

JUSTICE REINVESTMENT ACT

IMPLEMENTATION EVALUATION REPORT

2021



NORTH CAROLINA
SENTENCING AND
POLICY ADVISORY
COMMISSION

THE HONORABLE CHARLIE BROWN
CHAIRMAN

MICHELLE HALL
EXECUTIVE DIRECTOR

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IMPLEMENTATION EVALUATION REPORT

2021

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 (2020)

APRIL 15, 2021



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I. INTRODUCTION

In 2011, the North Carolina General Assembly directed the Sentencing and Policy Advisory Commission (Sentencing Commission) and the Division of Adult Correction and Juvenile Justice (DACJJ) of the Department of Public Safety (DPS, the Department) to jointly conduct ongoing evaluations regarding the implementation of the Justice Reinvestment Act (JRA).¹ This report constitutes the tenth 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 legislative changes to the JRA, policies and practices that have been adjusted in 2020, 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.² Importantly, the volume of convictions and the prison and jail populations were affected by the postponement of certain court proceedings following emergency directives from the Chief Justice of the North Carolina Supreme Court in response to the COVID-19 pandemic, which began in March 2020.

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).³

This first section of the report provides background on the JRA and subsequent, related legislation that made changes to it. Section II 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 review information, and data when available, and report to the Commission any recommendations regarding the implementation of the JRA.

¹ N.C. Gen. Stat. (G.S.) § 164-50.

² See Appendix A for a full timeline of the JRA implementation.

³ See Appendix B for a full list of acronyms used in this report.

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 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.⁴

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.⁵

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.⁶

Changes to the Court System

The JRA expands the existing drug diversion program⁷ 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 program⁸ (see Related Legislation).

⁴ 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 2021-FY 2030*).

⁵ 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.

⁶ Additional information on the JRA is available in multiple places. See NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report, 2012-2020*, available at

<https://www.nccourts.gov/documents/publications/jra-implementation-evaluation-report>; *The North Carolina Justice Reinvestment Act* by James Markham, UNC SOG, published December 7, 2012; and <http://www.sog.unc.edu/node/2044>.

⁷ G.S. 90-96.

⁸ Session Law (S.L.) 2013-210.

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.⁹

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.¹⁰

The JRA redefines Community and Intermediate punishments.¹¹ 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.¹² 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.¹³ 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 (RNA) as a strategy for managing offenders and allocating resources in the community and directs DACJJ to perform an assessment on all offenders.¹⁴ 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.¹⁵

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.¹⁶ Subsequently, the law was amended to eliminate the Confinement in Response to

⁹ G.S. 14-7.31.

¹⁰ G.S. 14-7.6.

¹¹ G.S. 15A-1340.11(2), (6).

¹² G.S. 15A-1343 (a1)(3).

¹³ G.S. 15A-1340.18.

¹⁴ G.S. 15A-1343.2(b1).

¹⁵ G.S. 15A-1343.2(e) and (f).

¹⁶ G.S. 15A-1344(d2).

Violation (CRV) period for misdemeanants sentenced to probation under the Structured Sentencing Act (SSA).¹⁷

Changes to Prisons

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

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 12 months; the revocation period is expanded to 12 months as well.¹⁸

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.¹⁹

Resources

The Criminal Justice Partnership Program (CJPP) is repealed under the JRA and the Treatment for Effective Community Supervision (TECS) program is created.²⁰ 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.²¹ 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.²² 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 driving²³ 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

¹⁷ S.L. 2015-191.

¹⁸ G.S. 15A-1368.1 to -1368.2.

¹⁹ G.S. 15A-1368.3(c).

²⁰ G.S. 143B-1150 to -1160.

²¹ G.S. 148-32.1(b2) to (b4).

²² S.L. 2015-241.

²³ Impaired driving is also referred to as “driving while impaired” or “DWI.”

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 SMCP²⁴ (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.

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

Date	Application	Provision
July 1, 2011	N/A	TECS program SMC Fund
December 1, 2011	Probation violations occurring on or after:	CRV
	Offenses committed on or after:	Habitual Breaking and Entering Habitual Felon Redefine Community and Intermediate punishment Expand Delegated Authority Expand PRS
January 1, 2012	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. Session Law 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

²⁴ S.L. 2014-100.

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. Session Law 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 could 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. Session Law 2012-188 amended the maximum sentences for drug trafficking convictions to allow for 12 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, Session Law 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. Session Law 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. Session Law 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, Session Law 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 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 applies to persons placed on probation on or after December 1, 2015.

Table 2
JRA Amendment Effective Dates by Provision

Date	Application	Provision
July 16, 2012	PRS violations occurring on or after:	PRS period tolled during reimprisonment
	CRVs imposed on or after:	CRVs less than 90 days authorized for misdemeanants
December 1, 2012	Offenses committed on or after:	Drug trafficking maximum sentences increased
October 1, 2013	Offenses committed on or after:	Certain Class B1-E maximum sentences increased
December 1, 2013	Offenses committed on or after:	Drug diversion change
October 1, 2014	Probation violations occurring on or after:	Credit for time already served cannot be applied to CRV period
October 1, 2014	Persons placed on probation or sentenced to imprisonment on or after:	Misdemeanor sentences greater than 90 days (not impaired driving) to be served in SMCP
January 1, 2015	Persons placed on probation or sentenced to imprisonment on or after:	Misdemeanor impaired driving sentences to be served in SMCP
December 1, 2015	Persons placed on probation on or after:	SSA misdemeanants not eligible for CRVs
		SSA misdemeanants eligible for revocation after two previously imposed quick dips
December 1, 2016	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.²⁵ In addition, Session Law 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.

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, Session Law 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

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.

It is important to note that because of the postponement of certain court proceedings with the onset of the COVID-19 pandemic, the volume of convictions decreased significantly from CY 2019 to CY 2020.

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 2016 to CY 2020, 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 10,586 special probation sentences ordered in CY 2020, 89% were ordered as part of the sentence at initial judgment. Between CY 2019 and CY 2020, the data indicate a 35% decrease in the use of special probation at initial judgment (from 14,575 sentences to 9,455 sentences) and a 53% decrease in the use of special probation at probation modification (from 2,426 to 1,131 modifications). Felons and misdemeanants were nearly equally likely to have their special probation sentences ordered at initial judgment (89% and 90% respectively) and through a modification (11% and 10% respectively).

²⁵ 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*.

Table 3
Special Probation by Origin

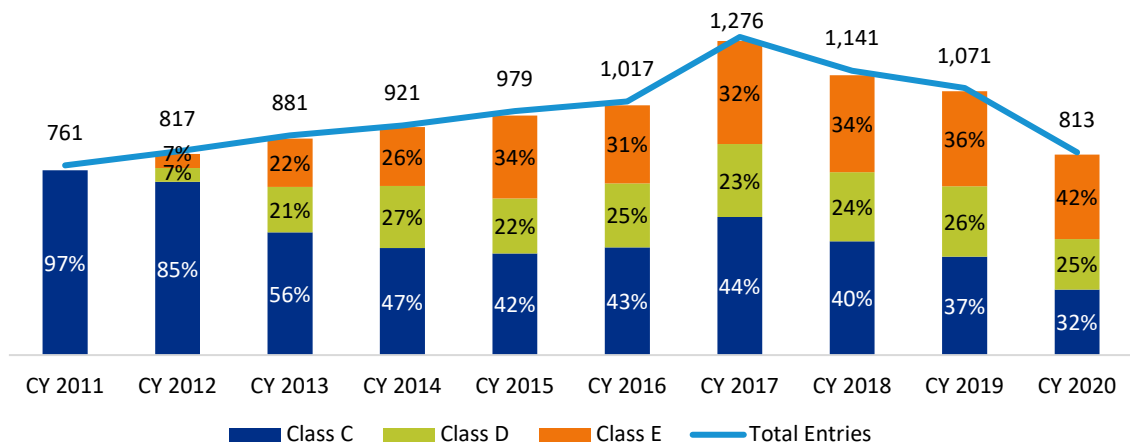
Origin	CY 2016	CY 2017	CY 2018	CY 2019	CY 2020
Initial Judgment	87%	85%	85%	86%	89%
Probation Modification	13%	15%	15%	14%	11%
Total	18,263	18,361	16,928	17,001	10,586

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 distribution of habitual felon prison entries by offense class from CY 2011 to CY 2020. Overall, the volume of habitual felon prison entries has increased 7% from CY 2011 (prior to the JRA) to CY 2020. Over the past year, the number of habitual felon prison entries decreased 24%. This decrease is due to the decrease in habitual felon convictions as a result of the COVID-19 pandemic (down 20% from FY 2019 to FY 2020)²⁶ and to the number of inmates awaiting transfer from county jails to prison. Entries to prison for habitual felons sentenced in Class C comprised the majority of entries for this group until CY 2020, while those convicted in Class D consistently comprised the smallest proportion.

Figure 1
Habitual Felon Prison Entries by Offense Class

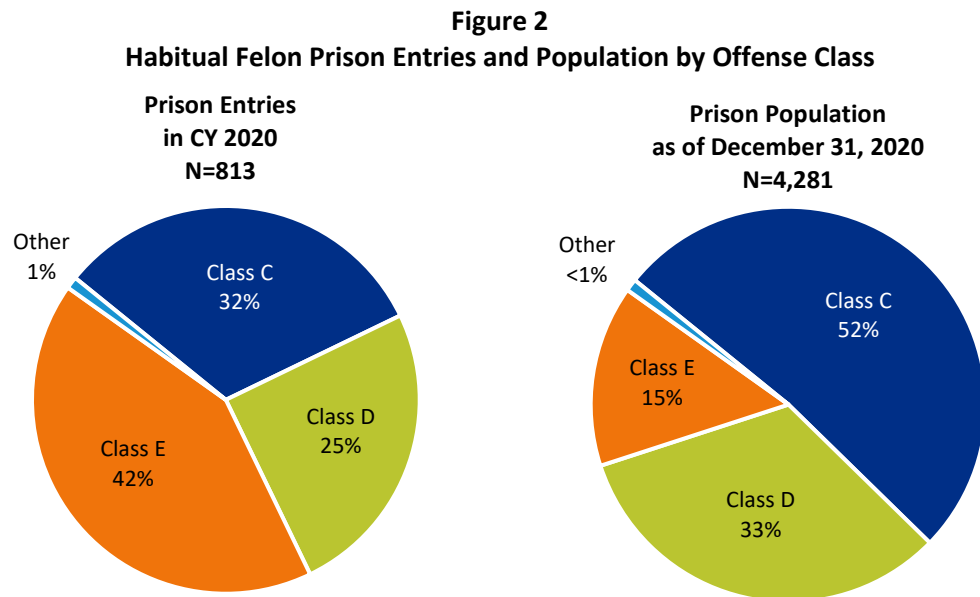


Note: Prison entries for CY 2018 – CY 2020 are affected by the number of inmates in county jails waiting for transfer to the state prison system. On December 31, 2020, there were 657 inmates backlogged in county jails. Habitual felon prison entries with an “other” class (i.e., safekeepers, CRVs, and 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)

²⁶ See NC Sentencing and Policy Advisory Commission, *Structured Sentencing Statistical Report for Felonies and Misdemeanors*.

Figure 2 examines the offense class distribution of habitual felon prison entries and the habitual felon prison population. In CY 2020, most habitual felon prison entries were sentenced in Class E (42%). As of December 31, 2020, the majority of the habitual felon prison population (52%) was sentenced in Class C. 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.



Note: Prison entries for CY 2018 – CY 2020 are affected by the number of inmates in county jails waiting for transfer to the state prison system. On December 31, 2020, there were 657 inmates backlogged in county jails. 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 2020, 51% of Class C, 70% of Class D, and 51% of Class E habitual felons were sentenced in the mitigated range.²⁷

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 4,281) of the December 31, 2020, prison population of 30,395 (including jail backlog). The population of habitual felons in prison has decreased 18% since December 31, 2011 (population of 5,269).

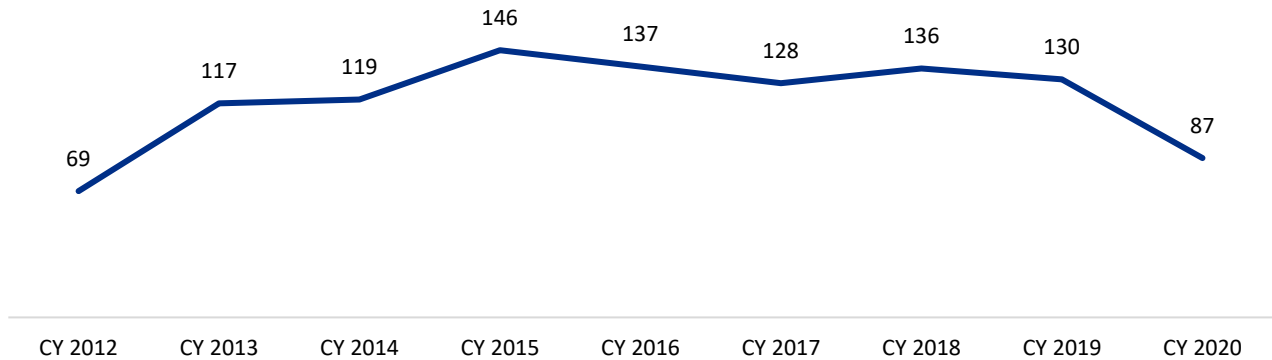
While nearly all habitual felons are sentenced to active punishment, based on the statute, it is possible that a habitual felon in Class E could receive a non-active sentence, depending on prior record level. ASQ indicates there were 13 Class E habitual felon entries to probation in CY 2020.

²⁷ See NC Sentencing and Policy Advisory Commission, *Structured Sentencing Statistical Report for Felonies and Misdemeanors*.

Habitual Breaking and Entering Felon

There were 87 entries to prison in CY 2020 for offenders convicted and sentenced for the habitual breaking and entering offense, which is a Class E felony (see Figure 3). 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.

Figure 3
Habitual Felon Breaking and Entering Prison Entries

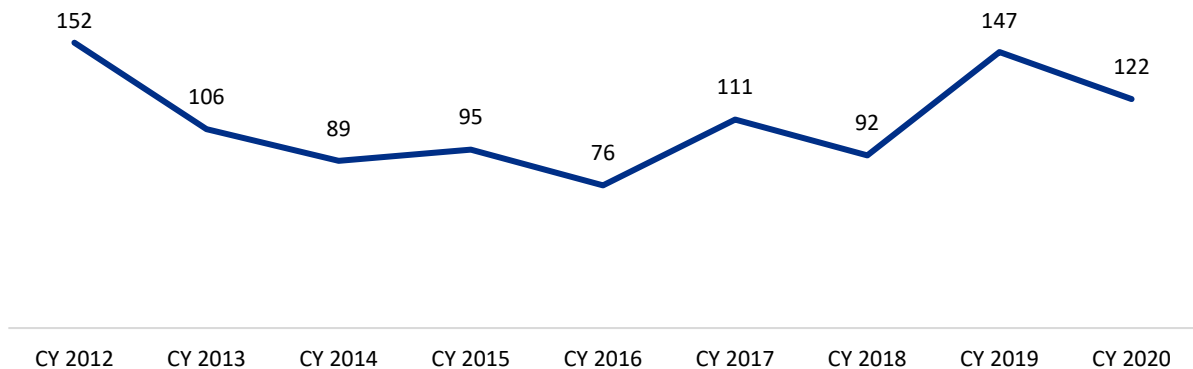


Note: Prison entries for CY 2018 – CY 2020 are affected by the number of inmates in county jails waiting for transfer to the state prison system. On December 31, 2020, there were 657 inmates backlogged in county jails.
SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Advanced Supervised Release

Figure 4 provides information on the overall number of inmates receiving ASR sentences. The number of inmates receiving ASR sentences decreased from CY 2019 to CY 2020 (from 147 to 122). Almost half of offenders (48%) receiving ASR sentences were sentenced in Class E and Class H 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



Note: Prison entries for CY 2018 – CY 2020 are affected by the number of inmates in county jails waiting for transfer to the state prison system. On December 31, 2020, there were 657 inmates backlogged in county jails.
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 all the 100 counties in the state since CY 2012. In CY 2020, it was used in 37 counties, with 6 counties accounting for 50% (or 61) of inmates receiving an ASR sentence. In CY 2020, 190 inmates with an ASR sentence exited prison. DPS data indicate that the majority (86%) were released at their ASR date (i.e., after serving their reduced minimum sentence length).

Other 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. For example, the Pre-Sentence Investigation (PSI) Pilot was launched in 2014 in Orange and Chatham counties. DPS continues to collect data on this initiative but not enough individuals have left supervision yet to evaluate the pilot.²⁸

III. COMMUNITY SUPERVISION

The majority of the changes under the JRA affected how offenders are supervised in the community. Each year following enactment, the field becomes more established in its correctional practices under the law. Correspondingly, each year offers more information and data related to the use of available tools, their effectiveness, and the fidelity of implementation to the intent of the JRA. DPS continually reexamine its policies and practices for improvement and has enhanced 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).

Throughout this section, sizable decreases in populations and usage of JRA tools occurred from CY 2019 to CY 2020, which are primarily driven by the COVID-19 pandemic. As a point of reference for this section, on December 31, 2020, the community corrections population (including both probationers and post-release supervisees) was 81,387. Between December 2019 and December 2020, the felony community corrections population decreased 9% and the misdemeanor community corrections population decreased 19%.

Risk and Need Assessment and Supervision Level²⁹

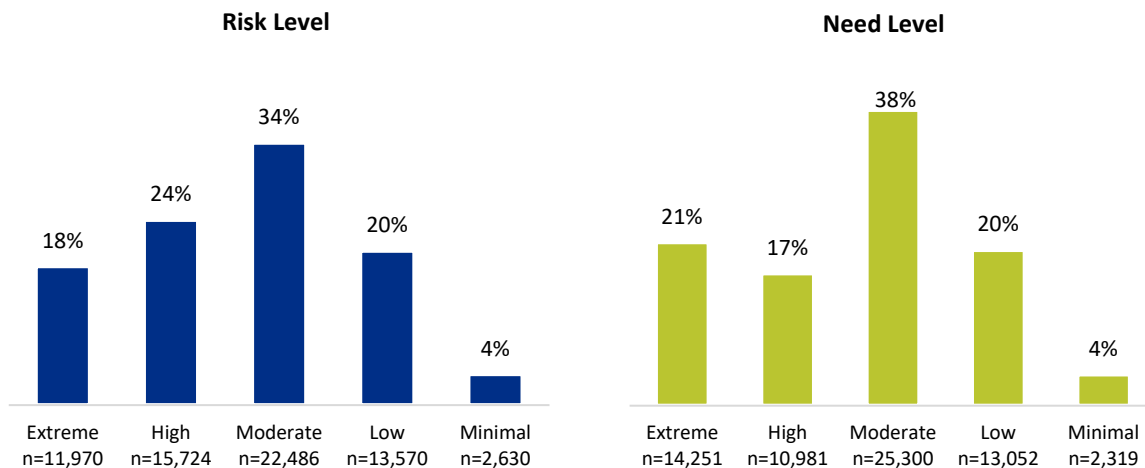
For supervision of the community corrections population, the JRA requires DPS to use a validated instrument to assess each offender's risk of reoffending and criminogenic needs in order to place the offender in the appropriate supervision level. The Offender Traits Inventory-Revised (OTI-R) is used to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

²⁸ In this program, probation officers prepare reports for the court's use at sentencing. Officers use the same RNA they use at intake with offenders who are sentenced to probation. PSIs are intended to 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.

²⁹ See NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report, 2013*, for a more detailed description of these instruments.

community corrections population. Most offenders were assessed as either moderate risk or need (34% and 38% respectively); a small proportion were assessed as either minimal risk or need (4% each).

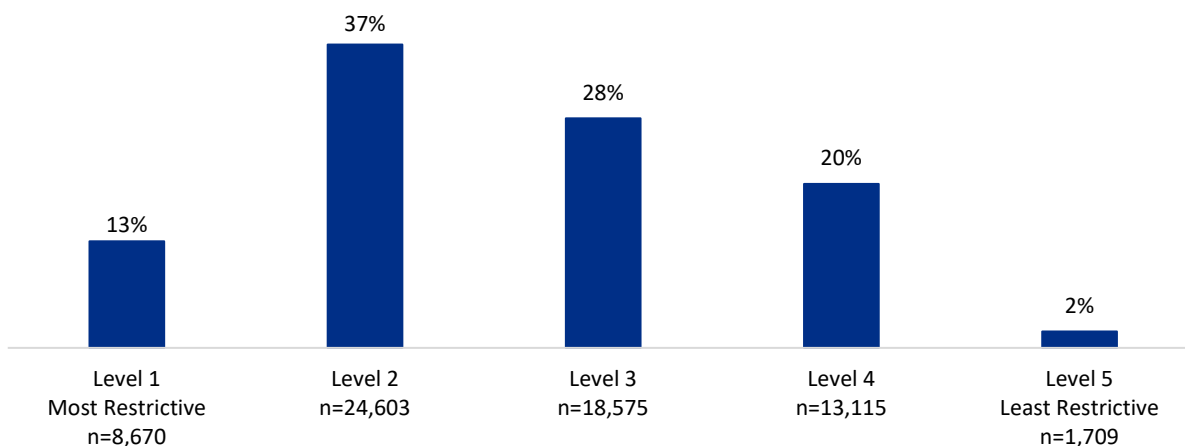
Figure 5
Risk and Need Level for the Assessed Community Corrections Population
on December 31, 2020



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

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 (37%), while the smallest proportion of the population was in Supervision Level 5 (2%).³⁰ Supervision level distribution has remained stable from year-to-year.

Figure 6
Supervision Level for the Assessed Community Corrections Population
on December 31, 2020

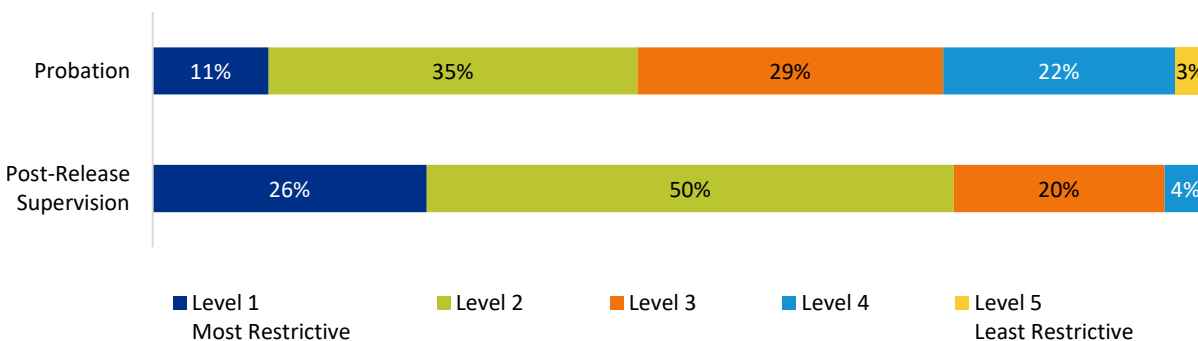


SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

³⁰ The supervision level distribution for Figure 6 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.

Community Corrections supervises all offenders on probation and PRS 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-six percent of offenders on PRS were in Supervision Level 1 (26%) and Supervision Level 2 (50%), the most restrictive supervision levels, while only 46% of probationers were in Supervision Level 1 (11%) and Supervision Level 2 (35%).

Figure 7
Supervision Level for the Assessed Community Corrections Population
on December 31, 2020



Note: There were 11 Level 5 post-release supervisees on December 31, 2020.

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.³¹ To achieve this goal, DPS created a model which 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” caseload because staffing levels, frequency of court sessions, and/or the makeup of the offender population do not make it feasible to separate caseloads by risk. As a result of the model and additional positions appropriated by the General Assembly, DPS maintains caseloads of 60 high or moderate risk offenders to 1 officer and 120 low risk offenders to 1 officer.

Mental Health Random Control Study

In 2014, DPS launched a random control study with the UNC School of Social Work to develop more effective responses to the increasing population of offenders under community supervision with mental health needs.³² Officers participating in the study carry specialized caseloads and utilize evidence-based

³¹ G.S. 15A-1343.2(c).

³² According to DPS, as of March, 2020, 30% of the community corrections population was identified as having a mental health issue while 15% of the male and 25% of the female population were identified as having a serious mental illness.

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.

In 2016, DPS received additional funding to expand the study. With the help of a Smart Supervision grant from the Bureau of Justice Assistance (BJA) with the U.S. Department of Justice, DPS implemented the study in six more counties: Brunswick, Durham, Guilford, McDowell, Mecklenburg, and Orange.³³ As part of the expansion, DPS looked at the lessons they learned in the first phase of the study and made 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. Second, 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.³⁴

In 2019, through a Justice and Mental Health Collaboration Program grant with the BJA, DPS expanded the Specialty Mental Health Probation (SMHP) program to six additional counties: Pender, New Hanover, Burke, Cumberland, Wilkes, and Rockingham. The grant also provides funding for a combination of specialty mental health probation with individual placement support-supported employment (IPS-SE) in Durham and Wake Counties.

For the initial counties, the Governor's Crime Commission grant funding with the UNC School of Social Work ended in 2018; however, UNC will still partner with DPS to collect data and work on policy protocols and training requirements. Since the end of the grant, DPS has ended randomized controls, meaning all eligible offenders may now participate in the pilot. For the counties brought on in 2016, grant funding ended in the winter of 2019, but a second grant had started that fall which covered those counties. The current BJA grant is supporting clinical consultation for all counties and will end in 2023. In 2020, despite COVID-19, the Department reported 433 offenders were enrolled in the program, up from 322 offenders in 2019. There are 31 officers carrying specialized mental health caseloads.

The Department is utilizing licensed social workers to oversee the clinical supervision of this special population. In 2018, the Department reallocated a position for an Administrator of the Social Work Program and filled the position in 2019. The Administrator has become an interface for specialized officers and supervisors, clinical consultations with UNC School of Social Work, various stakeholders, prison social workers, and the local management entity/managed care organizations. The Administrator has worked with the EBP Administrator and the UNC School of Social Work to expand the SMHP program in the new counties, as well as drafted standard operating procedures and revised training manuals.

DPS works closely with the UNC School of Social Work to provide ongoing training and support for probation officers. Currently, the School of Social Work provides monthly case consultations to the

³³ In 2018 DPS added Pitt County to the study. DPS revised an existing program to meet the BJA standards and used existing funds to cover the cost.

³⁴ 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/>.

officers and chiefs, as well as trainings on such topics as Overview of SPMI, Motivational Interviewing for Dual Diagnosis, Trauma Informed Care, and Intellectual and Developmental Disabilities.

The program has allowed DPS to develop a process and outcomes evaluation and to share a number of assessments, tools, and protocols, which include: (1) a dual diagnosis motivational interviewing manual specific to specialty mental health probation officers; (2) a clinical consultation checklist for mental health professionals who are providing support to probation officers who supervise offenders with mental illnesses; (3) a Functional Ability Rating Scale (FARS), which is used in addition to the RNA to assess offenders' social determinants of health on a monthly basis; (4) mental health training modules for probation officers; and (5) a protocol manual for developing, implementing, and sustaining specialty mental health probation. FARS has subsequently been automated.

A study conducted by the UNC School of Social Work suggested probation officers' perceptions of stigma toward those with mental health decreased after receiving the mental health training modules. Promising results from the Sampson and Wake SMHP pilots indicated SMHP probationers had fewer violations than standard probationers and SMHP officer-initiated substance abuse treatment and mental health action steps more frequently than standard probation officers.³⁵

Beyond the SMHP pilots, 47 counties in North Carolina are participating in the Stepping Up Initiative.³⁶ Judicial district managers and chief probation officers participate on the local teams. Prior to COVID-19, some of the counties had begun Intercept mapping to determine the gaps and needs for mental health services and supports, although these groups have been meeting less frequently due to COVID-19. DPS believes they can use this specialized caseload strategy in conjunction with that initiative. To expand the use of the specialized mental health caseloads, the Department plans to request positions for mental health professionals in 2021.

Absconder Initiative

Under the JRA, the concept of absconding was defined in statute for the first time. Absconding is defined as willfully avoiding supervision or willfully making their whereabouts unknown to the supervising officer.³⁷ The courts continue to clarify what behavior constitutes absconding as they interpret the statutory definition.³⁸

In 2018, Community Corrections leadership developed an initiative to reduce the number of offenders classified as absconders. The objective of the initiative is to locate offenders who are not complying with supervision prior to alleging an absconder violation. To achieve that objective, Community Corrections added a second phase to the absconder investigation in which the time frame is extended and a specialized team of officers is utilized to spend additional time and resources in locating these offenders.³⁹ The goal is to ensure that all efforts have been exhausted to locate offenders prior to alleging an absconding violation. The pilot program started with five districts and in 2019 DPS expanded the

³⁵For more information, see "Statewide Mental Health Training and Specialty Mental Health Probation: A project funded by the Governor's Crime Commission" (2017).

³⁶ 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/>.

³⁷ G.S. 15A-1343(b)(3a).

³⁸ See e.g., *State v. Johnson*, 246 N.C. App. 139, 783 S.E.2d 21 (2016); *State v. Williams*, 243 N.C. App. 198, 776 S.E.2d 741 (2015).

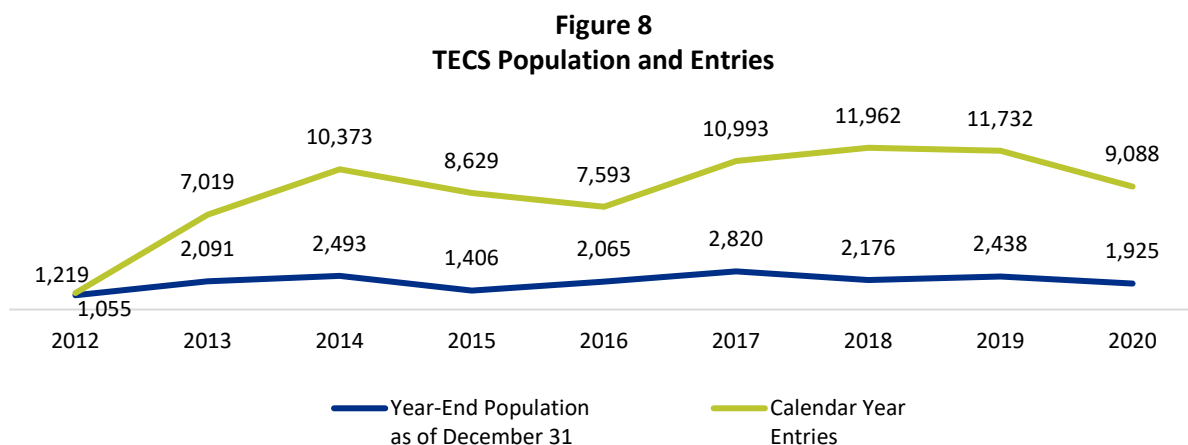
³⁹ Specialized officers are selected by management through an interview process.

program to an additional three districts. In 2020, the program operated in 11 districts, covering 21 counties. Due to the differences between rural and urban districts across the state, Community Corrections has had to take into account the availability of resources while planning and implementing the initiative. Initial results in CY 2019 indicate nearly 2,500 fewer offenders have been declared absconders and the initiative continues to reduce the number of active absconders. Although the Department planned to expand the policy statewide in 2020, expansion did not occur due to the reallocation of resources during the COVID-19 pandemic. The Department hopes to continue expansion as the situation evolves.

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.⁴⁰ TECS programs, fully operational since CY 2013, are funded through an appropriation from the General Assembly; the Department uses the funding to contract with vendors for the provision of services and the operation of community-based programming.

In CY 2020, 9,088 offenders entered TECS programs; 1,925 offenders were enrolled in TECS on December 31, 2020 (see Figure 8). The year-end TECS population decreased over the past year (21%) and the number of TECS entries decreased 23%.



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

Of the 9,643 offenders exiting TECS in CY 2020, the majority were in Supervision Levels 2 and 3 (4,845 or 50%). Very few offenders were in Supervision Level 5 (22 or less than 1%).⁴¹ Figure 9 shows completion rates for all offenders exiting TECS in CY 2020 by supervision level.^{42,43} TECS completion rates remained

⁴⁰ G.S. 143B-1154.

⁴¹ 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.

⁴² 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.

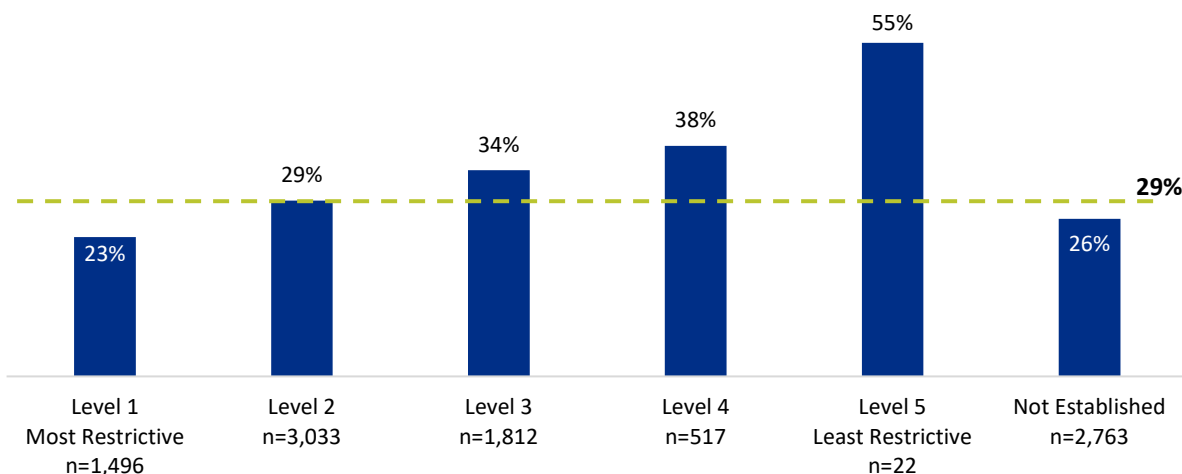
⁴³ Offenders with no supervision level established are typically offenders within the first 60 days of supervision during which the RNA process is being completed or offenders who have absconded supervision prior to completion of the RNA process.

the same overall and remained similar for each supervision level from CY 2019 to CY 2020. The overall completion rate for all TECS participants was 29%. Completion rates were highest for participants in Supervision Level 5 (55%) and lowest for participants in Supervision Level 1 (23%).

All 100 North Carolina counties received TECS services in 2020. However, due to the COVID-19 pandemic, between March and December 2020 some vendors experienced intervals where they could not provide services. Additionally, the pandemic necessitated the creation of a virtual process where vendors could provide services to clients remotely.

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.⁴⁴ The current contract, effective August 2019, made all substance abuse services optional and allowed vendors to bid on whether they wanted to provide regular outpatient services, IOP, or both.

Figure 9
Completion Rates for TECS Exits in CY 2020
N=9,643



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. 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 childcare education courses to supplement the curriculum. The contracts issued in 2015 were three-year

⁴⁴ 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.

contracts and were extended by one year and expired on June 30, 2019. After some complications, new contracts began on August 1, 2019. Presently, RRS contracts cover all 100 counties of the state.

Transitional/Temporary Housing

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 139 total beds provided by seven vendors; these consist of 105 male beds and 34 female beds.⁴⁵ In November 2020, DPS began a new housing contract for extended limits of confinement (ELC) offenders being released from prisons in response to the COVID-19 pandemic. There are 92 total ELC beds, consisting of 80 beds for males and 12 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 the ability to receive CBI programming and employment skill-building through RRS programs. 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. Currently, there are two temporary housing beds on contract for sex offenders located in Edgecombe County.

In 2019, DPS included IOP services as an option in the contract for TECS vendors. Seven vendors agreed to provide IOP beds for 16 counties. IOP services are a particular challenge because while not many offenders need the services, it is a very expensive service for those who do.

Reentry Councils

Local reentry councils (first created in 2013) coordinate local services to help offenders released from prison reintegrate into the community. DPS reported that there are 17 councils, 15 are operational and two are non-operational. DPS has issued RFPs for the two non-operational councils and three of the 15 operational councils. There are 19 additional counties interested in creating councils; however, the COVID-19 pandemic has halted council development efforts and none of the interested counties have developed a local reentry council.

The Department is seeking case management software for the North Carolina Transition Reentry Automated Case Management System (NCTRACS). A vendor has not been selected but a potential vendor has been identified. That vendor currently offers a statewide coordinated network that unites community-based organizations with shared technology that enables a coordinated approach for delivering services in North Carolina. The new software will provide a referral network tool that will automate the reentry and planning process, incorporate a risk/needs tool, and incorporate a reporting component. Once available, all the local reentry councils will receive training on NCTRACS. The Department currently administers an abbreviated paper-based risk/needs tool.

A State Reentry Council Collaborative (SRCC) was established in 2017. The SRCC has developed a Reentry Action Plan, focusing on capacity building and technical support for local reentry councils, expanding and formalizing faith-based and community engagement, resolving warrants and pending charges prior to release, and addressing major reentry barriers such as housing, transportation, employment, and

⁴⁵ These numbers include the 10 beds for severe mental health or medical needs at the Durham County House.

substance misuse and mental health.⁴⁶ It has formed subcommittees to respond to the recommendations in the Reentry Action Plan. The SRCC and its subcommittees continued to meet throughout 2020. DPS hosted a 2-day Virtual Reentry Month event in August 2020 to discuss challenges and efforts related to reentry. The event was attended by approximately 285 people.

Delegated Authority

Prior to the JRA, probation officers had delegated authority from the court that enabled them to impose graduated sanctions in response to non-compliant offenders on probation. 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. Delegated authority was never authorized for the supervision of offenders on PRS, so the tools reported in this section cannot be used on the PRS population. Information reported below is limited to the probation population, unless otherwise noted.

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 probation and parole officer (PPO) under delegated authority.

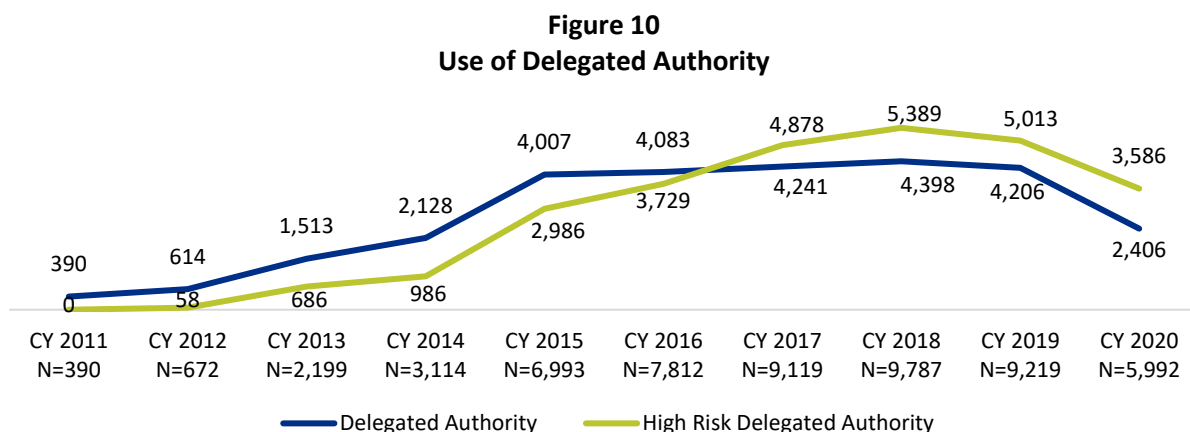
For high risk offenders, officers have the additional option to use high risk delegated authority. Those offenders determined to be high risk according to the Department's risk assessment tool, the OTI-R, are eligible to have conditions added to their probation without being in violation. An OTI-R score 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.

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. It should be noted the

⁴⁶ For more information, see <https://www.ncdps.gov/our-organization/adult-correction/reentry-programs-and-services/state-reentry-council-collaborative>.

Department has sought statutory authorization to use delegated authority on DWI offenders in the past and will do so in the 2021 Session.

Delegated authority as examined in this section includes all responses to violations except for quick dips, which are analyzed separately. As shown in Figure 10, probation officers used delegated authority and high risk delegated authority for a combined total of 5,992 times in CY 2020, a 35% decrease from CY 2019 (9,219).⁴⁷ The use of high risk delegated authority decreased 28% in the past year. Since CY 2017, high risk delegated authority has been used more frequently than 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.

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., inability to pay 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 a written waiver with DPS. DPS reports that approximately 4% of offenders decline to waive this right.

The use of quick dips has been decreasing since CY 2018 (see Table 4). Overall, 1,102 offenders accounted for 1,183 quick dips in CY 2020. Of the 1,183 quick dips ordered in CY 2020, 49% were for two-day periods and 51% were for three-day periods.

⁴⁷ An offender may be represented more than once in these data if there are multiple violation dates.

Also shown in Table 4, quick dips were ordered nearly equally for felons and misdemeanants through CY 2019. Since CY 2017, the number of quick dips ordered for misdemeanants has been greater than the number of quick dips ordered for felons. 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.⁴⁸

Table 4
Quick Dips Ordered

Offense Type	CY 2016		CY 2017		CY 2018		CY 2019		CY 2020	
	#	%	#	%	#	%	#	%	#	%
Felony	3,041	51	3,049	48	2,856	48	2,402	49	536	45
Misdemeanor	2,900	49	3,317	52	3,119	52	2,518	51	647	55
Total	5,941	100	6,366	100	5,975	100	4,920	100	1,183	100

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 2020, the overwhelming majority (71%) of quick dips ordered in CY 2020 were for offenders in Supervision Levels 2 and 3 (see Table 5).⁴⁹ The largest proportion of both felons and misdemeanants receiving quick dips were in Supervision Level 2 (38% for both). A higher percentage of felons with quick dips ordered were in Supervision Level 1 compared to misdemeanants (24% compared to 14% respectively).

Table 5
Quick Dips Ordered by Supervision Level in CY 2020

Supervision Level	Felon		Misdemeanant		Total	
	#	%	#	%	#	%
Level 1 (Most Restrictive)	129	24	88	14	217	19
Level 2	206	38	245	38	451	38
Level 3	158	30	235	36	393	33
Level 4	38	7	68	11	106	9
Level 5 (Least Restrictive)	0	0	3	<1	3	<1
Not Established	5	1	8	1	13	1
Total	536	100	647	100	1,183	100

Note: Results for probationers 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

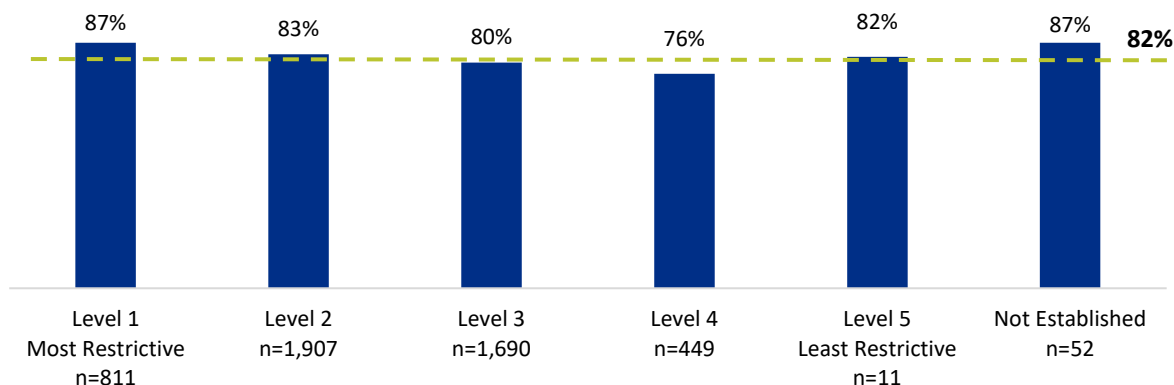
⁴⁸ G.S. 15A-1344(d2), as amended by S.L. 2015-191.

⁴⁹ 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.

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 2019.⁵⁰ Overall, a subsequent violation process was reported following 82% (or 4,035) of the 4,920 quick dips ordered in CY 2019 (see Figure 11). For those assigned a supervision level, probationers in Supervision Level 1 had the highest rate of subsequent violations (87%), with a decreasing rate of subsequent violations for Supervision Levels 2, 3, and 4.

Figure 11
Subsequent Violations Following a Quick Dip in CY 2019 (N=4,920)
One-Year Follow-Up



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

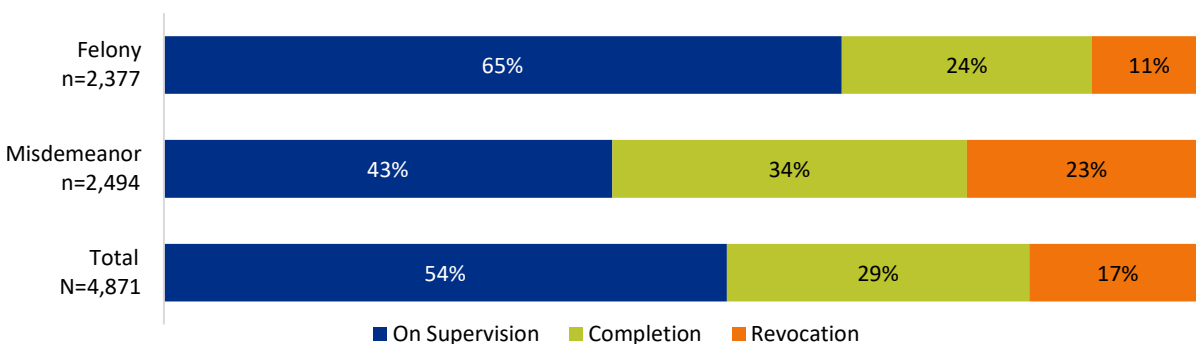
SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile

Probation outcomes for the 4,920 quick dips ordered in CY 2019 are provided in Figure 12 and Table 6.⁵¹ Almost two-thirds (65%) of felons remained on supervision following a quick dip. Misdemeanants primarily remained on supervision or completed supervision (43% and 34% respectively). Misdemeanants were more likely to have higher completion rates than felons during this timeframe due to their shorter probation supervision lengths. Misdemeanants also had a higher percentage of revocations following a quick dip, possibly due to the fact that probation can be revoked following two quick dips for misdemeanants.

⁵⁰ An updated methodology was implemented in 2018 for capturing outcomes following a quick dip. As such, these outcomes cannot be compared to findings in reports prior to 2018.

⁵¹ 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.

Figure 12
Probation Outcomes Following a Quick Dip by Offense Type in CY 2019
One-Year Follow-Up



Note: Forty-nine probationers with probation 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. Just over half (54%) 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 and Supervision Level 4 (57% and 55% respectively). There was an 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 (21%), and revocation was least likely to have occurred for probationers in Supervision Level 4 (9%).

Table 6
Probation Outcomes Following a Quick Dip by Supervision Level in CY 2019
One-Year Follow-Up

Supervision Level	On Supervision		Completion		Revocation		Total
	#	%	#	%	#	%	
Level 1 (Most Restrictive)	457	57	167	21	182	22	806
Level 2	1,003	53	527	28	350	19	1,880
Level 3	878	52	553	33	248	15	1,679
Level 4	245	55	161	36	39	9	445
Level 5 (Least Restrictive)	5	46	5	45	1	9	11
Not Established	17	34	10	20	23	46	50
Total	2,605	54	1,423	29	843	17	4,871

Note: Forty-nine probationers with probation outcomes identified as “other” were excluded from the table. Results for probationers 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

Behavior Response Pilot

The Department launched an Administrative Response Pilot in June of 2013 (renamed the Behavior Response Pilot in 2018) 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. As of February 2020, the Department completed expansion of the program to one entire district in each division. The Department is considering implementing it statewide.

Through the pilot, the Department learned that while its 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. 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. 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, DPS developed an incentive grid to guide the officer's use of incentives; however, the Department found that using the same incentives in every situation was not effective. Upon further study, DPS elected to take a more individualized approach to incentivize behavior. The Department grouped responses into categories to help staff respond appropriately: "basic" which are used in response to a single positive behavior (e.g., a negative drug test), "short term" for behaviors that last up to 30 days (e.g., remaining in a stable school or work environment), and "long term" for major events like 90 days or more of a positive behavior (e.g., completing a residential treatment program). In addition, DPS put into policy the requirement that Judicial District Managers help PPOs develop more meaningful and appropriate responses to positive behavior. Throughout the pilot, the Department has reviewed the data, conducted focus groups and surveys of the participants, and used this information to update policies and enhance the pilot.

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),⁵² 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 misdemeanorant 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 misdemeanorants placed on probation on or after December 1, 2015.⁵³

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

⁵² G.S. 15A-1344(d2).

⁵³ G.S. 15A-1344(d2), as amended by S.L. 2015-191.

Centers). On December 31, 2020, 192 offenders were serving a CRV; 46% (89 offenders) were serving their CRV in a CRV Center. The average length of stay for CRV dispositions in CY 2020 was 66 days.

A total of 1,910 CRV dispositions were ordered in CY 2020 as a result of probation violation hearings – 85% for felons and 15% for misdemeanants (see Table 7). The majority of CRV dispositions (98% or n=1,824) were for offenders with a single CRV disposition. Overall, there was a 45% decrease in CRV dispositions over the past year, with a 42% decrease in CRV dispositions for felons and a 57% 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 2015.⁵⁴

Table 7
Probationers with CRV Dispositions

Offense Type	CY 2016		CY 2017		CY 2018		CY 2019		CY 2020	
	#	%	#	%	#	%	#	%	#	%
Felony	2,775	45	2,662	61	2,676	74	2,786	80	1,615	85
Misdemeanor	3,356	55	1,694	39	936	26	681	20	295	15
Total	6,131	100	4,356	100	3,612	100	3,467	100	1,910	100

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 (38% and 46% respectively). A higher percentage of felons with CRV dispositions were in Supervision Level 1 compared to misdemeanants (24% compared to 20% respectively).

Table 8
Probationers with CRV Dispositions by Supervision Level in CY 2020

Supervision Level	Felon		Misdemeanant		Total	
	#	%	#	%	#	%
Level 1 (Most Restrictive)	383	24	59	20	442	23
Level 2	611	38	137	46	748	39
Level 3	349	21	49	17	398	21
Level 4	94	6	29	10	123	7
Level 5 (Least Restrictive)	0	0	1	<1	1	<1
Not Established	178	11	20	7	198	10
Total	1,615	100	295	100	1,910	100

Note: Results for probationers 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

The Department partnered with the Urban Institute to conduct a targeted analysis of CRVs; the final report was issued in January 2021.⁵⁵ This analysis employs both quantitative and qualitative methods to

⁵⁴ 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.

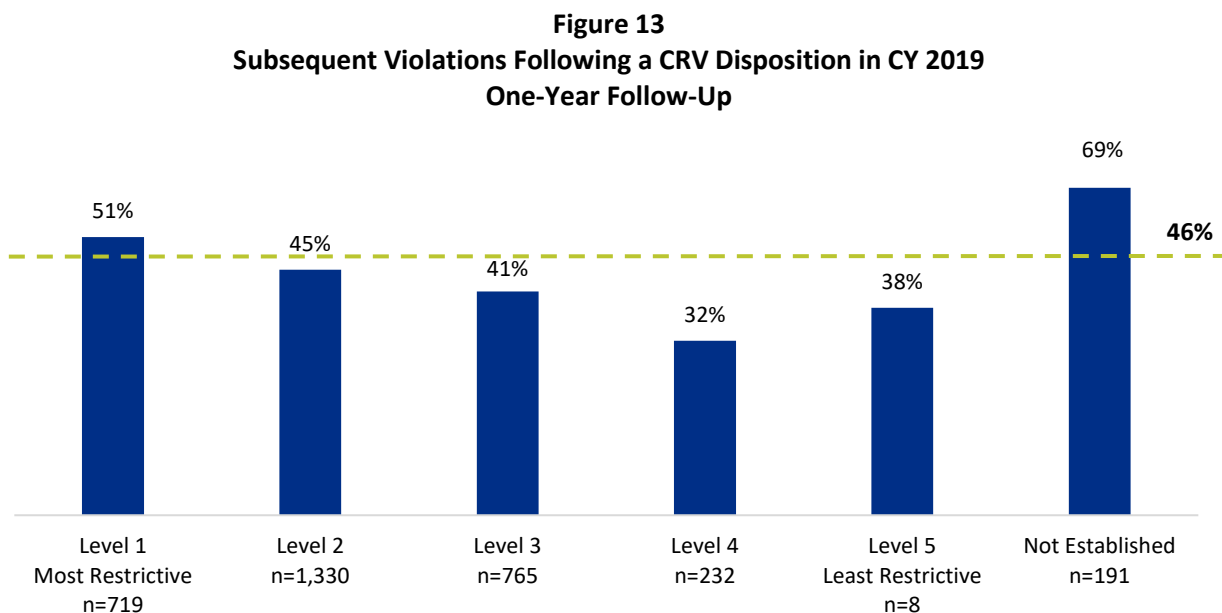
⁵⁵ For more information, see <https://www.urban.org/research/publication/assessing-north-carolinas-changes-supervision-revocation-policy>.

measure implementation and results stemming from the usage of CRVs. Among other things, the report highlights the change in the use of non-incarcerative responses to violations and the probation officers' impressions of the sanction. The Department will utilize the results of this study to further improve the use of CRVs.

Outcomes Following a CRV

The intent of the CRV was for offenders to receive programming and treatment during confinement, leading to improved outcomes after their return to supervision in the community. To determine the effect of CRVs on probationers, outcomes (including subsequent violations and probation status following the CRV) were examined using a fixed one-year follow-up period for CRV dispositions in CY 2019.⁵⁶

Of the 3,245 CRV dispositions in CY 2019, 46% (n=1,480) resulted in a subsequent violation process (see Figure 13). Of those, a subsequent violation process was reported for 49% of felons (n=1,259) and 34% of misdemeanants (n=221) with a CRV disposition. The average time to the subsequent violation process was slightly longer for felons (201 days compared to 134 days for misdemeanants). For those assigned a supervision level, probationers in Supervision Level 1 had the highest subsequent violation rate (51%), with a progressively decreasing rate of subsequent violations for Supervision Levels 2, 3, and 4.



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

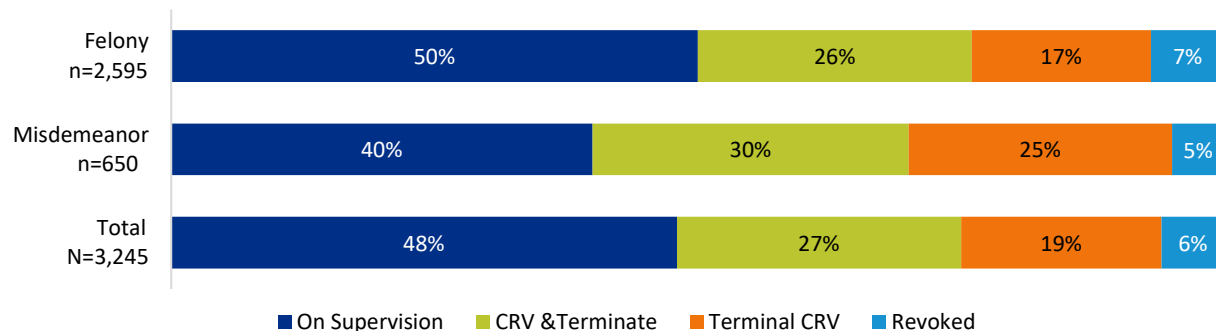
SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice

Probation outcomes for offenders who received a CRV disposition in CY 2019 are provided in Figure 14 and Table 9. Outcomes differed for felons and misdemeanants (see Figure 14). Felony probationers were more likely to remain on supervision than misdemeanor probationers following a CRV, due to their longer supervision periods. Conversely, misdemeanor probationers had higher rates of terminal CRV due

⁵⁶ An updated methodology was implemented in 2018 for capturing outcomes following a quick dip. As such, these outcomes cannot be compared to findings in reports prior to 2018.

to their shorter supervision periods.⁵⁷ A slightly higher percentage of misdemeanants (30%) than felons (26%) had their probation terminated upon completion of the CRV period (i.e., CRV and terminate).

Figure 14
Outcomes Following a CRV Disposition by Offense Type in CY 2019
One-Year Follow-Up



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

As shown in Table 9, compared to other outcomes, probationers in all established supervision levels were more likely to remain on supervision following a CRV (ranging from 47% to 52%). The examination of probation outcomes within the context of offense type (*see* Figure 14) and supervision level (Table 9) reveals that felony/misdemeanor status is the primary driver (more so than supervision level), likely due to the differences in sentence lengths for felons and misdemeanants.

Table 9
Outcomes Following a CRV Disposition by Supervision Level in CY 2019
One-Year Follow-Up

Supervision Level	On Supervision		CRV & Terminate		Terminal CRV		Revocation		Total
	#	%	#	%	#	%	#	%	
Level 1 (Most Restrictive)	375	52	181	25	107	15	56	8	719
Level 2	650	49	359	27	231	17	90	7	1,330
Level 3	369	48	199	26	156	20	41	5	765
Level 4	109	47	61	26	52	22	10	4	232
Level 5 (Least Restrictive)	2	25	2	25	3	38	1	13	8
Not Established	49	26	63	33	64	34	15	8	191
Total	1,554	48	865	27	613	19	213	7	3,245

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

⁵⁷ 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.

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 2014.⁵⁸ In February 2018, the CRV Centers began receiving post-release supervisees to serve their three-month revocation period (see *supra*, Violations of PRS).

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.

Given the initial success of the model serving male offenders, DPS recognized the development of a stand-alone female center as a top priority. In 2017, the General Assembly provided funding for a 200-bed CRV Center for females. DPS decided to convert North Piedmont Correctional Institution into the female CRV Center. In 2018, the Department completed work on the facility and hired staff.

Programming at the CRV Center began in February 2019 and was fully available starting in April 2019. Currently, North Piedmont has a 136 bed capacity and averages around 123 offenders, which includes probation and post-release supervision offenders. Offenders who are ineligible for the CRV Center, or if there is no space available at North Piedmont, serve their CRV or PRS revocation at North Carolina Correctional Institution for Women (NCCIW). Unlike the male centers, the new female CRV Center has the capacity to accept females with high acuity mental health and medical issues.

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 the males, the Department solicited bids and awarded a contract in 2016 for its identified core services of CBI, substance abuse education, and journaling, as well as the computer lab. For the females, the Department has contracted with Geo Reentry Services for the provision of certain types of programming, including Moral Reconciliation Therapy (MRT), Step Ahead employment training, Stephanie Covington trauma-informed programming, and trauma informed substance abuse classes. Prior to the COVID-19 pandemic, DPS had been able to

⁵⁸ Around the same time, DPS converted Eastern Correctional Institute into a hybrid facility, with a wing exclusively for female CRV offenders.

increase programming to six days and evenings a week and had connected with community resources to bring additional programs into the CRV Centers. Since the beginning of the pandemic, hours were reduced and handouts were utilized at all CRV Centers in order to assist with social distancing and limiting group size. For males, the Department has secured additional computer lab programming. As part of long-term planning for the female CRV Center, renovations have begun, including the addition of a computer lab. 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 of offenders as measured by Criminal Thinking Scales (CTS). Based on pre- and post-tests on the CTS, early evaluation shows participants in the treatment reduced criminal thinking. Offenders at all three 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 MRT steps saw further declines. It is unclear to what extent personal characteristics and willingness to participate factor into the results.

While the CRV Centers remain a priority for the Department, operations at the Robeson CRV Center were temporarily suspended in June 2019. Correctional officers that worked at Robeson were redistributed to surrounding prison units that needed additional staffing. The Department was reviewing the status of Robeson every six months to determine whether staffing levels had reached a level where it could reactivate the CRV Center. While Robeson was temporarily suspended, offenders who were eligible for the CRV Center were sent to Morrison Correctional Institution where dorms had been designated for CRV and post-release supervision offenders. To maintain services for these offenders, Robeson's Community Corrections staff commuted to Morrison and Geo Reentry Services provided nine hours per week of programming in the units. Offenders who would have gone to the Behavioral Adjustment Center at Robeson went instead to local prisons for disciplinary issues. Operations at the Robeson CRV Center resumed in October 2020.

Burke CRV Center operations were temporarily suspended in March 2020 due to the needs of the prisons during the onset of COVID-19; the facility was temporarily utilized to house inmates from other prisons. Burke CRV Center is scheduled to resume normal operations in May 2021. North Piedmont CRV Center has continued to operate as a CRV Center during the COVID-19 pandemic.

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, and continued non-compliance at the CRV Centers. Plans for CRV Center changes and enhancements are described below.

Male 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. North Piedmont CRV Center is able to accommodate females with medical and mental health issues, including some requiring medication. The Department continues to work towards being able to provide this type of care in the male CRV Centers and has looked to neighboring prison facilities for resources to support some inmates with less severe mental health and medical issues. 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 this care is challenging because the CRV Centers do not have medical facilities on-site; DPS has two facilities nearby that can be relied on for some resources. If the offender's medical or dental needs cannot be provided by the nearest facilities, offenders are sometimes temporarily transferred to other prison facilities where their medical or dental needs can be addressed. All efforts are made to return the offender to the CRV Centers as soon as possible.

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 that is 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 to the general population. 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 2 to 5 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.

One population that is currently excluded from the eligible pool of offenders for the CRV Centers is 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. Therefore, the males are housed at Foothills Correctional Institution and the females at NCCIW. The offenders receive some additional programming in the units; for example, at Foothills probation officers from the Burke CRV Center go to the unit to provide social skill building sessions. DPS also reported efforts to implement the juvenile justice model 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 raised the age of juvenile jurisdiction from 16 to 18 beginning December 1, 2019.⁵⁹ The Department has seen a further reduction in this population after that date.

⁵⁹ S.L. 2017-57.

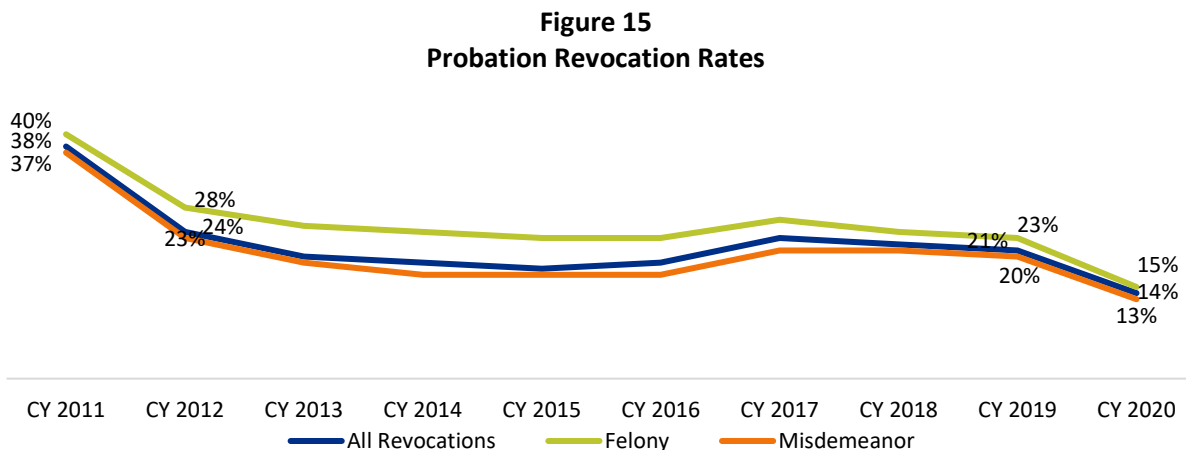
Finally, the Department continues to revise its policies, to improve the programming offered to offenders, and to learn as the Centers grow and develop. Currently, the Department surveys offenders when they leave the Centers; they provide feedback on the program and offer suggestions. This has resulted in changes such as a parenting class being offered at the Centers. DPS is planning to automate that survey in order to be more consistent and better evaluate the responses. One of the problems with having only two CRV Centers for males and one for females 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 revocation rates from CY 2011 to CY 2020. While generally stable (following a substantial decrease from CY 2011 to CY 2012), the first increase since JRA implementation occurred from CY 2016 to CY 2017, possibly attributable to an increase in the number of probationers revoked for absconding violations (see Table 10). Revocations decreased from CY 2019 to CY 2020, as a result of the COVID-19 pandemic.

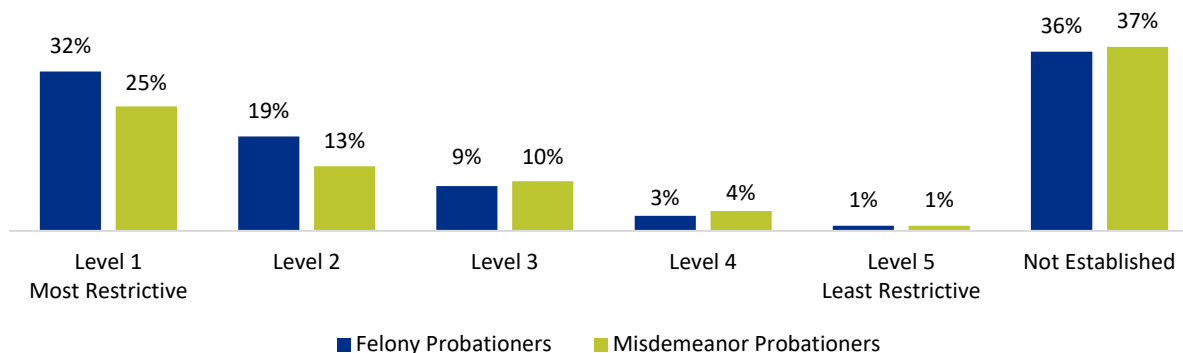


SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Automated System Query (ASQ)

Figure 16 examines probation revocation rates by supervision level. For those assigned to a supervision level, revocation rates were highest for probationers in Supervision Level 1 (32% for felony probationers and 25% 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 2020



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^{60,61}

As shown in Table 10, the distribution of felony probation violations by prison entry type has continued to shift over the past few years. In CY 2020, absconding supervision continued to account for the largest proportion of probation violation entries (30%), followed by new crime with a conviction and CRVs (20% each). Prison entries for absconding decreased from CY 2019. Prison entries for revocation following the imposition of two prior CRVs continues to occur infrequently.

⁶⁰ 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.

⁶¹ 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.

Table 10
Felony Prison Entries for Probation Violations by Type

Prison Entry Type	CY 2016		CY 2017		CY 2018		CY 2019		CY 2020	
	#	%	#	%	#	%	#	%	#	%
New Crime w/ Conviction	1,370	22	1,437	22	1,227	17	1,334	21	903	20
Alleged New Crime¹	814	13	975	15	835	11	931	15	702	16
Technical²	79	1	92	2	70	1	63	1	55	1
CRV³	784	13	610	9	1,574	22	945	15	875	20
Revoked After 2 CRVs	40	1	38	1	7	<1	19	<1	5	<1
Terminal CRV⁴	716	11	349	5	865	12	612	10	590	13
Absconding	2,409	39	3,010	46	2,729	37	2,387	38	1,368	30
Pre-JRA Technical	27	<1	21	<1	14	<1	8	<1	7	<1
Total	6,239	100	6,532	100	7,321	100	6,299	100	4,505	100

¹ 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).

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

³ Offenders in CRV Centers in CY 2017 are not included as prison entries.

⁴ 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.

Note: Prison entries for CY 2018 – CY 2020 are affected by the number of inmates in county jails waiting for transfer to the state prison system. On December 31, 2020, there were 657 inmates backlogged in county jails.

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 jails.⁶² 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.

Again, as noted in previous sections, it is important to consider the substantial effects the COVID-19 pandemic had on confinement for both local jails and prisons -- from the volume of offenders admitted and released to the policies and practices that were altered as facilities managed the public health crisis.

⁶² The Section of Prisons (SOP) continues to receive all felons, as well as misdemeanants with heightened needs such as medical or safekeeping. SOP will receive any misdemeanants in the event that the SMCP is filled to capacity.

Incarceration in Local Confinement Facilities

Because incarceration in state prisons is the costliest 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. As shown in Table 11, the DWI prison population has decreased considerably since 2015 (28 on December 31, 2020, compared to 330 on December 31, 2015).

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

Sentence Location	2015		2016		2017		2018		2019		2020	
	#	%	#	%	#	%	#	%	#	%	#	%
Prison	330	49	207	34	99	16	84	15	51	11	28	11
SMCP	347	51	408	66	511	84	491	85	415	89	229	89
Total	677	100	615	100	610	100	575	100	466	100	257	100

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

As noted, changes in funding for the SMCP occurred in 2015 when the General Assembly authorized a recurring direct appropriation in the amount of \$22.5 million per fiscal year, effective July 1, 2015.⁶³ NCSA reported it paid out \$15.5 million in county reimbursements in FY 2020 (and approximately \$789,000 in medical payments). NCSA also reported it paid out \$5.2 million in county reimbursements as of February 18, 2021, compared to \$9.1 million at the same point in FY 2020. Due to the decrease in the SMCP population in FY 2021 owing to the COVID-19 pandemic, FY 2020 is more representative of a typical year in terms of reimbursements.

Despite the COVID-19 pandemic, the SMCP has only experienced a slight increase in medical reimbursements; it has paid approximately \$509,308 in medical reimbursements as of January 31, 2021,

⁶³ S.L. 2015-241.

compared to \$485,601 at this point in FY 2020. Medical expenses are highly variable and are not always proportionate to the SMCP population.

In its operations, the SMCP is supported by counties volunteering bed space to receive inmates from other jurisdictions (i.e., “receiving counties”), for which the county receives a reimbursement rate of \$40 a day.⁶⁴ The reimbursement rate has remained the same since the program’s inception in 2011. 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. The North Carolina Jail Administrators’ Association (NCJAA) reported other factors contributing decisions about participation as a receiving county include 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 facilities (or counties) to not participate.

From 2019 to 2020, the number of receiving counties decreased from 68 to 50 counties and SMCP beds decreased from 1,371 to 909 beds (see Table 12).⁶⁵ While no receiving counties dropped out of the SMCP, several receiving counties temporarily suspended participation due to the COVID-19 pandemic. Because court case processing slowed significantly in 2020 due to COVID-19, fewer individuals were sentenced to the SMCP. Therefore, while overall capacity for the program lowered, sufficient capacity remains to manage the sentenced misdemeanants. The increase in the number of counties participating in the program over the last few years has allowed the SMCP to house more inmates in their county of conviction as well. The SMCP added one receiving county in December 2020 and two counties that are in the process of building new jail facilities have indicated interest in volunteering beds to the SMCP once those new facilities are complete but have not committed to a specific number of beds.

Table 12
Statewide Misdemeanant Confinement Program (SMCP)

SMCP Capacity and Population	Dec. 31, 2016	Dec. 31, 2017	Dec. 31, 2018	Dec. 31, 2019	Dec. 31, 2020
Receiving Counties	59	64	66	68	50
Capacity	1,759	1,674	1,646	1,371	909
Population	1,116	1,233	1,188	1,070	576
SMCP Entries	CY 2016	CY 2017	CY 2018	CY 2019	CY 2020
SSA ≥91 Days	2,464	2,567	2,486	2,189	1,106
CRV Entries	340	193	169	180	81
DWI Entries	1,170	1,448	1,378	1,211	748
Total Entries	3,974	4,208	4,033	3,580	1,935

Note: As noted previously, the JRA required misdemeanants with sentences of 91-180 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. Due to the COVID-19 pandemic,

⁶⁴ Receiving counties are also reimbursed for medical expenses for SMCP inmates incurred outside of the jail.

⁶⁵ 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, and accounts for a large portion of the decline.

18 receiving counties temporarily suspended participation in the SMCP in CY 2020. These suspensions, coupled with changes in court proceedings, resulted in an unprecedented reduction in capacity and population.

SOURCE: NC Sheriffs' Association

While capacity has exceeded the SMCP population thus far, it is important for policymakers to know of any future changes in capacity since DACJ would be responsible for housing any misdemeanants the SMCP does not have capacity to house. As such, in 2018, the General Assembly directed the Sentencing Commission, with assistance from the NCSA, to develop five-year projections of available bed space for the SMCP and to study the feasibility of developing population projections for the SMCP.⁶⁶ Table 13 shows the two different scenarios the Sentencing Commission developed for SMCP capacity based on factors such as planned new jail construction and local situations. In both scenarios, the five-year capacity is projected to recover capacity lost due to the COVID-19 pandemic by FY 2023 and then decline by 5% in the last two years of the projection.

Table 13
SMCP Capacity Projections: Scenario Totals

	Current Capacity	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Scenario 1 Total	976	976	1,072	1,297	1,268	1,240
Scenario 2 Total	976	976	1,027	1,163	1,134	1,106

Note: Current capacity is the SMCP capacity as of February 26, 2021.

SOURCE: NC Sentencing and Policy Advisory Commission

While the capacity is projected to decline, it is not known whether that capacity will be sufficient for the needs of the SMCP. Another critical factor to consider is the projected population for the same time period. The Sentencing Commission completed a study and determined it would be feasible to project the SMCP population.⁶⁷ By having projections of both population and capacity, it would be possible to assess whether capacity will meet future population needs.

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 27% of total entries in CY 2020, are subject to sentences that are longer than the average Structured Sentencing misdemeanor, up to three years for the most serious punishment level.⁶⁸ As of March 25, 2021, the SMCP reported 81 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.

⁶⁶ Full reports available at www.NCSPAC.org.

⁶⁷ See <https://www.nccourts.gov/assets/documents/publications/SMCP-Population-Projection-FeasibilityStudy.pdf?Xug6iQe2QYmxFvdAxLYj1HNSlW9T605A> for the Sentencing Commission's report on the SMCP population projection feasibility.

⁶⁸ See G.S. 20-179 and 15A-1340.23.

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.⁶⁹ 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 of them is to be paroled to treatment. However, the residential treatment facilities, DART Cherry for males and Black Mountain for females, both closed in Spring 2020 due to the COVID-19 pandemic. Both have since reopened, with DART Cherry designating five beds for DWI parolees. The PRSP Commission reports that the process for placing female DWI parolees at Black Mountain takes longer than placing males at DART Cherry due to differences in screening and admission procedures.

In April 2018, the NCSA launched new software to provide enhanced reporting capabilities. The software allows the NCSA to distinguish between the different populations housed through the SMCP including Structured Sentencing misdemeanants, DWI misdemeanants, those serving a CRV, and those serving a revocation of probation. 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 is in the process of finalizing a contract with the vendor for enhanced software capabilities and anticipates the new software to be operational by the end of 2021, with some functionality available sooner. The NCSA reports that the capability to produce refined reports remains a priority.

The NCSA continues to provide annual trainings for sheriff's office personnel. Despite challenges presented by the COVID-19 pandemic, five in-person trainings were provided in 2020⁷⁰ – two in the eastern part of the state, two in the west, and one in Wake County. More than 80 counties participated in trainings in 2020, including all receiving counties.

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 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.

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,

⁶⁹ 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.”

⁷⁰ The NCSA implemented several COVID-19 precautions for its SMCP trainings, including temperature and wellness checks, limited participant capacity, and social distancing measures.

significant pay raises for the correctional officers, the average vacancy rate for correctional officers in 2020 was 15% (down from 17% in 2019). Full utilization of new tools requires an increase in the number of correctional officers. DPS reports that it intends to seek additional funding for a comprehensive pay plan that would provide ways to address retention and pay compression, as well as a career progression program for correctional officers.

Risk and Need Assessments

In 2017, the Department applied the RNA to all male inmates, completing the process in October. By the end of 2018, the Department had assessed the female population as well. All new admissions go to the Diagnostic Centers and receive the RNA at intake if it is flagged to be completed. The RNA is used to identify offender needs and determine what services they will receive.

During the COVID-19 pandemic, DPS made temporary changes to the process. Midway through 2020, the RNA process was moved from the Diagnostic Centers to field facilities. Restrictions on offender movements, including no new admissions from the jail, increased the jail backlog. In order to relieve the pressures on the intake process, case managers at the facilities offenders were first assigned to were responsible for completing the RNA instead of case analysts. As DPS works to eliminate the jail backlog, the RNA process is expected to resume at Diagnostic Centers. DPS also reported that after the COVID-19 pandemic it would like to work on establishing a process for reassessments as needed.

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 as there are no dedicated facilities to house ASR inmates at this time. During intake, inmates with ASR sentences receive a Structured Sentencing release date and an ASR release date. ASR inmates also complete an RNA at diagnostic processing 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 (86%) of ASR inmates who exited prison in CY 2020 were released at their ASR date. The prison population of 30,395 on December 31, 2020, included 208 inmates with ASR sentences.

As with the CRV Centers, the COVID-19 pandemic has caused restrictions in programming. DPS reported that recommendations for programming continue to be made according to the RNA and that programming will resume when it is safe to do so, based on the Centers for Disease Control and Prevention (CDC) guidelines. By statute, inmates are not disqualified from ASR if they are unable to complete the programs through no fault of their own.

Behavioral Health Services

Since 2008, 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 three in 2017; however, one of these programs was suspended due to correctional officer staffing vacancies leaving a total of six TDUs across five facilities as of January 2018. In 2019, the Department began preparations to activate a new TDU at Anson Correctional Institution, bringing the total back up to seven TDUs statewide across six facilities. As of March 2021, the Anson TDU is still in development.

Through March 2021, the Department reported that there were 802 admissions to the TDUs and 755 exits. The TDUs had a 62% completion rate. In contrast, similar residential treatment programs in prisons or in the community report an average of 40-45% participant completion rates. The COVID-19 pandemic affected the admissions and capacity of the program, but the program still added 113 admissions during 2020.

Reentry Planning

The purpose of offering rehabilitative EBP while in custody is, ultimately, to prepare the offender for entry back into the community.⁷¹ 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 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 four facilities, Johnston, Orange, Gaston, and Caldwell, were oriented in February 2018 and were

⁷¹ The Sentencing Commission encouraged DACJJ to enhance existing evidence-based prison programs that improve reentry, see *Justice Reinvestment Implementation Evaluation Report 2020, Appendix C*.

fully operational by June 1, 2018. DPS oriented an additional six facilities, Carteret, New Hanover, Green, Hoke, Davidson, and NCCIW in Raleigh, in November 2018. These institutions were operational on March 1, 2019. In November 2019, due to staffing vacancies, operations at Hoke Correctional Institution were temporarily suspended. The Department had planned to turn Anson Correctional Institution into a reentry facility by April 2020. Anson was oriented to the Designated Reentry Mission, but has been unable to implement the components of the programming due to the COVID-19 pandemic. The Department reported that staff continue to make plans to make the reentry mission operational as soon as it is safe to do so. Anson will be the first medium custody facility remissioned into a reentry facility.

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's 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 reduce the barriers to successful reentry. Reentry PPOs are located in each of the 12 reentry facilities. In 2020, PPO interactions with inmates were greatly restricted due to the COVID-19 pandemic.

SOP has identified common needs of offenders when they exit prison and is working to address them where it is 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 applying 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. The DMV planned to visit all of SOP's minimum custody facilities by the end of 2021; however, due to COVID-19, the DMV mobile units are not in operation and a restart date has not been identified. As of February 25, 2021, the DMV was taking appointments for IDs and license renewals but was not conducting driving tests.

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). As part of the Workforce Enhancement Initiative, the Division of Workforce Solutions employs six former offender specialists who will visit prison facilities to assist offenders with resume and interview preparation. However, since the onset of the COVID-19 pandemic, the reentry specialists have been assigned to Division of Workforce Solutions offices to assist with unemployment claims. DPS anticipates resuming reentry services but will continue to adhere to the guidance of the CDC and the Department of Health and Human Services (DHHS) in regard to opening prisons to non-employees.

SOP, and DPS in general, has a long-standing working partnership with the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, DHHS, 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. Prison social workers have provided referrals to critical aftercare appointments in the community as needed throughout the COVID-19 pandemic.

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. (See *supra*, Recidivism Reduction Services.) 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 Exits⁷²

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 who 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 Commission. 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. Due to the demands of the position, turnover is becoming an issue. In the 2021 Session, the Commission is requesting an additional position, a Re-Entry Parole Case Analyst, to work with various DPS groups on developing home plans for offenders returning to the community.

⁷² DPS instituted several new release policies in response to the COVID-19 pandemic which affected prison exits in 2020 but are not part of the JRA.

While on PRS, offenders are supervised in the same general manner as those offenders on probation; however, the violation process and responses 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.⁷³ However, the PRSP Commission reports that it has automated the process whereby PPOs request modifications of conditions so that response time is almost immediate. 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.

In 2018, DACJJ was selected to participate in the *Learning Collaborative on Paroling Authorities as Key Partners in Achieving Governor's Criminal Justice Policy Goals*, a collaboration between the National Governors Association and the National Parole Resource Center with support from the Bureau of Justice Assistance. The goal of the project was to generate recommendations that would encourage the use of EBP in the operations, processes, and policies of the PRSP Commission. Throughout the year, a group of stakeholders from DACJJ, the PRSP Commission, and the Office of the Governor studied the PRS and parole processes. On January 3, 2019, the group submitted three recommendations to the governor. First, that the PRSP Commission develop, validate, and implement a risk/needs assessment tool tailored for their specific population. Second, allow the PRSP Commission to use community supervision credits (see G.S. 15A-1368.2(d)) based on compliance with re-integrative conditions to incentivize offenders' good behavior and enhance public safety. Third, support the PRSP Commission's efforts to study and revise the criteria and process for admitting eligible offenders to the Mutual Agreement Parole Program (MAPP).

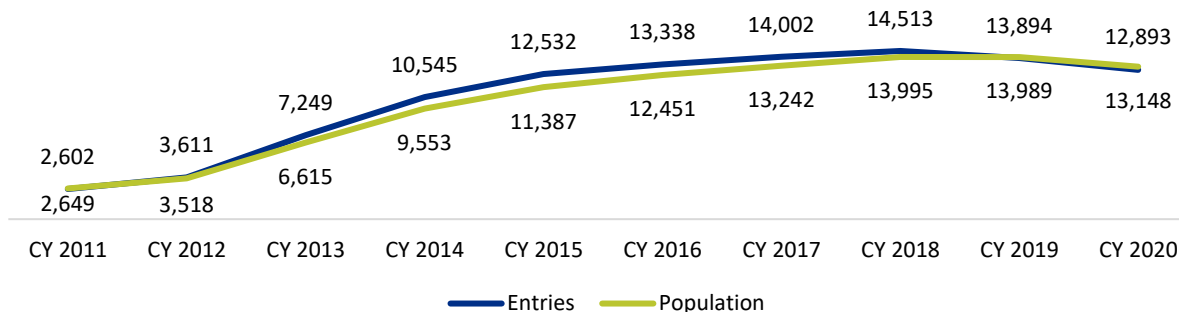
In response to these recommendations, the PRSP Commission selected an RNA tool called START (Short-Term Assessment of Risk and Treatability) and began training Commission staff, prison administration, and re-entry PPOs in 2019. The tool is still being piloted and the START grant has been extended to June 30, 2021 to allow for the continued purchase of materials and manuals. In August 2020, the PRSP Commission staff psychologist was designated as a START trainer and has trained parole case analysts to use the tool. The Commission developed a START cover sheet and summary to add to each offender's file and is planning a webinar on implicit bias as it relates to START analysis. The onset of the COVID-19 pandemic created a problem as the START tool measures an offender's strengths based on the last 90 days of activity and the prisons have stopped most programming due to the pandemic. The Commission has reconsidered the recommendation to use community supervision credits out of concern for public safety. Finally, while the Commission has not made any revisions to MAPP, the use of MAPP is ongoing with 155 offenders currently in the program. However, because programming has been halted due to COVID-19, MAPP participants are limited in their activities.

The number of offenders released from prison onto PRS and the population of offenders supervised on PRS have increased substantially since CY 2011 (see Figure 17). These data indicate that the PRS population is now primarily comprised of offenders sentenced under JRA terms. PRS entries and population decreased for the second year in a row; the data indicate possible stabilization of PRS entries and population. The COVID-19 pandemic likely contributed to the decreases from CY 2019 to CY 2020.

⁷³ DPS has sought delegated authority to use with PRS offenders in the past and it remains a priority for the Department.

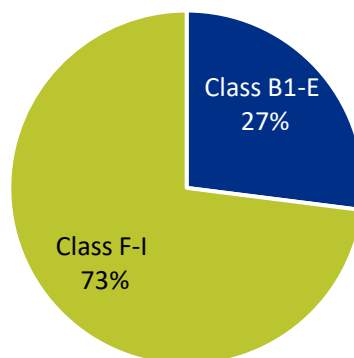
The considerable increase in entries since CY 2011 is a result of the volume of Class F-I entries to PRS from year-to-year. Class F-I felons account for the majority of PRS entries (see Figure 18).

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 2020



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. New crime or absconding violations of PRS may result in revocation for up to the amount of time remaining on the maximum imposed term; for all other violations, PRS may be revoked, but only for three months (similar to a CRV). Initially, DPS dedicated the Odom Correctional Institution for male post-release supervisees serving a three-month revocation period. However, in February 2018, DPS began placing some male offenders in either the Burke CRV Center or the Robeson CRV Center to serve their three-month revocation period. The PRSP Commission reported that this is beneficial for the PRS offenders but that it lacks a substance abuse treatment component; sometimes the Commission has to put the offender back on PRS upon release from the CRV Center with the condition that they attend DART Cherry. Beginning in 2019, DPS began placing female post-release supervisees who were serving a three-month revocation period in the North Piedmont CRV Center.

In response to the COVID-19 pandemic, the Burke CRV Center temporarily closed in April 2020 and male offenders were relocated to Foothills or Morrison Correctional Institutions or the Robeson CRV Center. The Burke CRV Center is tentatively scheduled to reopen in May 2021. Female PRS offenders continued to be housed at the North Piedmont CRV Center throughout 2020. The PRSP Commission reported no change in the processing of three-month PRS revocations due to COVID-19.

The Commission reported that they worked to limit the number of three-month revocations and permanent revocations during 2020 due to the COVID-19 pandemic. Specifically, the Commission has been continuing more offenders on PRS after a violation and utilizing alternatives to revocation in an effort to keep offenders out of DPS facilities. In September 2020 DPS temporarily contracted with a hotel in Durham to house males released from prison facilities who are homeless or otherwise unable to safely quarantine. At the request of DPS, the Commission has added two new PRS conditions for those individuals: the requirement that they remain in the hotel for the duration of the 14-day quarantine period and that they abide by electronic house arrest during the quarantine period. In February 2021, DPS established a similar COVID-19 quarantine facility in Black Mountain for females being released from prison facilities.

The increase in the PRS population as a result of the implementation of the JRA 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 14 summarizes PRS violation entries to prison. From CY 2016 to CY 2020, the percentage of prison entries has mostly stabilized, aligning with the goals of the JRA to limit revocations to offenders committing a new crime or absconding PRS. Overall, the percentage of entries for JRA three-month revocations and warrants have increased during this time period. The percentage of entries for new crimes (with conviction and alleged) has remained relatively stable. In CY 2020, offenders entering with three-month revocations represented the largest group of felony entries to prison for a PRS violation (31%) followed by absconding (26%). The number of entries with PRS warrants increased substantially from CY 2019 to CY 2020.

Table 14
Felony Entries to Prison for PRS Violations by Type

Prison Entry Type	CY 2016		CY 2017		CY 2018		CY 2019		CY 2020	
	#	%	#	%	#	%	#	%	#	%
New Crime w/ Conviction	482	11	484	9	490	9	490	9	292	6
Alleged New Crime¹	482	11	778	15	781	14	823	16	762	16
Technical²	137	3	118	2	61	1	166	3	53	1
Three-Month Revocation	845	19	1,137	21	1,508	27	1,267	25	1,445	31
Absconding	1,613	36	1,973	37	2,029	36	1,776	35	1,219	26
Pre-JRA Technical	340	8	352	7	277	5	172	3	122	3
Warrant/Pending Charges	281	6	500	9	457	8	450	9	778	17
Contempt³	285	6	0	0	0	0	0	0	0	0
Total	4,465	100	5,342	100	5,603	100	5,144	100	4,671	100

¹ 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).

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

³ The PRSP Commission reported that contempt hearings were no longer held for PRS offenders beginning in 2017. Note: Prison entries for CY 2018 – CY 2020 are affected by the number of inmates in county jails waiting for transfer to the state prison system. On December 31, 2020, there were 657 inmates backlogged in county jails. 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. Since CY 2016, exits have increased 11% (see Table 15). Revocation rates increased slightly from CY 2016 to CY 2017 (from 24% to 27%) but have subsequently declined.

Table 15
PRS Exits and Revocation Rates

	CY 2016	CY 2017	CY 2018	CY 2019	CY 2020
Total PRS Exits	11,776	12,634	13,101	13,196	13,093
% of PRS Exits Due to Revocation	24%	27%	25%	23%	17%

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

Table 16 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 2020 were in Supervision Levels 1 and 2 (69%).

Table 16
PRS Exits by Supervision Level in CY 2020

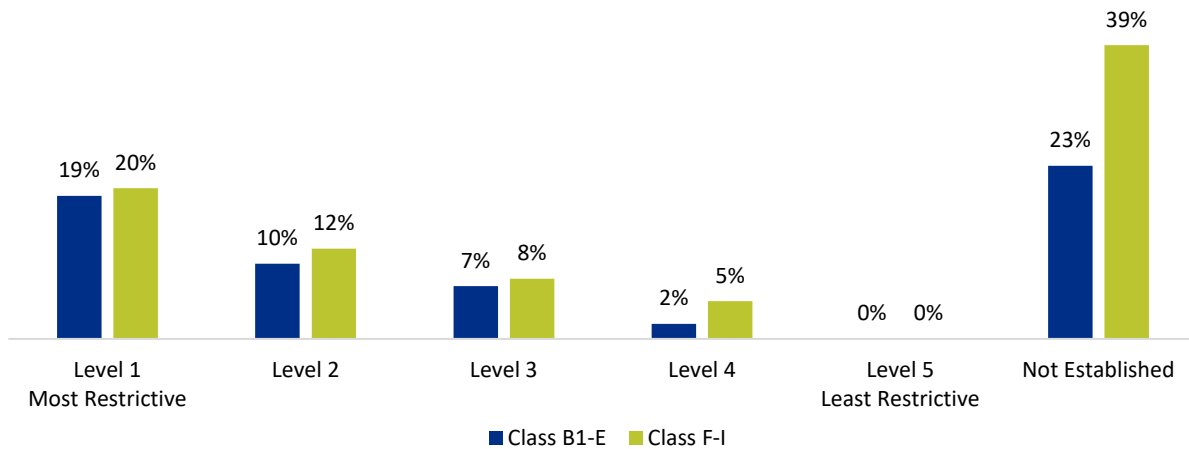
Supervision Level	Class B1-E		Class F-I		Total	
	#	%	#	%	#	%
Level 1 (Most Restrictive)	751	23	2,482	25	3,233	25
Level 2	1,385	42	4,371	45	5,756	44
Level 3	488	15	993	10	1,481	11
Level 4	164	5	335	3	499	4
Level 5 (Least Restrictive)	12	<1	7	<1	19	<1
Not Established	492	15	1,613	17	2,105	16
Total	3,292	100	9,801	100	13,093	100

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 (19% for Class B1-E and 20% for Class F-I), with a decreasing rate of PRS revocations for Supervision Levels 2 and 3. PRS revocation rates were slightly higher for Class F-I offenders in all supervision levels. Offenders without an established supervision level are typically those without a completed RNA (usually completed within the first 60 days of supervision), likely because they absconded and were revoked prior to completion of the RNA process and were therefore not assigned a supervision level.

Figure 19
PRS Revocation Rates by Offense Class and Supervision Level in CY 2020



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)

PRS Outcomes

To examine whether the expansion of PRS to low-level felons (Class F-I prisoners) has had a measurable effect on recidivism rates, the Sentencing Commission used data from its 2014 and 2018 adult recidivism reports, along with propensity score matching, to compare rearrest rates for Class F-I felons pre- and post-JRA.^{74,75} Results from this study indicated that expanding PRS to low-level felons had no effect on recidivist arrest rates for Class F-I prisoners. Table 17 summarizes the methodology and findings of this preliminary evaluation of the expansion of PRS.

Table 17
Evaluation of the Expansion of PRS: Methodology and Findings

Individual Factors	Matched pre- and post-JRA Class F-I prisoners using 17 variables identifying their personal characteristics, criminal history, and incarceration profile.
System-Level Changes	Controlled for system-level factors affecting recidivism using pre- and post-JRA Class B1-E prisoners subject to same matching criteria used for Class F-I prisoners.
Isolated Effect of PRS	Preliminary findings indicated no difference in recidivist arrest rates for Class F-I prisoners when comparing the pre- and post-JRA samples after accounting for individual factors and system-level changes.
Future Research	Comprehensively evaluate the effect of the expansion of PRS by using data further along in implementation and by examining additional variables (e.g., correctional programs) and outcomes.

SOURCE: NC Sentencing and Policy Advisory Commission

⁷⁴ The full brief can be found at www.NCSPAC.org.

⁷⁵ Propensity score matching estimates the effect of a treatment or policy and is commonly used in studies where individuals are not randomly assigned to control/test groups in order to minimize selection bias.

The purpose of PRS is multifaceted and includes not only controlling conditions but also reintegrative conditions. In this study, recidivism was the sole measure used to assess effectiveness; it may be that PRS has had a positive effect on other outcomes (e.g., obtaining employment) that were not examined. The Commission will continue to monitor the relationship between PRS and recidivism as using data further along in implementation may provide more insight on the effectiveness of PRS in reducing recidivist arrests for Class F-I prisoners.

V. CONCLUSION

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 are described below, with the caveat that most of the data and information presented within this report were affected by the COVID-19 pandemic.

Justice Reinvestment and the COVID-19 Pandemic

The onset of the COVID-19 pandemic beginning in March 2020 had immediate effects on the criminal justice system. In response to the public health crisis, many criminal justice processes were temporarily halted, dramatically slowed, or altered to accommodate emergency directives put in place by the Governor and Chief Justice. As a result, the volume of convictions declined. In addition, there was an effort to confine fewer offenders. It is difficult to untangle what changes in practices and outcomes can be attributed to the JRA or to the pandemic over the past calendar year. It is unknown how long it will take for the criminal justice system to return to its pre-COVID operations in terms of volume and practices, if ever. The examination of data in future reports will allow for greater understanding of how COVID-19 affected the system, and more specifically, the initiatives of the JRA.

Sentencing Practices

While sentencing practices were affected by the COVID-19 pandemic in that fewer sentences were imposed in CY 2020, trends related to JRA sentencing options continued in a pre-COVID direction. The imposition of special probation primarily occurred at initial judgement (89%) rather than as a modification of probation. Overall, the most frequently used provision remains the habitual felon status offense, with 813 habitual felon prison entries occurring in CY 2020. The percentages have shifted over time between the three available offense classes for sentencing habitual felons; in CY 2020, the largest percentage were sentenced in Class E. This shift breaks a trend that has endured since CY 2012; previously most habitual felons were sentenced in Class C. The habitual breaking and entering status offense created by the JRA continues to see limited use, as does ASR. The resulting effects of these sentencing practices on the overall prison population for each of these groups also differs. Though CY 2020 saw significant decreases in the prison population (see below), habitual felons continue to comprise the largest category of inmates in prison. Conversely, inmates serving ASR sentences or sentences for habitual breaking and entering represent a very small proportion of the prison population.

Correctional Practices

As with sentencing, fewer offenders were under supervision in CY 2020, but correctional practices generally reflected similar patterns as those observed pre-pandemic. The RNA continues to accurately identify those offenders under supervision most likely to reoffend and place them into the higher, more restrictive supervision levels. The resulting supervision levels are associated with the expected patterns in outcome measures: probationers and post-release supervisees in the less restrictive supervision levels tended to fare better under supervision compared to those in the more restrictive supervision levels. Probationers in Supervision Levels 1 and 2 were more likely to receive a quick dip or a CRV, more likely to have a violation following a quick dip and/or CRV, and more likely to be revoked compared to those probationers in the less restrictive supervision levels. Similarly, post-release supervisees in Supervision Level 1 had the highest rates of revocation compared to the other levels.

Several initiatives of particular focus in prior years met with challenges during CY 2020 due to the pandemic. TECS served fewer offenders in the community, but some programs were able to adapt to provide services virtually. Burke and Robeson CRV centers were both temporarily suspended at various points throughout the year to accommodate staffing needs at prison facilities and the COVID-19 pandemic. Reentry programming and planning became more complex as the Department put new release policies into place in order to better manage the health and safety of inmates and staff and mitigate the spread of COVID-19.

The SMCP also experienced changes in county participation due to the pandemic as jails recalibrated individual participation levels to meet the health and safety needs of their facilities. The Sentencing Commission projects a return to pre-COVID level participation for the Program in the short-term, as counties have already started to come back online.

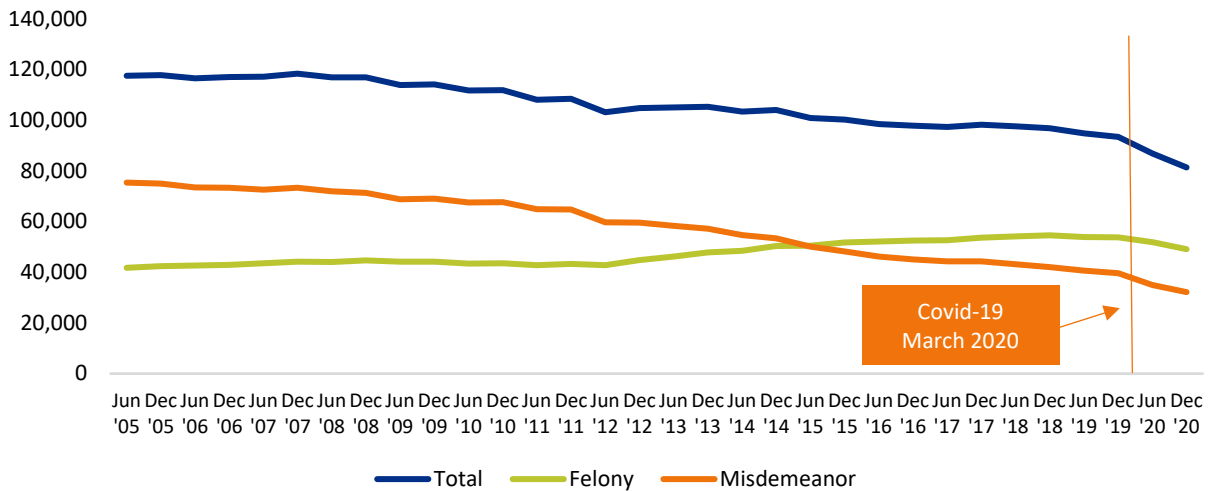
Effect of Justice Reinvestment on the Community Corrections and Prison Populations

In previous reports, the population of offenders under supervision in the community and in prisons have been examined to determine how JRA policies have contributed to changes in those populations. This year, population trends are examined in the context of the COVID-19 pandemic, both as context for dramatic changes occurring over the past year and as a baseline to understand how the populations recover and/or evolve in future years.

The community corrections and prison populations have been demonstrably affected by JRA changes that went into effect beginning December 2011; however, this year, the key factor driving changes is the pandemic. 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 25% from December 2011 to December 2020 (from 108,520 to 81,387); 45% of this decrease occurred from CY 2019 to CY 2020. The population of felons under community supervision had been generally increasing due to the addition of PRS for Class F-I felons; however, this population also decreased 9% last year. Misdemeanor declines in the population (down 57% since 2005) have been a major contributor to the overall decline in the community corrections population; the largest one-year decrease (19%) occurred last year as well.

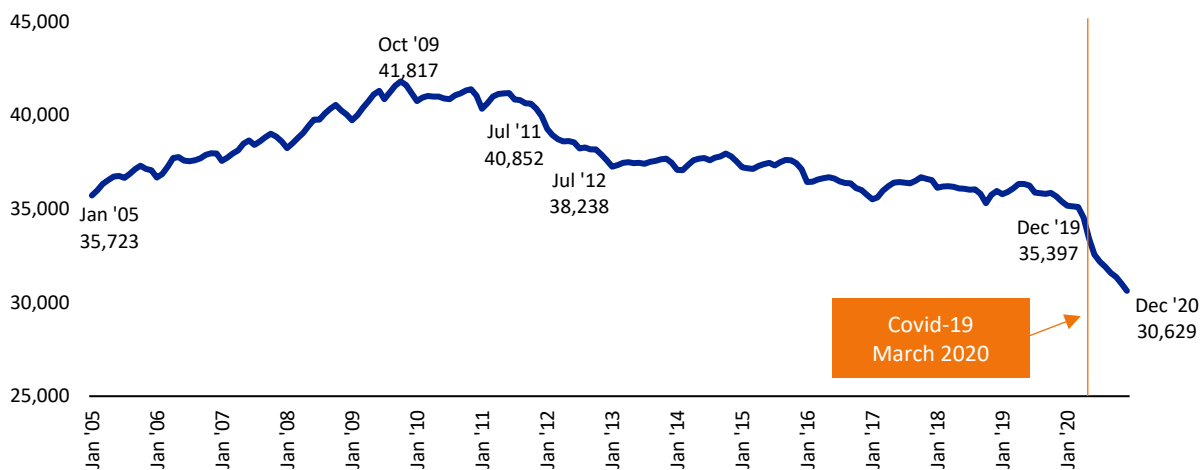
Figure 20
NC Community Corrections Population at Month End (June 30, 2005 - December 31, 2020)



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

Figure 21 shows the prison population in North Carolina from January 2005 through December 2020. The average prison population has declined from 39,954 in December 2011 to 30,629 in December 2020, a decrease of 9,325 or 23%. The decrease of 13% over the past year, due to emergency directives and changes in correctional practices affecting release policies in response to the COVID-19 pandemic, is the single largest decrease seen in the prison population in one year. As context, when JRA went into effect, allowing for the closure of nine prison facilities, the resulting prison population decrease was 6% in one year.

Figure 21
NC Prison Population (Monthly Average: CY 2005 - CY 2020)



Note: Prison population figures include inmates backlogged in county jails when applicable. On December 31, 2020, there were 657 inmates backlogged in county jails. Solid vertical lines separate each fiscal year.

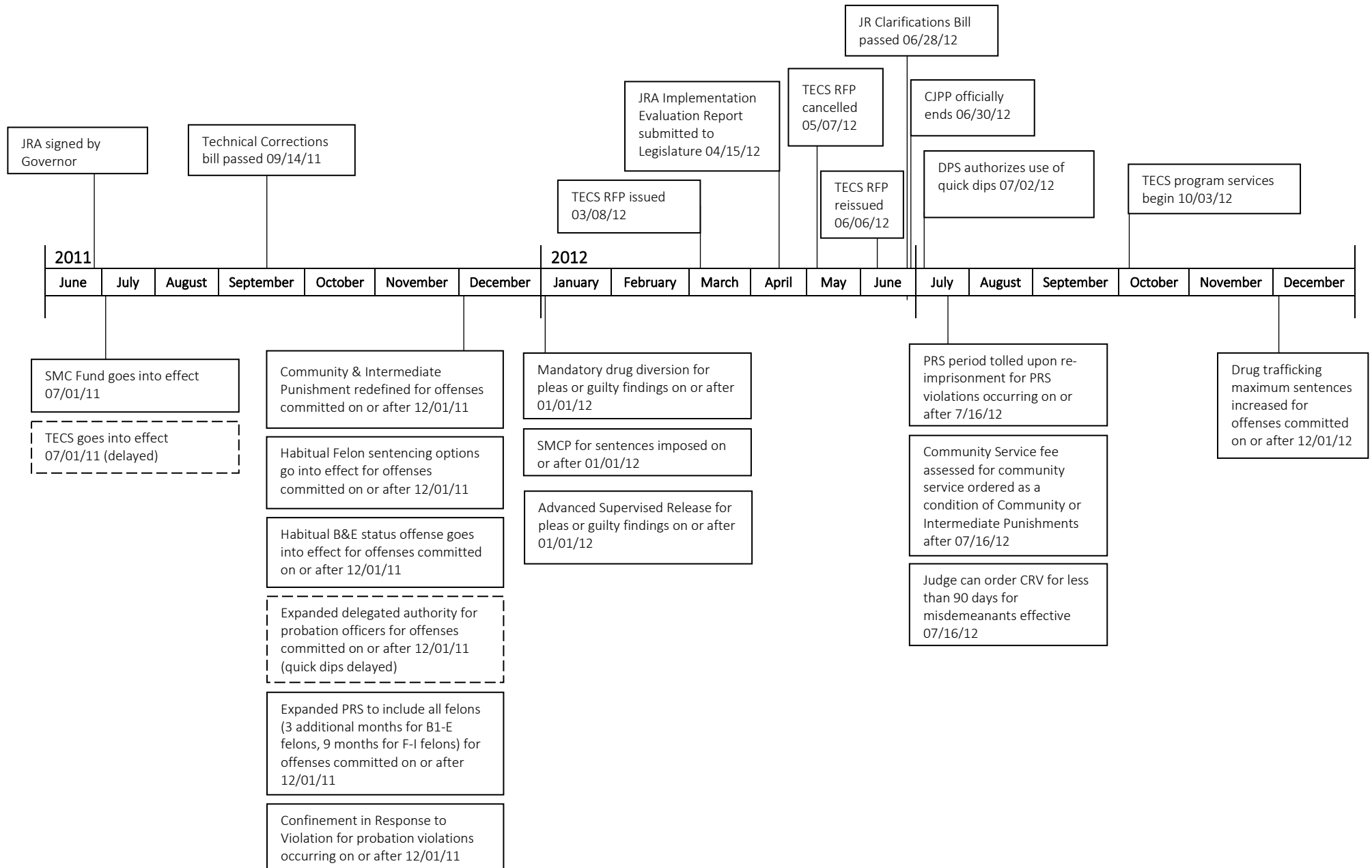
SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Daily Unit Population Reports and Inmates on Backlog Reports.

As noted previously, it will take some time to understand the overall effect of the COVID-19 pandemic on the criminal justice system and on JRA initiatives. 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.

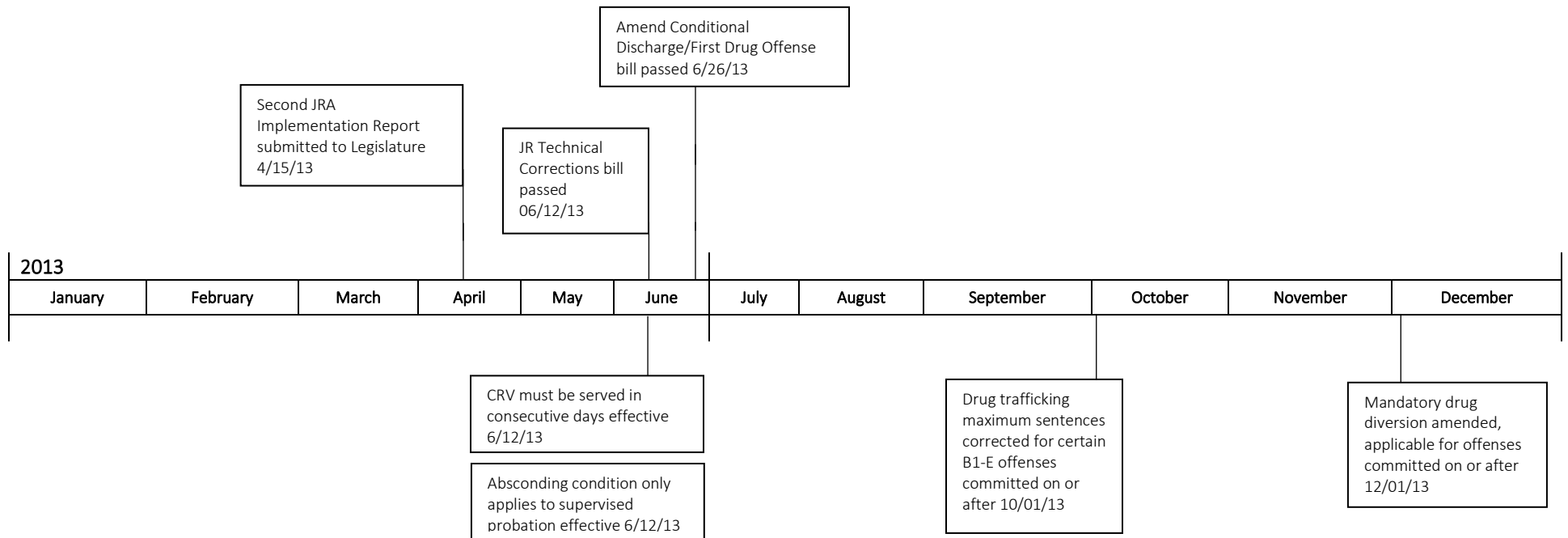
APPENDIX A

JUSTICE REINVESTMENT IMPLEMENTATION TIMELINE

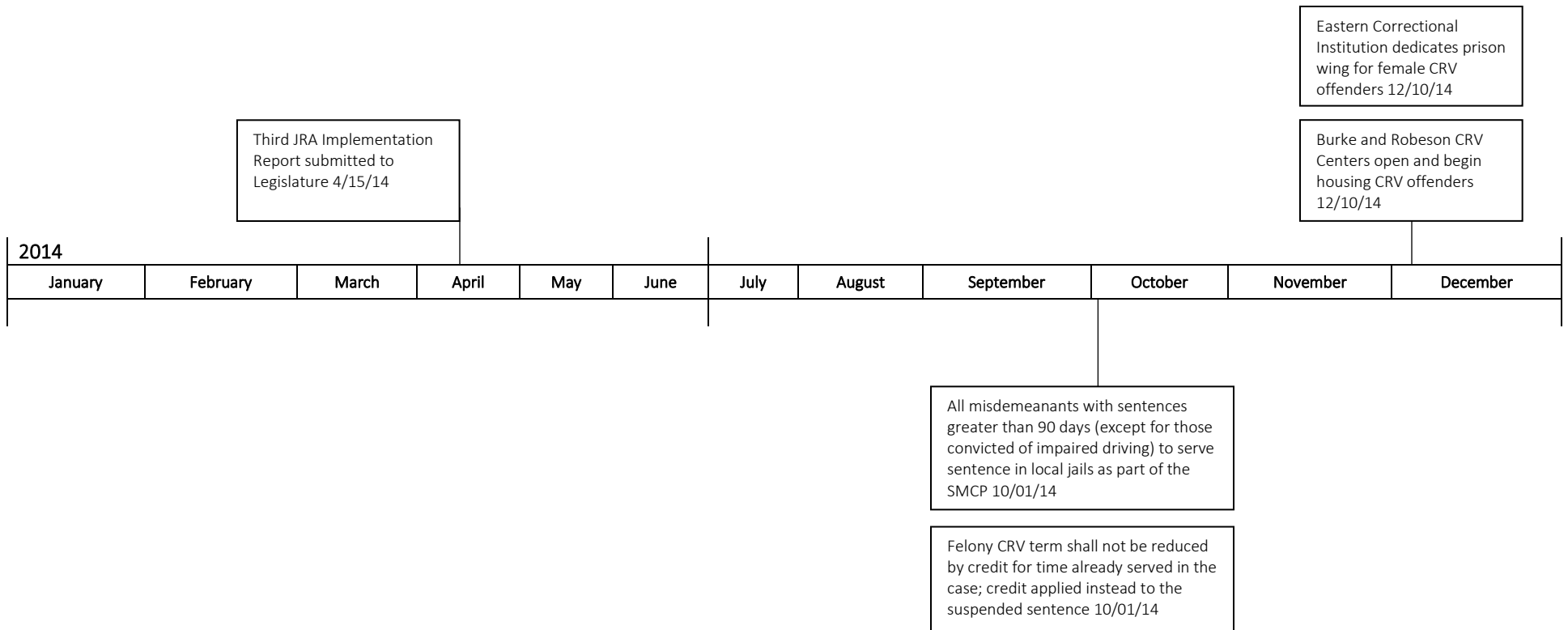
JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2011-2012



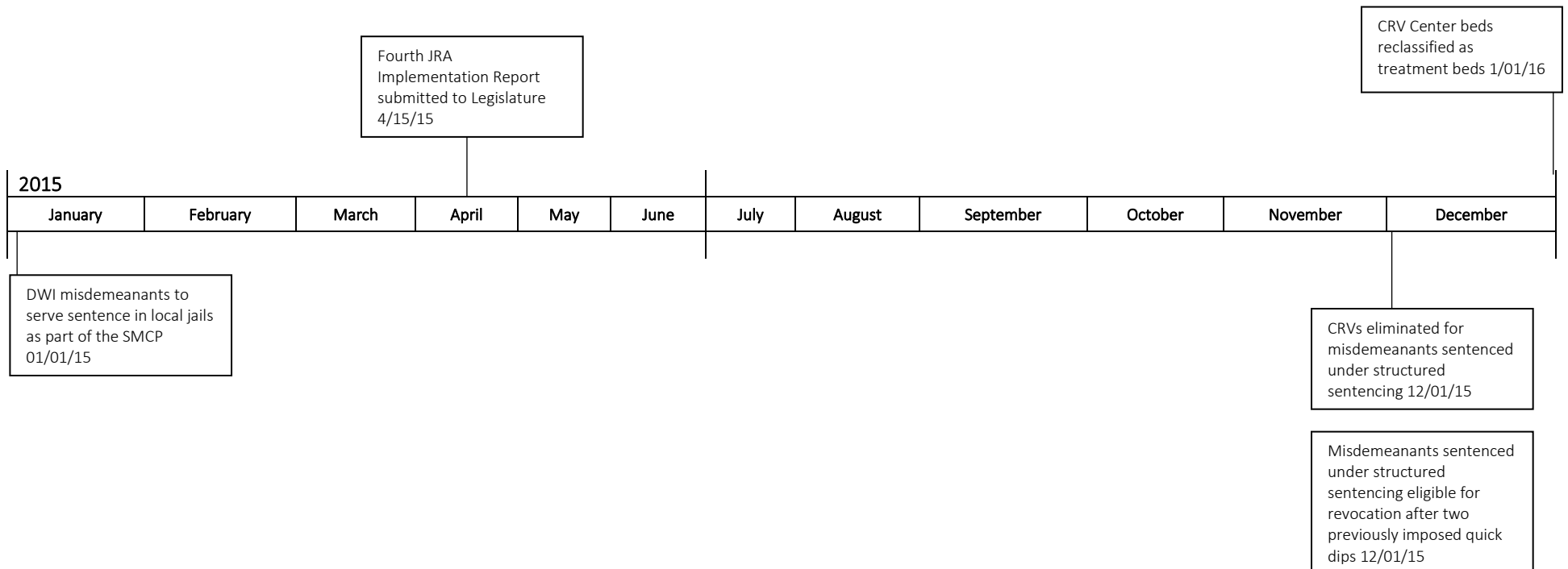
JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2013



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
CTS	Criminal Thinking Scales
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
ELC	Extended Limits of Confinement
FARS	Functional Ability Rating System
FY	Fiscal Year
G.S.	General Statute
IOP	Intensive Outpatient Treatment
JRA	Justice Reinvestment Act
MAPP	Mutual Agreement Parole Program
MRT	Moral Reconation Therapy
NCJAA	North Carolina Jail Administrators' Association
NCSA	North Carolina Sheriffs' Association
NCTRACS	North Carolina Transition Reentry Automated Case Management System
OPUS	Offender Population Unified System
OTI-R	Offender Traits Inventory-Revised
PRS	Post-Release Supervision
PSI	Pre-Sentence Investigation
PSM	Propensity Score Matching
PPO	Probation and Parole Officer
RRS	Recidivism Reduction Services
RFP	Request for Proposals
RNA	Risk and Needs Assessment
SMHP	Specialty Mental Health Probation
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
SRCC	State Reentry Council Collaborative
SSA	Structured Sentencing Act
START	Short-Term Assessment of Risk and Treatability
TECS	Treatment for Effective Community Supervision
TDU	Therapeutic Diversion Unit