

# DRIVING WHILE IMPAIRED CONVICTIONS STATISTICAL REPORT

FISCAL YEAR  
**2016**

# DRIVING WHILE IMPAIRED CONVICTIONS AND SENTENCES IMPOSED

## STATISTICAL REPORT

FISCAL YEAR  
**2016**

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# INTRODUCTION

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This report provides detailed information about driving while impaired (DWI) convictions sentenced under North Carolina General Statute (hereinafter G.S.) 20-179 during Fiscal Year 2016 (July 1, 2015 through June 30, 2016). These data reflect the laws and practices that were in place during this time period.

G.S. 20-179 prescribes sentencing for convictions for impaired driving (G.S. 20-138.1), impaired driving in a commercial vehicle (G.S. 20-138.2), a second or subsequent conviction for operating a commercial vehicle after consuming alcohol (G.S. 20-138.2A), and a second or subsequent conviction for operating a school bus, school activity bus, child care vehicle, ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol (G.S. 20-138.2B). Under G.S. 20-179, offenders convicted of any of the above offenses are subject to punishment in one of six punishment levels (Aggravated Level 1, Level 1 through Level 5).

The following impaired driving offenses are excluded from this report:

- Aiding and abetting DWI (G.S. 20-179(f1))
- Habitual Impaired Driving (G.S. 20-138.5(b))

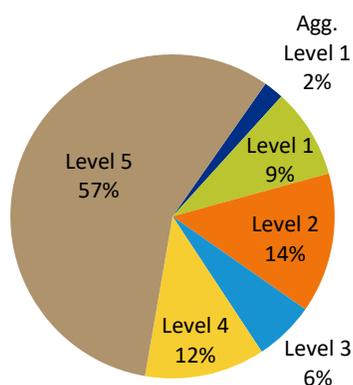
The report presents information on the number of DWI convictions, the distribution of DWI convictions across the six punishment levels, and the types of sentences imposed, as well as data about several other issues. The Appendix includes data on DWI convictions by district and county, as well as additional analyses by punishment level.

# SUMMARY OF FINDINGS

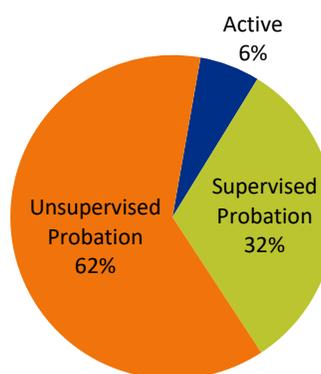
## FY 2016 DWI CONVICTIONS

During FY 2016, sentences for 34,092 DWI convictions were imposed.<sup>1</sup> Under G.S. 20-179, offenders convicted of DWI are subject to punishment in one of six punishment levels (Aggravated Level 1, Level 1 through Level 5). As shown in the figures below, a majority of DWI offenders were sentenced in Level 5 (57%) and a majority of offenders received unsupervised probation (62%).

**Convictions by Punishment Level**

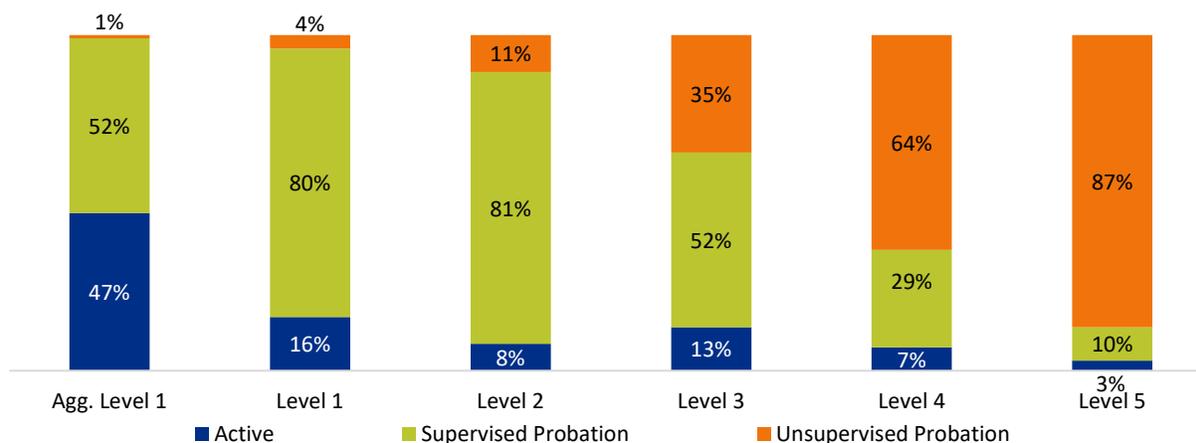


**Convictions by Type of Sentence**



The type of sentence imposed by punishment level is shown in the figure below. Nearly half (47%) of all offenders sentenced with an Aggravated Level 1 punishment received an active sentence. Supervised probation was the most frequent sentence imposed among Aggravated Level 1 (52%), Level 1 (80%), Level 2 (81%), and Level 3 (52%) convictions. Unsupervised probation was most frequently imposed among Level 4 (64%) and Level 5 (87%) convictions.

**Type of Sentence Imposed by Punishment Level**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

<sup>1</sup> For many of the tables and figures in this report, 18 of the 34,092 DWI convictions were excluded because the type of sentence imposed could not be determined.

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DWI CONVICTIONS  
FY 2016

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# I. DWI CONVICTIONS IN FY 2016

## A. DWI Convictions

This report contains information on DWI convictions sentenced under G.S. 20-179<sup>2</sup> during Fiscal Year 2016 (July 1, 2015 through June 30, 2016) and reflects the laws and practices that were in place during this time period. Overall, sentences for 34,092 DWI convictions were imposed. (This number excludes sentences imposed for aiding and abetting DWI, even though convictions for this offense are sentenced at Level 5 (G.S. 20-179(f1)).

The offense of Habitual Impaired Driving is sentenced under Structured Sentencing as a Class F felony. Information on convictions for this offense is also excluded from this report.

## B. Definition of the Unit of Analysis

The report is based on data entered into the Administrative Office of the Courts' (AOC's) management information system by the court clerk following the imposition of the sentence. The report covers all North Carolina counties. The unit of analysis is convictions disposed of in a *sentencing episode*.<sup>3</sup>

While a sentencing episode involves one offender, in this reporting time frame an offender may be represented by more than one sentencing episode (meaning that within the fiscal year the number of offenders will be the same as or less than the number of sentencing episodes reported). For the sake of simplicity, throughout the report the unit of analysis is referred to as "conviction."

A *SENTENCING EPISODE* IS IDENTIFIED FROM COURT RECORDS AS THE SENTENCE IMPOSED FOR THE *MOST SERIOUS CONVICTION* ON A GIVEN DAY OF COURT.

## C. Data Limitations

The report is based on data entered into the Administrative Office of the Courts' (AOC's) management information system by the court clerk following the imposition of the sentence. AOC data do not contain information on the factors (grossly aggravating, aggravating, and mitigating) that determine offenders' punishment levels.

## D. Convictions by Punishment Level

Figure A shows the distribution of DWI convictions across punishment levels. The majority of convictions were in Level 5 (n=19,603 or 57%). The percentage of convictions increased from Aggravated Level 1 (2%) through Level 2 (14%), and then again from Level 3 (6%) through Level 5 (57%). Aggravated Level 1 through

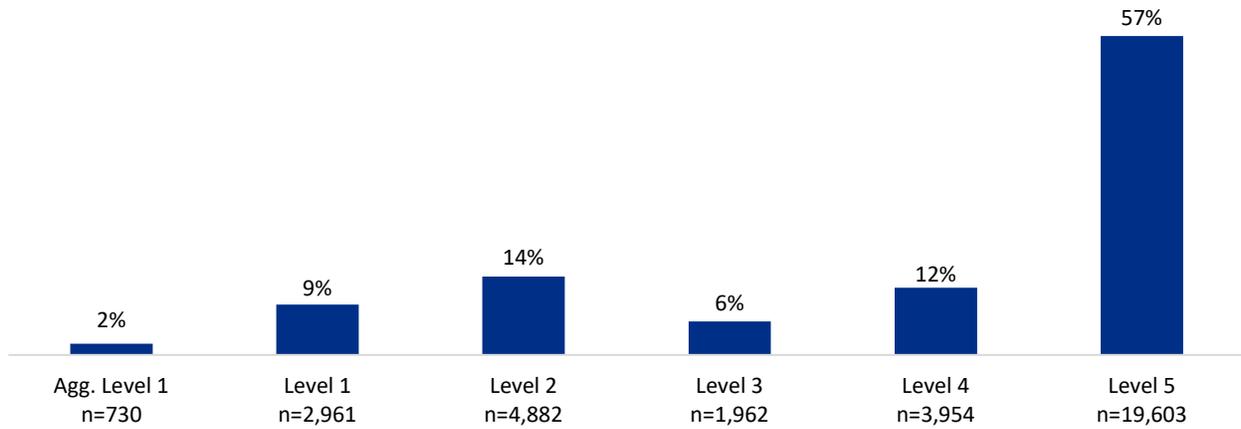
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<sup>2</sup> In addition to convictions for impaired driving (G.S. 20-138.1), G.S. 20-179 also prescribes sentencing for impaired driving in a commercial vehicle (G.S. 20-138.2), a second or subsequent conviction for operating a commercial vehicle after consuming alcohol (G.S. 20-138.2A), and a second or subsequent conviction for operating a school bus, school activity bus, child care vehicle, ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol (G.S. 20-138.2B). Convictions for these offenses are included in this report.

<sup>3</sup> The report's unit of analysis differs from the unit of analysis used in the AOC's Trial Court Caseload Statistics. See *A Comparison of Trial Court Caseload Statistics and the Structured Sentencing Statistical Report* available at [www.NCSPAC.org](http://www.NCSPAC.org) for detail.

Level 2 punishments are based on the presence of grossly aggravating factors while Levels 3 through 5 are not.<sup>4</sup>

**Figure A: Convictions by Punishment Level**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

### E. Convictions by Month of Sentencing

Figure B shows the number of convictions by month of sentencing during FY 2016. Convictions were highest in March and lowest in December.

**Figure B: Convictions by Month of Sentencing**



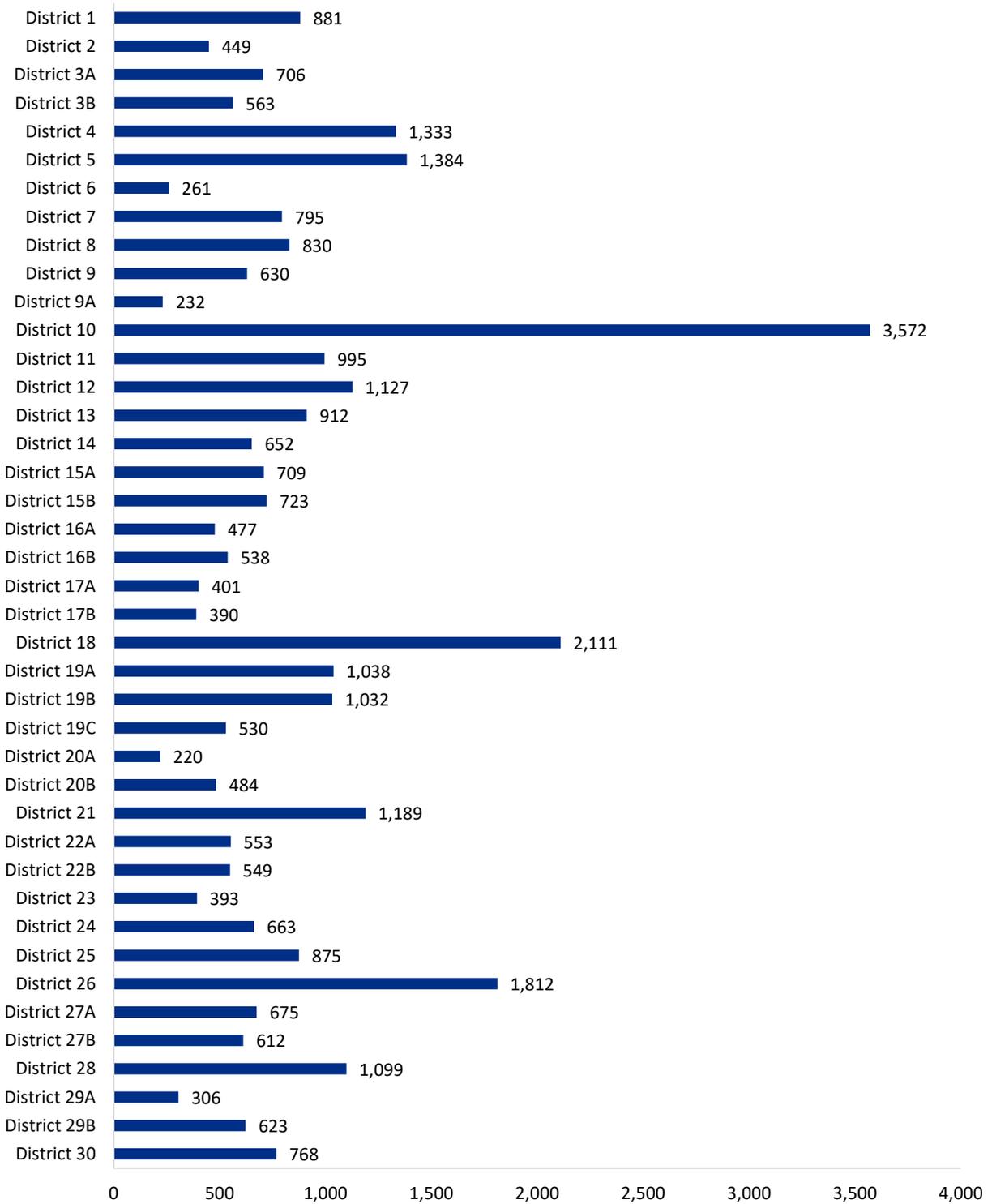
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

### F. Convictions by Judicial District

Figure C shows the total number of convictions by judicial district (N=34,092). The districts with the most DWI convictions were District 10 (Wake County, n=3,572), District 18 (Guilford County, n=2,111), and District 26 (Mecklenburg County, n=1,812). Additional information about DWI convictions by district and county can be found in Appendix C.

<sup>4</sup> For a list of the four grossly aggravating factors, see G.S. 20-179(c).

**Figure C: Convictions by Judicial District**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

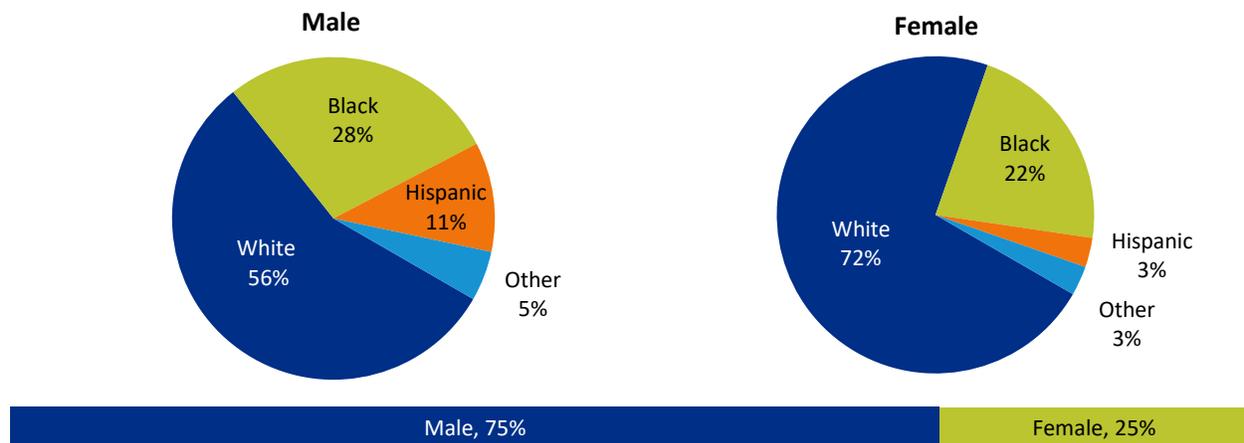
## II. CHARACTERISTICS OF OFFENDERS

This section provides information about convictions by offenders' sex, race, age at offense, and blood alcohol concentration (BAC).

### A. Convictions by Sex, Race, and Age at Offense

Of the 34,092 DWI convictions in FY 2016, 75% were for males (see Figure D). Overall, the majority of DWI offenders were white (60%). White females comprised a larger percentage of female convictions (72%) than white males did for male convictions (56%). Black males and females comprised the second largest racial category for each sex (28% and 22% respectively, and 27% overall).

**Figure D: Convictions by Sex and Race**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

Table 1 shows convictions by offenders' age at offense and punishment level. Overall, the average age of DWI offenders was 36, with Level 5 offenders being slightly younger on average (35) than offenders sentenced in the other punishment levels. Regardless of punishment level, the largest concentrations of convictions were accounted for by offenders aged 21-40 at the time of offense. Nearly half (48%) of all Level 5 convictions were for offenders aged 30 and younger.

**Table 1: Convictions by Age at Offense and Punishment Level**

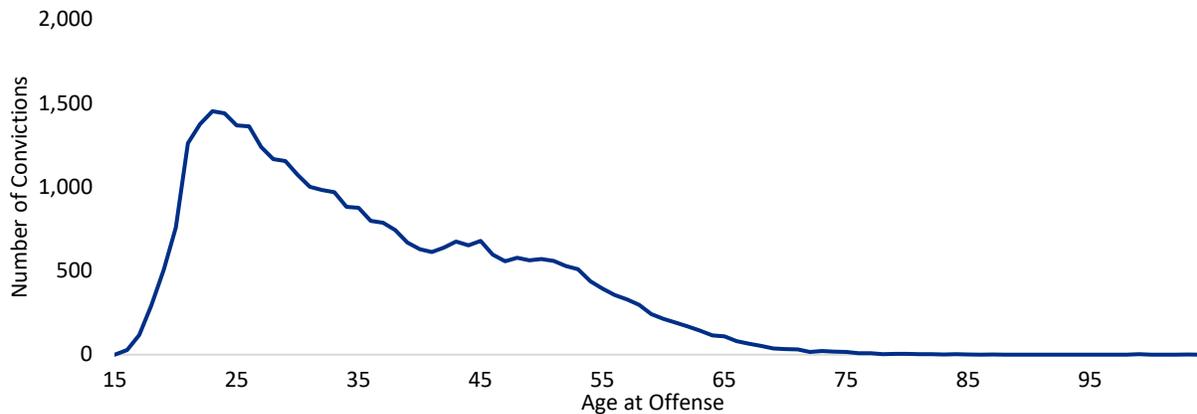
Punishment Level	#	Average Age	Age at Offense				
			<21	21-30	31-40	41-50	>50
			%	%	%	%	%
<b>Agg. Level 1</b>	728	38	1	30	34	21	14
<b>Level 1</b>	2,961	37	2	34	29	21	14
<b>Level 2</b>	4,878	37	2	34	27	21	16
<b>Level 3</b>	1,959	39	3	26	27	24	20
<b>Level 4</b>	3,949	37	4	33	26	20	17
<b>Level 5</b>	19,585	35	6	42	22	16	14
<b>Total</b>	<b>34,060</b>	<b>36</b>	<b>5</b>	<b>38</b>	<b>24</b>	<b>18</b>	<b>15</b>

Note: Of the 34,092 DWI convictions in FY 2016, 32 convictions with missing values for offender’s age were excluded from this table.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

The volume of offenders peaked at age 23, and then generally declined as age increased (see Figure E).

**Figure E: Distribution of Convictions by Age at Offense**



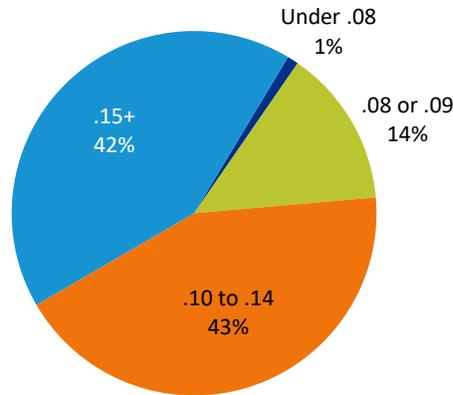
Note: Of the 34,092 DWI convictions in FY 2016, 32 convictions with missing values for offender’s age were excluded from this figure.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

## B. Convictions by Blood Alcohol Concentration (BAC)

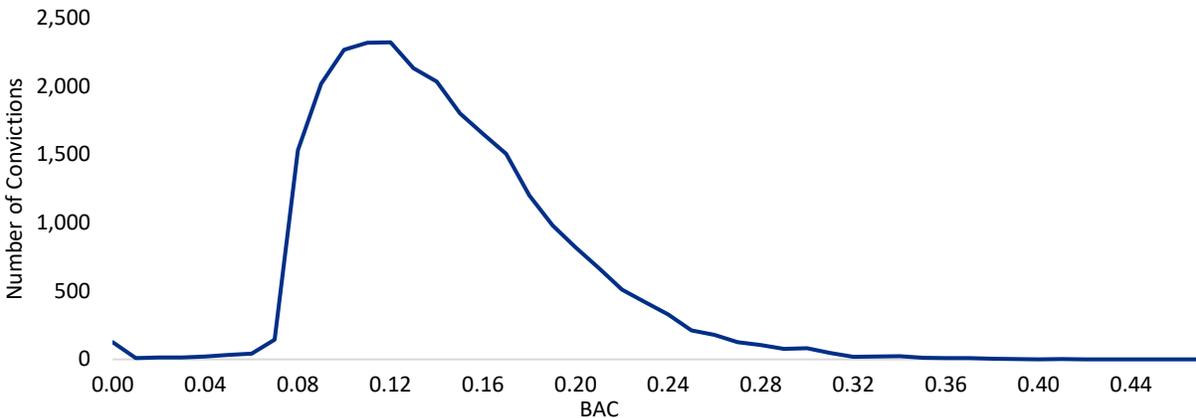
BAC levels were recorded for 76% of the 34,092 convictions.<sup>5</sup> Figure F shows the percentage of convictions by BAC. The greatest percentage of convictions were in the .10 to .14 category (43%), followed closely by the .15+ category (42%). Figure G illustrates the distribution of BAC for offenders convicted of DWI in FY 2016. A BAC of .12 was the most frequent (n=2,323), followed by .11 (n=2,320) and .10 (n=2,269).

**Figure F: Convictions by BAC**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

**Figure G: Distribution of BAC**



Note: Of the 34,092 DWI convictions in FY 2016, 8,234 convictions without BAC levels were excluded from these figures.

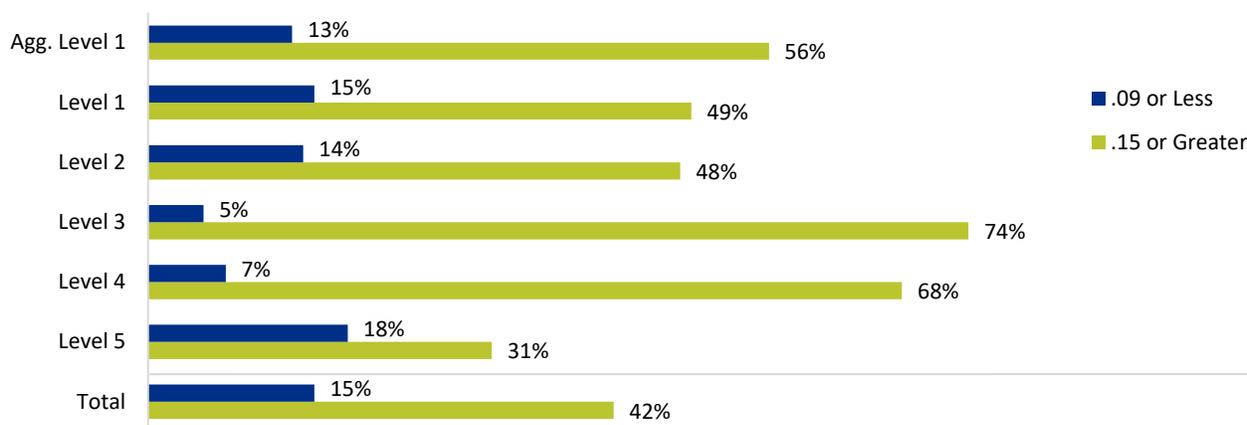
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

<sup>5</sup> This section examines data contained in the AOC's BAC field at sentencing. The AOC's BAC data include information beyond numeric BAC values. Clerks use the same field to record refusals, blood tests, and whether the DWI charge stemmed from drugs or controlled substances other than alcohol. Data on these occurrences were incomplete, however, because clerks may overwrite initial data (e.g., blood test) with information that becomes available later (e.g., the BAC result of the blood test). The FY 2016 data showed refusals occurred in 13% of convictions, blood tests occurred in 6% of convictions, DWI under controlled substances other than alcohol occurred in 1% of convictions, and BAC was unknown in 4% of convictions. However, given the possibility of overwriting, the actual percentages of convictions involving refusals and blood tests were not known.

G.S. 20-179(e)(1) defines an alcohol concentration that does not exceed .09 as a mitigating factor in terms of sentencing; likewise, G.S. 20-179(d)(1) establishes alcohol concentrations of .15 or more as an aggravating factor. A weighing of aggravating and mitigating factors determines whether offenders, who do not have any grossly aggravating factors, will be sentenced in Levels 3, 4, or 5.<sup>6</sup> Aggravating and mitigating factors may also be used in determining the type and length of sentences of offenders receiving Aggravated Level 1, Level 1, and Level 2 punishments.<sup>7</sup>

Figure H shows the percentage of convictions by punishment level with a BAC of .09 or less and those with a BAC of .15 or more. Level 3 and Level 4 convictions had the highest percentage of convictions with BACs .15 or greater (74% and 68% respectively). Correspondingly, these same punishment levels also had the lowest percentage of convictions with BACs .09 or less (5% and 7% respectively).

**Figure H: Convictions by Mitigating and Aggravating BAC Levels and Punishment Level**



Note: Of the 34,092 DWI convictions in FY 2016, 8,234 convictions without BAC levels were excluded from this figure. SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

### III. SENTENCES IMPOSED AND METHOD OF DISPOSITION

This section provides information on DWI convictions by the type of sentence imposed (active sentence, supervised probation, or unsupervised probation) and the method of disposition (guilty plea, bench trial, or jury trial).<sup>8</sup>

#### A. Convictions by Type of Sentence Imposed and Punishment Level

Figure I and Table 2 show that 6% of DWI convictions in FY 2016 resulted in an active sentence, 32% resulted in supervised probation, and 62% resulted in unsupervised probation. Nearly half (47%) of all offenders sentenced to an Aggravated Level 1 punishment received an active sentence. Supervised probation was the most frequent sentence imposed among Aggravated Level 1 (52%), Level 1 (80%), Level 2 (81%), and Level 3 (52%) convictions. Unsupervised probation was most frequently imposed among

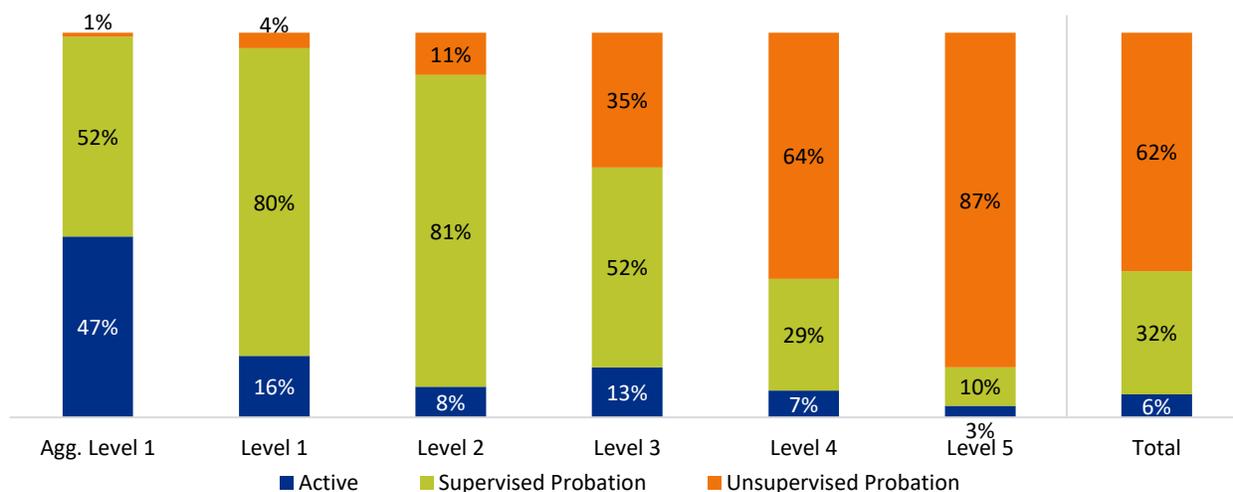
<sup>6</sup> G.S. 20-179(f)(1)-(3)

<sup>7</sup> G.S. 20-179(c)

<sup>8</sup> Section III excludes 18 of the 34,092 DWI convictions in FY 2016 for which the type of sentence imposed could not be determined.

Level 4 (64%) and Level 5 (87%) convictions. Despite being a lower punishment level, the percentage of convictions that resulted in an active sentence for Level 3 punishments was higher (13%) than for Level 2 punishments (8%). As noted previously, Aggravated Level 1 through Level 2 punishments are based on the presence of grossly aggravating factors while Levels 3 through 5 are not.

**Figure I: Convictions by Type of Sentence Imposed and Punishment Level**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

**Table 2: Convictions by Type of Sentence Imposed and Punishment Level**

Punishment Level	Type of Sentence Imposed						Total
	Active		Supervised Probation		Unsupervised Probation		
	#	%	#	%	#	%	
Agg. Level 1	343	47	382	52	4	1	729
Level 1	465	16	2,378	80	116	4	2,959
Level 2	396	8	3,930	81	552	11	4,878
Level 3	248	13	1,032	52	682	35	1,962
Level 4	256	7	1,150	29	2,547	64	3,953
Level 5	528	3	1,958	10	17,107	87	19,593
<b>Total</b>	<b>2,236</b>	<b>6</b>	<b>10,830</b>	<b>32</b>	<b>21,008</b>	<b>62</b>	<b>34,074</b>

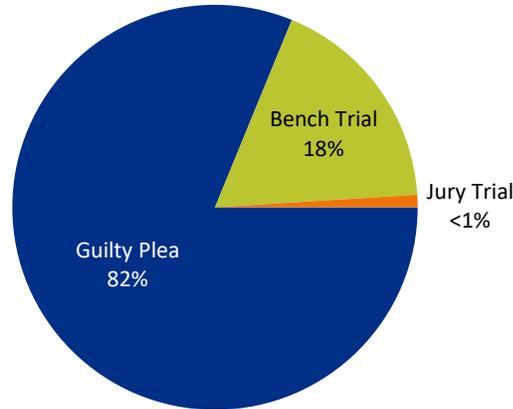
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

## B. Convictions by Method of Disposition

Figure J shows that 82% of DWI convictions in FY 2016 were disposed by guilty plea and 18% by bench trial. Jury trials occurred in less than 1% of convictions (n=180). Across all punishment levels, Aggravated Level 1 and Level 1 convictions had the highest percentage of guilty pleas (87% each) and Level 5

convictions had the lowest percentage (79%). Conversely, Level 5 convictions had the highest percentage of bench trials (20%) and Aggravated Level 1 had the lowest percentage (12%).

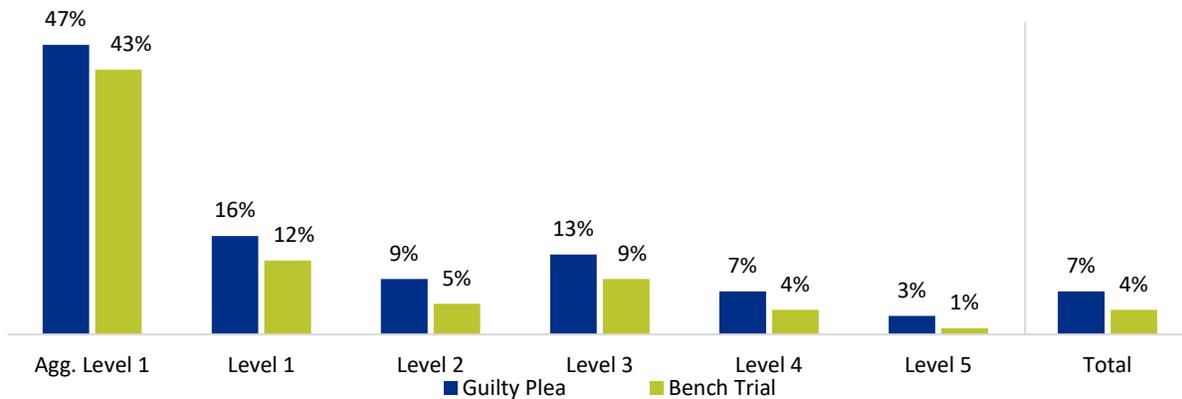
**Figure J: Convictions by Method of Disposition**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

Figure K shows the percentage of convictions that resulted in an active sentence for each punishment level by method of disposition. In FY 2016, 7% of all convictions obtained by guilty plea resulted in an active sentence compared to 4% of all convictions disposed by bench trial. Higher rates of active sentences for guilty plea convictions than for bench trials were found across all punishment levels. The overall rate of active sentences for jury trials (n=180) was 13% and is not depicted in this figure due to the limited number of observations.

**Figure K: Rate of Active Sentences by Method of Disposition and Punishment Level**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

### C. Average Sentence Length

Under G.S. 15A-1351(b), judges must impose a maximum term of imprisonment and may impose a minimum term. For the purpose of this analysis, sentence length refers to the maximum term imposed.<sup>9</sup>

<sup>9</sup> For more information on the use of minimum and maximum terms, see Figure T in Section IV.

Table 3 examines active sentences only and shows the average active sentence within the context of the statutory minimum and statutory maximum possible sentences. When an active sentence was imposed (n=2,236), the average length was 8 months. Among convictions in Level 1 through Level 5, the average active sentence length was about half of the statutory maximum.

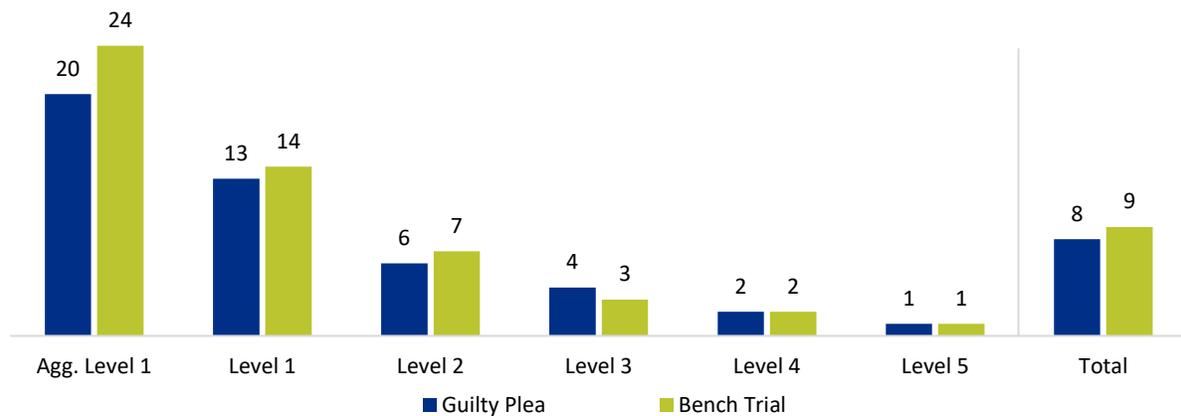
**Table 3: Average Length of Active Sentences (Months) by Punishment Level**

Punishment Level	Statutory Minimum	Average Active Sentence	Statutory Maximum
<b>Agg. Level 1</b>	12 months	21 months	36 months
<b>Level 1</b>	30 days	13 months	24 months
<b>Level 2</b>	7 days	6 months	12 months
<b>Level 3</b>	72 hours	4 months	6 months
<b>Level 4</b>	48 hours	2 months	120 days
<b>Level 5</b>	24 hours	1 month	60 days
<b>Total</b>		<b>8 months</b>	

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

Among active sentences, there was little variation in average active sentence length by method of disposition overall, as well as by punishment level with the exception of Aggravated Level 1 offenses (see Figure L).

**Figure L: Average Length of Active Sentences (Months) by Method of Disposition and Punishment Level**

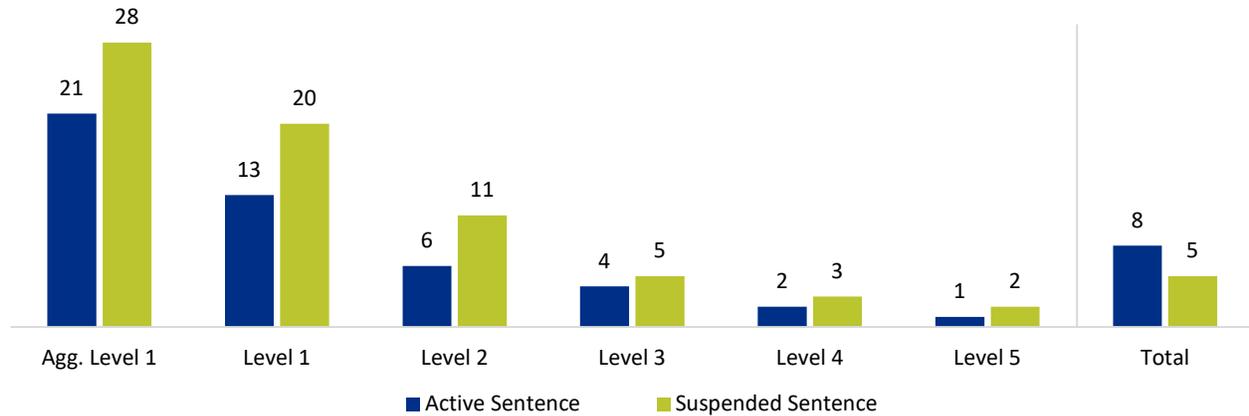


Note: The average active sentence length for jury trial convictions (n=24) was 11 months and is not depicted in this figure due to the limited number of observations. The average active sentence length for bench trials in Levels 3 and 4 were each based on fewer than 25 observations.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

Figure M provides a comparison of the average sentence imposed for active sentences and suspended sentences. As the punishment level decreased, the average sentence decreased. Aggravated Level 1 DWIs had the longest average sentence imposed. For each punishment level, the average sentence for offenders who received a suspended sentence was longer than the average sentence for those who received an active sentence. However, the overall average sentence for active sentences was longer than the average sentence imposed for suspended sentences due to the large volume of Level 5 suspended sentences (n=19,065).

**Figure M: Average Sentence Length (Months) by Punishment Level**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

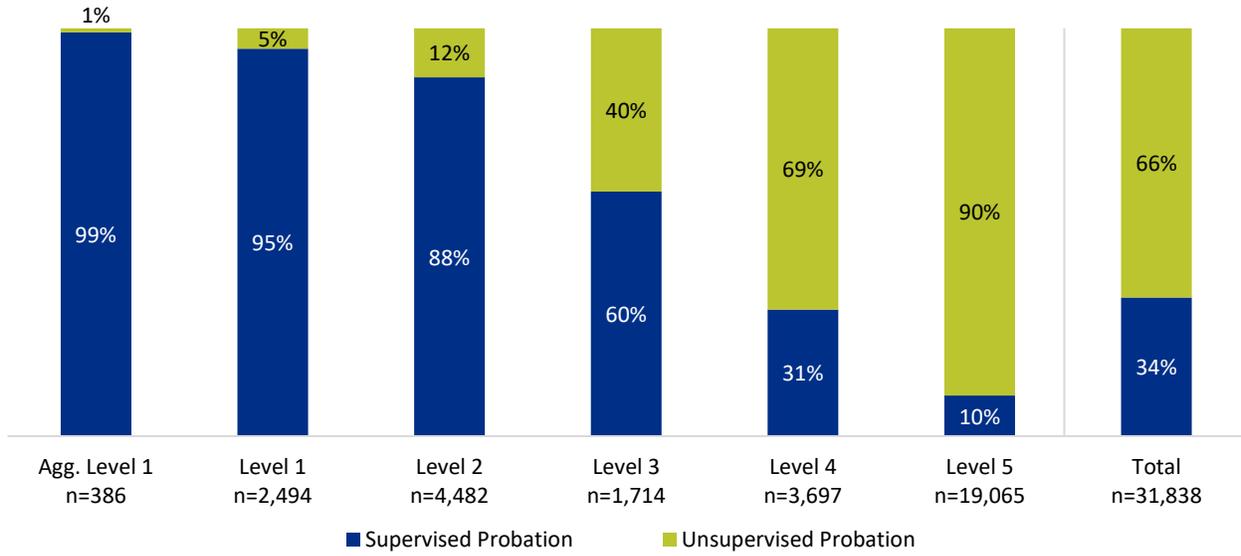
#### D. Probation Sentences

Probation was imposed for all 31,838 DWI convictions in FY 2016 with a suspended sentence. Figure N summarizes the type of probation – supervised or unsupervised – for probation sentences. Overall, unsupervised probation was imposed for two-thirds (66%) of all probation sentences. Of those with probation, nearly all Aggravated Level 1 and Level 1 offenders (99% and 95% respectively) received supervised probation. Level 5 offenders accounted for over half of all probation sentences imposed (i.e., 19,065 of 31,838 probation sentences). As the punishment level decreased, a greater percentage of offenders received unsupervised probation.<sup>10</sup>

Figure O provides the average length of probation by punishment level and type of probation. The average length of probation was 19 months for supervised and 14 months for unsupervised probation. Offenders with supervised probation received longer probation terms than offenders with unsupervised probation. Generally, as the punishment level decreased, the average length of probation supervision decreased.

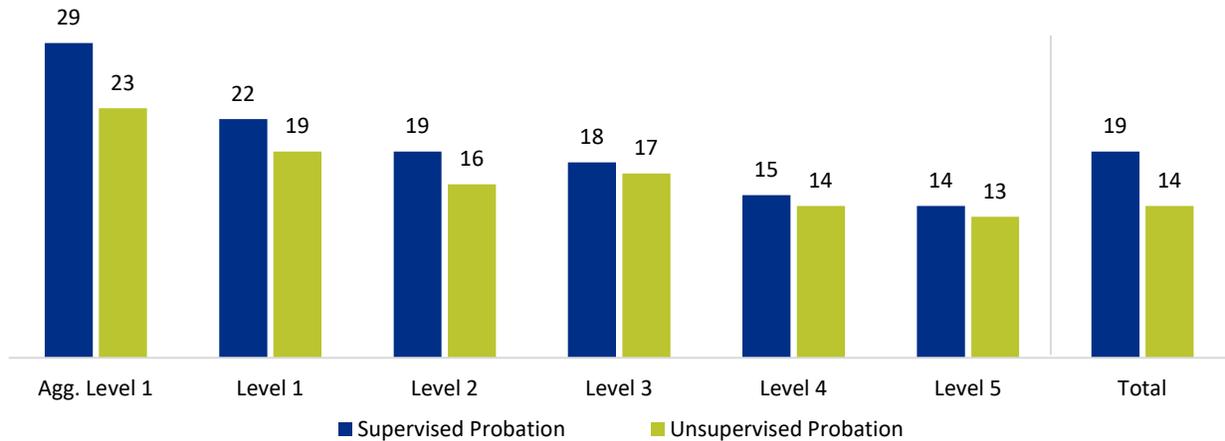
<sup>10</sup> G.S. 20-179(r) outlines the circumstances in which offenders sentenced to Levels 3, 4, and 5 should receive unsupervised probation.

**Figure N: Probation Sentences by Type of Probation and Punishment Level**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

**Figure O: Average Length of Probation (Months) by Type of Probation and Punishment Level**



Note: The average length of probation for unsupervised probation in Aggravated Level 1 was based on fewer than 10 observations.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

Table 4 explores the most frequently imposed probation length (mode) for each punishment level by type of probation. Among offenders who received unsupervised probation, 12 months of probation was the most frequently imposed probation length. More variation in probation length occurred among offenders who received supervised probation.

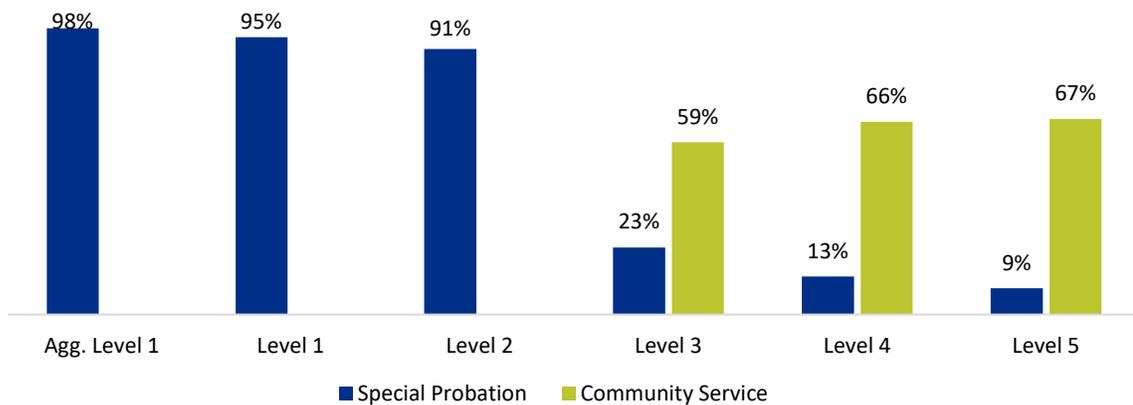
**Table 4: Most Frequently Imposed Probation Length (Months) by Type of Probation and Punishment Level**

Punishment Level	Total	Type of Probation					
		Supervised Probation			Unsupervised Probation		
		#	Mode	%	#	Mode	%
<b>Agg. Level 1</b>	386	382	36	44	4	N/A	N/A
<b>Level 1</b>	2,494	2,378	24	45	116	12	39
<b>Level 2</b>	4,482	3,930	18	44	552	12	56
<b>Level 3</b>	1,714	1,032	18	41	682	12	45
<b>Level 4</b>	3,697	1,150	12	61	2,547	12	72
<b>Level 5</b>	19,065	1,958	12	74	17,107	12	85
<b>Total</b>	<b>31,838</b>	<b>10,830</b>	<b>12</b>	<b>36</b>	<b>21,008</b>	<b>12</b>	<b>81</b>

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

Special probation is required for Aggravated Level 1 through Level 2 offenders sentenced to probation,<sup>11</sup> while either special probation or community service is required for Level 3 through 5 offenders sentenced to probation.<sup>12</sup> Mandatory probation conditions by punishment level are shown in Figure P.<sup>13</sup>

**Figure P: Mandatory Probation Conditions by Punishment Level**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

Table 5 shows the number, percent, and average days of special probation ordered within the context of the statutory requirements for the duration of special probation. Of all probation sentences, 30%

<sup>11</sup> Offenders sentenced in Aggravated Level 1 through Level 2 may receive community service as part of their sentence. Eight percent (8%) of Aggravated Level 1 sentences, 6% of Level 1 sentences, and 8% of Level 2 sentences included community service.

<sup>12</sup> Special probation and community service may be imposed together in Levels 3 through 5; this occurred in less than 1% of the convictions.

<sup>13</sup> The imposition of mandatory special probation and community service is reported as recorded in the AOC's management information system. It is not clear whether these data reflect actual sentencing practices or how information is captured in the AOC's database.

(n=9,469) had special probation ordered (see Table 5). The average number of special probation days decreased as the punishment level decreased.

**Table 5: Probation Sentences with Special Probation by Punishment Level**

<b>Punishment Level</b>	<b>Probation Sentences #</b>	<b>Special Probation Ordered %</b>	<b>Average Special Probation Days</b>	<b>Statutory Length Days</b>
<b>Agg. Level 1</b>	386	98	130	At least 120
<b>Level 1</b>	2,494	95	35	At least 30 or at least 10 (if CAM) <sup>14</sup>
<b>Level 2</b>	4,482	91	10	At least 7
<b>Level 3</b>	1,714	23	9	At least 3
<b>Level 4</b>	3,697	13	3	2
<b>Level 5</b>	19,065	9	2	1
<b>Total</b>	<b>31,838</b>	<b>30</b>	<b>19</b>	<b>N/A</b>

Note: All probation sentences with special probation ordered are shown regardless of whether the lengths of special probation are consistent with the terms in G.S. 20-179(f3), (g)-(k).

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

Table 6 provides information on fines imposed for probation sentences by punishment level. Fines were imposed for the majority of DWI convictions (91%), ranging from a low of 82% for Aggravated Level 1 offenders to a high of 92% for Level 4 offenders. For each punishment level, the average fine amounts were much lower than the statutory maximum. Nearly all fines imposed (95%) were \$500 or less. The average fine amount decreased as the punishment level decreased.

**Table 6: Probation Sentences with a Fine Imposed by Punishment Level**

<b>Punishment Level</b>	<b>#</b>	<b>Fine Imposed %</b>	<b>Statutory Maximum</b>	<b>Average</b>	<b>Most Frequent Amount</b>
<b>Agg. Level 1</b>	386	82	\$10,000	\$967	\$500
<b>Level 1</b>	2,494	87	\$4,000	\$582	\$500
<b>Level 2</b>	4,482	91	\$2,000	\$405	\$300
<b>Level 3</b>	1,714	90	\$1,000	\$294	\$200
<b>Level 4</b>	3,697	92	\$500	\$185	\$200
<b>Level 5</b>	19,065	91	\$200	\$113	\$100
<b>Total</b>	<b>31,838</b>	<b>91</b>	<b>N/A</b>	<b>\$217</b>	<b>\$100</b>

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

<sup>14</sup> Continuous alcohol monitoring (CAM)

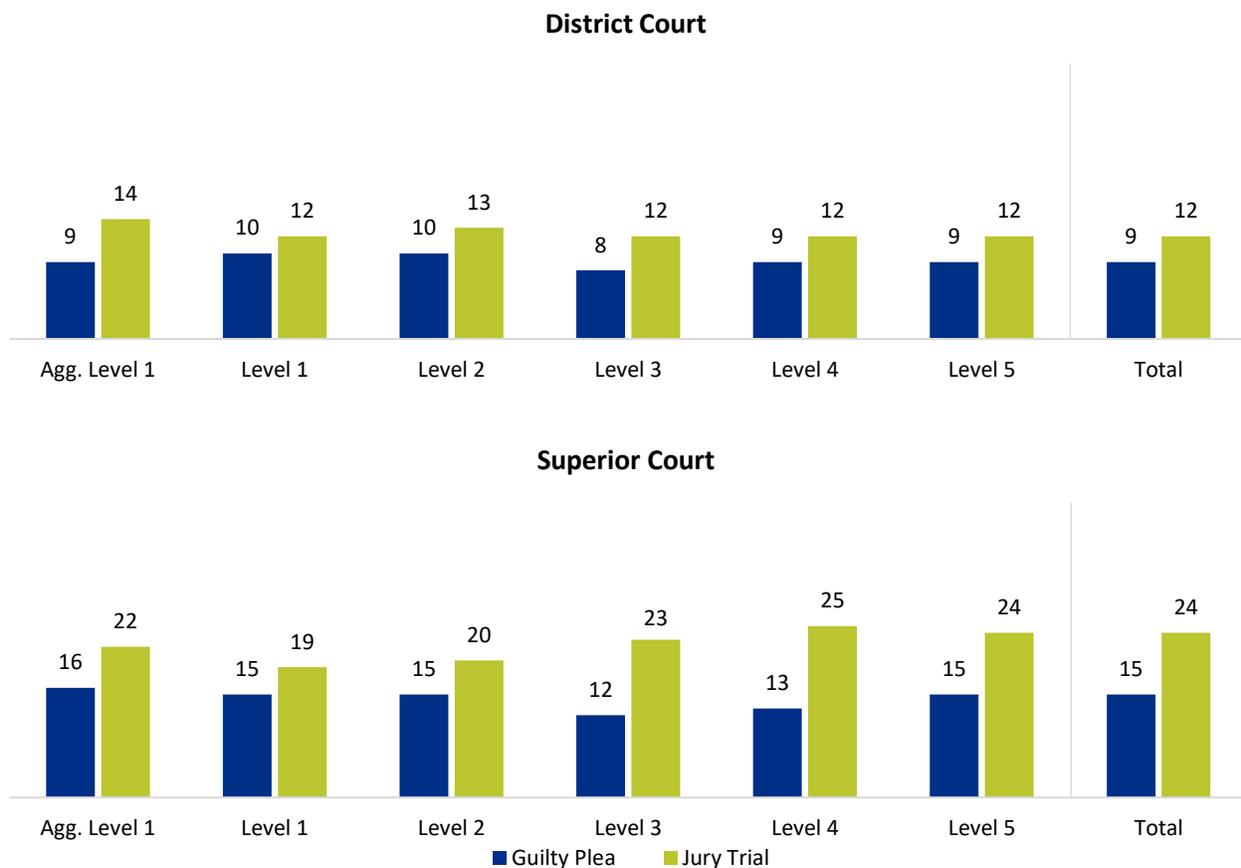
## IV. SPECIAL ISSUES

This section reviews issues of special interest including time to sentencing, sentence lengths imposed relative to the statutory minimum and maximum sentences, and credit for time served.

### A. Time to Sentencing

Time to sentencing refers to the amount of time between the date the offender was charged with DWI and the date the sentence was imposed. Figure Q examines the median time to sentencing by punishment level and method of disposition for District Court and Superior Court. The median time to sentencing for DWI convictions disposed in District Court was 10 months. District Court bench trials took 3 months longer to dispose of than guilty pleas (12 months compared to 9 months). The median time to sentencing for DWI convictions disposed in Superior Court was 16 months. Guilty pleas entered in Superior Court took 9 months less time to sentencing than jury trials (15 months compared to 24 months). No distinct pattern emerged when examining time to sentencing by punishment level.

**Figure Q: Median Time to Sentencing (Months) by Punishment Level and Method of Disposition for District Court and Superior Court**

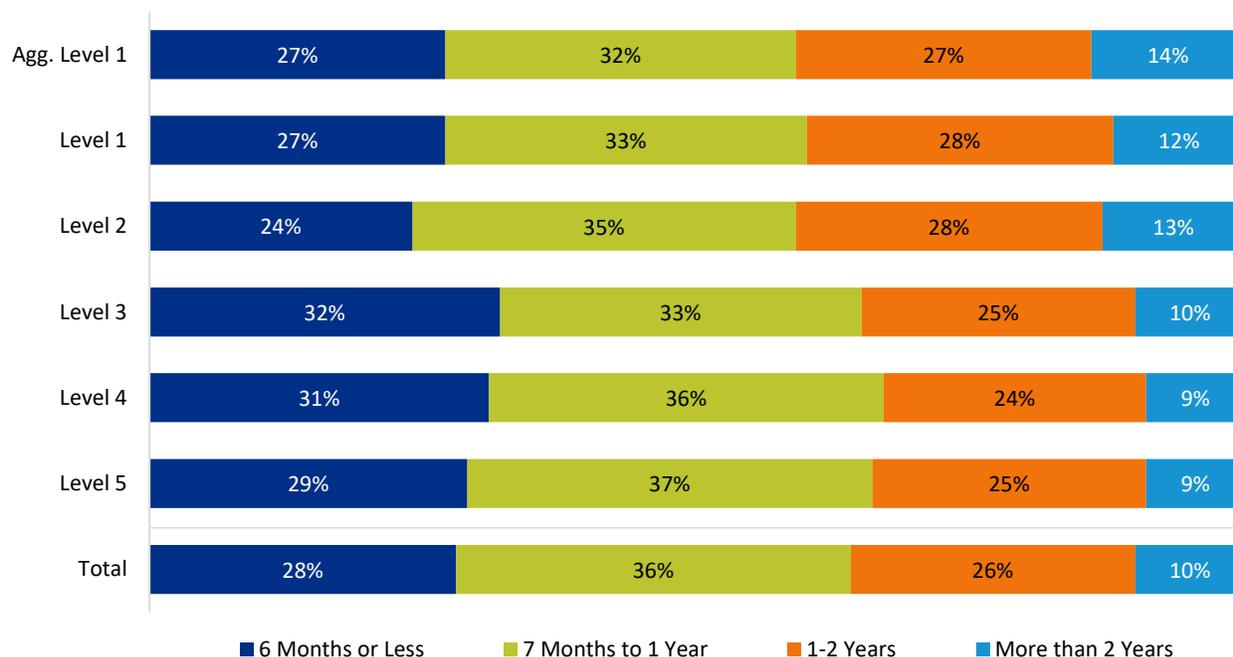


Note: Of the 34,092 DWI convictions in FY 2016, 9 Superior Court bench trials were excluded from this figure, as well as 18 convictions with discrepant date values. The median time to sentencing for Superior Court jury trials in Aggravated Level 1 through Level 4 were each based on fewer than 30 observations.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

Figure R illustrates the distribution of time to sentencing for convictions by punishment level. Overall, 28% of convictions occurred in 6 months or less, 36% occurred within 7 months to 1 year, 26% occurred within 1 to 2 years, and 10% occurred in more than 2 years. Overall, nearly two-thirds of convictions were disposed within a year or less (64%). Fewer Aggravated Level 1 through Level 2 convictions were disposed within one year compared to Level 3 through Level 5 convictions.

**Figure R: Distribution of Time to Sentencing by Punishment Level**



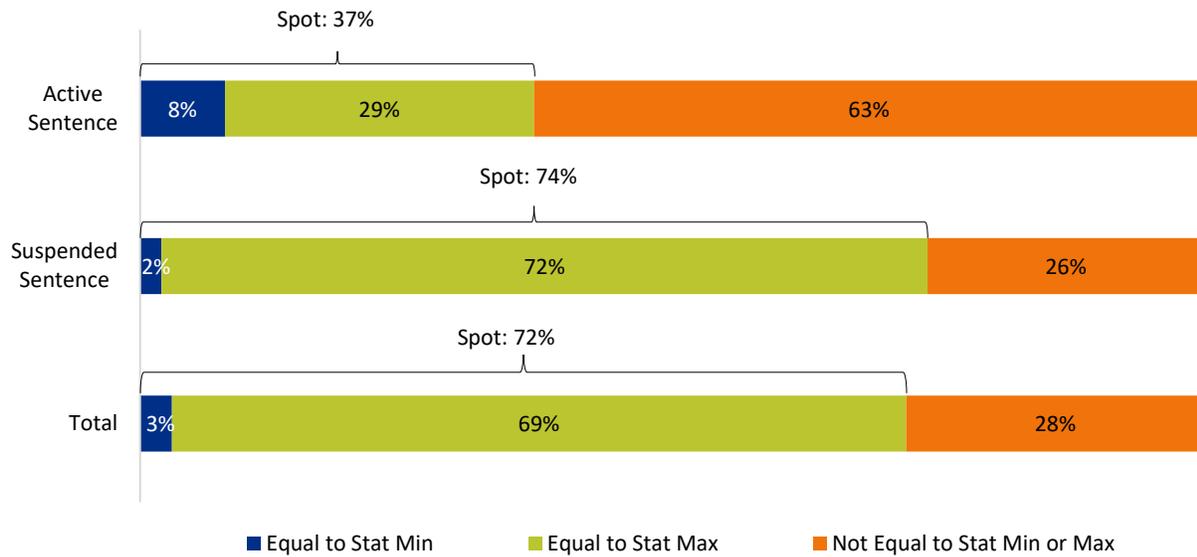
Note: Of the 34,092 DWI convictions in FY 2016, 18 convictions with discrepant date values were excluded.  
 SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

## B. Sentence Length Relative to the Statutory Minimum and Maximum Sentences

Figure S examines how often the minimum sentence imposed is equal to the statutory minimum or statutory maximum sentence length. Overall, the majority of minimum sentences imposed (69%) were equal to the statutory maximum and only 3% were equal to the statutory minimum – for a total of 72% on one of these two “spots.” However, active sentences were only imposed on a spot 37% of the time compared to 74% of suspended sentences. The statutory minimum sentence was imposed very infrequently regardless of whether the sentence was active or suspended (with the exception of Aggravated Level 1 convictions).<sup>15</sup>

<sup>15</sup> Overall, 26% of Aggravated Level 1 offenders were sentenced to the statutory minimum (12 months), 37% were sentenced to the statutory maximum (36 months), and 37% were sentenced to a different amount of time, for a total of 63% sentenced on either the statutory minimum or statutory maximum.

**Figure S: Sentence Length Relative to the Statutory Minimum and Maximum Sentences**



Note: Of the 34,092 DWI convictions in FY 2016, 18 convictions with missing values for type of sentence imposed were excluded from this figure.

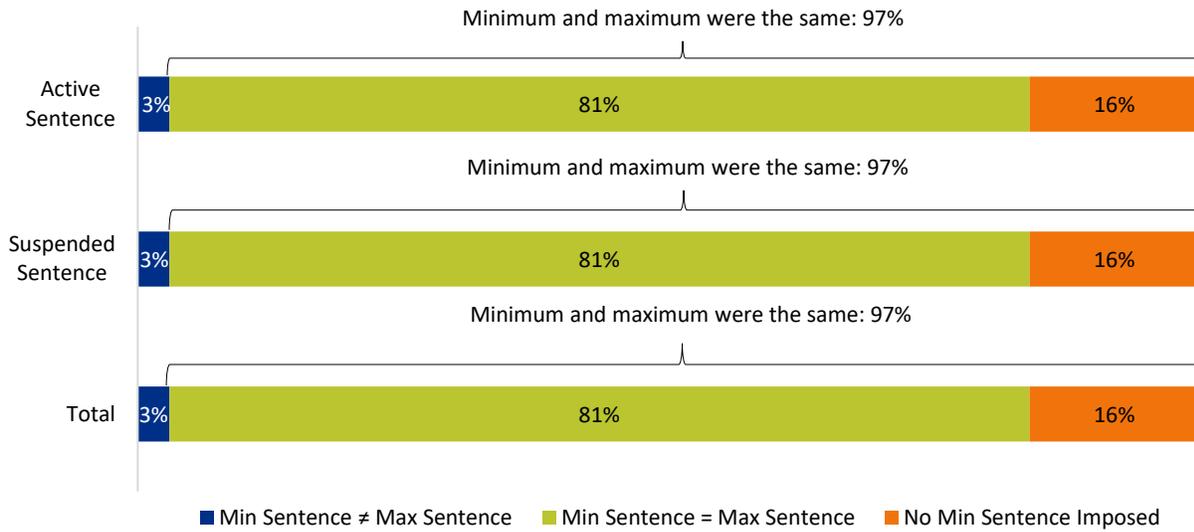
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

### C. Use of Minimum and Maximum Sentences

Judges must impose a maximum term of imprisonment and may impose a minimum term.<sup>16</sup> Figure T examines whether a minimum term was imposed and whether the minimum term equaled the maximum term. Overall, 81% of sentences imposed included a minimum term that was equal to the maximum term (e.g., 12 months minimum and 12 months maximum). In an additional 16% of the sentences, no minimum term was indicated and only a maximum term was imposed. In the remaining 3% of sentences imposed, the minimum and maximum terms differed, indicating a range of months (e.g., 12 months minimum and 36 months maximum). The use of a sentencing range occurred infrequently regardless of whether an active or a suspended sentence was imposed (3% each).

<sup>16</sup> G.S. 15A-1351(b)

**Figure T: Use of Minimum and Maximum Sentences**



Note: Of the 34,092 DWI convictions in FY 2016, 18 convictions with missing values for type of sentence imposed were excluded from this figure.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

#### D. Credit for Time Served

Credit for time served refers to the amount of time an offender has spent committed to or confined in a State or local correctional, mental, or other institution prior to sentencing. Sixteen percent (16%) of all DWI offenders received credit for time served (see Table 7). Over half (53%) of offenders who received active sentences also received credit for time served compared to only 13% of those who received suspended sentences. Offenders who received an active sentence averaged a greater amount of credit for time served than those who received a suspended sentence (51 and 14 days respectively).

**Table 7: Convictions with Credit for Time Served (Days) by Punishment Level**

Punishment Level	Sentence Type	#	Convictions with Credit for Time Served		
			%	Average	Median
Agg. Level 1	Active	343	48	67	32
	Suspended	386	39	50	30
	<b>Subtotal</b>	<b>729</b>	<b>43</b>	<b>59</b>	<b>30</b>
Level 1	Active	465	50	55	32
	Suspended	2,494	32	24	18
	<b>Subtotal</b>	<b>2,959</b>	<b>34</b>	<b>31</b>	<b>21</b>
Level 2	Active	396	53	60	38
	Suspended	4,482	25	14	7
	<b>Subtotal</b>	<b>4,878</b>	<b>27</b>	<b>21</b>	<b>7</b>
Level 3	Active	248	52	54	30
	Suspended	1,714	18	14	5
	<b>Subtotal</b>	<b>1,962</b>	<b>23</b>	<b>26</b>	<b>10</b>
Level 4	Active	256	56	45	33
	Suspended	3,697	13	10	2
	<b>Subtotal</b>	<b>3,953</b>	<b>15</b>	<b>18</b>	<b>4</b>
Level 5	Active	528	60	36	30
	Suspended	19,065	7	6	1
	<b>Subtotal</b>	<b>19,593</b>	<b>9</b>	<b>11</b>	<b>2</b>
<b>Total</b>	<b>Active</b>	<b>2,236</b>	<b>53</b>	<b>51</b>	<b>31</b>
	<b>Suspended</b>	<b>31,838</b>	<b>13</b>	<b>14</b>	<b>4</b>
	<b>Total</b>	<b>34,074</b>	<b>16</b>	<b>22</b>	<b>7</b>

Note: Of the 34,092 DWI convictions in FY 2016, 18 convictions with missing values for type of sentence imposed were excluded from this table.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

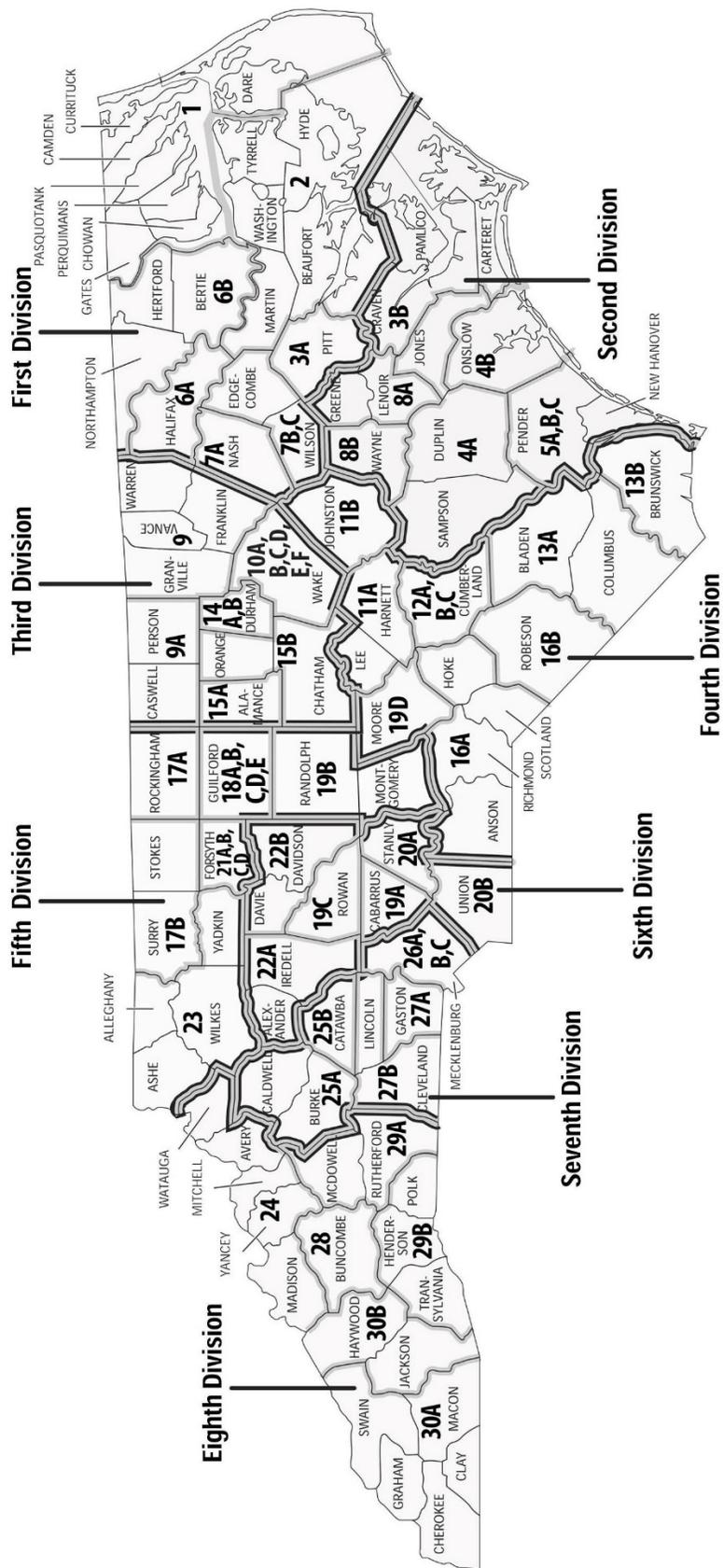
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APPENDIX A  
MAPS OF JUDICIAL DIVISIONS AND DISTRICTS

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# North Carolina Superior Court

## Effective January 1, 2015



Note: Districts that have more than one letter associated with the district number (i.e., 10A, B, C, D) are divided into separate districts for electoral purposes. For administrative purposes, they are combined into a single district.

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APPENDIX B  
DWI PUNISHMENT TABLE

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**SENTENCING FOR IMPAIRED DRIVING OFFENSES**

<b>PUNISHMENT LEVELS</b>	<b>FACTORS</b>	<b>PUNISHMENT</b>	<b>FINE</b>
<b>Aggravated Level One</b> (20-179(f3))	3 grossly aggravating factors apply. (20-179(c))	<b>Active sentence range:</b> Min: 12 months Max: 36 months <b>Or split sentence:</b> at least 120 days	Maximum of \$10,000
<b>Level One</b> (20-179(g))	Grossly aggravating factor #4 <sup>a</sup> or 2 other grossly aggravating factors apply.	<b>Active sentence range:</b> Min: 30 days Max: 24 months <b>Or split sentence:</b> at least 30 days <sup>b</sup>	Maximum of \$4,000
<b>Level Two</b> (20-179(h))	1 grossly aggravating factor (other than #4 <sup>a</sup> ) applies.	<b>Active sentence range:</b> Min: 7 days Max: 12 months <b>Or split sentence:</b> at least 7 days <sup>c</sup>	Maximum of \$2,000
<b>Level Three</b> (20-179(i))	Aggravating factors substantially outweigh mitigating factors. (20-179(d) and (e))	<b>Active sentence range:</b> Min: 72 hours Max: 6 months <b>Or split sentence:</b> at least 72 hours <b>Or community service:</b> 72 hours	Maximum of \$1,000
<b>Level Four</b> (20-179(j))	No aggravating or mitigating factors or factors substantially counterbalance each other.	<b>Active sentence range:</b> Min: 48 hours Max: 120 days <b>Or split sentence:</b> 48 hours <b>Or community service:</b> 48 hours	Maximum of \$500
<b>Level Five</b> (20-179(k))	Mitigating factors substantially outweigh aggravating factors.	<b>Active sentence range:</b> Min: 24 hours Max: 60 days <b>Or split sentence:</b> 24 hours <b>Or community service:</b> 24 hours	Maximum of \$200

<sup>a</sup> Child under 18 or person with mental or physical disability in the vehicle at the time of the offense.

<sup>b</sup> Not less than 10 days if a condition of special probation is imposed to require that a defendant abstain from alcohol consumption and be monitored by a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, for a period of not less than 120 days.

<sup>c</sup> Abstain from consuming alcohol for at least 90 consecutive days, as verified by a continuous alcohol monitoring system.

## NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

### **Offenses**

- Impaired driving. (G.S. 20-138.1)
- Impaired driving in a commercial vehicle. (G.S. 20-138.2)
- Operating a commercial vehicle after consuming alcohol. (Second or subsequent) (G.S. 20-138.2A)
- Operating a school bus, school activity bus, child care vehicle, ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol. (Second or subsequent) (G.S. 20-138.2B)

### **Sentence**

A sentence to imprisonment must impose a maximum term and may impose a minimum term. The impaired driving judgment may state the minimum term or may state that a term constitutes both the minimum and maximum terms. (G.S. 15A-1351(b))

### **Place of confinement for active sentences**

*For convictions on or after January 1, 2015:*

- DWI defendants must be sentenced to the Statewide Misdemeanant Confinement Program. (G.S. 15A-1352(f))

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APPENDIX C  
ADDITIONAL CONVICTION DATA BY  
JUDICIAL DISTRICT AND COUNTY

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Appendix C, Table 1: Convictions by Judicial District and County

Judicial District and County		DWI Convictions	Convictions per 1,000 Adults (16+)
<b>District 1</b>	Camden	31	4
	Chowan	21	2
	Currituck	161	8
	Dare	451	15
	Gates	33	3
	Pasquotank	146	5
	Perquimans	38	3
	<b>Total</b>	<b>881</b>	<b>7</b>
<b>District 2</b>	Beaufort	236	6
	Hyde	28	6
	Martin	100	5
	Tyrrell	30	9
	Washington	55	5
	<b>Total</b>	<b>449</b>	<b>6</b>
<b>District 3A</b>	Pitt	706	5
	<b>Total</b>	<b>706</b>	<b>5</b>
<b>District 3B</b>	Carteret	317	5
	Craven	219	3
	Pamlico	27	2
	<b>Total</b>	<b>563</b>	<b>4</b>
<b>District 4</b>	Duplin	303	6
	Jones	47	5
	Onslow	669	5
	Sampson	314	6
	<b>Total</b>	<b>1,333</b>	<b>5</b>
<b>District 5</b>	New Hanover	1,141	6
	Pender	243	5
	<b>Total</b>	<b>1,384</b>	<b>6</b>
<b>District 6</b>	Bertie	36	2
	Halifax	140	3
	Hertford	59	3
	Northampton	26	1
	<b>Total</b>	<b>261</b>	<b>3</b>
<b>District 7</b>	Edgecombe	204	5
	Nash	351	5
	Wilson	240	4
	<b>Total</b>	<b>795</b>	<b>4</b>
<b>District 8</b>	Greene	66	4
	Lenoir	234	5
	Wayne	530	5
	<b>Total</b>	<b>830</b>	<b>5</b>

Judicial District and County		DWI Convictions	Convictions per 1,000 Adults (16+)
<b>District 9</b>	Franklin	160	3
	Granville	113	2
	Vance	291	8
	Warren	66	4
	<b>Total</b>	<b>630</b>	<b>4</b>
<b>District 9A</b>	Caswell	108	5
	Person	124	4
	<b>Total</b>	<b>232</b>	<b>4</b>
<b>District 10</b>	Wake	3,572	4
	<b>Total</b>	<b>3,572</b>	<b>4</b>
<b>District 11</b>	Harnett	255	3
	Johnston	629	4
	Lee	111	2
	<b>Total</b>	<b>995</b>	<b>3</b>
<b>District 12</b>	Cumberland	1,127	5
	<b>Total</b>	<b>1,127</b>	<b>5</b>
<b>District 13</b>	Bladen	158	6
	Brunswick	587	5
	Columbus	167	4
	<b>Total</b>	<b>912</b>	<b>5</b>
<b>District 14</b>	Durham	652	3
	<b>Total</b>	<b>652</b>	<b>3</b>
<b>District 15A</b>	Alamance	709	6
	<b>Total</b>	<b>709</b>	<b>6</b>
<b>District 15B</b>	Chatham	253	4
	Orange	470	4
	<b>Total</b>	<b>723</b>	<b>4</b>
<b>District 16A</b>	Anson	71	3
	Hoke	121	3
	Richmond	136	4
	Scotland	149	5
	<b>Total</b>	<b>477</b>	<b>4</b>
<b>District 16B</b>	Robeson	538	5
	<b>Total</b>	<b>538</b>	<b>5</b>
<b>District 17A</b>	Rockingham	401	5
	<b>Total</b>	<b>401</b>	<b>5</b>
<b>District 17B</b>	Stokes	127	3
	Surry	263	4
	<b>Total</b>	<b>390</b>	<b>4</b>

*continued*

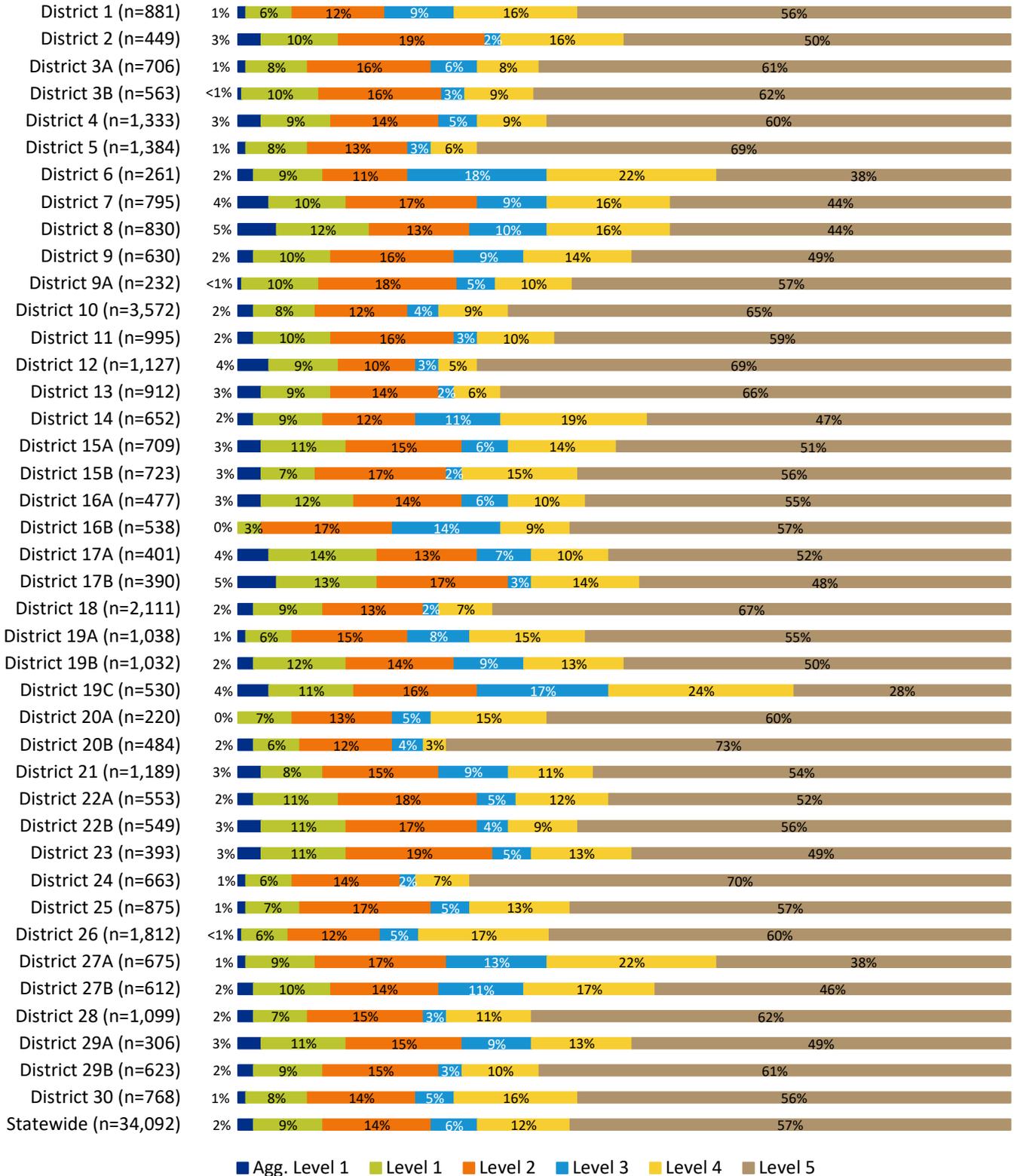
**Appendix C, Table 1: Convictions by Judicial District and County**

Judicial District and County		DWI Convictions	Convictions per 1,000 Adults (16+)
<b>District 18</b>	Guilford	2,111	5
	<b>Total</b>	<b>2,111</b>	<b>5</b>
<b>District 19A</b>	Cabarrus	1,038	7
	<b>Total</b>	<b>1,038</b>	<b>7</b>
<b>District 19B</b>	Montgomery	156	7
	Moore	252	3
	Randolph	624	5
	<b>Total</b>	<b>1,032</b>	<b>5</b>
<b>District 19C</b>	Rowan	530	5
	<b>Total</b>	<b>530</b>	<b>5</b>
<b>District 20A</b>	Stanly	220	4
	<b>Total</b>	<b>220</b>	<b>4</b>
<b>District 20B</b>	Union	484	3
	<b>Total</b>	<b>484</b>	<b>3</b>
<b>District 21</b>	Forsyth	1,189	4
	<b>Total</b>	<b>1,189</b>	<b>4</b>
<b>District 22A</b>	Alexander	78	2
	Iredell	475	3
	<b>Total</b>	<b>553</b>	<b>3</b>
<b>District 22B</b>	Davidson	366	3
	Davie	183	5
	<b>Total</b>	<b>549</b>	<b>3</b>
<b>District 23</b>	Alleghany	32	3
	Ashe	51	2
	Wilkes	197	3
	Yadkin	113	4
	<b>Total</b>	<b>393</b>	<b>3</b>
<b>District 24</b>	Avery	91	6
	Madison	104	6
	Mitchell	50	4
	Watauga	350	7
	Yancey	68	4
	<b>Total</b>	<b>663</b>	<b>6</b>

Judicial District and County		DWI Convictions	Convictions per 1,000 Adults (16+)
<b>District 25</b>	Burke	290	4
	Caldwell	185	3
	Catawba	400	3
	<b>Total</b>	<b>875</b>	<b>3</b>
<b>District 26</b>	Mecklenburg	1,812	2
	<b>Total</b>	<b>1,812</b>	<b>2</b>
<b>District 27A</b>	Gaston	675	4
	<b>Total</b>	<b>675</b>	<b>4</b>
<b>District 27B</b>	Cleveland	331	4
	Lincoln	281	4
	<b>Total</b>	<b>612</b>	<b>4</b>
<b>District 28</b>	Buncombe	1,099	5
	<b>Total</b>	<b>1,099</b>	<b>5</b>
<b>District 29A</b>	McDowell	141	4
	Rutherford	165	3
	<b>Total</b>	<b>306</b>	<b>3</b>
<b>District 29B</b>	Henderson	383	4
	Polk	116	6
	Transylvania	124	4
	<b>Total</b>	<b>623</b>	<b>4</b>
<b>District 30</b>	Cherokee	73	3
	Clay	42	4
	Graham	19	3
	Haywood	248	5
	Jackson	149	4
	Macon	136	5
	Swain	101	9
	<b>Total</b>	<b>768</b>	<b>4</b>
<b>State Total</b>		<b>34,092</b>	<b>4</b>

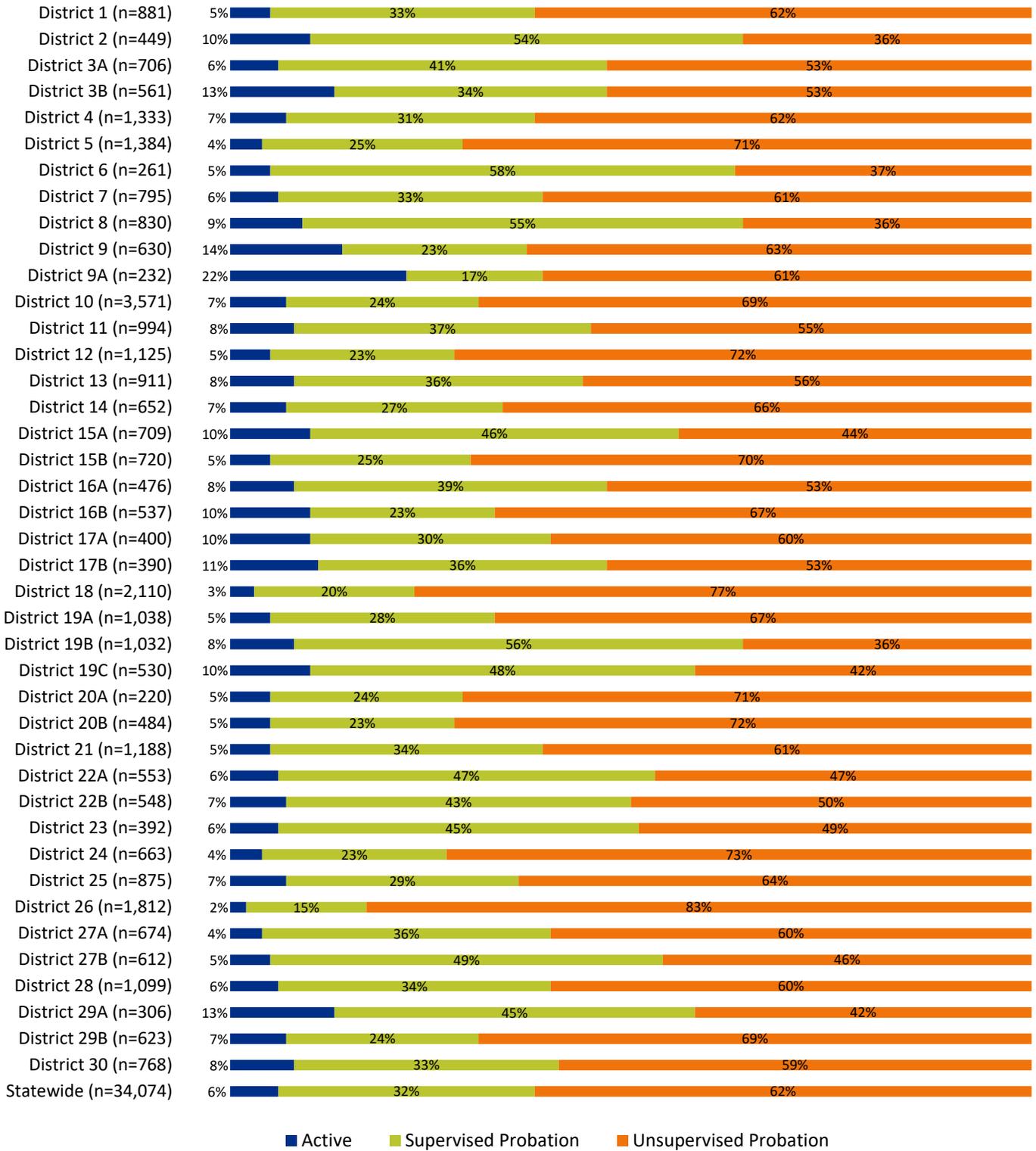
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data and NC Office of State Management and Budget, 2016 Population Estimates from <https://demography.osbm.nc.gov/explore/> (see Population Projections).

### Appendix C, Figure 1: Convictions by Judicial District and Punishment Level



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

**Appendix C, Figure 2: Convictions by Judicial District and Type of Punishment**



Note: Of the 34,092 DWI convictions in FY 2016, 18 convictions with missing values for type of sentence imposed were excluded from this figure.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

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APPENDIX D  
ADDITIONAL CONVICTION DATA  
BY PUNISHMENT LEVEL

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**Appendix D, Table 1: Offender Characteristics and Punishment Imposed by Punishment Level  
N=34,092**

	Agg. Level 1 n=730	Level 1 n=2,961	Level 2 n=4,882	Level 3 n=1,962	Level 4 n=3,954	Level 5 n=19,603
<b>Offender Characteristics</b>						
<b>Gender</b>						
Male	82%	76%	79%	84%	79%	72%
Female	18%	24%	21%	16%	21%	28%
<b>Race</b>						
White	49%	55%	62%	48%	56%	63%
Black	39%	32%	27%	35%	28%	24%
Hispanic	9%	9%	7%	11%	12%	9%
Other	3%	4%	4%	6%	4%	4%
<b>Age at Offense</b>						
Less than 21 Years	1%	2%	2%	3%	4%	6%
21-30 Years	30%	34%	34%	26%	33%	42%
31-40 Years	34%	29%	27%	27%	26%	22%
41-50 Years	21%	21%	21%	24%	20%	16%
Over 50 Years	14%	14%	16%	20%	17%	14%
Average Age	38	37	37	39	37	35
Median Age	35	35	35	38	35	31
<b>Blood Alcohol Concentration</b>						
Less than .08	2%	2%	2%	1%	2%	2%
.08 or .09	11%	13%	12%	4%	5%	17%
.10 to .14	31%	36%	38%	21%	25%	50%
.15 or More	56%	49%	48%	74%	68%	31%
<b>Punishment Imposed</b>						
<b>Method of Disposition</b>						
Guilty Plea	87%	87%	84%	86%	86%	79%
Bench Trial	12%	13%	16%	13%	14%	20%
Jury Trial	1%	<1%	<1%	1%	<1%	1%
<b>Sentence Type</b>						
Active Sentence	47%	16%	8%	13%	7%	3%
Supervised Probation	52%	80%	81%	52%	29%	10%
Unsupervised Probation	1%	4%	11%	35%	64%	87%
<b>Sentence Length/Location</b>						
Active						
Average Length (Months)	21	13	6	4	2	1
Sentenced at Stat. Minimum	36%	5%	6%	2%	2%	2%
Sentenced at Stat. Maximum	15%	27%	32%	35%	28%	34%
Sentence Other than Stat. Min/Max	49%	68%	62%	63%	70%	64%
Suspended						
Average Length (Months)	28	20	11	5	3	2
Sentenced at Stat. Minimum	18%	3%	2%	1%	1%	2%
Sentenced at Stat. Maximum	56%	68%	80%	75%	60%	73%
Sentence Other than Stat. Min/Max	26%	29%	18%	24%	39%	25%

Note: Convictions with missing data were excluded.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

**Appendix D, Table 2: Conditions of Probation for Probation Sentences by Punishment Level  
N=31,838**

	<b>Agg. Level 1</b> n=386	<b>Level 1</b> n=2,494	<b>Level 2</b> n=4,482	<b>Level 3</b> n=1,714	<b>Level 4</b> n=3,697	<b>Level 5</b> n=19,065
<b>Supervised Probation</b>	99%	95%	88%	60%	31%	10%
Length						
1 Year or Less	6%	14%	28%	33%	62%	75%
13-18 Months	10%	28%	45%	42%	27%	18%
19-24 Months	33%	45%	20%	22%	10%	6%
More than 2 Years	51%	13%	7%	3%	1%	1%
Average Length (Months)	29	22	19	18	15	14
<b>Unsupervised Probation</b>	1%	5%	12%	40%	69%	90%
Length						
1 Year or Less	25%	39%	56%	46%	74%	87%
13-18 Months	25%	24%	30%	37%	17%	9%
19-24 Months	25%	32%	10%	12%	8%	3%
More than 2 Years	25%	5%	4%	5%	1%	1%
Average Length (Months)	23	19	16	17	14	13
<b>Mandatory Conditions</b>						
Special Probation	98%	95%	91%	23%	13%	9%
Community Service	8%	6%	8%	59%	66%	67%
Both	8%	6%	6%	2%	1%	<1%
<b>Fines</b>						
Convictions with Fine Imposed	82%	87%	91%	90%	92%	91%
Fine Amount						
Less than \$100	0%	1%	1%	1%	3%	5%
\$100 to \$199	6%	9%	13%	22%	49%	85%
\$200 to \$299	10%	15%	23%	34%	34%	9%
\$300 to \$499	15%	25%	33%	22%	12%	1%
\$500 or More	69%	50%	30%	21%	2%	<1%
Average Fine Imposed	\$967	\$582	\$405	\$294	\$185	\$113
Median Fine Imposed	\$500	\$500	\$300	\$250	\$150	\$100

Note: Convictions with missing data were excluded. The average length of probation for unsupervised probation in Aggravated Level 1 was based on fewer than 10 observations.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2016 DWI Statistical Report Data

#### Disclaimer for AOC Data

These data are from the Administrative Office of the Courts' (AOC) Automated Criminal Infraction System (ACIS). These data are a snapshot in time and are subject to change from such factors as the sealing or expungement of records, corrections made to data entry, motions, appeals, or other legal actions that may change the nature, status or outcome of a case, and other factors. Data maintained in ACIS are intended for management of caseloads, basic record-keeping, and general statistics. These data reveal nothing about evidence presented or its weight or credibility, the reasons or validity of factual or legal arguments or conclusions presented or made, or any other of the myriad circumstances relevant to the results of any particular case. Therefore, the data should not be used or represented to reflect on the merits of the facts or the outcomes of cases. For that and many analytic purposes, it would be inappropriate and misleading to use these data as a substitute for a review of actual case files and/or transcripts. No analysis of or conclusions drawn from these data may be attributed to the AOC. Neither the analysis nor any conclusions in this report are accepted as accurate or endorsed by the AOC.