

# DRIVING WHILE IMPAIRED CONVICTIONS STATISTICAL REPORT

FISCAL YEAR  
**2021**

# DRIVING WHILE IMPAIRED CONVICTIONS AND SENTENCES IMPOSED

## STATISTICAL REPORT

FISCAL YEAR  
**2021**

MAY 2022



THE HONORABLE CHARLIE BROWN  
CHAIRMAN

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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 2021 (July 1, 2020 through June 30, 2021). 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.

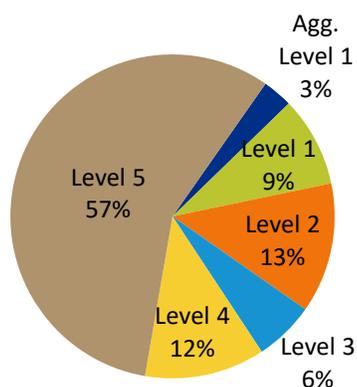
The COVID-19 pandemic, which began in March 2020, continued to affect the volume of DWI convictions in FY 2021 due to its sustained impact on the criminal justice system and court operations.

# SUMMARY OF FINDINGS

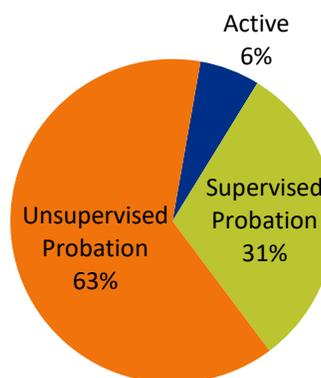
## FY 2021 DWI CONVICTIONS

During FY 2021, sentences for 21,240 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 (63%).

**Convictions by Punishment Level**

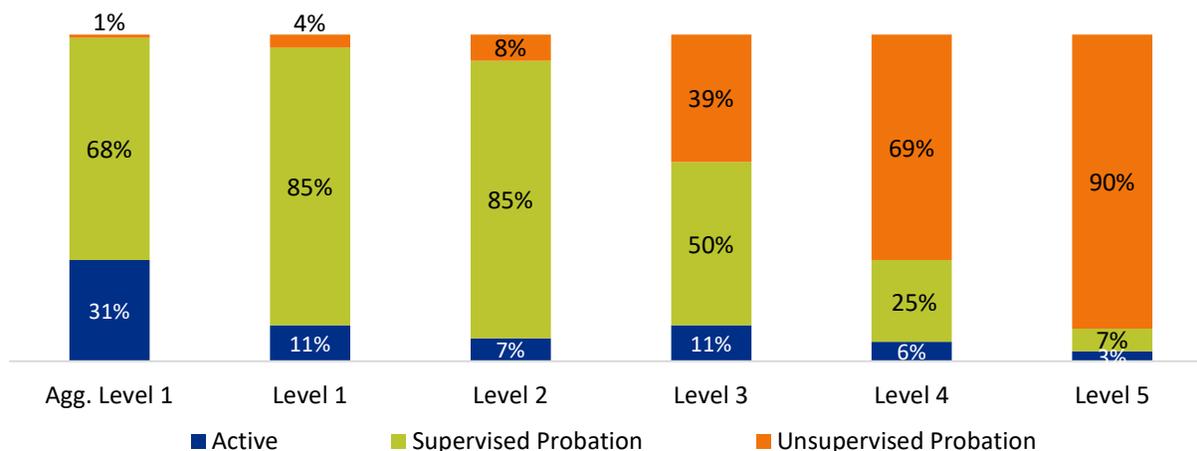


**Convictions by Type of Sentence**



The type of sentence imposed by punishment level is shown in the figure below. Thirty-one percent (31%) of all offenders with an Aggravated Level 1 punishment received an active sentence. Supervised probation was the most frequent sentence imposed among Aggravated Level 1 (68%), Level 1 (85%), Level 2 (85%), and Level 3 (50%) convictions. Unsupervised probation was most frequently imposed among Level 4 (69%) and Level 5 (90%) convictions.

**Type of Sentence Imposed by Punishment Level**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

<sup>1</sup> For many of the tables and figures in this report, 16 of the 21,240 DWI convictions were excluded because the type of sentence imposed could not be determined.

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DWI CONVICTIONS  
FY 2021

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# I. DWI CONVICTIONS IN FY 2021

## A. DWI Convictions

This report contains information on DWI convictions sentenced under G.S. 20-179<sup>2</sup> during Fiscal Year 2021 (July 1, 2020 through June 30, 2021) and reflects the laws and practices that were in place during this time period. Overall, sentences for 21,240 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

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=12,102 or 57%). The percentage of convictions increased from Aggravated Level 1 (3%) through Level 2 (13%), and then again from Level 3 (6%) through Level 5 (57%). Aggravated Level 1 through Level 2 punishments are based on the presence of grossly aggravating factors, while Level 3 through Level 5 punishments are not.<sup>4</sup>

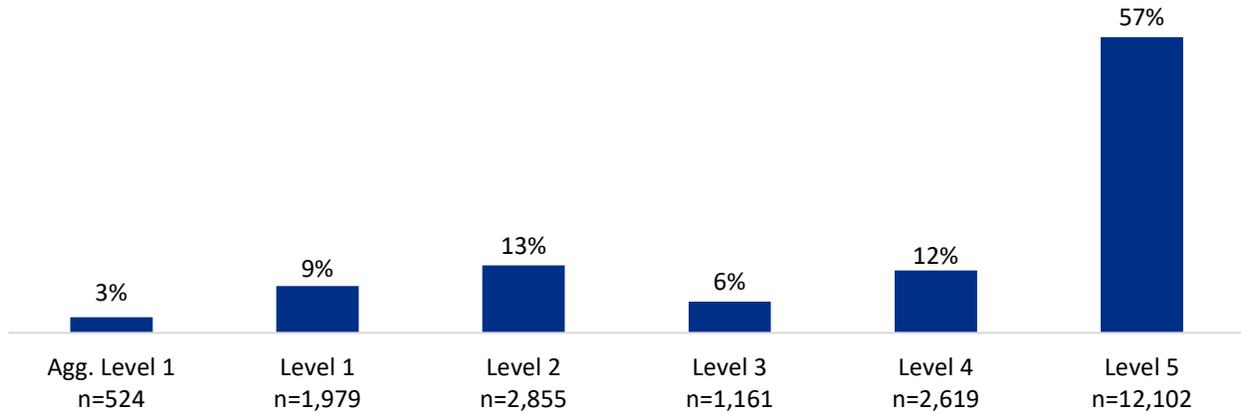
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<sup>2</sup> In addition to convictions for impaired driving (G.S. 20-138.1), G.S. 20-179 also prescribes sentencing for impaired driving in a commercial vehicle (G.S. 20-138.2), a second or subsequent conviction for operating a commercial vehicle 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 details.

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

**Figure A**  
**Convictions by Punishment Level**

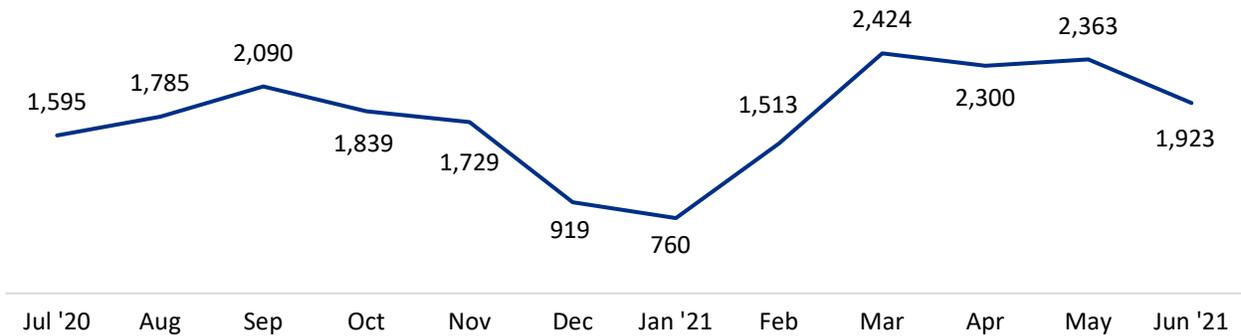


SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

**E. Convictions by Month of Sentencing**

Figure B shows the number of convictions by month of sentencing during FY 2021. Convictions generally increased during the first quarter then experienced a substantial decrease in the second quarter. Convictions begin to increase again in February and were highest in March.

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

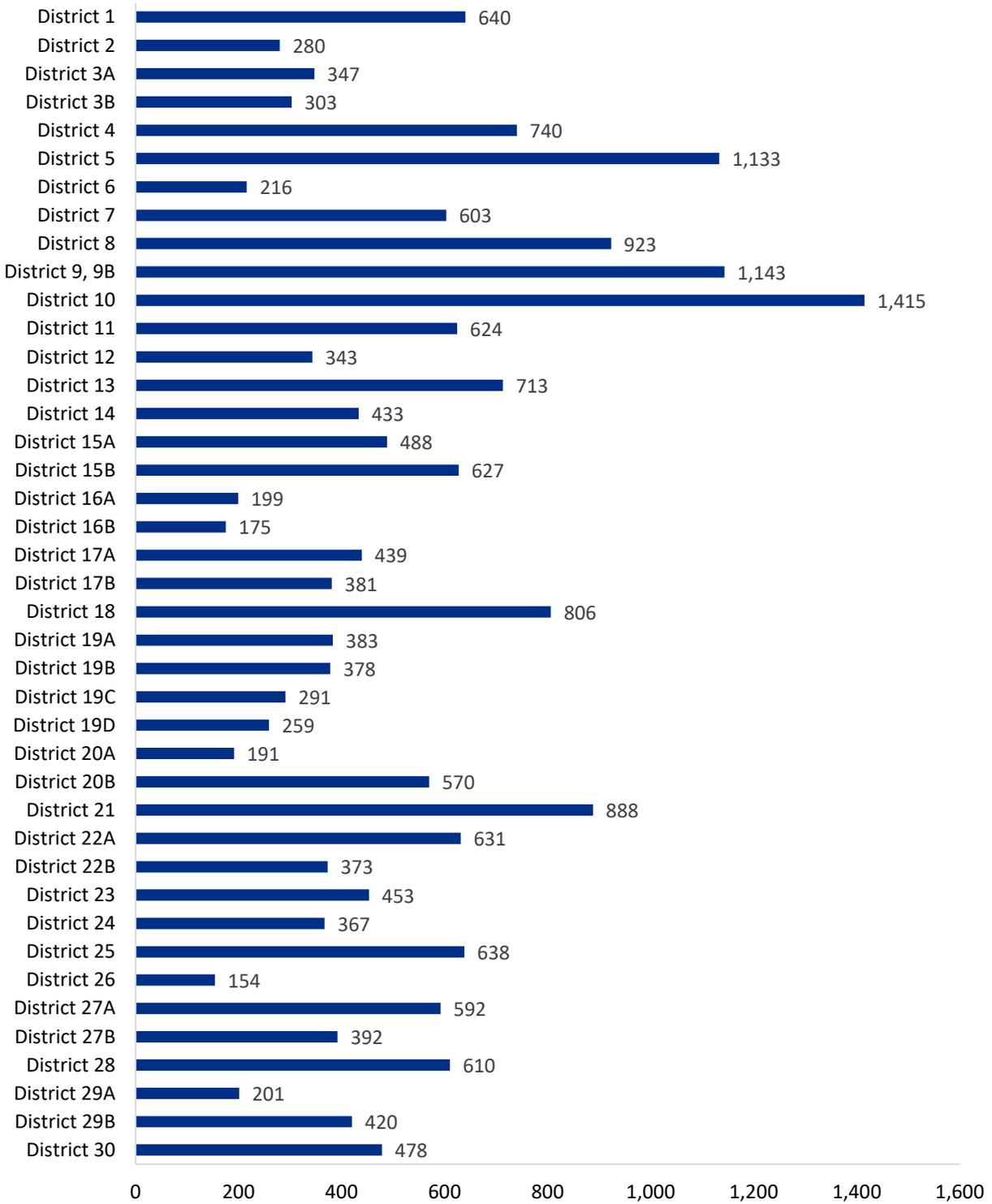


SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

**F. Convictions by Judicial District**

Figure C shows the total number of convictions by judicial district (N=21,240). The districts with the most DWI convictions were District 10 (Wake County, n=1,415) and District 9, 9B (Franklin County, Granville County, Person County, Vance County, and Warren County, n=1,143), accounting for a combined 12% of convictions in FY 2021. Additional information about DWI convictions by district and county can be found in Appendix C.

**Figure C**  
**Convictions by Judicial District**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

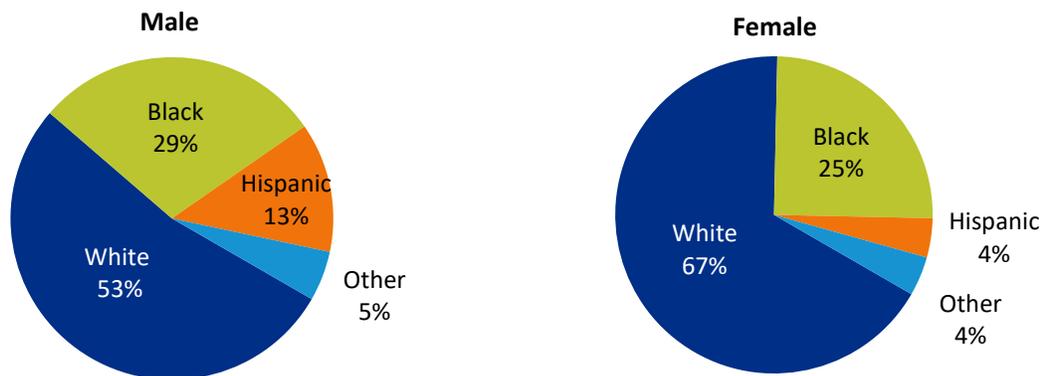
## II. CHARACTERISTICS OF OFFENDERS

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 21,240 DWI convictions in FY 2021, 75% were for males (see Figure D). Overall, the majority of DWI offenders were white (56%). White females comprised a larger percentage of female convictions (67%) than white males did for male convictions (53%). Black males and females comprised the second largest racial category for each sex (29% and 25% respectively, and 28% overall).

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



Male (n=15,861), 75%

Female (n=5,379), 25%

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

Table 1 shows convictions by offenders' age at offense and punishment level. Overall, the average age of DWI offenders was 37, with Level 5 offenders being slightly younger on average (36) than offenders sentenced in the other punishment levels. Except for Level 2 through Level 4, at least 60% of convictions were accounted for by offenders aged 21-40 at the time of offense. Just under half (44%) of all Level 5 convictions were for offenders aged 30 and younger. As shown in Figure E, the volume of offenders peaked at age 26, and then generally declined as age increased.

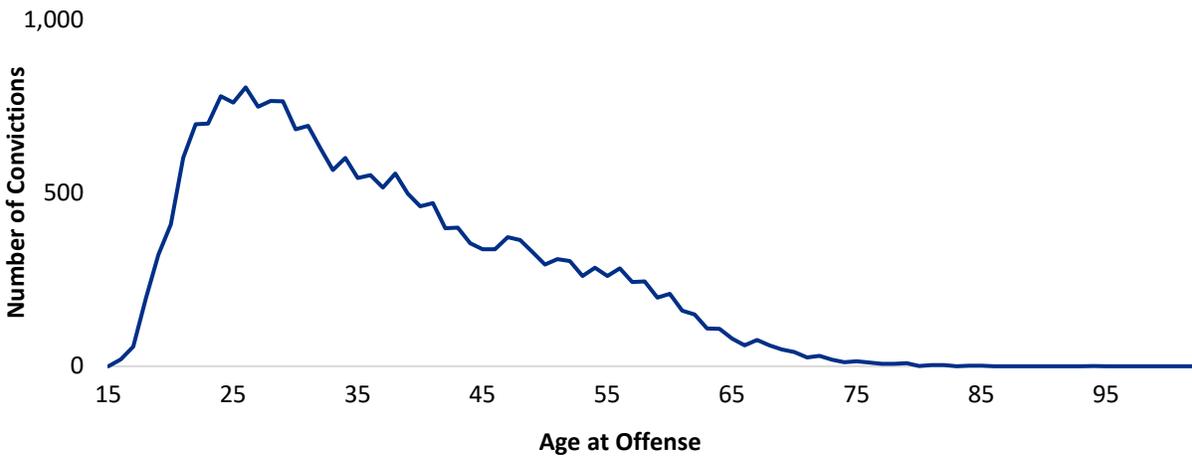
**Table 1**  
**Convictions by Age at Offense and Punishment Level**

Punishment Level	#	Average Age	Age at Offense				
			<21 %	21-30 %	31-40 %	41-50 %	>50 %
<b>Agg. Level 1</b>	524	38	1	30	33	18	18
<b>Level 1</b>	1,976	37	3	32	32	18	15
<b>Level 2</b>	2,852	39	2	29	29	20	20
<b>Level 3</b>	1,160	40	3	24	28	23	22
<b>Level 4</b>	2,615	38	5	29	27	19	20
<b>Level 5</b>	12,099	36	6	38	24	16	16
<b>Total</b>	<b>21,226</b>	<b>37</b>	<b>5</b>	<b>34</b>	<b>27</b>	<b>17</b>	<b>17</b>

Note: Of the 21,240 DWI convictions in FY 2021, 14 convictions with missing values for offender age were excluded from the table.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

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



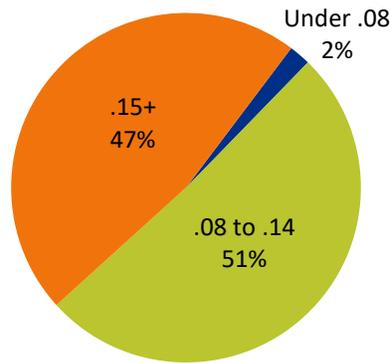
Note: Of the 21,240 DWI convictions in FY 2021, 14 convictions with missing values for offender age were excluded from the figure.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

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

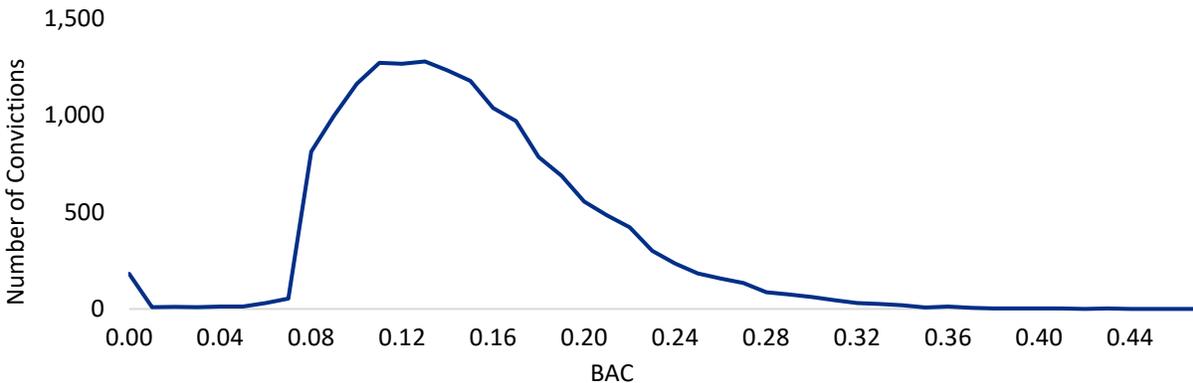
BAC levels were recorded for 75% of the 21,240 convictions.<sup>5</sup> Figure F shows the percentage of convictions by BAC. The greatest percentage of convictions were in the .08 to .14 category (51%), followed closely by the .15+ category (47%). Figure G illustrates the distribution of BAC for offenders convicted of DWI in FY 2021. A BAC of .13 was the most frequent (n=1,278), followed by .11 (n=1,271) and .12 (n=1,266), accounting for a combined total of 24%.

**Figure F**  
**Convictions by BAC**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

**Figure G**  
**Distribution of BAC**



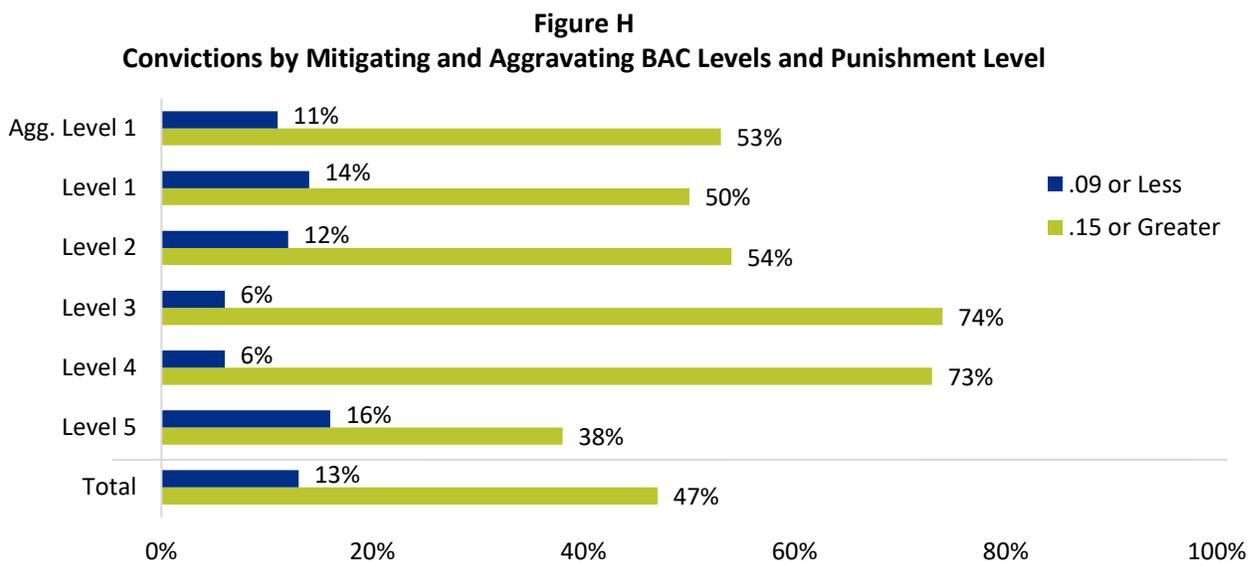
Note: Of the 21,240 DWI convictions in FY 2021, 5,400 convictions without BAC levels were excluded from the figure.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 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 2021 data showed refusals occurred in 11% of convictions, blood tests occurred in 5% of convictions, DWI under controlled substances other than alcohol occurred in 3% of convictions, and BAC was unknown in 7% 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 greater than .15 (74% and 73% respectively). Correspondingly, these same punishment levels also had the lowest percentage of convictions with BACs .09 or less (6% each).



Note: Of the 21,240 DWI convictions in FY 2021, 5,400 convictions without BAC levels were excluded from the figure. SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 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 2021 resulted in an active sentence, 31% resulted in supervised probation, and 63% resulted in unsupervised probation. Thirty-one percent (31%) 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 (68%), Level 1 (85%), Level

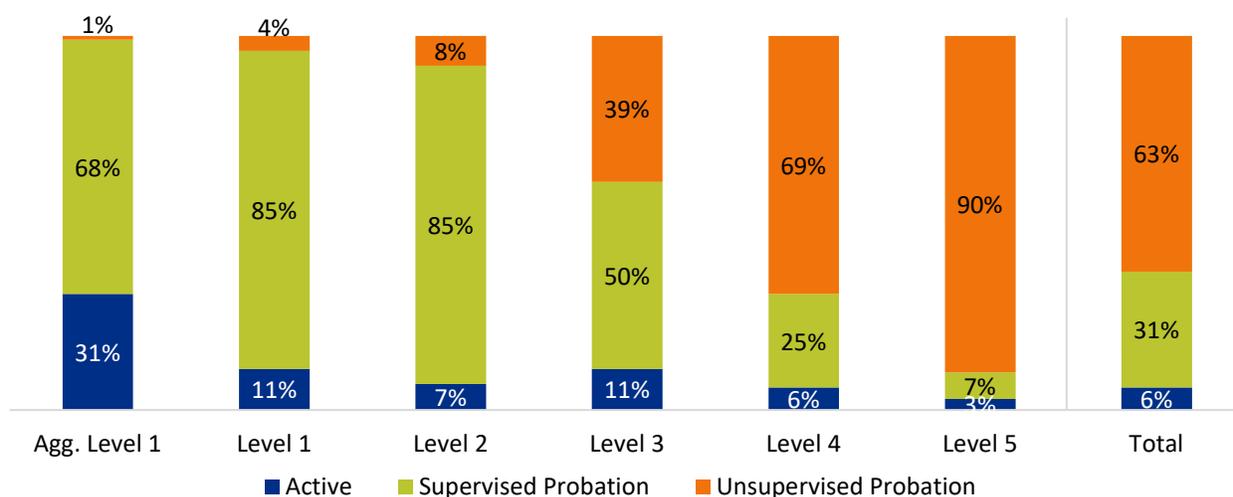
<sup>6</sup> G.S. 20-179(f)(1)-(3)

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

<sup>8</sup> Section III excludes 16 of the 21,240 DWI convictions in FY 2021 for which the type of sentence imposed could not be determined.

2 (85%), and Level 3 (50%) convictions. Unsupervised probation was most frequently imposed among Level 4 (69%) and Level 5 (90%) convictions. Despite being a lower punishment level, the percentage of convictions that resulted in an active sentence for Level 3 punishments was higher (11%) than for Level 2 punishments (7%). As noted previously, Aggravated Level 1 through Level 2 punishments are based on the presence of grossly aggravating factors while Level 3 through Level 5 are not.

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



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 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		
	#	%	#	%	#	%	
<b>Agg. Level 1</b>	164	31	356	68	3	1	523
<b>Level 1</b>	221	11	1,685	85	73	4	1,979
<b>Level 2</b>	190	7	2,437	85	227	8	2,854
<b>Level 3</b>	124	11	577	50	458	39	1,159
<b>Level 4</b>	152	6	649	25	1,817	69	2,618
<b>Level 5</b>	376	3	858	7	10,857	90	12,091
<b>Total</b>	<b>1,227</b>	<b>6</b>	<b>6,562</b>	<b>31</b>	<b>13,435</b>	<b>63</b>	<b>21,224</b>

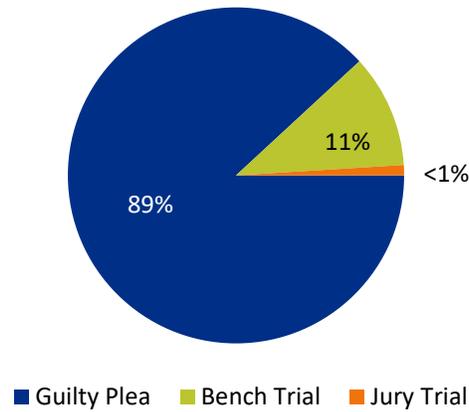
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

## B. Convictions by Method of Disposition

Figure J shows that 89% of DWI convictions in FY 2021 were disposed by guilty plea and 11% by bench trial. Jury trials occurred in less than 1% of convictions (n=32). Across all punishment levels, Aggravated Level 1 convictions had the highest percentage of guilty pleas (93%) and Level 5 convictions had the lowest

percentage (88%). Conversely, Level 5 convictions had the highest percentage of bench trials (12%) and Aggravated Level 1 had the lowest percentage (7%).

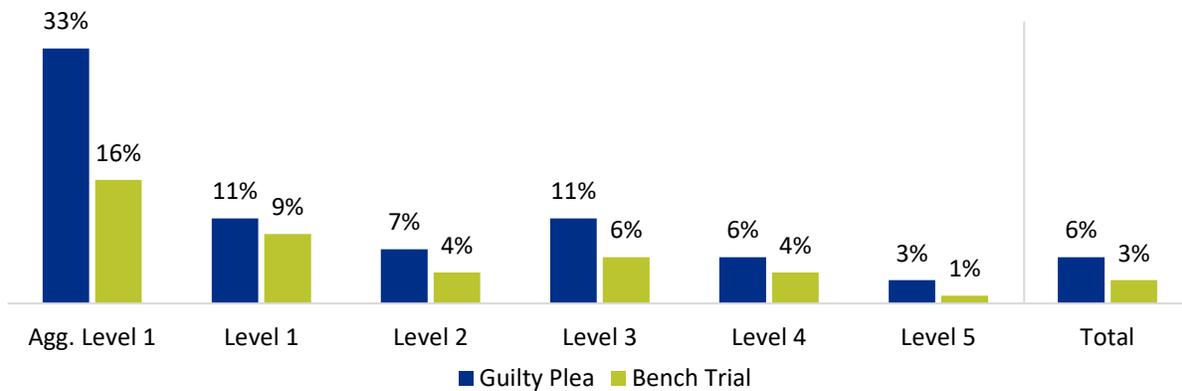
**Figure J**  
**Convictions by Method of Disposition**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 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 2021, 6% of all convictions obtained by guilty plea resulted in an active sentence compared to 3% 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 except Aggravated Level 1.

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



Note: The overall rate of active sentences for jury trials (n=4) was 13% and were excluded from the figure due to the limited number of observations.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 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> 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=1,227), the average length was 7 months. Among convictions in Level 2 through Level 5, the average active sentence length was about half of the statutory maximum.

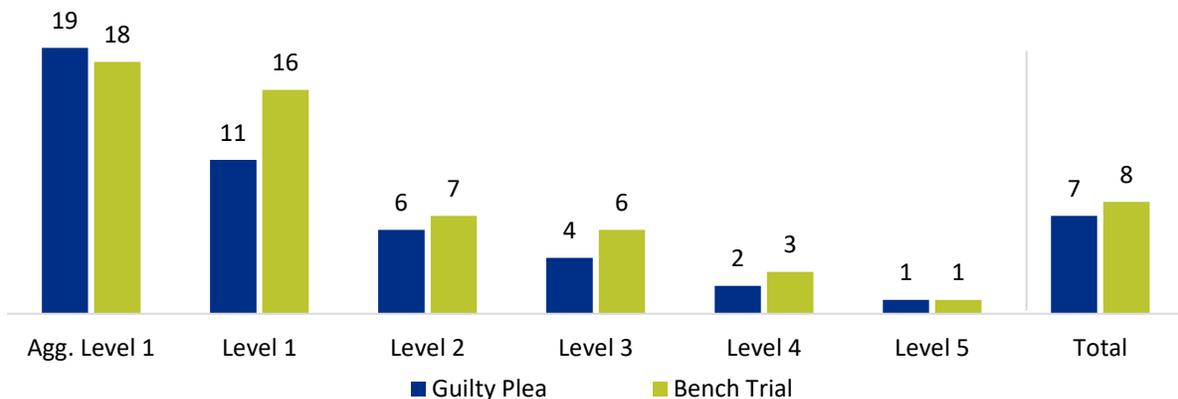
**Table 3**  
**Average Length of Active Sentences (Months) by Punishment Level**

Punishment Level	Statutory Minimum	Average Active Sentence	Statutory Maximum
<b>Agg. Level 1</b>	12 months	20 months	36 months
<b>Level 1</b>	30 days	11 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>7 months</b>	

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 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 (see Figure L).

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



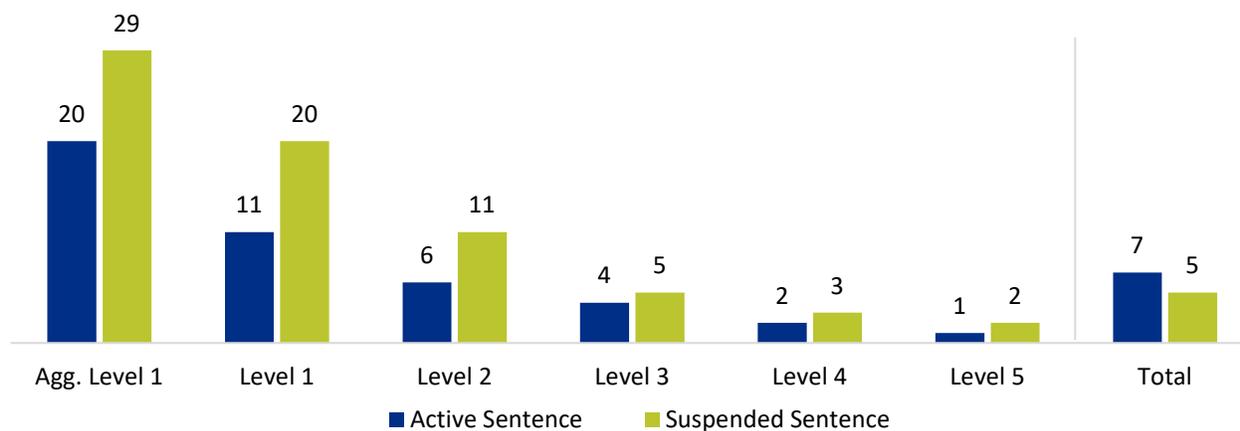
Note: The average active sentence length for jury trial convictions (n=4) was 16 months and were excluded from the figure due to the limited number of observations. The average active sentence length for bench trials was based on fewer than 25 observations each for Aggravated Level 1 through Level 5.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

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

Figure M provides a comparison of the average sentence imposed for active sentences and suspended sentences. As the punishment level decreased, the average sentence length 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=11,715).

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



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

#### D. Suspended Sentences with Probation

This section summarizes information about suspended (i.e., probationary) sentences. Pursuant to G.S. 20-179, a suspended sentence may be imposed in each of the six levels of DWI punishment if the sentence contains certain conditions of probation (e.g., special probation). For all punishment levels receiving a suspended sentence, the defendant must obtain a substance abuse assessment and complete any recommended treatment or education. Unless a judge determines that supervised probation is necessary, an offender who receives a suspended sentence for DWI and meets certain conditions<sup>10</sup> must be placed on unsupervised probation. The precise length of a probation term for a DWI conviction is not prescribed by statute. The court may place a convicted offender on probation for a period not to exceed five years.<sup>11</sup>

Probation was imposed for all 19,997 DWI convictions in FY 2021 with a suspended sentence. Figure N summarizes the type of probation – supervised or unsupervised – for suspended sentences. Overall, two-thirds (67%) of offenders received unsupervised probation. Of those with probation, nearly all Aggravated Level 1 and Level 1 offenders (99% and 96% respectively) received supervised probation. Level 5 offenders

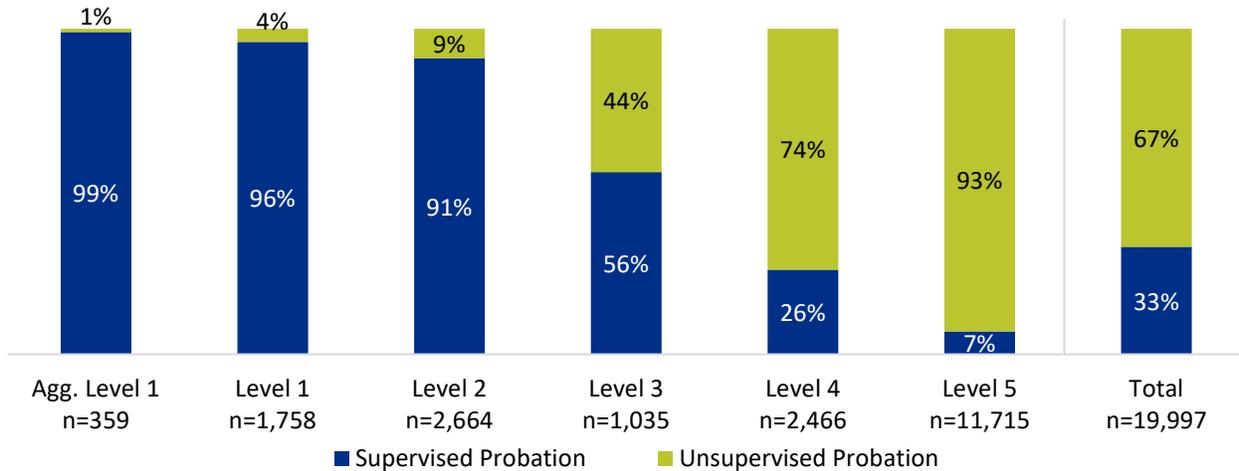
<sup>10</sup> Absent a judge’s determination that supervised probation is necessary, unsupervised probation must be imposed if the following conditions are met: 1) if the person has not been convicted of an offense of impaired driving within the seven years preceding the date of the offense for which the defendant is being sentenced, 2) if Level 3, Level 4, or Level 5 punishment is imposed, and 3) if the defendant has obtained a substance abuse assessment and completed any recommended treatment or education.

<sup>11</sup> Pursuant to G.S. 15A-1342.

accounted for over half of all suspended sentences with probation (i.e., 11,715 of 19,997 offenders. As the punishment level decreased, a greater percentage of offenders received unsupervised probation.<sup>12</sup>

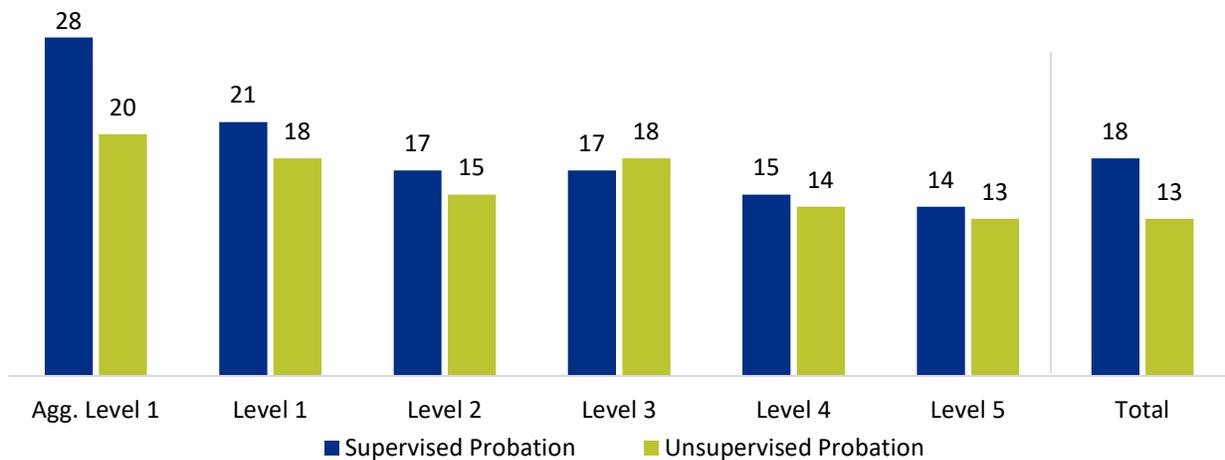
Figure O provides the average length of probation by punishment level and type of probation. The average length of probation was 18 months for supervised and 13 months for unsupervised probation. Offenders with supervised probation received longer probation terms than offenders with unsupervised probation. Generally, as the punishment level decreased, the average length of probation supervision decreased.

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



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 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 2021 DWI Statistical Report Data

<sup>12</sup> G.S. 20-179(r) outlines the circumstances in which offenders sentenced to Levels 3, 4, and 5 should receive unsupervised probation.

Table 4 explores the most frequently imposed probation length (mode) for each punishment level by type of probation. Except for Aggravated Level 1 convictions, 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.

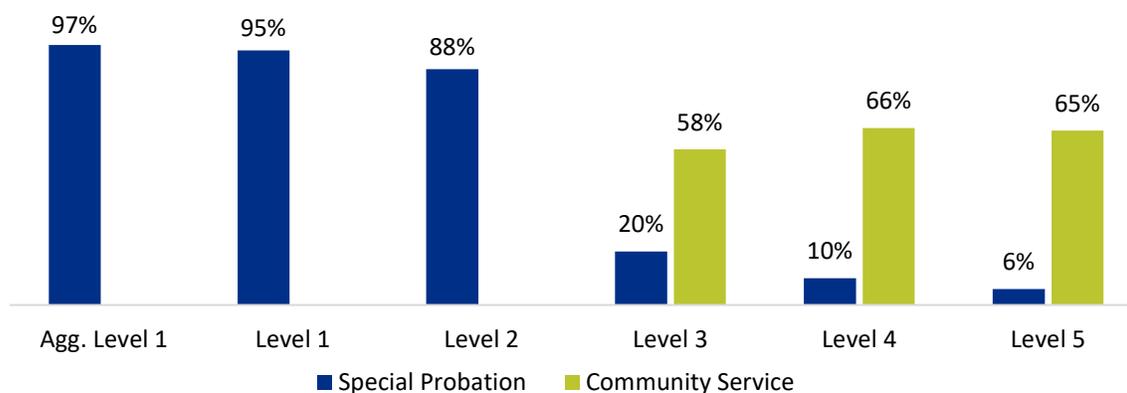
**Table 4**  
**Most Frequently Imposed Probation Length (Months) by Type of Probation and Punishment Level**

Punishment Level	Total	Type of Probation					
		Supervised Probation			Unsupervised Probation		
		#	Mode	%	#	Mode	%
<b>Agg. Level 1</b>	359	356	36	40	3	18	67
<b>Level 1</b>	1,758	1,685	24	46	73	12	41
<b>Level 2</b>	2,664	2,437	18	40	227	12	57
<b>Level 3</b>	1,035	577	18	45	458	12	47
<b>Level 4</b>	2,466	649	12	65	1,817	12	75
<b>Level 5</b>	11,715	858	12	74	10,857	12	87
<b>Total</b>	<b>19,997</b>	<b>6,562</b>	<b>12</b>	<b>39</b>	<b>13,435</b>	<b>12</b>	<b>83</b>

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

Special probation is required for Aggravated Level 1 through Level 2 offenders who received probation,<sup>13</sup> while either special probation or community service is required for Level 3 through Level 5 offenders who received probation.<sup>14</sup> Mandatory probation conditions by punishment level are shown in Figure P.

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



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

Table 5 shows the number, percent, and average days of special probation ordered within the context of statutory requirements. Of all suspended sentences with probation, 28% (n=5,546) had special probation

<sup>13</sup> Offenders sentenced in Aggravated Level 1 through Level 2 may receive community service as part of their sentence. Six percent (6%) of Aggravated Level 1 sentences, 8% of Level 1 sentences, and 9% of Level 2 sentences included community service.

<sup>14</sup> Special probation and community service may be imposed together in Level 3 through Level 5, although this occurred for less than 1% of the convictions.

ordered (see Table 5). The average number of special probation days was highest for Aggravated Level 1 DWI offenders and decreased as punishment level decreased.

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

Punishment Level	Suspended Sentences #	Special Probation Ordered %	Average Special Probation Days	Statutory Length Days
Agg. Level 1	359	97	125	At least 120
Level 1	1,758	95	32	At least 30 or at least 10 (if CAM)
Level 2	2,664	88	10	At least 7
Level 3	1,035	20	8	At least 3
Level 4	2,466	10	4	2
Level 5	11,715	6	2	1
<b>Total</b>	<b>19,997</b>	<b>28</b>	<b>22</b>	<b>N/A</b>

Note: All suspended 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). CAM stands for continuous alcohol monitoring. SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

Table 6 provides information on fines imposed for suspended sentences with probation by punishment level. Fines were imposed for the majority of DWI convictions (84%), ranging from a low of 67% for Aggravated Level 1 offenders to a high of 88% for Level 4 offenders. For each punishment level, the average fine amounts were much lower than the statutory maximum. Nearly all fines imposed (96%) were \$500 or less. The average fine amount decreased as punishment level decreased.

**Table 6**  
**Suspended Sentences with a Fine Imposed by Punishment Level**

Punishment Level	#	Fine Imposed %	Statutory Maximum	Average	Most Frequent Amount
Agg. Level 1	359	67	\$10,000	\$739	\$500
Level 1	1,758	79	\$4,000	\$486	\$500
Level 2	2,664	85	\$2,000	\$360	\$300
Level 3	1,035	85	\$1,000	\$282	\$200
Level 4	2,466	88	\$500	\$175	\$100
Level 5	11,715	85	\$200	\$110	\$100
<b>Total</b>	<b>19,997</b>	<b>84</b>	<b>N/A</b>	<b>\$201</b>	<b>\$100</b>

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

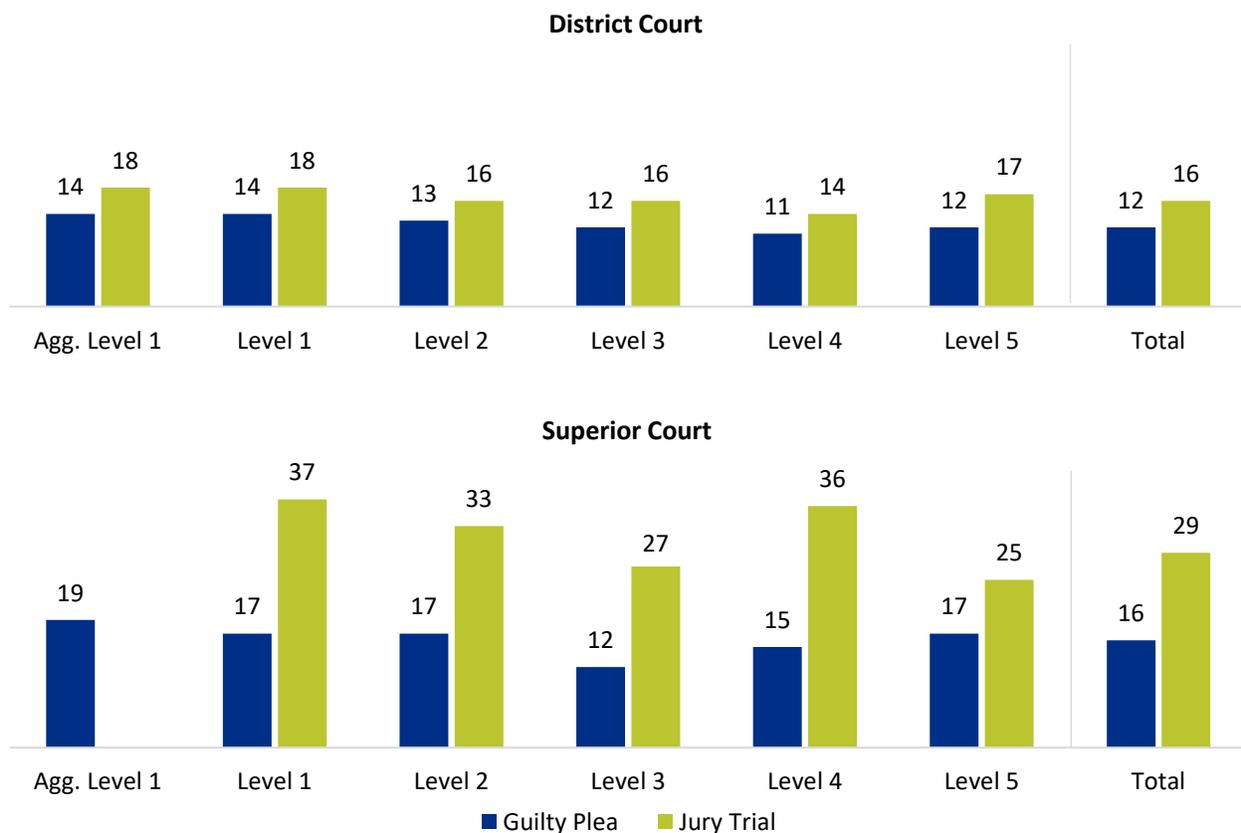
## IV. SPECIAL ISSUES

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 13 months. District Court bench trials took 4 months longer to dispose of than guilty pleas (16 months compared to 12 months). The median time to sentencing for DWI convictions disposed in Superior Court was 16 months. Guilty pleas entered in Superior Court took 13 months less time to sentencing than jury trials (16 months compared to 29 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**

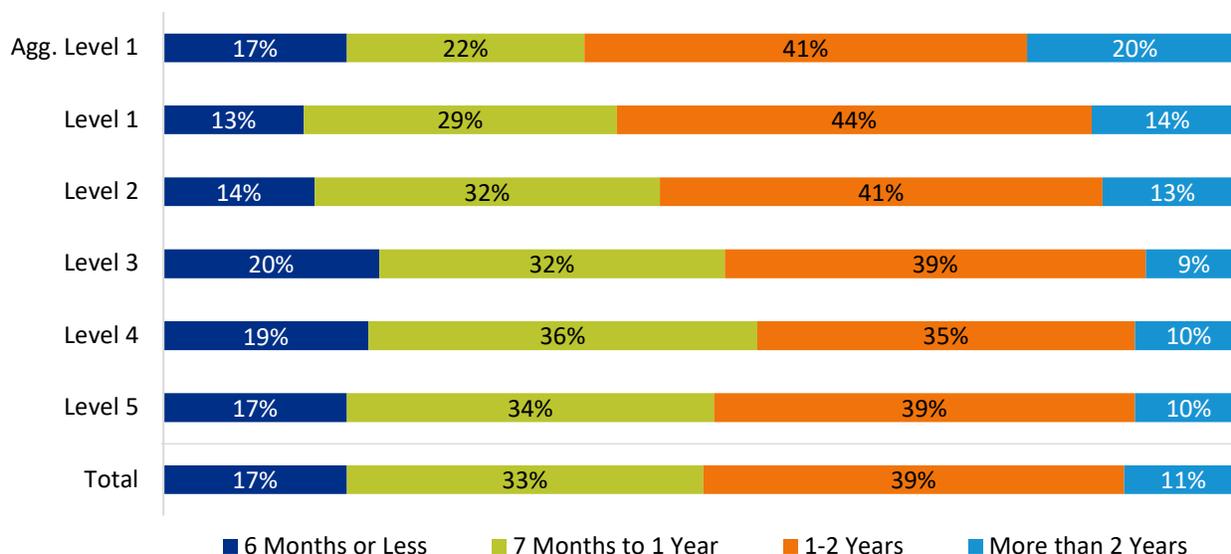


Note: Of the 21,240 DWI convictions in FY 2021, 6 Superior Court bench trials were excluded from the figure, as well as 16 convictions with discrepant date values. The median time to sentencing for Superior Court jury trials in Aggravated Level 1 through Level 5 were each based on fewer than 50 observations.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

Figure R illustrates the distribution of time to sentencing for convictions by punishment level. Overall, 17% of convictions occurred within 6 months or less, 33% occurred within 7 months to 1 year, 39% occurred within 1 to 2 years, and 11% occurred in more than 2 years. Overall, half (50%) of convictions were disposed within a year or less. Fewer Aggravated Level 1 through Level 2 convictions were disposed within 1 year compared to Level 3 through Level 5 convictions.

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



Note: Of the 21,240 DWI convictions in FY 2021, 16 convictions with discrepant date values were excluded from the figure.

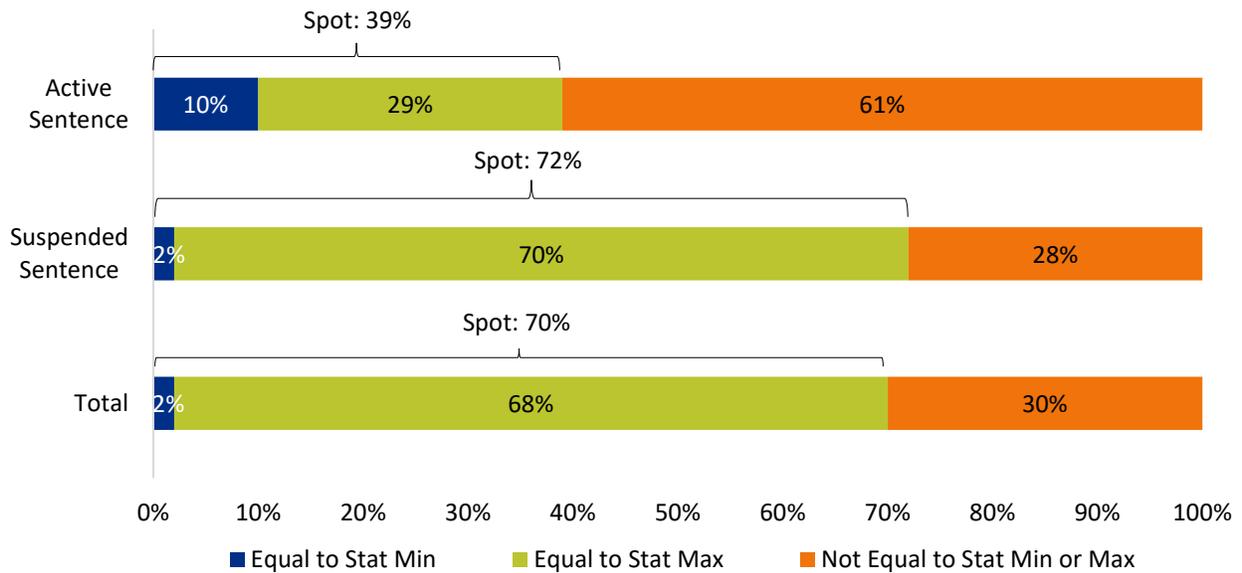
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

## 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 were equal to the statutory maximum (68%) and only 2% were equal to the statutory minimum – for a total of 70% on one of these two “spots.” However, active sentences were only imposed on a spot 39% of the time compared to 72% 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, 23% of Aggravated Level 1 offenders were sentenced to the statutory minimum (12 months), 48% were sentenced to the statutory maximum (36 months), and 30% were sentenced to a different amount of time, for a total of 71% sentenced on either the statutory minimum or statutory maximum.

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



Note: Of the 21,240 DWI convictions in FY 2021, 16 convictions with missing values for type of sentence imposed were excluded from the figure.

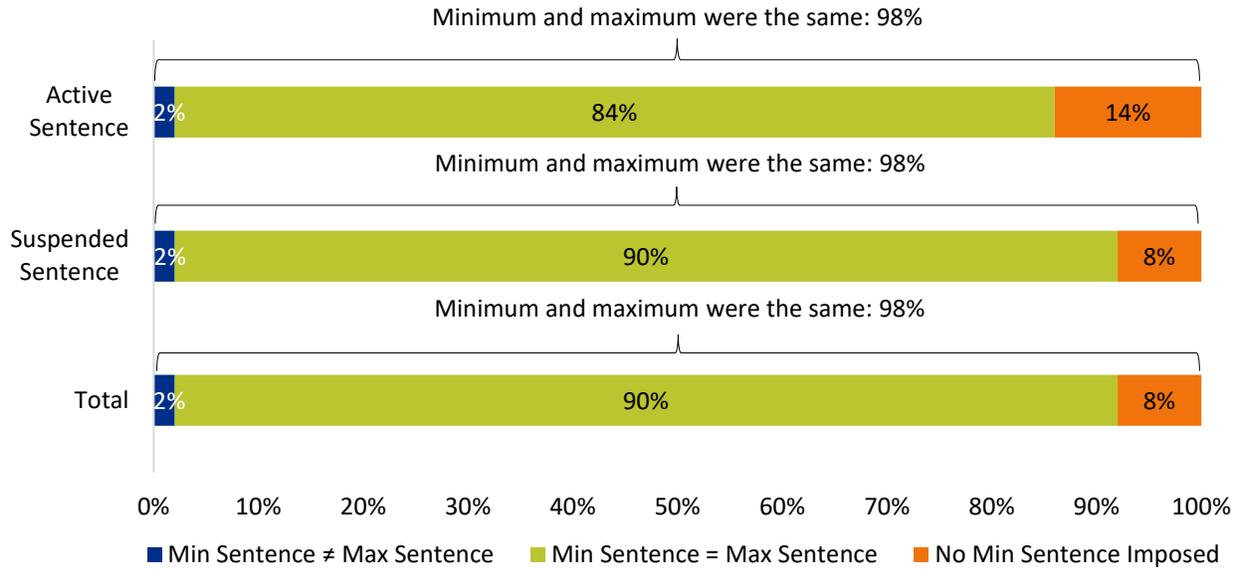
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

### 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, 90% 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 8% of sentences, no minimum term was indicated and only a maximum term was imposed. In the remaining 2% 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.

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

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



Note: Of the 21,240 DWI convictions in FY 2021, 16 convictions with missing values for type of sentence imposed were excluded from the figure.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 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. Seventeen percent (17%) of all DWI offenders received credit for time served (see Table 7). Fifty-eight percent (58%) of offenders who received active sentences received credit for time served compared to only 15% 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 (67 and 15 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	164	57	85	44
	Suspended	359	42	61	27
	<b>Subtotal</b>	<b>523</b>	<b>47</b>	<b>71</b>	<b>30</b>
Level 1	Active	221	44	86	54
	Suspended	1,758	30	26	14
	<b>Subtotal</b>	<b>1,979</b>	<b>32</b>	<b>35</b>	<b>20</b>
Level 2	Active	190	56	89	49
	Suspended	2,664	28	14	7
	<b>Subtotal</b>	<b>2,854</b>	<b>30</b>	<b>23</b>	<b>7</b>
Level 3	Active	124	49	95	51
	Suspended	1,035	18	19	4
	<b>Subtotal</b>	<b>1,159</b>	<b>22</b>	<b>38</b>	<b>8</b>
Level 4	Active	152	64	62	45
	Suspended	2,466	13	9	2
	<b>Subtotal</b>	<b>2,618</b>	<b>16</b>	<b>22</b>	<b>3</b>
Level 5	Active	376	67	38	30
	Suspended	11,715	8	5	1
	<b>Subtotal</b>	<b>12,091</b>	<b>10</b>	<b>12</b>	<b>1</b>
Total	Active	1,227	58	67	37
	Suspended	19,997	15	15	3
<b>Total</b>		<b>21,224</b>	<b>17</b>	<b>25</b>	<b>6</b>

Note: Of the 21,240 DWI convictions in FY 2021, 16 convictions with missing values for type of sentence imposed were excluded from the table.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

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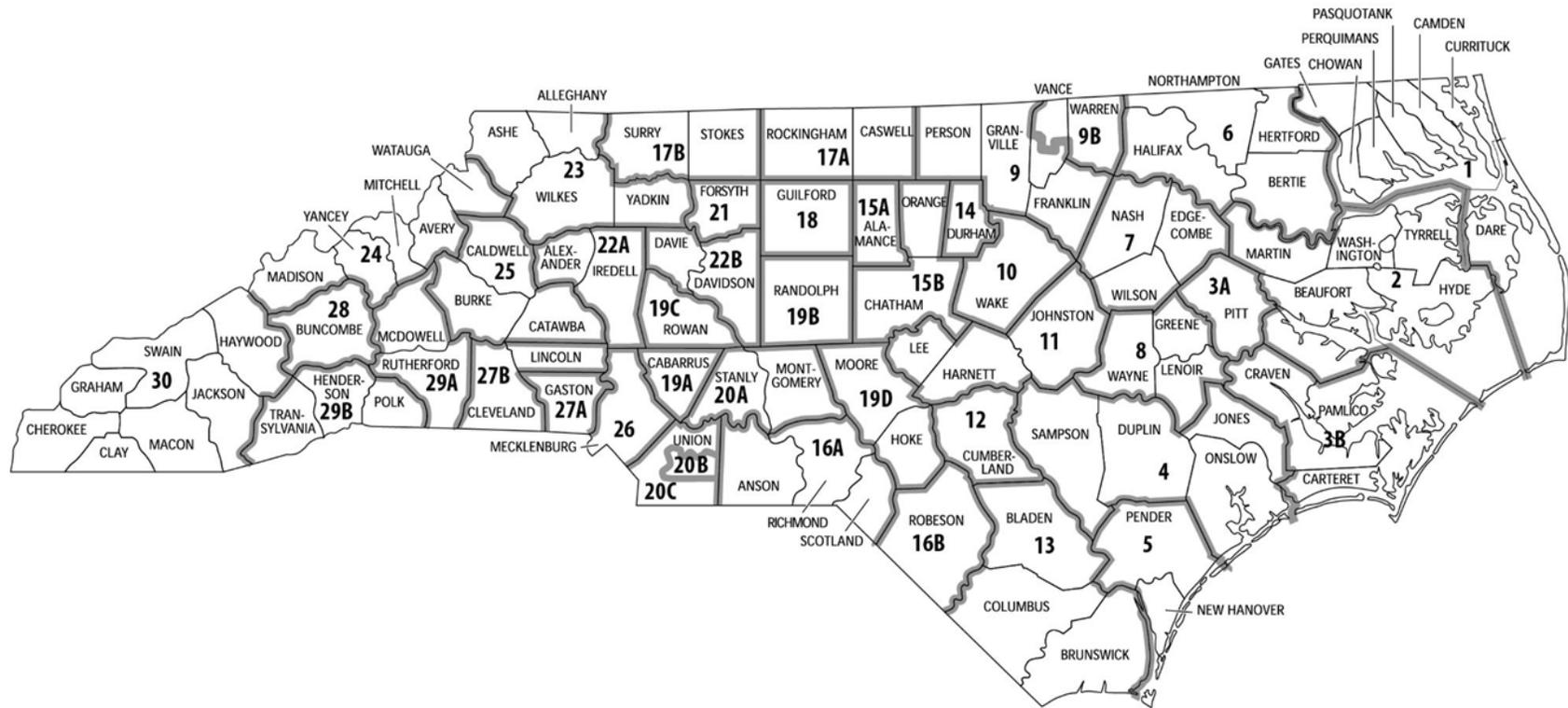
APPENDIX A  
MAPS OF JUDICIAL DIVISIONS AND DISTRICTS

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# North Carolina District Court Districts

## Effective January 1, 2019



Note: Districts 9 and 9B, and districts 20B and 20C are districts for electoral purposes only. They are combined for administrative purposes.

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APPENDIX B  
DWI PUNISHMENT TABLE

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**Table B.1**  
**Sentencing for Impaired Driving Offenses**

PUNISHMENT LEVELS	FACTORS	PUNISHMENT	FINE
<b>Aggravated Level 1</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 1</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 2</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 3</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 4</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 5</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

## 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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**Table C.1  
Convictions by Judicial District and County**

Judicial District and County		DWI Convictions	Convictions per 1,000 Adults (16+)
<b>District 1</b>	Camden	37	4
	Chowan	18	2
	Currituck	166	7
	Dare	314	10
	Gates	11	1
	Pasquotank	54	2
	Perquimans	40	4
	<b>Total</b>	<b>640</b>	<b>5</b>
<b>District 2</b>	Beaufort	152	4
	Hyde	13	3
	Martin	65	4
	Tyrrell	28	11
	Washington	22	3
<b>Total</b>	<b>280</b>	<b>4</b>	
<b>District 3A</b>	Pitt	347	3
	<b>Total</b>	<b>347</b>	<b>3</b>
<b>District 3B</b>	Carteret	166	3
	Craven	124	2
	Pamlico	13	1
<b>Total</b>	<b>303</b>	<b>2</b>	
<b>District 4</b>	Duplin	174	4
	Jones	40	5
	Onslow	330	2
	Sampson	196	4
<b>Total</b>	<b>740</b>	<b>3</b>	
<b>District 5</b>	New Hanover	872	5
	Pender	261	5
<b>Total</b>	<b>1,133</b>	<b>5</b>	
<b>District 6</b>	Bertie	34	2
	Halifax	124	3
	Hertford	31	2
	Northampton	27	3
<b>Total</b>	<b>216</b>	<b>3</b>	
<b>District 7</b>	Edgecombe	163	4
	Nash	261	3
	Wilson	179	3
<b>Total</b>	<b>603</b>	<b>3</b>	
<b>District 8</b>	Greene	67	4
	Lenoir	157	4
	Wayne	699	8
<b>Total</b>	<b>923</b>	<b>6</b>	

Judicial District and County		DWI Convictions	Convictions per 1,000 Adults (16+)
<b>District 9,9B</b>	Franklin	317	6
	Granville	259	5
	Person	197	6
	Vance	298	9
	Warren	72	5
<b>Total</b>	<b>1,143</b>	<b>6</b>	
<b>District 10</b>	Wake	1,415	2
	<b>Total</b>	<b>1,415</b>	<b>2</b>
<b>District 11</b>	Harnett	105	1
	Johnston	436	2
	Lee	83	2
<b>Total</b>	<b>624</b>	<b>2</b>	
<b>District 12</b>	Cumberland	343	1
	<b>Total</b>	<b>343</b>	<b>1</b>
<b>District 13</b>	Bladen	109	5
	Brunswick	458	4
	Columbus	146	4
<b>Total</b>	<b>713</b>	<b>4</b>	
<b>District 14</b>	Durham	433	2
	<b>Total</b>	<b>433</b>	<b>2</b>
<b>District 15A</b>	Alamance	488	3
	<b>Total</b>	<b>488</b>	<b>3</b>
<b>District 15B</b>	Chatham	172	3
	Orange	455	4
<b>Total</b>	<b>627</b>	<b>3</b>	
<b>District 16A</b>	Anson	72	4
	Richmond	70	2
	Scotland	57	2
<b>Total</b>	<b>199</b>	<b>3</b>	
<b>District 16B</b>	Robeson	175	2
	<b>Total</b>	<b>175</b>	<b>2</b>
<b>District 17A</b>	Caswell	75	4
	Rockingham	364	5
<b>Total</b>	<b>439</b>	<b>5</b>	
<b>District 17B</b>	Stokes	155	4
	Surry	226	4
<b>Total</b>	<b>381</b>	<b>4</b>	
<b>District 18</b>	Guilford	806	2
	<b>Total</b>	<b>806</b>	<b>2</b>
<b>District 19A</b>	Cabarrus	383	2
	<b>Total</b>	<b>383</b>	<b>2</b>

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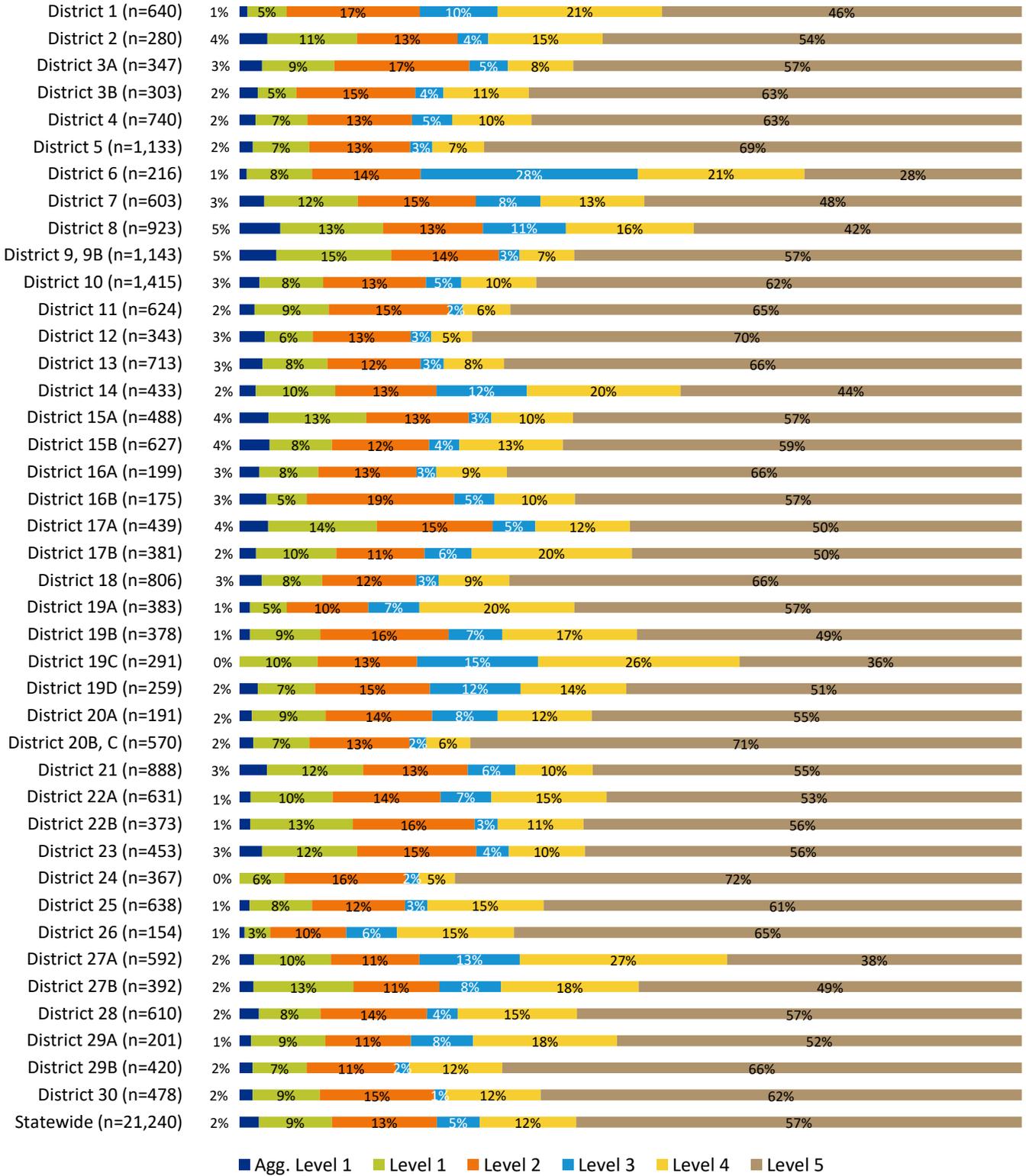
**Table C.1  
Convictions by Judicial District and County**

Judicial District and County		DWI Convictions	Convictions per 1,000 Adults (16+)
<b>District 19B</b>	Randolph	378	3
	<b>Total</b>	<b>378</b>	<b>3</b>
<b>District 19C</b>	Rowan	291	2
	<b>Total</b>	<b>291</b>	<b>2</b>
<b>District 19D</b>	Hoke	82	2
	Moore	177	2
	<b>Total</b>	<b>259</b>	<b>2</b>
<b>District 20A</b>	Montgomery	55	3
	Stanly	136	3
	<b>Total</b>	<b>191</b>	<b>3</b>
<b>District 20B,C</b>	Union	570	3
	<b>Total</b>	<b>570</b>	<b>3</b>
<b>District 21</b>	Forsyth	888	3
	<b>Total</b>	<b>888</b>	<b>3</b>
<b>District 22A</b>	Alexander	98	3
	Iredell	533	3
	<b>Total</b>	<b>631</b>	<b>3</b>
<b>District 22B</b>	Davidson	285	2
	Davie	88	3
	<b>Total</b>	<b>373</b>	<b>2</b>
<b>District 23</b>	Alleghany	26	3
	Ashe	104	5
	Wilkes	192	4
	Yadkin	131	4
	<b>Total</b>	<b>453</b>	<b>4</b>
<b>District 24</b>	Avery	52	3
	Madison	48	3
	Mitchell	44	4
	Watauga	182	4
	Yancey	41	3
	<b>Total</b>	<b>367</b>	<b>3</b>

Judicial District and County		DWI Convictions	Convictions per 1,000 Adults (16+)
<b>District 25</b>	Burke	204	3
	Caldwell	127	2
	Catawba	307	2
	<b>Total</b>	<b>638</b>	<b>2</b>
<b>District 26</b>	Mecklenburg	154	<1
	<b>Total</b>	<b>154</b>	<b>&lt;1</b>
<b>District 27A</b>	Gaston	592	3
	<b>Total</b>	<b>592</b>	<b>3</b>
<b>District 27B</b>	Cleveland	207	3
	Lincoln	185	3
	<b>Total</b>	<b>392</b>	<b>3</b>
<b>District 28</b>	Buncombe	610	3
	<b>Total</b>	<b>610</b>	<b>3</b>
<b>District 29A</b>	McDowell	111	3
	Rutherford	90	2
	<b>Total</b>	<b>201</b>	<b>2</b>
<b>District 29B</b>	Henderson	267	3
	Polk	60	4
	Transylvania	93	3
	<b>Total</b>	<b>420</b>	<b>3</b>
<b>District 30</b>	Cherokee	45	2
	Clay	27	3
	Graham	16	2
	Haywood	124	2
	Jackson	98	3
	Macon	110	3
	Swain	58	5
	<b>Total</b>	<b>478</b>	<b>3</b>
	<b>State Total</b>	<b>21,240</b>	<b>2</b>

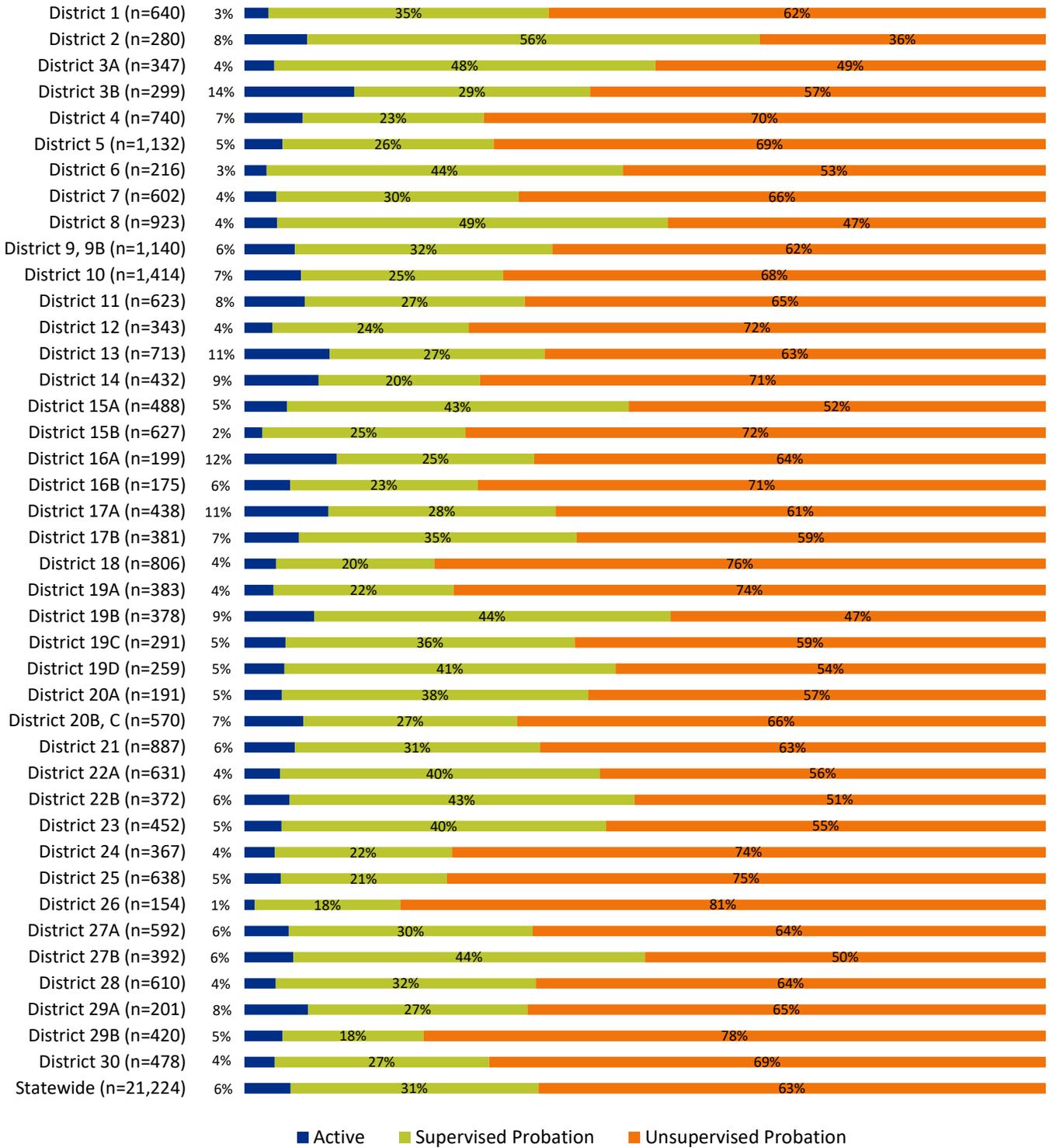
SOURCES: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data and NC Office of State Management and Budget, 2021 Population Estimates from <https://demography.osbm.nc.gov/explore/> (see Population Projections).

**Figure C.1**  
**Convictions by Judicial District and Punishment Level**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

**Figure C.2**  
**Convictions by Judicial District and Type of Punishment**



Note: Of the 21,240 DWI convictions in FY 2021, 16 convictions with missing values for type of sentence imposed were excluded from the figure.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

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APPENDIX D  
ADDITIONAL CONVICTION DATA  
BY PUNISHMENT LEVEL

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**Table D.1**  
**Offender Characteristics and Punishment Imposed by Punishment Level**  
**N=21,240**

	Agg. Level 1 n=524	Level 1 n=1,979	Level 2 n=2,855	Level 3 n=1,161	Level 4 n=2,619	Level 5 n=12,102
<b>Offender Characteristics</b>						
<b>Gender</b>						
Male	83%	72%	79%	83%	78%	72%
Female	17%	28%	21%	17%	22%	28%
<b>Race</b>						
White	42%	49%	58%	50%	54%	59%
Black	47%	37%	31%	38%	30%	24%
Hispanic	8%	10%	8%	10%	12%	12%
Other	3%	%	3%	2%	4%	5%
<b>Age at Offense</b>						
Less than 21 Years	1%	3%	2%	3%	5%	6%
21-30 Years	30%	32%	29%	24%	29%	38%
31-40 Years	33%	32%	29%	28%	27%	24%
41-50 Years	18%	18%	20%	23%	19%	16%
Over 50 Years	18%	15%	20%	22%	20%	16%
Average Age	38	37	39	40	38	36
Median Age	35	35	37	39	36	32
<b>Blood Alcohol Concentration</b>						
Less than .08	2%	2%	2%	3%	2%	2%
.08 to .14	45%	48%	44%	23%	25%	60%
.15 or More	53%	50%	54%	74%	73%	38%
<b>Punishment Imposed</b>						
<b>Method of Disposition</b>						
Guilty Plea	93%	92%	89%	91%	91%	88%
Bench Trial	7%	8%	11%	8%	9%	12%
Jury Trial	0%	<1%	<1%	<1%	<1%	<1%
<b>Sentence Type</b>						
Active Sentence	31%	11%	7%	11%	6%	3%
Supervised Probation	68%	85%	85%	50%	25%	7%
Unsupervised Probation	1%	4%	8%	39%	69%	90%
<b>Sentence Length/Location</b>						
Active						
Average Length (Months)	20	11	6	4	2	1
Sentenced at Stat. Minimum	38%	8%	6%	5%	5%	3%
Sentenced at Stat. Maximum	16%	17%	37%	44%	28%	33%
Sentence Other than Stat. Min/Max	46%	75%	57%	51%	67%	64%
Suspended						
Average Length (Months)	29	20	11	5	3	2
Sentenced at Stat. Minimum	15%	2%	1%	1%	1%	1%
Sentenced at Stat. Maximum	62%	67%	81%	68%	60%	71%
Sentence Other than Stat. Min/Max	22%	31%	18%	31%	39%	28%

Note: Convictions with missing data were excluded from the table.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2021 DWI Statistical Report Data

**Table D.2**  
**Conditions of Probation for Suspended Sentences by Punishment Level**  
**n=19,997**

	<b>Agg. Level 1</b> n=359	<b>Level 1</b> n=1,758	<b>Level 2</b> n=2,664	<b>Level 3</b> n=1,035	<b>Level 4</b> n=2,466	<b>Level 5</b> n=11,715
<b>Supervised Probation</b>	99%	96%	91%	56%	26%	7%
Length						
1 Year or Less	6%	21%	37%	36%	66%	75%
13-18 Months	12%	25%	41%	45%	23%	16%
19-24 Months	38%	46%	19%	17%	10%	8%
More than 2 Years	44%	8%	3%	2%	1%	1%
Average Length (Months)	28	21	17	17	15	14
<b>Unsupervised Probation</b>	1%	4%	9%	44%	74%	93%
Length						
1 Year or Less	0%	44%	57%	48%	76%	89%
13-18 Months	67%	30%	33%	36%	15%	7%
19-24 Months	33%	22%	9%	11%	8%	3%
More than 2 Years	0%	4%	1%	5%	1%	1%
Average Length (Months)	20	18	15	18	14	13
<b>Mandatory Conditions</b>						
Special Probation	97%	95%	88%	20%	10%	6%
Community Service	6%	8%	9%	58%	66%	65%
Both	6%	7%	7%	1%	1%	<1%
<b>Fines</b>						
Convictions with Fine Imposed	67%	79%	85%	85%	88%	85%
Fine Amount						
Less than \$100	2%	3%	3%	3%	5%	9%
\$100 to \$199	11%	14%	18%	22%	52%	82%
\$200 to \$299	10%	16%	21%	33%	32%	8%
\$300 to \$499	16%	26%	32%	25%	9%	1%
\$500 or More	61%	41%	26%	17%	2%	<1%
Average Fine Imposed	\$739	\$486	\$360	\$282	\$175	\$110
Median Fine Imposed	\$500	\$400	\$300	\$200	\$150	\$100

Note: Convictions with missing data were excluded from the table. 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 2021 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.