

Sentencing Scenarios



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The following eight scenarios are based (loosely, for the most part) on real North Carolina cases. They are designed to be borderline cases, focusing more on issues related to judicial discretion than on questions of substantive law. Even if a particular case seems easy to you (for instance, obviously probationary or obviously active) think, for discussion purposes, about what changes in the fact pattern might bring you to your “tipping point.” Unless otherwise stated, assume each case comes before you on an open plea with no recommendation as to sentence.

In each case, be sure to think about how your sentence relates to the primary purposes of sentencing.

G.S. 15A-1340.12. Purposes of sentencing.

The primary purposes of sentencing a person convicted of a crime are to impose a **punishment** commensurate with the injury the offense has caused, taking into account factors that may diminish or increase the offender's culpability; to **protect the public by restraining offenders**; to assist the offender toward **rehabilitation and restoration to the community** as a lawful citizen; and to provide a **general deterrent** to criminal behavior.

Enclosures:

1. Room Assignments
2. Scenarios
3. Structured Sentencing grid
4. Table of convictions and sentences by offense class and prior record level (FY 2007–08)

State v. Robbins

Mike Robbins (age 20) was indicted for trafficking in cocaine by possession of more than 200 grams but less than 400 grams of cocaine (Class F felony), felonious maintaining a dwelling for controlled substances (Class I felony), and misdemeanor possession of drug paraphernalia (Class 1 misdemeanor). According to the Hickory Police Department, Robbins was unwilling to talk to investigators at the time of his initial arrest. After about three weeks in the Catawba County Detention Facility and consultation with his lawyer, however, he had a change of heart. He told the police that he was new to the “business” and did not have much information on his suppliers, but he offered to enlist the help of his brother in setting up some deals with them. The police got in touch with the defendant’s brother, who in fact brokered a deal for a large sale of cocaine that resulted in several convictions. The defendant pleads guilty to trafficking in cocaine by possession. The State dismisses the other charges. He is prior record level I for sentencing; he has two prior convictions involving misdemeanor possession of Schedule VI controlled substance (marijuana). At sentencing, Robbins asks the court to make a finding that he provided substantial assistance, allowing a departure from the otherwise mandatory trafficking sentencing regime. Robbins is a high school graduate, unemployed at the time of his arrest. How would you sentence Mr. Robbins? Can you find substantial assistance under these facts? Should you?

Relevant Law

G.S. 90-95. Violations; penalties.

- (3) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of cocaine . . . shall be guilty of a felony, which felony shall be known as "trafficking in cocaine" and if the quantity of such substance or mixture involved:
 - b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 84 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
- (5) Except as provided in this subdivision, a person being sentenced under this subsection may not receive a suspended sentence or be placed on probation. The sentencing judge may reduce the fine, or impose a prison term less than the applicable minimum prison term provided by this subsection, or suspend the prison term imposed and place a person on probation when such person has, to the best of his knowledge, provided substantial assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals if the sentencing judge enters in the record a finding that the person to be sentenced has rendered such substantial assistance.

Whether or not to give a reduction of sentence is in the trial judge’s discretion, even if the judge finds the defendant gave substantial assistance. Once the court makes a finding that the defendant gave substantial assistance, it is not bound by the drug trafficking sentencing regime or by the regular Structured Sentencing grid. *State v. Saunders*, 131 N.C. App. 551 (1998).

State v. Griffin

Will Griffin was indicted for statutory rape of a person who is 13, 14, or 15 years old, by a defendant who is more than four but less than six years older than the person (Class C felony). Griffin, age 18, was a senior and a popular athlete at the local high school. A 13-year-old student at the school approached him after practice one afternoon and invited him to her house, where they eventually had sex. The defendant told investigators that he did not know the girl was 13, and the victim acknowledged that she consented to and even suggested that the two have sex.

Neither the victim nor her parents favored a criminal prosecution, but when it became known that she was pregnant, public agencies got involved. Griffin pled guilty as charged. He entered into a voluntary support agreement to care for the child under G.S. 110-133. He has no criminal record. His attorney has asked the court to consider a dispositional deviation for extraordinary mitigation. The State indicates that it will not oppose any findings related extraordinary mitigation.

Relevant Law

G.S. 15A-1340.13

(g) Dispositional Deviation for Extraordinary Mitigation. – Except as provided in subsection (h) of this section, the court may impose an intermediate punishment for a class of offense and prior record level that requires the imposition of an active punishment if it finds in writing all of the following:

- (1) That extraordinary mitigating factors of a kind significantly greater than in the normal case are present.
- (2) Those factors substantially outweigh any factors in aggravation.
- (3) It would be a manifest injustice to impose an active punishment in the case.

The court shall consider evidence of extraordinary mitigating factors, but the decision to find any such factors, or to impose an intermediate punishment is in the discretion of the court. The extraordinary mitigating factors which the court finds shall be specified in its judgment.

(h) Exceptions When Extraordinary Mitigation Shall Not Be Used. – The court shall not impose an intermediate sanction pursuant to subsection (g) of this section if:

- (1) The offense is a Class A or Class B1 felony;
- (2) The offense is a drug trafficking offense under G.S. 90-95(h) or a drug trafficking conspiracy offense under G.S. 90-95(i); or
- (3) The defendant has five or more points as determined by G.S. 15A-1340.14.

Nothing in G.S. 15A-1340.13 permits the trial court to impose a shorter minimum term of imprisonment than that which is required for the class of offense and prior record level at issue. Instead, that law allows the court to impose an intermediate punishment for a class of offense and prior record level which ordinarily requires active punishment. *State v. Messer*, 142 N.C. App. 515 (2001).

While the trial court is not precluded from making a finding of extraordinary mitigation based upon the same facts as would support one of the mitigating factors listed in the statute, in order be extraordinary mitigation there must be additional facts present, over and above the facts required to support a normal statutory mitigation factor. *State v. Melvin*, 188 N.C. App. 827 (2008).

State v. James

Eric James was charged with robbery with a dangerous weapon (Class D felony). He has no prior record. At the time of the offense, a bank robbery, the defendant was 16 years old. He entered the bank alone with a handgun, pointed it at customers and at bank employees, and ordered them to fill a bag with money. No shots were fired and no one was hurt. The defendant was apprehended immediately after the crime.

Through middle school the defendant was a good student, earning A's and B's. During his freshman year in high school, however, he suffered a dramatic drop in his grades. After seeing a series of doctors he was placed on antidepressants and antipsychotic medication, but he frequently failed to take the medication. His parents pulled him out of school for a year, during which he received treatment at a residential mental health facility. They planned to return him to school at the beginning of the next school year, but he committed the robbery in the interim.

Mental health evaluations of the defendant indicate that he has a very high IQ, but that he exhibits various aspects of psychotic thinking. Doctors disagreed on whether a diagnosis of Schizophrenia was appropriate. He has responded very well to psychiatric treatment during pretrial incarceration, and a forensic pathologist indicated James's criminal activity was likely to be limited to his adolescence.

Two bank tellers and two bank customers who were present at the time of the robbery submitted letters describing their fear at the time of the crime. They have adamantly requested that James be given an active sentence.

The defendant asked the court to consider extraordinary mitigation. How would you sentence this defendant?

State v. McClaren

Stan McClaren (age 51) was charged with four counts of obtaining property by false pretenses (Class H felony) and being a habitual felon. The total amount of money involved in the false pretenses crimes was about \$60. McClaren worked his way through a neighborhood telling each homeowner that he was a Vietnam veteran who needed money to care for a sick wife and child. He was, in fact, a veteran, but he had no children, and was divorced from his wife.

The State offered the defendant a plea bargain under which he would plead guilty to two counts of false pretenses in lieu of being charged as a habitual felon, along with a recommendation by the State for a sentence in the mitigated range (7–9 months minimum for prior record level IV) for those convictions. The defendant refused the plea and elected to go to trial, where he was convicted of all four crimes and of being a habitual felon.

Defendant's prior record level worksheet showed the following convictions, with the crimes used to habitualize him noted in bold:

Prior Record (Prior Record Level IV)

Common law robbery	4/5/87	Class G
Misd. Larceny	10/22/90	Class 1 misd.
Misd. Larceny	11/10/97	Class 1 misd.
Unauth. Use of M/V	1/19/98	Class 1 misd.
Uttering Forged Instr.	4/10/99	Class I
Uttering Forged Instr.	4/10/99	Class I
Uttering Forged Instr.	4/10/99	Class I
Possession of Heroin	12/3/00	Class I
Uttering Forged Instr.	12/14/03	Class I
Poss. Drug Paraph.	1/31/07	Class 1 misd.

How would you sentence Mr. McClaren?

Notes:

Overall, 25% of felony convictions are sentenced in the mitigated range. In fiscal year 2007–08, 72% of Class C habitual felon convictions were sentenced in the mitigated range. The underlying felony was a Class H or Class I felony in 57% of habitual felon cases. Source: N.C. Sentencing and Policy Advisory Commission, *Structured Sentencing Statistical Report for Felonies and Misdemeanors* (2008).

Legislation proposed (but NOT ENACTED) in 2009 would have amended the habitual felon law to require: (1) that the crimes used to habitualize the defendant be Class G or higher; (2) that the underlying felony be Class G or higher; and (3) that a habitual felon defendant be sentenced one offense class higher than the underlying felony (rather than as a Class C in every case).

State v. Martinez

Julia Martinez (age 35) worked at a bakery in Lexington, NC. Last year she was convicted of DWI, her first conviction of any kind. She was given a suspended sentence and placed on unsupervised probation for 12 months, but she did not obtain a limited driving privilege after her conviction. Instead, she relied on her family to take her to and from work. One morning when she had to go into work very early she was unable to obtain a ride, so she decided to drive herself. As she was driving on a secondary road at dawn, she struck a pedestrian. In her statement she said the man “just appeared out of nowhere.” She immediately pulled over to check on him, receiving only a muffled response when she asked if he was okay. After a few minutes another driver pulled up, and although he could not stay at the scene he called 911. When the other driver left, Martinez began to panic and eventually left the scene and went to work. She called her brother from the bakery and told him she had hit a mailbox on the way to work and needed a new windshield. She asked him to come get the car in order to repair it. Later in the day officers showed up at the bakery and asked Martinez about the incident, at which point she admitted to hitting the victim and fleeing the scene. The officers informed her that the victim had died from his injuries.

Martinez pleads guilty to felony hit and run (failure to remain at the scene) (Class H felony) and driving while license revoked (Class 1 misdemeanor). Her prior DWI conviction and the fact that she was on probation at the time of the incident make her a prior record level II for sentencing. Martinez is the primary caregiver for her 11-year-old daughter. The victim’s family wants the defendant to serve active time. How would you sentence the defendant?

State v. Sykes

Tim Sykes, a 31-year-old Orange County man, has a long history of drug addiction. He also has a substantial criminal record, with most of the offenses arising out of his need to get money to buy drugs. His most recent crimes are no different. He has been charged with twelve counts of uttering forged instruments (Class I felony); three counts of breaking or entering/larceny (Class H felony), one of which involved a theft from a church; and one count of obtaining property by false pretenses (Class H felony). Sykes is prior record level IV for sentencing, based on six prior common law forgery (Class 1 misdemeanor) convictions, one uttering forged instruments conviction (Class I felony), and one safecracking conviction (Class I felony). The State presents information showing the defendant would owe \$4,200 in restitution.

A presentence work-up by Orange-Chatham Alternative Sentencing indicates that the defendant has a strong support system in the community, including his parents, his wife, and his church congregation. He expresses great remorse for his crimes and acknowledges his addiction to drugs. Many acquaintances from the community—including a police officer, his pastor, and his wife—submitted to the court letters on Sykes's behalf. The common thread in the letters is that Sykes is a good father and productive citizen when he is able to stay away from drugs.

Sykes pleads guilty to all 16 charged offenses. His total active exposure in the presumptive range is over 100 months, although all the convictions fall in an "I/A" block on the sentencing grid.

How would you sentence the defendant? Assume appropriate drug treatment is available both in the community, in the local jail, and in DOC. What special conditions of probation, if any, would you impose?

State v. Lowell

Two college freshmen, Wilson Cabot and Scott Lowell, were home for the holidays after their first semester away at school. They had been best friends in high school in Raleigh, and neither boy had ever been in any trouble. After eating dinner together with their families at the country club, they took a cab to a bar where they purchased alcohol using fake IDs (both were 19 at the time). After drinking for a while they caught a cab and instructed the driver to take them to the club, where they had left Lowell's car. Lowell drove and Cabot rode in the passenger seat, but neither was wearing a seat belt. Lowell lost control of the car and flipped it twice; Cabot was ejected from the vehicle and killed. Lowell received only minor injuries. Accident reconstruction showed the vehicle was going 63 mph in a 25 mph zone, and later testing showed Lowell's BAC was 0.18 and Cabot's was 0.15. Immediately prior to the crash the Lowell had been on the phone with a female friend, who told investigators she had heard a voice in the background yelling at him to slow down.

Lowell was charged with and pled guilty to involuntary manslaughter (Class F felony) and DWI (Level 2). The victim's parents told the court that if it were up to them the defendant would not even be charged—he was punished enough by the thought that he killed his best friend.

How would you sentence Lowell? If probation is a part of your sentence, what special conditions, if any, would you impose?

State v. Green

Five years ago, Michael Green (age 22) was convicted of eight counts of felonious breaking or entering of a building (Class H felony). A prior record level III offender at the time (his prior offenses were drug-related), he was sentenced to 10–12 months on each charge, suspended for five years. The sentencing judge wanted to give Green a strong incentive to succeed on probation, so she set the sentences to run consecutively in the event of revocation.

For over four years the defendant was a model probationer. He found a job, paid his restitution, and never missed a meeting with his probation officer. Last month, though, he was convicted on misdemeanor worthless check charges. He also committed technical violations by missing meetings with his probation officer and failing to pay his supervision fee. His probation officer brings him back before you for a probation violation hearing.

Assume you find that Green willfully violated his probation. What would you do at the hearing? If you would revoke his probation, would you reduce any of the original sentences? Would you choose to run any of them concurrently?

Relevant Law

G.S. 15A-1344. Response to violations; alteration and revocation.

(d) A sentence activated upon revocation of probation commences on the day probation is revoked and runs concurrently with any other period of probation, parole, or imprisonment to which the defendant is subject during that period unless the revoking judge specifies that it is to run consecutively with the other period.

(d1) Reduction of Initial Sentence. – If the court elects to reduce the sentence of imprisonment for a felony, it shall not deviate from the range of minimum durations established in Article 81B of this Chapter for the class of offense and prior record level used in determining the initial sentence. If the presumptive range is used for the initial suspended sentence, the reduced sentence shall be within the presumptive range. If the mitigated range is used for the initial suspended sentence, the reduced sentence shall be within the mitigated range. If the aggravated range is used for the initial suspended sentence, the reduced sentence shall be within the aggravated range. If the court elects to reduce the sentence for a misdemeanor, it shall not deviate from the range of durations established in Article 81B for the class of offense and prior conviction level used in determining the initial sentence.

The revoking court has the authority pursuant to G.S. 15A-1344(d) to enter judgments upon a defendant's revocation of probation sentencing a defendant to a consecutive prison term without regard to whether the sentence previously imposed ran consecutively or concurrently. *State v. Paige*, 90 N.C. App. 142 (1988); *State v. Hanner*, 188 N.C. App. 137 (2008).

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

FELONY PUNISHMENT CHART

PRIOR RECORD LEVEL

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts
A	Death or Life Without Parole					
B1	A 240-300	A 288-360	A 336-420	A 384-480	A <i>Life Without Parole</i>	A <i>Life Without Parole</i>
	192-240	230-288	269-336	307-384	346-433	384-480
	144-192	173-230	202-269	230-307	260-346	288-384
B2	A 157 - 196	A 189 - 237	A 220 - 276	A 251 - 313	A 282 - 353	A 313 - 392
	125 - 157	151 - 189	176 - 220	201 - 251	225 - 282	251 - 313
	94 - 125	114 - 151	132 - 176	151 - 201	169 - 225	188 - 251
C	A 73 - 92	A 100 - 125	A 116 - 145	A 133 - 167	A 151 - 188	A 168 - 210
	58 - 73	80 - 100	93 - 116	107-133	121 - 151	135 - 168
	44 - 58	60 - 80	70 - 93	80 - 107	90 - 121	101-135
D	A 64 - 80	A 77 - 95	A 103 - 129	A 117 - 146	A 133 - 167	A 146 - 183
	51 - 64	61 - 77	82 - 103	94 - 117	107 - 133	117 - 146
	38 - 51	46 - 61	61 - 82	71 - 94	80 - 107	88 - 117
E	I/A 25 - 31	I/A 29 - 36	A 34 - 42	A 46 - 58	A 53 - 66	A 59 - 74
	20 - 25	23 - 29	27 - 34	37 - 46	42 - 53	47 - 59
	15 - 20	17 - 23	20 - 27	28 - 37	32 - 42	35 - 47
F	I/A 16 - 20	I/A 19 - 24	I/A 21 - 26	A 25 - 31	A 34 - 42	A 39 - 49
	13 - 16	15 - 19	17 - 21	20 - 25	27 - 34	31 - 39
	10 - 13	11 - 15	13 - 17	15 - 20	20 - 27	23 - 31
G	I/A 13 - 16	I/A 15 - 19	I/A 16 - 20	I/A 20 - 25	A 21 - 26	A 29 - 36
	10 - 13	12 - 15	13 - 16	16 - 20	17 - 21	23 - 29
	8 - 10	9 - 12	10 - 13	12 - 16	13 - 17	17 - 23
H	C/I/A 6 - 8	I/A 8 - 10	I/A 10 - 12	I/A 11 - 14	I/A 15 - 19	A 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 6 - 8	C/I 6 - 8	I 6 - 8	I/A 8 - 10	I/A 9 - 11	I/A 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

DISPOSITION
<i>Aggravated Range</i>
PRESUMPTIVE RANGE
<i>Mitigated Range</i>

OFFENSE CLASS

Note: A - Active Punishment, I - Intermediate Punishment, C - Community Punishment
 *Numbers shown are in months and represent the range of minimum sentences.

Revised: 08-04-95

FIGURE B: MINIMUM AND MAXIMUM SENTENCES

The corresponding maximum sentence for each minimum sentence is shown in the tables below. In each column, the number to the left of the dash represents the minimum sentence (in months) and the number to the right of the dash represents the corresponding maximum sentence (in months). To calculate a maximum sentence when the minimum sentence is 340 months or more, see G.S. 15A-1340.17(e1).

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15-27	56-77	97-126	138-175	179-224	220-273	261-323	302-372
16-29	57-78	98-127	139-176	180-225	221-275	262-324	303-373
17-30	58-79	99-128	140-177	181-227	222-276	263-325	304-374
18-31	59-80	100-129	141-179	182-228	223-277	264-326	305-375
19-32	60-81	101-131	142-180	183-229	224-278	265-327	306-377
20-33	61-83	102-132	143-181	184-230	225-279	266-329	307-378
21-35	62-84	103-133	144-182	185-231	226-281	267-330	308-379
22-36	63-85	104-134	145-183	186-233	227-282	268-331	309-380
23-37	64-86	105-135	146-185	187-234	228-283	269-332	310-381
24-38	65-87	106-137	147-186	188-235	229-284	270-333	311-383
25-39	66-89	107-138	148-187	189-236	230-285	271-335	312-384
26-41	67-90	108-139	149-188	190-237	231-287	272-336	313-385
27-42	68-91	109-140	150-189	191-239	232-288	273-337	314-386
28-43	69-92	110-141	151-191	192-240	233-289	274-338	315-387
29-44	70-93	111-143	152-192	193-241	234-290	275-339	316-389
30-45	71-95	112-144	153-193	194-242	235-291	276-341	317-390
31-47	72-96	113-145	154-194	195-243	236-293	277-342	318-391
32-48	73-97	114-146	155-195	196-245	237-294	278-343	319-392
33-49	74-98	115-147	156-197	197-246	238-295	279-344	320-393
34-50	75-99	116-149	157-198	198-247	239-296	280-345	321-395
35-51	76-101	117-150	158-199	199-248	240-297	281-347	322-396
36-53	77-102	118-151	159-200	200-249	241-299	282-348	323-397
37-54	78-103	119-152	160-201	201-251	242-300	283-349	324-398
38-55	79-104	120-153	161-203	202-252	243-301	284-350	325-399
39-56	80-105	121-155	162-204	203-253	244-302	285-351	326-401
40-57	81-107	122-156	163-205	204-254	245-303	286-353	327-402
41-59	82-108	123-157	164-206	205-255	246-305	287-354	328-403
42-60	83-109	124-158	165-207	206-257	247-306	288-355	329-404
43-61	84-110	125-159	166-209	207-258	248-307	289-356	330-405
44-62	85-111	126-161	167-210	208-259	249-308	290-357	331-407
45-63	86-113	127-162	168-211	209-260	250-309	291-359	332-408
46-65	87-114	128-163	169-212	210-261	251-311	292-360	333-409
47-66	88-115	129-164	170-213	211-263	252-312	293-361	334-410
48-67	89-116	130-165	171-215	212-264	253-313	294-362	335-411
49-68	90-117	131-167	172-216	213-265	254-314	295-363	336-413
50-69	91-119	132-168	173-217	214-266	255-315	296-365	337-414
51-71	92-120	133-169	174-218	215-267	256-317	297-366	338-415
52-72	93-121	134-170	175-219	216-269	257-318	298-367	339-416
53-73	94-122	135-171	176-221	217-270	258-319	299-368	
54-74	95-123	136-173	177-222	218-271	259-320	300-369	
55-75	96-125	137-174	178-223	219-272	260-321	301-371	

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3-4	9-11	15-18	21-26	27-33	33-40	39-47	45-54
4-5	10-12	16-20	22-27	28-34	34-41	40-48	46-56
5-6	11-14	17-21	23-28	29-35	35-42	41-50	47-57
6-8	12-15	18-22	24-29	30-36	36-44	42-51	48-58
7-9	13-16	19-23	25-30	31-38	37-45	43-52	49-59
8-10	14-17	20-24	26-32	32-39	38-46	44-53	

**Table 4: Convictions and Sentences by Offense Class and Prior Record Level
FY 2007/08 Felonies**

Offense Class	Prior Record Level						Total
	I 0 Points	II 1-4 Points	III 5-8 Points	IV 9-14 Points	V 15-18 Points	VI 19+ Points	
A	A A = 45 (100%) (n = 45) Life/Death	A A = 28 (100%) (n = 28) Life/Death	A A = 9 (100%) (n = 9) Life/Death	A A = 9 (100%) (n = 9) Life/Death	A A = 3 (100%) (n = 3) Life/Death	A A = 2 (100%) (n = 2) Life/Death	A A = 96 (100%) (n = 96) Life/Death
B1	A A = 69 (100%) (n = 69) 196 min 245 max	A A = 40 (100%) (n = 40) 250 min 309 max	A A = 23 (100%) (n = 23) 303 min 372 max	A A = 8 (100%) (n = 8) 348 min 427 max	A A = 1 (100%) (n = 1) 433 min 529 max	A A = 3 (100%) (n = 3) 464 min 563 max	A A = 144 (100%) (n = 144) 244 min 302 max
B2	A A = 107 (100%) (n = 107) 136 min 172 max	A A = 97 (100%) (n = 97) 169 min 212 max	A A = 44 (100%) (n = 44) 201 min 250 max	A A = 41 (100%) (n = 41) 227 min 282 max	A A = 6 (100%) (n = 6) 263 min 325 max	A A = 2 (100%) (n = 2) 277 min 341 max	A A = 297 (100%) (n = 297) 172 min 216 max
C	A A = 111 (100%) (n = 111) 60 min 81 max	A A = 180 (100%) (n = 180) 77 min 101 max	A A = 238 (100%) (n = 238) 85 min 110 max	A A = 294 (100%) (n = 294) 95 min 123 max	A A = 115 (100%) (n = 115) 106 min 136 max	A A = 92 (100%) (n = 92) 118 min 149 max	A A = 1,030 (100%) (n = 1,030) 89 min 115 max
D	A A = 292 (100%) (n = 292) 49 min 69 max	A A = 228 (100%) (n = 228) 62 min 83 max	A A = 140 (100%) (n = 140) 82 min 108 max	A A = 80 (100%) (n = 80) 97 min 126 max	A A = 21 (100%) (n = 21) 107 min 138 max	A A = 20 (100%) (n = 20) 122 min 155 max	A A = 781 (100%) (n = 781) 67 min 90 max
E	I/A I = 319 (68%) A = 150 (32%) (n = 469) 22 min 36 max	I/A I = 264 (61%) A = 170 (39%) (n = 434) 25 min 39 max	A A = 153 (100%) (n = 153) 29 min 44 max	A A = 96 (100%) (n = 96) 40 min 57 max	A A = 29 (100%) (n = 29) 46 min 65 max	A A = 23 (100%) (n = 23) 54 min 74 max	I/A I = 583 (48%) A = 621 (52%) (n = 1,204) 30 min 45 max
F	I/A I = 391 (63%) A = 231 (37%) (n = 622) 14 min 18 max	I/A I = 367 (51%) A = 347 (49%) (n = 714) 16 min 19 max	I/A I = 209 (45%) A = 260 (55%) (n = 469) 18 min 22 max	A A = 312 (100%) (n = 312) 20 min 25 max	A A = 71 (100%) (n = 71) 27 min 32 max	A A = 45 (100%) (n = 45) 31 min 38 max	I/A I = 967 (43%) A = 1,266 (57%) (n = 2,233) 18 min 22 max

**Table 4: Convictions and Sentences by Offense Class and Prior Record Level (continued)
FY 2007/08 Felonies**

Offense Class	Prior Record Level						Total
	I 0 Points	II 1-4 Points	III 5-8 Points	IV 9-14 Points	V 15-18 Points	VI 19+ Points	
G	I/A I = 537 (75%) A = 178 (25%) (n = 715) 11 min 14 max	I/A I = 910 (72%) A = 360 (28%) (n = 1,270) 13 min 16 max	I/A I = 545 (55%) A = 449 (45%) (n = 994) 14 min 17 max	I/A I = 278 (39%) A = 436 (61%) (n = 714) 17 min 21 max	A A = 146 (100%) (n = 146) 18 min 22 max	A A = 98 (100%) (n = 98) 25 min 31 max	I/A I = 2,270 (58%) A = 1,667 (42%) (n = 3,937) 15 min 19 max
H	C/I/A C = 1,474 (53%) I = 985 (35%) A = 335 (12%) (n = 2,794) 5 min 7 max	I/A I = 2,714 (74%) A = 940 (26%) (n = 3,654) 7 min 8 max	I/A I = 1,300 (56%) A = 1,031 (44%) (n = 2,331) 8 min 10 max	I/A I = 698 (37%) A = 1,179 (63%) (n = 1,877) 10 min 12 max	I/A I = 120 (21%) A = 447 (79%) (n = 567) 13 min 16 max	A A = 479 (100%) (n = 479) 18 min 21 max	C/I/A C = 1,474 (12%) I = 5,817 (50%) A = 4,411 (38%) (n = 11,702) 10 min 12 max
I	C C = 1,724 (100%) (n = 1,724) N/A	C/I C = 1,799 (59%) I = 1,265 (41%) (n = 3,064) N/A	I I = 1,267 (100%) (n = 1,267) N/A	I/A I = 495 (47%) A = 558 (53%) (n = 1,053) 6 min 8 max	I/A I = 93 (35%) A = 175 (65%) (n = 268) 8 min 10 max	I/A I = 72 (24%) A = 227 (76%) (n = 299) 9 min 11 max	C/I/A C = 3,523 (46%) I = 3,255 (42%) A = 897 (12%) (n = 7,675) 7 min 9 max
TOTAL	C/I/A C = 3,198 (46%) I = 2,232 (32%) A = 1,518 (22%) (n = 6,948) 41 min 53 max	C/I/A C = 1,799 (18%) I = 5,520 (57%) A = 2,390 (25%) (n = 9,709) 32 min 41 max	I/A I = 3,321 (59%) A = 2,347 (41%) (n = 5,668) 31 min 39 max	I/A I = 1,534 (34%) A = 2,950 (66%) (n = 4,484) 27 min 35 max	I/A I = 213 (17%) A = 1,014 (83%) (n = 1,227) 29 min 37 max	I/A I = 72 (7%) A = 991 (93%) (n = 1,063) 31 min 38 max	C/I/A C = 4,997 (17%) I = 12,892 (44%) A = 11,210 (39%) (n = 29,099) 31 min 40 max

Note: Of the 31,603 felony convictions in FY 2007/08, 2,504 convictions were excluded from this table. These convictions did not fit within the appropriate cell in the Felony Punishment Chart due to discrepant offense classes, prior record levels, or for other reasons (such as consecutive sentencing or extraordinary mitigation). Death and life without parole sentences were excluded from the calculation of the average minimum and maximum sentences.

Source: NC Sentencing and Policy Advisory Commission, FY 2007/08 Statistical Report Data

C. Punishment Imposed in Discretionary Cells

As shown in *Table 4*, where the judge had the option of imposing either an Active or community-based punishment (*i.e.*, either an Intermediate or Community punishment), an Intermediate punishment was most likely to be imposed for convictions falling within Offense Class G with Prior Record Level I (75%), while an Active sentence was most likely to be imposed for convictions falling within Offense Class H with Prior Record Level V (79%).