


**Introduction to
Structured Sentencing**


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UNC School of Government
January 2021



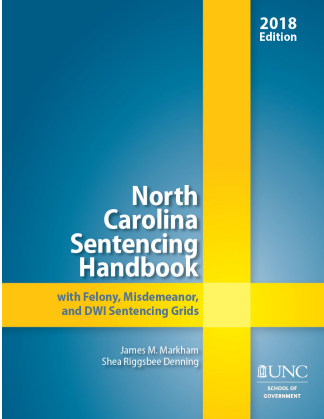
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Objectives

- 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 Riggsboro 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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Felon Offenses Committed on or after October 1, 2013						
MINIMUM SENTENCES AND DISPOSITIONAL OPTIONS						
OFFENSE CLASS	PRISON RECORD LEVEL					
	0-1*	2-3**	4-5***	6-10****	11-15****	16+****
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 AWDWI	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

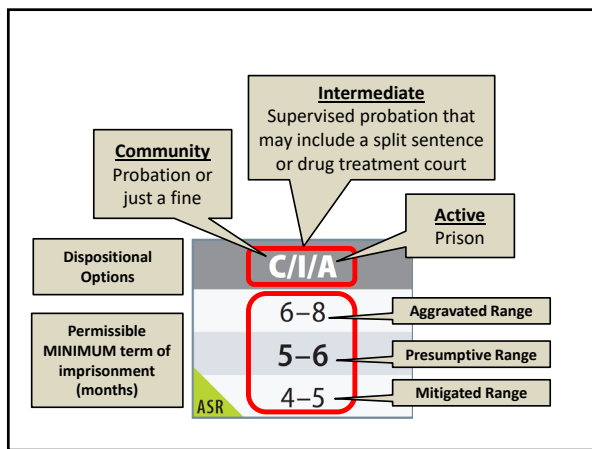
5

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	0-1*	2-3**	4-5***	6-10****	11-15****	16+****
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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

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OFFENSE CLASS	PRIOR RECORD LEVEL					
	I	II	III	IV	V	VI
A	12-18 Mo	18-24 Mo	24-30 Mo	30-36 Mo	36-42 Mo	42-48 Mo
B1	12-18 Mo	18-24 Mo	24-30 Mo	30-36 Mo	36-42 Mo	42-48 Mo
B2	12-18 Mo	18-24 Mo	24-30 Mo	30-36 Mo	36-42 Mo	42-48 Mo
C	12-18 Mo	18-24 Mo	24-30 Mo	30-36 Mo	36-42 Mo	42-48 Mo
D	12-18 Mo	18-24 Mo	24-30 Mo	30-36 Mo	36-42 Mo	42-48 Mo
E	12-18 Mo	18-24 Mo	24-30 Mo	30-36 Mo	36-42 Mo	42-48 Mo
F	12-18 Mo	18-24 Mo	24-30 Mo	30-36 Mo	36-42 Mo	42-48 Mo
G	12-18 Mo	18-24 Mo	24-30 Mo	30-36 Mo	36-42 Mo	42-48 Mo
H	12-18 Mo	18-24 Mo	24-30 Mo	30-36 Mo	36-42 Mo	42-48 Mo
I	12-18 Mo	18-24 Mo	24-30 Mo	30-36 Mo	36-42 Mo	42-48 Mo

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Felony Sentencing Steps

- Step 1: Determine the Applicable Law
- Step 2: Determine the Offense Class
- Step 3: Calculate the Prior Record Level
- Step 4: Consider Aggravating and Mitigating Factors
- Step 5: Select a Sentence of Imprisonment
- Step 6: Choose a Sentence Disposition
- Step 7: Review Additional Issues, as Appropriate

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Exercise 1

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

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Felony Offenses Committed on or after October 1, 2013
MINIMUM SENTENCES AND DISPOSITIONAL OPTIONS

OFFENSE CLASS	I 10-15%	II 2-5%	III 5-7%	IV 7-15%	V 14-17%	VI 10-15%
A						
B1						
B2						
C						
D						
E						
F						
G						
H						
I						

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

ASR

MAXIMUM SENTENCES

OFFENSE CLASS	Minimum Sentence	Corresponding Maximum Sentence
A	10-15%	20-25%
B1	2-5%	5-7%
B2	5-7%	7-15%
C	7-15%	14-17%
D	14-17%	10-15%
E	10-15%	10-15%
F	10-15%	10-15%
G	10-15%	10-15%
H	10-15%	10-15%
I	10-15%	10-15%

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Exercise 1

- Give the longest possible Active sentence

Permissible MINIMUM Sentences

Corresponding MAXIMUM Sentences

Class B1-E Maximums

Class F-I Maximums

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

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Permissible MINIMUM Sentences

Corresponding MAXIMUM Sentences

Class B1-E Maximums

Class F-I Maximums

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

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Felony Offenses Committed on or after October 1, 2013
MINIMUM SENTENCES AND DISPOSITIONAL OPTIONS

MAXIMUM SENTENCES

FOR OFFENSE CLASSES B THROUGH I (Minimum Sentence - Consecutive Term - Co-Conviction)

Offense Class	I (1-5 yrs)	II (5-7.5 yrs)	III (7.5-10 yrs)	IV (10-15 yrs)	V (15-20 yrs)	VI (20-25 yrs)
A	1-5	5-7.5	7.5-10	10-15	15-20	20-25
B	5-7.5	7.5-10	10-15	15-20	20-25	25-30
C	7.5-10	10-15	15-20	20-25	25-30	30-35
D	10-15	15-20	20-25	25-30	30-35	35-40
E	15-20	20-25	25-30	30-35	35-40	40-45
F	20-25	25-30	30-35	35-40	40-45	45-50
G	25-30	30-35	35-40	40-45	45-50	50-55
H	30-35	35-40	40-45	45-50	50-55	55-60
I	35-40	40-45	45-50	50-55	55-60	60-65

FOR OFFENSE CLASS A (Minimum Sentence - Consecutive Term - Co-Conviction)

Offense Class	Minimum Sentence	Consecutive Term	Co-Conviction
A	1-5	1-5	1-5
B	5-7.5	5-7.5	5-7.5
C	7.5-10	7.5-10	7.5-10
D	10-15	10-15	10-15
E	15-20	15-20	15-20
F	20-25	20-25	20-25
G	25-30	25-30	25-30
H	30-35	30-35	30-35
I	35-40	35-40	35-40

Length of Probation Period

Final Release Supervision

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STATE OF NORTH CAROLINA

JUDGMENT AND COMMITMENT
ACTIVE IMPRISONMENT - FELLOW
PER COMMITMENT ON OR AFTER JAN. 1, 2013

NOTE: For DOC use only (not otherwise)

STATE VERSUS

DEFENDANT'S NAME

OFFENSE INFORMATION

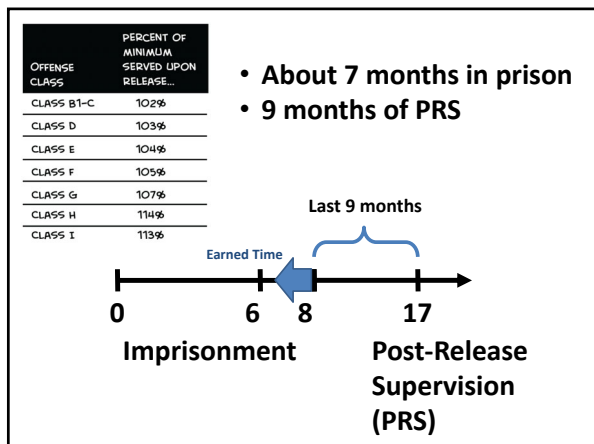
TO LIFE IMPRISONMENT WITH PAROLE, pursuant to G.S. Chapter 15A
for a minimum term of: **6** **months** **and a maximum term of:** **17** **months**
The defendant shall be given credit for **0** **days spent in custody.**

“6-17 months, Active, in the custody of DACJJ.”

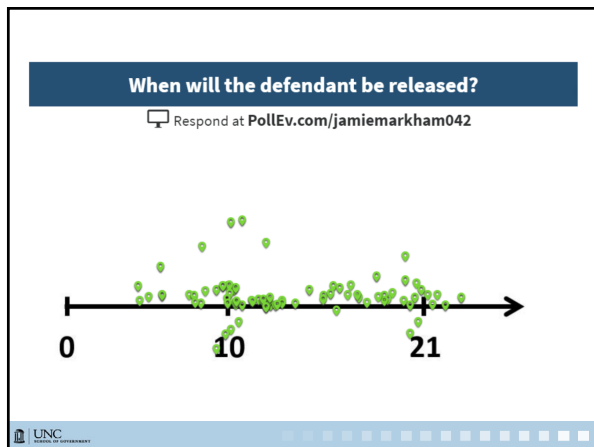
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What does it mean?

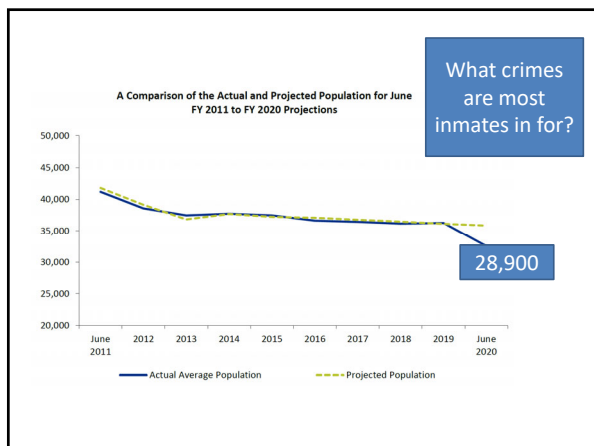
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20



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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 (a) and give the defendant from Exercise 1 an Intermediate sentence


	C/I/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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Probationary Sentences (p. 26)


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



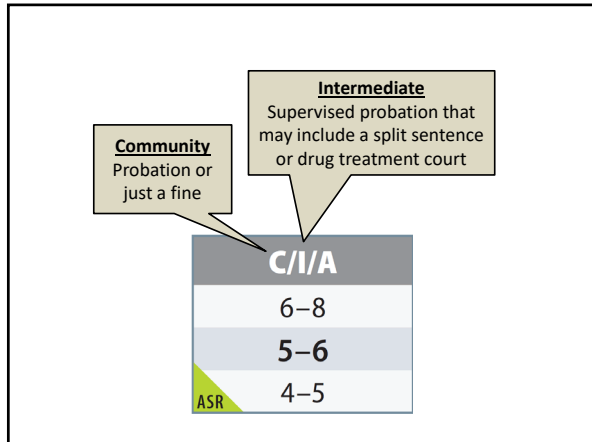
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Probationary Sentences (p. 26)

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



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<p>Community</p> <ul style="list-style-type: none"> • Supervised or unsupervised probation that MAY NOT include <ul style="list-style-type: none"> – Special probation – Drug treatment court • Or a fine only 	<p>Intermediate</p> <ul style="list-style-type: none"> • Supervised probation that MAY include <ul style="list-style-type: none"> – 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**

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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 <input type="checkbox"/> supervised <input type="checkbox"/> unsupervised probation for _____ months.				
1. The Court finds that a <input checked="" type="checkbox"/> longer <input type="checkbox"/> 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 <input checked="" type="checkbox"/> 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 <input type="checkbox"/> 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**

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Conditions of Probation

- Regular conditions
 - Apply by default, but may be stricken
- Special conditions
 - Statutory special conditions
 - Ad hoc conditions; must be “reasonably related”
- “Community and Intermediate” conditions
- Intermediate conditions
 - Apply in Intermediate cases, unless stricken
- Sex offender conditions

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The image shows a screenshot of a legal document, likely a probation order form, with several sections highlighted in colored boxes:

- Regular:** A yellow box highlights the top section of the document.
- Special:** A blue box highlights a section titled "SPECIAL CONDITIONS OF PROBATION - (S.A. 15A-1303)".
- Community and Intermediate:** A green box highlights a section titled "COMMUNITY AND INTERMEDIATE PROBATION".
- Intermediate-only Conditions:** A purple box highlights a section titled "INTERMEDIATE PROBATION - CONTINUED".
- Default Intermediate Conditions:** A red box highlights a section titled "DEFAULT INTERMEDIATE CONDITIONS".

Other visible text includes "STATE VERDICT", "DEFENDANT'S NAME", "COUNTY", "JUDICIAL DISTRICT", and "JUDGE".

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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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Delegated Authority

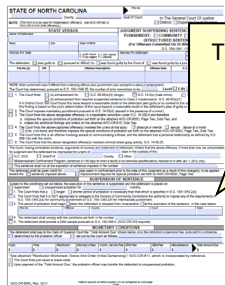
- Conditions a probation officer may impose without court action
 - Community service
 - Additional reporting
 - Substance abuse assessment/treatment
 - House arrest
 - Curfew with electronic monitoring
 - Educational/vocational programming
 - **2- or 3-day "quick dip" in the jail**

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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 (a) and give the defendant an Intermediate sentence

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



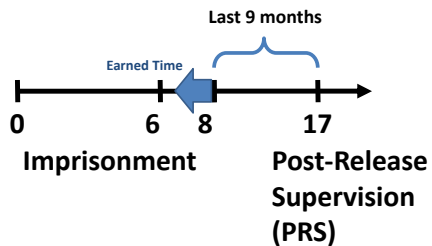
“6-17 months, suspended. 36 months of supervised probation.”



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



40

<h3>Community</h3> <ul style="list-style-type: none"> Supervised or unsupervised probation that MAY NOT include <ul style="list-style-type: none"> Special probation Drug treatment court Or a fine only 	<h3>Intermediate</h3> <ul style="list-style-type: none"> Supervised probation that MAY include <ul style="list-style-type: none"> Special probation Drug treatment court
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Exercise 3


- Give the defendant a Community sentence

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

"\$1,000 fine."

"6-17 months, suspended. 30 months supervised probation."

"6-17 months, suspended. 12 months unsupervised probation."



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Exercise 4

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



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Felonies Committed on or after October 1, 2013										
MINIMUM SENTENCES AND INSTITUTIONAL OFFENSES										
OFFENSE CLASS	D-TR	2-SPL	PRIOR RECORD		14-17 PLS	18-21 PLS	22-25 PLS	26-30 PLS	31-35 PLS	36-40 PLS
			1-3	4-6						
A	180-200	220-230	260-270	300-310	340-350	380-390	420-430	460-470	500-510	540-550
B	180-200	220-230	260-270	300-310	340-350	380-390	420-430	460-470	500-510	540-550
B1	180-200	220-230	260-270	300-310	340-350	380-390	420-430	460-470	500-510	540-550
B2	180-200	220-230	260-270	300-310	340-350	380-390	420-430	460-470	500-510	540-550
C	180-200	220-230	260-270	300-310	340-350	380-390	420-430	460-470	500-510	540-550
D	180-200	220-230	260-270	300-310	340-350	380-390	420-430	460-470	500-510	540-550
E	180-200	220-230	260-270	300-310	340-350	380-390	420-430	460-470	500-510	540-550
F	180-200	220-230	260-270	300-310	340-350	380-390	420-430	460-470	500-510	540-550
G	180-200	220-230	260-270	300-310	340-350	380-390	420-430	460-470	500-510	540-550
H	180-200	220-230	260-270	300-310	340-350	380-390	420-430	460-470	500-510	540-550
I	180-200	220-230	260-270	300-310	340-350	380-390	420-430	460-470	500-510	540-550

I/A

19-24

15-19

11-15

ASR

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Exercise 4

- Common Law Robbery (Class G)
- Prior Record Level IV
- 30 days pretrial jail credit
- 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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FELONY OFFENSES COMMITTED ON OR AFTER OCTOBER 3, 2013		MINIMUM SENTENCES AND PROBATIONARY PERIODS		MAXIMUM SENTENCES		
OFFENSE CLASS	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
A	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
B1	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
B2	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
C	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
D	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
E	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
F	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
G	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
H	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
I	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
J	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
K	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
L	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
M	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
N	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
O	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
P	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
Q	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
R	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
S	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
T	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
U	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
V	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
W	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
X	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
Y	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR
Z	1-3 YR	4-6 YR	7-9 YR	10-12 YR	13-17 YR	18 YR

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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	Intermediate
<ul style="list-style-type: none"> Supervised or unsupervised probation that MAY NOT include <ul style="list-style-type: none"> Special probation Drug treatment court Or a fine only 	<ul style="list-style-type: none"> Supervised probation that MAY include <ul style="list-style-type: none"> 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

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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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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 <input type="checkbox"/> supervised <input type="checkbox"/> unsupervised probation for _____ months.				
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).				
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 <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
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
- 30 days pretrial jail credit
- Sentence the defendant to “Special Probation”:
Give him a 30-day split sentence

What about the jail credit? (p. 22)

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



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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

PRISON RECORD LEVELS

PRISON RECORD LEVEL	0	1	2	3	4	5	6	7	8	9	10	11	12
0	12-15	15-18	18-21	21-24	24-27	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51
1	15-18	18-21	21-24	24-27	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54
2	18-21	21-24	24-27	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57
3	21-24	24-27	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60
4	24-27	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63
5	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66
6	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69
7	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72
8	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72	72-75
9	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72	72-75	75-78
10	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72	72-75	75-78	78-81
11	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72	72-75	75-78	78-81	81-84
12	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72	72-75	75-78	78-81	81-84	84-87

MAXIMUM SENTENCES

OFFENSE CLASS A

PRISON RECORD LEVEL	0	1	2	3	4	5	6	7	8	9	10	11	12
0	12-15	15-18	18-21	21-24	24-27	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51
1	15-18	18-21	21-24	24-27	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54
2	18-21	21-24	24-27	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57
3	21-24	24-27	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60
4	24-27	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63
5	27-30	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66
6	30-33	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69
7	33-36	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72
8	36-39	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72	72-75
9	39-42	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72	72-75	75-78
10	42-45	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72	72-75	75-78	78-81
11	45-48	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72	72-75	75-78	78-81	81-84
12	48-51	51-54	54-57	57-60	60-63	63-66	66-69	69-72	72-75	75-78	78-81	81-84	84-87

Callout Box: Class A, Prison Record Level 4, Sentence Range: 44-55 months.

56

Exercise 5

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



57

OFFENSE CLASS	I (0-1yr)	II (2-3yr)	III (3-5yr)	IV (5-10yr)	V (10-15yr)	VI (15+yr)
A						
B1	15-30	20-35	30-50	30-50	20-40 (with 15-40)	15-40 (with 15-40)
B2	15-30	20-35	20-35	20-35	20-35	20-35
C	15-30	20-35	20-35	20-35	20-35	20-35
D	15-30	20-35	20-35	20-35	20-35	20-35
E	15-30	20-35	20-35	20-35	20-35	20-35
F	15-30	20-35	20-35	20-35	20-35	20-35
G	15-30	20-35	20-35	20-35	20-35	20-35
H	15-30	20-35	20-35	20-35	20-35	20-35
I	15-30	20-35	20-35	20-35	20-35	20-35

58


Serious Felonies (Class B1-E)

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

59

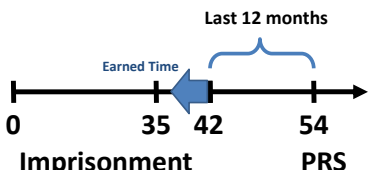
60

What does it mean?




61

Class B1-E Sentence Administration




PRS period is 12 months



62

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



63

Felony Offenses Committed on or after October 1, 2013

MINIMUM SENTENCES AND DISPOSITIONAL OPTIONS

PRISON DISPOSITIONS

Offense Class	I	II	III	IV	V	VI
	6-15y	2-3y	6-9m	15-24m	30-60m	12-18m
A	15-24m	18-24m	24-30m	30-60m	30-60m	30-60m
B1	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
B2	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
C	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
D	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
E	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
F	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
G	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
H	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
I	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
J	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m

MAXIMUM SENTENCES

FOR OFFENSE CLASSES B THROUGH I (Minimum Sentence - Consecutive Maximum Co-Offense)

Offense Class	6-15y	2-3y	6-9m	15-24m	30-60m	30-60m
B1	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
B2	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
C	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
D	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
E	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
F	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
G	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
H	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
I	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m

FOR OFFENSE CLASSES B THROUGH I (Minimum Sentence - Consecutive Maximum Co-Offense)

Offense Class	6-15y	2-3y	6-9m	15-24m	30-60m	30-60m
B1	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
B2	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
C	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
D	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
E	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
F	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
G	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
H	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m
I	30-60m	30-60m	30-60m	30-60m	30-60m	30-60m

Length of Probation Period
 For Offenses Committed on or after October 1, 2013, the minimum probation period is 12 months and the maximum probation period is 36 months.

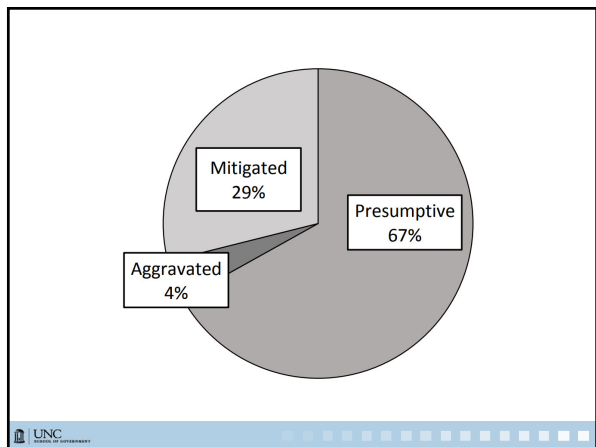
Probation Supervision
 For Offenses Committed on or after October 1, 2013, the minimum supervision is 12 months and the maximum supervision is 36 months.

Length of Probation Period
 For Offenses Committed on or after October 1, 2013, the minimum probation period is 12 months and the maximum probation period is 36 months.

Probation Supervision
 For Offenses Committed on or after October 1, 2013, the minimum supervision is 12 months and the maximum supervision is 36 months.

UNC
 SCHOOL OF GOVERNMENT

64



65

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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66

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

67

STATE OF NORTH CAROLINA		File No.
County		In The General Court Of Justice
STATE VERSUS		<input type="checkbox"/> District <input type="checkbox"/> Superior Court Division
Name Of Defendant	FELONY JUDGMENT FINDINGS OF AGGRAVATING AND MITIGATING FACTORS (STRUCTURED SENTENCING)	
Offense	G.S. 15A-1340.16	
NOTE: When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.		
AGGRAVATING FACTORS		
<input type="checkbox"/> 1. The Defendant: <input type="checkbox"/> a. induced others to participate in the commission of the offense. <input type="checkbox"/> b. occupied a position of leadership or dominance of other participants in the commission of the offense.		
<input type="checkbox"/> 2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.		
<input type="checkbox"/> 2a. The offense was committed for the benefit of, or at the direction of, any (check one) <input type="checkbox"/> offenses committed Dec. 1, 1997 - Nov. 30, 2017) criminal street gang, <input type="checkbox"/> (offenses committed on or after Dec. 1, 2017) criminal gang as defined by G.S. 14-50.154(1), with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.		
<input type="checkbox"/> 3. The offense was committed for the purpose of: <input type="checkbox"/> a. avoiding or preventing a lawful arrest. <input type="checkbox"/> b. effecting an escape from custody.		
<input type="checkbox"/> 4. The defendant was: <input type="checkbox"/> a. hired to commit the offense. <input type="checkbox"/> b. paid to commit the offense.		
<input type="checkbox"/> 5. The offense was committed to: <input type="checkbox"/> a. disrupt <input type="checkbox"/> b. hinder the lawful exercise of a governmental function or the enforcement of laws.		
<input type="checkbox"/> 6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Division of Adult Correction and Juvenile Justice, jailer, fireman, emergency medical technician, ambulance attendant, social worker, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.		
<input type="checkbox"/> 6a. The offense was committed against or proximately caused serious harm as defined in G.S. 14-163.1 or death to a law enforcement agency animal, an assistance animal, or a search and rescue animal (Applies to offenses committed on or after December 1, 2009 as defined in G.S. 14-163.1, while engaged in the performance of the animal's official duties.		
<input type="checkbox"/> 7. The offense was especially heinous, atrocious or cruel.		
<input type="checkbox"/> 8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.		
<input type="checkbox"/> 9. (select appropriate option depending on date of offense)		
<input type="checkbox"/> a. Use for offenses committed prior to December 1, 2012) The defendant held public office at the time of the offense and the offense related to the conduct of the office.		
<input type="checkbox"/> b. Use for offenses committed on or after December 1, 2012) The defendant held public office at the time of the offense and the offense related to the time of the offense and the offense directly related to the conduct of the office or employment. (NOTE: The court must notify the State Treasurer as required by G.S. 15A-1340.16(f).)		

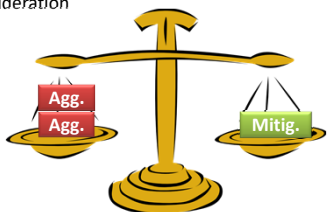
68

MITIGATING FACTORS	
<input type="checkbox"/> 1. The defendant committed the offense under:	
<input type="checkbox"/> a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.	
<input type="checkbox"/> b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.	
<input type="checkbox"/> c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.	
<input type="checkbox"/> d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.	
<input type="checkbox"/> 2. The defendant:	
<input type="checkbox"/> a. was a passive participant in the commission of the offense.	
<input type="checkbox"/> b. played a minor role in the commission of the offense.	
<input type="checkbox"/> 3. The defendant was suffering from a:	
<input type="checkbox"/> a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.	
<input type="checkbox"/> b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.	
<input type="checkbox"/> 4. The defendant's:	
<input type="checkbox"/> a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.	
<input type="checkbox"/> b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.	
<input type="checkbox"/> 5. The defendant has made:	
<input type="checkbox"/> a. substantial restitution to the victim. <input type="checkbox"/> b. full restitution to the victim.	
<input type="checkbox"/> 6. The victim was more than 16 years of age and:	
<input type="checkbox"/> a. was a voluntary participant in the defendant's conduct. <input type="checkbox"/> b. consented to the defendant's conduct.	
<input type="checkbox"/> 7. The defendant:	
<input type="checkbox"/> a. aided in the apprehension of another felon.	
<input type="checkbox"/> b. testified truthfully on behalf of the State in another prosecution of a felony.	
<input type="checkbox"/> 8. <input type="checkbox"/> a. The defendant acted under strong provocation. <input type="checkbox"/> b. The relationship between the defendant and the victim was otherwise extenuating.	
<input type="checkbox"/> 9. The defendant:	
<input type="checkbox"/> a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.	
<input type="checkbox"/> b. exercised caution to avoid serious bodily harm or fear to other persons.	
<input type="checkbox"/> 10. The defendant reasonably believed that the defendant's conduct was legal.	
<input type="checkbox"/> 11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:	
<input type="checkbox"/> a. at an early stage of the criminal process. <input type="checkbox"/> b. prior to arrest.	
<input type="checkbox"/> 12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.	
<input type="checkbox"/> 13. The defendant is a minor and has reliable supervision available.	
<input type="checkbox"/> 14. The defendant has been honorably discharged from the United States Armed Services.	
<input type="checkbox"/> 15. The defendant has accepted responsibility for the defendant's criminal conduct.	
<input type="checkbox"/> 16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.	
<input type="checkbox"/> 17. The defendant supports the defendant's family.	

69

Weighing factors

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



70

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



71

OFFENSE CLASS	I	II	III	IV	V	VI
	0-1 Mo	2-3 Mo	6-9 Mo	12-18 Mo	24-36 Mo	183-241 Mo
A	0-1 Mo	2-3 Mo	6-9 Mo	12-18 Mo	24-36 Mo	183-241 Mo
B1	0-1 Mo	2-3 Mo	6-9 Mo	12-18 Mo	24-36 Mo	183-241 Mo
B2	0-1 Mo	2-3 Mo	6-9 Mo	12-18 Mo	24-36 Mo	183-241 Mo
C	0-1 Mo	2-3 Mo	6-9 Mo	12-18 Mo	24-36 Mo	183-241 Mo
D	0-1 Mo	2-3 Mo	6-9 Mo	12-18 Mo	24-36 Mo	183-241 Mo
E	0-1 Mo	2-3 Mo	6-9 Mo	12-18 Mo	24-36 Mo	183-241 Mo
F	0-1 Mo	2-3 Mo	6-9 Mo	12-18 Mo	24-36 Mo	183-241 Mo
G	0-1 Mo	2-3 Mo	6-9 Mo	12-18 Mo	24-36 Mo	183-241 Mo
H	0-1 Mo	2-3 Mo	6-9 Mo	12-18 Mo	24-36 Mo	183-241 Mo
I	0-1 Mo	2-3 Mo	6-9 Mo	12-18 Mo	24-36 Mo	183-241 Mo

A

44-55

35-44

26-35


26 → 44 (92)

“26-44 months, Active, in the custody of DACJJ.”



72


Sex Offenders



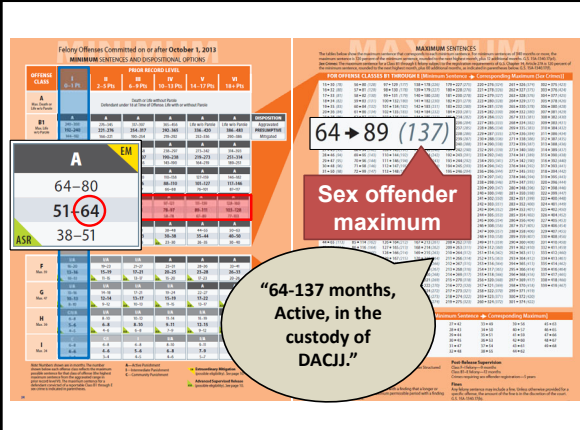
73

Exercise 7

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



74

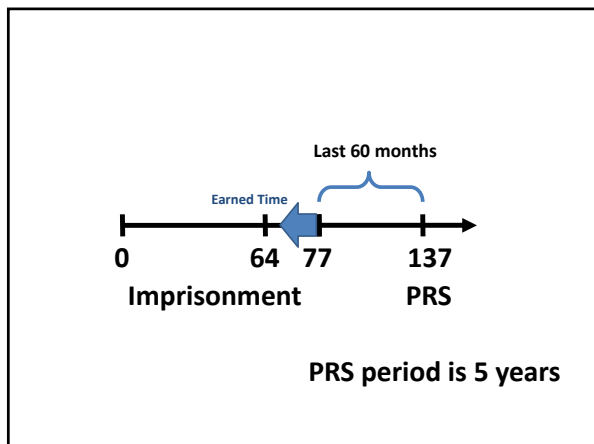


64-80
51-64
38-51

64 → 89 (137)
Sex offender maximum

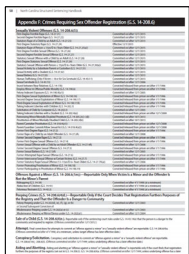
“64-137 months, Active, in the custody of DACJJ.”

75



76

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



77

Exercise 8

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

STRUCTURED SENTENCING STATISTICAL REPORT

FISCAL YEAR 2019

Appendix D, Table 1: Type of Punishment and Average Length of Active Sentence by Crime Type and Offense

Crime Type and Offense	Type of Punishment						Minimum Active Sentence (Months)	Maximum Active Sentence (Months)	Total
	Active #	%	Intermediate #	%	Community #	%			
Indecent Liberties with Child	202	54	123	33	48	13	17	29	373
Crimes Against Nature, Incest, Bigamy	12	16	19	25	45	59	105	112	76
Sexual Exploitation of a Minor	39	37	41	39	26	25	19	63	106
Child Abuse	45	55	25	30	12	15	52	79	82

78

OFFENSE CLASS	I (0-1 Pt)	II (1-5 Pt)	III (6-9 Pt)	IV (10-15 Pt)	V (16-25 Pt)	VI (26+ Pt)
A	6-12	12-18	18-24	24-30	30-36	36-42
B1	12-18	18-24	24-30	30-36	36-42	42-48
B2	12-18	18-24	24-30	30-36	36-42	42-48
C	12-18	18-24	24-30	30-36	36-42	42-48
D	12-18	18-24	24-30	30-36	36-42	42-48
E	12-18	18-24	24-30	30-36	36-42	42-48
F	12-18	18-24	24-30	30-36	36-42	42-48
G	12-18	18-24	24-30	30-36	36-42	42-48
H	12-18	18-24	24-30	30-36	36-42	42-48
I	12-18	18-24	24-30	30-36	36-42	42-48
J	12-18	18-24	24-30	30-36	36-42	42-48
K	12-18	18-24	24-30	30-36	36-42	42-48
L	12-18	18-24	24-30	30-36	36-42	42-48
M	12-18	18-24	24-30	30-36	36-42	42-48
N	12-18	18-24	24-30	30-36	36-42	42-48
O	12-18	18-24	24-30	30-36	36-42	42-48
P	12-18	18-24	24-30	30-36	36-42	42-48
Q	12-18	18-24	24-30	30-36	36-42	42-48
R	12-18	18-24	24-30	30-36	36-42	42-48
S	12-18	18-24	24-30	30-36	36-42	42-48
T	12-18	18-24	24-30	30-36	36-42	42-48

19-23
15-19
11-15

MAXIMUM SENTENCES

OFFENSE CLASS	I	II	III	IV	V	VI
A	6-12	12-18	18-24	24-30	30-36	36-42
B1	12-18	18-24	24-30	30-36	36-42	42-48
B2	12-18	18-24	24-30	30-36	36-42	42-48
C	12-18	18-24	24-30	30-36	36-42	42-48
D	12-18	18-24	24-30	30-36	36-42	42-48
E	12-18	18-24	24-30	30-36	36-42	42-48
F	12-18	18-24	24-30	30-36	36-42	42-48
G	12-18	18-24	24-30	30-36	36-42	42-48
H	12-18	18-24	24-30	30-36	36-42	42-48
I	12-18	18-24	24-30	30-36	36-42	42-48
J	12-18	18-24	24-30	30-36	36-42	42-48
K	12-18	18-24	24-30	30-36	36-42	42-48
L	12-18	18-24	24-30	30-36	36-42	42-48
M	12-18	18-24	24-30	30-36	36-42	42-48
N	12-18	18-24	24-30	30-36	36-42	42-48
O	12-18	18-24	24-30	30-36	36-42	42-48
P	12-18	18-24	24-30	30-36	36-42	42-48
Q	12-18	18-24	24-30	30-36	36-42	42-48
R	12-18	18-24	24-30	30-36	36-42	42-48
S	12-18	18-24	24-30	30-36	36-42	42-48
T	12-18	18-24	24-30	30-36	36-42	42-48

19 → 32

79

Exercise 8

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

- **19-32 months, suspended**
- **36 months supervised probation**
- **8 months special probation**

80

Prior Record Level

81

The form is titled "STATE OF NORTH CAROLINA" and "Worksheet Prior Record Level Form for Felony Sentencing and Prior Conviction Level for Misdemeanor Sentencing (STRUCTURED SENTENCING)". It is for the "Office of the State Attorney General".

I. SCORING - PRIOR RECORD/RELEASING SENTENCING

NUMBER	OFFENSE	POINTS
1	Class 1 Felony Conviction	10
2	Class 2 Felony Conviction	5
3	Class 3 Felony Conviction	3
4	Class 1 Misdemeanor Conviction	1
5	Class 2 Misdemeanor Conviction	0.5
6	Class 3 Misdemeanor Conviction	0.2
7	Infraction	0
8	Contempt	0
9	Juvenile Adjudication	0
10	Class 1A Misdemeanor Conviction	1
11	Class 2A Misdemeanor Conviction	0.5
12	Class 3A Misdemeanor Conviction	0.2

II. CLASSIFYING PRIOR RECORD/CONVICTION LEVEL

The form includes instructions for scoring and classifying, such as "Classify the defendant's prior record level based on the total number of points earned" and "Classify the defendant's prior conviction level based on the most serious conviction from a single calendar week of superior court, or session of district court".

III. STIPULATION

The form includes a section for stipulations, with a table for "PRIOR CONVICTION" and "PRIOR RECORD LEVEL".

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Prior Record Level

COUNT	DON'T COUNT
<ul style="list-style-type: none">All feloniesClass 1 and Class A1 non-traffic misdemeanorsDWI, commercial DWI, and death by vehiclePrayer for Judgment (PIC)Crimes from other jurisdictions	<ul style="list-style-type: none">Class 2 & 3 misdemeanorsTraffic misdemeanors (other than DWI, commercial DWI, and death by vehicle)InfractionsContempt adjudicationsConvictions used to habitualizeJuvenile adjudications

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

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The form is for "STATE V. JAMES L. DILLON". It shows a list of offenses with their respective points and conviction dates. A red circle highlights the "PRIOR RECORD LEVEL" section, which shows a "Class 2 Misdemeanor Conviction" with 5 points.

Convictions used to habitualize

Convictions from same court week

Class 2 and 3 misdemeanors

Traffic offenses

Improper stipulations

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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



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Exercise 9

A defendant has the following prior record:

- 11/1/98 DWI
 - 1/12/01 DWLR
 - 8/4/03 PJC for communicating threats (Class 1)
 - 4/25/08 2d deg burglary (Class G)
 - 4/25/08 Poss. stolen goods (Class H)
 - 10/22/10 Criminal contempt (30 days)
 - 2/13/11 First-degree rape (South Carolina)
- Current crime committed while on parole



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Exercise 9.a

- What is the defendant’s Prior Record Level if the State makes no showing of “substantial similarity” for the South Carolina rape?



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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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Exercise 9.a

A defendant has the following prior record:

- ✓ 11/1/98 DWI
- ✗ 1/12/01 DWLR
- ✓ 8/4/03 PJC for communicating threats (Class 1)
- ✓ 4/25/08 2d deg burglary (Class G)
- ✗ 4/25/08 Poss. stolen goods (Class H)
- ✗ 10/22/10 Criminal contempt (30 days)
- ✓ 2/13/11 First-degree rape (South Carolina)
- +1 Current crime committed while on parole



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I. SCORING PRIOR RECORD/FELONY SENTENCING				
NUMBER	TYPE	FACTORS	POINTS	
	Prior Felony Class A Conviction	X10		
	Prior Felony Class B1 Conviction	X9		
	Prior Felony Class B2 or C or D Conviction	X6		
1	Prior Felony Class E or F or G Conviction	X4		4
1	Prior Felony Class H or I Conviction	X2		2
2	Prior Class A1 or 1 Misdemeanor Conviction (see note on reverse)	X1		2
			SUBTOTAL	8
Defendant's Current Charge(s):				
If all the elements of the present offense are included in any prior offense whether or not the prior offenses were used in determining prior record level.				
		+ 1		
If the offense was committed while the offender was: <input checked="" type="checkbox"/> on probation, parole, or post-release supervision; <input type="checkbox"/> serving a sentence of imprisonment, or <input type="checkbox"/> on escape from a correctional institution.				
		+ 1		1
NOTE: If part of a plea transaction, use form AGC-CR-300 ("Transfer of Plea"), nos. 16 and 17.				
County	File No.	State (if other than NC)		
			TOTAL	9

9 points → Level III



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Exercise 9.a

- What is the defendant’s Prior Record Level if the State makes a showing of “substantial similarity” for the South Carolina rape?



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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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II. CLASSIFYING PRIOR RECORD/CONVICTION LEVEL	
MISDEMEANOR	FELONY
<p>NOTE: If evidence of conviction(s) listed of conviction level.</p>	
<p>“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...”</p>	
<p>No. Of Prior Convictions</p> <p>0</p> <p>1 - 4</p> <p>5+</p>	<p>Level which</p> <p>bove.</p>
<p><input type="checkbox"/> The Court has to be</p>	<p>points and the</p> <p>in herein.</p> <p>upon the State's</p>
<p><input type="checkbox"/> In making this determination, the State's evidence of the conviction from a computer printout.</p>	<p>evidence to the defendant's prior convictions from a computer printout of DCI-CCH.</p> <p><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.</p>
<p><input type="checkbox"/> The Court finds that all of the elements of the present offense are included in a prior offense.</p> <p><input 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.</p> <p><input type="checkbox"/> The Court finds that the State and the defendant have stipulated in open court to the prior convictions, points and record level.</p>	
Date	Signature Of Presiding Judge
Name Of Presiding Judge (Type Or Print)	

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I. SCORING PRIOR RECORD/FELONY SENTENCING			
NUMBER	TYPE	FACTORS	POINTS
	Prior Felony Class A Conviction	X10	
1	Prior Felony Class B1 Conviction	X 9	9
	Prior Felony Class B2 or C or D Conviction	X 6	
1	Prior Felony Class E or F or G Conviction	X 4	4
	Prior Felony Class H or I Conviction	X 2	
2	Prior Class A1 or 1 Misdemeanor Conviction (see note on reverse)	X 1	2
SUBTOTAL			15
Defendant's Current Charges			
If all the elements of the present offense are included in any prior offense whether or not the prior offenses were used in determining prior record level.		+ 1	
If the offense was committed while the offender was: <input checked="" type="checkbox"/> on probation, parole, or post-release supervision; <input type="checkbox"/> serving a sentence of imprisonment; or <input type="checkbox"/> on escape from a correctional institution.		+ 1	1
NOTE: If part of a plea transcript, use form ACC-CR-300 ("Transcript Of Plea"), Nos. 16 and 17.			
County	File No.	State (if other than NC)	
TOTAL			16

16 points → Prior Record Level V

94

Multiple Convictions

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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

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




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Multiple convictions

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

<input type="checkbox"/> The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.				
<input type="checkbox"/> The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below.				
File No.	Offense	County	Court	Date


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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

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



100

Money



101

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)



102

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



103


Types of Sentences

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



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Advanced Issues



105

Drug Trafficking

Drug Trafficking Sentencing (G.S. 90-95(h))
Drug trafficking is not sentenced using the regular Structured Sentencing grid. Instead, a person convicted of drug trafficking must be sentenced as set out below, including the mandatory fine, regardless of his or her prior criminal record.

Offense Class and Minimum Fines for Drug Trafficking			
Drug	Quantity	Class	Fine (not less than)
Marijuana	in excess of 10 lbs.-40 lbs.	H	\$ 1,000
	50-1,000 lbs.	G	\$ 1,700,000
	2,000-4,000	F	\$ 50,000
	10,000 or more	D	\$200,000
Methamphetamine	1,000-4,000 dosage units	G	\$ 2,000,000
	5,000-8,999	F	\$ 50,000
	10,000 or more	D	\$200,000
	28-100 grams	G	\$ 50,000
Cocaine	100-300	E	\$100,000
	400 or more	D	\$250,000
	28-100 grams	F	\$ 50,000
	200-300	E	\$100,000
Methamphetamine	400 or more	C	\$250,000
	28-100 grams	H	\$ 1,000
	200-300	G	\$ 25,000
	400 or more	E	\$100,000
Amphetamine	400 or more	E	\$100,000
	4-1.5 grams	F	\$ 50,000
	18g or more	E	\$100,000
	28 or more	C	\$500,000
Opium, Opoids, Opoids, or Heroin*	18g or more	G	\$ 25,000
	500-999	F	\$ 50,000
	1,000 or more	D	\$200,000
	100-499 grams/28-100 grams	G	\$ 25,000
MDA/MDMA	500-999 grams/200-300 grams	F	\$ 50,000
	1,000 or more/500 grams or more	D	\$200,000
	28-100 grams	H	\$ 1,000
	200-300	G	\$ 25,000
Substituted Cathinone**	400 or more	C	\$250,000
	10 grams/0.5-200 dosage units**	H	\$ 1,000
	250-1,249	G	\$ 25,000
	1,250-1,749	F	\$ 50,000
Synthetic Cathinone	1,750 or more	D	\$200,000

Class	Offense Committed On/After 12/1/2012		Offense Committed Before 12/1/2012	
	Minimum	Maximum	Minimum	Maximum
Class C	225 mos.	262	225 mos.	279
Class D	179	222	179	219
Class E	90	120	90	117
Class F	79	93	79	84
Class G	35	51	35	42
Class H	25	39	25	30

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Drug Trafficking

- Substantial assistance
- Attempted trafficking

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Substantial Assistance

- Drug trafficking only
- “Substantial assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals.”
- Judge has discretion to give reduced sentence, reduced fine, or probation

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Substantial Assistance

2017
452 trafficking convictions
78 probationary sentences

109

Attempted Trafficking

- Reverts to regular sentencing grid for that class of offense

Class E	90	120
E Max. 88 (136)	I/A 25-31	I/A 29-36
	20-25	23-29
	ASR 15-20	ASR 17-23

- No mandatory fine

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A	EM
64-80	
51-64	
ASR 38-51	

111

Extraordinary mitigation (p. 10)

- Allows an Intermediate sentence in certain "A"-only cells of the sentencing grid based on the presence of extraordinary factor(s)



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Page 10



Grid cells in which EM might be possible are flagged with this symbol.

OFFENSE CLASS	PRIOR RECORD LEVEL					
	I 0-1 Pt	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts
A Max Death or Life without Parole	Death or Life without Parole Detendant under 18 at Time of Offense: Life with or without Parole					
B1 Max Life with Parole	A	A	A	A	A	A
B2 Max 20 Years	A	A	A	A	A	A
C Max 10 Years	A	A	A	A	A	A
D Max 5 Years	A	A	A	A	A	A
E Max 3 Years	A	A	A	A	A	A
F Max 18 Months	A	A	A	A	A	A
G Max 12 Months	A	A	A	A	A	A
H Max 9 Months	A	A	A	A	A	A
I Max 6 Months	A	A	A	A	A	A

113

Extraordinary mitigation

- Permissible when court finds:
 - Extraordinary mitigating factors of a kind significantly greater than in the normal case;
 - Those factors substantially outweigh any factors in aggravation; and
 - It would be a manifest injustice to impose an active punishment in the case



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Example

- 20-year-old defendant convicted of statutory rape of a 15-year-old
- No prior record

C
Max. 231 (279)

A <small>EM</small>
73-92
58-73
44-58

Without EM:
44-65 months, Active

With EM:
44-65, Suspended
Supervised probation
(16 2/3 months split)



115



Grid cells in which ASR might be possible are flagged with this symbol.

116

Advanced Supervised Release

- Created by Justice Reinvestment Act
- Allows early release from prison to post-release supervision for identified defendants who complete “risk reduction incentives” in prison



117

Eligibility

- Only certain grid cells
- Only Active sentences
- Only if court-ordered at sentencing
- Never over prosecutor objection

OFFENSE CLASS	PRIOR RECORD LEVEL					
	0-1 Pts	2-5 Pts	6-8 Pts	9-12 Pts	13-17 Pts	18+ Pts
A Max 30 Months Death or Life without Parole	X	X	X	X	X	X
	100-200	201-250	251-300	301-350	351-400	401-450
	150-200	201-250	251-300	301-350	351-400	401-450
B2 Max 30 Months	X	X	X	X	X	X
	100-150	151-200	201-250	251-300	301-350	351-400
	105-157	158-190	191-237	238-284	285-331	332-378
C Max 30 Months	X	X	X	X	X	X
	100-150	151-200	201-250	251-300	301-350	351-400
	108-173	174-241	242-310	311-379	380-448	449-516
D Max 30 Months	X	X	X	X	X	X
	100-150	151-200	201-250	251-300	301-350	351-400
	107-162	163-218	219-274	275-330	331-386	387-442
E Max 30 Months	X	X	X	X	X	X
	100-150	151-200	201-250	251-300	301-350	351-400
	107-162	163-218	219-274	275-330	331-386	387-442
F Max 30 Months	X	X	X	X	X	X
	100-150	151-200	201-250	251-300	301-350	351-400
	107-162	163-218	219-274	275-330	331-386	387-442
G Max 30 Months	X	X	X	X	X	X
	100-150	151-200	201-250	251-300	301-350	351-400
	107-162	163-218	219-274	275-330	331-386	387-442
H Max 39 Months	X	X	X	X	X	X
	100-150	151-200	201-250	251-300	301-350	351-400
	107-162	163-218	219-274	275-330	331-386	387-442
I Max 39 Months	X	X	X	X	X	X
	100-150	151-200	201-250	251-300	301-350	351-400
	107-162	163-218	219-274	275-330	331-386	387-442

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ASR Date

- Court imposes regular sentence from the grid
- ASR date, if ordered, flows from regular sentence
 - If presumptive or aggravated, ASR date is the lowest mitigated minimum sentence in the defendant’s grid cell
 - If mitigated, ASR date is 80% of imposed minimum sentence

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

4-14 month sentence
ASR date: 3.2 months

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Example

- PRL III defendant convicted of Obtaining Property by False Pretenses
 - Regular sentence: 8-19 months

H Max. 39	C/I/A	I/A	I/A
	6-8	8-10	10-12
5-6	6-8	8-10	
ASR 4-5	ASR 4-6	ASR 6-8	

to Life Imprisonment With Parole, pursuant to G.S. Chapter 15A, Article 81B, Part 2A.
for a minimum term of **8** months and a maximum term of **19** months. ASR term (Order No. 4, Side Two) **6** months.
The defendant shall be given credit for _____ days spent in confinement prior to the date of this Judgment.

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Enhancements (p. 8-9)

- Habitual felon
- Habitual breaking and entering



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More information (p. 25)

- Presentence investigation
- Presentence commitment for study



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