Spring 1999 • Vol. 64, No. 3

POPULAR GOVERNMENT

INSTITUTE of GOVERNMENT
The University of North Carolina at Chapel Hill

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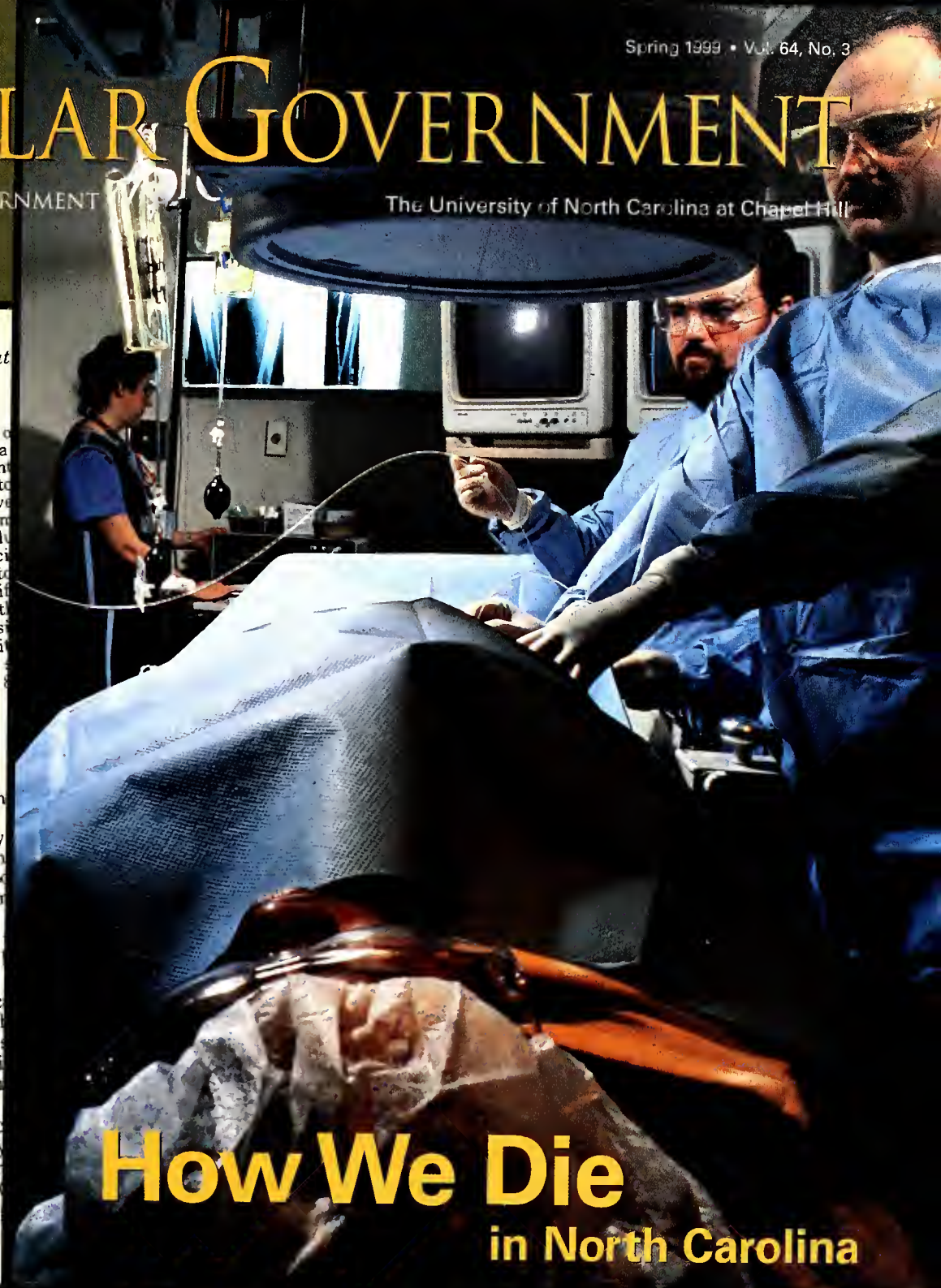

How We Die in North Carolina

Fostering Freedom through Civic Education

Listening to Citizens

Views on the Jury Experience

No Social Security Number? No License

POPULAR GOVERNMENT

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 $20.00 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. This publication is printed on permanent, acid-free paper in compliance with the North Carolina General Statutes. Printed on recycled paper with soy-based ink. 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 8,200 copies of this public document at a cost of $11,205.22 or $1.37 per copy. These figures include only the direct cost of reproduction. They do not include preparation, handling, or distribution costs.

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POPULAR GOVERNMENT

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INSTITUTE *of* GOVERNMENT The University of North Carolina at Chapel Hill

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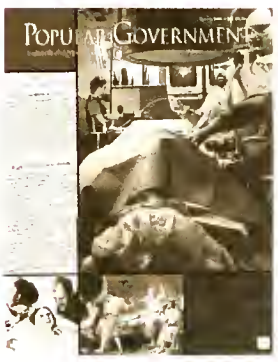


On the cover *End-of-life issues and choices: (clockwise from top right) aggressive treatment in the operating room; taking one's own life, as did Socrates; hospice care to ease pain and offer comfort; an excerpt from North Carolina's Right to Natural Death Act of 1975. Photo credits: © Matthew Borkoski/Picturesque, 1999; The Metropolitan Museum of Art, Catharine Lorillard Wolfe Collection, Wolfe Fund, 1931; Courtesy of National Hospice Organization.*

How We Die in North Carolina

ANNE DELLINGER

In June 1998 the *Wall Street Journal* reported on seventy-year-old North Carolinian Claude Marion, who thought that he had prepared for death ten years ahead of time, but still did not receive the care he wanted.[1] After he died, one of his daughters described the experience of acting as his advocate. Speaking of the divisions that emerged among patient, family, and physician, and eventually within the family, she said,

> [My father] just tried really hard to do the right thing. And he died in a very undignified way. I felt so helpless. . . . My sister and I felt we had been to war. . . . I don't think there's a good guy and a bad guy here. . . . I think people were doing what they were taught.[2]

The Death of Socrates, *painted by Jacques Louis David in 1787, depicts the Greek philosopher about to drink hemlock in a classic act of suicide. Grieving friends and admirers surround him.*

Following Mr. Marion's emergency surgery at Wake Forest University Baptist Medical Center in Winston-Salem, he slipped in and out of consciousness, unable to make his wishes known. Although four successive complications repeatedly brought him close to death, the attending physician would not honor the living will, believing that Mr. Marion was not "terminal" (defined by the physician as having no chance for recovery).[3] A hospital ethics council was convened, which agreed with Mr. Marion's daughters that his condition was terminal. Rejecting the council's opinion, the physician said he would continue to treat aggressively. A judge appointed Mr. Marion's daughters his guardians. Meanwhile, though, some of their aunts and uncles took the physician's side, and the family began arguing. While his daughters were finding another physician, Mr. Marion passed the point before which he might have been sustained at home. Still in the hospital, he was eventually freed from the feeding tube and given morphine for comfort. He died fifty-seven days after admission, during a third bout of pneumonia.

The author, an Institute of Government faculty member who specializes in health law, participated in the forum described in this article. The article takes part of its title from the best-selling book *How We Die: Reflections on Life's Last Chapter*, by Sherwin B. Nuland (New York: Alfred A. Knopf, 1994).

Modern medicine's high-tech treatments inspire awe, but they also may induce fear of overly aggressive care when there is little or no chance of recovery.

A health care power of attorney giving decision-making power to a daughter might have prevented most of these problems, but like most people, Mr. Marion did not have one. Tailoring the language of his living will to make it effective earlier probably would have helped too. Simply by having a living will, he did more to plan for his death than most North Carolinians have done. Yet clearly his living will was not enough.

In October 1998 three North Carolina licensing boards—medicine, nursing, and pharmacy—met to consider how to help people avoid their worst nightmares surrounding death.[4] The meeting examined people's needs, current state and federal law, and both actual and ideal health care for the terminally ill. This article summarizes the law on suicide, assisted suicide, euthanasia, treatment, and withdrawal of treatment for those who are seriously ill. It also describes the three licensing boards' first step toward what may be a historic collaboration.[5]

BACKGROUND

To understand how we die in North Carolina today, as well as what choices we may have in the future, some history is useful. It is surprising how recently suicide and suicide attempts were crimes in this state. In fact, North Carolina was the last of the states to prosecute an attempt at suicide. In 1961 the supreme court found the act criminal,[6] as it had been for centuries under the common law of England and was later in the American colonies and states. Because suicide was a crime, helping someone carry it out was too.[7]

In 1973 the General Assembly abolished the crime of committing suicide and thereby, implicitly, the

crimes of attempting and assisting in a suicide.[8] Still, these acts continue to carry a substantial stigma. For instance, in August 1998 a *Raleigh News & Observer* reporter interviewed a terminally ill person as he prepared to kill himself. (The reporter declined to be present at the death, however.) Later her editors debated whether publishing the account would "implicitly endorse" the man's act. The executive editor did decide to publish it but pointedly denied any endorsement. Instead, with careful neutrality he called the

Courtesy of North Carolina Board of Nursing

Andrew Watry, Mary P. "Polly" Johnson, and David Work, executive directors of the state boards of medicine, nursing, and pharmacy, respectively. The boards jointly sponsored the End-of-Life Decisions Forum in October 1998.

story "a fair and honest account of one man's search for what he believed was a dignified death."[9]

North Carolina's highest court has dealt very harshly with "mercy killing," or euthanasia. For shooting his father in a hospital bed, a man was convicted of first-degree murder and received a mandatory life sentence, which was upheld on appeal. At trial the judge told the jury that they could infer malice[10] (though they did not have to do so) from the defendant's use of a deadly weapon, and that the defendant's knowledge that his father was at the brink of death was not a defense (though they could consider that knowledge). Both instructions were challenged on appeal. The supreme court upheld them but not unanimously. The chief justice urged a distinction in punishment because the son's intentions were good.[11]

In 1982 Asheville was the scene of a prosecution that was particularly troubling because the event on which it was based was hard to classify as euthanasia or assisted suicide. The defendant, an elderly woman, said that, in accord with her sister's wishes, she had connected a hose to a car's exhaust and left the garage so that her sister could turn on the ignition. Investigators from the sheriff's department accepted this account.[12] The medical examiner, however, called the death a homicide, carried out against the victim's will. In his opinion, "a person who'd taken that drug dosage—particularly a cardiac patient dependent on a walker to move about—would not have been able to carry out the suicide that reportedly took place."[13] Nearly a year after her sister's death, the defendant was charged with second-degree murder but allowed to plead guilty to voluntary manslaughter. She received a six-year suspended sentence, a $2,000 fine, and probation for five years.[14]

A member of the state attorney general's staff may have played an important part in the decision to prosecute, although the office issued no formal opinion. According to news reports, Lester Chalmers, special deputy attorney general, advised the local prosecutor that an indictment for second-degree murder would be appropriate.[15] Chalmers also implied doubt about the legality of assisted suicide.[16] State and local medical examiners involved in the inquest urged a murder prosecution.[17] Initially inclined against any charge, much less murder, the prosecutor finally did bring the second-degree murder charge, noting, "Suicide is legal, and so is aiding and abetting a suicide. But the thin line between suicide and homicide in such a case is a legal dilemma."[18] Fixing that line continues to be a problem.

At least once, a decade ago, the state boards of medicine and nursing reviewed actions by a doctor and a nurse that raised the possibility of euthanasia.[19] An elderly, terminally ill woman who had a living will was removed from a respirator at her request and her family's. Just before and for some time after removal, she received morphine.[20] When that did not "stop the struggling and suffering,"[21] a nurse recommended that the doctor use Pavulon.

According to the board of nursing,

> Pavulon is a paralytic agent whose action works on the respiratory muscles. Its primary use is in anesthesia. The drug is used in some instances in which patients on respirators are "fighting" the respirators, and for the purposes of controlling the patient's breathing. There is no clinical usage for Pavulon in a patient that is not on a respirator.[22]

Indeed, the nurses assigned to the patient would not administer the drug after the doctor ordered it. The

supervising nurse, who had made the recommendation, then administered four doses of Pavulon within seven minutes. The patient was pronounced dead within two minutes of the last injection.

Both boards reviewed the circumstances of the death, questioning the appropriateness of several aspects of the care. The board of medicine formally revoked the physician's license but immediately restored it without further penalty.[23] The board of nursing was more severe. It suspended the nurse's license for eighteen months for three reasons: administering excessive morphine, suggesting that the doctor use Pavulon, and administering it.[24]

THE PRESENT

There is no social consensus now on most of the issues surrounding dying—not even pain relief. Moreover, the risk of disapproval from some quarters is not the only or even the most serious problem. More troubling is the frequent confusion about the nature of acts that might lead to a wished-for death and the uncertainty about their legality. For example, polls indicate that the public sees little difference between assisted suicide and patient-requested euthanasia and would like both available.[25] A study of physicians shows similar results: physicians, and therefore probably other health professionals, often confuse assisted suicide and euthanasia.[26] On the other hand, judges, prosecutors, and the law sharply distinguish between the two acts (although the evidence may not clearly reveal which was committed).

The following sections describe the current legal status of certain aspects of dying.

Suicide

"Suicide" is "the act or an instance of taking one's own life voluntarily and intentionally."[27] Committing or attempting to commit suicide is not a crime in North Carolina.

Assisted Suicide

A leading treatise on death and dying discusses at length what "assisted suicide" means and how it differs from euthanasia and homicide (if it does).[28] The treatise cites a source that says the difference is illusory, and, as noted earlier, much of the public and a significant minority of physicians do not distinguish meaningfully between assisted suicide and euthanasia. Most people, however, continue to draw a moral distinction between responding affirmatively to "Help me kill myself" and responding affirmatively to "Kill me." How to treat the two acts, and what constitutes each, are problems for all interested parties (patients, health providers, courts, district attorneys, health licensing boards, legislatures, the United States attorney general, and the Drug Enforcement Agency). For present purposes, though, a loose definition of "assisted suicide" may be helpful: it can be thought of as the act of providing a competent person with the means to take his or her own life.

In general, assisting someone in committing suicide is legal. That is, an ordinary person who hands a knife to someone who is desperate or holds a ladder for that someone to reach a window ledge should have no legal problem. But the situation can be more complicated if there is a special, legally recognized relationship between the helper and the person wanting to die. In certain relationships—parent and minor child, bank trustee and depositor, and doctor and patient, to name a few—one party is legally obligated to protect the other to some extent.[29]

We simply do not know whether or when a health professional will be seen as failing to protect a patient if he or she helps the patient die. (Some patients and professionals think that the professional's duty to the patient should include easing death in a variety of ways.) The means of assistance most often discussed—now legal in Oregon—is providing medication for a patient to administer to herself or himself.[30] A legal question for all health professionals is whether helping patients die is a normal, appropriate part of their practice. If not, then their doing so might make them liable under tort law.

For physicians and pharmacists, there is a second legal problem. If they provide prescription drugs to a patient outside "the usual course of . . . professional practice," they are guilty, like anyone else, of violating state and federal controlled substances acts.[31] The severe penalties associated with violations are in addition to any discipline imposed by licensing boards or any tort actions filed by a patient's estate or family.

Two voluntary associations, the North Carolina Medical Society[32] and the North Carolina Licensed Practical Nurses Association,[33] are on record as opposing their members' helping with suicides, but no state appellate court has passed on the issue, and the North Carolina Department of Justice has not issued a formal opinion.[34] Health practitioner licensing boards, especially the boards of medicine, nursing, and pharmacy,

could help clarify the situation for their members, but so far they have not done so.

Medicine's and nursing's practice acts, which authorize the boards to issue and revoke licenses, contain language that they might use to forbid their licensees from assisting in suicides. The board of medicine could find, for instance, that a doctor who provided a lethal prescription or instructed a patient in a suicide technique was guilty of "unprofessional conduct" or "departure from . . . the standards of acceptable and prevailing medical practice, or the ethics of the medical profession." Because both are grounds for disciplining physicians, the board could then suspend or revoke a doctor's license to practice.[33]

The definition of nursing in the Nursing Practice Act does include helping patients to "the achievement of a dignified death."[34] Another part of the act, however, allows board action against a nurse who "[e]ngages in conduct that endangers the public health,"[35] and a court has held that the section may apply to a case involving a single patient.[36] The statute also lets the board discipline a nurse who "[i]s unfit or incompetent to practice nursing by reason of deliberate or negligent acts or omissions" or "[e]ngages in conduct that . . . harms the public in the course of any professional activities or services."[37] In addition, regulations under the statute forbid a nurse's "practicing . . . beyond the scope permitted by law."[38]

The state board of pharmacy would have more difficulty using its practice statute to prevent pharmacists from filling a lethal prescription for a patient. The Pharmacy Practice Act is more specific about what is improper practice, and none of its language seems easily applicable to suicide. The most nearly relevant provision allows adverse action if someone is "negligent in the practice of pharmacy."[39]

Euthanasia

"Euthanasia" may be defined as "the intentional putting to death of a person with an incurable or painful disease intended as an act of mercy."[40] This act very likely is murder under North Carolina law. In fact, personally administering lethal medication to a patient could be first-degree murder, either as "murder by poison" or simply as deliberate and premeditated killing.[41] In other words, like the man who shot his father, a doctor or a nurse would not escape punishment because she or he meant to benefit the patient—not even if the patient had asked for death.

Pain Relief

Pain relief is probably the most important of the end-of-life issues because of the effect of pain on dying people and the fear it engenders in nearly everyone who contemplates dying in the United States today. Despite efforts from several directions to clarify the legality of giving pain-relieving medication that may shorten life or even kill, the matter is not yet clear enough.

Health professionals know that a number of drugs may depress breathing, especially opioids (derivatives of opium or similar, synthetic narcotics), which are among the most effective painkillers.[44] They also know that relieving pain is among the highest goals of their professions, that United States medicine has been widely criticized by its practitioners and others for failing in that regard,[45] and that a major malpractice suit for failure to relieve pain succeeded in North Carolina. In that case a Hertford County jury returned a verdict of $15 million against Hillhaven Corporation for a nursing home's refusal to administer pain medication ordered by a physician for a man dying of cancer.[46]

About twenty states expressly approve the use of pain-relieving medication, even though it may shorten life.[47] North Carolina has no statute, regulation, or case law to that effect. However, in a recent position statement, North Carolina's board of medicine addressed one of the most difficult areas of pain management, the use of opioids to treat chronic nonmalignant pain. The board said, "It should be understood that the Board recognizes opioids can be an appropriate treatment for chronic pain."[48] Because the board takes that position for the harder question of chronic illness, perhaps its doing so for terminal illness should be assumed. In the position statement on chronic illness, the board does call attention to federal guidelines encouraging greater use of opioids for the terminally ill, but it makes no further comment. If the board approves North Carolina physicians' use of the federal guidelines, its saying so explicitly—perhaps by incorporating the guidelines into its own position statement—would be helpful.

Because of the fear of severe penalties for violating controlled substances acts, pharmacists and physicians would pay close attention to any position announced by the North Carolina Board of Pharmacy. The pharmacy board has not spoken, however. A single item in its newsletter (not a report of a board action or even of a board discussion) is the only indication of the ex-

tent to which the board wants pharmacists to help relieve the pain of the terminally ill. The statement reads,

> [T]he alleviation of pain through prescription drugs, including narcotics, is a normal part of medical care. In short, pharmacists should not fear action from the Board of Pharmacy if they are dispensing substantial amounts of narcotics for a legitimate medical need, such as to relieve pain for patients who will not be with us six months or one year hence due to their deteriorating health.[49]

The federal controlled substances act points practitioners in the same direction—that is, toward relieving pain, even if doing so jeopardizes the patient's life. The act requires doctors who prescribe medication for purposes of maintaining a drug addict to register with the Drug Enforcement Agency,[50] but regulations state that the act is not meant to limit a physician who prescribes opioids for intractable pain when no relief or cure is possible or has been found after reasonable effort.[51] Some states have amended their controlled substances acts to make the same assurance. North Carolina has not. If the General Assembly wanted to encourage physicians to relieve pain without fear of legal consequences, one avenue would be to amend the definition of "Drug dependent person" in state law[52] to exclude the dying.

Life-Sustaining Treatment

Refusal, withholding, and withdrawal of life-sustaining treatment all are legal choices under state law. (As noted earlier, the difficulty may lie in getting the choices honored.) North Carolina has long allowed residents to express preferences about how they die. The state enacted the Right to Natural Death Act[53] in 1978, not so much to create new rights as to recognize existing ones.[54] A person may refuse extraordinary medical interventions, including artificial nutrition and hydration, or ask to have them discontinued.[55] State law also permits residents to name an agent to choose their health care in certain circumstances.[56]

On the other hand, the statutes creating patient rights in terminal care caution that the state does not "authorize any affirmative or deliberate act or omission to end life other than to permit the natural process of dying."[57] Furthermore, whether North Carolina doctors and hospitals or other facilities must carry out a patient's wishes is not settled. Some states require this by statute. An attorney general's opinion advises that a physician or a facility need not follow a patient's wishes or transfer the patient to caretakers who will. But the opinion also says that providers may be liable for assault and battery if they force treatment on a patient.[58]

The United States Supreme Court seems to acknowledge that competent people have a constitutional right to refuse medical treatment.[59] A federal statute requires health facilities, as a condition of Medicare or Medicaid participation, to ask every patient about advance directives and to explain the options available under state law for creating them.[60]

THE FUTURE

The receptivity of North Carolina law to letting people control important aspects of their death is comforting. However, a writer (and North Carolinian) recently referred to laws like those described earlier as being for some Americans only "feeble protections against their dread of modern dying."[61] Health professionals, and each person considering her or his own death, want expanded rights—or at least opportunities—as well as enough certainty about the law to exercise the rights that are nominally available. It was to pursue those goals that the End-of-Life Decisions Forum met on October 23, 1998, in Raleigh.

The approximately 120 participants in the forum were members of the boards of medicine, nursing, and pharmacy; the boards' staffs, including legal counsel; employees of other state agencies; health professionals who work directly with dying people; a few interested citizens; and invited speakers. In most ways the group was typical: everyone, after all, is "competent" to discuss dying. In a few ways, though, the group's greater-than-average expertise and concern about the subject were evident. For example, when a speaker asked how many had an advance directive, everyone raised a hand. Among Americans in general, fewer than 10 percent have taken that step.

The forum's principal speaker, Lawrence Gostin,[62] established the context for the meeting. He described social and historical forces, and mistakes and fears, that have made it hard in the United States to regulate dying. He noted that many Americans fear too much care at the end of life, accurately sensing a strong bias in American medical education and practice toward continuing treatment. The bias may be traced to (1) the technological imperative—that is, pressure to use the marvelous lifesaving machines and techniques that the United States health care system has perfected; (2) defensive medicine—that is, health

care providers' misuse of treatment to protect themselves against liability; and (3) confusion about who may decide for the (incompetent) dying person.

In recent decades the law has resolved two important issues by abandoning the distinctions between not beginning treatment and stopping it, and between ordinary and extraordinary care. In 1997 the United States Supreme Court gave the states permission to retain a third distinction, between letting nature take its course and actively helping someone die.[63] At the same time, by declining to review the Oregon statute allowing physician-assisted suicide, the Court indicated that states are free to make the opposite choice. Clearly, every state may decide a range of issues about how people die.

The ultimate goal of law and medicine in this area is helping people die well, and an essential component of the goal is pain relief. The keynote speaker urged forum participants to debate the nature of a high-quality death: What resources are needed? How can every person's pain be made tolerable? How can the mental anguish and the mental disabilities of dying be addressed? His own recommendations included a closer relationship among the medical, nursing, and pharmacy professions.

After brief presentations by other speakers,[64] participants divided into seven small groups, each with a mix of experience and interests, to discuss the following questions:

> Should North Carolina licensing boards set standards for end-of-life care? Should health professions' practice acts or rules further define the standards? If so, what should the standards be?
> Are patterns of practice (treatment) changing? How? If not, should they be?
> What are the major barriers to patient choice with respect to dying?
> What aspects of end-of-life care in North Carolina need attention to bring about policy development, education, or regulation?

The seven groups split three ways on whether licensing boards should adopt standards. Some thought it essential so that professionals could treat pain adequately and help patients fulfill their last wishes. Others were cautious because of political risks and a feeling that state regulation of dying is antidemocratic. They preferred that the three boards follow rather than lead society in its evolution on these matters. A middle group wanted flexible standards, or none at all, for the time being. To them, process seemed more important now than answers.

Courtesy of National Hospice Organization

Family offer emotional comfort to a dying relative receiving hospice care.

All the groups believed, however, that professional standards for terminal care *are* changing, mostly for the better. They credited the hospice movement, patients' insistence on "palliative" care (treatment intended to reduce the severity of symptoms without curing the disease), the emergence of nursing as a more independent profession, and recognition of that development by medicine.

The groups offered a number of reasons for patients' wishes being overlooked so often: patients' and health care providers' reluctance to plan for death; time pressures and the cost of care; a perception that abandoning aggressive treatment is immoral; and the difficulty of communicating patients' preferences to the necessary parties.

On the last question, there was again more agreement. All participants supported education in end-of-life choices for the public, legislators, other policy makers, and health professionals. Many preferred permissive rather than mandatory legal regulation of these issues. Above all, they hoped that the forum itself would be reconvened and that the boards of medicine, nursing, and pharmacy would establish procedures for cooperating on behalf of the terminally ill and the dying.

NOTES

1. Becky Bull, "Best-Laid Plans: Living Wills Are Supposed to Eliminate Many Painful Decisions for Family Members. So Why Don't They?" *Wall Street Journal Interactive Edition*, June 1, 1998, available at http://www.wsj.com.
2. Bull, "Best-Laid Plans."
3. Bull, "Best-Laid Plans."
4. End-of-Life Decisions Forum, Raleigh, N.C., Oct. 23, 1998.

5. The forum itself was a milestone in the boards' relationship. Although they have met together occasionally in recent years, the forum was the first time they agreed to explore jointly an issue with serious implications for regulation by all three. Together they planned what the objectives of the forum would be, what points should be covered, and who would speak. The focus of the meeting was what board members needed to know about their profession's role in the process of dying and what more needed to be done in North Carolina to bring about desirable change. Telephone conversation with Mary P. Johnson, executive director, North Carolina Board of Nursing, Jan. 12, 1999.

6. State v. Willis, 255 N.C. 473, 121 S.E.2d 854 (1961).

7. "Since suicide is a crime, one who aids or abets another in, or is accessory before the fact to, selfmurder is amenable to the law." *Willis*, 255 N.C. at 477, 121 S.E.2d at 856–57.

8. "Such offenses [assisting suicide], in the absence of statute to the contrary, would not be criminal offenses in a jurisdiction in which suicide is not a crime." *Willis*, 255 N.C. at 477, 121 S.E.2d at 857.

9. Martha Quillin, "A Good Death: The Last Days of Sam Niver," *Raleigh News & Observer*, Aug. 23, 1998, available at http://search.news-observer.com. The editorial note is by Anders Gyllenhaal.

10. Malice is a necessary element of murder.

11. According to the dissent,

> Almost all would agree that someone who kills because of a desire to end a loved one's physical suffering caused by an illness which is both terminal and incurable should not be deemed in law as culpable and deserving of the same punishment as one who kills because of unmitigated spite, hatred or ill will. Yet the court's decision in this case essentially says there is no legal distinction between the two kinds of killing.

State v. Forrest, 321 N.C. 186, 200, 362 S.E.2d 252, 260 (1987).

12. United Press International, "'Mercy Killing' Trial to Begin Today," *Asheville Citizen*, May 25, 1982.

13. Ron DuBois, "Woman Indicted in Sister's Death," *Asheville Citizen*, April 8, 1982.

14. Barbara Blake, "Sentence Suspended in 'Mercy Killing,'" *Asheville Times*, May 26, 1982.

15. United Press International, "'Mercy Killing' Trial."

16. AP Wire Service, "Murder Trial May Address Mercy Killing," *Asheville Times*, April 19, 1982.

17. AP Wire Service, "Murder Trial."

18. DuBois, "Woman Indicted."

19. North Carolina Board of Nursing, Order in the Matter of _____ [name omitted by author], RN, Certificate #59124, June 16, 1989, p. 5 (hereinafter "Order").

20. 44 mg. of Morphine IV-push in 45 minutes. "Order," p. 3.

21. In its investigation the board of nursing found that the patient's "struggle was with breathing. She did not appear to be having discomfort or pain." "Order," p. 3.

22. "Order," p. 4.

23. Telephone conversation with James Wilson, general counsel, North Carolina Medical Board, Sept. 15, 1998.

24. "Order," pp. 7–9.

25. Peter G. Filene, *In the Arms of Others: A Cultural History of the Right-to-Die in America* (Chicago: Ivan R. Dee, 1998), 195.

26. Ezekiel Emanuel et al., "The Practice of Euthanasia and Physician-Assisted Suicide in the United States," *JAMA* 280 (Aug. 12, 1998): 507–13.

27. *Merriam-Webster's Collegiate Dictionary* (10th ed.) (Springfield, Mass.: Merriam-Webster, 1997), s.v. "suicide."

28. Alan Meisel, "Criminal Liability: Assisted Suicide and Euthanasia," chap. 18 in *The Right to Die* (2d ed.), vol. 2 (New York: Wiley Law Publications, 1995).

29. The closeness and the intensity of the relationship are not the issue. Spouses, for example, do not have such protective obligations to each other.

30. As used here, "providing" means prescribing, filling a prescription, or, in the case of a nurse, delivering a dose ordered by a doctor.

31. According to regulations under North Carolina's statute, anyone "dispensing" (writing or filling a prescription for) controlled substances must register, but doctors and pharmacists are exempt when practicing and when licensed in North Carolina "by their respective boards to the extent authorized by their boards." 10 N.C. ADMIN. CODE 45G.0108. Likewise, federal regulations (incorporated into the state's code at 10 N.C. ADMIN. CODE 45G.0301) say,

> A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

21 C.F.R. § 1306.04.

32. North Carolina Medical Society, *Physician-Assisted Suicide*, Substitute Report PP-1992, adopted Nov. 8, 1992. The society's office is in Raleigh, N.C.

33. North Carolina Licensed Practical Nurses Association, *Position Statement on Assisted Suicide*, adopted May 1, 1998. The association's office is in Durham, N.C.

34. Telephone conversation with Gayl Manthei, special deputy attorney general, Health and Public Assistance Section, Aug. 1998.

35. The language is from N.C. Gen. Stat. § 90-14(a)(6). Hereinafter the North Carolina General Statutes will be cited as G.S.

36. G.S. 90-171.20(7). The statement was probably meant to recognize the important role of nursing in hospice care. Telephone conversation with Howard Kramer, general counsel to the North Carolina Board of Nursing, Sept. 2, 1998.

37. G.S. 90-171.37.

38. *In re* Cafiero v. North Carolina Board of Nursing, 102 N.C. App. 610, 403 S.E.2d 582 (1991).

39. G.S. 90-171.37(5), (6).

40. 21 N.C. ADMIN. CODE 36.0217(7).

41. G.S. 90-85.38(9).

42. *Stedman's Medical Dictionary* (26th ed.) (Baltimore: Williams & Wilkins, 1995), s.v. "euthanasia."

43. G.S. 14-17. *See also* Thomas H. Thornburg (ed.), *North Carolina Crimes* (4th ed.) (Chapel Hill, N.C.: Institute of Government, The University of North Carolina at Chapel Hill, 1995), 61–65.

44. Law enforcement concerns on this point may be exaggerated, however. A federal government panel concluded,

> [R]espiratory depression is infrequently a significant limiting factor in pain management because, with repeated doses, tolerance develops. This tolerance allows adequate pain treatment without much risk of respiratory compromise. [A dying patient] should not be allowed to live out life with unrelieved pain because of a fear of side effects; rather, appropriate, aggressive, palliative support should be given.

A. Jacox et al., *Management of Cancer Pain*, Clinical Guideline No. 9, AHCPR Publication No. 94-0592 (Rockville, Md.: Agency for Health Care Policy and Research, Public Health Service, U.S. Department of Health and Human Services, March 1994), 8.

45. *See* North Carolina Medical Board, *Position Statement: Management of Chronic Non-Malignant Pain* (Raleigh, N.C.: NCMB, adopted Sept. 13, 1996). The statement begins, "It has become increasingly apparent to physicians and their patients that the use of effective pain management has not kept pace with other advances in medical practice."

46. "Hillhaven Is Ordered to Pay $15 Million to Ex-Patient's Estate," *Wall Street Journal*, Nov. 26, 1990. The case, brought by the administrator of Henry James's estate, was *Falson v. Hillhaven Corporation*. The parties reached a private settlement, and the verdict was not appealed. Telephone conversation with Ronald Manasco, plaintiff's attorney, Rocky Mount, N.C., Sept. 23, 1998.

47. Thomas R. Reardon, Statement of the American Medical Association to the Subcommittee on the Constitution of the House Judiciary Committee, July 14, 1998, available at http://www.ama-assn.org.

48. NCMB, *Position Statement: Management of Chronic Non-Malignant Pain*.

49. N.C. *Board of Pharmacy* 13, no. 4 (April 1992): 1.

50. 21 U.S.C. § 823(g).

51. 21 C.F.R. § 1306.07(c).

52. G.S. 90-87(13). The Uniform Commission on State Laws recommends such amendments. Jacox et al., *Management of Cancer Pain*, 14.

53. G.S. Art. 23, Ch. 90.

54. *See* Opinion of Attorney General to C. Robin Britt, Sr., secretary, N.C. Dept. of Human Resources, Jan. 5, 1995. ___ N.C.A.G. ___, available at www.jus.state.nc.us. The act and its amendments emphasize that North Carolinians retain additional common-law rights to control the circumstances of their death. G.S. 90-320.

55. G.S. 90-321.

56. G.S. 32A-15 through -26. The law names dire circumstances (terminal illness, permanent coma, severe dementia, and persistent vegetative state) [G.S. 32A-25(3)(e)], but the person appointing an agent is free to identify other circumstances in which the agent would begin to act [G.S. 32A-25(4)].

57. G.S. 90-320(b).

58. Advisory opinion to R. Marcus Lodge, general counsel, N.C. Dept. of Human Resources, from Ann Reed, senior deputy attorney general, and James A. Wellons, special deputy attorney general, N.C. Dept. of Justice, May 23, 1996.

59. Cruzan v. Director, Mo. Dep't of Health, 497 U.S. 261 (1990). Justice Sandra Day O'Connor's concurrence states the point more forcefully than the majority opinion, which merely assumes a liberty interest for purposes of the specific case. In a later case, a majority of the Supreme Court shows the same reluctance to acknowledge this right fully: "We have . . . assumed, and strongly suggested, that the Due Process Clause protects the traditional right to refuse unwanted lifesaving medical treatment." Washington v. Glucksberg, 521 U.S. 702 (1997).

60. Patient Self-Determination Act, 42 U.S.C. §§ 1395cc (Medicare), 1396a (Medicaid).

61. Filene, *In the Arms of Others*, 184. Filene notes that the most commonly used forms of living wills do not apply to those dying slowly of severe chronic illnesses or to people living in a persistent vegetative state. He also points out that "both a living will and a proxy can be thwarted by doctors, hospital administrators, or right-to-life groups." Filene, *In the Arms of Others*, 185.

62. Lawrence O. Gostin, professor of law, Georgetown University; professor of law and public health, Johns Hopkins University; formerly, executive director, American Society of Law, Medicine & Ethics.

63. *Glucksberg*, 521 U.S. 702 (holding that Washington's ban on assisted suicide does not violate fundamental liberty interest); Vacco v. Quill, 521 U.S. 793 (1997) (holding that New York's ban on assisted suicide does not violate Equal Protection Clause).

64. Nancy King, associate professor, Dept. of Social Medicine, UNC-CH—"Bioethical Issues"; George C. Barrett, member, N.C. Medical Board, and chair, Committee on Ethics, N.C. Medical Society—"Medical Regulatory and Professional Issues"; William Campbell, dean, School of Pharmacy, UNC-CH—"Preparing Health Professionals in the Academic Setting"; Catherine Clabby, medical reporter, *Raleigh News & Observer*—"The Media"; Sharon Dixon, senior vice-president, Hospice at Charlotte—"The Hospice Perspective"; Joseph Buckwalter, past president, Hemlock Society—"The Hemlock Society Perspective"; David Swankin, president, Citizen Advocacy Center—"Consumer Protection"; and Anne M. Dellinger, professor, Institute of Government, UNC-CH—"North Carolina Law."

Learning Freedom through Civic Education

JAN GOTTSCHALK

"I feel good because I know now that I can change my community for the better by voicing my opinion!" That is how Chase Weavil, eighth grader at Southwest Middle School in High Point, describes the Citizen I Am pilot project sponsored by the newly organized North Carolina Civic Education Consortium. "I really like the program because it lets me participate in what's going on in my community," Chase adds.

Inspired by the consortium's vision and enthusiastically supported by the consortium, two teachers at Southwest Middle School designed Citizen I Am with the creative leadership of their assistant principal. Using the concept of a town meeting, Pam Myrick, sixth-grade teacher, and Sharon Pearson, eighth-grade teacher, developed a classroom teaching model through which middle and high school students can actively examine, debate, evaluate, and respond to a current local issue from an array of perspectives.

As their community issue, Myrick and Pearson selected the controversy surrounding the Federal Express hub proposed for the Piedmont Triad International Airport. This issue is particularly important to Southwest Middle School students and their parents because of the school's proximity to the proposed hub and to sites where a new runway would have to be constructed to accommodate Federal Express. Students studied the issue, toured the airport, and met with community resource people who represented various positions on the proposed hub. Citizen I Am culminated in a town meeting in the city's council chamber, moderated by High Point Mayor Rebecca Smothers. Students presented and debated their positions for and against development of the hub. Then, in voting booths set up by the High Point Board of Elections outside the chamber, students cast their ballots on the referendum question, endorsing development by a two-to-one margin.

Before the town meeting, middle school students formed caucuses and prepared position statements on the proposed Federal Express hub.

Ann Simpson

The author, a former social studies teacher, is director of the North Carolina Civic Education Consortium.

Ann Simpson

Students delivered fact-filled, impassioned speeches before a packed council chamber.

Other students involved in Citizen I Am are as enthusiastic as their classmate Chase. "I like how we're getting to learn about things happening around us now and how FedEx [may] affect our community," explains Amanda Farrington, sixth grader. "The project gets students more involved in class than reading out of a textbook. Kids who sometimes don't pay attention seem to be learning more and are more involved."

"Knowing about current events can tell you not only about our everyday politics but about how important and interesting it can be to keep up with the news!" says Jennifer Mild, sixth grader.

The project has helped students and their teachers use the community as a learning laboratory. Eighth-grader Nick McPherson describes Citizen I Am as "a great experience and a fun way to learn about the economy of our city."

As Myrick and Pearson developed this dynamic, comprehensive interdisciplinary unit with Assistant Principal James Ingram, they were careful to connect learning experiences to the North Carolina Standard Course of Study. In addition, they incorporated Paideia seminars (discussions guided by open-ended questioning), writing across the curriculum (integration of writing into all subjects), character education, and development of critical thinking skills.

Citizen I Am is one of many projects that the consortium is sponsoring. This article explains the consortium's origins and vision, and describes some other efforts under way or planned.

THE NEED FOR CIVIC EDUCATION

The consortium was conceived in 1997 by the Institute of Government and North Carolina's Association of County Commissioners, City and County Management Association, and League of Municipalities. They were responding to requests from local officials who felt that the prevalent civic disinterest among youth threatened the future of democratic governance in their communities. Find ways, these officials urged, for community leaders and classroom teachers to relate civics to young lives so that students will be motivated to learn, understand, value, and ultimately practice effective local citizenship.

Numerous statewide polls, studies, and news reports reinforce the need for improved civic education. For example:

> Only 36 percent of eligible North Carolina voters cast ballots in the 1998 elections.
>
> In 1998 just 64 percent of North Carolina high school students taking the end-of-course test in Economic, Legal, and Political Systems (ELP, the required high school civics course) demonstrated proficiency.
>
> In 1997 a report commissioned by the Z. Smith Reynolds Foundation called *Civic Education: Preparing Tomorrow's Citizens* documented the disinterest. As one high school student said, "I go through class and wonder, Why should I care about this? What does it mean for me?"[1]

The Institute of Government and the consortium's founding partners recognized that the decline in citizen participation and the disinterest in civic education posed a serious threat to the quality of government and life in North Carolina. Formation of the consortium was their first step in addressing that threat.

"State and local governments must take an active interest in the consortium's activities," explains Debra Henzey, public information officer for the North Carolina Association of County Commissioners. "We can't increase citizens' trust in government if our future voters have little comprehension of what's at stake when they don't exercise their right to participate by voting or serving on committees. We won't increase self-sufficiency in communities if future residents don't know how to work with government and other organizations to solve local problems."

The consortium is a partnership of more than 180 organizations and individuals that have a stake in civic education, including universities, schools, governments, nonprofit agencies, professional associations, and businesses. Its motto, "Learn your freedom," captures its several goals well. Through sponsorship or encouragement of projects like Citizen I Am, it is helping students engage in real issues with community role models and thereby experience the empowerment that active citizenship in a democracy engenders.

Although the focus of the consortium is North Carolina, the challenge is national. Last year the National

Ann Simpson

Through rebuttal, students practiced civil disagreement.

Commission on Civic Renewal said that the United States is becoming "a nation of spectators."[2] Research by graduate students in the Institute of Government's Master of Public Administration Program has not yet identified a program similar to that of the North Carolina consortium. In fact, teachers and government officials from several states have recently inquired about the North Carolina project with the thought of starting their own state consortiums.

"Teaching young people about their roles in a democracy is especially difficult when cynicism about government is widespread and community ties are weak," explains Gordon Whitaker, professor of public administration at the Institute of Government and faculty adviser to the consortium. However, the consortium's partners, all of whom volunteer their time and talents, have enthusiastically embraced this challenge. "These volunteers are committed to work together to develop effective citizens for the 21st century," Whitaker affirms.

THE CONSORTIUM'S VISION

Even before the consortium received a $50,000 planning grant from the Z. Smith Reynolds Foundation, its founding organizations had begun to carve out an ambitious vision. Today the consortium's partners are working to develop young North Carolina citizens who promote and protect democracy by

- caring enough about their state and communities to make them better;
- understanding governments, nonprofit organizations, and businesses, and knowing how to work with them to build stronger communities;
- seeking, analyzing, and evaluating information about public concerns; and
- deliberating, negotiating, organizing, persuading, listening, and advocating with respect for themselves and others.

In spring 1998 the Z. Smith Reynolds Foundation followed its planning grant with a $100,000 grant for operating expenses. The operating grant has allowed the consortium to hire its first executive director and to develop programs to revitalize civic education.

SUMMER INSTITUTE FOR TEACHERS

Citizen I Am focuses on the consortium's goal of providing classroom resources and support for educators. Another goal is to help teachers and community partners develop new skills and strategies to nurture informed and engaged young citizens. The consortium's Professional Development Work Group, one of four standing committees carrying out the consortium's vision, focused its first efforts on ELP teachers. "Supporting the professional development of ELP teachers, who represent the 'front line' of high school civics in North Carolina, is a high priority of the consortium," according to Sandra Cook, chair of the work group and director of Newspapers in Education for the North Carolina Press Association.

At the work group's urging, Ann Simpson, associate director for development at the Institute of Government, and Whitaker sought and secured a $35,000 grant from the North Carolina–based Cannon Foundation to sponsor an institute for ELP teachers in summer 1999. The institute will help teachers use local issues and community resources to teach ELP concepts. One of the consortium's partners, Doug Robertson, former social studies consultant for the North Carolina Department of Public Instruction, will direct it.

Thirty ELP teachers will be selected to attend the all-expense-paid institute at The University of North Carolina at Chapel Hill the week of July 25–30. Teachers who complete the course will receive a $500 stipend, three continuing education units, and a gift certificate to select civic education materials for their classrooms.

"The ELP institute will be successful if it builds networks of teachers throughout the state who use community-based, issue-focused strategies in their ELP courses to develop more knowledgeable and engaged young citizens," says Tim Jones, Raleigh attorney and consortium partner, who chairs the ELP institute subcommittee. "Teachers who participate in the institute will be expected to provide workshops and demonstrations of the strategies they've learned. Our goal is nothing short of revitalizing the teaching of ELP, bringing

Jan Gottschalk, consortium director, and James Ingram, member of the consortium steering committee and assistant principal of Southwest Middle School, eagerly awaited the outcome of the student vote.

the course up-to-date so that students are inspired to apply lessons on democracy to relevant local issues."

The ELP institute is a model of the collaboration that the consortium is dedicated to fostering among partners. Begun as a consortium project, it has become a joint effort with two consortium partners, the Center for the Prevention of School Violence and the Constitutional Rights Foundation. These partners will contribute a Youth for Justice grant, as well as faculty and material support.

"Consortium partners have much greater impact when they join forces," explains Leslie Anderson, visiting instructor at the Institute of Government, who guided the consortium through its formative stages, including development of a strategic plan. "All new partners receive a directory describing the work and programs of fellow members. We're convinced that this resource and the networking that is developing through the organization will unite ideas and energy to strengthen civic education in North Carolina."

COMMUNITY-BASED EDUCATION

Civic education is as likely to occur outside the classroom as within it. In fact, some critics of civic education contend that the components of competent citizenship are not taught in American schools. The report *Educating for Citizenship* charges that "the content we teach and the way we teach it virtually occlude the citizenship results we say we want to have."[3]

Indeed, many students receive their first and perhaps most influential lessons in citizenship through community activities such as 4H, scouts, church youth groups, and service learning (activities outside the traditional school experience that provide students with further understanding of subjects they are studying, while benefiting the community). The consortium's Community-Based Education Work Group, chaired by Sally Migliore, director of the National Society for Experiential Education, is dedicated to developing and enhancing experiential learning opportunities and resources to extend civic education beyond the classroom.

"We know that community life, with all of its richness and diversity, offers students opportunities to learn through direct, 'hands-on' experiences," states Migliore. "Beliefs, values, and actual skills in becoming active citizens are honed through learning with and from community members."

To promote and replicate best practices, this work group is studying the critical components of non-school, community-based civic education. Researchers insist that effective citizenship is an active role and therefore that preparation for it must be active as well, involving students directly in their communities.[4]

GRANTS TO OVERCOME BARRIERS TO CIVIC EDUCATION

The consortium also has developed a civic education grant program to provide seed money for projects that nurture citizenship. Made possible with a $75,000 commitment from the Z. Smith Reynolds Foundation, the program will announce its first grants, ranging from $1,000 to $10,000, in May 1999. Grant criteria reflect the consortium's advocacy of community-based education. Collaborative projects, especially partnerships between schools and community organizations, nonprofit agencies, or local government agencies, are preferred.

Grant applicants have been encouraged to propose projects that target what consortium partners have defined as the top five barriers to civic education in North Carolina:

1. Students lack firsthand contact with public officials in city, county, and state government.
2. Students lack opportunities to apply classroom civics lessons to real problems.
3. Teachers have too many demands to "teach to tests" (that is, to tailor their instruction to the kind of material covered on standardized tests).
4. Teachers have insufficient preparation in teaching civic education.
5. Students fail to realize the importance of democracy.

Selected from more than 100 barriers identified by partners, these five will provide consortium work groups with a screen for determining whether proposals take the appropriate directions.

Response to the grant program has been overwhelming, with proposals coming in from groups across North Carolina. The consortium hopes to maintain and expand the grant program because it is an ideal way to support local collaboration to develop effective citizens.

PUBLIC SUPPORT FOR CIVIC EDUCATION

The consortium has grown rapidly in the past year, in part because of the enthusiasm of its partners. The Public Support Work Group, chaired by Henzey, continues to identify organizations and individuals that should be involved in this major statewide effort. "The consortium must represent the diverse views and concerns of citizens from all parts of the state," Henzey notes. Membership is open to any private or public organization or individual in North Carolina addressing civic education for children and youth. (See below for a list of partners and ways to obtain more information about the consortium.)

In addition to building public support for civic education, this work group has begun development of a citizenship index. Led by Ran Coble, director of the North Carolina Center for Public Policy, the initiative seeks to identify clear measurements of citizenship that could be used to establish a baseline of competencies for the state's youth and adults.

ORGANIZATIONAL CONSORTIUM MEMBERS*

Ahoskie Christian Center
Appalachian State University
Leslie Anderson Consulting
Avery County High School
BB&T
Bennett College
Bertie County Commission
Broughton High School
Business Records Corporation
Campbell University
Center for the Prevention of School Violence
Chapel Hill–Carrboro City Schools
City of Asheville
City of Durham
Communities in Schools of Wake County
Constitutional Rights Foundation
Conway Middle School
County of Cherokee
County of Durham
County of Hoke
Duke University, Kenan Ethics Program & Sanford Institute
Durham Scholars Program
East Carolina University
East Garner Middle School
Family Resource Centers of Bertie County
Halifax County Cooperative Extension
Human Relations Commission
International Social Studies Project
Junior Achievement
Kids Voting
Latin American Resource Center
League of Women Voters
Lee County Senior High School
Mediation Network of North Carolina
Millbrook High School
Morgan & Associates
Mountain Resource Center
National Society for Experiential Education
New Hanover High School
Newspapers in Education, North Carolina Press Foundation/Association
North Carolina 4-H Youth Development
North Carolina A&T State University
North Carolina Association of County Commissioners
North Carolina Association of Student Councils
North Carolina Bar Association
North Carolina Business Committee for Education
North Carolina Center for Nonprofits
North Carolina Center for Public Policy Research
North Carolina Citizens for Business & Industry
North Carolina City & County Management Association
North Carolina Closeup
North Carolina Commission of Indian Affairs
North Carolina Commission on National & Community Service
North Carolina Community Development Association
North Carolina Council for the Social Studies
North Carolina Court of Appeals
North Carolina Department of Correction
North Carolina Department of Public Instruction
North Carolina Department of Commerce, Division of Community Assistance
North Carolina Equity
North Carolina Human Relations Commission
North Carolina Institute of Minority Economic Development

continued on next page

* As of February 28, 1999

Organizational Consortium Members
continued from previous page

North Carolina League of Municipalities
North Carolina Progress Board
North Carolina Rural Economic Development Center
North Carolina Senate, Office of the President Pro Tem
North Carolina State University
North Carolina Youth for Tomorrow
Northwest Guilford High School
Page High School
Rutherford County Schools SOS
Sarah's Refuge
SAS Institute
Self-Help Credit Union
SHAKTI for Children
Shaw University
Shepard Magnet School
Southwest Middle School
State Board of Education
Teen Data Center
The Mediation Center of Eastern Carolina
The Woman's Club of Raleigh
Timber Drive Year Round School
Town of Chapel Hill
Town of Concord
Town of Fuquay-Varina
Town of Garner
Uhuru Community Development Corporation
University of North Carolina, Asheville
University of North Carolina, Chapel Hill
University of North Carolina, Greensboro
University of North Carolina, Pembroke
University of North Carolina, Wilmington
Wake County School Board
Wake Forest University
Wayne County Cooperative Extension Service
Wildacres Leadership Initiative
Winston-Salem State University
YMCA of Greater High Point
YMCA of Greater Winston-Salem
Youth Advocacy & Involvement
Z. Smith Reynolds Foundation

To learn more about the consortium's activities, contact the North Carolina Civic Education Cansortium, Institute of Government, CB# 3330 Knapp Building, The University of North Caralina at Chapel Hill, Chapel Hill, NC 27599-3330; phone (919) 962-8273; e-mail gottschal@iogmail.iog.unc.edu.

"A credible, well-publicized citizenship index can help build public awareness and support for stronger emphasis on civic education in our schools and communities," explains Coble. "Just as the Child Health Index has rallied the public around issues such as proper nutrition and early childhood vaccinations, so can a citizenship index periodically remind us not only how far we have come but how much farther we have to go to produce civic-minded students."

CIVIC EDUCATION AND THE INSTITUTE'S MISSION

In 1931, law professor Albert Coates formulated a unique, forward-thinking mission for the newly created Institute of Government. The Institute would provide training and consultation to state and local government officials; teach adults to become active participants in the governance of their communities; and educate schoolchildren in the values and the processes of civic participation.

The Institute has energetically pursued the first two parts of its mission for sixty-eight years. The consortium, according to Michael Smith, Institute director, "is our response, in conjunction with our state and local partners, to ensure that the next generation assumes its civic responsibilities and opportunities."

Bringing together students, community members, and teachers to revitalize civic education and build a new generation of knowledgeable, caring, and involved young North Carolina citizens is an enormous challenge. Unquestionably it would fulfill Albert Coates's dream. If responses to the consortium's pilot project at Southwest Middle School are any indication, that dream can be fulfilled. As sixth-grader Heather McHugh concludes, "I like the Citizen I Am project because it helps us get into what's happening around us. It's helping me learn to be a better citizen." And that is what the consortium's motto, "Learn your freedom," is all about.

NOTES

1. Joan Rose and Debbie Lee, *Civic Education: Preparing Tomorrow's Citizens*, report presented to the Z. Smith Reynolds Foundation, Winston-Salem, N.C., May 30, 1997, p. 13.

2. William J. Bennett and Sam Nunn, *A Nation of Spectators: How Civic Disengagement Weakens America and What We Can Do about It* (College Park, Md.: National Commission on Civic Renewal, 1998).

3. Kathleen Cotton (comp.), *Educating for Citizenship*, School Improvement Research Series, p. 4, available at http://www.nwrel.org/scpd/sirs/10/c019.htm.

4. Cotton, *Educating for Citizenship*, p. 9.

Listening to Citizens

County Commissioners on the Road

Buncombe, Catawba, and Halifax Counties experimented with citizen-outreach efforts in 1997. (Left to right): Buncombe County government buildings with their mountain backdrop, the Catawba County Government Center, and Halifax County's Historic Courthouse.

Courtesy of (left to right) Asheville Area Chamber of Commerce, Catawba County, and Halifax County

DEBRA HENZEY, JOHN B. STEPHENS, AND PATRICK LIEDTKA

North Carolina local governments have made numerous kinds of efforts to "get the word out" to citizens—for example, broadcasting their meetings via cable television and setting up World Wide Web sites.[1] Such outreach is useful, but there is an equal, perhaps even greater, need to receive feedback from a broad range of citizens—to hear and respond to their questions, concerns, and criticisms.

This article describes and analyzes recent efforts by three boards of county commissioners to learn about citizens' concerns by convening meetings away from the county seat. In essence, these boards went "on the road" to reach citizens. Their efforts were distinct from the use of task forces or advisory committees by many local governments in North Carolina. There was no set agenda and no effort to move toward a resolution of problems. The primary goal was simply to listen and respond to citizens' concerns on topics of their choosing. The general focus was to encourage participation from people who are not normally active in political and civic affairs, instead of hearing more from a handful of activists who regularly interact with the commissioners. The key elements of the efforts are described in detail in the following sections and are summarized in Table 1. (For ways to obtain more information, see page 20.)

Henzey is communications director for the N.C. Association of County Commissioners. Stephens is an Institute of Government faculty member. Liedtka, a graduate student in public administration and social work, researched and wrote the section on Catawba County.

TABLE 1. CITIZEN-OUTREACH EFFORTS AT A GLANCE

County	Purpose	Format	Schedule	
Buncombe	To listen and respond to concerns of citizens in different parts of county.	Specially called meetings in rural communities. Citizens' comments and questions, with replies and discussion from board. Session facilitated by board chair. All 5 commissioners attended.	13 meetings held over 16 weeks on Tuesday nights during fall 1997, most lasting 2 hours.	**KEY OUTCOMES** • Drew more than 1,500 citizens. • Gave public access to firsthand information. • Provided quick fixes to simple problems. • Offered county officials insight on important issues. • Identified new people to serve on boards and committees. • Led to revised formats for regional hearings on land use. • Provided brief civics lesson on what county government can and cannot do. • Gave citizens personal contact with elected officials and top managers. • Exposed staff to citizens' perspectives. • Exhausted staff and commissioners. **LESSONS LEARNED** • Provide forms for participants to submit written comments. • Collect participants' names, addresses, and telephone numbers. • Supply pocket-sized reference cards listing county contacts. • Use roundtables of employees to identify potential issues from their communities. • Survey participants on key issues. • Be sensitive to timing of meetings. • Use nonschool sites. • Don't skimp on funds to publicize meetings. • Pace schedule more realistically.
Catawba	As part of National Association of Counties' Community Countdown 2000 project, to get input from small groups of citizens on key issues facing county.	Adult roundtables held in schools in 4 regions of county, open to all interested residents. One roundtable for high school students who were selected to represent their schools. A commissioner attended each roundtable.	Held during National County Government Week in April 1997: adult roundtables, 2 on Tuesday night, 2 on Thursday night; student roundtable on Saturday morning.	**KEY OUTCOMES** • Drew 45 (range 6 to 18) citizens to four adult roundtables. • Attracted 36 participants to student roundtable. • Did not bring in many new people; most adults had been involved before. • Led to 8 more sessions in fall 1998, involving high school students. • Provided data consistent with issues identified in telephone survey of 190 residents. **LESSONS LEARNED** • Keep expectations modest—not all initiatives will work. • Personally invite specific groups or individuals if their attendance is important. • Identify specific topics for discussion. • Take time to explain how to participate in various types of government forums. • Network through existing groups to find spokespersons who have credibility with their groups.
Halifax	To implement board's goal of more effectively reaching county residents who might not be able to get to county seat.	Citizen-input periods held before regular monthly work sessions. Opened with reports from selected department heads, then period for citizens' questions and comments. All residents invited to attend.	Held monthly throughout 1997 in 11 communities. Public input originally set for 30 minutes but often lasted more than 1 hour.	**KEY OUTCOMES** • Drew about 520 residents. • Helped prioritize issues, even when actions already were under way. • Interfered with work session agendas. • Led to fewer input sessions in 1998. • Also led to reporting back to citizens in 1998 on several actions taken related to 1997 meetings. **LESSONS LEARNED** • Hold meetings separate from board work sessions. • Avoid summer meetings because they are poorly attended. • Meet quarterly to place less strain on board and staff. • Provide contact information on noncounty issues, such as roads and schools. • Use some time to educate people about key initiatives. • Make sure meeting chair has good facilitation skills. • Expect the unexpected, such as late-breaking controversies. • Provide good maps of county as reference points. • Follow through on commitments.

Many other counties and cities have implemented innovative ways to understand citizen sentiment and respond to individual or neighborhood problems (see "Other Examples of Community Outreach," page 21). We chose Buncombe, Catawba, and Halifax Counties because of the different goals, designs, and results of their outreach efforts. Through this variety we identify guidelines that local government officials should consider in planning and evaluating their own citizen-participation efforts.

Buncombe

(WEEKLY MEETINGS ALL FALL)

During fall 1997 the Buncombe County commissioners hosted thirteen community meetings for "the sole purpose of finding out what was on people's minds—for us to get to know them better and for them to get to know us better," said Tom Sobol, chair. "We really wanted to listen to their concerns and give them an easier way to be part of government."

The attendance of more than 1,500 citizens surprised many county leaders. Most meeting sites were filled to capacity.

The entire board of commissioners participated at each meeting. The meetings were held almost every Tuesday night from September through the middle of December, starting at 7:00 P.M. and lasting until around 9:00 P.M., or as long as people wanted to talk and ask questions. The chair presided over the discussion, but other commissioners and staff often responded to questions and comments.

A Citizen Stakeholders' Committee advised the board on follow-up to the community meetings. Already the county is building on input to develop a strategy on land-use planning, always a controversial issue. Also, the commissioners planned to revisit some of the communities later in 1998 or early in 1999.

Impetus

The idea for the community meetings grew out of several related events and initiatives. First, during 1996 and early 1997, Buncombe County and Asheville had worked together on a countywide "visioning" process (involving dozens of people in creating a long-term picture for their community), Asheville/Buncombe VISION. As stated in the final VISION report, a key strategy identified through this process was the adoption of "public participation processes that explicitly acknowledge that public input improves the quality of decision-making."[2]

The call for more effective public-participation processes coincided with formation of the Citizen Stakeholders' Committee in early 1997 to develop criteria for hiring a new county manager. "This committee generated great energy and was openly eager to stay involved," related Deborah Hay, the county's community liaison. "We sought ways to build on that enthusiasm."

Further, in fall 1996 all five commissioners had made public input part of their election platforms. They recognized that they had a large county with mountainous terrain that made it hard for some people to get to the county seat.

Finally, Hay continued, when Assistant County Manager Wanda Greene was promoted to county manager in spring 1997, she expressed an interest "in getting to know the people of the county better so that she could more fully appreciate the diverse needs and issues facing each community." So, said Hay, "all the county leaders had lined up on the participation diving board. They were just waiting for a push to jump in."

Key Players

Given all the momentum generated by VISION and the Citizen Stakeholders' Committee, there was no shortage of advocates for holding the community meetings. Sobol and Greene began to seek input on how to format and schedule the meetings to be most effective.

Two key staff members involved in planning the logistics and promoting attendance were Hay and Jill Thompson, public information coordinator. They worked with the Cooperative Extension Service and other grass-roots organizations to select the meeting sites.

Several important members of county government staff attended all the community meetings. Other high-

CONTACT INFORMATION

BUNCOMBE COUNTY

Wanda Greene, county manager, (828) 250-4100, bunco.manager@mindspring.com

Deborah Hay, community liaison, (828) 250-4001

Look for contact information for other Buncombe officials on the county's Web site at http://www.buncombecounty.org/commissioners/index.htm.

CATAWBA COUNTY

Robert Hibbitts, chair, Catawba County Board of Commissioners, (828) 323-8324

Dave Hardin, public information officer, (828) 465-8464

Look for contact information for other Catawba officials on the county's Web site at http://www.co.catawba.nc.us/.

HALIFAX COUNTY

Charles Archer, county manager, (252) 583-1131, archerc@halifaxnc.com

Doug Hewett, public information officer, (252) 583-1668, hewettd@halifaxnc.com

Look for contact information for other Halifax officials on the county's Web site at http://www.halifaxnc.com/halinav.html.

INSTITUTE OF GOVERNMENT

Gordon Whitaker, Citizenship Project, (919) 962-0427, whitaker@iogmail.iog.unc.edu

John B. Stephens, Public Dispute Resolution Program, (919) 962-5190, stephens@iogmail.iog.unc.edu

level managers attended only a few. Jon Creighton, assistant county manager and planning director, expected low attendance and a large proportion of complainers. Joe Connolly, county attorney, was somewhat concerned that a few vocal groups would dominate the meetings or try to embarrass the board. "However," he related, "the process worked because the board was willing and able to provide reasonable answers to hard questions."

The members of the Citizen Stakeholders' Committee provided support by attending at least one or two meetings in their part of the county and by taking notes from a citizen's viewpoint. "They served as our neutral eyes and ears," said Commissioner David Gantt.

Structure of the Meetings

Initially the outreach meetings were to be held over a much longer period, but the manager and key staff agreed that they should not coincide with meetings on revaluation of property or hearings on land-use planning. "To beat this deadline, we had to speed up the schedule," Hay said. "Also, we had built up some momentum through the Citizen Stakeholders' Committee and positive coverage from the news media. We had to take advantage of that."

In 1995 the county had held similar meetings at school sites, which were not very successful. "We learned that the school sites drew people interested mainly in school issues and that we needed to advertise more," said Commissioner Bill Stanley.

Before the meetings Greene convened groups of employees from various areas of the county to help identify issues that might arise at the meetings in their communities. "This not only helped us plan for what topics might come up," Greene said, "but it served to build relationships among employees in different departments who live in the same community." The county scheduled the 1997 meetings at "neutral" sites such as rural fire stations and community centers. They devoted funds to advertising in the daily newspapers and on television. "We also rented a lighted, portable marquee sign to place at or near the upcoming meeting site," reported Hay. The total budget for the meetings, primarily for advertising and promotion, was around $20,000.

Sobol began each meeting by explaining that there was no set agenda—that commissioners wanted to hear from the people. When participants hesitated to ask the first question, the board and the staff filled in with information on key projects. A high school video-production class taped each session. The tape was aired on local cable television at 9:00 P.M. on Thursday nights. "I'm amazed at the number of people who have recognized me from those tapings," says Greene. "It was a great way to reach people who could not get to the meetings."

The county did not ask communities to provide refreshments, but at every site an auxiliary group volunteered to provide tasty treats—always a pleasant thank you for participants. Staff took notes on any actions required and afterward developed a matrix to track what had been done related to issues or questions at the meetings. The county sent thank-you letters to all citizens who spoke. In fall 1998 it held another 13 meetings at the same sites.

OTHER EXAMPLES OF COMMUNITY OUTREACH

Many other local governments across the state have pursued various ways of increasing public input. Those listed below responded to an August 1998 e-mail request by the authors and are willing to be contacted by North Carolina public officials for additional information. We have provided very short summaries of their efforts.

ASHEVILLE

Asheville continues its work on implementing community-oriented government. So far that has included the following:

1. Community meetings: relatively unstructured meetings held by the city council in months with a fifth Tuesday. The council initiated these sessions about four years ago.
2. Roundtables: a new format to help the city determine solutions to specific issues, such as litter control. The process solicits views from key stakeholders but also reaches out to the general public.
3. Staff initiatives: a variety of methods to implement community-based government, such as surveys, street interviews, stakeholder priority committees, and ordinance review. Many employees also are undergoing extensive training in conflict resolution and facilitation of public groups.

Contact Robin Westbrook, community-oriented government coordinator, (828) 259-5484, rlw2@cityhall.ci.asheville.nc.us.

CALDWELL COUNTY

After the 1996 elections, the Caldwell County Board of Commissioners undertook several initiatives for improved citizen outreach:

1. Quarterly community board meetings: regular board meetings held four times a year in a different unincorporated community. The first forty-five to sixty minutes are set aside for public comments and questions. The board asks major department heads to attend so that they may hear and respond to citizens' perspectives. The meetings are shown several times on cable access stations.
2. Meetings with municipal bodies: joint meetings between the county board of commissioners and every elected municipal board in the county, to enhance the county board's understanding of specific issues in the municipalities.
3. Citizen slots on the planning board: expansion of the planning board to include one citizen from every municipality and the major unincorporated areas.

Contact John Thuss, chair, Caldwell County Board of Commissioners, (828) 728-6713, jthuss@co.caldwell.nc.us.

CLEVELAND COUNTY

The Cleveland County Board of Commissioners recently started holding four of its regular board meetings at different locations in the county. Also, on the basis of the outcome of a survey conducted by the Urban Institute, the county created Cleveland Tomorrow, a group of community leaders charged with addressing county challenges.

Contact Lane Alexander, county manager, (704) 484-4800, lane.alexander@countynt2.co.cleveland.nc.us.

MATTHEWS

Each year Matthews Mayor R. Lee Myers has called four to five town meetings. Typically they are held in one of the neighborhood-association clubhouses, but one takes place in a large retirement-community complex. Council members and staff sometimes attend. In fall 1998 the town planned to host a meeting at a public park, offering free hot dogs and hamburgers, along with a chance to talk with the mayor, board members, and staff.

Contact Ralph Messera, town manager, (704) 847-4411, ralphm@perigee.net.

POLK COUNTY

During 1998 the Polk County Board of Commissioners and the Polk County Planning Board held a series of public meetings around the county, primarily to get input on land-use issues. The meetings, which used a trained facilitator, took place on the same dates as regular board of commissioners meetings. The boards devoted a portion of the time to open discussion, which focused on such topics as taxation, county parks, and speed limits. Attendance ranged from fifty to eighty people.

Contact Mark Maxwell, planning and community development director, (828) 894-3301, maxwell@teleplex.net.

ROCKINGHAM COUNTY

The county has undertaken several initiatives to increase citizen participation:

1. Future Development Task Force: a group of stakeholders, commissioners, and citizens at large that scheduled five facilitated County/Town Drop-In Sessions to get input on affordable, quality housing for low-income residents. The meetings were held at different high schools across the county.
2. Animal Control Task Force: a stakeholders group that has held several public hearings on issues related to control of dangerous animals.
3. Water-Sewer Task Force: a fourteen-member group created in June 1998, when a large group of citizens opposed the formation of a water-sewer authority.

Contact Ginger Waynick, director, Public Information/ Veterans' Office, (336) 342-8449.

Outcomes

Although many long-term outcomes are still undetermined, county officials have identified numerous immediate results that they considered positive:

1. People had access to firsthand information (instead of rumors or news reports) on proposed junk-vehicle ordinances and the process for public input on land-use planning.
2. The county provided some "quick fixes" for simple problems, such as putting someone in touch with the right person or arranging for an inspector to look at junk cars.
3. The county developed a new list of people who were willing to serve on county government committees or wanted to stay informed.
4. The meetings provided insight into citizens' concerns on a few controversial issues, such as annexation and land-use planning.
5. The meetings served a secondary purpose as a civics lesson. For example, more than a few residents learned that counties do not repair roads or make school policies. County staff put them in touch with the responsible agencies.
6. Participants' comments and body language suggested that a majority came to the meetings with some coolness or skepticism but many left with a more open attitude about their county government. A letter to the editor in the November 27, 1997, issue of the *Asheville Times-Citizen* reinforces this point. Carolyn Dickinsen of Riceville wrote that she went to a meeting to speak against city annexation efforts. "What I gained from the meeting was much more. For two hours, neighbors voiced concerns and fears," and commissioners listened to them, expressed sympathy, and provided possible solutions. "I felt a part of the community, and my neighbors' cares and worries became mine."[3]
7. County staff had a chance to hear what people really thought about issues staff dealt with in their jobs.
8. The Citizen Stakeholders' Committee used information from the meetings to make recommendations to the Land Use Planning Steering Committee, such as providing training in facilitation for the committee members.
9. A summary report from each meeting indicated common concerns and unique concerns.

During County Government Week in April 1997, Catawba County convened four adult roundtables and one student roundtable. At least one commissioner attended each. To supplement the input gained from the roundtables with scientifically valid research, the county also surveyed 190 residents by telephone.

The county's effort drew on Community Countdown 2000, a national model for asking citizens to guide boards of county commissioners in defining the top two or three priorities for their attention. An initiative of the National Association of Counties, it calls for strong efforts (such as surveys and meetings) to reach a diverse set of citizens (persons of different ages, with a variety of professional and work experience, and from different kinds of communities across the county), including roundtables of citizens to reach some agreement on the one or two most important topics or problems facing the county. Thus a county board might have a better idea of citizens' needs and priorities.[4]

Purpose

In addition to seeking input from a broad range of people to identify the top issues in the county, Catawba public officials hoped to recruit qualified volunteers to serve on county boards. They sought some way to move beyond the voices and the views of the same few individuals who regularly participated in county board meetings. They also wanted to reach citizens in another way than at a meeting that draws large numbers because a controversial school or zoning issue has raised concerns. "It's more difficult than we recognized to get people involved," said Robert Hibbitts, chair of the Catawba County Board of Commissioners. "We have to make a special effort. This

effort is another tool in terms of involving volunteers and improving services."

Impetus

Efforts like those described in this article often take someone who has a lot of faith—maybe a little blind faith—that something new will involve more citizens in local government. Dave Hardin, the county's public information officer, was the motivating force behind Catawba's effort. In February 1997 Hardin attended an information session of the North Carolina Association of County Commissioners on the Community Countdown 2000 project and was impressed by the enthusiasm the project generated for enhancing citizen involvement.

When Hardin presented his idea for the project to County Manager Tom Lundy, he found that his enthusiasm was not shared. "Tom had more experience with these things than I did," said Hardin. "He thought that people only got involved with NIMBY [not in my back yard] concerns." Despite skepticism the manager suggested that Hardin take his proposal to the county commissioners.

The commissioners enthusiastically supported Hardin's proposal and urged him to organize the sessions with their backing. They hoped that increased publicity would result in better attendance than previous efforts had generated. "We'd held meetings in the community before," said Commissioner Barbara Beatty, "and we hadn't had much of a turnout—only two or three people."

Structure of the Meetings and the Survey

Catawba County held the four adult roundtables in different locations—one in each quadrant of the county—to ensure that citizens had access to a session within a reasonable distance of their home. The meetings took place in three high schools and a new elementary school. Prominent newspaper advertisements in the weeks leading up to the meetings invited the public to attend. Two of the meetings were held on Tuesday, April 15, and two on Thursday, April 17. They were scheduled on these days to avoid conflicts with Monday evening board meetings and Wednesday night church services. Each meeting lasted approximately two hours. In the two larger meetings (fifteen and eighteen participants, respectively), the commissioners split the participants into three discussion groups. In the smaller meetings, participants discussed issues as one group. Because the goal of the meetings was to identify issues facing the county, not to discuss any one issue in detail, the county used trained facilitators from the Cooperative Extension Service to lead the sessions and to ensure that conversation did not bog down or become too adversarial.

The student roundtable took place in a middle school in the center of the county, scheduled on a Saturday to ensure that students did not miss class or homework time. All forty-two public and private schools in the county were invited to send a student, and thirty-six of them did. Individuals experienced in working with young people moderated the discussion when the large session divided into five small groups.

Wayne King and Dale King, both professors at Lenoir-Rhyne College, organized the survey piece of the outreach. Nine undergraduate business students conducted the telephone surveys during the same week as the roundtable meetings. Approximately 120 of the 190 citizens contacted completed the survey. Five issues received the most mentions (see Table 2).

Outcomes

Catawba County public officials view the results of their 1997 effort as mixed. Two of the adult roundtables were fairly well attended, whereas the other two roundtables drew only six citizens each. There was significant overlap in the issues identified through the survey and the roundtables. The adult

TABLE 2. ISSUES IDENTIFIED IN CATAWBA COUNTY

Issues Raised in Telephone Survey
(ranked by number of mentions)
1. Education
2. Taxes—cut, or spend more wisely
3. Immigration
4. Public safety
5. Transportation

(Six other topics received one or two mentions.)

Issues Raised through Roundtables
All five issues above were raised in the roundtables. Two additional issues discussed were as follows:
1. Environment
2. Breakup of family

Final List Presented to Board
(ranked by total number of mentions)
1. Education
2. Environment
3. Transportation
4. Immigration/diverse cultures
5. Breakup of family
6. Public safety

roundtables also identified the environment and breakup of the family as significant concerns. Breakup of the family was a top concern at the youth roundtable.

Discouraging for Hardin was the dearth of new faces among those who attended the adult roundtables. "There wasn't anybody involved who hadn't been there before," he said.

The most successful of the meetings was the student roundtable, which drew a packed house of thirty-six young people and generated significant coverage in the local media. According to Hardin, the students often offered more positive perceptions than the adults did. This was especially the case on divisive issues like immigration, which is creating an increasingly diverse population in the county. Whereas students tended to see cultural diversity as an opportunity for them to get to know different cultures and languages, adults tended to view the demographic changes as challenges or barriers.

The success of the student roundtable led to a discussion between Hardin and the superintendent of schools about finding a way to continue involving Catawba County young people in addressing the future of their community. This resulted in Hardin's visiting all seven high schools in the county in fall 1998. He spoke to the student councils of six of the schools, and to students involved in "service learning," a program that involves them as interns or workers in nonprofit and business organizations. Hardin's presentations engaged student government leaders in envisioning solutions to the issues identified through the telephone survey and the student roundtable. "They see some of the tough choices officials face on public housing and immigration," reports Hardin. "I'm glad they see both sides of the problem. They better understand how difficult these issues are."

Joab Cotton, a Hickory School Board member who participated in one of the adult roundtables, believes it is imperative that government keep the doors open to different ways to solve problems. "What a county commissioner thinks the problem might be is very different from what John Q. Public thinks about it," he explains.

Halifax
(MONTHLY SESSIONS)

Taking a different approach, the Halifax County Board of Commissioners combined eleven of its monthly work sessions with on-the-road sessions in different parts of the county.

Purpose

Like the Buncombe County commissioners, the Halifax County commissioners took their meetings on the road mainly to fulfill a goal they had set for themselves. At a planning retreat in March 1996, the commissioners developed a mission statement and six goals to guide their decision making. One of the goals was to "encourage citizen input and promote awareness of issues to improve decision-making within county government."

Moving the board meetings outside Halifax city was a specific step for "taking county government to the people" and improving citizen input. "Because we are such a large county geographically, we know that it is hard for people in many parts of the county to come to the county seat," explains Doug Hewett, Halifax County's public information officer. "Not everyone has the transportation or the time to come to Halifax."

Impetus

County government staff proposed the on-the-road work sessions in response to the goal set by the commissioners. County Manager Charles Archer reported that all the commissioners liked the idea and saw advantages to holding their meetings around the county: getting public input, building the board's credibility, and increasing people's confidence in county government. Archer recognized that preparing for and conducting the meetings would increase the workload of commissioners and staff.

Structure of the Meetings

Unlike the Buncombe County commissioners, who operated at a breakneck pace of thirteen weekly meet-

ings, the Halifax County commissioners maintained their regular schedule of two meetings a month: one formal business session and one informal work session. They simply held the 1997 work sessions from 7 to 10 P.M. away from the county seat.

Publicity for the meetings took several forms: flyers sent home with students and distributed at community gathering places, such as churches and stores; public service announcements on the radio; and a mailing to leaders in towns or areas near the meeting place. Attendance ranged from 5 to 250 citizens. According to Archer, the latter number resulted from an unfounded rumor that the commissioners were going to impose strict hunting regulations.

At the work sessions, commissioners explained the citizen-comment period and then introduced brief reports from department heads, two per meeting. The county manager decided which department heads would make reports. Archer said the purpose of the reports was to help educate the commissioners, the staff, and the public about the many services provided by the county. "We featured veteran's services, environmental health, aging programs, and some of the less 'flashy' programs, the ones that normally do not get a lot of attention or exposure," Archer said.

"The department presentations were an educational process not only for the public but also for some of our departments that don't often come in contact with each other," Hewett reported. "This proved to be a great time to promote new initiatives or services of special interest." He cited veteran's services as an example: "That one-person office funnels millions of federal dollars into our community, with an investment of just $60,000 from the county. Several people were excited to find out about the kind of help they could get."

Outcomes

Offering citizens an opportunity to discuss issues was successful—almost too successful. First, the citizen-input portion of the meetings was set for the first thirty minutes, but in many communities, comments and questions lasted an hour or more. Then, once the commissioners moved on to the rest of their agenda, people wanted to keep asking questions. Although commissioners were pleased to receive the input and to have some give-and-take with their constituents, the extra time given to the effort made conduct of the regular work sessions difficult. "The board really wasn't able to get much work done," Hewett said. Thus in 1998 the board held only four meetings away from the county seat, one each in February, April, September, and November.

At the February meeting, held in the Hollister community (one of the poorest parts of the county, located in the southwest corner), commissioners and staff reported on the actions taken in response to concerns expressed by citizens at the 1997 meeting there. This meeting drew about thirty-five citizens. Said Hewett, "The manager and the board were able to report on actions taken related to every issue that had been raised by this community just one year ago. While action on some of these issues was already under way before the commissioners heard from the public, the community input definitely added emphasis to certain projects."

The county publicized the first quarterly public meeting in 1998 more than the 1997 sessions because of the new format. Unfortunately that did not produce greater attendance. "Even so," Hewett said, "some key members of the community were there and had very positive things to say about the county. They were vocal and appreciative. At the same time, they identified some new issues for us to focus on, most of which we already knew about."

Commissioners found their "road show" draining but useful. Like the Buncombe County commissioners, they learned that citizens often do not understand what the county government does. For instance, several questions and concerns related to roads or schools, which are not responsibilities of county governments. "You do have to be prepared to do a lot of legwork on noncounty issues," Hewett said. "It would have been more productive to have someone at the meetings from the state department of transportation or the schools." The commissioners' discovery raises larger concerns about how to reach citizens with basic information about the responsibilities of state and local government and the duties of and relationships among school boards, soil and water conservation districts, fire districts, and county boards.

For Halifax County officials, identifying and implementing actions to meet several concerns of their citizens was easy. Such responsiveness heightens a direct connection between citizens turning out for a meeting and actions being taken for their benefit. Of course, city and county governments act all the time on many concerns affecting citizens' well-being. The outcomes of the 1997 work sessions might have been different if citizens had raised concerns that could not be addressed or offered little hope of short-term, visible action.

COMPARISON OF THE OUTREACH EFFORTS

Purpose

Buncombe, Catawba, and Halifax Counties had several common purposes for their outreach efforts. All wanted to get a wider range of citizen input and to hear from new voices. All three boards of county commissioners were interested in making the outreach happen. The level of interest was higher in Buncombe and Halifax Counties, but commissioners in Catawba were supportive too. Finally, officials in all three counties wanted to listen, learn, and be as responsive as possible to residents who attended the sessions.

Some differences in purpose (and method) reflected slightly different goals among the three counties. First, Catawba used a particular model for its effort (that is, Community Countdown 2000), whereas Buncombe created special meetings and Halifax combined its monthly work sessions with special citizen-input periods. Second, only a few commissioners were present at each roundtable in Catawba, whereas the full boards of Halifax and Buncombe attended the community meetings. Third, among the boards the initial level of interest in outreach differed. Halifax's board already had set a specific goal of community outreach. Buncombe's commissioners built on their 1996 campaign commitments and the 1996–97 community visioning effort. Catawba's board had a lower level of interest and initial commitment. However, Catawba created a roundtable solely devoted to hearing from school-age citizens. Halifax and Buncombe did not have a youth focus in their efforts.

Outcomes

The greatest similarity of outcomes was between Buncombe and Halifax Counties. In general, attendance was very good, new voices were heard, and the efforts were very demanding. For practical purposes, though, both counties scaled back in 1998.

In Catawba the results were mixed. Two adult roundtables and the youth forum were successful. However, the other two adult roundtables were poorly attended, and the adult forums in general fell short on the goal of attracting new people. Further, the staff time devoted to planning, organizing, and publicizing the effort was considerable, in view of the results.

In summer and fall 1997, Hardin tried to implement the second phase of the Community Countdown 2000 model: recognizing organizations doing good work on the priority issues. Despite several publicity efforts, the county received only three nominations, and it gave no awards. "This part of what the National Association of Counties asked us to do fell flat, and I don't know why," says Hardin. He describes the whole process as "a noble idea," but he is uncertain whether he would do it again: "It's a year later, and I'm not sure what's come of it."

Cotton, the Catawba County roundtable participant, thinks local governments should continue seeking citizen input. "We have to find ways to adapt to the questions we are facing," he says, "such as 'What do we do about county population growth?' and 'How do we handle English as a second language in the schools?' Efforts like this give a broader snapshot of what people are thinking."

GUIDELINES

The following guidelines for public participation are drawn from the recommendations and ideas of local government officials in the three counties and from our analysis.

In the Early Stages

1. *Assess your readiness.* How do your board members interact with the public and one another? Many of those involved in Buncombe and Halifax Counties' efforts credited the success of the meetings to good relationships among board members. Even when they disagree, commissioners tend to be respectful of one another and do not make a habit of grandstanding on personal or political issues. Cities and counties with more contentious boards should be cautious about having special citizen-input sessions or use a neutral, skilled facilitator to moderate them.

2. *Watch your timing.* In scheduling public forums, be sensitive to election time lines and other events and issues that could undermine a fair and open exchange. The Buncombe County commissioners agreed that timing was a very important factor. "We did not want to have the meetings right before elections, so we began planning them soon after the last election," said Commissioner Bill Stanley. Counties and cities with elections every two years should be especially sensitive about when to host their first citizen-input meetings.

3. *Keep your hopes high but your expectations modest.* The only outcome you can predict is unpredictability. Without apparent reasons, some participation efforts

may yield success, and others may not. Be prepared for either a handful of folks or a standing-room-only crowd. Similarly, be ready for spirited and substantive discussion at one meeting and blank stares at another.

4. *Spread the word.* Use both free and paid advertising in the news media (the most successful efforts have done so). Also, use prominent, well-lit signs for announcements at meeting sites in communities. If you want the participation of a broad group or must ensure representation of specific stakeholders, extend personal invitations to appropriate individuals or groups. Try to enlist the participation of people who have not been extensively involved before.

5. *Do your homework.* Try to anticipate the key issues. However, realize that you likely will not identify all of them, so make any topic fair game. Buncombe County's Greene found it helpful to ask employees from the town or the area where the meeting would be held to identify issues that seemed to interest their neighbors. Catawba County found it more effective to identify specific topics for discussion so that citizens would know what the focus would be. Either way, be sure to have the appropriate materials and staff on hand to deal with the issues identified.

6. *Choose an effective moderator and establish ground rules.* In both Buncombe and Halifax Counties, the board's chair had the skills to draw people out yet not let any one speaker or group dominate. Be sure that the chair has these abilities, or find someone who does. Determine whether you need a moderator or a facilitator; the two roles require different skills.

At the Meeting Site

7. *Take advantage of the chance to educate.* Arrange for brief reports by department heads to raise citizens' awareness of services and help department heads learn more about one another's work. Bring along large, detailed maps to locate sites. "We brought large maps to show the water system expansions, but we ended up using them to locate other places in the county," said Halifax County's Hewett. Buncombe County officials distributed pocket-sized reference cards listing key departments, their locations, and their telephone numbers, and contacts for frequently requested noncounty services, such as school administrators, regional officials of the North Carolina Department of Transportation, and personnel responsible for municipal street repair.

8. *Have participants sign in.* Collect names, addresses, and telephone numbers. Consider asking a couple of short questions on a specific issue. Provide postcards for people to write in questions or comments—an especially good approach with those who are not comfortable speaking in public. Collect the postcards at the end of the event, or self-address them to be mailed in.

9. *Use neutral observers.* Ask representatives of various groups (for example, stakeholders' committees) to monitor the meetings and provide feedback on what seemed to work well, what needed improvement, and what participants were saying.

10. *Offer other options for involvement.* Provide information on how citizens can participate further on issues important to them, such as volunteering for committees or task forces. Catawba County's Hibbitts explains, "People don't understand the mechanisms of getting involved and are sometimes intimidated. Once they are in, they are enthusiastic participants."

After the Meeting

11. *Identify ample resources.* Make sure you have sufficient staff assigned to follow up with requests for information, reports on problems, and so on. Both Buncombe and Halifax County officials realized the importance of following up on commitments made at the meetings. Halifax County officials recognized that the follow-up activities would affect the daily duties of their small staff. Even so, they decided that staff should write personal letters within five days of the meetings to any participants who had specific concerns or questions.

12. *Don't make hasty commitments.* Think carefully about the repercussions before making commitments that might involve legal issues or funding. Buncombe County's Connolly observes, "You run the risk of looking like the meetings are just for show. At the same time, you don't want the board to make commitments without thinking through the consequences." Follow-up correspondence with citizens should clearly indicate the status of board commitments.

13. *Develop an action matrix.* Develop a matrix of issues or questions that require follow-up. Use it to track progress or lack of progress in addressing issues.

CONCERNS

In considering special citizen-input efforts, boards would be wise to examine two concerns. First, will the efforts raise expectations to an unreasonable level?

Second, how can you do something special without diminishing all the regular ways for citizens to obtain information and express their views?

Heightened Expectations

Public officials may fear that if they cannot satisfy some specific demands of citizens, citizens will become frustrated, angry, or disillusioned. This is a legitimate concern but should not stop public officials from trying. If people think that they are taken seriously and if they receive timely feedback from government officials, their respect for and trust in local government are likely to improve, even if they are disappointed with a particular outcome.

Special versus Regular Efforts

The second concern really is a continuing challenge for all government entities that regularly seek citizens' views but are not satisfied with the range of people participating. Special efforts, like the ones described in this article, have the benefit of greater publicity and shorter, intense commitment by county staff and elected officials. They can demonstrate a strong dedication to making government officials accessible and responsive.

On the other hand, designing and running special sessions so that they are seen as genuine and beneficial is a challenge. Care in the timing and the location of such sessions is needed. For example, if a session occurs during the election season, citizens might interpret the higher level of publicity as an effort by board incumbents to boost their reelection chances. Or if there is a hot issue in the community, a special citizen-input session might become very adversarial and overlook people's concerns on many other topics. Finally, anything deemed special can be criticized as an exception to the rule that citizens should have regular opportunities, in convenient locations, to share their views and obtain the information they need. "If citizen input is so valuable, why does it take a special effort by the board?" a skeptic might ask.

An alternative to organizing special sessions is to have routine ways of informing citizens and seeking their views. Such an approach could respond to suspicions that the board is more interested in bolstering its image than in having citizens' views shape its actions.

Yet without heightened publicity and other extraordinary effort, citizens may not find a session *special enough* to attend. Further, the media may not find the session sufficiently newsworthy to publicize in advance or report afterward. Thus two essential elements of effective outreach—adequate notice and efforts to build interest, and actual participation from citizens—are diminished.

CONCLUSION

The experience of the boards of county commissioners in Buncombe, Catawba, and Halifax Counties shows several of the advantages and the disadvantages of trying special ways to hear from citizens on issues that county government can influence. Because of the high levels of citizen distrust and alienation from government in general, many local government officials in North Carolina are seeking effective ways to learn about citizens' concerns and respond to them. Although setting up special meetings for citizen input is not an exact science, we hope that the guidelines in this article will help school, city, and county officials obtain productive feedback on important policy matters.

NOTES

1. The Institute of Government, in cooperation with the North Carolina Association of County Commissioners and the North Carolina League of Municipalities, operates NCINFO, a Web site with an array of valuable information about state and local government in North Carolina. NCINFO can be reached at http://ncinfo.iog.unc.edu.

2. The Vision Steering Committee [161 people]. *The Asheville/Buncombe Vision* (Asheville, N.C.: Nov. 17, 1995), 10.

3. Letters to the Editor, *Asheville Times-Citizen*, Nov. 27, 1997, p. 10.

4. *Community Countdown 2000 Campaign Kit* (Washington, D.C.: National Association of Counties, 1996). Other North Carolina counties using Community Countdown 2000 materials in 1997 included Alamance, Jackson, and Moore.

The Verdict Is In

Citizens' Views on Jury Service

MIRIAM S. SAXON

It has been a long, stressful day at work. You come home, and the kids are cranky, demanding dinner. You open your mailbox, hoping to find some good news. Instead, along with a stack of bills and junk mail, you find an official-looking, computer-generated envelope addressed to you with "Jury Summons" written on it in red ink, followed by an ominous warning that failure to respond might result in a fine of up to $50. What a way to end the day!

Each week, thousands of North Carolinians receive a jury summons by mail. Most have never been called for jury duty. For many, it will be the only time they set foot inside a courtroom. Naturally people who receive the summons wonder what their experience as a juror will be like: How will they manage their personal and work responsibilities while spending several days at the local courthouse? How will they know what to do as a juror? (For answers to these and other commonly asked questions, see page 30.)

Like prospective jurors, court officials in North Carolina have wondered about these matters. More to the point, the officials have wanted to know what citizens think about their experience as jurors. Therefore the North Carolina Courts Commission[1] recommended that the Administrative Office of the Courts (AOC) conduct a statewide survey on the subject. With a grant from the Governor's Crime Commission, the AOC contracted with the Center for Urban Affairs and Community Services at North Carolina State University to design a jury-service questionnaire and analyze the data. The survey was distributed to every person who reported for jury duty in late October 1997 and late January 1998. Responses were received from 4,654 jurors. This article

The author, a court management specialist for the North Carolina Administrative Office of the Courts, advises court officials on jury management. She served as the project director for the study reported in this article.

COMMONLY ASKED QUESTIONS ABOUT JURY DUTY

WHO IS ELIGIBLE TO SERVE AS A JUROR IN THE NORTH CAROLINA COURTS?

According to Section 9-3 of the North Carolina General Statutes, jurors must be citizens of North Carolina and residents of the county in which they are summoned; be at least eighteen years old; not have served as a juror during the previous two years; be physically and mentally competent; be able to understand English; and not be a convicted felon (unless they have had their citizenship rights restored).

HOW WAS I CHOSEN FOR JURY DUTY?

Every two years a three-person Jury Commission for your county oversees the compiling of a Master Jury List of county residents who are licensed drivers, registered voters, or both. Your name was drawn at random from that list.

DO I HAVE TO RESPOND TO A JURY SUMMONS?

Yes. A jury summons is an official court summons. If you fail to report, the court may hold you in contempt and/or impose a $50 fine.

WHAT IF I CAN'T SERVE ON THE DATE I'VE BEEN TOLD TO REPORT TO THE COURTHOUSE?

You may ask a district court judge to defer your service to a more convenient date. You must have a good reason for not being able to serve on the date on the summons—for example, prior plans for a vacation. You also may ask to be excused if you have a medical reason that prevents your service, if you have served as a juror within the past two years, or if you are otherwise ineligible (for example, if you have moved out of the county in which you are being summoned). If the summons does not tell you how to request a deferral, call the Clerk of Court's Office in your county.

MAY MY EMPLOYER FIRE ME IF I SERVE AS A JUROR?

It is illegal for an employer to fire or demote an employee because he or she serves as a juror. However, the law does not require an employer to pay an employee in full while serving.

WILL THE STATE PAY ME FOR JURY DUTY?

Yes. You will receive $12 for every day you serve. If you are "seated" for (chosen to serve on) a trial and you serve for more than five days, you will be paid $30 for every day after the first five. The clerk of court will issue a payment within a few days of the conclusion of your jury service.

WHERE DO I REPORT FOR JURY DUTY?

Your jury summons should tell you the room to which you should report at the courthouse. Report to that room at the time specified on the summons. A member of the clerk's staff will check you in when you arrive.

WHERE CAN I PARK?

If your summons does not include information about where to park, call the Clerk of Court's Office and ask if there are reserved, marked parking areas for jurors. If not, park in any undesignated space close to the courthouse.

WHAT TYPES OF CASES WILL I HEAR?

In small counties your jury summons should tell you whether you are summoned for a criminal or a civil term of court. In large counties with several court sessions held at the same time, you may hear either criminal or civil matters.

WHAT SHOULD I TAKE WITH ME TO THE COURTHOUSE?

Take reading material, needlework, crossword puzzles, stationery, or other items to occupy your time. The court will try to reduce delays in trial starts and to avoid long waiting periods for you, but you should anticipate some waiting time while jurors are being chosen to sit on a jury.

WHAT SHOULD I WEAR?

You will be acting as part of the court while serving as a juror, so dress comfortably but not casually—as if you were going to work or to religious services. Many judges do not allow anyone in court wearing halter or tank tops, cut-off jeans, or shirts with offensive wording. You might want to layer your clothing because courtroom temperatures may vary considerably, requiring removal or addition of a sweater or a jacket.

HOW LONG WILL I HAVE TO SERVE?

If you are seated for a trial, you must serve until the trial ends. That may be from two days to several weeks. However, most jurors serve for only one or two days.

IF THERE IS AN EMERGENCY AT HOME, HOW CAN MY FAMILY CONTACT ME?

In an emergency you may be contacted through the Clerk of Court's Office or at an emergency number given to you when you arrive at the courthouse. The court staff will make certain that you get the message.

HOW WILL I KNOW WHAT TO DO AS A JUROR?

When you report to the courthouse, you will be shown an orientation video that explains what to expect as a juror. You also will be given information from the court staff. Then you and all the other jurors present will take an oath as jurors and be given a red juror badge to wear until the judge releases you from jury duty. Once a trial begins, the judge will instruct you on your duties as a juror.

WILL I BE LOCKED UP IN A HOTEL DURING THE TRIAL?

It is extremely rare for a jury to be "sequestered," or kept in a hotel, during a trial. You should expect to be allowed to go home at the end of each court day.

WHY ARE SOME JURORS DISMISSED AND NOT ALLOWED TO SIT FOR A TRIAL?

If your name is randomly drawn to take a numbered seat in the jury box at the start of a trial, the attorneys will ask you questions about yourself. If you know the parties to the case or any of the court officials, or if your answers to questions lead the attorneys or the judge to think that you could not be objective in considering the evidence in the trial, you will be dismissed, with the court's thanks.

highlights some of the data and the findings from North Carolina's first jury-experience survey.[2]

A PROFILE OF NORTH CAROLINA JURORS

The survey indicates that the typical North Carolina juror is a white, middle-aged, married woman with at least a high school diploma and a middle-class family income. The jurors who responded to the survey ranged in age from 18 to 82, their average age being 43. A slight majority (55 percent) were women. Most were married (70 percent) and described their race as "white, not of Hispanic origin" (78 percent). On average, jurors had completed 13.6 years of schooling. About one-fourth (27 percent) had a college education or a graduate or professional degree. Most (73 percent) were employed, either by self or by others. The most commonly reported income category of responding jurors was $35,000–$49,999.

FREQUENCY AND LENGTH OF JURY SERVICE

In 85 of North Carolina's 100 counties, jurors are summoned for jury service for one court session, which usually lasts one week. In the other 15 counties, which include the largest metropolitan ones, jurors are called for a more limited term of service. In those 15 counties, if a juror is available in the courthouse for one (or in some counties, two) days and is not "seated" (selected to hear a case), he or she is free to go home. If the juror is seated, he or she must serve as long as the trial lasts. Most jurors, however, serve only one day. These "one day or one trial" systems make it much easier for jurors and their employers to arrange schedules.

Half of the respondents said that they were reporting for jury duty for the first time. Most (70 percent) of the respondents said that they served for one to two days (meaning that they reported to the courthouse, took the initial juror oath, and then waited to see if they would be seated, some of them even coming back a second day to wait).

Only about one-third (32 percent) of the respondents, however, were actually seated and heard testimony in a trial. In other words, about two-thirds (68 percent) were released without being seated.

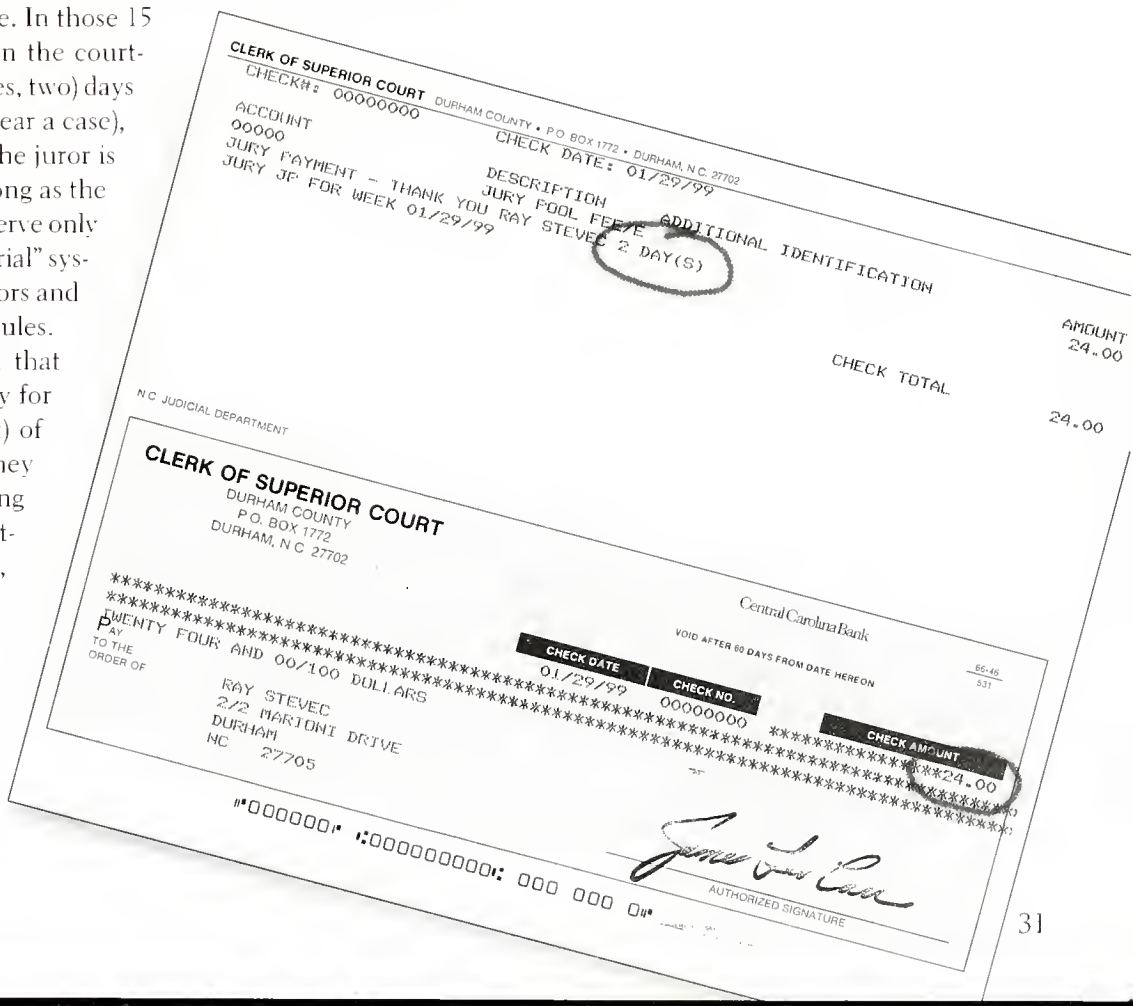
EFFECT ON JURORS' PERSONAL LIVES

When jurors were asked, "In general, what type impact did this jury service have on your personal life?" a slight majority (52 percent) responded that their jury experience had had no significant effect on their lives. More than a third (38 percent), though, felt that the experience had had a positive or very positive effect. Only one-tenth thought that they had suffered a negative or very negative effect from serving as a juror.

Economic Effect

State law makes it illegal for an employer to demote or fire an employee because he or she has been called for jury duty.[3] The law does not, however, require an employer to pay an employee for the time he or she is away from work because of jury duty.

Jurors are entitled to $12 from the state for each day of jury service.[4] This payment is to assist a juror with incidental expenses, such as meals, parking, and travel. It is not intended to compensate a juror for his or her time.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CHECK DATE: 01/29/99
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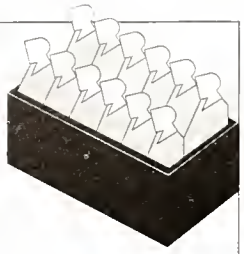


Make it the law that employers pay employees for jury service. It is the law that employees have to go to jury service. *—Wilkes County juror*

Had to take vacation days so I could get paid for time missed from work. Could not afford to be out without pay. *—Wayne County juror*

Because I was a student teacher, I did miss a couple of days of work, and travel and food expenses were incurred, but I relished the opportunity to serve. It was exciting and brought some new information to my classroom. *—Moore County juror*

I checked [on the form that I had to] rearrange my work schedule, but it was really my manager who had to rearrange his schedule. I am his only administrative support, so he had to readjust his workload to compensate for my absence. *—Mecklenburg County juror*

Had to make arrangements for a substitute without knowing exactly when I was to appear. Unfair to ask substitute to hold at least two days—not knowing until 6:00 P.M. the night before if he could take another substitute job. *—Gaston County juror*

Jury service clearly has some negative economic effect on jurors. Most employed jurors[5] (69 percent of those employed by others, 58 percent of those self-employed) reported that they had lost one or two days' pay because of their jury service.

Almost three-fifths (57 percent) of the jurors who were employed full-time by others received the full amount of their wages or salary for the time they served as jurors. Another one-fifth of this group received their regular pay minus the amount the state paid them. About the same proportion, however, received no pay at all from their employer for their time on jury duty.

When asked if they had incurred any out-of-pocket expenses while serving as a juror, nearly three-quarters (72 percent) of the respondents said yes. Many of these indicated that they had had to pay for meals (40 percent) or travel (30 percent).

Other Effects of Jury Service

When jurors were asked what hardships they had suffered as a result of jury service, one-third said none. Another third reported that they had had to rearrange their work schedules, and nearly a fifth (19 percent) said that they had lost wages. About one-fifth (18 percent) said that transportation or parking had created a hardship. Less than 5 percent each mentioned expenses for care of a child or a dependent, school obligations, or personal health. (For a graph of the responses to this question, see Figure 1.)

SERVICE ON A JURY

As noted earlier, only about one-third of the jurors who completed a questionnaire actually served. These jurors completed an additional set of questions about their experience as seated jurors.

Most (64 percent) were seated in the trial of a criminal matter in Superior Court. That is not surprising, because there are very few jury sessions of district court, and most jury trials in Superior Court involve criminal rather than civil matters. More than half of the Superior Court criminal trials involved crimes against persons (for example, murders, assaults, and sex offenses) or crimes against society (for example, driving while intoxicated and drug-related crimes). About one-fourth (28 percent) of the jurors heard civil cases in Superior Court. Most of these cases involved automobile accidents or other negligence claims.

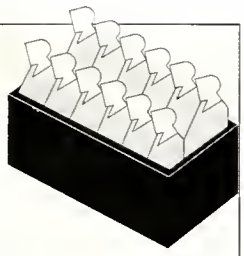
Trial, Deliberation, and Verdict

The jurors who were seated for a trial responded to a series of questions about potential improvements in their deliberation on a verdict or in their overall experience.

For anyone wondering what it might be like to be a juror and reach a verdict in a court trial, it might be reassuring to know that a solid majority (80 to 90 percent) of these jurors were satisfied with the process. Jurors were generally pleased with the way the trial was conducted, the jury deliberation process, and their verdict. Nearly four-fifths (82 percent) stated that they would be willing to serve again if they were called for jury service. In addition, three out of four jurors (74 percent) said that the jury system was efficient, and nearly that proportion (70 percent) felt that jury service was easy to manage financially. The only low rating (26 percent) concerned the inconvenience of jury service, which may have been the result of jurors' uncertainty regarding its length and the hardships that they reported in terms of rescheduling work to fit jury duty.

Since 1993 the law has permitted North Carolina jurors to take notes during a trial unless the presiding judge tells them they may not do so.[6] The survey does not indicate what proportion of the responding jurors were specifically told not to take notes. In some cases the judge simply may not have mentioned that jurors could take notes if they wished. Nevertheless, more than half (61 percent) of the jurors surveyed said that they were not allowed to take notes during the trial. One-third of the same jurors thought that taking notes would have helped them with their decision.

Although jurors may take notes during a trial, they are never permitted to ask questions of witnesses, attorneys, or the parties to the case. Asked if being able to ask questions of the witnesses would have helped them, more than half (57 percent) said yes.



We could have come up with a decision if [we] were able to ask questions of witnesses or others in trial. Spokesman of jury should be able to ask questions to both sides in order to help come up with verdict.—*Rowan County juror*

It would be nice to ask questions to the attorney and DA. We did not understand what the "calibration number" meant on the Breathalyzer report.
—*Transylvania County juror*

I think before the trial begins, you need some instructions on the law pertaining to your case so you'll have a better understanding about what to listen for and watch for from witnesses.
—*Rowan County juror*

I believe it would have helped to have [a written copy of] the judge's instructions because they were so long it was hard to keep up with the ins and outs of each part.—*Lee County juror*

It is impossible not to use past experiences [as we're told] but to use common sense.—*Onslow County juror*

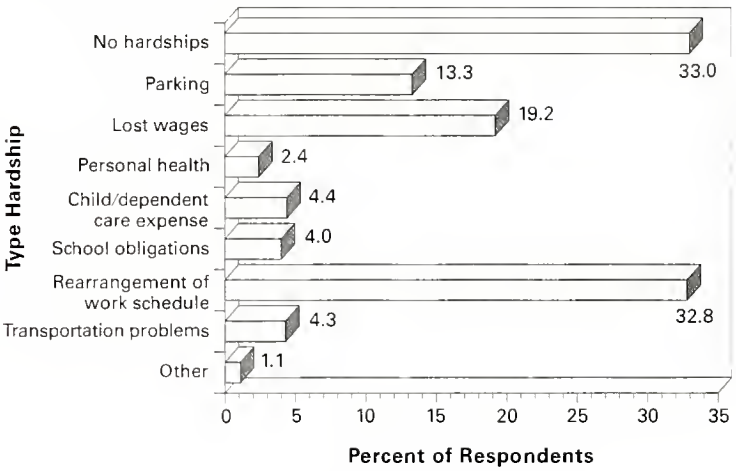
Trial judges always sternly admonish jurors that they must not discuss the case with anyone, including their fellow jurors, until they are sent to the jury deliberation room to reach a verdict. Surprisingly, only a third thought that discussing testimony with their fellow jurors during the trial, rather than waiting until the deliberation phase, would have helped.

The tasks of jurors are to determine the facts of the case; to apply the law, as instructed by the trial judge, to the facts of the case; and then to reach a verdict. Almost all the responding jurors (97 percent) agreed that the judge's instructions were clear and understandable, but half of them thought it would have been helpful if the judge had provided information on the law in the case *before* the trial began. Under current court procedure, trial judges do not instruct the jury on the specifics of the law as it applies to the testimony they have just heard, until just before the jurors are sent to the deliberation room to decide their verdict. So even though these jurors understood the legal instructions from the judge, many felt they would have reached a verdict more easily if they had learned what laws applied to the case *before* they heard from any witnesses or the attorneys on each side.

In addition, jurors indicated that the judge rarely gave them a written copy of his or her instructions to use as a reference during deliberations. Half of the jurors said that receiving a written copy would have helped and perhaps made the deliberation process more efficient.

Jurors also were asked if exhibits from the trial were available to them in the jury deliberation room. More than half (54 percent) of the responding jurors said no, and nearly half (42 percent) of that group felt that having the exhibits to review and refer to during deliberations would have been helpful.

FIGURE 1. HARDSHIPS RESULTING FROM JURY SERVICE



Source: Donna Hughes, "Administrative Office of the Courts: Jury Survey; Summary of Findings," in North Carolina Administrative Office of the Courts, *Jury Survey Project: Final Report* (Raleigh, N.C.: AOC, July 1998), Figure 9.

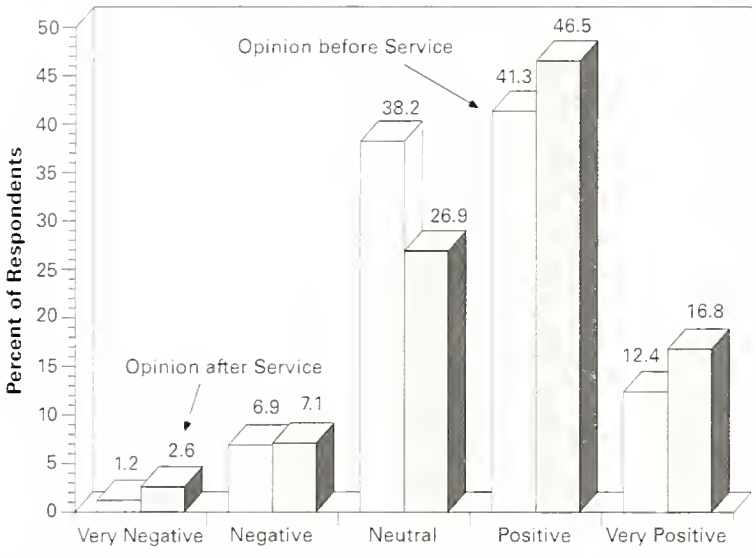
Number of respondents: no hardships = 1,538; at least one hardship = 2,469; did not respond = 647.

OPINIONS OF THE COURT SYSTEM

Jurors were asked to describe their opinion of the court system before and after their jury service. Also, if their opinion changed after serving, they were asked to explain why. Most jurors rated the system favorably both before and after, and most of that group rated it more positively after their service than before. (For a breakdown of the responses, see Figure 2.)

Among the jurors whose opinion of the court system changed from unfavorable to favorable, or from neutral to positive, most stated that their opinion improved because "this initial experience as a juror was positive and informative." Among the jurors whose opinion changed for the worse, the most commonly mentioned reason was "dissatisfaction with overall amount of time spent in service."

FIGURE 2. RESPONDENTS' OPINION OF COURT SYSTEM BEFORE AND AFTER MOST RECENT JURY EXPERIENCE



Source: Donna Hughes, "Administrative Office of the Courts: Jury Survey; Summary of Findings," in North Carolina Administrative Office of the Courts, *Jury Survey Project. Final Report* (Raleigh, N.C., AOC, July 1998), Figure 5.

Number of respondents who answered both before and after = 3,728.

Satisfaction with Jury Service

The survey asked jurors to rate their satisfaction or dissatisfaction with (1) use of their time, (2) courthouse facilities for jurors, and (3) treatment of jurors by court officials.

Jurors were least satisfied with the system's use of their time. About one in five (21 percent) reported unhappiness with this aspect of the experience.

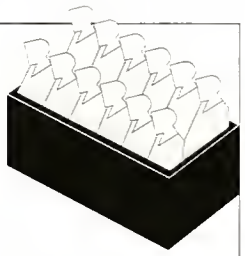
Most jurors (71 percent) were satisfied with courthouse facilities. However, asked to choose possible improvements from a list presented to them, they indicated a number of desirable changes: availability of coffee or other beverages; better parking facilities; a more comfortable jury room; more information during waiting periods; better eating facilities; and reading materials.

Jurors were generally pleased with their treatment by court officials: more than four-fifths (83 percent) were satisfied or very satisfied with all court officials. Satisfaction levels by official, in descending order, were the clerk (92 percent), the presiding judge (91 percent), the bailiff (90 percent), the prosecuting attorney (84 percent), and the defense attorney (83 percent).

Factors Affecting Jurors' Opinions

Jurors' race, gender, and income appeared to have little influence on their opinion of the court system or their willingness to serve again. However, older and retired persons were somewhat more amenable to future service than younger and employed ones, and they tended to rate the courts more favorably. Jurors with higher levels of education also were more likely to be willing to serve again, but they tended to rate the court system less favorably. Self-employed persons gave the lowest ratings to the court system after their service and were least willing to serve again. This response may be directly related to greater financial loss due to their missing work while serving as a juror.

Other factors that tended to predict a juror's favorable assessment of the court system and degree of satisfaction with his or her jury experience included (1) efficient use of the juror's time by the court system, (2) provision of information during waiting periods, (3) efficiency of the trial procedure, (4) provision of adequate facilities for jurors, and (5) favorable treatment by court officials.



There still seems to be a lot of wasted time for the jurors. Maybe the judges and attorneys could be kept waiting sometime so that they might know how jurors feel. —*Forsyth County juror*

Recliners for naps would have been great. —*Guilford County juror*

I realize, as a citizen, I had a responsibility to be a juror. On the other hand, I also have a responsibility to feed my wife and two kids. Since I am self-employed, I lost a considerable amount of money. —*Pitt County juror*

Jurors consistently indicated a willingness to fulfill their civic duty as jurors, but they wanted to feel that the time they gave would be used well. When jurors are not kept informed about why they are waiting outside the courtroom, they may conclude that their time is not being used efficiently or effectively.

In a similar vein, jurors seemed to respond more favorably to the courts and their jury experience if they believed that the trial had been conducted in a satisfactory and efficient

manner. Such responses could clearly be related to how their time was used and how well court officials kept them informed about the reasons for long waiting periods.

Jurors' degree of satisfaction with the courthouse facilities for them also was strongly related to their opinion of the court system. Most courthouses have no separate room or area set aside for jurors to wait until they are summoned for jury selection in a trial. Instead, jurors must assemble in a courtroom and sit all day on uncomfortable, hard benches, without access to telephones or facilities where they can pass the time by working, watching television, or engaging in other entertainment. Courthouses with good, clean, comfortable jury facilities affected jurors' favorable rating of the court system in general.[7]

Jurors who had a negative opinion of the court system still reported that they would be willing to serve again if summoned. Jurors who lost income during their service also continued to view the courts favorably after they served, although they were less likely to be willing to serve again.

JURORS' SUGGESTIONS FOR IMPROVEMENTS

Jurors were asked to suggest ways of improving the jury experience for future jurors. The most frequently listed improvements were as follows:

1. Use jurors' time effectively and efficiently by
   - avoiding long waiting periods, especially without providing information on the reasons for them;
   - avoiding an appearance of "wasted" time—setting court schedules and sticking to them (that is, telling jurors what the day's schedule will be for breaks, lunch, daily recess, and reporting back to the courtroom, and then recessing or convening court, as appropriate, at those times);
   - providing advance information on what to expect from jury duty.
2. Offer accessible facilities and good physical surroundings by
   - providing reserved parking or at least parking areas that are accessible and convenient to the courthouse, free of charge, and safe;
   - providing jurors with better-maintained courthouses, with separate rooms for jury assembly;

PIONEERING WORK IN JURY REFORM

In 1995 the Arizona Supreme Court adopted proposals for jury reform issuing from a yearlong study by its Committee on More Effective Use of Juries. The reforms were designed to help jurors understand trial evidence better and handle it more efficiently. The changes applied adult education and communication knowledge and skills to the jury process. With these reforms Arizona became the first state to change its jury practices fundamentally. Following is a statement of some of the principles behind the reforms.

A BILL OF RIGHTS FOR ARIZONA JURORS

Judges, attorneys and court staff shall make every effort to assure that Arizona jurors are:

1. Treated with courtesy and respect and with regard for their privacy.
2. Randomly selected for jury service, free from discrimination on the basis of race, ethnicity, gender, age, religion, economic status or physical disability.
3. Provided with comfortable and convenient facilities, with special attention to the needs of jurors with physical disabilities.
4. Informed of trial schedules that are then kept.
5. Informed of the trial process and of the applicable law in plain and clear language.
6. Able to take notes during trial and to ask questions of witnesses or the judge and to have them answered as permitted by law.
7. Told of the circumstances under which they may discuss the evidence during the trial among themselves in the jury room, while all are present, as long as they keep an open mind on guilt or innocence or who should win.
8. Entitled to have questions and requests that arise or are made during deliberations as fully answered and met as allowed by law.
9. Offered appropriate assistance from the court when they experience serious anxieties or stress, or any trauma, as a result of jury service.
10. Able to express concerns, complaints and recommendations to courthouse authorities.
11. Fairly compensated for jury service.

Source: Arizona Supreme Court, Committee on More Effective Use of Juries, *Jurors: The Power of 12* (Phoenix: the Court, Sept. 1994).

- providing comfortable seating and work areas in the jury assembly room, with reading materials, telephones, and beverages available.

3. Reduce the financial burden of jury service by
   - raising the daily pay;
   - requiring employers to pay regular, full wages while a person is serving as a juror;
   - providing child care facilities or pay for dependent care.
4. Restructure *voir dire* (the process of questioning jurors regarding their competence and suitability for a particular trial) by
   - streamlining it to avoid repetition of questions and to decrease the amount of time spent in it;
   - not requiring jurors to provide personal data (such as home address) in the presence of defendants.

CONCLUSION

In general, jurors are satisfied with the court system, but there is room for improvement. The Administrative Office of the Courts plans to use the survey results to assist court officials in improving jury management. Also, the Courts Commission will likely use the data as it studies jury reforms in other states and considers reforms for North Carolina courts. Coincidentally some of the findings of the North Carolina survey are reflected in a bill of rights for jurors that Arizona adopted in 1995 (see page 35). Among the Arizona jury reforms are allowing jurors to take notes and ask questions of witnesses; ensuring that jurors are informed about trial schedules and that the court follows these schedules; and providing comfortable, convenient facilities for jurors and fair compensation for jury service.

NOTES

1. The legislature established the North Carolina Courts Commission to study the structure, the organization, the procedures, and the personnel of the General Court of Justice and the Judicial Department (the state's judicial branch of government) and to recommend improvements in the administration of justice to the General Assembly. The twenty-four members of the commission are appointed proportionately by the governor, the chief justice of the Supreme Court, the speaker of the House of Representatives, and the president pro tempore of the Senate.

2. A more complete and detailed summary and analysis of the North Carolina juror survey is contained in "Administrative Office of the Courts: Jury Survey; Summary of Findings," by Donna Hughes of the Center for Urban Affairs and Community Services, North Carolina State University. This summary is contained in *Jury Survey Project: Final Report*, published in July 1998 by the Administrative Office of the Courts.

3. Section 9-32 of the North Carolina General Statutes (hereinafter G.S.). An employer who violates this section is liable for damages suffered by the employee for such demotion or discharge.

4. If a juror serves for more than five days in any twenty-four-month period, he or she is paid $30 for each additional day of jury service. G.S. 7A-312.

5. "Employed" includes persons who were employed full-time at one job *and* persons employed full-time who also held a second job (whether self-employed or employed by another party).

6. G.S. 15A-1228.

7. Courthouse facilities are owned and maintained by the county in which they are located, not by the state court system. Therefore improvements to jury facilities in a courthouse are the responsibility of county government.

Filling the Box

Responding to Citizens' Avoidance of Jury Duty

THOMAS L. FOWLER

Michael Brady

> [J]ury service is the solemn obligation of all qualified citizens, and . . . excuses from the discharge of this responsibility should be granted only for reasons of compelling personal hardship or because requiring service would be contrary to the public welfare, health, or safety.
>
> — NORTH CAROLINA GENERAL STATUTES, SECTION 9-6(a)

In fall 1997 and spring 1998, the Administrative Office of the Courts (AOC) conducted a statewide study to gather information about jury service in North Carolina. The final report of the study,[1] published in July 1998, profiles the average juror, details the perceived hardships of jury duty, and presents respondents' suggestions for improvement of the jury system (see "The Verdict Is In: Citizens' Views on Jury Service," page 29 in this issue). It also summarizes counties' practices in summoning and excusing potential jurors.[2]

One finding of the survey is that a significant number of persons summoned to appear as jurors in North Carolina courts never respond—in some counties, up to one half. This can be a major problem for the court system. It must ensure that enough citizens will be present on a given day to provide the twelve jurors plus alternates who must serve in each trial set for that day or that session of court. Whether criminal or civil, jury trials are complicated matters that require substantial preparation, scheduling of witnesses, and assembling of evidence or exhibits. Having enough jurors

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available to proceed with a trial as scheduled is of the utmost importance. Citizens summoned as potential jurors may ignore the summons, they may be excused for a legitimate reason before the date for which they are summoned, or they may be excused on the spot for cause or on peremptory challenge (a challenge allowed without showing cause) by one of the parties to the lawsuit. Therefore the jury pool must be several times greater than the number of jurors actually needed to hear a trial.[3] High or unpredictable rates of jury duty avoidance may bring the courts to a grinding halt.[4]

This article offers some historical background on citizens' avoidance of jury duty, then discusses two issues raised by avoidance: whether avoidance affects the validity of a criminal trial and how the court system might deal with avoidance.

A BRIEF HISTORY OF JURY DUTY AVOIDANCE

Although not widely recognized, the problem of jury duty avoidance is neither new nor limited to North Carolina. Since colonial days, citizens have failed to appear when summoned, and legislatures and court officials have sought effective methods to secure their service.[5]

Historically, one of the court's responses when it has faced a shortage of potential jurors has been immediately to expand the pool by ordering the sheriff to round up people in or near the courthouse. In early North Carolina, as in other states, "numerous bystanders" would attend court sessions.[6] When regularly summoned jurors did not fill the jury box, the court would direct the sheriff to summon these bystanders, or "talesmen," as potential jurors.[7]

At one time "talesmen" in fact referred only to men. In a 1944 case, *State v. Emery*, after the regular panel of jurors and most of the male bystanders had been exhausted, "the sheriff called from among the bystanders two *women* of good moral character, freeholders [landowners] and residents of the county, and they were accepted by the solicitor [prosecutor] as satisfactory jurors."[8] The defendants moved to excuse both women from jury service, arguing that they were not qualified because of their sex. The trial court overruled the motion. The supreme court, however, agreed with the defendants and ordered a new trial.

Heavy reliance on bystanders as jurors (whether men or women) often was criticized as not producing a representative jury and resulting in a lower caliber of juror. In 1803 the American edition of Blackstone's *Commentaries* reported that, after the first day or two, juries hearing civil lawsuits in the rural areas of Virginia were "made up, generally, of idle loiterers about the court, . . . the most unfit persons to decide upon the controversies of suitors."[9]

This opinion was echoed by the North Carolina Supreme Court in *State v. McDowell*. In that case, after failing to constitute a jury from the persons present in the courtroom, the judge adjourned court and directed the sheriff to summon fifty freeholders from the county to attend the next day. The next day the judge directed the sheriff to call those summoned into the jury box. The defendant objected on the grounds that those jurors "were not bystanders on the day before, and were then present only by reason of said summons by the sheriff under said order of the court." The trial judge overruled the objection. The supreme court upheld the trial judge, stating,

> The order was an expedient act in reference to the business of the court. It was calculated to secure an impartial jury, by getting men from the county, honest, uncommitted, unbought and unmerchantable men, rather than the professional, loafing jurymen, who hang about the courthouses, ready to be used if it should happen that prosecutors or prosecuting officers, or defendants or defendants' counsel or sheriffs, or their deputies should so far forget their occupation and honorable obligation as to bring them into the jury box.[10]

This authority of the trial judge to order the sheriff to summon more potential jurors when the original list is exhausted, continues today.[11] And far from being restricted to selecting bystanders in and about the courthouse, the sheriff now appears to be free to locate appropriate persons "from the body of the county"[12]—in or near the courthouse, at the mall, or elsewhere. In a 1969 case, *State v. White*, the court of appeals approved the sheriff's use of the telephone book to locate, call, and select tales jurors.[13]

Another traditional response to citizens' failure to appear has been to fine them.[14]

> [I]n the early 1800s statutes in most states authorized fines ranging from one dollar to $250. Enforcement efforts were quite vigorous in some jurisdictions. For example, court records from the Michigan Territory reveal that contempt proceedings against delinquent jurors occupied much of the circuit court's caseload. . . . Many less wealthy veniremen [potential jurors] complied in order to avoid the fine. For those with means, however, contempt citations appeared to have

> operated not as a burden, but as a privilege. Exemption from jury duty was a perquisite that money could buy. A careful investigation of fines for nonattendance of jurors in South Carolina during the 1790s revealed that fines were sufficient only to assure the attendance of the less wealthy. Most of those fined for failing to report for jury duty were the community's most prominent citizens.[15]

The courts have not consistently or vigorously enforced fines for nonattendance, however. A commentator in Pennsylvania estimates that, in his state, from one-quarter to one-half of those who receive juror questionnaires (standard forms often accompanying summonses, to be filled out and returned to the court) ignore them.[16] Further, this commentator observes, little more than half of those who receive summonses actually appear. "This situation," he continues, "results from the widespread failure of courts to investigate or sanction those who disregard the warnings on their jury summonses. These individuals simply 'opt out' of service by ignoring the questionnaire or summons when there is a history of no follow-up or sanctions for such conduct."[17]

North Carolina's current experience may be similar. One of the applicable laws, Section 9-13 of the North Carolina General Statutes (hereinafter G.S.), clearly states that a person "summoned to appear as a juror" who has not been excused and fails to appear "shall be subject to a fine of not more than fifty dollars." However, according to the final report of the AOC's study, in 46 of North Carolina's 100 counties, when citizens fail to appear as directed by a jury summons, court officials take no action. "Where any follow-up does occur . . . ," the report says, "the most frequent action taken is that the sheriff tries to locate the missing juror, by phone or in person."[18]

EFFECTS OF AVOIDANCE ON A TRIAL'S VALIDITY

A basic issue that avoidance of jury duty raises is whether it affects the validity of a criminal trial. In general, even a high percentage of no-shows is not likely to invalidate a criminal trial. In *State v. Murdock*, the defendant presented evidence indicating that the district court judge hearing applications for excuses from jury duty had granted all the requests presented to him, regardless of the reason given. The defendant argued that this violated G.S. 9-6, the statute requiring jury service by all qualified citizens unless they have been excused for a compelling reason. The supreme court ruled that violation of G.S. 9-6 was insufficient to justify a new trial. Instead, the defendant had to show "corrupt intent, discrimination or irregularities which affected the actions of the jurors actually drawn and summoned."[19] That is a very high standard to meet. In *State v. White*, described earlier, the sheriff used the telephone book to select and call about sixty new potential jurors. His effort secured only nine talesmen, in part because he "excused" some of the persons he reached by telephone who were actually qualified to serve. Nevertheless, the trial court found that the sheriff had made his selections without prejudice and intent to discriminate. The court of appeals affirmed, noting that the burden of proving intent to discriminate was on the defendant and that the "mere possibility [of discrimination did] not make the panel actually summoned . . . objectionable."[20]

In *State v. Leary*, the defendant argued that making him prove corrupt intent and systematic discrimination was unfair because no records had been kept of the process of excusing potential jurors, the process occurred before his trial began, and his counsel had not been present to oversee the procedure. The supreme court rejected this argument:

> Defendant presents us with no persuasive authority to depart from our previous holdings, which place the burden on the defendant to come forward with evidence that the district court judge abused his discretion in the excusal process. A review of the record reveals that defendant presented no evidence that the district court judge in this case acted with corrupt intent or systematic discrimination.[21]

Thus a high percentage of no-shows or a general failure to follow up with no-shows probably will not suffice to show corrupt intent or systematic discrimination. The situation might be different, however, if evidence showed that a certain subset of citizens was more likely to be aware of and exercise this de facto option of excusing oneself, especially if court officials played an active role in alerting selected citizens to the option. This issue was raised in a 1997 Alabama case, *Wright v. State*. In that case the defendant argued that he had been denied due process when the trial court refused to compel the attendance of certain black citizens who had failed to respond to summonses. The appellate court rejected this argument. It based its ruling on the clerk of court's undisputed testimony that "nothing was done to secure the attendance of anyone who failed to answer a jury summons" and

nothing in the record suggested that "black jurors who failed to appear were treated any differently than white jurors who failed to appear."[22]

At some point, though, deviation from statutory procedures may be so flagrant as to prejudice the integrity of the judicial process, and this alone may suffice to require a new trial without any showing of corrupt intent or systematic discrimination. This was the holding of the Tennessee Supreme Court in *State v. Lynn*. "Often the public sees in our justice system something substantially different from what actually exists," said the court. "It is the appearance that often undermines or resurrects faith in the system. To promote public confidence in the fairness of the system and to preserve the system's integrity in the eyes of the litigants and the public, 'justice must satisfy the appearance of justice.'"[23]

ENFORCEMENT OF COMPLIANCE

Allowing citizens to "excuse themselves" from jury duty appears to violate both the spirit and the substance of the applicable statutes. G.S. 9-6(a) states North Carolina's public policy that jury service is "the solemn obligation of all qualified citizens" and that "excuses from the discharge of this responsibility should be granted only for reasons of compelling personal hardship or because requiring service would be contrary to the public welfare, health, or safety." Other subsections of G.S. 9-6 detail the procedures for presenting, considering, and passing on citizens' applications to be excused from jury duty. Allowing a high percentage of summoned citizens to avoid jury duty as well as the procedure for being excused is unfair to those who are summoned and properly respond.

Yet the statutes do not clearly define how the court system should respond to jury duty avoidance. In theory, two criminal charges against "offenders" are possible: contempt and misdemeanor. Both, however, are largely untested in the courts.

Criminal Contempt Charges

Criminal contempt is an important tool for enforcing orders of the court. G.S. 5A-11(a) lists the specific grounds for which a person may be found guilty of criminal contempt.[24] This statute, like other criminal statutes, must be strictly construed[25] in favor of the defendant.[26] Of the grounds listed in G.S. 5A-11(a), only subsection (a)(3) might apply to a citizen who fails to appear in response to a jury summons. It provides that a person may be held in contempt for violating a "process, order, directive, or instruction" of the court.

One problem with this theory is that the jury summons a citizen receives might not be considered an order of the court. Rather, because the sheriff's office issues it, it may constitute a notice from that office.[27]

Perhaps a bigger problem is that before a court may punish a person for criminal contempt, even for violations of its own orders, it must give the person proper notice of his or her obligation. In the matter of jury duty, proper notice is delivery of the summons to the potential juror. It may be difficult to establish (by proof beyond a reasonable doubt, the standard for conviction of criminal contempt) that a person actually received a jury summons. Particularly in the metropolitan counties with mobile populations, a person summoned may have changed addresses since the preparation of the jury list—and thus may never have been notified.[28]

Misdemeanor Charges

A second theory is that a person might be guilty of a misdemeanor for an unexcused failure to appear. The statutes on jury service do not specifically provide for a misdemeanor charge (which would have to be initiated by the district attorney's office, not the court). The possibility of such a charge turns on one's interpretation of G.S. 9-13, which imposes a fine of up to fifty dollars for an unexcused failure to appear.

As a general rule, the term "fine" is used to describe the monetary sanction imposed by a court when a person has been convicted of violating a criminal law.[29] Because G.S. 9-13 characterizes the monetary sanction for an unexcused failure to appear as a fine, it could be interpreted as creating the crime of disobeying a jury summons.[30] If this interpretation is accepted, the offense might be considered a Class 3 misdemeanor.[31]

A problem with this theory, however, is that G.S. 9-13 also refers to the monetary sanction for an unexcused failure to appear as a "penalty," a term typically used in connection with civil violations of the law. And in yet another place, G.S. 9-13 calls the monetary sanction a "forfeiture," a term used in both civil and criminal proceedings. Ultimately it may not be possible to divine solely from the use of the term "fine" in G.S. 9-13 that the legislature intended to create the crime of failing to obey a jury summons.[32]

CONCLUSION

According to a recent national survey of judges' practices, judges generally do little to enforce jury summonses. Their reasons vary: (1) proceedings to enforce summonses are too costly or inefficient; (2) coerced jurors make bad jurors; (3) juror compliance is not so bad that special action is required; (4) jurors who fail to appear usually have a reason that would be deemed sufficient if presented to the court; and (5) holding delinquent jurors in contempt is bad publicity for judges facing elections.[33]

Likewise, most of North Carolina's judicial districts have not developed formal procedures for handling no-shows. Thus the state's courts have not authoritatively addressed or resolved the questions about enforcement raised in this article.

Several questions of practical significance remain: First, do North Carolina courts have the resources to prosecute the significant percentage of no-shows, for either criminal contempt or a violation of G.S. 9-13? Second, may jurors who fail to appear be selectively prosecuted without violating their rights or affecting the viability of the jury list?[34] Third, what effect would such prosecutions have on citizens' attitude toward, and willingness to comply with, jury duty? Finally, was G.S. 9-13 intended to allow, or in practice will it allow, a citizen to buy his or her way out of jury duty for fifty dollars?[35]

In weighing these questions, some practical suggestions and observations by those who have studied the issues are worth considering.

In 1992, in response to a judge's question about how to handle no-shows, AOC Court Management Specialist Miriam Saxon suggested several "better and perhaps less expensive options that might be exercised in lieu of issuing and serving show cause orders" under either G.S. 5A-11 or G.S. 9-13. These options included adding a strong warning on the mailed jury summons about the consequences of failure to appear (for example, criminal contempt charges); mounting a public relations campaign on the importance of jury duty and the need to appear if summoned; and adopting a policy that some court official or the sheriff would routinely call jurors who failed to appear, warn them of the consequences, and attempt to defer their service to a later time.[36]

One commentator writes, "Over the years efforts to prevent culpable behavior rather than punish it have proved their value, a useful lesson for those hoping to improve further juror compliance in jurisdictions where jury avoidance . . . affect[s] a significant portion of trials."[37] Addressing the reasons that citizens avoid jury duty, rather than punishing them for doing it, may prove more effective and efficient in the long run.[38]

NOTES

1. North Carolina Administrative Office of the Courts, *Jury Survey Project: Final Report* (Raleigh, N.C.: AOC, July 1998).

2. The study consisted of two parts: a survey of all jurors responding to a summons in late October 1997 and late January 1998; and a survey of county clerks. Ninety-nine of the clerks returned the surveys.

3. For instance, a recent study found that, in Maricopa County, Arizona, the "juror yield" in the first quarter of 1998 was only 22.5 percent of the total number of citizens summoned for jury duty: "25.5 percent of summonses were undeliverable, 6.5 percent of summoned jurors were not qualified to serve, and 27 percent were excused for hardship reasons. These figures leave 18.5 percent of summoned jurors unaccounted for." Robert G. Boatright, *Improving Citizen Response to Jury Summonses: A Report with Recommendations* (Chicago: American Judicature Society, 1998), 85.

4. Boatright reports,

> In many jurisdictions, summons nonresponse is a critical problem because the courts find that they do not have enough jurors to conduct trials. Horror stories abound of courts in cities such as Los Angeles and New York where trials must be delayed because of lack of available jurors, or where court personnel must walk around outside of the courthouse looking for citizens willing to volunteer to serve as jurors.

Boatright, *Improving Citizen Response*, 4.

5. *See generally* Nancy J. King, "Juror Delinquency in Criminal Trials in America, 1796–1996," *Michigan Law Review* 94 (Aug. 1996): 2673–2751; Albert W. Alschuler and Andrew G. Deiss, "A Brief History of Criminal Jury in the United States," *University of Chicago Law Review* 61 (Summer 1994): 867–928; Kurt M. Saunders, "Race and Representation in Jury Service Selection," *Duquesne Law Review* 36 (Fall 1997): 49–77.

6. State v. Scott, 8 N.C. 24, 32 (1820).

7. An 1818 North Carolina case provides an example. In *State v. Hogg*, a commissioner of navigation for the Port of Wilmington, who was a bystander in the courthouse, was summoned for jury duty. The commissioner claimed that because of the office he held, the law exempted him from serving on juries, and he requested that he be discharged. The court held that, although the law would have exempted him from service as a regularly summoned juror because such service could interfere with his performance of his important profession, it did not exempt him from serving as a "tales juror" (a bystander who becomes a juror; also "talesman") because his very presence at the courthouse as

a bystander "prove[d] that he ha[d] not then any official or professional engagements which require[d] his attention." 6 N.C. 319, 320 (1818). *See also* State v. Willard, 79 N.C. 660, 662 (1878) ("And it is because a talesman must be taken from the bystanders at the Court that he may be summoned, as his being a bystander proves that he was not there on official or professional duties which required his attention"); State v. Benton, 19 N.C. 196, 201 (1836) (if the court fails or neglects to nominate "freeholders" (landowners) to serve as jurors or the persons nominated fail to attend, "it shall be lawful for such Superior Court to order the sheriff to summon other freeholders of the bystanders, to serve as jurors; and the persons so summoned shall be held and deemed lawful jurors"); State v. Lamon, 10 N.C. 175, 179–80 (1824) (the defendant argued that, to be properly qualified to serve as tales jurors, bystanders must be found "about the courthouse").

8. State v. Emery, 224 N.C. 581, 582, 31 S.E. 2d 858, 860 (1944) (italics added).

9. Alschuler and Deiss, "A Brief History," 879. In 1885 another commentator noted,

> [B]etter qualified classes of citizens do not serve as jurymen. By some peculiar way they fail to be drawn . . . , or if perchance drawn, manage to get excused. . . . As a result there is generally left for this important public service but a residuum of stupid and incompetent species of the genus homo. . . . It were as reasonable and proper in time of war to excuse our able-bodied men and draft none but cripples and puny-bodied unfortunates.

S. Stewart Whitehouse, "Trial by Jury, As It Is and As It Should Be," *Albany Law Journal* 3 (1885): 504, 505–06, as cited in Alschuler and Deiss, "A Brief History," 881. The authors also note that, in prewar Marion County, Indiana, bystanders comprised a majority of jurors in 60 percent of all criminal trials.

10. State v. McDowell, 123 N.C. 764, 767, 31 S.E. 839, 840 (1898); *see also* Hale v. Whitehead, 115 N.C. 28, 29, 20 S.E. 166, 166 (1894) (the court characterized the courthouse bystanders as "professional jurors" who might "monopoliz[e] the jury box").

11. N.C. Gen. Stat. § 9-11(a) (hereinafter G.S.); State v. Wilson, 313 N.C. 516, 524, 330 S.E.2d 450, 457 (1985) ["N.C.G.S. 9-11 (a) clearly authorizes the trial court to order the summoning of supplemental jurors as a means to ensure orderly, uninterrupted and speedy trials"]; State v. Brown, 13 N.C. App. 261, 271, 185 S.E.2d 471, 477–78 (1971) [pursuant to G.S. 9-11(a), the trial judge ordered the sheriff to summon twenty-five additional jurors without resorting to the regular jury list].

12. State v. Hollingsworth, 11 N.C. App. 674, 677, 182 S.E.2d 26, 28 (1971).

13. The sheriff called some sixty citizens in the course of securing nine tales jurors. In approving this approach, the court of appeals stated,

> Nowhere in the statute is there a provision delineating discretionary restrictions to be placed on an officer in fulfilling the court's order. The statutory recognition that tales jurors may be needed and the statutory language used contemplates a system easily and expeditiously administered. To place procedural restrictions unnecessarily on their selection would defeat the purpose of the system, which is to facilitate the dispatch of the business of the court. Tales jurors are selected infrequently and only to provide a source from which to fill the unexpected needs of the court. They must still possess the statutory qualifications and are still subject to the same challenges as regular jurors and may be examined by both parties on voir dire [the process of questioning potential jurors regarding their competence and suitability for a particular trial]. In order to retain the flexibility needed in the administration of such a system, the summoning official must be permitted some discretion, whether he be located in a relatively small community or a more heavily populated area. . . ."

State v. White, 6 N.C. App. 425, 428, 169 S.E.2d 895, 897 (1969); *see also* State v. Yancey, 58 N.C. App. 52, 54, 293 S.E.2d 298, 299 (1982) [the sheriff testified that, pursuant to the court's order under G.S. 9-11(a), "he did not attempt to get a list from the clerk of superior court or the register of deeds, but attempted to get people that were readily available and could come on short notice. He testified that so far as he knew he summoned persons who were of good character and respected members of the community"].

14. In State v. Williams, 18 N.C. 372 (1835), a juror who refused to serve was fined twenty dollars. A juror who refused to serve was also fined in *Willard*, 79 N.C. 660 (1878).

15. King, "Juror Delinquency," 2683–84.

16. A recent report says that, in state courts, on average, 20 percent of citizens summoned for jury duty fail to appear and, "in urban jurisdictions such as New York or Los Angeles, summons response rates can fall below 10 percent of all citizens receiving a summons." Boatright, *Improving Citizen Response*, 13, vii.

17. Saunders, "Race and Representation," 64.

18. AOC, *Jury Survey Project: Final Report*, 2; *see* State v. Barnard, 346 N.C. 95, 484 S.E.2d 382 (1997), in which the sheriff contacted persons whose names were on the jury list to determine whether they had received their summonses and, if so, whether they intended to appear. The report of a recent national study notes, "It is hardly a secret that [laws establishing penalties for failure to respond to jury summonses are] seldom enforced. Citizens may feel a twinge of guilt when they toss their summons in the garbage, but they are likely to face few other consequences." Boatright, *Improving Citizen Response*, 5.

19. State v. Murdock, 325 N.C. 522, 526, 385 S.E.2d 325, 327 (1989).

20. *White*, 6 N.C. App. at 427, 169 S.E.2d at 896–97.

21. State v. Leary, 344 N.C. 109, 118, 472 S.E.2d 753, 758 (1996).

22. Wright v. State, 709 So. 2d 1318, 1319 (Ala. Crim. App. 1997). In *Wright*, 50 of the 530 summonses for jury duty issued for the term during which the defendant went to trial were issued to black citizens. Of those 50 citizens, 39 failed to appear.

23. State v. Lynn, 924 S.W.2d 892, 898 (Tenn. 1996).

24. Further, G.S. 5A-11(a) explicitly states that the listed

grounds are exclusive and that no other grounds, even if allowed at common law, will suffice. G.S. 5A-11(a)(10), however, does provide that other statutes may specify other grounds for criminal contempt.

25. Vogel v. Supply Co., 277 N.C. 119, 131, 177 S.E.2d 273, 280 (1970).

26. State v. Richardson, 307 N.C. 692, 694, 300 S.E.2d 379, 381 (1983).

27. In State v. Hoffman, 895 S.W.2d 108 (Mo. 1995), the court held that the Missouri statute requiring individuals contacted for jury service to be "summoned" used the term in its commonly understood sense—for example, to call together, to send for with authority or urgency, to call upon to do something—rather than its legal sense. *See also* G.S. 9-6, which provides that the register of deeds shall "notify the sheriff to summon for jury duty the persons on the jury list." It is legitimate to ask whether the sheriff, in summoning the potential jurors, is acting pursuant to his or her statutory duty or an order of the superior court.

28. *See* G.S. 9-10 (describing requirements for service of a jury summons).

29. Cauble v. City of Asheville, 314 N.C. 598, 607, 336 S.E.2d 59, 65 (1985) (Exum, J., dissenting); Board of Educ. v. Town of Henderson, 127 N.C. 689, 691, 36 S.E. 158, 159 (1900) ("[T]here is a clear distinction between a 'fine' and a 'penalty.' A 'fine' is the sentence . . . for a violation of the criminal law . . . while a 'penalty' is . . . recovered in a civil action of debt"). *But see* State v. Rumfelt, 241 N.C. 375, 377, 85 S.E.2d 398, 400 (1955) (the court held that the statute used the terms "fine" and "penalty" interchangeably); State v. Addington, 143 N.C. 683, 57 S.E. 398 (1907) (the court stated that the term "fine" also can mean a forfeiture, or a penalty recoverable by civil action). *See generally* David M. Lawrence, "Fines, Penalties, and Forfeitures: An Historical and Comparative Analysis," *North Carolina Law Review* 65 (Nov. 1986): 49–83.

30. "In ordinary legal phraseology, . . . the term 'fine' means a sum of money exacted of a person guilty of a misdemeanor, or a crime, the amount of which may be fixed by law or left in the discretion of the Court, while a penalty is a sum of money exacted by way of punishment for doing some act which is prohibited, or omitting to do something which is required to be done. . . . While the words 'fine' and 'penalty' are often used interchangeably to designate the same thing, we think it will accord more with the true intention of the Legislature if we hold that . . . the word 'fine' was used in the sense of punishment for a criminal offense. In the first place, the amount is not fixed or certain, which is the general characteristic of a fine, but not of a penalty, the amount of the latter being certain. . . ." *Addington*, 143 N.C. 683, 686, 57 S.E. 398, 399; *compare* State v. Briggs, 203 N.C. 158, 165 S.E. 339 (1932) (a statute providing "that no other person than said weighers shall weigh cotton or peanuts sold in said town or township under penalty of $10.00," the penalty to be paid by the buyer, did not create a criminal offense; and a penalty alone can be imposed and enforced in a civil action); State v. Snuggs, 85 N.C. 541, 543 (1881) (when the statute "not only creates the offence but fixes the penalty that attaches to it, and prescribes the method of enforcing it, . . . [then] no other remedy exists than the one expressly given, and no other method of enforcement can be pursued than the one prescribed").

31. *See* G.S. 14-1 (providing that any crime not listed therein is a misdemeanor); G.S. 14-3(a)(3) (providing that an unclassified misdemeanor punishable by a fine only is a Class 3 misdemeanor).

32. *See also* G.S. 15A-1361 (blurring distinctions between fines and penalties). If G.S. 9-13 was interpreted as creating a civil penalty or forfeiture, the nonappearing juror still would be entitled to notice and an opportunity to be heard before entry of any judgment.

33. King, "Juror Delinquency," 2703.

34. Jury expert G. Thomas Munsterman reports that in Washington, D.C., judges would randomly select the unlucky "juror of the month" to prosecute for failure to appear, and that in another city the practice was that "every six months or so we haul 10 people [no-shows] in here and try to get a lot of publicity." As reported in King, "Juror Delinquency," 2673, note 106.

35. This seems to be a clear contradiction of public policy as stated in G.S. 9-6, but buying one's way out of jury duty did appear to be allowed under the statutes that preceded G.S. 9-13. In 1905 the applicable statute stated,

> Every person on the original venire [list] summoned to appear as a juror, who shall fail to give his attendance until duly discharged, shall forfeit and pay for the use of the county the sum of twenty dollars, to be imposed by the court: Provided, that each delinquent juryman shall have until the next succeeding term to make his excuse for his non-attendance, and, if he shall render an excuse deemed sufficient by the court, he shall be discharged without costs.

Under this statute there was no opportunity to seek court approval of an excuse before the date of actual service. The court could approve an excuse only after the fact. This approval in effect voided the automatic penalty entered when the citizen failed to appear.

36. Letter to E. Burt Aycock, Jr., chief district court judge, Pitt County, from Miriam S. Saxon, court management specialist, Administrative Office of the Courts, May 8, 1992. At least technically, the third approach seems to violate G.S. 9-6(c), which allows the judge to defer service of an *excused* juror; a juror who fails to appear has not been excused and presumably is subject to being drawn again pursuant to G.S. 9-5.

37. King, "Juror Delinquency," 2675.

38. Others may reach different conclusions. For example, the first recommendation of the recent study reported in *Improving Citizen Response to Jury Summonses* is that "*courts should enforce summonses*. The strongest finding in both of our surveys was that sending follow-up mailings to no-show jurors and, when necessary, requiring such citizens to attend show-cause hearings and penalizing them for their nonresponse, substantially increases summons response rates." Boatright, *Improving Citizen Response*, xii.

No Social Security Number? No License

WILLIAM A. CAMPBELL

This is the story of less-than-careful legislative drafting by the United States Congress and the North Carolina General Assembly, and the unintended consequences for many driver's license and marriage license applicants. In 1996, Congress enacted the Personal Responsibility and Work Opportunity Act,[1] commonly referred to as the Welfare Reform Act. The act overhauled the state and federal system of welfare payments, including payments for the benefit of dependent children of low-income parents. Part of the act attempts to improve states' ability to locate parents who are legally obligated to pay child support. One of the provisions requires that, as a condition of continued receipt of federal funds for Temporary Assistance for Needy Families and child-support enforcement services, states adopt "[p]rocedures requiring that the social security number of . . . any applicant for a professional license, driver's license, occupational license, recreational license, or marriage license be recorded on the application."[2] This article discusses the Social Security number requirement as it applies to driver's and marriage licenses, the two areas in which most of the problems have arisen.

The act's legislative history explaining this new requirement reads as follows:

> The Social Security number is the key piece of information around which the child support information system is constructed. Not only are

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new hire and support order matches at the State and Federal level based on Social Security numbers, but so too are most data searches aimed at locating nonpaying parents. Thus, giving child support offices access to new sources for obtaining Social Security numbers is important to successful functioning of several other components of the committee proposal. To promote privacy in keeping Social Security numbers confidential, the provision does not require States to place the numbers directly on the face of the licenses, decrees, or orders. Rather, the number must simply be kept in applications and records that, in most cases, are stored in computer files.[3]

The act makes no allowance for a license applicant who does not have a Social Security number. The legislative history also is silent on this point.

Effective October 1, 1997, the 1997 North Carolina General Assembly made the necessary changes in the state statutes concerning applications for driver's and marriage licenses.[4] In Section 20-7(b1) of the North Carolina General Statutes (hereinafter G.S.), North Carolina already required the application form for a driver's license to request the applicant's Social Security number.[5] The 1997 amendment to G.S. 20-7(b1) added the following language: "The Division shall not issue a license to an applicant who fails to provide the applicant's social security number." G.S. 51-8 was amended to require applicants for a marriage license to furnish their Social Security numbers. In neither G.S. 20-7 nor G.S. 51-8 was provision made for license applicants who do not have Social Security numbers. Indeed, one can argue that the amendment to G.S. 20-7(b1) expresses the legislature's clear intention that if an applicant cannot furnish a Social Security number, no driver's license should be issued.

The unintended consequences of the two legislatures not providing for applicants who have no Social Security number were that, at least temporarily, hundreds of applicants for driver's and marriage licenses could not obtain them. Who were they? Most were foreign nationals residing in or visiting North Carolina. There is no requirement that a person be a United States citizen to obtain a driver's or marriage license. Before enactment of the Social Security number requirement, many foreign nationals routinely obtained both types of licenses. The Social Security number requirement changed this situation dramatically because only two categories of foreign nationals are eligible for Social Security numbers: those who are admitted to the United States to establish permanent residence and those who are admitted for purposes of employment.[6] Those who are in this country for other purposes[7] or who are here illegally are not eligible. Problems quickly arose with these groups.

The North Carolina Division of Motor Vehicles (DMV) at first attempted to enforce the new requirement as written but backed away from that position after complaints from the Hispanic community.[8] DMV then made an administrative decision that G.S. 20-7(b1), as amended in 1997, was not intended to require the impossible and that if an applicant did not have a Social Security number, he or she could certify to that fact and be issued a license.[9]

"The register of deeds shall not issue a marriage license unless all of the requirements of this section have been met."

—*G.S. 51-8*

The situation with regard to marriage licenses was more complicated. Marriage licenses are issued by the registers of deeds in each of the state's 100 counties,[10] and a register can be held personally liable for issuing a license to an applicant who does not meet the statutory requirements for the license.[11] Many registers were—and are—reluctant to issue a license to an applicant without a Social Security number, especially in light of the last sentence of G.S. 51-8: "The register of deeds shall not issue a marriage license unless all of the requirements of this section have been met."[12] In summer 1998 an especially troublesome case in Guilford County caused the register to seek an opinion from the attorney general. One of the applicants was a foreign national who was in this country solely to get married and had no Social Security number. In an advisory opinion to Katherine Lee Payne, Guilford County register of deeds, dated August 14, 1998, Andrew A. Vanore, Jr., general counsel to the North Carolina Department of Justice, concluded that neither the federal statute requiring states to obtain Social Security numbers nor G.S. 51-8 was intended to prevent a foreign national who

is ineligible for a Social Security number from obtaining a marriage license. The general counsel stated that if a foreign national is ineligible for a Social Security number, signs an affidavit to that effect, and provides proof of foreign citizenship, he or she should be issued a marriage license, assuming all the other license requirements are met. Most registers of deeds have conformed their practices to this opinion, although they are not required to do so.

So, by means of an administrative decision in the one instance and an attorney general's opinion in the other, North Carolina has avoided the unfortunate effects on certain foreign nationals, including illegal immigrants, that could have resulted from a poorly thought through federal statute implemented by an unquestioning state legislative response.

But DMV's decision and the attorney general's advisory opinion may be wrong. An equally plausible interpretation of the federal and state statutes is that they mean exactly what they say: unless a license applicant enters on the application form a Social Security number—or a standardized identification number issued by a federal or state agency—no license may be issued. The General Assembly could revisit this issue and include specific provisions in G.S. 20-7 and G.S. 51-8 to deal with applicants who have no Social Security numbers and cannot obtain them. As one possibility, North Carolina might follow Virginia's example and provide that DMV shall issue a control number for license applicants without a Social Security number and that this number shall be used on all license applications in lieu of a Social Security number.[13] Another possibility is simply to require an affidavit from an applicant with no Social Security number that he or she is ineligible to obtain one. Either alternative would place DMV's decision on a firmer legal footing and bring uniformity to the issuance of marriage licenses.

NOTES

1. Personal Responsibility and Work Opportunity Act, Pub. L. No. 104-193, Aug. 22, 1996.

2. 42 U.S.C. § 666(a)(13)(A).

3. H.R. Rep. No. 651, 104th Cong., 2d Sess. 5 (1996), *reprinted in* 1996 U.S.C.C.A.N. 2470.

4. S.L. 1997-433. Because some legislators questioned the authority of Congress to impose these requirements on states, the General Assembly set an expiration date for this act of June 30, 1998. After receiving assurances from the attorney general that Congress very likely did possess such authority and because allowing the act to expire would have caused North Carolina to be out of compliance with the federal statute, in S.L. 1998-17 the 1998 General Assembly removed the expiration date. S.L. 1998-17 was effective June 25, 1998.

5. *See* 1994 N.C. Sess. Laws ch. 450. This requirement became effective January 1, 1995.

6. 42 U.S.C. § 405(c)(2)(B)(i)(I).

7. Foreign nationals may be legally admitted to the United States under numerous other circumstances, including as a student, as a member of an athletic team, as a member of a group of entertainers, or expressly for the purpose of marrying a U.S. citizen. *See* 8 U.S.C. §§ 1101(a)(15)(F) and 1184(c)(4) and (d).

8. *See* Ruth Sheehan, "DMV Out to 'Get It Right' for Hispanic Customers," *Raleigh News & Observer*, Dec. 19, 1997, p. 1.

9. Telephone interview with Harold F. Askins, special deputy attorney general, Nov. 23, 1998.

10. G.S. 51-8.

11. G.S. 51-17.

12. This sentence was added to the statute by S.L. 1997-433, the same act that imposed the requirement that applicants furnish their Social Security numbers.

13. *See* Va. Code Ann. §§ 46.2-342 and 32.1-267.

IAAO Honors Hunt as Most Valuable Member, 1998

Kristin Prelipp

Joseph E. Hunt, Most Valuable Member, 1998, International Association of Assessing Officers.

Joseph E. Hunt, an Institute of Government faculty member, was honored last fall with the 1998 Most Valuable Member award of the International Association of Assessing Officers (IAAO). Hunt, who specializes in real estate appraisal and property tax administration, accepted the award at the IAAO's annual conference in Orlando, Florida.

The IAAO is a nonprofit educational association that provides leadership for public officials worldwide in accurate property valuation, efficient property tax administration, and equitable tax policy through courses, international conferences, research, publications, and technical assistance.

According to Gene Jackson, executive director of the 8,000-member organization, the award recognizes Hunt's thirty years of service "as past president, on committees, teaching in our educational programs, and with our recent reorganization."

Hunt's interest in real estate appraisal and tax assessment is deeply rooted. The maverick among five siblings, he opted for practical experience over advanced academics by joining his father's Nashville, Tennessee, real estate business. Attracted as much by the philosophy involved in appraisal as the technical challenge, he became an active member of the IAAO. Gaining valuable experience in the early 1970s as assessment director for Alexandria, Virginia, and later as a private appraiser back in Tennessee, Hunt soon was on his way to achieving certifications as a Member of the Appraisal Institute (MAI) and a Certified Assessment Evaluator (CAE)—the top designations awarded by the profession.

During his years as a private appraiser, Hunt often consulted with property tax officials, and he taught courses in twenty to twenty-five states for the IAAO. In the mid-1970s, he taught for several weeks at the Institute.

He came to his current position at the Institute in 1983 when the state passed a statute requiring all property tax assessors and property appraisers to be certified by the property tax division of the Department of Revenue. The Institute was to provide the necessary education. "Certification introduced professionalism into property tax administration," says Hunt. "For the first time in North Carolina, public officials were required to have specific qualifications to hold property tax positions. At that time, about half of all states had similar requirements in place."

The Institute now offers assessors four to six 30-hour classes annually, in addition to a number of seminars. The courses, which carry continuing education credit for both public and private practitioners, range from basic mathematical skills to complex appraisal techniques.

"We also had the first computer lab in the state for hands-on training with statistical software," notes Hunt. "As mass appraisal moves

more toward use of geographic information systems with very sophisticated layering of information, skill with technology is an increasingly important part of the job."

According to Hunt, one of the most satisfying aspects of his work is helping property tax officials gain higher IAAO designations. "In my first year at the Institute," he relates, "I set up a candidates' club, an informal group of assessors who get together twice each year to work on specialty and CAE designations. Public officials tend not to have many opportunities for recognition, so the first year we had about 100 people. Participation dropped off somewhat after everyone saw how much work it took, but the club has stimulated more involvement, which helps raise standards overall.

"It's nice to see the progress made by local officials over time," Hunt continues. "For example, Debbe King, the first woman from North Carolina to achieve CAE status, came through our candidates' club. She's now running for the presidency of the IAAO.

"We have more CAEs and RESs [Residential Evaluation Specialists] in the state now than at any other time in our history," Hunt notes. "In 1996 the Institute of Government and the state of North Carolina won the IAAO's challenge cup for having the most professional designations in a year for one state."

Of his own rise through the IAAO and his recent award, Hunt is proud but modest. "If you stay somewhere long enough, you are bound to get recognized for something," he says. There is a seven-year path from board membership to the presidency, he explains. He was IAAO president in 1990–91. During that time, he notes, the organization took the necessary but not very popular step of revising the organizational structure of the IAAO, which had been in place since the IAAO's founding in the 1930s. "Layers of contradictory regulations had built up over the years," Hunt says. "We streamlined the regulations and generally brought the organization up to date."

Hunt's passion for his profession is apparent in even brief conversation. An action that turned a personal tragedy into a heartfelt gesture exemplifies it well. In 1989 he established the Jeff Hunt Candidates' Assistance Trust Fund within the IAAO as a memorial to his son, who had been actively preparing for a higher IAAO designation at the time of his death. Today the fund provides grants to government assessors and appraisers nationwide to help defray the expense of working for higher professional designations.

—Ann Simpson and Jennifer Litzen

You may contact Hunt at (919) 966-4372 or jhunt@iogmail.iog.unc.edu.

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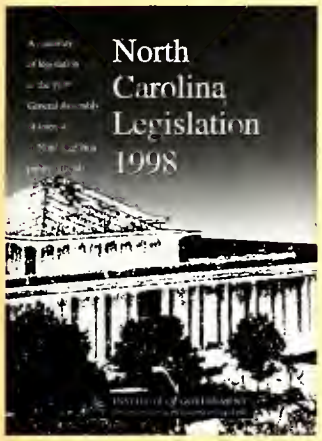

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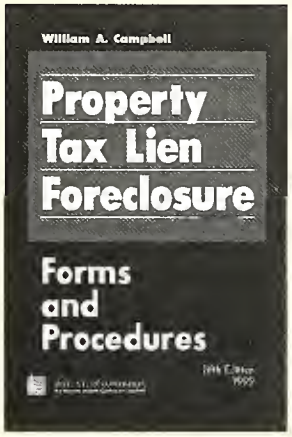

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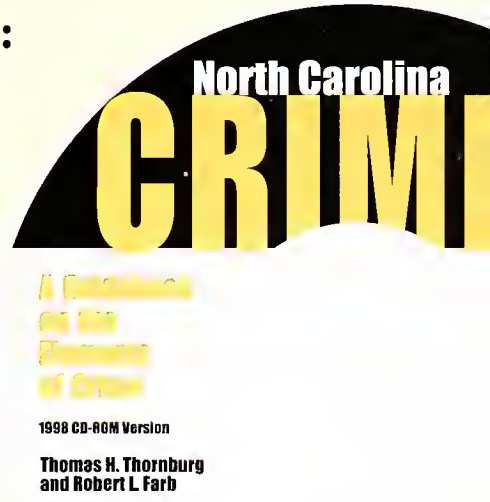

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to preserve the form and spirit of
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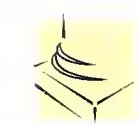

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