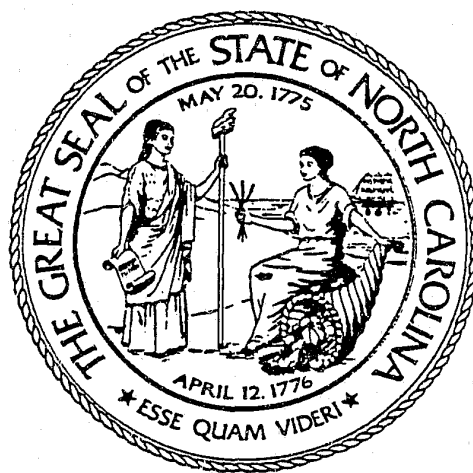


149795

LEGISLATIVE RESEARCH COMMISSION

LAW ENFORCEMENT ISSUES



REPORT TO THE
1993 GENERAL ASSEMBLY
OF NORTH CAROLINA

149795

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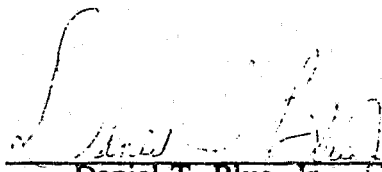
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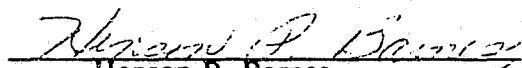
TO THE MEMBERS OF THE 1993 GENERAL ASSEMBLY:

The Legislative Research Commission submits to you for your consideration this final report on Law Enforcement Issues. The report was prepared by the Legislative Research Commission's Committee on Law Enforcement Issues pursuant to Section 2.1 of Chapter 754 of the 1991 Session Laws.

Respectfully submitted,



Daniel T. Blue, Jr.
Speaker of the House



Henson P. Barnes
President Pro Tempore

Cochairs
Legislative Research Commission

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PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1991 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of Law Enforcement Issues was authorized by Section 2.1 of Chapter 754 of the 1991 Session Laws (1991 Regular Session). That act states that the Commission may consider House Joint Resolution 1130 and Senate Joint Resolution 955 in determining the nature, scope, and aspects of the study. The relevant portions of Chapter 754 and the join resolutions are included in Appendix A. The Legislative Research Commission grouped this study under the area entitled "Law Enforcement," which area is under the direction of Representative David Redwine. The Committee was chaired by Senator Fountain Odom and Representative Donald Dawkins. The full membership of the Committee is listed in Appendix B of this report. A committee

notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

COMMITTEE PROCEEDINGS

The Study Committee on Law Enforcement Issues met six times. The meetings were all held in Raleigh. The following is a short synopsis of the meetings. The more detailed minutes of each meeting are available in the Legislative Library of the Legislative Building.

Meeting on November 7, 1991

The first meeting of the Law Enforcement Issues Study Committee was held on November 7, 1991. The meeting was essentially organizational in nature with introductions and a discussion of what the committee would like to consider over the following months. Speakers from various law enforcement organizations addressed the Committee as to their perspectives on law enforcement issues in North Carolina.

Senator Barnes introduced the first speaker, Mr. Charles Dunn, Director of the State Bureau of Investigation. Mr. Dunn presented an SBI report on "Crime in North Carolina." (See Appendix D.) He informed the Committee that North Carolina is in a major crisis which threatens the personal safety and the security of property of every citizen regardless of where that citizen lives in the State. Illegal drugs, guns, and gangs are a part of the rise in crime. Some of the rural areas are increasing as rapidly as the urban areas. If the trends continue, North Carolina will be one of the ten most dangerous states in the country in which to live.

Chief Frederick Heineman of the Raleigh Police Department spoke next. He stated that his assessment is that the driving force behind crime today is drugs. Law enforcement is not the sole solution; citizen involvement at the grassroots level is needed.

The third speaker was Sheriff Phil Ellis, President of the North Carolina Sheriffs' Association. Rural areas have special problems due to understaffing and the limited space in jails. He emphasized that we need to continue with early education programs. Drugs are the underlying problem of increased crime in the counties as well as the cities.

Chief Tom Moss of the Garner Police Department was the following speaker. He said Garner's crime rate was up 32% during the first six months of 1991. The increase in most cases was related to drugs. Closely related to drug problems are the problems of repeat offenders who continue to sell drugs. He stated that in his

opinion the solution is prevention and education and that early intervention is crucial. We need to make drug abuse socially unacceptable.

The last speaker was Major John Taylor. Major Taylor is the Commandant of the IMPACT Unit at Hoffman, N.C. IMPACT was established in 1989 and is a paramilitary style operation for probationers with very strict discipline to build self-confidence, motivation, and self-esteem.

Meeting on December 6, 1991

The second meeting of the Study Committee on Law Enforcement Issues was held on December 6, 1991.

Representative Donald Dawkins recognized Judge Tom Ross, Chair of the Sentencing and Policy Advisory Commission. The Commission is considering structured sentencing and the stresses on our criminal justice system. All agree that corrections and criminal justice in North Carolina are not working. Some of the goals of the Commission are to:

- * Provide an underlying rationale for sentences
- * Enhance sentencing consistency
- * Enhance sentencing certainty
- * Promote truth in sentencing
- * Efficiently use existing resources
- * Link future policies with resources

The Sentencing and Policy Advisory Commission will file a report with the upcoming General Assembly.

Mr. Louis Colombo, Chair of the Parole Commission, was the second speaker. Most of the focus of his remarks was on the misdemeanants coming into the corrections system. (See Appendix E.) Mr. Colombo suggested that the State open up a dialogue with the counties regarding misdemeanants. There is a need to look at the overall prison system and create specialization of units for drug, alcohol, and mental health problems.

The next speaker, Director Charles Dunn of the State Bureau of Investigation, commented on the DARE Program. DARE stands for Drug Abuse Resistance Education and is a seventeen hour program conducted by law enforcement officers in the schools on drug abuse. DARE reaches most of the school systems and is considered to be highly successful. Mr. Dunn stated that DARE is one of the best investments the Legislature has made in recent years.

Mr. Tom Ivester, Correctional Administrator with the Division of Substance Abuse, spoke on treatment programs for substance abuse offered to inmates across the State. The most important aspect of recovery is self-help and to get through the individual's resistance and denial.

Meeting on February 27, 1992

The third meeting of the Law Enforcement Issues Study Committee was held on February 27, 1992.

Senator Barnes introduced the only speaker, Chief Reuben Greenberg of the Charleston, South Carolina, Police Department and the author of Let's Take Back Our Streets. Chief Greenberg was invited to speak about his experiences in Charleston and how he has accomplished such a successful program in Charleston. (Charleston has 20% less crime than it did 20 years ago.) Chief Greenberg said that crime cannot be eliminated, but the incidents of victimization can be reduced. Restriction and control of places where outsiders perpetuate crime is important. Environments can be constructed using landscaping and lighting, for example, that make it difficult to commit crime. Chief Greenberg believes that criminals make a conscious and intentional decision to commit crime. Arresting persons is not enough. Pressure points can be used to reduce crime. Drive-by shootings in Charleston have virtually been stopped because the police have taken back control of the area where the shootings occurred.

Chief Greenberg cited examples where institutional policies were the cause of the problem. Schools and the juvenile justice system need to review policies that may in fact promote the opposite results. According to Chief Greenberg, swiftness of justice is more important than length. Delayed justice is no justice. The criminal has a "short time horizon," and a long period of time before incarceration provides no deterrence.

Meeting on November 17, 1992

The fourth meeting of the Study Committee on Law Enforcement Issues was held on November 17, 1992.

Senator Odom introduced Mr. Tom Bayliss of New Bern as the first speaker. Mr. Bayliss cited personal and business reasons for his support of changing the law in

North Carolina to allow persons to carry concealed weapons. Mr. Bayliss said that over 30 states have concealed weapons permits, including South Carolina and Virginia. Mr. Bayliss suggested Florida as a model after which North Carolina might pattern itself. Two sheriffs accompanied Mr. Bayliss and spoke in favor of the change. The Study Committee decided to solicit the opinions of statewide law enforcement agencies and organizations as to whether or not they would support allowing persons to carry concealed weapons in North Carolina.

Stevens Clarke, Professor of Public Law and Government at the Institute of Government, reported to the Study Committee on criminal justice research he has recently completed. The prison population in North Carolina has increased over the last twenty years. Arrests and admissions are up, and we are tougher on crime than we have been. The prison cap was instituted in 1987, and, according to Professor's Clarke's research, crime has not increased in North Carolina because of the cap. Our prison population is one of the slowest growing in the nation. Under the prison cap, more serious felons are serving longer sentences because the Parole Commission is very selective in releasing inmates. Another piece of research conducted by Professor Clarke indicates that keeping offenders in prison longer does not help with recidivism. The criminal justice system does not prevent crime. Since most criminals are at large, crime prevention is most important.

The next group of speakers addressed the issue of marital rape. (See Appendix F.) Brenda Campbell, Member of the Council for Women and Chair of the Sexual Assault and Domestic Violence Advisory Committee, stated that battering is the largest cause of injury to women in North Carolina. She urged the Study Committee to recognize marital rape as a crime and to consider that our statute condones battering. Renee McGill said the most dangerous place for women is in the home. Every 12 seconds a woman is beaten, and every four minutes a woman is killed. Lisa Allred emphasized that marital rape is in the context of domestic violence, not normal marital relations. Arlaine Rockey, an attorney from Charlotte, spoke on the history of rape laws. The early laws were considered property crimes. Some states statutes on marital have been ruled unconstitutional on equal protection grounds. Approximately 18 states have abolished the spousal exemption from a rape or sexual offense prosecution. Sandra Babb, Executive Director of NC Equity, stated that the 30 local assemblies coordinated by Equity want to see the issue of marital rape addressed. Three victims of marital rape spoke to the Study Committee of their traumatic experiences with hope of persuading the Committee to eliminate the marital rape exemption.

Meeting on December 18, 1992

The fifth meeting of the Law Enforcement Issues Study Committee was held December 18, 1992.

As follow-up from the previous meeting, the first group of speakers represented law enforcement agencies and organizations across the State and were invited to give positions on concealed weapons. The North Carolina Law Enforcement Officers Association did not have an official position yet, but a member spoke and offered concerns on changing the statute to let persons carry concealed weapons. He felt that there would be more opportunity for crime to occur, and officers would not be able to tell "who's good and who's bad." The Sheriffs' Association did not have a formal position, but were concerned about arming additional people. Chief Tom Moss of the Garner Police Department stated that the Chiefs of Police had not adopted an official position either, but he had several comments. Private citizens do not receive stress and tactical training, he said. Police officers must complete annual training including the use of deadly force. If the statute is changed, citizens will have more authority than law enforcement since officers now cannot carry concealed weapons outside their jurisdiction. His biggest concern is public safety - many disasters may result if police and citizens think everyone is armed. The Police Executives could not support or oppose the concept at this point. The Conference of District Attorneys submitted a position paper opposing the carrying of concealed weapons. Colonel Parks of the State Highway Patrol expressed serious concern over the impaired driving situation and the fact that persons who are drinking are often rash and irresponsible.

The Study Committee discussed various options regarding changes to North Carolina's concealed weapon statute but was unable to reach a consensus.

The last topic considered was marital rape. Following some discussion, a motion was made and passed to draft a bill to eliminate the spousal exemption in rape and sexual offense prosecutions.

Meeting on January 4, 1993

The final meeting of the Study Committee on Law Enforcement Issues was held on January 4, 1993.

The Study Committee discussed and approved the report with the accompanying legislation that will be filed with the Legislative Research Commission and the 1993 Session of the General Assembly.

FINDINGS AND RECOMMENDATIONS

The Study Committee on Law Enforcement Issues makes the following findings and recommendations to the Legislative Research Commission and to the 1993 Session of the General Assembly:

FINDINGS: The Study Committee heard extensive testimony from victims and persons who work or volunteer in domestic violence organizations regarding the elimination of the marital exemption from prosecution of rape and sexual offense laws in North Carolina. Under current North Carolina law, G.S. 14-27.8, the prosecution of a spouse for rape or sexual offense is allowed only when the couple is living separate and apart at the time of the commission of the alleged rape or sexual offense.

The marital rape exemption for spouses is a remnant of the Common Law of England. Under the Common Law when a man and woman married, the couple became one in the eyes of the law - and that one was the man. A woman was considered to have lost her legal rights, such as to own property, sue in her own name, keep earnings, etc. She was considered, upon marrying, to have given irrevocable consent to marital relations, and the law did not permit her to retract that consent.

In 1987 the General Assembly wrote the statute as it presently exists. The previous statute had existed from 1979 and allowed an exception to marital rape if the couple was separated pursuant to a separation agreement or judicial decree.

Another argument advanced for eliminating the exemption is Constitutional. Other state appellate cases have ruled that treating married women differently from unmarried women is a violation of the equal protection clause of the Constitution and, thus, have found the exemption unconstitutional.

RECOMMENDATIONS: The Study Committee on Law Enforcement Issues recommends the repeal of the spousal defense to a prosecution for rape or sexual offense. (See Appendix G.)

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION
RATIFIED BILL

CHAPTER 754
SENATE BILL 917

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS, TO MAKE APPROPRIATIONS THEREFOR, TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES, AND TO MAKE OTHER AMENDMENTS TO THE LAW.

The General Assembly of North Carolina enacts:

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1991."

An outline of the provisions of the act follows this section. The outline shows the heading "-----CONTENTS/INDEX-----" and lists by general category the descriptive captions for the various sections and groups of sections that compile the act.

-----CONTENTS/INDEX-----

This outline is designed for reference only, and the outline and the corresponding entries throughout the act in no way limit, define, or prescribe the scope or application of the text of the act. The listing of the original bill or resolution in the outline of this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the provisions contained in the original bill or resolution.

PART II.-----LEGISLATIVE RESEARCH COMMISSION

- Sec. 2.1
- Sec. 2.2
- Sec. 2.3
- Sec. 2.4
- Sec. 2.5
- Sec. 2.6
- Sec. 2.7
- Sec. 2.8
- Sec. 2.9
- Sec. 2.10

PART III.-----RAILROAD ADVISORY COMMISSION
(H.B. 57 - Abernethy, S.B. 86 - Block)

- Sec. 3.1
- Sec. 3.2
- Sec. 3.3
- Sec. 3.4

- (26) Inequities in the Salaries of Equally Qualified Minorities, Females, and Nonminority Males within Occupational Categories in State Employment (H.B. 957 - Fitch, S.J.R. 839 - Martin of Guilford).
- (27) Glass and Plastic Beverage Container Deposits and Refunds (H.B. 1007 - Gottovi).
- (28) Amortization of Nonconforming Uses of Property (H.B. 1009 - S. Hunt).
- (29) Ways to Promote the Conservation of Energy and the Use of Renewable Energy Sources in Residential, Commercial, Industrial, and Public Facilities (H.J.R. 1021 - Luebke, S.J.R. 789 - Plexico).
- (30) Rights of Victims of Crime (H.B. 1033 - Grady).
- (31) Prehospital Emergency Cardiac Care (H.J.R. 1051 - Green).
- (32) Promoting the Development of Environmental Science and Bridging Environmental Science and Technology with Public Policy Decision Making (H.B. 1070 - Woodard).
- (33) Economic Development and Revitalization of Downtowns (H.J.R. 1083 - Hasty).
- (34) Methods to Increase the Developmental Lending Capacity of Financial Institutions to Strengthen Low and Moderate Income Communities (H.B. 1084 - McAllister).
- (35) Hazardous Waste Treatment and Disposal--study continued. (H.J.R. 1095 - Hightower).
- (36) Feasibility of Toll Roads (H.B. 1098 - Bowman).
- * (37) Basic Civil Rights of Law Enforcement Officers (H.J.R. 1130 - Miller).
- (38) Statewide Comprehensive Planning (H.J.R. 1157 - Hardaway).
- (39) Length of the School Year and Compulsory School Attendance Ages Issues (H.B. 1186 - Rogers).
- (40) Management of Hazardous Materials Emergencies and Establishment of Regional Response Teams (H.B. 1210 - Flaherty, S.B. 922 - Martin of Pitt).
- (41) Firefighter Benefits, including retirement, death, and disability (H.J.R. 1211 - Fitch).
- (42) Railroads--study continued, including the present condition of the rail transportation system, the future of railroads, rail revitalization, and rail corridor preservation (H.J.R. 1226 - Abernethy, S.J.R. 906 - Block).
- (43) Uniform Administration of All County Register of Deeds Offices (H.B. 1232 - Buchanan).
- (44) Transfer of the Health Divisions from the Department of Human Resources to the Department of Environment, Health, and Natural Resources (H.J.R. 1280 - Jeralds).
- (45) Regulation of Aerial Application of Pesticides (H.J.R. 1289 - James).
- (46) Minority Tourism Proposal, including ways to encourage minorities to visit the State for the purposes of tourism, conferences, and conventions (H.J.R. 1292 - Hardaway).
- (47) Annexation Laws (H.J.R. 1295 - Decker).
- (48) Pay Plan for State Employees.
- (49) Development of a State Strategy for the Protection of All Groundwater Resources -- study continued (S.J.R. 13 - Tally).
- (50) Physical Fitness Among North Carolina Youth (S.B. 15 - Tally).

- (51) Solid Waste and Medical Waste Management -- study continued, including the use of incineration, particularly the use of mobile incinerators, as a method of treatment (S.J.R. 143 - Tally).
- (52) Advance Disposal Fees Used To Promote Nonhazardous Solid Waste Reduction and Recycling (S.B. 229 - Odom).
- (53) Public School Administrators (S.B. 441 - Perdue).
- (54) Motor Vehicle Towing and Storage (S.B. 687 - Sands).
- (55) Revision of the Arson Statutes (S.J.R. 736 - Sands).
- (56) Tourism's Growth and Effect -- study continued (S.B. 819 - Warren).
- (57) Emergency Medical Services Act of 1973 (S.J.R. 902 - Speed).
- (58) State Correctional Education (S.B. 945 - Carter).
- (59) State Emergency Management Program, including natural hazards, recovery operations for Presidential or Gubernatorial declared disasters, and catastrophic hazards (S.J.R. 946 - Basnight).
- * (60) Law Enforcement Issues (S.J.R. 955 - Perdue).
- (61) Teacher Leave (H.B. 334 - Bowman).
- (62) North Carolina Air Cargo Airport Authority (S.B. 649).
- (63) Licensure of Radiologic Technologists as requested in the Final Assessment Report on Senate Bill 73⁸ by the Legislative Committee on New Licensing Boards.
- (64) Sales Tax Impact on Merchants, including the effects of the short notice time for the implementation of the 1991 sales tax increase, and
- (65) Methods to Improve Voter Participation.

Sec. 2.2. Child Day Care Issues (H.B. 1062 - Easterling). The Legislative Research Commission may study the issue of child day care. The study may focus its examination on the issues related to child day care as they relate to availability, affordability, and quality of child day care in North Carolina, including:

- (1) Prior recommendations of other study commissions which have reviewed child day care services since 1980 and an assessment of compliance with these recommendations;
- (2) The advantages and costs associated with measures to improve the quality of day care, including lowering staff/child ratios, enhancing day care teacher credentialing, improving training of day care teachers, and improving the salaries of all day care workers;
- (3) Measures to enhance the availability and affordability of day care in currently underserved areas of the State, especially rural communities;
- (4) Ways to maximize the positive impact on North Carolina's child day care providers and resource and referral networks from the availability of federal funds under the Child Care Block Grant;
- (5) The implementation of the Governor's Uplift Child Day Care initiative;
- (6) The current statutory regulation of child day care and the procedures used to develop policies and rules under the current structure; and
- (7) The relationship between child day care services offered by for-profit and nonprofit, public and private, day care providers to other potential sources of child care and child development services including Head Start programs and North Carolina's public schools, with a view toward developing a unified State

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

1

SENATE JOINT RESOLUTION 955*

Sponsors: Senator Perdue.

Referred to: Appropriations.

May 20, 1991

1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
2 COMMISSION TO STUDY SEVERAL LAW ENFORCEMENT RELATED
3 ISSUES.

4 Be it resolved by the Senate, the House of Representatives concurring:

5 Section 1. The Legislative Research Commission may study the
6 following:

- 7 (1) Whether a private citizen, if qualified, should be exempted from
8 G.S. 14-269 and issued a permit to carry a firearm concealed on or
9 about his or her person;
- 10 (2) Whether a sworn law enforcement officer should be authorized by
11 statute to carry a firearm concealed on or about his or her person
12 while outside his or her territorial jurisdiction if he or she (i) has
13 the written permission of his or her agency head, (ii) the firearm is
14 carried solely for the purpose of self defense and not for arrest
15 purposes, and (iii) the officer has on his or her person the agency
16 badge and identification with picture;
- 17 (3) The effectiveness and sufficiency of mutual assistance agreements
18 between local law enforcement agencies, and cooperation in law
19 enforcement matters under G.S. 153A-212 and G.S. 160A-288, in
20 relation to jurisdictional and liability issues concerning
21 multijurisdictional drug task force programs; and
- 22 (4) Whether records kept by the clerk of superior court, which
23 indicate that certain persons have been involuntarily committed to
24 mental institutions pursuant to Article 5 of Chapter 122C of the
25 General Statutes, should be made available to the issuers of pistol
26 permits under G.S. 14-402 and G.S. 14-409.1 in order that the

1 issuer of the permit may determine if a person is qualified to
2 receive a permit to purchase a pistol.

3 Sec. 2. The Legislative Research Commission may make an interim
4 report of the results of this study, including legislative recommendations, to the 1991
5 General Assembly, Regular Session 1992, and may make a final report to the 1993
6 General Assembly.

7 Sec. 3. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE JOINT RESOLUTION 1130

Sponsors: Representatives Miller, Redwine; Flaherty and Hensley.

Referred to: Rules, Appointments, and Calendar.

April 25, 1991

1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
2 COMMISSION TO STUDY THE BASIC CIVIL RIGHTS OF LAW
3 ENFORCEMENT OFFICERS.

4 Whereas, the administration of criminal justice is of statewide concern;
5 and

6 Whereas, professional law enforcement and professional law enforcement
7 officers are important to the health, safety, and welfare of the people of the State; and

8 Whereas, effective and professional law enforcement depends upon the
9 maintenance of stable relationships between law enforcement officers and their
10 employing agencies, low rates of attrition among law enforcement officers, and high
11 morale among law enforcement officers; and

12 Whereas, legislation to afford basic civil rights to law enforcement officers
13 may be necessary to assure sufficient professional law enforcement officers to serve
14 and protect the citizens of our State;

15 Now, therefore, be it resolved by the House of Representatives, the Senate
16 concurring:

17 Section 1. The Legislative Research Commission may:

- 18 (1) Examine the needs of law enforcement officers of this State
19 relating to the protection of officers' rights as employees of the
20 State, its municipalities, or its political subdivisions.
21 (2) Study the methods and procedures used in the questioning and
22 investigation of officers in connection with charges of misconduct
23 or other disciplinary matters.
24 (3) Study the procedures used in disciplinary hearings involving law
25 enforcement officers.

1 (4) Study any other issues pertinent to the basic civil rights of law
2 enforcement officers.

3 Sec. 2. As used in this resolution, "law enforcement officer" or "officer"
4 means any person certified or requiring certification pursuant to Chapter 17C or 17E
5 of the General Statutes.

6 Sec. 3. The Legislative Research Commission may make an interim
7 report, including any recommendations, to the 1991 General Assembly, Regular
8 Session 1992, and a final report to the 1993 General Assembly.

9 Sec. 4. This resolution is effective upon ratification.

LAW ENFORCEMENT ISSUES - 1991-92

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1991-1992

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

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Henson P. Barnes, Cochair

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Senator J. K. Sherron, Jr.
Senator Lura Tally
Senator Russell G. Walker

Speaker of the House of
Representatives
Daniel T. Blue, Jr., Cochair

Rep. Marie W. Colton
Rep. W. Pete Cunningham
Rep. E. David Redwine
Rep. Frank E. Rhodes
Rep. Peggy M. Stamey

*Crime
in
North Carolina*

40th in 1980
20th in 1990
10th in 2000?

A SBI Report
for the Law Enforcement Committee
of the General Assembly

November 7, 1991

Report on
CRIME IN NORTH CAROLINA
To the Law Enforcement Study Committee
By Charles Dunn, SBI
Raleigh Thursday, November 7, 1991

Mr. Chairmen, members of the Committee:

North Carolina is today in a major and growing crime crisis. This crisis threatens the personal safety and the security of property of every citizen regardless of where they live in this State.

No one is immune to crime. Babies are being born addicted to crack, people are being shot in the streets, the elderly are being robbed and beaten in their own homes.

In many counties there are areas where law enforcement cannot protect citizens from illegal drugs, from violence and from the loss of property. Drive-by shootings, gang activities, and fear are becoming a way of life for many.

The crime problem is national, of course. But, what we are experiencing in North Carolina is virtually unequalled in the country. In the last five years, North Carolina's reported index crime has increased more than twice as fast as the crime rate for the nation -- 41 percent compared to 16 percent.

Especially alarming is the increase in violent crime in North Carolina. Over the five year period there was a 57 percent increase in the State compared to a national increase of 37 percent. Illegal drugs, guns, and gangs in the State are a part of the difference.

To put those percentages into actual crimes: In 1985 there were 249,965 reported crimes in North Carolina. In 1990 there were 353,558 reported crimes in the State. And, there will be more this year. The crime problems are getting worse.

The scope of crime in North Carolina is making a mockery of this State's Constitution which guarantees the equality and rights of persons. It states, in the very first section of the first article, that the people of this State "are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness."

All government, of course, has responsibilities in the fulfillment of that guarantee. But, without an effective system of law and justice, it cannot be accomplished for every citizen, and, indeed, if the mandate is to be fulfilled, it must be for every citizen.

Let me contrast the Constitutional mandate with facts from the North Carolina Uniform Crime Report of violent and property crimes, as reported by Sheriffs' and Police Departments across the State. The figures I use are for 1990.

The Constitutional guarantee to life: Every day in North Carolina there are two murders, six reported rapes, 27 robberies, and 75 aggravated assaults. Those daily figures add up to 40,040 violent crimes against North Carolinians in 1990 -- 689 people murdered, 2,221 who reported being raped, 9,912 robbed, and 27,218 assaulted.

The Constitutional guarantee to the enjoyment of the fruits of their own labor: Every day in North Carolina there are reported 270 burglaries, 539 larcenies, 50 motor vehicle thefts, and seven arsons. For the year, there were 313,518 property crimes, including 98,534 burglaries, 196,649 larcenies, 18,335 motor vehicle thefts, and 2,463 arsons reported.

The Constitutional guarantee of liberty and the pursuit of happiness: Over the five-year period, ending with 1990, index crime increased more than twice as fast in North Carolina as it did for the nation. Citizens are aware of the murders, the break-ins, the crime in their communities. They have been or know victims and they are afraid for themselves and their families and friends.

The poor, the young, and the elderly are more frequently victims. They, as well as those who can afford alarm systems and private security, are more and more afraid of leaving their homes at night and even during the day. The honest, decent citizen too often lives in fear and locks himself in becoming a prisoner, while the law violator roams free.

The future offers little hope. The semi-annual report on crime in North Carolina for 1991 showed every category of crime increased at rates greater than those for the South and the nation. Indeed, the index crime projections for North Carolina are all bad. The actual crime rates are exceeding the projections for every category.

A closing thought: In 1980 North Carolina ranked 40th among the 50 states in index crimes per 100,000 people. In 1990 North Carolina ranked 20th among the 50 States in crimes per 100,000 people. If the trends of recent years continue, North Carolina will be one of the 10 most dangerous states in the country to live in by the end of the decade.

North Carolina National Rankings Crimes per 100,000 People

| | |
|--------------------|------|
| All Violent Crimes | 19th |
| Murder | 11th |
| Rape | 27th |
| Robbery | 21st |
| Assault | 16th |

| | |
|---------------------|------|
| All Property Crimes | 21st |
| Burglary | 6th |
| Larceny | 23rd |
| Motor Vehicle Theft | 36th |

| | |
|------------------|------|
| All Index Crimes | 20th |
|------------------|------|

2 Murders
6 Rapes
27 Robberies
75 Aggravated Assaults
270 Burglaries
539 Larcenies
50 Motor Vehicle Thefts

*Occurred Every Twenty-Four Hours
in*

NORTH CAROLINA

1990

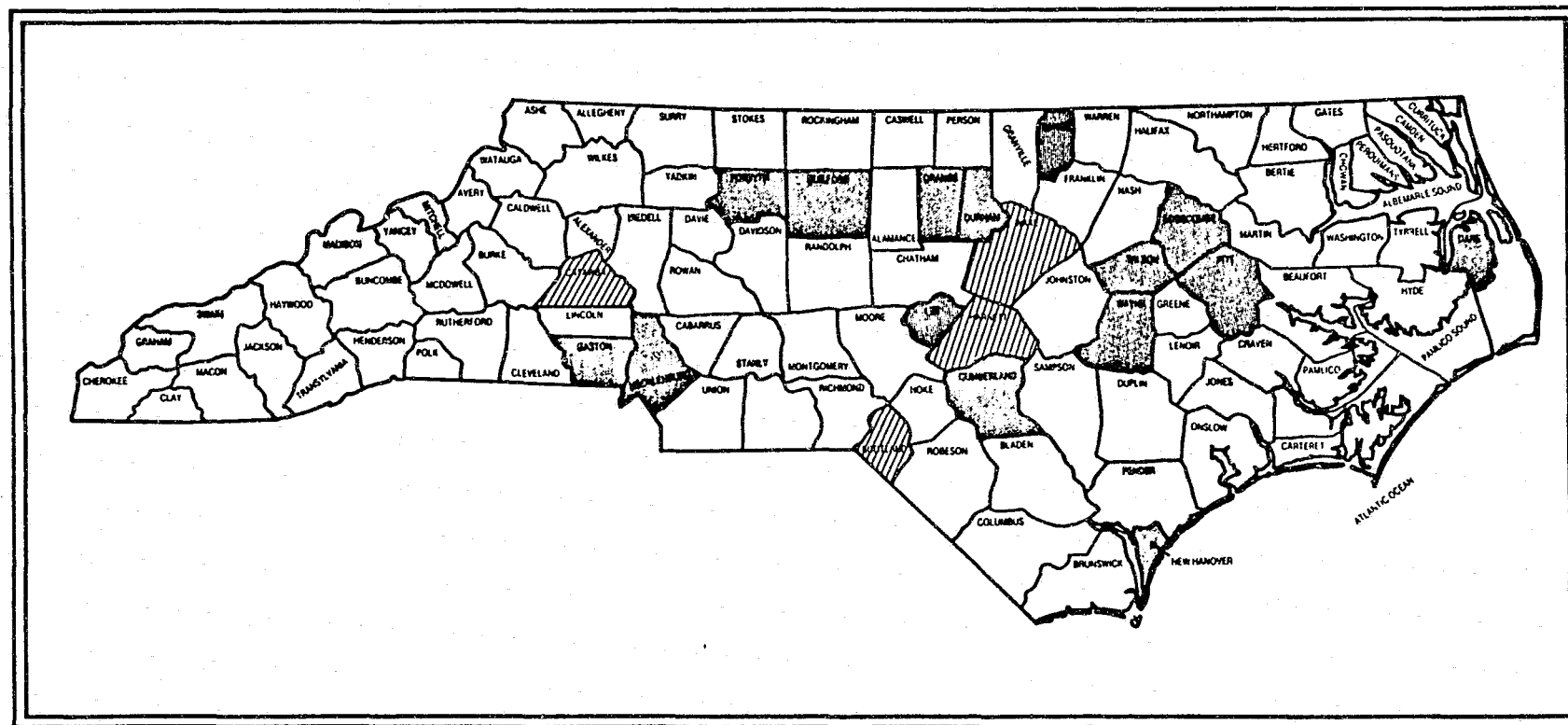
689 Murders
2,221 Rapes
9,912 Robberies
27,218 Aggravated Assaults
98,534 Burglaries
196,649 Larcenies
18,335 Motor Vehicle Thefts

353,558 Indexed Crimes
Occurred
in

NORTH CAROLINA

1990

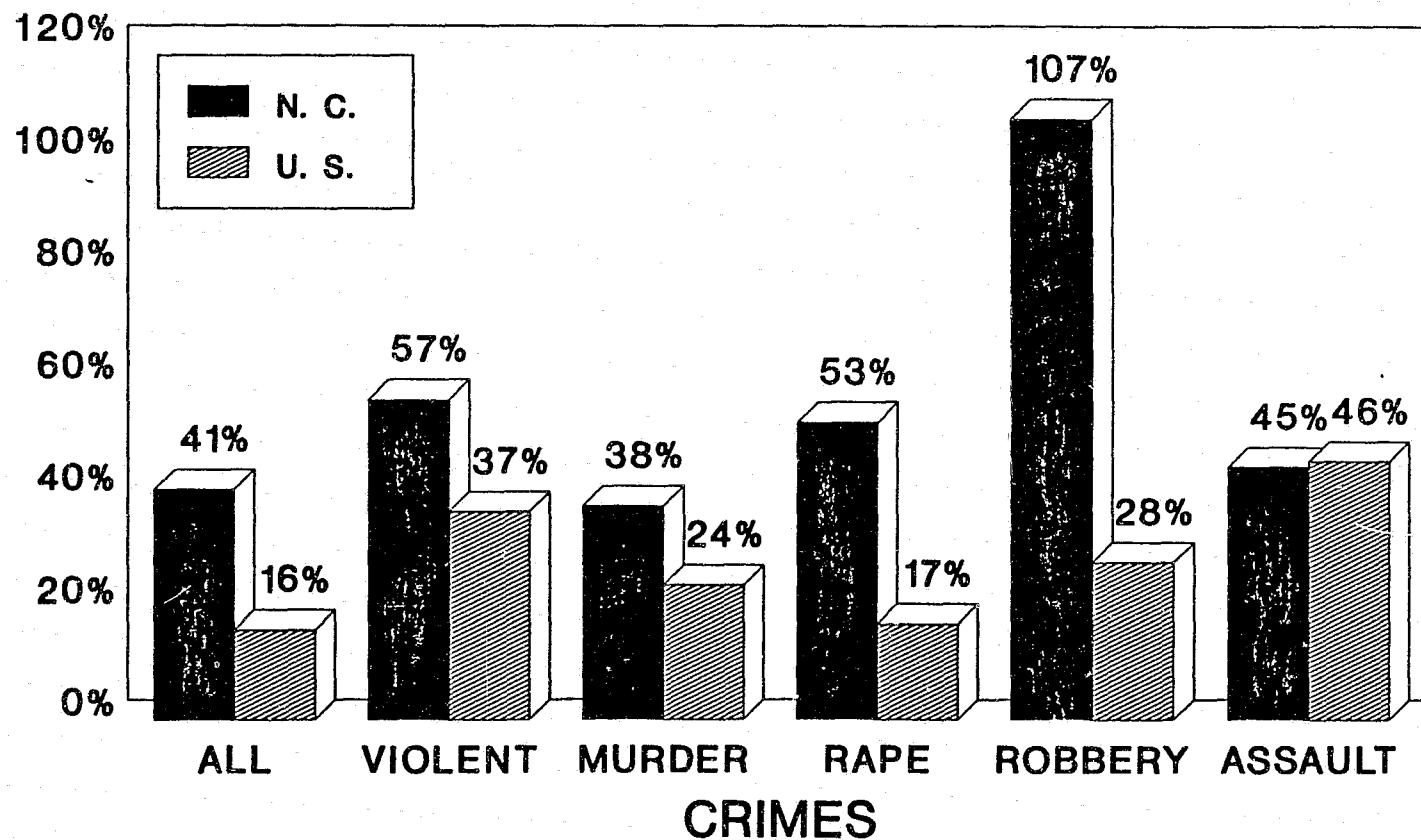
INDEX CRIME RATE BY COUNTY — 1990



LEGEND: In rates per 100,000 population.

- Crime rate could not be calculated due to insufficient data.
- Under 5,516 (Approximate 1990 N.C. Rate)
- 5,516-6,050 (Between 1990 N.C. Rate and estimated 1990 U.S. Rate)
- 6,050 + (Over estimated 1990 U.S. Average)

INCREASE IN CRIME 1985-1990



State Bureau of Investigation

CRIME IN NORTH CAROLINA AND THE NATION*

TABLE 1

| INCREASE IN REPORTED CRIME IN NORTH CAROLINA 1989-1990 | | |
|--|------|----------------|
| | U.S. | NORTH CAROLINA |
| INDEX CRIME | + 2% | + 4% |
| VIOLENT CRIME | +11% | +12% |
| Murder | + 9% | +11% |
| Rape | + 9% | + 9% |
| Robbery | +11% | +13% |
| Aggravated Assault | +11% | +12% |

TABLE 2

| INCREASE IN REPORTED CRIME IN NORTH CAROLINA 1985-1990 | | |
|--|------|----------------|
| | U.S. | NORTH CAROLINA |
| INDEX CRIME | +16% | +41% |
| VIOLENT CRIME | +37% | +57% |
| Murder | +24% | +38% |
| Rape | +17% | +53% |
| Robbery | +28% | +107% |
| Aggravated Assault | +46% | +45% |

TABLE 3

| INCREASE IN REPORTED CRIME IN URBAN AND RURAL AREAS 1985 - 1990 | | | | |
|---|----------|----------------------------|----------------------------|--------------------|
| | ALL U.S. | NORTH CAROLINA URBAN AREAS | NORTH CAROLINA RURAL AREAS | ALL NORTH CAROLINA |
| ALL INDEX CRIME | +16% | +44% | +38% | +41% |
| VIOLENT CRIME | +37% | +61% | +47% | +57% |
| Murder | +24% | +44% | +30% | +38% |
| Rape | +17% | +61% | +35% | +53% |
| Robbery | +28% | +110% | +98% | +107% |
| Aggravated Assault | +46% | +47% | +41% | +45% |

* Charts prepared by Dr. Joel Rosch, Director of Research, State Bureau of Investigation. Crime figures are from Crime in North Carolina, 1986, Crime in North Carolina 1990, Crime in the U.S., 1986 and Crime in the U.S.-1990

TABLE 4

| INCREASE IN N.C. & U.S. CRIME IN URBAN AND RURAL AREAS 1985 - 1990 | | | | |
|--|---------------|-------------------------------|-------------------------------|---------------|
| | U.S. URBAN | NORTH CAROLINA URBAN AREAS | NORTH CAROLINA RURAL AREAS | U.S. RURAL |
| ALL INDEX CRIME | +10% | +44% | +38% | + 8% |
| VIOLENT CRIME | +38% | +61% | +47% | +23% |
| Murder | +28% | +44% | +30% | + 1% |
| Rape | +15% | +61% | +35% | +23% |
| Robbery | +28% | +110% | +98% | + 7% |
| Aggravated Assault | +48% | +47% | +41% | +25% |

Table 5

| GROWTH IN CRIME PER 100,000 POPULATION 1985-1990 | | | |
|--|----------------------------|-------------------------|-------------------------|
| | CRIME IN LARGE CITIES * | CRIME IN RURAL AREAS | CRIME IN URBAN AREAS |
| ALL CRIME | +31% | +34% | +28% |
| VIOLENT CRIME | +48% | +44% | +44% |
| MURDER | +41% | +27% | +28% |
| RAPE | +60% | +32% | +44% |
| ROBBERY | +115% | +93% | +88% |

* Large cities are those with over 100,000 population

TABLE 6

| GROWTH IN URBAN AND RURAL CRIME PER 100,000 U.S. & N.C. 1985 - 1990 | | | | |
|---|---------------|-------------------------------|-------------------------------|---------------|
| | U.S. URBAN | NORTH CAROLINA URBAN AREAS | NORTH CAROLINA RURAL AREAS | U.S. RURAL |
| ALL INDEX CRIME | +11% | +28% | +34% | +12% |
| VIOLENT CRIME | +30% | +44% | +44% | +23% |
| Murder | +20% | +28% | +27% | +02% |
| Rape | +09% | +44% | +32% | +24% |
| Robbery | +21% | +88% | +93% | + 7% |
| Aggravated Assault | +40% | +31% | +38% | +26% |

Table 7

| CRIME AND PUNISHMENT IN NORTH CAROLINA 1985-1990 | | | |
|--|---------|---------|--------|
| | 1985 | 1990 | Change |
| All Index Crime | 249,965 | 353,559 | +41% |
| Part I Arrests | 59,104 | 81,658 | +38% |
| Violent Crime | 25,510 | 40,040 | +57% |
| Violent Crime Arrests | 15,486 | 24,986 | +61% |
| Drug Arrests | 14,057 | 26,869 | +91% |
| Sworn Law Enforcement Officers | 10,673 | 12,760 | +20% |
| All Prison Admissions | 16,370 | 24,574 | +50% |
| Commitments to prison From Court | 14,400 | 20,300 | +41% |
| Sentenced to Prison From Court | 8,200 | 12,963 | +57% |
| Average number of people in prison | 17,430 | 18,418 | + 6% |
| Probation | 56,755 | 78,959 | +39% |
| Probation and Parole | 60,655 | 89,567 | +48% |
| Parole | 3,561 | 9,504 | +167% |
| Dual Supervision | 339 | 1,109 | +227 |
| Population growth | | | + 8% |

TABLE 8

| CRIMES CLEARED IN NORTH CAROLINA 1990 | | | |
|---------------------------------------|--------------|------------------------|-------------------|
| CRIMES CLEARED | U.S. 1990 | NORTH CAROLINA 1990 | THE SOUTH 1990 |
| ALL INDEX CRIME | 22% | 24% | 22% |
| VIOLENT CRIME | 46% | 56% | 49% |
| Murder | 67% | 83% | 70% |
| Rape | 53% | 68% | 58% |
| Robbery | 25% | 38% | 28% |
| Aggravated Assault | 57% | 61% | 59% |
| Property Crime | 18% | 20% | 18% |

TABLE 9

| SPENDING ON POLICING | | |
|---|---------|------------|
| | NC | All States |
| DISTRIBUTION | | |
| State Government | 27% | 17% |
| Local Government | 73% | 83% |
| DOLLARS SPENT | | |
| Per capita Spending | \$76.67 | \$90.27 |
| RANK AMONG STATES 1988 | | |
| Rank in per capita Police spending | | 32nd |
| Rank in per capita crime | | 28th |
| Rank in total police spending | | 12th |
| Rank in spending by local police | | 16th |
| Rank in spending by state police agencies | | 10th |
| Rank in total population | | 10th |

TABLE 10

| HOW WE MURDERED EACH OTHER 1985-1990 | | |
|---|------|------|
| PERCENTAGE OF MURDERS WHERE THERE IS A KNOWN PRIOR RELATIONSHIP | | |
| | 1985 | 1990 |
| U.S. | 59% | 51% |
| NORTH CAROLINA | 77% | 70% |
| MURDERS INVOLVING FIREARMS | | |
| U.S. | 59% | 64% |
| NORTH CAROLINA | 66% | 63% |
| MURDERS INVOLVING HANDGUNS | | |
| U.S. | 43% | 50% |
| NORTH CAROLINA | 40% | 42% |

SEMI-ANNUAL REPORT CRIME IN NORTH CAROLINA 1991

Reported Index Crime for the first six months of 1991, over 1990, rose 6 percent. Crime in urban areas of North Carolina increased 6 percent and in rural areas rose 6 percent.

Violent crime (Murder, Rape, Robbery and Aggravated Assault) as a group was up 3 percent statewide. Violent crimes in urban areas rose 5 percent and in rural areas dropped 1 percent. Individually, violent crimes show murder up 1 percent, rape with no change, robbery up 12 percent, and aggravated assault up 1 percent.

Property crime (Burglary, Larceny, and Motor Vehicle Theft) as a group rose 6 percent across the state. In urban areas property crime increased 6 percent, and in rural areas jumped 7 percent. Statewide, the individual property crimes of burglary increased 8 percent, larceny was up 6 percent, and motor vehicle theft rose 1 percent.

Arson, which is not included in the index, was up 13 percent.

TABLE 1 — CRIME INDEX TRENDS*

Percent change Jan. - June 1991 over 1990 offenses known to police

| POP. GROUP AND AREA ¹ | NO. OF DEPTS. ² | TOTAL INDEX ³ | VIO- LENT | PROP- ERTY | MUR- DER | RAPE | ROB- BERY | AGG. ASLT. | BUR- GLARY | LAR- CENY | MVT | ARSON |
|-------------------------------------|-------------------------------|-----------------------------|--------------|---------------|-------------|------|--------------|---------------|---------------|--------------|-----|-------|
| Core Cities | 10 | + 3 | + 3 | + 3 | +12 | +13 | + 9 | - 2 | + 8 | + 1 | + 1 | +15 |
| Suburban Cities | 67 | + 9 | + 6 | +10 | -43 | + 1 | +25 | + 2 | + 7 | +11 | - 3 | +22 |
| Sub. Counties | 24 | +11 | +17 | +10 | + 9 | -15 | +25 | +19 | +10 | +11 | +11 | +10 |
| URBAN AREAS | 101 | + 6 | + 5 | + 6 | + 5 | + 5 | +11 | + 2 | + 9 | + 5 | + 3 | +14 |
| Rural Centers | 19 | + 7 | + 6 | + 7 | - 6 | - 5 | +13 | + 5 | +12 | + 6 | - 2 | -25 |
| Rural Cities | 154 | + 5 | + 5 | + 5 | +10 | - 7 | +12 | + 5 | 0 | + 9 | -14 | +26 |
| Rural Counties | 64 | + 5 | -12 | + 7 | - 5 | -19 | +14 | -15 | + 8 | + 7 | 0 | +27 |
| RURAL AREAS | 237 | + 6 | - 1 | + 7 | - 3 | -13 | +13 | - 2 | + 7 | + 7 | - 4 | +10 |
| STATE TOTAL | 338 | + 6 | + 3 | + 6 | + 1 | 0 | +12 | + 1 | + 8 | + 6 | + 1 | +13 |

(1) See back page for explanation of population groups and areas.

(2) Number of reporting departments included in this trend.

(3) The number of reported arsons has not been included in total index.

*The statistics presented in this release are an initial indication of crime known to law enforcement in North Carolina. Finalized figures covering the entire state will be available in the detailed annual report entitled Crime in North Carolina - 1991.

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Department of Justice
Lacy H. Thornburg
Attorney General

TABLE 2 — ADDITIONAL CRIME INDEX TRENDS

Percent change Jan. - June 1991 over 1990, offenses known to police

State Totals

| % CHANGE | | % CHANGE | |
|----------------------|------|-----------------------------|-----|
| ROBBERY | | LARCENY/THEFT | |
| Highway | + 3 | Pocket Picking | +14 |
| Commercial House | + 18 | Purse Snatching | - 7 |
| Gas, Service Station | + 34 | Shoplifting | + 8 |
| Convenience Store | + 27 | From Motor Vehicles | + 9 |
| Residence | + 9 | MV Parts & Accessories | - 3 |
| Bank | +112 | Bicycles | + 4 |
| Miscellaneous | + 16 | From Buildings | + 8 |
| | | Form Coin Operated Machines | +36 |
| | | All Other | + 5 |
| BURGLARY | | MV THEFT | |
| Residence Total | + 6 | Automobiles | 0 |
| Night | 0 | Trucks/Buses | + 3 |
| Day | + 3 | Other Vehicles | + 3 |
| Unknown Time | + 13 | | |
| Non-Residence Total | + 12 | ARSON | |
| Night | + 17 | Structural Property | +13 |
| Day | - 10 | Mobile Property | +15 |
| Unknown Time | + 13 | All Other (Crops, Timber) | + 7 |

TABLE 3 — INDEX OFFENSE ARREST TRENDS

Percent change Jan. - June 1991 over 1990, arrests made by police

| AREA | TOTAL | VIO- LENT | PROP- ERTY | MUR- DER | RAPE | ROB- BERY | AGG. ASLT. | BUR- GLARY | LAR- CENY | MVT | ARSON |
|-------------|-------|--------------|---------------|-------------|------|--------------|---------------|---------------|--------------|-----|-------|
| URBAN AREAS | +2 | +2 | +1 | - 4 | +16 | +14 | 0 | -2 | +4 | - 9 | +13 |
| RURAL AREAS | -1 | -5 | +1 | -12 | - 8 | +20 | -7 | +3 | +2 | -25 | -37 |
| STATE TOTAL | +1 | -1 | +1 | - 8 | + 7 | +15 | -3 | -1 | +3 | -13 | - 8 |

TABLE 4A — LAW ENFORCEMENT OFFICERS ASSAULTED

Percent change Jan. - June 1991 over 1990, officers assaulted in line of duty

| URBAN AREAS | RURAL AREAS | STATE TOTAL |
|-------------|-------------|-------------|
| - 2 | + 2 | - 2 |

TABLE 4B — LAW ENFORCEMENT OFFICERS KILLED

Number feloniously killed while in line of duty, Jan. — June 1991 and 1990

| | URBAN AREAS | RURAL AREAS | STATE TOTAL |
|------|-------------|-------------|-------------|
| 1990 | 0 | 0 | 0 |
| 1991 | 0 | 0 | 0 |

TABLE 5 — CRIME INDEX TRENDS

Percent change 1991 — 1990, each year over previous year, Jan. - June

State Totals

| YEARS | TOTAL* INDEX | VIO- LENT | PROP- ERTY | MUR- DER | RAPE | ROB- BERY | AGG. ASLT. | BUR- GLARY | LAR- CENY | MVT | ARSON* |
|---------|-----------------|--------------|---------------|-------------|------|--------------|---------------|---------------|--------------|-----|--------|
| 1988/87 | + 6 | + 4 | + 7 | -11 | - 5 | +16 | + 1 | + 7 | + 6 | +12 | + 5 |
| 1989/88 | +12 | +11 | +12 | +19 | + 8 | +25 | + 6 | + 9 | +12 | +21 | - 1 |
| 1990/89 | + 3 | +12 | + 2 | + 2 | + 5 | +13 | +13 | + 1 | + 3 | + 2 | 0 |
| 1990/91 | + 6 | + 3 | + 6 | + 1 | 0 | +12 | + 1 | + 8 | + 6 | + 1 | +13 |

*See footnote (3) on front.

TABLE 6 — CRIME INDEX TRENDS — SELECTED CITIES AND COUNTIES

Number of offenses reported to city police and county sheriff/rural police, Jan. — June 1991 and 1990

Percent change Jan. - June 1991 over 1990, total index offenses reported

| CITY Total % change | YR | TOTAL INDEX | VIO- LENT | PROP- ERTY | MUR- DER | RAPE | ROB- BERY | AGG. ASLT. | BUR- GLARY | LAR- CENY | MVT | ARSON* |
|------------------------|----------|------------------|----------------|------------------|-------------|------------|----------------|----------------|----------------|------------------|----------------|------------|
| Asheville + 7 | 90 91 | 2,920 3,117 | 197 238 | 2,723 2,879 | 2 7 | 16 17 | 73 109 | 106 105 | 781 842 | 1,760 1,847 | 182 190 | 8 5 |
| Burlington + 8 | 90 91 | 1,279 1,381 | 166 185 | 1,113 1,196 | 4 0 | 1 7 | 21 12 | 140 166 | 204 201 | 850 934 | 59 61 | 1 2 |
| Charlotte - 4 | 90 91 | 24,612 23,754 | 4,413 4,099 | 20,199 19,655 | 40 55 | 172 196 | 1,523 1,270 | 2,678 2,578 | 5,434 5,230 | 13,425 13,119 | 1,340 1,306 | 196 205 |
| Durham + 7 | 90 91 | 5,873 6,285 | 455 669 | 5,418 5,616 | 12 9 | 30 46 | 170 297 | 243 317 | 1,691 1,996 | 3,406 3,297 | 321 323 | 11 24 |
| Fayetteville -13 | 90 91 | 5,549 4,844 | 845 678 | 4,704 4,166 | 10 5 | 32 35 | 168 243 | 635 395 | 1,381 1,273 | 3,041 2,625 | 282 268 | 25 38 |
| Gastonia - 5 | 90 91 | 3,631 3,446 | 445 411 | 3,186 3,035 | 3 2 | 5 9 | 120 120 | 317 280 | 970 952 | 2,057 1,945 | 159 138 | 40 26 |
| Goldsboro - 2 | 90 91 | 2,078 2,031 | 259 299 | 1,819 1,732 | 5 6 | 12 11 | 48 79 | 194 203 | 455 420 | 1,268 1,196 | 96 116 | 8 13 |
| Greensboro +23 | 90 91 | 6,721 8,234 | 706 936 | 6,015 7,298 | 13 13 | 50 54 | 215 261 | 428 608 | 1,268 1,698 | 4,402 5,180 | 345 420 | 38 44 |
| Greenville -21 | 90 91 | 1,385 1,098 | 189 110 | 1,196 988 | 2 0 | 12 3 | 56 48 | 119 59 | 305 288 | 832 662 | 59 38 | 3 2 |
| High Point + 8 | 90 91 | 3,248 3,514 | 402 451 | 2,846 3,063 | 3 5 | 18 12 | 63 101 | 318 333 | 876 1,050 | 1,819 1,872 | 151 141 | 20 20 |
| Raleigh +16 | 90 91 | 6,443 7,459 | 502 666 | 5,941 6,793 | 12 13 | 41 49 | 150 232 | 299 372 | 1,120 1,614 | 4,453 4,776 | 368 403 | 32 45 |
| Rocky Mount +15 | 90 91 | 2,353 2,708 | 246 283 | 2,107 2,425 | 5 4 | 14 11 | 69 95 | 158 173 | 508 741 | 1,484 1,579 | 115 105 | 13 9 |
| Wilmington +20 | 90 91 | 2,980 3,566 | 282 317 | 2,698 3,249 | 3 3 | 20 21 | 84 129 | 175 164 | 780 926 | 1,765 2,140 | 153 183 | 23 32 |
| Wilson +11 | 90 91 | 1,930 2,142 | 227 295 | 1,703 1,847 | 6 6 | 7 13 | 49 99 | 165 177 | 502 645 | 1,122 1,135 | 79 67 | 15 13 |
| Winston-Salem - 1 | 90 91 | 8,228 8,122 | 1,108 1,128 | 7,120 6,994 | 11 10 | 81 85 | 390 452 | 626 581 | 2,338 2,418 | 4,352 4,168 | 430 408 | 78 101 |

| COUNTY Total % change | YR | TOTAL INDEX | VIO- LENT | PROP- ERTY | MUR- DER | RAPE | ROB- BERY | AGG. ASLT. | BUR- GLARY | LAR- CENY | MVT | ARSON* |
|--------------------------|----------|----------------|--------------|----------------|-------------|----------|--------------|---------------|----------------|----------------|------------|----------|
| Buncombe + 5 | 90 91 | 1,312 1,374 | 80 71 | 1,232 1,303 | 3 4 | 10 10 | 11 10 | 56 47 | 533 548 | 605 650 | 94 105 | 11 23 |
| Cumberland +10 | 90 91 | 5,398 5,929 | 422 451 | 4,976 5,478 | 4 11 | 50 52 | 101 133 | 267 255 | 1,589 1,912 | 3,015 3,143 | 372 423 | 40 33 |
| Davidson +16 | 90 91 | 1,001 1,165 | 62 81 | 939 1,084 | 0 3 | 11 4 | 7 18 | 44 56 | 510 508 | 357 498 | 72 78 | 11 8 |
| Forsyth +159 | 90 91 | 747 1,931 | 46 362 | 701 1,569 | 3 1 | 6 6 | 6 27 | 31 328 | 327 732 | 334 726 | 40 111 | 49 34 |
| Gaston -16 | 90 91 | 1,533 1,285 | 97 78 | 1,436 1,207 | 3 1 | 3 5 | 14 13 | 77 59 | 671 516 | 681 621 | 84 70 | 12 26 |
| Guilford +13 | 90 91 | 1,574 1,688 | 144 125 | 1,350 1,563 | 3 0 | 12 1 | 16 1 | 113 125 | 530 553 | 753 931 | 67 79 | 13 10 |
| Mecklenburg - 2 | 90 91 | 2,443 2,402 | 217 240 | 2,226 2,162 | 5 5 | 10 13 | 40 50 | 162 172 | 796 727 | 1,333 1,346 | 97 89 | 15 21 |
| Onslow + 3 | 90 91 | 1,136 1,166 | 49 49 | 1,087 1,117 | 1 1 | 12 10 | 15 16 | 21 22 | 378 436 | 663 614 | 46 67 | 14 6 |
| Robeson +17 | 90 91 | 492 573 | 147 31 | 345 542 | 6 7 | 3 3 | 0 3 | 138 18 | 213 279 | 95 220 | 37 43 | 0 5 |
| Wake +25 | 90 91 | 1,386 1,725 | 87 104 | 1,299 1,621 | 1 1 | 11 12 | 9 14 | 66 77 | 552 709 | 628 774 | 119 138 | 34 43 |

*See footnote (3) on front.

NORTH CAROLINA POPULATION GROUPS AND AREAS

Core Cities: Includes crimes reported to city law enforcement agencies with populations of 50,000 or more within a MSA.

Suburban Cities: Includes crimes reported to city law enforcement agencies within a MSA exclusive of the core cities.

Suburban Counties: Includes crimes reported to sheriffs' departments within a MSA.

URBAN AREAS: Includes crimes reported to all law enforcement agencies within a MSA.

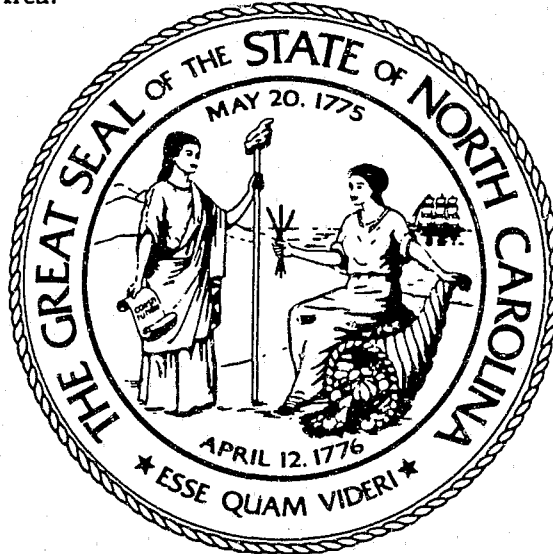
Rural Centers: Includes crimes reported to city law enforcement agencies with populations of 10,000 or more outside a MSA.

Rural Cities: Includes crimes reported to city law enforcement agencies outside a MSA exclusive of the rural centers.

Rural Counties: Includes crimes reported to sheriffs' departments outside a MSA.

RURAL AREAS: Includes crimes reported to all law enforcement agencies outside a MSA.

MSA = Metropolitan Statistical Area.



State Bureau of Investigation
Division of Criminal Information
407 N. Blount Street
Raleigh, North Carolina 27601

BULK RATE
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POSITION PAPER DRAFT: INCARCERATED MISDEMEANANTS

September 20, 1991

Louis R. Colombo

Historically, misdemeanants with six month or shorter sentences have been detained in the jail, while those with over six month sentences have been housed in the state prison system. Even if not the most prudent policy, for the most part, it has satisfied the community, the courts and the prison system. Unfortunately, circumstances have evolved that make this practice less feasible. Prison admissions have increased dramatically, and the prison system is under the threat of a federal takeover. Expanding needs and limited resources influenced the Legislature to focus on misdemeanants in an attempt to control the prison population. The General Assembly has liberalized parole eligibility laws for misdemeanants and at least tacitly, if not overtly, encouraged the Parole Commission to release these individuals to comply with the legislatively determined cap.

Liberalized parole eligibility laws for misdemeanants date back to 1981. At that time, the Fair Sentencing Law provided that felons - except for Committed Youthful Offenders and those serving life sentences - were no longer eligible for discretionary parole, and a ninety day mandatory parole was created. Misdemeanants serving indeterminate sentences, at the same time, continued to be eligible for parole after serving one-fifth of the statutory maximum of their sentence, or their minimum term, whichever was less. Misdemeanants with determinate sentences were eligible for parole upon conviction. They were also eligible to be paroled and terminated (released without conditions or supervision) when they were within six months of completing their sentences. In addition, they were granted good time, further advancing their parole eligibility dates. As the prison population rose, 1987 legislation permitted all misdemeanants, except for those committing assaultive crimes, to be paroled and terminated. At the present time, all misdemeanants are immediately eligible for supervised parole with the exception of those serving sentences for driving while impaired (DWI) and DWI related offenses. Thus, directly or indirectly, the legislature has encouraged the Parole Commission to focus upon misdemeanants to reduce the prison population.

In complying with the prison-cap legislation, the Parole Commission has made every effort to release misdemeanants as quickly as possible. Information provided by the Department of Corrections (D.O.C.) research department reveals that there had been a 113% increase in misdemeanor admissions between 1985 and 1990. Approximately 10,000 misdemeanants are being processed through the Division of

Prisons each year. During the first six months of 1991, 19% of inmates entering the system served less than 2 weeks, with 60% serving less than a month. It should be noted, however, that even these figures are deceptive: releases have been delayed only because it has been logistically impossible to release these individuals quicker. A new computer system has been developed, raising the possibility that virtually all eligible misdemeanants will be released within two weeks of admission. Only those with DWI and DWI related offenses and those serving split sentences will be ineligible for release. It will be a rare exception for a misdemeanant not to be immediately paroled. At the present time, approximately 1,500 beds are filled by misdemeanants at any given time. Even with the more efficient computer system, increased admissions and increasing numbers of DWI, DWI related offenses and split sentences make it improbable that the misdemeanant population can be reduced much under this figure.

It should be noted that, theoretically, the more serious misdemeanant offenders are transferred into the prison system. At the present time, however, because of prison overcrowding and the priority given to felons, misdemeanants with longer sentences who enter the prison system actually serve less time than those with shorter sentences in community facilities. Most individuals housed in jail are serving approximately one-third of their sentences. Thus an individual with a six-month sentence serves approximately two months while an individual with a two-year sentence who enters the prison system will probably be released within two weeks. There have been occasions when offenders have called from the jail asking to be transferred to the prison system. Obviously, this is not a desirable situation. It is undoubtedly discouraging to law enforcement and other criminal justice professionals as well as being confusing to offenders. Failure to heed the realities of the situation will certainly do nothing to control crime in North Carolina.

While misdemeanant admissions have increased dramatically, felon admissions have also greatly increased. The percentage of time served by felons is decreasing because of prison overcrowding. Because of the crisis, some felons are released without benefit of minimum custody programs, thus losing the transition most desirable to facilitate their adjustment once released. The Parole Commission is forced to release more and more high-risk individuals with less well investigated home and work plans, and there is an increased strain on parole officers. This is creating considerable difficulty.

In summary, the prison system is overcrowded and under threat of federal takeover. To avoid this, the Parole Commission is mandated to control the prison population, requiring release of individuals who previously would not have been seriously considered. The Commission has been guided by the Legislature to focus on misdemeanants as much as possible and the realities of this strategy are becoming apparent, one of which is the undermining of the criminal justice system. It is crucial that long range plans be made before there is additional erosion in the public's faith in the criminal justice system.

ALTERNATIVES

- I. One alternative is to continue with present policy, with those having lengthier sentences transferred into the Division of Prisons, and those with shorter sentences retained within the community jail system. With prison overcrowding, this would obviously require that some of the added prison beds be used to house these misdemeanants. While this would continue to place the responsibility on the state for these individuals, there are some almost certain disadvantageous eventualities.
 - A. As long as misdemeanants are mixed with felons in the prison system, they will be looked to first to control the prison population. Projections are that admissions will continue to rise for both misdemeanants and felons, requiring the continued shortening of the percentage of time served. It can only be considered reasonable for Parole Commissioners to continue to release misdemeanants as quickly as possible, both to make room for additional felons and to retain high recidivist risk felons who have committed more serious crimes. Given a choice in releasing a felon from medium custody or a misdemeanant, Parole Commissioners would be hard pressed not to choose the misdemeanant. Thus, even with additional bed space within the prison system, it is unlikely that misdemeanants will be retained for any substantial period of time. The credibility of the criminal justice system has already been called into question because of the system's inability to force misdemeanants to serve any significant proportion of sentences dictated by the courts.
 - B. The prison system is primarily geared to provide programs for individuals who are incarcerated for substantial periods of time. These individuals need transitions to re-enter the community, such as work release, community volunteer passes, AA participation, etc. Most of these programs require extended participation to have any benefit. As the proportion of misdemeanants within the system would necessarily be quite small, it would not be feasible to design programs specifically focused on short-term inmates. Misdemeanants would continue to be detained without benefit of appropriately tailored corrective programs due to their short stays.
 - C. If, as anticipated, misdemeanants continue to be released as quickly as possible, there will be a needless expenditure of funds for processing. The cost of physical examinations, laboratory work and other admission procedures applicable to all inmates, can be quite high. Worse yet, such processing costs may be wasted: Even today many misdemeanants are released before expensive lab work is returned, and the new computer system is likely to exacerbate this situation. Medical expenses upon processing cost a minimum of 40 dollars per inmate, and it takes seven days following admission before treatment is initiated. Even if a medical problem is detected, many misdemeanants refuse treatment either because they feel it will delay their release or because they are intimidated by

being transferred to Central Prison for medical treatment. Thus, large amounts of money are being spent to no end. These expenditures do not include psychiatric/psychological services or routine classification costs.

- D. Of lesser importance, there are complications resulting from housing misdemeanants with felons. Misdemeanants tend to have a different attitude upon entering the prison system than do individuals who have progressed from the higher custody levels, having spent a number of years in prison before entering the minimum custody units. There is frequently some friction between these groups because there is little need on the part of misdemeanants to adjust since they will be incarcerated for such a short period of time and face limited sanctions for misbehavior whereas felons can lose years of freedom, placing the misdemeanant in an advantageous position. Also misdemeanants may be exposed to more antisocial attitudes and values than those with which they entered the system. In addition, there are security concerns with different restraint laws regarding the use of force for each group. This all results in increased management difficulties and costs.

II. A second option would be to house all misdemeanants in community facilities. This has some distinct advantages:

- A. In contrast to the Division of Prisons' programming, specific programs could be designed for the individual incarcerated for only a short period of time. For example, a community facility might offer instruction in anger control techniques for those who behave in an impulsive fashion and have difficulty controlling their tempers. Other programs might focus on alcohol/drug problems, domestic violence, assertive training, and improving communication and job seeking skills. Such programs would be designed to gain the maximum benefit given a short period of participation.
- B. In addition to concerns regarding treatment while incarcerated, housing in the jails would facilitate follow-up treatment and services. Continuity of care is critical in effective treatment and in reducing subsequent criminal behavior. At the present time, there is no community involvement in treating offenders in the prison system. Once an inmate is released, even if he received treatment in the prison system, it is extremely difficult for him to become involved with treatment in the community. There are strong pressures from peers, family and society for him to view himself as not being in need of help. Once the stigma of treatment has been overcome, the probability of continuing and a successful outcome is increased. The opportunity to develop a relationship while incarcerated with the individual who would continue to provide treatment when released would certainly increase the probability of success.

- C. Resources outside the criminal justice system, to which other citizens have access, could be made available to individuals in county jails. These inmates, after all, are citizens of the community and are entitled to services from social service agencies such as mental health, substance abuse treatment etc. Once placed in the prison system, these individuals have no access to such services. This places the entire burden on the criminal justice system, even though these individuals continue to be entitled to benefits from other state subsidized programs. Again, the continuity in treatment would be beneficial.
- D. Many citizens perceive the state prison system as being an island to which they can send individuals and give no further thought. This is an illusion as the offenders do return. The immediate emotional relief and gratification when these individuals are "sent off," however, is a strong-motivator to maintain the misperception that the problem has been solved. Direct involvement in devising corrective measures to control these individuals would sensitize the public to the problem and could encourage innovative and creative punishment alternatives as well as relevant, effective programs within jails. There has been less emphasis within detention facilities on recidivism, with the overriding concern being custody and security. Public support will be necessary to shift to a more corrective attitude with more of a focus on behavior once released rather than almost solely behavior while incarcerated.
- E. Restitution as a means of punishment could perhaps be better and more effectively implemented at the community level. As these individuals are retained at the county level, they could quite possibly continue in gainful employment and pay restitution. If transferred into the prison system, there certainly would be a disruption in their employment and before they could be placed in a work release job, they would usually be released.

SUMMARY AND RECOMMENDATION

Increased prison admissions and the prison overcrowding crisis is forcing the North Carolina Legislature and criminal justice officials to reconsider their policy with regard to misdemeanants. Implementing the statutes and responding to the need to control prison population has led to illogical results. Misdemeanants sentenced to lengthier sentences are transferred into the prison system, but released more quickly than those with lesser sentences retained in the jail. It is the stated objective of the Parole Commission to release misdemeanants as quickly as technology will permit. This strategy has been guided by the Legislature, which has at least tacitly directed the Parole Commission to focus on this group. The entire criminal justice system is losing credibility in the eyes of citizens, and the current approach certainly does little to deter crime.

While innovative, alternative punishment programs continue to be desirable, there also needs to be a strategy for coping with incarcerated misdemeanants. There will, undoubtedly, always be a group of misdemeanants for which incarceration

is the only option. Continuing to house them with felons in the prison system is arguably not the most effective means for coping with the problem. It is believed that this will only result in misdemeanants continuing to be released as quickly as possible to make room for felons. For misdemeanants to serve any reasonable proportion of their sentences, housing in community facilities will be necessary, as the state will continue to address, as it must, the threat of a federal takeover and the incarceration of more dangerous felons. Programing within the Division of Prisons is also designed for individuals incarcerated for lengthy periods of time and processing expenses are quite high, to no end for misdemeanants, as these individuals will be released before treatment can conceivably be initiated in many cases. Placement in the prison system also deprives the offender of community resources to which he is entitled, as well as not permitting continuity of care which is critical to rehabilitation.

Retention in community detention facilities is seen to have many advantages. Short term programing can be developed, continuity of care would be possible and constructive relationships within the community could be established during incarceration. Restitution could be more effectively collected at the community level. The greater public awareness that this problem will continue might result in a more conducive environment for innovative, alternative punishment programs. Continuing to house misdemeanants in the state prison system is only likely to lead to increased frustration and the undermining of the credibility of the criminal justice system in the eyes of society. Misdemeanants and society can best be served by treating them in county jails.

It is recognized that it would be necessary to provide financial assistance to the counties if they were given the responsibility of retaining all misdemeanants. Many, certainly at the present time, do not have the means to implement effective programs for such individuals, and none of the benefits possible by retaining these individuals in community facilities will be realized if the counties are not provided the resources. Some counties also might benefit from assistance in program design to maximize corrective efforts.



The Association for the Reform of N.C. Marital Rape Laws (ARMR) is a statewide advocacy group with one purpose -- to eliminate the marital exemption from the N.C. Rape and Sex Offense laws. The marital rape exemption prevents husbands from being prosecuted for raping or sodomizing their wives. N.C. allows prosecutions of husbands for raping their wives only when the couple was living separate and apart at the time of the alleged rape or sex offense. We want rapists to be prosecuted no matter who the victim is.

In 1987, the General Assembly, the N.C. state legislature, in a compromise, changed the 1979 marital rape exemption, which had the exception that a husband could only be prosecuted for raping his wife if there was evidence that they were separated on the date the alleged rape or sex offense by way of a separation agreement or a judicial decree of a divorce from bed and board, which is a judicial separation. Under that law, a judicial order that the parties stay away from each other, such as is found in domestic violence protection orders, did not meet the requirements of the exception; therefore, the husband still could not be prosecuted for rape. The 1987 revision to N.C.G.S. 14-27.8 broadened the group of husbands that could be prosecuted for rape. The current law says that husbands can be prosecuted for rape or sex offense only if the couple was living separate and apart on the date of the alleged rape or sex offense. The current N.C. marital rape exemption reads:

N.C.G.S. 14-27.8. Defense that victim is spouse of person committing act.

A person may not be prosecuted under this Article if the victim is the person's legal spouse at the time of the commission of the alleged rape or sexual offense unless the parties are living separate and apart.

The marital rape exemption, that essentially says it is legally impossible for a man to rape his wife, is left over from the old Common Law of England, which is the basis for all law in the United States. Under the Common Law, when a woman and man married, they ceased to be two people; they became one person in the eyes of the law -- and that one person was the man. Because of that legal fiction, women lost their legal rights to do such things as own property. A woman could not sue her husband for any reason because a person cannot sue him or herself. Many such vestiges of the Common Law have been reformed. For example, married women can now own property in their own name, and married women in N.C. (but not in some other states) can sue their husbands in civil court for personal injuries.

However, the marital rape exemption, which was created under the same Common Law legal theory that a husband could not be held criminally liable for hurting himself, has been abolished in only approximately half the states in the U.S. We are still being governed by laws that agree with the Common Law reasoning that when a woman marries, she gives her consent to have sexual intercourse with her husband under all circumstances. Under the early rape laws in the United States, rape was a property crime. It was considered that, if a married woman was raped by a man who was not her husband, it was her husband, not the rape victim, who had been injured because she was viewed as her husband's property. If an unmarried woman was raped, it was her father who had been injured because before marriage, a woman belonged to her father.

As outdated as this scenario sounds, the marital rape exemption is still "on the books" and enforced today in N.C., saying to married women,

"Your body is not your own." Even during the debate in the N.C. General Assembly in 1987, a male legislator said, "If a man can't rape his wife, who can he rape?" Unfortunately, under N.C. law, when a woman marries, she says "I do" and gives her consent to have sex until death or separation. In a rape prosecution, if the jury finds the victim consented to have sexual intercourse, the alleged perpetrator cannot be found guilty of rape, and if the marital rape is prosecuted, consent will still be an issue in the case. But, it will not be presumed that a woman consented to sex just because she is married to the perpetrator. Furthermore, to prove rape in N.C., the State has the difficult task of proving lack of consent plus the use of force or threat of force.

Some people still think that it is impossible for a man to rape his wife. When they say that, they are saying that the wife consented, by marrying, to have sexual intercourse with her husband whenever and however he wants to do so. Some people find it difficult to conceive of a husband raping his wife, but it happens — usually in the context of a relationship that is abusive in many ways, both physically and emotionally. Marital rape is a type of domestic violence.

Criminal laws are supposed to protect potential victims by deterring crimes and punishing criminals. By saying that marital rape is legal, the State of N.C. is refusing to protect married women. Further, it is failing to recognize that a married woman is an individual person who has the right to control her own body. The State of N.C. is saying that husbands own their wives' bodies and may do with them what they will. In 1921, Racy Hulsted Bell wrote "Woman was the first slave" Woman From Bondage to Freedom Over seventy years later, women are still slaves to their husbands under the marital rape exemption.

In October 1991, the highest court in Great Britain finally struck down the Common Law marital rape exemption in that country. The court wrote that the marital rape exemption created in 1736, which "meant a wife had given her body with irrevocable consent to her husband under all circumstances, was unacceptable today." The Charlotte Observer, October 24, 1991, page 15A.

Our method for reforming the N.C. marital rape laws is two-pronged. We are focusing on a broad array of lobbying activity and at the same time developing a litigation strategy, along with help of the NOW Legal Defense & Education Fund in New York City, to challenge the constitutionality of the marital rape exemption in court. Marital rape exemptions have been successfully challenged in other states under the Equal Protection Clause of the U.S. Constitution. We want to shine a spotlight on the inequities of the marital rape exemption. Since the General Assembly, only five years ago, failed to change these discriminatory laws on their own, we believe it may be necessary to bring a lawsuit against the State to allow a court to strike down the marital rape exemption. We do not care how the change comes — through the legislature or through the courts -- we just want the exemptions eliminated.

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

D

93RM-15

THIS IS A DRAFT AND NOT READY FOR INTRODUCTION

Short Title: Rape/Abolish Spousal Defense.

(public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO ABOLISH THE SPOUSAL DEFENSE TO A PROSECUTION FOR RAPE
3 OR SEXUAL OFFENSE.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 14-27.8 reads as rewritten:

6 "~~§ 14-27.8. Defense~~ No defense that victim is spouse of person
7 committing act.

8 A person may ~~not~~ be prosecuted under this Article if whether or
9 not the victim is the person's legal spouse at the time of the
10 commission of the alleged rape or sexual offense ~~unless the~~
11 ~~parties are living separate and apart.~~"

12 Sec. 2. This act is effective upon ratification.
13 Prosecutions for offenses occurring before the effective date of
14 this act are not abated or affected by this act, and the statutes
15 that would be applicable but for this act remain applicable to
16 those prosecutions.

17