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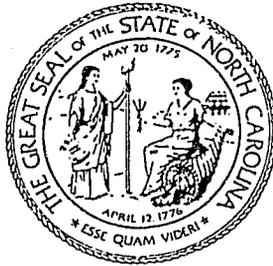
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Protecting Citizens From Violent Crime: Easley Initiatives

N.C. Department of Justice

Attorney General Michael F. Easley

November 1993

INTRODUCTION

Ten years ago, North Carolina was 41st in the nation in crime -- now we are 16th. Last year violent crime rose another 5 percent. And the statistic that cannot be manipulated by statisticians -- the murder rate -- has been rising steadily and climbed another 7% in the first six months of 1993. We must face the facts. Crime is up. Violent crime is up. An increasing percentage of these violent crimes are being committed by predatory strangers. North Carolina citizens are rightfully concerned.

There is no quick fix for the violent crime problem. Reducing violent crime will require both long-term and short-term solutions. More prison space and long-term prevention strategies -- like early childhood education, dropout prevention, targeted



economic development, and support for struggling families -- are essential components of an effective, comprehensive approach. But we cannot successfully implement long-term strategies until our communities are safer. We must act now to address the immediate crime problem within the limited resources available.

Four basic principles should guide our efforts.

All citizens must be safe.

The first priority of government is to protect our citizenry.

We have to be tough and smart.

Tough talk will not make our streets and neighborhoods safe. We must be willing to change and implement innovative approaches that will work against such root causes of crime as drug addiction.

**Each of us must take
personal responsibility.**

Each of us is responsible for ourselves, our children, our families and our communities. But to make personal responsibility work we must empower citizens so they can fight back against violent crime in their own communities.

**Our criminal justice system
must be truthful.**

In many ways, our system has evolved into one of trickery and deception. We need to be honest about where we are and confront the violent crime problem head on.

These principles are the foundation of the eight proposals presented here to attack our violent crime problem in the short-term. In summary, the proposals are:

Prisons and Jails -- Make wise investments in prisons and jails to place long-term violent criminals in prisons and short-term offenders in jails.

Focus Criminal Courts on Crime -- Restructure the court system so that prosecutors and judges can focus on violent criminals.

Drug Courts -- Focus criminal courts on violent offenders by removing as many drug addicts as possible and referring them to Drug Courts for treatment.

Loss of Citizen Privileges -- Make more non-violent offenders complete probation and stay out of prison by stripping them of all licenses and citizen privileges if they fail to comply.

Safe Neighborhoods Strategy -- Empower residents living in high-crime areas who request help by providing law enforcement to interrupt drug sales, confiscate illegal drugs

and weapons and provide resident safety checkpoints.

Gun Control -- Enact reasonable restrictions plus mandatory sentences for those who use a gun in the commission of a crime.

Death Penalty -- Enforce existing state timetables and streamline federal court review of capital cases so North Carolina will have a real death penalty.

Victim's Assistance -- Assistance for victims of violent crime.

These proposals are initial ideas of how we can attack violent crime immediately. Some of these proposals grow out of my 15 years experience as a prosecutor. Some come from interested citizens, friends and colleagues. Others come from states where innovative programs show positive results. All of them can work to reduce violent crime in North Carolina.

PRISONS AND JAILS

We are arresting and convicting criminals in record numbers. Admissions to our prisons have exploded, increasing 67 percent to more than 30,000 per year since 1988. But because of restrictions on prison capacity resulting from federal court prison lawsuits, the Parole Commission must parole offenders who should remain behind bars. I am a strong advocate of abolishing parole, eliminating the prison "cap" and restoring truth in sentencing. And it is imperative that the state make a greater effort to identify, through psychological profiles, offenders destined to commit more violent crimes. This year 17 recent parolees from our prisons have been charged with murder.

More prisons. It is true that 10 years ago North Carolina had one of the highest prison incarceration rates in the nation. That has changed. The state traditionally has had a low jail incarceration rate. Here is how we compare today:

INMATES PER 100,000 POPULATION

	<u>State</u> <u>Prisons</u>	<u>County</u> <u>Jails</u>	<u>Total</u>
N.C.	269	84	353
South	333	171	504
National	287	144	431

Source: Sourcebook of Criminal Justice Statistics, 1992.

Clearly, we now lag behind other states in total incarceration rate -- 30% behind our regional average and 18% behind the national average.

Fifty percent of the current state prison admissions is comprised of revoked probationers and parolees.

Last month I asked the federal court to ease the capacity restrictions on our prison system, which I hope will save 1600 prison beds for our system. Getting our prison system out from under federal court supervision is an important step toward restoring the security of our communities.

Better Use of Prisons. Given our current situation, I believe we must do two things. First, we need to use our available prisons and jails more wisely to keep violent offenders behind bars. Fifty percent of the current state prison admissions is comprised of revoked probationers and parolees. These are generally non-violent offenders who, upon revocation, spend a short stint in prison and then are released. Yet, this large group of usually non-violent offenders take up valuable prison space. We need to refocus

We need to refocus our prison resources squarely on incarcerating violent offenders for as long as possible.

our prison resources squarely on incarcerating violent offenders for as long as possible. To do this, we must have meaningful alternative punishments and rehabilitation for those non-violent offenders we currently are cycling through the prison system. The proposals that follow, particularly the denial of privileges and drug court strategies, are designed to achieve this goal.

Jails vs. Prisons. Second, the state needs the right balance between prison and jail facilities. Another 5,000 prison beds are scheduled to be added to the state system in the next two to three years. Right now, at least in comparison to other states, we are much further behind in use of jail space. The construction of new jail facilities -- especially maximum security -- can be expensive. But additional jail space constructed as an annex to existing jails and used to house offenders for shorter periods of time is much less expensive to operate than state prisons, which must include space and services designed for long-term sentences. It costs the state an average of \$55 per day to incarcerate each prisoner. Per inmate costs in jails average \$35 per day. We currently are using much of our expensive, long-term prison facilities for short-term incarceration. That is not a wise use of our available prisons. With existing and new prison space, we must incarcerate violent offenders. The state needs to have adequate jail space available at the local level for short-term incarceration.

FOCUS CRIMINAL COURTS ON CRIME

Our Superior Courts are swamped. As Wake County District Attorney Colon Willoughby recently noted, each year he must dispose of 6,000 to 7,000 criminal cases with only 500 days of criminal Superior Court (two sessions per week). This forces prosecutors to dispose of more cases than they can reasonably handle.

Much of the case overload is from drug possession cases, which have increased more than 100% since 1988. Too much prosecutor and court time is spent taking guilty pleas in the less serious cases and trying infractions, which are not even crimes.

To achieve our goal of focusing on prosecuting and jailing violent criminals, we must make major changes in our court system. We need to restructure the criminal justice system, at every level, so that judges and prosecutors concentrate on violent crime. Victims of rape, assault and armed robbery -- not the citizen who was speeding 45 in a 35 mph zone, or the one who forgets to buckle up -- need the prosecutor's attention. Treating these infractions with similar resources extended felony cases is a luxury we can no longer afford.

Downsizing the Criminal Courts. I propose that we reorganize responsibilities among our Superior, District and Magistrate Courts. We can shift some case responsibilities now from the overloaded Superior Court to District Court and to Magistrates. The Superior Court Division is the most expensive judicial component in our system and should be reserved for the most grave and serious matters. Additional Superior Court Judgeships could be created to handle the overload of cases in that Division, but the expense would be staggering. Fewer court resources and precious taxpayer dollars would be required if more responsibility were shifted to District and Magistrate's Courts. Additional personnel on those levels require less tax money and would increase the overall efficiency of the entire system. A District Court judge costs \$25,000 less than a Superior Court judge. We can create four magistrate positions for the cost of one Superior Court judgeship.

Almost half of the criminal cases filed in Superior Court are H, I, and J Class felonies. District Court judges should be permitted to take guilty pleas for these lesser felonies such as embezzlement or forgery. This change would immediately make more time available in Superior Court for trying violent offenders.

We can also remove infractions from District Courts and have Magistrates handle them. Infractions involve only minor traffic offenses such as seat belt violations and do not carry a potential jail sentence. Currently, infractions occupy 38.6% of the District Court docket. For these minor offenses, the law enforcement officer is the appropriate person to prosecute the offender. The officer knows most about the case, and there is no reason to involve a district attorney.

This system works well in other states and the United Kingdom. It can be used here to help us save money and better focus our resources.

This change would allow Superior and District Courts to deal with violent criminals and make better use of the District Attorney's and police officer's time. The Magistrate's Court has the capacity to handle these cases. The

case load in Magistrate's Court has decreased by approximately 55,000 cases in the last three years, and out of 740 authorized positions for magistrates, only 636 positions are filled.



Finally, we can streamline many trials in Superior Court. Our system now requires 12 jurors in every criminal case. Each juror is chosen by the lawyers. Jury selection has become one of the most expensive and time consuming parts of a trial. Six-person juries can cut the time and expense of jury selection in half. Smaller juries are fair to both sides, constitutional and, I believe, should be considered in at least H, I and J Class felony trials and misdemeanor appeals. Judges also can be more involved in jury selection, which has proven to be more efficient in the federal system. That option should be explored here in North Carolina.

Mediation. We also have an opportunity to streamline the disposition of civil cases to allow more criminal court sessions for prosecuting serious felony cases. In 1989 under the leadership of Chief Justice James G. Exum, Jr., the State began a pilot Superior Court mediation program in eight judicial districts. This program, which assigns appropriate cases to a mediator who helps the parties resolve the case without a trial, has been very successful. The parties bear the cost of mediation, and as of July of this year, 61% of the cases assigned to mediation have been settled or otherwise disposed of before trial. In short, mediation helps settle cases sooner and reduces the number of cases on the Superior Court docket. It also encourages the parties to take responsibility for resolving their own dispute rather than expending court resources funded by taxpayers.

The more court time District Attorneys have available to them, the less they are forced to plea bargain.

I strongly recommend that the Administrative Office of the Courts, which has the authority over the program, expand this successful program statewide as soon as possible. This will reduce Superior Court time required for civil cases so that more criminal sessions can be scheduled to prosecute felony criminal cases. The more court time District Attorneys have available to them, the less they are forced to plea bargain. Then they once again can prosecute from a position of strength.

Implementation of these proposals will make our criminal justice system more efficient, more effective and more focused on violent crime.

DRUG COURTS

Drug cases now comprise 31% of our Superior Court caseload. In our war on drugs, we are arresting drug offenders in record numbers, prosecuting them as felons in our court system and then sending them to prison. But because prison space is so scarce, those convicted of drug possession serve little time. Then they are back on the street where they typically live a life of crime to support their addiction. Our war on drugs has become a revolving door of arrest, conviction and quick release -- where an addict jailed is an addict paroled. Spending more money on the current system will only make the door revolve more slowly. It will not solve the problem. It is time to get smart and deal with these defendants in a different way.

Implementation of these proposals will make our criminal justice system more efficient, more effective and more focused on violent crime.

Drug courts can be a key strategy to refocus our resources on violent crime. Successful drug courts attack the demand for drugs. They can reduce

Drug courts preserve scarce prison beds so that we can jail violent felons for longer sentences.

the number of addicts run through our current revolving door system, reduce the large number of property crimes addicts commit, and most important, drug courts preserve scarce prison beds so that we can jail violent felons for longer sentences.

Supply and Demand. Drug traffickers control drug supply. Greed drives them. Their involvement in drugs is strictly business, and violence is a tool of the trade. These people must be caught, convicted and jailed for a long time.

Doing everything necessary to prosecute and jail traffickers is the most effective and direct way I know to interrupt drug supply and to reduce drug gang violence. From my experience prosecuting drug traffickers, I know we can use our resources better to prosecute members of drug conspiracies and put entire cartels out of business. We have an effective investigative grand jury when resources allow its use.

Drug users are different. They are the demand side of the drug equation. The cost of drug addiction to society is enormous. Users rob themselves of the opportunity to be productive citizens and often require public subsidy for health care and other services. Many users are not necessarily violent, but they live a life of burglary and theft to support their addiction. Surveys show a drug addict will commit between 25 and 600 crimes each year. For these users, short-term imprisonment is not meaningful punishment because we do not have enough jails and prisons to incarcerate them for long periods. The revolving door of conviction, imprisonment and quick parole for these people makes valuable prison cells unavailable for violent offenders and does not cut the demand for drugs. Putting these addicts in jail and then releasing them as addicts gives them no incentive to kick their addiction or change their conduct. If they remain addicts, they remain criminals and we remain victims. Our current system wastes money and demoralizes law enforcement officers who must continually rearrest these offenders. We have to change the way we deal with non-violent drug users before they become violent.

Surveys show a drug addict will commit between 25 and 600 crimes each year.

Fight Smart. To fight smart against the non-violent drug users, we should have a two-fold approach. First, we should pull them out of the revolving door of arrest, prosecution, minimal jail time, parole and rearrest. Then, we should focus directly on reducing demand by providing drug

treatment and giving users strong incentives and tools to beat their addiction.

This model is being used successfully in Dade County, Florida where the drug court handles virtually all felony drug possession cases for defendants who have no prior violent felony record. So far, the results of the Dade County program have been extremely impressive. Only 3% of the 4,500

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users who have completed successfully the drug court program have been arrested on repeat felonies. Before the program began in 1989, Dade County authorities rearrested approximately 33% of convicted drug users on felony charges within one year of their release.

We should create special drug courts in our District Court system to provide an intensive, one-year treatment program for drug users. The District Court is used because the judges do not hold court in other districts and can monitor the defendant. A defendant arrested on a felony drug possession charge who has no prior violent felony record would be given the option of criminal prosecution or admitting guilt and entering a court monitored drug program. Under the drug court's supervision, the defendant enters an intensive, three-step treatment program lasting at least one year.

To start, the user spends sufficient time in jail to clear his system of drugs. Then, the user focuses on a treatment program under supervision of the court. Last, the defendant completes a job training program that can involve our community college system. During each phase of the program, the defendant takes regular drug tests and appears before the same judge to review his progress. Failure to pass a drug test or any portion of the treatment program means a stint in

jail and/or a loss of privileges. If the judge determines the defendant has failed the program, he returns the user to the regular criminal sentencing process.

Dade County estimates that the cost of its drug court is \$800 per defendant exclusive of jail costs. Participants in the program should be required to pay for the program to the extent possible. Although drug courts will cost money, this cost will be offset to some degree by an immediate savings in removing these cases from regular Superior Court. Successful drug courts will also reduce the number of

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prisoners. The key is that drug courts directly attack the demand for drugs by reducing the number of addicts who become prisoners. Drug Courts are a wise, strategic use of our resources that over time will reduce substantially the need for repeatedly prosecuting addicts in our current revolving-door system. Former addicts become taxpayers instead of tax recipients. They are out of prison so that the violent offenders are in prison. Drug courts have proven to work in Florida. I think we should make it work here in North Carolina.

LOSS OF CITIZEN PRIVILEGES

Today in North Carolina our criminal justice system wastes prison cells needed to lock up violent criminals on meaningless sentences for non-violent offenders. Under our constitution, a judge cannot sentence a non-violent offender to an alternative punishment without his permission.

Thus, in thousands of cases each year, our current system gives the non-violent offender a choice of supervised probation with restitution, community service and other conditions -- or an active prison sentence. Our system places most non-violent offenders on probation because prison cells are needed to lock up violent criminals. We have a better chance to rehabilitate these non-violent offenders through intensively supervised probation.

Criminals Manipulate the System. In many cases, however, prison overcrowding encourages non-violent offenders to choose prison over probation.

Why? Because our prisons are so overcrowded that a one-year sentence usually means less than a few weeks active time. By choosing prison, the non-violent offender is subjected to virtually no punishment and

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no rehabilitation, and prison space needed for violent offenders is wasted. This situation undermines the effectiveness of the probation program for those who enter it. The prison penalty for probation revocation is so short that there is little incentive to complete probation or any suspended sentence.

Incredibly, today almost 50% of the current state admissions are of revoked probations.

We need to demonstrate to these criminals that we can be as innovative at creating punishment as they are at avoiding it. Prison is not the only means of punishment available to us. We need real alternative punishments that are effective and preserve our prison cells for violent offenders. Permitting non-violent offenders to choose a short prison stay causes us to parole too many violent offenders.

The "Stick." To do this, I propose we give our judges authority to withhold citizen privileges to provide non-violent offenders with the incentive to complete successfully probation. For example, in addition to the one-year prison sentence, the judge could take all of the offender's privileges and licenses -- his driver's license, hunting license, and any business licenses -- for at least the full one-year prison sentence. Thus, even if paroled early they will not have citizen privileges. Probation revocation would result in loss of these privileges or licenses. The offender would then have a powerful incentive to choose probation and perform the hard work to complete it. If he chooses prison he will be paroled with no citizen privileges or licenses for the full sentence term.

If I learned anything during my 15 years as a prosecutor, it was that people value their licenses, particularly their driver's license.

If I learned anything during my 15 years as a prosecutor, it was that people value their licenses, particularly their driver's license. The potential loss of all privileges will make most non-violent offenders choose the appropriate alternative punishment and follow through with it. This can be the "stick" that makes alternative punishments work so we can use our prison cells to incarcerate violent felons.

Playing By the Rules. There are those who say that revoking citizen privileges is too harsh a penalty. I disagree. Those of us who play by the rules may have to tolerate some of those who do not, but we certainly do not have to bestow the state's privileges upon these criminals. No one doubts that

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after a felony conviction, a person forfeits the right to vote and the right to own a gun. Those are constitutionally protected rights. It is only fair that those of us who obey the law have the right to withhold privileges from those who do not. And we should have the right to use this mechanism as an incentive to effect real change in behavior.

The strategic use of citizen privileges as incentives would result in more prison space for violent criminals and tougher punishment for other offenders. It can be a key strategy for focusing our

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prison resources on incarcerating violent felons and making North Carolina safer. I propose that as soon as possible we give our judges the authority to use the state's privileges in the fight to reduce violent crime.

SAFE NEIGHBORHOODS STRATEGY

I have long believed that personal responsibility is an effective weapon against violent crime. But to expect personal responsibility, we must empower citizens so they can fight back against violent crime in their own communities. We cannot tolerate high crime enclaves -- it is unfair to law-abiding citizens who live there, and, ultimately, it puts all communities at risk. I strongly support increasing the number of police officers and providing community policing in high-crime areas. But we must go further. We need to empower citizens in high-crime areas to help themselves so that they can make their neighborhoods safe. And we must empower them to be in control of their own lives so they can accept personal responsibility for their own conduct and that of their children.

Empower Citizens. I propose North Carolina move forward with innovative efforts pioneered by Housing Authority Chief Vince Lane in Chicago, Illinois and Police Chief Reuben Greenberg in Charleston, South Carolina. In both those cities, law enforcement is cooperating with housing project residents to conduct periodic sweeps to chase out illegal drug gangs and set up checkpoints that make sure only legitimate residents and guests are admitted to the area. In Charleston, the Housing Authority now screens felons from admission into public housing and evicts anyone engaged in illegal activities. Those convicted of criminal activity in the vicinity of the housing project are required to return and clean up the area. When the residents see the criminals who use to threaten their neighborhood are under the control of the law, they begin to feel in charge, safe and in control of their lives again.

Residents and officials in Charleston and Chicago have found that anti-crime sweeps interrupt drug markets prevalent in public housing. The sweeps empower residents to control their neighborhoods once again. In Charleston, during the last decade, the program caused a decrease in crime in and around public housing areas so that the crime rate in public housing was actually lower than in other parts of the city. The key, as a National Institute of Justice study found, is that success comes from law enforcement and residents working together to free their neighborhoods of drugs and violent crime.

Safe Neighborhoods Task Force. This month, I am establishing a Safe Neighborhoods Task Force under the auspices of the State Bureau of Investigation, which will offer to local police and communities training, expertise and support for conducting sweeps in high crime areas. I also am establishing a Safe Neighborhoods Trust Fund to

provide grants for community-based efforts by local law enforcement to reduce violent crime. The Safe Neighborhoods Trust Fund will be administered by the new Citizens Rights Division in the Department of Justice and will be funded initially with \$100,000 in seed money in our office that has been seized from criminals. With sufficient interest at the local level, I will seek additional funding from the General Assembly.

GUN CONTROL

A key to stopping violent crime is empowering communities. Each citizen must accept personal responsibility for their own conduct, that of their children and make a personal commitment to the community. To empower all citizens to participate fully and accept the challenge and duties of citizenship, we must make them safer. This requires some reasonable restriction on firearms.

Each of us has the right to own firearms and the right to use them recreationally or to defend ourselves and our families. But with that right is an accompanying responsibility.

Firearms contribute enormously to the violence in our society. Reasonable restrictions are in order. For a long time, I have favored reasonable waiting periods for purchase of handguns to give the issuing authority time to check out the buyer and an outright ban on automatic assault-style weapons. But truthfully, these steps will affect only a small number of cases.

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We need to discuss gun-free zones in public places similar to our weapon-free school zones. We should consider banning firearms in shopping malls, parks or other public places where citizens' security should never be threatened. I propose mandatory sentences for those who use a firearm in the commission of a crime and even stiffer mandatory prison sentences for those who discharge a firearm in the commission of a crime. Current research shows that this is the best deterrent against illegal use of handguns. Finally, our office will put a greater emphasis on the identification and conviction of illegal gun dealers, from whom criminals are obtaining their guns.

DEATH PENALTY

In 1977, the North Carolina General Assembly reinstated capital punishment for persons convicted of first-degree murder in aggravating circumstances. Since then only five of 93 convicted murderers receiving the death penalty have been executed. Why? Because once a sentence in a capital case is returned by the jury the defense is delay. Through extensive avenues of appeal and legal maneuvers, defendants try to prevent their sentences from being carried out. Because of these delays in the system, capital punishment in North Carolina exists in name only.

I strongly favor the death penalty. I believe it is a necessary form of punishment under our law. Unless timely imposed, it cannot deter the most violent criminal conduct. Under our current system, timely punishment often does not exist and scarce resources are wasted on lengthy post-conviction proceeds. For example, under the court rules, the direct appeal in a capital case should be ready for argument in the state supreme court in approximately a year. Until recently it has taken two or three times that long to present the case to the Court. In two capital cases I tried as a District Attorney, it took nearly four years just to reach the Supreme Court. In another case, the defendant received 11 extensions of time resulting in an additional 945 days to file the record on appeal. When these kinds of delays are permitted, the

system becomes a farce and a charade.

Enormous resources, including court time, prosecutor's efforts, and law enforcement's energy are expended in each capital case. When all of these efforts result in 12 jurors, after weeks of trial, recommending a death verdict, it should mean something. It should do more than mark the beginning of a decade or more state and federal legal maneuvering paid for by the taxpayer.

In May 1981, North Carolina Supreme Court began placing a priority on scheduling capital cases. I applaud this decision and encourage them to enforce the timetables set forth in the court rules. There is no reason why these cases cannot be heard in the N.C. Supreme Court within one year of the trial. This should eliminate a substantial part of the delay.

Once the state review of capital cases is concluded, the defendant is entitled to have the federal courts review his conviction. The review in federal court has been another area of unnecessary delay. Cutting out unnecessary delays in the federal habeas stage is where we need to focus our efforts. I recently have written Congress on the need to streamline the federal habeas process, and they should do that right away. Congress currently is looking at this issue, and I urge everyone to write our Senators and members of the House of Representatives to encourage them to streamline the federal habeas process.

VICTIMS' ASSISTANCE

It would be irresponsible to recognize an increase in violent crime without recognizing that there is a similar increase in the number of victims. We can never forget that for every violent crime committed, an innocent victim and family suffers. This year my office has set up five new victim's assistance coordinators in district attorneys' offices in the state. But we need to do more. An essential part of an effective strategy to

focus on violent crime must include additional support for the victims of violent crime. In this area, the programs in place work, but they are underfunded and understaffed. We must continue to fight for increased resources for victims of violent crimes. Full funding of the existing Victims' Assistance Programs would be a good start.

CONCLUSION

The proposals included in this summary are initial ideas of how we can immediately attack violent crime. I do not believe that expending more resources on the current system will have a real impact on the problem. We must be willing to change. These proposals are short-term strategies that immediately focus available resources on violent crime. They require substantial change in the criminal justice system. They are fair, tough and smart.

I hope you will think about the problem, consider these proposals and share your thoughts, ideas and concerns with me. If there are better ideas or refinements to these proposals that will better achieve the goal of reducing violent crime, I welcome them. We need to attack this problem together now. A significant purpose of this proposal is to create some meaningful debate and thought. We will do our best to help develop a consensus on what the state should do in the short-term to address the critical issue of violent crime in North Carolina. We need to hear from you. Every citizen has a duty to deal with the problem of crime in a responsible way. In our state and in our system every citizen has a voice. It is time to use that voice wisely.

I will be discussing these ideas with citizen groups, law enforcement representatives, legislative leaders and others. We should all do our best to encourage a consensus on short-term actions that the state can take to address the critical issue of violent crime in North Carolina.