



North Carolina Sentencing and Policy Advisory Commission

January 2015

Prison Population Projections: Fiscal Year 2015 to Fiscal Year 2024

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 in conjunction with the North Carolina Department of Public Safety's (DPS) Division of Adult Correction and Juvenile Justice (DACJJ) 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, 2014 (new population). The Rehabilitative Programs and Services Section of the DACJJ prepared projections for all offenders in prison as of June 30, 2014 (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 prison admissions that occur through the imposition of active sentences or as the result of violations of probation or post-release supervision).¹ Added to these figures is the estimated number of misdemeanants (including offenders sentenced for impaired driving) and safekeepers held in the state prison system.

Prison Population Projections and Capacity

The prison population projections were developed using SAS® Simulation Studio.² The simulation model utilizes empirical information about how offenders are processed through the criminal justice system to produce the projections. 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. Data on convictions and sentences imposed in FY 2014 (July 1, 2013 through June 30, 2014) provide the foundation for the prison population projections. By using the most recent empirical data available, the projections account for changes in criminal justice trends (arrests, court filings, dispositions, and convictions) that occur from year to year.

Following the 2011 Session of the North Carolina General Assembly, North Carolina implemented substantial changes to the state's sentencing practices and correctional policies in response to the passage of the Justice Reinvestment Act (JRA) of 2011.³ The JRA redefined community and intermediate

¹ The Structured Sentencing Act applies to offenses committed on or after October 1, 1994. There is no parole for offenders sentenced under the Structured Sentencing Act, with the exception of the possibility of life with parole for offenders convicted of first degree murder who were under age 18 at the time of offense. Otherwise, only those offenders sentenced under the Fair Sentencing Act or pre-Fair Sentencing Act may be eligible for parole.

² To produce the prison population projections, SAS® Simulation Studio (herein also referred to as the simulation model) simulates releases for the resident prison population while simultaneously processing new prison admissions that occur over the projection period.

³ Further information on the JRA can be found on the following websites: <http://jr.nc.gov/index.html>, <http://www.nccourts.org/Courts/CRS/Councils/spac/Publication/JRIReports.asp>, and <http://www.sog.unc.edu/node/2044>.

punishments, created the Treatment for Effective Community Supervision (TECS) program, expanded the delegation of authority to probation officers, limited the time an offender may serve for violations of probation, and required the use of a validated risk and needs assessment as a strategy in managing offenders. The Act created a new status offense of habitual breaking and entering, changed habitual felon punishments, authorized early release from prison under certain conditions through Advanced Supervised Release (ASR), and expanded post-release supervision (PRS) to include all felons. It also required misdemeanants with a sentence imposed of more than 90 days and up to 180 days to be housed in county jails through the Statewide Misdemeanant Confinement Program (SMCP). Technical and clarifying changes to the JRA were made during subsequent legislative sessions. During the 2014 Session, the SMCP was expanded to include misdemeanants with sentences greater than 180 days, as well as those sentenced for impaired driving. These changes to the criminal justice system have impacted prison admissions, prison releases, and time to be served – all critical factors in determining the prison population.

The projections provide estimates of the prison population over the next ten years based on empirical data from FY 2014, the second full fiscal year of data since the provisions of the JRA went into effect. It is important to recognize that these data reflect evolving JRA practices during the early stages of implementation and, as a result, are not necessarily representative of future practices. The annual adjustment to the ten-year projections, using updated empirical information, will reflect the shift in JRA cases and criminal justice practices, ultimately enhancing the accuracy of the projections.

Table 1 and Figure 1 present the projected prison population and capacity for FY 2015 through FY 2024. Prison capacity projections were provided by the Adult and Juvenile Facilities Administration of the DPS. Capacity estimates are based on projects funded or authorized, including the newly opened Confinement in Response to Violation (CRV) Centers which will house most CRV offenders.⁴

As shown in the Current Projection column in Table 1, the prison population is projected to increase from 37,236 in June 2015 to 38,983 in June 2024 – an increase of nearly 5%. Expanded Operating Capacity (EOC) is projected to be 38,749 and Standard Operating Capacity (SOC) is projected to be 33,284 for each year of the ten-year projection. A comparison of the projections with EOC indicates that the projected prison population will be below prison capacity for all but the last year of the ten-year projection period, with the additional capacity available decreasing each year.

The current projection indicates a decrease in the prison population compared to last year's projection. While fluctuations in the projections are expected as changes in criminal justice practices continue with the implementation of the JRA, the primary explanation for the decrease is the most recent legislative change to the commitment location for certain misdemeanants, as discussed above. With this change, all misdemeanants (including those sentenced for impaired driving) are required to serve their active sentences in local jails instead of the state prison system.

Figure 1 and Figure 2 provide a historical examination of the prison population. As can be seen in both figures, but particularly in Figure 2, the prison population leveled off and then began to decline after years of consistent growth. From FY 2004 through FY 2009, the prison population increased nearly 17%, with an average yearly increase of about 3%. The prison population leveled off from FY 2009 through FY 2011 as a result of declines in criminal justice trend indicators (such as arrests and convictions) and in

⁴ Further information about CRV Centers can be found at <https://www.ncdps.gov/index2.cfm?a=000003,002223,003129>.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**Table 1
Prison Population Projections and Capacity
January 2015**

**Prepared in Conjunction with the
North Carolina Department of Public Safety’s Division of Adult Correction and Juvenile Justice**

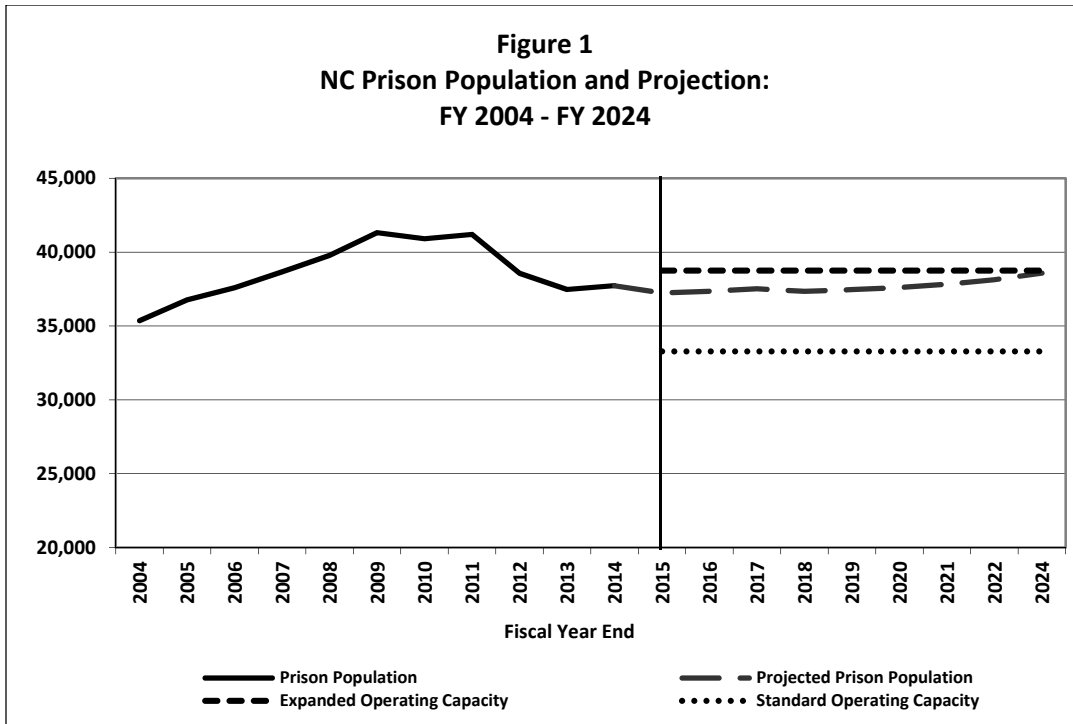
Fiscal Year End	Prison Population as of June 30 ⁵		Expanded Operating Capacity ^{6,7}	Difference between Current Projection and Capacity ⁸
	Previous Projection	Current Projection		
2015	37,795	37,236	38,749	1,513
2016	37,913	37,360	38,749	1,389
2017	37,626	37,522	38,749	1,227
2018	37,419	37,348	38,749	1,401
2019	37,533	37,462	38,749	1,287
2020	37,741	37,610	38,749	1,139
2021	37,971	37,829	38,749	920
2022	38,357	38,139	38,749	610
2023	38,812	38,581	38,749	168
2024	N/A	38,983	38,749	-234

⁵ See <http://www.nccourts.org/Courts/CRS/Councils/spac/Publication/Projections/Adult.asp> for previous prison population projections.

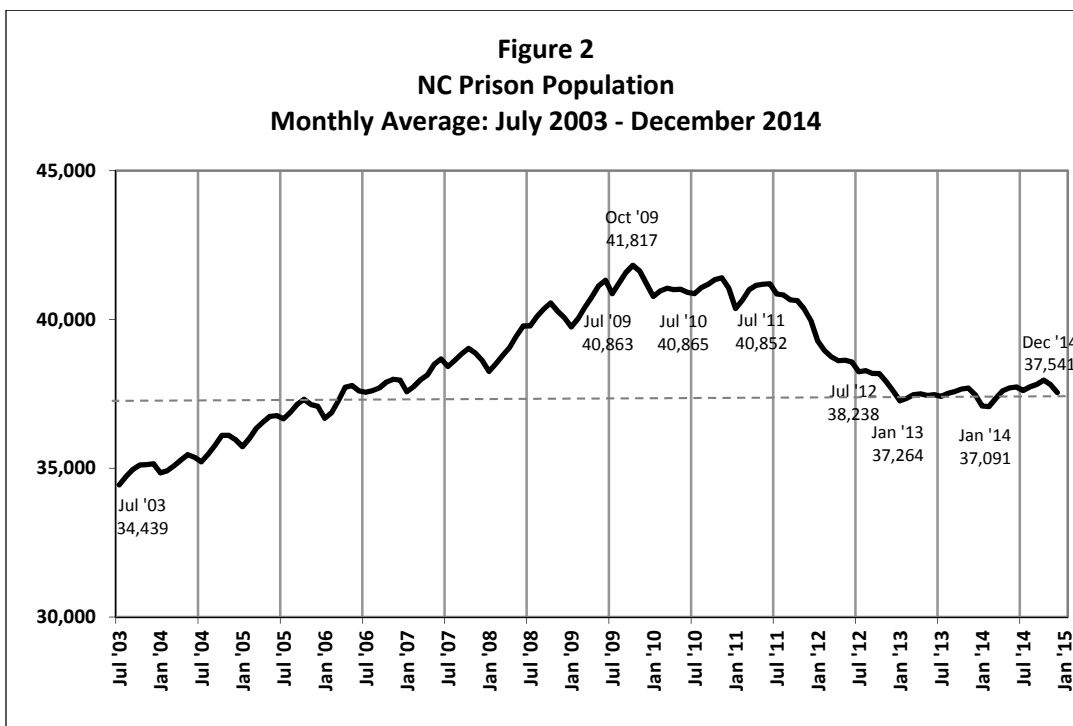
⁶ Prison capacity estimates were updated by the Adult and Juvenile Facilities Administration of the NC Department of Public Safety. Expanded Operating Capacity (EOC) is the number of inmates housed in dormitories that operate at varying percentages (not to exceed 130%) beyond their Standard Operating Capacity, plus the number of single cells with one inmate per cell, plus the number of single cells that house two inmates per cell. 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. SOC is projected to be 33,284 for each year of the ten-year projection.

⁷ Capacity estimates are based on projects funded or authorized. The EOC and SOC capacity estimates include decreases at Central Prison (32) and Fountain CCW (10) due to conversion of control beds to segregation beds; an addition of 32 beds at North Carolina CIW (6 mental health beds and 26 safekeeper beds) and a reduction of 2 beds (wet cells); a decrease at Eastern CI (48) due to the conversion of ICON beds to segregation beds; increases as a result of expansions at Maury CI (504), Bertie CI (504), Tabor CI (252), and Lanesboro CI (252); decreases as a result of the closure of Fountain CCW (374 SOC, 510 EOC) and North Piedmont CCW (104 SOC, 136 EOC); and increases as a result of re-opening Burke (200 SOC, 248 EOC) and Robeson (152 SOC, 192 EOC) as Confinement in Response to Violation (CRV) Centers.

⁸ Positive numbers indicate that the current projected population is lower than capacity, while negative numbers indicate that the current projected population is higher than capacity.



SOURCE: NC Sentencing and Policy Advisory Commission and NC Department of Public Safety



Note: Vertical lines separate each fiscal year. The horizontal dashed line allows for a comparison of the current prison population with historical prison populations.

SOURCE: NC Department of Public Safety, Division of Adult Correction and Juvenile Justice, Daily Unit Population Reports and Inmates on Backlog Reports

response to legislative changes in 2009 to the minimum sentence lengths and prior record point distributions in the felony punishment chart. The declines in the first half of FY 2012 (from July to December 2011) can be attributed to changes to earned time credits for prisoners that went into effect in June 2011, while the declines in the second half of FY 2012 can be attributed to changes in prison entries as a result of the JRA. While the intent of the JRA is to reduce the prison population by changing offender behavior, this initial decline resulted from two immediate changes: shifting most misdemeanants from prison to local jails through the establishment of the SMCP, and the legal change that places limits on revocations of probation and establishes 90-day CRV for technical violations of probation.

While the prison population often experiences seasonal variations with decreases in the population for November through January, the decrease in the population from November 2014 to December 2014 is also a result of the recent legislative change that shifts the remainder of misdemeanants to local jails through the SMCP (effective for sentences on or after October 1, 2014). Further declines are expected as a similar change takes effect for offenders sentenced for impaired driving (effective for sentences on or after January 1, 2015). In January 2014, the prison population was at its lowest point since 2006 and currently remains around FY 2006 levels.

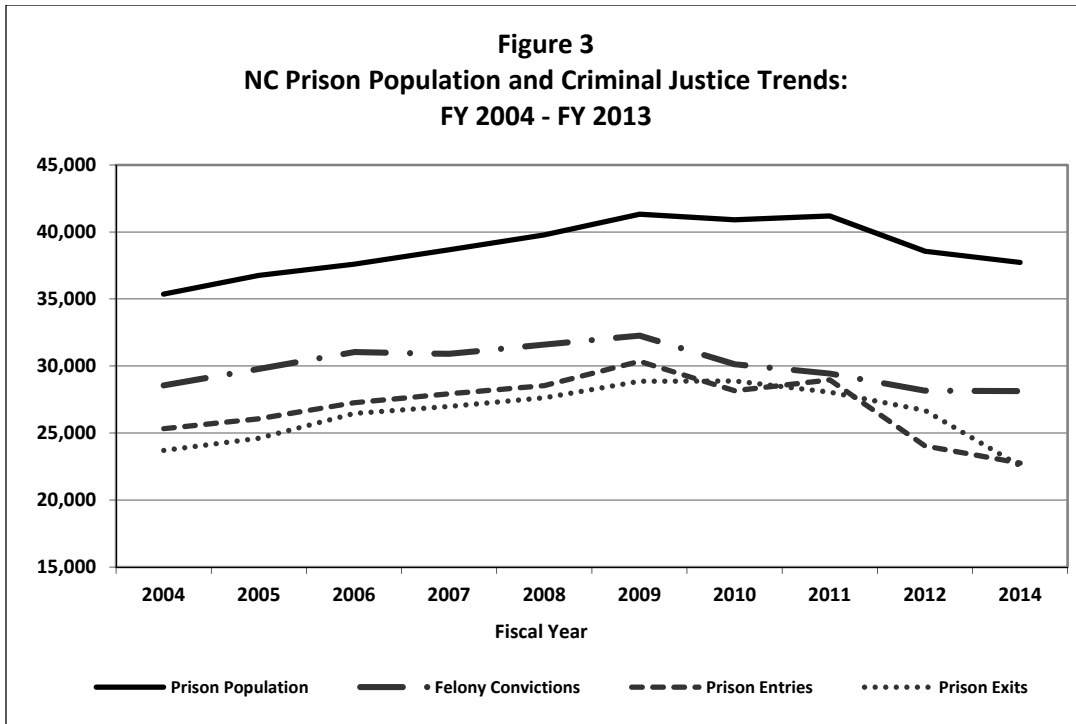
Figure 3 and Figure 4 further highlight criminal justice trends that factor into the lower prison population. As shown in Figure 3, felony convictions, prison entries, and prison exits have all decreased from their highest point at the end of FY 2009, which corresponds with a decrease in the prison population. Prison entries experienced a sharper decrease than felony convictions as a result of the JRA changes described above, with a 17% decline from FY 2011 to FY 2012 and a 10% decline from FY 2012 to FY 2013. Overall, the prison population increased by nearly 1%, felony convictions decreased nearly 1%, prison entries increased nearly 6%, and prison exits increased by one-half of 1% from FY 2013 to FY 2014. The increase in prison entries is a result of more entries for violations of PRS that occurred with the expansion of PRS to all felons.

Consistent with national trends, North Carolina's crime rate has also declined over the past few years (see Figure 4). In addition to declines in Index, Violent, and Property crime rates since CY 2008, there has been a decline in the overall number of arrests for Index and non-Index crimes.⁹

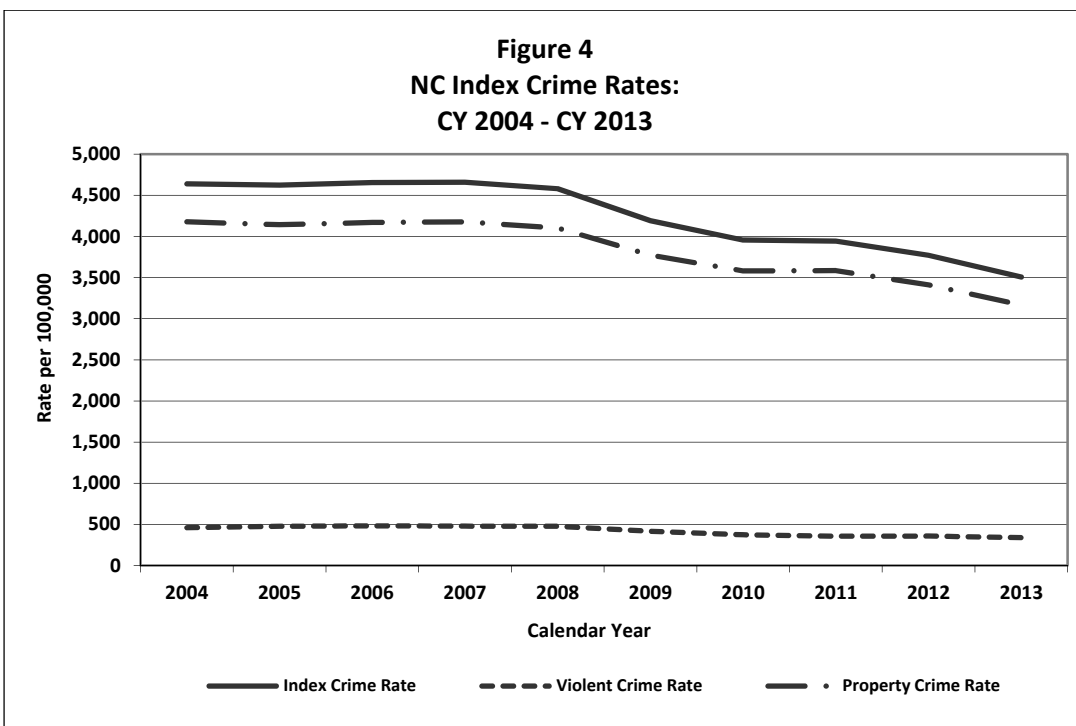
For the majority of the past decade, the accuracy of the prison population projections has been within 2%.¹⁰ A comparison of the actual average prison population with the projected prison population for June of each year is provided in Figure 5. The projected prison population for June 2014 was 37,679. The actual average population for June 2014 was 37,731 – a difference of 52 beds, or less than 1%.

⁹ Index crimes include murder, rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft. Arson is also an Index offense, but is typically excluded from Index crime totals.

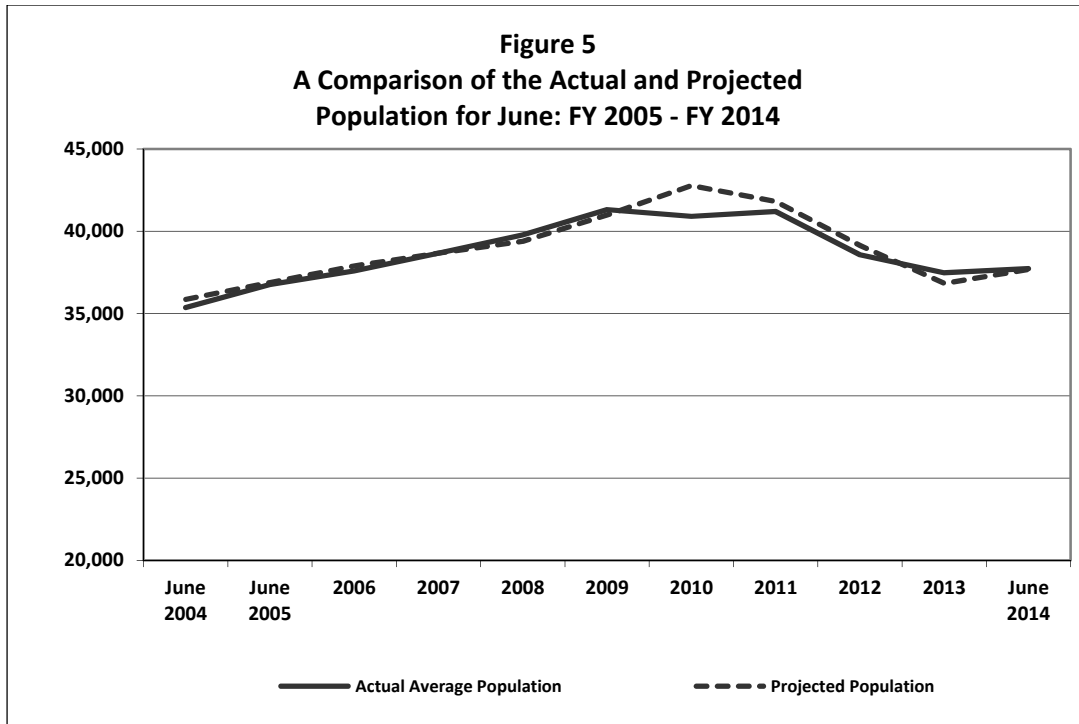
¹⁰ While the accuracy of the 2010 projection was within the acceptable accuracy range for projections (under 5%), it was less accurate than the projections have been over the past decade. Factors contributing to the lesser accuracy of the 2010 projection include unexpected and substantial decreases in court filings, dispositions, and convictions.



SOURCE: NC Sentencing and Policy Advisory Commission and NC Department of Public Safety



SOURCE: NC Department of Public Safety, State Bureau of Investigation, *Crime in North Carolina*



SOURCE: NC Sentencing and Policy Advisory Commission and NC Department of Public Safety

Assumptions

This section details the assumptions that were used to develop the prison population projections for FY 2015 through FY 2024. The assumptions were determined using data from the most recent fiscal year (FY 2014) and are based on the premise of no significant changes in demographics, crime rates, or criminal justice laws and policies in North Carolina.

As noted previously, the data from FY 2014 represent the second full fiscal year of data since implementation of the JRA began in late 2011, offering an early view of changes in criminal justice practices brought forth by the JRA. With the possibility of further legislative amendments to the JRA and with continued changes in court and correctional implementation, fluctuations in the empirical parameters (particularly relating to violations of probation or PRS) are not only possible but expected.

- Growth Rates:** The projections assume no growth (0%) in felony convictions for FY 2015 through FY 2016 and assume 1% growth per year for FY 2017 through FY 2024, as adopted by the Sentencing Commission’s *Forecasting Advisory Group*. The projected growth rates for felony convictions were adopted after considering continued decreases in juvenile justice system indicators (delinquent complaints) and criminal justice system indicators (index crime rates, prison population, and prison entries). The continued slowing of the growth rate for the state’s population (particularly for males ages 16 – 24, the group most likely to be arrested) was also a factor in determining the growth rates.¹¹

¹¹ The *Forecasting Advisory Group* adopts growth rates for convictions on an annual basis. The *Group* consists of representatives from the Sentencing Commission, Administrative Office of the Courts, Conference of District Attorneys, Conference of Clerks of Superior Court, Office of Indigent Defense Services, Division of Adult Correction and Juvenile Justice, State Bureau of Investigation, Office of State Budget and Management, UNC School of Government, and Fiscal Research Division of the General

- *Punishment Chart:* The projections assume all new felony convictions will be sentenced under the punishment chart effective for offenses committed on or after December 1, 2013. This punishment chart incorporates changes to the minimum sentence lengths and prior record point distributions that were passed during the 2009 Session and changes to maximum sentence lengths that were passed during the 2011 Session and the 2013 Session of the General Assembly.
- *Prison Admissions:* In FY 2014, 59% of all felony admissions to prison resulted from Active sentences for a new conviction, 31% resulted from probation violations other than a new crime (*i.e.*, absconding or technical violation),¹² and 10% resulted from post-release supervision violations other than a new crime (*i.e.*, absconding or technical violation). It is expected that this distribution will change during the initial years of implementation of the JRA, primarily resulting from the use of different responses to probation violations and from the changing composition of offenders supervised on PRS with the expansion of PRS to all felons.
- *Active Rates and Time Served for Active Sentences:* In FY 2014, 39% of felons received an Active sentence, with an average estimated time served of 35 months. Overall, it is assumed that the rates of Active sentences for new felony convictions and average estimated time served will match the rates for FY 2014.
- *Percent of Active Sentence Served:* On average, all Structured Sentencing Act (SSA) felons will serve 107% of their minimum Active sentences (the average percentage served by SSA felons released from prison during FY 2014).¹³ 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.*, 101% for Class C, 113% for Class I).
- *Probation:* In FY 2014, 24% of exits from probation for felons resulted from revocation of probation. It is assumed that confinement rates,¹⁴ lag-time from placement on probation to confinement, and time served will vary according to the form of non-compliance (technical, new crime, or absconding).
- *Post-Release Supervision (PRS):*¹⁵ In FY 2014, 25% of exits from PRS resulted from revocation. It is assumed that confinement rates, lag-time from placement on PRS to confinement, and time served will vary according to the form of non-compliance (technical, new crime, or absconding) and based on whether the offender is a sex offender. While the PRS population will include pre-JRA prisoners

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.

¹² Probation violations include CRV entries for technical violations occurring on or after December 1, 2011, revocations for absconding after December 1, 2011, and revocations due to technical violations (including absconding) prior to December 1, 2011.

¹³ The maximum sentence length is set at 120% of the minimum sentence length rounded to the next highest month plus the period of post-release supervision.

¹⁴ The term “confinement rates” is used as an overall term to describe the different rates associated with violations of probation (*i.e.*, CRV rates, revocation rates for new crime or absconding violations) or PRS (*i.e.*, revocations for technical violations of PRS, revocations for new crime or absconding violations).

¹⁵ Prior to the JRA, a nine-month period of PRS was required for offenders convicted of Class B1-E felonies. Under the JRA, the period of PRS is extended from nine months to twelve months for Class B1-E felons and a nine-month period of PRS is required for Class F-I felons. A five-year period of PRS is required for sex offenders.

for years to come, the volume of JRA entries to PRS is expected to increase over the projection period, along with the proportion of violations.

- *Advanced Supervised Release (ASR)*: The projections assume that ASR sentences will be imposed at the same frequency as found in FY 2014. It is assumed that all offenders who received ASR as part of their active sentence will complete ASR program(s) and be released at the ASR date (*i.e.*, the lowest mitigated sentence if the sentence was in the presumptive range or 80% of the minimum sentence imposed if the sentence was in the mitigated range).
- *Habitual Felons*: It is assumed that habitual felons will be sentenced four offense classes higher than the class of the current offense, but no higher than Class C, and according to the felony punishment chart. It is assumed that the rates of Active sentences will match the rates for FY 2014, based on the dispositions available in the felony punishment chart as determined by offense class and prior record points.
- *Habitual Breaking and Entering (Class E)*: The projections assume the same frequency of habitual breaking and entering convictions and rates of Active sentences as found in FY 2014.
- *Misdemeanor Sentences*: Misdemeanants sentenced under the SSA and offenders sentenced for impaired driving are mandated to serve any active sentence imposed in jail rather than prison. The projections assume that nearly all of these offenders will serve their sentences in local jails, although a small number may serve their sentences in prison due to medical or other reasons as part of the SMCP. On December 31, 2014, the SMCP population was 579.
- *Sentences under the Fair Sentencing Act (FSA) and Prior*: Prison population projections continue to be affected by parole practices due to the number of FSA and pre-FSA offenders currently in prison. On November 30, 2014, there were 2,397 FSA and pre-FSA offenders in prison (including 1,827 with life sentences and 61 with death sentences), representing just over 6% of the state's inmates.
- *Legislative Changes to Criminal Penalties*: The projections do not include any potential impact from legislative changes to criminal penalties from the past legislative session. The potential impact for these changes cannot be determined because 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.