



**MINUTES**  
**NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION MEETING**  
**December 2, 2022**

The North Carolina Sentencing and Policy Advisory Commission met on Friday, December 2, 2022, at the North Carolina Judicial Center in Raleigh, North Carolina.

**Members Present:** Chairman Charlie Brown, Art Beeler, Danielle Marquis Elder, Representative John Faircloth, Willis Fowler, Lindsey Granados, Judge Greg Horne, Joe Houchin, Sheriff Garry McFadden, Dr. Harvey McMurray, Representative Allen McNeill, Honorable James Mixson, Luther Moore, Tim Moose, Representative William Richardson, Calvin Suber, Honorable Mike Waters, and Patrick Weede.

**Guests:** Julianna Kirschner (AOC), Thales Martin (AOC), Brandish Harris (DPS/DAC), George Pettigrew (DPS/DAC), Pam Walker (DPS/DAC), Megan Perrault (DPS/JJ), Kathryn Catlett (NCSA), Marie Evitt (NCSA), Ben Thomas (NCPLS), and Kelan Lyans (Press).

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

**INTRODUCTION**

Chairman Brown called the meeting to order at 10:01 a.m. He asked members and guests to introduce themselves.

Chairman Brown presented the minutes from the September 9, 2022 meeting and called for a motion. Luther Moore moved to adopt the minutes as written; Art Beeler seconded the motion and it carried. After Chairman Brown announced the 2023 Sentencing Commission meeting dates: March 3, June 2, September 8, and December 8, he reviewed the agenda.

**COMMEMORATING JUDGE W. ERWIN SPAINHOUR, FORMER CHAIR**

Chairman Brown offered remarks honoring Judge W. Erwin Spainhour, the former Chair of the Sentencing Commission, who passed away on September 26, 2020. At the conclusion of his remarks, Chairman Brown displayed a clock and plaque hung on the wall in the Hickory Room commemorating Judge Spainhour's service to the Sentencing Commission and his starting every meeting on-time.

**UPDATE ON ESTABLISHMENT OF DEPARTMENT OF ADULT CORRECTION**

Chairman Brown recognized Tim Moose, Commission member and Chief Deputy Secretary for the Division of Adult Correction (DAC), to provide an update on the transition of adult correction from a division within the Department of Public Safety (DPS) to a stand-alone DAC. Mr. Moose stated that on January 1, 2023, the DAC will officially become a legally functioning executive cabinet-level agency and

that Governor Cooper has appointed Todd Ishee, the former Commissioner of Prisons, to serve as the Secretary. At the same time, the Division of Juvenile Justice and Delinquency Prevention (DJJDP) will remain with the DPS with Billy Lassiter serving as the Deputy Secretary. Nicole Sullivan, the Deputy Secretary for Analysis, Programming, and Policy, will be staying with the DPS to work with the DJJDP.

Mr. Moose reminded the Commission that in 2012 the General Assembly combined the Departments of Correction, Crime Control and Public Safety, and Juvenile Justice and Delinquency Prevention into one department and that they have been working together for the last ten years. Staff has spent several months trying to separate the DAC from the DPS. Staff reviewed every position and made decisions about where they went based on their duties and the needs of both departments. Mr. Moose stated that approximately 20,000 field positions and 381 administrative positions were transferred to the DAC on October 7 but that there are still positions that will have to be duplicated in each department. They have also begun transferring assets and that should be finished by the middle of December.

Mr. Moose reviewed the logistical changes, (e.g., office buildings for each department), the legal changes (e.g., updating contracts and memorandums of understanding) and the new logo, website, and email addresses. He indicated that separating information technology services will take the longest (approximately 2 to 3 years) because the two departments have been sharing servers for over ten years.

Chairman Brown stated that it was like going back to the way it was before the merger but different because juvenile justice will not be a stand-alone department. He pointed out that raising the age of juvenile jurisdiction has created a lot more connections between the juvenile and adult systems and asked how that would be handled. Mr. Moose responded that some adult correction staff will stay with DPS to help work with the 16- to 20-year-old offenders in the juvenile justice system. Those offenders present programmatic and supervision challenges and the adult correction staff have experience with that older youth population.

Chairman Brown pointed out that before the merger of the departments, the Commission had a representative from the Department of Correction and one from the Department of Juvenile Justice and Delinquency Prevention. Since DAC is separating from DPS and DJJDP will remain with DPS, the Commission needs that stakeholder at the table and may ask the legislature to amend the statute to add a seat for DJJDP. Mr. Moose agreed that a separate juvenile justice representative was very important on the Sentencing Commission. John Madler added that staff has been in contact with Commission members in the legislature about this issue and will meet with them in 2023 to discuss amending the statute.

Mr. Moose reviewed the DAC organization chart and indicated that there was a new structure for senior management. He highlighted Workforce Management in particular; they have been doing things differently in human resources, trying to build that up for the last three years.

Mr. Moose then indicated his retirement at the end of 2022. Mr. Beeler thanked Mr. Moose for his years of service and leadership. Jim Mixson thanked Mr. Moose for making the transition sound so easy. Dr. Harvey McMurray asked Mr. Moose what his biggest takeaway was from the merger and the separation. Mr. Moose stated that the first takeaway was that the larger an agency is, the harder it can be to accomplish the task. It is difficult to prioritize needs among so many divisions. The second takeaway is that corrections has so much constant volume that it needs a separate voice to make sure it is doing everything it can. For example, a natural disaster may occur, drawing the Department's focus, but there is still a correctional need during that time. DPS secretaries have managed to do a tremendous job of

balancing the priorities but corrections needs constant attention. Mr. Moose stated his appreciation for his time on the Commission.

### **REVIEW AND DISCUSSION OF KEY FINDINGS: SENTENCING PRACTICES STUDY**

Chairman Brown recognized Ginny Hevener and Dr. Mel Lugo, staff, to provide an update on the Sentencing Practices study (*see* Presentation). Ms. Hevener reminded Commissioners that the purpose of the study is to determine if and to what extent legal and extralegal factors determine sentencing outcomes. The study is looking at disparity in sentencing outcomes based on extralegal factors. Ms. Hevener reviewed the components of the study that have been completed to date and stated that staff have completed a bivariate analysis of FY 2019 conviction data and that a multivariate analysis is in progress, which would be the focus of today's presentation. She then reviewed the discretionary decision points modeled in the multivariate analysis: (1) felony charge resulting in misdemeanor conviction; (2) felony charge resulting in felony conviction; and (3) a new analysis of felony conviction in a discretionary cell resulting in active punishment. Ms. Hevener pointed out the possibility that disparities exist at earlier parts of the process (e.g., arrest, charge) but the Commission's study does not address those points. She explained that the third model examines the imposition of a non-active versus active punishment from within discretionary cells of the felony punishment chart.

Ms. Hevener provided a brief review of findings for both discretionary points examined to date. Notably, only three factors had the same effect in both models: sex, age, and jury trial. Chairman Brown asked how "any priors" was defined, whether it meant any prior convictions or any prior convictions resulting in prior record points. Ms. Hevener responded that it referred to any prior record points. It was necessary to define it as prior record points because the model deals with felonies and misdemeanors and prior record calculations differ between the two. He then asked why it was a ranking of more and less likely variables rather than a continuum. Ms. Hevener responded that in a multivariate model, some variables are more or less predictive than others while other variables are not significant at all, there is a cutoff point where a variable is no longer predictive. Chairman Brown asked about the "nonwhite variable" and the meaning of its number. Dr. Lugo stated that it is an "odds ratio" and that the nonwhite variable appearing on the bottom of the "more likely" list for the second model means that it was significant but that it had a very small effect. Ms. Hevener added that they will be talking more about the strength of legal and extralegal factors later in the presentation.

Dr. McMurray asked whether or not staff would include race in an ideal model. Ms. Hevener replied even if race does not have a huge effect, it is still significant. Dr. Lugo added that it was important to include because there could be interaction between the nonwhite variable and other legal variables. Representative Billy Richardson asked whether there has been any change over time. Ms. Hevener replied that there has only been one previous study to compare it to and that was done in 2002. Staff is trying to equalize the way things are examined so that they can be compared, but there are new research methods and new models which will impact the comparison. Mr. Beeler asked if staff was going to include their methodology in the report. Ms. Hevener stated that they would include all methodology, caveats, and decisions that were made regarding the data. Joe Houchin pointed out that "charge class" was a factor that makes it less likely in the first model and more likely in the second model. He asked if there was a threshold or an indication of a class where the factor became insignificant. Dr. Lugo responded that they were all significant which is why they were combined but that staff would have to include class in a different way to see if there were specific classes that were significant.

Next, Ms. Hevener provided an overview of the new content from the analyses in progress. The new active punishment model examines whether an active punishment is imposed in felony punishment chart cells in which an in/out decision is available. Ms. Hevener described the significant variables listed in order of magnitude. With the exception of drug and other offenses, the 21-29 age category, and two district controls, the majority of the variables in the model were significant predictors of whether an offender received an active punishment. Offenders who had jury trials, who had higher prior record levels, who were male, or who had a habitual felon charge were more likely to receive an active punishment and had the strongest effects. Older offenders, offenders with a private attorney, and nonwhite offenders were less likely to receive an active punishment. Offenders convicted in single county districts were less likely to receive an active punishment. The magnitude of effects were lowest for nonwhite offenders and single county districts. Representative Allen McNeill asked when the sample came from and what period of time it covered. Ms. Hevener replied that the sample was from Fiscal Year 2019. She pointed out that this was before the COVID-19 pandemic, and that the pandemic has had an effect on court operations, but that it was good to look at this period because it will be hard to determine what effect the pandemic had at this point. Representative McNeill noted that the study does not examine dismissed cases and asked if there was an assumption there were no extralegal reasons for dismissing cases. Ms. Hevener responded that there was not any assumption but that the study focused on the sentencing part of the process, not dismissals. She added that staff did receive dismissal data and are developing a variable to take that into account in the models. It is an important part of the process and was not included in the first study.

Patrick Weede asked if it was possible to determine whether the cases were resolved by plea agreement or not, since the plea agreement may determine whether a charge is reduced or an active sentence is imposed. Ms. Hevener stated that they would love to have that information but that it is not captured in the automated system. Staff has had many conversations about how plea agreements can affect the findings. Mr. Weede asked if it was possible to determine which felony cases were in districts where the district court handles Class H and I felony pleas to see how many of the decisions are being made by a district court judge versus a superior court judge. Ms. Hevener replied that they have not taken that into account but could look at it. Mr. Weede then asked if the Commission should be concerned that “jury trial” is a significant factor in many of the models, whether it is indicating that people who exercise their right to a jury trial get higher punishment. Ms. Hevener responded that it might be an issue for the Commission to discuss when it gets to policy implications of the findings. Judge Greg Horne stated that, from a judge’s perspective, they just get a snippet of the facts in a plea colloquy but get a full picture after hearing three or four days of evidence. It may not be a matter of the defendant exercising their constitutional right but the judge knowing a lot more about the case.

Moving into a discussion of criminal history and the limitation of the sample to those without priors, Dr. Lugo explained that this methodology was prompted by the differing findings from the original 2002 study, specifically the findings that PRL VI was the only significant Prior Record Level and that nonwhite was also significant. The goal was to equalize offenders by removing those with prior criminal history. She stated that prior criminal history can also be nuanced in a way that cannot be captured. Dr. Lugo moved into a discussion of the felony charge to misdemeanor conviction model. She provided some contextual demographic data for the sample. Moving into the multivariate model comparisons between the no priors sample and the priors sample, generally speaking none of the legal factor variables changed in significance when they removed those with prior criminal history from the model. In the “no priors” model, nonwhite did, however, drop out of significance, as well as person offenses and age. Higher population density became significant. Dr. Lugo explained that although nonwhite was not significant in the first two models, it is significant in the newest full model, albeit a very weak effect. Mr.

Houchin asked if the “no priors” model meant no prior convictions or no prior charges. Dr. Lugo replied that it referred to no prior convictions and that is defined as no prior record points. Mr. Beeler asked what higher population density is measuring. Dr. Lugo replied that it is measuring the number of people in a district. In this case, it is looking at total population, not just offenders, so it is getting at the urban/rural distinction.

Turning to the felony charge to less serious felony conviction model, Dr. Lugo stated that for the multivariate model comparison between the full sample and the no priors sample, a few predictors changed in significance. Specifically, credit for time served and single versus multi-county district lost significance in the no priors sample while the conviction rate per 1,000 population became significant in the no priors sample. Overall, the results were not strikingly different between the full sample and the no priors sample. As for the latest model examining the effect of criminal history, the active sentence model, Dr. Lugo stated that a similar pattern emerged as in the previous models, where the majority of those with no priors who received an active sentence were nonwhite, male, and/or were under age 30.

Dr. McMurray asked if the Commission has considered taking the findings and holding a forum where stakeholders can help tease them out. Chairman Brown replied that the study is not complete yet but once they have all of the results, and before the Commission considers policy ramifications and considerations, that would be possible. He reminded the Commissioners that the Commission is a forum of stakeholders, with each of them representing a larger group of stakeholders. Dr. Lugo continued the multivariate model comparison, noting a few predictors that did change in significance. Variables that lost significance in the no priors sample were primarily district level controls. Nonwhite also diminished to non-significant.

Chairman Brown asked Dr. Lugo to explain what the headings “Significant to Insignificant” and “Insignificant to Significant” meant and how they differed from the previous slides. Dr. Lugo explained that the point of this analysis was to see what changed when staff compared the full sample to the sample with no prior record. The columns indicate which factors changed between the two samples; the previous slides listed which factors were significant in a single sample. Representative Richardson asked what stood out to staff in these findings. Dr. Lugo replied that the nonwhite finding was the biggest standout to her. It changed from significant to insignificant when looking at the full sample compared to the no prior record sample, which may indicate that the two variables are interacting. Representative Richardson asked if that meant North Carolina was doing better. Dr. Lugo replied that it is more nuanced than that, the model does not contain every possible variable and there could be impact from decisions earlier in the process that are affecting the sentencing phase. Chairman Brown stated that it was an important question to ask and the precision of the language and the way staff define the variables is all intentional and it is not to hide anything. The project is still a work in progress. Representative Richardson asked what the Commission needs to do to improve the system. Chairman Brown responded that that is the purpose of all of this information, the Commission will have to take it as a whole and decide what changes, if any, to recommend. It is good to be thinking about that along the way but the study is not done yet and the Commission does not have all of the information it needs to make recommendations.

Dr. Lugo recapped key findings. Representative Richardson asked if anyone had ever studied the offenders who receive long sentences and the effects of releasing them once they have aged out of the crime-committing years. He felt that there are people sitting in prison now who would not cause problems if released. Dr. Lugo responded that there was literature out there looking at the age/crime curve and when do offenders age out of committing crimes. Mr. Beeler stated that the female

population is mentioned on the slides but that it is not a separate population and should not be because the study is examining the whole system. The number of females in the system is increasing but their percentage of the whole population is not. Secondly, he pointed out that the offender population is getting older and that it is something that is going to have to be looked at eventually. In his opinion, some of the older offenders do not need to be sitting in prison.

Dr. Lugo explained that she would now shift gears to discuss confidence builders and the various explorations conducted to establish fidelity in the models. Dr. Lugo provided a roadmap of the strategies used to bolster confidence and test findings. She mentioned that these explorations were partly driven from Commission and stakeholder feedback. The fidelity checks involved testing methodological changes and exploring whether pleas from Class H to Class I felonies were driving differences in the less serious felony conviction model. She stated they also looked at how much legal and extralegal variables contributed to the outcomes of interest through stepwise modeling.

Dr. Lugo turned her focus to testing methodological changes between the FY 2000 and FY 2019 samples. The methodology was refined for most serious charge in FY 2019 to further reconcile issues where multiple offense classes are possible for the most serious charge of interest (e.g., habitual felon can be charged as C, D, or E depending on the underlying felony). Staff wanted to assess whether the change in methodology impacted the findings considering that there were some differences in findings compared to the 2002 study. In order to do this, staff estimated current models using the FY 2000 methodology so they could better compare current sample results to the original 2002 study. Dr. Lugo explained that despite using the same methodology as the 2002 study, findings remained the same, specifically that the models produced identical results to the FY 2019 methodology, confirming that differing results from the previous study are not likely due to methodological changes.

Dr. Lugo stated that the next confidence builder exploration is an examination of Class H offenders for the felony charge to less serious felony conviction model. The purpose of this examination is as a sensitivity check for the felony charge reduction models given that Class H to Class I felony charge reductions account for the largest proportion of the sample, which provides insight as to whether this group of offenders is impacting the results. Dr. Lugo described two multivariate model results for both the full sample and a sample limited to Class H offenders. Class H charge reductions to Class I account for 23% of the overall sample of felony charge reductions. When comparing both samples, PRL VI and nonwhite remain significant in both. The only variables that differed from the full sample to the Class H sample were age, population density, and jury trial, which were not significant in the Class H sample. Mr. Beeler pointed out that Class H offenders are a big part of the total sample, they are impacting the findings. When the findings did not change between Class H offenders and all offenders, it proved the fidelity of the study as well.

Dr. Lugo turned to the next fidelity check, a stepwise modeling process. She explained that a stepwise modeling process was done to assess the contribution of legal and extralegal factors, which helps inform as to how much each set of factors explain the outcome through a model building process. The contribution of these factors is assessed by looking at the R squared coefficient, which is the percentage of the variation in the outcome explained by the independent variables in the model. Dr. Lugo explained that, typically, R squared values around 20% are considered good in social science research. Dr. Lugo stated that the first model looks at individual level legal factors only which includes variables like type of offense, charge class, and credit for time served. The second model builds on the first model by introducing district level legal factors, such as the control variable division and conviction rate. The third model shifts the focus to only extralegal factors at the individual level which include key demographic

measures like race, sex, and age. The fourth model includes both the individual level extralegal factors from the third model as well as district level extralegal factors such as the percent nonwhite and population density. The fifth model includes all variables found in the first four models.

Dr. Lugo moved through the model building process for the discretionary points examined, sharing the results of the R squared changes across the stepwise process. Chairman Brown pointed out that in the active sentence model, the R squared for Model 5 is only 18%, lower than Model 5 in the previous two decision points. He asked if there was a possible explanation. Ms. Hevener suggested that there are some individual characteristics that staff is not able to include in the model, like a substance abuse problem or other risk and need factors. Chairman Brown asked Judge Horne if he could think of any factors that are not included that would cause him to impose an active punishment in a discretionary cell. Judge Horne stated that a lot more cases are coming to him as closed pleas with a sentence recommendation. What is considered judicial discretion on paper is actually no more than the discretion to accept or reject the plea. The defense attorney wants certainty in the plea when they go into court, so the factors are being considered by the district attorney and the defense attorney rather than being presented to the judge in an open plea. Mike Waters agreed and pointed out that with administrative sessions of court, there is not enough time to have the judge intimately involved in the discussion. The parties want certainty. Referring back to Class H and I felonies, Mr. Waters stated that if it is a first-time offender who will not receive an active sentence, he will not indict them. He tries to resolve the case in district court where there are more options to deal with problems like substance abuse, the judge can be more involved in the process. Chairman Brown asked how that is done in districts where district court does not accept pleas to Class H and I felonies. Mr. Waters replied that he would reduce it to a misdemeanor.

Julianna Kirschner, AOC Research and Planning, asked if district courts accepting pleas to Class H and I felonies was based on policy or just local practice. Chairman Brown explained the process including the statutory basis. Lindsey Granados agreed with Judge Horne and Mr. Waters that they do not do open pleas because they want certainty. The number of open pleas has been declined over time. She also pointed out that judicial rotation in superior court decreases the likelihood of entering into an open plea. The defense does not know what a new judge will do so they prefer a closed plea.

Dr. Lugo then provided an overall recap. At the big picture level, findings from the active punishment model had some similarities with the other models. As indicated by the magnitude of effects in the initial models and by the stepwise models, legal factors were found to explain the most about whether an offender received a reduction from a felony charge to a misdemeanor conviction, a reduction from a felony charge to a less serious felony conviction, and whether an offender received an active punishment in a discretionary cell of the felony punishment chart. Across all three models, when holding all else equal, males, older offenders, and offenders who had a jury trial, were less likely to receive a break in terms of a charge reduction or a nonactive sentence. While race was significant in each of the models, the magnitude of effect was small. When examining the impact of criminal history on the models through the "no priors" models, most legal factors did not shift in significance. Some shifts in significance of race occurred which further indicated the possibility of an interaction between race and prior record level. The findings across models were further supported during confidence boost testing, with findings from the models remaining consistent across the various analyses, including results from stepwise models that confirmed that legal factors, not extralegal factors, are most important in explaining outcomes and that extralegal factors account for a small explanatory effect.

Dr. McMurray asked whether race could be a proxy for income. Ms. Hevener replied that staff discussed some of the socio-economic factors that they were not able to include in the model, such as income and employment. Those factors are not collected in an administrative database. Chairman Brown added that court-appointed attorney versus retained attorney was a circumstantial piece of evidence regarding income. Mr. Houchin asked if it was correct that the racial factor became more pronounced or more significant when it was tied to prior record level. Dr. Lugo responded that race was one of the significant variables from the full sample but that it became not significant when looking at offenders with no prior record, indicating some interaction between the variables. Mr. Houchin stated that that was a concern he wanted to raise, that not all offenders with no prior record are the same, some could have dismissed prior charges. He asked if it was possible to sort out offenders with no prior record by their overall criminal history. Dr. Lugo agreed that it would be helpful but stated it was not possible with the current database.

Dr. Lugo previewed next steps in the study. The next step in finalizing the multivariate models is to conduct a multilevel model, to better structure district measures. Dr. McMurray asked how the staff thought the model would hold up post-COVID 19 pandemic. Ms. Hevener stated that staff would have to redo the analysis to find out but she agreed that there are very real differences in how cases are processed post-COVID 19. The question would be what year to select; the court processes were still not settled in FY 2020, 2021, and 2022.

Mr. Moore asked if the Commission was doing this study too early and should wait until the court process is settled post-COVID 19. Chairman Brown replied that there was value in studying FY 2019 data, it shows what was happening at that time and it provides an update to the 2002 study. The system is still adjusting to the COVID 19 pandemic and will be for some time. Chairman Brown also pointed out that the legal factors had the most impact on the decisions and those would be the same regardless of COVID 19. The Commission can still look at the policy implications of the legal factors. Judge Horne added that Michelle Hall had presented this information to the Superior Court Judges Conference and they were extremely interested in what the data showed. They felt it would help them to clear up any misconceptions but that it would also allow them to address any issues that are actually occurring. He felt there was real value in looking at the last year before the COVID 19 pandemic.

## **2022 ADULT RECIDIVISM RESEARCH BRIEF – PRISON PROGRAMS**

Chairman Brown recognized Dr. Lugo, staff, to provide her next presentation on the 2022 Adult Recidivism Research Brief on Prison Programs. Dr. Lugo reminded Commissioners that this research brief is a segment of the larger Adult Recidivism report presented by staff, John King, back in September 2022 (see Handout). She further emphasized that this brief focuses on the prison release sample from that report. She highlighted that the prison release sample included 16,340 prisoners. Dr. Lugo also noted that 87% of the sample were male and the sample was also fairly split between black and white individuals. She added that the majority of the sample had a Class H to I felony and almost everyone had a prior arrest.

Dr. Lugo discuss both jobs and programs during incarceration. She emphasized that the majority of prisoners were assigned to at least one job *and* one program. However, 12% of the sample did not participate in a job or program. Nearly all (96%) of Class B1 through D felons were assigned to at least one job *and* program. Dr. Lugo also emphasized that these are offenders with longer prison sentences so they may have more opportunities to engage in these correctional assignments. Conversely, she noted,



that those with shorter sentence lengths, the Class H and I felons had the highest percentage with no job or program assignment.

Dr. Lugo noted the eight correctional assignments examined (determined in partnership with the DAC). She highlighted some key findings by gender: Correction Enterprises had the largest proportion of males and females assigned to this job. No females were assigned to Construction jobs. Dr. Lugo discussed that Academic Education had the highest proportion of males and females in the sample and a similar proportion of males and females were assigned to this program. She continued by stating a larger proportion of females were assigned to Alcohol and Chemical Dependency Programs (ACDP) and Vocational Education programs compared to males. Mr. Beeler raised a question concerning whether the analysis focuses on completion or participation in programming. Dr. Lugo responded by saying these results strictly look at participation, but later results will look at specific program outcomes.

Chairman Brown posed a question regarding the availability of ACDP. Mr. Moose noted that availability is driven by staffing vacancies and efforts are being made to increase the availability of programming. In terms of program completion, Mr. Beeler noted that generally more women complete programming and that the age of men might be a contributing factor towards completion rates. Mr. Moose also reaffirmed that one of the biggest issues is the time limit for completion among those with H and I felonies. Ms. Granados added that women have a much more highly incentivized reason to complete programs, because of child custody concerns. She further continued by highlighting the need for mental health treatment. Mr. Waters noted that Granville County has a large population with mental health needs, and due to the closure of a local hospital, the number of incarcerated mentally ill individuals increased.

Dr. Lugo then presented program outcomes – positive, neutral, and negative outcomes – in relation to recidivism rates. Positive outcomes were completion and graduation, neutral outcomes may include illness and transfers to another prison, and negative outcomes are removal due to disciplinary action and failure to complete the program. She highlighted that rates were generally lower for those with positive program outcomes relative to those that were negative. She noted an exception; when examining recidivist incarceration group and TDU, the positive group had a higher rate than the negative group. These individuals have serious mental illness therefore measuring outcomes as positive, neutral, and negative may not be the best way to capture success, but instead, a clinical assessment may be best suited to see a change in mental health needs. Mr. Beeler added that those with serious mental illness might be safer in a structured environment relative to being out in the community.

Dr. Lugo concluded the presentation by highlighting key findings. She noted that longer correctional job assignments generally yielded lower recidivism rates. She also emphasized prison releases with positive program outcomes compared to those with negative program outcomes generally had lower recidivism rates with the exception of TDU programs. Dr. Lugo also highlighted that SOAR had the lowest recidivism rates while TDU had the highest recidivism rates.

#### **KEY FINDINGS: FY 2021 DWI CONVICTIONS STATISTICAL REPORT**

Chairman Brown informed the Commission that due to time constraints, the report on key findings from the DWI Convictions Statistical Report would be removed from the agenda.

## **FY 2022 JUVENILE DISPOSITION DATA AND FY 2023-FY 2027 YOUTH DEVELOPMENT CENTER PROJECTION**

Chairman Brown recognized Tamara Flinchum, staff, to present on the FY 2022 Juvenile Disposition Data and the FY 2023-FY 2027 Youth Development Center (YDC) Projection (*see Handout*). Ms. Flinchum began by thanking the Juvenile Justice team at the DJJDP for providing the data and assisting throughout the projection process with questions and additional data. She reviewed the purpose of the projections and described the staff's methodology. The projections used two sources of data: the FY 2022 delinquent disposition data and the stock data (juveniles that are in a YDC on June 30, 2022). This projection cycle, the research team took into consideration the differences and commonalities in the RtA (Raise the Age) population (16 and 17-year-olds) and the non-RtA (15 and under) juvenile population in their methodological decisions. They decided to combine the two populations and run one model for this projection.

Before getting to the projections, Ms. Flinchum highlighted some of the key differences between detention centers and YDCs. Detention centers are secure temporary facilities where juveniles are held pending a hearing disposition for placement or transfer. They serve juveniles who receive a level 1 or 2 disposition that includes periods of intermittent confinement, and they provide basic education and treatment as needed and they can be funded by the state or county. YDCs are secure residential facilities for juveniles that receive a level 3 disposition. They have long-term treatment, educational and rehabilitative services and are funded by the state. As of November 15, 2022, the detention population was 291 and the YDC population was 170. Detention centers had 2,271 admissions whereas youth development centers had 132 admissions as of that same date.

Turning to the YDC projections, Ms. Flinchum explained that two factors, RtA and the COVID-19 pandemic, continue to impact the Juvenile Justice population and the projections. Looking at the number of delinquent dispositions since FY 2018, she pointed out that there was a decrease from FY 2019 to FY 2020 in the number of delinquent dispositions as a result of COVID-19 pandemic (21% decrease), but there was a 12% increase in juvenile dispositions from FY 2020 to FY 2021. Importantly, there was a 25% decrease from FY 2020 to FY 2021 for non-RtA dispositions. FY 2022 dispositions had a 4% increase and the overall composition (RtA and non-RtA populations) look similar to FY 2021. Further, she stated that compared to the same time period of first four months of FY 2022 to FY 2023, there was a 33% increase in dispositions. Next, she showed the stock population for the past 5 years on June 30<sup>th</sup> at each FY end. There was a decrease that occurred in 2020 due to the pandemic, and there was a slight recovery in 2021 and 2022, but it is still not back to the pre-pandemic levels – even with the inclusion of the RtA juveniles. Finally, she displayed the average monthly YDC population by fiscal year. While the average monthly population has increased since FY 2021 (the lowest YDC population number provided), Ms. Flinchum reported that the YDC population is still not back to pre-pandemic levels.

Before moving to the projected YDC population, Ms. Flinchum reminded the Commissioners that she had reported on the YDC projections accuracy at the September meeting. She stated that the population is projected to be 176 for FY 2023 and 196 for FY 2027; the actual population was 172 today (December 2, 2022). They are projecting sufficient capacity for each year of the projection. She noted that this year's projection is lower than last year's projection due to a lower Level 3 rate and a shorter YDC length of stay. Ms. Flinchum then reviewed the assumptions used in the projection model, including growth rates, YDC admission type, lag time, and length of stay (*see Handout*). She noted that the initial projection was too low based on the current Juvenile Justice trends and a multiplier (based on the difference in the 6-month FY 2022 dispositions) was applied to the projected numbers for each year of

the projection as a system readjustment. In conclusion, she provided the statistical characteristics of the two populations that informed the projections, the FY 2022 dispositions and the YDC population on June 30, 2022.

Mr. Beeler stated that the YDC population is declining while the detention population is increasing. He asked whether the Commission should study the nexus between leaving detention and entering or not entering a YDC. Chairman Brown stated that the Commission would be able to examine that issue better once the DAC and the DJJDP have completed the reorganization process. He shared a story of his own experience with getting a juvenile assessed while in secure custody.

#### **INSTRUCTIONS TO STAFF AND OTHER BUSINESS**

Chairman Brown thanked the staff for their presentations and reminded the members that the next full Commission meeting will be Friday, March 3, 2023.

#### **ADJOURNMENT**

Chairman Brown adjourned the meeting at 2:51 p.m.

Respectfully submitted,

Shelley Kirk  
Administrative Secretary