



**JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND
PUBLIC SAFETY
January 14, 2016
Room 643 of the Legislative Office Building**

The Joint Legislative Oversight Committee on Justice and Public Safety met on Thursday, January 14, 2016 at 1:00 PM. The meeting was held in Room 643 of the Legislative Office Building. Members present were: Representatives Boles, Hurley, Burr, Daughtry, Faircloth, Charles Graham, George Graham, Jackson, McNeill, Stevens, Turner, Jordan, Richardson, Speciale, and Zachary. There were three Senators present. Senator Shirley Randleman presided.

Senator Randleman called the meeting to order and introduced the Senate Sergeant at Arms, Jim Hamilton and Larry Hancock, and the House Sergeant at Arms Bill Bass, Mark Cone, and David Lithicum.

Introduction of Members and Staff

Senator Randleman recognized her Co-Chairs Representative Boles and Representative Hurley. She introduced the committee clerks and asked the committee staff to introduce themselves. Senator Randleman asked the committee members to go around the room and introduce themselves, beginning with Representative Burr.

Committee Charge

Senator Randleman recognized Susan Sitze, Committee Counsel, to present the committee charge. She stated the purpose of the committee is to examine on a continuing basis the correctional law enforcement and juvenile justice systems in North Carolina in order to make ongoing recommendations to the General Assembly on ways to improve those systems, and to assist those systems in realizing their objectives in protecting the public and punishing and rehabilitating offenders.

Assignment of Subcommittees

Senator Randleman noted that this year the committee will be operating a little differently by using subcommittees to look deeper into individual issues. She added that several weeks ago the members were allowed to request subcommittees they were interested in and that they were



assigned based on those interests to the greatest extent possible. Senator Randleman read the subcommittee assignments (Attachment A). Senator Randleman added that members will be notified of subcommittee meeting by their subcommittee chair. She also noted that although each subcommittee had a regular meeting date and time, members may also be asked to attend additional meetings including site visits. Reports from the subcommittees will need to be reported to the full committee by March 10th. She asked for questions regarding the assignment of subcommittees, there were none.

Department of Public Safety Implementation of Budget Items and Reorganization

Senator Randleman recognized Kristine Leggett, Fiscal Research Division. Ms. Leggett commented that prior to each topic and presentation the committee would have a staff member provide background information and frame the issue. Ms. Leggett would begin by talking about legislative changes to the Department of Public Safety Law Enforcement Division and the Samarcand Training Academy. She called the committee's attention to the provided document on 2015 legislative changes (Attachment B). Ms. Leggett read through the document. Senator Randleman asked if there were any questions; there were none.

Senator Randleman recognized Frank Perry, Secretary of the Department of Public Safety. Secretary Perry complimented the committee for the budget they provided to the Department. He commented that in 2011 this body ordered the consolidation of Juvenile Justice, the Department of Corrections, and the Department of Public Safety into one organization. In 2013 when he came on board his job was to see that they get beyond the beginning of the beginning and that the consolidation had only just begun. Secretary Perry added that the process was approximately 85% complete at this time.

Secretary Perry told the committee that for the past budget he asked the governor for three things: giving correctional officers a raise, that troopers be provided an increase, and that the Department needed the best and the brightest to address mental health issues in their facilities. He commented that this body had provided for those needs. The other item the Department needed was a mechanism to consolidate Public Safety, Corrections, and Juvenile Justice Intelligence into a case management system known as MEMEX. The Department is looking to complete this with asset forfeiture money so they did not make that request to this body. Secretary Perry thanked the committee and stated that he was open to questions.

Senator Bingham commented that he has heard concerns regarding a State Police Force and asked Secretary Perry for comment. Secretary Perry stated that he has never advocated for a State Police because there is nothing to gain. Senator Bingham asked for comment regarding bridging the different levels of law enforcement from local to federal. Secretary Perry replied that the Department is at the center of the FBI, ATF, Homeland Security, and DEA. The Department has troopers and PPOs on many federal task forces that are used as a force multiplier. This allows the Department to collaborate with those task forces. Senator Bingham



asked for comment regarding gangs as a concern. Secretary Perry replied that gangs are in North Carolina and that some Sheriffs believe that up to 90% of crime in their county is gang related.

Senator Randleman recognized Representative Stevens. Representative Stevens asked how many private occupation licensing boards are actually under a state agency. Ms. Leggett was recognized and replied that PPS and ALS were under the DOJ previously and they were transferred. Most boards and commissions are classified under agencies and that is how they get their funds. Representative Stevens asked why the coal ash commission is under DPS, and is there a specific reason for that. Ms. Leggett replied that it is housed under the DPS Division of Emergency Management and that the Legislature at the time had a thought that there was a relationship between emergency management and coal ash.

Representative Stevens asked if Secretary Perry has seen the memo of October 17th regarding the permissibility of the DPS reorganization. Secretary Perry replied that he had. Representative Stevens added that the memo suggest there may be constitutional issues with the reorganization. Secretary Perry commented that he hoped the reorganization was not done contrary to the expectations of this body because that was not his intent. Secretary Perry noted that he was not aware that he was prohibited from making those decisions. He added that it was going well but if it is inappropriate he will revisit it. Representative Stevens noted that the question was to staff to determine if it was inappropriate and what can be done to fix it if so.

Senator Randleman recognized Sean Dail. Mr. Dail responded that their opinion was that either legislation needs to be enacted to combine the two or the governor needs to do it by executive order. Secretary Perry replied that he would appreciate any accommodation to make the change legal and leave what has been done in place. Representative Stevens commented that the committee may need to have a discussion on the course of action to be taken. Secretary Perry added that in his recollection the committee had previously had two presentations regarding the consolidation. Representative Stevens clarified that she is looking at the legal analysis. The memo states that the Legislature never gave any specific statutory permission to abolish the Division of Juvenile Justice. She commented that it may be a technicality and the legislature may need to help the Secretary fix it.

Representative McNeil referred to the Secretary's comments regarding gangs. He asked about a study being conducted on gangs and asked for an update. He also asked for further clarification regarding the consolidation and the 85% complete figure quoted earlier. Secretary Perry noted that the Department has worked with the SBI and it was a collaborative effort to move GangNET into the Highway Patrol. GangNET is now more accessible to local deputies and state officers as well. The substance of GangNET has also been altered as a result of the study referenced by Representative McNeil. Secretary Perry commented on the various types of gangs and added that he prefers not to name specific gangs because they are looking for recognition.

Representative McNeil asked for further clarification on the 85% figure and asked what was missing. Secretary Perry commented that internal auditing and human resources were two areas that needed further integration.



Representative Speciale asked if the committee had the figures to get the Department the personnel they need. Secretary Perry replied that the Department needs to fill the vacancies they have and then they will get the figures to them. Ms. Leggett replied that staff will get the figures on vacancies in corrections.

Representative Faircloth asked Senator Randleman if the information regarding Samarcond in the October 17th memo was also up for discussion. Senator Randleman replied that it was and that there will also be a separate presentation on the progress at Samarcond later. Representative Faircloth asked someone to address the information regarding Samarcond in the memo. Senator Randleman recognized Ben Stanley, Bill Drafting. Mr. Stanley noted that the memo refers to budget language that requires the Samarcond facility be assigned to the Office of the Secretary and that office have oversight over Samarcond and in fact that responsibility has been placed elsewhere. Secretary Perry commented that the question is what the Office of the Secretary is. The Secretary commented that he will revisit the placement, and that he placed it where he did because his view was that a direct report to a direct report to the Secretary was within the Office of the Secretary.

Representative Boles asked about the Legislature's direction in filing the position of the Director for Samarcond. Secretary Perry replied that he believes they have. A promotion was made and his salary was brought in line with his increased duties.

Representative Daughtry commented that he could not say if the elimination of Juvenile Justice and the reorganization is good or bad but what is worrisome is whether the reorganization is valid under the Constitution. He asked for the Secretary's remarks on this situation. Secretary Perry noted that he does not understand why this took two and a half years to come up after two previous presentations to this committee. He reiterated that anything done incorrectly was not intentional. Senator Randleman recognized Ben Stanley. Mr. Stanley added that the short answer is that if the Legislative and Executive Branches are in agreement that the merger should go forward, then the constitutional language does not stand in the way of a bill to correct the issue. Representative Daughtry commented that the Legislature is not in session right now. Mr. Stanley replied that he is not sure there is a way to fix the issue right now because the Legislature is not in session. He clarified that there is no scenario for getting this fixed without legislative action. Representative Daughtry commented that his concern is a lawsuit. Mr. Stanley replied that he is not sure who would have standing to challenge and he doesn't know who would.

Secretary Perry asked the attorneys if the changes could be grandfathered and fixed. Senator Randleman replied that the committee was going to take care of this now. As the Chair, Senator Randleman stated that she would entertain a motion to instruct staff to draft any corrective legislation necessary, to be considered at the February 11th meeting. Representative Stevens made the motion and Representative Speciale seconded. The motion passed and Senator Randleman asked the staff to prepare the corrective language. Representative Stevens clarified



that Representative Speciale was an advisory member and could not provide the second. Representative Hurley seconded the motion and the motion passed.

Senator Bingham was recognized and asked Secretary Perry to comment on the Department's counter terrorism measures. Secretary Perry and the committee discussed how the Department was working with federal task forces on terrorism preparedness.

Representative Boles asked Secretary Perry to elaborate on why he saw the need to change the COO title in the Department. Secretary Perry clarified that it was not changed, he just did not fill it; it was used to fill a role in the safer school initiative. Secretary Perry clarified that positions were reorganized in a way to prioritize operations over administration. Representative Boles asked who was controlling the dollars if administration was not a priority. Secretary Perry replied that the finances were well controlled by a CPA. Representative Boles commented that the actions the Legislature took meant no negativity towards the Secretary's administration. He elaborated that it was their responsibility to look into fiscal decisions.

Representative McNeil was recognized and requested that the gang report that was mentioned earlier is due by March 1st to this committee and requested that it be put on the agenda for the March meeting. Senator Randleman replied that it would.

Representative Charles Graham was recognized and asked about the number of gangs present in North Carolina's public schools. Secretary Perry commented that most of the gangs that are in GangNET are active in our public school. 50% of those gang members are with one gang, which he prefers not to name. Representative Graham commented that gangs in schools are a serious threat and that the committee needs to put more emphasis on this problem.

Representative Boles asked about the technical ability of officers to share information, and if that problem had been addressed. Secretary Perry replied that the legislature has been on top of that and that the Department now has CJLEADS. Representative Boles asked if all Troopers had CJLEADS now. Secretary Perry replied that they do. Representative Boles asked if they could communicate across state lines. Secretary Perry replied that he would need to check with his staff. Sen. Randleman asked the Secretary to relay that information to Ms. Leggett.

Sen. Randleman asked if there were any more questions for the Secretary. Hearing none, she thanked Secretary Perry for his time.

Samarcand Training Academy Update

Senator Randleman recognized John Poteat, Fiscal Research, to provide information on the Samarcand Training Academy. Mr. Poteat referred the committee to the document on the budget history of the academy (Attachment C). Mr. Poteat read through the document.



Senator Randleman recognized Richard Jordan, Director. Mr. Jordan thanked the committee for their support to the Samarcond Training Academy. Mr. Jordan presented a PowerPoint overview of the academy (Attachment D).

Senator Randleman asked for questions from the committee. Representative Boles commented that a lot of the members have been there before and they can attest that Samarcond will be a great asset for training law enforcement.

Representative Faircloth asked about the relationship between Samarcond and the NC Justice Academy. Mr. Jordan replied that the Justice Academy primarily trains local law enforcement. Samarcond belongs to DPS and will primarily be responsible for training men and women with agencies under DPS.

Expanding DNA on Arrest to All Felonies

Senator Randleman recognized Susan Sitze, Research Division to provide information on expanding DNA on arrest to all felonies. Susan referred the committee to the document titled DNA upon Arrest Study and Offenses (Attachment E). She read portions of the document. Senator Randleman asked for questions, hearing none she recognized Amanda Thompson, Forensic Scientist Manager NC State Crime Laboratory.

Ms. Thompson expressed appreciation for the legislative action on the market salary adjustment for forensic scientist. Ms. Thompson gave a Power Point presentation to the committee (Attachment F). She detailed the process for receiving and processing and cataloging DNA samples.

Representative McNeil asked about the 18,000 samples that were not uploaded to CODIS. He asked for an explanation of ineligibility and also what can be done to limit improper collections. Ms. Thompson replied that they had traveled across the state to train on proper collection and have produced materials on proper collection. She attributed improper collection to turnover where new employees have not been properly trained. Regarding ineligibility, it occurs when a sample has been collected for an offense that is not eligible. For improper collections, a letter is sent to the agency explaining why the sample was rejected.

Representative Hurley asked about the rape kit backlog. Ms. Thompson replied that to her knowledge there is currently no backlog.

Representative Stevens asked about the current backlog and wait time for the crime lab. Senator Randleman replied that Directory Byrd will attend the next meeting to do a full report.

Representative Turner asked what percentage of DNA samples received are rejected. Ms. Thompson replied that in 2015 14,503 offender samples were received and 9,516 arrestee



samples were received. 30% of offender samples were duplicates and 28% of the arrestee samples were duplicates and therefore not processed.

Representative Jackson asked about the 12,000 expungement request; were they expungements as used in the court system or are they also people found not guilty. Ms. Johnson clarified that they were actual expungement request and clarified the process for expungement.

Representative Jackson asked how much each request cost the state. Ms. Johnson replied that a completed request takes approximately thirty six minutes of staff time and a denial of request, twenty two minutes.

Senator Bingham asked if the lab did test for individuals on request. Ms. Johnson replied that they only do analysis for criminal cases.

Senator Randleman recognized CFO Nels Roseland to complete the presentation. Mr. Roseland reviewed the final two slides (Attachment F). Roseland completed the presentation and opened the floor to questions.

Representative Boles asked what percentages of the fees were collected. Mr. Roseland replied that the lab had a budget level of \$1.4 million, based on their estimations for the next fiscal year; they will collect half of that.

Representative Stevens noted that there was a lot of extra expense needed to do all of these felonies. She asked if since we have been doing this, how helpful has it been to law enforcement. Ms. Johnson replied that to date they have had approximately 176 arrestee hits in CODIS.

Representative Jackson asked staff if there are two different \$600 fees, one for the analysis and an additional fee if the analyst is required to make a court appearance. William Childs replied that there were. Representative Jackson asked for a chart with both fees broken out. Mr. Roseland replied that they would get that information. Representative Jackson commented that it is his belief that if the General Assembly would take action and mandate that both fees are collected that it would help the financial situation and address the Melendez Diaz issue. Mr. Childs added that there are six different fees set at \$600.

Senator Randleman asked Mr. Roseland if he had calculations on the cost of expansion to all felonies. Mr. Roseland replied that in rough numbers it would be a 250% to 300% increase in the volume of cases and would require a significant increase in staff and supplies. He added that renovating and building new labs is expensive. Ms. Leggett added that the fiscal research analysis indicated that recurring cost once the initial set up was completed would be \$8.4 million per year.

Representative Faircloth commented that although the sums of money being talked about are alarming, he asked the committee to think about the benefits to the victims and their families. He added that the legislature needs to find a way to make it happen.



Representative McNeil added that he is seeing a lot of duplicity, and we need to stop sending 18,000 samples that are duplicates or are improperly collected. Correcting that problem needs to be part of the solution.

Adjournment

Senator Randleman noted that the meeting dates for the upcoming meetings will be February 11th, March 10th, and April 14th.

There being no further business, the meeting adjourned at 3:48pm.

Senator Shirley B. Randleman
Presiding

Jeb Kelly, Committee Clerk

DRAFT