

Joint Legislative Commission on Governmental Operations  
**Subcommittee on Justice and Public Safety (JPS)**  
**Subcommittee Report**  
Tuesday, January 19, 2010, 1:00 P.M.  
Room 415, LOB

Rep. Haire called the meeting to order. The JPS Subcommittee heard the following agenda items:

**Department of Juvenile Justice and Delinquency Prevention**

**Sexual Victimization in Juvenile Facilities**

**John Poteat, Fiscal Analyst, Fiscal Research Division**

**Linda Hayes, Secretary, Department of Juvenile Justice and Delinquency Prevention**

*Summary:* The Subcommittee heard a brief overview of the *Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-09* report, which was a Bureau of Justice Statistics' national survey of the sexual victimization of juveniles in Youth Development Centers. The Secretary provided an update of steps the Department is taking to meet some of the findings of report.

*Committee Action:* No action needed.

**Department of Justice**

**1. Reports on Settlement Agreements (G.S. 114-2.5)**

**Kristi Hyman, Chief of Staff**

*Summary:* The Subcommittee heard four reports on settlements between the State and the following companies:

- Ortho McNeil Pharmaceutical, Inc. – A settlement was paid to the State to resolve allegations that Ortho McNeil Pharmaceuticals and UDL Laboratories sold certain drugs as noninnovator when they were in fact found to be innovator drugs. Of the total amount (\$216,743.43) received by the State, \$122,400.62 was returned to the federal Medicaid program, North Carolina Medicaid received \$54,614.55, the penalty portion of the settlement (\$37,193.39) was sent to the Civil Penalty Forfeiture Fund, and \$2,534.87 was retained by the North Carolina Department of Justice for investigative and collection costs incurred.
- Aventis Pharmaceuticals – A settlement was paid to the State to resolve allegations that Aventis Pharmaceuticals and its corporate predecessors knowingly misreported best prices for steroid-based anti-inflammatory nasal sprays it charged commercial customers. Of the total amount (\$2,258,321.53) received by the State, \$1,401,245.03 was returned to the federal Medicaid program, North Carolina Medicaid received

\$832,132.16, and \$24,944.34 was retained by the North Carolina Department of Justice for investigative and collection costs incurred.

- Medtronic, Inc. – A settlement was paid to the State to resolve allegations that Medtronic, Inc. and its subsidiary Medtronic Sofamor Danek, Inc (MSD) offered kickbacks to spine surgeons to induce them to choose devices marketed by MSD. Of the total amount (\$171629.83) received by the State, \$81,477.09 was returned to the federal Medicaid program, North Carolina Medicaid received \$49,960.15, the penalty portion of the settlement (\$37,896.77) was sent to the Civil Penalty Forfeiture Fund, and \$2,295.82 was retained by the North Carolina Department of Justice for investigative and collection costs incurred.
- Mylan Pharmaceuticals, Inc and UDL Laboratories Inc. – A settlement was paid to the State to resolve allegations that Mylan Pharmaceuticals and UDL Laboratories sold certain drugs as noninnovator when they were in fact found to be innovator drugs. Of the total amount (\$3,355,506.35) received by the State, \$2,008,441.46 was returned to the federal Medicaid program, North Carolina Medicaid received \$906,341.43, the penalty portion of the settlement (\$401,903.52) was sent to the Civil Penalty Forfeiture Fund, and \$38,819.76 was retained by the North Carolina Department of Justice for investigative and collection costs incurred.

*Committee Action:* Senator Bingham asked about how the cases that are investigated/prosecuted are selected. Charlie Hobgood, director of the North Carolina Medicaid Fraud Unit informed the committee that nearly all states have Medicaid fraud investigation units and the cases generally originate from information received from whistleblowers or information available about pharmaceutical company businesses. The Subcommittee accepted the settlement reports and recommended their transmittal to the full Commission.

## **2. Report on the Use of Federal Forfeiture Receipts by the State Bureau of Investigation (SBI) (S.L. 2009-451, Sec. 16.2)**

**Kristi Hyman, Chief of Staff**

*Summary:* The Subcommittee heard a report on the SBI's intent to use \$231,519.44 from the Federal Forfeiture Fund account to pay for the purchase of approximately 30 VIPER radios, payoff costs associated with a vehicle received from USDOJ, and to meet the state match (25%) for a federal grant for two positions that work in the North Carolina Information Sharing and Analysis Center (NCISAAC). After these expenditures, the account balance will be \$322,090.88.

*Committee Action:* The Subcommittee accepted the report and recommended its transmittal to the full Commission.

## **3. Consultation for Alarm Systems Licensing Board Fee Changes (G.S. 12-3.1)**

**Charles McDarris, Board Counsel**

*Summary:* The Subcommittee heard a consultation by the Alarm Systems Licensing Board attorney, Charles McDarris, for two fee increases being proposed by the board.

The first is a \$25 increase to a \$350 fee currently charged for new or renewed licenses issued by the board. The second is a \$5 increase to a \$40 biennial registration fee charged on all license applications.

*Committee Action:* The Subcommittee accepted the report and recommended its transmittal to the full Commission.

## **Department of Crime Control and Public Safety**

### **1. Report on the Use of Federal Forfeiture Receipts by the Alcohol Law Enforcement Division (ALE) (S.L. 2009-451, Sec. 16.2) Thomas Caves, Special Assistant to the Secretary**

*Summary:* The Subcommittee heard a report about ALE's intent to use \$913,253 from the division's Federal Forfeiture Fund account to pay for surveillance equipment, polygraph equipment, boxing regulation software development, and office furniture. After these expenditures, the account balance will be \$4,645,909.21.

*Committee Action:* The Subcommittee accepted the report and recommended transmittal to the full Commission.

### **2. Report on the Use of Federal Forfeiture Receipts by the State Highway Patrol (SHP) (S.L. 2009-451, Sec. 16.2) Thomas Caves, Special Assistant to the Secretary**

*Summary:* The Subcommittee heard a report about the SHP's intent to use \$707,362 from the division's Federal Forfeiture Fund account to pay for equipment acquisition/upgrades (tasers, bullet-proof vests, digital cameras, etc.) and training. After these expenditures, the account balance will be \$2,923,662.

*Committee Action:* Senator Kinnaird questioned the SHP's intent to expand the use of tasers by law enforcement officers. Thomas Caves informed the committee that despite the taser related fatalities that have occurred, tasers are less lethal than firearms. He also informed the committee that no fatalities have occurred as a result of incidents where tasers were used by officers in the law enforcement divisions of the Department of Crime Control and Public Safety. The Subcommittee accepted the report and recommended transmittal to the full Commission.

### **3. Other Topics Discussed**

*Summary:* The committee asked the Department staff about two agency programs:

- Senator Bingham and Representative Haire asked about the status of the VIPER Program. Thomas Caves informed the committee that upon completion the VIPER network will consist of 225 radio towers that will provide the entire state with radio interoperability for law enforcement and emergency responder groups. To date, 139

towers sites are constructed and operational, 30 tower sites are funded and in the process of being constructed and 46 towers are unfunded.

- Senator Apodaca asked about the growth of sweepstakes businesses around the State and efforts by the agency to address this matter. Mr. Caves informed the committee that the Department is not currently looking into this issue. Senator Apodaca informed the committee that he would like to hear more about this issue in the future. Staff indicated that this topic could be added to the agenda for a future Joint Legislative Correction, Crime Control and Juvenile Justice Committee meeting.

*Committee Action:* No action needed.

### **Department of Correction**

#### **1. Consultation on Expenditure of Federal Grant Funds (S.L. 2009-451, Sec. 5.6)**

**Frank Rogers, Deputy Secretary**

*Summary:* The Subcommittee heard the Department's report on the use of federal Residential Substance Abuse Treatment (RSAT) grant funds to establish two new 6-12 month residential treatment programs to serve 46 inmates at Polk Correctional Institution. The grant amount is \$214,402.

*Committee Action:* The Subcommittee accepted the report and recommended transmittal to the full Commission.

#### **2. Performance Audit Report: Central Pharmacy Inventory**

**Beth Wood, State Auditor**

**Alvin Keller, Secretary**

**Dr. Paula Smith, DOC Health Services Director**

*Summary:* The State Auditor presented an audit performed by the Performance Audit Division analyzing inventory controls within the Division of Prisons' Central Pharmacy. The audit identified inadequate controls and inappropriate record-keeping methods. The Health Services Director of the Division of Prisons responded to the audit with the Department's action steps to address the concerns in the audit.

*Committee Action:* No action needed.