

JUSTICE REINVESTMENT ACT

IMPLEMENTATION EVALUATION REPORT

2023



NORTH CAROLINA
SENTENCING AND
POLICY ADVISORY
COMMISSION

THE HONORABLE CHARLIE BROWN
CHAIRMAN

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JUSTICE REINVESTMENT ACT

IMPLEMENTATION EVALUATION REPORT 2023

PROJECT CONDUCTED IN CONJUNCTION WITH THE
NORTH CAROLINA DEPARTMENT OF ADULT CORRECTION

SUBMITTED PURSUANT TO N.C. GEN. STAT. § 164-50 (2022)

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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 (DAC)¹ of the Department of Public Safety (DPS, the Department) to jointly conduct ongoing evaluations regarding the implementation of the Justice Reinvestment Act (JRA).² This report constitutes the twelfth report in compliance with the directive.

The Sentencing Commission's reports have evaluated the implementation of JRA over the past eleven years, highlighting legislative changes, changes in policies and practices, initiatives undertaken by agencies to further the goals of the JRA, and data examining the usage of JRA tools and outcomes under the JRA.³ The COVID-19 pandemic, which began in March 2020, continued to affect the volume of convictions and the prison and jail populations (however with diminishing effect) into 2022. Instances where trends or year-to-year changes have been altered as a result of the pandemic and the system's recovery are noted where relevant.

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 DAC's Administrative Analysis Unit, as well as from their online Automated System Query (ASQ).⁴ Information about the Statewide Misdemeanant Confinement Program (SMCP) was obtained from the North Carolina Sheriffs' Association (NCSA).⁵

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 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.

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

¹ On January 1, 2023, the Division of Adult Correction became a separate Department of Adult Correction. Because this report focuses on activities that occurred in CY 2022, it will refer to the Division of Adult Correction in the Department of Public Safety unless otherwise noted.

² N.C. Gen. Stat. (G.S.) § 164-50.

³ See Appendix A for a full timeline of the JRA implementation.

⁴ Effective January 1, 2023, these data sources (i.e., OPUS and ASQ) are located in the Department of Adult Correction.

⁵ See Appendix B for a full list of acronyms used in this report.

with the hope CSG would determine ways North Carolina could curb expenditures for building prisons as well as ways to reinvest in strategies to reduce corrections spending overall.⁶

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.⁷

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.⁸

Changes to the Court System

The JRA expands the existing drug diversion program⁹ 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 program¹⁰ (see Related Legislation).

A habitual breaking and entering status offense is created. Offenders who commit their second felony breaking and entering offense are eligible and, if convicted, are sentenced in Class E according to the

⁶ 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 2022-FY 2031*).

⁷ 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.

⁸ Additional information on the JRA is available in multiple places. See NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report*, 2012 through 2021, 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>.

⁹ G.S. 90-96.

¹⁰ Session Law (S.L.) 2013-210.

felony punishment chart.¹¹ 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.¹²

The JRA redefines Community and Intermediate punishments.¹³ 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.¹⁴ 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 the JRA for certain offenders receiving active sentences.¹⁵ 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 DAC to perform an assessment on all offenders.¹⁶ 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.¹⁷

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.¹⁸ Subsequently, the law was amended to eliminate the Confinement in Response to Violation (CRV) period for misdemeanants sentenced to probation under the Structured Sentencing Act (SSA).¹⁹

Changes to Prisons

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

¹¹ G.S. 14-7.31.

¹² G.S. 14-7.6.

¹³ G.S. 15A-1340.11(2), (6).

¹⁴ G.S. 15A-1343 (a1)(3).

¹⁵ G.S. 15A-1340.18.

¹⁶ G.S. 15A-1343.2(b1).

¹⁷ G.S. 15A-1343.2(e) and (f).

¹⁸ G.S. 15A-1344(d2).

¹⁹ S.L. 2015-191.

Changes to Post-Release Supervision

PRS under the JRA is expanded to include all felons. After serving an active sentence, a period of nine months of supervision is required for Class F-I felons and five years of supervision is required for Class F-I felons convicted of a sex offense. The revocation period for these offenders is nine months. PRS for Class B1-E felons who are not convicted of a sex offense is expanded to 12 months; the revocation period is expanded to 12 months as well.²⁰

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.²¹

Resources

The Criminal Justice Partnership Program (CJPP) is repealed under the JRA and the Treatment for Effective Community Supervision (TECS) program is created.²² DAC 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 DAC 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.²³ 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.²⁴ The SMCP finds space to house eligible misdemeanants in participating local jails. If the participating local jails are full, DAC houses the offenders. Originally, misdemeanants who received a sentence of between 91 and 180 days of confinement, excluding sentences for impaired driving²⁵ offenses, were placed under the SMCP; misdemeanants who received a sentence greater than 180 days were housed in the state prison system. However, the General Assembly subsequently amended the statutes to provide that all misdemeanants who receive a sentence greater than 90 days, and all offenders convicted of impaired driving offenses regardless of sentence length, will serve their time in participating local jails through the SMCP²⁶ (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.

²⁰ G.S. 15A-1368.1 to -1368.2.

²¹ G.S. 15A-1368.3(c).

²² G.S. 143B-1150 to -1160.

²³ G.S. 148-32.1(b2) to (b4).

²⁴ S.L. 2015-241.

²⁵ Impaired driving is also referred to as “driving while impaired” or “DWI.”

²⁶ S.L. 2014-100.

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

Table 1
JRA Effective Dates by Provision

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 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 misdemeanor after they have received two separate periods of short-term confinement, which may be imposed either by the court or by the probation officer through delegated authority. This change applies to persons placed on probation on or after December 1, 2015.

Table 2
JRA Amendment Effective Dates by Provision

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.²⁷ 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.

²⁷ For the Sentencing Commission's study of CRV credit and consecutive sentences, see NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report, 2015*.

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

The COVID-19 pandemic, which began in March 2020, has continued to affect the volume of convictions due to its sustained impact on the criminal justice system and court operations.

Community and Intermediate Punishments

With the redefinition of Community and Intermediate punishments under the JRA, special probation (i.e., a 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 2018 to CY 2022, 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 13,227 sentences that included special probation ordered in CY 2022, 91% were at initial judgment. A similar proportion of felons and misdemeanants had their special probation sentences ordered at initial judgment (89% and 92% respectively) and through a modification (11% and 8% respectively).

Table 3
Special Probation by Origin

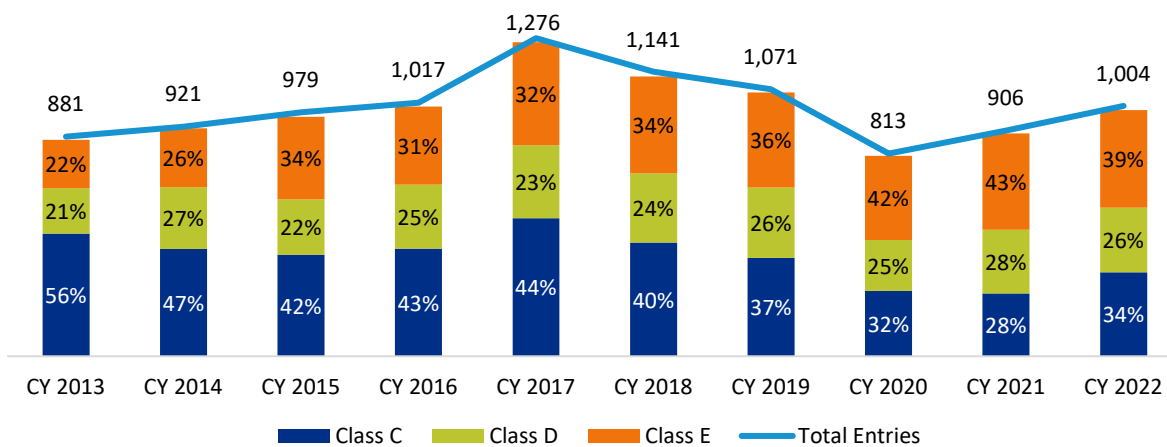
Origin	CY 2018	CY 2019	CY 2020	CY 2021	CY 2022
Initial Judgment	85%	86%	89%	92%	91%
Probation Modification	15%	14%	11%	8%	9%
Total	16,928	17,001	10,586	11,794	13,227

SOURCE: NC Department of Adult Correction

Habitual Felon

The effect of the modifications to the habitual felon law under the JRA 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 2013 to CY 2022. Overall, the volume of habitual felon prison entries has increased 14% over this time period. Entries to prison for habitual felons sentenced in Class C comprised the majority of entries for this group until CY 2020; since then, the majority have been in Class E.

Figure 1
Habitual Felon Prison Entries by Offense Class

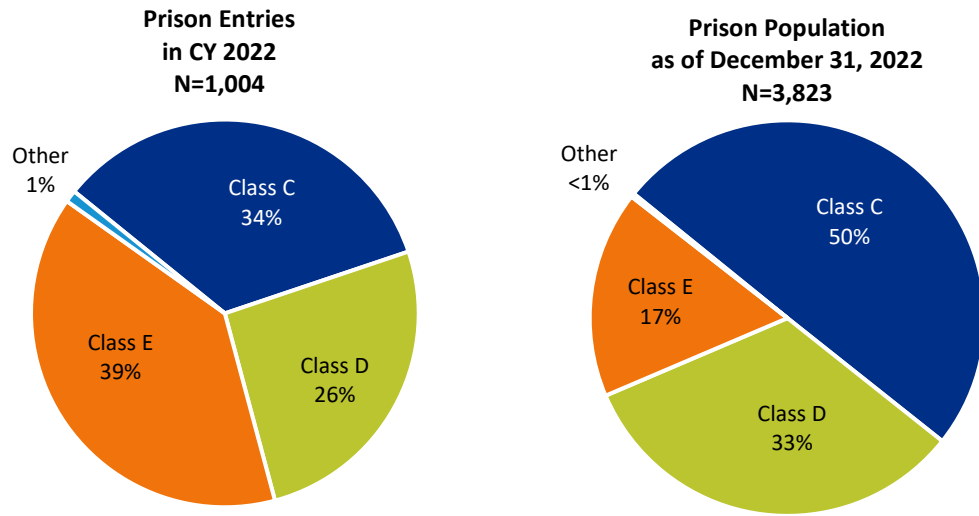


Note: Prison entries for CY 2018 – CY 2021 were affected by the number of inmates in county jails waiting for transfer to the state prison system. Habitual felon prison entries with an “other” class (i.e., safekeepers, CRVs, and possible discrepant data) are excluded from the table. As such, percentages do not add to 100%.

SOURCE: NC Department of Adult Correction, Automated System Query (ASQ)

Figure 2 examines the offense class distribution of habitual felon prison entries and the habitual felon prison population. In CY 2022, most habitual felon prison entries were sentenced in Class E (39%). As of December 31, 2022, the majority of the habitual felon prison population (50%) 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.

Figure 2
Habitual Felon Prison Entries and Population by Offense Class



Note: Prison entries for CY 2018 – CY 2021 were affected by the number of inmates in county jails waiting for transfer to the state prison system. The “other” category includes safekeepers, CRVs, and possible discrepant data. SOURCE: NC Department of Adult Correction, 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 2022, 52% of Class C, 58% of Class D, and 56% of Class E habitual felons were sentenced in the mitigated range.²⁸

Based on DPS’s broad categorization of offenses, habitual felons account for the largest proportion of the prison population. Overall, habitual felons accounted for 13% (or 3,823) of the December 31, 2022, prison population of 29,934.

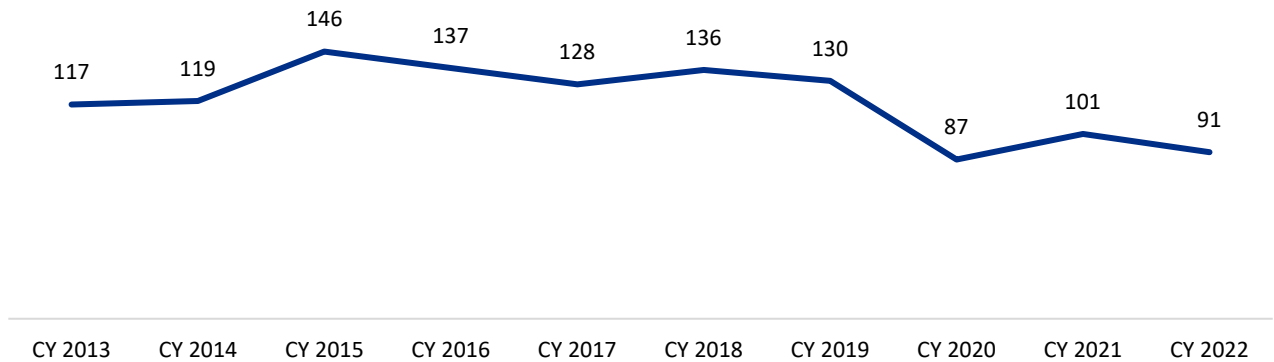
While nearly all habitual felons are sentenced to active punishment, it is possible that a habitual felon in Class E could receive a non-active sentence, depending on prior record level. There were 10 Class E habitual felon entries to probation in CY 2022.

Habitual Breaking and Entering Felon

There were 91 entries to prison in CY 2022 for offenders convicted and sentenced for habitual breaking and entering, which is a Class E felony (see Figure 3). Since implementation, felony habitual breaking and entering has been infrequently convicted and sentenced, despite the potentially large pool of offenders eligible for this status offense.

²⁸ See NC Sentencing and Policy Advisory Commission, *Structured Sentencing Statistical Report for Felonies and Misdemeanors*.

Figure 3
Habitual Felon Breaking and Entering Prison Entries



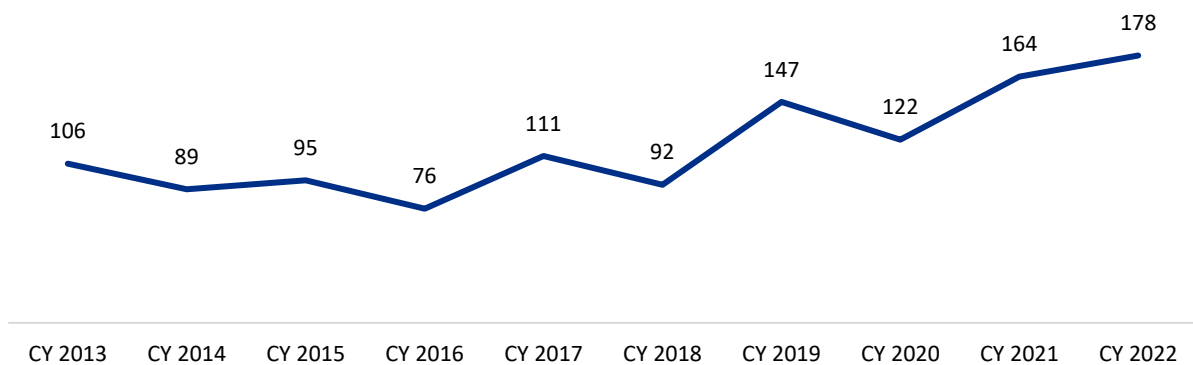
Note: Prison entries for CY 2018 – CY 2021 were affected by the number of inmates in county jails waiting for transfer to the state prison system.

SOURCE: NC Department of Adult Correction, 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 increased from CY 2021 to CY 2022 (from 164 to 178). Over half of offenders (53%) receiving ASR sentences were sentenced in Class G 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 2021 were affected by the number of inmates in county jails waiting for transfer to the state prison system.

SOURCE: NC Department of Adult Correction

In CY 2022, ASR was used in 46 counties, with 7 counties accounting for 51% (or 92) of inmates receiving an ASR sentence. In CY 2022, 214 inmates with an ASR sentence exited prison. The majority (90%) 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.²⁹ Although there are no plans to expand the pilot, it continues to operate in these counties.

III. COMMUNITY SUPERVISION

The majority of the changes under the JRA affected how offenders are supervised in the community. Each year following implementation 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. The information provided below describes any changes in policies and practices that affected Community Corrections (where relevant) alongside data (where available).

As a point of reference for this section, on December 31, 2022, the community corrections population (including both probationers and post-release supervisees) was 77,346. Between December 2021 and December 2022, the felony community corrections population decreased less than 1% and the misdemeanor community corrections population increased by 1%. Throughout this section, rates for outcome measures are only reported for probationers when there are more than 50 offenders in a specific category.

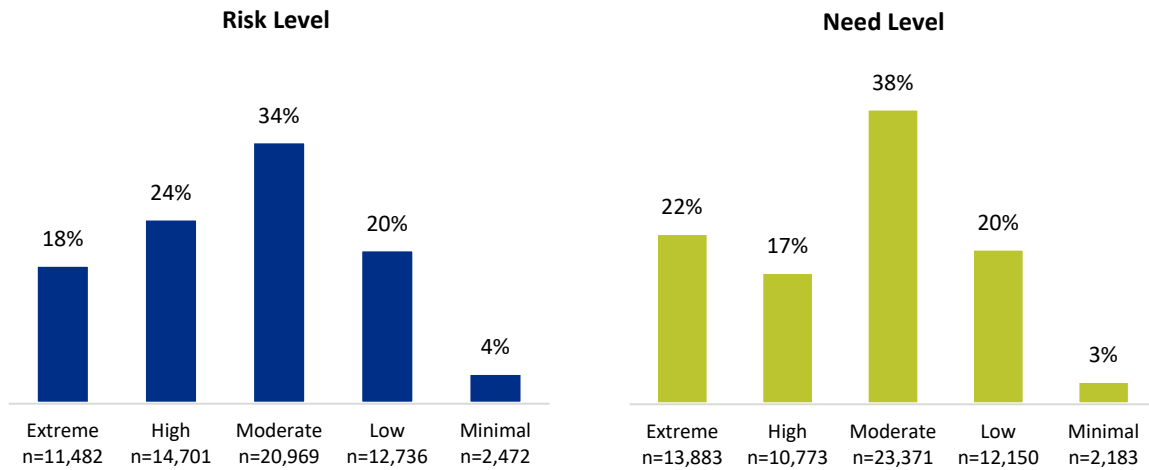
Risk and Need Assessment and Supervision Level³⁰

For supervision of the community corrections population, the JRA requires the use of 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 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% and 3% respectively).

²⁹ 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 and determine what specific supervision conditions should be imposed.

³⁰ See NC Sentencing and Policy Advisory Commission, *Justice Reinvestment Implementation Evaluation Report, 2013*, for a more detailed description of these instruments.

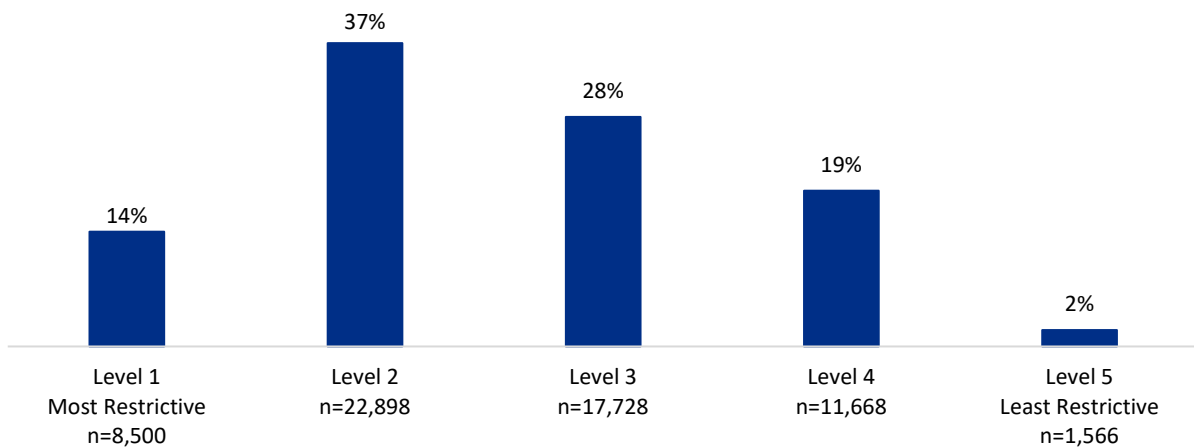
Figure 5
Risk and Need Level for the Assessed Community Corrections Population
on December 31, 2022



SOURCE: NC Department of Adult Correction

Supervision level, which determines the minimum contact requirements for supervision, is determined by the intersection of the offender's risk and need level.³¹ 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%). The supervision level distribution has remained stable from year-to-year.

Figure 6
Supervision Level for the Assessed Community Corrections Population
on December 31, 2022



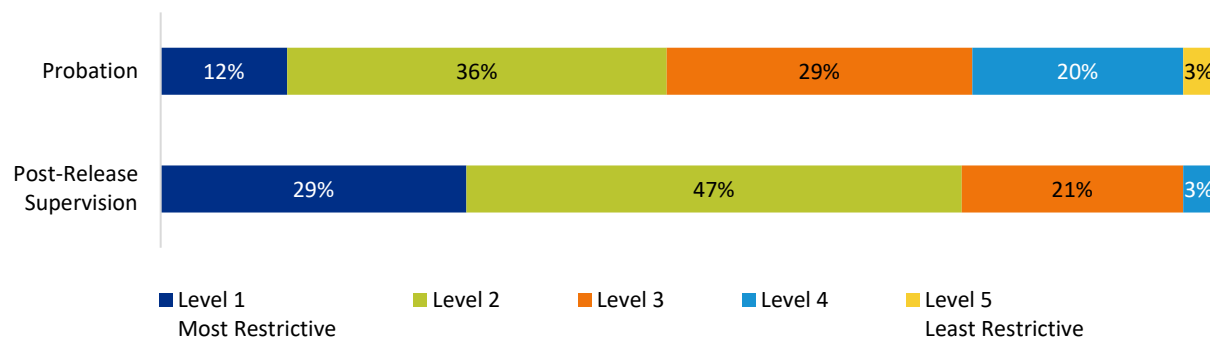
SOURCE: NC Department of Adult Correction

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

³¹ The supervision level distribution for Figure 6 depicts the 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.

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. Over three-quarters (76%) of offenders on PRS were in Supervision Level 1 (29%) and Supervision Level 2 (47%), the most restrictive supervision levels, while less than half (48%) of probationers were in Supervision Level 1 (12%) and Supervision Level 2 (36%).

Figure 7
Supervision Level by Supervision Type for the Assessed Community Corrections Population
on December 31, 2022



Note: There were 9 Level 5 post-release supervisees on December 31, 2022.

SOURCE: NC Department of Adult Correction

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.³² To achieve this goal, offenders are separated 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.

During the COVID-19 pandemic, DPS issued a statewide interim supervision plan which suspended certain contact requirements. DPS cancelled that plan effective July 29, 2022, and returned to regular supervision standards. However, due to staffing issues, 11 districts are operating under local interim supervision plans.

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

³² G.S. 15A-1343.2(c).

health needs.³³ Officers participating in the study carry specialized caseloads and utilize evidence-based strategies for managing offenders with serious and persistent mental illness (SPMI). The caseload goal is 40 probationers to 1 officer.

From the initial launch of the study, which was piloted in Wake and Sampson counties, the program has been expanded with the assistance of grants from the Governor's Crime Commission (GCC) and the Bureau of Justice Assistance (BJA).³⁴ Most recently, in 2022, DPS used existing funds to expand the program again. The program now operates in the following 24 counties: Brunswick, Burke, Carteret, Cumberland, Duplin, Durham, Edgecombe, Guilford, Haywood, Henderson, Jackson, Macon, McDowell, Mecklenburg, Moore, New Hanover, Orange, Pender, Pitt, Randolph, Rockingham, Sampson, Wilkes and Wake. The new Department of Adult Correction is working on expansion plans for 2023.

For the initial counties, the GCC grant funding with the UNC School of Social Work ended in 2018; however, UNC continues to 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. The current BJA grant, which will end in September 2023, is supporting monthly clinical consultation for all counties; however, the General Assembly appropriated funding in 2021 for four licensed mental health professionals to provide clinical consultations within DPS. The Division of Community Supervision in the new Department of Adult Correction is in the process of filling those positions.

The Department has its own Administrator of the Social Work Program, who 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 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 for the development of a process and outcomes evaluation and the sharing of 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; (4) mental health training modules for probation officers (e.g., Crisis Intervention Training and Mental Health First Aid.³⁵); and (5) a protocol

³³ According to DPS, 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.

³⁴ The BJA grant also provided funding for a combination of specialty mental health probation with individual placement and supported employment (IPS-SE) in Durham and Wake Counties. The COVID-19 pandemic caused DPS to postpone the start of the IPS-SE program, but the Department was able to restart the program in 2022.

³⁵ 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/>.

manual for developing, implementing, and sustaining specialty mental health probation. FARS has subsequently been automated.

In 2022, the Department reported 901 offenders were enrolled in the program, up from 624 offenders in 2021. There are 41 officers carrying specialized mental health caseloads.

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.³⁶

Absconder Initiative

Under the JRA, the concept of absconding was defined in statute for the first time. Absconding is defined as an offender 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; by 2020 the program had expanded to 11 districts, covering 21 counties. The COVID-19 pandemic delayed further expansion, however, by February 2022 the program became statewide policy.

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. Some districts form the specialized teams, while in the other districts a single officer, such as the supervisor, must perform the second phase. As of CY 2022, results indicate that active absconders have reached a consistent average of 2,000 offenders. The Security Operations and Intelligence Unit (SOIU) in the Department monitors for expired absconders, offenders who are no longer on supervision but have active warrants for their arrest.

³⁶ For more information, see "Statewide Mental Health Training and Specialty Mental Health Probation: A project funded by the Governor's Crime Commission" (2017).

³⁷ G.S. 15A-1343(b)(3a).

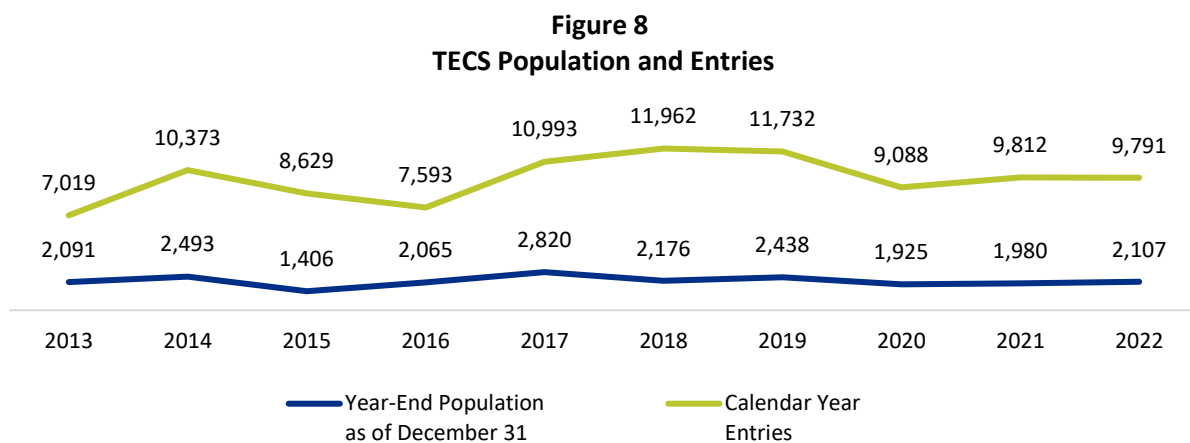
³⁸ See e.g., *State v. McCall*, No. COA22-496, 2023 N.C. App. LEXIS 82 (Ct. App. Mar. 7, 2023), *State v. Krider*, 371 N.C. 466 (2018); *State v. Melton*, 258 N.C. App. 134 (2018); *State v. Johnson*, 246 N.C. App. 139, 783 S.E.2d 21 (2016); *State v. Williams*, 243 N.C. App. 198, 776 S.E.2d 741 (2015).

³⁹ Specialized officers are selected by management based on experience, performance, and interest in the program.

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 2022, 9,791 offenders entered TECS programs; 2,107 offenders were enrolled in TECS on December 31, 2022 (see Figure 8). The year-end TECS population increased over the past year (6%) and the number of TECS entries decreased less than 1%.



SOURCE: NC Department of Adult Correction

Of the 9,662 offenders exiting TECS in CY 2022, the majority (51%) were in Supervision Levels 2 and 3. Very few offenders were in Supervision Level 5 (less than 1%).⁴¹ Figure 9 shows completion rates for all offenders exiting TECS in CY 2022 by supervision level.^{42,43} Few differences were found in TECS completion rates from CY 2021 to CY 2022. The overall completion rate for all TECS participants was 32%. Completion rates were lowest for participants in Supervision Level 1 (22%) and highest for those in Supervision Level 4 (43%).

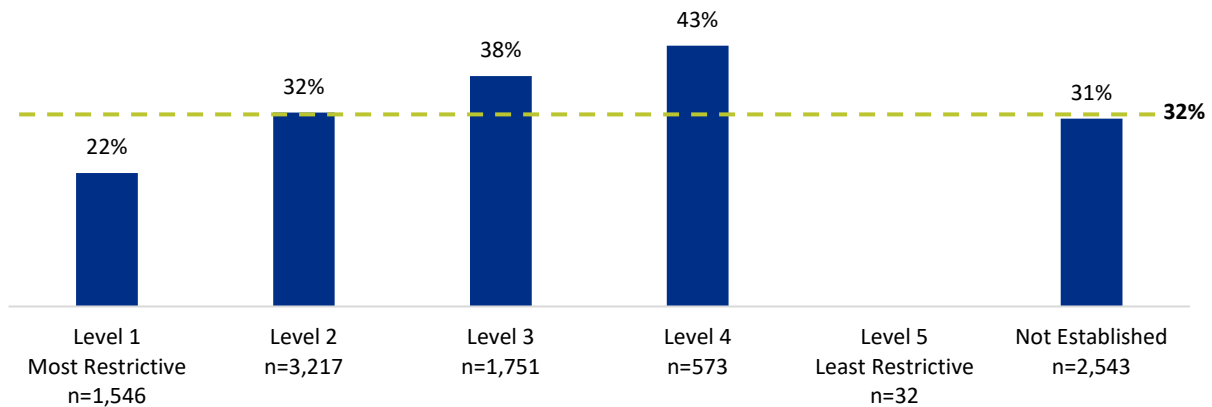
⁴⁰ G.S. 143B-1154.

⁴¹ Throughout the report, results for offenders in Supervision Level 5 are omitted due to low numbers; when presented, outcomes should be interpreted with caution.

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.

Figure 9
Completion Rates for TECS Exits in CY 2022



SOURCE: NC Department of Adult Correction

TECS services were available in all 100 North Carolina counties in 2022. Since introducing a hybrid option (remote and in-person care) in 2021 due to the COVID-19 pandemic, many counties continued to provide care through this model. However, in CY 2022 about one third of all counties returned to in-person care.

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 contracts, effective September 2022, made all substance abuse services optional and allowed vendors to bid on whether they wanted to provide regular outpatient services, IOP, or both.

Recidivism Reduction Services

The overwhelming majority of offenders served through TECS programs have participated in RRS. RRS vendors 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. Presently, RRS contracts cover 97 counties, with three counties losing coverage due to a vendor not renewing their contract.

In 2019, DPS included IOP services as an option in the contract for TECS vendors. Four vendors agreed to provide IOP beds for 12 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. IOP services will continue to be offered through the end of the contract renewal period into 2024 and there are plans to include IOP in the next round of Requests for Proposal (RFP) in 2024 to 2025.

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.

Transitional/Temporary Housing

Recognizing the importance of stable housing to offender success, DPS 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 185 total beds provided by nine vendors; these consist of 153 male beds and 32 female beds.⁴⁵ 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. However, the new DAC plans to put out an RFP for additional beds for sex offenders in the state. Temporary housing is short-term housing, up to 90 days, and there is no programming available. Currently, there are eight temporary housing beds on contract for sex offenders, three in Guilford County and five in Edgecombe County.

The COVID-19 pandemic added to the difficulties of providing transitional and temporary housing. Each housing facility had its own COVID-19 protocols which the offenders had to follow, and some offenders were released from prison facilities where COVID-19 was present, which created additional problems. In addition, the state had entered into a consent agreement in February 2021 that required it to release additional eligible inmates.⁴⁶ The state used extended limits of confinement (ELC) as one of the release mechanisms but that often required finding housing for inmates upon release. From November 2020 to August 2021, DPS entered into a separate housing contract for offenders being released from prisons to the ELC program.

Reentry Councils

Local reentry councils coordinate local services to help offenders released from prison reintegrate into the community. DPS reported that there were 17 councils serving 19 counties. There were 19 additional counties interested in creating councils; however, many of those counties halted council development efforts and others disbanded completely due to the COVID-19 pandemic. In 2022, 18 of those counties resumed their interest in creating councils.

To assist the local councils, the Department sought case management software for the Case Management Tool (CMT). The Department selected the vendor Unite Us to provide a statewide coordinated network that ties community-based organizations with shared technology and that enables a coordinated approach for delivering services in North Carolina. The new software provides a referral network tool that automates the reentry and planning process, incorporates a risk/needs tool, and incorporates a reporting component. The software was implemented in May 2022 and all local reentry councils received training on CMT.

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

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

⁴⁶ *NC NAACP v. Cooper*, No. 20 CVS 500110 (Wake County, N.C., February 25, 2021) (Joint Motion for Stay).

to release, and addressing major reentry barriers such as housing, transportation, employment, and substance misuse and mental health.⁴⁷ It formed subcommittees to respond to the recommendations in the Reentry Action Plan. The SRCC continued to meet throughout 2022 virtually and submitted its annual report of findings and recommendations to the Legislature in March 2023.⁴⁸

The new Department of Adult Correction will host a North Carolina Reentry Conference in April 2023. The conference will convene individuals from across the state and provide high-quality reentry education, share best practices, permit network opportunities, allow for the exchange of ideas, and advocate for systemic reform.

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. The PPO reports noncompliance with conditions imposed by delegated authority to the court.

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 decreased over the past few years, in part due to the COVID-19 pandemic. The probation population has decreased overall and certain

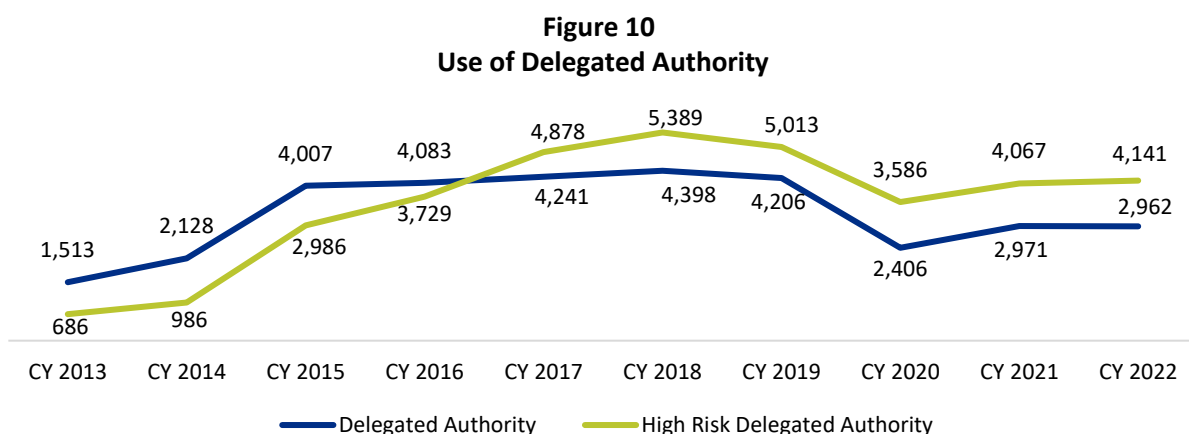
⁴⁷ For more information, see <https://www.ncdps.gov/our-organization/adult-correction/reentry-programs-and-services/state-reentry-council-collaborative>.

⁴⁸ State Reentry Council Collaborative Annual Report, <https://webservices.ncleg.gov/ViewDocSiteFile/75989>.

sanctions have limited availability (e.g., short-term jail confinement due to pandemic restrictions in the local jails).

Probation officers can only use delegated authority on offenders sentenced to probation under Structured Sentencing. Driving while impaired offenses are not sentenced under Structured Sentencing; for DWI probationers, probation officers must return to court to address violations. The Department has sought statutory authorization to use delegated authority on DWI offenders in the past and will do so in the 2023 Session. This expansion would allow probation officers to use the same case management strategies for all probationers, as well as allow violations to be handled more swiftly.

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 7,103 times in CY 2022, a 1% increase from CY 2021 (7,038).⁴⁹ The use of high risk delegated authority increased 2% in the past year. Since CY 2017, high risk delegated authority has been used more frequently than delegated authority.



SOURCE: NC Department of Adult Correction

Short-Term Jail Confinement

Short-term jail confinement, referred to as a quick dip, is a component 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. 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.

When staffing cases, officers are to consider all graduated sanctions available to respond to non-compliance; quick dips are not appropriate for all violations. For example, by Departmental policy, 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).

⁴⁹ An offender may be represented more than once in these data if there are multiple violation dates.

Offenders have the statutory right to a court hearing before a probation officer issues a quick dip, but offenders may waive their right to a hearing through a written waiver with DPS. DPS reported that approximately 3% of offenders declined to waive this right in 2022.

The use of quick dips has been decreasing since CY 2018 (see Table 4). Overall, 1,193 offenders accounted for the 1,353 quick dips ordered in CY 2022. Of the total quick dips ordered last year, 48% were for two-day periods and 52% were for three-day periods.

Also shown in Table 4, quick dips are more frequently ordered for misdemeanants than felons. The court may revoke probation for misdemeanants following two separate quick dips, which may be imposed either by the court or by the probation officer through delegated authority.⁵⁰

Table 4
Quick Dips Ordered

Offense Type	CY 2018		CY 2019		CY 2020		CY 2021		CY 2022	
	#	%	#	%	#	%	#	%	#	%
Felony	2,856	48	2,402	49	536	45	383	43	622	46
Misdemeanor	3,119	52	2,518	51	647	55	501	57	731	54
Total	5,975	100	4,920	100	1,183	100	884	100	1,353	100

SOURCE: NC Department of Adult Correction

Although offenders in all supervision levels were eligible for quick dips, the majority (68%) of quick dips ordered in CY 2022 were for offenders in Supervision Levels 2 and 3 (see Table 5). The largest proportion of felons receiving quick dips were in Supervision Level 2 (36%), while the largest proportion of misdemeanants receiving quick dips were in Supervision Levels 2 and 3 (35% each).

Table 5
Quick Dips Ordered by Supervision Level in CY 2022

Supervision Level	Felon		Misdemeanant		Total	
	#	%	#	%	#	%
Level 1 (Most Restrictive)	166	27	123	17	289	21
Level 2	226	36	256	35	482	36
Level 3	181	29	258	35	439	33
Level 4	45	7	76	11	121	9
Level 5 (Least Restrictive)	0	0	3	<1	3	<1
Not Established	4	1	15	2	19	1
Total	622	100	731	100	1,353	100

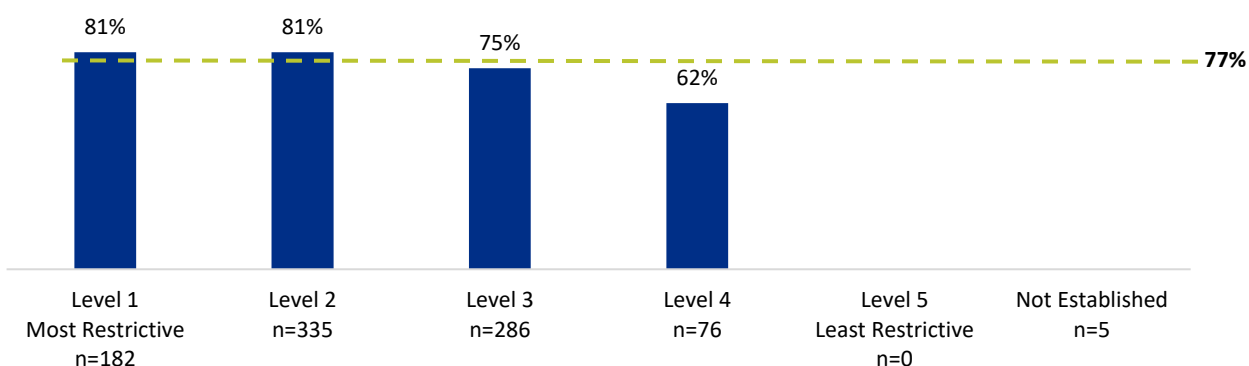
SOURCE: NC Department of Adult Correction

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

Outcomes Following a Quick Dip

To examine the effectiveness of quick dips on probationers, probation outcomes – including subsequent violations and probation status following a quick dip – were examined using a fixed one-year follow-up period for quick dips ordered in CY 2021.⁵¹ Overall, a subsequent violation process was reported for 77% of the 884 quick dips ordered in CY 2021 (see Figure 11). For those assigned a supervision level, probationers in Supervision Levels 1 and 2 had the highest rate of subsequent violations (81% each), with a decreasing rate of subsequent violations for Supervision Levels 3 and 4.

Figure 11
Subsequent Violations Following a Quick Dip in CY 2021
One-Year Follow-Up



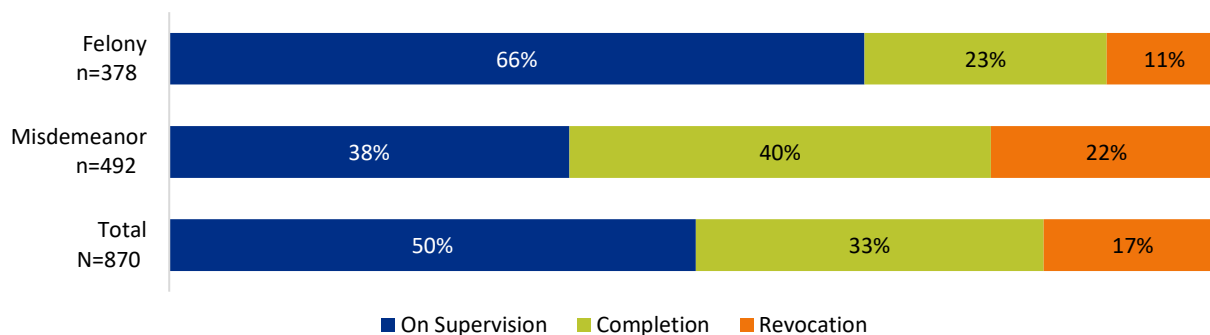
SOURCE: NC Department of Adult Correction

Probation outcomes for the 884 quick dips ordered in CY 2021 are provided in Figure 12 and Table 6.⁵² Two-thirds (66%) of felons remained on supervision following a quick dip. Misdemeanants primarily remained on supervision or completed supervision (38% and 40% respectively). Generally, misdemeanants had higher completion rates than felons during follow-up 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.

⁵¹ 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.

⁵² 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 2021
One-Year Follow-Up



Note: Fourteen probationers with probation outcomes identified as “other” were excluded from the figure.
 SOURCE: NC Department of Adult Correction

Table 6 further examines probation outcomes by supervision level. Overall, half (50%) of probationers remained on supervision following their quick dip, as also shown in Figure 12. The percentage of probationers remaining on supervision was highest for those in Supervision Level 1 and Supervision Level 2 (52% and 51% respectively). Completion was least likely to have occurred for probationers in Supervision Level 1 (25%); revocation was least likely to have occurred for probationers in Supervision Level 4 (11%).

Table 6
Probation Outcomes Following a Quick Dip by Supervision Level in CY 2021
One-Year Follow-Up

Supervision Level	On Supervision		Completion		Revocation		Total
	#	%	#	%	#	%	
Level 1 (Most Restrictive)	91	52	43	25	40	23	174
Level 2	169	51	103	31	58	18	330
Level 3	138	49	106	37	41	14	285
Level 4	33	43	35	46	8	11	76
Level 5 (Least Restrictive)	0	--	0	--	0	--	0
Not Established	1	--	1	--	3	--	5
Total	432	50	288	33	150	17	870

Note: Fourteen probationers with probation outcomes identified as “other” were excluded from the table.
 SOURCE: NC Department of Adult Correction

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. In 2020, the Department completed expansion of the program to one entire district in each division. As of February 2022, the Department has expanded the pilot to six additional counties and 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 court when and if the offender must return to court.⁵³ 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. Although the COVID-19 pandemic limited the use of some incentives (e.g., recognition ceremonies), others were able to continue (e.g., certificates of recognition). 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. It continues to monitor the use of the behavior response log in participating counties.

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),⁵⁴ can be ordered to serve a CRV. The General Assembly and the Department made substantial changes to the practice of the CRV for felons in 2014 and 2015 (*see supra*, Related Legislation). Significant legislative changes were made affecting misdemeanor CRVs in 2015, based on a recommendation from the Sentencing Commission. Those legislative changes in effect created a pathway to revocation for misdemeanor probationers via quick dip, providing that the court may revoke probation for the misdemeanant after they have received two separate periods of short-term confinement, which may be imposed either by the court or by the probation officer through delegated authority. This change went into effect for misdemeanants placed on probation on or after December 1, 2015.⁵⁵

⁵³ The behavior log will be included in the expansion of the North Carolina Predictive Analytics in Supervision Effort (NC PASE) which will provide officers with better documentation. The Department of Adult Correction plans to expand NC PASE statewide in 2023.

⁵⁴ G.S. 15A-1344(d2).

⁵⁵ G.S. 15A-1344(d2), as amended by S.L. 2015-191.

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. Beginning in 2017, the majority of offenders ordered to a CRV were eligible to serve that period of confinement in the CRV Centers (*see infra*, CRV Centers). On December 31, 2022, 641 offenders were serving a CRV; 23% (146 offenders) were serving their CRV in a CRV Center. The average length of stay for CRV dispositions in CY 2022 was 70 days.

A total of 2,558 CRV dispositions were ordered in CY 2022 as a result of probation violation hearings – 88% for felons and 12% for misdemeanants (*see* Table 7). The majority of CRV dispositions (97%) were for offenders with a single CRV disposition. As the court and correctional systems recover in terms of case processing and operations, there was a 17% increase in CRV dispositions over the past year. Prior to the pandemic, there was a continued decrease in CRV dispositions for misdemeanants is attributable to the legislative change that went into effect just before the end of CY 2015.⁵⁶

Table 7
Probationers with CRV Dispositions

Offense Type	CY 2018		CY 2019		CY 2020		CY 2021		CY 2022	
	#	%	#	%	#	%	#	%	#	%
Felony	2,676	74	2,786	80	1,615	85	1,918	87	2,252	88
Misdemeanor	936	26	681	20	295	15	276	13	306	12
Total	3,612	100	3,467	100	1,910	100	2,194	100	2,558	100

SOURCE: NC Department of Adult Correction

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 52% respectively). A higher percentage of felons with CRV dispositions were in Supervision Level 3 compared to misdemeanants (23% compared to 13% respectively).

Table 8
Probationers with CRV Dispositions by Supervision Level in CY 2022

Supervision Level	Felon		Misdemeanant		Total	
	#	%	#	%	#	%
Level 1 (Most Restrictive)	496	22	65	21	561	22
Level 2	862	38	158	52	1,020	40
Level 3	504	23	40	13	544	21
Level 4	140	6	16	5	156	6
Level 5 (Least Restrictive)	3	<1	2	1	5	<1
Not Established	247	11	25	8	272	11
Total	2,252	100	306	100	2,558	100

SOURCE: NC Department of Adult Correction

⁵⁶ 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.

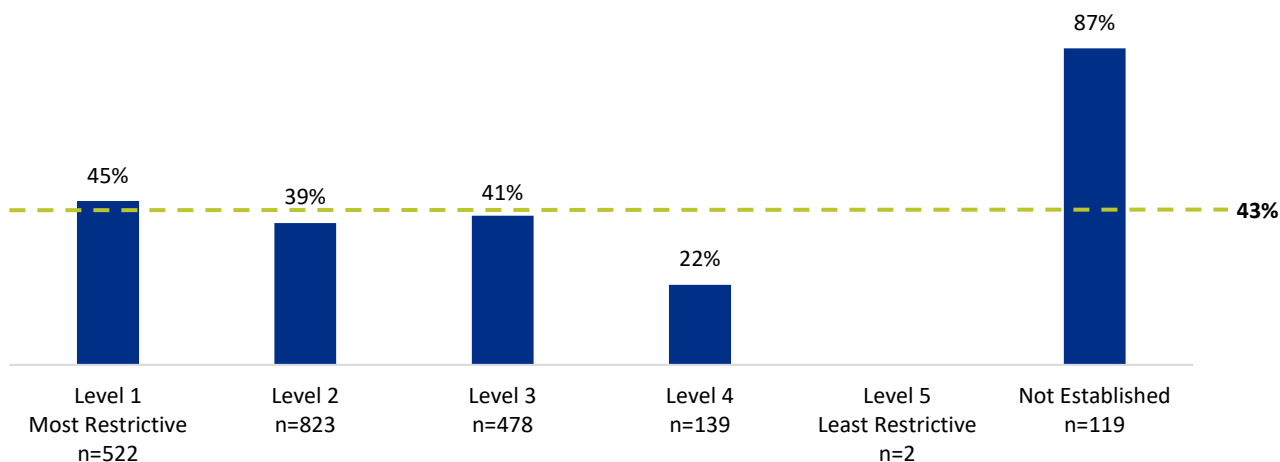
The Department partnered with the Urban Institute to conduct a targeted analysis of CRVs; the final report was issued in January 2021.⁵⁷ This analysis employs both quantitative and qualitative methods to measure implementation and results stemming from the usage of CRVs. Among other things, the report highlights the change in the use of non-incarcerative responses to violations and the probation officers' impressions of the sanction. The Department plans to 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 2021.⁵⁸

Of the CRV dispositions in CY 2021, 43% resulted in a subsequent violation process (see Figure 13). Ninety-three percent of those with a subsequent violation process were felons and 7% were misdemeanants. The average time to the subsequent violation process was longer for felons (153 days compared to 107 days for misdemeanants). For those assigned a supervision level, probationers in Supervision Level 1 had the highest subsequent violation rate (45%), followed by Supervision Level 3 with 41%.

Figure 13
Subsequent Violations Following a CRV Disposition in CY 2021
One-Year Follow-Up



SOURCE: NC Department of Adult Correction

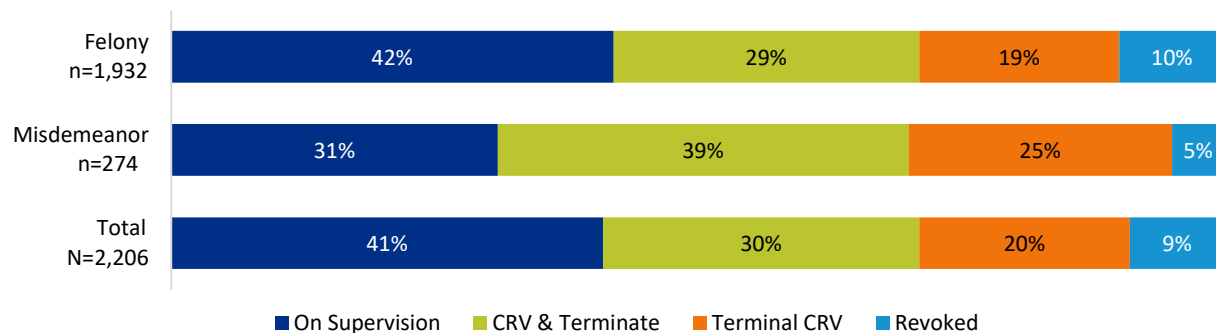
Probation outcomes for offenders who received a CRV disposition in CY 2021 are provided in Figure 14 and Table 9. Outcomes differed for felons and misdemeanants. Felony probationers were more likely to

⁵⁷ For more information, see <https://www.urban.org/research/publication/assessing-north-carolinas-changes-supervision-revocation-policy>.

⁵⁸ An updated methodology was implemented in 2018 for capturing outcomes following a CRV. As such, these outcomes cannot be compared to findings in reports prior to 2018.

remain on supervision than misdemeanor probationers following a CRV, due to their longer supervision periods. Conversely, misdemeanor probationers had higher rates of terminal CRV⁵⁹ due to their shorter supervision periods. A higher percentage of misdemeanants (39%) than felons (29%) 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 2021
One-Year Follow-Up



SOURCE: NC Department of Adult Correction

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 35% to 43%). 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 as noted above.

Table 9
Outcomes Following a CRV Disposition by Supervision Level in CY 2021
One-Year Follow-Up

Supervision Level	On Supervision		CRV & Terminate		Terminal CRV		Revocation		Total
	#	%	#	%	#	%	#	%	
Level 1 (Most Restrictive)	221	42	143	27	97	19	61	12	522
Level 2	323	39	261	32	164	20	75	9	823
Level 3	206	43	147	31	85	18	40	8	478
Level 4	49	35	52	37	34	25	4	3	139
Level 5 (Least Restrictive)	1	--	0	--	1	--	0	--	2
Not Established	14	12	56	47	40	34	9	7	119
Total	814	39	659	32	421	20	189	9	2,083

SOURCE: NC Department of Adult Correction

⁵⁹ 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 2014.⁶⁰ In February 2018, the CRV Centers began receiving post-release supervisees to serve their three-month revocation period (see *infra*, Violations of PRS).

All felons ordered to serve a CRV serve it in a CRV Center unless they are found ineligible or the population in the center has reached capacity. 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 (for Burke and Robeson CRV Centers).
- The offender has pending charges that are a Class E felony or higher.
- The offender has four or more pending felony charges.
- The offender has been released on a bond or bonds totaling \$50,000 or more.
- The offender has a concurrent active sentence they are also serving.
- The offender has been in close custody level within the past year.
- The offender has chronic medical issues that are unstable or is under psychotropic medications.

The screening process for both centers is 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 for 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 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 awarded a

⁶⁰ Around the same time, DPS converted Eastern Correctional Institute into a hybrid facility, with a wing exclusively for female CRV offenders.

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 Reconation 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 increase programming to six days and evenings a week and had connected with community resources to bring additional programs into the CRV Centers. At the onset 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. Group programming sessions have since resumed.

All three CRV Centers have computer labs with the infrastructure for computers but the new Department of Adult Correction is considering what types of computers to place there. The Department placed tablets in all correctional facilities as of December 31, 2022, and is planning on introducing them in the CRV Centers. Tablets can be used to provide classes, a law library, eBooks, communication, and entertainment.

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.

Operations at the Robeson CRV Center were temporarily suspended in June 2019. Correctional officers were reassigned to surrounding facilities with staffing needs, and offenders who were eligible for the CRV Center were sent to Morrison Correctional Institution. Dorms were designated for CRV and post-release supervision offenders and Community Corrections staff provided services. Operations at the Robeson CRV Center resumed in October 2020 and the population is gradually returning to capacity. Burke CRV Center operations were suspended in March 2020 due to the needs of the prisons during the onset of the COVID-19 pandemic; the facility was temporarily utilized to house inmates from other prisons. Burke CRV Center remains closed due to both the effects of the COVID-19 pandemic and ongoing staffing shortages. During CY 2022, male CRV offenders were housed in the Robeson CRV Center until it reached capacity and then were housed in prisons. The programming that was previously provided to offenders at the Burke CRV Center was temporarily provided at two prison facilities (Caldwell Corrections Center and Catawba Correctional Center). The Department would like to re-open the Burke CRV Center in FY 2024 and expand its medical and mental health capabilities once it is staffed.

The North Piedmont CRV Center continued to operate as a CRV Center during the COVID-19 pandemic. Its operations were impacted by the pandemic and by facility renovations, but the renovations have been completed and pandemic restrictions have begun to ease. As a result, the population is returning to the previous capacity.

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 strategize ways to increase the medical and mental health capabilities in the male CRV Centers. 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 met 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 contracted vendor is currently providing life skills programming with a substance abuse component. The Department continues to explore additional 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 use strategies to minimize chronic disciplinary issues and 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 case managers 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, 2019.⁶¹ The Department has seen a further reduction in this population after that date, reporting no male or female CRV offenders in 2022.

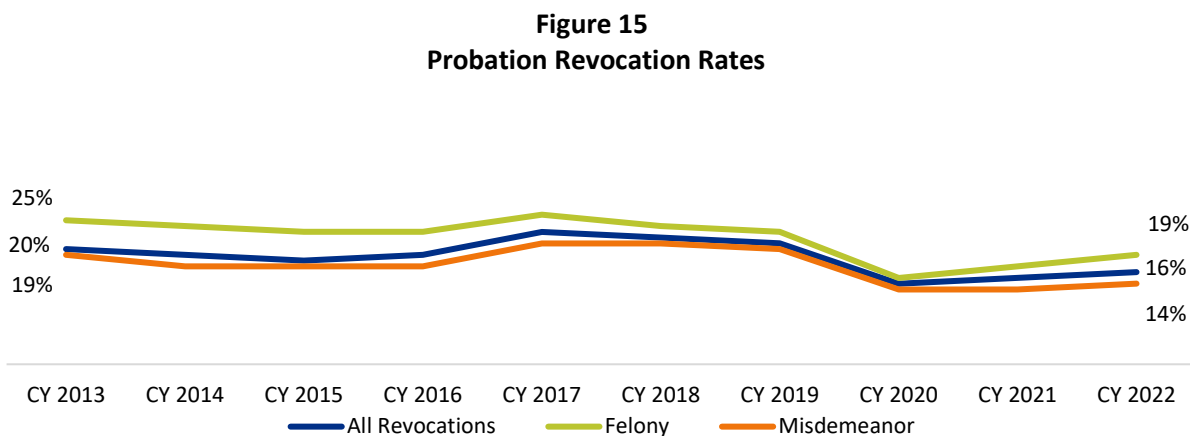
Finally, the Department continues to revise its policies, to improve the programming offered to offenders, and to learn as the centers grow and develop. Currently, the Department surveys offenders when they leave the centers; they provide feedback on the program and offer suggestions. This has resulted 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 2013 to CY 2022. Revocations increased slightly from CY 2021 to CY 2022.



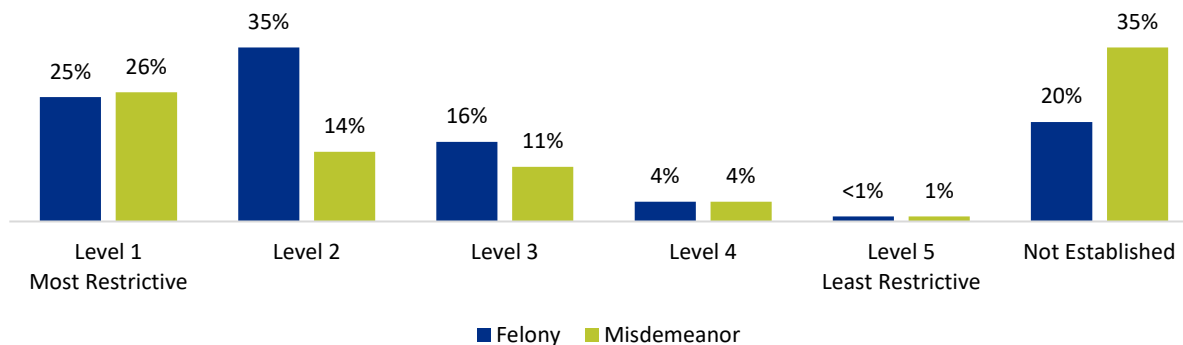
SOURCE: NC Department of Adult Correction, Automated System Query (ASQ)

Figure 16 examines probation revocation rates by supervision level. When examined by supervision level, revocation rates tend to follow a stairstep progression with the highest rates for those in the most

⁶¹ S.L. 2017-57.

restrictive supervision level and the lowest for those in the least restrictive supervision level. That pattern was not observed in the CY 2022 data for felons; Supervision Level 2 felony probationers had the highest revocation rate. The rate was nearly equal for both felons and misdemeanors in Supervision Level 1 (at 25% and 26%, respectively).

Figure 16
Probation Revocation Rates by Supervision Level in CY 2022



SOURCE: NC Department of Adult Correction, Automated System Query (ASQ)

Felony Prison Entries⁶²

As shown in Table 10, the distribution of felony probation violations by prison entry type have established some stabilization since CY 2019 for certain categories (e.g., new crime with conviction, alleged new crime, CRV). However, there has been an increase in the percentage of terminal CRVs (from 12% in CY 2018 to 18% in CY 2022). In CY 2022, absconding supervision continued to account for the largest proportion of probation violation entries (25%), although the percentage has declined over time. Prison entries for revocation following the imposition of two prior CRVs continues to occur infrequently.

⁶² 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.

Table 10
Felony Prison Entries for Probation Violations by Type

Prison Entry Type	CY 2018		CY 2019		CY 2020		CY 2021		CY 2022	
	#	%	#	%	#	%	#	%	#	%
New Crime w/ Conviction	1,227	17	1,334	21	903	20	975	20	1,056	19
Alleged New Crime¹	835	11	931	15	702	16	763	16	924	17
Technical²	70	1	63	1	55	1	47	1	54	1
CRV	1,574	22	945	15	875	20	923	19	1,131	20
Revoked After 2 CRVs	7	<1	19	<1	5	<1	7	<1	2	<1
Terminal CRV	865	12	612	10	590	13	788	16	1,003	18
Absconding	2,729	37	2,387	38	1,368	30	1,356	28	1,409	25
Pre-JRA Technical	14	<1	8	<1	7	<1	3	<1	4	<1
Total	7,321	100	6,299	100	4,505	100	4,862	100	5,583	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.

Note: Prison entries for CY 2018 – CY 2021 were affected by the number of inmates in county jails waiting for transfer to the state prison system.

SOURCE: NC Department of Adult Correction

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 was 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.⁶³ 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. Throughout this section, rates for outcome measures are only reported when there are more than 50 offenders in a specific category.

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.

⁶³ The Department of Adult Correction continues to receive all felons, as well as misdemeanants with heightened needs such as medical or safekeeping. The Department 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 most expensive 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 that house misdemeanants 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 2016.

Table 11
Year-End Misdemeanor DWI Population

Sentence Location	2016		2017		2018		2019		2020		2021		2022	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Prison	207	34	99	16	84	15	51	11	28	11	40	12	45	13
SMCP	408	66	511	84	491	85	415	89	229	89	280	88	307	87
Total	615	100	610	100	575	100	466	100	257	100	320	100	352	100

SOURCE: NC Department of Adult Correction, Automated System Query (ASQ)

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, 2015.⁶⁴ NCSA reported it paid out \$11.8 million in county reimbursements in FY 2022 (and approximately \$757,000 in medical payments). Table 12 shows year-to-year SMCP reimbursements paid to participating counties for the past five fiscal years. In FY 2020 and FY 2021, the effects of the COVID-19 pandemic on the SMCP are shown; county reimbursements decreased. Medical expenses did not track the other reimbursements as they are highly variable and are not always proportionate to the SMCP population.

⁶⁴ S.L. 2015-241.

Table 12
SMCP Reimbursement Summary

Fiscal Year	2018	2019	2020	2021	2022
Housing	\$19,122,684.66	\$18,443,834.77	\$15,265,601.97	\$9,119,085.74	\$11,468,586.19
Mileage	\$110,880.29	\$127,501.91	\$123,627.51	\$46,373.47	\$109,835.91
Personnel	\$192,332.85	\$153,790.80	\$122,336.00	\$50,167.00	\$99,220.25
Total County	\$19,425,897.80	\$18,725,127.48	\$15,511,565.48	\$9,215,626.21	\$11,823,682.35
Total Medical	\$1,420,702.34	\$1,006,767.31	\$788,995.65	\$951,461.52	\$757,032.90

SOURCE: Statewide Misdemeanant Confinement Program Annual Reports, N.C. Sheriffs' Association

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.⁶⁵ The reimbursement rate has remained the same since the program’s inception in 2011. However, in the 2021 budget, the Legislature created a pilot program that allows sheriffs participating as receiving counties to use SMCP inmates to form litter crews to pick up trash on State roads.⁶⁶ If the inmates work at least 500 work hours per month, this program increases the reimbursement rate from \$40 per day to \$60 per day per inmate. The General Assembly appropriated an additional \$3.5 million in non-recurring funds over FY 2022 and 2023 to fund the additional reimbursement.⁶⁷ 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 to 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. Most recently, participation has been affected by staffing issues. Local jails, like other entities in the criminal justice system, are having difficulties hiring staff. This makes it difficult for them to safely manage additional offenders.

From 2021 to 2022, SMCP beds decreased from 1,456 to 1,145 beds (see Table 13).⁶⁸ Due to the continued effects of the COVID-19 pandemic, a number of receiving counties temporarily suspended participation in the program or limited participation to receiving new offenders from their own county. From 2021 to 2022, the number of receiving counties with a temporary moratorium decreased from 36 to 29 counties (see Table 13). However, because court case processing slowed significantly in 2020 and 2021 due to the pandemic, fewer individuals were sentenced to the SMCP. Therefore, while overall capacity for the program declined, sufficient capacity remained 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 CY 2022 and one county that is in the process of building a new jail facility has indicated interest in volunteering beds to the SMCP once the new facility is completed and has reported an estimated number of beds they will commit.

⁶⁵ Receiving counties are also reimbursed for medical expenses for SMCP inmates incurred outside of the jail.

⁶⁶ S.L. 2021-180.

⁶⁷ In December 2022, two counties participated in the Roadway Cleanup Program.

⁶⁸ 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.

Table 13
SMCP Capacity, Population, and Entries

SMCP Capacity and Population	Dec. 31, 2018	Dec. 31, 2019	Dec. 31, 2020	Dec. 31, 2021	Dec. 31, 2022
Receiving Counties	66	68	68	68	70
- Receiving Counties with Temp. Moratorium	0	0	18	36	29
Total	66	68	50	32	41
Capacity	1,646	1,371	909	1,456	1,145
Population	1,188	1,070	576	760	756
SMCP Entries	CY 2018	CY 2019	CY 2020	CY 2021	CY 2022
SSA ≥91 Days	2,486	2,189	1,106	1,334	1,120
CRV Entries	169	180	81	70	107
DWI Entries	1,378	1,211	748	751	865
Total Entries	4,033	3,580	1,935	2,155	2,092

Note: Due to the COVID-19 pandemic, at its highest point, 36 receiving counties temporarily suspended participation in the SMCP in CY 2021. These suspensions, coupled with changes in court proceedings, resulted in an unprecedented reduction in capacity and population.

SOURCE: Statewide Misdemeanant Confinement Program Monthly and Annual Reports, N.C. 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 the Department of Adult Correction 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.⁶⁹ Table 14 shows the two different scenarios the Sentencing Commission developed for SMCP capacity based on factors such as planned new jail construction and local situations.

Table 14
SMCP Capacity Projections: Scenario Totals

	Current Capacity	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Scenario 1 Total	1,145	1,170	1,149	1,129	1,109	1,089
Scenario 2 Total	1,031	1,106	1,097	1,076	1,056	1,036

Note: Current capacity is the SMCP capacity as of December 31, 2022. Scenario 1 reflects the broadest definition of capacity for the Program. Scenario 2 uses a more conservative definition of capacity.

SOURCE: NC Sentencing and Policy Advisory Commission

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.⁷⁰ By having

⁶⁹ Full reports available at www.NCSPAC.org.

⁷⁰ See <https://www.nccourts.gov/documents/publications/study-reports> for the Sentencing Commission's report on the SMCP population projection feasibility (February 2019).

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 the other inmates. DWI entries, which accounted for 28% of total entries in CY 2022, are subject to sentences that are longer than the average Structured Sentencing misdemeanor, up to three years for the most serious punishment level.⁷¹ As of March 28, 2023, the SMCP reported 84 DWI inmates with active sentences of three years or longer. Additionally, inmates housed in local jails may not have the same opportunities to earn credit off their sentence as prison inmates do. Inmates are allowed to earn credits by attending treatment and education programs and working in the facility but most local jails do not have the resources to provide substance abuse treatment on-site and the opportunities for inmate labor vary greatly based on location.

The issue of treatment for DWI offenders is more than just one of credit; DWI offenders are required by statute to complete substance abuse treatment as part of their sentence to be eligible for parole.⁷² Prior to the 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. Residential treatment facilities include DART Center for males and Black Mountain for females.⁷³ DART Center designating five beds for DWI parolees, while Black Mountain has no capacity restrictions for DWI parolees and averages about 2 slots per month filled by that population. The PRSP Commission reports that the process for placing female DWI parolees at Black Mountain takes longer than placing males at DART Center due to differences in screening and admission procedures.

The NCSA is in the process of assessing reporting needs and continues to work with its software vendor to improve its software. For instance, in June 2022, they added an update to their system to monitor the implementation of the litter crew pilot program that allows them to make retroactive payments up to 4 months after the date it was incurred. They also added a feature that allows them to automatically track inmates transferred to the DAC for safekeeping; this process was previously tracked manually.

The NCSA continues to provide annual training classes for sheriff's office personnel. Five in-person training classes were provided in 2022 – two in the eastern part of the state, two in the west, and one in Wake County. Sixty-eight counties participated in training classes in 2022. Two receiving counties that were unable to attend and were subsequently dropped as receiving counties in 2021 reapplied and attended the required training classes in 2022, while two other receiving counties were unable to attend in 2022.

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.

⁷¹ See G.S. 20-179 and 15A-1340.23.

⁷² 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.”

⁷³ On Oct. 4, 2021, the name of the male facility was changed from DART Cherry to DART Center.

Prisons

As noted previously, the majority of provisions in the JRA primarily affected offenders under community supervision. However, as DPS saw success in the implementation of evidence-based policies and practices related to Community Corrections, it 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.⁷⁴

With regards to all efforts within SOP, the Department is limited by its vacancy rate. While DPS had invested in the Crisis Intervention Team (CIT) training and, pursuant to General Assembly funding, significant pay raises for the correctional officers, the average vacancy rate for correctional officers in 2022 was 39% (up from 23% in 2021). Full utilization of new tools requires an increase in the number of correctional officers. In the 2021 budget, DPS received additional funding for a comprehensive pay plan that addresses retention and pay compression, as well as a career progression program for correctional officers. As of 2022, the comprehensive pay plan was fully implemented.

Risk and Need Assessments

All new prison admissions go to Diagnostic Centers to receive an 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. Moving forward, DPS reported that they 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 (90%) of ASR inmates who exited prison in CY 2022 were released at their ASR date. The prison population of 29,934 on December 31, 2022, included 282 inmates with ASR sentences.

⁷⁴ On January 1, 2023, the Division of Adult Correction became a separate Department of Adult Correction. Because this report focuses on activities that occurred in CY 2022, it will refer to the Division of Adult Correction in the Department of Public Safety unless otherwise noted.

As with the CRV Centers, the COVID-19 pandemic caused restrictions in programming. DPS reported that recommendations for programming continued to be made according to the RNA and hoped that programming would resume when it is safe to do so. However, while conditions from the COVID-19 pandemic lessen, restrictions caused by staffing shortages continue to affect the availability of programming. 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, Therapeutic Diversion Units (TDUs) were developed. 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 for female offenders; however, statewide staffing issues continued in 2020 through 2022 and no additional TDUs have been activated.⁷⁵

Pandemic quarantine demands as well as facility-specific staffing issues have impacted TDU bed capacity. TDUs had an available capacity of 96 beds during 2022 with an average monthly census of 53 and a bed utilization rate of 55%.

The Department reported that in 2022 there were 114 admissions to the TDUs and 82 exits. The TDUs had a 51% completion rate. In contrast, similar residential treatment programs in prisons or in the community report an average of 40-45% participant completion rates.

As mentioned previously, staffing is an issue for all entities in the criminal justice system and that holds true for TDUs. Currently, the TDU Behavioral Health vacancy rate is 43%. More specifically, the vacancy rates for psychologists and psychological services coordinators is 30% and the vacancy rate for correctional behavior specialist positions is 55%.

Recognizing the impact of staffing issues within correctional officer and nursing disciplines, DPS created a model for a new unit-based treatment program with a staff-neutral requirement. The new model, called Outpatient Treatment Unit (OTU), was developed, proposed, and approved during 2021 with implementation at the beginning of 2022. The first OTU has increased the statewide treatment bed

⁷⁵ During CY 2022, one of the two TDUs at Central Prison was used as a quarantine unit.

capacity by 144 beds. Since its creation, the unit has consistently remained full resulting in an average monthly bed utilization rate of 99-100%. Due to the success of the OTU, DPS has had discussions to evaluate the benefits of starting an additional OTU at another facility.

Reentry Planning

The purpose of offering rehabilitative EBP while in custody is, ultimately, to prepare the offender for entry back into the community.⁷⁶ 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, Caldwell, Gaston, Johnston, and Orange, were oriented in February 2018 and were fully operational by June 1, 2018. DPS oriented an additional six facilities, Carteret, Davidson, Green, Hoke, New Hanover, 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 has implemented the reentry model at Anson Correctional Institution in September 2019 for males and September 2022 for females. Anson is the first medium custody facility remissioned into a reentry facility. The most recent addition to the reentry facilities is Albemarle Correctional Institution, a men's medium custody facility, in March 2022. In 2023, the Department has plans to remission nine more facilities as designated reentry facilities.

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 them 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. Since the onset of the COVID-19 pandemic in 2020, and the continuing staffing issues, there has been a reduction in PPO interactions with inmates.

Section of Prisons 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

⁷⁶ The Sentencing Commission encouraged DAC to enhance existing evidence-based prison programs that improve reentry, see *Justice Reinvestment Implementation Evaluation Report 2019, Appendix C*.

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. Initially, DPS 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. However, the DMV mobile units are no longer being utilized and, in their place, DPS has started a pilot program at NCCIW. The new procedures require staff to electronically submit information directly to the DMV and then pick up identification cards at a DMV location. The departments are in discussions to automate the process and expand statewide in August 2023.

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 offenders as reentry specialists who will visit prison facilities to assist offenders with resume and interview preparation. During the COVID-19 pandemic, these reentry specialists had been assigned to Division of Workforce Solutions offices to assist with unemployment claims. In 2022, DPS reported that operations were returning to normal from the disruptions caused by the pandemic and the Department was looking to hire and fill vacancies for these positions.

Section of Prisons, and DPS in general, has a long-standing working partnership with the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human 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. Those referrals are linked to the PPOs' case plans so officers are automatically notified about appointments offenders have in the community.

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 has worked 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. For example, Wake Correctional Center and NCCIW allow SNAP (Supplemental Nutrition Assistance Program) or Food Bank staff to visit with offenders being released with 30 days.

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.) Additionally, DPS reports receiving strong support from local faith-based organizations providing mentoring to offenders.

Prison Exits⁷⁷

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 these changes increased the number of offenders exiting prison and onto supervision, 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 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 has been an issue. The Commission received funding for an additional Parole Case Analyst II in the 2021 budget. The new position will be designated as a reentry parole case analyst with a focus on PRS and parole violators as well as starting risk assessments for offenders.

Offenders on PRS are supervised in the same general manner as those offenders on probation, but 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. 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.

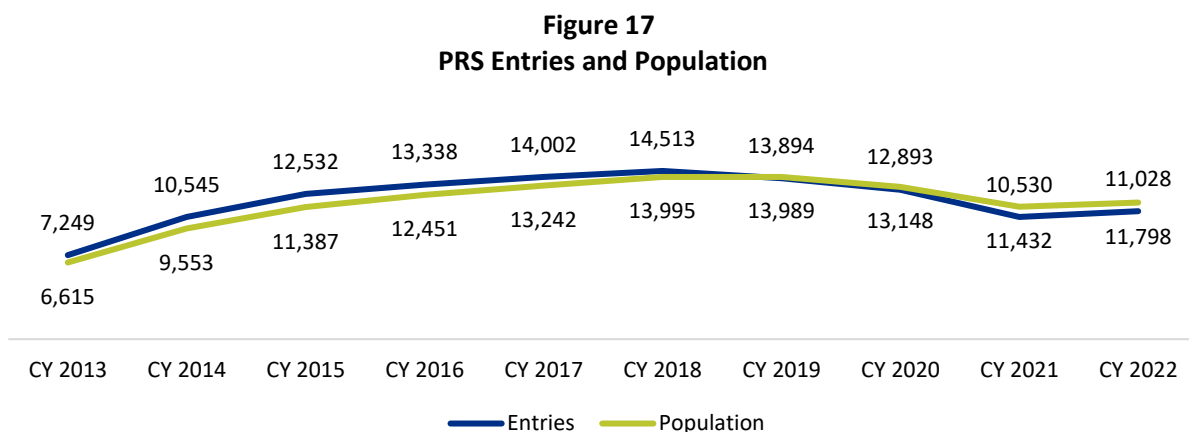
In 2018, DAC was selected to participate in the *Learning Collaborative on Paroling Authorities as Key Partners in Achieving Governor's Criminal Justice Policy Goals*, a collaboration between the National Governors Association and the National Parole Resource Center with support from the BJA. The goal 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 DAC, 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

⁷⁷ 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.

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 START tool is currently being used for every psychological evaluation. The START tool measures an offender's strengths based on the last 90 days of activity, which has proven challenging in light of the reduction in programs resulting from the COVID-19 pandemic and staffing concerns. These issues within prison facilities have contributed to a backlog of offenders who need assessment under the START tool. The PRSP Commission also uses another RNA tool, the risk-need-responsivity model. The Commission reported that the risk-need-responsivity model works best for PRSP offenders. However, due to staffing issues, the PRSP Commission may have to discontinue use of the tool due to a lack of trained personnel. Regarding the second recommendation, the General Assembly made earned time credit for complying with reintegrative conditions mandatory in 2022.⁷⁸ The PRSP Commission is developing policies for awarding earned time credits. Finally, while the Commission has not made any revisions to MAPP, the use of MAPP is ongoing with 221 offenders in the program as of December 31, 2022. MAPP participants continue to be limited in their activities because of programming interruptions, limited work release opportunities, and community volunteers not being allowed in prison facilities due to lingering effects from the COVID-19 pandemic and staff vacancies.

The number of offenders released from prison onto PRS and the population of offenders supervised on PRS is shown in Figure 17. For the first time following the pandemic, both PRS entries and population increased in CY 2022 but not to pre-pandemic levels. Entries and population increased until CY 2018, and began to decline, with the most significant declines occurring from CY 2020 to 2021. In CY 2022, entries rebounded 5% and the population by 3%. Class F-I felons account for the majority of PRS entries (see Figure 18).

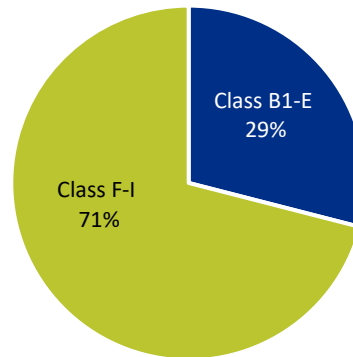


SOURCE: NC Department of Adult Correction, Automated System Query (ASQ)

The percentage of offenders entering PRS by offense class is shown in Figure 18. Class F-I felons account for the majority of PRS entries.

⁷⁸ See S.L. 2022-74, § 19C.2.

Figure 18
PRS Entries by Offense Class in CY 2022



Note: Safekeepers, Aggravated Level One impaired driving, and possible discrepant data, are not included.
SOURCE: NC Department of Adult Correction, 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). Male offenders can serve revocations in either the Burke CRV Center or the Robeson CRV Center. 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 Center. Female post-release supervisees can serve three-month revocations 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 remained closed in 2022 but the Department plans to resume operations there as soon as possible. Female PRS offenders continued to be housed at the North Piedmont CRV Center throughout 2022. The PRSP Commission reported no change in the processing of three-month PRS revocations due to the COVID-19 pandemic.

The Commission worked to limit the number of three-month revocations and permanent revocations in 2020 through 2022, due to the COVID-19 pandemic and staffing vacancies. Specifically, the Commission has been continuing more offenders on PRS after a violation and utilizing alternatives to revocation, such as electronic house arrest, in an effort to keep offenders out of state facilities. When commissioners review an offender's violation report, they focus on maintaining public safety over reducing the prison population.

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 15 summarizes PRS violation entries to prison. Overall, the percentage of entries for JRA three-month revocations and warrants have increased during this period. The percentage of entries for new crimes (with conviction and alleged) has remained relatively stable. In CY 2022, offenders entering with three-month revocations represented the largest group of felony entries to prison for a PRS violation (34%) followed by absconding (23%).

Table 15
Felony Entries to Prison for PRS Violations by Type

Prison Entry Type	CY 2018		CY 2019		CY 2020		CY 2021		CY 2022	
	#	%	#	%	#	%	#	%	#	%
New Crime w/ Conviction	490	9	490	9	292	6	241	6	277	7
Alleged New Crime ¹	781	14	823	16	762	16	643	16	641	15
Technical ²	61	1	166	3	53	1	60	1	67	1
Three-Month Revocation	1,508	27	1,267	25	1,445	31	1,354	33	1,410	34
Absconding	2,029	36	1,776	35	1,219	26	1,009	25	962	23
Pre-JRA Technical	277	5	172	3	122	3	124	3	127	3
Warrant/Pending Charges	457	8	450	9	778	17	679	16	708	17
Total	5,603	100	5,144	100	4,671	100	4,110	100	4,192	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.

Note: Prison entries for CY 2018 – CY 2021 were affected by the number of inmates in county jails waiting for transfer to the state prison system.

SOURCE: NC Department of Adult Correction

PRS Revocation Exits

Since CY 2018, PRS exits have decreased 23% (see Table 16). Revocation rates have declined with the onset of the pandemic but may have started recovering as indicated by the two percentage point increase in CY 2022.

Table 16
PRS Exits and Revocation Rates

	CY 2018	CY 2019	CY 2020	CY 2021	CY 2022
Total PRS Exits	13,101	13,196	13,093	11,652	10,123
% of PRS Exits due to Revocation	25%	23%	17%	15%	17%

SOURCE: NC Department of Adult Correction, Automated System Query (ASQ)

Table 17 examines PRS exits by supervision level. The distribution of PRS exits by supervision level were similar when comparing Class B1-E and Class F-I offenders. The majority of offenders exiting PRS in CY 2022 were in Supervision Levels 1 and 2 (68%). The largest proportion of Class B1-E and Class F-I offenders exiting PRS were in Supervision Level 2 (41% and 42% respectively).

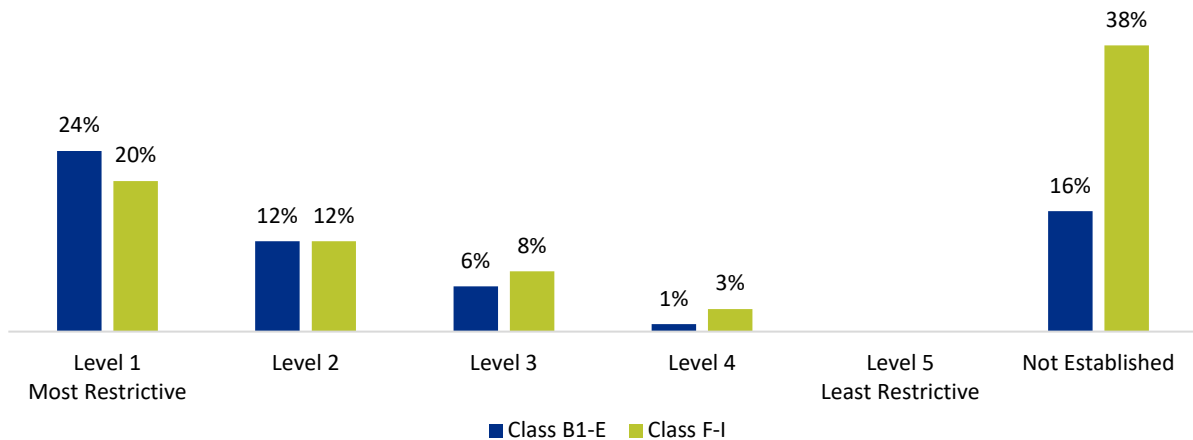
Table 17
PRS Exits by Supervision Level in CY 2022

Supervision Level	Class B1-E		Class F-I		Total	
	#	%	#	%	#	%
Level 1 (Most Restrictive)	822	25	1,861	27	2,683	27
Level 2	1,308	41	2,866	41	4,174	41
Level 3	493	15	741	11	1,234	12
Level 4	153	5	208	3	361	4
Level 5 (Least Restrictive)	6	<1	3	<1	9	<1
Not Established	445	14	1,217	18	1,662	16
Total	3,227	100	6,896	100	10,123	100

SOURCE: NC Department of Adult Correction, 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 (24% for Class B1-E and 20% for Class F-I), with a decreasing rate of PRS revocations for Supervision Levels 2, 3, and 4. PRS revocation rates were slightly higher for Class F-I offenders in Supervision Levels 3 and 4.⁷⁹ 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 2022



SOURCE: NC Department of Adult Correction, Automated System Query (ASQ)

⁷⁹ 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. Results from this study indicated that expanding PRS to low-level felons had no effect on recidivist arrest rates for Class F-I prisoners. The full research brief can be found at www.NCSPAC.org.

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. While the COVID-19 pandemic had affected prior years more acutely, there are some lingering effects noted throughout the report. 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, or if it ever will. The examination of data in future reports will allow for greater understanding of how the COVID-19 pandemic affected the system and, more specifically, the initiatives of the JRA.

Sentencing Practices

The recovery of court operations resulted in an overall increase in convictions for CY 2022; trends related to JRA sentencing options continued in a pre-COVID direction. The imposition of special probation primarily occurred at initial judgement (91%) rather than as a modification of probation. Overall, the most frequently used provision remains the habitual felon status offense, with 1,004 habitual felon prison entries occurring in CY 2022. For the third year, the highest percentage of habitual felons were sentenced in Class E. The habitual breaking and entering status offense created by the JRA continues to see limited use, as does ASR (91 and 178 entries to prison in CY 2022 respectively; however, sentences imposed for habitual breaking entering decreased by 10% while ASR sentences increased by 9% over the past year. The resulting effects of these sentencing practices on the overall prison population for each of these groups also differs. Habitual felons comprise the second largest category of inmates in prison (13% in CY 2022). Conversely, inmates serving sentences for habitual breaking and entering or ASR sentences represent a very small proportion of the prison population.

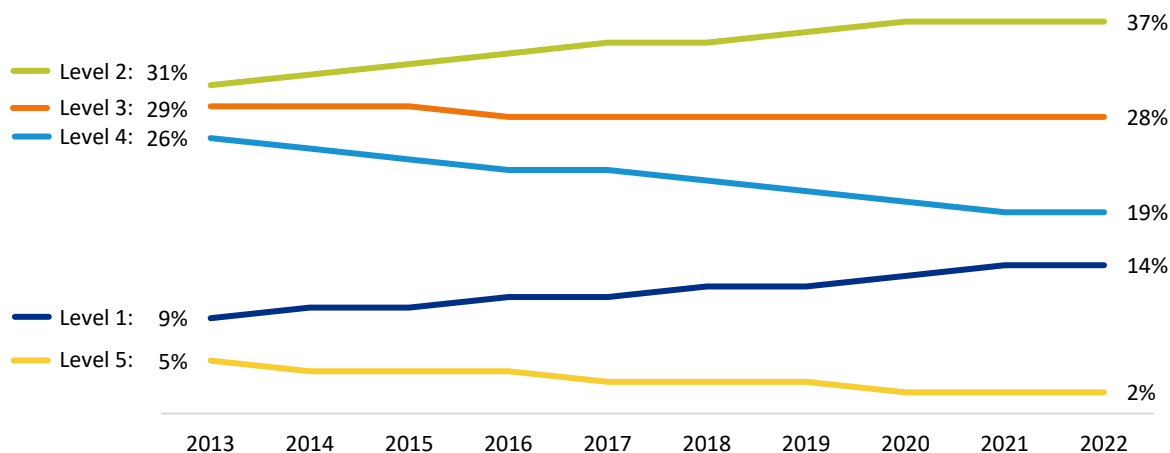
Correctional Practices

Offenders under supervision increased slightly (by less than 1%) in CY 2022 (77,346 on December 31, 2022), but similar to sentencing, 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. As a result, 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 the more restrictive supervision levels, Supervision Levels 1, 2, and 3, 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 Levels 1 and 2 had the highest rates of revocation compared to the other levels.

Of note, however, are shifts in the supervision level distribution over time (see Figure 20). The percentage of offenders in the most restrictive levels (Levels 1 and 2) has been steadily increasing since CY 2013; the opposite is true for the least restrictive levels (Levels 4 and 5), where the percentage has decreased over the same time. This shift is driven by changes in both the risk and need level distributions for the assessed population, with increases in the percentage of offenders assessed as

extreme and high risk and in offenders assessed as extreme and high need. Conversely, those in the low and minimal risk and need levels decreased over the same time period. As a result, Supervision Level 5 now represents a very small portion (2%) of the assessed population.

Figure 20
Supervision Level Distribution: Assessed Community Corrections Population at Year-End



SOURCE: NC Department of Adult Correction

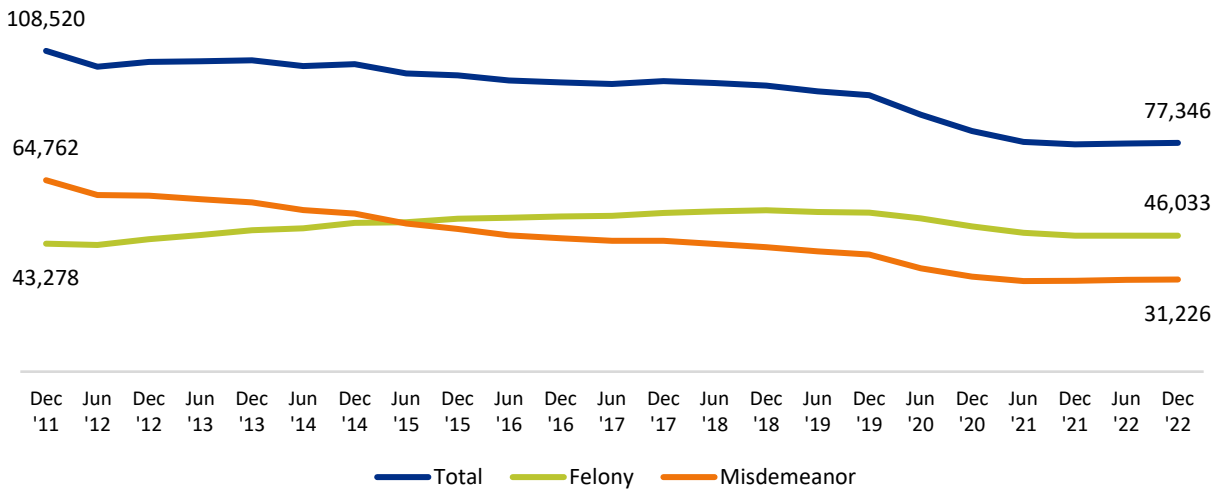
Staffing remains a tremendous challenge for prisons. With a 39% vacancy rate in CY 2022, initiatives within facilities are often affected by lack of the appropriate level of staff to both manage the inmate population and provide and supervise programming. Vacancies among probation and parole officer positions supervising offenders in the community are less acute and have not affected caseload goals to date, but still present a challenge. Among local jails, staffing issues were noted as a primary concern; inadequate staffing was frequently cited as a reason for changes in participation in the SMCP. The General Assembly has made continued efforts to allocate positions and increase pay for certain types of positions within DPS; despite these efforts, recruitment and retention issues have hindered progress to meaningfully reduce vacancy rates.

Effect of Justice Reinvestment on the Community Corrections and Prison Populations

Population trends are examined below, as context for dramatic changes that occurred with the COVID-19 pandemic over the past few years and to serve as a baseline to understand how the populations recover and/or evolve in future years. CY 2022 suggests there may be some stabilization in both the community corrections and prison populations (see Figure 21 and Figure 22), with both populations showing the first year-end increases since the onset of the COVID-19 pandemic (however, at less than 1% each).

Overall, the community corrections population declined 29% from December 2011 to December 2022 (from 108,520 to 77,346). The largest decreases over this time period occurred from CY 2019 to CY 2020 (13%), followed by a decline of nearly 6% from CY 2020 to CY 2021.

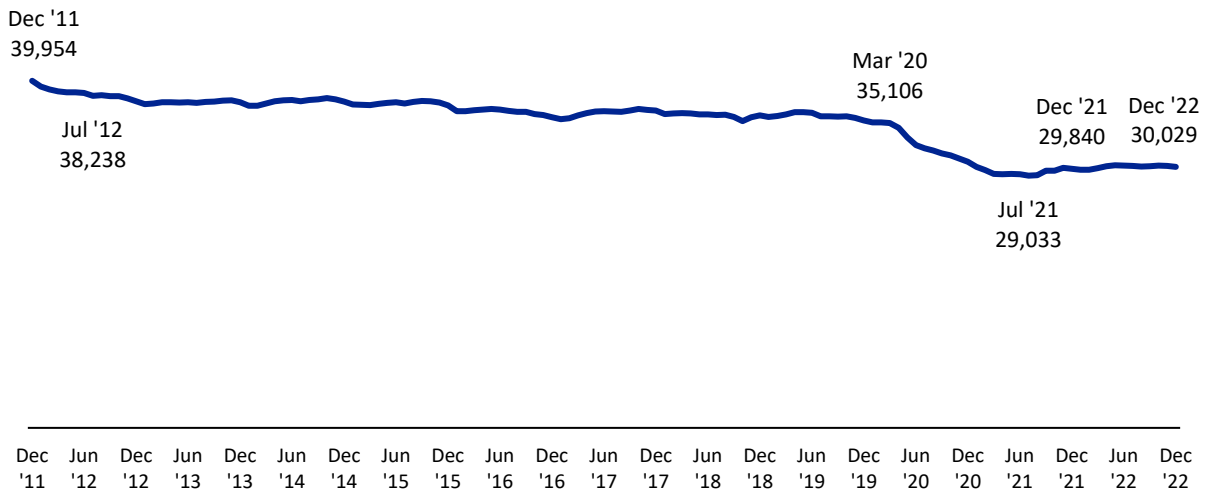
Figure 21
NC Community Corrections Population at Month-End



SOURCE: NC Department of Adult Correction, Automated System Query (ASQ)

Figure 22 shows the average monthly prison population in North Carolina beginning with the implementation of the JRA. The prison population declined from 39,954 in December 2011 to 29,840 in December 2021 (a decrease of 10,114 or 25%), with much of this decrease attributable to the COVID-19 pandemic. The lowest monthly average (29,033) occurred in July 2021. The population has since been stable at around 30,000 for much of CY 2022.

Figure 22
NC Prison Population: Monthly Average



Note: Prison population figures include inmates backlogged in county jails when applicable.

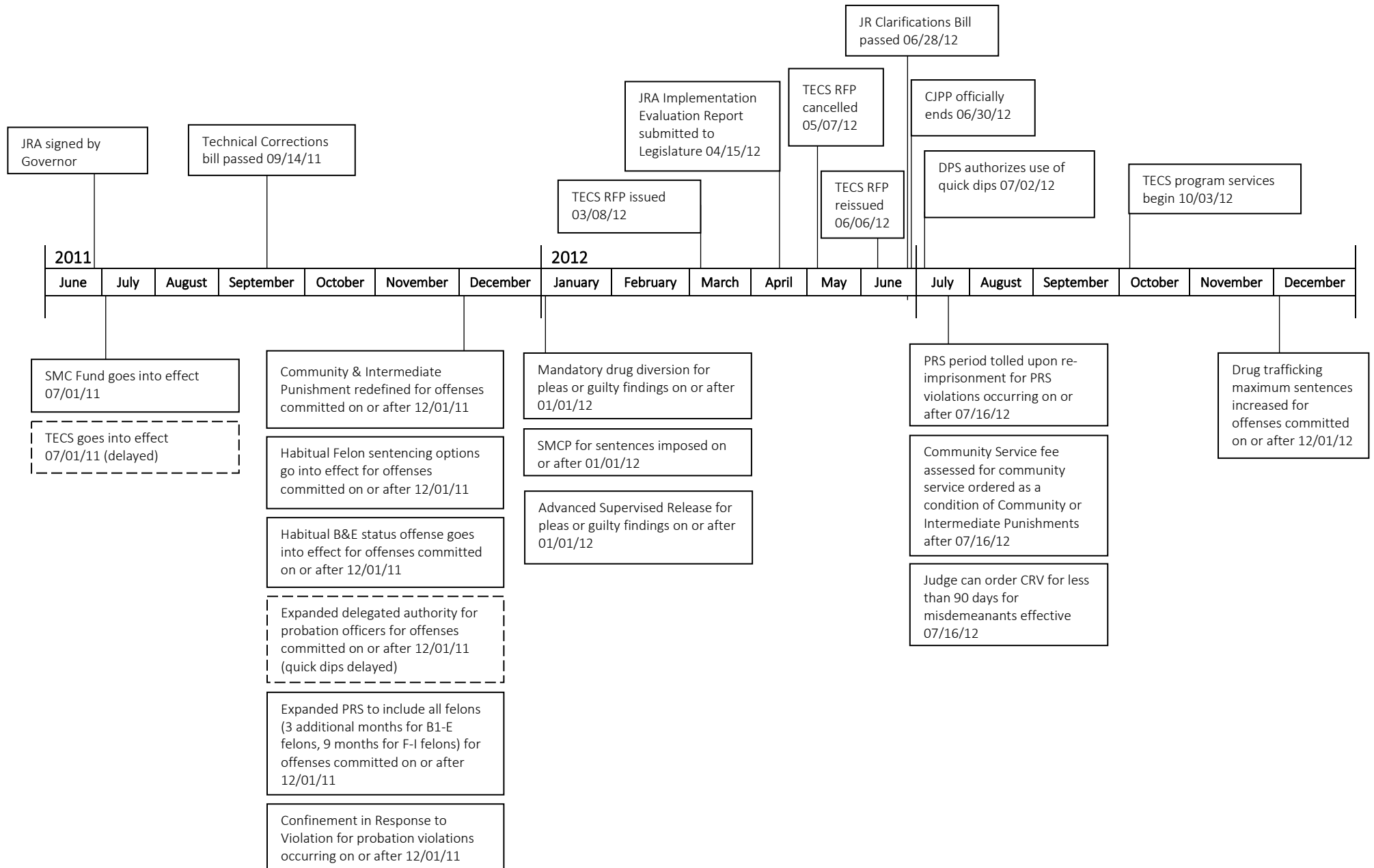
SOURCE: NC Department of Adult Correction, Daily Unit Population Reports and Inmates on Backlog Reports

As noted previously, it will take some additional 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.

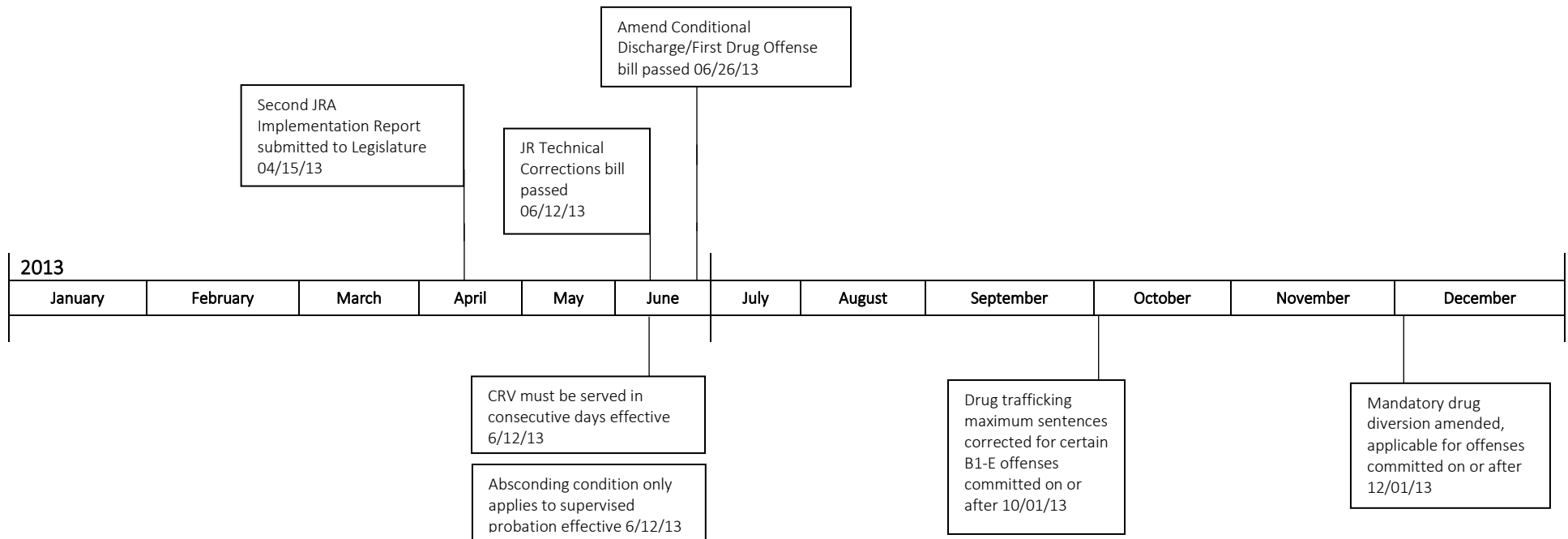
APPENDIX A

JUSTICE REINVESTMENT IMPLEMENTATION TIMELINE

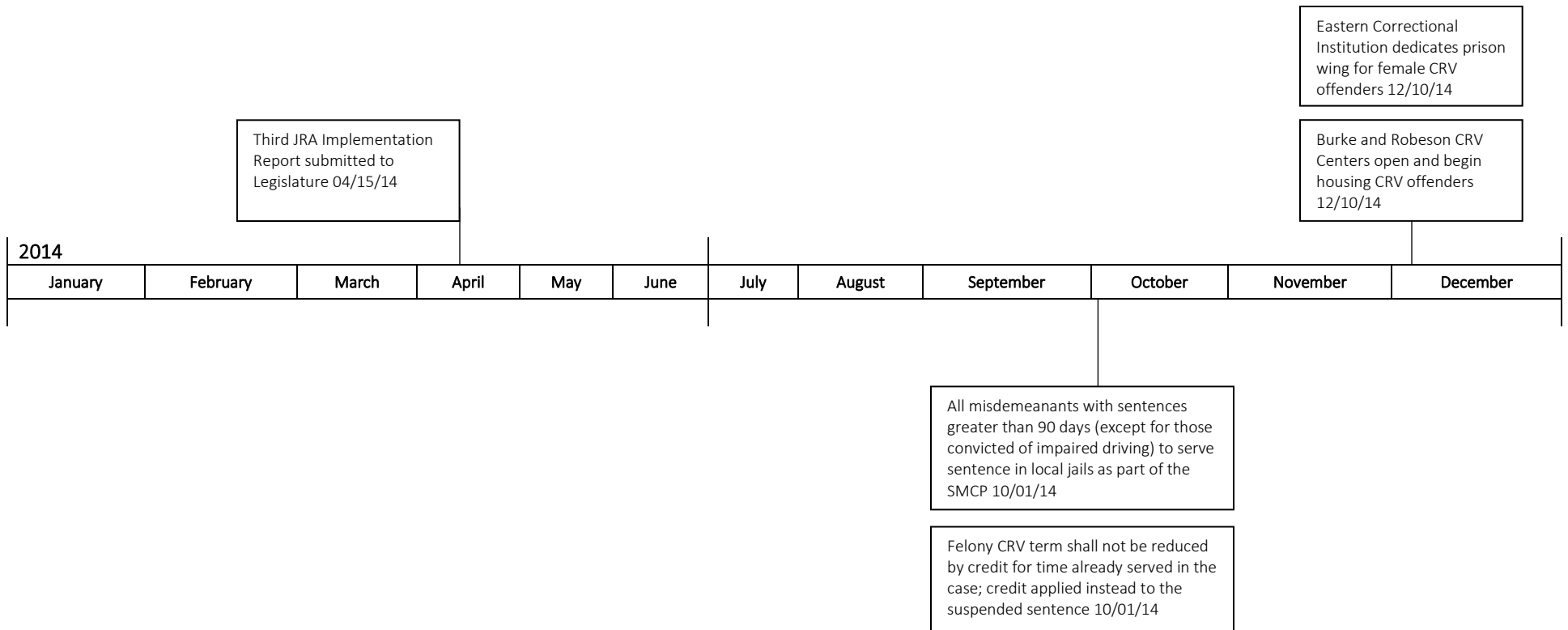
JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2011-2012



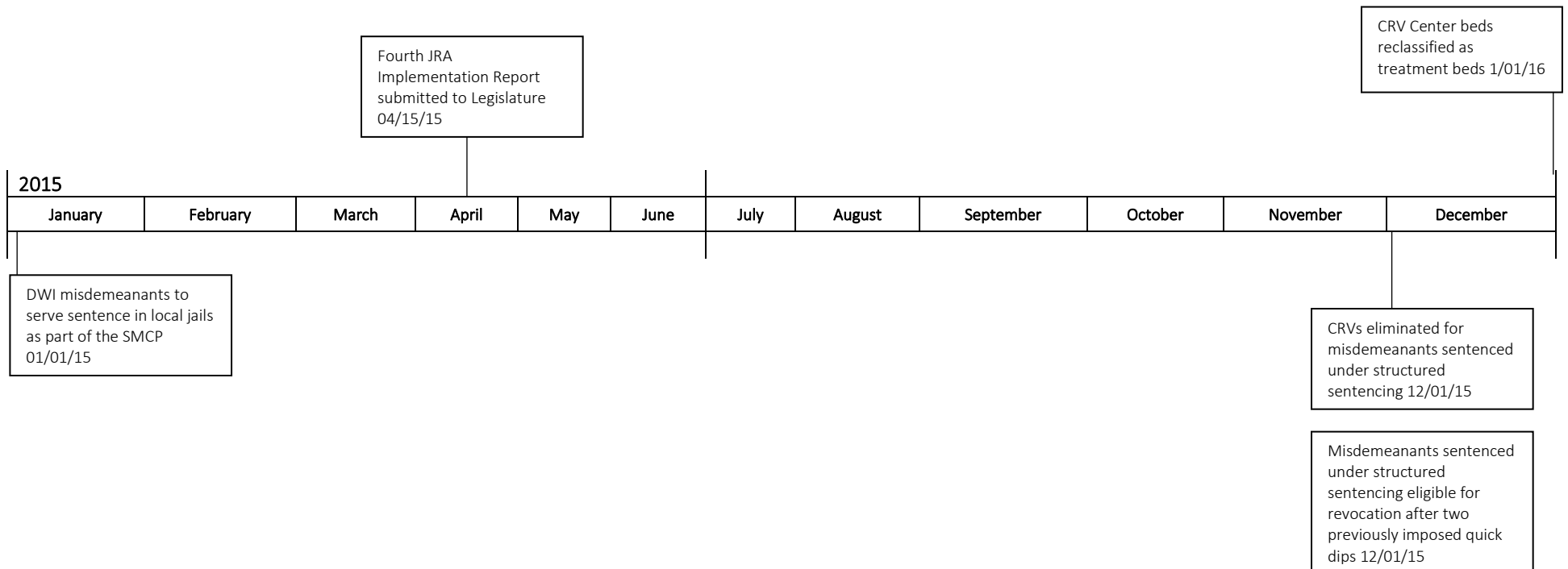
JUSTICE REINVESTMENT ACT IMPLEMENTATION TIMELINE 2013



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

ASQ	Automated System Query
ASR	Advanced Supervised Release
BJA	Bureau of Justice Assistance
CBI	Cognitive Behavioral Intervention
CIC	Community Intervention Center
CIT	Crisis Intervention Team
CJPP	Criminal Justice Partnership Program
CMT	Case Management Tool
CRV	Confinement in Response to Violation
CSG	Council of State Governments
CTS	Criminal Thinking Scales
CY	Calendar Year
DAC	Division of Adult Correction (within the Department of Public Safety)
DHHS	Department of Health and Human Services
DMV	North Carolina Division of Motor Vehicles
DPS	Department of Public Safety
DWI	Driving While Impaired
EBP	Evidence-Based Programming
ELC	Extended Limits of Confinement
FARS	Functional Ability Rating System
G.S.	General Statute
GCC	Governor's Crime Commission
IOP	Intensive Outpatient Treatment
IPS-SE	Individual placement and supported employment
JRA	Justice Reinvestment Act
MAPP	Mutual Agreement Parole Program
MRT	Moral Reconation Therapy
NC PASE	North Carolina Predictive Analytics in Supervision Effort
NCCIW	North Carolina Correctional Institution for Women
NCJAA	North Carolina Jail Administrators' Association
NCSA	North Carolina Sheriffs' Association
OPUS	Offender Population Unified System
OTI-R	Offender Traits Inventory-Revised
OTU	Outpatient Treatment Unit
PPO	Probation and Parole Officer
PRS	Post-Release Supervision
PRSP	Post-Release Supervision and Parole Commission
PSI	Pre-Sentence Investigation
RFP	Request for Proposal
RNA	Risk and Needs Assessment
RRS	Recidivism Reduction Services

S.L.	Session Law
SMCP	Statewide Misdemeanant Confinement Program
SMHP	Specialty Mental Health Probation
SNAP	Supplemental Nutrition Assistance Program
SOG	UNC School of Government
SOIU	Special Operations and Intelligence Unit
SOP	Section of Prisons (within the Division of Adult Correction and Juvenile Justice)
SPMI	Serious and Persistent Mental Illness
SRCC	State Reentry Council Collaborative
SSA	Structured Sentencing Act
START	Short-Term Assessment of Risk and Treatability
TDU	Therapeutic Diversion Unit
TECS	Treatment for Effective Community Supervision