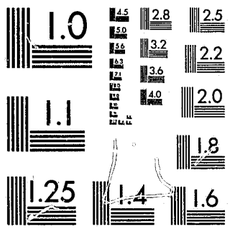

An Agenda in Pursuit of Justice

1981 Legislative Program of the Governor's Crime Commission

James B. Hunt, Jr.
Governor

AN AGENDA

IN PURSUIT OF JUSTICE

THE 1981 LEGISLATIVE PROGRAM
OF THE GOVERNOR'S CRIME COMMISSION

James B. Hunt, Jr., Governor
Raleigh, North Carolina
September, 1980

North Carolina Department of
Crime Control & Public Safety
P.O. Box 27687 430 N. Salisbury Street Raleigh 27611

James B. Hunt, Jr., Governor
Burley B. Mitchell, Jr., Secretary

Governor's Crime Commission
(919) 733-4000

September 2, 1980

The Honorable James B. Hunt, Jr.
Governor of the State of North Carolina
The Capitol
Raleigh, North Carolina

Dear Governor Hunt:

I am pleased to submit to you An Agenda in Pursuit of Justice: The 1981 Legislative Program of the Governor's Crime Commission. This document reflects the Commission's views on the action needed to make our laws as effective as possible to reduce crime and improve justice in North Carolina.

In response to your charge, the Commission has considered carefully the needed changes in the criminal justice system and in our criminal laws. For over ten months, the Commission and its planning committees have worked diligently to carry out your mandate.

We did not seek to modify existing laws simply for the sake of change. Our intention was to support existing policies and programs that appear to be working well and to seek changes in areas in which new approacnes are needed.

In developing a document of this nature, many people must play a part. The chairmen of the planning committees were outstanding in their leadership of this effort. The ideas of those who presented their suggestions to the Commission and the planning committees greatly broadened the scope of the legislative package. The staff worked hard to provide information to the committees and translate the committees' decisions into the written form of this document. In the drafting of the bills, we had the able assistance of John Sanders, Mike Crowell, Jim Drennan, and Ed Hinsdale of the Institute of Government; Bob Melott, Assistant Secretary for Crime Control of the Department of Crime Control and Public Safety; and Susan Sabre of the General Assembly's Legislative Drafting Division. All of these people were committed to this task, and the Crime Commission thanks them wholeheartedly for their invaluable contributions.

This report was printed by the Governor's Crime Commission with the use of funds awarded to the Commission by the Law Enforcement Assistance Administration of the U. S. Department of Justice (Grant No. 80-FG-AX-0037).

The Commission members recognize that neither law enforcement, the courts, corrections, nor juvenile justice can succeed alone and that, by working together, the entire system is more effective. The Commission will continue to plan and coordinate efforts both within and outside the criminal justice system to reduce crime and improve justice.

We appreciate the opportunity you gave us to develop this legislative program for you. Knowing your commitment and that of the General Assembly to dealing with crime has given us encouragement and determination. It has been our pleasure to serve the people of our state in an effort to continue the active and enlightened pursuit of a fair and just criminal justice system for North Carolina.

With every best wish, I am, on behalf of the members of the Crime Commission

Yours truly,

James R. Van Camp
Chairman
GOVERNOR'S CRIME COMMISSION

FOREWORD

I am pleased to join in presenting An Agenda in Pursuit of Justice: The 1981 Legislative Program of the Governor's Crime Commission. I commend it to every reader as an effective program which can have an impact on crime and improve the quality of justice in North Carolina. For these reasons, it is an important document that deserves the attention of every citizen of our state.

This extensive legislative program is a major accomplishment of the Crime Commission. The Commission and its committees have worked long and hard over ten months to develop it. There have been much debate on and serious study of all of the proposals for legislative action.

The commitment by Governor Hunt and the General Assembly to dealing with the problem of crime resulted in the creation of the Governor's Crime Commission and the Department of Crime Control and Public Safety early in 1977. The legislative program is one of many accomplishments of the Crime Commission since that time. First as chairman of the Crime Commission and now as Secretary of Crime Control and Public Safety and a member of the Commission, I have had the opportunity to be a part of these efforts. The accomplishments of the Commission in planning and funding include these, among others:

- assumption of responsibility to encourage greater coordination and planning within the criminal justice system
- expansion of citizen involvement in criminal justice through Community Watch and volunteer programs in courts and corrections
- initiation of a statewide computerized criminal justice information system, linking all components of the system
- creation of the Committee on Future Directions to develop a broad, non-traditional approach to reducing crime and improving justice
- establishment of crime prevention programs in approximately 125 local law enforcement agencies and the Department of Crime Control and Public Safety
- expansion of basic training for law enforcement officers from 160 hours to 240 hours
- development of a statewide public education program for crime prevention

. development of plans for citizen access statewide to 911 emergency telephone service

. establishment of prosecution programs for career criminals

. implementation of standards review committees for the judiciary and for attorneys

. establishment of trial court administration programs in three judicial districts

. initiation of pilot witness assistance programs in nine judicial districts

. enhancement of restitution programs for persons on probation and on work release while in prison

. implementation of a prison overcrowding reduction program

. development of training courses for jailers and correctional officers

. revision of the laws related to juveniles through the Juvenile Code Revision Committee

. development of community based alternatives for young people in trouble

. establishment of alternative classroom programs in the public schools

. development of a pilot juvenile community service restitution program.

The enactment of the proposals in this legislative package is another significant method by which our state can deal with the problem of crime. By providing the legal tools which are needed to work against crime and for justice, we take an important step in enhancing the quality of life for us all.

Burley B. Mitchell, Jr., Secretary
Department of Crime Control
and Public Safety

TABLE OF CONTENTS

RECOMMENDATIONS

ISSUES FOR FUTURE STUDY

GOVERNOR'S CRIME COMMISSION

James B. Hunt, Jr., Governor

James R. Van Camp, Chairman
Attorney-at-Law
Southern Pines

Peter S. Gilchrist III, Vice Chairman
District Attorney
26th Judicial District
Charlotte

J. B. Allen, Jr.
Chief District Court Judge, 15A
Judicial District
Burlington

John Baker, Jr.
Sheriff, Wake County
Raleigh

Darryl L. Bruestle
Chief of Police
Wilmington

J. Phil Carlton
Associate Justice of the Supreme
Court
Pinetops

James McClure Clarke
Member, House of Representatives
Fairview

Charles Cohoon
Director, Division of Adult Probation
and Parole, Department of
Correction
Raleigh

Robert A. Collier, Jr.
Senior Resident Superior Court Judge,
22nd Judicial District
Statesville

Thomas A. Danek, Ph.D.
Administrator, Juvenile
Services, Administrative
Office of the Courts
Raleigh

C. Tom Doughton
Alleghany County Commissioner
Sparta

Rufus Edmisten
Attorney General
Raleigh

Ralph Edwards
Director, Division of Prisons,
Department of Correction
Raleigh

Beth Finch
Mayor
Fayetteville

Trevor A. Hampton
Captain, Greensboro Police
Department
Greensboro

Robert D. Howard
Citizen Representative
Whiteville

Howard Hunter, Jr.
Hertford County Commissioner
Murfreesboro

T. Dale Johnson
Sheriff, Catawba County
Newton

Manly Lancaster
Sheriff, Forsyth County
Winston-Salem

W. A. Miles
Mayor
Warrenton

Burley B. Mitchell, Jr.
Secretary, Department of Crime Control and Public Safety
Raleigh

Bert M. Montague
Director, Administrative Office of the Courts
Raleigh

Sarah Morrow, M. D.
Secretary, Department of Human Resources
Raleigh

Sam R. Noble
Member, Senate
Lumberton

W. C. Owens
Chief of Police
Elizabeth City

J. Milton Read, Jr.
Chief District Court Judge, 14th Judicial District
Durham

Amos Reed
Secretary Department of Correction
Raleigh

Barbara Wells Sarudy
Director, Youth Care, Inc.
Greensboro

Betty S. Speir
Guidance Counselor, Pitt County Schools
Bethel

Haywood Starling
Director, State Bureau of Investigation, Department of Justice
Raleigh

W. Bruce Teachey, Jr.
Mayor
Jacksonville

Ralph L. Thomas
Sheriff, Carteret County
Beaufort

Richard Whitted
Orange County Commissioner
Hillsborough

William Windley
Director, Division of Youth Services, Department of Human Resources
Raleigh

PLANNING COMMITTEES

LAW ENFORCEMENT PLANNING COMMITTEE

W. C. Owens, Chairman
Chief of Police
Elizabeth City

Darryl L. Bruestle, Vice Chairman
Chief of Police
Wilmington

John Baker, Jr.
Sheriff, Wake County
Raleigh

Charles H. Bray
North Carolina Law Enforcement Officers' Association
Greensboro

E. H. Daniels
Sheriff, Bertie County
Windsor

Paul J. Dumas
North Carolina Association of Campus Law Enforcement Administrators
Durham

J. A. Faircloth, Jr.
Director of Police Services
High Point

Beth Finch
Mayor
Fayetteville

Ira Fuller
Chief of Police
Wendell

Herbert F. Gay
Chief of North Carolina Capitol Police
Raleigh

C. M. Gilstrap
Chief of Police
Goldsboro

Trevor A. Hampton
Captain, Greensboro Police Department
Greensboro

B. J. Hamrick
North Carolina Police Executives' Association
Morganton

T. Dale Johnson
Sheriff, Catawba County
Newton

Don King
North Carolina Crime Prevention Officers' Association
Gastonia

Manly Lancaster
Sheriff, Forsyth County
Winston-Salem

W. A. Miles
Mayor
Warrenton

E. Y. Ponder
Sheriff, Madison County
Marshall

Perry Powell
Director, North Carolina Justice Academy
Salemburg

Robert Reives
North State Law Enforcement
Officers' Association
Charlotte

Haywood Starling
Director, State Bureau of
Investigation
Raleigh

Ralph L. Thomas
Sheriff, Carteret County
Beaufort

Thomas S. Watts
North Carolina District
Attorneys' Association
Elizabeth City

Bobby Williams
North Carolina Law Enforcement
Training Officers' Association
Goldsboro

Gary Willis
North Carolina Criminal Justice
Educators' Association
Boone

Staff: Donald E. Jones

AD HOC COURTS COMMITTEE

Peter S. Gilchrist III, Chairman
District Attorney, 26th Judicial
District
Charlotte

J. B. Allen, Jr.
Chief District Court Judge, 15A
Judicial District
Burlington

Robert A. Collier, Jr.
Senior Resident Superior Court
Judge, 22nd Judicial District
Statesville

Bert M. Montague
Director, Administrative Office
of the Courts
Raleigh

James R. Van Camp
Attorney-at-Law
Southern Pines

Staff: Sarah F. Patterson

CORRECTIONS PLANNING COMMITTEE

Amos Reed, Chairman
Secretary of Correction
Raleigh

Robert Spearman, Vice Chairman
Attorney-at-Law
Raleigh

Ken Black
North Carolina Probation and Parole Association
Fayetteville

Peggy Bowman
Phoenix Organization
Winston-Salem

John Brooks
Commissioner of Labor
Raleigh

Charles Cohoon
Director, Division of Adult Probation and Parole, Department of Correction
Raleigh

Junius Davis, Ph.D.
Director, Division of Prisons, Department of Correction
Raleigh

Pauline Frazier
Director, Offender Aid and Restoration
Raleigh

George Greene
District Court Judge, 10th Judicial District
Raleigh

H. G. Moeller
Professor of Corrections, East Carolina University
Greenville

Thomas H. Morrissey
Sheriff, Buncombe County
Asheville

Bob Philbeck
Deputy Director Division of Vocational Rehabilitation, Department of Human Resources
Raleigh

Christie Speir Price
North Carolina Board of Correction
Raleigh

J. C. Rudisill
Executive Director, Criminal Justice Education and Training Standards Commission
Raleigh

Teresa Williams
North Carolina Chapter of the American Correctional Association
Greensboro

Staff: Alex Almasy

JUVENILE JUSTICE PLANNING COMMITTEE

Barbara Wells Sarudy, Chairperson
Director, Youth Care, Inc.
Greensboro

J. B. Allen, Jr., Vice Chairman
Chief District Court Judge, 15A Judicial District
Burlington

Thomas A. Danek, Ph.D.
Administrator, Juvenile Services, Administrative Office of the Courts
Raleigh

Jerry Davis
President, North Carolina Association of Community Alternatives for Youth
Morganton

Jack Gulledge
Citizen Representative
Raleigh

Tommy Gumm
President, North Carolina Juvenile Officers' Association
Burlington

Howard Hunter, Jr.
Hertford County Commissioner
Murfreesboro

Michael F. Watson
Assistant Director, Division of Youth Services, Department of Human Resources
Raleigh

Donna Lambeth
Citizen Representative
Winston-Salem

Robert D. Howard
Citizen Representative
Whiteville

R. Glen Peterson
Youth Representative
Leland

Carolyn Winberry Phillips
Supervisor-Children's Services, Davidson County Department of Social Services
Lexington

Drew Pledger
Director, Youth Opportunity Homes
Winston-Salem

S. B. Simpson
Captain, Greensboro Police Department
Greensboro

Betty S. Speir
Guidance Counselor, Pitt County Schools
Bethel

Hanna Taft
Youth Representative
Greenville

Neal Watkins
President, North Carolina Juvenile Services Association
Hoffman

Richard Whitted
Orange County Commissioner
Hillsborough

William Windley
Director, Division of Youth Services, Department of Human Resources
Raleigh

Staff: Robert U. Hinkle, Jr.

CRIMINAL JUSTICE INFORMATION SYSTEMS PLANNING COMMITTEE

Peter S. Gilchrist III, Chairman
District Attorney, 26th Judicial District
Charlotte

Darryl L. Bruestle
Chief of Police
Wilmington

James McClure Clarke
Member, House of Representatives
Fairview

William C. Corley
Director, Police Information Network
Raleigh

Rufus Edmisten
Attorney General
Raleigh

Pete Ellington
Citizen Representative
Charlotte

Leonard Jernigan, Jr.
Attorney-at-Law
Raleigh

William L. Laughlin
Citizen Representative
Greensboro

Lena Leary
Clerk of Superior Court, Chowan County
Edenton

Bert M. Montague
Director, Administrative Office of the Courts
Raleigh

Sam R. Noble
Member, Senate
Lumberton

J. Milton Read, Jr.
Chief District Court Judge, 14th Judicial District
Durham

Amos Reed
Secretary of Correction
Raleigh

Michael F. Watson
Assistant Director, Division of Youth Services, Department of Human Resources
Raleigh

Staff: Virginia Neb

OFFICE OF THE GOVERNOR'S CRIME COMMISSION

Administration

Gordon Smith III
Executive Director
Bruce E. Marshburn
Deputy Director

Criminal Justice System Planning and Evaluation

Anne Bryan
Director

Alex Almasy
Corrections Specialist
Margaret S. Dunn
Planning and Research Assistant
Robert U. Hinkle, Jr.
Juvenile Justice Specialist
David E. Jones
Planning and Evaluation Associate
Donald E. Jones
Law Enforcement Specialist
Virginia Neb
Criminal Justice Information Systems Specialist
Sarah F. Patterson
Courts Specialist
Gregg C Stahl
Planning and Evaluation Specialist

Criminal Justice Program Assistance

James R. Scarcella
Director

Ralph Barefoot
Regional Representative for Law Enforcement
Oland Little
Regional Representative for Law Enforcement
Deborah McCrae
Regional Representative for Juvenile Justice
Charles McNeil
Regional Representative for Juvenile Justice
Janet Pittard
State Representative
Antony Queen
Regional Representative for Law Enforcement

Fiscal Management and Audit

Jack Reavis, Fiscal Officer
John F. Vincent, Chief Auditor

Latona Crabtree
Accountant
Jarvis L. Jones
Auditor
Donald St. Onge
Audit Supervisor

INTRODUCTION

Crime continues to be a major concern of the people of North Carolina. They recognize that crime affects, in one way or another, every citizen of this state.

The data about crime and the operation of the criminal justice system indicate some of the reasons for this concern. Crime increased in the state by only 2.9% from 1976 to 1978; however, with economic problems growing, reported crime increased by 12.4% during 1979. The greatest increase, 12.9%, was in the property crimes of burglary, larceny, and motor vehicle theft, while the number of violent crimes, including murder, rape, robbery, and aggravated assault, grew by 8.1%. The incidence of crime is not restricted to the urban centers alone. Since 1975, crime in the rural areas has increased 30% faster than in the state as a whole. The level of crime and its rate of increase place additional pressures on the already strained resources of the criminal justice system. For example, admissions to prison increased by 8.8% during 1979. Further complicating the conditions within the state's prisons is the fact that the admissions for felonies are increasing (by 11.3% since 1975), bringing more serious offenders with generally longer sentences into the system. With ever growing demands for its services, the North Carolina criminal justice system now has an annual budget of approximately $400 million and has approximately 23,000 employees. The projections indicate that many of the factors which tend to increase crime and increase the pressures on the criminal justice system will continue to affect North Carolina during the 1980's.

Much innovative and aggressive action has been taken against crime during the four years of Governor Hunt's administration, yet more work remains to be done. Even though the crime rate of North Carolina, the eleventh most populous state, ranks fortieth in the nation, that rate remains unacceptably high. The expectations which we have set challenge us to make even more progress in the effort to reduce crime and improve the quality of justice in our state.

There are a number of ways in which North Carolina can continue to combat crime and seek justice. Providing a legal framework which is as effective as possible is one important approach: That is the purpose of this document.

The Governor's Crime Commission began the development of this legislative program in November, 1979, at the request of Governor James B. Hunt, Jr. The Commission has met at least monthly since that time to complete this responsibility. Working initially through the planning committees, the members considered a wide range of

proposals. They received recommendations from professionals within the justice system, criminal justice associations, and other concerned citizens, and they reviewed a number of documents and studies. Among the important documents studied was A Crime Control Agenda for North Carolina, which was prepared by Justice J. Phil Carlton and the Governor's Crime Commission in 1978 and set a precedent for this legislative program. The process of development required careful, continual assessment and refinement of these ideas over several months. Each committee then determined its legislative concerns and made recommendations to the Crime Commission. It was the task of the Commission to review all the issues, considering their impact on the system and their potential to reduce crime and contribute to justice, and make the final determination of the contents of the legislative program.

What is presented here is the result of that process. The legislative document is not meant to be a comprehensive plan. Its specific purpose is to set forth the views of the Governor's Crime Commission with regard to legislation needed in 1981 to reduce crime and enhance justice in the future.

An Agenda in Pursuit of Justice is organized by several major categories containing a number of related issues. Some of the categories highlight special areas of concerns while others propose improvements in the various components of the criminal justice system. Following each explanation of an issue is the legislation proposed to deal with it. The document concludes with several items not directly related to legislation. The Commission takes this opportunity to present several "Recommendations" which it believes are significant but do not require legislation. The "Issues for Further Study" indicate some of the areas of concern to which the Commission will give its attention in the near future.

The Commission's work will continue over the next few months on several of the proposals in this document. In order to have the Agenda available for discussion and suggestions prior to the convening of the General Assembly, the Commission sent it to print, recognizing that it would further refine several points. Some of the bills presented here will require changes in wording. The members are aware that issues remain with several of them, including the need for conforming amendments. Also, with regard to the costs of the proposals in the document, the Commission will continue its discussions to determine priorities among all of these important issues. The reader will note that exact budgetary figures are not included in some of the proposals for appropriations. Within the month, the Crime Commission will undertake

a broad study of requests for state funding and will make specific budgetary recommendations later in the year.

The General Assembly created the Governor's Crime Commission to bring together diverse interests and serve as a forum for dealing with the problem of crime in our state. The Commission has, indeed, sought to become this forum. Out of this effort has grown the belief that legislative action is needed to combat crime and this document, which addresses that need. In An Agenda in Pursuit of Justice, the richness of distinct points of view is reflected, as well as the common interest of all the members of the Governor's Crime Commission in reducing crime and seeking justice in North Carolina.

HELPING VICTIMS AND WITNESSES

HELPING VICTIMS AND WITNESSES

Many criminal justice officials believe that, all too often, the criminal justice system has "stepped over the body of the victim" during the mechanical, methodical process of pursuing, prosecuting, and punishing offenders. While public funds are used to provide attorneys for indigent defendants, multiple "rehabilitative" programs for inmates and probationers, and many other services for those convicted of crimes, efforts to adequately provide emotional or financial support to victims and witnesses have been minimal at best. Even though the criminal justice system is charged with ensuring justice, it often abandons the victim, expecting much but giving little in return. Change is on the way, however, in part because victims and witnesses are demanding better treatment from the criminal justice system, and the system is beginning to recognize the significance of the role of the victim and his cooperation to a successful prosecution. As a body tasked with planning to meet future criminal justice needs, the Governor's Crime Commission has become increasingly aware of its obligation to design programs which will make participation in the system more palatable for victims and witnesses. After all, one who has been antagonized by the system's impersonal operating methods is not likely to feel obligated to assist the prosecution.

In this section five bills are presented, which are aimed at filling some of the gaps present in traditional service areas of the criminal justice system. In another section, a bill entitled "AN ACT TO ESTABLISH A COMMUNITY CRIME CONTROL PROGRAM" provides limited compensation for victims of specific crimes. Victims alone must bear the physical, emotional and psychological scars of crime. Lasting emotional scars cannot be erased; however, innocent victims who were unfortunate enough to be in the wrong place at the wrong time should not be forced to bear, solely, the resulting economic losses. That bill reflects recognition of limited resources as well as an acknowledgment of society's responsibility to alleviate the economic burden of victimization.

Although this offering obviously does not include everything that can be done, the Commission feels that it is a good start in the right direction. Too much change at once is simply not possible, if for no other reason, because of budgetary constraints; the Commission is, however, dedicated to a continuing effort to ensure that the criminal justice system does not lose sight of victims and witnesses. In that spirit, the Governor's Crime Commission hopes to promote the achievement of a greater degree of justice for each citizen of this state.

HIGH PRIORITY FOR RESTITUTION

ISSUE: Although the payment of restitution by inmates and probationers has increased dramatically during recent years, victims still must wait an extensive period of time to receive money due them. The problem lies not so much in an offender's ability or willingness to pay, although both may be factors, as in the criminal justice system's method of disbursing payments.

EXPLANATION OF ISSUE: Under present statuatory provisions, the clerk of court collects monies paid for court costs, restitution, fines, and other fees. Each payment is credited to the "account" of the offender. Although not all clerks use the same method, generally the funds are allowed to accrue until a lump sum payment can be made for given items (i.e. court costs, fine, etc.)

There are several problems associated with this bookkeeping procedure. Although G.S. 7A-304(d) specifies the priority by which funds should be disbursed in the event of default by the offender, it is generally understood that the same order is used even when full payment is made. The problem is that restitution is last on the list; and in the majority of cases, victims must wait several months to receive their money. If the offender defaults in payment, the victim may receive nothing at all.

The Governor's Crime Commission has considered several alternatives to improve this situation. Two bills are presented in this section which are complementary and provide a proper emphasis for insuring that victims are not neglected.

First, as a matter of policy, restitution should receive a higher priority than presently exists. This can be achieved through statutorily providing a specified order of disbursement of monies collected in all cases, not just upon occasion of default in payments by the offender. In such a specified priority list, restitution must certainly not rank last.

The second approach is to create a restitution fund, from which payments would be made to victims. Money received from offenders would then replenish the fund. The innovative impact of this proposal is that a victim could receive that which is due him immediately, rather than having to wait for the full sum to be collected in installments by the clerk of court. A discussion of that approach follows the bill entitled: "AN ACT TO ESTABLISH PRIORITIES AND PROCEDURES FOR DISBURSEMENT OF FUNDS BY CLERKS OF COURT".

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to raise the priority of restitution payments made by offenders and to provide that after disbursing monies paid as court costs, the clerk of court would disburse monies to the victim as such monies are paid by the offender.

Disbursement of Funds by Clerks

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH PRIORITIES AND PROCEDURES FOR DISBURSEMENT OF FUNDS BY CLERKS OF COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-304(d) is rewritten to read:

"(d) In any criminal case in which the liability for costs, fines, restitution, or any other lawful charge has been finally determined, as payment of the same is made to the clerk of superior court, the clerk shall disburse reasonable sums as they accrue in accordance with the following priorities:

(1) Costs due the State, with the Law Enforcement Officers' Benefit and Retirement Fund last;

(2) The facilities fee;

(3) The arrest fee;

(4) Sums in restitution, prorated among the persons entitled thereto;

(5) Any other charge due the county or city, with the county first;

(6) Fines to the county school fund;

(7) Attorney's fees.

Partial payments made pursuant to court order for the purchase of savings bonds or for deposit in savings accounts are excepted from the provisions of this subsection."

Sec. 2. This act shall become effective July 1, 1981, and shall apply to sums disbursed on or after that date.

RESTITUTION FUND

ISSUE: If legislation is enacted to give restitution a higher priority in the disbursement of funds by the clerk of court in all cases, the victim may still have to wait an extended period of time to receive all the monies due.

EXPLANATION OF ISSUE: If the judge orders restitution to be made, he considers the defendant's ability to pay and then orders payments to be made based on that ability. The judge may schedule payments to be made to the clerk or he may place the defendant on probation and order that the payments be made under the supervision of the probation officer. Depending upon the loss to the victim and the defendant's ability and willingness to pay, an extensive period of time may lapse before all the monies are paid. For example, the court may order that $2,400 in restitution be paid to the victim. The offender may be able to pay $100 a month for 24 months. The victim would have to wait two years to receive complete repayment for the loss.

Although a survey of probationers terminated in June, 1980, indicates that of those with restitution to pay, 96% had paid in full, the issue at this point is not the payment of monies by the offender, but rather is the length of time that a victim must wait to receive the monies ordered to be paid.

The establishment of a fund, which could pay the victim at the time restitution is ordered, would eliminate the delay encountered by the victim in receiving restitution. The offender would be ordered to repay the Restitution Fund. In order to safeguard the State from any major loss, an 80% initial payment to the victim would be made; and a final payment of up to 20% would be made when the Fund is fully reimbursed by the offender.

The restitution fund is in no way a compensation program. A thorough discussion of the difference between restitution and compensation is contained in A Crime Control Agenda for North Carolina. This fund would become a revolving fund being reimbursed on a monthly or quarterly basis by monies disbursed by the clerk of court for this purpose.

Even though some public funds are required for initiation and maintenance of the fund, the amount is minimal when compared to the cost of a comprehensive victim compensation program silimar to those being operated in 22 other states. Also, our legal heritage is built upon the premise that any offense is against the people of the State as well as against the individual victim. The same

government institutions which have been established by the people to bring offenders to justice should also ensure that justice, in the form of restitution, is provided to victims.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to establish a Restitution Fund which would allow victims to receive a major reimbursement immediately upon the court entering an order that restitution be made. In addition to the bill draft which follows, conforming amendments to G.S. 148-57.1, G.S. 15A-1343(d), and G.S. 15A-1374(b) will be necessary.

Restitution Fund

A BILL TO BE ENTITLED

AN ACT TO CREATE A FUND TO FACILITATE THE PAYMENT OF RESTITUTION TO VICTIMS OF CRIMES.

The General Assembly of North Carolina enacts:

Section 1. A new Article 84A is added to Chapter 15A of the General Statutes to read:

"Article 84A.

"The North Carolina Victim Restitution Fund.

"§15A-1366. North Carolina Victim Restitution Fund - creation.--There is created the North Carolina Victim Restitution Fund, hereinafter referred to as the 'Fund', to be administered by the Department of Crime Control and Public Safety. The Secretary of the Department of Crime Control and Public Safety shall appoint the controller of the Fund and shall promulgate regulations establishing priorities and setting guidelines for the payments to be made from the Fund.

"§15A-1367. Payments to victims.--A copy of every criminal judgment rendered by a court in which restitution is ordered shall be transmitted to the controller of the Fund. The controller shall promptly pay eighty percent (80%) of the amount so ordered to the victim named in the order. The remaining twenty percent (20%) shall be paid to the victim after complete restitution is paid by the offender.

"§15A-1368. Payments by offender.--Every offender ordered to pay restitution shall make payments to the clerk of superior court in the county in which a judgment is rendered, unless otherwise ordered by the presiding judge. The payments shall be of such amount and frequency as ordered by the presiding judge.

"§15A-1369. Submitting monies to Fund.--The clerk of superior court of each county shall submit monies paid to him as restitution to the controller of the Fund in the manner prescribed by the Secretary of the Department of Crime Control and Public Safety.

"§15A-1370. Fund to remain solvent.--At any time when the controller of the Fund finds claims against the Fund exceed reserves on hand for payment of those claims, the controller shall order that all payments cease until such time as sufficient funds are made available to maintain the Fund in a solvent condition."

Sec. 2. G.S. 7A-304(d)(6) is rewritten to read:

"(6) Sums in restitution, payable to the North Carolina Victim Restitution Fund."

Sec. 3. There is appropriated from the General Fund to the Department of Crime Control and Public Safety the sum of three million dollars ($3,000,000) for fiscal year 1981-82 and the sum of three million dollars ($3,000,000) for fiscal year 1982-83, for the establishment of the North Carolina Restitution Fund.

Sec. 4. This act shall become effective July 1, 1981, and applies to judgments rendered on or after that date.

EXPANSION OF WITNESS ASSISTANCE PROGRAM

ISSUE: The criminal justice system, in the deterrence, detection and conviction for crime, depends upon the cooperation and participation of the victim and the witness.

EXPLANATION OF ISSUE: The State expects much from victims and witnesses but often neglects to give anything in return. Cases are continued, plea bargained, and sometimes dismissed without the witness or victim being consulted or even notified. Public cynicism and frustration mounts as a result of poor planning, poor scheduling and poor communication.

In 1978 the Governor's Crime Commission began funding, on a pilot basis, the positions of witness attendance coordinators. The coordinators have been serving under the supervision of the district attorneys in the 4th, 10th, 12th, and 18th judicial districts. Under the program witnesses are notified of court dates, continuances, and courtroom locations, thereby assuring timely court appearances and effecting time and expense savings. The minimizing of inconvenience greatly improved the image of the court in each of the districts having such a program so this year the Crime Commission has utilized LEAA funds to expand the witness attendance program into five additional judicial districts: the 5th, 15B, 21st, 27A, and 28th. In July, 1981, it will no longer be possible to use federal funds for these programs; however, their contribution to alleviating anger and frustration among witnesses and to improving the image of the entire legal community is heralded.

RECOMMENDATION: The Governor's Crime Commission recommends the enactment of legislation to extend the life of the witness attendance programs now in existence and to expand those programs to each judicial district in the state.

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE WITNESS ASSISTANCE PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-479 is amended by deleting from subdivision (10) the phrase "; and" and by substituting the following: ";"; and is further amended by deleting from subdivision (11) the punctuation mark "." and by substituting the following: "; and"; and is further amended by adding a new subdivision (12) to read:

"(12) To develop a comprehensive and statewide witness and victim assistance program which shall be established in each district attorney's office throughout this State, and to adopt and promulgate rules and regulations necessary to develop and implement the programs. Such rules shall include specific job descriptions. Any person hired under this subdivision shall perform only those duties listed in the appropriate job description.

The district attorney is authorized to fill any position created in his district, and he is responsible for supervision of the person hired. Any person hired under this act by a district attorney serves at the pleasure of the district attorney who hired him, or at the pleasure of the successor district attorney if the district attorney who originally hired the person is no longer in office."

Sec. 2. There is appropriated $_____ in fiscal year 1981-82 and $_____ in fiscal year 1982-83 from the General Fund to the

Crime Commission, Department of Crime Control and Public Safety, for the purpose of establishing a witness and victim assistance program in each district attorney's office. The funds appropriated by this act include funds to establish in the Division a witness assistance co-ordinator position, plus necessary travel and related expenses, and funds to establish at least one position, plus necessary travel and related expenses, for each judicial district.

Sec. 3. This act shall become effective July 1, 1981.

PROTECTION OF THE ELDERLY

ISSUE: An elderly person suffers disproportionately, both economically and physically, when he is a victim of crime.

EXPLANATION OF ISSUE: Although the impact of crime harms all citizens, there are possibly two segments of society that are especially harmed when victimized: the young and the old. Studies show conclusively that the elderly more often require hospitalization for injuries resulting from crime. Because of physical frailities, treatment is often extended and injuries resulting are often more complicated than those of younger victims. Most elderly victims are on fixed incomes and the economic impact may be devastating.

In 1975, legislation included under Article 4 of Chapter 108, "Protection of the Abused or Neglected Elderly Act," was rewritten and recodified as Article 4A, "Protection of the Abused, Neglected, or Exploited Disabled Adult Act." When the act was rewritten, all references to the elderly were removed. The rewritten act was enacted to encourage reporting and authorize the provision of protective services for the disabled adult. Under the prior act, one was required to report the abuse or neglect of any person over the age of sixty five.

RECOMMENDATION: The Governor's Crime Commission is recommending action in several areas which would increase the protection of the elderly. First, the Governor's Crime Commission recommends the enactment of legislation establishing as a felony, the inflicting of serious physical injury on any person over the age of sixty. Next the Commission recommends that legislation be enacted to require the judge in superior court to consider the age and the physical and mental condition of the victim prior to imposing a prison term on a person convicted of a felony. Although that provision's impact is not limited to the elderly, the elderly victim is among those whose age and mental or physical condition might impact upon the sentence. Finally, in another section, the Commission is recommending, with monetary limits, the payment of medical expenses of victims of certain violent crimes. Certainly, this recommendation will aid the elderly by alleviating to some extent the economic burden of this victimization.

Abuse of Elderly

A BILL TO BE ENTITLED

AN ACT TO MAKE ABUSE OF AN ELDERLY PERSON A FELONY.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Chapter 14 of the General Statutes to read as follows:

"§14-326.2. Abuse of elderly a felony.--(a) Any person who intentionally inflicts on any person of the age of sixty years or older serious physical injury which results in:

(1) permanent disfigurement, or

(2) bone fracture, or

(3) substantial impairment of physical health, or

(4) substantial impairment of the function of any organ, limb, or appendage

is guilty of a Class I felony.

(b) The felony of abuse of an elderly person is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies."

Sec. 2. This act shall become effective July 1, 1981, and shall apply to acts committed on or after that date.

CONSIDERATION OF AGE AND
MENTAL AND PHYSICAL CONDITION
OF VICTIM BY JUDGE

ISSUE: Very often one who is elderly or who is physically or mentally infirm is the prey of the criminal.

EXPLANATION OF ISSUE: As a result of mental or physical infirmities, certain persons may be more likely to be victims of crimes. Some offenders may even "lie in wait" for one whose frailities are obvious. The impact of crime, the hardships felt, are far greater on that segment of the population. The age and the mental and physical condition of the victim should have a bearing on the severity of the sentence of the defendant.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to require the judge to consider the age and physical and mental condition of the victim before passing sentence following a felony conviction.

Fair Sentencing Amendment

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CONSIDERATION OF AGE AND PHYSICAL AND MENTAL CONDITION OF VICTIM BY JUDGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1340.4(a)(1) is amended by deleting the clause immediately preceding subdivision (1) and by substituting the following: "In imposing a prison term on a person convicted of a felony, the sentencing judge may consider any aggravating and mitigating factors that are reasonably related to the purposes of sentencing as provided by G.S. 15A-1340.3, and must consider the age and the physical and mental condition of the victim in addition to each of the following aggravating and mitigating factors:"

Sec. 2. G.S. 1340.4(a) is amended by adding immediately following subdivision (1) and immediately preceeding subdivision (2): "Evidence necessary to prove an element of the offense may not be used to prove a factor in aggravation, and the same item of evidence may not be used to prove more than one factor in aggravation."

Sec. 3. This act shall become effective July 1, 1981, and shall apply to offenses committed on or after that date.

COMBATTING ORGANIZED CRIME

COMBATTING ORGANIZED CRIME

Many criminal justice officials in this state have expressed the opinion that organized crime exists in North Carolina and that there is a real potential for its rapid expansion during the coming years. They know from the experience of other states that, if not forcefully resisted, organized crime can become firmly entrenched in all levels of a state's economy. Obviously, it is in the State's best interest to equip investigators and prosecutors now with the legal tools necessary to suppress organized crime as it attempts to develop. Toward that end, the Governor's Crime Commission is committed to engaging in a comprehensive, continuing effort to develop and implement effective legislation to control organized crime.

In this section are presented five bills which the Commission feels constitute a good beginning. It is not enough to simply rely upon traditional statutory prohibitions against criminal conspiracy. To do so ignores the wealth and power which keeps a criminal enterprise doing "business as usual" even if one or more of its key figures is sent to prison.

The Commission has, therefore, attempted to direct its legislation toward the organization as well as the principals who run it. Also, law enforcement and prosecutors should have more flexibility to deal with those who wish to testify against organized crime operations.

Finally, the definition of organized crime, while including the types of interstate groups and activities one immediately thinks of when the term is used, must also encompass any criminal activity performed for economic gain on a regular basis by two or more individuals. Although some may view this definition as too elementary, the Governor's Crime Commission believes that the criminal justice system in North Carolina must deal with not only the larger, traditional organizations, but should seek to eliminate emerging organizations as well.

A RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

ISSUE: In some respects, criminal organizations function as do corporations. Executive personnel may leave the organization, but business goes on. As a result, prosecution and conviction of key crime bosses for specific types of individual conduct does little to impact a criminal enterprise.

EXPLANATION OF ISSUE: The federal government has made great strides in its ability to combat organized crime through enactment, in 1970, of the Racketeer Influenced and Corrupt Organizations Statute, 18 U.S.C. 1961-1968. Federal prosecutors now have a legal framework for outlawing and eradicating criminal organizations engaged in economic activity or patterns of criminal activity.[1]

There is reason to expect an increase, or attempted increase, in organized crime in North Carolina. Criminal justice officials have witnessed the experience of other states and believe that this State will be far better prepared to challenge, head-on, any growth in organized crime by equipping North Carolina's criminal justice system now with the legal tools which have proven to be most effective.

A Racketeer Influenced and Corrupt Organizations statute will provide the capability of hitting professional and organized crime in the pocketbook by attacking the organization, the enterprise, or the pattern of criminal activity which is at the core of the effort of criminals to acquire power and profit.[2]

Specifically, RICO establishes statutory prohibition against legal acquisition with illegal funds, illegal acquisition through illegal means, illegal use of enterprise, and conspiracy. At the heart of the statute is the word "enterprise" which should be given a broad reading. The statute further provides severe penalties and authorizes forfeiture of any interest in any enterprise or property acquired or maintained in violation of the statute.[3]

Neither international criminal organizations nor "hometown" criminal enterprises should be allowed to exist unchallenged in this state. North Carolina simply must be prepared to gain the advantage over organized crime which presently exists as well as eradicate new efforts before they gain strength.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact a Racketeer Influenced and Corrupt Organizations Act patterned after the federal model.

Footnotes

[1] The Organized Crime Bulletin, Volume 5, Number 8, International Association of Chiefs of Police, 1980; p. 3.

[2] Ibid, p. 3.

[3] Ibid, p. 7.

A BILL TO BE ENTITLED

AN ACT CREATING A RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT FOR NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding the following new article to the end of that chapter:

"Article 61.

"Racketeer Influenced and Corrupt Organizations Act.

"§14-460. Title.--This Article shall be known and may be cited as the 'North Carolina Racketeer Influenced and Corrupt Organizations Act' or the 'North Carolina RICO Act'.

"§14-461. Definitions.--The following definitions apply to this Article unless the context clearly implies otherwise:

(1) 'Racketeering activity' means conduct which constitutes

a. Any one of the following crimes under North Carolina law:

1. Murder, prescribed by G.S. 14-17;

2. Kidnapping, prescribed by G.S. 14-39;

3. Malicious injury or damage by use of explosive or incendiary device or material, prescribed by Article 13 of General Statutes Chapter 14;

4. First and second degree burglary, prescribed by G.S. 14-51 or felonious breaking or entering

buildings, prescribed by G.S. 14-54;

5. Arson and other burnings, prescribed by Article 15 of General Statutes Chapter 14;

6. Felonious receiving stolen goods, prescribed by G.S. 14-71; felonious possession of stolen goods, prescribed by G.S. 14-71.1; or felonious larceny, prescribed by G.S. 14-72;

7. Robbery with firearms or other dangerous weapons, prescribed by G.S. 14-87 or common law robbery;

8. Obtaining property by false pretenses, prescribed by G. S. 14-100;

9. Credit card crimes, prescribed by Article 19B of General Statutes Chapter 14;

10. Blackmailing, prescribed by G.S. 14-118;

11. Extortion, prescribed by G.S. 14-118.4;

12. Forgery, prescribed by Article 21 of General Statutes Chapter 14;

13. Any obscenity offense, prescribed by G.S. 14-190.1 through 14-190.11;

14. Prostitution, prescribed by Article 27 of General Statutes Chapter 14;

15. Manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of weapon of mass death and destruction, prescribed by G.S. 14-288.8;

16. Lotteries and gaming, prescribed by Article 37 of General Statutes Chapter 14;

17. Bribery of participants in athletic contests, prescribed by Article 51 of General Statutes Chapter 14;

18. Sale of pistol without permit, prescribed by G.S. 14-402 and G.S. 14-409.1;

19. Fraudulent sales and purchases of securities, prescribed by Article 2 of General Statutes Chapter 78A;

20. Felonious violations of the Controlled Substances Act, prescribed by Article 5 of General Statutes Chapter 90;

b. An equivalent crime under the laws of any other state;

c. An equivalent crime under the laws of the United States; or

d. Racketeering activity as defined in 18 United States Code §1961(1).

(2) 'Pattern of racketeering activity' means engaging in at least two incidents of racketeering activity under the following conditions:

a. At least one of those incidents occurs after the effective date of this act;

b. The two incidents occur within ten years of each

other, excluding any period of imprisonment; and

c. The incidents show the same or similar purposes, results, participants, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents.

(3) 'Enterprise' means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact, although not a legal entity, including unlawful as well as lawful enterprises and governmental as well as other entities.

(4) 'Unlawful debt' means a debt which:

a. Was incurred or contracted in connection with unlawful gambling; or

b. Is unenforceable in whole or part as to principal or interest because it violates the laws relating to usury.

"§14-462. Investing racketeering proceeds.--(a) It is unlawful for any person who has received any income derived directly or indirectly from a pattern of racketeering activity or through collection of unlawful debt to use or invest, directly or indirectly, any part of the income, or the proceeds of the income, to acquire any interest in or to establish or operate any enterprise which is engaged in or affects trade or commerce.

(b) This section does not prohibit the purchase of securities on the open market for investment, without intending to control or participate in control of the issuer or to assist another in doing

so, if the total of the securities of that issuer held by the purchaser, the members of his family, and his accomplices in any pattern of racketeering activity or in the collection of an unlawful debt is not in the aggregate more than one percent (1%) of the outstanding securities of any one class or does not, in law or in fact, empower the holders to elect one or more directors of the issuer.

(c) An investment is presumed to include income derived from a pattern of racketeering activity when it is established that over half of the defendant's aggregate income for a period of two or more years preceding the investment was derived from a pattern of racketeering activity.

(d) Violation of this section is a class G felony.

"§14-463. Acquisition of enterprise through racketeering.--(a) It is unlawful for any person through a pattern of racketeering activity or through collection of unlawful debt to acquire or maintain, directly or indirectly any interest in or control of any enterprise which is engaged in or affects trade or commerce.

(b) Violation of this section is a class G felony.

"§14-464. Engaging in racketeering as part of enterprise.--(a) It is unlawful for any person employed by or associated with any enterprise engaged in or affecting trade or commerce to conduct or participate, directly or indirectly, in the conduct of the enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

(b) Violation of this section is a class G felony.

"§14-465. Conspiracies.--Conspiracy to commit any of the offenses in G.S. 14-462, 14-463, or 14-464 is a class G felony.

"§14-466. Forfeiture of racketeering proceeds.--Any money or other property or interest in property acquired by violation of this Article shall be forfeited to the State of North Carolina."

Sec. 2. G.S. 55-122 is amended by changing the period at the end of subsection (5) to a semicolon, adding the word "or" after that semicolon, and adding the following new subsection (6):

"(6) The corporation was established, maintained or operated substantially through a pattern of racketeering activity or collection of unlawful debt in violation of the North Carolina Racketeer Influenced and Corrupt Organizations Act.".

Sec. 3. This act shall become effective October 1, 1981.

PROHIBITING THE HINDRANCE OF JUSTICE

ISSUE: No one should be surprised that some persons will attempt to escape the legal consequences of their criminal acts. However, a clear distinction should be made in the law between simply "running away" and a willful or violent attempt to thwart the administration of justice.

EXPLANATION OF ISSUE: This issue is placed in the organized crime section because of its importance within the overall scope of combatting conspiracy type crimes. Granted, in certain individual cases a defendant may attempt to escape, intimidate a witness, or destroy evidence, and present statutes are generally adequate for such cases; but there should be an additional, very strict prohibition against collaborative or violent efforts to prevent the enforcement of North Carolina's laws.

There is ample evidence, from the experience of other states, that criminal organizations will go to extreme lengths to protect themselves from the law. At least one prosecutor has emphatically stated that the criminal law should forcefully and concisely prohibit any activity which would hinder the process of justice. The Governor's Crime Commission agrees, and feels that crimes of this nature should be classified as felonies.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation prohibiting the hindrance justice and extending protection to victims, witnesses, and jurors.

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE PROHIBITIONS AGAINST HINDERING THE APPREHENSION OR PROSECUTION OF CRIMINALS AND TO INCREASE PROTECTION TO WITNESSES, VICTIMS, AND JURORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-221.1 and G.S. 14-226 are repealed.

Sec. 2. Chapter 14 of the General Statutes is amended by adding the following new sections to read:

"§14-226.2. Hindering apprehension or prosecution of criminals; definitions.--Unless the context clearly requires otherwise, the definitions in this section apply from G.S. 14-226.3 through G.S. 14-226.6.

(1) 'Victim' means any natural person against whom any crime, as defined by the laws of this or any other state or of the United States, has been attempted to be, has been, or is being perpetrated.

(2) 'Witness' means any natural person:

a. Who has knowledge of the existence or non-existence of facts relating to any crime under formal investigation;

b. Who has made a declaration under oath which has been or may be used in any criminal investigation or trial;

c. Who has reported a crime to any law enforcement, probation, parole, correctional or judicial officer or prosecutor;

d. Who has been served with a subpoena issued under the authority of any court in this or any other state or of the United States; or

e. Who reasonably appears to be an individual described in this subdivision.

"§14-226.3. Hindering apprehension or prosecution of criminals.--Any person shall be guilty of an offense under this section if, with intent to hinder the apprehension, prosecution, conviction or punishment of himself or another for any criminal offense, he:

(1) Harbors or conceals another;

(2) Provides a weapon, money, transportation, disguise or other means of avoiding apprehension or effecting escape;

(3) Suppresses any evidence of a crime, or tampers with an informant, document or any other source of information about a crime, regardless of the admissability in court of the evidence, information or document;

(4) Warns another of pending apprehension unless the warning is given in an effort to bring the person into compliance with the law;

(5) Aids any person to derive an advantage from any crime;

(6) Gives false information to a law enforcement officer;

(7) Accepts or agrees to accept any pecuniary benefit for refraining from reporting to law enforcement authorities the commission or suspected commission of any offense, or other information relating to an offense, or for refraining from seeking prosecution of an offense;

(8) Confers or agrees to confer any pecuniary benefit for another's agreement to refrain from reporting an offense or any information relating to an offense, or from seeking prosecution of an offense;

(9) Intimidates, prevents or dissuades in any manner, anyone from performing an act which might aid in the apprehension or prosecution of any person for a crime, including intimidation of or interference with any witness or victim, which would prevent such persons from giving testimony at any trial, proceeding, or legally authorized inquiry;

(10) Intimidates or interferes in any way with the sworn duty of any grand or petit juror in connection with any criminal case;

(11) Intimidates, prevents, or dissuades a witness, victim, person acting in behalf of a witness or victim, or juror from:

a. Reporting the intimidation, prevention or dissuasion to a law enforcement officer or to a probation, parole, or correctional officer, or to a prosecuting agency or any judge;

b. Seeking criminal process to establish a probation or parole violation or assisting in such action; or

c. Arresting or seeking the arrest of any person connected with any of the activities prohibited by this section; or

(12) Aids anyone in the accomplishment of any of the activities prohibited by this section.

"§14-226.4. Attempting to hinder apprehension or prosecution of criminals.--An attempt to commit any of the acts prohibited by G.S. 14-226.3 is punishable in the same manner as the act attempted.

"§14-226.5. Punishment for hindering apprehension or prosecution of criminals.--(a) Except as provided by subsection (b) of this section, any person guilty of committing any act prohibited by G.S. 14-226.3 is guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars ($1,000.00), imprisonment for not more than two years, or both.

(b) Any person who knowingly and willfully commits any act prohibited by G.S. 14-226.3 and such act is:

(1) Accompanied by either an express or implied threat of violence or force against a witness, victim, juror, third person or any of these persons' property; or

(2) In furtherance of a conspiracy; or

(3) Committed by a person who has been convicted of violating G.S. 14-226.3 or any other or former law of this or any other state or of the United States prohibiting

the same or similar activities; or

(4) Committed by the person for pecuniary gain or for any other consideration while acting for another;

shall be guilty of a Class I felony.

"§14-226.6. Protective court orders.--Any court of general jurisdiction, if it determines upon a showing of good cause, that an activity prohibited by G.S. 14-226.3 has occurred or is reasonably likely to occur may issue protective orders. Such protective orders may include, but need not be limited to:

(1) An order that a person not commit any of the activities prohibited by G.S. 14-226.3;

(2) An order that any person maintain a prescribed geographic distance from a specified witness, victim, juror, or any other person needing protection from activities prohibited by G.S. 14-226.3;

(3) An order that a person have no communication with a specified witness, victim, juror, or any other person needing protection from activities prohibited by G.S. 14-226.3, except through an attorney and under any reasonable restriction that the court may impose;

(4) An order that a particular law enforcement agency within the jurisdiction of the court provide protection for a witness, victim, juror or any other person needing protection from activities prohibited by G.S. 14-226.3."

Sec. 3. G.S. 14-223 is rewritten to read:

"§14-223. Resisting officers.-

(a) If any person shall willfully and unlawfully resist, delay or obstruct a public officer in discharging or attempting to discharge a duty of his office, he shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollard ($500.00), imprisonment for not more than six months, or both.

(b) Any person who willfully and unlawfully prevents a law enforcement officer from effecting an arrest by:

(1) Using or threatening to use physical force or violence against the law enforcement officer or another; or

(2) Using any other means to create a substantial risk of causing physical injury to the law enforcement officer or another;

shall be guilty of a Class I felony. It shall not be a defense to prosecution under this section that the law enforcement officer was acting unlawfully in making the arrest, provided such officer was acting under color of official authority and provided the law enforcement officer announced the intention to arrest prior to the resistance."

Sec. 4. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§14-223.1. Felony of hindering administration of law or other governmental function.--If any person shall unlawfully and willfully hinder, prevent, or pervert the proper administration of law or other

governmental function or prevent or attempt to prevent a public servant from lawfully performing an official function by means of intimidation, force, violence, or physical interference, or by means of any independently unlawful act, he shall be guilty of a Class I felony. The provisions of this section shall not apply to any means of avoiding compliance with the law that does not involve affirmative interference with governmental function."

Sec. 5. G.S. 15A-534 is amended by adding a new subsection (i) to read:

"(i) Any pretrial release of a defendant, whether he be released on an appearance bond or on any other form of recognizance, is deemed to include a condition that the defendant shall not knowingly permit to be done, cause to be done, or do any act prohibited by G. S. 14-226.3. From and after the effective date of this act, all forms promulgated by the Administrative Office of the Courts to be used in authorizing pretrial release shall contain, in a conspicuous location, notice of the provisions of this subsection."

Sec. 6. This act shall become effective January 1, 1982.

CONTROLLING FENCING OPERATIONS AND OUTLETS FOR STOLEN PROPERTY

ISSUE: Distribution of stolen property requires a multi-million dollar wholesale/retail system. Disruption of this system would reduce the attractiveness and profitability of theft as a business enterprise.

EXPLANATION OF ISSUE: Theft is a serious crime problem in North Carolina. Regardless of how a theft is perpetrated (burglary, robbery, shoplifting, etc.) the economic loss is great. The following table shows the magnitude of this problem.

Value of Property Stolen and Recovered
By Year

Year	Stolen	Recovered	Percent Recovered
1973	$32,111,864	$12,378,985	38.6
1974	48,687,004	16,336,919	33.6
1975	58,895,858	19,399,181	32.9
1976	63,504,993	21,395,932	33.7
1977	65,670,440	23,966,906	36.5
1978	76,826,537	27,049,397	35.2

(Source: Crime in North Carolina, Police Information Network)

Theft, by professionals, is profitable because a thief exchanges stolen goods for cash. A fence, who purchases stolen goods, moves them quickly into a distribution system. Within a short time following a theft, stolen property may change hands several times, may be transported many miles from its location when stolen, or may be in the possession of a new "permanent" owner who may or may not know the property is stolen.

Of particular concern to law enforcement is the theft of items not easily marked for identification. Dramatic changes in world market prices of gold and silver have resulted in highly increased thefts of gold and silver items. These items do not generally bear serial numbers and an identification mark would detract from a piece's aesthetic value. Whenever such property is recovered, identification by the owner may be extremely difficult or impossible. To further compound this problem, many people have gone into the business of purchasing gold and silver items, often advertising in the newspaper and setting up "shop" in a local motel room. Goods thus purchased may be immediately melted down and shipped, giving

law enforcement virtually no time to verify the legitimacy of these purchases. Law enforcement is concerned with this problem because of its mission to protect property and recover stolen articles. From a practical viewpoint, apprehending professional thieves is difficult because they are expert at avoiding detection; therefore, reducing the profitability of theft as an enterprise may be a more reasonable approach to reducing crimes of theft.

Insurance companies are also interested in reducing thefts. Millions of dollars are paid in claims each year. Early identification and recovery of stolen property would reduce the liability incurred by companies and policy holders alike.

Citizens' groups participating in community watch and crime prevention programs are very concerned with the problem of theft. Even the best efforts at target hardening and community effort will be complemented by good laws which reduce its profitability.

RECOMMENDATION: (a) The Governor's Crime Commission recommends that the General Assembly enact legislation to require dealers in secondhand goods to be able to positively identify those persons from whom they purchase items and to record such purchases, the record then being available for inspection by law enforcement authorities.

(b) The Governor's Crime Commission recommends that the General Assembly enact legislation to specify that if a person receives or possesses property which he believes to be stolen, the fact that the property is not in fact stolen property shall not constitute a defense to an indictment, nor preclude a conviction of attempting to receive or possess stolen property.

A BILL TO BE ENTITLED

AN ACT TO REGULATE DEALERS IN SECONDHAND GOODS.

The General Assembly of North Carolina enacts:

Section 1. The following new chapter is added to the General Statutes:

"Chapter 91A.

"Dealers in Secondhand Goods.

"§91A-1. Definitions and exceptions.--(a) For purposes of this chapter, a 'dealer in secondhand goods' is any person, firm or corporation, or any employee or agent of such a person, who regularly buys or sells or accepts on consignment for profit used or secondhand goods, articles or things of any description, or who holds himself out as being engaged in such business.

(b) A 'dealer in secondhand goods' does not include, and this chapter does not apply to, a person who deals only in:

(1) Motor vehicles;

(2) Agricultural commodities;

(3) Textiles; or

(4) Clothing.

"§91A-2. Records required of dealer.--(a) Each dealer in secondhand goods must maintain a book or other record in which the following information is legibly recorded at the time of each purchase of secondhand goods:

(1) A description of the goods, including each of the

following that is available:

a. The manufacturer's name;

b. The model;

c. The model number;

d. The serial number;

e. Engraved initials, numbers, or other identifying marks;

(2) The price paid for the goods;

(3) The name and home address of the person from whom the goods are purchased and the source for identification of the person; and

(4) A legible fingerprint of the right thumb of the person from whom the goods are purchased.

(b) If the amount paid for goods purchased by the dealer in any single transaction exceeds twenty dollars ($20.00), or if the total value of all goods purchased from that seller within a seven-day period is more than twenty dollars ($20.00), the dealer must also take instantly developed photographs of the seller and of the goods at the time of the purchase, even if the agreement to purchase provides that actual cash payment for the goods will be made at a later date. The photograph must include the head, face and shoulders of the seller and be suitable for ready identification of that person. The photograph of the goods must be such as to show all of the goods and any distinguishing marks. The photographs must be kept with the record required by subsection (a).

(c) The record required by subsection (a) and the photographs required by subsection (b) must be kept on the premises of the dealer for a period of 1 year from the date of purchase of the goods. A law enforcement officer may inspect the record and the photographs during regular business hours.

(d) In addition to maintaining the record required by subsection (a), within 48 hours of a purchase the dealer must file a copy of the information required by that subsection with the chief of police, if the dealer's place of business is located inside a city, or with the sheriff, if the place of business is outside any city.

"§91A-3. Unlawful transactions.--(a) It is a misdemeanor punishable by a fine of five hundred dollars ($500.00), imprisonment for not more than 6 months, or both, for a dealer in secondhand goods to purchase secondhand goods:

(1) Without recording and maintaining the information required by G.S. 91A-2(a); or

(2) Without taking and maintaining the photographs required by G.S. 91A-2(b); or

(3) Without requiring the seller to present either two forms of identification or one form of governmentally-issued identification containing a photographic likeness; or

(4) From a person who is less than eighteen (18) years old.

(b) It is a misdemeanor punishable by a fine of one thousand dollars ($1,000.00), imprisonment for not more than 1 year, or both, for a dealer in secondhand goods to do either of the following within seven (7) days of purchasing secondhand goods:

(1) Transfer possession of the goods; or

(2) Materially alter the appearance or form of the goods to make identification by a prior owner substantially more difficult.

"§91A-4. Rules of evidence.--(a) A dealer in secondhand goods who purchases stolen property without recording the information required by G.S. 91A-2(a) and (b) is presumed to know that the property is stolen.

(b) A dealer in secondhand goods who purchases stolen property without first determining by reasonable inquiry that the seller is the owner of the goods is presumed to know that the property is stolen.

(c) A dealer in secondhand goods who purchases stolen property with any permanent serial number, manufacturer's identification plate, or other permanent distinguishing number or mark obliterated, altered or removed is presumed to know that the property is stolen if such obliteration, alteration or removal would have been discovered by reasonable examination."

Sec. 2. This act shall become effective October 1, 1981, and applies only to transactions that occur on or after that date.

Receiving Stolen Property

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE CRIME OF ATTEMPTING TO RECEIVE OR POSSESS STOLEN PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding the following new section:

"§14-71.2. Attempting to receive or possess stolen property.--A person is guilty of attempting to receive stolen property in violation of G.S. 14-71, or attempting to possess stolen property in violation of G.S. 14-71.1, or attempting to receive or possess stolen property in violation of any other statute, if he receives or possesses property he believes or has reason to believe is stolen, without regard to whether the property is in fact stolen or has been recovered after having been stolen."

Sec. 2. This act shall become effective October 1, 1981, and applies to acts committed on or after that date.

DISPOSITION OF FORFEITED CONVEYANCES

ISSUE: G.S. 90-112 provides, in part, that conveyances used for unlawful concealment or transportation of drugs shall be forfeited and may be assigned to law enforcement agencies for official use. Unfortunately, not all conveyances seized are appropriate for law enforcement use.

EXPLANATION OF ISSUE : Many law enforcement agencies are actively engaged in combatting trafficking of controlled substances. Motor vehicles, boats, and airplanes of all types are used to transport drugs from one place to another. Consequently, a great many drug arrests involve the seizure of such conveyances.

Often, the type of conveyance seized is not useful to the law enforcement agency which seizes it so the agency will not request assignment of the vehicle upon forfeiture. Law enforcement executives have requested that consideration be given to amending G.S. 90-112 so that an agency might sell a conveyance which is not useful and use the proceeds to purchase a more appropriate vehicle. A bill has been drafted in response to that suggestion.

The question may be raised whether such a provision is inconsistent with Article IX, §7 of the North Carolina Constitution which requires "the clear proceeds of all penalties and forfeitures and all fines collected ... for any breach of the penal laws of the State ..." to go to the county school fund; however, this statutory change is very much needed, and the Constitution should be amended to permit it, if that is required.

Several important factors must be considered. First, the problem of modern day drug traffic could not have been anticipated at the time the Constitution was adopted. Second the total revenue generated by the sale of unsuitable conveyances would not have any significant impact, as a gain or a loss, upon a given county school fund. Finally, budgets for all facets of government are strained. However, the majority of forfeited conveyances transferred to law enforcement agencies are used to further investigations of narcotics violations. Since major narcotics distribution systems are well financed by organized crime syndicates, combatting these crimes should receive the highest priority commitment of resources, from whatever source.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation which will allow law enforcement agencies to receive maximum benefit from forfeited conveyances. The Commission further recommends a Constitutional amendment, should it be required to effect the statuatory change.

Forfeited Conveyances

A BILL TO BE ENTITLED

AN ACT TO ALLOW A LAW ENFORCEMENT AGENCY THAT RECEIVES A FORFEITED VEHICLE, BOAT, OR AIRPLANE TO SELL THAT CONVEYANCE AND USE THE PROCEEDS TO BUY ANOTHER CONVEYANCE.

The General Assembly of North Carolina enacts:

Section 1. Subsection (d) of G.S. 90-112 is amended by renumbering subdivisions (3) and (4) as (4) and (5), and by adding the following new subdivision (3):

"(3) Sell any vehicle, vessel or aircraft which is not suitable for use in law enforcement and apply the proceeds from that sale, after deducting the costs of sale, to the purchase of another vehicle, vessel or aircraft better suited to the law enforcement needs of that agency;".

Sec. 2. This act is effective upon ratification.

THE ROLE

OF THE

GOVERNOR'S CRIME COMMISSION

CRIME CONTROL GRANT ASSISTANCE AND VICTIM ASSISTANCE

ISSUE: Crime and the justice system's response to crime are two of the most pressing problems facing government officials today.

EXPLANATION OF ISSUE: Reported crime in North Carolina has increased almost 20% over the past five years. In 1978, one out of every twenty-five people in the state was reported a victim of a murder, rape, robbery, aggravated assault, burglary, larceny, or motor vehicle theft; and an estimated one out of ten people was a victim of crime of one type or another. Crime is rising in rural areas as well as in the major cities. If this trend continues, North Carolina's crime rate in 1995 will equal that of present day New York City.

A 1979 survey by Louis Harris on the "quality of life" in America revealed that 92% of the American public feel that controlling crime is a high priority issue. A recently released five year study conducted by the Northwestern University Center for Urban Affairs reveals that people continue to be more apprehensive about criminal victimization than they are about other dangers that they face more often. While the average American has a great or greater chance of being injured in an auto accident, losing his home to fire, or contracting a serious illness, the fear of crime appears to far outweigh those other considerations.

In addition to the fear of being a victim of crime, the reality of the financial, physical, and psychological hardships resulting from being an innocent victim of a crime are being experienced by more and more people. In far too many cases, the victim is left to cope for himself while the criminal justice system concentrates its efforts on the perpetrators.

Crime and the justice system's response to crime are costing the citizens of North Carolina more and more each year. In 1978, almost 77 million dollars worth of property was stolen; only about one-third of that amount was ever recovered. State and local governments spend nearly $400 million each year to employ over 23,000 people to work in the various components of the criminal justice system. If North Carolina's criminal justice system were a business, it would rank 277th in number of employees in the list of Fortune 500 companies.

Each year the system touches an increased number of people. In 1978, law enforcement made 339,354 arrests excluding traffic citations or arrests. The court processed almost 1.5 million cases in 1978. About 20% of North Carolina's population was involved in a court process and that percentage does not include those individ-

uals that served as jurors or witnesses. There are now over 38,000 adults on probation, approximately 16,000 serving time in jails or prisons, and more than 6,000 on parole. A total of 66,152 or approximately 1.2 percent of the total population of North Carolina is under correctional supervision.

The "system" is not a true system but many administrative and judicial agencies grouped together by a process. These agencies operate independently and often must react to actions taken by one another. Coordination of efforts and actions is needed to insure efficiency and effectiveness.

In 1978, Governor James B. Hunt, Jr. testified on behalf of the National Governors' Association before the Senate Subcommittee on Criminal Laws and Procedures on the importance of controlling crime and improving the criminal justice system. He stated that crime ranks "as one of the top two state government priorities of the people of North Carolina" and added that "crime control is a complex problem, with no simple answers." In his address, Governor Hunt also pointed out that "the unit of government with the first responsibility for crime control is state government, with its responsibility for writing criminal law and criminal justice system procedure. Criminal justice systems are state systems."

Crime and the system's response to crime are problems that lend themselves to innovative and sometimes expensive remedies. Often state and local governments are reluctant to provide funding for pilot programs that present new approaches to dealing with crime but may have a questionable chance of being successful. A mechanism is needed to encourage local and state governmental criminal justice agencies to develop innovative approaches to combatting crime and to dealing with the victims of crime. Also, efforts are needed to make the components of the criminal justice system work together to be more efficient, effective and just.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to create a Community Crime Control Program to provide: (1) funds for limited medical and funeral assistance to victims of murder, rape, and robbery and (2) grant funds for innovative programs to local and state agencies to assist them in dealing with the problems of crime and the justice system's response to crime.

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COMMUNITY CRIME CONTROL PROGRAM.

Whereas, the General Assembly of North Carolina finds that the rising incidence of crime and juvenile delinquency is increasingly detrimental to the general welfare of the State and its citizens, and that the efforts of all participants in this State's criminal and juvenile justice system must be better coordinated and made more effective if crime and delinquency are to be properly discouraged, and protection and encouragement offered to those who are victims; and,

Whereas, the General Assembly of North Carolina further finds that the Governor's Crime Commission was established, pursuant to G.S. 143B-479(2), specifically to address crime and delinquency, and to recommend ways of increasing efficiency in the criminal and juvenile justice system designed to prevent as well as to deal with crime and juvenile delinquency and to provide increasingly sensitive justice to victims and the accused; and,

Whereas, the Governor's Crime Commission has exhibited that it has the experience and the ability to

(1) Establish a statewide program to assist the victims of crime and delinquency; and

(2) Authorize funds for crime control assistance.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143B is amended by adding new sections to read:

"§143B-480.1. Community Crime Control Program.--(a) There is established a Community Crime Control Program, hereinafter referred to as the 'Program'. The Governor's Crime Commission, established pursuant to G.S. 143B-479(2), and hereinafter referred to as the 'Commission', shall administer and implement the Program and shall have final authority over all grants, awards, and agreements awarded through the Program.

(b) The Program shall consist of and provide funds for:

(1) Assistance to victims of the crimes of murder, rape, and robbery as outlined in G.S. 143B-480.2; and

(2) Grants to eligible crime control and criminal justice agencies as outlined in G.S. 143B-480.3.

(c) Financial assistance made available under this section shall not be utilized to reduce the amount of other state or local financial support for criminal or juvenile justice activities below the level of the support which existed directly prior to the availability of this new assistance.

(d) The Commission shall make an annual report to the Governor and the General Assembly on the progress of the two parts of the Program prescribed in subsection (b) of this section.

(e) The staff of the Commission shall administer the Program for the State and shall provide the necessary services the Program may require.

(f) The Commission shall promulgate rules, regulations and guidelines for the Program in all its aspects prescribed in subsection (b) of this section. These guidelines shall:

(1) Be in effect in a reasonable period of time, and

(2) Be designated by the Commission, according to criteria set by the Commission; and

(3) Be published and made available to the public.

"§143B-480.2. Victim assistance.--It is the purpose and intent of this section to provide a method of assisting all innocent victims of murders, rapes, and robberies occurring in this state regardless of their financial status. The section represents a recognition that such innocent victims or their dependents, heirs, or beneficiaries may incur financial hardships as a result of these deaths or injuries and that the State has a moral responsibility to provide assistance to these victims.

(a) Only the victims of rape, or robbery, and the dependent, heir, or beneficiary of a victim of murder are eligible for assistance under this section.

(b) Assistance is limited to the following:

(1) Funeral and burial expenses, not to exceed five hundred dollars ($500), incurred by the estate of a victim of a murder; or

(2) Immediate and short-term medical expenses, not to exceed five hundred dollars ($500), incurred by a victim of a rape during the initial examination and

procedures to collect evidence which follow the attack; or

(3) Immediate and short-term medical expenses, not to exceed five hundred dollars ($500) incurred by a victim of a robbery who received bodily injury as a result of the robbery.

(c) Assistance for medical expenses authorized under this section is to be paid directly to the attending hospital and physicians upon their filing the proper forms in the manner as prescribed in the guidelines promulgated by the Commission. The forms shall be filed within six months of the incurring of the expenses.

(d) Assistance for funeral and burial expenses authorized under this section is to be paid directly to the attending funeral home or mortuary upon their filing the proper forms in the manner as prescribed in the guidelines promulgated by the Commission. The forms shall be filed within six months of the incurring of the expenses.

(e) Assistance may not be awarded if the award would unjustly benefit the offender or accomplice. Unless the Commission determines otherwise, assistance may not benefit the spouse of, or a person living in the same household with, the offender or his accomplice or the parent, child, brother, or sister of the offender or his accomplice.

(f) Assistance may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within 72 hours after its occurrence or the

Commission finds there was good cause for the failure to report within that time.

(g) The Commission, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, reconsider, or reduce assistance.

(h) Assistance otherwise payable to a victim shall be reduced or denied to the extent the medical expenses are recouped through a public or private insurance plan or other victim benefit sources, and to the extent the Commission deems reasonable because of the contributory misconduct of the victim.

"§143B-480.3. Crime control assistance.--It is the purpose of this section to assist crime control and criminal justice agencies in carrying out programs which have a high probability of combatting crime or delinquency or of improving the functioning and effectiveness of the criminal justice and juvenile justice system. The Commission is authorized to make grants under this section to units of local government and state agencies related to criminal and juvenile justice involved in the following areas of concern:

(1) Crime control - programs aimed at preventing crime or delinquency particularly in high crime communities. Programs may involve 'target-hardening' or diverting potential offenders; or

(2) Upgrading the System - programs aimed at providing additional or improved services in the various agencies comprising the criminal or juve-

nile justice system; or

(3) Training - programs aimed at providing new and up-to-date basic, in-service, or specialized instruction to persons serving the criminal or juvenile justice system; or

(4) Offender Rehabilitation - programs providing institutional and community treatment or service programs aimed at the offender; or

(5) System Coordination and Effectiveness - programs aimed at increasing the overall efficiency of the criminal and juvenile justice system through improved planning, better management, and better overall agency cooperation; or

(6) Community Access and Involvement - programs aimed at encouraging increased community awareness and citizen access and involvement in matters properly for the criminal justice or juvenile justice system; or

(7) Victim/Witness Services - programs aimed at addressing the plight of the victims of crime and delinquency and serving the needs of other private citizens vitally involved in some aspect of the criminal justice or juvenile justice system, such as witnesses and jurors.

(a) The Commission will prepare a comprehensive, two year statewide plan, in conjunction with the biennial state budget, aimed at combatting crime and delinquency and at improving the effectiveness

of the criminal justice and juvenile justice systems. The plan shall reflect the Commission's statewide goals, priorities and the Commission's specific programs, including those programs to be undertaken with funds appropriated for implementation of this section. The plan shall include:

(1) An analysis of the crime and delinquency problems, criminal justice and juvenile justice needs within the relevant jurisdictions, a description of the programs to be undertaken, and performance goals and priorities. Programs to be funded shall be limited to those of top priorities as established by the Commission; and

(2) An indication of how the programs relate to other similar crime control programs directed at the same or similar problems; and

(3) An assurance that there is an adequate share of funds for law enforcement, courts, corrections, and juvenile justice programs; and

(4) An assurance that there is an adequate distribution of funds between state agencies and units of local government and among those units of local government, and

(5) An assurance that an adequate share of funds for communities experiencing a high incidence of crime; and

(6) Those state units of local government and agencies eligible to submit applications and receive grant funds for each year covered by the plan.

(b) The Commission will periodically design and publish guidelines outlining the manner in which this section is to be implemented. These guidelines shall include:

(1) A provision that applications for funds must set forth a well-planned, innovative program which offers a high probability of combatting crime or of improving the functioning and effectiveness of the criminal justice system; and

(2) A provision for fund accounting, auditing, monitoring, and the evaluation procedures necessary to keep such records as state law requires to assure fiscal control, proper management, and efficient disbursement of funds received from this program.

(c) Grant funds awarded under this section shall not be used for:

(1) Purchases of equipment or hardware supplies and material, except for emergency telecommunications and electronic data processing equipment, unless the cost of the purchase is incurred as an incidental and necessary part of a program; or

(2) Programs which have as their primary purpose general salary payments for additional line employees; or

(3) Construction projects.

(d) Applications must be in the manner and form prescribed by the Commission and should;

(1) Comply with state law, regulations and Commission guidelines; and

(2) Be consistent with priorities; policy, or procedural arrangements; and the crime analysis.

The Commission shall review and take action on all grant applications and notify the applicant in writing of the finding and the reasons for the finding or recommend appropriate changes.

(3) The Commission shall insure that all requirements outlined under this section be met.

(f) The program portion of any grant made to a local unit of government under this section may be up to fifty percent (50%) of the cost of the grant application. Grants to State agencies may be up to one hundred percent (100%) of the cost. The non-program funding of the cost of any program to be funded under this section shall be of new money appropriated by the individual units of local government for the purpose of the shared funding of such programs or projects.

(g) A grant recipient will be expected to assume the cost of improvements funded under this part after a reasonable period of program assistance.

Sec. 2. This act shall become effective July 1, 1981.

EXPANDING MEMBERSHIP OF GOVERNOR'S CRIME COMMISSION

ISSUE: The Governor's Crime Commission is charged by G.S. 143B-479 with the responsibility of advising the Governor on matters pertaining to combatting crime and improving the administration of justice. The membership of the Crime Commission must include those persons, who in their positions can best deal with the many problems facing the criminal justice system.

EXPLANATION OF ISSUE: Crime is a problem that affects not only those agencies that make up the criminal justice system but the school system, social services, and private industry. Crime is a problem that affects most all public and private agencies and can result from behavioral problems or from monetary difficulties.

The membership of the Governor's Crime Commission contains key state criminal justice officials; however, since crime is a problem not only of the criminal justice system but of society itself, the Crime Commission needs the expertise of state officials whose agencies may assist in solving problems related to crime. The Governor's Crime Commission should be as broadly based as possible and should include as many key officials as possible.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to expand the membership of the Commission to include the Superintendent of Public Instruction and the Commissioner of Labor as voting members.

Crime Commission Membership

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE VOTING MEMBERSHIP OF THE GOVERNOR'S CRIME COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-478(a) is amended by deleting the figure "29" and by substituting the following: "31".

Sec. 2. G.S. 143B-478(a)(1) a. is amended by deleting the phrase "and the Secretary of the Department of Correction;" and by substituting the following: "the Secretary of the Department of Correction, the Commissioner of Labor, and the Superintendent of Public Instruction;"

Sec. 3. G.S. 143B-478(b)(1) is amended by deleting from the end of the first sentence the phrase "and the Administrator for Juvenile Services of the Administrative Office of the Courts." and by substituting the following: ", the Administrator for Juvenile Services of the Administrative Office of the Courts, the Commissioner of Labor, and the Superintendent of Public Instruction."

Sec. 4. This act shall become effective upon ratification.

IMPROVING THE CRIMINAL JUSTICE INFORMATION SYSTEM

MANDATORY FINGERPRINTING AND REPORTING OF FELONY ARRESTS AND DISPOSITIONS

ISSUE: Current North Carolina law allows, but does not require, a person charged with the commission of a felony or misdemeanor to be fingerprinted (G.S. 15A-502). State law does not address the issue of fingerprinting at the time of case disposition.

EXPLANATION OF ISSUE: Because North Carolina does not have a state law mandating the fingerprinting and reporting of persons either arrested for and/or convicted of felonies, only a limited amount of criminal history record information is entered into the State Computerized Criminal History file maintained by the Police Information Network. Since every arrest and disposition in the Computerzied Criminal History file must be substantiated by a fingerprint card reported to the State Bureau of Investigation, the state file is not as complete as it should be. Because the file is incomplete, it is easier for persons with lawful access to the Police Information Network to obtain a person's driving record than it is to know whether that individual has been convicted of murder.

In 1979 the SBI-Identification Section received fingerprint cards for less than 50% of reported felony arrests which represents only 10% of all reported arrests.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to require the fingerprinting and reporting of felony dispositions.

Fingerprint all Felons

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE REPORTING OF COMPLETE AND ACCURATE CRIMINAL HISTORIES TO THE STATE BUREAU OF INVESTIGATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes is hereby amended by inserting a new Article 86, to read as follows:

"Article 86.

"Reports of Dispositions of

Criminal Cases.

"§15A-1381. Definition of disposition.--As used in this Article, the term "disposition" means any action which results in termination or indeterminate suspension of the prosecution of a criminal charge. A disposition may be any one of the following actions:

(1) A finding of no probable cause pursuant to G.S. 15A-511(c)(2);

(2) An order of release pursuant to G.S. 15A-536;

(3) An order of forfeiture pursuant to G.S. 15A-544;

(4) An order of dismissal pursuant to G.S. 15A-604;

(5) A finding of no probable cause pursuant to G.S. 15A-612(3);

(6) A return of not a true bill pursuant to G.S. 15A-629;

(7) Dismissal of a charge pursuant to G.S. 15A-703;

(8) Dismissal pursuant to G.S. 15A-931 or 15A-932;

(9) Dismissal pursuant to G.S. 15A-954, 15A-955 or 15A-959;

(10) Finding of a defendant's incapacity to proceed pursuant to G.S. 15A-1002 or dismissal of charges pursuant to G.S. 15A-1008;

(11) Entry of a plea of guilty or no contest pursuant to G.S. 15A-1011, without regard to the sentence imposed upon the plea, and even though prayer for judgment on the plea be continued;

(12) Order of mistrial pursuant to G.S. 15A-1061, 15A-1062 or 15A-1063;

(13) Dismissal pursuant to G.S. 15A-1227;

(14) Return of verdict pursuant to G.S. 15A-1237, without regard to the sentence imposed upon such verdict and even though prayer for judgment on such verdict be continued;

(15) Granting a motion for appropriate relief pursuant to G.S. 15A-1417.

"§15A-1382. Reports of disposition; fingerprints.--(a) When the defendant is fingerprinted pursuant to G.S. 15A-502 prior to the disposition of the case, a report of the disposition of the charges shall be made to the State Bureau of Investigation on a form supplied by the State Bureau of Investigation within 60 days following disposition.

(b) When a defendant is found guilty of any felony, regardless of the class of felony, a report of the disposition of the charges shall be made to the State Bureau of Investigation on a form supplied by the State Bureau of Investigation within 60 days following disposition. If the defendant was not fingerprinted pursuant to G.S. 15A-502 prior to the disposition of the case, his fingerprints shall be taken and submitted to the State Bureau of Investigation along with the report of the disposition of the charges on forms supplied by the State Bureau of Investigation.

"§15-1383. Plans for implementation of Article.--(a) On the effective date of this Article the senior resident superior court judge of each judicial district shall file a plan with the Director of the State Bureau of Investigation for the implementation of the provisions of this Article. The plan shall be entered as an order of the court on that date. In drawing up the plan, the senior resident superior court judge may consult with the chief district judge, the district attorney, the clerks of superior court within the district, the Department of Correction, the sheriffs and chiefs of police within the district and other persons as he may deem appropriate. Upon the request of the senior resident superior court judge, the State Bureau of Investigation shall provide such technical assistance in the preparation of the plan as the judge desires.

(b) A person who is charged by the plan with a duty to make reports who fails to make such reports as required by the plan is punishable for civil contempt under Article 2 of Chapter 5A of the General Statutes.

(c) When the senior resident superior court judge modifies, alters or amends a plan under this Article, the order making such modification, alteration or amendment shall be filed with the Director of the State Bureau of Investigation within 10 days of its entry.

(d) Plans prepared under this Article are not "rules" within the meaning of Chapter 150A of the General Statutes or within the meaning of Article 6C of Chapter 120 of the General Statutes."

Sec. 2. Chapter 7A of the General Statutes is hereby amended by adding thereto a new section 7A-608.1 to read:

"§7A-608.1. Fingerprinting juvenile transferred to superior court.-- When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall be fingerprinted and his fingerprints shall be sent to the State Bureau of Investigation."

Sec. 3. This act shall become effective on January 1, 1982.

CONTINUED

1 OF 3

STRENGTHENING THE CRIMINAL LAW

MANDATING PRESENTENCE REPORTS IN FELONY CASES

ISSUE: Most individuals convicted of crimes in North Carolina are sentenced by judges who do not have the benefit of a presentence report. The judge uses information available from the district attorney or from the probation officer. A written report may be prepared by the probation officer; but generally the information he gives to the judge is given orally.

EXPLANATION OF ISSUE: With the implementation of fair sentencing legislation on March 1, 1981, the necessity of a presentence investigation and report becomes essential to the sentencing process in felony cases. In order to determine mitigating or aggravating circumstances, the judge will require detailed and verified information.

The Division of Adult Probation and Parole reports that in 1979, about 20,000 felons entered the state correctional system. If approximately four hours per investigation were required, this would total 80,000 work hours. Considering 2,000 works hours in a year, then 40 staff persons would have been necessary to perform this task.

The additional probation/parole officers should be supplemented by existing staff. An assignment plan for the 40 officers should be developed by the Division of Adult Probation and Parole. This plan would consider population and geographic factors to establish the most efficient use of staff time.

In order to provide the sentencing judge with adequate information in felony cases, a presentence investigation should be conducted and a report prepared. Not only would this information be useful to the judge, but the report would help in the development of a community treatment plan or in the classification and diagnostic work-up for inmates.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to mandate the preparation of a presentence report in felony cases unless the court rules otherwise. It is also recommended that additional staff be authorized for the Division of Adult Probation and Parole to implement this statute.

Mandatory Presentence Reports

A BILL TO BE ENTITLED

AN ACT TO MAKE PRESENTENCE REPORTS MANDATORY IN FELONY CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1332(b) is amended by adding two new sentences between the first and second to read:

"Unless otherwise ordered by the court, the probation/parole officer shall prepare a written presentence report in felony cases which shall include information on the aggravating and mitigating factors enumerated in G.S. 15A-1340.4. The presentence report may take the form of an updating report attached to a previously submitted presentence report"; and is further amended by adding the following sentence to the end to read: "When a presentence report is prepared, the clerk of court in the county of conviction shall attach a copy of that report to the judgment and order of commitment."

Sec. 2. There is appropriated from the General Fund to the Division of Adult Probation and Parole, Department of Correction, the sum of one million two hundred fifty thousand dollars ($1,250,000) for fiscal year 1981-82 and the sum of one million fifty thousand dollars ($1,050,000) for fiscal year 1982-83 for the purpose of implementing Section 1 of this bill.

Sec. 3. This act shall become effective July 1, 1981, and applies to individuals convicted on or after October 1, 1981.

ACCESS TO JUVENILE RECORD OF
ADULT DEFENDANT

ISSUE: As a judge in superior or district court sentences a defendant, the judge is unaware of the juvenile record of that defendant.

EXPLANATION OF ISSUE: The judge, in sentencing without the benefit of the juvenile record, is failing to do justice to the defendant or to the State. Information from the juvenile record would alert the court to that case where an offender has had a long juvenile record of similar offenses indicating perhaps a need to protect society. Information from the juvenile record would also make the court aware of programs or treatment provided for the defendant as a juvenile, educating the court as to options that might be more or less successful in rehabilitating the defendant. G.S. 7A-675 authorizes the chief district judge or district court judge assigned to hear juvenile cases to permit examination of the juvenile record. G.S. 15A-1332 allows the court to order a presentence investigation. G.S. 15A-1333 specifically provides that the reports resulting from the presentence investigation are not public records. Under current law a person who reaches sixteen years of age (See G.S. 7A-676) may petition to have his juvenile record of delinquency expunged if he has not been adjudicated delinquent or convicted since adjudication as a juvenile; the offense may have been a felony or a misdemeanor.

In most cases a judge who reviewed the juvenile record would not be looking at the record of a first offender and the court should have access to as much information about the defendant as possible including his juvenile record. A two-track justice system - one for juveniles, one for adults - has serious costs in terms of fairness and crime control that must be taken into account in evaluating benefits.

RECOMMENDATION: The Governor's Crime Commission recommends that legislation be enacted to:

(1) Permit examination of the juvenile record by any superior or district court judge; and
(2) Require that a presentence investigation for superior or district court on a defendant include that defendant's juvenile record.

Presentence Report: Juvenile Record

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT A PRESENTENCE INVESTIGATION ON A DEFENDANT UNDER EIGHTEEN INCLUDE THAT DEFENDANT'S JUVENILE RECORD OF DELINQUENT ACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-675(a) is amended by deleting the following language from the first sentence: "or other authorized representative of the juvenile shall have a right to examine the juvenile's record." and by substituting the following: "other authorized representative of the juvenile, or the probation/parole officer ordered to make a presentence investigation pursuant to G.S. 15A-1332, shall have a right to examine the juvenile's record."; and is further amended by adding a new sentence to the end to read: "Nothing in this subsection shall preclude examination of the juvenile's record of delinquent acts and consideration of that record by any district or superior court judge following adjudication and prior to disposition as a juvenile or prior to sentencing as an adult."

Sec. 2. G.S. 15A-1332 is hereby amended by adding a new subsection (d) to read as follows:

"(d) If a judge orders a presentence investigation as provided in subsection (b) or a presentence commitment for study as provided in subsection (c), he shall examine and consider the defendant's record of delinquent acts committed as a juvenile."

Sec. 3. This act shall become effective July 1, 1981.

CRIMES COMMITTED WHILE ON PRETRIAL RELEASE

ISSUE: The likelihood of a person committing additional crimes while on bail is high; however, the likelihood of an offender who commits a second offense while on bail and is later convicted of both offenses receiving a concurrent sentence is even higher and is of grave concern.

EXPLANATION OF ISSUE: The public is concerned about current bail practices. After more than ten years of experience with bail reform, it is evident that the reform effort has failed to deal effectively with the problem of crimes committed by persons on bail. With increasing frequency, defendants released on bail are being arrested and charged with serious felonies. The Institute of Law and Social Research, in a recent study, found that over fifteen percent of all persons arrested for crimes committed in the District of Columbia were out on bail at the time. That arrest rate is more than ten times the rate of arrest for the general population.

Preventive detention, the incarceration of people not for what they have done in the past but for what they night do in the future, is contrary to bail statutes and violative of the Bill of Rights.

The simplistic approach of preventive detention cannot be considered as a response to curb the commission of crimes by defendants on bail; however, mandating a consecutive sentence for an offense committed while the defendant was on bail is one approach that may be utilized.

Today, if a defendant commits a second offense while on bail and is later convicted of both offenses, he usually receives a concurrent sentence. That result would appear to encourage the defendant on bail to commit other crimes with no fear of additional sanctions. Public concern increases as the offender seems to be committing "two crimes for the price of one". Further, court congestion and trial delay prevent speedy disposition of cases and defendants on bail roam the streets with no desire to have their cases quickly called.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to require, for an offender convicted for a crime committed while he was on bail, a sentence consecutive to any other sentence which might be imposed.

Sentencing for Certain Crimes

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CONSECUTIVE SENTENCES FOR CONVICTED OFFENDERS OF CRIMES COMMITTED WHILE ON BAIL.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to the General Statutes to read:

"§14-3.1. Punishment for crimes committed when defendant was on pretrial release. -- The sentence of any person convicted of an offense committed while such person was on pretrial release shall run consecutive to any sentence for the offense for which the pretrial release was granted."

Sec. 2. G.S. 7A-343 is amended by adding a new subsection (11) to read:

"(11) Promulgate, prepare and distribute pretrial release forms that contain notice of the provisions prescribed in G.S. 14-3.1; provided, however, that nothing herein shall prevent the application of G.S. 14-3.1 should the judicial official authorizing pretrial release fail to use any form promulgated under the provisions of this section."

Sec. 3. This act shall become effective July 1, 1981, and shall apply to offenses committed on or after that date.

COMMISSION OF A CRIME WHEN IN POSSESSION OF A DEADLY WEAPON

ISSUE: Statistics reflect that in the commission of an increasing number of felony offenses, offenders are using deadly weapons.

EXPLANATION OF ISSUE: Virtually every state is being forced to take a long, hard look at its gun control laws as well as laws relating to deadly weapons. The State of New York just recently enacted legislation providing for enhancement of offenses when a firearm is used. Authorizing an increased penalty for offenses committed with the use of a deadly weapon is one approach to curbing violent crimes by at least deterring for a longer period, that particular offender. That approach with its results should perhaps be studied by North Carolina's criminal justice officials.

In 1979, the General Assembly enacted Fair Sentencing legislation. That legislation required the judge to consider certain factors as aggravating or mitigating prior to passing sentence. Use of a deadly weapon was not among those factors listed as aggravating. Amendments to the Fair Sentencing legislation, which were introduced in 1980, included such a provision; however, that provision was deleted before the amendments were passed.

RECOMMENDATION: The Governor's Crime Commission recommends the General Assembly enact legislation to include the use of a deadly weapon during the commission of a crime as one of the aggravating factors the judge must consider before passing sentence following a felony conviction.

Sentencing for Firearm Crime

A BILL TO BE ENTITLED

AN ACT TO INCLUDE COMMISSION OF A CRIME WHEN IN POSSESSION OF A DEADLY WEAPON AS AN AGGRAVATING FACTOR IN SENTENCING.

The General Assembly of North Carolina enacts:

Section 1. A new sub-subdivision is added to G.S. 15A-1340.4(a)(1) to read:

"(e) The defendant possessed or used a deadly weapon during commission of the crime."

Sec. 2. G.S. 15A-1340.4(a) is amended by adding immediately following subdivision (1) and immediately preceeding subdivision (2): "Evidence necessary to prove an element of the offense may not be used to prove a factor is aggravation, and the same item of evidence may not be used to prove more than one factor of aggravation."

Sec. 3. This act shall become effective July 1, 1981, and shall apply to offenses committed on or after that date.

CONTROLLING THE SALE OF DRUG PARAPHERNALIA

ISSUE: Controlling the illegal sale and use of drugs is a primary concern of law enforcement. A corollary problem is the control of access to drug paraphernalia, particularly by minors.

EXPLANATION OF ISSUE: Constitutional questions may surround any attempt to place general restrictions upon commerce in drug paraphernalia, as has been the experience in attempts to control what is commonly termed "pornography." Nonetheless, the proliferation of the drug culture has witnessed an increasing participation by minors, and it is that aspect which most greatly concerns law enforcement.

The Paraphernalia Trade Association estimates that the sale of drug paraphernalia in the U. S. grosses more than $3 billion annually. Magazines like High Times, Stone Age, and Hi Life openly appeal to minors with ads for paraphernalia ranging from a pack of "party size" joint rolling papers to $100 machines to improve the quality and potency of "grass."

Marijuana pipes in the shape of TV's "Starship Enterprise," comic books on how to roll a joint, and "herbal smoking mixtures" that imitate marijuana are clearly designed only for children.

A serious aspect of the problem is the ease of availability of this merchandise to minors. "Head sell paraphernalia to the exclusion of other types of merchandise. Record and tape stores are increasingly stocking such items. Even the neighborhood convenience store displays many items which are explicitly oriented toward the illegal use of drugs. Proprietors of these establishments can voluntarily restrain the sale of paraphernalia to minors; however, the availability of merchandise by mail-order from drug culture magazines is, thus far, completely unrestricted, and there is no way to monitor sales to minors.

Obviously, many parents are interested in preventing their minor children from obtaining and using drugs and drug-related paraphernalia. Unfortunately, some parents do not recognize the need for control until after their children have begun to exhibit behavior patterns which are symptomatic of drug use. Parent groups have begun to form for the purpose of supporting each other in the fight to eliminate drug use among their children. Many of these groups are also actively campaigning for changes in the laws which regulate all drug-related commerce.

Governing bodies at all levels are interested in controlling drug use. Elected officials are characteristically responsive to

public demand, particularly issues which involve children. The National League of Cities is urging action at all levels of government. On the other side, the Paraphernalia Trade Association (PTA) is gathering strength as a lobby against any type of trade restrictions.

The United States Department of Justice is so concerned with this problem that the Drug Enforcement Administration has drafted a "Model Drug Paraphernalia Act". It is a simple but effective statute, and can be easily adapted to the current laws of any state. The Federal Courts have recently upheld the constitutionally of local ordinances based upon the D.E.A. model act.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to prohibit the manufacture, advertisement, delivery, possession, or use of drug paraphernalia.

Drug Paraphernalia

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE POSSESSION, USE, DELIVERY OR MANUFACTURE OF DRUG PARAPHERNALIA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding the following new Article 5B:

"Article 5B.

"Drug Paraphernalia.

"§ 90-113.15. General provisions. -- (a) As used in this Article, 'drug paraphernalia' means all equipment, products and materials of any kind that are used to facilitate, or intended or designed to facilitate, violations of the Controlled Substances Act, including planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, and concealing controlled substances and injecting, ingesting, inhaling, or otherwise introducing controlled substances into the human body. 'Drug paraphernalia' includes, but is not limited to, the following:

(1) Kits for planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits for manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices for increasing the potency of any species of plant which is controlled substance;

(4) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances for weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose, and lactrose, for mixing with controlled substances;

(7) Separation gins and sifters for removing twigs and seeds from, or otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices for compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers for packaging small quantities of controlled substances;

(10) Containers and other objects for storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects for parenterally injecting controlled substances into the body;

(12) Objects for ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into

the body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Objects, commonly called roach clips, for holding burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Minature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electronic pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers.

(b) The following, along with all other relevant evidence, may be considered in determining whether an object is drug paraphernalia:

(1) Statements by the owner or anyone in control of the object concerning its use;

(2) Prior convictions of the owner or other person in

control of the object for violations of controlled substances law;

(3) The proximity of the object to a violation of the Controlled Substances Act;

(4) The proximity of the object to a controlled substance;

(5) The existence of any residue of a controlled substance on the object;

(6) The proximity of the object to other drug paraphernalia;

(7) Instructions provided with the object concerning its use;

(8) Descriptive materials accompanying the object explaining or depecting its use;

(9) Advertising concerning its use;

(10) The manner in which the object is displayed for sale;

(11) Possible legitimate uses of the object in the community;

(12) Expert testimony concerning its use;

(13) The intent of the owner or other person in control of the object to deliver it to persons whom he knows or reasonably should know intend to use the object to facilitate violations of the Controlled Substances Act.

"§ 90-113.16. Possession of drug paraphernalia.-- (a) It is unlawful for any person to knowingly use, or to possess with

intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal a controlled substance which it would be unlawful to possess, or to inject, ingest, inhale or otherwise introduce into the body a controlled substance which it would be unlawful to possess.

(b) Use, or possession with intent to use, of each separate and distinct item of drug paraphernalia is a separate offense.

(c) Violation of this section is a misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than one year, or both.

"§ 90-113.17. Manufacture or delivery of drug paraphernalia.--

(a) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain or conceal a controlled substance which it would be unlawful to possess, or that it will be used to inject, ingest, inhale or otherwise introduce into the body a controlled substance which it would be unlawful to possess.

(b) Delivery, possession with intent to deliver, or manufacture with intent to deliver, of each separate and distinct item of drug paraphernalia is a separate offense.

(c) Violation of this section is a misdemeanor punishable by a fine of not less than one thousand dollars ($1,000.00), imprisonment for not more than two years, or both. However, delivery of drug paraphernalia by a person over 18 years of age to someone under 18 years of age who is at least three years younger than the defendant shall be punishable as a Class I felony.

"§ 90-113.18. Advertisement of drug paraphernalia.--(a) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, when he knows or reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia described in this Article.

(b) Violation of this section is a misdemeanor punishable by a fine of not more than five hundred dollars ($500.00), imprisonment for not more than six months, or both."

Sec. 2. G.S. 90-113.4 is repealed.

Sec. 3. If any provision of this act or the application of it to any person or circumstances is held invalid, the invalidity does not affect any other provision of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 4. This act shall become effective October 1, 1981, and applies to acts committed on or after that date.

IMPROVING LAW ENFORCEMENT

ACCREDITATION OF LAW ENFORCEMENT AGENCIES

ISSUE: Incorporated units of local government in North Carolina may, by statute, provide law enforcement services, and many choose to do so. At several crime control public hearings, residents of small towns expressed concern over the lack of an adequately staffed police department or the lack of quality in departmental personnel and equipment. Serious debate may emerge regarding a town's right to provide police service versus a state's right, or obligation, to ensure consistent and quality service.

EXPLANATION OF ISSUE: During the past ten years, dramatic improvements have been made in law enforcement theory and practice. Many agencies have assumed positions of leadership in pioneering changes and innovations. Perhaps the most important gains have been in the areas of attracting higher caliber personnel, implementation of sound and just operational procedures, and provision of a more complete range of services to the community.

Unfortunately, some agencies have not progressed. Many departments cannot, or do not, pay salaries sufficient to attract qualified personnel. Some have no commitment to training their personnel. Some departments have not considered, or implemented, updated operational procedures. And, perhaps most serious of all, many departments do not provide full time service in their jurisdictions.

Generally, these problems can be attributed in one way or another to an agency's size. Some jurisdictions simply do not have a sufficient population or tax base to generate the amount of tax revenue necessary to support a full service law enforcement agency. As a result, personnel, salaries, training, and procedures are not at optimum levels.

The problem is one of economies of scale. What size must a town (or its police department) be in order to economically provide the necessary manpower, training, and equipment for a professional police force? Or, to put it another way, should there be a minimum population requirement for small towns, below which those towns would not be authorized by law to create their own police departments, but instead be required to either consolidate their efforts with other neighboring towns or be protected by the county sheriff?

The idea that "bigger is better" is simply not always true. Obviously, for every disadvantage which can be attributed to the smallest of law enforcement agencies, an advantage can also be named. Of particular note is that the smaller the jurisdiction, the more personal the relationship which can exist between officers and the public. This fact alone can contribute greatly to the potential for effective law enforcement operations.

How then, can the "best of both worlds" be achieved? The problem is that effective communication and relationships must exist between law enforcement and the public, yet agencies should be large enough to support adequate salaries, sufficient training, and a full range of services twenty four hours per day. Also, in order to be fair to the officer on the street, he should have adequate back-up available and proper communications and logistic support.

Often, new agencies are created without sufficient thought being given to the broad scope of the law enforcement role. One or two officers struggling along, without sufficient annual training and support services, are assuming a higher risk than is necessary. Also, the jurisdiction may not be receiving an amount of service in proportion to the dollars it is expending.

No organization has yet taken a public stand on the issue of agency standards. Local autonomy is a crucial matter in North Carolina, and one might expect cities and towns to be opposed to any state action which would impose mandatory standards. Nonetheless, many grant applications have been received by the Governor's Crime Commission from towns requesting LEAA funding for projects involving services which many police administrators believe to be basic to the operation of any law enforcement agency. Virtually every one of these applications states "We can't afford to provide effective service - we need help".

Police officers want adequate pay, good equipment, and assurance of back-up during emergencies. Many officers, however, will endure less than adequate conditions because of their love for the job. Unfortunately, some of these dedicated officers are daily assuming unnecessary risks, and the roll of dead and injured officers bears given witness to the fact that they were not provided with proper training, equipment, and reinforcements.

The Governor's Crime Commission cannot support mandatory standards or any restriction imposed by statute. The Commission believes, however, that the national effort presently underway to develop standards for the voluntary accreditation of law enforcement agencies offers significant hope. As with other professions, "peer pressure" can often do more to improve things than can any law.

The Commission on Accreditation of Law Enforcement Agencies is a joint effort of the International Association of Chiefs of Police, the National Sheriffs' Association, the National Organization of Black Law Enforcement Executives, and the Police Executive Research Forum. Its mission is to consider all previous work done in the area of goals and standards for law enforcement, to

develop other standards, to have them reviewed and tested by law enforcement practitioners, and to submit the results for voluntary implementation by law enforcement agencies.

The Governor's Crime Commission wholeheartedly supports this effort and commits the resources of the Commission to the successful achievement of a higher degree of professionalism in North Carolina.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to add to the present statuatory duties of the Law Enforcement Planning Committee, the responsibility of working for the effective implementation of accreditation standards for law enforcement agencies in North Carolina.

Accredit. LE Agencies

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH GUIDELINES FOR THE ACCREDITATION OF LAW ENFORCEMENT AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-480(c)(2) is amended by adding a new paragraph to the end to read:

"The Law Enforcement Planning Committee shall maintain contact with the National Commission on Accreditation for Law Enforcement Agencies, assist the National Commission in the furtherance of its efforts, adapt the work of the National Commission by an analysis of law enforcement agencies in North Carolina, develop standards for the accreditation of law enforcement agencies in North Carolina, make these standards available to those law enforcement agencies which desire to participate voluntarily in the accreditation program, and assist participants to achieve voluntary compliance with the standards."

Sec. 2. This act shall become effective July 1, 1981.

LAW ENFORCEMENT SALARIES

ISSUE: The minimum salary program, as established by the General Assembly, is scheduled to expire at the end of fiscal year 1982. Many local governments have voluntarily participated in this program, and, for those agencies, the program has accomplished its purpose of raising salaries to a more acceptable level.

The problem of salary sufficiency still remains, however. In part, there are some agencies which did not participate in the voluntary program and which continue to pay officers below the recommended minimum salary. Also, it may be questioned as to whether those agencies which have participated, will continue to increase salaries in proportion with salary needs (based upon annual changes in the consumer price index). Finally, it should be determined what can be done to encourage all agencies, regardless of size or geographic location in the state, to recognize the accomplishments of their officers and compensate them accordingly.

EXPLANATION OF ISSUE: Law enforcement executives typically relate three problems to the salary issue. First, they feel that low salaries, established by their governing bodies, make it very difficult to recruit qualified personnel. Next, qualified persons who are hired may resign to move to another agency which offers, among other things, a higher salary. Finally, advancement potential in many agencies, especially the smallest ones, is either limited or nonexistent; and in most agencies, the only way to get an actual raise in salary (not just a cost-of-living adjustment) is to be promoted to a higher rank.

There are many additional aspects of recruitment and retention which must be examined, but the focus of this particular discussion is salary. Clearly, the discussion should not be limited to those agencies which have the least resources. Officers in the jurisdictions paying the highest salaries also feel that more could be done for their benefit; therefore, any recommendation concerning salaries should be equally applicable to the largest and the smallest law enforcement agency in North Carolina.

Standard 5.13 of the Goals and Standards for the Criminal Justice System in North Carolina (July, 1976) addresses law enforcement salaries. It is unlikely that anyone would argue with the intent of this standard. Ideally, uniform implementation of the goals and standards should result in a reduction of the principal complaints which are symptomatic of salary deficiencies. Presently there is no data collected which would reveal the magnitude or degree of implementation across the state. However, an examination of the data which is available indicates that implementation of Standard 5.13 is neither complete nor satisfactory.

Law enforcement officers are, naturally, interested in the salary issue. There has been a significant increase in officers' salaries during the past few years. As the levels of education, training, and expertise increase among officers, some governing bodies are responding with salary differentials which recognize an individual officer's achievements. Law enforcement officers typically exhibit a high degree of dedication to their work and are concerned about being adequately compensated for the demands and risks associated with the performance of their jobs.

Local governments are also concerned about salaries for law enforcement officers. As a labor-intensive function, more than 80% of the typical police or sheriff's department budget goes for personnel costs. In an effort to keep their employees abreast of inflation and to recognize professional advancement, governing bodies are faced with the need to generate additional revenues to meet expanding budget needs. However, as citizens demand more quality services they also desire a reduction in local tax rates.

A program must be developed which will serve as an incentive for several purposes. First, for the officer - as a reward for achievement of higher education and training. Second, for law enforcement agencies - as a means of recruiting and retaining qualified personnel. Finally, for the State - as an assurance that a positive effort is underway to increase professional skills among all law enforcement officers.

The North Carolina Criminal Justice Education and Training Standards Commission is very interested in the salary incentive issue. It is anticipated that appropriate legislation will be forthcoming from that body. By way of suggestion to them, a draft bill is presented here which incorporates some ideas which the Crime Commission hopes may be useful.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to provide a salary incentive program for law enforcement officers in North Carolina.

LEO Salary Incentives

A BILL TO BE ENTITLED

AN ACT TO PROVIDE SALARY INCENTIVES FOR LAW ENFORCEMENT OFFICERS TO EXPAND THEIR TRAINING AND EDUCATION.

Whereas, the General Assembly of North Carolina finds that the increasing complexity of law enforcement requires consistent and constant updating and expansion of an officer's knowledge, and skills; and

Whereas, it is in the public interest to make available to law enforcement officers, and their employer agencies, a program to encourage the achievement of excellence by every officer in North Carolina;

Now; therefore,

The General Assembly of North Carolina enacts:

Section 1. A new Chapter, 17E, is added to the General Statutes to read as follows:

"Chapter 17E.

"North Carolina Criminal Justice Education and Training Incentives Program.

"§17E.1. The provisions of this Chapter shall be administered by the Attorney General of North Carolina.

"§17E-2. Definitions--Unless the context otherwise requires, the following definitions apply in this Chapter:

(a) 'Associate's Degree' means the Associate of Arts or Asso-

ciate of Science degree or equivalent granted by an accredited institution of higher education.

(b) 'Bachelor's Degree' means the Bachelor of Arts or Bachelor of Science degree or equivalent granted by an accredited institution of higher education.

(c) 'Graduate Degree' means any graduate or professional degree, beyond the Bachelor's level, granted by an accredited institution of higher education.

(d) 'Education' means academic endeavor at an accredited institution of higher learning.

(e) 'Training' means classroom or field training sponsored by or under the direct supervision of a formally recognized criminal justice training facility such as the North Carolina Justice Academy, The Traffic Institute, or The International Association of Chiefs of Police. Roll call training or other in-house instruction provided by an agency solely for the benefit of its own members shall not qualify for credit toward advanced certification unless the training consists of content and format prescribed by a recognized facility or institution as named above and is presented by a certified instructor.

(f) 'Law Enforcement Officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws, including police, corrections, probation, parole, and judicial officers.

"§17E-3. Participation in program voluntary.--Participation

in this program by any state, local, or other law enforcement agency shall be voluntary. Any officer may apply for certification, provided that the application is approved by the chief executive of the officer's employing agency. Should the employing agency not desire to contribute its share of the cash award as prescribed in G.S. 17E-4 and 17E-5 of this act, nothing shall prevent the officer from receiving that portion of the award as is normally contributed by the Salary Incentive Fund.

"§17E-4. Cash award upon certification.--A cash award shall be paid to each officer when he achieves each higher level of certification. The award shall be paid on each annual anniversary date of certification, not to exceed a total of five (5) payments per certificate. The award shall be a cash amount equal to one percent (1%) of the officer's annual salary at the time of certification times the number of the level of the certificate.

"§17E-5. Incentives subject to deduction.--Salary incentive monies are subject to all normal payroll deductions such as withholding tax and social security. However, awards are exempt from deductions for contribution to retirement systems.

"§17E-6. Establishment of Salary Incentive Fund.--The Salary Incentive Fund, is established by this Chapter. It shall pay a portion of each award amount, to be supplemented by the employing agency. For each annual payment for a given certification level, the Fund amount shall decrease by ten percent (10%) and the employer amount shall increase by ten percent (10%). At the

achievement of each higher certificate, the award amount reverts to the original ratio for another five year cycle. In every case the first payment shall come forty percent (40%) from the Fund and sixty percent (60%) from the employing agency and the fifth payment shall come one hundred percent (100%) from the employing agency.

"§17E-7. Participating agencies.--Participating agencies shall report to the program quarterly, on a form prescribed by the Attorney General, for reimbursement of the Salary Incentive Fund's portion of award payments.

"§17E-8. Approved degrees, courses and institutions.--The Attorney General shall publish not less than annually a list of approved degrees and institutions, and a list of approved training courses and facilities or institutions. Credits toward certification will not be considered unless they come from the list.

"§17E-9. Application for certificate.--Each officer applying for a certificate shall do so on a form prescribed by the Attorney General. The application shall have attached thereto all appropriate documentation to demonstrate compliance with the requirements for award of the certificate, and shall be signed by the chief executive of the officer's employing agency.

"§17E-10. Minimum requirements for award.--The Attorney General shall publish and provide to each employing agency the minimum requirements for the award of each certificate."

Sec. 2. There is hereby appropriated from the General Fund to the Department of Justice $_____ to fund the

incentive program and to finance the Salary Incentive Fund established by Chapter 17E.

Sec. 3. This act shall become effective July 1, 1982.

REPRESENTING LAW ENFORCEMENT OFFICERS
AGAINST CLAIMS OF CIVIL LIABILITY

ISSUE: During the past three years, a statewide plan has been implemented to provide liability insurance for law enforcement officers. Some agencies, however, neither participate in the plan nor secure insurance coverage from any other source.

EXPLANATION OF ISSUE: Nationwide, there has been a dramatic increase in the number of lawsuits filed against law enforcement officers. For those officers employed by agencies which provide insurance coverage, the worry which accompanies a suit is lessened. An officer not covered by insurance faces the prospect of a staggering debt.

A very important point must be made. Very few lawsuits which go to trial are decided in favor of the plaintiff; some are settled out of court for a fraction of the face amount of the suit. Regardless of the outcome, an officer must be represented by an attorney and the price of quality representation can far exceed an officer's ability to pay.

No officer should have to assume such a risk. If a law enforcement agency cannot, or will not, provide insurance coverage for its officers, it should, at a minimum, assume the cost of legal representation in any suit.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to require that cities and counties assume the cost of legal representation for their law enforcement officers against claims of civil liability.

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE LEGAL REPRESENTATION OF LAW ENFORCEMENT OFFICERS AGAINST ALLEGATIONS OF CIVIL LIABILITY.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Chapter 153A of the General Statutes to read:

"§153A-213. Representation for alleged civil liability.--Every county employing law enforcement officers, whether the officers be paid or voluntary, and whether the officers be members of a county police department or a county sheriff's department, shall provide for the legal representation of those officers against any claim of civil liability such claim resulting from any act or omission to act during the lawful performance of their official duties."

Sec. 2. A new section is added to Chapter 160A of the General Statutes to read:

"§160A-281.1. Representation for alleged civil liability.--Every city or town employing law enforcement officers, whether the officers be paid or voluntary, shall provide for the legal representation of those officers against any claim of civil liability such claim resulting from any act or omission to act during the lawful performance of their official duties."

Sec. 3. This act shall become effective July 1, 1981.

INCREASING MOTOR VEHICLE ACCIDENT REPORTING LIMITS

ISSUE: G.S. 20-166.1 requires that law enforcement officers investigate motor vehicle accidents which result in property damage to an apparent extent of $200 or more. Inflation has caused this dollar amount to be unrealistically low.

EXPLANATION OF ISSUE: The cost of everything is rising. Several years ago, two hundred dollars' damage to a motor vehicle was major. Today, it costs that must to have a few dents repaired. As inflation continues, an increasing number of minor accidents exceed the threshhold reporting limit.

This problem is beginning to have a severe impact upon law enforcement. Resources are strained in every agency. The reporting limit was established so that officers would not have to investigate minor property damage accidents; thus, resources could be saved. Unfortunately, resources are being wasted on investigations of "fender-benders" because the reporting limit is so low.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to raise the motor vehicle accident reporting limit to $500.

Reporting Auto Accident Limits

A BILL TO BE ENTITLED

AN ACT TO INCREASE MOTOR VEHICLE ACCIDENT REPORTING LIMITS TO $500.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-166.1(a)is amended by deleting the words and figures "two hundred dollars ($200.00)" and inserting in lieu thereof the words and figures "five hundred dollars ($500.00)".

Sec. 2. G.S. 20-166.1(b) is amended by deleting the words and figures "two hundred dollars ($200.00)" and inserting in lieu thereof the words and figures "five hundred dollars ($500.00)".

Sec. 3. This act shall become effective July 1, 1981, and shall apply to accidents taking place on or after this date.

MOTOR VEHICLE LICENSE PLATES

ISSUE: Identification of vehicles under actual traffic conditions is an important law enforcement function. As the number of vehicles operating on the state's highways has increased, fast and accurate identification has become more difficult. Law enforcement officials have stated that license plate laws should be changed to facilitate vehicle identification.

EXPLANATION OF ISSUE: In 1958, a comprehensive study was made of motor vehicle license plates by the University of Illinois. That research was conducted after an exploratory study revealed the need for an analysis of the functions and design of license plates.

The study was carried out to determine the following objectives:

- The functions of license plates and the relative importance of these functions.
- The information which should be displayed on a license plate and the importance of each item of information.
- The most effective and efficient design for a license plate.

A study of reflectorized motor vehicle license plates was included. This part of the research was conducted to investigate and recommend features for the design of a reflectorized plate which would furnish optimum legibility by day and at night. The study also was made to determine the effect of reflectorized license plates on nighttime collisions of motor vehicles.

As part of the University of Illinois study, questionnaires were sent to 475 American and Canadian law enforcement agencies and other officials concerned with motor vehicle license plates. The study report states:

> Sixty-two percent of the questionnaires were completed and returned. The replies were tabulated, correlated to occupation, and analyzed to form the basis for the study conclusions.

On the basis of the replies and comments received from discussions with interested persons considering the many facets of license plate design, the following conclusions concerning the functions of license plates were evident:

- The primary function of license plates is to display the information necessary for fast and accurate identification of a motor vehicle under actual traffic conditions.
- The second function of license plates is to display the information necessary to show compliance with motor vehicle registration laws by the owner of the vehicle.

The report also states that anything which interferes with these primary and secondary functions, such as advertising a state, is not a true function of license plates.

In addition to the conclusions reported above, the answers and comments obtained in the research formed the basis for numerous other findings regarding the functions of license plates. The first of these findings, which are listed in the order of their relative importance, states:

- For effective identification of motor vehicles under actual traffic conditions, each vehicle should be issued two plates, one to be displayed on the front of the vehicle and the other on the rear.

The remaining conclusions enumerate the various characteristics that respondents to the questionnaire identified as other important features required to accomplish the functions of license plates principally, and as might be predicted, those features that contribute to the legibility of license plates.

In 1979, the International Association of Chiefs of Police made another study on the utility of license plates for law enforcement. Those in law enforcement who were surveyed agreed that license plates are very important in controlling general and street crime; lesser importance was placed on their use in narcotic and traffic enforcement. The study also indicates that improvements should be made on license plates to make them more visible at night; to make license plates characters more legible, brighter, and more reflective; and to provide more distinctive markings to indicate the state the license plate represents.

The overwhelming consensus of that study was that two license plates were absolutely essential or very important (75% of the respondents).

Further data regarding statistical results of these studies may be obtained from the document Vehicle Identification Study Report, Utility of License Plates for Law Enforcement, published by the Research Division, International Association of Chiefs of Police, April, 1979.

The I.A.C.P., at its 82nd Annual Conference, adopted two resolutions: One resolution recommended to the American Association of Motor Vehicle Administrators that all motor vehicle license plates be reflectorized to improve their long-range visibility and legibility. The second resolution supported the issuance of both front and rear license plates and mandated that this resolution be brought to the attention of appropriate officials.

Law enforcement officials in North Carolina are also concerned with these two issues. Because North Carolina is one of the seventeen states still using a single license plate per vehicle, vehicles registered in this state place not only North Carolina's, but all states' law officers at a disadvantage according to the survey results for questions relating to ease of vehicle identification.

The public may resist improvement in this area because of the cost of the additional plate. Even though such cost may be very minimal, very often citizens resist any increase in taxes or fees, regardless of the potential benefit which may be derived.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation which would provide that all vehicles registered in North Carolina, except motorcycles and trailers, be required to display license plates on both the front and the rear. Also, plates should bear numerals of sufficient size and color to be plainly readable at 200 feet during daylight and should be reflectorized sufficiently so as to be plainly readable at 200 feet during darkness.

Two Registration Plates

A BILL TO BE ENTITLED

AN ACT TO REQUIRE TWO REGISTRATION PLATES FOR CERTAIN VEHICLES AND TO MAKE OTHER CHANGES IN THE REGISTRATION LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-63(a) is amended by inserting in the first sentence between the word "and" and the word "for" the words "two registration plates".

Sec. 2. G.S. 20-63(c) is rewritten to read as follows:

"(c) The required numerals and letters on registration plates, except the year number for which issued and any stickers or tabs denoting that the registration plate has been renewed, shall be of sufficient size to be plainly readable from a distance of 200 feet during daylight or at night if a properly equipped and maintained motor vehicle headlamp is directly illuminating the registration plate. This subsection does not apply to motorcycle registration plates."

Sec. 3. G.S. 20-63.1 is rewritten to read as follows:

"§20-63.1. Registration plates to be reflectorized.--The Division shall insure that vehicle registration plates are sufficiently treated with reflectorized materials to comply with the provisions of G.S. 20-63(c)."

Sec. 4. This act shall become effective on January 1, 1983, and shall apply to vehicles registered on or after that date.

HORNS AND WARNING DEVICES ON VEHICLES

ISSUE: During the public hearings conducted by the Department of Crime Control and Public Safety in 1978, an item frequently mentioned was the confusion which exists regarding the statutes regulating emergency lights and warning devices on vehicles. Because of piecemeal amendments over the years, many persons stated that is was difficult to determine exactly which vehicles are allowed to be equipped with emergency lights and sirens.

EXPLANATION OF ISSUE: Part of this problem was eliminated by the 1979 General Assembly through an amendment to G.S. 20-130.1. As amended, this section now very clearly establishes which vehicles may be equipped with emergency warning lights.

G.S. 20-125 is in need of a similar modification because of its lengthy, narrative form. Laws should be easy to read, and should be written in a format which clearly specifies their intent. In light of the increasing number of emergency vehicles now being operated on our highways, clarification of this statute is essential.

Any individual or agency which operates, or which may in the future operate, any emergency vehicle is interested in having clear, understandable statutes governing the use of emergency warning devices. For example, it appears from the statute that the General Assembly intends that all vehicles used primarily for law enforcement can be equipped with audible emergency warning devices; however, a strict technical interpretation excludes vehicles of the Division of Alcohol Law Enforcement, which is clearly a law enforcement agency.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to clarify which vehicles may be equipped with sirens or warning devices.

A BILL TO BE ENTITLED

AN ACT TO CLARIFY WHICH VEHICLES MAY BE EQUIPPED WITH SIRENS OR WARNING DEVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-125 is rewritten to read as follows:

"§20-125. Horns and warning devices.--(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than 200 feet. The horn shall be of a type approved by the Commissioner of Motor Vehicles.

(b) It is unlawful for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonable loud or harsh sound by means of a horn or other warning device.

(c) Except as otherwise provided in this section, it is unlawful for any person to install or activate or operate in any vehicle any siren, compression or spark plug whistle, exhaust whistle, bells, or special horns. Violation of this subsection is a misdemeanor punishable under G.S. 14-3(a).

(d) The following vehicles may be equipped with a special bell, siren, horn, or exhaust whistle of a type approved by the Commissioner, which may be operated when the operators of the vehicles are engaged in the performance of official duties or services:

(1) A publicly owned or operated vehicle used primarily for law enforcement purposes or any other vehicle used primarily by law enforcement officers in the performance of their official duties;

(2) An ambulance or rescue vehicle used for answering emergency calls;

(3) A vehicle designed, equipped and used exclusively for the transportation of human tissues and organs for transplantation;

(4) A vehicle operated by a municipal or rural fire department or fire patrol, whether such fire department or fire patrol be paid or voluntary;

(5) A vehicle used by the chief and assistant chiefs of any police department, municipal or rural fire department or fire patrol, whether paid or voluntary, a fire marshal, and a civil preparedness coordinator;

(6) A vehicle used by the chief or assistant chiefs of any emergency rescue squad recognized or sponsored by any municipality or county."

Sec. 2. G.S. 20-156(b) is amended by inserting a period after the word "whistle" and deleting the remainder of that sentence.

Sec. 3. G.S. 20-157(a) is amended by deleting the following words and punctuation "audible under normal conditions from a distance not less than 1000 feet,".

Sec. 4. This act shall become effective July 1, 1981.

UNIFORM CIVIL PROCESS FEES

ISSUE: Sheriffs collect fees for serving civil process, and many have complained that the fees do not reflect the actual cost of service.

EXPLANATION OF ISSUE: In 1950, the fee for serving a paper was $1.50; in 1978, it was $2.00. Obviously, changes in the state's economy and in a sheriff's cost for service were not reflected in the fees received under that scale. The 1979 General Assembly raised the fee to $3.00 and granted a further increase ($4.00) to be effective in 1981.

One sheriff related to the Crime Commission that he carefully calculated his actual cost of serving process and that it is many times the fee received. Although data is not available for all counties, reason would dictate that fees should at least closely approximate a sheriff's costs, particularly in light of recent rapid increases in operational expenses at all levels of government.

Sheriffs are concerned about this problem because for some, fees can represent a considerable portion of their budget. Citizens will also be concerned if increases are enacted because they are the ones who pay the fees since many government services are designed to be substantially underwritten by "users" through fees and license costs. Although such fees should not be excessive, they should return to the treasury a fair portion of the cost of providing those services.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to increase civil process fees.

Increases Civil Process Fees

A BILL TO BE ENTITLED

AN ACT TO INCREASE UNIFORM CIVIL PROCESS FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-311(a)(1) a. is rewritten as follows:

"a. Effective July 1, 1981, for every civil action filed on or after that date, for each item of civil process, including summons, subpoenas, notices, motions, orders, units and pleadings served, five dollars ($5.00). When two or more items of civil process are served simultaneously on one party, only one five dollar ($5.00) fee shall be charged. Effective July 1, 1983, for every civil action filed on or after that date, for each item of civil process, including summons, subpoenas, notices, motions, orders, writs and pleadings served, six dollars ($6.00). When two or more items of civil process are served simultaneously on one party, only one six dollar ($6.00) fee shall be charged."

Sec. 2. This act shall become effective July 1, 1981.

IMPROVING THE COURTS

REQUIRING THE CHIEF DISTRICT JUDGE TO ESTABLISH AN ARRAIGNMENT PROCEDURE FOR MISDEMEANOR CASES

ISSUE: In district court, in far too many cases, civilian witnesses appear to testify only to be told that the case must be continued and they must come back to court at a later date. This often results because the defendant is not arraigned until the date of trial.

EXPLANATION OF ISSUE: The first time a case is set for trial in district court, there seems to be a policy in many districts that the defendant may obtain an automatic continuance to employ counsel. In addition, the case may be continued if counsel is appointed so that the attorney may familiarize himself with the facts to prepare his case. Civilian witnesses then are inconvenienced at least a second time. If administrative matters, including informing the defendant of the charges against him, determining his plea, determining whether he is entitled to counsel and appointing counsel if necessary, could be completed prior to the first date for trial, many more cases would be adjudicated the first time the case is set. This would save many witnesses from having to return to testify.

RECOMMENDATION: The Governor's Crime Commission recommends the General Assembly enact legislation to permit the chief district judge to establish an arraignment procedure for his district whereby administrative matters in misdemeanor cases may be handled before the magistrate or a clerk of superior court.

Arraignment in Misdemeanor Cases

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE CHIEF DISTRICT JUDGE TO ESTABLISH A PROCEDURE FOR ARRAIGNMENT IN MISDEMEANOR CASES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes is amended by adding the following new section to Article 51 of that chapter:

"§ 15A-946. Arraignment in misdemeanor cases.--(a) Arraignment for a misdemeanor is according to the procedure established by the chief district judge for that district. Arraignment in a misdemeanor case consists of informing the defendant of the charges against him, determining his plea, determining whether he is entitled to appointment of counsel, appointing counsel if necessary, and, with the consent of the prosecutor, setting the time for trial. The procedure established by the chief district judge may provide for an appearance before either a magistrate or clerk of superior court or it may provide for notice to the defendant and a written response by him that he intends to plead guilty or no contest and intends to waive counsel or is not entitled to have counsel appointed."

Sec. 2. G.S. 7A-146 is amended by adding the following new subsection to the end of that section:

"(11) Establishing a procedure for arraignment in misdemeanor cases, as provided in G.S. 15A-946."

Sec. 3. This act shall become effective October 1, 1981.

LIMITING APPEALS TO SUPERIOR COURT
BY DEFENDANTS WHO PLEAD GUILTY

ISSUE: North Carolina, in providing the defendant with the right to a trial de novo, encourages a backlog of cases in the Superior Court. In offering the defendant what has been termed "two bites at the apple," the State may subject the prosecutor to twice meeting the standard of proof required for conviction.

EXPLANATION OF ISSUE: G.S. 15A-1431 (b) provides as follows:

> A defendant convicted in the district court before the judge may appeal to the superior court for trial de novo with a jury as provided by law.

While the statute does not expressly so provide, it has been interpreted to mean that a defendant who pleads guilty in district court may appeal to the superior court for a trial de novo. If a defendant enters a guilty plea in district court but is not satisfied with the sentence given him, he can enter an appeal to Superior Court and start all over. There is no logical reason for permitting a defendant to plead guilty or no contest in district court and then have the right to appeal that case to superior court when the plea has been knowingly, freely, and understandingly made. By his plea of guilty or no contest in superior court, the defendant waives his right to a trial by jury and there seems to be no justification for not permitting waiver by his plea in district court.

A plea usually involves reduction of charges, dismissal of additional charges or a sentence recommendation. Statistics are not available to show the number of cases involving appeals as described. Senate Bill 825, passed in the 1979 session of the General Assembly, provides for the reinstatement of charges against a defendant who appeals from a negotiated plea of guilty but that bill does not eliminate the "two bites at the apple." The entry of a plea of guilty or no contest in the district court should conclude the proceeding without the right of further appeal to the superior court.

RECOMMENDATION: The Governor's Crime Commission recommends that legislation be enacted to amend G.S. 15A-1431 to eliminate the right of appeal to superior court by a defendant who entered a negotiated plea of guilty or no contest in district court or by a defendant who entered a plea of guilty or no contest and was represented by counsel.

Limit on Appeal to Superior Court

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT DEFENDANTS WHO PLEAD GUILTY FROM APPEALING FOR A NEW TRIAL IN SUPERIOR COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1431(b) is rewritten to read as follows:

"(b) A defendant who pleads guilty or no contest in the district court is not entitled to appeal to the superior court for trial de novo if:

(1) The defendant's plea is entered as a result of a plea negotiation and the district judge addresses the defendant personally and

a. Informs him that he has a right to remain silent and that any statement may be used against him;

b. Determines that he understands the nature of the charge and that there is a factual basis for the plea;

c. Informs him that he has a right to plead not guilty;

d. Informs him that he, by his plea, waives his right to be confronted by the witnesses against him;

e. Informs him that he, by his plea, waives his rignt to appeal to the superior court for trial de novo with a jury; and

f. Informs him of the maximum possible sentence on

the charge, including that possible from consecutive sentences, and of any mandatory minimum sentence, if any, on the charge; or

(2) The defendant is represented by counsel.

Any other defendants convicted in district court before the judge may appeal to superior court for trial de novo before the jury as provided by law."

Sec. 2. This act shall become effective October 1, 1981, and shall apply to pleas of guilty or no contest entered on or after that date.

CASE AUTOMATICALLY REMANDED FOR EXECUTION OF JUDGMENT WHEN DEFENDANT FAILS TO APPEAR ON APPEAL

ISSUE: Procedures in North Carolina's current statute providing for trial de novo could be modified to promote greater efficiency.

EXPLANATION OF ISSUE: G.S. 15A-1431 establishes the right of a defendant convicted before a magistrate to appeal for trial de novo before a district court judge and the right of a defendant convicted in district court to appeal to superior court for trial de novo before a jury. That statute further authorizes a defendant to withdraw his appeal prior to calendaring. Under current law, cases arise wherein a defendant gives notice of appeal but then does not appear for court when the trial de novo is scheduled. The court must then issue an order for arrest. When a defendant who has appealed on a criminal charge fails to appear after having been given proper notice, he should forfeit his right to a trial de novo.

RECOMMENDATION: The Governor's Crime Commission recommends that G.S. 15A-1431 be amended to provide that a case be automatically remanded to the district court for execution of the judgment if the defendant fails to appear in superior court after having entered notice of appeal to that court and after having been given proper notice of his scheduled trial in superior court.

Case Remanded to District Court

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 15A-1431 TO PROVIDE THAT IF THE DEFENDANT FAILS TO APPEAR FOR TRIAL DE NOVO IN SUPERIOR COURT THE CASE IS AUTOMATICALLY REMANDED TO DISTRICT COURT FOR EXECUTION OF THE JUDGMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1431 is amended by adding the following subsection (h) at the end of the section: "(h) If the defendant fails to appear in superior court for trial de novo, after having been notified, the case is automatically remanded to the district court for execution of the judgment."

Sec. 2. This act shall become effective October 1, 1981.

AUTHORIZATION OF THE VERTICAL TRANSFER OF CERTAIN CASES WITHIN THE TRIAL DIVISION UPON AGREEMENT BETWEEN THE SENIOR RESIDENT SUPERIOR COURT JUDGE AND THE CHIEF DISTRICT JUDGE

ISSUE: The distribution of work among our trial court judges varies both within a court division and between the superior court and district court. For example, a particular county with concurrent terms of superior court and district court may find frequently that a session of one of the courts is concluded in the middle of the week while the other court is unable to complete its calendar by the end of the Friday session. Obviously, from the standpoint of utilization of personnel, efficiency is impaired when the described circumstances occur.

EXPLANATION OF ISSUE: Data is not available to permit even an estimate of the number of times district court and superior court are held concurrently in the same town and one of the calendars is completed while the other is not. One is certain to admit, however, that it is not that rare. It would be beneficial if when a superior court completed its work early in the week and the district court still had a heavy docket, the superior court judge could assist the district court judge with his calendar. The same would be true if it were the district court which were to complete the docket early.

RECOMMENDATION: The Governor's Crime Commission recommends the General Assembly amend G.S. 7A-271 and G.S. 7A-272 to provide that upon consultation and agreement between the senior resident superior court judge and the chief district judge, cases may be transferred between divisions for disposition when the defendant enters a plea of guilty or no contest and the authorized imprisonment for the offense would not exceed ten years.

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE TRANSFER OF CASES BETWEEN SUPERIOR AND DISTRICT COURT JUDGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-271 is amended by adding a new section to read:

"(c) Upon agreement between the senior resident superior court judge and the chief district judge, cases may be transferred from the calendar of a judge of one of the two trial divisions to the calendar of a judge of the other for disposition if the defendant pleads guilty or no contest and the authorized imprisonment for the offense plead to would not exceed ten years. Nothing in this subsection affects the right of any defendant convicted in district court to a trial de novo in superior court if otherwise authorized."

Sec. 2. G.S. 7A-272 is amended by adding a new section to read:

"(c) Upon agreement between the senior resident superior court judge and the chief district judge, cases may be transferred from the calendar of a judge of one of the two trial divisions to the calendar of a judge of the other for disposition if the defendant pleads guilty or no contest and the authorized imprisonment for the offense plead to would not exceed ten years. Nothing in this subsection affects the right of any defendant convicted in

district court to a trial de novo in superior court if otherwise authorized."

Sec. 3. This act is effective upon ratification.

PERMITTING TRIAL BY JUDGE AS WELL AS BY JURY IN SUPERIOR COURT

ISSUE: The requirement under the North Carolina Constitution that any defendant who pleads not guilty to a criminal charge must be tried by a jury results in delay within the judicial system and does not necessarily provide a more just result.

EXPLANATION OF ISSUE: Article I, Section 24 of the North Carolina Constitution provides that a defendant who pleads not guilty to a criminal offense in the superior court shall be tried by a jury. He cannot waive that privilege and elect to have factual issues resolved and guilt or innocence determined by the presiding judge rather than a jury. In 1979, almost seven per cent (3,491 cases) of all cases disposed of in the superior courts of North Carolina involved jury trials. When a plea of "not guilty" is entered, the selection process for jury trials, the hearing of motions outside the presence of the jury, the arguments made by opposing counsel to the jury, the judge's instructions to the jury and the jury's deliberation on the facts require a very significant amount of time.

Certainly the right to trial by jury should not be abridged; but in those cases where the defendant requests trial by judge, the system should permit that alternative.

In the federal courts as well as in some of the trial courts of other states, a defendant may request that a judge, rather than a jury, hear the facts and render a verdict. Offering the option of trial by judge to a defendant charged with a criminal offense in the superior court would result in greater efficiency within the system and would not have a detrimental impact on the defendant's rights.

RECOMMENDATION: The Governor's Crime Commission recommends that the North Carolina Constitution be amended to permit a superior court judge, with the consent of the defendant, to conduct a criminal trial except one in which a capital offense is charged.

Const. Amend.: Waive Jury

A BILL TO BE ENTITLED

AN ACT TO AMEND ARTICLE I OF THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT A DEFENDANT IN CRIMINAL COURT MAY WAIVE JURY TRIAL IF REPRESENTED BY COUNSEL.

The General Assembly of North Carolina enacts:

Section 1. Article I, Section 24, of the Constitution of North Carolina is amended by changing the period at the end of the section to a comma, and adding "and a defendant represented by counsel may in writing waive his right to a jury."

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election to be held in November, 1982. That election shall be conducted under the laws then governing general elections in this State.

Sec. 3. At the general election, each qualified voter presenting himself to vote shall be provided a ballot on which shall be printed the following:

" ☐ FOR constitutional amendment providing that a criminal defendant represented by counsel may in writing elect to be tried by a judge or a jury."

" ☐ AGAINST constitutional amendment providing that a criminal defendant represented by counsel may in writing elect to be tried by a judge or a jury."

Sec. 4. If a majority of votes cast are in favor of the amendment set out in Section 1 of this act, then the amendment shall be

certified by the State Board of Elections to the Secretary of State, who shall enroll the amendment among the permanent records of his office, and the amendment shall become effective on January 1, 1983.

Sec. 5. This act is effective on ratification.

DELAYING EFFECTIVE DATE OF 90 DAY
PROVISION OF SPEEDY TRIAL ACT

ISSUE: As the courts' system is now constituted, it cannot comply substantially with the provision within the Speedy Trial Act which requires, after October 1, 1980, that trial in criminal cases occur within 90 days.

EXPLANATION OF ISSUE: The Speedy Trial Act (G.S. 15A-701 et seq.) provides that, effective October 1, 1980, the trial of a criminal case must begin within 90 days of the date of arrest, service of citation or summons, waiver of indictment, or notice of filing of indictment (whichever occurs last) unless there has been delay for one or more causes which are specified in the statutes. On motion of the defendant, the charge must be dismissed if trial has not commenced in accord with the statutory provisions. Current law sets a 120 day limit.

The causes for which delay is permitted include physical or mental examination of the defendant or defendant's physical or mental incapacity to stand trial; hearings on pretrial motions; interlocutory appeals; trial of defendant on other charges and absence or unavailability of the defendant or an essential witness. It is further provided that the court may authorize a continuance so that the parties may have additional time for adequate preparation for trial or upon finding that "the ends of justice served by granting the continuance outweigh the best interest of the public and the defendant in a speedy trial."

Some dismissals have resulted because of the inability of the State to try cases within the current limit of 120 days. It is estimated that many more dismissals would occur if the State does not address needs for additional judicial personnel before implementing the 90 day requirement. The dismissal of large numbers of cases as a result of the Speedy Trial Act would be neither in the public interest nor in the interest of justice.

RECOMMENDATION: The Governor's Crime Commission recommends the extension of the effective date of the 90 day provision in the Speedy Trial Act to October 1, 1983, to permit the state to develop the resources and capabilities to implement the provision.

Postpone Sections of Speedy Trial

A BILL TO BE ENTITLED

AN ACT TO POSTPONE THE EFFECTIVE DATE OF CERTAIN PORTIONS OF THE SPEEDY TRIAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-701(a) is amended by substituting "October 1, 1983" for "October 1, 1981" in line 4 of the subsection.

Sec. 2. This act is effective upon ratification.

INCREASING THE COMPENSATION OF EMERGENCY JUSTICES AND JUDGES AND PHASING OUT THE OFFICE OF SPECIAL SUPERIOR COURT JUDGE

ISSUE: The need for judges who are available to serve when there is a shortage in a district is obvious. The need may arise as a result of a judge's illness, his taking a vacation, or perhaps because one judge is hearing a complex case that is taking months to complete. The compensation of emergency justices and judges must be adequate to encourage service. Included in insuring the state has an adequate number of presiding judges is a review of the office of special superior court judge. Concern has been voiced as to the politicalization of the selection process of special superior court judges and questions have been raised as to whether there is, in fact, a need, other than political, for such positions.

EXPLANATION OF ISSUE: The Standards of Conduct adopted by the American Bar Association prohibit participation of judges in partisan political activities except to the extent re-election requires it in those states in which judges are still elected on partisan political ballots. Under G.S. §7A-45 a special superior court judge is appointed by the Governor. The Honorable Robert A. Collier, Jr., superior court judge, has observed:

> The most unsatisfactory area of the law involving the judiciary of our state is the present provision for special superior court judges. This is true because it more directly involves a judge in political activity other than his own re-election than any other provision of the law. For a special judge to better insure his reappointment he must take some political actions on behalf of the upcoming Governor and such conduct is not in the best interest of the administration of justice or the judiciary of our State.

From another perspective the current system imposes hardships on special judges in that those who reside in remote sections of the state are often required to hold court for several weeks in counties long distances from their homes. It has not been uncommon in the past for judges, due to the distance involved, to remain away from home for two or three weeks rather than return home on the weekend. The expenses of special judges in many cases far exceed the allowance provided by the state for travel and subsistence as a result. Other than political, there seems to be little justification for the special judgeships. Special judges

do hold special sessions of court and sit for regular superior court judges when they become ill or are unable to hold a regularly assigned court; however, judges who are retired can do the same.

When a justice or judge is asked to serve on the bench as a result of sickness, death, or other emergency, he is paid $100 per week for his service. That figure has not been changed in many years and North Carolina has experienced an increase in the cost of living since the $100 amount was set. Georgia compensates its emergency judges in the amount of $150 per day. Other states provide for similar compensation. At the rate of $100 per week, a judge working a normal 40 hour week would be compensated at a rate of $2.50 an hour which is substantially lower than the minimum wage.

Political implications surrounding appointments and reappointments of special superior court judges are not desirable, and emergency justices and judges in North Carolina are not adequately compensated for their service. If adequate compensation were provided, more of our judges would make themselves available for recall as emergency justices and judges. This would relieve the state of the necessity of periodically adding to the number of authorized judges as well as alleviate any need for special superior court judges. It would also give the state the benefit of the most experienced judges for continued service until the mandatory retirement age, resulting in the long run in net savings.

RECOMMENDATION: The Governor's Crime Commission recommends the General Assembly enact legislation to increase the compensation of emergency justices and judges and to phase out the office of special superior court judge.

Compensation of Emergency Judge

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS STATUTES TO INCREASE THE COMPENSATION OF EMERGENCY JUSTICES AND JUDGES AND TO PHASE OUT THE OFFICE OF SPECIAL SUPERIOR COURT JUDGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-39(b) is amended by deleting "one hundred dollars ($100.00) for each week" and inserting in lieu thereof "one hundred seventy five dollars ($175.00) for each day."

Sec. 2. G.S. 7A-52(b) is rewritten to read as follows:

"(b) In addition to the compensation or retirement allowance which he would otherwise be entitled to receive by law, each emergency judge of the district or superior court who is assigned to temporary active service by the Chief Justice shall be paid by the State his actual expenses, plus, for emergency superior court judges, one hundred fifty dollars ($150.00), and for emergency district court judges, one hundred twenty five dollars ($125.00), for each day of active service rendered upon recall."

Sec. 3. G.S. 7A-45(a) is amended by deleting the last sentence of the subsection, and inserting in lieu thereof:

"(a) Upon the expiration of each term on June 30, 1983, and upon the expiration of each term thereafter, the Governor may appoint the incumbent to an additional four year term, but he may not appoint another person to the office."

Sec. 4. G.S. 7A-45(b) is rewritten to read as follows:

"(b) A special judge is subject to removal from office for the same causes and in the same manner as a regular judge of the superior court. A vacancy occurring in the office of special judge before July 1, 1981 is filled by the Governor by appointment for the unexpired term. A mid-term vacancy in such office on or after July 1, 1981 shall not be filled."

Sec. 5. This act shall become effective July 1, 1981.

CAREER ASSISTANT DISTRICT ATTORNEYS

ISSUE: The district attorney's office is a training ground for recently licensed attorneys who gain much experience and upon doing so, enter the private practice of law. The current system encourages this action.

The Honorable J. Phil Carlton, Associate Justice of the North Carolina Supreme Court, discussed recognized deficiencies in our current plan in A Crime Control Agenda for North Carolina in 1979 and they are listed below:

(1) The system is structured so as to make a large turnover of assistant district attorneys practically inevitable.
(2) "There is too great a disparity between the salary of an Assistant District Attorney and what that same attorney, after a few years of experience, can receive in private practice . . ."
(3) "Our present approach provides no incentive for an Assistant District Attorney to remain in that office. . . . There is nothing in the present plan which provides for any upward mobility in this office. For example, he cannot progress from an Assistant (a title given him perhaps the day after passing the Bar Exam) to a Deputy District Attorney."
(4) "The turnover of Assistant District Attorneys during the term of a District Attorney is bad enough, but an even worse problem arises when a new District Attorney is elected and, for various reasons, only a few (or perhaps none) of the Assistants remain in office. . . ."
(5) "Assistant District Attorneys are not presently included in the Judicial Retirement System which is provided for all Judges, District Attorneys, and Clerks of Court. . . ."
(6) ". . .most District Attorneys have few authorized Assistants and therefore have much less freedom to reward merit by salary raises."

EXPLANATION OF ISSUE: In 1978, a total of 1,206,834 criminal cases were filed in the superior and district courts of North Carolina. Of these, 51,264 were filed in the superior court and 28,562 involved felonies. The prosecutor is the key official in the criminal justice process between the time a criminal offense is reported and the time the defendant is sentenced for committing a crime. He represents the people of North Carolina in the trial of every criminal case, and he must be knowledgeable in law and adept in courtroom demeanor. Further, the prosecutor advises magistrates, law enforcement officers, and other citizens who frequently call on him for assistance when court is not in

session. Thomas S. Watts, president of the District Attorneys Association, in a presentation to the North Carolina Courts Commission this spring, stated:

> The modern-day district attorney is expected to function as an effective trial lawyer as well as a capable office administrator who must deal with an increasing deluge of paperwork, the problems of staff supervision and an increasingly sophisticated criminal element.

North Carolina has 33 judicial districts, each with a district attorney who is elected for a term of four years. G.S. 7A-63 provides for the appointment of assistant district attorneys by the district attorney under a formula devised by the General Assembly and set out in G.S. 7A-41. The number of assistant district attorneys varies according to population and workload. The General Assembly establishes the salaries of district attorneys and assistant district attorneys in its Appropriations Act. The present salary for district attorneys is $38,592 and the present average salary of assistant district attorneys is $24,948. Each district attorney is allocated for assistant district attorneys' salaries the sum of $24,948 times the number of assistant district attorneys allowed for his district. He may, in his discretion, pay the more experienced assistant district attorneys above the average and pay the less experienced, a salary lower than the average. The district attorney is to establish the salaries for his staff in consultation with the Director of the Administrative Office of the Courts.

The Annual Report of the Administrative Office of the Courts reflects a 31 per cent turnover among assistant district attorneys across the state from December 31, 1977 to December 31, 1978. In reviewing the Report for that period, the turnover rate appears to be most severe in the 10th Judicial District (57 per cent), the 12th Judicial District (45 per cent), 15B Judicial District (66 2/3 per cent) and 18th Judicial District (63 per cent). These statistics, however, do not necessarily reflect the years of prosecution experience among assistant district attorneys as some prosecutors return from private practice to the district attorney's office and some transfer from one district to another; however, the average, statewide tenure of an assistant district attorney is less than three years. The turnover rate is caused, to a large extent, by economic pressures. The state's salary scale is not competitive with the private bar.

The bulk of the trials of criminal cases is done by the state's almost 200 assistant district attorneys. The high turnover among those officials contributes to inefficiency reflected in court delay and backlog. The quality of criminal prosecution would be improved

greatly by having experienced attorneys in the office of the prosecutor. Attracting and maintaining quality personnel would be facilitated with a career compensation and retirement plan for assistant district attorneys. Senate Bill 878 was introduced in the 1979 Session of the General Assembly and would have provided for a career compensation plan for assistant district attorneys. It was referred to appropriations and was not sent out.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to provide career incentives for the assistant district attorney.

Assistant District Attorney Compensation

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A CAREER COMPENSATION PLAN FOR ASSISTANT DISTRICT ATTORNEYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-65 is hereby rewritten to read as follows:

"§ 7A-65. Compensation and allowances of district attorneys and assistant district attorneys.--The annual salary of district attorneys shall be as provided in the Budget Appropriations Act. The annual salary of full-time assistant district attorneys shall be as provided in this Article. When traveling on official business, each district attorney and assistant district attorney shall be entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

Sec. 2. Chapter 7A of the General Statutes of North Carolina is hereby amended to add new sections as follows:

"§ 7A-65.1. Compensation and career compensation plan for assistant district attorneys.--The annual salary of full-time assistant district attorneys shall be as provided in the career compensation plan or plans set forth in or made pursuant to this Article.

(a) Each district attorney shall develop a compensation plan for payment of salaries of the assistant district attorneys within his prosecutorial district. The plan shall be based upon

the overall salary amount allocable to the district under the terms of this Article, and paid in accordance therewith.

(b) Annually, on or before a date designated by the Director of the Administrative Office of the Courts, each district attorney shall provide the Director with a written statement of the career compensation plan established in his district for the next fiscal year. Each district attorney may make such changes in the plan during each fiscal year as may in his discretion become advisable in order to enhance the quality and extent of the performance by the assistant district attorneys in his district on behalf of the State. Each change made in the plan during the fiscal year shall be promptly reported by each district attorney making such changes to the Director with the names of the assistant district attorneys affected.

"§ 7A-65.2. Salary formula for assistant district attorneys.--

(a) For each full-time assistant district attorney regularly employed or authorized within a prosecutorial district, an amount shall be allocable for salaries in the district as follows:

(1) For each assistant who has had three years or less of previous qualifying service, the amount allocated for salary grade 79, step I, in the state employee salary schedule;

(2) For each assistant who has entered his fourth year of qualifying service but does not have more than six years of such service, the amount allocated for salary grade 83, step I, in the state employee salary schedule;

(3) For each assistant who has entered his seventh year of qualifying service but does not have more than eight years of such service, the amount allocated for salary grade 85, step I, in the state employee salary schedule;

(4) For each assistant who has entered his ninth year of qualifying service, the amount allocated for salary grade 87, step I, in the state employee salary schedule;

(5) For each authorized but vacant assistant district attorney position, the amount allocated for salary grade 79, step I, in the state employee salary schedule.

(b) The starting salary for an assistant district attorney with no previous qualifying experience, shall not exceed the amount allocated for the hiring rate of salary grade 71 in the state employee salary schedule.

(c) If, during the first two years of the operation of the career compensation plan, the application of the salary formula set forth in this section shall result in reducing in any district the amount allocable to such a district to a sum less than that authorized immediately prior to the effective date of this act, then for such period the formula herein set forth shall not apply to such district, and the previously authorized sum shall be allocable to that district for use in the career compensation plan for said period.

(d) No assistant district attorney shall have any vested right to the allocable salary amount to which his years of previous qualifying service entitle his district. The district attorney

in each district shall in his sole discretion apportion salaries and salary increases within the district in such manner as to provide retention of service by competent, experienced and effective assistants at all times.

"§ 7A-65.3. Definition of previous qualifying service.--(a) 'Previous qualifying service' means the full time spent by a person as:

(1) a district attorney, assistant district attorney, superior court solicitor, assistant superior court solicitor, district court prosecutor, or assistant district court prosecutor;

(2) an appellate division judge or justice, superior court judge, or district court judge;

(3) a public defender or assistant public defender;

(4) a licensed attorney with the North Carolina Department of Justice assigned to duties predominately involving criminal trial work, criminal appeals, or the investigation of crimes;

(5) a licensed attorney employed by the State or one of its subdivisions assigned to duties predominately involving the prosecution of criminal cases;

(6) a United States attorney or assistant United States attorney.

Previous experience as an attorney in private practice, prosecuting criminal cases in another jurisdiction or in military service, or professional experience that is directly relevant to the prosecution of criminal cases in North Carolina shall entitle an assistant district attorney to credit for an appropriate percentage, not greater than 100 percent, of the time so spent.

(b) The Director of Administrative Office of the Courts, in consultation with the district attorney who appointed the assistant district attorney in question, shall determine the amount of previous qualifying service for which an assistant district attorney shall be given credit.

"§ 7A-65.4. Determination of amounts allocable.--(a) At the beginning of each fiscal year, the Administrative Office of the Courts shall determine the amount then actually allocable to each prosecutorial district for payment of salaries of assistant district attorneys in the district during the fiscal year, in accordance with the formula set forth above. If, during the fiscal year, any assistant district attorney shall reach an anniversary date of qualifying service that entitles the district to an increased allocation, such increase shall be made on a pro rata basis for the remainder of that fiscal year. Upon the termination of service of an assistant district attorney with more than three years of previous qualifying service, the amount allocable to the district shall be decreased as appropriate on a pro rata basis for the remainder of that fiscal year. Additional pro rata adjustments shall be made in the allocable amount upon

other charges in the district, including but not limited to a change in the number of authorized assistant district attorney positions in the district, the addition of assistants under grant-funded programs, or the appointment of new assistants with previous qualifying service.

(b) If termination of employment of an assistant district attorney or other change of condition results in a decrease in the amount allocable to the district to the extent that the existing salary levels for remaining assistants within the district exceed the reduced allocable amount, or will exceed the allocable amount if a replacement is employed at the prevailing salary level in the district for new assistants, the Director of the Administrative Office of the Courts may use funds available to him for payment of prosecutors' salaries to maintain salary levels in the district for an interim period not to exceed 12 months.

(c) In making appropriations requests and arriving at other budget estimates, the Administrative Office of the Courts shall, on the basis of projected anniversary dates of service, anticipated turnover, the nature of the career compensation plans adopted in the several prosecutorial districts, and other relevant data, calculate the projected total sum of money necessary to pay the salaries of assistant district attorneys during the fiscal year in question.

"§ 7A-65.5. Deputy district attorney.--(a) Any assistant

district attorney who has more than four years of actual service as a North Carolina prosecutor may be known as a deputy district attorney.

(b) Unless the context otherwise requires, all references in statutes, court decisions, agency regulations, contracts, and other legal or official documents to 'assistant district attorneys' shall include deputy district attorneys.

"§ 7A-65.6. Payment by the Administrative Office of the Courts.--Compensation of assistant district attorneys determined in accordance with career compensation plans meeting the requirements of this Article shall be made by the Administrative Office of the Courts from appropriated funds, grant funds which may be used for this purpose, and any other available funds."

Sec. 5. This act shall become effective July 1, 1981.

MANDATING RETIREMENT OF DISTRICT ATTORNEY

ISSUE: An age limit for service is established for justices and judges but there is no age limit beyond which a district attorney may not serve.

EXPLANATION OF ISSUE: G.S. 7A-4.20 prohibits service of an appellate justice or judge after he reaches seventy two years of age and prohibits service of a superior court or district court judge after he reaches seventy years of age, except that any judge who was in office on January 1, 1973 may continue to serve for the remainder of the term for which he was selected. No comparable provision exists for district attorneys and there is nothing in current law to prohibit a district attorney to continue serving at the age of ninety.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to permit a referendum on a Constitutional amendment to require that a district attorney retire at seventy years of age or at the end of the term he is serving when he turns seventy.

Const. Amend.: DA Ret.Age

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION TO AUTHORIZE THE GENERAL ASSEMBLY TO PRESCRIBE A MAXIMUM AGE LIMIT FOR SERVICE AS A DISTRICT ATTORNEY.

The General Assembly of North Carolina enacts:

Section 1. Article IV, Section 18 (1) of the Constitution of North Carolina is amended to add the following at the end thereof: "The General Assembly may prescribe maximum age limits for service as a district attorney."

Sec. 2. The amendment set out in section 1 of this act shall be submitted to the qualified voters of the State at the general election to be held in November, 1982. That election shall be conducted under the laws then governing general elections in this State.

Sec. 3. At the general election, each qualified voter presenting himself to vote shall be provided a ballot on which shall be printed the following:

"/___/ FOR constitutional amendment authorizing the General Assembly to prescribe a maximum age limit for service as a district attorney.

"/___/ AGAINST constitutional amendment authorizing the General Assembly to prescribe a maximum age limit for service as a district attorney."

Sec. 4. If a majority of votes cast are in favor of the amendment set out in section 1 of this act, then the amendment shall be

certified by the State Board of Elections to the Secretary of State, who shall enroll the amendment among the permanent records of his office, and the amendment shall become effective on January 1, 1983.

Sec. 5. This act is effective on ratification.

DA Retirement Age

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. CHAPTER 7A TO PRESCRIBE THAT DISTRICT ATTORNEYS MAY NOT SERVE BEYOND THE END OF THE MONTH IN WHICH THEY REACH THE AGE OF SEVENTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 7A, Article 9 (District Attorneys and Judicial Districts) is amended by adding the following section at the end thereof:

"G.S. 7A-70. Mandatory age limit for service as district attorney. No district attorney may continue in office beyond the last day of the month in which he attains his seventieth birthday, except that any district attorney in office on January 1, 1983, may continue to serve for the remainder of the term for which he was elected."

Sec. 2. This act shall become effective January 1, 1983, provided that the proposed constitutional amendment authorizing the General Assembly to prescribe a maximum age limit for service as a district attorney has been ratified.

INCREASING THE PAY OF JURORS

ISSUE: Current compensation for jurors is inadequate.

EXPLANATION OF ISSUE: Jurors who serve in superior or district court are compensated pursuant to G.S. §7A-312 which provides:

> A juror in the General Court of Justice, including a coroner's juror, but excluding a juror in a special proceeding, shall receive eight dollars ($8.00) per day. A juror required to remain overnight at the site of the trial shall be furnished adequate accomodations and subsistence. If required by the presiding judge to remain in a body during the trial of case, meals shall be furnished the jurors during the period of sequestration. A juror in a special proceeding shall receive two dollars ($2.00) for each proceeding, except that if a special proceeding lasts more than one-half day, the special jurors shall receive the same daily compensation as regular jurors. Jurors from out of the county summoned to sit on a special venire shall receive mileage at the same rate as state employees.

Although citizens serving on a jury criticize the lack of efficiency within the system, discontent also arises over the amount of compensation provided for service. Employers often subtract the amount of compensation received from the employee's salary during the time of service. Even if that is not done, $8.00 is hardly adequate to cover expenses incurred for gas, meals, and parking while serving on the jury. While the state will never be able to compensate its citizens for jury service commensurate with their value to the system, the allowance should be increased.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to increase the compensation of jurors for service.

Increased Juror's Pay

A BILL TO BE ENTITLED

AN ACT TO INCREASE JUROR'S PAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-312 is amended in the first sentence by deleting the words and figures "eight dollars ($8.00)", and inserting in lieu thereof "eighteen dollars ($18.00)", and in the second sentence by deleting the words and figures "twelve dollars ($12.00)" and inserting in lieu thereof "eighteen dollars ($18.00)".

Sec. 2. There is hereby appropriated three million eighty five thousand dollars ($3,085,000) for each year of the 1981-83 biennum from the General Fund to the Administrative Office of the Courts to fund the increase in juror's fees required by Section 1 of this act.

Sec. 3. This act shall become effective July 1, 1981.

APPOINTMENT OF MAGISTRATES BY CHIEF DISTRICT JUDGE

ISSUE: The current law which provides for the appointment and supervision of magistrates is fragmented and impedes efficiency within the system.

EXPLANATION OF ISSUE: Magistrates are appointed pursuant to Article IV, Section 10 of the North Carolina Constitution and G.S. 7A-171. Those sections provide for the senior resident superior court judge to appoint magistrates for two-year terms from nominations submitted by the clerk of superior court. Being officers of the court, magistrates are then subject to the supervisory authority of the chief district judge. The salary structure for magistrates, enacted in 1977, is based on years of service; it removes from the judge the authority to set the magistrate's salary.

The administration of justice may be hampered as a result of the chief district judge being required to supervise an official over whom he has no authority to select or remove, and over whose salary he has no control. From an administrative perspective, the current selection and retention process for magistrates is detrimental to the effective management and operation of the district court system.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly permit a referendum on a Constitutional amendment to provide that the chief district judge would appoint magistrates for each county who would then serve at his pleasure.

Const. Amend.: App't. of Magistrates

A BILL TO BE ENTITLED

AN ACT TO AMEND ARTICLE IV OF THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE THAT CHIEF DISTRICT JUDGES SHALL APPOINT MAGISTRATES TO SERVE AT THEIR PLEASURE.

The General Assembly of North Carolina enacts:

Section 1. Article IV, Section 10, of the Constitution of North Carolina is amended by rewriting the fifth sentence thereof to read as follows:

> "For each county of a district, the chief district judge shall appoint one or more magistrates who shall be officers of the district court. Magistrates shall serve at the pleausre of the chief district judge."

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election to be held in November, 1982. That election shall be conducted under the laws then governing general elections in this State.

Sec. 3. At the general election, each qualified voter presenting himself to vote shall be provided a ballot on which shall be printed the following:

"/___/ FOR constitutional amendment providing that the chief district judge shall appoint magistrates for each county of his district to serve at his pleasure."

"/___/ AGAINST consitutional amendment providing that the chief district judge appoint magistrates for each county of his district to serve at his pleasure."

Sec. 4. If a majority of votes cast are in favor of the amendment

set out in Section 1 of this act, then the amendment shall be certified by the State Board of Elections to the Secretary of State, who shall enroll the amendment among the permanent records of his office, and the amendment shall become effective on December 1, 1982.

Sec. 5. This act is effective on ratification.

CONTINUING EDUCATION FOR MAGISTRATES

ISSUE: The basic training required for magistrates, without periodic training thereafter, will not provide the quality of justice needed as criminal proceedings are initiated. One example of problems incurred in this area would be the dismissal of cases, as statutes are amended or case law reflects procedural changes, because of improperly drawn arrest or search warrants.

EXPLANATION OF ISSUE: Being the first judicial official with whom one comes into contact carries with it enormous responsibility. The magistrate's powers in criminal proceedings are established by statute and include issuing arrest and search warrants, granting bail in non-capital cases, accepting guilty pleas, and entering judgments in certain misdemeanor traffic and worthless check cases. As the initial contact person within the court system and as the official whose actions substantially affect the freedom and property of citizens, the magistrate deserves to be given the opportunity to upgrade his skills; and the public should be insured that changing legal conditions will not be reflected through deficiencies in the services provided by the magistrate. Senate Bill 283 requiring continuing training for magistrates was introduced in the 1979 Session of the General Assembly but was not passed.

RECOMMENDATION: The Governor's Crime Commission recommends the General Assembly enact legislation to require ten hours of continuing education for magistrates every other year.

Continuing Training/Magistrates

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 7A-171.2 AND G.S. 7A-177 TO PROVIDE FOR TEN HOURS OF CONTINUING TRAINING EVERY OTHER YEAR FOR MAGISTRATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-171.2(c) is amended on line 2 after the words "basic training" and before the words "for magistrates" by adding the words "and every other year following the first year of service attended and satisfactorily completed at least 10 hours of continuing education programs".

Sec. 2. G.S. 7A-177 is amended by adding a new sentence at the end of the first sentence and before the second sentence to read as follows: "Every other year following the first year of service, a magistrate is required to attend and satisfactorily complete a program of at least 10 hours of continuing education related to the duties of his office."

Sec. 3. This act shall become effective July 1, 1981.

CREATION OF COMPENSATION COMMISSION

ISSUE: The criminal justice system can be no better than the judges who are at the top and who have to administer it; and it is becoming more and more difficult to attract competent and able people to judgeships at the salaries being provided.

EXPLANATION OF ISSUE: Within the Judicial Department, the salaries of the state's appellate and trial court judges are set by statute. Concern has been voiced as to whether judges' salaries, as compared with the levels of income prevailing in the private sector, are adequate. Inequities, however, are not unique to the Judicial Department. They are apparent within the Executive and Legislative branches of government as well. It is becoming increasingly difficult for the State to attract really good high level administrators as well as judges as a result of low compensation for their positions as opposed to private industry or private practice. Salaries in state government are scaled so that the person who has most responsibility in a department is not compensated comparatively with the person who has least responsibility. A comprehensive, overall review of salary schedules of North Carolina's top state officials would result in more equitable compensation.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to create an ongoing commission to study salary schedules for top executive, legislative and judicial branch officials for possible internal adjustment; to hold public hearings at least annually; and to set salaries commensurate with such positions. In recommending that such a commission have the authority to set salaries for these positions, the Crime Commission is not unaware of authority given the Governor and the legislature under the North Carolina Constitution and therefore recommends that the legislature have the power to take affirmative action to amend action taken by the commission. If the legislation recommended by the Crime Commission is enacted, conforming amendments to other provisions in the General Statutes will need to be made before the effective date.

Compensation Commission

A BILL TO BE ENTITLED

AN ACT TO CREATE THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL COMPENSATION COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. A new Article is added to Chapter 147 of the General Statutes to read:

"Article 1A.

"Executive, Legislative and Judicial Compensation Commission.

"§ 147-5.1. Creation; members.--There is created an Executive Legislative and Judicial Compensation Commission, hereinafter referred to as 'the Commission'. The Commission shall be composed of eight members, two of whom shall be appointed by the Governor, two by the Speaker of the House of Representatives, two by the President Pro Tempore of the Senate, and two by the Chief Justice. All initial appointments shall be made on July 1, 1981, or as soon as feasible thereafter. Each member shall serve for a term of four years and may be reappointed for subsequent four-year terms. No officer or employee of the executive, legislative or judicial branch of State government shall be eligible to be appointed to or to serve on the Commission.

"§ 147-5.2. Duties.--(a) The Commission shall study the responsibilities of and set the annual salaries of each of the following State officials: the Governor, the Lieutenant Governor, the Secre-

tary of State, the Auditor, the Treasurer, the Attorney General, the Superintendent of Public Instruction, the Commissioner of Labor, the Commissioner of Agriculture, the Commissioner of Insurance, members of the North Carolina Senate, members of the North Carolina House of Representatives, the Chief Justice and Associate Justices of the Supreme Court, the Chief Judge and Judges of the Court of Appeals, Judges of the Superior Court, and District Judges.

(b) The Commission shall hold public hearings at least annually and make a continuing study of the salaries of positions of similar duties and responsibilities in the private sector, the federal government, states of similar size and population to North Carolina and surrounding states, and shall set salaries commensurate with the responsibilities of the positions. The Commission shall set salaries that will be fair and reasonable for each position and will attract and retain able, capable, and well qualified individuals in such positions, it being the intent and policy of the State of North Carolina to obtain the most qualified persons available to serve in these positions of high trust and responsibility in the State and to compensate them adequately but not excessively. Salaries shall be set by the Commission by May 1 of each year and shall be effective July 1 of that year, unless two-thirds of all the members of each house of the General Assembly, by June 15 of that year, adopt an act to amend the salaries set by the Commission. The salaries so set by the Commission or as amended by the General Assembly shall become a part of the Budget

Appropriations Act for each respective fiscal year.

"§ 147-5.3. Chairman; meetings; compensation of members.-- The Governor shall designate one member of the Commission as Chairman. The Commission shall meet at least twice a year at such times and places as the Chairman shall designate. Members of the Commission shall receive compensation and reimbursement for travel and expenses at the rates specified in G.S. 138-5.

"§ 147-5.4. Vacancies.--Any vacancy occurring in the membership of the Commission shall as soon as practicable be filled for the unexpired terms of the vacating member by the appointer of the vacating member.

"§ 147-5.5. Supporting services.--The Commission may contract for such professional and clerical services as it finds necessary."

Sec. 2. There is appropriated from the General Fund to the Department of Administration the sum of ten thousand dollars ($10,000) for fiscal year 1981-82 and the sum of ten thousand dollars ($10,000) for fiscal year 1982-83 to provide funds to the Compensation Commission to carry out the purposes of this Article.

Sec. 3. This act shall become effective July 1, 1981.

REQUIRING INMATES TO WORK

ISSUE: One concern of individuals interested in the North Carolina prison system is the idleness of some inmates. This issue was discussed by the Knox Commission and has been discussed by the Governor's Crime Commission. Inmates should work and those working should receive adequate remuneration for their work. At the present time, they are limited to one dollar a day maximum.

EXPLANATION OF ISSUE: There are 81 prison units in North Carolina which house nearly 15,000 inmates. Inmates are confined according to sex, age and custody grade. Activities vary at each of the units, but some 5,000 inmates are involved on a daily basis in prison enterprise work. There is presently a statutory mandate to "provide diversified employment for all able-bodied inmates." At the present time G.S. 148-18 limits the maximum pay for inmate labor to one dollar per day. The Department of Correction has established a pay scale which allows 40¢ a day, 70¢ a day and a dollar a day for various types of work.

Prison enterprises gross 21 million dollars a year. Of this, less than 2 million dollars is profit.

In 1978-79, the gross profit for prison enterprises was about 1.3 million dollars. Of this amount, $940,000 was transferred to operations fund which supplements the general fund allocation; and $500,000 was earmarked for inmate incentive wages. This latter amount is to pay inmates who perform the cooking, cleaning and maintenance services in the prison units.

It is anticipated that in the near future, prison enterprises may be operating in the red. This would make the possibility of increasing the inmate wage scale even more difficult. The Commission realizes the economic difficulties in attempting to increase wages in a period of national economic stress; however, in order to recognize the offender's responsibility relative to productive behavior while in prison, State policy should be established which requires inmates to work. G.S. 148-26 should be amended to include the responsibilities of inmates to engage in available productive activities while in prison. Policies should be established to allow the inmate wages to be used to pay family support and other obligations.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation which requires all inmates to work and allows for increased wages to be paid to inmates.

Inmate Work and Pay

A BILL TO BE ENTITLED

AN ACT REQUIRING ALL PRISON INMATES TO WORK AND PERMITTING HIGHER WAGES TO BE PAID.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-26(a) is amended by adding a new sentence to the beginning of the first paragraph to read: "It shall be the policy of the State of North Carolina that all able bodied prison inmates shall productively utilize opportunities for employment, education, or vocational training in the state prison system."

Sec. 2. G.S. 148-26(a)(4) is amended by deleting the phrase "one dollar ($1.00) per day per inmate" and substituting the following "the State minimum wage".

Sec. 3. G.S. 148-26(b) is amended by deleting the phrase "one dollar ($1.00) per day per inmate" and substituting the following: "the state minimum wage".

Sec. 4. G.S. 148-18(a) is amended by deleting the phrase in the first paragraph "more than one dollar ($1.00) per day" and substituting the following "more than the state minimum wage"; and is further amended by rewriting the second paragraph to read: "Those inmates involved in the maintenance and housekeeping of the prison system, shall be compensated at rates fixed by the Department of Correction's rules and regulations; provided that no prisoner so paid shall receive more than the state minimum

wage. The source of wages and allowances provided inmates who are employed in the maintenance and housekeeping of the prison system shall be funds provided from the General Fund to the Department of Correction for this purpose."

Sec. 5. G.S. 148-18(b) is amended by adding the following paragraph:

"When funds for inmate wages are derived from other than state funds or the inmate earns the state minimum wage, then the earnings shall be subject to the provisions of G.S. 148-33(F)".

Sec. 6. This act is effective upon ratification.

REDUCING EMPLOYMENT BARRIERS

ISSUE: An offender or ex-offender may be denied licensing or certification by a regulatory board because of the individual's conviction of a crime. The restriction may be either statutorily authorized or may result from policy of the regulatory board.

EXPLANATION OF ISSUE: The Division of Prisons recently conducted a survey of regulatory trade boards in North Carolina to determine its position on certifying offenders and ex-offenders. Of the 35 agencies which have responded, sixteen have statutorily authorized restriction provisions and two have restrictions authorized by policy. Utilization of a restriction based on criminal record frustrates an offender's efforts to rehabilitate himself.

Those boards, which presently operate under statutes which restrict individuals who have been convicted of a crime, control the licensing of: certified public accountants, child day care workers, chiropractors and physical therapists. Convicted felons are excluded from licensing for the occupations of auctioneers, pharmacists, professional engineers, land surveyors, and sanitarians. Those boards which consider criminal record, but do not automatically prohibit, include the following occupations: barbers, cosmeticians, dentists, landscape architects and contractors, optometrists, practicing psychologists, and realtors.

Restrictions based on prior criminal history should not be the sole impediment to licensing or certification. The basis of employment certification should be education, training and experience, with appropriate consideration given to criminal conviction record.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation which will limit the authority of occupational licensing boards to automatically disqualify persons convicted of a crime from licensing.

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE AUTHORITY OF OCCUPATIONAL LICENSING BOARDS TO DISQUALIFY PERSONS FROM LICENSING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 93B of the General Statutes is amended by adding a new section to the end to read:

"§93B-11. Conviction not sole ground for license loss; exception.- (a) Notwithstanding any other provision of law or regulation, including any of the other provisions of this Chapter, a person convicted of a crime, as defined in G.S. 15A-1331(b), remains eligible to hold any occupational license, except as provided in subsection (b) of this section.

(b) An occupational licensing board shall not deny any person convicted of a crime a license except upon a finding by the board that his conviction demonstrates a clear unfitness for the occupation for which the license is granted."

Sec. 2. This act shall become effective October 1, 1981.

CONTINUED

2 OF 3

CHANGING RESPONSIBILITY FOR WORK RELEASE DECISIONS

ISSUE: The statutory requirement that the Parole Commission determine whether to place some inmates on work release is an unnecessary step and should be an administrative function of the Department of Correction.

EXPLANATION OF ISSUE: Under current North Carolina law (G.S. 148-33.1), the Secretary of Correction may authorize the Director of Prisons or the custodian of the local confinement facility to grant work-release privileges to an inmate whose sentence is less than five years; however, the Parole Commission must decide to authorize the Department of Correction to grant work release privileges for an offender whose sentence is more than five years. In order for the Parole Commission to make a decision, it must receive information prepared by the staff of the Department of Correction. A recommendation is made by the Department and the Commission must then meet to make its decision.

For inmates with sentences of less than five years, the decision is made by the Department. For inmates with more than five years, the need for a Parole Commission decision adds the additional step which requires additional time.

In 1978, 4,296 inmates were placed on work release.

2,204 were placed on work release by the Parole Commission.

2,092 were placed on by other procedures.

The removal of the Parole Commission in the decision making process would expedite the placing of individuals on work release and would facilitate the placement of over half the eligible inmates.

RECOMMENDATION: The Governor's Crime Commission recommends the General Assembly enact legislation which will remove the Parole Commission from work release determinations.

Parole Commission Limited

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE PAROLE COMMISSION FROM WORK RELEASE DECISIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-33.1(a) is amended by deleting the phrase "not exceeding five years" in the first sentence.

Sec. 2. G.S. 148-33.1.(b) is repealed and the remaining subsections of G.S. 148-33.1 are relettered accordingly.

Sec. 3. G.S. 148-33.1(c) is amended by deleting the phrase in the first sentence "The Parole Commission" and by substituting the following: "The Secretary of Correction".

Sec. 4. G.S. 148-33.2(a) is amended by deleting the phrase in the first sentence "and the Parole Commission are" and by substituting the word "is"; and is further amended by deleting the phrase "and the Parole Commission".

Sec. 5. G.S. 148-33.2(b) is amended by deleting in the first sentence the phrase "and the Parole Commission are" and by substituting the word "is"; and is further amended by deleting the phrase in the second sentence "and the Parole Commission".

Sec. 6. G.S. 148-33.2(c) is amended by deleting from the first sentence the phrase "the Parole Commission and".

Sec. 7. G.S. 148-33.2(d) is amended by deleting from the first sentence the phrase "and the Parole Commission".

Sec. 8. This act is effective upon ratification.

TRAINING FOR JAIL STAFFS

ISSUE: With the development of minimum entry level standards for criminal justice personnel under 17C of the General Statutes, programs have been established for law enforcement officers and state correctional officers. Although training for jailers is being conducted, the program has not been certified by the North Carolina Criminal Justice Education and Training Standards Commission.

Chapter 17C of the General Statutes does not include jailers specifically as criminal justice officers although jails are included as criminal justice agencies.

EXPLANATION OF ISSUE: G.S. 153A-227 mandates that the Secretary of Human Resources prepare and provide a training program for supervisory and administrative personnel of jails. G.S. 17C-6, provides the authority for establishing minimum education and training standards for entry level employment.

Staff in the Jail Services Department of the North Carolina Justice Academy, which was established in 1978, has developed a 40 hour basic course for jailers, a jail management course, a jail executives course and is currently developing an advanced course for jailers.

Jailers are certified as trained pursuant to G.S. 153A-227 by the Jails and Detention Branch of the Department of Human Resources after completing the basic 40 hour course. The North Carolina Criminal Justice Education and Training Standards Commission has not yet established standards for education and training for jailers pursuant to G.S. 17C-6(a)(2).

To insure action is taken, G.S. 17C-2 should be amended to include jailers in the definition of criminal justice officers and G.S. 153A-227 should be amended to establish explicitly that provision of training for jail staffs is a responsibility of the North Carolina Justice Academy.

RECOMMENDATION: It is recommended that the General Assembly enact legislation to clarify state responsibility for jail training.

A BILL TO BE ENTITLED

AN ACT TO CLARIFY STATE RESPONSIBILITY FOR JAIL TRAINING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 17C-2(c) is amended by inserting in the first sentence between the phrases "parole officers;" and "or youth correctional officers" the word "jailors;".

Sec. 2. G.S. 153A-227 is rewritten to read:

"§153A-227(a). The North Carolina Justice Academy shall provide for a training program for supervisory and administrative personnel of local confinement facilities. These personnel include the sheriff and other elected or appointed officials. The Academy shall develop the training program in consultation with the State Department of Correction, the North Carolina Sheriffs' Association, the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina Police Executives' Association and the North Carolina Criminal Justice Education and Training Standards Commission.

(b) Except on a temporary or probationary basis, no person including an elected official, may serve as jailer or administrator of a local confinement facility unless he has successfully completed an approved program of training established pursuant to subsection (a) of this section and G.S. 17C. No person may serve on a temporary or probationary basis for longer than one year."

Sec. 3. This act shall become effective January 1, 1982.

IMPROVING JUVENILE JUSTICE

LIMITING TRAINING SCHOOL POPULATION

ISSUE: With the full implementation of House Bill 456, the population of the residential facilities of the Division of Youth Services has diminished.

EXPLANATION OF ISSUE: House Bill 456, which prohibited the commitment of status offenders to the Division of Youth Services, was fully implemented on July 1, 1978. As a result, the Division of Youth Services has been able to individualize the treatment offered to those committed youth. The ratio of staff to students has been increased without requesting additional staff positions and staff attrition has decreased. The result has been better care and treatment for committed youth. Currently, improved services are provided by North Carolina's training schools which maintain a population of between 100-150 student residents. These improved services are producing positive results for youth committed to the Division and positive reinforcement for the Division employees.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation limiting the size of state training schools.

Limiting Training School Population

A BILL TO BE ENTITLED

AN ACT TO SUGGEST A LIMIT TO TRAINING SCHOOLS' POPULATION OF 150 JUVENILES.

The General Assembly of North Carolina enacts:

Whereas, legislation preventing the commitment of status offenders to the Division of Youth Services was fully implemented on July 1, 1978; and

Whereas, as a result of this legislation, the Division of Youth Services has been able to individualize the treatment offered to those committed youth; and

Whereas, the ratio of staff to students has been increased without requesting additional staff positions, and staff attrition has also decreased; and

Whereas, the result of the legislation and its effect have been better care and treatment for committed youth; and

Whereas, it has been determined that a population of from 100-150 allows training schools to provide the optimum services; Now, therefore:

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 134A of the General Statutes is amended by adding a new section to read:

"§134A-29. Training School Population Limit - Training schools should be limited to a population of not more than 150 student resi-

dents; provided, a variance of fifteen percent (15%) above the 150 student limit per school is permissible."

Sec. 2. This act shall become effective January 1, 1982.

SERVICES FOR SOCIALLY MALADJUSTED JUVENILES

ISSUE: The finding of the North Carolina General Assembly as stated in Chapter 115, Subchapter XIII, Article 45 was "that all children with special needs are capable of benefiting from appropriate programs of special education and training and that they have the ability to be educated and trained and to learn and develop." The definition of "children with special needs", however, does not include the severely socially maladjusted juvenile.

EXPLANATION OF ISSUE: A severely socially maladjusted juvenile is a child who is not severely emotionally disturbed, but who by behavior or social maladjustment, is incapable of functioning successfully in a normal classroom setting.

G.S. 115-363 established the policy that the State will provide a free and appropriate publicly supported education for every child with special needs. The statute then states the purpose of the Article including "to provide for a system of special educational opportunities for all children requiring special education" and "to prevent denial of equal educational opportunity on the basis of physical, emotional, or mental handicap." Only under rare circumstances can a child who is severely socially maladjusted receive attention under the special education provisions established by the State.

Youth workers and advocates should be interested in these children also receiving educational instruction in the most positive and appropriate manner possible. The severely socially maladjusted juvenile should be included in the definition of children with special needs.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to include the severely socially maladjusted juvenile in the definition of a child with special needs and subject to the provisions set out in G S. 115-366.

Socially Maladjusted Children

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT SEVERELY SOCIALLY MALADJUSTED CHILDREN BE CONSIDERED CHILDREN WITH SPECIAL NEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-366 is amended by inserting, in the second sentence, between the phrases "seriously emotionally disturbed," and "orthopedically impaired," the phrase "seriously socially maladjusted and committed to the Division of Youth Services or Department of Correction,".

Sec. 2. This act shall become effective July 1, 1982.

ESTABLISHMENT OF STATEWIDE IN-SCHOOL SUSPENSION PROGRAM

ISSUE: For students who are disruptive or poorly motivated, intensive programs that will provide opportunities for them to develop the degree of self-discipline required to take advantage of the academic program of the school are needed. In the past, many disruptive and poorly motivated students have been suspended and, in some instances, expelled from school. This action by the school authorities compounds the problem for the individual student and his community.

EXPLANATION OF ISSUE: Discipline problems never exist in a vacuum; they are intimately related to students and their perceptions, to teachers and their interpretations of goals, to administrators and their interpretation of responsibility, and to the community with its sensitivity or lack of it for an atmosphere genuinely conductive to educational development. Discipline problems cannot be solved through simple isolated approaches, such as added or modified programs or the introduction of new techniques.

The evidence from numerous sources is conclusive that the ultimate solution to better relationships among students, teachers, administrators, and parents, and in turn better discipline, lies in the development of relationships based on mutual respect, trust, and understanding.

School discipline problems are measured not only by property loss and personal injury, but also by the individual's educational loss. Children who should be learning, exploring the world around them, too often are turned off by the school's environment. Teachers who have studied and prepared themselves for their careers find their time taken in maintaining order instead of teaching.

A "well disciplined school" is not merely a place where students are quiet and obedient. It is a situation where students, teachers, and administrators are concentrating together in an environment conducive to learning.

Traditionally, schools have sought to control student behavior by setting strict rules and punishing those who disobeyed. The most common punishments have been spankings and suspensions, with the most serious offenders being expelled from school and/or committed to state training schools. Research and experience tell us that this method of handling school discipline problems is not working.

A better approach is needed, one which deals with the causes of

misbehavior instead of merely reacting to the symptoms. This does not mean that students should be allowed to do whatever they please. Rules, enforcement, security, and reasonable restraints are necessary to maintain order in the schools and to guarantee the protection of the many from the violence of the few.

In-school suspensions provide a better alternative for dealing with disruptive student behavior than out-of-school suspension or expulsion. When the student is removed from the total school experience (i.e., out-of-school suspension or expulsion), he receives no guidance, counseling or assistance in examining his behavior or the consequences of his actions. The in-school suspension program offers this opportunity.

In the in-school suspension program, disruptive students are removed from the classroom of the teacher where they have been disruptive. The in-school suspension program should be operated out of a classroom-like setting designated specifically for the in-school suspension program. It should be a rather restricted, quiet, isolated, controlled, and non-socializing environment. While the student is in the in-school suspension program, there should be no talking and no opportunity to do outside activities. The student should be assigned to the in-school suspension program by the individual teacher who has exhausted all other means of controlling disruptive behavior in the classroom. Ideally, students should only be assigned to the in-school suspension program for the class period of the individual teacher whose classroom they have been disrupting. They should not remain in the in-school suspension program for the entire day or miss classes in which they have not been disruptive. The student should be required to be responsible for the work being missed in the teacher's classroom; however, the length of the stay should be determined by the student's circumstances. Since prolonged segregation from the mainstream of the class would be detrimental to the student and to the classroom, emphasis should be placed on returning the student to the regular classroom as soon as possible; however, return would be earned by the student only after he had successfully come up with a plan of action for operating in the individual teacher's classroom. If it is a general school problem, the student may be placed in the in-school suspension program but this should be under the supervision of an administrator. The school administrator should be kept aware of the number of times individual teachers assign students to the program and the number of times individual students have been assigned; if it is deemed advisable, staff development or student-parent conferences should be undertaken.

The students would receive one-on-one help in examining the consequences of their actions and behaviors while in the in-school suspension setting. This would come about by the staffing. The

individual in charge of the in-school suspension program should be a teacher with at least five years experience, preferably someone with a Master's degree in counseling and/or social work. Once the individual student has come up with an alternative plan of action, a conference would be held with the student and appropriate teacher to discuss the plan to see if it is acceptable with both.

During the time the student is assigned to the in-school suspension program, the continuation or make-up of academic work should be the responsibility of the individual student. Therefore if the student does not come up with a plan of action within a reasonable length of time, a parent conference should be held.

During fiscal year 1978-79 the Community Based Alternatives program funded 62 school related programs, at a total state contribution of $574,913. During the current fiscal year, the Governor's Crime Commission is funding 47 school related programs at a cost of $631,482. School officials need alternatives to suspension and expulsion in order to better meet the needs of those students who have difficulty functioning in a normal classroom setting.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to appropriate the necessary funds to support a statewide in-school suspension program.

Statewide In-School Suspension

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS NECESSARY TO FUND A STATEWIDE IN-SCHOOL SUSPENSION PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Public Instruction of the State Board of Education, for the fiscal year 1981-82, nine million dollars ($9,000,000) and for the fiscal year 1982-83, eleven million dollars ($11,000,000) for the purpose of funding a statewide in-school suspension program in every local education agency.

Sec. 2. This act shall become effective July 1, 1981.

REPEAL OF NONTESTIMONIAL IDENTIFICATION PENALTY

ISSUE: Article 48 of Chapter 7A of the North Carolina General Statutes establishes law enforcement procedures in delinquency proceedings. Nontestimonial identification, fingerprinting and/or photographing, and the penalty for violation are detailed in this Article.

EXPLANATION OF ISSUE: G.S. 7A-602 states that "any person who willfully violates provisions of this Article which prohibit conducting nontestimonial identification procedures without an order issued by a judge shall be guilty of a misdemeanor." Penalties for other professionals working directly and indirectly with the juvenile justice system for violations of other provisions of the Juvenile Code were recommended by the Juvenile Code Revision Committee, but were not enacted by the General Assembly.

Law enforcement officers and the North Carolina Juvenile Officers' Association are most concerned about this penalty. They feel that a cloud of distrust has been cast over their profession as a result of enactment of the criminal penalty. There is no conclusive evidence that would indicate a necessity to impose such a penalty. It would appear that it is inconsistent to impose criminal sanctions directed at one profession and not at others.

RECOMMENDATION: It is recommended by the Governor's Crime Commission that the General Assembly enact legislation repealing the criminal penalty for violating the procedures for conducting nontestimonial identification.

No Penalty if Invalid Id. Procedure

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE PENALTY FOR WILLFULLY CONDUCTING NONTESTIMONIAL IDENTIFICATION PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-602 is repealed.

Sec. 2. This act is effective upon ratification.

CLARIFYING AND TECHNICAL CHANGES TO THE JUVENILE CODE

ISSUE: In working with the Revised Juvenile Code, many professionals (law enforcement, court counselors, judges etc.) have made suggestions that would clarify and improve the new law.

EXPLANATION OF ISSUE: On January 1, 1980, the North Carolina Juvenile Code became effective. This marked the culmination of two years of work by the Juvenile Code Revision Committee and legislative debate by the General Assembly. The work of the Juvenile Code Revision Committee was complete and thorough and will require a transitional period from old to new; however, there are some technical and clarifying changes that need to be made. In general these changes are not substantive but in fact clarify and improve the Revised Juvenile Code.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly enact legislation to clarify and improve the North Carolina Juvenile Code.

Clarify Juvenile Code

A BILL TO BE ENTITLED

AN ACT TO MAKE CERTAIN CLARIFYING AND TECHNICAL CHANGES TO THE JUVENILE CODE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-517(1)(d) is amended by deleting from the second sentence the word "Severe" and by substituting the following word: "Serious".

Sec. 2. G.S. 7A-517 is amended by inserting between subdivisions (16) and (17) a new subdivision to read: "(16.1) In loco parentis means in the place of a parent, instead of a parent charged by convention or by law but not by blood relationship or other natural relationship with a parent's rights, duties, and responsibilities."

Sec. 3. G.S. 7A-517(19) is rewritten as follows: "(19) Judge. Any district court judge."

Sec. 4. G.S. 7A-517(20) is amended by deleting the second sentence and by substituting the following: "For the purposes of subsections (12) and (28) of this section, a juvenile is any person who has not reached his 16th birthday and is not married, emancipated, or a member of the Armed Forces. A juvenile who is married, emancipated, or a member of the Armed Forces, shall be prosecuted as an adult for the commission of a criminal offense."

Sec. 5. G.S. 7A-524 is amended by deleting from the third sentence the phrase "is subject to prosecution" and by substituting

the following: "shall be prosecuted".

Sec. 6. G.S. 7A-532 is amended by rewriting the third sentence to read: "The intake process shall include the following steps if practicable:".

Sec. 7. G.S. 7A-536 is amended by rewriting the last sentence to read: "At the conclusion of the review, the prosecution shall: (1) affirm the decision of the intake counselor or direct the filing of a petition and (2) notify the complainant of his action."

Sec. 8. G.S. 7A-544 is amended by deleting from the next to the last sentence of the last paragraph the phrase "five working" and by substituting the following: "seven calendar".

Sec. 9. G.S. 7A-546 is amended by deleting from the first sentence the phrase "five working" and by substituting the following: "seven calendar".

Sec. 10. G.S. 7A-547 is amended by deleting from the second sentence the phrase "the juvenile," and by substituting the following: "the juvenile, if practicable,".

Sec. 11. G.S. 7A-550 is amended by inserting between the phrase "Article," and the word "testifies" the phrase "cooperates with the county department of social services in any ensuing inquiry or investigation,".

Sec. 12. G.S. 7A-560 is amended by rewriting the first paragraph to read as follows:

"§7A-560. Petition.--The petition shall contain the name, date of birth, address of the juvenile, the name and last known address

of his parent, guardian, or custodian and shall allege the facts which invoke jurisdiction over the juvenile. Except in cases in which delinquency or undisciplined behavior is alleged, the petition may contain information on more than one juvenile, when the juveniles are from the same home and are before the court for the same reason. In cases of alleged delinquency or undisciplined behavior, the petitions shall be separate."

Sec. 13. G.S. 7A-561 is amended by rewriting the first sentence of subsection (c) to read:

"(c) All complaints, and any decision of the intake counselor or of the Director of Social Services not to authorize that a complaint be filed as a petition shall be reviewed by the prosecutor, if review is requested pursuant to G.S. 7A-535 or G.S. 7A-546."

Sec. 14. G.S. 7A-561 is amended by deleting in the second sentence of subsection (c) the phrase "with the clerk" and by substituting the following: "by the clerk".

Sec. 15. G.S. 7A-572(a)(3) is rewritten to read:

"(3) If the juvenile is not released under subdivision (2), the person having temporary custody shall proceed as follows:

a. In the case of a juvenile alleged to be delinquent or undisciplined, he shall request a petition be drawn pursuant to G.S. 7A-561 or if the clerk's office is closed, the magistrate pursuant to G.S. 7A-562. If the decision is made to file a petition, the

intake counselor shall contact the judge or person delegated authority pursuant to G.S. 7A-573 for a determination of the need for a secure or nonsecure custody order.

b. In the case of a juvenile alleged to be abused, neglected, or dependent, he shall communicate with the Director of the Department of Social Services who shall consider prehearing diversion. If the decision is made to file a petition, the Director shall contact the judge or person delegated authority pursuant to G.S. 7A-573 for a determination of the need for a nonsecure custody order."

Sec. 16. G.S. 7A-573 is amended by rewriting the second paragraph to read: "The chief district judge may delegate the court's authority to issue secure and nonsecure custody orders for juveniles. This authority may be delegated by administrative order which shall be filed in the office of the clerk of superior court. The administrative order shall specify, in addition to any available district court judge, which officials shall be contacted for approval of a secure or nonsecure custody order pursuant to G.S. 7A-574 and may include intake counselors and other members of the chief court counselor's staff."

Sec. 17. G.S. 7A-574(a) is rewritten to read:

"(a) When a request is made for nonsecure custody, the judge shall order nonsecure custody only when he finds that there is a reasonable factual basis to believe the matters alleged in the petition are true, and

(1) the juvenile has been abandoned; or

(2) the juvenile has suffered physical injury or sexual abuse; or

(3) the juvenile is exposed to a substantial risk of physical injury or sexual abuse because the parent, guardian, or custodian has inflicted the injury or abuse or created the conditions causing the injury, abuse, or exposure or failed to provide, or is unable to provide, adequate supervision or protection; or

(4) the juvenile is in need of medical treatment to cure, alleviate, or prevent suffering serious physical harm which may result in death, disfigurement, or substantial impairment of bodily functions, and his parent, guardian, or custodian is unwilling or unable to provide or consent to the medical treatment; or

(5) the parent, guardian or custodian consents to the nonsecure custody order.

In no case shall a juvenile alleged to be abused, neglected, or dependent be placed in secure custody."

Sec. 18. G.S. 7A-574(b)(1) is deleted and all the other subdivisions in subsection (b) are renumbered accordingly.

Sec. 19. G.S. 7A-574(b)(7) is rewritten to read:

"(7) That by reason of the juvenile's recent self-inflicted injury or attempted self-inflicted injury there is reasonable cause to believe the juvenile should be detained for his own protection for a period of less than 24 hours while action is initiated to determine the need for inpatient hospitalization. A juvenile shall not be detained under this subdivision for more than 24 hours; or".

Sec. 20. G.S. 7A-574(b)(8) is rewritten to read:

"(8) That the juvenile alleged to be undisciplined by virtue of his being a runaway may be detained for a period of no more than 24 hours to facilitate evaluation of the juvenile's need for medical or psychiatric treatment."

Sec. 21. G.S. 7A-574(c) is amended by adding a new sentence to the end to read: "The judge may also order secure custody for a juvenile who has been adjudicated delinquent and is alleged to have violated the terms of his probation or conditional release."

Sec. 22. G.S. 7A-574(d) is amended by deleting in the second sentence the phrase "(b) and (c)" and by substituting the phrase "(b) or (c)".

Sec. 23. G.S. 7A-577(a) is amended by deleting in the second sentence the phrase "in the district where the order was entered", and by substituting the phrase "in the city or county where the

order was entered".

Sec. 24. G.S. 7A-584 is rewritten to read:

"§7A-584. Juvenile's right to counsel.--A juvenile alleged to be within the jurisdiction of the court has the right to be represented by counsel.

(a) In all proceedings on a petition in which it is alleged that a juvenile is delinquent, the judge shall appoint counsel for the juvenile unless:

(1) Counsel is retained for the juvenile; or

(2) The juvenile has made a voluntary, knowing, and intentional waiver of his right to counsel, unless the juvenile is to be transferred to superior court for trial as an adult or committed to the Division of Youth Services. No juvenile may be transferred to superior court for trial as an adult or committed to the Division of Youth Services who has not had counsel provided him at the preliminary hearing at which a transfer order was issued or at the adjudicatory and dispositional hearings at which a commitment order was issued, even if the juvenile has refused to accept counsel's services. If the juvenile does refuse counsel's services so provided him, he may be transferred to superior court or committed to the Division of Youth Services.

(b) In all proceedings on a petition in which it is alleged that a juvenile is delinquent and counsel is not otherwise appointed, retained, or properly waived pursuant to subdivisions (1) or (2) of subsection (a) of this section, the judge may appoint counsel for the juvenile at any stage of the proceedings.

(c) All juveniles shall be conclusively presumed to be indigent and it shall not be necessary for the court to receive from any juvenile an affidavit of indigency."

Sec. 25. G.S. 7A-586 is amended by deleting in the first sentence the phrase "or neglected," and by substituting the following: ", dependent or neglected,".

Sec. 26. G.S. 7A-586 is amended by rewriting the second sentence of the third paragraph to read: "In no case may the judge appoint a county attorney, prosecutor or public defender as guardian ad litem."

Sec. 27. G.S. 7A-587 is amended by adding a new sentence to the end to read: "In no case may the judge appoint a county attorney, prosecutor or public defender."

Sec. 28. G.S. 7A-596 is amended by deleting the punctuation "." from the first sentence and by replacing it with the phrase "unless the juvenile has been transferred to superior court for trial as an adult wherein procedures applicable to adults apply."

Sec. 29. G.S. 7A-597 is amended by deleting the phrase "or prior to trial in superior court where a case is transferred pursuant to Article 49 of this Chapter".

Sec. 30. G.S. 7A-609 is amended by adding a new sentence to the end of subsection (a) to read: "The judge may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted."

Sec. 31. G.S. 7A-609(b)(2) is amended by deleting the phrase "may be represented" and substituting the following: "shall be represented".

Sec. 32. G.S. 7A-634(a) is amended by deleting from the second sentence the phrase "against the juvenile".

Sec. 33. G.S. 7A-640 is amended by adding a new sentence to the end to read: "The judge may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted."

Sec. 34. A new section is added to Article 51 of Chapter 7A of the General Statutes to read:

"§7A-641. Consent judgment in abuse, neglect or dependency proceedings.--Nothing in this Article precludes the judge from entering a consent order or judgment on a petition for abuse, neglect or dependency when all parties are present, all parties are represented by counsel, and sufficient findings of fact are made by the judge."

Sec. 35. G.S. 7A-647 is amended by deleting from the clauses preceding subdivision (1) the word "two".

Sec. 36. G.S. 7A-649(2) is amended by rewriting the second sentence to read: "The judge may determine the amount, terms, and conditions of the restitution and may direct which method of pay-

ment shall be used, the one requiring payment directly to the victim or the one requiring payment to be made through the clerk of court's office."

Sec. 37. G.S. 7A-649(7) is amended by deleting the punctuation "." from the first sentence and by replacing it with the phrase "or, until July 1, 1983, a holdover facility."

Sec. 38. G.S. 7A-649(8) is amended by inserting a new sentence after the first to read: "In any case where a juvenile is placed on probation, the court counselor shall have the authority to visit the juvenile where he resides."

Sec. 39. G.S.7A-652(b)(2) is amended by inserting a new sentence between the first and second to read: "An offense shall not fall within the purview of this subdivision unless it is committed after the adjudication on the prior two felony offenses."

Sec. 40. G.S. 7A-655 is amended by rewriting subdivision (2) to read: "Final discharge is appropriate when the juvenile does not require supervision, is 18 years of age, or when the time the juvenile has been in training school is the maximum time for which an adult could be committed."

Sec. 41. G.S. 7A-675(a) is amended by deleting from the end of the first sentence the phrase "the juvenile's record." and by substituting the following: "the summons, petition and court orders."

Sec. 42. G.S. 7A-675(d) is amended by deleting the punctuation "." and by replacing it with the phrase "unless the judge

finds that the disclosure would seriously harm his treatment or rehabilitation or would violate a promise of confidentiality."

Sec. 43. G.S. 7A-676(b) is rewritten to read: "(b) Any person who has attained the age of 16 years may file a petition in the court where he has adjudicated delinquent for expunction of all records of that adjudication, provided the person has not subsequently been adjudicated delinquent or convicted as an adult of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state."

Sec. 44. G.S. 7A-677(a) is rewritten to read: "(a) Whenever a juvenile's record is expunged, with respect to the matter in which the record was expunged, the juvenile who is the subject of the record may inform all persons or organizations that he has no juvenile record."

Sec. 45. G.S. 7A-289.2 is amended by deleting the phrase "G.S. 7A-278" from the first clauses preceding subdivision (1) and by substituting the following: "G.S. 7A-517"; and is further amended by deleting in subdivision (2) the phrase "G.S. 134-17." and by substituting the following: "G.S. 7A-655."; and is further amended by deleting in subdivision (7) the phrase "G.S. 7A-286(4)" and by substituting the following: "G.S. 7A-649(8)", and by deleting in the same subdivision (7) the phrase "by G.S. 110-22." and by substituting the following: "in that statute."

Sec. 46. G.S. 7A-289 is amended by deleting in subdivision

(2) the phrase "as authorized by G.S. 7A-286(3)"; and is further amended by deleting in subdivision (3) the phrase "G.S. 110-22;" and substituting the following: "G.S. 7A-658;".

Sec. 47. G.S. 7A-289.25 is amended by deleting in subdivision (4) the phrase "G.S. 7A-286(7)." and by substituting the following: "G.S. 7A-585."

Sec. 48. G.S. 7A-289.32 is amended by rewriting subdivision (2) to read: "(2) The parent has abused or neglected the child. The child shall be deemed to be abused or neglected if the court finds the child to be an abused child within the meaning of G.S. 7A-517(1) or a neglected child within the meaning of G.S. 7A-517 (21)."

Sec. 49. This act shall become effective January 1, 1982.

RECOMMENDATIONS

LAW ENFORCEMENT

INSTALLATION OF SECURITY AND CRIME PREVENTION DEVICES

ISSUE: Many law enforcement agencies have instituted crime prevention programs during the past several years. Community and citizens' groups have become involved, and in some jurisdictions it appears that the crime rate has been affected. Still, many people are not taking advantage of simple target hardening measures.

EXPLANATION OF ISSUE: Communities and individuals are receiving more information on crime prevention today than ever before. Many persons, however, have not acted upon the information which they have received. Crime prevention officers who perform security inspections for homes and businesses report that upon a follow-up visit (perhaps 3 months after the original inspection), a great percentage of specific security improvement recommendations have not been implemented.

Both government and industry should move forward to encourage the use of known crime prevention measures. People are more prone to respond to an idea if it will affect them financially. For example, as part of a national program to reduce energy consumption, tax incentives have been developed to encourage greater use of energy efficient materials. Some power companies offer reduced rates for persons living in energy efficient homes. Likewise, fire insurance rates have long been calculated based upon factors such as the proximity of fire suppression services, building materials used, etc. A similar system of regulations and incentives could surely promote greater use of crime prevention measures.

Although law enforcement in general is interested in reducing crime, crime prevention practitioners are especially concerned with the implementation of known target hardening measures. Several other groups have also expressed interest in the topic:

·Insurance companies, because of the large claims which they pay out each year. As demonstrated in other areas, premiums can be reduced, as can losses when one who purchases a policy takes appropriate preventive action.

·Builders, because of the increasingly high cost of construction materials. Often, they may use a less expensive lock on the door of a house but the reduced security which results is really no bargain for the homebuyer.

·Governing bodies, because of a desire to contain the cost of government. The criminal justice system costs millions of dollars to operate each year. If citizens will take advantage of proven

measures to deter crime, then perhaps the volume of work coming through the criminal justice system can be reduced to a more acceptable level.

RECOMMENDATION: The Governor's Crime Commission recommends that the North Carolina Crime Prevention Officers' Association study this issue with a view toward proposing tax incentives, building code modifications, or other initiatives which could be undertaken by government or industry, to provide a greater incentive for citizens to make use of crime prevention measures.

COURTS

LAW CLERKS FOR TRIAL JUDGES

ISSUE: Judges who are presiding over court each day do not have adequate time to research issues to make rulings on questions of law. Once decisions are made, there often is a delay in orders being drawn.

EXPLANATION OF ISSUE: Federal judges are authorized to employ law clerks to assist them in researching issues. Judges in North Carolina hear arguments from opposing counsel and often rely on those arguments rather than doing extensive independent research. Providing trial judges with the assistance of law clerks may be one approach to improving efficiency and in some instances, quality of justice, in trial proceedings.

RECOMMENDATION: The Governor's Crime Commission recommends that as expenditure of federal funds is reviewed, consideration be given to providing trial court judges with the assistance of law clerks on a pilot basis.

UTILIZATION OF BIOGRAPHICAL INFORMATION SHEETS ON JURORS

ISSUE: One of the most time consuming phases of the criminal trial is the selection of jurors. In most courts during voir dire, the amount of time devoted to obtaining general biographical information is considerable.

EXPLANATION OF ISSUE: A panel list is a valuable source of information for attorneys as they select a jury during voir dire. If the panel list lacks facts considered important, counsel must ferret them out by questioning. In some courts, the list provides only the juror's name, age, and occupation; in others, a biographical form contains as many as 25 items and includes extensive information on the juror and his family. An example of the form used in the 22nd Judicial District follows:

BIOGRAPHICAL INFORMATION OF JUROR No._____

FULL NAME:_____

ADDRESS:_____

List telephone number at which you may be reached:_____

Place of employment: _____ How long?_____

What is your exact job?_____

List previous employment for last ten years:_____

_____

Marital Status:_____(Single, Married, Divorced, Widow, Widower)

Full name of husband or wife (living or deceased):_____

Occupation of husband or wife (last employment if retired or deceased):_____

Number of children:_____ Sex and ages of children: (boys ages) _____; (girls ages) _____

Any relatives or close personal friends in law enforcement?

_____

If so, who and what agency?_____

Have you served as a juror before? _____; If so, when, where and what kind of court (civil or criminal):_____

_____

Have you or any member of your family ever been in an automobile accident?_____

If so, did it result in a law suit? _____ If so, was it tried or settled out of court? _____; When and where? _____

_____

Has any member of your family or close friend been involved in a law suit? _____ If so, who and when? _____

_____

What was the result of the law suit? _____

Were the results satisfactory? _____

Do you know any reason why you could not give both sides in every law suit a fair trial?_____ If so, what is the reason? _____

_____

Have you or any member of your family been the victim of a crime? _____ If so, who, what crime (assault, robbery, etc.) and when?_____

_____

If you sit as a juror on a criminal case, do you know any reason why you could not give each and every defendant the benefit of the presumption that he or she is innocent until proven guilty beyond a reasonable doubt as the judge will explain and define that to you?

_____

If you sit as a juror on a criminal case, do you know any reason why you could not find any defendant guilty if the state proves that he or she is guilty beyond a reasonable doubt as that will be explained and defined to you by the judge? _____

List any personal problems you may have about your services as a juror this week: _____

_____

No. _____ _____
(Your Signature)

Methods of preparing information forms vary widely. They may be typed, computer printed, handwritten, photocopied, printed, or composed of cards or ballots representing the jurors. Whatever the method, in most courts little thought has been given to whether it could be more efficient; however, the information obtained affects the amount of the time it takes to select a panel after one is called.

It would be impossible to develop a procedure for the distribution of biographical information that would be appropriate to every court in North Carolina.

Large panels are occasionally needed for highly publicized cases or cases involving multiple defendants. The procedure by which biographical information is distributed must vary in accordance with the numbers of jurors being summoned as well as the time they are to serve. When an average number of jurors is summoned for a week's term of court, it may be appropriate to obtain biographical information and distribute that information to prosecutors and defense attorneys prior to the beginning of the term of court. In districts utilizing "One Day/One Trial," advance distribution would not be feasible.

The Center for Jury Studies has found the most efficient method of preparing biographical data to be "photocopying juror information cards or ballots for individuals making up a panel." In its Methodology Manual for Jury Systems, the Center discusses four courts and the methods they employ:

> In Harris County District Court (Houston, Texas), jurors give their summons information card to the jury clerk on arrival. The cards are sorted into the original computer-generated random order, from which the clerk calls trial jurors sequentially. The cards for those selected are arranged six to a sheet and photocopied

to make a panel list, with copies for the attorneys, judge, clerk, and jury clerk. In the courtroom, prospective jurors are seated for the voir dire in the same random order by which they were chosen from the voter list. No typing or rewriting of juror names is required and, consequently, the jury clerk's attention may be devoted to handling some 800 different jurors each day.

In Wayandotte County, Kansas, a small card is typed for each member of the venire and placed in a magnetized, clear plastic holder. The card gives the name, address, occupation and age. To generate the panel list, the cards for the names chosen are arranged on a metallic-backed blank and photocopies. The same cards are used with another blank to generate the payroll list. They are also used to keep track of the juror. A large metal sheet is divided into areas representing the courtrooms, juror pool, and jurors' home; the cards are positioned on the board to indicate at a glance the location of a juror and his availability.

In the U. S. District Court for the Southern District of Houston, Texas, a variation of the photocopying practice is found. Cards prepared for reporting jurors are arranged ten to a page, overlapping to obscure private information such as phone numbers and excuse history of the jurors, and then copied as in the Harris County system. The original cards are retained by the jury clerk who uses the back of the card for an attendance record.

In Prince Georges County, Maryland, a two-line data-strip records age, occupation, address, education, and spouse's occupation for each juror. Strips are photocopied to make up panel lists, and are used for checking jurors in, controlling attendance, and for pay records.

The proper use of uniform biographical information sheets would greatly facilitate jury selection.

RECOMMENDATION: The Governor's Crime Commission recommends that the Chief Justice of the Supreme Court consider requiring each resident superior court judge to select for his district an appropriate method of collecting and providing biographical information to facilitate jury selection. Questions covered on the biographical sheets should not then be allowed on voir dire, and all information collected should be destroyed at the end of the term.

CORRECTIONS

HEALTH CARE SERVICES FOR INMATES

ISSUE: The N. C. General Statutes now require that the Department of Correction prescribe standards for health services to prisoners. The level of service for which standards should be established is not specified, nor is there provision in the statutes to require that a medical facility within the prison system be licensed.

EXPLANATION OF ISSUE: In the same manner as health care facilities in the local community are required to meet specific standards as set forth by the Facilities Service Division of the Department of Human Resources, correctional health care facilities should meet similar standards. If a correctional facility operates a hospital, it should be subject to licensing by the State to insure that standards for competent medical care are being maintained comparable to those maintained by local services.

The Facilities Service Division of the Department of Human Resources has surveyed Central Prison Hospital and determined that the facility did not qualify for licensure based primarily on the lack of sufficient nursing staff. Its report indicated that 24 hour nursing coverage was required on each unit of the hospital by a registered nurse. Limitations on the availability of sufficient registered nurses has required that nursing care be administered and directed by non-professional personnel such as technicians and inmates.

During calendar year 1979, Central Prison Hospital provided treatment for inmates for the equivalent of approximately 77,000 in-patient days. If a similar service were provided in a local community hospital, cost for in-patient care would exceed $15,000,000 without considering custody costs. The current yearly operating costs at Central Prison Hospital are approximately $4,250,000.

Reducing the liabilities of the state by insuring access to the services of a licensed general hospital appears to be in the best interest of both the North Carolina Department of Correction and the State. The licensing of Central Prison Hospital is essential to the accomplishment of this objective.

RECOMMENDATION: The Governor's Crime Commission passed the resolution which follows.

RESOLUTION
GOVERNOR'S CRIME COMMISSION

WHEREAS, the Department of Correction has established a policy which states that the level of health care services provided to inmates shall be equal to the care which they would receive in the free community; and

WHEREAS, the Department of Correction is limited in its efforts to provide such services to inmates; and

WHEREAS, the licensing of facilities is an essential step in assuring such services;

NOW, THEREFORE, BE IT RESOLVED,
That the Governor's Crime Commission supports the efforts of the Department of Correction in seeking the licensing of its health care facilities.

This the 18th day of July, 1980.

James R. Van Camp
Chairman

JUVENILE JUSTICE

DEVELOPMENT OF JUVENILE JUSTICE INFORMATION SYSTEM

ISSUE: There is a need for statistical data as a tool for evaluation with the collection of the kind of data going beyond a mere compilation of types of juvenile offenses and arrests.

EXPLANATION OF ISSUE: A statistical reporting system should provide more specific data relating to input of different juvenile programs on specific clientele groups. Also, a system such as this could provide system tracking data and indicate possible areas where there is a breakdown in the workings of the system.

The North Carolina Bar Association's Penal System Study Committee in 1972 cited the lack of information reflecting either the number or the percentage of juveniles who "graduate" to the adult correctional system. The Governor's Advisory Committee on Youth Development in 1973 recommended an office of research and planning which would include statistical reporting and suggested that any new corrections programs established for juveniles include "a research and evaluation component built into them from the beginning".

Currently, juvenile justice information is collected by the Police Information Network, the Administrative Office of the Courts and the Division of Youth Services. Each agency does data evaluation and dissemination based on the need of the individual agency. Ideally, a juvenile justice information system should collect, evaluate, and assist local communities to collect and evaluate, statistics, information, and data needed to evaluate program effectiveness and to plan programs in areas where needs are not being adequately met.

RECOMMENDATION: The Governor's Crime Commission recommends that the present user agencies work with the Juvenile Justice Planning Committee to study the possibility of developing a better system of coordination and effective data interchange.

STATE APPROPRIATION TO THE CBA PROGRAM

ISSUE: Beginning July 1, 1977, the Community Based Alternatives Section of the Department of Human Resources embarked on a major state and local government cooperative effort. The General Assembly appropriated $1,000,000 in response to local community requests for funding of community programs for troubled youth as alternatives to commitment to training school. Along with the state funds, community programs have utilized available federal funds, ie. LEAA and Title XX, to begin their programs. As the program's eligibility for federal funds has lapsed, the programs have become dependent on state and local appropriations. Couple this with the rate of inflation and many community programs are faced with diminishing financial resources.

EXPLANATION OF ISSUE: In the first year, 1977-78, over 135 delinquency treatment and prevention programs in 92 counties served approximately 5,000 youth. The appropriation increased to $2,000,000 in 1978-79 with over 200 delinquency treatment and prevention programs in 96 counties serving approximately 17,922 youth. In 1979-80, the CBA program is receiving $3,000,000 in state appropriations and it is projected that over 30,000 youth will be served.

Since its beginning, the CBA Section has maintained a strong planning orientation. Each county has been asked to provide the Department of Human Resources with an annual update of its comprehensive local plan for meeting the needs of status offenders and youth-at-risk.

During the summer of 1977, the CBA staff developed a plan for the biennium which set forth two major goals and several sub-goals or measurable objectives by which some indication of program success could be documented. All of the sub-goals or measurable objectives were either met or surpassed.

The first goal was: "To reduce the number of children committed by the courts to the institutions operated by the Division of Youth Services."

The objectives under that goal were:

- By June 30, 1978, to provide one million dollars in state funding to be divided equitably among participating counties for alternative treatment services to troubled youths.
- By June 30, 1978, to provide non-institutional disposition options for 500 troubled youths across the state.

- By June 30, 1979, to provide an additional one million dollars in state funding to be divided equitably among participating counties to maintain alternative treatment services to troubled youths. (The interim session of the 1977 General Assembly appropriated an additional one million dollars for the second year of the biennium.)

- By June 30, 1979, to provide non-institutional treatment services for 1,200 adjudicated youths.

- By June 30, 1979, to reduce the average number of yearly commitments to Youth Services' institutions by 200 youths.

The second goal was: "To produce a statewide, county-by-county, data based, comprehensive plan for community services and youth needs."

The objectives under that goal were:

- By January 1, 1978, to produce an annual report on the status of youth needs in North Carolina for submission to the Secretary of the Department of Human Resources, the Governor, and the General Assembly.

- On May 1, 1978, to provide a data-based, comprehensive statewide budget, uniform data, and technical assistance in utilizing the data to every county Task Force to advise the county commissioners of the youth needs to be addressed by each county budget.

- By July 1, 1978, to provide a data-based, comprehensive statewide budget request for community based services for inclusion in the Department of Human Resources' continuation and expansion budgets for the next biennium.

- By January 1, 1979, to provide a comprehensive annual report and statewide action plan on the current status of the community based alternatives with recommendations on program continuation.

The success of the Community Based Alternatives Program has been demonstrated and an additional appropriation is in order.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly fund the budget request submitted by the Division of Youth Services of the Department of Human Resources for expansion of aid to counties for community-based alternatives and the request for two additional staff positions for the CBA Section. The Commission further recommends that the CBA Section continue to intensify its efforts to produce quality evaluations of community based programs.

RESOLUTION
GOVERNOR'S CRIME COMMISSION

WHEREAS, on July 1, 1977, the Community Based Alternatives Section of the Department of Human Resources embarked on a major state and local government cooperative effort; and,

WHEREAS, this effort was in response to local community requests for funding of community programs for troubled youth as alternatives to commitment to training school; and,

WHEREAS, over 200 delinquency treatment and prevention programs in 96 counties serving approximately 17,922 youth were funded in fiscal year 1978-79; and,

WHEREAS, the number of commitments to training school was reduced from 1,469 youth in fiscal year 1978 to 992 youth in fiscal year 1979; and,

WHEREAS, community based programs have utilized available federal, along with state funds to begin programs; and,

WHEREAS, many of these programs are now losing their eligibility for these federal funds and are becoming more dependant on state appropriations;

NOW, THEREFORE, BE IT RESOLVED,
That the Governor's Crime Commission recommends that the General Assembly fund the budget request submitted by the Division of Youth Services of the Department of Human Resources for expansion of aid to counties for community based alternatives.

This the 18th day of July, 1980.

James R. Van Camp
Chairman

LIMITING OUT-OF-SCHOOL SUSPENSION

ISSUE: With the development of in-school suspension and alternative education programs, it might be appropriate to establish a standard limiting out-of-school suspensions.

EXPLANATION OF ISSUE: Under North Carolina law, a principal has the authority to suspend students from school in accordance with policies developed by the local school board. Suspension has become a common form of discipline in the schools. The number of students suspended statewide in 1977-78 was 46,998; some were suspended multiple times.

While suspension may provide temporary relief from the frustration and aggravation of behavior problems, it has its drawbacks as a disciplinary tool. Suspension is an expedient way to remove discipline problems from the school setting but it may not be the best way to correct them. For some students, misbehavior becomes a way of getting a vacation from school. For others, it may build a growing desire to get even, which generates future conflicts. Academic failure is a serious by-product of suspension. In North Carolina, suspended students can miss up to 10 days of school and even more, if suspended repeatedly.

Suspension not only decreases the educational chances of our youth, but also moves the child and his behavior problems to the streets. Many children in North Carolina live in families where working parents are unable to supervise them at home during a weekday. Substitute activities do not exist in the community to keep suspended youth out of trouble. As a result, many problems excluded from schools are passed on to neighborhoods and law enforcement authorities.

Student misconduct can result from a variety of different problems. By reacting to discipline problems with immediate suspension, constructive solutions that address root causes may be overlooked. In its national study, the Children's Defense Fund found that many students suspended from school had educational handicaps that needed remediation. The 15 year old in high school who is reading on a fourth grade level is doomed to academic failure and embarrassment in the classroom. These students are prime candidates for discipline problems. For many, it is only a matter of time until they drop out of school altogether.

The point here is not that suspension should never be used. In cases where the student poses a danger to himself or others,

removal from school may be needed; but even for these children, alternative methods should be utilized first.

RECOMMENDATION: The Governor's Crime Commission recommends that the State Board of Education establish a standard that would allow out-of-school suspensions, where alternatives exist, only as a last resort.

RESOLUTION
GOVERNOR'S CRIME COMMISSION

WHEREAS, while suspension may provide temporary relief from the frustration and aggravation of behavior problems, it has its drawbacks as a disciplinary tool; and,

WHEREAS, suspension is an expedient way to remove discipline problems from the school setting but it may not be the best way to correct them; and,

WHEREAS, for some students, misbehavior becomes a way of getting a vacation from school, and for others, it may build a growing desire to get even, which generates future conflicts; and,

WHEREAS, suspension not only decreases the educational chances of our youth, but also moves the child and his behavior problems to the streets; and,

WHEREAS, many children in North Carolina live in families where working parents are unable to supervise them at home during a weekday; and,

WHEREAS, substitute activities do not exist in the community to keep suspended youth out of trouble; and,

WHEREAS, many problems excluded from schools are passed on to neighborhoods and law enforcement authorities;

NOW, THEREFORE, BE IT RESOLVED,
That the Governor's Crime Commission recommends that the State Board of Education adopt a standard which would allow out-of-school suspensions, where alternatives exist, only as a last resort.

This the 18th day of July, 1980.

James R. Van Camp
Chairman

CITIZENSHIP EDUCATION

ISSUE: A comprehensive program of citizenship education will do much to prepare students to assume the privileges and responsibilities of citizenship. Democratic procedures for school and class governance will maintain the climate necessary for such preparation. The educational process can instill those habits which lead people to consider the consequences of their actions, to participate actively and effectively as citizens, and to possess positive attitudes toward the political and legal system.

EXPLANATION OF ISSUE: Citizenship education should provide elementary and secondary students with experience that prepare them to function successfully in the social, political, and legal systems of their community, state and nation. These experiences should be properly balanced to convey essential knowledge about the system and develop skills needed for functioning within the system. As students learn about themselves, others, their communities, state, region, nation, and the world, they must also gain knowledge about laws and the agencies that make, interpret and enforce laws. As they learn about the relationships among institutions and agencies that make up the political and legal system, they must develop skills to function within that system. They need to understand the rights and principles underlying every level as well as the specifics of how the system works. What students learn in knowledge and skills should endure and serve them in a variety of situations for the remainder of their lives.

The content of citizenship education in the elementary grades can be found in the standard social studies curriculum. With proper emphasis, students can gain an increasingly sophisticated understanding of the social, political, and legal system as they progress through elementary school. In junior and senior high school, the specifics of the systems can be studied in much greater detail.

A component of the social studies program that deals specifically with the legal system, individual rights in the system and responsibilities toward the system, can be included in the junior high curriculum. On the senior high school level, elective courses that provide an opportunity for the student to study government on the local, state, and federal levels should be available to all students.

All students must develop decision-making, self-management, and group participation skills in order to function effectively in society. These skills can be developed by using materials and activities appropriate for students on each grade level. The skills will become more sophisticated as the students progress to

higher levels of instruction.

As students increase their knowledge and skills, they will understand better the democratic values that support the system. At the same time, they will develop constructive attitudes that will commit them to working within the system.

Activities that require students to confront dilemmas and seek solutions increase their skills in making value judgments. They begin to see that when individual interests conflict, a concern for group welfare, rules, and laws can offer solutions. When laws and group interests conflict, concern for individual rights and the principles of justice offer solutions. Making value judgments about real or hypothetical dilemmas give students an understanding of justice that few other methods can provide.

Attitudes determine people's thoughts and actions toward the legal/political system and its personnel. Society needs citizens who possess constructive and positive attitudes toward the system. School experiences that allow students to see significant people, agencies, institutions, and laws in a variety of situations will help them to develop those constructive attitudes.

There must be greater consistency between the formal curriculum and the informal curriculum of schools. The fairness of the school, observed through its routine for dealing with conflicts and discipline problems, sometimes teaches about the social, political, and legal system as does the formal curriculum. Issues of school and class governance offer rich opportunities to reinforce decision-making, self-management, and group participation skills taught by the curriculum.

Management of the classroom offers a very practical opportunity to improve a student's understanding of the legal system and the principles that support it. Disruptive behavior can be handled so that students see the need for both procedural and corrective justice. If disruptive behavior is handled in a manner that violates student rights, it will be counterproductive. On the other hand, a formal system of classroom management that gives proper treatment to due process and fairness will result in greater student understanding of justice and a much more positive attitude toward rules, law, and the authorities who enforce them.

Involving students in decisions about policies and rules helps them see the benefits of being an active participant in the political/legal process. It enables them to believe that they have some influence over what happens to them. This belief, if carefully developed, will carry over into adulthood and will be a giant

stride toward overcoming the apathy that makes our system less effective than it could be.

Conflicts in school should be resolved as democratically as possible. A formal system of class management provides a means for satisfactorily resolving conflicts between individuals and groups within the school. Such a system in the classroom and in the school provides students with opportunities to learn extending well beyond those provided by the formal curriculum. The lessons learned in such a system are equally as lasting as those learned from the formal curriculum.

In the past several years, North Carolina has emphasized citizenship education and since 1973 has had a number of special programs in low-focused and citizenship education. The Division of Social Studies of the Department of Public Instruction has been providing a leadership role and should continue to sponsor and promote activities similar to those in Elementary Law, Responsible Citizenship, Citizenship Education and Constitutional Rights Foundation Projects.

RECOMMENDATION: The Governor's Crime Commission supports the concept of citizenship education and recommends that the Department of Public Instruction continue to expand its citizenship education programs.

RESOLUTION
GOVERNOR'S CRIME COMMISSION

WHEREAS, a comprehensive program of citizenship education will do much to prepare students to assume the privileges and responsibilities of citizenship; and,

WHEREAS, citizenship education should provide elementary and secondary students experiences that prepare them to function successfully in the social, political, and legal systems of their community, state and nation; and,

WHEREAS, these experiences should be properly balanced to convey essential knowledge about the system and develop skills needed for functioning within the system; and,

WHEREAS, as students learn about themselves, other individuals, their communities, state, region, nation, and the world, they must also gain knowledge about laws and the agencies that make, interpret and enforce laws; and,

WHEREAS, as students learn about relationships among the institutions and agencies that make up the political and legal system, the students must develop skills to function within the system; and,

WHEREAS, students need to understand the rights and principles that underlie the system on every level as well as the specifics of how the system works; and,

WHEREAS, what the students learn in the areas both of knowledge and skills should endure and serve them in many vital ways for the remainder of their lives;

NOW, THEREFORE, BE IT RESOLVED,
That the Governor's Crime Commission strongly supports the concept of citizenship education and encourages the Department of Public Instruction to continue to expand its efforts to educate our citizens in their duties to their homes, their State, their nation and their world.

This ~~the 18th~~ day of July, ~~1980~~.

James R. Van Camp
Chairman

AGE JURISDICTION OVER UNDISCIPLINED JUVENILES

ISSUE: The lowering of the age limit, to sixteen years, for court jurisdiction over undisciplined juveniles by the General Assembly in 1979 has produced positive results.

EXPLANATION OF ISSUE: The lowering of the age limit over undisciplined juveniles has eliminated confusion by coordinating the age limits for both delinquent and undisciplined behavior. It also simplifies matters in that juveniles are not subject to compulsory school attendance beyond the age of 16 so that truancy is no longer an issue. Finally, court intervention for sixteen and seventeen year old undisciplined juveniles is often ineffective. More effective alternative methods of dealing with this age group need to be studied and developed instead of changing the age limit.

RECOMMENDATION: The Governor's Crime Commission recommends that the General Assembly keep the jurisdictional limit of the court over undisciplined juveniles at sixteen years.

RESOLUTION
GOVERNOR'S CRIME COMMISSION

WHEREAS, the 1979 General Assembly recognized that there was little the courts could do with undisciplined juveniles over the age of 16 and that other alternatives to court action needed to be encouraged; and,

WHEREAS, the 1979 General Assembly acted upon this recognition in ratifying the Revised Juvenile Code which gives the courts jurisdiction over undisciplined juveniles only until they are 16; and,

WHEREAS, the Governor's Crime Commission, although recognizing the great need of parents and society in general for special help in dealing with undisciplined juveniles who by threatening, anti-social behavior or by running away from home pose great danger to themselves and others, also agree with the 1979 General Assembly that court action in dealing with these particular juveniles is meaningless in the main and that other sources of help must be found;

NOW, THEREFORE, BE IT RESOLVED,
That the Governor's Crime Commission most strongly recommends to the General Assembly that the jurisdictional limit of the courts over undisciplined juveniles be retained at 16 years; and further recommends that the Juvenile Justice Planning Committee continue to study alternative sources of help for these juveniles, their families, and society in general.

This the 18th day of July, 1981.

James R. Van Camp
Chairman

CERTIFICATION/TRAINING FOR LAW ENFORCEMENT
JUVENILE OFFICER

ISSUE: The law enforcement officer's role in the juvenile justice system is a crucial one in that he generally is the juvenile's initial contact with the system. The President's Commission on Law Enforcement and the Administration of Justice emphasizes that very often whether or not a child becomes involved in the juvenile justice system depends upon the outcome of his initial encounter with the police.

EXPLANATION OF ISSUE: Law enforcement agencies in North Carolina respond to the community's needs in the area of juvenile justice in several ways. As a result of small case loads in rural areas as well as the lack of manpower and funding, most county sheriffs' departments and smaller municipal agencies use line officers to handle juvenile offenders. In the larger departments in the urban areas of the state, there is some specialization among units. The line officer, however, continues to be involved when he has the initial contact with the juvenile offender. It is essential then that his knowledge be independent of that of the juvenile specialist such that his relationship with the juvenile officer is one of successful coordination rather than dependence.

Prior to 1974, there was no training in the area of juvenile justice within the curriculum offered the beginning officer. Approved and effective in the fall of 1978, the number of hours of overall training provided incoming officers was increased from 160 to 240. Of those hours, eight are in juvenile crisis intervention, a very slight increase from the six hours previously required. With approximately 90 specialized juvenile units out of some 460 law enforcement departments in the state, with the increasing complexities of law, and with statistics reflecting a concentration of crime among juveniles, eight hours of specialized juvenile training is certainly inadequate.

RECOMMENDATION: The Governor's Crime Commission recommends that the North Carolina Criminal Justice Education and Training Standards Commission consider requiring certification, with a minimum of 40 hours training in juvenile justice, for those officers who specialize in juvenile matters.

I S S U E S

F O R

F U T U R E S T U D Y

ISSUES FOR FUTURE STUDY

LAW ENFORCEMENT

Improving Jail Facilities and Services

Sheriffs incur a great liability in the operation of jails. Constantly changing laws, prisoner populations, and criminal justice system expectations make it difficult to maintain jails in the best possible condition. Also, it is often difficult to obtain sufficient funds, from already strained county budgets, to make needed changes. This issue should be studied from both the law enforcement and corrections perspectives in an effort to have constantly available practical solutions to problems identified by jail administrators.

Law Enforcement Services to Victims of Crimes

Although many advancements are being made toward a greater recognition of the plight of victims, constant attention must be directed toward the ability of law enforcement to provide immediate assistance in those instances when it is needed. Many agencies cannot afford the sophisticated level of service delivery implemented by certain jurisdictions, yet need improved officer awareness and service coordination capabilities. This issue should be further studied to provide recommendations particularly suited for use by smaller agencies.

Model Code of City Ordinances

The North Carolina Association of Police Attorneys has suggested that the Governor's Crime Commission consider developing a model code of city ordinances. The model code should embody those issues normally encountered by cities, i.e. parades, animal control, parking, etc. According to the Association, some cities experience difficulty drafting ordinances, and others would like to update and revise their present codes. A model code would be available for those desiring to use it as a guide for either purpose, and, with good participation, would establish a degree of consistency in city ordinances across the state.

Compensation for Stress Induced Disabilities

In recent years the body of knowledge has grown regarding stress and its affect on law enforcement officers. Physicians can now demonstrate that certain job related disabilities are directly attributable to stress. This is an issue of great concern to officers who must leave the service prematurely. This issue should be studied with a view toward developing practical methods for early identification of stress, theraputic relief of stress, and a plan for adequate compensation for those officers who are forced to retire because of stress induced disability.

COURTS

Mandating Continuing Education for Judicial Personnel

As laws change and cases reflect new interpretations of existing statutes, there is concern that judicial personnel be fully apprised of the changes. The quality of justice administered within the judicial system is directly related to the professional growth of the officials involved. Although the need for training for judicial personnel is widely recognized, participation in continuing legal education is voluntary. Often times the same officials avail themselves of the opportunities for training each time it is offered.

For many years, the Administrative Office of the Courts has contracted with the Institute of Government for the training of judicial personnel. In 1978-79 the Crime Commission provided funds for four conferences for superior court judges, five conferences for district court judges, five conferences for prosecutors, two conferences for public defenders, three conferences for clerks of superior court, and five training sessions for magistrates. The Crime Commission has also funded attendance of 253 Judicial Department personnel at in-state or out-of-state conferences or courses offered by other agencies or by professional organizations. Further aiding in this effort, the Commission has increased appropriations to the Institute of Government to provide for more structured training of judicial officials on a continuing basis. In addition to providing instructional services to court officials, the Institute will prepare and disseminate publications and will produce and distribute audio cassettes.

The question of mandating some participation in continuing legal education programs has received increasing attention nationwide. The North Carolina State Bar has appointed a committee chaired by Robinson Everette, Attorney at Law, to study the issues of certification,

accreditation, specialization, and education as they relate to all attorneys. It is recognized that benefit accrues to an individual receiving continuing education as well as to the system of which he is part and minimum standards should be developed for the continuing education of judges, district attorneys, public defenders, clerks of court, magistrates and other judicial personnel. This is an issue which should be studied and groundwork laid, for future implementation.

Administrative Supervision of Prosecutors and Public Defenders

The doctrine of separation of powers poses concern over the administrative supervision of trial prosecutors and public defenders within the judicial branch of government. Although prosecution and defense are executive branch functions, supervisory authority is currently within the judicial branch of government. Any suggestions for change would have far reaching impact; therefore, an in-depth study should be made as to the feasibility of removing the administrative supervisory authority over district attorneys, public defenders, and their staffs from the Administrative Office of the Courts.

Modification of Grand Jury System

Criticism of North Carolina's grand jury system is frequently voiced. Suggestions for improvement range from strengthening the system by giving the grand jury investigative powers, which it does not have, to amending the Constitution to abolish indictment by grand jury and substitute for it an information drawn by the district attorney. The grand jury system should be studied and legislation should be developed to address its weaknesses.

CORRECTIONS

Inmate Behavior

Issues relating to the conditions of confinement, to a large degree, are controlled by types of behavior which, in turn, are controlled by informal social structure. The struggle for power and the increasing growth of "gamesmen" mentalities within the prison population will provide a new challenge to the stability to prisons during the 1980's. The internal management of prison populations is related directly to the informal social structure. The potential responsiveness of a program to inmate needs is, to a large

degree, determined by the impact which the intra-structure will allow. A number of issues are related to the conditions of confinement and the quality of supervision within a given correctional environment. Those issues and their impact on the informal social structure should be studied and suggestions should be made to meet this growing challenge.

Criminal Sanctions

There is a belief that sentencing is more than a function of judicial sanction. Many feel that sanctions are influenced by community attitudes and customs and by levels of societal tolerances of given behaviors.

There are many indications that crime is a pervasive phenomenon in all societies, but it also appears true that all societies differ widely in how they define criminal behavior and in the measures which they use to control crime. In the contemporary Arab world, for example, crimes are defined by the religious scriptures of Islam and the physical punishment of the offender continues to be generally accepted. In some socialist countries, the mental hospital has become the instrument for dealing with the crime of political dissent.

For upwards of two centuries, the Western world has relied upon imprisonment as the principal vehicle for the application of sanctions. For the past three decades, the West, particularly the industrialized West, has shown an increasing tendency to depenalize criminal sanctions. No Western European nation now employs imprisonment at the rate which it is used in the United States; in fact, the average time served by prisoners in all Western European countries is substantially shorter than served in the United States.

Rates of imprisonment as well as the lengths of terms imposed for crime in the States of the United States are by no means constant, however. There is nothing which resembles a national policy of crime control. The reasons for variations among the states and between the states and the federal government should be carefully analyzed and studied.

JUVENILE JUSTICE

School Truancy, Suspension and Juvenile Crime

Almost no research is available in North Carolina to determine the correlation between the rates of truancy, out-of-school suspension, and the juvenile crime rate. Many professionals believe that

the correlation is direct and that when truancy rises, the juvenile crime rate also rises. The Juvenile Justice Planning Committee will study this issue further and make appropriate recommendations.

Youth Employment Opportunities

With the unemployment rate for youths being at least twice the rate for all individuals and the rate for minority youth being even higher, it is evident that developing new approaches to the problem of youth employment is critical. Among those mentioned have been tax incentives for businesses that employ youths, lowering the minimum permissible employment age and the splitting of one job between two people. These and other possibilities will be futher considered by the Juvenile Justice Planning Committee.

Seriously Disturbed Juvenile Offenders

Many who work within North Carolina's juvenile justice and social service systems have expressed a desire to provide the best treatment services available to seriously distrubed juvenile offenders. Their efforts are being hampered by a lack of information about: (1) who is currently being served and who, with similar needs, is not being served; (2) where are services provided and what are the relationships among providers; (3) what type and quality of services are being provided; and (4) what treatment techniques are available and which ones are being used? Answers to these four questions will provide information to answer a fifth question: How can the current treatment system be charged to provide improved treatment? This issue is now being studied by the Juvenile Justice Planning Committee.

Emancipation and Independent Living

North Carolina's new juvenile code provides the procedure and authority for the court to emancipate a minor who is willing and able to care for himself. Previously there was no statutory provision for such action. This new statutory provision has been well received by youth workers, but with some concern for the lack of programs in North Carolina to assist in the emancipation process. At this time, there is only one program that is specifically designed to work with youth in developing their independent living skills. The Juvenile Justice Planning Committee is studying this issue, along with all services for 16 and 17 year olds in an effort to determine the potential number of youths who may need services and the type of programs to meet their needs.

Regional Detention for Juvenile Offenders

Since the ratification of the North Carolina Constitution in 1868, provision has existed for a different handling of the accused juvenile offender; however, little attention has been paid to the pre-adjudicatory detention of accused juveniles. More concern has centered on the separation of adjudicated juveniles and adults. In recent years, new attention is being focused on the emotional damage that can be created by confining both adults and juveniles in local jails. During calendar years 1978 and 1979, 2,216 and 1,816 juveniles under the age of 16 were detained in jails in North Carolina. North Carolina General Statute 7A-576(c) allows for the continued detention of juveniles in approved holdover facilities until June 30, 1983, at which time a system of regional detention is to be fully implemented. The task of developing a system of regional detention is responsibility of the Division of Youth Services, Department of Human Resources.

The Division of Youth Services has developed a plan which would consist of ten facilities with a total bed capacity of 171. Only two facilities would have a bed capacity greater than 20 beds, with the remaining facilities ranging in bed capacity from 10 to 18. Construction costs for the two new 10 bed facilities would be approximately $997,000 without kitchen facilities. The phased-in operating cost for the two facilities for FY82-83 is estimated at $325,000 and would be somewhat offset by estimated receipts.

The Governor's Crime Commission has requested that the Juvenile Justice Planning Committee continue to study the need for two new facilities for the system, and the optimum operational size of the facilities.

Commitment of a Delinquent Juvenile to the Division of Youth Services

North Carolina General Statute 7A-652(c) limits the duration of a disposition to the Division of Youth Services, to the period of time that an adult could be sentenced for the same conduct. If a juvenile is committed for only a short period of time, the Division of Youth Services may be able to offer very little treatment for that juvenile. The Juvenile Justice Planning Committee is reviewing the issue to determine possible alternatives and solutions to the problems.

END