

# **NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION**

## **CURRENT POPULATION PROJECTIONS** *FISCAL YEAR 2010/11 to FISCAL YEAR 2019/20*

**Prepared in Conjunction with the  
North Carolina Department of Correction's Office of Research and Planning**

*RELEASED: JANUARY 2011*

### **INTRODUCTION**

North Carolina General Statute §164-40 sets forth the North Carolina Sentencing and Policy Advisory Commission's original mandate to develop a computerized simulation model to be used to prepare prison population projections. The projections are prepared on an annual basis and are used to help determine long-term resource needs.

The prison population projections contained herein were completed in two parts. The Sentencing Commission prepared prison population projections for all offenders sentenced on or after July 1, 2010 (new population). The Department of Correction prepared projections for all offenders in prison as of June 30, 2010 (resident prison population). The final combined projections take into account the decline of the resident prison population (Structured Sentencing Act releases, Fair Sentencing Act releases, and pre-Fair Sentencing Act releases) and the buildup of the new inmate population (new sentences, probation revocations, post-release supervision revocations, and parole revocations). Added to these figures is the estimated number of "safekeepers" and DWI offenders held in the state prison system.

### **ASSUMPTIONS AND RELEVANT CHANGES**

The projections are based on the following assumptions that were determined using data from the most recent fiscal year (FY 2009/10):

- By using the most recent empirical data, the projection accounts for changes in criminal justice trends (arrests, court filings, dispositions, and convictions) that occur from year to year. The projection assumes that criminal justice policies and practices from the past year will continue throughout the projection period.
- The distribution of prison admissions resulting from Active sentences for a new conviction and resulting from technical revocations of probation (i.e., not revocations due to new arrests) will match the distribution during FY 2009/10. While 59% of all felony admissions to prison in FY 2009/10 resulted from Active sentences for a new conviction, 41% of the felony admissions resulted from technical revocations of probation. In FY 2009/10, 44% of all misdemeanor admissions to prison resulted from Active sentences for a new conviction and 56% of the misdemeanor admissions resulted from technical revocations of probation.

- Rates of Active sentences for new felony convictions will match rates during FY 2009/10 for all offenders. Overall, 40% of felons received an Active sentence, with an average estimated time served of 35 months. These rates assume no changes in judicial or prosecutorial behavior regarding convictions and sentencing.
- Probation revocation rates for technical violations of supervision will match rates during FY 2009/10. The median lag-time between the imposition of a probation sentence and revocation to prison for a technical violation was 15 months for felons and 10 months for misdemeanants.
- Post-release supervision revocation rates for technical violations of supervision will match rates during FY 2009/10.<sup>1</sup> The median lag-time between release from prison onto post-release supervision and revocation to prison for a technical violation was 7 months.
- On average, all Structured Sentencing Act (SSA) felons will serve 110% of their minimum Active sentences (the average percentage served by SSA felons released from prison during FY 2009/10).<sup>2</sup> The percentage of sentence served varies by offense class with prisoners in the more serious offense classes serving a lower percentage of their maximum sentence since they have the potential to accrue more earned time due to their longer sentence lengths (e.g., 102% for Class C, 114% for Class I).
- On average, all SSA misdemeanants will serve 96% of their Active sentences (the average percentage served by SSA misdemeanants released from prison during FY 2009/10).
- Prison population projections continue to be affected by parole practices due to the number of Fair Sentencing Act (FSA) and pre-FSA offenders currently in prison. On November 30, 2010, there were 2,884 FSA and pre-FSA offenders in prison (including 1,994 with life sentences and 69 with death sentences), representing about 7% of the state's inmates. The projections assume that all FSA and pre-FSA prisoners will serve the average percentage of sentence imposed that was served by FSA and pre-FSA prisoners released in FY 2009/10 and that parole revocation rates will match FY 2009/10 rates.
- The Sentencing Commission's *Forecasting Advisory Group* adjusted the projected growth rates for felony and misdemeanor convictions downward based on a decrease in the rate of growth for North Carolina's population (particularly for males ages 16 – 24, the group most likely to be arrested) and decreases in arrests, filings, dispositions, and convictions.<sup>3</sup>

---

<sup>1</sup> Under Structured Sentencing, prisoners released with a most serious offense for Class B1 through Class E felonies are released on post-release supervision for a period of nine months, with the exception of sex offenders who are supervised for five years.

<sup>2</sup> For Classes B1 through E, the maximum sentence length is set at 120% of the minimum sentence length rounded to the next highest month plus an additional nine months for post-release supervision. For Classes F through I, the maximum sentence length is set at 120% of the minimum sentence length rounded to the next highest month.

<sup>3</sup> The *Forecasting Advisory Group* convenes annually and consists of representatives from the Sentencing Commission, Administrative Office of the Courts, Conference of District Attorneys, Office of Indigent Defense Services, Department of Correction, Department of Juvenile Justice and Delinquency Prevention, State Bureau of Investigation, Governor's Crime Commission, Office of State Budget and Management, School of Government, and

<u>Time Period</u>	<i>Felony Convictions</i>		<i>Misdemeanor Convictions</i>	
	<u>Previous Growth Rate</u>	<u>Current Growth Rate</u>	<u>Previous Growth Rate</u>	<u>Current Growth Rate</u>
FY 2010/11	2%	0%	1%	-1%
FY 2011/12	2%	0%	1%	-1%
FY 2012/13	2%	1%	1%	0%
FY 2013/14	2%	1%	1%	0%
FY 2014/15	2%	2%	1%	1%

- When possible, the projection accounts for impact from legislative changes to criminal penalties. The current projection does not account for most legislative changes to criminal penalties from the past legislative session since the legislative changes either created new offenses for which there are no historical data or amended penalties for existing offenses with elements that could not be modeled. The projection does account for changes to the minimum sentence lengths and prior record point distributions in the felony punishment chart that were passed during the 2009 Session of the General Assembly.<sup>4</sup>

## **PRISON POPULATION PROJECTIONS**

### **Prison Population and Capacity**

Table 1 and Figure 1 present the projected prison population and capacity for FY 2010/11 through FY 2019/20. Updated prison capacity projections were provided by the Department of Correction’s Division of Prisons.

As shown in Table 1, the prison population is projected to increase from 41,811 in June 2011 to 44,840 by June 2020. A comparison of the projected prison population with prison capacity indicates that the projected prison population will exceed prison capacity for all ten years of the projection. The difference between the projected prison population and capacity is 1,747 for 2011 and 2,916 for 2020 (see Table 1).

---

Fiscal Research Division of the General Assembly. The group forecasts growth rates after reviewing demographic trends, crime trends, arrest trends, court filing and disposition trends, and prison entry and exit trends.

<sup>4</sup> Session Law 2009-556 (SB 488/Establish Proportionate Sentence Lengths) changes the felony punishment chart to make the increase in sentence lengths between prior record levels more proportionate using set percentage (15%) increments. The current sentence lengths in Prior Record Level I in each offense class remain unchanged, serving as an anchor, while the sentence lengths between each subsequent prior record level are increased by 15% in all classes except Classes H and I, which also remain unchanged. Session Law 2009-555 (SB 489/Even Out Prior Criminal Record Points) changes the felony punishment chart by restructuring the prior record level point ranges in order to expand the points in Prior Record Level I and to even out the remaining ranges. Prior Record Level I is expanded to include up to one prior record point. Prior Record Levels II through V are changed to cover four points each. The new felony punishment chart that results from these changes is effective for offenses committed on or after December 1, 2009.

**NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION**

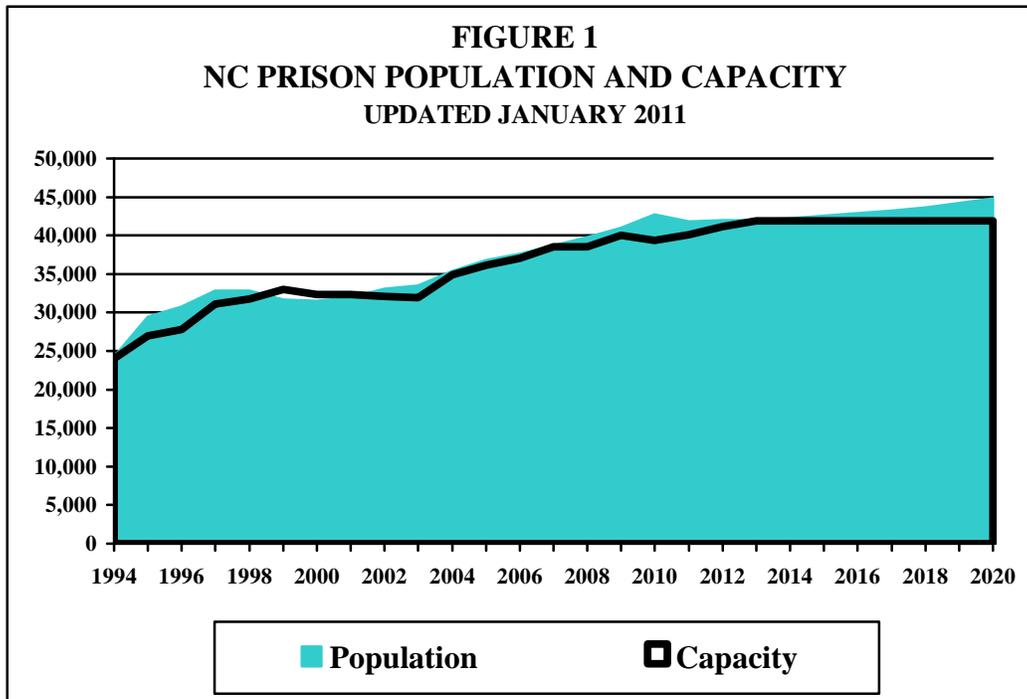
**TABLE 1  
PRISON POPULATION PROJECTIONS AND CAPACITY:<sup>5,6</sup>  
UPDATED JANUARY 2011**

**Prepared in Conjunction with the  
North Carolina Department of Correction's Office of Research and Planning**

<b>Fiscal Year</b>	<b>Previous Projection as of June 30</b>	<b>Current Projection as of June 30</b>	<b>Estimate of Expanded Operating Prison Capacity</b>	<b>Difference Between Current Projection and EOC</b>
<b>2010/11</b>	44,147	41,811	40,064	-1,747
<b>2011/12</b>	45,114	41,987	41,168	-819
<b>2012/13</b>	45,922	42,013	41,924	-89
<b>2013/14</b>	46,914	42,267	41,924	-343
<b>2014/15</b>	47,806	42,562	41,924	-638
<b>2015/16</b>	48,527	42,898	41,924	-974
<b>2016/17</b>	49,253	43,220	41,924	-1,296
<b>2017/18</b>	50,029	43,664	41,924	-1,740
<b>2018/19</b>	50,829	44,208	41,924	-2,284
<b>2019/20</b>	N/A	44,840	41,924	-2,916

<sup>5</sup> Standard Operating Capacity (SOC) is the number of single cells with one inmate per cell plus the number of inmates who can be housed in dormitories by dividing the gross square feet of each dormitory by 50 square feet and rounding to the closest double bunk configuration. The Department of Correction's estimate of SOC is 34,342 for June 2011, 35,214 for June 2012, and 35,796 for June 2013 through June 2020. Expanded Operating Capacity (EOC) is the number of inmates housed in dormitories that operate at varying percentages (not to exceed 130%) beyond their SOC, plus the number of single cells with one inmate per cell, plus the number of single cells that house two inmates per cell.

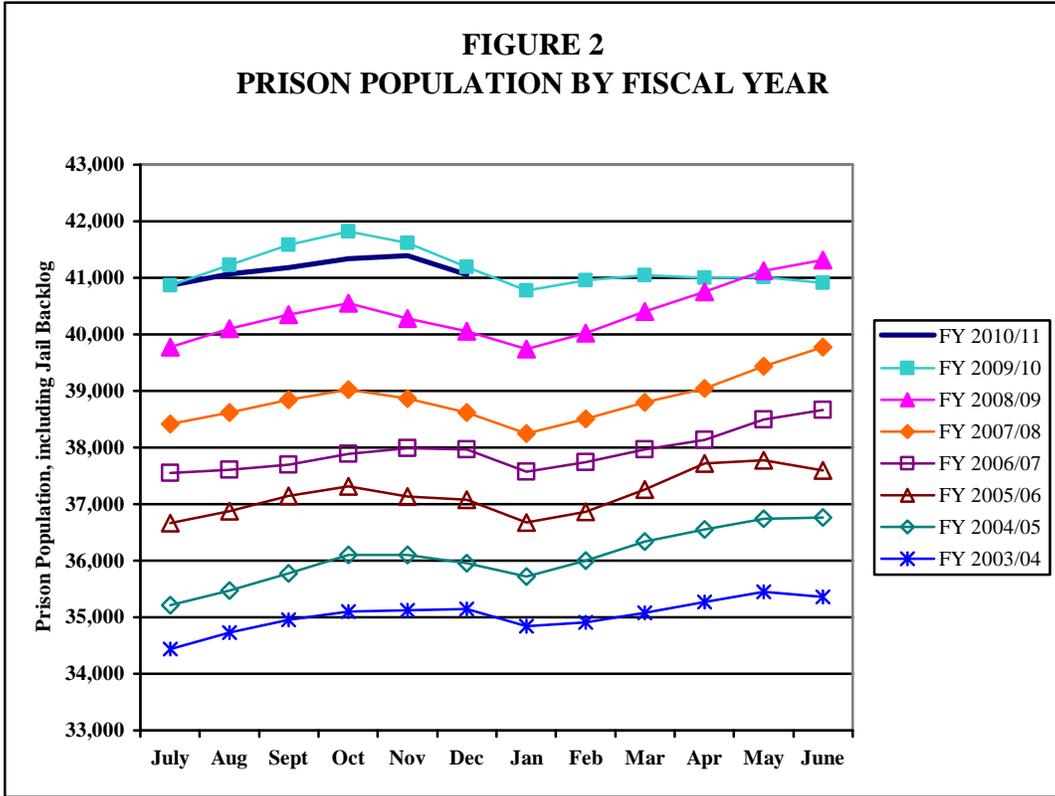
<sup>6</sup> Changes in the June 30, 2011, EOC and SOC capacity estimates are due to adjustments to the 2010 base amount resulting from a technical correction to McCain CH EOC and SOC counts (60 beds), the elimination of 332 Pamlico CI double cell beds (EOC only) due to unresolved issues relating to the county's wastewater capacity, the transfer of 116 beds from regular population to segregation, a technical correction to Tabor CI EOC from 1,396 to 1,402, completion of a portion of Phase 2 expansion at Swannanoa CC for Women (96 beds), 252-bed minimum custody expansions at Scotland CI and Alexander CI, and the addition of 10 beds at the Center for Community Transitions, effective December 2010. The increases in funded capacity for 2012 include final completion of Phase 2 expansion at Swannanoa CC for Women (96 beds) and 504-bed medium custody expansions at Bertie CI and Lanesboro CI. The increases in funded capacity for 2013 include the 504-bed medium custody expansion at Maury CI and the 252-bed minimum custody expansion at Tabor CI.



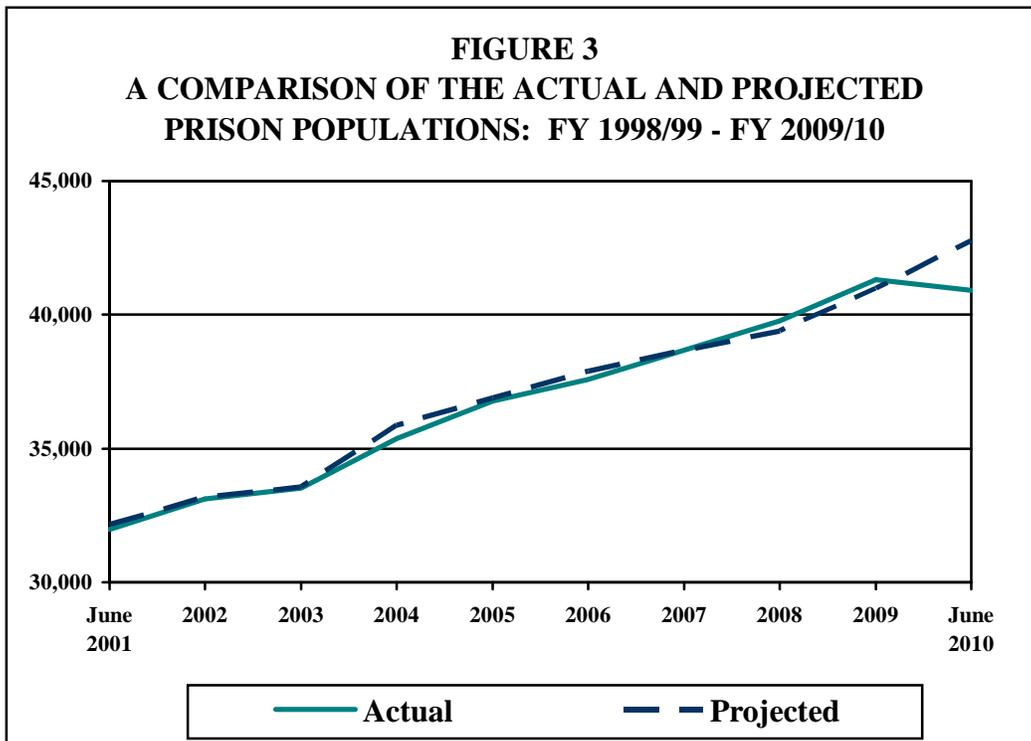
Note: Population figures reflect actual prison population for 1994-2010 and projected prison population for 2011-2020. Prison capacity figures reflect Expanded Operating Capacity.

The prison population projections represent a substantial decrease from last year’s projections. While the current decline in the prison population cannot be attributed to a single factor, contributing factors include changes in demographic and crime trends, the enactment of policy changes, and the reduction of available criminal justice resources. Significant factors relating to lower prison population projections include a lower empirical base, an assumption of lower future growth, and the enactment of significant changes to sentencing laws. There was a substantial decrease in felony and misdemeanor convictions (nearly 7% and 3%, respectively) from FY 2008/09 to FY 2009/10. As a result, total entries to prison (for both active sentences for new convictions and for technical revocations of probation) decreased substantially (7% overall), while exits from prison remained about the same. Figure 2 shows the resulting decline in the prison population and the disruption of the seasonal pattern to the population.

For the majority of the past decade, the accuracy of the prison population projections has been within two percent. A comparison of the actual average prison population with the projected prison population for June of each year is provided in Figure 3. The population projected by the Commission’s simulation model for June 2010 was 42,776. The actual average population for June 2010 was 40,905 – a difference of about four and one half percent. The accuracy of the 2010 projection was within the acceptable accuracy range for projections, although less accurate than the projections have been over the past decade. Factors contributing to the lesser accuracy of last year’s projections include the unexpected and substantial decreases in court filings, dispositions, and convictions described above.



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



SOURCE: NC Sentencing and Policy Advisory Commission and NC Department of Correction

## Prison Population Projections by Offense Class

The structure of North Carolina's felony and misdemeanor punishment charts forms the basis of allocating correctional resources, including prison resources. The composition of the current and projected prison populations is primarily determined by the empirical distribution of offenders convicted and sentenced under the Structured Sentencing Act.<sup>7</sup> In the following discussion of the composition of the prison population, Table 2 and Figure 4 describe actual felony convictions and sentences by offense class for FY 2009/10; Table 3 and Figure 5 present the projected felony prison populations by offense class for FY 2010/11 through FY 2019/20.<sup>8</sup>

Examining the distribution of the projected prison populations for FY 2010/11 through FY 2019/20, three population dynamics emerge. These dynamics seem to drive the projected prison population and help explain the composition of this population over time. The dynamics become evident upon categorization of the felony offense classes into the following groups: 1) Classes A through D;<sup>9</sup> 2) Classes E through G; and 3) Classes H and I. As expected with Structured Sentencing, the proportion of prisoners with Class A through D felonies increases over the projection period due to the mandatory active sentences and long sentence lengths imposed, while the proportion with Class H through I felonies decreases over the projection period due to the low rate of active sentences and short sentence lengths imposed. The proportion of prisoners in Classes E through G remains fairly stable over the projection period.

Class A through D felonies (the most serious felony offenses) have a long-term effect on the prison population due to the long sentences imposed in these classes, which result in a "stacking" effect. Under Structured Sentencing, all Class A through D offenders are required to serve an Active sentence, with the exception of those who receive extraordinary mitigation.<sup>10</sup> During FY 2009/10, the average minimum sentence imposed for Class A through D felonies was 99 months. The average estimated time served was 115 months. Class A through D felonies account for the highest percentage of the prison population (55% in 2011) and the lowest percentage of convictions (8%) and active sentences (22%). Offenders in Classes A through D are projected to increase to nearly 57% of the prison population by 2020, indicating their stacking effect.

Class E through G offenders represented 26% of all felony convictions and 31% of Active sentences in FY 2009/10. Forty-eight percent of Class E through G convictions resulted in Active sentences, with an average minimum sentence imposed of 19 months and an average

---

<sup>7</sup> The Structured Sentencing Act applies to offenses committed on or after October 1, 1994.

<sup>8</sup> Misdemeanants sentenced under Structured Sentencing were excluded from this analysis since they represent less than 5% of the projected prison population. In North Carolina, offenders with misdemeanor offenses who are sentenced to active terms greater than 90 days are incarcerated in state prison, while those sentenced to active terms 90 days or less are incarcerated in county jail.

<sup>9</sup> While felonies falling into Classes A through E are typically considered to be the "violent felonies," the lack of a mandatory active sentence for all Class E felons, as well as a comparison of sentence lengths, indicates that Class E should be considered apart from this group for this analysis.

<sup>10</sup> Offenders convicted of first degree murder may receive either a death sentence or life without parole. The sentence of life without parole is also required for offenders found to be violent habitual felons, certain offenders convicted of second or subsequent Class B1 felonies, and offenders convicted of first-degree rape or sexual assault who are sentenced from the aggravated range in Prior Record Levels V and VI.

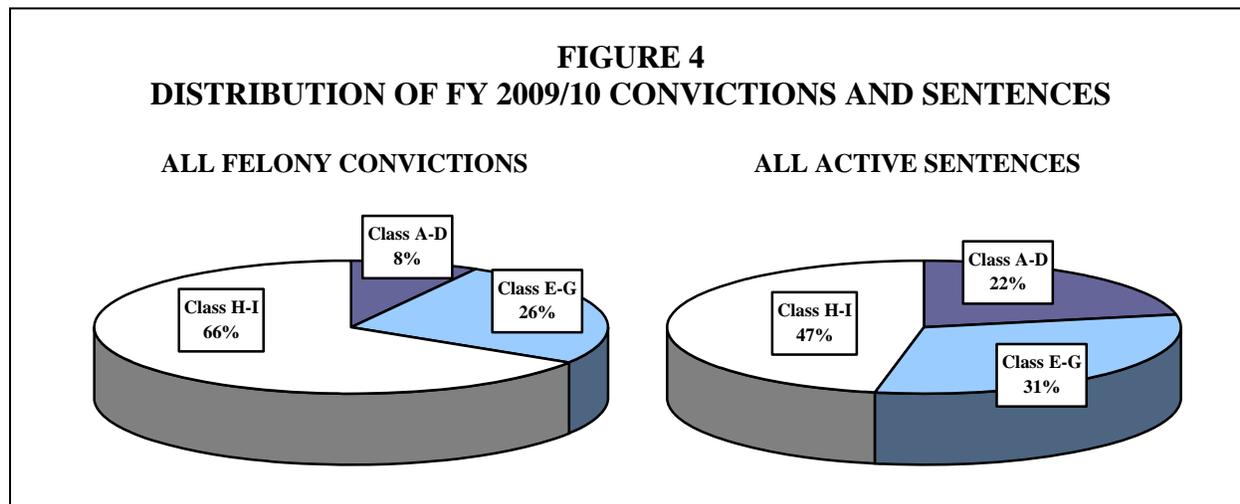
estimated time served of 22 months. An examination of the projected prison population by offense class indicates that the proportion of prisoners falling into Classes E through G remains fairly stable at around 24-25% over the projection period.

Classes H and I (the least serious felony offenses with the length of sentences imposed typically under one year) represent the largest group of felony convictions (66%) and Active sentences (47%), but they account for the smallest percentage of the prison population (nearly 19% in 2011). Class H and I felons contribute to the prison population by their high volume, their short prison sentences, and through their high rate of technical probation revocations to prison. In FY 2009/10, 29% of Class H and I convictions resulted in an Active sentence, with an average minimum sentence imposed of nine months and an average estimated time served of ten months. Class H and I offenders account for 17-19% of the prison population over the projection period.

**TABLE 2  
CONVICTIONS AND SENTENCES BY OFFENSE CLASS  
FY 2009/10 FELONIES**

Offense Class	Type of Punishment Imposed						Minimum Active Sentence (months)	TOTAL
	Active		Intermediate		Community			
	#	%	#	%	#	%		
<b>A</b>	80	100	.	.	.	.	.	80
<b>B1</b>	121	100	.	.	.	.	242	121
<b>B2</b>	289	100	.	.	.	.	175	289
<b>C</b>	1,004	100	.	.	.	.	91	1,004
<b>D</b>	921	100	.	.	.	.	66	921
<b>A-D SUBTOTAL</b>	2,415	100	.	.	.	.	99	2,415
<b>E</b>	691	52	645	48	.	.	29	1,336
<b>F</b>	1,205	56	963	44	.	.	18	2,168
<b>G</b>	1,577	43	2,112	57	.	.	15	3,689
<b>E-G SUBTOTAL</b>	3,473	48	3,720	52	.	.	19	7,193
<b>H</b>	4,416	38	5,858	50	1,451	12	10	11,725
<b>I</b>	874	13	2,929	43	2,980	44	7	6,783
<b>H-I SUBTOTAL</b>	5,290	29	8,787	47	4,431	24	9	18,508
<b>TOTAL</b>	11,178	40	12,507	44	4,431	16	31	28,116

NOTE: Of the 30,138 felony convictions in FY 2009/10, 2,022 convictions that did not fit within the felony punishment chart were excluded from this table. Sentences resulting in life without parole or death were excluded from the calculation of the average minimum sentences.



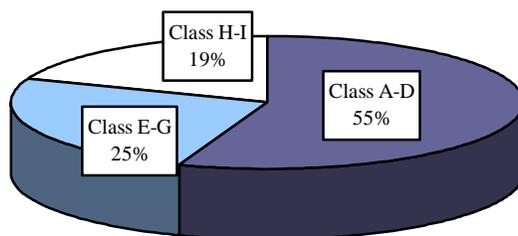
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2009/10 Preliminary Felony Statistical Report Data

**TABLE 3  
DISTRIBUTION OF THE PROJECTED PRISON POPULATION BY OFFENSE CLASS  
FELONIES ONLY**

Offense Class	Average Estimated Time Served in Months	Percent by Fiscal Year		
		2011	2015	2020
A	600	4.5	5.1	5.8
Viol. Hab. Felon	600	0.0	0.0	0.1
B1	257	6.4	7.1	7.6
B2	188	8.9	9.9	10.4
C	84	21.1	21.4	19.5
D	65	14.0	14.0	13.1
<b>A-D Subtotal</b>	<b>115</b>	<b>54.9</b>	<b>57.5</b>	<b>56.5</b>
E	28	6.0	6.1	6.1
F	24	8.8	8.5	8.6
G	18	10.6	9.8	10.1
<b>E-G Subtotal</b>	<b>22</b>	<b>25.4</b>	<b>24.4</b>	<b>24.9</b>
H	11	14.7	13.4	13.9
I	7	4.0	3.7	3.9
<b>H-I Subtotal</b>	<b>10</b>	<b>18.7</b>	<b>17.1</b>	<b>17.8</b>
Unknown	N/A	1.0	1.0	0.9
<b>TOTAL</b>	<b>35</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

NOTE: The averaged estimated time served for convictions with life or death sentences was estimated at 600 months. Percentages may not add to 100.0% due to rounding.

**FIGURE 5  
DISTRIBUTION OF THE 2011 PROJECTED PRISON POPULATION  
BY OFFENSE CLASS**



NOTE: The distribution of the 2011 projected prison population is based only on felonies and excludes offenses for which the offense class is unknown (1%).

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2009/10 Structured Sentencing Simulation Model