

**MINUTES  
NORTH CAROLINA SENTENCING AND POLICY ADVISORY  
COMMISSION MEETING**

**September 5, 2014**

The North Carolina Sentencing and Policy Advisory Commission met on Friday, September 5, 2014, at the North Carolina Judicial Center in Raleigh, North Carolina.

**Members Present:** Chairman W. Erwin Spainhour, Art Beeler, Paul Butler, Robert Campbell, Sheriff James Clemmons, Chief Scott Cunningham, Louise Davis, Honorable Richard Elmore, Honorable Robert Ervin, Honorable John Faircloth, Chris Fialko, David Guice, Ilona Kusa, Honorable Floyd McKissick, Luther Moore, Honorable Fred Morrison, Billy Sanders, Keith Shannon, Honorable Thomas Thompson.

**Guests:** Justin Allen (Extern for North Carolina Office for Administrative Hearings), Jamie Lassiter (Representative Stam's Office), Christine Leggett (Fiscal Research, General Assembly), Lisa Fox (Fiscal Research, General Assembly), John Poteat (Fiscal Research, General Assembly), William Childs (Fiscal Research, General Assembly), Tracy Little (Office of State Budget and Management), Anne Precythe (North Carolina Department of Public Safety), George Solomon (North Carolina Department of Public Safety), Nicole Sullivan (North Carolina Department of Public Safety), William Lassiter (North Carolina Department of Public Safety), Keenon James (North Carolina Sheriffs' Association), Andrew Cagle (North Carolina Sheriffs' Association), Yolanda Woodhouse (AOC Court Programs), Eric Zogry (Office of Juvenile Defender).

**Staff:** Susan Katzenelson, Ginny Hevener, John Madler, Tamara Flinchum, Michelle Hall, Mark Bodkin, Jennifer Wesoloski, and Rebecca Wood.

**INTRODUCTION**

Chairman Spainhour called the meeting to order at 10:00 a.m. He introduced new staff member Mark Bodkin. Members and visitors introduced themselves. After Chairman Spainhour reviewed the agenda for the meeting, Luther Moore moved to adopt the minutes from the June 13, 2014, meeting; the motion was seconded and carried.

**REVIEW OF THE 2014 LEGISLATIVE SESSION**

Rebecca Wood presented the Criminal and Juvenile Bills ratified during the 2014 Session of the General Assembly (*see handout*). She began by summarizing the results of the Commission's annual review of proposed legislation pursuant to G.S. 164-43. During the 2014 Session, the General Assembly enacted 7 felony provisions, 2 of which the Commission reviewed. The Commission found one provision to be consistent with the Offense Classification Criteria and the other provision to be inconsistent with the Criteria; it did not recommend an alternative offense classification for the second provision. The Commission was not able to

review the 5 remaining felony provisions in their final form because they were amended after the review date.

Ms. Wood reviewed the felony bills that created new criminal offenses, changed the elements of the existing offenses, and made changes to the classification of existing offenses. There were no bills that changed punishments this session.

Regarding House Bill 369, Criminal Law Changes, Art Beeler pointed out that the federal prison in Butner is under concurrent jurisdiction so some of the cases involving inmates with cell phones may be brought under the new offense in state court.

Ms. Wood then highlighted some of the misdemeanor bills that created new criminal offenses or changed the elements of existing offenses, or made changes to the classification of existing offenses. There were no bills that changed punishments this session.

One of the bills addressed was House Bill 1145, Registration for Mopeds. Thomas Thompson asked if a moped would be required to have a license plate and if the owner must then pay property tax on it. Ms. Wood responded that the bill does not directly address that. Senator McKissick explained that this change will help law enforcement identify a moped in case it is stolen or used in a crime. It will also allow the State to ensure that mopeds used on public streets meet certain minimum standards.

Ms. Wood reviewed several bills of interest to the Commission. Returning to House Bill 369, Ms. Wood highlighted the new conditional discharge provisions created under the bill. Judge Ervin asked if the conditional discharge could be done post-sentencing and Mr. Beeler asked if defense counsel would be able to come back after the defendant failed on probation and make a motion to place the defendant in a conditional discharge program. Ms. Wood responded that a conditional discharge was entered into at the sentencing phase, after the defendant has been found guilty or entered a guilty plea, and that the language did not address the ability to amend a judgment to allow for a conditional discharge option post plea. She pointed out that it does not create a right to a conditional discharge; it is discretionary. Senator McKissick explained that this provision was originally set up to replace deferred prosecution but that he convinced the sponsor to make it an additional option.

Robert Campbell asked if the conditional discharge statute required that the defendant be placed on supervised probation. Ms. Wood responded that it did not specify supervised probation, only that the defendant be placed on probation. Mr. Campbell then asked if the charge could be expunged as a dismissed charge if the defendant successfully completes probation. Senator McKissick responded that they did not address that issue but that he believed that was correct. Ms. Wood added that the statute requires the court to discharge the person and dismiss the proceedings against them, thereby making it a dismissed charge.

John Madler gave an overview of the relevant provisions enacted in Senate Bill 744, the Appropriations Act of 2014 (*see handout*). He mentioned several cuts as well as expansions in the Judicial Department, the Department of Justice, and the Department of Public Safety. In particular, Mr. Madler pointed out that the legislature changed the place of confinement for

misdemeanants with sentences longer than 180 days and offenders convicted of impaired driving. Beginning October 1, 2014, courts will sentence these offenders to the Statewide Misdemeanant Confinement Program (SMCP) instead of the state prison system. Under the SMCP, the offenders will be placed in those county jails that have additional beds and have volunteered to make them available to the Program. The SMCP will reimburse the jails for the costs associated with housing the offenders.

Mr. Campbell asked if these changes affected where offenders served split sentences. Mr. Madler explained that felons would serve split sentences in either a state prison or a local jail while misdemeanants would serve split sentences in a local jail.

Mr. Madler also reviewed changes the legislature made regarding the period of confinement in response to probation violations (CRV). First, the legislature appropriated funds for two CRV centers. The first one, in Burke County, should be available in October, 2014, and the second one, in Robeson County, should be available in February, 2015. Second, the legislature amended the CRV statute to require that the CRV period not be reduced by credit for time already served in the case. Any such credit should be applied to the suspended sentence. Mr. Madler pointed out that this was an issue the Commission had discussed prior to the creation of the CRV centers.

Chris Fialko asked if the legislature discussed the constitutionality of the prohibition on credit for time served against the CRV period. Mr. Madler responded that it was not discussed in any legislative meeting. Judge Spainhour pointed out that the offender would still get the credit if probation was later revoked. Commissioner Guice added that offenders serving CRVs were still on probation, their probation was not revoked.

Billy Sanders asked if that change addressed the issue of terminal CRVs. Commissioner Guice explained that terminal CRVs were a separate issue and that this change did not address it.

Mr. Beeler asked if misdemeanants who received CRVs were being placed in facilities where treatment was available. Commissioner Guice responded that they were not but that it was a small population. He added that Anne Precythe could address that question in her presentation in the afternoon. Susan Katzenelson added that the Commission has a statutory duty to evaluate the effectiveness of the elements of the Justice Reinvestment Act and that terminal CRVs would be one aspect they can study.

### **UPDATE ON CORRECTIONAL AND DELINQUENT POPULATIONS**

Ginny Hevener presented an update on correctional and delinquent populations. As part of this update, Ms. Hevener summarized the potential impact of the bills ratified during the short session. The Sentencing Commission is legislatively mandated to provide impact projections for each bill that affects criminal penalties or juvenile justice. Ms. Hevener noted that this mandate relates directly to one of the key principles of Structured Sentencing – that sentencing policies should be balanced with correctional resources. Sentencing Commission staff prepared 17 impact projections during the session. The impact projections include an estimate of the number of prison beds (criminal justice) or youth development center beds (juvenile justice) affected by the

proposed bill. Depending on the availability of data relating to the proposed change, the impact projections are produced either by using the Commission's computerized simulation model (information available) or using threshold estimates for each offense class (no information available). A threshold estimate is a projection that is based on the number of convictions that it would take to create the need for one additional prison bed in the first year. During the legislative session, a total of 6 felony offenses and 15 misdemeanor offenses were created; 1 felony offense was reclassified. Ms. Hevener stated that there are no hard numbers on the prison impact of the criminal bills from this past session because the majority of changes involved the creation of new offenses for which no historical data are available. The greatest potential for prison impact from this legislative session comes from the provisions in the budget bill that change the confinement location for misdemeanants and DWI offenders from prison to local jails through the Statewide Misdemeanant Confinement Program.

Ms. Hevener continued with an update on the prison population (*see* attached handout). The projections were developed using FY 2013 data on convictions and sentences imposed, along with data on all offenders in prison at the beginning of the projection period. Ms. Hevener reminded Commissioners that FY 2013 is the first full year of data since the provisions of the Justice Reinvestment Act (JRA) went into effect and, as a result, are not necessarily representative of future practices. The average prison population for June 2014 was 37,731 compared to the projected population of 37,679 (a difference of less than 1%). The prison population is currently lower than prison capacity, with this trend projected to continue based on current data. Ms. Hevener noted that the current projections for June 2015 through June 2023 do not take into account the change in confinement location for the misdemeanants and DWI offenders previously discussed, but that the new projections, which should be completed in time for the long session, would.

Ms. Hevener also reviewed a graph depicting prison population trends from July 2003 through July 2014. After years of growth, the prison population growth slowed as a result of decreases in criminal justice trends (such as arrests and convictions) and then declined further with changes to the felony punishment chart, with the most significant declines coming with the enactment of the JRA. The prison population is currently around 2006 levels. Another decline in the prison population is expected with misdemeanants and DWI offenders no longer going to prison, but to the Statewide Misdemeanant Confinement Program.

Judge Erwin asked what the prison population was in December 2011. Ms. Hevener responded she would get that information over the meeting break. After lunch, she reported that the average population was 39,954 for that time period. Commissioner Guice reminded Commissioners that in 2009 56% of new admissions to prison were for technical violators. He also mentioned that in 2011 the Statewide Misdemeanant Confinement Program population was estimated at 1,400 but actual population has been between 600 and 800, that locally people started sentencing people differently. Susan Katzenelson added that the projections are updated annually because of changes in policies and practices, that if the model and data are not updated then the projections will be incorrect. Art Beeler asked about the frequency of CRVs for post-release supervision. Ms. Hevener noted that the most recent information available was from the 2014 JRA report and would be updated for the next report. The PRS population has increased as

a result of the expansion to the lower offense classes, such as Class H and I felons. Paul Butler responded that they are doing about 12 violations per week.

Ms. Hevener also presented an update on the youth development center population (*see* attached handout). This population contains all adjudicated juveniles with a level 3 disposition – whether in a youth development center (YDC), awaiting placement in an YDC, or a community-based placement. The projections were developed using data on delinquent dispositions from FY 2013 and data on the juveniles who were committed to a YDC as of July 1, 2013. The projection for the end of FY 2014 is 251, and remains stable over the five-year projection. Ms. Hevener reviewed a graph depicting YDC population trends from July 2005 through July 2014. Like the adult prison population, the YDC population has also been decreasing over the past few years as the result of similar population and juvenile justice trends. The projected YDC population for June 2014 was 251 compared to the actual average population of 243, a difference of 8 or 3%. Staff has started working with the Department of Public Safety on the next projections and hopes to have updated projections by the end of this year.

### **RESEARCH BRIEFS**

Ginny Hevener mentioned that the research team had recently completed several short papers that they will be presenting today. These publications are intended as supplements to our mandates reports, as a way to provide more information that may be of interest to the Commission, other state agencies, researchers, and the general public.

Tamara Flinchum presented findings from two research briefs using data from the 2012 and 2014 recidivism studies. Commissioners were given a copy of both briefs. The first brief, titled Increase in Misdemeanor Fingerprinted Arrests, provided updated recidivist arrest and conviction rates for the sample published in the 2012 study. Ms. Flinchum reported that the recidivism rates for NC have been very stable; however, a significant increase occurred for rearrest rates beginning with the 2012 study. The primary explanation for the increase points to changes in reporting practices by law enforcement agencies. The use of automated fingerprint technology has led to a greater number of misdemeanor arrests being fingerprinted. As a result of this technology, a more accurate and higher rate of misdemeanor arrests are now reported, which in turn increased the number and proportion of offenders who are categorized as “recidivists” in the Commission’s recidivism studies. This recidivism increase was due to policy changes in fingerprinting arrests – not due to changes in criminal behavior – so if any policy changes occur to fingerprinted arrests in the future, it can affect the recidivism numbers by either increasing or decreasing them. In an effort to report misdemeanor recidivist arrests consistently across the state in the 2012 recidivism study, Class 2 and 3 misdemeanors were *excluded* from the analysis. Ms. Flinchum explained that the methodological change occurred prior to the realization that more law enforcement agencies were fingerprinting more misdemeanor arrests. The brief provides prior and recidivist arrest rates and recidivist conviction rates with the Class 2 and Class 3 misdemeanors *included* for the sample from the 2012 study. The rearrest rate during the two-year follow-up increased from 36% to 39% by including the Class 2 and 3 misdemeanors.

Robert Campbell inquired if the AOC’s court data entered by the clerks could be used instead of fingerprinted arrest data for reporting recidivism. Ms. Hevener responded that the

AOC's automated system is case-based and does not have person-based identifiers, so staff use arrest records for reporting recidivism.

Ms. Flinchum also presented findings from the second brief, Correctional Programs and Recidivism for Prison Releases, which provided recidivism rates for prison releases who participated in correctional or prison programs from the 2012 and 2014 recidivism studies. Ms. Flinchum reported that prisoners' participation in a program could have occurred at any time during their incarceration. In addition, prisoners could have participated in more than one program. Six correctional or prison programs were examined: Alcohol and Chemical Dependency Programs (which included only short-term and intermediate treatment programs), Correction Enterprises, Correctional (or Academic) Education (*e.g.*, GED), SOAR (*i.e.*, Sex Offender Accountability and Responsibility program), Vocational Education, and Work Release. Fifty-seven percent of the prisoners participated in one or more of the six programs. Of those prisoners who participated in the six prison programs examined, 51% participated in only one program. The rearrest rates for the prisoners in the 2014 study who participated in a prison program were marginally higher compared to the participants in a prison program in the 2012 study. However, the reincarceration rates were lower for the prisoners who participated in a program in the 2014 study compared to the 2012 findings. The drop in reincarceration rates is due to laws and policies implemented with the passage of Justice Reinvestment.

The Chairman asked for a description of the Correction Enterprises program. Several Commissioners responded to his request by offering explanations to this self-supporting prison industry program. David Guice offered to provide additional information about the program to staff for dissemination to the Commission members. Finally, Art Beeler wanted to know if recidivism rates for prisoners who did not complete a prison program or who did not participate in a prison program were available. Staff informed Mr. Beeler that the recidivism rates for all prisoners were available in the 2012 and 2014 reports.

Jennifer Wesoloski presented the results of the Multivariate Analysis Research Brief. A copy of the full research brief and a handout with the summarized results of the multivariate recidivist arrest model were provided. Ms. Wesoloski explained that the brief was based on the same data used in the 2014 Correctional Program Evaluation. After defining multivariate analysis and its uses, a summary of the results for recidivist arrests was presented. Ms. Wesoloski focused on the results for all offenders, highlighting additional information specific to probation entries and prison releases.

For all offenders, personal characteristics that increased the probability of rearrest included being male, nonwhite, a high school dropout, and having a history of drug addiction. Criminal history factors associated with an increased chance of rearrest included being older at first criminal justice contact, the number of prior arrests, having a prior drug arrest, and the number of prior probation revocations. An increase in severity of current sentence also increased the probability of rearrest; offenders with an intermediate punishment or active sentence were more likely to have a recidivist arrest than offenders with a community punishment. Factors decreasing the probability of rearrest for all offenders included being older at entry into the sample, being married, being employed, the number of prior incarcerations, and having a felony offense compared to having a misdemeanor offense.

Findings for probation entries and prison releases were similar to all offenders with few variations. Variables specific to probation entries that decreased the probability of rearrest included having an intermediate punishment compared to a community punishment, the length of probation supervision, and having a lower need level. Having a higher OTI risk score increased the probability of recidivist arrest. Variables specific to prison releases that increased the probability of rearrest included having a higher OTI risk score and having a higher number of prison infractions. Prisoners who had a longer time served were less likely to have a recidivist arrest, as were those who had a lower custody classification level while incarcerated.

In response to Judge Ervin's question as to why having an increased number of prior incarcerations would decrease the likelihood of rearrest, Susan Katzenelson suggested that one possible explanation was that long-term incarcerations are generally associated with higher risk offenders convicted of serious crimes who may not have the opportunity to accrue as many incarcerations as low level, lower-risk offenders. Ginny Hevener stated that as the offender ages, he/she could have more incarcerations, but at some point, aging out of the system occurs. Ms. Wesoloski stated that offenders aged 50 and older were 42% less likely to be rearrested than offenders under the age of 21, a recurring theme in the criminal justice literature. Mr. Fialko asked if we could use different age categories for our analyses. Ms. Wesoloski responded that different age categories could be used. Ms. Hevener added that the current categorization is based on the definition of youthful offenders used to determine prison housing needs.

The Chairman recognized Michelle Hall for the final presentation on research briefs. Ms. Hall explained to Commissioners that they had two documents in their packet which were part of a new publication series titled *Quick Facts* (see handouts). The purpose of the new publication series is to have an easily digestible, short document (one page, double-sided) that presents some of the Commission's data in a way that can reach a broad audience. She noted that the Quick Facts publications are designed as primarily web-based publications, housed on the Commission's website. Staff envision they will include highlights and major findings from research included in published reports and in-depth studies on specific topics.

The first two topics covered in the Quick Facts publication series are Felony and Misdemeanor Convictions. She noted that the data contained in the two handouts come from the annual *Structured Sentencing Statistical Reports on Felonies and Misdemeanors*. The front side of the Felony Convictions Quick Facts document highlights basic information about the FY 2012/13 data including offense class distribution, type of offense, offender characteristics, prior record level distribution, judicial division, and punishment. The back of the document contains felony conviction trend data that are not published as part of the annual Statistical Report. Trend data from the past ten fiscal years on felony convictions included total felony convictions, type of offense, type of punishment, and average minimum active sentence. Ms. Hall pointed out that this format allows readers to look at some of the major trends in court data, specifically felony convictions, and how they have changed over time.

Ms. Hall then turned to the Quick Facts handout on Misdemeanor Convictions. She noted that it contains similar data to the felony convictions document. Misdemeanor conviction data for FY 2012/13 highlighted on the front of the handout includes: offense class, type of offense,

offender characteristics, prior conviction level distribution; top misdemeanor convictions by offense class, and punishment. The back of the document contains trend data for the past ten fiscal years on misdemeanor convictions: total misdemeanor convictions; type of offense; type of punishment; and average active sentence. Ms. Hall concluded by stating that the publications should be up on the Commission's website next week.

Judge Spainhour asked if the number of driving while impaired (DWI) convictions was known. Ms. Hall responded that the DWI convictions were excluded from the analysis because they are not sentenced under Structured Sentencing. She then noted that the same exclusions used in the annual Statistical Reports apply also to the Quick Facts publications (*e.g.*, drug trafficking convictions are excluded from the felony conviction data, DWI convictions are excluded from the misdemeanor conviction data).

Billy Sanders asked if credit for time served information was available for the felony sentences. Ginny Hevener responded that it is but it is not included in the report.

Chris Fialko asked how many misdemeanor active sentences were for time served. Ms. Hevener replied that this happens a lot for misdemeanants but would require further analysis of the data for firm numbers.

### **AGENCY UPDATES**

Chairman Spainhour recognized Anne Precythe, Nicole Sullivan, and George Solomon, from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, to give an update on the development of CRV Centers in North Carolina. Ms. Precythe informed the Commission that the General Assembly appropriated funds for two CRV Centers, one in Burke County and another in Robeson County. Currently, the Division of Adult Correction (DAC) is focusing on developing the center in Burke County; the center in Robeson County can be modeled after the Burke County center. Once DAC has gotten the Burke and Robeson sites operational, they will turn their attention to setting up a center for female offenders. Ms. Precythe reminded the Commission that CRV centers are a new venture, they are a hybrid – they are not prison, but are confinement; not community supervision, but do draw on the programming, case management and supervision techniques used in community supervision.

Ms. Precythe stated that Community Corrections has eight workgroups focused on getting the CRV centers up and running. The first workgroup, Job Descriptions & Training Recommendations, is working to make sure the centers are staffed correctly. The second group, Transportation, Population Management & Admissions Processing, is defining the parameters for how Community Corrections will account for offenders around-the-clock and make sure their daily needs are being met. Ms. Precythe mentioned that the CRV center idea is so new that DAC is not even sure what to call the program participants – residents, offenders, or participants? The third workgroup, Programming, is contracting with a particular vendor for CBI and SA programs; DAC will build its own programming around those programs. Nicole Sullivan told the Commission that they will be providing employment readiness and life skills programs and hope to be working with the surrounding communities to help keep the offenders connected to the



community. Once the programming is finalized, they will be able to begin staffing the CRV centers.

Ms. Precythe told the Commission that the fourth piece, the Automation workgroup, is what will really make the CRV centers work. The program vendor will have access to the Offender Population Unified System (OPUS) and Program Information Management System (PIMS), and probation officers will be able to pick-up where the CRV center left-off with an offender since they will be able to see what the offender has been doing while in the CRV center. Judge Ervin asked Ms. Precythe when DAC expects to begin receiving offenders in the CRV centers; she replied that Commissioner Guice says it will be October, she thinks it will be November, so she hopes it will be somewhere in the middle. Technically, funding will be available October 1, 2014, for the first center. Chairman Spainhour asked where the facility will be located in Burke County. Ms. Precythe explained that it will be located in the minimum custody facility near the old Western Youth Institution; this building was previously used for the IMPACT Program.

Regarding the fifth workgroup, Food & Medical Services, Ms. Precythe expressed confidence that they will be able to use existing food services. In Burke County, the Foothills Correctional Institution is across the parking lot and Community Corrections can utilize that facility's food, medical, and maintenance services. Judge Ervin asked about the projected capacity of the CRV centers. Ms. Sullivan answered that there will be a total capacity of 500 beds. George Solomon expanded on that saying that there will be 236 beds in Burke and 246 in Robeson. He added that there will be 90-100 beds at a female center. Art Beeler asked about the delay in processing offenders off-site, to which Mr. Solomon responded that it is Community Corrections' intention to process the offenders on-site so that they can get started in programming immediately. He added that they hope to get intake down to three days. Judge Spainhour asked about the factors considered in assigning offenders to a center; specifically, whether offenders will be sent to the closest center. Ms. Precythe said that once both centers are open, offenders will be sent to the closest one. Research shows offenders are more successful if families can be involved in their lives. Community Corrections hopes to open a center in the central part of the state eventually, too. Secretary Guice reminded the Commission that legislation passed that allows DAC to open closed facilities for CRV centers and, since he believes that Burke and Robeson centers will be close to capacity from the start, DAC is already looking at other facilities for CRV centers. He believes that DAC will be able to get those facilities running quickly if Community Corrections can find the funds.

Mr. Sanders asked how Community Corrections will determine whether an offender has successfully completed a CRV; will they get gain-time or sentencing credits for successful completion? Ms. Sullivan responded that they will have pre- and post-testing and assessments; no sentencing credits will be applied, but there will be incentives related to supervision. Mr. Sanders reminded the representatives from DAC that typically there is some sort of gain-time for successful completion of programs in prison. Secretary Guice appreciated the comment and suggested that maybe they could put a policy in place that they make a recommendation to the court that it considers the successful completion. Further, Secretary Guice stated that he would like to explore credits, but has no plan in place for that now.

Mr. Beeler recommended that the DAC put video conferencing equipment into each facility for visitations. Ms. Precythe responded that there will be a kiosk for video visitation and Ms. Sullivan stated that offenders will be able to “earn” visitation through good behavior; this is a departure from the current practice of not allowing visitation during a CRV.

The sixth workgroup, Security, has been focusing on the security process for staff and for the facility as a whole. The members of the sixth workgroup have been defining training procedures for the staff at the CRV centers since the culture will be much different than that in prisons and jails. In jails and prisons, Ms. Precythe said, there is a custody side and a programs side, and in the CRV centers, they will have a blended role. The staff in the CRV centers will not be correctional officers, but rather program managers trained in corrections. Sheriff Clemmons asked whether the CRV centers will work with local law enforcement to make sure those officers understand their role in this new environment, especially when there is an emergency. Ms. Precythe responded that the plan is to engage all the local stakeholders to make sure they understand the purpose and intent of these new facilities. Mr. Solomon echoed Ms. Precythe’s comment, stating that DAC’s standing policy is to make emergency plans with local stakeholders for every facility, and that policy would apply to the CRV centers as well. Mr. Beeler remarked that DAC is basically creating a rehabilitation center similar to those built in the 1950’s and 60’s; he stated that there might be some helpful literature available on the processes of building those centers.

The seventh workgroup, Auxiliary Operational Support Services, has been considering topics such as whether offenders will wear uniforms or street clothes, whether DAC will clean the clothes, how often the clothes will be cleaned, etc. The workgroup has decided on one uniform for the residents and one for the staff. Ms. Precythe said that the workgroup has also been considering whether and how offenders in CRV centers might contribute to and be engaged in their facility, such as through food service, laundry, or janitorial services. Ms. Sullivan echoed Ms. Precythe’s comments and said that the workgroup has been trying to come up with a robust rewards/incentives program. Sheriff Clemmons and Mr. Sanders expressed that the offenders will need incentives to get them to do those “chores.” Members of the Commission made suggestions for what those incentives might be; they recommended special food, sports channels on TV, exercise rooms, tablets, and a reward system similar to that of TROSA. Mr. Beeler asked Ms. Sullivan whether they intend to teach the offenders how to manage leisure time; she responded that they will. Ms. Kusa asked whether there would be mandatory anger management programming. Ms. Sullivan responded that that is part of CBI programming; Ms. Precythe reiterated that all the programming in the CRV centers will be mandatory, as opposed to prison where offenders might refuse to participate. She added that there will be plans for dealing with offenders who refuse to participate. Mr. Solomon stated that the staff will be modeling expectations so that offenders know that DAC is trying to grow them as persons, so that they will not return to the system; he really believes that we will see a team effort from the staff and the participants in the CRV centers. Secretary Guice reminded the Commission that CRV’s are being considered as a new approach across the nation, and that they will require some adjustments down the road. Ms. Kusa remarked that DAC must work to make these offenders realize they are a part of a community, and change the way they interact with other members of society. Ms. Precythe concluded by stating that the eighth group is the Policy workgroup.

Ms. Precythe shared the results of a recent DAC study of quick-dips. They looked at approximately 600 offenders, 300 of whom had a quick-dip compared to 300 who did not. The study showed that 92% of people that had a quick-dip had some type of positive experience following that dip; only 46% of people who did not receive a quick-dip had a subsequent positive experience. In addition, not a lot of the offenders had a second quick-dip. Ms. Precythe stated that the DAC will also be looking at offenders who receive one CRV versus offenders who receive subsequent CRVs. So far, they have found that less than 10% of the offenders who receive CRVs are low risk offenders; 65% of them are high risk offenders.

Returning to CRVs, Mr. Beeler asked what kind of programming is available for misdemeanor CRVs in jails. Ms. Precythe responded that the DAC has not begun assisting jails with that yet. One issue Ms. Precythe pointed out that exists regarding misdemeanor CRV programming is that the jails do not have the space for that; Mr. Beeler agreed and added that they lack staff as well. Mr. Beeler suggested that if there is not decent CBI programming for the misdemeanor CRV, then maybe there should not be a misdemeanor program.

Chairman Spainhour next called on Keenon James of the N.C. Sheriffs' Association to update the Commission on the Statewide Misdemeanant Confinement Program. Mr. James reminded the Commission that the SMCP was originally designed for misdemeanants sentenced to 91 to 180 days imprisonment. Beginning October 1, 2014, the population will be expanded to include all misdemeanants serving sentences of 91 days and up, and in January 2015, DWI offenders will be included in the SMCP. He stated that the SMCP is ready to accept the 180 day plus misdemeanants now; they are expecting that to produce an increase in the average daily population of approximately 250 offenders. The DWI offenders begin arriving in January and they project an additional 500 inmates in the program. Currently, the SMCP sees an average daily population of 680 inmates, with the additional inmates the projected daily population of the SMCP should be approximately 1400 offenders. Personnel and the system are ready for the increase as there are 1332 male beds available and 336 female beds available. Unfortunately, court forms have not yet been revised, but should be ready by the beginning of the year. Currently, all counties in the state are sending counties to the program and 52 counties receive inmates. SMCP training is held every year in September, and they hope to get full 100 county participation in the near future; training is required for receiving counties. The 2014 training will include information on the expected influx of offenders to the SMCP.

Judge Ervin asked Mr. James about the Sheriffs' Association preparations for DWI offenders entering the SMCP and the treatment programs that will be available for those offenders. Mr. James responded that preparations for taking DWI offenders include records management, as paperwork must go to the receiving jail and to OPUS for the Post Release Supervision and Parole Commission. Further, he said, the SMCP is continuing to evaluate substance abuse programming: DART Cherry and Black Mountain are being considered as options for parole eligible offenders, the Sheriffs' Association is looking at available services providers and their costs, and possibly working with larger jails that already have substance abuse programming. Mr. James said that a major hurdle is the existing programming for DWI offenders is often set to run for a longer time than the offender's sentence; Mr. Beeler thanked Mr. James for considering that issue and reminded him that too much programming can be deleterious to treatment.

Representative Faircloth asked about transportation for the new offenders. Mr. James responded that they will be using the existing infrastructure, the sending county will be reimbursed for transportation costs. They are also looking at prison transportation for offenders sent to DART Cherry and Black Mountain. Another option, Mr. James said, is housing DWI offenders in regions; they are looking at 10 to 12 counties that already have DWI programs. Mr. James stated that they still have things to do, including developing an admission process for parole-eligible DWI offenders, putting together training materials, evaluating substance abuse services, working on data integration with DPS, and establishing a system for insuring uniformity in credits. Mr. Beeler asked whether the SMCP has considered video programming from community colleges; Mr. James replied that they do not have such programming yet. Susan Katzenelson asked about the balance of beds calculation and whether there is any concern that receiving counties will stop volunteering. Mr. James responded that over the last few years, the SMCP has seen receiving county numbers go up, and he believes that in the future the beds may shift but the total number will not go down. Mr. James concluded his presentation stating that the two biggest areas of focus with regard to the DWI offenders are uniformity of programming and sentence credit application, but he feels confident that the program will be ready to go in advance of January 1, 2015. He reiterated that the SMCP is ready to receive the new misdemeanor population beginning October 1, 2014.

Finally, Chairman Spainhour recognized Billy Lassiter from the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, who updated the Commission on the juvenile justice aspects. He provided the commissioners with a copy of the DACJJ Strategic Plan (*see handout*) which he referenced during his presentation. Mr. Lassiter highlighted some numbers from the Strategic Plan; for example, he said admissions to Youth Development Centers (YDC's) are down by 73% over the last 12 years. He reminded the Commission that juveniles entering YDC's are felons and chronic offenders (5 or more misdemeanors), and then directed them to the glossary of terms included in the Strategic Plan. Mr. Lassiter stated that DACJJ has been working over the last five years with communities, judges, and court counselors, to come up with alternatives to detention for juveniles. North Carolina now has one of the lowest rates of detention for juveniles; the reduction in this number has resulted in a huge cost savings to the state. The juvenile crime rate is down almost 20% over the last four years. DACJJ is reinvesting in communities so that they can support their juvenile population.

Mr. Lassiter also talked about the future of DACJJ; he stated that the Strategic Plan was adopted by the General Assembly this year, and highlighted some of the themes of that plan. For instance, Mr. Lassiter pointed out, the Plan provides for a transfer of money originally earmarked for the Dobbs Center kitchen to other DACJJ projects, including facilities, opening reentry homes (5 statewide), crisis beds, mandatory parenting classes for parents of committed youths, and other reentry services. The reentry home project was piloted in Craven County; it has been open for three years and has a recidivism rate of 14% (compared to 60% for juveniles coming out of YDCs). Juveniles housed in the reentry home are employed, enrolled in community college, and are given a support system in the community. Ms. Davis asked Mr. Lassiter whether any kids have sabotaged their stay at the reentry home in an effort to not be sent home. Mr. Lassiter responded that that has not happened because the juveniles are not required to return to

their parents' house after being released from the reentry home; they are transitioned to independent living.

Chairman Spainhour informed the members that the next full Commission meeting is scheduled for December 5, 2014.

The meeting adjourned at 2:35 p.m.

Respectfully submitted,

Susan Katzenelson  
Executive Director