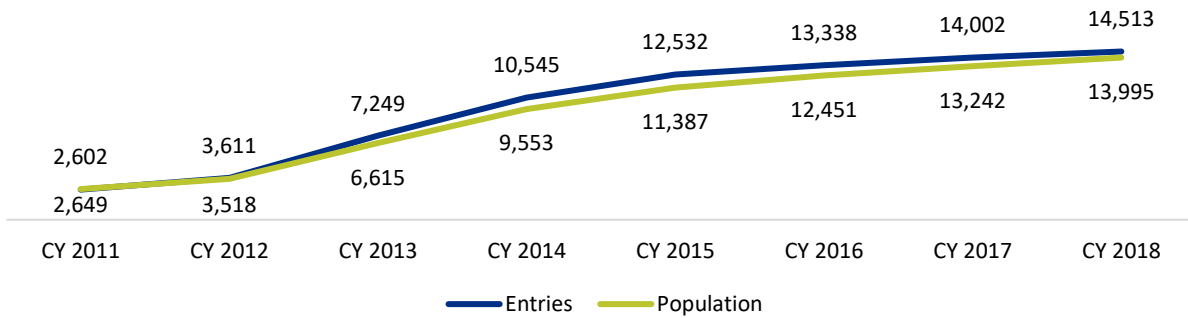
While on PRS, offenders are supervised in the same general manner as those offenders on probation; however, the violation process and responses to such are very different. As mentioned previously, Community Corrections does not have the same delegated authority to respond to violations of PRS as it does to respond to violations of probation.⁶⁶ However, the PRSP Commission reports that it has automated the process whereby PPOs request modifications of conditions so that response time is almost immediate. All potential violations of PRS where a warrant is issued and served must be heard by a hearing officer for the PRSP Commission. The PRSP Commission can respond to violations by continuing supervision, issuing a letter of reprimand, modifying the conditions of supervision, or revoking PRS. In general, the PRSP Commission responds to violations of conditions of PRS on a case-by-case basis; there are no written policies requiring a specific response for a reported violation.

In 2018, DACJJ was selected to participate in the *Learning Collaborative on Paroling Authorities as Key Partners in Achieving Governor's Criminal Justice Policy Goals*, a collaboration between the National Governor's Association and the National Parole Resource Center with support from the Bureau of Justice Assistance. The goal of the project was to generate recommendations that would encourage the use of EBP in the operations, processes, and policies of the PRSP Commission. Throughout the year, a group of stakeholders from DACJJ, the PRSP Commission, and the Office of the Governor studied the PRS and parole processes. On January 3, 2019, the group submitted three recommendations to the governor. First, that the PRSP Commission develop, validate, and implement a risk needs assessment tool tailored for their specific population. Toward the completion of such a tool, the PRSP Commission has received a grant from the Governor's Crime Commission and is currently seeking a consultant to assist in completing the tool. Second, allow the PRSP Commission to use community supervision credits (see G.S. 15A-1368.2(d)) based on compliance with re-integrative conditions to incentivize offender's good behavior and enhance public safety. Finally, support the PRSP Commission's efforts to study and revise the criteria and process for admitting eligible offenders to the Mutual Agreement Parole Program (MAPP).

The number of offenders released from prison onto PRS and the population of offenders supervised on PRS have increased substantially (see Figure 13). The considerable increase in entries is a result of the volume of Class F-I entries to PRS from year-to-year (e.g., the number of Class F-I entries increased from 10,131 to 10,704 from CY 2017 to CY 2018). There has been a corresponding increase in the PRS population, with a 6% increase over the past year (from 13,242 to 13,995). As such, the number of Class F-I felons account for the majority of PRS entries (see Figure 14). These data indicate that the PRS population is now primarily comprised of offenders sentenced under JRA terms. It is important to note that although PRS entries and population continue to increase year-to-year, the increases are occurring at a decreasing rate, possibly indicating the start of stabilization in entries and population.

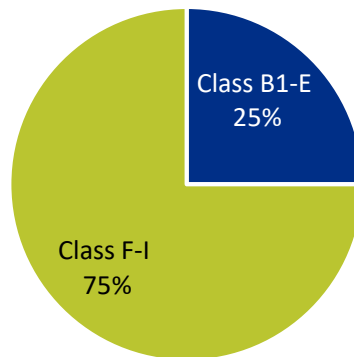
⁶⁶ DPS reports that it will be seeking delegated authority to use with PRS offenders in 2019.

Figure 13
PRS Entries and Population



SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Figure 14
PRS Entries by Offense Class in CY 2018



Note: Safekeepers, Aggravated Level One impaired driving, and possible discrepant data are not included.
SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Violations of PRS

As with probation, the JRA changed the responses to violations of PRS. If an offender’s violation is for a new crime or for absconding, the offender may have PRS revoked for up to the amount of time remaining on their maximum imposed term; if the violation is for other conduct, the offender may have PRS revoked, but only for three months (similar to a CRV period). Initially, DPS dedicated the Odom Correctional Institution as the prison unit for male post-release supervisees who were serving a three-month revocation period. However, on February 26, 2018, DPS began placing offenders in either the Burke CRV Center or the Robeson CRV Center to serve their three-month revocation period. The PRSP Commission reports that this is beneficial for the PRS offenders but that it lacks a substance abuse treatment component; sometimes the Commission has to put the offender back on PRS upon release from the CRV Center with the condition that they attend DART Cherry. The Department continues to work toward providing similar options for female post-release supervisees.

The increase in the PRS population has also led to an increase in entries to prison as a result of violations of supervision, with much of the increase attributable to revocations for Class F-I felons with PRS. Table 11 summarizes PRS violation entries to prison. From CY 2013 to CY 2018, the percentage of prison entries has continued to shift, aligning with the goals of the JRA to limit revocations to offenders committing a new crime or absconding probation. Overall, the percentage of entries for JRA three-month revocations and absconding have increased during this time period. The percentage of entries for new crime has remained relatively stable, while the percentage of entries for pre-JRA technical violations has decreased significantly. In CY 2018, offenders absconding PRS represented the largest group of felony entries to prison for a PRS violation (36%).

Table 11
Felony Entries to Prison for PRS Violations by Type

Prison Entry Type	CY 2014		CY 2015		CY 2016		CY 2017		CY 2018	
	#	%	#	%	#	%	#	%	#	%
New Crime	345	12	418	11	482	11	484	9	490	9
Alleged New Crime¹	354	13	551	14	482	11	778	15	781	14
Technical²	131	5	140	3	137	3	118	2	61	1
Three-Month Revocation	486	18	655	17	845	19	1,137	21	1,508	27
Absconding	763	28	1,337	34	1,613	36	1,973	37	2,029	36
Pre-JRA Technical	358	13	334	8	340	8	352	7	277	5
Warrant/Pending Charges	235	8	314	8	281	6	500	9	457	8
Contempt³	79	3	198	5	285	6	0	0	0	0
Total	2,751	100	3,947	100	4,465	100	5,342	100	5,603	100

¹ Prison entries for an alleged new crime may include those for new crimes proven in a violation hearing or those with a conviction that is not represented in the data (e.g., convictions resulting in credit for time served, convictions resulting in unsupervised probation, or those without a conviction at data collection).

² It is not known whether prison entries for technical violations are revocations or are discrepant data.

³ The PRSP Commission reported that contempt hearings were no longer held for PRS offenders beginning in 2017.

Note: Overall prison entries for CY 2018 are reduced due to inmates in county jails waiting for transfer to the state prison system. On December 31, 2018, there were 866 inmates backlogged in county jails.

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

PRS Revocation Exits

With the addition of PRS for Class F-I felons, total exits from PRS have increased substantially from CY 2011 to CY 2018 (see Table 12). Following a stabilization of revocation rates from CY 2013 to CY 2016, revocation rates increased slightly from CY 2016 to CY 2017 (from 24% to 27%) but dropped slightly from CY 2017 to CY 2018 (from 27% to 25%).

Table 12
PRS Exits and Revocation Rates

	CY 2011	CY 2012	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017	CY 2018
Total PRS Exits	2,352	2,680	4,131	7,383	10,267	11,776	12,634	13,101
% of PRS Exits Due to Revocation	19%	17%	25%	23%	24%	24%	27%	25%

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Table 13 examines PRS exits by supervision level. PRS exits by supervision level are similar when comparing Class B1-E and Class F-I offenders. The largest proportion of Class B1-E and Class F-I offenders exiting PRS were in Supervision Level 2 (44% and 45% respectively). The majority of offenders exiting PRS in CY 2018 were in Supervision Levels 1 and 2 (70%).

Table 13
PRS Exits by Supervision Level in CY 2018

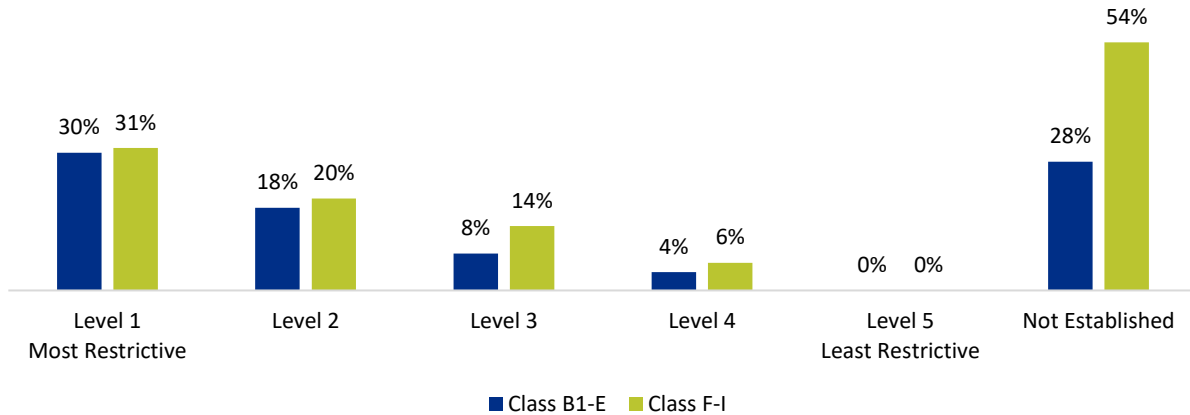
Supervision Level	Class B1-E		Class F-I		Total	
	#	%	#	%	#	%
Level 1 (Most Restrictive)	757	23	2,438	25	3,195	25
Level 2	1,474	44	4,422	45	5,896	45
Level 3	474	14	1,002	10	1,476	11
Level 4	207	6	340	4	547	4
Level 5 (Least Restrictive)	10	0	4	0	14	0
Not Established	412	13	1,561	16	1,973	15
Total	3,334	100	9,767	100	13,101	100

Note: Results for offenders in Supervision Level 5 should be interpreted with caution due to small numbers.
SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Figure 15 examines PRS revocation rates by supervision level and offense class. For those assigned a supervision level, revocation rates were highest for post-release supervisees in Supervision Level 1 (30% in Class B1-E and 31% in Class F-I), with a decreasing rate of PRS revocations for Supervision Levels 2 and 3. PRS revocation rates were higher for Class F-I offenders in all supervision levels.

Offenders without an established supervision level are typically offenders without a completed RNA (the RNA process is completed within the first 60 days of supervision) or those who absconded PRS prior to completion of the RNA process, and as a result, were not assigned a supervision level, but were instead revoked.

Figure 15
PRS Revocation Rates by Offense Class and Supervision Level in CY 2018



Note: Results for offenders in Supervision Levels 4 and 5 should be interpreted with caution due to small numbers.
SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

PRS Outcomes

To examine whether the expansion of PRS to low-level felons (Class F-I prisoners) has had a measurable effect on recidivism rates, the Sentencing Commission used data from its 2014 and 2018 adult recidivism reports, along with propensity score matching (PSM), to compare rearrest rates for Class F-I felons pre- and post-JRA.^{67,68} Results from this study indicated that expanding PRS to low-level felons had no effect on recidivist arrest rates for Class F-I prisoners. Table 14 summarizes the methodology and findings of this preliminary evaluation of the expansion of PRS.

Table 14
Evaluation of the Expansion of PRS: Methodology and Findings

Individual Factors	Matched pre- and post-JRA Class F-I prisoners using 17 variables identifying their personal characteristics, criminal history, and incarceration profile.
System-Level Changes	Controlled for system-level factors affecting recidivism using pre- and post-JRA Class B1-E prisoners subject to same matching criteria used for Class F-I prisoners.
Isolated Effect of PRS	Preliminary findings indicated no difference in recidivist arrest rates for Class F-I prisoners when comparing the pre- and post-JRA samples after accounting for individual factors and system-level changes.
Future Research	Comprehensively evaluate the effect of the expansion of PRS by using data further along in implementation and by examining additional variables (e.g., correctional programs) and outcomes.

SOURCE: NC Sentencing and Policy Advisory Commission

The purpose of PRS is multifaceted and includes not only controlling conditions, but also reintegrative conditions. In this study, recidivism was the sole measure used to assess effectiveness; it may be that

⁶⁷ The full brief can be found at www.NCSPAC.org.

⁶⁸ Propensity score matching estimates the effect of a treatment or policy and is commonly used in studies where individuals are not randomly assigned to control/test groups in order to minimize selection bias.

PRS has had a positive effect on other outcomes (e.g., obtaining employment) that were not examined. The Commission will continue to monitor the relationship between PRS and recidivism as using data further along in implementation may provide more insight on the effectiveness of PRS in reducing recidivist arrests for Class F-I prisoners.

V. CONCLUSIONS

The enactment of the JRA marked a shift in North Carolina's approach to many aspects of its criminal justice system. This report examines the effect of the JRA on sentencing practices and correctional practices – both in community supervision and incarceration (in prisons and local jails). Beyond its effect on sentencing and correctional practices, the JRA has led to the development of new initiatives to enhance or expand the use of evidence-based practices, also described in this report. Key findings related to sentencing and correctional practices, correctional populations, offender behavior, and savings and reinvestment are described below.

Sentencing Practices

In examining the JRA's effect on sentencing practices, some options continue to be used more often than others. The most frequently used provision remains the habitual felon status offense. While the existence of the habitual felon status offense predates the JRA, the proportional sentencing established by the JRA has led to an increase in habitual felon convictions and entries to prison. Since December 2011, habitual felon entries to prison have increased 50%. The Commission will continue to monitor this trend in light of the potential impact on the prison population. Conversely, the habitual breaking and entering status offense created by the JRA has not been as widely used, with only 136 entries to prison for the offense in CY 2018, though it was an increase of 6% from 128 prison entries in CY 2017. Habitual breaking and entering, designed as an enhanced sentencing option to deter repeat property offenders, merits further examination due to its continued limited use. It may be that the possibility of being convicted as a habitual breaking and entering felon has played a larger role at the plea negotiation phase, which would not be reflected in available data on convictions and sentences imposed or prison entries.

Correctional Practices

As noted throughout this report, correctional practices have substantially changed under the JRA and continue to evolve as a result of legislative and policy changes. For example, the JRA mandated the use of RNAs to assess probationers and DPS's validated RNA continues to accurately identify those offenders on probation most likely to reoffend and place them into the higher, more restrictive supervision levels. With the increase in the number of offenders on PRS under the JRA, DPS is considering revalidating the RNA taking into account factors that are unique to those offenders. As reported previously, DPS has begun to apply some of the lessons learned in community corrections to prisons, including the use of RNAs. As of the end of 2018, an RNA has been administered to all male inmates and to the majority of female inmates. The results may help DPS better identify appropriate programming to serve offenders in prison.

The use of several supervision tools that were implemented or modified through the JRA continues to increase. In 2018, DPS extended TECS services to all 100 of North Carolina's counties. From CY 2017 to

CY 2018, TECS completion rates increased overall and for each supervision level. The use of delegated authority and high risk delegated authority has also increased substantially over the past few years, largely attributed to the use of high risk delegated authority (an increase of 10% over the past year). The ability to respond directly and swiftly to behavior is a core component of the JRA, and the increased use of such tools will help determine how these responses affect offender success in the community, as well as other criminal justice outcomes.

DPS continues to enhance the CRV Center model. In 2018, the Department secured funding to set up a 200 bed CRV center for females, in recognition of the unique challenges housing this population has posed. That center is scheduled to open in 2019. The creation of the CRV, and the centers that followed, has been one of the largest changes to correctional practices under the JRA. The continued development and focus on the programming provided at these facilities will play an important role in evaluating the impact of the JRA over time.

Given that absconding makes up the largest percentage of entries to prison due to a violation for both probationers and post release supervisees, DPS is focusing on absconders. In 2018, DPS started a pilot program to increase efforts to locate offenders not complying with supervision prior to alleging an absconder violation. The program aims to help reduce the number of absconders statewide.

DPS maintains its focus on reentry programs and services to aid in the offenders' transition into the community. The Department remissioned six facilities to become reentry facilities in March of 2019, bringing the total to twelve facilities. DPS continues to partner with other agencies and community programs to serve the fourteen local reentry councils across the state with the goal of achieving a more seamless transition for offenders leaving prison and returning to the community. A State Reentry Council Collaborative, established in 2017, developed a Reentry Action Plan to support the work of the reentry councils.

Another area that has changed under the JRA is the use of jails. With the expansion of the SMCP, more offenders and offenders with longer sentences are being housed in participating local jails. In 2018, the NCSA implemented new software which allows it to better understand the impact of the various populations on the program as a whole. The expanded use of the SMCP has also raised concerns about the Program's capacity. In 2019, the Sentencing Commission produced the first annual SMCP 5-year capacity projection and studied the feasibility of developing population projections. Being able to compare the projected population to the capacity would inform the State in advance of a possible shortfall.

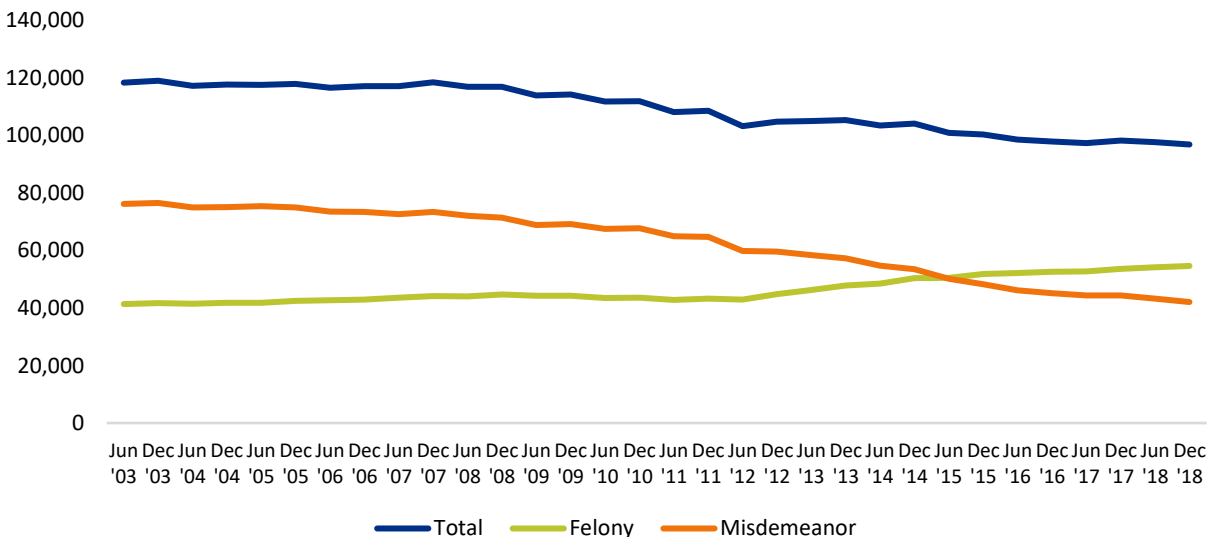
As correctional practices continue to evolve under the JRA, the Sentencing Commission monitors the practices and makes recommendations as needed. In March of 2019, the Sentencing Commission adopted three recommendations: (1) it supported giving PPOs delegated authority to use with offenders on PRS, (2) it supported increasing the number of mental health PPOs, and (3) it encouraged DACJJ to enhance existing evidence-based prison programs that improve re-entry (*see Appendix C*). The Commission believes that these changes would help offenders in the community while enhancing public safety.

Effect of Justice Reinvestment on the Community Corrections and Prison Populations

As North Carolina enters its eighth year under Justice Reinvestment, it is possible to examine its impact on the population of offenders supervised in the community and housed in prisons. The community corrections and prison populations have been demonstrably affected by JRA changes that went into effect beginning December 2011. They have also been affected by external factors, including the decline in the crime rates over the past ten years. Figure 16 and Figure 17 provide trend data on the community corrections population and the prison population.

As shown in Figure 16, the overall community corrections population declined 11% from December 2011 to December 2018 (from 108,520 to 96,825). While there has been an increase in the felony community corrections population (26% from December 2011 to December 2018) as a result of the addition of PRS for Class F-I felons, the declines in the misdemeanor community corrections population (35% over this same time period) have been a major contributor to the overall decline in the community corrections population. This decrease is likely related to a continued decrease in misdemeanor convictions in North Carolina. However, the termination of probation for some misdemeanants after serving a CRV may have affected this population as well. If so, the effect of this practice will diminish over time because the legislature has eliminated CRVs for misdemeanants. The overall community corrections population has remained relatively stable over the past few years. Last year, the felony community corrections population increased 2% and the misdemeanor community corrections population decreased 5%. Trends in the population will continue to be monitored.

Figure 16
NC Community Corrections Population at Month End
June 30, 2003 - December 31, 2018

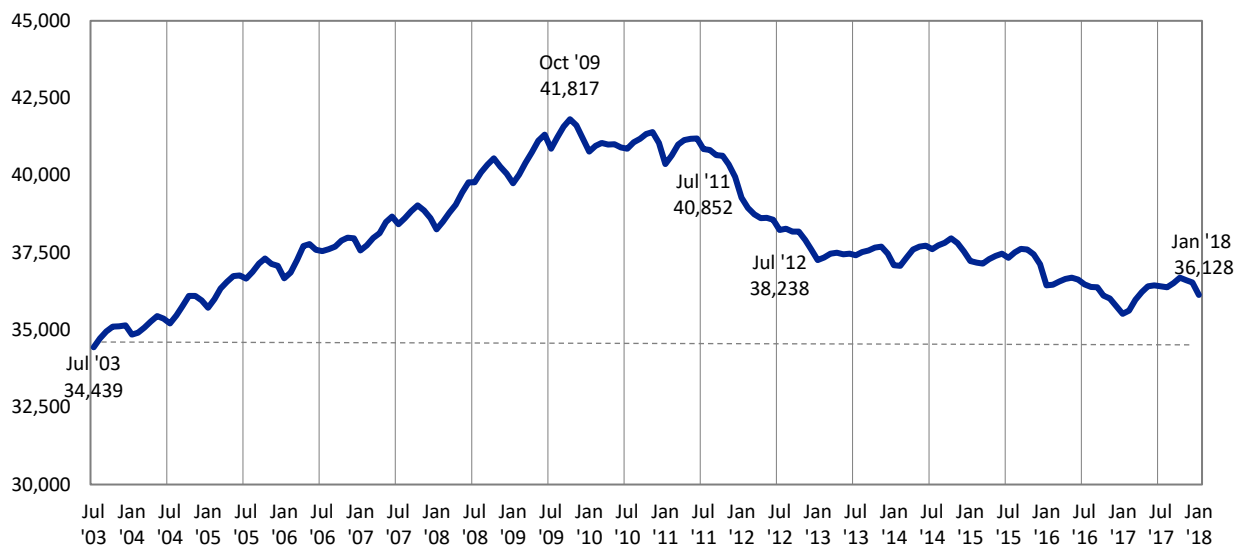


SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Figure 17 shows the prison population in North Carolina from July 2003 through December 2018. The average prison population has declined from 39,954 in December 2011 to 35,970 in December 2018, a

decrease of 3,984 or 10%. These declines can be attributed to changes in prison entries as a result of the JRA (i.e., the establishment of the SMCP to house misdemeanants and the limits to revocations of probation for technical violations), as well as subsequent legislative changes (e.g., the expansion of the SMCP to include DWI offenders in the 2014 Session). The prison population remained around FY 2006 levels from FY 2013 through FY 2015. The reclassification of CRV Center beds as treatment beds (effective January 1, 2016) resulted in an additional decrease to the prison population. The prison population decreased 2% over the past year, which could be due in part to the February 2018 expansion of CRV Centers to house post-release supervisees who are serving three-month revocation periods and due to overall criminal justice trends.

Figure 17
NC Prison Population
Monthly Average: July 2003 - December 2018



Note: Prison population figures include inmates backlogged in county jails when applicable. On December 31, 2018, there were 866 inmates backlogged in county jails. Solid vertical lines separate each fiscal year. The dashed horizontal line allows for a comparison of the current prison population with historical prison populations. 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

Of continual concern is the lack of complete data to understand the full impact of the changes to the criminal justice system under the JRA. The implementation of a statewide automated jail database would allow for a more comprehensive evaluation of the JRA's effect on all offenders in North Carolina, including those in local jails. As the SMCP population continues to grow due to housing DWI offenders, who can receive longer sentences than most misdemeanants, issues may surface within facilities managing different populations confined for different reasons and lengths of stay. The launch of the SMCP's new software may provide more comprehensive information and assist in understanding the subjects of the population.

Effect of Justice Reinvestment on Recidivism

Beyond the reductions in the correctional populations, also of great interest is the effect of the JRA on offender outcomes, namely, recidivism. Part of the intent of the JRA is to reduce recidivism by more effectively targeting correctional resources and utilizing evidence-based supervision practices. In 2016, the Sentencing Commission published its ninth biennial adult recidivism study – a study that examined the first cohort of probationers sentenced under and subject to the provisions and practices under the JRA.⁶⁹ In the tenth adult recidivism study published in 2018, the first sample in which the majority of prisoners (61%) were sentenced under the JRA and subject to the significant changes in eligibility for PRS are studied.⁷⁰ Taken together, outcomes reported for probationers in 2016 and prisoners in 2018 offer both a first look at the empirically measurable effects of the JRA and provide a baseline from which to measure future samples.

Outcomes for Probationers

As intended, the JRA has already affected revocation and recidivist incarceration rates for probationers. Table 15 provides a comparison of violation, revocation, and recidivist incarceration rates for probation entries for the past four recidivism studies published by the Commission. While violation rates have increased, revocation and incarceration rates for probationers have decreased substantially. Decreases in both the revocation and recidivist incarceration rates for FY 2011 and FY 2013 can be attributed to the limits to revocations of probation for technical violations, the establishment of CRVs, and by the shifting of misdemeanants out of the state prison system (active sentences for misdemeanants and misdemeanor probation revocations are served in local jails rather than in prison). The recidivist revocation rate decreased another two percentage points from FY 2013 to FY 2015. Of interest for future studies will be an examination of whether options available to respond to probationer noncompliance, short of revocation, are effective in reducing reoffending.

Table 15
Violation, Revocation, and Recidivist Incarceration
Rates for North Carolina Probationers: Two-Year Follow-Up

Sample Year	Violation Rates	Revocation Rates	Recidivist Incarceration Rates
FY 2009	63	36	24
FY 2011	66	31	22
FY 2013	68	19	14
FY 2015	71	17	13

Note: For calculation of violation and revocation rates, the probation sample for each of the studies was limited to probationers with a risk assessment completed.

SOURCE: NC Sentencing and Policy Advisory Commission

⁶⁹ See NC Sentencing Commission, *Correctional Program Evaluation: Offenders Place on Probation or Released from Prison in FY 2013*, April 2016

⁷⁰ See NC Sentencing Commission, *Correctional Program Evaluation: Offenders Place on Probation or Released from Prison in FY 2015*, April 2018

Outcomes for Prisoners

The expansion of PRS to all felons under the JRA will have increasing importance in the criminal justice system and in future studies of recidivism. In the 2018 adult recidivism study, 61% of prisoners were subject to the provisions of the JRA, with 76% exiting prison onto PRS.

Recidivist arrest rates were similar for prisoners with and without PRS (49% and 47% respectively). However, as shown in Table 16, there were substantial differences in recidivist incarceration rates for prisoners with and without PRS. The rate for prisoners with PRS was twice as high compared to those without (37% compared to 18% respectively). The ability for prisoners to be revoked and subsequently incarcerated for violations of PRS likely accounts for their higher recidivist incarceration rate. However, as the population under PRS has shifted to include lower level felons (Class F-I prisoners) – the difference in the rate of recidivist incarceration between the groups has expanded.

Overall, the recidivist incarceration rate for prisoners increased 11 percentage points compared to the FY 2013 sample (see Table 16), primarily the result of the expansion of PRS to lower-level felons (i.e., Class F – I), and the significant corresponding increase in revocations of PRS in response to violations of supervision conditions. With a larger (and more recidivistic) population under supervision, it is not surprising that more violations and revocations occurred. However, if the rate of prisoners returning to prison continues to increase, it will have an effect on resources.

Table 16
Recidivist Incarceration Rates for North Carolina
Prisoners by PRS Status for Each Fiscal Year: Two-Year Follow-Up

Sample Year	All Prisoners		PRS		No PRS	
	#	%	#	%	#	%
FY 2009	14,801	24	2,302	25	12,499	23
FY 2011	14,658	20	2,412	24	12,246	20
FY 2013	13,873	21	4,307	28	9,566	18
FY 2015	15,077	32	11,507	37	3,570	18

Note: The prison samples for each of these studies was limited to prisoners with a felony conviction.

SOURCE: NC Sentencing and Policy Advisory Commission

While the effects of the JRA on revocations and recidivist incarcerations are clear, it will take more time to fully measure the overall effect on offender behavior, more specifically, on the primary measure of recidivism used in the Commission’s studies – recidivist arrest. As a first step in examining whether the expansion of PRS to low-level felons has had a measurable effect on recidivist arrest rates, the Sentencing Commission used data from the 2014 and 2018 adult recidivism reports, along with PSM, to compare rearrest rates for Class F-I felons pre- and post-JRA. Preliminary results from this study indicate that expanding PRS to low-level felons had no effect on recidivist arrest rates for Class F-I prisoners. However, it is important to note that changing offender behavior takes time and may be influenced by external factors (e.g., changes in criminal justice trends). Expectations for recidivism reduction (in terms of recidivist arrest rates) should be weighed realistically considering the complex set of factors contributing to offenders’ criminal behavior compared to the resources and time available to the criminal justice system to elicit change.

Savings and Reinvestment

Though not specified in the legislation, the intent of Justice Reinvestment is to reduce correctional spending and reinvest savings in strategies to increase public safety. More specifically, through reducing the prison population, the state has invested savings in effective and targeted community supervision intended to reduce recidivism. The JRA has resulted in tangible correctional savings to the state primarily due to the limitation on certain types of entries to prison (i.e., misdemeanor offenses, technical revocations of probation and PRS), coupled with declines in criminal justice trends. As a result, the state has been able to close some state prisons, convert other state prisons, and eliminate unneeded positions. The most substantial portion of the overall savings has come from the closing of prisons; any additional savings resulting from the success of the JRA's policies and programs are unlikely to result in the same level of cost savings as those realized in the early years of implementation.

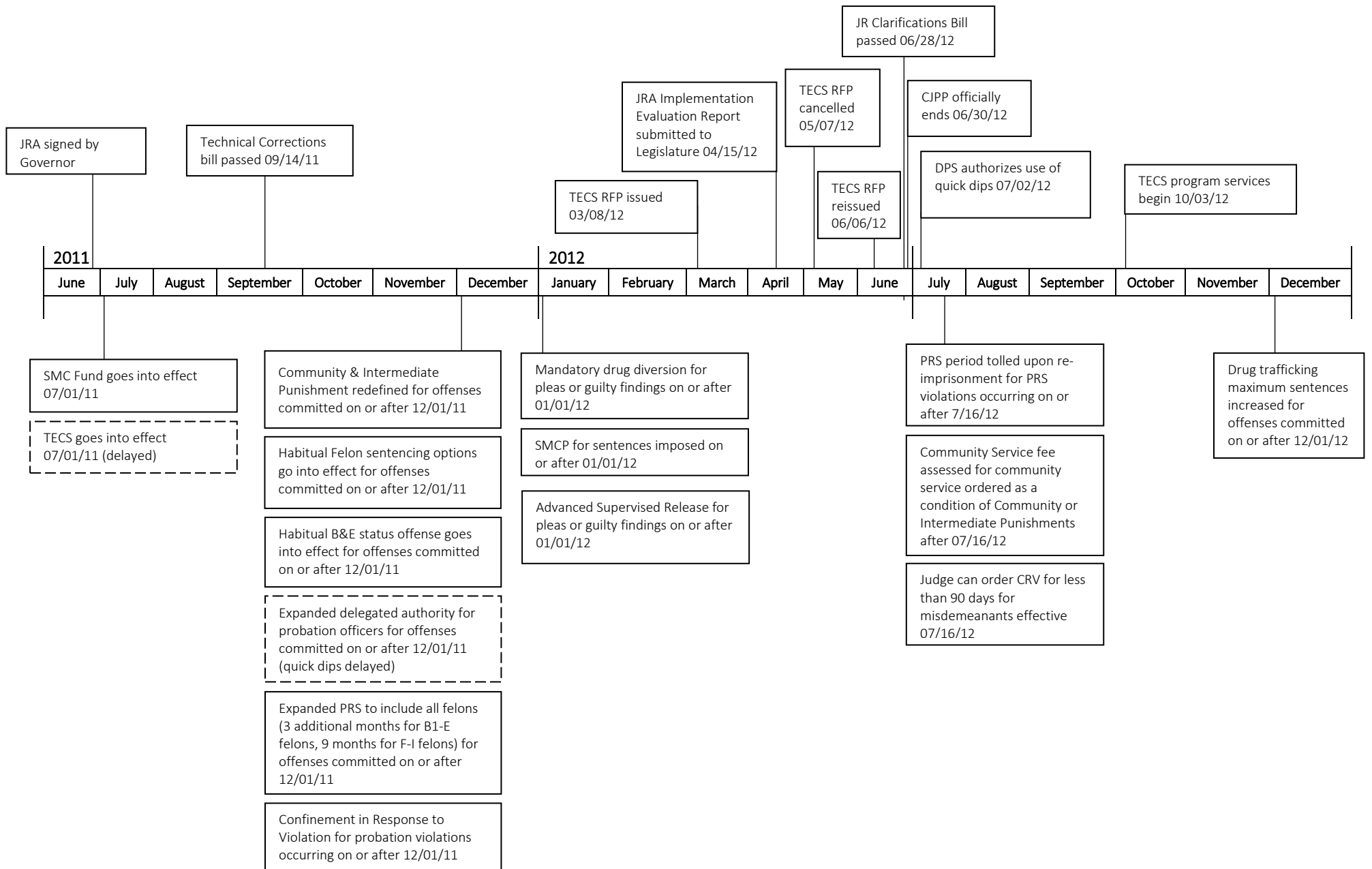
With the upfront savings realized, the focus continues to be on the reinvestment of those savings into the components of the JRA that will ultimately determine its success – the ability to keep offenders in the community under supervision and prevent recidivism. That success depends on several factors – the fidelity of the implementation of those policies and practices; effective and evidence-based programs; and external factors such as changes in the state's population and changes in criminal justice trends. An examination could be undertaken of existing educational, vocational, and substance abuse treatment programming to determine if additional investments to support individuals in prison are possible. Increased investments during incarceration aimed at reducing recidivism may have an effect on public safety for inmates returning to the community.

The Sentencing Commission will continue to monitor the progress of the implementation, review data where available, and submit future annual reports, interim findings, and recommendations for clarifications or revisions to the JRA as needed.

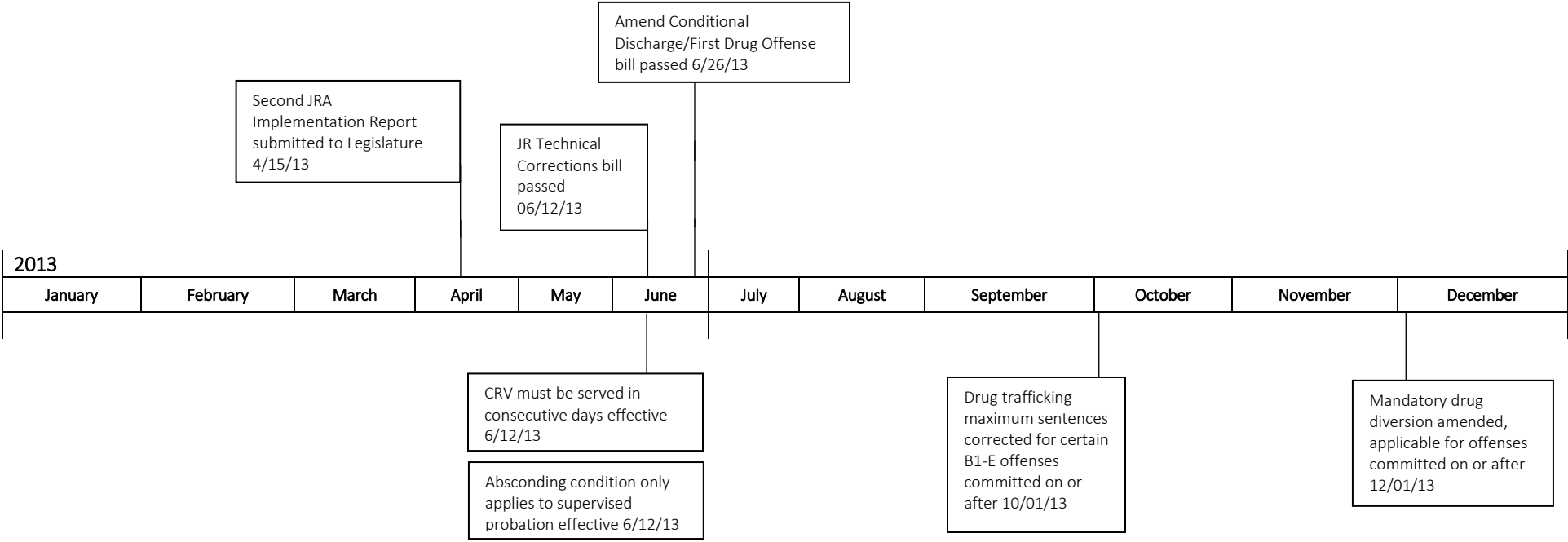
APPENDIX A

**JUSTICE REINVESTMENT IMPLEMENTATION
TIMELINE**

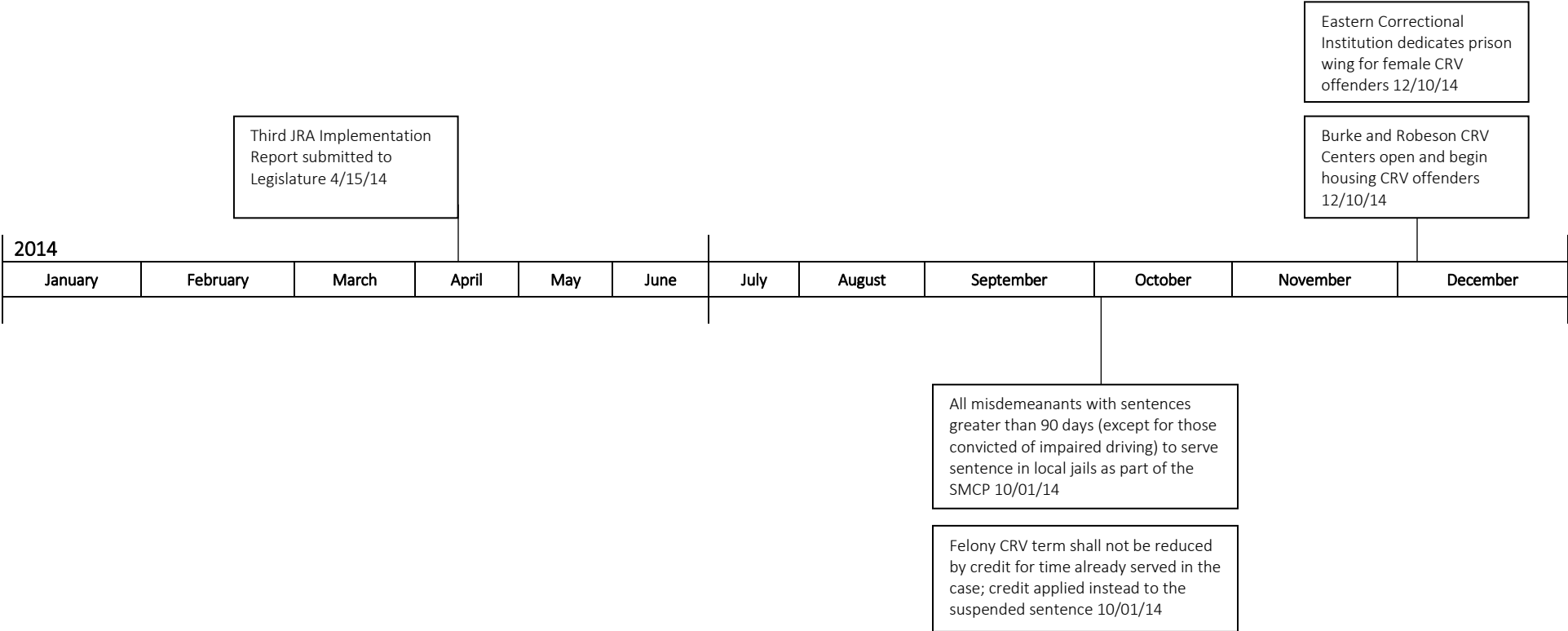
JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2011-2012



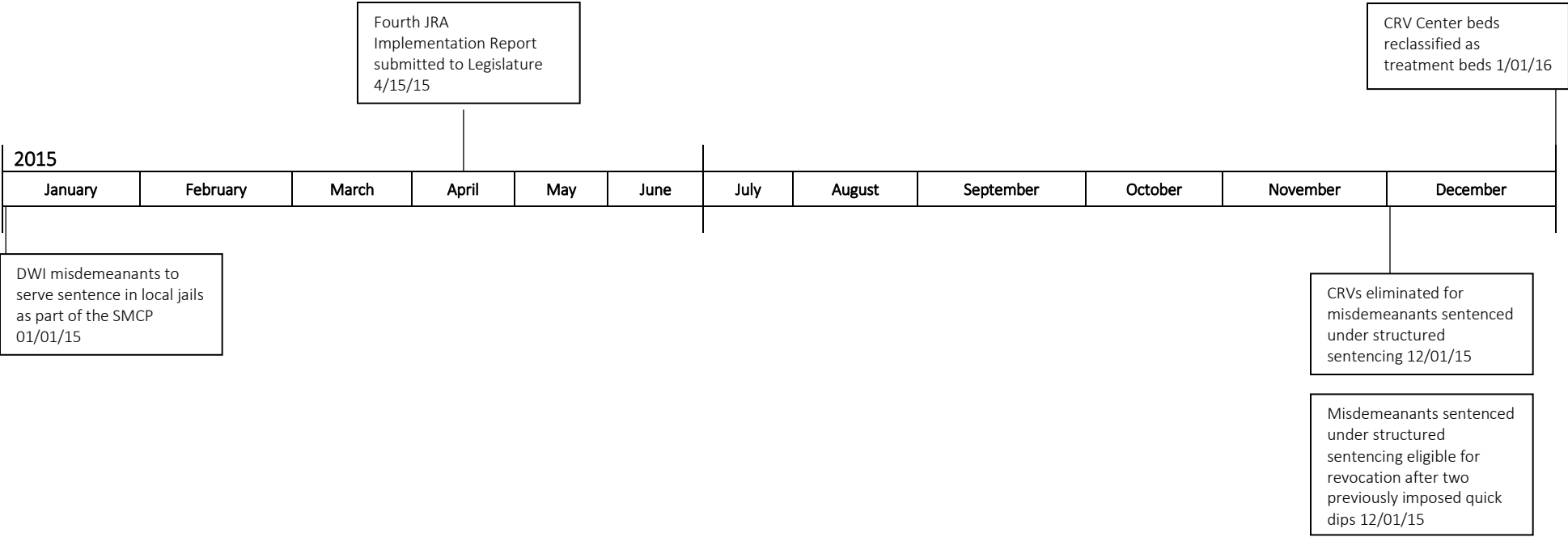
JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2013



JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2014



JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2015



APPENDIX B

LIST OF ACRONYMS

**Justice Reinvestment Act Implementation Evaluation Report
Acronym List**

ASR	Advanced Supervised Release
ASQ	Automated System Query
CY	Calendar Year
CBI	Cognitive Behavioral Intervention
CRV	Confinement in Response to Violation
CSG	Council of State Governments
CJPP	Criminal Justice Partnership Program
CIT	Crisis Intervention Team
DHHS	Department of Health and Human Services
DPS	Department of Public Safety
DACJJ	Division of Adult Correction and Juvenile Justice (within the Department of Public Safety)
DMV	North Carolina Division of Motor Vehicles
DWI	Driving While Impaired
EBP	Evidence-Based Programming
FARS	Functional Ability Rating System
FY	Fiscal Year
G.S.	General Statute
IOP	Intensive Outpatient Treatment
JRA	Justice Reinvestment Act
MAPP	Mutual Agreement Parole Program
MRT	Moral Reconation Therapy
NCJAA	North Carolina Jail Administrators' Association
NCSA	North Carolina Sheriffs' Association
OPUS	Offender Population Unified System
OTI-R	Offender Traits Inventory-Revised
PRS	Post-Release Supervision
PSI	Pre-Sentence Investigation
PSM	Propensity Score Matching
PPO	Probation and Parole Officer
RRS	Recidivism Reduction Services
RFP	Request for Proposals
RNA	Risk and Needs Assessment
SOG	UNC School of Government
SOP	Section of Prisons (within the Division of Adult Correction and Juvenile Justice)
SPMI	Serious and Persistent Mental Illness
S.L.	Session Law
SMCP	Statewide Misdemeanant Confinement Program
SSA	Structured Sentencing Act
TECS	Treatment for Effective Community Supervision
TDU	Therapeutic Diversion Unit

APPENDIX C

RECOMMENDATIONS

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION
Justice Reinvestment Implementation Evaluation Report

Adopted by the Sentencing Commission on March 1, 2019

Recommendations

1. The Sentencing Commission supports giving Probation and Parole Officers delegated authority to use with offenders on post-release supervision.

Commentary: Delegated authority is a tool that enables PPOs to impose graduated sanctions in response to non-compliant offenders. Sanctions may include imposing a curfew or requiring an offender to submit to a substance abuse assessment, monitoring, or treatment. Probation officers are able to provide a swifter response to violations through delegated authority because they do not have to go back to the court to have a sanction imposed. Delegated authority is only available for offenders on probation, not for offenders on PRS. The inability to use delegated authority to impose conditions for non-compliant PRS offenders limits the tools a PPO has and increases the amount of time for a response to a violation, as the PPO has to go back to the Post Release Supervision and Parole Commission to order the sanction. Moreover, having different tools for each type of offender makes a PPO's job more complicated as he or she has to use different case management strategies depending on the supervisee's status as a probationer or PRS offender.

The Sentencing Commission noted that while there are differences between the probationer and PRS offender populations, they did not believe those differences should affect expansion of delegated authority because Community Corrections uses a supervision model that is based on behavior, not supervision status. They felt that PPOs having delegated authority would enable them to respond more effectively to noncompliance. Having delegated authority for PRS offenders would also allow PPOs to be consistent with their case management strategies across the populations they supervise.

2. The Sentencing Commission supports increasing the number of mental health PPOs.

Commentary: As part of a randomized control study with the UNC School of Social Work in 2014, the Department of Public Safety (DPS) implemented Specialty Mental Health Probation caseload pilots in which PPOs carry specialized caseloads and use evidence-based strategies for managing offenders with serious and persistent mental illness (SPMI), with a caseload goal of 40 probationers to 1 officer. Promising results from the Sampson and Wake SMHP pilots indicate SMHP probationers had fewer violations than standard probationers and SMHP officers initiated substance abuse treatment and mental health action steps more frequently than standard probation officers.

In FY 2017 and FY 2018, the Department requested additional probation officer positions to expand the use of specialized mental health caseloads; however, the General Assembly did not authorize these positions. Moving forward, the Department informed the Commission that they will ask the Governor to include expansion of the program in his FY 2019 budget proposal.

The Sentencing Commission supported expanding the program but also expressed a concern regarding after-care services for these probationers. In addition to an increased number of officers, it urged DPS to consider the issue of after-care services once an offender has left probation from a SMHP caseload.

3. The Sentencing Commission encourages the Division of Adult Corrections and Juvenile Justice to enhance existing evidence-based prison programs that improve re-entry.

Commentary: The majority of provisions in the JRA primarily affected offenders under community supervision. However, as DPS has seen success in the implementation of evidence-based policies and practices related to Community Corrections, it has shifted focus to expanding those types of practices in prison. The Sentencing Commission has previously discussed the efficacy of certain programs in prison facilities and the extent to which DPS is able to offer them, such as Community College courses.

The Sentencing Commission reviewed the types of programs offered, the number of prison facilities where each program is available, and any notable issues (e.g., staffing) for certain programs. Members noted that many of the programs help offenders prepare to re-enter society upon release, and emphasized the importance of reentry planning and programming for offender success upon release. DPS recognizes the value of focusing on reentry and has implemented a “Connecting the Dots” Model, which includes an institutional phase focused on successful release back into the community that begins immediately upon prison entry. In addition to improved outcomes upon prison exit, engaging offenders in programming can increase facility safety through behavior change and daily structure. The Sentencing Commission noted that DPS already offers a variety of evidence-based programs and it would be more efficient to enhance those programs than to seek development of new programs.