


**Introduction to  
Structured Sentencing**

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UNC School of Government  
January 2024




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**Objectives**

- Grid fluency
- [How to say a sentence](#)
- Avoid common errors




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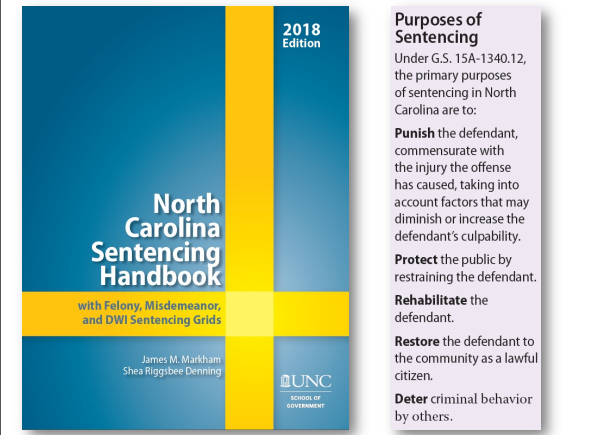
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**2018 Edition**

**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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# Exercise 1

- Felony Larceny (Class H)
- Prior Record Level I



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FELONY CLASSIFICATION		PRIOR RECORD LEVEL				MAXIMUM SENTENCE	
CLASS	CRIMINAL RECORD	1st	2nd	3rd	4th	5th	6th
A	1st	1-1.5	2-2.5	3-4	4-5	5-6	7-10
	2nd	1-1.5	2-2.5	3-4	4-5	5-6	7-10
B1	1st	1-1.5	2-2.5	3-4	4-5	5-6	7-10
	2nd	1-1.5	2-2.5	3-4	4-5	5-6	7-10
B2	1st	1-1.5	2-2.5	3-4	4-5	5-6	7-10
	2nd	1-1.5	2-2.5	3-4	4-5	5-6	7-10
C	1st	1-1.5	2-2.5	3-4	4-5	5-6	7-10
	2nd	1-1.5	2-2.5	3-4	4-5	5-6	7-10
D	1st	1-1.5	2-2.5	3-4	4-5	5-6	7-10
	2nd	1-1.5	2-2.5	3-4	4-5	5-6	7-10
E	1st	1-1.5	2-2.5	3-4	4-5	5-6	7-10
	2nd	1-1.5	2-2.5	3-4	4-5	5-6	7-10

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# Exercise 1

- Give the longest possible Active sentence

C/I/A
6-8
<del>5-6</del>
4-5



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What does it mean?

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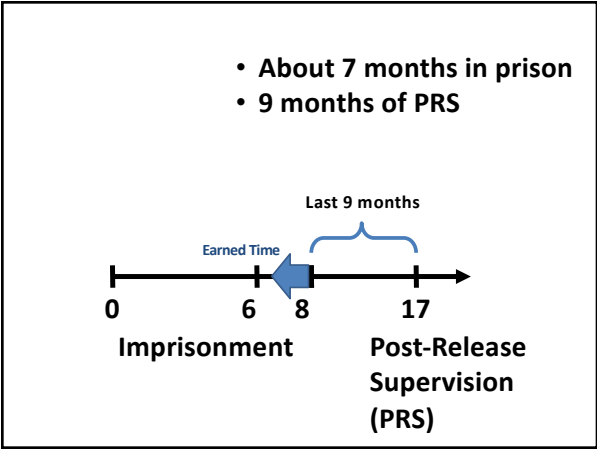
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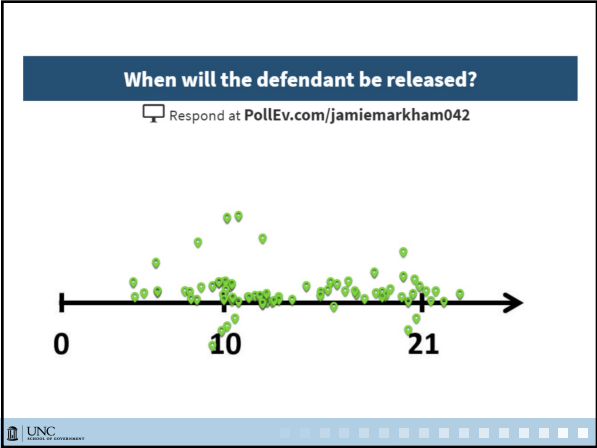
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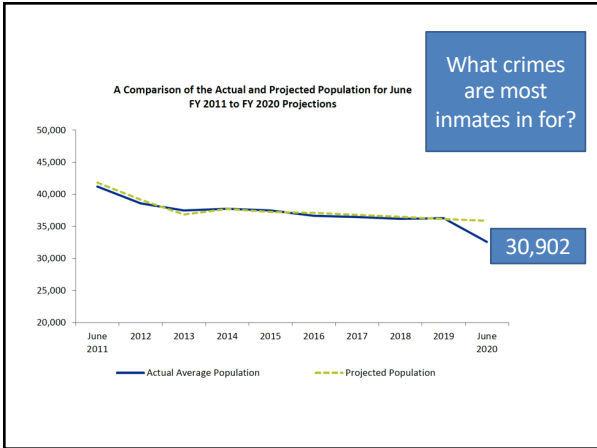
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### Prison Population (2019)

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

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### Probationary Sentences

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**Exercise 2**

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

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

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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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**Probationary Sentences (p. 26)**

- Term of imprisonment 6-17 months
- 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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**Community**  
Probation or just a fine

**Intermediate**  
Supervised probation that may include a split sentence or "local judicially managed accountability and recovery court"

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

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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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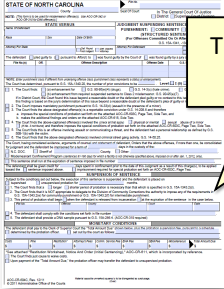
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# Delegated Authority

- Applies unless the court “un-delegates” it



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

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# Exercise 2

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

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



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# 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	
4-5	ASR



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### Exercise 2

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

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

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 SUPERVISORY INSTITUTIONS  
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 SUPERVISORY INSTITUTIONS

"6-17 months, suspended. 36 months of supervised probation."

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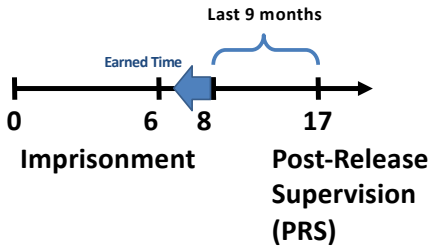
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On supervised probation for 3 years  
 If revoked . . .

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

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<b>Community</b>	<b>Intermediate</b>
<ul style="list-style-type: none"> <li>Supervised or unsupervised probation that MAY NOT include               <ul style="list-style-type: none"> <li>Special probation</li> <li>Local judicially managed accountability and recovery court</li> </ul> </li> <li>Or a fine only</li> </ul>	<ul style="list-style-type: none"> <li>Supervised probation that MAY include               <ul style="list-style-type: none"> <li>Special probation</li> <li>Local judicially managed accountability and recovery court</li> </ul> </li> </ul>

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### Exercise 3

- Give the defendant a Community sentence

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

“\$1,000 fine.”

“6-17 months, suspended. 12 months unsupervised probation.”

“6-17 months, suspended. 30 months supervised probation.”

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### Exercise 4

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

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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 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.

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)

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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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### Special Probation (Split)

- Jail/prison confinement for up to ¼ 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




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### 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




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### Serious Felonies (Class A-E)




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**What does it mean?**



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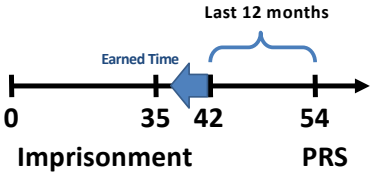
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**Class B1-E Sentence Administration**



**PRS period is 12 months**



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**Exercise 6**

- Discharge Weapon into Occupied Property (Class E)
- PRL V
- **Aggravating factors:**
  - Involved a person under the age of 16
  - The victim was very old
- **Mitigating factors:**
  - Honorable discharge from the Armed Forces
- Give the defendant the shortest possible Active sentence



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## Weighing factors

- A matter of judicial discretion
- Not a mathematical balance
- Presumptive range always permissible after consideration of offered factors

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## Exercise 6

- Discharge Weapon into Occupied Property (Class E)
- PRL V
- Aggravating factors:
  - Involved a person under the age of 16
  - The victim was very old
- Mitigating factors:
  - Honorable discharge from the Armed Forces
- Give the defendant the shortest possible Active sentence

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26 → 44 (92)

26-35

26-44 months, Active, in the custody of DAC.

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# Sex Offenders

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## Exercise 7

- Attempted second-degree forcible rape
- Prior Record Level I
- Aggravating and Mitigating factors: None
- Give the longest possible Active sentence

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64-80  
51-64  
38-51

64 -> 89 (137)  
Sex offender maximum

64-137 months,  
Active, in the custody of DAC.

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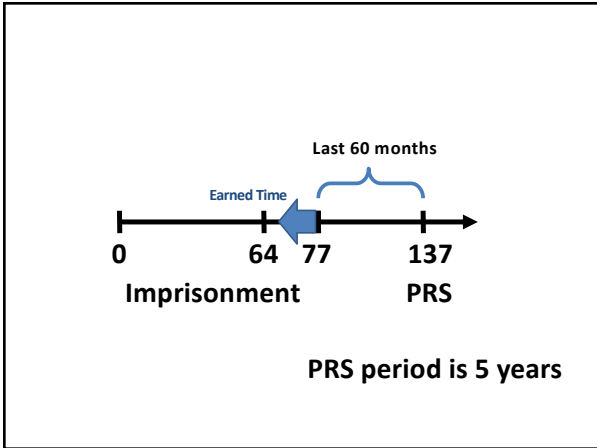
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- Reportable sex crimes
  - Registration
  - Satellite-based monitoring
  - No-contact order
  - Page 19-20




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### Exercise 8

- Indecent Liberties with a Child
- PRL II
- Aggravating and Mitigating factors: None
- Give the defendant probation with the longest possible split sentence

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**FELONY**

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

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**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



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5+ III	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"/> 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 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 checked="" type="checkbox"/> The Court finds that all of the elements of the present offense are included in a prior offense. <input type="checkbox"/> The Court finds that a 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"/> 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"/> The Court and the defendant have stipulated in open court to the prior convictions, points and record level. Date _____ _____ <small>Signature of Presiding Judge</small>	<input type="checkbox"/> _____ <small>Signature of Presiding Judge</small>

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

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### Out-of-State Prior Convictions

- By default:
  - Prior out-of-state felonies: Class 1 (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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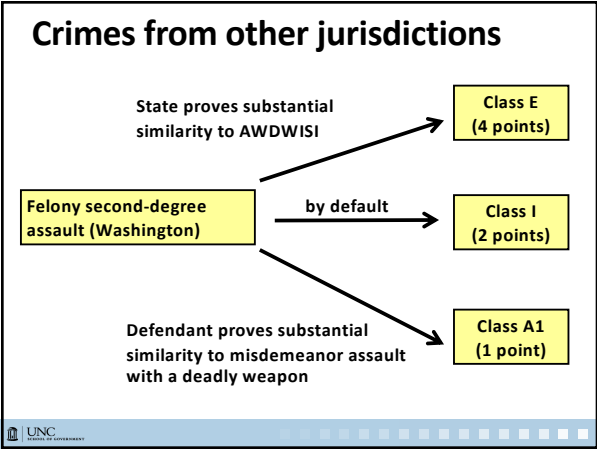
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### Crimes from other jurisdictions

- 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	15+	VI
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The Court has determined the number of prior convictions to be \_\_\_\_\_ and the level to be as shown above.

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.

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.

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

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.

The Court finds that the defendant have stipulated in open court to the prior convictions, points and record level.

Date: \_\_\_\_\_ Signature of Preparing 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

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### Multiple convictions

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

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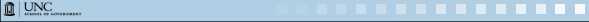
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**Multiple convictions**

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



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**Multiple convictions**

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



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**Multiple convictions**

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



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**Exercise 10**

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



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**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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