



JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY

**October 12, 2017
Room 643 of the Legislative Office Building**

The Joint Legislative Oversight Committee on Justice and Public Safety met on Thursday, October 12, 2017 at 1:00 PM. The meeting was held in Room 643 of the Legislative Office Building. Members present were: Representatives Davis, Faircloth, Floyd, Graham, McNeill, Stevens, Turner, Boswell, Jordan, Richardson, Speciale, and Zachary. There were six Senators present. Senator Shirley Randleman presided.

Senator Randleman called the meeting to order and introduced the Senate Sergeant at Arms, Steve Mckaig and Becky Myrick, and the House Sergeant at Arms Jonas Cherry, Dean Marshbourne, and Jim Moran.

Opening Remarks

Senator Randleman recognized each member of the committee and asked committee staff to introduce themselves. Senator Randleman recognized her Co-Chair, Representative Davis, for opening remarks.

Committee Charge

Senator Randleman recognized Susan Sitze, Legislative Analysis, 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.

Senator Randleman noted that there has been a lot of press recently regarding health needs and deaths occurring in local jails. She stated that the intent of today's meeting is to clarify to members and the general public the difference between the state's facilities and local facilities, and Health and Human Service's role in oversight.

Determining Inmate Health Needs in Prison



Senator Randleman introduced Joe Prater, Deputy Secretary Department of Public Safety Adult Correction and Juvenile Justice. Mr. Prater thanked the committee for the opportunity to talk about inmate health care. He introduced staff in the audience, Kenneth Laster, Director of Prisons, and Terri Catlett, Deputy Director of Prison Health Services. Mr. Prater gave a presentation (attached) providing an overview of inmate healthcare and discussing inmate healthcare reorganization.

Following the presentation, Mr. Prater took questions. Representative Richardson asked if the 216 beds for in house treatment included mental health as well. Mr. Prater replied that the 216 beds mentioned are all for mental health, there are 120 for medical. Representative Richardson asked if the 216 beds included drug treatment. Mr. Prater replied that it did not.

Representative Jordan was recognized and asked for more information regarding the long term care provided for inmates. The chair recognized Mrs. Catlett from the audience to come to the podium and answer the question. Mrs. Catlett replied that most of the inmates receiving long term care are bed ridden and skilled nursing care is provided. Representative Jordan asked why these inmates were in the secure system at central prison if they are bed ridden. Mrs. Catlett replied that the department does submit them for review for medical parole, but many times their crimes make them ineligible for release. Representative Jordan asked what responsibilities the correctional system takes on regarding inmate's insurance. Mr. Prater replied that the full responsibility for their custody and care is with the state. Representative Jordan asked to confirm if this was the case even when the inmate has private insurance. Mr. Prater confirmed that was correct.

Representative Graham was recognized and referenced the presentation's discussion of rising inmate populations with health needs while budgets remain stagnant. Representative Graham asked if Mr. Prater was implying there is a problem on the rise. Mr. Prater replied that he thinks so. He responded that currently a significant amount of medical cost is paid for with lapsed salaries, but costs are rising. Representative Graham asked what Mr. Prater meant by mental health operations developing as a work in progress. Mr. Prater replied that the department has been working on therapeutic diversion units for in-patients but they still need to move forward with the 24 beds. Representative Graham inquired about the program evaluation division's evaluation of inmate medical. Mr. Prater replied that a preliminary report was scheduled for November and they would be making recommendations.

Representative Faircloth asked if inmates were ever involved in medical research. Mr. Prater replied that he was not aware of that occurring and would say no. Representative Faircloth asked about medical release for inmates who are unhealthy to the point that they are no longer a danger to society. Mrs. Catlett replied that reviews were made on a weekly basis for inmates whose life expectancy was less than a year. She offered to provide the committee with the information on how many were reviewed and how many were released, but noted that it was a very small percentage. John Poteat, fiscal research, noted that the parole commission provides an annual



report on medical release. Mr. Poteat will provide a copy of the latest report to the members following the meeting.

Representative McNeill inquired about the 2200 FTEs and how many were not filled. Mr. Prater confirmed that those were the total positions and asked Mrs. Catlett to answer how many were unfilled. Mrs. Catlett replied that 20-23% of those positions statewide remain vacant. The department is looking for ways to enhance their recruitment and retention. Representative McNeill commented on the large number of open positions and asked where the majority of openings were. Mrs. Catlett replied that nursing positions were the largest category. Representative McNeill recalled Mr. Prater's statement that lapsed salaries were used to cover medical cost. He asked if the department was saying if these positions were filled they could not buy drugs. Mr. Prater replied that it would be more of a challenge.

Senator Bryant asked for an explanation of the TDUs and treatment malls mentioned in the presentation. Mr. Prater replied that TDU was a therapeutic diversion unit. These units are used in lieu of restrictive housing for inmates with mental health issues to receive a variety of treatment. Senator Bryant asked if a protocol had been developed regarding solitary confinement and inmates with mental health concerns. Mr. Prater replied that was a major issue and is one of the concerns that the therapeutic diversion units are intended to address. Senator Bryant asked how the medical vacancy rate compared to the department's overall vacancy rate. Mr. Prater replied that the department was looking into how to establish more internships and better relationships with universities. He added that salary flexibility was also an important recruitment tool. Mr. Poteat replied that staff would be providing the committee with vacancy rates for correctional officers compared to medical positions.

Senator Brown referenced the conversion of 46 beds in the first quarter of 2019. Senator Brown asked about the cost of those beds going forward. Mr. Prater replied that they are in the process of calculating those cost. Mr. Prater added that the department is looking into caregiving by other inmates which has been utilized in other states to help offset cost. Senator Brown noted that the department had been operating without the 2200 lapsed salary positions. He asked if they eliminated some of those positions and allowed them to pay more for the remainder if the department would be better off. Mr. Prater replied that when they are unable to fill those positions they have to use contract nurses at a higher cost, so it is a cost savings when they can fill the position.

Representative Boswell asked about maintenance healthcare and referenced a letter she received from a constituent inmate claiming a lack of maintenance care. Mr. Prater replied that he would be happy to take a look at that particular case, and the department does try to address all chronic needs.

Senator Randleman asked Mr. Prater if he had data with him on the number and causes of inmate deaths for the last three years. Mr. Poteat replied that over the last three years there had been 309 deaths from natural causes, 11 suicides, and 3 accidental. Senator Randleman asked how the facilities identified inmates that are at high risk of suicide or other medical condition and what



steps were taken to address their needs. Mr. Prater replied that every facility is designed for a different level of need. Mrs. Catlett added that those assessments are done by the clinical providers. If an assessment shows that an inmate is at high risk then they are immediately transferred to a facility that can provide the appropriate level of care.

Senator Sanderson asked if the work environment inside of a prison played a role in their ability to hire staff. Mr. Prater replied that the reality is the correction field does carry additional risk. He added that they can acclimate people to the environment so that is why internships are important.

Representative Jordan asked for a general overview of what type of patients were taking up the 60 long term beds. Mr. Prater replied that they could provide that data.

Representative McNeill asked if the department had staff double checking bills to make sure they were not being overcharged by third party providers. Mr. Prater replied that the third party they use to process the claims also checks for accuracy and handles adjudication. Representative McNeill asked if they had any data on how much had been saved. Mr. Prater replied that they do not but they could look into some analysis.

Representative Turner referenced the long term bed data Representative Jordan had requested. She asked for the data to include how many of the patients came into the system with their condition. Senator Randleman commented that data from the sentencing commission shows that the offender population is aging.

Health Services in Jails

Senator Randleman introduced Eddie Caldwell, Executive Vice President and General Counsel North Carolina Sheriffs' Association. Mr. Caldwell explained that he had been asked to give an overview of health services in jails. He explained it was different from the prison system because rather than being centralized the state has jails in 93 counties. Mr. Caldwell gave his presentation on the laws pertaining to the operation of the jails. G.S. 153A-225 outlines the responsibilities of the jails regarding healthcare.

Mr. Caldwell said that he was asked to explain how jails screened inmates for their health needs. This is done in two ways. First, the inmates are visibly observed by the detention staff during the booking process. Secondly, they are administered a questionnaire. Mr. Caldwell added that many of the jails, about 68, contract out medical care. The amount provided depends on the size of the jail. All of the jails have access to the local hospitals emergency department if needed.

Regarding mental health services, Mr. Caldwell explained that some of the jails receive assistance from the local LME. Sometimes the jail will work with the district attorney to get the inmate out on bond so that they can receive their normal care.



Senator Randleman asked if the inmates could receive assistance in filing out their questionnaire. Mr. Caldwell replied that it is not designed to be filled out by the inmate. It is administered by the jail staff. It contains guidelines on when the inmate needs additional care.

Representative Jordan asked about instances where an inmate has attempted suicide and that has taken up most of the county's medical budget. Mr. Caldwell replied that he has heard of that situation occurring but it is rare.

Senator Sanderson asked if the health screening was done every time an inmate entered the jail. Mr. Caldwell confirmed that it was. Senator Sanderson asked if the health screening records followed the inmate if they were transferred. Mr. Caldwell replied that the records would follow the inmate, but if they were released and came back, then the jail would need to start from scratch because the inmate's condition may have changed significantly.

Representative Stevens asked if medical cost would be covered by the state if an inmate was being held in the jail pending trial. Mr. Caldwell replied that it would be covered by the county as long as they are in the custody of the jail. In cases where a major procedure is needed then the jail works with the district attorney to get the inmate out on bond if possible. Representative Stevens referenced a case she was aware of where the inmate became paralyzed during the course of an arrest for a murder charge. She asked if the inmate would have gone to the state for safe keeping or if he would have gone to the local jail. Mr. Caldwell replied that if an inmate needs significant medical care they would either go to central prison for safe keeping or they would go to the local hospital under guard. Mr. Poteat added that safe keepers are still county inmates and the counties pay the state \$40 per day for their care. If there are extraordinary costs on top of that, the county is responsible for that as well.

Representative Turner asked about inmates who are not compliant in taking their medications. Mr. Caldwell replied that the ultimate decision on what medication an inmate takes comes from the jail's doctor. Any information provided by the inmate or their family would be helpful. The inmate cannot provide their own medication for security reasons.

Oversight in Jails

Senator Randleman introduced Steve Lewis, Chief Construction Section Health Service Regulation, Department of Health and Human Services. Mr. Lewis gave a presentation on the oversight of local confinement facilities (attached).

Representative Faircloth noted that the presentation stated that the amount appropriated by the state did not fund the full cost of the jails and detention unit, he asked Mr. Lewis if he knew the full cost. Mr. Lewis replied that it was a little less than \$400,000.

Representative McNeil asked about the proposed rule changes mentioned in the presentation. Mr. Lewis replied that they are currently on the Rules Review website for public comment, and he would be happy to get them to the committee.



Senator Barringer was recognized for questions on compliance reviews of inmate deaths. She asked who the division reported to on completion of the review. Mr. Lewis replied that the report goes back to the Sheriff. If there are non-compliance issues then they issue a statement of deficiency and the Sheriff is required to submit a plan of correction. The statement of deficiency also goes to the county commissioners and city manager. Senator Barringer asked about the staffing situation for the inspections. Mr. Lewis replied that they had five FTEs that do the work, and every third review is done by an engineer. Senator Barringer asked if the compliance reviews were done in a team or individually. Mr. Lewis replied that generally they were assigned individually but for larger jails, more might be assigned. Senator Barringer asked if that team would work on one single death. Mr. Lewis replied that his most senior staffer handles the compliance reviews for inmate deaths. Senator Barringer asked how many deaths had been reviewed in the last year. Mr. Poteat replied that staff would get the numbers. Senator Barringer asked about the turnaround time to getting the information back to the Sheriff's office. Mr. Lewis replied that they were required to get the information within five days and they would be on site as quickly as possible, within a week. Senator Barringer commented that she sat in on the Department of Health and Human Services Committee on Tuesday. For over a year she has asked the same questions of Mr. Lewis's counterpart in DHHS. DHHS does not have that information for children in this state. She commended Mr. Lewis for his work and challenged the state to do better.

Senator Sanderson asked about the proposed rules for jail construction and asked if they would apply to the so called historical jails. Mr. Lewis replied that new rules only apply to new construction. Older jails do not have to be renovated to comply. Senator Sanderson asked who had the authority to close a jail because of its physical structure. Mr. Lewis replied that the Secretary of DHHS has the authority under their rules. He added that the Department of Administration could have authority under the building code. Senator Randleman added that Superior Court Judges will tour jails and that they also have it in their discretion to order a jail closed. Mr. Lewis confirmed that was correct.

Senator Bryant asked Mr. Lewis if his division has a role in training staff. Mr. Lewis replied that they did not. Mr. Caldwell was recognized and added that detention officers that work in the jail must all adhere to the standards set by the North Carolina Sheriffs Education and Training Standards Commission. There is also annual in-service training required. Senator Bryant asked if the training addressed mental health, medical needs, and the requirements explained by Mr. Lewis. Mr. Caldwell replied that he had not looked at the course outline himself but he is confident that it is included.

Adjournment

Senator Randleman noted that the next meeting would be Thursday, November 16 at 1:00pm.

There being no further business, the meeting adjourned at 3:14pm.



Senator Shirley B. Randleman
Presiding

Jeb Kelly, Committee Clerk