

MEMORANDUM RE: "TAKING" AS AN ELEMENT OF LARCENY AND RELATED INSTRUCTIONS.

Each of the instructions listed below has an element relating to "taking." Insert the following footnote at the appropriate place in each instruction. To do so you may wish to make photocopies of this memo, cut out the footnote, and paste it on the instruction already in your book.

"If there is evidence of conduct which would constitute "taking" but there is also evidence that the defendant's conduct fell short of what would constitute "taking," add the following to this element:

"(Describe conduct which would constitute a taking) would be a taking." See S. v. Carswell, 296 N.C. 101 (1978).

N.C.P.I.--Crim.

- 214.32 Felonious Breaking or Entering, Felonious Larceny--Pursuant To A Breaking or Entering Where the Property Is Worth More Than \$400, at page 4.
- 216.05 Misdemeanor Larceny, at page 1.
- 216.10 Felonious Larceny--Good Worth More than \$400, at page 1.
- 216.11 Felonious Larceny--Explosive Device, Incendiary Device, or Firearm Taken, page __.
- 216.20 Felonious Larceny--From the Person, at page 1.
- 216.30 Felonious Larceny--Pursuant to Breaking/Entering Offense, at page 1.
- 216.35 Felonious Larceny--Pursuant to Breaking or Entering Offense--Property Worth More than \$400, at page 1.
- 216.95 Felonious Larceny of Ungathered Crops, at page 1.
- 216.96 Felonious Larceny of Horse, Mare, Gelding, or Mule, at page 1.
- 216.97 Unlawful Taking and Carrying Away of Any Horse, Mare, Gelding, or Mule with Intent to Deprive Owner of Special or Temporary Use, at page 1.
- 216.98 Unlawful Taking and Carrying Away of Any Horse, Mare, Gelding, or Mule With Intent to Use Such Property For a Special or Temporary Purpose, at page 1.

- 217.10 Common Law Robbery, at page 1.
- 217.20 Robbery With a Firearm, at page 1.
- 217.21 Robbery With a Firearm--2d Offense, at page 1.
- 217.30 Robbery With a Dangerous Weapon, at page 2.
- 217.31 Robbery With a Dangerous Weapon--2d Offense, at page 1.