

# JUSTICE REINVESTMENT ACT

## IMPLEMENTATION EVALUATION REPORT

# 2018



NORTH CAROLINA  
SENTENCING AND  
POLICY ADVISORY  
COMMISSION

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# JUSTICE REINVESTMENT ACT

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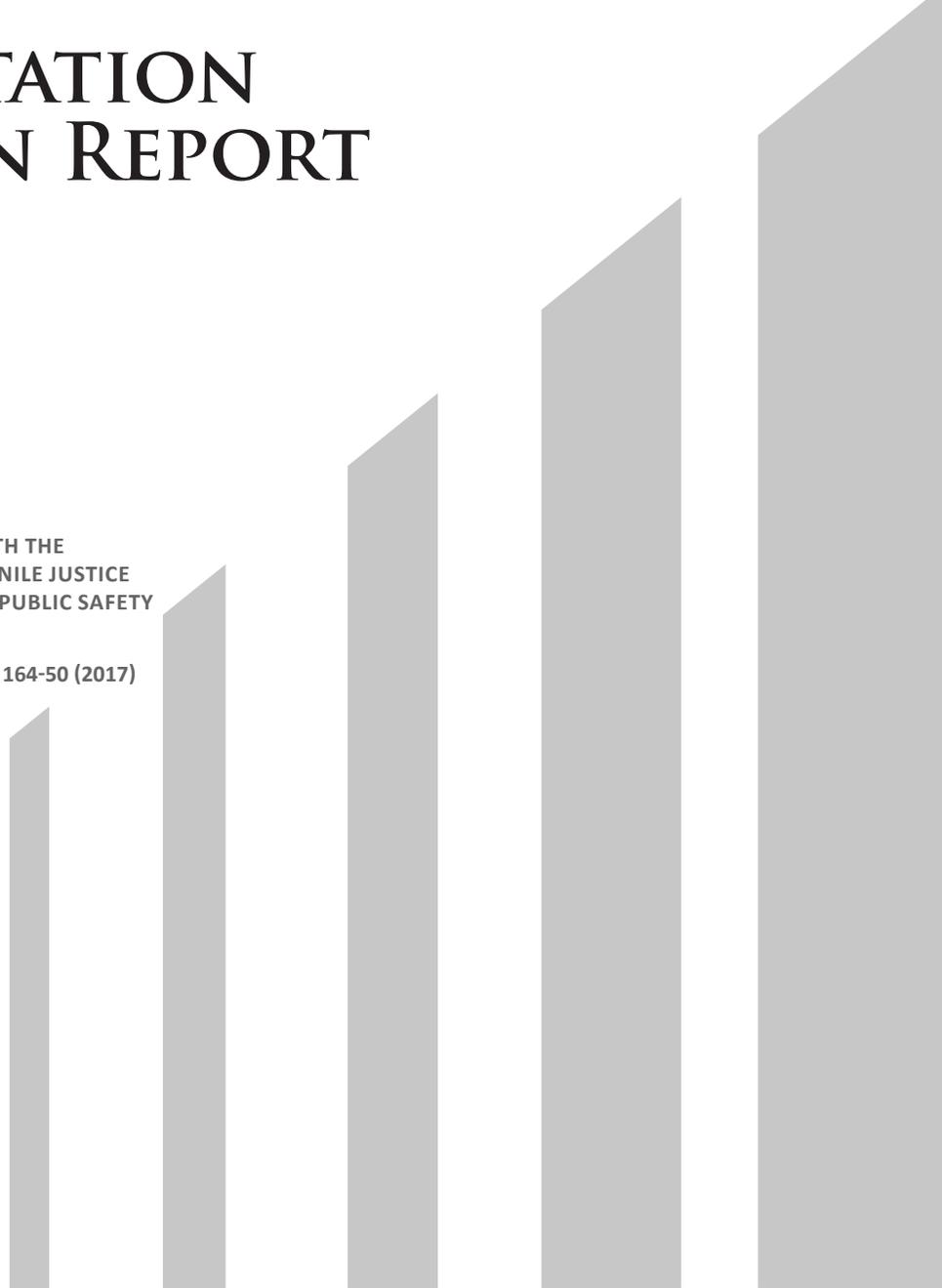
## IMPLEMENTATION EVALUATION REPORT

# 2018

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 (2017)

APRIL 15, 2018



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## I. INTRODUCTION

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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).<sup>1</sup> This report constitutes the seventh report in compliance with the directive.

The Sentencing Commission's implementation evaluation reports have followed the process from the early stages of implementation of the JRA to the current, more settled phase of implementation. This report highlights recent legislative changes to the JRA, policies and practices that have been adjusted in 2017, new initiatives undertaken by agencies to further the goals of the JRA, and data examining the usage of JRA tools and preliminary outcomes under the JRA.<sup>2</sup>

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

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

### **Justice Reinvestment Implementation Report Subcommittee**

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

### ***Background***

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

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<sup>1</sup> N.C. Gen. Stat. (G.S.) § 164-50.

<sup>2</sup> See Appendix A for a full timeline of the JRA implementation.

<sup>3</sup> See Appendix B for a full list of acronyms used in this report.

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

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

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

### ***Major Provisions of the Justice Reinvestment Act***

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

#### Changes to the Court System

The JRA expands the existing drug diversion program<sup>7</sup> 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 program<sup>8</sup> (see Related Legislation).

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

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

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

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

<sup>7</sup> G.S. 90-96.

<sup>8</sup> Session Law (S.L.) 2013-210.

<sup>9</sup> G.S. 14-7.31.

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

The JRA redefines Community and Intermediate punishments.<sup>11</sup> 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.<sup>12</sup> The court is authorized to impose up to six days per month in jail. This condition can be imposed as part of a Community or Intermediate punishment.

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

#### Changes to Probation

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

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

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

#### Changes to Prisons

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

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<sup>10</sup> G.S. 14-7.6.

<sup>11</sup> G.S. 15A-1340.11(2), (6).

<sup>12</sup> G.S. 15A-1343 (a1)(3).

<sup>13</sup> G.S. 15A-1340.18.

<sup>14</sup> G.S. 15A-1343.2(b1).

<sup>15</sup> G.S. 15A-1343.2(e) and (f).

<sup>16</sup> G.S. 15A-1344(d2).

<sup>17</sup> S.L. 2015-191.

## Changes to Post-Release Supervision

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

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

## Resources

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

Under the JRA, the SMCP is created.<sup>21</sup> Most misdemeanants will be housed in local jails instead of state prisons. NCSA operates the SMCP, which was funded by court costs that went to the Statewide Misdemeanant Confinement (SMC) Fund; however, the General Assembly has subsequently changed funding to a direct appropriation.<sup>22</sup> The SMCP finds space to house eligible misdemeanants in participating local jails. If the participating local jails are full, DACJJ houses the offenders. Originally, misdemeanants who received a sentence of between 91 and 180 days of confinement, excluding sentences for impaired driving<sup>23</sup> 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 SMCP<sup>24</sup> (see Related Legislation).

## Effective Dates

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

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<sup>18</sup> G.S. 15A-1368.1 to -1368.2.

<sup>19</sup> G.S. 15A-1368.3(c).

<sup>20</sup> G.S. 143B-1150 to -1160.

<sup>21</sup> G.S. 148-32.1(b2) to (b4).

<sup>22</sup> S.L. 2015-241.

<sup>23</sup> Impaired driving is also referred to as "driving while impaired" or "DWI."

<sup>24</sup> S.L. 2014-100.

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

**Table 1  
JRA Effective Dates by Provision**

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

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

***Related Legislation***

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

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

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

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

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

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

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

In 2015, the Legislature again made changes to the application of CRVs. Session Law 2015-191 eliminated the CRVs for misdemeanants sentenced to probation under the SSA; the CRV remains as a

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

**Table 2  
JRA Amendment Effective Dates by Provision**

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

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

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

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

## II. SENTENCING PRACTICES

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

### **Community and Intermediate Punishments**

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

Table 3 examines the use of special probation from CY 2011 to CY 2017, with a breakdown by origin – whether special probation was ordered as part of the sentence at initial judgment or whether it was ordered through a modification of probation conditions. Of the 18,361 special probation sentences ordered in CY 2017, 85% were ordered as part of the sentence at initial judgment. The data indicate a slight decrease in the use of special probation at initial judgment and a corresponding slight increase in the use of special probation at probation modification. Felons and misdemeanants were equally likely to have their special probation sentences ordered at initial judgment (85% each) and to have them ordered through a modification (15% each).

**Table 3  
Special Probation by Origin**

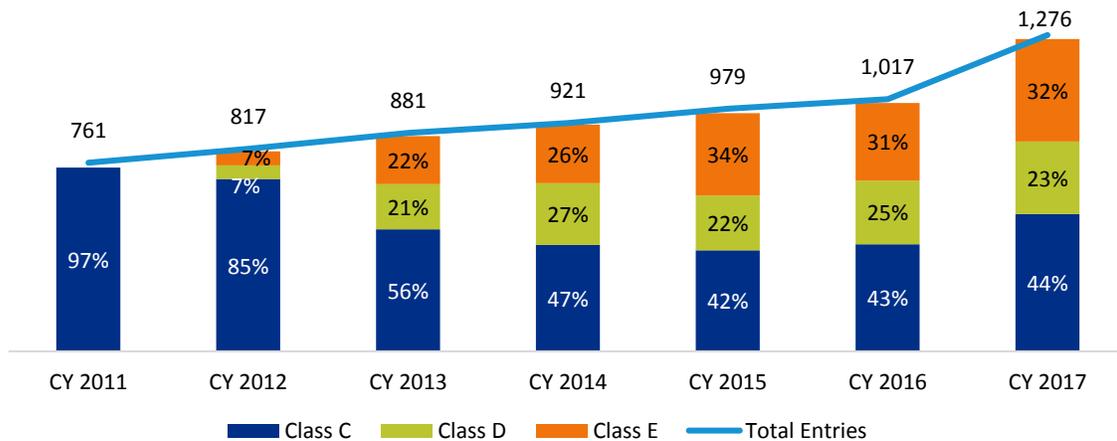
Origin	CY 2011	CY 2012	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017
<b>Initial Judgment</b>	85%	83%	86%	89%	88%	87%	85%
<b>Probation Modification</b>	15%	17%	14%	11%	12%	13%	15%
<b>Total</b>	19,943	20,184	19,792	18,799	18,377	18,263	18,361

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

## Habitual Felon

The effect of the modifications under the JRA to the habitual felon law can be seen by examining the composition of habitual felon sentences by offense class. Under the JRA, habitual felons are sentenced in Class C, D, or E depending on the offense class of their substantive offense. Figure 1 shows the number of habitual felon convictions by offense class from CY 2011 to CY 2017. Overall, the volume of habitual felon prison entries increased 68% from CY 2011 (prior to the JRA) to CY 2017. The number of habitual felon prison entries increased 25% over the past year, with smaller year-to-year increases noted from CY 2011 to CY 2016 (between 4% and 8% per year). This increase comes during a time period of primarily decreasing felony convictions. Habitual felon penalties that are more proportional to the underlying offense have likely contributed to the increase in habitual felon convictions over this time period. The volume of habitual felon entries in Class C has continued to decrease with a corresponding increase in the volume of Class D and Class E prison entries noted since implementation.

**Figure 1**  
**Habitual Felon Prison Entries by Offense Class**

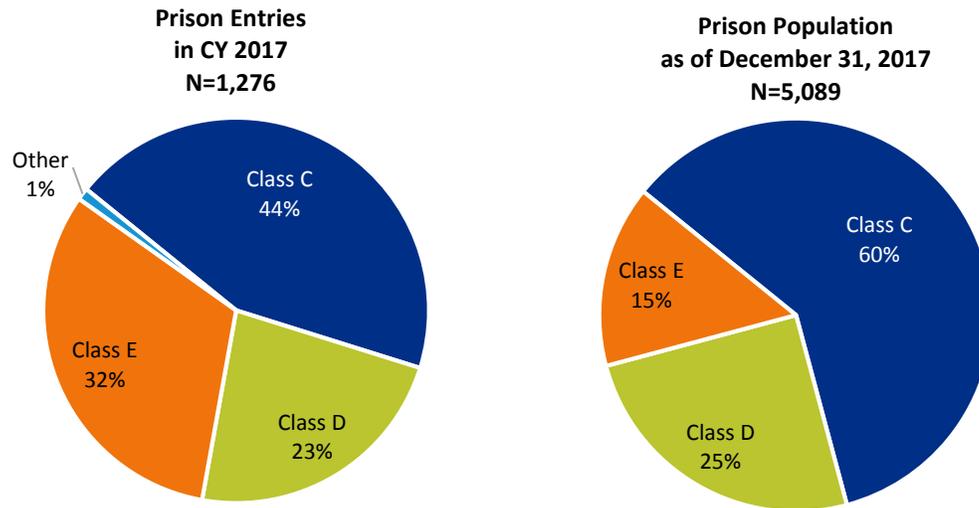


Note: Habitual felon prison entries with an “other” class (i.e., safekeepers, CRVs, and possible discrepant data) are excluded from the table. As such, percentages do not add to 100%.

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

Figure 2 examines the offense class distribution of habitual felon prison entries and the habitual felon prison population. In CY 2017, most habitual felon prison entries were sentenced as Class C (44%). As of December 31, 2017, the majority of the habitual felon prison population (60%) was sentenced in Class C. Since implementation, the difference in the offense class distribution for entries compared to population has been narrowing from year to year; the proportion of offenders sentenced in Class C has decreased, with a corresponding increase occurring for those sentenced in Class D and Class E. However, since habitual felons sentenced in Class D and Class E receive shorter sentences than those sentenced in Class C, most of the habitual felon prison population will continue to be comprised of Class C offenders.

**Figure 2**  
**Habitual Felon Prison Entries and Population by Offense Class**



Note: The category “other” includes safekeepers, CRVs, and possible discrepant data.

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

Although modifications to the habitual felon law have affected the offense class composition of habitual felon convictions and possibly the volume of convictions, the practice of sentencing habitual felons in the mitigated range has continued. In FY 2017, 59% of Class C, 74% of Class D, and 58% of Class E habitual felons were sentenced in the mitigated range.<sup>26</sup>

Based on DPS’s broad categorization of offenses, habitual felons account for the largest proportion of the prison population. Overall, habitual felons accounted for 14% (or 5,089) of the December 31, 2017, prison population of 36,356. Although there was a substantial increase in habitual felon prison entries over the same time period, the population of habitual felons in prison has decreased 3% since December 31, 2011 (with a population of 5,269).

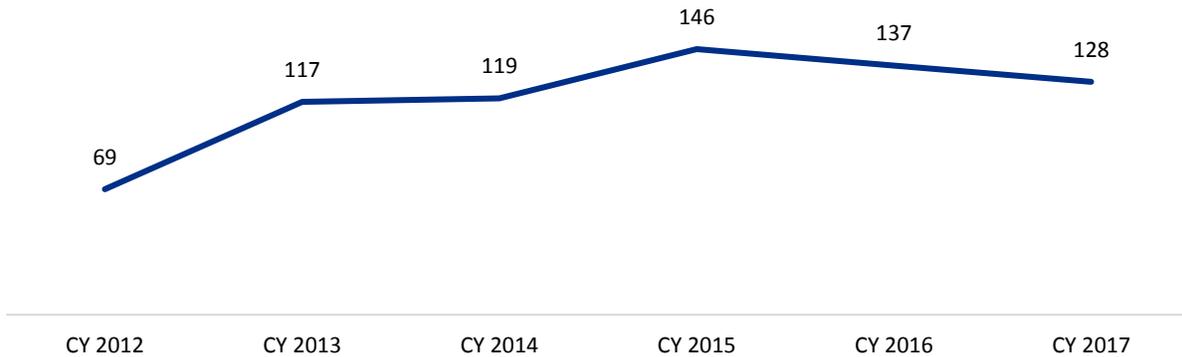
While nearly all habitual felons are sentenced to active punishment, based on the statute, it is possible that a habitual felon in Class E could receive a non-active sentence, depending on prior record level. ASQ indicates there were no Class E habitual felon entries to probation in CY 2017.

**Habitual Breaking and Entering Felon**

There were 128 entries to prison and 1 entry to probation in CY 2017 for offenders convicted and sentenced for the habitual breaking and entering offense, which is a Class E felony. Usage decreased 7% from CY 2016 (with 137 prison entries). Since implementation, felony habitual breaking and entering has been infrequently used, despite the potentially large pool of offenders eligible to be convicted and sentenced for this status offense.

<sup>26</sup> See NC Sentencing and Policy Advisory Commission, *Structured Sentencing Statistical Report for Felonies and Misdemeanors, 2018*.

**Figure 3**  
**Habitual Felon Breaking and Entering Prison Entries**

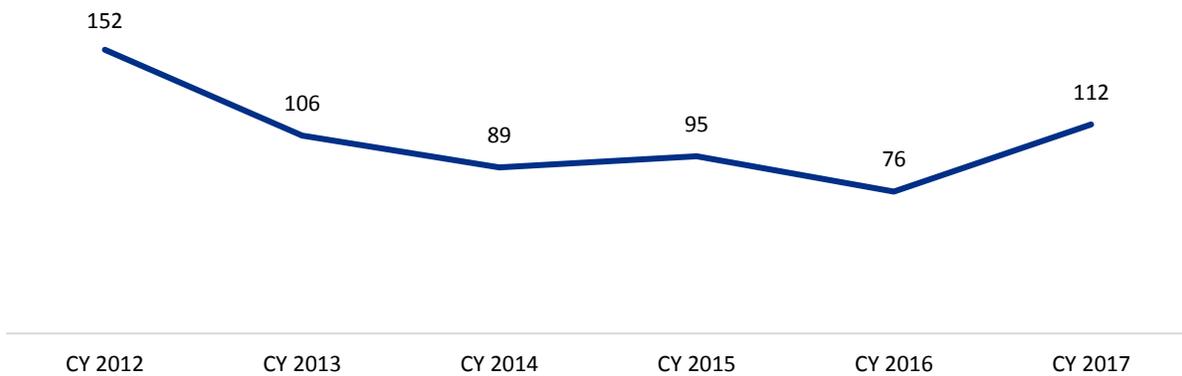


SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

**Advanced Supervised Release**

Data from DPS indicate the continued limited usage of ASR. Figure 4 provides information on the overall number of inmates receiving ASR sentences since implementation of the sentencing option. The number of inmates receiving ASR sentences increased from CY 2016 to CY 2017 (from 76 to 112 respectively) and is similar to the number of inmates receiving an ASR sentence in CY 2013. The offense class composition of ASR sentences has been fairly consistent over the past few years. Over half of offenders (54%) receiving ASR sentences were sentenced in Class D and Class E for their most serious offense. However, the most serious offense may not be the offense for which ASR was imposed.

**Figure 4**  
**Inmates Receiving ASR Sentences**



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

Data on ASR usage by county of conviction indicate that ASR has been used in 66 of the 100 counties in the state over the past five years. In CY 2017, it was used in 38 counties, with 5 counties accounting for 41% (or 46) of inmates receiving an ASR sentence.

In CY 2017, 116 inmates with an ASR sentence exited prison. DPS data indicate that the majority (90%) were released at their ASR date (i.e., after serving their reduced minimum sentence length).

## **Expansion of Initiatives**

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

### ***Pre-Sentence Investigation Pilot***

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

## **III. COMMUNITY SUPERVISION**

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The majority of the changes under the JRA affected how offenders are supervised in the community. Community supervision has continued evolving as JRA provisions have been further amended by legislation, adjusted by policy, or reexamined based on initial outcomes. Each year following the enactment of the JRA, the field becomes more settled and established in its understanding and usage of the available tools. Correspondingly, each year offers more information and data related to the use of available tools, their effectiveness, and whether practices have been implemented with fidelity to the intent of the JRA. DPS has demonstrated willingness to continually reexamine its policies and practices for improvement and has made enhancements to existing practices, many in response to available data. The information provided below describes any changes in policies and practices that affected Community Corrections (where relevant) alongside data (where available). As a point of reference for this section, the community corrections population (which includes both probationers and post-release supervisees) was 98,250 on December 31, 2017.

### **Risk and Need Assessment and Supervision Level<sup>27</sup>**

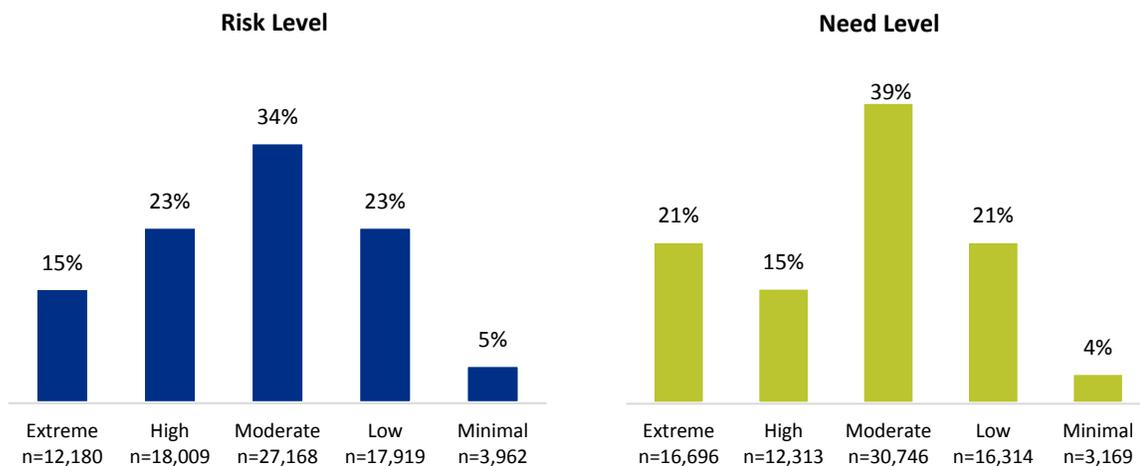
For supervision of the community corrections population, the JRA requires DPS to use a validated instrument to assess each offender's risk of reoffending and criminogenic needs to place the offender in the appropriate supervision level. The Offender Traits Inventory-Revised (OTI-R) is used to assess

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<sup>27</sup> See NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report, 2013*, for a more detailed description of these instruments.

offender risk, while the Offender Self-Report and the Officer Interview and Impressions are used to assess offender need. Using these instruments, there are five risk levels and five need levels: extreme, high, moderate, low, and minimal. Figure 5 examines the risk and need level distribution of the community corrections population. Most offenders were assessed as either moderate risk or moderate need (34% and 39% respectively); a small proportion were assessed as either minimal risk or minimal need (5% and 4% respectively).

**Figure 5**  
**Risk and Need Level for the Assessed**  
**Community Corrections Population on December 31, 2017**



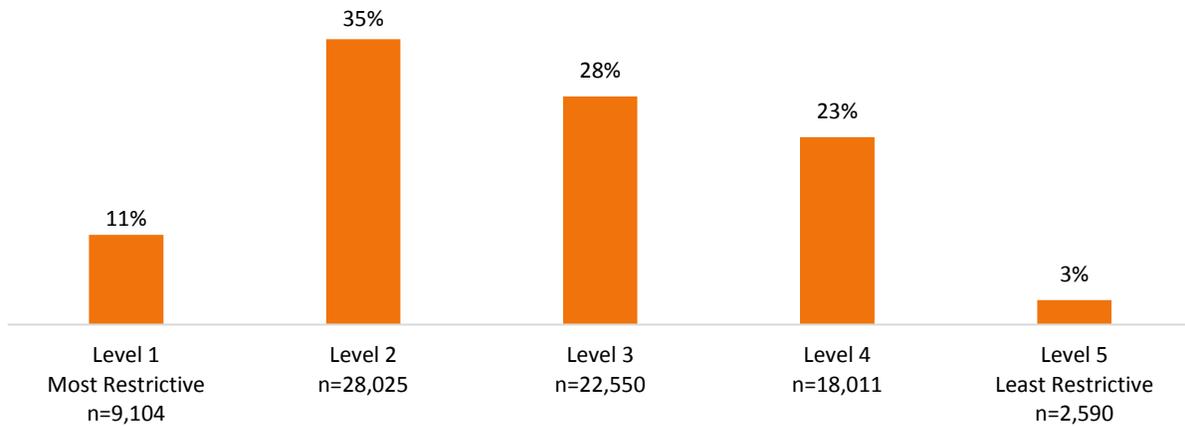
SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

An offender’s supervision level, which determines the minimum contact requirements for supervision, is determined by the intersection of the offender’s risk and need level. There are five supervision levels; Level 1 is the most restrictive. As shown in Figure 6, most of the community corrections population was in Supervision Level 2 (35%), while the smallest proportion of the community corrections population was in Supervision Level 5 (3%).<sup>28</sup> Since the risk assessment was updated in 2012 from the OTI to the OTI-R, the supervision level distribution has remained stable from year-to-year.

Community Corrections supervises all offenders on probation and PRS in the community – based on their risk, need, and supervision level. Little variation was found when comparing the supervision level composition of felony and misdemeanor probationers. The supervision level composition of all offenders on probation was compared to offenders on PRS (see Figure 7). When comparing the two populations, the PRS population was more likely to be supervised in the more restrictive supervision levels (i.e., Levels 1 and 2) than the probation population. Seventy-seven percent of offenders on PRS were in Supervision Level 1 (27%) and Supervision Level 2 (50%), the most restrictive supervision levels, while only 43% of probationers were in Supervision Level 1 (10%) and Supervision Level 2 (33%).

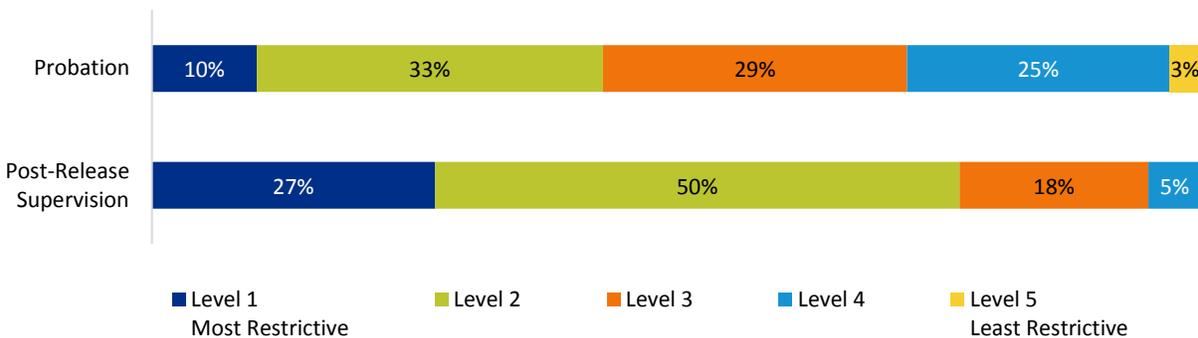
<sup>28</sup> The supervision level distribution for Figure 5 is based on DPS’s RNA process. Additional risk assessments are completed for sex offenders and impaired driving offenders that may result in supervision at a higher level than indicated by the RNA.

**Figure 6**  
**Supervision Level for the Assessed**  
**Community Corrections Population on December 31, 2017**



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

**Figure 7**  
**Supervision Level for the Assessed**  
**Community Corrections Population on December 31, 2017**



Note: There were 13 Level 5 post-release supervisees on December 31, 2017.

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

**Case Management**

***Caseloads***

The JRA set a caseload goal for probation officers of 60 probationers to 1 officer for offenders who are determined to be high or moderate risk.<sup>29</sup> To achieve this goal, DPS created a new template model. The new model, implemented in 2014, separates offenders by risk level, reducing caseloads for officers with higher risk offenders and increasing caseloads for officers with lower risk offenders. In some of the more rural areas across the state, probation officers maintain an “All Risk” template because staffing levels, frequency of court sessions, and/or the makeup of the offender population do not make it feasible to

<sup>29</sup> G.S. 15A-1343.2(c).

separate caseloads by risk. To assist DPS in reaching its caseload goal, the General Assembly appropriated funding for 175 new probation officer positions. In 2015, DPS completed the hiring process for all 175 positions. As a result of the new template model and the additional positions, DPS achieved and maintains caseloads of 60 high or moderate risk offenders to 1 officer and 120 low risk offenders to 1 officer.

### ***Automated Case Review***

In 2017, the Department enhanced the existing standard case review process. Under this process, the Chief Probation and Parole Officer (PPO) reviews the handling of cases with PPOs. This allows the Chief PPO to measure the quality of the supervision strategies the officer is using and it serves as a teaching tool to help develop the officers' skill sets. The form used to guide the case review is being automated and will go live in 2018; this will bring all of the information for case review together in one place.

### ***Mental Health Random Control Study***

As reported in 2015, DPS launched a random control study with the UNC School of Social Work in 2014 to develop more effective responses to the increasing population of offenders under community supervision with mental health needs.<sup>30</sup> Officers participating in the study carry specialized caseloads and utilize evidence-based strategies for managing offenders with serious and persistent mental illness (SPMI). The caseload goal is 40 probationers to 1 officer. DPS received a grant from the Governor's Crime Commission to support the study and conducted it in two counties, Wake and Sampson.

A study conducted by the UNC School of Social Work in 2017 suggests PPOs' perceptions of stigma toward those with mental health decreased after receiving mental health training modules. Promising results from the Sampson and Wake Specialty Mental Health Probation (SMHP) pilots indicate SMHP probationers had fewer violations than standard probationers and SMHP officers initiated substance abuse treatment and mental health action steps more frequently than standard probation officers.<sup>31</sup>

In 2016, DPS received additional funding to expand the study. With the help of a Smart Supervision Grant from the U.S. Department of Justice, DPS is implementing the study in six counties: Brunswick, Durham, Guilford, McDowell, Mecklenburg, and Orange. As part of the expansion, DPS is looking at the lessons they learned in the first phase of the study and making improvements. First, they developed a new selection process for identifying the officers who participate in the study. Under this process, DPS reviews the officer's past case planning activities and also surveys offenders he or she supervised. In the survey, the offender is asked to rate the officer's fairness toward them, whether they worked to establish trust, and whether they held the offender accountable. DPS found this selection process to be more effective and intends to use it in the future to identify appropriate officers for other pilot programs as well. In addition, officers, as well as their chief probation officers, received additional training in identifying and responding to SPMI offenders, including Crisis Intervention Training, where it is available, and Mental Health First Aid.<sup>32</sup>

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

<sup>31</sup> For more information, see "Statewide Mental Health Training and Specialty Mental Health Probation: A project funded by the Governor's Crime Commission."

<sup>32</sup> Mental Health First Aid is a course that teaches citizens how to help and respond to people that may be experiencing mental health issues and/or crisis. For more information, see <https://www.mentalhealthfirstaid.org/cs/>.

The Department is also utilizing licensed social workers to oversee the clinical supervision of this special population. However, the chief probation officer will be included in the oversight of the clinical supervision to make sure that the Department is responding to the offender's behavior and not just focusing on their treatment.

Finally, DPS is piloting a Functional Ability Rating System (FARS) for each offender; this is in addition to the RNA. The officer will complete the tool each month and review the results with the social worker. This additional information will enhance the officer's supervision strategies for these offenders. Using the FARS will also allow the officer to provide the first step of screening more quickly than trying to schedule and have UNC complete its mini-screener for the offender. Rural areas are already using the FARS and there are plans to roll it out as the initial screener to urban areas in 2018.

The Department reported 150 offenders were enrolled in this phase of the study in 2017. The Department hopes to expand the study to 150 additional offenders in 2018.

In addition, 45 counties in North Carolina are participating in the Stepping Up Initiative, and DPS believes they could use this specialized caseload strategy in conjunction with that initiative.<sup>33</sup> The Department requested ten new probation officer positions in 2017 to expand the use of specialized mental health caseloads; however, the General Assembly did not authorize these positions.

### **Treatment for Effective Community Supervision**

TECS programs provide EBP to reduce recidivism. Priority populations for TECS include offenders convicted of a felony and those identified as having a high likelihood of reoffending and a moderate/high need for substance abuse treatment.<sup>34</sup> TECS programs are funded through an appropriation from the General Assembly and the Department uses the funding to contract with vendors for the provision of services and the operation of community-based programming. CY 2013 represented the first full year of operation of the TECS program.

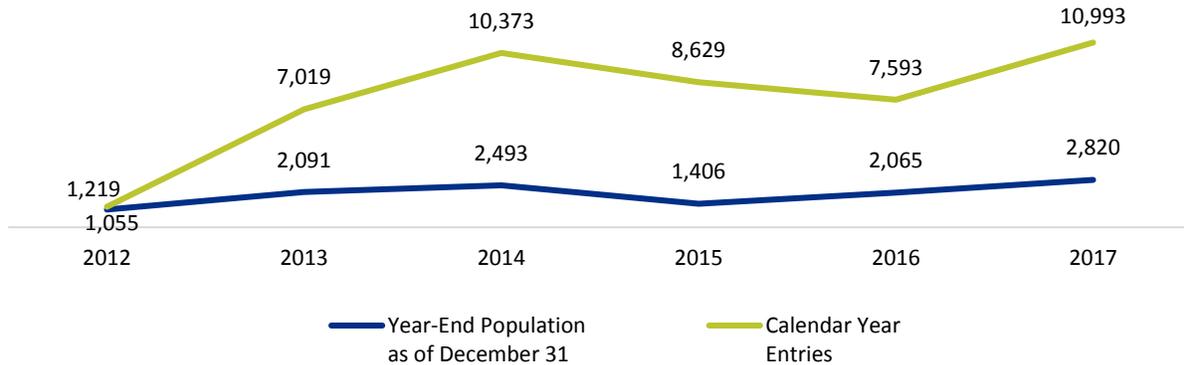
In CY 2017, 10,993 offenders entered the TECS program; 2,820 offenders were enrolled in TECS on December 31, 2017 (see Figure 8). Both the TECS population and the number of TECS entries increased significantly over the past year (37% and 45% respectively). The decrease in TECS entries and population from 2014 to 2015 was likely related to the beginning of a new three-year contract cycle on July 1, 2015, with new vendors beginning operation at that time and other vendors discontinuing operations. In the new contract cycle, the Department reached out to vendors in neighboring counties so that it was able to have services provided in 21 of the 22 counties that were without services. That, combined with vendors becoming more efficient in the performance based model, allowed for services to be provided in 99 counties in 2017. Contracts will end June 30, 2018.

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<sup>33</sup> The Stepping Up Initiative is a national initiative to reduce the number of people with mental illnesses in local jails. For more information on the Initiative, see <https://stepuptogether.org/>.

<sup>34</sup> G.S. 143B-1154.

**Figure 8**  
**TECS Population and Entries**



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

Of the 10,178 offenders exiting TECS in CY 2017, the majority fell in Supervision Levels 2 and 3 (5,640 or 55%). Very few offenders were in Supervision Level 5 (41).<sup>35</sup> Figure 9 shows completion rates for all offenders exiting TECS in CY 2017 by supervision level.<sup>36,37</sup> TECS completion rates increased overall and for each supervision level from CY 2016 to CY 2017. In CY 2017, the overall completion rate for all TECS participants was 21% compared to 17% in CY 2016. Completion rates were highest for participants in Supervision Level 5 (46%) and lowest for participants in Supervision Level 1 (14%).

TECS services include the two traditional TECS programs, substance abuse and cognitive behavioral intervention (CBI) classes (now referred to as Recidivism Reduction Services, or RRS), as well as transitional housing, temporary housing, intensive outpatient treatment (IOP), and local reentry councils.<sup>38</sup>

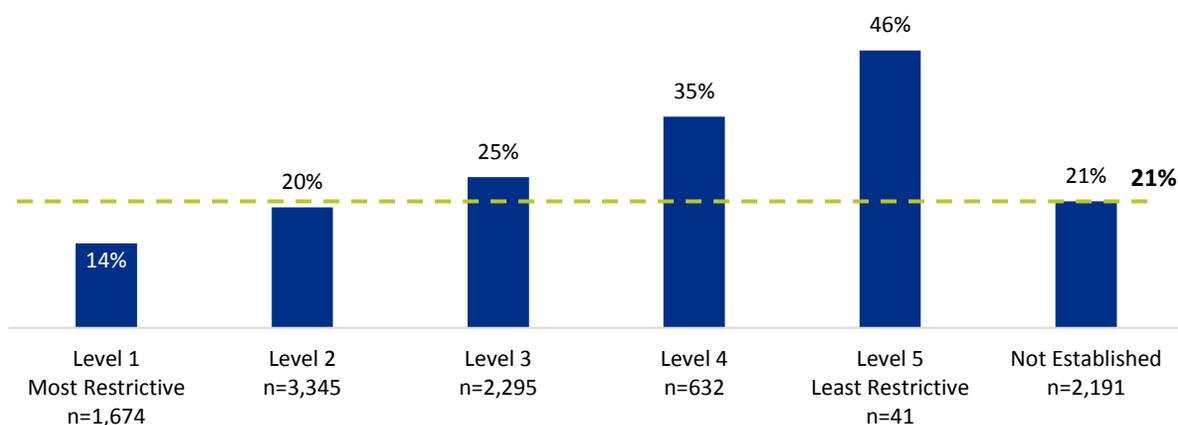
<sup>35</sup> Throughout the report, results for offenders in Supervision Level 5 should be interpreted with caution due to small numbers and, when applicable, are noted in figures and tables.

<sup>36</sup> Completed means the offender completed all the requirements of the program. Reasons for not completing TECS include probation violations, participation refusal, inappropriate referral, absconding, never reporting to the program, and being released.

<sup>37</sup> Offenders with no supervision level established are typically offenders within the first 60 days of supervision during which the RNA process is being completed or offenders who have absconded supervision prior to completion of the RNA process.

<sup>38</sup> The Department added community intervention centers (CICs) to TECS in 2014. CICs are non-residential centers that serve high-risk and high-need offenders who are not complying with the conditions of probation. As the TECS program developed, these centers no longer fit the model of delivering services. The Department reported that, as of October 2016, all CIC programs have been closed.

**Figure 9**  
**Completion Rates for TECS Exits in CY 2017**  
**N=10,178**



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

***Recidivism Reduction Services***

The overwhelming majority of offenders served through TECS programs have participated in RRS programs. In 2015 DPS issued a request for proposals (RFP) soliciting vendors for RRS to provide four core services: CBI, CBI Boosters, regular outpatient substance abuse therapy, and aftercare/relapse prevention. In addition, vendors were required to offer mandatory supportive services of employment skill building, education, and health and nutrition classes, with optional services of family counseling, parenting, and child care education courses to supplement the curriculum.

Recognizing the importance of stable housing to offender success, DPS has added housing programs under TECS; however, the ability to acquire housing options has been met with mixed success. Transitional housing is provided for homeless, non-sex offender, adults. Currently, the Department has 120 total beds provided by 8 vendors, an increase of 64 beds from the previous contracts. There are 90 beds available in transitional housing, 16 of which are beds for females. While there is not a target risk or need level for transitional housing eligibility, the Department reports that the population is usually more medium and high risk offenders. While offenders stay in transitional housing, they have access to CBI programming and employment skill-building. Temporary housing, which is reserved for sex offenders, has been more difficult to obtain due to the lack of availability across the state. This is short term housing, up to 90 days, and there is no programming available. The Department also contracted for 30 Post Release Step Down Housing beds, 12 of which are for beds for females. Post Release Step Down Housing is similar to transitional housing, though is in designated areas with active local reentry councils that provide additional resources in conjunction with the supervising officer.

In 2016, DPS did not use TECS funds for IOP services. IOP services are a particular challenge because while not many offenders need the services, it is a very expensive service for those who do. The Department is reviewing the need for IOP services and is considering taking a regional approach, dividing the state into clusters and contracting vendors by clusters.

Local reentry councils coordinate local services to help offenders released from prison reintegrate into the community. This program began in July 2017. DPS reported that there are fourteen programs that are currently funded.<sup>39</sup> The Department plans to provide Community Automated Reentry Tool (CART) training for all new local reentry council locations and have a meeting with all of the local reentry councils in 2018. A State Reentry Council Collaborative was established in 2017 which will develop a Reentry Action Plan, provide capacity building and technical support for local reentry councils, expand and formalize faith-based and community engagement, resolve warrants and pending charges prior to release, and address major reentry barriers such as housing, transportation, employment, and substance misuse and mental health in 2018.<sup>40</sup> The Department also plans to incorporate the Risk/Need/Responsivity Tool into reentry planning to identify priorities for what specific programming an individual may need.

### **Delegated Authority**

Prior to the JRA, probation officers had delegated authority from the court that enabled them to graduate sanctions in response to non-compliant offenders. The JRA expanded probation officers' delegated authority in order to provide more tools for addressing offenders' risk and needs and to better manage offenders unwilling to comply with conditions of probation. The expansion of delegated authority did not extend to supervision of offenders on PRS. As a result, the tools reported in this section cannot be used on the PRS population. Information reported below is limited to the probation population, unless noted otherwise.

The Department adopted a "Swift and Certain Sanctions" model to deal with offender non-compliance; officers respond to all detected offender non-compliance as soon as possible by imposing additional conditions of probation or other sanctions. Available sanctions for probationers include quick dips, curfews, electronic house arrest, community service, and/or increased reporting requirements. This model also informs how probation officers "staff" cases; decisions related to offender non-compliance are made based on the nature of the violation(s) and the appropriate corresponding response. Responses are intended to be graduated in terms of severity, with officers first using less restrictive responses (where appropriate) to address non-compliance before using the more restrictive options. However, these responses can only be used to address non-compliance with conditions imposed by the court, the officer cannot use them to address non-compliance with conditions previously imposed by a PPO under delegated authority. The Department is seeking statutory authorization to use delegated authority to enforce conditions previously imposed by a PPO.

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

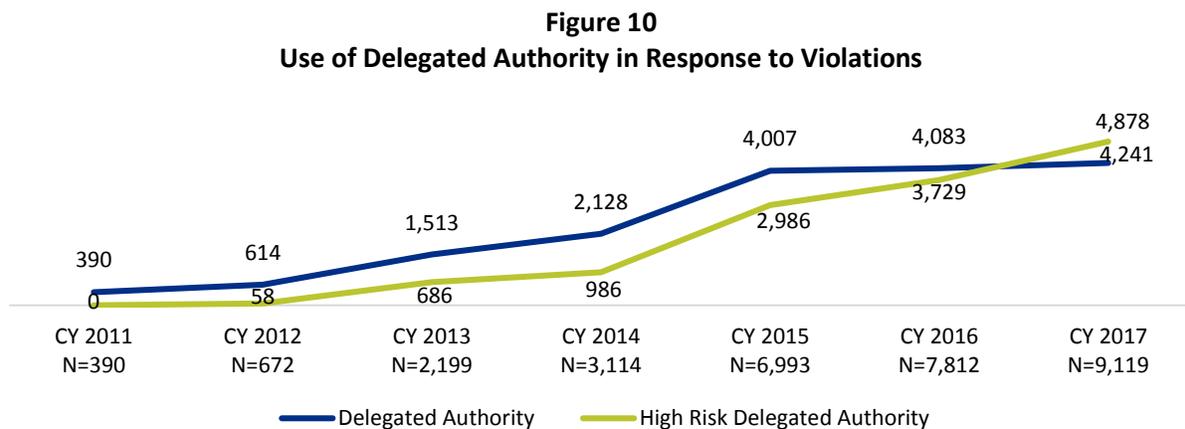
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<sup>39</sup> For more information, see <https://www.ncdps.gov/news/news-release/2017/12/11%20/dps-establish-five-new-reentry-councils-help-former-inmates-prevent>.

<sup>40</sup> For more information, see <https://www.ncdps.gov/blog/2018/02/07/governor-cooper-unveils-state-reentry-action-plan>.

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

As shown in Figure 10, probation officers used delegated authority and high risk delegated authority 9,119 times in CY 2017, a 17% increase over CY 2016 (7,812).<sup>41</sup> Delegated authority as examined in this section includes all responses to violations except for quick dips, which are analyzed separately. The use of high risk delegated authority largely accounts for that increase (31% over the past year) with CY 2017 being the first year high risk delegated authority was used more frequently than delegated authority. Following a sharp increase in use from CY 2014 to CY 2015, the use of delegated authority has become relatively stable from CY 2015 to CY 2017. In CY 2017, the most frequently imposed sanction under delegated authority was a quick dip; a curfew was the most common sanction imposed under high risk delegated authority.



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

**Short-Term Jail Confinement**

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

<sup>41</sup> An offender may be represented more than once in these data if there are multiple violation dates.

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

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

Although the use of quick dips continues to increase, its use has been increasing at a decreasing rate over the past several years following substantial increases during the first few years of implementation (see Table 4). Overall, 5,444 offenders accounted for 6,366 quick dips in CY 2017 (an increase of 7% from CY 2016). Of the 6,366 quick dips ordered in CY 2017, 52% were for two-day periods and 48% were for three-day periods.

Also shown in Table 4, quick dips were ordered nearly equally for felons and misdemeanants from CY 2013 to CY 2017. The number and proportion of misdemeanants receiving quick dips has increased over the past three years, likely as a result of a legislative change, effective December 1, 2015. The court may revoke probation for misdemeanants following two separate periods of a quick dip, which may be imposed either by the court or by the probation officer through delegated authority.<sup>42</sup>

**Table 4**  
**Quick Dips Ordered**

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

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

Although offenders in all supervision levels were eligible for quick dips in CY 2017, the overwhelming majority (73%) of quick dips ordered in CY 2017 were for offenders in Supervision Levels 2 and 3 (see Table 5).<sup>43</sup> The largest proportion of felons receiving quick dips were in Supervision Level 2 (41%). The largest proportion of misdemeanants receiving quick dips were in Supervision Level 3 (39%) and Supervision Level 2 (37%). A higher percentage of felons with quick dips ordered were in Supervision Level 1 compared to misdemeanants (22% compared to 14% respectively).

Offenders serve quick dips in the local jail and, as a result, have some impact on that resource. The North Carolina Jail Administrators' Association (NCJAA) reported that these offenders were difficult to process at first because of their short sentences but that it became easier once they became familiar with the judgments. NCJAA also pointed out that, because of the immediacy of the sanction, these

<sup>42</sup> G.S. 15A-1344(d2), as amended by S.L. 2015-191.

<sup>43</sup> From initial implementation (July 1, 2012) through November 30, 2015, offenders eligible for quick dips were only those in Supervision Levels 1, 2, and 3 – offenders with the highest levels of supervision. In response to legislative changes, effective December 1, 2015, DPS revised its policy to reflect that offenders in all supervision levels are eligible for quick dips.

offenders tend to bring more contraband into the jail than other offenders. Overall, this population has caused an increase in the jail populations, especially on the weekends when more offenders serve their quick dips. DPS and NCJAA continue to work together to try and resolve these issues and reduce the impact of quick dips on the local jails.

**Table 5**  
**Quick Dips Ordered by Supervision Level in CY 2017**

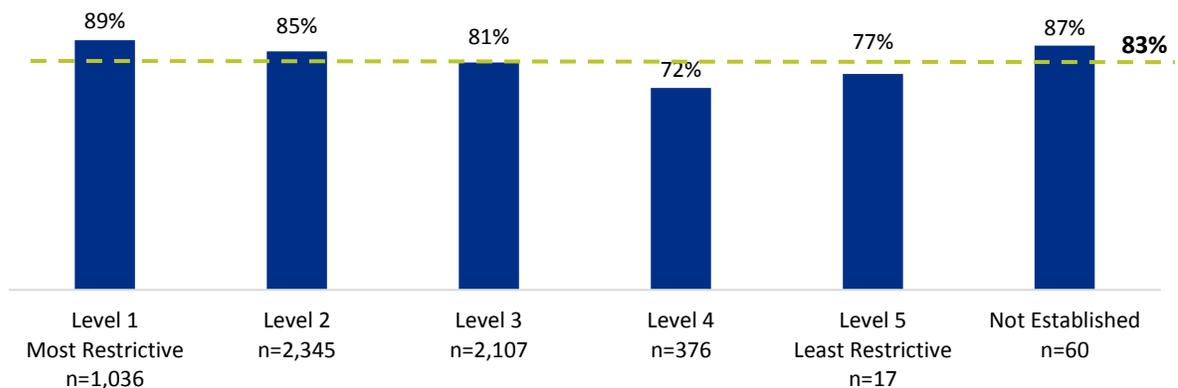
Supervision Level	Felon		Misdemeanant		Total	
	#	%	#	%	#	%
Level 1 (Most Restrictive)	660	22	460	14	1,120	18
Level 2	1,249	41	1,229	37	2,478	39
Level 3	905	30	1,273	39	2,178	34
Level 4	201	6	302	9	503	8
Level 5 (Least Restrictive)	8	0	7	0	15	0
Not Established	26	1	46	1	72	1
<b>Total</b>	<b>3,049</b>	<b>100</b>	<b>3,317</b>	<b>100</b>	<b>6,366</b>	<b>100</b>

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

**Outcomes Following a Quick Dip**

In order to determine the effect of quick dips on probationers, probation outcomes – including subsequent violations and probation status following a quick dip – are examined using a fixed one-year follow-up period for quick dips ordered in CY 2016.<sup>44</sup> Overall, a subsequent violation process was reported following 83% (or 4,951) of the 5,941 quick dips ordered in CY 2016 (see Figure 11). Probationers in Supervision Level 1 had the highest rate of subsequent violations (89%), with a progressively decreasing rate of subsequent violations for Supervision Levels 2, 3, and 4.

**Figure 11**  
**Subsequent Violations Following a Quick Dip in CY 2016: One-Year Follow-Up**  
**N=5,941**

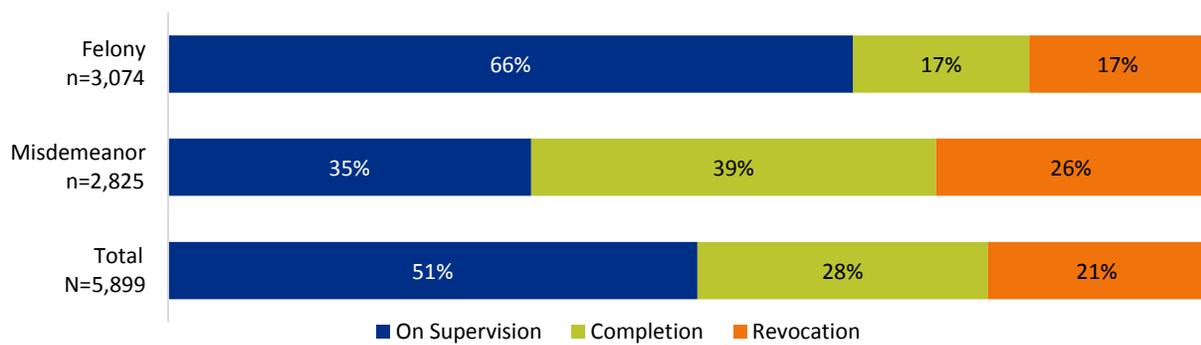


SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

<sup>44</sup> An updated methodology was implemented in 2018 for capturing outcomes following a quick dip. As such, findings in Figure 11, Figure 12, and Table 6 cannot be compared to findings in previous reports.

Probation outcomes for the 5,941 quick dips ordered in CY 2016 are provided in Figure 12 and Table 6.<sup>45,46</sup> Two-thirds (66%) of felons remained on supervision following a quick dip. Misdemeanants were nearly equally likely to remain on supervision or complete supervision (35% and 39% respectively). Misdemeanants are more likely to have higher completion rates than felons during this timeframe considering their shorter probation supervision lengths. Misdemeanants are also more likely to have higher revocation rates following a quick dip than felons considering probation can be revoked following two quick dips for misdemeanants.

**Figure 12**  
**Probation Outcomes by Offense Type**  
**Following a Quick Dip in CY 2016: One-Year Follow-Up**



Note: Forty-two quick dip outcomes identified as “other” were excluded from the figure.  
 SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

Table 6 further examines probation outcomes by supervision level. About half (51%) of probationers remained on supervision following their quick dip regardless of their supervision level, as also shown in Figure 12. The percentage of probationers remaining on supervision was highest for those in Supervision Level 1 (56%) and decreased as supervision level increased. There was a corresponding increase in completion rates for probationers in Supervision Level 1 to Supervision Level 4. Completion was least likely to have occurred for probationers in Supervision Level 1 (18%), and revocation was least likely to have occurred for probationers in Supervision Level 4 (17%).

<sup>45</sup> Completion refers to completion of probation supervision, a positive early termination of probation, a probation modification from supervised to unsupervised probation, or a change in jurisdiction resulting from an offender moving out of North Carolina.  
<sup>46</sup> Of the 5,941 quick dips ordered in CY 2017, 42 outcomes identified as “other” were excluded from the analysis.

**Table 6**  
**Probation Outcomes by Supervision Level**  
**Following a Quick Dip in CY 2016: One-Year Follow-Up**

Supervision Level	On Supervision		Completion		Revocation		Total
	#	%	#	%	#	%	
<b>Level 1 (Most Restrictive)</b>	571	56	182	18	273	26	1,026
<b>Level 2</b>	1,231	53	605	26	495	21	2,331
<b>Level 3</b>	1,026	49	685	33	378	18	2,089
<b>Level 4</b>	181	48	132	35	63	17	376
<b>Level 5 (Least Restrictive)</b>	3	18	5	29	9	53	17
<b>Not Established</b>	21	35	17	28	22	37	60
<b>Total</b>	3,033	51	1,626	28	1,240	21	5,899

Note: Twenty-eight offenders identified as “other” were excluded from the table. Results for offenders in Supervision Level 5 and those without an established supervision level should be interpreted with caution due to small numbers.

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

Previous DPS studies indicated that offenders who received a quick dip had better supervision outcomes than a matched comparison group without a quick dip.<sup>47</sup> A follow-up study from DPS in 2017 focused on offenders that received a quick dip in FY 2015 and examined supervision outcomes in the year following the quick dip by felon/misdemeanant status in order to determine the effectiveness of quick dips on compliance with supervision.<sup>48</sup> The most commonly occurring violations for both felons and misdemeanants were positive drug tests (32% each), followed by failure to report (14% and 16% respectively) and failure to pay court indebtedness (9% and 10% respectively).

Compared to a matched comparison group, felons who received a quick dip were more likely to remain on probation (59% compared to 42%) and less likely to have absconded (20% and 26% respectively) or to be revoked (10% and 16% respectively) at the end of the follow-up. Outcomes for misdemeanants were similar; misdemeanants who received a quick dip were more likely to remain on probation at the end of follow-up compared to a matched comparison group (30% and 18% respectively) and less likely to have absconded (20% and 25% respectively) or to be revoked (25% and 35% respectively). Results from these studies suggest that quick dips are an effective tool in improving offender compliance with probation supervision.

### **Administrative Response Pilot**

The Department launched an Administrative Response Pilot in June of 2013 to collect and track information on offender outcomes related to officer responses to behavior. Participating probation offices track when officers respond to offender behavior and the effect of officer actions on offender behavior. The information tracked serves to remind officers to respond to non-compliance as soon as possible. In 2016, the pilot was expanded to at least one officer and one chief in all 31 districts, as well as to five full units across the state.

<sup>47</sup> 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 and January 21, 2016.

<sup>48</sup> NC Department of Public Safety, Rehabilitative Programs and Services, Research and Decision Support Analysis, *Analysis Summary, Short-Term Jail Confinement (Quick Dips) Efficacy*, November 14, 2017.

The Department learned through the pilot that while their graduated sanction model was successful in responding to negative behavior, the model needed a robust incentive program to offer responses to positive behavior. While some areas established local incentive programs, incentives to encourage positive behavior had not been part of the Department's statewide approach. DPS also reported the usefulness of the automated components of the program. For those participating in the pilot, there is an additional screen included in the automated case plan that shows a list of incentives available for the officer to use when an offender exhibits positive behavior (e.g., negative drug screen). In 2016, the Department developed an incentive grid to guide the officer's use of incentives; however, upon further study, the Department elected to take a more individualized approach to incentivize behavior. The Department found that using the same incentives in every situation was not effective. The use of both positive and negative responses creates a more holistic behavior log that officers can use to inform the judiciary when and if the offender must return to court. Due in part to the lessons learned from this pilot, the Department revised its probation policy from a "non-compliance policy" to a "Comprehensive Behavior Management" policy to ensure that officers are responding to all behavior, both positive and negative.

### **Confinement in Response to Violations**

CRVs were designed as a response to technical violations of probation that would address offender non-compliance, while also reducing the number of offenders whose probation is revoked. Probationers on supervision for a felony, or for a misdemeanor (sentenced prior to December 1, 2015),<sup>49</sup> can be ordered to serve a CRV. The General Assembly and the Department made substantial changes to the practice of the CRV for felons in 2014 and 2015 (*see supra*, Related Legislation). Significant legislative changes were made affecting misdemeanor CRVs in 2015, based on a recommendation from the Sentencing Commission. Those legislative changes in effect created a pathway to revocation for misdemeanor probationers via quick dip, providing that the court may revoke probation for the misdemeanant after they have received two separate periods of short-term confinement, which may be imposed either by the court or by the probation officer through delegated authority. This change went into effect for misdemeanants placed on probation on or after December 1, 2015.<sup>50</sup>

Felons who are found in violation of their probation for technical violations (e.g., missed appointments, positive drug screens) can be ordered to serve a 90-day CRV period. In 2017, the majority of offenders sentenced to a CRV were eligible to serve that period of confinement in the CRV Centers (*see infra*, CRV Centers). On December 31, 2017, 424 offenders were serving a CRV with most (347 or 82%) serving their CRV periods in a CRV Center.<sup>51</sup> The average length of stay for CRV dispositions increased from 59 days in CY 2012 to 71 days in CY 2017. This is due in part to the General Assembly changing the policy regarding the awarding of credit to the CRV period for felons.<sup>52</sup>

Probation data for CY 2017 indicate a total of 4,356 CRV dispositions ordered as a result of probation violation hearings – 61% for felons and 39% for misdemeanants (*see Table 7*). The majority of CRV dispositions (97% or n=4,223) were for offenders with a single CRV disposition. Overall, there was a 29%

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<sup>49</sup> G.S. 15A-1344(d2).

<sup>50</sup> G.S. 15A-1344(d2), as amended by S.L. 2015-191.

<sup>51</sup> DPS opened two pilot CRV Centers in December 2014. During the initial pilot, CRV Center beds were classified as prison beds. Following the pilot, DPS reclassified CRV Center beds as treatment beds effective January 1, 2016. From January 2016 forward, offenders in CRV Centers are not considered part of the prison population.

<sup>52</sup> Pursuant to S.L. 2014-100, effective October 1, 2014, the term of any CRV shall not be reduced by credit for time already served in the case, any such credit shall instead be applied to the suspended sentence.

decrease in CRV dispositions over the past year, with a 4% decrease in CRV dispositions for felons and a 50% decrease in CRV dispositions for misdemeanants. The continued decrease in CRV dispositions for misdemeanants is likely attributable to the legislative change that went into effect just before the end of CY 2015.<sup>53</sup>

**Table 7  
Offenders with CRV Dispositions**

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

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

Table 8 further examines CRV dispositions by supervision level. The largest proportion of both felons and misdemeanants with CRV dispositions were in Supervision Level 2 (39% and 37% respectively). A higher percentage of felons with CRV dispositions were in Supervision Level 1 compared to misdemeanants (21% compared to 14% respectively).

**Table 8  
Offenders with CRV Dispositions by Supervision Level in CY 2017**

Supervision Level	Felon		Misdemeanant		Total	
	#	%	#	%	#	%
<b>Level 1 (Most Restrictive)</b>	552	21	241	14	793	18
<b>Level 2</b>	1,040	39	636	37	1,676	38
<b>Level 3</b>	632	24	468	28	1,100	25
<b>Level 4</b>	230	9	234	14	464	11
<b>Level 5 (Least Restrictive)</b>	15	0	16	1	31	1
<b>Not Established</b>	193	7	99	6	292	7
<b>Total</b>	<b>2,662</b>	<b>100</b>	<b>1,694</b>	<b>100</b>	<b>4,356</b>	<b>100</b>

Note: Results for offenders in Supervision Level 5 should be interpreted with caution due to small numbers.

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

***Outcomes Following a CRV***

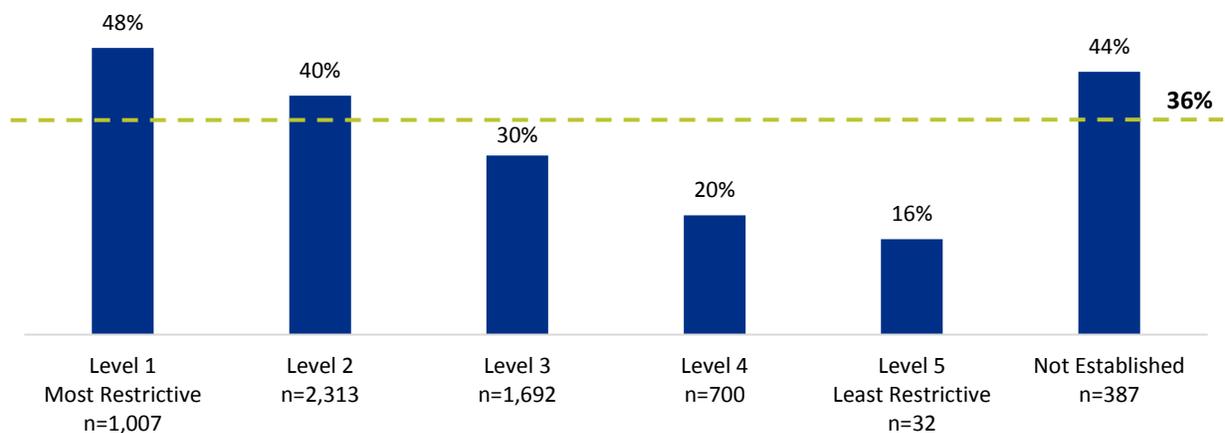
The intent of the CRV was for offenders to receive programming and treatment during confinement, possibly leading to improved outcomes after their return to supervision in the community. In order to determine the effect of CRVs on probationers, probation outcomes (including subsequent violations and

<sup>53</sup> Pursuant to S.L. 2015-191, effective December 1, 2015, CRVs are eliminated as an available sanction for misdemeanants sentenced to probation under Structured Sentencing; the CRV remains a sanction available for offenders sentenced to probation for impaired driving offenses.

probation status following the CRV) are examined using a fixed one-year follow-up period for CY 2016 CRV dispositions.<sup>54</sup>

Of the 6,131 CRV dispositions in CY 2016, 36% (n=2,227) resulted in a subsequent violation process (see Figure 13). Of those, a subsequent violation process was reported for 51% of felons (n=1,411) and 24% of misdemeanants (n=816) with a CRV disposition. The average time to the subsequent violation process was slightly longer for felons (188 days compared to 174 days for misdemeanants). Probationers in Supervision Level 1 had the highest subsequent violation rate (48%), with a progressively decreasing rate of subsequent violations as supervision level increased.

**Figure 13**  
**Subsequent Violations Following a CRV**  
**Disposition in CY 2016: One-Year Follow-Up**



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

Probation outcomes for offenders ordered a CRV disposition in CY 2016 are provided in Figure 14 and Table 9. Outcomes differed for felons and misdemeanants (see Figure 14). As expected, felony probationers were more likely to remain on supervision than misdemeanor probationers following a CRV, due to their longer probation sentence lengths. Conversely, misdemeanor probationers were expected to have higher rates of terminal CRV considering their shorter probation supervision lengths.<sup>55</sup> A slightly higher percentage of misdemeanants (17%) than felons (12%) had their probation terminated upon completion of the CRV period (i.e., CRV and terminate).

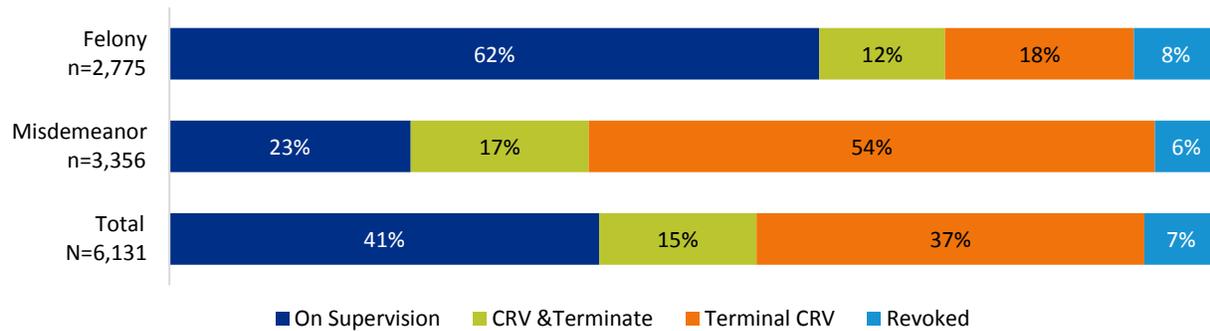
As shown in Table 9, compared to other probation outcomes, probationers in Supervision Levels 1 and 2 were more likely to remain on supervision following a CRV disposition (49% and 43% respectively), while probationers in Supervision Levels 4 and 5 were more likely to have a terminal CRV (49% and 50% respectively). The examination of probation outcomes within the context of offense type (Figure 14) and supervision level (Table 9) reveals that felony/misdemeanor status is the primary driver (more so than

<sup>54</sup> An updated methodology was implemented in 2018 for capturing outcomes following a quick dip. As such, findings in Figure 13, Figure 14, and Table 9 cannot be compared to findings in previous reports.

<sup>55</sup> 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.

supervision level) in determining what happens following a CRV, likely due to the differences in sentence lengths for felons and misdemeanants.

**Figure 14**  
**Outcomes Following a CRV Disposition**  
**by Offense Type in CY 2016: One-Year Follow-Up**



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

**Table 9**  
**Outcomes Following a CRV Disposition by**  
**Supervision Level in CY 2016: One-Year Follow-Up**

Supervision Level	On Supervision		CRV & Terminate		Terminal CRV		Revocation		Total
	#	%	#	%	#	%	#	%	
<b>Level 1 (Most Restrictive)</b>	493	49	120	12	297	29	97	10	1,007
<b>Level 2</b>	999	43	332	15	816	35	166	7	2,313
<b>Level 3</b>	612	36	292	17	694	41	94	6	1,692
<b>Level 4</b>	236	34	103	15	342	49	19	2	700
<b>Level 5 (Least Restrictive)</b>	10	31	6	19	16	50	0	0	32
<b>Not Established</b>	158	41	48	12	137	36	44	11	387
<b>Total</b>	<b>2,508</b>	<b>41</b>	<b>901</b>	<b>15</b>	<b>2,302</b>	<b>37</b>	<b>420</b>	<b>7</b>	<b>6,131</b>

Note: Results for offenders in Supervision Level 5 and those without an established supervision level should be interpreted with caution due to small numbers.

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

### **CRV Centers**

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

has a capacity of 248 beds for male offenders and the CRV Center in Robeson has beds for 192 male offenders. The CRV Centers began receiving offenders in December of 2014.<sup>56</sup>

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

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

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

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

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

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

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<sup>56</sup> Around the same time, DPS converted Eastern Correctional Institute into a hybrid facility, with a wing exclusively for female CRV offenders.

## CRV Center Enhancements

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

Offenders with mental health issues and severe medical issues are currently not eligible for the CRV Centers because the facilities do not have staff on hand with the expertise to provide such specialized care. The Department continues to work towards being able to provide this type of care in the CRV Centers, and has looked to neighboring prison facilities for resources to support some inmates with less severe mental health and medical issues. In 2017, the Department considered reallocating staff in the Robeson CRV Center so that it can serve adult male offenders who receive CRVs and who have some medical or mental health issues that require medications. The Department plans to have the Robeson CRV Center prepared to handle mental health CRVs in 2018. Because offenders are housed in CRV Centers for a long period of time (90 days), they are more likely to require routine medical and dental care while in the CRV Center. Providing routine medical and dental care at the CRV Centers is challenging because the CRV Centers do not have medical facilities on-site; DPS has 2 facilities nearby that can be relied on for some resources. The Department is also looking at the residential treatment facilities of DART-Cherry and Black Mountain, which faced similar issues, for ways to address these needs.

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

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

Given the initial success of the model serving male offenders, DPS recognizes the development of a stand-alone female center as a top priority. One of the challenges in creating a center for females is finding an appropriately sized facility; currently the Department has 75-80 females eligible for CRV Centers. While the Department believes that the stand-alone model created at Burke and Robeson is

superior to a CRV program offered within a prison facility, some programming for the female inmates ordered to a CRV remains available while DPS plans for a female CRV Center. At Eastern Correctional Institution, DPS designated one floor with four pods for females that were ordered to a CRV. DPS is not able to contract with private providers for the provision of certain types of programming for the pods, but the female offenders are receiving a hybrid of programming including programs already offered at Eastern to the general population, programs conducted by local probation officers, and some additional tools (such as journaling) that prison staff can provide. DPS has received positive reports from the females participating in these programs. In 2017, the General Assembly provided funding for a 200-bed CRV Center for females.

Another population that is currently excluded from the eligible pool of offenders for the CRV Centers are youthful offenders, categorized as offenders under the age of 18. There are federal requirements regarding housing youthful offenders in the same facilities as adult offenders, and currently, the CRV Centers are not equipped to meet those requirements. The males are housed at Foothills Correctional Institution and the females at North Carolina Correctional Institution for Women (NCCIW). The offenders receive some additional programming in the units; at Foothills, probation officers from the Burke CRV Center go to the unit to provide social skill building sessions. DPS reported efforts to implement the juvenile justice model with this population whereby the family is incorporated into the offender's treatment. This is a small population and it must be housed separately, but DPS continues to look for ways to apply aspects of the CRV Center model. In 2017, the General Assembly enacted the Juvenile Justice Reinvestment Act which will raise the age of juvenile jurisdiction from 16 to 18 beginning December 1, 2019.<sup>57</sup> The Department anticipates a further reduction in this population after that date.

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

### **Probation Outcomes**

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

### ***Probation Revocation Rates***

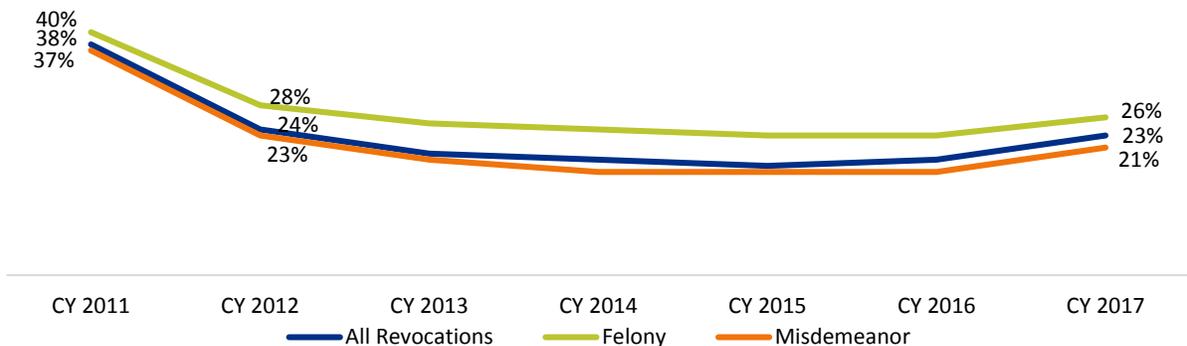
Figure 15 shows probation revocations have stabilized following a large decline from CY 2011 to CY 2012. Overall, decreases in revocation rates occurred from year to year from CY 2011 to CY 2016, with increases noted for the first time since implementation in CY 2017, likely attributed to an increase in the

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<sup>57</sup> S.L. 2017-57.

number of probationers entering prison for absconding (see Table 10). CY 2017 revocation rates are most similar to those in CY 2012, but revocation rates are still much lower than CY 2011 rates.

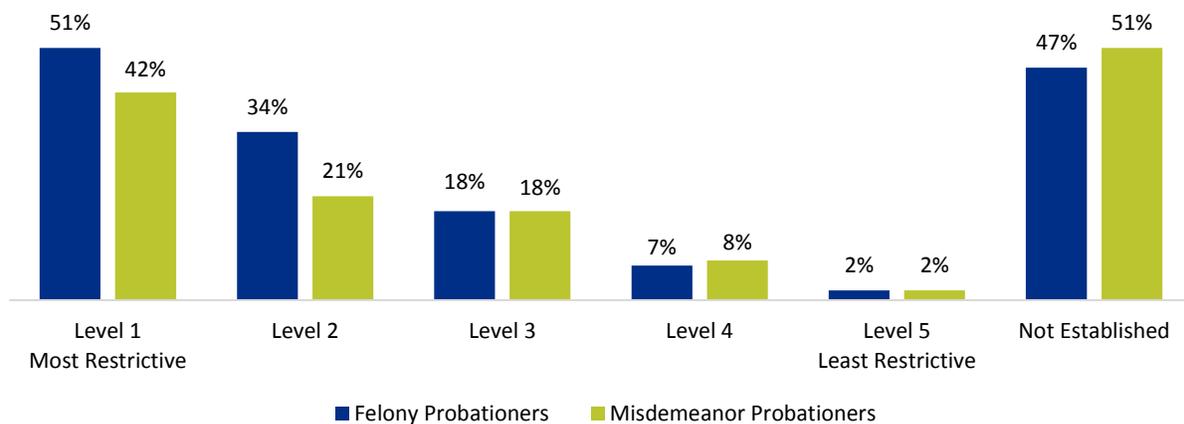
**Figure 15**  
**Probation Revocation Rates**



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

Figure 16 examines probation revocation rates by supervision level. For those assigned a supervision level, revocation rates were highest for probationers in Supervision Level 1 (51% for felony probationers and 42% for misdemeanor probationers), with a decreasing rate of revocations for Supervision Levels 2, 3, and 4. Felony probationers in Supervision Levels 1 and 2 had higher revocation rates than misdemeanor probationers in the same levels. The revocation rates for felony and misdemeanor probationers whose supervision level had not been established were most closely aligned with the revocation rates for probationers in Supervision Level 1.

**Figure 16**  
**Probation Revocation Rates by Supervision Level in CY 2016**



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

## Felony Prison Entries<sup>58,59</sup>

As shown in Table 10, the distribution of felony probation violation entries by prison entry type prison has continued to shift over the past few years. In CY 2017, absconding supervision continued to account for the largest proportion of probation violation entries (46%), followed by new crime with a conviction (22%). Prison entries for CRV and terminal CRV continue to decrease. Prison entries for revocation following the imposition of 2 prior CRVs continue to occur infrequently (1% in CY 2017). Entries for pre-JRA technical revocations have continued to decrease (to 21 in CY 2017).

**Table 10**  
**Felony Prison Entries for Probation Violations by Type**

Prison Entry Type	CY 2013		CY 2014		CY 2015		CY 2016		CY 2017	
	#	%	#	%	#	%	#	%	#	%
<b>New Crime</b>	1,505	21	1,578	22	1,463	20	1,370	22	1,437	22
<b>Alleged New Crime<sup>1</sup></b>	847	12	849	12	819	11	814	13	975	15
<b>Technical<sup>2</sup></b>	189	2	110	2	95	1	79	1	92	2
<b>CRV<sup>3</sup></b>	2,253	31	1,647	23	1,726	24	784	13	610	9
<b>Revoked After 2 CRVs</b>	0	0	27	0	29	0	40	1	38	1
<b>Terminal CRV<sup>4</sup></b>	n/a	n/a	580	8	612	9	716	11	349	5
<b>Absconding</b>	2,163	30	2,351	32	2,421	34	2,409	39	3,010	46
<b>Pre-JRA Technical</b>	291	4	94	1	57	1	27	0	21	0
<b>Total</b>	<b>7,248</b>	<b>100</b>	<b>7,236</b>	<b>100</b>	<b>7,222</b>	<b>100</b>	<b>6,239</b>	<b>100</b>	<b>6,532</b>	<b>100</b>

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

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

<sup>3</sup> Offenders in CRV Centers in CY 2017 are not included as prison entries.

<sup>4</sup> 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

## IV. INCARCERATION AND REENTRY

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

<sup>58</sup> This section focuses only on felony prison entries since nearly all misdemeanants serve their sentences in local jail facilities. See *infra*, Incarceration in Local Confinement Facilities.

<sup>59</sup> As noted previously, DPS opened two pilot CRV Centers in December 2014. During the initial pilot, CRV Center beds were classified as prison beds. Following the pilot, DPS reclassified CRV Center beds as treatment beds effective January 1, 2016. From January 2016 forward, offenders in CRV Centers are not considered part of the prison population.

jails.<sup>60</sup> Information provided in this section is divided into two parts: policies and data related to misdemeanants serving active sentences in local confinement facilities (including the SMCP), and policies and data related to felons serving active sentences in prison. Particular focus is also given to felons exiting prison onto PRS, due to the expansion of PRS under the JRA and recent initiatives by DPS to improve reentry efforts for inmates returning to the community.

**Incarceration in Local Confinement Facilities**

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

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

***Statewide Misdemeanant Confinement Program***

Nearly all misdemeanants who receive an active sentence under Structured Sentencing, as well as misdemeanants convicted of impaired driving offenses, serve their sentences in local jails either directly or through the SMCP. Following the initial increase in the SMCP population and entries from the program expansions, the SMCP population has stabilized over the past three years, with slight shifts in SMCP entries during that same time period. As shown in Table 11, the DWI prison population has decreased considerably since implementation (99 on December 31, 2017, compared to 732 on December 31, 2014).

**Table 11  
Year-End (December 31) Misdemeanor DWI Population**

Sentence Location	2014		2015		2016		2017	
	#	%	#	%	#	%	#	%
Prison	732	100	330	49	207	34	99	16
SMCP	n/a	n/a	347	51	408	66	511	84
<b>Total</b>	<b>732</b>	<b>100</b>	<b>677</b>	<b>100</b>	<b>615</b>	<b>100</b>	<b>610</b>	<b>100</b>

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

<sup>60</sup> The Section of Prisons (SOP) continues to receive all felons, as well as misdemeanants with heightened needs such as medical or safekeeping; there is also a small population of misdemeanants remaining in prison who were sentenced prior to their respective effective dates. Additionally, SOP will receive any misdemeanants in the event that space in the SMCP runs out in the future.

As noted in 2015, changes in funding for the SMCP occurred when the General Assembly authorized a recurring direct appropriation in the amount of \$22.5 million per fiscal year, effective July 1, 2015.<sup>61</sup> NCSA reported it paid out \$19.9 million in county reimbursements (including approximately \$1.1 million in medical payments).

In its operations, the SMCP is supported by counties volunteering excess bed space to receive inmates from other jurisdictions (i.e., “receiving counties”), for which the county receives a reimbursement rate of \$40 a day.<sup>62</sup> Counties that send inmates are reimbursed for costs associated with transporting inmates between jurisdictions and housing prior to their transport. Not surprisingly, the decision to participate in the SMCP as a receiving county is dependent upon the availability of bed space. NCJAA reported other factors contributing to local jails’ decisions about participating as a receiving county including staffing levels, geographic location, and the reimbursement amount. According to NCJAA, most areas reported the reimbursement rate for housing an inmate under the SMCP is below the average daily cost incurred by the facility, leading some areas to not participate.

From 2016 to 2017, the SMCP saw an increase in the number of receiving counties, from 59 to 64 counties, but a decrease in the number of beds, from 1,759 to 1,674 beds (see Table 12). While overall capacity for the program is down, there continues to be excess capacity to manage the sentenced misdemeanants. Additionally, the increase in the number of counties participating in the program has allowed the SMCP to house more inmates in their county of conviction. If needed, inmates with longer sentences are those more likely to be moved to receiving counties who volunteer more bed space.

**Table 12**  
**Statewide Misdemeanant Confinement Program (SMCP)**

<b>SMCP Capacity and Population</b>	<b>12/31/2012</b>	<b>12/31/2013</b>	<b>12/31/2014</b>	<b>12/31/2015</b>	<b>12/31/2016</b>	<b>12/31/2017</b>
Receiving Counties	50	54	56	57	59	64
Capacity	1,604	1,691	1,756	1,825	1,759	1,674
Population	697	631	579	979	1,116	1,233
<b>SMCP Entries</b>	<b>CY 2012</b>	<b>CY 2013</b>	<b>CY 2014</b>	<b>CY 2015</b>	<b>CY 2016</b>	<b>CY 2017</b>
SSA ≥91 Days	3,126	2,721	2,651	2,558	2,464	2,567
CRV Entries	30	224	309	374	340	193
DWI Entries	n/a	n/a	n/a	1,180	1,170	1,448
Total Entries	3,156	2,945	2,960	4,112	3,974	4,208

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

SOURCE: NC Sheriffs’ Association

The shift of misdemeanants to the SMCP increased the number of inmates housed in local jails and many of these inmates have longer sentences than other inmates. DWI entries, which accounted for 34% of total entries in CY 2017, are subject to sentences that are longer than the average Structured

<sup>61</sup> S.L. 2015-241.

<sup>62</sup> Receiving counties are also reimbursed for medical expenses associated with SMCP inmates.

Sentencing misdemeanor, up to three years for the most serious punishment level.<sup>63</sup> As of February 1, 2018, SMCP reported 31 DWI inmates with active sentences of three years or longer. Additionally, inmates housed in local jails may not have the same opportunities to earn credit off their sentence as prison inmates do. Inmates are allowed to earn credits by attending treatment and education programs and working in the facility but most local jails do not have the resources to provide substance abuse treatment on site and the opportunities for inmate labor vary greatly based on location.

The issue of treatment for DWI offenders is more than just one of credit; DWI offenders are required by statute to complete substance abuse treatment as part of their sentence to be eligible for parole.<sup>64</sup> Prior to JRA, some DWI offenders were able to satisfy this requirement during their incarceration period within the prison facility. Since the shift of DWI offenders to local jails, the remaining option for many DWI offenders is to be paroled to treatment. However, the PRSP Commission reports issues with paroling offenders to the residential treatment facilities, DART Cherry for men and Black Mountain for women. The substance abuse treatment program at Neuse Correctional has closed.

The NCSA is currently unable to determine the impact these longer sentences may have on the future capacity of the program due to the limited information the current software managing the SMCP can provide. As such, the NCSA plans to launch a new software in April of 2018 that will be able to distinguish between the different populations housed through the SMCP: Structured Sentencing misdemeanants, DWI misdemeanants, those serving a CRV, those serving a revocation of probation, etc. Examining the populations independently will give the NCSA the ability to look at data points such as average length of stay while controlling for the type of sentence served, providing a more thorough analysis of how these populations impact the program overall.

The NCSA continues to provide annual trainings; in 2017, five trainings were provided – two in the eastern part of the state, two in the west, and one in Wake County.

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

## **Prisons**

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

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<sup>63</sup> See G.S. 20-179 and 15A-1340.23.

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

With regards to all efforts within SOP, the Department is limited by its current vacancy rate. While DPS has invested in the Crisis Intervention Team (CIT) training and pursuant to General Assembly funding, significant pay raises for the correctional officers, the vacancy rate for correctional officers is almost 15%. Full utilization of new tools requires an increase in the number of correctional officers.

### ***Risk and Need Assessments***

In 2017, the Department applied the RNA to all male inmates, completing the process in October. In 2018, the Department will begin assessing the female population.

### ***Advanced Supervised Release***

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

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

The ASR case plan includes the recommended prison programs the inmate will need to complete in order to be released on their ASR release date. ASR inmates have a case manager who monitors and tracks their progress on their ASR plan. Any non-compliance with the ASR case plan or repeated disciplinary infractions may lead to disqualification. However, DPS data indicate that the majority (90%) of ASR inmates who exited prison in CY 2017 were released at their ASR date. The prison population of 36,356 on December 31, 2017, included 202 inmates with ASR sentences.

### ***Behavioral Health Services***

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

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

Pursuant to an appropriation by the General Assembly, the Department opened four TDUs in 2016 and plans to open four more between 2017 and 2018. As of March 2018, seven TDUs have been activated; however, one of these programs has been temporarily suspended due to correctional officer staffing vacancies.

For the first eighteen months of operation, the Department reported that there were 417 admissions to the TDUs and 307 exits. The TDUs had a 58% completion rate.

As of March 2018, the Department reporting staffing levels of 75% for the six currently operating TDUs; staff desire to work in those units, reporting that the treatment model was making a difference. Staff vacancies across all disciplines remain a challenge. As of March 2018, 149 TDU staff, facility managers, and administrators have been American Correctional Association Behavioral Health certified. Eventually, all TDU staff will complete American Correctional Association Correctional Behavioral Health Certification and Crisis Intervention Team (CIT) training. The Department has also begun an in-house CIT training program for correctional officers in conjunction with Pitt County Community College. Approximately 6,333 staff had been trained as of January 2018.

### ***Reentry Planning***

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

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

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

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

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

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

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

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

### ***Prison Exits***

Under the JRA, all felony inmates sentenced for offenses committed on or after December 1, 2011, who receive an active sentence must be released onto PRS. Class F-I felons are released onto nine months of PRS, Class B1-E felons are released onto 12 months of PRS, and felons which are required to register as sex offenders are released onto five years of PRS. PRS requires coordination between SOP, Community

Corrections, and the PRSP Commission. As the number of offenders exiting prison and onto supervision continues to increase, these entities have worked to increase efficiency in the release process and better manage the transition of offenders back into the community. This expansion of PRS has had a significant impact on the PRSP Commission in processing prison releases and on Community Corrections in supervising this increasing population.

#### Exits onto PRS

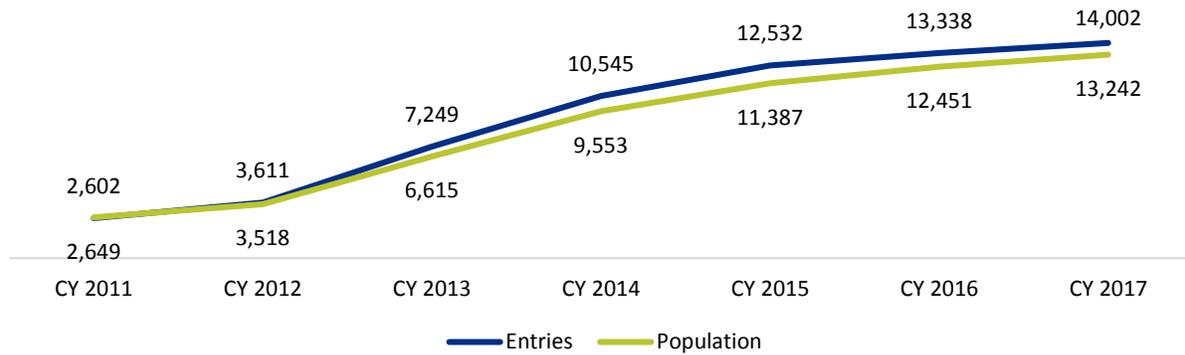
The PRSP Commission sets the conditions of PRS and responds to possible violations of those conditions. To determine the conditions of PRS, the PRSP Commission relies heavily on the work of the parole case analysts and their work in conjunction with Community Corrections staff. The role of the parole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

In 2017, DPS secured a grant from the Bureau of Justice Assistance and the National Governor's Association to enhance the operations of the PRSP Commission. Items include connecting the Commission with other offices and agencies that deal with the PRS and parole population, training, and identifying assessments for both the PRS and parole populations that could aid in the PRSP Commissions' determination of the offender's conditions of release. The Department hopes to have a package of recommendations to the Governor's Office by spring of 2018.

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

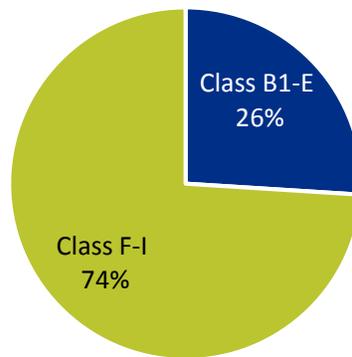
The number of offenders released from prison onto PRS and the population of offenders supervised on PRS have increased substantially (see Figure 17). The considerable increase in entries is a result of the volume of Class F-I entries to PRS from year-to-year (e.g., the number of Class F-I entries increased from 9,511 to 10,131 from CY 2016 to CY 2017). There has been a corresponding increase in the PRS population, with a 6% increase over the past year (from 12,451 to 13,242). As such, the number of Class F-I felons now account for the majority of PRS entries (see Figure 18). These data indicate that the PRS population is now primarily comprised of offenders sentenced under JRA terms. It is important to note that although PRS entries and population continue to increase year-to-year, the increases are occurring at a decreasing rate, possibly indicating the start of stabilization in entries and population.

**Figure 17**  
**PRS Entries and Population**



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

**Figure 18**  
**PRS Entries by Offense Class in CY 2017**



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

Violations of PRS

As with probation, the JRA changed the responses to violations of PRS. If an offender’s violation is for a new crime or for absconding, the offender may have PRS revoked for up to the amount of time remaining on their maximum imposed term; if the violation is for other conduct, the offender may have PRS revoked, but only for three months (similar to a CRV period). Initially, DPS dedicated the Odom Correctional Institution as the prison unit for male post-release supervisees who were serving a three-month revocation period. However, on February 26, 2018, DPS began placing offenders in either the Burke CRV Center or the Robeson CRV Center to serve their three-month revocation period. The Department continues to work toward providing similar options for female post-release supervisees.

The increase in the PRS population has also led to an increase in entries to prison as a result of violations of supervision, with much of the increase attributable to revocations for Class F-I felons with PRS. Table 13 summarizes PRS violation entries to prison. From CY 2013 to CY 2017, the percentage of prison

entries has continued to shift, aligning with the goals of the JRA to limit revocations to offenders committing a new crime or absconding probation. Overall, the percentage of entries for JRA three-month revocations and absconding have increased during this time period. The percentage of entries for new crime has remained relatively stable, while the percentage of entries for pre-JRA technical violations has decreased significantly. In CY 2017, offenders absconding PRS represented the largest group of felony entries to prison for a PRS violation (37%).

**Table 13**  
**Felony Entries to Prison for PRS Violations by Type**

Prison Entry Type	CY 2013		CY 2014		CY 2015		CY 2016		CY 2017	
	#	%	#	%	#	%	#	%	#	%
<b>New Crime</b>	193	12	345	12	418	11	482	11	484	9
<b>Alleged New Crime<sup>1</sup></b>	155	10	354	13	551	14	482	11	778	15
<b>Technical<sup>2</sup></b>	64	4	131	5	140	3	137	3	118	2
<b>Three-Month Revocation</b>	148	10	486	18	655	17	845	19	1,137	21
<b>Absconding</b>	331	21	763	28	1,337	34	1,613	36	1,973	37
<b>Pre-JRA Technical</b>	452	29	358	13	334	8	340	8	352	7
<b>Warrant/Pending Charges</b>	126	8	235	8	314	8	281	6	500	9
<b>Contempt<sup>3</sup></b>	86	6	79	3	198	5	285	6	0	0
<b>Total</b>	<b>1,555</b>	<b>100</b>	<b>2,751</b>	<b>100</b>	<b>3,947</b>	<b>100</b>	<b>4,465</b>	<b>100</b>	<b>5,342</b>	<b>100</b>

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

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

<sup>3</sup> The PRSP Commission reported that contempt hearings were no longer held for PRS offenders beginning in 2017. SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

#### PRS Revocation Exits

With the addition of PRS for Class F-I felons, total exits from PRS have increased substantially from CY 2011 to CY 2017 (see Table 14). Following a stabilization of revocation rates from CY 2013 to CY 2016, revocation rates increased slightly from CY 2016 to CY 2017 (from 24% to 27%).

**Table 14**  
**PRS Exits and Revocation Rates**

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

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

Table 15 examines PRS exits by supervision level. PRS exits by supervision level are similar when comparing Class B1-E and Class F-I offenders. The largest proportion of Class B1-E and Class F-I offenders

exiting PRS were in Supervision Level 2 (42% and 45% respectively). The majority of offenders exiting PRS in CY 2017 were in Supervision Levels 1 and 2 (69%).

**Table 15**  
**PRS Exits by Supervision Level in CY 2017**

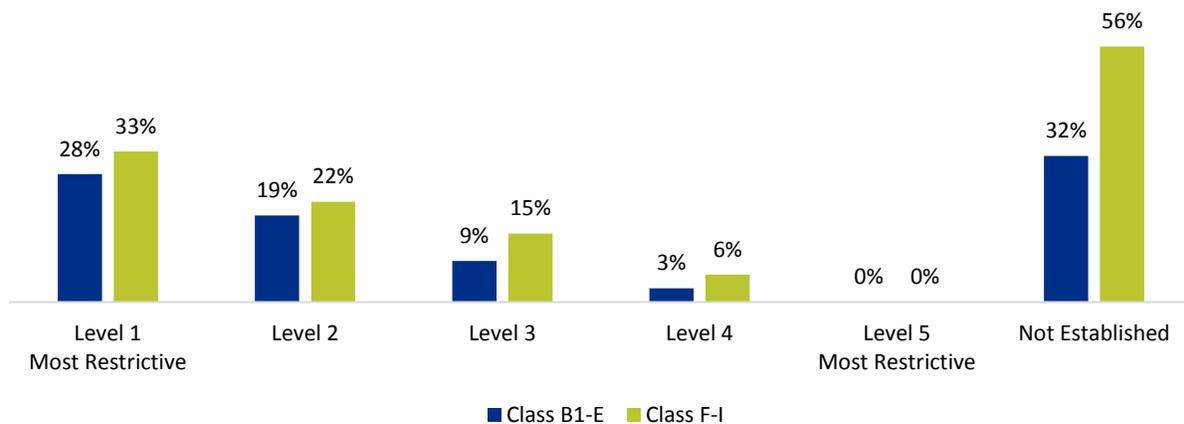
Supervision Level	Class B1-E		Class F-I		Total	
	#	%	#	%	#	%
Level 1 (Most Restrictive)	824	24	2,379	26	3,203	26
Level 2	1,435	42	4,116	45	5,551	44
Level 3	517	15	904	10	1,421	11
Level 4	205	6	308	3	513	4
Level 5 (Least Restrictive)	13	0	5	0	18	0
Not Established	463	13	1,465	16	1,928	15
<b>Total</b>	<b>3,457</b>	<b>100</b>	<b>9,177</b>	<b>100</b>	<b>12,634</b>	<b>100</b>

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

Figure 19 examines PRS revocation rates by supervision level and offense class. For those assigned a supervision level, revocation rates were highest for post-release supervisees in Supervision Level 1 (28% in Class B1-E and 33% in Class F-I), with a decreasing rate of PRS revocations for Supervision Levels 2 and 3. PRS revocation rates were higher for Class F-I offenders in all supervision levels.

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

**Figure 19**  
**PRS Revocation Rates by Offense Class and Supervision Level in CY 2017**



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

## V. CONCLUSIONS

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

### **Sentencing Practices**

In examining the JRA's effect on sentencing practices, some options continue to be used more often than others. The most frequently used provision remains the habitual felon status offense. While the existence of the habitual felon status offense predates the JRA, the proportional sentencing established by the JRA has led to an increase in habitual felon convictions and entries to prison. Since December 2011, habitual felon entries to prison have increased 68%. From CY 2011 to 2016, the increases were fairly steady, between 4% and 8% per year. However, in CY 2017, the number of habitual felon prison entries increased 25%. The cause of this increase is not clear but the Commission will continue to monitor this trend in light of the potential impact on the prison population. Conversely, the habitual breaking and entering status offense created by the JRA has not been as widely used, with only 128 entries to prison for the offense in CY 2017, a decrease of 7% from 137 prison entries in CY 2016. Habitual breaking and entering, designed as an enhanced sentencing option to deter repeat property offenders, merits further examination due to its continued limited use and its slight decline over the past two calendar years. It may be that the possibility of being convicted as a habitual breaking and entering felon has played a larger role at the plea negotiation phase, which would not be reflected in available data on convictions and sentences imposed or prison entries.

The ASR sentencing option also shows continued low usage, despite a slight increase from CY 2016 (from 76 to 112 in 2017). Even with low usage, future reports may be able to examine if ASR has achieved recidivism reduction through its priority programming. Also of potential interest for future examination is the use of special probation (i.e., a split sentence) at the original judgement and probation modification stages. CY 2017 data show a slight decrease in the use of special probation at initial judgment and a corresponding slight increase in the use of special probation at probation modification. With the use of quick dips and CRVs altered by recent legislative changes, it is possible that the use of special probation might continue to change as a result.

### **Correctional Practices**

As noted throughout this report, correctional practices have substantially changed under the JRA and continue to evolve as a result of legislative and policy changes. DPS's validated RNA continues to accurately identify those offenders most likely to reoffend and place them into the higher, more restrictive supervision levels. With the addition of new probation officers, Community Corrections has achieved caseload goals and made significant strides in its goal of implementing supervision strategies based on evidence-based practices.

The use of several supervision tools that were implemented or modified through the JRA continues to increase. Entries to the TECS program and the overall TECS population have increased significantly, which could be due in part to extending services to 99 of North Carolina's 100 counties. Completion rates have increased as well. The use of delegated authority and high risk delegated authority has also increased substantially over the past few years, largely attributed to the use of high risk delegated authority (an increase of 31% over the past year). The ability to respond directly and swiftly to behavior is a core component of the JRA, and the increased use of such tools will help determine how these responses affect offender success in the community, as well as other criminal justice outcomes.

DPS continues to enhance the CRV Center model. At the Robeson CRV Center, the DPS launched the Behavioral Adjustment Center for disciplinary issues, and plans on incorporating mental health care at the Center in 2018. Additionally, the Department secured funding to set up a 200 bed CRV center for females, in recognition of the unique challenges housing this population has posed. The creation of the CRV, and the Centers that followed, has been one of the largest changes to correctional practices under the JRA. The continued development and focus on the programming provided at these facilities will play an important role in evaluating the impact of the JRA over time.

DPS maintains its focus on reentry programs and services to aid in the offenders' transition into the community. In June of 2017, DPS remissioned two facilities to become reentry facilities and has plans for five additional reentry facilities. DPS continues to partner with other agencies and community programs to serve the fourteen local reentry councils across the state with the goal of achieving a more seamless transition for offenders leaving prison and returning to the community. A State Reentry Council Collaborative has also been established to develop a Reentry Action Plan to support the work of the reentry councils.

DPS remains committed to addressing the needs of offenders with mental health needs both in prisons and the community. For those offenders in prisons, DPS plans to build on the existing Therapeutic Diversion Units by opening additional units in 2018. For probationers, 2017 saw some initial successes as noted in a UNC study of specialized mental health caseloads for probation officers. The Sampson and Wake SMHP pilots indicate that the probationers had fewer violations than standard probationers and that the SMHP officers initiated substance abuse treatment and mental health action steps more frequently than standard probation officers, indicating that the pilot is accurately targeting probationers who can benefit from the specialized program. DPS is building on the advancements made in the supervision of this population with the FARS pilot launched in 2017. Additionally, the mental health training modules appear to be reducing PPOs' perceptions of stigmas towards those with mental health needs, which creates a more supportive environment for officers and probationers alike.

The overlap between the criminal justice system and mental health system cannot be overstated; this critical intersection applies pressure on all aspects of the criminal justice system including, but not limited to, supervision practices, local jails, and prisons. Adding a mental health assessment and compliance with any recommended treatment to the list of conditions a PPO can impose under delegated authority would potentially be helpful to this critical intersect. This and other efforts to address issues related to offenders with mental health needs may lead to both improved outcomes for these offenders and relieved pressure on the system.<sup>65</sup>

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<sup>65</sup> See NC Sentencing and Policy Advisory Commission, *Study of the Intersection of Mental Health and Jails: Select Practices from Across the State*, December 2016.

## **Effect of Justice Reinvestment on the Community Corrections and Prison Populations**

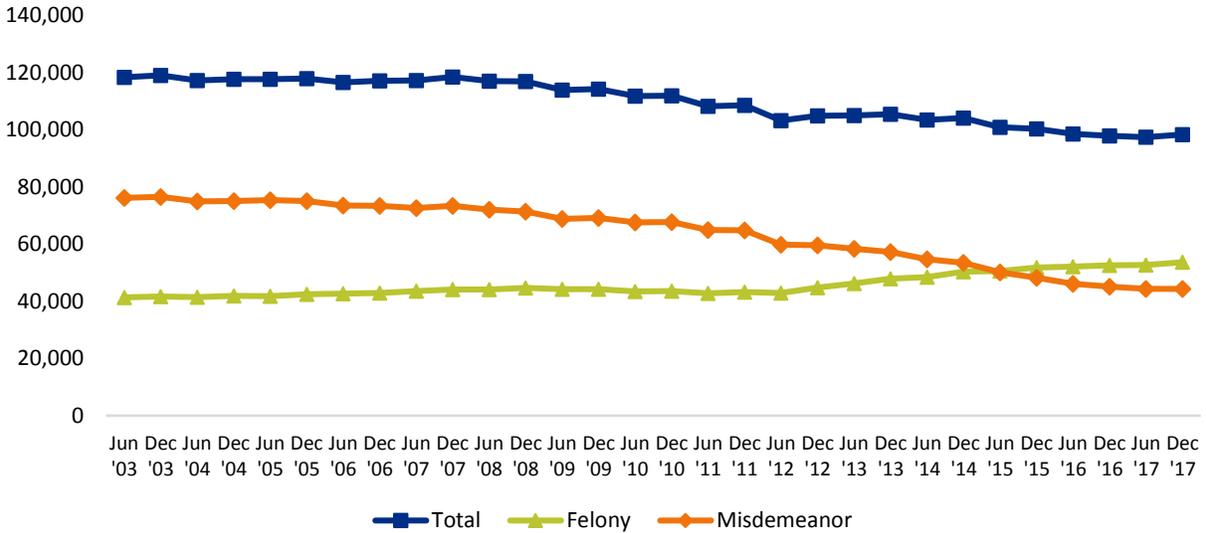
As North Carolina enters its seventh year under Justice Reinvestment, it is possible to examine its impact on the population of offenders supervised in the community and housed in prisons. The community corrections and prison populations have been demonstrably affected by JRA changes that went into effect beginning December 2011. They have also been affected by external factors, including the decline in the crime rates over the past ten years. Figure 20 and Figure 21 provide trend data on the community corrections population and the prison population.

As shown in Figure 20, the overall community corrections population declined 9% from December 2011 to December 2017 (from 108,520 to 98,250). While there has been an increase in the felony community corrections population (24% from December 2011 to December 2017) as a result of the addition of PRS for Class F-I felons, the declines in the misdemeanor community corrections population (32% over this same time period) have been a major contributor to the overall decline in the community corrections population. This decrease is likely related to a continued decrease in misdemeanor convictions in North Carolina. However, the termination of probation for some misdemeanants after serving a CRV may have affected this population as well. If so, the effect of this practice will diminish over time because the legislature has eliminated CRVs for misdemeanants. The overall community corrections population has remained relatively stable over the past few years. Last year, the felony community corrections population increased 2% and the misdemeanor community corrections population decreased 2%. Trends in the population will continue to be monitored.

Figure 21 shows the prison population in North Carolina from July 2003 through December 2017. The average prison population has declined from 39,954 in December 2011 to 36,538 in December 2017, a decrease of 3,416 or 9%. These declines can be attributed to changes in prison entries as a result of the JRA (i.e., the establishment of the SMCP to house misdemeanants and the limits to revocations of probation for technical violations), as well as subsequent legislative changes (i.e., the expansion of the SMCP to include DWI offenders in the 2014 Session). The prison population remained around FY 2006 levels from FY 2013 through FY 2015. The reclassification of CRV Center beds as treatment beds (effective January 1, 2016) resulted in an additional decrease to the prison population. The prison population has slightly increased (2%) over the past year, which could be due in part to the increase in entries to prison due to revocations for absconding.

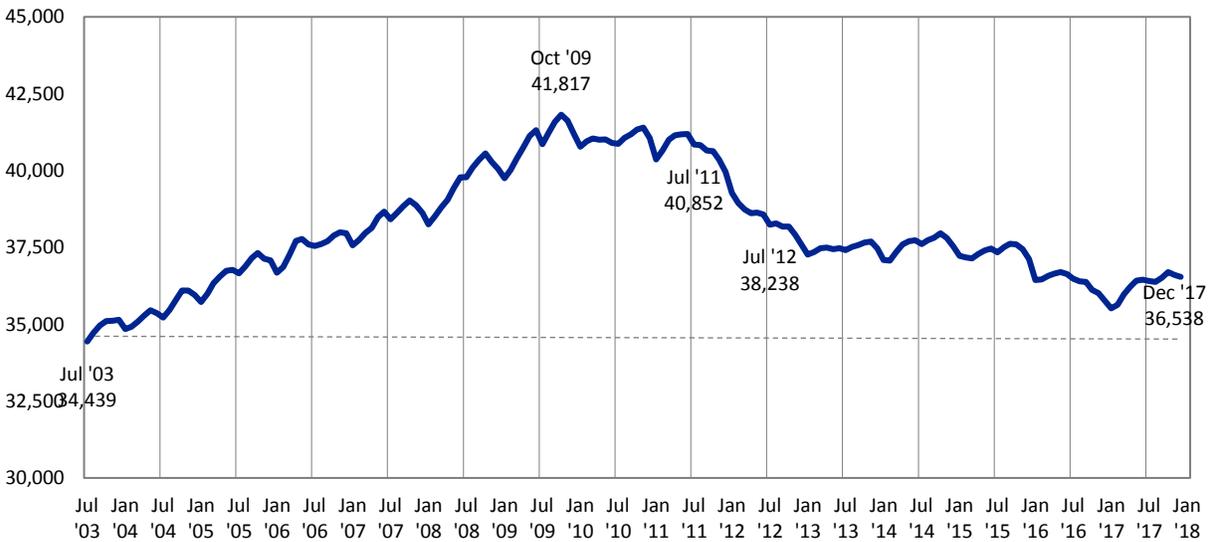
Of continual concern is the lack of complete data to understand the full impact of the changes to the criminal justice system under the JRA. The implementation of a statewide automated jail database would allow for a more comprehensive evaluation of the JRA's effect on all offenders in North Carolina,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

**Figure 20**  
**NC Community Corrections Population at Month End**  
**June 30, 2003 - December 31, 2017**



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

**Figure 21**  
**NC Prison Population**  
**Monthly Average: July 2003 - December 2017**



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

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

## **Effect of Justice Reinvestment on Recidivism**

Beyond the reductions in the correctional populations, also of great interest is the effect of the JRA on offender outcomes, namely, recidivism. Part of the intent of the JRA is to reduce recidivism by more effectively targeting correctional resources and utilizing evidence-based supervision practices. In 2016, the Sentencing Commission published its ninth biennial adult recidivism study – a study that examined the first cohort of probationers sentenced under and subject to the provisions and practices under the JRA.<sup>66</sup> In this year’s tenth adult recidivism study, the first sample in which the majority of prisoners (61%) were sentenced under the JRA and subject to the significant changes in eligibility for PRS are studied.<sup>67</sup> Taken together, outcomes reported for probationers in 2016 and prisoners in 2018 offer both a first look at the empirically measurable effects of the JRA and a baseline from which to measure future samples.

### ***Outcomes for Probationers***

As intended, the JRA has already affected revocation and recidivist incarceration rates for probationers. Table 16 provides a comparison of violation, revocation, and recidivist incarceration rates for probation entries for the past four recidivism studies published by the Commission. While violation rates have increased, revocation and incarceration rates for probationers have decreased substantially. Decreases in both the revocation and recidivist incarceration rates for FY 2011 and FY 2013 can be attributed to the limits to revocations of probation for technical violations, the establishment of CRVs, and by the shifting of misdemeanants out of the state prison system (active sentences for misdemeanants and misdemeanor probation revocations are served in local jails rather than in prison). The recidivist revocation decreased another two percentage points from FY 2013 to FY 2015. Of interest for future studies will be an examination of whether options available to respond to probationer noncompliance, short of revocation, are effective in reducing reoffending.

**Table 16**  
**Violation, Revocation, and Recidivist Incarceration**  
**Rates for North Carolina Probationers: Two-Year Follow-Up**

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

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

SOURCE: NC Sentencing and Policy Advisory Commission

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<sup>66</sup> See NC Sentencing Commission, *Correctional Program Evaluation: Offenders Place on Probation or Released from Prison in FY 2013, April 2016*

<sup>67</sup> See NC Sentencing Commission, *Correctional Program Evaluation: Offenders Place on Probation or Released from Prison in FY 2015, April 2018*

## Outcomes for Prisoners

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

Overall, the recidivist incarceration rate for prisoners increased 11 percentage points compared to the FY 2013 sample (see Table 17), primarily the result of the expansion of PRS to lower-level felons (i.e., Class F – I), and the significant corresponding increase in revocations of PRS in response to violations of supervision conditions. With a larger (and more recidivistic) population under supervision, it is not surprising that more violations and revocations occurred. However, if the rate of prisoners returning to prison continues to increase, it will have an effect on resources.

Recidivist arrest rates were similar for prisoners with and without PRS (49% and 47% respectively). However, as also shown in Table 17, there were substantial differences in recidivist incarceration rates for prisoners with and without PRS. The rate for prisoners with PRS was twice as high compared to those without (37% compared to 18% respectively). The ability for prisoners to be revoked and subsequently incarcerated for violations of PRS likely accounts for their higher recidivist incarceration rate. However, as the population under PRS has shifted to include lower level felons – the difference in the rate of recidivist incarceration between the groups has expanded.

**Table 17**  
**Recidivist Incarceration Rates for North Carolina**  
**Prisoners by PRS Status for Each Fiscal Year: Two-Year Follow-Up**

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

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

SOURCE: NC Sentencing and Policy Advisory Commission

While the effects of the JRA on revocations and recidivist incarcerations are clear, it will take more time to fully measure the overall effect on offender behavior, more specifically, on the primary measure of recidivism used in the Commission’s studies – recidivist arrest. It is important to note that changing offender behavior takes time and may be influenced by external factors (e.g., changes in criminal justice trends). Expectations for recidivism reduction (in terms of recidivist arrest rates) should be weighed realistically considering the complex set of factors contributing to offenders’ criminal behavior compared to the resources and time available to the criminal justice system to elicit change.

## Savings and Reinvestment

Though not specified in the legislation, the intent of Justice Reinvestment is to reduce correctional spending and reinvest savings in strategies to increase public safety. More specifically, through reducing the prison population, the state has invested savings in effective and targeted community supervision

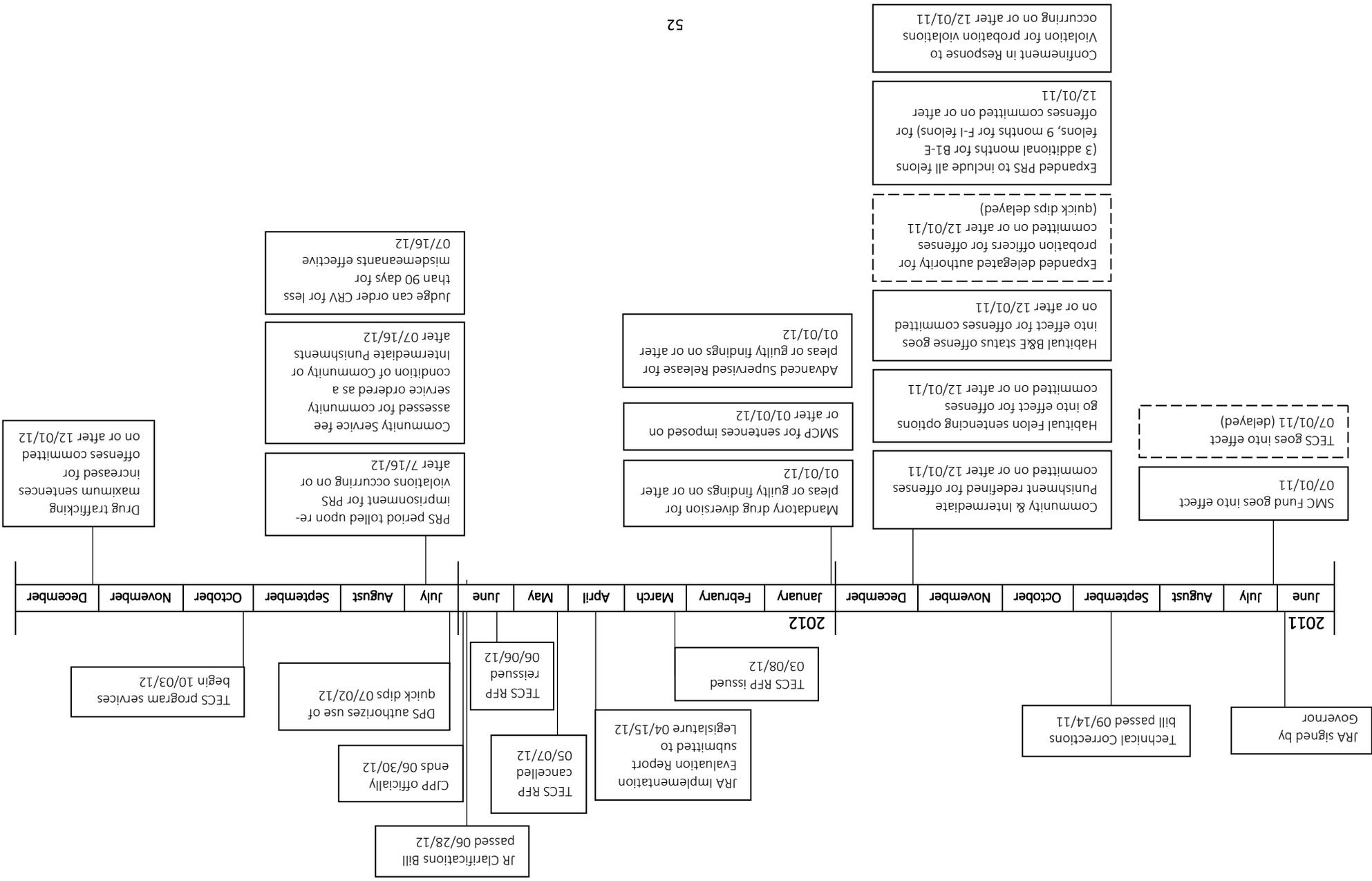
intended to reduce recidivism. The JRA has resulted in tangible correctional savings to the state primarily due to the limitation on certain types of entries to prison (i.e., misdemeanor offenses, technical revocations of probation and PRS), coupled with declines in criminal justice trends. As a result, the state has been able to close some state prisons, convert other state prisons, and eliminate unneeded positions. The most substantial portion of the overall savings has come from the closing of prisons; any additional savings resulting from the success of the JRA's policies and programs are unlikely to result in the level of cost savings as those realized in the early years of implementation.

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

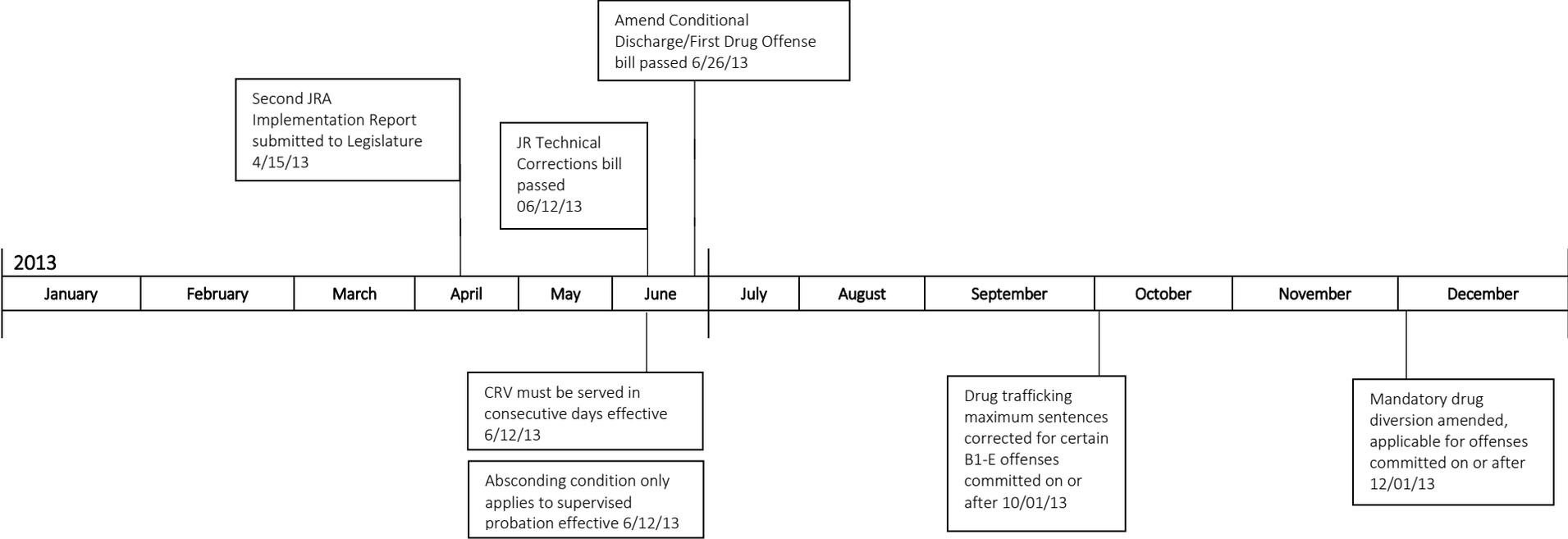
The Sentencing Commission will continue to monitor the progress of the implementation, review data where available, and submit future annual reports, interim findings, and recommendations for clarifications or revisions to the JRA as needed.

**APPENDIX A**  
**JUSTICE REINVESTMENT IMPLEMENTATION TIMELINE**

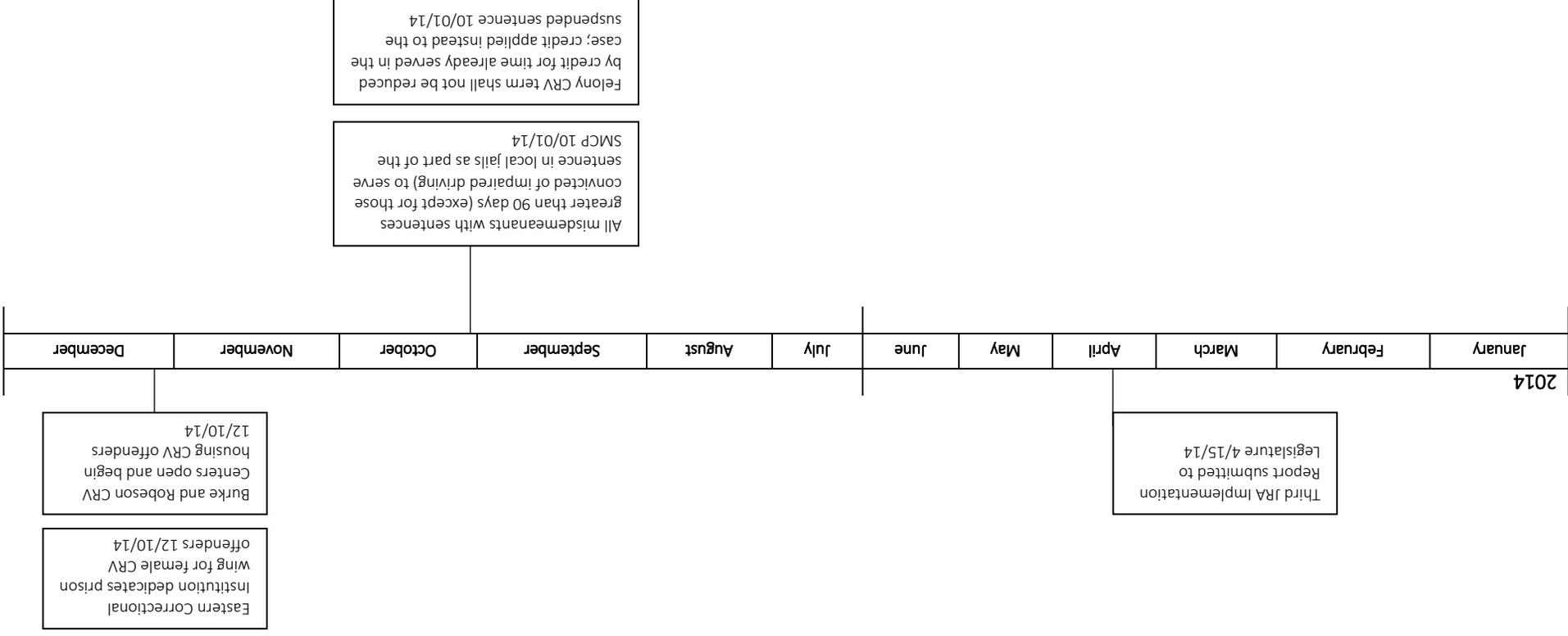
# JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2011-2012



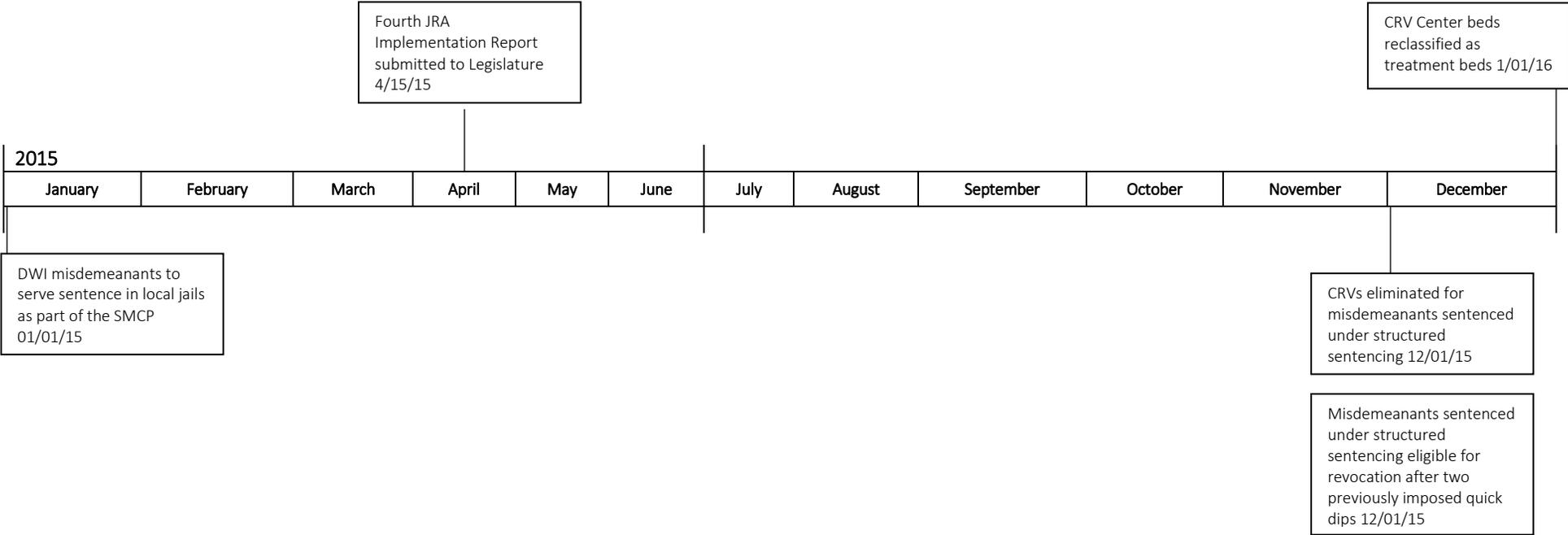
### JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2013



JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2014



### JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2015



**APPENDIX B  
LIST OF ACRONYMS**

## Justice Reinvestment Act Implementation Evaluation Report Acronym List

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