
A CITIZEN'S GUIDE TO STRUCTURED SENTENCING

(Revised 2012)



PREPARED BY:

THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

P.O. Box 2448
Raleigh, N.C. 27602
phone 919-890-1470 • fax 919-890-1933
www.nccourts.org/Courts/CRS/Councils/spac/

The Honorable W. Erwin Spainhour
Chairman

Susan Katzenelson
Executive Director

STRUCTURED SENTENCING

In 1990, the General Assembly created the North Carolina Sentencing and Policy Advisory Commission to make recommendations to restore rationality, order and truth to the criminal justice system. In 1993, the General Assembly reviewed, amended and adopted the Commission's recommendations. The law was called Structured Sentencing and applies to all felony and misdemeanor crimes (except Driving While Impaired and Drug Trafficking) committed on or after October 1, 1994. Subsequent changes to the law were made during the 1995, 2009, and 2011 legislative sessions. The 2011 changes apply to crimes committed on or after December 1, 2011.

Structured Sentencing is based on the following principles:

- **Sentencing policies should be rational:** The sentence should be proportional to the severity of the crime as measured by the harm to the victim and to the offender's prior record.
- **Sentencing policies should be truthful:** The time actually served in prison or jail should bear a close and consistent relationship to the sentence imposed by the judge. Early parole release should be abolished.
- **Sentencing policies should be consistent:** Offenders convicted of similar offenses, who have similar prior records, should generally receive similar sentences.
- **Sentencing policies should set resource priorities:** Sentencing policies should be supported by adequate prison, jail and community-based resources. The use of prisons and jails should be prioritized first for violent and repeat offenders and community-based programs should be first utilized for nonviolent offenders with little or no prior record.

WHAT IS STRUCTURED SENTENCING?

Structured Sentencing is the method of sentencing and punishing criminals in North Carolina. It classifies offenders on the basis of the severity of their crime and on the extent and gravity of their prior criminal record. Based on these two factors, structured sentencing provides judges with sentencing options for the type and length of sentences which may be imposed.

WHY WAS STRUCTURED SENTENCING ENACTED?

Structured Sentencing is designed to help the State maintain control over the criminal justice system and to provide credibility to sentencing. Under the law, there is no early parole release so the sentence is truthful. In addition, the law sets priorities for the use of correctional resources and balances sentencing policies with correctional capacity.

HOW ARE CRIMES CLASSIFIED?

Felony crimes are classified into letter classes (from Offense Class A through Class I) depending on their seriousness. Crimes which involve victim injury or the risk of victim injury are assigned to the highest classes. Property crimes and other crimes which do not normally involve the risk of victim injury are assigned to lower classes. Misdemeanor crimes are classified into four classes (Class A1, Class 1, Class 2 and Class 3). The most serious misdemeanor crimes are in Class A1 and the least serious are in Class 3.

HOW ARE OFFENDERS CLASSIFIED?

Felons are classified into one of six prior record levels (from Prior Record Level I through Level VI) depending on the extent and gravity of their prior record. Felons with violent or extensive prior convictions are assigned to the highest level, while those with minor or no prior convictions are assigned to the lowest level. Misdemeanor offenders are classified into one of three prior conviction levels depending on their number of prior convictions.

HOW IS THE TYPE OF SENTENCE DETERMINED?

Under Structured Sentencing, there are three types of punishment: **active** (prison or jail), **intermediate** and **community**. Judges must impose active punishments for felons convicted of crimes which fall in high offense classes or for felons who have high prior record levels. Judges must impose intermediate or community punishments for felons who are convicted of crimes which fall in the lowest offense classes and who also have low prior record levels. For offenders who fall somewhere in between, the judge may elect to impose either an active punishment or an intermediate punishment.

Regardless of the offender's prior record, the judge may impose either an active, intermediate or community punishment for offenders convicted of Class A1 misdemeanors. For offenders convicted of Class 1, 2 or 3 misdemeanors and with no prior convictions, the judge must impose a community punishment. For most other misdemeanants, the judge may impose either an active, intermediate or community punishment.

WHAT IS AN ACTIVE PUNISHMENT?

An active prison sentence requires that felons be incarcerated in the state prison system. For misdemeanants, an active punishment requires they be incarcerated in a local confinement facility (jail) or in a state prison. A misdemeanant who receives an active punishment of 90 days or less serves the sentence in the local confinement facility. A misdemeanant who receives an active punishment of more than 90 days and up to 180 days is committed to the Statewide Misdemeanant Confinement Program and serves the sentence in a local confinement facility designated by the program.

WHAT IS AN INTERMEDIATE PUNISHMENT?

An intermediate punishment requires a sentence of supervised probation and may include one or more of the following conditions: **special probation** (a period of active confinement followed by a period of probation, sometimes referred to as a split sentence), **drug treatment court** (a judicially monitored treatment program), **house arrest with electronic monitoring** (confinement to one location and close monitoring through computer technology), **community service** (service to the local community), **period or periods of confinement in a local confinement facility** (confinement in a local facility for a total of no more than six days per month during any three separate months during the probation period), **substance abuse assessment, monitoring, or treatment**, **educational or vocational skills development program**, or **satellite-based monitoring** (for certain sex offenders defined by statute). Intermediate punishments are restrictive but less costly than prison. Generally, offenders must follow strict rules, work, pay restitution, and participate in drug or other types of treatment.

WHAT IS A COMMUNITY PUNISHMENT?

A community punishment is any sentence other than an active punishment, assignment to drug treatment court, or special probation. A judge must designate a community punishment as such. A community punishment may consist of a term of supervised or unsupervised probation which may include, but is not limited to, one or more of the following: house arrest with electronic monitoring, community service, period or periods of confinement in a local confinement facility, substance abuse assessment, monitoring, or treatment, educational or vocation skills development program, or satellite-based monitoring. A community punishment may also include a fine, restitution, or any other condition of probation.

HOW IS THE LENGTH OF THE ACTIVE TERM DETERMINED?

For felony convictions, judges impose both a minimum and a maximum prison term. The length of the minimum and maximum term depends on the offense class, the prior record level, and the presence of any aggravating or mitigating factors. For each combination of felony offense class and prior record level, three sentence ranges are prescribed: a **presumptive range** for typical cases, an **aggravated range** for cases where aggravation is found, and a **mitigated range** for cases where mitigation is found. The judge selects a minimum prison term from one of these three ranges. Once the minimum term is set, a maximum term is dictated by statute (20% longer than the minimum plus a period of post-release supervision). For each combination of misdemeanor offense class and prior conviction level, there is one sentence range. The judge selects a single active term from the appropriate range.

HOW MUCH OF THE ACTIVE TERM MUST BE SERVED?

Under Structured Sentencing, good time, gain time and parole are eliminated. Felons sentenced to prison must serve 100% of their minimum term and may serve up to their maximum term if they do not work or participate in programs. The maximum sentence may be reduced to, but not below, the minimum term by earned time credits awarded to an offender by the Division of Adult Correction of the Department of Public Safety (DAC) or the custodian of the local

confinement facility. If the court orders the DAC to admit the offender to the Advanced Supervised Release (ASR) program, the offender may be released on the court-ordered ASR date. Upon release, felony offenders must be placed on post-release supervision. Misdemeanants must serve the full active term unless the Sheriff elects to award earned time of up to four days a month for specific activities while the offender is in jail.

WHAT IS ADVANCED SUPERVISED RELEASE?

An offender who is sentenced from certain classes and prior record levels (Class D, Prior Record Level I through III; Class E, Prior Record Level I through IV; Class F, Prior Record Level I through V; Class G or H, Prior Record Level I through VI) is eligible to be considered for Advanced Supervised Release (ASR). At sentencing the judge may, in his discretion, impose ASR, unless the prosecutor objects. ASR entitles an offender, upon successful completion of DAC-recommended risk-reduction incentives such as treatment, education and rehabilitation programs, while in prison, to be released and placed on post-release supervision at the shortest mitigated sentence if the offender was given a non-mitigated sentence or at eighty percent of the minimum sentence if the offender was given a mitigated sentence.

WHAT IS POST-RELEASE SUPERVISION?

Post-release supervision is a mandatory term of supervision after release from prison for all felony offenses; Class F through I offenders receive 9 months of post-release supervision, Class B1 through E offenders receive 12 months of post-release supervision, and Class B1 through E offenders that are subject to the registration requirements of Article 27A of Chapter 14 of the General Statutes (Sex Offender and Public Protection Registration Programs) receive 60 months of post release supervision. The offender's behavior is monitored in the community, and supervision is provided to help the offender reintegrate into society. The offender may be returned to prison and serve additional time for violating the post-release conditions.

HOW DOES POST-RELEASE SUPERVISION DIFFER FROM PAROLE?

Unlike parole, the offender is not released from prison early. Post-release supervision begins after the offender has served at least his minimum prison sentence and is released. Offenders convicted of Class D through H felonies who are ordered to and complete the ASR program will be released from prison on their ASR date and will be placed on post-release supervision. Like parole supervision, post-release supervision requires the offender to be supervised and monitored in the community.

HOW ARE COMMUNITY PUNISHMENTS IMPOSED UNDER STRUCTURED SENTENCING?

The active term is suspended if an offender is sentenced to an intermediate or community punishment. However, if these offenders fail to obey conditions required as part of their punishment, the conditions may be increased, the offender may be held in contempt of court and be incarcerated for up to 30 days in jail, the judge may order felons to serve a period of confinement for 90 days and misdemeanants to serve a period of confinement for up to 90 days,

or the judge, in limited circumstances, may revoke probation and impose an active sentence. If the prison terms are activated, felony offenders must serve 100% of the minimum term and may serve up to the maximum term; misdemeanor offenders must serve the entire jail sentence unless the sheriff awards earned time credits. Offenders know that if they fail to abide by the conditions of their non-prison punishments, they face certain imprisonment.

HOW HAS STRUCTURED SENTENCING AFFECTED PRISON AND JAIL POPULATIONS?

The Sentencing and Policy Advisory Commission uses data on convictions and sentences imposed to estimate the prison population. Prison population projections are prepared on an annual basis using a computer simulation model. The General Assembly has authorized the construction of new prisons and changed policies as the projections have demonstrated the need. Information regarding jail populations is locally maintained, and no statewide-automated information is available. The jail populations depend on local pretrial and sentencing practices.

PUNISHMENT CHARTS

To determine the punishment options for each offender, the judge refers to either the felony or misdemeanor punishment chart shown on the following pages.

Felony Punishment Chart

Offense Class. Along the left side of the chart are letters from A through I representing the severity of the crime. Class A includes the most serious felonies while Class I includes the least serious felonies.

Prior Record Level. Along the top of the chart are six Roman numerals from I to VI representing the extent and gravity of the offender's prior record. An offender with little or no prior record falls into Level I; an offender with a very violent or extensive prior record falls into Level VI.

Type of Sentence. For each combination of Offense Class and Prior Record Level, one or more letters are indicated. An "A" stands for an active prison term, an "I" stands for an intermediate punishment, and a "C" stands for a community punishment. If more than one letter is shown, the judge may choose the type of punishment.

Length of Sentence. For each combination of Offense Class and Prior Record Level, three sentence ranges are provided. The judge selects a single sentence term from one of the three ranges which establishes the minimum number of months that an offender must serve. The judge also imposes a maximum term which is approximately 20% longer than the minimum term.

Misdemeanor Punishment Chart

A similar chart is used for misdemeanors. However, instead of ten felony classes, there are four misdemeanor classes (A1, 1, 2, and 3); instead of six prior record levels there are three prior conviction levels (I, II, and III); and instead of three sentence ranges, there is only one. The judge selects a single term from the sentence range which specifies the number of days the offender must serve. Like the felony punishment chart, an "A" stands for an active prison term, an "I" stands for an intermediate punishment, and a "C" stands for a community punishment. If more than one letter is shown, the judge may choose the type of punishment.

***** Effective for Offenses Committed on or after 12/1/11 *****

**FELONY PUNISHMENT CHART
PRIOR RECORD LEVEL**

OFFENSE CLASS		I 0-1 Pt	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts	
	A	Death or Life Without Parole						
	B1	A	A	A	A	A	A	DISPOSITION
		240 - 300	276 - 345	317 - 397	365 - 456	Life Without Parole	Life Without Parole	Aggravated Range
		192 - 240	221 - 276	254 - 317	292 - 365	336 - 420	386 - 483	PRESUMPTIVE RANGE
		144 - 192	166 - 221	190 - 254	219 - 292	252 - 336	290 - 386	Mitigated Range
	B2	A	A	A	A	A	A	
		157 - 196	180 - 225	207 - 258	238 - 297	273 - 342	314 - 393	
		125 - 157	144 - 180	165 - 207	190 - 238	219 - 273	251 - 314	
		94 - 125	108 - 144	124 - 165	143 - 190	164 - 219	189 - 251	
	C	A	A	A	A	A	A	
		73 - 92	83 - 104	96 - 120	110 - 138	127 - 159	146 - 182	
		58 - 73	67 - 83	77 - 96	88 - 110	101 - 127	117 - 146	
		44 - 58	50 - 67	58 - 77	66 - 88	76 - 101	87 - 117	
	D	A	A	A	A	A	A	
		64 - 80	73 - 92	84 - 105	97 - 121	111 - 139	128 - 160	
		51 - 64	59 - 73	67 - 84	78 - 97	89 - 111	103 - 128	
		38 - 51	44 - 59	51 - 67	58 - 78	67 - 89	77 - 103	
	E	I/A	I/A	A	A	A	A	
		25 - 31	29 - 36	33 - 41	38 - 48	44 - 55	50 - 63	
		20 - 25	23 - 29	26 - 33	30 - 38	35 - 44	40 - 50	
		15 - 20	17 - 23	20 - 26	23 - 30	26 - 35	30 - 40	
	F	I/A	I/A	I/A	A	A	A	
		16 - 20	19 - 23	21 - 27	25 - 31	28 - 36	33 - 41	
		13 - 16	15 - 19	17 - 21	20 - 25	23 - 28	26 - 33	
		10 - 13	11 - 15	13 - 17	15 - 20	17 - 23	20 - 26	
	G	I/A	I/A	I/A	I/A	A	A	
		13 - 16	14 - 18	17 - 21	19 - 24	22 - 27	25 - 31	
		10 - 13	12 - 14	13 - 17	15 - 19	17 - 22	20 - 25	
		8 - 10	9 - 12	10 - 13	11 - 15	13 - 17	15 - 20	
	H	C/I/A	I/A	I/A	I/A	I/A	A	
		6 - 8	8 - 10	10 - 12	11 - 14	15 - 19	20 - 25	
		5 - 6	6 - 8	8 - 10	9 - 11	12 - 15	16 - 20	
		4 - 5	4 - 6	6 - 8	7 - 9	9 - 12	12 - 16	
	I	C	C/I	I	I/A	I/A	I/A	
		6 - 8	6 - 8	6 - 8	8 - 10	9 - 11	10 - 12	
		4 - 6	4 - 6	5 - 6	6 - 8	7 - 9	8 - 10	
		3 - 4	3 - 4	4 - 5	4 - 6	5 - 7	6 - 8	

A – Active Punishment I – Intermediate Punishment C – Community Punishment
Numbers shown are in months and represent the range of minimum sentences

Revised: 08-11-11

*****Effective for Offenses Committed on or after 12/1/95*****

MISDEMEANOR PUNISHMENT CHART

CLASS	PRIOR CONVICTION LEVEL		
	I	II	III
	No Prior Convictions	One to Four Prior Convictions	Five or More Prior Convictions
A1	C/I/A 1 - 60 days	C/I/A 1 - 75 days	C/I/A 1 - 150 days
1	C 1 - 45 days	C/I/A 1 - 45 days	C/I/A 1 - 120 days
2	C 1 - 30 days	C/I 1 - 45 days	C/I/A 1 - 60 days
3	C 1 - 10 days	C/I 1 - 15 days	C/I/A 1 - 20 days

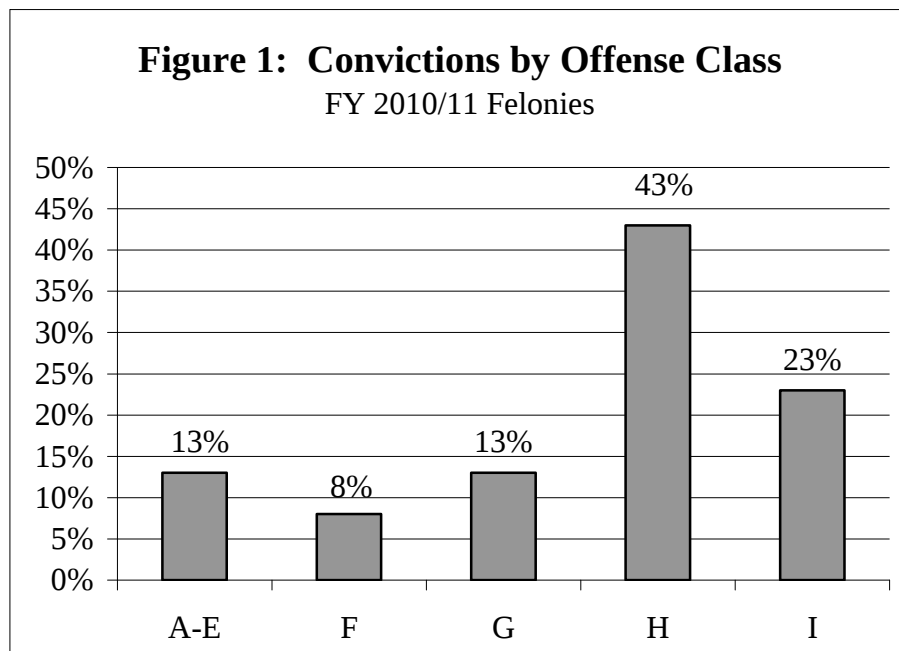
A – Active Punishment I – Intermediate Punishment C – Community Punishment
Cells with slash allow either disposition at the discretion of the judge

STRUCTURED SENTENCING STATISTICAL PROFILE

FISCAL YEAR 2010/11

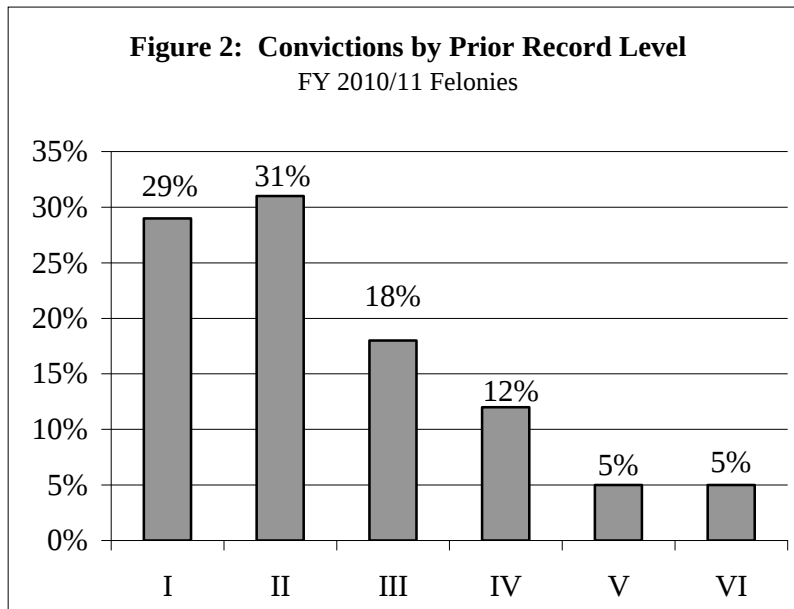
Felony Convictions

In FY 2010/11, sentences for 29,446 felony convictions were imposed. Property offenses (38%) and non-trafficking offenses (31%) were the most common types of conviction. Eighteen percent of convictions were for person crimes while the remaining 13% involved “other” crimes. The majority (66%) of felony convictions fell in Offense Classes H and I which include the least serious offenses under Structured Sentencing (See Figure 1).



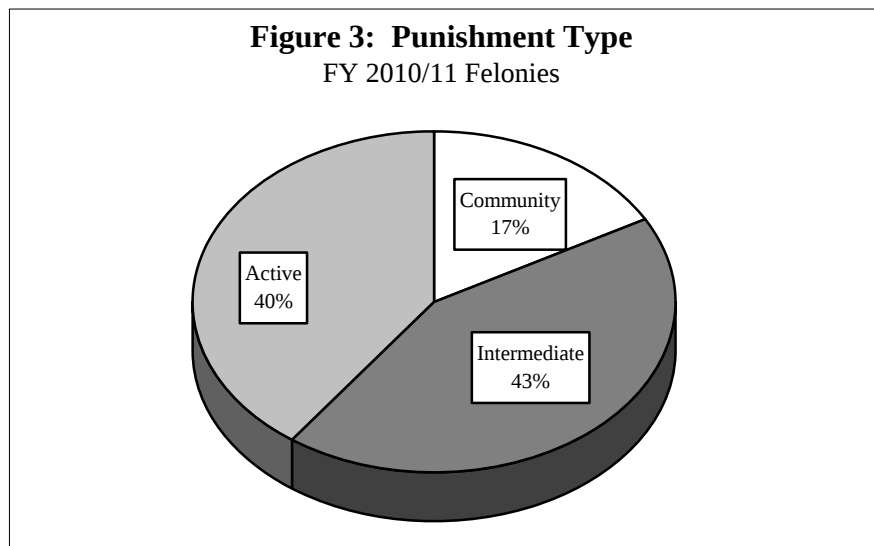
Source: NC Sentencing and Policy Advisory Commission,
FY 2010/11 Felony Statistical Report Data

As shown in Figure 2, over half (60%) of felony convictions fell in Prior Record Levels I and II (i.e., involved offenders with little or no prior record).



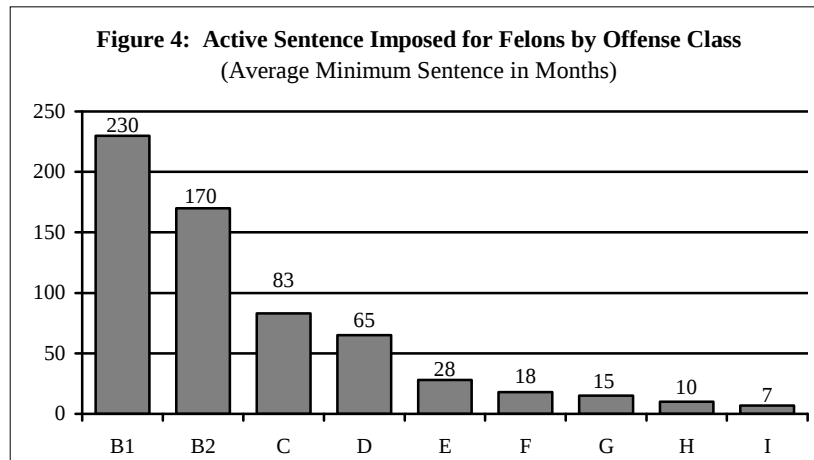
Source: NC Sentencing and Policy Advisory Commission,
FY 2010/11 Felony Statistical Report Data

Of sentences imposed, 40% were for Active, 43% for Intermediate and 17% for Community punishments (See Figure 3).



Source: NC Sentencing and Policy Advisory Commission,
FY 2010/11 Felony Statistical Report Data

Under Structured Sentencing, the average felon serves 100% of the minimum Active sentence imposed. The average minimum sentence for all felony convictions resulting in an Active punishment was 30 months in FY 2010/11. As shown in Figure 4, the average minimum sentence imposed increased as the offense class increased from the least serious to the most serious offense class.



Note: Offense Class A convictions are subject to mandatory life or death sentences.

Source: NC Sentencing and Policy Advisory Commission,
FY 2010/11 Felony Statistical Report Data

Misdemeanor Convictions

In FY 2010/11, sentences for 150,810 misdemeanor convictions were imposed. The largest proportion of convictions involved public order offenses (47%) while misdemeanor person offenses accounted for the smallest proportion (11%). Drug (17%) and property (25%) convictions comprised the rest of the crimes. An Active punishment was imposed for 27% of misdemeanor convictions, an Intermediate punishment was imposed for 2% of misdemeanor convictions, and a Community punishment was imposed for 71% of misdemeanor convictions. The average sentence imposed for all misdemeanor convictions resulting in an Active punishment was 34 days in FY 2010/11.

Prison Population Projections

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 and are used to help determine long-term resource needs. The prison population projections can be found on the following website:

<http://www.nccourts.org/Courts/CRS/Councils/spac/Publication/Projections/Adult.asp>.

For more information, contact the North Carolina Sentencing and Policy Advisory Commission at www.nccourts.org or 919-890-1470.