

Spring 1991 Vol. 56, No. 4

Popular Government

Institute of Government • The University of North Carolina at Chapel Hill



**Planning for
North Carolina's
Older Population**

Also

Prison population growth

Legislative district maps

Medical records and child abuse

The lottery question

Popular Government



Editor

Charles D. Liner

Managing Editor

Liz McGeachy

Editorial Board

William A. Campbell

Stevens H. Clarke

Robert L. Farb

Jeffrey S. Koeze

David M. Lawrence

Janet Mason

Art Director

Michael Brady

Design Staff

Daniel Soileau

On the Cover

Elizabeth McLellan reads a story to Shequonna Cherry as part of the Read a Story to a Tot program of the Orange County Department on Aging
Photograph by Bob Donnan.

Popular Government (ISSN 0032-4515) is published four times a year (summer, fall, winter, spring) by the Institute of Government, CB# 3330 Knapp Building, UNC-CH, Chapel Hill, NC 27599-3330. Subscription \$12.00 per year. Second-class postage paid at Chapel Hill, NC, and additional mailing offices. POSTMASTER: Please send change of address to Institute of Government, CB# 3330 Knapp Building, UNC-CH, Chapel Hill, NC 27599-3330. The material printed herein may be quoted provided that proper credit is given to *Popular Government*.

©1991, Institute of Government

The University of North Carolina at Chapel Hill

The paper used in this publication meets the minimum requirements of American National Standard for Information Services—Permanence of Paper for Printed Library Materials, ANSI Z39.48-1984.
Printed in the United States of America

Popular Government is distributed without charge to city and county officials as one of the services provided by the Institute of Government in consideration of membership dues.

The Institute of Government of The University of North Carolina at Chapel Hill has printed a total of 7,700 copies of this public document at a cost of \$7,550.00, or \$0.98 per copy. These figures include only the direct cost of reproduction. They do not include preparation, handling, or distribution costs.



Institute of Government

The University of North Carolina at Chapel Hill

John L. Sanders, Director

William A. Campbell, Associate Director

Faculty

Stephen Allred	Jeffrey S. Koeze
A. Fleming Bell, II	Patricia A. Langelier
Joan G. Brannon	David M. Lawrence
Stevens H. Clarke	Charles D. Liner
Ann C. Clontz	Ben F. Loeb, Jr.
Janine M. Crawley	Ronald G. Lynch
Anne M. Dellinger	Janet Mason
James C. Drennan	Richard R. McMahon
Richard D. Ducker	Laurie L. Mesibov
Robert L. Farb	David W. Owens
Joseph S. Ferrell	Robert E. Phay
S. Grady Fullerton	Roger M. Schwarz
Milton S. Heath, Jr.	Robert G. Shreve
Joseph E. Hunt	Michael R. Smith
Kurt J. Jenne	Mason P. Thomas, Jr.
Robert P. Joyce	Thomas H. Thornburg
A. John Vogt	

The Institute of Government of The University of North Carolina at Chapel Hill is devoted to teaching, research, and consultation in state and local government.

Since 1931 the Institute has conducted schools and short courses for city, county, and state officials. Through monographs, guidebooks, bulletins, and periodicals, the research findings of the Institute are made available to public officials throughout the state.

Each day that the General Assembly is in session, the Institute's *Daily Bulletin* reports on the Assembly's activities for members of the legislature and other state and local officials who need to follow the course of legislation.

Over the years the Institute has served as the research agency for numerous study commissions of the state and local governments.

Popular Government

Institute of Government • The University of North Carolina at Chapel Hill

RECEIVED

C O N T E N T S

AUG 2 1991

Spring 1991 Vol. 56, No. 4

INSTITUTE OF GOVERNMENT
UNIVERSITY OF NORTH CAROLINA
LIBRARY

Bob Donnan Photography



p. 2



p. 25

Feature Articles

- 2 Aging: Challenges and Opportunities for North Carolina
by Dennis W. Streets and Margaret L. Morse
- 9 North Carolina's Growing Prison Population: Is There an End in Sight?
by Stevens H. Clarke
- 20 1991 Legislative Redistricting: The Starting Point
by Robert P. Joyce
- 22 Questions about Child Abuse: Should Medical Providers Open Their Records to Investigators?
by Janet Mason and Anne Dellinger
- 25 What Kind of Lottery for North Carolina?
by Charles T. Clotfelter and Philip J. Cook

Book Review

- 30 *Healthcare Facilities Law: Critical Issues for Hospitals, HMOs, and Extended Care Facilities*, Anne M. Dellinger, general editor
reviewed by Claire L. Moritz

Around the State

- 31 North Carolina Ranks High in Certificate of Achievement Program Participation
by S. Grady Fullerton

At the Institute

- 32 Heath Is Honored by Groundwater Professionals of North Carolina
by Liz McGeachy

Aging: Challenges and Opportunities for North Carolina

Dennis W. Streets
and Margaret L. Morse

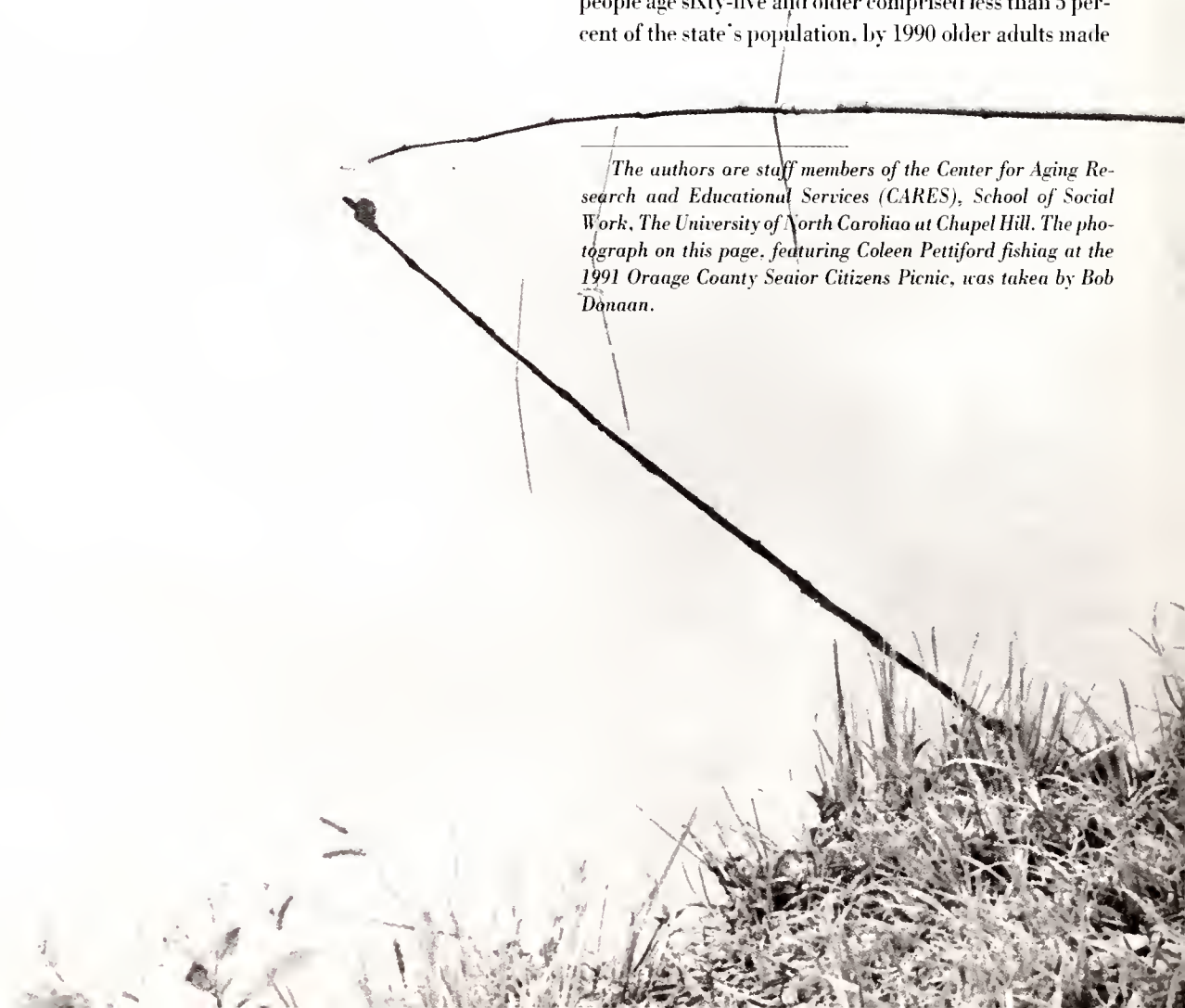
The number of older people in the United States is increasing steadily. This increase has been particularly dramatic in North Carolina: only nine states were estimated to have a higher growth rate in the population age sixty-five and older between the years 1980 and 1989.¹ While some of this increase may be due to those relocating to North Carolina's mountains, coastal shores, and Piedmont retirement centers, much of the graying of North Carolina's population can be attributed to the aging of native North Carolinians—we are all growing old together.

The first section of this article describes the size and characteristics of the state's older population and the far-reaching economic, social, and political implications of an aging population. The second section discusses how North Carolina has been addressing these issues as well as how the state is planning to care for and benefit from its older citizens in the future.

Older People: An Economic, Social, and Political Force

The maturing of North Carolina's population is clearly evident (see Figure 1). Where in 1900 the 66,142 people age sixty-five and older comprised less than 5 percent of the state's population, by 1990 older adults made

The authors are staff members of the Center for Aging Research and Educational Services (CARES), School of Social Work, The University of North Carolina at Chapel Hill. The photograph on this page, featuring Coleen Pettiford fishing at the 1991 Orange County Senior Citizens Picnic, was taken by Bob Dunaan.

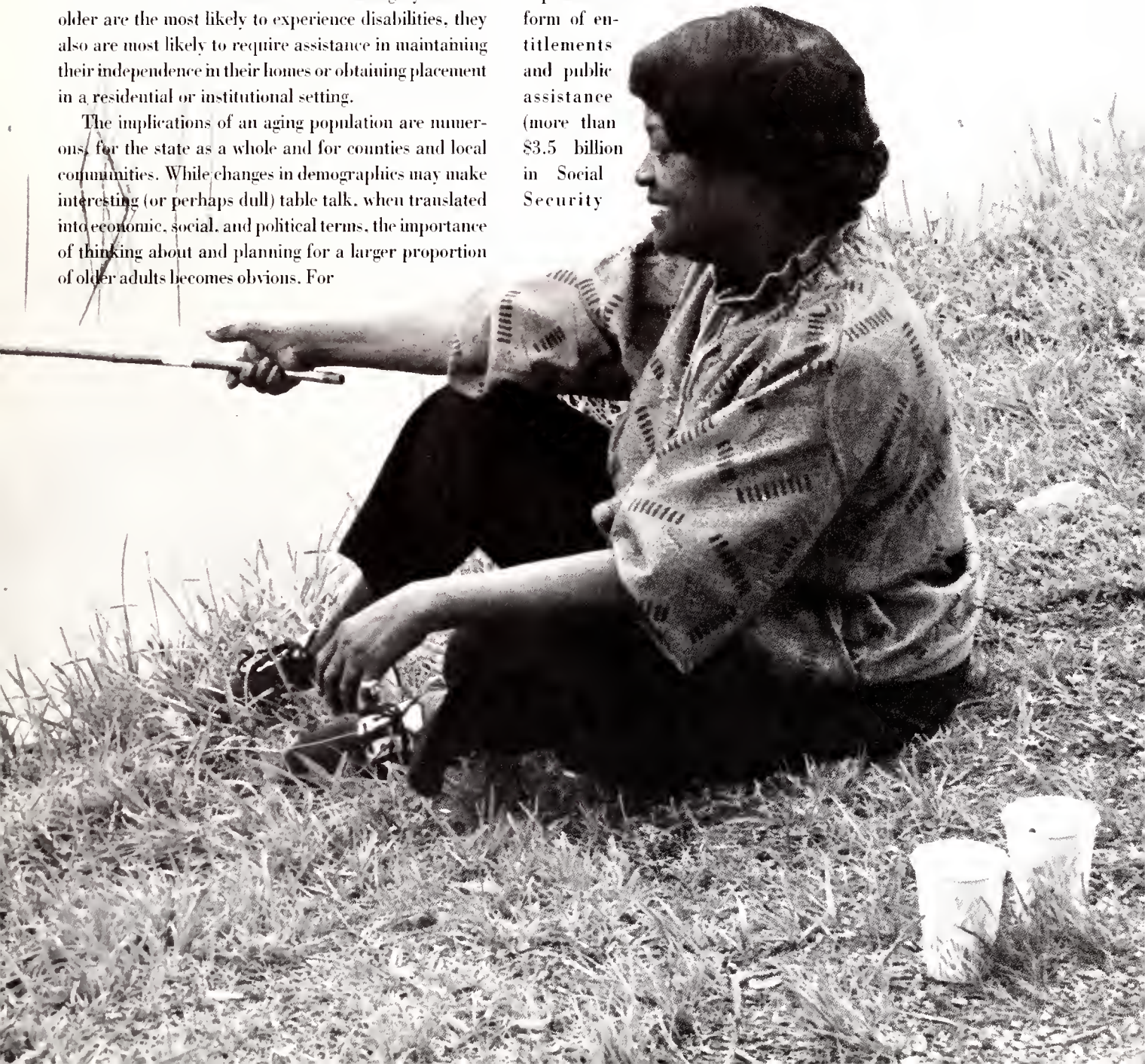


up 12.4 percent of the population (an estimated 821,631). This trend will continue: in 2010 an estimated 15.2 percent of all North Carolinians will be sixty-five years or older, totaling nearly 1.2 million. This changing age composition, termed *population aging*, is further reflected in the state's median age. (If every North Carolinian lined up from the youngest to the oldest, the age of the person in the middle would be the median age of the population.) As of 1970 the median age of North Carolinians was 26.5 years. By 1990 it had increased to 33.2, and by 2010 the median age is projected to be 39.7 years. Of particular importance is the rate at which the number of people eighty-five and older is growing. This segment is increasing at the fastest rate and so has particular relevance for health and human services: because those eighty-five and older are the most likely to experience disabilities, they also are most likely to require assistance in maintaining their independence in their homes or obtaining placement in a residential or institutional setting.

The implications of an aging population are numerous, for the state as a whole and for counties and local communities. While changes in demographics may make interesting (or perhaps dull) table talk, when translated into economic, social, and political terms, the importance of thinking about and planning for a larger proportion of older adults becomes obvious. For

example, the changing age composition could have a large effect on state and local tax bases, depending on such things as trends in retirement, pension coverage, and the corresponding status of real income; on decisions about tax exemptions; and on how amounts of disposable income affect consumer purchasing power. Unless the current disposition toward early retirement changes, population aging also will result in a larger group of older people relying on a much smaller group of workers to contribute to their benefits and to provide needed services.

Factors associated with an aging population are by no means all negative. Among the economic benefits are the sizable resources associated with the life-long earnings of older people, the federal funding deposited in the state in the form of entitlements and public assistance (more than \$3.5 billion in Social Security



payments in fiscal year 1987–88, for example), and the influx of dollars brought to the state by older in-migrants, many of whom are younger and more affluent than the older population native to North Carolina. The growing number of older people also will contribute through employment, volunteerism, and involvement otherwise in family, community, and civic affairs.

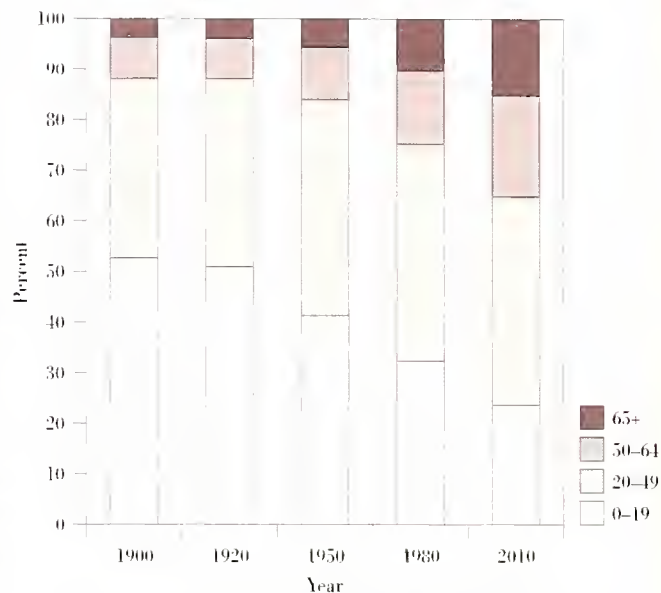
Politically speaking, the interests of older adults must be seriously considered. While there appears to be no single consumer voice speaking for the interests of all older North Carolinians, the chorus of views expressed by a number of statewide and county-based associations and coalitions can be heard. While the principal mission of these groups is advocacy for older people, their attention and influence is much broader, and they have the potential to affect public policy and the commitment of resources in many areas at the state and local levels. Equally important, if not more so, is the traditionally high level of participation by older adults as voters. Because they have been such active members of the electorate, they have an effect that outstrips their proportional representation in the voting-age population, and this effect should only increase as the number of older adults increases.

A Plan for Aging

The Foundations of a Plan

The last three or four years have seen a flurry of activity in North Carolina in planning and developing programs for its older population, and the work of the North Carolina Study Commission on Aging must be acknowledged as a catalyst for much of what has taken place. This commission, established by the North Carolina General Assembly in 1977 and made up of members from both the Senate and the House of Representatives, has had substantial success in promoting legislation relevant to older North Carolinians. Certainly this includes passage of Senate Bill 1559² in the 1988 session of the General Assembly. One basic premise of this legislation was that "North Carolina does not have a well coordinated full-service system of in-home and community-based services for the elderly, whether subsidized or fee supported." The act called for the creation of a task force of consumers and providers to assist in recommending ways to improve the system of home and community care for older adults. It also provided for a new source of state funding for certain home- and community-care services.

Figure 1
Percentage of Total Population by Age Group
in North Carolina, 1900–2010



Sources: Data for 1900 through 1980, U.S. Bureau of the Census. Projection for 2010, N.C. Office of State Budget and Management.

To support the work of the task force, the Study Commission on Aging asked the North Carolina Institute of Medicine to assess the situation and review the options for developing a coordinated system of case-managed home and community care. The institute, working with the Center for Aging Research and Educational Services (CARES), prepared a report that evaluated the strengths and weaknesses in North Carolina's system for delivering services, compared them to systems in other states, and offered a series of recommendations to bring about a more responsive system of care.³ Recommendations from this report included the following:

- 1) Development of county-based projects to demonstrate a coordinated approach for the provision of home- and community-care services to the elderly.
- 2) Formation of an ongoing, interagency planning committee within the state Department of Human Resources to assist with developing guidelines, standards, and procedures for the demonstration projects.
- 3) Support by Area Agencies on Aging in assisting counties with strategic planning for long-term care and aging. (These agencies are discussed further in the section on county planning projects, page 6.)
- 4) Designation at the county level of a lead agency and a planning committee with representation by major

public and private agencies and elderly consumers and consumer groups, to produce a county-based plan for coordinating long-term care.

- 5) Collaboration among the state, regional, and local levels to assure a set of "basic aging services" for each county.
- 6) Partnership between formal services and families and other so-called informal care givers of older persons, such that the formal system of services supports rather than competes with or displaces their care giving.
- 7) Integration of funding streams to simplify access and produce more efficient use of resources.
- 8) Establishment of an effective case management model¹ for planning and coordinating the provision of services directly to older people.

Building on the foundation of Senate Bill 1559 and the Institute of Medicine's report, and with the continued stewardship of the Study Commission on Aging, the 1989 session of the General Assembly passed two critical bills: House Bill 1008⁵ and House Bill 69.⁶ House Bill 1008 established within the Department of Human Resources an Advisory Committee on Home and Community Care, whose membership includes by law the secretary of the Department of Human Resources and twenty-five others (representatives from state agencies associated with aging services, Area Agencies on Aging, county boards of commissioners, both houses of the state legislature, and various professional, educational, and trade organizations). The committee's objectives include (1) the identification of a core set of in-home and supportive services for functionally impaired older people and their families to be available in all counties; (2) the development of a consolidated state aging services budget from the many existing and potential funding sources to create a common funding stream; and (3) the development of guidelines, standards, procedures, and cost estimates for implementing county-based projects to demonstrate a coordinated system of in-home and community-based services.

An important expectation cited in the act was that the county-based projects would be "coordinated with the Division of Aging's efforts to facilitate the development of county plans on aging and a State plan on aging." This expectation linked House Bill 1008 with House Bill 69, an act mandating the development of a regularly updated plan for serving older adults, for which the state Division of Aging was designated to take the lead. A primary directive of House Bill 69 was that the plan include a "clear statement of the goals of the State's long-term

public policy on aging." It was also to include a rather detailed analysis of the needs of older North Carolinians and of services available to meet those needs, as well as to present to the General Assembly in every odd-numbered year specific recommendations for the funding of services.

The 1991 State Aging Services Plan

Following the directives of House Bill 69, the Division of Aging submitted the first State Aging Services Plan to the General Assembly on March 1, 1991. The plan details specific state, regional, and local initiatives, some of which would require legislative support and appropriation of funds before implementation. The work of the Advisory Committee on Home and Community Care in carrying out its responsibilities directed by House Bill 1008 was tied closely to that of the Division of Aging in the development of the State Aging Services Plan. The committee served as a principal sounding board for the Division of Aging in identifying and debating strategies, not only for the more seriously functionally impaired who would benefit from in-home and community-based services, and who were the committee's first focus of attention, but also for two other populations of older adults. The first group was those who run the risk of having problems as they grow older because of poor economic circumstances, social isolation, illiteracy, mental illness, or other jeopardizing factors. The second group was those older people considered to be relatively free of risk, or "well older adults." This group also included those people who will be sixty within the next two decades, which includes many of us.

The principal theme of the 1991 State Aging Services Plan seems to be well captured in its subtitle, "A Guide for Successful Aging in the 1990s." While the achievement of successful aging may be more readily envisioned for older people in good health who have adequate financial resources and strong networks of family and friends, it is no less important for those persons without any or all of these advantages. The mission statement of the plan clearly calls upon public officials and policy makers at the state, regional, and local levels to work together to provide a high quality of life for all older adults:

To provide a comprehensive assessment of the needs and opportunities associated with older adults; an achievable vision of successful aging; county-based programs for the support of and investment in older adults and their families, including a system of care for high-risk older

adults; and policy strategies for maximizing the functional independence and quality of life of older adults and their families consonant with their wishes and desires.

While clearly the 1991 State Aging Services Plan emphasizes developing a system of in-home and community care, it also provides the framework for addressing issues important to all older people. It is a plan with a vision for at least the next ten years, and achievement of the goals it articulates would result in a system of care for impaired older adults that offers choices among quality in-home, community-based, and institutional services; a structure for continued planning to meet the challenges and opportunities of North Carolina's aging population; and a complementary and collaborative relationship among those at the state, regional, and local levels.

The plan's strategies for developing the system of care include an emphasis on readying a work force of professionals and paraprofessionals to provide the level and quality of care that will be required and expected by older people. The educational and service communities should have many opportunities to collaborate in the development and maintenance of this work force. Other strategies include improved management of public resources to assure that they are appropriately targeted to the most vulnerable, coordination of the funding and delivery of services to eliminate wasteful duplication of effort and excessive administrative requirements, and support for rather than supplantation of the many care-giving contributions of family and friends of impaired older people. Another strategy intended to expand services will enable clients to share in their cost—in many cases, publicly supported services have been provided at no cost to clients, regardless of their ability to pay, or services have been unavailable to clients whose income exceeded eligibility criteria. Such a strategy of partially subsidized care is especially helpful to those with too much income to qualify for assistance yet too little to pay for services entirely on their own. These statewide strategies are consistent with the issues identified by counties in 1990 as being most significant to their efforts to meet the needs and desires of the older population.

County Planning Projects

To increase the quality of life for all older people, regardless of their condition or circumstance, the state plan supports the development of county-based programs on aging. As conceived, a county-based program

will establish a system for care and support of the frail elderly and their care givers as well as encourage opportunities for all older adults to remain in control of their lives and contribute to their own well-being and that of their family and community. Two notions underlie much of the emphasis on county-based planning and program development. The first is that services planned and organized at the county level provide the greatest responsiveness to the needs of older adults and their families. The second places a premium on involving older adults directly in decision making and in the implementation of decisions that affect them.

Given the importance of strategic planning to the development of the county-based programs on aging, several counties have received support from the state to field-test a process for planning that could be replicated in other counties. The Division of Aging, with the assistance of CARES, has taken the lead in outlining a structured approach to planning, to assist counties in taking decisive and feasible action on a few priority issues. Eight counties have been involved in the field-testing projects: Alexander, Catawba, Cleveland, Durham, Halifax, Mecklenburg, Pamlico, and Surry.⁶

The eight project counties, representing a cross-section of the state with regard to geographic location, rurality, wealth, and minority representation, have each made the commitment required for the process. This includes the designation by the Board of County Commissioners of a local lead agency for planning—the county department of social services in four counties (Alexander, Catawba, Halifax, and Mecklenburg); a private, non-profit council on aging in Cleveland; a county department on aging in Pamlico; a collaborative effort between the county department of social services and a private, non-profit council on aging in Durham; and the county manager's office in Surry.

Six of the lead agencies and offices have followed the process outlined by the Division of Aging. It involves nine essential steps: (1) making a commitment, (2) organizing the process, (3) scanning the environment, (4) selecting key issues, (5) setting goals and objectives, (6) performing internal and external analyses, (7) identifying strategies, (8) developing an action plan, and (9) implementing, monitoring, and updating. The other two counties, Catawba and Mecklenburg, earlier undertook a strategic planning process for aging on their own initiative, following an approach shaped by previous countywide planning. These two counties are considered part of the overall pilot project because their efforts will

be included in a comparative evaluation designed to clarify recommended county planning guidelines. The Division of Aging, assisted by CARES, will report on the pilot counties during fiscal year 1991-92.

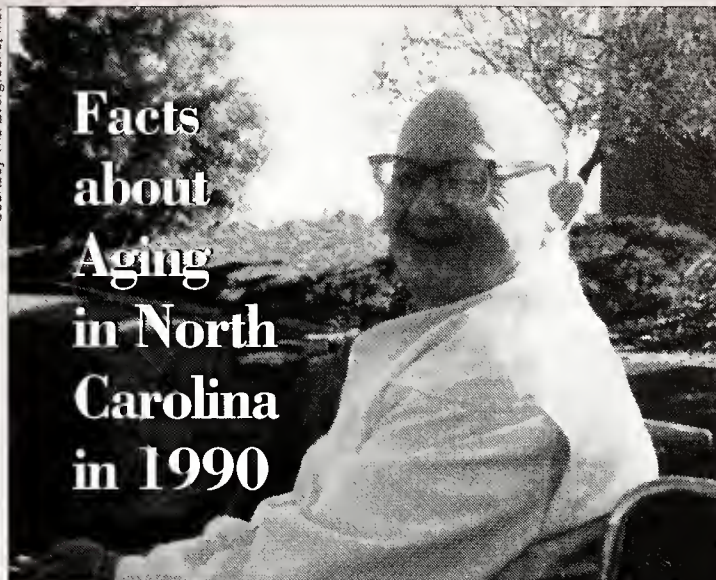
The main links between the project counties and the Division of Aging are the Area Agencies on Aging (AAAs). Established during the 1970s under the Older Americans Act and located in the eighteen lead regional organizations, the AAAs have traditionally been the vital connection between local communities and many of the federal and state initiatives designed to promote maximum independence for older people. The AAAs' provision of essential technical assistance and consultation to counties has included orientation and training of strategic planning participants, collection and interpretation of needs assessment and resource data, dissemination of information from the state and other sources relevant to county planning, identification and demonstration of useful group-process techniques, pursuit of public and private resources to assist counties in implementation of strategies, production of reports, and active participation in committees and task forces.

The Area Agencies on Aging are in a position to serve as a conduit to help apply what is learned from the eight project counties to all one hundred counties in North Carolina. Being regional in nature, AAAs also can play a significant role in analyzing issues that cross county lines and in helping develop regional strategies that might be feasible when strategies limited to a single county are not. This could involve an AAA as provider of certain supportive services for counties, such as care management for impaired older people, when it is not logical or feasible for individual counties to establish and maintain the capacity to deliver such services. In most cases, though, the AAA acts as a catalyst and facilitator, encouraging and then assisting counties in their planning for the development of county-based programs on aging.

Conclusion

North Carolina is taking the first steps toward the development of a strategic plan for serving a growing older population. However, there is much to be done. There is ample opportunity and significant responsibility for local public officials to take the lead in framing a process of planning for the future. There are numerous tasks to be assumed and many to be shared among county commissioners, county managers, city officials, human services planners and administrators, and others.

Courtesy, The Evergreens, Inc.



George Collins enjoys an afternoon outside at The Greensboro Evergreens (of The Evergreens, Inc.), a long-term care, nonprofit facility where he is a resident.

- People sixty-five and older make up 12.4 percent of the total population—that is, one out of every eight citizens.
- The median age is rising:

1970	26.5
*1990	33.2
*2010	39.7
- The percentage of those sixty-five and over who are female increases with age:

sixty-five to sixty-nine	57.4 percent
seventy to seventy-four	60.0 percent
seventy-five to seventy-nine	63.7 percent
eighty to eighty-four	68.4 percent
eighty-five and over	73.8 percent
- Other demographics for those sixty-five and over:

minority group members	18.4 percent
living in poverty	23.9 percent
living alone	26.4 percent
living in rural areas	51.7 percent
- The estimated number of people age 100 and older is 1,200.
- The largest single source of income for those sixty-five and over is Social Security. For older adults at or below the poverty level, Social Security accounts for 77 percent of income. In fiscal year 1987-88, Social Security Retirement funds (OASDI) brought \$3.5 billion in federal funds to North Carolina's economy.

* Based on projections, assuming the continuation of current trends in fertility, mortality, and migration, among others. The 1990 census data are just beginning to be available for comparison.

Sources: N.C. Office of State Budget Management, *North Carolina Population Projections: 1988-2010* (Raleigh, N.C.: NCOSBM, 1988), and CARES, *Aging in North Carolina*, prepared for the N.C. Division of Social Services (Chapel Hill, N.C.: CARES, 1989).

Lola Brown and Naomi Rogers visit at the 1991 Orange County Senior Citizens Picnic at Lake Michael in Mebane.



Bob Dornan

The 1991 State Aging Services Plan reviews some of the important formal roles that public officials must consider, but while important, they do not represent all of what needs to be done to advance the quality of life for older people and the community at large. Probably one of the most important roles for local officials is the development of a local vision for successful aging. This requires coming to grips with one's own perception of aging and old age, as well as discerning the values held by the community. In instances where one's own and the community values seem incompatible or inconsistent, there may need to be opportunities for discussion, debate, and learning. The thoughts and actions of public officials will go far toward setting the stage for the community to seriously consider the implications of an aging population and plan for this in such a way that aging issues are viewed within the overall context of shaping the community's future rather than as discrete and isolated concerns. While planning for an older North Carolina must be a consideration of public officials at every level of government, the involvement of local officials will be especially important, given the emphasis on developing county-based programs on aging that are responsive to an increasingly diverse and complex population of older citizens. ❖

Notes

1. American Association of Retired Persons, *A Profile of Older Americans* (Washington, D.C.: AARP, 1990).

2. 1987 N.C. Sess. Laws, ch. 1095, 1988 Reg. Sess.

3. N.C. Institute of Medicine, *Developing a System of Coordinated Home and Community Care Services in North Carolina* (Durham, N.C.: N.C. Institute of Medicine, 1988; rev. 1989), and *Issues and Options in Developing a System of Case-Managed Home and Community Care for North Carolina's Older Adults* (Durham, N.C.: N.C. Institute of Medicine, 1989).

4. The case management model consists of case finding, assessment, care planning, negotiation, care plan implementation, monitoring, and advocacy on behalf of clients; it normally would be performed by a team consisting of a registered nurse and a social worker. The 1991 State Aging Services Plan (discussed in the next section) speaks of this activity as care management.

5. 1989 N.C. Sess. Laws, ch. 457. At press time, modifications to this act were being considered by the General Assembly.

6. 1989 N.C. Sess. Laws, ch. 52.

7. N.C. Department of Human Resources, Division of Aging, *North Carolina Aging Services Plan: A Guide for Successful Aging in the 1990s*, vol. I, *Executive Highlights*, and vol. II, *Full Report* (Raleigh, N.C.: Division of Aging, 1991). Copies of this document can be obtained by writing to the Division of Aging, 693 Palmer Drive, Caller Box Number 29531, Raleigh, NC 27626-0531.

8. These counties were selected from among twenty-six counties that applied in the spring of 1990 for a planning grant of up to \$20,000. The funds for these grants were made available from two sources, the Kate B. Reynolds Health Care Trust and the state Division of Social Services, Adult and Family Services Branch. The overall project began with the support of the Kate B. Reynolds Health Care Trust, while the subsequent funding from the state Division of Social Services allowed expansion of the project to several additional counties where the lead agency for planning was a county department of social services.

North Carolina's Growing Prison Population: Is There an End in Sight?

Stevens H. Clarke

The number of people confined in North Carolina's state prisons has been increasing for some years. Litigation over prison crowding has threatened the state with the prospect of federal courts taking over the prisons, as has occurred in a number of other states. To avoid this the state has consented to judgments requiring it to build more prison space and limit the number of prisoners. The acceleration in prison construction can be seen by comparing the ten years 1974 to 1984 with the six years 1985 to 1991. Between 1974 and 1984 \$102 million was appropriated for new prison construction, providing 3,604 new prison beds.¹ Between 1985 and 1991 \$146 million in capital appropriations, plus an additional \$75 million in bonds, was approved for prison construction. The \$75 million in bond funds, plus another \$200 million in bonds (if issued and spent), will provide about 5,000 additional beds.² (The \$200 million issue was approved by the state's voters in 1990.³)

As large as the construction costs are for new prisons, the operating costs are much more. For example, the cost to operate the new prison space built with the proceeds of the \$75 million in bonds just mentioned is estimated at \$32 million in fiscal year 1991-92 and \$39 million in 1992-93. The cost to operate the space built with the additional \$200 million in bond funds (if these funds are borrowed and spent) has been estimated at \$67 million per year. In other words the operating cost will exceed

the construction costs in just three years of the life of the new facilities. If the facilities last twenty-one years, their total operating costs will be at least seven times as great as their construction costs.

Building more prison space poses a serious fiscal problem for the state at a time of declining revenue growth, coupled with a demand for improved public education and other services. As recently as 1988 North Carolina ranked ahead of all other states in the percentage of its state budget spent on the justice system, largely because of its expenditure on corrections.⁴ Meanwhile many criminal justice officials are complaining that prison space is still insufficient, causing what they regard as the hasty release of offenders from prison.

How North Carolina officials choose to deal with this dilemma in the future will depend, in part, on how they interpret the data available. This article describes and analyzes data on the growth of North Carolina's prison population between 1970 and 1989 and examines some of the factors that have driven the population upward and how the proportions of certain types of inmates have changed.⁵ How the changes in prison population relate to changes in arrests, crime reported by police, crime victimization, and police capability also is considered. The article concludes with suggestions for correctional policy.

Description of Prison Population Growth

The growth of the number of prisoners serving sentences in North Carolina's prisons is shown in Figure 1, on page 11. The lower line shows the number of prisoners admitted each year.⁶ The upper two lines, which

The author is an Institute of Government faculty member who specializes in criminal justice. He was assisted in the preparation of this article by Kelly Farley, Marti Minor, and Amanda Montgomery, who collected data, and Kenneth L. Parker of the North Carolina Department of Correction, who reviewed it.

are nearly congruent, are (1) the average daily prison population (head count) each year and (2) the population at the end of each year.⁷ The scale used to plot admissions is the left-hand vertical axis, and the right-hand vertical axis is used to plot population. (The technique of using different scales to draw the graphs of two different variables is used so that changes in relative magnitude can be compared—for example, the relative changes in a variable with large values can be compared conveniently with the relative changes in another variable that has smaller values.)

Between 1970 and 1973 annual prison admissions were either unchanged or declined; thereafter they more than doubled.⁸ After 1973, when admissions were 10,913, they generally increased, reaching 22,730 by 1989; the increase accelerated after 1987. The prison population after 1972 (when the average was 9,747) began a steady increase that lasted until 1985, when it reached 17,430. Between 1985 and 1989 the population remained nearly constant despite the accelerating increase in admissions, probably because of legislative and administrative measures to control prison crowding, explained later in this article. By early 1991 the population increased to around 19,000 because of construction of increased prison space leading the General Assembly to raise the "cap" (limit) on the number of prisoners.⁹

Growth in Relation to Resident Population Increases

North Carolina's resident population increased between 1970 and 1990 (from about 5.1 million to about 6.6 million, or 29 percent). One would expect an increase in the number of sentenced prisoners as the resident population goes up—the more residents, the more crime, arrests, convictions, and prison sentences. But the number of prisoners has increased faster than the resident population. The number of prisoners *per 100,000 North Carolina residents* went from 192 in 1970 to 269 in 1989, a 40 percent increase. Admissions per 100,000 declined until 1973, but thereafter grew from 190 to 346 (82 percent) by 1989.

Could the growth in prisoners per capita be due to a shifting age distribution? It is well known that people in their late teens and early twenties are considerably more likely than older or younger people to be charged with crimes and sentenced to prison.¹⁰ Intercensal population estimates provided by the Office of State Budget indicate almost no increase in the percentage age fifteen to twenty-

four between 1970 and 1980, and a decrease between 1980 and 1990.¹¹ Therefore age distribution does not explain the prison population increase.

The Bureau of Justice Statistics of the United States Justice Department, in the comparative data it publishes regarding state prisoners, uses an "incarceration rate," defined as the number of prisoners *-serving sentences of more than one year* per 100,000 state residents.¹² In the 1970s North Carolina's incarceration rate was among the highest in the nation, well above the nationwide rate: it increased by 59 percent between 1971 and 1980 (from 153 to 244).¹³ But in the 1980s the growth of the North Carolina rate slowed and then halted: the rate was 252 in 1989. Meanwhile the North Carolina rate was overtaken, first by the South's rate in 1987,¹⁴ and then by the nation's in 1989.

Changing Composition of Prison Admissions and Population

One of the reasons for the growth of the prison population has been a change in the types of prisoners entering prison. These changes probably reflect efforts to shift the emphasis in the use of imprisonment from less serious to more serious offenders. The result of these changes has been to transform North Carolina's prison population into one that consists almost exclusively of felons, with an increasing percentage of prisoners serving lengthy sentences for violent felonies.

Type of offense. The "mix" of offenders entering prison changed between 1970 and 1989. The number of violent felons,¹⁵ who generally have much longer sentences than do other offenders and therefore contribute more to the prison population, increased from about 8 percent of total admissions in 1970 to about 13 percent in 1989. Those convicted of felonies against property¹⁶ also increased: their percentage of total admissions rose from 25 percent to 33 percent over the period. The percentage of admitted prisoners convicted of drug offenses climbed from about 2 percent in 1970 to 6 percent in 1980, and then to 14 percent in 1989. Most of that growth occurred in the last few years, probably as a result of the "war on drugs." The number of prisoners admitted for impaired driving also increased after 1983—probably due in part to the tougher prosecution and sentencing provisions of the Safe Roads Act¹⁷—but declined somewhat after 1985, most likely as a result of legislation to deal with prison crowding (discussed later).¹⁸ Meanwhile all other offenses (primarily

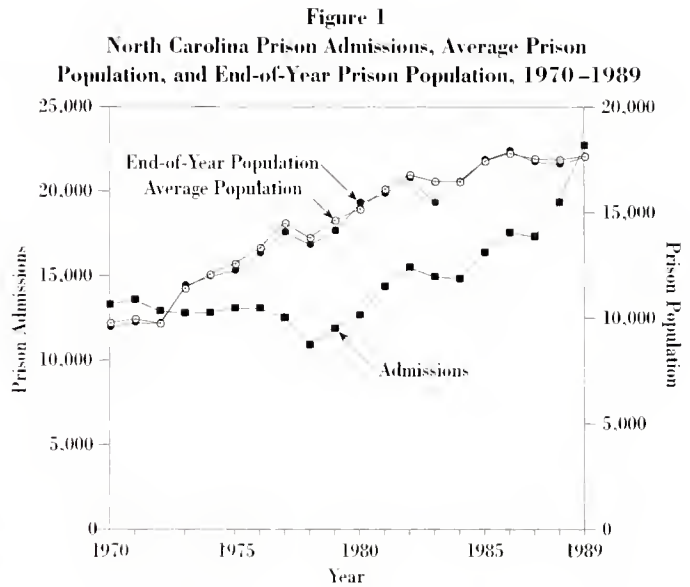
misdemeanors) decreased in proportion to total admissions, especially after 1978.

The changing composition of admissions has affected the makeup of the end-of-the-year prison population (see Figure 2, on the next page). The accumulation in the population of violent felons (bottom area of the graph) is obvious: this group went from 28 percent of the population in 1970 to nearly half (46 percent) in 1989. Drug offenders also increased (from about 5 percent to 13 percent of the population); most of that increase occurred after 1985. Thus in recent years, the war on drugs seems to have made increasing demands on prison space. Before 1985 drug offenders did not contribute appreciably to the prison population.¹⁹

Felons and misdemeanants. Felons have driven the growth in North Carolina's prison population, with the result that it now consists almost exclusively of felons. Admissions of misdemeanants (see Figure 3, next page) dropped sharply between 1970 and 1978, increased somewhat between 1978 and 1982, and then remained nearly unchanged to 1989. Meanwhile the number of felons entering prison yearly has increased since 1970, with some acceleration after 1984. This has had a major effect on the composition of the prison population because felons' sentences (and prison stays) are much longer than misdemeanants'. The number of misdemeanants in prison declined from 38 percent of the prison population in 1970 to 8.3 percent in 1989²⁰ (see Figure 4, next page). The misdemeanant population has been reduced not only by the drop in misdemeanant admissions in the 1970s but also by more recent legislation enacted in response to prison crowding, which has tended to focus on misdemeanants, drastically shortening the time they serve in prison. The result of these changes is that even though misdemeanants still constitute a large part of admissions, they are now a very small fraction of the prison population.

Whites and nonwhites. Imprisonment and arrest rates behaved differently for white and nonwhite North Carolina residents between 1970 and 1989. The number of white prisoners at the end of the year per 100,000 white North Carolina residents increased from 109 in 1970 to 137 in 1989—about 26 percent. Meanwhile the rate of nonwhite prisoners per 100,000 nonwhites, which was several times larger than the rate for whites throughout this period, increased about twice as fast—by 51 percent (from 154 to 681).

The differences between whites and nonwhites in per capita prison population are largely due to dramatic



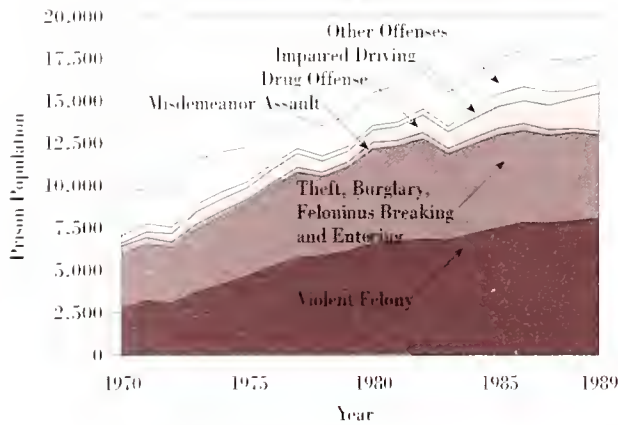
Sources: N.C. Department of Correction and N.C. Office of State Budget.

differences in per capita admissions (see Figure 5, page 13). Admissions per 100,000 whites declined slightly between 1970 and 1978, then increased, returning in 1989 to its 1970 level (177). For whites the increase between 1978 and 1989 was 42 percent. Admissions per 100,000 nonwhite residents declined between 1970 and 1978 but increased 121 percent (from 395 to 874) between 1978 and 1989, with most of the growth occurring after 1987.

Prison admissions are strongly affected by the number of arrests made each year. Arrests per 100 white residents increased about 23 percent between 1970 and 1989 (from 4.0 to 4.9). Arrests per 100 nonwhite residents increased 68 percent (from 8.4 to 14.1).

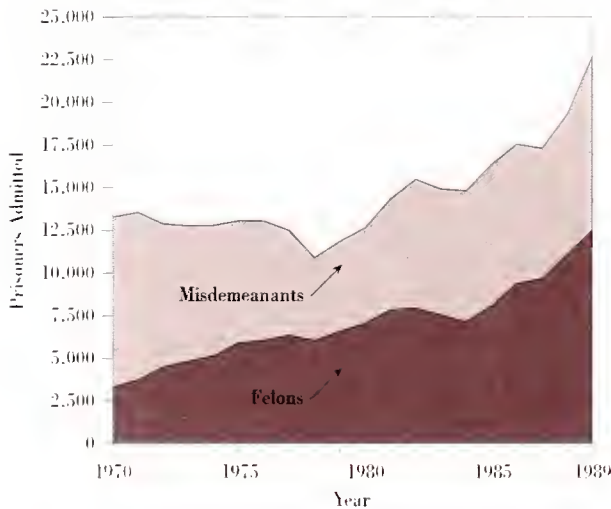
Why have nonwhites' per capita rates of arrests, prison admissions, and prison population increased much faster than whites' rates? One possible explanation is that since the 1970s, as law-enforcement agencies have become stronger, they have become more responsive to crime in nonwhite communities.²¹ Another possible explanation is that the recent law-enforcement war on drugs has increasingly targeted blacks. In 1984 about twice as many whites (10,269) as blacks (5,021) were arrested for drug offenses in North Carolina. Thereafter drug arrests of blacks increased much faster than those of whites. By 1989 annual arrests of blacks for drug offenses had grown by 183 percent, reaching 14,192; in contrast, arrests of whites for drug offenses increased by only 36 percent (to 14,007).

Figure 2
North Carolina End-of-Year Prison Population
by Type of Offense, 1970-1989



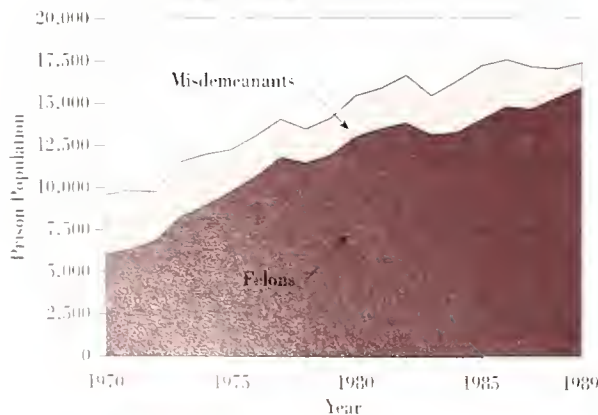
Source: N.C. Department of Correction.

Figure 3
Felon and Misdemeanant Prison Admissions, 1970-1989



Source: N.C. Department of Correction.

Figure 4
North Carolina End-of-Year Prison Population,
Felon and Misdemeanants, 1970-1989



Source: N.C. Department of Correction.

Analysis of Prison Population Growth

For the nineteen years from 1970 to 1989, prison population growth can be divided into three recognizable phases: Phase 1, 1970-1978; Phase 2, 1978-1985; and Phase 3, 1985-1989. To distinguish these three phrases, we need to look at Figure 6, which shows annual arrests,²² prison admissions, and average prison population. (In this graph arrests are plotted on the left-hand vertical axis; prison admissions and population are plotted on the right-hand vertical axis.)

Phase 1 of prison population growth (1970-1978) might be described by this headline: "Prisoners Staying Longer Cause Prison Population to Increase; Sentencing Becomes More Selective." Between 1974 and 1978, arrests were fairly steady, then declined somewhat. Prison admissions generally declined between 1970 and 1978. But the average prison population rose substantially between 1972 and 1978 (from 12,063 to 13,799). Therefore the average stay in prison must have increased during this period. Why? One reason, discussed earlier, is that between 1970 and 1978 the number of felons admitted (including violent felons) was increasing and the number of misdemeanants admitted was declining, with the result that the average stay in prison for *all* prisoners went up.²³

Was the 1970-1978 change in admissions (felons up, misdemeanants down) due to changes in arrest practices, or changes in sentencing practices? The data do not indicate that arrests were becoming more selective. Between 1975 (when the earliest data are available from the State Bureau of Investigation) and 1978, the proportion of arrests that involved charges of the serious offenses known as index crimes (murder, manslaughter, forcible rape, robbery, aggravated assault, burglary, and larceny, including vehicle theft²⁴) showed almost no increase.²⁵

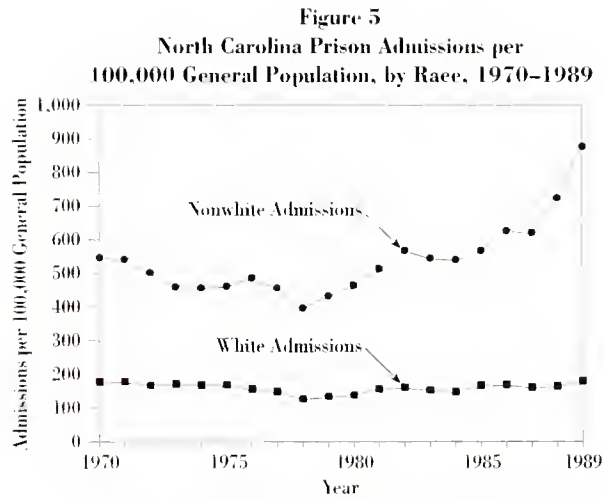
If arrests were not becoming more selective, it appears likely that changes in sentencing or prosecution practices were the cause of the increased average prison stay between 1972 and 1978. Judges, while reducing somewhat the total numbers of offenders they sent to prison, may have reduced the percentage of misdemeanants they sent to prison, and also may have allowed the percentage of felons they sent to prison to increase.²⁶ Also prosecutors may have become more selective in their practices with the same result (for example, dismissing more misdemeanor charges or allowing more lenient plea bargains for misdemeanants).

Phase 2 (1978–1985) might be headlined “Increasing Arrests Drive Up Prison Population: Sentencing Laws and Parole Practices Resist.” Between 1978 and 1985 arrests generally increased (see Figure 6), along with prison admissions. Meanwhile the average prison population increased, but not quite as rapidly as admissions. Therefore the average stay in prison must have declined somewhat between 1978 and 1985. Why did it decline? One reason is that misdemeanor admissions, which had been dropping until 1978, began an increase that lasted until 1982. Another reason for the declining average stay after 1981 was the Fair Sentencing Act (FSA), effective in 1981, which—at least for several years—sharply reduced average active sentences for felonies.²⁷ A third factor was the liberalized granting of good time (time off for good behavior), gain time (time off for assigned work and program participation in prison), and parole, in reaction to the growing problem of prison crowding. One study has indicated that the percentage of prison terms that offenders actually served before release had been declining for several years before the FSA became effective.²⁸ Another study has shown that under the FSA, the percentage of prison terms served continued to decline.²⁹

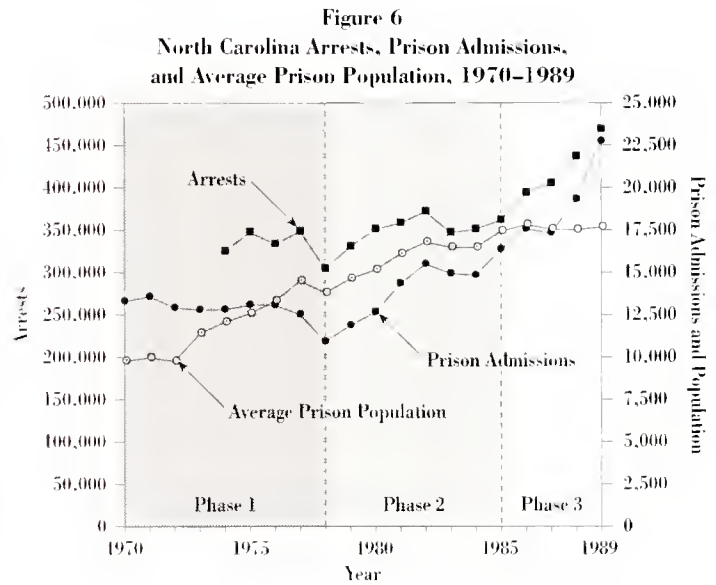
Thus, although arrests continued to push prison admissions and population upward in the 1978–1985 period, there was some resistance stemming from changes in the rules regarding time served in prison, as well as changes in sentencing laws and practices.

Phase 3 (1985–1989) of prison growth could be headlined “Prison Admissions Increase While Time Served in Prison Decreases.” The average prison population remained approximately 17,500 during this period, despite the fact that arrests and admissions rose even more rapidly than in the previous phase. This is probably the result of federal court lawsuits by prisoners in the 1980s, claiming unconstitutional crowding and other poor conditions.³⁰ The state, rather than risking going to trial on these claims, entered into consent judgments that, among other things, called for increasing the amount of prison space per inmate, with a goal of fifty square feet by 1994.

One way in which the General Assembly implemented these consent judgments was to authorize construction of new prison space, as explained at the beginning of this article. Another way was to limit the number of prisoners by shortening stays in prison in a variety of ways and setting a cap on the total number of prisoners. This had the effect of hastening the parole of certain inmates who were already eligible for parole. These measures evidently stabilized the average prison population between



Sources: N.C. Department of Correction and N.C. Office of State Budget.



Sources: State Bureau of Investigation, N.C. Department of Correction, and N.C. Office of State Budget.

1985 and 1989, despite rapidly increasing admissions. Since 1989 the population has increased, owing to new prison construction that allowed the General Assembly to raise the cap.

During phases 2 and 3, another factor was operating to increase prison admissions: the ratio of admissions to arrests was increasing.³¹ The number of prison admissions per 100 arrests declined between 1974 and 1977 (from 1.0 to 3.6) and remained constant until 1980; thereafter it increased by 33 percent—from 3.6 in 1980 to 4.8 in 1989.³² This suggests that sentencing or prosecution, or both, got tougher in the 1980–1989 period.³³ However,

the increase in the admissions-to-arrests ratio was not as great as the increase in arrests per capita, as explained in the next section.

Trends in Arrests, Crime, and Police Strength

Since 1978 annual arrests in North Carolina have generally gone up (see Figure 6). Arrests outpaced the state's resident population: arrests per 100 residents grew 42 percent, from 5.04 in 1978 to 7.14 in 1989, making arrests the dominant factor in the growth of prison admissions between 1978 and 1989. Since 1985 increased arrests and associated prison admissions have continued to push hard on the prison population (even though the push has been resisted by legislative measures). Why have arrests increased? Is it because crime has increased?

One way to measure crime is by using the Uniform Crime Reporting (UCR) system maintained by the Federal Bureau of Investigation and state agencies like North Carolina's State Bureau of Investigation. The UCR system provides data on *crime as reported by police agencies*. The system works as follows: A person who claims to have information about a crime may report it to a law-enforcement agency. The agency then may or may not report the crime as an official statistic for inclusion in the UCR system, depending on the agency's investigation and other factors.³⁴ Only index crimes are included in UCR crime statistics. Since 1975 the annual relative increases in both violent index crime and in property index crime, as reported by the UCR, have been followed closely by relative changes in arrests for the same types of crimes. One could readily infer from this information that the increase in total arrests since 1978 is a direct response to increases in crime.

But has crime really increased? Another source of crime data, the National Crime Surveys conducted by the United States Census Bureau, indicates that the experience of crime by individuals and households has *not* increased—at least, not in the United States as a whole. The NCS was begun in the early 1970s as a way of measuring crime, whether or not victims report it to police (failing to report is quite common), and whether or not police report the crime information they receive in the UCR system.³⁵ The NCS data are derived in quite a different way from the UCR data. They are based on a sample of persons strategically chosen to form a cross-section of the nation.³⁶ The NCS interviews deal with the

crime victimization of individuals at least twelve years of age and their households. The NCS does not include crimes of which the only victim is a business or other organization (such crimes are estimated to constitute less than one fifth of crime reported by police).³⁷ Crime victimization surveys are done only for the nation as a whole—not for individual states.

A detailed comparison of the UCR and NCS systems of obtaining crime data is beyond the scope of this article. But those most knowledgeable about the complex subject of crime measurement treat the NCS as the best source of information on trends in crime victimization per capita and per household.³⁸ The NCS is a measurement system that has operated essentially in the same way since 1973; in contrast, the UCR system depends on crime victims' taking the initiative to report crime and on the efforts of hundreds of different law-enforcement agencies, which vary from place to place and from year to year in their ability to receive crime information, investigate it, and report it to the FBI.

An example of per capita crime victimization measured in the NCS is shown in Figure 7, which deals with violent crime. Violent crime victimization per 1,000 persons in the United States, including simple assault, aggravated assault, robbery, and rape, varied somewhat between 1973 and 1989, but in 1989 it was generally the same as or lower than it was in 1973.³⁹ Victimization by personal larceny⁴⁰ generally declined between 1973 and 1989, although personal larceny with contact increased for a time in the early 1980s before declining. Victimization by household crimes,⁴¹ measured per 1,000 households, either was lower in 1989 than in 1973 or remained about the same (although there was some increase in household larceny victimization between 1973 and 1979 before a long decline began). In other words, the risks to individuals and households from these common types of crime throughout the United States was generally no greater in 1989 than in 1973, and in fact was often less, after a long period of slow decline. This does not mean that crime victimization was not increasing in some parts of the country, or decreasing in other parts. It means that *overall* crime risk did not increase.

Index crime per capita, as reported by the UCR, has shown a trend that differs from the crime victimization surveys: index crimes per 100,000 residents generally increased between 1970 and 1989 in the South and the United States as a whole. Why should police reporting of crime increase when crime victimization, as measured by the NCS, is not increasing? One reason may be the

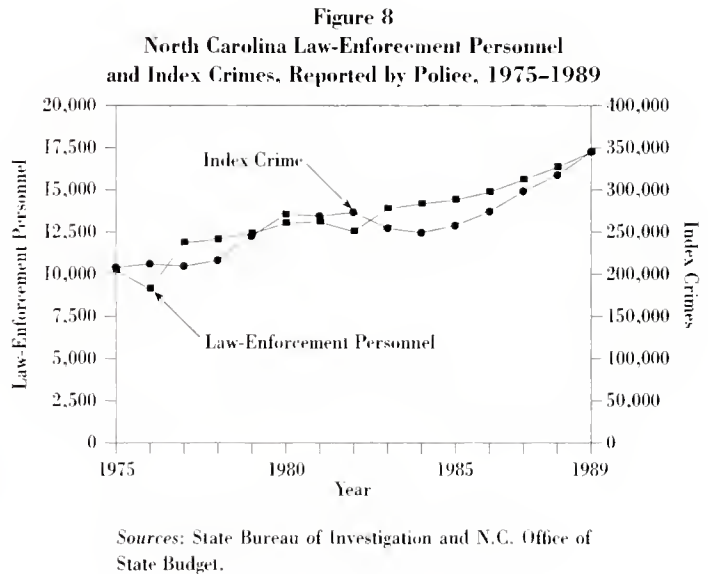
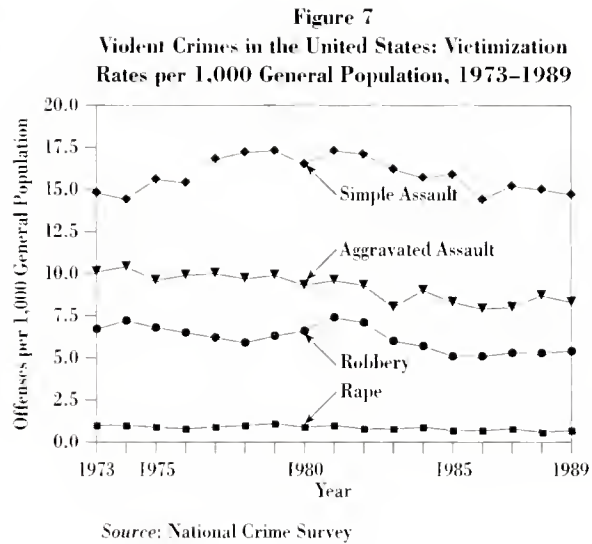
improvement of law enforcement.⁴² In the United States as a whole, according to the Bureau of Justice Statistics,⁴³ an increase in per capita real expenditure for law enforcement (adjusted for inflation) began in the 1950s and accelerated in the 1960s and early 1970s. The percentage increase was 51 in the 1950s, 69 in the 1960s, and 37 in the 1970s. (Per capita expenditure dropped somewhat after 1977.) According to the same source, the number of sworn police officers per thousand residents in eighty-eight large cities of at least 100,000 population went from 1.42 in 1970 to 2.00 in 1980, an increase of 41 percent, and real per capita expenditure increased at the same rate.⁴⁴

Improvements in police effectiveness may make police better able to respond to crime reports they receive, verifying the information and turning it into UCR crime statistics. This may help to explain why crime per capita reported by police has increased since 1970 even though crime victimization per capita has not increased. What appears to be an increase in per capita crime as shown by UCR data may in fact be increased police reporting of actual crime.

In North Carolina, as has been explained, UCR index crime per capita was considerably greater in 1989 than in 1970, just as it was in the South and the United States. We do not know crime victimization rates for North Carolina, because crime victimization surveys are not done for individual states. But if what is going on in North Carolina is similar to what is happening in the rest of the country, the increase in the state's per capita UCR index crime (which generally has followed national trends) may be occurring even though "true" crime victimization is not increasing. If this is true, one reason may be a strengthening of law enforcement in North Carolina.

Between 1975 (when the first data on the subject were published by the State Bureau of Investigation) and 1989, even allowing for the growth of North Carolina's population, there was a substantial increase in the state's law-enforcement personnel. Law-enforcement personnel⁴⁵ per 100,000 residents of the state, including both sworn officers and unsworn staff,⁴⁶ increased from 185 in 1975 to 262 in 1989, or 42 percent.

Figure 8 shows that the patterns of growth in law-enforcement personnel and UCR index crimes (reported by police) in North Carolina were quite similar between 1975 and 1989 (in this graph, law-enforcement personnel are plotted on the left vertical axis, and index crimes on the right vertical axis). Does this mean that the num-



ber of law-enforcement personnel has increased because crime has increased? This explanation is doubtful, for two reasons: (1) Crime victimization apparently has not increased, if what is true of the country is also true of North Carolina. (2) Increases in UCR index crime may have been a result of, rather than a cause of, increased law-enforcement personnel. This is suggested by the fact that increases and decreases in law-enforcement personnel have been *followed*, not preceded, by corresponding changes in index crimes (see Figure 8). There are too few data points to draw strong inferences, but the data do suggest that increases in law-enforcement strength may actually increase crime reported by police, rather than the reverse. If a police agency has an increase in staff, it

may be able to respond more vigorously to crime reports it receives by investigating them and recording them as UCR statistics—to a greater extent than would be possible with fewer staff.

As the number of police personnel in North Carolina has increased, so have total arrests: the trends since 1975 are quite similar. Clearly, one of the results of the police buildup has been increased arrests, which have led to increased prison admissions and prison population.

Conclusion

We have seen that the number of state prisoners per capita in North Carolina has increased substantially since 1970. Arrests have increased, pushing up prison admissions. While some other factors have resisted this upward pressure on admissions, the pressure has persisted and increased, and the state has responded with the prison cap as well as a surge in prison construction.

One interpretation of the data discussed here is that the increase in the number of state prisoners per capita in North Carolina is largely the result of increased crime, which has driven up arrests and prison admissions. An explanation more consistent with the national surveys, which show no increase in crime victimization of individuals between 1973 and 1989, is that *the state's response to crime has changed*. Law-enforcement agencies in the state have been substantially beefed up, leading to an increase in arrests and pushing up prison admissions.⁴⁷ Also, to a lesser extent, sentencing and prosecution practices evidently became more stringent, making it more likely that arrested persons would go to prison. This suggests that the growth in the prison population has been the result of a strengthening of law enforcement and a "toughening up" of prosecution and sentencing rather than a reaction to a crime wave.⁴⁸

The growing strength of law enforcement may be desirable. People may well want their police to respond more vigorously to crime; otherwise, they would not have approved the increase in public spending necessary to accomplish the expansion in law-enforcement personnel per capita in this state. But the strengthening of police has contributed to a crisis in corrections, which has become exacerbated since 1985. The crisis has led to a state correctional policy in which the end justifies the means. The end is to prevent a federal court takeover of the prisons; the means is the cap on the prison population. Placing a ceiling on the prison population despite the rapid increase in arrests and prison admissions probably

offends many people's sense of justice. They have paid for improvements in law enforcement for many years, expecting tougher law enforcement; now, they may see the cap legislation as undeserved leniency for convicted criminals. And why should they react otherwise, until the state comprehensively addresses the issues of what punishments are appropriate for various crimes and what the state can afford?

Has North Carolina any choice? Is a massive prison construction campaign now inevitable, as the price of a law-enforcement buildup that began years ago? If the answer is yes—if prison construction is regarded as inevitable—then the state must be prepared either to raise taxes or to take away public funds from programs like education in order to build more prisons. But some additional considerations suggest that an unprecedented expansion of prison space is not inevitable.

The notion that imprisonment must be increased to fight a crime wave is called into question by the fact that crime victimization of individuals has either stayed the same or has declined since 1973 in the United States; arguably, the same is true of North Carolina. What appears from police statistics to be an increase in per capita crime may in fact be a by-product of long-term improvement in law enforcement.

Our ideas of appropriate punishment for crime are not immutable; they change over time and vary among individuals. How much, or what kind of punishment is enough for a burglar, robber, thief, or drug pusher? People differ in their responses to these questions. In a democratic society, the state's answer must be arrived at by political consensus. One thing most citizens would agree on is that there is a limit to the services the state can afford to provide, including the service of sanctioning criminal offenders as well as other services such as education and highways. Another matter on which most people would agree is that there must be some system of punishment of criminals based on clear criteria, even though individual citizens will always differ in their views of punishment. The scarcity of state resources and the need for a clear system of punishment suggest another approach to dealing with the correctional consequences of the law-enforcement buildup, without continuing the massive expansion of prisons begun in the 1980s. This approach would be to allocate the state's limited correctional resources according to clear principles established in a democratic fashion. Without a principled approach, the state's citizens may feel that the criminal justice system has let them down. ❖

Notes

1. An additional 4,280 beds were obtained between 1974 and 1984 by converting facilities transferred from the Department of Human Resources to the Department of Correction. The sources for these fiscal data are the *Legislator's Guide to Department of Correction's Appropriations, Expenditures and Construction: FY 1985-86 Through FY 1990-91* (Raleigh, N.C.: N.C. General Assembly, Legislative Services Office, Fiscal Research Division, 1991), 7-8, and conversations with Carolyn Wyland, fiscal analyst with the Legislative Services Office.

2. Actually, these funds will go to provide 8,228 beds, not all of which are a net addition to prison capacity. Three thousand of the 8,228 beds must be allocated to the enlargement of space per inmate required by the consent judgments, and a small portion will be allocated to replacement of obsolete facilities; thus, the net addition to capacity will be about 5,000 beds. Kenneth L. Parker, N.C. Department of Correction, memorandum to the author, March 22, 1991.

3. The matter was referred to the voters by Chapter 935 of the 1989 North Carolina Session Laws, 1990 Regular Session.

4. In fiscal year 1988 North Carolina ranked first among the states in the percentage of its total state government direct expenditures (8.9 percent) that went to justice activities. (By comparison, the percentage for all states combined was 6.1.) The percentage that went to corrections was 4.9 percent in North Carolina (3.5 for all states together). Direct state expenditures include salaries, supplies, contractual services, and capital outlays. They do not include intergovernmental payments or debt retirement. U.S. Department of Justice, Bureau of Justice Statistics, *Justice Expenditure and Employment, 1988* (Washington, D.C.: U.S. Department of Justice, 1990).

5. Data used in this article are summarized in the text and in some instances are presented in graphic form. Lack of space prevented including graphs of all the data mentioned, but these graphs are available from the author on request. The primary sources of information for this article are N.C. Department of Correction, *Statistical Abstract* (Raleigh, N.C.: N.C. Department of Correction, 1970-1989); U.S. Department of Justice, Federal Bureau of Investigation, *Crime in the United States: Uniform Crime Report* (Washington, D.C.: U.S. Department of Justice, 1970-1989); N.C. Department of Justice, State Bureau of Investigation, *Crime in North Carolina* (Raleigh, N.C.: N.C. Department of Justice, 1973-1989); U.S. Department of Justice, Bureau of Justice Statistics, *Criminal Victimization in the United States, 1988* (Washington, D.C.: U.S. Department of Justice, 1990); and U.S. Department of Justice, Bureau of Justice Statistics, *Criminal Victimization 1989* (Washington, D.C.: U.S. Department of Justice, 1990). The 1990 issues of these reports have not yet appeared, so the discussion ends with 1989 for the most part (some of the data were not available before 1971 or 1975). The data on North Carolina arrests appear in both *Crime in the United States* and *Crime in North Carolina*; the latter source was used in this article. With regard to the SBI's published statistics on the number of law-enforcement personnel, errors and discrepancies that were found in a few issues of *Crime in North Carolina* were corrected or adjusted for with the assistance of Douglas H. Kappeler of the SBI.

6. This includes all persons entering prison to serve or continue to serve sentences, including those sentenced to active terms, probationers and parolees whose probation or parole has been revoked, and prisoners who have escaped and been reapprehended.

7. It can be seen that the end-of-the-year population is close to the average population each year (usually falling a few hundred prisoners below the average). In most of this article, end-of-the-year population data are used because average population data are available only for the entire population, not for separate categories of prisoners.

8. The increase in admissions between 1970 and 1989 is inflated slightly by the fact that admissions statistics before 1980 excluded inmates in prison for presentence diagnostic study and those transferred for "safekeeping" from local jails, while from 1980 onward, these inmates were included. This category accounted for about 1,300 admissions in 1989 and about 400 in 1978. Kenneth L. Parker, N.C. Department of Correction, memorandum to the author, March 22, 1991.

9. The "cap" legislation in Section 148-1.1 of the North Carolina General Statutes set an original ceiling of 18,000 in 1987. This was later raised to 19,321 (effective November 1, 1990) and will become 20,435 on June 30, 1991, 1989 N.C. Sess. Laws, 1990 Reg. Sess., ch. 933.

10. Nationally age-specific per capita rates of arrest for index crimes (murder, manslaughter, forcible rape, robbery, aggravated assault, burglary, and larceny, including vehicle theft) peak in the mid-to-late teens, then drop sharply by the mid-twenties. U.S. Department of Justice, Bureau of Justice Statistics, *Report to the Nation on Crime and Justice*, 2d ed. (Washington, D.C.: U.S. Department of Justice, 1988), 42. Of the 469,224 arrests reported in North Carolina in 1989, 168,396 (36 percent) involved persons age sixteen to twenty-four. Of the 24,574 persons admitted to North Carolina prisons in 1990, 9,428 (38 percent) were age fifteen to twenty-four.

11. For whites the percentage age fifteen to twenty-four remained nearly constant (about 18) between 1970 and 1980 and thereafter declined, reaching about 16 percent by 1989. For nonwhites the percentage increased slightly (from about 21 to about 23) between 1970 and 1980 but thereafter dropped, reaching about 19 percent by 1989.

12. In the Bureau of Justice Statistics incarceration-rate data discussed here, only state-sentenced prisoners are included; federal prisoners are excluded, as are prisoners in jails operated separately by local governments.

13. North Carolina's incarceration rate, as defined by the Bureau of Justice Statistics (BJS), has increased more rapidly than has the number of prisoners in state prison per 100,000 residents, as described previously. The reasons for the discrepancy are that (1) the BJS's incarceration rate counts only state prisoners with sentences exceeding one year, while the number of prisoners per capita discussed earlier counts all prisoners, and (2) (as will be explained) there has been a process of selection or "filtration" of offenders admitted to prison in North Carolina, resulting in a growing percentage in prison with longer sentences.

14. Throughout this article, the "South" refers to Delaware, the District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia, Alabama,

Kentucky, Mississippi, Tennessee, Arkansas, Louisiana, Oklahoma, and Texas.

15. Those convicted of murder, manslaughter, rape, sexual assault, other felonious sex crimes, robbery, and felonious assault.

16. Burglary, felonious breaking or entering, and felonious larceny including auto theft.

17. Relevant portions of the Safe Roads Act are codified in N.C. Gen. Stat. §§ 20-139.1, 20-179.1.

18. Impaired drivers were 9 percent of admissions in 1983, 11 percent in 1985, and 13 percent in 1989.

19. The available data do not show how many inmates got into prison because of non-drug offenses that may have been related to drug abuse or the illegal drug trade.

20. Recently received data indicate that the percentage of misdemeanants in the prison population dropped still further, to 6.9 percent, at the end of 1990.

21. Blacks are more likely than whites and members of other racial groups to become victims of violent crime. See U.S. Department of Justice, Bureau of Justice Statistics, *Criminal Victimization in the United States, 1988* (Washington, D.C.: U.S. Department of Justice, 1990), 3.

22. Arrest data are not available before 1974 from the State Bureau of Investigation's annual *Crime in North Carolina*.

23. It is also possible that parole policies were becoming stricter during this period, but there are no data to prove or disprove this theory.

24. As defined by the Uniform Crime Reporting System operated by the Federal Bureau of Investigation and state agencies such as North Carolina's State Bureau of Investigation.

25. The proportion of total arrests that involved charges of index crimes was 17 percent in 1975 (58,762 of 347,402) and 18 percent in 1978 (56,080 of 304,200).

26. Although there is no direct proof that the percentage of misdemeanants receiving active sentences declined between 1970 and 1978, it is reasonable to infer that this occurred. Published arrest statistics do not indicate whether the charge for which the arrest was made was a felony or misdemeanor under North Carolina law, and court statistics do not provide a count of misdemeanor cases filed; thus it is impossible to compute and compare trends over time in the proportions of felony charges and of misdemeanor charges that result in prison admissions. But we do know that felon admissions increased and misdemeanor admissions declined between 1970 and 1978, and there is no reason to believe that misdemeanor arrests and charges were decreasing during that period.

27. The Fair Sentencing Act of 1981, because it established presumptive (standard) prison terms for various types of felonies and because these presumptive terms were less than the average terms imposed before the act, generally reduced the length of active sentences for felonies after 1981. However, this affect may have been only temporary. For a more detailed analysis, see Stevens H. Clarke, *Felony Sentencing in North Carolina, 1976-1986: Effects of Presumptive Sentencing Legislation* (Chapel Hill, N.C.: Institute of Government, 1987).

28. Stevens H. Clarke, *Felony Sentencing in North Carolina, 1976-1986: Effects of Presumptive Sentencing Legislation* (Chapel Hill, N.C.: Institute of Government, 1987), 14-15. As

early as 1981 the General Assembly "encouraged" the Department of Correction to use its rule-making power to reduce the prison population. See 1981 N.C. Sess. Laws, res. 33. See also the recent amendments to Section 148-49.15 of the General Statutes (concerning committed youthful offender status) and sections 15A-1371(h), 15A-1380.2(h), and 148-4.1 (concerning early and community service parole).

29. For felons whose first release from prison was in 1976, the median percentage of the sentence actually served before first release was 38.7. This median percentage declined for the felons released in each succeeding year, reaching 33.0 by 1987; thereafter it declined much more rapidly, to 22.5 in 1990, presumably as a result of the cap legislation. Ken Parker and Tom Sutton, N.C. *Department of Correction Research Bulletin* 31 (Feb. 26, 1991).

30. For example, *Small v. Martin*, No. 85-987-CRT (E.D.N.C. Dec. 20, 1988).

31. A recent article looks at the growth of the per capita prison population in the United States as a whole and concludes that much of it stems from an increase in the ratio of prison admissions to arrests, probably due to more stringent prosecution and sentencing. Patrick A. Langan, "America's Growing Prison Population," *Science* 251 (March 29, 1991): 1568-73.

32. For violent index crimes, admissions per 100 arrests increased steadily from 11.3 in 1975 to 14.9 in 1989; for property index crimes, the ratio varied considerably more over this period but generally increased from 11.1 to 13.5.

33. It also is possible (although the available data do not allow it to be confirmed) that police practices affected the changing admissions-to-arrests ratio; police may have prepared their cases better, making "better arrests" that were more likely to result in convictions and active sentences.

34. The police do not report all crime information received by them in the UCR system, and their decisions to report affect UCR crime rates. In the police response to crime information, "claims of victimization are not taken at face value" and "extra-legal factors greatly influence a policeman's decision to write a formal report" or whether to treat the crime report as "unfounded." Wesley G. Skogan, "Measurement Problems in Official and Survey Crime Rates," *Journal of Criminal Justice* 3 (1975): 22. Biderman and Lynch review material on changes in police organization that may have led to a reduction in downgrading of offense seriousness and nonreporting of offenses by law-enforcement personnel. Albert D. Biderman and James P. Lynch, *Understanding Crime Incidence Statistics: Why the UCR Diverges from the NCS* (New York: Springer Verlag, 1991, forthcoming), chap. 3.

35. The majority of crime victimizations disclosed in the NCS are, according to the victims, not reported to the police. There has been some increase in the willingness of victims to report. The percentage who said they reported (including all crimes covered in the NCS) increased by 16 percent, from 32 percent in 1973 to 37 percent in 1989. U.S. Department of Justice, Bureau of Justice Statistics, *Criminal Victimization 1989* (Washington, D.C.: U.S. Department of Justice, 1990), 5. This increase in reporting is one of the factors that has caused police-reported (UCR) per capita crime to go up. Another, probably more important factor

is how the police themselves handle the information they receive (see note 34).

36. In 1989, for example, about 97,000 people throughout the country in 48,000 housing units were interviewed in person or by telephone about the crimes they had experienced over the past six months. U.S. Department of Justice, Bureau of Justice Statistics, *Criminal Victimization 1989* (Washington, D.C.: U.S. Department of Justice, 1990), 7.

37. *Commercial crimes* (crimes affecting only businesses or other organizations) are estimated to constitute about 17.5 percent of UCR crime. See Albert D. Biderman and James P. Lynch, *Understanding Crime Incidence Statistics: Why the UCR Diverges from the NCS* (New York: Springer Verlag, 1991, forthcoming).

38. The Bureau of Justice Statistics of the U.S. Department of Justice annually publishes criminal victimization rates in the United States, estimated from the NCS. For the trends in per capita victimization between 1973 and 1989, see *Criminal Victimization 1989* (Washington, D.C.: U.S. Department of Justice, 1990). Specialists in crime measurement regard neither the UCR nor the NCS systems as ideal—each has its deficiencies. See Wesley G. Skogan, "Measurement Problems in Official and Survey Crime Rates," *Journal of Criminal Justice* 3 (1975): 17-32; Albert D. Biderman and James P. Lynch, *Understanding Crime Incidence Statistics: Why the UCR Diverges from the NCS* (New York: Springer Verlag, 1991, forthcoming).

39. What about murder? Police-reported (UCR) data on murder and non-negligent manslaughter indicate that the number of such crimes per 100,000 residents generally declined in North Carolina and in the South between 1970 and 1989; the rates for these areas were about eleven to thirteen per 100,000 in the 1970s and declined to eight to ten per 100,000 by the late 1980s. For the United States the rate has varied between eight and ten since 1970, remaining closer to eight in the late 1980s. Murder, for obvious reasons, is not included in the NCS. Authorities on crime measurement believe that police reports are a more reliable indicator of murder than they are of other crimes, for several reasons: (1) murder is so serious that police reporting rates are very high and (2) trends in UCR per capita murder rates closely follow those of the National Center for Health Statistics, an independent reporting system. See Marc Riedel, "Nationwide Homicide Data Sets: An Evaluation of the Uniform Crime Reports and the National Center for Health Statistics Data," in *Measuring Crime: Large-Scale, Long-Range Efforts*, eds. Doris Layton MacKenzie et al., (Albany, N.Y.: State University of New York Press, 1990), 175-205.

40. *Personal larceny*, as defined in the NCS, is divided into two categories: with contact and without contact. Personal larceny with contact is theft or attempted theft of property or cash directly from the victim by stealth, not by force or threat of force; it includes both purse snatching and pocket picking. Personal larceny without contact is theft or attempted theft of property or cash from any place other than the victim's home or its immediate vicinity, without direct contact between the victim and the offender. U.S. Department of Justice, Bureau of Justice Statistics, *Criminal Victimization in the United States, 1988* (Washington, D.C.: U.S. Department of Justice, 1990), 131.

41. *Household crimes*, for NCS purposes, are crimes directed against households that do not involve personal confrontation; they include burglary (defined to include any unlawful entry or attempted entry of a residence), household larceny (theft or attempted theft of property or cash from a residence or the immediate vicinity of a residence), and motor vehicle theft. U.S. Department of Justice, Bureau of Justice Statistics, *Criminal Victimization in the United States, 1988* (Washington, D.C.: U.S. Department of Justice, 1990), 130.

42. A recent review of American police from 1975 to 1985 concludes that while local police remain resistant to change, some notable changes have occurred, for example: rapid growth in the proportion of racial minorities and women in police ranks, improved education and training, a shift away from "incident-driven" policing (merely reacting to reports) to problem-oriented policing (where police study information and take the initiative), an increase in "crime attack" strategies such as covert patrol and decoys, better community service, and the growth of the use of computerized data bases in routine patrol. Stephen D. Mastrofski, "The Prospects of Change in Police Patrol: A Decade in Review," *American Journal of Police* 9 (1990): 1-79.

43. U.S. Department of Justice, Bureau of Justice Statistics, *Police Employment and Expenditure Trends* (Washington, D.C.: U.S. Department of Justice, 1986).

44. From \$19.62 in 1970 to \$26.93 in 1980. The eighty-eight cities, including Charlotte, Durham, Greensboro, Winston-Salem, and Raleigh, constitute about half of the cities whose population was at least 100,000 in 1980.

45. The data include all city, county, and state law-enforcement agencies, including the State Highway Patrol, but do not include the State Bureau of Investigation and the Wildlife Resources Commission. A very small part of the increase in law-enforcement personnel as published in the SBI's annual *Crime in North Carolina* (Raleigh, N.C.: N.C. Department of Justice, 1973-1989) is due to the fact that its coverage of the state's population has increased slightly. By the SBI's estimates, the percent of the state's population covered by its reporting system rose from 95 percent in 1976 to 99 percent in 1989 (no estimate is published for 1975). In some instances if a law-enforcement agency does not send its UCR statistics to the SBI, it also does not supply personnel figures, and these are left out of the SBI's publication.

46. Sworn officers are those legally empowered to make arrests; unsworn (civilian) law-enforcement personnel are supporting staff who perform functions such as communications.

47. If per capita crime has not increased or has declined since 1973, as the National Crime Surveys indicate, and per capita arrests and prison admissions have increased, perhaps the increased arrests and admissions have kept per capita crime from increasing. This is a possibility that cannot be ruled out by the data discussed here; it cannot be confirmed, because we do not know what would have happened to per capita crime if the changes in arrests and admissions had not occurred.

48. However, the strengthening of law enforcement may have been a reaction to a *perceived* crime wave. Crime information in the news media generally is limited to police-reported data, and as explained in the text, these data generally have shown an increase in per capita crime.

1991 Legislative Redistricting: The Starting Point

Robert P. Joyce

This has been a tough year for the North Carolina General Assembly. The projected revenue shortfall for fiscal year 1991-92 is estimated to reach nearly \$1 billion. Education reform has had to take a back seat as the struggles with money dominate the legislative debate. The state's dilemma in handling hazardous waste clouds the environmental picture. The specter of the 1992 gubernatorial election adds depth and resonance to the political considerations underlying all issues.

To top it off, the General Assembly must face up to reapportionment, the painful process of redrawing dis-

trict lines for election of members of the United States House of Representatives and the North Carolina Senate and House of Representatives.¹ Population changes reflected in the 1990 census compel the reapportionment.

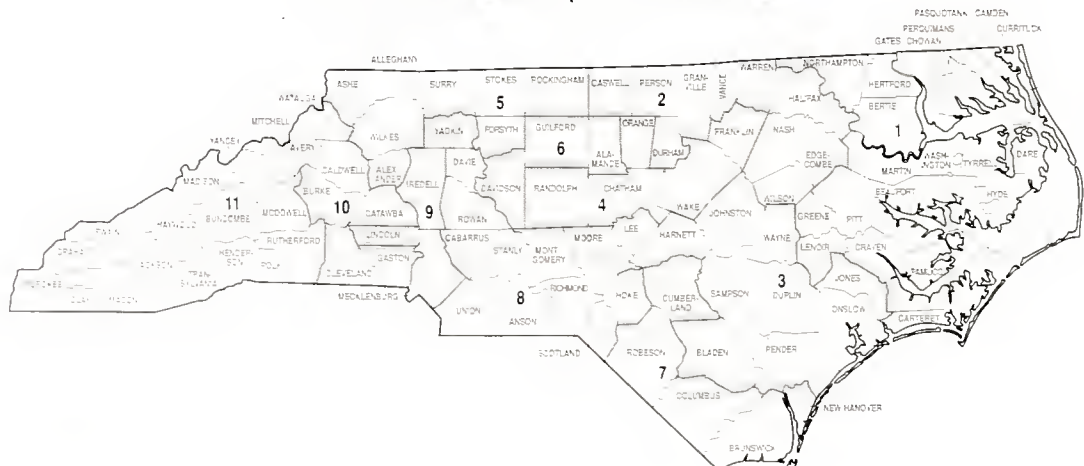
In the last few decades, drawing districts has become an increasingly daunting task. Newly invigorated enforcement of the constitutional requirement of one person, one vote has greatly narrowed the permissible variation in the number of voters per elected official. The concept of one person, one vote requires that each elected public official represent about the same number of people. There was a time, not so long ago, that Tyrrell County elected one member of the state House of Representatives, while Mecklenburg County, with more than forty times the population of Tyrrell, elected only four. Today Tyrrell is just one county in a district with eight other counties. Those nine together elect only two representatives, and Mecklenburg alone elects eight.

The federal Voting Rights Act of 1965 and its 1982 amendments also have complicated the districting process. The act and its amendments have been interpreted in ways that make the racial composition of districts a prime legal concern.

The maps on these two pages show the districts for the United States House of Representatives and the North Carolina House and Senate that are currently in effect, drawn to reflect the 1980 census. These maps form the starting point from which the changes will be made to accommodate the 1990 census data. How similar the new districts will be to the old ones remains to be seen. It is clear that the United States House districts will have to change considerably because North Carolina's

The author is an Institute of Government faculty member who specializes in elections law.

Figure 1
United States House of Representatives Districts



population growth over the last decade has earned the state a twelfth seat. Adding one new district will make all the others change. ❖

Notes

1. In addition approximately fifty-seven cities and twenty-eight counties in North Carolina elect their governing boards from electoral districts. Each of those jurisdictions will have to examine

the 1990 census data to determine whether redistricting is required. If it is, the city councils and the county commissioners have the statutory authority to redraw the lines. The General Assembly has before it this session a proposal to extend that district-drawing authority to local boards of education, approximately twenty-six of which are elected from districts. Until the passage of such legislation, only the General Assembly itself can redraw school board lines. For a discussion of local government redistricting, see Michael Crowell, "Redistricting for Local Governments," *Popular Government* 56 (Fall 1990): 2-7.

Figure 2
North Carolina House of Representatives Districts

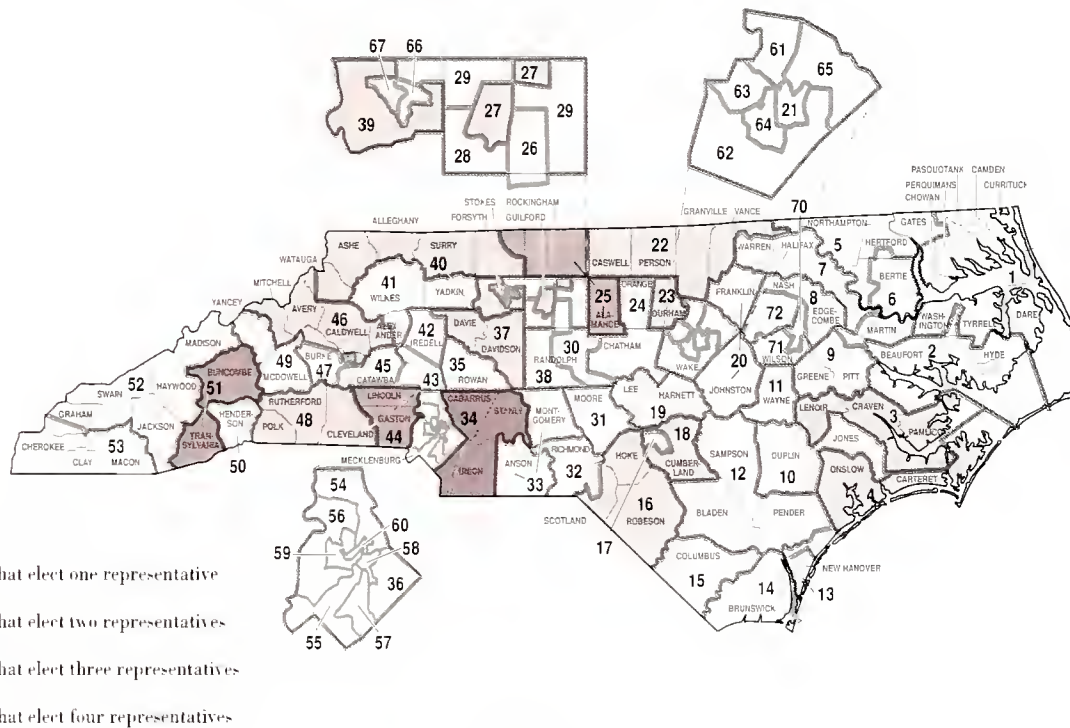
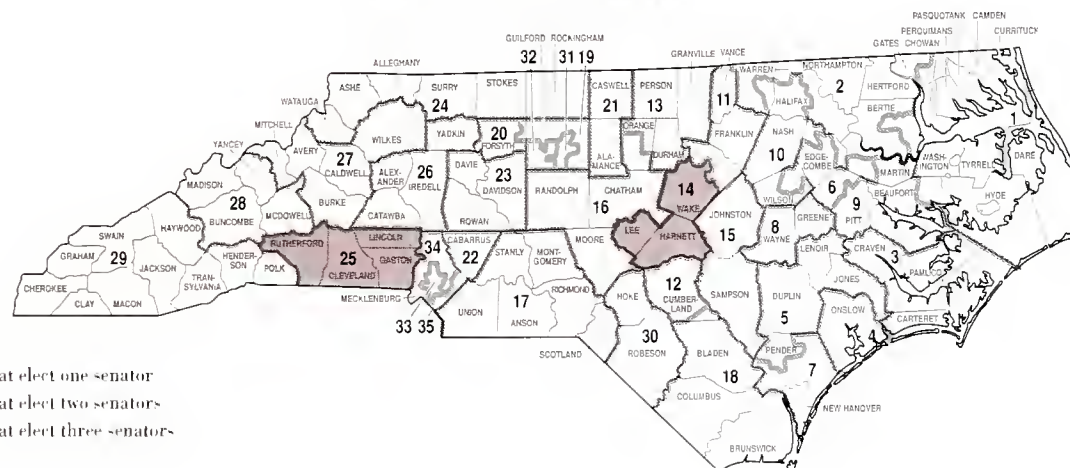


Figure 3
North Carolina Senate Districts



Questions about Child Abuse: Should Medical Providers Open Their Records to Investigators?

Janet Mason and Anne Dellinger

Child abuse is a serious national problem—of which North Carolina probably has more than its share. Moreover the problem seems to be growing. North Carolina's confirmed cases of abuse and neglect have nearly doubled in the last five years. Several fatalities in the spring of 1991 focused public and official attention on the issue. At the same time, in separate reports, an American Bar Association committee and the North Carolina Child Advocacy Institute suggested that our systems for protecting endangered children need improvement. In May the governor called for a number of initiatives, including the creation of community child-protection teams to review child fatalities and cases of abuse and neglect.¹ At this writing the General Assembly is considering new funding for child protective services.

Another way to better the state's response is for the public and various professionals to understand current law—both the safety it offers and its inadequacies. To that end, this article is the first of several on specific legal issues involved in protecting children from abuse.

Medical professionals are well positioned to observe children. Like all adults, they are legally required to contact county social services workers when they suspect abuse or neglect. (In fact in North Carolina 8.4 percent of reports do come from medical providers.) Whatever the source of the report, when social services workers investigate abuse, the person or facility that cares for the child's health is an obvious source of information.

This fact may trouble the provider, at least initially. A doctor, health department, or hospital that is asked to open its medical records to a social services investigator may hesitate, knowing the importance of preserving medical confidentiality. The medical professions take

seriously the obligation to guard patients' confidence (as patients expect them to). The laws of the United States and North Carolina support the idea of a legal duty to do so.

But protecting patients' privacy is not a legal absolute. Even the rule that patients can keep their doctors from testifying in court against them (the "doctor-patient privilege") can be broken if a judge thinks justice would be served by allowing the testimony. The law favors confidentiality under most circumstances but recognizes other, competing values. Child abuse is an exception to medical confidentiality, to some degree, under the law of every state.

Access to a Child's Medical Records during an Investigation

If a department of social services asks a juvenile court to consider allegations of abuse or neglect, it may subpoena medical records or witnesses to provide evidence in the case. Under North Carolina law neither the doctor-patient privilege nor the confidentiality of doctor-patient communications can be used to exclude evidence of abuse or neglect in court.² However, the law does not specifically address medical confidentiality in the investigation stage. When a social worker is investigating a report of abuse or neglect, under what circumstances should a medical provider give that person access to the child's medical records?

There are three possible bases on which a medical provider may release medical records to a social worker conducting a child-abuse or neglect investigation: (1) the child's parent or some other authorized person consents, (2) the North Carolina Juvenile Code authorizes or requires the release, or (3) a court order directs release of the records.

The authors are Institute of Government faculty members who specialize in social services law and health law, respectively.

Consent

In general parents control their children's medical treatment and access to the records of it. For some children a legal guardian or someone acting as a parent is the person who governs any release of records. Children can consent to their own treatment for some conditions, and in those cases presumably they control access to the records. The fact that parents control access to their own and their children's records is frequently a problem in abuse or neglect investigations. If the records might incriminate a parent or someone the parent cares about, consent is likely to be withheld. Still, as a first step, medical providers should usually seek parental consent before releasing medical records.

Statutory Authority

North Carolina law requires medical providers, like all other citizens, to report suspected child abuse or neglect to the county department of social services. When medical providers report abuse and neglect, they explain their suspicion by stating facts about the child's condition. These same observed facts—plus the physician's diagnosis and treatment—constitute the child's medical record. Thus there is no legal barrier to releasing that record to the department of social services.

In addition, the statute that requires the reporting of suspected abuse and neglect lists the information that the person making a report must provide.³ A medical provider (or anyone else) who has cause to suspect that a child is abused or neglected must not only identify the child to social services, but also provide information about "the nature and extent of any injury or condition resulting from abuse or neglect and any other information which [he or she] believes might be helpful in establishing the need for protective services or court intervention." One primary purpose of child-abuse reporting laws is to override the confidentiality that otherwise would keep people like medical providers from reporting. It seems obvious that the requirement to include specific information in a report also overrides confidentiality.

Somewhat less clear is the obligation of the medical provider or custodian of medical records who is asked for medical information by a social worker who is conducting an investigation based on a report by someone other than the medical provider. The Juvenile Code (the group of laws that addresses the protective, noncriminal aspects of abuse and neglect and that includes the

reporting law) does not include an explicit duty to cooperate in a social services investigation. But the code may imply such an obligation, or at least authorization.

The following, when considered together, support that view: First, the code promises immunity from civil or criminal liability to anyone reporting, in good faith, suspected abuse and neglect. The immunity also extends to cooperating in "any ensuing inquiry or investigation"—a category that would seem to include a social worker's request for medical information about a child's condition. The provision of immunity for reporting is aimed at encouraging people to report. The extension of that immunity to cooperating in an investigation should be read, likewise, as encouraging such cooperation. The fear of liability that constrains medical providers from releasing confidential information in other circumstances should be alleviated when the provider is releasing records in cooperation with an abuse or neglect investigation.

Second, the court may, at the request of the county social services director, order any person to stop "obstruction of or interference with an investigation."⁴ It seems reasonable to infer an obligation to refrain from obstructing or interfering with an investigation, even though the code does not say so explicitly.

Third, the social services department is required to hold "in strictest confidence" all information that it receives during an investigation.⁵ Therefore, if the department obtains confidential medical information, it can use the information only to determine whether the child needs protection and, if so, to obtain that protection.

Fourth, the code emphasizes the need for a prompt response by social services—a need that is frustrated if information is not readily accessible to the agency.

Finally, because medical providers must provide all relevant information as part of their own reports of suspected abuse or neglect, it would seem illogical and contrary to the purposes of the code if they were not free to

Other Institute of Government publications related to this issue:

Janet Mason and L. Poindexter Watts, "The Duty of Health Professionals in North Carolina to Report Suspected Child Abuse and Neglect." *Health Law Bulletin* 70 (with addendum) (October 1987), 18 pages, \$3.00.

Anne M. Dellinger and Joan G. Brannon, *The Law of Health Records in North Carolina* (1987), 86 pages, \$11.00.

These publications may be ordered from the Publications Office, Institute of Government, CB# 3330 Knapp Building, UNC-CH, Chapel Hill, NC 27599-3330. Telephone: (919) 966-4119. FAX: (919) 962-0651.

reveal the same information in the course of a mandated abuse or neglect investigation simply because the report originated somewhere else.

The opposite view, simply stated, is that the code does not clearly mandate the release of information except as part of an abuse or neglect report. In that view, if society's interest in medical privacy and the legal tradition supporting that interest are to give way to the need for expeditious child-abuse and neglect investigations, a clearer indication of legislative intent is required.

Court Order

Some medical providers will continue to prefer the certainty of a court order before releasing confidential medical information to a social services worker. That preference may be especially strong when the provider feels that neither abuse nor neglect has occurred or when the requested records include sensitive or embarrassing information that is not relevant to the investigation.

When a medical provider refuses to release information without a court order and the social worker considers the information essential to the investigation, the county social services director may ask the court to compel the disclosure of the information. As described above, the director may petition the juvenile court to require someone to stop obstructing or interfering with a child-abuse or neglect investigation. (Ordinarily a hearing follows at least five days' notice to the parties; however, the court may enter an immediate, *ex parte* order if it appears that the child is at risk of immediate harm.) The respondent—in this case the medical provider—can try to show "lawful excuse" for any obstruction or interference. No one knows whether a court would find medical confidentiality sufficient for that purpose.

The statute that creates the doctor-patient privilege offers the social services worker another legal alternative. Under Section 8-53 of the North Carolina General Statutes, a judge may order disclosure of confidential medical information when the judge thinks the disclosure is necessary to a proper administration of justice. The judge can order disclosure before a trial and even before civil or criminal proceedings are initiated.⁶

Conclusion

Ordinarily, when abuse or neglect investigators need medical information, providers will supply it in one of the following ways: (1) with appropriate consent, (2) as

part of their duty to report suspected abuse or neglect, or (3) in reliance on their obligation to cooperate in investigations of abuse or neglect. Recourse to the court, which consumes valuable time and resources, should be the exception. It should, however, be an exception that the parties and the judge are prepared to employ expeditiously when necessary.

A final note should be made. This article suggests that a North Carolina medical provider's decision to open patient records to social services workers investigating abuse or neglect is legally defensible—indeed, usually more defensible than refusal. Still, given providers' dual obligations—to patient privacy and to cooperation in abuse investigations—further statutory clarification may be desirable. For example, the legislature might give to social services workers explicit authority to demand any relevant confidential information, as it has given guardians ad litem for children.⁷ In fact the lack of such authority seems odd in light of social services departments' duties to investigate reports, file petitions, and carry the burden of proof in court.

Alternatively, the statute that now requires law-enforcement personnel to assist a social services director in investigations⁸ could be amended to require the same of health-care professionals and facilities (or of all persons). Such an amendment would seem consistent with the current law that allows evidence of child abuse or neglect in judicial proceedings despite the doctor-patient privilege.⁹ Clarifying access to medical records when abuse or neglect may be occurring would benefit social workers who need to act quickly and thoroughly to respond to reports, medical providers who struggle with conflicting legal duties, and the children who deserve to have their cases investigated with as few distractions and delays as possible. ❖

Notes

1. Exec. Order No. 142, 6 N.C. Reg. 227 (1991).
2. N.C. Gen. Stat. §§ 7A-551, 8-53.1.
3. N.C. Gen. Stat. § 7A-543.
4. N.C. Gen. Stat. § 7A-544.1.
5. N.C. Gen. Stat. § 7A-544.
6. The N.C. Court of Appeals upheld a district attorney's use of this avenue, in a homicide investigation, to seek information from mental-health agency employees. *In re Albemarle Mental Health Center*, 42 N.C. App. 292, 256 S.E.2d 818 (1979).
7. N.C. Gen. Stat. § 7A-586.
8. N.C. Gen. Stat. § 7A-544.
9. N.C. Gen. Stat. § 7A-551.

What Kind of Lottery for North Carolina?

Charles T. Clotfelter
and Philip J. Cook

In this time of fiscal distress, the lottery—the “voluntary tax”—can be an appealing option.¹ The North Carolina Senate passed a bill in the 1990 session that mandated a public referendum on the creation of a state lottery, and a similar bill is being considered by both houses of the General Assembly this year. If it passes, it would place the question of a lottery on the November 5, 1991, ballot.² Our state has held out longer than most; there are thirty-three state lotteries currently in operation, with half of them in business for more than a decade. What will it mean for North Carolina if we join in? The answer, we believe, depends to some extent on how the lottery agency would be structured and what restrictions would be placed on lottery operations. In this article we review the experience of other states as a basis for making a few predictions and recommendations about a North Carolina lottery.

Why Now?

If the decade-long push for lottery adoption succeeds this year, it will owe much to the revenue “shortfall,” to the evident success of the Virginia lottery, and, most fun-

*The authors are professors in the Department of Public Policy and the Department of Economics at Duke University. Their book *Selling Hope: State Lotteries in America* was published in 1989 by Harvard University Press.*

amentally, to public support for a lottery. Opinion polls in North Carolina have consistently shown that a strong majority are ready to vote “yes” on a lottery referendum, as have voters in twenty-eight of twenty-nine other states where the question was put to public vote. And based on the experience of these other states, there is no reason to believe that support for a lottery would wane once implemented. Popular support for existing lotteries has remained high following implementation, and there have been no serious challenges to their continued existence, even in states where there was strong opposition before adoption. Given this evidence it may seem elitist or undemocratic to deny the public what it clearly wants—a chance to play.

Of course many North Carolina residents have been playing the Virginia lottery, so some lottery proponents argue that money spent there could be going to generate state revenues here. This argument will gain additional force if Georgia institutes a lottery. Their new governor, Zell Miller, was elected on a pro-lottery platform, and the Georgia legislature has since voted to place a constitutional amendment authorizing a lottery on the ballot.

But much of the impetus in the current push for a North Carolina lottery is the sense that the state needs the money. The revenue shortfall, combined with the perceived lack of acceptable alternative sources of new revenue, has made the lottery all the more attractive at this time.

Table 1
United States Lottery Sales and Distribution of Revenues

State	Year Lottery Began	1989 Sales (millions)	1989 Sales Per Capita	Payout in Prizes during FY 1989 (percent)	Operation Costs during FY 1989 (percent)	Net Revenue during FY 1989 (percent)	Games Offered ^a
California	1985	\$ 2,595	\$ 89	50%	11%	39%	1.L
New York	1967	2,034	113	47	7	46	1.L.N
Florida	1988	1,982	156	50	12	38	1.L.N
Pennsylvania	1972	1,653	137	51	8	42	1.L.N
Massachusetts	1972	1,551	262	60	10	30	1.L.N
Ohio	1974	1,540	141	49	12	39	1.L.N
Illinois	1974	1,521	130	55	7	38	1.L.N
New Jersey	1970	1,250	161	49	9	43	1.L.N
Michigan	1972	1,171	126	48	10	42	1.L.N
Maryland	1973	765	163	47	8	45	1.L.N
Connecticut	1972	494	152	49	6	41	1.L.N
Virginia	1988	375	61	50	15	34	1.L.N
Arizona	1981	295	83	48	13	40	1.L
Wisconsin	1988	262	51	52	11	37	1.L
Washington	1982	255	51	46	13	41	1.L.N
Missouri	1986	223	43	50	16	31	1.L.N
Kentucky	1989	217	58	51	16	33	1.L
Iowa	1985	170	60	54	18	29	1.L
Oregon	1985	164	58	52	15	33	1.L.N
District of Columbia	1982	144	240	47	16	37	1.L.N
Indiana ^b	1989	143	26				1
Maine	1974	105	86	51	17	32	1.L.N
Colorado	1983	105	32	51	25	23	1.L
New Hampshire	1964	86	77	53	11	36	1.L.N
Kansas	1988	76	30	49	19	32	1.L
Delaware	1975	64	96	53	10	38	1.L.N
West Virginia	1986	62	33	45	25	30	1.L.N
Rhode Island ^c	1974	61	61	47	14	39	1.L.N
Vermont	1978	39	68	52	16	32	1.L.N
Idaho ^b	1989	33	33				1
South Dakota	1988	20	28	46	21	30	1
Montana	1988	13	16	46	30	24	1.L
United States		\$19,468	\$108	51%	10%	40%	

^aI = Instant, L = Lotto, N = Numbers

^bBegan operation after July 1, 1989.

^cSales are for fiscal year ending June 30. Others are for the calendar year.

Sources: *Gaming and Wagering Business* 11 (February 15, 1990): 30; (May 15, 1990): 47; U.S. Bureau of the Census, *Current Population Reports*, Series P-25, No. 1058, *State Population and Household Estimates: July 1, 1989* (March 1990), table 1; unpublished information obtained from state lottery agencies.

Revenue Potential

How much would a lottery contribute to the North Carolina treasury? Table 1 provides statistics on existing lotteries, indicating a wide range of per capita sales and state revenues. Massachusetts is at the high end, with

\$262.00 per capita sales in 1989 of which 30 percent was left for funding state government after paying prizes and operating expenses. Among the states at the other end of the spectrum is West Virginia, with sales of just \$33.00 per capita. Given this wide range, there is necessarily some uncertainty about the potential demand for lottery

products in North Carolina. If asked to make a prediction, our inclination is to base it on the Virginia experience. Besides being neighbors, the two states are similar with respect to demographics and past experience with commercial gambling (generally limited to bingo).

Virginia started selling instant game tickets in the fall of 1988 and grossed \$409 million the first twelve months. Since then the Virginia lottery has established an on-line computer system and started selling bets on the numbers and lotto games, two of the most popular lottery games in the United States. Total sales reached \$652 million in calendar year 1990. The state pays out about 50 percent of revenues in prizes and 15 percent in operating costs, leaving 35 percent, or about \$230 million, as profit to be transferred to the treasury. That seems a reasonable estimate of what a lottery would earn for North Carolina after it became well established. To put this in perspective, \$230 million is a bit less than 3 percent of the General Fund.

This of course is a static view of the lottery as a revenue source. The recent history of lotteries has been one of rapid growth, and that is a likely possibility for a North Carolina lottery as well. Between 1975 and 1989, per capita sales in lottery states increased from \$10.00 to \$110.00 per capita. Even after allowing for general inflation, that represents a 12 percent real rate of annual growth. Sales growth was slower than average last year, but still kept up with inflation.

Some commentators have suggested that lotteries are an exceptionally volatile and unreliable source of revenue.³ We studied five large states that have had lotteries since the 1970s and found that lottery revenues were more dependable than any other major source of tax revenue. At least they showed the lowest frequency of declines in revenue (adjusted for inflation) from one year to the next. Most of the "volatility," then, has been on the up side.

The Players

For the general population, average expenditures on lottery tickets are quite modest and would not impose much of a burden on the finances of any but the poorest households. However, for lotteries as for most other commodities, participation is far from uniform. About 60 percent of adults in lottery states play, and these players on average spend more than \$20.00 per month. Within that group, the top 10 percent account for fully half of

all lottery expenditures, averaging \$80.00 per month. These heavy bettors are presumably not playing for fun, so much as for the hope of winning—the poor man's stock market.⁴ But unlike the stock market, the chances of coming out ahead over the course of a year of regular play are very small. Such pessimism is justified, given that the payout rate is only 50 cents for every dollar spent by lottery participants.

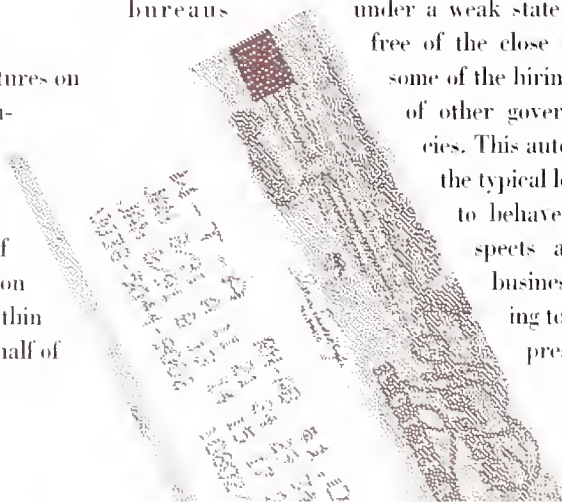
One of the principal concerns voiced by critics is that the lottery imposes a financial burden on the poor, and that the high implicit tax built into the lottery pricing scheme is regressive. (A *regressive* tax is one that takes a bigger proportional bite out of lower income households than higher income households.) While most everyone plays occasionally, some groups spend more than others: among the groups who play more than average are blacks and Hispanics, and people whose formal education ended with high school. Average lottery expenditures are roughly the same over a wide range of income, so that poorer households spend a far higher percentage of their income on the lottery than do the middle class and wealthy households.

To some extent the socioeconomic pattern of play is influenced by the marketing policies of lottery agencies, including advertising, game design, and choice of retail outlets. Such decisions tend to be guided by the "revenue imperative," that as in any business, measures success by the bottom line: the amount of money brought in.

The Quest for Lottery Revenues

Owing to its structure and management orientation, the typical state lottery authority has evolved into a new breed of government agency. Virtually all state lotteries conform to a single basic model: a state-run monopoly paying out only about half of its revenues in prize money and marketing its products aggressively to stimulate demand. Most of these agencies are set up as separate bureaus

under a weak state commission, free of the close scrutiny and some of the hiring restrictions of other government agencies. This autonomy allows the typical lottery agency to behave in most respects as a private business, responding to the constant pressure to bring



in more and more revenue for the state. The objective implicit in the structure and behavior of lottery agencies is the maximization of net revenue. The Michigan law, for example, states that the "lottery shall produce the maximum amount of net revenues for the state consonant with the general welfare of the people."⁵

Like private firms, but unlike other units of government, lottery authorities have adopted the methods of modern marketing to increase the sales of their product. Lottery managers have two options for increasing their sales: recruiting new players or generating more usage among existing players. Using such familiar techniques as newspaper coupons; direct mailings; buy-one, get-one-free offers; and tie-in promotions with soft drink and fast-food companies, the agencies have strived to expand their player base. Other marketing techniques are aimed at increasing the purchases of established customers. New Jersey's lottery director said it plainly: "We're taking an infrequent user and trying to convert him into a more frequent user."⁶

While these marketing methods are common in the commercial marketplace, they are problematic when they are carried out by government. Is it really in the public interest for the government to encourage people to gamble? Even more troubling is that the quest to increase sales encourages deceptive advertising practices, such as misrepresenting the true value of the lottery jackpot and using gimmicks of game design and advertising to create the false impression that winning is easy. We surveyed 151 television and radio ads and found that only 12 percent provided any information about the odds of winning. Out of the fifty-two television ads in our sample that portrayed anyone who plays or has played the lottery, fully two thirds showed at least one lottery winner.

Not only does lottery advertising endorse gambling *per se*, it also endorses the dream of easy wealth that motivates much serious gambling. The ads are unabashedly materialistic. Vaults bulge with money, winners bask in luxury, and lives are transformed. The ads carry these messages: it's fun to play, you have a real chance to win, trust your luck, money is a wonderful thing and will make you happy. An ad in Connecticut showed an older man relaxing in a fishing boat, saying that he didn't save for his retirement, but it had all worked out because he won a lotto jackpot. Another ad intones, "Play your hunch, you could win a bunch."

The ads are so much fun, only a curmudgeon would complain about their content. But there are serious questions here: If gambling has been considered a vice for

centuries, why is it now transformed into a public virtue? If the state's education curriculum includes some concern with inculcating values, how can the state lottery agency get away with spending millions to encourage materialism and a vision of how to reach Easy Street without effort? And if youths take these ads seriously, won't there be a price to pay in the long run? To the extent that gambling replaces education, work, savings, and entrepreneurship as a means for getting ahead, economic growth (and incidentally tax collections) will suffer.

Virginia and Wisconsin have placed legal restrictions on the content of lottery advertising, and their ads are less objectionable than most. North Carolina would do well to consider adopting such restrictions if it does go forward with a lottery.

New Games

Probably the most important aspect of marketing the lottery is the development of new products. These days, there are three games offered by most lotteries: Instant games allow players to scratch off a covering to see whether they have won a prize. Numbers games, modeled on the illegal numbers racket, require players to guess correctly the three- or four-digit number drawn daily. Lotto, the game of long odds and headline-grabbing jackpots, requires players to pick, for example, six numbers from a group of forty. If no one wins the jackpot, it "rolls over" until the next drawing. All of these games have been developed and introduced since 1973.

The recent flattening of sales has motivated an intense search for a new "winner" for the lotteries. The search is focusing on three products, all of which may be objectionable as representing a shift to a "harder" form of gambling:

- 1) Video lottery terminals, already deployed widely in South Dakota (where they offer video poker) and currently under consideration in seventeen other states.
- 2) Betting on professional sports, currently offered by the Oregon lottery and under active consideration elsewhere.
- 3) Interactive television game shows with betting by telephone. These are not actually in place but are generally considered the best bet for the 1990s.

In evaluating such possibilities, lottery authorities must weigh their increased revenue potential against the problems they may engender. Without some sort of institutionalized check on the revenue imperative, it is easy to predict the ultimate decision.

Is There Any Other Way To Run a Lottery?

A lottery would be a relatively minor source of revenue for North Carolina, but the revenue it would generate would quickly become indispensable. And a lottery would generate greater attention and public awareness than any other state commercial activity, with the possible exception of Wolfpack and Tar Heel basketball. If North Carolina does create a lottery, it is important that it be done with prudence and proper concern for preserving values other than just raising state revenues.

In looking for a suitable model, the state might consider the state liquor stores. They satisfy the public demand for a product, and they do so in an orderly way without seeking to stimulate that demand. There are no billboards encouraging people to solve their problems by drinking more whiskey, no two-for-one ABC coupons, no radio jingles singing about what fun it is to drink the state product. The state does not endorse a taste for liquor, but simply accommodates that taste. While the financial surplus generated by state liquor sales is a welcome addition to public revenues, the quest for these revenues is not paramount in setting policy.

Justice Louis Brandeis once observed, "Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example."¹ The lesson that most states are teaching with their lotteries is that government will do almost anything for the sake of a buck, even entice their residents to spend more than they can afford on a lousy bet. When it comes time to design a lottery for North Carolina, the state should take care to incorporate concerns other than revenue. ❖

Notes

1. An earlier article on this subject was published in the Winter, 1986, issue of *Popular Government*: "Of Revenues and Morality: The Debate Over State Lotteries," by James Clotfelter, pages 19 through 53.

2. Senate Bill 2, sponsored by Kenneth Royall and others, was introduced this session under the title "An Act to Provide for a Binding Referendum on the Establishment of a North Carolina State Lottery." It includes a number of details concerning the operation of the lottery, including the following: (1) At least 50 percent of lottery revenues would be paid out in prizes, and no more than 16 percent of revenues would be devoted to operating expenses. (2) Net revenues after prizes and expenses would be transferred to the General Fund, without earmarking for any particular purpose. (3) The lottery would be prohibited from introducing sports betting or slot machines that pay off in cash. (4) It would be a misdemeanor to sell lottery tickets to people under age eighteen. (5) There would be no general requirement to include a statement of the probability distribution of prizes at the point of purchase.

3. John L. Mikesell and C. Kurt Zorn, "Another Look at the Structure and Performance of State Lotteries" (unpublished paper, Indiana University, August 1987), 21.

4. A survey in California found that a majority of the players in the lower half of the income distribution reported that they played for the money, while in the upper half of the distribution a majority reported playing for fun. Tabulations based on unpublished data. *Los Angeles Times* Poll LAT101, March 1986, question 21.

5. Senator Royall's lottery bill (Senate Bill 2) states that "The lottery . . . shall be operated to maximize new revenue to the State which shall be raised in a manner consistent with the dignity of the State, the general welfare of the people, and in a manner consistent with effective business practices."

6. "New Jersey Lottery Plans Changes in Sales Marketing," *Public Gaming Magazine* 13 (October 1985): 13.

7. *Olmstead v. United States*, 277 U.S. 138, 485 (1928).

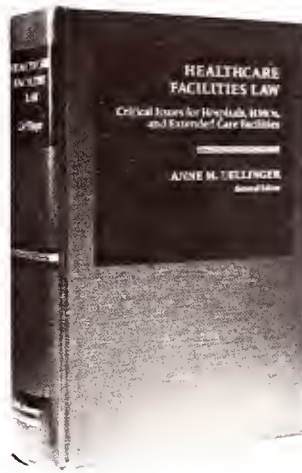
BOOK REVIEW

A Review of *Healthcare Facilities Law: Critical Issues for Hospitals, HMOs, and Extended Care Facilities*

Claire L. Moritz

Practicing health-care facilities attorneys, hospital administrators, and government officials and representatives will all find *Healthcare Facilities Law: Critical Issues for Hospitals, HMOs, and Extended Care Facilities* to be an informative and insightful discussion of legal issues facing health-care facilities. The book provides both a comprehensive review for experienced readers and clear explanations for those new to the field. Beyond mere recitation of the law as it stands today, *Healthcare Facilities Law* explores the historical context from which current law derives and anticipates and provides guidance regarding new and difficult health-care issues.

Four major areas—"Legal Issues in the Management of Healthcare Facilities," "Delivery of Services," "Emerging Issues in Healthcare Facilities Law," and "The Legal Structure of Healthcare Facilities"—are described in sixteen chapters authored by attorneys with diverse backgrounds in health law and edited by Anne M. Dellinger of the Institute of Government, The University of North Carolina at Chapel Hill. While all chapters are instructive, each major area contains one or more highlights worthy of special note. In the section on management, the chapter on anti-



trust law provides an effective primer on this chronically thorny concern for health-care facilities administrators (and those who are advising them). In particular it provides practical guidance in conducting an antitrust audit and other institutional evaluations.

The chapter on access to treatment in the section on delivery of services provides a timely discussion of one of the major issues facing health-care facilities today. As facilities struggle to remain economically viable, pressure to limit access to those with the ability to pay will increase. This chapter explores the state and federal laws relevant to the provision of indigent care, access to emergency care, and discrimination and access. A thorough understanding of these requirements is essential for those providing health care.

All chapters in the section on emerging issues are thoughtful and thought provoking. These chapters address terminal-care decision

making, reproductive technologies, organ procurement and transplantation, and acquired immunodeficiency syndrome (AIDS). The chapter on reproductive technologies is particularly helpful in defining terminology, setting forth ethical and policy issues, and making a persuasive argument for the need for clarifying legislation regarding the rights of the parties in these relationships.

In the section on legal structure, the chapter entitled "Corporate Organization, Reorganization, and Joint Venturing" provides an excellent overview to these subjects. The discussion of the reorganization process, including reviewing regulatory requirements, performing a due diligence review, and preserving the desired tax status, is especially helpful. This section also includes chapters on the legal characteristics of the extended-care facility and the legal characteristics of the health maintenance organization.

Readers familiar with the Institute of Government's *Hospital Law in North Carolina*, also edited by Anne M. Dellinger, will find *Healthcare Facilities Law* to be a complementary resource to *Hospital Law*. Each book contains its own distinctive features.

Healthcare Facilities Law is a comprehensive resource regarding the myriad of legal issues facing health-care facilities nationwide today. Frequent supplements to the volume will ensure that it continues to be a valuable reference in the future. It will collect no dust on the shelves of those who purchase it. ❖

Anne M. Dellinger, general editor, *Healthcare Facilities Law: Critical Issues for Hospitals, HMOs, and Extended Care Facilities* (Boston, Mass.: Little, Brown and Company, 1991), 1,112 pages.

The author is vice-president of legal services at Wake Medical Center in Raleigh.

A R O U N D T H E S T A T E

North Carolina Ranks High in Certificate of Achievement Program Participation

S. Grady Fullerton

North Carolina ranks above the national average in participation in the Certificate of Achievement for Excellence in Financial Reporting program, according to a recent study. Each fiscal year the Government Finance Officers Association (GFOA) of the United States and Canada awards the certificate to any local government unit with an outstanding Comprehensive Annual Financial Report (CAFR). Certificate program staff recently conducted

The author is an Institute of Government faculty member who specializes in governmental accounting and financial reporting.

a study of participation in the program on a state-by-state basis.¹ North Carolina ranked among the top states in the category of county participation and above average in the category of city and town participation for the fiscal year ending in 1989.

Table 1 compares participation in the program in the entire United States with participation in North Carolina. According to the study, 9 percent of all counties in the United States submitted their CAFRs for review for the fiscal year ending in 1989, while 21 percent of North Carolina counties submitted, as well as earned, the Certificate of Achievement. In the category of

cities and towns, 2.8 percent of the 35,891 cities and towns in the United States submitted their CAFRs for review, while 5.1 percent of North Carolina cities and towns submitted and earned the Certificate of Achievement.

Six North Carolina boards of education, one council of governments, and one electric cities corporation also submitted and earned the coveted Certificate of Achievement award for the fiscal year ending June 30, 1989, which brings the total of awards for North Carolina units during that fiscal year to fifty. Seventy-one North Carolina units have submitted their CAFRs for review for the year ending June 30, 1990. ❖

Notes

1. "Governmental Accounting Focus," *GAAP Review*, Newsletter of the Government Finance Officers Association, 8 (March 1991): 6.

Table 1
Participation in the Certificate of Achievement for Excellence in Financial Reporting Program
for the Fiscal Year Ending June 30, 1989

	United States			North Carolina		
	Total Number of Units	Number of Units Participating	Percent- age of Total	Total Number of Units	Number of Units Participating	Percent- age of Total
Counties						
1-9,999	698	1	0.6%	8	0	0 %
10,000-24,999	943	11	1.5%	23	0	0 %
25,000-49,999	615	18	2.9%	26	3	11.5%
50,000-99,999	387	54	14.0%	28	7	25.0%
100,00-249,999	230	85	37.0%	10	7	70.0%
250,000 or more	169	99	58.6%	5	4	80.0%
Total	3,042	274	9.0%	100	21	21.0%
Cities and Towns						
1-9,999	32,514	128	0.4%	449	5	1.1%
10,000-24,999	2,008	287	14.3%	25	7	28.0%
25,000-49,999	791	258	32.6%	11	5	45.5%
50,000-99,999	353	170	48.2%	5	3	60.0%
100,00-249,999	148	97	65.5%	4	4	100.0%
250,000 or more	77	52	67.5%	1	1	100.0%
Total	35,891	992	2.8%	495	25	5.1%

A T T H E I N S T I T U T E

Heath Is Honored by Groundwater Professionals of North Carolina

Institute of Government faculty member Milton S. Heath, Jr., was honored in February by the Association of Groundwater Professionals of North Carolina. The association recognized Heath for his contribution to the advancement of groundwater knowledge and management in North Carolina.

Heath has worked in the area of natural resource protection for more than thirty years. After receiving his A.B. from Harvard in 1949 and his law degree from Columbia in 1952, he worked with the Office of Governor's Counsel in

New York and the Tennessee Valley Authority's Legal Division. He has been an assistant director and professor of public law and government with the Institute of Government since 1957. In that capacity he has taught the basics of environmental law to many of the environmental policy professionals working in North Carolina.

Along with consultation and teaching, Heath has been involved directly with the development of environmental legislation in North Carolina. He worked with committees in drafting the North Carolina

Small Watershed Act of 1959, the Water Use Act of 1967, the Pesticide Law of 1971, the North Carolina Environmental Policy Act of 1971, the Coastal Area Management Act of 1974, the Scenic Rivers Act of 1975, and the Mountain Ridge Law of 1983, among others. He also has served on numerous committees and boards involved with the development of environmental policy and has written several influential papers on the subject.

The Association of Groundwater Professionals of North Carolina, which is made up of a wide range of professionals working in the field, offers awards of recognition four times a year to people who have made significant contributions to the study and protection of groundwater. —Liz McGeachy

Recent Publications of the Institute of Government

Carolina County, North Carolina, Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 19X1

Prepared by the Fiscal Management Section of the Department of State Treasurer and S. Grady Fullerton. 142 pages. [91.03] ISBN 1-56011-192-5. \$28.00.

County Salaries in North Carolina 1991

Compiled by Carol S. Burgess. 62 pages. [90.31] ISBN 1-56011-187-9. \$10.00.

The General Assembly of North Carolina: A Handbook for Legislators. Sixth edition

Joseph S. Ferrell. 112 pages. [90.19] ISBN 1-56011-176-3. \$10.50.

Local Government Employment Law in North Carolina

Stephen Alred. 322 pages. [90.07] ISBN 1-56011-165-8. \$20.00.

North Carolina Legislation 1990

Edited by Joseph S. Ferrell. 108 pages. [90.29] ISBN 1-56011-185-2. \$11.50.

An Outline of Statutory Provisions Controlling Purchasing by Local Governments in North Carolina. 1990 edition

Warren Jake Wicker. 16 pages. [90.27] ISBN 1-56011-183-6. \$4.00.

Conflicts of Interest in Land-Use Management Decisions

David W. Owens. 105 pages. [90.17] ISBN 1-56011-175-5. \$9.00.

Suggested Rules of Procedure for the Board of County Commissioners. Second edition

Joseph S. Ferrell. 24 pages. [90.18] ISBN 1-56011-177-1. \$6.00.

Orders and inquiries should be sent to the Publications Office, Institute of Government, CB# 3330 Knapp Building, UNC-CH, Chapel Hill, NC 27599-3330. Please include a check or purchase order for the amount of the order plus 5 percent sales tax. A complete publications catalog is available from the Publications Office on request. For a copy, call (919) 966-4119.

Construction Contracts with North Carolina Local Governments. Second Edition

A. Fleming Bell, II

Staying informed about the special procedures that local governments must follow in making construction and repair contracts in North Carolina can be a difficult task. This newly revised and expanded book offers guidance in following the changing "rules of the game," which are codified in several different chapters of the North Carolina General Statutes. Formal and informal bidding are considered, as well as standards for awarding bids, bid withdrawals, multiple- and single-prime contracting, minority participation guidelines, exceptions to the bid procedures, and much more. Attorneys, city and county managers, purchasing officials, contractors, and others who need to know the procedural rules for local government construction contracts will all find it useful. [91.01] ISBN 1-56011-188-7. \$8.00.

1991-1992 Finance Calendar of Duties for City and County Officials

Prepared by David M. Lawrence

This booklet sets out the principal duties of city and county officials in preparing and adopting the budget and in financial reporting. It shows duties required by the General Statutes or by state agency regulation and the dates by which they are to be performed. Generally it does not include duties created by local act, those performed on a continuing basis, or those that have no specified date. [91.05] ISBN 1-56011-194-1. \$4.50.

A Review of the Constitutionality of the North Carolina *In Rem* Tax Lien Foreclosure Procedure

Leslie J. Hagin and William A. Campbell

The Institute of Government's *Special Series* includes publications on a variety of subjects, published on an occasional basis. This most recent addition to the series reviews and analyzes recent court decisions dealing with the constitutionality of summary tax foreclosures. It also discusses the decisions' relevance to possible challenges to North Carolina's *in rem* foreclosure procedure. Special Series No. 6. ISBN 1-56011-190-0.

Popular Government
(ISSN 0032-4515)
Institute of Government
CB# 3330 Knapp Building
The University of North Carolina at Chapel Hill
Chapel Hill, North Carolina 27599-3330