
A CITIZEN'S GUIDE TO STRUCTURED SENTENCING

(Revised 2008)



PREPARED BY:

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STRUCTURED SENTENCING

In 1990, the General Assembly created the North Carolina Sentencing and Policy Advisory Commission to make recommendations to restore rationality, order and truth to the criminal justice system. In 1993, the General Assembly reviewed, amended and adopted the Commission's recommendations. The law was called Structured Sentencing and applies to all felony and misdemeanor crimes (except Driving While Impaired and Drug Trafficking) committed on or after October 1, 1994. Subsequent changes to the law were made during the 1995 legislative session and apply to crimes committed on or after December 1, 1995.

Structured Sentencing is based on the following principles:

- **Sentencing policies should be rational:** The sentence should be proportional to the severity of the crime as measured by the harm to the victim and to the offender's prior record.
- **Sentencing policies should be truthful:** The time actually served in prison or jail should bear a close and consistent relationship to the sentence imposed by the judge. Early parole release should be abolished.
- **Sentencing policies should be consistent:** Offenders convicted of similar offenses, who have similar prior records, should generally receive similar sentences.
- **Sentencing policies should set resource priorities:** Sentencing policies should be supported by adequate prison, jail and community-based resources. The use of prisons and jails should be prioritized first for violent and repeat offenders and community-based programs should be first utilized for nonviolent offenders with little or no prior record.

WHAT IS STRUCTURED SENTENCING?

Structured Sentencing is the method of sentencing and punishing criminals in North Carolina. It classifies offenders on the basis of the severity of their crime and on the extent and gravity of their prior criminal record. Based on these two factors, structured sentencing provides judges with sentencing options for the type and length of sentences which may be imposed.

WHY WAS STRUCTURED SENTENCING ENACTED?

Structured Sentencing is designed to help the State maintain control over the criminal justice system and to provide credibility to sentencing. Under the law, there is no early parole release so the sentence is truthful. In addition, the law sets priorities for the use of correctional resources and balances sentencing policies with correctional capacity.

HOW ARE CRIMES CLASSIFIED?

Felony crimes are classified into letter classes (from Offense Class A through Class I) depending on their seriousness. Crimes which involve victim injury or the risk of victim injury are assigned to the highest classes. Property crimes and other crimes which do not normally involve the risk of victim injury are assigned to lower classes. Misdemeanor crimes are classified into four classes (Class A1, Class 1, Class 2 and Class 3). The most serious misdemeanor crimes are in Class A1 and the least serious are in Class 3.

HOW ARE OFFENDERS CLASSIFIED?

Felons are classified into one of six prior record levels (from Prior Record Level I through Level VI) depending on the extent and gravity of their prior record. Felons with violent or extensive prior convictions are assigned to the highest level, while those with no prior convictions are assigned to the lowest level. Misdemeanor offenders are classified into one of three prior conviction levels depending on their number of prior convictions.

HOW IS THE TYPE OF SENTENCE DETERMINED?

Under Structured Sentencing, there are three types of punishment: **active** (prison or jail), **intermediate** and **community**. Judges must impose active punishments for felons convicted of crimes which fall in high offense classes or for felons who have high prior record levels. Judges must impose intermediate or community punishments for felons who are convicted of crimes which fall in the lowest offense classes and who also have low prior record levels. For offenders who fall somewhere in between, the judge may elect to impose either an active punishment or an intermediate punishment.

Regardless of the offender's prior record, the judge may impose either an active, intermediate or community punishment for offenders convicted of Class A1 misdemeanors. For offenders convicted of Class 1, 2 or 3 misdemeanors and with no prior convictions, the judge must impose a community punishment. For most other misdemeanants, the judge may impose either an active, intermediate or community punishment.

WHAT IS AN ACTIVE PUNISHMENT?

An active prison sentence requires that felons be incarcerated in the state prison system. Misdemeanants with sentences over 90 days are incarcerated in the state prison system and those with sentences 90 days or less are incarcerated in county jails.

WHAT IS AN INTERMEDIATE PUNISHMENT?

An intermediate punishment requires that the offender be placed on supervised probation with one or more of the following special conditions: **split sentence** (a term in prison or jail followed by supervised probation), **electronic house arrest** (confinement to one location and close monitoring through computer technology), **intensive supervision** (very close supervision and daily monitoring), a **residential center** (a highly supervised and structured program requiring

overnight residence), a **day reporting center** (a highly supervised and structured day and evening program) and **drug treatment court** (a judicially monitored treatment program). Intermediate punishments are more restrictive and controlling than basic probation but less costly than prison. Generally, offenders must follow strict rules, work, pay restitution, and participate in drug or other types of treatment.

WHAT IS A COMMUNITY PUNISHMENT?

A community punishment is any type of sentence which does not involve prison, jail or an intermediate punishment. Most people think of this as basic probation. A community punishment may also include fines, restitution, community service and/or substance abuse treatment.

HOW IS THE LENGTH OF THE ACTIVE TERM DETERMINED UNDER STRUCTURED SENTENCING?

For felony convictions under Structured Sentencing, judges impose both a minimum and a maximum prison term. The length of the minimum and maximum term depends on the offense class, the prior record level, and the presence of any aggravating or mitigating factors. For each combination of felony offense class and prior record level, three sentence ranges are prescribed: a **presumptive range** for typical cases, an **aggravated range** for cases where aggravation is found, and a **mitigated range** for cases where mitigation is found. The judge selects a minimum prison term from one of these three ranges. Once the minimum term is set, a maximum term is dictated by statute (at least 20% longer than the minimum). For each combination of misdemeanor offense class and prior conviction level, there is one sentence range. The judge selects a single active term from the appropriate range.

HOW MUCH OF THE PRISON TERM MUST BE SERVED?

Under Structured Sentencing, good time, gain time and parole are eliminated. Felons sentenced to prison must serve 100% of their minimum term and may serve up to their maximum term if they misbehave, fail to work or refuse to participate in programs. Upon release, felony offenders convicted of more serious felony offenses must be placed on post-release supervision. Misdemeanants must serve the full active term unless the Sheriff elects to award earned time of up to four days a month for specific activities while the offender is in jail.

WHAT IS POST-RELEASE SUPERVISION?

Post-release supervision is a mandatory term of supervision after release from prison for felony Class B1 through E offenses. The offender's behavior is monitored in the community, and supervision is provided to help the offender reintegrate into society. The offender may be returned to prison and serve additional time for violating the post-release conditions.

HOW DOES POST-RELEASE SUPERVISION DIFFER FROM PAROLE?

Unlike parole, the offender is not released from prison early. Post-release supervision begins after the offender has served at least his minimum prison sentence and is released. Like parole supervision, post-release supervision requires the offender to be supervised and monitored in the community.

HAS THE LIKELIHOOD OF IMPRISONMENT CHANGED UNDER STRUCTURED SENTENCING?

Under Structured Sentencing, imprisonment is mandatory for all felony offenders who are convicted of crimes in high offense classes and/or have high prior record levels. Compared to the past, the probability of going to prison is higher for these violent and/or career criminals. Conversely, offenders convicted of crimes in low offense classes and who also have low prior record levels are less likely to go to prison than they did in the past.

HAS THE AMOUNT OF TIME SERVED IN PRISON CHANGED UNDER STRUCTURED SENTENCING?

In most cases, the prison sentence pronounced by the judge sounds shorter than under the old law, but the actual time served is longer. Under the old law, the sentence imposed by the judge was reduced by good time, gain time and parole. Under Structured Sentencing, these early release mechanisms have been eliminated. Compared to the past, the average actual time served in prison is greater for most offenders, especially for violent and career felons.

HOW HAS STRUCTURED SENTENCING AFFECTED PRISON AND JAIL POPULATIONS?

The Sentencing and Policy Advisory Commission uses data on convictions and sentences imposed to estimate the prison population. Prison population projections are prepared on an annual basis using a computer simulation model. The General Assembly has authorized the construction of new prisons as the projections have demonstrated the need. Information regarding jail populations is locally maintained, and no statewide-automated information is available. The jail populations depend on local pretrial and sentencing practices.

HOW ARE COMMUNITY PUNISHMENTS IMPOSED UNDER STRUCTURED SENTENCING?

The active term is suspended if an offender is sentenced to an intermediate or community punishment. However, if these offenders fail to obey conditions required as part of their punishment, the conditions may be increased, the offender may be held in contempt of court and be incarcerated for up to 30 days in jail, or the judge may activate the suspended sentence. If the prison terms are activated, felony offenders must serve 100% of the minimum term and may serve up to the maximum term; misdemeanor offenders must serve the entire jail sentence unless the sheriff awards earned time credits. Offenders know that if they fail to abide by the conditions of their non-prison punishments, they face certain imprisonment.

HOW DOES STRUCTURED SENTENCING AFFECT PUNISHMENTS IN THE COMMUNITY?

Structured Sentencing allows less serious and less chronic offenders to remain in the community. These offenders often require supervision and treatment services that are provided in their local communities. The State-County Criminal Justice Partnership Act provides counties with financial grants to develop community corrections programs tailored to local needs.

PUNISHMENT CHARTS

To determine the punishment options for each offender, the judge refers to either the felony or misdemeanor punishment chart shown on the following pages.

Felony Punishment Chart

Offense Class. Along the left side of the chart are letters from A through I representing the severity of the crime. Class A includes the most serious felonies while Class I includes the least serious felonies.

Prior Record Level. Along the top of the chart are six Roman numerals from I to VI representing the extent and gravity of the offender's prior record. An offender with no prior record falls into Level I; an offender with a very violent or extensive prior record falls into Level VI.

Type of Sentence. For each combination of Offense Class and Prior Record Level, one or more letters are indicated. An "A" stands for an active prison term, an "I" stands for an intermediate punishment, and a "C" stands for a community punishment. If more than one letter is shown, the judge may choose the type of punishment.

Length of Sentence. For each combination of Offense Class and Prior Record Level, three sentence ranges are provided. The judge selects a single sentence term from one of the three ranges which establishes the minimum number of months that an offender must serve. The judge also imposes a maximum term which is approximately 20% longer than the minimum term.

Misdemeanor Punishment Chart

A similar chart is used for misdemeanors. However, instead of ten felony classes, there are four misdemeanor classes (A1, 1, 2, and 3); instead of six prior record levels there are three prior conviction levels (I, II, and III); and instead of three sentence ranges, there is only one. The judge selects a single term from the sentence range which specifies the number of days the offender must serve. Like the felony punishment chart, an "A" stands for an active prison term, an "I" stands for an intermediate punishment, and a "C" stands for a community punishment. If more than one letter is shown, the judge may choose the type of punishment.

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

**FELONY PUNISHMENT CHART
PRIOR RECORD LEVEL**

OFFENSE CLASS

| | I 0 Points | II 1-4 Points | III 5-8 Points | IV 9-14 Points | V 15-18 Points | VI 19+ Points |
|-----------|-------------------------------------|------------------------------|------------------------------|------------------------------|--|--|
| A | Death or Life Without Parole | | | | | |
| B1 | A <i>240 - 300</i> | A <i>288 - 360</i> | A <i>336 - 420</i> | A <i>384 - 480</i> | A <i>Life Without Parole</i> | A <i>Life Without Parole</i> |
| | 192 - 240 | 230 - 288 | 269 - 336 | 307 - 384 | 346 - 433 | 384 - 480 |
| | <i>144 - 192</i> | <i>173 - 230</i> | <i>202 - 269</i> | <i>230 - 307</i> | <i>260 - 346</i> | <i>288 - 384</i> |
| B2 | A <i>157 - 196</i> | A <i>189 - 237</i> | A <i>220 - 276</i> | A <i>251 - 313</i> | A <i>282 - 353</i> | A <i>313 - 392</i> |
| | 125 - 157 | 151 - 189 | 176 - 220 | 201 - 251 | 225 - 282 | 251 - 313 |
| | <i>94 - 125</i> | <i>114 - 151</i> | <i>132 - 176</i> | <i>151 - 201</i> | <i>169 - 225</i> | <i>188 - 251</i> |
| C | A <i>73 - 92</i> | A <i>100 - 125</i> | A <i>116 - 145</i> | A <i>133 - 167</i> | A <i>151 - 188</i> | A <i>168 - 210</i> |
| | 58 - 73 | 80 - 100 | 93 - 116 | 107 - 133 | 121 - 151 | 135 - 168 |
| | <i>44 - 58</i> | <i>60 - 80</i> | <i>70 - 93</i> | <i>80 - 107</i> | <i>90 - 121</i> | <i>101 - 135</i> |
| D | A <i>64 - 80</i> | A <i>77 - 95</i> | A <i>103 - 129</i> | A <i>117 - 146</i> | A <i>133 - 167</i> | A <i>146 - 183</i> |
| | 51 - 64 | 61 - 77 | 82 - 103 | 94 - 117 | 107 - 133 | 117 - 146 |
| | <i>38 - 51</i> | <i>46 - 61</i> | <i>61 - 82</i> | <i>71 - 94</i> | <i>80 - 107</i> | <i>88 - 117</i> |
| E | I/A <i>25 - 31</i> | I/A <i>29 - 36</i> | A <i>34 - 42</i> | A <i>46 - 58</i> | A <i>53 - 66</i> | A <i>59 - 74</i> |
| | 20 - 25 | 23 - 29 | 27 - 34 | 37 - 46 | 42 - 53 | 47 - 59 |
| | <i>15 - 20</i> | <i>17 - 23</i> | <i>20 - 27</i> | <i>28 - 37</i> | <i>32 - 42</i> | <i>35 - 47</i> |
| F | I/A <i>16 - 20</i> | I/A <i>19 - 24</i> | I/A <i>21 - 26</i> | A <i>25 - 31</i> | A <i>34 - 42</i> | A <i>39 - 49</i> |
| | 13 - 16 | 15 - 19 | 17 - 21 | 20 - 25 | 27 - 34 | 31 - 39 |
| | <i>10 - 13</i> | <i>11 - 15</i> | <i>13 - 17</i> | <i>15 - 20</i> | <i>20 - 27</i> | <i>23 - 31</i> |
| G | I/A <i>13 - 16</i> | I/A <i>15 - 19</i> | I/A <i>16 - 20</i> | I/A <i>20 - 25</i> | A <i>21 - 26</i> | A <i>29 - 36</i> |
| | 10 - 13 | 12 - 15 | 13 - 16 | 16 - 20 | 17 - 21 | 23 - 29 |
| | <i>8 - 10</i> | <i>9 - 12</i> | <i>10 - 13</i> | <i>12 - 16</i> | <i>13 - 17</i> | <i>17 - 23</i> |
| H | C/I/A <i>6 - 8</i> | I/A <i>8 - 10</i> | I/A <i>10 - 12</i> | I/A <i>11 - 14</i> | I/A <i>15 - 19</i> | A <i>20 - 25</i> |
| | 5 - 6 | 6 - 8 | 8 - 10 | 9 - 11 | 12 - 15 | 16 - 20 |
| | <i>4 - 5</i> | <i>4 - 6</i> | <i>6 - 8</i> | <i>7 - 9</i> | <i>9 - 12</i> | <i>12 - 16</i> |
| I | C <i>6 - 8</i> | C/I <i>6 - 8</i> | I <i>6 - 8</i> | I/A <i>8 - 10</i> | I/A <i>9 - 11</i> | I/A <i>10 - 12</i> |
| | 4 - 6 | 4 - 6 | 5 - 6 | 6 - 8 | 7 - 9 | 8 - 10 |
| | <i>3 - 4</i> | <i>3 - 4</i> | <i>4 - 5</i> | <i>4 - 6</i> | <i>5 - 7</i> | <i>6 - 8</i> |

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

A – Active Punishment I – Intermediate Punishment C – Community Punishment
Numbers shown are in months and represent the range of minimum sentences

Revised: 08-04-95

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

MISDEMEANOR PUNISHMENT CHART

| CLASS | PRIOR CONVICTION LEVEL | | |
|-------|------------------------|-------------------------------|--------------------------------|
| | I | II | III |
| | No Prior Convictions | One to Four Prior Convictions | Five or More Prior Convictions |
| A1 | C/I/A 1 - 60 days | C/I/A 1 - 75 days | C/I/A 1 - 150 days |
| 1 | C 1 - 45 days | C/I/A 1 - 45 days | C/I/A 1 - 120 days |
| 2 | C 1 - 30 days | C/I 1 - 45 days | C/I/A 1 - 60 days |
| 3 | C 1 - 10 days | C/I 1 - 15 days | C/I/A 1 - 20 days |

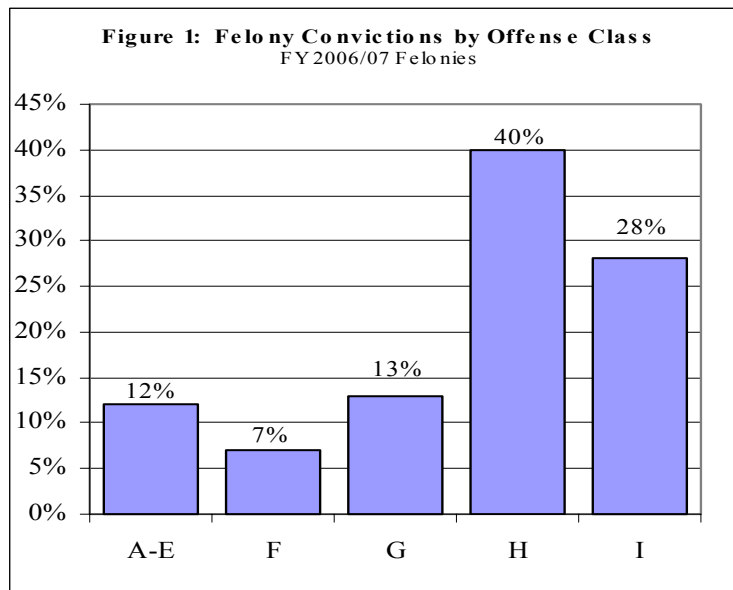
A – Active Punishment I – Intermediate Punishment C – Community Punishment
Cells with slash allow either disposition at the discretion of the judge

STRUCTURED SENTENCING STATISTICAL PROFILE

FISCAL YEAR 2006/07

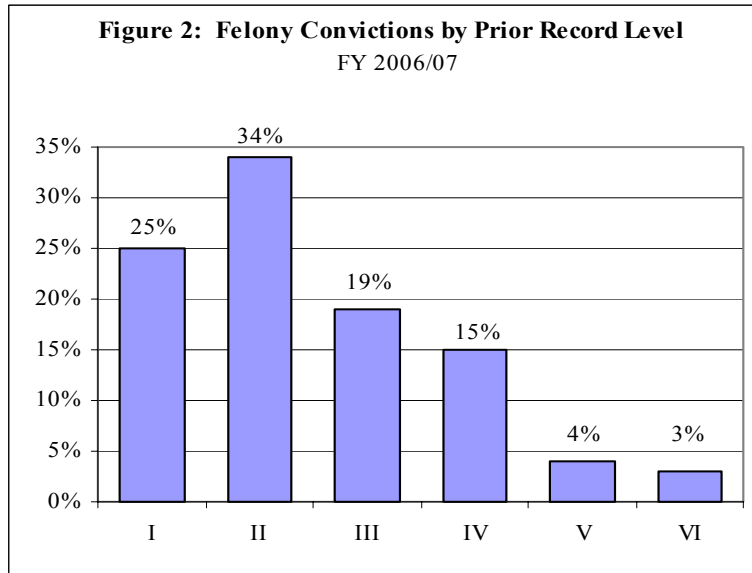
Felony Convictions

In FY 2006/07, sentences for 30,905 felony convictions were imposed. Non-trafficking drug crimes (36%) were the most common type of conviction followed by property offenses (34%). Eighteen percent of convictions were for person crimes while the remaining 12% involved “other” crimes. The majority (68%) of felony convictions fell in Offense Classes H and I which include the least serious offenses under Structured Sentencing (*See Figure 1*).



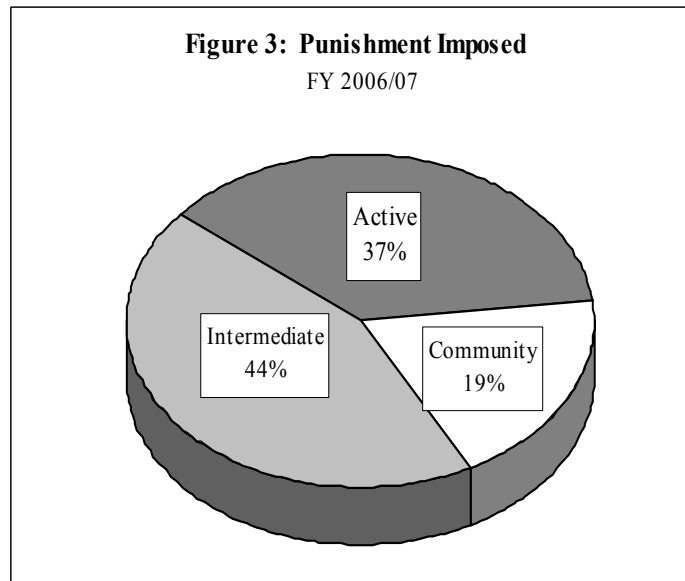
Source: NC Sentencing and Policy Advisory Commission, FY 2006/07 Felony Statistical Report Data

As shown in Figure 2, over half (59%) of felony convictions fell in Prior Record Levels I and II (i.e., involved offenders with little or no prior record).



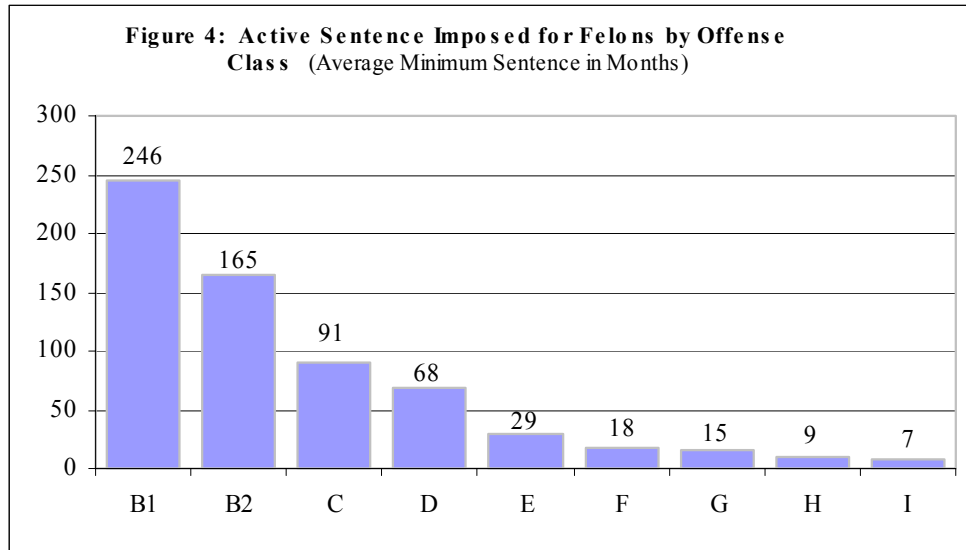
Source: NC Sentencing and Policy Advisory Commission, FY 2006/07 Felony Statistical Report Data

Of sentences imposed, 37% were for Active, 44% for Intermediate and 19% for Community punishments (See Figure 3).



Source: NC Sentencing and Policy Advisory Commission, FY 2006/07 Felony Statistical Report Data

Under Structured Sentencing, the average felon serves 100% of the minimum Active sentence imposed. The average minimum sentence for all felony convictions resulting in an Active punishment was 31 months in FY 2006/07. As shown in Figure 4, the average minimum sentence imposed increased as the offense class increased from the least serious to the most serious offense class.



Note: Offense Class A convictions are subject to mandatory life or death sentences.

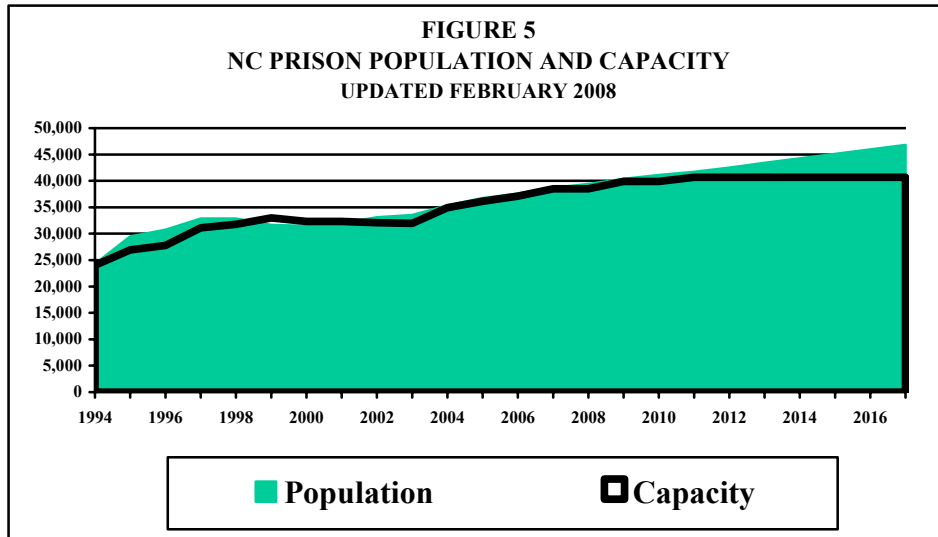
Source: NC Sentencing and Policy Advisory Commission, FY 2006/07 Felony Statistical Report Data

Misdemeanor Convictions

In FY 2006/07, sentences for 164,882 misdemeanor convictions were imposed. The largest proportion of convictions involved public order offenses (48%) while misdemeanor person offenses accounted for the smallest proportion (11%). Drug (18%) and property (23%) convictions comprised the rest of the crimes. An Active punishment was imposed for 22% of misdemeanor convictions, an Intermediate punishment was imposed for 2% of misdemeanor convictions, and a Community punishment was imposed for 76% of misdemeanor convictions. The average sentence imposed for all misdemeanor convictions resulting in an Active punishment was 38 days in FY 2006/07. Active sentences of 90 days or less are served in local jail facilities. Of the Active sentences imposed, 88% were for sentences of 90 days or less.

Prison Population Projections

Figure 5 shows the projected prison population over time. The projections take into account the decline of the resident prison population and the buildup of the new inmate population. As part of Structured Sentencing, North Carolina increased its prison capacity from about 24,800 in 1994 to about 38,500 in 2008. Based on current projections, the prison population is expected to exceed 46,800 by 2017.



Note: Prison capacity figures reflect Expanded Operating Capacity.

Source: NC Sentencing and Policy Advisory Commission and NC Department of Correction

For more information, contact the North Carolina Sentencing and Policy Advisory Commission at www.nccourts.org or 919-890-1470.