



Introduction to Structured Sentencing


Jamie Markham
UNC School of Government
January 2023



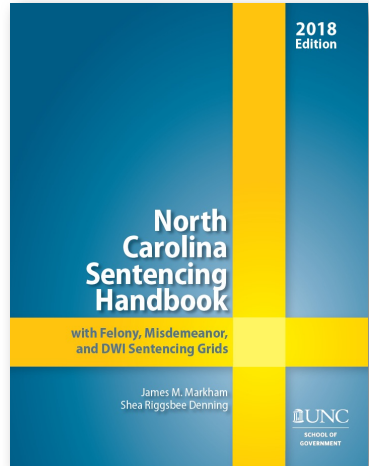
1

Objectives

- Grid fluency
- How to say a sentence
- Avoid common errors



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2018 Edition

North Carolina Sentencing Handbook

with Felony, Misdemeanor, and DWI Sentencing Grids

James M. Markham
Shea Riggsbee Denning



Purposes of Sentencing

Under G.S. 15A-1340.12, the primary purposes of sentencing in North Carolina are to:

- Punish** the defendant, commensurate with the injury the offense has caused, taking into account factors that may diminish or increase the defendant's culpability.
- Protect** the public by restraining the defendant.
- Rehabilitate** the defendant.
- Restore** the defendant to the community as a lawful citizen.
- Deter** criminal behavior by others.

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Types of Sentences

- Prison (“Active”)
- Probation (“Intermediate” or “Community”)
- Split sentence (“Special Probation”)
- Sex Offenders
- Multiple convictions
- Fines and Restitution



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Felony Offenses Committed on or after October 1, 2013

MINIMUM SENTENCES AND DISPOSITIONAL OPTIONS

OFFENSE CLASS	PRIOR RECORD LEVEL					
	I 0-1 Pt	II 2-5 Pts	III 6-8 Pts	IV 9-13 Pts	V 14-17 Pts	VI 18+ Pts
A First-degree murder	15-20	20-25	25-30	30-35	35-40	40-45
B1 Rape/sexual offense	10-15	15-20	20-25	25-30	30-35	35-40
B2 Second-degree murder	10-15	15-20	20-25	25-30	30-35	35-40
C Habitual felon	10-15	15-20	20-25	25-30	30-35	35-40
D Armed robbery	10-15	15-20	20-25	25-30	30-35	35-40
E AWDWISI	10-15	15-20	20-25	25-30	30-35	35-40
F Indecent liberties with children	10-15	15-20	20-25	25-30	30-35	35-40
G Possession of firearm by felon	10-15	15-20	20-25	25-30	30-35	35-40
H Breaking or entering	10-15	15-20	20-25	25-30	30-35	35-40
I Cocaine possession	10-15	15-20	20-25	25-30	30-35	35-40

MAXIMUM SENTENCES

FOR OFFENSE CLASSES B1 THROUGH E (Minimum Sentence & Corresponding Maximum On Control)

Offense Class	0-1 Pt	2-5 Pts	6-8 Pts	9-13 Pts	14-17 Pts	18+ Pts
B1	10-15	15-20	20-25	25-30	30-35	35-40
B2	10-15	15-20	20-25	25-30	30-35	35-40
C	10-15	15-20	20-25	25-30	30-35	35-40
D	10-15	15-20	20-25	25-30	30-35	35-40
E	10-15	15-20	20-25	25-30	30-35	35-40

FOR OFFENSE CLASSES F THROUGH I (Minimum Sentence & Corresponding Maximum)

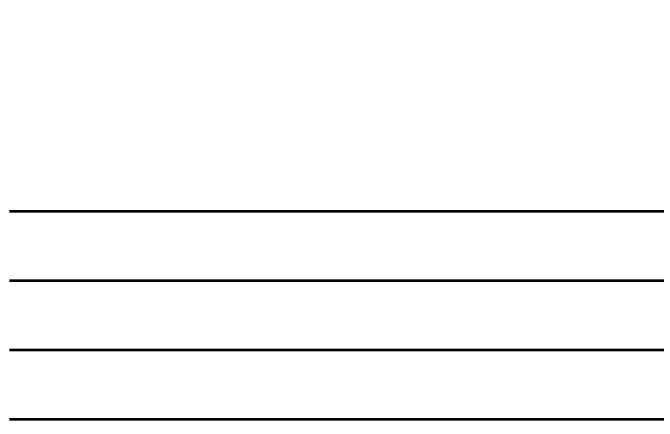
Offense Class	0-1 Pt	2-5 Pts	6-8 Pts	9-13 Pts	14-17 Pts	18+ Pts
F	10-15	15-20	20-25	25-30	30-35	35-40
G	10-15	15-20	20-25	25-30	30-35	35-40
H	10-15	15-20	20-25	25-30	30-35	35-40
I	10-15	15-20	20-25	25-30	30-35	35-40

Length of Probation Period

Post Release Supervision

Fines

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MAXIMUM SENTENCES

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B2	10-15	15-20	20-25	25-30	30-35	35-40
C	10-15	15-20	20-25	25-30	30-35	35-40
D	10-15	15-20	20-25	25-30	30-35	35-40
E	10-15	15-20	20-25	25-30	30-35	35-40

FOR OFFENSE CLASSES F THROUGH I (Minimum Sentence & Corresponding Maximum)

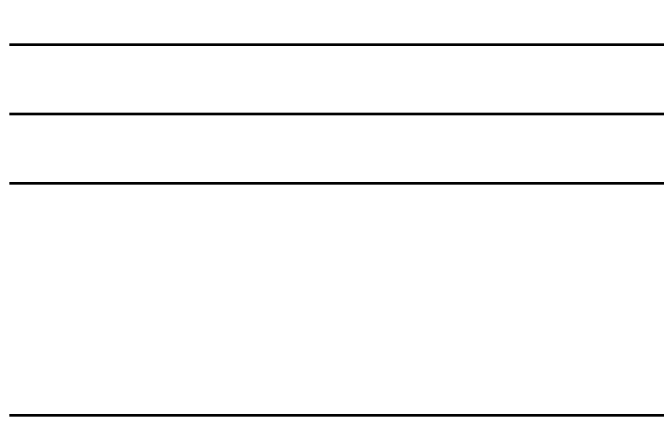
Offense Class	0-1 Pt	2-5 Pts	6-8 Pts	9-13 Pts	14-17 Pts	18+ Pts
F	10-15	15-20	20-25	25-30	30-35	35-40
G	10-15	15-20	20-25	25-30	30-35	35-40
H	10-15	15-20	20-25	25-30	30-35	35-40
I	10-15	15-20	20-25	25-30	30-35	35-40

Length of Probation Period

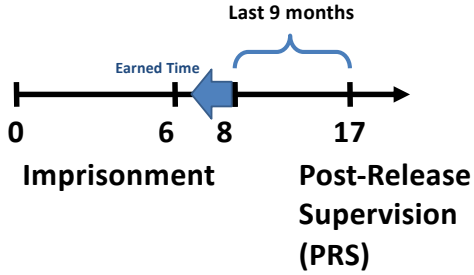
Post Release Supervision

Fines

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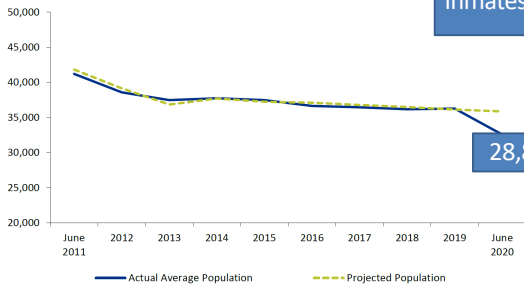


- About 7 months in prison
- 9 months of PRS



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A Comparison of the Actual and Projected Population for June
FY 2011 to FY 2020 Projections



What crimes
are most
inmates in for?

28,850

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Prison Population (2019)

- Murder 17 %
- Sexual assaults 12 %
- Robbery 9 %
- Non-trafficking drug 7 %

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Probationary Sentences (p. 26)

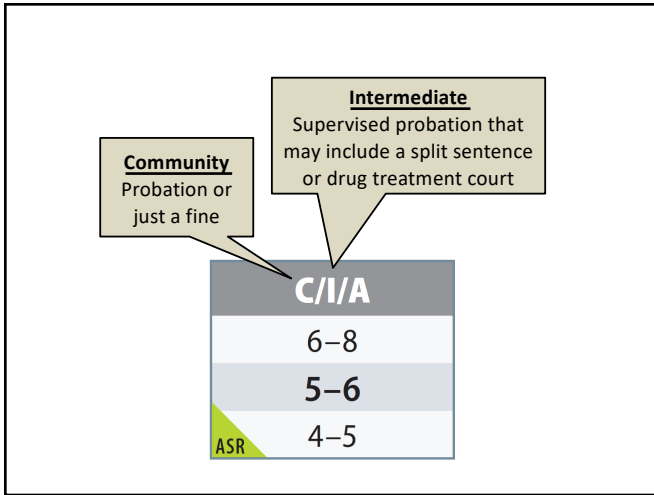
- Term of imprisonment
- Type of sentence
- Length of probation period
- Conditions of probation
- Delegated authority

Probationary Sentences (p. 26)

- Term of imprisonment 6-17 months
- Type of sentence
- Length of probation period
- Conditions of probation
- Delegated authority

Probationary Sentences (p. 26)

- Term of imprisonment
- Type of sentence
- Length of probation period
- Conditions of probation
- Delegated authority



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Probationary Sentences (p. 26)

- **Term of imprisonment**
- **Type of sentence**
- **Length of probation period**
- **Conditions of probation**
- **Delegated authority**

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Length of Probation Period

The original period of probation for a felony sentenced under Structured Sentencing must fall within the following limits:

- Community—12 to 30 months
- Intermediate—18 to 36 months

The court may depart from those ranges with a finding that a longer or shorter period is required. The maximum permissible period with a finding is 5 years. G.S. 15A-1343.2.

SUSPENSION OF SENTENCE

Subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on supervised unsupervised probation for _____ months.

1. The Court finds that a longer shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).

2. The Court finds that it is appropriate to delegate to the Section of Community Corrections the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.

3. This period of probation shall begin when the defendant is released from incarceration at the expiration of the sentence in the case below.

File No.	Offense	County	Court	Date
----------	---------	--------	-------	------

4. The defendant shall comply with the conditions set forth in file number _____.

5. The defendant shall provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319 required)

- **Average probation for a felony: 26 months**

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Probationary Sentences (p. 26)

- Term of imprisonment
- Type of sentence
- Length of probation period
- Conditions of probation
- Delegated authority

Delegated Authority

- Conditions a probation officer may impose without court action
 - Community service
 - Additional reporting
 - Substance abuse assessment/treatment
 - House arrest
 - Curfew with electronic monitoring
 - Educational/vocational programming
 - **2- or 3-day “quick dip” in the jail**

Delegated Authority

- Applies unless the court “un-delegates” it

The screenshot shows a court document from the State of North Carolina. It includes sections for 'STATE OF NORTH CAROLINA', 'COUNTY OF ...', and 'SUPERIOR COURT'. The document details a probationary sentence and includes a section for 'DELEGATED AUTHORITY'. A yellow callout box points to a specific line in the document, stating: 'The Court finds that it is NOT appropriate to delegate...'

The Court finds that it is NOT appropriate to delegate...

Exercise 2

- Suspend the term of imprisonment from (1) and give the defendant an Intermediate sentence

C/I/A	
	6-8
	5-6
ASR	4-5

Probationary Sentences (p. 26)

- **Term of imprisonment**
- **Type of sentence**
- **Length of probation period**
- **Conditions of probation**
- **Delegated authority**

C/I/A	
	6-8
	5-6
ASR	4-5

Exercise 2

- Suspend the term of imprisonment from (1) and give the defendant an Intermediate sentence

C/I/A	
	6-8
	5-6
ASR	4-5

STATE OF NORTH CAROLINA
COUNTY OF _____
CASE NO. _____
FILED _____

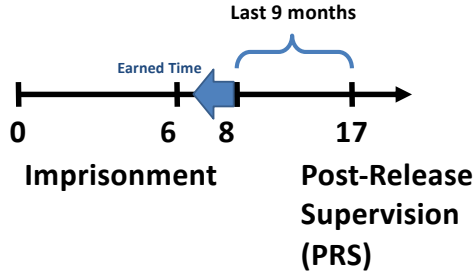
SENTENCE: _____

CONDITIONS OF PROBATION: _____

“6-17 months,
suspended.
36 months of
supervised
probation.”

**On supervised probation for 3 years
If revoked . . .**

- About 7 months in prison
- 9 months of PRS



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Exercise 3

- Give the defendant from Exercise 1 a Community sentence

C/I/A	
	6-8
	5-6
ASR	4-5

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Community

- Supervised or unsupervised probation that **MAY NOT** include
 - Special probation
 - Drug treatment court
- Or a fine only

Intermediate

- Supervised probation that **MAY** include
 - Special probation
 - Drug treatment court

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Probationary Sentences (p. 26)

- Term of imprisonment
- Type of sentence
- Length of probation period
- Conditions of probation
- Delegated authority

Community

- Supervised or unsupervised probation that MAY NOT include
 - Special probation
 - Drug treatment court
- Or a fine only

Intermediate

- Supervised probation that MAY include
 - Special probation
 - Drug treatment court

Probationary Sentences (p. 26)

- Term of imprisonment
- Type of sentence
- Length of probation period
- Conditions of probation
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Length of Probation Period

The original period of probation for a felony sentenced under Structured Sentencing must fall within the following limits:

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SUSPENSION OF SENTENCE				
Subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on <input type="checkbox"/> supervised <input type="checkbox"/> unsupervised probation for _____ months.				
<input type="checkbox"/> 1. The Court finds that a <input type="checkbox"/> longer <input type="checkbox"/> shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).				
<input type="checkbox"/> 2. The Court finds that it is NOT appropriate to delegate to the Section of Community Corrections the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.				
<input type="checkbox"/> 3. This period of probation shall begin <input type="checkbox"/> when the defendant is released from incarceration <input type="checkbox"/> at the expiration of the sentence in the case below.				
File No.	Offense	County	Court	Date
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4. The defendant shall comply with the conditions set forth in file number _____				
<input type="checkbox"/> 5. The defendant shall provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319 required)				

Probationary Sentences (p. 26)

- Term of imprisonment
- Type of sentence
- Length of probation period
- Conditions of probation
- Delegated authority

Special Probation (Split)

- Jail/prison confinement for up to $\frac{1}{4}$ the maximum imposed sentence of imprisonment
- May be noncontinuous (e.g., weekends)
 - Noncontinuous periods must be served in jail
 - Must be complete within 2 years of conviction
- Judge may order \$40/day jail fee (optional)

15 → 27

Maximum permissible split?
6.75 months

Exercise 4

- Common Law Robbery (Class G)
- Prior Record Level IV
- Sentence the defendant to "Special Probation":
Give him a 30-day split sentence

Suppose the defendant had 30 days of jail credit?

- 15-27 months, suspended
- 36 months supervised probation
- 30 days special probation

Serious Felonies (Class A-E)

Exercise 5

- Discharge Weapon into Occupied Property (Class E)
- PRL V
- Aggravating and Mitigating factors: None
- Give the defendant the shortest possible Active sentence

FELONY OFFENSES COMMITTED ON OR AFTER OCTOBER 1, 2013						
OFFENSE CLASS	MINIMUM SENTENCES AND DISPOSITIONAL OPTIONS					
	I 0-1 Pt	II 2-3 Pts	III 4-5 Pts	IV 6-7 Pts	V 8-13 Pts	VI 14-17 Pts
A Murder	100-000	100-000	100-000	100-000	100-000	100-000
B1 Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
B2 Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
C Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
D Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
E Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
F Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
G Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
H Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
I Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000

44-55
35-44
26-35

55

Exercise 5

- Discharge Weapon into Occupied Property (Class E)
- PRL V
- Aggravating and Mitigating factors: None
- Give the defendant the shortest possible Active sentence

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FELONY OFFENSES COMMITTED ON OR AFTER OCTOBER 1, 2013						
OFFENSE CLASS	MINIMUM SENTENCES AND DISPOSITIONAL OPTIONS					
	I 0-1 Pt	II 2-3 Pts	III 4-5 Pts	IV 6-7 Pts	V 8-13 Pts	VI 14-17 Pts
A Murder	100-000	100-000	100-000	100-000	100-000	100-000
B1 Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
B2 Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
C Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
D Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
E Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
F Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
G Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
H Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000
I Murder with a Deadly Weapon	100-000	100-000	100-000	100-000	100-000	100-000

44-55
35-44
26-35

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Serious Felonies (Class B1-E)

- 12 months of Post-Release Supervision
- Longer maximum sentences



Felony Offenses Committed on or after October 1, 2013

MINIMUM OFFENSE AND PRIOR RECORD OFFENSES

OFFENSE CLASS	1-1 Pt	2-5 Pts	6-8 Pts	9-11 Pts	12-15 Pts	16-17 Pts	18 Pts
A	10-100	105-120	125-130	135-140	145-150	155-160	165-170
B1	180-200	205-220	225-240	245-260	265-280	285-300	305-320
B2	325-340	345-360	365-380	385-400	405-420	425-440	445-460
C	465-480	485-500	505-520	525-540	545-560	565-580	585-600
D	605-620	625-640	645-660	665-680	685-700	705-720	725-740
E	745-760	765-780	785-800	805-820	825-840	845-860	865-880

FOR OFFENSE CLASSIFIED THROUGH (Minimum Sentence - Compensating Maximum)

35+54 (102)

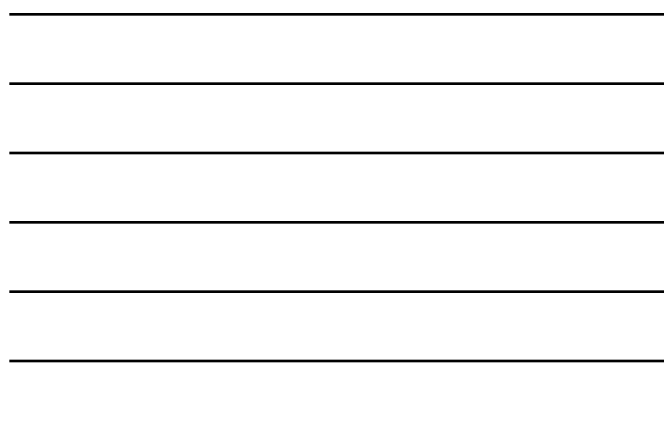
44-55
35-44
26-35

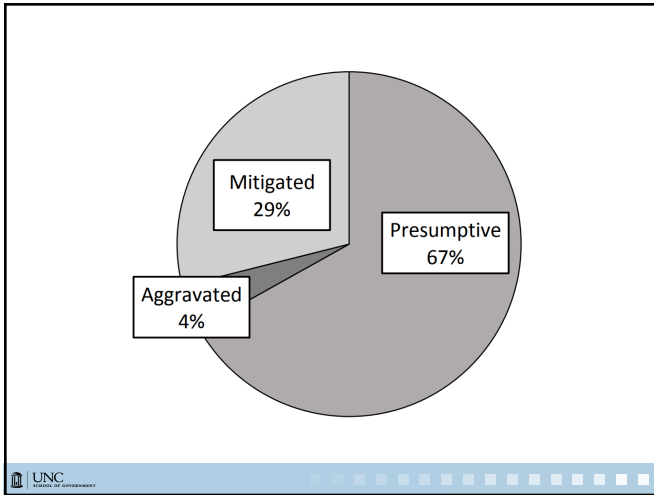
“35-54 months, Active, in the custody of DAC.”

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What does it mean?





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Aggravating Factors: Procedure

- State must give 30-day notice of intent to prove
 - Statutory aggravators need not be pled
 - Non-statutory aggravators must be pled
- Aggravating factors must be proved to jury beyond a reasonable doubt (unless pled to)
- Prohibited aggravating factors
 - Evidence necessary to prove an element
 - Same item of evidence may not be used to prove more than one aggravating factor
 - Exercise of right to jury trial cannot be an aggravator

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Mitigating Factors: Procedure

- Defendant must be given an opportunity to prove mitigating factors
- Defendant must prove to the judge by a preponderance of the evidence

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Prior Record Level

COUNT

- All felonies
- Class 1 and Class A1 non-traffic misdemeanors
- DWI, commercial DWI, and death by vehicle
- Prayer for Judgment (PJC)
- Crimes from other jurisdictions

DON'T COUNT

- Class 2 & 3 misdemeanors
- Traffic misdemeanors (other than DWI, commercial DWI, and death by vehicle)
- Infractions
- Contempt adjudications
- Convictions used to habitualize
- Juvenile adjudications

- Count only the most serious conviction from a single calendar week of superior court, or session of district court

Bonus Points

- Under supervision (+1)
 - Committed while on probation, parole, post-release supervision, incarcerated, or on escape
 - State must give 30-day notice and prove to a jury beyond a reasonable doubt (unless admitted to)
- Same elements (+1)
 - All elements of the present offense included in a prior offense
 - No stipulations: Judge must make a finding

FELONY

NOTE: If sentencing for a felony, locate the prior record level which corresponds to the total points determined in Section 1 above.

Points	Level
0 - 1	I
2 - 5	II
6 - 9	III
10 - 13	IV
14 - 17	V
18+	VI

PRIOR RECORD LEVEL 

- The Court finds the prior convictions, prior record points and the prior record level of the defendant to be as shown herein.
- In making this determination, the Court has relied upon the State's evidence of the defendant's prior convictions from a computer printout of DCI-CCH.
- In finding a prior record level point under G.S. 15A-1340.14(b)(7), the Court has relied on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to this issue.

Prior record “bonus points”

- Same elements (+1)
 - All elements of the present offense included in a prior offense
 - Defendant may not stipulate to this question of law

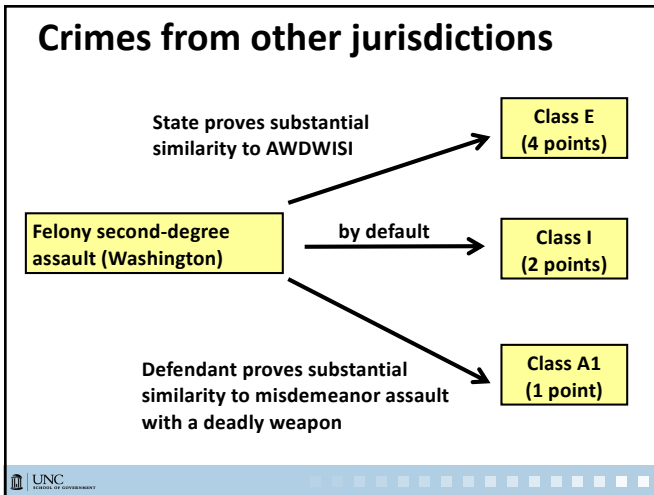


5+	III	LEVEL	18+	VI
<input type="checkbox"/> The Court has determined the number of prior convictions to be _____ and the level to be as shown above.			<input type="checkbox"/> The Court finds the prior convictions, prior record points and the prior record level of the defendant to be as shown herein.	
<input type="checkbox"/> In making this determination, the Court has relied upon the State's evidence of the defendant's prior convictions from a computer printout of DCI-CCH.			<input type="checkbox"/> In making this determination, the Court has relied upon the State's evidence of the defendant's prior convictions from a computer printout of DCI-CCH.	
<input checked="" type="checkbox"/> The Court finds that all of the elements of the present offense are included in a prior offense.			<input type="checkbox"/> In finding a prior record level point under G.S. 15A-1340.14(b)(7), the Court has relied on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to this issue.	
<input type="checkbox"/> If the state conviction listed in Section V on the reverse, the Court finds by a preponderance of the evidence that the offense is substantially similar to the North Carolina offense and that the North Carolina classification assigned to this offense in Section V is correct.				
<input type="checkbox"/> The Court, the State and the defendant have stipulated in open court to the prior convictions, points and record level.				
Date _____			Signature Of Presiding Judge _____	

The Court finds that all of the elements of the present offense are included in a prior offense.

Out-of-State Prior Convictions

- By default:
 - Prior out-of-state felonies: Class I (2 points)
 - Prior out-of-state misdemeanors: Class 3 (0 points)
- With “substantial similarity” determination:
 - Count like the similar North Carolina offense
 - Proponent must prove by preponderance of evidence
 - Court must make findings; stipulations ineffective



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Crimes from other jurisdictions

- No stipulations to substantial similarity
 - Similarity is a question of law
 - Must be determined by trial judge

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Crimes from other jurisdictions

5+ III	LEVEL	18+ VI
<input type="checkbox"/> The Court has determined the number of prior convictions to be _____ and the level to be as shown above.		<input type="checkbox"/> The Court finds the prior convictions, prior record points and the prior record level of the defendant to be as shown herein.
<input type="checkbox"/> In making this determination, the Court has relied upon the State's evidence of the defendant's prior convictions from a computer printout of DCI-CCH.		<input type="checkbox"/> In making this determination, the Court has relied upon the State's evidence of the defendant's prior convictions from a computer printout of DCI-CCH.
<input type="checkbox"/> The Court finds that all the elements of the present offense are included in a prior offense.		<input type="checkbox"/> In finding a prior record level point under G.S. 15A-1340.14(b)(7), the Court has relied on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to this issue.
<input checked="" type="checkbox"/> For each out-of-state conviction listed in Section V, on the reverse, the Court finds by a preponderance of the evidence that the offense is substantially similar to a North Carolina offense and that the North Carolina classification assigned to this offense in Section V is correct.		
<input type="checkbox"/> The Court finds _____	<input type="checkbox"/> The defendant have stipulated in open court to the prior convictions, points and record level.	
Date _____	Signature Of Presiding Judge _____	

For each out-of-state conviction...the court finds by a preponderance of the evidence that the offense is substantially similar to a North Carolina offense and that ...classification assigned to this offense in Section V is correct.

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Multiple Convictions

Multiple convictions

- Concurrent sentences
 - If judgments are silent, sentences run concurrently

Multiple convictions

- Consecutive sentences
 - One sentence begins at the expiration of another



The image is a screenshot of a legal document, likely a sentencing order or judgment, showing a table with columns for various sentencing details. The text is small and difficult to read, but it appears to be a structured list of legal provisions or sentencing guidelines.

Multiple convictions

- Consolidated sentences
 - All convictions sentenced together may be consolidated into one sentence for the most serious offense

Multiple convictions

- Probationary sentences
 - Probation *periods* must run concurrently with one another
 - A probationary sentence may run consecutively to an Active sentence (“contingent”)

Exercise 10

- Felony breaking or entering (Class H)
- Felony larceny (Class H)
- Prior Record Level I

The image shows two side-by-side screenshots of a legal database interface. Each screenshot displays a list of case entries with columns for case number, date, and other details. The first screenshot shows a case for 'Felony breaking or entering (Class H)' and the second shows a case for 'Felony larceny (Class H)'. Both cases are associated with a 'Prior Record Level I'.

Money

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Additional Issues: Money

- Fines
 - Amount in court discretion for felonies
- Costs
 - Apply by default unless waived for “just cause”
 - 15-day written notice to affected parties
- Other fees
 - Attorney fees
 - Probation supervision fees (\$40/month)
 - Jail fees (\$10/day pretrial; \$40/day for splits)
 - EHA fee (\$90 + \$4.48/day)
 - Community Service fee (\$250)

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Restitution (p. 19)

- Compensation to victims
 - Limited to victims of the crime(s) of conviction
- Amount must be supported by evidence or stipulation
- Court must consider defendant’s ability to pay

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Types of Sentences

- Prison (“Active”)
- Probation (“Intermediate” or “Community”)
- Split sentence (“Special Probation”)
- Sex Offenders
- Multiple convictions
- Fines and Restitution



Questions?
