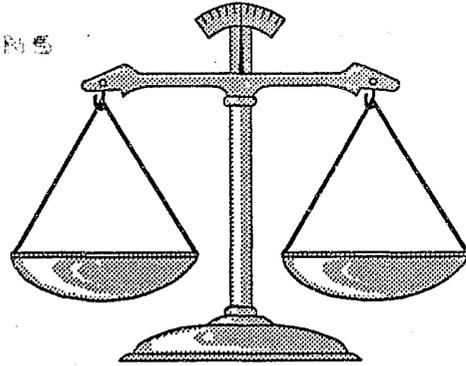


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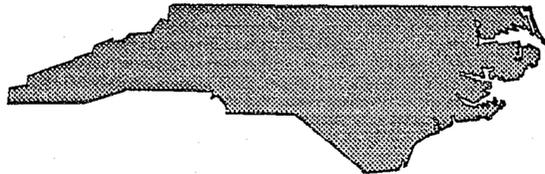
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ACQUISITIONS  
*NORTH CAROLINA  
SENTENCING  
AND  
POLICY ADVISORY  
COMMISSION*



# **STRUCTURED SENTENCING FOR FELONIES**

## ***TRAINING AND REFERENCE MANUAL***

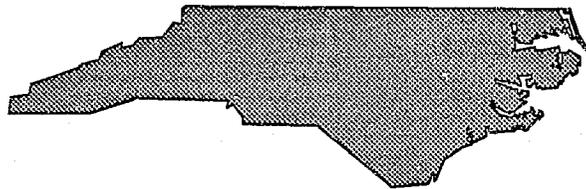


***EFFECTIVE: OCTOBER 1, 1994***

UPDATED 12/29/94

# **STRUCTURED SENTENCING FOR FELONIES**

## ***TRAINING AND REFERENCE MANUAL***



***EFFECTIVE: OCTOBER 1, 1994***

**NORTH CAROLINA SENTENCING AND POLICY  
ADVISORY COMMISSION**

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**U.S. Department of Justice  
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# STRUCTURED SENTENCING FOR FELONIES: TRAINING AND REFERENCE MANUAL

## INTRODUCTION:

The State's new structured sentencing laws will go into effect on October 1, 1994, and will apply to all felony offenses committed on or after that date. The new laws are codified in Article 81B of Chapter 15A of the North Carolina General Statutes.

This manual describes the substance and application of the new sentencing laws for felonies. The manual is divided into five sections:

- **Section I** describes the steps required to apply the new sentencing laws.
- **Section II** describes additional sentencing provisions.
- **Section III** describes additional probation provisions.
- **Section IV** describes additional post-release supervision provisions.
- **Section V** provides example exercises, answers, and commentary.

There are also two appendices. **Appendix I** includes selected AOC forms relevant to structured sentencing, and **Appendix II** lists felony offense classifications under structured sentencing.

A separate manual has been prepared for misdemeanor sentencing. This manual is entitled, "Structured Sentencing for Misdemeanors: Training and Reference Manual", and is available from the North Carolina Sentencing and Policy Advisory Commission.

**FIGURE A  
FELONY PUNISHMENT CHART  
(Numbers shown are in months)**

**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	
<b>A</b>	<b>Death or Life Without Parole</b>						
<b>B1</b>	<b>A</b> 240-300	<b>A</b> 288-360	<b>A</b> 336-420	<b>A</b> 384-480	<b>A</b> <i>Life Without Parole</i>	<b>A</b> <i>Life Without Parole</i>	<b>DISPOSITION</b> <i>Aggravated Range</i>
	192-240	230-288	269-336	307-384	346-433	384-480	<b>PRESUMPTIVE RANGE</b>
	144-192	173-230	202-269	230-307	260-346	288-384	<i>Mitigated Range</i>
<b>B2</b>	<b>A</b> 135 - 169	<b>A</b> 163 - 204	<b>A</b> 190 - 238	<b>A</b> 216 - 270	<b>A</b> 243 - 304	<b>A</b> 270 - 338	
	108 - 135	130 - 163	152 - 190	173 - 216	194 - 243	216 - 270	
	81 - 108	98 - 130	114 - 152	130 - 173	146 - 194	162 - 216	
<b>C</b>	<b>A</b> 63 - 79	<b>A</b> 86 - 108	<b>A</b> 100 - 125	<b>A</b> 115 - 144	<b>A</b> 130 - 162	<b>A</b> 145 - 181	
	50 - 63	69 - 86	80 - 100	92 - 115	104 - 130	116 - 145	
	38 - 50	52 - 69	60 - 80	69 - 92	78 - 104	87 - 116	
<b>D</b>	<b>A</b> 55 - 69	<b>A</b> 66 - 82	<b>A</b> 89 - 111	<b>A</b> 101 - 126	<b>A</b> 115 - 144	<b>A</b> 126 - 158	
	44 - 55	53 - 66	71 - 89	81 - 101	92 - 115	101 - 126	
	33 - 44	40 - 53	53 - 71	61 - 81	69 - 92	76 - 101	
<b>E</b>	<b>I/A</b> 25 - 31	<b>I/A</b> 29 - 36	<b>A</b> 34 - 42	<b>A</b> 46 - 58	<b>A</b> 53 - 66	<b>A</b> 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	
<b>F</b>	<b>I/A</b> 16 - 20	<b>I/A</b> 19 - 24	<b>I/A</b> 21 - 26	<b>A</b> 25 - 31	<b>A</b> 34 - 42	<b>A</b> 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	
<b>G</b>	<b>I/A</b> 13 - 16	<b>I/A</b> 15 - 19	<b>I/A</b> 16 - 20	<b>I/A</b> 20 - 25	<b>A</b> 21 - 26	<b>A</b> 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	
<b>H</b>	<b>C/I</b> 6 - 8	<b>I</b> 8 - 10	<b>I/A</b> 10 - 12	<b>I/A</b> 11 - 14	<b>I/A</b> 15 - 19	<b>A</b> 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	
<b>I</b>	<b>C</b> 6 - 8	<b>C/I</b> 6 - 8	<b>I</b> 6 - 8	<b>I/A</b> 8 - 10	<b>I/A</b> 9 - 11	<b>I/A</b> 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	

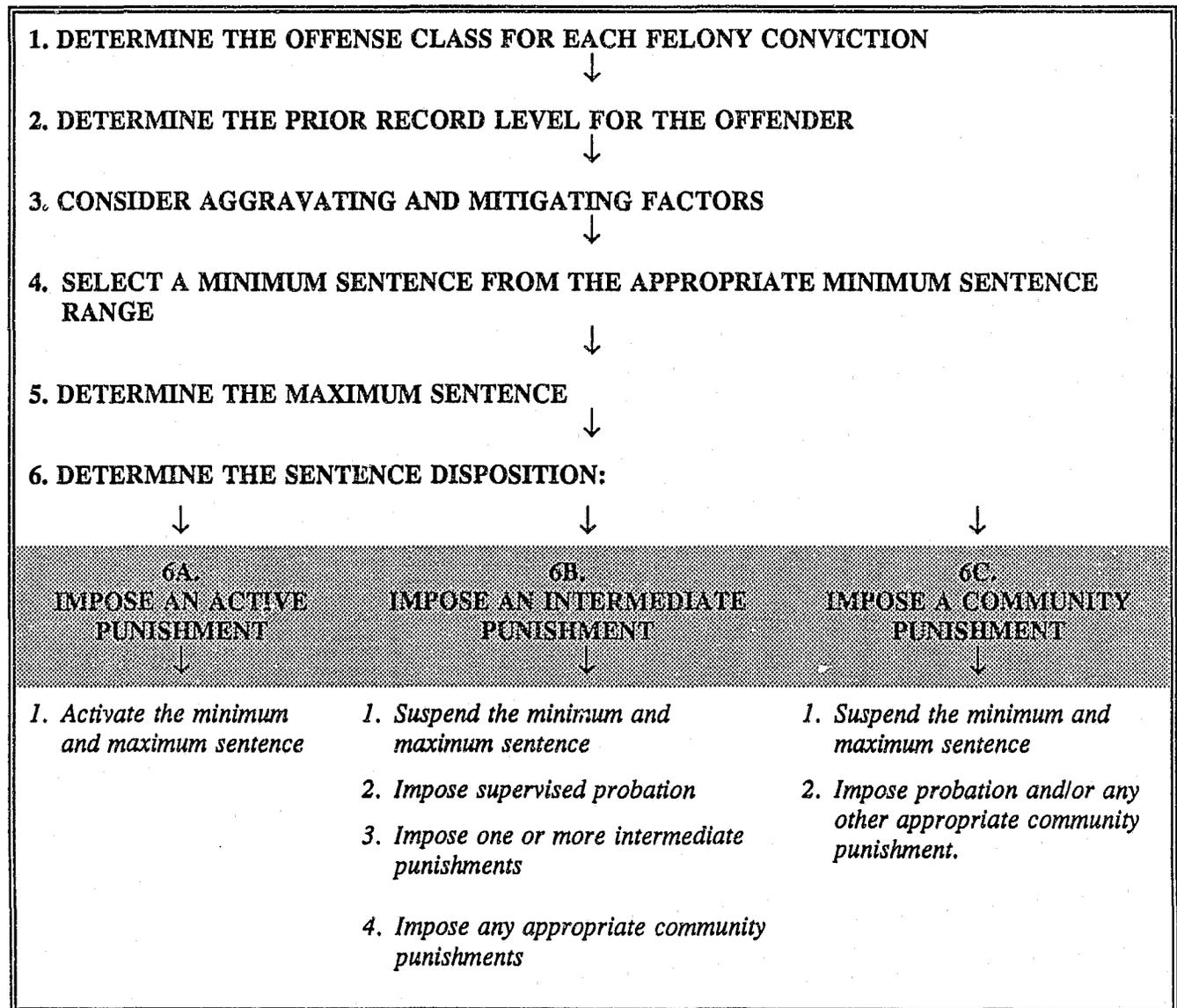
Note: A - Active Punishment I - Intermediate Punishment C - Community Punishment

Revised: 04-05-94

## SECTION I: IMPOSING SENTENCES FOR FELONS UNDER STRUCTURED SENTENCING

The new sentencing laws use a Felony Punishment Chart which classifies offenders based on the seriousness of their crime and on the extent and gravity of their prior record (see **Figure A** and the inside back cover). Based on this classification, the chart then prescribes the types of sentences which may be imposed (active, intermediate or community punishments) and the range of minimum sentence lengths which may be selected. Following is a detailed description of the steps required to impose felony sentences under the new structured sentencing laws.

### STEPS REQUIRED TO DETERMINE THE SENTENCE FOR FELONIES





## STEP 1:

### DETERMINE THE OFFENSE CLASS FOR EACH FELONY CONVICTION

*The appropriate Offense Class must be determined for each felony conviction.*

#### FELONY OFFENSE CLASSES

As in the Fair Sentencing Act, felony offenses are assigned to offense classes by statute. Felony offense classes are A, B1, B2, C, D, E, F, G, H, and I. There is no longer a Class J felony. If the offense is a felony for which there is no classification in statute, it is a Class I felony. Many offense classes have been changed under structured sentencing. Appendix II lists the felony offense classifications under structured sentencing.

#### CONSPIRACY TO COMMIT A FELONY G.S. §14-2.4

Unless a different classification is expressly stated in statute, a conspiracy to commit a felony is punishable under the next lower classification of the offense which the offender conspired to commit. However, conspiracy to commit a Class A or Class B1 felony is a Class B2 felony, and conspiracy to commit a Class B2 felony is a Class C felony. Conspiracy to commit a Class I felony is a Class 1 misdemeanor.

---

*Example: Buying or selling public offices is a Class I felony. However, conspiracy to buy or sell offices is a Class 1 misdemeanor.*

#### ATTEMPT TO COMMIT A FELONY G.S. §14-2.5

Unless a different classification is expressly stated by statute, an attempt to commit a felony is punishable under the next lower classification of the offense which the offender attempted to commit. However, an attempt to commit a Class A or Class B1 felony is a Class B2 felony, and an attempt to commit a Class B2 felony is a Class C felony. An attempt to commit a Class I felony is a Class 1 misdemeanor.

---

*Example: Second degree burglary is a Class G felony. However, an attempt to commit second degree burglary is a Class H felony.*

## SOLICITATION TO COMMIT A FELONY G.S. §14.2-6

Unless a different classification is expressly stated by statute, a person who solicits another person to commit a felony is guilty of a felony that is two classes lower than the felony the person solicited the other to commit. However, solicitation to commit a Class A or B1 felony is a Class C felony, and solicitation to commit a Class B2 felony is a Class D felony. Solicitation to commit a Class H felony is a Class 1 misdemeanor, and solicitation to commit a Class I felony is a Class 2 misdemeanor.

---

Example: *Contaminating a public water supply is a Class C felony. However, solicitation to contaminate a public water supply is a Class E felony.*

## STEP 2:

### DETERMINE THE PRIOR RECORD LEVEL FOR THE OFFENDER

*Unless the conviction is for a Class A offense or drug trafficking, the appropriate Prior Record Level must be calculated for each felon.*

### COUNTING PRIOR RECORD POINTS G.S. §15A-1340.14(b)

Prior record points are assigned to each prior conviction based on its Offense Class as follows:

Class A felony	10 points
Class B1 felony	9 points
Class B2, C, and D felony	6 points
Class E, F, and G felony	4 points
Class H and I felony	2 points
Class 1 misdemeanor	1 point

Prior convictions for Class 2 and Class 3 misdemeanors do not count, nor do prior misdemeanor traffic offenses under Chapter 20 of the North Carolina General Statutes (except for death by vehicle).

One additional point is added if the offender is on probation or parole, serving an active sentence in jail or prison, or is an escapee at the time of arrest for the current conviction. No more than one additional point can be added for this factor.

One additional point is added if all the elements of the present offense are included in a prior offense. No more than one additional point can be added for this factor.

The classification of the prior offense is the classification assigned to the offense at the time the current offense was committed (the offense for which the offender is being sentenced).

An example work sheet for computing prior record points and determining the Prior Record Level is shown on Table 1.

---

*Example: A parolee is convicted of common law robbery and has prior convictions for second degree burglary (now Class G), for Class 1 misdemeanor larceny, and for Class 3 misdemeanor gambling. The offender would receive 6 prior record points; 4 for the prior Class G felony, 1 for the prior Class 1 misdemeanor, and 1 for being on parole when the new crime was committed. The prior Class 3 misdemeanor would not receive any points. The points are based on the classification of the prior crime at the time the current crime was committed.*

**TABLE 1**

**I. SCORING PRIOR RECORD/FELONY SENTENCING**

NUMBER	TYPE		POINTS
	Prior Felony Class A Conviction	x 10	
	Prior Felony Class B1	x 9	
	Prior Felony Class B2 or C or D Conviction	x 6	
	Prior Felony Class E or F or G Conviction	x 4	
	Prior Felony Class H or I Conviction	x 2	
	Prior Class 1 Misdemeanor Conviction*	x 1	
		<b>SUBTOTAL</b>	
If all the elements of the present offense are included in the prior offense		+ 1	
If the offense was committed: (a) while on probation, parole, or post-release supervision; or (b) while serving a sentence of imprisonment; or (c) while on escape		+ 1	
		<b>TOTAL</b>	

\* Class 1 misdemeanor offenses under Chapter 20 are not assigned any points except for misdemeanor death by vehicle [G.S. 20-141.4(a)(2)]

**II. CLASSIFYING PRIOR RECORD LEVEL**

POINTS	LEVEL
0	I
1 - 4	II
5 - 8	III
9 - 14	IV
15 - 18	V
19+	VI

**PRIOR RECORD LEVEL \_\_\_\_\_**

## CALCULATING THE PRIOR RECORD LEVEL G.S. §15A-1340.14(c)

Felons are assigned to one of six Prior Record Levels based on the number of points they accrue as follows:

POINTS:	LEVEL:
0	I
1 to 4	II
5 to 8	III
9 to 14	IV
15 to 18	V
19 or more	VI

An example work sheet for computing prior record points and determining the Prior Record Level is shown on Table 1.

---

*Example:* An offender with 7 prior record points would fall within Prior Record Level III. An offender with 9 prior record points would fall within Prior Record Level IV. An offender with 26 prior record points would fall within Prior Record Level VI.

## DEFINITION OF PRIOR CONVICTION G.S. §15A-1340.11(7)

An offender has a prior conviction when, on the date a criminal judgement has been entered:

1. The offender has been convicted of a crime in the District Court and has not given notice of appeal, and the time for appeal has expired; or
2. The offender has been convicted of a crime in Superior Court, regardless of whether the conviction is on appeal to the appellate division; or
3. The offender has been convicted of a crime in the courts of the United States, another state, the armed services of the United States, or any other country, regardless of whether the offense would be a crime if it occurred in North Carolina.

---

*Example:* An offender has one previous prior conviction for second degree rape in Superior Court in 1992. The conviction is on appeal to the appellate division. The offender receives six prior record points for the prior conviction which places the offender in Prior Record Level III. The fact that the prior conviction is on appeal to the appellate division does not affect the Prior Record Level.

## CONSIDERING MULTIPLE PRIOR CONVICTIONS G.S. §15A-1340.14(d)

If an offender was convicted of more than one offense in a single Superior Court during one calendar week, only the most serious conviction is counted (the one which carries the highest point total). If an offender is convicted of more than one offense during a single session of District Court, only the most serious conviction is counted.

---

*Example: An offender has three prior convictions in Superior Court; one for assault with a deadly weapon with intent to kill (now Class E) and two for felony larceny (Class H). The offender pled guilty to all three prior convictions on the same day of court. Therefore, the offender receives four prior record points for the most serious offense (the Class E felony), which places the offender in Prior Record Level II. No points accrue for the two felony larcenies, since the convictions occurred in the same court on the same day.*

## PROOF OF PRIOR CONVICTIONS G.S. §15A-1340.14(f)

Prior convictions can be proved by:

1. Stipulation of the parties; or
2. Court records; or
3. Copy of records maintained by the Division of Criminal Information, Division of Motor Vehicles, or the Administrative Office of the Courts; or
4. Any other method the court finds reliable.

The original, or a copy of the court records, or a copy of the records maintained by the DCI, DMV, or the AOC bearing the same name as that by which the offender is charged, is prima facie evidence that the offender named is the same as the offender before the court and that the facts set out in the record are true.

A "copy" includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment and a document produced by a facsimile machine.

## BURDEN OF PROOF G.S. §15A-1340.14(f)

The State bears the burden of proving, by a preponderance of the evidence, that a prior conviction exists and that the offender before the court is the same person as the offender named in the prior conviction. The prosecutor must make all feasible efforts to obtain and present to the court the offender's full prior record.

## **PRIOR RECORD FROM OTHER JURISDICTIONS G.S. §15A-1340.14(e)**

Except as noted below, a conviction from a jurisdiction other than North Carolina is classified as a Class I felony if the jurisdiction in which the offense occurred classifies the offense as a felony, and is classified as a Class 3 misdemeanor if the other jurisdiction classifies the offense as a misdemeanor. Exceptions are as follows:

1. If the offender proves by a preponderance of the evidence that an offense classified as a felony in the other jurisdiction is substantially similar to an offense that is classified as a misdemeanor in North Carolina, the conviction is treated as that class of misdemeanor.
2. If the State proves by a preponderance of evidence that an offense classified as either a misdemeanor or a felony in the other jurisdiction is substantially similar to an offense that is classified as a Class I or higher felony in North Carolina, the conviction is treated as the higher class of felony.
3. If the State proves by a preponderance of evidence that an offense classified as a misdemeanor in the other jurisdiction is substantially similar to an offense classified as a Class 1 misdemeanor in North Carolina, the conviction is treated as a Class 1 misdemeanor.

---

*Example: An offender has a previous conviction for "arson endangering persons" and misdemeanor "disorderly conduct" in another state. Unless the State can prove otherwise, the offender would receive 2 prior record points for the arson conviction, since it is treated as a Class I felony. If, however, the State were able to prove by a preponderance of the evidence that the prior conviction was substantially similar to first degree arson (now Class D) in North Carolina, the offender would receive 6 prior record points. No points would accrue for the misdemeanor disorderly conduct conviction unless the State were able to prove, by a preponderance of the evidence, that the offense was substantially similar to a Class 1 misdemeanor offense in North Carolina or substantially similar to a felony offense in North Carolina.*

## **SUPPRESSION OF PRIOR RECORD G.A. §15A-1340.14(f)**

If a motion is made pursuant to G.S. §15A-980 during the sentencing stage of the criminal action, the court may grant a continuance of the sentencing hearing.

## **PROVISION OF PRIOR RECORD INFORMATION G.A. §15A-1340.14(f)**

If asked by the defendant in compliance with G.S. §15A-903, the prosecutor shall furnish the defendant's prior criminal record to the defendant within a reasonable time sufficient to allow the defendant to determine if the record available to the prosecutor is accurate.



## **STEP 3:**

### **CONSIDER AGGRAVATING AND MITIGATING FACTORS**

*The court must consider evidence of aggravating or mitigating factors, but the decision to impose a minimum sentence from either the aggravating or mitigating range is in the discretion of the court.*

#### **BURDEN AND STANDARD OF PROOF G.S. §15A-1340.16(a)**

The State bears the burden of proving by a preponderance of the evidence that an aggravating factor exists, and the offender bears the burden of proving by a preponderance of the evidence that a mitigating factor exists.

#### **AGGRAVATING & MITIGATING FACTORS G.S. §15A-1340.16(d) and (e)**

Statutorily prescribed aggravating factors are shown in **Table 2** and statutorily prescribed mitigating factors are shown in **Table 3**. With a few changes, these are the same statutory factors as currently specified in the Fair Sentencing Act. New or changed factors are identified by asterisks on **Table 2** and **Table 3**. The presence or absence of prior convictions were eliminated as aggravating or mitigating factors, since prior record is always considered when determining the Prior Record Level.

#### **REQUIREMENT TO PROVIDE WRITTEN REASONS G.S. §15A-1340.16(c)**

If the court selects a minimum sentence from the aggravated or mitigated sentence range, the court must provide written findings. This requirement applies, regardless of whether an active sentence or a suspended sentence is imposed. This is the same requirement as currently prescribed under the Fair Sentencing Act. However, if the court selects a minimum sentence from the presumptive sentence range, no written findings are required.

TABLE 2

AGGRAVATING FACTORS

1. The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.
- 2.\* The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
3. The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
4. The defendant was hired or paid to commit the offense.
5. The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
6. The offense was committed against a present or former: law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, 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.
7. The offense was especially heinous, atrocious, or cruel.
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.
9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
10. The defendant was armed with or used a deadly weapon at the time of the crime.
- 11.\* The victim was very young, or very old, or mentally or physically infirm, or handicapped.
- 12.\* The defendant committed the offense while on pretrial release on another charge.
13. The defendant involved a person under the age of 16 in the commission of the crime.
14. The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.
15. The defendant took advantage of a position of trust or confidence to commit the offense.
16. The offense involved the sale or delivery of a controlled substance to a minor.
17. The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- 18.\* The defendant does not support the defendant's family.
- 18a.\* The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if committed by an adult.
- 19.\* The serious injury inflicted upon the victim is permanent and debilitating.
20. Any other aggravating factor reasonably related to the purposes of sentencing.

\* - New or revised Aggravating Factors

TABLE 3

MITIGATING FACTORS

1. The defendant committed the offense under duress, coercion, threat, or compulsion that was insufficient to constitute a defense but significantly reduced the defendant's culpability.
2. The defendant was a passive participant or played a minor role in the commission of the offense.
3. The defendant was suffering from a mental or physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
- 4.\* The defendant's age, immaturity, or limited mental capacity at the time of commission of the offense significantly reduced the defendant's culpability for the offense.
5. The defendant has made substantial or full restitution to the victim.
6. The victim was more than 16 years of age and was a voluntary participant in the defendant's conduct or consented to it.
7. The defendant aided in the apprehension of another felon or testified truthfully on behalf of the prosecution in another prosecution of a felony.
8. The defendant acted under strong provocation, or the relationship between the defendant and the victim was otherwise extenuating.
9. The defendant could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear, or the defendant exercised caution to avoid such consequences.
10. The defendant reasonably believed that the defendant's conduct was legal.
11. Prior to arrest or at an early stage of the criminal process, the defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer.
12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
13. The defendant is a minor and has reliable supervision available.
14. The defendant has been honorably discharged from the United States armed services.
- 15.\* The defendant has accepted responsibility for the defendant's criminal conduct.
- 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.
- 17.\* The defendant supports the defendant's family.
- 18.\* The defendant has a support system in the community.
- 19.\* The defendant has a positive employment history or is gainfully employed.
- 20.\* The defendant has a good treatment prognosis, and a workable treatment plan is available.
21. Any other mitigating factor reasonably related to the purposes of sentences.

\* - New or revised Mitigating Factors



## STEP 4:

### SELECT A MINIMUM SENTENCE FROM THE SENTENCE RANGE

*The judgement of the court must contain a minimum term of imprisonment that is consistent with the class of the offense for which the offender is being sentenced and with the prior record level of the offender. The minimum sentence is selected from either the presumptive sentence range, the aggravated sentence range, or the mitigated sentence range.*

#### MINIMUM SENTENCE RANGES G.S. §15A-1340.17(c)

Three ranges of minimum sentences (in months) are provided on the Felony Punishment Chart (Figure A and inside back cover) for each combination of Offense Class and Prior Record Level. The Felony Punishment Chart only prescribes the minimum sentence.

##### **Presumptive Minimum Sentence Range**

The court must select a minimum sentence from within the presumptive minimum sentence range, unless the court finds that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle range on the Felony Punishment Chart for each combination of Offense Class and Prior Record Level.

##### **Aggravated Minimum Sentence Range**

The court may select any minimum sentence from within the aggravated minimum sentence range if the court finds that aggravating factors are present and are sufficient to outweigh any mitigating factors that are present. The aggravated range is the top range on the Felony Punishment Chart for each combination of Offense Class and Prior Record Level.

##### **Mitigated Minimum Sentence Range**

The court may select any minimum sentence from within the mitigated minimum sentence range if the court finds that mitigating factors are present and are sufficient to outweigh any aggravating factors which are present. The mitigated range is the lower range on the Felony Punishment Chart for each combination of Offense Class and Prior Record Level.

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Example: *For an offender convicted of a Class F offense with a Prior Record Level of II, there are three sentence ranges; a presumptive minimum sentence range from 15-19 months, an aggravated minimum sentence range from 19-24 months, and a mitigated minimum sentence range from 11-15 months. For example, if the court made no finding of aggravation or mitigation, the court could impose a minimum sentence of 15, 16, 17, 18, or 19 months.*

*For an offender convicted of a Class D offense with a Prior Record Level of IV, the presumptive range is 81-101 months, the aggravated range is 101-126 months, and the mitigated range is 61-81 months. For example, if the court made a finding of aggravation, the court could impose a minimum sentence of 101 months, 126 months, or any number of months in between.*

#### **FIREARM ENHANCEMENT G.S. §14-2.2 and G.S. §15A-1340.16A**

If the court finds that an offender used, displayed, or threatened to use or display a firearm during the commission of a Class A, B1, B2, C, D, or E felony, the offender must, in addition to the punishment for the underlying felony, be sentenced to a minimum imprisonment term of 60 months. This term must be consecutive to all other sentences imposed. This enhancement does not apply if evidence of the use, display, or threatened use or display of a firearm is needed to prove an element of the underlying Class A, B1, B2, C, D, or E felony. The enhancement does not apply if the court sentences the offender to an intermediate punishment.<sup>1</sup> Evidence necessary to establish the firearm enhancement may not be used to prove any factor in aggravation. The determination of the maximum sentence and the sentence disposition is described in the following sections of this manual.

*Example: An offender is convicted of a Class C offense with a Prior Record Level of II. The presumptive range for this offender is from 69 to 86 months, and the court imposes a minimum sentence of 84 months for the underlying offense. The court also finds that the offender displayed a firearm during the commission of the offense, and the display of a firearm is not an element of the offense. The court must also sentence the offender to a minimum term of 60 months and a corresponding maximum of 81 months to run consecutive to the Class C offense. Consequently, the total minimum sentence which must be served by the offender is 144 months (84 months for the Class C felony and 60 months for the firearm enhancement).*

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<sup>1</sup> An intermediate punishment is only authorized for Class E felonies in Prior Record Levels I and II, or upon a finding of extraordinary mitigation pursuant to G.S. §15A-1340.13(g).

## STEP 5:

### DETERMINE THE MAXIMUM SENTENCE

*The judgement of the court must also contain a maximum term of imprisonment. The maximum term is set by statute based on the minimum term imposed.*

#### MAXIMUM SENTENCES G.S. §15A-1340.17(d) and (e)

The maximum sentence corresponding with each minimum sentence is shown on Figure B. For offense classes F through I, the maximum sentence length is set at 120% of the minimum sentence length rounded to the next highest month. For offense classes B1 through E, the maximum term is set at 120% of the minimum term rounded to the next highest month plus an additional nine months.

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*Example: Assume an offender convicted of a Class F offense with a Prior Record Level of II receives a minimum sentence of 17 months from the presumptive range. Since this is a Class F felony, the corresponding maximum sentence is automatically set at 21 months. The maximum sentence is found in Figure B and is equivalent to 120% of the minimum (rounded to the next highest month).*

*Assume an offender convicted of a Class D offense with a Prior Record Level of IV receives a minimum sentence of 120 months from the aggravated sentence range. Since this is a Class D offense, the corresponding maximum sentence is automatically set at 153 months. The maximum sentence is found in Figure B and is equivalent to 120% of the minimum (rounded to the next highest month) plus an additional nine months to cover post-release supervision.*

*Assume an offender convicted of a Class B1 offense with a Prior Record Level of V receives a minimum sentence of 420 months from the presumptive sentence range. Figure B only lists the maximum sentence for minimum sentences up to 339 months. For minimum sentences of 340 months and longer, the formula specified in G.S. §15A-1340.17(e1) must be invoked. If the minimum sentence is 420 months, then the maximum sentence is 513 months (the sum of the minimum sentence, plus 20% of the minimum sentence rounded to the next highest month, plus 9 months).*

**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).

**FOR OFFENSE CLASSES B1 THROUGH E**

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
33-4	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	323-39
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	

**FOR OFFENSE CLASSES F THROUGH I**

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	

## STEP 6:

### DETERMINE THE SENTENCE DISPOSITION

*A sentence disposition must be imposed for each felony offense.*

#### SENTENCE DISPOSITIONS ON FELONY PUNISHMENT CHART G.S. §15A-1340.17(c)

Sentence dispositions are prescribed on the Felony Punishment Chart (**Figure A** and on the inside back cover) for each combination of Offense Class and Prior Record Level. "C" on the chart indicates that a community punishment is authorized, "I" indicates that an intermediate punishment is authorized, and "A" indicates that an active punishment is authorized.

If the disposition is an "A", then the sentence must be activated. If the disposition is a "C" or an "I", then the sentence must be suspended. For some combinations of Offense Class and Prior Record Level, the punishment chart prescribes two possible dispositions (separated by a slash "/"). In such cases, the court has discretion to impose either disposition.

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*Example: An offender is convicted of a Class H felony and has a prior record level of VI. The authorized disposition is "A", so the court must impose an active sentence. If the same offender had no prior record points (Prior Record Level I), the authorized disposition is "C/I" and the court must suspend the active sentence and, in its discretion, impose either an intermediate or community punishment. If the offender had four prior record points (Level III), then the authorized disposition is "I/A" and the court may, in its discretion, either impose an active sentence or suspend the active sentence and impose an intermediate punishment.*

#### ACTIVE PUNISHMENTS

An active punishment requires that the offender be sentenced to the custody of the Department of Correction and to serve the minimum and maximum sentence imposed by the court.

#### INTERMEDIATE PUNISHMENTS G.S. §1340.11(6)

An intermediate punishment requires a sentence of supervised probation with at least one of the following conditions:

- a. Special Probation as defined in G.S. §15A-1351(a). This sanction is sometimes referred to as a split sentence. The IMPACT program (boot camp) is a form of special probation.

- b. Residential Program assignment that requires the offender to reside in a facility for a specified period of time and to participate in activities such as counseling, treatment, social skills training, or employment training at the residential facility or other specified locations.
- c. Electronic Monitoring that requires the offender to remain in one or more specified places for a specified period or periods each day, and in which the offender shall wear a device which permits the supervising agency to monitor the offender's compliance with the conditions electronically.
- d. Intensive Probation that requires the offender to submit to supervision by officers assigned to the Intensive Probation Program established pursuant to G.S. §143B-262(c) and to comply with the rules adopted for that program.
- e. Day Reporting Center assignment that requires the offender to report on a daily or other regular basis at specified times for a specified length of time to participate in activities such as counseling, treatment, social skills training, or employment training.

An intermediate punishment may also include any other conditions of probation and/or any listed community punishments. A fine and/or restitution may also be added as part of any intermediate punishment. In addition, a sentence imposed pursuant to a community penalties plan as defined in G.S. §7A-771(2) is an intermediate punishment providing it is accepted by the court. The plan does not have to include any of the above intermediate conditions.

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*Example: If the authorized disposition includes an "I", the court could place the offender on supervised probation for a specific term and require the offender to submit to electronic monitoring. The offender could also be required to pay a fine, pay restitution, receive outpatient drug treatment, and perform community service.*

#### **COMMUNITY PUNISHMENTS G.S. §15A-1343.11(2)**

A community punishment is any authorized sentence that does not include an active punishment or an intermediate punishment. Community punishments may include, but are not limited to, one or more of the following:

1. Supervised or unsupervised probation
2. Any authorized condition of probation (except those defined as an intermediate punishment)
3. Outpatient drug/alcohol treatment
4. Community service
5. Referral to T.A.S.C. (Treatment Alternatives to Street Crime)
6. Restitution
7. Fines

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Example: *If the authorized disposition includes a "C", the court may place an offender on supervised or unsupervised probation for a specific term. In addition, the court may require the offender to pay a fine, pay restitution, receive outpatient drug treatment and perform community service. The court could not, however, require the offender to submit to any program defined above as an intermediate punishment.*

#### **EXTRAORDINARY MITIGATION G.S. §15A-1340.13(g) and G.S. §15A-1340.13(h)**

In limited instances, the court may impose an intermediate punishment when only an active punishment is authorized. To do so, the court must find that:

1. extraordinary mitigating factors of a kind significantly greater than the normal case exist, and
2. such factors substantially outweigh any factors in aggravation, and
3. imposition of an active sentence would be a "manifest injustice".

Extraordinary mitigation is not authorized for Class A offenses, Class B1 offenses, drug trafficking offenses, or for felons with five or more prior record points (Prior Record Level III and above). As discussed in Section III, the State can appeal a finding of extraordinary mitigation.

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Example: *If an offender is convicted of first degree burglary and has no prior record, the only authorized disposition is an active sentence of imprisonment ("A"). However, if the court makes a finding of extraordinary mitigation, the court may suspend the active sentence and impose an intermediate punishment.*

#### **EXCEPTION FOR DRUG TRAFFICKING CONVICTIONS G.S. §90-95(h)**

Offenders convicted of drug trafficking must receive an active punishment, unless the court finds that the offender provided substantial assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators or principals. If the court finds "substantial assistance", the court may impose an active punishment, intermediate punishment, or community punishment.

#### **FINES G.S. §15A-1340.17(b)**

A fine may be imposed in combination with any disposition. Unless otherwise provided by statute, the amount of the fine is in the discretion of the court. If a community punishment is authorized, the judgement may consist of a fine only. Additionally, when the defendant is other than an individual, the judgement may consist of a fine only.



## **STEP 6A:**

### **IMPOSE AN ACTIVE PUNISHMENT**

*If the court imposes an active sentence, the minimum and maximum terms are activated.*

#### **AMOUNT OF ACTIVE TIME TO BE SERVED G.S. §15A-1340.13(d)**

An offender sentenced to an active punishment must serve the entire minimum sentence imposed. The maximum sentence may be reduced to, but not below, the minimum term by earned time credits awarded to an offender by the Department of Correction or the custodian of a local confinement facility. Parole is eliminated.

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*Example: An offender with a Prior Record Level of III is convicted of a Class F offense and is given a minimum of 20 months and a maximum of 24 months. The offender must serve at least 20 months and could serve up to 24 months if no earned time credits are awarded.*

#### **EARNED TIME G.S. §148-13(a1)**

Good time and gain time are eliminated for offenders sentenced under structured sentencing. The Secretary of Correction is responsible for adopting rules to specify the rates at, and circumstances under, which earned time may be earned or forfeited. In no instance may the awarding of earned time reduce the service of the minimum sentence.

#### **MULTIPLE CONVICTIONS G.S. §15A-1340.15**

In the event of multiple convictions, the court may, in its discretion, consolidate sentences, run sentences concurrently, or run sentences consecutively.

##### **Consolidated Sentences**

If an offender is convicted of more than one offense, the court may consolidate the offenses for judgement and impose a single judgement for the consolidated offenses. The judgement must contain a sentence disposition specified for the class of offense and prior record level of the most serious offense and a minimum sentence length which is within the ranges specified for that class of offense and prior record level.

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Example: *An offender, with a Prior Record Level of II, is convicted of a Class D felony and a Class E felony. If the court elects to consolidate judgement, the sentence imposed must conform to the sentence disposition and the sentence ranges prescribed for the most serious offense (the Class D felony). For example, if the court finds aggravation, the longest possible sentence the court could impose would be a minimum of 82 months and a maximum of 108 months.*

### **Consecutive or Concurrent Sentences**

Unless otherwise specified by the court, all sentences of imprisonment run concurrently with any other sentences of imprisonment. The minimum sentence length imposed for consecutive sentences is the sum of all active minimum terms imposed in the court's judgement. The offender cannot serve less than the sum of all the active minimum sentences imposed consecutively. The maximum term of imprisonment for sentences run consecutively is the sum of all active maximum terms imposed by the court, less nine months for each second and subsequent sentence imposed for a Class B1, B2, C, D, or E felony.

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Example: *An offender, with a Prior Record Level of II, is convicted of a Class D offense and a Class E offense. If the court elects to impose consecutive sentences, the court must impose a separate judgment for each offense. For example, assuming aggravation was found, the court could impose a minimum of 82 months (and a maximum of 108 months) for the Class D offense and impose a minimum of 36 months (and a maximum of 53 months) for the Class E offense. If these sentences were run consecutively, the total minimum sentence which must be served would be 118 months (the sum of the two minimum sentences).*

### **POST-RELEASE SUPERVISION G.S. §15A-1368 to §15A-1368.6**

Offenders convicted of Class B1, B2, C, D, and E felonies will be released from prison nine months before the expiration of their maximum sentence, less earned time credits, and will be placed on post-release supervision for six months. No such offender, however, will be released before serving the entire minimum sentence. An offender violating the conditions of post-release supervision can be returned to prison for up to the maximum sentence. A further explanation of Post-Release Supervision is provided in **Section IV**.

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Example: An offender with a Prior Record Level of I is convicted of a Class E offense and is given a minimum of 20 months and a maximum of 33 months. Since this is a Class E offense, the offender will be released when he is within nine months of completing his maximum sentence less earned time credits. If the offender is awarded all possible earned time credits (four months or 20% of the minimum sentence), the earliest the offender can be released is after serving 20 months. If the offender is awarded no earned time credits, the latest the offender can be released is after serving 24 months.

#### MINIMUM AND MAXIMUM SENTENCES FOR DRUG TRAFFICKING G.S. §90-95A(h)

Unless the court finds that the offender provided substantial assistance in the identification, arrest or conviction of any accomplices, accessories, co-conspirators or principals, offenders convicted for drug trafficking must receive the following minimum and maximum sentence regardless of the prior record level.

*Class C Drug Trafficking: Minimum 225 months; maximum 279 months.*

*Class D Drug Trafficking: Minimum 175 months; maximum 219 months.*

*Class E Drug Trafficking: Minimum 90 months; maximum 117 months.*

*Class F Drug Trafficking: Minimum 70 months; maximum 84 months.*

*Class G Drug Trafficking: Minimum 35 months; maximum 42 months.*

*Class H Drug Trafficking: Minimum 25 months; maximum 30 months.*

If the court finds "substantial assistance", the court may impose any lesser minimum and corresponding maximum sentence.

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Example: An offender is convicted of selling 50 grams of cocaine (a Class G felony). Since this is a drug trafficking offense under G.S. §90-95(h), the minimum sentence is mandated by statute to be 35 months, and the maximum sentence is mandated by statute to be 42 months. For this offense, there is no requirement to determine the Prior Record Level or to refer to the Felony Punishment Chart. If the court finds "substantial assistance," however, the court could suspend the sentence or could impose a shorter minimum and maximum sentence (for example, a minimum of 12 months and a maximum of 15 months).



## **STEP 6B:**

### **IMPOSE AN INTERMEDIATE PUNISHMENT**

*If the court imposes an intermediate punishment, the minimum and maximum sentence must be suspended and the court must impose a period of supervised probation.*

#### **IMPOSING A TERM OF SUPERVISED PROBATION G.S. §15A-1343.2(d) and 1342**

Unless the court makes a specific finding that a longer or shorter period of probation is necessary, the court shall impose a single period of probation which is not less than 18 months and not more than 36 months. In no instance, however, can the length of probation exceed five years. The court, with the consent of the defendant, may extend the original period of probation up to three years for the purpose of allowing the defendant to complete a period of restitution or to continue medical or psychiatric treatment ordered as a condition of probation. The court may also delegate certain powers to the Division of Adult Probation and Parole as described in Section III.

#### **SELECTING INTERMEDIATE PUNISHMENTS/SETTING LENGTHS G.S. §15A-1340.11(6)**

For an intermediate punishment, one or more of the following conditions of probation must be imposed:

- a. Special Probation (split sentence or IMPACT). Unless the offender is sentenced to the IMPACT program, the active portion of special probation cannot exceed six months or one-fourth the maximum sentence imposed for the offense, whichever is less. For offenders sentenced to the IMPACT program, the active portion of special probation cannot exceed six months or one-half the maximum sentence imposed for the offense, whichever is less. If the offender is sentenced to the IMPACT program as part of special probation, the length of the active sentence is normally 90 days and cannot exceed 120 days. Following release from the active portion of the sentence, the offender must serve the remaining period of probation.
- b. Residential Program. The length of assignment to a residential program is in the discretion of the court. The length can be less than, but not greater than, the total term of probation imposed. The current average stay in a residential program is from 10 months to two years depending on the specific program. Following release from the residential program, the offender must continue to serve any remaining period of probation.
- c. Electronic Monitoring. The length of assignment to electronic monitoring is in the discretion of the court. The length can be less than, but not greater than, the total term of probation imposed. The current average length of electronic monitoring is 90 days or less. Following completion of electronic monitoring, the offender must continue to serve any remaining period of probation.

- d. Intensive Probation. The length of intensive probation is in the discretion of the court. The length can be less than, but not greater than, the total term of probation imposed. The current average length of intensive probation is from six to nine months. Following completion of intensive probation, the offender must continue to serve any remaining period of probation.
- e. Day Reporting Center. The length of assignment to a day reporting center is in the discretion of the court. The length can be less than, but not greater than, the total term of probation imposed. Following completion of the assignment to the day reporting center, the offender must continue to serve any remaining period of probation.

An intermediate punishment can include any regular condition of probation and may include fines, community service, out-patient treatment, restitution, community service, or any other statutorily authorized sanction or condition of probation.

## **STEP 6C:**

### **IMPOSE A COMMUNITY PUNISHMENT**

*If the court imposes a community punishment, the term of imprisonment must be suspended and either a supervised or unsupervised term of probation imposed, or a fine only may be imposed.*

#### **IMPOSING A TERM OF PROBATION G.S. §15A-1343.2(d) and 1342**

Unless the court makes a specific finding that a longer or shorter period of probation is necessary, or unless the court determines that no period of probation is necessary, the court shall impose a single period which is not less than 12 months and not more than 30 months. In no instance, however, can the length of probation exceed five years. The court, with the consent of the defendant, may extend the original period of probation up to three years for the purpose of allowing the defendant to complete a period of restitution or to continue medical or psychiatric treatment ordered as a condition of probation. The court may also delegate certain powers to the Division of Adult Probation and Parole as described in **Section III**.

#### **SELECTING THE COMMUNITY PUNISHMENT G.S. §15A-1340.11(2)**

For community punishments, a term of supervised probation or unsupervised probation may be imposed at the discretion of the court consistent with statute. The court may also impose a fine only. A community punishment can include any regular condition of probation and may include fines, community service, out-patient treatment, restitution, community service, or any other statutorily authorized sanction or condition of probation which is not defined as an intermediate punishment.

## SECTION II: OTHER SENTENCING PROVISIONS

**LIFE WITHOUT PAROLE:** Class A felonies are punishable by death or life imprisonment without parole. Felons sentenced under the "three strikes and you're in" provisions are punishable by life imprisonment without parole (see below). Offenders convicted of first degree rape or sexual assault in Prior Record Levels V and VI may be sentenced to life imprisonment without parole if the court sentences from the aggravated sentence range. Offenders sentenced to life imprisonment without parole are not eligible for parole. However, a resident superior court judge in the county of conviction must review the case after twenty-five years, and every two years thereafter, and recommend to the Governor (or a designated executive agency) whether the sentence should be commuted. Only the Governor has authority to commute the sentence. See *G.S. §15A-1380.5* and *G.S. §15A-2002*.

**HABITUAL FELONS:** Habitual felon status is maintained as a Class C felony. Prior felony convictions used to establish habitual felon status cannot also be used in the calculation of the Prior Record Level. See *G.S. §14-7*.

**VIOLENT HABITUAL FELONS (THREE STRIKES AND YOU'RE IN):** Offenders convicted as violent habitual felons (third conviction for a Class A, B1, B2, C, D, or E felony) must be sentenced to life without parole. Procedures for sentencing violent habitual felons are similar to procedures for sentencing habitual felons. See *G.S. §14-7.7*.

**COMMITTED YOUTHFUL OFFENDERS:** Committed Youthful Offender Status is eliminated. However, the age of the defendant can be used as a mitigating factor.

**APPELLATE REVIEW:** Both the defendant and the State may appeal if the sentence results from an incorrect finding of the defendant's prior record level or contains a sentence disposition or sentence length not authorized by the structured sentencing law. The defense may appeal whether a sentence imposed outside the presumptive range (within the aggravated range) is supported by the evidence. The state may appeal whether a finding of "extraordinary mitigation" is supported by the evidence or is sufficient as a matter of law. See *G.S. §15A-1415(b)*, *§15A-1441*, *§15A-1444*, and *§15A-1445*.

**PAROLE RELEASE:** Discretionary parole release is eliminated for all offenses (except Driving While Impaired). The Parole Commission is renamed the Post-Release Supervision and Parole Commission. See *G.S. §15A-1371* and *§15A-1372*.

**OFFENSE CHANGES:** The General Assembly repealed a number of antiquated and seldom charged misdemeanor offenses and also repealed offenses relating to attempts, conspiracies, and solicitations (these offenses are now covered by general rules prescribed in *G.S. §14-2.4*, *§14-2.5*, and *§14-2.6*).

## SECTION III: ADDITIONAL PROVISIONS RELATING TO PROBATION

### DELEGATION OF AUTHORITY TO DIVISION OF ADULT PROBATION AND PAROLE *G.S. §15A-1343.2(e) and (f)*

If the court imposes a community punishment, it may delegate to the Division of Adult Probation and Parole the authority to require an offender to:

1. *Perform up to 20 hours of community service and pay the fee prescribed for this supervision;*
2. *Report to the offender's probation officer on a frequency to be determined by the officer; or*
3. *Submit to substance abuse monitoring and treatment.*

If an intermediate punishment is imposed, the court may delegate to the Division of Adult Probation and Parole the authority to require an offender to:

1. *Perform up to 50 hours of community service and pay the fee prescribed for this supervision;*
2. *Submit to electronic monitoring;*
3. *Submit to substance abuse monitoring and treatment; or*
4. *Participate in an educational or vocational skills development program.*

The Division may exercise the above authority only if it first determines that the offender has failed to comply with one or more conditions of probation imposed by the court. If the Division imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

If the probation officer exercises the above authority, the offender may file a motion with the court to review the action taken. The offender must be given notice of the right to seek such review.

### RESPONSE TO VIOLATIONS OF PROBATION

If the court finds that the offender has failed to abide by the conditions of probation, the court may:

- Modify the conditions of probation, or
- Find the offender in "criminal contempt of court", or
- Revoke probation and impose an active sentence.

### **Modify Probation G.S. §15A-1344(a)**

Probation may be reduced, terminated, continued, extended or modified if the court finds that an offender has violated probation. Upon a finding that an offender sentenced to community punishment has violated one or more conditions of probation, the court's authority to modify probation includes the authority to require the offender to comply with conditions of probation which otherwise make the sentence an intermediate punishment (including imposition of special probation).

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**Example:** *An offender was originally sentenced to a community punishment which included 18 months of supervised probation. Upon finding that the offender violated the conditions of probation, the court required the offender to submit to electronic monitoring. Although electronic monitoring is defined as an intermediate punishment, it may be added to a community punishment in response to a probation violation.*

### **Find the Offender in Criminal Contempt of Court G.S. §15A-1344(e1)**

If an offender sentenced to an intermediate or community punishment willfully fails to comply with a condition of probation, the court may hold the offender in criminal contempt as provided by Article 1 of Chapter 5A of the General Statutes. An offender punished under this subsection may be imprisoned for up to 30 days and/or fined up to \$500, but no other punishment may be imposed. Furthermore, the conduct resulting in contempt may not also be the basis for revoking probation.

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**Example:** *An offender originally received a community punishment which included 12 months of supervised probation. Upon finding that the offender violated the conditions of probation, the court found the offender in contempt of court and required the offender to be confined for 30 days in the local jail. Upon release from jail, the offender will continue serving the probation term.*

### **Revoke Probation G.S. §15A-1344**

If the court revokes probation, the suspended term of imprisonment or a reduced term of imprisonment must be activated. If a reduced term of imprisonment is activated, it must be within the initial sentence range used to determine the original sentence. If the initial sentence was within the presumptive range, the reduced sentence must be within the presumptive range. If the initial sentence was within the aggravated range, the reduced sentence must be within the aggravated range. If the initial sentence was within the mitigated range, the reduced sentence must be within the mitigated range.

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Example: *An offender convicted of a Class F offense with a Prior Record Level of II was originally sentenced to a minimum sentence of 18 months, selected from the presumptive sentence range of 15 to 19 months. Upon revocation, the court must either activate the minimum length of 18 months or activate a reduced length of either 15, 16, or 17 months. In this case, the court has no authority to activate a minimum length of less than 15 months or more than 18 months.*

## **SECTION IV: ADDITIONAL PROVISIONS RELATING TO POST-RELEASE SUPERVISION**

### **ELIGIBILITY AND PROCEDURES**

A Class B1 through E felon is released from prison and placed on post-release supervision on the date equivalent to the maximum prison sentence, less nine months, less any earned time awarded by the Department of Correction or the custodian of a local confinement center. The prisoner may not refuse post-release supervision.

### **TERM OF POST-RELEASE SUPERVISION**

The period of post-release supervision is six months and may be reduced while the supervisee is under supervision by earned time awarded by the Department of Correction. An offender is eligible to receive earned credits toward the period of supervision for compliance with reintegrative conditions of supervision. The Post-Release Supervision and Parole Commission shall choose the level of supervision and may place the supervisee on any available level of supervision, including electronic monitoring, intensive supervision, or regular supervision. When the offender completes the period of post-release supervision, the sentence(s) for which the offender was placed on post-release supervision are terminated.

### **CONDITIONS OF POST-RELEASE SUPERVISION**

Post-Release Supervision is conditional and subject to modification. The Commission may for good cause modify the conditions of post-release supervision at any time. Conditions of post-release supervision may be reintegrative, controlling or discretionary as specified in *G.S. §15A-1368.4*.

### **VIOLATIONS OF POST-RELEASE SUPERVISION**

If the supervisee violates a condition of Post-Release Supervision, the Commission may continue the supervisee on existing supervision, may modify the conditions of supervision, or may revoke post-release supervision for any violation of a controlling condition or for repeated violation of a reintegrative condition. If revoked, the offender will be reimprisoned for up to the maximum sentence. The offender will not receive any credit for the time on post-release supervision, but will be eligible to receive earned time credit against the maximum prison term for time served in prison following revocation, and will be awarded credit against any period of imprisonment while in custody as a result of revocation proceedings.

An offender who has been reimprisoned prior to completing post-release supervision may again be released on post-release supervision subject to the provisions which govern initial release.

## SECTION V: EXAMPLE EXERCISES

*Each exercise presents a brief hypothetical case (offense and prior criminal record). A list of questions follow the hypothetical case. Please answer the questions in the space provided. The answers to the questions and additional commentary are shown on the reverse side of this page. Assume that all crimes were committed on or after October 1, 1994.*

### EXAMPLE #1: QUESTIONS

**OFFENSE:** Defendant was convicted of assault with a deadly weapon with intent to kill inflicting serious injury (a Class C felony).

**PRIOR RECORD:** The defendant has no prior record.

1. *What is the offender's prior record level?*
2. *What is the longest minimum sentence which can be imposed from the presumptive range?*
3. *What is the longest possible maximum sentence which can be imposed, assuming the court finds aggravating factors which outweigh mitigating factors?*
4. *Can the active sentence be suspended?*

## EXAMPLE #1: ANSWERS AND COMMENTARY

1. *What is the offender's prior record level?*

Answer: Prior Record Level I

Commentary: The offender receives no prior record points and falls within Level I.

2. *What is the longest minimum sentence which can be imposed from the presumptive range?*

Answer: 63 months

Commentary: For a Class C offense and a Prior Record Level I, the presumptive range of minimum sentences is 50 to 63 months.

3. *What is the longest possible maximum sentence which can be imposed, assuming the court finds aggravating factors which outweigh mitigating factors?*

Answer: 104 months

Commentary: For a Class C offense and Prior Record Level I, the aggravated range is 63 to 79 months. The longest possible minimum sentence is 79 months, and from **Figure B**, the longest possible corresponding maximum sentence is 104 months. To impose a sentence from the aggravated range, the court must find that there are aggravating factors which outweigh any mitigating factors.

4. *Can the active sentence be suspended?*

Answer: No, unless the court finds extraordinary mitigation.

Commentary: The prescribed disposition for a Class C offense and Prior Record Level I is active punishment ("A"). The only exception is if the court finds extraordinary mitigation. If it finds extraordinary mitigation, the court may suspend the sentence and impose an intermediate punishment. Extraordinary mitigation can only be used in Offense Classes B2, C, and D and cannot be used if the Prior Record Level is III, IV, V, or VI.

## EXAMPLE #2: QUESTIONS

**OFFENSE:** Defendant is convicted of obtaining property under false pretenses (a Class H felony).

**PRIOR RECORD:** Offender has a prior conviction in 1988 for Misdemeanor DWI, a prior conviction in 1990 for felony embezzlement (now a Class H felony), and prior convictions in 1991 and 1993 for felony larceny (now Class H felonies). The defendant was on probation when he committed the current offense. Assume the offender is not charged as a habitual felon.

1. *What is the offender's prior record level?*
2. *What is the shortest minimum sentence the court could impose from the mitigated range?*
3. *What is the shortest amount of time this offender (in question #2) must serve in prison if the sentence is activated?*
4. *What is the longest possible maximum sentence that the court could impose from the aggravated range?*
5. *Could this offender be sentenced to a community punishment?*

## EXAMPLE #2: ANSWERS AND COMMENTARY

1. *What is the offender's prior record level?*

Answer: Prior Record Level III

Commentary: The offender receives a total of seven prior record points and falls into Prior Record Level III. Two each for the prior Class H convictions and one for being on probation or parole at the time of arrest. The offender receives no points for the prior misdemeanor conviction (misdemeanor traffic offenses do not count except for death by vehicle).

2. *What is the shortest minimum sentence the court could impose from the mitigated range?*

Answer: 6 months

Commentary: For Offense Class H and Prior Record Level III, the mitigated range is 6 to 8 months. To impose a sentence from the mitigated range, the court must find mitigating factors which outweigh any aggravating factors.

3. *What is the shortest amount of time this offender (in question #2) must serve in prison if the sentence is activated?*

Answer: 6 months

Commentary: Since the shortest possible minimum sentence is six months, the shortest amount of time which must be served is six months. The offender must serve the entire minimum sentence. There is no parole.

4. *What is the longest possible maximum sentence that the court could impose from the aggravated range?*

Answer: 15 months

Commentary: The aggravated range for a Class H offense and Prior Record Level III is 10 to 12 months. The longest possible minimum sentence is 12 months, and from **Figure B** (for Class F through I felonies), the longest possible corresponding maximum sentence is 15 months.

5. *Can this offender be sentenced to a community punishment?*

Answer: No.

Commentary: The court, in its discretion, may either impose an active punishment "A" or an intermediate punishment "I". However, the court is not authorized to impose a community punishment "C".



### EXAMPLE #3: ANSWERS AND COMMENTARY

1. *What is the offender's prior record level?*

Answer: Prior Record Level IV

Commentary: The total prior record points would be 12, and the offender would fall into Prior Record Level IV (nine points for the rape, two points for the drug felony, and one point for the simple assaults). Only one of the two prior simple assault convictions count, since the convictions occurred on the same day of court. If the prosecutor did not prove that the out-of-state conviction for rape was substantially similar to first degree rape in North Carolina (or another felony), then that conviction would be treated as a Class I felony and would receive two points.

2. *What is the longest minimum sentence which could be imposed (from the presumptive ranges) if the sentences were consolidated?*

Answer: 46 months

Commentary: When consolidating offenses, refer to the sentence disposition and sentence range for the conviction with the highest offense class (in this case the Class E felony). For the Class E felony with a Prior Record Level IV, the presumptive sentence range is from 37 to 46 months. Therefore, the longest presumptive minimum sentence which can be imposed is 46 months, assuming both offenses are consolidated.

3. *What is the longest total minimum sentence which could be imposed (assume presumptive range) if the sentences were run consecutively?*

Answer: 57 months

Commentary: For consecutive sentences, the court separately determines the disposition and minimum sentence for each offense. For the Class E felony with a Prior Record Level IV, the presumptive range is from 37 to 46 months. For the Class H felony with a Prior Record Level IV, the presumptive range is from 9 to 11 months. Running these sentences consecutively results in a combined minimum sentence of 57 months (46 months on the Class E offense plus 11 months on the Class H offense).

4. *Assuming consecutive sentences, must the judge activate both sentences?*

Answer: No.

Commentary: The disposition prescribed for the Class E felony is "A", and the sentence must be activated. The disposition prescribed for the Class H felony is "I/A", and the court has discretion to either activate the sentence or suspend the sentence and impose an intermediate punishment "I".



## EXAMPLE #4: ANSWERS AND COMMENTARY

1. *What is the prior record level?*

Answer: Prior Record Level V

Commentary: The offender receives 15 prior record points and falls into Prior Record Level V. The offender receives 1 point for the Class 1 misdemeanor, 6 points for the Class C felony, 4 points for the Class E felony, and 4 points for the Class G burglary. The points are based on the classification of the offense when the current crime is committed, not the class at the time the offender was convicted of the crime. The offender does not receive any points for the Class H larceny, since the conviction occurred during the same week of court as the Class G felony (in such cases, only the most serious conviction counts).

2. *What is the longest aggravated minimum sentence the offender can receive?*

Answer: Life imprisonment without parole

Commentary: For a Class B1 offense with a Prior Record Level V, the aggravated range prescribes a sentence of life without parole. Because this is the offender's third conviction for a Class E or higher felony, the offender is potentially eligible to be charged and sentenced as a violent habitual felon under "three strikes and you're in" provisions. If the offender were found to be a violent habitual felon, a sentence of life imprisonment without parole would have to be imposed.

3. *What is the shortest maximum sentence that can be imposed, assuming the minimum sentence is selected from the mitigated range?*

Answer: 321 months

Commentary: The mitigated range for a Class B1 felony with Prior Record Level V is from 260 to 346 months. Assuming a minimum sentence of 260 months is imposed, then the maximum sentence is automatically set in **Figure B** to be 321 months.

4. *Can the sentence ever be suspended?*

Answer: No.

Commentary: The disposition prescribed for Class B1 felonies is "A", and the sentence must be activated. A finding of extraordinary mitigation is not authorized for Offense Class B1 or for Prior Record Level V.

5. *How much time, if any, will this offender be on post-release supervision when released from prison (assuming a life sentence is not imposed)?*

Answer: 6 months

Commentary: All offenders convicted of Class B1, B2, C, D, or E felonies automatically receive six months of post-release supervision following their release from prison.

## EXAMPLE #5: QUESTIONS

**OFFENSE:** The offender is convicted of felony larceny (a Class H felony).

**PRIOR RECORD:** The offender has a prior conviction for felony larceny (now a Class H felony).

1. *How many prior record points does the offender receive?*
2. *Can the judge impose an active sentence in this case?*
3. *Can the judge suspend the sentence and impose unsupervised probation (assume no community penalties plan was prepared)?*
4. *In this case, could the court impose a term of supervised probation longer than 36 months?*
5. *What is the shortest minimum sentence which may be activated if the offender is revoked for violating the conditions of probation (assume the court initially sentenced the offender to a minimum term of 7 months from the presumptive range)?*

## EXAMPLE #5: ANSWERS AND COMMENTARY

1. *How many prior record points does the offender receive?*

Answer: 3 points

Commentary: The offender receives 3 prior records points and falls into Prior Record Level II. The offender receives 2 points for the prior felony larceny and a 1 point enhancement, because all of the elements of the current conviction are included in a prior conviction.

2. *Can the judge impose an active sentence in this case?*

Answer: No.

Commentary: Only an intermediate punishment is authorized for a Class H offense and Prior Record Level II.

3. *Can the judge suspend the sentence and impose unsupervised probation?*

Answer: No.

Commentary: An intermediate punishment must include a period of supervised probation.

4. *In this case, could the court impose a term of supervised probation longer than 36 months?*

Answer: Yes, if the court finds that such a length is necessary.

Commentary: When sentencing a felon to an intermediate punishment, the recommended length of probation is no less than 18 months and no more than 36 months. However, the court may impose a different term if the court finds that a longer or shorter term is necessary. In no case, however, can the court initially impose a term of probation longer than five years.

5. *What is the shortest minimum sentence which may be activated if the offender is revoked for violating the conditions of probation (assume the court initially sentenced the offender to a minimum term of 7 months from the presumptive range)?*

Answer: 6 months

Commentary: When activating a sentence upon a revocation of probation, the minimum term must be equal to the suspended term or to a lesser term from within the original sentence range used by the court. The original presumptive range for this Class H felony and Prior Record Level II was 6 to 8 months. Upon revocation, the court cannot impose a new minimum sentence more than 7 months (the original term) or less than 6 months (the low end of the original sentence range used by the court).

## APPENDIX I: COPIES OF RELEVANT AOC FORMS

Following are copies of selected AOC forms related to structured sentencing. These forms, and other forms in the new AOC "600" series, are to be used for the sentencing of felons for crimes committed on or after October 1, 1994. All forms are available from the Administrative Office of the Courts. The following forms have been included in this manual:

- |            |   |
|------------|---|
| AOC-CR-600 | Worksheet - Prior Record Level for Felony Sentencing                  |
| AOC-CR-601 | Judgment and Commitment - Active Punishment - Felony                  |
| AOC-CR-603 |   |
| Page 1     | Judgment Suspending Sentencing - Felony                               |
| Page 2     | Special Conditions of Probation - Intermediate Punishments - Contempt |
| AOC-CR-605 | Felony Judgment Findings of Aggravating and Mitigating Factors        |
| AOC-CR-606 | Extraordinary Mitigation Findings                                     |
| AOC-CR-607 | Judgment and Commitment Upon Revocation of Probation                  |



**STATE OF NORTH CAROLINA**

File No.  

In The General Court Of Justice  
Superior Court Division

County  

**STATE VERSUS**

Name And Address Of Defendant

**WORKSHEET  
PRIOR RECORD LEVEL FOR  
FELONY SENTENCING AND  
PRIOR CONVICTION LEVEL FOR  
MISDEMEANOR SENTENCING  
(STRUCTURED SENTENCING)**

G.S. 15A-1340.14, 15A-1340.21

*NOTE: This worksheet is provided to assist the attorney for the state in calculating and presenting the defendant's prior record level or prior conviction level. Record the defendant's prior record on the reverse side of this form or attach a copy of the defendant's prior record pursuant to G.S. 15A-1340.14(f). If sentencing for a felony, count the number of prior convictions in each offense class and enter those totals in the chart in section I below. For multiple prior convictions at one session of court, see G.S. 15A-1340.14(d). Class 1 misdemeanor offenses under Chapter 20 are not assigned any points for determining prior record level for felony sentencing except misdemeanor death by vehicle [G.S. 20-141.4(a2)]. First Degree Rape and First Degree Sexual offense convictions prior to October 1, 1994, are Class B1 convictions.*

**I. SCORING PRIOR RECORD/FELONY SENTENCING**

NUMBER	TYPE	POINTS	
	Prior Felony Class A Conviction	X 10	
	Prior Felony Class B1 Conviction	X 9	
	Prior Felony Class B2 or C or D Conviction	X 6	
	Prior Felony Class E or F or G Conviction	X 4	
	Prior Felony Class H or I Conviction	X 2	
	Prior Class 1 Misdemeanor Conviction <i>(see note)</i>	X 1	
		<b>SUBTOTAL</b>	▶
If all the elements of the present offense are included in the prior offense		+ 1	
If the offense was committed: (a) while on probation, parole, or post-release supervision; or (b) while serving a sentence of imprisonment; or (c) while on escape		+ 1	
		<b>TOTAL</b>	▶

**II. CLASSIFYING PRIOR RECORD/CONVICTION LEVEL**

**MISDEMEANOR**

**FELONY**

*NOTE: If sentencing for a misdemeanor, total the number of prior conviction(s) listed on the reverse and select the corresponding prior conviction level.*

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

No. Of Prior Convictions	Level
0	I
1 - 4	II
5 +	III

PRIOR CONVICTION LEVEL ▶

Points	Level
0	I
1 - 4	II
5 - 8	III
9 - 14	IV
15 - 18	V
19+	VI

PRIOR RECORD LEVEL ▶

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

The Court finds the prior convictions, prior record points and the prior record level of the defendant to be as shown herein.

Date

Name Of Presiding Judge (Type Or Print)

Signature Of Presiding Judge



# STATE OF NORTH CAROLINA

File No.

County \_\_\_\_\_ Seat Of Court \_\_\_\_\_  
 NOTE: (This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-301 on DWI offense(s).)

In The General Court Of Justice  
 Superior Court Division

## STATE VERSUS

## JUDGMENT AND COMMITMENT ACTIVE PUNISHMENT FELONY (STRUCTURED SENTENCING)

G.S. 15A-1301, 15A-1340.13

Defendant

Race

Sex

DOB

Attorney For State

Def. Found  
 Not Indigent

Def. Waived  
 Attorney

Attorney For Defendant

Appointed  Retained

The defendant  pled guilty to:  was found guilty by a jury of:  pled no contest to:

File No.(s) And Offense(s)

Date Of Offense

G.S. No.

F./M.

CL

The Court:

1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be \_\_\_\_\_ PRIORITY RECORD LEVEL:  I  II  III  IV  V  VI
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

1. makes no written findings because the prison term imposed is:  (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c).  (b) for a Class A felony.  (c) for enhanced firearm penalty (G.S. 15A-1340.16A).  (d) for an adjudication as a violent habitual felon. G.S. 14-7.12.  (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony.  G.S. 90-95(e)(3) (drugs);  G.S. 14-3(c)(race).
7. finds no Extraordinary Mitigation.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a minimum term of:

months

for a maximum term of:

months

in the custody of the:

Class A Felony:  Life Imprisonment Without Parole  Death (see attached Death Warrant and Certificates)

N.C. DOC.  
 Sheriff pursuant to G.S. 15A-1352(b).  
 Other \_\_\_\_\_

Class B1 Felony: Life Imprisonment Without Parole

Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for \_\_\_\_\_ days spent in confinement prior to the date of this Judgment as a result of this charge(s).

The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.

The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

(NOTE: List the case number, date, county and court in which prior sentence imposed.)

(check all that apply)

1. The defendant shall pay the costs.  2. The defendant shall pay a fine of \$ \_\_\_\_\_

The Court recommends:

3. Substance Abuse Treatment Unit; pursuant to G.S. 15A-1351(h).  4. Psychiatric and/or psychological counseling.  
 5. Work release.  
 6. Payment as a condition of post release supervision, if applicable, or from work release earnings, if applicable, of the items and amounts set out below.

Fine \$	Costs \$	Restitution* \$	Reimbursement For Attorney Fee And Other Expenses \$	Total Amount Due \$
------------	-------------	--------------------	---	------------------------

\*Name(s), address(es), amount(s) & social security number(s) of aggrieved party(ies) to receive restitution:

The Court further recommends:

The Court does not recommend:

1. Restitution as a condition of post release supervision or work release.  2. Work release.

**AWARD OF FEE TO COUNSEL FOR DEFENDANT**

- A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

**ORDER OF COMMITMENT/APEAL ENTRIES**

- It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.  
 The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on Form AOC-CR-350.

**SIGNATURE OF JUDGE**

Date \_\_\_\_\_ Name Of Presiding Judge (Type Or Print) \_\_\_\_\_ Signature Of Presiding Judge \_\_\_\_\_

**ORDER OF COMMITMENT AFTER APPEAL**

Date Appeal Dismissed \_\_\_\_\_ Date Withdrawal Of Appeal Filed \_\_\_\_\_ Date Appellate Opinion Certified \_\_\_\_\_

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and commit the defendant to the custody of the official named in this Judgment and furnish that official two certified copies of this Judgment and this Order as authority for the commitment and detention of the defendant.

Date \_\_\_\_\_ Signature Of Clerk \_\_\_\_\_  Deputy CSC  Assistant CSC  
 Clerk Of Superior Court

**CERTIFICATION**

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.

- Appeal Entries (AOC-CR-350)  
 Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605)  
 Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317)  
 Commitment Information Statement (DC-600)

Date \_\_\_\_\_ Signature And Seal \_\_\_\_\_

Date Certified Copies Delivered To Sheriff \_\_\_\_\_  Deputy CSC  Assistant CSC  Clerk Of Superior Court

# STATE OF NORTH CAROLINA

File No. \_\_\_\_\_

County \_\_\_\_\_ Seat Of Court \_\_\_\_\_ In The General Court Of Justice  
 Superior Court Division

NOTE: (This form is to be used for (1) felony offenses, and (2) misdemeanor offenses, which are consolidated for judgment with any felony offenses. Use AOC-CR-310 for DWI offenses.)

## STATE VERSUS

## JUDGMENT SUSPENDING SENTENCE - FELONY

Defendant \_\_\_\_\_

- IMPOSING AN INTERMEDIATE PUNISHMENT  
 IMPOSING A COMMUNITY PUNISHMENT  
 (STRUCTURED SENTENCING)

Race \_\_\_\_\_ Sex \_\_\_\_\_ DOB \_\_\_\_\_

G.S. 15A-1341, -1342, -1343, -1343.2, -1346

Attorney For State \_\_\_\_\_

Def. Found  Not Indigent  
 Def. Waived  Attorney

Attorney For Defendant \_\_\_\_\_

Appointed  Retained

The defendant  pled guilty to:  was found guilty by a jury of:  pled no contest to:

File No.(s) And Offense(s)	Date Of Offense	G.S. No.	F./M.	CL

The Court:

1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be \_\_\_\_\_. PRIOR RECORD LEVEL:  I  III  V  
 2. makes no prior record level finding because none is required.  II  IV  VI

The Court:

1. makes no written findings because the prison term imposed is within the presumptive range of sentences authorized under G.S. 15A-1340.17(c).  
 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.  
 3. makes the Findings of Extraordinary Mitigation set forth on the attached AOC-CR-606.  
 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).  
 5. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony.  G.S. 90-95(e)(3) (drugs);  G.S. 14-3(c) (race).  
 6. imposes the punishment pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a minimum term of: \_\_\_\_\_ months for a maximum term of: \_\_\_\_\_ months in the custody of the N.C. DOC.

The defendant shall be given credit for \_\_\_\_\_ days spent in confinement prior to the date of this Judgment as a result of this charge(s), to be applied toward the  sentence imposed above.  imprisonment required for special probation below.

## SUSPENSION OF SENTENCE

- With the consent of the defendant and 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 delegates to the Division of Adult Probation and Parole in the Department of Correction the authority to impose any of the requirements in G.S. 15A-1343.2(e) if the offender is sentenced to a community punishment, or G.S. 15A-1343.2(f) if the offender is sentenced to an intermediate punishment.  
 3. The above period of probation shall begin when the defendant is released from incarceration in the case referred to below.  
 4. The above period of probation shall begin at the expiration of the sentence in the case referred to below.  
 (NOTE: List case number, date, county and court in which prior sentence imposed.)

## MONETARY CONDITIONS

The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below, plus the probation supervision fee set by law  pursuant to a schedule determined by the probation officer.  at the rate of \$ \_\_\_\_\_ per \_\_\_\_\_ beginning on \_\_\_\_\_ and continuing on the same day of each \_\_\_\_\_ thereafter until paid in full.  
 Other:

Fine	Costs	Restitution *	Attorney's Fee	Community Service Fee	Total Amount Due
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

\* Name(s), address(es), amounts & social security no.(s) of aggrieved party(ies) to receive restitution:

- After payment of community service fee and probation supervision fee, all payments received by the Clerk shall first be disbursed pro rata among the persons entitled to restitution. (G.S. 7A-304(d))  
 Upon payment of the "Total Amount Due", the probation officer may transfer the defendant to unsupervised probation.

**REGULAR CONDITIONS OF PROBATION – G.S. 15A-1343(b)**

The defendant shall: (1) Commit no criminal offense in any jurisdiction. (2) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court. If the defendant is on supervised probation, the defendant shall also: (5) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (6) Report as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. (7) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (8) At a time to be designated by the probation officer, visit with the probation officer a facility maintained by the Division of Prisons. If the defendant is to serve an active sentence as a condition of special probation, the defendant shall also: (9) Obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned. (10) Report to a probation officer in the State of North Carolina within 72 hours of the defendant's discharge from the active term of imprisonment.

**SPECIAL CONDITIONS OF PROBATION – G.S. 15A-1343(b)(1); 143B-262(c)**

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant's rehabilitation:

- 11. Surrender the defendant's drivers license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles and not operate a motor vehicle for a period of \_\_\_\_\_ or until relicensed by the Division of Motor Vehicles, whichever is later.
- 12. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, and of the defendant's vehicle and premises while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision:
  - stolen goods
  - controlled substances
  - contraband
  - \_\_\_\_\_
- 13. Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs or controlled substances are sold, kept or used.
- 14. Supply a breath, urine and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the defendant's probation officer.
- 15. Successfully pass the General Education Development Test (G.E.D.) during the first \_\_\_\_\_ months of the period of probation.
- 16. Complete \_\_\_\_\_ hours of community or reparation service during the first \_\_\_\_\_ days of the period of probation, as directed by the community service coordinator and pay the fee prescribed by G.S. 143B-475.1(b)  pursuant to the schedule set out under monetary conditions above.  within \_\_\_\_\_ days of this Judgment and before beginning service.
- 17. Report for initial evaluation by \_\_\_\_\_, participate in all further evaluation, counseling, treatment or education programs recommended as a result of that evaluation, and comply with all other therapeutic requirements of those programs until discharged.
- 18. Not assault, communicate with, be in the presence of, or be found in or on the premises of \_\_\_\_\_
- 19. Other: \_\_\_\_\_
- 20. Comply with the Special Conditions Of Probation - Intermediate Punishments - Contempt which are set forth on AOC-CR-603, Page Two.

A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

**ORDER OF COMMITMENT/APEAL ENTRIES**

- It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on Form AOC-CR-350.

**SIGNATURE OF JUDGE**

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
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**CERTIFICATION**

I certify that this Judgment with the attachment marked below is a true and complete copy of the original which is on file in this case.

- Appeal Entries (AOC-CR-350)
- Judgment Suspending Sentence, Page Two (Special Conditions Of Probation - Intermediate Punishments - Contempt (AOC-CR-603, Page Two)
- Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605)
- Extraordinary Mitigation Findings (AOC-CR-606)

Date of Certification	Date Certified Copies Delivered To Sheriff	Signature And Seal
		<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

NOTE: (Defendant signs below in all cases except unsupervised probation without community or reparation service.) I have received a copy of this Judgment which contains all of the conditions of my probation and I agree to them. I understand that no person who supervises me or for whom I work while performing community or reparation service is liable to me for any loss or damage which I may sustain unless my injury is caused by that person's gross negligence or intentional wrongdoing. I understand that my probation may be extended pursuant to G.S. 15A-1342(a) or 15A-1343.2(d).

Date Signed	Signature Of Defendant	Witnessed By:
-------------	------------------------	---------------

Defendant

SPECIAL CONDITIONS OF PROBATION - INTERMEDIATE PUNISHMENTS - CONTEMPT

NOTE: Use this page in conjunction with AOC-CR-603, "Judgment Suspending Sentence - Felony"; or AOC-CR-604, "Judgment Suspending Sentence - Misdemeanor(s)"; or AOC-CR-609, "Order On Violation Of Probation Or On Motion To Modify".

In addition to complying with the regular and any special conditions of probation set forth in the "Judgment Suspending Sentence" entered in the above case(s), the defendant shall also comply with the following special conditions of probation and conditions of special probation, which are defined as intermediate punishments by G.S. 15A-1340.11(6).

- 1.  Special Probation - G.S. 15A-1351  Contempt - G.S. 15A-1344(e1) and 5A-11(a)
  - a. Serve an active term of \_\_\_\_\_ days \_\_\_\_\_ months in the custody of the  N.C. DOC  Sheriff of this County.

- (1) The defendant shall report in a sober condition to begin serving his term on:

Day	Date	Hour	<input type="checkbox"/> AM <input type="checkbox"/> PM
-----	------	------	--

and shall remain in custody until:

Day	Date	Hour	<input type="checkbox"/> AM <input type="checkbox"/> PM
-----	------	------	--

- (2) The defendant shall again report in a sober condition to continue serving this term on the same day of the week for the next \_\_\_\_\_ consecutive weeks, and shall remain in custody during the same hours each week.
- (3) The defendant shall serve the active term above as an inpatient in \_\_\_\_\_ and shall follow the rules of that facility until discharged and not leave its premises except as authorized under those rules.
- (4) This sentence shall be served at the direction of the probation officer within \_\_\_\_\_ days \_\_\_\_\_ months of this Judgment.
- (5) Pay jail fees.
- (6) Work release is recommended.
- (7) Substance abuse treatment unit is recommended. G.S. 15A-1351(h).

- b. IMPACT - Submit as directed by the probation officer to a medical evaluation by a physician approved by the officer and, if certified to be medically fit for participation in the Intensive Motivation Program of Alternative Correctional Treatment (IMPACT), further submit, as ordered by the officer, on the date and at the place specified, to imprisonment in a facility for youthful offenders for a minimum of 90 days or a maximum of 120 days from that date, and abide by all rules and regulations as provided in conjunction with the IMPACT program; provided, if, within \_\_\_\_\_ days from the date of this judgment, the defendant is not certified to be medically fit for program participation or for any other reason is not ordered to submit to imprisonment as provided above then  the defendant shall reappear before the Court as directed by the probation officer for a hearing to determine what modifications, if any, should be made to this Judgment.  Other:

2. Electronic Monitoring/Electronic House Arrest

- Be assigned to the Electronic House Arrest Program for a period of \_\_\_\_\_ days, \_\_\_\_\_ months, submit to electronic monitoring and abide by all rules, regulations and directions of the program until discharged.

Other conditions:

3. Intensive Probation Supervision Program

Be assigned to the Intensive Probation Supervision Program for a period of \_\_\_\_\_ months (not less than six months), obey all rules, regulations and directions of the program until discharged, and

- a. Submit at reasonable times to warrantless searches by a probation officer of the defendant, and of the defendant's vehicle and premises while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision:  
 stolen goods     controlled substances     contraband     \_\_\_\_\_
- b. Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs or controlled substances are sold, kept or used.
- c. Supply a breath, urine and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the probation officer.
- d. Complete not less than \_\_\_\_\_ hours or more than \_\_\_\_\_ hours of community or reparation service, as determined by the probation officer, and under the direction of the community service coordinator and pay the fee prescribed by G.S. 143B-475.1(b)  within \_\_\_\_\_ days of this Judgment and before beginning service.
- e. Participate in any evaluation, counseling, treatment or education program as directed by the probation officer, faithfully keep all scheduled appointments, and abide by all rules, regulations and directions of each program.
- f. Not be away from the defendant's place of residence between the hours of \_\_\_\_\_ p.m. and \_\_\_\_\_ a.m. unless authorized in writing by the probation officer.
- g. Not leave the defendant's county of residence without prior approval of the probation officer.
- h. Other:

4. Residential Program

Attend or reside in \_\_\_\_\_ residential program for a period of \_\_\_\_\_  days,  months, and abide by all rules and regulations of that program.

5. Day-Reporting Center

Report as directed by the probation officer to \_\_\_\_\_ for a period of \_\_\_\_\_  days,  months, and abide by all rules and regulations of that program. The Court finds that this condition is reasonably related to the defendant's rehabilitation.

6. Community Penalties Plan

The defendant is placed on supervised probation as set forth on the attached AOC-CR-603 or CR-604 pursuant to a community penalties plan.

7. Other special conditions of probation which the Court finds are reasonably related to the defendant's rehabilitation.

The above conditions are incorporated in the "Judgment Suspending Sentence" in the above case(s) and made a part thereof.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
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I have received a copy of this Page Two of this Judgment which contains additional conditions of my probation and I agree to them. I understand that no person who supervises me or for whom I work while performing community or reparation service is liable to me for any loss or damage which I may sustain unless my injury is caused by that person's gross negligence or intentional wrongdoing.

Date	Signature Of Defendant	Witnessed By:
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County

STATE VERSUS

Defendant

FELONY JUDGMENT  
FINDINGS OF AGGRAVATING  
AND MITIGATING FACTORS  
(STRUCTURED SENTENCING)

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

- 1. The defendant:
  - a. induced others to participate in the commission of the offense.
  - b. occupied a position of leadership or dominance of other participants in the commission of the offense.
- 2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- 3. The offense was committed for the purpose of:
  - a. avoiding or preventing a lawful arrest.
  - b. effecting an escape from custody.
- 4. The defendant was:
  - a. hired to commit the offense.
  - b. paid to commit the offense.
- 5. The offense was committed to:
  - a. disrupt the lawful exercise of a governmental function or the enforcement of laws.
  - b. hinder the lawful exercise of a governmental function or the enforcement of laws.
- 6. The offense was committed against a present or former: law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, 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. (NOTE: Strike words that are not applicable.)
- 7. The offense was especially heinous, atrocious or cruel.
- 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.
- 9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- 10. The defendant:
  - a. was armed with a deadly weapon at the time of the crime.
  - b. used a deadly weapon at the time of the crime.
- 11. The victim was:
  - a. very young.
  - b. very old.
  - c. mentally infirm.
  - d. physically infirm.
  - e. handicapped.
- 12. The defendant committed the offense while on pretrial release on another charge.
- 13. The defendant involved a person under the age of 16 in the commission of the crime.
- 14. The offense involved:
  - a. an attempted taking of property of great monetary value.
  - b. the actual taking of property of great monetary value.
  - c. damage causing great monetary loss.
  - d. an unusually large quantity of contraband.
- 15. The defendant took advantage of a position of trust or confidence to commit the offense.
- 16. The offense involved the sale or delivery of a controlled substance to a minor.
- 17. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- 18. The defendant does not support the defendant's family.
- 18.a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if committed by an adult.
- 19. The victim of this offense suffered serious injury that is permanent and debilitating.
- 20. Additional written findings of factors in aggravation:

The Court makes no findings of any aggravating factors.

Material opposite unmarked squares is to be disregarded as surplusage.

**MITIGATING FACTORS**

- 1. The defendant committed the offense under:
  - a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
  - b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
  - c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
  - d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
- 2. The defendant:
  - a. was a passive participant in the commission of the offense.
  - b. played a minor role in the commission of the offense.
- 3. The defendant was suffering from a:
  - a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
  - b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
- 4. The defendant's:
  - a. age, or immaturity; at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
  - b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
- 5. The defendant has made:
  - a. substantial restitution to the victim.
  - b. full restitution to the victim.
- 6. The victim was more than 16 years of age and:
  - a. was a voluntary participant in the defendant's conduct.
  - b. consented to the defendant's conduct.
- 7. The defendant:
  - a. aided in the apprehension of another felon.
  - b. testified truthfully on behalf of the state in another prosecution of a felony.
- 8.  a. The defendant acted under strong provocation.  
 b. The relationship between the defendant and the victim was otherwise extenuating.
- 9. The defendant:
  - a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
  - b. exercised caution to avoid serious bodily harm or fear to other persons.
- 10. The defendant reasonably believed that the defendant's conduct was legal.
- 11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
  - a. at an early stage of the criminal process.
  - b. prior to arrest.
- 12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
- 13. The defendant is a minor and has reliable supervision available.
- 14. The defendant has been honorably discharged from the United States Armed Services.
- 15. The defendant has accepted responsibility for the defendant's criminal conduct.
- 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.
- 17. The defendant supports the defendant's family.
- 18. The defendant has a support system in the community.
- 19. The defendant has a positive employment history or is gainfully employed.
- 20. The defendant has a good treatment prognosis and a workable treatment plan is available.
- 21. Additional written findings of factors in mitigation:

The Court makes no findings of any mitigating factors.

The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the

- factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
- factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
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\_\_\_\_\_ County

In The General Court Of Justice  
Superior Court Division

STATE VERSUS

Defendant

EXTRAORDINARY MITIGATION  
FINDINGS  
(STRUCTURED SENTENCING)

G.S. 15A-1340.13

*NOTE: The finding of extraordinary mitigation permits the Court, in its discretion, to impose an intermediate punishment for a class of offense and prior record level that requires the imposition of an active punishment under statute. The Court is not permitted to use extraordinary mitigation if (1) the defendant committed a Class A or B1 offense, (2) the defendant committed a drug trafficking offense under G.S. 90-95(h), or (3) the defendant has five or more prior record points under G.S. 15A-1340.14.*

1. The Court finds that the class of offense and prior record level upon which the defendant stands convicted requires the imposition of active punishment.
2. After hearing evidence, and arguments of counsel on the issue of dispositional deviation for extraordinary mitigation, the Court, in its discretion finds the following extraordinary mitigating factors:

Based upon the foregoing findings, the Court, in its discretion, finds:

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 this case.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
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# STATE OF NORTH CAROLINA

File No. County Of Hearing

County \_\_\_\_\_ Seat Of Court \_\_\_\_\_  
 (NOTE: There must be a separate revocation judgment for each sentence which is activated, but one revocation judgment is sufficient where the original sentence was imposed on offenses consolidated for purposes of judgment. This form is to be used in conjunction with AOC-CR-603.)

In The General Court Of Justice  
 Superior Court Division

## STATE VERSUS

Defendant \_\_\_\_\_  
 Race \_\_\_\_\_ Sex \_\_\_\_\_ DOB \_\_\_\_\_

## JUDGMENT AND COMMITMENT UPON REVOCATION OF PROBATION OR ELECTION TO SERVE SENTENCE - FELONY (STRUCTURED SENTENCING)

G.S. 15A-1341(c), 15A-1344, 15A-1345

Attorney For State \_\_\_\_\_ Del. Found.  Not Indigent  Del. Waived:  Attorney  Attorney For Defendant At Revocation Hearing.  Appointed  Retained

The defendant was placed on probation pursuant to the following Judgment Suspending Sentence:

Date Of Judgment Suspending Sentence \_\_\_\_\_ Name Of Original Sentencing Judge \_\_\_\_\_ Name Of County Of Origin \_\_\_\_\_

File No.(s) In County Of Origin And Offense(s)	Date Of Offense	G.S. No.	F./M.	CL

In the original Judgment Suspending Sentence, the Court determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be \_\_\_\_\_ PRIOR RECORD LEVEL:  I  II  III  IV  V  VI

In the original Judgment Suspending Sentence, the Court sentenced the defendant:

- 1. from the presumptive range of minimum durations.
- 2. from the minimum durations based upon the Findings of Aggravating and Mitigating Factors.
- 3. based upon a finding of Extraordinary Mitigation.
- 4. based upon a finding of substantial assistance pursuant to G.S. 90-95(h)(5).
- 5. based upon enhanced punishment to a Class I felony.  G.S. 90-95(e)(3) (drugs);  G.S. 14-3(c) (race).

### CONCLUSION AND ORDER

Based upon the Findings of Fact set out on the reverse side, the Court concludes that the defendant has violated a valid condition of probation upon which the execution of the active sentence was suspended, and that continuation, modification or special probation or criminal contempt is not appropriate, and the Court ORDERS that the defendant's probation be revoked, that the suspended sentence be activated, and the defendant be imprisoned:

The defendant has freely, voluntarily and understandingly elected to serve the defendant's suspended sentence of imprisonment in lieu of the remainder of the defendant's probation. Therefore, by virtue of G.S. 15A-1341(c) the Court ORDERS that the suspended sentence be activated, and the defendant be imprisoned:

for a minimum term of \_\_\_\_\_ months for a maximum term of \_\_\_\_\_ months in the custody of the:  Sheriff pursuant to G.S. 15A-1352(b).  N.C. DOC.  Other \_\_\_\_\_

The defendant shall be given credit for \_\_\_\_\_ days spent in confinement prior to the date of this Judgment as a result of this charge(s).

The sentence activated this date shall begin at the expiration of all sentences which the defendant is presently obligated to serve.  
 The sentence activated this date shall begin at the expiration of the sentence imposed in the case referenced below:  
 (NOTE: List the case number, date, county and court in which prior sentence imposed.)

(check all that apply)

1. The Clerk, under G.S. 7A-304(d), shall immediately disburse any undischarged monies paid by the defendant under the Judgment Suspending Sentence, as provided in that Judgment.

The Court recommends:

- 2. Substance Abuse Treatment Unit pursuant to G.S. 15A-1351(h).
- 3. Psychiatric and/or psychological counseling.
- 4. Work release.
- 5. Payment, as a condition of post release supervision, if applicable, or from the defendant's work release earnings, if applicable, the "Total Amount Due" shown below.

Restitution	All Prior Attorney Fees In This Case	Attorney's Fee For This Proceeding	All Other	Total Amount Due
\$	\$	\$	\$	\$

The Court further recommends:

The Court does not recommend:  1. Restitution as a condition of post release supervision.  2. Work release.

**FINDINGS**

After considering the record contained in the files numbered above, together with the evidence presented by the parties and the statements made on behalf of the State and the defendant, the Court finds:

1. The defendant is charged with having violated specified conditions of the defendant's probation as alleged in:
  - a. the Violation Report(s) on file herein, which is incorporated by reference.
  - b. the Notice of Hearing on Violation Of Unsupervised Probation on file herein, which is incorporated by reference.
2. Upon due notice or waiver of notice (check a. or b.)
  - a. a hearing was held before the Court and, by the evidence presented, the Court is reasonably satisfied in its discretion that the defendant violated each of the conditions of the defendant's probation as set forth below.
  - b. the defendant waived a violation hearing and admitted that the defendant violated each of the conditions of the defendant's probation as set forth below.
3. The condition(s) violated and the facts of each violation are as set forth (check a. and/or b.)
  - a. in paragraph(s) \_\_\_\_\_ in the Violation Report or Notice dated \_\_\_\_\_.
  - b. on the attached sheet.
4. Any allegation of a violation stated in the Violation Report, Notice, or otherwise, which is not set forth above is dismissed.
5. Each of the conditions violated as set forth above is valid; the defendant violated each condition willfully and without valid excuse; and each violation occurred at a time prior to the expiration or termination of the period of the defendant's probation.
  - Each violation is, in and of itself, a sufficient basis upon which this Court should revoke probation and activate the suspended sentence.
6. The Judgment for attorney's fees previously entered in this case shall be docketed, if it has not already been docketed.

**AWARD OF FEE TO COUNSEL FOR DEFENDANT**

A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender in this revocation proceeding.

**ORDER OF COMMITMENT/APEAL ENTRIES**

It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

The defendant gives notice of appeal from the Judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on Form AOC-CR-350.

**SIGNATURE OF JUDGE**

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
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**ORDER OF COMMITMENT AFTER APPEAL**

Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified
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It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

Date	Signature	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
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**CERTIFICATION**

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.  
 Appeal Entries (AOC-CR-350)  Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317)  
 Commitment Information Statement (DC-600)

Date Of Certification	Date Certified Copies Delivered To Sheriff	Signature And Seal
		<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

NOTE TO CLERK: Send certified copies to the Clerk of Superior Court of county of origin, if different, and to DOC, Attn: Combined Records, 831 West Morgan Street, Raleigh, NC 27603. [Courier Box 53-71-00]

**APPENDIX II: FELONY CLASSIFICATION  
UNDER THE STRUCTURED SENTENCING ACT**

<b>FELONY CLASS</b>	<b>GENERAL STATUTES SECTION</b>	<b>OFFENSE</b>
A	G.S. 14-17	Murder in the 1st degree.
B1	G.S. 14-27.2	1st degree rape.
B1	G.S. 14-27.4	1st degree sexual offense.
B2	G.S. 14-17	Murder in the 2nd degree.
C	G.S. 14-7.6	Sentencing of habitual felons.
C	G.S. 14-27.3	2nd degree rape.
C	G.S. 14-27.5	2nd degree sexual offense.
C	G.S. 14-28	Malicious castration.
C	G.S. 14-30	Malicious maiming.
C	G.S. 14-32(a)	Assault with deadly weapon with intent to kill inflicting serious injury.
C	G.S. 14-32.2(b)(1)	Patient abuse and neglect, intentional conduct proximately causes death.
C	G.S. 14-34.4(a)	Adulterated or misbranded food, drugs, etc.; Intent to cause serious injury or death.
C	G.S. 14-34.4(b)	Adulterated or misbranded food, drugs, etc.; intent to extort.
C	G.S. 14-39	Kidnapping in the 1st degree.
C	G.S. 14-159.1	Contaminating a public water system.
C	G.S. 14-401.11(b)(3)	Distribution of certain food at Halloween and all other times prohibited (poisonous chemical/foreign substance).
C	G.S. 90-95(h)(4)c	Trafficking in opium or heroin (28 grams or more).
C	G.S. 90-95.1	Continuing criminal enterprise.
C	G.S. 143-215.88B(f)(1)	Enforcement procedures: criminal penalties (Oil pollution and hazardous substance control).
C	G.S. 143-215.114B(h)(1)	Enforcement procedures: criminal penalties (Air pollution control).
D	G.S. 14-49(a)	Malicious use of explosive or incendiary.
D	G.S. 14-49.1	Malicious damage of occupied property by use of explosive or incendiary.
D	G.S. 14-51	Burglary in the 1st degree.
D	G.S. 14-53	Breaking out of dwelling house burglary.
D	G.S. 14-57	Burglary with explosives.

**APPENDIX II CONTINUED: Felony Classification**

D	G.S. 14-58	Arson in the 1st degree.
D	G.S. 14-58.2	Burning of mobile home, manufactured-type house or recreational trailer home.
D	G.S. 14-87	Robbery with firearms or other dangerous weapons.
D	G.S. 14-88	Train robbery.
D	G.S. 90-95(h)(1)d	Trafficking in marijuana (10,000 pounds or more).
D	G.S. 90-95(h)(2)c	Trafficking in methaqualone (10,000 or more dosage units).
D	G.S. 90-95(h)(3)c	Trafficking in cocaine (400 grams or more).
D	G.S. 90-95(h)(3a)c	Trafficking in amphetamine (10,000 or more dosage units).
D	G.S. 90-95(h)(3b)c	Trafficking in methamphetamine (400 grams or more).
D	G.S. 90-95(h)(4a)c	Trafficking in Lysergic Acid Diethylamide (1,000 or more dosage units).
E	G.S. 14-18	Voluntary manslaughter.
E	G.S. 14-27.7	Intercourse and sexual offense with certain victims (Parent, Custodian).
E	G.S. 14-29	Castration or other maiming without malice aforethought.
E	G.S. 14-30.1	Malicious throwing of corrosive acid or alkali.
E	G.S. 14-31	Maliciously assaulting in a secret manner.
E	G.S. 14-32(b)	Assault with deadly weapon inflicting serious injury.
E	G.S. 14-32(c)	Assault with deadly weapon with intent to kill.
E	G.S. 14-32.2(b)(2)	Patient abuse and neglect, culpably negligent conduct proximately causes death.
E	G.S. 14-34.1	Discharging certain barreled weapons or a firearm into occupied property.
E	G.S. 14-39	Kidnapping in the 2nd degree.
E	G.S. 14-190.16	1st degree sexual exploitation of a minor.
E	G.S. 14-318.4(a)	Child abuse inflicting serious injury.
E	G.S. 14-318.4(a1)	Child abuse - prostitution.
E	G.S. 14-318.4(a2)	Child abuse - sexual act.
E	G.S. 90-95(e)(5)	Selling or delivering a controlled substance by a person 18 or over to a person under 16.
E	G.S. 90-95(e)(8)	Manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver a controlled substance within 300 feet of an elementary or secondary school.
E	G.S. 90-95(h)(4)b	Trafficking in opium or heroin (14 grams or more, less than 28 grams).

**APPENDIX II CONTINUED: Felony Classification**

F	G.S. 14-8	Rebellion against the state.
F	G.S. 14-16.6(b)	Assault with a deadly weapon on executive or legislative officer.
F	G.S. 14-16.6(c)	Assault inflicting serious bodily injury on executive or legislative officer.
F	G.S. 14-18	Involuntary manslaughter.
F	G.S. 14-32.1(e)	Aggravated assault/assault and battery on handicapped person.
F	G.S. 14-32.2(b)(3)	Patient abuse and neglect, conduct proximately causes serious bodily injury.
F	G.S. 14-34.2	Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers.
F	G.S. 14-41	Abduction of children.
F	G.S. 14-43.2	Involuntary servitude.
F	G.S. 14-43.3	Felonious restraint.
F	G.S. 14-59	Burning of certain public buildings.
F	G.S. 14-60	Burning of schoolhouses or buildings of educational institutions.
F	G.S. 14-61	Burning of certain bridges and buildings.
F	G.S. 14-62	Burning of churches and certain other buildings.
F	G.S. 14-91	Embezzlement of state property by public officers and employees.
F	G.S. 14-92	Embezzlement of funds by public officers and trustees.
F	G.S. 14-99	Embezzlement of taxes by officers.
F	G.S. 14-118.4	Extortion.
F	G.S. 14-178	Incest between certain near relatives.
F	G.S. 14-190.17	2nd degree sexual exploitation of a minor.
F	G.S. 14-190.18	Promoting prostitution of a minor.
F	G.S. 14-190.19	Participating in prostitution of a minor.
F	G.S. 14-202.1	Taking indecent liberties with children.
F	G.S. 14-209	Perjury.
F	G.S. 14-217(a)	Bribery of officials.
F	G.S. 14-218	Offering bribes.
F	G.S. 14-220	Bribery of jurors.
F	G.S. 14-221	Breaking or entering jails with intent to injure prisoners.
F	G.S. 14-258	Conveying messages and weapons to or trading with convicts and other prisoners resulting in murder, assault or escape.

**APPENDIX II CONTINUED: Felony Classification**

F	G.S. 14-258.2	Possession of dangerous weapon in prison resulting in bodily injury or escape.
F	G.S. 14-258.3	Taking of hostage, etc., by prisoner.
F	G.S. 14-284.2	Dumping of toxic substances.
F	G.S. 14-288.8	Manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of weapon of mass death and destruction.
F	G.S. 14-288.9	Assault on emergency personnel with a dangerous weapon or substance.
F	G.S. 14-288.2(e)	Inciting to riot (property damage greater than \$1500 or serious bodily injury).
F	G.S. 14-329(b)	Manufacturing, trafficking in, transporting, or possessing poisonous alcoholic beverages.
F	G.S. 14-401.11(b)(2)	Distribution of certain food at Halloween and all other times prohibited (any controlled substance).
F	G.S. 63-28	Infliction of serious bodily injury by operation of an aircraft while impaired.
F	G.S. 75A-18(d)(2)	Penalties (Boat Safety Act).
F	G.S. 75D-7	False testimony as to any material fact by any person examined under the Racketeer Influenced and Corrupt Organizations Chapter.
F	G.S. 76-40(a)(2)	Discharging medical waste in Atlantic Ocean or waters of state, creating substantial risk of injury.
F	G.S. 90-95(h)(1)c	Trafficking in marijuana (2,000 pound or more, less than 10,000 pounds).
F	G.S. 90-95(h)(2)b	Trafficking in methaqualone (5,000 or more dosage units, less than 10,000).
F	G.S. 90-95(h)(3)b	Trafficking in cocaine (200 grams or more, less than 400 grams).
F	G.S. 90-95(h)(3a)b	Trafficking in amphetamine (5,000 or more dosage units, less than 10,000).
F	G.S. 90-95(h)(3b)b	Trafficking in methamphetamine (200 grams or more, less than 400 grams).
F	G.S. 90-95(h)(4)a	Trafficking in opium or heroin (4 grams or more, less than 14 grams).
F	G.S. 90-95(h)(4a)b	Trafficking in Lysergic Acid Diethylamide (500 or more dosage units, less than 1,000 dosage units).
F	G.S. 120-86	Bribing of legislators.
F	G.S. 143-63	Financial interest of officers in sources of supply; acceptance of bribes (Secretary of Administration, assistant, or A.B.C. member).

**APPENDIX II CONTINUED: Felony Classification**

F	G.S. 143-214.2A(c)(2)	Discharging medical waste in Atlantic Ocean or waters of state, creating substantial risk of injury.
G	G.S. 14-49(b)	Malicious use of explosive or incendiary.
G	G.S. 14-51	Burglary in the 2nd degree.
G	G.S. 14-58	Arson in the 2nd degree.
G	G.S. 14-87.1	Common law robbery.
G	G.S. 14-454	Accessing computers.
G	G.S. 14-455	Damaging computers, computer systems, computer networks, and resources.
G	G.S. 20-138.5(b)	Habitual impaired driving.
G	G.S. 20-141.4	Felony death by vehicle (causing death by impaired driving).
G	G.S. 90-95(h)(1)b	Trafficking in marijuana (100 pounds or more, less than 2,000 pounds).
G	G.S. 90-95(h)(2)a	Trafficking in methaqualone (1,000 or more dosage units, less than 5,000).
G	G.S. 90-95(h)(3)a	Trafficking in cocaine (28 grams or more, less than 200 grams).
G	G.S. 90-95(h)(3a)a	Trafficking in amphetamine (1,000 or more dosage units, less than 5,000).
G	G.S. 90-95(h)(3b)a	Trafficking in methamphetamine (28 grams or more, less than 200 grams).
G	G.S. 90-95(h)(4a)a	Trafficking in Lysergic Acid Diethylamide (100 or more dosage units, less than 500 dosage units).
H	G.S. 14-11	Activities aimed at overthrow of government; Use of public buildings (second offense).
H	G.S. 14-12.1	Certain subversive activities made unlawful.
H	G.S. 14-44	Using drugs or instruments to destroy unborn child.
H	G.S. 14-54	Breaking or entering buildings.
H	G.S. 14-62.1	Burning of building or structure in process of construction.
H	G.S. 14-63	Burning of boats and barges.
H	G.S. 14-64	Burning of ginhouses and tobacco houses.
H	G.S. 14-65	Fraudulently setting fire to dwelling houses.
H	G.S. 14-66	Burning of personal property.
H	G.S. 14-67.1	Burning other buildings.
H	G.S. 14-72	Larceny of property worth more than \$1,000.
H	G.S. 14-72	Receiving stolen goods (G.S. 14-71) or possessing stolen goods (G.S. 14-71.1) worth more than \$1,000.

**APPENDIX II CONTINUED: Felony Classification**

H	G.S. 14-72(b)(1)	Larceny from the person or possession of goods stolen from the person.
H	G.S. 14-72(b)(2)	Larceny pursuant to burglary, breaking or entering, or burglary with explosives, or possession of goods stolen pursuant to these offenses.
H	G.S. 14-72(b)(3)	Larceny of explosive or incendiary device or possession of stolen explosive or incendiary device.
H	G.S. 14-72(b)(4)	Larceny of firearm or possession of stolen firearm.
H	G.S. 14-72.2	Unauthorized use of an aircraft.
H	G.S. 14-74	Larceny by servants and other employees.
H	G.S. 14-75	Larceny of chose in action.
H	G.S. 14-75.1	Larceny of secret technical processes.
H	G.S. 14-79	Larceny of ginseng.
H	G.S. 14-80	Larceny of wood and other property from land (with felonious intent).
H	G.S. 14-81(a)	Larceny of horses, mules, swine, or cattle.
H	G.S. 14-85	Pursuing livestock with intent to steal.
H	G.S. 14-90	Embezzlement of property received by virtue of office or employment.
H	G.S. 14-93	Embezzlement by treasurers of charitable and religious organizations.
H	G.S. 14-94	Embezzlement by officers of railroad companies.
H	G.S. 14-97	Appropriation of partnership funds by partner to personal use.
H	G.S. 14-98	Embezzlement by surviving partner.
H	G.S. 14-100	Obtaining property by false pretenses.
H	G.S. 14-101	Obtaining signatures by false pretenses.
H	G.S. 14-121	Selling of certain forged securities.
H	G.S. 14-122	Forgery of deeds, wills, and certain other instruments.
H	G.S. 14-168.1	Conversion by bailee, lessee, tenant, or attorney-in-fact for more than \$400.00.
H	G.S. 14-221.2	Altering court documents or entering unauthorized judgments.
H	G.S. 14-225.2(a)(1)	Harassment of and communication with jurors.
H	G.S. 14-226	Intimidating or interfering with witnesses.
H	G.S. 14-254	Malfeasance of corporation officers and agents.
H	G.S. 14-258	Conveying messages and weapons to or trading with convicts and other prisoners.
H	G.S. 14-258.2	Possession of dangerous weapon in prison.

**APPENDIX II CONTINUED: Felony Classification**

H	G.S. 14-258.1(a)	Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions or local confinement facilities.
H	G.S. 14-258.2(b)	Assisting a prisoner in attempting to escape and committing an assault resulting in bodily injury or effecting the escape.
H	G.S. 14-288.2(c)	Riot (property damage greater than \$1500 or serious bodily injury).
H	G.S. 14-288.6(b)	Looting.
H	G.S. 14-288.20(b)	Training on certain weapons for use in a civil disorder.
H	G.S. 14-329(a)	Manufacturing, trafficking in, transporting, or possessing poisonous alcoholic beverages.
H	G.S. 14-367	Altering the brands of and misbranding another's livestock (Larceny).
H	G.S. 14-398	Theft or destruction of property of public libraries, museums, etc. worth more than \$50.
H	G.S. 14-401.11(b)(1)b	Distribution of certain food at Halloween and all other times prohibited (greater than mild physical discomfort without any lasting effect).
H	G.S. 14-415.1	Possession of firearms, etc., by felon prohibited.
H	G.S. 14-415.3	Possession of a firearm or weapon of mass destruction by persons acquitted of certain crimes by reason of insanity or persons determined to be incapable to proceed prohibited.
H	G.S. 14-457	Extortion (maliciously threatens to commit an act described in G.S. 14-455).
H	G.S. 20-106	Receiving or transferring stolen vehicles.
H	G.S. 20-166(a)	Duty to stop in event of accident or collision.
H	G.S. 48-37	Compensation for placing or arranging placement of child for adoption prohibited (second offense).
H	G.S. 53-124	Examiner making false report.
H	G.S. 53-129	Misapplication of bank funds by officer or employee.
H	G.S. 53-130	Making false entries in banking accounts; misrepresenting assets and liabilities of banks.
H	G.S. 58-2-162	Embezzlement by insurance agents, brokers, or administrators.
H	G.S. 58-30-12(c)	Duty to report insurer impairment; violations; penalties.
H	G.S. 58-50-40	Willful failure to pay group insurance premiums; notice to persons insured; penalty; restitution; examination of insurance transactions.
H	G.S. 62-273	Embezzlement of C.O.D. shipments.
H	G.S. 63-25	Taking of aircraft made crime of larceny (intent to deprive).

**APPENDIX II CONTINUED: Felony Classification**

H	G.S. 70-40	Penalties (knowingly acquire human skeletal remains removed from unmarked burials in North Carolina).
H	G.S. 75-1	Combinations in restraint of trade illegal.
H	G.S. 78A-57	Criminal penalties (fraud under Securities Act).
H	G.S. 78C-39	Criminal penalties (fraudulent practices of investment advisors).
H	G.S. 90-95(b)(1)	Manufacture, sell, or deliver, or possess with intent to manufacture, sell, or deliver a Schedule I or II Controlled Substance.
H	G.S. 90-95(h)(1)a	Trafficking in marijuana (more than 50 pounds, less than 100 pounds).
H	G.S. 90-210.70(a)	Embezzlement of funeral funds, penalties.
H	G.S. 106-145.6	Denial, revocation, and suspension of license; penalties for violations.
H	G.S. 106-363	Damaging dipping vats a felony.
H	G.S. 108A-60	Protection of patient property (Medical Assistance Program; willfully embezzle, convert, appropriate).
H	G.S. 133-24	Government contracts; violations of G.S. 75-1 and 75-2.
H	G.S. 133-25	Conviction; punishment (violation of 133-24).
H	G.S. 136-13	Malfeasance of officers and employees of Department of Transportation, members of Board of Transportation, contractors, and others.
H	G.S. 136-13.2	Falsifying highway inspection reports.
H	G.S. 143-215.88B(e)	Enforcement procedures: criminal penalties (Oil pollution and hazardous substance control).
H	G.S. 143-215.114B(g)	Enforcement procedures: criminal penalties (Air pollution control).
I	G.S. 7A-456(a)	False statements to the question of indigency.
I	G.S. 10A-12(c)	Notary taking acknowledgement or performing verification knowing it is false or fraudulent.
I	G.S. 14-3(c)	Class 1 misdemeanor offense committed because of the victim's race, color, religion, nationality, or country of origin.
I	G.S. 14-12.12(b), -12.15	Placing burning/flaming cross on property of another or on public street or highway.
I	G.S. 14-12.13,-12.15	Placing exhibit with intention of intimidating, etc., another.
I	G.S. 14-12.14,-12.15	Placing exhibit while wearing mask, hood, or other disguise.
I	G.S. 14-13	Counterfeiting coin and uttering coin that is counterfeit.
I	G.S. 14-14	Possessing tools for counterfeiting.
I	G.S. 14-16.6(a)	Assault on executive or legislative officer.

**APPENDIX II CONTINUED: Felony Classification**

I	G.S. 14-16.7(a)	Threats against executive or legislative officers.
I	G.S. 14-16.7(b)	Threats against executive or legislative officers by mail.
I	G.S. 14-45	Using drugs or instruments to produce miscarriage or injure pregnant woman.
I	G.S. 14-46	Concealing birth of child.
I	G.S. 14-55	Preparation to commit burglary or other housebreakings.
I	G.S. 14-56	Breaking or entering into/out of railroad cars, motor vehicles, trailers, etc.
I	G.S. 14-56.1	Breaking into or forcibly opening coin- or currency-operated machines.
I	G.S. 14-56.3	Breaking into paper currency machines.
I	G.S. 14-69.1(b)	Making a false report concerning destructive device.
I	G.S. 14-69.2(b)	Perpetrating hoax by use of false bomb or other device.
I	G.S. 14-81(a1)	Larceny of dogs.
I	G.S. 14-89.1	Safecracking.
I	G.S. 14-107	Worthless checks (amount more than \$2,000).
I	G.S. 14-113.9.-113.17(b)	Financial transaction card theft.
I	G.S. 14-113.11, -113.17(b)	Forgery of financial transaction card.
I	G.S. 14-113.13(a), (b), -113.17(b)	Financial transaction card fraud, value over \$500.
I	G.S. 14-113.14, -113.17(b)	Criminal possession of financial transaction card forgery devices.
I	G.S. 14-113.15, -113.17(b)	Criminal receipt of goods and services fraudulently obtained worth more than \$500.00.
I	G.S. 14-113.15A, -113.17(b)	Criminal factoring of financial transaction card records.
I	G.S. 14-119	Forgery of notes, checks, and other securities.
I	G.S. 14-120	Uttering forged paper or instrument containing a forged endorsement.
I	G.S. 14-123	Forging names to petitions and uttering forged petitions.
I	G.S. 14-124	Forging certificate of corporate stock and uttering forged certificates.
I	G.S. 14-125	Forgery of bank notes and other instruments by connecting genuine parts.
I	G.S. 14-136	Intentionally setting fire to grass and brushlands and woodlands.
I	G.S. 14-141	Burning or otherwise destroying crops in the field, damage over \$2,000.

**APPENDIX II CONTINUED: Felony Classification**

I	G.S. 14-149	Desecrating, plowing over or covering up graves.
I	G.S. 14-159.2(c)	Interference with animal research (if the animal released has an infectious disease).
I	G.S. 14-163	Poisoning livestock.
I	G.S. 14-177	Crime against nature.
I	G.S. 14-183	Bigamy.
I	G.S. 14-190.1	Obscene literature and exhibitions.
I	G.S. 14-190.6	Employing or permitting minor to assist in obscenity offense.
I	G.S. 14-190.7	Dissemination to minors under the age of 16 years.
I	G.S. 14-190.8	Dissemination to minors under the age of 13 years.
I	G.S. 14-190.17A	3rd degree sexual exploitation of a minor.
I	G.S. 14-210	Subornation of perjury.
I	G.S. 14-211	Perjury before legislative committees.
I	G.S. 14-221.1	Altering, destroying, or stealing evidence of criminal conduct.
I	G.S. 14-225.2(a)(2)	Harassment of and communication with jurors.
I	G.S. 14-228	Buying and selling offices.
I	G.S. 14-233	Making of false report by bank examiners; Accepting bribes.
I	G.S. 14-253	Failure of certain railroad officers to account with successors.
I	G.S. 14-256	Prison breach and escape from county/municipal confinement facilities/officers by convicted felons.
I	G.S. 14-259	Harboring or aiding certain persons charged or convicted of a felony.
I	G.S. 14-269.2(b)	Possess firearm or explosive on educational property.
I	G.S. 14-269.2(c)	Aid minor to possess firearm or explosive on educational property.
I	G.S. 14-277.3	Stalking (second conviction within five years).
I	G.S. 14-277.4	Obstruction of health care facilities (third conviction within three years).
I	G.S. 14-278	Willful injury to property of railroads.
I	G.S. 14-280	Shooting or throwing at trains or passengers.
I	G.S. 14-282	Displaying false lights on seashore.
I	G.S. 14-309.5(b)	Bingo.
I	G.S. 14-309.14	Beach bingo (with a prize of \$50.00 or greater).
I	G.S. 14-315(a1)	Selling or giving weapons to minors (Sale of Handguns).
I	G.S. 14-320.1	Transporting child outside the state with intent to violate custody order.

**APPENDIX II CONTINUED: Felony Classification**

I	G.S. 14-322.1	Abandonment of child or children for six months.
I	G.S. 14-362.1(d)	Animal fights, other than cock fights, and animal baiting (second offense).
I	G.S. 14-373	Bribery of players, managers, coaches, referees, umpires, or officials.
I	G.S. 14-374	Acceptance of bribes by players, managers, coaches, referees, umpires, or officials.
I	G.S. 14-377	Intentional losing of athletic contest or limiting margin of victory or defeat.
I	G.S. 14-399(e)	Littering in an amount exceeding 500 pounds or 100 cubic feet for commercial purposes.
I	G.S. 14-401.11(b)(1)a	Distribution of certain food at Halloween and all other times prohibited (limited to mild physical discomfort without any lasting effect).
I	G.S. 14-409.9	Machine guns and other like weapons.
I	G.S. 14-433,-437(a)(1)	Recording of live concerts or recorded sounds and distribution, etc., of such recordings unlawful in certain circumstances (at least 1000 unauth. sound recordings or 100 unauth. audio-visual recordings; second offense).
I	G.S. 14-434,-437(a)(1)	Retailing, etc., of certain recorded devices unlawful (1000 unauth. sound recordings/100 unauth. audio visual recordings; second offense).
I	G.S. 14-435,-437(a)(1)	Recorded devices to show true name and address of manufacturer (1000 unauth. sound recordings/100 unauth. audio visual recordings; second offense).
I	G.S. 15A-543(b)	Failure to appear (if released in connection with a felony charge or conviction).
I	G.S. 15B-7	Filing of false application for compensation award (more than \$400.00).
I	G.S. 18B-307(c)	Unlawful manufacturing of alcoholic beverage (second offense).
I	G.S. 20-30(7)	Violations of License or Learner's Permit provisions.
I	G.S. 20-31	Making false affidavits perjury (Uniform Driver's License Act).
I	G.S. 20-34.1	Unlawful to issue licenses for anything of value except prescribed fees.
I	G.S. 20-71	Altering or forging certificate of title, registration card or application.
I	G.S. 20-106.1	Fraud in connection with rental of motor vehicles.
I	G.S. 20-106.2(d)	Sublease and loan assumption arranging regulated.
I	G.S. 20-109(a)	Altering or changing engine or other numbers (wilful).
I	G.S. 20-109(b)	Altering or changing engine or other numbers (intent to conceal).

**APPENDIX II CONTINUED: Felony Classification**

I	G.S. 20-112	Making false affidavit perjury (Anti-theft Provisions, Motor Vehicle Act of 1937).
I	G.S. 20-136	Smoke screens.
I	G.S. 20-177	Penalty for felony (Motor Vehicle Act of 1937).
I	G.S. 20-183.8(c)	Forging a motor vehicle inspection sticker.
I	G.S. 20-279.31(c1)	Making false affidavit perjury (Motor Vehicle Safety and Financial Responsibility Act of 1953).
I	G.S. 20-343	Unlawful change of mileage.
I	G.S. 20-350	Criminal offense (unlawful change of mileage).
I	G.S. 21-42	Issuing false bills or violating Chapter made felony.
I	G.S. 23-43	False taking of debtor's oath.
I	G.S. 53-131	False certification of a check.
I	G.S. 53-132	Receiving deposits in insolvent banks.
I	G.S. 58-2-161	False statement to procure benefit of insurance policy or certificate.
I	G.S. 58-2-180	Punishment for making false statement in financial or other statement.
I	G.S. 58-7-50	Maintenance and removal of records and assets.
I	G.S. 58-8-1	Mutual insurance companies organized; requisites for doing business (false oath in respect to certificate).
I	G.S. 58-19-50	Sanctions (Insurance holding companies).
I	G.S. 58-24-180(d)	Violating 58-24-65: Consolidations and mergers of fraternal benefit societies.
I	G.S. 58-24-180(e)	False statement under oath in any verified report/declaration required by law from fraternal benefit societies, perjury.
I	G.S. 58-70-1	Permit from Commissioner of Insurance; penalty for violation; exception.
I	G.S. 58-71-165	Monthly report required.
I	G.S. 63-27	Operation of aircraft while impaired (second conviction).
I	G.S. 65-71	Penalties (Cemeteries).
I	G.S. 66-135	Bond and trust account required.
I	G.S. 66-225	Violations (Credit Repair Services Act).
I	G.S. 75-12	False swearing by person responding to investigation of trusts and monopolies.
I	G.S. 78A-57	Criminal penalties (Securities Act).
I	G.S. 78C-39	Criminal penalties (Investment Advisors).
I	G.S. 78C-78	Remedies for violation; criminal penalty (athlete agents).

**APPENDIX II CONTINUED: Felony Classification**

I	G.S. 78D-24	Criminal penalties (Commodities).
I	G.S. 90-95(b)(2)	Manufacture, sell, or deliver, or possess with intent to manufacture, sell or deliver, a Schedule III, IV, V, or VI Controlled Substance.
I	G.S. 90-95(d)(1)	Possession of a Schedule I Controlled Substance.
I	G.S. 90-95(d)(2)	Possession of more than four dosage units of Hydromorphone.
I	G.S. 90-95(d)(2)	Possession of more than 100 dosage units of any controlled substance.
I	G.S. 90-95(d)(2)	Possession of any amount of Cocaine or Phencyclidine or derivative thereof.
I	G.S. 90-95(d)(4)	Possession of more than 1.5 ounces of Marijuana or .15 ounces of Hashish.
I	G.S. 90-95(e)(3)	Drug offense punishable by not more than two years and offender has been previously convicted of a drug offense.
I	G.S. 90-108	Prohibited acts; penalties (Controlled Substance Act).
I	G.S. 90-113.23(c)	Manufacture or delivery of drug paraphernalia (from person over 18 to person under 18).
I	G.S. 93A-40	Registration required of time share projects; real estate salesmen license required.
I	G.S. 93A-58	Registrar required; criminal penalties; project broker (real estate development).
I	G.S. 95-197	Withholding hazardous substance trade secret information.
I	G.S. 105-113.110, -113.107	Violations of Article a felony (Possess controlled substance upon which tax has not been paid).
I	G.S. 105-236(7)	Penalties (attempt to evade or defeat tax).
I	G.S. 105-236(9a)	Penalties (aid or assist in filing fraudulent returns).
I	G.S. 106-350	Sale of tubercular animal a felony.
I	G.S. 106-443	Issuance of false receipt a felony; punishment.
I	G.S. 106-549.26	Inspection of establishment; bribery of or malfeasance of inspector.
I	G.S. 108A-39(b)	Fraudulent misrepresentation (AFDC in amount of more than \$400.00).
I	G.S. 108A-53(a)	Fraudulent misrepresentation (Food Stamp Program in amount more than \$2,000).
I	G.S. 108A-63(c)	Medical assistance provider fraud.
I	G.S. 108A-64(c)(1)	Medical assistance recipient fraud (value of assistance is more than \$400.00).
I	G.S. 113-209	Taking polluted shellfish at night or with prior conviction forbidden; penalty.

**APPENDIX II CONTINUED: Felony Classification**

I	G.S. 130A-26.1(f)	Criminal violation of Article 9 (transporting hazardous waste to a facility which does not have a permit).
I	G.S. 130A-26.1(g)	Criminal violation of Article 9 (handling hazardous waste without required documents).
I	G.S. 130A-431	Certain vaccine diversions made felony.
I	G.S. 133-31	Perjury; punishment (Public works).
I	G.S. 136-14	Members not eligible for other employment with Department; no sales to Department by employees; members not to sell or trade property with Department; profiting from official position.
I	G.S. 143-54	False certification that bids are submitted without collusion.
I	G.S. 143-215.6B(g)	Enforcement procedures: criminal penalties (Pollution control).
I	G.S. 148-45(a)	Escaping or attempting escape from state prison system (first offense).
I	G.S. 148-45(b)	Escaping or attempting escape from state prison system.
I	G.S. 148-46.1	Inflicting or assisting in infliction of self injury to prisoner resulting in incapacity to perform assigned duties.
I	G.S. 157-29.1	Fraudulent misrepresentation (Housing Assistance for more than \$400).
I	G.S. 163-72.4(f)	Registration by mail (willfully giving false information).
I	G.S. 163-81	Driver license examiners to accept applications to register voters (willfully giving false information).
I	G.S. 163-90.3	Making false affidavit perjury (Elections).
I	G.S. 163-226.3	Certain acts declared felonies (Elections).
I	G.S. 163-237(c)	Forgery of signature on absentee ballot.
I	G.S. 163-275	Certain acts declared felonies (Elections).
I	G.S. 163-278.53	Criminal punishment (Elections).

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**FELONY PUNISHMENT CHART**  
(Numbers shown are in months)

**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	
<b>A</b>	<b>Death or Life Without Parole</b>						
<b>B1</b>	<b>A</b> 240-300	<b>A</b> 288-360	<b>A</b> 336-420	<b>A</b> 384-480	<b>A</b> <i>Life Without Parole</i>	<b>A</b> <i>Life Without Parole</i>	<b>DISPOSITION</b> <i>Aggravated Range</i>
	192-240	230-288	269-336	307-384	346-433	384-480	<b>PRESUMPTIVE RANGE</b>
	144-192	173-230	202-269	230-307	260-346	288-384	<i>Mitigated Range</i>
<b>B2</b>	<b>A</b> 135 - 169	<b>A</b> 163 - 204	<b>A</b> 190 - 238	<b>A</b> 216 - 270	<b>A</b> 243 - 304	<b>A</b> 270 - 338	
	108 - 135	130 - 163	152 - 190	173 - 216	194 - 243	216 - 270	
	81 - 108	98 - 130	114 - 152	130 - 173	146 - 194	162 - 216	
<b>C</b>	<b>A</b> 63 - 79	<b>A</b> 86 - 108	<b>A</b> 100 - 125	<b>A</b> 115 - 144	<b>A</b> 130 - 162	<b>A</b> 145 - 181	
	50 - 63	69 - 86	80 - 100	92 - 115	104 - 130	116 - 145	
	38 - 50	52 - 69	60 - 80	69 - 92	78 - 104	87 - 116	
<b>D</b>	<b>A</b> 55 - 69	<b>A</b> 66 - 82	<b>A</b> 89 - 111	<b>A</b> 101 - 126	<b>A</b> 115 - 144	<b>A</b> 126 - 158	
	44 - 55	53 - 66	71 - 89	81 - 101	92 - 115	101 - 126	
	33 - 44	40 - 53	53 - 71	61 - 81	69 - 92	76 - 101	
<b>E</b>	<b>I/A</b> 25 - 31	<b>I/A</b> 29 - 36	<b>A</b> 34 - 42	<b>A</b> 46 - 58	<b>A</b> 53 - 66	<b>A</b> 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	
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	10 - 13	12 - 15	13 - 16	16 - 20	17 - 21	23 - 29	
	8 - 10	9 - 12	10 - 13	12 - 16	13 - 17	17 - 23	
<b>H</b>	<b>C/I</b> 6 - 8	<b>I</b> 8 - 10	<b>I/A</b> 10 - 12	<b>I/A</b> 11 - 14	<b>I/A</b> 15 - 19	<b>A</b> 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 - 15	
<b>I</b>	<b>C</b> 6 - 8	<b>C/I</b> 6 - 8	<b>I</b> 6 - 8	<b>I/A</b> 8 - 10	<b>I/A</b> 9 - 11	<b>I/A</b> 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	

OFFENSE CLASS

Note: A - Active Punishment I - Intermediate Punishment C - Community Punishment

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**NC Sentencing and Policy Advisory Commission**

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