

SMCP CAPACITY PROJECTIONS: FISCAL YEAR 2020 TO FISCAL YEAR 2024

Introduction

In 2011, the General Assembly created the Statewide Misdemeanant Confinement Program (SMCP) as part of the Justice Reinvestment Act (JRA).¹ The SMCP provides State funding to house misdemeanants serving sentences of more than 90 days and all impaired driving sentences (regardless of length)² in local jails. Every county is required to send eligible misdemeanants to the SMCP but becoming a “receiving county” is voluntary; counties not volunteering beds are referred to as “sending only” or “sending” counties. The creation of this program allowed the State to move misdemeanants from the state prison system to the local jails. However, if the SMCP lacks capacity, additional sentenced misdemeanants may be transferred to a state prison.³ This dynamic raises the possibility that misdemeanants returning to prison could place an additional burden on the prison system. For planning and budgetary purposes, policymakers need to know how many beds are and will be available in the SMCP.

North Carolina General Statutes § 164-51 requires the North Carolina Sentencing and Policy Advisory Commission (Sentencing Commission), with the assistance of the North Carolina Sheriffs' Association (Sheriffs' Association) to annually develop projections of available bed space in the SMCP for the next five fiscal years. The SMCP capacity projections were developed using data from the NC Sheriffs' Association monthly reports on SMCP capacity, population, and participating counties, Department of Health and Human Services (DHHS) jail project information, and information from architectural firms and jails building additions or new facilities.

Historical SMCP Capacity and Average Monthly Population

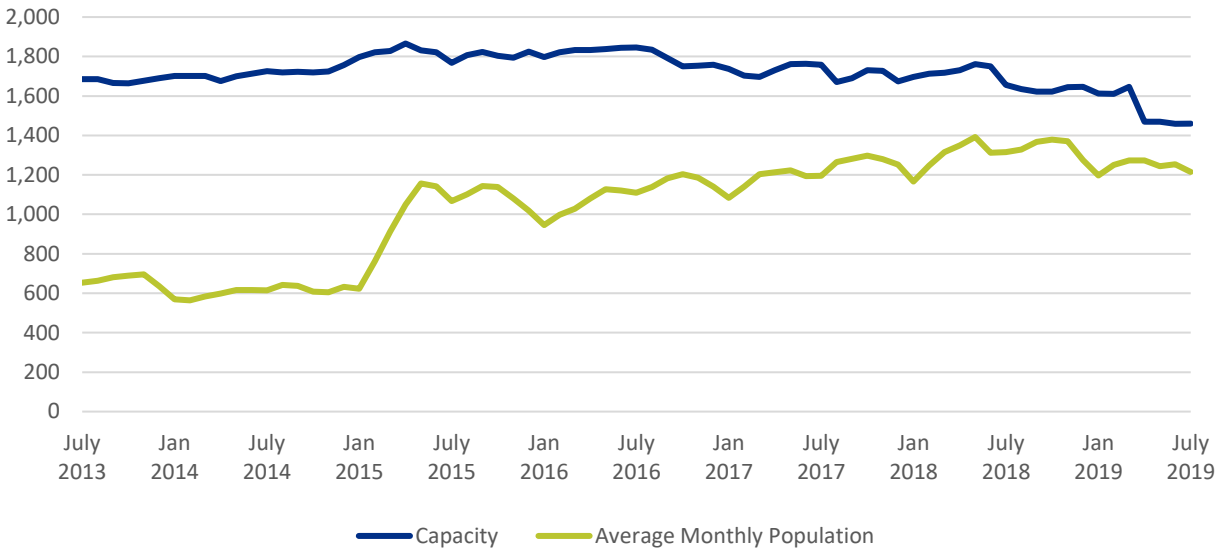
Historical SMCP capacity data are a key component for producing the five-year SMCP capacity projections, in particular, the net change in capacity over time. Figure 1 shows the total SMCP capacity and the average monthly population beginning in July 2013. The most notable increase in population occurred in FY 2015 due to legislative changes that expanded the eligible population for the program. At the end of FY 2019, the SMCP capacity was 1,459. This is a 17% decrease since the end of FY 2018 and a 20% decline since the end of FY 2015. The SMCP monthly average population has increased 10% since FY 2015 but decreased 4% in the last year. Since the inception of the program, the capacity has always been greater than the SMCP inmate population. However, due to the trend in declining capacity and the overall increase in population, the gap between the available capacity and the average monthly population has narrowed.

¹ N.C. Session Law (hereinafter S.L.) 2011-192, s. 7.

² N.C. Gen. Stat. (hereinafter G.S.) 148-32.1(b2) (2017).

³ G.S. 148-32.1(b4).

Figure 1
SMCP Capacity and Population Trends: July 2013 - July 2019



SOURCE: NC Sentencing and Policy Advisory Commission; NC Sheriffs’ Association

Assumptions

This section details the assumptions used to develop the SMCP bed capacity projections for FY 2020 through FY 2024. The assumptions were determined using data from the past five fiscal years (FY 2015 through FY 2019) and assume there will be no significant changes in demographics, crime rates, or criminal justice laws and policies in North Carolina.

- *State and local practices and administrative rules:* The projections assume no change in judicial or prosecutorial behavior relating to convictions and sentencing. They also assume no change in local practices (e.g., practices related to pretrial release).⁴ The projections assume there will be no changes to administrative rules that affect jail capacity.
- *Mandated SMCP population:* The projections assume no legislative changes to the population currently mandated to serve sentences through the SMCP.
- *JJDPA:* The reauthorized Juvenile Justice Delinquency Prevention Act (JJDPA) requires that within 3 years (by December 21, 2021), juveniles awaiting trial as adults not be held in any jail for adults. While some jails may gain bed space due to the JJDPA, the projections assume no new beds will be volunteered to the SMCP as a result of this change.
- *Inmates backlogged in county jails:* Jail backlog (i.e., inmates in county jails awaiting transfer to prison) may limit the number of beds available for jails to hold other inmates, including SMCP inmates. The jail backlog on December 31, 2019 was 957. If any SMCP beds were removed in the past three years due to jail backlog, they are accounted for in the net change in SMCP capacity used to produce the projection.

⁴ There are many discrete reform efforts across the state focused on pretrial release practices. If implemented statewide, they may affect future projections.

- *Jail population distribution:* The projections assume the general population distribution of all jail inmates (e.g., percentage of pretrial inmates, percentage of male inmates, etc.) remains constant throughout the projection period.
- *Planned jail projects:* Jail design and construction takes approximately three to five years. The projects known at this time are assumed to be the only ones affecting statewide capacity during the projection period.⁵ The projections also assume planned jail projects will be finished by their expected completion dates.
- *Receiving counties:* The projections assume receiving counties (as of June 30, 2019) will remain receiving counties throughout the projection period.
- *Sending counties:* The projections assume sending only counties (as of June 30, 2019) that are not building jails during the projection period will remain sending only counties.
- *Counties building jails:* Receiving and sending counties building jails were asked about SMCP participation. Their responses regarding potential new volunteered beds are reflected in the relevant years of the projection. Given the number of responses specifying “undecided,” two scenarios were developed for the projection.
 - *Scenario 1:* If a sending county building a facility was undecided about SMCP participation as a receiving county, it was assumed zero beds would be volunteered. Receiving counties building new facilities but unsure whether additional beds would be volunteered were assumed to volunteer no new beds.
 - *Scenario 2:* If a current receiving county was undecided about its future bed commitment, it was assumed the number of beds volunteered over the projection period would match the percentage of their overall capacity currently committed to the SMCP.
- *Net change in SMCP capacity:* The current three-year average net annual change, excluding Mecklenburg County,⁶ is a loss of 62 beds. The projections assume the three-year average net change will continue to be negative.

SMCP Capacity Projections

The projections take into account planned jail projects, information on annual changes to the SMCP capacity, and assumptions about projecting future bed capacity to determine a five-year capacity projection for the SMCP. Due to the many caveats, fluctuations, and factors that influence local jails’ determinations about SMCP participation and number of beds committed to the SMCP, two scenarios were developed for the five-year projection. The projection scenarios detailed below provide the total number of beds (new and existing) over the five-year projection period.

⁵ Counties building new jail facilities or expanding a jail facility during the projection period include Catawba (320 beds, FY 2020 estimated completion), Iredell (296 beds, FY 2020 estimated completion), Granville (179 beds, FY 2020 estimated completion), Randolph (211 beds, FY 2021 estimated completion), Orange (144 beds, FY 2022 estimated completion), Surry (299 beds, FY 2022 estimated completion), and Johnston (469 beds, FY 2023 estimated completion).

⁶ In April 2019, Mecklenburg County reduced its bed allocation to the SMCP as a receiving county from 200 beds to 0 beds. Mecklenburg County provided the most beds as a receiving county. No other single county could account for that large of a change going forward, so it was excluded from the net change calculation in FY 2019.

Scenario 1

Scenario 1 assumes counties that are undecided on SMCP participation and/or specific bed commitment will contribute no new SMCP beds over the projection period. Table 1 shows the capacity projections for FY 2020 through FY 2024 for Scenario 1. The SMCP capacity is projected to decrease from 1,371 currently to 1,235 in June 2024 – a decrease of 136 beds, or 10%.

Table 1
SMCP Capacity Projections: Scenario 1
FY 2020 – FY 2024

	Current	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Net Change in SMCP Capacity	N//A	(62)	(31)	(37)	(43)	(37)
Number of newly built SMCP beds	N/A	59	0	15	0	0
<i>Subtotal</i>	N/A	(3)	(31)	(22)	(43)	(37)
SMCP Capacity Total	1,371	1,368	1,337	1,315	1,272	1,235

Note: Prepared by the NC Sentencing and Policy Advisory Commission with the assistance of the NC Sheriffs' Association. Current capacity is the SMCP capacity as of December 31, 2019.

Scenario 2

Scenario 2 assumes the county that is undecided but is already a receiving county for the SMCP (Orange County) volunteers the same percentage of beds as their average commitment to the SMCP (based on a three-year average). Table 2 shows the capacity projections for FY 2020 through FY 2024 for Scenario 2. The SMCP capacity is projected to decrease from 1,371 currently to 1,262 in June 2024 – a decrease of 109 beds, or 8%.

Table 2
SMCP Capacity Projections: Scenario 2
FY 2020 – FY 2024

	Current	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Net Change in SMCP Capacity	N/A	(62)	(31)	(37)	(43)	(37)
Number of newly built SMCP beds	N/A	59	0	42	0	0
<i>Subtotal</i>	N/A	(3)	(31)	5	(43)	(37)
SMCP Capacity	1,371	1,368	1,337	1,342	1,299	1,262

Note: Prepared by the NC Sentencing and Policy Advisory Commission with the assistance of the NC Sheriffs' Association. Current capacity is the SMCP capacity as of December 31, 2019.

Both scenarios indicate a decline in the SMCP capacity over the five-year projection period. The projected capacity could be altered by a number of factors, including local issues and jail backlog, which affect the number of beds counties are able to commit to the program. Because counties are able to change the number of beds volunteered at any point, this creates uncertainty for future planning.

The projections do not address any potential issues related to funding. The SMCP pays local jails to house offenders; capacity is, in part, based on adequate funding to pay for the use of the beds. Without sufficient funds, capacity would likely be reduced and additional sentenced misdemeanants may be transferred to a state prison, potentially burdening the prison system.

The relationship between state and local facilities in the unique context of the SMCP highlights the importance of accurately understanding both capacity and population for the program. Without a SMCP population projection, it is not possible to assess whether the projected capacity will meet future population needs. The Sentencing Commission has determined it would be feasible to project the SMCP population.⁷ Taken together, the projected population in context with projected capacity would inform policymakers whether the committed and expected beds will be sufficient to meet the needs of the program while also allowing for more accurate resource planning.

⁷ See <https://www.nccourts.gov/assets/documents/publications/SMCP-Population-Projection-Feasibility-Study.pdf?Xug6iQe2QYmxFvdAxLYj1HNslW9T605A> for the Sentencing Commission's report on the SMCP population projection feasibility.