

MINUTES
NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION MEETING
March 4, 2022

The North Carolina Sentencing and Policy Advisory Commission met by Webex on Friday, March 4, 2022.

Members Present: Chairman Charlie Brown, Frances Battle, Art Beeler, Louise Davis, Danielle Elder, Judge Sherri Elliott, Senator Toby Fitch, Willis Fowler, Judge R. Greg Horne, Joe Houchin, Chief Henry King, Honorable Tammy Lee, Sheriff Garry McFadden, Dr. Harvey McMurray, Representative Allen McNeill, Honorable James Mixson, Luther Moore, Tim Moose, Judge Fred Morrison, Representative William Richardson, Senator Bob Steinburg, Calvin Suber, Patrick Weede, and Judge Valerie Zachary.

Guests: Deputy Secretary William Lassiter, Division of Juvenile Justice and Delinquency Prevention; Kevin Frye, Director, Criminal Justice Programs, NC Sheriffs' Association; and Cortney Goodwin, SMCP Lead Records Management Specialist, NC Sheriffs' Association.

Note: Pursuant to G.S. 166A-19.24, the meeting was simultaneously streamed live online on a private Judicial Branch YouTube channel and the public was notified of the means by which it could access the meeting.

Staff: Michelle Hall, John Madler, Ginny Hevener, Tamara Flinchum, Meghan Boyd Ward, John King, Melissa Lugo, Jennifer Lutz, Becky Whitaker, and Shelley Kirk.

INTRODUCTIONS

Chairman Brown called the meeting to order at 10:00 a.m. He welcomed Commission members, thanked them for their virtual attendance, and reminded members of the remaining 2022 Commission meeting dates: June 3, September 9, and December 2.

Chairman Brown introduced returning Commissioner, Mr. Art Beeler, appointed by Governor Cooper. Mr. Beeler stated that he was happy to be back and looked forward to working with everyone through the appointment cycle ending June 2023.

The Chairman then presented the minutes from the December 4, 2021 meeting and called for a motion. Luther Moore moved to adopt the minutes as written and Tammy Lee seconded. Chairman Brown introduced Michelle Hall, staff, to call the roll for attendance and for each member's vote on the minutes. At completion of the roll call, the motion carried.

FY 2021 FELONY AND MISDEMEANOR CONVICTIONS

Chairman Brown introduced Dr. Jennifer Lutz, staff, to present the highlights from the *FY 2021 Structured Sentencing Statistical Report*. After thanking Chairman Brown, she directed the commissioners to the copy of the statistical report and the copies of the felony and misdemeanor quick facts, from their mailed packets (see Handouts).

Dr. Lutz began by stating that the purpose of the statistical report is to monitor convictions and sentences under Structured Sentencing. The report can inform any potential recommendations for modifications to Structured Sentencing. Importantly, the unit of analysis in the report is a sentencing episode for felonies

and misdemeanors. A sentencing episode is the most serious conviction and sentence imposed for an offender on a given day in court. For simplicity, the word “conviction” is used to describe a sentencing episode.

Turning first to FY 2021 felony convictions, Dr. Lutz noted that violent habitual felons and felony drug trafficking offenses are not part of the felony totals because they are sentenced outside of the felony punishment chart. During FY 2021, there were sentences for 21,293 felony convictions. Overall, felony convictions have declined 24% since FY 2012. While felony convictions had remained relatively stable in recent years, they began decreasing in FY 2020 with the onset on the COVID-19 pandemic and continued declining from FY 2021 to FY 2022 (an 11% decrease).

Next, Dr. Lutz discussed the breakdown of felony convictions by offender sex, race and age. In FY 2021, 81% of offenders were male, with the largest proportion of offenders being 31 to 40 years of age. She noted that the distribution of offenders by age at conviction had shifted substantially over the past 10 years, when most offenders were 30 or younger. In FY 2021, most offenders were 31 or older, and the average age at conviction increased from 32 years in FY 2012 to 35 years in FY 2021. White and black offenders comprised most convictions.

Then, Dr. Lutz turned to offense class and prior record level. Looking at offense class, the majority of felony convictions were for Class H and Class I offenses, which have comprised approximately two-thirds of all convictions over each of the past 10 years. Then looking at prior record level, Dr. Lutz commented that the majority of felony convictions were for offenders in Prior Record Level I and II, including 17% of offenders that had no prior record points. Over the last 10 years, offenders in Prior Record Levels I and II have typically comprised the majority of felony offenses; however, there has been an increase of convictions for offenders in the highest prior record levels (V and VI).

In FY 2021, property offenses and non-trafficking drug offenses comprised nearly two-thirds of felony convictions while person offenses accounted for the smallest proportion of offenses at 18%. Historically, property and non-trafficking drug offenses have comprised the majority of all felony convictions. In FY 2021, possession of meth was the top felony conviction; ten years ago (in FY 2012), breaking and entering was the top felony conviction. In FY 2021, 34% of felony convictions resulted in an Active punishment. The percentage of convictions with an Active punishment has declined substantially over the past ten years, ranging from a high of 42% to a low of 34% this past fiscal year. Notable, active punishments imposed decreased from 37% in FY 2020 to 34% in FY 2021.

Two-thirds of active sentences were sentenced in the presumptive range, 29% were in the mitigated range and 5% in the aggravated range. Dr. Lutz pointed out that as offense severity increased, the average active sentence also increased (see Presentation); the overall average active sentence length was 28 months.

Next, Dr. Lutz moved to misdemeanor offenses, noting misdemeanor convictions categories excluded from the report: misdemeanor Driving While Impaired (DWI) offenses; cases disposed of by a magistrate; and local ordinance offenses. She reminded Commissioners of a methodological change in FY 2020 to include Class 2 and Class 3 misdemeanor traffic convictions in the misdemeanor conviction data (previously excluded from the report). In FY 2021, there were 81,276 misdemeanor convictions, including 26,412 Class 2 and Class 3 traffic offenses. From FY 2019 to FY 2020, the inclusion of Class 2 and Class 3 traffic convictions resulted in a 10% net increase in the misdemeanor convictions. However, because of the continued impact of the COVID-19 pandemic on the court system, misdemeanor convictions still declined 16% from FY 2020 to FY 2021.

Next, Dr. Lutz provided the breakdown of misdemeanor convictions based on sex, race and age. The majority of misdemeanor convictions were for males, with the largest proportion being 31 to 40 years of age with an average age of conviction of 35 years. Interestingly, she highlighted that the percentage of offenders under the age of 21 at conviction has declined significantly since fiscal year 2019. These changes are likely related to the passage and implementation of the Juvenile Justice Reinvestment Act (JJRA), which will keep most juveniles aged 16 and 17 in the juvenile system. The vast majority of offenders were white and black, which has been true historically across the past three years.

Turning to offense class, 37% of misdemeanor convictions were for Class 3 offenses and 35% of convictions were for Class 1 offenses. The distribution of convictions by offense class has shifted across the past three years because of the addition of new traffic convictions (which are high in volume). The distribution of convictions by prior conviction level has also shifted across the past three fiscal years, driven again by the inclusion of traffic offenses.

The top misdemeanor offense in both FY 2020 and FY 2021 was Driving While License Revoked (Class 3; not due to DWI). Next, Dr. Lutz explained that the composition of misdemeanor convictions by offense type has also changed with the inclusion of Class 2 and Class 3, traffic convictions. Traffic offenses were the majority of convictions in FY 2020 and FY 2021. In FY 2019, public order and property offenses comprised the majority of the misdemeanor convictions.

Moving to punishments for misdemeanor convictions, she said that Active punishment was imposed for 24%, Intermediate for 2%, and Community for 74% of misdemeanor convictions. With the addition of Class 2 and Class 3 traffic misdemeanors in FY 2020 and the ongoing effects of the COVID-19 pandemic, the distribution has shifted the percentage of convictions with an Active punishment. The percentage decreased substantially from 33% in FY 2019 to 24% in FY 2021 while the percentage of community punishments imposed increased over that same time. Notably, nearly half of the misdemeanor convictions with Community or Intermediate punishments received no probation at all, while nearly equal percentages received supervised or unsupervised probation (26% and 25% respectively).

Showing a figure with the average sentence length (in days) for misdemeanants with active sentences, Dr. Lutz explained that the sentence length increased as the offense severity increased (*see* Presentation). The overall average sentence imposed for misdemeanor convictions sentenced to an Active punishment was 36 days in FY 2019, 32 days in FY 2020, and 34 days in FY 2021.

Concluding her discussion of misdemeanors offenses, Dr. Lutz discussed credit for time served (CTS), which refers to the amount of time an offender spent committed to or confined in a State or local correctional, mental, or other institution prior to trial. A misdemeanor offender can be sentenced to time served when an Active punishment is imposed if the term of imprisonment is equal to or less than the total amount of time the offender has spent in pretrial confinement. Historically, most offenders (86%) with active sentences received CTS. Of offenders receiving an Active punishment who had CTS, 73% received a sentence equal to their CTS, most likely indicating a sentence to time served. The percentage remained the same from FY 2020 to FY 2021 after an increase from FY 2019 to FY 2020.

Mr. Houchin asked if staff knew the percentage of individuals in Prior Record Level I that previously participated in a deferral/discharge program or had non-scoreable misdemeanor convictions? Ms. Hevener responded that information collected for misdemeanants is limited to prior conviction points. Mr. Houchin noted his interest in “true” first time offenders, those who have never previously participated in a discharge program or been deferred. Ms. Hevener stated that staff have looked at felony prior criminal

histories in a separate study, but information contained within AOC's automated data system does not indicate the nature of the history (which could be a mix of a few serious offenses and/or many less serious offenses). She noted that 17% of felony offenders have 0 prior record points.

FY 2022–FY 2031 PRISON POPULATION PROJECTION

Chairman Brown recognized Ginny Hevener, staff, to review the current prison population projections (see Handouts) and invited Chief Deputy Secretary and Commissioner, Tim Moose, to comment on the projections and other issues related to the prison and correctional populations following the presentation. Ms. Hevener stated that, pursuant to statute, the projections are prepared annually in conjunction with the Department of Public Safety (DPS). She noted that the projections are used for multiple purposes: to determine whether existing capacity is adequate for the current and future population, to assist with determining future staffing needs, and to estimate the impact of proposed changes to criminal penalties on prison bed needs.

Ms. Hevener began by describing how key data used for the projections (primarily convictions and prison entries) have been impacted by the COVID-19 pandemic, with disruptions to court and correctional operations continuing across FY 2021. With the onset of the pandemic, convictions decreased 16% from FY 2019 to FY 2020 and further decreased 11% from FY 2020 to FY 2021; prison entries decreased 13% from FY 2019 to FY 2020 and an additional 19% in FY 2021. Examination of quarterly data through December 2021 indicate that felony prison entries, although increasing, have not returned to pre-pandemic levels. The prison population declined 7% from March to June 2020 and an additional 9% over the course of FY 2021. Corresponding with increases in prison entries, the prison population increased 3% from July to December 2021 – the first increases since the pandemic began.

Ms. Hevener reviewed the prison projections and capacity, indicating that the prison population is projected to increase from 29,624 to 33,788 across the ten-year projection period (see Presentation). Standard Operating Capacity (SOC) is projected to be 31,161 and Expanded Operating Capacity (EOC) is projected to be 35,702 for each year of the projection. For the first few years of the projection, the current projection is lower than the previous projection due to the continued impact of the pandemic on court and correctional operations; however, growth is projected during the later years as court and correctional operations are anticipated to normalize. Comparing the projections with EOC indicates the prison population is projected to be below prison capacity for all ten years, while the population is projected to be below SOC for the first four years.

Ms. Hevener stated that the current prison population is around 29,750 including about 275 on jail backlog. The overall prison population dropped 17% (or just over 6,000) from the start of the pandemic to the lowest population point reached in July 2021; however, it has been increasing for the last 6 months of 2021.

Ms. Hevener summarized the key assumptions used to develop the prison population projections. The projections were developed using data on convictions and sentences imposed from FY 2021, a full year of data under continued pandemic conditions, and on the resident prison population on June 30, 2021. Examination of quarterly and semi-annual data revealed increases in the second half of FY 2021 and at the beginning of FY 2022 for key data used for the projections, which suggests a return to more normal operations is occurring but not adequately represented in the data. To account for these increases, active sentences were adjusted to FY 2020 levels and the percentage of active sentences imposed (i.e., active

rates) were based on a two-year average using FY 2020 and FY 2021 data. Similarly, probation and post-release supervision (PRS) revocation rates were also based on a two-year average.

Ms. Hevener concluded with a discussion of the differential impact of convictions and active sentences on the prison population (as intended under Structured Sentencing) with prioritization of resources for violent and repeat offenders. While Class A – D convictions account for the smallest proportion of convictions (6%), they comprise over half of the prison population as a result of their mandatory active sentences and long sentence lengths. Most low-level (Class H – I) felons who receive active sentences are repeat offenders and impact the prison population through their high volume (representing 65% of convictions and 44% of active sentences) but have a limited impact on the prison population (accounting for 20% of the population) due to their shorter sentence lengths.

Representative McNeill asked how much of the decline in the prison population was due to the lawsuit settlement. Ms. Hevener responded that with the settlement inmates were mostly being released within 2 weeks to 1 month early. The prison population declined 2% from February to August 2021 (the settlement period). Representative McNeill questioned whether the lawsuit represented half of the decline. Ms. Hevener replied that the measures that were used to meet the requirements of the lawsuit, such as changes to discretionary releases, had an impact on the prison population but the decline also resulted from the effects of the pandemic on the court system.

Chairman Brown then recognized Chief Deputy Secretary Tim Moose for comments on population trends as well as agency-level changes. Mr. Moose thanked Ms. Hevener, Ms. Hall, and staff for doing such wonderful work and working with our staff with gathering the data. DPS is now actively starting that process of trying to figure out the types of beds needed. He noted that individuals who come into prisons today have a lot of issues, even more so than in the past. Those individuals come in having experienced a lot of trauma, major addiction issues, mental health issues, and multiple kinds of health care issues. Mr. Moose continued while the entire population does not have serious mental health issues, they see a lot of impulsivity and anxiety disorders that were not present in the past. The prison population is aging, and those with longer sentences (in addition to older inmates) drive a lot of the healthcare and other needs.

Mr. Moose commented that the lawsuit period ended last month along with all of the terms and requirements. Prisons have returned to more normal operations. DPS is trying to return to pre-pandemic operations as much as possible, but staffing issues persist. Mr. Moose expressed thanks to the Legislature that provided new pay plans; they are having an impact in terms of increased applicants. A lot of beds remain offline and/or suspended, however, because of staffing issues.

Mr. Beeler asked if there had been any consideration given to linking staffing to the capacity figures? Mr. Moose replied that they are meeting with SAS, NIC, and other vendors to help the Administrative Analysis Unit determine how best to do that. He thanked Chairman Brown for the opportunity to share.

FY 2021 JUVENILE DISPOSITION DATA AND FY 2022–FY 2026 YOUTH DEVELOPMENT CENTER PROJECTION

Chairman Brown recognized Dr. Lutz to present on the FY 2021 Juvenile Disposition Data and the FY 2022–FY 2026 Youth Development Center (YDC) Projection (*see Handout*). Dr. Lutz began by thanking the Juvenile Justice team for providing the data and assisting throughout the projection process with questions and additional data. She reviewed the purpose of the projections and described the staff's methodology. The projections used two sources of data: the FY 2021 delinquent disposition data and the

stock data (juveniles that are in a YDC on June 30th, 2021). This projection cycle, the research team took into consideration the differences in RtA (Raise the Age) population (16 and 17-year-olds) and the non-RtA (15 and under) juvenile populations in their methodological decisions. They decided to run their two projection models separately to allow them to apply different parameters and growth rates to these two populations.

Before getting to the projections, Dr. Lutz highlighted some of the key differences between detention centers and YDCs (*see* Presentation). Detention centers are secure temporary facilities where juveniles are held pending a hearing disposition for placement or transfer. They serve juveniles who receive a level 1 or 2 disposition that includes periods of intermittent confinement, and they provide basic education and treatment as needed and they can be funded by the state or county. YDCs are secure residential facilities for juveniles that receive a level 3 disposition. They have long-term treatment, education and rehabilitative services and are funded by the state. As of March 1, 2022, the detention population was 295 and the YDC population was 173. Detention centers had 409 admissions whereas youth development centers had 24 admissions as of that same date.

Turning to the YDC projections, Dr. Lutz highlighted the key legislative changes for Juvenile Justice this year. With the passing of S.L. 2021-123 (beginning December 31, 2021) staff had to consider the implications of these legislative changes on the projections. First, the minimum age for juvenile delinquency increased to 10 years. Since juveniles must be 10 years old at disposition to be committed to a YDC, the impact of this legislation on the projections is minimal and no adjustments were made to the current projection. Second, jurisdiction for RtA juveniles with a YDC commitment was extended. Depending on the type of offense, jurisdiction increased to 20 or 21 for juveniles aged 16 and 17 adjudicated for B1 – E offenses. Since most juveniles aged 16 and 17 were required to be transferred to adult court for Class A – E offenses prior to December 1, 2021, the impact of this legislation on the projections is unknown but is anticipated to be minimal and no adjustments were made to the current projection. Third, prosecutors were given discretion to transfer certain juveniles. When the JJRA was enacted in 2019, prosecutors were required to transfer juveniles aged 16 and 17 who committed Class A – G felonies to adult court; however, superior court judges were given the authority to remand the case to juvenile court upon a joint motion of the prosecutor and the juvenile’s attorney. With this new legislation, the prosecutor was given the discretion to decline to prosecute in adult court juveniles aged 16 and 17 with a Class D – G felony. The current projection includes an estimation of these populations of juveniles.

Dr. Lutz explained that two additional factors, RtA and the COVID-19 pandemic, also impacted the Juvenile Justice population and the projections. Looking at the number of delinquent dispositions since FY 2017, she pointed out that there was a decrease from FY 2019 to FY 2020 in the number of delinquent dispositions as a result of COVID-19 pandemic (21% decrease) but that, while the system is not back to pre-Covid-19 numbers, there was a 12% increase in juvenile dispositions from FY 2020 to FY 2021. Importantly, there was a 25% decrease from FY20 to FY21 for non-RtA dispositions. Further, she stated that compared to the same time period of first six months of FY21 to FY22, there has been a 13% decrease in dispositions. Next, she showed the stock population for the past 5 years. There was a decrease that occurred in FY 2020 due to the pandemic, and there was a slight recovery for FY 2021’s stock population, but it is still not back to the pre-pandemic levels – even with the inclusion of the RtA juveniles. Finally, she displayed the average monthly YDC population by fiscal year. In FY 2020, the population decreased 25% over the year despite the anticipated growth expected from the RtA population; this was a result of the COVID-19 pandemic. In FY 2021, the average YDC population slowly increased but was still below the pre-pandemic population. During the first half of FY 2022, the population increased another 8% mirroring

levels of the YDC population in early FY 2020 (pre-JJRA implementation and pre-COVID-19 pandemic), but still below the average monthly population in FY 2019.

Moving to the projected YDC population and capacity over the five-year projection period, Dr. Lutz stated that the population is projected to be 183 for FY 2022 and 217 for FY 2026; the actual population was 173 on March 1. They are projecting sufficient capacity for each year of the projection. She noted that this year's projection is lower than last year's projection due to the continued effect of the pandemic on the juvenile justice system and the juvenile justice population. Dr. Lutz then reviewed the assumptions used in the RtA and the non-RtA projection models, including growth rates, YDC admission type, lag time, and length of stay (*see Handout*). She noted the characteristics of the two populations that informed the projections while comparing the RtA and the non-RtA population. Lastly, Dr. Lutz concluded her presentation by showing the historical accuracy of the projections over the past 5 years.

Chairman Brown thanked Dr. Lutz for her presentation and asked for any comments or questions from the Commission. There being no questions, Chairman Brown introduced Deputy Secretary for Juvenile Justice, Billy Lassiter. Deputy Secretary Lassiter thanked Chairman Brown and Commission staff for the projections. He reiterated that the projections were just for the YDC population and explained that recent population growth has been in the detention center population. This is primarily due to an increase in the number of juveniles detained while waiting for trial in adult court. As a result, the Department would be requesting additional detention beds in the next legislative session. Regarding the YDCs, Deputy Secretary Lassiter explained that they have not been overwhelmed as some anticipated. Capacity will increase when the Department opens a new YDC facility in Rockingham County next year. Currently, they have converted some YDC beds (flex space) to help offset the detention need. Representative McNeill asked Deputy Secretary Lassiter to clarify if YDC beds can be used as detention beds. Deputy Secretary Lassiter responded that the services are different but that they have converted 32 beds at Cabarrus and 22 beds at Lenoir to detention beds. They had to do this because RtA has increased the detention population, federal law prohibits them from housing anyone under 18 in an adult facility, and existing detention facilities are facing severe staffing shortages.

FY 2022–FY 2026 STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM CAPACITY PROJECTION

Chairman Brown recognized Dr. Melissa (Mel) Lugo, staff, to present the Statewide Misdemeanant Confinement Program (SMCP) Capacity Projections (*see Handout*). Dr. Lugo thanked the Sheriffs' Association and staff for their contributions to the capacity projections. She explained the objective of the projection is to assess future capacity and to ensure that adequate bed space is provided. Dr. Lugo noted that participation in the SMCP is voluntary given that receiving counties are voluntarily offering space to the program and all other counties are considered as sending only. Dr. Lugo described the impact of external factors with the COVID-19 pandemic being a prominent factor for the capacity projections.

Dr. Lugo presented the average monthly population and capacity trend results (*see Presentation*). She noted that the average monthly population increased from 656 inmates in July 2020 to 691 inmates in July 2021 – an increase of 5%. When examining the historical capacity trends, Dr. Lugo discussed that capacity remained relatively consistent throughout the first years of the program but began to decline in fiscal year 2017. She also highlighted that the pre-pandemic capacity was 1,355 beds in February 2020, and by the end of fiscal year 2021, capacity begins to rebound to 1,049 beds, which is a 15% increase from the previous year. Dr. Lugo noted that without the effects of the pandemic, the Sheriffs' Association estimates that the SMCP capacity would have been 1,368 beds at the end of FY 2021.

Temporary moratorium counties, those that are only taking inmates from within their own county, were discussed next. The number of temporary moratorium counties fluctuated with prominent events of the pandemic with increases occurring during the beginning of the pandemic and decreases coinciding with the onset of the COVID-19 vaccine. She further highlighted that from July 2021 to August 2021 there was a 167% increase in the number of temporary moratorium counties which could stem from staffing issues relating to the emergence of COVID-19 variants.

Dr. Lugo next presented the short-term assumptions used to develop the SMCP capacity projections, which are tailored to two different Scenarios. She noted that the assumption for receiving only counties is identical for Scenario 1 and Scenario 2 such that these counties are assumed to have the same pre-pandemic level of participation. Dr. Lugo explained that Scenario 1 provides the broadest definition of capacity and assumes that sending only counties are providing temporary capacity until pandemic conditions improve and temporary moratorium counties are providing full capacity. Scenario 2 provides a more conservative definition of capacity by assuming that sending only counties are sending inmates to receiving counties and there will be a recovery of beds from temporary moratorium counties with the expectation these counties will resume full participation at pre-pandemic levels. Dr. Lugo also explained that the recovery of beds is based on the historical participation of counties that were offline during the pandemic.

Dr. Lugo discussed the key long-term assumptions informing both Scenario 1 and Scenario 2 projections. The number of jail backlog cases was considered (425 inmates as of December 31, 2021). The projections also included the assumption that counties will remain in their respective statuses throughout the projection period and 65 new beds will be committed to the SMCP in the future. The projections also included a 3-year average growth rate from FY 2019 to FY 2021 which was -2%.

Dr. Lugo then presented two Scenarios for the five-year projections. She reiterated that the Scenario 1 projection focuses on the broadest definition of capacity while Scenario 2 provides a conservation view of capacity. For Scenario 1, the current capacity is 1,456 inmates which includes the full capacity of temporary moratorium counties and the potential temporary capacity provided by sending only counties. In this Scenario, Dr. Lugo highlighted that the capacity is projected to decrease by 3% in June 2026 to 1,414 – a decrease of 42 beds. The projection for Scenario 2 included a recovery of beds taken offline due to the COVID-19 pandemic. Dr. Lugo noted that the starting capacity is 1007 beds for Scenario 1 and the capacity is projected to increase by 3% to 1,337 beds by June 2026 – an increase of 330 beds.

Lastly, Dr. Lugo discussed the key takeaways from the projections. The Scenario 1 projection evidenced a decline in capacity over time, which is in line with historical pre-pandemic trends. Specifically, she noted that there was a 5% decline from FY 2016 to FY 2017 then a 6% decline from FY 2018 to FY 2019. She highlighted that Scenario 2 had a projected increase in capacity through FY 2024 followed by a decline in capacity for the final two years. Dr. Lugo emphasized the importance of interpreting the projections with caution given that unforeseen circumstances, such as factors relating to the pandemic, may impact the projections. She also emphasized that participation in the SMCP is voluntary such that counties may change their participation status. Issues relating to funding were also not captured in the capacity projections. Dr. Lugo concluded her presentation and Chairman Brown recognized Director Kevin Frye and Cortney Goodwin from the Sheriffs' Association for any additional comments.

Mr. Goodwin noted that the staff did a great job with the projections. He also acknowledged the projections were accurate as discussed in prior meetings and reaffirmed the impact of the pandemic on

the projections. Mr. Frye emphasized the staffing issues across jails and its impact on the criminal justice system. Chairman Brown opened the floor to any additional comments and questions. Sheriff McFadden noted that having Mr. Frye, a former Sheriff, as the Director of the Sheriffs' Association is an asset given his first-hand knowledge. Sheriff McFadden emphasized the issues faced by counties staffing issues being a prominent concern. He reinforced this point by stating that his county, which has the largest detention center in the state, is operating at a reduced capacity due to staffing issues.

INSTRUCTIONS TO STAFF AND OTHER BUSINESS

Chairman Brown asked the Sentencing Commission for permission to authorize the Legislative Review Subcommittee for the 2022 legislative session; there being no objection, he then asked for volunteers. The following members volunteered to serve on the Legislative Review Subcommittee: Chairman Brown (Chair), Frances Battle, Sheriff McFadden, Judge Horne, Chief King, Danielle Elder, Clerk Mixson, Tim Moose, Joe Houchin, Luthor Moore, Representative Richardson, Tammy Lee, Judge Elliott, and Patrick Weede. He then thanked everyone for their participation.

Ms. Hall pointed out that members should have received in the mail a hard copy of the School-Based Offenses and Juvenile Recidivism Special Report that was presented at the December meeting.

ADJOURNMENT

Chairman Brown thanked the staff for their presentations and reminded the members that the next full Commission meeting is Friday, June 3, 2022. Chairman Brown adjourned the meeting at 12:03 p.m.

Respectfully submitted,

Shelley Kirk
Administrative Secretary