

PRISON POPULATION PROJECTIONS: FISCAL YEAR 2019 TO FISCAL YEAR 2028

Introduction

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

The prison population projections contained herein were completed in two parts. The Sentencing Commission prepared prison population projections for all offenders sentenced on or after July 1, 2018 (new population). The Rehabilitative Programs and Services Section of the DACJJ prepared projections for all offenders in prison as of June 30, 2018 (resident prison population). The final combined projections take into account the decline of the resident prison population (Structured Sentencing Act [SSA] releases, Fair Sentencing Act [FSA] releases, and pre-FSA releases) and the buildup of the new inmate population (new prison admissions that occur through the imposition of active sentences or as the result of violations of probation or post-release supervision [PRS]).¹ The ten-year prison population projections include all inmates considered part of the state prison system.

Prison Population Projections and Capacity

The prison population projections were developed using SAS® Simulation Studio. The simulation model utilizes empirical information about how offenders are processed through the criminal justice system to produce the projections. The composition of the current and projected prison populations is primarily determined by the empirical distribution of offenders convicted and sentenced under the SSA. Data on convictions and sentences imposed in FY 2018 (July 1, 2017 through June 30, 2018) provide the foundation for the prison population projections. By using the most recent empirical data available, the projections account for changes in criminal justice trends (arrests, court filings, dispositions, and convictions) that occur from year to year.

For the majority of the past decade, the accuracy of the prison population projections has been within 2%. The projected prison population for June 2018 was 36,483. The actual average population for June 2018 was 36,159 – a difference of 324 beds, or about 1%.

Table 1 and Figure 1 present the projected prison population and capacity for FY 2019 through FY 2028. The current projection takes into account a DPS policy change related to CRV Centers. Initially, male post-release supervisees who were serving a three-month revocation period were housed in prison. On February 26, 2018, DPS began placing PRS offenders in either the Burke CRV Center or the Robeson CRV

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

Table 1
Prison Population Projections and Capacity

Fiscal Year End	Prison Population ²		Prison Capacity ^{3,4}		Difference between Current Projection and EOC ⁷
	Previous Projection	Current Projection	Standard Operating Capacity ⁵	Expanded Operating Capacity ⁶	
2019	36,628	36,128	32,682	38,225	2,097
2020	36,820	36,452	32,682	38,225	1,773
2021	37,115	36,867	32,682	38,225	1,358
2022	37,273	37,231	32,682	38,225	994
2023	37,488	37,433	32,682	38,225	792
2024	37,910	37,702	32,682	38,225	523
2025	38,317	38,039	32,682	38,225	186
2026	38,840	38,377	32,682	38,225	-152
2027	39,215	38,901	32,682	38,225	-676
2028	N/A	39,268	32,682	38,225	-1,043

Note: Prepared in conjunction with the North Carolina Department of Public Safety's Division of Adult Correction and Juvenile Justice.

² See <http://www.nccourts.org/Courts/CRS/Councils/spac/Publication/Projections/Adult.asp> for previous prison population projections. The current projection excludes offenders in Confinement in Response to Violation (CRV) Centers.

³ Prison capacity estimates were provided by Prisons Administration of the NC Department of Public Safety (DPS) and are based on projects funded or authorized.

⁴ While the state's prisons have been operating near Expanded Operating Capacity (EOC) for many years, it should be noted that DPS bases its facility staffing levels on Standard Operating Capacity (SOC), which is the capacity that promotes a safer environment for staff and inmates. In addition, some prison units are not able to achieve full efficiency due to facility age, location, and infrastructure.

⁵ SOC is the number of single cells with one inmate per cell plus the number of inmates who can be housed in dormitories by dividing the gross square feet of each dormitory by 50 square feet and rounding to the closest double bunk configuration.

⁶ EOC is the number of inmates housed in dormitories that operate at varying percentages (not to exceed 130%) beyond their SOC, plus the number of single cells with one inmate per cell, plus the number of single cells that house two inmates per cell.

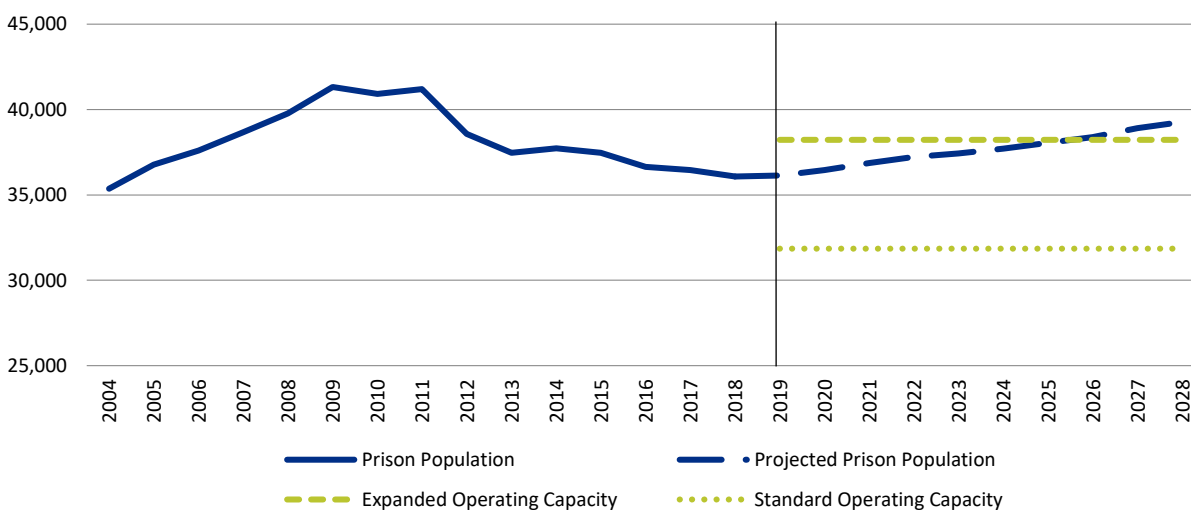
⁷ Positive numbers indicate that the current projected population is lower than capacity, while negative numbers indicate that the current projected population is higher than capacity.

Center to serve their three-month revocation period. As a result these offenders are excluded from the prison population projections. As shown in the Current Projection column in Table 1, the prison population is projected to increase from 36,128 in June 2019 to 39,268 in June 2028 – an increase of nearly 9%. The current projection is lower than the previous projection as a result of the policy change for post-release supervisees, as well as continued declines in most criminal justice trends.

Prison capacity projections were provided by Prisons Administration of the DPS and are based on projects funded or authorized. Standard Operating Capacity (SOC) is projected to be 32,682 and Expanded Operating Capacity (EOC) is projected to be 38,225 for each year of the ten-year projection. A comparison of the projections with EOC indicates that the projected prison population will be below prison capacity for all but the last three years of the projection period.

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

Figure 1
NC Prison Population and Projection at Fiscal Year End:
FY 2004 - FY 2028

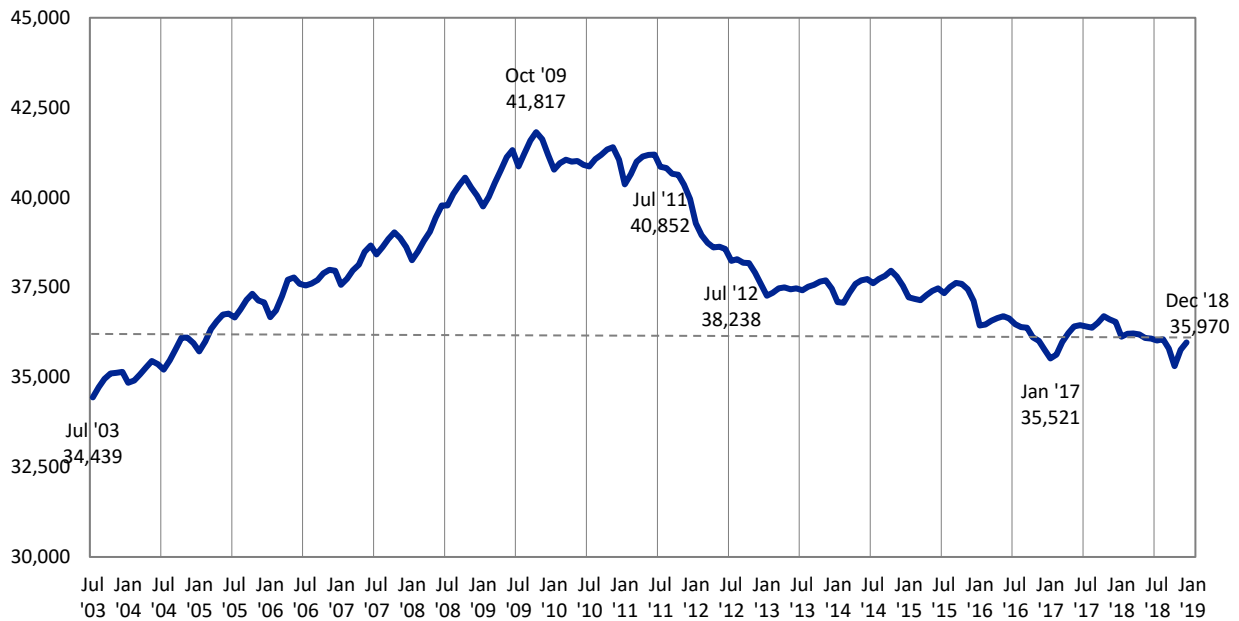


Note: Prison population figures includes inmates backlogged in county jails when applicable. On December 31, 2018, there were 866 inmates backlogged in county jails.

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

The prison population remained around FY 2006 levels from FY 2013 through FY 2015. Beginning in FY 2015, further decreases to the prison population occurred as a result of legislative changes that shifted the remainder of offenders sentenced for misdemeanor offenses and offenders sentenced for impaired driving offenses to local jails through the SMCP. The prison population decreased further with the removal of probationers housed in CRV Centers from the prison population (January 2016) and the subsequent expansion of CRV Centers to house post-release supervisees who are serving three-month revocation periods (February 2018). The prison population is currently around FY 2005 levels.

Figure 2
NC Prison Population
Monthly Average: July 2003 - December 2018



Note: Prison population figures include inmates backlogged in county jails when applicable. On December 31, 2018, there were 866 inmates backlogged in county jails. Solid vertical lines separate each fiscal year. The dashed horizontal line allows for a comparison of the current prison population with historical prison populations. SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Daily Unit Population Reports and Inmates on Backlog Reports

Assumptions

This section details the assumptions that were used to develop the prison population projections for FY 2019 through FY 2028. The assumptions were determined using data from the most recent fiscal year (FY 2018) and assume there will be no significant changes in demographics, crime rates, or criminal justice laws and policies in North Carolina.

- *Growth Rates:* As adopted by the Sentencing Commission’s *Forecasting Technical Advisory Group*, the projections assume a 0% growth in felony convictions for FY 2019 and 1% growth for the remaining years of the projection. Although the trends showed some increases (e.g., violent crime rate and felony convictions), the projected growth rates for felony convictions were adopted after considering continued decreases in other key juvenile justice system (e.g., delinquent complaints, dispositions) and criminal justice system indicators (e.g., felony filings, index and property crime

rates). North Carolina's population trends (particularly for males ages 16 – 24, the group most likely to be arrested) were also considered in determining the growth rates.⁸

- *Punishment Chart*: The projections assume all new felony convictions will be sentenced under the current felony punishment chart (effective for offenses committed on or after December 1, 2013). This punishment chart incorporates changes to the minimum sentence lengths and prior record point distributions that were passed during the 2009 Session and changes to maximum sentence lengths that were passed during the 2011 Session and the 2013 Session of the General Assembly.
- *Court Practices*: The projections assume no change in judicial or prosecutorial behavior relating to convictions and sentencing, including practices relating to the imposition of Advanced Supervised Release (ASR) and relating to the conviction and sentencing of habitual offenders.
- *Prison Admissions*: The distribution of prison admissions is expected to match the distribution from FY 2018. In FY 2018, 56% of all felony admissions to prison resulted from active sentences for a new conviction, 23% resulted from probation revocations other than conviction for a new crime, and 21% resulted from PRS revocations other than conviction for a new crime. As expected, this distribution has changed considerably with the implementation of the JRA, primarily resulting from the use of different responses for probation violations and from the increasing population of and changing composition of offenders supervised on PRS. Subsequent legislative changes and policy changes described previously have also affected this distribution.
- *Active Rates and Time Served for Active Sentences*: In FY 2018, 38% of felons received an active sentence, with an average estimated time served of 35 months. Overall, it is assumed that the rates of active sentences for new felony convictions and average estimated time served will match the rates for FY 2018.
- *Percent of Active Sentence Served*: The projections assume that, on average, all SSA felons will serve 108% of their minimum active sentences (the average percentage served by SSA felons released from prison during FY 2018).⁹ The percentage of sentence served varies by offense class with prisoners in the more serious offense classes serving a lower percentage of their maximum sentence since they have the potential to accrue more earned time due to their longer sentence lengths (e.g., 101% for Class C, 115% for Class I).
- *Probation*: It is assumed that probation revocation rates, lag-time from placement on probation to revocation, and time served will match FY 2018 figures. In FY 2018, 25% of exits from probation for felons resulted from revocation of probation.
- *PRS*: It is assumed that PRS revocation rates, lag-time from placement on PRS to revocation, and time served will match FY 2018 figures. In FY 2018, 28% of exits from PRS resulted from revocation.

⁸ The *Forecasting Technical Advisory Group* adopts growth rates for convictions on an annual basis. The *Group* consists of representatives from the Sentencing Commission, Administrative Office of the Courts, Conference of District Attorneys, Conference of Clerks of Superior Court, Office of Indigent Defense Services, Division of Adult Correction and Juvenile Justice, State Bureau of Investigation, Office of State Budget and Management, Governor's Crime Commission, UNC School of Government, and Fiscal Research Division of the General Assembly. The group adopts growth rates after reviewing demographic trends, crime trends, arrest trends, court filing and disposition trends, and prison entry and exit trends.

⁹ The maximum sentence length is set at 120% of the minimum sentence length rounded to the next highest month plus the period of PRS.

- *CRV Centers*: Based on DPS policy, CRV Centers house offenders who commit technical violations of the conditions of their supervision and are ordered to serve a 90-day CRV (probationers) or three-month revocation (post-release supervisees).¹⁰ It is assumed that the majority of these offenders will be housed in CRV Centers, although some may be housed in prison due to medical or mental health issues, program non-compliance, or other reasons. On December 31, 2018, there were 282 offenders in CRV Centers (198 probationers and 84 post-release supervisees) and 339 in prison facilities (183 probationers and 156 post-release supervisees). These facilities are currently available only for male offenders.
- *Misdemeanor Sentences*: Misdemeanants sentenced under the SSA and offenders sentenced for impaired driving are mandated to serve any active sentence imposed in jail rather than prison. The projections assume that nearly all of these offenders will serve their sentences in local jails, although a small number may serve their sentences in prison due to medical or other reasons as part of the SMCP. On December 31, 2018, the SMCP population was 1,188.
- *Sentences under the FSA and Prior*: Prison population projections continue to be affected by parole practices due to the number of FSA and pre-FSA offenders currently in prison. On December 31, 2018, there were 1,711 FSA and pre-FSA offenders in prison (including 1,655 with life sentences and 56 with death sentences), representing 5% of the state's inmates.
- *Legislative Changes*: The potential impact of legislative changes can be taken into account over the projection period, depending on the nature of the changes and available historical data. No impact is anticipated for prison population projections as a result of the passage of the Juvenile Justice Reinvestment Act of 2017 (North Carolina Session Law 2017-57, s. 16D.4). Impact from other legislative changes from the past legislative session could not be determined because they either created new offenses for which there are no historical data or amended penalties for existing offenses with elements that could not be modeled.

Dynamics of Sentences Imposed and the Prison Population

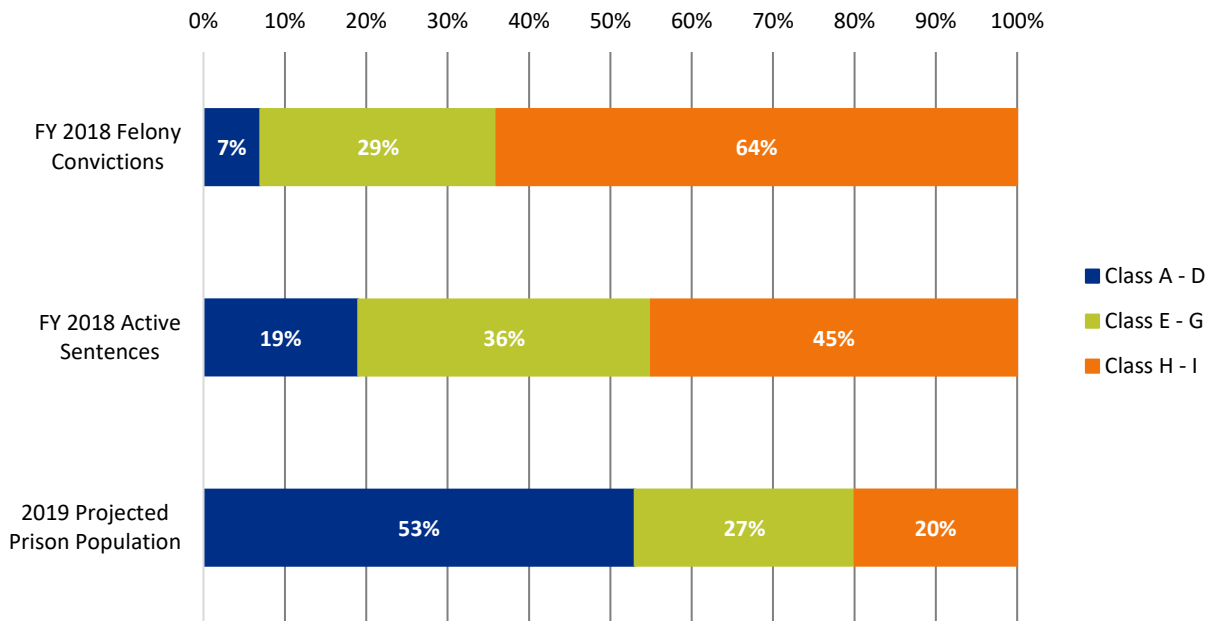
Figure 3 examines the composition of the projected prison population determined by the empirical distribution of offenders convicted and sentenced under the SSA. This distribution reflects the prioritization of resources for violent and repeat offenders under the SSA. Class A through Class D felonies (the most serious felony offenses) have a long-term effect on the prison population due to the requirement to receive an active sentence (with some limited exceptions) and the long sentences imposed in these classes. Class A through D felonies account for over half of the projected prison population (53%), but represent only 7% of felony convictions and 19% of active sentences overall. Class H through Class I felonies (the least serious felony offenses), which account for the majority of felony convictions (64%) and active sentences (45%), only account for 20% of the projected prison population due to their lower rate of active sentences (27%) and shorter time served (an average of 10 months).

¹⁰ Technical violations of conditions of supervision include, for example, missing appointments, curfew violations, and positive drug screens.

Figure 3
Dynamics of Sentences Imposed and the Prison Population
FY 2018 Felony Convictions and FY 2019 Projected Prison Population

Class A – D	Class E – G	Class H – I
<ul style="list-style-type: none"> •99% received active sentence •117 months average estimated time served •Long-term effect on the prison population 	<ul style="list-style-type: none"> •49% received active sentence •24 months average estimated time served 	<ul style="list-style-type: none"> •27% received active sentence •10 months average estimated time served •Effect prison population through high volume

Note: Mandatory active sentence required with limited exceptions for Class A through D felonies.
 SOURCE: NC Sentencing and Policy Advisory Commission and NC Department of Public Safety



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