



North Carolina Department of Public Safety

Adult Correction and Juvenile Justice

Pat McCrory, Governor
Frank L. Perry, Secretary

W. David Guice, Commissioner

MEMORANDUM

TO: Joint Legislative Emergency Management
Joint Legislative Oversight Committee on Justice and Public Safety

FROM: Frank L. Perry, Secretary
W. David Guice, Commissioner

RE: Study and Report on Use of Inmate labor for Cleanup and Mitigation Efforts
in Connection with States of Emergency Declared in the State

DATE: October 1, 2013

Pursuant to Section 2 of Session Law 2013-360, the Department of Public Safety is required to study and report on use of inmate labor for cleanup and mitigation efforts in connection with states of emergency declared in the state. Below are the findings of that study. If there are any questions regarding, please contact Joe Prater, 919-825-2732.

1) A list of the type and number of prisoners incarcerated by the Department of Public safety that might be available to respond to emergencies in this state.

The North Carolina Department of Public Safety (NCDPS) receives an annual transfer of funds from the North Carolina Department of Transportation (NCDOT) to provide litter removal and light maintenance services on state roadways. This program consists of two distinct types of supervised inmate crews: medium custody road squads and minimum custody highway work crews. There are currently 71 road squads, each consisting of approximately eight inmates, and 48 work crews, each also comprised of approximately eight inmates. Because the road squads utilize inmates in a higher custody who must stay under armed supervision, they are not deemed suitable for deployment during or after emergencies. The remaining 48 crews are well-suited for relief efforts and are the primary resource the agency can readily deploy when the need arises.

It should be noted that prior to being defunded in 2010, the agency had approximately 125 additional minimum-custody crews available through the Community Work Program. These crews provided short-term labor to many localities and were often deployed after emergencies. Because these crews maintained a visible and robust statewide presence for many years, there continues to be a misperception that these crews remain in existence and that this agency has a larger number of inmate crews available than, in fact, it actually has.

Although the overall number of inmate work crews has been significantly reduced over the past few years, the remaining 48 crews still comprise a viable, flexible, and geographically diverse

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network of supervised inmate labor, albeit on a decidedly smaller scale. Each crew is supervised by one unarmed correctional officer, and works self-sufficiently with its own van, portable toilet, hand tools, and food and water. There are currently 358 inmates statewide who are assigned to these crews at a total of 28 different facilities. As a general rule, they are assigned to relief projects that are no more than one hour's drive from their prison facility. In an extended emergency, provisions to temporarily house them at facilities in closer proximity to the project can be made, if necessary.

The geographic diversity of the crews is a major factor in their effectiveness; it is almost always possible to deploy crews from prison units unaffected by the emergency into the areas that need assistance. Under the current North Carolina Emergency Management protocol, assistance from crews is requested by localities using Web EOC, and responded to by representatives of our State Emergency Response Team. It should be stressed that the factor that makes these crews most effective for disaster relief is the fact that a correctional officer is already assigned exclusively to each crew and will remain with them throughout the project. There are additional able-bodied minimum-custody inmates in our system that theoretically could be deployed to help in relief efforts, but it would be extremely difficult to provide correctional staff to supervise them and also maintain normal facility operations. For both of these reasons, this agency believes that the number and type of inmates available to assist in relief efforts are those which constitute the 48 minimum custody highway work crews.

(2) Options for methods of deploying prisoners who respond to, and assist with, cleanup and mitigation efforts in connection with states of emergency based on the type and location of an emergency.

As referenced in the preceding section, the 48 work crews are readily deployable in prison vans and can drive directly to the project site if conditions allow, and usually they are assigned to work sites within a one-hour drive or less from their facility. The type and location of the emergency both factor into the decision to deploy inmate labor crews. The crews are ideally suited for light debris cleanup, which is almost always needed after hurricanes, tornados, and flood events. When the danger of the event itself has passed and conditions on the ground are suitable for safe work, crews can be mobilized to a variety of locations throughout the state. Emergencies other than severe weather events or requests for types of labor other than debris cleanup can pose additional safety, security, legal and other operational concerns, and would be evaluated on a case-by-case basis at the time of the request.

(3) A statement of the resources that would be required to implement these options and an estimate of the cost of each option.

As mentioned in Section 1, the 48 minimum-custody work crews are funded by NCDOT. Under normal conditions, NCDOT directs the crews to pick up litter and do other light maintenance tasks on the state's roadways. When called upon to assist in disaster relief, the crews temporarily suspend their NCDOT-oriented mission and focus entirely on the disaster relief efforts until they are completed. NCDOT understands and supports this arrangement as necessary and desirable for the good of the general public and the state itself. Because of this standing arrangement, the key resources for responding to requests for disaster relief are already organized and in place: it is

simply a matter of deploying them to the work site. The cost of deploying a crew for disaster relief closely corresponds to deploying a crew for routine litter operations, and would only significantly differ if the supervising staff incurred overtime due to the relief effort. At present, the standard cost of deploying one (1) work crew for one 10-hour day is \$227.30. This cost includes the correctional

officer's salary, benefits, uniform and equipment; vehicle and hand tools; inmate daily incentive wages (\$.70 per inmate per day), and bag lunches for the crew.

(4) Identification of any legal, practical, or financial obstacles that would need to be addressed before prisoners could be deployed in this manner.

The primary legal issue this agency must consider is the appropriate location of the project and the nature of the work to be performed. Inmate labor should generally be restricted to public property and utilized for efforts that benefit the public as a whole. Requests for assistance on private property must meet an extremely high standard of being in the interest of the broad general public or the state as a whole. Instances where inmate work crews have gone onto private property have been largely limited to agricultural damage mitigation efforts such as clearing fields of storm debris. A second legal consideration pertains to this agency's custodial obligations for the welfare of the inmates. There are a variety of restrictions in place which limit the conditions under which inmates may work that would not be a factor for volunteers, private vendors and contractors, and public employees- all of whom voluntarily enter into a disaster relief work site.

When legal considerations are met to our agency's satisfaction, the next concerns are practical and operational. The safety of the project overall will be evaluated, to include both potential hazards to the crews, and an assessment of risk to the general public of deploying inmates to a particular site. We must be able to both work safely and provide adequate supervision of the inmates at all times. Also, the type of labor requested must be that which a group of unskilled to semi-skilled inmates can perform with basic hand tools or no tools at all. It is made clear to entities making the request that our crews are very capable at basic labor, but any task such as chainsaw work, chipping, or other equipment operation must be done by personnel provided by the requesting entity.

Financial considerations are rarely a concern in fulfilling requests for disaster relief. As detailed in Section 3, the crews are fully funded, and significant additional costs to the agency would only be incurred during significantly extended projects or other extraordinary circumstances.

In summary, NCDPS has 48 supervised minimum-custody work crews funded by NCDOT to deploy when debris cleanup assistance is needed following natural disasters. Crews are located throughout the state to ensure a fair degree of geographic coverage. Requests for assistance are carefully evaluated for legal, safety, security and practical concerns. This agency will continue to make every effort to meet requests for assistance to the general public and takes pride in its ability to assist the state during times of pressing need.

WDG:JP/jk

cc: Kristine Leggett
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