POPULAR GOVERNMENT

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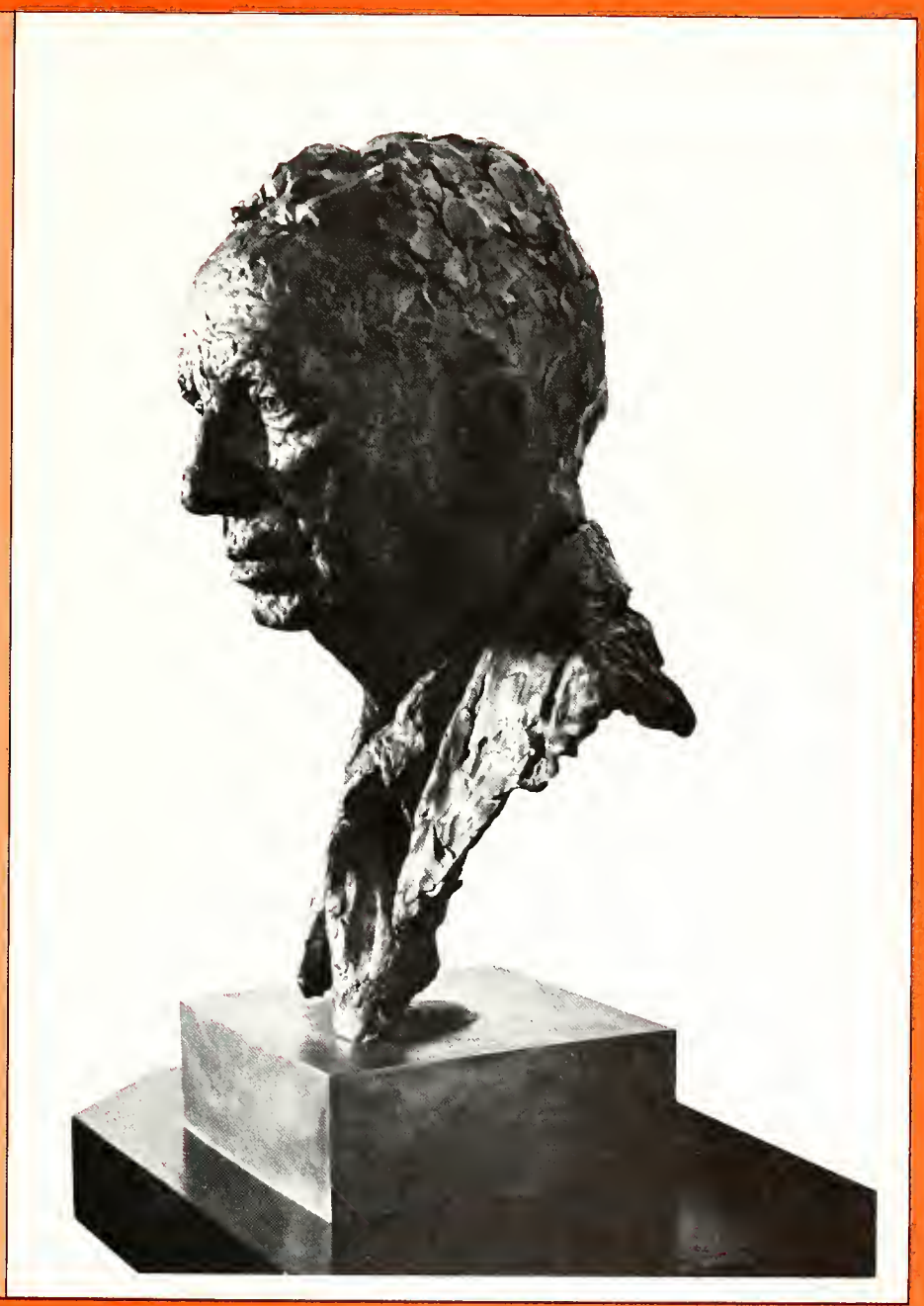

Fall 1976

POPULAR GOVERNMENT

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INSTITUTE OF GOVERNMENT
University of North Carolina at Chapel Hill

Cover Photo: This month's cover shows the bust of Albert Coates presented in ceremonies at the Institute in July, 1976.

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The Institute Honors Its Founder

Presentation of the bust of Albert Coates

4:30 p.m., July 11, 1976
Institute of Government
The University of North Carolina at Chapel Hill

Editor's Note: On Sunday afternoon, July 11, a bronze bust of Albert Coates, founder and first director of the Institute of Government, was formally presented in the Institute's foyer at a small reception to which had been invited only those men and women who served on the Institute staff during Mr. Coates' tenure. (A photograph of the bust, which is the work of William E. Hipp, III, appears on the cover of this issue.) The remarks made on that occasion are presented here because we feel that they will be of interest to all friends of Albert Coates and the Institute of Government.

PROGRAM

Presiding, Henry W. Lewis,
Director, Institute of Government

Ladies and Gentlemen:

This is a happy day in the life of the Institute of Government. It is especially happy for those of us who constitute the present working staff, and in their name and mine I welcome those of you who once worked with Albert Coates and have returned today. Your presence attests your continuing respect for him, your continuing interest in the Institute, and your respect and affection for Gladys Coates, the sustaining partner in all his efforts.

In a formal sense, we are here to mark and record the installation of a fine likeness of Albert Coates on the premises of the Institute he founded and led for more than thirty years. In a less formal, but none the less important sense, we are here to renew ties of friendship and association with Mr. and Mrs. Coates, with others we affectionately call our alumni, and with members of the present staff. I hope that those who are returning will make themselves known to those now here, remembering that we want to talk about the Institute of 1976 and learn about the Institute of earlier years.

[*Mr. Lewis then introduced former and current members of the staff and their wives and husbands who were present.*]

Every institution has its own traits or characteristics, and each member of an institution has insights into those traits that are peculiar to him. Today I have chosen to mention two characteristics of the Institute of Government that, to me, mark it as unique among its peers and within this University. I believe they are legacies we received from Albert Coates, that were nurtured and protected by John Sanders, and which I hope we will never abandon.

The first of these characteristics is the care with which the members of this faculty are chosen. During the last few years, when I have had occasion to learn at first hand something about the ways in which other university agencies select faculty, I have remarked to my colleagues here that the Institute of Government has the most carefully chosen faculty in the University. With allowances for pride, I believe this statement to be true and that so it has been from the time Albert Coates first chose Henry Brandis, Dillard Gardner, Buck Grice, Marion Alexander, Ed Scheidt, and Harry McGalliard. The reason is simple and is tied to the vital thread that has kept the Institute alive and healthy: We seek, first, men and women who have academic qualifications of a very high order; this is a *sine qua non* but by no means the only test. We then seek evidence of the capacity to perform. And, finally, we do all within our power to find men and women who, so far as they and we can determine, believe that the mission of the Institute is worth their best professional and personal efforts.

Not long after the Institute was brought within the University, Mr. Coates wrote:

> I found it was not so important to select [those] who had accumulated a "body of knowledge" in a particular field as to select [those] who had native ability, quick and resourceful intelligence—men [and women] who had a talent for getting knowledge out of the heads of experienced officials, as well as out of learned books on library shelves. I found that some . . . who were past masters at getting information out of books on a table were past hope in getting information out of heads across a desk . . . . It was not enough for a staff member to know the figures,

> he had to know the folks. I found that [one] who put his heart and soul into the work could cut circles around another . . . with equal ability and equal training who did not bring equal devotion to the cause at hand . . . .

No one really knows the Institute's age. Pinned down for a date in preparing a sketch for *Who's Who*, Mr. Coates wrote "1931," but we all know that he did this with reluctance, for though the outward and visible sign may have had its embodiment in 1931, the inward and spiritual grace dates from that moment when the hint of a suggestion of the idea came to Albert Coates' mind. No one I know would dare suggest when that was, and no one would dare dispute any date Mr. Coates might name.

As long ago as 1939 a no less distinguished authority than Roscoe Pound documented the Institute's early existence as well as what, in my judgment, remains its second great characteristic:

> I doubt [said Dean Pound] whether anything which has taken place in connection with American Government in the present century is as significant as the movement for planned, intelligent official and administrative co-operation which *began some years ago* in North Carolina, and has now taken on enduring form in the Institute of Government . . . .

And then he said:

> What seems to me particularly significant in the North Carolina movement is that it is a voluntary movement . . . . To rely on the enlightened free action of officials . . . is in accord with the characteristic policy of English-speaking peoples. It is in accord with the spirit in which our political institutions were conceived. It is evolutionary, not revolutionary, and does not involve the institutional waste which too often accompanies significant changes in government.

And so the Institute remains dedicated to the study and teaching of law and administration affecting state and local government, offering a variety of services to governmental officials and employees in North Carolina, but always leaving to them the free choice not to take advantage of either our services or ideas. This is the Albert Coates way; it is the North Carolina way; we believe it works; and we are grateful for it.

Some time last fall, probably in a conversation with John Sanders, I learned that the Dialectic and Philanthropic Societies had commissioned William E. Hipp, III, to make a bronze bust of Albert Coates to occupy a place in the societies' collection of alumni portraits. Not long afterward, George Blackburn, a law student who had been instrumental in the societies' efforts, made it possible for me to meet the sculptor and for members of the Institute faculty to see the plaster version of the bust. This led to acquisition of the bust for installation in this building, thereby accomplishing a goal that had been cherished here since Mr. Coates' retirement as director.

In characteristic Institute fashion, we have begun our celebration today in a classroom; later we will go into the

foyer of the auditorium so that you may examine Bill Hipp's work in place. On the back of your program you can read about the sculptor; just now we want to give him a chance to say what he wants to about the bust and his acquaintance with the subject. I am sorry he will have to speak without having his work before us, but I am confident that will present little problem for Bill Hipp.

REMARKS

William E. Hipp, III, sculptor:

I was pleased that I was asked to speak on this occasion. I had previously been informed that having the artist speak at the dedication of a piece is analogous to asking the brick mason to declaim on the dedication of a building.

I don't feel the need to remark at length on the character of this man. I've attempted to communicate all I could say in the bronze. I would, however, like to relate a set of circumstances that occurred during the sittings.

The portrait was modeled in an unused room in the Student Union. At the first sitting Mr. Coates entered:

"Good afternoon, Mr. Coates."

"How do you do, sir. Where do you want me to sit?"

Ladies and Gentlemen, for two hours those were the only words I heard from Mr. Coates. Mr. Coates sat there, not moving a muscle and hardly breathing. It's hard to appreciate the raw physical and mental stamina that it requires for anyone to sit in one position for that length of time, and I think even the most taciturn of men would find it difficult not to venture some comment or small talk.

I think this is yet one more example of the remarkable will and strength of character that have marked the illustrious career of Mr. Albert Coates.

Mr. Lewis:

Henry Brandis received the A.B. degree from this University in 1928 and the LL.B. from Columbia in 1931. For the

next two years he practiced law in the City of New York, then, at Mr. Coates' invitation came to Chapel Hill as a pioneer member of the Institute staff. In the difficult days of 1937—with Mr. Coates' blessing—Henry Brandis became Secretary of the State Tax Classification Commission, then chief of the Research Division of the North Carolina Department of Revenue. In 1940 he joined the faculty of the University Law School, where he has had a distinguished career, serving as dean from 1949 to 1964. Within the Institute family, however, Henry Brandis and his work have unique significance. He is the individual and his is the work that, for the entire history of the Institute, have served as the yardstick, the standard by which all other faculty members and their work have been measured. No other person is better fitted to speak in the name of our homecoming alumni on this occasion. I am delighted to present Henry P. Brandis, Jr.

REMARKS

Henry P. Brandis, Jr., Graham Kenan Professor of Law, Emeritus:

I do not know by what imperative, if any, I was selected to grace this occasion. I suspect, however, that my selection stems not from my reputation for sterling oratory and eloquent wisdom, but rather from the fact that I was the first full-time member of the staff of the Institute of Government in its early, bootstrap manifestation. In other words, I have squatter's rights to the podium.

As student, minion, colleague and friend of Albert Coates for almost half a century, I have never, until recently, associated with his name the word "bust." Indeed, if one ability stands out from his galaxy of superb abilities, it is the ability to convert into harbingers of progress the slings and arrows of outrageous fortune.

In no way do I minimize the significance of this occasion. It is appropriately laudable that posterity should have the opportunity to study the deceptive innocence of Albert's Johnston County physiognomy. The rural, small town, and intimate University scenarios in which he grew to maturity have had much to do with both his face and his fortune; and in any attempt to appraise him it is necessary to understand both.

It is easy now to forget that the stirrings in and the probings of Albert's mind and soul—the formation of his ideals and ambitions—began when he was a very young man. Few men have probed so productively, formulated so grandly, and adhered so tenaciously to youthful ideals. His whole career has been grounded upon his early , profound understanding of the remarkable combination of hope, faith and skepticism which imbued the Founding Fathers in launching the political experiment which we know as the United States of America. This understanding, still cleanly preserved, embraces, I am sure, a belief that the contemporary Bicentennial celebration should be regarded more as an occasion for steeling ourselves to meet the continuing challenge of human fallibility than as a time to take exhilarating but dangerous pride in power and prestige.

Recognition of human fallibility is implicit in the existence and the work of the Institute of Government. At a time when, below the surface of the Bicentennial extravaganza, betrayal of public trust begets cynicism and apathy, the Institute's existence and work are even more necessary than when it was founded. What could be more obvious than that it is wise to attempt to train public servants for intelligent and dedicated public service, to attempt to shape governmental action through knowledge rather than through prejudice or intuition, and to attempt to coach citizens to a better appreciation of the baffling practical problems inherent in what we describe—mayhap with some inaccuracy—as self-government?

The mission of the Institute, which Albert Coates staked out at a time when the means of achievement were minimal to nonexistent, is more challenging than ever. As long as its faculty strives to fulfill that mission the beneficent impact of Albert's inspiration will continue. And should such striving cease, this most skillfully wrought bust, while in no way deteriorating in artistic quality, will become a forlorn symbol of what might have been.

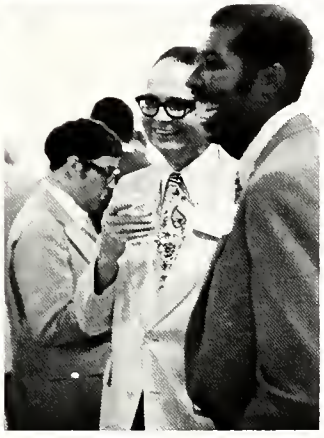
On an occasion such as this, particularly for one of my age, it is most tempting to regale you with reminiscences and sundry ramblings. I am persuaded, however, that such a performance would be more for my enjoyment than yours and, with your blessing, I refrain. In lieu thereof, I will close with a quotation from my favorite author.

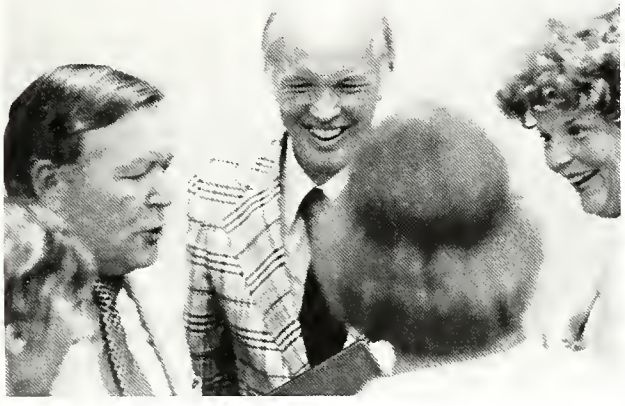
When the faculties of the Institute of Government and the Law School unanimously nominated Albert Coates for an honorary degree—an action unique in University history—I had the privilege of writing something which we all subscribed. It is as true and heartfelt now as then.

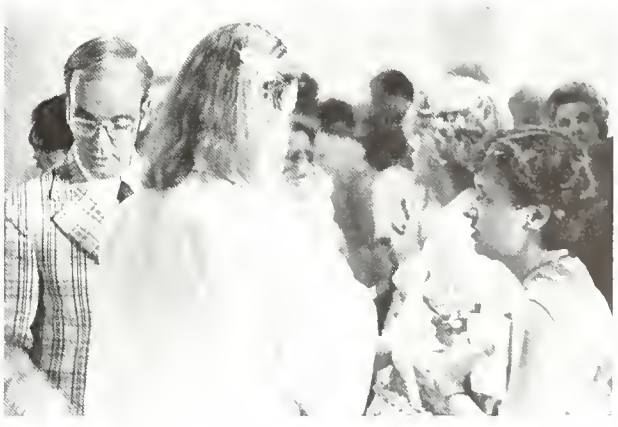
> Albert Coates is an authentic genius, with matchless words upon his tongue, peerless magic in his pen, lofty ideals in his heart, and iron purpose in his soul.

Mr. Lewis:

Often those who know us best know less than they think they do. Thus, even at a family gathering like this it may be appropriate to review a few biographical facts about the man we honor:







Albert Coates was born in Johnston County on August 25, 1896. He received the A.B. degree from this University in 1918, then served as a Second Lieutenant in the United States Army. He moved on to Harvard where he received the LL.B. degree in 1923 and returned to Chapel Hill to begin a teaching career that continues today. Within four years after joining the Law School faculty he was made Professor; and in June the next year he made the greatest move of his life; he was married to Gladys Hall, a graduate of Randolph-Macon who lived in Portsmouth.

I shall not attempt to describe Albert Coates' relationship with the Institute of Government—it is too intimate; but I do think it proper to mention some of the honors that have come to him both within the University and outside:

The first of these was the Di-Phi Award in 1951; the next year he received the O. Max Gardner Award. In 1960 Wake Forest make him a Doctor of Laws. Four years later the North Carolina Bar Association gave him the John J. Parker Award. Nineteen seventy-one saw him made Doctor of Laws by Duke University. Then at commencement in 1975 his alma mater testified to her respect by awarding him his third honorary doctorate. More recently, the State Association of County Commissioners and the North Carolina League of Municipalities have announced that they will name their joint facilities in Raleigh the Albert Coates Local Government Center.

These institutional testimonials speak for the man and for themselves. I now speak for myself.

In conversations about this occasion with my colleagues, several said they thought the most fascinating thing about Albert Coates was that quality that enabled him to attract, inspire, and hold the men and women he brought to the Institute staff. I am unwilling to try to unlock the mystery of the man; I will only say this:

Throughout history—on all continents, among all peoples—fire has been the symbol of light, heat, and the power that enlightenment brings. (The shield of this University is supported by lighted torches.) In an incredible assortment of contexts—athletic, intellectual, fraternal, religious—a frequently encountered ritual begins with a single flame in a darkened room; from that one candle those present light their own; and the light spreads. I will not elaborate on the figure. Obviously it fits the Institute of Government.

In all those rituals the root question is the same: how did the first light get lighted? In the case of Albert Coates, I think the answer to that question and the key to his genius is spontaneous combustion.

REMARKS

Albert Coates:

It is said that coming events cast their shadows before, and this is true of today's event. At breakfast on the 20th day of February my wife read to me from the *Chapel Hill Newspaper* a sentence saying that members of the Institute of Government staff had commissioned this sculptured bust of me. I did not take it in and asked her to read it again. It went all over me, picked me out of my chair, and carried me into my study where I poured out my feelings in this response, which is what should be called a love letter to every one of you. I did not get out of my chair until I had written what I am going to read to you now.

-1-

I am glad you did not try to take me by surprise. This day, like Christmas Day, is a greater day for me because you told me it was coming and thereby gave me the added gift of joy in the anticipation which would have been lost in the surprise. The beauty of this moment comes from the fact that it is not out of this world, but in it. It is the gesture coming from insiders of today, to an insider of yesterday—one whom you are bringing back into the inner circle for one enduring moment.

-2-

My wife and I have known two other moments in our lives that are akin to this.

The first was the day in 1956, after we had moved from the Institute on Franklin Street into this building. Former members of the staff came back to Chapel Hill to join with the current staff in a day of fellowship and celebration. They gave to us a silver platter with their names engraved on it in their own handwriting, and the cash from the oversubscription was enough for us to buy a silver punch bowl as a companion piece.

The second was the 28th day of August in 1962, three days before we were leaving the finest fellowship we had ever known. You gave us a going-away present—a silver tray with every paling put into the fence around it, and filled with sixteen silver julep cups.

The September issue of *Popular Government* for 1962 reports me as saying at that time:

> I am a moonlight, magnolia, and mint julep man. I love every one of these things for itself alone. Put them all together—in these silver julep cups, on this silver tray, in this golden company—and there is a mixture richer than the sum of all its parts.
>
> When I was a little boy living out in the country from Smithfield, the Sunday School would give

> us a card with a picture and a golden text for each Sunday morning lesson. One of these cards . . . had a picture of a bright and beautiful angel coming out of the clouds onto the mountain top, and under it the golden text: "How beautiful upon the mountains are the feet of him that bringeth good tidings." All of you look just like that . . . angel on the picture card.

What was in our minds and spirits then, is in our minds and spirits now. After fourteen years of absence from your councils, we could not say more, and we would not say less. And we cannot put more of our hearts into the saying, because our hearts have been with you all along the way. We did not take them with us when we left. The music we have heard with you was more than music, and the bread we broke with you was more than bread.

It was a day in last October that I was asked to sit for the making of this bust. The sculptor, Mr. William E. Hipp, III, looked at me, picked up a brick of clay, and began to work it into this image and likeness of me. He cast it in plaster, and then in bronze. And here it is. He must have breathed some of the breath of life into it, because when it was seen by Novella Harris, who comes to my house once a week to help with the house-cleaning, she smiled in recognition of it and said to my wife: "It looks just like Mr. Coates opening his lips to say 'Novy, it's a great life if you don't weaken.' " That is as true and eloquent a line as I know. And let me add another which is just about as true: "It's not so bad if you do."

Robert Frost has said that the substance of education is the art of "catching on." As a Professor Emeritus, I sometimes feel that I am in the position of Shelley's "bright and beautiful angel, beating in the void his luminous wings in vain" —with these three exceptions: I am not an angel, I am not beautiful, and now and then I feel that I am not real bright. But I am bright enough to catch on to the gracious thing that you are doing now.

During the trials and tribulations of the 1930s and 1940s, my wife got into the habit of quoting over and over again these lines from Shakespeare: "All these woes will serve for sweet discourses in our time to come." Surely the "sweet discourses" of this enduring moment are part and parcel of our time to come.

One good quote deserves another, and so let me add some lines from *Hamlet* in Act I, Scene I, where Marcellus refers to that season of the year when

> The Bird of dawning singeth all night long;
> And then, they say, no spirit can walk abroad;
> The nights are wholesome; then no planets strike,
> No fairy takes, nor witch hath power to charm,
> So hallow'd and so gracious is the time.

And that is the way we are feeling in this reunion moment on July 11, 1976.

-3-

I suppose I am as self-centered and as selfish as the average man—I hope no more so. I can think of three relationships in which I have measurably transcended these limitations. One of the relationships has been with the University of North Carolina in Chapel Hill, beginning with my freshman year in 1914, sixty-two years ago. One has been

with the Institute of Government, growing out of the Law School classroom given to me in 1923, fifty-three years ago. One has been with our home, beginning with our wedding in 1928, forty-eight years ago.

The question of priority in these relationships was bypassed when my wife and I decided that the Institute of Government would have the first claim on ourselves and our resources until we got it going to the point where it would keep on going after we were gone. We built the Institute's home on Franklin Street before we built our own home on Hooper Lane. The Institute had first claim on our salary until it came within the framework and the budget of the University of North Carolina at Chapel Hill in 1942, and whenever it was needed thereafter. This protective feeling is illustrated by a comment of Robert House, Chancellor of the University at that time: "A setting hen can spy a hawk quicker than any animal in the neighborhood, and Albert can spy a threat to the Institute of Government quicker than anybody in the University or out of it."

What I have said up to now is what I wrote down when I went into my study in the afternoon of February 20, after learning of your gracious action which is coming to its fulfillment this afternoon. Perhaps I ought to let it go at that. But one of my persisting faults, according to my wife, is that when I get to talking, one thing leads to another, and so on ad infinitum. I have responded to her complaint by saying that when I talk out of my knowledge there are decided limits to my conversation, but when I talk out of my ignorance there is no end to it.

I am talking out of my knowledge when I put this occasion in perspective by saying that for thirty years the highest compliment I could pay to any man on earth was to invite him to join the staff of the Institute of Government. I am talking out of my knowledge when I say that I never brought on the staff anyone whom I did not think was actually or potentially a better man than I was, or whom I did not think could push me for first place. Whatever my colleagues and I have differed on throughout the thirty years I was director of this Institute of Government, we have always agreed that I had achieved that purpose.

Let me go one step further along this line—the occasion calls for it and noblesse oblige demands it. Henry Lewis has called the roll of the many public recognitions of the work of the Institute of Government that have come.

All of these awards have come with my name on them in big letters. But if you read the fine print as I have done, every one of them, without exception, goes on to say that my name is on it because of the work of the Institute of Government. I know who has done that work. You know it, too. So did the givers of these awards. So does everybody else. I may have been the spearhead of the Institute of Government, but you have been the force behind the spearhead giving the forward thrust to a cutting edge. I may have drawn the outlines of the Institute of Government, but you have filled in its features and breathed into them the breath of life. I may have dreamed of a new university of public officials in the framework of the old University of North Carolina, but your work has built it. If I could choose one thing for you to remember about me in years to come, I would choose for you to remember, that I have never forgotten that fact. Let me put my feeling in a poet's words: "There's a place in my memory, my life, that you fill. No other can take it. No one ever will."

If you want my version of the part I have played in our common enterprise, I give it to you in one illustrative incident. Years ago I stood in New York Harbor and saw a steam tug pull an ocean liner out to sea, and then turn around, get out of the way, and come back into port, while the ocean liner got going and kept on going on its own. I had the good fortune to pick better men than I was for my crew, and then got out of their way.

-4-

I am writing down the story of this work that we have done together. It will run around three hundred pages and will cover the forty years from my coming to the law school classroom on the first of September 1923 to my going from the Institute of Government on the first of September 1962. It will describe the work that has been done throughout these years and carry the names and faces of those who have done it—as they were then, with the accent on youth, to point up the great things done by boys just out of school.

I am living it all over again as the memories of those years roll in, and when I use the pronoun I, I am using it with the common law doctrine that man and wife are one and the man is the one. For I met her in Portsmouth, Virginia, in June of 1923, on the way from Cambridge to Chapel Hill, brought her here as a bride in 1928, walked by the steps of Manning

Hall where the students gathered between classes, and one of them passed a judgment which has grown into a legend through the years, handed down from one generation of students to another: "Boys, there goes Tidewater Virginia and Rainwater North Carolina."

The years of the Institute of Government fit like a glove over the years of our courtship and married life. The Institute of Government was a'borning when we were married in 1928 and our wedding trip was interrupted, and rerouted through Chapel Hill, to tend to an emergency which had been created by a willing helper, in a non-lucid moment. Recurring emergencies, surfacing in lucid and non-lucid moments, have been disturbing us with the joy of more or less elevated thoughts ever since.

It is altogether fitting and proper that we should invite you to a celebration of our 50th wedding anniversary on the Sunday nearest the 23rd day in June 1978. Invitations will go out to all whose lives have been written into our story for however short a time, beginning with Henry Brandis and Martha Louise who were the first to come, in April 1932, and continuing to the eve of June 23 in 1978, coming together as one whole which is greater than the sum of all its parts.

Only one thing can prevent my being at this reunion. I am 79 years old. If I live as long as my mother, I have two more years to go. If I live as long as my father, I have six years to go. Not long ago I learned that my grandmother on my father's side lived till she was ninety-two. I took this learning to the Lord in prayer, told Him I was lifting my living sights to a longer span, and promised Him that I would keep out of His hair if He would keep out of mine. I heard Him chuckle. But come to think of it, I am not sure what that chuckle meant. If it meant that He would carry me on His books for two more years, I will be around on June 23, 1978. But I want you to know that I have provided for the contingency that He meant less than that.

In an art gallery in London in 1965, my wife and I saw two great murals covering opposite walls and portraying two artists' conceptions of the earth on resurrection morn when Gabriel blows his horn. Grave mounds were falling in. Tombstones were toppling. Faces were peering out—a little lean and gaunt from the long fast. I turned to my wife and said: "Sweetheart, scripture says that when Gabriel blows his horn, all arms, legs, heads and limbs lost in life will be rejoined in the instant twinkling of an eye, and all bodies will be made whole. There is going to be one hell of a lot of traffic

in the air on that morning. Let's you and me agree right now that we will stay under cover for the first part of the day, and start out for Chapel Hill around noon." So, if you get here before we do, don't give us up, we will be here between twelve and one o'clock.

Mr. Lewis:

No more need be said. Let's go next door into the foyer of the auditorium, examine Bill Hipp's work, have a glass of champagne, and greet each other.

RECEPTION

honoring Gladys and Albert Coates

ARRANGEMENTS COMMITTEE

Philip P. Green, chairman

Marjorie Bounds	Elmer R. Oettinger
Joan G. Brannon	Mason Page Thomas, Jr.
Joseph S. Ferrell	Lewis Poindexter Watts
David M. Lawrence	Warren Jake Wicker

What Are Our Most Important Environmental Problems?

A survey of 1,000 influential North Carolinians

Bruce B. Clary
Charles E. Roe
Emilie F. Swearingen

Recently the Environmental Studies Council at the University of North Carolina surveyed 1,000 influential North Carolinians to find what they considered to be the state's most important environmental problems. These 1,000 "opinion-makers" were selected because they were all in a position to influence both public attitudes toward environmental problems and governmental decisions that affect the environment. In fact, because the public knows so little about environmental problems, these opinion-makers may have even more influence in this field than in other policy areas. The survey was made in the hope that the results will help policy-makers establish the order in which this state's environmental problems should be tackled.

The questionnaire asked recipients to rank, on a five-point scale, the importance of sixty environmental issues, and then to note which ten issues they thought were *most* important. The respondents (620 out of 1,000 replied to the questionnaire, which was mailed) were also asked their occupational or interest group (the affiliation group) and where they lived (the locational group). Specifically, they were asked for their region and county of residence.

Dr. Clary is a professor in the department of politics at N.C. State University. The other authors were researchers with the Environmental Studies Council of the University of North Carolina.

Issue importance

To establish a measure of the importance assigned to each issue, we added the percentage of respondents who marked the high or very high importance rank on the rating scale for that issue and the percentage who placed it among the ten most important environmental problems, and then we divided by two. The result is the importance index of that issue. Table 1 shows the twenty issues with the highest index value.

Water quality and waste disposal are clearly important problems to our opinion-makers. Industrial pollution of water and disposal of solid waste have the highest ranking, and domestic and municipal pollution of water, water shortages, and hazards to drinking water also place in the top twenty. Why do these issues rank so high? One possible reason is that the tremendous amounts of federal money that are available for municipal sewage treatment construction has focused attention on standards of acceptable water quality. Also, recent legislation designed to stop the irresponsible use of water as a dumping place for wastes has brought a lot of pressure to develop satisfactory disposal systems, and industry has become interested in recovering materials and energy from waste rather than simply disposing of it.

Other issues that appear in the top twenty include the role of government in environmental management and the kinds of policies that might be used to deal with environmental problems. The opinion-makers were also concerned about the costs of governmental regulation of the environment, about the problems of land use and management of natural areas, and about nuclear power and the effects of energy generation.

Issues clusters

Another way of looking at the survey results is in terms of groups of related issues instead of single problems. By a statistical procedure known as factor analysis, we grouped the issues into clusters on the basis of patterns of responses evident in the survey. In the pattern that most often emerged, a group (or cluster) of issues were all ranked low or high by the same subsample of respondents.

The issues within each cluster pertain only to a single substantive problem, such as land use or water quality. No cluster contains several substantive

Table 1
Ranking of Issues in Importance by 620 Respondents

Issue	% Who Ranked Issue As High or Very High	% Who Ranked Issue Among Top 10	Importance Index	Rank
Problem of disposing of solid wastes	62	34	48	(1.5)**
Impacts on water quality by industrial wastes	74	22	48	(1.5)**
Designation and protection of important natural areas	66	28	47	(3.0)**
Public participation and understanding in environmental decisions	62	29	46	(4.0)**
Impacts on water quality by domestic and municipal wastes	70	20	45	(5.0)*
Government accountability and openness to citizen concerns over environmental policies	59	25	42	(7.0)**
Economic costs to consumers and the private sector — as opposed to benefits — of pollution control	55	28	42	(7.0)*
Coordination problems and pre-emption conflicts among government agencies in environmental affairs	60	24	42	(7.0)**
Alternative economic incentives to achieve environmental quality goals	57	20	39	(10.5)*
Shortages of water supplies for domestic and industrial use	56	21	39	(10.5)
Acceptability of nuclear power plants within the human environment	54	23	39	(10.5)
Environmental effects of energy generation	57	21	39	(10.5)*
Conflicts between the goals of environmental quality and employment opportunities	52	23	38	(14.0)*
Drinking water quality hazards	55	20	38	(14.0)
Environmental costs of urban and suburban sprawl and leapfrog development	56	19	38	(14.0)*
Extent of environmental regulations by government agencies	52	21	37	(17.0)
Conflict between the goals of environmental quality and individual liberties	51	23	37	(17.0)*
Building in areas susceptible to natural hazards	53	21	37	(17.0)
Erosion of lands and roads and sedimentation of waterways	56	15	36	(19.5)
Inadequate funds for attainment of environmental standards	58	13	36	(19.5)*

* Ranked among highest ten issues on one measure.
** Ranked among highest ten on both measures.

issues. We interpreted these facts to mean that the issues within a group had similar causes and other common denominators. The respondents, however, did not perceive different substantive problems as having common dimensions.

Table 2 shows the twelve clusters that we identified, and how the respondents ranked each group of issues in importance. The issues that make up the clusters are listed below the table.

Issue differences between affiliation and locational groups

We asked the respondents about their group affiliation and where they lived because we thought that these factors might cause disagreement. The respondents may be placed in these groups: the public sector (local and state government officials), the private sector (business and industry), professionals (educators, lawyers, architects, planners, engineers, scientists, journalists, etc.), and citizens' associations. We grouped the respondents by residence according to whether they lived in the Sea Coast, Coastal Plain, Piedmont, or Mountain region, and whether from a Standard Metropolitan Statistical Area.

Table 3 shows how each affiliation and locational group ranked the issues. All of the affiliation groups ranked water quality as the No. 1 environmen-

Table 2
Issue Clusters

Cluster Groups of Issues	*Import. Index*	*Rank*
Water Quality (N=2)	47	1
Water Shortage (N=1)	39	2
Energy Consumption Spillovers (N=3)	38	3
Preservation of Natural and Historical Areas (N=2)	37	4
Effectiveness of Environmental Protection Measures (N=1)	35	5
Government and Policy (N=7)	34	6
Erosion Effects (N=4)	33	7
Waste Recycling (N=2)	32	8
Land Use (N=8)	31	9
Management of Natural Areas (N=4)	28	10
Pollution and Hazards (N=4)	26	11.5
Parks and Recreation (N=2)	26	11.5

Issues in Each Cluster

Water Quality
1) Impact on water quality by domestic and municipal wastes
2) Impact on water quality by industrial wastes

Water Shortage
1) Shortages of water supplies for domestic and industrial uses

Energy Consumption Spillovers
1) Environmental effects of energy consumption
2) Environmental effects of energy generation
3) Nuclear power plants close to human settlement

Preservation of Natural and Historic Areas
1) Designation and protection of important natural areas
2) Loss of historic properties and cultural resources

Effectiveness of Environmental Protection Measures
1) Effectiveness of environmental protection efforts by state and local governments

Government and Policy
1) Disincentives to industrial/commercial development caused by environmental controls
2) Economic costs to consumers and the private sector of pollution control
3) Conflicts between the goals of environmental quality and individual liberties
4) Loss of local tax bases because of governmental land purchases and environmental regulations
5) Conflicts between the goals of environmental quality and employment opportunities
6) Extent of environmental regulation by governmental agencies
7) Lack of coordination and cooperation between government agencies in environmental affairs

Erosion Effects
1) Erosion of lands and roads and sedimentation of waterways
2) Pollution problems resulting from fertilizers, pesticides, herbicides, and animal wastes
3) Storm-water runoff from land development
4) Floodway and watershed management problems

Waste Recycling
1) Need for recycling programs for industrial waste
2) Need for recycling programs for domestic waste

Land Use
1) Environmental conflicts of incompatible mixed land uses in rural areas and urban fringes
2) Environmental costs of urban/suburban sprawl and leapfrog development
3) Effects of tax policies on development and land use decisions that damage the environment
4) Use of growth management methods to assure a quality environment
5) Land use conflicts between privately and publicly owned lands
6) Increasing ugliness of the urban and rural scene
7) Intensive development of formerly open space (farmlands, timberland, natural areas)
8) Environmental impact of human population changes in North Carolina

Management of Natural Areas
1) Loss of wildlife habitats and fishery breeding waters
2) Threats to and changes in native wildlife populations
3) Decline of fishing quality and quantity
4) Agricultural, timber, fish and wildlife population losses from pollution

Pollution and Hazards
1) General public health hazards from pollution
2) Occupational health hazards from pollution
3) Air quality in rural areas
4) Air quality in urban areas

Parks and Recreation
1) Need to improve existing parks and recreation areas
2) Need for more recreational facilities

tal problem. Of the affiliation groups, public officials and professionals agreed most often, and the private sector disagreed most often with the other groups—especially with the citizen interest groups. For example, the government and policy cluster is ranked No. 2 by the private sector, but no higher than 7.5 by the other affiliation groups and is the lowest-ranked cluster for citizen groups. This disparity probably reflects a historic reluctance of the industrial and business interests to accept government regulation of the environment.

Table 3 also shows how the locational groupings ranked the clusters. Water quality still stands at the top. Locational groups show more agreement on their rankings than affiliation groups. Respondents from the Piedmont, Mountain, and Coastal areas ranked the issues similarly. But the Sea Coast rankings, which differ more substantially from the other regions, probably reflect the area's isolation and its lower level of economic development.

Both the metropolitan and nonmetropolitan groups ranked water quality as their top concern. The only major differences in the way those two groups ranked the issues in importance were in energy consumption spillovers (greater concern in nonmetropolitan areas) and

(Continued on Page 38)

Table 3
Ranking of Issues by Affiliation and Locational Groups
(Figures in columns represent the importance index and rank.)

	Group Affiliation				Regional Location				Metropolitan (SMSA) Location	
Issue Cluster	Public Sector (214 respondents)	Private Sector (157 respondents)	Professional (144 respondents)	Citizens' Interest Group (41 respondents)	Mountain (93 respondents)	Piedmont (380 respondents)	Coastal (104 respondents)	Sea Coast (44 respondents)	Metro. (343 respondents)	Non-Metro. (278 respondents)
Water Quality	49%(1.0)	44%(1.0)	45%(1.0)	55%(1.0)	48%(1.5)	49%(1.0)	43%(1.0)	46%(1.0)	46%(1.0)	49%(1.0)
Water Shortage	44%(2.0)	37%(3.0)	32%(5.5)	29%(10.0)	34%(9.0)	40%(2.5)	36%(2.0)	33%(6.0)	38%(3.0)	39%(2.0)
Energy Consump. Spillover	39%(4.0)	32%(5.0)	39%(2.0)	38%(6.5)	36%(3.5)	40%(2.5)	32%(4.5)	32%(8.0)	40%(2.0)	34%(7.0)
Preserv. of Nat. & Hist. Areas	35%(6.5)	30%(6.0)	35%(4.0)	40%(4.5)	35%(6.5)	31%(8.0)	29%(8.0)	30%(10.5)	37%(4.0)	38%(3.5)
Effect. Env. Prot. Measures	40%(3.0)	19%(11.5)	37%(3.0)	46%(2.0)	48%(1.5)	34%(4.0)	30%(6.0)	38%(2.0)	36%(5.0)	33%(8.0)
Govt. and Policy	32%(9.0)	43%(2.0)	30%(7.5)	21%(12.0)	35%(6.5)	33%(5.0)	34%(3.0)	34%(4.5)	33%(7.0)	36%(5.0)
Erosion Effects	35%(6.5)	24%(7.5)	30%(7.5)	42%(3.0)	35%(6.5)	32%(6.0)	32%(4.5)	32%(8.0)	33%(7.0)	38%(3.5)
Waste Recycling	37%(5.0)	33%(4.0)	27%(11.0)	36%(8.5)	35%(6.5)	31%(8.0)	29%(8.0)	30%(10.5)	29%(10.0)	35%(6.0)
Land Use	33%(8.0)	22%(9.0)	32%(5.5)	40%(4.5)	36%(3.5)	31%(8.0)	27%(11.0)	34%(4.5)	32%(9.0)	30%(10.0)
Manage. of Nat. Areas	25%(11.0)	24%(7.5)	28%(9.5)	38%(6.5)	33%(10.0)	29%(10.0)	29%(8.0)	36%(3.0)	28%(11.0)	32%(9.0)
Pol. & Hazards	24%(12.0)	21%(10.0)	24%(12.0)	36%(8.5)	27%(11.0)	28%(11.0)	24%(12.0)	21%(12.0)	33%(7.0)	26%(11.5)
Parks & Rec.	30%(10.0)	19%(11.5)	28%(9.5)	25%(11.0)	26%(12.0)	25%(12.0)	28%(10.0)	32%(8.0)	27%(12.0)	26%(11.5)

A Parole Commission Survey of Sentencing Judges

Jack Scism

DO NORTH CAROLINA'S JUDGES, anticipating that convicts will be paroled at the earliest possible date, routinely and regularly determine the amount of time they think defendants should serve and then quadruple that time in imposing sentence?

Some people contend that they do. Two years ago a legislative study commission looking at the state's correctional system was told flatly that judges indeed follow this practice, and attorneys steadily contend that they do in pressing for parole of inmate clients.

But if longer sentences are being imposed to offset the probability of parole at one-fourth of sentence (the earliest possible under North Carolina law), the judges themselves do not admit to it. At least, an overwhelming majority of those who responded to a recent Parole Commission survey denied that they regularly lengthen sentences to offset the likelihood of early parole, although many acknowledge that they are aware of this possibility. Of the 49 present and recent superior court judges who returned the questionnaire, 37 answered "no" when the question was put to them. Only four said that they do anticipate parole at one-fourth and therefore quadruple the amount of time they think the defendant should serve in order to be certain he serves that amount. Five said that they sometimes do so.

This question was one of eight included in the survey prepared by the Commission and sent to all current and recent superior court judges. The purpose of the survey was to gather information needed by the Commission in re-examining certain of its policies that have come under criticism. The Commission, having often heard claims that it was both ignoring the sentencing judge's intent and imposing its judgment over his, decided to go to the judges themselves to find out whether its policies had this effect.

One criticism often directed at the Commission is that it denies parole promptly at one-fourth to repeaters. The Commission rarely grants parole at the earliest eligibility date to inmates who are repeaters; it reserves parole at one-fourth almost exclusively to first offenders and first admissions. Critics contend the Commission's heavy emphasis on the inmate's previous criminal history too often outweighs his good prison conduct. They further argue that the sentencing judge quadruples the amount of time he wants the inmate to serve in the expectation that the inmate will be paroled at one-fourth if his behavior is good, and therefore it is prison conduct that should determine whether parole is granted. If judges do consistently quadruple sentences as the Commission's critics claim, the argument would appear to be valid and the Commission, in making its decisions, should play down prior criminal history and upgrade the importance of prison conduct.

The Commission is also sometimes criticized for denying parole "because of the nature and circumstances of the crime." When the Commission denies parole for this reason, it is in effect saying that it does not believe the inmate has been punished sufficiently, that parole at that point would depreciate the seriousness of the crime committed. Critics here charge the Commission with seeking to superimpose its judgment over the court's. The judge, they argue, has heard all the evidence, has determined the seriousness of the crime, and has imposed a sentence accordingly. In substance, the critics contend that the legislature, by making parole available at one-fourth, has decreed that serving 25 per cent of sentence is sufficient punishment for the crime itself, that the judge is aware of this legislative decision and has incorporated it into his sentence, and that the nature and circumstances of the crime should therefore not be a matter of overriding concern to the Parole Commission.

Not infrequently, when the Commission denies parole because of "nature and circumstances of the crime," the reason is that the inmate was the beneficiary of plea-bargaining in which he pleaded guilty to a much lesser offense than the evidence indicated was committed. In every felony case and most misdemeanor cases in which the sentence is a year or more, the Parole Commission obtains what it calls an "official version of crime"—usually from the investigating law enforcement agency but occasionally from the prosecuting district attorney, the trial transcript if available, or a summary prepared for the Court of Appeals. The Commission's field investigation also usually discloses whether the inmate pleaded guilty to a lesser offense than that with which he was first charged. Again this practice has been questioned by critics, who charge that the Commission is interjecting itself into the judicial process by seeking to impose upon the inmate a more severe penalty than that sanctioned by the judge who pronounced sentence and was aware of the plea-bargaining.

The Commission, after hearing these criticisms repeat-

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edly, decided that it should find out whether its critics were right or whether its practices were consonant with legislative and judicial intent. The best way to find out, it seemed to the Commission, would be to go to the judges, since all the arguments revolve around what the judges do and do not do, intend and do not intend. Hence, the survey.

FORTY-NINE JUDGES answered some or all of the questions included in the survey, which was accompanied by a cover letter explaining the purpose of the survey and citing some of the criticisms heard by the Commission. The judges were invited to elaborate on their answers if they cared to but were not asked to sign the returned questionnaires. Most of them did not sign but did write out additional comments on the margins and back of the questionnaire, and several elaborated at some length by letter.

The first question asked how often the judges were aware of the defendant's criminal history (i.e., previous arrest, conviction, and incarceration record). Forty-three judges said that they always or often either had such a record available to them or tried to obtain it before sentencing. Four said that they "sometimes" obtained the previous record. None said that they "rarely" did so. Among those who checked the "often" block (several judges made such comments as "always" or "practically always"), one noted, "However, the complete record is rarely available—usually only the local record is available, plus the motor vehicle record. Local records often are missing or incomplete."

In a follow-up to the first question, the survey asked whether, if the judge knew that the defendant has a previous record, he tended therefore to lengthen the sentence. Twenty-five judges replied "yes," twenty-one said "sometimes," and one said "no." Again some of the judges elaborated or qualified on their answers with additional remarks. Noted one, "It [previous record] is always considered—the sentence, however, is not necessarily lengthened because of it alone." Another remarked, "If the conviction is for the same type of offense, I would sometimes tend to lengthen the sentence." Another commented, "This depends upon the type of record."

The next question, which concerned the nature and circumstances of the crime, had two parts: "In your opinion, should the Parole Commission: (a) Consider the nature and circumstances of the crime committed? (b) Assume the sentence imposed by the court provided for this sufficiently?"

In answering the first part of the question, the judges were nearly unanimous—46 said the Commission should indeed consider the nature and circumstances of the crime; only one said "no." The 42 judges who answered the second part were sharply divided: 24 said "yes," 18 said "no." Apparently this question was poorly worded, since many of the judges who said "yes" to the second part made it clear through their penned-in comments that they were answering as to the total sentence and not to parole at one-fourth. The judges' answers to another question on the survey tended to confirm this. One judge who responded with a letter may well have summarized the view of most of his colleagues: "Whenever a judge is unusually severe in imposing a sentence on a prisoner, I am confident the prisoner and his attorney will want you to look into the nature and circumstances of the crime . . . although the prisoner and his attorney will not want you to consider these factors when the court's judgment is unusually favorable to him, it is only fair that everybody be fed from the same spoon and that society should have you look into the nature and circumstances of the crime for its protection."

The response to the fourth question was split: "Should the Parole Commission consider the fact that the inmate's sentence resulted from plea negotiations?" Twenty-six said "yes," twenty-one said "no." The judges also commented extensively on this question. One of them seems to have spoken for his colleagues who agree that the Commission should determine whether sentence resulted from plea-bargaining: "We now have many defendants who are allowed to plead to a lesser included offense, often a misdemeanor when a felony was charged, and I do not think they should be considered in the same light as a person originally charged with a lesser offense." Another who answered "yes" commented, "An innocent defendant may possibly be convicted, but I have never known an innocent defendant to plead guilty."

Those who think the Commission should not involve itself with whether a plea was negotiated made it clear they consider this a matter adequately handled by the courts. Remarked one judge, "Generally when the DA accepts a plea to a lesser offense, he cannot prove the greater offense." And another wrote, "Where plea negotiated and transcript so shows, judge intended sentence imposed." And another pointed out that "at the time the court imposed judgment it had a great deal more information from both sides than will ever be available to the Parole Commission, . . . the information is probably highly accurate because it is subject to examination and scrutiny according to rules of evidence, and . . . the trial court probably imposed a judgment that is fairly reasonable in view of all the circumstances then existing."

The fifth question was, "Do you assume that defendant will be paroled at one-fourth of sentence if his prison conduct is adequate?" Twenty-five judges said "yes," but twenty-one said "no." On this question also, many judges wrote elaborations. One who said he did not make this assumption noted, "I know this is a possibility, but I also know that many people are in jail." Another judge who said he does not assume automatic parole at one-fourth qualified his answer with the comment, "However, I note a tendency toward early parole." One who said he does anticipate parole at one-fourth added bitingly, "I am forced to do so—it in fact amounts to resentencing by you."

Finally, Question No. 6 raised the specific issue, "Do you sentence in anticipation of parole at one-fourth, i.e., determine amount of time you think defendant should serve and then quadruple this?" As noted earlier, the overwhelming majority (37) said "no," only four said "yes." The questionnaire gave the judges only the two "yes" or "no" choices, but five judges created a third choice, making and checking a block for "sometimes." Two others simply wrote "Do consider" on the side without checking a block.

Several judges who said that they do not quadruple sentences as a matter of practice added postscripts to indicate that the possibility of parole at one-fourth does weigh on their minds. Said one, "Obviously the possibility is

Table 1

Results of Survey of Superior Court Judges Concerning Sentencing and Parole

1. In imposing sentence, how often are you aware of defendant's criminal history (previous arrest, conviction and incarceration record)?

   Often ( ) 43 Sometimes ( ) 4 Rarely ( )

2. If defendant has a previous record and you are aware if it, do you tend to lengthen the sentence because of this?

   Yes ( ) 26 Sometimes ( ) 21 No ( ) 1

3. In your opinion, should the Parole Commission:

   a. Consider the nature and circumstances of the crime committed?

      Yes ( ) 46 No ( ) 1

   b. Assume the sentence imposed by the court provided for this sufficiently?

      Yes ( ) 24 No ( ) 18

4. Should the Parole Commission consider the fact that the inmate's sentence resulted from plea negotiations (i.e., convicted of a lesser offense than actually was committed, or guilty plea resulted in nol pros of other charges)?

   Yes ( ) 26 No ( ) 21

5. Do you assume that defendant will be paroled at one-fourth of sentence if his prison conduct is adequate?

   Yes ( ) 25 No ( ) 21

6. Do you sentence in anticipation of parole at one-fourth (that is, determine amount of time you think defendant should serve and then quadruple this)?

   Yes ( ) 4 No ( ) 37 Sometimes ( ) 5
   Do Consider ( ) 2

7. See chart below.

8. What is your purpose when using an indeterminate sentence? (See text.)

7. Listed below are factors the Parole Commission uses in considering cases. Realizing that one factor may outweigh others in individual cases, what order or significance do you think each factor should be assigned ordinarily?

Factor	*Priority*									
	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th
Previous court and/or prison record (criminal history)	10	10	4	4	1	0	2	1	0	1
Record of assaultive nature	1	6	6	8	1	3	3	1	0	1
Nature and circumstances of crime	13	6	8	2	2	1	0	1	2	0
Prison conduct (including escapes)	6	1	5	7	8	1	0	1	4	1
Psychiatric/psychological reports	0	3	5	3	2	3	5	5	3	2
Alcohol/drug problem	1	0	1	1	3	7	5	5	4	2
Previous parole/probation performance	1	8	0	5	8	6	3	0	2	0
Opposition from officials/community	2	0	1	0	2	4	1	7	1	15
Participation in work release/ study release, other rehabilitative programs	1	0	4	2	2	4	4	2	10	2
Employment/residence plans for parole	1	1	2	3	2	3	5	6	3	5

Some judges gave duplicate ratings — the duplicate ratings were not tabulated.
Some judges answered part of questions — left others blank — tabulated ratings given.
Fourteen judges did not complete any of question #7 or their answers were not computable, i.e., Major, High, Medium, Low.

considered, but I don't use any mathematical rule." Another said, "I consider whether parole is probable." And another added, "I do consider this, but it is not a hard and fast rule to quadruple the time." One judge who first answered the question "yes" but scratched that out and went to "sometimes" explained, "I started to answer this 'yes' but then realized that answer does not accurately reflect what I do. In many cases I give a long sentence because the chances are the defendant will be paroled at one-fourth." One judge who said "no" to this question remarked, "But it is one of several sentencing considerations." Still another said "no" and then added, "Not as a rule. Occasionally do so if I want a split sentence effect." One judge who said that he does quadruple sentences commented, "I determine the minimum that I feel he should be required to serve and quadruple it frequently. If you keep him longer, that is fine." A judge who responded to the survey with a letter wrote, "While our appellate courts have said that a judge should not take into consideration that the defendant will be paroled at one-fourth of the sentence if his prison conduct is adequate, I think that as a matter of fact every judge is well aware of this. If the judge feels that under all the circumstances the defendant in an armed robbery case should serve at least ten years, the court then must impose a much longer sentence."

The seventh survey question listed the ten principal factors now used by the Parole Commission in considering cases and asked the judges to rate these in the order of significance they felt should ordinarily be assigned to each factor. The ten factors are:

(1) Previous court and/or prison record;
(2) Record of assaultive nature;
(3) Nature and circumstances of crime;
(4) Prison conduct;
(5) Psychiatric/psychological reports;
(6) Alcohol/drug problem;
(7) Previous parole/probation performance;
(8) Opposition from community/officials;
(9) Participation in work release, study release, other rehabilitative programs;
(10) Employment/residence plans for parole.

As might have been expected from the judges' response to an earlier question, when their rankings of the criteria were compiled, the factor that received top rank most often (by 13 judges) was nature and circumstances of crime, followed by previous criminal history (by 10 judges). All but eight judges thought nature and circumstances should be one of the top three criteria used for parole, and all but nine put previous criminal history in the top three.

The Commission criteria that left the judges generally unimpressed were community/officials, opposition and participation in rehabilitation programs. Fifteen judges listed the former as the least important consideration, and ten ranked participation in rehabilitation programs as next to last. One judge commented that opposition to parole is "usually unreliable," and another wrote, "Police attitudes should not govern." One judge, however, thought otherwise, terming community opposition "most important."

As for the value of participation in prison programs, one judge's letter showed a skepticism hinted at by others, "I think the experienced criminal knows enough to keep his nose clean in prison, and to get all the stars in his crown possible from taking part in study release and rehabilitation programs. Participation in these programs seems to have no relation with recidivism."

The final survey question asked the judges what their purpose is when imposing indeterminate sentences; it was included in the survey to give the Commission some guidance in an area that recently was placed under its jurisdiction. Until 1974, the Commissioner of Corrections could release outright or conditionally release an inmate who had served the minimum portion of an indeterminate sentence (i.e., three to five years, six to ten years, 15 to 20 years), but this responsibility has been transferred to the Parole Commission.

Since this question could not be answered "yes" or "no," the judges' replies could not be tabulated. But in analyzing their responses, four major purposes appeared evident:

(1) Many judges put the minimum on for the inmate's benefit, and this is the amount of time they want him to serve, but they add a maximum to encourage his good behavior in prison and to permit retaining him in prison if he appears to be still dangerous.
(2) Some judges impose a minimum and a maximum when they are uncertain about the defendant's potential rehabilitation and thus leave this decision to the Parole Commission, which has an opportunity to observe his behavior over a period of time.
(3) Some judges use the minimum to benefit the inmate and the maximum to satisfy public demand for stiff punishment.
(4) Some judges question the value of indeterminate sentences and never or rarely ever use them.

The following compilation of judicial responses fits under no. 1 above:

— Assume conduct must be good or he will not be given advantage of shorter sentence.
— The minimum to serve in full; the maximum should be determined by Parole Board.
— My main purpose is to make a better prisoner of the defendant.
— I suppose I use an indeterminate sentence to impress upon the offender that he could serve the maximum of such sentence.
— To provide incentive for good prison conduct; in some cases to express my view as to the maximum seriousness of the offense, as example, but to take into consideration mitigating circumstances or rehabilitative purposes.
— To encourage the prisoner to obey the prison rules and regulations and offer hope of shorter service in prison.
— To provide the Department of Correction a useful tool in the rehabilitation, if possible, of the prisoner.
— To provide incentive to good behavior before and during release on parole. I do not use it often—almost never for young offenders, as I believe the uncertainty is counterproductive.
— To allow Department of Correction officials to further detain a dangerous offender in the event they believe release might pose danger to society.
— So that the defendant may be held longer than the minimum sentence if necessary.
— To allow Parole Commission to act on the minimum if justified.

— A primary purpose is to try to give Prison authorities a better opportunity to exercise control of the prisoners.
— For the department to consider what amount, if any, the convicted one should serve above the minimun.
— Serve minimum if prison record acceptable, otherwise within maximum.
— I am attempting to provide some area of flexibility to the Department of Correction and to enable the Department of Correction to extend the sentence if conduct of defendant warrants.
— To permit the maximum to be served if conduct after sentencing reflects lack of desire to become a law-abiding citizen.

About as many judges said they imposed a minimum and maximum to provide incentive to the inmate for rehabilitation and flexibility to the Parole Commission in determining the optimum time of release, since the Commission may parole at one-fourth of the minimum. Here is a compilation of such responses:

— To leave the matter in the hands of the Commission in determining what is best for society and this defendant as to when parole is granted and under what conditions.
— To permit more detailed evaluation by prison authorities than is possible at sentencing. It may have some effect upon conduct of offender in prison—both as to encouragement and deterrence. It may also have a public impact.
— To allow some wider discretion in parole and treatment of the prisoner.
— I want to allow some wider discretion in parole and treatment of the prisoner.
— I want to allow the man and the Parole Commission some latitude and it gives the inmate the key to the jailhouse to a certain extent.
— To give the Parole Board a chance to release the defendant after it can investigate the case better than I was able to do.
— It is my purpose to give the Parole Commission greater discretion in determining how long the individual will be incarcerated. If the inmate's conduct indicates progress in the rehabilitative area, I intend for him to be released at the earliest date. If not, then I intend for him to serve a more lengthy sentence.
— To permit early release of youthful offenders if conduct is good and Parole Board feels that rehabilitation could thereby be better served.
— To give Parole Commission greater latitude in determining when parole should be granted.
— Hopefully his conduct should be such it would show rehabilitation and he could work toword the goal of an early or earlier release.
— To enable the authorities to parole subject when he has obtained maximum improvement.
— To afford an opportunity for a short sentence with guidance after release.
— Sometimes I use it to put added pressure on a defendant to be an exemplary prisoner and to participate fully in rehabilitative efforts. Other times, I'm merely building in a safety check against poor judgment on my part. I think some judges use the upper end of it to pacify the public.

Several judges candidly acknowledged that they use a minimum and a maximum to accomplish at least two purposes: The shorter sentence benefits the inmate, while the maximum serves to deter and also satisfies the public. "Public relations primarily," said one judge in response to the question. "Only for deterring others by effect of maximum sentence when published in newspaper," said another. Still another judge noted, "A type of case a judge sometimes runs into is a case in which there is a great deal of community feeling that must be legitimately satisfied, but the judge feels that there were extenuating circumstances which reduce the culpability of the defendant. By using an indeterminate sentence with a gap between the minimum and maximum, the judge is able to satisfy the popular clamor to 'be tough' in the community, and also to give the defendant the chance which he deserves."

Several judges said they either never or rarely impose such sentences. Explained one, "I use an indeterminate sentence very rarely and then only when I have a doubt as to the length of sentence which should be imposed." Said another frankly, "Probably a cop-out when I cannot really decide what I feel is the proper sentence." One judge said he stopped using them because he felt they served no useful purpose and "simply added an additional uncertainty to a process in which uncertainty was already a fatal flaw."

THIS SURVEY OF JUDGES was conducted as part of an overall review and study by the Parole Commission of its entire decision-making process. At the same time as the survey was made, the National Criminal Justice Research Center in Newark, New Jersey, was analyzing more than 2,300 Commission decisions. From this analysis will come guidelines for the Commission to use in assuring equitable treatment to each inmate. Before establishing these guidelines, however, the Commission felt that it needed to know the judges' points of view so that its decision will be complementary, as much as possible, with the purpose of the sentencing judges rather than contrary to their intent.

Even before instituting these guidelines, the Commission already has begun to use the information gathered in the survey. For instance, its policy on reviewing inmates who have completed their minimum sentence has been revised to emphasize the inmate's prison conduct and rely less on other criteria, such as criminal history and nature and circumstances of crime. The survey made it clear that a majority of the judges did expect inmates with indeterminate sentences to be released after completing their minimum sentences if their conduct had been satisfactory.

Probably the most significant finding of the survey, however, was the communication gap between the judges and the Parole Commission. The gap is illustrated by the fact that a majority of the judges anticipated that all defendants sentenced by them will be paroled at one-fourth, although this was not the judges' wish. This assumption is mistaken—only about 35 per cent of the prisoners reviewed by the Commission are granted parole at or near their earliest eligibility date. The Commission has already taken steps to bridge this communications gap and expects to continue to do so in the future. Its goal is to make sentencing and parole decisions more compatible; a continuing dialogue between the judges and the Commission will help immensely in reaching this goal.

How the North Carolina Parole Commission Makes Decisions

Colleen A. Cosgrove

Editor's Note: This article summarizes the results of a recent study of how the North Carolina Parole Board decides whether to grant parole to prison inmates. The author is a doctoral candidate at the School of Criminal Justice at the State University of New York at Albany. This article is an excerpt from a paper presented at the 84th Annual Meeting of the American Psychological Association. Another article in this issue deals with judges' responses to a questionnaire concerning their views about how the parole system operates.

THE STUDY DISCUSSED HERE, known as the Classification for Parole Decision Policy project, was an outgrowth of an earlier study of the United States Board of Parole. The present project had two objectives. First, the researchers wanted to identify parole decision-making criteria and policy considerations. Second, we wanted to translate these policy concerns into guidelines that would govern how these policies would be applied in individual cases. For the last eighteen months, we have been collaborating with seven paroling authorities: North Carolina, Virginia, Louisiana, Missouri, Washington State, the California Youth Authority, and New Jersey. This article will discuss our basic methodology and findings in states where our research has been completed and guidelines have been implemented.

In some respects, our research strategies and the significance of our findings are best illustrated by our work with the North Carolina Parole Commission. North Carolina was the first state to participate in this study, and many of the analytical techniques that we used in working with that state greatly influenced our research in other states. Perhaps more important is the fact that the guideline model developed for North Carolina represents a radical departure from the federal model.[1]

Our basic data collection instrument was greatly influenced by the strategies and findings of the federal study. In fact, we had somewhat naively expected that most parole boards, like the United States Board of Parole, were primarily concerned with the seriousness of the present offense and the probability that the inmate would recidivate. We also expected that the actual time that the inmate would serve would be strongly related to the Commissioners' evaluation of the inmate along these two dimensions. In short, we expected that the federal guideline model could be generalized to other jurisdictions. We therefore designed a case evaluation form that would tap the Commissioners' subjective evaluation of the inmate along a number of dimensions—specifically, the seriousness of the present offense, parole prognosis, institutional discipline, program participation, assaultive potential, prior record, and social stability. This form also elicited certain facts on the case, including a short description of the offense, the amount of time served, the minimum and maximum sentence, and the number of times the case had previously been considered. (See Appendix I.) The bottom of the form contained an item labeled *salient factors*, where the Commissioners were asked to mention any other factors or concerns that particularly influenced their decision.

The research staff met with the North Carolina Parole Commission in February, 1975. This meeting provided an opportunity both for us to clarify our objectives and discuss our data collection instrument and for the Commissioners to describe their parole criteria and policies. The Commissioners told us then that they, unlike the United States Board of Parole, were not primarily concerned with the seriousness of the offense. They explained that North Carolina statutes require that an inmate serve one-fourth of his maximum sentence before he is eligible for parole. The Commissioners agreed that the inmate served this portion of his sentence for retributive and deterrent purposes. They felt that the judge considered the seriousness of the offense in posing the sentence, and they believed that it was not their function to question the wisdom of the length of the sentence. Furthermore, they said that although they were aware of sentencing disparity, they did not feel that it was their responsibility to adjust for this disparity and, in effect, resentence the inmate.

The Commissioners agreed that they were concerned about "risk,"—whether the inmate would pose a danger to the community if released. They explained that in evaluating an inmate along this dimension, they considered the length and seriousness of his prior

1. For a description of *Parole Decision-Making*, a study of the United States Board of Parole, see Don M. Gottfredson, Peter B. Hoffman, Maurice H. Sigler, and Leslie T. Wilkins, "Making Paroling Policy Explicit," *Crime and Delinquency* (January 1975), 34-44.

record, the length of time between offenses, whether he had a history of similar offenses, whether the present offense was situational, whether the present offense or pattern of criminal activities was related to a history of alcohol or drug abuse, and whether the offender had a history of mental illness or was the subject of a recent unfavorable psychological report. They were also concerned with his response to previous periods of community supervision. Inmates who had committed crimes on probation or parole were seen as poor parole risks. The Commission placed great emphasis on the inmate's response to work release, interpreting work release failure as a sign that he was unlikely to comply with parole conditions. It is important to note that all of these are factors that past research has shown to be related to recidivism.

The Commissioners told us that it was their policy to deny parole to inmates who had recently escaped, were not in minimum custody, or had a history of infractions in the institution. They explained that, by statute, they are not to parole inmates who have serious disciplinary records. Furthermore, they felt that it was their responsibility to help maintain institutional order by denying parole to inmates who violate regulations. It is important to note that the Commissioners did *not*

APPENDIX I

NORTH CAROLINA PAROLE COMMISSION
CASE EVALUATION FORM

Total sentence: _____ months Date: _____
Time served to date: _____ months
Number of prior hearings: _____
Short description of the present offense: _____

_____

_____

A. *Severity of the offense:* Please place a slash mark on the line below to indicate your estimate of the severity of the *present offense*.

1 2 3 4 5 6 7 8 9
least severity — greatest possible severity

B. *Parole prognosis:*

0 10 20 30 40 50 60 70 80 90 100
certainty of unfavorable outcome — certainty of favorable outcome

C. *Institutional discipline:*

very poor	poor	adequate	good	very good	no information
1	2	3	4	5	6

D. *Program/work participation:*

very poor	poor	adequate	good	very good	no information
1	2	3	4	5	6

E. *Assaultive potential:*

very low	low	moderate	high	very high
1	2	3	4	5

F. *Prior criminal record:*

none	minor	moderate	serious	extensive
1	2	3	4	5

G. *Social stability:* (employment/drug use/alcohol use/etc.)

very low	low	moderate	high	very high
1	2	3	4	5

Decision: _____ Commissioner: _____

Other salient factors: _____

_____

interpret poor institutional adjustment as a sign that the inmate would not succeed on parole. They said that the inmate most likely to be paroled at first eligibility was one with a minor prior criminal record who had a very good institutional record. It was evident from this meeting that these Commissioners were well aware of their paroling criteria and that they had explicit, albeit unwritten, policies that would often dictate their decision.

During a six-month data collection period, we gathered information on approximately 3,300 decisions. A preliminary analysis of the data revealed that the seriousness of the offense was unrelated to the decision. Parole prognosis was fairly highly correlated with the decision to parole, but despite the strength of this variable, it could not be used as a guideline dimension.

Parole prognosis needed to be translated into concrete terms. Otherwise, it would remain a purely subjective and hence arbitrary estimate of risk. In the federal study, an empirically derived prediction device had provided an objective measure of risk. Such a device could not be developed for North Carolina because its information system had an inadequate data base for such a study. Both the project staff and the Commission wanted, as much as possible, to base the guidelines on quantifiable items. For this reason, parole prognosis was eliminated from further consideration.

We also learned that the Commissioners were not "time-setting" *per se*—that is, we found no evidence that the Commission had either an implicit or explicit policy concerning the actual amount of time or proportion of the maximum sentence that an inmate must serve. Thus—and this is quite important—parole decisions in North Carolina are dichotomous, "in" or "out" decisions. For this Commission, it is not a question of *when* to parole, but *whether* to parole. In this respect, their paroling practices are very different from those of the United States Board of Parole. Clearly, then, the federal guideline model would not be appropriate for this state. Later analysis showed that the two factors closely related to the decision—and they were relatively independent of each other—were prior criminal record and institutional discipline. The overall paroling rate for the sample was 35 per cent; however, only 8 per cent of the inmates with poor discipline ratings and only 17 per cent of the inmates with serious prior criminal record ratings were paroled. Clearly it was Commission policy to deny parole to inmates in these categories. On the other hand, the candidate most likely to be paroled had a prior record rating of minor and a discipline rating of good or very good. Except for the extreme cases just mentioned, knowing how the Commissioners rated the inmate on these two dimensions was insufficient to predict their decision to parole. Clearly, they were taking other factors into consideration. These other factors were, in fact, those mentioned by the Commissioners and recorded in the salient factor section of the form (e.g., recent escape, work release failure, and parole violation).

In many ways, the problems involved in criteria and policy identification were minimal. We were able to define the Commission policy governing about 93 per cent of the decisions. Our main problem was in developing a conceptual model that would reflect these policies. One way of conceptualizing the Commission's decision process was through a flowchart. The chart provided a mechanism for ordering the sequence in which the factors were to be taken into consideration. In this flowchart, an inmate would meet successive decision points. At each decision point, he was evaluated against a criterion. The direction indicated at the decision point determined the next path he took. The path led to another decision point and eventually to a stop, consisting of grant or denial. (See flowchart on page 25.)

The first factors evaluated concerned special situations that made the inmate, in effect, ineligible for parole. These we termed "basic considerations." Next, the sequence reflected broad categories defined by single factors, followed by categories defined by double factors and then those defined by multiple factors. Each test eliminated some inmates from further consideration, either through a grant or a denial, and passed other inmates on to be evaluated against other criteria. Thus, we devised what is essentially a screening system in which clearly poor candidates, as defined by Commission policy, are quickly differentiated from clearly good candidates.

We used a questionnaire format to translate this ordering process into simple yet comprehensive guidelines. (See guidelines on page 22.) The questionnaire was based on entries that called for yes or no responses. The guidelines were written in colloquial language that, when possible, reflected the Commissioners' own phraseology. In effect, each question constituted a statement of Commission policy. For example, "Does the inmate have detainers pending in North Carolina? If yes, deny parole." Implicit in this question is a statement that it is Commission policy to deny parole to inmates who have detainers pending in North Carolina.

It is important to note that 28 per cent of the cases were screened out by the "basic considerations." Another 18 per cent were screened out because of poor discipline. These two factors alone screened out 46 per cent of the cases. Approximately 80 per cent of the decisions were accounted for on the first page of the form. For the remaining 20 per cent, the Commissioners had to complete the second page. Form II pertains to inmates in marginal categories. These are essentially borderline cases in which the Commission needs to consider more information in determining whether to grant or deny parole. This screening model frees the Commission to devote more time to the more difficult cases, specifically those cases involving the marginal candidate.

Once we had developed these preliminary guidelines, we still had to (1) test these guidelines to make sure that we had accurately identified the Commission criteria and policies, and (2) develop operational definitions for prior criminal record and institutional discipline to promote increased uniformity in interpreting this information. We met with the Commissioners in December, 1975, to discuss these findings and objectives. They agreed that we had accurately identified their policies and that each Commissioner would complete 60 of the preliminary guideline forms.

We also asked the Commissioners to rate each inmate on the discipline and prior record dimensions and to list the factors about the case that supported their ratings beneath each rating. For example, for institutional discipline, the Commissioners were asked to re-

NORTH CAROLINA PAROLE COMMISSION
PRELIMINARY GUIDELINES*

Form I

A. Basic considerations

1. Does the inmate have detainers pending in other jurisdictions? YES NO
   If YES, parole to the detainer only. If NO, continue to 2.

2. a. Does the inmate have detainers pending in North Carolina?
   b. Is he in less than honor grade?
   c. Does he have a chronic alcohol problem?
   d. Does he have a history of driving offenses related to alcohol abuse?
   e. Is there a recent unfavorable psychological report on the inmate?
   f. Is he enrolled in work release or another institutional program that should be completed before parole?
   g. Are there very strong police, judicial, or community objections to the inmate's release at this time?
   h. Has there been a very short time between offenses?
   i. Has he escaped recently?
   (Specify date: _____)
   j. Has he violated probation or parole recently?
   (Specify date: _____)
   k. Has he failed on work release recently?
   (Specify date: _____)
   If all answers in 2 are NO, continue to B. If any answers in 2 are YES, the Commission should consider the advisability of proceeding further with the case.

B. Evaluation of record

1. Does the inmate have a discipline rating of VERY POOR or POOR?
   If YES, deny parole. If NO, continue to 2.

2. a. Does the inmate have a prior criminal record rating of NONE, MINOR, or MODERATE?
   If YES, skip to 3. If NO, continue to b.
   b. Does the inmate have a prior criminal record rating of SERIOUS or EXTENSIVE?
   If YES, continue to c. If NO, skip to 3.
   c. Has the inmate served a relatively long time?*
   If YES, go to Form II. If NO, deny parole.

3. a. Does the inmate have a discipline rating of VERY GOOD?
   If YES, skip to 4. If NO, continue to b.
   b. Does the inmate have a discipline rating of GOOD?
   If NO, continue to c.
   If YES, and he has a prior criminal record rating of NONE or MINOR, skip to 4.
   If YES, and he has a prior criminal record rating of MODERATE, go to Form II.
   c. Does the inmate have a discipline rating of ADEQUATE?
   If YES, go to Form II.

4. Does the inmate have a high assaultive potential?
   If YES, go to Form II. If NO, continue to 5.

5. Do you feel reasonably confident that the inmate
   a. Has an acceptable parole plan?
   b. Can comply with parole conditions?
   c. Can get by without resorting to crime?
   If all answers in 5 are YES, parole. If any answers in 5 are NO, deny parole.

Decision: Parole_____ Deny parole_____

For a decision outside the guidelines:

Inmate was paroled/denied parole because _____

_____

Date _____ Commissioner _____

*A relatively long time could be defined as
1) 4 years or more on a sentence of 10 years or more; or
2) 40% or more of a sentence under 10 years.

NORTH CAROLINA PAROLE COMMISSION
PRELIMINARY GUIDELINES

Form II

(to be used following Form I, with marginal parole candidates)

1. Does the inmate have a high assaultive potential? YES NO
   If YES, continue to 2. If NO, skip to 3.

2. Has the inmate's prison conduct been so good as to give reasonable assurance that he is no longer dangerous?
   If YES, continue to 3. If NO, deny parole.

3. Are there extraordinary factors relating to the inmate's condition that indicate that parole should be granted at this time?
   a. Physically disabled
   b. Extremely aged
   c. Terminally ill
   d. Debilitated; further incarceration will serve no useful purpose and may diminish his ability to function in society
   If any answers in 3 are YES, parole. If not, continue to 4.

4. Are there strong favorable factors that suggest that release may be appropriate at this time?
   a. Factors relating to his offense:
      1) Low seriousness of the offense
      2) His minor role in the offense
      3) Long interval between offenses
   b. Factors relating to conduct in the institution:
      1) Low assaultiveness
      2) Good or very good work participation
      3) Recent good conduct
   c. Proportion of time served:
      1) 40% of a sentence of 5 or more years
      2) Serving sentence of under 5 years and likely to complete sentence if not paroled at this time
   d. Special plans for medical or psychiatric treatment after release
      If 2 or more answers in 4 are YES, continue to 5. If not, deny parole.

5. Do you feel reasonably confident that the inmate
   a. Has an acceptable parole plan?
   b. Can comply with parole conditions?
   c. Can get by without resorting to crime?
   If all answers in 5 are YES, parole. If not, deny parole.

Decision: Parole _____ Deny parole_____

For a decision outside guidelines:

Inmate was paroled/denied parole because _____

_____

Date _____ Commissioner _____

APPENDIX II

PRIOR CRIMINAL RECORD CLASSIFICATION

(Excludes present sentence, juvenile record, arrests, and convictions not followed by incarceration)

Class	*Length of Maximum Active Sentence*
A	over 10 years
B	over 5 years, including but not exceeding 10 years
C	over 1 year, including but not exceeding 5 years
D	over 5 months, including but not exceeding 1 year
E	5 months or less

	Minor	*Moderate*	*Serious*
Sentences at this level:	D, E	B, C, D, E	A, B, C, D, E
Greatest possible sentence combinations at this level:	1D + 2E's 4E's 2D's	1B 2C's 1C + 2 D's 1C +4E's 1C + 1D + 2E's 2D's + 4E's 1D + 6E's 8E's 4D's	Any combination that exceeds Moderate

GUIDELINE RATING: _____ COMMISSION RATING: _____

For a commission rating OUTSIDE guidelines, please state reasons: _____

_____

INSTITUTIONAL DISCIPLINE CLASSIFICATION

(Excludes infractions and escapes over a year old)

Class	*Type of Infraction*
A	Escape during last 6 months
B	Escape during last year, but not during last 6 months
C	Major infraction during last year
D	Minor infraction during last 6 months
E	Minor infraction during last year, but not during last 6 months

	Good	*Adequate*	*Poor*
Infractions at this level:	E	B,C,D,E	A,B,C,D,E
Greatest possible infraction combinations at this level:	1E	1B 1C 1E + 1D 2E's	Any combination that exceeds Adequate

GUIDELINE RATING: _____ COMMISSION RATING: _____

For a commission rating OUTSIDE guidelines, please state reasons: _____

_____

cord all of the inmate's major and minor infractions and the date of the infraction. In this phase of the research, we collected information on 371 cases. Ninety-three per cent of the decisions were within the guidelines.

In analyzing the discipline ratings, we found that the Commission was primarily concerned with infractions committed during the last year. The ratings, not suprisingly, were based on the number, seriousness, and recency of the infractions. For example, the definition of poor institutional discipline developed during this phase of the research was (1) three or more minor infractions during the last year, or (2) two or major infractions during the last year, or (3) one more major and one minor infraction during the last year.

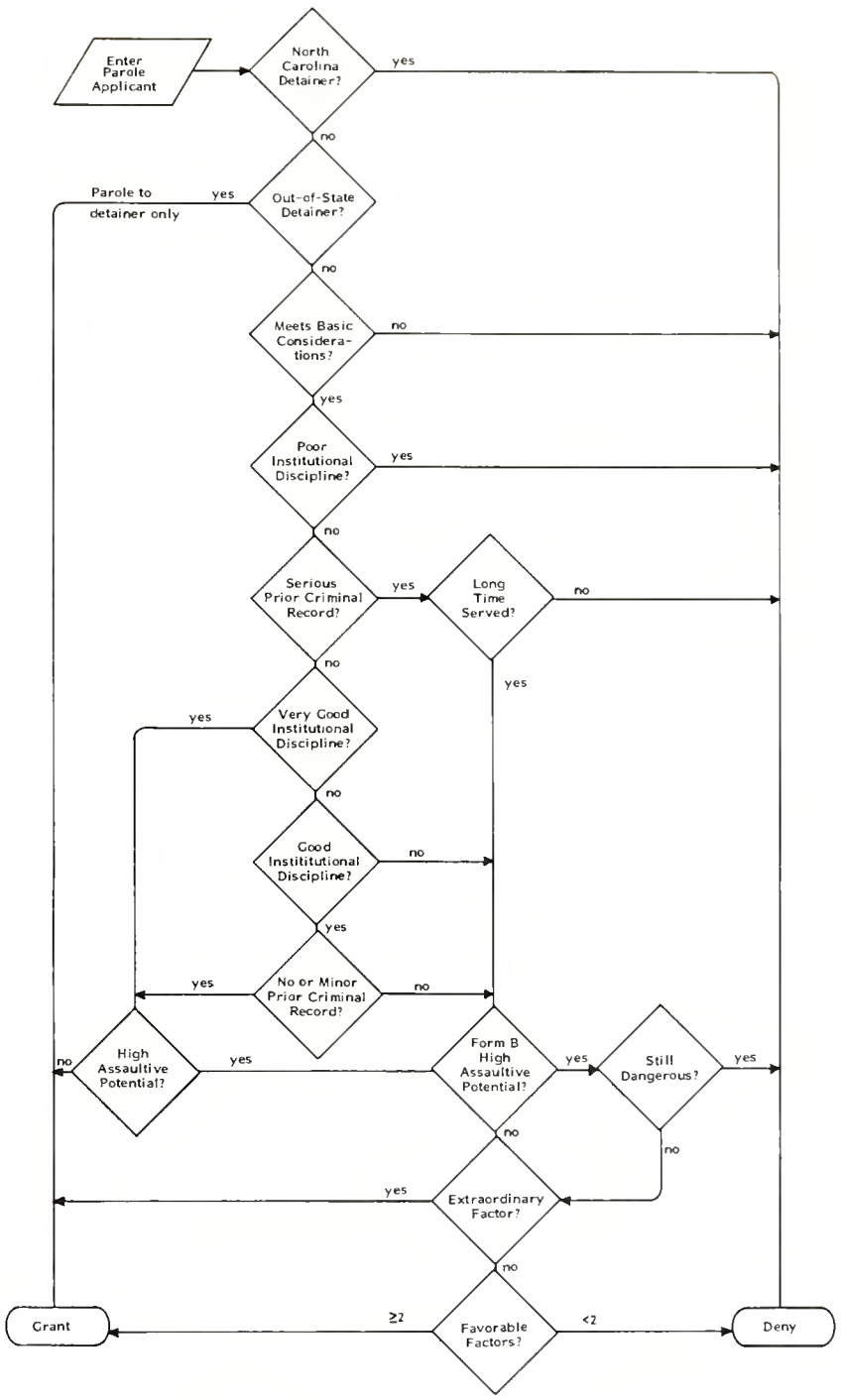
Developing operational definitions for prior record was much more complex because of the number and variety of sentences present in some of the cases (for example, suspended sentences, probations, county jail terms, fines, and others). The Commission was primarily concerned with the number and length of active sentences that the inmate had received. An active sentence, in the Commission's terminology, was a sentence on which the inmate had actually served jail or prison time. The definitions developed for prior criminal record therefore reflected the number and the length of prior sentences to incarceration. For example, a serious prior record includes a prior active sentence of ten years or more, or nine or more jail terms of less than six months each. (See Appendix H.)

We then studied the decisions inside and outside the guidelines when standardized definitions for prior criminal record and institutional discipline were used. Ninety-one per cent of the 150 decisions were within the guidelines. The operational definitions for institutional discipline and prior criminal record were almost always accurate reflections of Commission policy.

The Commission is now developing the administrative procedures necessary for full implementation of the guidelines.

Guidelines that use this screening model have also been implemented in Virginia and Louisiana. Although the guidelines are similar in format, the contents reflect the unique criteria and policies of each Board. During our research, we found that parole boards vary greatly in their paroling practices and in terms of the factors that they take into consideration. The screening model seems to be appropriate in states where the inmate must serve a fixed proportion of his maximum sentence. A model based on the seriousness of the offense and parole prognosis seems to be appropriate in states where the inmate is eligible for parole at any time and where, therefore, the board has a great deal of discretion in determining the actual amount of time to be served.

Flow Chart for Parole Decisions



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Protecting the Alleged Mentally Ill in the Courtroom

Virginia A. Hiday

"One Flew Over the Cuckoo's Nest" represents Academy Award-winning acting and directing cinema production. It also represents a superb dramatic portrayal of the evil that can be perpetrated under the aegis of "doing good," specifically under the aegis of one branch of the helping profession, psychiatry. The book from which the movie was drawn is not original in its theme—indeed, Dostoevsky warned of the abuse of psychiatry in *The Brothers Karamazov*—but it did serve as an early impetus to the recent movement to expand civil rights into the domain of mental hospitalization. Although this movement has attacked psychiatry's role in the unnecessary deprivation of personal liberties within mental hospitals, it has focused primarily on the state's role in the deprivation of civil liberties in the commitment[1] process: a role that has involuntarily confined individuals to mental hospitals without establishing, as required by law, whether the safety and welfare of the public and of the alleged mentally ill were sufficiently endangered to require such extreme measures.

Besides books and movies, the movement has spawned research and litigation that have documented common injustices in commitment proceedings. (The usual procedure has involved cursory psychiatric examinations[2] and perfunctory court hearings,[3] and then commitment, once proceedings against them are begun, of most people subjected to the procedure, especially if they are of the lower class.) These efforts have culminated in federal judicial decisions and state legislation that have strengthened the individual vis-a-vis the state and the physician by applying such due process principles of justice as notice, hearing, counsel, confrontation of witnesses, speedy procedure, and regular review to the commitment proceedings. Although the new law's intent is to prevent the enormous powers of the state from overwhelming the relatively weak and forcing them into indefinite confinement in mental hospitals,[4] no empirical evidence has been collected to demonstrate whether the laws operate to accomplish their purpose. The question may not be so much whether practice follows the statute as whether due process indeed results when the statutes are followed. This article will examine whether North Carolina's new laws protect those alleged to be mentally ill in the commitment proceedings.

In 1973, North Carolina completely rewrote its involuntary mental commitment laws. The legislature expressed firm affirmation of individual civil liberty and, to the chagrin of many members of the psychiatric profession, a willingness to refrain from forcing "help" on nondangerous individuals. The law, amended in 1974, attempts to assure due process in mental commitment procedure by (1) limiting commitment to the mentally ill or inebriate who are imminently dangerous to themselves or others; (2) requiring four separate judgments of imminent danger due to mental illness or

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1. Throughout this paper, commitment and involuntary admission will refer only to the civil procedure for commitment.

2. L. Kutner, "The Illusion of Due Process in Commitment Proceedings," *Northwestern Law Review* 57 (September-October 1962), 383-99; T. J. Scheff, "Social Conditions for Rationality: How Urban and Rural Courts Deal with the Mentally Ill," *American Behavioral Scientist* 7 (March 1964), 21-27; T. J. Scheff, "The Societal Reaction to Deviance: Ascriptive Elements in the Psychiatric Screening of Mental Patients in a Midwestern State," *Social Problems* 11 (Spring 1964), 401-13.

3. A. M. Dershowitz, "The Psychiatrist's Power in Civil Commitment," *Psychology Today* 2 (February 1969), 43-47; F. Cohen, "The Function of the Attorney and the Commitment of the Mentally Ill," *Texas Law Review* 44 (February 1966), 424-69; R. Maisel, "Decision Making in a Commitment Court," *Psychiatry* 22 (August 1970), 352-61; D. Miller and M. Schwartz, "County Lunacy Commission Hearings: Some Observations of Commitments to a State Mental Hospital," *Social Problems* 14 (Summer 1966), 26-35; Scheff, "The Societal Reaction to Deviance"; S. A. Shaw, "Some Interactions of Law and Mental Health in the Handling of Social Deviance," *Catholic University Law Review* 23 (Summer 1974), 674-719; D. L. Wenger and C. R. Fletcher, "The Effect of Legal Counsel on Admissions to a State Mental Hospital: A Confrontation of Professions," *Journal of Health and Social Behavior* 10 (June 1969), 66-72.

4. B. J. Ennis and P. R. Friedman, *Legal Rights of the Mentally Handicapped* (New York: Practicing Law Institute, The Mental Health Law Project, 1973), 1; Shaw, "Some Interactions of Law and Mental Health."

inebriety before commitment (by a magistrate, a local qualified physician, a qualified physician at a treatment facility, and a judge at a district court hearing); (3) providing counsel for the indigent individual; (4) establishing time limitations for each judgment, for length of commitment, and for later recommitments; and (5) permitting appeals from the district court's ruling. For the violent person who needs restraint, the statute allows a magistrate to send the respondent directly to a treatment facility without prior examination by a physician.

Still, even with the law's procedural requirements, has the individual's protection been assured? That question arises because of two factors that foster a tendency toward commitment once proceedings are begun but are not taken into account by the legislation: psychiatrists' tendency to overpredict dangerousness, and court officials' inclination to defer to medical opinion.

First, physicians are taught to be cautious. They operate on the theory that it is best to treat when in doubt; in other words, treatment will not hurt. They are more willing to treat a nonsick individual than to have a sick individual go untreated. Furthermore, psychiatrists feel responsible for their patients' behavior. They would rather detain a nondangerous person than release a patient who *might* commit a violent act. Whereas little public notice is taken of the many ex-mental patients who are totally harmless, the few released patients who commit bizarre and dangerous acts get big headlines. At the same time, few psychiatrists or anyone else think much about the potential harm that might result from "treatment" in a state mental hospital. Psychiatrists tend to ignore research showing that the great majority of persons committed to mental hospitals because of alleged dangerousness do not perform acts dangerous to themselves or others upon release.[5]

Second, court officials are often unaware of the weak basis of psychiatric prediction of dangerousness and therefore defer to the "experts." Knowing little of mental illness and psychiatry, they often go along with expert opinion—a tendency that allows psychiatrists to become the effective decision-makers, often in absentia.[6] Some studies have shown nearly 100 per cent reliance by the courts on medical opinion.[7] Lawyers also often relinquish their function to the psychiatrist; reports from several states describe counsel as doing "virtually nothing except stand passively at a hearing and add a falsely reassuring patina of respectability to the proceedings."[8] When neither counsel nor judge questions psychiatric conclusory labels, commitment hearings are superficial and brief. Several studies present astounding figures for brevity—one reports an average of only 1.6 minutes for an urban court, another reports an average of 4.7 minutes; and another reports an average of 1.9 minutes.[9] Obviously, little consideration can be given the evidence in and disposition of cases so quickly heard.[10]

It may be that recent attention given commitment procedures by courts, interest groups, and academic journals as well as by the legislation itself will compensate for the statute's lacunae and influence court officials to perform in their intended roles of judge and advocate. Here we will narrowly focus on how the judge and counsel function in the final court decision rather than examine the entire commitment procedure from petition through release, because the courtroom is the crucible in which the new legislation is tested. If the new laws are to be effective in insuring due process and in reducing unnecessary commitments, then both judge and counsel must act independently of psychiatric recommendation.

The sample

In this study we examined court records and procedures from one urban county in the final four months of 1975, observing 132 commitment hearings or 81 per cent of all hearings held during the study time. Each case record contained petition; custody order; physician's report including findings, diagnosis, and recommendation; notice of hearings; summons; and court decision.

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5. J. Livermore, C. Malmquist, and P. Meehl, "On the Justification for Civil Commitment," *University of Pennsylvania Law Review* (November 1968), 75-96; A. Rosen, "Detection of Suicide Patients: An Example of Some Limitations in the Prediction of Infrequent Events," *Journal of Consulting Psychology* 18 (1954), 397-403; S. A. Shaw, "Dangerousness and Civil Commitment of the Mentally Ill: Some Public Policy Considerations," *American Journal of Psychiatry* 132 (May 1975), 501-05; H. J. Steadman, "The Psychiatrist as a Conservative Agent of Social Control," *Social Problems* 20 (Fall 1972) 263-71; H. J. Steadman and J. H. Cocozza, *Careers of the Criminally Insane* (Lexington, Mass., 1974).

6. E. Andalman and D. L. Chambers, "Effective Counsel for Persons Facing Commitment: A Survey, Polemic and a Proposal," *Mississippi Law Journal* 45 (January 1974), 43-91; D. L. Bazalon, "Institutional Psychiatry—The Self-Inflicted Wound," *Catholic University Law Review* 23 (Summer 1974), 643-48; F. Cohen, "The Function of the Attorney and the Commitment of the Mentally Ill," *Texas Law Review* 44 (February 1966), 424-69; Shaw, "Dangerousness and Civil Commitment"; Steadman, "The Psychiatrist as a Conservative Agent."

7. D. B. Wexler, S. E. Scoville, et al., "The Administration of Psychiatric Justice: Theory and Practice in Arizona," *Arizona Law Review* 13 (1971), 1-259; R. S. Rock, M. A. Jacobson, and R. M. Janopaul, *Hospitalization and Discharge of the Mentally Ill* (Chicago: University of Chicago Press, 1968); Wenger and Fletcher, "The Effect of Legal Counsel."

8. Andalman and Chambers, "Effective Counsel for Persons Facing Commitment."

9. Scheff, "Social Conditions for Rationality"; Wexler et al., "The Administration of Psychiatric Justice"; Cohen, "The Function of the Attorney."

10. One study seems to contradict these findings of counsel's deference to psychiatric opinion. Wenger and Fletcher, "The Effect of Legal Counsel on Admissions," found that those who are represented by counsel have significantly fewer commitments and significantly longer hearings even when mental condition as evaluated by an observer was held constant. Since counsel in that study was not provided by the state, legal representation must have been privately retained; and those with counsel must have had more money than those without such representation. Although the authors do not say so, we suspect that private counsel was retained for the sole purpose of fighting commitment, whereas for state-appointed counsel, an adversarial role may not be so clearly dictated. T. R. Litwack, "The Role of Counsel in Civil Commitment Proceedings: Emerging Problems"; *California Law Review* 62 (May 1974), 816-39; S. J. Goode, "The Role of Counsel in the Civil Commitment Process," *Yale Law Journal* 84 (June 1975), 1540-63. Counsel may feel that his role is to insure due process and to follow the doctor's advice of "what's best" for his client. Since new legislation requiring legal representation for the allegedly mentally ill will mean state-appointed counsel for the vast majority involved in civil commitment procedures, we do not think the Wenger and Fletcher findings can be generalized to all involuntary commitments.

Our sample of subjects of civil commitment hearings is slightly different from the total population in North Carolina state mental hospitals, reflecting the difference between an urban, industrial county and other areas of a predominantly rural state. It contains more males, more blacks, more singles, and more urbanites. No education data are available for our sample, but other indicators reflect the same low socioeconomic status as the population in state mental hospitals: 77.2 per cent are unemployed, 73.1 per cent own no automobile or truck, and 84.8 per cent own no real estate. The median monthly income was $100 for the 92 subjects whose records contained income information; 45.7 per cent of these 92 had no income at all. For 41 married subjects, the 29 records with information on spouse's income showed a median of $388 a month. These data should be viewed with caution since socioeconomic information is collected at the time of petition for purposes of assessing indigency. At that time many subjects and/or petitioners are unwilling or unable to provide such information. Nonetheless, these figures reinforce the impression conveyed in court by the subjects' dress and speech: involuntary commitment is used primarily by the poor, the working poor, and the lower middle class. Seldom do middle-class or upper middle-class persons bring petition against one of their own. Less than 10 per cent of the sample had monthly incomes over $600, and only 2.3 per cent had incomes over $1,000 a month. Even when a middle-class person enters the system, he frequently agrees to voluntary commitment or does not contest the involuntary commitment (33.3 per cent of subjects with incomes over $600 a month). Statements by counsel of some middle-class respondents indicate that they have taken this course to avoid personal exposure in court hearings.

In the petitions, 55.5 per cent of the subjects were thought to be mentally ill; 39.1 per cent to be inebriate; and 5.5 per cent to have drug problems. The petitions and physicians' records indicated that 14.4 per cent had been previously dangerous to themselves or others and that 38.6 per cent had been previously hospitalized and/or had been committed for mental illness or inebriety. But these figures on prior dangerousness and hospitalization should not be considered to represent actual conditions. Dangerousness was often exaggerated by a petitioner and/or previous hospitalization was overlooked; however, the record of reported prior dangerousness or hospitalization is important as a possible influence on diagnosis and recommendation. Indeed, we found that in most cases, psychiatrists assumed the behavior cited in the petition to be true. This assumption was made even when the person denied that it was and when the court later found no evidence that it was.

Measurement

The crucial question in the functioning of judge and counsel is whether they act independently of psychiatric recommendation. Deference to psychiatric opinion was measured in five ways. We considered that expert opinion was deferred to if:

(1) The court hearing lasted less than 5 minutes;
(2) The court decision and the psychiatrist recommendation agreed 80 per cent of the time or more;

The crucial question in the functioning of judge and counsel is whether they act independently of psychiatric recommendation.

(3) Commitment was ordered without clear, cogent, and convincing evidence of imminent dangerousness;
(4) Counsel did not examine witnesses rigorously or argue for lack of evidence of imminent dangerousness;
(5) The judge did not press witnesses for evidence of imminent dangerousness.

We shall focus on dangerousness and imminence because

(1) The United States Supreme Court has ruled that mentally ill persons cannot be involuntarily confined "if they are dangerous to no one and can live safely in freedom";[11]
(2) The statute requires a finding of clear, cogent, and convincing (CCC) evidence of imminent danger to self or others as well as mental illness or inebriety for commitment;
(3) Questions of imminent dangerousness are not as enshrouded in the cloak of medical expertise as questions of mental illness or inebriety (in only three cases of our samples did the judge or counsel question the presence of mental illness or inebriety); and
(4) Neither "dangerous" nor "imminent" is defined by statute, leaving great discretion to district court judges.

The statute says that "dangerous to self" includes inability to provide for basic needs of food, clothing, and shelter. This article defines dangerous to mean (1) given to violent acts and threats of physical assaults to self, others, or property; and (2) subject to unintentional harm to self by such acts as wandering in front of traffic and by inability to provide for basic needs. Our definition of imminent comes from the statement by one of the judges in the sample; it means likely to happen today, tomorrow, or within a week as judged from a dangerous act or threat on the day of petition.[12] We decided whether evidence met the rigorous CCC (clear, cogent, convincing) standard as if we were a citizen juror; and did not accept general threats in the heat of argument — like "I'm going to get you" — and general throughts of suicide as meeting the legal evidentiary standard.

Findings

When a psychiatrist recommended release or a psychiatrist and a respondent agreed to voluntary treatment, the court generally considered cause for commitment to be removed, and the case was dismissed by means of a simple statement by the judge. At times the judge would admonish a person to be more careful or to seek help at a community mental health or alcoholic rehabilitation center. Only once did the court not follow the psychiatrist's recommendation

11. O'Connor v. Donaldson, 45 L. Ed. 2d 396, 407 (1975).
12. A. D. Brooks, *Law, Psychiatry and the Mental Health System* (Boston: Little, Brown and Co., 1974).

for release. In that case commitment was ordered for an old man with an organic brain syndrome who required constant attention because of extraordinary confusion accompanied by a tendency to wander, fall, and hurt himself. The court could find no place to keep him except a mental health facility.

Since our concern focuses on the prevention of unnecessary commitment, the brief duration of these release-recommended cases are not counted as part of the statistical base on which we have measured independence of judge and counsel.

In two (1.5 per cent) of the 132 cases, the respondent ran away and in one case the respondent died before the hearing. Of those remaining, 59 or 44.7 per cent were dismissed on a psychiatric recommendation of release or voluntary treatment without a formal hearing—that is, without swearing of witnesses, presentation of evidence, or argument. For the rest of the cases, 70 (or 53.0 per cent) court hearings averaged 18.5 minutes in length. The shortest time was taken for those who waived their presence and did not contest the psychiatrist's recommendation—5.6 minutes. When the court ordered release or outpatient treatment, hearings averaged 22.3 minutes. When the court ordered involuntary commitment to a state mental hospital, hearings averaged 16.4 minutes. Measured by the time criterion, cases are being given due consideration and little deference to psychiatric opinion seems to be occurring.

In six of the 70 cases in which the psychiatrist did not recommend release, respondents waived their presence and did not contest the recommendation. In 56 of the 64 cases argued in court, the psychiatric recommendation was for commitment. In 42 of these 56 (75 per cent), the judge agreed with the psychiatric recommendation and ruled commitment. Agreement between psychiatrist and judge was less than our measure of dependence; therefore by this standard we again find little deference to psychiatric opinion. If agreement with psychiatric recommendation includes agreement with release recommendations as well as with commitment or other recommendations, then deference rises slightly to 77.0 per cent of all cases.

Agreement between court decision and psychiatric recommendation was greatest when evidence of violence was substantiated in court. It was lowest when there was no CCC evidence of dangerousness (Table 1). Highest evidence indicates the highest level of danger substantiated in court by CCC evidence. For instance, a person in the category of imminently dangerous and violent can be shown by CCC evidence to have made threats of suicide or homicide. But by definition, a person who has been included in the category of those who are not imminently dangerous and violent cannot have CCC evidence presented in his case that he will do imminent harm. Since the statute specifies that to be committed, a person must be mentally ill or inebriate *and* imminently dangerous to himself or others, all those in nonimminent categories do not meet the legal criteria. This means that in 27 cases, 42.2 per cent of contested commitments (or 20.5 per cent of all cases), the respondent should not, by law, have been committed. By this measure, the court is not fully functioning independently of psychiatric recommendation. Some of those people may indeed have been imminently dangerous, but no CCC evidence to this effect was presented in court.

Table 1
Proportions Recommended for Commitment and Committed by Evidence

Highest Evidence	Total	Recommended for Commitment		Committed	
		N	%	N	%
Imminent Danger and Violent Acts	10	10	100.0	10	100.0
Nonimminent Danger and Violent Acts	3	3	100.0	3	100.0
Imminent Danger and Violent Threats	2	2	100.0	2	100.0
Nonimminent Danger and Violent Threats	11	9	81.8	7	63.3
Imminent Unintentional Harm	5	3	60.0	4	80.0
Nonimminent Unintentional Harm	7	6	85.7	5	71.4
No Danger	26	23	88.5	12	46.2
Total	64	56	87.5	43	67.3

All of those considered for involuntary commitment had counsel; 97.8 per cent had court-appointed counsel. The court was so careful to insure independent representation that it even appointed counsel for nonindigent respondents whose families initiated commitment proceedings and were willing to hire a lawyer for them. Counsel was appointed on the day the petition and the physician's reports were received in district court, generally one day after the respondent was admitted to a hospital for observation and evaluation and at least five days before the hearing. Counsel thus had time to talk to the client and witnesses and become familiar with the case. Also, counsel was paid by the hour rather than by the case, so there was some incentive to be thoroughly prepared, although because the hourly rate was low, this incentive was not great.

In less than half the contested cases (just under 48 per cent) did counsel press to demonstrate lack of evidence of imminent dangerousness due to mental illness or inebriety in questioning witnesses and/or in final argument. If the role of counsel is to protect clients from confinement in mental institutions, then it appears that counsel are not functioning as they should much of the time. But the role of counsel in preventing involuntary commitment is not fully revealed by this percentage figure. Counsel often worked to obtain release before the court hearing by persuading psychiatrists to recommend release, outpatient treatment, or voluntary commitment. When counsel challenged on the basis that imminent dangerousness had not been shown, 45.2 per cent were committed. When counsel did not challenge on this basis, 87.9 per cent were committed.

Since the petitioner is generally not represented by counsel in court hearings, the judge must take an active role in

fact-finding. He must question witnesses to find substantial evidence of imminent dangerousness due to mental illness or inebriety before he can commit an individual. In 50 per cent of the sample cases, the judge spent some time trying to establish whether imminent dangerousness existed. Both judge and counsel examined the issue of imminent dangerousness in some cases and one or the other of them examined it in some cases, but in 37.1 per cent of the cases neither judge nor counsel dealt with this critical factor.

The importance of examination of imminent dangerousness by both judge and counsel rests in the need for them to function independently of psychiatric recommendation. We anticipated that when they acted in dependence on the psychiatric recommendation, the court decision and psychiatric recommendation would be in total agreement, and we were right. We expected that when they acted independently, the court decision and the recommendation would disagree but not totally, because we expected CCC often when a psychiatrist recommends commitment. When either judge or counsel pressed for a showing of imminent dangerousness, agreement between the court decision and the recommendation fell from 100 per cent to 59.1 per cent ($p < .01$). On the most important indicator, psychiatric recommendation for commitment, agreement fell from 100 per cent to 56.8 per cent ($p < .01$). Although neither judge nor counsel questioned on imminent dangerousness in 37 per cent of the cases, in most contested cases in which they did challenge, commitment was reduced to 30 per cent when there was no CCC evidence of imminent dangerousness and to 72.7 per cent when there was such evidence. Our opinion, as we assessed the evidence, was that if counsel and judge were independent of psychiatric recommendation in all cases, commitment would further decline.

A sixth, unexpected, measure of deference to psychiatric opinion developed during the course of observation: whether a judge said that he was ordering involuntary commitment following psychiatric recommendation even though evidence of imminent dangerousness was lacking. This explicit statement of deference to psychiatric opinion was made in 16 per cet of all contested cases and in 29 per cent of the contested cases in which the judge did not examine imminent dangerousness.

Summary

The state's new involuntary mental commitment laws were examined by studying how the judge and counsel functioned in the courtroom in one North Carolina county. Court records and nonparticipant observation indicate that the new procedures have substantially reduced commitments. Before the change in the commitment laws, involuntary admission meant indefinite confinement to a mental hospital with court review only upon writ of habeas corpus. Under the new laws, which require review by the district court and legal representation, only 39.5 per cent of those involuntarily admitted to a mental health facility by a magistrate are actually committed by the district court. Although these data are from one urban county, they are supported by findings from the four judicial districts in which North Carolina state mental hospitals are located. Commitments in these judicial districts averaged less than half the involuntary admissions by magistrates.[13]

Psychiatric recommendation of release, sometimes obtained at the urging of counsel or under threat of subpoena, accounts for 49.0 per cent of cases released. Generally when such a recommendation is made, the court considers the cause for commitment removed and dismisses the case. Unlike the situation in commitment hearings reported in research done before the commitment law was revised, the court did not show the same deference to psychiatric opinion when the recommendation was commitment. Two measures indicated the court's independence of psychiatric opinion: hearings lasted longer than our benchmark of five minutes, averaging 18.5 minutes; and court agreement with psychiatric recommendation of commitment was less than our benchmark of 80 per cent over all, only 75 per cent in contested cases. Two measures, however, indicated some deference to psychiatric opinion: 20.5 per cent of all cases were committed without CCC evidence of imminent dangerousness due to mental illness or inebriety, and in 37.1 per cent of contested cases neither judge nor counsel pressed for CCC evidence of imminent dangerousness. In these latter cases the court ordered commitment every time a psychiatrist recommended it, but when either judge or counsel challenged imminent dangerousness in his questions and arguments, commitment fell to 57 per cent.

Although fewer people are being committed against their wishes to mental hospitals and although court officials are not deferring to psychiatric opinion in most contested cases, deference and commitment without CCC evidence of imminent dangerousness to self or others still occur. This deference that leads to commitment seems to result from the inherent tension between a benevolent attempt to obtain treatment for the mentally ill and a quasi-criminal attempt to incarcerate individuals. When the legislature emphasized civil liberties in statutory reform, it was focusing on the incarceration side; but when counsel and judges defer to psychiatric opinion, they are focusing on the treatment side. Such a benevolent attempt to obtain treatment for the allegedly mentally ill indicates that judges and counsel are unfamiliar with the research that shows psychiatric diagnosis and prediction to be unreliable[14] and demonstrates mental hospitalization, especially in a state mental hospital, to be potentially dangerous.[15] Perhaps if all lawyers and judges were required to see "One Flew Over the Cuckoo's Nest," they would become aware of the harm that may result from commitment in mental hospitals. Perhaps then the "benevolent" attorney and judge who defer to psychiatric opinion would be eliminated.

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13. V. A. Hiday, "Involuntary Consumers: Are the New Mental Commitment Laws Effective?" (Paper presented at the Southern Sociological Society Meeting in Miami, Florida, 1976).

14. M. M. Katz, J. O. Cole, and H. A. Lowery, "Studies of the Diagnostic Process: The Influence of Symptom Perception, Past Experience, and Ethnic Background in Diagnostic Decision," *American Journal of Psychiatry* 125 (January 1969), 937-47; Livermore, Malmquist, and Meehl, "On the Justification for Civil Commitment"; L. Phillips and J. G. Draguns, "Classification of the Behavior Disorders," *Annual Review of Psychology* 22 (July 1971), 447-82; Steadman and Cocozza, *Careers of the Criminally Insane.*

15. D. L. Rosenhan, "On Being Sane in Insane Places," *Science* 179 (1973), 250-58.

City and County Finance in North Carolina

Warren J. Wicker

THIS ARTICLE WILL EXAMINE where the revenues that finance North Carolina's county and city governments come from and how these governments spend the moneys that they receive. It will be helpful, in making this analysis, to remember that North Carolina's provisions for state and local governmental finance have certain special characteristics. The first of these is that for many years the state has been the principal financing agent for all governmental activities, as the table just below shows. Tax levies in 1974 for North Carolina's state and local governments totaled just over $2.5 billion. The percentage of taxes levied by each type of government in that year was:[1]

State	71.6%
Counties	17.2
Cities and towns	9.7
Districts and townships	1.5
Total	100.0%

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1. Tax Research Division, N.C. Department of Revenue, *Statistics of Taxation, 1974*, Table 2.

If all general revenues available for expenditure by the state and local governments (including federal funds and current charges of various types) are included, the state is still the principal source of state and local funds.

	Federal	*State*	*Local*
U.S. Average	20.1%	42.9%	36.9%
North Carolina	21.8	53.1	25.1

In only five other states—Delaware, Hawaii, New Mexico, North Dakota, and South Carolina—does the state government raise a larger percentage of total state and local general revenue.[2] North Carolinians have long considered themselves "state" citizens before they are local citizens, a view that is reflected in the dominant role that the state plays in state and local financing—especially with respect to public schools and highways, for which the state raises most of the funds.

A second aspect of the North Carolina pattern of state-local finance is that North Carolina uses various taxing measures differently from other states. Table 1 shows how North Carolina uses various taxes compared with the average of all states in 1972. This state uses both property taxes and tobacco taxes relatively less than the nation at large; it uses the general sales tax in about the same proportion and the individual income tax, the corporate income tax, and the motor fuel tax relatively much more. The result is a tax system that is quite responsive to economic conditions and also more progressive (or less regressive) than state and local systems nationwide.

2. U.S. Bureau of the Census, *Governmental Finances in 1973-74*, Series GF74-No. 5. Table 23.

A third important factor in considering North Carolina finances is that personal income is relatively low. In 1973 the state ranked fortieth in the nation, with a per capita income of $4,282.[3]

This factor seems to be reflected in the state's general approach to the levels of taxation. North Carolina ranked thirty-eighth in the level of state and local taxes in relation to personal income in 1974, when state and local taxes equaled almost 11 per cent of total personal income.[4]

The purposes for which state and local expenditures are made in North Carolina are not greatly different from the purposes in other states, as Table 2 shows.

With respect to major functions, North Carolina spends relatively more for education (both higher education and local schools) and for highways and

3. *Ibid.*, Table 26. By 1975 per capita income had risen to $4,801 and North Carolina's rank among the states had fallen to forty-second. U.S. Dept. of Commerce, *Survey of Current Business*, 56, no. 4. (April, 1976).

4. *Ibid.*, Table 24.

Table 1
Per Capita and Percentage Distribution of State and Local Tax Revenues by Type of Tax: United States and North Carolina, 1972

Type of Tax	Per Capita		Percentage Distribution	
	U.S. Aver.	N.C.	U.S. Aver.	N.C.
Property	$205.91	$ 96.17	39.1	25.2
All Sales and Gross Receipt	180.17	159.19	34.2	41.8
General	97.71	70.19	18.6	18.4
Selected	82.46	89.00	15.7	23.4
Motor Fuel	34.93	47.16	6.6	12.4
Tobacco	14.39	3.62	2.7	1.0
Other	33.14	38.22	6.3	10.0
Individual Income	73.12	69.39	13.9	18.2
Corporate Income	21.21	23.69	4.0	6.2
Motor Vehicle Licenses	16.01	14.11	3.0	3.7
Other	29.94	18.57	5.7	4.9
Total	$526.35	$381.12	100.0	100.0

Source: U.S. Bureau of the Census, Census of Governments, 1972, Vol. 4, No. 5: *Compendium of Government Finances*, Tables 26-27.

relatively less for welfare than other states.

In areas of less importance, North Carolina expends relatively less for local fire protection, sewerage, and interest on general debt than states in the nation at large. The relatively low expenditures for local fire protection and sewerage undoubtedly are related to the state's comparatively low level of urbanization. The relatively low expenditures for interest on general debt reflect a conservative approach (and in 1976 many would say an enviable and sound approach) to public financing—especially since the depression of the early 1930s, when several local governments defaulted on their bonds. Public indebtedness in this state is comparatively quite low. Per capita debt of state and local governments in North Carolina in 1974 was $391.70. Only Idaho and North Dakota had a lower per capita indebtedness at that time. New York's per capita indebtedness in 1974 was over five times more than North Carolina's.[5]

In general, then, state and local governments in North Carolina are financed on a sound basis by traditional standards, the tax system is relatively progressive, and the pattern of expenditures reflects the state's limited urbanization and its citizens' comparatively low incomes.

County revenues and expenditures

The traditional view of county governments is that they are agencies of the state government and are, therefore, local administrative divisions for operating state programs. In North Carolina, the General Assembly has almost complete control over the functions, organization, and financing practices of county governments, restricted in only a few areas by the state's Constitution.

County governments have long been responsible for operating programs in education, health, and welfare; conducting elections; maintaining property ownership and mortgage records; and enforcing and administering the state's criminal law. In recent years, county governments have assumed exclusive local responsibility in many of these areas and have also undertaken to provide urban types of functions: libraries, airports, water and sewerage services, solid waste collection and disposal, recreation, and the like.

As noted above, North Carolina finances services at the state level more than most states do. Also, from about the end of World War I local governmental responsibility for "people" functions—education, welfare, health and hospitals, and libraries—began increasingly to be placed in the county while "property" and urban development functions—high levels of police and fire protection, street, water and sewerage, solid waste collection and disposal, traffic control, and so on—were allocated to cities. The result for many years was relatively little overlap in county and city functions and fewer inequities arising from county government taxation than occurred in many other states. Except with respect to law enforcement, most North Carolina county governments generally serve their rural and urban citizens similarly.

In the past decade especially, the General Assembly has expanded county powers and functions. Counties may now adopt ordinances in essentially the same manner as cities and may provide all major traditionally municipal functions except those relating to streets[6] and electric and gas utilities. And increasingly they do. Thus today North Carolina has principally two types of local self-governments. Overlapping of functions is still quite limited, but cooperative, joint, complementary, and supplementary activities among units are widespread.

The financial arrangements for county government reflect the counties' major role in North Carolina. The counties rely on local taxes (the property tax and the local general sales tax are the only important ones), state-shared taxes, state and federal aid, fees and charges, and other nontax revenues. Table 3 shows—for North Carolina, the nation, and seven selected states—how much of general revenues comes from which taxes. It should be noted that the information in Table 3 comes from the *Census of Governments* and the Bureau of the Census in this

5. *Ibid.*, Table 22.

6. While counties may not construct streets, they may provide the local share of funds for improving subdivision and residential streets outside of cities and levy special assessments to recover the outlay. N.C. Ch. 153A, Art. 9.

tabulation treats state expenditures for public education as aid to county governments. Thus state outlay for schools, as students of North Carolina county government appreciate, is not actually received and reappropriated by county governments and is not reflected in county budgets. In most states, state aid for schools is transferred to the local school units, and treating the North Carolina system in this fashion perhaps gives a better comparative view of the arrangements nationwide. But it also explains why local taxes account for only about 25 per cent of county general revenues and why state aid is more than 60 per cent of general revenues, and demonstrates again the dominant role of state-level financing in North Carolina.

Table 4 shows revenue patterns among counties by population class in North Carolina and the nation at large. In North Carolina, counties with larger populations tend to be the wealthier ones and the smaller counties the poorer ones. It is thus significant that the state government's revenue-sharing and aid patterns distribute more funds per capita to the smaller counties than to the larger ones. In contrast, and as the differences in wealth might suggest, per capita taxes are greater in the larger and richer counties. The compensating state action, however, results in essentially equal per capita general revenues for all 100 counties.

North Carolina counties spend most for education, health, and welfare (Table 5). County expenditures for education are relatively very much greater in North Carolina than county expenditures for this purpose nationwide—primarily because in most states education is a function of independent school districts rather than of county governments. But North Carolina counties spend nothing for highways, while the nation's typical county spends a good deal for them.

When we examine by population class how North Carolina county governments spend their money (Table 6), the most striking thing we see is that they spend almost the same total amount per capita. Only the five largest counties have per capita total general expenditures significantly higher than the other counties. But per capita levels of spending differ on a functional basis. Smaller counties spend slightly more on both education and control (diseconomies of scale, perhaps) than larger ones, but less on welfare and interest on general debt.

Perhaps the most significant characteristic of the meshing of state and county financing in North Carolina is that income is redistributed as a result of state-level taxation and county-level spending that eliminates large disparities in total per capita expenditures among counties.

Table 2
Per Capita and Percentage Distribution of General Expenditures of State and Local Government, by Function: United States and North Carolina, 1972

Function	Per Capita		Percentage Distribution	
	U.S. Aver.	N.C.	U.S. Aver.	N.C.
Education	$316.05	$257.58	39.0	43.6
Higher education	76.17	74.87	9.4	12.7
Local schools	224.12	171.47	27.7	29.1
Highways	91.34	78.48	11.3	13.3
Welfare	101.41	57.67	12.5	9.8
Hospitals	50.17	35.54	6.2	6.0
Health	12.37	9.61	1.5	1.6
Police Protection	28.84	17.91	3.6	3.0
Local Fire Protection	12.39	6.54	1.5	1.1
Sewerage	15.65	7.46	1.9	1.3
Other Sanitation	7.62	6.15	0.9	1.0
Local Parks and Recreation	11.13	4.76	1.4	0.8
Interest on General Debt	28.95	12.87	3.6	2.2
All Other	133.50	95.69	16.6	16.2
Total	$809.42	$590.23	100.0	100.0

Source: U.S. Bureau of the Census, *Census of Governments, 1972*, Vol. 4, No. 5: *Compendium of Government Finances*, Tables 35-36.

City revenues and expenditures

North Carolina has many small cities and towns spread across its geographical area. In 1975, 440 were active enough to qualify for state aid, 12 more than in 1970. Over half of them had fewer than 1,000 people, and more than half of the state's municipal population lives in the 20 largest cities. In 1970, only 43 per cent of the state's population lived within municipal boundaries. Ten years earlier just under 42 per cent were municipal residents. Unless trends change significantly, fewer than half of the state's people will live in cities and towns by the turn of the century.

North Carolina's pattern of government gives cities the chief responsibility

Table 3
Percentage Distribution of General Revenues of County Governments by Source: United States, North Carolina, and Selected States, 1972

State	Taxes		Intergovernmental		Current Charges		Other	Total
	Property	Other	State	Other	Hospital	Other		
United States	36.5%	6.1%	39.1%	3.0 %	5.8%	5.6%	3.9%	100.0%
North Carolina	22.6	3.2	61.6*	2.3	2.6	5.6	2.0	100.0
Georgia	58.1	4.6	20.5	1.2	1.5	7.8	6.3	100.0
South Carolina	27.0	0.8	22.4	2.2	31.4	3.7	12.4	100.0
Virginia	35.1	10.6	38.8	5.6	(Z)	6.9	3.1	100.0
New Jersey	43.7	0.1	44.4	1.1	3.4	5.3	2.0	100.0
New York	29.2	16.3	43.9	1.7	2.4	4.2	2.3	100.0
Ohio	30.4	8.1	34.4	3.0	6.8	8.3	9.0	100.0
Pennsylvania	55.9	1.4	23.6	3.4	1.0	11.1	3.5	100.0

Source: U.S. Bureau of the Census, Census of Governments, 1972. Vol. 4, No. 3: *Finances of County Governments*, Table 4.
*See text for comment on this figure.
(Z) Less than 0.05 per cent

for providing those services and functions needed to serve urban populations—residential streets, water and sewerage, solid waste collection, and high levels of police and fire protection—though county, state, and federal governments may share in administering these services or help finance them.

Municipal revenues in North Carolina are quite similar to municipal revenues in other states. State aid is less important than in the typical state, but primarily because cities receive no state aid for education (as cities do in many states where cities are responsible for local schools) and because the state assumes direct responsibility for many municipal streets. The general pattern for municipal revenues for the state, the nation, and selected other states appears in Table 7. (This table shows 1972 data, and thus does not reflect the use of the local sales tax, which is now widespread in North Carolina.)

Table 8 shows the relative importance of the different revenue measures by population class. Because state-shared revenues are limited and

Table 4
Average Per Capita General Revenues of County Governments by Source: United States and North Carolina Counties by Population Class, 1972

Pop. Class	No. Cos.	Inter Govern. Rev.	Tax Rev.	Charges and Misc.	Total Gen.
U.S. (all counties)	3,044	$ 55.40	$ 56.07	$ 20.14	$131.61
N.C. 200,000 or more	5	179.95	98.28	26.96	305.19
100,000 to 199,999	4	161.39	72.99	34.45	268.84
50,000 to 99,999	25	175.10	63.22	30.50	268.83
25,000 to 49,999	24	177.70	59.74	25.04	262.49
10,000 to 24,999	29	191.89	55.87	26.54	274.30
Under 10,000	13	198.59	63.28	19.25	281.11

Source: U.S. Bureau of the Census, Census of Governments, 1972. Vol. 4, No. 3: *Finances of County Governments*, Table 11. Population classes are based on the 1970 populations.

Table 5

Percentage Distribution of General Expenditures of County Governments by Major Functions: National Average, North Carolina, and Selected States, 1972

	Education	Highways	Public Welfare	Hospitals	Public Health	General Control	Int. on Gen. Debt	Total
United States	16.5%	11.3%	25.0%	10.1%	3.2%	5.7%	•2.3%	100.0%
North Carolina	68.2	—	14.9	3.6	2.4	0.7	1.5	100.0
Georgia	0.7	21.9	12.3	10.9	5.9	9.7	2.8	100.0
South Carolina	4.5	6.3	3.3	38.1	3.8	8.0	7.0	100.0
Virginia	67.1	1.0	6.7	0.1	0.8	1.6	3.7	100.0
New Jersey	14.7	6.6	41.0	12.2	1.6	5.5	1.5	100.0
New York	8.1	6.8	37.5	4.8	4.5	3.9	2.3	100.0
Ohio	4.1	16.1	21.5	15.9	4.5	7.1	2.5	100.0
Pennsylvania	2.5	6.0	21.6	4.8	7.0	12.4	3.1	100.0

Source: U.S. Bureau of the Census, Census of Governments, 1972. Vol. 4, No. 3: *Finances of County Governments*, Table 7.

Note: Expenditures for police, fire, parks, natural resources, corrections, buildings, financial administration, and other miscellaneous purposes are included in total but are not listed separately above. Most of the state support for the public schools in North Carolina is shown here as a county government expenditure.

Table 6

Average Per Capita General Expenditures of County Governments by Selected Major Functions: National Average and for North Carolina Counties by Population Class, 1972

Pop. Class	No. Cos.	Educ.	Welfare	Hosp.	Health	Police	Fin. Admin.	General Control	Int. on Debt	Highways	Total Expend.
U.S. (all counties)	3,044	$ 22.04	$ 33.31	$ 13.52	$ 4.32	$ 4.98	$ 3.42	$ 7.56	$ 3.06	$ 15.07	$ 133.17
N.C. 200,000 or more	5	193.36	49.73	1.28	9.28	4.21	3.51	1.87	6.53	—	298.92
100,000 to 199,999	4	142.84	58.39	22.21	8.26	3.07	2.60	1.89	4.72	—	261.46
50,000 to 99,999	25	189.94	31.19	13.21	6.04	3.40	2.68	1.87	3.09	—	262.81
25,000 to 49,999	24	190.19	37.89	8.76	4.69	3.68	3.15	2.08	3.54	—	266.17
10,000 to 24,999	29	192.43	37.00	10.16	3.81	3.28	2.97	2.68	3.06	—	268.36
Less than 10,000	13	191.22	37.66	—	5.97	4.42	4.62	3.76	1.82	—	264.38

Source: U.S. Bureau of the Census, Census of Governments, 1972, *Finances of County Governments*, Vol. 4, No. 3, Table 11. Population classes are based on the 1970 Census.

Expenditures for parks and recreation, corrections, natural resources (including agriculture), and other miscellaneous activities are included in total but are not shown separately.

"General expenditures" as used here includes all county expenditures except those for utilities, liquor stores, and employee retirement systems. The education expenditures shown include those financed by both local funds and through state appropriations for the public schools for North Carolina. The low per capita expenditure for hospitals in the five largest counties reflects the Census Bureau's practice of not including payments of debt principal in "general expenditures."

Table 7

Percentage Distribution of General Revenues of Municipalities: United States, North Carolina, and Selected States, 1972

State	Intergovernmental		Gen. Rev. from Own Sources	Taxes				Charges	Other	Total
	From State	From Other Govts.		Total	Prop.	Sales & Gross Rec'pt.	Other			
United States	24.1%	8.8%	67.1%	48.6%	31.2%	9.2%	8.2%	11.1%	7.3%	100.0%
North Carolina	13.6	14.5	71.9	46.4	44.2	(Z)	2.2	12.6	12.8	100.0
Georgia	6.8	8.8	84.4	48.0	31.2	8.8	8.0	22.4	14.1	100.0
South Carolina	11.0	10.6	78.4	56.1	43.3	(Z)	12.8	10.9	11.4	100.0
Virginia	32.9	7.8	59.3	47.1	28.2	13.1	5.8	8.7	3.5	100.0
New Jersey	24.9	2.9	72.2	64.7	54.9	7.9	1.9	4.0	3.5	100.0
New York	41.7	4.4	53.9	44.1	26.5	8.6	9.0	6.6	3.2	100.0
Ohio	12.5	9.5	78.0	45.3	17.1	0.3	27.9	19.6	13.2	100.0
Pennsylvania	11.4	13.1	75.5	57.2	24.4	0.7	32.1	10.6	7.6	100.0

Source: U.S. Bureau of the Census, Census of Governments, 1972, Vol. 4, No. 4: *Finances of Municipalities and Township Governments*, Table 9.

(Z) Less than 0.05 per cent

Table 8

Per Capita Revenues for North Carolina Municipalities by Population Class, 1972

Pop. Class	No. in Class	Revenues					
		From State Govt.	Prop. Taxes	Other Taxes	Charges and Misc.	Total Gen. Rev.	Utility* Revenues
100,000 or more	4	$26.04	$96.24	$4.95	$50.05	$221.98	$ 20.67
50,000 to 99,999	4	19.85	76.27	3.78	45.31	168.55	103.71
25,000 to 49,999	8	17.39	62.04	3.65	29.19	131.71	128.16
10,000 to 24,999	22	21.83	60.38	2.50	28.89	125.02	128.95
5,000 to 9,999	31	19.70	54.75	2.58	30.92	127.31	83.82
2,500 to 4,999	48	17.72	48.36	2.09	18.91	96.38	57.13
Less than 2,500	337	19.09	44.81	2.65	56.46	124.06	3.52

Source: U.S. Bureau of the Census, Census of Governments, 1972, Vol. 4, No. 4: *Finances of Municipalities and Township Governments*, Table 17. Population classes are based on 1970 population.

* The Utility classification includes revenues from water, electric and gas systems. Sewer service charges and special assessment revenues are included in "Charges and Miscellaneous." Intergovernmental revenue from other local governments and from the federal government is included in "Total General Revenues" but is not shown separately.

Note: Utility revenues are high in the population groups with 10,000 to 99,999 because of many cities in these groups with electric systems.

Table 9

Percentage Distribution of General Expenditures of Municipalities: National Average, North Carolina, and Selected States, 1972

State	Educ.	Highways	Public Welfare	Health & Hosp.	Police	Fire	Sewerage	Other Sanitation	Parks & Rec.	Housing & Urban Renew.	Libs.	Fin. Adm. Gen. Control	Int. on Debt	All Other	Total
United States	16.3	7.8	8.5	7.7	11.1	6.2	5.5	3.8	4.4	4.2	1.3	4.4	4.3	13.3	100.0
North Carolina	0.1	13.8	(Z)	0.7	13.4	8.3	8.9	7.7	6.4	8.7	0.8	6.6	4.9	16.7	100.0
Georgia	3.3	10.0	0.4	3.9	13.0	7.3	7.9	7.9	8.4	1.0	1.3	6.3	6.4	21.7	100.0
South Carolina	(Z)	8.1	0.2	0.8	19.4	10.3	16.5	11.9	5.1	2.1	0.1	7.2	2.1	13.0	100.0
Virginia	38.2	5.0	12.6	2.1	5.4	3.0	3.8	2.4	3.5	4.6	1.5	3.8	4.2	8.6	100.0
New Jersey	37.8	5.1	1.6	3.0	12.6	7.0	4.7	3.6	2.7	1.2	1.6	4.4	2.6	10.9	100.0
New York	25.0	2.5	21.5	12.2	7.2	3.6	2.3	2.5	1.7	5.6	0.8	2.3	3.6	8.3	100.0
Ohio	7.0	11.5	(Z)	7.6	14.4	9.3	10.7	4.8	5.1	3.5	0.3	5.4	5.8	12.8	100.0
Pennsylvania	0.5	8.6	2.5	7.2	16.4	6.7	4.4	5.2	5.4	7.3	1.4	7.5	3.3	21.9	100.0

Source: U.S. Bureau of Census, Census of Governments, 1972. Vol. 4, No. 4: *Finances of Municipalities and Township Governments*, Table 12.

(Z) Less than 0.05 per cent

Table 10

Per Capita Expenditures of Municipalities for Selected Functions: National Average and Average for North Carolina Municipalities by Population Class, 1972

Pop. Class	No. Cities	Highways	Police	Fire	Sewerage	Other San.	Parks & Rec.	Libraries	General Control	Int. on Gen. Debt	Total Gen.	Total Util.
U.S. All Cities	18,516	$21.21	$30.01	$16.77	$14.90	$10.18	$11.89	$3.54	$7.53	$11.62	$260.19	$48.27
N.C. Over 100,000	4	31.79	28.50	26.01	19.72	16.67	21.89	1.36	5.70	13.91	252.20	22.74
50,000 - 99,999	4	26.82	26.12	21.23	18.95	15.07	11.80	3.38	4.44	14.73	202.77	94.55
25,000 - 49,999	8	17.10	19.47	15.90	21.57	14.03	7.37	1.30	4.03	4.02	139.80	110.20
10,000 - 24,999	22	20.36	22.26	14.93	14.10	14.69	9.20	1.41	4.91	4.93	132.71	121.48
5,000 - 9,999	31	19.05	19.57	7.19	11.14	12.95	4.63	1.16	5.21	2.18	125.11	71.07
2,500 - 4,999	48	17.63	17.99	6.28	11.27	11.32	2.55	.79	8.51	3.11	96.31	51.46
Under 2,500	337	19.52	16.67	1.19	1.40	1.51	.68	.12	11.18	6.42	112.29	4.53

Source: U.S. Bureau of the Census, Census of Governments, 1972. Vol. 4, No. 4: *Finances of Municipalities and Township Governments*, Table 17. Population classes are based on 1970 populations.

Note: "Total General" includes functions not shown. "Total Utility" includes water, gas, and electric utilities.

because population is a factor in how two of the most important shared taxes are distributed, the per capita amount of state aid does not vary greatly by size of city. Property taxes, on the other hand, tend to be much more important in the larger cities, as do charges and miscellaneous revenues. (Table 8 shows charges and miscellaneous revenues to be greater on a per capita basis in the smallest towns. While this is a "fact" reported by the Census of Governments, it seems almost certain that the sum reported is incorrect.)

Utility revenues show a mixed picture. It seems likely that if electric and gas revenues were separated from water revenues, revenues (and expenditures) would appear slightly lower for the larger cities and towns, perhaps reflecting some economies of scale.

North Carolina cities' expenditure patterns also demonstrate the state's special arrangements in which cities do not finance either education or welfare and only very slightly finance hospitals. Thus, North Carolina cities spend relatively less on these functions than cities elsewhere and therefore relatively more on other functions (see Table 9). That this is the case is also shown in Table 10, which compares per capita expenditures for North Carolina cities with the national average for cities. For functions that are provided by North Carolina cities, the per capita outlays tend to approximate the national average. In both North Carolina and the nation at large, smaller cities tend to spend less per capita than larger ones do.

Interest on general debt in North Carolina on a per capita basis is fairly high, since most borrowing for utilities in North Carolina is through the issuance of general obligation bonds. In other states, relatively more utility indebtedness is in the form of revenue bonds and thus is not included in the "general debt" classification.

Briefly, North Carolina cities provide services comparable with those provided by cities throughout the nation from revenues that are principally raised locally. Municipal indebtedness is relatively low, and the financial condition of Tar Heel cities is good.

Other articles on local finance recently published include:

William A. Campbell, "The Property Tax in the 1970s," *Popular Government*, 40 (Summer 1974), 12-16.

Joseph S. Ferrell, "North Carolina's Share of Federal Revenue Sharing Funds," *Popular Government*, 40 (Summer 1974), 50.

C. Donald Liner, "Accuracy and Uniformity of Property Tax Assessments in North Carolina," *Popular Government*, 40 (Winter 1975), 29-35.

Environmental Problems

(continued from page 13)

waste recycling (more important in metropolitan areas).

Conclusion

Our respondents ranked water quality as being North Carolina's most important environmental issue. This ranking holds whether the opinion-makers are taken as a total group or as affiliation or locational groups.

They also placed the role of government in environmental decision-making and environmental policy questions high, especially when the issues are considered separately rather than in groups. The private sector ranks them much higher than any other affiliation group.

Affiliation and locational categories tend to agree on environmental priorities. Only the private sector and the Sea Coast differed much from the other categories within their group.

Finally, the survey shows that opinion-makers in North Carolina view environmental issues in an organized fashion. Certain problems and policy considerations consistently rank high in importance in all affiliation and locational groups. But these groups differ in the importance they ascribe to particular environmental issues, and these differences can serve as the basis of political conflict over environmental issues.

The North Carolina DUI Law: An Update

Ben F. Loeb, Jr.

January 1, 1975, was the effective date of an important addition to the North Carolina Driving Under the Influence Law—an addition that made it unlawful to drive a vehicle with a blood-alcohol level of 0.10 per cent or more, regardless of the actual extent of intoxication. Thus there are now several separate statutory provisions dealing with driving under the influence, including: G.S. 20-139, which makes it unlawful to drive under the influence of any drug (or to drive at all if one is a habitual user of a narcotic drug); G.S. 20-138(a), which prohibits driving under the influence of intoxicating liquor; and G.S. 20-138(b), which prohibits operating a vehicle upon a highway or public vehicular area when the amount of alcohol in the blood is 0.10 per cent or more by weight. Conviction of any of these offenses is punishable by fine and/or imprisonment and also results in revocation of the driver's license.

Conviction data for the first six months of 1975 was discussed in an article in the Winter 1976 issue of *Popular Government*. That data indicated that the new law was not having the desired effect. Specifically, the data showed that, of those arrested for DUI during the first half of 1975, a smaller percentage were convicted than in the year preceding enactment of the new law.

At the time this 1975 data was presented, there were no statewide statistics available to indicate how many of the DUI defendents were driving with a blood-alcohol level above the legal limit. (While only about 63 per cent of those arrested were being convicted, this figure could have represented the percentage that had a blood-alcohol level of 0.10 per cent or more.) The North Carolina Division of Motor Vehicles now has computerized records that show blood-alcohol levels of arrested drivers and indicate the disposition of the cases. Table 1 covers those arrested during the calendar year 1975.

The following observations should be made about this data:

(1) There were over 300 convictions of persons whose blood-alcohol level was below 0.10 per cent. While it is possible to be guilty of driving under the influence of liquor with a blood-alcohol level of less than 0.10 per cent, many of these convictions were probably for driving under the influence of a drug.

(2) A substantial number of those who were not convicted of DUI or 0.10 per cent were probably convicted of a lesser offense, such as reckless driving. Such convictions are not included in this study because they do not result in revocation of the driver's license.

(3) Of those who had a blood-alcohol

Table 1
North Carolina DUI Conviction Rate During 1975
for Those Defendants Who Took a Chemical Test

BAC Level	Number Convicted of DUI or .10 (includes those convicted of driving under the influence of liquor or drugs or having blood alcohol level of 0.10 per cent or more. Also includes cases disposed of in 1976 if arrest was made in 1975)	Number Not Convicted of DUI or .10 (includes those found guilty of a lesser offense, such as reckless driving, or found not guilty of any offense)	Percentage Convicted of DUI or .10
0.00	50	491	9.2%
0.01-.05	80	2,089	3.7
0.06-.09	192	3,657	5.0
0.10-.15	8,073	6,375	55.9
0.16-.20	10,816	1,759	86.0
0.21-.25	6,123	618	90.0
0.26-.30	2,290	211	91.6
0.31-.35	569	60	90.5
0.36-above	134	14	90.5
0.10 and above	28,005	9,037	75.6%

The author is an Institute of Government faculty member who has worked in the areas of both motor vehicle law and alcoholic beverage law. This article is adapted from an address he made before the 1976 North Carolina Conference on Highway Safety.

Table 2
1975 Conviction Rate by County

County	Percentage Convicted	County	Percentage Convicted
Alamance	64.1	Johnston	85.7
Alexander	68.8	Jones	86.2
Alleghany	92.1	Lee	81.6
Anson	78.2	Lenoir	83.9
Ashe	77.0	Lincoln	47.7
Avery	78.6	Macon	80.4
Beaufort	83.1	Madison	75.7
Bertie	84.1	Martin	85.2
Bladen	74.7	McDowell	90.5
Brunswick	73.8	Mecklenburg	70.0
Buncombe	95.0	Mitchell	65.0
Burke	70.2	Montgomery	92.6
Cabarrus	89.6	Moore	76.3
Caldwell	72.3	Nash	77.3
Camden	89.0	New Hanover	71.0
Carteret	83.5	Northhampton	83.9
Caswell	82.7	Onslow	88.5
Catawba	65.2	Orange	66.6
Chatham	74.2	Pamlico	79.3
Cherokee	84.0	Pasquotank	87.4
Chowan	93.0	Pender	74.1
Clay	86.5	Perquimans	95.6
Cleveland	67.9	Person	69.7
Columbus	72.3	Pitt	81.1
Craven	85.6	Polk	88.7
Cumberland	76.0	Randolph	91.7
Currituck	92.2	Richmond	71.3
Dare	91.7	Robeson	85.5
Davidson	69.6	Rockingham	58.3
Davie	72.9	Rowan	88.0
Duplin	70.4	Rutherford	91.4
Durham	68.9	Sampson	81.6
Edgecombe	73.7	Scotland	89.0
Forsyth	74.5	Stanly	69.2
Franklin	66.1	Stokes	59.1
Gaston	59.2	Surry	68.7
Gates	90.3	Swain	91.4
Graham	94.7	Transylvania	80.6
Granville	63.2	Tyrrell	88.2
Greene	84.2	Union	74.4
Guilford	78.3	Vance	67.9
Halifax	81.0	Wake	64.4
Harnett	83.6	Warren	74.1
Haywood	88.5	Washington	81.8
Henderson	86.1	Watauga	72.0
Hertford	79.7	Wayne	74.8
Hoke	82.4	Wilkes	76.3
Hyde	77.8	Wilson	63.9
Iredell	73.5	Yadkin	79.2
Jackson	68.9	Yancey	64.3

level of 0.10 per cent or more, the conviction rate was 75.6 per cent. Thus, almost one-quarter of drivers with a blood-alcohol level above the legal limit were probably not convicted of an offense that resulted in a license revocation.

(4) The conviction rate goes up sharply (from 55.9 per cent to 86.0 per cent) when the blood-alcohol level goes above 0.15 per cent.

(5) The conviction rate does not rise much above 90 per cent, even when the blood-alcohol level reaches 0.36 per cent.

(6) Over 15 per cent of those arrested in 1975 have not had their cases disposed of and thus are not included in these figures.

Although the over-all state conviction rate (based on defendants who took a chemical test and registered 0.10 per cent or more) was 75.6 per cent, the individual counties varied greatly. Buncombe, for example, had a conviction rate of 95 per cent (and Perquimans 95.6 per cent), while Lincoln's conviction rate was only 47.7 per cent. Among the major metropolitan areas, Durham had a conviction rate of 68.9 per cent; Forsyth, 74.5 per cent; Guilford, 78.3 per cent; Mecklenburg, 70.0 per cent; and Wake, 64.4 per cent. A complete list of counties and conviction rates appears in Table 2.

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