

## SMCP CAPACITY PROJECTIONS: FISCAL YEAR 2024 TO FISCAL YEAR 2028

### Introduction

In 2011, the General Assembly created the Statewide Misdemeanant Confinement Program (SMCP) as part of the Justice Reinvestment Act (JRA).<sup>1</sup> The SMCP provides state funding to house misdemeanants serving sentences of more than 90 days and all impaired driving sentences (regardless of sentence length)<sup>2</sup> in local jails. Every county is required to send eligible misdemeanants to the SMCP but becoming a “receiving county” is voluntary; counties not volunteering beds are referred to as “sending only” or “sending” counties. The creation of this program allowed the State to move misdemeanants from the state prison system to the local jails. However, if the SMCP lacks capacity, additional sentenced misdemeanants may be transferred to a state prison.<sup>3</sup> This dynamic raises the possibility that misdemeanants returning to prison could place an additional burden on the prison system. For planning and budgetary purposes, policymakers need to know how many beds are and will be available in the SMCP.

North Carolina General Statute § 164-51 requires the North Carolina Sentencing and Policy Advisory Commission (Sentencing Commission), with the assistance of the North Carolina Sheriffs’ Association (NCSA), to annually develop projections of available bed space in the SMCP for the next five fiscal years. The SMCP capacity projections were developed using data and information from the NCSA on SMCP capacity, population, and participating counties; Department of Health and Human Services (DHHS) jail project information; and information from architectural firms and jails building additions or new facilities.

### Jail Population and Capacity

As shown in Figure 1, the overall average daily population (ADP) in jails was 16,594 in July 2023, a 10% decrease from the ADP in July 2022. As the criminal justice system recovered from the worst effects of the COVID-19 pandemic (starting in March 2020), the overall population had been generally trending upward, but still remains below pre-pandemic levels. According to the capacity information reported to DHHS by local jails, the total statewide capacity was 26,058 in July 2023.

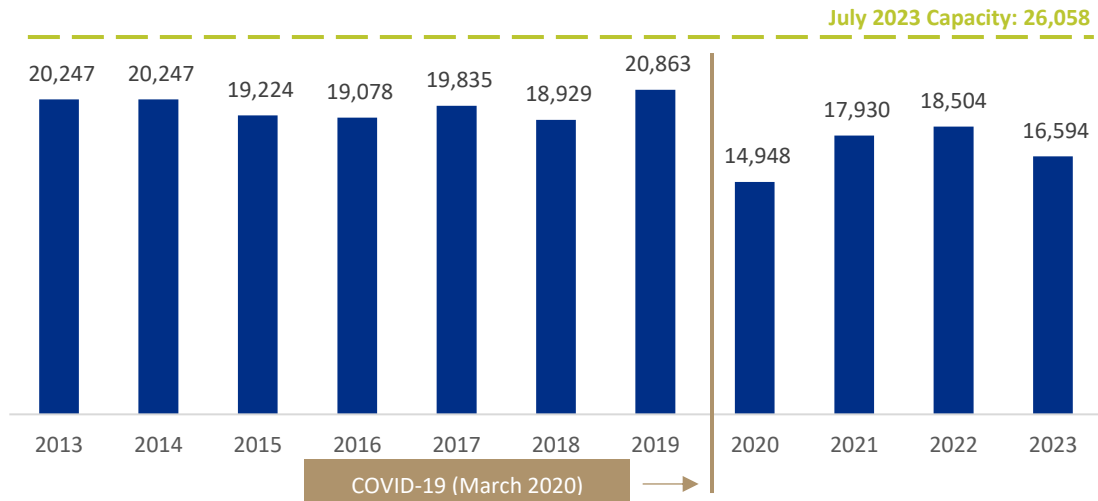
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<sup>1</sup> N.C. Session Law (hereinafter S.L.) 2011-192, s. 7.

<sup>2</sup> N.C. Gen. Stat. (hereinafter G.S.) 148-32.1(b2) (2022).

<sup>3</sup> G.S. 148-32.1(b4).

**Figure 1**  
**Total Jail Average Daily Population (ADP)**  
**July 2013 – July 2023**



NOTE: Some jails' ADP are not included in the July 2023 ADP due to unreported data.

SOURCE: DHHS Construction Section, *Local Confinement Report*, 2013 – 2023; analysis conducted by NC Sentencing and Policy Advisory Commission.

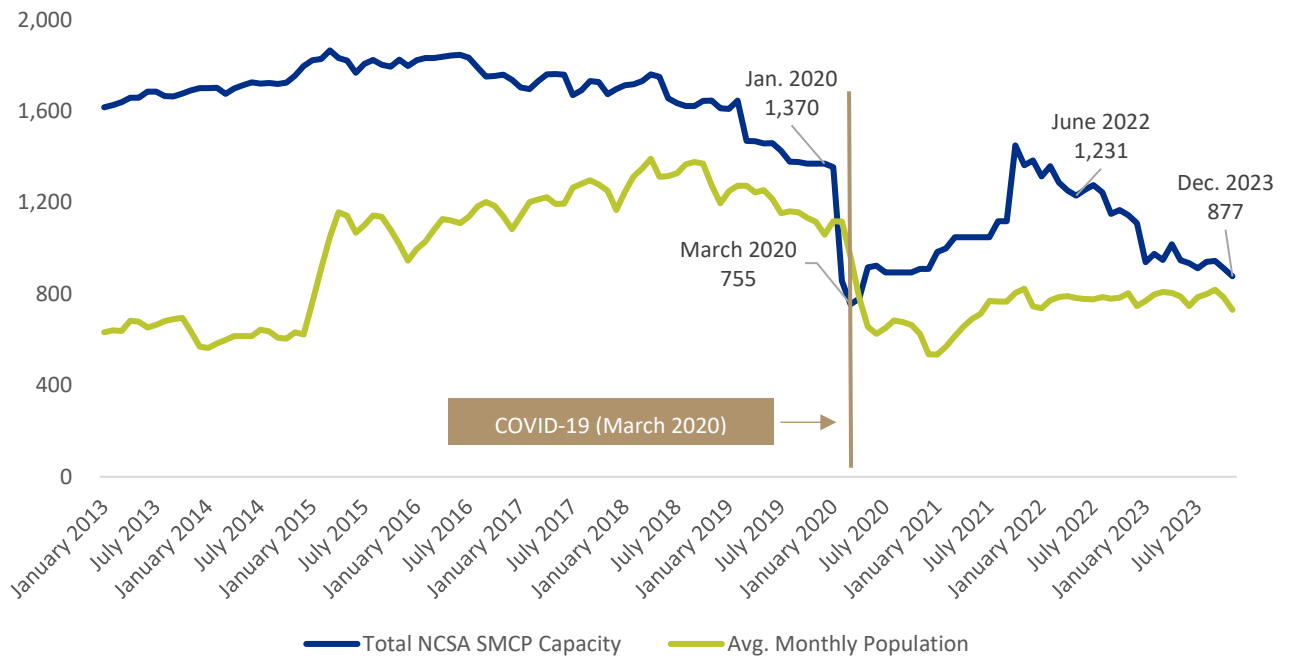
### Historical SMCP Capacity and Average Monthly Population

Historical SMCP capacity data are a key component for producing the five-year SMCP capacity projections. The average monthly SMCP population also provides additional context for the projections. Figure 2 shows the total SMCP capacity and the average monthly population beginning in January 2013. The most notable increase in population occurred in FY 2015 due to legislative changes that expanded the eligible population for the program. In the month prior to the onset of the pandemic (February 2020), the average monthly population was 1,118. In June 2023, the SMCP average monthly population increased 1% from the previous year (from 782 in June 2022 to 789 in June 2023).

Capacity remained relatively consistent through the first years of the program but began to decline in FY 2017 (prior to the pandemic, an average 4% decrease per year). Capacity reached its lowest point during the pandemic, in April 2020, at 755 beds or 44% of pre-COVID historic average capacity (1,721 beds). Starting in June 2021, the overall capacity increased due to a change in reporting in the NCSA's monthly status reports. Using the new reporting method, the NCSA reported by June 2022 that the SMCP capacity rebounded to 1,231 beds, an increase of 63% from the lowest capacity figure in FY 2020.

Starting in March 2020 and over the course of the pandemic, the NCSA permitted some counties to reduce their participation in the SMCP to only receive inmates from within their own county (referred to as "temporary moratorium counties"), which affected SMCP capacity. As of February 1, 2023, the NCSA's Executive Committee ended the option for counties to enter a temporary moratorium.

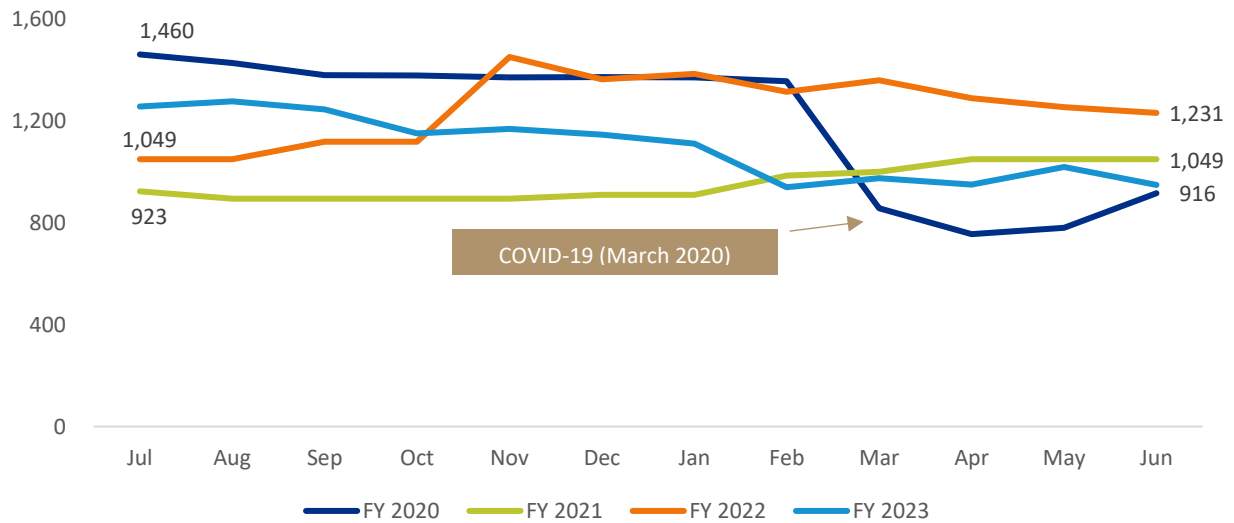
**Figure 2**  
**SMCP Capacity and Population Trends (January 2013 – December 2023)**



SOURCE: NC Sentencing and Policy Advisory Commission; NC Sheriffs’ Association

Figure 3 provides an additional examination of the effects of the COVID-19 pandemic on the reported SMCP capacity. After FY 2020’s declines, capacity increased during FY 2021. Capacity fluctuated in FY 2022, returning to near pre-pandemic levels in November 2021 (1,450 beds), before declining again. In FY 2023 capacity declined from 1,256 beds in July 2022 to 948 beds in June 2023 (a decrease of 25%).

**Figure 3**  
**SMCP Capacity by Fiscal Year (2020-2023)**



SOURCE: NC Sentencing and Policy Advisory Commission; NC Sheriffs’ Association

## Methodology and Assumptions

This section details the assumptions used to develop the SMCP bed capacity projections for FY 2024 through FY 2028. Assumptions were developed using data from the past five fiscal years (FY 2019 through FY 2023).

- *State and local practices and administrative rules:* The projections assume no change in judicial or prosecutorial behavior relating to convictions and sentencing. They also assume no change in local practices (e.g., practices related to pretrial release).<sup>4</sup> In addition, the projections assume there will be no changes to administrative rules that affect jail capacity.
- *Mandated SMCP population:* The projections assume no legislative changes to the population currently mandated to serve sentences through the SMCP.
- *Inmates backlogged in county jails:* Jail backlog (i.e., inmates in county jails awaiting transfer to prison) may limit the number of beds available for jails to hold other inmates, including SMCP inmates. On December 31, 2023, the jail backlog was 0. If any SMCP beds were removed due to jail backlog, they were accounted for in the growth rate in SMCP capacity used to produce the projection.
- *Jail population distribution:* The projections assume the general population distribution of all jail inmates (e.g., percentage of pretrial inmates, percentage of male inmates, etc.) remains consistent throughout the projection period.
- *Planned jail projects:* Known projects at this time are assumed to be the only ones affecting statewide capacity during the projection period.<sup>5</sup> Receiving and sending counties that are building jails were asked about SMCP participation; all responded as either undecided on adding beds or that no new beds would be added during the projection period (FY 2024 to FY 2028).
- *Receiving counties:* The projections assume receiving counties (as of June 30, 2023) will remain receiving counties throughout the projection period.
- *Sending counties:* The projections assume sending only counties (as of June 30, 2023) that are not building jails during the projection period will remain sending only counties.
- *SMCP capacity growth rate:* The projections assume a growth rate of -1% for FY 2024, based on the average percent change in capacity over 12 months (CY 2023), and 0% for the remaining projection years.

## SMCP Capacity Projections

The information on annual changes to the SMCP capacity and assumptions about future bed capacity were used to determine a five-year capacity projection for the SMCP. The projection scenario detailed below in Table 1 provides the capacity projections for FY 2024 through FY 2028. The current SMCP capacity, which serves as the starting point for the projection, is 964 beds (capacity as of January 31, 2024). Capacity is projected to remain the same in the final four years of the projection (FY 2025 through FY 2028), after a -1% decline in the first year (FY 2024).

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<sup>4</sup> There are many local reform efforts across the state focused on pretrial release practices. If implemented statewide, they may affect future projections.

<sup>5</sup> Counties building new jail facilities or expanding a jail facility during the projection period include Cleveland (458 beds, FY 2026 estimated completion), Davidson (400 beds, FY 2026 estimated completion), Duplin (156 beds, FY 2027 estimated completion), Henderson (design phase), Johnston (469 beds, FY 2024 estimated completion), Nash (94 beds, FY 2025 estimated completion), Pender (222 beds, FY 2025 estimated completion), Randolph (211 beds, FY 2024 estimated completion), and Wayne (220 beds, FY 2024 estimated completion).

**Table 1**  
**SMCP Capacity Projections**  
**FY 2024 – FY 2028**

	<b>Starting Capacity</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
Total Bed Change		-10	0	0	0	0
<b>Total Capacity</b>	964	954	954	954	954	954
<b>5-Year Projection</b>	Percent Change: 0%		Bed Change: 0			

SOURCE: Prepared by the NC Sentencing and Policy Advisory Commission with the assistance of the NC Sheriffs' Association.

Capacity may increase if any jail projects that are expected to be completed between FY 2024 and FY 2028 decide to contribute beds to the SMCP. Additionally, receiving counties can change the number of beds volunteered at any point. It is important to note that the projected capacity could be further altered by ongoing staffing shortages and other unexpected factors, all of which create some uncertainty for future planning.

The projections do not address any potential issues related to funding. The SMCP pays local jails to house offenders; capacity is, in part, based on adequate funding to pay for the use of the beds. Without sufficient funds, capacity would likely be reduced, and additional sentenced misdemeanants may be transferred to a state prison, potentially burdening the prison system.

The relationship between state and local facilities in the unique context of the SMCP highlights the importance of accurately understanding both capacity and population for the program. Without a projection of the SMCP population, it is not possible to assess whether the projected capacity will meet future population needs. Taken together, the projected population in context with projected capacity would inform policymakers whether the committed and expected beds will be sufficient to meet the needs of the program while also allowing for more accurate resource planning.