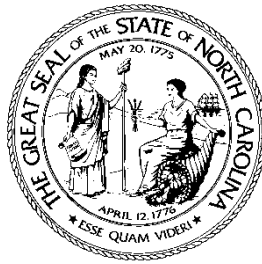


*North Carolina
Sentencing and Policy Advisory Commission*

**Justice Reinvestment Act
Implementation Evaluation Report**



*Project Conducted in Conjunction with the
Division of Adult Correction and Juvenile Justice of the
North Carolina Department of Public Safety*

Submitted pursuant to N.C. Gen. Stat. § 164-50 (2014)

April 15, 2015

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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 fourth report in compliance with the directive.

The first implementation evaluation report addressed the early stages of implementation – primarily, the preparation efforts agencies made in anticipation of the changes under the new law. The second report described the revisions agencies made to policies and procedures to account for real-life scenarios faced in implementation. The third report included feedback and observations from the field regarding emerging practices obtained through site visits across the state. This report includes background on Justice Reinvestment in North Carolina, a summary of the major provisions in the legislation and subsequent changes, recent policy and procedure developments made by agencies, available statewide JRA data for CY 2014, and some specific issues studied by the Sentencing Commission.

The information for the report comes from updates provided by agencies at meetings of the Justice Reinvestment Implementation Report Subcommittee (*see below*), from agency and organizational reports submitted to the Legislature, and from data collected by agencies.

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 gather information, review data where available, and report to the Commission any recommendations regarding the implementation of the JRA. The Subcommittee met three times after the submission date of the previous report (April 15, 2014): October 24, 2014, February 13 and March 27, 2015. At the March 27 meeting, the Subcommittee reviewed and accepted the final report.

II. BACKGROUND – JUSTICE REINVESTMENT IN NORTH CAROLINA

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 with the hope the 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.²

¹ N.C. Gen. Stat. (G.S.) § 164-50.

² 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,

From 2009 to 2010, the 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. The CSG found that probation revocations and various sentence enhancements were two factors straining the prison system. The CSG also noted the lack of supervision for many offenders leaving prison, as well as inadequately targeted treatment in the community. The CSG developed and recommended a legislative package designed to increase public safety while curbing spending on corrections by reinvesting in community treatment.³

The policy options presented by the 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 Act 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). The Act 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 Act is provided below, by system.⁴ (See Appendix B for a full list of acronyms used in this report.)

Changes to the Court System

The JRA expands the existing drug diversion program⁵ 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 program⁶ (see Related Legislation).

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 2015-FY 2024*).

³ For the full report from the 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.

⁴ Additional information on the JRA is available in multiple places. See NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report*, April 2012, April 2013, and April 2014; *The North Carolina Justice Reinvestment Act* by James Markham, UNC SOG, published December 7, 2012; and <http://www.sog.unc.edu/node/2044>.

⁵ G.S. 90-96.

⁶ Session Law (S.L.) 2013-210.

An habitual breaking and entering status offense is created; offenders who commit their second felony breaking and entering offense are sentenced in Class E according to the felony punishment chart.⁷

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.⁸

The JRA redefines Community and Intermediate punishments.⁹ 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.¹⁰ 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 the JRA for certain offenders receiving active sentences.¹¹ 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.

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 the DACJJ to perform an assessment on all offenders.¹² Supervision and other resources are targeted based on offenders’ levels of risk and need.

The Act 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.¹³

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. The penalty for a first or second technical violation of probation is set at 90 days imprisonment for a felon and up to 90 days for a misdemeanor.¹⁴

⁷ G.S. 14-7.31.

⁸ G.S. 14-7.6.

⁹ G.S. 15A-1340.11(2), (6).

¹⁰ G.S. 15A-1343 (a1)(3).

¹¹ G.S. 15A-1340.18.

¹² G.S. 15A-1343.2(b1).

¹³ G.S. 15A-1343.2(e) and (f).

¹⁴ G.S. 15A-1344(d2).

Changes to Prisons

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

Changes to Post-Release Supervision

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 through I felons and five years of supervision is required for Class F through I felons convicted of a sex offense. The revocation period for these offenders is nine months. Twelve months of PRS is required for Class B1 through E felons; the revocation period is twelve months.¹⁵

Similar to probation, prison time imposed for technical violations on PRS is limited. The penalty for a first, second, or third technical violation is set at 90 days 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.¹⁶

Resources

The Criminal Justice Partnership Program (CJPP) is repealed under the Act and the Treatment for Effective Community Supervision (TECS) Program is created.¹⁷ The 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 the 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.

Under the JRA, the Statewide Misdemeanant Confinement Program (SMCP) is created.¹⁸ Most misdemeanants will be housed in local jails instead of state prisons. The North Carolina Sheriffs' Association (NCSA) operates the SMCP; it is funded by the Statewide Misdemeanant Confinement (SMC) Fund. The SMCP finds space to house eligible misdemeanants in participating local jails. If the participating local jails are full, the DACJJ houses the offenders. Originally, misdemeanants who received a sentence of between 91 and 180 days of confinement, excluding sentences for impaired driving 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 SMCP¹⁹ (*see* Related Legislation).

¹⁵ G.S. 15A-1368.1 to -1368.2.

¹⁶ G.S. 15A-1368.3(c).

¹⁷ G.S. 143B-1150 to -1160.

¹⁸ G.S. 148-32.1(b2) to (b4).

¹⁹ S.L. 2014-100.

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.

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 B&E Habitual Felon Redefine C and I conditions Expand delegated authority Expand PRS
January 1, 2012	Pleas or guilty findings on or after:	Drug diversion ASR
	Sentences imposed on or after:	SMC Program

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. (*See* Appendix A for a full timeline of the JRA implementation.)

Having multiple effective dates also created some inconsistencies: for example, an offender who committed a Class F through 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 he/she 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 made clarifying changes in September 2011 before the Act 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 Confinement in Response to Violation (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* below).

In June 2012, the Legislature made additional clarifications to the JRA (*see* Table 2). 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 through E and nine months of PRS for drug trafficking convictions in Classes F through 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 (*see* Table 2). 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 biannually on recidivism rates for offenders on probation, parole, and post-release supervision 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 through 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. 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 (*see* Table 2). Session Law 2014-100 eliminates the provision that mandates longer misdemeanor sentences be served in the state prison system, and instead requires 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 felonies. Session Law 2014-100 provides 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.

Table 2: JRA Amendment Effective Dates by Provision

Date	Application	Provision
July 16, 2012	PRS violations occurring on or after:	PRS period tolled during re-imprisonment
	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

III. AGENCY UPDATES

Agencies continue to refine and reassess their practices related to the ongoing implementation of the JRA. Information included in this section is reported by agency and highlights recent efforts, where relevant, primarily occurring in CY 2014 (with some anticipated plans for CY 2015 also reported). Some agencies made few changes to policies and procedures, given that the bulk of implementation – policy and procedure development (and revisions where necessary), refinements to data management systems and data collection practices, and training – has either already occurred or has been subsumed into the agencies’ everyday work. Other agencies, however, either responded to legislative changes or initiated modifications and improvements to some programs and policies in order to further the goals of the JRA.

Administrative Office of the Courts

Data Collection

As noted in previous reports, the Administrative Office of the Courts (AOC) is undertaking a gradual replacement of its current statewide automated case processing system, the Automated Criminal Infraction System (ACIS), with a new case processing system, the Criminal Case Information System (CCIS).

Initially, AOC reported plans to pilot CCIS changes in November 2013, and then moved to a target date of May 2014. The pilot was launched in June 2014 and expanded to additional counties in the fall. CCIS went statewide in December 2014. ACIS is gradually being phased out, but is expected to be used for at least one additional year.

As of November 9, 2012, ACIS was modified to include an ASR indicator, a 90-day Confinement in Response to Violation indicator (number of days is not captured), and the SMCP indicator.

The 2014 version of CCIS captures the following pieces of information related to the JRA:

- Judge’s findings of habitual felon and habitual breaking and entering
- Expands collection of data for community and intermediate punishment including special probation duration, location, and length, electronic house arrest and length, and community service
- Adds conditional discharge as a disposition reason
- Adds SMCP as a custody location
- Adds ASR Term
- Creates a 90-day CRV indicator
- Adds quick dip duration

No automated court data reflecting the information above will be available from the early phases of JRA implementation for cases with offense dates on or after December 1, 2011, and prior to December 2014. Without adequate data, it will be difficult to determine the impact of the JRA on the court system and difficult to assess how sentencing practices change as a result of the JRA.

Department of Public Safety

Community Corrections

By design, and to achieve the Justice Reinvestment goal of reducing offender recidivism by strengthening probation through better-targeted community resources and supervision, the bulk of the provisions of the JRA affected the DPS DACJJ's Section of Community Corrections (Community Corrections). As such, the majority of implementation efforts have been executed by officers and chief probation officers. Feedback from the field has pointed to a number of implementation practices that could be modified or enhanced, as well as to other issues that could be addressed by Community Corrections. Through new and/or revised policies, the restructuring of community resources, and the development of an additional initiative, Community Corrections has responded to the field's observations to enhance the JRA.

Supervision

The promise of the JRA to reduce recidivism and realize savings through changing offender behavior plays out, to a large extent, in the case management and supervision of offenders in the community. Through the increased focus on offender risk and needs, and the expanded authority of probation officers managing offenders in the community, supervision practices have great potential to affect the outcomes intended by the JRA. As the Department has assessed how JRA policies and provisions are being applied in the field, it has identified and worked towards improvement in many areas. DPS has continued to update and enhance its supervision strategies for offenders in order to better utilize and target available resources. Over the past year, the Department has refined its approach to managing caseloads with a new risk-based template, encouraged officers to increase their use of available/existing tools to deal with offender noncompliance, and piloted a new way to track outcomes of incentive-based supervision strategies.

Caseloads

Probably the most significant factor contributing to the ability of officers to effectively supervise offenders in the community is the size of their caseloads. The caseload goal for probation officers mandated by the JRA is 60 probationers to one officer for offenders who are determined to be high or moderate risk.²⁰ To assist in reaching this goal, during the 2013 Session the General Assembly authorized 175 new probation officer positions. The Department reported 75 positions became available on July 1, 2013, which have all been filled. The remaining 100 positions became available on October 1, 2014; 17 of those positions were filled in 2014, 30 have been filled in 2015, and 69 more positions are in the process of being filled (as of March 27, 2015). DPS reports continued challenges in some locations with higher turnover combined with extended leaves (*e.g.*, military, disability), disciplinary reassignments, and new hires unable to carry full caseloads until they return from training. At any given time, approximately 13% of officer positions are unable to carry caseloads. The Department continues to work on reducing that percentage.

²⁰ G.S. 15A-1343.2(c).

To best utilize available officers to achieve the mandated offender to officer ratio, the Department began to transition away from its old model of caseload management, which combined high-, medium-, and low risk offenders on one caseload. The new template will separate probationers by risk level, reducing caseloads for officers with higher risk offenders. The templates and their respective caseload goals are as follows:

1. High Risk (Level 1-Level 2): 40 offenders
2. High Moderate Risk (Level 2-Level 3): 60 offenders
3. Low Risk (Level 4-Level 5): 120 offenders
4. All Risk (Level 1-Level 5): 60 offenders

In some of the more rural areas across the state, probation offices will maintain the old model, or the “All Risk” template because staffing levels, the frequency of court sessions, and/or the makeup of the offender population do not make it feasible to transition to the new template. The transition to the new template is nearly complete; the timetable for full completion is dependent upon the Department’s ability to fill the remaining new officer positions.

The Department reported it does not have adequate staffing at this point for officers to carry specialty caseloads (*e.g.*, sex offenders). Instead, officers are trained to “recognize, not specialize” the unique needs of offenders. However, in view of the increasing population of offenders with mental health needs in the criminal justice system, the Department has launched a pilot program with the UNC School of Social Work in Wake and Sampson counties where officers will carry specialized caseloads comprised of offenders with serious and persistent mental illness. It is the goal in developing these specialized caseloads that officers will be able to better recognize and respond to the needs of offenders with mental health diagnoses, allowing them to be more successful in completing probation.

Delegated Authority

The JRA expanded probation officers’ delegated authority to address offenders’ risk and needs and to manage offenders unwilling to comply with conditions of probation. The Department reported adopting a “Swift and Certain Sanctions” model to deal with offender noncompliance, with the goal of reducing future probation violations. Officers respond to all detected offender noncompliance as soon as possible by imposing additional conditions, primarily through delegated authority. Available sanctions include quick dips, curfews, electronic house arrest, community service, and/or increased reporting requirements. As reported in 2014, interviews with probation officers revealed that expanded delegated authority under the JRA had yet to be fully realized due to delayed implementation of some of the tools and hesitation by officers in the field. In response, chief probation officers created strategies to encourage the use of delegated authority tools during staffing. The Department reported that due to these efforts, and increasing familiarity with the available tools, there has been a corresponding increase in usage of delegated authority, particularly quick dips.

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 Offender Traits Inventory-Revised (OTI-R), are eligible to have conditions added to their probation without ever having been in violation. An OTI-R score of 50 or higher is considered to be high risk. Available conditions for high risk delegated authority include referrals to substance

abuse treatment or cognitive behavioral intervention (CBI) classes, electronic house arrest, or other controlling conditions. Quick dips may not be imposed through high risk delegated authority, unless a violation of probation has occurred. Officers use their discretion in deciding when and which offenders may need additional conditions added through high risk delegated authority. According to the Department, the use of high risk delegated authority has increased from FY 2012-13 to FY 2013-14.

The Department has worked consistently with their officers in order to effectively implement these policy changes that focus on enhanced supervision, increased compliance, and rehabilitation. One new initiative the Department has undertaken is the Administrative Response Pilot, launched in June 2013. The pilot uses the automated case plan system to create an automated behavior log. The probation offices participating in the pilot can track outcomes of how an officer's response affected the behavior of the offender. The information tracked for the also serves as a reminder to officers to respond to non-compliance as soon as possible. In the past year, the pilot has been established in 12 districts; the Department plans to take the project statewide in 2015.

All of the Department's recent efforts to enhance community supervision have the potential to change offender behavior. As these new and modified practices are used with increasing frequency, their potential effect on a number of probation outcomes, including offender recidivism, can be measured.

Recidivism Reduction Services

While caseload size has a great impact on officer efficacy, its effect on offender success in the community also depends on resources. In order to be successful in reducing recidivism, programs and services must be not only available and effective, but also match the risk and needs of the offender population. In 2014, based in part on feedback regarding resource availability, the Department assessed its programs and services for offenders and undertook a restructuring designed to streamline existing resources.

The TECS program is administered by Community Corrections and is designed to target high risk and/or high need offenders with evidence-based practices to reduce recidivism. TECS programs are funded through an appropriation from the General Assembly and funds allocated under the Broaden Access to Community Treatment program. The Department uses this funding to contract with vendors for the provision of services and the operation of community-based programming. There are 32 vendors providing TECS programs in 88 counties; the Department reported its continued efforts to secure vendors to serve the remaining 12 counties.

When TECS began, the Department focused on contracting with providers for two types of services: substance abuse treatment and Cognitive Behavioral Intervention (CBI) programs. In 2014, the Department expanded the services organized under TECS to encompass a wider range of the existing services the Department was coordinating for offenders. These additional services, now categorized as TECS programs, included transitional housing, community intervention centers, temporary housing, intensive outpatient treatment, and expanded local re-entry councils. The two traditional TECS programs, substance abuse and CBI, are now referred to as Recidivism Reduction Services (RRS). Going forward, TECS will refer to the umbrella that

encompasses all community programming the Department offers and/or coordinates. The Department reported that the restructuring of TECS is nearly complete; all services are in place, with the only exception being intensive outpatient treatment.

The Department plans to issue a request for proposals (RFP) soliciting vendors for RRS in 2015. For this cycle, the Department will require vendors to provide assistance with employment, education, and health and nutrition, while also seeking the inclusion of some of the optional services vendors can provide, including child care services, parenting classes, and family counseling. The Department will continue to focus on a performance-based approach with vendors, as required by statute.

Under the JRA, Community Corrections is required to publish a recidivism reduction plan. DPS originally reported that the plan would be ready for publication in April of 2014; now at the final review stage, the publication date is anticipated to be spring or summer of 2015. The statutory requirements of this plan are to identify the number of people on probation and PRS in each county that are in the priority population and have a likely need for substance abuse and/or mental health treatment, employment, education, and/or housing; identify the program models that research has shown to be effective at reducing recidivism for the target population and rank those programs based on their cost-effectiveness; and propose a plan to fund the provision of the most cost-effective programs and services across the state. The plan would also articulate a goal of reducing revocations among people on probation and PRS by 20% from the rate in FY 2009-10, a reduction which DPS reported had already been achieved in 2013.

With streamlined resources, pooled together to better meet the risk and needs of the offender population, the Department expects that more probationers will successfully complete probation.

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 ultimately revoked. Probationers under supervision for a felony or a misdemeanor can be ordered to serve a CRV; however, as reported in the 2014 JRA Implementation Evaluation Report, the CRV functions much differently in the felony context than in the misdemeanor context. For felons, feedback from the field indicated the CRV had potential for rehabilitation that was not fully realized. For misdemeanants, feedback pointed to the fact that the CRV was functioning at odds with its intended goal. The Department attempted to address both of those issues in 2014.

Felons

For the majority of CY 2014, offenders ordered to serve a felony CRV served that CRV in prison. Programming offered while in prison includes Brief Intervention Tool worksheets with topics such as “Decision Making” and “Problem Solving,” self-directed journaling, substance abuse intervention (not treatment), and some GED preparation. While this programming is particularly useful for the CRV inmates due to a shorter duration of stay, it is available to non-CRV inmates as well.

As the Department continued to expand and update policies and programs to further the rehabilitative goals of the JRA, it sought to develop more intensive programming for the CRV population. In 2014, DPS announced its pilot program for a designated CRV center that would offer an approach tailored for CRV offenders. Originally, the Department planned to launch the pilot program at Johnston Correctional Institute. Upon further review, the Department reported that that particular facility would not meet the goals of the program and looked instead for other available facilities.

As mentioned previously, the prison population in North Carolina has declined and as a result, DPS has been able to close a number of prisons. The Department decided to pursue the reopening of some of its closed facilities to house its new program for CRV offenders. During the 2014 Session, the General Assembly supported the Department's efforts by allowing it to repurpose two facilities into CRV centers, and by appropriating 2.8 million dollars for the facility in Burke County, effective October 1, 2014, and just under 1.6 million for the facility in Robeson County, effective February 1, 2014. Neither appropriation was to fund the entire cost of opening the centers, but the Department was able to fund the difference internally.

Each CRV center is managed by a facility director and assistant facility director, a residential manager, and several unit and assistant unit supervisors. The centers also have case managers (former correctional officers), probation officers, and chief probation officers on staff. The centers provide mandatory intensive behavior modification programs which include CBI classes, substance abuse intervention, job readiness certification, as well as continued use of Carey Guides and Brief Intervention Tools. While serving their CRV period, offenders' days are structured with chores, classes, free time blocks, and community service projects. The sites also use an evidence-based behavior management system, using incentives and sanctions to reinforce or change behavior. All staff working at the centers have received behavior management training.

In addition to attending mandatory classes, offenders also work with probation officers both in small groups and one-on-one. In both settings, officers use structured intervention worksheets (including Carey Guides) to complement the classroom curriculum. 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 centers.

In preparation for exit from the centers, officers spend six weeks developing appropriate re-entry plans. Probation officers work with the offenders and with their field officers to develop the re-entry plans to ensure offenders sustain any positive progress achieved during the confinement period. Officers at the centers remain in regular contact with field officers to report on offender progress and anticipated needs upon exit, with for the purpose of ensuring successful re-entry into the community.

The CRV centers began receiving offenders in December of 2014. The Department elected to admit only those who had not begun serving their CRV elsewhere, to ensure that offenders

coming to the center will have the benefit of the full 90-day period mandated by legislative changes effective October 1, 2014 (*see* Related Legislation).

Eligible offenders are sent to the CRV center location closest to them. If an offender is later found to be ineligible, he is transported back to prison. According to departmental 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 D felony or higher
- The offender had a prior incarceration with a High Security Maximum Control or Maximum Control status²¹ in the past year
- The offender has a concurrent active sentence he or she is also serving
- The offender has chronic medical issues that are unstable or is under psychotropic medications

Currently, the centers do not have skilled nursing on site to care for offenders with chronic medical conditions or those that are unstable or under psychotropic medications. However, the Department plans to try to address the need for medical staff in the future.

Misdemeanants

As noted above, feedback from the field indicated the CRV was functioning at odds with its intent. The Department reported its goal of having misdemeanants return to supervision following a CRV; this practice was not occurring based on the frequency of the terminal CRV, where supervision is terminated following an offender's period of confinement. In response to the frequency of the use of the terminal CRV, the Department reported initiating more training for its officers. The goal of the additional training was to reduce the number of terminal CRVs recommended in response to technical violations of probation.

Up until October 1, 2014, misdemeanants with sentences over 180 days served their CRV in prison; after October 1, 2014, all misdemeanants serve their CRV in jail. Programming offered for CRV misdemeanants in jails varies across the state, but is minimal in most areas. The Department reports it will continue to work with the NCSA as needed to support this transition of offenders, but did not have specific plans related to misdemeanor CRV offenders (*see* Statewide Misdemeanant Confinement Program).

Prisons

Furthering the goal of the JRA to reduce correctional spending by saving prison bed resources, CY 2014 brought another change that moved additional populations out of prison. As noted above, effective October 1, 2014, most misdemeanants are no longer housed in prison facilities. However, a small population of misdemeanants remain in prison. As of February 13, 2015, there were 901 misdemeanants in prison facilities; 150 of those were for medical reasons, 46 were serving CRVs, and the remainder were sentenced prior to October 1, 2014. The Section of

²¹ Highest control levels, difficulty existing in the inmate population, assaultive to staff or other inmates.

Prisons (SOP) will continue to receive misdemeanants whose medical needs cannot be met in the local facilities and in the event space in the SMCP runs out.

As reported in 2014, DPS was revising its direct release policy in anticipation of the increasing number of inmates who exit prison onto PRS. The Department created a pilot program for direct release of certain inmates in the fall of 2014. Prior to this program, if an inmate was being released onto PRS, it was departmental policy for a probation officer located in the offender's county of residence to travel to the prison facility in which the offender was located and to transport the offender home. The Direct Release program creates a process in which an offender being released on PRS or parole can be released to screened family members or friends for transportation from a prison facility to their pre-approved residence in the community. Inmates are not eligible for direct release if they are homeless, sex offenders, have unserved warrants, or have pending charges where the bond has not been posted. The Department reported the pilot program has been expanded to all 56 prisons as of March 2015.

SOP has begun the process of developing evidence-based practices for their facilities. Staff have set up a number of committees to prepare for this change including assessments, case management, offender programming, community involvement, and staff development and training. While the committee work is completed, prison staff is undergoing Crisis Intervention Team (CIT) training. The training began at the hospital sites and is now required for all management teams. As of February 13, 2015, one thousand officers were trained in CIT.

The SOP is also working to expand its re-entry efforts by exploring the option of repurposing closed prison facilities into regional re-entry facilities. This transition will require a continued review of the facilities' mission statements, as well as evaluation of resources in the area.

The SOP continues to work through staffing vacancies to make the most use of the capital resources currently available to them. At present, 600 vacant beds cannot be filled due to shortage of staffing resources.

Post-Release Supervision and Parole Commission

The JRA mandated that all persons exiting prison after serving an active sentence receive PRS. In CY 2014, 10,718 offenders were released from incarceration onto PRS; 6,322 of those offenders were sentenced under the JRA (395 with a 12-month term of PRS, 5,927 with a 9-month term of PRS). The PRSP Commission sets the conditions of PRS for those offenders and responds to violations of those conditions. In response to violations, the PRSP Commission holds a hearing, if it is not waived, and issues a decision on the violation. Violation decisions can range from continuing the offender on probation to modifying the conditions of probation to revoking their PRS. In CY 2014, the PRSP Commission issued violation decisions in 8,532 cases, 4,006 of which resulted in a warrant being issued.

As the PRS population increases, the demand on PRSP Commission staff increases as well. One of the critical resources of the PRSP Commission is its parole case analysts. Their role is to determine parole/PRS eligibility and to review the offender's requested release plans in conjunction with Community Corrections staff. The parole case analysts present their case

review to the Commissioners for a vote approving, denying, or recommending other action on the offender's case plan. In CY 2014, parole case analysts presented a total of 25,900 case reviews, growing from 1,813 in January of 2014 to 2,590 in December, which represented a 43% increase over the year.

Due to the length of some of the active sentences inmates must serve prior to their release onto PRS, it will take some time before the effect of the expansion of PRS to include all felons has been fully realized.

Resources

In anticipation of the increasing workload for staff, the General Assembly in the 2012 Session authorized the Secretary of Public Safety to reclassify existing vacant positions within the Department to create new positions, including parole case analysts.²² However, the Secretary did not reclassify any positions to parole case analyst positions that year.

In the 2013 Session, the General Assembly appropriated funding for eight additional parole case analyst positions.²³ The PRSP Commission filled those positions by October of 2014 as well as reclassified the existing case analyst positions, stratifying the positions and accompanying responsibilities from one position grade into three position grades.

Statewide Misdemeanant Confinement Program

Certain misdemeanants are housed in county jails as part of the SMCP. The NCSA runs the SMCP funded by the SMC Fund; the revenue for this fund comes through a dedicated fee the Legislature established under the JRA.²⁴ The SMCP has been fully operational since it went into effect on January 1, 2012.²⁵ As mentioned above, beginning October 1, 2014, misdemeanants who receive a sentence greater than 90 days, and, beginning January 1, 2015, all offenders convicted of misdemeanor impaired driving offenses regardless of sentence length, will serve their active sentences in local jails through the SMCP.

The JRA does not require counties to receive inmates as part of the program; participation is entirely voluntary. All counties, however, are potential sending counties. If a receiving county experiences a period of high volume and cannot house additional inmates sentenced to the SMCP, the county may put its participation on hold without withdrawing from the program completely. Available space within county jails volunteered to the program can be filled by inmates across the state, but the program generally tries to house inmates in their own or neighboring jurisdictions. As of December 31, 2014, the NCSA reported that the number of counties that sent inmates increased slightly from 2013 and the number of receiving counties held steady at 56. The total capacity of the program increased from 1,691 beds in CY 2013 to

²² S.L. 2012-142, Section 14.2A(a).

²³ See Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for FY 2013-14 as enacted in S.L. 2013-360, Appropriations Act of 2013 (SB 402).

²⁴ G.S. 7A-304(a)(2b), (4b).

²⁵ See North Carolina Sheriffs' Association *Statewide Misdemeanant Confinement Program Annual Report*, January 1-December 31, 2012.

1,756 jail beds in CY 2014. The population of the SMCP has remained steady over the last year, averaging 636 inmates per day. However, the SMCP population is anticipated to increase in 2015 due to legislative changes that will place additional offenders in the program (*see* Related Legislation). At this point, the NCSA reports that it has adequate bed availability to house the number of offenders that will be sentenced to the SMCP (*see* below), however; if local confinement facilities lack capacity, inmates will be housed in the state prison system.²⁶

Offenders whose sentences qualify them for the SMCP also serve any CRV periods in local jails under the SMCP. As with all SMCP inmates, expenses for some medical care, supervising, housing, and transporting CRV inmates are reimbursed from the SMC Fund. The number of CRV inmates confined in local jails as part of the SMCP increased by about four percent over the last year, to a total of 309 CRV inmates in 2014, while the average length of a CRV sentence remained the same at 72 days. The increase in CRV inmates had no significant impact on the program's overall population in 2014. The use of jail beds for quick dips is not funded through the SMCP; however, the short-term confinement periods may have an effect on bed availability for SMCP inmates and CRV inmates housed pursuant to the program. Although the use of quick dips is growing, the NCSA does not have any statistics on the inmate population serving quick dip confinements in local confinement facilities.

Programming (*e.g.*, substance abuse treatment, CBI programming) for inmates housed pursuant to the SMCP is not available; generally, programming is not required in local jails. The NCSA reported examining, in coordination with DPS, what programming it might be able to offer for SMCP inmates, particularly for misdemeanants serving CRVs. Sheriffs are beginning to pursue inmate work credit programs, but there are limited data on participation at the time of this report.

Resources

As stated above, the SMCP is funded through the SMC Fund, which is maintained by the DPS. The NCSA reported that it ended CY 2012 with a balance of \$14.7 million and collected \$25 million in CY 2013. In 2013, the Fund dispersed about \$10.5 million. In that same year, the General Assembly transferred \$13.5 million from the Fund to the DPS and \$1 million to the North Carolina Sheriffs' Education and Training Standards Commission.²⁷

The NCSA reported that it ended CY 2013 with a balance of \$12.6 million and collected \$25.6 million in CY 2014. The Fund dispersed about \$9.4 million in CY 2014. Currently, costs are within the available funding; however, the financial forecast for the program anticipates the need to find additional funding for the projected population increase within approximately 24 months.²⁸

The NCSA reports that there is sufficient volunteered jail space to house the projected 1,700 inmates per day. As of February 13, 2015, the expanded inmate population has not had any

²⁶ G.S. 148-32.1(b4).

²⁷ *See* Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for FY 2012-13 as enacted in S.L. 2012-142, Modify 2011 Appropriations Act (HB 950).

²⁸ G.S. 148-32.1(b2).

significant impact; the average daily population has increased to 705, roughly 50 more inmates per day than at the end of 2014.

As noted in previous reports, the impact of quick-dips and CRVs on jail capacity and the SMCP remains unclear. These subgroups may have an impact on the availability of bed space in local confinement facilities and on county participation in the program. Because North Carolina lacks a single, statewide automated data system for jails, it is not possible to examine the effect these JRA tools have on jail capacity and the SMCP.

IV. DATA ON THE IMPLEMENTATION OF JUSTICE REINVESTMENT

Overview

The current report highlights data on the implementation of the JRA through CY 2014, offering an early view of the changes in the criminal justice system – particularly to sentencing and post-sentencing practices – brought forth by the Act. These data reflect evolving JRA practices during the early stages of implementation. The first wave of cases under any new sentencing scheme is not necessarily representative of the practices that will occur in the future, after the field has become more comfortable with the new provisions and with subsequent technical and clarifying changes. In addition, it will take time for the cases processed under the new law to encompass the later-date provisions and the more slowly moving serious cases in the system. It is important to recognize that field practitioners were learning to use the new tools during the time period being examined, as well as how to capture that information in automated systems.

The majority of the information reported focuses on CY 2014 (January through December 2014). Given that the correctional system was most affected by the changes under the JRA, the management information system used by DPS – OPUS – is the primary source for data for 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 SMCP was obtained from the NCSA.

Overall, the data provided in this report allow for the examination of the use of the new tools and approaches available under the JRA, as well as a preliminary look at their effect on the prison and community corrections populations. Future reports will focus on the impact of those tools on long-term outcome measures such as recidivism. The Commission’s legislatively mandated reports, such as the biennial recidivism study and the annual statistical report, will be important resources for future information.

This section is ordered by process flow from sentencing to post-sentencing and singles out provisions that have sufficient aggregate information captured in automated databases. The statistical data are supplemented, when relevant, by information obtained by Sentencing Commission staff during site visits in 2013 and telephone follow-up interviews in 2014.²⁹

²⁹ See NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report*, 2014, for a more detailed description of the site visits.

Sentencing

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 potential pools of convictions for the habitual status offense and ASR are large, but currently these options are used for only a portion of the eligible offenders. The usage of these tools is determined through court decisions and, consequently, practices may vary across the state. Any changes in the utilization could have an impact on prison resource needs.

Community and Intermediate Punishments

With the redefinition of Community and Intermediate punishments under the JRA, special probation (split sentence) is one of two punishments limited to Intermediate punishment sentences (the other being drug treatment court, which is not available statewide). Information received from the 2013 site visits indicated that judges were ordering special probation more often. Possible reasons cited for the increase included the elimination of Intensive Supervision Probation and that special probation is one of the only remaining differences between Intermediate and Community punishments under the JRA.

Table 3 provides data on the imposition of special probation from CY 2011 through CY 2014, 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. While the use of special probation has declined over the past few years (along with convictions and the overall probation population), the data indicate an increase in the use of special probation at initial judgment. In CY 2011, 85% of the 19,943 special probation sentences ordered were ordered as part of the sentence at initial judgment compared to 89% in CY 2014.

**Table 3
Special Probation by Origin**

Origin	Use of Special Probation			
	CY 2011	CY 2012	CY 2013	CY 2014
Initial Judgment	85%	83%	86%	89%
Probation Modification	15%	17%	14%	11%
Total	19,943	20,184	19,792	18,799

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

Habitual Felon

The effect of the modifications to the habitual felon law can be seen by examining the composition of habitual felon sentences by offense class. Previously, habitual felons were sentenced in Class C. Under the new law, habitual felons may be sentenced in Class C, Class D, or Class E depending on the offense class of their substantive offense. Table 4 shows the change in the offense class distribution of habitual felon sentences since the passage of this change. Nearly all (97%) entries to prison for offenders convicted and sentenced as habitual felons (as their most serious offense) in CY 2011 were sentenced in Class C, while less than one-half were sentenced in Class C in CY 2014. Overall, 47% were sentenced in Class C, 27% were sentenced in Class D, and 26% were sentenced in Class E in CY 2014. Based on the statute, it is possible that an offender convicted as a Class E habitual felon could receive a non-active sentence, depending on prior record level. However, ASQ indicates that there have been no Class E habitual felon entries to probation during this time frame.³⁰

Table 4
Habitual Felon Prison Entries by Offense Class

Offense Class	CY 2011		CY 2012		CY 2013		CY 2014	
	#	%	#	%	#	%	#	%
Class C	741	97	695	85	492	56	430	47
Class D	n/a	n/a	55	7	182	21	248	27
Class E	n/a	n/a	57	7	194	22	237	26
Other	20	3	10	1	13	1	6	0
Total	761	100	817	100	881	100	921	100

Note: 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)

The volume of habitual felon prison entries increased 21% from CY 2011 (prior to the change) to CY 2014 (from 761 to 921 respectively). This increase comes during a time period of decreasing felony convictions. As suggested during the 2013 site visits, habitual felon penalties that are more proportional with the underlying offense may result in an increase in habitual felon convictions. While 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 2013/14, 62% of Class C, 79% of Class D, and 60% of Class E habitual felons were sentenced in the mitigated range.³¹

³⁰ Court data on convictions and sentences imposed indicate that there were 18 non-active sentences for Class E habitual felons in FY 2013/14. NC Sentencing and Policy Advisory Commission, *Structured Sentencing Statistical Report for Felonies and Misdemeanors*, 2014.

³¹ NC Sentencing and Policy Advisory Commission, *Structured Sentencing Statistical Report for Felonies and Misdemeanors*, 2014, 2013, 2012, 2011.

Habitual felons continue to account for a substantial proportion of the prison population. Overall, habitual felons accounted for nearly 15% (or 5,491) of the December 31, 2014, prison population of 37,358. Although there was a substantial increase in habitual felon prison entries over the same time period, the population of habitual felons in prison has increased only 4% since December 31, 2011 (with a population of 5,269). While there are more habitual felon prison entries, those sentenced as Class D and Class E habitual felons receive shorter sentences than those sentenced as Class C habitual felons.

Habitual Breaking and Entering Felon

Based on ASQ data, there were 121 entries to prison and no entries to probation in CY 2014 for offenders convicted and sentenced for the newly created habitual breaking and entering offense, which is a Class E felony.³² The monthly prison entries ranged from 7 to 14, with an average of 10 entries per month. Usage increased slightly (3%) from CY 2013 (with 117 prison entries).

Advanced Supervised Release

Data from DPS indicate limited usage of ASR. Table 5 provides information on the overall number of inmates receiving ASR sentences over the past three years, as well as the offense class for their most serious offense (which is not necessarily the offense for which ASR was imposed). The number of inmates receiving ASR sentences has decreased (from 152 in CY 2012 to 89 in CY 2014). Examination of monthly data from the past three calendar years indicates sporadic usage of this tool. For CY 2014, the number of inmates receiving ASR each month ranged from 3 to 15, with an average of 7 inmates per month. Data on ASR usage by county of conviction indicate that ASR has been used in 52 of the 100 counties of the state over the past three years; however, nearly half (n=168 or 48%) of the 347 inmates receiving an ASR sentence during this time period were from four counties.

The prison population of 37,358 on December 31, 2014, included 163 inmates with ASR sentences. The number of inmates with ASR at year-end has increased over the past three years (from 119 in 2012 to 133 in 2013 to 163 in 2014), primarily as a function of offense seriousness and sentence length. In CY 2014, 84 inmates with an ASR sentence exited prison. DPS data indicate that nearly all (n=80 or 95%) were released at their ASR date.

³² Court data on convictions and sentences imposed indicate that there were 8 non-active sentences for habitual breaking and entering convictions in FY 2013/14. NC Sentencing and Policy Advisory Commission, *Structured Sentencing Statistical Report for Felonies and Misdemeanors*, 2014.

**Table 5
Inmates Receiving ASR Sentences by Offense Class of Most Serious Offense**

Offense Class	CY 2012		CY 2013		CY 2014	
	#	%	#	%	#	%
Class D	31	20	26	24	20	22
Class E	21	14	20	19	19	21
Class F	23	15	15	14	12	14
Class G	32	21	18	17	17	19
Class H	45	30	25	24	21	24
Class I	0	0	2	2	0	0
Total	152	100	106	100	89	100

Note: The offense class of the most serious offense is not necessarily the offense for which ASR was imposed. This table reflects all inmates receiving ASR sentences regardless of whether the offense classes are correct. For example, according to statute, offenders in Class I are not eligible for ASR.

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

Post-Sentencing – Community Corrections

Significant changes to community corrections were mandated under the JRA, including the use of a risk and need assessment as a strategy in managing offenders. As of December 31, 2014, the community corrections population was 104,059.

Risk and Need Assessment and Supervision Level³³

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, and to place the offender in the appropriate supervision level. The OTI-R is used to assess offender risk and the Offender Self-Report and the Officer Interview and Impressions are used to assess offender need. Using these instruments, there are five levels of risk and five levels of need: extreme, high, moderate, low, and minimal. Table 6 shows the distribution of the community corrections population by risk, need, and supervision level. Overall, 11.7% were assessed as being extreme risk, 21.3% as high risk, 35.4% as moderate risk, 25.5% as low risk, and 6.0% as minimal risk; 21.0% were assessed as extreme need, 14.9% as high need, 38.5% as moderate need, 21.1% as low need, and 4.4% as minimal need.

³³ See NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report*, 2013, for a more detailed description of these instruments.

Table 6
Supervision Level Distribution Based on Risk and Need Assessments:
Assessed Community Corrections Population on December 31, 2014

Need Level	Risk Level					# / % by Need Level
	Extreme R1	High R2	Moderate R3	Low R4	Minimal R5	
Extreme N1	L1 2,258 2.7%	4,102 4.8%	7,588 8.9%	3,444 4.1%	453 0.5%	17,845 21.0%
High N2	1,929 2.3%	3,115 3.7%	4,578 5.4%	L3 2,692 3.2%	379 0.4%	12,693 14.9%
Moderate N3	3,621 4.3%	6,652 7.8%	11,507 13.5%	8,829 10.4%	2,112 2.5%	32,721 38.5%
Low N4	1,905 2.2%	L2 3,773 4.4%	5,434 6.4%	L4 5,326 6.3%	1,502 1.8%	17,940 21.1%
Minimal N5	216 0.3%	497 0.6%	953 1.1%	1,411 1.7%	L5 690 0.8%	3,767 4.4%
# / % by Risk Level	9,929 11.7%	18,139 21.3%	30,060 35.4%	21,702 25.5%	5,136 6.0%	84,966

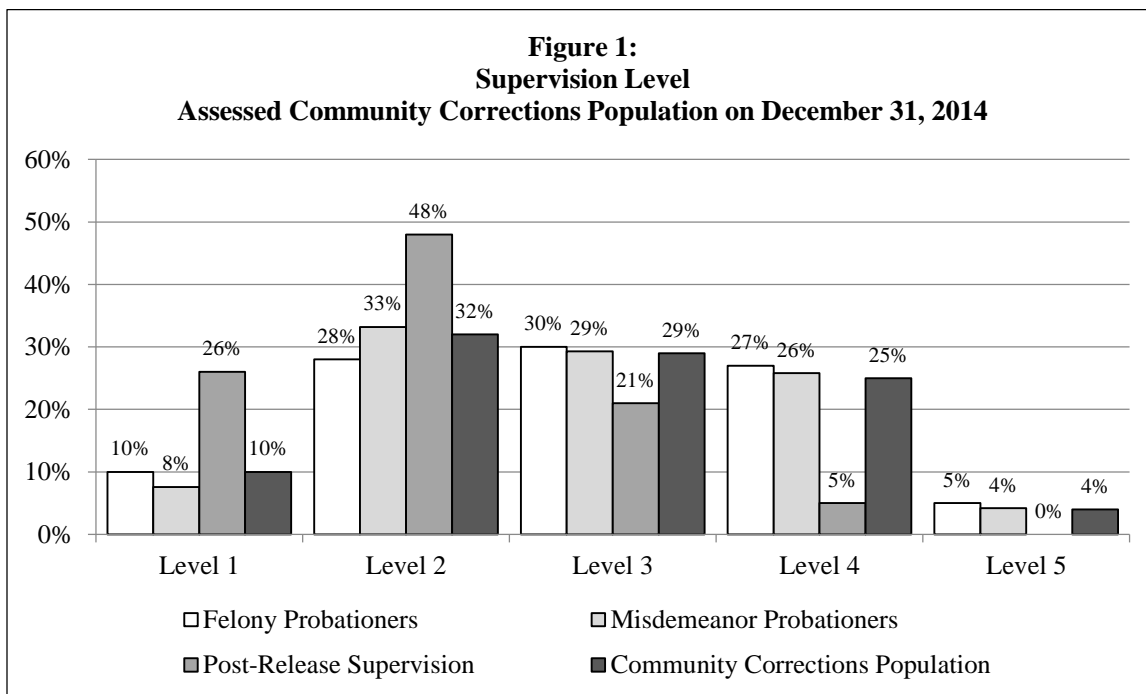
Note: The assessed community corrections population includes offenders who were available for assessment and in the population at least 60 days prior to population date. Percentages may not add to totals due to rounding.
 SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

An offender’s supervision level, which determines the minimum contact requirements for supervision, is determined based on the intersection of the offender’s level of risk and level of need. There are five supervision levels, with Level 1 being the highest. Overall, 10% of offenders were assessed in Supervision Level 1, 32% were in Level 2, 29% were in Level 3, 25% were in Level 4, and 4% were in Level 5 (as shown in Figure 1).³⁴

Community Corrections provides supervision and services to all offenders released to the community, regardless of their status as a probationer or post-release supervisee or as a felon or misdemeanor. Once in the community, the various groups are not supervised based on their group status, but based on their risk, need, and supervision level. Figure 1 examines the supervision level distribution of these different populations of offenders – specifically, felony and misdemeanor probationers, as well as offenders on PRS.

³⁴ The Supervision Level distribution for Table 6 is based on the DACJJ’s RNA process. Additional risk assessments are completed for sex offenders and DWI offenders that may result in supervision at a higher level than indicated by the RNA.

In comparing probation populations, felony and misdemeanor probationers had very similar supervision level distributions, although felony probationers had a slightly higher percentage in Supervision Level 1 (10% compared to 8% of misdemeanants) and a slightly lower percentage in Supervision Level 2 (28% compared to 33% of misdemeanants). Nearly 75% of offenders on PRS were in Supervision Level 1 (26%) and Supervision Level 2 (48%), the highest supervision levels.



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

Probation

The JRA changed how probation officers supervise offenders and their possible responses to violations of probation by expanding their delegated authority, limiting revocation of probation, and establishing CRVs. In addition, the TECS program was established for the operation of community-based corrections programs. As of December 31, 2014, the probation population was 94,586. Overall, 56% of the probation population were on supervision for a misdemeanor offense, while 44% were on supervision for a felony offense.

Delegated Authority

The JRA expanded delegated authority in two ways – by adding to the list of conditions a probation officer may impose on a probationer (*e.g.*, quick dips, house arrest with electronic monitoring) and by broadening the circumstances in which the officer may impose them. While the risk and need assessment guides the level at which the offender will be supervised and helps the probation officers to select programs and services aimed at changing criminogenic needs, delegated authority enables the probation officer to graduate sanctions in response to non-compliant offenders.

Data indicate that the use of delegated authority continues to increase following the implementation of the JRA (*see* Table 7).³⁵ Overall, probation officers used delegated authority 3,114 times in response to violations in CY 2014, an increase of 42% from the previous year. The use of high risk delegated authority had a similar increase (44%) from CY 2013 to CY 2014.

Table 7
Use of Delegated Authority in Response to Violations

Origin	Use of Delegated Authority			
	CY 2011	CY 2012	CY 2013	CY 2014
Delegated Authority	390	614	1,513	2,128
High Risk Delegated Authority	0	58	686	986
Total	390	672	2,199	3,114

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

Responses to Probation Violations

The JRA made substantial changes to the responses to probation violations in terms of confinement, with changes effective for violations of probation occurring on or after December 1, 2011. With the JRA, revocation and activation of the suspended sentence may only occur for those who abscond supervision or commit a new crime. A CRV may be imposed for technical violations of probation, with revocation possible only after the imposition of two prior CRVs. Felons who receive a CRV are housed in the state prison system, while misdemeanants are housed primarily in local jail facilities.³⁶ However, because there is no statewide automated jail data system, information on the impact of CRVs on local jail populations is unknown.³⁷ Short of revocation or the imposition of a CRV, quick dip confinement was also added as a tool for responding to probation violations.

With the legal limits placed on revocations described above, probation exits due to revocation have decreased substantially. As shown in Table 8, 24% of felony exits from probation in CY 2014 were for revocation compared to 40% in CY 2011 – an overall decrease of 40%. Misdemeanor exits from probation due to revocation decreased 54% over this same time period. However, the largest declines occurred from CY 2011 to CY 2012 with the implementation of the change and have subsequently leveled off.

³⁵ An offender may be represented more than once in these data if there are multiple violation dates.

³⁶ 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.

³⁷ Data are available from the NC Sheriffs' Association for the SMCP; however, these data represent only a small portion of the state's jail population.

Table 8
Probation Exits Resulting from Revocation

Offense Type	Revocation Exits			
	CY 2011	CY 2012	CY 2013	CY 2014
Felony	40%	28%	25%	24%
Misdemeanor	37%	23%	19%	17%
Total	38%	24%	20%	19%

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

Felony Prison Entries³⁸

As shown in Table 9, felony probation violation entries to prison remained stable over the past two years (7,248 for CY 2013 and 7,236 for CY 2014), with the primary difference in composition resulting from the ability to capture data on the imposition of terminal CRVs (8% in CY 2014). The majority of probation violation entries in CY 2014 resulted from absconding supervision (33%), followed by imposition of a CRV (23%). There were very few entries for revocation following the imposition of two prior CRVs. Entries for pre-JRA technical revocation (4% in CY 2013 and 1% in CY 2014) should continue to decrease. Data for entries categorized as JRA technical revocation will continue to be examined. It is not clear whether these data reflect actual practices or are related to how information is captured in OPUS.

Confinement in Response to Violation

Probation data for CY 2014 indicate a total of 9,173 CRV dispositions ordered as a result of probation violation hearings – 34% for felons and 66% for misdemeanants (*see* Table 10). The majority of CRV dispositions (97% or n=8,928) were for offenders with a single CRV disposition. Overall, there was a 3% increase in CRV dispositions over the past year.

³⁸ This section focuses only on felony prison entries and exits since the majority of misdemeanants serve their sentences in local jail facilities. Misdemeanants sentenced under the Structured Sentencing Act accounted for less than 1% of the prison population on December 31, 2014.

**Table 9
Felony Entries to Prison for Probation Violations by Type**

Type of Prison Entry		Felony Entries to Prison			
		CY 2013		CY 2014	
		#	%	#	%
New Crime		1,505	21	1,578	22
JRA	Technical	1,036	14	959	13
	CRV	2,253	31	1,647	23
	Revoked after 2 CRVs	0	0	27	0
	Terminal CRV*	n/a	n/a	580	8
	Absconding	2,163	30	2,351	33
Pre-JRA	Technical	291	4	94	1
Total		7,248	100	7,236	100

* 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.

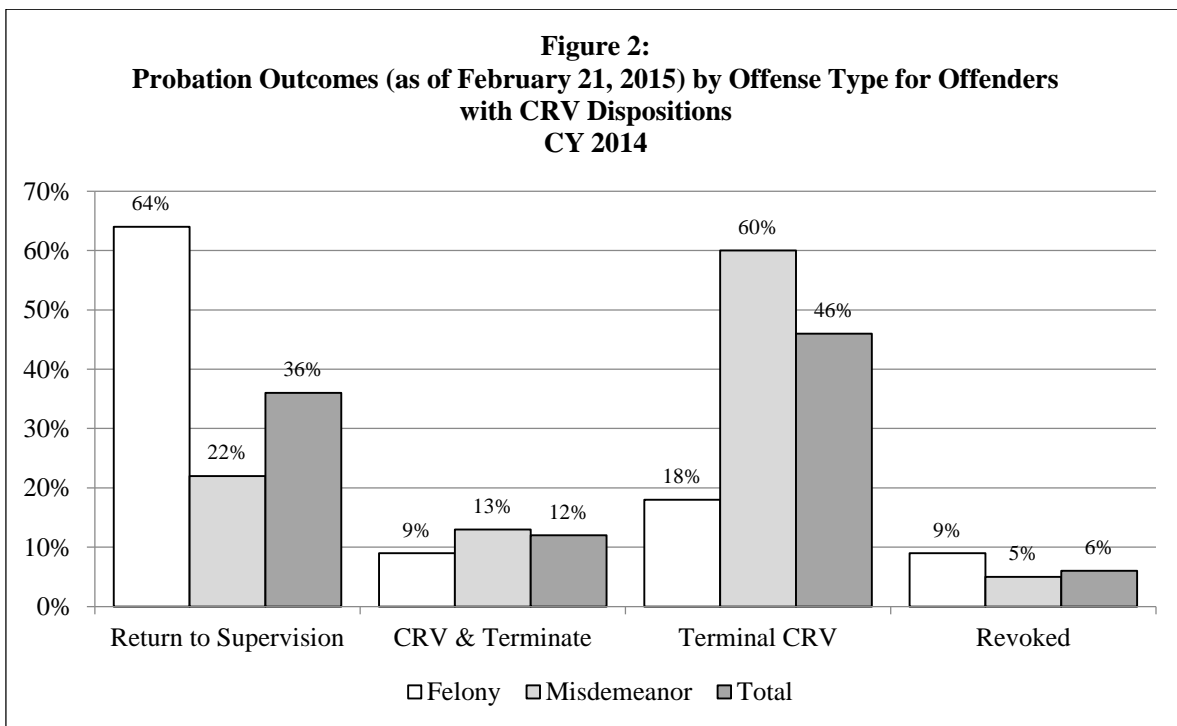
SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

**Table 10
Offenders with CRV Dispositions**

Offense Type	Offenders with CRV Dispositions			
	CY 2013		CY 2014	
	#	%	#	%
Felony	3,025	34	3,087	34
Misdemeanor	5,896	66	6,086	66
Total	8,921	100	9,173	100

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

Figure 2 and Table 11 provide preliminary probation outcomes for the CRV dispositions ordered in CY 2014.³⁹ Outcomes differed for felons and misdemeanants (*see* Figure 2). The majority of felony probationers returned to supervision following a CRV disposition (64%), while the majority of misdemeanants received a terminal CRV (60%). A slightly higher percentage of misdemeanants (13%) than felons (10%) had their probation terminated upon completion of the CRV period (*i.e.*, CRV and terminate). Examination of probation outcomes within the context of supervision level and offense type indicates that offense type is of primary importance (*i.e.*, more important than supervision level) in determining what happens following a CRV (*see* Table 11). This is likely due to the differences in sentence lengths for felons as compared to misdemeanants. More felons return to supervision following a CRV because serving a CRV typically does not use up all of the active time remaining on their sentences, while more misdemeanants receive terminal CRVs because serving a CRV uses up all of the active time remaining on their sentences.



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

³⁹ Terminal CRV refers to a CRV period that uses up all of the time on the suspended sentence. CRV and terminate refers to terminating probation upon completion of the CRV period.

Table 11
Probation Outcomes by Supervision Level and Offense Type
for Offenders with CRV Dispositions
CY 2014

Supervision Level	Offense Type	Probation Outcomes as of February 21, 2015				Total
		Return to Supervision	CRV & Terminate	Terminal CRV	Revoked	
Level 1	Felony	69%	7%	12%	12%	600
	Misdemeanor	32%	12%	49%	7%	636
	Subtotal	50%	10%	31%	9%	1,236
Level 2	Felony	66%	9%	17%	8%	1,131
	Misdemeanor	29%	13%	53%	5%	2,008
	Subtotal	42%	12%	40%	6%	3,139
Level 3	Felony	64%	9%	19%	8%	809
	Misdemeanor	18%	13%	65%	4%	1,909
	Subtotal	31%	12%	51%	6%	2,718
Level 4	Felony	57%	16%	23%	4%	311
	Misdemeanor	15%	14%	67%	4%	997
	Subtotal	25%	14%	57%	4%	1,308
Level 5	Felony	53%	6%	41%	0%	17
	Misdemeanor	16%	14%	66%	4%	77
	Subtotal	22%	13%	62%	3%	94
Not Established	Felony	55%	10%	20%	15%	219
	Misdemeanor	14%	11%	68%	7%	459
	Subtotal	27%	11%	53%	9%	678
Felony Total		64%	9%	18%	9%	3,087
Misdemeanor Total		22%	13%	60%	5%	6,086
Total		36%	12%	46%	6%	9,173

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

On December 31, 2014, there were 522 offenders in prison serving probation CRV periods, accounting for about 1% of the total prison population. Overall, 87 (17%) of these offenders were serving their CRV periods in one of the two CRV centers that opened that same month. The majority of offenders in prison serving probation CRV periods were felons (91%), as most misdemeanants will serve their CRV periods in local jails under current law.⁴⁰ Of offenders in prison serving CRV periods, 23% were in Supervision Level 1, 36% were in Supervision Level 2, 21% were in Supervision Level 3, 8% were in Supervision Level 4, and 1% were in Supervision Level 5. Supervision level had not been established for the remaining 11%.

Quick Dip Confinement

Quick dips were added as a tool to be used in response to probation violations. They were designed to be an immediate response to offender non-compliance. By DPS policy, eligible offenders for quick dip confinements are those supervised in Supervision Levels 1, 2, and 3 – offenders with the highest levels of supervision. Overall, 1,700 offenders accounted for 1,885 quick dips in CY 2014. As shown in Table 12, the usage of quick dips more than doubled over the past year. Quick dips were ordered nearly equally for felons and misdemeanants (48% and 52% respectively). Of the 1,885 quick dips ordered in CY 2014, 755 (40%) were for 2-day periods and 1,130 (60%) were for 3-day periods.

Table 12
Quick Dip Confinement

Offense Type	Quick Dips Ordered			
	CY 2013		CY 2014	
	#	%	#	%
Felony	332	48	912	48
Misdemeanor	367	52	973	52
Total	699	100	1,885	100

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

Consistent with DPS policy, nearly all quick dips ordered were for offenders in Supervision Levels 1, 2, and 3 (*see* Table 13). About 80% of quick dips ordered in CY 2014 were for offenders in Supervision Levels 2 or 3. A higher percentage of felons with quick dips ordered were in Supervision Level 1 compared to misdemeanants (24% compared to 13% respectively).

A subsequent violation process (as of February 21, 2015) was reported for 64% of offenders with quick dips ordered in CY 2014 (*see* Table 14). Probationers in Supervision Level 1 had the highest rate of subsequent violations (74%), with a decreasing rate of subsequent violations for the lower levels of supervision (50% for Supervision Level 4).

⁴⁰ 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.

**Table 13
Quick Dip Confinement by Supervision Level
CY 2014**

Supervision Level	Quick Dips Ordered				Total	
	Felons		Misdemeanants			
	#	%	#	%	#	%
Level 1	216	24	130	13	346	18
Level 2	389	42	404	42	793	42
Level 3	291	32	424	44	715	38
Level 4	9	1	11	1	20	1
Level 5	0	0	1	0	1	0
Not Established	7	1	3	0	10	1
Total	912	100	973	100	1,885	100

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

**Table 14
Violations Following Quick Dip Confinement
CY 2014**

Supervision Level	N	Subsequent Violation as of February 21, 2015	
		#	%
Level 1	346	255	74
Level 2	793	506	64
Level 3	715	433	61
Level 4	20	10	50
Level 5	1	0	0
Not Established	10	5	50
Total	1,885	1,209	64

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

A subsequent violation process was reported for 63% of felons with quick dips (n=575) and 65% of misdemeanants with quick dips (n=634). The average time to the subsequent violation process was slightly longer for felons (89 days compared to 83 days for misdemeanants).

In 2014, the DPS conducted an examination of the effect of quick dip confinement on compliance with supervision.⁴¹ While the study was conducted on a sample of offenders who received quick dips during the first year of implementation of the tool, the results are promising. Initial results indicated that offenders who received quick dips had better supervision outcomes (e.g., less likely to be revoked or to abscond during follow-up) than a matched comparison group. Future studies should be based on a larger sample of offenders from a later time period with outcomes tracked for a longer follow-up period.

Treatment for Effective Community Supervision

The TECS program went into effect on July 1, 2011, but was delayed to allow DPS adequate time to develop requirements for participation. DPS began awarding contracts for qualifying vendors in August 2012, with services to begin on October 3, 2012. CY 2013 represents the first full year of operation of the TECS program. The year-end TECS population has increased over the past three years, with the population nearly doubling from CY 2012 to CY 2013, along with a 19% increase over the past year (see Table 15). The composition of the TECS population by supervision type has changed as enrollment has increased, primarily as a result of the growing PRS population. Of the overall TECS population on December 31, 2014, 14% of offenders were supervised in Supervision Level 1, 34% in Supervision Level 2, 34% in Supervision Level 3, 5% in Supervision Level 4, and less than 1% in Supervision Level 5. Supervision level had not been established for 13% of the population.

Table 15
Offenders Enrolled in TECS by Supervision Type

Supervision Type	Offenders Enrolled in TECS					
	CY 2012		CY 2013		CY 2014	
	#	%	#	%	#	%
Probation Alone	1,001	95	1,867	89	2,073	83
PRS Alone	27	3	89	4	223	9
Probation & PRS	0	0	40	2	61	2
90-96	27	3	95	5	136	6
Total	1,055	100	2,091	100	2,493	100

Note: Percentages may not add to 100% due to rounding.

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

⁴¹ NC Department of Public Safety, Rehabilitative Programs and Services, Research and Decision Support Analysis, *Analysis Summary, Short-Term Jail Confinement (Quick Dips) Efficacy*, June 23, 2014.

*Post-Release Supervision*⁴²

The JRA mandated 9 months of PRS for Class F-I felons and lengthened the period of PRS for Class B1-E felons from 9 months to 12 months.⁴³ As anticipated, the expansion of PRS to all felons who serve an active prison term has had a significant impact on community corrections resources. On December 31, 2014, the community corrections population included 9,553 offenders on PRS.

Table 16
Post-Release Supervision Entries and Population by Offense Class

Post-Release Supervision Entries								
Offense Class	CY 2011		CY 2012		CY 2013		CY 2014	
	#	%	#	%	#	%	#	%
Class B1 – E	2,585	99	3,019	84	3,048	42	3,162	30
Class F – I	n/a	n/a	581	16	4,099	57	7,155	68
Other	17	1	11	0	102	1	228	2
Total	2,602	100	3,611	100	7,249	100	10,545	100

Post-Release Supervision Population								
Offense Class	12/31/2011		12/31/2012		12/31/2013		12/31/2014	
	#	%	#	%	#	%	#	%
Class B1 – E	2,619	99	2,931	83	3,112	47	3,438	36
Class F – I	n/a	n/a	577	17	3,454	52	6,018	63
Other	30	1	10	0	49	1	97	1
Total	2,649	100	3,518	100	6,615	100	9,553	100

Note: The category “other” includes safekeepers, Level I impaired driving, and possible discrepant data.
SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Prior to the passage of the JRA, Class F-I felons were released from prison without PRS. As a result of the expansion of PRS to Class F-I felons, the number of offenders released from prison onto PRS and the population of offenders supervised on PRS have increased substantially (*see* Table 16). While there has been modest growth (about 5%) in the number of Class B1-E entries

⁴² There are multiple methodologies available to examine the PRS population, entries, and exits using ASQ. The data for this report is based on having a value of “Post-Release” or “Post-Release Probation” for “Supervision Type.”

⁴³ These changes are effective for offenses committed on or after December 1, 2011. Consequently, the PRS population will include pre-JRA prisoners for years to come.

to PRS since CY 2012, the considerable increase in entries is a result of the volume of Class F-I entries to PRS (e.g., the number of Class F-I entries increased from 4,099 to 7,155 from CY 2013 to CY 2014). There has been a corresponding increase in the PRS population, with a 44% increase over the past year (from 6,615 to 9,553). These data indicate that the PRS population is now primarily comprised of offenders sentenced under JRA terms.

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 17 summarizes PRS violation entries to prison. The distribution of violation entries has changed substantially over the past two years, and is expected to change further, due to the volume of Class F-I offenders placed on PRS under the JRA. Over the past year, the percentage of pre-JRA violation entries decreased from 29% to 13%, while JRA violations increased from 45% to 64% of entries. The largest group of violation entries were in the JRA violation categories of absconding (28%), technical (18%), and 90-day confinement (18%). Data for entries categorized as JRA technical revocations will continue to be examined. It is not clear whether these data reflect actual practices or are related to how information is captured in OPUS.

Table 17
Felony Entries to Prison for Post-Release Supervision Violations by Type
CY 2014

Type of Prison Entry		Felony Entries to Prison			
		CY 2013		CY 2014	
		#	%	#	%
New Crime		193	12	345	12
JRA	Technical	219	14	485	18
	90-day Confinement	148	10	486	18
	Absconding	331	21	763	28
Pre-JRA	Technical	452	29	358	13
Other	Warrant/Pending Charges	126	8	235	8
	Contempt	86	6	79	3
Total		1,555	100	2,751	100

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

With the addition of PRS for Class F-I felons, total exits from PRS have increased in terms of volume (2,362 exits in CY 2011 compared to 7,542 exits in CY 2014), as has the percentage of exits resulting from revocation. In CY 2014, 23% of exits from PRS were for revocation compared to 19% in CY 2011 – an increase of 21% – with Class F-I felons accounting for 71% of revocation exits last year.

Post-Sentencing – Statewide Misdemeanant Confinement Program

The JRA requires that most Structured Sentencing misdemeanants serve their active sentence in jail rather than prison through the establishment of the SMCP for misdemeanants sentenced to 91 to 180 days of confinement. During the 2014 Session, the SMCP was expanded to include misdemeanants with sentences greater than 180 days (effective December 1, 2014), as well as those sentenced for impaired driving (effective January 1, 2015).

The SMCP currently has 56 receiving counties with a capacity of 1,756 (*see* Table 18). Overall, SMCP entries remained stable from CY 2013 to CY 2014, although there was an increase in CRV entries. The SMCP population also remained stable over the past year. It is expected that entries to the SMCP and the SMCP population will increase with the program expansion mandated during the 2014 Session.

Table 18
Statewide Misdemeanant Confinement Program (SMCP)

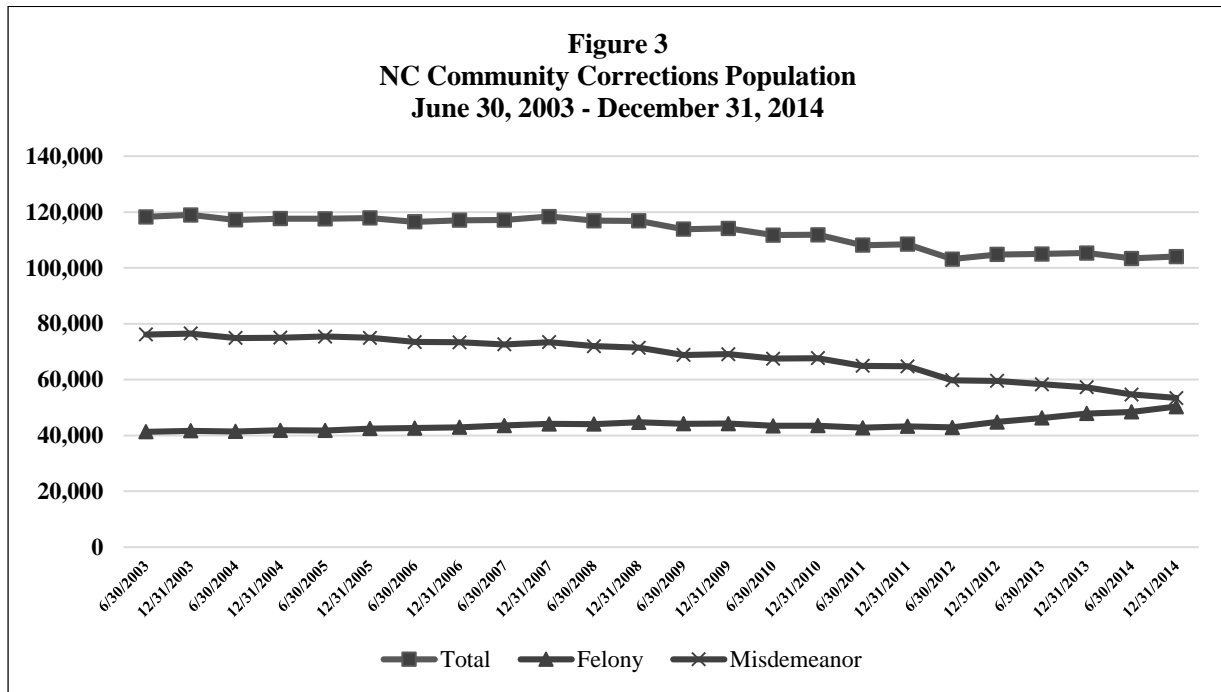
SMCP Capacity	12/31/2012	12/31/2013	12/31/2014
Receiving Counties	50	53	56
Capacity	1,604	1,691	1,756
SMCP Entries	CY 2012	CY 2013	CY 2014
Total Entries	3,156	2,945	2,960
CRV Entries	30	224	309
SMCP Population	CY 2012	CY 2013	CY 2014
Average Daily Population	722	659	636

SOURCE: NC Sheriffs' Association

The number of misdemeanants in the state prison system has decreased as a result of the statutory change regarding the confinement location for misdemeanants and the establishment of the SMCP. From CY 2011, the percentage of misdemeanants in prison has dropped from 3% to less than 1%, with less than 200 misdemeanants (excluding those sentenced for impaired driving) currently in prison. Further declines are expected for this population, as well as for offenders sentenced for impaired driving who serve their sentence in prison, with the recent expansion of the SMCP.

Effect of Justice Reinvestment on the Community Corrections and Prison Populations

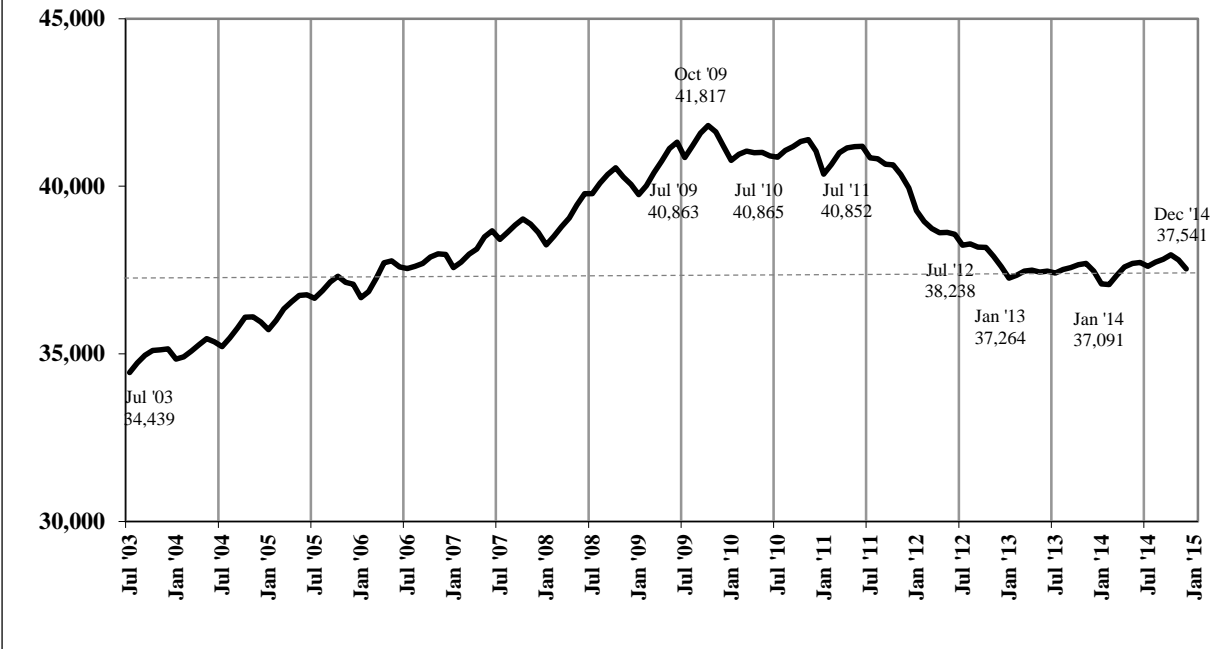
Figure 3 and Figure 4 provide trend data on the community corrections population and the prison population, respectively, in order to examine the effect of the JRA on these populations. While both populations have been affected by declines in criminal justice trend indicators (such as arrests and convictions) over the past few years, the populations have also been affected by the changes that went into effect with the JRA beginning in December 2011.



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

From December 2011 to December 2014, the felony community corrections population increased 16% (from 43,278 to 50,331). This increase results primarily from the addition of PRS for Class F-I felons. Over this same time period, the misdemeanor community corrections population decreased nearly 18% (from 64,762 to 53,425). This decrease is likely related to a continued decrease in misdemeanor convictions. However, the termination of probation for some misdemeanants who have served a CRV could certainly impact this population as well. Overall, the community corrections population declined 4% from December 2011 to December 2014 (from 108,520 to 104,059), with the declines in the misdemeanor community corrections population as a major contributor.

Figure 4
NC Prison Population
Monthly Average: July 2003 - December 2014



Note: Vertical lines separate each fiscal year. The horizontal dashed 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

The average prison population has declined from 39,954 in December 2011 to 37,541 in December 2014, a decrease of 2,413 or 6%. These declines can be attributed to changes in prison entries as a result of the JRA. While the intent of the JRA is to reduce the prison population by changing offender behavior, this initial decline resulted from two immediate changes: 1) shifting most misdemeanants from prison to local jails through the establishment of the SMCP and 2) the legal change that placed limits on revocations of probation and established CRVs for technical violations of probation.

Changes in the community corrections population and the prison population will continue to be monitored, especially the increasing impact of the PRS population on both community corrections (in terms of caseloads) and prison population (in terms of violations).

V. STUDY OF JUSTICE REINVESTMENT ACT ISSUES

Implementation of the JRA is an ongoing process due not only to legislative changes and agency changes to policies, but also to the resulting reactions from the field. At this stage, the passage of time and the number of cases processed through the criminal justice system under the JRA are sufficient to consider practices to be fairly standardized. In effect, the field's interpretations of the JRA, reflected in its practices, have become clearer. For the most part, the use of the provisions of the JRA is furthering the goals of the legislation as intended. However, some of JRA tools are not being utilized; the intent or application of those tools may need re-examination. Other provisions are being used inconsistently with the intent of the JRA and also require further study. The Sentencing Commission, in addition to providing implementation information in its annual reports, is authorized to study specific issues related to the JRA and make recommendations.

In 2014, the Sentencing Commission, through the Justice Reinvestment Implementation Report Subcommittee, studied three JRA-specific issues. The Conference of District Attorneys (Conference) raised two of the issues and the Commissioner of the DACJJ submitted the third. The Conference asked the Sentencing Commission to study ASR, with a recommendation that it be eliminated as a sentencing option. The Conference also asked the Commission to review and clarify the application of CRV credit towards consecutive sentences upon revocation of probation sentences. The Commissioner of the DACJJ focused on the imposition of terminal CRVs and asked the Commission to study whether the majority of CRVs are terminal, how often judges are imposing CRVs and terminating community supervision upon completion of the CRV, and why judges are not imposing shorter CRV periods so that offenders can return to community supervision following the period of confinement.

The Subcommittee studied the issues and presented a final report to the Sentencing Commission in December of 2014. This section contains a summary of the studies as well as the Commission's recommendations.

Advanced Supervised Release

ASR is early release from prison and placement on PRS for eligible inmates who receive active sentences.⁴⁴ Inmates must successfully complete certain risk-reduction incentives in order to be released, but they may also be released if they are unable to complete the incentives through no fault of their own.

The Sentencing Commission had first reviewed the provisions of the JRA, including ASR, when it was introduced as a bill in the General Assembly in 2011. The Commission noted a number of legal and policy issues related to ASR as a proposed sentencing option. ASR potentially violated the principle of truth in sentencing in that it was the first exception to the Structured Sentencing rule that every offender must serve his minimum sentence. ASR also introduced the potential for disparity – there were no criteria to guide the judge in selecting appropriate candidates for the program and all ASR inmates received the same sentence reduction regardless of how many

⁴⁴ G.S. 15A-1340.18.

components an inmate's ASR plan included. In addition, the application of the ASR program could have unintended consequences for inmates; high risk offenders serving less time than low risk offenders and low risk ASR offenders using a prison resource they do not need (with priority over other inmates in greater need of that resource). Finally, there was no information provided regarding the nature of the prison programming required for completion of the ASR program, how those programs would qualify as risk-reduction incentives, and how they would differ from existing prison programs.

In the 2014 request to the Sentencing Commission, the Conference raised several objections to ASR, some of which echoed the observations the Commission made during its initial review. The Conference agreed that ASR is a violation of the truth in sentencing principle. It also noted that it is not clear what programs or treatment ASR inmates would be required to complete to earn early release. The Conference took particular objection to the possibility of ASR inmates being released on their ASR date without completing any programming when the Department deems failure to complete was through no fault of the inmate. For all of the aforementioned reasons, the Conference reported that it was difficult to justify ASR to victims and to support these sentence reductions. The Conference concluded that ASR is problematic as a sentencing option and should be eliminated.

Feedback from judges and attorneys in the field, gathered by Sentencing Commission staff through interviews conducted during the fall of 2013, indicated that ASR was not being used. The main reason given was that prosecutors objected on both pragmatic and theoretical grounds. Prosecutors did not find ASR to be a valuable plea negotiation tool, stating that they would rather address the charge or the sentence length to get more effective and fair results. Prosecutors also objected to the idea of prisoners being released early from prison before they have served their minimum sentence. Defense attorneys agreed that ASR was not a valuable negotiation tool and felt that they could get what they considered a better deal by focusing on the charge or the sentence length. Recent data confirmed these findings when it showed that roughly one percent of offenders sentenced to active punishment in ASR-eligible cells were sentenced to the program.

Based upon this information, the Subcommittee recommended the elimination of Advanced Supervised Release. ASR attempts to fit indeterminate sentencing into a determinate sentencing scheme and undermines truth in sentencing. It creates the potential for disparity: the statute lacks objective criteria to guide the judges to select appropriate candidates at sentencing, and DACJJ policies prioritize ASR inmates over other inmates to receive programming regardless of the risk or need levels of the inmates. It was also noted that adequate incentive already exists for inmate program participation under Structured Sentencing through earned time credits; inmates can earn time off their maximum sentences toward their minimum sentences while incarcerated through program participation.

The Sentencing Commission reviewed the findings and recommendation of the Subcommittee. The Commission expressed concern that it could be eliminating a potential rehabilitative option. It also noted that ASR just took effect January 1, 2012, and that the DACJJ may need more time to develop the program. The Commission decided to study the issue further.

CRV Credit and Consecutive Sentences

When an offender violates a condition of probation other than absconding or committing a new crime, the court may impose a period of confinement in response to the violation (CRV). Upon serving the CRV, the offender returns to probation. If probation is subsequently revoked and the sentence is activated, the offender is given credit for the CRV period. If the offender is on probation for multiple sentences and receives a CRV in each case, the statute requires the offender to serve the CRV periods concurrently.⁴⁵ If probation is subsequently revoked on those cases and the sentences are run consecutively, the credit is multiplied by the number of CRV periods imposed, even though they were served concurrently. This is different from pretrial credit; the pretrial credit statute states that consecutive sentences shall be considered as one sentence for the purpose of providing credit, and the creditable time shall not be multiplied by the number of consecutive offenses for which a defendant was confined.⁴⁶

The Conference raised several concerns regarding this application of credit; it sets up a situation where offenders benefit from violating probation and an offender who serves multiple CRVs will serve less time on an activated sentence than an offender whose probation is revoked without having served any CRVs. This application of credit also undermines the intent to impose a longer sentence by having the sentences run consecutively. For these reasons, the Conference opposed this application of credit.

It was apparent to the Subcommittee that it was not the intent of the CRV statute for offenders to receive credit multiplied by the number of CRVs when those periods were served concurrently, and yet that it would be difficult to reconcile that statute with the credit statutes. The DACJJ reported that it was working on a proposal to amend the statutes in order to eliminate the multiplication of credit. The Subcommittee recommended that the application of CRV credit towards consecutive sentences be changed so that the credit for CRVs that are served concurrently is equal to the time actually served rather than multiplied by the number of CRVs imposed. The Subcommittee also suggested reviewing the DACJJ proposal before trying to develop language of its own. The Sentencing Commission adopted the recommendation. The DACJJ's proposal was introduced as legislation in the 2015 Session of the General Assembly.⁴⁷

Terminal CRVs

As noted above, the purpose of the CRV is to limit the number of revocations to prison or jail for technical violations of probation; the confinement is designed to get the offender's attention and to provide intensive programming so that upon returning to probation, the offender might be successful. The CRV is also expected to save resources due to offenders not being revoked for the full sentence. A terminal CRV occurs when probation terminates following the period of confinement, either because the period of confinement "used up" the remainder of the offender's sentence, possibly because the court modified the sentence to reduce the term of the suspended sentence, or the court ordered probation to terminate after the completion of the period of confinement.

⁴⁵ G.S. 15A-1344(d2).

⁴⁶ G.S. 15-196.2.

⁴⁷ HB 253 Justice Reinvestment Act Changes, 2015 Session.

The Commissioner of the DACJJ raised questions about the frequency of the use of the terminal CRV, the proportion of CRVs that are terminal, and the reasoning behind their imposition. Specifically, the Commissioner asked why judges are not imposing shorter CRV periods so that misdemeanants can return to community supervision following confinement.

Information gathered by staff during the 2013 site visit interviews indicated that terminal CRVs are frequently occurring in misdemeanor cases. The terminal CRV has essentially replaced revocation for technical violations; judges are imposing terminal CRVs to assist in managing courtroom resources and/or to help probation officers manage caseloads. Probation officers are requesting terminal CRVs for a number of reasons (*e.g.*, some offenders are not good candidates for probation, some offenders want to “take their time,” and officers reported wanting to focus on offenders that are more serious about probation). Court officials and probation officers also reported that programming and treatment for CRV offenders are not available in the misdemeanor context. Follow-up interviews conducted in the fall of 2014 indicated an increased use of CRVs overall and an increased use of terminal CRVs in district court. Sentence modifications were reported to occur as part of the terminal CRV more frequently than CRVs ordered for the full suspended sentence length. Officials also noted that very few misdemeanants were returning to community supervision after a CRV. Treatment during confinement was still not available for misdemeanor CRV offenders.

Misdemeanants serve CRVs in the jails, either directly or through the SMCP. The NCSA, which administers the SMCP, reported that it was exploring treatment options for misdemeanor CRV offenders; however, the fund for the SMCP was expected to have more demands on it due to housing a greater number of offenders and because of the legislatively-mandated treatment for DWI offenders. This could potentially compromise the ability of the SMCP to provide treatment for misdemeanor CRV offenders. The NCSA also pointed out that research shows that programming for less than 90 days is ineffective. Because misdemeanor CRV offenders are confined anywhere from 1 to 90 days, treatment would not be effective in that context. Additionally, many local confinement facilities housing misdemeanor CRV offenders are not set up for treatment, creating logistical challenges. The DACJJ, which supervises misdemeanants on probation, reported that it is working with the NCSA to develop programming options, but that it did not have specific plans for misdemeanor CRV offenders.

Based on the short sentence lengths available and the lack of treatment options, the Subcommittee decided that the CRV is not effective in the misdemeanor context. The misdemeanor CRV conflicts with the misdemeanor punishment chart, given that misdemeanants do not have long enough sentences to support serving a CRV and then returning to supervision. The misdemeanor CRV also conflicts with the intent of the CRV, which is for offenders to return to the community for continued supervision following confinement. In light of the shorter available misdemeanor sentences, the CRV period does not provide meaningful opportunities for rehabilitation. As noted above, the value of treatment and programming for less than 90 days is not only ineffective, but can also be detrimental. Therefore, the Subcommittee concluded that the CRV for misdemeanants is incongruent with the misdemeanor sentencing structure and seems unlikely to fulfill any rehabilitative goal. The Subcommittee recommended eliminating CRVs for misdemeanor offenders sentenced under Structured Sentencing.

The Subcommittee recognized that by eliminating CRVs for misdemeanor offenders it would also eliminate the path to revocation that comes from serving two CRVs. There is still a need for a response to technical violations of probation by misdemeanants and a path to revocation besides absconding or committing a new criminal offense. The Subcommittee suggested using short periods of confinement in a local confinement facility (*i.e.*, “quick dips” pursuant to G.S. 15A-1343(a1)(3) for the court and G.S. 15A-1343.2(e)(5) and (f)(6) for the probation officer) in the place of CRVs for misdemeanants. The Subcommittee recognized that the use of short term two- to three-day periods of confinement corresponds with the shorter misdemeanor sentence lengths and makes it more likely the misdemeanants will return to community supervision, where they might have a better chance at receiving treatment and programming. In addition, probation officers may impose quick dips through delegated authority, potentially reducing court time spent on probation violation hearings. The Subcommittee recommended allowing the court to revoke probation if the probationer violates a condition of probation after the probationer has previously served two separate periods of confinement in a local confinement facility on that case. The second period of confinement must have been imposed for a violation that occurred after the probationer served the first period of confinement. The periods of confinement may have been imposed either by the court or by the probation officer pursuant to delegated authority.

The Sentencing Commission adopted this recommendation for misdemeanants sentenced under Structured Sentencing. Misdemeanants sentenced for impaired driving would still be subject to CRVs. The Sentencing Commission’s recommendation was introduced as legislation in the 2015 Session of the General Assembly.⁴⁸

As implementation of the JRA continues, as more provisions are expanded or enhanced, and as practices in the field continue to evolve, other instances where intent and application conflict may emerge. In addition to tracking implementation activities, the Sentencing Commission will continue to monitor emerging outcomes and sentencing and correctional practices for areas inconsistent with the stated intent of the JRA and make recommendations accordingly.

V. CONCLUSIONS

In the fourth year of implementation of the JRA, agencies are not only refining some practices and policies, but also enhancing, expanding, and reconsidering them in the context of the goals of the JRA. As noted throughout the report, this stage of implementation can be defined by agencies and organizations responding to the creativity of the field’s interpretation and use of JRA provisions. Initiatives from the field that further the goals of the JRA (such as the use of quick dips and delegated authority) are encouraged by the expansion of policies and strategies. Provisions and/or tools that either are not used or are used contrary to the intent of JRA (such as ASR and terminal CRVs), are being re-envisioned or modified. This report focuses on the adjustments and changes made by the agencies as well as implementation data from CY 2014.

One of the key goals of the JRA was to strengthen probation through better-targeted community resources and supervision. DPS has worked to achieve that goal through case management and

⁴⁸ SB 183 Eliminate CRVs for Misdemeanants, 2015 Session.

supervision strategies, some of which were enhanced in 2014 as they have met with continued success. The validated risk and needs assessment, which the Department uses as the basis for supervising offenders in the community, has now been expanded for use as the foundation of a new template for caseload management. Based on the new template, officer resources will be realigned based on the supervision of probationers by risk level. Officers carrying the highest risk offenders will have the lowest number of offenders on their caseload. To better manage offender behavior, DPS has adopted a “Swift and Certain Sanctions” model, which was designed to deal immediately with offender noncompliance through delegated authority. Chief probation officers have continued to encourage officers’ use of delegated authority (primarily quick dips) to curb probation violations and improve offender outcomes on probation. Data reveal that officers are increasing their use of available tools to deal with offender noncompliance; as more time passes, it will be possible to evaluate the effect of some of the Department’s supervision strategies on offender success.

Another primary target of the JRA was to decrease demand for prison beds. During the first year of implementation, the prison population declined due to legislatively-mandated limits placed on revocations of probation and from shifting certain misdemeanants out of state prison. This year, the Department continued to focus on decreasing demand for prison beds by pursuing a legislative change to expand the SMCP. In 2014, the General Assembly amended the law to expand the SMCP to apply to misdemeanants with sentences of 90 days or more and misdemeanants convicted of impaired driving. The result of the SMCP expansion is that all misdemeanants (with a few limited exceptions) will serve their sentences in local confinement facilities rather than in state prison. This change is expected to impact the prison population in the coming year.

As noted above, the largest savings in terms of prison beds under the JRA have already been realized with the limits to probation revocations and the establishment of the CRV. Data show that, as expected, revocations decreased from CY 2011 to CY 2012 with the initial implementation, but have remained stable over the past two calendar years. To further affect the prison population, the Department must change offender behavior and reduce recidivism, as intended by the JRA. This year, the Department focused on a new initiative to contribute to achieving that goal. With the opening of felony CRV centers in December 2014, DPS plans to provide intensive programming for felony CRV offenders that is expected to increase compliance upon their return to community supervision and decrease offending upon completion. To augment this initiative, the Department sought to change the way credit is awarded to CRV periods in order to ensure the full 90 days are available for treatment. The General Assembly passed legislation in 2014 amending the statutes to require that credit for time served on a case be applied to the suspended sentence and not to the CRV period. As of October 1, 2014, DPS has the full 90 days to work with felony offenders serving CRVs. As more offenders with 90-day CRVs receive the services provided and participate in the programming in the centers, it will be possible to measure whether offender compliance following a CRV center stay has improved and if more offenders are meeting with success on probation as a result.

While the above initiatives have been expanded or enhanced to further the goals of the JRA, some legislative provisions have not been used in the field or have been used contrary to the intent of JRA. ASR is an example of a JRA provision that has been used very rarely. Though intended to incentivize inmates to participate in risk-reducing programs that would lead to

decreased recidivism upon release, the program has not had much effect on the criminal justice system due to lack of use by the field. Data show that over the past few calendar years, a small and decreasing number of inmates have received an ASR sentence. In light of its limited use, and due to a number of concerns related to offenders' early release from prison, the Conference of District Attorneys requested that the Sentencing Commission study ASR, with a recommendation that it be eliminated. The Sentencing Commission, through the Justice Reinvestment Implementation Report Subcommittee, undertook an examination of ASR and ultimately recommended studying the issue further. While concerns remain (*e.g.*, ASR introduces the possibility of disparity, undermines truth in sentencing, and has an unclear target population), DPS plans to make modifications to address some of the issues with ASR and needs more time to develop the program. Perhaps with modifications, the sentencing option will be used more frequently, possibly contributing to improved outcomes for offenders.

Another example of field creativity at odds with JRA intent is the terminal CRV. The field's development of the terminal CRV was, in part, a response to the disconnect between the design of the CRV and available sentence lengths for misdemeanants. The CRV was intended to be a response to technical violations of probation that provided a period of confinement (with a rehabilitative component) followed by a return to supervision. For misdemeanants, in practice, probation was being terminated after serving short CRVs (*i.e.*, terminal CRVs). In response to this emerging practice, the Department worked with its officers to reduce the number of terminal CRVs that they recommend. However, the courts still saw the terminal CRV as the best option in many cases. The Sentencing Commission studied terminal CRVs and concluded the CRV does not work in the misdemeanor context for a number of reasons. Short misdemeanor sentence lengths make it difficult for offenders to receive a CRV and then return to probation. Also, shorter than 90-day periods do not allow enough time for meaningful treatment, with little programming being available to offenders when they are housed in local jails. The Sentencing Commission recommended the elimination of CRVs for misdemeanants; legislation to that effect has been introduced in the Legislature this Session.

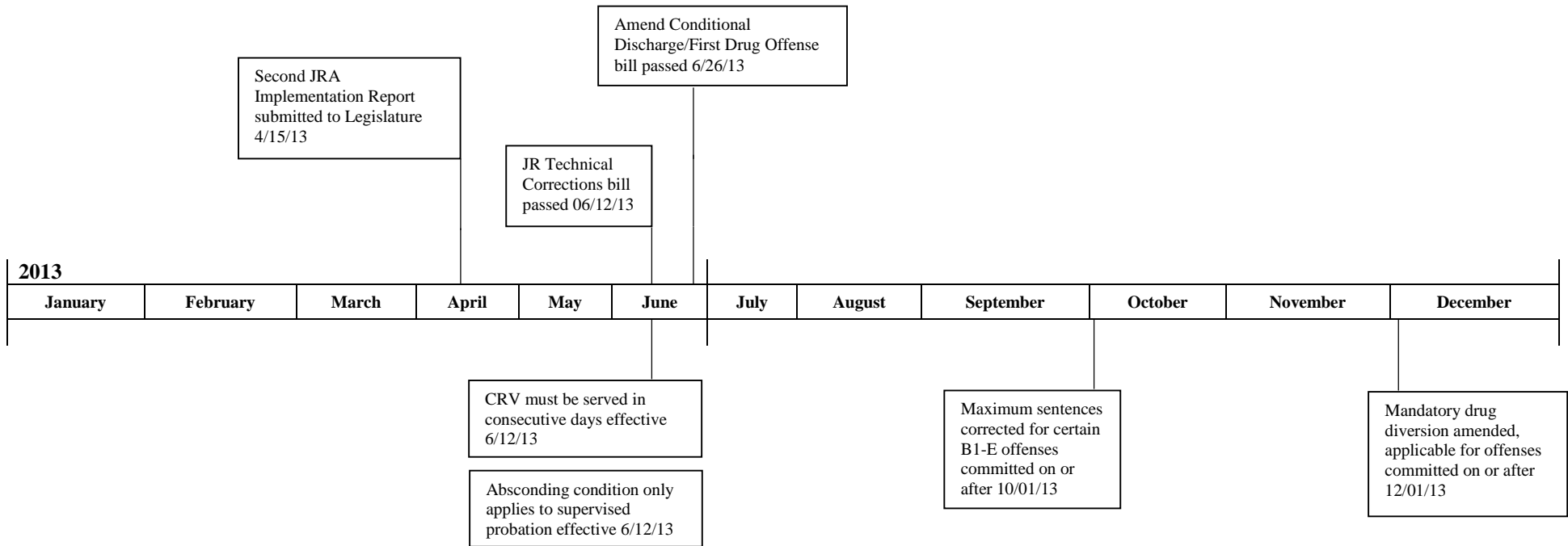
As noted above, alongside agency efforts to further the goals of the JRA, the General Assembly passed a number of legislative changes to the JRA in 2014. The authorization of re-opening and re-purposing closed prison facilities for use as CRV centers, the appropriation for CRV centers, amendments to credit statutes related to CRV periods, and the expansion of the SMCP were passed in order to support JRA implementation progress. The Legislature has continually shown its openness to making modifications to the JRA where needed, based on agency feedback. Additional legislative changes adjusting the JRA have been introduced in the 2015 Session of the General Assembly including SB 183, Eliminate CRVs for Misdemeanants, and HB 253, Justice Reinvestment Act Changes. As noted previously, SB 183 was filed based on a recommendation from the Sentencing Commission that CRVs be eliminated for misdemeanants. HB 253 would make several changes to the JRA, including expanding the application of delegated authority to additional offender populations, modifying several statutes relating to applying credit for time served, and repealing the State Community Corrections Advisory Board and replacing it with a Justice Reinvestment Council. Continual legislative changes and evolving policies and practices make the evaluation of the effect of the JRA difficult; however, they also demonstrate not only the persistence of both agencies and the Legislature to improve the JRA but also the State's commitment to the new rehabilitative approach to the criminal justice system.

Many of the promises of the JRA have been realized at this point (*e.g.*, reduced prison population, decreased revocations of probation) while others are being reviewed with an attempt to improve or refocus (*e.g.*, ASR, CRVs). Each individual tool, strategy, policy and/or provision has the potential to impact recidivism; the combination of the individual components of the JRA and its long-term effect will be examined through various outcome measures. The next outcomes to observe include recidivism rates, prison population trends, and reinvestment under the JRA – all depending on the success of those policies and practices that are designed to positively affect offender behavior. External factors can also influence outcome measures; it is important to take those into consideration when evaluating the success of any legislation intended to impact the criminal justice system. In 2016, the Sentencing Commission, as part of its legislatively mandated adult recidivism study, will have its first opportunity to examine the recidivism of a full sample of probationers subject to the changes under JRA. Other Sentencing Commission reports, (*i.e.*, Annual Statistical Report on Structured Sentencing Felonies and Misdemeanors, Annual Prison Population Projections, and Annual JRA Implementation Evaluation Report) will continue to monitor various aspects of the JRA. Concerns remain regarding effective ways to track reinvestment under JRA and the lack of a statewide automated database for jails in North Carolina. These issues will continue to be examined as implementation moves forward.

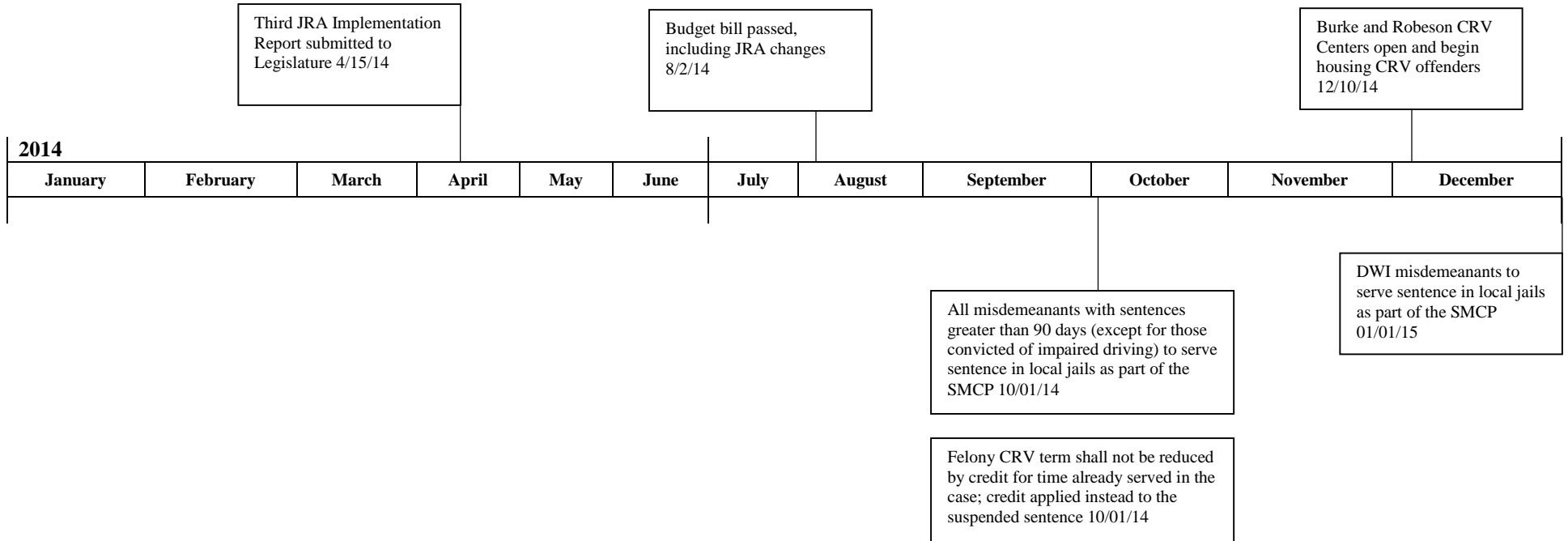
The Sentencing Commission’s Justice Reinvestment Implementation Report Subcommittee will continue to meet and monitor the progress of the implementation, review data where available, and submit future annual reports, interim findings, and recommendations for clarifications or revisions to the JRA as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

APPENDIX A
JUSTICE REINVESTMENT IMPLEMENTATION TIMELINE

JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2013



JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2014



APPENDIX B
LIST OF ACRONYMS

2014 Justice Reinvestment Implementation Evaluation Report
List of Acronyms

AOC	Administrative Office of the Courts
ASR	Advanced Supervised Release
ASQ	Advanced System Query
ADA	Assistant District Attorney
APD	Assistant Public Defender
ACIS	Automated Criminal Infraction System
ASQ	Automated System Query
CY	Calendar Year
CPPO	Chief Probation and Parole Officer
CBI	Cognitive-Based Intervention
CRV	Confinement in Response to Violation
CSG	Council of State Governments
CCIS	Criminal Case Information System
CJPP	Criminal Justice Partnership Program
DPS	Department of Public Safety
DA	District Attorney
DACJJ	Division of Adult Correction and Juvenile Justice
FY	Fiscal Year
G.S.	General Statute
ISP	Intensive Supervised Probation
JRA	Justice Reinvestment Act
MIS	Management Information System
NCSA	North Carolina Sheriffs' Association
OPUS	Offender Population Unified System
OTI	Offender Traits Inventory
OTI-R	Offender Traits Inventory - Revised
PRS	Post-Release Supervision
PRSP Commission	Post-Release Supervision and Parole Commission

**2014 Justice Reinvestment Implementation Evaluation Report
List of Acronyms (continued)**

PRL	Prior Record Level
PPO	Probation and Parole Officer
PIMS	Program Information Management System
PD	Public Defender
“Quick dips”	Quick Dip Confinements
RFP	Request for Proposals
RNA	Risk Need Assessment
"Adult and Juvenile Facilities"	Section of Adult and Juvenile Facilities
"Community Supervision"	Section of Community Supervision
S.L.	Session Law
SMC Fund	Statewide Misdemeanant Confinement Fund
SMCP	Statewide Misdemeanant Confinement Program
SL	Supervision Level
SOP	Section of Prisons
TASC	Treatment Accountability for Safer Communities