



North Carolina Sentencing and Policy Advisory Commission

Research Brief
June 2016

A PRELIMINARY ANALYSIS OF CRV OFFENDERS RELEASED FROM PRISON IN FY 2013

In 1998, the North Carolina General Assembly directed the Sentencing and Policy Advisory Commission to prepare biennial reports evaluating the effectiveness of the State's correctional programs (N.C.G.S. § 164-47). The studies examine recidivism using samples of offenders released from prison or placed on probation in a given fiscal year and followed for a fixed two-year follow-up period.¹ As reported in the Commission's most recent study (2016), the FY 2013 probation entries are the first recidivism sample to be processed and supervised under the provisions and policies implemented under the Justice Reinvestment Act of 2011 (JRA).^{2,3} This brief focuses on a separate group of probationers: offenders with a felony conviction who were released from prison in FY 2013 having served a confinement in response to violation (CRV) imposed for a technical violation of probation (hereinafter referred to as CRV offenders).

With the enactment of the JRA, revocation of probation and activation of the suspended sentence may only occur for those who abscond supervision or commit a new crime. A CRV may be imposed for technical violations of probation, with revocation possible only after the imposition of two prior CRVs. Because the CRV was one of the first provisions of the JRA to go into effect (effective for violations of probation occurring on or after December 1, 2011), an early cohort of offenders subject to its use offers the opportunity to examine preliminary effects on outcomes. While programming was limited for the FY 2013 CRV offenders during their confinement, the results are promising in terms of the effectiveness of CRVs on offender outcomes, particularly when compared to outcomes for other felony probationers by risk level.

It should be noted that substantial changes to the CRV concept have been made since the enactment of the JRA. In 2014, the Department of Public Safety (DPS) announced its pilot program for designated CRV centers that would offer an approach tailored for CRV offenders, including intensive behavior modification programming. The CRV centers began receiving felons in December of 2014.^{4,5} None of the FY 2013 CRV offenders participated in the CRV centers; as a result, this brief can only offer a preliminary examination of whether the period of confinement itself, absent the intense programming currently in place, has any effect on offender behavior.

The FY 2013 CRV offender sample is comprised of 1,381 offenders and includes only those with a most serious felony conviction in Class E through Class I and who also were assessed as extreme, high, or moderate risk using the Offender Traits Inventory-Revised (OTI-R).⁶ Because the intent of the CRV is for

¹ Data for offenders in the samples were provided by the Department of Public Safety and by the State Bureau of Investigation. A glossary of primary analysis variables and key terms is provided in Appendix A.

² See the Sentencing Commission's recidivism reports at <http://www.nccourts.org/Courts/CRS/Councils/spac/Publication/Recidivism/AdultRec.asp>.

³ For more details on the JRA, see the Sentencing Commission's reports titled *Justice Reinvestment Act Implementation Evaluation Report* at <http://www.nccourts.org/Courts/CRS/Councils/spac/Publication/JRIReports.asp>.

⁴ Further information about CRV centers can be found at <https://www.ncdps.gov/Adult-Corrections/Community-Corrections/Confinement-in-Response-to-Violation-CRV>.

⁵ Probationers who received a CRV disposition and are not eligible for the CRV center (e.g., for medical or mental health reasons) will serve their CRV in a prison facility.

⁶ Only felony offenders were included in the CRV offender sample due to the 2015 legislative change that eliminated CRVs for misdemeanants sentenced to probation under the Structured Sentencing Act. In addition, the CRV offender sample was further restricted to offenders assessed as extreme, high, or moderate risk due to the low numbers in the low and minimal risk levels.

offenders to return to supervision following confinement, felony probation entries in FY 2013 (n=8,674) are used as a comparison group to examine preliminary outcomes of these first CRV offenders. Based on the offense and risk level composition of the CRV offenders, the comparison group of felony probation entries was restricted to similar offenders.

Figure 1 provides a summary of the personal characteristics of the CRV offenders and the felony probationers (see Appendix B, Tables B.1 and B.2 for a more detailed description). Overall, the CRV offenders and the felony probationers have similar characteristics. However, CRV offenders have a higher percentage of offenders aged 21-29 years (48%) and identified with a substance abuse need and/or a history of drug addiction (58%) compared to felony probationers (39% and 45% respectively). Findings from the Commission’s recidivism studies show that offenders with these characteristics (i.e., younger offenders, offenders with substance abuse problems) tend to have higher recidivism rates compared to their counterparts (i.e., older offenders, offenders without substance abuse problems).

Figure 1
Personal Characteristics

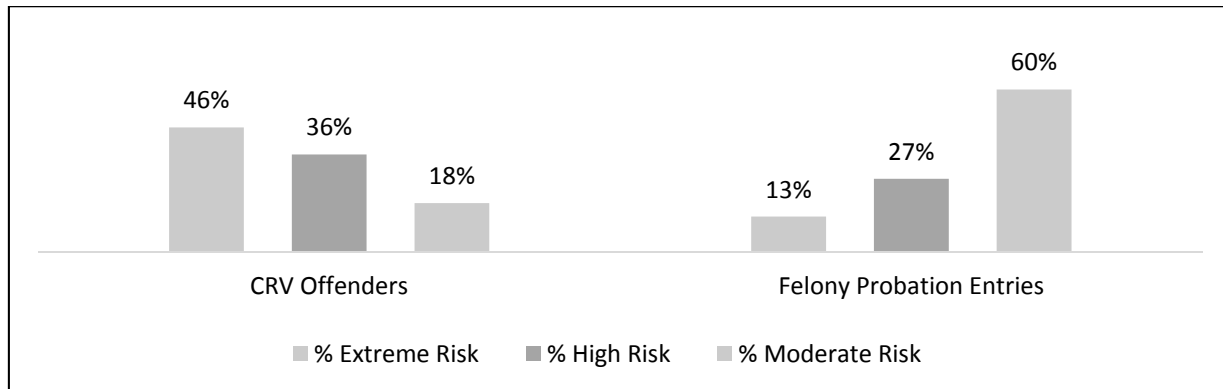
CRV Offenders N=1,381	Felony Probation Entries N=8,674
<ul style="list-style-type: none"> • 84% Male • 51% Black • 48% 21-29 Years at CRV Release • 10% Married • 69% High School Dropout • 43% Employed • 58% Substance Abuse or Need 	<ul style="list-style-type: none"> • 86% Male • 51% Black • 39% 21-29 Years at Probation Entry • 11% Married • 65% High School Dropout • 45% Employed • 45% Substance Abuse or Need

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2013 Correctional Program Evaluation Data

CRV offenders and felony probationers have similar criminal histories; 93% of CRV offenders and 91% of felony probationers had a prior fingerprinted arrest. As described previously, both groups are comprised of offenders with a most serious current conviction for a Class E through Class I felony; the two groups also had similar distributions by offense type (i.e., person, property, drug, other). Forty-four percent of CRV offenders and 48% of felony probationers had a Class H conviction as the most serious current conviction, while 46% of CRV offenders and 44% of felony probationers had a conviction for a property offense. See Appendix B, Tables B.1 and B.2 for more detailed information about prior criminal history.

DPS uses a validated instrument to assess each probationer’s risk of reoffending and criminogenic needs and to place the probationer in the appropriate supervision level. Each offender is assigned to one of five risk levels based on their score: extreme, high, moderate, low, and minimal. Figure 2 compares the highest risk level groups of CRV offenders and felony probation entries and shows that the distributions for the two groups are a mirror image. The majority (82%) of the CRV offenders were assessed as extreme or high risk, while the majority (60%) of the felony probationers were assessed as moderate risk. It should be noted that CRV offenders by definition have already displayed evidence of misconduct by the imposition of a CRV – hence, their higher risk levels are somewhat expected. There were no differences between the two groups based on the need assessment. See Appendix B, Tables B.1 and B.2 for more information on risk and need levels.

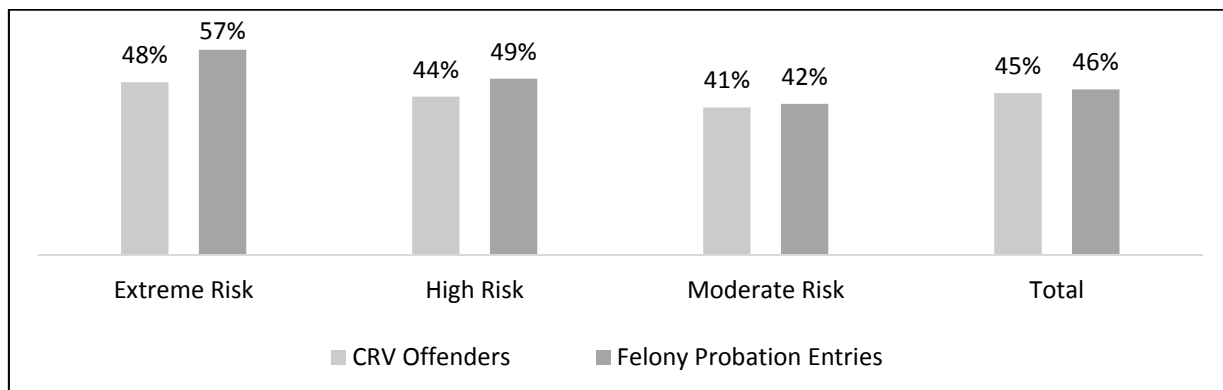
Figure 2
Risk Level



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2013 Correctional Program Evaluation Data

The Commission's primary measure of recidivism is fingerprinted arrests. Overall, CRV offenders and felony probation entries had similar recidivist arrest rates during the two-year follow-up (45% and 46% respectively), with the first recidivist arrest occurring within the eighth month on average for both (see Figure 3). However, when controlling for risk, Figure 3 shows that CRV offenders assessed as extreme and high risk have lower recidivist arrests (48% and 44% respectively) compared to felony probation entries (57% and 49% respectively) within the same risk levels. The lower recidivist arrest rates for CRV offenders are particularly surprising given the higher proportion of CRV offenders in the highest risk levels and that the CRV offenders have already experienced one failure on probation (i.e., technical violation(s) for which the CRV was imposed). This finding also holds true when examining additional measures of recidivism: CRV offenders in the extreme and high risk levels have lower recidivist conviction and recidivist incarceration rates compared to felony probationers in the same risk levels (see Appendix B, Figures B.1 and B.2).

Figure 3
Recidivist Arrest Rates: Two-Year Follow-Up



Note: See Tables B.1 and B.2 for the distribution of CRV offenders and felony probationers by risk level.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2013 Correctional Program Evaluation Data

While the findings regarding recidivist arrests for CRV offenders assessed as extreme and high risk are promising, the difference in recidivist arrests diminishes for offenders assessed as moderate risk. To provide additional context and possible explanations for the diminished effect on the moderate risk group, interim outcomes including violations of probation and two responses to violations – CRVs and revocations

– were also examined. Although the small number of CRV offenders in the moderate risk group must be considered, CRV offenders assessed as moderate risk had higher violation, CRV, and revocation rates than felony probation entries during the two-year follow-up (see Appendix B, Figures B.3, B.4, and B.5 for all three levels of risk).

The differences in outcome measures for moderate risk CRV offenders and felony probationers raise a question regarding whether the CRV is too restrictive a sanction for CRV offenders assessed as moderate risk. Future studies will be able to further examine patterns in outcomes over time. If comparative outcomes do not improve for moderate risk CRV offenders, it would suggest that less restrictive options may produce better outcomes for this group. It is also possible that the addition of intensive programming will improve outcomes for CRV offenders assessed as moderate risk – future studies will provide additional insight on the effect of the programming on outcome measures for this group.

The analysis in this brief reveals relatively small differences when comparing outcomes across risk levels for CRV offenders, a contrast to the greater variation found in outcome rates for felony probation entries. This finding, coupled with the high proportion of CRV offenders in the extreme and high risk groups, may warrant further examination. Future studies may be able to determine whether the risk instrument is accurately assessing the offenders who are sanctioned to a CRV, or if there are additional factors contributing to the relatively stable outcomes by risk level.

In summary, although programming was limited for the FY 2013 CRV offenders during their confinement, these preliminary results suggest that the 90-day limitation of the CRV (instead of activation of the entire suspended sentence due to revocation) may be enough to produce positive results for these offenders. In addition to addressing the preliminary effect of the CRV on outcome measures, the cohort examined in this brief also provides a foundation and a basis of comparison for future studies. With the implementation of CRV centers and the addition of targeted programming for offenders sanctioned with a CRV, future recidivism reports will provide more insight into these early indicators of lower recidivism rates for CRV offenders in the highest risk levels, the effectiveness of the CRV for moderate risk offenders, and the relative variation across outcome measures by risk level.

APPENDIX A: GLOSSARY OF TERMS⁷

Arrest: A record of a fingerprinted arrest in North Carolina maintained in the SBI CCH system. An arrest for which an offender was not fingerprinted (e.g., a misdemeanor offense for which fingerprinting is not required), indictment without an arrest, or failure to find a match for an offender in the SBI CCH database results in the lack of an arrest record. The lack of an arrest record was interpreted as the lack of an arrest. Arrests for impaired driving or other traffic offenses were excluded from analysis, as were arrests that were not for crimes, such as arrests for technical violations of probation. Arrests associated with the current conviction are excluded. The study examined two types of arrest:

- **Prior Arrest:** Fingerprinted arrest that occurred before the current conviction that placed the offender in this sample.
- **Recidivist Arrest:** Fingerprinted arrest that occurred within the two-year follow-up period.

Conviction: A conviction for an offense in the North Carolina state court system. Convictions for impaired driving or other traffic offenses were excluded from analysis, as were convictions that were not for crimes, such as convictions for technical violations of probation. The study examined three types of convictions:

- **Prior Conviction:** A conviction that occurred before the current conviction that placed the offender in this sample, based on data recorded in the SBI CCH system.
- **Current Conviction (Most Serious):** The conviction that placed the offender in the sample as a probation entry or CRV prison release during FY 2013, based on information in OPUS. Conviction offenses were ranked in terms of seriousness based on offense class and sentence length. The offense corresponding to the highest offense class was selected as the most serious current conviction for analysis purposes. If the offender had more than one conviction in this class, then the offense with the longest sentence length was selected.
- **Recidivist Conviction:** A conviction that occurred within the two-year follow-up period, based on data recorded in the SBI CCH system. The arrest corresponding to the conviction had to have occurred during the follow-up period also.

Incarceration: Confinement in North Carolina's prison system as a result of an active sentence imposed for a criminal conviction or revocation of supervision; data based on OPUS records. Does not include incarceration in jails, other states, or Federal facilities. In addition, offenders who served a CRV for technical violations or who entered prison as a safekeeper or a pre-sentence diagnostic were not included in the measure. The study examined three types of incarceration:

- **Prior Incarceration:** An incarceration period that ended before the current probation admission for probationers and CRV offenders.
- **Recidivist Incarceration:** An incarceration that occurred during the follow-up period.

Need Level: Using the Offender Self-Report and the Officer's Interview/Impressions Worksheet assessment tools, the offender's need is assessed by addressing six criminogenic factors (dysfunctional family, criminal peers, anti-social personality, anti-social values, substance abuse, and self-control) and is used in combination with the OTI-R to determine supervision level, program placement, and other interventions for probationers. These assessments are administered within the first 60 days of probation supervision. The assessment divides the probationers into five need levels: extreme, high, moderate, low, and minimal.

Risk Level: The Offender Traits Inventory-Revised (OTI-R) is a validated instrument used to assess the offender's risk of reoffending administered by probation officers within 60 days of admission to probation or PRS. Each offender is assigned to one of five levels of risk based on their score: extreme, high, moderate,

⁷ For a more detailed glossary, see <http://www.nccourts.org/Courts/CRS/Councils/spac/Publication/Recidivism/AdultRec.asp>.

low, or minimal. The OTI-R was fully implemented by the spring of 2012. OTI-R results are reported for probation entries only in this analysis.

Probation Violation: A violation of supervision conditions during the follow-up period. A violation is included in the study if it was a “completed” violation – meaning the violation was either disposed of by the court in a violation hearing or handled by the DPS using delegated authority. Probation violations fall into three categories:

- **Criminal:** A probation violation entered due to a pending criminal charge(s) or conviction for a new crime(s) during the two-year follow-up period.
- **Absconding:** A probation violation entered due to absconding supervision during the two-year follow-up period. Absconding occurs when a probationer avoids supervision by leaving the jurisdiction or otherwise making him/herself unavailable to the probation officer.
- **Technical:** Violation of the conditions of supervision that require probationers to conform their behavior in a manner not normally applicable to a person who is not under criminal justice system supervision (e.g., possession of a firearm, failure to follow treatment recommendations, failure to obtain employment). A technical violation does not necessarily imply criminal activity.

Revocation: A revocation of community supervision due to violation(s) and the activation of the suspended prison sentence. Prior to the implementation of the JRA, revocations of probation or PRS included revocations due to technical violations along with those for new crimes and absconding. After the implementation of the JRA, revocations included violations due to a new crime or absconding and only included revocations for technical violations after two CRVs are imposed for probationers and after three technical violations are imposed for PRS offenders. The JRA changes to revocations apply to probationers under supervision in the community effective December 1, 2011 and to prison releases placed on PRS for offenses committed on or after December 1, 2011. The study identifies two types of revocation:

- **Prior Revocation:** Revocation that occurred before the current conviction that placed the offender in this sample.
- **Recidivist Revocation:** Revocation that occurred during the two-year follow-up period. In addition, recidivist revocations were examined with regard to their seriousness. Revocations fall into three categories:
 - **Criminal:** Revocation due to a violation entered due to a pending criminal charge(s) or conviction for a new crime(s) during the two-year follow-up period.
 - **Absconding:** Revocation due to absconding supervision during the two-year follow-up period. Absconding occurs when a probationer avoids supervision by leaving the jurisdiction or otherwise making him/herself unavailable to the probation officer.
 - **Technical:** Revocation due to violation(s) of the conditions of supervision that require probationers to conform their behavior in a manner not normally applicable to a person who is not under criminal justice system supervision (e.g., possession of a firearm, failure to follow treatment recommendations, failure to obtain employment). A technical violation does not necessarily imply criminal activity. For JRA offenders, a technical revocation of probation can only occur after the imposition of two CRVs.

APPENDIX B: ADDITIONAL TABLES AND FIGURES

Table B.1
Profile of CRV Offenders (N=1,381)

Personal Characteristics	%	Prior Criminal Justice Contacts <i>continued</i>	
Gender		Prior Revocations	
Female	16	% with Any Prior Revocation	45
Male	84	Total # of Prior Revocations	1,083
Race		Prior Incarcerations	
Black	51	% with Any Prior Incarceration	43
White	46	Total # of Prior Incarcerations	1,148
Other/Unknown	3	Current Conviction	%
Age at CRV Release		Offense Class	
Under 21 Years	13	Class E	5
21-29 Years	48	Class F	11
30-39 Years	23	Class G	15
40-49 Years	11	Class H	44
50 Years and Older	5	Class I	25
Marital Status		Offense Type	
Single	75	Person	13
Divorced/Separated	14	Property	46
Married/Widowed	11	Drug	33
Other/Unknown	0	Other	8
Education		Risk and Need Assessments	# %
High School Graduate	31	Risk Level	
High School Dropout	69	Extreme	631 46
Employment		High	499 36
Employed	43	Moderate	251 18
Unemployed	57	Need Level	
Substance Abuse		Extreme	484 35
None Indicated	42	High	271 19
Substance Abuse or Need	58	Moderate	452 33
Prior Criminal Justice Contacts		Low	162 12
Prior Arrests		Minimal	12 1
% with Any Prior Arrest	93	Supervision Level	# %
Total # of Prior Arrests	5,895	Level 1 (Most Restrictive)	282 21
Prior Probation Admissions		Level 2	662 48
% with Any Prior Prob. Admission	61	Level 3	346 25
Total # of Prior Prob. Admissions	1,702	Level 4	89 6
		Level 5 (Least Restrictive)	2 0

Note: Twelve offenders were missing education information; 181 were missing employment information.
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2013 Correctional Program Evaluation Data

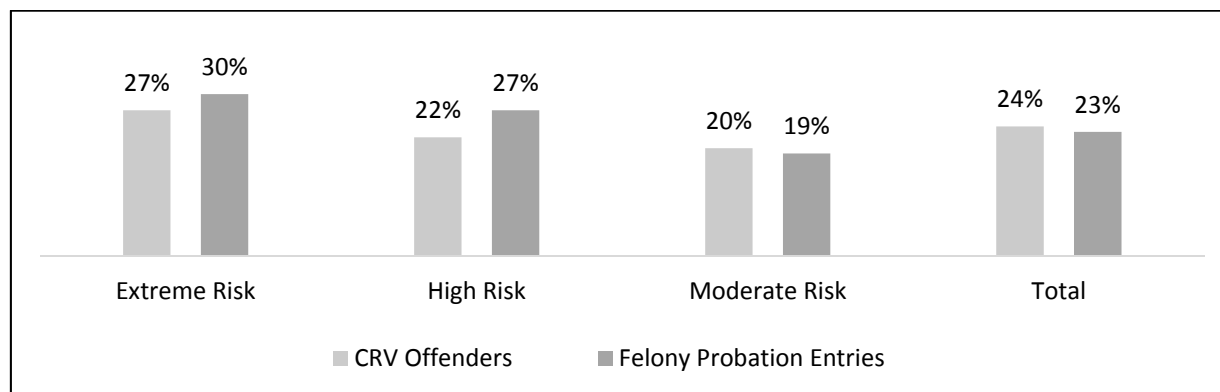
Table B.2
Profile of Felony Probation Entries (N=8,674)

Personal Characteristics	%	Prior Criminal Justice Contacts <i>continued</i>	
Gender		Prior Revocations	
Female	14	% with Any Prior Revocation	48
Male	86	Total # of Prior Revocations	6,977
Race		Prior Incarcerations	
Black	51	% with Any Prior Incarceration	40
White	45	Total # of Prior Incarcerations	6,651
Other/Unknown	4	Current Conviction	%
Age at Probation Entry		Offense Class	
Under 21 Years	19	Class E	4
21-29 Years	39	Class F	10
30-39 Years	25	Class G	12
40-49 Years	12	Class H	48
50 Years and Older	5	Class I	26
Marital Status		Offense Type	
Single	74	Person	11
Divorced/Separated	14	Property	44
Married/Widowed	12	Drug	35
Other/Unknown	0	Other	10
Education		Risk and Need Assessments	# %
High School Graduate	35	Risk Level	
High School Dropout	65	Extreme	1,082 13
Employment		High	2,351 27
Employed	45	Moderate	5,241 60
Unemployed	55	Need Level	
Substance Abuse		Extreme	2,776 32
None Indicated	55	High	1,624 19
Substance Abuse or Need	45	Moderate	2,917 33
Prior Criminal Justice Contacts		Low	1,188 14
Prior Arrests		Minimal	169 2
% with Any Prior Arrest	91	Supervision Level	# %
Total # of Prior Arrests	36,659	Level 1 (Most Restrictive)	1,391 16
Prior Probation Admissions		Level 2	3,663 42
% with Any Prior Prob. Admission	69	Level 3	2,789 32
Total # of Prior Prob. Admissions	12,754	Level 4	831 10
		Level 5 (Least Restrictive)	0 0

Note: Twelve offenders were missing education information; 7 were missing employment information.

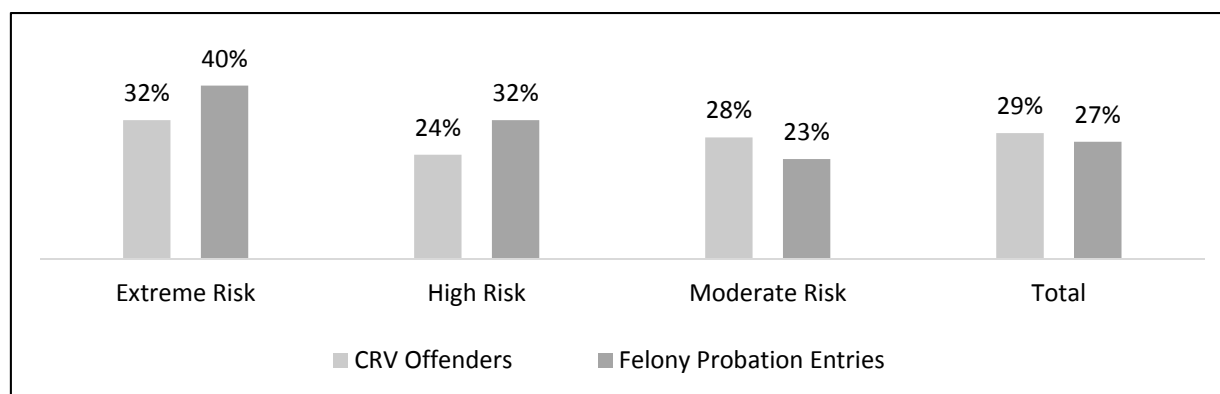
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2013 Correctional Program Evaluation Data

Figure B.1
Recidivist Conviction Rates: Two-Year Follow-Up



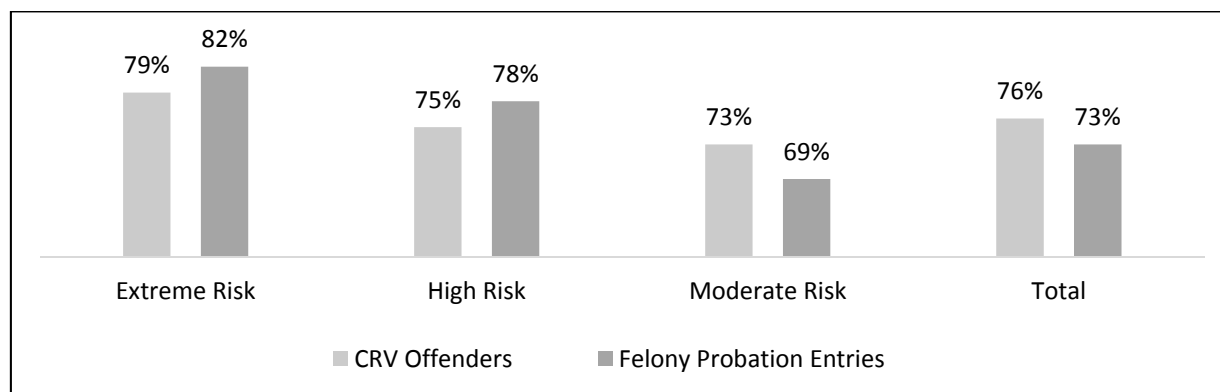
Note: See Tables B.1 and B.2 for the distribution of CRV offenders and felony probationers by risk level.
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2013 Correctional Program Evaluation Data

Figure B.2
Recidivist Incarceration Rates: Two-Year Follow-Up



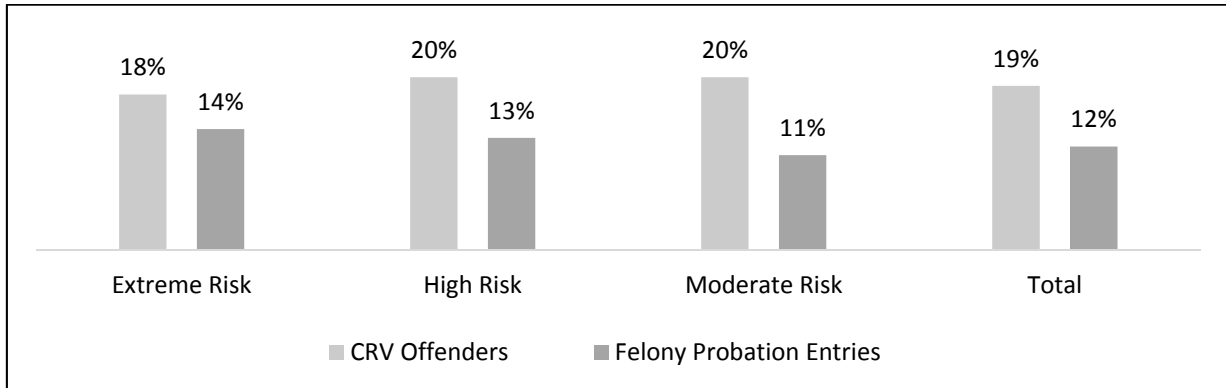
Note: See Tables B.1 and B.2 for the distribution of CRV offenders and felony probationers by risk level.
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2013 Correctional Program Evaluation Data

Figure B.3
Violation Rates: Two-Year Follow-Up



Note: See Tables B.1 and B.2 for the distribution of CRV offenders and felony probationers by risk level.
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2013 Correctional Program Evaluation Data

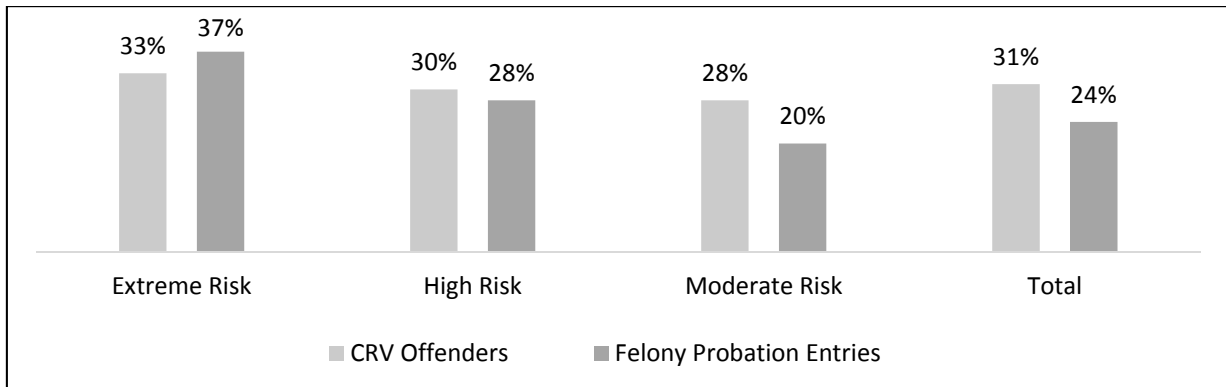
Figure B.4
CRV Rates: Two-Year Follow-Up



Note: For CRV offenders, a CRV during the two-year follow-up indicates a subsequent CRV. For felony probation entries, a CRV during the two-year follow-up indicates at least one CRV. See Tables B.1 and B.2 for the distribution of CRV offenders and felony probationers by risk level.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2013 Correctional Program Evaluation Data

Figure B.5
Revocation Rates: Two-Year Follow-Up



Note: See Tables B.1 and B.2 for the distribution of CRV offenders and felony probationers by risk level.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2013 Correctional Program Evaluation Data