2017-2018

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE & PUBLIC SAFETY

MINUTES

North Carolina General Assembly

Joint Oversight Committee on Justice and Public Safety

2017-18 Interim Sessions

CHAIRS
Representative James L. Boles, Jr.
Representative Ted Davis
Senator Shirley Randleman

COMMITTEE CLERKS
Dina Long
Andrew Bowers
Jeb Kelly
Kerry Guice (Resigned)
Judy Lowe (Resigned)

HOUSE APPROPRIATIONS, JUSTICE AND PUBLIC SAFETY

Rev. 11.9.2017

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
Rep. Jamie Boles, Chair	Kerry Guice, Clerk	3-5903	528	25
Rep. Ted Davis, Chair	Judy Lowe, Clerk	3-5786	417B	27
Sen. Shirley Randleman, Chair	Jeb Kelly, Clerk	3-5743	628	16
Rep. Justin Burr	Dina Long	3-5908	307A	16
Rep. John Faircloth	Becky Bauerband	3-5877	613	28
Rep. Elmer Floyd	Dorothy McLean	3-5959	1325	83
Rep. Charles Graham	Linda Laton	5-0875	1309	84
Rep. Darren Jackson	Angela McMillan	3-5974	506	57
Rep. Allen McNeill	Laura Sullivan	5-4946	418C	55
Rep. David Rogers	Baxter Knight	3-5749	418C	86
Rep. Sarah Stevens	Lisa Brown	5-1883	419	7
Rep. Rena Turner	Barb Gaiser	3-5661	606	52
Sen. Tamara Barringer	Gloria Whitehead	3-5653	629	20
Sen. Danny Britt	Cindy Davis	3-5651	2117	32
Sen. Harry Brown	Lorie Byrd	5-3034	300-B	2
Sen. Angela Bryant	Jaqueta Rascoe	3-5878	516	42
Sen. Warren Daniel	Andy Perrigo	5-7823	627	14
Sen. Jim Davis	Kaye Culberson	3-5875	621	11
Sen. Jeff Jackson	Dylan Arant	5-8331	1104	49
Sen. Michael Lee	Emily Barnes	5-2525	408	24
Sen. Norman Sanderson	Kathy Voss	3-5706	1127	17
Sen. Terry Van Duyn	Irma Avent-Hurst	5-3001	1025	38

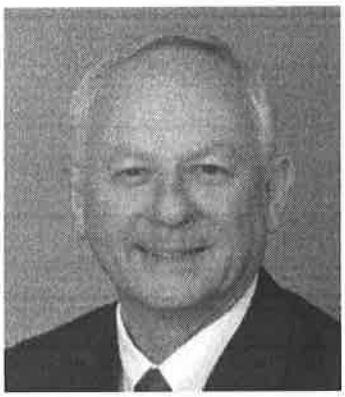
HOUSE APPROPRIATIONS, JUSTICE AND PUBLIC SAFETY

Rev. 11.9.2017

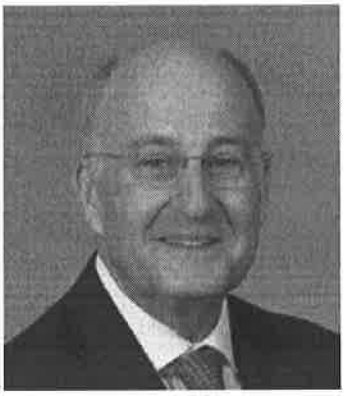
Advisory Members				
Rep. Beverly Boswell	Beth Strandberg	3-5906	531	97
Rep. Pat Hurley	Debbie Holder	3-5865	532	10
Rep. Jonathan Jordan	Emma Benson	3-7727	420	42
Rep. Billy Richardson	Leigh Lawrence	3-5601	1021	71
Rep. Michael Speciale	Hazel Speciale	3-5853	1008	50
Rep. Bob Steinburg	Andrew Bowers	3-0010	301B	43
Rep. Lee Zachary	Martha Jenkins	5-8361	1002	74
Sen. Andy Wells	Linda Wente	3-5876	1028	26

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
2017-2018 SESSION

Clerks: Dina Long, Andrew Bowers, Jeb Kelly



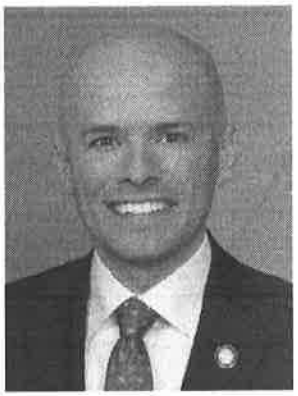
Rep. Jamie Boles
Chair



Rep. Ted Davis
Chair



Sen. S. Randleman
Chair



Rep. Justin Burr



Rep. John Faircloth



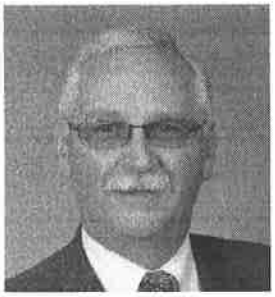
Rep. Elmer Floyd



Rep. Charles Graham



Rep. Darren Jackson



Rep. Allen McNeill



Rep. Davis Rogers



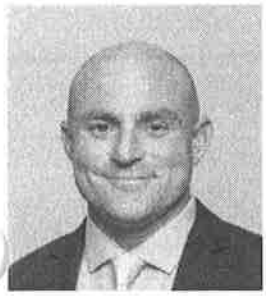
Rep. Sarah Stevens



Rep. Rena Turner



Sen. T. Barringer



Sen. Danny Britt



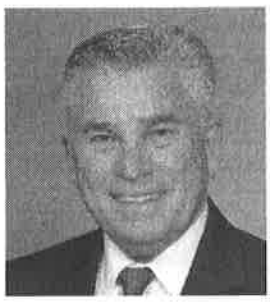
Sen. Harry Brown



Sen. Angela Bryant



Sen Warren Daniel



Sen. Jim Davis



Sen. Jeff Jackson



Sen. Michael Lee



Sen. Norm Sanderson



Sen. T. Van Duyn

ADVISORY MEMBERS



Rep. B. Boswell



Rep. Pat Hurley



Rep. J. Jordan



Rep. B. Richardson



Rep. M. Speciale



Rep. R. Steinburg



Rep. Lee Zachary



Sen. Andy Wells

ATTENDANCE

Joint Legislative Oversight Committee on Justice and Public Safety

DATES	10.12.2017		11.6.2017		12.14.2017		1.18.2018		2.15.2018		3.15.2018		4.12.2018	11.15.2018	
Members															
Rep. Jamie Boles, Chair	e		x		x		x		x					X	
Rep. Ted Davis, Chair	x		x		x		x		x					X	
Sen. Shirley Randleman, Chair	x		x		x		x		x					X	
Rep. Justin Burr			x		x		x		x					X	
Rep. John Faircloth	x		x		x		x		x						
Rep. Elmer Floyd			x		x		x		x					X	
Rep. Charles Graham	x		e		x		x		x						
Rep. Darren Jackson			x		x		x		x						
Rep. Allen McNeill	x		x		x				x					X	
Rep. David Rogers			x		x				x						
Rep. Sarah Stevens	x		x		x										
Rep. Rena Turner	x		x				x		x						
Sen. Tamara Barringer	x		x		x		x							X	
Sen. Danny Britt															
Sen Harry Brown	x				x										
Sen. Angela Bryant	x		x		x				x						
Sen. Warren Daniel			x				x		x						
Sen. Jim Davis							x		x					X	
Sen. Jeff Jackson															
Sen. Michael Lee															
Sen. Norm Sanderson	x		x		x		x		x					X	
Sen. Terry Van Duyn			x												

DATES	10.12.2017		1.16.2017		12.14.2017		1.18.2018		2.15.2018		3.15.2018		4.12.2018		11.15.2018
Advisory Members															
Rep. Beverly Boswell	x		e						x						
Rep. Pat Hurley	x		e		x		x		x						
Rep. Jonathan Jordan	x		x		x				x						
Rep. Garland Pierce	-		-		-		-		x						X
Rep. Billy Richardson	x		e						x						
Rep. Michael Speciale	x		x		x				x						X
Rep. Bob Steinburg	-		x		x										X
Rep. Lee Zachary	x		e		x				x						X
Sen. Andy Wells	-		x		x										
Staff															
DINA LONG ~~Kerry Guice~~, Committee Clerk	x		x		x		x		x						X
Jeb Kelly, Committee Clerk	x		x		x				x						X
ANDREW BOWERS ~~Judy Lowe~~, Committee Clerk	x		x		x				x						X
Kristine Leggett, Fiscal Research	e		x		-		-		-		-		-		
William Childs, Fiscal Research	-		-		x		x		x				-		X
John Poteat, Fiscal Research	x		x		x		x		x						X
Mark White, Fiscal Research	x		x		x		x		x						
Bart Goodson, Speakers Office															
Neal Inman, Speakers Office	x		x												
Jonathan Sink, Speakers Office	-		x		x		x		x						X
Brent Woodcox, Pro Temp Office															
Dylan Watts, Pro Temp Office			x		x										
Augustus Willis, Legislative Analysis	x		x						x						
Jennifer Bedford, Legislative Analysis	x		x		x		x		x						X
Susan Sitze, Legislative Analysis	x		x		x		x		x						X
Kory Goldsmith, Bill Drafting	x						x		x						X
Nicole DuPre, Bill Drafting	x						x		x						
SHAWN MIDDLEBROOKS															X

CONTACT JEB KELLY

(SENATE COMMITTEE CLERK)

FOR MINUTES TO MEETING

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
Room 643 Legislative Office Building

October 12, 2017 1:00 P.M.

I. CALL TO ORDER

Chairs: Representative Jamie Boles
Representative Ted Davis
Senator Shirley Randleman, Presiding

II. APPROVAL OF MINUTES

III. PRESENTATIONS

Opening Remarks by Chairs

JPS Oversight Committee Charge
Susan Sitze, Legislative Analysis Division

Determining Inmate Health Needs in Prison
Joe Prater, Deputy Secretary-Administration
Adult Correction and Juvenile Justice, NC Department of Public Safety

Health Services in Jails
Eddie Caldwell, Executive Vice President and General Counsel
North Carolina Sheriffs' Association

Oversight of Jails
Steve Lewis, Chief Construction Section
Health Service Regulation, NC Department of Health and Human Services

IV. COMMITTEE DISCUSSION

V. ADJOURNMENT

House Members
Rep. Boles (Chair), Rep. Davis (Chair)
Rep. Burr, Rep. Faircloth, Rep. Floyd,
Rep. C. Graham, Rep. Jackson, Rep. McNeill,
Rep. Rogers, Rep. Stevens, Rep. Turner,
Rep. Boswell (Advisory), Rep. Hurley (Advisory),
Rep. Jordan (Advisory), Rep. W. Richardson (Advisory),
Rep. Speciale (Advisory), Rep. Zachary (Advisory)

Senate Members
Sen. Randleman (Chair)
Sen. Barringer, Sen. Brown, Sen. Bryant,
Sen. Daniel, Sen. Davis,
Sen. Jeff Jackson, Sen. Lee,
Sen. Sanderson, Sen. Van Duyn

NORTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY
PREVENT. PROTECT. PREPARE

Adult Corrections Inmate Healthcare Update

DPS/Division of Adult Correction and Juvenile Justice

Justice and Public Safety Oversight Committee
October 12, 2017

Presentation

- Overview of inmate healthcare
- Inmate healthcare reorganization
- Discussion of specific items
- Q & A

Overview of adult inmate healthcare

- G.S. 148-19 establishes "health services" for DAC
- Mandates standards for health services to inmates
  - Establishes the following:
    - Outside medical facilities may be used if necessary
    - DPS shall seek cooperation with other agencies
    - A connection created between DPS/DAC, DHHS, and other state agencies for necessary assistance in the provision of inmate healthcare
    - That each inmate shall receive examinations after admission and that inmates' work and other assignments shall be made with due regard to their physical and mental condition
    - That the Commission for MH, DD, and SAS shall adopt standards of delivery of MH and MR services to inmates by DPS/DAC

Overview of adult inmate healthcare

- System-wide adult inmate healthcare includes:
  - Medical
  - Psychiatry
  - Behavioral health, including SA (ACDP)
  - Dental
  - Pharmacy
  - 2 on-site health care facilities (CP and NCCIW)

- For FY 16-17:
  - Total expenditures of $329.7M
  - Total FTEs of 2,232

- Current total inmate population (10/09/17) = 36,948

Effective May 1, 2017, reorganized under the direct oversight of Deputy Secretary

- **Why?** To broaden and sharpen the focus of attention on inmate healthcare to meet the new day:
  - Introduction of a changing inmate population – more aged, chronically ill, mentally ill, addicted, including those affected by the recent opioid epidemic – while healthcare resources remain stagnant and subject to severe budget constraints
  - Court-mandated community standard of healthcare
  - Major public health player
  - Improve efficiency, effectiveness, and responsiveness

Reorganization Strategy

"Incorporate a business-like inmate healthcare operation within a changing and more challenging correctional environment"

- **Goals:**
  - To work closely and collaboratively with custody to maintain safety and security while providing quality inmate healthcare
  - To effectively respond to changing demands of healthcare standards of care
  - To improve and enhance healthcare operational efficiency and effectiveness, such as:
    - Recruiting and retaining healthcare professionals/position management
    - Developing and maintaining sustainable cost containment measures, such as minimizing costlier and less secure usage of outside providers and use of contracted healthcare services, etc., where feasible and appropriate

- **How?** To manage by compartmentalizing, adding structure, and refocusing major operational components of inmate healthcare

- 3 major professional-led inmate healthcare components:
  - Clinical
  - Administrative
  - Quality Assurance

#1 - How are correctional officers trained to assess inmate healthcare needs and what is the process?

- **Background:**
  - Healthcare issues presented to CO's range from non-urgent to life-threatening
  - CO's trained as facilitators of inmate healthcare requests, not assessors

- **Info:**
  - Training involves
    - CPR and First Aid provided in BCO training
    - Employee orientation includes inmate healthcare needs response by CO's
    - Based on specific facility mission and staffing pattern, Standard Operating Procedures (SOP's) of that facility are discussed with CO's
  - Non-urgent – assist with sick call process
    - =117,128 in FY 16-17
      - 84,036 (72%) handled by Nurses
      - 33,092 (28%) handled by Physicians, PA's, or Nurse Practitioners
  - Life-threatening – administer first aid/CPR, call 9-1-1 and medical staff simultaneously

#2 - How are treatment determinations for internal and external providers made?

- **Background:**
  - 110,174 healthcare "referrals" made in FY 16-17
  - Decisions based on a balance of inmate medical acuity and custody requirements
  - Outside specialists are used only when the medical specialty cannot be handled in-house
- **Info:**
  - Generally, primary care provider at the facility manages routine medical care. Whenever specialty care is required, primary care provider initiates a referral to a specialist
  - In-house specialty clinics at CP, NCCIW, or other facilities are considered first
  - All referrals are processed and approved through the DPS Utilization Review (UR) Section (2 Physicians and 4 Nurses), designed to assure services are provided efficiently, cost effectively, and in accordance with recognized standards of care

#3 - Update on Central Prison Healthcare Complex Utilization

- **Background:**
  - CPHC is a regional correctional medical center and mental health facility
  - Became operational beginning December, 2011
  - Is staffed with 550 employees
  - Provides in-patient care with:
    - 120 medical/surgical beds
    - 216 mental health beds
  - Provides surgical and specialty clinic outpatient care
  - Also has other medical support and ancillary services, including:
    - Dental
    - Physical Therapy
    - Dialysis
    - Lab
    - Pharmacy
    - Operating room
    - Dietary services
    - Biomedical services
    - Radiology
    - Emergency room
    - Respiratory
    - Medical records
    - Accounting
    - Risk Management
    - Housekeeping
    - Medical Supply
    - Human Resources

#3 - Update on Central Prison Healthcare Complex Utilization
MEDICAL

- **Medical/Surgical Beds (as of 10/1/17)**
  - Total 120 beds
  - 60 (50%) - Long-term care/skilled nursing-need DPS inmates
  - 18 (15%) - Jail Safekeepers
  - 42 (35%) - Medical for DPS inmates
    - Wound care
    - Post-op recovery
    - Other short-term medical recovery

- **Noteworthy Items:**
  - 35% of beds being utilized for their primary purpose
  - = Reduced utilization of in-house beds designed to minimize usage of outside medical beds, including "outside provider recovery" – staying in community hospitals longer because there's "no room in the inn"
  - Purpose for renovating old MH buildings at CP for long-term, skilled nursing care operations
    - Phase A - 46 beds - 1st Q of 2019
    - Phase B - 56 beds – timing TBD

#3 - Update on Central Prison Healthcare Complex Utilization
MEDICAL
ON-SITE SURGERY

- **Contracted with UNC Healthcare**
- **Surgery Types (listed by highest rate of utilization)**
  - Gastrointestinal
  - General Surgery
  - Podiatry
  - ENT
  - Orthopedics

- **Utilization Trends:**
  - FY 14-15 (partial) – 537
  - FY 15-16 – 1,093
  - FY 16-17 – 1,171 (+7%)
  - FY 17-18 (1st Q) – 315

#3 - Update on Central Prison Healthcare Complex Utilization

MEDICAL

ON-SITE CLINICS

- **Contracted with UNC Healthcare**
- **Clinic Types (listed by highest rate of utilization)**
  - Optometry
  - Podiatry
  - Infectious Disease – HIV and non-HIV
  - Orthopedic
  - General Surgery
  - ENT
  - Hepatology
  - Cardiology
  - Ophthalmology
  - Neurology
  - Orthotics
  - Nephrology
  - Audiology
  - Gastrointestinal
  - Visual fields
- **Utilization Trends:**
  - FY 14-15 – 10,749
  - FY 15-16 – 11,548 (+7.4%)
  - FY 16-17 – 12,994 (+12.5%)
  - FY 17-18 (1st Q) – 3,650

#3 - Update on Central Prison Healthcare Complex Utilization

MENTAL HEALTH

- **Mental Health Beds (as of 10/1/17)**
  - Total 216 beds
  - 144 (67%) - Inpatient DPS inmates
  - 24 (11%) - Jail Safekeepers
  - 24 (11%) - for TDU's
  - 24 (11%) - off-line

- **Noteworthy Items:**
  - MH ops continue to develop as a work-in-progress
  - Utilizing innovative therapeutic mental health programs (TDUs and treatment mall)
  - 6 of 7 MH units are operational
  - Experiencing difficulty in recruiting necessary MH and custody staffing to operate off-line unit

#4 - Update on medical claims processing

- **Background:**
  - Managed by the DPS Controller's Office
  - Third party provider contracted beginning August, 2016 at an annual cost of $1.5M
  - Some claims are affected by Medicaid processing time

- **Info/Trends:**
  - Performance of processing medical claims has dramatically improved during FY 2016-17
  - All backlogged claims were cleared as of June 30, 2017
  - Average turnaround time for claims (exclusive of Medicaid-affected claims):
    - FY 14-15 – 6-8 months
    - Today – 15 days
  - Estimated savings from processing Medicaid for eligible inmates of $9M for FY 16-17

Questions?

JOINT LEGISLATIVE OVERSIGHT COMMITTEE
ON JUSTICE AND PUBLIC SAFETY

Oversight of Local Confinement Facilities

Steven C. Lewis

Chief, Construction Section
Division of Health Service Regulation
NC Department of Health and Human Services

October 12, 2017

Overview of Division of Health Service Regulation's (DHSR) Operations Related to Jails

How does the oversight process function?	DHSR's oversight authority is set forth in N.C.G.S. Chapter 153A, Article 10, Part 2.
What kind of oversight responsibilities does the Division have?	Division conducts routine inspections to determine a jail's compliance with minimum standards.
How frequently does DHSR inspect jail facilities and review jail practices?	Twice per year.
What role does DHSR play in crisis management and response; e.g., inmate death or suicide?	DHSR conducts compliance reviews of all reported inmate deaths that occur in a jail. DHSR also undertakes a compliance review when it learns of an "out-of-custody" death where there may be questions regarding the in-custody care and supervision of the inmate.

Local Confinement Facility N.C.G.S. 153A-217(5)

A "'local confinement facility' includes a county or city jail, a local lockup, a regional or district jail, a juvenile detention facility, a detention facility for adults operated by a local government, and any other facility operated by a local government for confinement of persons awaiting trial or serving sentences except that it shall not include a county satellite jail/work release unit governed by Part 3 of Article 10 of Chapter 153A."

Statutory Authority N.C.G.S. § 153A-221. Minimum Standards

Secretary of Health and Human Services shall develop and publish minimum standards for the operation of local confinement facilities (jails). The standards shall provide for:

- Secure and safe physical facilities
- Jail design and sanitation
- Supervision of inmates
- Medical and mental health care for prisoners
- Personal hygiene and comfort of prisoners
- Provision of food to inmates
- Any other provisions that may be necessary for the safekeeping, care, and welfare of inmates

These standards are set forth in the regulations found in 10A NCAC Subchapter 14J.

DHSR Construction Section, Jails and Detention Unit

- The Jails and Detention Unit is funded by 100% State Appropriations in the amount of $167,716. Although this funding does not cover the full costs/expenses of the unit, the Construction Section provides other resources to ensure this unit can meet its responsibilities.
- There are 5 FTEs in this unit.

Other Important General Statutes

N.C.G.S. § 153A-220 Jail and detention services	Requires Department personnel to provide technical assistance to jails and review plans of new jail construction.
N.C.G.S. § 153A-222 Inspections of local confinement facilities	Requires Department personnel to inspect jails not less than twice per year.
N.C.G.S. § 153A-225 Medical care of prisoners	• Requires a governing body (county government) to adopt a plan for the medical care of inmates. • Requires the jail administrator to submit a report of inmate death to the Department when the death occurs in the jail.
N.C.G.S. § 162-22 Custody of jail	Sheriff has the care and custody of the jail in his/her county.

Roles and Responsibilities

DHSR's Jail and Detention Unit has an important role in surveying/inspecting jails/local confinement facilities to ensure compliance with applicable regulations. The ultimate responsibility for safety of individuals confined in their facilities, as provided by N.C.G.S. § 162-22, is with the Sheriff. At the local level it is the Sheriff, Jail Administrator, County Medical Director and the County Commissioners who are responsible for the daily operations and safety of all individuals confined in their local confinement facilities.

Frequency of Inspections

- Jail inspections are done on a semiannual basis. (Inspectors are required to inspect each jail twice a year.)
- Currently there are 110 jails and 3 District jails in the State.
- These jails vary in size and configuration across the state.
- The degree of modernization of these facilities varies drastically across the state.

Construction Section's Role In Compliance Reviews of Inmate Deaths

- Pursuant to N.C.G.S. § 153A-225, jails are required to report inmate deaths to the Construction Section when the death occurs in the jail ("in-custody").
- Jails may submit death reports to the Construction Section when the inmate death is "out-of-custody," but are not legally required to do so.
- The Construction Section conducts compliance reviews of all "in-custody" inmate deaths that are reported.
- Although not required, it is the practice of the Construction Section to undertake a compliance review when it learns of an "out-of-custody" death where there may be questions regarding the in-custody care and supervision of the inmate.

Revisions to 10A NCAC Subchapter 14J Jails/Local Confinement Facilities

- Process to revise the regulations that pertain to jails and local confinement facilities began August 13, 2015.
- Currently, there are 32 rules proposed for re-adoption with changes.
- Twenty of these rules are related to jail operations.
- Thirteen of these rules are related to jail design and construction.
- Expected re-adoption effective date is Dec. 1, 2018.

Proposed Changes to Modernize the Rule on Supervision 10A NCAC 14J .0601

Supervision rounds (twice per hour in-person check of inmates in general population)	Added rule language that requires rounds to be conducted no more than 35 minutes apart.
Special watch (four times per hour in-person check of inmate on suicide watch)	Added rule language that requires rounds to be conducted no more than 20 minutes apart.
Officers assigned to supervision rounds shall not be assigned "other duties."	Added rule language listing these "other duties," such as delivering food to inmates, transporting inmates to court and escorting inmates to medical appointments.

JPS Oversight--October 12, 2017
Division of Adult Correction Follow-Up

1) Follow-Up Contacts

Joseph H. Prater
Deputy Secretary
NC Department of Public Safety
Division of Adult Correction and Juvenile Justice
(919) 825-2732
joe.prater@ncdps.gov

Terri L. Catlett
Deputy Director - Health Services
NC Department of Public Safety
831 W. Morgan St.
MSC 4293
Raleigh, North Carolina 27699
Phone: 919-838-4000
terri.catlett@ncdps.gov

James J. Cheroke
Controller
NC Department of Public Safety
919.324.6016
James.Cheroke@ncdps.gov

JPS Oversight--October 12, 2017
Division of Adult Correction Follow-Up

Abbreviations and Acronyms

DAC: Division of Adult Correction

DPS: Department of Public Safety

DHHS: Department of Health and Human Services

MH: Mental Health

DD: Developmentally Disabled

SAS: Substance Abuse Services

MR: Mental Retardation

SA: Substance Abuse

ACDP: Alcoholism and Chemical Dependency Program

CP: Central Prison

NCCIW: North Carolina Correctional Institute for Women

FY: Fiscal Year

M: Million

FTE: Full Time Equivalent

CO: Correctional Officer

CPR: Cardio Pulmonary Resuscitation

BCO: Basic Correctional Officer

PA: Physician Assistant

CPHC: Central Prison Healthcare Complex

Q: Quarter

TBD: To Be Determined

UNC: University of North Carolina

ENT: Ear, Nose, and Throat

TDU: Therapeutic Diversion Unit

Ops: Operations

Source: Division of Adult Correction

October 31, 2017

JPS Oversight--October 12, 2017
Division of Adult Correction Follow-Up

Operating costs for Phase I and Phase II for the long-term care unit at Central Prison, including a timeline for opening

3) Phase I (east unit) – FY 18-19 - $6.2 M; $7.5 M, annually, recurring, beginning FY 19-20. Projected start date is February, 2019

Phase II (west unit) – FY 19-20 - $3.1 M; $7.97 M, annually, recurring, beginning FY 20-21. Projected start date is August, 2020

Source: Division of Adult Correction

October 31, 2017

JPS Oversight--October 12, 2017
Division of Adult Correction Follow-Up

Generic descriptions or summary of medical conditions for the 60 inmates housed at CP Hospital who would be at a long-term care facility:

4) Cancer - 14

Paraplegic - 13

Dementia - 8

Cardiac -13

Muscular Dystrophy - 2

HIV/AIDS - 2

Lung Disease - 4

Kidney Disease - 1

Traumatic Brain Injury - 1

Sepsis – 2

Source: Division of Adult Correction

October 31, 2017

North Carolina Department of Public Safety

Adult Correction and Juvenile Justice

Roy Cooper, Governor
Erik A. Hooks, Secretary

W. David Guice, Commissioner

MEMORANDUM

TO: Chairs of House Appropriations Committee on Justice and Public Safety
Chairs of Senate Appropriations Subcommittee on Justice and Public Safety
Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety

FROM: Erik A. Hooks, Secretary EAH
W. David Guice, Commissioner WDG

RE: Medical Release Report

DATE: March 1, 2017

Pursuant to G.S. 143B-707.2(b), *The Department of Public Safety and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, to the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates proposed for release, considered for release, and granted release under Article 84B of Chapter 15A of the General Statutes, providing for the medical release of inmates who are either permanently and totally disabled, terminally ill, or geriatric. (2013-360, s. 16C.11(d); 2013-363, s. 6.5.)*

MAILING ADDRESS:
4201 Mail Service Center
Raleigh, NC 27699-4201
www.ncdps.gov

An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury Street
Raleigh, NC 27604
Telephone: (919) 825-2761

Post Release Supervision and Parole Commission

Medical Release Program Report

February 15, 2017

Willis J. Fowler	James L. Forte	Danny G. Moody
Chairman	Commissioner	Commissioner

NORTH CAROLINA POST-RELEASE SUPERVISION AND PAROLE COMMISSION ANNUAL MEDICAL RELEASE REPORT

I. INTRODUCTION

Legislation has been enacted directing the NC Department of Public Safety's Division of Adult Corrections-Prisons and the Post-Release Supervision and Parole Commission to provide for the medical release of no-risk inmates who are either permanently and totally disabled, terminally ill, or geriatric. The legislation envisions each case being carefully and comprehensively evaluated by the Department as well as the Commission. Once the Department determines that the inmate is permanently and totally disabled, terminally ill, or geriatric; **and** is incapacitated to the extent that the inmate does not pose a public safety risk; and is not excluded by the statute, he is to be referred to the Commission. In the event that these criteria are not met, the Department will so determine and the case **will not** be forwarded to the Commission.

The legislation clearly intends that a referral containing comprehensive information be provided to the Commission who has only 15-20 days to make an independent determination regarding the degree of risk an inmate poses. This time frame includes efforts to notify victims, consider their responses and to affect a release. The medical comprehensive information, as stated by legislative authority, will include medical information, psychosocial information and a risk assessment.

Therefore, the Commission will receive, in any referral, the following information:

Medical Information:

The Medical Release Plan will be forwarded from Division of Adult Corrections-Prisons section to the Commission Chairman after it has been referred and determined to have met the criteria for release by the Prisons Health Services staff. The Medical Release Plan will include:

1. A medical statement describing the offender's medical situation/prognosis/incapacitation signed by a medical professional. This will include a description of his/her capability of performing specific acts such as ambulating, driving, and functioning relatively independently throughout the day and the degree of medical oversight and care that would be required on a daily basis.

2. The proposed treatment recommended.

3. The proposed site for the treatment and follow-up.

4. A Medical release of information will be signed by the offender or his/her legal guardian.
5. A statement from the proposed attending physician stating that he/she will provide the Community supervision officer with an assessment of the offender's physical condition and prognosis. The first assessment will be 30 days after an offender is placed on Medical Release and thereafter every 6 months.

6. A statement on how the medical program will be financed.

7. A medical professional will confirm that the offender's condition was not present at the time of sentencing or he/she has deteriorated to make him/her now eligible for medical release.

Psychosocial Information:

1. The offender's version of the crime.

2. The offender's version of his previous crimes.

3. A detailed summary of his prison adjustment including in-depth assessments of infractions; providing information such as the role played in assaultive infractions; description of sexual infractions; role and intensity of defiant and nonconforming sentiments. Program participation, work history in prison and staff assessments.

4. Family history to determine degree of antisocial sentiments in the family.

5. Marital history, including reasons for separation/divorce.

6. Work history, e.g. last employment, most lengthy employment, reasons for leaving etc.

7. Alcohol/drug history including any rehabilitation/treatment in the community as well as in prison.

8. Mental health history including diagnoses and treatment.

9. Medical history and how he sees present medical condition and perceived incapacity.

10. Perception of current home/release plan.

11. General impression of inmate's social skills, attitudes and sentiments in relating to interviewer.

Risk Assessment:

1. An assessment of the risk for violence and recidivism that the inmate poses to society. Factors to be considered in the assessment are medical condition. severity of the offense for which the inmate is incarcerated, the inmate's prison record, and the release plan. This assessment should be provided by a forensic/correctional psychologist.

Summary:

In compliance with Senate Bill 1480, Chapter 84-B of Chapter 15A of the General Statutes, the following information is a synopsis of activity generated by the Parole Commission from 1/1/2016 through 12/31/2016.
Our statistics are as follows:

- # Referred by Prisons 15
- # Considered 15
  - # Denied 2
  - # Released on Early Medical Release 12
  - # Pending Decision 1

The Parole Commission has implemented procedures that allow for the timely processing of all case referrals for Early Medical Release.

Cost to Administer the Jails Program based Upon FY 2016-17 Expenditure Data

Based upon Costs Reflected in Fund 1155 in SFY17

Role	% Jails	Jail Cost	Travel	Phone	Internet	Equipment	Supplies	Total
Inspector	100%	$ 64,691.00	$ 41,000.00	$ 2,033.00	$ 1,285.00	$ 500.00	$ 500.00	$ 110,009.00
Support	100%	$ 51,242.00	$ -	$ -	$ 1,285.00	$ -	$ 500.00	$ 53,027.00
Jails Sprvsr	100%	$ 79,084.00	$ 41,000.00	$ 2,033.00	$ 1,285.00	$ 500.00	$ 500.00	$ 124,402.00
Inspector	100%	$ 94,491.00	$ 41,000.00	$ 2,033.00	$ 1,285.00	$ 500.00	$ 500.00	$ 139,809.00
Sect Sprvsr	25%	$ 27,602.00	$ -	$ 508.00	$ 321.00	$ 125.00	$ -	$ 28,556.00
Sec Chief	20%	$ 26,824.00	$ -	$ 407.00	$ 257.00	$ 100.00	$ -	$ 27,588.00
Support	10%	$ 6,403.00	$ -	$ -	$ -	$ -	$ -	$ 6,403.00
	Total	$ 350,337.00	$ 123,000.00	$ 7,014.00	$ 5,718.00	$ 1,725.00	$ 2,000.00	**$ 489,794.00**

Fund 1155 Travel

Rental Veh	$ 32,469.00
Mileage	$ 119.00
Lodging	$ 4,759.00
Meals	$ 3,130.00
Total	**$ 40,477.00**

Source: DHHS, Health Service Regulation

Fiscal Impact Analysis of
Permanent Rule Readoption without Substantial Economic Impact

Agency Proposing Rule Change
North Carolina Department of Health and Human Services

Contact Persons
Nadine Pfeiffer, DHSR Rules Review Manager – (919) 855-3811
Steven Lewis, Section Chief, Construction – (919) 855-3893
Carey Gurlitz, Engineering Supervisor, Construction – (919) 855-3854

Impact Summary

State Government:	Yes
Local Government:	Yes
Small Business:	No Impact
Substantial Impact:	Possible – Benefits Uncertain

Titles of Rule Changes and North Carolina Administrative Code Citations

Rule Repeal: 10A NCAC 14J .1201 Applicability – Construction

Rule Readoptions (See proposed texts of these in Appendix 1):

.0101 Definitions
.0102 Applicability – Operations and Enforcement
.0103 Applicability – Construction
.0201 Requirement for Operations Manual
.0203 Contents of Operations Manual
.0204 Review of Manual
.0301 Classification System and Total Design Capacity
.0302 Female Inmates
.0303 Confinement of Males Under 18 Years of Age
.0402 Fire Equipment
.0403 Fire Plan, Emergency Evacuation Training, and Disaster Plan
.0404 Mattresses
.0405 Keys
.0501 General Security Requirements
.0601 Supervision
.0702 Mattresses and Bedding
.0705 Personal Hygiene Items
.0904 Menus
.1001 Medical Plan
.1002 Screening of Inmates
.1202 Consultation and Technical Assistance
.1203 Compliance Review and Approval
.1207 Inmate Processing Area
.1210 Other Areas
.1212 Floors, Ceilings, and Walls
.1213 Showers and Plumbing Fixtures
.1214 Windows and Glazing
.1215 Doors, Bunks and Locks
.1218 Plumbing Systems
.1219 Electrical Systems
.1225 Standards for Dayrooms
.1226 Standards for Dormitories

Authorizing Statutes

G.S. 153A-217; G.S. 153A-220; G.S. 153A-221; G.S. 153A-222; G.S. 153A-225; G.S. 153A-228

Background

Under authority of N.C.G.S. § 150B-21.3A, Periodic review and expiration of existing rules, the Department of Health and Human Services, Director of the Division of Health Service Regulation, Rule Review Commission, Joint Legislative Administrative Procedure Oversight Committee, and the Social Services Commission approved the subchapter report with classifications for the rules located at 10A NCAC 14J – Jails, Local Confinement Facilities – on August 13, 2015, September 8, 2015, November 19, 2015, January 5, 2016, and March 9, 2016, respectively.

There were 33 rules classified in the report as necessary with substantive public interest. The Agency is presenting 32 of these rules for readoption with changes in this analysis. These rules are: 10A NCAC 14J .0101-.0103, .0201, .0203, .0204, .0301, .0302, .0303, .0402-.0405, .0501, .0601, .0702, .0705, .0904, .1001, .1002, .1202, .1203, .1207, .1210, .1212-.1215, .1218, .1219, .1225, and .1226. Rule 10A NCAC 14J .1201 is being repealed and is not included in this analysis.

The 10A NCAC 14J rules regulate the operation and construction of County Government owned jails and district jails. The State currently has 110 jails and 3 district jails. The 110 jails are located in 94 counties of the State and are owned and operated by a single County Government. The three district jails are owned and operated by two or more local County Governments. Of the 32 rules proposed for readoption, 20 rules are related to jail operations and 13 rules are related to jail design and construction. The operation and construction of county jails and district jails are funded by local county governments.

Rule Summary and Anticipated Fiscal Impact

Baseline

For jail operation, the current requirements in Rules 10A NCAC 14J .0203, .0301, .0303, .0403, .0601, .0705, .1001, and .1002 form the basis of the regulatory baseline. A questionnaire was used to assess current jail operation under this regulatory baseline. Responses were received from all of the State's 113 county jails. The responses to this questionnaire were tabulated and used to project the future impacts due to the changes proposed in these rules.

For jail construction, the current requirements in Rules 10A NCAC 14J .0103, .1203, .1207, .1210, .1214, .1215, .1218, .1219 and .1225 form the basis of the regulatory baseline. A review of jail plans either currently in review or recently reviewed and an on-site visit of existing jails was used to assess current jail design and construction under the regulatory baseline. The construction information collected from jail projects and existing projects were used to project the future impacts due to the changes proposed in these rules.

Time Frame for Analysis

The readopted rules will go into effect on December 1, 2018. The rules related to the operation of a jail will impact jails on an annual basis starting in 2019. The rules related to design and construction of a jail will have an impact starting in 2019 but this impact will continue over multiple years due to the time it takes for jail design and construction and Construction Section plan reviews. The time schedule for jail projects that were constructed from 2010 to 2015 were

reviewed and the average time frames for design, plan review and construction activities were determined and are provided in Table 1. This will be used as the time frame for the analysis.

Table 1 Years When Impacts Related to Jail Operations and Construction Will Occur

Activity Generating Cost	2019	2020	2021	2022	2023
Operation of a Jail	X	X	X	X	X
Design of jail	X				
Submittal and approval of plans to Construction Section		X			
Construction of jail			X	X	
Construction Section inspection and County corrects construction deficiencies					X

Assumptions

Number of Jails Impacted by proposed Operation Rules in Future Years

- Except for Rule .0301(b), the Construction Section surveyed the State's 110 jails and 3 district jails to determine how many jails are not compliant with the proposed changes to rules related to jail operations. It is assumed that the responses to the survey can be used to predict the future impact to jails and district jails from the proposed changes of the jail operations rules. The results of the survey are presented in Table 2, which indicates a specific proposed rule and the number of jails non-compliant with that rule. Proposed rules which are currently complied with by 100% of the State's jails and district jails are not listed in the table.

Table 2 Number of Jails Not Compliant with a Specific Proposed Jail Operations Rule

10A NCAC 14J Rule	Proposed Requirement	Number of Jails Not Compliant
.0203	Operation manual has policy for suicide prevention program.	3
.0303	Female inmates < 18 are housed in separate cells from adult female inmates during sleeping hours.	4
.0203, .0403	The jail has a disaster plan policy and a disaster plan.	8
.0705	Jail provides free shampoo and deodorant to inmates detained over 24 hours.	16
.1001(b)(1)	A jail's Medical Plan includes policies for the screening of inmates for their needs related to mental health, a developmental and intellectual disability, a substance use disorder	2[a]
.1001(b)(3)	A jail's Medical Plan includes policies for routine care for mental health, developmental and intellectual disability, substance use disorder	2[b]
.1002	Inmate Screening upon admission shall include screening for mental health, developmental and intellectual disability, substance use disorder	2[c]

[a]These two jails did not have a policy in their medical plan for the screening of inmates for their needs related to an intellectual and developmental disability.
[b] These two jails did not have a policy in their medical plan for routine care of intellectual and developmental disabilities.
[c] These two jails were non-compliant with the requirement to screen inmates for intellectual and developmental disabilities.

For the proposed 10A NCAC 14J Rule .0301(b), .1001 and .1002, the number of inmates incarcerated in future years will impact future fiscal impacts to County Governments. As per the Justice Bureau of Statistics, the number of inmates incarcerated in county jails across the United States had an average annual percent change of -0.9% from 2007 to 2015[1]. As provided in Table 3, the yearly Average Daily Population for North Carolina jails from 2011 to 2016 also either decreased or remained approximately the same. As a result, this analysis assumes that the total number of inmates incarcerated in near future years does not increase significantly.

Table 3 Yearly ADP 2011 to 2016

Year	Yearly ADP[a]
2011	18,358
2012	19,535
2013	19,595
2014	19,704
2015	18,456
2016	18,576

[a] The Yearly ADP is the sum of the monthly ADPs submitted by jails for the months of January to December for all jails in the State divided by 12 months.

Number of Jails Constructed in Future Years

- The Construction Section surveyed the State's 110 jails and 3 district jails to determine the number of jails to be constructed in future years. It was determined that the construction of three jails is planned in the future for the counties of Orange, Johnston, and Gaston. Additions to two jails are planned for Surry and Randolph Counties. Orange, Surry, and Randolph are currently in the pre-design phase under the direction of an architect. The County's architect was unable to predict when these jails would be submitted for plan review and when the start of construction would occur. The start of construction for the Johnston County jail is estimated to be further off from the Orange, Surry, and Randolph County jails due to site location issues[2]. Gaston County has not hired an architect for their jail addition. According to the data retrieved from the Construction Section's Plan tracking system and two projects to be submitted in 2017 (Catawba County) and 2018 (Granville County), the 10-year average number of new jail projects submitted each year is two (2009 to 2018). Using this information, there were

[1] Bureau of Justice Statistics, "Census of Jails: Population Changes, 1999-2013", (December, 2015), retrieved from https://www.bjs.gov/content/pub/pdf/cjpc9913.pdf
[2] WNCN News, "Residents speak out against planned location of Johnston County Jail", (February, 2017), retrieved from http://wncn.com/2017/02/18/residents-speak-out-against-planned-location-of-johnston-county-jail/

two different scenarios which were developed for future jail construction that are presented below. Based on the Agency's best professional judgment, Scenario I will be used in this analysis.

- Scenario I as depicted in Table 4
  - Assumes one jail (Orange County) and additions to two existing jails (Surry and Randolph Counties) are in design starting in 2019 and start construction in 2021.
  - Assumes two jails (Johnston and Gaston Counties) start design in 2020 and start construction in 2022.
  - Starting in 2021, assumes two jails start design each year and continues through to construction. This is based on the 10-yr average of two jails submitted per year.

Table 4 Scenario I: Projected Number of Jails Constructed in Years 2019 to 2023

Activity Generating Cost	Persons Affected	2019	2020	2021	2022	2023
Design of jail or jail addition	County	3	2	2	2	2
Submittal and approval of plans to Construction Section	County, State		3	2	2	2
Construction of jail or jail addition	County			3	5	4
Construction Section inspection and County corrects construction deficiencies	County, State					3
	Total	3	5	7	9	11

- Scenario II as depicted in Table 5
  - Assumes one of the additions to an existing jail (Randolph County) has construction documents approved before December 1, 2018 and will not be included in this analysis.
  - Assumes one new jail (Orange County) and one of the additions to an existing jail (Surry County) are in design starting in 2019 and start construction in 2021.
  - Assumes two jails (Johnston and Gaston Counties) starts design in 2020 and starts construction in 2022.
  - Starting in 2021, assumes two jails start design each year and continues through to construction. This is based on the 10-yr average of two jails submitted per year.

Table 5 Scenario II: Projected Number of Jails Constructed in Future Years

Activity Generating Cost	Persons Affected	2019	2020	2021	2022	2023
Design of jail or jail addition	County	2	2	2	2	2
Submittal and approval of plans to Construction Section	County, State		2	2	2	2
Construction of jail or jail addition	County			2	4	4
Construction Section inspection and County corrects construction deficiencies	County, State					2
	Total	2	4	6	8	10

Number of Jails Receiving a Biannual Inspection in Future Years

- Currently, there are 113 jails and district jails being inspected each year. Of the 113 jails, three of these jails are vacant and do not house inmates. This analysis assumes that these three vacant jails are not closed and are inspected by the Construction Section in future years. In 2023, there is one new jail (Orange County) that will receive a biannual jail inspection, but the existing jail will be closed and will no longer be inspected. In 2023, the additions to two existing jails (Surry and Randolph Counties) will become part of the biannual jail inspections already conducted on the existing jails. Therefore, the total number of biannual jail inspections in future years is expected to remain at 113 jails per year. The three jails that are vacant and are still inspected are large jails with approximately 400 inmate beds. In the past, County Governments have not closed jails of this size. None of the new jails projected to be constructed in future years (Scenario I) will replace existing jails with 400 inmate beds.

Future Jail Construction Costs Resulting From Proposed Readopted Rules

- The Construction Section conducted onsite inspections of five existing jails and reviewed plans for eight jails (2011 to current) that are either currently in review or were reviewed. It is assumed that the construction of past jails can be used to predict the future impact to jail construction from the proposed changes of the jail construction rules.
- The results of the information collected from the onsite visits and plan reviews are provided in Table 6.
- A building cost index, which measures the escalation of construction costs in the United States, indicates that construction costs have been escalating for the past five years. Specifically, between the second quarter of 2016 and 2017, construction costs increased at a rate of 4.96%.[3] This analysis uses the construction costs occurring in 2017 as the base estimated construction cost and an escalation factor of 4.96% minus the North Carolina GSP Deflator Rate for a specific year to determine the inflation-adjusted projected construction costs growth rates occurring in 2021 to 2023. The North Carolina GSP Deflator Rates used were: 2.09% for 2018; 2.09% for 2019; 2.18% for 2020; 2.17% for 2021; 2.10% for 2022; and 2.15% for 2023.[4]

[3] Tuner Construction, "Cost Index: Turner's Second Quarter Building Cost Index Reflects Strong Market Conditions", (2017), retrieved from http://www.turnerconstruction.com/cost-index.

[4] These rates were provided by the NC OSBM, calculated from IHS Markit's regional economic projections as of July 2017.

Table 6 Number of Existing Jail Projects Not Compliant with Proposed Jail Construction Rules

10A NCAC 14J Rule	Requirement	Number of Jails Affected by Rule	Number of Jails Not Compliant with Proposed Rule
.1207	Padded cell construction	4	3
.1210	Inmate indoor exercise areas	13	0
.1210	Inmate outdoor exercise areas	13	7
.1214	Windows in cells or dayrooms; windows in dormitory	13	0
.1215	Furnish and equip cell to decrease suicide hazards;	13	0
.1218	Water temperature of 100 to 116 deg F. at inmate showers and sinks	13	1

- According to the architect for the Orange, Surry, Randolph, and Johnston County jails, these jails and jail additions will be designed to comply with the proposed readopted rules.[5] This is being done in order to avoid additional costs due to change orders during construction because it is not known whether the construction documents for these projects will be approved either before or after the effective date of the proposed readopted rules (December 1, 2018). It is assumed that compliance costs for the proposed readopted rules will start occurring during the construction of the Randolph and Gaston County jails in 2022. In 2022, the construction of the Gaston County jail is assumed to be affected by the proposed Construction rules. As noted above, the construction of the Randolph County jail is assumed to be complaint with the proposed jail construction rules.
- For jail construction starting in 2023, it is assumed that the number of future jail projects that will be affected by the proposed construction rules will be proportionally equivalent to the number of existing jails that do not currently meet the proposed standards (as indicated in Table 6) divided by the 13 existing jails. For padded cells, it is assumed that each jail will be constructed with one padded cell and that, in the absence of the proposed rule, the padded cell would not otherwise be designed in compliance with the proposed construction rules.
- For the one jail in 2022 and 2023 that is not expected to meet the outdoor exercise area requirements of 10A NCAC 14J .1210 in the absence of the proposed rule, it is assumed that these jails will be built with six housing units each requiring an outdoor exercise area of 300 square feet or a total of 1800 square feet. The Agency reviewed the past history of housing units constructed per jail project (4 to 8 housing units per jail) and determined that six housing units would be the most likely number of units constructed.
- All of these assumptions are provided in Table 7 for the years 2019 to 2023.

[5] Email dated 6/19/17 from Moseley Architects.

Table 7 Number of Future Jails Projects per Year Projected to be Affected by Proposed Construction Rules

10A NCAC 14J Rule	Requirement	2019	2020	2021	2022	2023
.1207	Padded cell construction	0	0	0	1	2
.1210	Inmate indoor exercise areas	0	0	0	0	0
.1210	Inmate outdoor exercise areas	0	0	0	1	1
.1214	Windows in cells or dayrooms; windows in dormitory	0	0	0	0	0
.1215	Furnish and equip cell to decrease suicide hazards	0	0	0	0	0
.1218	Water temperature of 100 to 116 degrees F. at inmate showers and sinks	0	0	0	0	0

Construction Section Staff Costs

- State Government is impacted by Construction Section personnel costs related to plan review, construction project inspection and the biannual inspections of jails. Hourly rates for these personnel were determined as follows. Plan review work and construction project inspections are completed by an engineer and architect, which are career banded positions. Based on the Journey Market Rate, the hourly rate for an Engineer and an Architect at a Journey Level Competency including fringe benefits is $46 per hour ($95,720/2080 hours) and $47 per hour ($98,122/2080 hours), respectively. The biannual jail inspections are conducted by a jail inspector, which is a Grade 68 position. Based on the Grade 68 Midpoint, the hourly rate for a jail inspector including fringe benefit is $35 per hour ($72,919/2080). Paper work for a biannual jail inspection are handled by an office assistant IV, which is a Grade 59 position. Based on the Grade 59 Midpoint, the hourly rate for an office assistant IV including fringe benefits is $25 per hour ($52,812/2080).
- The benefits contribution for state government staff will stay in the range 33% to 34% for the next three years.
- Subsequent years are not expected to show any significant increase in staff cost because of continuing stagnant wages and benefits.

County Government Staff Costs

- County Government is impacted by personnel costs related to biannual jail inspections. A jail administrator accompanies a Construction Section jail inspector during an inspection and spends time preparing a plan of correction after receiving a statement of deficiencies from the Construction Section. Three County Governments provided the Construction Section with the midpoint salary of a jail administrator. Based on the average of these three midpoint salaries, the hourly rate for a jail administrator including fringe benefits is $54 per hour ($113,130/2080). County Government is also impacted by personnel costs related to the screening of inmates upon admission and the transporting of inmates between jails. Detention officers are responsible for screening and transporting inmates.

Based on the average of midpoint salaries from three County Governments, the hourly rate for a detention officer including fringe benefits is $32 per hour ($65,800/2080).

Cost and Benefit Estimates

Rule 10A NCAC 14J .0101 Definitions

Purpose for rule changes

The Agency is proposing to readopt this rule with changes. Changes that were made to the rule include: adding a reference to a general statute with definitions cited in the current rule, removing definitions that are no longer needed, adding definitions that clarify the meaning of other rules, and updating definitions with current terminology and technical changes.

The following definitions were removed:

- Section
- Health screening
- Institutional restrained
- Jail annex
- Qualified medical personnel
- Registered dietitian
- Residential

The following definitions were added:

- Control center
- Construction Section
- Direct two-way voice communication
- Direct visual observation
- Disaster plan
- District confinement facility
- Emergency event
- Fire evacuation training
- Flushing rim floor drain
- Glazing
- Interlocking security feature
- Means of egress
- Medical personnel
- Mental health personnel
- Program area
- Program services
- Regional jail administrator
- Remote two-way voice communication
- Routine care
- Screenings of inmates
- Security-type
- Special inmates
- Special watch rounds
- Supervision rounds
- Total design capacity
- Unit of local government
- Video surveillance

These existing definitions were amended:

- Addition
- Alteration
- Booking Area
- Cell
- Cellblock
- Communicable disease or condition
- Confinement unit
- Contraband
- Dayroom
- Inmate processing area
- Jail
- Medical record
- Multiple occupancy cell
- Officer
- Operations manual
- Repair
- Sally port
- Satellite jail/work release unit

- Department
- Division
- Dormitory
- Emergency medical need
- Footcandle
- Governing body
- Holding area
- Holdover Facility
- Inmate
- Secretary
- Security perimeter
- Security vestibule
- Single cell
- Single segregation cell
- Tamper resistant
- View panel
- Visitation area
- Work release

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .0102 Applicability – Operations and Enforcement and Incorporation by Reference

Purpose for rule changes

In Paragraph (a), technical changes were made to the existing rule language. In Paragraph (b), incorporation by reference for codes, standards and rules was moved from multiple existing rules to this rule.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .0103 Applicability – Construction

Purpose for rule change

This rule is used in coordination with the construction rules located in Sections .1200 and .1500. The existing rule had two categories of jail construction designated as "new jail" and "existing jail". The proposed Section .1200 rules are not retroactive to existing jails that are currently viewed as "new jails" under the current rules. Therefore, a third category of jail construction, which is designated as "existing jail II", had to be created. The proposed three categories of jail construction are:

- "New jail" for a jail with construction documents (CDs) approved after December 1, 2018 (Section .1200 rules)
- "Existing jail I" for a jail with CDs approved prior to June 1, 1990 (Section .1500 rules)
- "Existing jail II" for a jail with CDs approved on or after June 1, 1990 and prior to December 1, 2018 (older versions of Section .1200 rules in effect at the time construction documents were approved).

Many of the changes to this rule are related to adding the requirements of an "existing jail II". The rule was also reorganized to make it easier to use.

- Paragraph (a) was modified to indicate the NCSBC applicability for a "new jail".
- In Paragraph (b), the rule requirements for "new jail" construction was moved to the proposed Paragraph (c) and the applicability of the NCSBC for an "existing jail I and II" were moved from the existing Paragraph (a) to this Paragraph.
- In Paragraph (c), the rule requirements for an "existing jail", which are now an "existing jail I and II", were moved to the proposed Paragraphs (d) and (e), respectively. In the

existing Paragraph (d), the existing rule text for "Additions" was deleted and is now in the proposed Paragraph (c). In the existing Paragraph (e), the existing rule text for "Alterations" was deleted and is now in the proposed Paragraph (c).

- The proposed Paragraph (f) adds information notifying the public that previous version of rules can be accessed from the DHSR website. The Section .1200 rules are not retroactive and once the proposed rules are readopted the public will no longer have access to them.
- The rule language in existing Paragraphs (f), (g), (h), and (i) was deleted because the requirements of these Paragraphs were based on older building code requirements that are no longer in the current North Carolina State Building Codes (NCSBC).
- The proposed Paragraph (g) notifies a governing body that vacant older jails must be inspected by the Construction Section on a biannual basis or the jail will be considered closed. Closed jails if ever reopened must comply with the requirements for a "new jail". This is a current practice of the Section. This prevents the County Government from improperly maintaining and older jail and then moving inmates back into a jail that is not safe or adequate for the inmates.
- The proposed Paragraph (h) prevents a County Government from converting an existing building that is not currently used as a jail and is not classified as an I-3 occupancy by the NCSBC without meeting the requirements for a "new jail". This ensures that the existing building is altered to be compliant with the construction rules.
- The proposed Paragraph (i) prevents a County Government from making changes to the jail by, for example, converting cells to administrative offices or renovating a waiting area for visitors into a cell block. Changes of this type have to be submitted for approval to the Construction Section. This ensures that the changes are compliant with the applicable construction rules.
- The new Paragraph (j) notifies a County Government that the construction rules can be exceeded by the County Government. This prevents North Carolina jails from being constructed only to meet minimum standards set forth in the construction rules.
- The new Paragraph (k) allows the Construction Section to grant an equivalency to a County Government for an alternate design in jail construction that decreases the jail's construction cost but achieves the same operational effectiveness as required by the construction rules. All of the other rule sets with construction rules that are under the authority of the Agency have an equivalency provision. This provision reduces the regulatory burden to the County Government while still ensuring compliance with the construction rules.
- The new Paragraph (l) notifies a County Government that the most restrictive requirement of the applicable rules, codes, or standards shall apply to jail construction. This prevents a less restrictive requirement in a code to take precedence over a more restrictive requirement in a rule.

Impact

State Government is impacted by the requirements of Paragraph (f) and (g) of this rule.

- Paragraph (f) requires the posting of previous rules sets on the Jail's website. Construction Section staff time would be spent posting the previous rule sets. The time to collect and post the previous rules sets by an architect is estimated to be 2 hours, which at a $47 per hour compensation rate is equal to $94. This cost is expected to occur in 2019.

- Paragraph (g) requires the inspection of jails that are vacant and do not house inmates. There are currently 3 jails of this type. Construction Section staff time would be spent inspecting and preparing inspection documents for these jails.
  -The time spent by a jail inspector to inspect a jail, create inspection documentation, and review and approve a plan of correction for one jail is estimated to be 10 hours, which at a $35 per hour compensation rate is equal to $350. The time spent by the jail secretary to handle the inspection paperwork including receiving the plan of correction and emailing documents to the jails for one jail is estimated to be 3 hours, which at a $25 per hour compensation rate is equal to $75. The annual cost is equal to $2550 ($425 x 3 jails x twice per year).
  -Jail inspector travel time to and from the three jails is estimated at 9 hours, which at a $35 per hour compensation rate is equal to $315. The annual cost is equal to $630 ($315 x twice per year)
  -The annual transportation cost is equal to $550 (514 miles x $.535 per mile x twice per year). No overnight stays are required for these inspections.
  -The total annual cost is estimated at $3730. This cost will occur in 2019 and future years.

County Governments - There should be a minor fiscal impact associated with the readoption of this rule.

- Paragraphs (a) and (b) did not impose new requirements. Paragraph (c) does impose new requirements, which are located in the proposed Section .1200 rules. The impact due to the proposed Section .1200 rules will be provided under each of those rules. The impact due to Paragraph (i), which ensures a County Government's change in use of space is compliant with these rules, is provided under Paragraph (b) of Rule .0301. Paragraph (d) and (e) are for "existing jails I and II" and do not impose new requirements. Paragraph (h), (j) and (k) do not impose new requirements. These Paragraphs notifies a County Government with important information related to jail construction. The proposed Paragraph (k) lowers the regulatory burden on the jail.
- Paragraph (g) does impose a fiscal impact on County Government because it requires the inspection of three jails that are vacant and do not house inmates. A jail administrator would spend time accompanying a Construction Section jail inspector during the jail inspection and creating and submitting a plan of correction in response to an inspection report with deficiencies. The estimated time spent by a jail administrator for this work is 6 hours for one jail. The estimated cost is $324 ($54 per hour compensation rate x 6 hour). The annual cost is $1944 ($324 x 3 jails x twice per year). This cost will occur starting in 2019 and will continue in future years.

Benefits

County Government

The proposed Paragraph (g) benefits a County Government by allowing an older jail that does not house inmates to be used at a later date to house inmates without expensing funds to upgrade the jail to meet the requirements for a "new jail". This benefit is unquantifiable.

The equivalency provision in Paragraph (k) may decrease the regulatory burden imposed by this rule and lower the cost of construction for a jail thereby reducing funds expensed by the County Government for jail construction. This benefit is unquantifiable.

Inmates
This proposed rule notifies jails that the minimum requirements of the construction rules may be exceeded thereby creating and even safer and secure jail environment.

Summary of Estimated Costs of Rule 10A NCAC 14J .0103

	2019	2020	2021	2022	2023
State Government	$3824	$3730	$3730	$3730	$3730
Local Government	$1944	$1944	$1944	$1944	$1944
Total	$5768	$5674	$5674	$5674	$5674

Rule 10A NCAC 14J .0201 Requirements for Operations Manual

Purpose for rule change
The Agency is proposing to readopt this rule with technical changes.

Impact
There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .0203 Operations Manual

Purpose for rule change
The Agency is proposing to readopt this rule with changes and clarifications. Paragraph (a) was changed to require four additional areas that must be included in a jail's policies and procedures as follows: "a disaster plan as required by Rule .0403(d) of this Subchapter; "a suicide prevention program"; "Use of force"; and "Use of restraints". The purpose for adding "a disaster plan" is discussed under Rule .0403.

- A policy for "a suicide prevention program" was added to the operations manual to reduce the number of inmates committing suicides each year in county jails. Over the past six years, the number of suicides occurring in North Carolina county jails has been increasing. As Table 8 indicates, the number of suicide deaths per year has varied, but the number of suicides are trending upwards. Table 8 also indicates that the suicide rate in NC county jails has been steadily increasing with a significant increase occurring between 2014 and 2015.

Table 8 Number of Inmate Deaths Due to Suicide and Suicide Rate per Year in North Carolina Jails

Year	Number of Deaths	Yearly ADP[a]	Suicide Rate (per 10,000 inmates)[b]
2011	5	18,358	3
2012	7	19,535	4
2013	9	19,595	5
2014	10	19,704	5
2015	20	18,456	11
2016	12	18,576	6

[a]For each month of the year, a jail submits to the Construction Section a monthly Average Daily Population (ADP). The monthly ADP is calculated by adding the number of inmates confined in the jail on each day of the month and then dividing the total by the days in the month. The Yearly ADP is defined as the monthly ADP for the months of January to December divided by 12 for all jails in North Carolina.

[b]Suicide Rate is equal to Number of Suicides/Yearly ADP times 10,000.

- Use of force is the amount of force necessary to mitigate a disturbance at the jail either with an inmate or between inmates. Officers should use only the amount of force necessary to mitigate the disturbance and protect themselves and inmates from harm. The level of force an officer uses varies based on the type of disturbance caused by the inmate. A "use of force" policy provides officers with a guideline that stipulates the appropriate amount of force to be used for a particular type of disturbance.
- Restraints are used by an officer to control an inmate when the inmate is: transported; in need of a medical intervention; combative; and escaping from the jail. Different types of restraints can be used for a particular incident with an inmate. Excessive use or misuse of a restraint can seriously harm an inmate. A "use of restraint" policy provides officers with a guideline that stipulates the appropriate amount of restraint to control an inmate in certain situations.
- Other rule text changes in Paragraph (a) were either clarifications or replaced older terminology with current terminology. These changes would not impact jail operations.

Impact

State Government is impacted by the requirements of Paragraph (a) Subparagraphs (20), (23) and (24) of this rule. These Subparagraphs require additional Construction Section staff time during a biannual inspection by a jail inspector to review the jail's Operations Manual for a policy related to "suicide prevention", "use of force" and "use of restraints". The additional time is estimated at 30 minutes, which at a $35 per hour compensation rate results in a cost of $17.50 per biannual inspection. This will result in an annual cost of $3955 ($35.00 per year x 113 jails).

County Government impacts are provided below.

- Existing jails - County Government would not be impacted by the requirement to add a "use of force" and "use of restraints" policies to the operations manual because a survey of the 110 jails and 3 district jails indicated all jails in the state already have these

policies. County Government is impacted by the cost to create a policy for a "suicide prevention program". The cost to create a "suicide prevention program" policy is estimated to be $500. As indicated in Table 2, there were three existing jails without a "suicide prevention program" policy, which results in a total cost impact of $1,500. County Government is also impacted by the cost to create a policy for a disaster plan. The cost to create a "disaster plan" policy is estimated to be $500. As indicated in Table 2, there were eight existing jails without a disaster plan policy, which results in a total cost impact of $4,000. The total estimated cost is $5500. This cost will occur in 2019.

- New jails and new additions to existing jails – County Government will not be impacted by the requirement to add a "use of force, "use of restraints", and 'suicide prevention program". These policies are not site specific and are transferable from an existing jail to a new jail. By 2019, all jails and district jails in the state will have these policies. County Governments will be impacted by the requirement to have a "disaster plan" policy because these are site specific and are not transferable from an existing jail to a new jail. For new additions, the existing "disaster plan" policy will have to be revised to take into account the extra inmates housed in the new addition. In 2023, there will be one new jail and two new additions to existing jails that will need a new disaster plans in anticipation of occupying the new jails and additions. In 2023, this results in a total estimated cost of $1500 ($500 per jail x 3 jails).

Benefits

County Government

All three policies (suicide prevention program, use of force and use of restraints) should reduce litigation costs for a County Government. This benefit is unquantifiable.

Inmates

A policy for "suicide prevention program" should decrease the chances an inmate will commit suicide in jail. A "use of force" policy should help keep inmates safe from unnecessary pain and suffering from the inappropriate use of excessive force.[6] A "use of restraints" policy should help safeguard an inmate from the inappropriate use of restraints.[7] These benefits are unquantifiable.

Summary of Estimated Costs of Rule 10A NCAC 14J .0203

	2019	2020	2021	2022	2023
State Government	$3,955	$3,955	$3,955	$3,955	$3,955
Local Government	$5,500	$0	$0	$0	$1,500
Total	$9,455	$3,955	$3,955	$3,955	$5,455

[6] Jeffrey Schwartz, "Use of Force in Correctional Facilities", (November, 2012), retrieved from http://www.nccdglobal.org/newsroom/nccd-blog/use-force-correctional-facilities

[7] Darrell Ross, "The Use of Restraints and Lessons Learned", (March, 2008), retrieved from https://www.correctionsone.com/products/duty-gear/restraints/articles/1842504-The-Use-of-Restraints-and-Lessons-Learned/

Rule 10A NCAC 14J .0204 Review of Manual

Purpose for rule change

The proposed changes to this rule were technical changes.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .0301 Classification System and Total Design Capacity

Purpose for rule change

The rule text changes in Paragraph (a) clarified the meaning of the Paragraph and has no impact on jail operations. Paragraph (b) of this rule added the requirement to move inmates to another jail or prison, when the "Total Design Capacity" of the jail was exceeded. At times, some jails exceed their "Total Design Capacity". Even before this change, jails exceeding their "Total Design Capacity" were considered out of compliance with the standards set forth in Section .1200 for jail construction and were required to decrease their inmate numbers to the maximum allowed by Section .1200. The purpose of this change was to make it more evident to the sheriff or regional administrator that the jail has a "Total Design Capacity" that cannot be exceeded, and to increase compliance with that design capacity. This change puts into more explicit terms the maximum number of inmates that can be housed in the jail so the sheriff or regional jail administrator are more aware of the need to move inmates to another jail or prison when this maximum number is exceeded. In addition, this change will decrease the chances that the fire exists of the jail will be blocked by inmates sleeping on mattresses on the floor of the dayroom. When jails are over capacity, there are not enough beds for inmates in the cells and some jails place beds on the dayroom or dormitory floors for the extra inmates.

Impact

State Government would be impacted by the additional time spent during a biannual inspection by a jail inspector to check the number of inmates confined in the jail. The additional time is estimated at 15 minutes, which at a $35 per hour compensation rate results in a cost of $8.75 per biannual inspection and an annual cost of $17.50 per jail. This results in an estimated annual cost of $1,978 (113 jails x $17.50 per jail).

The Impact to County Government is discussed below.
The most common course of action for a County Government when a jail is overcrowded has been to move inmates to another jail in the State that is not overcrowded. County Government would be impacted by the cost for housing an inmate at another jail (receiving jail); the cost of transporting the inmate to and from the receiving jail at the time of admittance and for court appearances; and the personnel costs for transporting the inmate to and from the receiving jail.

Because the total number of inmates that would have needed to be moved for all jails in the State in past years is unknown, the number of days these inmates were confined are unknown, and the number of times these inmate were transported back and forth between the sending jails (over capacity jails) and receiving jails (under capacity jails) is unknown the projected estimated cost impact for this change cannot be determined and is unquantifiable.

But the relative magnitude of the cost impact due to the proposed change can be surmised from the following information and Table 9.

- From 2013 to 2017, it cost jails in the state approximately $100 to $250 per inmate to house an inmate in their jail. This cost includes all costs associated with the incarceration of an inmate including operating, personnel, medical and mental health care and transportation.
- In 2017, receiving jails (jails with available capacity), charged the sending jails (over capacity jails) $50 – $55 per inmate for housing inmates. This cost does not include transportation or medical or mental healthcare costs, which are the responsibility of the sending jail. Medical and mental health costs for a particular inmate will vary depending on the health of the inmate, but the sending jail will be responsible for these costs regardless of the inmate's location. Therefore, the cost impact to the sending jail resulting from higher compliance with design capacity limits will be primarily due to additional transportation costs, plus the $50-$55 charge for housing. Moving inmates from over-capacity to under-capacity jails will likely shift staff workload accordingly, but fixed operating and personnel expenses are not expected to change at either sending or receiving jails.
- As indicated in Table 9, the number of jails with a finding of overcapacity during their biannual inspection occurring in 2015 and 2016 ranged from 2 to 5, which is 1.7% and 4.4% of all jails (113) in the state, respectively. This is a small percentage of all jails in the state. Further, the total number of inmates in these overcapacity jails ranged from 37 inmates to 81 inmates. In 2016, the total number of inmate beds in the State was 26,247, which means that an overcapacity of 81 inmates is approximately .3% of the State's total inmate bed capacity, which is also a small percentage.
- In 2016, the highest monthly Average Daily Population for all jails in the State occurred in August and was 19,020 inmates, which is significantly less than the State's inmate bed capacity of 26,247. This indicates that the State's existing jails have a significant available bed capacity for housing inmates from over capacity jails. As per the assumptions of this analysis, the number of inmates incarcerated in North Carolina jails in future years is not expected to increase significantly in the near future. Additionally, the State's inmate bed capacity is expected to increase due to construction as indicated in Table 10. Therefore, the proposed rule should not significantly increase the number of jails constructed in future years.

Table 9 Findings from 2015 and 2016 Biannual Inspections Related to Overcapacity Jails

	2015 - First Inspection Visit	2015 - Second Inspection Visit	2016 - First Inspection Visit	2016 - Second Inspection Visit
Number of jails over capacity at inspection	3	3	2	5
Total number of inmates in over capacity jails in State	41	39	37	81
Furthest two-way distance from over capacity jail to under capacity jail in miles	44	42	76	76

Table 10 Future Projected Total Design Capacity of all Jails in the State

	2016	2017	2018	2019	2020	2021	2022	2023
State Total Design Capacity	26,247	26,570[a]	26,690[a]	27,177[a]	27,586[a]	27,586	27,586	27,900

[a] In this year, the increase in TDC is due to the completion of a new jail or the addition to an existing jail that were approved prior to the effective date of the proposed Rules.

Summary of Estimated Costs of Rule 10A NCAC 14J .0301

	2019	2020	2021	2022	2023
State Government	$1,978	$1,978	$1,978	$1,978	$1,978
Local Government	U*	U*	U*	U*	U*
Total	$1,978	$1,978	$1,978	$1,978	$1,978

*Signifies unquantified impact

Rule 10A NCAC 14J .0302 Female Inmates

Purpose for rule change

The Agency is proposing to readopt this rule with technical changes.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule .0303 Confinement of Inmates Under 18 Years of Age

Purpose for rule change

This rule was changed to require female inmates under 18 years of age "to be confined in separate cells from adults during sleeping hours". Existing rule language applies to male inmates under 18 years of age. There is a national trend to apply similar requirements to males as well as females in prisons. This is evidenced by the Prison Rape Elimination Act (PREA) Standard § 115.14 for Youthful Inmates, which is a federal law, and requires the site

and sound separation of youthful male and female offenders from adults.[8] Although PREA is not enforceable by the Agency in county jails, the purpose of the standard is to protect youthful offenders from being harmed by adult inmates. The Agency believes that in North Carolina not only should youthful male inmates be protected from harm but also youthful female inmates.

Impact

State Government is impacted by the additional Construction Section staff time needed during a biannual inspection by a jail inspector to spot check the female housing units for compliance with the proposed change. The additional time is estimated at 15 minutes, which at a $35 per hour compensation rate results in a cost of $8.75 per biannual inspection and an annual cost of $17.50 per jail. This results in an estimated annual cost of $1,978 (113 jails x $17.50 per jail).

County Government is impacted by the proposed readoption of this rule from December 1, 2018 (readopted effective date of this rule) to December 1, 2019. On December 1, 2019, Senate Bill 257, which is the Appropriations Act of 2017, will no longer allow 16 and 17 year olds of either sex to be incarcerated in a jail on a routine basis.[9] Only 16 and 17 year olds that have committed a certain type of felony and are reprimanded to a county jail by a judge will be housed in a jail. As a result, it is estimated that the number of inmates under the age of 18 housed in county jails will drop significantly. As indicated in Table 2, four jails did not comply with this proposed requirement. In 2016, there were four county jails that housed a total of 46 female inmates under the age of 18 with adult inmates during sleeping hours. It is unknown how many days these 46 youthful inmates were confined to the jail. For 2019, the cost impact for these four county jails would be the cost of transferring and housing these youthful inmates in another jail. Jails charge other jails a cost of approximately $50 to 55 per day to house inmates. Because the number of youthful inmates to be confined and the number of days they will be confined are unknown for 2019, an estimated cost for the impact of this change cannot be determined. As a result, the exact cost impact is unquantifiable.

Benefit

Female inmates under the age of 18 will not be harmed by an inmate more than 18 years of age during sleeping hours.

Summary of Estimated Costs of Rule 10A NCAC 14J .0303

	2019	2020	2021	2022	2023
State Government	$1,978	$1,978	$1,978	$1,978	$1,978
Local Government	U*	$0	$0	$0	$0
Total	$1,978	$1,978	$1,978	$1,978	$1,978

*U signifies unquantified impact

[8] National PREA Resource Center, "Youthful Inmate Implementation", retrieved from https://www.prearesourcecenter.org/training-technical-assistance/prea-in-action/youthful-inmate-implementation

[9] North Carolina General Assembly, House Bill 257, Appropriations Act of 2017, (June, 2017) retrieved from http://www.ncleg.net/Sessions/2017/Budget/2017/S257vccr.pdf

Rule 10A NCAC 14J .0402 Portable Fire Extinguishers

Purpose for rule change

The Agency is proposing to readopt this rule with technical changes. Fire extinguishers are required to comply with the North Carolina State Fire Prevention Code (NCSFC). The smoke detention equipment is required by 10A NCAC 14J Rule .0103 and it is redundant to repeat the requirement again in this rule.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .0403 Fire Plan, Emergency Evacuation Training, and Disaster Plan.

Purpose for rule change

- Revised rule text in Paragraphs (a) and (b) clarifies the existing language and does not impact current jail operations.
- Paragraph (c) adds the requirement for a jail to create a disaster plan that must be submitted to the local emergency management agency. The U.S. Department of Justice, National Institute of Corrections (NIC) recommends that jails have a disaster plan. A natural disaster can threaten the lives of the jail's occupants but having a disaster plan can mitigate the impact of the disaster and decrease the risk of serious injuries and loss of life to the occupants.[10] This change to the rule ensures that all jails in the state will have a disaster plan.

Impact

State Government is impacted by the requirements of Paragraph (d) of this rule. This Subparagraph requires additional Construction Section staff time during a biannual inspection by a jail inspector to check whether a jail has an up to date disaster plan and there is documentation that the local emergency management agency has the plan. The additional time is estimated at 15 minutes, which at a $35 per hour compensation rate results in a cost of $8.75 per biannual inspection. This results in an estimated annual cost of $1978 ($17.50 x 113 jails).

County Government is impacted by the cost to create a "disaster plan", which is part of the disaster plan policy required by Rule 10A NCAC 14J .0203. Therefore, the cost for the disaster plan is included in the County Government costs impacts for Rule 10A NCAC 14J .0203.

Summary of Estimated Costs of Rule 10A NCAC 14J .0403

	2019	2020	2021	2022	2023
State Government	$1,978	$1,978	$1,978	$1,978	$1,978
Local Government	$0	$0	$0	$0	$0
Total	$1,978	$1,978	$1,978	$1,978	$ 1,978

[10] U.S. Department of Justice, National Institute of Corrections " A Guide to Preparing for and Responding to Jail Emergencies" (October, 2009), retrieved from http://static.nicic.gov/Library/023494.pdf

Benefit

Inmates and jail staff will be kept safe from risk of injuring either during or after a natural disaster occurs at the jail.

Rule 10A NCAC 14J .0404 Mattresses

Purpose for rule change

The Agency is proposing to readopt this rule with technical changes by referencing the NCSFC, which specifies the requirements for mattresses.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .0405 Keys

Purpose for rule change

The Agency is proposing to readopt this rule with technical changes.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .0501 General Security Requirements

Purpose for rule change

The Agency is proposing to readopt this rule with technical changes.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 14J .0601 Supervision

Purpose for rule change

- Paragraph (a) and (c) stipulates a maximum time interval between supervision rounds and special watch rounds. In Paragraph (a), the existing rule language required officers to "make supervision rounds not less than twice per hour on an irregular basis". Rule text was added that indicated these rounds must be conducted "not more than 35 minutes" apart. In Paragraph (c), the special watch rounds, which are required for inmates on suicide watch, added rule language that stipulated the four time per hour watch be conducted "not more than 20 minutes apart." During annual jail inspections, the Construction Section has reviewed supervision round and special watch records and has observed that many jails are checking inmates on an irregular basis but the rounds are too close together thereby decreasing the effectiveness of the checks. For instance, the twice per hour supervision round is sometimes being done 10 minutes apart so the checking of inmates is really a once per hour check rather than a twice per hour check. Checking inmates in their cells as specified in the proposed rule language helps officers identify and resolve problem situations quickly. This results in a jail environment that is safe and secure for inmates, officers and visitors. A safe and secure jail environment has been identified as a basic need of inmates that should be met.[11]

[11] U.S Department of Justice, National Institute of Corrections, "Inmate Behavior Management: Guide to Meeting Basic Needs" (February, 2014), retrieved from https://s3.amazonaws.com/static.nicic.gov/Library/027704.pdf

- In Paragraph (c), the proposed rule language clarifies existing rule language related to what reasons should be used to put an inmate on special watch. The list of reasons listed in the existing rule was reformatted to make the rule easier to understand and use. There were technical changes made to the proposed Subparagraphs (1) and (2) that cites the related requirements set forth in Rule .1001 for the preservation of medical records and the initial screening upon admission of inmates, respectively.
- In Paragraphs (a) and (c), rule language was added that required the supervision rounds and supplemental watch to be conducted "24 hours a day, 7 days a week". All jails operate on a 24 hour basis and supervision rounds and supplemental watch must be conducted around the clock whenever inmates are confined in the jail. As evidenced by the Construction Section's review of supervision rounds and special watch rounds records, all jails in the state conduct their rounds 24 hours a day 7 days per week. Therefore, this change does not impact jail operations.
- The proposed rule language for Paragraph (b) clarified the supplemental methods of supervision by creating a list of the four types of supplemental supervision methods. The existing rule had a list with two Subparagraphs, but each Subparagraph had two types of supplemental supervision. This clarification makes the rule easier to understand and use. The intent of Paragraph (b) was not changed because the same four types of supplemental supervision methods were restated in the proposed rule language.
- In Paragraph (e), the existing language stated that "Officers shall not be assigned other duties that would interfere" with the supervision of inmates. The changes made to this Paragraph provided examples of other duties that an officer assigned to supervise inmates should not be doing while supervising inmates. This proposed language clarified the meaning of "other duties".
- In Paragraph (g), none of the proposed language changes impact the operation of a jail because the proposed language:
    - Clarifies that the "contingency plans" is a "contingency personnel plan" for extra personnel to supervise and control inmates during an emergency;
    - Lists the different types of emergencies that can occur at a jail; and
    - States that the "contingency personnel plan" is part of the emergency plans cited in Rule .0203(18) and the disaster plan cited in Rule .0403(d).

The proposed changes made to Paragraphs (d), (e) and (h) are technical changes.

Impact

County Government – There is no fiscal impact associated with the readoption of this rule.

State Government is impacted by the requirements of Paragraphs (a) and (c) of this rule. This Subparagraph requires additional Construction Section staff time during a biannual inspection by a jail inspector to check whether a jail is conducting supervision rounds not more than 35 minutes apart and special watch rounds not more than 20 minutes apart. The additional time is estimated at 30 minutes, which at a $35 per hour compensation rate results in a cost of $17.50. Jails are inspected twice per year so the annual cost is $3,955 ($35 x 113 jails).

Summary of Estimated Costs of Rule 10A NCAC 14J .0601

	2019	2020	2021	2022	2023
State Government	$3,955	$3,955	$3,955	$3,955	$3,955
Local Government	$0	$0	$0	$0	$0
Total	$3,955	$3,955	$3,955	$3,955	$3,955

Benefit

Inmates benefit from the clarifications to this rule regarding the admission screening characteristics that can be used to identify inmates at risk of committing suicide. Adequately spaced Supervision rounds should keep inmates safe from being harmed by other inmates and adequately spaced special watch rounds reduces the chance an inmates will commit suicide.

Rule 10A NCAC 14J .0702 Mattresses and Bedding

Purpose for rule change

The Agency is proposing to readopt this rule with technical changes.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .0705 Personal Hygiene Items

Purpose of rule change

- This rule added the requirement for jails to provide deodorant and shampoo to inmates who are detained over 24 hours. The existing rule language, which was not changed, states that the jail provides this at no cost to the inmate. After these initial supplies are exhausted the jail may charge non-indigent inmates for a re-supply of these hygiene items. Deodorant and shampoo are considered by the Agency to be essential hygiene items for an inmate in addition to the other items listed in the existing Rule .0705.

Impact

State Government is impacted by the additional Construction Section staff time during a biannual inspection by a jail inspector to check whether the hygiene kits contains shampoo, and deodorant as well as the other hygiene items required by 10A NCAC 14J .0705. The additional time is estimated at 15 minutes, which at a $35 per hour compensation rate results in a cost of $8.75. Jails are inspected twice per year so the annual cost is $1978 ($17.50 x 113 jails)

County Government is impacted by the cost to supply shampoo and deodorant to inmates detained over 24 hours. As indicated in Table 2, there were 16 jails that do not supply shampoo or deodorant in their hygiene kits. These jails were surveyed for their current annual hygiene kit costs and the number of kits provided to inmates. As shown below, the estimated additional annual cost impact to County Government is $23,800.

Number of Jails Not Compliant	Current Total Cost of Hygiene Kits	Estimated Total Cost of Hygiene Kit with Shampoo and Deodorant[a]	Estimated Additional Cost per Year to Comply
16	$23,200	$47,000	$23,800

[a] Randolph and Moore Counties provided actual 2016-17 costs of hygiene kits with shampoo and deodorant, which were used to estimate this cost.

Benefit

The requirement for adding shampoo and deodorant to an inmate's hygiene kit will improve an inmate's personal hygiene.

Summary of Estimated Costs of Rule 10A NCAC 14J .0705

	2019	2020	2021	2022	2023
State Government	$1,978	$1,978	$1,978	$1,978	$1,978
Local Government	$23,800	$23,800	$23,800	$23,800	$23,800
Total	$25,778	$25,778	$25,778	$25,778	$25,778

Rule 10A NCAC 14J .0904 Menus

Purpose for rule change

The Agency is proposing to readopt this rule with technical changes. Paragraphs (f) and (g) lowers the regulatory burden of the jail. Paragraph (f) allows a jail to maintain records either at the jail or a remote location. Paragraph (g) allows the jail to provide the records within 30 days of the request rather than immediately.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .1001 Medical Plan

Purpose for rule change

- The proposed Paragraph (a) rule language was modified for technical changes.
- In Paragraph (b)(1), "health screening of inmates upon admission" was changed to "screening of inmates upon admission as set forth in Rule .1002(a)". For this change, refer to the Purpose of rule changes for Rule 10A NCAC 14J .1002 below.
- In Paragraph (b)(3), "handling routine care for an inmate's needs related to: mental health; a development and intellectual disability; and a substance use disorder" was added to the rule. As per N.C.G.S. 153A-225, a jail is required to have a medical plan that is adopted by the governing body. This medical plan is developed by the local public health director in consultation with the local mental health, substance use disorder, and developmental disabilities authority. This change makes it more clear to county governments and local public health directors that N.C.G.S. 153A-225 requires the medical plan to include routine care not only for medical care but also for conditions and disorders related to mental health, development and intellectual disabilities and substance

abuse. Jails house a significantly greater proportion of persons with mental health and substance use disorders than found in the general public.[12]

- The remainder of the changes to this rule were technical changes.

Impact

State Government would not be impacted by the proposed Rule. As per NC 153A-225, it is not within the authority of the Agency to check the contents of the Medical Plan. The Medical Plan is the responsibility of the local or district health director and the governing body of the County Government.

County Government fiscal impacts are provided below. As indicated in Table 2, there were two jails without a medical plan policy for the routine care of inmates with a developmental and intellectual disabilities. County Governments were in compliance with the other proposed changes to this Rule.

- County Government would be impacted by the cost to create a policy for the routine care of inmates with a developmental and intellectual disability. As indicated in Table 2, there were two jails without a medical plan policy for the routine care of inmates with a developmental and intellectual disabilities. The cost to add a policy per jail would be $500 per jail, which results in a total cost impact of $1000. This cost would occur in 2019.
- County Government would also be impacted by the cost to provide routine care for inmates with a developmental and intellectual disability. This cost is unquantifiable because the exact number of inmates with a developmental and intellectual disability who would need routine care is unknown and the type of care needed is unknown. However, an approximate number of inmates at these two jails needing care for these disabilities can be determined, which provides a relative magnitude of the impact. In 2016, the two jails in Table 2 without a medical plan policy to provide routine care for these disabilities admitted approximately 6,156 inmates into their jails. According to the Bureau of Justice Statistics, 31% of inmates admitted into U.S. jails between February 2011 and May 2012 had a developmental or intellectual disability.[13] Therefore, 1900 inmates (.31 x 6,156) is a rough approximation of the number of inmates that could be expected to have a developmental and intellectual disability in these two facilities. In the general population, research has indicated that 35% of people with a developmental and intellectual disability also have a mental illness, which is approximately 665 of the 1900 inmates.[14] These 665 inmates would be treated under the two jail's existing medical plan policy for mental health. This would leave approximately 1235 inmates needing routine care for these disabilities.

---

[12] National Commission on Correctional Health Care, *Standards for Health Services in Jails*, (Chicago: NCCHC, 2008)

[13] Bureau of Justice Statistics, "Disabilities Among Prison and Jail Inmates, 2011-2012", (December, 2015), retrieved from https://www.bjs.gov/content/pub/pdf/dpji1112.pdf.

[14] National Association for the Dually Diagnosed, "Information on Dual Diagnosis", (2017), retrieved from http://thenadd.org/resources/information-on-dual-diagnosis-2/

Benefits

Inmates will benefit from the proposed rule changes because their needs related to conditions and disorders for mental health, development and intellectual disabilities, and substance abuse are more likely to be treated and taken care of.

Summary of Estimated Costs of Rule 10A NCAC 14J .1001

	2019	2020	2021	2022	2023
State Government	$0	$0	$0	$0	$0
Local Government	$1000	U*	U*	U*	U*
Total	$1000	$0	$0	$0	$0

*Signifies unquantified impact

Rule 10A NCAC 14J .1002 Screening of Inmates

Purpose for rule change

The following changes were made to this rule:

- In Paragraph (a), screening for medical care was moved from Rule 10A NCAC 14J .1001 to this rule. Screening for "mental health care needs", "development and intellectual disabilities", and "substance use disorders" was also added to this Paragraph. The screening for "risk of suicide" was added to this list because it is required by existing rule 10A NCAC 14J .0601.
- The second sentence of Paragraph (a) was moved to a new Paragraph (b). N.C.G.S. 153A-222 was cited in this Paragraph, which allows the Construction Section to gain access to records of inmate screenings.
- A Paragraph (c) was added that allows officers to only access inmate screening information in compliance with the confidentiality requirements in Rule 10A NCAC 14J .1001(b)(7).

These changes were made to: consolidate inmate screening requirements into a single rule; make officers aware of confidentiality requirements for inmate screening information by rule; and the requirements of a state general statute that allows the Construction Section to gain access to inmate screening information.

Impact

State Government would not be impacted by the proposed Rule. As per NC 153A-225, it is not within the authority of the Agency to check the contents of the screening form, which is required by the Medical Plan (Rule 10A NCAC 14J .1001).

County Government would be impacted by the cost to add questions related to a developmental and intellectual disability to their inmate screening forms and the personnel costs for a detention officer to ask recently admitted inmates these additional questions. As indicated in Table 2, there were two jails without questions related to developmental and intellectual disabilities on their inmate screening form. The cost to add questions to the inmate screening form would be $500 per jail, which results in a total cost impact of $1000. This cost would occur in 2019. The additional time expected to be spent by a detention officer screening inmates is 10 minutes, which at a $32 per hour compensation rate results in a cost of $5.30 per inmate. In 2016, there were approximately 6,156 inmates admitted to the two jails. As indicated in the assumptions, the number of inmates incarcerated in future years

is not expected to increase significantly. Therefore, the estimated cost impact is $32,630 ($5.30 x 6,156 inmates). This cost would occur in each year from 2019 to 2023.

Benefits

By consolidating inmate screening requirements into one rule, officers and medical personnel may find this rule easier to use. Inmates will benefit from this change because their mental health care needs in addition to their medical care needs may be identified and treated soon after admission to the jail.

Summary of Estimated Costs of Rule 10A NCAC 14J .1002

	2019	2020	2021	2022	2023
State Government	$0	$0	$0	$0	$0
Local Government	$33,630	$32,630	$32,630	$32,630	$32,630
Total	$33,630	$32,630	$32,630	$32,630	$32,630

Rule 10A NCAC 14J .1202 Consultation and Technical Assistance

Purpose for rule change

The Agency is proposing to readopt this rule with technical changes.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .1203 Compliance Review and Approval

Purpose for rule change

- In Paragraph (a), the number of plans submitted to the Construction Section was changed from "three sets of plans" to "two sets of plans". This change was made because for the past 20 years the Construction Section has not been forwarding a set of plans to the Division of Environmental Health, which is now the Environmental Health Section within NC DHHS. The Environmental Health Section no longer reviews plans for compliance with state sanitation rules. This is done on a local level. Governing bodies submit plans on their own to the local health department for review. The reference to the Division of Environmental Health was deleted from Paragraph (b). The number of days for Construction Section Plan Review was moved from Paragraph (b) to (a) and the number was changed from "30" days to "45 days". The Construction Section reviews plans for many different types of facilities including hospitals, nursing, homes, adult care homes, hospices, mental health facilities, and family care homes. For the past five years, the Construction Section's average plan review time for all facility types is approximately eight weeks. The average review time for jail projects fluctuates between four to six weeks. Changing the plan review time to 45 days or six weeks brings this rule more in line with the Construction Section's average plan review time. This paragraph also states that the drawings must comply with Section .1200 rules and Rule 10A NCAC 14J .0103, which was moved from Paragraph (b).
- In Paragraph (b), this paragraph added a notification to governing bodies that the Construction Section's drawing approval is dependent on the NC Department of Insurance and the local building code official's approval NCSBC compliance. This

allows the Construction Section to withhold project approval for unresolved NCSBC deficiencies.

- In Paragraph (c), the term "Total Design Capacity" was added to this rule. Rule 10A NCAC 14J .0101 defines this term as the number of inmates that can be housed in the jail based on the requirements of Section .1200 related to square footage of cells and the number of toilets, showers and sinks accessible to inmates. Section .1200 rules limits the number of inmates a jail can house based on its size and configuration. The proposed rule requires the Construction Section to determine a jail's "Total Design Capacity" and stipulate this number to the governing body in the Construction Section's project approval letter. Currently, the Construction Section determines the "Total Design Capacity" for a jail project and communicates that number to the Construction Section's Jail Inspection Unit. Notifying the Governing body of a jail's maximum inmate capacity should help decrease the number of North Carolina jails that are overcrowded.
- This Paragraph (d) added the requirement for a governing body to request approval from the Construction Section for changes made during construction that affects compliance with the Section .1200 rules. This change should decrease the cost of construction of a jail. If construction does not comply with the Section .1200 rules, the jail must modify the construction to bring it into compliance. Changes made after construction is complete can be costly.
- Paragraph (e) added the requirement for a governing body to request an inspection date in writing at least two weeks prior to the inspection date. This is a current practice in the Construction Section. This helps the Construction Section staff avoid scheduling conflicts with other inspection requests.
- Paragraph (f) added the requirement for a governing body to receive written approval of completed construction prior to occupying the jail. This requirement ensures that the completed construction work complies with the Section .1200 rules. This is a current practice in the Construction Section.
- Paragraph (g) added the requirement for a governing body to request a renewed approval for a project that has not had a building permit issued within 24 months of Construction Section's initial approval. This ensures that the jail project complies with the current version of the Section .1200 rules.

Impact

State Government will be minimally impacted by changes made to this rule. Paragraphs (a), (c), (d), (e), and (f) because these requirements are current practice of the Construction Section. Paragraph (g) may have an impact by increasing Construction Section staff time spent on a second plan review of a jail. This impact is unquantifiable due to lack of information. No jail has received a second plan review due to non-issuance of a building permit.

County Government may be minimally impacted by changes made to Paragraph (a) by increasing Construction Section Review time to 45 days, thereby delaying the construction and occupancy of the jail. Current 5-year average review time for all projects in the Construction Section is in the range of 6 to 8 weeks. Jail projects reviewed within the past 5 years have been reviewed within this time range. Paragraph (g) will impact any governing

body that delays the construction of the jail for more than 24 months after Construction Section approval. This impact is unquantifiable due to lack of information.

Benefits

Inmates will benefit from the requirements in Paragraph (c), which may reduce overcrowding in jails and Paragraph (f), which ensures that the jail construction complies with the rules and provides a safe, secure and adequate environment for the inmate. Both of these benefits are unquantifiable due to lack of information.

Rule 10A NCAC 14J .1207 Inmate Processing Area and Padded Cell

Purpose for rule change

- Paragraph (a) had technical changes.
- Paragraph (b) reiterates the existing requirements in Rules 10A NCAC 14J .1221 to .1224 for the housing of an inmate in a confinement unit or cell with a toilet, sink, drinking fountain, and security mirror after the booking of an inmate has been completed. In addition, existing 10A NCAC 14J .1224(d), requires a confinement unit to have natural light. Padded cells are used for inmates undergoing detoxification for alcohol and drug abuse and do not have a toilet, sink, drinking fountain, and security mirror. If a toilet or sink were in the padded cell, the surface of these plumbing fixtures would not be padded and the intoxicated inmate could accidently fall on these fixtures and could be severely injured by the fall. Processing areas and medical areas are also not required to have natural light. Therefore, the padded cell would not meet the existing natural light requirements in Rule NCAC 14J .1224(d).
- Paragraph (c) stated that an inmate processing area or a medical area may have a padded cell. The governing body determines whether they want to construct a padded cell. If the jail has a padded cell, mandatory requirements were added for the construction of the padded cell. This ensures that padded cells are constructed to meet minimum standards and are safe for inmates undergoing detoxification from alcohol and drug abuse.[15]
- Paragraph (d) added additional fire safety requirements for a padded cell.

Impact

State Government is impacted by the requirements of Paragraph (c) and (d) for the construction of a padded cell. Construction Section staff time would be spent during plan review and construction inspection checking a padded cell on the plans and onsite for compliance with the padded cell requirements. This work would be done by an architect and engineer.

- Architect and Engineer plan review will each take an estimated 30 minutes to complete per project at a cost of $47 ($47 x .5 hr. + $46 x .5 hr.).
- Architect and Engineer inspection time will each take an estimated 30 minutes to complete at a per project cost of $47 ($47 x .5 hr. + $46 x .5 hr.).
- Costs per year are indicated below

[15] Corrections One, "Ohio considers padded cell", (March, 2013), retrieved from https://www.correctionsone.com/treatment/articles/6147040-Ohio-jails-consider-padded-cells/

Construction Section Staff Cost for Plan Review and Inspection 10A NCAC 14J .1207

	2019	2020	2021	2022	2023
Number of Jails Reviewed		3	2	2	2
Number of Jails Inspected					3
State Government	$0	$141	$94	$94	$235

County Government

If a County Government decides to construct a padded cell in their jail, the County Government will be impacted by the cost of constructing a padded cell to meet the mandatory requirements in the rule. Between 2011 and the present, there were four jails constructed with padded cells (see Table 6). Of these four jails, three jails constructed padded cells that were not compliant with the changes in the proposed readopted rule. The estimated additional cost to construct these padded cells to comply are provided below and the average cost for the three jails is equal to $1333. This average cost will be used to project the future compliance construction costs. The number of projected jails with non-compliant padded cell construction in 2022 and 2023 is two. The cost in 2017 is estimated at $2666 (2 x average cost of $1333), which results in an inflation-adjusted cost of construction for 2022 and 2023 of $3066 and $3152, respectively.

	Number of Padded Cells in Jail	Cost to Upgrade Padded Bell	Items Missing
Jail 1	1	$500	water hose connection
Jail 2	3	$2,300	Two-way voice communication, water hose connection
Jail 3	2	$1,200	Two-way voice communication
Total		$4,000	

Projected Jail Compliance Construction Cost for 10A NCAC 14J .1207

	2019	2020	2021	2022	2023
Number of Projected Jails with Non-compliant padded cell construction	0	0	0	2	2
Projected Compliance Cost to County Government	$0	$0	$0	$3,066	$3,152

Benefit

Inmates will benefit from the requirements for a padded cell. These requirements ensure that a padded cell provides a safe and adequate space for inmates undergoing detoxification from alcohol and drug abuse.

Summary of Estimated Costs per Yr. of Rule 10A NCAC 14J .1207

	2019	2020	2021	2022	2023
State Government	$0	$141	$94	$94	$235
Local Government	$0	$0	$0	$3,066	$3,152
Total	$0	$141	$94	$3,160	$3,387

Rule 10A NCAC 14J .1210 Other Areas

Purpose for rule change

- Paragraphs (a), (b), (d), and (e) of this rule had technical changes.
- Paragraph (c) proposed rule language specifies square footage requirements for inmate indoor and outdoor exercise areas. The existing rule requires a jail to have "area or areas specifically designated for exercise" but does not specify a size and location of that exercise area. The purpose of this change is to ensure that jails in the state are constructed with both indoor and outdoor exercise areas. Outdoor and indoor inmates exercise areas are required by the standards of American Correctional Association, which is a national accreditation organization that accredits jails and prisons throughout the country[16].
- Paragraph (g) added the requirement for a control center to have a bathroom nearby and a security vestibule at its entrance. The security vestibule was added to increase the security of the control room. Having a bathroom near the control room decreases the time that officers are away from the control room.

Impact

State Government is impacted by the requirements for outdoor and indoor exercise areas and the control center bathroom and security vestibule (Table7). Construction Section staff time would be spent during plan review and construction inspection checking for compliance with these requirements. This work would be done by an architect.

- Architect plan review time will take an estimated 1 hour to complete at a per project cost of $47 ($47 x 1 hr.).
- Architect inspection time will take an estimated 30 minutes to complete at a per project cost of $24 ($47 x .5 hr.).
- Costs per year are indicated below.

Construction Section Staff Cost for Plan Review and Inspection 10A NCAC 14J .1210

	2019	2020	2021	2022	2023
Number of Jails Reviewed		3	2	2	2
Number of Jails Inspected					3
State Government	$0	$141	$94	$94	$166

County Government

County Government is only impacted by the requirements for outdoor exercise areas (Table 7). In both 2022 and 2023, the assumptions on page 6 indicate that the projected square footage of outdoor area that would not be constructed in the absence of the proposed rule is 1800 square feet. The cost for construction of an outdoor exercise area is estimated at $150 per square feet. This results is a 2017 cost of $270,000. The inflation-adjusted estimated additional cost impact for complying with the proposed square footage requirements for 2022 and 2023 is $310,508 and $319,240, respectively.

[16] American Correctional Association, *Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition,* (Maryland: Graphic Communications, 2004).

Projected Jail Compliance Construction Cost for 10A NCAC 14J .1210

	2019	2020	2021	2022	2023
Number of Projected Jails to be built without outdoor exercise areas.	0	0	0	1	1
Projected Compliance Cost to County Government	$0	$0	$0	$310,508	$319,240

Benefits

Inmates will have access to fresh air and sunlight, which may improve an inmate's health status thereby reducing medical costs. County Government may have a reduction in inmate health care costs. Both benefit are unquantifiable.

Summary of Estimated Costs per Yr. of Rule 10A NCAC 14J .1210

	2019	2020	2021	2022	2023
State Government	$0	$141	$94	$94	$166
Local Government	$0	$0	$0	$310,508	$319,240
Total	$0	$141	$94	$310,602	$319,406

Rule 10A NCAC 14J .1212 Floor, Ceilings and Walls

Purpose for rule change

- Requiring floors to be of a light color was removed from the rule because floors are never painted a light color in a jail. Light colored floors are impractical and would need constant cleaning.
- Areas other than confinement units were added to the rule such as cell blocks, dayrooms, the inmate processing area, and the medical area. Rule 10A NCAC 14J .0701 adopts by reference the 15A NCAC 18A Sanitation Rules for Jails. Sanitation Rules 15A NCAC 18A .1507 and .1508 require all floors, ceilings, and walls in a jail to be cleanable. This change makes this rule consistent with the 15A NCAC 18A Sanitation Rules for Jails.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .1213 Showers and Plumbing Fixtures

Purpose for rule change

- In Paragraph (b), the requirements for the sloping of floors and location of floor drains was modified to make the requirement consistent with the 15A NCAC 18A Rule 10A NCAC 14J .0701 adopts by reference the 15A NCAC 18A Sanitation Rules for Jails.
- Technical changes were made to the tamper-resistant requirements for "shower fixtures and drains" and it was moved from Paragraph (b) to the new Paragraph (c).
- Technical changes were made to Paragraphs (d) and (e).
- The requirement for mouth guards on drinking fountains was deleted from the rule. Mouth guards have been used by inmates to attach a ligature and commit suicide.

Impact

There is no fiscal impact associated with the readoption of this rule.

Benefit

State Government will benefit from the removal of the requirement for mouth guards on water fountains due to a reduction of Construction Section staff time on engineering plan review. Time spent checking plans for mouth guards would be reduced by 30 minutes, which at a $46 per hour compensation rate is equal to $23. The cost reduction per year are indicated below.

Construction Section Staff Cost Reduction for Plan Review 10A NCAC 14J .1213

	2019	2020	2021	2022	2023
Number of Jails Reviewed		3	2	2	2
State Government	$0	$(69)	$(46)	$(46)	$(46)

County Government will benefit from the removal of the requirement for mouth guards due to a decrease in construction cost for the jail. A drinking fountain without a mouth guard will cost slightly less than a drinking fountain with mouth guard, but this benefit is unquantifiable.

Inmates should benefit from the removal of the requirement for mouth guards on water fountains by eliminating a connection point for a ligature that can be used to commit suicide. This should make the cell a safer environment for inmates. This could reduce the number of inmates committing suicide in county jails. This benefit is unquantifiable.

Summary of Estimated Benefits per Yr. of Rule 10A NCAC 14J .1213

	2019	2020	2021	2022	2023
State Government	$0	$(69)	$(46)	$(46)	$(46)
Local Government	$0	$0	$0	$0	$0
Total	$0	$(69)	$(46)	$(46)	$(46)

Rule 10A NCAC 14J .1214 Windows and Glazing

Purpose for rule change

- The proposed readopted rule adds specific requirements for the location and size of windows in inmate cells and dormitories of the jail. This change will ensure an appropriate amount of natural light will be provided to cells and dormitories in new jails and will be maintained in those new jails overtime. In the past, County Governments have sometimes altered the windows in a jail thereby, decreasing or removing natural light being admitted into cells. When this happens, the Construction Section requires the County Government to modify the jail's construction to allow the re-admittance of light into those existing inmate cells. But without a square footage requirement for the size of windows in inmate cells or dayrooms, the Agency cannot require a jail to put back windows equal in size to the windows removed or blacked-out. Therefore, another purpose of this proposed change is to ensure that the natural light provided to inmate cells in jails built after 2018 are not altered or removed by the County Government.

Impact

State Government is impacted by the requirements windows in cell and dormitories. Construction Section staff time would be spent during plan review and construction inspection checking for compliance with these requirements. This work would be done by an architect.

- Architect plan review time will take an estimated 1 hour to complete at a per project cost of $47 ($47 x 1 hr.).
- Architect inspection time will take an estimated 1 hour to complete at a per project cost of $47 ($47 x 1 hr.).
- Costs per year are indicated below.

Construction Section Staff Cost for Plan Review and Inspection 10A NCAC 14J .1214

	2019	2020	2021	2022	2023
Number of Jails Reviewed		3	2	2	2
Number of Jails Inspected					3
State Government	$0	$141	$82	$82	$235

County Government has no fiscal impact associated with the readoption of this rule due to the construction of a new jail. As indicated in Table 7, the number of future jail projects per year that are projected to be non-compliant with this proposed construction rule is zero. A County Government may have a fiscal impact due to future construction of non-jail facilities near the jail if those facilities allow occupants to view into the cells of the jail. This is not permitted by Paragraph (b) of this Rule, which is an existing requirement and did not change with the proposed Rule. This fiscal cost impact is unquantifiable because the number of future jails with this issue is unknown. Possible future fiscal impact would be associated with the costs of replacing transparent glazing with diffuse glazing in the windows of the jail or the construction of a solid vertical barrier between the jail and the non-jail facility. This future fiscal impact would occur after 2023.

Summary of Estimated Costs per Yr. of Rule 10A NCAC 14J .1214

	2019	2020	2021	2022	2023
State Government	$0	$141	$82	$82	$235
Local Government	$0	$0	$0	$0	$0
Total	$0	$141	$82	$82	$235

Benefits

Inmates and jail staff will benefit from the provision of natural light in cells, dormitories and dayrooms within the jail. Natural light can help create a more pleasant and humane building environment for inmate and staff. People in properly sunlit rooms will be less depressed and more relaxed.

Rule 10A NCAC 14J .1215 Doors, Bunks, Locks, and Fasteners

Purpose for rule change

- Paragraphs (a) to (c) had technical changes.
- Paragraph (d) modified the existing language to make it consistent with the security vestibule definition in 10A NCAC 14J .0101 Definitions.

- Paragraph (g) clarified requirements for inmate bunks.
- Paragraph (h) restates NCSBC requirements for upper bunks in cells required to be accessible for inmates with a disability.
- Paragraph (i) added a list of requirements for reducing suicide hazards in a jail. These requirements reduce the tie-off points in a cell that can be used by an inmate to attach a ligature and commit suicide. This will ensure that new jails built after 2018 will be safer for inmates at risk of committing suicide. It also will reduces the chances that a County Government in future years will modify cells in these new jails in a manner that increases the suicide hazards in the cell. There has been instances where a County Government has added tie-off points in a cell that was used by an inmate to commit suicide. A more detailed justification for the need to reduce suicide hazards in jails is provided in Rule 10A NCAC 14J .0203.

Impact

State Government is impacted by the requirements for equipping cells with items that will reduce suicide hazards in a jail. Construction Section staff time would be spent during plan review and construction inspection checking for compliance with these requirements. This work would be done by an architect and engineer.

- Architect and engineer plan review time will take an estimated 1 hour each to complete at a per project cost of $93 ($47 x 1 hr. + $46 x 1 hr.).
- Architect and engineer inspection time will take an estimated 30 minutes each to complete at a per project cost of $47 ($47 x .5 hr. + $46 x .5 hr.).
- Costs per year are indicated below.

Construction Section Staff Cost for Plan Review and Inspection 10A NCAC 14J .1215

	2019	2020	2021	2022	2023
Number of Jails Reviewed		3	2	2	2
Number of Jails Inspected					3
State Government	$0	$279	$186	$186	$326

County Government has no fiscal impact associated with the readoption of this rule due to the construction of a new jail. As indicated in Table 7, the number of future jails projects per year that are projected to be non-compliant for years from 2019 to 2023 due to this proposed construction rule is zero. A County Government may have a fiscal impact in future years due to the cost of replacing or adding fixtures, boxes and equipment to a cell that are compliant with this Rule. This fiscal impact cannot he quantified because the number and type of items to be replaced or added to a jail is unknown. This future fiscal impact would occur after 2023.

Summary of Estimated Costs per Yr. of Rule 10A NCAC 14J .1215

	2019	2020	2021	2022	2023
State Government	$0	$279	$186	$186	$326
Local Government	$0	$0	$0	$0	$0
Total	$0	$279	$186	$186	$326

Benefit

Inmates at risk of suicide will be housed in cells that are safer and designed for ligature resistance.

Rule 10A NCAC 14J .1218 Plumbing Systems

Purpose for rule change

- The existing Paragraphs (a) was deleted because it referenced one of the NCSBCs, which are now referenced in 10A NCAC 14J .0102.
- The proposed Paragraphs (a) added hot water temperature requirements (100 degrees F to 116 degrees F) for inmate sinks and showers. A minimum temperature requirement of 100 degrees F is a standard minimum temperature cited in other 10A NCAC facility rules (10A NCAC 13B .6226 and 10A NCAC 13D .3404). Requiring a maximum water temperature of 116 degrees F. will keep inmates safe from injuries due to scalding.
- The existing Paragraph (b) was re-organized into two Paragraphs (b) and (c). Both these Paragraphs had technical changes.

Impact

State Government is impacted by the requirements of Paragraph (a) for temperature requirements for hot water. Construction Section engineering staff time would be spent during plan review and construction inspection checking whether the hot water is provided as required. An Engineer plan review and inspection would each take an estimated that 1 hour per project at a cost of $46 ($46 x 1 hr.).

Construction Section Staff Cost for Plan Review and Construction

	2019	2020	2021	2022	2023
Number of Jails Reviewed		3	2	2	2
Number of Jails Inspected					3
State Government	$0	$138	$92	$92	$230

County Government may be impacted by an increase in construction costs for the proposed changes to Paragraph (a), which requires specific hot water temperature. As indicated in Table 5, only 1 of the 13 jails used to predict future costs was not compliant with Paragraph (a). This was an existing facility and the low temperature may not be due to initial system design but to poor maintenance of the hot water heater. As a result, this cost is unquantifiable.

Summary of Estimated Costs per Yr. of Rule 10A NCAC 14J .1218

	2019	2020	2021	2022	2023
State Government	$0	$138	$92	$92	$230
Local Government	$0	U*	U*	U*	U*
Total	$0	$138	$92	$92	$230

*U signifies unquantified impact

Benefits

Inmates will have hot water temperatures at their sinks and showers that have a temperature that is adequate and safe.

Rule 10A NCAC 14J .1219 Electrical Systems

Purpose for rule change

- Paragraph (a) had technical changes and the existing Paragraph (b) was moved to (a).
- Paragraph (b), (d), and (e) had technical changes.
- Paragraph (c) added the requirement that fire alarm notification devices must be enclosed in a metal guard or be tamper-resistant.
- Paragraph (f) and (g) added a voluntary recommendation for what electrical systems and functions of the jail the governing body may want to provide with emergency power. A remote annunciator panel was voluntarily recommended to be located in the control center, if the fire alarm control panel was not in the control room.

Impact

There is no fiscal impact associated with the readoption of this rule.

Benefit

Jails that voluntarily supply emergency power to their control center, kitchen, hot water and heating and air conditioning do not have to move inmates to another location when there is a loss of power for an extended period of time. Locating a remote annunciator panel in the control room decreases the amount of time officers spend outside of the control room checking the status of the fire alarm system when the fire alarm system is activated.

Rule 10A NCAC 14J .1225 Standards for Dayrooms

Purpose for rule change

- Items (1) to (6) had technical changes. clarifies that a drinking fountain shall be provided in the dayroom if the inmate does not have unrestricted access to a drinking fountain in their cell.
- Items (7) and (8) changes make this Rule consistent the plumbing fixture requirements provided in 10A NCAC 14J .1223.

Impact

There is no fiscal impact associated with the readoption of this rule.

Rule 10A NCAC 14J .1226 Standards for Dormitories

Purpose for rule change

The Agency is proposing to readopt this rule with technical changes.

Impact

There is no fiscal impact associated with the readoption of this rule.

Analysis: Summary

Benefits

Inmates

Inmates will benefit the most from the readoption of these rules. Although these benefits are non-quantifiable, there positive impact is supported by national jail accreditation standards, research studies, a federal law not enforceable by the Agency in North Carolina, and the National Institute of Corrections of the U.S. Justice Department.[17] The major benefits that will be realized by inmates are provided below:

Keeping Inmates Safe from Suicide

Over the past six years, the number of suicides occurring in North Carolina county jails each year has varied but is experiencing an upward trend. Rule changes that will occur with the readoption of these rules attempt to reduce inmate suicide by adding the following items:

- Implementing a Suicide Prevention Program at a jail is considered a best practice for preventing and reducing suicides in jails and prisons.[18] Research has indicated that the implementations of a suicide prevention program does have an impact on reducing suicides.[19]
- Designing cells that are more resistant to the use of a ligature for the housing of inmates at risk of suicide is considered an important component of a suicide prevention program.[20] Additionally, it is considered a best practice to reduce the presence of tie-off points for ligatures used by inmate to commit suicide in a jail.[21]
- Restricting the spacing of special watch rounds to no more than 20 minutes apart results in more frequent monitoring of inmates in their cells by an officer, which has been identified as a significant deterrent to inmate suicide.[22]

Providing Access to the Outdoors

Inmates benefit from designing and constructing jails with outdoor areas. Outdoor exercise is seen as extremely beneficial to an inmate's emotional and physical well–being because the

---

[17] The National Institute of Corrections promotes correctional practices and facilities that maximize the safety of the community, staff and offenders, hold offenders accountable and improve the likelihood of offenders choosing law-abiding behaviors. Retrieved from https://nicic.gov/mission.

[18] National Institute of Corrections, United State Department of Justice, "Basics and Beyond Suicide Prevention in Jails", (2012), retrieved from https://s3.amazonaws.com/static.nicic.gov/Library/026251.pdf

[19] Anasseril Daniel, "Preventing Suicide in Prison: A Collaborative Responsibility of Administrative, custodial, and Clinical Staff", *Journal of the American Academy of Psychiatry and the Law* (June, 2006), retrieved from http://jaapl.org/content/34/2/165

[20] Linda Hayes, "Checklist for the "Suicide-Resistant Design of Correctional Facilities", (2011), retrieved from http://www.ncianet.org/wp-content/uploads/2015/05/Checklist-for-the-%E2%80%9CSuicide-Resistant%E2%80%9D-Design-of-Correctional-Facilities.pdf

[21] National Institute of Corrections, United State Department of Justice, "Basics and Beyond Suicide Prevention in Jails", (2012) https://s3.amazonaws.com/static.nicic.gov/Library/026251.pdf

[22] Anasseril Daniel, "Preventing Suicide in Prison: A Collaborative Responsibility of Administrative, custodial, and Clinical Staff", *Journal of the American Academy of Psychiatry and the Law* (June, 2006) http://jaapl.org/content/34/2/165

inmate is exposed to fresh air and sunlight.[23] Exercise provides a positive outlet for inmate energy and can improve an inmate's health status thereby reducing medical costs.[24]

Providing an Inmate Access to Daylight in Cells and Dormitories

Inmates benefit from being exposed to natural light. Natural light has been associated with improved mood, lower fatigue, and enhanced moral in people.[25] Research has indicated that exposure to daylighting plays a role in maintaining health.[26] This is especially true for inmates who are confined to the jail and may have restricted access to the outdoors and natural light.

Screening and Care of Inmates with Mental Health Issues

Inmates would benefit from screening upon admission for mental healthcare needs, development and intellectual disabilities, and substance use disorders and the treatment for these conditions. For an inmate, treatment reduces their suffering and the disabling effects of their illness. Thereby, helping to maximize the inmate's ability to participate in program services.[27] Treatment also improves the quality of life for impaired inmates.

Keeping Inmates Safe during Detoxification

Suicidal, mentally ill, and intoxicated inmates benefit from being accommodated in cells that meet their special needs. Padded cells are designed are constructed to meet the special needs of these inmates. Padded cells should keep inmates safe when they are undergoing detoxification from alcohol and drug abuse.

Disaster Plan

Because inmates are locked-up and cannot protect themselves, Inmates must rely on a jail to keep them safe and healthy during a natural disaster, because they are locked-up and cannot protect themselves. A natural disaster at a jail can severely impact how well the jail functions due to: a lack of water and food, an electric power outage, and the shut-down of building heating and cooling systems. A lack of essential jail functions for an extended period of time can negatively impact the health and safety of inmates. A well thought-out and organized disaster plan may mitigate the impact of the disaster and help keep inmates safe by decreasing the chances inmates will die or suffer a serious injury from the disaster. [28]

---

[23] National Institute of Corrections, Jail Design Guide, Third Edition, retrieved from http://static.nicic.gov/Library/024806.pdf

[24] Battaglia C, di Cagno A, Fiorilli G, et al. Benefits of Selected Physical Exercise Programs in Detention: A Randomized Controlled Study. *International Journal of Environmental Research and Public Health*. 2013;10(11):5683-5696. doi:10.3390/ijerph10115683.

[25] Edwards and Torcellini, "A Literature Review of the Effects of Natural Light on Building Occupants", (2002), retrieved from http://www.nrel.gov/docs/fy02osti/30769.pdf

[26] Mead MN. "Benefits of Sunlight: A Bright Spot for Human Health", *Environmental Health Perspectives*. 2008;116(4):A160-A167, retrieved from https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2290997/

[27] National Institute of Corrections, "Mental Health Services", (2004), retrieved from http://static.nicic.gov/Library/018604.pdf

[28] National Institute of Corrections, United State Department of Justice, "A Guide to Preparing for and Responding to Jail Emergencies", retrieved from http://static.nicic.gov/Library/023494.pdf

County Government

County Government will benefit from the readoption of these rules. These benefit are unquantifiable. The screening and treatment of inmates with mental health issues not only benefits inmates but also benefits County Government and jails. Treated inmates are easier to manage, which helps keep staff, volunteers, inmates and visitors of the jail safe.

County Government may have decreased liability resulting from: implementing a suicide prevention program, identifying inmates at risk of suicide, identifying and treating inmates with mental illnesses, housing inmates in padded cells during detoxification, and having a disaster plan that reduces the chances of inmates and staff being seriously injured.

Impacts

As presented above, the estimated calendar year costs and benefits from the proposed readoption of these 32 rules do not amount to an impact of $1 million or more with a year. However, many of the benefits or reductions in cost could not be quantified but may be significant. Therefore, there may be a possible substantial economic impact as a result of the readoption of these rules.

The magnitude of the expected health and safety benefits for inmates are dependent on the effectiveness of the proposed rules, which is discussed below.

- Keeping Inmate Safe from Suicide. The National Institute of Corrections has indicated that the implementation of a suicide prevention program in some jails has decreased their total suicide rate by approximately 50% in five years.[29] But research has also indicated that there are challenges with the successful implementation of a suicide prevention program, which includes difficulties with accurately identifying inmates at risk of suicide and evaluating and improving the suicide prevention program on an ongoing basis.[30]
- Improved Health of Inmate from Exposure to Daylight. Studies have shown that exposure to sunlight has decreased inmates' requests for medical care.[31] But this may be offset by the large number of inmates needing medical care due to the overall health status of the inmate population, which is much worse than that of the general population.[32]
- Mental health screening and treatment. Research has indicated that screening and treatment for mental health disorders reduces inmate suicide attempts and management problems.[33] Research has also found that not all inmates with mental health disorders are treated. Inmates with schizophrenia, which influence an inmate's behavior, are often

---

[29] National Institute of Corrections, United State Department of Justice, "Basics and Beyond Suicide Prevention in Jails", (2012) https://s3.amazonaws.com/static.nicic.gov/Library/026251.pdf

[30] Anasseril Daniel, "Preventing Suicide in Prison: A Collaborative Responsibility of Administrative, custodial, and Clinical Staff", *Journal of the American Academy of Psychiatry and the Law* (June, 2006) http://jaapl.org/content/34/2/165

[31] Edwards and Torcellini, "A Literature Review of the Effects of Natural Light on Building Occupants", (2002), retrieved from http://www.nrel.gov/docs/fy02osti/30769.pdf

[32] A. Macamadu, "Correctional Health Is Community Health", (2015), retrieved from http://issues.org/32-1/correctional-health-is-community-health/

[33] National Institute of Corrections, "Mental Health Services", (2004), retrieved from http://static.nicic.gov/Library/018604.pdf

medicated to maintain security in the jail environment. But inmates with depression who do not pose a security risk and are more difficult to identify may not be treated.[34]

- Reduction in Liability and Settlement Costs for County Governments. In recent years, inmate deaths in North Carolina have resulted in settlement payments to the families of those inmates in the range of $25,000 to $250,000 per inmate. Implementation of a suicide prevention program should reduce the number of inmate suicides thereby reducing the total amount of settlement costs paid by the State's jails within a calendar year. But non-compliance with existing Rules, such as a failure by jail staff to check on inmates placed on a suicide watch, has sometimes resulted in the death of an inmate and settlement payments to the inmate's family.

State

There is a non-substantial impact to the state for the readoption of these rules. The State's impact will result from an increase in the Construction Section biannual inspection time, plan review time and construction inspection time. For the State, The maximum annual cost for the readoption of these rules occurs in 2023 and is approximately $20,698 (Table 10). Costs are expected to continue at this level beyond 2023. This cost can be absorbed within the Construction Section and Department's operating budget without any increase to state funds. As shown in Table 10, the State's total calendar year impacts for 2019, 2020, 2021 and 2022 is $19,646, $20,323, $20,054 and $20,054, respectively.

Table 10 Estimated Total Impact to State (Construction Section) CY 2019 to 2023

10A NCAC 14J Rule	2019	2020	2021	2022	2023
Jail Operation Rules					
.0103	$3,824	$3,730	$3,730	$3,730	$3,730
.0203	$3,955	$3,955	$3,955	$3,955	$3,955
.0301	$1,978	$1,978	$1,978	$1,978	$1,978
.0303	$1,978	$1,978	$1,978	$1,978	$1,978
.0403	$1,978	$1,978	$1,978	$1,978	$1,978
.0601	$3,955	$3,955	$3,955	$3,955	$3,955
.0705	$1,978	$1,978	$1,978	$1,978	$1,978
.1001	$0	$0	$0	$0	$0
.1002	$0	$0	$0	$0	$0
Construction Rules					
.1207	$0	$141	$94	$94	$235
.1210	$0	$141	$94	$94	$166
.1213	$0	$(69)*	$(46)*	$(46)*	$(46)*
.1214	$0	$141	$82	$82	$235
.1215	$0	$279	$186	$186	$326
.1218	$0	$138	$92	$92	$230
Total	$19,646	$20,323	$20,054	$20,054	$20,698

* This is a benefit or reduction in cost.

[34] Science News, "United States: Mental health care lacking in state, federal prisons", (January, 2015) from https://www.sciencedaily.com/releases/2015/01/150112081906.htm

County Government

For County Government, the proposed readoption of these rules will result in a non-substantial impact due to an increase in jail operations and construction costs. The jail operations costs impacts are due to: creating a suicide prevention program policy; creating a disaster plan policy; creating a disaster plan, and providing at no cost to inmates shampoo and deodorant after 24 hours of incarceration. The construction costs impacts are due to: the construction of a padded cell, when a padded cell is constructed on a project; and the construction of inmate outdoor exercise areas.

The following impacts were unquantifiable due to insufficient data: changes to improve compliance with design capacity limits; the requirement to separate youthful inmates from adult inmates; the cost to provide routine care for inmates with a developmental and intellectual disability; and the provision of 100 to 116 degrees F. hot water at inmate sinks and showers. .

As indicated in Table 11, the County Government's total calendar year quantified costs for years 2019, 2020, 2021, 2022, and 2023 is $65,874, $58,374, $58,374, $371,948 and $382,266, respectively.

Table 11 Estimated Total Impact to County Government CY 2019 to 2023

10A NCAC 14J Rule	2019	2020	2021	2022	2023
Jail Operation Rules					
.0103	$1,944	$1,944	$1,944	$1,944	$1,944
.0203	$5,500	$0	$0	$0	$1,500
.0301	U*	U*	U*	U*	U*
.0303	U*	$0	$0	$0	$0
.0403	$0	$0	$0	$0	$0
.0601	$0	$0	$0	$0	$0
.0705	$23,800	$23,800	$23,800	$23,800	$23,800
.1001	$1,000	U*	U*	U*	U*
.1002	$33,630	$32,630	$32,630	$32,630	$32,630
Construction Rules					
.1207	$0	$0	$0	$3,066	$3,152
.1210	$0	$0	$0	$310,508	$319,240
.1213	$0	$0	$0	$0	$0
.1214	$0	$0	$0	$0	$0
.1215	$0	$0	$0	$0	$0
.1218	$0	U*	U*	U*	U*
Total	$65,874	$58,374	$58,374	$371,948	$382,266

*U signifies unquantified impact

Finally, the total estimated calendar year cost impact to the State and County Government is indicated in Table 12 for 2019, 2020, 2021, 2022, and 2023 and is $85,520, $78,697, $78,428, $392,002, $402,964, respectively.

Table 12 - Summary of Total Aggregate Calendar Year Impact for the Readoption of 10A NCAC 14J Rules (Impact Analysis, 2017$)

Year	2019	2020	2021	2022	2023
COSTS					
State - DHSR (Construction Section)					
Inspection/Enforcement	$19,646	$20,323	$20,054	$20,054	$20,698
County Government					
Jail Operations & Construction Compliance	$65,874	$58,374	$58,374	$371,948	$382,266
Total Costs	$85,520	$78,697	$78,428	$392,002	$402,964
Present Value, 2017$	$74,696	$64,240	$59,832	$279,492	$268,512
Total Costs, 2019-2023, (2017$)	$746,772				
BENEFITS					
Inmates					
Being kept safe from suicide	U*	U*	U*	U*	U*
Exposure to fresh air and sunlight	U*	U*	U*	U*	U*
Access to natural light in cells, dormitories, and dayrooms	U*	U*	U*	U*	U*
Mental health care needs treated	U*	U*	U*	U*	U*
Being kept safe during detoxification	U*	U*	U*	U*	U*
Being kept safe during a disaster	U*	U*	U*	U*	U*
County Government					
Easier management of inmates with mental illness	U*	U*	U*	U*	U*
Lower litigation costs	U*	U*	U*	U*	U*

* U signifies unquantified impact.

10A NCAC 14J .0101 is proposed for readoption with substantive changes as follows:

SECTION .0100 - DEFINITIONS AND APPLICABILITY FOR JAILS

10A NCAC 14J .0101 DEFINITIONS

~~The~~ In addition to the definitions of G.S. 153A-217, the following definitions shall apply ~~in 10A NCAC 14J .0101 through .1300:~~ throughout Sections .0100-.1300 of this Subchapter:

(1) "Addition" ~~is~~ means an extension or increase in floor area or height of a building or structure.

(2) "Alteration" ~~is~~ means any change or modification in construction or use.

(3) "Booking area" ~~is~~ means ~~a secure~~ an area where a person is admitted to a jail and procedures such as searching, fingerprinting, photographing, health screening, and collecting personal history data occur.

~~(4) "Section" is the Jail and Detention Section of the Division of Health Service Regulation, Department of Health and Human Services.~~

~~(5)~~(4) "Cell" ~~is~~ means any confinement ~~unit~~ unit, except a dormitory.

~~(6)~~(5) "Cellblock" ~~is~~ means a separate and identifiable grouping of cells.

~~(7)~~(6) "Communicable disease or condition" ~~is~~ means an illness or condition as defined in G.S. ~~130A-133 which is hereby adopted by reference pursuant to G.S. 150B-14(c).~~ 130A-2.

(7) "Control center" means a room where jail personnel control the safety and security functions of the jail through the monitoring and operation of equipment that includes the communication systems, security systems, electronic surveillance systems, fire alarm system, and electronic door locking systems.

(8) "Confinement unit" ~~is~~ means a single segregation cell, a single cell, a multiple occupancy ~~cell~~ cell, or a ~~dormitory.~~ dormitory but shall not include a padded cell.

(9) "Construction Section" means the Construction Section of the Division of Health Service Regulation.

~~(9)~~(10) "Contraband" ~~is~~ means any item that a person is not authorized to possess in the jail because it is a violation of ~~law or a violation of rules.~~ G.S. 14-258.1 and G.S. 14-258.2.

~~(10)~~(11) "Dayroom" ~~is~~ means an area accessible to a single cell or a multiple occupancy ~~cell,~~ cell with ~~controlled~~ access from the cell and ~~to which inmates may be admitted~~ space for activities such as dining, showers, physical ~~exercise~~ exercise, and recreation.

~~(11)~~(12) ~~"Department", unless otherwise specified, is the North Carolina Department of Health and Human Services.~~ "Department" means as defined in G.S. 153A-217.

(13) "Direct two-way voice communication" means the monitoring of inmate activity by an officer who is located within a cellblock, dayroom, or dormitory and who has oral communications with inmates without the use of a remote two-way voice communication system.

(14) "Direct visual observation" means the monitoring of inmate activity by an officer who has a personal view of the inmates without the use of video surveillance. A jail shall locate an officer either within the cellblock, dayroom, and dormitory or outside of the cellblock, dayroom, and dormitory separated by barriers with view panels. If the officer is separated by barriers from the cell block, dayroom, or dormitory, the view panels in the barriers shall be sized and located to provide the officer with a view into the interior of the cells. The front of these cells shall have bars or doors with view panels

(15) "Disaster plan" means an individual jail's plan with written policies and procedures that indicates what, how, and when actions shall be taken by a jail to maintain the security, welfare, and safety of inmates, staff, officers, and the public before and after the occurrence of an emergency event at the jail. This plan is created and written by the sheriff, regional jail administrator, or their designees.

(16) "District confinement facility" means a building operated by two or more units of local government for the confinement of inmates as provided in G.S. 153A-219.

~~(12)~~(17) ~~"Division", unless otherwise specified, is~~ "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.

~~(13)~~(18) "Dormitory" ~~is~~ means an area designed to house ~~up to 40~~ inmates ~~and~~ that combines dayroom space with sleeping space.

(19) "Emergency event" means an event caused by the occurrence of an emergency as defined by G.S. 166A-19.3(6) or the loss of a jail's utility service that includes electricity, water, gas, or communications.

~~(14)~~(20) "Emergency medical ~~problem"~~ need" ~~is a serious medical need, including severe bleeding, unconsciousness, serious breathing difficulties, head injury, severe pain, suicidal behavior or severe burns, that requires immediate medical attention and that cannot be deferred until the next scheduled sick call or clinic.~~ means a medical condition that requires medical treatment as soon as noticed and that may not be deferred until the next scheduled sick call or clinic.

(21) "Fire evacuation training" means instructing officers and jail staff in procedures related to the evacuation or relocation of building occupants when there is a fire in the jail. The instruction shall simulate an actual fire and a rehearsal of actions needed by officers and jail staff for the evacuation or relocation of building occupants but may not require the actual relocation of inmates within the jail or to the outdoors. The local fire marshal shall determine whether the rehearsal shall include the actual relocation of inmates within the jail or to the outdoors.

~~(15)~~(22) "Footcandle" ~~is~~ means the amount of light thrown on a surface one foot away from the light source. It is a unit for measuring the intensity of illumination.

(23) "Flushing rim floor drain" means a plumbing fixture that uses water activated by a flushometer valve to flush sanitary waste from the fixture to a sanitary drainage system. It shall be mounted flush to the floor.

(24) "Glazing" means any infill material in a window or view panel that includes transparent or translucent glass, polycarbonate, or a combination of glass and polycarbonate.

~~(16)~~(25) "Governing body" ~~refers to the governing body of a county or the policy-making body for a district confinement facility.~~ means as defined in G.S.153A-217.

~~(17) "Health screening" is a procedure for each newly-admitted inmate that combines visual observation with an interview to obtain relevant information about the inmate's physical and mental health.~~

~~(18)~~(26) "Holding area" ~~is~~ means a place where inmates are ~~temporarily~~ held while awaiting processing, booking, court appearance, discharge, or transfer to a ~~regular~~ confinement unit.

~~(19)~~(27) "Holdover facility" ~~is~~ means a facility as defined in G.S. ~~7A-517(16) which is hereby adopted by reference pursuant to G.S. 150B-14(c).~~ 7B-1501.

~~(20)~~(28) "Inmate" ~~is~~ means any person, whether pretrial, unsentenced, or sentenced, who is confined in a ~~jail~~ jail, a district confinement facility, or a county satellite jail/work release unit.

~~(21)~~(29) "Inmate processing area" ~~is a secure area through which inmates enter and exit, and it may be combined with the booking area.~~ means a location in a jail where the booking area and release functions for persons committed to the jail are performed.

~~(22) "Institutional-Restrained" is a Building Code occupancy classification used for buildings in which persons are restrained under lock and key or other security measures which render them incapable of self-preservation due to the security measures not being under their direct control.~~

(30) "Interlocking security feature" means an electronic locking interface between two or more doors in a security vestibule that unlocks and opens one door while at the same time locking the other doors.

~~(23)~~(31) "Jail" ~~is~~ means a building or part of a building operated by a county or group of counties for the confinement of ~~inmates, including~~ inmates that includes county ~~jails,~~ jails and district confinement ~~facilities and jail annexes.~~ facilities. It shall not include a county satellite jail/work release unit governed by Part 3 of Article 10 of Chapter 153A of the General Statutes.

~~(24) "Jail annex" is a building or a designated portion of a building designed, staffed and used primarily to house inmates who do not present reasonably identifiable security risks.~~

(32) "Means of egress" means an unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to the outside of the building.

(33) "Medical personnel" means persons who provide medical care to inmates. Medical personnel shall include a physician, Registered Nurse, and Licensed Practical Nurse.

~~(25)~~(34) "Medical record" ~~is~~ means a record of medical problems, examinations, ~~diagnoses~~ diagnoses, and treatments.

(35) "Mental health personnel" means persons who provide mental health services to inmates. Mental health personnel shall include a psychiatrist, psychologist, Registered Nurse, and social worker.

~~(26)~~(36) "Multiple occupancy cell" ~~is~~ means a cell designed to house ~~up to four inmates.~~ more than one inmate.

~~(27)~~(37) "Officer" ~~is~~ means a person, whether sworn or unsworn, who is involved in the supervision, control, or custody of inmates.

~~(28)~~(38) "Operations manual" ~~is~~ means a set of written policies and procedures for the operation of a jail in compliance with ~~state and federal law and~~ the ~~minimum~~ standards ~~for the operation of jails.~~ set forth in Sections .0100 through .1100 and Section .1300 of this Subchapter.

(39) "Program area" means a common area or room of a jail used by inmates, officers, or visitors for religious, education, training, or recreation activities.

(40) "Program services" means activities provided to inmates by the jail that includes jail orientation, academic and vocational training, problem solving and recreational skills, and life skills in parenting and maintaining employment after release from jail.

~~(29) "Qualified medical personnel" are persons who provide medical services to inmates and who are licensed, certified, registered, or approved, in accordance with state law. It includes persons who provide limited medical services under supervision as permitted by law.~~

~~(30) "Registered dietitian" is a specialist in the field of nutrition, dietetics and food system management who maintains current registration with the Commission on Dietetic Registration of the American Dietetic Association.~~

(41) "Regional jail administrator" means a person who manages a local district confinement facility on behalf of two or more units of local government as provided in G.S. 153A-219.

(42) "Remote two-way voice communication" means the monitoring of inmate activity with a two-way voice intercom system installed between a confinement unit and a 24-hour officer staffed location away from the confinement unit.

~~(31)~~(43) "Repair" ~~is~~ means reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

~~(32) "Residential" is a Building Code occupancy classification used for buildings which provide sleeping accommodations for the occupants and in which the egress doors are unlocked at all times thereby providing free movement to the building exterior from occupied areas.~~

(44) "Routine care" means care that includes physical examinations, health screenings, diagnostic testing, and treatment for an illness, medical condition, or mental health condition that is not an emergency medical need.

~~(33)~~(45) "Sally port" ~~is~~ means an enclosed entry and exit area used either for vehicular or pedestrian traffic with gates or doors at both ends, only one of which opens at a time.

~~(34)~~(46) "Satellite jail/work release unit" ~~is~~ means a unit as defined in G.S. 153A-230.1.

(47) "Screenings of inmates" means a procedure for each newly-admitted inmate that combines visual observation with an interview to obtain information about the inmate prior to the inmate's placement in the general population of the jail. The procedure is set forth in Rule .1002 of this Subchapter.

~~(35)~~(48) ~~"Secretary", unless otherwise specified, is~~ "Secretary" means ~~the Secretary of the Department of Health and Human Services.~~ as defined in G.S. 153A-217.

~~(36)~~(49) "Security perimeter" ~~is~~ means the outer portion of a jail that provides for the ~~secure~~ confinement of inmates and that prevents the entry of ~~unauthorized~~ persons ~~or contraband.~~ not authorized by the sheriff or regional jail administrator.

(50) "Security-type" means a designation by a manufacturer that indicates the product is designed to withstand damage and destruction by inmates.

~~(37)~~(51) "Security vestibule" ~~is~~ means a ~~defined~~ space that provides security by using two or more doors, with each door able to operate independently, and that permits an officer to observe those who pass through the space.

~~(38)~~(52) "Single cell" ~~is~~ means a cell designed to house one inmate.

~~(39)~~(53) "Single segregation cell" ~~is~~ means a cell designed to house one inmate who has been removed from the general inmate population for administrative segregation, disciplinary segregation, or protective custody.

(54) "Special inmates" means an inmate that includes a geriatric inmate, an inmate with a mental health disorder, developmental disability, intellectual disability, or substance use disorder, and an inmate with a physical disability.

(55) "Special watch rounds" means an in-person check of an inmate by an officer at time intervals set forth in Rule 0601(c) of this Subchapter.

(56) "Supervision rounds" means an in-person check of inmates by an officer entering and walking through a cellblock, dayroom, or dormitory. For a cellblock or dayroom, the officer shall walk past and view into each cell and observe the inmate within the cell. If during the supervision rounds inmates are located in the dayroom and not in their cells, the officer shall observe each of the inmates located in the dayroom. For a dormitory, the officer shall walk through the dormitory and observe each inmate. An officer shall conduct the in-person check at time intervals specified in Rule .0601(a) of this Subchapter.

~~(40)~~(57) ~~"Tamper-resistant"~~ "Tamper-resistant" means ~~designed to prevent damage, destruction or interference~~ a designation by a manufacturer that indicates the product is designed to withstand dismantling of the product, removal of the product, or interference with the operation of the product by inmates.

(58) "Total design capacity" means the maximum number of inmates that can be housed in the confinement units of the jail based on the standards contained in Rule .0103 of this Section and Section .1200 of this Subchapter.

(59) "Unit of local government" means as defined in G.S. 153A-217.

(60) "Video surveillance" means the monitoring of inmate activity by a video camera installed in a cell block, dayroom, or dormitory with views of the confinement units. An officer in a location remote from the cell block, dayroom, or dormitory shall observe a live video image created by the video camera on a television monitor.

~~(41)~~(61) "View panel" ~~is~~ means a transparent panel.

~~(42)~~(62) "Visitation area" ~~is~~ means ~~a designated~~ an area where inmates are permitted to receive visitors according to the jail's policies and procedures that govern visitation.

~~(43)~~(63) "Work release" ~~refers to~~ means the release of a convicted inmate for employment in the ~~community,~~ community ~~returning to custody~~ and the return to custody of the convicted inmate during nonworking hours.

History Note: *Authority G.S. 153A-221; 153A-217*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0102 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0102 APPLICABILITY - OPERATIONS AND ENFORCEMENT AND INCORPORATION BY REFERENCE

(a) The ~~operations and enforcement~~ standards established in Section .0100 through .1100 and Section .1300 of this Subchapter shall apply to all jails.

(b) For the purposes of the rules in this Subchapter, the following codes, rules, and standards are incorporated herein by reference including all subsequent amendments and editions. Copies of these codes, rules, and standards may be obtained or accessed from the online addresses listed:

(1) the North Carolina State Building Codes with copies that may be purchased from the International Code Council online at http://shop.iccsafe.org/ at a cost of five hundred seventy-one dollars ($571.00) or accessed electronically free of charge at http://codes.iccsafe.org/North%20Carolina.html;

(2) the North Carolina State Fire Prevention Code with copies that may be purchased from the International Code Council online at http://shop.iccsafe.org/state-and-local-codes/north-carolina/north-carolina-state-building-code-fire-prevention-code-2012-2.html at a cost of ninety-seven dollars ($97.00) or accessed electronically free of charge at http://codes.iccsafe.org/app/book/toc/2012/North_Carolina/Fire/index.html;

(3) 15A NCAC 18A .1517 with copies that may be accessed electronically free of charge at http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20a/15a%20ncac%2018a%20.1517.pdf;

(4) the National Fire Protection Association, National Fire Alarm and Signaling Code, NFPA 72 with copies of this code that may be purchased from the National Fire Protection Association online at

http://catalog.nfpa.org/NFPA-72-National-Fire-Alarm-and-Signaling-Code-2016-Edition-P1198.aspx?order_src=C900&gclid=CJH4hoSFis8CFdQvgQod_y8Dig for a cost of ninety-six dollars and fifty cents ($96.50) or accessed electronically free of charge at http://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards?mode=code&code=72.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0103 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0103 APPLICABILITY – CONSTRUCTION

(a) ~~North Carolina State Building Code – Jails must meet the requirements of the North Carolina State Building Code in effect at the time of construction, additions, alterations or repairs.~~ A new jail or an addition or alteration to an existing jail I and II shall meet the requirements of the North Carolina State Building Codes.

(b) ~~New Jails – The construction standards established in Section .1200 shall apply to all jail construction for which the final working drawings are approved by the Section after the effective date of this Rule.~~ An existing jail I and II shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, alteration, or repair.

(c) ~~Existing Jails – Existing jails shall continue to be governed by the existing construction standards which are now in Section .1500, and the same standards shall apply to new jails which have had final working drawings approved by the Section prior to the effective date of this Rule. Existing jails or new jails which have had final working drawings approved by the Section prior to the effective date of this Rule may choose to comply with any of the new construction standards in Section .1200 as a substitute for existing standards on the same subject in Section .3700.~~ New jail construction or any additions or alterations to an existing jail I and II that have construction documents approved by the Construction Section on or after the readopted effective date of this Rule shall meet the requirements of this Rule and the Rules of Section .1200 of this Subchapter.

(d) ~~Additions – The construction standards established in Section .1200 shall apply to any construction that adds square footage to the building and for which the final working drawings are approved after the effective date of this Rule.~~ Existing jail I construction that has construction documents approved by the Construction Section prior to June 1, 1990 shall meet the requirements of this Rule and the Rules of Section .1500 of this Subchapter.

(e) ~~Alterations or Repairs – When alterations or repairs are made to an existing jail building which affect its structural strength, exits, fire hazards, electrical systems, mechanical systems, or sanitary conditions, such alterations or repairs shall comply with the standards for new construction established in Section .1200. Unaltered portions of the building~~

~~shall only be required to comply with the new construction standards indicated in Section .1200 under the circumstances specified in Paragraphs (f)-(h) of this Rule.~~ Existing jail II construction that has construction documents approved by the Construction Section on or after June 1, 1990 and prior to the readopted effective date of this Rule shall meet the requirements of:

(1) this Rule; and

(2) Rules .1202-.1226 of this Subchapter that were in effect at the time the construction documents were approved by the Construction Section.

(f) Previous versions of the Rules of Section .1200 of this Subchapter can be accessed online at https://www2.ncdhhs.gov/dhsr/jail/index.html.

~~(f)~~(g) ~~Extensive Annual Alterations or Repairs - If, within any 12 month period, alterations or repairs costing in excess of 50 percent of the then physical value of the building are made to an existing jail, the entire jail shall conform to the construction standards for new jails established in Section .1200.~~ A jail that is closed and later reopened shall meet the requirements of Paragraph (c) of this Rule. A jail is not closed if within the same twelve month period of time the jail has either:

(1) housed inmates; or

(2) been inspected by the Construction Section as required by G.S. 153A-222.

~~(g)~~(h) ~~Reconstruction After Damage - If an existing jail is damaged by fire or otherwise in excess of 50 percent of the then physical value of the building at the time of damage, the jail shall be reconstructed in conformance with the construction standards for new jails established in Section .1200.~~ Any existing building converted from another use to a new jail shall meet the requirements of Paragraph (c) of this Rule.

~~(h)~~(i) ~~Physical Value - For the purpose of this Rule, the physical value of the jail building shall be determined by the local building inspection department.~~ Prior to changing a jail's total design capacity by the addition or removal of bunks, the alterations of rooms, or a change in of use of space, the governing body shall submit a written request of the change to the Construction Section and obtain a written approval of the change from the Construction Section. For a new jail or an existing jail I, changes to their total design capacity shall comply with the requirements for a new jail as set forth in Paragraph (c). For an existing jail II, changes to its total design capacity shall comply with the requirements of Paragraph (e).

(j) This Rule and the Rules contained in Sections .1200, .1500, .1600, and .1700 of this Subchapter are minimum requirements and are not intended to prohibit jail construction, systems, or operational conditions that exceed these minimum requirements.

(k) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements of this Rule and the Rules contained in Sections .1200, .1500, .1600, and .1700 of this Subchapter. The equivalency may be granted by the Division when a governing body submits a written equivalency request to the Division that indicates the following.

(1) the Rule citation and the Rule requirement that will not be;

(2) the justification for the equivalency;

(3) how the proposed equivalency meets the intent of the corresponding Rule requirement; and

(4) a statement by the governing body that the equivalency request will not reduce the safety and operational effectiveness of the jail design and layout.

The governing body shall maintain a copy of the approved equivalence issued by the Division.

(l) If the rules, codes, or standards contained in this Subchapter conflict, the most restrictive requirement shall apply.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0201 is proposed for readoption with substantive changes as follows:

SECTION .0200 - OPERATIONS MANUAL FOR JAILS

10A NCAC 14J .0201 REQUIREMENT FOR OPERATIONS MANUAL

~~Effective January 1, 1992, the~~ The sheriff or the ~~administrator of a~~ regional jail administrator shall develop an operations manual that meets the requirements of this Section.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, 1990;
Amended Eff. June 1, ~~1991.~~ 1991;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0203 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0203 CONTENTS OF OPERATIONS MANUAL

(a) The operations manual shall include written policies and procedures that address the following areas:

(1) administration and ~~management;~~ management of inmates;

(2) admissions, ~~transportation~~ transportation, and release;

(3) ~~classification;~~ classification for the placement and housing of inmates, as set forth in Rule .0301(a) of this Subchapter;

(4) security and supervision;

(5) inmate rules and discipline;

(6) management of special inmates;

(7) legal rights of inmates;

(8) health, mental health, ~~mental retardation~~ developmental disability, intellectual disability, and substance ~~abuse~~ use disorder services;

(9) food services;

(10) program services;

(11) work release;

(12) opportunities for exercise;

(13) access to legal assistance or legal materials;

(14) grievance procedures;

(15) visitation and mail policies;

(16) religious activities;

(17) ~~sanitation;~~ sanitation procedures that comply with Rule .0701 of this Subchapter;

(18) emergency ~~plans.~~ plans for a fire or an emergency situation that includes rioting, bomb threats, escapes, and the taking of hostages;

(19) a disaster plan as required by Rule .0403(d) of this Subchapter;

(20) a suicide prevention program;

(21) waiving any medical fees for indigent inmates, as required by G.S. 153A-225;

(23) use of force; and

(24) use of restraints.

(b) ~~The most recent editions of the following references are available as guides for developing policies and procedures:~~

~~(1) Appalachian State University, Model Policies and Procedures Manual for North Carolina Jails;~~

~~(2) American Correctional Association, Standards for Adult Local Detention Facilities;~~

~~(3) American Correctional Association, Standards for Small Jails;~~

~~(4) National Commission on Correctional Health Care, Standards for Health Services in Jails.~~

~~These references shall be available for inspection or loan from the Section. Consultation and technical assistance shall be available from the Section. The Section can also provide information regarding outside agencies with additional resources for developing policies and procedures.~~ In compliance with G.S. 153A-220(1), the Construction Section shall provide consultation and technical assistance to a jail upon request.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0204 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0204 REVIEW OF MANUAL

~~The operations manual shall be reviewed and updated at least once each year by the sheriff or the administrator of a regional jail.~~ The sheriff or regional jail administrator shall review and approve the operations manual in writing annually beginning on January 1. If the operations manual has changed, it shall be updated during the review. The date of the most recent review and approval shall be stated in the operations manual. The operations manual and the written approval shall be made available to the Construction Section during an inspection upon request.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0301 is proposed for readoption with substantive changes as follows:

SECTION .0300 - CLASSIFICATION AND HOUSING

10A NCAC 14J .0301 CLASSIFICATION SYSTEM AND TOTAL DESIGN CAPACITY

(a) Each jail shall have a written classification procedure for the placement and housing of inmates. ~~Within the limitations imposed by the design and capacity of the jail, the procedure shall assign inmates to confinement units that best meet their individual needs and that reasonably protect the inmate, other inmates, the jail staff, and the public.~~ The procedure shall include the following criteria for inmate placement:

(1) the medical needs of the inmate;

(2) the level of supervision needed by the inmate related to the inmate's assaultive or non-assaultive behavior toward officers and other inmates; and

(3) the level of security needed by the inmate to prevent the inmate's escape.

(b) When a jail exceeds its total design capacity, the sheriff, regional jail administrator, or their designees shall relocate inmates to another jail or prison to bring the number of inmates confined into compliance with the total design capacity.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0302 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0302 FEMALE INMATES

~~Male and female inmates shall not be placed in the same confinement unit, dayroom or other living area and, in addition, female inmates shall be housed out of sight of male inmates.~~ Pursuant to G.S. 153A-228, the jail shall not house female and male inmates in the same confinement unit, dayroom, dormitory, or program area. Inmates shall be housed in the jail where they cannot converse with, see, or be seen by inmates of the opposite sex.

History Note: *Authority G.S. 153A-221; 153A-228*
Eff. June 1, 1990;
Amended Eff. December 1, ~~1991.~~ 1991;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0303 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0303 CONFINEMENT OF ~~MALES~~ INMATES UNDER 18 YEARS OF AGE

~~Male inmates~~ Inmates under 18 years of age shall be confined in separate cells from ~~adult~~ inmates who are 18 years of age and older during sleeping hours.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0402 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0402 ~~FIRE EQUIPMENT~~ PORTABLE FIRE EXTINGUISHERS

Each jail shall provide ~~the following emergency fire equipment:~~

~~(1) fire extinguishers that meet all of the requirements in National Fire Protection Association pamphlet number 10 which is hereby incorporated by reference including subsequent amendments and editions of the referenced materials [a copy can be obtained from the National Fire Protection Association, 1 Battery March Park, Post Office Box 9101, Quincy, Massachusetts 02269-9959 at a cost of seventeen dollars and fifty cents ($17.50)]; and~~

~~(2) smoke detection equipment that meets the requirements of the North Carolina State Building Code.~~

portable fire extinguishers that meet the requirements of the North Carolina State Fire Prevention Code.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, 1990;
Amended Eff. December 1, ~~1991.~~ 1991;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0403 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0403 FIRE ~~PLAN~~ PLAN, FIRE EVACUATION TRAINING, AND DISASTER PLAN

(a) Each jail shall have a written plan for the evacuation and control of inmates in the event of a fire. ~~The plan shall include at least quarterly fire drills, and records shall be made of the fire drills and retained. The actual movement of inmates to other areas or outside the building is not required.~~

(b) Ninety percent of officers and jail staff shall receive fire evacuation training on a quarterly basis, as determined by the sheriff or regional jail administrator. ~~Evacuation~~ The evacuation routes used in the fire evacuation training shall be posted ~~or otherwise clearly marked throughout the jail.~~ in the jail for viewing by officers. The sheriff or regional jail administrator shall maintain written documentation of the fire evacuation training. The sheriff or regional jail administrator shall make this documentation available to the Construction Section during an inspection upon request.

(c) ~~The sheriff or the regional jail administrator shall request in writing that the local fire department or fire marshall inspect the jail and review the fire plan at least once each year.~~ If the local fire department or fire marshal has not inspected the jail and approved the fire plan within twelve months of the date of their last inspection, the sheriff or regional jail administrator shall request in writing an inspection and approval of the plan from the local fire department or fire marshal. The sheriff or regional jail administrator shall maintain written documentation of either the inspection and the approved fire plan, or the written request for inspection and approval of the plan. The sheriff or regional jail administrator shall make this documentation available to the Construction Section during an inspection upon request.

(d) Each jail shall have a disaster plan that shall be documented as having been submitted to the local emergency management agency. The sheriff or regional jail administrator shall review and update the disaster plan in writing not less than once each year beginning on January 1. The date of the most recent review and approval shall be stated in the plan. The disaster plan shall be maintained at the jail and shall be made available to the Construction Section during an inspection upon request.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0404 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0404 MATTRESSES

Mattresses shall ~~be of fire resistive and nontoxic construction~~. meet the requirements of the North Carolina State Fire Prevention Code.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0405 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0405 KEYS

(a) Each jail that is ~~required to meet the "Institutional Occupancy – Restrained" requirements of the North Carolina State Building Code~~ classified as an Institutional Group I-3 occupancy shall have a key control ~~system that includes the following elements:~~ system. For the purposes of this Rule, "Institutional Group I-3 occupancy" means an occupancy classification as defined in the North Carolina State Building Code.

(b) The key control system shall include the following elements:

(1) a key control center that is ~~secure and~~ inaccessible to unauthorized persons at all times;

(2) a set of duplicate keys ~~to be~~ for emergency use stored ~~in a safe place~~ outside the security perimeter of the jail in a location that is inaccessible to unauthorized persons at all ~~times;~~ times and accessible to emergency personnel at all times;

(3) an accounting procedure for issuing and returning keys; and

(4) a system of keys and matching locks that are color-coded and marked for identification by ~~touch.~~ touch on both sides of doors installed in a means of egress.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0501 is proposed for readoption with substantive changes as follows:

SECTION .0500 - SECURITY

10A NCAC 14J .0501 GENERAL SECURITY REQUIREMENTS

Each jail shall meet the following security requirements:

(1) provide for the ~~secure~~ confinement of inmates from the time of their passage through the security perimeter until release;

(2) provide for the locked storage of firearms before persons enter the security perimeter;

(3) prevent the passage of contraband;

(4) prevent ~~unauthorized~~ contact between inmates and persons from outside the ~~jail;~~ jail, unless authorized by the sheriff, regional jail administrator, or their designees;

(5) provide a ground-level perimeter exterior that is ~~well-lighted; and~~ lighted; and

(6) provide a communications link with outside agencies for use in emergencies.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, 1990;
Amended Eff. December 1, ~~1991.~~ 1991;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0601 is proposed for readoption with substantive changes as follows:

SECTION .0600 - SUPERVISION

10A NCAC 14J .0601 SUPERVISION

(a) ~~Officers~~ A jail shall have an officer make supervision rounds and ~~directly~~ observe each inmate ~~in person at least~~ not less than twice per hour on an irregular ~~basis.~~ basis with not more than 35 minutes between rounds. Supervision rounds shall be conducted 24 hours a day, 7 days per week. The supervision rounds shall be ~~documented.~~ documented and maintained as written or electronic records. These records shall be made available to the Construction Section during an inspection upon request. ~~If remote electronic monitoring is used to supplement supervision, it shall not be substituted for supervision rounds and direct visual observation.~~ The supplemental methods of supervision specified in Paragraph (b) of this Rule shall not substitute for supervision rounds.

(b) ~~In addition to the supervision rounds required in Paragraphs (a) and (c) of this Rule, each~~ A jail shall utilize one or ~~both~~ more ~~of the following~~ supplemental methods of ~~supervision:~~ supervision 24 hours a day, 7 days a week. The supplemental methods of supervision are:

(1) ~~Direct or remote~~ direct two-way voice ~~communication with all confinement units.~~ communication;

(2) ~~Visual contact either through direct observation or by means of electronic surveillance with all confinement units.~~ remote two-way voice communication;

(3) direct visual observation; and

(4) video surveillance.

(c) ~~Officers shall directly observe, at least four times per hour, inmates who display the following behavior:~~

~~(1) physically hitting or trying to hit an officer; or~~

~~(2) being verbally abusive; or~~

~~(3) stating he will do harm to himself; or~~

~~(4) intoxicated, as determined by a score of .15 on a breathalyzer or displaying slurred speech or smelling of alcohol or inability to control body movement; or~~

~~(5) displaying erratic behavior such as screaming, crying, laughing uncontrollably, or refusing to talk at all.~~

~~In addition to displayed behavior, a previous record of a suicide attempt or a previous record of mental illness shall warrant observation at least four times per hour.~~ While an inmate is on special watch, as specified by this Paragraph, the jail shall have an officer conduct special watch rounds and observe the inmate not less than four times per hour on an irregular basis with not more than 20 minutes between rounds. Special watch shall be conducted 24 hours a day, 7 days a week. The special watch rounds shall be documented. The jail shall maintain written or electronic records of the special watch rounds and shall make these records available to the Construction Section during an inspection upon request. The supplemental methods of supervision specified in Paragraph (b) of this Rule shall not substitute for a special watch. An inmate shall be on a special watch for the following reasons:

(1) an inmate with a medical record maintained and preserved by the jail as required by Rule .1001(b)(7) of this Subchapter that indicates the inmate has attempted suicide at a previous time;

(2) an inmate who reports a previous suicide attempt or threatens to commit suicide during their initial screening upon admission required by Rule .1001(b)(1) of this Subchapter;

(3) an inmate who has been assigned to special watch by medical or mental health personnel of the jail or an officer;

(4) an inmate who displays any of the following behavior:

(A) physically hitting or trying to hit an officer;

(B) verbal abuse of other people;

(C) threatening other people or engaging in self-injury;

(D) screaming, crying, laughing uncontrollably, or refusing to talk; and

(5) an inmate who is intoxicated by alcohol or drug use as determined at intake by one of the following:

(A) a blood alcohol content level of .15 or greater as measured;

(B) use of slurred speech; or

(C) the inability to control body movement.

(d) ~~Officers shall~~ A jail shall make sure that officers remain awake at all ~~times.~~ times while on duty.

(e) ~~Officers shall not be assigned other duties that would interfere with the continuous supervision, custody or control of inmates.~~ When an officer is assigned to supervise inmates as required by Paragraph (a), (b), and (c) of this Rule, a jail shall not assign the officer other tasks that would interfere with the supervision of inmates. These other tasks shall include:

(1) delivering food to inmates;

(2) preparing inmates for and transporting inmates to court;

(3) escorting inmates to medical appointments;

(4) performing inmate booking and release functions;

(5) supervising inmates working in the jail; and

(6) exchanging inmate's soiled clothing, bed sheets, and blankets with clean clothing, bed sheets, and blankets.

(f) ~~Female~~ A jail shall have female officers ~~shall be~~ on duty when female inmates are confined.

(g) The sheriff or the ~~administrator of the~~ regional jail administrator shall develop ~~a~~ contingency personnel ~~plan~~ plans for the supervision and control of inmates during ~~an emergency, and that plan~~ a fire, an emergency event, or an emergency situation that includes rioting, bomb threats, escapes, and the taking of hostages. The contingency personnel plans shall provide for the ~~ready~~ availability of extra personnel. A contingency personnel plan shall be included in the emergency plans required by Rule .0203(18) of this Subchapter and the disaster plan required by Rule .0403(d) of this Subchapter.

(h) ~~Inmates~~ A jail shall not ~~be allowed~~ allow an inmate to supervise or assume ~~any~~ control over other inmates.

History Note: *Authority G.S. 153A-221;*
Eff. October 1, 1990;
Amended Eff. June 1, ~~1992.~~ 1992;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0702 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0702 MATTRESSES AND BEDDING

(a) Mattresses, sheets, and blankets that are clean and ~~in good repair~~ are capable of being used for their intended purpose shall be supplied to ~~all~~ inmates ~~except those not~~ who are housed overnight. Clean sheets shall be issued at least once a week. ~~Mattresses shall meet the following requirements:~~

(b) Mattresses shall:

(1) ~~Mattresses shall~~ comply with ~~Commission for Public Health rules on sanitation, Title 15A Chapter 18B .0201 – .0215 and G.S. Chapter 130A-273 which are adopted by reference pursuant to G.S. 150B-14(c).~~ G.S. 106.65.95 through 106.107 and the requirements of 15A NCAC 18A .1517;

(2) ~~Mattresses shall~~ not be less than four inches ~~thick and shall be the same length and width as the jail bunks.~~ thick;

(3) be the same length and width as the jail bunks;

~~(3)~~(4) ~~Mattresses shall~~ not have any metal, plastic, or other rigid framing ~~component.~~ component; and

~~(4)~~(5) ~~Mattress~~ have ticking that is ~~shall be durable and~~ water repellent.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0705 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0705 PERSONAL HYGIENE ITEMS

(a) Every inmate detained over 24 hours shall be issued without charge the following ~~items as appropriate:~~ items:

(1) ~~Toothbrush;~~ toothbrush;

(2) ~~Toothpaste~~ toothpaste or tooth powder;

(3) ~~Comb; and~~ comb;

(4) ~~Feminine~~ feminine hygiene ~~products.~~ products, if appropriate;

(5) deodorant; and

(6) shampoo.

(b) After ~~a newly admitted~~ an inmate has exhausted his or her initial supply of personal hygiene items listed in Paragraph (a), each jail shall make ~~the listed~~ these items available either for inmate purchase or without ~~charge.~~ charge, as determined by the jail.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, 1990;
Amended Eff. January 1, ~~1992.~~ 1992;
Readopted Eff. December 1, 2018.

10A NCAC 14J .0904 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .0904 MENUS

(a) ~~Menus shall be prepared~~ A jail shall prepare menus in consultation with a ~~registered~~ dietitian or nutritionist.

(b) Menus shall be written and portion sizes shall be ~~specified.~~ specified within the menu.

(c) Menus shall be dated and posted in the jail one week in advance of serving a meal.

(d) ~~Menus shall be served as written to inmates in the jail. Any necessary substitutions shall be of comparable nutritional value, and a written record of substitutions shall be kept.~~ Menus shall be served to inmates as written, unless a substitution of comparable nutritional value is served as determined by the dietitian or nutritionist. Substitutions to the menu shall be made in consultation with a dietitian or nutritionist.

(e) The same menu shall not be served at lunch and dinner on the same day.

(f) Dated menus and records of any substitutions shall be retained for three ~~years.~~ years by the jail or the jail's food vendor either at the jail or at a remote location.

(g) If requested during a Construction Section inspection, the jail shall make dated menus and records of substitutions available to the Construction Section within 30 days of the request.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990~~. 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1001 is proposed for readoption with substantive changes as follows:

SECTION .1000 - HEALTH CARE OF INMATES AND EXERCISE

10A NCAC 14J .1001 MEDICAL PLAN

(a) ~~A written medical plan shall be developed in compliance with G.S. 153A-225 and it shall be available for ready reference by jail personnel.~~ A governing body shall develop and adopt a written medical plan in compliance with G.S. 153A-225. The medical plan shall be available for reference by jail personnel. The medical plan shall include a description of the health services available to inmates.

(b) The written plan shall include policies and procedures that address the following areas:

(1) ~~Health~~ screening of inmates upon ~~admission;~~ admission as set forth in Rule .1002(a) of this Section;

(2) ~~Handling~~ handling routine medical care;

(3) handling routine care for an inmate's needs related to:

(A) mental health;

(B) a developmental and intellectual disability; and

(C) a substance use disorder;

~~(3)~~ (4) ~~The~~ the handling of inmates with chronic illnesses or ~~known~~ communicable diseases or conditions;

~~(4)~~ (5) ~~Administration, dispensing~~ administration, dispensing, and control of prescription and non-prescription medications;

~~(5)~~ (6) ~~Handling~~ handling emergency medical ~~problems,~~ needs, including ~~but not limited to emergencies involving~~ dental care, ~~chemical dependency,~~ substance use disorder, ~~pregnancy~~ pregnancy, and mental health;

~~(6)~~ (7) ~~Maintenance~~ maintenance, preservation, and confidentiality of medical records; and

~~(7)~~ (8) ~~Privacy~~ privacy during medical examinations and conferences with ~~qualified~~ medical or mental health personnel.

(c) Inmates ~~must~~ shall be provided an opportunity each day to communicate their health compliants to ~~a health professional~~ medical personnel, mental health personnel, or ~~to~~ an officer. ~~Qualified medical~~ Medical personnel or mental health personnel shall be available to evaluate the ~~medical~~ needs of ~~inmates.~~ inmates related to medical care, mental health care, a substance use disorder, and a developmental or intellectual disability. ~~A written record shall be maintained~~ A jail shall maintain a written record of ~~the request for medical care~~ an inmate's health compliants and the action ~~taken.~~ taken by the jail. The jail shall make these records available to the Construction Section during an inspection upon request.

(d) Inmates shall not ~~perform any medical functions~~ render medical care, mental health care, substance use disorder services, and developmental or intellectual disability services to anyone in the jail.

(e) ~~The medical plan shall be reviewed annually.~~ The local or district health director shall review and update the medical plan in writing not less than once each year beginning on January 1. The date of the most recent review shall be stated in the plan. The medical plan shall be maintained at the jail and shall be made available to the Construction Section during and inspection upon request.

History Note: *Authority G.S. 153A-221; 153A-225*
Eff. June 1, 1990;
Amended Eff. December 1, ~~1991.~~ 1991;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1002 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1002 ~~HEALTH SCREENING FORM~~ SCREENING OF INMATES

(a) ~~The health screening form completed upon admission by an officer shall be available to jail officers, and a copy of the form shall be kept in any medical file that is maintained for inmates. The form shall be reviewed for the presence~~

~~of confidential information which can not be made available to jail officers.~~ Medical personnel, mental health personnel, or an officer shall conduct and document screenings of each inmate upon admission for the following:

(1) medical care needs;

(2) mental health care needs;

(3) developmental and intellectual disabilities;

(4) substance use disorders; and

(5) risk of suicide.

(b) Medical personnel or mental health personnel shall maintain a record of the screening in each inmate's medical record. In compliance with G.S. 153A-222, documentation of the screening shall be made available to the Construction Section during an inspection upon request.

(c) Officers may access or use information from the screening in accordance with the confidentiality policy and procedures for medical records that is required by Rule .1001(b)(7) of this Section.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, 1990;
Amended Eff. December 1, ~~1991.~~ 1991;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1201 is proposed for readoption as a repeal as follows:

SECTION .1200 - STANDARDS FOR NEW JAIL DESIGN AND CONSTRUCTION

10A NCAC 14J .1201 APPLICABILITY - CONSTRUCTION

History Note: *Authority G.S. 153A-221;*
Eff. June 1, 1990;
Amended Eff. June 1, ~~1992.~~ 1992;
Repealed Eff. December 1, 2018.

10A NCAC 14J .1202 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1202 CONSULTATION AND TECHNICAL ASSISTANCE

~~Consultation and technical assistance in planning a new jail shall be available through the Section.~~ In compliance with G.S. 153A-220(1), the Construction Section shall provide consultation and technical assistance to a governing body in the planning and construction of a new jail or an addition, alteration, or repair of an existing jail I and II.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1203 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1203 COMPLIANCE REVIEW AND APPROVAL

(a) ~~The~~ Prior to the construction of a new jail or the construction of an addition or alteration to an existing jail I and II, the governing body shall submit ~~copies of~~ the following to the ~~Branch~~ Construction Section for review and approval: ~~before it begins construction of a new jail and before it makes additions or alterations to an existing jail as defined by the North Carolina State Building Code:~~

(1) ~~three~~ two sets of schematic drawings and outline specifications;

(2) ~~three~~ two sets of preliminary working drawings or design development drawings and outline specifications; and

(3) ~~three~~ two sets of ~~completed final working drawings~~ construction documents and specifications.

The Construction Section shall review one set of these drawings, documents, and specifications for compliance with the standards established in this Section and Rule .0103 of this Subchapter. The Construction Section shall have 45 days from receipt of these drawings, documents, and specifications to complete their review.

(b) Upon receipt of the ~~drawings~~ drawings, documents, and specifications ~~at each stage,~~ indicated in Paragraph (a) of this Rule, the Construction Section shall send one set ~~each~~ to the ~~following for their review and approval: the~~ North Carolina Department of Insurance for plan review to ~~insure~~ confirm compliance with the North Carolina State Building ~~Code, and the Division of Environmental Health in the Department of Environment and Natural Resources to insure compliance with the rules governing sanitation as codified in 15A NCAC 18A, Section .1500 and which are hereby incorporated by reference including subsequent amendments and editions of the referenced materials. A copy of this material can be obtained free of charge from the State Division of Health Services, Environmental Health Section, Post Office Box 27687, Raleigh, North Carolina 27611-7687.~~ Codes. ~~The Section shall keep one set for its own review and approval to insure compliance with the minimum standards for the operation and construction of jails as contained in this Subchapter. Review and comment on the drawings and specifications at each stage shall be made no later than 30 days after their receipt by the Section.~~ The Construction Section's approval shall be contingent upon the approval by the North Carolina Department of Insurance and the local building code official.

(c) During their review, the Construction Section shall determine the total design capacity of the confinement units in the jail. The Construction Section's approval letter required by Paragraph (g) of this Rule shall indicate the total design capacity of the jail with a breakdown of the total design capacity as follows:

(1) total capacity of confinement units designed for male inmates who are 18 years of age or older;

(2) total capacity of confinement units designed for male inmates who are under 18 years of age;

(3) total capacity of confinement units designed for female inmates who are 18 years of age or older; and

(4) total capacity of confinement units designed for female inmates who are under 18 years of age.

(d) In order to maintain compliance with the standards established in this Section and Rule .0103 of this Subchapter, the governing body shall obtain written approval from the Construction Section for any changes made during the construction of the jail in the same manner as set forth in Paragraph (a) of this Rule.

(e) Two weeks prior to the anticipated construction completion date, the governing body shall notify the Construction Section of the anticipated construction completion date in writing either by U.S. Mail at the Division of Health Service Regulation, Construction Section, 2705 Mail Service Center, Raleigh, NC, 27699-2705 or by e-mail at DHSR.Construction.Admin@dhhs.nc.gov.

(f) Prior to inmate occupancy of the jail, the governing body shall obtain written approval of the completed construction from the Construction Section.

(g) When the Construction Section approves the construction documents and specifications, they shall provide the governing body with an approval letter. The Construction Section's approval of the construction documents and specifications shall expire 24 months after the issuance of the approval letter, unless the governing body has obtained a building permit for construction. The Construction Section shall have 45 days from receipt of a request for a renewed approval to complete their review of the request. If the Construction Section's approval has expired, the governing body may obtain a renewed approval of the construction documents and specifications from the Construction Section as follows:

(1) If the standards established in this Section and Rule .0103 of this Subchapter have not changed, the governing body shall request a renewed approval of the construction documents and specifications from the Construction Section.

(2) If the standards established in this Section and Rule .0103 of this Subchapter have changed, the governing body shall:

(A) submit revised construction documents and specifications meeting the current standards established in Rule .0103 and Section .1200 of this Subchapter to the Construction Section; and

(B) receive written approval of the revised construction documents and specifications from the Construction Section.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, 1990;

Amended Eff. June 1, ~~1992.~~ 1992;

Readopted Eff. December 1, 2018.

10A NCAC 14J .1207 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1207 INMATE PROCESSING AREA AND PADDED CELL

(a) Each jail that performs a booking and release function shall have an inmate processing area that includes the following:

(1) a separate inmate entrance;

(2) a holding area with seating and access to a ~~commode,~~ toilet, lavatory, drinking fountain, and a shower;

(3) a booking area that includes space for photographing and fingerprinting ~~inmates and a telephone for making local and collect long-distance calls; and~~ inmates;

(4) a telephone for making local and collect long-distance calls; and

~~(4)~~(5) a sobriety testing area.

(b) A holding area may have a cell but it shall not be used as a confinement unit.

(c) The inmate processing area may have a padded cell. The padded cell may be located in the medical area required by Rule .1209 of this Section. The padded cell shall:

(1) be limited to one inmate;

(2) contain a flushing rim floor drain that:

(A) is capable of accepting solid waste;

(B) has its flushing control located outside of the cell; and

(C) has a tamper-resistant cover as rated by the manufacturer;

(3) be located to allow observation of the cell by an officer 24 hours a day 7 days per week;

(4) have not less than 50 square feet of floor area with no one floor dimension being less than seven feet;

(5) have not less than an eight feet clear ceiling height;

(6) provide a food pass with a lockable shutter;

(7) have a door with a view panel large enough to permit observation of the entire cell;

(8) be equipped with a fire sprinkler rated as tamper resistant by the manufacturer;

(9) have remote two-way voice communication;

(10) be padded with padding material that meets the requirements of Paragraph (c) of this Rule;

(11) be separated from the remainder of the jail as required by Paragraph (d) of this Rule; and

(12) have a water hose connection outside the cell that is not accessible to an inmate.

(d) Cell padding shall meet the requirements of the North Carolina State Fire Prevention Code. Cell padding shall be:

(1) not less than ½ inch thick;

(2) of a unitary or laminated construction designed to prevent destruction by teeth, hand tearing, or small metal objects;

(3) bonded to surfaces to prevent tearing or ripping; and

(4) without exposed seams that can be ripped open.

(e) A padded cell shall be separated from the remainder of the jail with a 1-hour fire-resistance-rated fire barrier and a fire door with a fire protection rating of not less than 45 minutes as required by the North Carolina State Building Code.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1210 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1210 OTHER AREAS

(a) Each jail that does not contract for meals shall have a kitchen. ~~If~~ However, if a county or a region has more than one jail, it shall be required to provide only one kitchen if it meets the needs of the inmates in all of the jails.

(b) Each jail that does not contract for laundry services shall have a laundry. ~~If~~ However if, a county or a regional jail has more than one jail, it shall be required to provide only one laundry if it meets the needs of the inmates in all of the jails.

(c) Each jail shall have ~~an area or areas specifically designated for~~ indoor and outdoor physical ~~exercise.~~ exercise areas. The indoor and outdoor exercise areas shall meet the following requirements:

(1) An outdoor exercise area or areas shall:

(A) be 15 square feet per inmate for the maximum number of inmates expected to use an exercise area at one time as determined by the jail;

(B) be not less than 100 square feet for each individual exercise area serving one inmate;

(C) be not less than 300 square feet for each individual exercise area serving more than one inmate;

(D) have a hard surface for the floor;

(E) be enclosed by physical barriers that prevent inmate escape;

(F) be out of sight from the public; and

(G) if covered by a roof, be covered by noncombustible roof construction.

(2) An indoor exercise area or areas shall:

(A) be located in the dayroom, cellblock, dormitory, or a separate room located near the dayroom, cellblock or dormitory.

(B) be 15 square feet per inmate for the maximum number of inmates expected to use an exercise area at one time as determined by the jail;

(C) be not less than 100 square feet for each individual exercise area serving one inmate;

(D) be not less than 300 square feet for each individual exercise area serving more than one inmate; and

(E) if the exercise area is located in a dayroom or dormitory, be in addition to the floor area required by Rules .1225 and .1226 of this Section.

(d) Each jail shall provide areas with shelves that meet its storage needs. ~~Each jail shall provide a separate area for the secure storage of inmate personal property.~~

(e) Each jail shall have a cleaning area that is equipped with a sink and that provides for the ~~secure~~ storage of cleaning supplies and ~~equipment.~~ equipment in a locked area.

(f) Each jail shall provide ~~adequate secure~~ a separate locked storage area or areas for the storage of inmate personal property that includes storage for those inmates who are placed on work release.

(g) A control center shall have:

(1) a security vestibule at its entrance; and

(2) a room with a toilet and sink that is contiguous to the control room.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1212 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1212 FLOORS, CEILINGS, AND WALLS

(a) ~~All ceilings, walls, and floors~~ Ceilings and walls in confinement ~~units~~ units, cellblocks, dayrooms, the inmate processing area, and the medical area shall have a finished surface that is ~~easily cleaned,~~ cleanable, nontoxic, and ~~predominantly~~ of light colors.

(b) Floors in confinement units, cellblocks, dayrooms, the inmate processing area, and the medical area shall have a finished surface that is cleanable and nontoxic.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, 1990;
Amended Eff. December 1, ~~1991.~~ 1991;

Readopted Eff. December 1, 2018.

10A NCAC 14J .1213 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1213 SHOWERS AND PLUMBING FIXTURES

(a) Each jail shall provide at least one shower for every eight inmates.

(b) ~~Showers~~ A shower stall floor shall ~~have drains~~ be sloped to a floor drain that ~~prevent~~ prevents water from draining outside the ~~shower, and the shower fixtures and drains shall be tamper-resistant if necessary for security.~~ shower stall. The floor used to access the shower stall that is outside of the stall but contiguous to the shower stall floor shall be sloped to a floor drain.

(c) In inmate accessible areas, the shower fixture and floor drain cover shall be security-type and tamper-resistant as rated by the manufacturer.

~~(c)~~ (d) ~~Plumbing~~ In inmate accessible areas, plumbing fixtures shall be made of stainless steel or other ~~materials as necessary for security.~~ similar materials that are rated as security-type and tamper-resistant by the manufacturer.

~~(d) Drinking fountains shall be equipped with mouth guards.~~

(e) All privacy partitions in showers and bathrooms shall be high enough to allow limited privacy for the inmates while still allowing ~~adequate~~ supervision of the inmates by officers.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1214 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1214 WINDOWS AND GLAZING

~~(a) Windows and window framing, including glazing, shall be made of materials necessary to provide the degree of security required for the area in which they are used~~.

~~(b)~~(a) ~~Glazing shall be diffused or obscured if it affords a view into confinement units from outside the jail~~. If glazing affords persons from outside of the jail a view of inmates inside the jail, the glazing shall:

(1) admit natural light into the confinement unit or dayroom;

(2) be diffused or obscured to prevent persons from outside the jail from observing inmates inside the jail.

~~(e)~~(b) ~~View panels shall be made of materials necessary to provide the degree of security required for the area in which they are used, and those used for~~ A view panel used to observe a confinement ~~units~~ unit shall have an area that permits observation of the entire unit.

(c) For a single segregation cell, a window to the outdoors shall be provided either in the cell or in the corridor that is contiguous to the cell. If the window is provided in the cell, it shall have a gross window area measuring not less than three square feet. If the window is provided in the corridor that is contiguous to the cell, the gross window area of the corridor shall be equivalent to the sum of two square feet per inmate whose segregation cell is contiguous to the corridor or 48 square feet, whichever is greater. The cell door shall have a window area measuring not less than 96 square inches.

(d) ~~Natural light shall be admitted into all confinement units either directly or indirectly.~~ Unless natural light is provided to a single cell or multiple occupancy cell from a dayroom as set forth in Paragraph (e) of this Rule, a cell shall have windows to the outdoors. The windows shall comply with the following:

(1) a single cell shall have a gross window area measuring not less than three square feet;

(2) a multiple occupancy cell with two inmates shall have a gross window area measuring not less than three square feet; and

(3) a multiple occupancy cell with three or more inmates shall have a gross window area measuring not less than five square feet.

(e) Unless natural light is provided to a single cell or multiple occupancy cell as set forth in Paragraph (d) of this Rule, a dayroom contiguous to the single cell or multiple occupancy cell shall have windows to the outdoors. The gross window area of the dayroom shall be equivalent to the sum of two square feet per inmate whose single cell or multiple occupancy cell is contiguous to the dayroom or 48 square feet, whichever is greater. Unless the front of the cell has metal bars, each cell door of the dayroom shall have a view panel with:

(1) an area measuring not less than three square feet; and

(2) transparent glazing.

(f) A dormitory as set forth in Rule .1226 of this Section shall have windows to the outdoors with a gross window area measuring not less than two square feet per inmate or 48 square feet, whichever is greater.

(g) An exterior window that is less than 18 feet above finished floor in a room or area where inmates are located shall be designed and constructed with either the height or width of its framed or barred opening not more than 5 inches in length. For the purposes of this Paragraph, a "framed or barred opening" means the area available for escape after glazing is broken and removed from a window.

(h) Windows, skylights, or a combination of windows and skylights may be used in dormitories and dayrooms to comply with the requirements of this Rule.

(i) A solar tubular skylight shall not be used to comply with this Rule. For the purposes of this Rule, a "solar tubular skylight" means a tubular daylighting device that delivers natural light from the outdoors to an interior space that is unreachable by a window and skylight installed in an exterior wall or roof.

History Note: *Authority G.S. 153A-221;*

Eff. June 1, 1990;
Amended Eff. December 1, ~~1991.~~ 1991;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1215 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1215 DOORS, ~~BUNKS AND LOCKS~~ BUNKS, LOCKS, AND FASTENERS

(a) ~~Doors, locks and detention hardware shall be made of materials necessary to provide the degree of security required for the area in which they are used.~~ A jail shall provide doors, locks, and detention hardware that are rated by the manufacturer as security-type and as acceptable for use in correctional facilities.

(b) Fasteners used in inmate accessible areas shall be rated by the manufacturer as security-type and tamper-resistant.

~~(b)~~(c) Doors to ~~all confinement units~~ confinement units, cellblocks, inmate accessible corridors, and dayrooms shall have view panels.

~~(c) Doors shall operate independently of each other, and the cell doors in a cellblock shall be capable of simultaneous release during an emergency.~~

(d) A security vestibule and a sally port shall have:

(1) one or more interior doors or gates and an entrance door or gate;

(2) doors or gates provided with an interlocking security feature;

(3) interior doors or gates arranged to be locked and unlocked by means located outside of the security vestibule, sally port, dormitory, dayroom, and cellblock; and

(4) doors or gates provided with override capability to unlock all doors or gates in the event of an emergency.

~~(d)~~(e) Doors and locks that are electronically controlled shall be equipped with manual override.

~~(e)~~(f) Food ~~passes,~~ passes in doors, if used, shall have openings large enough to permit the passage of a food tray.

~~(f)~~(g) ~~Bunks shall have dimensions necessary to accommodate a standard detention mattress and they shall be securely anchored at least 15 inches above the floor. When one bunk is placed above another, the lower bunk shall be approximately 15 inches and the upper bunk approximately 50 inches above the floor.~~ Single segregation cells and single cells shall have a single bunk. Multiple occupancy cells and dormitories shall have single bunks or double bunks. A bunk shall:

(1) have dimensions large enough to accommodate a detention mattress;

(2) be anchored not less than 15 inches above the floor, if a single bunk or a lower bunk of a double bunk;

(3) be anchored not less than 50 inches above the floor, if an upper bunk of a double bunk;

(4) be anchored flush to the wall;

(5) have a lip to hold the mattress in place; and

(6) have tamper resistant construction.

(g)(h) ~~Doors, locks, detention hardware and bunks shall be designed to inhibit their use for an attempted suicide.~~ Cells required to be accessible for persons with disabilities as required by the North Carolina State Building Code shall not have an upper bunk.

(i) Inmate accessible areas of the jail shall be equipped or furnished in a manner that decreases suicide hazards within the jail. Items a jail shall provide to reduce suicide hazards for inmates includes the following:

(1) handrails or grab bars with a closure plate that is installed between the wall and the handrail or grab bar;

(2) exposed door hinges with a sloped top and bottom;

(3) non-vertical surfaces of door hardware with a slope;

(4) holes in the bunk mattress platform that are no more than 1/8 inch in diameter;

(5) shower heads that are not hand-held with a hose; and

(6) heating, ventilating, and air conditioning supply and return grilles with openings not more than 3/16 inches wide, if the supply and return grilles are located in a cell used to house inmates on special watch.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1218 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1218 PLUMBING SYSTEMS

~~(a) Each jail shall have a plumbing system that complies with the Commission for Public Health Rules 15A NCAC 18A, Section .1500 and the North Carolina State Building Code, Plumbing Code, both of which are hereby incorporated by reference including subsequent amendments and editions of the referenced materials. A copy of 15A NCAC 18A, Section .1500 can be obtained free of charge from the State Division of Health Services, Environmental Health Section, Post Office Box 27687, Raleigh, North Carolina 27611-7687. A copy of the North Carolina State Building Code, Plumbing Code (Volume II of the North Carolina State Building Code) can be obtained for twenty-five dollars ($25.00) from the North Carolina Department of Insurance, Post Office Box 26387, Raleigh, North Carolina 27611.~~

~~(b)~~(a) ~~Each~~ A jail shall have a hot water supply for lavatories and showers designed to meet the ~~usual~~ needs of the number of inmates confined in the ~~jail.~~ Jail, as determined by the governing body. The hot water temperature at lavatories and showers used by inmates shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).

~~(c)~~(b) ~~The master control valves for the plumbing system shall be located outside the confinement units and shall be accessible to officers during an emergency.~~ A jail shall not locate the following valves of the water supply system in rooms or areas accessible by inmates:

(1) a shut-off valve for a supply branch line serving plumbing fixtures;

(2) a shut-off valve for a riser pipe serving plumbing fixtures; and

(3) a shut-off valve to a plumbing fixture.

(c) The shut-off valves listed in Paragraph (b) shall be accessible to officers.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, 1990;
Amended Eff. June 1, ~~1992~~. 1992;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1219 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1219 ELECTRICAL SYSTEMS

(a) Each jail shall have an electrical system that provides artificial lighting ~~in the confinement units of at least 30 footcandles and that can be reduced during sleeping hours.~~ of not less than:

(1) 30 footcandles of light at floor level in confinement units and dayrooms that can be reduced during sleeping hours; and

(2) 20 footcandles of light at floor level in corridors.

~~(b) Artificial lighting in the corridors shall be at least 20 footcandles.~~

~~(c)~~(b) ~~Lighting~~ In inmate accessible areas, lighting fixtures shall be ~~made of materials necessary to provide the degree of security required for the area in which they are used.~~ security-type and tamper-resistant as rated by the manufacturer.

(c) In inmate accessible areas, a fire alarm system notification appliance shall be rated as tamper-resistant by the manufacturer or enclosed in a metal guard. For the purposes of this Rule, "notification appliance" means a component of the fire alarm system as defined by the National Fire Protection Association, National Fire Alarm and Signaling Code, NFPA 72.

(d) ~~Each~~ A jail shall provide an electrical connection and an antenna or cable ~~connections~~ connection for a television in its dayroom areas.

(e) The ~~master controls and circuit breakers~~ main electrical distribution panel and electrical subpanels shall not be located ~~outside the confinement units~~ in areas accessible by inmates and shall be accessible to officers during an emergency.

(f) ~~Each jail shall have an auxiliary emergency power supply for each electrical system.~~ A jail shall provide emergency power to areas, equipment, and systems as required by the North Carolina State Building Codes. A jail may provide

additional emergency power to maintain jail operations and functions needed during a power outage. If the following functions are not provided with emergency power, the disaster plan required by Rule .0403 of this Subchapter shall indicate how these functions will be maintained during a power outage:

(1) operating equipment and systems located in the control center;

(2) heating, ventilation, and air conditioning of the jail;

(3) heating of hot water for inmate lavatories and showers; and

(4) preparing and cooking of inmate meals, if meals are prepared in the jail.

(g) If the fire alarm control panel is not located in the control center, a jail may install a remote annunciator panel in the control center to provide officers with fire alarm status information from the fire alarm control panel. For the purposes of this Rule, a "fire alarm control panel" means a component of the fire alarm system as defined by the National Fire Protection Association, National Fire Alarm and Signaling Code, NFPA 72. For the purposes of this Rule, a "remote annunciator panel" means a component of the fire alarm system as defined by the National Fire Protection Association, National Fire Alarm and Signaling Code, NFPA 72, which is herein incorporated by reference, including all subsequent amendments and editions.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, ~~1990.~~ 1990;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1225 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1225 STANDARDS FOR DAYROOMS

Each dayroom shall have:

(1) a ~~separate and complete~~ security vestibule at its entrance;

(2) a ~~minimum~~ floor space of not less than 105 square feet or 35 square feet per inmate, whichever is greater;

(3) ~~sufficient~~ seating for the capacity of the ~~unit~~ cellblock;

(4) ~~sufficient~~ table space for the capacity of the ~~unit~~ cellblock, unless each inmate has unrestricted access to their cell with a table and chair, in which case the dayroom shall have ~~sufficient~~ table space for 70 percent of the capacity of the ~~unit~~ cellblock;

(5) a telephone jack or ~~other telephone arrangement~~ access to a telephone provided within the dayroom;

(6) a way for officers to observe the entire area; ~~and~~

(7) one ~~toilet~~ toilet, sink, and security mirror per eight inmates, unless the inmates have unrestricted access to a cell with a toilet, sink, ~~drinking fountain~~ and security ~~mirror.~~ mirror; and

(8) one drinking fountain, unless the inmates have unrestricted access to their cell with a drinking fountain.

History Note: *Authority G.S. 153A-221;*
Eff. June 1, 1990;
Amended Eff. June 1, 1993; December 1, ~~1991~~. 1991;
Readopted Eff. December 1, 2018.

10A NCAC 14J .1226 is proposed for readoption with substantive changes as follows:

10A NCAC 14J .1226 STANDARDS FOR DORMITORIES

~~Each dormitory shall house no more than 40 inmates and shall have:~~

~~(1) a minimum floor space of 70 square feet per inmate including both the sleeping and dayroom area;~~

~~(2) one shower per eight inmates, one toilet per eight inmates, one sink with a security mirror per eight inmates, and one water fountain;~~

~~(3) a telephone jack or other telephone arrangement provided within the dormitory;~~

~~(4) space designed to allow a variety of activities;~~

~~(5) sufficient seating and tables for all inmates; and~~

~~(6) a way for officers to observe the entire area from the entrance.~~

A dormitory shall meet the requirements of G.S. 153A-221(d).

History Note: *Authority G.S. 153A-221;*
Eff. June 1, 1990;
Amended Eff. December 1, ~~1991~~. 1991;
Readopted Eff. December 1, 2018.

2015 Report of Inmate

	Inmate Name	County	Date of Death	Date Received	Manner of Death
1	Moser, Michael	Alamance	01/02/2015	01/07/2015	Suicide
2	McMurray, Dennis	Durham	01/10/2015	01/14/2015	Other
3	Hawkins, Chad	Wilkes	02/05/2015	02/11/2015	Other
4	McLain, Elbert	Watauga	03/07/2015	03/13/2015	Suicide
5	Dixon, Garvie	Surry	03/13/2015	03/16/2015	Suicide
6	Ross, Steve	Jackson	03/13/2015	03/19/2015	Suicide
7	Stanley, Jerry	Columbus	03/21/2015	03/26/2015	Natural
8	Smith, John	Yadkin	03/29/2015	03/31/2015	Suicide
9	Hager, Kandace	Cabarrus	03/28/2015	03/30/2015	Natural
10	Baker, Anthony	Duplin	05/19/2015	05/26/2015	Suicide
11	McNeilly, Archie	Cleveland	05/12/2015	05/18/2015	Natural
12	Weatherington, Christ	Craven	05/12/2015	05/22/2015	Unknown
13	Sarpong, Charmaine	Rockingham	05/25/2015	05/27/2015	Natural
14	Corley, Jamie	Wake	06/29/2015	07/01/2015	Suicide
15	Steele, Jerry	Gaston	06/26/2015	07/01/2015	Suicide
16	Crump, Jason	Caldwell	07/09/2015	07/10/2015	Suicide
17	Cooper, William	Alamance	07/10/2015	07/16/2015	Natural
18	Stafford, Bruce	Henderson	07/13/2015	07/17/2015	Natural
19	Solary, Anthony	Clay	07/22/2015	07/27/2015	Suicide
20	Eaton, Michael	Guilford	08/15/2015	08/24/2015	Natural
21	Satchell , Willie	Duplin	08/16/2015	08/17/2015	Natural
22	Johnson, Heather	Brunswick	08/31/2015	09/03/2015	Suicide
23	Bennett, Raphael	Durham	08/31/2015	09/03/2015	Other
24	Vandiver, Willie	Guilford	08/31/2015	09/08/2015	Natural
25	Hildebran, Timothy	Burke Catawba	10/18/2015	10/22/2015	Natural
26	Chriscoe, Kandida	Robeson	10/25/2015	10/26/2015	Suicide
27	Hermandez, Maria	Pitt	10/31/2015	12/04/2015	Other
28	Petty, Kenneth	Alamance	11/15/2015	11/16/2017	Natural
28	Dingess, Donald	Alexander	11/30/2015	12/04/2015	Suicide
29	Blair, Crystal	Gaston	12/06/2015	12/08/2015	Suicide
30	Simmons, James	Guilford	12/10/2015	12/11/2015	Suicide
31	Omalley, Patrick	Carteret	12/07/2015	12/17/2015	Medical
32	Hogan, Amanda	Carteret	12/07/2015	12/11/2015	Suicide
33	Aaron, Scott	Forsyth	12/29/2015	01/04/2016	Suicide
34	Pait, Donald	Lenoir	12/27/2015	01/27/2016	Suicide
35	Helder, Ryan	Mecklenburg	11/30/2015	01/04/2016	Suicide

Out-of Custody Death

Inmate Name	County	Date of Death	Date Received	Manner of Death
Schuler, Jennifer	Forsyth	09/13/2014		Undetermined
Sypka, Cecilia	Wake	04/29/2015	05/04/2015	Natural
Cooper, William	Alamance	07/10/2015	07/16/2015	Natural
Corbett, Martin	Alamance	07/29/2015	07/31/2015	Natural
Hogan, Amanda	Carteret	12/07/2015	12/11/2015	Suicide

2016 Report of Inmate

Inmate Name	Number	County	Date of Death	Date Received	Manner of Death
McCain, Matthew	1	Durham	01/19/2016	01/21/2016	Other
Caveness, Todd	2	Wilson	02/05/2016	02/23/2016	Other
Chavious, Anthony	3	Sampson	02/14/2016	02/22/2016	Natural
Cassey, Rebecca	4	Edgecombe	02/15/2016	02/19/2016	Suicide
Martin, Stephen	5	Alamance	02/23/2016	02/25/2016	Natural
Claypoole, Jamie	6	Caldwell	03/24/2016	03/28/2016	Suicide
Walker, Delores	7	Iredell	04/20/2016	04/25/2016	Suicide
Parrella, Michael	8	Mecklenburg	05/10/2016	05/11/2016	Suicide
Williams, Nazeer	9	Wilson	05/15/2016	05/17/2016	Suicide
Stafford, David	10	McDowell	06/05/2016	06/06/2016	Suicide
Morgan, Donald	11	Wake	06/03/2016	06/07/2016	Natural
Baldwin, Emerjon	12	Wayne	06/06/2016	06/07/2016	Natural
Gardner, James	13	Wayne	08/12/2016	08/13/2016	Natural
Gluth, John	14	Gaston	06/10/2016	06/13/2016	Suicide
Zenoski, Joseph	15	Catawba	08/12/2016	08/19/2016	Natural
Shafto, George	16	Onslow	09/10/2016	09/12/2016	Natural
Long, Jerry	17	Haywood	12/03/2016	12/06/2016	Natural
Boone, Heather	18	Transylvania	12/09/2016	12/14/2016	Suicide
Bristow, Troy	19	Robeson	12/10/2016	12/10/2016	Suicide
Johson, Charles	20	Harnett	12/20/2016	12/21/2016	Natural

Out-of Custody Death

Inmate Name	County	Date of Death	Date Received	Manner of Death
Sellars, Gary	Alamance	1/3/16/	01/06/2016	Natural
Moore, Ronnie	Pitt	04/11/2016	04/20/2016	Natural
Cowan, Stephen	Forsyth	10/27/2016	11/01/2016	Natural
Moore, Ronnie	Pitt	04/11/2016	04/21/2016	Natural
Huntley, Rufus	Stanly	09/12/2016	09/23/2016	Medical
Thomas, George	Wake	06/21/2016	06/22/2016	Unknown

2017 Report of Inmate

Inmate Name	Number	County	Date of Death	Date Received	Manner of Death
Wilson, Walter C	1	Scotland	01/03/2017	01/06/2017	Natural
Beal, Ted R	2	Henderson	01/11/2017	01/11/2017	Natural
Boyd, Robert W.	3	Edgecombe	02/09/2017	02/22/2017	Other
Fennell, Uniece G	4	Durham	03/23/2017	03/23/2017	Suicide
Cowdrey, Edward	5	Johnston	03/23/2017	03/23/2017	Natural
Lara Pineda, Jose	6	Wake	03/24/2017	03/27/2017	Suicide
Acevedo-Zamora, Juan	7	Guilford	04/08/2017	04/11/2017	Natural
Boyd, Christopher	8	Buncombe	04/03/2017	04/04/2017	Natural
Cody, Christopher B	9	Cleveland	04/02/2017	04/04/2017	Suicide
Coley, Deshawn L	10	Forsyth	05/02/2017	05/02/2017	Natural
Bradshaw, Bryon	11	Rowan	05/01/2017	05/04/2017	Other
Anderson, Cory	12	Beaufort	05/08/2017	05/09/2017	Natural
Parker III, Graydon	13	Wayne	05/21/2017	05/23/2017	Other
Patterson, Stephen	14	Forsyth	05/26/2017	05/30/2017	Natural
Everett, Justin	15	Carteret	06/02/2017	06/02/2017	Suicide
Lindsey, John	16	Mecklenburg	06/03/2017	06/02/2017	Other
Kinsley, Thomas	17	Edgecombe	06/17/2017	06/19/2017	Suicide
Vanhoy, Ricky	18	Davidson	07/02/2017	07/05/2017	Other
Posey, Larry	19	Cabarrus	07/08/2017	07/10/2017	Natural
Hinkle, Buddy	20	Cumberland	07/15/2017	07/18/2017	Natural
Jones, Welsey	21	Carteret	07/29/2017	07/31/2017	Natural
Doan, Dalton	22	Buncombe	07/25/2017	07/26/2017	Natural
Long, Tony	23	Brunswick	08/03/2017	08/09/2017	Other
Curry, James	24	Davidson	08/16/2017	08/21/2017	Other
West, Mark	25	Edgecombe	08/19/2017	08/21/2017	Natural
Robinson, Derrick	26	Columbus	08/22/2017	09/05/2017	Natural
Rosenfeld, Mark	27	Catawba	08/29/2017	08/30/2017	Natural
Parker, Freddie	28	Alamance	09/23/2017	09/28/2017	Natural
Martin, Michael	29	Surry	10/04/2017	10/06/2017	Suicide
Smiley, Michele	30	Buncombe	10/06/2017	10/10/2017	Other
Harris, Christine	31	Yadkin	10/26/2017	10/27/2017	Suicide

Out-of Custody Death

Inmate Name	County	Date of Death	Date Received
Killain, Terry	Catawba	07/02/2017	07/05/2017
Williams, Marshall	Wilkes	08/23/2017	08/25/2017
Robinson, Derrick	Columbus	08/22/2017	09/06/2017

DPS Controller's Office

Medical Claims Processing Cost Analysis

Internal versus Outsourcing

February 2016 & Updated: November 2017

I. Executive Summary

In accordance with G.S. 143B-707.3.(a) Medical costs for inmates and juvenile offenders, the Department of Public Safety shall reimburse those providers and facilities providing approved medical services to inmates and juvenile offenders outside the correctional or juvenile facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service.

Currently, medical claims are processed in-house using an internally developed manual system referred to as MOMS – Medical Operations Management System. This system was developed approximately 15 years ago, and has been sustained through a series of updates needed to maintain minimal operational functionality. The principal architect of this system for the last 10 years retired as of December 31, 2015. The current claims processing environment is an extremely labor intensive, inefficient, and antiquated process. Analysis of direct and indirect costs necessary to pay a claim, yield an internal cost of roughly $15.35 per claim processed. This number does not attempt to quantify incidental costs, the tremendous backlog of claims, the number of provider complaints due to late payment, or the constant threat of providers refusing to no longer treat inmates if efficiencies do not improve substantially.

As of March 2015, a Request for Proposal (RFP) was released to explore the potential of outsourcing our Medical Claims Processing function. Following an intense vetting process, a decision was made to proceed with a vendor identified as PGBA, a wholly owned subsidiary of Blue Cross Blue Shield of South Carolina.

PGBA has a long history of processing medical claims, including inmate claims. PGBA currently processes offender medical claims for the Federal Prison Hospital located in Butner, NC, and is eminently qualified to process DPS inmate medical claims. PGBA has the ability and experience to provide a dynamic and fully automated electronic claims processing solution. The timeframe to process a claim would decrease from a matter of months to a matter of moments. The RFP has also been structured such that PGBA will incur substantial penalties should they fail to meet all regulatory and administrative requirements. Based on a projected volume of 125,000 claims per year, the cost to process each claim through outsourcing is projected at $11.12. This number is based on the maximum number of claims our staff is currently able to process (approximately 95,000 per year), plus the current backlog of roughly 30,000 claims. This cost does not attempt to quantify the intangible benefits including the elimination of backlog, compliance with G.S. 143B-707.3 and vastly improved customer service and satisfaction.

II. Current Manual Claims Processing Environment

The MOMS system was not designed for and does not have the capability of accepting provider claims electronically. Therefore, all providers must submit claims to the medical claims staff using traditional mail services. This presents the risk of mail being lost, misdirected or misplaced. This also creates delays from the onset and hampers our ability to comply with contractual requirements and payment terms. Providers also submit detailed billing statements to the medical claims staff through a separate mailing. On an average day, approximately 500 pieces of medical claims related mail is received at Yonkers Road. All mail is initially delivered to the Yonkers Road Central Mail Room. Staff from the mailroom must manually sort all mail and identify items relating to medical claims. These items are then delivered to a medical claims temporary employee who is tasked with additional handling responsibilities. The first step in this process is to run all of the items through a letter opening machine that is located in the Controller's Office mailroom. Next, the items are manually date-stamped and filed into daily batches within the medical claims repository.

Claims processers will visit the mailroom and select the oldest batch to begin processing. Presently, the medical claims staff is processing received claims from September 2015, reflecting a four (4) month backlog of claims. The only providers

whose claims are being processed in a 30 day timeframe are UNC and Rex Healthcare. These providers are afforded top priority as a result of a negotiated contractual relationship. Nonetheless, this continues to be a contentious relationship at times. Claims received from UNC and Rex Healthcare demand full time attention from two of our most experienced processors.

Information from the claim form is manually keyed into MOMS creating the opportunity for data entry errors. Once keyed, the authorized payment amount of the claim is calculated in accordance with DPS policy. Additionally, based on the authorizations and coding an explanation of payment (EOP) from is generated.

Once the payment is calculated, the information is then submitted to our cash management department where a check to the provider is generated. The check and the EOP and is forwarded to an Administrative Assistant who folds the documents and places them in an envelope for mailing to the Provider.

When payment is received by the provider's billing department, numerous questions relating to payment amounts, denials, and related concerns often arise. The procedures and steps necessary to resolve disputed claims and charges is far beyond the scope of this communication.

Presently, we have one full time employee who exclusively handles provider inquiries. This position is supplemented by two other employees as needed. Given the volume of inquiries, it is virtually impossible to respond to all inquiries in a timely manner.

With the proposed outsourcing, most of the manual processes and inherent inefficiencies in our current process will be eliminated. Provider claims will be submitted electronically through a secure internet connection. Based on the coding and authorizations, the payment amount and EOP will be automatically generated.

PGBA has demonstrated their system is fully customizable and may be programmed to be as restrictive as DPS deems appropriate. The EOP and payment will be electronically remitted to the provider in a timely manner. PGBA will "front" the payment to the Providers and submit a monthly bill to DPS for reimbursement. In addition, PGBA has staff accessible to handle Provider inquiries through email or telephone.

We anticipate the majority of claims processed by PGBA will be undisputed, or easily resolved, given the provider's ability to see exactly how the payment amount was determined. DPS will maintain a limited number of full time positions to address disputed claims, audit the service provided by PGBA, and analyze material or complex claims.

III. Breakdown by Cost – Per Claim to Process (Includes Benefits)

Personnel Operating Costs		
Category	**FTE**	**Total Cost**
Permanent Employees	7.0	$423,098
Temporary Employees	6.0	$198,776
+10% estimated O/T payments		$19,878
Contract medical position		$5,000
Administrative/Supervisory Staff	2.9	$315,559
Mailroom Staff	1.5	$53,614
Grand Total Personnel	**17.4**	**$1,015,925**

Non-Personnel Operating Costs	
Rent	$46,592
Supplies	$4,476
Equipment	$5,223
Utilities	$7,623
Total	**$63,914**

Number of claims presently outstanding	Roughly 30,000
Number of months in arrears	Approximately 5
Customer Satisfaction	Poor

Update (November 2017)

At the time of the annual PGBA contract renewal, there was a slight increase in the rate from $3.27 per offender per month to $3.33 per offender per month. The offender population is defined as the average daily offender population adjusted once a year. The current year's numbers are 36,507 adult offenders and 287 juvenile offenders. The annualized cost is calculated as follows: 36,884 (adult and juvenile offenders) x $3.33 x 12 = $1,473,884.64.

Based on the projected volume of 125,000 offender claims per year, the cost per claim to process is $11.79.

The advantage to this cost structure is that as the number of claims increases, the cost per claim decreases. This is especially important given the aging offender population and increase in chronic health problems as outlined in Mr. Prater's [October 12, 2017 JPS Oversight meeting] presentation.

NORTH CAROLINA GENERAL ASSEMBLY

Raleigh, North Carolina 27601

November 8, 2017

MEMORANDUM

TO: Members, Joint Legislative Oversight Committee on Justice and Public Safety
FROM: Rep. James Larry Boles, Co-Chair
Rep. R. Theodore Davis, Co-Chair
Sen. Shirley B. Randleman, Co-Chair

SUBJECT: Meeting Notice

The **Joint Legislative Oversight Committee on Justice and Public Safety** will meet at the following time:

DAY	DATE	TIME	LOCATION
Thursday	November 16, 2017	1:00 PM	643 LOB

Parking for non-legislative meeting attendees is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives. You can view a map of downtown by visiting http://www.ncleg.net/graphics/downtownmap.pdf.

If you are unable to attend or have any questions concerning this meeting, please contact Judy Lowe at davistla@ncleg.net.

cc: Committee Record _X_
Interested Parties _X_

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
Room 643 Legislative Office Building

November 16, 2017 1:00 P.M.

I. CALL TO ORDER

Chairs: Representative Jamie Boles Senator Shirley Randleman
Representative Ted Davis, Presiding

II. APPROVAL OF MINUTES

III. PRESENTATIONS

Opening Remarks by Chairs

NC Justice Academy
Trevor Allen, Director
NC Justice Academy

Statewide Misdemeanant Confinement Program
Garry Fife, Senior SMCP Coordinator
North Carolina Sheriffs' Association

ABC Permit Revocation
Renee Metz, Chief Counsel
ABC Commission

IV. COMMITTEE DISCUSSION

V. ADJOURNMENT

House Members
Rep. Boles (Chair), Rep. Davis (Chair)
Rep. Burr, Rep. Faircloth, Rep. Floyd,
Rep. C. Graham, Rep. Jackson, Rep. McNeill,
Rep. Rogers, Rep. Stevens, Rep. Turner,
Rep. Boswell (Advisory), Rep. Hurley (Advisory),
Rep. Jordan (Advisory), Rep. W. Richardson (Advisory),
Rep. Speciale (Advisory), Rep. Steinburg (Advisory),
Rep. Zachary (Advisory)

Senate Members
Sen. Randleman (Chair)
Sen. Barringer, Sen. Brown, Sen. Bryant,
Sen. Daniel, Sen. Davis,
Sen. Jeff Jackson, Sen. Lee,
Sen. Sanderson, Sen. Van Duyn,
Sen. Wells (Advisory)

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
Room 643 Legislative Office Building

November 16, 2017 1:00 P.M.

I. CALL TO ORDER

Chairs: Representative Jamie Boles Senator Shirley Randleman
Representative Ted Davis, Presiding

II. APPROVAL OF MINUTES

III. PRESENTATIONS

Opening Remarks by Chairs

NC Justice Academy
Trevor Allen, Director
NC Justice Academy

Statewide Misdemeanant Confinement Program
Garry Fife, Senior SMCP Coordinator
North Carolina Sheriffs' Association

ABC Permit Revocation
Renee Metz, Chief Counsel
ABC Commission

IV. COMMITTEE DISCUSSION

V. ADJOURNMENT

House Members
Rep. Boles (Chair), Rep. Davis (Chair)
Rep. Burr, Rep. Faircloth, Rep. Floyd,
Rep. C. Graham, Rep. Jackson, Rep. McNeill,
Rep. Rogers, Rep. Stevens, Rep. Turner,
Rep. Boswell (Advisory), Rep. Hurley (Advisory),
Rep. Jordan (Advisory), Rep. W. Richardson (Advisory),
Rep. Speciale (Advisory), Rep. Steinburg (Advisory),
Rep. Zachary (Advisory)

Senate Members
Sen. Randleman (Chair)
Sen. Barringer, Sen. Brown, Sen. Bryant,
Sen. Daniel, Sen. Davis,
Sen. Jeff Jackson, Sen. Lee,
Sen. Sanderson, Sen. Van Duyn,
Sen. Wells (Advisory)

Judy Lowe (Rep. Ted Davis)

From: Larry Elliott (House Sgt. At Arms)
Sent: Thursday, October 19, 2017 12:43 PM
To: Booker Washburn (Housekeeping); Antonio Diaz (Housekeeping); Charles Weathersby (Facilities Services, Manager); Howard Morris (Police); Martin Brock (Police, Chief); Karen Mitchell (Administration); Will Tomlinson (President Pro Tem's Office); Carolyn Bowden (House Sgt. at Arms Office); Larry Elliott (House Sgt. At Arms); Garland Shepheard (House Sgt. At Arms); Mark Coggins (Rep. David Lewis); Neal Inman (Rep. David Lewis)
Cc: Larry Elliott (House Sgt. At Arms); Judy Lowe (Rep. Ted Davis)
Subject: 643 LOB has been reserved for 11/16/2017, 01:00PM - 04:00PM

The following room has been reserved:

Title: Joint Legislative Oversight Committee on Justice and Public Safety
Requestor: Judy Lowe (Rep. Ted Davis)
Date: Thursday, November 16, 2017
Room: 643 LOB
Time Room Needed: 01:00PM - 04:00PM

Equipment:
Housekeeping: Water, Coffee

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
November 16, 2017
Room 643 of the Legislative Office Building

The Joint Legislative Oversight Committee on Justice and Public Safety met on Thursday, November 16, 2017 at 1:00 PM. The meeting was held in Room 643 of the Legislative Office Building. Members present were: Representatives Davis, Boles, Burr, Faircloth, Floyd, Jackson, McNeill, Rogers, Stevens, Turner, Jordan, Speciale, and Steinburg, There were six Senators present.

Representative Ted Davis, Jr. presided.

Representative Davis called the meeting to order, welcomed all in attendance, and introduced the House Sergeant at Arms Jonas Cherry, Rex Foster, and Russell Salisbury and the Senate Sergeant at Arms Terry Barnhardt and Becky Myrick. He thanked them for being there and for all they do for the legislature.

The minutes from the October 12, 2017 Committee meeting were approved as written on a motion from Representative Elmer Floyd and seconded by Representative Sarah Stevens.

Opening Remarks by Chairs

There were no remarks from Co-Chairs Representative Jamie Boles or Senator Shirley Randleman. Representative Davis gave his opening comments, as follows: "After the terrible attack and escape attempt at Pasquotank Correctional Facility, the members and staff of the General Assembly join all North Carolinians in keeping the victims of this tragedy, their friends, families and coworkers in our prayers.

For the officers and employees who were injured and to Geoffrey Howe, Veronica Darden, Justin Smith, and Wendy Shannon—who were killed in the attack—our state can never repay their families for the cost of this terrible violence done to them at their place of work.

These North Carolinians were trying to earn a living like the rest of us—just like Stg. Meggan Callahan, who was killed by an inmate at Bertie Correctional Institution in April of this year.

As we remember the sacrifice of those who were senselessly killed, and keep the service of all the brave correctional officers who protect North Carolinians close to our hearts, on behalf of the

people of this state, I extend our deepest gratitude to those officers and employees working in such a dangerous line of duty so that we may be safe.

I'd like to provide several important updates for this committee on the legislature's ongoing commitment to improve salaries, staffing levels and safety of those working in our state prisons in the wake of the attack at Pasquotank:

There are multiple, concurrent investigations taking place into the escape attempt and fatal attacks at Pasquotank. We are waiting for the officials conducting that investigation to share what they can, when they can, with us. Until then, it's important we allow those investigations to move forward unimpeded so investigators and prosecutors can serve justice to the perpetrators.

After meeting with Department of Public Safety Secretary Eric Hooks and discussing the need for a comprehensive review of state prison policy with our fellow General Assembly members, it is apparent that this committee—the Joint Legislative Oversight Committee on Justice and Public Safety—is the appropriate forum for that mission, and there are several reasons for that:

1. This committee allows both the House and Senate to collaborate on a comprehensive review of state prison policy
2. This committee has a large, expert central staff team accustomed to working together on member and administrative requests on corrections issues
3. This committee has overseen the restructuring and consolidation of the Department of Public Safety and is well-prepared to receive information and consider potential reforms and needs to serve our state prison officers.

Our committee is working with the administration to prepare a comprehensive review of state prison staffing and policies throughout this legislative interim. To assist in that effort, I ask the members of this committee to submit to the chairs, clerks and central staff any questions or information requests you have for the Department of Public Safety or our legislative divisions.

We have already started to work on those inquiries and appreciate your help providing them in advance so staff can consolidate and collaborate on those efforts to help us learn as much as possible and develop potential proposals for reform from our review of state prisons through this committee.

Finally, I want to emphasize that this is an ongoing commitment to improving salaries and staffing levels to help protect the brave correctional officers who are counting on us to respond to the tragedies at Bertie and Pasquotank Correctional facilities.

There is much more to be done and I appreciate the willingness of so many members and staff who have reached out to me and are ready to continue taking action and committing further to policies and budgets that will benefit North Carolinians working in our state prisons."

There will be updates on this to the Committee.

NC Justice Academy

Representative Davis introduced Mr. Trevor Allen, Director of the NC Justice Academy. Mr. Allen thanked the committee for the opportunity to present the role of the Academy. The outline of his presentation is attached. His overview included the history, research, training, capabilities, support and course accreditation. The mission is to serve the citizens of North Carolina by providing relevant, innovative, timely, and engaging training for criminal justice professionals. The outline of his presentation is attached. He stated that the Salem Academy was founded in 1875 involving into Pineland School for Girls, Edwards Military Institute and Southwood College. In 1973 the Justice Academy was established as part of NCDOJ. In 1998 a West Campus was opened in Edneyville. The Academy is internationally accredited and is the first training academy in North Carolina to be accredited. It received the 4th accreditation in March, 2017. It continues to serve in an advisory capacity for other local and state agencies. The professionals served include 453 Police Agencies, 100 Sheriffs and the Department of Public Safety. The mission is achieved in three ways; research, training and support. Under research, all lesson plans are required to be revised every two years. This includes an annual survey of criminal justice personnel, a partnership with Chiefs and Sheriffs and a nearly 20,000 volume library. There are three training categories developed and delivered to the 45,000 North Carolina Officers: Commission-Mandated, Advanced and Certificate Programs. The Commission-Mandated training includes basic law enforcement training (BLET), detention officer, telecommunicator, speed measuring instrument and specialized instructor certification training and mandated in-service training. The Justice Academy is the sole provider of these courses to maintain their integrity. While most of the training is offered at the two facilities, the Justice Academy responds to individual agencies when needed. The second category of training is advanced training. It provides training for criminal justice officers beyond the requirements for the basic training. Included in the advanced training is criminal investigation, school resource officer, narcotics training, use of force decision making, crime scene processing, community policing, tactical and leadership and supervision training. Each of these categories is comprised of numerous individual training courses. Professional certificate programs make up the third category of training. The Academy offers several certificate programs which allow officers to concentrate their training in specific areas such as criminal investigations, traffic enforcement and investigation, and community policing which are similar to college majors. These provide an avenue for officers to receive advance training in these areas adding to their expertise which they can then take back to their agencies and serve their communities at a higher level. Officers have told the Justice Academy staff that completing these programs has allowed them to focus their careers in specific directions. This has had the result of improving the retention of qualified and experienced officers.

Mr. Allen continued with the capabilities of the Justice Academy. In pursuing the mission, the Academy's two campuses offer 22 classrooms, four fire arms ranges, one being indoor, one

driving track, three multipurpose rooms, two gymnasiums and weight rooms, 370 residence hall beds, a team building challenge course and two use-of-force simulators. The brand new Western Regional Crime Lab completed in September, 2017 and situated in the Edneyville Campus services a variety of agencies in the western part of the state. Although the facilities are effective in providing relevant training, renovation of the existing facilities as well as additional facilities is necessary in order to keep pace with other states.

During 2016-2017 the Justice Academy trained 6,629 students on their campuses. They trained an additional 5,328 officers off-campus at Community Colleges and individual police and sheriff's agencies. During the past fiscal year the Academy hosted nearly 7,000 officers from outside agencies. These agencies include the State Bureau of Investigation, the North Carolina Wildlife Resources Commission, the Division of Motor Vehicles and the Department of Public Safety divisions. Nearly 600 courses were delivered by Justice Academy staff during fiscal years 2016 and 2017 which is an average of 49 courses per month.

The Academy frequently receives positive feedback for the on-line training platform which makes available scores of courses including the annual mandatory in-service training topics. The on-line training course completions during 2016-2017 totaled nearly 75,000. The Justice Academy operates four residence halls; three on the Salemburg campus and one at Edneyville with a total of 370 beds. In fiscal 2016-17 over 52,000 bed nights were spent on the campuses. The fact that the officers were able to stay on the campuses and avoid hotel costs while attending training is a tangible savings to their agencies' already challenged budgets. The 52,000 bed night's costs spent on the campuses equates to a savings of $3,718,634 to the partner agencies.

Mr. Allen, on behalf of the Justice Academy, thanked the members for appropriating the necessary funds this year to renovate the Residence Hall C on the Salemburg Campus. In September 2018 renovation will begin on that project which will result in an improved training experience for the student officers. This would not have happened without the members' leadership and it is very much appreciated.

The third way the Academy pursues their mission is in their support provided to their partner agencies. This is provided in a number of ways. First, the library is available not only to Academy staff but to all students visiting the campus and requesting information online from the library staff. Second, the Academy operates a video production unit. This group assists in video production for both training and informational purposes. In addition, Mr. Allen stated that he had agreed to assist the Division of Motor Vehicles in producing a companion video with a new driver's license handbook as well as producing an informational video in support of the Victim Services Unit of the Department of Public Safety. Beginning in the winter of 2018 the Academy will produce a podcast series providing timely and relevant industry information that might not be suited for a formal training course. Topics include law enforcement use of drones and showcasing positive efforts in the area of community policing. The Academy also supports agencies and police officers in providing legal guidance on issues such as canine police activities and the drafting of search warrants, etc. They coordinate training for partner organizations and

coordinate agency lesson plans into an online format, most recently for the Division of Motor Vehicles.

Mr. Allen next discussed the Academy's work in honoring the officers who have died in the line of duty. Because they train and partner with hundreds of agencies, they inevitably come into contact with the majority of North Carolina officers at some point. Along with the other sections of the Department of Justice, the Academy helps coordinate the Annual Police Memorial Service which is held at different locations across the State. The service not only honors the officers who have made the ultimate sacrifice but also their families and colleagues. The Justice Academy also lends support to the concerns of police survivors (C.O.P.S.)

Mr. Allen then moved to the process of obtaining accreditation for the Criminal Justice Training Courses. Community Colleges and individual agencies must first apply for accreditation through either the NC Justice Education and Training Standards Commission or the NC Sheriffs' Education and Training Standards Commission. Once the application is received by either Commission, the respective Division staff will inspect the facilities which can include classrooms, firearms ranges, driving tracts, and others as well as mat rooms. After the inspection is complete, Division staff will make their recommendation to the respective Standards Commission to accredit the school or agency to deliver the training programs for which they have applied. Once accredited the school or agency must comply with all administrative and code rules and achieve re-accreditation every five years. It is necessary that the training to criminal professionals is current and relevant.

Mr. Allen again thanked the members for the honor and privilege of presenting an overview of the NC Justice Academy and indicated he was happy to answer any questions.

The Chairman recognized Representative Faircloth who in referring to course accreditation, asked if an agency applied, have their own training school and they meet all the requirements of the Commission and the Commission grants them the accreditation, would it be reasonable to assume that that agency and the Justice Academy would work together on some issues. Mr. Allen responded in the affirmative and added that the Academy delivers their courses on the road on a frequent basis. Representative Faircloth then noted that a newer Academy, Samarcand, that was intended to work with the correctional officers and had done a great job, but he was concerned about some friction that seemed to develop between the Justice Academy and Samarcand over some training that was proposed and could not be carried out and resulted in students having to be bussed from Samarkand to the Academy at a pretty big cost. It seemed like a lack of cooperation or intent to work together. Mr. Allen responded that he was not aware of friction between the agencies or of being bussed to be trained. He thought what Representative Faircloth might be referring to was the request for Samarcand to do some specialized training courses or instruction courses that currently only the Academy is accredited to deliver. The Academy believes it is important to maintain that because of the sensitivity of the training curriculum. In terms of friction, Mr. Allen stated he knew the director of Samarcand and they get along fine. Mr. Allen's understanding was that Samarcand had requested through the legislature to be able to deliver all specialized training courses, not just firearms. The Academy

has been able to meet any demand that anyone has had for any specialized instructor course. He thought that the special request was for Samarcand to be able to deliver the course at their facility. Mr. Allen reiterated that specialized instructor courses are far different from basic law training or radar training. They are high liability issues and the Academy's instructional staff research, develop and update those courses on a frequent basis. It is important to maintain the integrity of the curriculum because it is so high liability related. Representative Faircloth stated he was concerned about any time there is an appearance of a lack of cooperation between state agencies, particularly those whose final goal is to serve the public. He would like to have further discussions along with some colleagues and the two directors to see if they can't reach an understanding and work something out. Mr. Allen was in agreement and was willing to go to that facility and deliver those courses for them.

Next, Representative Boles was recognized and asked Mr. Allen if the Academy was willing to go to Charlotte, for example, for special classes and Mr. Allen responded that they were more than willing to go. He also stated that Charlotte had not made a request to do that and they already had a number of certified instructors there. The Academy is the only institution accredited to do the training but they can deliver training by request. Representative Boles than asked, as far as the use of the facilities, what percentage is used by DPS and what percentage is used by other agencies. Mr. Allen stated he didn't have the number of percentages in front of him today but he could provide them to the members. Representative Boles noted that Mr. Allen had mentioned the renovation of a residence hall, and his question was how much of it would be down during the renovation, how long would it take and would it be done by inmate construction or would it be private. Mr. Allen introduced his Deputy Director, Dana Phillips, who responded that construction of Residence Hall C would begin around September. It is now in the design phase and once the renovation starts, it would probably be around 12-14 months, so closing October, 2018 and reopening in January, 2020. Inmate labor will not be used on this project. As to a question from Representative Boles about the driving tract, Mr. Allen explained that it was more of a precision driving course as opposed to a pursuit driving course. A pursuit driving course would be taught solely by the Highway Patrol. Chairman Davis requested that any further information be sent to his legislative assistant for disbursement to the committee members.

In response to a question from Representative McNeill regarding training at Samarcand, Mr. Allen stated that Samarcand has requested to do all the specialized instructor training courses of which there are five. The Highway Patrol is currently accredited through the Commission to deliver specialized driver instructor training mainly because of what they do and the need to have driver training as part of their mission. The Commission has granted that permission in the past for that purpose alone.

Representative Jordan asked Mr. Allen if the Academy had any individuals who are not from any agency being trained. Mr. Allen stated that if an individual was interested in taking basic law enforcement training, typically an agency would sponsor the person. Otherwise, the person would probably go to one of the 50 or so community colleges who are also accredited to deliver the training.

Representative Burr asked Mr. Allen what the five difference training programs at Samarcand are. The response was they would include specialized firearms instructor, driver instructor, hazardous materials instructor, physical fitness instructor and SCAT, a sort of defensive training. The Academy could go out and do that training but it would have to be Academy instructors. He further stated there was no waiting for the courses with the exception of specialized firearm instructor on occasion because so many have requested it but there is a process for pre-qualifying those people that take that course. Another reason the Academy is the sole provider of that course, is that by Commission rule, there has to be one dedicated school director whom the Academy employs. There has not been a demand that the Academy cannot meet.

Representative Boles stated that he wanted to clarify that he did not think Samarcand was asking to hire the staff and host the staff and teach it but he understands that Mr. Allen is saying that the NC Justice Academy is willing to go to Samarcand and instruct and give specialized training at that facility. Mr. Allen stated that the Academy is willing and able to do that.

Chairman Davis thanked Mr. Allen for his very informative presentation.

Statewide Misdemeanant Confinement Program

The next speaker, Mr. Garry Fife, Senior SMCP Coordinator of North Carolina Sheriffs' Association was introduced by Chairman Davis to speak on the Statewide Misdemeanant Confinement Program (SMCP). Mr. Fife began by thanking the committee for having him. His presentation is attached. He stated that since the creation of the actual program, before and now, sentences of 90 days or less were served at the local jail at the county expense and before SMCP, misdemeanor sentences in excess of 90 days were served in the DACJJ. Beginning in January 2012, the program, applied to misdemeanants' sentence to 90 days and no more than 180 days, excluding defendants convicted of DWI. He continued by explaining how the program is managed and funded, the administrative functions, the statewide help desk, training and support, participation, receiving counties as of fiscal year 2012 through the current date, housing inmates, reimbursement rates, medical cost management, fund analysis for FY 2016-17, collection of delinquent safekeeper reimbursements, capacity, inmates processed, inmate cost comparison, and the impact of SMCP.

Following the conclusion of Mr. Fife's presentation, the Chairman asked for comments or questions from the members. Representative Speciale asked how the Sheriffs' Association was set up and if it was a private organization. Mr. Fife replied that it is a non- profit association that supports the 100 sheriffs throughout the state.

Senator Randleman was recognized and informed Mr. Fife that his presentation was very good but he left out the most important part; justice reinvestment. She requested that Mr. Eddie Caldwell from the North Carolina Sheriffs' Association explain how the system was set up, how it is a part of justice reinvestment and other things the committee members need to know so they will understand how the program was developed and how it operates. Mr. Caldwell stated that around 2010 legislation was passed following an effort across the county to better manage the

incarnation of prisoners in a variety of respects and to get our criminal justice system where only those people in our systems were those who can't be served anywhere else. The legislative leadership worked with the Pew Charitable Trust who sent personnel here to figure out how to remake the system. One of the key components was to get as many as possible out of the prison system and dealt with in another way. As the legislative leadership was trying to figure out how to implement the Justice Reinvestment Act, one of the key components was to get the misdemeanants out of the prison system. A plan evolved to use the vacant beds that were available across the state and keep from opening more facilities. The County Commissioners thought the Sheriffs Association was the best equipped to manage the program since they were already equipped to manage the county jails so at the request of the legislative leadership, the Sheriffs Association agreed to do that. It was determined that it would take about 18 months to design the program and get it ready to launch to accept the inmates but they were only given six months. Prior to the Justice Reinvestment Act and since then, many inmates sentenced to 90 days or less serve that in the county jail at county expense. Other changes occurred in the program but that is how it got started. Mr. Caldwell stated it would take two or three hours to add more detail to how it all got started. He further stated that he thought the program was working well and referred to the millions of dollars it has saved the state.

Chairman Davis thanked Mr. Caldwell and recognized Representative Stevens who asked how the Misdemeanant Confinement Program is funded. Mr. Caldwell responded that the original funding source was an additional amount on court costs and also an additional fine for people who got a speeding ticket. After a couple of changes, the General Assembly reworded the statute so instead of fines going into the misdemeanant fund, they now go into the state's general fund and each biennium, the Legislature makes an annual appropriation. The fund itself is managed by the Department of Public Safety. Representative Stevens stated that she was very impressed with the way the NC Sheriffs' Association has controlled the medical costs. She asked if the bill was negotiated or was it an insurance provider. It is not an insurance provider. He stated that somebody goes through and "scrubs" the bill. When an inmate goes to a hospital they show the prime health card, the doctor outside the jail sends the bill directly to Prime Health Services and they go through and if there is something on there that shouldn't be, they kick it out. Through this procedure they have been able to reduce the bills by 44%. Once the bills are scrubbed down, the payment comes from the Statewide Misdemeanant Confinement Fund which is managed by DPS.

Chairman Davis next recognized Representative Rogers who asked what programs are available within the misdemeanant program. Mr. Caldwell stated that any medical care that the inmate needs that can be administered by the health care staff in the jail and jails have varying levels of health care available. If it is something that the jail can't provide, and the inmate has to be sent out to the hospital or specialty doctor that is what is paid through the medical part of the program. There is limited treatment for drug and alcohol issues and part of that is because the treatment programs take a period of time and most of the inmates that are in are "in and out" for shorter periods of time. He stated further that it is not a population that is conducive to the program. Representative Rogers then asked if a person who might be required to be locked up for 36 months for aggravated level 1 DWI might get zero treatment. Mr. Caldwell responded

that he could not confirm that statement because he did not know that that is correct. Representative Rogers stated that he believed it would be a problem if alcoholics would get no treatment for a 36-month period. Mr. Caldwell stated he would be glad to talk to the Sentencing Advisory Commission and the legislature about how to address that concern.

Representative Speciale was recognized and stated Mr. Caldwell explained the situation very well and realized it was a good program. He asked what the Sheriffs' Association gets out of doing all this. The major thing the Association gets out of it is good public policy and that is what the legislative leaders said when they asked the Association to find some way to do it.

Mr. Caldwell then responded to Senator Bryant's question about how the Sheriffs' Association got involved. He stated that it was the position of the Department of Corrections at that time that they wanted to get the misdemeanors out of the prison systems for various public safety and criminal justice reasons. The legislative leaders were working on the Justice Reinvestment, the bigger program, and what prompted them to come to the Sheriffs' Association he could not say because he wasn't at the meetings. When they came to the Sheriffs' Association and asked them to do it, it was probably the only group that had jails. He stated that it is a unique program, the only one like it in the country, and it has been very successful for the last five years by all accounts and all reports. He stated that he did not believe the program would have been effective had anybody other than the Sheriffs' Association done it..

Senator Randleman stated that some of the decision making at that time resulted from the fact that the sheriffs were being put in a position where they were being responsible for housing the inmates that had customarily been housed in the state prisons and they were being shifted back to the county, to the sheriffs who were the sole proprietor of those jails. Senator Randleman asked how many people work for the Misdemeanant Confinement Program now and Mr. Caldwell responded that there were ten members of their staff that do the various functions related to the program.

Chairman Davis thanked Mr. Caldwell for sharing his insight.

Representative Jackson was recognized and indicated he no longer served on the regular appropriations sub-committee this last term but when he left the committee it was his understanding that part of picking up the DWI into this program would be that there would be treatment options in that the prisoners were at least getting a 90-day short program through the Department of Corrections and that they would get some alcohol abuse treatment. He asked if there was planning being done for that. Mr. Caldwell indicated that it was a small percentage of inmates who were qualified for and would be going through that program. It wasn't every DWI that was given that program; only a small percentage. It has been discussed and when the Sheriffs' Association was asked about it, they said it would require legislation to change that and also it would require additional funding. He stated that the Association is ready to work on it whenever the legislature is ready. He was not aware of any commitment that it would be done.

The Chairman moved back to Mr. Fife, the presenter, and recognized Representative McNeill who stated he thought it was a wonderful program and it was very ingenious that we took up these jail beds and decided to fill them with prisoners instead of building more state prisons and hiring more prison guards on the already burdened system. His concern is that we can maintain capacity. He stated that the legislature receives every year, from the Sentencing Policy Advisory Commission, a five-year projection on prison beds which is very helpful to know if there will be enough prison beds five years out. He asked if the Sheriffs' Association could work with either their self or the Sentencing Policy Advisory Commission to get a five-year projection on how many of these misdemeanor confinement beds might be available so as not to come up five years from now with not enough confinement beds and then maybe have to look at building more prisons or do something. He stated he wanted to maintain this capacity. He asked how many of the confinement beds are now filled. Mr. Fife responded that the majority of the time, they are operating at 63-65% of capacity with new counties coming on every month volunteering beds to the program. Mr. Caldwell added that the Sheriffs' Association could develop the capacity to do a five-projection but he thought it was one of the things the Sentencing Policy Advisory Commission probably do the best job of anyone in the country. He indicated the Sheriffs' Association could work very closely with them and let them develop the projections on the misdemeanants and work with the sheriffs on their building and expansion plans to evaluate the anticipated capacity and develop the projections for the misdemeanant confinement program just as they do for the prisons.

The Chairman recognized Representative Rogers who asked Mr. Caldwell if we should consider something to allow H and I felonies to be housed locally because they are usually a five to six month sentence. Mr. Caldwell responded that whether that should be considered or not would be a public policy question for the legislature. The Sheriffs' Association would be glad to discuss it and work with the projections, security risk, etc.

Senator Randleman asked if the program runs out of bed space, does the inmate not revert back to the DOC or to Juvenile Corrections. Mr. Caldwell responded that the statute provides that if the confinement program does not have adequate bed space, any misdemeanant sentenced in a county for which there is no bed space, would serve the sentence in the Division of Adult Correction and the Division strives mightily to make sure that provision doesn't get activated.

Representative Jackson asked Mr. Caldwell how much the state reimburses the program for each night. The current reimbursement rate, which has not been changed since the program began, is $40.00 per day plus $25 an hour for personnel costs such as transporting a prisoner from one county to another or taking them to the hospital (and guarding them if they have to be overnight) plus whatever the current IRS mileage rate is. The rate for holding prisoners for the federal system varies way more than $40.00 a day up to $100 a day. It is a complicated formula and they work with each jail based on the cost of operating that jail. From a financial perspective, jails would rather take federal prisoners but there are other factors that play into that decision.

Senator Bryant was recognized and asked if there was anything special for the youth. Mr. Fife responded that there was.

Chairman Davis again thanked Mr. Fife and Mr. Caldwell for being there and stated their presentation and comments were very much appreciated.

ABC Permit Revocation

He then introduced and welcomed Ms. Renee C. Metz, Chief Counsel of the NC Alcoholic Beverage Control Commission and noted the committee was looking forward to hearing her comments. Her presentation "ABC Permit Revocation: Process and Statistics" is attached. She began by stating that before she began with statistics she would put the revocation process in context. Revocation, as the ABC Commission is required to think of that term, is the most serious penalty that the Commission can impose on a permit holder and it is used as a last resort. Revocation means that particular business or person can hold absolutely no ABC permit anywhere in the State of North Carolina for three years. Many persons have more than one business and may be law abiding citizens that happen to have a store in a location that happens to attract problems. If the Commission removes their permit at that one location, they lose their permit at all other locations. There are other penalties available to the Commission. A suspension is unlike a revocation in that there is still an active permit at the location, but the holder cannot exercise the permission granted under that permit for a specified period of time. A revocation is devastating to a business. One of the tools available to the ABC Commission is the administrative penalties provided by 18B-104. Under that statute the Commission may impose up to a three-year suspension or a fine may be levied up to $1000 or a combination of both. If a settlement agreement is reached with the permit holder, a fine can be levied up to $5000 and/or a combination of active suspension. If the parties cannot reach an agreement, the matter goes before the Office of Administrative Hearings for them to determine the penalty.

Ms. Metz then moved into numbers and unless otherwise indicated, are from the period of January, 2007 to early November, 2017. Before the ABC Commission can begin any process against a permit, it must receive a violation report from a local law enforcement agency or the State Agency Alcohol Law Enforcement. In that report they designate what the facts are that happened at that location to determine what law had been violated. In the last 14 years, the Commission has consistently received well over 1000 violation reports every year. There are 18,000 businesses in the State that hold permits, many of whom hold multiple permits such as a restaurant. In total there are 60,000-plus permits in North Carolina that the Commission monitors. The majority of the 1000 or so violation reports that are submitted end up settling. The Commission negotiates with the permit holder to determine what the penalty shall be. On average, once the offer is signed it goes on to the next Commission meeting where the members will ratify or choose not to ratify the signed offer. Some offenders will choose not to take the penalty; they just prefer to take the suspension. If they do pay, all of the monies go to the school board in the jurisdiction where the violation occurred. Sometimes, depending on the size of the penalties, if the location gets in trouble several times and they can't afford to pay the penalties, they will turn in their permits for cancellation. In a period of ten years, the Commission has had over 30,000 permits voluntarily or involuntarily turned in for cancellation. There are numerous reasons why a permit can be cancelled, such as the permit holder dies, retires, or loses their lease.

Whether the Commission is going to openly ask for suspension or revocation the process is the same. The reasons a judge would ask for a revocation include interfering with law enforcement, violence, prolific sales to underage persons, drugs (more than simple possession) and no longer suitable. The no longer suitable revocation can be against the permit holder him or herself or against the location. When a summary suspension is done, that authority comes not from ABC law but from the Administrative Proceedings Act. Over the past 10 years, the Commission has issued an average of 5 summary suspension per year. Ms. Metz thanked the committee for the opportunity to share this information.

Representative Faircloth was recognized and stated that this was a great report and gave the members a picture they didn't have before. He referred to revocation where Ms. Metz mentioned that if a person has 2 nightspots that he owns, and he messes up in one site and gets revoked, the Commission also takes his other site. If one spot is owned by the person alone and the other spot is an LLC, where he own 25 % and he is the member manager is that site revoked as well. Ms. Metz responded that as a 25% owner in the LLC, he would have to qualify to hold a permit so his name would be on that second permit and he could not hold it.

Senator Sanderson asked for Ms. Metz to define "prolific sales to underage". Ms. Metz described a case where a permit holder had security cameras. An underage person came in, told him what product he wanted, was told to go back to the cooler and get it, he would put it in a black bag to the side of the counter and make sure everything was clear before the transaction occurred. All of this was caught on the security camera.

Senator Wells stated that he understands revocation of a license is devastating but the license to sell alcohol is a privilege not a right. He indicated he had some tough questions one of which was asking if a licensee was running three bars and two of them had perfect track records and one of them just doesn't work, why would the Commission revoke a license for all three? Ms. Metz responded that if they revoke the license of the bad actor, the Commission does not necessarily take away the licenses of the two that are working; they might just have a cancellation. If the permit holder is doing fine at two locations, then it is not him that is the problem; it is just the location where he has the third permit. The Commission wants to take care of that third location and let him focus on the two that are working. Senator Wells asked if instead of a revocation, the Commission would arrange for them to surrender the license for that location. She replied that that is a possibility depending on the situation. The Commission may ask for revocation and if they choose to go to a hearing, the judge may not agree to a revocation. The licensee has to go through the administrative hearing process. Senator Wells then asked what happens to that location and can another operator come in. Ms. Metz stated generally not. There is a watch list where if there is a location that seems to cause a problem for every permit holder on that list, the Commission won't touch it until they contact local law enforcement, ALE, the town manager and whoever is on the list to be contacted. Ms. Metz added that the statute does not allow for the Commission to put conditions on permits. Following further discussion regarding the permitting process, Senator Wells asked Ms. Metz if she had suggestions about what might be done differently to improve the process even if statutory changes are required. Ms. Metz responded that one thing the Commission has discussed is asking for a higher penalty

cap. Currently, a penalty of more than $5000 cannot be negotiated. There was a statute, based on Representative Boles' experience, which was introduced that is now being challenged constitutionally for no due process for a location being suspended immediately without a hearing.

Representative Boles was recognized and stated that there were a couple people in the audience that need to be introduced that have helped with some of the laws that have been passed. One was Mr. Bob Hamilton from the NC ABC Commission and Mr. Bob Schurmeier, the NCSBI ALE Director. He referred to a law that has been passed and the reason the law was passed was because he did attend a raid with ALE. He explained some of the details of the raid and asked if the ALE was going to padlock the establishment and was told that they could not do that. The referenced law was passed on the basis of the DWI law. Representative Boles asked Ms. Metz if they notify the ALE that they have a PPI issued. Ms. Metz deferred to Mr. Bob Hamilton.

Mr. Robert Hamilton was introduced and he stated that the contact that is made with the investigators when the PPI occurs is if there was information they need from the ALE. He did not think the ABC Commission actively tells ALE that they are doing a PPI on a particular location.

Representative Stevens referred to a slide where 50% of summary suspensions, application rejections, and no longer suitable cases are overturned and asked Ms. Metz if they get an opinion or explanation back. Ms. Metz stated that they do get a decision from the administrative law judge. Representative Stevens thought it might be very helpful to look at those to see if there is a need to tighten up the statutes. She further stated that she would be happy to work with Representative Boles to see why they are saying it is unconstitutional to take away a license on a temporary basis.

Chairman Davis thanked Ms. Metz for being there and noted her presentation was appreciated.

Senator Randleman was recognized for a motion. She moved that a sub-committee be formed who will review and report back to the JPS Oversight Committee on the ABC permit revocation process and provide any proposed recommended changes for consideration by the Oversight Committee. She recommended that Senator Andy Wells who has done extensive work on this be Chair and members Representatives Rena Turner and Representative Darren Jackson who have both agreed. Chairman Davis ruled the motion in order. He asked if there were any questions or if there was a second to the motion. The motion was seconded by Representative Floyd. The motion passed unanimously and the sub-committee will be formed.

Chairman Davis thanked all of the committee members for being present and thought it was an excellent meeting and he commended the presenters.

There being no further business to come before the committee, the meeting was adjourned at 3:30 P.M.

Representative Ted Davis, Jr.
Presiding

Judy Lowe, Committee Clerk

Judy Lowe (Rep. Ted Davis)

From: Andrew Bowers (Rep. Bob Steinburg)
Sent: Tuesday, November 07, 2017 01:43 PM
To: Andrew Bowers (Rep. Bob Steinburg)
Subject: Steinburg Added to Corrections Oversight Committee

FOR IMMEDIATE RELEASE: November 7, 2017
CONTACT: Andrew Bowers, (919)733-0010

Steinburg Added to Corrections Oversight Committee

Resolved to Reform NC Prison System Top to Bottom

RALEIGH, NC – Yesterday, North Carolina House Speaker Tim Moore added State Representative Bob Steinburg (R-Edenton) to the Joint Legislative Oversight Committee on Justice and Public Safety as an advisory member effective immediately. In light of recent prison violence, Steinburg has pushed for the General Assembly to review prison management and safety policies.

"I appreciate Rep. Steinburg's willingness to serve on the Joint Legislative Oversight Committee on Justice and Public Safety and join ongoing efforts to improve correctional officer salaries, staffing and safety in North Carolina," said House Speaker Tim Moore.

"As a leading voice for reform and avid representative of North Carolina citizens on many key issues, Rep. Steinburg's addition to the committee overseeing corrections will benefit his constituents and our state prison system as the General Assembly continues implementing reforms to protect the brave correctional officers who keep us safe."

"The people of North Carolina deserve a comprehensive, unvarnished investigation into our state's prison management, from top to bottom and without excuses," said Steinburg. **"Brave, honorable corrections employees deserve our full support so they can prevent any further tragedies like we painfully experienced recently. These tragedies, plus the growing shortage in officers, are blaring sirens for reform. We cannot stick our head in the sand and pretend minor tweaks are enough. You can be sure of this: I will not back down until we've solved this crisis."**

A retired businessman and lifelong conservative Republican, Rep. Bob Steinburg currently serves Camden, Chowan, Currituck, Pasquotank, Perquimans, and Tyrrell Counties in his third term in the State House. He serves as Chairman of the Agriculture Committee. In addition, Rep. Steinburg serves as a member of the Commerce and Job Development, Environment, Finance, Judiciary I, State and Local Government II, and Transportation standing committees.

####

Full Version

Joint Legislative Oversight Committee on Justice and Public Safety

Non-Standing Committee

- Visit the **Committee's website**
- Authority: G.S. 120-70.93; SL94-24 (ES) sec. 49(a); SB 150
- Meeting notices via e-mail
- **Disclaimer:** This list is under constant revision and may not be current. It reflects appointments on file, which may not be updated or complete. Please call the Legislative Library if you have questions (919-733-9390).

Members

Co-Chairs	
Rep. James L. Boles, Jr. (Co-Chair)	House Appointment
Rep. Ted Davis, Jr. (Co-Chair)	House Appointment
Sen. Shirley B. Randleman (Co-Chair)	Senate Appointment
Legislative Members	
Rep. Justin P. Burr	House Appointment
Rep. John Faircloth	House Appointment
Rep. Elmer Floyd	House Appointment
Rep. Charles Graham	House Appointment
Rep. Darren G. Jackson	House Appointment
Rep. Allen McNeill	House Appointment
Rep. David Rogers	House Appointment
Rep. Sarah Stevens	House Appointment
Rep. Rena W. Turner	House Appointment
Sen. Tamara Barringer	Senate Appointment
Sen. Danny Earl Britt, Jr.	Senate Appointment
Sen. Harry Brown	Senate Appointment
Sen. Angela R. Bryant	Senate Appointment
Sen. Warren Daniel	Senate Appointment
Sen. Jim Davis	Senate Appointment
Sen. Jeff Jackson	Senate Appointment
Sen. Michael V. Lee	Senate Appointment
Sen. Norman W. Sanderson	Senate Appointment
Sen. Terry Van Duyn	Senate Appointment
Advisory Members	
Rep. Beverly G. Boswell	House Appointment
Rep. Pat B. Hurley	House Appointment
Rep. Jonathan C. Jordan	House Appointment
Rep. William O. Richardson	House Appointment
Rep. Michael Speciale	House Appointment
Rep. Bob Steinburg	House Appointment
Rep. Lee Zachary	House Appointment
Sen. Andy Wells	Senate Appointment

Joint Legislative Oversight Committee on Justice and Public Safety

House Co-Chair, Rep. Ted Davis, Opening Remarks
Thursday, November 16, 2017, 1 p.m., Room 643 Legislative Office Building

"After the terrible attack and escape attempt at Pasquotank Correctional Facility, the members and staff of the General Assembly join all North Carolinians in keeping the victims of this tragedy, their friends, families and coworkers, in our prayers.

For the officers and employees who were injured and to Geoffrey Howe, Veronica Darden, Justin Smith, and Wendy Shannon – who were killed in the attack – our state can never repay their families for the cost of this terrible violence done to them at their place of work.

These North Carolinians were trying to earn a living like the rest of us – just like Sgt. Meggan Callahan, who was killed by an inmate at Bertie Correctional Institution in April of this year.

As we remember the sacrifice of those who were senselessly killed, and keep the service of all the brave correctional officers who protect North Carolinians close to our hearts, on behalf of the people of this state, I extend our deepest gratitude to those officers and employees working in such a dangerous line of duty so that we may be safe.

I'd like to provide several important updates for this committee on the legislature's ongoing commitment to improve salaries, staffing levels and safety of those working in our state prisons in the wake of the attack at Pasquotank:

There are multiple, concurrent investigations taking place into the escape attempt and fatal attacks at Pasquotank. We are waiting for the officials conducting that investigation to share what they can, when they can, with us. Until then, it's important we allow those investigations to move forward unimpeded so investigators and prosecutors can serve justice to the perpetrators.

After meeting with Department of Public Safety Secretary Eric Hooks and discussing the need for a comprehensive review of state prison policy with our

fellow General Assembly members, it is apparent that this committee – the Joint Legislative Oversight Committee on Justice and Public Safety – is the appropriate forum for that mission, because:

1. This committee allows both House and Senate to collaborate on a comprehensive review of state prison policy

2. This committee has a large, expert central staff team accustomed to working together on member and administrative requests on corrections issues

3. This committee has overseen the restructuring and consolidation of the Department of Public Safety and is well-prepared to receive information and consider potential reforms and needs to serve our state prison officers.

Our committee is working with the administration to prepare a comprehensive review of state prison staffing and policies throughout this legislative interim. To assist in that effort, I ask the members of this committee to submit to the chairs, clerks and central staff any questions or information requests you have for the Department of Public Safety or our legislative divisions.

We have already started to work on those inquiries and appreciate your help providing them in advance so staff can consolidate and collaborate on those efforts to help us learn as much as possible and develop potential proposals for reform from our review of state prisons through this committee.

Finally, I want to emphasize this is an ongoing commitment to improving salaries and staffing levels to help protect the brave correctional officers who are counting on us to respond to the tragedies at Bertie and Pasquotank Correctional facilities.

There is much more to be done and I appreciate the willingness of so many members and staff who have reached out to me and are ready to continue taking action and committing further to policies and budgets that will benefit North Carolinians working in our state prisons."

Attachment

NORTH CAROLINA JUSTICE ACADEMY

Mission, Capabilities, and Courses

HISTORY

- Salem Academy – 1875
- Pineland School
- Edwards Military Institute
- Southwood College

- 1973 - NC Justice Academy established as part of NCDOJ
- 1998 – Opened the West Campus (Edneyville)

HISTORY CON'T

- Internationally Accredited
- 1st Training Academy in NC to Receive Accreditation
- 4th Award Received in March 2017
- Gold Standard
- Serve in Advisory Role For Other Agencies

MISSION

To serve the citizens of North Carolina by providing relevant, innovative, timely, and engaging training for criminal justice professionals.

-453 Police Agencies
-100 Sheriffs
-Dept. of Public Safety

- *Research*
- *Training*
- *Support*

RESEARCH

- All lesson plans must be revised every 2 years;
- Commission-mandated courses revised more frequently;
- 21st Century Policing; Police Executive Research Forum; DOJ
- Annual survey of criminal justice personnel;
- Partnership with Chiefs and Sheriffs
- Nearly 20,000 volume library

TRAINING

Commission-Mandated:

- Basic Law Enforcement Training (BLET)
- Detention Officer Certification Training
- Telecommunicator Certification Training
- Speed Measuring Instrument Certification Training
- Instructor Certification Training
- Specialized Instructor Certification Training (5)
- Mandated In-Service Training

TRAINING

Advanced:

- Criminal Investigation
- School Resource Officer
- Legal
- Narcotics Training
- Use of Force Decision Making
- Crime Scene
- Community Policing
- Tactical
- Supervision and Leadership

TRAINING

Certificate Programs:

- ❖Criminal Investigations
- ❖ Community Policing
- ❖ Management Development
- ❖ Tactical Training
- ❖ School Resource Officer
- ❖ Traffic Enforcement & Investigation

CAPABILITIES

FACILITIES:

- 2 Campuses
- 22 Classrooms
- 4 Firearms Ranges (1 indoor)
- 1 Driving Track
- 3 Multi-Purpose Training Rooms
- 2 Use of Force Simulators
- 370 Beds
- Team-Building Challenge Course
- Western Crime Lab (Edneyville)

CAPABILITIES

Training:

On Campus Students..... 6,629
Off Campus Students..... 5,328
*Outside Agency Students.....6,897
Online Completions.....74,689

441 On-Campus; ***150*** Off-Campus

49 courses per month

**CJ Partner Agencies (DMV, NC Wildlife, DPS)*

CAPABILITIES

Residence Halls:

Salemburg – (3) 300 beds
Edneyville – (1) 70 beds

Bed Nights – 52,228 (FY '16-17)
Savings of $3,718,634

***The East Campus received full funding for the renovation of Residence Hall 'C'; construction begins in September 2018.*

SUPPORT

- Video Production Unit
- Podcast Series
- Legal Services/Guidance
- Library
- Concerns of Police Survivors (C.O.P.S.)
- Police Memorial Service
- Police and Sheriffs' Association Conferences
- On-line training conversion for industry partners

COURSE ACCREDITATION

NC Criminal Justice Education and Training Standards Commission
NC Sheriffs' Education and Training Standards Commission

1. Application
2. Inspection/Audit
3. Commission Approval

12 NCAC 09C .0401
12 NCAC 10B .0801

COURSE ACCREDITATION

Critical Importance:

✓Integrity of Curriculum
✓Consistency of Delivery
✓Duplication of Services

COURSE ACCREDITATION

- Agency or School submits application to Commission Standards Div.
- Div. Staff inspects facilities:
  - Driving Track
  - Firearms Range
  - Physical Fitness Course
  - SCAT (Defensive Tactics) Mat Room
  - Classrooms
  - Certified School Director and Staff

Recommendations provided to Commission for approval/denial

Statewide Misdemeanant Confinement Program

Joint Legislative Oversight Committee on Justice and Public Safety

Garry Fife
Senior SMCP Coordinator
North Carolina Sheriffs' Association

November 16, 2017

Statewide Misdemeanant Confinement Program

- Both before and after the implementation of SMCP, all misdemeanants sentenced to 90 days or less serve their sentence in the local jail, at county expense.

- Before SMCP, misdemeanor sentences in excess of 90 days were served in the DACJJ.

Statewide Misdemeanant Confinement Program (continued)

- SMCP began in January 2012 and applied to misdemeanants sentenced to more than 90 days and up to180 days, excluding defendants convicted of DWI.

Statewide Misdemeanant Confinement Program (continued)

- On October 1, 2014, the program was expanded to include all misdemeanants with a sentence of more than 90 days, excluding defendants convicted of DWI.
- On January 1, 2015, those defendants sentenced for a misdemeanor DWI began serving their sentence in the program regardless of sentence length.

Statewide Misdemeanant Confinement Program (continued)

- The program is managed by the North Carolina Sheriffs' Association.
- Program expenses are funded by the Statewide Misdemeanant Confinement Fund.
- NCSA operates and maintains IT systems and a database for facilitating inmate placements in county jails across the state.
- NCSA assigns program eligible inmates to available jail bed space.

Statewide Misdemeanant Confinement Program (continued)

- NCSA coordinates the transfer and release of inmates.
- NCSA calculates the cost per inmate, per day, per county for inmate housing.
- NCSA processes the payments for housing, transportation, and medical expenses for inmates in the Program.



NCSA Administrative Functions

- Ensure that Inmate Notification Forms and court documentation are properly completed and adhere to statutory guidelines before enrolling into SMCP.
- Evaluate available jail bed space to determine optimum placement.
- Coordinate with Combined Records Division of DACJJ to calculate release dates, taking all credits for time served and credits earned into consideration.

NCSA Administrative Functions (cont.)

- Consult with the counties point of contact regarding any questions about court documents.
- Seek assistance from NCSA legal counsel regarding legal and sentencing issues that may arise.
- Process all inmate medical claims submitted and provide guidance to county facilities about inmate medical care and reimbursement.

NCSA Administrative Functions (cont.)

- Coordinate any necessary transfers to and from DACJJ.
- Process writs transferring inmates for out of county court appearances.
- Provide counties with accurate dates of release, taking into consideration all credit for time served and any credit earned.

NCSA Statewide Help Desk

- SMCP responds to all inquires and questions from sending and receiving counties to ensure the program is properly administered.
- In excess of 25 telephone calls and 15 emails are answered daily from sheriffs' personnel, county and state personnel, and even inmates and their families.
- SMCP also responds to requests for information and statistical data from other criminal justice agencies and commissions.

NCSA Training & Support

- NCSA conducts annual training on the SMCP every year at various locations across the state.
- Training material provides step-by-step guidance for attendees to process inmates through the program.
- Training includes an annual legislative summary and update.
- Training is mandatory for all "receiving" counties and optional but highly encouraged for "sending" counties.

NCSA Training & Support

- Since inception, over 1043 sheriffs, sheriffs' office personnel, county personnel and state personnel have attended the training.

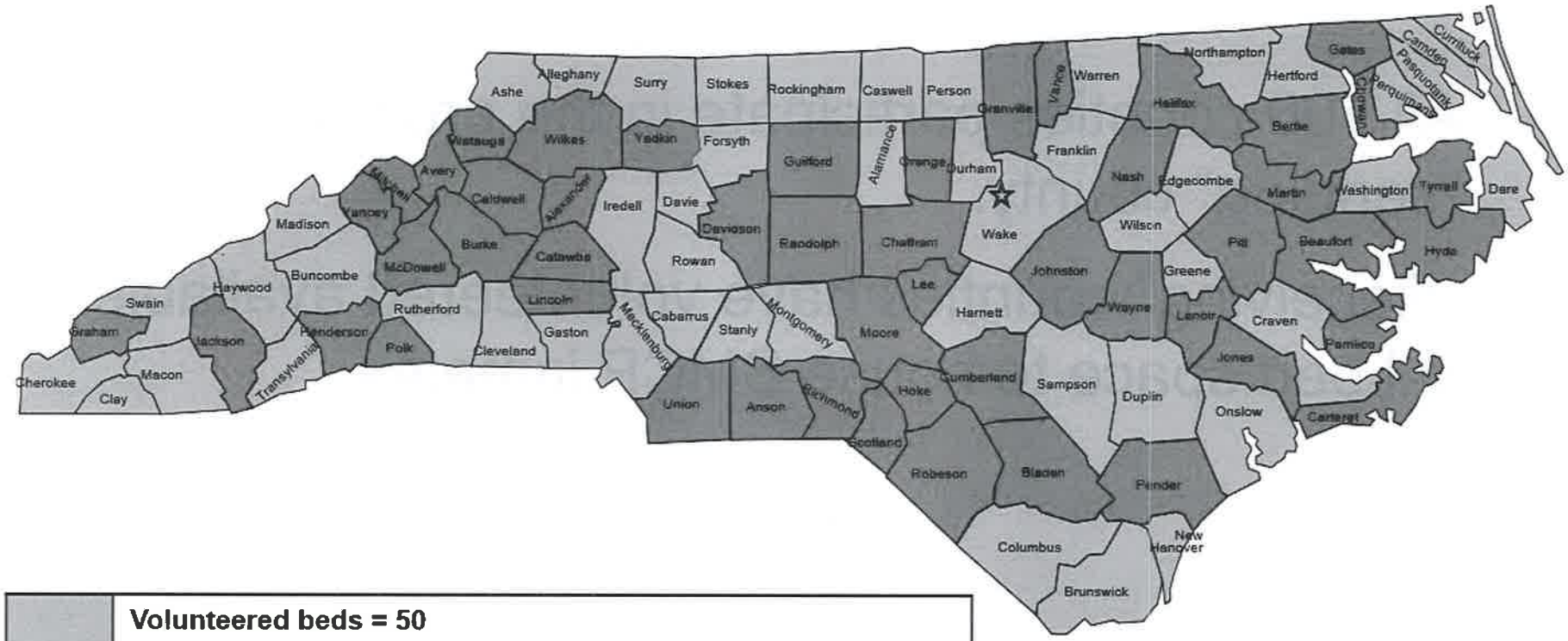
- The 2017 annual training was attended by participants from 79 counties across the state, numerous clerks of court, and representatives from DPS and AOC.

SMCP Participation

- All 100 counties participate in the program as a "sending" county.
- "Receiving" counties have volunteered available jail bed space to house SMCP inmates.

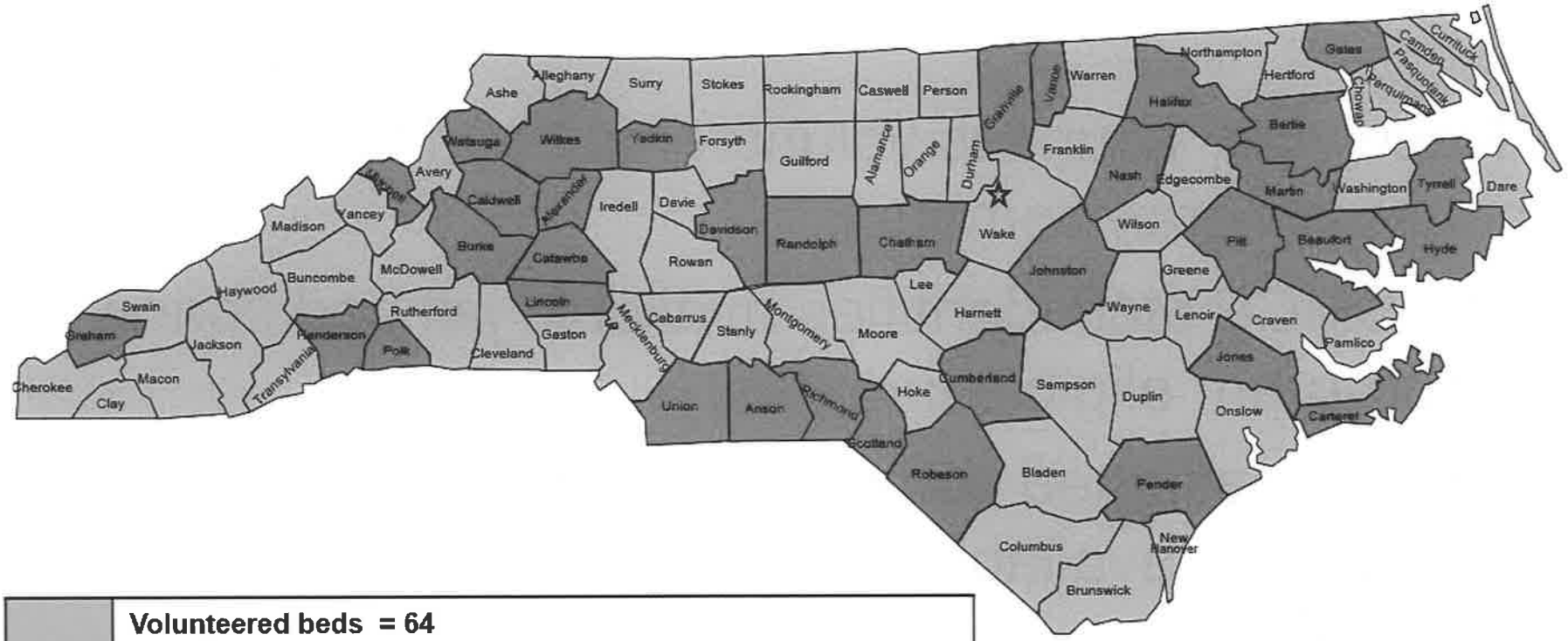


SMCP "Receiving" Counties as FY 2012



	Volunteered beds = 50
	Not volunteered beds = 50

SMCP "Receiving" Counties Current



	Volunteered beds = 64
	Not volunteered beds = 36

Housing SMCP Inmates

- "Receiving" counties volunteer jail bed space to house program inmates.
- The SMCP staff identifies available jail bed space for program eligible inmates.
- Custom-designed software maintains a statewide inventory of available SMCP jail bed space.
- Jail bed space volunteered to the SMCP may be used to house local eligible misdemeanants as well as misdemeanants from other counties.

Reimbursement Rates

Since January 1, 2012

Daily Housing: $40

Personnel: $25/hour

Transportation: IRS Std. Mileage Rate ($0.535/mile)

- In-Jail medical expenses are included in the Daily Housing Rate.
- Out-of-Jail medical expenses are billed directly to the SMCP.

Monthly Reimbursements

- Reimbursement for mileage, personnel, and housing expenses are paid in the month following the month in which expenses were incurred.
- The SMCP automatically generates monthly reimbursement statements to each county.
- Reimbursement statements are emailed to the county's Points of Contact for review.
- Any necessary adjustments are made and corrected statements are provided if necessary.
- Reimbursements are paid by electronic funds transfer no later than the last business day of each month.

Monthly Reimbursements (continued)

North Carolina Sheriffs' Association

Statewide Misdemeanant Confinement Program

Reimbursement Statement

For the month of May, 2015 Warren County (NC0930000)

Sending County	Receiving County	Activity	Inmate Name	Sentence Length	Sentence Start Date	Transfer Date	Estimated Release Date		
Granville	Warren	Existing Inmate	Mclaughlin, Jahmel	730	3/11/2015	3/11/2015	3/10/		
Nash	Warren	Existing Inmate	Adams, Kevin	120	3/26/2015	5/1/2015	7/2		
Nash	Warren	Existing Inmate	Bobbitt, Raymond	150	4/24/2015	5/1/2015	9/		
Nash	Warren	Existing Inmate	Locus, Stephen	245	3/18/2015	3/24/2015	11/18/2015	31	
(T) Nash	Warren	Existing Inmate	Payton, Kiara	200	2/12/2015	4/10/2015	7/27/2015	31	
Nash	Warren	Existing Inmate	Wardrett, Caleb	182	3/4/2015	3/4/2015	7/26/2015	31	
Vance	Warren	Existing Inmate	Edwards, Danny	120	4/6/2015	4/22/2015	7/20/2015	31	
Vance	Warren	New Booking	Lee, Melvin	30	5/11/2015	5/27/2015	6/10/2015	5	
(T) Warren	DAC	Existing Inmate	Boney, Sheldon	180	1/26/2015	3/3/2015	7/1/2015		

Total Days	222		$8,880.00
Mileage		0	$0.00
Transportation Hours		0	$0.00
Total Reimbursement			**$8,880.00**

I certify that the information on this statement is true and accurate. I understand that failure to give complete information, falsification, or misrepresentation will result in a formal letter being mailed to the Sheriff and may jeopardize my county's participation in the Statewide Misdemeanant Confinement Program.

_____ _____

Signature *Date*

FYI

Monthly Reimbursements (continued)

- Each month the county reimbursement report is examined by SMCP staff to ensure each county is properly reimbursed.
- Very often paperwork delays, inmate transfers, and or court actions require prior period adjustments that affect monthly county reimbursements.
- Monthly audits are performed as a risk mitigation tool to detect and resolve any potential adjustments or errors as soon as possible.
- Once verified, the county reimbursement report is submitted to DPS. DPS then releases funds from the Statewide Misdemeanant Confinement Fund to NCSA.

Monthly Reimbursements (continued)

- NCSA verifies each amount and then electronically transfers proper payment to each county.

- This process is completed ensuring that the counties are reimbursed on the last business day of each month.

Inmate Medical Costs Management



- The NCSA provides jails with subscriber identification cards, similar to health insurance cards, to be presented to the medical service provider at the time of service.
- Medical bills must be submitted to the SMCP for direct payment to the medical service provider.

Inmate Medical Costs Management

Medical	Paid	Saved	Savings
FY 2012-2013	$385,793	$118,163	34%
FY 2013-2014	$253,803	$161,424	42%
FY 2014-2015	$360,845	$290,267	52%
FY 2015-2016	$834,833	$704,854	48%
FY 2016-2017	$742,784	$573,386	44%

SMCP Fund Analysis for FY 2016-2017

General Fund Appropriation	$ 22,500,000
County Reimbursements Paid	($ 18,110,527)
Medical Expenses Paid	($ 742,784)
NCSA Administrative Costs Paid	($ 1,000,000)
DPS Administrative Cost Paid	($ 225, 000)
Funds Withheld for Safekeeper Fees (Forwarded to DPS)	$ 92,919

4690 total bookings

Collection of Delinquent Safekeeper Reimbursements

- N.C.G.S.§ 148-10.4(f) states that upon notification from DACJJ that an amount owed by a county for safekeeper reimbursements is more than 120 days overdue, the NCSA shall withhold funds from any reimbursements due to a county pursuant to their participation in the SCMP and transmit those funds to DACJJ until that overdue safekeeper reimbursement is satisfied.

Capacity

Capacity	Male	Female	Youth Male	Youth Female	Total
FY 2012-2013	1,282	315	38	24	1,659
FY 2013-2014	1,336	322	37	18	1,713
FY 2014-2015	1,399	379	25	18	1,821
FY 2015-2016	1,457	355	22	10	1,844
FY 2016-2017	1,435	301	17	10	1,763

Inmates Processed

Processed	Male	Female	Total
FY 2012-2013	3,254	551	3,805
FY 2013-2014	2,425	411	2,836
FY 2014-2015	3,119	519	3,638
FY 2015-2016	3,581	628	4,209
FY 2016-2017	3,225	702	3,927
TOTAL	**15,604**	**2,811**	**18,415**

Inmate Cost Comparison

Fiscal Year	SMCP Cost	DPS Cost	Savings
2013-2014	$ 9,673,865	$ 19,999,720	$ 10,325,855
2014-2015	$ 12,277,517	$ 24,369,823	$ 12,092,306
2015-2016	$ 16,729,896	$ 34,832,180	$ 18,102,284
2016-2017	$ 18,017,608	$ 40,226,854	$ 22,209,246

* *Based on DPS Average Cost Per Day Per Inmate from DPS DAC Research Bulletins*

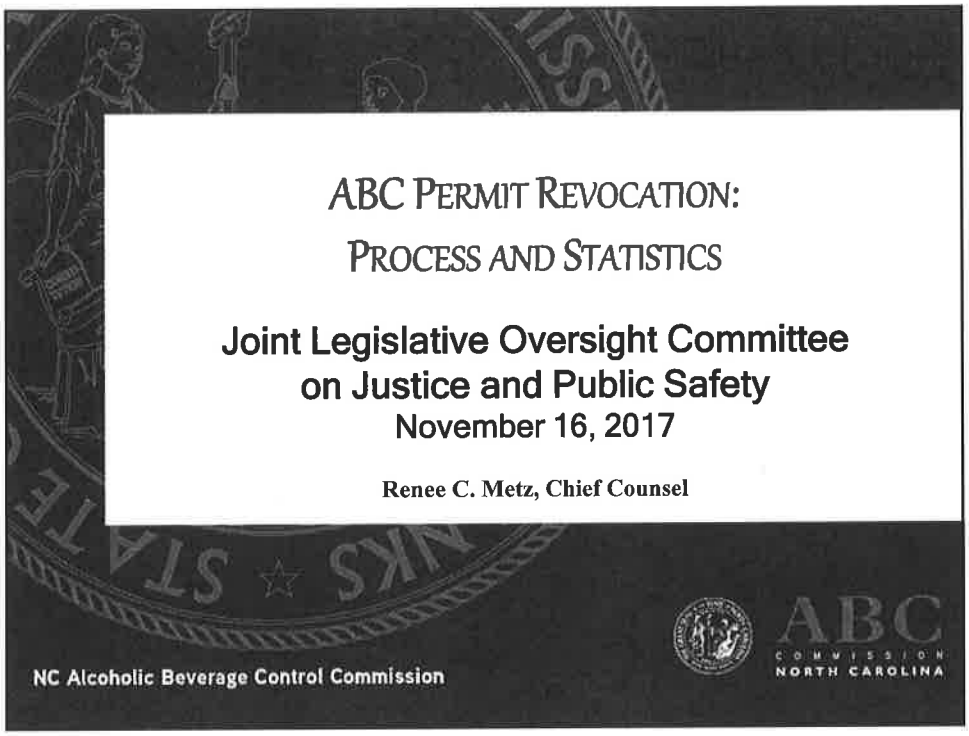
Impact of SMCP

- Cost savings to the State
- State prison beds are not filled with misdemeanants and DWI offenders thereby decreasing the need for additional prisons.
- Provides an avenue for receiving counties to generate revenue from unused and available jail beds.
- Misdemeanor offenders kept out of state prison
- Every effort is made to house offenders within the county of offense or a nearby county. This keeps offenders closer to their home and family.

Statewide Misdemeanant Confinement Program

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina Since 1922



Revocations are RARE

NOT the same as suspension

Qualifications to receive and to hold permits:

18B-900(a)(6) – Not have had an alcoholic beverage permit revoked within three years, ***except where the revocation was based solely on a permittee's failure to pay the annual registration and inspection fee required in G.S. 18B-903(b1).***

Authority

Governed by:

18B-104 – Penalties allowed

18B-906 – Administrative Procedure Act (150B)

ABC Violations 2016/2017

1,324

Cases closed

- Average 80 cases on agenda per month
- Violation penalties:
  - 2014: $713,650
  - 2015: $809,300
  - 2016: $1,157,700

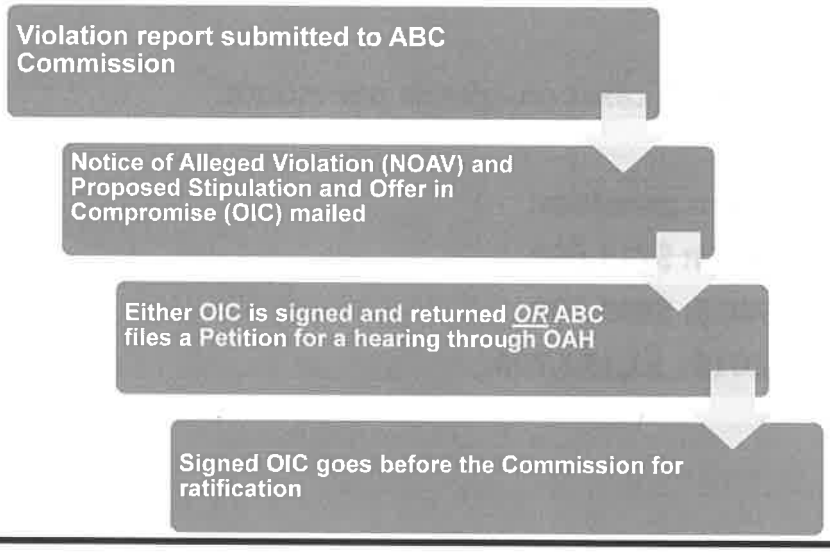
ABC Permit Cancellations 2016/2017

10 yr ft - not
1 yr. number

36,734

(voluntary and involuntary)

Violation Process

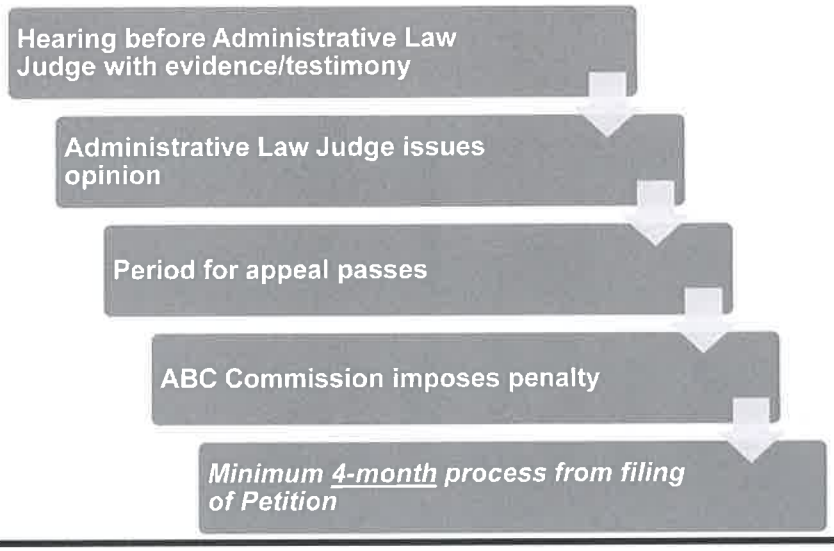


Signed Settlement

- **Signed offer ratified by ABC Commission**
- **Standard language –**

"Permittee shall surrender ALL ABC permits for cancellation on or before January 5, 2018, to avoid revocation of said permits on January 12, 2018."

Office of Administrative Hearings



NC Alcoholic Beverage Control Commission

ABC

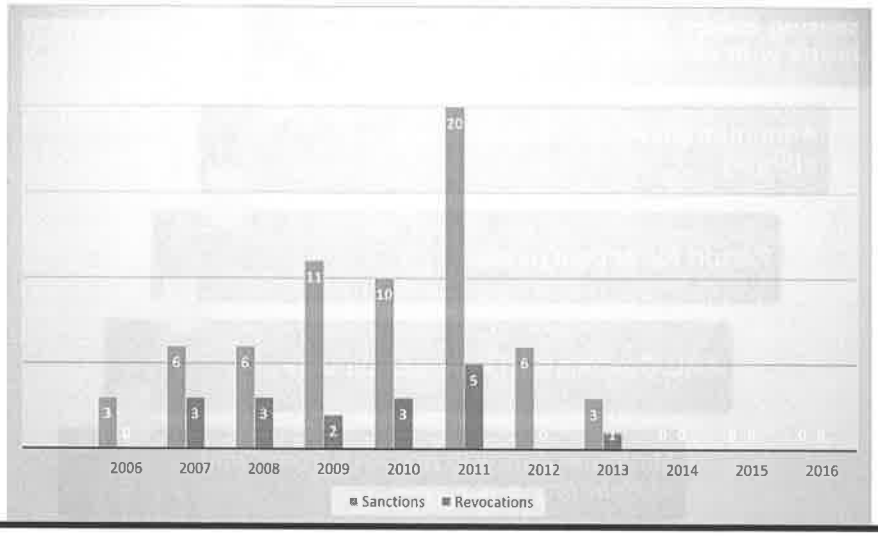
ABC Permits Revoked or Rejected

- **Revocations**
  - **Per database: 7**
  - **Per ALJ decisions: 17**
    - **(*1 decision both suspended and revoked*)**
- **Application Rejections**
  - **Per database: 247** in part 10 yrs.
  - **Appealed: 13**
  - **Upheld: 6**

NC Alcoholic Beverage Control Commission

ABC

OAH Sanctions/Revocation



Basis for Revocation by OAH

- Sanctions – Fail to respond to OAH
- Failure to file audit reports
- Failure to qualify as restaurant (MXB only)
- No longer suitable

Basis for Request of Revocation

- Interfere with Law Enforcement
- Violence
- Prolific Sales to Underage
- Drugs (more than simple possession)
- No longer suitable

Summary Suspensions

- G.S. §150B-3(c) – agency finds that the public, health, safety, or welfare requires emergency action
- Over past 10 years, Commission has issued an average of 5 summary suspensions per year
  (as few as 2 and as many as 10)

Uphill Battle

Greater than 50% of
Summary Suspensions, Application Rejections,
and No Longer Suitable cases are overturned

Committee Sergeants at Arms

NAME OF COMMITTEE Jt. Legislative Oversight Comm. on Justice/Public Safety

DATE: 11/16/2017 Room: 643 LOB

House Sgt-At Arms:

1. Name: Jonas Cherry
2. Name: Rex Foster
3. Name: Russell Salisbury
4. Name:
5. Name:

Senate Sgt-At Arms:

1. Name: Terry Barnhardt
2. Name: Becky Myrick
3. Name:
4. Name:
5. Name:

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Committee on Justice & Public Safety 11/16/2017

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Agnes Stevens	NC ABC Commission
Renee Metz	NC ABC Commission
Bob Hamilton	NC ABC Commission
GarryFife	NC Sheriffs Association
Eddie Caldwell	NC Sheriffs' Association
Melinda Stevens	NC Sheriffs' Association
Carson Smith	Pender County Sheriff
Tim Moose	NC DPS
Kenneth Cassitor	NC DPS
COBY Crandall	The Pro Se Reentry Recovery SVCS
Steve Johnson	NC. Criminal Justice Education & Training Standards Commission

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Committee on Justice & Public Safety 11/16/2017

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steven Combs	CJ Standards
Meagan Honnold	OSBM
Ann Anderson	OSBM
MATTHEW LONGSHORE	NC DOJ
DANA PHILLIPS	NCJA
Anthony Aycock	NCGA
Diane Konopka	Sheriffs' Standards
REGINALD R. NEWSOME	NCDPS
Chris Laws	NC SBI
Michael Yates	NCALE
Bryan House	NCALE

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Committee on Justice & Public Safety 11/16/2017

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
GREG TART	NC SBI
Bob Schurmeier	NC SBI
Jarret Burr	BCC
Brent Culbertson	NC SBI
Masha Rogers	NC SBI
Gerald Thomas	NC SBI
Ambur Hicks	NJTCC
GLENN McNEILL	NCSHP
Ryan Boyce	NCAOC
ALAN MELVIN	NCSHP
Cindy Brandon	NCDPS

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Committee on Justice & Public Safety 11/16/2017

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mildred Spearman	NCAOC

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Committee on Justice & Public Safety 11/16/2017

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Hollingsed	NC Criminal Justice Education & Training Standards Commission - Chair
David Green	Focus Carolina

CONTACT JEB KELLY

(SENATE COMMITTEE CLERK)

FOR MINUTES TO MEETING

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
Room 643 Legislative Office Building

December 14, 2017 1:00 P.M.

I. CALL TO ORDER

Chairs: Representative Jamie Boles — Senator Shirley Randleman, Presiding
Representative Ted Davis

II. APPROVAL OF MINUTES

III. PRESENTATIONS

Opening Remarks by Chairs

Adult Correction Nursing Study
Joe Prater, Deputy Secretary—Administration
Division of Adult Correction and Juvenile Justice
Department of Public Safety

Private Protective Services
Brian Jones, Executive Director
Private Protective Services Board

Alarm Systems Licensing
Brian Jones, Executive Director
Alarm Systems Licensing Board

State Search and Rescue
Buddy Martinette, Fire Chief
City of Wilmington

IV. COMMITTEE DISCUSSION

V. ADJOURNMENT

House Members
Rep. Boles (Chair), Rep. Davis (Chair)
Rep. Burr, Rep. Faircloth, Rep. Floyd,
Rep. C. Graham, Rep. Jackson, Rep. McNeill,
Rep. Rogers, Rep. Stevens, Rep. Turner,
Rep. Boswell (Advisory), Rep. Hurley (Advisory),
Rep. Jordan (Advisory), Rep. W. Richardson (Advisory),
Rep. Speciale (Advisory), Rep. Steinburg (Advisory),
Rep. Zachary (Advisory)

Senate Members
Sen. Randleman (Chair)
Sen. Barringer, Sen. Brown, Sen. Bryant,
Sen. Daniel, Sen. Davis,
Sen. Jeff Jackson, Sen. Lee,
Sen. Sanderson, Sen. Van Duyn,
Sen. Wells (Advisory)

North Carolina Department of Public Safety

Prevent. Protect. Prepare.

Nurse Staffing at North Carolina State Prisons

Plans to Attract and Retain

Presentation to the Joint Legislative Oversight Committee on Justice and Public Safety

December 14, 2017

Requirements

Pursuant to Session Law 2017-57, SECTIONS 16C.11B.(a) and 16C.11B.(b):

SECTION 16C.11B.(a) *The Department of Public Safety shall report the following information to the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2017:*

(1) The total number of permanent ***nursing positions allocated*** *to the Department, the* ***number of filled positions****, the number of* ***positions that have been vacant for more than six months****, and information regarding the* ***location of both filled and vacant positions****.*

(2) The extent to which ***temporary contract services*** *are being used to staff vacant nursing positions, the* ***method for funding the contract services****, and any* ***cost differences between the use of permanent employees versus contract employees****.*

(3) Any ***other information*** *the Secretary deems relevant.*

SECTION 16C.11B.(b) The Department of Public Safety, in conjunction with the Office of State Human Resources, **shall develop a plan to** (i) **reduce the use of contract services** to provide nursing in State prisons and (ii) **attract and retain qualified nurses for employment in permanent positions in State prisons. The plan shall take into consideration market comparisons of salary and retention for nurses employed in private sector locations that are the same or similar to existing prison locations.** The Department shall report its findings and recommendations to the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2017.

(1) Nursing Positions

For the purpose of this presentation, "nursing positions" are defined as those in the *Registered Nurse (RN)* and *Licensed Practical Nurse (LPN)* classifications.

Figure 1:

November 2017	Total position allocated	Filled positions	Vacant positions	Positions vacant > 6 mos.
Registered Nurses	601	400	201	118
Licensed Practical Nursed	309	244	65	26
Total	910	644	266	144

Nurse Positions By Locations

Registered Nurse

Locations	Total FTE Positions	Filled Positions	Vacant Positions	Vacant Positions > 6 Mos
Albemarle	6	5	1	
Alexander	22	19	3	3
Avery-Mitchell	7	7		
Bertie	13	5	8	3
Caldwell	1	1		
Caledonia	6	4	2	1
Carteret	2	2		
Caswell	5	5		
Catawba	1	1		
Central Prison	2	2		
Central Prison HCF	135	77	58	40
Columbus	3	2	1	
Craggy	4	4		
Craven	11	6	5	2
Davidson	1	1		
Eastern	5	3	2	2
Foothills	13	8	5	1
Forsyth	1	1		
Franklin	2		2	
Gaston	1	1		
Greene	9	4	5	5
Harnett	7	6	1	
Health Services Admin.	33	24	9	7
Hoke	8	6	2	
Hyde	3	3		
Johnston	5	1	4	1
Lanesboro	18	7	11	8
Lincoln	1	1		
Lumberton	9	7	2	
Marion	11	9	2	1
Maury	35	20	15	9
Maury Psych.	5	1	4	4
Morrison	3	3		
Mountain View	9	7	2	
Nash	10	7	3	
Neuse	9	2	7	6
New Hanover	5	4	1	
NCCIW	65	46	19	14
Odom	2		2	
Orange	2	1	1	
Pamlico	2	1	1	
Pasquotank	7	4	3	2
Pender	10	8	2	
Piedmont	19	15	4	3
Polk	10	6	4	2
Polk Psych.	2	1	1	1
Randolph	7	5	2	
Rutherford	1	1		
Sampson	1	1		
Sanford	1	1		
Scotland	13	12	1	
Southern	8	8		
Swannanoa	1	1		
Tabor	15	10	5	2
Tyrrell	2	2		
Wake	4	4		
Warren	7	6	1	1
Wilkes	1	1		
Total	601	400	201	118

Nurse Positions By Locations

Licensed Practical Nurse

Locations	Total FTE Positions	Filled Positions	Vacant Positions	Vacant Positions > 6 Mos
Albemarle	6	5	1	
Alexander	15	9	6	3
Avery-Mitchell	6	6		
Bertie	1		1	
Caldwell				
Caledonia	3	2	1	
Carteret				
Caswell	2	2		
Catawba				
Central Prison	3	2	1	1
Central Prison HCF	67	57	10	5
Columbus	1	1		
Craggy	1	1		
Craven	7	7		
Davidson				
Eastern	3	1	2	
Foothills	8	7	1	1
Forsyth				
Franklin	1	1		
Gaston				
Greene	5	3	2	
Harnett	4	4		
Hoke	7	7		
Hyde				
Johnston	6	4	2	
Lanesboro	10	5	5	4
Lincoln				
Lumberton	4	4		
Marion	7	6	1	
Maury	21	16	5	2
Maury Psychology	4	3	1	1
Morrison	1	1		
Mountain View	6	3	3	
Nash	5	4	1	1
Neuse	5	4	1	
New Hanover	4	3	1	
NCCIW	29	23	6	3
Odom	2	2		
Orange				
Pamlico	1	1		
Pasquotank	6	4	2	1
Pender	7	6	1	1
Piedmont	12	8	4	1
Polk	10	7	3	1
Randolph	2	2		
Rutherford				
Sampson	2	2		
Sanford				
Scotland	8	6	2	1
Southern	4	4		
Swannanoa	4	3	1	
Tabor	4	4		
Tyrrell	1	1		
Wake				
Warren	4	3	1	
Wilkes				
Total	309	244	65	26

(2) Contract and Temporary Nurses

Figure 2:

Contract and temporary nurses used as of October 2017 to cover vacant positions	Totals
1. Contract (Agency/Travel) Nurses	62
2. Temporary Solutions Nurses	28
Total	90

- Contract or agency nurses are sourced from a total of eighteen (18) competitively-bid vendors who provide staff on 13-week, short-term contracted periods.
- Temporary staff are sourced from the state's contracted temporary employment agency, "Temporary Solutions". Temporary staff may be employed for up to eleven (11) consecutive months before they are required to take a 30-day break from employment.

(2 cont.) Contract and Temporary Nurses

Cost Comparison – Contract vs. Permanent

Figure 3:

RN Average Costs as of November 2017	Per Hour	Annually
Contract/Agency/Travel Nurses	$46.61	$96,949
Full-time/Permanent Nurses	$39.84	$82,857
Difference (Shift differentials excluded)	$6.77	$14,072

Figure 4:

Licensed Practical Nurse as of November 2017	Per Hour	Annually
Contract/Agency/Travel Nurses	$37.28	$77,542
Full-time/Permanency Nurses	$29.71	$61,808
Difference (Shift differentials excluded)	$7.57	$15,734

(3) Any other information the Secretary deems relevant

Note:

- Contract/Travel/Agency nurse contracts are limited to 13-week terms with no guarantee that nurses will renew for more than one contract.
- Average training period for permanent nurses is 8-10 weeks.
- Duties assigned to temporary staffing limited to most basic needs necessary for patient care due to length of contracts and time needed for proper training.
- Contract/Travel nurses unable to assume all of the duties and responsibilities of a full-time employee.

Current Efforts to Reduce Nurse Vacancies

(1) RN New Graduate (Continuous-Statewide) Recruitment

Effective September 1, 2017

- Current and recently graduated RN Nursing students are able to apply for employment up to 6 months prior to becoming licensed.
- Competes with the private sector to recruit new graduate nurses.
- Relationships built through the recruitment, application, interview and selection processes.
- No risk; if a candidate fails to meet all of the requirements for licensure or on boarding within 6 months of their application, the contingent offer is rescinded and they can apply once they are licensed.

Current Efforts to Reduce Nurse Vacancies (cont.)

(2) Senior RN Student Clinical Rotations

- RN Students are required to perform 160 hours of clinical rotations prior to issuance of their Nursing degree.
- Local community colleges and universities are performing these hours at Central Prison.
- Introduces and promotes correctional nursing prior to graduation.
- Builds relationships with colleges and students for continued recruitment.

Current Efforts to Reduce Nurse Vacancies (cont.)

(3) Healthcare Professional Regional Recruiters

- Four recruiter positions to be based in each of the four regions.
- Report to the Critical Needs Analyst in Central HR.
- Uniform and focused training to target Healthcare Professionals.
- Expanded coverage of the state; especially outer lying and hard to recruit for areas.
- Personnel with prior professional healthcare recruitment experience will be targeted.

Current Efforts to Reduce Nurse Vacancies (cont.)

(4) School Nurse Recruiter

- Presence at various nursing schools hiring events and job fairs.
- Serves on various Nursing school boards to increase awareness of correctional nursing.

(5) Nurse Floating/Rotating Staff Pool

- Increased use of floating nurses to assist with day-to-day vacancies.
- Designed to minimize or mitigate job burnout.
- Allows for selection of various assignments in different facilities and throughout different specialty areas.
- Increases retention.

Current Efforts to Reduce Nurse Vacancies (cont.)

(6) New Nurse Orientation (NNO) & Nurse Leadership Orientation

- Revised and improved on-boarding efforts to assist new nurses in gaining the necessary knowledge, skills, and behaviors necessary.
- Formal meetings, lectures, videos, printed materials, or computer-based orientations.
- Structured orientation and preceptorships.

"Research has demonstrated that these socialization techniques lead to positive outcomes for new employees such as higher job satisfaction, better job performance, greater organizational commitment, and reduction in occupational stress and intent to quit."

Current Efforts to Reduce Nurse Vacancies (cont.)

(7) Nurse Supervisor Orientation

- Online classes and seated management leadership classes offered by the Office of State Human Resources (OSHR).

Classes: Leading at all Levels (LAAL)

- Provides integrated, consistent, competency-based, accessible, comprehensive and cost-effective curricula
- Spans four levels: Executive, Middle Manager, Frontline Supervisor and Individual Contributor.
- Centers on: Integrity, leading people, managing work, creating a learning climate, change leadership, technical/professional knowledge, and customer service.

Proposed Efforts to Reduce Nurse Vacancies

(1) Structured Orientation for Lead Nurses

- Training designed to enhance the supervision skills of Lead Nurses.
- Includes: Communication, Delegation, Problem Solving, and Organizational Skills.
- Target date for rollout is the first quarter of 2018.

(2) Competitive New Graduate RN Salary and Shift Differential Pay

- Base salary of $50,000 ($24.03 hourly), compared to an average of $41,308 ($22.07) in the private sector.
- Standard shift differential percentages of the base hourly rate in addition to pay are, 10% - 2nd shift, 15% - 3rd shift, 20% - Weekend shifts; 30% - 2nd shift / Weekends, 35% - 3rd Shift / Weekends.

Proposed Efforts to Reduce Nurse Vacancies (cont.)

(3) Tiered Salary Plan for Registered Nurses

- Salaries that put nurses at the top of their experience scale for the term of that block of experience, there by working as a recruitment and retention tool to compete with the private sector.

Experience Level	Tiered base salary for State RNs
New Graduate (< 1 year)	$50,000
1-5 years	$57,504
6-10 years	$65,004
11+ years	$72,504

Note: Shift differentials are in addition to the base proposed salary.

Proposed Efforts to Reduce Nurse Vacancies (cont.)

(4) Student Loan Forgiveness / Grants

- Dedicated credentialing of facilities that qualify to be approved in rural and hard to recruit for geographic areas through the US Health Services and Resources Administration (HRSA).

(5) Sign-on and Retention Bonus Programs

- Designated amounts to be paid at the time of hire (1st pay period), and after 18-months of employment (subject to performance requirements).

Proposed Efforts to Reduce Nurse Vacancies (cont.)

(6) Flexible Shift Schedule

- Currently utilized only for Flexible Weekend staffing.
- Expand to other three day, 12-hour blocks of the schedule.
- Time-off guidelines to ensure dedicated staffing.
- Annually renewable employment commitments.

(7) Employee Referral Program

- Current employees refer qualified nurses for employment with DPS.
- Monetary payout to the referring employee once the candidate is hired (first pay period).
- Secondary payout at a pre-determined employment milestone for the referred employee. (all payouts subject to verification of satisfactory employment status)

Proposed Efforts to Reduce Nurse Vacancies (cont.)

(8) Direct Hire of Half-Time and Per Diem Nurses

Proposals would render 496 additional staffing hours or 41+ shifts using two FTE's

- Current staffing model: 40 hours per week (hpw) (1.0 FTE), in 8 or 10-hour shifts renders 2080 worked hours per year.
- Current staffing model: 36 hpw (0.9 FTE), in 12-hour shifts renders 1872 hours per year.
- Proposal 1: Split a 1.0 FTE into five per diem positions (0.2) with a minimum of three, 12-hours shifts required per month. This puts five nurses working 36 hours per month for a total of 180 hours monthly or 2160, annually. (no benefits)
- Proposal 2: Split a 1.0 FTE into two half-time positions, requiring two 12-hours shifts per week (0.6) which equates to 48 hours per week instead of 40, equaling 2496 hours per year.

**Splits are based on staffing status and may not equal an exact FTE with simple addition.

Additional information

There is a national shortage of nurses. The reasons why nurses are so hard to find and hire, can be found in the following article:

The U.S. Is Running Out of Nurses

(Feb. 13, 2016)

The country has experienced nursing shortages for decades, but an aging population means the problem is about to get much worse.

https://www.theatlantic.com/health/archive/2016/02/nursing-shortage/459741/

Questions?

North Carolina Department of Public Safety

Prevent. Protect. Prepare.

Roy Cooper, Governor

Erik A. Hooks, Secretary

MEMORANDUM

TO: Chairs of Senate Appropriations Committee on Justice and Public Safety
Chairs of House Appropriations Subcommittee on Justice and Public Safety
Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety

FROM: Erik A. Hooks, Secretary

RE: Nurse Staffing at State Prisons/Plan to Attract and Retain

DATE: December 1, 2017

Pursuant to Session Law 2017-57, SECTIONS 16C.11B.(a) and 16C.11B.(b):

***SECTION 16C.11B.(a)**, The Department of Public Safety shall report the following information to the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2017:*

(1) The total number of permanent nursing positions allocated to the Department, the number of filled positions, the number of positions that have been vacant for more than six months, and information regarding the location of both filled and vacant positions.

(2) The extent to which temporary contract services are being used to staff vacant nursing positions, the method for funding the contract services, and any cost differences between the use of permanent employees versus contract employees.

(3) Any other information the Secretary deems relevant.

***SECTION 16C.11B.(b)** The Department of Public Safety, in conjunction with the Office of State Human Resources, shall develop a plan to (i) reduce the use of contract services to provide nursing in State prisons and (ii) attract and retain qualified nurses for employment in permanent positions in State prisons. The plan shall take into consideration market comparisons of salary and retention for nurses employed in private sector locations that are the same or similar to existing prison locations. The Department shall report its findings and recommendations to the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2017.*

MAILING ADDRESS:
4201 Mail Service Center
Raleigh, NC 27699-4201
www.ncdps.gov

An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury Street
Raleigh, NC 27604
Telephone: (919) 733-2126

NURSE STAFFING AT STATE PRISONS

(1) The total number of permanent nursing positions allocated to the Department, the number of filled positions, the number of positions that have been vacant for more than six months, and information regarding the location of both filled and vacant positions.

For purposes of this report, "nursing positions" are defined as those in the Registered Nurse (RN) and Licensed Practical Nurse (LPN) job classifications.

As Figure 1 indicates, as of 11/28/17 there were a total of 910 permanent nursing positions allocated to the Department and shows the number of nursing positions that have been vacant for more than six months. Attachment 1 indicates the number of filled and vacant nursing positions, by location.

Figure 1

As of 11/28/17	TOTAL	VACANT > 6 MOS.
REGISTERED NURSES	601	118
LICENSED PRACTICAL NURSES	309	26
Total	910	144

(2) The extent to which temporary contract services are being used to staff vacant nursing positions, the method for funding the contract services, and any cost differences between the use of permanent employees versus contract employees.

Non full-time/permanent nursing positions are currently occupied by either "contract" or "temporary" staff. Contract staff, also known as "Travel Nurses," are sourced from a total of eighteen (18) competitively-bid vendors that provide nursing staff on a short-term, 13-week, contract basis. Temporary staff are sourced from the state's contracted temporary employment agency, Temporary Solutions, who may be employed for eleven (11) consecutive months before they are required, by state policy, to take a 30-day break. These contract and temporary positions are paid at hourly rates and are funded by department lapsed salaries.

Figure 2 below shows the distribution of temporary contract services being used to staff vacant nursing positions. Figure 3 and Figure 4 below show the cost differences between the use of permanent employees versus contract employees for RNs and LPNs, respectively.

Figure 2

As of October, 2017	
CONTRACTED/TRAVEL NURSES	62
TEMPORARY NURSES	28
Total	90

Figure 3

RN Average Costs, effective 11/28/17*	PER HOUR	ANNUALIZED
CONTRACTED/TRAVEL NURSES	$46.61	$96,949
FULLTIME/PERMANENT NURSES	$39.84	$82,857
Difference	$ 6.77	$14,072

Figure 4

LPN Average Costs, effective 11/28/17*	PER HOUR	ANNUALIZED
CONTRACTED/TRAVEL NURSES	$37.28	$77,542
FULLTIME/PERMANENT NURSES	$29.71	$61,808
Difference	$ 7.57	$15,734

*Includes base salary and benefits, hourly rates based on 2,080 hours worked annually.

(3) Any other information the Secretary deems relevant.

It should be noted, the fact that contract and temporary nurses may only work on a short-term basis, inhibits their ability to assume all of the duties and responsibilities of a full-time employee. That is, full-time staff are trained extensively on specific protocols related to patient care. Based on a 13-week contract period, there is not enough time or long-term incentive to train contract and temporary staff on these same protocols. As a result, the duties assigned to contract and temporary staff employees are less involved and very limited to performing the most basic needs necessary for patient care.

PLAN TO ATTRACT AND RETAIN

The Department of Public Safety, in conjunction with the Office of State Human Resources, shall develop a plan to (i) reduce the use of contract services to provide nursing in State prisons and (ii) attract and retain qualified nurses for employment in permanent positions in State prisons. The plan shall take into consideration market comparisons of salary and retention for nurses employed in private sector locations that are the same or similar to existing prison locations.

The Department of Public Safety has consulted with and will continue to consult with the Office of State Human Resources to attract and retain qualified nurses for employment in permanent positons in State prisons, and thus reduce the use of contract services to provide for the nursing positions in State prisons.

Private sector market data for comparison purposes are somewhat limited. The following comparisons are based on data received by the Office of State Human Resources and pertains only to the RN job classification. The data contained in this report are broken down by the specialty area of nursing, which includes Non-Critical Care, Critical Care, and Long-Term Care. For these specialty areas, base salaries are depicted at the 25th, 50th, Average, and 75th percentiles. Salary averages are provided for the more general staff RN job classification for the following geographic areas: Charlotte, Greensboro/Winston Salem, and Raleigh/Durham. The Department of Public Safety does not make this distinction with regard to specialty area of nursing or geographic area.

Additionally, private sector nursing salaries are determined primarily on years of experience based on a 20-year career. Based on this assumption and using the data received, those at the 25th percentile would typically have 5 years of experience, those at the 50th percentile would have 10 years of experience and so on. Using the data provided, the overall state average base salary of a private sector RN with 10 years of experience would be $61,549. While the data received are more limited, those with 5 years of specialty experience would average $55,548.
See Attachment 2.

Current market data is unavailable for new graduates in the private sector, however based on the average salary of an RN with five years of experience ($55,548), the Department of Public Safety's New Graduate RN salary of $50,000 makes it competitive with the private sector.
It is important to note, however, that these private sector data do not include any sign-on bonuses, retention bonuses, or increase differential programs which, depending on locations and providers, may be applied in addition to the base salaries depicted. These types of incentive programs are commonly in use by the private sector and would likely create larger differences in overall compensation levels than indicated in this report.

A number of efforts are underway to address nursing position vacancies. Below is brief summary of efforts currently underway and those proposed to reduce these vacancies. Some of these proposals will require additional funding and therefore further fiscal analyses, if considered for implementation.

Current Efforts to Reduce Nurse Vacancies

1. **RN New Graduate (Continuous-Statewide) Recruitment.**

This began on September 1, 2017. Senior nursing students or recent nursing student graduates who will be licensed as an RN in North Carolina (or eligible to practice in North Carolina under a compact/multi-state license) within 6 months of their State online employment application can apply, interview, and have a contingent offer of employment issued. This is pending their successful graduation and/or licensure. If for any reason they do not graduate or do not become licensed within 6 months of the date of their application, the initial contingent offer is rescinded and they will be required to re-apply once they are licensed.

2. **Senior RN Student Clinical Rotations.**

Staff is working with local community colleges and universities (East Coast Polytechnic Institute, ECPI, and UNC-Chapel Hill) to get senior nursing students approved and cleared to perform their 160 required clinical rotations at Central Prison. This would allow the Department to introduce them to correctional nursing and promote employment opportunities after graduation/licensure. These nurses, in turn, would be eligible to apply through the RN Statewide-Continuous posting prior to graduation.

3. **Regional Recruiters for Healthcare Professional Positions.**

Internal approval is pending to establish four Regional Recruiters whose direct focus will be on Healthcare positions throughout the state. These positions will report to the Critical Needs Analyst in the DPS Central Human Resources section.

4. **School Nurse Recruiter.**

The Department has established a Nurse Recruiter positon that maintains a presence at various schools of nursing hiring events and job fairs to focus on recruitment. In addition, the nurse recruiter now serves on various Nursing school boards to increase awareness of correctional nursing.

5. **Nurse Floating/Rotating Staff Pool.**

The Department has increased the use of nurse floating/rotating staff pools in all regions of the state, where feasible, to assist with day-to-day vacancies. This program is also intended to minimize or mitigate job burnout of nurses while offering them a variety of assignments in different specialty areas. Through rotation of duties across facilities within close proximity of each other, it's anticipated that retention rates will increase.

6. **New Nurse Orientation (NNO) and Nursing Leadership Orientation.**

This program has been revised to include specific on-boarding efforts, a process through which new employees acquire the necessary knowledge, skills, and behaviors to become effective organizational members. The on-boarding process includes formal meetings, lectures, videos, printed materials, or computer-based orientations to introduce newcomers to their new jobs and organizations. This includes a structured orientation and preceptorship of nurses (i.e. training specifically with an experienced RN) but it also includes the assignment of a buddy who is available to provide a personable approach to blending socially into the organization. Research has demonstrated that these socialization techniques lead to positive outcomes for new employees such as higher job satisfaction, better job performance, greater organizational commitment, and reduction in occupational stress, thus leading to better retention.

7. **Nurse Supervisor Orientation.**

In an effort to complement the new on-boarding process for nursing staff, the Nurse Supervisor orientation has been revised and now includes online classes and seated management leadership classes offered by the Office of State Human Resources (OSHR), including Leading at all Levels (LAAL). The LAAL provides integrated, competency-based, comprehensive and cost-effective curricula for NC state government leaders at all levels. Leadership, a process of proactively influencing others, is necessary at every level of the organization for healthy, effective and efficient work environments. LAAL spans four levels: executive, middle manager, frontline supervisor and individual contributor. Each of the three primary levels (middle manager, frontline supervisor and individual contributor) has its own curriculum. Each curriculum centers on the development of key actions and behaviors to demonstrate effectiveness in the following competency areas: integrity, leading people, managing work, creating a learning climate, change leadership, technical / professional knowledge, and customer service.

Proposed Efforts to Reduce Nurse Vacancies

Many of these proposed efforts will require further study and fiscal analysis to determine if additional funding will be required. Specific salary and other pay-related information within each proposal is based on similar programs in the private section and may require adjustment once additional information is obtained.

1. **Structured Orientation for Lead Nurses.**

Currently, the Department's Health Services' Education Committee is in the process of developing a structured orientation for the Lead Nurse role. This training is specifically designed to enhance the supervision skills of Lead Nurses in their supervision of clinical nursing staff. This orientation will include communication, delegation, problem solving, and organizational skills. The target date for start-up of this new orientation is first quarter of calendar year 2018.

2. **Shift Differential Pay.**

To assist with recruitment and particularly, retention, DPS proposes utilization of shift differential pay, as follows:

- 2nd shift additional pay – 10%
- 3rd shift additional pay – 15%
- Weekend shift additional pay – 20%
- Second weekend additional pay – 30%
- Third weekend additional pay – 35%

3. Tiered/Incentivized Salary Plan.

This program is directed towards early to mid-career Registered Nurses to assist with recruitment and particularly, retention. DPS proposes a tiered salary plan for nurses that would work in conjunction with the new class/comp system. Under the new class/comp system, these positions are to be classified as graded salaries. This proposed plan for RNs would be based upon actual worked years of experience, using the state's current base salary schedule, for example:

- New Graduate - $50,000 (Flat rate)
- 1-5 years - $57,504
- 6-10 years - $65,004
- 11+ years - $72,504

Each nurse would be assessed based on actual years of experience and would be placed in the tier at which their experience level qualifies. For example, all nurses who have 1-5 years of experience would be hired at $57,504. Those with 6-10 years of experience would be hired at $65,004, and so on. Nurses would advance to the next tier/level when they attain the required years of experience. Comparisons can be made by looking at salaries in the private sector for 2, 3, 4, and 5 year nurses. This plan would provide an incentive to nurses to remain employed in order to advance to the next level. It would apply primarily to new hires as salaries assessed on many current employees are based on calculations using medical flexibility, which is now limited and as planned, will no longer be available under the new graded salary plans. A salary study would be required prior to implementation to ensure internal equity and overall fiscal impact of such a plan.

4. Student Loan Forgiveness/Grants.

As a potentially significant recruitment and retention tool, DPS is committed to pursuing all opportunities available to participate in student loan forgiveness/grants programs, including those available through the US Health Services and Resources Administration (HRSA) and others, for new graduate nurses who work in approved facilities in rural or hard to recruit for geographic areas. Although this option is already available to some locations, efforts will be undertaken to better promote the program to current and new nurse candidates through enhanced communication and promotion. DPS will also work to get other qualifying locations approved.

5. Sign-on and Retention Bonus Program.

To assist with recruitment and retention, DPS proposes the offering of a sign-on and retention bonus program. Through this program, which is already approved for state-wide use by the Office of State Human Resources, a pre-established bonus amount would be paid in two equal payments over an 18-month period. For example, in the case of a $5,000 sign-on bonus, $2,500 would be paid at the completion of the first pay period and $2,500 would be paid after the successful completion of 18 months' employment.

6. Flexible Shift Scheduling.

Currently, this plan is only utilized as a weekend option for Friday-Sunday staffing. Under this plan, the employee works three 12-hour shifts and is paid for 40 hours. These employees also receive part-time benefits with full-time pay. There appears to be nothing prohibiting the extension of this flexible shift option to other days. This plan could be utilized to allow staff to work three 12-hour shifts in blocks that cover other periods throughout the week. This also gives a four-hour window in which staff can work without receiving overtime pay premiums, if needed. Implementation of this program would require an annually renewable employment agreement, which allows for no more than 4 scheduled blocks (scheduled work time) off per year, which are paid using vacation or sick time.

7. Employee Referral Program

This is a proposal to create a policy and plan in conjunction with OSHR to reward current employees who refer qualified candidates for established, hard to recruit for positions such as Registered Nurses. There would be a payout to the referring employee with the first active pay period that the candidate is employed. And there would be a supplemental payout once the referred employee reaches a pre-determined employment milestone. All payouts are subject to qualifying guidelines which would insure that both the referring and the referred are in good employment standing at the time of payout. Budgeting would need to be established along with set amounts.

8. Hiring of Half-Time and Per Diem Staff.

Many nurses in both the public and private sectors are interested in striking a better balance between their work and home life. For this reason, there is a higher demand for part time positions. This hiring practice can be used to provide additional staffing, based on staffing demands, locations, etc. Half-time and per diem staffing are currently supplied through Temporary Solutions. By splitting two full-time positions, staffing could be increased by up to 496 hours per year or slightly over 41, twelve-hour shifts, annually. Funding for these additional hours would be necessary, but would be recovered through savings realized by the forfeiture of benefits, since those working half-time receive benefits on a pro-rated schedule while those working on a per diem basis receive no benefits as long as they average less than 30 hours per week.

The following are typical staffing models currently being utilized:

- 40 hours per week (1.0 FTE), in 8 or 10 hour shifts would render 2,080 hours worked per year (current model).
- 36 hours per week (0.9 FTE), in 12-hour shifts would render 1,872 hours per year (current model)

The following are possible staffing models which may be considered, utilizing half-time or per diem staffing:

- Proposal 1 - Split one 1.0 FTE into five per diem positions with a minimum of three 12-hours shifts required per month. This puts five nurses working 36 hours per month for a total of 180 hours monthly or 2160, annually.

- Proposal 2 - Split one 1.0 FTE into two half-time positions, requiring two 12-hours shifts per week which equates to 48 hours per week instead of 40, and without benefits, equaling 2,496 hours per year.

Through the use of half-time and per diem regular staffing the facility gains an additional 496 hours at a flat rate (less than temp), which is the equivalent of 41+ shifts and saves the increased premiums for agency or temporary staff as well as the cost of benefits and/or overtime.

Considering all of the above, it is anticipated that the current and proposed programs for the recruitment and retention of nurses will reduce their overall vacancy rates.

Attachment 1

Nursing Positions by Locations
November 28, 2017

Job	Registered Nurse	
Org Unit	Total FTE Positions	Vacant >6 months
Albemarle	6.00	
Alexander	22.00	3.00
Avery-Mitchell	7.00	
Bertie	13.00	3.00
Caldwell	1.00	
Caledonia	6.00	1.00
Carteret	2.00	
Caswell	5.00	
Catawba	1.00	
Central Prison	2.00	
Central Prison Healthcare Facility	135.00	40.00
Columbus	3.00	
Craggy	4.00	
Craven	11.00	2.00
Davidson	1.00	
Eastern	5.00	2.00
Foothills	13.00	1.00
Forsyth	1.00	
Franklin	2.00	
Gaston	1.00	
Greene	9.00	5.00
Harnett	7.00	
Health Services Administration	33.00	7.00
Hoke	8.00	
Hyde	3.00	
Johnston	5.00	1.00
Lanesboro	18.00	8.00
Lincoln	1.00	
Lumberton	9.00	
Marion	11.00	1.00
Maury	35.00	9.00
Maury Psychology	5.00	4.00
Morrison	3.00	
Mountain View	9.00	
Nash	10.00	
Neuse	9.00	6.00
New Hanover	5.00	

Job	Licensed Practical Nurse	
Org Unit	Total FTE Positions	Vacant >6 months
Albemarle	6	
Alexander	15	3
Avery-Mitchell	6	
Bertie	1	
Caldwell		
Caledonia	3	
Carteret		
Caswell	2	
Catawba		
Central Prison	3	1
Central Prison Healthcare Facility	67	5
Columbus	1	
Craggy	1	
Craven	7	
Davidson		
Eastern	3	
Foothills	8	1
Forsyth		
Franklin	1	
Gaston		
Greene	5	
Harnett	4	
Hoke	7	
Hyde		
Johnston	6	
Lanesboro	10	4
Lincoln		
Lumberton	4	
Marion	7	
Maury	21	2
Maury Psychology	4	1
Morrison	1	
Mountain View	6	
Nash	5	1
Neuse	5	
New Hanover	4	
North Carolina Correctional Institution for Women	29	3

Job	Registered Nurse	
Org Unit	Total FTE Positions	Vacant >6 months
North Carolina Correctional Institution for Women	65.00	14.00
Odom	2.00	
Orange	2.00	
Pamlico	2.00	
Pasquotank	7.00	2.00
Pender	10.00	
Piedmont	19.00	3.00
Polk	10.00	2.00
Polk Psychology	2.00	1.00
Randolph	7.00	
Rutherford	1.00	
Sampson	1.00	
Sanford	1.00	
Scotland	13.00	
Southern	8.00	
Swannanoa	1.00	
Tabor	15.00	2.00
Tyrrell	2.00	
Wake	4.00	
Warren	7.00	1.00
Wilkes	1.00	
Total	601.00	118.00

Job	Licensed Practical Nurse	
Org Unit	Total FTE Positions	Vacant >6 months
Odom	2	
Orange		
Pamlico	1	
Pasquotank	6	1
Pender	7	1
Piedmont	12	1
Polk	10	1
Randolph	2	
Rutherford		
Sampson	2	
Sanford		
Scotland	8	1
Southern	4	
Swannanoa	4	
Tabor	4	
Tyrrell	1	
Wake		
Warren	4	
Wilkes		
Total	309.00	26.00

Attachment 2

Position Compensation Summary

00000 DPS Nurse Data Request
All data aged to 2017-07-01
Last modified by Chris Clemmons 2017-11-07

Job Code: 00000
Job Title: DPS Nurse Data Request
# of ees:

Structure: CAREER BANDED
Grade: 30018655
Base Salary Amt Avg:

Min: 39,152
Mid:
Max: 81,960

	Base Salary				Total Cash						
	25th	50th	Avg	75th	25th	50th	Avg	75th	Adj	Wgt	Comments
Registered Nurse (Hospital, Non-Critical Care) (863.01) Capital Associated Industries NC Wage, 2017 Summary: All Data 14 cos, 4785 ees, USD, eff 2017-04-01	54,968	61,654	62,227	68,572					1	1	
Registered Nurse (Hospital, Critical Care) (863.02) Capital Associated Industries NC Wage, 2017 Summary: All Data 5 cos, 1497 ees, USD, eff 2017-04-01	56,447	62,852	60,575	64,547					1	1	
Registered Nurse (Long-Term Care) (863.04) Capital Associated Industries NC Wage, 2017 Summary: All Data 10 cos, 184 ees, USD, eff 2017-04-01	55,230	60,736	60,737	65,156					1	1	
Nurse - Staff (RN) (155300) CompData Health Care - Southeast, 2017 North Carolina; Local Breakouts: Charlotte Area 10 cos, 5612 ees, USD, eff 2017-01-01			61,682				62,189		1	1	
Nurse - Staff (RN) (155300) CompData Health Care - Southeast, 2017 North Carolina; Local Breakouts: Greensboro/Winston Salem Area 9 cos, 3263 ees, USD, eff 2017-01-01			64,319				64,928		1	1	

Nov 7, 2017

Position Compensation Summary

	Base Salary				Total Cash						
	25th	50th	Avg	75th	25th	50th	Avg	75th	Adj	Wgt	Comments
Nurse - Staff (RN) (155300) CompData Health Care - Southeast, 2017 North Carolina; Local Breakouts: Raleigh/ Durham/Chapel Hill Area 6 cos, 845 ees, USD, eff 2017-01-01			59,754				60,160		1	1	
Overall Averages	55,548	61,747	61,549	66,091	0	0	62,426	0			

Survey Code	Survey Job Code	Survey Job Title	Survey Job Description
CAI-NC-WAGE17	863.02	Registered Nurse (Hospital, Critical Care)	Registered nurse in hospital setting responsible for critical care where patients are at high risk for actual or potential life-threatening health problems. The job typically requires a four-year degree and 3+ years of experience, or equivalent. Provides advanced nursing care for acutely ill patients of all ages. Closely monitors patients, assesses pain levels/sedation requirements, administers medications, evaluates vital signs and laboratory data, prioritizes patient care based on assigned critical level. Work is often performed in intensive care units, cardiac care units, burn centers and emergency departments. Directs or supervises less-skilled nursing or healthcare personnel. Licensing or registration required. JOB CATEGORY: Healthcare: Nursing.
CAI-NC-WAGE17	863.01	Registered Nurse (Hospital, Non-Critical Care)	Registered nurse in hospital setting responsible for non-critical care. The job typically requires a four-year degree and 1-2 years of experience, or equivalent. Assesses patient health problems and needs, develops and implements nursing care plans, and maintains medical records. Administers nursing care and treatment to ill or injured patients. Analyzes test results, administers medication, records patient's medical history, reviews charts, and operates medical machinery. May advise patients on health maintenance and disease prevention or provide case management. Directs or supervises less-skilled nursing or healthcare personnel. Licensing or registration required. JOB CATEGORY: Healthcare: Nursing.
CAI-NC-WAGE17	863.04	Registered Nurse (Long-Term Care)	Registered nurse in long-term care setting. Provides care to assigned patients/residents in a nursing home, rest home, skilled nursing facility, convalescent home or continuing care retirement community. The job typically requires a four-year degree and 1-2 years of experience, or equivalent. Administers nursing care and treatment to elderly, disabled, and convalescent patients. Assesses patient health problems and needs, develops and implements nursing care plans, and maintains medical records. Dispenses medications in a timely manner, oversees nursing assistants, ensures compassionate care is provided to residents, and may coordinate care with therapy department. Licensing or registration required. JOB CATEGORY: Healthcare: Nursing.
COMPD-HC-SE17	155300	Nurse - Staff (RN)	Renders professional nursing services in the treatment and care of assigned patients in accordance with physicians' orders. Provides for the comfort and well-being of patients by assessing condition, providing treatments and administering prescribed drugs and documenting progress and other observations. Coordinates nursing care for patients and participates in patient and family teaching. Provides leadership by working cooperatively with ancillary nursing and other patient team personnel in maintaining standards for professional nursing practice in the clinical setting. For home services, may travel to patient home to render services. Must hold current licensure by the State Board of Nursing Licensure and Registration. JOB FAMILY: Nursing.

Private Protective Services

December 14, 2017

Private Protective Services Board (PPSB)

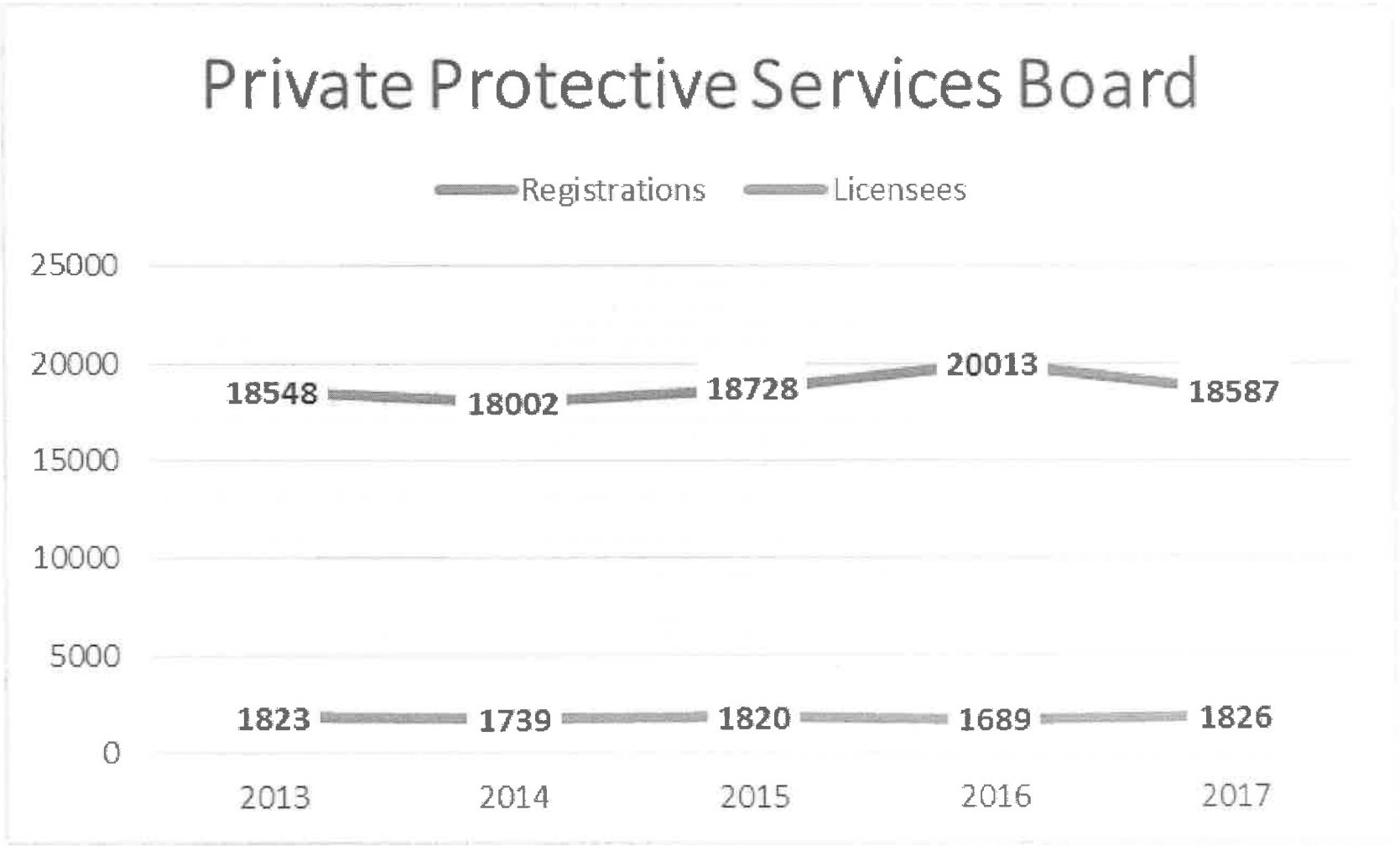
- Operates pursuant to the Private Protective Services Act (NCGS 74C)
- 14 Board members: the Secretary of Public Safety (or designee); 3 persons appointed by the Governor; 10 persons appointed by the General Assembly
- Six two-day meetings annually
- Evaluates grievances against licensees
- Administers licensing, registration, and training requirements for:
  - Private investigators
  - Security guards (armed and unarmed)
  - Armored car profession
  - Courier service
  - Guard dog service profession
  - Electronic countermeasures profession
  - Polygraph examiners
  - Psychological stress examiners

Private Protective Services

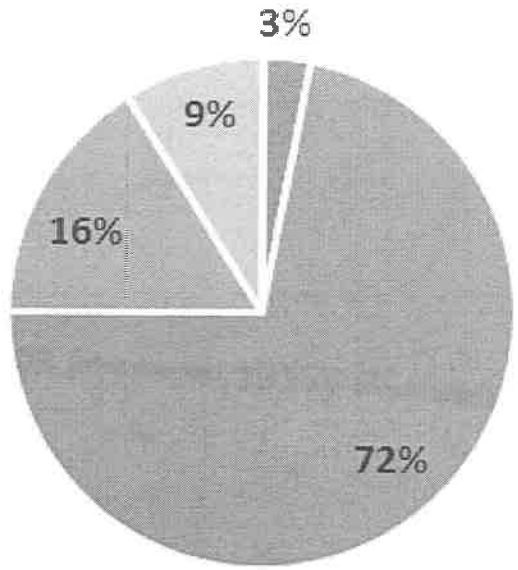
- Provides support for Alarms Systems Licensing Board (ASLB) and Private Protective Services Board (PPSB)
- 22 State employees
  - 8 registration positions
  - 8 field services positions
  - 3 licensing positions
  - 3 administrative positions
- 48,000+ annual telephone call volume

Department of Public Safety

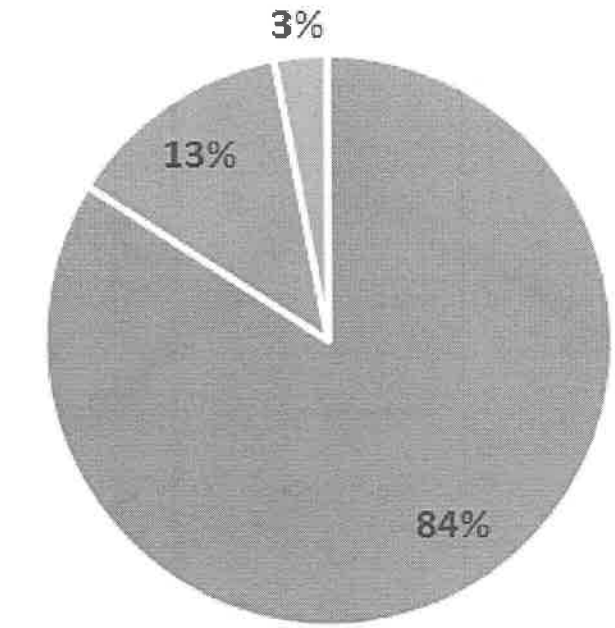
- Transferred from the Department of Justice to the Department of Public Safety by the General Assembly in 2014 (S.L. 2014-100)
- Support from the Department of Public Safety includes:
  - Human resource functions
  - Fiscal services
  - Information technology support
  - Legislative services
  - Motor vehicles

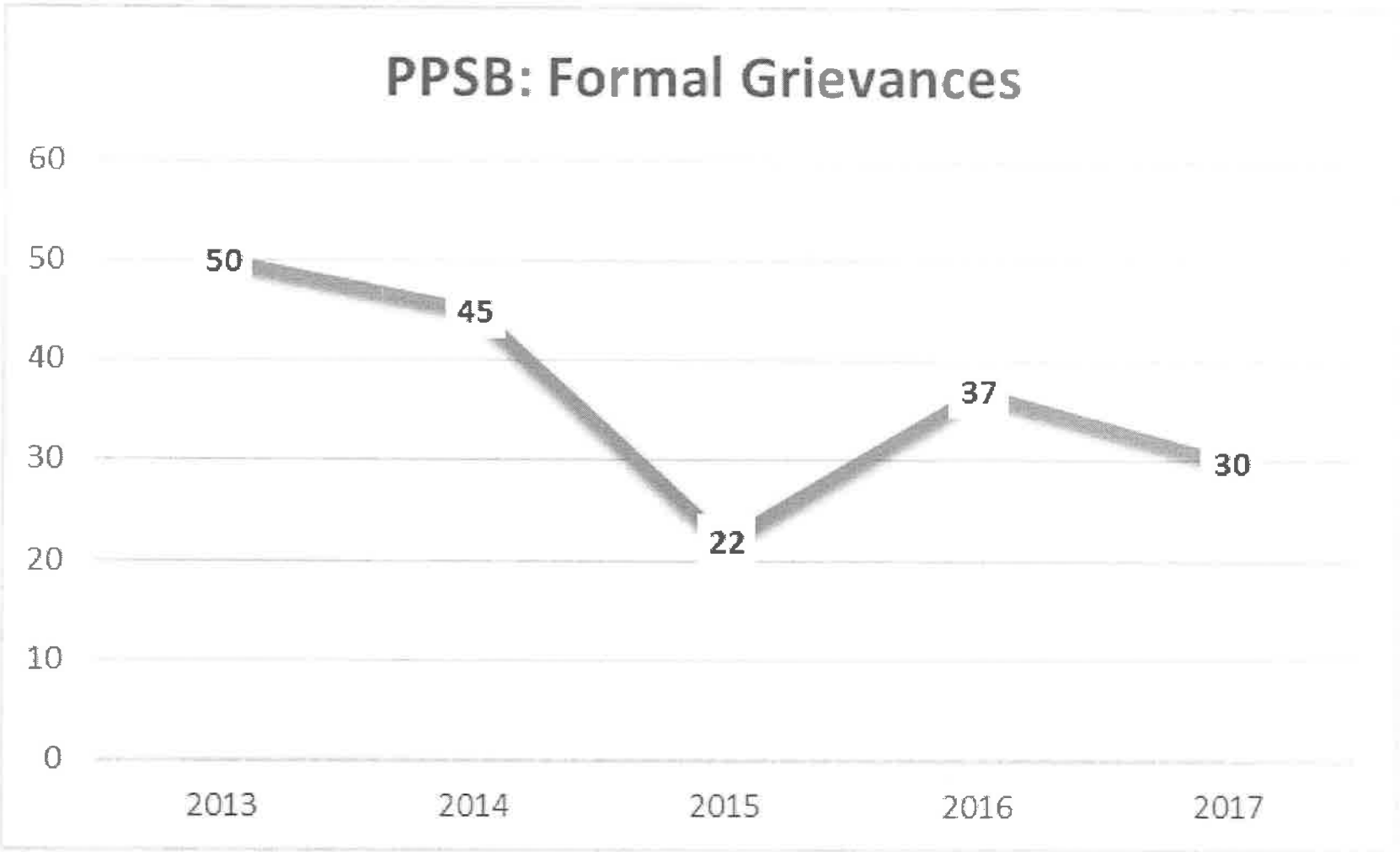

Private Protective Services Board
Registrations
Licensees
25000
20000
15000
10000
5000
0
18548
18002
18728
20013
18587
1823
1739
1820
1689
1826
2013
2014
2015
2016
2017

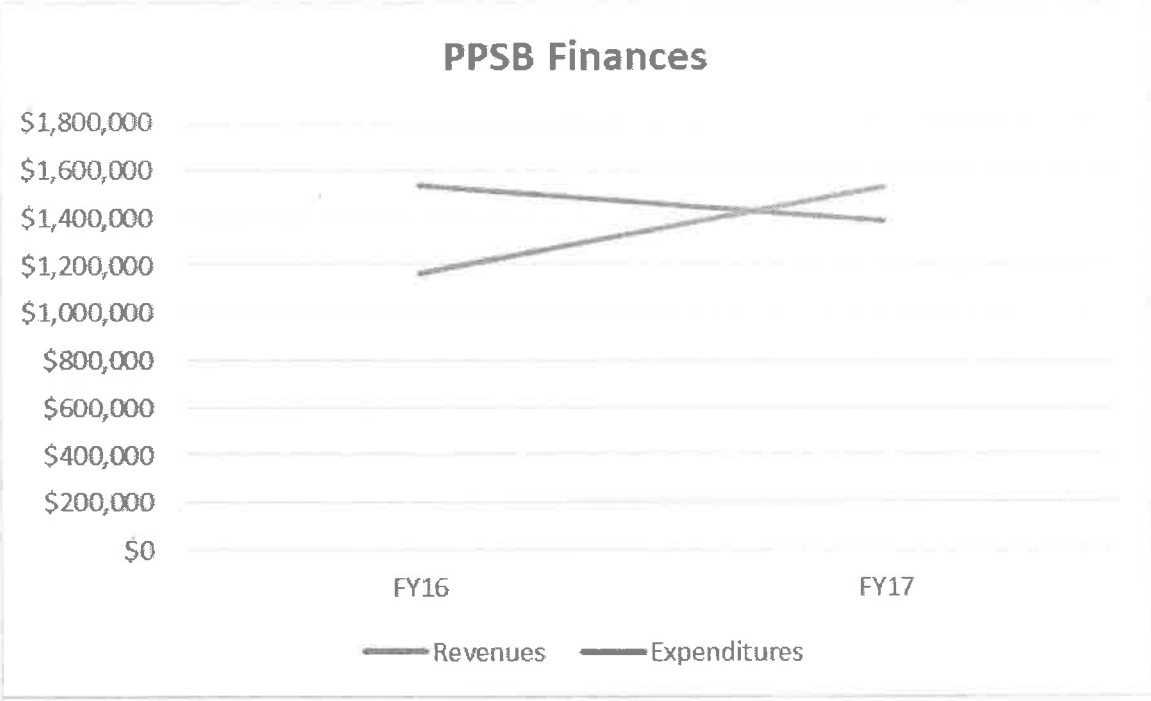
Current Private Protective Services Licensees



Current Private Protective Services Registrants




PPSB: Formal Grievances
60
50
40
30
20
10
0
50
45
22
37
30
2013
2014
2015
2016
2017



	FY16	FY17
Revenues	$1,540,371	$1,389,716
Expenditures	$1,164,553	$1,533,601

Fund balance: $1,227,056

PPSB Revenue Sources

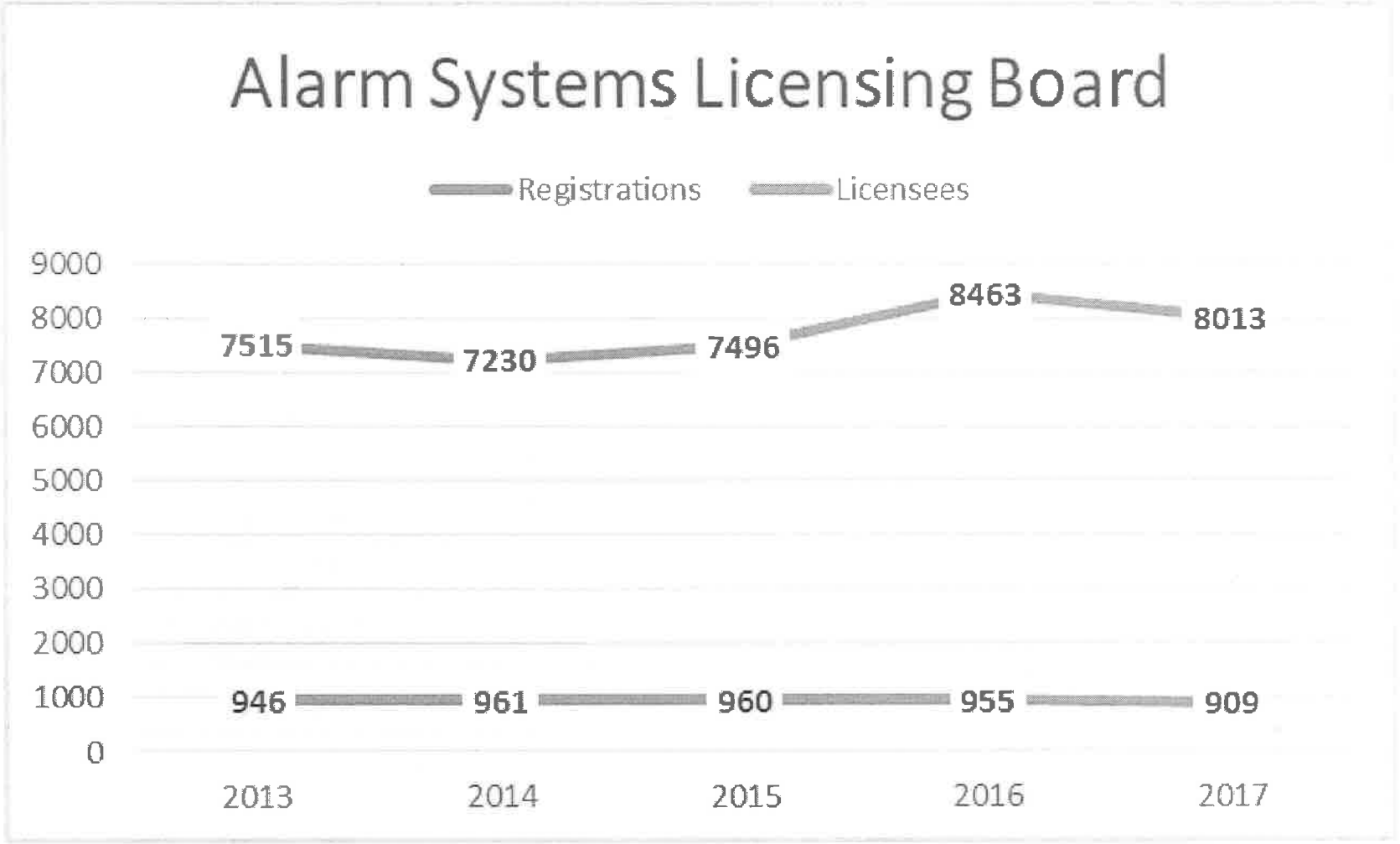
- License and registration fees
  - Approximately 73% of FY17 revenues
- Interest
- Administrative fees (audit and investigative recovery costs)
- Firearms permit fees
- Instructor certifications and training materials
- Late fees

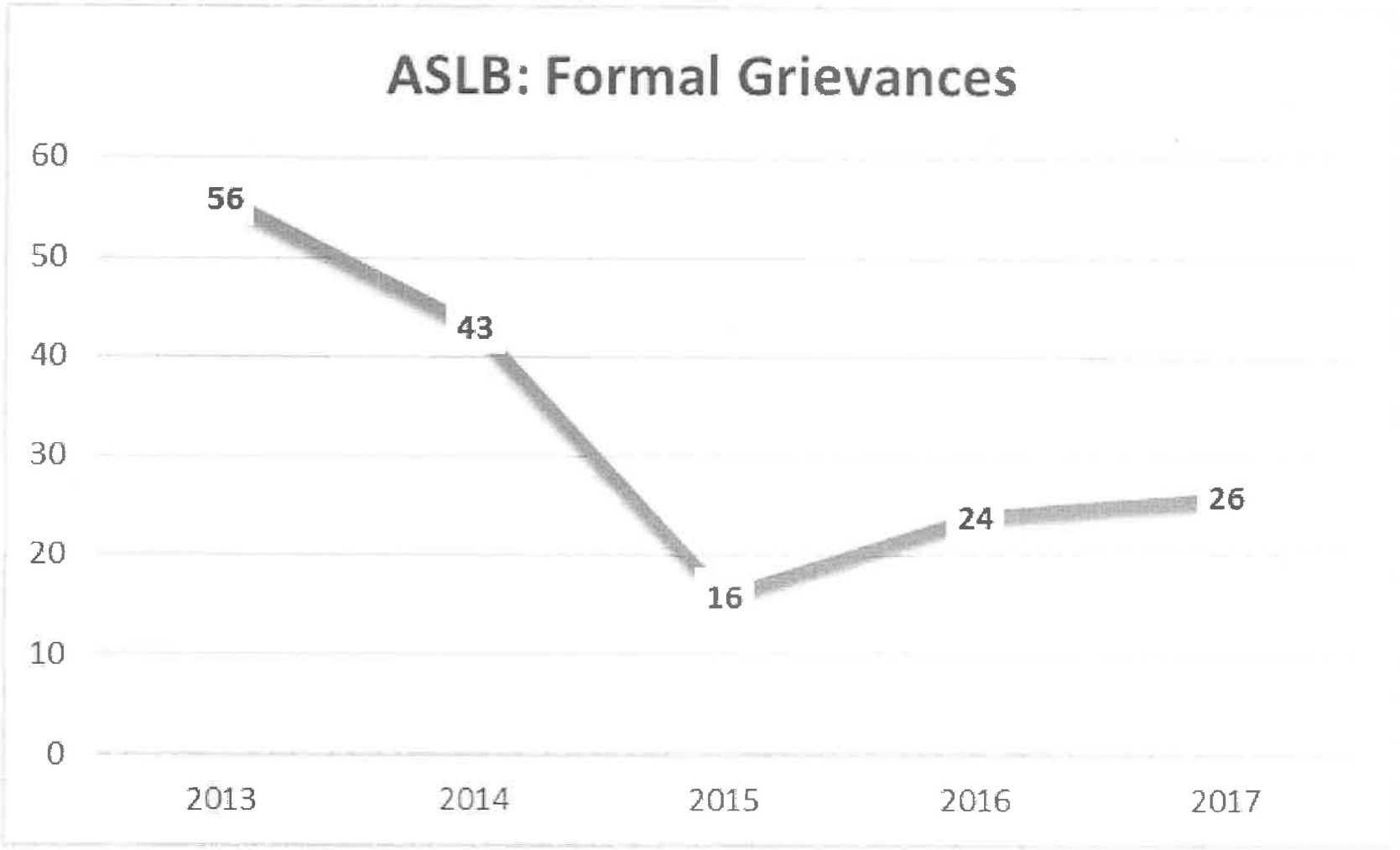
PPSB Expenditures

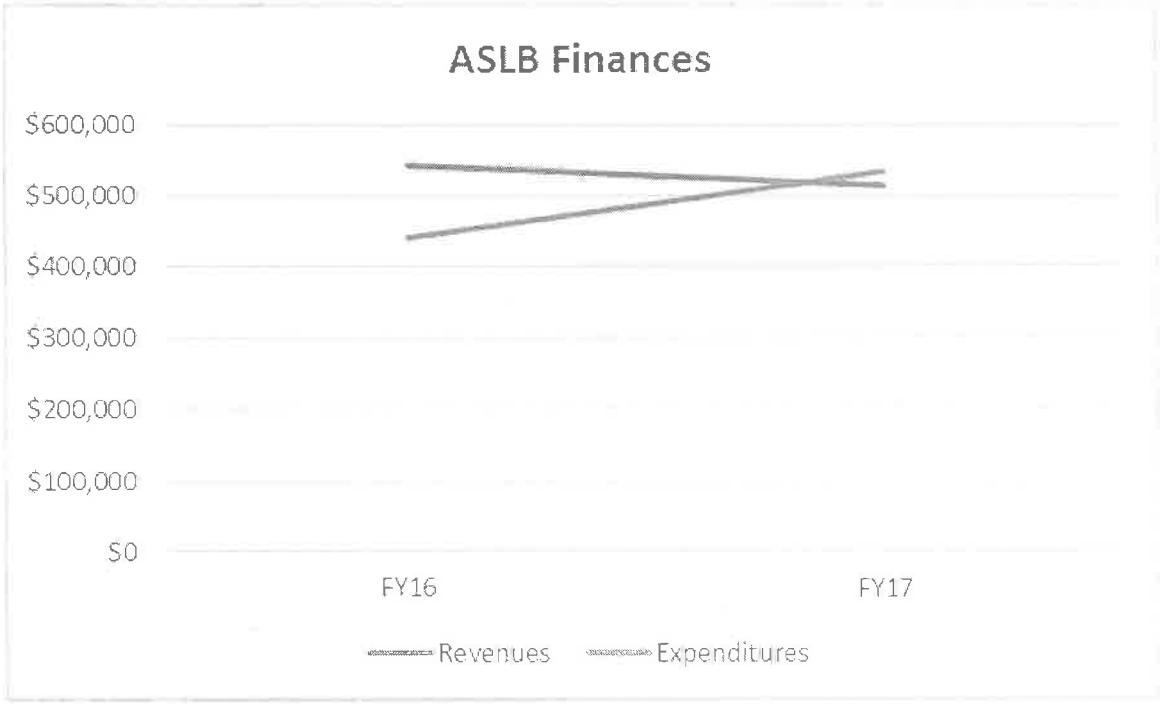
Category	FY16	FY17
Personal Services	$827,187.35	$936,417.30
Purchased Services	$289,253.48	$438,758.48
Supplies	$45,604.90	$68,458.04
Property, plant & equipment	$935.36	$85,947.36
Other expenses (membership dues, etc.)	$1,572.70	$2,020.35
Intragovernmental trasfer	$0.00	$2,000.00
Total	**$1,164,553.79**	**$1,533,601.53**

Alarm Systems Licensing Board (ASLB)

- Operates pursuant to the Alarm Systems Licensing Act (NCGS 74D)
- 7 Board members: the Secretary of Public Safety (or designee); 2 persons appointed by the Governor; 4 persons appointed by the General Assembly
- Administers licensing, registration, and training requirements for alarm systems profession
- Six two-day meetings annually
- Evaluates grievances against licensees


Alarm Systems Licensing Board
Registrations
Licensees
9000
8000
7000
6000
5000
4000
3000
2000
1000
0
7515
7230
7496
8463
8013
946
961
960
955
909
2013
2014
2015
2016
2017


ASLB: Formal Grievances
60
50
40
30
20
10
0
56
43
16
24
26
2013
2014
2015
2016
2017



	FY16	FY17
Revenues	$541,450	$514,458
Expenditures	$439,984	$534,244

Fund balance: $714,134

ASLB Revenue Sources

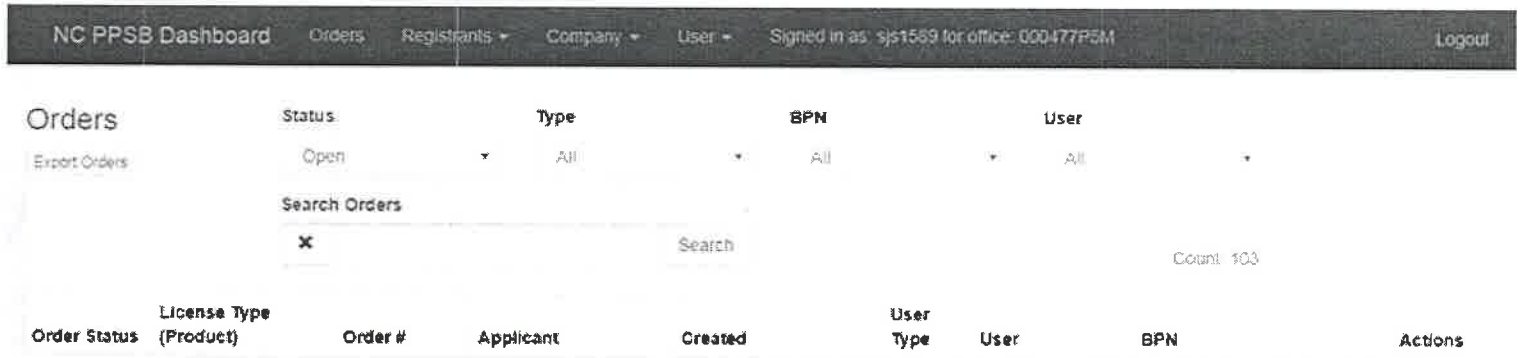
- License and registration fees
  - Approximately 91% of FY17 revenues
- Interest
- Administrative fees (audit and investigative recovery costs)
- Late fees

ASLB Expenditures

Category	FY16	FY17
Personal Services	$343,929.70	$353,538.38
Purchased Services	$87,333.41	$147,512.81
Supplies	$7,904.98	$20,636.78
Property, plant & equipment	$0.00	$9,664.00
Other expenses (membership dues, etc.)	$816.70	$892.44
Intragovernmental transfer	$0.00	$2,000.00
Total	**$439,984.79**	**$534,244.41**

Recent Developments

- Private Protective Services has partnered with Permitium to implement an online system for licensing and registration
  - Eliminates the need for paper applications
  - Increases efficiency and makes it easier for our employees and industry members to submit and process applications



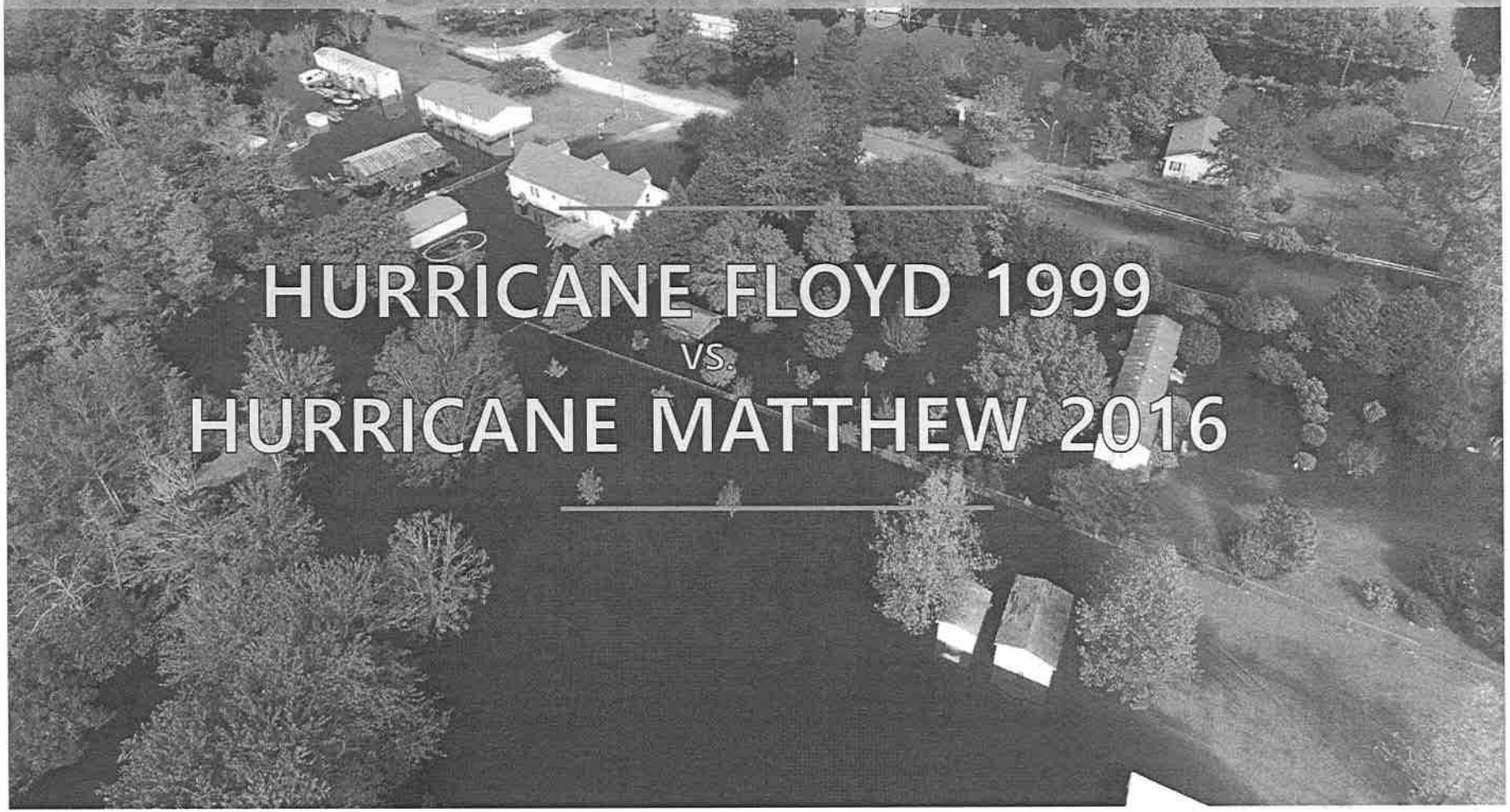
Director Brian Jones
brian.r.jones@ncdps.gov
984-220-8625

NC SEARCH AND RESCUE PROGRAM

Evolution in Response

By: NC Association of Fire Chiefs

12/14/2017



HURRICANE FLOYD 1999

VS.

HURRICANE MATTHEW 2016

IMPROVEMENTS IN RESPONSE

ReadyNC

EMAP Accredited

EMERGENCY MANAGEMENT NORTH CAROLINA

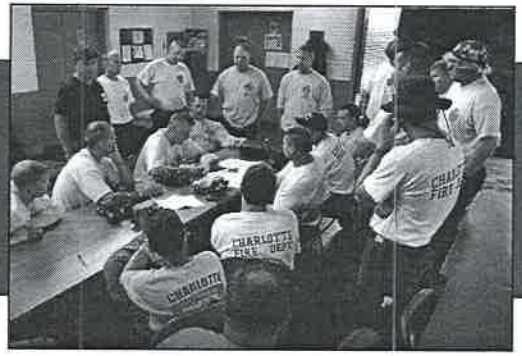
1999







2004







2016







WHAT MADE THE DIFFERENCE?

1999 Hurricane Floyd

- Chased flooding down stream with very limited resources
- Deployed local agencies to bring what they have to support disaster relief
- Resources lacked specialized training to deal with large scale disaster
- Resources were unable to be self-sufficient and support extended operations

2016 Hurricane Matthew

- Resources/teams were built in response to the gaps of Floyd
- Resources were able to be self-sufficient
- Resources had the equipment and training needed to safely work
- Synchronized effort across program to more efficiently respond to need

Success of Matthew was based on the lessons of Floyd that was addressed with federal preparedness dollars post 9/11.

FEDERAL GRANT IMPACT

- Federal preparedness grants post 9/11 used to build capability addressing shortcomings of Hurricane Floyd response
- Subsequent disasters tested and refined response model
- North Carolina's SAR Program is a national model
  - Mitigating disaster impacts by strengthening local capability through coordinated statewide program

FEDERAL GRANT IMPACT

- Federal preparedness grants declined pushing sustainment costs of State SAR Program on Local Governments
- Grant amounts have made sustainment untenable
- Local governments want to ***partner*** with state to ensure program is maintained in the future

SAR PROGRAM

- Snapshot of recent impacts
  - Rescues in 2016–
    - 2,336 Hurricane Matthew (2016)
    - 138 Tropical Storm Julia (2016)
  - Other impacts –
    - Logistical support for 2016 Wildfire response 500+ responders
    - Communications support to planned events as well as other responses across state













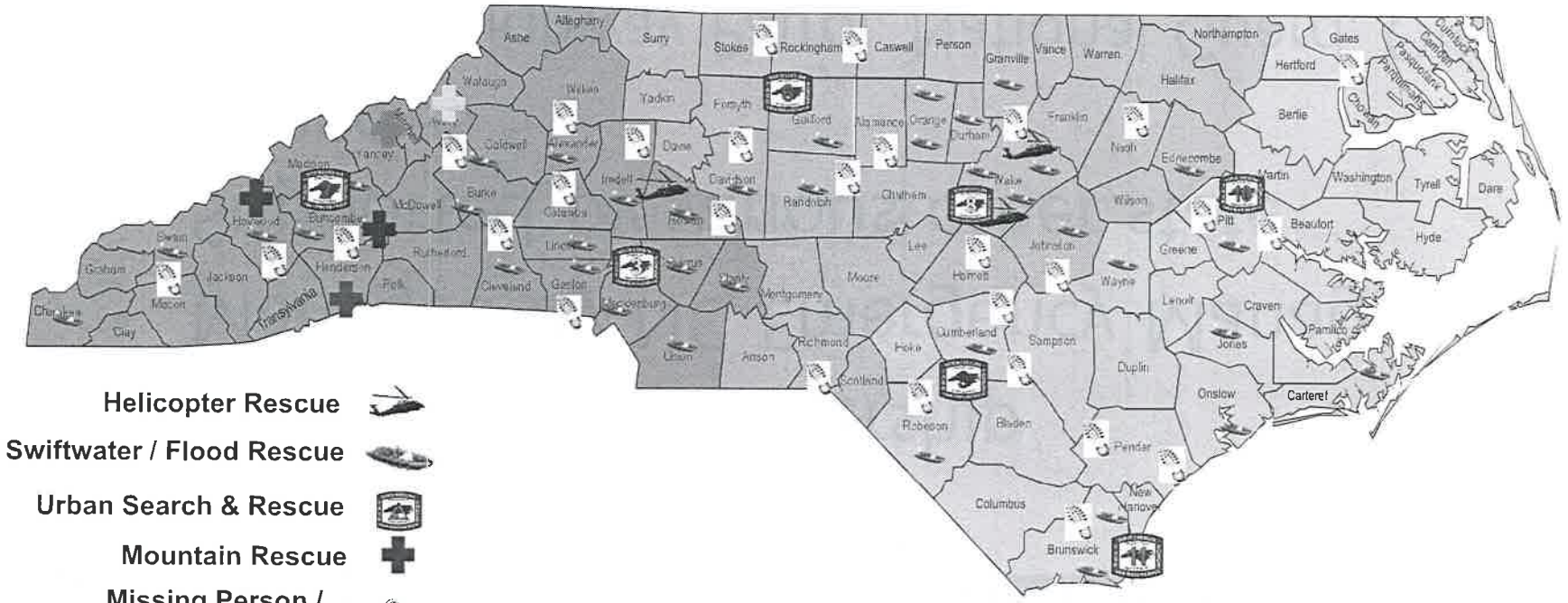
SAR PROGRAM

- Local and State partnership
  - Managed by NC Emergency Management
  - Supported by various other state agencies
    - State Highway Patrol, National Guard, Office of State Fire Marshal, ext.
  - Supported with numerous local agencies from across the State

STATE SEARCH AND RESCUE PROGRAM

5 disciplines, 1 mission... Leave no one behind.

Regional All-Hazard Capability



SAR PROGRAM

- Sustainment needs
  - Total program costs approximately $4.8m annually
  - The program needs state support of $2.39m annually
    - Training of responders
    - Maintenance of equipment
    - Exercises to maintain capabilities
  - Balance of annual costs to be absorbed by local supporting agencies

SAR PROGRAM

- Legislative Action
  - Session Law 2014-27 established State SAR Program in NCGS 166A
    - Program was never funded
  - 2017-2018 Session H189/S222 was introduced to fund program
    - H189/S222 was not included in final budget

KEY TAKE-A-WAYS



State Search and Rescue Program

- Local resources reinforced to respond across State
- Partnership between Local & State Government
- Program needs recurring state funding to fill gap left by federal grants
- ***State SAR Program has resulted in lives saved.***

JPS Oversight December 14, 2017 Follow-Up

Nursing Presentation Follow-Up

1) Average length of employment for a nurse
   As of December, 2017: RN – 6.3 years; LPN – 7 years

2) Role of the community colleges in training nurses for prisons
   Currently, we do not involve community colleges in our nurse training; however, we do involve our nurse recruiter in nursing programs and job fairs of community colleges.

3) Amount paid in malpractice claims for nurses for the past five years
   Unfortunately, the Attorney General's Office has not historically tracked this type of data. However, they have been tracking it recently, and we do have relevant data for 2016 and 2017.

   In 2016, the Industrial Commission awarded $4000.00 in damages against NCDPS in claim TA-23458. NCDPS appealed the order, which was subsequently affirmed in October 2017. This claim related directly to treatment received from a nurse, and payment has been issued.

   In 2017, NCDPS voluntarily settled claim TA-25618 for $200.00. This claim directly related to treatment received from a nurse, and payment has been issued.

   These are the only the two claims related to nursing malpractice/negligence that the Department has paid for in the past two years. The total amount equals $4,200.00. I can provide copies of the documentation for each of these cases, if necessary.

   Source: NCDPS Associate General Counsel

4) Nursing vacancy rates for the past five years (inclusive of both RNs and LPNs)
   Effective June 30 of the following fiscal years, turnover rates have been as follows:
   FY 2011-12 – 19.72%
   FY 2012-13 – 16.90%
   FY 2013-14 – 21.16%
   FY 2014-15 – 19.66%
   FY 2015-16 – 22.80%
   FY 2016-17 – 26.65%

5) Amount of lapsed salaries generated by nursing vacancies (inclusive of both RNs and LPNs)
   FY 2012-13 – $11,188,993
   FY 2013-14 – $11,423,327
   FY 2014-15 – $12,504,125
   FY 2015-16 – $11,579,038
   FY 2016-17 – $16,542,858

Corrected #1: Meeting Date Change

NORTH CAROLINA GENERAL ASSEMBLY

Raleigh, North Carolina 27601

January 16, 2018

MEMORANDUM

TO: Members, Joint Legislative Oversight Committee on Justice and Public Safety
FROM: Rep. James Larry Boles, Co-Chair
Rep. R. Theodore Davis, Co-Chair
Sen. Shirley B. Randleman, Co-Chair

SUBJECT: Meeting Notice

The **Joint Legislative Oversight Committee on Justice and Public Safety** will meet at the following time:

DAY	DATE	TIME	LOCATION
Thursday	January 25, 2018	1:00 PM	643 LOB

The Joint Legislative Oversight Committee Meeting scheduled for Thursday, January 18th at 1:00 p.m. has been changed to Thursday, January 25th at 1:00 p.m. in Room 643

Parking for non-legislative meeting attendees is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives. You can view a map of downtown by visiting http://www.ncleg.net/graphics/downtownmap.pdf.

If you are unable to attend or have any questions concerning this meeting, please contact Kerry Guice at bolesla@ncleg.net.

cc: Committee Record _X_
Interested Parties _X_

NORTH CAROLINA GENERAL ASSEMBLY

Raleigh, North Carolina 27601

January 8, 2018

MEMORANDUM

TO: Members, Joint Legislative Oversight Committee on Justice and Public Safety
FROM: Rep. James Larry Boles, Co-Chair
Rep. R. Theodore Davis, Co-Chair
Sen. Shirley B. Randleman, Co-Chair

SUBJECT: Meeting Notice

The **Joint Legislative Oversight Committee on Justice and Public Safety** will meet at the following time:

DAY	DATE	TIME	LOCATION
Thursday	January 18, 2018	1:00 PM	643 LOB

Parking for non-legislative meeting attendees is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives. You can view a map of downtown by visiting http://www.ncleg.net/graphics/downtownmap.pdf.

If you are unable to attend or have any questions concerning this meeting, please contact Kerry Guice at bolesla@ncleg.net.

cc: Committee Record _X_
Interested Parties _X_

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
Room 643 Legislative Office Building

January 18, 2018 1:00 P.M.

I. CALL TO ORDER

Chairs: Representative Jamie Boles, Presiding Senator Shirley Randleman
Representative Ted Davis

II. APPROVAL OF MINUTES

III. PRESENTATIONS

Opening Remarks by Chairs

State Highway Patrol Rapid Response Team
Lt. Colonel Charles Ward
State Highway Patrol

Prison Security & Reform Update
Erik Hooks, Secretary
Department of Public Safety

IV. COMMITTEE DISCUSSION

V. ADJOURNMENT

House Members
Rep. Boles (Chair), Rep. Davis (Chair)
Rep. Burr, Rep. Faircloth, Rep. Floyd,
Rep. C. Graham, Rep. Jackson, Rep. McNeill,
Rep. Rogers, Rep. Stevens, Rep. Turner,
Rep. Boswell (Advisory), Rep. Hurley (Advisory),
Rep. Jordan (Advisory), Rep. W. Richardson (Advisory),
Rep. Speciale (Advisory), Rep. Steinburg (Advisory),
Rep. Zachary (Advisory)

Senate Members
Sen. Randleman (Chair)
Sen. Barringer, Sen. Brown, Sen. Bryant,
Sen. Daniel, Sen. Davis,
Sen. Jeff Jackson, Sen. Lee,
Sen. Sanderson, Sen. Van Duyn,
Sen. Wells (Advisory)

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
January 25, 2018
Room 643 of the Legislative Office Building

The Joint Legislative Oversight Committee on Justice and Public Safety met on Thursday, January 25, 2018 at 1:00 PM. The meeting was held in Room 643 of the Legislative Office Building. Members present were: Representatives Jamie Boles, Ted Davis, Justin Burr, John Faircloth, Elmer Floyd, Charles Graham, Allen McNeill, Rena Turner and Senators Shirley Randleman, Tamara Barringer, Warren Daniel, Jim Davis and Norm Sanderson.

Rep. Jamie Boles presided and called the meeting to order at 1:10 p.m.

Chairman Boles recognized the Sergeant at Arms in attendance from the House and Senate.

Chairman Boles recognized Representative Turner for a motion. Representative Turner made a motion to adopt the minutes from the January meeting. The motion was seconded and the motion carried.

Chairman Boles recognized John Poteat, NCGA Fiscal Research Division, who informed the committee members and the public that there would be a link added to the committee website for public comment following today's meeting.

Chairman Boles recognized several staff from the Department of Public Safety who were in attendance at the meeting then called on Erik Hooks, Secretary of the NC Department of Public Safety to give an update on Prison Security and Reform. (See Attachments 1 and 2 for a copy of Secretary Hooks comments) After a brief overview, Secretary Hooks deferred to Pam Cashwell, Chief Deputy Secretary, NC Department of Public Safety, to give a power point presentation to the committee detailing Prison Security and Reform. (See Attachment 3 for a copy of the presentation). Upon conclusion, Secretary Hooks offered a few closing remarks to the committee. Chairman Boles opened the floor to committee members for a time of questions and answers.

Following the presentation from the Department of Public Safety, Chairman Boles recognized John Poteat, NCGA Fiscal Research, to give the website information for public comments for those who were not present at the beginning of the meeting. Mr. Poteat also announced that the

National Institute of Correction (NIC) report would be posted to the committee website at 4:00 p.m. on January 25th (the date of the meeting)

Chairman Boles then recognized Secretary Hooks and his staff for their presentation and for their attendance at the meeting to answer questions the committee raised.

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

James L Boles Jr.

Rep. James L. Boles, Jr.
Presiding

Kerry Guice

Kerry Guice, Committee Clerk

Attachment 1

North Carolina Department of Public Safety

Prevent. Protect. Prepare.

Roy Cooper, Governor

Erik A. Hooks, Secretary

UPDATE ON THE DEPARTMENT OF PUBLIC SAFETY'S PRISON SAFETY ACTION STEPS

January 25, 2018

Ensuring the safety of Public Safety employees, visitors and inmates within prison facilities is Secretary Hooks' top priority. During his first year, he conducted site visits, met with prisons staff at all levels individually and through staff meetings, and solicited employee feedback on ways to enhance safety and improve operations at prison facilities. In addition, Prisons suffered the tragic loss of life through two horrific incidents involving inmate violence against staff. In response, the Department of Public Safety has taken a number of steps to make prisons safer and we are continuing to implement new initiatives, as well as explore opportunities for additional improvements.

The primary focus areas include increasing hiring and retention; improving training for new and veteran employees; reducing contraband in prison facilities; and enhancing overall security policies and practices. Highlights of the measures taken immediately after the October 12, 2017 incident at Pasquotank Correctional Institution, as well as measures completed, measures in ongoing or pending status, and next steps are as follows:

ACTIONS TAKEN IMMEDIATELY AFTER PASQUOTANK

- ✓ Conducted a complete facility search at Pasquotank Correctional Institution by 100 trained and well-equipped Prison Emergency Response Team members to look for evidence, as well as unrelated contraband in the facility immediately following the October 12, 2017 tragedy.
- ✓ Shut down operations at the Pasquotank Correctional Institution sewing plant permanently.
- ✓ Suspended more than 250 offenders who fit a specific profile of convictions for assaultive crimes from participation in Correction Enterprises operations that involve the use of cutting and/or impact tools until further risk assessments can be completed.
    - Implemented a new policy prohibiting those with convictions of a violent crime against a government official and/or law enforcement officer from being assigned to any work station utilizing or providing access to cutting and/or impact tools without expressed approval of the Director of Prisons.
- ✓ Increased the number of correctional officers providing security in Correction Enterprises areas, and increased the number of rounds by the officer in charge within those areas until such time as we are able to conduct a full security review.

MAILING ADDRESS:
4201 Mail Service Center
Raleigh, NC 27699-4201
Telephone: (919) 733-2126

www.ncdps.gov
An Equal Opportunity employer

OFFICE LOCATION:
512 N. Salisbury Street
Raleigh, NC 27604-1159
Fax: (919) 715-8477

COMPLETED

Enhancing Overall Security Policies and Practices

- ✓ Requested the Governor's Crime Commission (in June 2017) to research best practices nationwide in several areas of prison management and provide recommendations to the Secretary. The GCC's final report with recommendations was provided to DPS in December 2017 and is currently under review.

- ✓ Requested the National Institute of Corrections (NIC) to conduct an independent and comprehensive review of the safety and security operations at Pasquotank Correctional Institution (PCI), as well as all aspects of Correction Enterprises' safety protocols following the October 12, 2017 tragedy at PCI Sewing Plant. In early November 2017, six NIC investigators conducted a complete review of the Sewing Plant at PCI and two other Correction Enterprises' plants. The review included staffing patterns, inmate-worker placement assessments, training and operational policies and procedures. The NIC provided its report to NCDPS in January 2018.

- ✓ Revised the Offender Disciplinary Procedures effective January 3, 2018. The changes strengthen the policy by upgrading certain charges to a higher level and, thus, will hold inmates more accountable for rules violations and discourage violent behavior.

- ✓ Met with the three North Carolina US Attorney's Offices, the Conference of District Attorneys and various law enforcement agencies to develop stronger partnerships with prison managers and to help encourage charges and prosecutions against both staff and inmates for criminal activity.

- ✓ Enhanced partnerships for the sharing of intelligence and information between internal and external stakeholders to address criminal activity within prisons and increased the staff within the department's intelligence unit to better manage intelligence gathering.

- ✓ Established an inter-agency advisory committee to consider and recommend additional technology and individual devices to enhance the safety and security of Prisons and Correction Enterprises staff, prison facilities and plant operations. (Committee includes representation from Prisons operations, Adult Correction Special Operations and Intelligence, Legal, State Highway Patrol and Emergency Management). This committee is reviewing adding Tasers to the safety packages for correctional officer supervisory positions.

- ✓ Purchased batons to fully equip correctional officers in medium custody facilities. Batons were already deployed to close custody facilities.

Increasing Hiring and Training

- ✓ Increased our recruitment efforts and improved our hiring process, resulting in a 9.03% increase in correctional officer hires in 2017. Retention continues to be an ongoing challenge making the vacancy rate essentially flat.

- ✓ Addressed the salary disparity between prison program section employees and correctional officers through in-range salary adjustments. Programs staff were not included in the recent salary study for correctional officers and did not receive salary increases; however, certified program staff often assist correctional officers with inmate counts and other supervision tasks.

- ✓ Hired a full-time military recruiter who is establishing contacts with the Department of Military and Veterans Affairs and the North Carolina National Guard to increase the recruitment and hiring of military veterans to work as correctional officers.

Improving Training for New and Veteran Employees

- ✓ Required newly hired officers to begin attending basic correctional officer training at the start of their second week on the job, following one week of orientation at their work location. This requirement was implemented in July 2017.

- ✓ Directed Prisons to work with the Office of Staff Development and Training to eliminate the backlog of officers on the job who had not attended basic training. Backlog has dropped from 600+ to 120. All officers assigned a post are scheduled to be trained by March 2018.

- ✓ Added two hours of situational awareness training to the Basic Correctional Officer curriculum effective January 2, 2018. In addition, four hours of in-service situational awareness training has been developed for various facility staff and will be deployed in early 2018.

- ✓ Met with the Community College System to discuss ways to further collaborate in the delivery of training to new hires and managers in order to provide a better pathway to promotion for officers as well as supervisory training.

Reducing Contraband in Prison Facilities

- ✓ Enhanced the Prisons entry/exit policy, making it mandatory for individuals entering most prisons to undergo a pat/frisk search procedure to discourage and prevent contraband. This went into effect October 16, 2017.

- ✓ Ordered and installed more Cell Sense towers in prison facilities ensuring that all facilities are fully equipped with the cellphone detection devices aimed at preventing the entry of cellphone contraband.

- ✓ Requested prison perimeter patrols by the State Highway Patrol aimed at preventing throw-overs of contraband.

ONGOING/PENDING

Enhancing Overall Safety and Security

- ➢ Ordered a review and audit of the safety and security of all Correction Enterprises operations. Those reviews are ongoing.
    - o Suspended Correction Enterprises operations temporarily at Lanesboro Correctional Institution Metal Products Plant and Caledonia Correctional Institution Cannery to conduct safety, security and accountability audits. The security audits have been completed and operations have resumed at the Caledonia Cannery.
    - o A security audit has also been completed at the Central Prison Laundry.
    - o Security audits are currently pending at the Pender Correctional Institution Sewing Plant, Scotland Correctional Institution Sewing and Braille operations and the Apex Warehouse.
- ➢ Created a Security Accountability Unit within Prisons. Working with the National Institute of Corrections, this unit will help develop new safety audit training, policies and procedures and ensure regular and comprehensive safety audits occur at all prison facilities. Security Accountability Unit staff will be trained by NIC while conducting a security audit of three prison facilities in February 2018.
- ➢ Directed Emergency Management to work with Prisons to integrate the floor plans of the state's prison facilities into the State Emergency Response Application (SERA).
    - o SERA is a secure web-based application designed to assist first responders, law enforcement and emergency managers in efficiently responding to hazards and threats at fixed sites.
    - o SERA will provide prison profile and process information, as well as spatially display prison floor plans, key assets and vulnerabilities for first responders. This information can be crucial for first responders when responding to an emergency.
- ➢ Directed staff to complete a comprehensive review and update of all Prisons and Correction Enterprises policies and procedures.
- ➢ Requested NIC to review and revalidate inmate classification protocols. NIC will begin this nine-month assessment supported by a team of prison staff in January 2018.

- Ordered a thorough review of the inmate assessment policies utilized to assign offenders to Correction Enterprises and other work operations. Working with NIC to identify best practices.

- Ordered stab resistant shirts for the 13,000 certified employees who work in prisons which are intended to be part of the daily uniform to increase personal safety.

- Developed a long-range strategic plan for upgrading, purchasing and installing additional or replacement video cameras in all facilities. We will seek funding to do so.

- Developed a plan to provide body alarm technology to all prison employees through radio device upgrades and lanyards designed as personal alarm technology for sending notification and location information in critical situations. We will seek funding to implement.

Hiring and Retention

- Implementing a plan to provide e-mail accounts to the approximately 9,000 correctional officers who do not have email access, to improve communication channels to those employees. The plan will be implemented in stages, with approximately 3,000 correctional officers getting e-mail access by the end of 2018.

- Conducting a comprehensive review of the current cumbersome hiring process to provide a more efficient and customer-friendly experience.

Improving Training for New and Veteran Employees

- Implementing a new Field Training Officer (FTO) program to provide on-the-job training for new correctional officers. The new FTO program is modeled after the prior Mentoring program and will incorporate elements of the current Career Readiness program. Training for new FTOs will begin March 1, 2018.

Reducing Contraband in Prison Facilities

- Contracted with a vendor to install Managed Access System (MAS) equipment in 2018 at two close custody prisons. MAS is a radio frequency technology that is deployed within the facility perimeter, building locations, housing areas, etc. to detect, intercept and block the use of unauthorized cellphones. This disrupts the use of cellphones for unauthorized calls, text and data transmissions to the outside of the facility. The technology also includes drone detection alerts, providing notice of incoming drone activity.

- Started the process of planning and installing additional fencing to increase the perimeter from exterior to interior areas where people can retrieve items (contraband) thrown over the fence.

NEXT STEPS

- Establishing a Prison Reform Advisory Board consisting of experts in the field of corrections. The board members will provide ongoing expert advice on best practices for maintaining prison safety.

- Appoint a designated project manager who will work with the Prison Reform Advisory Board, employees at all levels of the agency, the Office of State Budget and Management, Fiscal Research staff, as well as external stakeholders, to help ensure all prison safety action steps are achieved and identify and initiate further steps as needed.

- Improve internal and external communications with respect to prison operations.

- Enhance correctional officer recruitment efforts to include development and implementation of a marketing strategy, rebranding of NC Prisons and updating correctional officer recruitment materials.

- Conduct a comprehensive review of the current Basic Correctional Officer training program and in-service training for supervisors.

- Complete reviews of the Governor's Crime Commission December 2017 report and the National Institute of Corrections January 2018 report to further outline a strategic plan for additional immediate needs and items to be implemented over time.

- Engage the General Assembly to address immediate safety security equipment needs as well as policy changes.

- Engage the General Assembly to address hiring and retention concerns -- salary, hiring incentives, and other retention needs.

PRISONS HOUSE A MORE CHALLENGING INMATE POPULATION
A Brief Historical Overview

Policy decisions aimed at managing the growing population and reducing the number of offenders with misdemeanor and probation violations in North Carolina prisons have resulted in an inmate population with a higher concentration of volatile and potentially violent offenders. The challenging task of supervising this more dangerous population while ensuring the safety of staff and inmates requires a renewed focus on safety and security.

In 1994, the General Assembly enacted the Structured Sentencing Act, which was designed to achieve truth in sentencing while prioritizing and managing correctional resources. It was generally understood at the time that the changes brought about by the Structured Sentencing Act would fundamentally affect the prison population in several ways, and not just in raw numbers.

The most significant concern for the Department of Correction at that time was that the population would become a more dangerous group of inmates. Under Fair Sentencing, judges had wide latitude to sentence offenders to prison, and would send low-level offenders with short sentences to the state system. Structured Sentencing intentionally kept these offenders in the community on probation, so they would only reach prison by violating their conditions.

In 2011, the General Assembly passed the Justice Reinvestment Act, which reduced admissions to prison and increased accountability in the community with probationers. The act prompted several key changes to sentencing policy. One significant change made in act as later revised was to redirect all misdemeanants into county custody. As a consequence, lower-risk inmates were moved out of state prisons, resulting in a more concentrated population of violent repeat offenders.

As of June 2017, 68% of the prison population was Class A-E felons, up 30% over 20 years, and 36% had Prior Record Levels of IV, V, or VI, up 31% over the same 20-year period. These findings are laid out in the table below.

Year	Total Pop.	A-E Felons	A-E %	PR IV-VI	PR %
1997	32,529	12,389	38%	1,643	5%
2002	32,503	17,795	55%	6,823	21%
2007	37,645	21,376	57%	10,414	28%
2012	36,733	23,875	65%	12,037	33%
2017	35,345	23,947	68%	12,755	36%

Moreover, due to the decline in the adult mental health system in North Carolina, more individuals with chronic mental illness are in the state's prisons. The number of inmates diagnosed/treated for mental illness has increased by 65 % in the past 10 years, from 3,693 in FY 06-07 to 6,103 in FY 16-17. Additional training and resources for staff are necessary to meet the demands of managing this more challenging inmate population.

NORTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY
PREVENT. PROTECT. PREPARE

Justice and Public Safety Oversight Committee

January 25, 2018

Attachment 2

Prison Safety Update

- Enhancing Security Policies and Practices
- Increasing Hiring and Retention
- Improving Training for New and Veteran Employees
- Reducing Contraband in Prison Facilities
- Next Steps

Prison Safety Update

Identifying Best Practices

- ✓ Requested the Governor's Crime Commission (June 2017) to research best practices nationwide in several areas of prison management and provide recommendations to the Secretary.

(17 recommendations given)

Prison Safety Update

Identifying Best Practices

- ✓ Requested the National Institute of Corrections (NIC) (October 2017) to conduct an independent and comprehensive review of the safety and security operations at Pasquotank Correctional Institution, as well as all aspects of Correction Enterprises' safety protocols.

(Print / optical e Nash)

NORTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY
PREVENT. PROTECT. PREPARE.

Prison Safety Update

Enhancing Security Policies and Practices

Prison Safety Update

Enhancing Security Policies and Practices

COMPLETED:

- ✓ Revised the Offender Disciplinary Policy and Procedures effective January 3, 2018.
- ✓ Fostered partnerships with law enforcement to help encourage charges and prosecutions against both staff and inmates for criminal activity.
- ✓ Improved our Departmental criminal intelligence gathering and utilization.

Prison Safety Update

Enhancing Security Policies and Practices

COMPLETED:

- ✓ Established an inter-agency advisory committee on technology related to prison safety.

- ✓ Purchased batons to fully equip correctional officers in medium custody facilities.

Prison Safety Update

Enhancing Security Policies and Practices

ONGOING/PENDING:

- Ordered safety and security audits of all Correction Enterprises operations.
- Created a Security Accountability Unit within Prisons.
- Directed Emergency Management to work with Prisons to integrate the floor plans of the state's prison facilities into the State Emergency Response Application (SERA).

Prison Safety Update

Enhancing Security Policies and Practices

ONGOING/PENDING:

- Directed staff to complete a comprehensive review and update of all Prisons and Correction Enterprises policies and procedures.
- Requested NIC to review and revalidate inmate classification protocols.
- Ordered a review of the inmate assessment policies utilized to assign offenders to Correction Enterprises and other work operations.

Prison Safety Update

Enhancing Security Policies and Practices

ONGOING/PENDING:

- Ordered stab resistant shirts for the 13,000 certified employees.
- Developed a long-range strategic plan for video camera upgrades.
- Developed a plan to provide personal body alarm technology to all prison employees through radio device upgrades and lanyards.

Prison Safety Update

Increasing Hiring and Retention

Prison Safety Update

Increasing Hiring and Retention

COMPLETED:

- ✓ Increased our recruitment efforts and improved our hiring process, resulting in a 9% increase in correctional officer hires in 2017.
- ✓ Addressed the salary disparity between prison program staff and correctional officers through in-range salary adjustments.
- ✓ Hired a full-time military recruiter--working with the Department of Military and Veterans Affairs and the North Carolina National Guard.

Prison Safety Update

Increasing Hiring and Retention

ONGOING/PENDING:

- Implementing a plan to provide e-mail accounts to the correctional officers who do not have email access.

- Conducting a comprehensive review of the current cumbersome hiring process to provide a more efficient and customer-friendly experience.

Prison Safety Update

Improving Training for New and Veteran Employees

Prison Safety Update

Improving Training for New and Veteran Employees

COMPLETED:

- ✓ Ensured all new employees attend basic training prior to being assigned to a post.

- ✓ Reduced the backlog of officers on the job who had not attended basic training.
  - ✓ All officers assigned a post are scheduled to be trained by March 2018.

Prison Safety Update

Improving Training for New and Veteran Employees

COMPLETED:

- ✓ Developed Situational Awareness Training.
  - ✓ Jan. 2018- added two hours to BCO
  - ✓ Early 2018- 4 hours for various facility staff

Prison Safety Update

Improving Training for New and Veteran Employees

COMPLETED:

- ✓ Met with the Community College System to discuss ways to further collaborate in the delivery of training to new hires and managers.

Prison Safety Update

Improving Training for New and Veteran Employees

ONGOING/PENDING:

- Providing on-the-job training and mentoring for new correctional officers.
  - Implementing a new Field Training Officer (FTO) program.
  - Training for FTOs begins March 1, 2018.

Prison Safety Update

Reducing Contraband in Prison Facilities

Prison Safety Update

Reducing Contraband in Prison Facilities

COMPLETED:

- ✓ Enhanced the Prisons entry/exit policy making it mandatory for persons entering most prisons to undergo a pat/frisk search.
- ✓ Equipped all prison facilities with cellphone detection devices.
- ✓ Requested prison perimeter patrols by the State Highway Patrol.

Prison Safety Update

Reducing Contraband in Prison Facilities

ONGOING/PENDING:

- Contracted with a vendor to install Managed Access System (MAS) equipment in 2018 at two close custody prisons.

- Began the process of planning and installing additional perimeter fencing.

Prison Safety Update

Next Steps

Prison Safety Update

NEXT STEPS:

- Establishing a Prison Reform Advisory Board consisting of experts in the field of corrections.

- Appoint a designated project manager to ensure that all prison reform initiatives are achieved.

Prison Safety Update

NEXT STEPS:

- Improve internal and external communications with respect to prison operations.
  - Met with SEANC leadership to foster better communication.

- Develop a marketing strategy and update correctional officer recruitment materials.

Prison Safety Update

NEXT STEPS:

- Conduct a comprehensive review of the current Basic Correctional Officer training program.

- Conduct a comprehensive review of in-service training for supervisors.

Prison Safety Update

NEXT STEPS:

- Complete reviews of Governor's Crime Commission report and the National Institute of Corrections report to further outline a strategic plan for additional immediate needs and items to be implemented over time.

Prison Safety Update

NEXT STEPS:

- Engage the General Assembly to address immediate safety and security equipment needs as well as policy changes.

- Engage the General Assembly to address hiring and retention concerns -- salary, hiring incentives, and other retention needs.

Closing Remarks/Questions

Committee Sergeants at Arms

NAME OF COMMITTEE JT OVERSIGHT COMM ON JUSTICE AND PUBLIC SAFETY

DATE: 01-25-2018 Room: 643

House Sgt-At Arms:

1. Name: REGGIE SILLS
2. Name: MARVIN LEE
3. Name: THOMAS TERRY
4. Name:
5. Name:

Senate Sgt-At Arms:

1. Name: BILLY FRITSCHER
2. Name: LINDA MATTHEWS
3. Name:
4. Name:
5. Name:

VISITOR REGISTRATION SHEET

Jt Leg Comm Oversight Justice & Public Safety
Name of Committee

Date 11/25/18

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robyn Sanders	NCDPS
Cindy Brandon	NCDPS
Pam Walker	NCDPS
Rhonda Russell-Smith	NCDPS
Brandy Dalby	NCDPS
Carter Grimes	NC DOL
Jennifer Haigwood	NCDOL
Jillian Johnson	MWC LLC
Coby Crandell	The Pro Se Reentry Portal (919) 475 3857
John Dorman	NCEM
Dany Muskus	PSG
David Finnell	NP

VISITOR REGISTRATION SHEET

+ Comm Oversight Justice Public Safety
Name of Committee

Date 1/25/18

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
EDDIE Caldwell	NC Sheriffs' Association
NICK OCHSNER	WBTV
Alicia Dew	NCDPS
Laimy King Yap	Disa Strategies
DUPREE, JOHN M	NC NATIONAL GUARD
Aprils Watkins	SEANC
Suzanne Beasley	SEANC
Flint Brasue	SEANC
MATT KOMNITZ	NCEM
Susanna Davis	NCDPS
Mary Shuping	NCCCS

VISITOR REGISTRATION SHEET

5t Comm Oversight Justice & Public Safety — Date 1/25/18

Name of Committee

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Darryl Childers	Governor's Office
Annie Cleaver	DOJ
Kari Travis	Carolina Journal
Tanah Callahan	CCJA
Brian E. Jones	NCDPS / NCPBA
Ann Anderson	OSBM
Mary E Cansell	JAS
JOHN SCHNABOE	CITIZEN / RETIRED PSYCHOLOGIST
Jarret Burr	BCI
Franklin Freeman	MWC
JEFF BARNHART	MWC

VISITOR REGISTRATION SHEET

H Comm Oversight Justice Public Safety
Name of Committee

Date 1/25/18

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JOHN C. MIDGETTE	NC PBA
RANDY BYRD	NC PBA
Demetrius Delaatch	Troutman Sanders
Armin Garcia Bro.	ACLU-NC
Susanna Birdsong	ACLU-NC
Kris Paulk	NCAJ
Keith Brad	NCALE
Bryan House	NC ALE
Brent Culbertson	NC SBI
Terrance Merriweather	NC ALE

VISITOR REGISTRATION SHEET

Jt Comm Oversight Justice + Public Safety
Name of Committee

Date 11/25/18

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Susan Pollitt	Disability Rights NC
Meagan Honnold	OSBM

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
Room 643 Legislative Office Building

February 15, 2018 1:00 P.M.

I. CALL TO ORDER

Chairs: Representative Jamie Boles
Representative Ted Davis

Senator Shirley Randleman, Presiding

II. APPROVAL OF MINUTES

III. PRESENTATIONS

Opening Remarks by Chairs

North Carolina Innocence Inquiry Commission
Chief Justice I. Beverly Lake

State Highway Patrol (SHP) Rapid Response Team update
Lt. Colonel C. Vic Ward, Deputy Commander
State Highway Patrol

SHP Residency Policy update
Lt. Colonel Alan Melvin, Support Operations
State Highway Patrol

SHP Asset Forfeiture Usage update
Major Todd Woodard, Support Services
State Highway Patrol

Juvenile Justice: Raise the Age update
William L. Lassiter
Deputy Secretary for Juvenile Justice, Department of Public Safety

IV. COMMITTEE DISCUSSION

V. ADJOURNMENT

House Members
Rep. Boles (Chair), Rep. Davis (Chair)
Rep. Burr, Rep. Faircloth, Rep. Floyd,
Rep. C. Graham, Rep. Jackson, Rep. McNeill,
Rep. Rogers, Rep. Stevens, Rep. Turner,
Rep. Boswell (Advisory), Rep. Hurley (Advisory),
Rep. Jordan (Advisory), Rep. W. Richardson (Advisory),
Rep. Speciale (Advisory), Rep. Steinburg (Advisory),
Rep. Zachary (Advisory)

Senate Members
Sen. Randleman (Chair)
Sen. Barringer, Sen. Brown, Sen. Bryant,
Sen. Daniel, Sen. Davis,
Sen. Jeff Jackson, Sen. Lee,
Sen. Sanderson, Sen. Van Duyn,
Sen. Wells (Advisory)

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY

February 15, 2018
Room 643 of the Legislative Office Building

The Joint Legislative Oversight Committee on Justice and Public Safety met on Thursday, February 15, 2018 at 1:00 PM. The meeting was held in Room 643 of the Legislative Office Building. Members present were: Representatives Boles, Davis, Burr, Faircloth, Floyd, Graham, Jackson, McNeill, Rogers, Turner, Boswell, Hurley, Jordan, Richardson, Speciale, Zachary, and Pierce. There were five Senators present. Senator Shirley Randleman presided.

Senator Randleman called the meeting to order and introduced the Senate Sergeant at Arms, Larry Hancock and Linda Matthews, and the House Sergeant at Arms Bill Bass, Terry McGraw, and Jim Moran.

Opening Remarks

Senator Randleman asked for a motion to approve the previous meetings minutes, it was made by Representative Turner and the motion carried. Senator Randleman recognized her Co-Chairs for comment. Representative Davis announced that Larry Reid the lead consultant for the NIC report on prison safety has been scheduled for a presentation at the March meeting. Staff has also invited Secretary Hooks to be present as well.

Senator Randleman announced that Chief Justice Lake was not able to make it to the meeting today due to health issues and his presentation was removed from the agenda.

State Highway Patrol Rapid Response Team Update

Senator Randleman recognized Col. Glenn McNeil, Commander NC Highway Patrol, for remarks before the presentation. Col. McNeil thanked the committee and gave a brief overview of the Highway Patrol's duties and introduced his staff that would be handling the presentations.

Senator Randleman recognized Lt. Colonel Vic Ward for the Rapid Response Team presentation (attached). Lt. Colonel Ward's presentation covered the mission, training, staffing, equipment, and coordination of the team. He explained the scenarios where the team may be deployed and discussed examples of recent deployments.

Representative Floyd asked if the presentations today would cover facilities. Senator Randleman replied that they would not but recognized Representative Floyd for a comment. He requested that Highway Patrol Facilities be considered for the agenda at a later date because many of them are very outdated.

Representative Graham was recognized and asked about the personnel shortage mentioned in the presentation. Lt. Colonel Ward replied that the shortage was due to an increased attrition rate. Representative Graham asked how recruitment efforts were going and asked if pay was an issue. Lt. Colonel Ward replied that pay was an issue and also mentioned that the training standards were more difficult than other agencies. Representative Graham referenced the recent school shooting in Florida and asked about the Patrol's ability to respond in a similar situation. Lt. Colonel Ward replied that all troopers are equipped with ballistics helmets and jackets and are ready, willing, and able to respond to active shooter situations. Last year, troopers performed over 6500 school safety checks to help familiarize themselves with local schools in case they are deployed there. Representative Graham asked about feedback from the school safety checks and if school staff and personnel were knowledgeable about how the react in these situations. Lt. Colonel Ward replied that the relationship between troopers and school staff is positive and schools do have plans.

Representative Faircloth was recognized and asked if the Patrol kept records reasons given for staff leaving. Lt. Colonel Ward replied that they do keep records. He added that at this point they treat each person leaving as a specific case. They will follow up with phone calls and ask them to stay. Pay is a frequently citied issue. Representative Faircloth commented that troopers leaving for other law enforcement agencies is understandable but leaving law enforcement entirely is a relatively new phenomenon, and he would like to see the data on that.

Representative McNeill was recognized and asked about personnel standards for the Rapid Response Team. Lt. Colonel Ward replied that there were rigorous standards for making the team and he can provide the committee with documentation for the exact qualifications. Representative McNeill asked about some of the recent missions for the unit. Lt. Colonel Ward replied that the unit was recently deployed at the governor's inauguration, the statue protest in Chapel Hill, and an active shooter situation in Robeson County. Representative McNeill asked about the regular training and Lt. Colonel Ward replied that the team trains twice per month.

Representative Floyd was recognized and asked if the training provided by the Highway Patrol was being used as a training ground for other law enforcement agencies. Lt. Colonel Ward replied with an example he heard from a local law enforcement officer. He was told that your worst trooper is my best officer. He explained that it is a problem and it was a home run for another agency to get a trooper.

Senator Randleman asked if the Rapid Response Team would escort hazardous materials trucks. Lt. Colonel Ward replied that they had done that and have been mixed in with the HAZMAT Team. Senator Randleman asked where the HAZMAT team was. Lt. Colonel Ward replied that they were also stationed in Raleigh.

SHP Residency Policy Update

Senator Randleman recognized Lt. Colonel Alan Melvin for a presentation on the Highway Patrol's residency policy. Lt. Colonel Melvin continued with the presentation and explained that for the past 15 years the patrol has used a mileage based policy. Troopers were required to reside within 20 miles of the line for their assigned county/district and maintain a 45 minute response time. They policy did not address the fact that some positions required statewide duty.

In the fall of 2016 the State Auditor's Office initiated an audit. After working with the auditors the Patrol updated the policy to a response time based policy in March 2017. Exceptions to the policy are given to three working groups with statewide duties and responsibilities; Senior Command Staff, the Internal Affairs Unit, and Troop "I" Commissioned Officers.

Representative Turner asked if there was consideration in compensation for troopers that must live in high cost of living areas. Lt. Colonel Melvin replied that the Patrol does not have a cost of living adjustment.

Representative McNeill asked if there was a residency requirement for Highway Patrol Pilots. Lt. Colonel Melvin replied that there were hangers in Raleigh and Salisbury so the trooper would need to maintain a 45 minute response time to their assigned hanger. Representative McNeill asked if a trooper living outside that area would need to maintain a second residence. Lt. Colonel Melvin replied that they would and added that the statewide officers also maintain secondary residences near their primary duty station. Representative McNeill asked if there is compensation for the second residence. Lt. Colonel Melvin replied that there was not.

Senator Randleman asked if the Department of Public Safety had an opportunity to respond to the auditor's report. Lt. Colonel Melvin replied that they did respond and that is the last two pages of the report. Senator Randleman asked for the number of position exceptions that the policy applies to. Lt. Colonel replied that there were 14 members and 8 of them currently utilized the exception.

Representative Faircloth asked for an explanation of the Troop I commissioned officers. Lt. Colonel Melvin explained that was the Captain and the Two Lieutenants. Representative Faircloth asked about a trooper's options when he is asked to transfer. Lt. Colonel Melvin replied that normally transfers are requested. Their options are to be within 45 minutes of the county line. Representative Faircloth asked if a trooper was asked to transfer do they have an option to say no. Lt. Colonel Melvin replied that 95% or more of transfers are because of request and the rest are likely due to a disciplinary action.

Senator Randleman asked about transfers related to promotions. Lt. Colonel Melvin replied that they would allow for lateral transfers first, then they would fill through promotion if necessary.

Representative Jackson asked about the process for promotions picking their new assignment. Lt. Colonel Melvin explained that there was a ranking order based on their scores. He explained that there was full transparency in the positions that are available and troopers let it be known through there chain of command were they would like to transfer.

SHP Asset Forfeiture Usage Update

Senator Randleman recognized Major Todd Woodard for the presentation on the Asset Forfeiture Program. Major Woodard explained the program and the permissible uses for the funds. The presentation covered the office furniture purchase that was requested to be explained by the committee.

Senator Randleman asked about law enforcement travel and per diem as a permissible use. Major Woodard explained that it would be used for travel for training, mostly out of state.

Representative Hurley asked if the Federal Government had halted this program in the past. Major Woodard replied that he did not know if they had stopped it fully.

Representative Turner asked about the seizure of real property under the program. Major Woodard replied that a house could be seized in something like a drug bust.

Representative Floyd was recognized and mentioned his earlier comment regarding facilities. He referenced the furniture purchases and commented that the older offices are not up to par with the quality of the Highway Patrol. Senator Randleman added that some of the offices are rented so that can affect the quality of the facilities.

Representative Boles asked if the data provided on the presentation represented all of the purchases last year. Major Woodard replied that it did not. Representative Boles asked for the account balances. Major Woodard replied that the account balance in 2017 was $417,731.91 and the current balance is $698,523.78.

Representative McNeill was recognized to answer Representative Hurley's earlier question. He explained that the program was not completely stopped. For a period, the DEA was coming in and adopting cases initiated by the Highway Patrol and those seized assets were going to the Federal Government instead. Now, if the Highway Patrol initiates the case the DEA cannot take over the case later.

Senator Davis was recognized and asked for an accounting of the last 5 years of seized assets, and asked how the assets are liquidated. Major Woodard replied that he could provide both of those to the committee later. Senator Randleman asked John Poteat to follow up on getting that information.

Juvenile Justice: Raise the Age Update

Senator Randleman recognized William Lassiter, Deputy Secretary for Juvenile Justice. Mr. Lassiter gave a presentation (attached) on implementing the Juvenile Justice Reinvestment Act passed last year. The presentation included target dates, an overview of the planning meetings and forums, an explanation of the phase-in, and the formation of the Juvenile Justice Advisory Committee.

Senator Davis was recognized and praised Mr. Lassiter for the best presentation he has heard in his seven years here.

Representative Graham was recognized and asked about why the Department expects additional referrals for mental health treatment. Mr. Lassiter explained that every individual that enters juvenile justice receives a mental health screening, and that is not done on the adult side. Representative Graham commented that he is confident that we will see a new wave of disorders under the DSM4 axis being diagnosed and asked if the Department was ready. Mr. Lassiter replied that he thinks there is work to be done. He recognized this population has not been well addressed in the past, and noted that the types of services provided after the individual turns 18 are different.

Senator Bryant was recognized and referenced the young shooter in Florida. She asked if we have the services in place to identify troubled youth from both a mental health perspective and a social perspective, and if there is a tie in with Social Services. Mr. Lassiter replied that the Juvenile Justice system has gotten much better at addressing this population. He added that when he first started in Juvenile Justice the recidivism rates were in the 80s and today that has dropped to below 40%. They are using evidence based practices to identify these kids and they are working with the center for safer schools at the Department of Public Instruction. Mr. Lassiter discussed the problem of suspending students and making sure they are suspended to something instead of just sending them home to a bad situation. Senator Bryant asked how close we were to having that something and added that schools often do not want to deal with angry parents of suspended students. Mr. Lassiter replied that the Department is going to make a small fiscal request this year for the School Justice Partnership. Senator Bryant asked about the programing mention in the presentation for 18-20 year olds. Mr. Lassiter replied that the minimum age is now 17, but the upper age was also increased to 21 for certain crimes.

Representative Faircloth was recognized and asked where bullying that does not rise to the level of physical assault fits into the system. Mr. Lassiter replied that there should be zero tolerance for bullying and that means setting high expectations for kids, but not necessarily kicking a bully out of school. He explained that bullying is about a power imbalance and addressing it requires changing that. He added that getting suspended is not necessarily a good consequence for bullying behavior. The other side is attempting the change the benefits of being a bully and changing the culture of the school so that bullies do not get respect.

Senator Randleman thanked Mr. Lassiter and applauded the Department for their work on implementation so far. She also mentioned that there may still be some recodification done with H and I felonies to accompany this legislation.



Adjournment

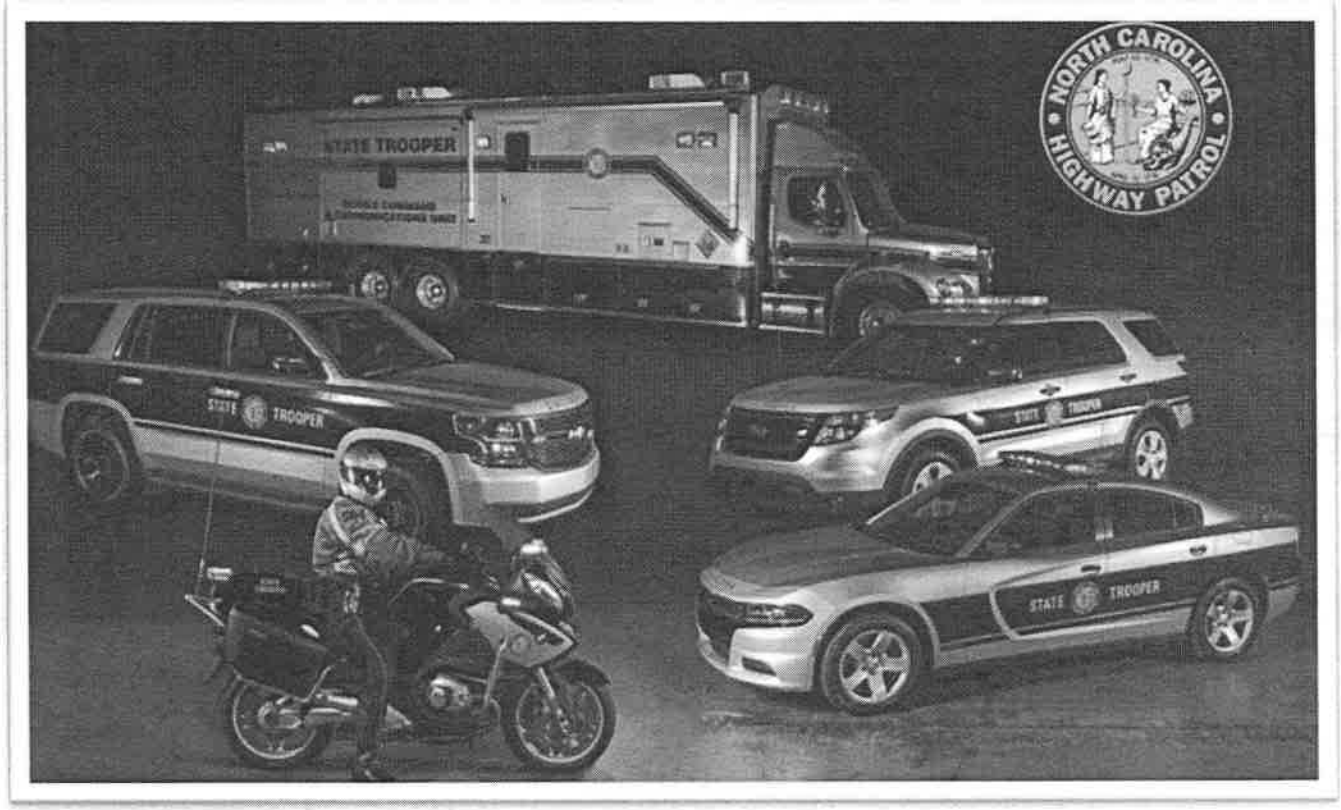
There being no further business, the meeting adjourned at 3:04pm.

_____
Senator Shirley B. Randleman
Presiding

_____
Jeb Kelly, Committee Clerk

North Carolina State Highway Patrol
Legislative Presentation

Joint Legislative Oversight Committee on Justice and Public Safety
February 15, 2018



Rapid Response Team

Mission

- Preserve lives in situations which exceed the capabilities of front line personnel
- Accomplished in a professional manner consistent with NCSHP expectations



Rapid Response Team

Staffing

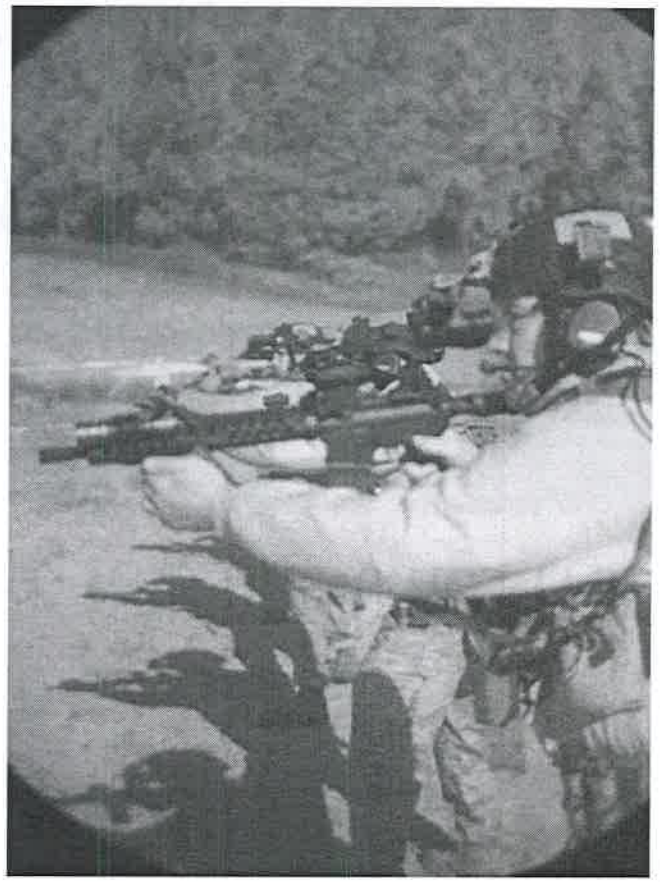
- Comprised of 2 Sergeants and 10 Troopers
- Part-time RRT status combined with full-time Trooper duties
- Personnel within 60 minutes of Wake County



Rapid Response Team

Deployment and Skill Sets

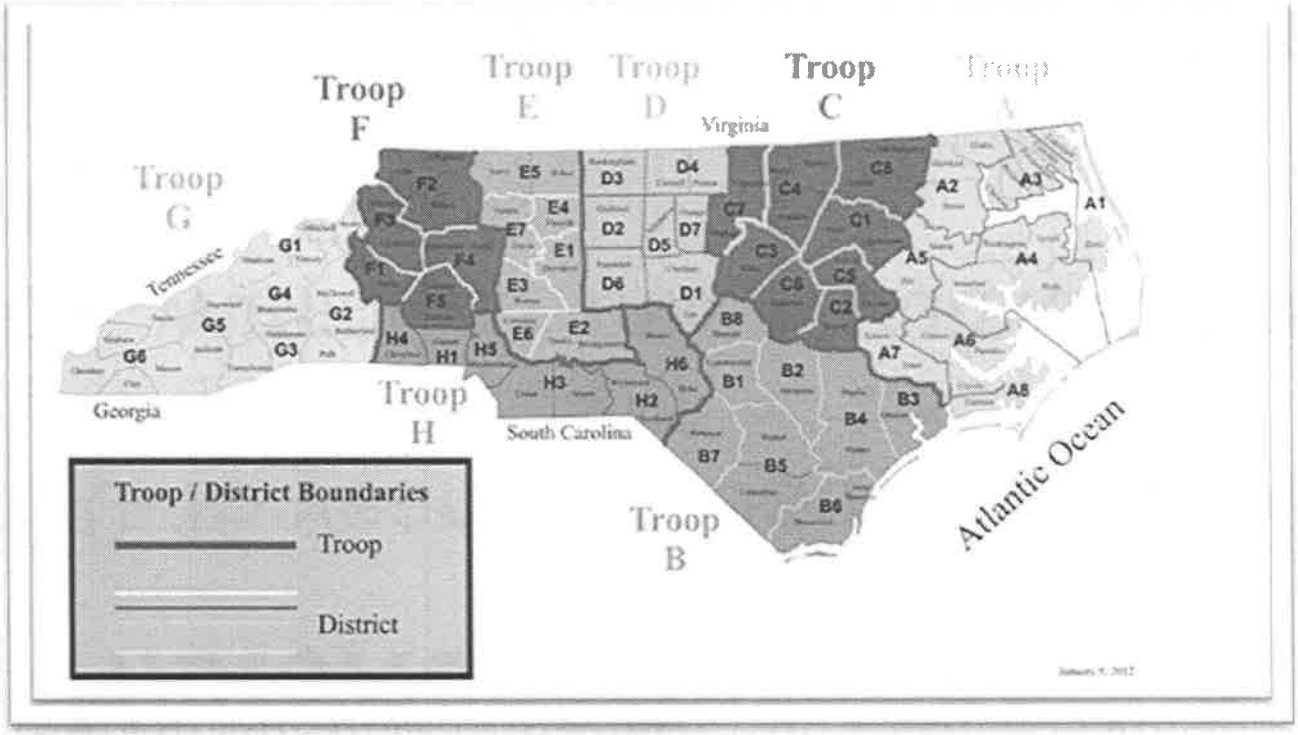
- Utilization of specialized training, equipment, and tactics
- Overwatch for NCSHP
  Mobile Field Force (MFF)
- Active Shooter
- Special Security Events
- Precision Weapons
- Night Vision Goggles (NVG)



Rapid Response Team

Coordination

The coordination of the RRT is handled through Troop I Headquarters in Cary



Residency Policy Update

Historical Perspective

- Past 10-15 years - mileage-based policy
- Reside within 20 miles outside assigned County/District
- Members required to maintain 45 minute response time
- No provision for positions with statewide duty

Residency Policy Update

TIMELINE

- Fall 2016 – State Auditor's Office initiates audit
- February 2017 – Patrol meets with State Auditors Office (SAO)
- March 2017 – Patrol updates residency policy to a response time-based policy
- March 2017 - Exceptions to policy are given to three (3) working groups with Statewide duties and responsibilities **[based upon recommendations of SAO]**
- September 2017 – SAO releases final report
- September 2017 – SHP exceptions in writing **[result of additional SAO recommendation]**

Residency Policy Update

Current Residency Policy Highlights

- Policy updated to reflect a response time-based policy
- A member has 45 minutes to respond to area of assignment
- Under further consideration of SAO's recommendation, Administrative positions have a 60 minute response time
- Statewide area of responsibility – three (3) groups were identified as having continual statewide duties and responsibilities and were granted exceptions to the residency policy
    1. Senior Command Staff
    2. Internal Affairs Unit
    3. Troop "I" Commissioned Officers

Seized Asset Usage

What is the Department of Justice Asset Forfeiture Program?

- A nationwide law enforcement initiative that removes the tools of crime from criminal organizations
- Deprives wrongdoers of the proceeds of their crimes
- Equitable sharing further enhances this law enforcement objective by fostering cooperation among federal, state and local law enforcement agencies

U.S. Department of Justice
Guide to Equitable Sharing for State and Local Law Enforcement Agencies April 2009
Pages 1

Seized Asset Usage

Some of the Permissible Uses of Seized Asset Funds

- Law Enforcement Operations and Investigations
- Law Enforcement Training and Education
- Law Enforcement, Public Safety, and Detention Facilities
  - Example – the costs of leasing, operating, and furnishing an off-site undercover narcotics facility
- Law Enforcement Equipment
- Law Enforcement Travel and Per Diem

U.S. Department of Justice
Guide to Equitable Sharing for State and Local Law Enforcement Agencies April 2009
Pages 16-19

Seized Asset Usage
February 2017 – February 2018

Date of Request	Description	Amount Requested
07/19/17	Use $100,000 to fund **Employee Tuition Reimbursement** Program. This will allow the Patrol to invest in its employees by reimbursing tuition for classes taken to enhance the performance of their official duties.	100,000.00
06/16/17	Use $12,000 to fund **Employee Tuition Reimbursement** Program. This will allow the Patrol to invest in its employees by reimbursing tuition for classes taken to enhance the performance of their official duties.	12,000.00
02/23/17	Use $100,000 to purchase **office furniture** to replace some of the pieces that have been identified as "critical needs" for field and support units throughout the State.	100,000.00

Seized Asset Usage

Timeline for Purchase of Furniture through Equitable Sharing Funds

- May – June 2016: Comprehensive survey conducted to determine the furniture needs of the organization
- February 23, 2017: Letter sent to GOV Ops requesting use of Asset funds for the purchase of furniture identified as critical needs
- August 2017: $52,440.00 of the funds invoiced from NCDPS Correctional Enterprises
- September 2017: $31,118.00 of the funds invoiced from NCDPS Correctional Enterprises
- December 2017: $1,378.00 of the funds invoiced from NCDPS Correctional Enterprises
- $15,062.00 spent – waiting on invoice
- Total funds expended = $99,998.00 (21 Desks and 208 Chairs)

Seized Asset Usage

Email from U.S. Department of Justice in Reference to the Purchase of Furniture Using Equitable Sharing Funds

Resent-From: <SR30nRvw7nFA+usdoj.gov+brian.boykin@securence.com>
From: "Boykin, Brian (CRM)" <Brian.Boykin@usdoj.gov>
Date: February 6, 2018 at 6:54:47 PM EST
To: "McNeill Jr., Glenn M." <Glenn.McNeill@ncdps.gov>
Cc: "Tadesse, Besufekad (CRM)" <Besufekad.Tadesse@usdoj.gov>
Subject: [External] Inquiry Regarding Furniture Purchase

CAUTION: External email. Do not click links or open attachments unless verified. Send all suspicious email as an attachment to Report Spam.

Colonel McNeill,

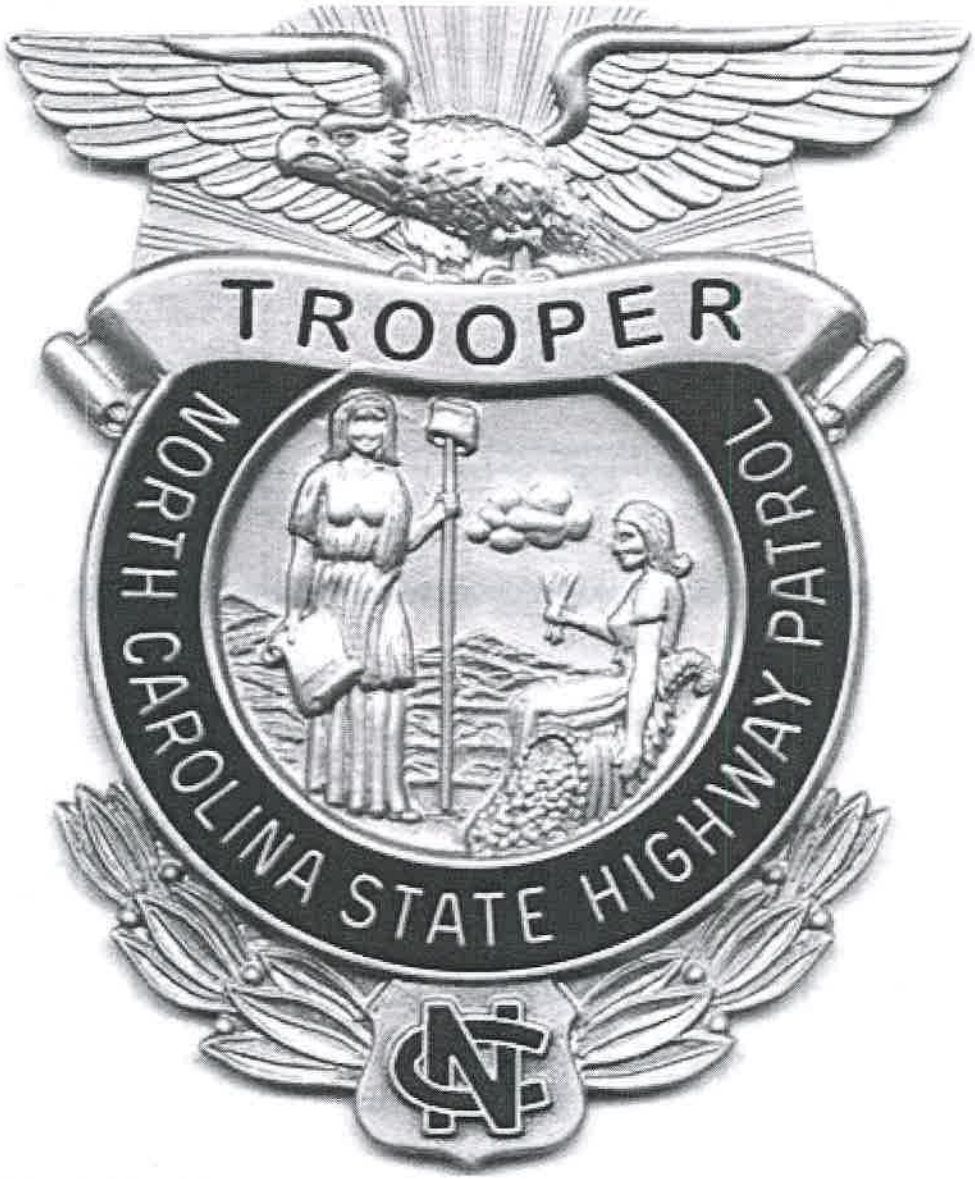
The Money Laundering and Asset Recovery Section (MLARS) oversees the Department of Justice's Equitable Sharing Program (Program) and ensures Program participants comply with the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies* (April 2009) (*Guide*) and updates. Thank you for your quick response to our inquiries regarding the furniture expenditures identified in the media. Based on our initial review, the expenditures appear permissible and in accordance with your jurisdiction's purchasing policies. Section V.B.1.d of the *Guide*, allows for the purchase of law enforcement equipment for use by both sworn and non-sworn personnel. Please be sure to properly report this expenditure on your 2018 annual Equitable Sharing Agreement and Certification form. If we have any further questions regarding your expenditures, we will contact your you.

Brian E. Boykin
U.S. Department of Justice
Money Laundering and Asset Recovery Section
Equitable Sharing Program Manager

Office: 202-598-2306

E-mail correspondence sent to and from this address may be subject to the provisions of G.S. 132-1, the North Carolina Public Records Law, and may be subject to monitoring and disclosed to third parties, including law enforcement personnel, by an authorized state official."

Questions?



NORTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY
PREVENT. PROTECT. PREPARE

Raising the Juvenile Age

William L. Lassiter,
Deputy Secretary for Juvenile Justice

Thursday, February 15, 2018

- Make NC safer
- Reduce recidivism
- Economic savings
- Juvenile employability
- Parental inclusion in process, strengthening families
- Professionals in juvenile treatment & intervention
- Other states' positive experiences
- Supported by science
- Consistent with recent legal decisions

Implementation Dates

Deadline	Task
7/1/2017	School-Justice Partnerships
7/1/2017	Training for Law Enforcement Officers & Sheriffs
7/1/2017	JJ Advisory Committee created
10/1/2017	Victim Rights (Intake Letters)
10/1/2017	Law Enforcement Access to Information (Consultations)
7/1/2018	J-Wise Access (AOC Electronic Record)
3/1/2018	JJ Advisory Committee submits interim report to NCGA
12/1/2019	New Juvenile Jurisdiction BEGINS
12/1/2019	Juvenile Gang Suppression
1/15/2023	JJ Advisory Committee submits final report to NCGA

Sept. 18-20, 2017
Management Planning Meetings

- Team-Intensive review of data, projections, fiscal impact assessments, and the legislation
- Resulted in:
  - 11 subject-specific workgroups that review the associated impact and need in the following five areas:
    - (1) safety, (2) information technology, (3) strategic planning, (4) policy and process, and (5) training.
  - A plan for community stakeholder forums

Raise the Age Opportunities: Planning and Implementation

- Obtaining & coordinating resources: funding & positions
- Office space
- Legislative corrections
- Age-appropriate programming
  - YDC programming for 18-20 year olds
  - Detention programming for 18-20 year olds
- Transportation
- Community Programs allocation
- New 60-bed YDC facility
- Hiring
- Onboarding
- Training
- IT needs
- Safety
- Policy & process
- Collaborative partners

Stakeholder Forums

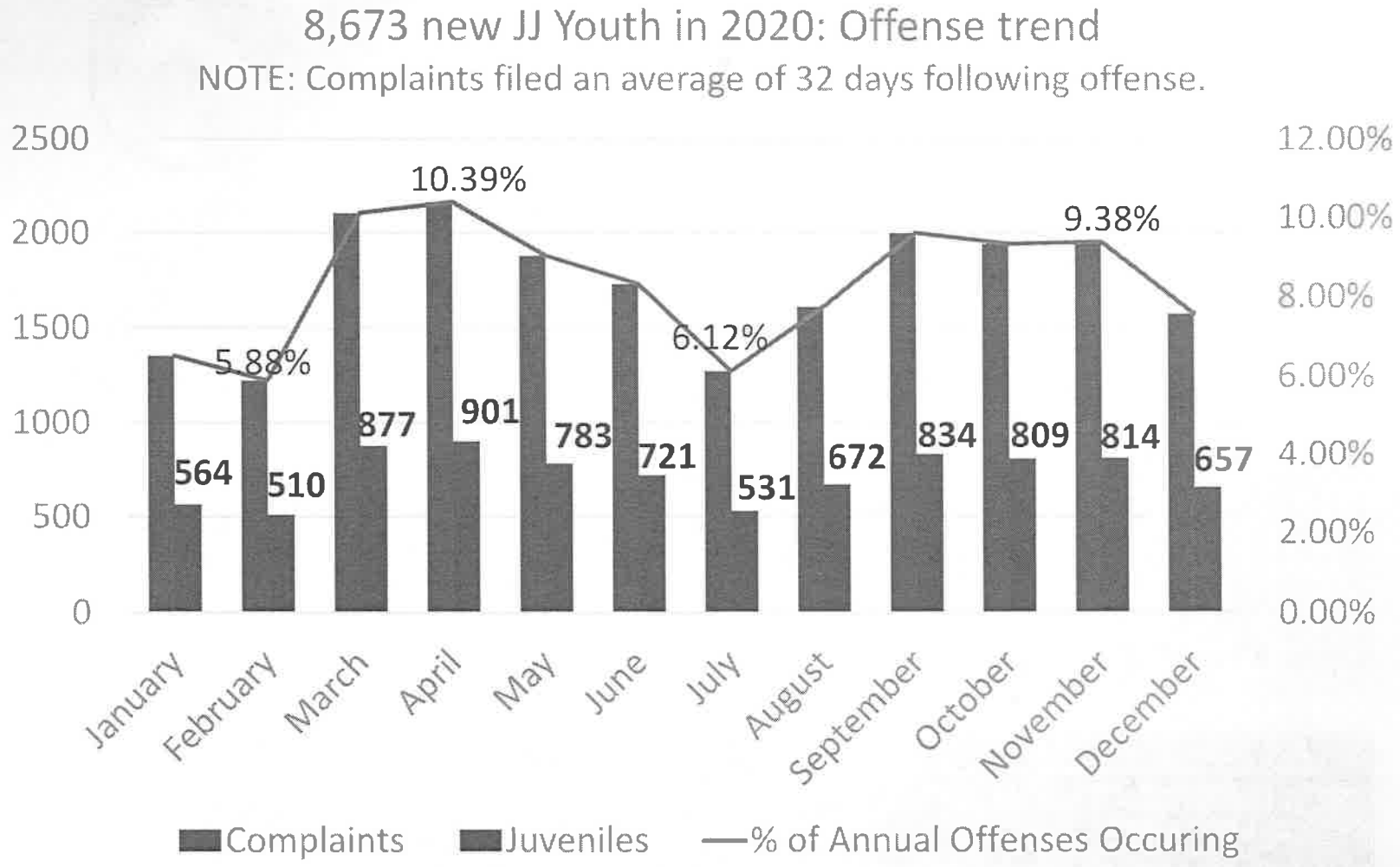
- At least one forum in each juvenile district
- Hosted by Chief District Court Judge and Chief Court Counselor
- To-date: approx. 475 attendees in 10 forums
- Scheduled through May 2018

AGENCY/ROLE	# OF ATTENDEES
AOC	8
CLERK OF COURT	22
COUNTY MANAGEMENT	17
DEFENSE ATTORNEY	16
DISTRICT ATTORNEY	25
JUVENILE JUSTICE	147
JUDGE	33
LAW ENFORCEMENT	103
LEGISLATOR	13
MENTAL HEALTH	17
SCHOOLS	32
SOCIAL SERVICES	14
UNKNOWN AGENCY/ROLE	28
TOTAL	**475**

Community Forums

- 6 Community Forums
- For community based providers
- Approximately 1,000 folks have signed up for these.

New complaints will enter slowly over time



Develop a specific implementation plan

- School Justice Partnerships (AOC group & JJAC subcommittee meeting)
- Training for Law Enforcement Officers & Sheriffs (first BLET update submitted and will be effective 7/1/18)
- 
  JJ Advisory Committee created (met 12/4/17, 1/11/18, next: 2/20/18)

Juvenile Jurisdiction Advisory Committee March 1, 2018 Report to Legislature

- Implementation Plan
- Costs
- Legislative, administrative, and funding recommendations
- Whether listed offenses should be excluded from juvenile jurisdiction

Develop a specific implementation plan



Victim Rights (Intake Letters)



Law Enforcement Access to Information (Consultations)

J-Wise Access (AOC Electronic Record)- on schedule

Greater Protections for Victims

Effective Oct. 1, 2017

Victims

- Must be notified of filing decision, reasons for the decision, and whether matter was closed, diverted, or retained;
- Must be notified of right to have prosecutor review filing decision under amended G.S. 7B-1704 and G.S. 7B-1705; and
- Under new G.S. 143B-806(b)(14a), DJJ must develop system for informing victims about status of pending complaints and right to review the filing decision.

Greater LEO Access to Information

Effective Oct. 1, 2017

- DJJ must begin tracking "**consultations with law enforcement**" that do not result in the filing of a petition per amended 7B-3001(a)
- Duty to share info. applies to:
  - Juvenile's delinquency record & consultations with LEO's
  - When requested for the purpose of assisting LEO's during the investigation of an incident that could lead to the filing of a complaint
- **Certain Limitations Apply:**
  - LEO's may not obtain records from JCC's
  - LEO's must maintain confidentiality of any information shared

Develop a specific implementation plan

JJ Advisory Committee submits interim report to NCGA (on schedule)

New Juvenile Jurisdiction BEGINS

Juvenile Gang Suppression (tool developed, GangNET consulted and approved)

Issues JJAC will make a recommendation on in the future (by 1/15/19 report):

1. Definition: "violation of the motor vehicle laws under State law"

2. Timeframes (e.g., probable cause hearing)

3. Gang Suppression method of proof and burden of proof [G.S. 7B-2508(g1)]

NORTH CAROLINA GENERAL ASSEMBLY

Raleigh, North Carolina 27601

March 7, 2018

MEMORANDUM

TO: Members, Joint Legislative Oversight Committee on Justice and Public Safety
FROM: Rep. James L. Boles, Jr., Co-Chair
Rep. Ted Davis, Jr., Co-Chair
Sen. Shirley B. Randleman, Co-Chair

SUBJECT: Meeting Notice

The **Joint Legislative Oversight Committee on Justice and Public Safety** will meet at the following time:

DAY	DATE	TIME	LOCATION
Thursday	March 15, 2018	1:00 PM	643 LOB

An agenda will be sent to members before the meeting.

Parking for non-legislative meeting attendees is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives. You can view a map of downtown by visiting http://www.ncleg.net/graphics/downtownmap.pdf.

If you are unable to attend or have any questions concerning this meeting, please contact Judy Lowe at davistla@ncleg.net.

cc: Committee Record _X_
Interested Parties _X_

March 15th JPS Oversight Committee Meeting Topics

- National Institute of Corrections (NIC) presentation on their report and site visit
- IDS uniform fee schedule for pilot project report
- IDS standards for indigency report
- AOC fee waiver report
- DPS draft bills

Notice state the meeting will last longer than normal

John Cotea~~t~~ to
Email to Judy. She send it out to Committee, etc.

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
Room 643 Legislative Office Building

March 15, 2018 1:00 P.M.

✓I. CALL TO ORDER

Chairs: Representative Jamie Boles Senator Shirley Randleman
Representative Ted Davis, Presiding

✓II. APPROVAL OF MINUTES

✓III. PRESENTATIONS

Opening Remarks by Chairs

✓National Institute of Corrections Security Operational Assessment Report: Pasquotank CI and Correction Enterprise and Nash CI and Correction Enterprise
Larry Reid, President
Correctional Consulting Services LLC

Uniform Fee Schedule for Indigent Defense Services Pilot Project
Thomas Maher, Executive Director
Office of Indigent Defense Services

Standards of Indigency
Brad Fowler, Research, Policy, and Planning Officer
Administrative Office of the Courts

Criminal Court Cost Waiver
Brad Fowler, Research, Policy, and Planning Officer
Administrative Office of the Courts

IV. COMMITTEE DISCUSSION

V. ADJOURNMENT

House Members
Rep. Boles (Chair), Rep. Davis (Chair)
Rep. Burr, Rep. Faircloth, Rep. Floyd,
Rep. C. Graham, Rep. Jackson, Rep. McNeill,
Rep. Rogers, Rep. Stevens, Rep. Turner,
Rep. Boswell (Advisory), Rep. Hurley (Advisory),
Rep. Jordan (Advisory), Rep. Pierce (Advisory),
Rep. W. Richardson (Advisory), Rep. Speciale (Advisory),
Rep. Steinburg (Advisory), Rep. Zachary (Advisory)

Senate Members
Sen. Randleman (Chair)
Sen. Barringer, Sen. Brown, Sen. Bryant,
Sen. Daniel, Sen. Davis,
Sen. Jeff Jackson, Sen. Lee,
Sen. Sanderson, Sen. Van Duyn,
Sen. Wells (Advisory)

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
March 15, 2018
Room 643 of the Legislative Office Building

The Joint Legislative Oversight Committee on Justice and Public Safety met on Thursday, March 15, 2018 at 1:00 PM. The meeting was held in Room 643. Members present were: Representatives Boles, Ted Davis, Randleman, Burr, Faircloth, Floyd, Graham, Jackson, McNeill, Rogers, Stevens, Turner, Boswell, Hurley, Jordan, Speciale, Steinburg, Pierce, and Zachary. Seven senators were in attendance.

Representative Ted Davis Jr. presided.

Representative Davis called the meeting to order, welcomed all in attendance, and introduced the House Sergeant at Arms Terry McCraw, Jim Moran, and Bill Bass And the Senate Sergeant at Arms Terry Edmondson and Frances Patterson.

Opening Remarks

Representative Davis asked for comments from Senator Shirley Randleman. Senator Randleman spoke about the subcommittee established in November to look at the Alcoholic Beverage Control Commission. The committee was not ready to report at the meeting, but members and the public would be notified when that report is posted on the committee's website. Members were also advised to review the report before the April meeting because the chairs wanted to include the report in the full committee report to be voted on.

Rep. Davis asked Rep. Boles for comments. Rep. Boles had no comments.

The minutes from the February 15, 2018 Committee meeting were approved as written on a motion from Representative Rena Turner.

NIC Report Presentation

Representative Davis introduced Larry Reid, president from the Correctional Consulting Services LLC to speak about the National Institute of Correction's Security Operation Assesment Report.

Mr. Reid thanked the members of the committee and explained his understanding of the importance of the work that the committee does for the safety of communities and the State of

North Carolina. Mr. Reid also thanked Secretary Erik Hooks and his staff for the opportunity to visit facilities in order to get a picture of the situation relating to prisons in North Carolina. Mr. Reid explained the beginning and mission of the National Institute of Corrections (NIC): To establish procedures evaluating practices and policies in prisons, thus determining, communicating, and emphasizing best practices. The NIC is also charged with reporting deficiencies in prisons. Mr. Reid outlined his and his team's experience and history working with and in prisons.

The first topic that Mr. Reid covered was security. He noted that the redundancy in security practices is important because when a major incident occurs, multiple procedures had to have failed. Mr. Reid spoke about the critical role that regular audits of procedures play in ensuring that policies are upheld. With that in mind, Mr. Reid's team found that the underlying policies at the prisons they visited were antiquated and in need of update. The team also looked at the staff, who were remorseful and concerned since recent events. However, during the visit, the team observed tenacity that "I hope you are proud of."

Mr. Reid spoke about how the report outlines policies and procedures. His first point was about standing operating procedures. These are procedures that inform a given facility about the department's policies as a whole. Then the facility develops its own policies to reach that standard. These facility-level policies are "post orders," which give staff guidance about how to support the department policy. Mr. Reid's report found that the standard operating procedures were not in line with department policies and that policies were outdated. The report also found that different facilities interpreted and implemented policies differently. Mr. Reid highlighted tool and key control, regular security and emergency response audits, staffing and training, and Correctional Enterprises relationships as areas that facilities need to improve on. He noted that staff training is good, but continuous staff training is needed. Mr. Reid also observed that some staff were required to come to work with little to no training. Correctional Enterprises staff were also not required to have any training, which troubled Mr. Reid because those staff sometimes supervise inmates. He said that non-security staff should attend training before coming on staff.

Mr. Reid moved on to his four "P's" at a given facility. The first were policies and procedures, which he spoke about before. The next was a physical plan. The importance of this is how the plan is constructed, what is emphasized, and what the deficiencies are. During the audit of both the Pasquotank and Nash facilities, Mr. Reid's team found that visibility and line-of-sight were not up to standard best practices.

Mr. Reid noted the importance of a security program. This program would serve to identify needs of policy changes at a given institution. This program should be comprehensive and detailed. In this process, an electronic system and maintenance are critical. During the visits, neither Nash nor Pasquotank had security systems up to standards. Mr. Reid also offered advice that leadership is critical in corrections. He and his team did not see supervisors actually supervising.

Overall, the report outlines that policies were outdated, standard operating procedures were not coherent, physical plans needed additional support, and correctional staff did not have a good working relationship with Correctional Enterprises, calling the relationship "strained." The report also observed that one officer was doing the work of three, but that the expectation for proficiency and excellence did not change. This allowed complacency to encroach, leading to shortcuts.

The report did note some good news, however. Mr. Reid offered that after the visits, security auditing training occurred, and staff are intent on not allowing another incident to occur. Management at the facilities was looking to implement a system of regularly auditing practices to ensure that the best ones are being followed. The team was impressed at the tenacity that staff in the prisons showed in order to prevent another incident. Mr. Reid mentioned that best practices are always evolving and staff should always be looking for ways to improve.

Representative Davis asked Mr. Reid for the most important recommendations from the report.

Mr. Reid gave the following list:

1. Policies: make sure policies are in line with the department's and leadership's. Including staff to develop the best policies is critical because they know what works and what does not.
2. Staff development: Training and modeling are important to ensure that staff are the best they can be.
3. Building relationships: Shift to shift, captain to officer, inmate to officer, Correctional Enterprises to others can facilitate a better work environment.
4. Security auditing: Emergency response should be up to standards, and staff should be experts and trained. Plan for the worst pray for the best. Routine training should be facilitated on how to respond to different emergencies.
5. Correctional Enterprises relationship: staff training and tool control should be more closely watched. High-risk inmates were working with and issuing tools, which is not standard.
6. Maintenance and equipment: The type of equipment, from radios to security cameras, was not up to standards to view areas needed.
7. Key control: It is critical to make sure that different kinds of keys (emergency and restricted) are issued to the right people. Correctional Enterprises staff had keys they shouldn't have (specifically for trained correctional officers).
8. Staffing: There was a large shortage. An analysis needs to look at what the current situation is and should happen yearly to find trends and impacts to prison operations. Shortcuts happen when those trends are found. Correctional Enterprises did not require a ratio, so the same amount of inmates would show up even if a staffer was off.
9. Personal alarm equipment: This equipment makes it easier for officers in emergencies to notify for an emergency response. Whistles are "old school" but work. Phones that are not on the receiver are usable, but staff have not been trained to use them.

Mr. Reid closed by noting that both Pasquotank and Nash facilities had high-quality staff. He and his team observed that the staff were hungry, tolerant, and professional, but that they simply need help from their leaders.

Questions

Representative Steinburg: Finds the report interesting and there are things to be corrected. In the report, there is no comment about leadership in the department of corrections in light of the events since last April. There are issues regarding the ranks in the department. His correspondence with staff across the state push back on the statements from the report. He finds that troubling. He will release information on some supervisors who are "sadists," treating their staff poorly. The report does not look at the very top as an important element. If those on the front lines don't trust upper management, it will be hard to get anything moving. What did you do in assessing relationships between those at the top and on the front lines?

Mr. Reid: We were asked to do an operational assessment. Not asked to evaluate upper management. We stayed within the scope of what was required of us. Corrections changes, and so does leadership. My sense is that the administration is on board to make things happen.

Representative Steinburg: You've been doing this for a while, and obviously you have vast experience. When you talked about the evolving management, administrations change, and it's like a turnstile with new people coming in at the very top, and not always but often. In your experience, how important is it for the folks at the very top to go out and visit institutions from the start? Do you think that's important for people to see and feel as though they can approach and talk with them? Is it more important that they want to feel like they can be heard? Should those people get out there right away? In our case there are 55 institutions. Is that a good way to get people on board?

Mr. Reid: Yes I would say that.

Representative Steinburg: I agree with your answer and that was not done with our Secretary.

Representative Graham: Are there national standards for corrections?

Mr. Reid: there is a national standard body, the National Corrections Association, but the standards are not required. Nobody has to do business the same way. The NCA certifies based upon standards, but it is not a requirement to adhere to those standards

Representative Graham: What I hear is that they need more support. Based on two facilities, there are 160 recommendations. If staff is working hard and doing the best they can, 160 recommendations is a lot. Where do we go from here for those who are putting their lives at risk?

Mr. Reid: Strategic planning is a critical component. For me it would be a strategic plan outlining the plan and how to accomplish that plan with input from all staff. Incrementally. Low-hanging fruit and inexpensive fixes would be a good start.

Representative Stevens: I have three areas to ask about. First, the fact that CE was making furniture w/ tools. Is that appropriate for high-risk inmates?

Mr. Reid: No. There are states who do that with experts, but does not endorse that.

Representative Stevens: Should we review everything every year or 2 or a massive look less frequently?

Mr. Reid: There was a massive effort initially, but every policy has an expiration date. You don't look at every aspect at one time.

Representative Stevens: Do you know where the supervisors were when the incidents occurred and when you were at the facilities?

Mr. Reid: The supervisors were at the facilities doing paperwork. There is so much paperwork that has become overwhelming. If vacancies were filled, paperwork would not be as big of an issue as it is now. If support staff were there, work would be spread more evenly.

Representative Stevens: Are the reports needed for state, national, or CYA requirements for lawsuits?

Mr. Reid: There are national best practices which are not unnecessary. They are done throughout the nation.

Representative McNeill: When we talk about support, people want to point at the Legislature. What most people want to talk about are small things like yard lights, fencing too close to inmate areas, bad communication equipment, not being allowed to work on gang problems. I think they aren't getting support from their supervisors. If we can rewrite our policies, what states have solved their staffing problems, how did they do it?

Mr. Reid: I don't know if any state would say that they are doing it right. There are lots of states struggling with staff retention. One issue may be how prisons are portrayed, so people would not say that it is a profession they would choose. Bad information is over reported and good information is underreported. I don't know of any prison that feels like a staffing issue has been rectified. Incremental strategic steps to identify what staff are needed has been done. Maintenance is critical to maintain equipment, and often there are not enough maintenance people.

Representative McNeill: Pasquotank was 25% understaffed when the incident happened. How long was that the case, or was it chronic?

Mr. Reid: We did not look at that.

Senator Van Duyn: If I ran an organization with 25% vacancy, I'd look at the compensation package. The report seemed to lack the employees' perspective. Simple things like uniform changes and more complex things like incident reporting systems seemed to be unfair to staff and lenient to prisoners. Will we be able to address these issues?

Mr. Reid: I hope so, and believe so in talks with the leadership. Our goal was to look at the security operations for their efficacy and any contributing factors. We believe we have done that. The scope will expand for the state of North Carolina now. Now you have hard security things identified. The low hanging fruit, uniforms, etc. Now it is up to the department to change those things. If there are other needs, the NIC will continue to support the reconstruction

Senator Van Duyn: Did the conversation of staff come up at all?

Mr. Reid: No

Senator Randleman: I know you looked at internal controls leading to the incident. In your review of the 2010 court case regarding Correctional Enterprises, would you say that we have the latitude to change the policy that closed custody inmates would not be eligible to work for CE?

Mr. Reid: I would surely hope that the apartment has that ability.

Senator Randleman (to chair): Could staff look at the case?

Representative Davis: Yes. Staff could you take a look into that?

Representative Turner: Please define staff.

Mr. Reid: Everyone who works in the prison environment.

Representative Turner: is there a system to help take less time on paperwork?

Mr. Reid: There is automation that the state could take a look at to be less costly and take less space. To me, it is supervision.

Representative Boswell: Did you actually see if officers have the equipment (batons, pepper spray, etc.) that they needed to make sure they were safe?

Mr. Reid: Not all but most.

Representative Boswell: is there something we can do to make sure everyone has everything immediately?

Mr. Reid: My understanding is that the department is moving towards that.

Representative Boswell: Is there federal money available?

Mr. Reid: I do not know.

Representative Boswell: Can we find out?

Representative Davis: That would be something to be taken up with the department.

Senator Randleman: We have had a significant list submitted to us for the budgeting process to accommodate funds for devices. Hopefully have something in the short session.

Senator Wells: Am I correct that the first priority is to establish best practices?

Mr. Reid: Yes.

Senator Wells: How complicated is it to get good policies in place?

Mr. Reid: I know that the department is looking nationwide at best policies.

Senator Wells: What is a reasonable time expectation for those policies?

Mr. Reid: That is hard to say, but 30-60 days would seem sufficient.

Senator Wells: 30-60?

Mr. Reid: I don't know how many policies the department has, but I know if the strategic plan is done they can know when it will be done.

Senator Wells: If I were in charge, we would get that done in 30 days.

Representative Speciale: I am concerned when we talk about personnel shortages. When we look at the numbers, what is the percentage of correctional officers who aren't on the floor?

Mr. Reid: I believe those numbers are representative of correctional staff.

Representative Speciale: That contradicts what you said about "all staff."

Mr. Reid: The question that I heard was all staff. Sorry for misunderstanding. Our focus was on correctional officer cadre.

Representative Speciale: We're talking about 25% vacancy on the floor. Not including leave.

Mr. Reid: Vacancies are positions that are not filled. It does not include leave.

Representative Speciale: When I look at a facility, what is the percentage we are short for the day-to-day people?

Mr. Reid: One way to look at that is overtime. Do we have enough staff to operate? It will require further inquiry. I would look at overtime accrual. Our charge was security operations.

Representative Pierce: I have 6 facilities in my district. I like to visit the facilities and staff. Sometimes announced sometimes unannounced. Some of the facilities are in disrepair. At some point, we need to visit facilities as a committee and allow staff to be honest.

Representative Faircloth: Even if inmates are in prison, they are still a human beings. In most cases, a prisoner's complaint was that prisoners don't respect guards because guards don't respect them. Does that philosophy play a part in prison management?

Mr. Reid: That relationship is very important in managing prison populations. We are the parents, so how we react is how inmates react. I saw good relationships between staff and inmates. Sometimes, maybe the relationship was too comfortable. There is a middle ground to be found. The job of a prison is to reintegrate inmates into the community. The healthier the environment, the more productive the prison will become.

Representative Faircloth: There are inmates who have made up their mind not to behave and others who are not lost and behave. Some inmates were given wrong explanations about their expectations for length of time served by staff.

Mr. Reid: This is important. I agree that people need to know their expectations. There is late information during in processing. Discipline also impacts length of time. Case managers have inmates' files and should notify them about changes. There should also be a reentry plan. Every time something happens, that plan changes.

Representative Floyd: Most facilities are far away from urban centers, leading to staffing issues. Do you agree with that?

Mr. Reid: I agree with that. This is not only a NC problem.

Representative Floyd: If you started a new facility today, would you change that practice?

Mr. Reid: I would have high-risk people closer to populous areas. This is because there are more resources and response capabilities. I am not sure how quick the response was at Pasquotank.

Representative Floyd: Some officers have been concerned about fence location and lack of cameras. Sometimes people drop off packages at night to be picked up by an inmate later.

Mr. Reid: That is a concern. There are some facilities that were not facilities originally. They are close to the highway and used for housing the inmate population.

Representative Floyd: How many people can supervise a facility without a radio?

Mr. Reid: That supervisor gave up a radio to a supervisee. There should be a surplus of radios to make sure everyone has one, and if one breaks it can be replaced.

Representative Floyd: An officer giving up a radio puts himself at risk. The state of repair and maintenance at a facility also makes officers unsafe

Mr. Reid: That is correct.

Representative Floyd: Every camera that I have seen is pointed downward. If shelves are high, it's hard for the camera to see everything. IF you are 25% short, you can't help from having overtime. We have 160 recommendations – have you seen any changes towards those recommendations?

Mr. Reid: The department has released a document about their steps towards those changes. It wasn't an instantaneous exchange of information. This report was sent in January.

Representative Floyd: So you have seen corrections?

Representative Davis: Secretary Hooks and Ken Lassiter will come forward later with that information.

Mr. Reid: Stacking boxes near cameras in a store room is not something we support.

Representative Floyd: 95% of those who go to prison will return to the population. We have been trying to help individuals not return to prison. This has helped a lot. We have to do more to give a pathway to employment.

Representative Boles: I know there is a difference between policies and standards. In the facilities you went to, was there a policy of what percent the facility can operate at a deficiency of employees? Were the facilities adhering to that policy?

Mr. Reid: There's no policy for that. There is a staffing analysis that details the post, the need for that post, how many inmates that post can supervise, and the relief factor. NC can come to a number of staff required. The analysis can determine: Number of staff required based on class of inmate. The higher the class, the more staff are needed. Physical plant design is also important. What kind of facility is it? State of the art gives a good line of sight. An older one has more blind spots. Who are we putting in which prisons?

Representative Boles: Were the facilities within compliance?

Mr. Reid: Nash was. It had shortages but 11 or 12 new hires with 15 vacancies. Pasquotank was not up to standards to fully operate.

Representative Boles: That is just the two facilities?

Mr. Reid: Correct.

Representative Hurley: Did you actually observe Correctional Enterprises inmates working or is that shut down until a decision can be made?

Mr. Reid: It was shut down at Pasquotank, but they were working at Nash.

Representative Hurley: Do you know if anyone was taken off at Nash after the incident?

Mr. Reid: I do not.

Representative Hurley: I am hearing that many prisoners in for nonviolent infractions are not allowed to do anything now.

Representative Steinburg: Would it be reasonable to assume that the problems at these two facilities exist at others?

Mr. Reid: We should plan for the worst and pray for the best. The department is developing a security audit program that will facilitate the development to get all facilities up to speed. That will hopefully indicate emerging issues across the state.

Representative Steinburg: Did you hear from staff about a number of situations with people near retirement who are being sent from min-sec to a max-sec prison for being uncooperative with management?

Mr. Reid: We did not. We heard mostly that staff was energized and motivated. Also remorseful and sorrowful. Nobody wanted another incident to happen.

Representative Steinburg: I believe that I understand: When we look at shortages, that number is deceptive because it includes anyone not separated from the prison yet, even if they are taking sick or workman's compensation. These people are still considered staff even when they are not there. Did you know that?

Mr. Reid: Typically those numbers represent allocated positions. When someone is out on sick, that is a funded position. They aren't physically there but still employed.

Representative Steinburg: So those numbers being reported are not accurate and likely higher. I don't think the committee has heard from the families of those who recently died on the front lines. They have felt intimidated out of coming forward. Other officers have felt intimidated out

of coming forward. I believe that studying any problem within the prison system will not be complete until we hear from the rank-and-file to know exactly what is going on.

Representative Stevens: Following up on Senator Randleman's question about the lawsuit, can we change the nature of the prison so that hardcore prisoners cannot be a part of Correctional Enterprises. I just want staff to look into that.

Senator Randleman: Representative Floyd, the digital camera is on the list submitted by the department. Representative Pierce spoke about visiting prisons. I go to prisons to volunteer. Every prison has a Community Resource Council so that those who do not work at the prison can still have an idea of what goes on there. We set up the comment page, and staff is checking the comments we have received online. Referring to John Poteat.

Mr. Poteat: There were 2 comments received since last week, and I am checking with ISD.

Representative Graham: Did the 2 facilities have the same standard operating procedures?

Mr. Reid: In title yes, but in practice no.

Representative Graham: You talked about morale and vacancies. During your process, did you have any discussions about incentives to keep people in important positions?

Mr. Reid: No we didn't.

Representative Graham: Do you have a thought about that?

Mr. Reid: Officers should feel valued. There are systems trying to increase money and creating specialized training for risk. We also see promotions working.

Representative Graham: When you started, you were not trying to observe job performance, correct?

Mr. Reid: Correct.

Representative Graham: Simply standard operating procedures?

Mr. Reid: Correct.

Representative Graham: We as a body have known that there are vacancies. It is incumbent upon us to support those putting their lives on the line through incentives and salaries or whatever means necessary. The report does not address some of those things it should.

Representative McNeill: Having done staffing analysis and relief factor, when Pasquotank was staffed, did they use relief factor? Can staff look at staffing analysis and determine if 25% is accurate or not?

Representative Floyd: Thank you to the committee for taking steps towards addressing a culture. The secretary can't change culture overnight. The report gave good advice, but it won't happen overnight. It is a step towards the secretary changing the culture.

Secretary's Presentation

Representative Davis thanked Mr. Reid for his work on the report. Rep. Davis then asked for Secretary Erik hooks and Kenneth Lassiter to come forward for their presentations.

Representative Davis thanked Secretary Hooks and Mr. Lassiter for coming. He gave both the opportunity to respond to Mr. Reid's presentation.

Secretary Hooks thanked the committee for welcoming him to make a presentation. He promised that he would never make excuses for what has happened in the past. He emphasized his commitment to finding solutions for the department. Secretary Hooks mentioned the fact that he offered action items at the January meeting of the committee. He noted that the department would never be able to ease the pain of the families of those who lost their loved ones. Secretary Hooks also informed the committee that he and multiple members of his staff have visited multiple prison facilities. He highlighted that the department has targeted $8 million to go toward equipment and infrastructure.

Secretary Hooks invited Director of Prisons Kenneth Lassiter to the podium.

Director Lassiter informed the committee that the department had 55 prisons 1 transition facilities statewide. At the time of the meeting, there were 2100 staff on duty. In all, there were more than 36000 felons in prison, and Director Lassiter wanted the committee to know who staff are working with. Director Lassiter informed the committee that the department used existing funds to purchase batons, as was recommended in the report. He also informed the committee that the department was increasing training and recruiting positions both for military and nonmilitary personnel. Referring to the backlog of staff needing training, the numbers went from 700 on the backlog to 50. These 50 could not be scheduled for training yet. Director Lassiter noted that every prison has its own culture and that the department had started working with community colleges for supervisory, field, and officer trainings. He also noted that the NC Sheriff's Association would begin assisting with rounds. The committee was informed that all 17 Correctional Enterprises operations have been evaluated. If their policies conflicted with facility policy, that has been resolved regarding keys and tools division-wide. The department also established a Security Evaluation division to make unannounced security audits. The department also has started coordinating with emergency management in the event of another incident. An online application will be able to notify emergency services about an incident, much like that used in schools. The NIC will give guidance on the inmate classification system

for custody, which is 8 years old. On June 1, no close custody inmate will be allowed to use tools. The resistance t-shirts ordered this year have shipped and are starting distribution soon. The department started the implementation of $1.5 million for camera updates. After consultation, hiring processes will be changed soon. In addition, more training will be given to 300 officers. A reform board was established, and March 20 will be the first meeting. A strategic plan group was created. Five committees of people from all aspects of the prison environment have already begun working. Regarding the recent attacks in prisons, Director Lassiter noted that Pasquotank was operating at 25% vacancy including the release factor. The population at Pasquotank was also reduced by 20% before the attacks.

Questions

Representative McNeill: What happens for those just hired as a correctional officer?

Mr. Lassiter: If you are hired today, you will be in an orientation, then in a classroom for four-week stints. They will be trained for up to two years until you are evaluated and approved to be a field correctional officer. This is new for the agency.

Representative McNeill: If they go through orientation, it seems if you put them into school without any exposure to inmates, that is a big investment.

Mr. Lassiter: It is a calculated risk that we are getting people into training much quicker. We are being proactive in the screening process to onboard the right people.

Representative McNeill: I hope you would keep up statistically the people who say that corrections aren't for them.

Representative Steinburg: Are there any written or unwritten protocols to discourage folks from rank and file from talking to the press or their legislator about things that the public needs to see? There are a lot of people who want to talk about these things.

Secretary Hooks: I have been in some meetings where people have indicated what you said is the case. I have made it abundantly clear in public: Absolutely not. Many others have been talking to people, and I fully encourage these people to engage with their legislators. Employees are not fully empowered to talk on behalf of the agency, but that doesn't mean they can't speak with their legislator. Absolutely not.

Representative Steinburg: Would you have any problem if the committee brought employees of the system to answer questions directly about things they have seen or witnessed?

Secretary Hooks: That is outside of my purview, and I defer to the chairman.

Representative Steinburg: Ideologically do you think that is a good idea?

Secretary Hooks: That decision is in the hands of the chair, and if he sees that as appropriate, then I support that.

Representative Davis: Mr. Lassiter will you please respond?

Director Lassiter: The answer is no. The prison's website says that.

Representative Steinburg: Whether you have been on video or not, there are people who feel they cannot speak openly.

Representative Floyd: Director Lassiter has agreed to come to Fayetteville on April 23 and speak with employees there. He will hear a mouthful there. That takes a lot.

Representative Burr: Talking about the tragedies in the last year, there was another prison in the state, you can search Lanesboro. They are very understaffed, and it is causing a ripple effect. Staff are being pulled from Albemarle to another prison. People are retiring, and you can see the effects of that. What steps are being taken to clean that up?

Secretary Hooks: Excellent analysis. This has been going on for many years, and I saw that in my experience with the SBI. These have been tough choices, and this is something that Mr. Lassiter has been involved with.

Director Lassiter: We have heard the concerns from Albemarle's staff. Any assault in our prison is not acceptable. We are looking at a lot of strategic things to do with that facility.

Representative Burr: It seems to be the population, is everything being evaluated to lower the rate of violence at the prison like removing gang leaders?

Director Lassiter: Good analysis, and that is one of the first strategic things we do. We place them in restricted housing. I think with the new plan, it will make a good impact.

Secretary Hooks: I have been engaged with the FBI and US Attorney's office and look forward to staying involved with them.

Representative Turner: Would you say that the problem with communication and communication devices is improving? And have new staff been hired to bring down that 25% number?

Director Lassiter: I want to get you the right numbers, but their population is still reduced at Pasquotank. Regarding radios and equipment, we have partnered with the state highway patrol on some initiatives to look at how to best get signals through the building.

Representative Turner: You talked about the person helping you with hiring at the Department of Revenue. Are they just working with the mechanics or are they helping with recruiting?

Director Lassiter: I would say that they are streamlining. There have been too many people historically, so they are taking out steps.

Representative Turner: How often does the inter-disciplinary committee meet?

Director Lassiter: They were just established, and Tracy will be able to help.

Tracy Little: We have developed the strategic plan framework, and the committees are scheduled to begin meeting the week of March 19.

Representative Turner: Do you know if there have been staff members moved to areas for the purpose of looking better for visits or inspections?

Director Lassiter: Superintendents only manage the facilities, so no. We want to truly reflect what is happening day in and day out.

Secretary Hooks: In addition to streamlining hiring, we had a recruitment event with the National Guard at the beginning of this month. That is launching us into a much larger recruitment event at the fairgrounds in April. These are noble professions, and we are trying to get the best of the best.

Representative Speciale: Thank you to Director Lassiter. I brought some issues to the superintendent from a prison that I visited, and they are being addressed, so thank you for that.

Secretary Hooks: That lends in to what we have spoken about the culture. We have great people who have gotten used to some things and don't speak up about what can be improved. If there is an issue, you need to push that information up, and we will address those in any way.

Representative McNeill: I believe within your custody levels, an officer is paid more through custody levels. If someone is moved for 29 days to closed-custody, do they not get closed-custody salary?

Director Lassiter: That is absolutely a morale issue, and it's only used when a nearby facility is understaffed. Three years ago this body approved Correctional Officers I, II, and III. There was no mechanism to have a push code, and we are asking for assistance with that from HR. It is almost complete.

Representative Davis asked for further questions, and there were none. He thanked Secretary Hooks and Director Lassiter for their presentations.

The next item was the presentation about the 2018 Report on Indigency Standards. Representative Davis invited Brad Fowler to the podium to present.

Indigency Standards Presentation

Mr. Fowler explained the presentation in Attachment 1.

Indigency Standards Questions

Representative McNeill: Outside of the indigency standards, what is the threshold for someone to be eligible for an attorney?

Mr. Fowler: Their liberty has to be at stake.

Criminal Cost Waivers Presentation

Mr. Fowler explained the presentation in Attachment 2.

There were no questions about the Criminal Cost Waivers Presentation.

Model Fee Schedule Presentation

Thomas Maher explained the presentation in Attachment 3

There being no further business, the meeting adjourned at.

Model Fee Schedule Questions

Senator Barringer: Regarding Slide 14, does the opt out from hourly fees apply to appeals?

Mr. Maher: The fee schedule applies to District Court. If a parent is appealing from district court, the lawyer would not be paid under the fee schedule.

Senator Barringer: How am I compensated in an appeal if I have just lost a case in District Court?

Mr. Maher: The appeal would be to the Court of Appeals, and you would not carry the case forward. There is a roster of attorneys, and there is also a roster of appellate defenders. I believe the rate for appeals is the same.

Senator Barringer: I have heard that those cases have been brought on appeal just because there is an hourly rate. That just isn't appropriate. Do you have any data about how many of these cases lost at District Court are brought to appeal? Do you have the success rate?

Mr. Maher: I'm sure we can get that to you.

Senator Barringer: Is there not concern about an incentive for inefficiencies? Is there data about that? These cases need to be solved as quickly as possible.

Mr. Maher: I understand that multiple attorneys have to be in court, and when they are paid a flat fee, they are less inclined to do it. If we were paying a more substantial rate, there would be more incentive, but at $55 an hour there is not much incentive.

Senator Barringer: I certainly hope so but you also mentioned that generally speaking there is a group of inexperienced attorney, and $55 was better than $0. I am very concerned with drawing out the child protective proceedings. Perhaps we could do a flat fee based on a better hourly rate. We cannot have incentives to draw things out. I have heard anecdotally that there are people taking advantage of this process.

Mr. Maher: I should point out that we do non-hourly pay through contracts. The attorneys are generally happy with that without there being any incentive to draw it out longer than necessary.

Senator Barringer: I welcome the opportunity to look at those approaches.

Representative Hurley: Regarding Slide 9. It has the *inaudible* twice. Is that per hour or per case?

Mr. Maher: It is not per hour. These are for dispositions. That is one that we have gotten a fair number of complaints, so we are interested in seeing how it works.

There being no further business, the meeting adjourned at 4:50 PM.

Representative Ted Davis Jr.
Presiding

Kerry Guice, Committee Clerk

Attachment



National Institute of Corrections

Security Operational Assessment

North Carolina Department of Public Safety
Raleigh, North Carolina
November 6 – 10, 2017

Pasquotank Correctional Institution and Correction Enterprise
&
Nash Correctional Institution and Correction Enterprise

Disclaimer

DISCLAIMER

RE: NIC Technical Assistance No. 18P1002

This technical assistance activity was funded by the Prisons Division of the National Institute of Corrections. The Institute is a Federal agency established to provide assistance to strengthen state and local correctional agencies by creating more effective, humane, safe and just correctional services.

The resource persons who provided the on-site technical assistance did so through a technical assistance agreement, at the request of the North Carolina Department of Public Safety, and through the coordination of the National Institute of Corrections. The direct on-site assistance and the subsequent report are intended to assist the agency in addressing issues outlined in the original request and in efforts to enhance the effectiveness of the agency.

The contents of this document reflect the views of Larry E. Reid, James Upchurch, Joan Palmateer, Steve Turley and Rob Jeffreys. The contents do not necessarily reflect the official views or policies of the National Institute of Corrections.

Contents

Disclaimer 2
Executive Summary 5
I. Purpose 7
II. Objectives 7
III. Project Approach 8
IV. Assessment Team Members 10
A. Larry E. Reid 10
B. Joan L. Palmateer 10
C. James R. Upchurch 11
D. Steve Turley 12
E. Rob Jeffreys 12
V. Brief Facility Description 13
A. Pasquotank Correctional Institution and Correction Enterprise 13
B. Nash Correctional Institution and Correction Enterprise 13
VI. Supplemental Sources Provided 14
A. North Carolina Department of Public Safety Prison Division Policies 14
B. Correctional Institution Standard Operating Procedures 14
C. Additional Documents Reviewed 14
D. Immediate Changes Initiated by North Carolina Department of Public Safety 15
VII. Initial Impressions 15
A. Morale 16
B. Supervisory Presence 16
C. Culture 17
VIII. Security Operations Assessment 17
Department Policies, Standard Operational Procedures 17
Enterprise Inmate Internal Movement 18
Inmate and Facility Searches 23
Main Entry 25
Emergency Preparedness 28
Key and Lock Control 29
Physical Plant 36
Maintenance Request/Work Order Program-Nash CI 40

Previous Security Audits 40
Policy, Procedure, Standard Operating Procedure and Post Orders 47
Post Orders 48
Physical Plant 48
Training 50
Maintenance Request/Work Order Program-Pasquotank CI 50
Previous Security Audits/Inspections 52
Tool Control Document Review Pasquotank and Nash 53
Tool Control Staff Practice Pasquotank and Nash 56
Class "A" Tools Classification, Storage, Issue and Use. 56
Tool Control Officer Training 58
Interview, Monitor and Training of Tool Control Officer 59
Storage and Tool Room Overview 59
Tool Control Facility Maintenance Shops 60
Welding Shop Tool Control and General Condition 61
PCI Maintenance Tool Room 61
PCI Welding Shop 61
Overall Staff Practice Recommendation 62
Hazardous Material Control; Staff Practice Review Pasquotank CI, Nash CI and Correction Enterprise 63
Staff Personal Body Alarm System 66
Two-Way Radio System 67
The Open Microphone Feature (Hot Mic) 68
Telephone off Hook Landline Feature 69
Inmate Work Assignment 70
Correctional Staffing 72
Overall Review of Department Policy, Standard Operating Procedures and Post Orders 74
Overall Review of Security Inspections and Security Auditing 76
Overall Review Staff Training 77
Conclusion 77

Executive Summary

On October 12, 2017, the North Carolina Department of Public Safety (NCDPS) suffered an incredible loss. Two corrections employees were murdered, three were critically injured, and several more suffered injuries during an attempted escape from Pasquotank Correctional Institution in Elizabeth City, North Carolina. On October 20, 2017, North Carolina Department of Public Safety Secretary Erik A. Hooks, requested technical assistance from the National Institute of Corrections to conduct a security operational assessment of Correction Enterprises operations at Pasquotank Correctional Institution (PCI) and Nash Correctional Institution (NCI).

The security areas identified in this report were examined by a process of document reviews, staff interviews, observations of staff performance and security operations assessment based upon nationally accepted best security practices for prisons. It is important to note the overarching security areas in this report are related and each area has a dynamic impact on one another. This report details the specific observations and recommendations identified by the assessment team.

Department Policies

The North Carolina Department of Public Safety institution security policies are outdated and not succinctly written. The department's policies did not have supporting forms attached. Correction Enterprises (CE) policies contained security inaccuracies, and were incongruent with the department's policies. The overarching results created inconsistencies in the application of security practices in Pasquotank and Nash Correctional Institutions, as well as the Correction Enterprises security operations. Security policies are intended to provide standardized procedures for a variety of security systems that are complex, comprehensive and integrated. These systems when properly employed and monitored are designed to prevent violence, escapes, and to control contraband. Policy and procedures are significant, as they establish the desired performance standards for all staff to receive training and follow.

Staffing

The staffing vacancies reported by North Carolina Department of Public Safety Executive Staff was 25% at PCI, and those reported for NCI were 16 staff vacancies with 15 of the positions potentially filled. At PCI, the facility was trying to maintain a normal prison operation with a 25% deficient in staffing. PCI's use of overtime has produced staff burnout, complacency and taking of shortcuts.

Collaboration between NCDPS and CE

The working relationship between NCDPS and CE appears to be disconnected. The communications between the agencies are limited and the security procedures and operational practices in CE do not meet correctional security standards.

Staff Personal Safety Equipment

There is an absence of personal safety equipment available at both institutions and CE plants for correctional, CE employees and volunteers. Personal safety equipment and training is a critically important safety feature for everyone who work in a prison setting.

Staff Training

The initial and refresher staff trainings are vitally important for all employees who work in prisons. Although CE staff directly supervise inmates, they do not experience academy level training to learn the fundamentals of safety and security measures, policies, procedures and best practices. Additionally, we found correctional staff at PCI lacked sufficient training in current national emergency response techniques developed by FEMA's National Incident Management (NIMS), Incident Command System (ICS).

Inmate Work Assignment

Historically, inmates at all custody levels of security were authorized to work in the Correction Enterprises Plants. Pasquotank Correctional Institution is one of the department's close custody institutions, housing and managing the department's highest risk inmates identified by the classification system. Prior to the October 12, 2017 incident at PCI, close custody inmate workers were authorized to work for the Correction Enterprises Sewing Plant.

Security Auditing and Inspections

The primary purpose for conducting security audits is to identify weakness or deficiencies in security operations, so that corrective actions can be taken to strengthen them. Although North Carolina Department of Public Safety conducts security audits, inconsistencies were identified in how comprehensively the security audits are conducted, and the security audit results reviewed raised concerns about the quality of training the department's security auditors received.

Recommendations for Moving Forward

The specific and detailed recommendations contained in the Security Operations Assessment are designed to identify and support the steps necessary for North Carolina Department of Public Safety and Correction Enterprises to move forward. While the report revealed serious and multifaceted issues within the security operations for both Prisons and Correction Enterprises Operations, we are confident the issues noted can be resolved with the commitment already demonstrated by the leadership of the North Carolina Department of Public Safety and Correction Enterprises.

We would like to thank the North Carolina Department of Public Safety and Correction Enterprise for the opportunity to work with their dedicated staff following the horrific incident on October 12, 2017. We also appreciate the openness, candor, and enthusiasm by everyone we encountered. The openness we experienced was instrumental to the assessment team's work and to the overall outcomes of this report.

I. Purpose

The North Carolina Department of Public Safety (NCDPS) contacted the Prison Division of the National Institute of Corrections (NIC) to request technical assistance in conducting an independent security operational assessment, following a major incident that occurred at the Pasquotank Correctional Institution (PCI). On October 12, 2017, four inmates attempted to escape from the Correction Enterprises (CE) Sewing Shop located at PCI. The escape attempt resulted in the death of four (4) employees and several staff injuries. The NCDPS submitted a request to NIC for an independent detailed security operational assessment of Pasquotank Correctional Institution and Nash Correctional Institutions (NCI), as well as the Correction Enterprises Operations at each facility. This is the second incident, resulting in the loss of life of a correctional employee at a correctional institution in less than six (6) months at the NCDPS.

The security operational assessment is not an investigation of any specific incident(s) that had occurred. This assessment is intended to determine if there are existing deficiencies and/or gaps in the security operations, policies, procedures, and operational practices that , could potentially contribute to future safety and security risks for employees who work in prisons, inmates, and the public.

II. Objectives

In collaboration with the National Institute of Corrections, the following objectives were identified for review.

- Conduct a safety and security operational assessment of Correction Enterprises at both Pasquotank and Nash Correctional Institutions.
- Review and assess the effectiveness of North Carolina Department of Public Safety, Division of Prisons and Correction Enterprises policies, procedures, standards, practices and protocols related to operational safety and security. Evaluate the level of compliance at Pasquotank CI, Nash CI and Correction Enterprise with the department's written security policies, procedures and policies and desired practice.
- Assess the effectiveness and efficiency of North Carolina Department of Public Safety Prison Division's security policies, procedures as it relates to tool and key control, staff personal safety, staff training, searches, control and storage of non-lethal equipment; communications and alert systems, control center operations; controlled movement; hazard material management, inmate work assignments; key control management; physical plant; standard operating procedures; security inspections; tool and sensitive items control, emergency management plans and response. (Incident Command System)

- Review emergency communication/notification systems including availability of radios, personal body alarms, telephone off-hook alarm, public address system and door alarms.
- Review correctional officers staffing and training.
- Review Correction Enterprise Employee Training for those employees who have direct contact with inmates.
- Review the frequency and content of security inspections and security auditing.
- Review any security practice or function, including staff deployment practices during emergencies.
- Review the operational and working relationship with Division of Prisons and Correction Enterprise.
- Review staff and employee accountability processes.
- Observe staff and inmate interaction.
- Assess overall staff wellness and morale.
- The methodology for the assessment will be based upon nationally recognized security "Best Practices "identified by National Institute of Corrections and The Assessment Team's, Professional Opinions.

III. Project Approach

On November 6, 2017, the NIC Assessment Team met with members of North Carolina Department of Public Safety Executive Team, Correction Enterprise Executives, and Pasquotank Correctional Institution Administrative Management Team at Pasquotank Correctional Institution. Participants in the briefing included:

- Erick A. Hooks, Secretary, North Carolina Department of Public Safety
- Tim Moose, Deputy Secretary, Adult Corrections and Juvenile Justice
- Pamela Cashwell, Chief Deputy Secretary, Professional Standards and Policy and Planning
- Jane Ammons Gilchrist, General Counsel, North Carolina Department of Public Safety
- Kanawha Perry, Director, Office of Special Investigations
- Karen Brown, Director, Correction Enterprises
- Robert Leon, Deputy Director, Correction Enterprises
- Kenneth Lassiter, Director, Prisons
- Annie Harvey, Deputy Director, Prisons
- Felix C. Taylor, Administrator 1, Pasquotank Correctional Institution

- Colbert Respass, Assistant Superintendent Custody Operations, Pasquotank Correctional Institution
- Ronald Taylor, Prisons Chief, National Institute of Corrections
- Steven Turley, Consultant, National Institute of Corrections
- Rob Jeffreys, Consultant, National Institute of Corrections
- Joan Palmateer, Consultant, National Institute of Corrections
- James Upchurch, Consultant, National Institute of Corrections
- Larry E. Reid, Lead Consultant, National Institute of Corrections

The briefing included introductions, discussion on resources needed to support the assessment process, identification of areas to be assessed and finalizing of the assessment team's work schedule and logistical support. Upon completion of the briefing, the attendees participated in a comprehensive tour of the Correction Enterprises Sewing Shop at Pasquotank Correctional Institution.

On November 8, 2017, the NIC Team conducted a briefing with North Carolina Department of Public Safety Executives and Nash Correctional Institution Administrative Management Team in attendance were:

- Pam Cashwell, Chief Deputy Secretary
- Mike Daniska, NCDPS Policy and Planning
- Kenneth Lassiter, Director of Prisons
- Robert Leon, Deputy Director, Correction Enterprise
- Carlton Joiner, Deputy Director
- Shelia Mitchell, Regional Director
- Johnny Hawkins, Correctional Administrator I
- Bryan L. Pulley, Correctional Assistant Superintendent IV (Custody)
- Melvin Green, Administrative Officer III
- Jeff Perry, Facility Maintenance Manager I

Upon the completion of the briefing, the attendees participated in a comprehensive tour of the Nash Correctional Enterprises, Print and Optical Plants. At the conclusion of each institutional tour, the NIC Team was provided with the Correctional Institution's policies, procedures, staffing patterns, standard operating practices (SOP), audit reports, and other documents.

IV. Assessment Team Members

A. Larry E. Reid

Larry has an undergraduate degree in Psychology and a Master of Science Degree in Criminal Justice Management from Columbus University. Larry is an independent correctional consultant for Crime Justice Institute (CJI). Larry also provides consulting services for the Criminal Justice Institute, Association of State Correctional Administrators (ASCA), the National Institute of Corrections (NIC) and other organizations. Larry also provides expert witness, consultation and training for correctional jurisdictions and other criminal justice entities. As a consultant and trainer for the National Institute of Corrections, Larry has worked nationally and internationally with jurisdictions on facility operational plans; contemporary programs for high risk and segregated populations; staffing analysis; critical incident reviews; policy and procedure development; organizational management; and correctional security programs.

Larry began his career in corrections with Colorado Department of Corrections, as a Correctional Officer in 1987. After holding a number of positions such as case manager, shift commander, security and programs manager, Larry was promoted to the position of warden in 2001. He served as warden for Colorado State Penitentiary Administrative Segregation 2002-2007 and Centennial Correctional Facility Close Custody 2003-2007. From 2007-2010, Larry worked at San Carlos Correctional Facility Mental Health Facility, LaVista Female Correctional Facility and the Trinidad Correctional Facility. From 2010 to 2014, Larry worked at the central office of the Colorado Department of Corrections, as the Assistant Director of Prisons prior to being appointed as the Deputy Director of Prisons. In his departmental executive leadership role, Larry was responsible for prison operations management oversight, effective and efficient use of resources, and supervision of wardens. Larry retired from the Colorado Department of Corrections as Deputy Director of Prison Operations in January 2014, after serving 27 years. In recognition for his dedicated work to improve Corrections, Larry received numerous awards and recognition for his contributions, including the Colorado Criminal Justice Association's prestigious Harry Tinsley Award.

B. Joan L. Palmateer

Joan L. Palmateer is an independent correctional consultant for National Institute of Corrections and other organizations, providing expert witness, consultation and training for correctional jurisdictions and other criminal justice entities. As a consultant and trainer for the National Institute of Corrections, Joan has worked with several Department of Corrections nationwide, offering technical assistance on security audits, high risk offenders, staffing analysis, emergency plan development, PREA Plan development and implementation and jail systems.

Joan's 28-year career with the Oregon Department of Corrections began in 1980, where she started her career as a Correctional Officer. She was promoted to Corporal, Sergeant, and then Lieutenant as a watch commander. Following this, her positions included the following: Security Manager from 1985-1990; Assistant Superintendent from 1990-1992; Security Manager from 1992-1996; Chief of Security from 1996-1998; the first female Warden in the Oregon State

Penitentiary's history of 150 years from 1998-2001; Superintendent from 2001-2004; Prison Administrator from 2004-2006; and Population Management Administrator from 2006-2008. Additionally, Joan worked Oregon Youth Authority, from 2008-2010 as Assistant Director of Facilities and Operations. She has received many awards and recognition for her leadership, management and innovative approaches throughout her career.

C. James R. Upchurch

James R. Upchurch began his corrections career in 1968, working evenings and weekends as a correctional officer at the Mississippi State Penitentiary while attending college. He attained a Master of Science Degree from Delta State University in Cleveland, Mississippi in 1975, and went on to complete additional course work in criminal justice and sociology. James has since completed numerous professional development courses in corrections and management.

James continued his corrections career in the Mississippi Department of Corrections promoting to Deputy Warden in 1979. In 1982, he accepted a position with the Arizona Department of Corrections as Warden of the Santa Cruz Unit of the Arizona State Prison Complex - Perryville. He served as the Unit Warden of all custody levels and types of institutions in Arizona until 1992 when he was promoted to Complex Warden at the 3,200 bed Arizona State Prison Complex - Florence. Included in the facilities managed by James are death row/administrative segregation, "super max", juvenile, female, reception and diagnostic, mental health/forensic, as well as maximum, medium, and minimum custody.

In 1996, James accepted the position of Bureau Chief of Security Operations for the Florida Department of Corrections. In this capacity, he managed the statewide security program for the third largest corrections agency in the country. He served in this capacity until January 2012 when he accepted the position of Deputy Assistant Secretary of Institutions. In addition to security operations, James had management and operational responsibility for classification, institutional support, facilities maintenance and construction, and population and release management.

In January 2013, James was promoted to the position Assistant Secretary for Institutions and Re-entry. In this role, he was responsible for the management and operation of three regions consisting of 48 major corrections institutions housing some 100,000 inmates with a staff of approximately 20,000. His responsibilities also included the Department's priority Re-entry Initiatives.

Over the past 20 years James has served as an expert witness in federal court proceedings both for the Florida Department of Corrections and other jurisdictions and as a consultant and instructor for NIC. James also provides consulting services in several operational areas of corrections including; staffing analysis and security standards establishment and compliance auditing. He has been involved in numerous assessments of critical incidents involving staff and inmate deaths, hostage situations, escapes and disturbances. He is a past member of the

National Law Enforcement and Corrections Technology Advisory Committee and the Technical Working Group for Corrections both affiliated with the National Institute of Justice of the United States Attorney General's Office. He is a long-time member of the American Correctional Association and other professional organizations and has presented at ACA conferences and published in Corrections Today and other professional publications.

D. Steve Turley

Steve Turley began his career with the Utah Department of Corrections in July 1990. Steve graduated from both the Utah Corrections Academy and Utah Law Enforcement Academy with honors. During his corrections career, he has held the rank of Sergeant, Lieutenant, Captain, Deputy Warden, Warden, and Division Director.

Steve was appointed Warden from April 2007 to July 2010 of Utah's largest correctional facility. A 4000 bed multi-classified facility housing all classifications of adult male inmates as well as Death Row and adult female inmates. In July 2010 to September 2013, Steve assumed an executive role as the Utah Department of Corrections Director of the Division of Institutional Operations. As an experienced executive and leader in the department, Steve has had a variety of assignments in support of the department's mission and correctional evolution. These assignments include the following: Interim Audit Director for the Utah Department of Corrections; Division Director of Administrative services with the responsibility for reviewing level three grievances, inmate disciplinary appeal, department vehicles; and the management oversight of Government Records Access and Management Act requests. Currently, Steve is directing and facilitating the construction of a new 3600 bed facility for the department.

Steve has been working with the National Institute of Corrections for six years, as a security auditor site leader. Steve is an experienced NIC Security Auditor/Trainer, and he facilitates and conducts onsite security audits nationally.

Steve is also active in supporting correctional professionals in Utah. He has served as the President for the Utah Public Employee Law Enforcement Division for four years, and the President of the Utah State Prison Employee Association for six years.

E. Rob Jeffreys

Rob Jeffreys brings over 20 years of corrections experience to the NIC Team. He is currently a Senior Executive Manager at the Ohio Department of Rehabilitation and Corrections (ODRC), who is responsible for the operations of eight adult prisons and the Adult Parole Authority (APA) across 20 counties. In this capacity, he oversees over 25,000 offenders, 3,600 staff and manages an annual budget of $320 million. Rob also serves as committee chairman for the ODRC Restrictive Housing initiative to improve management standards and policies for restrictive housing populations. Since 2011, Rob has been an NIC consultant and trainer, and has worked both nationally and internationally providing policy and program development, specialized training to assist agencies in meeting their targeted goals, as well as advancing the overarching missions of the agencies. In 2007, Rob accepted an assignment as a Correctional

Program Specialist at NIC under the Intergovernmental Personnel Act to gain expertise and bring innovative projects to enhance correctional practice throughout the country. During his 3-year tenure with NIC, Rob developed programs and assessments for over 30 state agencies in the areas of security operations, security audit training, staffing analysis, emergency preparedness, prison management, and technical assistance. Rob also has experience in the delivery of NIC's 40-hour *Managing Restrictive Housing Populations,* and the training program which has since evolved into *Managing Prison Restrictive Housing Populations*.

V. Brief Facility Description

A. Pasquotank Correctional Institution and Correction Enterprises

Pasquotank Correctional Institution (PCI) is an adult male close custody facility. PCI opened in 1996 and is located in Elizabeth City, North Carolina. PCI's current standard operational capacity is 840 inmates and the maximum capacity is 968 inmates. PCI is classified as a close custody facility, and houses the highest level of custody classification for inmates who are identified as high risk that require close security management and supervision. Although PCI is a close custody institution, they also house inmates who have recently been re-classified from close to medium custody, and those awaiting transfer to a medium custody institution. Institutional transfers can take up to three months to occur. While awaiting their new facility assignment, these medium custody inmates are allowed to remain in their institutional and correction enterprises jobs, until they are transferred.

Correction Enterprises (CE) Sewing Plant is located at PCI within the perimeter fence and employs up to 30 inmates. On October 12, 2017, there were 30 inmates assigned - 18 were medium custody and 12 were classified as close custody. There were three CE staff and 1 correctional officer assigned to the sewing plant operation.

B. Nash Correctional Institution and Correction Enterprise

Nash Correctional Institution (NCI) is an adult male facility that opened in 1938 and is located in Nashville, North Carolina. NCI's current operational housing capacity is 512 inmates and the maximum capacity is 654 inmates. During the NIC Team onsite visit, there were 642 inmates assigned. The facility has undergone a number of operational and mission changes throughout its existence. The majority of the facility's current structure was built in 1992, and at that time was classified as a medium custody institution.

Correction Enterprise (CE) has two Plants on the institutional grounds - the Optical Plant, employs up to 65 inmates with 11 CE full-time employees; and the Printing Plant employs up to 130 inmates with 20 full-time employees.

VI. Supplemental Sources Provided

The NIC assessment team reviewed the following NCDPS Policies, Standard Operational Procedures, operational manuals and other documents listed below.

A. North Carolina Department of Public Safety Prison Division Policies

Chapter A

.0600 Policy and Procedure Development
.0700 Unit Management
.0900 Employee Training

Chapter B

.0200 Disciplinary Procedures

Chapter C

.0100 Classification Process
.0500 Promotion of Felons
.1218 Work Assignments

Chapter F

.0100 Operational Searches
.1200 Inspections
.1600 Management of Security Posts
.2400 Key and Lock Control
.2700 Tool Control
.3300 Prison Entrance/Exit Policy
.3600 Hazardous Chemical Control & Management
.3700 Fire Protection
.3900 Control Center Operations

B. Correctional Institution Standard Operating Procedures

.0400 Tool Control
.2400 Emergency Lockdown and Roster/ID Count Procedures

C. Additional Documents Reviewed

1. Bumgarner v. North Carolina Department of Corrections – Stipulated Consent Decree
2. Partnership Agreement between Adult Corrections/Prisons and Correction Enterprise dated: March 14, 2014
3. North Carolina Department of Public Safety Prisons, Policy Summary Sheet
4. North Carolina Department of Public Safety Prisons, Security/Region Audit Inspection Results dated: August 27, 2017
5. Correction Enterprise – Visitor Information for Facilities
6. Policy and Procedure Manual Pasquotank Sewing Plant dated: February 18, 2013
7. Policy and Procedure Manual Nash Optical Plant
8. Policy and Procedure Manual Nash Print Plant
9. North Carolina Department of Correction, Correction Enterprise Basic Training Level-2

10. North Carolina Department of Correction Division of Prisons Security Manual, Subject: Security Audits, dated: October 1, 2011
11. Nash Correctional Institution Prison Post Chart
12. Nash Correctional Institutional, Daily Shift Security Roster
13. Correction Enterprise Strategic Plan 2017-2020
14. Proposal for Inmate Job Assignment Risk Assessment
15. Emergency Preparedness Plan
16. North Carolina Department of Correction, Basic Training Level-2 Training
17. Pasquotank and Nash CI Division of Adult Corrections – Prison Post Charts
18. 2017 Security/Region Audit Inspection Results
19. Correction Mission, Core Values and Vision Statement

D. Immediate Changes Initiated by North Carolina Department of Public Safety

After the October 12, 2017 incident at Pasquotank Correctional Institution, NCDPS initiated actions to suspend the Correction Enterprises Sewing Plant operations pending a comprehensive security review of safety, security measures and staff practices; all aspects of inmate work assignment processes; Correction Enterprises and Correctional Officer staffing and job responsibilities. The review was also to include an evaluation of current emergency response procedures, personal safety equipment and staff training.

VII. Initial Impressions

The NIC assessment team would like to acknowledge the Correctional and Correction Enterprises staff at both Pasquotank and Nash Correctional Institutions for their transparency and their willingness to openly share information with us. We conducted interviews with members of Pasquotank and Nash management teams, correctional supervisors, correctional officers and correction enterprises staff during our onsite visit.

- At PCI, we interviewed CE employees and correctional staff from various disciplines. During the interviews, the staff conveyed their feelings of shock that something this horrendous happened at "their facility." Some staff were remorseful, some were embarrassed, some admitted to being afraid, some were angry, while others were in various stages of acceptance and recovery. When asked "do you feel safe working here?" most of the interviewees stated emphatically that they did not, while there were others that stated, "yes." When asked, "why did this happen?" the common response voiced by all staff was "Pasquotank has an overwhelming shortage of security staff." Some staff expressed strong emotions and shed tears during the interviews, but said that it was good for them to discuss the incident. Additionally, we were informed by the staff at PCI that they were not authorized to get involved in CE business or operations,

and their job was to provide security and supervise the inmates. CE staff in both institutions informed us that they were told they couldn't support correctional officer's functions because that's not their job, and they are not trained to do so.

- All of the interviewees were appreciative of the Secretary's decision to "lock down" the facility, and suspend the sewing plant operations until further notice. The staff commented that it would have been very difficult to go back in the sewing plant area so soon after the incident. We also interviewed staff at Nash CI, and they too were remorseful and shocked that this happened. Nash CI staff voiced their concern for their fellow officers and reported "we never thought such a horrific incident like this could happen in our department."

A. Morale

- Staff appeared to be struggling to maintain their emotions, they were tearful and emotionally drained at Pasquotank CI which the NIC Team had anticipated, given the 4 brutal staff murders that occurred in less than a month prior. Even though staff were struggling to come to grips with what had occurred, they were carrying on and continuing to do their jobs like true correctional professionals.
- The fact that PCI was at 25% staff vacancy rate during our assessment had a significant, negative impact on the overall morale. Due to the staff substantial shortages, mandatory overtime was imposed to meet minimal critical staffing requirements.
- The team's assessment of the morale at Nash CI was fair. Though these incidents did not happen at NCI, the correctional and CE staffs were still emotionally impacted. We believe this is largely due to a total of five staff being murdered by inmates within the department, during the last seven months.
- Staff expressed concern and disappointment about the department's new Disciplinary Policy - particularly, the elimination and overall reduction of disciplinary detention sanctions for some behaviors that previously had the option of disciplinary detention. Staff reported feeling "betrayed" by the department and expressed frustration that they have lost the ability to effectively manage the inmate population.

B. Supervisory Presence

- During our time onsite at both locations, we did not observe correctional supervisors spending supervisory time with line staff or CE staff. The NIC team viewed this as an indicator that staff performance may possibly falter, if not addressed. Real or perceived, this should be a significant concern for the department. Without sustained reinforcement through leadership presence, the opportunity for greater levels of success may well be diminished. It is our opinion that the executive management, administrative management and supervisory teams can make a tremendous difference

in staff performance and their buy in for change by committing to Managing by Walking Around.

C. Culture

- The NIC Team noticed the relationship between North Carolina Department of Public Safety, Division of Prisons and Correction Enterprises is best described as strained. The team determined that the current rift is due to an absence of a collaborative partnership, as well as the agency's decision to not require CE employees to attend or receive basic security training. Because CE staff are untrained in the fundamentals of safety and security, it is the NIC team's assessment that these two issues are central to the somewhat tenuous working relationship between the Prisons Division and the CE staff we observed.
- The NIC Team strongly believes that this is an area that requires immediate attention and intervention.

VIII. Security Operations Assessment

The content of this section of the report reflects the NIC Team's observations and recommendations based upon widely accepted "correction best practices" and the team member's "professional opinions." The outcomes noted have been scrutinized for authenticity by the assessment team members. Our recommendations are representative of (1) what was observed, (2) information provided from staff interviews, and (3) documents requested during onsite visits to Pasquotank and Nash Correctional Institutions. We anticipate the information provided will be a useful tool for ultimately improving and enhancing the overall safety and security posture of North Carolina Department of Public Safety Prisons.

Department Policies, Standard Operational Procedures

Observation:

1. During our document reviews we found department policy, standard operating procedures (SOP) lacking succinctness in procedural requirements. We also were given department directives that had not been updated for a number of years and signed by executive staff members who are no longer in the department.

Recommendations:

- Conduct an immediate review of security related policies for updating and codifying security operational standards with the Director's signature. It is recommended to adopt the American Correctional Association (ACA) Standards, which requires annual

reviews of all department policies, SOP's, and procedural manuals (ACA Standard 4-4013). Ensure the security related policies and procedures are clearly articulated and succinct with respect to expectations and consistency of application. Eliminate the practice of issuing memos to direct security expectations and operations.

- Implement a policy process for when there is an immediate or emergency need for a policy change either temporarily or permanently. Consider utilizing an Executive Directive (ED) which is signed by the Secretary or his/her designee, for the purpose of providing specific procedures or information not delineated in current policy. The ED can have a designated duration for the ED to be in effect (e.g., not to exceed 30 days), which would allow time for the changes to be placed in department policy if they are to be made permanent. Once the designated duration of the ED expires, the ED would no longer be valid.

Enterprise Inmate Internal Movement

The following is a comprehensive review of the operational flow of inmate movement in coordination with searches, the accountability of staff and the operational practices of the Emergency plans. Documents and information examined for this review include the North Carolina Department of Public Safety (NCDPS) Division Policies, Pasquotank Correctional Institution (PCI) and Nash Correctional Institution (NCI) Standard Operating Procedures (SOP), PCI and NCI Post Orders, Division of Prison Security Manual, Facility Emergency Plans, Correction Enterprise MOU, NCDPS Security Audit Instrument, Video Footage of 10/12/17 Incident and the National Institute of Corrections Security Audit Program Manual.

In a review of the security policies and procedures at the Pasquotank Correctional Institution (PCI) and Nash Correctional Institution (NCI), there were various security policies and procedures not being enforced or in place. At PCI, the day-to-day practices often substituted the policy or post orders due to staff shortages, resulting in staff performing duties outside of their job description and training. In most instances, staff did what they felt they had to do to get the job done.

PCI Internal Movement

Observations:

1. The NIC Team reviewed the Pasquotank Correctional Institution SOP Control Movement policy. The department policy (.1700) gives clear direction for control movement of a set number of (32) inmates for mass movement. All mass movement schedules are in policy with start times and end times for meals, recreation, recreation yards, school, and program services

2. The Support and Program Services for inmates are located on the second floor of the prison. The program services include vocational programs, school, medical services, mental health, chaplaincy, and other program services, as well as the sewing plant. The Support Control Center coordinates the movement of inmates accessing the second floor from 8:00 am to 11:00 am and 1:00 pm to 4:00 pm. The Support Control Officer monitors inmate access and movement in various vocational programs such as Digital Design, Sewing Machine Repair and Food Services Technology. There are approximately 50 inmates involved in the vocational programs. Inmate movement is controlled in the vocational program area by the Education/Vocational Officer at designated program service times. These areas do not have camera coverage inside the classrooms, but there is camera coverage in the hallway that leads to the vocational rooms.

3. The Correctional Officer monitors the inmates in the Correction Enterprises Sewing Plant and inmates working in the stockroom per post orders). The start time is 7:30 am, one-half hour before all scheduled program movement on the second floor. The policy does not reflect the start time for the sewing plant inmate movement schedules or the post orders for the Education/Vocational Officer), Support Officer), and Correctional Officer.

4. In our review of the Division of Adult Correction - Prisons Post Chart, dated 06/11/15, there are two officer positions designated for the Sewing Plant on first shift. Both positions have a pull post level 1, and the second position has been vacant for an extended period of time due to staff shortages.

5. Staff report that one Correctional Officer is often expected to complete the assignment of two corrections officer in the sewing plant. Therefore, all post order duties were being conducted by one officer to include the strip-searching of 30 sewing plant inmates assigned to the sewing plant.

6. As a result of the Education/Vocational Officer (Rover) post being vacant, the sewing plant correctional officer duties increased to include supervising and maintaining control of inmates in the vocational programs areas. The rover vacancy allowed inmates in the Sewing Machine and Food Service Technology classrooms to move in and out of the rooms unrestricted as seen in video footage dated 10/12/17. The shortage of corrections officer monitoring these areas exacerbated the ability to control movement and monitor the sewing shop and educational/vocational areas effectively.

7. The recurring correctional officer shortages and vacant posts presented a significant challenge for the correctional officer assigned to the area. Despite these shortcomings, the Sewing Plant continued to operate at full inmate worker capacity, and the vocational classrooms continued to provide skilled trade programming to inmates.

8. The Sewing Plant Trash disposal detail occurs on Wednesdays and Thursdays. It has been common practice for a Correction Enterprise Sewing Plant staff member to assume the responsibilities of this detail with the assistance of sewing plant inmates. The sewing plant staff member and inmates accessed the elevator together to load trash and descend to the loading dock to the trash compactor. There is no camera coverage in the elevator vestibule or elevator.

9. The sewing plant staff are performing security functions of escorting and supervising close custody inmates without proper training to do so.

Recommendations:

- Conduct a review of the post-allocation and pull post levels for inmate vocational program area and the sewing plant. Update the PCI Prison Post Chart dated 06/11/2015 to reflect the current staffing needs for this area. Ensure the staffing allocation is appropriate for the physical plant design and for the management of high risk inmates classified as close custody.

- Develop a controlled movement monitoring policy that is coordinated with close custody inmate movement and programming and staff accountability.

- Update SOP Control Movement (.1700), Post Orders Support Officer (Support Control Officer) (.3400), Education/Vocational Officer (Rover) and Correction Plant Officer (.3500), to include start and end times for Correction Enterprise, vocational and educational daily inmate movement.

- During the required strip searches of sewing plant inmates, provide additional staff, to include supervisory staff as resources to ensure the integrity of the strip search and as a safety measures for correctional staff conducting the searches.

- Install cameras in the elevator vestibule and elevators for monitoring, staff safety and accountability.

- Develop, in posts orders, procedures for the sewing plant and vocational/educational to notify Master Control for approval to conduct trash removal, to include the procedures for accessing the elevator and back dock area. Ensure the entire process is included in the Camera Monitoring policy.

- Ensure all policies and procedures do not permit inmate regardless of custody classification, in the vestibule or on the elevator with staff members that do not have camera coverage or visibility by other staff members.

- Update outdated SOP and Post Orders to include: PCI Control Movement dated 03/10/15, Education/Vocational Officer (Rover), dated 09/16/14, Correction Plant Officer dated 09/16/14, Support Officer (Support Control Officer) dated 03/10/15.

- Conduct a camera and monitoring review of the sewing plant, vocational, elevator and dock areas to ensure there is adequate coverage, for monitoring inmate and all staff movement during the times those areas are occupied.

NCI Internal Movement

Observations:

1. The NIC Team reviewed Nash Correctional Institution SOP Internal Movement policy. The policy does not identify the daily inmate movement schedules for meals, recreation, education programs, vocational programs, Correction Enterprise, or inmate foodservice worker start times. The Correction Enterprise Plant has two printing production shifts. The schedule for the Print Plant is 7:00 am until 3:30 pm for the first shift, and 3:00 pm until 11:30 pm for the second shift. There is an overlap of the first and second shifts from 3:00 pm until 3:30 pm to transition ongoing, large production jobs with the printing and bindery machines.

2. During the 3:00 pm until 3:30 pm layover period, there are approximately 119 inmates from the first and second shifts present, (19) Correction Enterprises staff members, and five correctional officers. All first shift inmates line up alongside the wall by the corrections officer's office to process through the metal detector for release. The inmates remove their shoes and belt buckle to clear the metal detector, but do not remove their hats or coats. After the inmates clear the metal detector, they proceed out the side door of the plant, down the sidewalk alongside the building and across the compound boulevard to a covered shelter pavilion to be pat searched by available corrections officers. Inmate names are called from the Print Plant first shift roster, and the inmate proceeds to the next available officer to be pat searched. The pat searches are conducted expediently due to the number of inmates and the availability of officers. No Correction Enterprises employees are involved in conducting pat searches as they have not been trained to do so. The five assigned correctional officers are involved with

the first shift inmate release process - at the metal detector, reading inmate roster names, monitoring the exit door, and engaging in the pat searches. Therefore, no custody officer is available to oversee the second shift inmate work crew at the Print Plant.

3. The work schedule for the Optical Plant is 7:30 am until 4:00 pm. At 4:00 pm, the inmates are released from the Optical Plant and led across the compound boulevard to the covered shelter pavilion to be pat searched by the same available correctional officers from the Print Plant inmate searches. Inmate names are called from the Optical Plant first shift roster and the inmate proceeds to the next available officer to be pat searched as well. At the conclusion of the Print Plant and Optical Plant first shifts, there are approximately 150 work crew inmates being pat searched.

4. The security camera monitoring system is available on desktop computers located in the Print and Optical Plant supervisor's offices. The camera system provides optimum viewing capacity of the inmate work areas in both Plants, but are not being monitored on a consistent basis due to the supervisors not being in their offices routinely and when they are, they are not routinely monitoring the cameras.

Recommendations:

- Update SOP Internal Movement policy and all related post orders responsible for monitoring inmate movement that outlines daily schedules for meals, recreation, education programs, vocational programs, Correction Enterprises, and inmate foodservice worker start times. In coordination with prison administrators, Correction Enterprises Managers should work together in order to optimize both Correction Enterprises production requirements and the requirements for safety and security.

- Ensure/facilitate supervisory presence to reinforce the thoroughness necessary for quality pat and frisk searches.

- Ensure the cameras can be viewed in the Master Control, Gatehouse Control, and security operations areas.
- Provide visual camera monitoring of the Print Plant inmate work area on second shift during the 3:00 pm until 3:30 pm layover period. As stated, there are approximately 119 inmates from the first and second shifts in this area requiring additional supervision and/or monitoring.

Inmate and Facility Searches

PCI Searches

Observations:

1. Due to the facility being on lockdown status, the team was not able to observe area searches or routine pat and strip searches.

2. NCDPS Operational Searches policy states that a complete search of the entire facility shall be conducted not less than once every six-month period. There is no record of the last time the Correction Enterprise Sewing Plant was searched. An NCDPS incident Report, dated 01/18/17, states that the Prison Emergency Response Team (PERT) entered the facility to conduct a facility search for shanks, cell phones, and nuisance contraband. We were unable to verify that a search had occurred on this date, therefore we concluded that the Correction Enterprise Sewing Plant was not searched on this date.

3. The partnership agreement in a memorandum of understanding between NCDPS and Correction Enterprises states that Correction Enterprises will fully cooperate with all security searches and shakedowns with reasonable notification.

4. The Correction Plant Officer Post Order states that all inmates leaving the Correction Enterprises Plant area will be thoroughly searched before leaving at the end of their workday. This process included going through the metal detector and strip-searched on a daily basis. Also, any inmates leaving the Correction Enterprises Plant during the workday for any reason will be strip-searched.

5. As stated previously, all post order duties were being conducted by one officer to include the strip-searching of 30 Correction Enterprise inmates assigned to the sewing plant. The room utilized to perform the inmates' strip searches did not have the adequate space or privacy to provide a safe and secure process for both the officer and the inmates being searched.

Recommendations:

- NCDPS Operational Searches policy states that a complete search of the entire facility shall be conducted not less than once during every six (6) month period. It is recommended that all areas of the institution be included in routine, but irregular searches. The purpose of these searches is to find contraband such as weapons, tools,

and escape equipment in areas where inmates live, work and cohabitate. This type of search can be included in the facility's Prison Emergency Response Team annual training.

- When searching areas such as Correction Enterprise, it is advisable -when possible- to have a Correction Enterprise representative present. This collaboration simplifies the process of gaining access to locked areas, and assists in determining the legality of questionable items.

- Provide the additional correctional staff resources to assist with the strip search process, where 30 inmates leave the Correction Sewing plant at the end of the workday.

- When conducting strip searches, place the inmates in an area where there is no casual viewing of the strip search, either by other employees or other inmates and ensure some degree of privacy. The designated strip search rooms need to be in compliance with Prison Rape Elimination Act (PREA) standards.

- Update outdated Operational Searches policy dated 07/10/13, to include specific language for area searches.

NCI Searches

Observations:

1. NCI Operational Searches Standard Operational Procedure (SOP) states that a complete search of the entire facility shall be conducted not less than once during every six-month period. There is no record of the last time the Correction Enterprise Print Plant and Optical Plant were searched.

2. The partnership memorandum of understanding between NCDPS and Correction Enterprise explains that staff will fully cooperate with all security searches and shakedowns with reasonable notification. The team was unable to verify by written documentation if searches of the printing and optical plants were occurring as required by NCI Operational Searches Standard Operations Procedure.

3. As previously stated in the NCI Internal Movement section of this report, all 150 Print and Optical Plant inmates are pat and frisk searched, upon leaving their work areas. A sergeant and available correctional officers conducted the pat searches under the pat down pavilion. The process is designed to be expedient due to the number of inmates being searched.

Recommendations:

- Provide the additional corrections officer resources to assist the pat and frisk search process for Correction Enterprise inmates leaving the Print Plant and Optical Plant at the end of the workday. Include supervisory staff to assist, train, and monitor pat searches.
- Randomly, conduct strip searches of inmates daily.
- Develop a process for Standard Operating Procedure and Post Order reviews ensuring basic security performances and practices are included.
- Include Back to Basic Training modules in roll calls and refresher training.
- Update Operational Searches policy dated 08/12/16 (.0500).

Main Entry

PCI Front Entrance

Observations:

1. The NIC Team toured PCI on Monday, November 6, 2017. The workflow and configuration of the gatehouse is congested, due to the lack of available space for processing people entering and exiting the gatehouse. Front entrance procedures were not being followed according to SOP Entrance/Exit and Gatehouse Post Order. The Entrance/Exit (SOP) and the Gatehouse Post Order requires all persons entering the gatehouse to be accurately identified by picture identification, logged in on the appropriate documentation, and provided a numbered visitor identification badge in exchange for their identification card. In addition, all personnel entering the gatehouse are required by policy to successfully pass through a walkthrough metal detector. During the NIC team's observation of the gatehouse procedures, the staff activity did not follow the policies. We were informed that entrance procedures were lessened due to the amount of staff entering and exiting the facility.

2. A cell phone and contraband detection device is located in the main entry lobby area of the administration building for additional security clearance after processing through the gatehouse of all persons entering the administration building. The utilization of the cell phone and contraband detection devise equipment was implemented without an agency or facility policy providing standardized instruction to staff on how to effectively utilize the device.

3. The gatehouse has a control center that contains an armory gun cabinet within a secure enclosure. The gun cabinet stores department issued weapons, ammunition, roving boxes and other security equipment. On the Tuesday, November 7, 2017 during the second shift change, it was observed that the gun cabinet doors were left and wide open and unsecured.

4. The gatehouse post orders state that all weapons shall be secured and stored when not in use. Lack of security control presents a potential risk at shift change and daily movement through the gatehouse.

Recommendations:

- Enforce the procedures outlined in the SOP Entrance/Exit policy, ensuring that all persons are identified by utilizing valid picture identification card for accountability.

- Ensure that anyone authorized to enter who is not in possession of a valid NCDPS identification card will exchange their pictured identification card for a temporary "Visitor" identification badge for accountability.

- Enforce gatehouse post orders that state all visitors entering will log in to the Institution, and will be given a numbered visitors identification card. The gatehouse officer will be responsible for logging visitors in and out of the institution for accountability.

- Require visitors to wear the visitor badge at all times while inside the Institution. Displayed identification cards are a means of visual identification.

- Ensure firearms in the gun cabinet in the gatehouse are securely stored and in compliance with the Agency's Security Manual Storage of Firearms.

- Position the cell phone contraband device in the Gatehouse in order to complete all security processing of individuals prior to them entering the Administrative building.

- Develop a 'Working' Alone Policy' to account for all non-custody staff, employees and volunteers working after normal business hours. The purpose of this policy is to enhance the safety of all personnel that work after normal business hours supporting staff accountability and safety.

- Update outdated policies and post orders to include: Entrance/Exit (.1700), dated 09/19/14. Gatehouse dated 09/22/14, NCDPS Security Manual, dated 02/01/16 and Security Manual Control of Firearms dated 04/18/12.

NCI Front Entrance

Observations:

1. The team toured NCI on Thursday, November 8th, 2017. We observed the gatehouse officers processing people through the shakedown and walk-through metal detector procedures according to gatehouse post orders. They correctly performed the accountability procedures, ensuring anyone authorized to enter that did not have a valid NCDPS identification card was issued a temporary "visitor" identification badge.

2. The gatehouse lobby officer ensured all personnel logged in and out of the institution. The assessment team's authorized cell phones and laptops were accounted for on the cell phone log, as outlined by the Gatehouse Lobby Officer Post Order.

3. The cell phone and contraband detection device was deployed inside the Gatehouse lobby exiting the facility. Staff and visitors were instructed to turn in a circle next to the device for detection of cell phones and metal contraband. There is currently no language in SOP Entrance/Exit post orders for the Gatehouse Officer Post orders, or the Gatehouse Lobby Officer Post orders, for deployment of the cell phone and contraband detection device.

4. The NCI Gatehouse Control Center windows are made of Lexan glass. Scratches and glare from the light reflections obstruct the sightline for the corrections officer stationed in the control center. This wear and tear is impeding the view of the gatehouse officer during inmate movement on the yard and vehicle traffic in and out of the sallyport. Additionally, the officer cannot see people outside the front entrance door awaiting access into the Gatehouse when it is dark outside.

Recommendations:

- Replace gatehouse control center windows with a high-security scratch resistant and non-glare glass.

- Provide the gatehouse with security cameras for monitoring pedestrian and vehicle movement.

- Update NCI SOP and post orders language on operational procedures for the cell phone and contraband detection device. The update should include the manufacture's operating specifications.

- Develop a camera monitoring policy that is coordinated with Correction Enterprises Print and Optical Plants inmate work schedules. This includes designated viewers of identified cameras to monitor inmate areas and support staff accountability.

- Develop a 'Working' Alone Policy' to account for all non-custody and custody staff working on the prison grounds after normal business hours. The purpose of this policy is to enhance the safety of all personnel that works with or provides program services to the inmate population and ensures adequate employee safety and accountability throughout the facility.

- Update the following policies including: SOP and Post Orders Entrance/Exit (.2100), dated 10/16/17, Gatehouse Officer (.0100), dated 03/15/16, and Gatehouse Lobby Officer (.3000) dated 08/15/16.

Emergency Preparedness

PCI/NCI Emergency Preparedness

Observations:

The following comments represents a combination of assessors' observations at both the Pasquotank Correctional Institution and Nash Correctional Institution. Each facility provided written strategies that direct staff in the resolution of specific emergencies. The most significant conclusion regarding emergency preparedness the lack of system checks, drills, for training of all staff on the practicality of responding to and utilizing the emergency plans. We were informed that the common practice and control center radio notification in the event of an emergency is, "all available staff respond."

1. The PCI and NCI fulfills the Division Policy and Security Manual requirements to develop emergency response plans for each area. The Regional Operations Manager team audits the emergency plans annually. The audit provides an Emergency Response Preparedness section that expects each emergency plan requiring it be updated annually and ensure that it is appropriately documented per policy. During the team's review, the majority of PCI plans were not reviewed annually, nor were they updated with current signatures. For example, the Tornado/Severe Weather Emergency Plan was last dated 04/01/11, with the previous administrator's signature.

2. The Emergency Response Preparedness audit standard requires the facility to develop procedures to conduct regular drills and provide training opportunities for staff on each emergency response plan. PCI staff disclosed that there are no routine response drills system checks conducted for emergency plans.

3. At Nash Correctional Institution the primary and secondary emergency responders are designated on the daily shift security staff assignment roster by assigning either a "1" or "2" to identify who are the first and second emergency responders. Unfortunately, the designated staff are not informed of their responder assignment, nor, had they ever received training on emergency response protocols.

Recommendations:

- Develop security system checks that are designed to test the adequacy of emergency plans, to train and test custody and non-custody staff knowledge, practice, response, and equipment in various emergency situations.

- Develop thorough system checks and training that reinforce security practices that are based on written security policies, procedures, and emergency plans.

- Develop facility-specific emergency response training scenarios that will educate and train all staff on their responsibilities during an emergency.

- Provide emergency reaction training for inmates.

- Conduct training on all shifts to ensure all staff participate in the required training with the staffing compliments that are typically on those shifts.

- Require designated supervisory staff to become certified in FEMA's National Incident Management Systems (NIMS) Incident Command System (ICS), as it represents the best practices for emergency management response. The Incident Command System model is a standardized approach to address all types of emergencies regardless of its size. It is used by law enforcement and emergency responders throughout the nation, and the online FEMA Certified Training is available at no cost.

Key and Lock Control

Nash Correctional Institution

Key, lock, and door control in a correctional institution plays a significant role in staff safety and security. During the assessment, there was an observed difference in how keys and doors are controlled between the Correction Enterprises Print and Optical Plants at Nash Correctional

Institution. However, this should not be the case. Key and door control is just as important in the Correction Enterprises plants, as it is inside the correctional institution.

During NCI assessment, several concerning issues were identified regarding the key, lock and door control practices. Many staff were interviewed, department and facility policy and post orders were read, and logs were reviewed.

Observations:

1. The NIC team located four different instructional documents where key control procedures were found: Department policy, Facility Standard Operating Procedures (last reviewed 8/21/12), Correction Enterprises Print and Optical Plants key & lock control, and Appendix E of the Correction Enterprise Key & Lock Control Policy.

2. There are discrepancies within these two documents. One such discrepancy is: Appendix E of the Correction Enterprise document reads: "The yard officers will carry emergency keys on their key rings". When following up on this policy it was found that the yard officers do not carry emergency keys on their key rings, nor have they ever unless an emergency is occurring. If there is one area within the institution where there should be no confusion, it should be in key and lock control.

3. There are key boxes located in a several different areas in the print shop, as well as a wooden key box with blank keys and other key control sensitive items. The sensitive items included: key cleaning tools, pins for inside of locks, broken keys, tags for key rings, and grippers to secure the key rings.

4. The key & lock shop in the Print Plant is located in a room off the administration area in the front of the print plant. When we entered the room where the key box and other key equipment was located, inmates were in the immediate area. This lock shop area does not meet the security construction guidelines set forth in the NIC Security Audit Program Manual[1].

Recommendations:

- Streamline these polices into one or two policies/SOPs in order to eliminate confusion due to multiple documents currently in circulation for key and lock control.

[1] U.S. Department of Justice, National Institute of Corrections: The Security Audit Program Manual, 2013.

- Correctional Enterprises should not have its own set of polices, but rather follow department policies and Standard Operating Procedures (SOPs) of the institution where Correction Enterprises is located.

- All keys and equipment for the Print and Optical Plants should be controlled from NCI's lock shop. It should be consistent with the NIC audit instrument used for guidelines when performing security audits.

- All storage of keys, locks, and equipment for the Correction Print and Optical Plants, should be consistent with the NIC security audit instrument used for guidelines when performing security audits. Section 07.06.02 reads: The lock shop is of high-security construction: poured or reinforced concrete blocks with rebar, solid ceiling (not suspended or "false"), without wall openings (window, air conditioner, vents) and at minimum, a 14-steel door. Correctional Enterprises should construct high security key and lock shops that meets the NIC security guidelines.

- During an interview with a non-custody staff member, the staff member stated, "Correction Enterprises Print Shop is responsible for their own keys and the control of those keys." The staff member went on to say, "the Nash Institutional locksmith does not get involved with them (Correctional Enterprise) and key control."

- During an interview with a non-custody member, the NIC team asked if the employee had received NCDPS training on the management and control of keys and the response was no. The staff member stated, "Key control training consisted of going over the Correctional Enterprises policy on key control, which was delivered by a Print Shop Supervisor."

Observations:

1. From 3:30 PM until closing, the only key to enter the building is located on the emergency key ring of the institution located in the gatehouse. If an emergency occurred, it would require extra time to gain access to the Correction Enterprise Print Plant by having to get the emergency key ring from the gatehouse.

Recommendation:

- Add keys to the Print Plant and Optical Plant the operations officer's key ring. This would give the officers a much quicker response time in the event of an emergency.

Observation:

1. The duties for key and lock control was added to the operational captain's responsibility.

Recommendation:

- Assign an officer to key & lock control and this person's sole responsibility for NCI. By doing this, the institution would be able to get the key and lock control process in line with where it should be. Key and locksmith certification for staff assignment in this critical area of security is necessary for quality control and efficacy of the system, this would be well worth the investment at each institution.

Observation:

1. NCDPS department key and lock control policy does not address employee personal keys.

2. Department Key Control Policy reads: "Issued keys in the possession of a staff member should be kept in a pocket or other secure place and out of the view of inmates unless they are actually being used."

3. The NIC team observed staff are carrying institutional keys on their person and in the plain sight of inmates. The NIC team was also told some staff are carrying their personal keys on the same clip as the institutional rings, all of which were in the sight of inmates.

4. NCI's SOP .0300 (L) reads: "All employees assigned to Nash Correctional Institution are responsible for their personal keys brought into the institution. At no time will personal keys be left in an unsecured location, accessible to inmates. Employees will promptly report to the OIC anytime personal keys are lost with the confines of the Institution. Staff is encouraged to keep personal and works keys separate whenever possible." Personal keys could have very well played a significant role in the incident on October 12, 2017 at the Pasquotank Correctional Institution

Recommendation:

- Add a procedure to the NCDPS Key and Lock Control policy that addresses the management and control of employee personal keys.

- Staff should re-familiarize themselves with the NCDPS Key and Lock Control Policy and follow it by carrying the issued institutional keys out of the view of inmates.

- No personal keys should be allowed in the institution. All personal keys are exchanged for a key chit at the gatehouse for security and accountability.

Observation:

1. The Correction Enterprises key control officer maintains a NCI security key which can unlock padlocks on secure gates outside of the Correction Enterprises Print Plant.

Recommendation:

- Stop the practice of non-security staff located in the Correction Enterprises carrying security keys, which can open padlocks or secured gates/doors throughout the institution. These keys should only be carried by custody staff.

- Assign the Nash Correctional Institution's key & lock control staff member, the responsibility for the key and lock control of the Correction Print and Optical Plants. This would accomplish having a correctional officer responsible for key and lock control instead of having three different staff members having overlapping responsibility, which is the current practice.

Observation:

1. During staff interviews with Correctional Enterprise employees, staff stated that they had not read policy that governs key and lock control in the Correction Print Plant.

Recommendation:

- Include NCDPS key and lock control training for Correctional Enterprises employees' orientation and their annual refresher training,

- Correction Enterprises designate one staff member as key and lock control person for the Nash Plants. That person, in collaboration with the Pasquotank key control officer, will have support responsibility for the daily key control management and issuance of keys, and control inventorying of locks and its condition for Correction Enterprise staff and plant.

Observations:

1. In the Correction Enterprises Print and Optical plants, staff are assigned key fobs. When the fob is scanned on the scanner located outside and inside each door, the door alarm is silenced so the door can be opened without the alarm going off.

2. To silence a door alarm, it is a two-step process. When staff scan the fob on the respective door scanner, the door can be opened and no alarm sounds. The officer then pushes the green button on the outside of the door to complete the process. If both steps are not completed, the door alarm will sound for 20 seconds.

3. The key fob was introduced because the very loud door alarms can become annoying if they go off many times throughout the day. However, by introducing the fob into the security practices, it not only bypasses the key process, but also silences door alarms. These alarms were put in place to alert staff that a door has been opened which leads to the outside and, therefore, alert staff to an unauthorized breach of a security door.

4. If a key fob got into the hands of an inmate, the fob could be scanned on a scanner by the door, and the inmate could exit the facility without setting the door alarm off.

Recommendation:

- Discontinue the use of the fob for security reasons stated in the observations section above.

- Add keys to the Print and Optical Plants to the operations officer's key ring. This would give the officers a much quicker response time in the event of an emergency.

- Stop the practice of non-security staff located in the Correction Enterprises carrying security keys which can open padlocks or secured gates/doors throughout the institution. These keys should only be carried by custody staff.

Observations:

1. The NIC team was told that in the recent past, a correctional staff was assigned to the Enterprises Print Plant and were on post with no handcuffs, keys or radio. In further questioning, the NIC team feels like this was an isolated incident, but it should never have happened.

Recommendation:

- The NIC team recommends all staff are issued the necessary safety and security equipment, keys and a radio when working at a security post.

Observation:

1. NCI's SOP .0302 states: "Security drills should be conducted periodically in the area of key control." Policy recommends a security drill of using emergency keys to gain access to the facility as well as leaving the facility by using keys only. These drills are not being conducted.

Recommendation:

- Develop and conduct quarterly security drills with the use of emergency keys. In an emergency, staff will react the way they have been trained, which could result in saving of lives. Staff can never become too familiar with keys and their operation during high stress situations.

Observations:

Policy and Procedure/Standard Operating Procedure/Post Orders:

1. Several different key control policies have been generated: Department policy .2400, Facility Standard Operating Procedures (SOP's) .0300 (last reviewed 8/21/12), Correction Enterprise Print and Optical Plants key & lock control, and Appendix E - key & lock control policy (Correction Enterprise document). Having numerous policies & procedures on the same subject creates confusion for staff, due to so many different documents having to be read and followed. Some of these documents contain conflicting information, as noted above in the key and lock control section of this document.

Observation:

1. Correctional staff are unsure if they are to follow Correction Enterprises policies or not. This played a role in the Pasquotank incident on October 12, 2017. The Correction Enterprises policy states, "Keys for stockroom, elevator doors, and entrance doors are maintained by correctional officers assigned to the Correction Sewing Plant." The master control staff were issuing the Correction Sewing Plant manager the elevator key,

which was a key piece in the incident. The master control room staff were unaware of the Correction Enterprises Sewing Plant policy.

2. The post order for the Correction officer was last updated 8/15/2016. When the correctional officer working in the Correction Enterprises Print Plant was asked to show the NIC team a copy of his post orders, he could not locate them.

3. The NIC team asked the gate house officer if she could show them her Post Order. She knew exactly where the document was, and even showed where she has signed off that she read them that day on her shift. She stated, "This is what we are supposed to do each shift, read our post orders."

4. The Maintenance Operations (SOP) was last updated 12/06/2010.

Recommendations:

- Policy and Procedure/Standard Operating Procedure/Post Orders are reviewed and brought up to date with current practices. Only use the department policies and the Nash Correctional Intuitions SOP's/Post Orders. This would eliminate many polices currently in circulation, create less confusion on the part of staff and would ensure all policies are current.

- Ensure all (SOPs) are kept on the unit/work area where staff have easy access to them to refer to and read each shift.

- Update all SOPs/Post Orders annually to ensure staff are aware of any up to date processes as well as setting the expectation they are to be followed. Notify staff when changes are made to the SOPs.

Physical Plant

Observation:

1. The NIC team observed stakes of wooden pallets in the collating room stored within the Correction Enterprises Print Plant. These pallets could be used as escape material to aid inmates trying to scale over the perimeter fence.

Recommendation:

- Cease keeping pallets stored with the Correctional Enterprises Print Plant, tearing them down as soon as possible after being used.

Observation:

1. There are nine doors leading to the outside of the Correction Enterprises Print Plant. When each individual door is opened, an alarm sounds (20 seconds) to notify staff that a door has been breached. This alarm sounds unless an officer has scanned his/her fob to silence the alarm. Currently, the doors being opened do not always activate the proper alarm. When any of the nine doors are opened, an alarm sounds in the middle of the plant, but not always at the door that is opened. The following list shows what is currently occurring when a door is opened, and what notification is made other than the alarm in the middle of the plant:

   Door 1—Alarms go off at Door 1 & 9
   Door 2—Alarm is not functioning nor is the light by the door
   Door 3—Working properly
   Door 4—Alarm sounds at door 5
   Door 5—Working properly
   Door 6—Alarm sounds at door 9
   Door 7—Alarms sound at doors 9 & 1
   Door 8—Alarms sound at doors 9 & 1
   Door 9—Alarms sound at door 9 & 1

2. It was reported to the NIC team, all door alarms and lights by the doors were functioning properly, prior to the roofing project currently taking place on the print shop.

3. When the door alarm notification in the Print and Optical Plant was installed and implemented, it was designed to notify audibly when a door was breached and it would send an alarm signal to a computer located in the gatehouse control center. The gatehouse officer would then notify the officers in the print plant as to which door was open.

4. The computer has not been working properly since August or September 2017 and/or the staff needed additional training in how to operate and clear the notification from the computer screen. Because of this issue, notifying the Correction Enterprises Print & Optical Plant officers as to which door has been breach was discontinued. This has made it extremely difficult for the security staff working in the Correction Enterprises Print and Optical Plants to locate which door was breached.

Recommendation:

- Check all door alarms and ensure proper functioning. Complete all necessary repairs to ensure they are working properly.

Observation:

1. There are many paper weights being used and stored unsecured in the print plant, and each of them weigh about 40 pounds. These paper weights could very easily be used as weapons to harm staff or other inmates. These weights are loose and can be carried throughout the plant as inmate's desire.

Recommendation:

- Tether paper-weights for safety and security.

Observation:

1. The Correction Enterprises Print Plant is a building of about 70,000 square feet. Within this building, not all areas are being used all the time. Two such areas are the collating room and the shipping area near the back dock in the warehouse. Both areas have doors leading to the outside of the building.
2. There are 30 cameras located in the Correction Print Plant. Because of the printing equipment and items needed to be stored in the warehouse, there are several blind spots which cannot be seen on the camera monitor. One such area is the north wall in the warehouse of the Correction print plant.

3. Currently very few areas have the capability of having access to monitor cameras in the Correction Print and Optical Plants. The master control room is not one of those areas.

4. The Correction Print Plant is a building of about 70,000 square feet. Within this building, not all areas are being used all the time. Two such areas are the collating room and the shipping area near the back dock in the warehouse. Both areas have doors leading to the outside of the building. NCI's SOP .0302 states: "Security drills should be conducted periodically in the area of key control." Policy recommends a security drill of using emergency keys to gain access to the facility as well as leaving the facility by using keys only. These drills are not being conducted

Recommendation:

- The NIC team recommends not keeping pallets stored in the print shop, and tear them down as soon as possible after being used.

- The door open notification lights on the outside and inside should be activated to alert the officers inside and responding officers the print and optical plants, as to which door is opened.

- Conduct a daily check of all door alarms at the beginning and end of each shift for proper functioning.

- Upon completion of the roof repairs, conduct a complete test of the door alarm system to insure they are working properly. This should include the alarm notification at master control officer, whose primary function is camera monitoring and responding to emergency alarms.

- Relocate the door alarm computer from the Nash gatehouse to the Nash master control. The door alarm computer identifies, notifies and stores information as to which door alarm was activated.

- Remove the print and optical plants camera monitors from the gate house and assign that function of monitoring the print and optical plants to the Nash master control room for closer monitoring.

- Ensure proper training is afforded to all staff who operate the computer for this function of the security practices at NCI.

- Review all the locations of the camera and adjust or add cameras to eliminate blind spots, so all activity by the inmates can be seen and recorded.

- Take the necessary steps to give access to the master control room, so all cameras in the Correction Enterprises Plants can be watched on a monitor.

- Keep the overhead door closed and locked to the collating room, so inmates do not have access to this area when not being used.

- Keep the overhead door to the back-shipping area and the single door which leads to this area closed and locked, so inmates do not have access to this area when not in use.

Maintenance Request/Work Order Program-Nash CI

Observation:

1. Standard Operating Procedures were being followed at the Nash facility in the area of Maintenance Management System (MMS). Work orders were directed to the MMS. Requests were assigned a tracking number and distributed to appropriate maintenance personnel. Priorities for work requests are as follows:
    - Priority 1 (Emergencies)-Loss of security fence zone, life safety equipment, etc.
    - Priority 2 (Urgent)-Switch board down, loss of power to a control panel, etc.
    - Priority 3 (Routine)-All other items that are not priority 1 or 2.
    - Priority 4 (Projects)-Will be done based on availability and resources.

Recommendation:

- No recommendation for this area, as this system seemed to be working just as it should. The NIC assessment team commends the maintenance staff at the Nash Institution.

Previous Security Audits

Observation:

1. A Department Internal Security Audit was performed at the Nash Correctional Institution recently. The auditors determined the facility met the expectations set forth by both the Region and the Division.

2. During this security audit, there were a total of 23 different operational areas within the institution that were reviewed. Out of the 23 areas, there was only one deficiency noted, specific to the kitchen and dining hall area of the institution. The deficiency was "the spray nozzle below H20 level, shorten to prevent back flow." In the key and lock control section (12) of the security audit document, there are 25 standards set forth by the department. During this audit, all 25 standards in the key and lock control section were noted as "Meets Expectation."

3. The NIC team was informed that the department audit team consisted of two auditors. They arrived at 9:30 AM on the day of the audit. The security audit was completed by 12:00 PM. During the audit, the key control captain was asked only two questions before the audit team member thanked him for his time.

4. The way the department security audit was conducted at the Nash Correctional Institution brings into question the validity and efficacy of the current department audit process. NCI received a security audit score of 100%.

5. It was discovered that between the Pasquotank and the Nash department security audits, two different security auditing documents were used to conduct the audits.

Recommendations:

- Require a more comprehensive security audit by internal auditors form other prison institutions.
- Update security auditing policy and initial training for department auditors, along with on-going annual training. This would begin a process of re-building for the department internal audit program, and ensure consistency between what is being measured and the way in which audit finding are reported.
- Review all security audits and outcomes from the past two years throughout the department, taking the time to address concerns from the information gathered and overhaul the current process to make it a more efficient audit instrument. This will help the institution increase their security practices. We also recommend standardizing all documents utilized in the department security audit process for consistency.

Pasquotank Correctional Institution

Pasquotank Correctional Institution administration should be commended for the caring attitude they were taking with their staff individually and in small groups. The assessors could sense the appreciation and support that administrators have for their staff, as they were observed interacting with them.

During the visit by the NIC team, it was discovered that a firearm was discharged by a perimeter staff member, while the inmates were climbing the perimeter fence in an attempt to escape on October 12, 2017. The gun was not placed into evidence, and there was not a shooting review board conducted. These processes are typically completed to ensure policy adherence, and to clear the officer involved in the shooting of any wrongdoing.

Key, lock, and door control in a correctional institution plays a significant role in staff safety and security. During the NIC visit, there was an observed difference in how keys and doors are controlled between the Correction Enterprises Sewing Plant and the Pasquotank Correctional Institution. However, this should not be the case. Key and door control is just as important in the sewing plant as it is inside the correctional institution.

During the time NIC team were on site at the Pasquotank Correctional Institution (PCI), several issues were noted regarding key, lock and door control. During our visit, many staff were interviewed, department and institutional policies along with standard operating procedures were read, and logs were reviewed. This was done to obtain as much information as possible.

Observations:

On the initial tour of PCI, the NIC team was informed that the door located within the sewing plant leading into the programming hallway near the elevator was always kept locked. During the visit, we found the following:

1. This door was used by staff during each work day. Sometimes after being unlocked, it was not always locked directly afterwards.

2. This is the door used by staff and inmates when taking out the garbage on Mondays and Thursdays from the Sewing Plant.

3. On October 12, 2017, when the Sewing Plant Manager opened the door to the hallway, the door was left unlocked as the manager proceeded toward the elevator. By doing this, it enabled the inmates to go back and forth from the hallway to the sewing plant and back into the hallway. The unlocked door helped the inmates facilitate the attack on staff and carry out their attempted escape.

4. During staff interviews, the NIC team learned that other staff consistently locked the hallway door behind them. By doing this, inmates could not go back and forth from the Sewing Plant to the hallway and from the hallway back into the Sewing Plant.

Recommendation:

- This hallway door should always remain locked when not in use. Correction Enterprises employees are not trained in security functions; therefore, correctional staff should perform all security functions to include the escorting of inmates. When it is necessary to unlock the door, the door should be immediately locked after use.

Observations:

When observing the usage of the door leading to the back dock from the elevator room on the ground floor level, we discovered the following information:

1. When the inmates arrived on the ground floor in the elevator, the door to the outside and back dock of the institution was key controlled and could only have been opened by staff who control the key to the door. On the day of the incident, the secured door leading to the outside back dock was unlocked and opened by the officer working on the back dock. The door remained unlocked to allow the inmates to move the trash onto the dock. This gave the inmates access to the back dock, as well as access to the outside of the building and to the outside ground areas of the institution.

2. Based on the information received by the NIC team, on the day of the incident, the request to open the back dock door was made by the inmates moving the trash and not by the Sewing Plant Manager.

3. The door is not controlled by a control room officer, and as stated above, is key operated only. There are no cameras located in this area of the institution.

Recommendation:

- The door to the back dock and outside of the institution should be controlled remotely by a control room officer, and only opened by a physical key in an emergency situation.

- Staff should always be able to see who is asking for the door to be opened, and verify that it is a staff member requesting for the door to be opened and not an inmate.

- Install cameras in this area for control room staff who would have the ability to monitor this area on a constant basis to control ingress and egress.

- Limit the number of inmates who have access to the outside of the building in this area, as well as the number of inmates that can go outside. Since PCI is a close custody institution, there should be limited access to certain areas of the institution (i.e., the back dock).

- The trash procedures should be reviewed and modified. Staff could take the garbage to the back dock area, and the inmates working in this area could empty the garbage. There is no need for inmates to take the garbage down to the back dock, when there are already inmates working in this area.

- Keys needed to open the door in an emergency should be located in a central location such as the master control room, not on each individual officer's belt.

Observation:

1. It was reported to the NIC team that the manager would take her personal keys inside the institution, stand on the back dock, and activate her fob to her personal car to ensure the car was locked. By doing this, she alerted the inmates as to which car was hers. It was reported the manager usually parked in the same place or area each day.

Recommendation:

1. Ensure all personal keys are left in a separate location, prior to passing master control so that no personal keys are taken inside the Institution. Personal keys can be exchanged for work keys for another level of staff accountability and control of personal keys.

Observation:

1. The NIC team discovered the storage room was secured with a padlock. An inmate assigned to work as the storage room clerk was issued the padlock key daily to open the storage room at the beginning of the shift, as well as secure the door during the time he is out of the storage room and, at the end of the shift.

2. Only one key could be located which locked and unlocked this particular padlock.

3. The key padlock key would be issued to the storage room inmate worker from another inmate who works in the tool room. When the inmate who works in the storage room was issued the key, he was the guardian of that key.

4. When the inmate(s) left the storage room (bathroom breaks, etc.) the inmate could lock the door using the padlock, and no one else could enter or leave the room. This system allows only inmates to have full access to a padlock and key, and allowed the inmate(s) the ability to determine who entered the storage room and who didn't.

Observations:

1. On October 12, 2017, the manager was issued two sets of keys from the master control room officer, ring numbers 126 and 85. These keys operated the door locks in the sewing plant area, as well as the elevator.

2. There was some confusion as to whether the master control room officers are expected to follow Correction Enterprises policy. The master control room officers issued the elevator key to the Sewing Plant Manager, and this was in violation of the Correction Enterprises policy.

3. When interviewing the master control room officer, it was determined this was being done without the officer realizing the manager should not be issued the elevator key, as per the Correction Enterprise Sewing Plant Policy.

4. When the Sewing Plant Manager is off work, the elevator keys are handed out to the Correction Enterprises Sewing Plant supervisor from the master control room officer.

Recommendations:

- Ensure that only security staff maintain keys to all locks and elevators located outside of the Correction Enterprises Sewing Plant.
- Eliminate security related procedures in Correction Enterprises policies that are in conflict with the department's policy.
- The back dock door is the last door before having access to the outside, and should be operated by a control room officer and not by an officer on the dock or from the inside of the building.
- Direct that Correction Enterprise employees to, strictly adhere to the department policy for key and lock control.

Observation:

1. Pasquotank's Standard Operating Procedure (.0600 5 b) reads: "Daily: The Second Shift Officer-in-charge will be responsible for a physical count of each key on a daily log. The results will be documented on the daily activity log." This has not been occurring on a regular basis.

Recommendations:

- Conduct a physical count daily on the second shift by the officer – in – charge as required by Pasquotank's Standard Operating Procedure (SOPs), and document the results on the daily activity log. This log should be reviewed regularly by a supervisor to ensure compliance.
- Ensure an audit of the issued institutional keys are completed. Following the audit, a thorough review of who is issued which keys should take place.

- Review Standard Operating Procedure during the key audit to ensure the proper keys are distributed to the correct staff, based upon their work or post assignment needs and immediately correct any discrepancies.

Observations:

1. The NIC team asked the master control room officers for a complete key audit document and one could not be produced.

2. The NIC team asked the master control room officers to explain what keys were on the keys rings (i.e., what doors do they open). The officers did not know, nor could the officers produce a document that explains what keys go to what areas. Several hours later, the information was produced by hand on a separate sheet of paper.

Recommendation:

- A completed key audit document must be kept in master control. Also, a document should be kept as to what key rings go to what areas and what the different keys on each key ring lock or unlock.

Observations:

1. General Institution Procedure 0.600 reads: "At no time are keys to be left hanging in a lock or left exposed. Un-issued keys will be maintained in a key cabinet or on a keyboard to which access is restricted. Issued keys in the possession of a correctional officer or other staff person should be kept in a pocket or other secure place and out of the view of inmates unless they are actually being used."

2. Staff were seen throughout the institution with keys clipped to their person and in plain sight of the inmates.

Recommendation:

- Staff should adhere to policy and keep institutional keys (on their person) in their pocket or another secure place out of the view of inmates as policy states.

Observation:

1. The key control sergeant has not been trained on how to rekey locks within the institution. As a result, the locks which need to be repined/re-keyed are taken off property to a locksmith unassociated with the institution to have the work completed.

Even though the key and lock control sergeant remain with the locksmith the entire time while the lock is being rekeyed, it is not a completely safe and secure practice.

Recommendation:

- Provide training for the institutional locksmith and back-up locksmith on how to re-pin/rekey the locks at the institution

Policy, Procedure, Standard Operating Procedure and Post Orders

Department Policy and the Standard Operating Procedure (SOP) at the Pasquotank Institution has procedural conflicting language.

Observation:

1. The PCI SOP (.0600 C. 3 b) differentiates between critical and non-critical keys being taken home and what should occur if that happens. Critical keys are to be returned promptly and if non-critical keys are taken home it is up to the O.I.C. if they are to be brought back promptly. Department policy (.2404 c) specifically states if a key is taken home, the key shall be returned promptly.

Recommendation:

- Eliminate any conflicting verbiage which exists between department policy and Pasquotank Standard Operating Procedures.

Observation:

1. Several different key control policies have been generated.

2. The department creates one, the facility creates one, and Correction Enterprise creates another. This creates some confusion on staff's part due to so many different policies or (SOP's) having to be read and followed.

Recommendation:

- The NIC team recommends stream lining the policy/Standard Operating Procedure process by having only one or two: meaning one from the department and one for the facility. This area will be discussed further in the report.

Post Orders

Observation:

1. Post Orders/Standard Operating Procedure reviewed (Chapter II Custody and Operation and Correction Officer) were last updated 10/14/14 and 09/16/14 respectively. It was found that staff do not read these post orders very often. Post orders play a vital role in the operations of an institution. When new processes are implemented, and the post orders show the change in process, the process is more likely to be followed.

Recommendation:

- Update post orders on an annual basis. By keeping the Post Orders updated, it sends a strong message to staff that administration is aware of the duties and responsibility they have.
- Require staff to read the post orders daily. By doing this, staff are aware of what their job is on each post through detailed instructions in the post orders. Any time a post order is updated, we recommend letting the staff member know at roll call briefings what is included in the update.

Physical Plant

The physical plant plays an important part in the operation of the institution. The line of sight for staff, the cleanliness of the facility (health and safety), the operations and maintenance upkeep of the facility, etc.

Observations:

1. Full storage racks created a blind spot on the camera monitor where the flammable cabinet is located in the Sewing Plant storage room. This prevented staff from being able to see or the camera to record important aspects of the incident that occurred on October 12, 2017.

2. There are six cameras located in the Correction Enterprises Sewing Plant. The available camera monitors in the area were not being monitored by staff at the time of the incident.

Recommendation:

- Conduct a review of all camera locations to include a review of monitors, and eliminate all blind spots, corners, etc. that exist in the institution.

- Require control room staff to monitor all areas of the Correction Enterprises on camera monitors, when staff and/or inmates are in the area.

Observations:

1. The inmate dedicated search room located in the Correction Enterprises Sewing Plant area is not suited well for the searching of inmates. There is not a dirty/clean area located in the room to enable the staff to separate inmates who have not been searched from those who have been searched.

2. There is not a barrier from inside the room so everyone passing by the area can see a strip search occurring which is in violation of the Prison Rape Elimination Act (PREA) standards.

3. The NIC team was told at the beginning of the assessment that all inmates pass through a metal detector and are pat searched when entering the Correction Enterprises Sewing Plant area. When leaving the sewing area, all inmates are stripped searched and pass through a metal detector.

4. The NIC team discovered inmates were very seldom stripped searched (only about 20% of the time). PCI Post Order .3500 VII Inmate Movement it reads: "A" All inmates leaving the Correction area will be thoroughly searched before leaving at the end of their workday. This will include going through the metal detector and strip searches will be conducted on a daily basis of all inmates leaving the Correction area. "B" Inmate's leaving the Correction area during the workday for any reason will be strip searched."

Recommendations:

- Change the location or modify the search room to meet all requirements of a search area, to include identifying a clean and dirty area within the room, and installing barriers to keep the view of the strip search out of plain view of others.

- Require staff to follow PCI post order and strip search all inmates leaving all Correction Enterprises areas. This is a simple way to increase security within the walls of the Institution.

Training

Staff cannot be trained enough in the operations within the institution. The way staff train is the way they will respond in emergency situations. Training is a valuable part of everyday life inside a correctional institution.

Observations:

After reviewing the incident on October 12, 2017, the NIC team noted the following:

1. The sewing plant supervisor did not have access to a radio.

2. Due to the fire started by inmates in the storage room, the Sewing Plant was filling up with smoke, and the sewing plant supervisor did not know what to do. After some time, he ran out of the sewing plant area to try and find an officer to notify them of what was happening. After running down one programming corridor, he entered the programming and medical corridor and notified a Lieutenant with the information he had at the time.

3. During interviews, this staff member told the NIC team he was panicked, because he had not been trained in emergency procedures within the prison.

Recommendation:

- All staff both correctional and non-correctional staff who are around or work with inmates should be trained in the emergency procedures of the institution, be issued a radio and personal safety equipment, and trained on how to use them.

Maintenance Request/Work Order Program-Pasquotank CI

Observations:

1. The Maintenance Manager System (MMS) is the work order system used at the Pasquotank Institution which notifies maintenance of areas needing attention for repairs.

2. A sergeant has computer access to either notify his/her superiors of a vehicle work order or an institution work order but not both. Only a lieutenant and above has full access to the MMS. Correctional officers are not granted access to the MMS.

3. When interviewing master control room staff on two separate occasions, the NIC team received conflicting information. One of the master control room monitors was not operational (nothing was showing on the screen).

4. The master control room staff were asked about this concern and the response was "not sure why it's not working, it has been that way for a while." When asked if a work order had been called in the response was, "not sure." This was of great concern to the NIC team because having a monitor not functioning properly is a very serious safety and security issue.

5. During another time, the NIC team was in the master control room and different staff were working, the concern of the monitor was discussed again. The NIC team was informed by the master control room staff that the monitor not working was disconnected, and was no longer in use and had not been used for "quite some time." The concern here is that when the NIC team first noticed the monitor was not turned on, the staff response was, "not sure why it's not working" and staff were unsure if a work order had even been called in.

Recommendation:

- Streamline the MMS process, so any staff member can submit a needed work order. Post orders should require all staff to check all equipment they have responsibility to operate, and ensure it is functioning properly during oncoming shift post relief. Improve communication from administration to staff on the status of all equipment by notifying staff at roll calls, and by computer messaging for those who do not attend roll calls. Not all staff working in the master control room were aware of the status of the monitor not working.

Observations:

1. When interviewing the maintenance supervisor, he mentioned some flaws in the current way that work orders are being recorded and called in.

2. Often staff just make a phone call to the maintenance shop to report a needed work order. Work order messages are sometimes left on the answering machine. This creates a time delay in receiving the message when staff are not at work (; i.e., sick, vacation etc.)

3. When maintenance staff are in a housing area attending to a work order and an inmate asks them to fix a toilet or reports some other problem, they address those issues.

Recommendations:

- Ensure all work orders are collected only by the MMS and no other way. By doing this the Institution and department can fully track the number of work orders being generated. This will also help administration to identify problems areas within the institution and better gauge the workload of the maintenance staff.
- When it becomes necessary for maintenance staff to address a work order on the mezzanine level in a housing unit, require that they only take the necessary tools needed into the unit section. The tool box should not be left unattended around inmates, but kept outside of the section in a locked area.

Previous Security Audits/Inspections

Security audits are tools which can be used by the Institution to judge whether or not they are keeping good security practices in place. When security audits are not performed correctly it could leave staff feeling a false sense of security after an audit is completed, if they received a high score when it was not achieved.

Observations:

1. The NIC team reviewed the documents from the last department security audit performed on February 15, 2017. The Pasquotank Institution received a "meets expectation" in every category, which means the institution received a score of 100%.

2. In reviewing Section 12 of the audit report (Key and Lock Control) and in asking the questions from this section of the audit to the institution's key and lock control sergeant, the audit team found two areas where the institution was not in compliance. This took the NIC team about ten minutes to ask the 25 questions in Section 12.

3. It was evident the auditors who performed the Department Security Audit in February did not conduct a thorough audit, at least in the Key and Lock Control section of the audit.

4. It was alluded to during interviews, that there is a "you scratch my back and I'll scratch yours" approach when it comes to the inter-department security audits.

Recommendations:

- Executives should notify the department of the importance of security auditing, and the benefits to their fellow workers and the work environment when the security audit is comprehensive.

Tool Control Document Review Pasquotank and Nash

Policy, Standard Operating Procedures, Post Orders, and Logs/Forms on Tool Control: Policy and Procedures (SOPs) on tool control are a systemic concern at facilities in NCDPS. There are numerous layers of roadmaps for staff to follow creating confusion and lack of consistent practices within agency.

Observations:

1. NCDPS Policy .2700 Tool Control (b) (1) classifies tools, and states "Class A tools are tools that can be used by an inmate either in escape or causing death or serious injury to staff and other inmates. These tools include but are limited to the following: ladders, jacks, hacksaw blades, pipe wrenches, knives, meat cutting equipment, wire cutters, files, cutting torch and tips, pipe cutters and bolt cutters, axes/emery wheels and drill bits, portable grinders or similar machines, and other tools, such as scissors, should be examined considering the security classification of the facility. Judgement should be applied to ensure that no tool is overlooked in this category. If in doubt, place the tool in this category."

2. NCDPS Policy Tool Control requires each Institution to develop a Standard Operational Procedure (SOP) for tools.

3. Policy does not require Correction Enterprises to develop their own SOP; however, the memorandum of understanding (MOU) between NCDPS and Correction Enterprise does require Correction Enterprises Standard Operational Procedure on tools.

4. Nash Tool SOP.2400 and Pasquotank Tool SOP .0400 both have different language for Class A tools and allows for the Facility Management Teams to determine what other tools may be considered Class A's.

5. The Correction Enterprise Tool Control SOP is different than the Facility SOP.

6. Correction Enterprises has a Tool SOP written for each different plant and varies depending on facility. Example: Sewing Plant tool SOP lists their Class A tools and (scissors are not listed as Class A tools); however, Nash Print shop does not list Class A

tools in Correction SOP at all.

7. Incongruent language between Tool Control Facility SOP's .0400 and .2400 and the Correction Tool Control SOP's is one reason for staff inconsistent security practices in storage room, and in the lack of accountability for tools in Sewing Plant at Pasquotank and Print Plant at Nash.

8. Nash Institution Tool Control Procedure states: A "Tool Storage rooms will be secured by staff and remain locked at all times. Storage areas will be inaccessible to inmates without direct supervision." The Correction Enterprises Tool Control SOP was silent on this language, so it was not accomplished by staff in practice. Three inmates assigned to work in Correction Enterprises Print Shop have access to both Class A and Class B tools, without any direct supervision.

9. Pasquotank Correctional Institution SOP .2400, and Nash .0400 Tool Control states inmates must be directly supervised by staff when using Class A tools. The Correction Sewing Room Tool Control SOP was silent in this area, which contributed to staff failure to perform as required by the Facility SOP. One inmate was assigned to work in Sewing Plant tool room issuing tools to other inmates. This was the case the day before the incident, as recorded on the inmate check in/out log. There were seven tools checked out to inmates: needle nose plier with side cutter, socket set, three large six-inch blade scissors, two screw drivers, one ball peen hammer, one claw hammer, one pouch with four scissors, and one wood saw.

10. NCDPS Tool Control Policy states that the facility head has the responsibility for ensuring the control and accountability of all tools within the facility, including tools assigned to contractors, Correction Enterprises, vocational school, central engineering staff and others bringing tools into a facility.

11. Staff within the facilities at Nash and Pasquotank were confused and believed policy meant only tools brought in each day are their responsibility; however, the Pasquotank Tool SOP .2400 states: "The facility head will have the overall responsibility to ensure for development and implementation of the tool control procedure. They will also shoulder the responsibility for ensuring the control and accountability of all tools within the facility and includes tools assigned to Enterprise, regional maintenance staff, etc."

12. Nash Tool SOP .0400 stated Enterprise staff were responsible for tool control implementation and control with the approval of the Assistant Superintendent.

13. Lack of collaboration and communication between Correction Enterprises Staff and the Facility Head is absent in the development of Enterprise SOP's, as required by Policy and Facility SOP's. The Policy, Facility SOP's and Enterprise SOP's would not be so incongruent and confusing, if there was consistent dialogue and training on written policies and accountability procedures. There has been critical failure within the two industries plants, due to a culture lacking in collaboration and communication on all critical safety and security concerns within the agency.

14. There are no standardized or consistent processes or forms on tool control as required by the agency. Consequently, all facility areas and Correction Enterprise use different forms requiring differing information.

15. NCDPS Tool Control Policy .2700 does not require a standardized form for tool control.

16. Nash Tool SOP .0400 requires standardized numbered forms for tool control; however, staff did not know that language was in procedure and do not use those forms. Consequently, all logs and forms and inventories are different for each area within the facility and Correction Enterprise Plants.

17. Pasquotank Tool Control Policy .2400 does not require any standard form for tool control. Consequently, all logs and forms and inventories are different for each area within the facility and Correction Enterprise Plants.

Recommendation:

- Develop a department policy that succinctly specifies for all departments the procedures for managing and securing tools within the department.

- Develop a NCDPS Tool Control Policy that lists all Class A tools for all facilities. Eliminate the ability for each facility and Correction Enterprises Plants within facilities to create their own interpretation of what is considered hazardous/dangerous. Too much conflict and confusion exist without standardization in this area. The policy should include: claw hammers, sledge hammers, chain pullers, large and long screw drivers, all saw blades, electric bread slicer blades, and etc. There are many tools that could be classified as Class A which can and should be considered.

- Eliminate the ability for inmates to issue Class A tools. Class A tools should be issued by staff and under direct staff supervision.

- Develop NCDPS Tool Control Policy for all entities within the department and for contractors. At a minimum, policy areas should include: tool control processes, identifying responsibilities, handling and issuing, inventorying, designating individual departments, tool control officers' responsibilities (inventorying frequencies, supervision, monitoring and auditing of tools).

- Develop a NCDPS Tool Control Policy that requires standardized forms and logs for all tool control inventories, issue logs, audit inventory logs with the reviewer title, date, etc. Create a NCDPS form number for each form or log and maintain at the agency level, ensuring auditors review the required form and logs to eliminate renegade forms or logs. When separate, differing forms and/or logs are created, they inevitably miss information required should a tool go missing or be inappropriately or illegally used.

- Based on best practices and professional opinion, adopt a committee of Correction Enterprises and custody disciplines to evaluate the necessity of NCDPS Tool Control Policy, facility tool SOP's, Correction Enterprises Tool Control SOP's and MOU's.

- It is important to note that critical prison safety and security policies need to be concise and leave no doubt in staff's minds what is required to maintain a safe and consistent tool control practice.

Tool Control Staff Practice Pasquotank and Nash

It should be noted that according to best practices and professional opinion, the practice of tool control by staff can be partially linked back to policy and procedures that conflict with each other. There are many varying procedures on critical areas within the policy and procedures, with lack of clear understanding or knowledge of what is required. Many staff did not know the policy and procedures, which one to follow, and - in some cases - did not know a procedure existed for Correction Enterprise tool control or facility tool control.

Class "A" Tools Classification, Storage, Issue and Use.

Observations:

1. At the Pasquotank Sewing Plant, the following items were not listed as Class A tools: hack saw blades, scissors, wire cutter, side plier, Claw hammer and Fabric cutting blades 10" x 11". All these tools were available for the inmate tool clerk to issue to other inmates.

2. At the Pasquotank Sewing Plant, Class A tools listed above were not locked in secure cabinets but open to inmates.

3. At the Pasquotank Sewing Plant, inmates were allowed to use these tools without direct supervision.

4. At the Nash Print Maintenance Shop, many large red tool cabinets within the shop had missing Class A tools. There was no indication when they went missing, where they were or any inventory being completing checked on cabinets by any Correction Enterprises or custody staff.

5. At the Nash Print Plant, numerous brand new, un-inventoried (approximately 20-25 Class A tools) were in a file cabinet in the back of the wood shop. When staff were questioned, no one admitted knowledge as to how they got into the shop.

6. At the Nash Print Plant, welding tip and mixers were not secured, and were left attached to tanks.

7. At the Nash Print Plant, neither custody staff nor Correction Enterprises staff had conducted any intensive inventory check on a daily, weekly, or monthly basis as required by policy.

8. At the Nash Print Plant, there was no issue log present for the three inmates who worked in that area. They had, however, checked out Class A tools, and had access to others not on any inventory.

9. At the Nash Print Plant, the three inmates working in that area also had tools in their desks which were not on any inventory list, and had been maintained in their desks for personal use.

Recommendations:

- Immediately revise current tool control department policy to contain the procedures the department wants to employ, and initiate a department-wide audit of tool management. The tool audit should include the areas within Correction Enterprises.

- Review American Correctional Associations (ACA) Standards and the Tool Control Best Practices identified in the National Institute of Corrections Security Audit Instrument.

Tool Control Officer Training

Observations:

1. At Pasquotank CI, the assessment team spoke with the sergeant assigned to tool control. He stated he is learning from the lieutenant who had been the tool control officer. He admitted that he has a lot to learn and recognizes the confusion that exists between policy and facility SOP on tools. He stated he asks lots of questions and does his best. Professional opinion would indicate he is genuinely trying his hardest to manage tools however, a tool control system can be complex to develop especially without the lack of consistent direction in writing and verbally.

2. At Nash CI, the captain was the staff member the team was directed to for tool control. The captain oversaw tool control for the facility. The Captain recently assigned a Lieutenant, who was not present during our time onsite, to oversee tool control for the facility. The captain was unaware that the Nash Tool SOP required specific tool control forms and logs for the facility. Also, he was unaware of the status of tools in the Correction Enterprises Print Plant.

Recommendations:

- Write a succinct, consistent definition to clearly identify Class A tools and how they are to be secured and managed. This should be done at the department level.

- Ensure Tool Control Officers and all staff who uses or supervises the use of tools are knowledgeable of the storage, handling, issue, and use procedures.

- If Pasquotank Sewing Plant is to re-open, then a detailed review of what tools are necessary for the shop to operate should be conducted. Notation of what they are used for, and how securely the inmates will use them, (e.g.) tethering of the scissors should be included in the review.

- At Nash CI, all tools should be removed from areas within maintenance, wood shop and re-inventoried by tool classification. They should be placed in secure cabinets or shadow boarded, with strict controls set in place for storage, control, issue and use. No inmates should have desks or work where tools are stored. Class "A" Tools should be issued as needed, under direct supervision.

Interview, Monitor and Training of Tool Control Officer

Recommendations:

- Determine what level of knowledge, experience, and abilities the Tool Control Officer should have in department policy. Conduct interviews for selection, and continually provide training in all aspects of a safe, secure and controlled tool system.

- Provide specific advance training for those who are assigned as tool control officers. The training consists of the identification of tools, the categorization of tools, the accountability and responsibilities and authority of the tool control officer.

- At minimum, three levels of tool management oversite. (1) The NCDPS Division of Prisons, (2) Facility Level, and (3) each Correction Enterprises plant level, based upon the tools necessary to do the work.

Storage and Tool Room Overview

Observation:

1. At Pasquotank CI, Correction Enterprise; the video of the Sewing Shop stock room shows an area that was overstocked, and an area manipulated by the inmates. There were shelves and supplies stacked to the ceiling, the chemical cabinet was placed against an exit door in the back of the room behind shelving. Inmates had created a "hiding place" for themselves with the intent to conceal their activities from camera view. The assessment team deduced that staff had become accustomed to seeing boxes stacked to the ceiling, and items blocking entry and exit points. This resulted in their becoming complacent to their surroundings. This is a common response as things change slowly and incrementally over time. Staff are busy with increased duties and responsibilities on a daily basis, so it is imperative that different eyes view and assess these areas for staff safety.

2. The Nash Print Plant Tool Room was an unsafe environment. The three inmate workers assigned to this area clearly had established their individual "comfort zones" by placing their desks in areas with filing cabinets, and cutting off visibility to their areas. The inmates had tools, wires, chemicals, and so much "stuff" in their desks. The items removed from the desk drawers for our assessment was stacked high on their desks. The entire wood shop and maintenance shop was very dirty, cluttered, unorganized, full of extra parts, and items to be repaired. It took one entire day just to go through tools and chemicals. We found dangerous items such as nails, box cutter blades and Class A tools that should have been discovered on inventory reconciliation or security audits.

3. Visibility into the area from windows was non-existent because of cabinets and supplies stacked to the ceiling.

4. The Optical Tool Room is very small, uncleaned and cluttered with boxes of extra parts and tools. The assessment team were unable to locate a tool inventory to verify tool accountability within the tool room.

Recommendations

- Inspect all plants for cleanliness and clutter. Eliminate unnecessary or duplicate tools.

- Only have tools in the Correction Enterprises Plants that are required for daily use.

Tool Control Facility Maintenance Shops

The facility maintenance Plants at Pasquotank CI were reviewed while on site for a general comparison between facility tool control and Correction Enterprises Tool Control.

The facilities maintenance tool rooms were in somewhat better condition and control than Correction Enterprises; however, there remains critical observations that needs to be addressed in each facility maintenance shop.

Observations:

1. In the Pasquotank Facility Maintenance Shop Tool Room, the inventory sheets and logs were different than Correction Enterprises. There were some tools never checked back in on the issue log, nor were there any dates on any logs. The maintenance manager stated that he checks inventory by reviewing shadow boards. The tool shop is not using issue logs.

2. The Pasquotank Facility Maintenance Shop Tool room was organized and clean. The plumber's tool cabinet was full of rusty, old tools which needed to be replaced, as evidenced by the barely visible etching.

3. Using the Pasquotank Facility Maintenance Shop Tool Room as an example, on 10/12/17, the manager had a broken ball peen hammer which was purchased prior that date and replaced it with a claw hammer. It was not changed on the inventory sheet and he stated it would be done soon. If the new claw hammer had been missing no one would have known it was there except for the manager.

Welding Shop Tool Control and General Condition

Observations:

1. Pasquotank CI Welding Shop is a very cluttered and disorganized area. There is no area for staff to walk through without tripping over buckets, supplies, or equipment. The inmates work in this area to accomplish welding jobs.

2. There are six barrels for disposal of metal pieces, broken tools, and scraps unaccounted for. The barrel for storing broken tools is a metal barrel with a secure lock on top. The other five barrels are plastic, and stores metal pieces and scrap in open unsecured containers with no lid. The barrels are all overflowing and have not been emptied in quite some time. Our concern is the inmate's readily access to potential dangerous contraband.

PCI Maintenance Tool Room

Recommendations:

- Use the issue logs and not just rely on counting tools on shadow boards in the Pasquotank Maintenance shops and tool rooms.

- Require Pasquotank Maintenance staff to review tools in plumber's cart and verify the condition of the tool etchings to ensure the etchings are visible and verify the tools are in operating condition.

- Require the Tool Control Officer place all new tools on inventory prior to them being placed in use.

PCI Welding Shop

Recommendation:

- Organize and de-clutter entire area at Pasquotank. Ensure inmates do not have access to this area, until it is safe to do so.

- Ensure that scrap barrels should all have tops and the ability to be secured with a lock at Pasquotank. Excess scrap materials should be removed daily. If storage is required, the scrap materials should be stored in a secured container outside of the shop away from inmate access.

Overall Staff Practice Recommendation

- Appoint a multidisciplinary team to review the status of the maintenance shop and determine how to redesign to create visibility not just in these two shops but all areas within facilities for staff safety.

- Inmate free time or work areas should be visible to staff with no ability for inmates to secret or hide items they may want to keep in these areas.

- Ensure Correction Enterprise and facility staff make rounds together for the purpose of identifying and rectifying identified areas of safety and security concerns, to include the location of the tool rooms that pose potential risks. No tool room should reach the level of disarray and unsafe practices as was observed in the Nash Print and Optical Plants.

Hazardous Material Control Document Review Pasquotank CI and Nash CI

Departmental Policy, SOP's, Post Orders, and Logs/Forms on Hazardous Materials Control: Policy and Procedures (SOPs) regarding hazardous material control were problematic at PCI and NCI. The varied language and direction provided varied for staff to follow created confusion and lack of consistent practices within agency.

Observation:

1. Nash CI, Pasquotank CI and Correction Enterprise Policy/ Standard Operating Procedure policy definitions differs from NCDPS Department Policy Hazardous Chemical Control Policy .3600 definitions. The staff were unaware of the differences.

2. NCDPS Policy .3600, and facility SOP's, Correction Enterprise SOP's do not require perpetual weighing of remaining chemicals for determining the usage, inventorying and control purposes.

3. NCDPS Policy nor Facility and Correction Enterprise SOP's require standardized forms or logs for accounting, controlling and documenting of Hazardous materials. Some observed did not have the necessary required information to be accountable if used inappropriately or illegally.

Recommendations:

- Review and compare NCDPS Policy .3600 to all facility SOP's on hazardous chemicals and consider whether separate SOP's are really necessary. If they are, then the language should be consistent with respect to definitions, storage, issue, and use.

- Develop a perpetual weight system utilizing an electronic scale. Caustic and dangerous highly flammable substances should be weighed by ounce or amount necessary to accomplish the specific task.

- Develop standardized NCDPS forms and logs to be utilized departmentally for accounting, inventorying and controlling of hazardous materials.

Hazardous Material Control; Staff Practice Review Pasquotank CI, Nash CI and Correction Enterprise

It should be noted, according to correctional best practices and the professional opinions of the assessment team, the poor practice of hazardous material control by staff can be partially linked back to failure to succinctly articulate the procedure and practice in policy.

Observations:

1. It appears the annual hazardous chemical audits are not being done as required by department policy in areas reviewed at Nash CI, Pasquotank CI and Correction Enterprises.

2. There was no perpetual inventory of flammable or caustic, dangerous chemicals maintained that could be located for all chemical cabinets observed.

3. The October 12, 2017 video of the incident shows a Correctional Enterprises staff member going to the chemical cabinet and issuing an inmate a compressed air can of a chemical. The staff did not remain with inmate to supervise the use of the chemical. It was discovered by search of cabinet that a flammable aerosol substance was missing according to the Correction Enterprises staff.

4. In the Pasquotank CI Maintenance Shop, there were no correct inventories of any chemical present in the shop. The issue logs were years old, with no current issue logs used or maintained.

5. The last inventory located in cabinet stated there were ten gallons of mineral spirits in the cabinet. There were two-gallon containers in cabinet, one empty and one almost empty. All chemicals in cabinet had no accountability.

6. There was another cabinet located in the same area. This cabinet contained a 5-gallon bucket of what appeared to be mineral spirits. The bucket had no cover and was half full. The manager thought it may have been brought from another area after the incident and placed in this cabinet.

Nash CI Maintenance Shop

1. Chemicals throughout the print shop revealed there were flammable and caustic chemicals that were not in secured storage cabinets when not in use.

2. All cabinets in the Maintenance and Wood Shops were overcrowded with chemicals. There were no issue logs, no perpetual inventories, nor did the staff have any knowledge what chemicals were present or even if those chemicals were needed in these areas.

Nash Print Shop Floor

3. The issue logs confusing, for staff reconciling due to use of wrong type of log being used.

4. There is no perpetual inventory of any chemical, however the cabinet was organized and not overcrowded as others.

Recommendations for All Areas Listed:

- Develop a process in policy for a daily inspection of all chemical cabinets at the end of each shift for accountability.

- Develop in policy a standardized hazardous material control system and conduct training for custody, non-custody and Correction Enterprises Staff to accommodate safe practices and management of hazardous materials.

- Develop inventories on all chemicals in each area.

- Remove all unnecessary chemicals.

- Develop standardized departmental forms for management and accountability of hazardous materials.

- Start with a completely empty area by, cleaning it out, evaluating the need for chemicals. Develop safe storage, inventory, issue and use procedures, and train staff in those procedures.

- Develop new inventory, and develop or use an issue log that provides needed information.

Security Audit Document Review Pasquotank and Nash

Security Audits are the process for determining the extent to which policies, procedures, standards, and practices combine to ensure a safe and secure environment. The Security Audit should be conducted by auditors with expertise and deep knowledge of safe, secure policies, procedures and practices. A good audit will identify weaknesses, deficiencies, and areas of vulnerability in an institutions operation. Without a robust security audit program, leaders cannot accurately determine if vulnerabilities exist in their security systems. A fresh eyes approach is necessary before weakness become risks to safety. The audit is the first and last defense in identifying risks for the safety of staff, inmate and the public. If risks are not discovered during this process and complacency continues. The shortcuts taken by staff could lead to possible escape, serious injury, or death.

The Pasquotank Institution had a security audit, in February of 2017, the Nash Institution had a security audit in July of 2017, and another of just the Print Plant November 17, of 2017, and two days before the assessment team was on site.

Observations:

1. The Pasquotank February security audit, and the Nash July security audit did not identify risks in tool or chemical control. There were many indicators that the policies, and practices were not only weak at the time of the NIC assessment, but at a critical level for risk.

2. Nash Management tool control audit, of the print shop November 17, 2017 did not identify 11 deficiencies. This was not however, a detailed security audit nor did the audit instrument include standards critical for risk analysis in tool control. It appeared to be a cursory audit.

3. The assessment team was informed that the security audit at Nash in July only lasted for a brief amount of time, leaving staff there perplexed as to what the audit process really entailed.

Recommendations:

- Review security standards and audit instrument to ensure that the document provides for a thorough risk analysis.
- Train auditors, and use only very experienced staff to conduct the audits.
- Ensure enough time is allotted for thorough security audits at each facility.
- Ensure part of the audit process includes a review of policies, SOP's, and post orders.
- Develop a corrective action process to ensure security audit deficiencies are addressed.

Staff Personal Body Alarm System

Observations:

Many prison systems across the country have purchased and implemented the use of personal body alarm systems to enhance staff safety within their institutions. The NIC team did not find these personal protection systems in place at either the Nash or Pasquotank Institutions, nor were these systems in use in the Correction Industries located within these institutions.

1. Conversations with NCDPS Adult Corrections Division staff and Correction Enterprise Management indicated that personal body alarm systems do not exist in any of the NCDPS facilities or Correction Industry sites in the state.

2. Personal body alarm systems available are generally comprised of a transmitter worn by the staff member, intermediate receiver/transmitters to relay information to the last component, a base station (processing station for information transmitted) located in a security control room with 24 hour staff coverage. The transmitter devices are about the size of a garage door opener or a little larger and affix to the wearer's belt or otherwise attach to the clothing in the waist area to be readily/immediately accessible to the wearer.

Recommendations:

- The NIC Team recommends the acquisition and implementation of a quality personal body alarm systems both for all NCDPS Adult Corrections Division facilities and for all Correction Enterprises sites located throughout the state. The body alarm systems combined with appropriate training are in our professional opinion, the most important piece of personal safety equipment that can be issued to all staff and volunteers working in a correctional facility.

- The NIC Team recommends all staff who work or volunteer in a correctional institution and Correction Enterprises are trained on how the personal system is activated, where it is acknowledged, and staff and victim response procedures and provided training in personal safety situational awareness.

- The advantage of personal body alarm is they provide a silent alert to a control station that can immediately dispatch help to the location of the staff member.

- The most important feature of a quality body alarm system is that it identifies the location of the person and it has the ability to notify a control center audibly and visually.

Two-Way Radio System

Observation:

1. The current two-way radio systems used for facility communication at both Nash CI and Pasquotank CI and Correction Enterprise located at these facilities appeared to be similar in the type, frequency and nomenclature. There appeared to be a mixture of older radio types/brands and newer models, with many, if not most, of the existing radios equipped with a small button located at the top of the radio is referred to as a "panic alarm" button. The NIC team randomly tested staff radio panic alarm buttons, and interviewed both staff and maintenance supervisors on their use. We were informed that the radios do have the capability to function as a panic alarm, but they required additional programming and equipment to accommodate the added features. The addition of the radio system features described in this section provide a second level of redundancy for staff safety for any emergency including those for medical emergencies.

Recommendations:

- Conduct a system wide assessment of all radios for the capability of programming for the activation of the "panic alarm" feature. There are a variety of levels of sophistication for radio activated alarm systems ranging from pinpoint location capability to no location capability for the department's consideration for stationary posts and mobile posts.

- Ensure the alert radio function "panic alarm" feature is programmed on all two-way radios utilized within the adult correctional institutions and Correction Enterprise.

- Write a departmental policy describing the standards by which the panic alarm is activated, as well as the procedure for determining location and response.

- Require all staff who directly supervises inmates and those whose work require them to be in the presence of inmates are required to be issued a radio.

- Develop departmental training on emergency notification and staff emergency responses to personal safety alarms.

The Open Microphone Feature (Hot Mic)

Observation:

1. During our review of the radios at Pasquotank and Nash, the NIC team noticed the current radios did not have the open microphone ("hot mic") feature. The "hot mic" feature acts as a companion to the "panic alarm" activation in that it causes the transmission microphone on the radio to activate for a brief, prescribed period of time (generally 10 – 15 seconds) during which time all other transmission capability on the radio system is over-ridden. It does, however, allow for an avenue to obtain locational information for staff who may not be in a fixed or otherwise known location.

Recommendations:

- Add the open microphone feature to the radios issued to all staff and volunteers who directly supervise and those whose work require them to be in the presence of inmates. These individuals should have this feature programmed on their radios.

- Include the purpose and use of the open microphone system in the departmental Staff Safety Policy and provide the necessary training to all custody staff and Correctional Enterprise employees.

- Implement the radio system and the personal body alarm system.

Telephone off Hook Landline Feature

Observation:

1. The NIC Team questioned staff at both Pasquotank and Nash Institutions to determine if they were aware of the off-hook personal alert feature on the landline phones located in the institutions and at Correction Enterprises Plants and offices. This feature is designed to allow the control room officer to hear what is going on at the location of the "off hook" telephone and, allows for office staff to notify the control room officer. We were informed at the Pasquotank Correctional Institution that the "off hook" telephone feature is functional. The NIC team discovered that the staff in control center were not aware of the security feature, hung up the phone, and did not return the call to verify the status of the person. We did not test the system at Nash, but were told that the land line system did not have that functionality in place. We are unsure of the existence of this capability departmentally for NCDPS adult correctional Institutions or Correction Enterprise Plants.

Recommendations:

- Implement the "off hook" alarm personal safety option in all adult correctional institutions and Correction Enterprise operations system wide.

- Add the "off hook" landline telephone personal safety system's purpose, function, and response to the department's required Staff Personal Safety Training.

Observations:

1. The NIC team found no indication during our staff safety assessment that frequent training for staff on staff safety and situational awareness was being provided staff in either Pasquotank CI or Nash CI or for the Correction Enterprises Plants located within them. We also could not determine beyond PCI and NCI if this training was provided for staff in any other or the remaining facilities in the NCDPS Adult Corrections Division or in the Correction Enterprise plants. Industrial safety is being taught to Correction

Enterprises staff members, but this does not include training to assist them with ensuring their personal safety when supervising and working with inmates.

Recommendations:

- Develop a standardized and comprehensive staff safety and situational awareness training curriculum for all employees working in prisons.
- This training become an annual refresher training requirement.
- Personal safety and situational awareness should be presented and reinforced during shift briefings and supervisory rounds. During supervisor rounds, routinely discuss the inherent dangers of complacency and over familiarity in a correctional work environment.
- If the decision is made to implement all or part of the previous recommendations in this report including personal body alarms, two-way radio panic alarms, hot mic features, and off-hook land line telephone alerts, the inclusion of training in the appropriate and timely use of these safety tools will be critical.

Inmate Work Assignment

Observations:

1. During the team's review of the process by which inmates are assigned to Correction Enterprise jobs, we learned that inmates assigned to a facility where Correction Enterprise was located, regardless of custody level, were eligible to be assigned to work for Correction Enterprises. The process for assignment included a behavioral review, skills assessment, criminal history review, job interview with potential employer, review of physical and mental capabilities and other reasonable factors were considered for a work assignment.

2. In 2010, North Carolina Inmates, filed a class action lawsuit under the Americans with Disabilities Act. On August 15, 2013, a stipulated consent decree was approved by the courts. On October 1, 2015, the *Inmate Work Assignment Manual* was updated. Reportedly, the updated instructions eliminated or dramatically reduced the previous assignment criteria. The NIC team was informed that the criteria were reduced to: (1) an inmate, housed in the facility where the industry is located and expressing interest in an industry assignment, is asked to indicate by signature that they are able to perform the

work required of the work assignment; (2) and If they do so, then they are included on a list of those available for assignment and subsequently assigned on a first come, first serve basis. This was verbally confirmed by Adult Corrections Division staff and Correction Enterprise Management during our discussions.

Recommendations:

- Conduct a review of the inmate assignment distribution in all correctional institution locations, excluding close custody male inmates from working assignments in Correction Enterprise. A consideration for an exception would be the Central Unit Laundry, where the NIC team would recommend a limit of 10 inmates, no access to tools and dangerous chemicals.

- This decision takes into consideration that there are 6,272 Close Custody inmates, 17,077 Medium Custody and 14,335 Minimum Custody inmates in the North Carolina corrections system (totals for each custody level as provided during our visit) from which to select and populate Correction jobs without necessitating industry cut backs or downsizing. This recommendation was discussed without dissent with Adult Corrections Division managers and with Correction Enterprises management.

- Conduct a review of the consent decree and the current practice of "first come first serve" work assignments to Correctional Enterprises to legally create a more robust inmate work assignment process within the limitations of the consent decree.

- Re-validate the department's male classification instrument, and consider establishing a female classification system based upon gender-specific factors.

- Initiate the development of an internal classification process for inmate work assignments for all correctional institutions. The work assignment should be based upon identifying potential risk factors and corresponding risk of the work assignment to include Correction Enterprises. Utilizing the existing inmate classification factors and evidence based instruments to assess violence potential such as the Violence Risk Appraisal Guide (VRAG) as an example, for medium custody inmates who are applying for Correction Enterprises assignment. These risk levels are arranged from high to low risk potential.

- Conduct a comprehensive security risk evaluation of Correction Enterprises Plants, based upon the type of tools and equipment, materials used, physical plant size, sight lines, security of plant construction, location within or exterior to the supporting

institution, number/ratio of custody staff assigned, and ratio of correctional staff assigned, etcetera. The Correction Enterprises Plants are rated from high to low risk. A process such as this could help the department to determine eligibility for a job in Correction Enterprises and institutional work assignments.

Correctional Staffing

Observations:

1. Pasquotank CI and Nash CI, present significantly different in terms of staffing issues. Pasquotank CI had, at the time of our visit, 84 custody staff vacancies or approximately a 25% vacancy rate. The number of vacancies on October 12, 2017 was reportedly slightly lower but still approaching 25%. Reportedly, Pasquotank CI has a very difficult time recruiting new staff to address their staffing shortages. Nash CI on the other hand, had only 16)custody staff vacancies or an approximate seven percent vacancy rate. Nash CI had no, or much less, difficulty recruiting and hiring new staff. In fact, we were told that individual applicants had been identified to fill all but one of the existing Nash CI vacancies.

2. One of the factors we looked at in our two-day basic assessment of staffing levels was to review inmate-ratios to get a general view of the staffing conditions and its impact on correctional operations. It was obvious for Pasquotank CI with a 25% vacancy rate there was a critical need for the current vacancies to be filled.

3. The most recent and currently approved department staffing plans reviewed for Pasquotank CI and Nash CI were dated June of 2015. These were approved by the Division of Adult Corrections and appeared to be based on a very sound methodology in both structure and design. As we understand the system, staffing plans/post charts serve as the document from which facility custody assignment rosters are to be prepared. In our review of the staffing plans, we noted inconsistencies with the post chart as described below.

4. During our review of the Division of Adult Correction - Prisons Post Chart, dated 06/11/15, there were two officer positions designated for the Correction Enterprises Sewing Plant on first shift. Both positions have a pull post level 1 and the second position (Vocational Post) has been vacant for an extended period. Staff reported that one Correctional Sewing Plant Officer is often expected to complete the assignment of two correctional officers in the Correction Enterprises Sewing Plant. Therefore, all post

order duties were being conducted by one officer to include the strip-searching of 30+ inmates assigned to the sewing plant.

5. As a result of the Education/Vocational Officer (Rover) post being vacant since 10/10/17, the sewing plant Correctional Officer's normal areas of responsibility were compounded. The Education/Vocational Officer's Duties include supervising and maintaining control of inmates in the vocational programs areas. This vacancy allowed inmates in the Sewing Machine and Foodservice Technology classrooms to move in and out of the rooms unrestricted as seen in video footage dated 10/12/17. The shortage of correctional officer monitoring these areas exacerbates the ability to control movement and monitor the areas effectively.

6. The recurring correctional officer shortages present a significant challenge for staff assigned to the area. Despite these shortcomings, the Sewing Plant continued to operate with the total allotment of inmate worker, and the vocational classrooms continue to provide skilled trade programming to inmates. The day-to-day area of responsibility for each vacant post was incorporated into the duties of available staff. It is these additional duties that increase risk factors and create safety concerns for over worked staff in these areas.

7. The NIC Team concluded that, had both authorized correctional officer posts been designated high priority (Level 3) as those at Nash Correction Enterprises Plants, there would very likely have been two custody staff present on October 12, 2017 instead of one. It is also significant that another low priority (Level 1) custody post (vocational) authorized on the Staffing Plan to be assigned in the immediate area of the October 12, 2017 incident was left vacant. The priority level of this post allows for it to be left vacant when the assignment supervisor is facing deficient numbers of officers available for assignment. Such deficiencies are expected to occur frequently, if not routinely, in the face of a 25% custody staff vacancy level.

8. The result was that 50% of the authorized custody post positions in the immediate area were the October 12, 2017 deaths occurred were not filled. It is not possible to definitively determine if the violent acts could have been prevented had the staffing deficiencies identified here not existed. The existence of the deficiency however, cannot be omitted from consideration in any reasonable assessment.

9. It is very important to consider that the vacancy level existing at Pasquotank CI dictates difficult decisions by facility managers and supervisors in deciding what custody posts

can be filled and which must be left vacant. When faced with a 25% vacancy rate the certainty of some posts being left vacant becomes a given factor and not the exception. Again, without the ability to do a comprehensive staffing/post analysis, the decisions by PCI supervisors and managers on priorities for the post assignments of custody staff cannot be accurately assessed and should certainly not be second-guessed.

Recommendations:

- Address the vacancy levels at PCI expeditiously. This includes determining the specific issues giving rise to the vacancies and taking immediate steps to address them.
- Reduce the inmate population at PCI if an immediate remedy for the vacancies cannot be identified.
- Assign minimum custody inmates to work in the sewing shop.
- Reduce the number of inmate workers commensurate to the number of correctional officer posts are filled in the sewing shop.
- Although is the least desirable recommendation because of the stress and tension it can produce in the inmate population, the prison and other stakeholders, is to suspend some programs and activities, either totally or adjust the frequency with which they occur. Depending upon the level of reduction in this area, tension within the inmate population assigned and associated inmate management issues can rise to a problematic level if such reductions occur for extended periods.
- As a system/division recommendation, the North Carolina Department of Public Safety, Division of Prisons should solicit an independent entity to conduct a system-wide comprehensive staffing analysis.

Overall Review of Department Policy, Standard Operating Procedures and Post Orders

Observations:

1. The NIC Team noted significant reoccurring problems in a variety of areas of the Department of Correction's Division of Prison, Policy, Procedure and Development Protocols. What we consistently found was the department's governing policies were vaguely written and lacked succinctness in the procedural language, which left,

opportunities for the readers to interpret the intended meaning. We also found department policies that were outdated, with no department approved standardized forms and policies with no routine annual reviews. Examples of department policy concerns were noted throughout this report.

2. In our review of North Carolina Department of Corrections Division of Prisons .0600 Policy and Procedure Development dated 01/16/08, it has good procedural process requirements for policy development and review however, the process is not being followed as written.

3. The current process includes Adult Corrections Division Policies from which individual institutional Standing Operational Procedures are developed and post orders are developed at the intuitional level. This three-level instructional system is work/manpower intensive when policies ideally are maintained and updated annually at the Division level, leading to annual updates of institutional procedures. These institutional procedures should themselves be reviewed and updated as necessary on at least an annual basis. The process requires very careful attention to detail by reviewers to ensure that facility procedural instructions remain consistent and within the parameters of the policy requirements.

4. In large prison systems such as the one in North Carolina, the resulting inconsistencies in how things are being done can easily become the rule and not the exception. Such inconsistencies existing in today's litigious corrections environment lead to surprises that ultimately can result in liability. Experience has taught us that inconsistent procedures and problematic directions at the institutional level are frequently not discovered until it is too late.

5. While reviewing Correction Enterprise policy and procedure Manuals, we found critical security procedures that were abbreviated, vague and lacking in succinctness. When we made an inquiry into this issue, we were informed that security related policies were created and written by Correction Enterprise staff without Division of Prison's professional input.

Recommendations:

- Review the three-level system of Department Policy, Institution Standard Operational Procedures for their effectiveness in communicating the department's desired procedures and practices.

- If in the above review determination is made to streamline the policy process, the NCDPS Division of Prisons current three-pronged policy system should be replaced with a two-pronged system. The department's policy distribution systems become the first prong is a comprehensive detailed Division of Prison Policy & Procedure that is representative of how the procedure is to be systemically implemented. The second prong relies on the correctional institutions incorporating procedural language into the institution's post orders, this process will allow for much more consistency and congruity of operations system-wide. When necessary, facility addendums to the Division Procedures may be submitted to the Division Director for review and written approval only when there are unique operational issues that dictate that this be done.

Overall Review of Security Inspections and Security Auditing

Observations:

1. Internal security auditing and inspections enables corrections agencies to determine the extent to which policy, procedure, standards and practice combine to provide a safe and secure facility environment. This is a critical management function that allows agencies to identify and correct problem areas, maintain established standards, and promote continuous improvement. It can help agencies assess the effectiveness and consistency in practice of new and existing programs or policies.

2. The security audit reports were not detailed enough to provide a quality report on the status of the safety and security of the areas audited.

3. The security audit and security inspection reports are shared with the department, institution and Correction Enterprises management with established expectations for addressing deficiencies (such as a corrective action plan).

4. Auditing methods allow for meaningful comparisons between facilities from year to year.

Recommendations:

- Create a departmental security inspection policy with standardized forms for the prison division. The policy at minimum should address, what is to be inspected, the frequency and type, frequency, documentation, corrective action process and purpose.

- Conduct unannounced security audits on selected areas routinely.

- Select and train security auditors for the department. Security is a complex and integrated system that requires trained personal to conduct a comprehensive all-inclusive status assessment. The best security auditing programs are the ones where correctional agencies created a security auditing department with assigned staff to conduct security audits throughout the department as their work assignment.

- Establish and track metrics in order to measure departmental deficiencies and correctional institutions yearly comparisons.

Overall Review Staff Training

Observation:

1. There are obvious benefits for the department to ensure both uniformed and non-uniformed employees receive consistent and quality training. What we found was not all employees working in prisons receive the same quality of curriculum based training. As an example, Correction Enterprise employees do not receive the same training as correctional staff in the areas of; tool, keys and lock control, emergency response, supervising inmates or personal safety. Although they are working with inmates and supervising them, the training in the areas mentioned is not the same as what a correctional officer receives.

Recommendation:

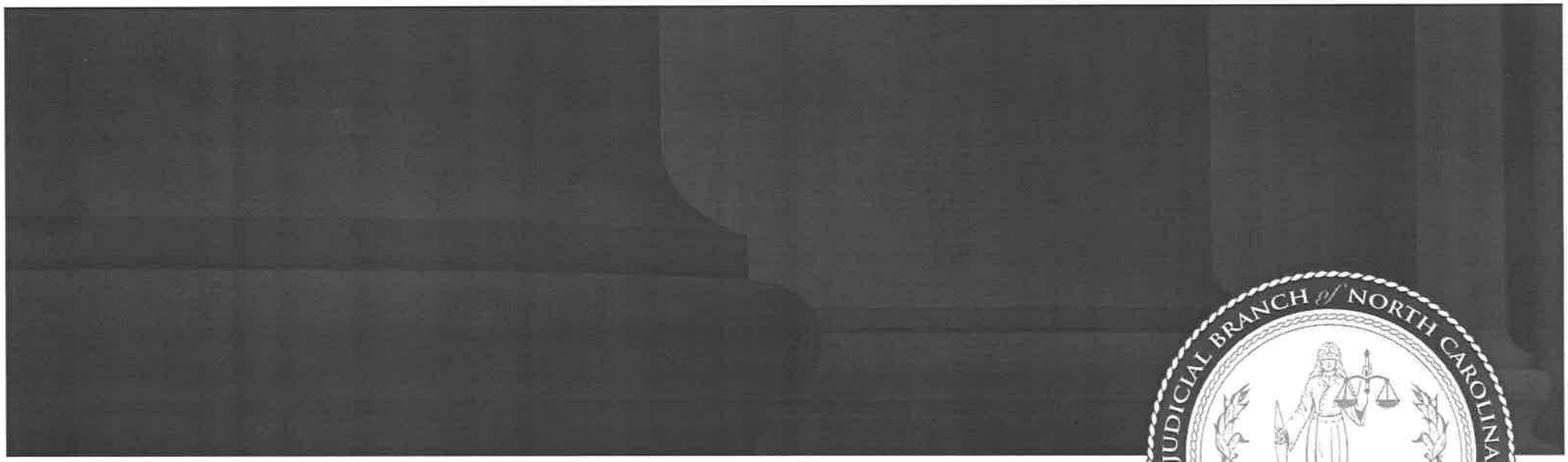
- Consider developing in the 1st week of Academy Training for correctional officers' an applicable mandatory training week that all new officers and new employees who are entering the department would need prior to reporting onsite. The training may include topics such as; personal safety equipment and use, situational awareness and response, tool and key control, report writing, how to use a radio etcetera.

Conclusion

This report is a direct reflection of the team's observations based upon information received from North Carolina Department of Public Safety, Correction Enterprise and from staff interviews. It is the assessment team's professional opinion, that by fully implementing the recommendations provided the, North Carolina Department of Public Safety, Division of Prisons and Correction Enterprise will realize significant improvements in the overall safety and security within their institutional operations. Additionally, each department will be in a better position

to respond to any safety or security issues or emergency circumstance that could potentially jeopardize the safety of staff, inmates, and/or the community.

Attachment One



2018 Report on Indigency Standards

March 15, 2018

Session Law 2017-57, Section 18A.3

The Administrative Office of the Courts, in conjunction with Indigent Defense Services, shall study and develop specific statewide standards for determining indigency for defendants. The study shall include a review of the practices of other states regarding determination of indigency, analysis of the cost-effectiveness of alternatives to the status quo, and implementation plans for the standards agreed upon. The standards may take local expenses and cost-of-living into account. The implementation plans should include procedures for auditing future indigency determinations to ensure that the new standards are working as intended. The Administrative Office of the Courts and Indigent Defense Services shall issue a report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2018.

CURRENT PRACTICE IN NORTH CAROLINA

Case Law and Statutes

- Gideon v Wainwright – In 1963, the U.S. Supreme Court held that any person who is "too poor to hire a lawyer" must be provided counsel to defend criminal charges, but the Court did not define "too poor to hire a lawyer."

- N.C.G.S. 7A-450 (a) - An indigent person is "financially unable to secure legal representation and to provide all other necessary expenses of representation in an action or proceeding."

- N.C.G.S. 7A-450 (c) - "The question of indigency may be determined or redetermined by the court at any stage of the action or proceeding at which an indigent is entitled to representation."

STATUTES CONTINUED

- N.C.G.S. 7A-450 (d) - If the indigent defendant "becomes financially able to secure legal representation and provide other necessary expenses of representation, he must inform the counsel appointed by the court to represent him of that fact."

- N.C.G.S. 7A-451 outlines 18 actions and proceedings when counsel may be appointed

Documenting Existing Methods

- Approximately 25% of the total combined number of district court and superior court judges responded to an online survey
- Fifty-nine district court judges representing at least 29 judicial districts, and 37 superior court judges representing at least 23 judicial districts and all 8 divisions
- A focus group was also held.

Six Most Common Factors Typically Considered for Indigency Determination in N.C.

Type	Percentage of Respondents
Affidavit of Indigency	100%
Type of case (misdemeanor, felony, etc.)	77.1%
Receipt of need-based government benefits	60.0%
Personal knowledge of attorney fees	53%
Personal knowledge of defendant	24%
County living wage or self-sufficiency wage	11.5%

ONE JUDGE COMMENTED THAT THE AFFIDAVIT "... IS FILLED OUT BY PERSONS WHO FOR THE MOST PART CAN BARELY READ AND WRITE," AND "WHEN I TELL THE PERSON THEY HAVE NOT FILLED THE APPLICATION OUT CORRECTLY THE SECOND TRY IS NO BETTER."

Affidavit of Indigency – Court's Perspective

- In most judicial districts, a defendant designates intent to seek appointed counsel by completing AOC-CR-226 (*Affidavit of Indigency*).

- Local jurisdictions are not required to use this form and the form is not required for appointment of counsel.
  - It may impractical to complete depending on the defendant's mental or cognitive ability.

- The form can give the judge information about a defendant's wages, assets, expenses, debts, etc. which provides a foundation for questioning the defendant.

Affidavit of Indigency – Defendant's Perspective

- Primarily passed out to defendants who complete while waiting in court
- Instructions provided to defendants vary by courtroom. One district described how a deputy clerk, a provisional attorney, or a probation officer might assist the defendant with the form, but this is not a statewide practice.
- The person applying for counsel must sign and swear/affirm that the information is "true and correct."
- Signing the affidavit authorizes the court to contact "creditors, employers, or family members, any governmental agencies . . ." regarding eligibility.

Affidavit of Indigency – Defendant's Perspective

AOC-CR-226 has three notices to defendants:

- Speak with your attorney about the case – not the interviewer.
- "A court-appointed attorney is not free. If you are convicted or plead guilty or no contest, you may be required to repay the cost of your lawyer as a part of your sentence. The Court may also enter a civil judgment against you."
    - A North Carolina Tax Refund may be used to pay costs
- It provides information about N.C.G.S. 7A-456(a) stating that "a false material statement made by a person under oath or affirmation in regard to the question of his indigency constitutes a Class I felony."

Reviewing the Practices of Others

NCAOC and IDS Staff Reviewed

- The report of the Criminal Investigation and Adjudication Committee of the North Carolina Commission on the Administration of Law and Justice which included implementation of uniform indigency standards among its recommendations to improve the indigent defense system in the state. The report cited the work of the Brennan Center for Justice but did not identify specific standards.
- Previous studies of the topic as well as information from the National Center for State Courts and other national associations
- State statutes, case law, and lists developed by other groups to create an inventory of factors that are used across the United States

Factors From Other States

- Forty-seven states have identified at least one specific factor
- At least one-third of states use these six factors when making an indigency determination
- Wide variability in how states use individual factors

Common Categories of Factors From Other States
Income of person requesting counsel
Assets of person requesting counsel
Federal poverty guidelines
Costs associated with securing an attorney
Debts of person requesting counsel
Receipt of need-based government benefits

Cost-Effectiveness of Alternatives Not Recommended for Implementation

ALTERNATIVE #1: SCREENING AND VERIFYING

Lancaster County, Nebraska

- A study of their indigency screening project found 0.2% of defendants provided false information that could have led to appointed counsel
- Pilot found "increased efficiency in indigency appointments," collecting information outside of the hearing reduced "in-court time for judges, attorneys, and defendants," and the private setting "seemed comforting to defendants."
- There was "no indication that the program was impacting (reducing) the number of defendants receiving court-appointed attorneys, and there was no indication of a cost savings from verification." The screening project was cut from the county's budget in 2005, and the money was reinvested in the Public Defender's office to fund an additional attorney.

Alternative #1: Screening and Verifying

Massachusetts Probation Service

- This is an ongoing screening process and they have determined that an average of 14 minutes per defendant screening and verification is used to query three state created and administered databases
- Determined 1.15% of defendants "mispresented their incomes."
- Concluded that there is "very little opportunity for the Commonwealth to save or recoup any significant costs through indigency verification," and the Commonwealth "would need to reduce the scope of indigency verification procedures, not seek to identify fraudulent indigency claims" to reduce overall costs.

N.C.'s History with Pre-Screening for Eligibility

Indigency screener positions were created in eight counties with the primary responsibility of obtaining pre-determined data elements, complete the affidavit of indigency, and verify data.

- First piloted in 1985 and funding eliminated in 1995
- Comparing assigned counsel costs to the cost of screener positions showed only one county with sufficient savings to justify costs of screening
- Anecdotal reports: reduced "no shows" and wait times for assigned counsel, judges were better informed about defendants with obvious mental disorders, and expedient appointment of the same lawyer.

Locations of Indigency Screeners –1987



Implications of Renewing Screening in NC

- How many people would be screened?
- Who could screen?
- What are the job duties and how would they be carried out?

Estimated Indigency Screener Need		
Location	Estimated Number of Indigency Screeners Needed (at 9% above FY 2015-2016 IDS cases)	Estimated Number of Indigency Screeners Needed (at 50% above FY 2015-2016 IDS cases)
Statewide FTE	52.50 FTE	97.00 FTE
Statewide FY 2017-18 Cost of FTE	$3,324,142.50	$6,141,749.00

If NC Indigency Screeners Identified Misrepresented Information at a Massachusetts Rate

Potential Costs Offset by Discovery of Misrepresented Information		
Location	Estimated Cost Decreased with 1.15% cases (at 9% above FY 2015-16 cases)	Equivalent Number of Indigency Screeners That Defrayed Counsel Costs Might Support (at 9% above FY 2015-16 cases)
Statewide	$1,152,647.71	18.20 FTE

- The anticipated reduction in cases would not offset costs of an indigency screener's work. The defrayed costs might fund approximately 18.20 FTE, while the overall estimated statewide need is at least 52.50 FTE.
- Given North Carolina's existing recoupment efforts related to costs of court-appointed counsel, which are paid to the General Fund, the misrepresentation rate may actually need to be higher than 1.15% to realize the estimated cost decreases in the table.

ALTERNATIVE #2: THIRD-PARTY VERIFICATION

- Equifax Inc. example
  - Real-time and employment history search options
  - Searchable by social security number
  - Estimated cost $9.00 - $16.00 depends on volume

Cost Estimates for Vendor-Based Employment Verification (assuming lowest $9 rate)			
Location	Verification Cost at $9.00 Per Request (at 9% above FY 2015-2016 cases)	IDS Costs Minus Recoupment in FY 2015-2016	Estimated Percentage of Cases That Would Need to be Screened Out to Offset Vendor Costs
Statewide	$2,889,524.18	$100,230,235.23	2.88%
Note: Additional staff time would be required to process verification queries			

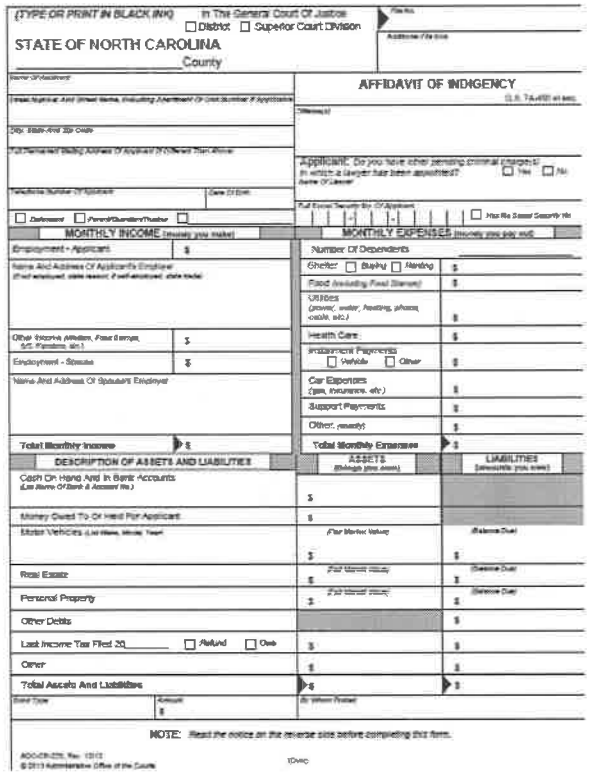
Alternative #3: Retrospective Audit

- NCAOC Internal Audit Division (IAD) currently examines the frequency that paper files contain fee applications and orders of assigned counsel.
- One full-time internal auditor reviewing a case for 60 minutes could review more than 2,000 cases each year at an estimated recurring cost of $117,073 in FY 2018-19.
- If an auditor required the use of a third-party verification service then the additional cost would be estimated at $16.00 per defendant search.
- Other considerations include potential limitations of verifying information after disposition and the extent to which an audit sample size could impact the work of clerks of superior court.

Three-part Implementation Plan in Progress With An Anticipated January 1, 2109 Statewide Rollout

Revise the Affidavit of Indigency

- In order to develop consistent statewide standards, one *Affidavit of Indigency* form should be used in all jurisdictions.
- The current *Affidavit of Indigency* (AOC-CR-226) is viewed as too complex for the education level of many defendants. This may have contributed to local variations of the form and the accuracy of the information provided by defendants.
- IDS is revising the *Affidavit of Indigency,* using feedback from local courts, to ensure it adequately captures information in a way that meets the needs of jurisdictions, in a format that is understandable for defendants.



(TYPE OR PRINT IN BLACK INK) In The General Court Of Justice ☐ District ☐ Superior Court Division

STATE OF NORTH CAROLINA

_____ County

AFFIDAVIT OF INDIGENCY

MONTHLY INCOME (money you make)

Employment - Applicant

Name And Address Of Applicant's Employer

Other Income (Alimony, Child Support, SS, Pensions, etc.)

Employment - Spouse

Name And Address Of Spouse's Employer

Total Monthly Income

MONTHLY EXPENSES (money you pay out)

Number Of Dependents

Shelter ☐ Buying ☐ Renting

Food

Utilities (power, water, heating, phone, cable, etc.)

Health Care

Installment Payments ☐ Vehicle ☐ Other

Car Expenses (gas, insurance, etc.)

Support Payments

Other: (specify)

Total Monthly Expenses

DESCRIPTION OF ASSETS AND LIABILITIES

ASSETS (Belongs to you)

LIABILITIES (Amounts you owe)

Cash On Hand And In Bank Accounts (List Name Of Bank & Account No.)

Money Owed To Or Held For Applicant

Motor Vehicles (List Make, Model, Year)

Real Estate

Personal Property

Other Debts

Last Income Tax Filed 20____ ☐ Refund ☐ Owe

Other

Total Assets And Liabilities

Bond Type

Amount

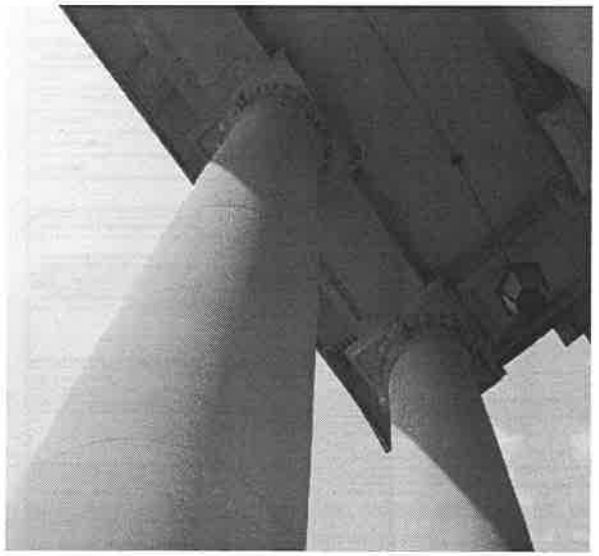
NOTE: Read the notice on the reverse side before completing this form.

AOC-CR-226, Rev. 10/13

© 2013 Administrative Office of the Courts

Develop a Companion Bench Card

- IDS is creating an informational bench card to provide a standard set of factors for judges across the state to review as they make an indigency determination
- The factors do not presume eligibility for any defendants, but would provide a tool for judges to uniformly evaluate indigency
- Selected by research staff following a review of current North Carolina practices, other states' statutes and procedures, and the best practices of the Brennan Center for Justice



Develop a Companion Bench Card

Factors for Review During Indigency Determinations	
1	Income and expenses
2	Assets and debts
3	Case factors and costs associated with securing an attorney
4	Current federal poverty guidelines and county-based living wage info.
5	Receipt of need-based government benefits
6	Has, or recently had, appointed counsel in another case
7	Resides in a corrections facility or a mental health facility
8	Unable to post bail or bond

Provide Training and Technical Assistance to Court Personnel

- The NCAOC will work with the Clerk Resource Committee to explore strategies for increasing the entry of information related to denial of counsel and attorney type into Criminal Case Indexing System, Clerk Component (CCIS-CC).
- Other impacted groups of court personnel will also require training and additional information to better understand the new tools and changes in process.
- Neither tool is expected to increase the average length of time that an indigency determination takes



THANK YOU

Brad Fowler

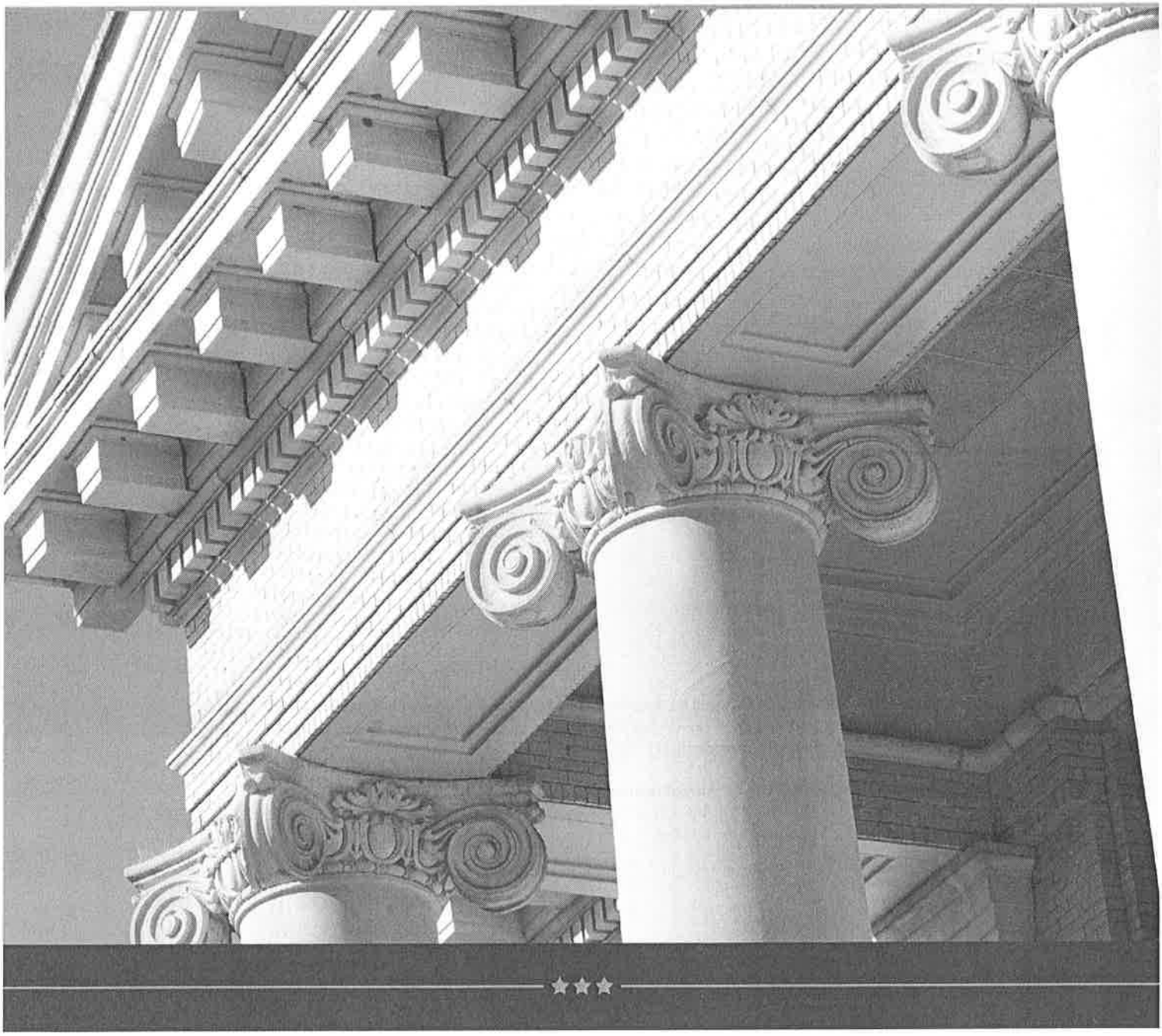
Research, Policy, and Planning Division

Brad.D.Fowler@nccourts.org

2018 REPORT ON INDIGENCY STANDARDS

SESSION LAW 2017-57, §18A.3

PREPARED BY
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS
FEBRUARY 1, 2018



About the North Carolina Judicial Branch
The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs.

About the North Carolina Administrative Office of the Courts
The mission of the North Carolina Administrative Office of the Courts is to provide services to help North Carolina's unified court system operate more efficiently and effectively, taking into account each courthouse's diverse needs, caseloads, and available resources.

Executive Summary

While there are 50 states in the country, there are many more ways that courts determine a defendant's eligibility for indigent defense services given the local autonomy of non-unified court systems and the role an individual determinant's discretion often plays in the process. Thirty years ago, if a defendant walked into court in one of eight North Carolina pilot counties, a court employee called an indigency screener would meet with the defendant to discuss court-appointed counsel options and verify the information that a defendant provided to inform the judge about the determination of eligibility. Today, indigency screener positions no longer exist, and research suggests that having positions dedicated to verifying defendant information has not proven cost effective.[1] Instead, North Carolina's judges, like most others in the country, make determinations of indigency based on the information presented by defendants. The varied landscape throughout the country for determining indigency recently led the Criminal Investigation and Adjudication Committee of the North Carolina Commission on the Administration of Law and Justice to include implementation of uniform indigency standards among its recommendations to improve the indigent defense system in the state.[2] While specifically declining to recommend implementation of standardized verification procedures, the Committee researched these issues using the work of the Brennan Center for Justice on this topic as a foundational element.[3] Less than five months later, the North Carolina General Assembly tasked the North Carolina Administrative Office of the Courts (NCAOC) and the North Carolina Office of Indigent Defense Services (IDS) with the study and development of specific statewide standards.[4]

Through this study, the following implementation plan has been developed:

- Indigent Defense Services will revise the *Affidavit of Indigency* (form number AOC-CR-226) and statewide use will begin January 1, 2019. This task is underway and will be tested in at least one judicial district before a statewide rollout.

- Indigent Defense Services will develop a bench card that includes information judges might find beneficial when reviewing eight factors for each defendant: income and expenses, assets and debts, case factors and costs associated with securing an attorney, current federal poverty guidelines and a local living wage calculator, receipt of need-based government benefits, recent appointed counsel in another case, residence in a correctional or mental health facility, and inability to post bail or bond. This task is also underway to ensure the new document is complementary to the revised *Affidavit of*

[1] Neeley, Elizabeth and Tomkins, Alan J., "Evaluating Court Processes for Determining Indigency" (2007). *Court Review: The Journal of the American Judges Association*, 9-10.
[2] North Carolina Commission on the Administration of Law and Justice. Criminal Investigation and Adjudication Committee. *Appendix D: Improving Indigent Defense Services*. 2016. 208-56.
[3] Ibid.
[4] Appropriations Act of 2017, S.L. 2017-57, Section 18A.3 (North Carolina General Assembly 2017).

Indigency. The bench card will be tested in at least one judicial district before rollout on January 1, 2019.

- Clerks of superior court will receive training and information encouraging them to enter denial of counsel information and the defendant's attorney type into the Criminal Case Indexing System (CCIS). The NCAOC will work with the Clerk Resource Committee to explore strategies for increasing the entry of this data into CCIS-CC by January 1, 2019.

Statewide implementation of these three items is not currently expected to create significant new recurring costs for the Judicial Branch. In addition to these items, this report also describes alternative scenarios and cost estimates for each.

Introduction

Section 18A.3 of Session Law 2017-57 provides as follows:

> **Section 18A.3.** The Administrative Office of the Courts, in conjunction with Indigent Defense Services, shall study and develop specific statewide standards for determining indigency for defendants. The study shall include a review of the practices of other states regarding determination of indigency, analysis of the cost-effectiveness of alternatives to the status quo, and implementation plans for the standards agreed upon. The standards may take local expenses and cost-of-living into account. The implementation plans should include procedures for auditing future indigency determinations to ensure that the new standards are working as intended. The Administrative Office of the Courts and Indigent Defense Services shall issue a report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2018.

NCAOC respectfully submits this report pursuant to the legislative mandate.

Study Design

Based on the guidance provided in Section 18A.3 of S.L. 2017-57, staff from the NCAOC's Research, Policy, & Planning Division and IDS (collectively "the Indigency Workgroup") inventoried laws and procedures for how other states define and determine indigency. Information was collected through a review of other states' statutes and case law, dialogues with court personnel from other states, literature reviews of previous studies of indigency determination, and interactions with staff and members of the National Center for State Courts (NCSC).

The Indigency Workgroup developed and distributed an online survey to 272 district court judges and 109 superior court judges. Approximately 25% of the judges (n=96) who received the hyperlink for the online survey subsequently provided a response during the 16-day period the survey link was active.[5] Of the 96 respondents, 59 identified themselves as district court judges, representing at least 29 judicial districts.[6] The remaining 37 respondents identified themselves as superior court judges, and they represented all superior court divisions and at least 23 judicial districts.[7] Because statewide standards for determining indigency do not exist in North Carolina, the survey was designed to document examples of factors that judges might already use in the determination process and the degree to which there may be consistency in the usage of those factors. Judges were also asked to identify additional information, beyond that which is already captured from defendants, which might be helpful in their determination process. After collecting survey responses, research staff hosted a small focus group of judges, from a subset of survey respondents. The focus group discussion was used to solicit additional detailed information that was not conducive to a survey format. When possible, information

[5] North Carolina Administrative Office of the Courts and Indigent Defense Services. *Standards for Indigency Survey*. Report. Raleigh, NC: The North Carolina Administrative Office of the Courts Research, Policy, and Planning Division, 2017.
[6] Ibid.
[7] Ibid.

reported by North Carolina's judges was compared to other state standards and recommended best practices.

The Indigency Workgroup also consulted with the NCAOC Financial Services Internal Audit Division to learn about existing audit procedures, consulted with the North Carolina Department of Health and Human Services to learn about information sharing opportunities, and reviewed details from private vendor-based solutions who provide income and employment verifications.

Current Practice in North Carolina

Defining Indigency

In 1963, in *Gideon v Wainwright,* the United States Supreme Court held that any person who is "too poor to hire a lawyer" must be provided counsel to defend against criminal charges.[8] The Court did not define "too poor to hire a lawyer."

N.C.G.S. 7A-450 defines an indigent person as one ". . . who is financially unable to secure legal representation and to provide all other necessary expenses of representation in an action or proceeding." This determination is made by the court for 18 enumerated actions and proceedings, outlined in N.C.G.S. 7A-451, so that the ". . . services of counsel begin as soon as feasible after the indigent is taken into custody or service is made upon him of the charge, petition, notice or other initiating process." *Gideon* did not use the term "indigent" and, to the extent the term implies a defendant must be impoverished in order to qualify for a court-appointed lawyer, it is misleading. While there is little case law on the issue of how poor someone must be to be entitled to counsel, two guiding principles emerge from case law. First, you are entitled to court appointed counsel when you cannot hire a private lawyer without undermining your ability to provide the necessities of life for yourself and your dependents.[9] Second, indigence is a relative concept under which the ability to muster some resources – such as money for bail – should not disqualify you for appointed counsel.[10]

Affidavit of Indigency

In most judicial districts, a person who is seeking appointed counsel in a criminal case often designates that intent by completing form number AOC-CR-226, titled the *Affidavit of Indigency*, at the first appearance before a judge. It should be noted that local jurisdictions are not currently required to use AOC-CR-226 and may create their own form. The number of districts who use a local form is not currently known.

---

[8] 372 U.S. 335 (1963).

[9] *Adkins v. E.I. Du Pont de Nemours Co.*, 335 U.S. 331 (1948). Addressing indigency in the context of a statute that allowed a litigant to bring a claim in federal court without prepayment of fees or costs upon a showing that of inability due to poverty, the Court held that a litigant need to be "absolutely destitute to enjoy the benefit of the statute." Rather, the question is whether the litigant could pay the costs and "still be able to provide himself and dependents with the necessities of life."

[10] *Hardy v. United States*, 375 U.S. 277 (1964).

Instructions on AOC-CR-226 point the defendant to read three notices before completing the blank fields. In both the Indigency Workgroup's survey and focus group, judges indicated that the literacy level for defendants is a barrier to completing the form, and therefore, the extent to which the notices are read or understood cannot be determined.

The first notice requests that the defendant not discuss the case with the interviewer. The second notice provides the following information regarding costs associated with court-appointed counsel:

> "A court-appointed lawyer is not free. If you are convicted or plead guilty or no contest, you may be required to repay the cost of your lawyer as a part of your sentence. The Court may also enter a civil judgment against you, which will accrue interest at the legal rate set out in G.S. 24-1 from the date of the entry of judgment. Your North Carolina Tax Refund may be taken to pay for the cost of your court-appointed lawyer. In addition, if you are convicted or plead guilty or no contest, the Court must charge you an attorney appointment fee and may enter this fee as a civil judgment against you pursuant to G.S. 7A-455.1."[11]

The final notice references N.C.G.S. 7A-456(a) which indicates that "a false material statement made by a person under oath or affirmation in regard to the question of his indigency constitutes a Class I felony."[12] It also states that information "may be verified," and with a signature, any listed creditor, employer, family member, or governmental agency can be contacted by the court and release financial information.[13]

The reverse side of AOC-CR-226 contains a variety of blank fields. The form collects basic identifying information including name, address, date of birth, and social security number. A field is also available to designate a court-appointed attorney from any pending charge(s). There are fields to enter monthly income from personal and spousal employment as well as other income such as welfare, food stamps, social security, and pensions. The form has fields to capture the number of dependents and monthly expenses such as shelter, food, utilities, health care, vehicle payments, vehicle expenses, support payments, and any other monthly expenses. Fields also exist to collect information about assets and liabilities by detailing cash on hand and in bank accounts, money owed to the defendant, motor vehicle value(s), real estate and personal property value(s), and outcomes from the last filed income tax.

Interview

The first note listed on the *Affidavit of Indigency* references an "interviewer" who presumably refers to an abolished position titled indigency screener, which is discussed later in this report as part of the analysis of the cost-effectiveness of alternatives to the existing indigency

[11] *Affidavit of Indigency* (AOC-CR-226) available at http://www.nccourts.org/Forms/Documents/687.pdf
[12] Ibid.
[13] Ibid.

determination process. The "interviewer" also may represent a more general reference to someone who would act in a role to ensure the requestor understands the questions and completes all blank fields noted above. During the focus group, one district reported that depending on the type of case, either a probation officer, a deputy clerk, or the provisional attorney may help complete the form.[14] In at least one jurisdiction, a pretrial services division funded by a local county government performs a similar function for certain defendants.[15] However, it is not a consistent statewide practice to provide assistance in the completion of the *Affidavit of Indigency* form. One judge commented that the affidavit ". . . is filled out by persons who for the most part can barely read and write," and "when I tell the person they have not filled the application out correctly the second try is no better."[16] While similar sentiments were shared by other survey respondents, all 96 responding judges noted that they typically use the completed form as a factor in the determination process, and 24% of respondents indicated that they do not need any additional information to be collected from the defendant beyond that which is captured on the *Affidavit of Indigency*.[17] The majority of survey respondents conduct a verification process to resolve questions they have after reviewing a completed form.[18] For most judges, that verification process involves direct questioning of the person requesting counsel. One judge commented, "I ask who supports them. If everything is $0, I require the defendant to review their answers."[19]

Judge-Utilized Factors for Indigency

In addition to the *Affidavit of Indigency*, survey respondents also frequently cited the use of three other factors when making a determination of indigency. As reflected in Table 1 below, more than half of responding judges weigh the type of case, receipt of need-based government benefits, and personal knowledge of local attorney fees.[20]

Table 1. Factors Typically Considered for Indigency Determination

Factor Used	Percentage of Respondents
Affidavit of Indigency	100.0%
Type of case (misdemeanor, felony, etc.)	77.1%
Receipt of need-based government benefits	60.0%
Personal knowledge of local attorney fees	53.1%
Personal knowledge of defendant	24.0%
County living wage or self-sufficiency wage	11.5%

[14] North Carolina Administrative Office of the Courts and Indigent Defense Services, *Indigency Survey*.
[15] Ibid.
[16] Ibid.
[17] Ibid.
[18] Ibid.
[19] Ibid.
[20] Ibid.

Approximately, 11.5% of judges indicated that they typically consider a county's living wage or self-sufficiency wage.[21] Judges also referenced the use of factors such custody status, cognitive impairment, physical and mental ability.[22] While the research staff did not measure the time required for the determination process, survey responses indicate that judges spend an estimated 2.16 of minutes of court time to determine indigency after receiving the *Affidavit of Indigency*.

Both the type of case and receipt of need-based government benefits are fields that can be captured on the *Affidavit of Indigency*, which underscores the importance of obtaining a fully completed form from the person requesting counsel. A judge's use of personal knowledge of local attorney fees suggests an attempt to quantify, as the defining statute describes, "all other necessary expenses of representation in an action or proceeding." Similarly, a judge's use of personal knowledge of the defendant may be linked to previous cases where the defendant has appeared before the judge, based on focus group discussions.[23]

Existing Technologies and Tracking of Judge Determinations

The Indigency Workgroup was not able to identify any helpful data from existing Web-based case indexing systems currently used by trial courts to document when a person requested appointed counsel but was found not indigent or denied counsel. NCAOC's Criminal Case Indexing System (CCIS) does offer an opportunity to designate denial of counsel, but the designation is not a required entry and the database only had one case with such a designation. The *Order of Assignment or Denial of Counsel* (AOC-CR-224) form can capture individual denials of request for appointed counsel, but this information would be available only by reviewing all paper-based files for criminal cases in a particular district. Similarly, CCIS offers an opportunity to designate the attorney type with court-appointed attorney, public defender, waived or privately retained (self), but this too, is currently an optional entry.

Estimated Percentage of Defendants Determined Indigent

The survey asked judges to provide an estimate for the percentage of defendants who are determined to be indigent after completing the affidavit. The group's reported average was 85.9% of defendants in misdemeanor cases and 91.9% of defendants in felony cases.[24] Assuming all other defendants in these referenced misdemeanor and felony cases were found not indigent and resulted in the denial of appointed counsel, this produces denial rates of 8.1% and 14.1% in 2017. A denial of counsel rate between 5% and 14% was documented approximately 30 years before during a previous study of indigency screening, and that will be discussed in more detail in the analysis of cost-effectiveness for alternatives.

[21] North Carolina Administrative Office of the Courts and Indigent Defense Services, *Indigency Survey*.
[22] Ibid.
[23] Ibid.
[24] Ibid.

A judge's determination of indigency status and even the appointment of counsel is not necessarily the final step in the process and is subject to reevaluation. N.C.G.S. 7A-450(c) provides that "(t)he question of indigency may be determined or redetermined by the court at any stage of the action or proceeding at which an indigent is entitled to representation." Presumably, this statute could provide a person who was found not indigent and denied appointed counsel the opportunity to request a reassessment of indigency status. G.S. 7A-450(d) specifically provides as follows:

> If, at any stage in the action or proceeding, a person previously determined to be indigent becomes financially able to secure legal representation and provide other necessary expenses of representation, he must inform the counsel appointed by the court to represent him of that fact. In such a case, that information is not included in the attorney client privilege, and counsel must promptly inform the court of that information.

Due to limitations with existing data, survey respondents were asked to estimate the number of defendants, in a three-year period, who were found indigent and then subsequently determined not indigent, and approximately 60% of respondents estimated zero defendants.[25]

Review of Other States

Eligibility Factors

Not all states have a unified court system like that of North Carolina, but most states (47) have specifically outlined at least one factor which is used when making a determination of a defendant's eligibility for appointed counsel. Table 2 below lists factors used by at least one-third of all states in the country.

Table 2: Common Categories of Factors From Other States	
1	Income of person requesting counsel
2	Assets of person requesting counsel
3	Federal poverty guidelines
4	Costs associated with securing an attorney
5	Debts of person requesting counsel
6	Receipt of need-based government benefits

While the categories listed in Table 2 represent the most frequently cited factors used by states, there are variations in the details provided by individual states. Appendix A provides an inventory of factors that other states use in determinations of indigency.

One example of this variation is in the use of federal poverty guidelines. At least 26 states use the federal poverty guidelines in their determination process, but only four states use the actual federal poverty guidelines rate, or 100% of the rate, for the requesting person's household. Most states have established multipliers of the federal poverty guidelines that are

[25] North Carolina Administrative Office of the Courts and Indigent Defense Services, *Indigency Survey*.

used for indigency determinations much like multipliers of the federal poverty guidelines are used to determine eligibility for certain need-based government benefits. The most common multiplier found for indigency determinations was 125%, but the maximum of the range was 250%. Some states choose to use one multiplier of the federal poverty guidelines and others establish a tiered system with several multipliers of the federal poverty guidelines. For example, Alabama uses a 125% multiplier with no qualifiers, 125% - 200% with hardship, and greater than 200% with hardship and a felony charge.[26]

State usage of federal poverty guidelines also can be an example of the extent to which states explicitly prescribe how the person determining indigency will use the factors. More than half of the states that use the federal poverty guidelines as a factor do so in a way that presumes eligibility for appointed counsel if the defendant does not exceed the federal poverty guidelines multiplier that has been established to determine indigency in the state.

Presumptive Eligibility

At least 10 states also presume eligibility for appointed counsel if the requesting individual receives need-based government benefits. Other states presume eligibility if the defendant is imprisoned or committed to a mental health facility. Some states treat presumptive eligibility factors as rebuttable while other states do not.

The overall impact of using presumptive eligibility is not known. Using presumptive eligibility might decrease the time to determine indigency, but it is also possible that having specific income limits in mind leads the judge or other determiner to use additional time questioning the defendant to ascertain if the income threshold is met. It is unclear whether using presumptive eligibility has any bearing on the number of people who are found to be indigent and receive court-appointed counsel.

A Review of the Cost-Effectiveness of Alternatives

Previous Screening Efforts in North Carolina

In 1985, the NCAOC implemented an indigency screening pilot project in Buncombe, Durham, and Gaston counties, which was discussed in a 1989 report prepared by the NCAOC.[27] The project created two types of positions, an indigency screener I and an indigency screener II, responsible for investigating the financial background of defendants who request court-appointed counsel.[28] The positions were charged with "interviewing criminal defendants potentially entitled to counsel by N.C.G.S. 7A-451 to obtain pre-determined data elements, completing the affidavit of indigency and verifying qualifying data which forms the basis for

[26] Code of Alabama §15-12-1(4)(a,b,c)

[27] North Carolina Administrative Office of the Courts, Research and Planning Division, *The Scope and Determination on an Indigent Person's Right to Counsel in North Carolina*, by Richard S. Kane (Raleigh, NC: Chief Justice's Advisory Committee on Defense of Indigents, 1989).

[28] Ibid, A19-A22

court-appointed counsel."[29] The indigency screener II position had additional duties such as, recommending bond reductions to the court, monitoring orders for payment of attorney fees for the partially indigent, recommending pretrial release, arranging language interpreters, assessing defendants with "obvious mental/emotional problems" and referring to appropriate personnel, and preparing the first appearance calendar.[30]

Cost-Effectiveness of North Carolina's Pilot

During the pilot, the NCAOC gathered data to evaluate the indigency screening program. A comparison of assigned counsel costs for the district and the cost of indigency screener salary and fringe benefits determined that only one district actually showed sufficient savings to justify the costs of the screening.[31] The pilot revealed that "in numerous low case volume counties, an indigency screener cannot be justified on the basis of avoiding assigned counsel costs."[32]

Findings also indicated that "indigency screener counties tended to experience greater increases in assigned counsel cases and expenditures than did counties without an indigency screener."[33] One possible explanation for the increase in defendants appointed counsel is that indigency screener positions may have been placed in counties with a high perceived need. In addition, "by advising defendants of their rights, explaining the procedures, and helping to complete the affidavit, there may be indigent persons in need of counsel who otherwise would have waived counsel."[34]

While cost savings were minimal, there were anecdotal reports that screeners assisted in the reduction of defendants' "no shows" for court by explaining procedures and hearing dates, made judges aware of defendants with mental disorders, reduced wait times for assigned counsel by assigning the same lawyer to multiple cases scheduled for the same trial date, and helped ensure an expedient appointment of the same lawyer already appointed to represent the defendant in another case.[35]

A 1989 report prepared by NCAOC research staff, *The Scope and Determination of an Indigent Person's Right to Counsel in North Carolina*, indicates that the General Assembly funded indigency screening positions in eight counties by 1987: Buncombe, Catawba, Durham, Forsyth, Mecklenburg, New Hanover, Robeson, and Wake.[36] While position descriptions were standardized, the counties designed an indigency screening program to meet local needs. Differences in local program practices meant defendants might be interviewed before first

[29] NCAOC, *Scope and Determination on an Indigent Person's Right to Counsel*, A19-A22
[30] Ibid, A19-A22
[31] Ibid, 16.
[32] Ibid, 16.
[33] Ibid, 18.
[34] Ibid, 18.
[35] Ibid, 19.
[36] Ibid, 14.

appearances, after first appearances, and in some counties all eligible defendants were interviewed even though they had not expressed an interest in appointed counsel. During the 1987-88 study, a total of 35,725 individuals were screened in the eight counties. Criminal cases comprised 98% of screened cases.[37]

Of the total individuals screened, 41% did not request counsel (which includes decisions to waive counsel and retain counsel), 9% were denied counsel by a judge, and 50% received court-appointed counsel.[38] The range of denials for each of the eight counties was between 5% and 14%, and the report noted that "data on denials does not necessarily purport to be denials because of screening."[39] Ultimately, the indigency screening programs ended when the General Assembly eliminated funding effective July 1, 1995.

Indigency Screening Efforts in Other Jurisdictions

Lancaster County, Nebraska

Lancaster County, Nebraska implemented a three-year screening pilot project in 2001. Researchers from the University of Nebraska Public Policy Center concluded that the project led to "increased consistency in indigency appointments by ensuring that the same financial information was collected for each defendant and that each judge was provided with the same information regarding each defendant."[40] In addition, collecting financial information outside of the hearing setting did "increase efficiency of the process by reducing in-court time for judges, attorneys, and defendants," and the private setting "seemed comforting to defendants."[41] The researchers also found "that in a typical month, 5% of defendants provided inaccurate or false information to the court."[42]

Of the 5% of defendants who provided false information, 4% gave details that might increase the likelihood of appointed counsel, and the other 96% of the subset provided false information that could decrease the likelihood of appointed counsel.[43] As a result, 0.2% of all defendants were found to provide false information that could have led to appointed counsel.[44] Ultimately, there was "no indication that the program was impacting (reducing) the number of defendants receiving court-appointed attorneys, and there was no indication of a cost savings from verification."[45] The screening project was cut from the county's budget in 2005, and the money was reinvested in the Public Defender's office to fund an additional attorney.

---

[37] NCAOC, *Scope and Determination on an Indigent Person's Right to Counsel*, 14.
[38] Ibid, B2.
[39] Ibid, B2.
[40] Neeley, Elizabeth and Tomkins, Alan J., "Evaluating Court Processes for Determining Indigency" (2007). *Court Review: The Journal of the American Judges Association*, 9.
[41] Ibid, 9-10.
[42] Ibid, 9.
[43] Ibid, 9.
[44] Ibid, 9.
[45] Neeley, Elizabeth and Tomkins, Alan J., "Evaluating Court Processes for Determining Indigency" (2007). *Court Review: The Journal of the American Judges Association*, 9.

State of Massachusetts

Today, states with codified rules for dedicated staff to conduct prescreening or verification of a defendant's financial status are difficult to find, but one such example is Massachusetts. For approximately six years, the Massachusetts Probation Service has been tasked with the responsibility for verifying details provided by individuals requesting court-appointed counsel. Following a judge's initial appointment of counsel, probation staff have up to seven days to complete a review of the defendant's information by querying up to three databases: the state's Department of Revenue, Department of Transitional Assistance (similar to North Carolina's Department of Health and Human Services), and the Registry of Motor Vehicles.[46]

To limit the court's access to information, agencies like the Department of Revenue created a database in an attempt to meet the needs of the court. However, as one Massachusetts court official noted, the Department of Revenue's site may not have that wage information if an individual works in a neighboring state. Once probation staff completes a review of information and submits it to the judge, the judge may reverse the original appointment decision or can determine an amount the defendant can pay toward representation.

A 2013 evaluation of the screening process showed that employees spent an average of 14 minutes per defendant in the screening and verification process up to the point when the judge received information.[47] The evaluation also revealed that only an estimated 1.15% of defendants "misrepresented their incomes."[48] The report consequently concluded that there is "very little opportunity for the Commonwealth to save or recoup any significant costs through indigency verification," and the Commonwealth "would need to reduce the scope of indigency verification procedures, not seek to identify fraudulent indigency claims" to reduce overall costs.[49]

Implications for North Carolina

Limited Potential for Cost-Savings

Given the number of unknown variables, it is difficult to measure the cost-effectiveness of renewing an indigency screener project in North Carolina. In the 1980s, indigency screeners were tasked with contacting agencies such as the Department of Social Services (DSS) to determine if a defendant was receiving need-based government benefits. At that time, the process might have involved phone calls or even more labor-intensive procedures. A new indigency screener project might be able to use technology that wasn't previously available in the verification process.

---

[46] Commonwealth of Massachusetts, Office of the Commissioner of Probation, Determining Eligibility for Public Defender Representation in Massachusetts Courts: Estimating Resource Requirements, by Douglas McDonald, Yuli Almozlino, and Sarah Jalbert (Cambridge, MA: Abt Associates, Inc., 2014), 1.

[47] Ibid, 11.

[48] Ibid, 17.

[49] Ibid, 23-26.

Today, local DSS employees query online databases to determine an individual's eligibility for benefits, and agencies like the Department of Revenue and Employment Security Commission also maintain electronic databases. The Department of Health and Human Services (DHHS) provides batch reports of certain information types to the Department of Public Instruction, based on the authority provided G.S. 108A-80 (b1), for purposes related to free and reduced school lunch programs. The DHHS also has limited view access available for at least one agency to see if a person receives a specific type of need-based benefits. All current information-sharing examples provided by DHHS have underlying federal authorizations and further research would be required by all parties to determine what could be made available due to the confidential nature of the information.

Many North Carolina counties publish property tax records online in a format that is searchable by name so this may also provide another tool for screeners. If electronic queries were available in North Carolina, and the screening process also took approximately 14 minutes, then Table 3 represents a range for the number of indigency screener full-time equivalents (FTEs). Based on the number of minutes available in a year for case-related work in the clerk of superior court workload formula (factors in holidays, vacation, sick leave, etc.), each full-time indigency screener would be expected to complete 6,045 verifications per year. Since screeners would need to be available during sessions of court where first appearances are made, a minimum of 20 hours per week (0.5 FTE) per county was established as a base standard.

Table 3: Estimated Indigency Screener Need

Location	Estimated Number of Indigency Screeners Needed (at 9% above FY 2015-16 IDS cases)	Estimated Number of Indigency Screeners Needed (at 50% above FY 2015-16 IDS cases)
Statewide FTE	52.50 FTE	97.00 FTE
Statewide FY 2017-18 Cost of FTE	$3,324,142.50	$6,141,749.00

The number of defendants who would require screening is an unknown variable. Table 3 attempts to provide a range of the number of defendants who may be screened using FY 2015-16 case figures from Indigent Defense Services. IDS reflects the number of cases with private assigned counsel (PAC) using the number of payments (fee applications) made by IDS for appointed attorneys. For public defender offices, cases are the number of indigent persons whose cases were disposed by public defenders during FY 2015-16. For contractors, the numbers are dispositions reported per contract requirements. While these FY 2015-16 numbers may include appointments for non-criminal cases, the majority represent criminal cases.

The FY 2015-16 IDS case numbers were multiplied by a 9% dismissal rate, based on the findings from the previous study of the North Carolina indigency screener project. The same case numbers were also multiplied by 50%, which includes both the 9% dismissal rate with the 41%

request withdrawn rate. These figures were used to create a low and high range of potential defendants for screening. The FTE need is rounded to the nearest .25FTE.

The NCAOC does not have a current position description or compensation study for an indigency screener position. If it is assumed that such a position would be similar to a judicial assistant I, then the FY 2017-18 recurring position cost would be estimated at $59,881, with an additional $3,436 in nonrecurring costs. While part-time positions without fringe benefits would have a lower annual cost, the FTE count is used for simplicity of calculation. The FY 2017-18 total estimated cost for indigency screener positions statewide would be between $3,324,142.50 and $6,141,749.00 depending on the 9% or 50% workload rate. The FY 2018-19 recurring cost would be estimated between $3,181,552.50 and $5,878,297.00, assuming a consistent number of defendants to be screened. Estimates in Table 3 do not account for other screener duties that may be assigned or additional supervisory staff that may be required.

Table 4 below reflects the potential decrease in costs if North Carolina indigency screeners identified misrepresented income at the same 1.15% rate as Massachusetts screeners, and that led to additional denials of appointed counsel. The table also reflects the number of screeners defrayed costs by case reductions, if we assume a workload at 9% above the most recent number of IDS cases.

Table 4: Potential Costs Offset by Discovery of Misrepresented Information

Location	Estimated Cost Decreased with 1.15% cases (at 9% above FY 2015-16 cases)	Equivalent Number of Indigency Screeners That Defrayed Counsel Costs Might Support (at 9% above FY 2015-16 cases)
Statewide	$1,152,647.71	18.20 FTE

In the cumulative analysis of all judicial districts in the state, the anticipated reduction in cases would not offset costs of an indigency screener's work. The defrayed costs might fund approximately 18.20 FTE, while the overall estimated statewide need is 52.50 FTE. Given North Carolina's existing recoupment efforts related to costs of court-appointed counsel, which are paid to the General Fund, the misrepresentation rate may actually need to be higher than 1.15% to realize the estimated cost decreases reflected in Table 4. With an estimated indigency screener workload at 50% above FY 2015-16 cases, the cost deficit becomes even greater.

Court Time and Other Implications

Another consideration of re-implementing an indigency screener project in North Carolina is the potential non-financial impact to the time of judges, clerks of superior court, assistant district attorneys, public defenders, bailiffs, private attorneys, and others who play a role in the life of an individual defendant's case. Anecdotes from the previous North Carolina indigency screener pilot sites suggest one scenario which might create possible efficiencies in court processes. In the 1980's, there were individual reports that indicated a reduction in defendant

"no shows" for court and an increase in courtroom efficiencies. If such benefits were true, measurable, and consistent across districts, then some cost savings might be accomplished with a new indigency screener project.

Other non-financial benefits that have been connected to screener positions include consistency in capturing financial details, and the possibility that defendants feel more comfortable providing financial details to an individual rather than in open court. Screeners were also previously used to informally help the court better assess the mental state of a defendant. It is also possible that investing time in screening before an appointment might slow the process for first appearances or other hearings.

As previously noted, judges indicated that the average time to make an indigency determination is 2.16 minutes after receiving the *Affidavit of Indigency*. If each defendant screening added 14 minutes to the court's process, this could create additional staffing needs for judges, clerks of superior court, district attorneys, and public defenders. Additional FTEs in these offices would add to the overall implementation and recurring costs of an indigency screener initiative. Although not the recommendation of this study, if an indigency screener initiative were launched, such an endeavor should be piloted to further explore what impact screening might have on the court's overall time so that staffing needs of court officials could be more thoroughly evaluated and included in the estimated cost of statewide implementation.

Third-Party Verification

An additional alternative that research staff explored is the use of a private vendor to verify certain elements of financial information. One company which offers such a service is Equifax Inc., which advertises "the nation's largest database of instantly available employment information." Equifax offers "employment records contributed by more than 5,500 employers nationwide, including over 75% of the Fortune 500 and the majority of federal government civilian employers."[50] Equifax's Work Number database is searchable by social security number and updated every payroll cycle. In addition to real-time employment verification, Equifax offers employment history searches which may be of some use in a retrospective audit process. Equifax notes that users include credit card issuers, property managers, and social service agencies among others.

The cost of a verification would vary based on the volume of requests. For example, the estimated cost could be $15.00 - $16.00 per request without a high volume contract with the company. With a contract for 20,000 verifications per year, the cost decreases to approximately $9.00 - $10.00 per search. Table 5 shows estimated costs using the lowest number of verifications anticipated as well as the lowest cost per verification. The percentage of cases that

[50] Equifax. *Employment Verification*, found at https://assets.equifax.com/assets/wfs/efx-ws-0013_verification_of_employment.pdf.

would need to be reduced across the state to offset costs exceeds the 1.15% rate of misrepresented income found in Massachusetts and the 0.2% rate found in Nebraska.

Table 5: Cost Estimates for Vendor-Based Employment Verification (assuming lowest $9 rate)			
Location	**Verification Cost at $9.00 Per Request (assuming 9% increase of FY 2015-16 cases)**	**IDS Costs Minus Recoupment in FY 2015-16**	**Estimated Percentage of Cases That Would Need to be Screened Out to Offset Vendor Costs**
Statewide	$2,889,524.18	$100,230,235.23	2.88%
Note: Additional staff time would be required to process verification queries (see indigency screener and internal auditor FTE estimates provided in cost-effectiveness of alternatives).			

Before any private vendor could be used for such purposes, the NCAOC likely would need to conduct a request for proposals to fully explore the potential market of service providers and establish the most cost-effective contract possible. However, based on a cursory review of the market, the information obtained from an instant search of this type would be limited to income and employment data. The database would not have information from all potential employers, so a search by defendant's social security number may find no information. Furthermore, defendants without social security numbers would be excluded from the verification process. During the study of the Massachusetts program, the indigency status of nearly 5% of defendants requesting assistance could not be verified as the defendant "may have lacked a social security number, may have been undocumented workers, or [may have been] persons employed 'off the books.'" While the Massachusetts verification relies on queries of information administered by government agencies, there is evidence to suggest that a private vendor-based solution could yield similar 'unable to verify' results.

A vendor-based search of this type could be considered as one tool for indigency screeners, or it could be a stand-alone resource in the initial indigency determination process for existing Judicial Branch employees. However, if these searches were adopted as a stand-alone resource to be used by existing Judicial Branch employees, there would likely be training and FTE resource implications for whomever assumes the responsibility for conducting searches and reporting findings. That scenario is not a recommendation of this study as the annual cost of that approach would exceed $3 million, with no realistic expectation of significant offset.

One other possibility for using a private vendor solution would be to utilize the search as part of an audit process after determinations have been made. Presumably, the audit would pull a sample of cases and then conduct a social security search for verification purposes. One limitation to using the verification system in an audit capacity is the fact that a defendant's financial information at the time counsel is appointed may change once the verification check is performed. Also, depending on the sample size of the audit, the cost per defendant search may be at a higher rate.

Retrospective Audit

If the General Assembly determines that an ongoing annual audit is needed to ensure the statewide standards are working as intended, the NCAOC's Internal Audit Division ("IAD") has experience in this field. The IAD staff already performs reviews related to IDS, and some of these audits include the examination of documents in case files. The division examines the frequency that paper files contain fee applications and orders assigning counsel. In the most recently completed audit, testing of cases for convicted defendants who were assigned public defenders found a 98% compliance rate for the inclusion of a completed and approved *Order of Assignment or Denial of Counsel* form (AOC-CR-224).

The general IAD practice is to determine a sample size and contact clerks of superior court requesting they find and send needed documents. Auditors could use a similar technique to perform audits of the recommended statewide standards for determining indigency. Auditors might also review and attempt to verify information that a defendant provided at the time an indigency determination process took place. The auditors could examine files of both defendants who received counsel as well as those who had appointed counsel denied due to a judge's determination of not indigent.

Because months will pass between the time a defendant completes an *Affidavit of Indigency* and the time an audit is conducted, an attempt at verification of information will have limitations. If the auditor is able to use one or more online databases, whether through a private vendor or state agency interfaces, there may be occasions when a defendant-based search produces no results. The audit also could look at the extent to which the proposed eight bench card factors are used in each county.

If the NCAOC IAD is directed to perform an ongoing statewide audit, additional auditor resources would be required to adequately perform the new duties. The number of additional internal auditor staff would be dependent on the number of cases that will be audited and the subsequent time invested in each case file's audit. If the appropriate technology existed to electronically query information for the audit, and the other document reviews were limited in scope, then an allocation of 60 minutes per case file audit would allow one full-time internal auditor to review more than 2,000 cases each year.

The annual recurring cost for an internal auditor position is estimated to be $117,073 for FY 2018-19, with nonrecurring costs of $17,452. If the audit required the use of a private vendor solution for financial verification, rather than access to information from other state agencies, then the additional cost would be estimated at $16.00 per defendant search. If the audit was not automated in any way, provided for a more time-intensive examination of each file, or required the review of more cases each year, then the IAD staffing needs and associated costs would increase. Similarly, depending on the number of case files manually pulled for the audit, there might be additional staffing needs for the offices of clerks of superior court who would pull case files, find the appropriate documents, and send them to the internal auditor.

Implementation Plan

Revise *Affidavit of Indigency*

In order to develop consistent statewide standards, one *Affidavit of Indigency* form should be used in all jurisdictions. Using one document helps ensure the same information is requested and obtained for all judges in all judicial districts. Based on survey and focus group results, the current *Affidavit of Indigency* (AOC-CR-226) is viewed as too complex for the education level of many defendants, and this may have contributed to local variations of the form. The complexity of the existing form also may impact the accuracy of the information provided by defendants if they don't understand the questions asked. As a result, IDS has begun the process of revising the *Affidavit of Indigency*. The current form will be evaluated and edited with feedback from local court users to ensure it adequately captures information in a way that meets the needs of jurisdictions, in a format that is understandable for defendants. IDS also will evaluate the need for additional standard written instructions that defendants read or have read to them. This too may increase the amount of meaningful information that is collected on the revised form. Revisions will be tested in at least one judicial district and the estimated statewide rollout will be January 1, 2019.

Develop a Companion Bench Card

To complement the revised form, Indigent Defense Services is working on an informational bench card to provide a standard set of factors for judges across the state to review as they make an indigency determination. These factors would not presume eligibility for any defendants, but would provide a tool for judges to uniformly evaluate indigency. The bench card would contain factors selected by research staff following a review of current North Carolina practices, other states' statutes and procedures, and the best practices of the Brennan Center for Justice. Table 6 identifies the recommended factors.

Table 6: Factors for Review During Indigency Determinations	
1	Income and expenses
2	Assets and debts
3	Case factors and costs associated with securing an attorney
4	Current federal poverty guidelines and county-based living wage information
5	Receipt of need-based government benefits
6	Has, or recently had, appointed counsel in another case
7	Resides in a corrections facility or a mental health facility
8	Unable to post bail or bond

Feedback from judges will be used to determine what information they would find most helpful to know about each factor. IDS will test the new bench card in at least one judicial district prior to the anticipated January 1, 2019 statewide rollout.

The following details highlight some of the findings related to the identified factors during the course of this study.

- **Income and Expenses:** At least 42 states explicitly outline the use of income when making indigency determinations, with at least 14 states specifically referencing monthly expenses. Of the North Carolina judges who responded to the study survey, 100% indicated that they used the *Affidavit of Indigency* which already captures a defendant's income and expenses. The Brennan Center for Justice suggests ". . . income in the form of means-tested public assistance benefits should also be considered unavailable" as well as "the portion of the defendant's income that the defendant needs to pay for the expenses of daily living and to maintain employment."[51] Examples of these expenses include "food, housing, clothing, medical care, child or other dependent care, and transportation."[52] The Center also concludes that ". . . it may be acceptable to treat certain third parties' resources as available to the defendant" such as a spouse or parent, but cautions against considering this as income "when those resources are not under the direct control of the defendant."[53]

- **Assets and Debts:** At least 32 states specifically outline the use of assets and 20 states outline the use of debts or outstanding obligations. Again, this information is captured today in North Carolina on the *Affidavit of Indigency*. Virginia considers "all assets of the accused which are convertible into cash within a reasonable period of time without causing substantial hardship or jeopardizing the ability of the accused to maintain home and employment."[54] The Brennan Center for Justice suggests that assets used for "daily living" or "to maintain employment . . . such as a defendant's primary residence, household furnishings, and clothing, and the car a defendant uses to get to work" should be deemed unavailable, and "because counsel must be appointed quickly, jurisdictions should also consider unavailable all assets that cannot be converted to cash within days after an arrest."[55]

- **Case factors and cost associated with securing an attorney:** The type of case and the cost of securing an attorney often go hand-in-hand. At least 22 states make a specific reference to the costs of private attorneys in their consideration of indigency, and 10 states use case factors such as the nature of the offense, the estimated length of the case, the potential for imprisonment, and the anticipated complexity of the case. In North Carolina, 77.1% of judges who responded to the

[51] Brennan Center for Justice, *Eligible for Justice: Guidelines For Appointing Defense Counsel*, https://www.brennancenter.org/sites/default/files/legacy/publications/Eligibility.Report.pdf, (New York, NY: 2008), 14-15.
[52] Ibid, 15.
[53] Ibid, 18.
[54] Va. Code Ann. §19.2-159(B)(2)
[55] Brennan Center for Justice, *Eligible for Justice: Guidelines For Appointing Defense Counsel*, https://www.brennancenter.org/sites/default/files/legacy/publications/Eligibility.Report.pdf, (New York, NY: 2008), 15-16.

study survey indicated they already use case type as a factor, and 53.1% of respondents use their "personal knowledge of attorney fees." The Brennan Center for Justice notes the importance of the differences in retaining private counsel and receiving court-appointed counsel, noting "that most privately retained criminal defense attorneys require payment of a substantial retainer fee, or even of the attorney's full fee, up front," and those same attorneys are usually compensated at a higher rate than their court appointed counterparts.[56]

- **Current federal poverty guidelines and county-based living wage information:** The federal poverty guidelines are widely used to determine eligibility for need-based government benefits, and at least 26 states use the federal poverty guidelines in some fashion for indigency determinations. Many states use a multiplier of the guidelines, consistent with the Brennan Center for Justice's recommendations. Research indicates there may be limitations to using federal poverty guidelines in the evaluation of a person's ability to afford counsel because the underlying formula was based on providing food for a family and does not take local cost variations into account.[57] Other guidelines attempt to determine a self-sufficiency wage or a living wage. One such example is a living wage model created by a Massachusetts Institute of Technology (MIT) professor of economic geography and regional planning. MIT maintains a website where anyone can view county level living wage estimates. The "model is an alternative measure of basic needs. It is a market-based approach that draws upon geographically specific expenditure data related to a family's likely minimum food, childcare, health insurance, housing, transportation, and other basic necessities (e.g. clothing, personal care items, etc.) costs. The living wage draws on these cost elements and the rough effects of income and payroll taxes to determine the minimum employment earnings necessary to meet a family's basic needs while also maintaining self-sufficiency."[58]

- **Receipt of need-based government benefits:** This factor is used in at least 18 states, and 60% of North Carolina judges who responded to the study survey indicate they use this in their determination process. Defendants currently are asked to report combined income received from receipt of such benefits on the *Affidavit of Indigency*, but the form does not allow the defendant to distinguish the type or amount received from the particular benefit. Eligibility for these benefits comes with independent verification from the agency that administers the program. Often the threshold for eligibility uses a multiplier of the federal poverty guidelines.

---

[56] Brennan Center for Justice, *Eligible for Justice: Guidelines For Appointing Defense Counsel*, https://www.brennancenter.org/sites/default/files/legacy/publications/Eligibility.Report.pdf, (New York, NY: 2008), 14.
[57] Gross, John P., *Too Poor to Hire a Lawyer but Not Indigent: How States Use the Federal Poverty Guidelines to Deprive Defendants of their Sixth Amendment Right to Counsel*, 70 WASH. & LEE L. REV. 1173 (2013), http://scholarlycommons.law.wlu.edu/wlulr/vol70/iss2/11, 1204-1206.
[58] Glameier, Amy K., *Living Wage Calculator*, http://livingwage.mit.edu/pages/about, (Massachusetts Institute of Technology: 2018)

- **Person requesting counsel currently has, or recently had, appointed counsel in another case; Person requesting counsel resides in a mental health or corrections facility; Person requesting counsel is unable to post bail or bond:** When inventorying the rules and procedures for other states, these three remaining factors were not referenced at the same frequency as the first five factors. States that list these factors usually prescribe presumptive eligibility for the defendant if these factors are present. The Brennan Center for Justice notes that "the vast majority of people incarcerated in a correctional institution are indigent," and "likewise, jurisdictions should consider providing counsel automatically to all defendants housed in a mental health facility."[59] In general, however, the Brennan Center for Justice suggests that "when it proves too expensive to engage in screening precise enough to identify every ineligible, it may be more reasonable to rely on certain presumptions of eligibility."[60] During this study, there was no indication that the current screening process is "too expensive," and therefore, the recommendation is for judges to consider these factors in an overall evaluation of the defendant's financial status rather than prescribe that judges automatically presume indigency based on one of these factors.

Provide Training and Information to Court Personnel

Staff from the offices of clerks of superior court should receive training and information encouraging them to enter when counsel has been denied to a defendant and whether a defendant's attorney is court appointed, public defender, waived or privately retained (self). These fields are currently available in CCIS-CC, but the field is not a required entry.

In order to ensure successful implementation, each relevant group of court personnel will need training to better understand the new tools and changes in process. There may be an adjustment period following implementation, but ultimately, neither tool is expected to increase the average length of time that an indigency determination takes. Survey and focus group participants raised concerns about any change in process that would impede the court's docket or slow the time before a defendant could receive an attorney. Testing these new elements in at least one judicial district will be important to ensure the standards are working as intended or if any significant delays are created by implementing the changes. Testing also likely will show that the new bench card, revised *Affidavit of Indigency*, and entry of additional information into CCIS can be implemented without new significant recurring costs.

Conclusion

Many of North Carolina's judges are basing determinations of indigency on a similar set of factors, and many judges consider factors that judges from other states use consistently. The current indigency determination process in North Carolina has remained fundamentally

[59] Brennan Center for Justice, *Eligible for Justice: Guidelines For Appointing Defense Counsel*, https://www.brennancenter.org/sites/default/files/legacy/publications/Eligibility.Report.pdf, (New York, NY: 2008), 22-23.
[60] Ibid, 13.

unchanged since a small group of counties piloted the use of indigency screener positions. Those positions were not cost effective and subsequently were eliminated.

Most of North Carolina's judicial districts use an *Affidavit of Indigency* that may not account for the education level of those attempting to outline their financial history in a few minutes of court. Developing a new bench card and revising the *Affidavit of Indigency* represent immediate actions already underway to ensure judges will have additional tools at their disposal when making indigency determinations. These tools provide statewide standards, and training clerks of superior court to enter additional information for each case also creates greater uniformity of process. Based on North Carolina's past experience and lessons from other states, ongoing formal audits and indigency screeners do not appear to be cost-effective ways to achieve additional efficiencies in the indigency process. However, if the General Assembly requires ongoing formal audits or indigency screeners, dedicated funding will be required to provide the additional resources necessary to implement those services.

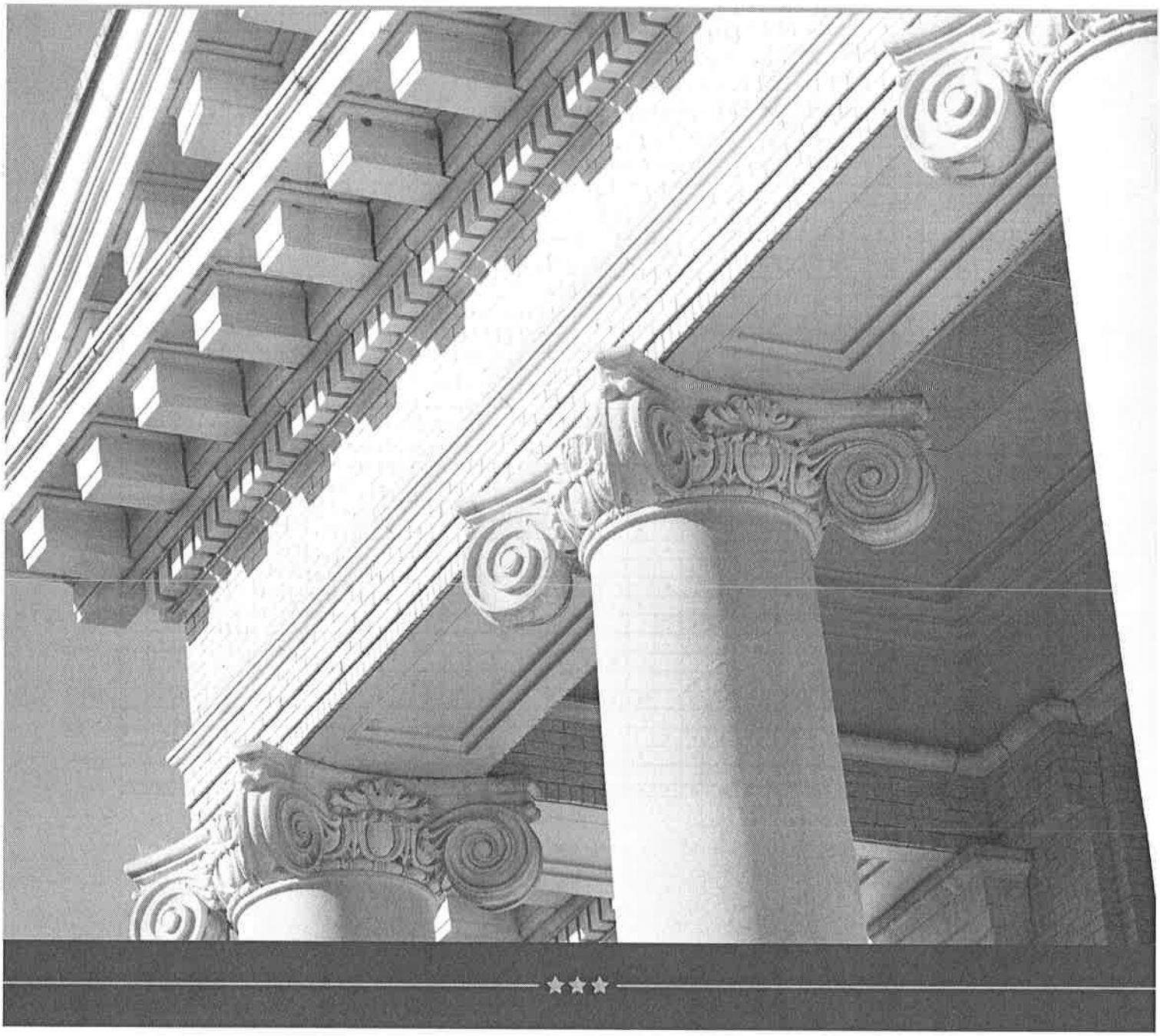
ATTACHMENT A
State Inventory of Factors Used in Indigency Determinations

[This page intentionally left blank]

Attachment A: State Inventory of Factors Used in Indigency Determinations

All U.S. States (except N.C.)	Income	Federal Poverty Guideline	Assets	Property Owned	Disposible Income	Nature of Offense	Length of Case	Complexity of Case	Outsanding Obligations	Number of Dependents	Age of Dependents	Release on Bail	Potential for Imprisonment	Bank Accounts	Social Security	Unemployment	Disability	Private Attorney Costs	"Substantial Hardship"	Medical Expenses	Health Insurance	Child Support	Child Care	Food Stamps	Monthly Expenses	Borrowing Capacity	Attempted to get Private Counsel	Correctional Facility	Mental Health Facility	Unethical Transfer of Property	Spouse or Parents can pay Attorney's Fees	Spouse's Income & Assets	Previously received Court-Appointed Counsel
Alabama	X	X	X		X	X	X	X																									
Alaska	X			X					X	X	X																						
Arizona																																	
Arkansas													X																				
California	X	X													X																		
Colorado																																	
Connecticut	X	X																															
Delaware	X			X									X	X	X	X	X																
Florida	X	X		X														X	X														
Georgia	X	X	X																	X		X											
Hawaii	X	X	X																					X	X	X	X						
Idaho	X	X		X					X	X	X	X									X		X	X				X	X				
Illinois	X	X													X			X	X			X		X									
Indiana	X		X		X	X		X										X							X			X	X				
Iowa	X	X		X		X													X														
Kansas	X	X	X															X							X					X			
Kentucky	X		X	X			X		X			X						X															
Louisiana	X	X				X									X		X	X						X	X								
Maine	X		X						X											X					X								
Maryland			X		X	X	X	X																	X								
Massachusetts	X	X	X										X															X	X				
Michigan	X	X																	X									X	X				
Minnesota	X		X	X																				X						X			
Mississippi	X			X						X																			X		X		
Missouri	X	X	X						X						X	X	X															X	
Montana	X	X	X		X							X						X	X														
Nebraska	X	X													X	X			X									X	X				
Nevada																			X														
New Hampshir	X		X															X							X								
New Jersey	X	X	X	X	X							X			X	X	X	X									X				X		
New Mexico	X		X	X					X	X	X	X							X														
New York	X	X	X	X					X			X						X				X					X		X		X		X
North Dakota	X		X	X		X	X		X		X				X	X	X	X	X	X		X									X		
Ohio	X	X	X			X	X	X	X	X	X		X					X							X	X	X	X	X			X	
Oklahoma	X		X	X	X				X	X		X													X	X					X		
Oregon	X		X	X					X	X	X			X											X							X	
Pennsylvania													X																				
Rhode Island	X		X															X							X		X					X	
South Carolina	X	X							X	X	X		X					X							X							X	
South Dakota	X			X		X			X	X				X	X	X	X	X							X	X	X						
Tennessee	X			X					X	X	X	X						X															
Texas	X		X															X							X							X	
Utah	X	X	X	X		X	X	X	X	X	X				X	X	X	X	X					X		X	X			X			
Vermont	X	X	X	X					X	X	X	X																						
Virginia	X	X	X	X	X									X	X					X	X	X	X			X					X	X	
Washington	X	X	X		X													X							X		X		X				
West Virginia	X	X	X						X		X	X	X					X		X	X	X	X				X						
Wisconsin	X	X	X	X	X							X		X				X															
Wyoming																		X									X						
TOTALS	42	26	28	20	9	9	6	5	17	12	11	11	7	5	11	7	7	22	10	5	3	6	3	6	14	6	10	6	9	3	5	8	1

North Carolina Administrative Office of the Courts
P.O. Box 2448
Raleigh, NC 27602
www.nccourts.org
919 890 1000



Attachment 2

2018 Report on Criminal Cost Waivers

March 15, 2018

§ 7A-350. Annual report on criminal court cost waivers.

The Administrative Office of the Courts shall maintain records of all cases in which a judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and shall report on those waivers to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall aggregate the waivers by the district in which the waiver or waivers were granted and by the name of each judge granting a waiver or waivers.

Report Parameters

- All money statuses reported during calendar year 2017
  - Jan. 1, 2015 – All counties begin using the case disposition component of the Criminal Case Information System, Clerk Component (CCIS-CC version 5.5).
  - March 2015 – NCAOC issues memorandum identifying working definitions of available codes and when to use codes to appropriately identify criminal court money statuses.
- Money statuses include Ordered, Waived/Remitted, Partially Waived, Not Assessed, Stricken/Entered in Error, and Civil Judgment.



Defining Money Statuses

- **Ordered**: This money status is used when the court orders a monetary obligation due. Ordered is the default money status. If the judge is silent on the issue, then, based on case type or status, Ordered should be used.
- **Waived/Remitted**: This money status is used when the judge waives or remits an individual monetary obligation in its entirety. It is used at a subsequent modification hearing if at the time of the hearing the original monetary obligation is unpaid in its entirety and the judge orders it remitted in its entirety.
  - *Note: The Waived/Remitted money status should not be confused with waivers of appearance, which sometimes are referred to as "waived," "waiver," or "waivable offenses." A waiver of appearance is a defendant's election to plead guilty or admit responsibility in writing in lieu of appearing in court. It is available in limited circumstances as prescribed by the Conference of District Court Judges pursuant to G.S. 7A-148.*

Defining Money Statuses

- **Partially Waived**: This money status is used when a monetary obligation is reduced but not eliminated. A common example of Partially Waived is when a judge orders probation revoked, activates the suspended sentence, and waives what remains of each cost still owing. In this case, the partial waiver status is used for each line item where money still is owed.
- **Not Assessed**: This money status is used when a fee that should not be assessed appears in the Bill of Costs. An example of the proper use of Not Assessed would be the determination by the presiding judge not to assess an additional $250.00 for a subsequent assignment to community service because defendant was previously assigned to community during the same session of court. See G.S. 143B-708(c).

Defining Money Statuses

- **Stricken/Entered in Error**: This money status is used when a monetary obligation was recorded in error. It should be used for monetary obligations that would not have accrued but for the error.
- **Civil Judgment**: This money status is used when the judge orders the monetary obligations due through civil rather than criminal enforcement — i.e., the court has ordered that all money obligations due are due through civil enforcement mechanisms only. A civil judgment gives the state an indirect means of collecting the obligation.
    - *Note: If the court elects to simultaneously order monetary obligations due criminally and civilly, then the clerk should use the Ordered status rather than the Civil Judgment.*

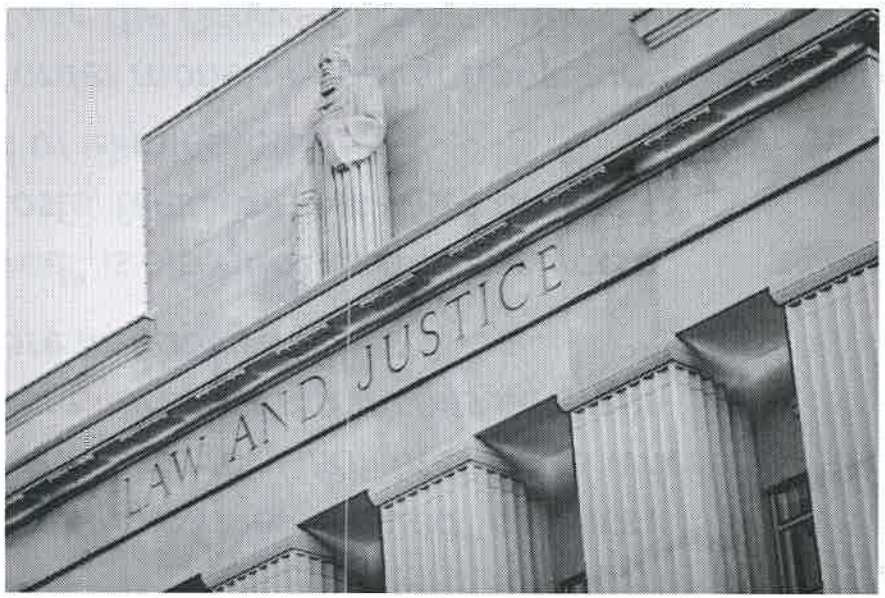
Compiling the Data

- NCAOC Research, Policy, and Planning Division developed a hierarchy for money statuses in the following order: Partially Waived, Not Assessed, Stricken/Entered in Error, Civil Judgment, and Waived/Remitted.
  - *Note: This reflects a change to align the meaning of the "Waived" category with a common expectation that the "Waived" category indicates cases where all financial obligations are waived. Therefore, direct comparisons between the 2018 report and those previous years are not advisable.*
- The number of cases where costs were "Ordered" is also included to provide a sense of volume of the dispositions in which costs, fees, or fines were ordered and no cost, fine, or fee line item was reduced or eliminated.
  - *Note: If the court elects to simultaneously order monetary obligations due criminally and civilly, then the clerk should use the Ordered status rather than the Civil Judgment.*

Compiling the Data

- Data is by judge on the number of cases with criminal court money statuses that are entered with one or more money line items reduced or eliminated.

- The names listed reflect the names entered in the judge field of CCIS-CC, which captures the presiding judicial official at the event (judge, magistrate, or clerk).

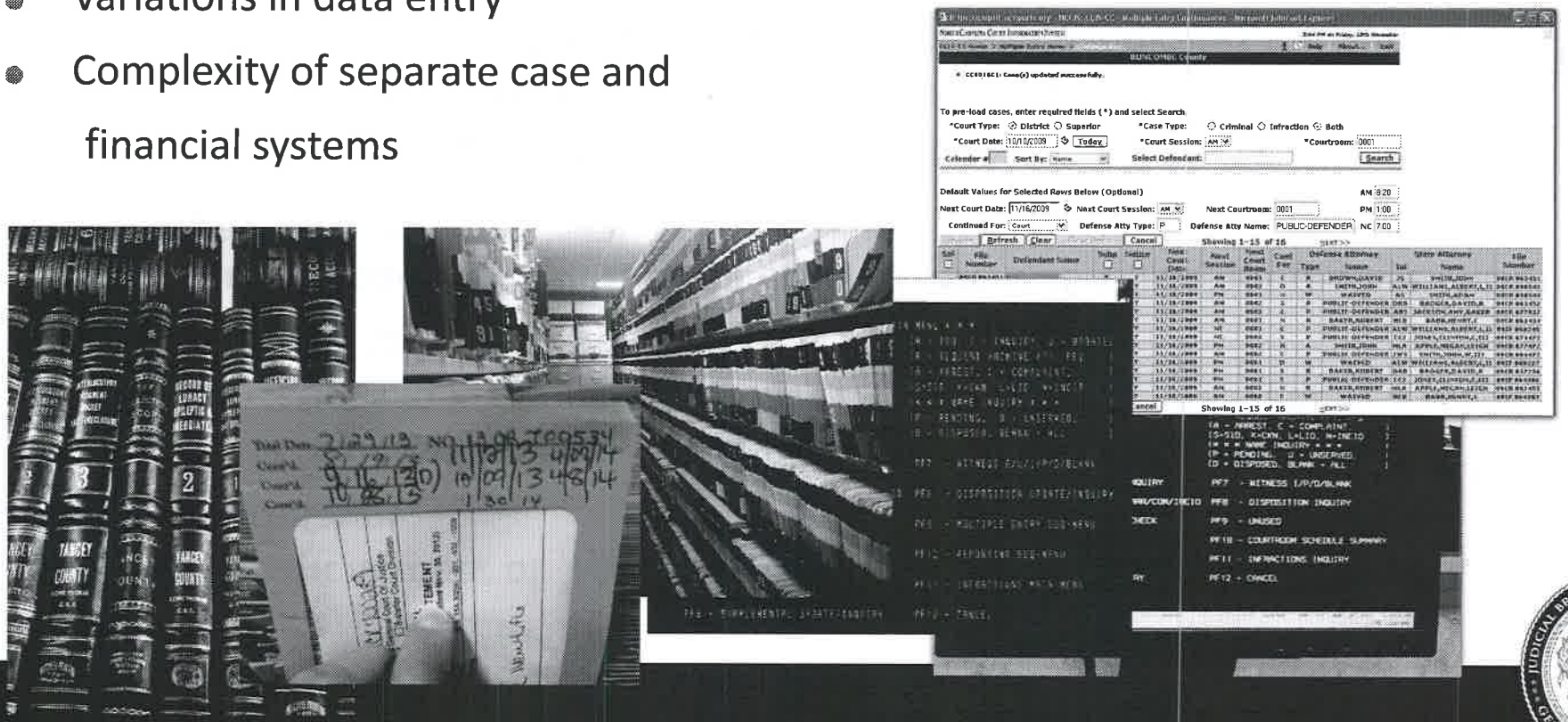


Compiling the Data

- The significant number of "Missing/Unknown" judges is likely because of two possible scenarios.
  - First, dispositions entered in ACIS did not require entry of a judge, so any modifications to judgments entered in ACIS would not have required a judge name to be entered.
  - Second, disposition of infractions entered into CCIS-CC do not require entry of a judge name.
- Totals by judge field are higher than those by county field because the information by county reflects a count of cases with a money status by hierarchical order, while the information by judge field indicates the number of events in which a judge entered an order with a money status indicator.

Data in the Future

- Variations in data entry
- Complexity of separate case and financial systems





THANK YOU

Brad Fowler

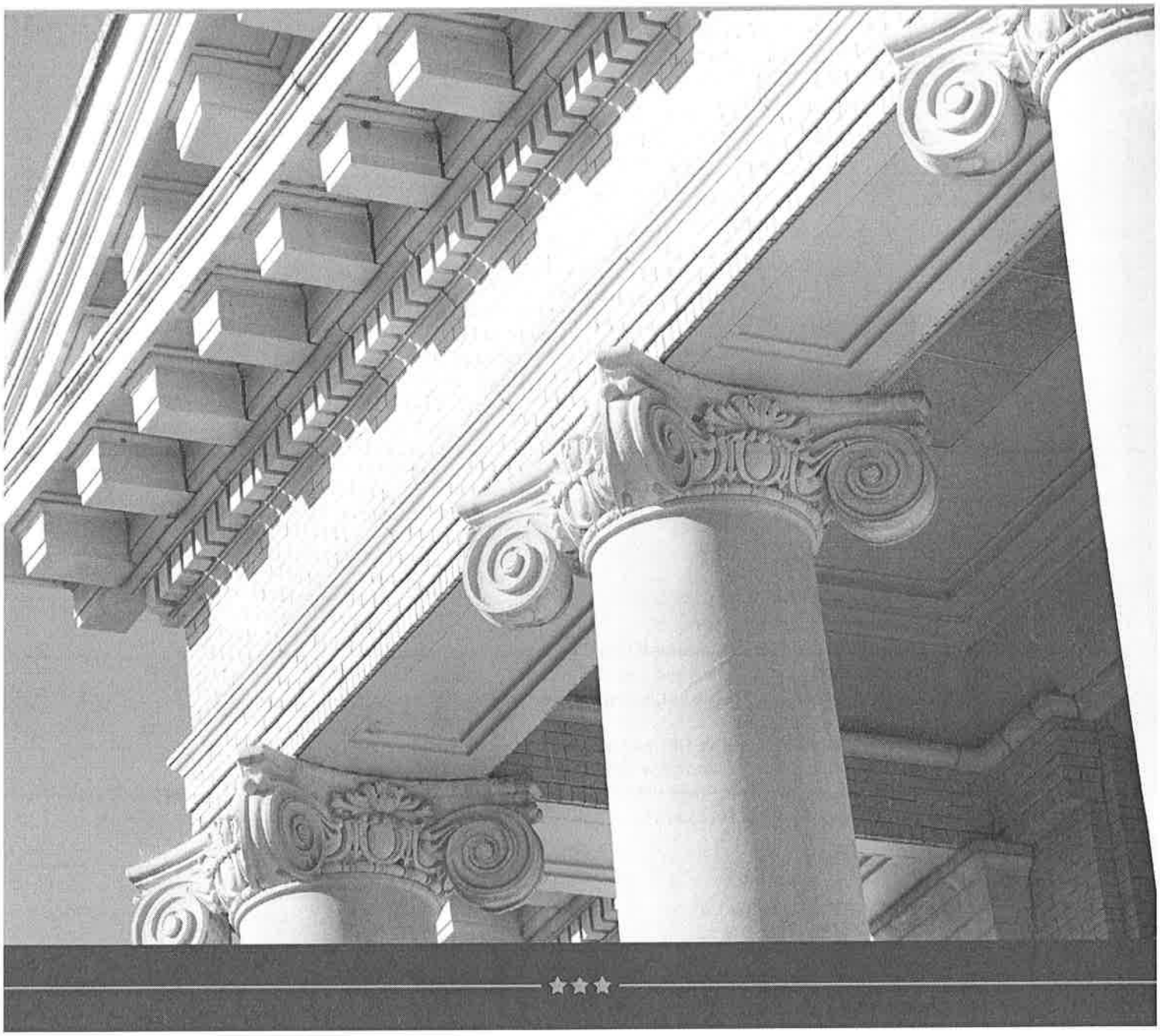
Research, Policy, and Planning Division

Brad.D.Fowler@nccourts.org

2018 Report on Criminal Cost Waivers

G.S. 7A-350

Prepared by
Research, Policy, and Planning Division
February 1, 2018



About the North Carolina Judicial Branch
The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs.

About the North Carolina Administrative Office of the Courts
The mission of the North Carolina Administrative Office of the Courts is to provide services to help North Carolina's unified court system operate more efficiently and effectively, taking into account each courthouse's diverse needs, caseloads, and available resources.

Introduction

N.C.G.S. 7A-350 requires the North Carolina Administrative Office of the Courts (NCAOC) to report on criminal cost waivers. Specifically, G.S. 7A-350 provides as follows:

> **§ 7A-350. Annual report on criminal court cost waivers.**
> The Administrative Office of the Courts shall maintain records of all cases in which a judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and shall report on those waivers to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall aggregate the waivers by the district in which the waiver or waivers were granted and by the name of each judge granting a waiver or waivers.

NCAOC respectfully submits this report pursuant to the legislative mandate.

Report Parameters

NCAOC completed statewide implementation of the case disposition component of the Criminal Case Information System, Clerk Component (CCIS-CC version 5.5) in December 2014, and all counties used this new CCIS-CC component beginning with calendar year 2015. This report includes reported money statuses from CCIS-CC during calendar year 2017.

NCAOC is responsible for providing recordkeeping guidelines, training and support to the state's trial courts. During the initial statewide use of the new case disposition component, system users requested additional clarification and guidelines regarding appropriate selection of criminal court money statuses. NCAOC Court Services Division, after consultation with clerks and relevant NCAOC divisions, issued a memorandum identifying working definitions of the available codes and providing guidance as to when to use a specific code. That memorandum, issued on March 31, 2015, provided the definitions of money statuses detailed in the next section of this report.

The money statuses include Waived/Remitted, Partially Waived, Not Assessed, Stricken/Entered in Error, and Civil Judgment. The attached Table 1 includes criminal court money statuses by county, while Table 2 includes criminal court money statuses by judge. All of these money status codes are presented in Table 1 and Table 2 to provide all relevant available data, although there may be some slight variation in uses among the counties. The number of cases in which costs were "Ordered" is included to provide a sense of volume of the dispositions in each county (Table 1) or by each judge (Table 2) in which costs, fees, or fines were ordered and no cost, fine, or fee line items were reduced or eliminated.

Criminal Court Money Statuses

Criminal court money statuses are either generated by CCIS-CC or entered by a clerk. When a defendant pleads guilty or is convicted, based on the convicted offense, CCIS-CC enters most applicable costs, fees, and fines as "Ordered." If any individual cost, fee, or fine is reduced or eliminated, a criminal court monetary status other than "Ordered" must be entered. Based on the order of the presiding judge, the clerk enters changes to the presumptive amounts and enters an applicable money status. The working definitions for money statuses available in CCIS-CC are set forth below.

Ordered: This money status is used when the court orders a monetary obligation due. Ordered is the default money status. If the judge is silent on the issue, then, based on case type or status, Ordered should be used.

Waived/Remitted: This money status is used when the judge waives or remits an individual monetary obligation in its entirety. It is used at a subsequent modification hearing if at the time of the hearing the original monetary obligation is unpaid in its entirety and the judge orders it remitted in its entirety.
Note: The Waived/Remitted money status should not be confused with waivers of appearance, which sometimes are referred to as "waived," "waiver," or "waivable offenses." A waiver of appearance is a defendant's election to plead guilty or admit responsibility in writing in lieu of appearing in court. It is available in limited circumstances as prescribed by the Conference of District Court Judges pursuant to G.S. 7A-148.

Partially Waived: This money status is used when a monetary obligation is reduced but not eliminated. A common example of Partially Waived is when a judge orders probation revoked, activates the suspended sentence, and waives what remains of each cost still owing. In this case, the partial waiver status is used for each line item where money still is owed.

Not Assessed: This money status is used when a fee that should not be assessed appears in the Bill of Costs. An example of the proper use of Not Assessed would be the determination by the presiding judge not to assess an additional $250.00 for a subsequent assignment to community service because defendant was previously assigned to community during the same session of court. See G.S. 143B-708(c).

Stricken/Entered in Error: This money status is used when a monetary obligation was recorded in error. It should be used for monetary obligations that would not have accrued but for the error.

Civil Judgment: This money status is used when the judge orders the monetary obligations due through civil rather than criminal enforcement — i.e., the court has ordered that all money obligations due are due through civil enforcement mechanisms only. A civil judgment gives the state an indirect means of collecting the obligation.
Note: If the court elects to simultaneously order monetary obligations due criminally and civilly, then the clerk should use the Ordered status rather than the Civil Judgment.

In compiling data for Tables 1 and 2, NCAOC Research, Policy, and Planning Division developed a hierarchy for money statuses in the following order: Partially Waived, Not Assessed, Stricken/Entered in Error, Civil Judgment, and Waived/Remitted. For example, if a case has both a "Not Assessed" and a "Partially Waived" money status entered, that case would be counted as a case with a "Partially Waived" money status. This hierarchy used in the current report differs from the hierarchy in previous years' reports; therefore, direct comparisons are not advisable. The change was made to align the meaning of the "Waived" category with a common expectation that the "Waived" category indicates cases where all financial obligations are waived.

Table 2 contains data by judge on number of cases with criminal court money statuses that are entered with one or more money line items reduced or eliminated. The number of cases where costs were "Ordered" is also included to provide a sense of volume of the dispositions of each judge in which costs, fees, or fines were ordered and no cost, fine, or fee line item was reduced or eliminated. The names listed in Table 2 reflect the names entered in the judge field of CCIS-CC, which captures the presiding judicial official at the event (judge, magistrate, or clerk). The significant number of "Missing/Unknown" judges is likely because of two possible scenarios. First, dispositions entered in ACIS did not require entry of a judge, so any modifications to judgments entered in ACIS would not have required a judge name to be entered. Second, disposition of infractions entered into CCIS-CC do not require entry of a judge name.

The totals in Table 2 are higher than those in Table 1 because Table 1 reflects a count of cases with a money status by hierarchical order, while Table 2 indicates the number of events in which a judge entered an order with a money status indicator.

SUMMARY

NCAOC has established six codes to reflect the status of monetary obligations in criminal cases. This report includes information on criminal court money statuses by county and by judge for calendar year 2017.

[This page intentionally left blank]

TABLE 1

CRIMINAL CASE MONEY STATUSES BY COUNTY, CALENDAR YEAR 2017

Table 1: Criminal Case Money Statuses by County, Calendar Year 2017							
County	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
ALAMANCE	1,053	0	46	996	585		14,643
ALEXANDER	104	0	15	84	9		3,356
ALLEGHANY	110	1	10	37	39		1,018
ANSON	200	0	37	316	57		3,524
ASHE	133	0	47	69	74		1,411
AVERY	21	2	11	77	27		2,165
BEAUFORT	362	0	118	73	194		7,911
BERTIE	120	1	109	45	8		3,086
BLADEN	23	0	171	126	353		7,757
BRUNSWICK	255	1	228	398	958		11,520
BUNCOMBE	199	1	503	981	1,767		14,421
BURKE	25	0	124	196	1,217		9,834
CABARRUS	226	0	2,802	520	653		31,281
CALDWELL	66	0	160	63	1,189		8,302
CAMDEN	3	0	3	9	0		1,897
CARTERET	206	0	185	242	89		8,851
CASWELL	117	0	17	65	74		2,346
CATAWBA	235	3	2,692	347	485		11,605
CHATHAM	402	52	33	159	51		6,267
CHEROKEE	65	0	4	46	53		3,539
CHOWAN	93	0	26	5	0		779
CLAY	15	0	16	36	5		897
CLEVELAND	1,256	0	52	162	540		12,192
COLUMBUS	136	0	95	215	790		10,715
CRAVEN	1,034	17	197	322	154		10,932
CUMBERLAND	2,125	24	227	227	1,041		16,728
CURRITUCK	61	0	18	94	5		6,038
DARE	290	1	15	211	24		11,543
DAVIDSON	323	1	492	538	1,395		12,350
DAVIE	107	0	6	137	213		5,566
DUPLIN	275	18	133	442	302		8,770
DURHAM	1,611	3	966	1,083	675		10,368
EDGECOMBE	499	5	52	157	289		6,242
FORSYTH	4,871	9	294	870	371		36,415

Table 1: Criminal Case Money Statuses by County, Calendar Year 2017 (continued)							
County	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
FRANKLIN	243	3	89	81	166		4,790
GASTON	1,273	1	55	355	1,382		14,683
GATES	36	0	0	24	0		1,330
GRAHAM	30	0	0	13	3		550
GRANVILLE	176	0	30	85	218		3,378
GREENE	143	1	20	32	27		2,095
GUILFORD	5,515	7	2,294	629	1,556		42,993
HALIFAX	334	1	94	143	172		3,876
HARNETT	330	4	260	602	511		8,495
HAYWOOD	315	0	210	197	104		8,201
HENDERSON	82	6	390	120	141		12,023
HERTFORD	54	0	247	148	6		2,788
HOKE	254	0	96	257	169		3,593
HYDE	5	0	5	10	10		665
IREDELL	683	1	1,506	878	865		20,362
JACKSON	151	0	45	92	77		4,564
JOHNSTON	501	4	233	756	800		14,622
JONES	67	0	37	81	21		2,689
LEE	252	2	155	183	332		4,216
LENOIR	550	0	40	118	58		7,500
LINCOLN	473	0	28	129	431		7,928
MACON	116	0	13	66	0		3,293
MADISON	5	0	28	78	4		3,918
MARTIN	164	0	141	166	50		6,789
MCDOWELL	238	28	115	55	693		6,984
MECKLENBURG	3,648	12	3,030	467	1,126		43,355
MITCHELL	24	0	54	30	35		1,099
MONTGOMERY	29	0	33	109	293		5,388
MOORE	73	0	747	340	154		8,687
NASH	477	0	52	59	8		10,849
NEW HANOVER	1,887	37	93	303	802		16,788
NORTHAMPTON	104	0	22	25	0		1,454
ONSLOW	636	5	1,137	610	536		23,555
ORANGE	1,241	6	157	366	28		16,972

Table 1: Criminal Case Money Statuses by County, Calendar Year 2017 (continued)							
County	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
PAMLICO	26	0	28	31	119		1,100
PASQUOTANK	43	0	103	50	58		2,924
PENDER	110	0	102	141	99		5,937
PERQUIMANS	16	0	18	30	5		2,686
PERSON	426	1	70	117	276		4,555
PITT	566	1	173	1,609	1,661		9,996
POLK	18	0	189	80	20		4,557
RANDOLPH	389	4	259	368	260		22,383
RICHMOND	76	0	217	226	294		4,698
ROBESON	453	1	1,846	827	409		13,029
ROCKINGHAM	212	0	138	190	891		9,859
ROWAN	421	1	769	400	621		15,445
RUTHERFORD	53	0	100	69	95		6,873
SAMPSON	470	60	20	384	299		7,880
SCOTLAND	159	0	211	86	263		3,250
STANLY	178	0	40	198	359		8,204
STOKES	203	0	348	65	101		3,212
SURRY	704	20	157	173	408		7,552
SWAIN	70	0	16	38	2		1,979
TRANSYLVANIA	32	1	2	80	16		2,499
TYRRELL	34	0	18	36	15		3,723
UNION	428	0	316	790	983		14,679
VANCE	314	0	129	128	222		4,739
WAKE	1,807	2	1,575	2,046	1,019		68,695
WARREN	53	0	53	32	66		1,762
WASHINGTON	94	0	3	31	25		2,016
WATAUGA	24	0	50	54	103		6,767
WAYNE	679	1	421	362	584		13,439
WILKES	388	4	514	294	109		10,964
WILSON	407	5	4	85	237		6,587
YADKIN	296	9	18	108	24		4,355
YANCEY	3	0	19	46	5		1,815
TOTAL	45,882	367	29,286	26,129	34,112		902,900

Table 2

Criminal Case Money Statuses by Judge Field, Calendar Year 2017

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
ABERNATHY, G, WAYNE	14	0	0	38	46		112
ABERNETHY, RICHARD, B	121	0	14	21	279		847
ADAMS, GALE, M	55	0	51	8	183		121
ALBRIGHT, R, STUART	39	0	53	29	33		323
ALBRIGHT, STUART, A	0	0	0	0	0		2
ALBRIGHT, WILLIAM, D	0	0	0	0	0		1
ALDRIDGE, THOMAS, V	1	0	3	1	2		93
ALEXANDER, KAREN, A	13	0	42	23	103		801
ALEXANDER, SHONNA, R	1	0	0	0	0		0
ALFORD, BENJAMIN, G	46	0	44	9	36		607
ALLEN, BRADLEY, R	197	0	10	296	54		5,071
ALLEN, CLAUDE, JR.	30	0	5	24	7		126
ALLEN, JASPER, B	1	0	0	0	1		2
ALLEN, STANLEY, L	205	1	53	10	84		302
ALLOWAY, SHERRY, F	123	0	76	5	27		224
AMMONS, JAMES, F, JR.	75	1	73	4	152		204
ANDERSON, CHARLES, T	16	2	4	6	4		90
ANTONELLI, JULIE, B	9	0	2	2	0		392
ARCHIE, CARLA	66	0	20	6	178		138
ARTHUR, BETTY, B	0	0	1	0	0		1
ATKINSON, THOMAS, T, JR.	1	0	9	4	0		515
AYCOCK, DAVID, WOODALL	12	1	204	69	425		1,320
BADDOUR, R, ALLEN, JR.	275	1	18	8	81		263
BAGGETT, TALMAGE, S	419	15	9	27	83		2,207
BAILEY, KRIS, D	56	0	72	76	30		1,437
BAILEY, SARAH, PATTERSON	19	0	1	4	0		62
BAKER, TYYAWDI, M	3	0	2	0	0		7
BANKS-PRINCE, CAMILLE	527	2	48	19	96		499
BANKS, J, HENRY	31	0	3	10	6		162
BANNER-LYERLY, ROBERT, A	0	0	0	0	0		1
BARBER, TONYA, D	3	0	0	0	0		0
BARKLEY, WESLEY, W	23	1	358	53	268		1,145
BARNES, EDGAR, L	88	0	24	80	6		1,033
BARNES, KENNETH, CARL	0	0	0	0	0		1
BARRETT, SHARON, TRACEY	4	0	0	2	2		18
BARRINGTON, DAVID, M	2	0	0	0	0		0
BARROW, TAMMY, L	8	0	7	9	2		3,610
BATTAGLIA, FREDERICK, S	112	0	72	71	76		628
BAXLEY, GROVER, C	0	0	2	0	0		0
BEALE, MICHAEL, E	0	0	0	0	2		0

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
BEAN, C, CHRISTOPHER	12	0	0	1	0		56
BEDSWORTH, GEORGE, A	413	0	25	28	74		702
BEER, FRANCIS, G	1	0	0	0	0		0
BELL, JAMES, G	149	0	24	21	259		154
BELL, LISA, C	118	0	59	9	111		95
BELL, WILLIAM, R	202	0	54	12	332		554
BENNETT, VICKY, T	1	0	0	0	0		0
BEST, KIMBERLY, Y	27	0	2	0	0		27
BIBEY, STEPHEN, A	94	0	224	80	83		3,878
BICKETT, ROY, MARSHALL, JR.	54	0	202	54	125		2,370
BLACK, KELVIN, D	149	0	12	36	92		793
BLACKMORE, REBECCA, W	6	0	0	1	8		2
BLACKWELL, ASHLEY, N	2	0	0	0	0		0
BLAKE, ARETHA, VENYKE	13	1	3	0	0		13
BLAND, WILLIAM, W	91	1	32	44	80		521
BLEDSOE, LOUIS, A, III	0	0	0	0	0		4
BLICK, JOSEPH, A	2	0	1	2	2		3
BLOOMFIELD, DAVID, P	1	0	0	0	0		0
BLOUNT, MARVIN, K, III	129	0	16	7	245		347
BLOUNT, STEPHEN, M	1	0	0	3	0		405
BOGER, WILLIAM, J	0	0	0	0	0		3
BONER, RICHARD, D	3	0	0	1	7		25
BOONE, MARION	155	0	56	32	79		1,259
BOUSMAN, MONICA, M	41	0	146	19	15		441
BOWDITCH, KRISTEN	3	0	1	0	0		8
BOWERS, SCOTT	0	0	0	0	0		1
BOYETTE, WAYNE, S	88	2	8	26	123		886
BRACKETT, JUSTIN, KYLE	288	0	5	42	106		1,093
BRADDY, GEORGE, G	5	0	7	5	91		179
BRADFORD, JAMES, M	5	0	0	0	0		0
BRADY, ROBERT, M	11	0	11	6	37		199
BRAGG, CHRISTOPHER, W	321	0	94	32	247		494
BRANCH, BRENDA, GREEN	167	0	66	53	0		606
BRANNON, HILLARY, D	0	0	0	0	0		71
BRANTLEY, DAVID, B	93	0	34	30	17		497
BRANTLEY, JACLYN, B	2	0	0	0	0		0
BRAUNS, BRIAN, P	1	0	0	0	0		0
BRAY, SUSAN, E	33	0	33	7	27		183
BRENDLE, LANDON, N	1	0	0	0	0		0
BREWER, JACQUELINE, L	86	0	85	20	44		743

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
BREWER, SCOTT, T	72	0	51	96	93		898
BRIDGES, FORREST, D	116	0	48	8	100		313
BRIDGES, KEVIN, M	29	0	18	9	134		110
BRIDGES, LAURA, J	0	0	0	0	1		1
BRIDGES, S, QUON	0	0	0	0	0		1
BRITT, JOHN, M	118	1	13	13	119		858
BRITTAIN, THOMAS, M	12	0	30	14	5		965
BROOKS, ALICIA, D	273	2	105	11	7		594
BROOKS, ATHENA, F	32	0	27	29	86		857
BROOKS, WILLIAM, F	233	4	173	106	61		1,825
BROOME, COLLEEN, P	9	0	34	44	0		8,744
BROWN, ANTHONY, W	159	0	4	10	22		583
BROWN, BETTY, J	254	0	145	16	52		513
BROWN, CHARLES, E	47	0	142	37	108		1,998
BROWN, CHARLOTTE, D	30	0	13	4	0		35
BROWN, DEBORAH, P	62	0	189	101	99		1,156
BROWN, JAY, K	1	0	0	0	0		0
BROWN, LARRY, D, JR.	41	0	2	13	11		145
BROWN, RICHARD, T	32	0	89	18	222		360
BROWN, SHIRLEY, H	0	0	0	0	0		1
BROWN, THOMAS, N	1	0	0	0	0		0
BRYAN, JAY, T	229	31	41	102	18		3,545
BRYANT, ROBERT, W	7	0	5	12	6		384
BRYANT, STEVEN, J	0	0	0	1	0		3
BUCKNER, JOE, M	194	1	14	41	2		4,785
BULLOCK, STAFFORD, G	0	0	0	0	0		1
BURCH, SUSAN, R	53	0	26	4	16		143
BURKE, L, TODD	52	0	7	6	21		219
BURKE, TERESA, A	4	0	1	0	0		1
BURNETT, HELENA, M	1	0	0	0	0		0
BURNETTE, CAROLINE, S	158	3	19	67	88		1,267
BYERLY, LISA, F	1	0	0	0	0		0
BYRD, DAVID, V	145	7	55	62	31		2,903
CABE, SAMANTHA, HYATT	305	7	37	104	5		3,427
CALDWELL, JESSE, B, III	139	0	10	3	23		185
CAMERON, WILLIAM, M	94	12	66	95	143		1,631
CAMPBELL, HUGH, B	0	0	0	0	0		3
CANADY, RANDY	0	0	2	0	0		0
CANNON, JESSICA, L	2	0	0	0	0		0
CANTRELL, TIMOTHY, C	0	0	0	0	0		1

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
CARMICAL, JAMES, S	53	1	338	27	31		237
CARPENTER, JEFF	113	0	95	46	309		528
CARRAWAY, LONNIE, W	0	0	0	0	0		1
CARROLL, JOHN, J, III	1	0	0	2	1		4
CARSWELL, DEBRA, D	0	0	1	0	0		0
CARTER, JOHN, B	1	0	0	0	0		0
CATHEY, SAM	6	0	6	37	23		212
CAYTON, DARRELL, B	163	0	62	76	18		1,586
CHAPMAN, RONALD, L	366	0	78	11	25		563
CHASSE, ERIC, C	114	0	85	43	83		1,568
CHEEK, JASON	0	0	4	0	1		5
CHEEK, WILLIAM, D	1	0	0	0	0		0
CHERRY, BURFORD, A	19	0	211	39	128		707
CHRISTIAN, LORI, G	2	0	1	3	0		77
CHURCH, CARRIE, W	2	0	0	0	0		0
CHURCH, HARRY, T	60	0	319	185	129		1,803
CLARK, ROBERT, A	0	0	0	0	1		4
CLEMENTS, CAROLYN, K	3	0	0	0	0		1
CLONINGER, DAVID, B	27	0	471	40	53		1,404
CLONTZ, EDWIN, DUANE	129	1	87	140	421		594
COATES, PHILLIP, E	0	0	0	1	1		47
COBB, W, ALLEN, JR.	9	0	1	1	2		4
COGBURN, STEVEN, D	0	0	0	4	0		15
COLE, J, CARLTON	93	0	82	28	156		574
COLLIER, CHRISTOPHER, M	0	0	0	1	0		4
COLLINS, BERT	1	0	0	0	0		0
COLLINS, CRAIG, R	26	0	5	33	285		813
COLLINS, G, BRYAN, JR.	161	0	22	7	116		161
CONSTANGY, H, WILLIAM	0	0	0	0	0		3
COOPER, PELL, C	71	4	12	11	122		937
CORBETT, ALBERT, A	5	0	7	3	0		238
CORNETT, GREGORY, M	0	0	0	0	0		1
CORPENING, JULIUS, H, II	31	0	7	32	9		1,838
CORTES, ISAAC	1	0	0	0	0		0
COUNCILMAN, KELLY, R	3	0	0	0	0		0
COVOLO, JOHN, J	213	0	4	19	13		660
COWAN, EMILY, GREENE	26	0	27	21	7		746
COWARD, WILLIAM, H	13	0	19	25	44		414
COX, TIFFANY, G	1	0	0	70	0		5,038
CRABBE, DAVID, L	5	0	0	0	0		0

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
CRAIG, JOHN, O, III	136	0	84	11	228		436
CRAWFORD, GEOFFREY, C	2	0	0	0	0		0
CREED, DON, W	67	0	235	108	87		4,482
CROMER, ANDERSON, D	61	5	103	9	69		307
CROOM, CLAUDIA, C	1	0	0	0	0		0
CROOM, CRAIG	88	0	68	28	15		725
CROSSWHITE, JOSEPH, N	135	0	68	36	90		332
CROUCH, MELINDA, H	98	0	9	10	21		282
CROW, KENNETH, F	1	0	0	5	9		0
CRUMP, AVERY, L	397	0	225	11	204		1,095
CRUMPTON, ROB	238	0	117	119	101		1,866
CUBBAGE, LORA, CHRISTINE	182	0	57	8	27		474
CULLER, JENA, P	3	0	1	0	0		9
CUMMINGS, MARK, T	908	0	105	11	69		1,320
CURETON, DONALD, RAY	13	0	7	1	2		13
CURTIS, DAVID, A	1	0	0	0	0		0
CUTCHIN, TONIA, A	106	0	36	2	5		214
DANIELS, CRAIG, S	1	0	0	0	0		0
DANIELS, JUDITH, M	25	0	143	77	62		984
DAVIDIAN, WOOFER, A, III	52	1	66	16	63		474
DAVIS, AMBER	81	0	8	63	7		724
DAVIS, CHESTER, C	52	0	0	9	1		188
DAVIS, DANNY, E	0	0	0	0	0		2
DAVIS, J, THOMAS	60	0	16	16	216		456
DAVIS, JACOB, A	11	0	0	1	1		43
DAVIS, JOHN, T	0	0	0	1	0		1
DAVIS, JOHN, W	122	0	10	23	67		1,028
DAVIS, LINDSAY, R	5	0	46	9	44		258
DAVIS, RICHARD, RUSSELL	411	8	29	81	147		1,689
DAVIS, RUSSELL	3	0	0	0	3		0
DAVIS, WILLIAM, B	118	0	59	1	33		253
DEARMIN, FRANK, S	1	0	0	0	1		0
DEESE, DALE, G	97	0	311	163	47		2,183
DELLINGER, J, GARY	0	0	0	0	0		8
DENNING, MICHAEL, JOSEPH	6	0	6	0	4		110
DESOTO, WILLIAM, BRIAN	25	0	15	34	124		642
DESVOUSGES, SHELLEY	2	0	0	11	0		86
DEVAN, LAURA, A	1	0	0	0	0		0
DEVINE, JAMES, T	4	0	0	0	0		0
DEVINE, M, PATRCIA	33	0	6	23	3		162

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
DISBROW, JASON, C	23	0	64	85	223		2,501
DIXON, BETH, S	29	0	98	37	79		1,870
DORSETT, JEFFREY, R	0	0	0	0	0		23
DOUGHTON, RICHARD, L	1	0	13	6	16		70
DREW, TAMMY, E	0	0	1	0	0		0
DUKE, W, RUSSELL, JR.	1	0	0	2	61		3
DUNCAN, MICHAEL, D	84	2	50	22	111		368
DUNHAM, PRISCILLA, D	0	0	0	0	0		4
DUNICAN, THOMAS, A	1	0	0	0	0		0
DUNSTON, ASHLEIGH, PARKER	2	0	3	12	1		248
EADY-WILLIAMS, KAREN	182	1	67	8	21		128
EAGLES, MARGARET, PHILLIPS	46	0	116	16	27		566
EARWOOD, KRISTINA, LYNN	72	0	26	35	48		1,600
EASON, BYNUM, C	0	0	0	0	0		10
EDDINGER, KEVIN, G	29	0	116	55	97		1,748
EDGERTON, JEFFREY, R	0	0	1	0	0		0
EDWARDS, C, THOMAS	0	0	1	0	2		9
EGGERS-GRYDER, REBECCA, E	16	0	21	18	49		567
ELLIOTT, SHERRI, W	12	0	118	29	145		784
ELLIS, BRANDON, R	3	0	0	0	0		0
ELLIS, BRAXTON, C	0	0	0	0	1		1
ELLIS, KEVIN, D	1	0	0	0	0		0
ENOCHS, WENDY, M	1	0	0	0	1		0
ERVIN, ROBERT, C	56	0	10	19	187		441
ESPEY, THOMAS, W	0	0	1	0	0		0
ETHERIDGE, SCOTT, C	62	0	50	102	69		3,916
EVANS, PATRICIA, D	176	0	63	103	75		336
EVANS, YVONNE, M	220	0	43	15	133		304
EVERETT, CLIFTON, W	0	0	0	0	1		0
EVERETT, WILLIAM, L	0	0	0	0	0		1
FAIRCLOTH, RESSON, O, II	199	0	50	170	38		2,560
FAIRLEY, WILLIAM, F	15	0	34	68	99		2,466
FAISON, JAMES, H, III	208	3	5	5	75		318
FAISON, O, WILLIAM, JR.	1	0	0	0	0		0
FALLS, LINDA	26	0	15	0	13		74
FARANTATOS, BRANDI, L	0	0	1	0	0		0
FARBER, SARAH, J	0	0	2	0	0		0
FARR, ERIC, J	0	0	0	1	0		198
FARRIS, WILLIAM, C	367	0	25	31	38		1,249
FAULKNER, JOSEPH, G	1	0	0	0	0		0

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
FERRELL, MELISSA, J	0	0	0	0	0		1
FINAN, TIM, I	1	0	0	1	0		9
FINCH, DANIEL, BRINSON	3	0	0	0	0		1
FINCH, DANIEL, F	17	0	0	2	5		48
FINCH, WILLIS, E	1	0	0	0	0		0
FINE, LAWRENCE, J	377	0	13	15	17		598
FITCH, MILTON, F, JR.	162	0	32	18	33		369
FLETCHER, K, MICHELLE	128	0	48	11	14		226
FLOYD, ROBERT, F	79	0	21	10	87		317
FOGG, SHIRLEY, Y	2	0	0	0	0		0
FONVIELLE, JOHN, K	1	0	0	1	1		5
FORD, LARRY, G	0	0	1	0	0		1
FORGA, DONNA, F	152	0	70	87	27		2,305
FOSTER, ANGELA, C	662	0	89	19	15		1,349
FOSTER, ANNA, F	0	0	0	1	0		4
FOSTER, JEFFERY, B	113	0	37	8	228		403
FOSTER, THOMAS, F	0	0	0	0	0		12
FOSTER, THOMAS, G, JR.	99	0	69	37	27		437
FOUST, LINWOOD, O	17	2	26	17	100		70
FOX, ANGELA, B	459	5	132	18	42		1,071
FOX, CARL, R	39	0	24	7	124		145
FOX, DAVID, K	22	0	7	8	1		67
FOX, J, C	0	0	0	0	0		1
FOX, TIMOTHEY, SHERMAN	0	0	0	0	0		2
FOY, LOUIS, F	26	3	40	31	31		378
FRANKS, ALAN, K	1	0	0	0	0		0
FRANKS, GEORGE, J	2	0	6	2	0		11
FREEMAN, CHRISTOPHER, ALAN	32	0	20	42	202		899
FREEMAN, TERESA, R	59	0	16	28	4		257
FRESHWATER-SMITH, E	138	0	4	11	38		616
FULLWOOD, JAMES, R	32	0	48	59	1		1,276
FUNDERBURK, JEFFREY, F	1	0	0	0	0		0
GALES, DAVID, W	4	0	0	0	0		2
GALLOWAY, MARK, E	246	0	26	57	41		1,754
GARDNER, DAVID	1	0	0	0	0		2
GARDNER, DENISE, B	0	0	1	0	0		73
GARVEY, MARY, A	0	0	0	0	0		1
GAVENUS, GARY, M	7	0	14	9	16		269
GAVIN, LEE	41	0	53	41	114		4,175
GAYLOR, CHARLES, P, III	310	0	126	110	188		3,243

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
GENTRY, LLOYD, M	9	0	3	2	4		20
GESSNER, PAUL, G	6	0	0	0	0		2
GILCHRIST, CHARLES, W	250	0	94	14	116		241
GILLIAM, CHARLES, PHILLIPS	1	0	0	0	0		0
GINGLES, RALPH, C	7	0	0	1	25		5
GINN, C, PHILIP	2	0	0	0	0		1
GLASCOFF, WILLIAM, J	10	0	0	0	0		0
GLASS, DEBORAH, M	14	0	0	0	0		4
GLASS, JOHN, A	1	0	2	0	2		1
GODDARD, OLAF, H	0	0	0	0	0		3
GODWIN, WALTER, H, JR.	77	1	8	17	57		281
GORDON, NANCY, E	86	0	21	28	24		280
GORE, CAROLYN, ASHLEY	2	0	23	35	120		2,215
GORE, W, FREDERICK	42	0	107	87	268		2,552
GORHAM, PHYLLIS, M	174	0	5	15	40		295
GOTTLIEB, RICHARD, S	15	1	12	5	7		158
GRABER, ERIN	1	0	3	0	0		1
GRAHAM, LAWRENCE, D	221	1	370	218	244		2,598
GRAHAM, WILLIAM	3	0	0	8	0		4
GRANT, CY, A	46	0	147	21	53		254
GRANT, JOSHUA, P	0	0	0	0	0		1
GRAVES, CHRISTOPHER, H	0	0	0	1	0		0
GRAY, BEECHER, R	73	0	27	27	268		263
GRAY, JANE, P	7	1	10	8	1		244
GREEN, JENNIFER, M	0	0	0	0	0		1
GREENLEE, JOHN, K	108	1	9	26	172		657
GREGORY, EDGAR, B	0	0	0	1	4		2
GREGORY, KEITH, O	186	0	114	84	59		784
GRIFFIN, JEFFERSON, G	36	0	91	16	26		488
GRIFFIN, WILLIAM, C	0	0	0	0	0		1
GRIMES, SAMUEL, G	0	0	0	0	0		2
GROGAN, JAMES, A	115	0	54	77	278		4,314
GULLETT, JULIA, LYNN	152	0	83	45	151		394
GWYN, NATHAN, H, III	15	0	78	345	8		6,308
HAIGWOOD, THOMAS, D	84	0	0	2	77		13
HALL, DANIEL, B	0	0	0	0	0		2
HALL, DAVID, L	41	0	46	34	84		286
HAMADANI, SAM	0	0	0	0	0		5
HAMBY, WILLIAM, G	48	0	500	44	58		1,775
HAMILTON, JOYCE, A	5	0	1	5	10		134

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
HAMILTON, LORI, I	132	0	44	27	105		405
HAMMOND, LAWRENCE, T, JR.	21	0	15	5	4		380
HANKINS, PAULINE	15	0	56	103	266		3,684
HARDIN, JAMES, E, JR.	27	1	14	3	113		163
HARDISON, PAUL, A	136	5	37	52	105		1,623
HARDY, WILLIAM, T	0	0	1	0	0		0
HARGETT, CEDRIC, J	1	0	0	0	0		1
HARPER, JANE, V	2	0	3	0	0		8
HARPER, JOSEPH, J	0	0	0	0	1		18
HARRELL, RICHARD, KENT	182	0	31	20	60		524
HARRELL, ROBERT, P	1	0	0	0	0		0
HARRISON, HAL	4	0	19	21	30		463
HARRISS, MEADER, W, III	91	1	21	44	12		547
HARTSFIELD, DENISE, S	290	0	20	7	3		421
HASSELL, A, ROBINSON	1	0	0	0	2		2
HASTY, DAVID, H	543	3	12	27	43		2,952
HAYES, GREGORY, R	168	0	47	9	163		310
HAYNES, CHRISTIE, D	16	0	13	1	0		574
HAZELTON, WENDY, S	211	0	31	48	91		1,783
HEAFNER, WILLIAM, H	1	0	0	0	2		0
HEATH, ANDREW, TAUBE	101	0	27	39	111		184
HEATH, ELIZABETH, A	17	1	2	1	1		86
HEDRICK, EDWARD, L	106	0	228	95	114		1,614
HELMS, WILLIAM, F, III	8	0	3	7	26		125
HENDERSON, GARY, L	32	0	5	5	2		45
HENDRIX, KEVIN, D	0	0	0	2	0		281
HENRY, CHARLES, H	19	3	458	111	108		550
HIGDON, STEPHEN, V	60	0	140	315	600		4,939
HIGHT, HENRY, W, JR.	17	0	33	4	56		190
HILBURN, PATRICIA, GWYNETT	71	1	32	28	228		1,133
HILL, CLAIRE, V	126	0	78	15	482		534
HILL, JAMES, A	0	0	6	0	0		0
HILL, JAMES, C	12	0	68	98	378		444
HILL, JAMES, P, JR.	45	0	78	63	86		4,616
HILL, JAMES, T	246	0	66	140	65		710
HILL, JASON, D	3	0	0	0	0		0
HILL, JOY, H	1	0	0	0	1		9
HILL, KENDRA, D	49	0	27	5	101		105
HINNANT, PATRICE, A	47	1	19	2	16		99
HINTON, ALMA	21	0	69	14	169		217

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
HOBGOOD, ROBERT, H	26	0	38	6	119		121
HOCKENBURY, JAY, D	26	0	7	19	13		205
HODGES, ROBERT, E	0	0	0	0	0		1
HOFFMAN, RICHARD, L	0	0	0	0	0		3
HOGSTON, CHAD, E	377	5	36	43	121		1,741
HOLCOMBE, PAUL, A	31	1	43	127	111		1,776
HOLLAND, DONNA, L	1	0	1	0	0		0
HOLLIDAY, TABATHA	94	0	136	23	92		1,723
HOLLIFIELD, H, C	0	0	0	0	0		3
HOLLIFIELD, JARRED, D	0	0	0	0	0		104
HOLLOCKER, MARY ANN, J	0	0	0	0	0		1
HOLLOWAY, RICHARD, S	13	0	166	37	239		1,164
HOLSHOUSER, JOHN, L	0	0	0	1	0		1
HOLT, REBECCA, W	26	0	2	0	59		106
HOLT, RICHLYN, D	4	0	0	0	0		6
HOLT, SHELLY, S	1	0	3	2	1		3
HONESTY, TARA, M	0	0	0	0	0		9
HONEYCUTT, JAMES, M	6	0	10	10	44		194
HOOKS, D, JACK	13	0	15	8	17		38
HOOVER, DONNIE	183	1	44	2	13		107
HORNE, JOHN, H	54	0	22	24	5		248
HORNE, R, GREGORY	53	1	31	29	28		298
HORNE, TULLIE, W	0	0	0	0	1		0
HORNER, GREGORY, S	0	0	0	0	0		2
HOUSTON, JEANIE, R	279	0	144	105	21		1,536
HOWERTON, PHILIP, F	53	0	0	1	23		30
HOYLE, ANGELA, G	149	0	1	22	106		478
HOYLE, BARRY, L	0	0	3	0	0		0
HUDSON, ORLANDO, F	241	0	3	23	36		116
HUGHES, FARRELL, W	8	0	12	8	14		214
HUNT, JEFFREY, P	92	1	45	7	66		230
HUNTER, BENJAMIN, SCOTT	1	0	1	0	0		0
HUNTER, WILLIAM, K	108	0	95	11	28		1,394
HUTCHINS, LAURIE, L	247	0	18	12	16		542
HUTTON, JOSEPH, L	0	0	1	0	0		0
JACKSON, JAMES, A	71	0	6	34	262		1,113
JACKSON, ROBERT, A	9	0	1	0	0		0
JAMES, ERICKA, YOUNG	212	0	83	33	28		958
JARRELL, H, THOMAS	432	0	119	25	33		481
JENKINS, BRYSON, B	1	0	0	0	0		0

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
JENKINS, JACK, W	7	0	0	0	7		2
JENNINGS, ANGELINA, H	1	0	0	0	0		0
JOE, REGINA, M	107	0	79	101	47		668
JOHNSON, CHAD, A	3	0	18	4	0		497
JOHNSON, DONNA, HEDGEPETH	14	0	329	27	39		1,500
JOHNSON, E, LYNN	3	0	0	0	0		1
JOHNSON, WILLIAM, F	1	0	0	0	0		0
JOLLY, JERRY, A	4	0	9	8	15		296
JONES, ABRAHAM, P	0	0	1	0	0		0
JONES, ARNOLD, O, II	1	0	0	2	1		2
JONES, CAROL, A	129	0	47	60	33		1,269
JONES, JOY	134	0	77	212	279		3,260
JONES, PAUL, L	9	0	23	2	5		59
JONES, RANDLE, L	2	0	0	1	1		1
JORDAN, LILLIAN, B	0	0	0	0	1		6
JORDAN, S, M	2	0	0	0	0		0
JOSEPH, SHANNON, R	2	0	0	0	0		0
JOYNER, ROBIN, R	0	0	1	0	0		1
KAZAKOS, THEODORE	446	2	23	21	45		767
KEENE, JILL, K	2	0	0	0	0		0
KEEVER, ANNA, E	4	0	0	1	1		91
KEITH, ADAM, STRICKLAND	158	0	30	49	57		1,224
KEPPLE, JULIE, M	17	0	62	86	408		367
KEY, SPENCER, G	137	2	92	62	190		1,668
KILLIAN, MARK, L	35	0	442	117	310		1,618
KIMBLE, WAYNE, G, JR.	0	0	1	0	0		1
KINCAID, TIMOTHY, S	1	0	0	0	1		1
KING, TONI, SA	50	0	0	7	46		541
KLASS, JACK	0	0	0	0	0		1
KLASS, MARK, E	213	0	23	22	66		353
KLUTTZ, WILLIAM, C	0	0	1	0	0		6
KNAUFF, AMELIA, M	1	0	0	0	0		0
KNIGHT, JOSEPH, C	0	0	1	3	0		49
KNIGHT, PETER, B	19	1	39	72	24		1,479
KNUST, NATHANIEL, M	45	0	379	44	82		2,207
KOKAJKO, R	0	0	0	1	0		859
KREIDER, JONATHAN, G	350	0	106	14	64		1,286
KUEHNERT, DANIEL, A	21	0	49	10	342		174
LABARRE, DAVID, Q	26	0	0	11	2		0
LACEY, ROBERT, B	1	0	0	0	0		1

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
LAMBETH, DAVID, T, JR.	156	0	8	82	46		614
LANDEN, CHAD, N	1	0	0	0	0		0
LANDS, MICHAEL, K	16	0	4	12	119		409
LANE, CHRISTOPHE, L	1	0	0	0	0		10
LANGSON, LARRY	0	0	0	0	1		0
LANIER, CHRISTOPHE, B	0	0	1	0	0		0
LANIER, RUSSELL, J	8	0	1	1	2		1
LANNING, JAMES, E	0	0	0	0	0		1
LATTA, JERRY, W	0	0	1	0	0		0
LAWRENCE, JASON, O	2	0	0	0	0		90
LAWTON, WILLIAM, C	17	0	30	69	0		1,074
LEAGAN, CLIFFORD, M	0	0	0	0	0		2
LEAKE, LARRY, B	14	2	14	11	13		445
LEE, JACQUELYN, L	327	0	147	72	490		1,174
LEE, W, DAVID	1	0	2	0	3		9
LEECH, DAVID, A	25	0	9	15	91		299
LESLIE, MONICA, H	212	0	41	50	12		2,130
LETTS, BRADLEY, B	15	0	68	31	51		418
LEVINSON, ERIC, L	12	0	30	2	72		45
LEWIS, BERNELL, B	0	0	0	0	0		20
LEWIS, HUGH, B	82	0	31	5	102		136
LEWIS, OLA, M	39	0	35	4	114		29
LEWIS, PATRICK, L	0	0	1	0	0		0
LITTLE, CLAUDE, A	0	0	0	0	0		1
LOCK, THOMAS, H	59	0	15	10	182		218
LOCKLEAR, RUDY, T	0	0	4	0	0		0
LONG, LINDA	0	0	0	0	0		2
LONG, LUNSFORD	128	5	17	18	1		1,195
LONG, V, BRADFORD	159	1	49	19	77		595
LOVE, JIMMY, L	57	1	35	148	60		3,189
MACK, PETER, JR.	120	0	51	49	33		1,299
MANCOS, TAMI, G	0	0	1	0	0		0
MANESS, JAYRENE, R	68	0	145	152	79		5,598
MANGUM, NED, W	129	0	152	9	11		654
MANN, CHRISTY, T	39	0	10	0	0		25
MANNING, HOWARD, E, JR.	2	0	0	1	0		1
MANOLIS, THOMAS, M	0	0	1	0	1		0
MARSH, WILLIAM, A, III	101	0	25	48	30		188
MARTELLE, ROBERT, K	136	6	50	21	168		2,092
MARTIN, JAMES, E	1	0	2	0	0		5

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
MARTIN, JAMES, E, JR.	13	0	0	0	0		22
MARTIN, JERRY, C	8	0	2	1	8		52
MARTIN, PANSY, K	2	0	0	0	0		0
MARTIN, SHANDOLYN	1	0	0	0	0		99
MARZETTI, ALFRED, P	0	0	0	0	0		3
MASSEY, A, MOSES	1	0	6	1	3		4
MATTHEWS, ROBERT, F	0	0	2	0	0		0
MCAULEY, EDWARD, M	2	0	0	0	0		1
MCCLELLAND, CASEY, J	0	0	0	0	0		1
MCCORMICK, EDWARD, H	0	0	0	0	0		1
MCCOY, HAROLD, P	4	0	1	0	0		9
MCENTIRE, THEODORE, W	21	0	60	55	40		1,287
MCFADYEN, WILLIAM, DAVE, III	279	5	69	98	57		2,218
MCGEE, JOSEPH, A	0	0	0	1	0		594
MCGEE, MARTIN, B	17	0	183	29	207		522
MCILWAIN, WILLIAM, C	3	0	2	3	12		50
MCKEE, LINDSEY, L	310	2	29	50	147		1,641
MCKOWN, ANN, E	1	0	0	1	0		0
MCLAURIN, SHARON, S	0	0	0	0	0		1
MCLEAN, MITCHELL, L	0	0	0	1	0		0
MCLENDON, CHRISTOPHER, B	89	0	24	52	16		1,033
MCNEILL, DANITA, B	0	0	2	0	0		0
MCPHERSON, BRUCE, A	1	0	0	0	0		0
MCSWAIN, LAWRENCE, C	217	0	41	8	4		143
MCTHENIA, PAIGE, BARNS	317	1	48	12	9		489
MENDENHALL, JEREMY, H	2	0	0	0	0		50
MENEFEE, LISA, V L	180	0	5	14	15		10,198
MERCER, FRITZ, Y	53	0	26	26	66		411
MESSICK, STEVEN, H	179	0	7	126	118		1,058
MEYER, LOUIS, B	54	0	127	56	65		1,423
MICHAEL, WAYNE	137	1	87	133	415		4,216
MILLER, DAVID, T	0	0	0	0	0		165
MILLER, GORDON, A	690	0	12	39	9		1,194
MILLER, REGAN, A	264	1	22	6	3		126
MILLS, KIA, H	0	0	1	0	0		0
MILLS, LIONELL, WALTER	62	0	22	40	36		1,158
MILLSAPS, KATHERINE, A	0	0	0	0	0		1
MITCHELL, JEFFREY, D	0	0	0	0	0		1
MITCHELL, RICKYE, M	240	0	40	5	4		426
MOBLEY, SAMANTHA, C	76	0	276	7	0		1,999

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
MONROE, KEITH, D	1	0	0	0	0		0
MOODY, VERSHENIA, B	93	2	46	37	11		486
MOORE, CYNTHIA, W	0	0	0	0	0		1
MOORE, JAMES, H	0	0	0	0	1		0
MOORE, JAMES, L, JR.	287	6	60	154	58		2,077
MOORE, MATTHEW, B	1	0	0	0	0		0
MOORE, RHONDA, F	0	0	8	0	0		1,003
MOORE, THOMAS, F	4	0	4	2	0		15
MOORE, WANDA, T	220	0	687	36	0		4,342
MOORE, WILLIAM, J	145	0	382	213	29		2,923
MOREY, MARCIA, H	142	0	18	57	26		71
MORGAN, ERIC, C	43	0	16	19	122		434
MORGAN, JAMES	21	0	9	6	52		48
MORGAN, MELZER, A	0	0	0	0	0		1
MORGAN, MICHAEL, R	1	0	1	0	3		1
MORTON, CANDACE, M	10	0	25	2	0		495
MOSS, MATTHEW, P	0	0	0	0	1		0
MULLINAX, BOBBY	0	0	0	0	1		0
MULLINAX, ROBERT, A, JR.	64	0	355	48	326		1,270
MURRELL, SHERRI, T	263	7	31	70	12		5,139
MYERS, JANE	1	0	0	0	0		0
MYERS, JIMMY, L	36	0	88	108	202		3,012
NAGLE, DANIEL, J	37	0	26	28	34		996
NANCE, JOHN, R	24	0	26	51	90		2,940
NEAVES, CHARLES, M, JR.	343	6	93	67	40		2,090
NEWBERN, THOMAS, R J	12	0	17	11	0		132
NIXON, ARGIROULA, S	2	0	0	0	0		0
NIXON, THEO	7	0	1	1	3		7
NOBLES, JOHN, E, JR.	112	0	38	7	158		495
NOECKER, JEFFREY, E	108	3	9	23	20		358
NORRIS, SANDRA, L	0	0	0	0	0		2
O'FOGHLUDHA, MICHAEL, J	37	0	48	2	154		102
O'NEAL, ELAINE, M	161	0	40	2	36		43
OAKES, MARK, W	1	0	0	0	0		0
OLIVERA, JOHN, LUIS	396	0	7	5	35		1,712
OSMAN, MATTHEW, JOHN	297	0	68	7	9		712
OVERBY, KATHRYN, W	193	0	12	117	34		1,039
OWSLEY, LISA, S	1	0	2	1	6		18
PAKSOY, ALI	136	0	7	34	111		839
PARKER, EARL, B	2	0	0	0	0		0

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
PARKER, REGINA, R	156	0	32	61	23		1,498
PARKER, ROBYN, B	7	0	0	0	0		0
PARSONS, W, DOUGLAS	59	0	45	12	110		290
PASCHALL, DONALD, D	0	0	1	0	0		0
PATE, IMELDA, J	18	0	6	10	70		313
PATRICK, MICHELLE, W	0	0	0	0	0		1
PATTERSON, PAMELA, W	2	0	0	0	0		0
PATTERSON, SHANNON, WAYNE	1	0	0	0	0		0
PAUL, MARY, F	140	0	49	66	204		1,408
PAUL, MICHAEL, A	169	0	47	27	23		1,741
PAULEN, JAMIE, L	0	0	0	0	0		1
PEARCE, ROBERT, W	1	0	0	0	0		0
PENRY, JOHN, R	37	0	68	82	241		2,071
PETERSON, WILLIAM, N	7	0	0	0	0		0
PETERSON, ZACHARY, C	0	0	0	0	0		3
PHILLIPS, ALICIA, A	0	0	0	0	0		1
PHILLIPS, JOHN	0	0	0	2	0		2
PHILLIPS, NANCY, C	2	0	1	0	5		27
PITTMAN, WILLIAM, R	29	0	2	2	13		17
POMEROY, TODD	227	0	178	8	159		447
PONE, EDWARD, A	17	0	6	1	7		198
POOL, CLARENCE, R	34	3	35	6	134		1,246
POOL, RANDY	0	0	0	0	0		2
POOVEY, NATHANIEL, J	17	0	102	5	56		120
POPE, MARVIN, P, JR.	3	0	18	16	51		163
POTEAT, JULIAN, R	1	0	0	0	0		0
POWELL, LAURA, A	54	19	50	26	288		2,069
POWELL, MARK, E	17	4	50	36	79		196
PRELIPP, CARRIE, B	0	0	1	0	0		0
PRICE, ALTON, C	0	0	0	0	0		2
PRICE, MICHAEL, A	1	0	0	0	0		0
PUCKETT, ANGELA, B	27	0	60	9	22		201
QUINN, PAUL, M	399	8	40	80	41		2,081
RADER, ROBERT, B	176	0	65	27	60		700
RAND, RIPLEY, E	2	0	0	0	0		0
RANDOLPH, JAMES, DKF	53	0	224	80	124		2,985
RATHBONE, MARGARET, L	2	0	2	0	0		1
RAWLS, ADDIE HARRIS, M	48	4	5	17	17		898
RAY, SANDRA, ALICE	202	7	16	33	167		1,421
REDMOND, STEPHAN, G	0	0	1	0	0		0

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
REDWING, DENNIS, J	11	0	24	9	5		155
REEVES, JEANNETTE, RACQUEL	285	0	7	13	106		851
REID, EULA, E	43	0	16	31	1		717
REINGOLD, WILLIAM, B	1	0	0	0	0		2
RHINEHART, SHAMIEKA, LACHER	54	1	27	33	33		281
RHODES, KHALIF, J	399	1	823	45	0		5,955
RHUE, CHRISTOPHER, WINDLY	117	0	37	130	66		1,118
RICHARDSON, HERBERT, L	126	0	591	98	41		797
RIDGEWAY, PAUL, C	73	0	24	24	37		246
RINGGOLD, DEBRA, P	2	0	0	0	0		0
ROBERSON, JAMES, K	49	0	1	6	46		179
ROBINSON, MAUREEN, L	1	0	0	0	0		0
ROBINSON, ROBIN, W	116	4	14	28	29		642
ROEMER, VICTORIA	593	0	29	19	12		1,003
ROGERS, MICHELLE, W	1	0	0	0	0		0
ROTHROCK, RAE, R	1	0	0	0	0		0
ROWE, CLINT, D	229	3	87	62	58		1,694
ROWLAND, JEFFREY, P	7	0	1	179	0		11,972
ROYSTER, TED, S	2	0	2	2	4		7
ROZIER, VINSTON, MILLER	36	0	72	9	155		204
RUTH, KRISTIN, H	1	0	0	0	0		0
SABISTON, MICHAEL, A	1	0	0	0	1		28
SALISBURY, ANNE, B	14	0	25	49	2		831
SAMET, JAN	204	0	75	23	56		1,114
SANFORD, CECILIA	1	0	0	0	0		0
SASSER, DEBRA, S	18	0	16	40	0		558
SASSER, DOUGLAS, B	63	0	21	20	244		271
SCARLETT, BEVERLY, A	277	3	16	38	2		2,659
SCOTT, WARD, D	0	0	0	1	0		2
SEATON, SARAH, C	168	1	54	42	13		948
SELLERS, TESSA, SHELTON	80	0	13	38	5		1,477
SENTER, J, LARRY	2	0	1	0	0		19
SERMONS, WAYLAND, J, JR.	44	0	80	28	89		388
SETZER, JOSEPH, E	6	0	7	9	27		224
SHARPE, MARGARET, L	0	0	0	0	0		1
SHERRILL, DAVID, E	1	0	0	1	0		2
SHIRLEY, A, GRAHAM	12	0	10	1	61		23
SHUFORD, MEREDITH, A	122	0	8	26	75		754
SILER-MACK, CHERI	80	0	4	0	8		173
SIMMONS, DAVID, F	0	0	1	0	0		2

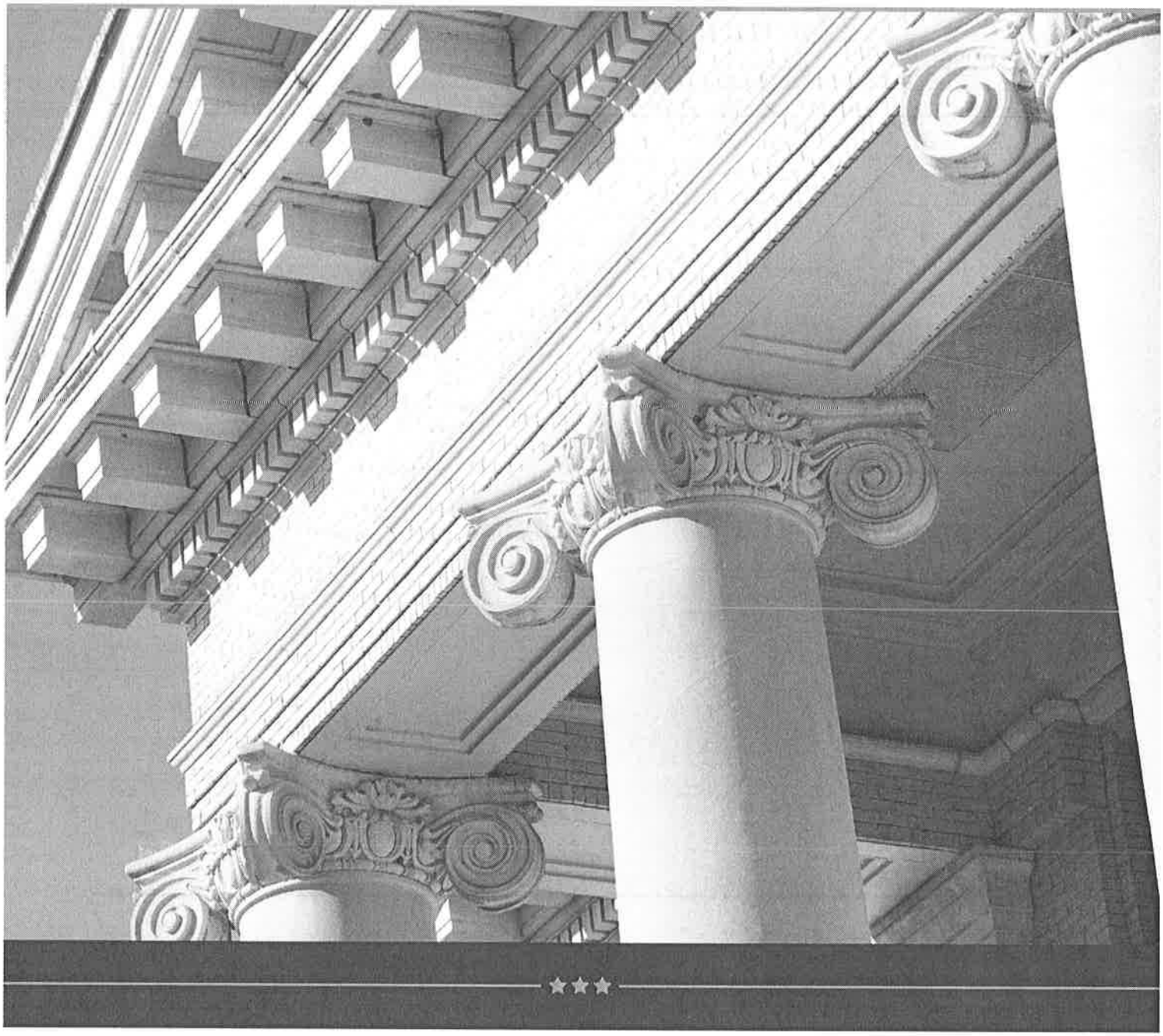
Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
SIMPSON, JOSHUA, R	0	0	1	0	0		0
SIMPSON, THOMAS	2	0	1	2	0		3
SIPPRELL, DAVID	445	5	29	24	29		473
SMEVOG, SUSAN, B	1	0	0	0	0		0
SMITH, APRIL, MARIA	141	0	15	6	23		391
SMITH, BRIAN	0	0	2	0	0		153
SMITH, CAROL, H	1	0	2	4	0		1,125
SMITH, CLIFTON, H	33	0	182	37	69		1,090
SMITH, DONALD, L	0	0	0	0	0		2
SMITH, HOLLY, C	0	0	2	0	0		0
SMITH, JOHN, W	0	0	0	0	0		1
SMITH, LAURA, B	0	0	1	0	0		0
SMITH, ROBERT, L	1	0	0	1	0		0
SMITH, SANDRA, W	0	0	0	0	0		1
SMITH, SEAN, P	21	0	8	4	12		94
SMITH, TRAVIS, C	0	0	1	0	0		0
SMITH, W, OSMOND, III	95	0	19	12	130		496
SNIDER, CHARLES, E	0	0	0	1	0		140
SOUDERES, MICHAEL, D	0	0	0	0	0		5
SOUTHERN, WILLIAM, FLYNN	130	1	112	18	107		1,817
SPAINHOUR, ELIZABETH, ERWIN	0	0	1	0	0		0
SPAINHOUR, W, ERWIN	2	0	3	4	7		75
SPELLER, YOLANDA, B	0	0	11	0	0		39
SPIVEY, RONALD, E	2	0	0	1	1		0
STACKHOUSE, WILLIAM, C	220	0	131	119	413		2,588
STAMEY, JUSTIN, A	0	0	0	0	0		1
STEPHENS, DALLAS, W	1	0	0	0	0		0
STEPHENS, DONALD, W	283	0	18	16	102		565
STEPHENS, RONALD, L	0	0	0	1	0		1
STEPHENSON, W, TURNER, III	188	0	40	65	11		755
STEVENS, CATHERINE, C	32	0	9	11	0		561
STEVENS, HENRY, L	158	9	92	125	134		2,038
STEVENSON, AMANDA, E	154	0	14	57	45		868
STEWART, CARON, H	39	0	16	72	5		1,044
STEWART, WILLIAM, G	6	0	0	4	14		13
STIEHL, ROBERT, J	38	0	0	1	19		67
STOKES, C, STEPHEN	275	5	3	13	30		1,564
STONE, LEE, A	0	0	0	0	0		2
STONE, MICHAEL, A	100	0	47	128	87		1,088
STONE, RICHARD, W	2	0	0	0	1		2

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
STORCH, STEVEN, RONALD	7	0	477	26	1		2,953
STRADER, CHRISTINE, FIELDS	23	0	29	26	223		886
STRICKLAND, DAVID, HUGH	10	0	3	1	0		32
STUBBS, ROBERT, D	5	0	3	16	0		163
STULTZ, JOHN, H	61	0	6	2	0		155
STULTZ, JOHN, HOYTE	106	1	29	54	87		1,300
SUMNER, QUENTIN, T	73	0	27	8	31		468
SUMNER, ROBERT, T	193	1	9	5	139		170
SUMNER, ROBERT, W	1	0	0	0	0		3
SURLES, MICHAEL, C	172	4	93	66	66		1,824
SUTTON, BILLY	217	21	100	164	71		1,939
TALLY, MARY, A	110	0	26	17	61		77
TEAGUE, LEE, F	29	0	15	14	116		696
TERRELL, DEBRA, H	2	0	4	1	0		315
TERRY, B, CARLTON	27	0	80	72	144		2,415
THACKER, LISA, B	49	0	16	48	31		466
THAGARD, LEONARD, W	40	5	18	36	22		583
THIGPEN, CRESSIE, H	0	0	0	0	0		1
THOMAS, ANTHONY, G	19	0	23	4	0		561
THOMAS, WEAVER, K	5	0	0	0	0		0
THOMPSON, CAROLYN, J	119	0	32	48	32		785
THOMPSON, JACK, A	0	0	0	0	1		0
THORNBURG, ALAN, Z	7	0	37	69	8		447
THORPE, KIMESHA, W	2	0	0	0	0		1
THROWER, PENNIE, M	43	0	4	13	244		594
TILLETT, JERRY, R	84	0	9	22	5		553
TIN, REBECCA, THORNE	73	2	16	1	2		77
TITUS, KENNETH, C	5	0	1	1	0		2
TOTTEN, JOHN, W, II	0	0	0	0	0		1
TRAWICK, GARY, E	13	0	0	0	9		21
TRIVETTE, ROBERT, P	105	0	13	58	3		845
TROSCH, ELIZABETH, THORNTON	57	1	15	1	1		32
TROSCH, LOUIS, A	198	0	62	4	9		401
TROTMAN, YOLANDA, MICHELLE	6	0	2	1	2		2
TUCKER, WILLIAM, C	41	0	26	76	192		4,809
TURIK, ANNETTE, W	1	0	1	3	4		23
TURNER, JOSEPH, E	1	0	0	0	0		0
TURNER, LES	240	0	42	45	60		1,689
UNDERWOOD, CHRISTINE	117	0	256	125	143		1,959
USSERY, SCOTI, LEE	33	0	83	107	393		2,125

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
VICKERY, CARRIE	618	0	26	24	24		729
VINCENT, CHARLES, M	17	0	2	2	15		132
VINCENT, TERESA, H	245	0	131	20	109		514
VISER, CASEY, M	92	0	49	16	82		263
WADDELL, JERRY, F	7	0	6	4	16		38
WAGONER, ANNA, M	180	1	50	15	49		362
WALCZYK, CHRISTINE, M	0	0	1	3	0		37
WALKER, AMY, SIGMON	20	0	360	59	279		1,454
WALKER, DORETTA, L	244	1	64	186	42		649
WALKER, RICHARD, K	129	0	28	60	36		2,509
WALLACE, TANYA, T	40	0	39	8	99		144
WARREN, MARION, R	0	0	0	0	2		13
WASHBURN, JAMES, K	1	0	0	1	0		0
WATSON, EBERN, T, III	80	0	63	21	124		247
WATSON, JUDY, A	1	0	0	0	0		0
WATSON, KATRINA, D	159	0	414	10	0		2,957
WATTERSON, JOHN, P	5	0	0	0	0		0
WATTS, WILLIAM, G	74	0	84	16	0		7,925
WEBB, CECIL, L	0	0	2	0	0		0
WEBB, JAMES, M	13	0	64	77	32		205
WELLS, MARY, H	46	1	18	111	11		1,280
WEST, CHRISTOPHE, M	1	0	0	0	0		0
WHITFIELD, TIFFANY, MARIE	26	0	6	0	13		159
WHITTED, LUTHER, M	1	0	0	0	0		1
WIJEWICKRAMA, ROY, T	119	0	28	48	16		1,718
WILHELM, CHRISTY, E	44	0	644	64	71		2,222
WILKINS, C, RILEY	1	0	0	0	0		0
WILKINS, FREDERICK, B, JR.	201	0	39	103	150		1,471
WILKINS, ROBERT, MAYNARD	46	0	84	78	83		4,218
WILKINSON, CHARLES, W, JR.	0	0	0	0	0		13
WILKS, BRIAN, C	197	1	58	78	49		468
WILLEMS, KURT, R	4	0	4	179	0		8,687
WILLEY, JOSHUA, W, JR.	126	0	29	11	117		335
WILLIAMS, DEXTER, L	3	0	1	14	0		2,267
WILLIAMS, JOSEPH, J	3	0	7	13	7		217
WILLIS, OWEN, H	41	3	48	125	144		2,546
WILSON, AMANDA, LYNN	97	0	51	122	74		851
WILSON, EDWIN, G, JR.	21	4	40	12	106		303
WILSON, LARRY, J	231	0	8	26	93		900
WOOD, APRIL, C	24	0	34	32	197		1,977

Table 2: Criminal Case Money Statuses by Judge Field, Calendar Year 2017 (continued)							
Judge Name	Waived	Partially Waived	Not Assessed	Stricken/ Entered in Error	Civil Judgment		Ordered (Not Waived)
WOOD, J, FRANKLIN, JR.	97	0	63	146	119		3,781
WOOD, WILLIAM, Z	0	0	0	0	2		1
WORLEY, ANNA, E	1	0	9	18	0		468
WORTINGER, SUSAN, M	1	0	0	0	0		1
WRIGHT, CAROL, A	0	0	3	0	0		0
WRIGHT, CHRISTINE	1	0	0	0	0		1
WYRICK, RICHARD, T	0	0	22	73	0		5,594
YOUNG, PATRICIA, KAUFMANN	11	0	58	56	353		462
YOUNG, REUBEN, F	119	0	54	9	144		266
MISSING/UNKNOWN	680	27	1,178	9,193	138		539,338
TOTAL	50,243	367	29,540	27,022	35,670		1,036,279

North Carolina Administrative Office of the Courts
P.O. Box 2448
Raleigh, NC 27602
www.nccourts.org
919 890 1000



Attachment 3

Report on Model Fee Schedule
March 15, 2018

THOMAS K. MAHER
EXECUTIVE DIRECTOR



North Carolina

Office of
Indigent Defense
Services

Agenda

- Legislative Mandate
- Implementation
  - Selection of Pilot Counties
  - Development of Model Fee Schedule
- Available Data
- Stakeholder Input
- Findings and Recommendations
- Moving Forward

Legislative Mandate

Session Law 2016-94, Section 19A.4.(a)

- NCAOC in collaboration with IDS
- Pilot project establishing a uniform fee schedule for the payment of attorneys' fees for legal representation of indigent persons in district court
  - One or more counties in six judicial districts
  - Consultation and collaboration with the chief district court judges and the district bar in each of the selected districts
- Report findings and recommendations March 15, 2018 and every two years thereafter

Selection of Pilot Counties

Selection of Pilot Counties

- Legislative Requirements for Pilot Counties
  - At least two counties with small caseloads, two counties with medium caseloads, and two counties with large caseloads
  - Districts 10, 18, and 26 specifically excluded as possible pilot counties
- Selected Counties
  - LARGE: Iredell County (District 22A), Davidson County (District 22B)
  - MEDIUM: Lincoln County (District 27B), Burke County (District 25)
  - SMALL: Watauga County (District 24), Macon County (District 30)

Model Fee Schedule

Development of Model Fee Schedule

Data Sources

- Data collected from fee applications to calculate the average hours for each case type statewide and specifically in the pilot counties
- Flat fees already in place in Cabarrus and Rowan counties
- Input from local court officials and attorneys
- Input from the Offices of Special Counsel, Appellate Defender, Parent Attorney Coordinator, and Juvenile Defender

Model Fee Schedule (March 2018)

Case Type	Fee
Class A-D felonies	$425
All other felonies	$230
Class A1 misdemeanors	$200
Class 1-3 misdemeanors and other traffic offenses	$185
DWI	$300
Probation violations	$185
Civil and Criminal Contempt	$185
Probable Cause and Transfer - Class A-E felonies	$535
Adjudication and Disposition - Class A-E felonies	$535
Adjudication and Disposition - Class F-I felonies; Class A1 misdemeanors	$300
Adjudication and Disposition -Class 1-3 misdemeanors	$200
Post-Disposition Proceedings - Motions for Review; Probation Violations	$150
Adjudication and Disposition	$500
GAL	$250
Termination of Parental Rights	$500
GAL	$250
Other child welfare	$130
Withdrawals	$95

Scope of Model Fee Schedule

- Cases disposed in district court in which counsel was appointed on or after June 1, 2017
- Excluded case types
  - Civil commitment proceedings
  - Child support enforcement proceedings
  - Some juvenile delinquency proceedings
- Exceptional Case Policy
  - Extraordinary cases that require exceptional amount of time

Scope of Model Fee Schedule

Exceptional Cases

- Extraordinary cases in which the amount of time reasonably necessary to provide effective representation is above what can be considered part of the average
- Allows an attorney to request to be compensated under the hourly system instead of the fee schedule pilot
- Judge makes decision to designate exceptional case

Implementation

Implementation
Overview

- Pilot began June 1, 2017
- Applies to cases in which counsel was appointed on or after June 1, 2017
- Key Implementation Resources
  - Model Fee Schedule
  - Policy Guidelines
  - FAQS
  - Ongoing stakeholder input and feedback

Implementation
Adjustments

- November 2017 – Increase in Approved Rates
  - IDS adjusted Model Fee Schedule proportionally to reflect changes in rates by the IDS Commission
- December 2017 – Lack of Adequate Representation
  - Attorneys in Macon County removed themselves from roster for child welfare proceedings
  - IDS excluded child welfare proceedings from the Fee Schedule in Macon County; attorneys compensated under hourly system to secure adequate representation

Available Data

Fee Applications Processed

Overview (June 1, 2017 - January 23, 2018)

- 2,443 fee applications processed pursuant to the pilot, for a total of $510,953
  - This represents 32% of the fee applications processed and 29% of the fees paid in the pilot counties.
- Seven fee applications for exceptional cases, totaling $4,097, under the exceptional case policy
- Number of pilot cases likely to continue to increase as cases in which counsel was appointed before June 1, 2017 are resolved and paid

Fee Applications Processed

By Case Type (June 1, 2017 – January 23, 2018)

CASE TYPE	FREQUENCY
Criminal District Court (adults)	2,154
Child Welfare Proceedings (adults)	216
Juvenile Delinquency Proceedings (children)	72
Rule 17 Guardian ad Litem	1
ALL CASE TYPES	2,443

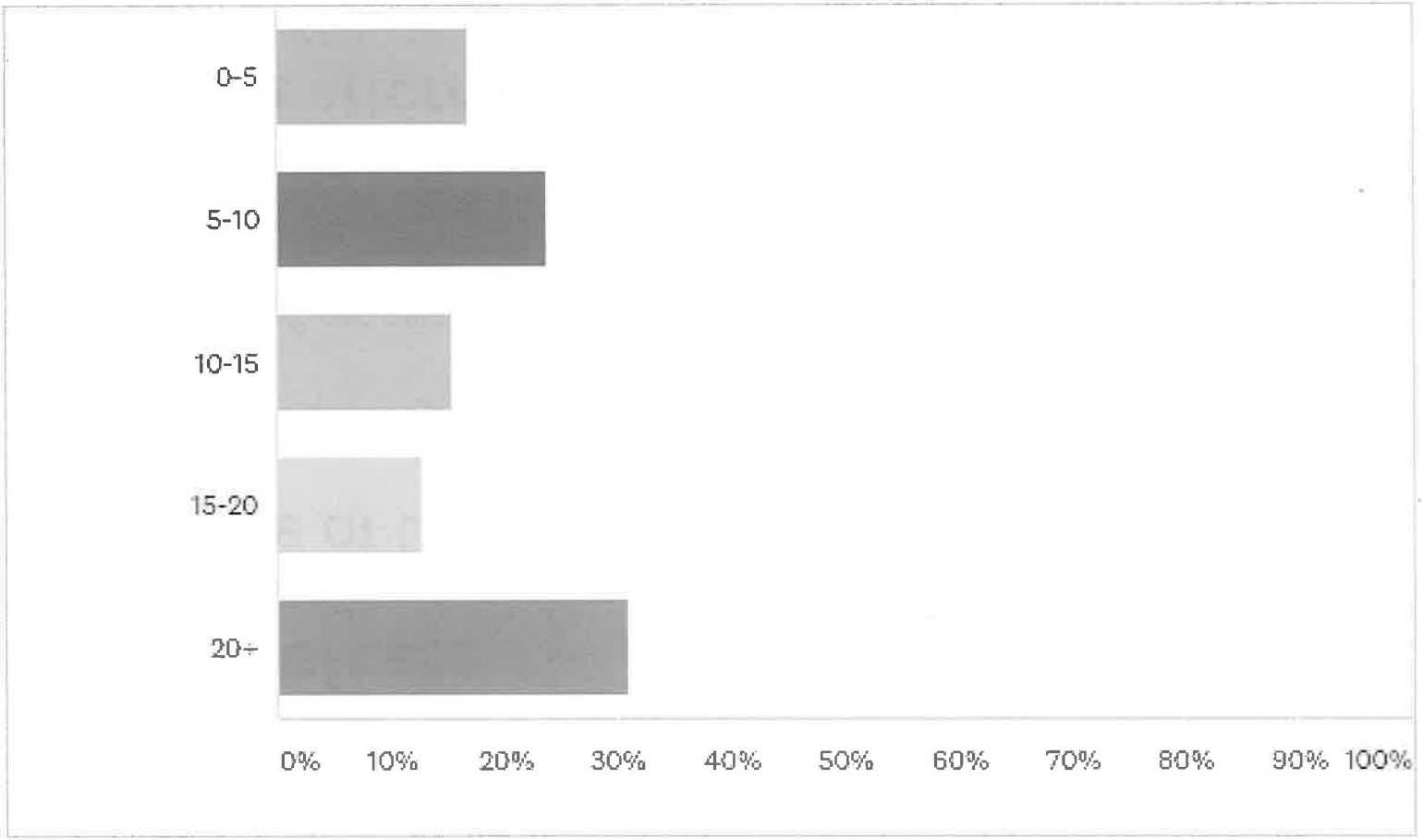
Number of Participating Attorneys
By County (June 1, 2017 – January 23, 2018)

- 130 attorneys filed at least one fee application

	Number of Attorneys Who Submitted Fee Applications		
County	At least One Application	Five or Fewer Applications	Six or More Applications
Burke	18	3	15
Davidson	35	3	32
Iredell	40	9	31
Lincoln	17	4	13
Macon	6	1	5
Watauga	14	5	8
All Pilot Counties	**130**	**25**	**105**

Experience Level of Participating Attorneys

Number of Years, by Percentage



Practice Areas of Participating Attorneys

Court-Appointed Cases

- Attorneys in each experience group reported handling each type of case
- Percentage of Court-Appointed Cases
  - More than 75% of practice (3% of attorneys)
  - 50 to 75% of practice (33% of attorneys)
  - Less than 50% of practice (54% of attorneys)
- 19% of the attorneys who reported spending more than half of their practice on appointed district court cases had 10 or more years of experience

Practice Areas of Participating Attorneys

Case Type

- Attorneys in each experience group reported handling each type of case in the pilot practice areas
- Many of the responding attorneys reported appearing in multiple case types covered by the fee schedule pilot
  - 85% of provide representation in adult felony cases
  - More than half represent children in juvenile delinquency and/or parents in child welfare proceedings
- The rate at which counsel handled felonies and juvenile delinquency cases increased with experience

Stakeholder Input

Survey
February 9, 2018

- Survey of all attorneys on the roster in the pilot counties seeking quantitative and qualitative input

- 70 attorneys participated in survey, including attorneys from each pilot county

County	Number of Responding Attorneys
Iredell County (District 22A),	14
Davidson County (District 22B)	14
Lincoln County (District 27B)	9
Burke County (District 25)	9
Watauga County (District 24)	13
Macon County (District 30)	10

Survey Questions

- Do you view the pilot as a success?
- Does the fee schedule pilot decrease, increase, or have no impact on your willingness to accept appointed cases?
- Does the fee schedule pilot impact the quality of representation?
- Does the fee schedule pilot impact the lawyers accepting cases under the fee schedule pilot?

Survey Responses
By Case Type

County	Success	Not a Success	Less Willing to Accept	More Willing to Accept	Equally Willing to Accept	Impacts Quality	Does Not Impact Quality	Impacts Lawyers	Does Not Impact Lawyers
ALL PILOT COUNTIES	**38.46%**	**61.54%**	**54.41%**	**8.82%**	**36.76%**	**54.29%**	**45.71%**	**74.29%**	**25.71%**
Burke	62.5%	37.5%	11%	22%	67%	44%	56%	44%	56%
Davidson	55%	45%	38%	0%	62%	43%	57%	64%	36%
Iredell	36%	64%	57%	14%	29%	71%	29%	86%	14%
Lincoln	75%	25%	37,5%	12.5%	50%	0%	100%	37.5%	62.5%
Macon	0%	100%	100%	0%	0%	100%	0%	100%	0%
Watauga	18%	82%	82%	0%	18%	50%	50%	92%	8%

Stakeholder Feedback
Overview

- 62% of respondents did not view the pilot as a success
  - None of the respondents in Macon County viewed the pilot as a success
- 54% of respondents said the pilot made them less willing to accept appointments
- 54% of respondents believed the pilot affected the quality of representation

Stakeholder Feedback

Sampling of Attorney Comments

Positive

- Cases move more quickly
- Attorneys know what they will make
- Clients know what they will owe
- Pays for sufficient time to provide representation

Negative

- Makes it difficult to spend enough time on case
- Encourages cutting corners
- Does not work well for lengthy, complicated cases—i.e., child welfare and DWI
- Based on already low $55-per-hour rate

Preliminary Findings

Findings
General Observations

- The majority of respondents to the survey expressed a negative view of the pilot
- There appears to be some correlation between an overall increase in compensation in a county and positive perception of the pilot
  - The counties where the flat fee resulted in a significant reduction in compensation view the pilot negatively.
  - In contrast, counties that saw an increase in compensation under the fee schedule pilot view the pilot favorably.

Findings
Preliminary Perceptions

- District court judges, elected clerks, an elected district attorney, and lawyers who represent Departments of Social Services generally had a more positive perception than attorneys
- Stakeholders in smaller, multicounty districts generally reported more negative impressions
- Attorneys who handle child welfare proceedings generally expressed more negative impressions

Impact on Costs

Early Indications – No impact

- Early indications are that overall spending on cases resolved in district court does not seem to be affected significantly by the fee pilot
- Because the flat fees were set based on the statewide averages paid for these case types, cases resolved under the Fee Schedule generally mirror the average cost of the same case under the hourly system
- For example, the flat fee for non-traffic misdemeanors is $185 per case in the pilot counties, while the average amount paid for those cases under the hourly system in FY 2016-17 was slightly lower at $182.40

Cost Per Case for Non-Traffic Misdemeanor

Flat Fee v. Average Payment

Non-Traffic Misdemeanor	Flat Fee $185 (Pilot Fee Schedule) 2018	Average Payment for All Pilot Counties (FY 2016-17)
ALL PILOT COUNTIES	**$185**	**$182.40**
Burke	$185	$191.60
Davidson	$185	$168.37
Iredell	$185	$195.51
Lincoln	$185	$152.55
Macon	$185	$258.66
Watauga	$185	$214.95

Impact on Quality of Representation

Early Indications

- A majority of attorneys (54%) indicated that the pilot made them less willing to be on the appointed roster
- Early challenges in finding qualified counsel resulted in adjustments to the pilot (Macon County)
- Some indication that the pilot has resulted in a loss of experienced attorneys on the roster

Recommendations & Next Steps

Data Challenges

- The limited time in which the pilot has been in operation and the modest number of fee applications paid under the pilot preclude meaningful evaluation of the pilot at this time
  - Modest number of applications paid pursuant to the pilot
  - Likely overrepresentation of less complex cases in total number of dispositions
- Preliminary data and stakeholder feedback raise issues related to pilot's impact on quality of representation
- IDS will provide a report by December 31, 2018 that will allow more meaningful analysis

Next Steps

December 31 Report

- IDS expects to have more robust data by end of year 2018 related to the following measures:
  - increases or decreases in per case spending
  - predictability in spending
  - ability of counties to maintain rosters with adequate number of experienced attorneys
  - outcomes for clients
  - failure to consolidate cases for single disposition
  - increased number of time served pleas and other measures
- IDS will provide analysis of the data in a report by December 31, 2018

Recommendations

- Allow counties to opt out of the pilot if the interests of justice require
  - County would return to hourly compensation model (or alternative model) to ensure effective assistance of counsel
- Continue the pilot through December 31, 2018, with modifications necessary to ensure effective assistance of counsel
- Review additional information available in December 31, 2018 report to inform policy decisions

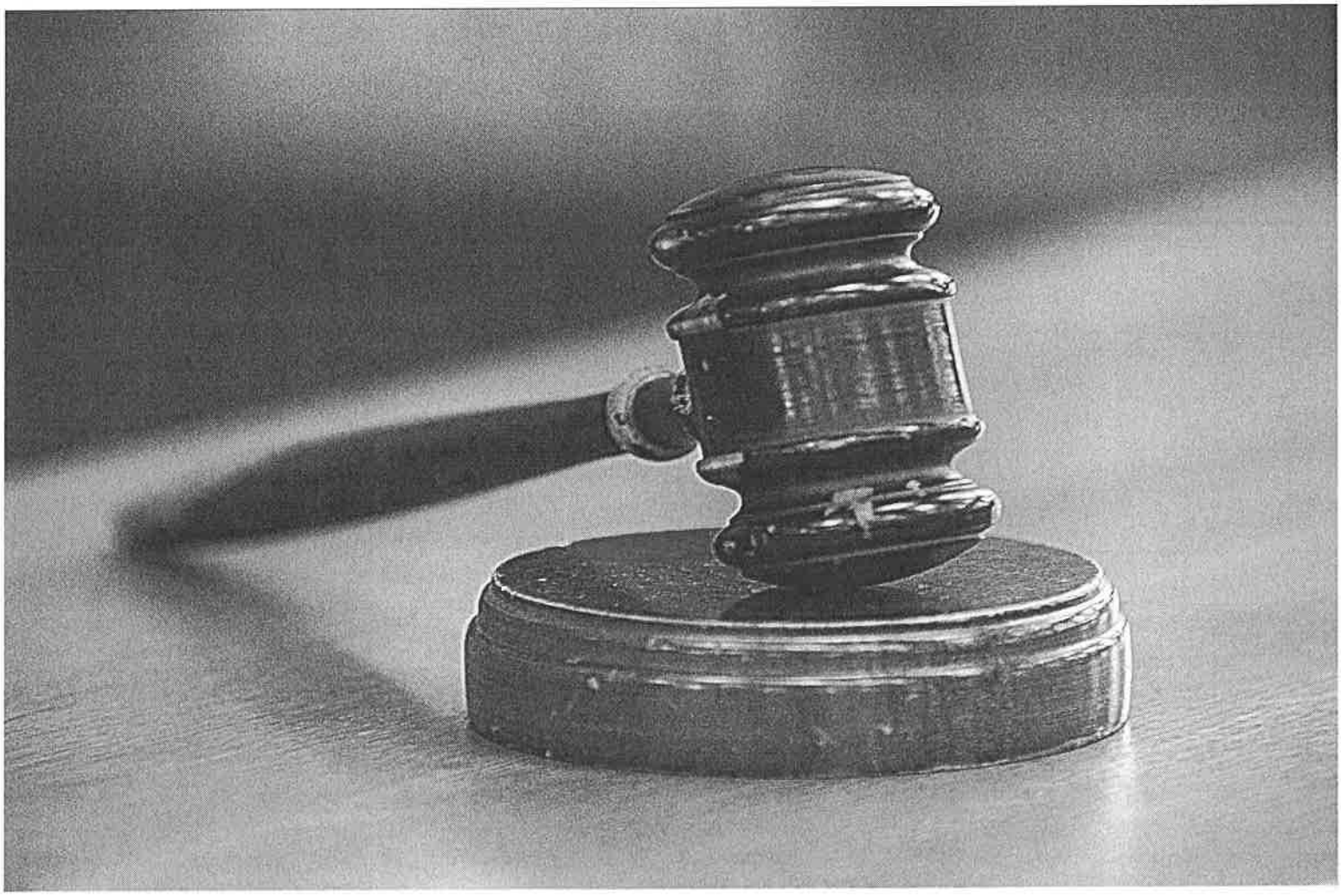
Attachment 3

Thomas K. Maher,
Executive Director
Thomas.K.Maher@nccourts.org

North Carolina
Office of Indigent Defense Services

Report on Model Fee Schedule
March 15, 2018

THOMAS MAHER
EXECUTIVE DIRECTOR



About the Office of Indigent Defense Services

The Office of Indigent Defense is responsible for the provision of counsel and other necessary expenses of representation for indigent persons entitled to counsel in North Carolina state courts. Its mission is to deliver services in the most efficient and cost-effective manner without sacrificing quality representation.

Introduction

Section 19.4 of Session Law 2016-94 required the North Carolina Administrative Office of the Courts (NCAOC), in conjunction with the Office of Indigent Defense Services (IDS) to implement a pilot project establishing a uniform fee schedule for the payment of attorneys' fees for legal representation of indigent persons in district court. The pilot was to be implemented in one or more counties in six judicial districts, in consultation and collaboration with the chief district court judges and the district bar in each of the selected districts.

The special provision directed NCAOC to report by March 15, 2018 to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the status of pilot. This report serves to meet that legislative mandate.

Selection of the Pilot Counties

The special provision set specific parameters for selection of the six pilot counties. The selected counties were to include at least two counties with small caseloads, two counties with medium caseloads, and two counties with large caseloads. Districts 10, 18, and 26 specifically were excluded as possible pilot counties.

Working within those parameters, IDS reviewed data on work volume, quality of outcomes, and the number of active private assigned counsel in districts across the state. IDS and NCAOC ultimately selected the counties below for participation in the pilot.

- **Large:** Iredell County (District 22A), Davidson County (District 22B)
- **Medium:** Lincoln County (District 27B), Burke County (District 25)
- **Small:** Watauga County (District 24), Macon County (District 30)

DEVELOPMENT OF THE MODEL FEE SCHEDULE

The special provision set forth specific criteria regarding development of the fee schedule. Specifically, IDS and NCAOC were required to consider the following factors:

(1) The amount required to cover the full cost of providing adequate legal services and representation to indigent persons.
(2) The procedure for and time frame within which attorneys' fees shall be awarded.

(3) A methodology, to be implemented as part of the pilot project, that provides for review of the uniform fee schedule at least every biennium and that incorporates appropriate increases in the uniform fee schedule based on the information from the review.
(4) Any other criteria deemed relevant by the Administrative Office of the Courts.

IDS used data collected from fee applications to calculate the average hours for each case type statewide and specifically in the pilot counties. These statewide averages served as a foundation for the Model District Court Fee Schedule, together with flat fees already in place in Cabarrus and Rowan Counties. IDS also sought and considered input from local court officials and attorneys, and the Offices of Special Counsel, Appellate Defender, Parent Attorney Coordinator, and Juvenile Defender.

Based on data collected by IDS from fee applications and considering these criteria, IDS developed a Model District Court Fee Schedule ("Fee Schedule"). The Fee Schedule attached as Attachment A represents the Fee Schedule currently in use in the pilot counties.[1]

On May 8, 2017, IDS issued policy guidelines to govern the pilot. A copy of those guidelines – *Indigent Defense Services Policies Governing Attorney Fee and Expense Applications for Uniform Fee Pilot* – is included as Attachment B. The policy provides guidance on common issues that arise in paying private assigned counsel for representation. IDS also prepared a FAQ sheet, which is included as Attachment C.

The Model District Court Fee Schedule was designed to cover the majority of cases resolved in district court. However, certain case types proved to be problematic under the proposed fee schedule. For example, civil commitment proceedings present issues due to factors outside judicial system control such as varied practices at local hospitals and commitment facilities, which leads to significant variation in the number of attorney appointments and the complexity of the proceedings. Child support enforcement contempt proceedings raise similar issues because of significant variation among districts. While some jurisdictions appoint and compensate attorneys per client, many jurisdiction compensate appointed counsel by session and pay a flat fee for a session of court regardless of the number of cases disposed.

After reviewing statewide and local data for civil commitment and child support proceedings, IDS decided to leave in place service delivery contracts and session-based compensation policies already in use in the pilot counties. Existing contracts to represent children in juvenile delinquency proceedings also were left in place. The Model District Court Fee Schedule

[1] In November 2017, the Indigent Defense Commission increased the rate for high-level felonies from $70 to $75 an hour, and IDS adjusted the pilot fee schedule proportionally to reflect those changes.

consequently covers the majority of cases resolved in district court, but specifically excludes civil commitment, child support enforcement, and some juvenile delinquency proceedings.

Finally, an important component of the Fee Schedule is an exceptional case policy. The exceptional case policy deals with extraordinary cases in which the amount of time reasonably necessary to provide effective representation is above what can be considered part of the average. The policy allows an attorney to request to be compensated under the hourly system instead of the pilot fee schedule if assigned counsel believes that the amount of time spent on a case qualifies as exceptional.

IMPLEMENTATION OF THE UNIFORM FEE PILOT

The pilot began on June 1, 2017 in the six pilot counties and applied to cases disposed in district court in which counsel was appointed on or after June 1, 2017. As previously indicated, the pilot specifically excludes civil commitment, child support enforcement, and some juvenile delinquency proceedings.

In order to successfully evaluate the pilot, IDS has attempted to capture relevant data including performance indicators related to case outcomes, the ability of the counties to maintain rosters with adequate numbers of experienced counsel, and financial data such as increases or decreases in per case costs and impact on recoupment. Throughout the pilot, IDS has maintained contact with attorneys and judges in each pilot county.

Since implementation, IDS has made two significant adjustments to the pilot based on ongoing available data and stakeholder input. First, in November 2017, the Indigent Defense Commission increased the rate for high-level felonies from $70 to $75 an hour. IDS subsequently adjusted the pilot Fee Schedule proportionally to reflect changes in rate by the Indigent Defense Commission. Second, in December 2017, IDS excluded child welfare proceedings from the Fee Schedule in Macon County because of concerns about the ability to provide adequate representation.

On December 20, 2017, District Court Judge Leslie informed IDS that all of the attorneys who had been on the roster in Macon County for appointment to represent parents in child welfare proceedings had removed themselves from the roster. Judge Leslie relayed that a number of attorneys removed themselves from the list as soon as the pilot began, with attorneys continuing to opt out until only two attorneys remained. One of the remaining attorneys was relatively inexperienced and did not have the advantage gained from working with more

experienced attorneys. The other attorney had to travel 45 minutes to get to court in Macon County. When those two attorneys subsequently removed themselves from the list, IDS informed the judges that if no attorneys were willing to work under the fee schedule pilot for these cases, then counsel could to be appointed under the hourly system.

IDS continues to monitor whether a decrease in available counsel in other counties or other case types may lead to similar results in other pilot counties. At a meeting with Macon County stakeholders on February 23, 2018, attorneys and judicial officials in Macon County informed IDS that the number of available counsel for juvenile delinquency cases also was declining. Further, because the number of attorneys for criminal cases also is declining in Macon County, delays in district court are increasingly frequent. The fact that several of the attorneys who remain on the roster are from outside the county further complicates the ability to provide adequate representation in an efficient and timely manner.

AVAILABLE DATA

As of January 23, 2018,[2] IDS had processed and paid 2,443 fee applications based on the Fee Schedule in the pilot counties, for a total of $510,953. This represents 32 percent of the fee applications processed in the pilot counties and 29 percent of the fees paid in the pilot counties. IDS anticipates that the share of cases paid pursuant to the fee schedule pilot will continue to increase as cases in which counsel was appointed before June 1, 2017 are resolved and paid.

The majority of cases handled by appointed counsel in the pilot counties are criminal district court proceedings, the majority of which are non-traffic misdemeanors. Table 1 below provides a breakdown of the case types of the 2,443 fee applications processed and paid under the Fee Schedule.

[2] Because the Fee Schedule pilot has been operational only since June 1, 2017, cases that attorneys were able to resolve quickly are likely to be overrepresented in the data. In order to minimize the effect of these quicker cases on the dataset, IDS downloaded disposition data as of January 23, 2018.

Table 1. Case Types for Pilot Fee Applications (June 1, 2017 – January 23, 2018)

CASE TYPE	FREQUENCY
Criminal District Court (adults)	2,154
Child Welfare Proceedings (adults)	216
Juvenile Delinquency Proceedings (children)	72
Rule 17 Guardian ad Litem	1
ALL CASE TYPES	**2,443**

IDS paid seven fee applications, totaling $4,097.00, under the exceptional case policy. As the exceptional case policy applies only to unusually complex cases, IDS did not expect many exceptional case fee applications during the initial months of the fee schedule pilot, but expects the use of the exceptional case policy to increase with time as more complicated, time-intensive cases are disposed.

IDS compensated 130 attorneys pursuant to the pilot. Table 2 below provides a breakdown of the number of attorneys who submitted fee application under the Fee Schedule, by county.

Table 2. Number of Attorneys Who Submitted Pilot Fee Applications (June 1, 2017 – January 23, 2018)

COUNTY	Six or More Applications	Five or Fewer Applications	TOTAL (At Least One Application)
BURKE	15	3	**18**
DAVIDSON	32	3	**35**
IREDELL	31	9	**40**
LINCOLN	13	4	**17**
MACON	5	1	**6**
WATAUGA	8	5	**14**
ALL PILOT COUNTIES	**105**	**25**	**130**

The limited time in which the pilot has been in operation and the modest number of fee applications paid under the pilot preclude meaningful analysis of financial implications in this report. However, early indications are that overall spending on cases resolved in district court does not seem to be affected significantly by the fee pilot. For example, the flat fee for non-traffic misdemeanors is $185 per case in the pilot counties, while the average amount paid for those cases under the hourly system in FY 2016-17 was slightly lower at $182.40.

Table 3 below shows the average amount paid for non-traffic misdemeanors for FY 2016-17 in all of the pilot counties.

Table 3. Average Payment for Non-Traffic Misdemeanor (FY 2016-17)

Non-Traffic Misdemeanor	Flat Fee $185 (Pilot Fee Schedule)	Average Payment for All Pilot Counties (FY 2016-17)[3]
ALL PILOT COUNTIES	**$185**	**$182.40**
Burke	$185	$191.60
Davidson	$185	$168.37
Iredell	$185	$195.51
Lincoln	$185	$152.55
Macon	$185	$258.66
Watauga	$185	$214.95

Because the flat fees were set based on the statewide averages paid for these case types, which in turn reflect the already low $55-per-hour rate, it is not surprising that the cost for a case resolved under the Fee Schedule closely mirrors the average cost of the same case under the hourly system.

The short period in which the pilot has been in operation and the modest number of fee applications paid under the pilot limits the quality of meaningful analysis that can be done regarding the financial and operational impact of the pilot. IDS consequently will continue to collect data and expects to produce a report with more robust analysis by December 31, 2018.

IDS expects that by the December 31, 2018, the pilot will yield additional empirical data that will allow for more meaningful analysis. The December report will use that data to evaluate performance indicators related to case outcomes, the ability of the counties to maintain rosters with adequate numbers of experienced counsel, and financial data such as increases or decreases in per case costs and impact on recoupment.

Input From Stakeholders

Throughout the pilot, IDS has solicited input from stakeholders including district court judges, elected clerks, elected district attorneys, and attorneys representing the Departments of Social Services in the pilot counties. IDS also contacted the attorneys working under the Fee Schedule pilot, and requested that they complete an online survey.

Seventy attorneys responded to the online survey, with responding attorneys from all pilot counties. Table 4 below represents the number of responding attorneys from each pilot county.

[3] Differences in the average amount of time needed to provide representation in the various counties—e.g., significant travel time in the geographically large rural districts—may account for the differences in average hourly fees.

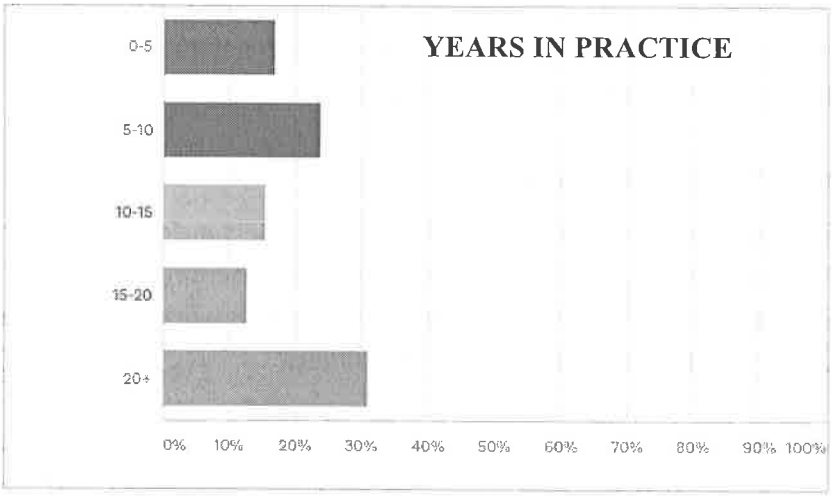
Table 4: Survey Respondents

County	Number of Responding Attorneys
Iredell County (District 22A),	14
Davidson County (District 22B)	14
Lincoln County (District 27B)	9
Burke County (District 25)	9
Watauga County (District 24)	13
Macon County (District 30)	10

Fifty-four percent of attorneys responding to the survey spend less than half of their practice handling appointed cases in district court; one third spend 50-75 percent of their practice on these cases; and 13 percent spend over 75 percent of their practice on appointed district court cases. There was a marked difference in the experience level of attorneys based on the percentage of their practice in district court-appointed cases, with the percent of time spent on district court-appointed cases decreasing as the attorneys' experience levels rose. Only 19 percent of the attorneys who reported spending more than half of their practice on appointed district court cases had 10 or more years of experience.

The level of experience for attorneys responding to the survey ranged from less than five years of experience to more than 20 years of experience. Table 5 below details the experience level of the attorneys who responded to the survey.

Table 5. Experience of Attorneys Responding to the Survey



Attorneys in each experience group reported handling each type of case. The rate at which the responding attorneys handled felonies and juvenile delinquency cases increased with

experience. Only 20 percent of attorneys with less than five years of experience handled felonies, while only 30 handled juvenile delinquency case.

The survey asked the following questions:

- Do you view the pilot as a success?
- Does the fee schedule pilot decrease, increase, or have no impact on your willingness to accept appointed cases?
- Does the fee schedule pilot impact the quality of representation?
- Does the fee schedule pilot impact the lawyers accepting cases under the fee schedule pilot?

Table 6 below details the survey responses by county.

Table 6. Survey Responses

County	Success	Not a Success	Less Willing to Accept	More Willing to Accept	Equally Willing to Accept	Impacts Quality	Does Not Impact Quality	Impacts Lawyers	Does Not Impact Lawyers
Burke	62.5%	37.5%	11%	22%	67%	44%	56%	44%	56%
Davidson	55%	45%	38%	0%	62%	43%	57%	64%	36%
Iredell	36%	64%	57%	14%	29%	71%	29%	86%	14%
Lincoln	75%	25%	37,5%	12.5%	50%	0%	100%	37.5%	62.5%
Macon	0%	100%	100%	0%	0%	100%	0%	100%	0%
Watauga	18%	82%	82%	0%	18%	50%	50%	92%	8%
ALL PILOT COUNTIES	**38.46%**	**61.54%**	**54.41%**	**8.82%**	**36.76%**	**54.29%**	**45.71%**	**74.29%**	**25.71%**

A majority of survey respondents indicated that they viewed the pilot as unsuccessful (61.54%) and they were less willing to accept cases under the pilot (54.41%) The majority also believed that the pilot impacts both the quality of the representation provided (54.29%) and the lawyers providing that representation (74.29%).

The results appear to suggest that attorneys in the small counties (Macon and Watauga) and working in multicounty districts view the fee schedule pilot more negatively. For example, none of the attorneys from Macon County viewed the pilot as a success, while only 18 percent of the attorneys from Watauga County viewed the pilot as a success. In contrast, 75 percent of the attorneys from Lincoln County viewed the pilot as a success.

The results also appear to suggest that there may a correlation between the amount of compensation and attorneys' perception of the pilot. Generally, the counties in which the flat

fee resulted in a significant reduction in compensation view the pilot negatively. In contrast, attorneys in Lincoln County, which has seen an increase in compensation under the fee schedule pilot, views the pilot favorably. In Lincoln County, some attorneys joined the roster for court appointments following implementation of the fee schedule pilot.

In addition to the information gleaned from the survey, IDS also solicited input from various judicial stakeholders. That input raised several significant issues that IDS is concerned may impact the availability and quality of indigent representation. A sampling of those issues and concerns is detailed below.

- Those working in the smaller, multi-county districts reported more negative impact from the fee schedule pilot, as did those working in child welfare cases. In both situations, the Fee Schedule pilot was seen as **reducing the number of qualified attorneys** willing to work on these cases and reducing the time spent by the attorneys to prepare for court. These concerns were specifically noted by a judge in District 24, which includes Watauga County, and court actors involved in child welfare proceedings in a number of counties.

- The elected district attorney for District 30, which includes Macon County, reported that the fee schedule pilot resulted in the loss of most of the experienced attorneys, with the remaining attorneys lacking the experience or skill necessary to effectively represent clients. As a result, assistant district attorneys have found the need to take steps to ensure that indigent clients are not harmed. She also reported that the loss of attorneys was **causing delays** in court as attorneys traveling to Macon from other counties often come to court without having seen their clients in advance. She specifically complained that the fee schedule pilot affected felony cases because many experienced attorneys were no longer willing to accept felony cases that may be resolved in District Court and paid pursuant to the fee schedule pilot.

- Numerous attorneys commented that the fee schedule pilot made it **difficult to spend the time needed to provide effective representation** because they felt pressure to spend less time on cases. Many also commented that they saw other attorneys cutting corners. Respondents noted that attorneys were less likely to visit clients in jail, request a continuance, or put in the time to prepare for a trial. The time pressure was greatest in those cases that are sometimes lengthy and complex such as driving while impaired and child welfare cases.

- Respondents noted that the **$55 an hour rate was already significantly below what attorneys should be paid**, and that once they paid their overhead they were making only $10-20 an hour. One attorney commented that it is "hard to justify taking cases for $185. That barely covers overhead and I make about minimum wage to defend a client."

- In some of the counties covered by the fee pilot, the views of many judges and others working in the court system were somewhat more positive than the views of the lawyers. Specifically, a number of judges and clerks commented that they believed the fee schedule pilot has made court run more efficiently as **cases appear to be resolved more quickly**, partly because attorneys are less inclined to ask for continuances and partly because paperwork takes less time.

- Attorneys commented that in cases in which they were being paid more than they would have received under the hourly system that clients still were ordered to repay the amount of the flat fee, which was **viewed as unfair to the client**. In contrast, several commented the clients benefitted because they had a clear understanding of what they would owe from the beginning of the case. Several commented that the fee schedule pilot allowed prosecutors and counsel representing DSS to **leverage the impact of a flat fee** on counsel by making counsel wait or delaying resolving a case.

Stakeholders indicate that the pilot also may create incentives to delay resolution of felony cases until the case reaches superior court or to avoid the consolidation of multiple cases when appropriate. IDS will continue to evaluate all of these preliminary indicators as the pilot moves forward, using available data and continuing input from stakeholders. Of primary concern will be the effect on the quality of representation, the availability of attorneys, and the impact on client outcomes, time to disposition, and costs.

Analysis of data helps identify differences between systems for delivering representation and allows decisions regarding the delivery of public defense to be evidence-based. In order to fully evaluate the quality of indigent defense, IDS has developed the Systems Evaluation Project, which has identified key indicators that measure outcomes for clients. Information regarding this project is available on the IDS website.[4] Analysis of key indicators, such as the rate at which clients are convicted of the most serious charge or all charges, may help in determining whether a given system for delivering indigent defense has a positive or negative impact on the clients served. IDS will use the Systems Evaluation Project to analyze available data for the December 31, 2018 report.

OTHER CONSIDERATIONS

NCAOC implemented a similar model fee pilot in four counties during fiscal year 1995-96 ("1996 pilot") – District 14 (Durham County), District 16A (Hoke and Scotland Counties), District 19A (Cabarrus County), and District 28 (Buncombe County). The districts volunteered to participate,

[4] See http://www.ncids.org/Systems%20Evaluation%20Project/index.html.

and the pilot lasted only six months. The pilot was not intended to reduce overall spending, but rather was expected to create administrative efficiencies and alleviate problems caused with the existing district-by-district budgeting for indigent defense. Of the districts involved in the 1996 pilot, only Cabarrus County continues to use a uniform fee model.

NCAOC drafted two reports detailing the implementation and rollout of the 1996 pilot – *Committee of District Court Judges Considering Indigent Defense Fee Structures in District Court* and *Use of Per Case Fee Schedule for Representation of Indigent Persons in District Court*. Many of the issues and concerns identified in those reports are relevant to the current pilot. Many of the issues and concerns identified in those reports are relevant to the current pilot. Attorneys expressed concern that the fee structure was too low and that flat fees made it difficult to spend the required time on cases. Judges, on the other hand, expressed appreciation of the administrative convenience. Both groups expressed concerns that lawyers would not have any incentive to consolidate cases for resolution. There was no hard data on whether the six-month pilot had any impact on the quality of representation. Although the report recommended consideration of a broader implementation of the fee schedule, the use of the fee schedule was not expanded and of the four pilot districts, only Cabarrus County continues to use a uniform fee model.

In addition, it is important to note that in evaluating any system for compensating counsel who accept appointed cases, the Sixth Amendment right to the effective assistance of counsel is of paramount importance. As observed in the recent report from the North Carolina Commission on the Administration of Law and Justice (NCCALJ):

> As the United States Supreme Court recently declared: "No one doubts the fundamental character of a criminal defendant's Sixth Amendment right to the 'Assistance of Counsel.'" This right is so critical that the high Court has deemed its wrongful deprivation to constitute "structural" error, affecting the very "framework within which the trial proceeds." For indigent defendants, this fundamental right to effective assistance of counsel must be provided at state expense. When the system fails to provide this right, it denies indigent defendants justice. That denial has very real consequences for defendants, including excessive pretrial detention, increased pressure on innocent persons to plead guilty, wrongful convictions, and excessive sentences.
>
> There are, however, other costs associated with the State's failure to provide effective assistance, including costs to victims, families, communities, taxpayers and the criminal justice system as a whole. Costs to the criminal justice system include trial delays and an increased number of appeals and post-conviction challenges, all of which must be funded by North Carolina taxpayers, as are costly retrials when those

challenges are successful. As has been noted: "Justice works best when all players within the system are competent and have access to adequate resources. When the system includes well-trained public defenders, cases move faster (helping the court manage growing caseloads), and the system tends to generate and implement innovative programs." [5]

The NCCALJ also recognized that in evaluating the impact of any compensation system for indigent defense, decisions need to be evidence-based and rely on data concerning the impact of the compensation system.

In keeping with its statutory mission to "[d]eliver services in the most efficient and cost-effective manner without sacrificing quality representation,"[6] and in keeping with the recommendations from the NCCALJ, IDS will continue to collect data regarding the impact of the pilot on the outcomes for clients and the operation of the court systems. Analysis of this data will allow for informed, evidence-based decisions on the impact of the fee schedule pilot on the clients, lawyers and courts.

Conclusions and Recommendations

IDS recommends that additional data collection, research and analysis prior to any decisions regarding the pilot. Additional data will allow meaningful evaluation of the impact of the pilot on indigent representation and as to whether certain counties or case types are better suited for the uniform fee model. IDS expects to have more meaningful data on these issues by the end of 2018, allowing the December 31, 2018 report to provide more meaningful conclusions and recommendations prior to the 2019 legislative session.

IDS further recommends that counties be allowed to opt out of the pilot after consultation with IDS and NCAOC. When the interests of justice require, IDS and NCAOC should be able to eliminate a county from the pilot to protect the constitutional right to effective assistance of counsel. Counties that opt out of the pilot will be allowed to return to the hourly compensation model or explore an alternative compensation model.

[5] Appendix D of Final Report of NCCALJ, p. 3, (footnotes omitted).
[6] N.C.G.S. 7A-498.1(5)

SUMMARY

The limited time in which the pilot has been in operation and the modest number of fee applications paid under the pilot preclude meaningful evaluation of the pilot in this report. IDS consequently expects to produce a report at the end of the calendar year that will include more data and allow for more meaningful analysis. In the meantime, IDS will continue to monitor and evaluate the pilot, using all available data and input from stakeholders as the project moves forward.

ATTACHMENT A

DISTRICT COURT FEE SCHEDULE

Office of Indigent Defense Services

DISTRICT COURT FEE SCHEDULE[1]

Session Law 2016-94, §19A.4

CASE TYPE	NOTES	Fee
Felonies		
Class A-D felonies	All Class A-D felonies disposed of in District Court by plea, a finding of no probable cause, voluntary dismissal, or deferral or diversion.	$425
All other felonies	All Class E-I felonies disposed of in District Court by plea, a finding of no probable cause, voluntary dismissal, or deferral or diversion, and all felony extradition proceedings.	$230
Misdemeanors & Probation Violations		
Class A1 misdemeanors	All Class A1 misdemeanors disposed by plea or trial, voluntary dismissal, or deferral or diversion. *Excludes probation violations.*	$200
Class 1-3 misdemeanors and other traffic offenses	All Class 1-3 misdemeanors disposed by plea or trial, voluntary dismissal, or deferral or diversion. *Excludes probation violations.*	$185
DWI	All cases of driving while impaired with final disposition by plea, trial, or voluntary dismissal in district court.	$300
Probation violations	All misdemeanor or felony probation violations disposed through hearing, plea, or voluntary dismissal. Includes probation violations arising out of traffic offenses.	$185
Contempt		
Civil and Criminal Contempt	All civil and criminal contempt proceedings.[2]	$185
Juvenile / Delinquency		
Probable Cause and Transfer •Class A-E felonies	All juvenile delinquency petitions where the juvenile is accused of committing a Class A-E felony and the State is seeking transfer.	$535
Adjudication and Disposition •Class A-E felonies	All juvenile delinquency petitions where the juvenile is accused of committing a Class A-E felony disposed of by hearing, admission, or voluntary dismissal.	$535
Adjudication and Disposition •Class F-I felonies •Class A1 misdemeanors	All juvenile delinquency petitions where the juvenile is accused of committing a Class F-I felony or Class A1 misdemeanor disposed of by hearing, admission, or voluntary dismissal.	$300
Adjudication and Disposition •Class 1-3 misdemeanors	All juvenile delinquency petitions where the juvenile is accused of committing a Class 1-3 misdemeanor disposed of by hearing, admission, or voluntary dismissal.	$200
Post-Disposition Proceedings •Motions for Review •Probation Violations	All motions for review or probation violations regardless of offense classification.	$150
Juvenile / Child Welfare		
Adjudication and Disposition	All abuse, neglect, and/or dependency petitions or motions up to and including the initial disposition.	$500
GAL	All abuse, neglect, and/or dependency petitions or motions up to and including the initial disposition.	$250
Termination of Parental Rights	All termination of parental rights petitions or motions including adjudication and disposition.	$500
GAL	All termination of parental rights petitions or motions including adjudication and disposition.	$250
Other child welfare	All review and permanency planning hearings.	$130
Other		
Withdrawals	All cases where the attorney withdraws or is relieved as provisional counsel after substantive work.	$95

[1] Effective for cases to which the attorney is appointed on or after June 1, 2017 in the District Courts of Burke, Davidson, Iredell, Lincoln, Macon, and Watauga Counties

[2] This does not include civil or criminal contempt proceedings arising out of a child support enforcement proceeding.

10/31/2017 2:03 PM

ATTACHMENT B

INDIGENT DEFENSE SERVICES POLICIES GOVERNING
ATTORNEY FEE AND EXPENSE APPLICATIONS
FOR UNIFORM FEE PILOT

THOMAS K. MAHER
EXECUTIVE DIRECTOR
THOMAS.K.MAHER@NCCOURTS.ORG

TELEPHONE:
(919) 354-7200
FACSIMILE:
(919) 354-7201

OFFICE OF
INDIGENT DEFENSE SERVICES
STATE OF NORTH CAROLINA
www.ncids.org
123 WEST MAIN STREET
SUITE 400
DURHAM, N.C. 27701

COMMISSION
W. JAMES PAYNE, CHAIR
DAVID R. TEDDY, VICE-CHAIR
JAMES P. COONEY, III
BRIAN S. CROMWELL
JOSEPH N. CROSSWHITE
STAPLES S. HUGHES
DAVID MARK HULLENDER
R. CHANNING JONES
DARRIN D. JORDAN
LISA V. L. MENEFEE
CHRISTINE MUMMA
KATHERINE LEWIS PARKER

To:	Indigent Defense Attorneys, District Court Judges, and Clerks of Superior Court in Burke, Davidson, Iredell, Lincoln, Macon, and Watauga Counties
CC:	Marion Warren, Director of Administrative Office of the Courts
Re:	Indigent Defense Services Policies Governing Attorney Fee and Expense Applications for Uniform Fee Pilot
From:	Office of Indigent Defense Services
Date:	May 8, 2017

The below policies govern fee applications that are directed to district court judges in indigent district court criminal and non-criminal cases in Burke, Davidson, Iredell, Lincoln, Macon, and Watauga Counties as provided in the attached District Court Fee Schedule developed pursuant to S.L 2016-94.

1. **Effective date.** The fee schedule pilot is effective for newly assigned cases beginning June 1, 2017. Cases in which assigned counsel was appointed prior to the effective date but which are resolved after the effective date, will be paid under the current hourly rates. The fee schedule applies to newly assigned cases including a former client with new charges but excluding an existing client with new charges. In the event an attorney who was appointed to represent a client on a case prior to the effective date is subsequently appointed to represent the client on a new charge after the effective date, assigned counsel will be paid under the hourly system for all work if all charges are resolved at the same time before the same judge. In the event that the newly assigned charge is resolved separately, assigned counsel will be compensated under the current hourly rates for the original charge and under the fee schedule for the newly assigned charge.

2. **Fee Applications.** Assigned counsel must follow all current IDS billing policies that are not inconsistent with billing policies specific to the uniform fee schedule pilot. Assigned counsel should use the same fee applications to obtain compensation under the fee schedule currently in use for affected case types. (CR-225, J-411, and G-200). Assigned counsel should continue to track and report their time on the fee applications. AOC and IDS are required to gather this information for reporting purposes. This information also will be used to determine whether the fee schedule is reasonable and whether fees should be raised in the future.

3. **Billing Time.** For all cases finally disposed in the district court where the uniform fee schedule applies, the appointed attorney must sign and submit to the judge the final fee

application no later than six months after the date on which the case was disposed at that phase.

4. **Exceptional case policy.** The fee schedule is designed to cover the majority of cases resolved in district court, with the average amount of time spent on cases being fairly compensated under the schedule. However, no fee schedule can cover the truly extraordinary case in which the amount of time reasonably necessary to provide effective representation is above what can be considered part of the average. In cases in which assigned counsel believes that the amount of time spent on a case qualifies as exceptional, assigned counsel may request that the court compensate counsel under the hourly system rather than under the fee schedule. Any fee application in which the case is compensated as exceptional must be accompanied by a detailed timesheet reflecting the work done by counsel. Although IDS will provide data on average hours to the judges as a guide in determining whether a specific case qualifies as exceptional, the decision to designate a case as exceptional and to pay counsel under the hourly system is solely within the discretion of the presiding judge.

5. **Disposition of multiple charges.** All of the charges or matters that are finally disposed at the trial level on behalf of the same client before the same judge at the same time in the same court must be submitted on one fee application. Assigned counsel will be paid under the fee schedule for the most serious charge resolved.

6. **Dismissals with leave / Failures to appear.** Assigned counsel should continue to represent the client on the original charge and any related failure to appear charge, regardless of whether the client is rearrested. Assigned counsel may file a motion to withdraw and submit a fee application at the earliest of the following:
    1. the prosecutor voluntarily dismisses the charge with leave, or
    2. six months from the date of the failure to appear passes.

   However, in the event the client is subsequently arrested and the charge reinstated, counsel is responsible for representing the client and may not submit an additional fee application.

7. **Deferred prosecutions.** Assigned counsel has an obligation to ensure the case is dismissed if the deferral or diversion is successful or to defend the client against the charge if the deferral or diversion fails. Absent a contrary local rule, assigned counsel may submit a fee application at the time the deferred prosecution is entered; however, assigned counsel may not file a subsequent fee application for work done if the district attorney reinstates the charges.

8. **Expenses.** Assigned counsel may still obtain reimbursement for out-of-pocket expenses under current IDS policies governing expenses for hourly cases.

9. **District Court to Superior Court.** In the event there are proceedings in superior court for a charge already disposed in district court, either through a dismissal followed by indictment or appeal for trial *de novo* in superior court, assigned counsel should file a fee application under the fee schedule for the work done in district court. In the event

assigned counsel continues representation in superior court and the case is resolved in superior court, assigned counsel may bill under the hourly system for time spent on the case while pending in superior court. A case that is appealed to superior court and remanded to district court is treated as resolved in district court and the fee schedule applies.

10. **Juvenile/Child Welfare.** Assigned counsel must submit a fee application (G-200) at the end of each substantive hearing. For purposes of AND and TPR proceedings, a substantive hearing is defined as the initial adjudication and disposition, an initial review hearing, an initial permanency planning hearing, each subsequent review and/or permanency planning hearing, and a termination of parental rights hearing. The timing of fee application submission is:
    1. after the initial disposition hearing,
    2. after each completed review hearing,
    3. after each completed permanency planning hearing, and
    4. after the completion of any TPR proceeding.

    Assigned counsel should not submit a fee application after a continuance.

11. **Juvenile/Delinquency.** In the event a juvenile client is transferred from the juvenile division of the district court to the superior court, assigned counsel should submit a fee application pursuant to the fee schedule for all work done in the district court. If assigned counsel continues representation of the juvenile in the superior court, assigned counsel may bill under the hourly system for time spent on the case while pending in superior court.

ATTACHMENT C
UNIFORM FEE SCHEDULE
FREQUENTLY ASKED QUESTIONS

UNIFORM FEE SCHEDULE – FREQUENTLY ASKED QUESTIONS
S.L. 2016-94, §19A.4

QUESTIONS	ANSWERS
Q: Does the fee schedule apply? The Uniform Fee Schedule applies to all case types listed in the District Court Fee Schedule and is effective for newly assigned cases beginning June 1, 2017.	
Q: Does the fee schedule apply to work done in superior court?	A: No – the fee schedule applies to all case types listed in the District Court Fee Schedule finally disposed of in the district court.
Q: Does the fee schedule apply to felonies disposed of in district court?	A: Yes – the fee schedule covers felonies finally disposed of in district court.
Q: What about misdemeanors appealed to superior court?	A: Yes and no – the fee schedule applies to work done in district court; however, you should bill at the hourly rate for work done in superior court.
Q: Does the fee schedule apply if the case is appealed from district to superior court but remanded to district court for final disposition?	A: Yes – the fee schedule applies when a case appealed to the superior court is remanded and disposed of in district court. If you determine the case may qualify as exceptional, then you should submit the case to the presiding district court judge for consideration as exceptional.
Q: What if on April 10 I was appointed to represent a client for one charge, and on June 9 I was appointed to represent him on another.	A: If the new and old charges are resolved at the same time, the fee policy in effect at the time of your original appointment controls. If the charges are <u>not</u> resolved at the same time, the fee schedule applies to the charges to which you were appointed on June 9 and the hourly fee applies to the charges to which you were appointed on April 10.
Q: What does not change with the implementation of the fee schedule?	
Q: Which fee application do I use?	A: You will continue to use the same fee application you use under the hourly system. Criminal – AOC-CR-225 Juvenile Delinquency – AOC-J-411 Parent Representation – AOC-G-200
Q: Is the fee applied per defendant, per charge, per file number, or per disposition?	A: The flat fee is applied per disposition in a single session of court. Example: If your client is charged with multiple offenses and you resolve all of them in a singles session of court, you will be compensated at the fee applicable for highest original charge.

UNIFORM FEE SCHEDULE – FREQUENTLY ASKED QUESTIONS
S.L. 2016-94, §19A.4

Q: What does not change with the implementation of the fee schedule?	
Q: Does the fee schedule alter the scope of my representation?	A: No – the fee schedule does not alter the scope of your representation. If, for example, you negotiate a deferred prosecution for your client, then you still are required to ensure that the charges are dismissed if the deferral is successful or, if not successful, represent the client if reinstated.
Q: How is the fee schedule applied? Assigned counsel will be paid under the fee schedule for the most serious charge resolved in the same session of court.	
Q: How do I determine which fee applies when my client is charged with multiple offenses?	A: The fee is based on the highest original charge. Example: If you resolve a Class 1 Misdemeanor and a DWI at the same time, you will be compensated at the DWI rate regardless of whether the DWI and the misdemeanor arose out of the same or separate transactions.
Q: What if my client pleads to/ is found guilty of a lesser included offense and the lesser included offense is covered by a lower fee than the original charged offense?	A: The fee is based on the highest original charge. Example: If you resolve a Class H felony by admission to a lesser included misdemeanor, you will be compensated at the felony rate.
Q: What does "substantive work" mean?	A: If you withdraw from a case after performing substantive work, you will be compensated at the withdraw rate. If you have performed substantial work—e.g., you have appeared in court with the client several times, met with him several times, and were preparing for trial when you discovered a conflict, you may want to consider asking the court to designate the case as exceptional. Example: You are appointed to represent an incarcerated client. After reviewing the charging documents and visiting him at the jail you discover a conflict. You have performed substantive work and are entitle to compensation at the withdraw rate.

Q: How do I seek compensation?	
Q: Can I submit a fee application for expenses?	A: Yes – you still may obtain reimbursement for out-of-pocket expenses under current IDS policies governing expenses for hourly cases.
Q: Can I submit an interim fee application?	A: Yes – Generally, you should wait until final disposition to submit a fee application; however, IDS understands that in some cases waiting for payment until final disposition may impose an unfair burden. In cases where there is a significant delay between the filing of charges and final disposition and you feel that the amount of time worked on the case may entitle you to exceptional pay, you may wish to file an interim fee application.
Q: If my client receives a deferred prosecution, can I go ahead and submit my fee application?	A: Yes – but you may not file a subsequent fee application if the district attorney reinstates the charges.
Q: When can I seek exceptional pay?	A: The fees are designed to fairly compensate you based upon the average number of hours spent on that case type. If you determine that the fee is unfair for a particular case because you have worked an exceptional number of hours, you may ask the court to designate the case exceptional. It is solely within the presiding judge's discretion to designate a case as exceptional.
Q: How do I seek exceptional pay?	A: When you determine a case may qualify as exceptional you should submit the appropriate fee application and a detailed time sheet to the presiding judge for designation as exceptional. If the presiding judge approves the case for exceptional pay, you should submit the signed fee application and the detailed time sheet to IDS. The detailed time sheet is the only way to alert IDS that the case has been designated as exceptional.

Child Welfare – Parent Representation and Parent GAL	
Q: When should I file my fee application?	A: You should file a fee application following the final disposition for each segment of the proceeding. Counsel should file a final fee application after: 1. the initial disposition hearing, 2. each completed review hearing, 3. each completed permanency planning hearing, and 4. the completion of any TPR proceeding.
Q: Can I submit one fee application for multiple segments of a proceeding?	A: No – You should submit one fee application following the final disposition for each segment of the case. Exception: If multiple segments of the case—e.g., adjudication, initial disposition, and initial review hearing—are concluded during a single session of court, you should submit one fee application with a note clarifying that multiple segments were concluded during a single session of court. You will be compensated for one segment at the rate applicable for the most serious disposition. If you submit a fee application seeking compensation for multiple segments of a proceeding without clarification, IDS will return the fee application and seek clarification.
Q: Can I submit an interim fee application if a case takes a long time to reach disposition?	A: Yes – Generally, you should wait until a final disposition for the segment of the proceeding to submit a fee application; however, IDS understands that in some cases waiting for payment until final disposition may impose an unfair burden. In cases where there is a significant delay between filing of a petition and final disposition and you feel the amount of your work on the case may entitle you to exceptional pay, in which case you should request the court designate the case as exceptional for that segment of the proceeding. Once a case has been designated exceptional it remains exceptional for that segment of the proceeding.

Q: What if I file a motion for review in an AND case?	A: A motion for review will be paid at the review hearing/ permanency planning hearing rate.
Q: Which fee applies if my client relinquishes his/her parental rights?	A: A relinquishment is a disposition and will be compensated at the rate applicable for the segment of the proceeding during which it is tendered.
Q: What if we are unable to conclude the adjudication and disposition in a single session of court?	A: If you are unable to conclude the adjudication and disposition in a single session of court, you should wait until the disposition is concluded to file your fee application unless you determine an exceptional pay may be warranted, in which case you should request the court designate the case as exceptional for that segment of the proceeding.
Q: What if I am relieved as provisional counsel?	A: If you are relieved or removed as counsel in a case where you were provisionally appointed to represent a parent, you should follow the withdraw policy (See above: "What does "substantive work" mean?")
Juvenile Delinquency	
Q: Does the fee schedule apply if the case is transferred to superior court?	A: Yes and no – the fee schedule applies to the work you do in the district court. If the case is transferred to superior court, you should bill at the hourly rate for work done in superior court.
Q: How do I bill if the case is adjudicated in a pilot county but transferred to a non-pilot county for disposition?	A: The fee schedule applies to the portion of the proceeding that takes place in the pilot county but the hourly rate applies to the portion of the proceeding that takes place in the non-pilot county. Example: If your client is adjudicated delinquent in a pilot county, then you should submit a fee application for applicable adjudication and disposition rate. If you also represent the juvenile in the disposition proceeding in the non-pilot county, you should submit a fee application in that county for hourly compensation. The same is true in the reverse.

If you have questions about the following procedures, please feel free to contact Whitney B. Fairbanks at (919) 354- 7200 or Whitney.B.Fairbanks@nccourts.org.

STATE OF NORTH CAROLINA
OFFICE OF INDIGENT DEFENSE SERVICES
123 WEST MAIN STREET/ SUITE 400
DURHAM, NC 27701
919-354-7200
THOMAS.K.MAHER@NCCOURTS.ORG

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Cmt. Justice & Public Safety — 03/15/2018

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken Smith	DPS/AC
Sandy Jones	DOJ
Susan Perrin	Disability Rights NC
Cedric Bell	NC DPSC PASG
Thomas B Ashley	NCDPSC PASG
Kevin Holsclaw	Resigned 10 yrs service NCDPS
Wendy Callahan	Mother of Sgt. Meggan L Callahan
Zacary Cochran	Nephew of Sgt Meggan Callahan
Carissa Callahan	Sister of Sgt Meggan Callahan
Amanda Callahan	Sister of Sgt. Meggan Lee Callahan
John Callahan	Father of Sgt Meggan L. Callahan

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Cmt. Justice & Public Safety — 03/15/2018

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Daniska	DPS 512 N. Salisbury Street Raleigh NC 27604
Brandy Dolby	DPS-SHP
Alan Melvin	DPS-SHP
Franklin Freeman	MWA
Elisa Wolper	IDS
Bill MacRae	NC Private Protective Services Board.
Eric Zogry	OSJ

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Cmt. Justice & Public Safety — 03/15/2018

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
NICK OCHSNER	WRTV
Peter Bolac	NC State Bar
Mildred Spearman	NCAOC
Jamie Lassiter	NC Conf. of Clerks
Angel Gray	NC SBI
Marion R Warren	NCAOC
Bryan House	NC ALE
Kelton Brown	NC ALE
Tom West	NCDOT
Ryan Boyce	NCAOC
Jerry Higgins	NCDPS

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Cmt. Justice & Public Safety — 03/15/2018

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Douglas Holbrook	NCDPS
Kristin Parker	NCAJ
Tarah Callahan	CCJR
Coby Crandall	The Pro Se Reentry Report SVCS INC
Brad Fowler	NCAOC
Kurt Stephenson	NCAOC
Nicholas Smith	NCAOC
Thomas Maher	IDS
Whitney Fairbanks	IDS
William H. Smith	CRAGGY Correctional Center

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Cmt. Justice & Public Safety — 03/15/2018

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Flint Benson	SEANC
Suzanne Beasley	↓
Ardis Watkin	
Pam Walker	DPS
Ann Anderson	OSBM
Meagan Honnold	OSBM
Susanna Davis	DPS
Glenn McNeill	SHP
Andy Brandon	NCDPS
Tim Moore	NCDPS
Joe Frazier	NCDPS

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Cmt. Justice & Public Safety — 03/15/2018

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
C. Feldman	SA
T. Tilley	DPS
Shawna Boisdsong	ACLU-NC

VISITOR REGISTRATION SHEET

Jt. Legislative Oversight Cmt. Justice & Public Safety — 03/15/2018

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Erik G. Hooks	NCDPS
Jane Gilchrist	NCDPS
Reuben Young	NCDPS
Kenneth Cassita	NCDPS
Tracy Little	NCDPS
Stephanie Freeman	NCDPS
Shari Howard	NCDPS
CASANDRA HOCKSTRA	NCDPS

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
Room 643 Legislative Office Building

April 12, 2018 1:00 P.M.

I. CALL TO ORDER

Chairs: Representative Jamie Boles
Representative Ted Davis
Senator Shirley Randleman, Presiding

II. APPROVAL OF MINUTES

III. PRESENTATIONS

Opening Remarks by Chairs

Public Comment on Prisons
(Note: Speaker comments will be limited to two minutes)

Sexual Assault Evidence Collection Kit Law Enforcement Inventory Report
John Byrd, Director
NC State Crime Lab

Bradford Sneeden, Legislative Counsel
NC Department of Justice

JPS Oversight Committee Bills:
- ABC Subcommittee Report
- Enhance Prison Security

IV. COMMITTEE DISCUSSION

V. ADJOURNMENT

House Members
Rep. Boles (Chair), Rep. Davis (Chair)
Rep. Burr, Rep. Faircloth, Rep. Floyd,
Rep. C. Graham, Rep. Jackson, Rep. McNeill,
Rep. Rogers, Rep. Stevens, Rep. Turner,
Rep. Boswell (Advisory), Rep. Hurley (Advisory),
Rep. Jordan (Advisory), Rep. Pierce (Advisory),
Rep. W. Richardson (Advisory), Rep. Speciale (Advisory),
Rep. Steinburg (Advisory), Rep. Zachary (Advisory)

Senate Members
Sen. Randleman (Chair)
Sen. Barringer, Sen. Brown, Sen. Bryant,
Sen. Daniel, Sen. Davis,
Sen. Jeff Jackson, Sen. Lee,
Sen. Sanderson, Sen. Van Duyn,
Sen. Wells (Advisory)

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY

April 12, 2018

Room 643 of the Legislative Office Building

The Joint Legislative Oversight Committee on Justice and Public Safety met on Thursday, April 12, 2018 at 1:00 PM. The meeting was held in Room 643 of the Legislative Office Building. Members present were: Representatives Boles, Davis, Burr, Faircloth, Floyd, Graham, Jackson, McNeill, Rogers, Stevens, Turner, Hurley, Jordan, Richardson, Speciale, Steinburg, Zachary, and Pierce. There were four Senators present.

Senator Shirley Randleman presided. Senator Randleman called the meeting to order and introduced the Senate Sergeant at Arms, Terry Edmondson, Becky Myrick, and Frances Patterson, and the House Sergeant at Arms John Gilbert, David Linthicum, Dean Marshboune and Glen Wall.

Opening Remarks

Senator Randleman asked for a motion to approve the previous meetings minutes. Representative Turner was recognized and noted that she had submitted three corrections to the clerks and moved to approve as amended. The motion carried.

Public Comments on Prisons

Senator Randleman asked Kenneth Lassiter, Director of Prisons, to recognize prison staff in attendance. Mr. Lassiter wanted to recognize two officers for outstanding heroism and service to the system. Mr. Lassiter recognized Sergeant Currier who had recently saved a choking inmates life by performing the Heimlich maneuver, and Officer Flowers for her work with officer's families affected by the events at Pasquotank. Mr. Lassiter continued to note officers and staff in attendance. Sen. Randleman asked them all to stand for recognition by the committee.

Senator Randleman announced that there were eleven speakers signed in for the public comment section. She noted that each speaker should be able to take closer to five minutes rather than the two minutes listed in the agenda. Officer Samuel Adams, Foothills Corrections Institution, was recognized first and offered his experiences as a correctional officer.

Susanne Beasley, State Employees Association, offered a letter to the committee from the mother of Sergeant Meggan Callahan. Copies of the letter were later distributed to the members.

Officer Debra Ezuma, Polk Correctional Institution, spoke to her experience as a correctional officer.

Representative Steinburg asked to be recognized and referenced the incident at Lanesboro that occurred earlier in the morning and offered prayers for the officer.

Representative Speciale asked officer Ezuma how things had changed over time for her and why. She replied that there was a lack of control and too much of a soft handed approach to dealing with criminals.

Senator Randleman added that any of the speakers today could submit written responses to the committee.

Representative Steinburg commented that he felt it was important for the public to hear the questions generated by the committee and the responses. Senator Randleman recognized John Poteat to remind the committee of the public comment feature on the website.

Officer Brianna Knox, Forsyth Correctional and Officer Tommie Flowers, Pasquotank Correctional spoke about their experiences as correctional officers.

Representative Pierce asked to be recognized and mentioned the importance of legislators visiting correctional facilities.

Larry Dale, Eastern Division Director of Prisons, spoke and welcomed legislators to come visit the prisons.

Representative Boles asked for an explanation of what happens when an inmate assaults a corrections officer. Mr. Dale replied that the prisons needed more support from the District Attorneys because many charges are dismissed. Representative Boles asked how it could be handled administratively. Mr. Dale replied that they look at each case individually and that they do have procedures for removing an inmate from general population.

Representative Floyd commented that Correctional Officers are often looked at differently from Law Enforcement officers.

Representative Steinburg referenced the significant amount of correspondence he has received from Correctional Officers. He cited that officers often felt that they were blamed for confrontations with inmates. He asked Mr. Dale to comment.

Mr. Dale explained the use of force standards and replied that if an officer follows the standards they will have full support of management.

Senator Randleman asked Susan Sitze, Legislative Analysis, to explain the penalty for assaulting a Correctional Officer. She explained that the general assault of a state government officer is a a(1) misdemeanor, if there is a physical injury then class I felony, a serious injury is a class F felony, and with a firearm is a class E felony. Representative Floyd asked about how that compares to a law enforcement officer. Mrs. Sitze replied that they were equivalent.

Representative Jackson asked for a comparison to a simple assault. Mrs. Sitze replied that for someone who is not an officer of the state is would be a class 1 misdemeanor. Representative Jackson asked Mr. Dale if the administrators making the policies had experience as officers. Mr. Dale replied that you do not come into prisons as an administrator.

Representative McNeill asked Mr. Dale if he felt like the grievance system was a fair system. Mr. Dale replied that he felt it was because the inmate had to explain exactly what occurred and what was said. Representative McNeill asked if an inmate could file a grievance because an officer cursed at them. Mr. Dale replied that they could and added that an officer could be dismissed for cursing an inmate. Representative McNeill asked what happened when an inmate cursed a guard. Mr. Dale replied that it was recently upgraded from a C charge to a B charge. Representative McNeill asked how quickly grievances are adjudicated. Mr. Dale replied that they have three days to decide if it meets the criteria, then the inmate has fifteen days to reply to the step one response. If the inmate does not agree then there is a twenty day period to accept a step two response. If that is not agreed to then it goes to the grievance resolution board. Representative McNeill commented that the system seemed to be weighed in favor the inmate.

Representative Speciale asked about where the dismissal policy for swearing came from. Mr. Dale replied that they could be dismissed but it could be a much simpler reprimand. Department policy states that they could be dismissed.

Representative Steinburg commented that he is struck by how correctional officers are tasked with handling very tough prisoners but are expected to conduct themselves like a priest. Representative Steinburg added that these offenses could go on the permanent record and negatively affect good correctional officers.

Kevin Holsclaw, former correctional officer, shared his experiences working in the prisons.

Ardis Watkins, State Employees Associations, asked the committee to have another public comments meeting so that more officers could make plans to attend.

Colby Crandall spoke and stressed the importance of local reentry councils.

John Schwade, retired prison psychologist, spoke to his experience with inmate mental health.

Representative Boles asked if there had been any conversation with Governor Cooper regarding imposing the death penalty for inmates found guilty of murdering a correctional officer. Reuben Young, Interim Chief Deputy Secretary Adult Corrections and Juvenile Justice, was recognized to answer. He replied that he has not had that conversation with the governor and would not speculate on his position.

Senator Randleman asked about the appointment of the prison reform advisory board and asked if Mr. Young was a member. He replied that he was not a member but did attend the first meeting and will continue to attend. Senator Randleman asked when the board was formed and when were the members appointed. Mr. Young replied that the Secretary called for the board around the end of last year and in the following month members began to be appointed. He replied that the board had met once and would be meeting quarterly.

Representative Stevens asked if there were any members of the General Assembly on the advisory committee. Mr. Young replied that there were none that he was aware of.

Representative Boles clarified that this committee was appointed by the governor, not the General Assembly. Mr. Young clarified that the members were appointed by Secretary Hooks not Governor Cooper.

ABC Subcommittee Report

Without objection from the Committee, Senator Randleman skipped forward in the agenda to subcommittee reports. Senator Randleman recognized Senator Wells for the report from the subcommittee on ABC permitting.

Senator Wells referred the committee to information in their packets regarding several shootings outside of bars in Hickory over the past year. Senator Wells discussed the subcommittee's conversations with ALE, ABC, and local law enforcement concerning how to handle these situations and why these bars can remain open afterward. Working with Rene Metz at ABC the conclusion was that there were statutory changes required to give ABC the authority to take appropriate action after significant events.

Senator Randleman recognized Senator Wells to explain the bill to the committee. Senator Wells explained that the bill had a narrow focus to stop bad actors and was not intended to make broad changes to 18B. Changes included raising the age to own a bar to twenty five and closing a loophole that allowed large ownership groups to operate without a qualifying owner. Senator Wells noted that one change ABC had requested was to reduce the required term for a suspended license from thirty days to three days. At this time ABC was not ready to move forward with this change and requested the bill draft be amended.

Senator Randleman recognized Representative Turner to offer the amendment. Representative Boles asked for clarification on the reasons for the change. Senator Wells clarified that the current thirty day revocation was being challenged but ABC believed a three day revocation would be enforceable. Senator Wells noted that there may be alternatives to explore so the provision in the bill was being removed for now. Senator Randleman recognized Terrance Merriweather, ALE. Mr. Merriweather confirmed that ALE had discussed with ABC and were in agreement with leaving the current thirty day period in place. The motion to adopt the amendment carried.

Senator Wells continued to explain changes in the bill including requiring private clubs to be organized as a 501(c) and to be in operation for twelve months before becoming eligible for an ABC permit. Current private clubs with permits would be grandfathered in. Senator Randleman asked staff to continue to explain the bill and recognized Susan Sitze to review each section.

Representative McNeill was recognized and asked if there were any guidelines on the authority given to ABC to restrict operating hours. Senator Wells explained that ABC does have a grid to reference that considers the seriousness of the offense and the number of previous offenses.

Senator Wells explained that some establishments operate without issue until later in the night when incidents start to happen, ABC needed greater statutory authority to limit the hours of these establishments. Representative McNeill replied that he wanted to make sure there were some standards or guidelines in place so that this provision was applied consistently throughout the state. Agnes Stevens, Deputy Director ABC, was recognized to respond. She responded that Senator Wells was correct and that the commission intended to adopt guidelines that were similar to the penalty guidelines already in place for suspensions and fines.

Representative Faircloth was recognized for a question and referenced that there are several entities that can enforce ABC regulations; ALE, county ABC boards, sheriffs, and local police departments. Representative Faircloth asked Mr. Merriweather to explain how these agencies interact and work together on enforcement. Mr. Merriweather explained that ALE has been working with the Sherriff's Association, the ABC local boards, and local police departments to address bad actors. Representative Faircloth asked about other responsibilities of ALE. Mr. Merriweather replied that there were a lot including tobacco enforcement, lottery issues, gambling enforcement, etc. Representative Faircloth asked if it would be fair to say that ALE has the broadest jurisdiction of any law enforcement agency and Mr. Merriweather agreed. Representative Faircloth asked who Mr. Merriweather reports to. Mr. Merriweather replied that he reports directly to SBI Director Shurmeier and that ALE was placed under SBI jurisdiction by legislative action.

Senator Randleman asked if the ALE had jurisdiction over bingo enforcement, Mr. Merriweather replied that they did. Senator Randleman asked if ALE would also go into sweepstakes parlors even if they did not have an ABC permit. Mr. Merriweather replied that typically a bingo parlor would have a ABC permit but regarding sweepstakes parlors they are typically called in by local sheriffs and police for their expertise.

Sexual Assault Evidence Collection Kit Law Enforcement Inventory Report

Senator Randleman recognized John Byrd, Director NC State Crime Lab for his report. Dr. Byrd gave an overview of sexual assault evidence collection kits (SAECKs); where they come from, what they include, how they are administered, and how they are processed. Dr. Byrd reviewed the legislative directive that required each LEA in the state of North Carolina to conduct an inventory of SAECKs in its custody and report that number to the State Crime Lab. He re-emphasized that these untested kits were identified at local law enforcement agencies not the State Crime Lab. Dr. Byrd continued to review and explain the attached inventory report. Bradford Sneeden, Legislative Counsel NC Department of Justice, was recognized to explain the Department's recommendations included in the report. Dr. Byrd continued with a demonstration on how the proposed tracking system would work, and concluded with a discussion of cost and the grant application.

Representative Turner was recognized for a question and asked about testing kits categorized as victim wishing to remain anonymous. Dr. Byrd replied that the need to test these kits would be determined by the recommended select committee. He added that the State Crime Lab is

prepared to test whatever they need to test whether outsourced or internal. Representative Turner asked about kits categorized as other and how the committee could follow up on those. Dr. Byrd replied that the committee would need to establish protocols and work with stakeholders to figure out how to move forward.

Representative Stevens asked about kits where the allegations were determined to be unfounded and if they would be tested. Dr. Byrd replied that it would be up to the committee to make that determination.

Representative McNeill asked about hardware that the hospitals would require to barcode the kits for the tracking system. Dr. Byrd replied that with the system each barcode has a unique number so that agencies without a scanner can just manually enter the number into the system.

Representative Hurley asked about the eight percent of agencies that did not respond to the inventory report. Dr. Byrd explained that the report appendix list all of the agencies in North Carolina, forty six did not respond and he believes they were all very small police departments or private company police.

Senator Randleman asked Kory Goldsmith, Bill Drafting, to read through the provisions and explain the bill. There were no further questions.

Enhance Prison Security

Senator Randleman asked Kory Goldsmith to read through the provisions and explain the bill.

Representative McNeill asked about guards being assaulted and the cases being dismissed by the District Attorney. He asked if there was anything the committee could do the bill to make District Attorneys more likely to act. Susan Sitze replied that the General Assembly has generally allowed for prosecutorial discretion but it would be within the purview of the General Assembly to add language requiring District Attorneys to do certain things for certain acts. That is a policy decision the General Assembly has generally not made in part because District Attorneys are elected officials.

Representative Faircloth asked staff about provisions that the prison system could use administratively to punish an offender without having to send it to court. Susan Sitze replied that they could use separation or modify their custody class. There are guidelines in place regarding what actions they can take but they cannot extend a sentence.

Representative Rogers added that one thing that works with dismissals is with DWIs a District Attorney cannot dismiss the case unless they fill out a long form dismissal. Another possibility would be to treat it like contempt so that it would run consecutively to the current sentence.

Representative McNeill discussed the possibility of adding the long form dismissal in an amendment.

Representative Boles asked if corrections officers were already treated like other law enforcement officers in terms of assault offenses. Susan Sitze replied that they were treated the

same in the statutes. Representative Boles added that other law enforcement officers may need to be added to a potential amendment.

Susan Sitze offered to work with Representative McNeill after the report was made or hold the report until they could work on a modification. Representative McNeill asked if the recommendation could be included in just the report without amending the proposed bill. Susan Sitze replied that her understanding was that there would not be a formal report, only the recommended bills, but that the recommendation could be adopted in the minutes. Kory Goldsmith clarified that any member could modify the bill once it is filled in the short session. Representative McNeill replied that amending the bill later would be fine as long as someone could do so if he was not on the assigned committee. Senator Randleman agreed that someone could do so.

Senator Randleman requested the minutes include a recommendation to the Chairs of the Appropriations on Justice and Public Safety Committee that they include in the budget a requirement that the North Carolina Prison Reform Advisory Board report their findings, conclusions, and recommendations on a quarterly basis to the Joint Oversight Committee on Justice and Public Safety.

Representative Davis moved that the committee recommend bill drafts 2017-tq-36 as amended, 2017-msx-159, and 2017-mn-129 to the 2018 legislative short session of the General Assembly. Seconded by Representative Turner. The motion was adopted.

Adjournment

There being no further business, the meeting adjourned at 4:45pm.

_____

Senator Shirley B. Randleman

Presiding

_____

Jeb Kelly, Committee Clerk

2017 Sexual Assault Evidence Collection Kit (SAECK) Law Enforcement Inventory Report

NC Department of Justice
AG Josh Stein

State Crime Laboratory
Director John A. Byrd

Background

What are the contents of a SAECK?

- o Authorization and Release
- o Sexual Assault Data Form
- o Bags for Clothing Collection
- o Other Physical Evidence
- o Known Samples of Victim
- o Toxicology Sample
- o Medical History Form
- o Sketches
- o Patient Information
- o Checklist and Disposition

Legislative Directive

Session Law 2017-57 – Appropriations Act of 2017 – required each LEA in the state of North Carolina to conduct an inventory of SAECKs in its custody and report that number to the SCL.

In its report to the SCL, each LEA was required to note how many of the kits they reported were untested because:

1. The victim wished to remain anonymous and did not report the incident to the authorities.
2. The kit was tied to a case that had been resolved in court, whether by conviction, dismissal, or any other matter.
3. The suspect admitted to the sexual act in question.
4. The allegations were determined to be unfounded as a result of further investigation.

The General Assembly directed the SCL to compile this information and report its findings to the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2018.

State Crime Lab Efforts to Fulfill Mandate

- *July 19, 2017*: letter to Police Chiefs and Sheriffs
- *Dec. 6, 2017*: reminder email to agency contact list
- *Dec. 15, 2017*: *Forensic Update* to all criminal justice stakeholders
- *Jan. 16, 2018*: letter to all non-responding agencies
- *Jan. 17 to Feb. 28, 2018*: phone calls and/or emails to specific agencies not yet reporting; enlisted assistance from NC Sheriffs' Association, NC Association of Chiefs of Police, and other stakeholder organizations

Survey Results

Type of Kit	Number Untested
The victim wished to remain anonymous and did not report the incident to the authorities.	**390**
The kit was tied to a case that had been resolved in court, whether by conviction, dismissal, or any other matter.	**2,741**
The suspect admitted to the sexual act in question.	**1,054**
The allegations were determined to be unfounded as a result of further investigation.	**3,820**
Kits law enforcement agencies did not place in the above categories.	**7,155**
Total Untested Kits	**15,160**

92 % of the state's LEA's reported

Recommendations

- Create select committee
- Institute a statewide SAECK tracking system
- Develop a protocol to test all kits reported to law enforcement going forward

SAECK Tracking & Inventory Management System (STIMS) Demonstration

The following sexual assault kit(s) have been received successfully: 00390 ×

Test Law Enforcement Agency Dashboard

Incoming 0 | Pending Submission 6 | At Lab 5 | Analyzed 2 | Not Meeting Criteria 4

Serial #	LE Case #	Received On	Received By	Status	
45004	2017-0002	08/14/2017	Law	Ready to send to lab	•••
45008	2017-1122	08/24/2017	Law	Ready to send to lab	•••
45001	5238045	09/27/2017	Law	Ready to send to lab	•••
45009	231564	10/31/2017	Law	Requires law enforcement data	•••
45002	17-11111	11/08/2017	Law	Requires law enforcement data	•••
00390		04/09/2018	Law	Requires law enforcement data	•••

SAECK Tracking & Inventory Management System (STIMS)

- Idaho gave North Carolina the use of their web based system
  - Commercial systems run as high as $2 million
- Temporary programmer to customize for NC - $130,990 (NR)
- Web site security and Server maintenance-annual cost $15,275 (R)
- 1 FTE as STIMS Administrator located at the SCL $85,038 (R)
  - Manage STIMS, phone calls, resetting passwords, training, fielding questions, generating reports
- $130,990 (r) + $100,313 (nr) = $231,303

Outsourced Testing At-a-Glance

- Two vendors contracted in early 2017
  - Sorenson Forensics – Utah (50 cases per month)
  - Bode Cellmark Forensics – Virginia (50 cases per month)
  - 8 Agencies volunteered for testing (**248 kits tested to date**)
- Vendor average cost per kit to test: $700
- Number of untested kits: 15,160
- Cost to test all kits: $10.6 million

FY 2018 SAKI Grant Application

- NC DOJ and SCL SAKI Grant Goals:
  - 2017 inventory follow through by gathering additional information for kits, making each untested kit trackable, and testing all testable kits statewide; (50% of grant)
  - Bring online the statewide tracking system for all kits going forward;
  - Identifying partially-tested kits and CODIS hit follow-ups;
  - Promote a "test-all-kits" approach through training, guidelines, and SCL efficiency improvements;

FY 2018 SAKI Grant Application

- NC DOJ and SCL SAKI Grant Goals (continued):
  - Change the statewide climate to embrace holistic, victim-centric investigations through training to prosecutors, law enforcement and medical providers;
  - Foster victim outreach programs, initiatives, and models for victim notifications;
  - Maximize the investigative potential of the CODIS database and ViCAP; and,
  - Promote multi-disciplinary team approaches to sexual assault response.

Questions

North Carolina Department of Justice

2017 Sexual Assault Evidence Collection Kit Law Enforcement Inventory Report

March 1, 2018

North Carolina State Crime Laboratory

Attorney General Josh Stein
State Crime Laboratory Director John A. Byrd

Table of Contents

I.	Executive Summary	4
II.	Background on SAECKs and Sexual Assault Investigations in North Carolina	5
III.	Legislative Directive	7
IV.	State Crime Lab Efforts to Fulfill Mandate	8
V.	Results of Survey	9
VI.	State Crime Lab Testing Efforts	10
VII.	Recommendations	12
VIII.	Conclusion	14
Appendix I: Audit Responses by Agency		15
Appendix II: Sample Legislation		51

Glossary of Terms

CODIS – Combined DNA Index System, a national DNA database

Direct-to-DNA – method in which DNA analysis is conducted before serology

LEA – law enforcement agency

Lean Six Sigma – method of process improvement

SAECK – sexual assault evidence collection kit

SANE – sexual assault nurse examiner

SBI – North Carolina State Bureau of Investigation

SCL – North Carolina State Crime Laboratory

Serology – blood test

Toxicology – study of poisons

Trace evidence – physical evidence collected at a crime scene

I. Executive Summary

Every sexual assault evidence collection kit (SAECK or "kit") in North Carolina reported to law enforcement should be tested. Sexual assault victims deserve no less. It is extremely important to public safety, as we want to solve cases, punish offenders, bring justice to victims, and prevent future crimes.

Until this report, there was an unknown number of untested kits throughout the state in the possession of local law enforcement agencies (LEAs). The General Assembly, in consultation with the Department of Justice (DOJ), enacted Session Law 2017-57 (or SB 257) to require every LEA to report to the State Crime Lab (SCL) the number of untested kits it has and the category each kit falls into.

The legislature determined that to develop an effective plan for testing kits, the state must first take inventory of all untested kits.

As a result of this inventory report, we now know that there were 15,160 untested kits in North Carolina at the end of 2017. The next steps are to determine a plan and to marshal resources to test those kits.

The Department of Justice makes three main recommendations as a result of this process:

- Test all reported kits currently in law enforcement custody
- Institute a statewide SAECK tracking system
- Develop a protocol to test all kits reported to law enforcement going forward

The following pages of this report detail the number and type of untested kits, discuss current efforts to test sexual assault kits in North Carolina, and make recommendations for next steps to improve the process by which North Carolina tests sexual assault kits to better achieve justice.

II. Background on SAECKs and Sexual Assault Investigations in North Carolina

In North Carolina, the physical SAECKs are created by a vendor under contract with the Department of Public Safety (DPS) (see NCGS § 143B-1201). These kits are assembled in accordance with specifications determined by the SCL, based upon best forensic practices and in consultation with forensic medical examiners.

Once created, SAECKs are distributed to medical facilities throughout the state for use during a forensic medical examination of patients reported to have been the victim of a sexual assault. Often, the examination is conducted by a specialized sexual assault nurse examiner (SANE) trained in accordance with NCGS § 90-171.38.

What are the contents of a SAECK?

- Authorization and Release
- Sexual Assault Data Form
- Bags for Clothing Collection
- Other Physical Evidence
- Known Samples of Victim
- Toxicology Sample
- Medical History Form
- Sketches
- Patient Information
- Checklist and Disposition

SAECKs can be generated in connection with either a sexual assault that is *reported* to law enforcement or one which is *unreported* (often referred to as an "anonymous kit"). The federal Violence against Women Act requires withholding of federal funding from entities that do not protect the anonymity of sexual assault victims who wish to seek treatment but choose not to report a criminal offense to law enforcement (see 42 U.S.C. § 13925(b)(2)). DPS has been directed under state law to provide a storage location for submission of anonymous SAECKs in the event the victim later wishes to report a crime (see NCGS § 143B-601(13)).

Reported SAECKs are turned over to law enforcement for further investigation. The physical evidence collected will often be submitted to a forensic laboratory for testing, to include trace, serology, and/or DNA examinations. Subsequently, one or more laboratory reports will be provided to the submitting agency, the district attorney's office, and to a defendant (if there is one) through the discovery process under NCGS § 15A-903.

Forensic DNA matches may result from the comparison of a forensic unknown DNA profile (generated by testing physical evidence from the SAECK) with a known DNA standard taken from a suspect, victim, or "elimination standard" (*e.g.*, consensual partner). Sometimes, a DNA match

occurs with a suspect known to the victim. Other times, the DNA profile from the SAECK may be from a person unknown to the victim but this profile later hits to a criminal offender's profile or to a profile from another case that has been uploaded to the Combined DNA Index System (CODIS) database. When such a hit takes place, law enforcement is directed by the reporting laboratory to submit a known standard for the offender to confirm the forensic match.

CODIS is a powerful tool for investigative leads in unsolved sexual assault cases where an offender may have committed sexual assaults against multiple victims (*i.e.*, a "serial offender"). CODIS-participating DNA laboratories in North Carolina include the SCL (Raleigh campus and soon the Western Regional Laboratory) and the Charlotte-Mecklenburg Police Department (CMPD) Crime Lab.

As a criminal investigation progresses, the investigating law enforcement agency or district attorney's office may determine that a SAECK should not proceed to forensic testing. The reasons given for this decision vary greatly specific to each case, often due to information victims provide.

III. Legislative Directive

Session Law 2017-57 – Appropriations Act of 2017 – required each LEA in the state of North Carolina to conduct an inventory of SAECKs in its custody and report that number to the SCL.

In its report to the SCL, each LEA was required to note how many of the kits they reported were untested because:

1. The victim wished to remain anonymous and did not report the incident to the authorities.
2. The kit was tied to a case that had been resolved in court, whether by conviction, dismissal, or any other matter.
3. The suspect admitted to the sexual act in question.
4. The allegations were determined to be unfounded as a result of further investigation.

The General Assembly directed the SCL to compile this information and report its findings to the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2018.

IV. State Crime Lab Efforts to Fulfill Mandate

After the law was passed, the SCL went to work contacting police departments and sheriff offices throughout North Carolina. In addition to reaching out to each LEA, the SCL worked with the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police to seek compliance.

State Crime Laboratory Reminders to LEAs

July 19, 2017: letter to Police Chiefs and Sheriffs

Dec. 6, 2017: reminder email to agency contact list

Dec. 15, 2017: *Forensic Update* to all criminal justice stakeholders

Jan. 16, 2018: letter to all non-responding agencies

Jan. 17 to Feb. 28, 2018: phone calls and/or emails to specific agencies not yet reporting; enlisted assistance from NC Sheriffs' Association, NC Association of Chiefs of Police, and other stakeholder organizations

The SCL received reports from 92 percent of the state's LEAs. While the vast majority of LEAs complied with the requirement, some did not respond despite the SCL's best efforts. See Appendix 1 for the list of reporting LEAs. Other states have experienced similar difficulties in achieving 100 percent participation for statewide inventories. The time and resources it took to achieve this survey underscore the importance of having an automated statewide tracking system to minimize such data gaps for future inventories, at least as to newer, tracking-enabled SAECKs. This recommendation will be discussed in greater detail in section VII of this report.

V. Results of Survey

As a result of the SCL's audit, 517 LEAs reported on their SAECKs. Only 46 agencies failed to report, which means the below numbers outline 92 percent of LEAs and the number of kits in each legislative mandated category identified by the reporting LEAs.

Type of Kit	Number Untested
The victim wished to remain anonymous and did not report the incident to the authorities.	390
The kit was tied to a case that had been resolved in court, whether by conviction, dismissal, or any other matter.	2,741
The suspect admitted to the sexual act in question.	1,054
The allegations were determined to be unfounded as a result of further investigation.	3,820
Kits law enforcement agencies did not place in the above categories.	7,545
Total Untested Kits	**15,160**

As mentioned in section II above, state law directs DPS to provide a storage location for submission of anonymous SAECKs in the event the victim later wishes to report a crime. DPS reported 862 unreported/anonymous kits in its custody in its Law Enforcement Support Services (LESS) warehouse. These 862 are in addition to the 390 unreported/anonymous kits in the possession of LEAs noted in the chart above.

It is important to note that the numbers reported above should be understood as a snapshot in time. Because no statewide system currently provides real-time data for SAECKs, it was necessary to permit LEAs an extended period of time to compile and submit their data and for the SCL to assemble this data for its report to the General Assembly. The reporting period for this audit opened on July 1, 2017, with a suspense date of no later than December 31, 2017 and a reporting date of March 1, 2018 for the SCL. Therefore, the survey, though comprehensive and informative, is already out of date.

VI. State Crime Lab Testing Efforts

The SCL uses science to serve justice. For that reason, the Lab is always looking for ways to become more efficient to help resolve as many cases as possible for the criminal justice system.

Past and Current DOJ/SCL SAECK Initiatives
* *2004 to 2006*: statewide sweep of 6,200 "no-suspect" SAECKs statewide
* *2016*: testing initiative guide circulated to LEAs with information for SAECK testing by the SCL and other available forensic laboratories (FBI and private vendors)
* *2017 to Present*: added option for vendor testing paid for by SCL's appropriated outsourcing funds; engaging with LEAs to identify testable kits

In recent months, the SCL has been working to increase the state's overall SAECK testing capacity in three ways:

(1) Expanding the SCL's own DNA testing capacities for new SAECK submissions by hiring and training more DNA analysts, by working to add DNA services in the newly-opened Western Regional Laboratory, and by continually implementing greater testing efficiencies through application of *Lean Six Sigma* principles and other best forensic practices including a new "Direct-to-DNA" approach for SAECKs;

(2) Partnering with LEAs to direct older untested SAECKs (one year old or more) to two different private vendor laboratories using the SCL's appropriated outsourcing funds (as of February 2018, approximately 162 kits from this survey have already been screened and submitted to a vendor for testing); and

(3) Sharing with LEAs any available opportunities to have older SAECKs tested using available federal funding.

Consistent with National Institute of Justice recommendations and emerging forensic testing trends, the SCL will soon implement a "Direct-to-DNA" approach for SAECKs, further streamlining kit testing. The "Direct-to-DNA" approach promises to reduce turnaround times for SAECK testing, both by removing the time to conduct serology analysis and by utilizing DNA instrumentation with enhanced efficiency.

As the SCL's testing capacities have increased, however, so has the demand for DNA, both for SAECKs and for violent crimes overall.

Three other factors to note are as follows:

(1) the SBI's Uniform Crime Reports indicate an increase in the incidence of sexual assaults statewide since 2015;

(2) it is unknown whether the increase in SAECK submissions results from increased sexual assaults, increased LEA interest in testing SAECKs, or both; and

(3) data from the current statewide SAECK audit do not provide a baseline rate of the total number of SAECKs used each year by SANE nurses and other forensic medical exam providers.

Even with these significant efforts at the SCL, testing all SAECK kits will require significant planning and additional resources.

Outsourced Testing At-a-Glance

Average cost per kit to test: $700

Number of untested kits: 15,160

Cost to test all kits: $10.6 million

VII. Recommendations

As a result of this overview, DOJ makes the following three recommendations to the General Assembly:

- Test all reported kits currently in law enforcement custody;
- Institute a statewide SAECK tracking system;
- Develop a protocol to test all kits reported to law enforcement going forward.

Test all SAECK Kits

The DOJ is committed to testing SAECKs as quickly as possible. We must solve cases so victims can have justice and so we can prosecute and convict criminals to prevent future crimes.

To do this work, it must be determined which kits can be tested and the order in which they should be tested. There are a number of nuances around certain types of kits, and the resulting decisions should not be made in a vacuum. For that reason, we recommend that the General Assembly establish a select committee of experts, including law enforcement officers, victims' advocates, representatives from the DOJ, prosecutors, and criminal defense attorneys, as well as legislators or their designees, to act on this issue and determine testing priority of the various types of SAECKs.

Once it is determined which kits are testable and on what schedule, we recommend developing a plan to test all untested kits in North Carolina. Outsourcing is the preferred means of forensic testing for untested kits older than one year to ensure that current forensic laboratory capacities can continue to meet the challenges of current year submissions for SAECKs and evidence tied to other violent crimes. However, it should be noted that private vendor laboratories are seeing an overall increase in their submission rates as many other jurisdictions are attempting to work through untested SAECK inventories nationwide.

Institute a Statewide SAECK Tracking System

While this inventory was necessary and extremely useful, implementing a statewide system to track SAECKs will save the state and LEAs from having to undertake this type of project again.

After a review of other states' approaches to this issue, we have found that the statewide tracking options fall into one of three categories: (1) commercially available directly from a vendor; (2) developed internally by another government agency's IT department; or (3) a hybrid government agency/vendor model developed for a particular jurisdiction.

Thus far, the only non-commercial tracking option appears to be a system developed internally by the State of Idaho, which the State of Arkansas is already tailoring for its use.[1] A hybrid system has been developed for the State of Montana in conjunction with a commercial vendor. This system may be available for purchase. Multiple other commercial vendors are known to offer a standalone system for purchase and implementation.

Under the statewide tracking system Idaho uses, the North Carolina DPS (in consultation with the SCL) would contract with its kit vendor to assign each newly assembled SAECK a unique kit number using a barcode. The vendor would deliver the tracking-enabled SAECKs directly to the medical service providers, and the vendor or medical provider would log into the tracking system each kit upon collection. Whenever a SAECK is then used for a sexual assault examination, the victim is provided the kit number, which can be entered into the tracking website to check the status of the kit at any time.

Importantly, no victim/offense information would be entered into the tracking system under the Idaho model, which protects against any potential security breach for victim information. The simple tracking number approach also ensures ease of access for victims through a public website. Among other information, the victim may view the agency which has custody of the kit and whether forensic testing has been completed.

LEAs would have the ability to view their own inventories of kits through the same tracking system. At the statewide level, a designated managing agency (such as the SCL or DPS) would be able to assemble all "real-time" SAECK data statewide. Forensic laboratories (such as the SCL and the CMPD Crime Lab) could also better track inventories of SAECKs to monitor workflow and ensure optimal turnaround times. Finally, the system would allow participation of district attorney's offices in monitoring kit testing within their respective districts.

A statewide tracking system should also be accompanied by a statutory directive for all relevant agencies to participate in the process. Potential legislation to achieve this goal is attached as Appendix 2.

Test All Reported Kits Going Forward

Outsourcing kits more than one year old will allow the SCL to focus its scientists on testing all kits as they come in. Given efforts to streamline the SCL's processes and the new capacity at the Western Regional Lab, this goal should be achievable. Having a statewide tracking system in place is necessary for the state to track and test all reported kits in as close to real time as possible on a going forward basis.

[1] The SCL is currently consulting with the Director of the Arkansas State Crime Laboratory, a member of the North Carolina Forensic Science Advisory Board, concerning the implementation of the Idaho tracking system.

VIII. Conclusion

The General Assembly has taken an important first step by requiring this inventory. We now know there are approximately 15,000 untested kits across the state. To test these older kits requires a comprehensive strategy, including developing a committee to determine the process through which we test SAECKs and devoting adequate funding to outsource kits. A tracking system and a committee endorsed strategy will enable North Carolina to eliminate the inventory of old untested kits, ensure that all reported kits are tested in the future, and know in real time the location of every kit in the State. In these ways, we will send a strong message to victims, advocates, law enforcement agencies, would-be criminals and the general public that North Carolina will do everything in its power to seek justice in sexual assault cases.

Appendix 1: Audit Responses by Agency

UNTESTED SEXUAL ASSAULT EVIDENCE COLLECTION KIT (SAECK) SURVEY						
Only Count SAECKs that have not previously undergone forensic testing. If a SAECK applies to multiple categories, please only count it once.						
Agency Name	**Total # Kits**	**# Anonymous Kits**	**# Resolved in Court**	**# Suspect Admission**	**# Unfounded**	**# Other Not Tested**
Aberdeen Police Department	1	0	0	0	1	0
Ahoskie Police Department	6	0	2	1	3	0
Alamance County Sheriff's Office	24	0	7	0	10	7
Albemarle Police Department	55	0	12	1	13	29
Alexander County Sheriff's Office	0	0	0	0	0	0
Alleghany County Sheriff's Office	9	0	1	3	5	0
Andrews Police Department	No response					
Angier Police Department	0	0	0	0	0	0
Anson County Sheriff's Office	13	1	3	3	6	0
Apex Police Department	16	0	0	1	4	11
Appalachian Regional Healthcare	0	0	0	0	0	0
Appalachian State University	13	3	2	0	0	8
Archdale Police Department	12	0	0	0	5	7

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Ashe County Sheriff's Office	2	0	0	0	0	2
Asheboro Police Department	143	45	33	61	81	103
Asheville Police Department	573	20	74	77	50	352
A-B Technical Community College	1	0	0	0	1	0
Atlantic Beach Police Department	0	0	0	0	0	0
Aulander Police Department	0	0	0	0	0	0
Aurora Police Department	2	0	1	0	1	0
Avery County Sheriff's Office	25	3	6	1	15	0
Ayden Police Department	13	0	0	0	0	13
Badin Police Department	0	0	0	0	0	0
Bailey Police Department	0	0	0	0	0	0
Bakersville Police Department	0	0	0	0	0	0
Bald Head Island Public Safety	0	0	0	0	0	0
Banner Elk Police Department	0	0	0	0	0	0
Beaufort County Community College	0	0	0	0	0	0
Beaufort County Sheriff's Office	36	0	11	9	14	2

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Beaufort Police Department	2	0	0	0	1	1
Beech Mountain Police Department	0	0	0	0	0	0
Belhaven Police Department	0	0	0	0	0	0
Belmont Police Department	4	0	0	0	1	3
Benson Police Department	3	0	0	0	3	0
Bertie County Sheriff's Office	4	0	0	0	1	3
Bessemer City Police Department	4	0	1	0	1	2
Bethel Police Department	0	0	0	0	0	0
Beulaville Police Department	0	0	0	0	0	0
Biltmore Forest Police Department	0	0	0	0	0	0
Biscoe Police Department	0	0	0	0	0	0
Black Creek Police Department	0	0	0	0	0	0
Black Mountain Police Department	7	1	2	0	1	3
Bladenboro Police Department	0	0	0	0	0	0
Bladen County Sheriff's Office	45	0	15	0	19	11
Blowing Rock Police Department	1	0	0	0	0	1

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Blue Ridge Community College	0	0	0	0	0	0
Boiling Spring Lakes Police Department	4	0	2	0	1	1
Boiling Springs Police Department	0	0	0	0	0	0
Boone Police Department	12	0	2	3	2	5
Boonville Police Department	0	0	0	0	0	0
Brevard Police Department	4	0	0	0	4	0
Bridgeton Police Department	0	0	0	0	0	0
Broadway Police Department	2	0	0	0	2	0
Brookford Police Department	1	0	0	1	0	0
Broughton Hospital Police Department	1	0	0	0	1	0
Brunswick Community College	0	0	0	0	0	0
Brunswick County Sheriff's Office	80	7	12	3	20	38
Bryson City Police Department	0	0	0	0	0	0
Bunn Police Department	0	0	0	0	0	0
Buncombe County Sheriff's Office	167	4	24	15	31	93
Burgaw Police Department	9	0	0	3	1	5

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Burke County Sheriff's Office	40	0	30	0	9	1
Burlington Police Department	90	0	16	8	18	48
Burnsville Police Department	2	0	0	1	1	0
Butner Public Safety	8	0	0	0	3	5
Cabarrus County Sheriff's Office	64	0	22	1	40	1
Caldwell County Sheriff's Office	91	0	26	0	46	19
Camden County Sheriff's Office	0	0	0	0	0	0
Cameron Police Department	No response					
Candor Police Department	1	0	1	0	0	0
Canton Police Department	2	0	0	0	1	1
Cape Carteret Police Department	2	0	0	0	2	0
Cape Fear Community College	0	0	0	0	0	0
Carolina Beach Police Department	11	0	0	9	1	1
Carolina Beach State Park	0	0	0	0	0	0
Carolinas Healthcare System	1	0	0	0	1	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Carrboro Police Department	13	0	1	0	6	6
Carteret County Sheriff's Office	54	3	26	0	20	5
Carthage Police Department	1	0	0	1	0	0
Carvers Creek State Park	0	0	0	0	0	0
Cary Police Department	41	0	9	12	13	7
Caswell Beach Police Department	0	0	0	0	0	0
Caswell County Sheriff's Office	16	0	5	0	2	9
Catawba Police Department	No response					
Catawba County Sheriff's Office	9	0	1	2	6	0
Chadbourn Police Department	No response					
Chapel Hill Police Department	3	0	0	0	3	0
Charlotte-Mecklenburg Police Department	499	9	52	15	253	170
Chatham County Sheriff's Office	55	0	22	0	5	28
Cherokee County Sheriff's Office	9	0	1	6	0	2

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Cherokee Indian Police Department	48	0	6	1	8	33
Cherry Hospital Police Department	11	0	0	0	11	0
Cherryville Police Department	4	0	2	0	1	1
Chimney Rock State Park	0	0	0	0	0	0
China Grove Police Department	0	0	0	0	0	0
Chocowinity Police Department	0	0	0	0	0	0
Chowan County Sheriff's Office	12	0	3	2	7	0
Claremont Police Department	2	0	0	1	0	1
Clay County Sheriff's Office	6	0	1	0	5	0
Clayton Police Department	8	0	3	0	2	3
Cleveland Police Department	0	0	0	0	0	0
Cleveland County Sheriff's Office	36	0	11	5	19	1
Cliffs of the Neuse State Park	0	0	0	0	0	0
Clinton Police Department	25	0	6	0	2	17
Clyde Police Department	0	0	0	0	0	0
Coats Police Department	0	0	0	0	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Columbus County Sheriff's Office	38	0	19	0	10	9
Columbus Police Department	0	0	0	0	0	0
Concord Police Department	85	1	18	0	22	44
Conover Police Department	12	0	2	0	2	8
Conway Police Department	0	0	0	0	0	0
Cooleemee Police Department	0	0	0	0	0	0
Cornelius Police Department	22	0	7	0	6	9
Cramerton Police Department	3	0	0	1	1	1
Craven County Sheriff's Office	51	0	2	5	44	0
Creedmoor Police Department	5	0	0	0	1	4
Crowders Mountain State Park	0	0	0	0	0	0
Cumberland County Sheriff's Office	211	1	13	34	105	58
Currituck County Sheriff's Office	43	0	0	0	43	0
Dallas Police Department	1	0	0	0	1	0
Dare County ABC Law Enforcement	0	0	0	0	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Dare County Sheriff's Office	21	0	6	3	2	10
Davidson College Police Department	4	0	0	0	1	3
Davidson County Sheriff's Office	86	11	31	2	29	13
Davidson Police Department	4	1	1	1	1	0
Davie County Sheriff's Office	38	4	6	1	27	0
Denton Police Department	1	0	0	0	1	0
Dismal Swamp State Park	0	0	0	0	0	0
Dobson Police Department	0	0	0	0	0	0
Drexel Police Department	0	0	0	0	0	0
Duck Police Department	0	0	0	0	0	0
Duke University	14	0	4	0	1	9
Dunn Police Department	31	0	15	0	4	12
Duplin County Sheriff's Office	50	0	11	3	36	0
Durham County ABC Law Enforcement	0	0	0	0	0	0
Durham County Sheriff's Office	45	0	22	3	4	16
Durham Police Department	1711	1	192	2	166	1350

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
East Bend Police Department	1	0	1	0	0	0
East Carolina University	30	13	0	13	3	1
East Spencer Police Department	10	0	2	0	7	1
Eden Police Department	27	0	8	7	12	0
Edenton Police Department	No response					
Edgecombe County Sheriff's Office	6	0	1	1	3	1
Elk Knob State Park	0	0	0	0	0	0
Elizabeth City Police Department	49	0	6	5	7	31
Elizabeth City State University	8	0	4	3	0	1
Elizabethtown Police Department	1	0	0	0	0	1
Elk Park Police Department	No response					
Elkin Police Department	0	0	0	0	0	0
Elon Police Department	21	1	2	0	5	13
Elon University	18	18	0	0	0	0
Emerald Isle Police Department	0	0	0	0	0	0
Enfield Police Department	0	0	0	0	0	0
Eno River State Park	0	0	0	0	0	0
Erwin Police Department	2	0	0	0	2	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Fair Bluff Police Department	No response					
Fairmont Police Department	5	1	1	0	1	2
Falls Lake State Recreation Area	0	0	0	0	0	0
Farmville Police Department	3	0	0	3	0	0
Fayetteville Police Department	373	0	75	84	50	164
Fayetteville State University	2	0	0	2	0	0
Fletcher Police Department	12	0	2	0	10	0
Forest City Police Department	9	0	1	1	1	6
Forsyth County Sheriff's Office	96	2	19	0	10	48
Forsyth Technical Community College	0	0	0	0	0	0
Fort Fisher State Park	0	0	0	0	0	0
Fort Macon State Park	0	0	0	0	0	0
Four Oaks Police Department	0	0	0	0	0	0
Foxfire Village Police Department	No response					
Franklin Police Department	10	0	3	0	7	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Franklin County Sheriff's Office	32	0	11	4	17	0
Franklinton Police Department	0	0	0	0	0	0
Fremont Police Department	1	0	0	0	0	1
Fuquay-Varina Police Department	13	0	8	2	3	0
Gardner-Webb Universtity	1	0	0	0	1	0
Garland Police Department	0	0	0	0	0	0
Garner Police Department	22	0	4	4	3	11
Garysburg Police Department	0	0	0	0	0	0
Gaston Community College	0	0	0	0	0	0
Gaston County Police	67	0	29	0	22	16
Gaston County Sheriff's Office	2	0	0	0	2	0
Gaston Police Department	No response					
Gastonia Police Department	51	0	37	0	8	6
Gates County Sheriff's Office	4	0	0	2	0	2
Gibsonville Police Department	3	0	0	0	2	1
Glen Alpine Police Department	No response					
Goldsboro Police Department	160	0	45	0	41	74

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Goose Creek State Park	0	0	0	0	0	0
Gorges State Park	0	0	0	0	0	0
Graham County Sheriff's Office	0	0	0	0	0	0
Graham Police Department	25	0	4	4	4	13
Grandfather Mountain State Park	0	0	0	0	0	0
Granite Falls Police Department	4	0	1	0	1	2
Granite Quarry-Faith Police Department	2	0	2	0	0	0
Granville County Sheriff's Office	14	0	1	0	10	3
Greene County Sheriff's Office	18	0	6	4	10	0
Greensboro Police Department	944	0	128	91	201	524
Greenville Police Department	309	1	34	47	36	191
Grifton Police Department	1	0	0	0	1	0
Grover Police Department	No response					
Guilford County Sheriff's Office	36	1	5	9	6	15
Guilford Technical Community College	0	0	0	0	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Halifax County Sheriff's Office	1	0	0	1	0	0
Hamlet Police Department	5	1	0	4	0	0
Hammocks Beach State Park	0	0	0	0	0	0
Hanging Rock State Park	0	0	0	0	0	0
Harnett County Sheriff's Office	94	0	31	9	50	4
Havelock Police Department	5	0	1	0	0	4
Haw River Police Department	6	1	0	1	1	3
Haw River State Park	0	0	0	0	0	0
Haywood County Sheriff's Office	30	0	11	2	17	0
Henderson Police Department	53	0	13	1	10	29
Henderson County Sheriff's Office	90	0	16	4	21	49
Hendersonville Police Department	52	0	8	8	6	30
Hertford County Sheriff's Office	0	0	0	0	0	0
Hertford Police Department	11	0	7	0	0	4
Hickory Police Department	83	0	3	2	51	27

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
High Point Police Department	215	8	39	8	30	130
Highlands Police Department	No response					
Hillsborough Police Department	22	0	1	0	7	14
Hobgood Police Department	0	0	0	0	0	0
Hoke County Sheriff's Office	82	0	126	0	29	0
Holden Beach Police Department	0	0	0	0	0	0
Holly Ridge Police Department	3	0	0	0	3	0
Holly Springs Police Department	7	0	3	1	2	1
Hope Mills Police Department	4	0	0	0	4	0
Hot Springs Police Department	0	0	0	0	0	0
Hudson Police Department	1	0	1	0	0	0
Huntersville Police Department	24	0	2	2	13	7
Hyde County Sheriff's Office	6	0	1	0	0	5
Indian Beach Police Department	0	0	0	0	0	0
Iredell County Sheriff's Office	70	0	23	8	30	9
Jackson County Sheriff Office	16	0	1	3	11	1

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Jackson Police Department	No response					
Jacksonville Police Department	32	0	5	0	23	4
Jockey's Ridge State Park	0	0	0	0	0	0
Jefferson Police Department	No response					
Johnston County Sheriff's Office	21	0	13	2	5	1
Jones County Sheriff's Office	7	0	2	0	4	1
Jones Lake State Park	0	0	0	0	0	0
Jonesville Police Department	No response					
Jordan Lake State Recreation Area	0	0	0	0	0	0
Kannapolis Police Department	4	0	4	0	0	0
Kenansville Police Department	1	0	0	0	1	0
Kenly Police Department	No response					
Kernersville Police Department	65	9	9	3	17	27
Kerr Lake State Recreation Area	0	0	0	0	0	0
Kill Devil Hills Police Department	23	0	5	3	1	14
King Police Department	1	0	0	1	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Kings Mountain Police Department	7	0	1	0	3	3
Kinston Police Department	16	2	3	5	6	0
Kitty Hawk Police Department	3	0	1	2	0	0
Knightdale Police Department	4	0	0	0	2	2
Kodiak Company Police	0	0	0	0	0	0
Kure Beach Police Department	1	0	0	0	1	0
Lake James State Park	0	0	0	0	0	0
Lake Lure Police Department	1	0	0	0	0	1
Lake Norman State Park	0	0	0	0	0	0
Lake Waccamaw Police Department	No response					
Lake Waccamaw State Park	0	0	0	0	0	0
Landis Police Department	2	0	0	0	1	1
Laurel Park Police Department	No response					
Laurinburg Police Department	No response					
Lee County Sheriff's Office	41	0	10	6	3	22
Leland Police Department	No response					

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Lenoir County Sheriff's Office	35	0	10	2	12	11
Lenoir Memorial Hospital Police	0	0	0	0	0	0
Lenoir Police Department	8	0	0	0	7	1
Lewiston Woodville Police Department	No response					
Lexington Police Department	49	3	26	1	12	7
Liberty Police Department	8	1	3	0	3	1
Lilesville Police Department	No response					
Lillington Police Department	0	0	0	0	0	0
Lincoln County Sheriff's Office	56	0	25	0	18	13
Lincolnton Police Department	29	0	4	3	8	14
Littleton Police Department	No response					
Locust Police Department	6	0	1	0	0	5
Long View Police Department	6	0	0	0	6	0
Louisburg Police Department	23	0	2	0	16	5
Lowell Police Department	0	0	0	0	0	0
Lumber River State Park	0	0	0	0	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Lumberton Police Department	0	0	0	0	0	0
Macon County Sheriff's Office	33	0	2	5	26	0
Madison County Sheriff's Office	11	1	5	1	4	0
Madison Police Department	No response					
Maggie Valley Police Department	2	0	0	0	2	0
Magnolia Police Department	No response					
Maiden Police Department	4	0	2	1	1	0
Manteo Police Department	3	0	0	3	0	0
Marion Police Department	2	0	0	0	1	1
Mars Hill Police Department	4	0	2	1	1	0
Marshall Police Department	0	0	0	0	0	0
Marshville Police Department	No response					
Martin County Sheriff's Office	22	0	7	7	8	0
Matthews Police Department	0	0	0	0	0	0
Maxton Police Department	2	0	0	0	1	1
Mayodan Police Department	2	0	2	0	0	0
Mayo River State Park	0	0	0	0	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Maysville Police Department	1	0	0	0	0	1
McDowell County Sheriff's Office	11	0	3	0	2	6
Mebane Police Department	0	0	0	0	0	0
Mecklenburg County Sheriff's Office	0	0	0	0	0	0
Medoc Mountain State Park	0	0	0	0	0	0
Merchants Millpond State Park	0	0	0	0	0	0
Methodist University	0	0	0	0	0	0
Micro Police Department	0	0	0	0	0	0
Middlesex Police Department	0	0	0	0	0	0
Mint Hill Police Department	11	0	0	0	0	11
Misenheimer Police Department	0	0	0	0	0	0
Mitchell County Sheriff's Office	7	0	3	0	3	1
Mocksville Police Department	7	0	7	0	0	0
Monroe Police Department	91	0	12	27	52	0
Montgomery County Sheriff's Office	16	0	11	2	2	1

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Montreat College Campus Police	0	0	0	0	0	0
Montreat Police Department	0	0	0	0	0	0
Moore County Schools	0	0	0	0	0	0
Moore County Sheriff's Office	2	0	1	1	0	0
Mooresville Police Department	28	0	1	3	16	8
Morehead City Police Department	20	1	7	1	11	0
Morganton Public Safety	13	2	6	0	5	0
Morrisville Police Department	4	0	0	0	1	3
Morrow Mountain State Park	0	0	0	0	0	0
Morven Police Department	No response					
Mount Airy Police Department	1	0	1	0	0	0
Mount Gilead Police Department	3	0	1	0	1	1
Mount Holly Police Department	10	0	1	0	7	2
Mount Olive Police Department	0	0	0	0	0	0
Mount Mitchell State Park	0	0	0	0	0	0
Murfreesboro Police Department	0	0	0	0	0	0
Murphy Police Department	No response					

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Nags Head Police Department	4	0	0	0	3	1
Nash Community College	No response					
Nash County Sheriff's Office	43	0	1	14	24	4
Nashville Police Department	0	0	0	0	0	0
Navassa Police Department	0	0	0	0	0	0
NC A&T University	10	0	0	0	10	0
NC Central University	6	1	1	0		4
NC Department of Insurance	0	0	0	0	0	0
NC Department of Agriculture Public Safety	0	0	0	0	0	0
NC Division of Parks & Recreation	0	0	0	0	0	0
NC Forest Service	0	0	0	0	0	0
NC Marine Patrol	0	0	0	0	0	0
NC SBI	0	0	0	0	0	0
NC SBI - Medicaid	0	0	0	0	0	0
NC SBI - Northwestern	0	0	0	0	0	0
NC SBI - Southern Piedmont	0	0	0	0	0	0
NC State Capitol Police	1	0	0	0	1	0
NC DPS/NCSHP	0	0	0	0	0	0
NC State University	5	0	1	4	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
NC Wildlife Resources Commission	0	0	0	0	0	0
New Bern Police Department	30	1	13	0	16	0
New River State Park	0	0	0	0	0	0
New Hanover County Sheriff's Office	159	11	32	0	25	91
New Hanover Regional Medical Center	3	0	0	0	0	3
Newland Police Department	0	0	0	0	0	0
Newport Police Department	5	0	0	0	2	3
Newton Grove Police Department	0	0	0	0	0	0
Newton Police Department	No response					
Norlina Police Department	0	0	0	0	0	0
North Topsail Beach Police Department	3	0	0	0	0	3
North Wilkesboro Police Department	0	0	0	0	0	0
Northampton County Sheriff's Office	8	1	3	0	3	1
Northwest Police Department	No response					
Norwood Police Department	6	0	1	1	2	2

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Oak Island Police Department	9	0	1	1	2	5
Oakboro Police Department	0	0	0	0	0	0
Ocean Isle Beach Police Department	0	0	0	0	0	0
Old Fort Police Department	No response					
Onslow County Sheriff's Office	88	0	20	1	28	39
Orange County Sherriff's Office	84	2	0	12	27	43
Oriental Police Department	0	0	0	0	0	0
Oxford Police Department	13	0	2	1	1	9
Pamlico County Sheriff's Office	13	1	7	2	0	3
Parkton Police Department	0	0	0	0	0	0
Pasquotank County Sheriff's Office	29	0	6	4	11	8
Pembroke Police Department	No response					
Pender County Sheriff's Office	35	1	1	16	14	3
Perquimans County Sheriff's Office	0	0	0	0	0	0
Person Caswell Lake Authority	0	0	0	0	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Person County Sheriff's Office	6	0	4	0	0	2
Pettigrew State Park	0	0	0	0	0	0
Piedmont Triad International Airport	0	0	0	0	0	0
Pikeville Police Department	0	0	0	0	0	0
Pilot Mountain Police Department	0	0	0	0	0	0
Pilot Mountain State Park	0	0	0	0	0	0
Pine Knoll Shores Police Department	8	0	4	0	3	1
Pine Level Police Department	0	0	0	0	0	0
Pinebluff Police Department	0	0	0	0	0	0
Pinehurst Police Department	1	0	0	0	1	0
Pinetops Police Department	1	0	0	1	0	0
Pineville Police Department	12	0	0	1	7	4
Pink Hill Police	0	0	0	0	0	0
Pitt Community College	0	0	0	0	0	0
Pitt County ABC Law Enforcement	0	0	0	0	0	0
Pitt County Sheriff's Office	112	1	61	3	13	34

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Pittsboro Police Department	5	0	1	0	1	3
Plymouth Police Department	5	0	1	1	2	1
Polk County Sheriff's Office	26	0	6	0	15	5
Polkton Police Department	3	0	0	0	3	0
Pollocksville Police Department	0	0	0	0	0	0
Princeton Police Department	4	0	1	0	0	3
Queens University of Charlotte	0	0	0	0	0	0
Raeford Police Department	0	0	0	0	0	0
Raleigh Police Department	1428	0	0	99	255	1074
Ramseur Police Department	1	0	0	0	1	0
Randleman Police Department	0	0	0	0	0	0
Randolph County Sheriff's Office	76	1	11	2	13	49
Ranlo Police Department	No response					
Raven Rock State Park	0	0	0	0	0	0
RDU Police Department	No response					
Red Springs Police Department	11	0	0	0	6	5
Reidsville Police Department	34	0	9	0	14	11

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Rhodhiss Police Department	0	0	0	0	0	0
Rich Square Police Department	No response					
Richlands Police Department	0	0	0	0	0	0
Richmond County Sheriff's Office	49	3	6	2	29	9
River Bend Police Department	1	0	1	0	0	0
Roanoke Rapids Police Department	15	0	1	1	12	1
Robbins Police Department	4	0	0	0	4	0
Robersonville Police Department	0	0	0	0	0	0
Robeson County Sheriff's Office	95	51	65	1	7	0
Rockingham Police Department	22	0	4	22	0	18
Rockingham County Sheriff's Office	66	0	4	1	36	25
Rockwell Police Department	1	0	0	0	1	0
Rocky Mount Police Department	144	0	61	4	74	5
Rolesville Police Department	1	0	1	0	0	0
Rose Hill Police Department	No response					

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Rowland Police Department	0	0	0	0	0	0
Rowan County Sheriff's Office	69	0	15	0	53	1
Roxboro Police Department	17	0	0	0	0	17
Rutherford County Sheriff's Office	91	2	36	0	15	38
Rutherfordton Police Department	7	0	3	1	2	1
Saint Augustine's University	0	0	0	0	0	0
Salemburg Police Department	0	0	0	0	0	0
Salisbury Police Department	34	2	10	2	12	8
Saluda Police Department	0	0	0	0	0	0
Sampson County Sheriff's Office	102	4	25	2	8	63
Sandhills Community College	0	0	0	0	0	0
Sanford Police Department	51	0	20	0	26	5
Scotland County Sheriff's Office	21	1	3	0	12	5
Scotland Neck Police Department	0	0	0	0	0	0
Seaboard Police Department	No response					

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Seagrove Police Department	0	0	0	0	0	0
Selma Police Department	28	0	3	4	5	16
Seven Devils Police Department	0	0	0	0	0	0
Shallotte Police Department	2	0	1	0	1	0
Sharpsburg Police Department	0	0	0	0	0	0
Shelby Police Department	18	0	0	1	4	13
Siler City Police Department	29	0	16	0	6	7
Simpson Police Department	0	0	0	0	0	0
Singletary Lake State Park	0	0	0	0	0	0
Smithfield Police Department	15	0	1	5	6	3
Snow Hill Police Department	0	0	0	0	0	0
Southern Pines Police Department	14	0	6	0	6	2
Southern Shores Police Department	2	0	0	0	2	0
South Mountains State Park	0	0	0	0	0	0
Southport Police Department	No response					
Sparta Police Department	1	0	0	0	1	0
Spencer Police Department	12	0	4	0	0	8

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Spindale Police Department	18	0	2	1	9	6
Spring Hope Police Department	0	0	0	0	0	0
Spring Lake Police Department	12	0	0	0	0	12
Spruce Pine Police Department	0	0	0	0	0	0
St. Pauls Police Department	6	1	0	1	1	3
Stallings Police Department	0	0	0	0	0	0
Stanfield Police Department	0	0	0	0	0	0
Stanley Police Department	7	2	3	0	0	2
Stanly County Sheriff's Office	32	1	7	0	24	0
Stantonsburg Police Department	0	0	0	0	0	0
Star Police Department	1	0	0	0	0	1
Statesville Police Department	86	0	18	0	12	56
Stedman Police Department	0	0	0	0	0	0
Stem Police Department	0	0	0	0	0	0
Stokes County Sheriff's Office	21	0	5	1	3	12
Stone Mountain State Park	0	0	0	0	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Stoneville Police Department	0	0	0	0	0	0
Stovall Police Department	No response					
Sugar Mountain Police Department	0	0	0	0	0	0
Sunset Beach Police Department	0	0	0	0	0	0
Surf City Police Department	3	0	0	1	2	0
Surry Community College	0	0	0	0	0	0
Surry County Sheriff's Office	46	1	13	1	18	13
Swain County Sheriff's Office	2	0	0	1	1	0
Swansboro Police Department	0	0	0	0	0	0
Sylva Police Department	5	0	0	0	5	0
Tabor City Police Department	0	0	0	0	0	0
Tarboro Police Department	2	0	0	0	1	1
Taylorsville Police Department	1	0	0	0	1	0
Taylortown Police Department	2	0	1	0	0	1
Thomasville Police Department	10	0	1	0	9	0
Topsail Beach Police Department	0	0	0	0	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Transylvania County Sheriff's Office	16	0	6	0	8	2
Trent Woods Police Department	2	0	0	0	2	0
Troutman Police Department	3	0	0	0	3	0
Troy Police Department	0	0	0	0	0	0
Tryon Police Department	0	0	0	0	0	0
Tyrrell County Sheriff's Office	0	0	0	0	0	0
UNC Hospitals Police Department	20	1	0	0	4	15
University of North Carolina School of the Arts	2	0	0	0	1	1
University of North Carolina - Asheville	0	0	0	0	0	0
University of North Carolina - Chapel Hill	52	18	4	0	0	30
University of North Carolina - Charlotte	22	0	6	0	3	13
University of North Carolina - Greensboro	6	0	0	4	1	1
University of North Carolina - Pembroke	5	0	0	3	2	0
University of North Carolina - Wilmington	1	0	0	0	0	1
Union County Sheriff's Office	130	0	50	18	62	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Valdese Police Department	1	0	0	0	0	1
Vanceboro Police Department	0	0	0	0	0	0
Vance County Sheriff's Office	6	1	1	0	3	1
Vance-Granville Community College	0	0	0	0	0	0
Vass Police Department	0	0	0	0	0	0
Wadesboro Police Department	19	0	4	1	2	12
Wagram Police Department	2	0	0	0	2	0
Wake County Sheriff's Office	310	0	103	38	127	42
Wake Forest Police Department	21	0	4	1	9	7
Wake Forest University	7	0	2	0	5	0
Wake Technical Community College	0	0	0	0	0	0
Wallace Police Department	No response					
Walnut Creek Police Department	0	0	0	0	0	0
Warren County Sheriff's Office	18	1	3	3	11	0
Warrenton Police Department	0	0	0	0	0	0
Warsaw Police Department	0	0	0	0	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Washington County Sheriff's Office	4	0	0	0	3	1
Washington Police Department	9	0	0	3	1	5
Watauga County Sheriff's Office	15	0	13	1	1	0
Waxhaw Police Department	14	0	1	2	9	2
Wayne County Sheriff's Office	22	0	8	3	11	0
Wayne Memorial Hospital Police	0	0	0	0	0	0
Waynesville Police Department	23	0	2	0	21	0
Weaverville Police Department	3	0	1	2	0	0
Weldon Police Department	0	0	0	0	0	0
Wendell Police Department	2	0	1	0	1	0
West Jefferson Police Department	No response					
Western Carolina University	5	0	2	0	3	0
Weymouth Woods-Sandhills Nature Preserve	0	0	0	0	0	0
Whispering Pines Police Department	0	0	0	0	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Whitakers Police Department	No response					
White Lake Police Department	0	0	0	0	0	0
Whiteville Police Department	11	0	3	0	8	0
Wilkes Community College	No response					
Wilkes County Sheriff's Office	54	3	5	2	44	0
Wilkesboro Police Department	0	0	0	0	0	0
William B. Umstead State Park	0	0	0	0	0	0
Williamston Police Department	1	0	0	0	1	0
Wilmington International Airport Public Safety	No response					
Wilmington Police Department	482	0	54	20	63	345
Wilson Community College	No response					
Wilson County Sheriff's Office	14	4	2	2	6	0
Wilson Police Department	90	14	26	14	30	6
Wilson's Mills Police Department	5	0	2	0	2	1
Windsor Police Department	0	0	0	0	0	0
Winfall Police Department	0	0	0	0	0	0

Agency Name	Total # Kits	# Anonymous Kits	# Resolved in Court	# Suspect Admission	# Unfounded	# Other Not Tested
Wingate Police Department	No response					
Winston-Salem Police Department	1339	65	170	Unknown	93	436
Winston-Salem State University	No response					
Winterville Police Department	0	0	0	0	0	0
Winton Police Department	No response					
Woodfin Police Department	No response					
Woodland Police Department	0	0	0	0	0	0
Wrightsville Beach Police Department	23	0	4	0	4	15
Yadkin County Sheriff's Office	5	0	0	0	3	2
Yadkinville Police Department	0	0	0	0	0	0
Yancey County Sheriff's Office	3	0	1	1	1	0
Youngsville Police Department	5	0	0	0	5	0
Zebulon Police Department	26	14	12	0	0	0
Agencies Reporting:	**15215**	**390**	**2741**	**1054**	**3820**	**6861**

Note: Total kit numbers in the various categories reflect how they were reported to the SCL by LEAs and do not add up correctly in all instances.

Appendix 2: Sample Legislation

SECTION 1. This act shall be known and may be cited as "The Sexual Assault Evidence Collection Kit Tracking and Accountability Act of 2018."

SECTION 2. Article 9 of Chapter 114 of the General Statutes is amended by adding a new section to read:

§ 114-65. Statewide Sexual Assault Evidence Collection Kit Tracking System and Annual Audit Report.

(a) Establishment.--There shall be established a Statewide Sexual Assault Evidence Collection Kit Tracking System, hereinafter referred to as "the System." The State Crime Laboratory shall administer and implement the System and shall have authority to adopt procedures and to publish requirements and guidelines for agencies required to participate in the System under this section.

(b) Victims to be provided access to view status of kit.--It is the policy of the State to ensure that victims of sexual assault or attempted sexual assault are equipped with the means of tracking the location of their kits following a forensic medical examination and that victims are able to determine whether forensic testing of their kits has been completed. The System shall accomplish these purposes as to any kit purchased and distributed under G.S. 143B-1201 on or after October 1, 2018. The State Crime Laboratory shall ensure that the System protects victim information against disclosure to non-participating agencies. Except as otherwise required for reporting under subsection (g) of this section, information which is maintained in the System is confidential and not subject to public disclosure under Chapter 132.

(c) Medical provider participation.--A medical facility or medical professional that performs forensic medical examinations on victims of sexual assaults or attempted sexual assaults using tracking-enabled kits shall comply with the requirements of the System as promulgated by the State Crime Laboratory.

(d) Law enforcement agency participation.--Any criminal investigative agency which receives a tracking-enabled kit into its custody shall comply with the requirements of the System as promulgated by the State Crime Laboratory.

(e) Forensic laboratory participation.--Any forensic laboratory which receives a tracking-enabled kit into its custody shall comply with the requirements of the System as promulgated by the State Crime Laboratory.

(f) Department tracking of anonymous kits in storage.--The Department of Public Safety shall ensure that any tracking-enabled kit submitted to the Department under G.S. § 143B-601(13) is entered into the System, subject to the restrictions in G.S. § 143B-601(13).(g) Annual report to the General Assembly.--Beginning on October 1, 2019, and yearly thereafter, the State Crime Laboratory shall report to the Joint Legislative Oversight Committee on Justice and Public Safety the following information for the previous fiscal year:

(i) The number of tracking-enabled kits which have been shipped to medical facilities/providers;

(ii) The number of tracking-enabled kits which have been used by medical facilities/providers to conduct forensic medical examinations of sexual assault victims;

(iii) Of these, the number of tracking-enabled kits for which a sexual assault has been reported to law enforcement, sorted by law enforcement agency;
(iv) Of these tracking-enabled kits generated for reported cases, the number of kits which have been submitted to a laboratory for forensic testing;
(v) Of the tracking-enabled kits submitted for forensic testing, the number of kits for which forensic testing has been completed; and,
(vi) The number of tracking-enabled kits for which a sexual assault has not been reported ("anonymous" kits), including the total submitted to local law enforcement and the total submitted to Department of Public Safety Law Enforcement Support Services.

SECTION 3. G.S. § 143B-1201 reads as rewritten:

§ 143B-1201. Restitution; actions.

(a) The Program shall be an eligible recipient for restitution or reparation under G.S. 15A-1021, 15A-1343, 148-33.1, 148-33.2, 148-57.1, and any other applicable statutes.

(b) When any victim who:

(1) Has received assistance under this Part;

(2) Brings an action for damages arising out of the rape, attempted rape, sexual offense, or attempted sexual offense for which she received that assistance; and

(3) Recovers damages including the expenses for which she was awarded assistance, the court shall make as part of its judgment an order for reimbursement to the Program of the amount of any assistance awarded less reasonable expenses allocated by the court to that recovery.

(c) Funds appropriated to the Department of Public Safety for this program may be used to purchase and distribute rape evidence collection kits approved by the ~~State Bureau of Investigation~~ State Crime Laboratory.

(d) The Secretary, in consultation with the State Crime Laboratory, shall require that all Program kits produced on or after October 1, 2018 are compatible with the Statewide Sexual Assault Evidence Collection Kit Tracking System as administered by the State Crime Laboratory under G.S. § 114-65.

SECTION 4. Creation of a Select Committee. – The purpose of the Committee shall be to determine the testing priority of untested sexual assault kits found pursuant to the 2017 Sexual Assault Evidence Collection Kit Law Enforcement Report. The Committee shall be made of experts, including law enforcement officers, victims' advocates such as the North Carolina Victim Assistance Network (NCVAN) and the North Carolina Coalition Against Sexual Assault (NCCASA), representatives from the Department of Justice, prosecutors and criminal defense attorneys, as well as legislators or their designees. The Committee shall provide a strategic plan to the General Assembly that identifies which untested sexual assault evidence collection kits can be tested, the priority order in which they should be tested, and a statewide protocol for testing future sexual assault evidence collection kits.

*

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

U D

BILL DRAFT 2017-TQ-36 [v.3]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
04/11/2018 11:34:58 AM

Short Title: ABC Regulation and Reform. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE PERMITTING ENFORCEMENT AUTHORITY OF THE ABC COMMISSION AND MAKE OTHER CHANGES TO THE ABC LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-104 reads as rewritten:

"**§ 18B-104. Administrative penalties.**

(a) Penalties. – For any violation of the ABC laws, the Commission may take any of the following actions against a permittee:

(1) Suspend the permittee's permit for a specified period of time not longer than three years;

(2) Revoke the permittee's permit;

(3) Fine the permittee up to ~~five hundred dollars ($500.00)~~ one thousand three hundred and fifty dollars ($1,350.00) for the first violation, up to ~~seven hundred fifty dollars ($750.00)~~ two thousand one hundred dollars ($2,100.00) for the second violation, and up to ~~one thousand dollars ($1,000)~~ two thousand seven hundred and fifty dollars ($2,750.00) for the third violation; or

(4) Suspend the permittee's permit under subdivision (1) and impose a fine under subdivision (3).

(5) Impose conditions on the operation hours of the business.

(b) Compromise. – In any case in which the Commission is entitled to suspend or revoke a permit, the Commission may accept from the permittee an offer in compromise to pay a penalty of not more than ~~five thousand dollars ($5,000).~~ten thousand dollars ($10,000.00). The Commission may either accept a compromise or revoke a permit, but not both. The Commission may accept a compromise and suspend the permit in the same case.

(c) Fines and Penalties to Treasurer. – The clear proceeds of fines and penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Effect on Licenses. – Suspension or revocation of a permit includes automatic suspension or revocation of any related State or local revenue license.

(e) Effect on Other Permits. – Unless some other disposition is ordered by the Commission, revocation or suspension of a permit under subsection (a) includes automatic revocation or suspension, respectively, of any other ABC permit held by the same permittee for the same establishment."

SECTION 2. G.S. 18B-900 reads as rewritten:

"§ 18B-900. Qualifications for permit.

(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person must satisfy all of the following requirements:

(1) Be at least 21 years old, unless the person is a ~~manager~~owner of a business seeking to sell alcoholic beverages ~~selling only malt beverages and unfortified wine,~~ in which case the person shall be at least ~~19~~25 years old.

(2) Be a resident of North Carolina unless:

a. He is an officer, director or stockholder of a corporate applicant or permittee and is not a manager or otherwise responsible for the day-to-day operation of the business; or

b. He has executed a power of attorney designating a qualified resident of this State to serve as attorney in fact for the purposes of receiving service of process and managing the business for which permits are sought; or

c. He is applying for a nonresident malt beverage vendor permit, a nonresident wine vendor permit, or a vendor representative permit.

(3) Not have been convicted of a felony within three years, and, if convicted of a felony before then, has had his citizenship restored.

(4) Not have been convicted of an alcoholic beverage offense within two years.

(5) Not have been convicted of a misdemeanor controlled substance offense within two years.

(6) Not have had an alcoholic beverage permit revoked within three years, except where the revocation was based solely on a permittee's failure to pay the annual registration and inspection fee required in G.S. 18B-903(b1).

(7) Not have, whether as an individual or as an officer, director, shareholder or manager of a corporate permittee, an unsatisfied outstanding final judgment that was entered against him in an action under Article 1A of this Chapter.

(8) Be current in filing all applicable tax returns to the State and in payment of all taxes, interest, and penalties that are collectible under G.S. 105-241.22. This subdivision does not apply to the following ABC permits:

a. Special occasion permit under G.S. 18B-1001(8).

b. Limited special occasion permit under G.S. 18B-1001(9).

c. Special one-time permit under G.S. 18B-1002.

d. Salesman permit under G.S. 18B-1111.

To avoid undue hardship, however, the Commission may decline to take action under G.S. 18B-104 against a permittee who is in violation of subdivisions (3), (4), or (5).

(b) Definition of Conviction. – A person has been "convicted" for the purposes of subsection (a) when he has been found guilty, or has entered a plea of guilty or nolo contendere, and judgment has been entered against him. A felony conviction in another jurisdiction shall disqualify a person from being eligible to receive or hold an ABC permit if his conduct would also constitute a felony in North Carolina. A conviction of an alcoholic beverage offense or misdemeanor drug offense in another jurisdiction shall disqualify a person from being eligible to receive or hold an ABC permit if his conduct would constitute an offense in North Carolina, unless the Commission determines that under North Carolina procedure judgment would not have been entered under the same circumstances. Revocation of a permit in another jurisdiction shall disqualify a person if his conduct would be grounds for revocation in North Carolina.

(c) Who Must Qualify; Exceptions. – For an ABC permit to be issued to and held for a business, each of the following persons associated with that business must qualify under subsection (a):

(1) The owner of a sole proprietorship;
(2) Each member of a firm, association or general partnership;
(2a) Each general partner in a limited partnership;
(2b) Each manager and any member with a ~~twenty-five percent (25%)~~ fifty-one percent (51%) or greater interest in a limited liability company. If any manager or member does not hold fifty-one percent individually then fifty-one percent of all ownership shall qualify under subsection (a);
(3) Each officer, director and owner of ~~twenty-five percent (25%)~~ fifty-one percent (51%) or more of the stock of a corporation except that the requirement of subdivision (a)(1) does not apply to such an officer, director, or stockholder unless he is a manager or is otherwise responsible for the day-to-day operation of the business If any officer, director or owner does not hold fifty-one percent individually than fifty-one percent of all ownership of the stock of a corporation shall qualify under subsection (a);
(4) The manager of an establishment operated by a corporation other than an establishment with only off-premises malt beverage, off-premises unfortified wine, or off-premises fortified wine permits;
(5) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership.

(d) Manager of Off-Premises Establishment. – Although he need not otherwise meet the requirements of this section, the manager of an establishment operated by a corporation and holding off-premises permits for malt beverages, unfortified wine, or fortified wine shall be at least 19 years old and shall meet the requirements of subdivisions (3), (4), (5) and (6) of subsection (a).

(e) Convention Centers. – With the approval of the Commission, the manager of a convention center may contract with another person to provide food and beverages at conventions and banquets at the convention center, and that person may engage in the activities authorized by the convention center's permit, under conditions set by the Commission. The person with whom the convention center contracts must meet the qualifications of this section.

(f) Procedure to Confirm State Tax Compliance. – Upon request of the Commission, the Department of Revenue must provide information to the Commission to confirm a person's compliance with subdivision (a)(8) of this section. If the Department of Revenue notifies the Commission that a person is not in compliance, then the Commission may not issue or renew the person's permit until the Commission receives notice from the Department of Revenue that the person is in compliance. The requirement to pay all taxes, interest, and penalties may be satisfied by an operative agreement under G.S. 105-237 covering any amounts that are collectible under G.S. 105-241.22. Chapter 150B of the General Statutes does not apply to a Commission action on issuance, suspension, or revocation of an ABC permit under subdivision (a)(8) of this section."

SECTION 3. 18B-901 reads as rewritten:

"§ 18B-901. Issuance of permits.

(a) Who Issues. – All ABC permits shall be issued by the Commission. Purchase-transportation permits shall be issued by local boards under G.S. 18B-403.

(b) Notice to Local Government. – Before issuing a retail ABC permit, other than a:
(1) Special occasion permit under G.S. 18B-1001(8);
(2) Limited special occasion permit under G.S. 18B-1001(9);
(3) Temporary permit under G.S. 18B-905; or
(4) Special one-time permit under G.S. 18B-1002

for an establishment, the Commission shall give notice of the permit application to the governing body of the city in which the establishment is located. If the establishment is not inside a city, the Commission shall give notice to the governing body of the county. The

Commission shall allow the local governing body 15 days from the time the notice was mailed or delivered to file written objection to the issuance of the permit. To be considered by the Commission, the objection shall state the facts upon which it is based.

(c) Factors in Issuing Permit. – Before issuing a permit, the Commission shall be satisfied that the applicant is a suitable person to hold an ABC permit and that the location is a suitable place to hold the permit for which the applicant has applied. To be a suitable place, the local governing body shall return a Zoning and Compliance Form to the Commission on a form provided by the Commission to show the establishment is in compliance with all applicable building and fire codes and, if applicable, has been notified that it is located in an Urban Redevelopment Area as defined by Article 22 of Chapter 160A of the General Statutes and as required by G.S. 18B-904(e)(2). Other factors the Commission shall consider in determining whether the applicant and the business location are suitable are all of the following:

(1) The reputation, character, and criminal record of the applicant.

~~(2) The number of places already holding ABC permits within the neighborhood.~~

~~(3) Parking facilities and traffic conditions in the neighborhood.~~

~~(4) Kinds of businesses already in the neighborhood.~~

~~(5) Whether the establishment is located within 50 feet of a church, public school, or any nonpublic school as defined by Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes.~~

(6) Zoning ~~laws.~~laws including consideration of the number of places already holding ABC permits within the neighborhood, parking facilities and traffic conditions in the neighborhood, types of businesses already in the neighborhood, and whether the establishment is located within 50 feet of a church, public school, or any nonpublic school as defined in Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes.

(7) The recommendations of the local governing body.

(8) Any other evidence that would tend to show whether the applicant would comply with the ABC laws.

(9) Whether the operation of the applicant's business at that location would be detrimental to the neighborhood, including evidence admissible under G.S. 150B-29(a) of any of the following:

a. Past revocations, suspensions, and violations of ABC laws by prior permittees related to or associated with the applicant, or a business with which the applicant is associated, within the immediate preceding 12-month period at this location.

b. Evidence of illegal drug activity on or about the licensed premises.

c. Evidence of fighting, disorderly conduct, and other dangerous activities on or about the licensed premises.

(d) Commission's Authority. – The Commission shall have the sole power, in its discretion, to determine the suitability and qualifications of an applicant for a permit. The Commission shall also have the authority to determine the suitability of the location to which the permit may be issued."

SECTION 4. 18B-904 reads as rewritten:

"**§ 18B-904. Miscellaneous provisions concerning permits.**

(a) Who Receives Permit. – An ABC permit shall authorize the permitted activity only on the premises of the establishment named in the permit. An ABC permit shall be issued to the owner of the business conducted on the premises, or to the management company employed to independently manage and operate the business. The ABC Commission may determine if a management agreement delegates sufficient managerial control and independence to a manager or management company to require an ABC permit to be issued to the manager.

(b) Posting Permit. – Each ABC permit that is held by an establishment shall be posted in a prominent place on the premises.

(c) Business Not Operating. – An ABC permit shall automatically expire and shall be surrendered to the Commission if the person to whom it is issued does not commence the activity authorized by the permit within six months of the date the permit is effective. Before the expiration of the six-month period, the Commission may waive this provision in individual cases for good cause.

(d) Notice of Issuance. – Upon issuing a permit the Commission shall send notice of the issuance, with the name and address of the permittee and the establishment, to:

(1) The Department of Revenue;

(2) The local board, if one exists, for the city or county in which the establishment is located;

(3) The governing body, sheriff, and tax collector of the county in which the establishment is located;

(4) If the establishment is located inside a city, the governing body, chief of police, and tax collector for the city; and

(5) The ALE Branch.

(e) Business or Location No Longer Suitable. –

(1) The Commission may suspend or revoke a permit issued by it ~~if, after compliance with the provisions of Chapter 150B of the General Statutes, it~~ if an Administrative Law Judge finds that the location occupied by the permittee is no longer a suitable place to hold ABC permits or that the operation of the business with an ABC permit at that location is detrimental to the neighborhood.

(2) The Commission shall suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309. Notwithstanding subdivision (e)(1) of this section, the Commission shall, by order and without prior hearing, summarily suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309(c) when, prior to the period of time for which the audit is to be conducted, the city council has filed information designating the location of the Urban Redevelopment Area as required under G.S. 18B-309(a) and has provided actual notice to permittees located in the Urban Redevelopment Area that they are located in such an area and must abide by G.S. 18B-309(c). Upon entry of a summary order under this subdivision, the Commission shall promptly notify all interested parties that the order has been entered and of the reasons therefore. The order will remain in effect until it is modified or vacated by the Commission. The permittee may, within 30 days after receipt of notice of the order, make written request to the ~~Commission~~Office of Administrative Hearings for a hearing on the matter. ~~If a hearing is requested, after compliance with the provisions of Chapter 150B of the General Statutes, the Commission~~The Administrative Law Judge shall issue an order to affirm, reverse, or modify ~~its~~the Commission's previous action.

(3) Notwithstanding G.S. 18B-906, the Commission shall revoke a permit issued by it if, after complying with the provisions of Chapter 150B of the General Statutes and without a finding of mitigating evidence or circumstances, it finds evidence that the permittee or the permittee's employee has been found responsible by a court of competent jurisdiction or the Commission for two or more violations on separate dates of knowingly allowing a violation of the gambling, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws as those offenses are prohibited pursuant

to G.S. 18B-1005(a)(2), (a)(3), or (b), G.S. 18B-1005.1, or G.S. 80-11.1(b)(2) or (3), at a single ABC-licensed premises within a 12-month period. The permittee and the owner of the property have the responsibility to monitor the conduct on the licensed premises pursuant to G.S. 18B-1005(b) and G.S. 19-1. Revocation of permits pursuant to this subdivision shall only apply to the permits issued to the location where the violations occurred.

(4) Notwithstanding G.S. 18B-906, the Commission shall immediately suspend permits issued by it for a period of ~~30~~three days if both of the following apply:

a. Alcohol Law Enforcement ~~agents or~~agents, local ABC Board ~~officers~~officers, or local law enforcement agenies provide advance notice to the Commission Legal Division staff of the ongoing undercover operation.

b. Upon execution of the search warrant resulting from the undercover operation, five or more persons are criminally charged with violations of the gambling, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws.

(f) Local Government Objections. – The governing body of a city or county may designate an official of the city or county, by name or by position, to make recommendations concerning the suitability of a person or of a location for an ABC permit. The governing body of a city or county shall notify the Commission of an official designated under this subsection. An official designated under this subsection shall be allowed to testify at a contested case hearing in which the suitability of a person or of a location for an ABC permit is an issue without further qualification or authorization.

(g) Nothing in this Chapter shall be deemed to preempt local governments from regulating the location or operation of adult establishments or other sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech, or from requiring any additional fee for licensing as permitted under G.S. 160A-181.1(c)."

SECTION 5. 18B-1000 reads as rewritten:

"§ 18B-1000. Definitions concerning establishments.

The following requirements and definitions shall apply to this Chapter:

(1) Community theatre. – An establishment owned and operated by a bona fide nonprofit organization that is engaged solely in the business of sponsoring or presenting amateur or professional theatrical events to the public. A permit issued for a community theatre is valid only during regularly scheduled theatrical events sponsored by such nonprofit organization.

(1a) Convention center. – An establishment that meets either of the following requirements:

a. A publicly owned or operated establishment that is engaged in the business of sponsoring or hosting conventions and similar large gatherings, including auditoriums, armories, civic centers, convention centers, and coliseums.

b. A privately owned facility located in a city that has a population of at least 200,000 but not more than 250,000 by the 2000 federal census and is located in a county that has previously authorized the issuance of mixed beverage permits by referendum. To qualify as a convention center under this subdivision, the facility shall meet each of the following requirements:

1. The facility shall be certified by the appropriate local official as being consistent with the city's redevelopment plan for the area in which the facility is located.
2. The facility shall contain at least 7,500 square feet of floor space that is available for public use and shall be used exclusively for banquets, receptions, meetings, and similar gatherings.
3. The facility's annual gross receipts from the sale of alcoholic beverages shall be less than fifty percent (50%) of the gross receipts paid to all providers at permitted functions for food, nonalcoholic beverages, alcoholic beverages, service, and facility usage fees (excluding receipts or charges for entertainment and ancillary services not directly related to providing food and beverage service). The person to whom a permit has been issued for a privately owned facility shall be required to maintain copies of all contracts and invoices for items supplied by providers for a period of three years from the date of the event.

A permit issued for a convention center shall be valid only for those parts of the building used for conventions, banquets, receptions, and other events, and only during scheduled activities.

(1b) Cooking school. – An establishment substantially engaged in the business of operating a school in which cooking techniques are taught for a fee.

(2) Eating establishment. – An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises. Eating establishments shall include businesses that are referred to as restaurants, cafeterias, or cafes, but that do not qualify under subdivision (6). Eating establishments shall also include lunchstands, grills, snack bars, fast-food businesses, and other establishments, such as drugstores, which have a lunch counter or other section where food is sold to be eaten on the premises.

(3) Food business. – An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten off the premises. Food businesses shall include grocery stores, convenience stores, and other establishments, such as variety stores or drugstores, where food is regularly sold, and shall also include establishments engaged primarily in selling unfortified or fortified wine or both, for consumption off the premises.

(4) Hotel. – An establishment substantially engaged in the business of furnishing lodging. A hotel shall have a restaurant either on or closely associated with the premises. The restaurant and hotel need not be owned or operated by the same person.

(5) Private club. – An establishment ~~that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by G.S. 14-309.11(a) and G.S. 14-309.13. Except for bona fide religious organizations, no organization that discriminates in the selection of its membership on the basis of religion shall be eligible to receive any permit issued under this Chapter.~~that qualifies as a 501(c) business under the Internal Revenue Code and has been in operation for a

minimum of 12 months prior to application for an ABC permit. This section does not apply to any private club permits in place on April 1, 2018.

(5a) Residential private club. – A private club that is located in a privately owned, primarily residential and recreational development.

(6) Restaurant. – An establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall be not less than thirty percent (30%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. A restaurant shall also have a kitchen and an inside dining area with seating for at least 36 people.

(7) Retail business. – An establishment engaged in any retail business, regardless of whether food is sold on the premises.

(8) Sports club. – An establishment that meets either of the following requirements:

a. The establishment is substantially engaged in the business of providing equine boarding, training, and coaching services, and the establishment offers on-site dining, lodging, and meeting facilities and hosts horse trials and other events sanctioned or endorsed by the United States Equestrian Federation, Inc.; or

b. The establishment is substantially engaged in the business of providing an 18-hole golf course, two or more tennis courts, or both.

The sports club can either be open to the general public or to members and their guests. To qualify as a sports club, an establishment's gross receipts for club activities shall be greater than its gross receipts for alcoholic beverages. This provision does not prohibit a sports club from operating a restaurant. Receipts for food shall be included in with the club activity fee.

(9) Congressionally chartered veterans organizations. – An establishment that is organized as a federally chartered, nonprofit veterans organization, and is operated solely for patriotic or fraternal purposes.

(10) Wine producer. – A farming establishment of at least five acres committed to the production of grapes, berries, or other fruits for the manufacture of unfortified wine."

SECTION 6. Section 1 of this act becomes effective October 1, 2018. Sections 2 and 5 of this act are effective when they become law and apply to new permits issued on or after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

U D

BILL DRAFT 2017-MSz-159 [v.5]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
04/11/2018 12:17:30 PM

Short Title: Enhance Prison Security. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENHANCE PRISON SECURITY AND TO MODIFY THE ADMINISTRATIVE REMEDY PROCEDURE AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-258.4(a) reads as rewritten:

"**§ 14-258.4. Malicious conduct by prisoner.**

(a) Any person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, including the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, any law enforcement officer, or any local confinement facility (as defined in G.S. 153A-217, or G.S. 153A-230.1), including persons pending trial, appellate review, or presentence diagnostic evaluation, who knowingly and willfully exposes genitalia, masturbates, or throws, emits, or causes to be used as a projectile, bodily ~~fluids or excrement~~fluids, excrement, or unknown substance at a person who is an employee of the State or a local government while the employee is in the performance of the employee's duties is guilty of a Class F felony. The provisions of this section apply to violations committed inside or outside of the prison, jail, detention center, or other confinement facility. Sentences imposed under this Article shall run consecutively to and shall commence at the expiration of any sentence being served by the person sentenced under this Section."

SECTION 2. G.S. 148-118.2 reads as rewritten:

"**§ 148-118.2. Effect.**

(a) Upon approval of the Administrative Remedy Procedure by a federal court as authorized and required by 42 U.S.C. 1997(e)(a), and the implementation of the procedure, this procedure shall constitute the administrative remedies available to a prisoner for the purpose of preserving any cause of action under the purview of the Administrative Remedy Procedure, which a prisoner may claim to have against the State of North Carolina, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or its employees.

(b) No State court shall entertain a prisoner's grievance or complaint which falls under the purview of the Administrative Remedy Procedure unless and until the prisoner shall have exhausted the remedies as provided in said procedure. If the prisoner has failed to pursue administrative remedies through this procedure, any petition or complaint ~~he~~ the prisoner files shall be stayed for 90 days to allow the prisoner to file a grievance and for completion of the procedure. If at the end of 90 days the prisoner has failed to timely file ~~his grievance, a~~

grievance, or if the prisoner's ability to file a grievance is time barred by the Administrative Remedy Procedure, then the petition or complaint shall be dismissed. ~~Provided, however, that the court can waive the exhaustion requirement if it finds such waiver to be in the interest of justice.~~

(c) A prisoner who alleges a claim for damages of less than five hundred dollars ($500.00) shall follow the Administrative Remedy Procedure as the prisoner's sole remedy."

SECTION 3. G.S. 148-118.8(b) reads as rewritten:

"(b) The inmate grievance examiners shall investigate inmate grievances pursuant to the procedures established by the Administrative Remedy Procedure. Examiners shall attempt to resolve grievances through mediation with all parties. Otherwise, the inmate grievance examiners shall either (i) order such relief as is appropriate; or (ii) deny the grievance. The decision of the grievance examiner shall be binding, unless the Secretary of Public Safety or the Secretary of Public Safety's designee (i) finds that such relief is not appropriate, (ii) gives a written explanation for this finding, and (iii) makes an alternative order of relief or denies the grievance."

SECTION 4. Section 1 of this Act is effective December 1, 2018, and applies to offenses committed on or after that date. Section 2 of this Act is effective October 1, 2018, and applies to grievances filed on or after that date. The remainder of this Act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

U D

BILL DRAFT 2017-MM-129 [v.5]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
04/12/2018 10:36:22 AM

Short Title: Rape Evidence Collection Kit Tracking Act. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CREATE THE STATEWIDE SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM AND TO REQUIRE TESTING OF PREVIOUSLY UNTESTED SEXUAL ASSAULT EVIDENCE COLLECTION KITS AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 114 is amended by adding a new section to read:

"**§ 114-65. Statewide sexual assault evidence collection kit tracking system.**

(a) Establishment of System. – There is established in the State Crime Laboratory the Statewide Sexual Assault Evidence Collection Kit Tracking System (the System). All sexual assault evidence collection kits purchased or distributed under G.S. 143B-2101 on or after October 1, 2018, shall be trackable and shall comply with the requirements of the System. The Director of the State Crime Laboratory (Director) shall implement protocols and administer the System and the Secretary of the Department of Public Safety (Secretary) shall adopt rules and guidelines for agencies required to participate in the System under this section. The Director shall ensure that the System protects victim information against disclosure to non-participating agencies. Except as otherwise required for reporting under subsection (e) of this section, information maintained in the System is confidential and not a public record as defined in G.S. 132-1.

(b) Required participation. – All medical providers, law enforcement agencies, forensic laboratories, or other persons or entities having custody or use of any sexual assault evidence collection kit in the State shall participate in the System and comply with the established protocols, rules, and guidelines. A participating entity shall be permitted to access the entity's tracking information through the System.

(c) Victim's access to view status of kit. – It is the policy of the State to ensure that a victim of sexual assault or attempted sexual assault is able to track the location of the sexual assault evidence collection kit used to conduct the victim's forensic medical examination and that the victim is also able to determine whether forensic testing of the kit has been completed.

(d) Tracking of previously untested kits. – The Director shall implement protocols and the Secretary shall adopt rules and guidelines to ensure that previously untested sexual assault evidence collection kits are trackable and are entered into the System. Any law enforcement agency, medical provider, or forensic laboratory that has in its custody a previously untested

sexual assault evidence collection kit used for a forensic medical examination shall comply with the established protocols, rules, and guidelines with respect to all untested kits.

For purposes of this subsection, a "previously untested sexual assault evidence collection kit" means any kit that has not undergone forensic testing and was identified and included in the 2017 statewide inventory of kits in law enforcement custody pursuant to Section 17.7 of S.L. 2017-57. To the extent practicable, and consistent with protecting victim confidentiality for unreported sexual assaults, a law enforcement agency having custody of a kit governed by this subsection shall take reasonable measures to provide appropriate tracking information to the affected victim.

(e) Annual report to the General Assembly. – Beginning October 1, 2019, and annually thereafter, the Director shall report to the Joint Legislative Oversight Committee on Justice and Public Safety the following information for the previous fiscal year:

(i) The number of tracking-enabled kits shipped to medical facilities or medical providers.

(ii) The number of tracking-enabled kits used by medical facilities or medical providers to conduct forensic medical examinations of sexual assault or attempted sexual assault victims.

(iii) Of the tracking-enabled kits used by medical facilities or medical providers to conduct forensic medical examinations, the number of kits for which a sexual assault has been reported to law enforcement, sorted by law enforcement agency.

(iv) Of the tracking-enabled kits generated for reported cases, the number of kits submitted to a laboratory for forensic testing.

(v) Of the tracking-enabled kits submitted for forensic testing, the number of kits for which forensic testing has been completed.

(vi) The number of tracking-enabled kits for which a sexual assault has not been reported, including the total submitted to local law enforcement and the total submitted to Department of Public Safety Law Enforcement Support Services.

(vii) Information regarding efforts to track and test previously untested kits described in subsection (d) of this section."

SECTION 2. G.S. 143B-1201 reads as rewritten:

"**§ 143B-1201. Restitution; actions.**

(a) The Program shall be an eligible recipient for restitution or reparation under G.S. 15A-1021, 15A-1343, 148-33.1, 148-33.2, 148-57.1, and any other applicable statutes.

(b) When any victim who:

(1) Has received assistance under this Part;

(2) Brings an action for damages arising out of the rape, attempted rape, sexual offense, or attempted sexual offense for which she received that assistance; and

(3) Recovers damages including the expenses for which she was awarded assistance, the court shall make as part of its judgment an order for reimbursement to the Program of the amount of any assistance awarded less reasonable expenses allocated by the court to that recovery.

(c) Funds appropriated to the Department of Public Safety for this program may be used to purchase and distribute ~~rape~~ sexual assault evidence collection kits approved by the ~~State Bureau of Investigation.~~Director of the State Crime Laboratory.

(d) The Secretary, in consultation with the Director of the State Crime Laboratory, shall require that all sexual assault evidence collection kits purchased or distributed on or after October 1, 2018, are compatible with the Statewide Sexual Assault Evidence Collection Kit Tracking System established under G.S. 114-65."

SECTION 3. The Secretary of the Department of Public Safety shall convene a working group to make recommendations regarding the testing priority of untested sexual assault kits identified in the 2017 Sexual Assault Evidence Collection Kit Law Enforcement Report made pursuant to Section 17.7 of S.L. 2017-57. The working group shall include representatives from law enforcement, victims' advocates such as the North Carolina Victim Assistance Network and the North Carolina Coalition Against Sexual Assault, RTI International, the North Carolina Department of Justice, prosecutors and criminal defense attorneys. The working group shall develop findings and recommendations; including a strategic plan, that identifies which untested sexual assault evidence collection kits can be tested, the priority order for testing the kits, and a statewide protocol for testing future sexual assault evidence collection kits. The Secretary shall submit the findings and recommendations of the working group to the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2018.

SECTION 4. This act is effective when it becomes law.

Supreme Court
State of North Carolina
Raleigh

Chief Justice
I. Beverly Lake, Jr.
(Retired)

3703 Shadybrook Drive
Raleigh, North Carolina 27609
Tel. (919) 787-1530

To: Members of the Joint Justice and Public Safety Oversight Committee

Re: Needed Updates to the Innocence Inquiry Commission and Related Legislation

I am sorry that my health prevents me from appearing before you. I appreciate the opportunity to provide this written request for needed updates to the Innocence Inquiry Commission and related legislation.

One of the most important accomplishments of my professional career was helping to establish the Innocence Inquiry Commission. Despite all of our constitutional safeguards, occasionally our system fails us and we convict a completely innocent person of a serious crime. The Innocence Inquiry Commission is the extrajudicial agency that provides a safety valve to assist wrongfully convicted individuals after all criminal appeals are exhausted.

After many years of operation, the Innocence Inquiry Commission needs its laws and regulations updated, and we need to tweak the system to prevent the most common errors from occurring.

I am requesting that the Legislature enact two sets of changes to the current laws to help improve our system.

First, we have a history of wrongful convictions caused by the use of testimony from in-custody (jailhouse) informants which proves later to be false testimony. This type of testimony is inherently at risk of unreliability: however, we can reduce the risk with the implementation of four commonsense reforms:

1) Require in-custody informant interviews be recorded and recordings be preserved like other evidence.
2) Require corroborating evidence for a defendant to be convicted or receive an aggravated sentence based on an in-custody informant's statement.
3) Require a cautionary jury instruction when in-custody informant testimony is presented.
4) Require district attorneys to establish policies/procedures and tracking for the use of in-custody informants.

Second, the Innocence Inquiry Commission itself needs three simple reforms to help improve its function and efficiency:

1) Require the Commission to provide an explanation to an attorney who refers a case to the Commission if the case is closed without a hearing.

NOT PRINTED OR MAILED AT GOVERNMENT EXPENSE

2) Require the Commission to follow the same discovery laws that apply to prosecutors post-conviction.
3) Establish a study committee to evaluate the effectiveness of the Commission ten years after its establishment.

Thank you for taking the time to read my requests. Your thoughtful evaluation and implementation of these ideas would be most appreciated and would serve the interests of the people of our beloved state.

With much appreciation and respect, I remain,

Very Truly Yours.

I. Beverly Lake

Chief Justice I. Beverly Lake, Jr.
Retired

Between 4-7-2017 and 4-8-2018 the Hickory Police Department has responded to three shooting calls at local ABC establishments that resulted in the death of five people.

4-7-2017- J. McCroskey's Irish Pub & Grill-1423 29th Ave Dr NE, Hickory, NC

Two suspects shot and killed three people and injured two others after they were engaged in a brief verbal exchange in the parking lot. The incident occurred at 2:16 am as the bar was closing. The suspects and the victims did not know one another. Evidence suggest that the incident was a result of one of the victims making a disparaging comment to one of the suspects. It appears that the victim who made the comment was intoxicated at the time. All seven individuals involved in this incident had been patrons of McCroskey's. The suspects in this case are awaiting trial for murder.

6-17-2017- Alessio's Lounge & Grill- 1351 N Center Street, Hickory, NC

One suspect shot and killed one victim in the parking lot outside the bar shortly after closing at 2:00am. It appears the victim and suspect had been involved in an ongoing dispute. On the night of the incident they ran into each other at the bar by chance. There is no evidence that there was any incident inside the bar or that the victim and suspect had noticed each other until they were in the parking lot. The suspect in this case is awaiting trial for murder.

4-8-2018-The Vault Bar and Lounge- 247 1st Ave NW, Hickory , NC

Several suspects were involved in a shooting resulting in one subject killed and three injured just before 2:00am. Several of the suspects involved in the shooting had been attending a welcome home from prison party begin held at the bar. This case is currently under investigation.

PRISON REFORM BOARD BIOS

MAJOR GENERAL BETH AUSTIN, CHAIRPERSON

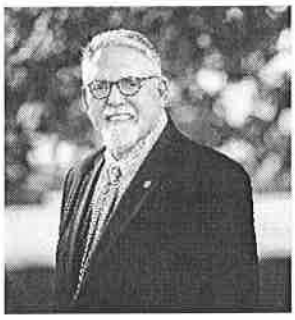


U.S. Army Retired Major General Beth Austin is an Army veteran with more than 39 years of military service. She received her commission as an Ordnance Officer in 1980 after completing Officer Candidate School at Fort Benning, Ga. A career logistician, she commanded troops from platoon to brigade levels. Her career included combat deployment in support of Operation Desert Shield and Desert Storm in 1990, a return to active duty in support of Operation Iraqi Freedom in 2004 as the 30th Brigade Combat Team Rear Commander, and as the Army Central Command/Third United States Army G4 and dual hatted as the Commanding General Army Material Command – Southwest Asia in support of Operation Enduring Freedom in October 2012-October 2014.

Her recent assignment was as the Assistant Deputy Commanding General, Army National Guard, Army Material Command, Redstone Arsenal, in Huntsville, Ala. Austin also served 26 years as part of the NCNG full-time support staff as a Federal Civil Service Technician where she was the Director of Logistics for over seven years.

A Raleigh native, Austin grew up in Fuquay-Varina and graduated from Broughton High School. She received her Bachelor of Arts degree from Excelsior University and holds a master's in strategic studies from the United States Army War College.

ART BEELER



Art Beeler served for more than 33 years with the Federal Bureau of Prisons, beginning as a student intern in 1975, before his retirement in 2009. He started his career as a correctional officer and moved up to Complex Warden at Butner, NC. In his 22-plus years as warden, he was CEO of a Federal Prison Camp, a Federal Jail, a Federal Transportation Center, two Federal Medical Centers, and two Federal Correctional Institutions (including the largest stand-alone correctional institution in the country).

Since his retirement, Beeler has provided services for the DPS in the construction of health care facilities and, most recently, as the chairman of the Mental Health Task Force. He has also provided criminal justice and legal instruction at several universities including North Carolina Central University, Duke University School of Law, North Carolina Wesleyan College, and the University of Northern Colorado. He has also served as a rule of law consultant for the U.S. State Department in Afghanistan.

His volunteer work in criminal justice includes working with the Juvenile Crime Prevention Council in Granville County, serving on the Board of Directors of RE-ENTRY, Inc., the N.C. Sentencing and Policy Advisory Commission, and N.C. Commission on Indigent Defense Services. He serves as a member of the Commission of Correctional Certification and the Board of Governors of the American Correctional Association.

Beeler graduated from the College of the Albemarle, East Carolina University and University College of the University of Maryland. He also attended Virginia Commonwealth University.

STANLEY DREWERY



Stanley Drewery of Grifton retired with 30 years of state service with both the Department of Public Safety and the Department of Transportation. He began his career with NCDOT in 1982 before moving to the former Department of Corrections as a correctional officer in 1992. He was promoted to sergeant in 1996, then to lieutenant in 1998. He became an instructor for the Office of Staff Development and Training in 2005 before retiring on January 1, 2012.

Drewery has been active in the State Employee Association of North Carolina (SEANC), where he is currently in his second term as president. He's been a member of SEANC for more than 30 years. He is a veteran and served six years in the Army National Guard.

JAMES FRENCH



James French started his career with the North Carolina Department of Correction as a correctional officer at Central Prison in April 1972 after serving three years in the United States Army. He rose through the ranks and was named Central Prison warden in 1994.

Five years later, French was appointed director of the Division of Prisons. He retired in February 2001 with 34 years of service. However, in January 2009, his retirement ended when he was named Deputy Secretary of the Department of Correction overseeing the Division of Prisons, Correction Engineering, Correction Enterprises, Extradition and Combined Records.

In October 2012, French retired from the new Department of Public Safety. Since that time, he has served in a part-time role working with mental health reforms and on safety and security issues.

STEPHANIE HOLLEMBAEK



Stephanie Hollembaek began her career with the Federal Bureau of Prisons as an intern at the Federal Prison Camp located in Duluth, Minn. in 1991 while attending the University of Wisconsin-Superior. Upon completion of her studies in the field of Political Science in January 1992, Hollembaek was hired as a correctional officer.

Hollembaek moved through the ranks and was assigned to positions of increased responsibility including Correctional Treatment Specialist at Federal Correctional Institution (FCI) CI Estill, SC; Assistant Case Management Coordinator, FCI Edgefield, SC; Unit Manager, U.S. Medical Center for Prisoners SMCFP Springfield, Mo.; Executive Assistant, U.S. Penitentiary SP Lewisburg, Pa.; Regional Executive Assistant, Northeast Regional Office; Associate Warden, Federal Correctional Complex Tucson, Tucson, Ariz.; Deputy Assistant Director for Health Services, Central Office, Washington, DC; and Warden, Federal Correctional Complex Butner. She retired after 25 years with the Bureau of Prisons in December 2016.

Hollembaek received numerous awards during her career, including the Regional Directors Award for the North Central Region for outstanding contributions to the Bureau of Prisons (2001), and the Meritorious Service Medal for extraordinary meritorious service to the Bureau of Prisons (2013).

MIKE KILLMER



Mike Killmer brings a wide range of experience relevant to prison industries, custody and overall prison operations. After a 32-year career with the Federal Bureau of Prisons, he retired in July 2016.

During his career, Killmer served at five federal institutions ranging from low security to penitentiaries, as well as Central Office in Washington, DC. Killmer served as a Factory Manager, Program Manager, Superintendent of Industries and Education, and Associate Warden of Programs and Operations.

Killmer grew up in Poughkeepsie, NY and studied business administration while also attending trade schools, obtaining degrees in Business Administration, Electronics, Textiles, and Metallurgy. Killmer is also certified in Correctional Management, Emergency Preparedness, and holds a Green Belt in Lean Six Sigma.

DOROTHY HOLMES LEDFORD



Dorothy Holmes Ledford began her career with the former Department of Correction, Division of Prisons in 1975. She has experience with diagnostic and evaluation centers, security, and classification of management inmates, as well as the implementation of programming initiatives within the Department.

She retired in 2003 but has continued to work for Division of Adult Correction and Juvenile Justice in classification services for Prisons and the NCDPS Office of Special Investigations.

Ledford received a Bachelor of Arts degree in Sociology from N.C. State University.

GARY MOHR



Gary Mohr of Chillicothe, Ohio, is director of the Ohio Department of Rehabilitation and Correction. Appointed in January 2011, Mohr has more than 43 years of correctional experience and began his career in 1974 as a teacher's aide at the Marion Correctional Institution.

Mohr, who is the President-elect of the American Correctional Association, has received numerous national awards for his work in corrections. He is also a member of the Vera Institute's Advisory Council of the Safe Alternatives to Segregation.

From 1992-1994, Mohr served as director of the Ohio Governor's Office of Criminal Justice, where he led the investigation into the cause of the 1993 Lucasville riot. Many of his team's recommendations for

preventive measures and improved conditions were adopted by prison systems across the nation. He also chaired the Governor's Task Force on Gun Violence.

In 2002, Director Mohr served as deputy director and superintendent of the Ohio Department of Youth Services. Previously, he was DRC deputy director for administration, as well as a deputy director in the agency's Office of Prisons. In addition, Mohr served as warden at the Ross Correctional Institutional, Chillicothe Correctional Institution, and the Correction Reception Center.

NC Prison Reform Advisory Board

1. The Prison Reform Advisory Board shall serve in an advisory role to the Secretary of the Department of Public Safety on policies, programs, and services to ensure the safety and security of the state's prison system. This advice may cover topics including, but not limited to, operations, staffing, technology, facility design, and inmate work and program assignments.

2. The Prison Reform Advisory Board shall be composed initially of eight members, all of whom shall be appointed by the Secretary of the Department of Public Safety. The chairperson shall be appointed by the Secretary. Members shall serve terms of four years, and may be re-appointed to one additional four-year term.

3. Members of the Reform Board shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses related to their service on the Board.

4. Members are expected to attend meetings on a consistent basis and failure to attend more than half of the Board's yearly scheduled meetings may result in the member being replaced on the Board.

5. All Board meetings shall be open to the public.

Cancelled Notice

NORTH CAROLINA GENERAL ASSEMBLY

Raleigh, North Carolina 27601

September 9, 2018

MEMORANDUM

TO: Members, Joint Legislative Oversight Committee on Justice and Public Safety
FROM: Rep. James L. Boles, Jr., Co-Chair
Rep. Ted Davis, Jr., Co-Chair
Sen. Shirley B. Randleman, Co-Chair

SUBJECT: Meeting Notice

The **Joint Legislative Oversight Committee on Justice and Public Safety** will **NOT** meet at the following time:

DAY	DATE	TIME	LOCATION
Thursday	September 13, 2018	1:00 PM	643 LOB

Due to the threat of Hurricane Florence in North Carolina, the meeting scheduled for September 23, 2018 has been cancelled.

Parking for non-legislative meeting attendees is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives. You can view a map of downtown by visiting http://www.ncleg.net/graphics/downtownmap.pdf.

If you are unable to attend or have any questions concerning this meeting, please contact Kerry Guice at bolesla@ncleg.net.

cc: Committee Record _X_
Interested Parties _X_

Dina Long (Rep. Jamie Boles)

om: Jeb Kelly (Sen. Shirley B. Randleman)
ent: Wednesday, November 07, 2018 11:27 AM
To: Jeb Kelly (Sen. Shirley B. Randleman)
Subject: <NCGA> Joint Legislative Oversight Committee on Justice and Public Safety Meeting Notice for Thursday, November 15, 2018 at 1:00 PM
Attachments: Add Meeting to Calendar_LINC_.ics

Follow Up Flag: Follow up
Flag Status: Completed

NORTH CAROLINA GENERAL ASSEMBLY

Raleigh, North Carolina 27601

November 7, 2018

MEMORANDUM

TO: Members, Joint Legislative Oversight Committee on Justice and Public Safety
FROM: Rep. James L. Boles, Jr., Co-Chair
Rep. Ted Davis, Jr., Co-Chair
Sen. Shirley B. Randleman, Co-Chair

SUBJECT: Meeting Notice

The **Joint Legislative Oversight Committee on Justice and Public Safety** will meet at the following time:

DAY	DATE	TIME	LOCATION
Thursday	November 15, 2018	1:00 PM	643 LOB

Parking for non-legislative meeting attendees is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives. You can view a map of downtown by visiting http://www.ncleg.net/graphics/downtownmap.pdf.

If you are unable to attend or have any questions concerning this meeting, please contact Jeb Kelly at Jeb.Kelly@ncleg.net.

c: Committee Record _X_
Interested Parties _X_

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
November 15, 2018
Room 643 of the Legislative Office Building

The Joint Legislative Oversight Committee on Justice and Public Safety met on Thursday, November 15, 2018 at 1:10 PM. The meeting was held in Room 643 of the Legislative Office Building. Members present were: House Representatives Jamie Boles, Ted Davis, Justin Burr, Elmer Floyd, Allen McNeill; Advisory House Members Jonathan Jordan, Garland Pierce, Michael Speciale, Bob Steinburg, and Lee Zachary. There were four Senate members present.

Representative Jamie Boles presided. Chairman Boles called the meeting to order and introduced the House Sergeant at Arms Warren Hawkins, Bill Bass and Russell Salisbury and the Senate Sergeant at Arms John Enloe and Billy Fritscher.

Chairman Boles asked for a motion to approve the minutes and Representative Burr brought forth the motion.

Chairman Boles recognized Tracy Little, Special Assistant to the Chief Deputy Secretary of Adult Correction and Juvenile Justice, to give a power point presentation on, **Prison Reform Implementation Update**. Chairman Boles asked Ms. Little to introduce Secretary Hooks and staff of twenty-two attending the meeting. Ms. Little gave an overview on framework, enhancing security policies and practices, re-missioning facilities to meet population and operation needs, reducing contraband in prisons, improved training, hiring, and communications. (See Attachment 1 for a copy of the presentation.)

Following Ms. Little's presentation, Chairman Boles recognized Gary Mohr, Senior Executive Advisor, to present **Prison Reform Update/Back to Basics**. He discussed conditions after Hurricane Florence, the correctional system reform, staff engagement, facility vulnerabilities and the processes to follow in the months ahead. Chairman Boles opened the floor to committee members for a time of questions and answers. Ms. Little and Mr. Mohr deferred to Mr. Kenneth Lassiter, Director of Prisons, to address questions concerning unannounced audits, officer assaults and prison suicides. (See Attachment 2 for a copy of presentation.)

Following questions and answers on the presentations from the Department of Public Safety, Chairman Boles recognized Thomas Maher, Executive Director of Office of Indigent Defense Services, who presented the **Uniform Fee Schedule Pilot**. Mr. Maher outlined the creating, implementing, and the operations and monitoring impacts on lawyers, clients and the courts, and the opt-out provision. (See Attachment 3 for a copy of presentation.)

Senator Barringer was recognized for a comment about her concerns of DSS family-type lawyers opting-out due to fees not being appropriate. She implored the Committee to facilitate a flat or appropriate fee for lawyers in order to not encourage delays.

Chairman Boles introduced Michael A. Sprayberry, Director of NC Emergency Management, for an update on hurricane recovery. Chairman Boles commended Mr. Sprayberry and staff for their commitment to the citizens of North Carolina. Applause followed. Mr. Sprayberry presented **Hurricane Recovery: Matthew and Florence**. His presentation included funds on the ground across North Carolina, individual and public assistance, housing, and the creation of North Carolina Office of Recovery and Resilience (NCORR) and School Risk and Response Management System (SRRMS). At this juncture, Chairman Boles opened the floor to committee members for a time of questions and answers. Mr. Sprayberry recommended calling 211 for any help needed.

Mr. Sprayberry continued his presentation on the pilot of the panic alarm button. He discussed the testing, solutions, evaluation and the implementation costs. He stated that maps were created and an active data base has been developed. He recommended the RAVE system as being the only system linked with 911, and outlined the statewide costs.

Following Mr. Sprayberry's presentation, Chairman Boles questioned the time and implementation of the panic alarm system. Chairman Boles stated that the money had been appropriated to the Department of Public Instruction (DPI) and questioned why this was not already in use. Chairman Boles stated his view to go forward with the panic alarm program implementation as quickly as possible. He recognized Representative Speciale who requested a report from DPI in the December meeting outlining the use and release of appropriations. Chairman Boles opened the floor to committee members for questions and answers. (See Attachment 4 for a copy of presentation.)

Prior to adjournment, Chairman Boles recognized Colonel McNeill, Commander of the State Highway Patrol, and his staff to come up to join the JPS Committee in adjourning the meeting in honor of fallen Trooper Kevin Conner of Columbus County, killed in the line of duty on October 17, 2018.

There being no further business, the meeting adjourned at 3:24 P.M.

James L. Boles

Representative James L. Boles, Jr.
Presiding.

Dina K. Long

Dina Long, Committee Clerk

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY
Room 643 Legislative Office Building

November 15, 2018 1:00 P.M.

I. CALL TO ORDER

Chairs: Representative Jamie Boles, Presiding Senator Shirley Randleman
Representative Ted Davis

II. APPROVAL OF MINUTES

III. PRESENTATIONS

Opening Remarks by Chairs

Prison Reform Implementation Update

Tracy Little, Special Assistant to the Chief Deputy Secretary
Adult Correction & Juvenile Justice

Gary Mohr, Senior Executive Advisor
Adult Correction & Juvenile Justice

IDS Fee Schedule Pilot Update
Thomas Maher, Executive Director
Office of Indigent Defense Services

Hurricane Florence Update
Michael A. Sprayberry, Director
NC Emergency Management

IV. COMMITTEE DISCUSSION

V. ADJOURNMENT

House Members
Rep. Boles (Chair), Rep. Davis (Chair)
Rep. Burr, Rep. Faircloth, Rep. Floyd,
Rep. C. Graham, Rep. Jackson, Rep. McNeill,
Rep. Rogers, Rep. Stevens, Rep. Turner,
Rep. Boswell (Advisory), Rep. Hurley (Advisory),
Rep. Jordan (Advisory), Rep. Pierce (Advisory),
Rep. W. Richardson (Advisory), Rep. Speciale (Advisory),
Rep. Steinburg (Advisory), Rep. Zachary (Advisory)

Senate Members
Sen. Randleman (Chair)
Sen. Barringer, Sen. Britt, Sen. Brown,
Sen. Daniel, Sen. J. Davis, Sen. Fitch,
Sen. J. Jackson, Sen. Lee, Sen. Sanderson,
Sen. Van Duyn, Sen. Wells (Advisory)

NORTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY
PREVENT. PROTECT. PREPARE

Prison Reform Update

November 15, 2018

Presented to the Joint Legislative Oversigh
Committee on Justice and Public Safety

ATTACHMENT #1

Framework

- Established Five Workgroups to Focus Efforts in Strategic Manner
  - Enhancing Security Policies and Practices
  - Reducing Contraband in Prison Facilities
  - Increasing Hiring and Retention
  - Improving Training for New and Veteran Employees
  - Improving Communication with Internal and External Stakeholders
- Established Prison Reform Advisory Board
- Retained Senior Executive Advisor for Prison Reform

Enhancing Security Policies and Practices

- Enhancing restrictive housing and disciplinary sanctions against offenders who assault staff
  - Modified policies in August 2018
  - Placement in restrictive housing for a minimum of 12 months, upon final review and decision of the Director's Classification Committee
  - Subject to forfeiture of time credits awarded to date, and ineligible to earn time credits on current term of incarceration
  - Suspension of visitation privileges for minimum of 12 months; allowed only non-contact visits when visitation privileges are restored
  - Placement on Interstate Compact Program list for out-of-state housing consideration for minimum of five years

Enhancing Security Policies and Practices

- Purchasing radios, batons and pepper spray to fully equip certified staff (correctional officers and case managers) in facilities at all custody levels
- Piloting personal body alarm "man-down" technology at three facilities – radio use for all staff and lanyards for visitors
- Distributed 4,100 whistles to non-certified staff who are currently not assigned radios
- Deploying stab resistant vests for 13,000 certified staff
  - 4,700 vests shipped to close security facilities
- Installing more cameras to improve surveillance
  - Nearly 900 cameras installed since April 2017. Funding approved for additional 3,000 cameras. Design and deployment planning underway.

Enhancing Security Policies and Practices

- Conducting unannounced security assessments based on new audit standards
- Reviewing and modifying security policies and procedures
  - Prisons and Correction Enterprises policies reconciled to eliminate discrepancies
  - Tool and key control policies modified and re-issued; piloting web-based tool inventory application at Harnett CI and Nash CI
  - Offender job and program assignment policy modified and re-issued
- Initiating pilot use of tasers for supervisory staff at four close security prisons
- Revalidating the offender classification instrument, with technical assistance from the National Institute of Corrections.

Re-missioning Facilities to Meet Population and Operational Needs

- Converting Lanesboro Correctional to a female facility and re-naming it Anson Correctional Institution
- Converting Eastern and Southern Correctional Institutions from female to close custody male facilities
- Re-opening North Piedmont Correctional Center for Women to temporarily house minimum custody females, will convert it to house Confinement in Response to Violation (CRV) females
- Re-purposing Neuse Correctional temporarily to house female offenders while transition is in progress

Re-missioning Facilities to Meet Population and Operational Needs

- Anticipated Timeframe
  - Eastern and Southern females already re-located to Neuse and North Piedmont
  - Eastern and Southern to receive close custody males in early 2019
  - Females transfer to the new Anson Correctional in Spring 2019

Reducing Contraband in Prison Facilities

- Visiting prisons in other jurisdictions (federal and state) to observe contraband detection strategies
- Examining all aspects of mailroom operation
  - Stopped delivery of original envelopes to offenders; providing envelope photocopies and approved contents
- Installing Managed Access radio frequency technology to detect, intercept, and block use of unauthorized cellphones at two facilities
  - Pursuing mobile manage access capability at other locations
- Identifying tailored contraband reduction strategies for facilities based on physical plant and facility mission

Improving Training for New and Veteran Employees

- Updating Basic Correctional Officer curriculum, with expansion to six weeks anticipated in January 2019
- Continuing to schedule new correctional officers in Basic Training during second week on job
  - Adding training classes and sites as needed; agreement with NC Forest Service to sub-lease training facility in Kinston adding additional training capacity
- Continuing implementation of Field Training Officer Program, with nearly 450 FTOs selected and trained.
  - Nearly 750 new hires have completed the 120-hour hands-on training program

Improving Training for New and Veteran Employees

- Conducting situational awareness in-service training for all Prisons staff
  - Completed 4-hour situational awareness training for nearly 300 Correction Enterprises staff
- Prioritizing supervisory training and adding more classes to accommodate need
  - Conducted training for more than 500 supervisory staff in 2018

Increasing Hiring and Retention

- Modifying hiring process and developing targeted recruitment strategies for facilities with highest vacancy rates
- Utilizing exit survey data to develop retention initiatives
- Promoting professional development activities and improving workplace morale through a new Facility Enhancement Fund
- Implemented a Prison Employee Recognition Program to honor employees for exemplary service on the job and in the community

Improving Communication with Internal and External Stakeholders

- Piloting use of email accounts by correctional officers at two facilities
- Conducting more frequent meetings and conference calls to ensure consistent message from leadership
- Correction Enterprises and Prisons leadership engaging in more regular communication and collaboration
  - Enterprises plant managers more integrated into facility management teams
- Promoting corrections as a profession through video and updated recruitment material

NORTH CAROLINA
DEPARTMENT OF PUBLIC SAFETY
PREVENT. PROTECT. PREPARE

Closing Remarks/Questions

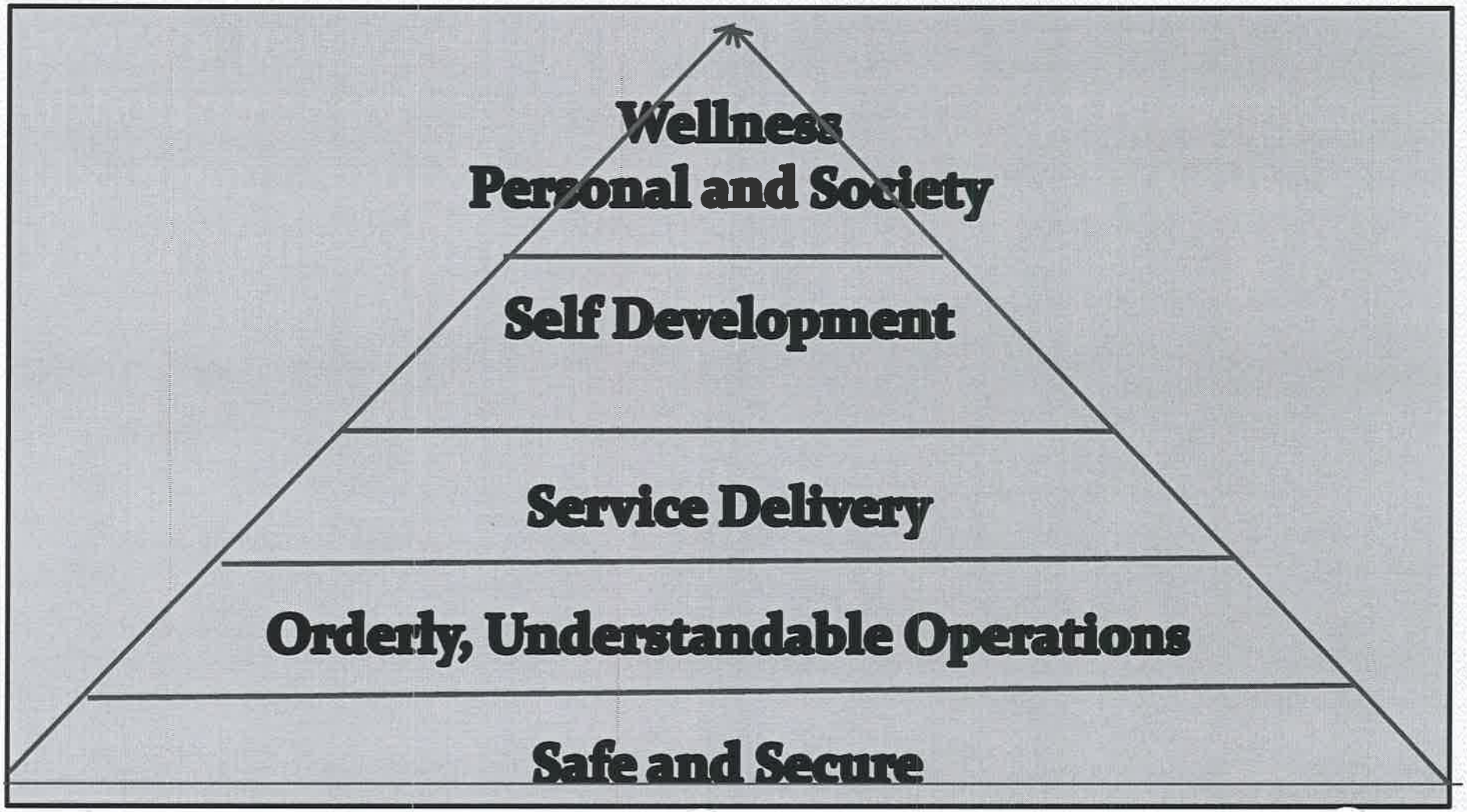
For more information, visit the Prison Reform page on the DPS website: www.ncdps.gov

Back to Basics

A continuous improvement process that reviews daily operations through staff engagement to reduce the opportunity for serious incidents staff believe are likely to occur in the next six months

ATTACHMENT #2

Correctional System Reform



Staff Engagement
Facility Vulnerabilities

If a serious incident is going to happen at our facility in the next six months:

- **What will it be?**
- **Where will it happen?**
- **When will it happen?**
- **Why?**

Driving to work, what are you afraid may happen?

Reducing the Opportunity for a Serious Incident

- **Reviewing agency and facility written policy and post orders**

  [Vagueness, omission, contradictions]

- **Observing operations in the area of concern**

  [Staff, offenders, movement, physical plant, civilians]

- **Asking the staff working the post, what would make this safer? What aren't you able to do in the written directives? Other concerns?**

- **Preparing a detailed recommendation to respond to staff concerns and vulnerabilities found**

Process for North Carolina

- Demonstrate at one site in each region
- Train a team of staff in each region for sustainability
- Conduct it and use it as necessary at each site
- Report areas addressed and improvements made

Uniform Fee Schedule Pilot
November 15, 2018
Thomas K. Maher
Executive Director



ATTACHMENT #3

This report will cover:

1. Creating uniform fee schedule pilot;
2. Implementing opt-out provision; and
3. Operating the uniform fee schedule and monitoring its impact on lawyers, clients, and the courts.

Creating Uniform Fee Schedule Pilot

Section 19.4 of Session Law 2016-94 required the North Carolina Administrative Office of the Courts (NCAOC), in conjunction with the Office of Indigent Defense Services (IDS) to implement a pilot project establishing a uniform fee schedule for the payment of attorneys' fees for legal representation of indigent persons in district court. The pilot was to be implemented in one or more counties in six judicial districts, in consultation and collaboration with the chief district court judges and the district bar in each of the selected districts.

Creating Uniform Fee Schedule Pilot

The special provision set specific parameters for selection of the six pilot counties. The selected counties were to include at least two counties with small caseloads, two counties with medium caseloads, and two counties with large caseloads. Districts 10, 18, and 26 specifically were excluded as possible pilot counties.

IDS and NCAOC selected the counties below for the pilot.

- **Large:** Iredell County (District 22A), Davidson County (District 22B)
- **Medium:** Lincoln County (District 27B), Burke County (District 25)
- **Small:** Watauga County (District 24), Macon County (District 30)

Initial Report on Fee Schedules

Recommending allowing counties in which the fee schedule was not operating well to seek to opt-out of the pilot, either in whole or for case-types that did not work under the fee schedule.

See IDS's March 15, 2018 Report on Model Fee Schedule for more details on the creation of the fee schedules and implementation of the pilot.

Opt-Out Provision Adopted

"The chief district court judge of a county selected to participate in the pilot project may request to withdraw the county from participation in all or portions of the pilot project. The request shall be in writing, submitted to the Administrative Office of the Courts, and shall include specific reasons for the request. The Administrative Office of the Courts, after consultation with the Office of Indigent Defense Services, may, in its discretion, grant the request. If a county withdraws completely from the pilot program, the Administrative Office of the Courts may, after consultation with the Office of Indigent Defense Services, select another county that has a similar caseload to participate in the pilot program."

Observations on Opt-Out Requests

Fee Schedules work best in high-volume courts and for case types with less variability in hours needed to provide representation.

Reflected in decisions by counties seeking to opt-out of the fee schedule pilot.

- Macon and Watauga, the two smallest counties, both in multi-county districts in which attorneys often appear in multiple counties, have requested to opt-out of the pilot for all case types.
- Iredell, Davidson, Lincoln, and Burke, the large and medium sized counties, have elected to remain in the pilot.

Opt-Out Provision Implemented

Reasons for seeking to opt-out:

- In Macon County, over half of the attorneys withdrew from the lists. Attorneys were concerned with generally low rate of pay, and with the additional impact that a flat fee system would have on their ability to provide representation while covering their overhead and being paid.
- In Watauga, experienced attorneys withdrew from the lists and there is ongoing concern that additional attorneys will withdraw. Attorneys are concerned that the fee schedules do not provide adequate resources for effective representation and the availability of extraordinary pay has not off-set the impact of the fee schedule.

Operation of Fee Schedule: Overview

Pilot Fee Applications Processed (June 1, 2017 – July 13, 2018)

- 6,919 fee applications, totaling $1,446,775 paid. Average fee application = $209.

- 46 exceptional case fee applications for payment outside of fee schedule, totaling $27,177. Average exceptional case fee application = $590.

Operation of Fee Schedule: Breakdown

(fee applications received through June 30, 2018)

Case type	Flat fees paid	Cost	Exceptional cases paid	Cost
Adult District Court	5,918	$1,164,725	28	$14,891
Civil	757	$212,297	17	$11,185
Juvenile	192	$41,384	1	$1,100
GAL	6	$1,140	0	$0

Analysis of Impact of Fee Schedule

IDS compared a pool of cases that were resolved within a six-month period before the implementation of the fee schedule with a pool of cases resolved during the same six month time period after the fee schedule has been implemented.

IDS chose to use these pools of cases for analysis to avoid the impact of cases that took significantly longer to resolve and were appointed before the fee schedule as comparable cases have not been resolved under the fee schedule.

As more cases are resolved under the fee schedule, including cases that take longer to resolve, IDS will do a more robust analysis of the impact of the fee schedule

Impact of Fee Schedules: Time Spent by Attorneys

(comparing mean time)

Case Type	Before	After
DWI	3.6	4.13
Non-Traffic Misdemeanor	3.07	2.63

Impact of Fee Schedules: Percentage of Cases Resolved on First Day Attorney Met Client

Case Type	Before	After
DWI Cases Resolved 1st Day	4.1%	10.1%
Cases Resulting in Conviction	94.1%	100%
Non-Traffic Misdemeanor Cases Resolved 1st Day	18.5%	25.3%
Cases Resulting in Conviction	63.8%	65.1%

Impact of Fee Schedules: Clients

County	% Cases - No Conviction Before	% Cases - No Conviction After	% Cases - Convicted of Highest Charge Before	% Cases - Convicted of Highest Charge After
All Pilot Counties	40.5%	38.8%	38.8%	42%
Burke	62%	66.2%	30.3%	28.2%
Davidson	38.4%	33.6%	41%	48.3%
Iredell	28.9%	24.5%	41.2%	45.3%
Lincoln	45.4%	47.6%	39.7%	38.5%
Macon	52%	45.7%	26.3%	27.7%
Watauga	34.5%	25.4%	44.4%	55%

Impact of Fee Schedules: Time To Disposition

(Average days to disposition)

Case Type	Before	After
DWI	53	57
Non-traffic Misdemeanor	36	30

Impact of Fee Schedules: Courts

District Court trial rates: Across all pilot counties, the rate at which cases are resolved by a trial dropped from 3.4% to 2.2%, a 35% reduction in the rate at which cases went to trial.

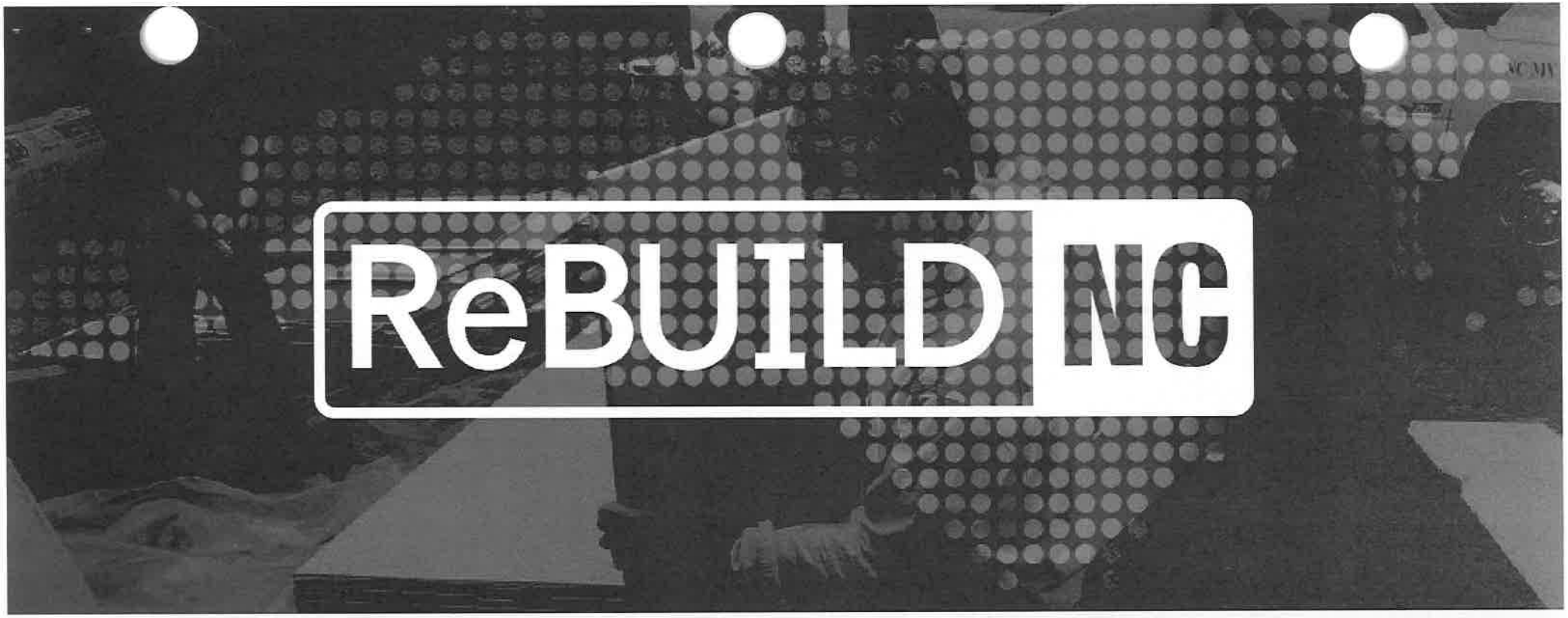
Issues for Continued Review

First review is based on short time periods and small samples—measures may change over time, particularly length of cases

IDS does not yet have set performance measures in place to assess impact of fee schedule on civil or delinquency cases

Data on average hours and case lengths have some variability in all counties from year to year, even without pilot

Thomas K. Maher,
Executive Director
Thomas.K.Maher@nccourts.org



Michael Sprayberry, Director | North Carolina Emergency Management

ATTACHMENT #4

HURRICANE RECOVERY: MATTHEW AND FLORENCE

REPAY. REPAIR. REPLACE. RECONSTRUCT.

November 15, 2018

HURRICANE MATTHEW RECOVERY

ReBUILD NC

MATTHEW FUNDS ARE ON THE GROUND ACROSS EASTERN NORTH CAROLINA

- More than **$765 million** back into our communities for public infrastructure repair, small business recovery and direct payments to homeowners, including over **$98 million paid out to over 29,000 families**
- **$87.3 million awarded to 680 homeowners** to elevate, reconstruct, or buyout through FEMA's HMGP program
- **Nearly $5 million awarded** from HUD Community Development Block Grant – Disaster Recovery funds to more than **160 families**
- **151 repair and renovation projects underway** funded by NC Disaster Recovery Act of 2017





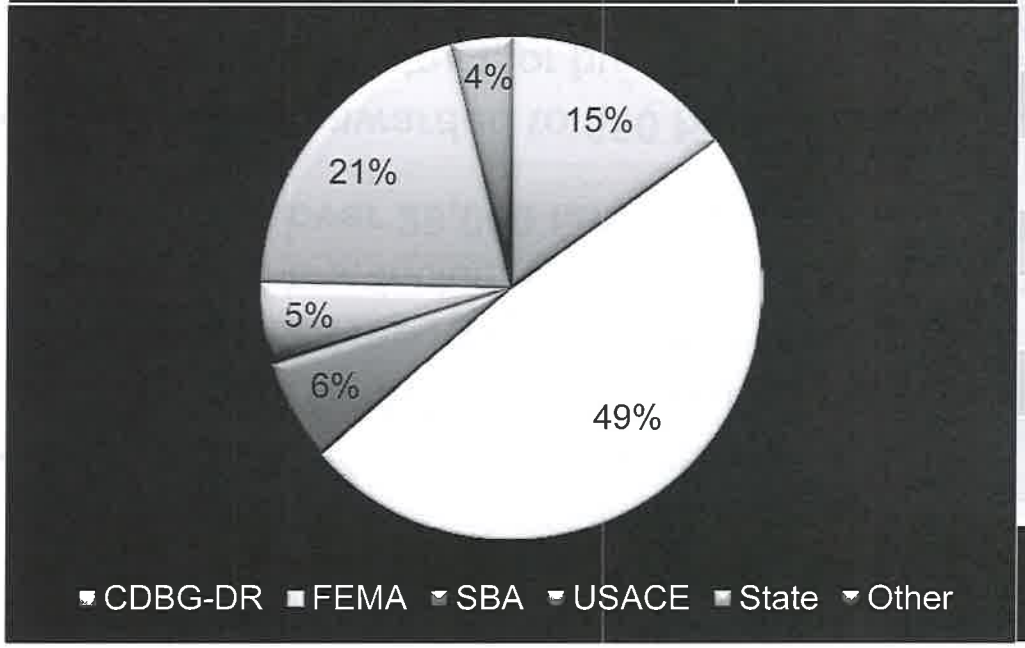




ReBUILD NC

MATTHEW RECOVERY FUNDS

State Allocations	
DRA-16	$201 M
DRA-17	$100 M
DRA-18	$25 M
TOTAL	**$326 M**



Funding Source	Federal
FEMA Individual Assistance	$99 M
Small Business Administration Loans	$102.5 M
National Flood Insurance Program	$196 M
Hazard Mitigation Grant Program	$82 M
Disaster Case Management	$4.5 M
Crisis Counseling	$2 M
US Army Corps of Engineers	$83 M
US Department of Agriculture	$27.5 M
Federal Highway Administration	$23 M
US Department of Labor	$5 M
FEMA Public Assistance	$382 M
CDBG-DR ($168M additional expected)	$236 M
TOTAL	**$1.25 Billion**

ReBUILD NC

PROGRAM PROGRESS

- **Approval of 1-year extension waiver** for housing receipt reimbursement program
- **6 additional general contract companies** for rehabilitation, elevation, and reconstruction services (23 total)
- Completion of Environment Review and granting of Authorization to Use Grant funding for **21 counties**
- ReBuild NC **increasing program caps for eligible activities**:
  - Repair/Rehab: from $53K to $125K
  - Reconstruction: from $125K to $250K
  - Manufactured Housing Unit Replacement: From $70K overall to $60K for single wide and $90K for double wide
- Comprehensive **Outreach and Mobile Intake** Strategy launched
- Revising other **Action Plan and Program Policies** to allow for expedited implementation

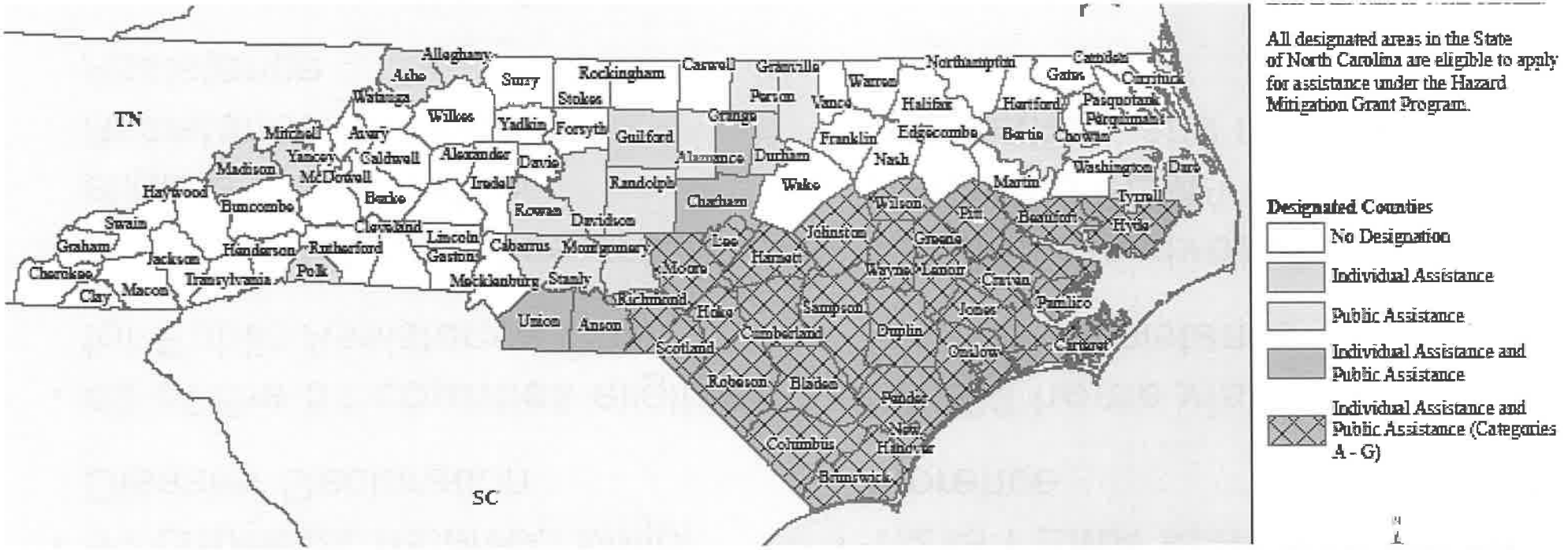
ReBUILD NC

HURRICANE FLORENCE RECOVERY

ReBUILD NC

DESIGNATED COUNTIES

INDIVIDUAL ASSISTANCE | PUBLIC ASSISTANCE



ReBUILD NC

HURRICANE FLORENCE RECOVERY SNAPSHOT

- **51 counties** received Major Disaster Declaration
- **49 of the 51 counties** eligible for Public Assistance Only
- **34 of the 51 counties** are eligible for Individual Assistance and Public Assistance
- **2 counties** eligible for Individual Assistance only
- **1,219 FEMA staff** working on Florence
- **90,222 home visits** by Disaster Assistance Teams
- **132,618 survivors** have contacted FEMA for help, information, and referrals

HURRICANE FLORENCE RECOVERY SNAPSHOT

- **$112.1 million** in Individual Assistance grants approved for survivors referred to FEMA's Individuals & Households Program
- **$272.5 million** in SBA low-interest disaster loans approved for 6,800 homeowners, renters, and businesses
- **$408 million** National Flood Insurance Program (NFIP) paid to 14,780 claims
- **95,600 FEMA home inspections** complete (99%)
- **90,222 Home Visits** by Disaster Assistance Teams
- **19 Disaster Recovery Centers** (DRC) open
- **28,565 individuals** served by the DRC

ReBUILD NC

CREATION OF NORTH CAROLINA OFFICE OF RECOVERY AND RESILIENCE (NCORR)

- Centralized structure for processing and issuing CDBG-DR awards
- Institutionalizing processes for handling federal grants, resulting in quicker, more efficient assistance
- Unified management of two major recoveries
- Modeled after examples of best recovery practices from other States





HURRICANE FLORENCE HOUSING SNAPSHOT

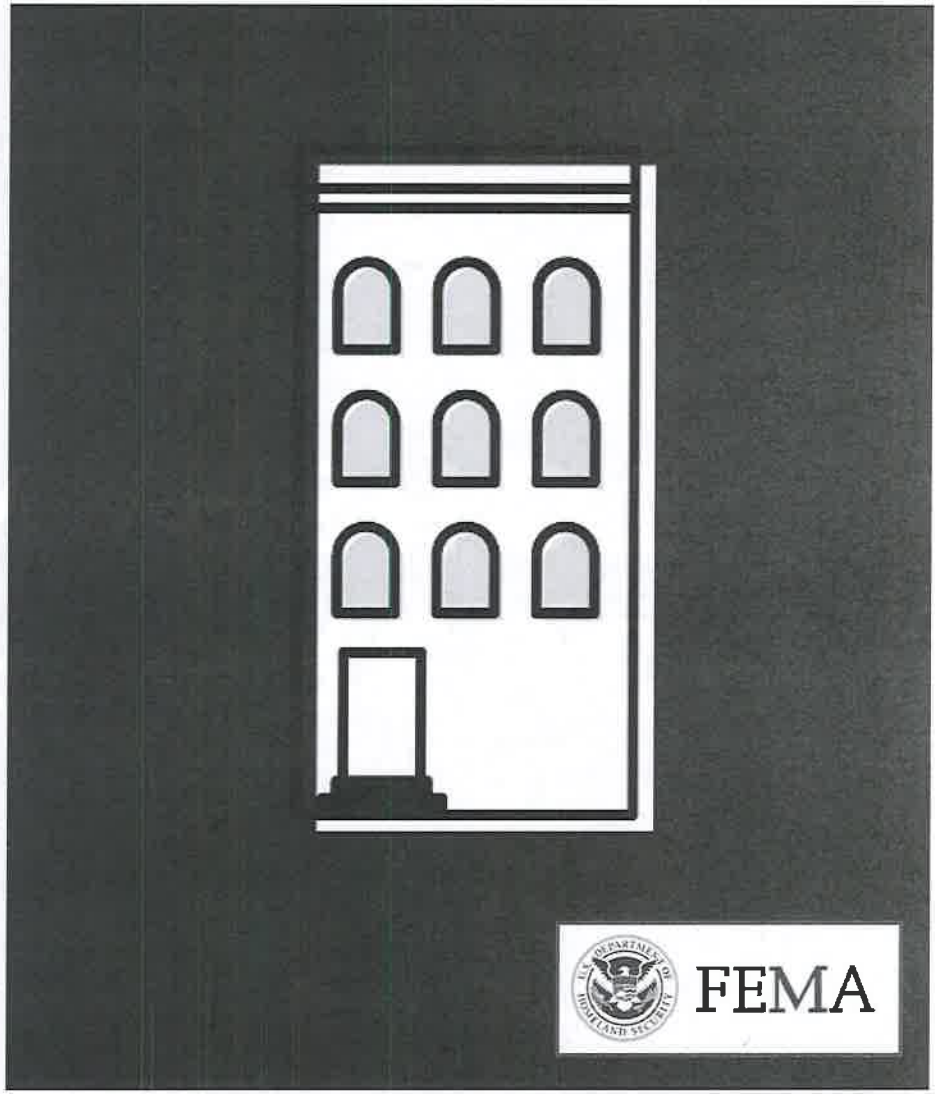
ReBUILD NC

RENTAL ASSISTANCE

Offers temporary financial help, providing disaster survivors temporary housing while they make longer-term housing arrangements

WHO MAY BE ELIGIBLE?

A homeowner or renter whose primary residence is determined to be uninhabitable after a FEMA inspection, who has housing needs not covered by insurance and who needs to relocate while repairs are under way

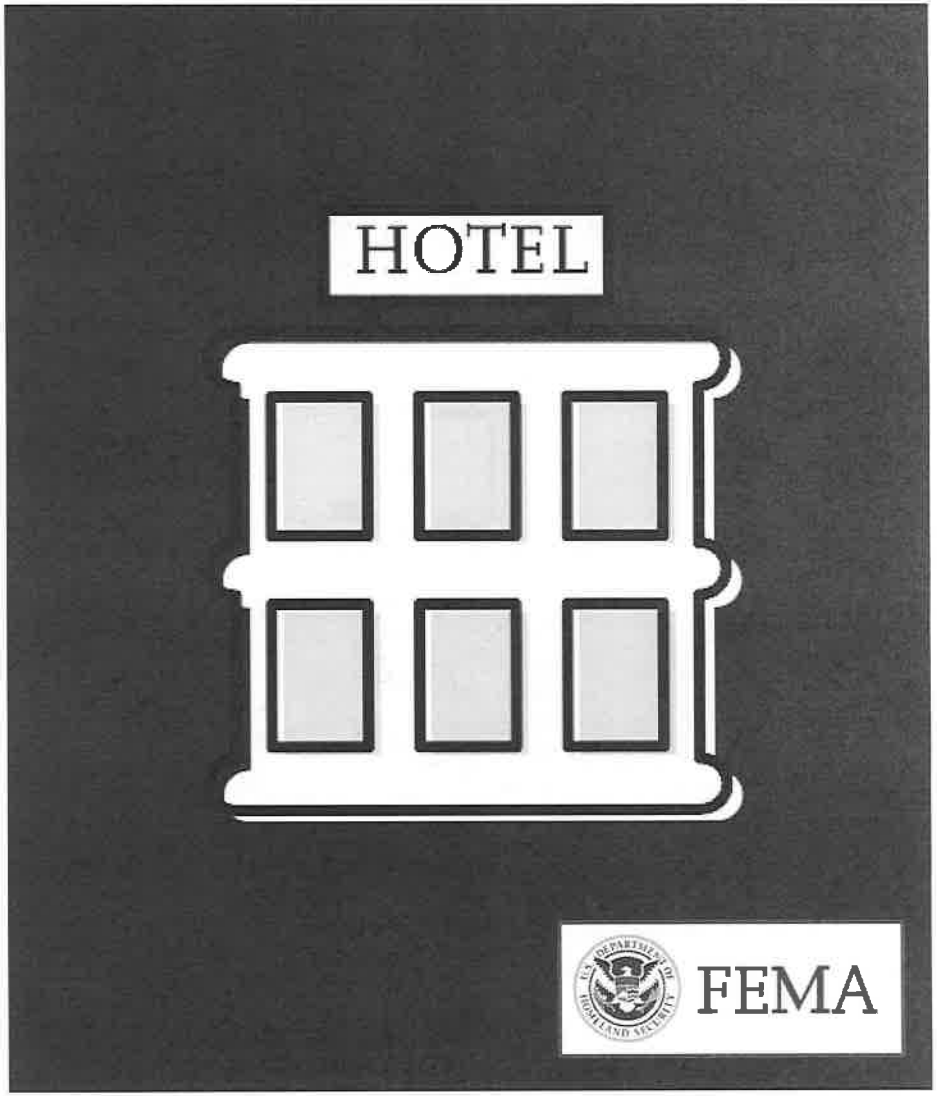


TRANSITIONAL SHELTERING ASSISTANCE

Pays room and tax cost at participating hotels for disaster survivors

WHO MAY BE ELIGIBLE?

A survivor whose primary home is uninhabitable or inaccessible due to the disaster and who has housing needs not covered by insurance. Survivors do not need to wait for a FEMA housing inspection to be considered eligible.

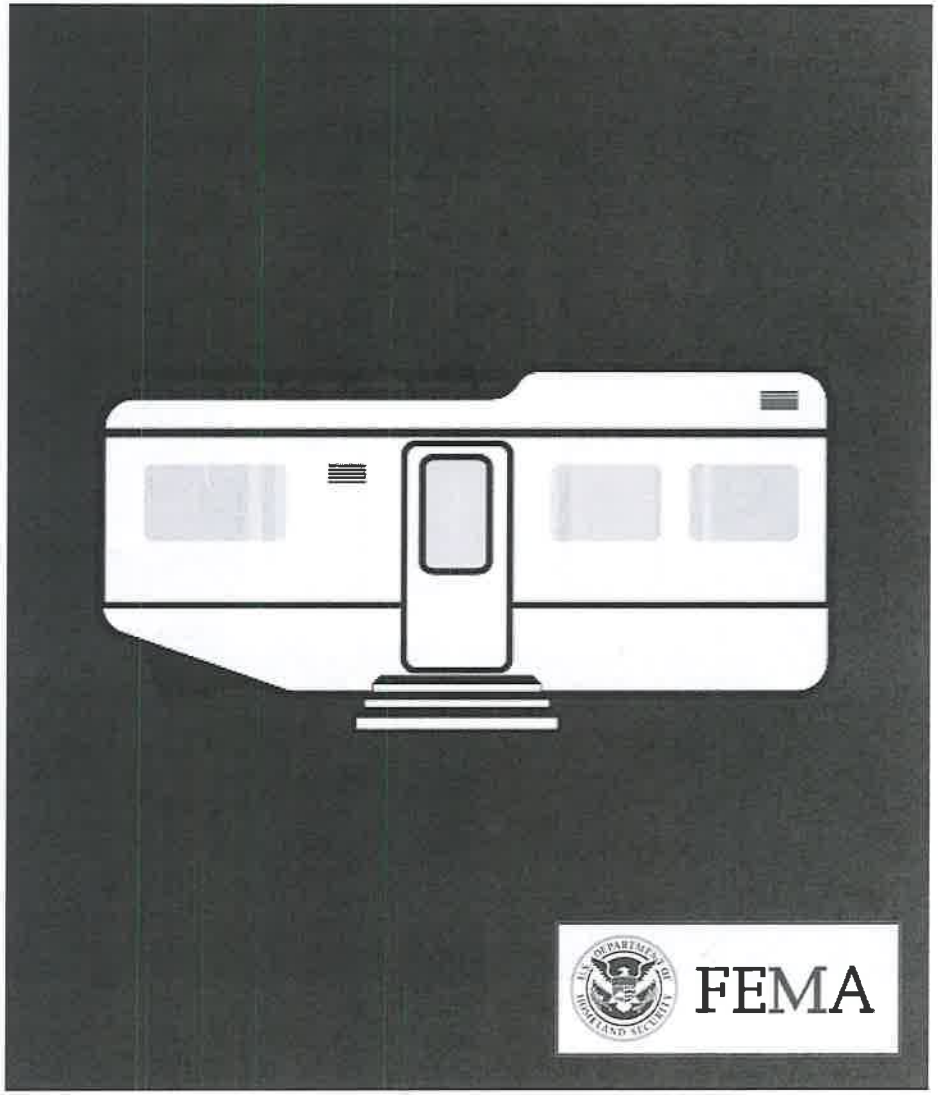


ReBUILD NC

DIRECT TEMPORARY HOUSING

Provides temporary travel trailers or manufactured housing units to eligible survivors in 13 counties:

Bladen, Brunswick, Carteret, Columbus, Craven, Duplin, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender and Robeson



WHO MAY BE ELIGIBLE?

A temporary solution for survivors whose primary home is uninhabitable, have uninsured housing needs and have no other practical options. Renters whose pre-disaster rental is determined to have major damage or is destroyed may also be eligible.

NC STEP

NORTH CAROLINA SHELTERING AND TEMPORARY ESSENTIAL POWER

- For eligible homes affected by Hurricane Florence with minor damage
- Provides rapid, **partial** repairs that put the home in safe, sanitary, and secure condition
- These are not permanent repairs. They are intended to make the house livable
- Allows families to maintain their household routines and residents to stay connected to their communities
- Repairs to flooded homes will be handled by a qualified, voluntary disaster relief organization or a contractor, depending on the level of damage to the home
- State provides necessary building materials and supplies



ReBUILD NC

HOW CAN YOU HELP?

SOCIAL MEDIA

EMAIL BLASTS

CONTRACTORS

EVENTS

FLYERS/ POSTERS

- LIKE
- SHARE
- DISTRIBUTE
- SPREAD THE WORD



REBUILDNC.GOV **REBUILDNC_GOV** **REBUILD.NC.GOV**

ReBUILD NC

School Risk and Response Management System

The 2015 Legislative Session (*2015-241*) established the School Risk and Response Management System (SRRMS). SRRMS has six (6) primary components:

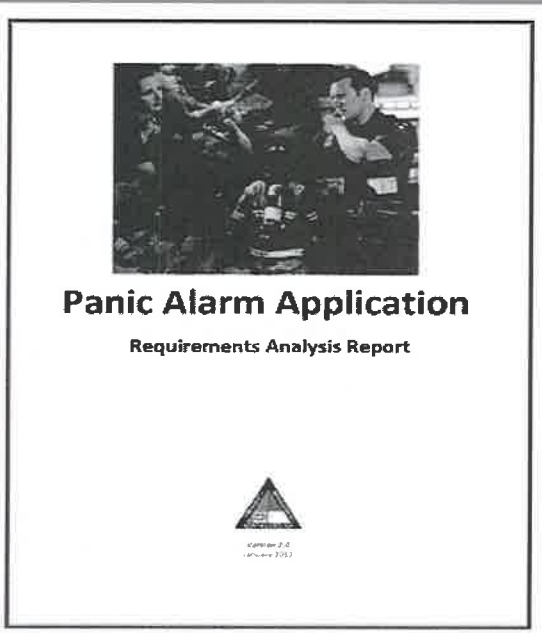
1. Acquisition and incorporation of site specific school facility data / information into iRISK database (~ 2,300 Public Schools) – NCEM
2. Digital School Risk Management Planning Tool (SRMP) - NCEM
3. School Emergency Response Application (SERA) - NCEM
4. Anonymous School Safety Tip (SPK UP NC) – DPI-CSS Completed Pilot
5. Digital Panic Alarm Application – NCEM Completed Pilot
6. Training, Exercise and Drills – DPI – CSS / NCEM

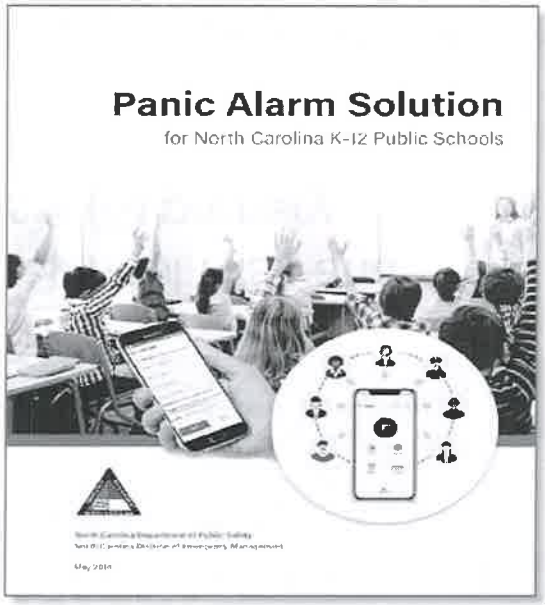
N★C DPS DEPARTMENT OF PUBLIC SAFETY

EMERGENCY MANAGEMENT NORTH CAROLINA

Panic Alarm – Progress Forward

- 2016-17 - NCEM met with key stakeholders to gathered perform requirement analysis
  - 25 Counties
  - School Officials
  - Law Enforcement
  - Telecommunicators
  - First Responders
  - Emergency Managers
  - Detailed requirements were developed from these stakeholders
- 2018 – Utilized requirements to identify a solution and performed a pilot demonstration to evaluate the solution
- May 2018: Recommendation
  - Report completed with recommendation for deployment of Rave Mobile Safety Panic Button.
  - Solution meets key requirements identified for Panic Alarm.





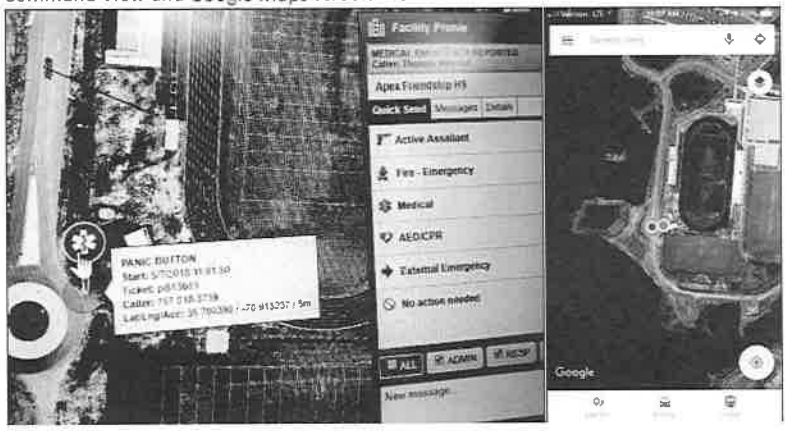
Panic Alarm - Solution Evaluation

- Based on market evaluation, Rave Mobile Safety Panic Button was the selected solution to evaluate in a demonstration
- Proof of Concept demonstrations and extensive testing across the state including locations in:
  - Nash
  - Granville
  - Harnett
  - Wake
- Tested thoroughly in:
  - Urban and rural locations
  - Indoors and outdoors
- Rave Mobile Safety met requirements and can be deployed statewide





Command View and Google Maps screen shot for reference:



DEPARTMENT OF PUBLIC SAFETY

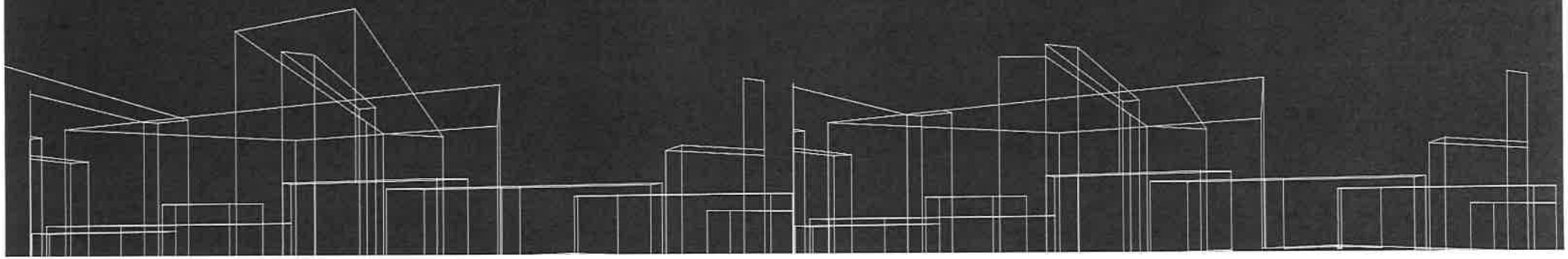
Panic Alarm - Statewide Implementation Costs

Implementation Tasks	Cost
Statewide Implementation of Rave Panic Alarm Solution in all K-12 Schools*	$3,986,475
Statewide Implementation of Rave Panic Alarm Solution in all Charter Schools*	$276,000
Rave Panic Alarm Solution Integration into SERA	$200,000
Project Management	$220,000
	$4,682,475
Estimated Cost per District	**$40,500**
Estimated Cost per School	**$2,017**
Estimated Cost Per Student	**$3.25**

**Cost includes annual license fee and one-time set-up statewide.*

THANK YOU

Michael Sprayberry, Director | Office of Emergency Management



Committee Sergeants at Arms

NAME OF COMMITTEE Joint Legislative Oversight Committee on Justice & Public Safety

DATE: 11/15/2018 Room: 643 LOB

House Sgt-At Arms:

1. Name: Warren Hawkins
2. Name: Bill Bass
3. Name: Russell Salisbury
4. Name:
5. Name:

Senate Sgt-At Arms:

1. Name: John Enloe
2. Name: Billy Fritscher
3. Name:
4. Name:
5. Name:

VISITOR REGISTRATION SHEET

Jt. Oversight Committee on Justice and Public Safety 11/15/18

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Demetrius Deloatch	TS
Lyla Ford	MWC
Demetrius Pulley	DPS
[illegible]	NCPBA -
Amber Harris	NCAJ
Michelle Frazier	NCSA
Bradford Sneeden	NCDOJ
Suzanne Brashey	SEANC
Kris Parks	NCAJ
Sam Pollitt	DPNC
Fred Boyce	Boyce Assoc

VISITOR REGISTRATION SHEET

Jt. Oversight Committee on Justice and Public Safety — 11/15/18

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Pam Walker	NCDPS
[signature]	NCDPS
Sean Daily	NCNG
Sallie James	Governor's office
Abby Hammond	NCAJ
~~Graham~~ HOEKSTRA	NCDPS
Michael B Dail	NCDPS
ERICA ZENDT	NCDPS
[signature]	FOP
Erin Hicky	NCDPS
Coby Crandall	The Pos Se Recovery Recovery

VISITOR REGISTRATION SHEET

Jt. Oversight Committee on Justice and Public Safety 11/15/18

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Todd Miller	Rave Mobile Safety
Skye David	newframe
Jason Joyner	newframe
Douglas Wallace	NCDPS
Reuben Young	NC DPS
Kenneth Lassiter	NC DPS
Stephanie Freeman	NCDPS
Mike Stephenson	NCEM
Susanna Davis	NC DPS
Darryl Childers	Governor's Office
Pam Cashwell	NCDPS

VISITOR REGISTRATION SHEET

Jt. Oversight Committee on Justice and Public Safety — 11/15/18

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Terrance Merriweather	NC ABC Commission
Whitney Fairbanks	NC IDS
Thomas Mahaffey	NC IDS
Keith Whitfield	Retired State LEO
Tonya Evans	NC NEVA
David "Crockett" Long	MAC Commission
Kelton Brown	NC ALE
Ryan Menard	SBI
Tim Hinnant	DPS Gov Crime Commission
Tarrah Callahan	CCSR
Logan Martin	Benchmarks

VISITOR REGISTRATION SHEET

Jt. Oversight Committee on Justice and Public Safety — 11/15/18

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Miskew	PSG
NELS ROSELAND	OSBM
ANTHONY TULLOCH	NCMA
Dan Paschall	NCMA
J.S. Castelloe	North Carolina Mason Supply Association
Jane Gilchrist	NC DPS
Lisa Martin	Cap-Ad

VISITOR REGISTRATION SHEET

Jt Oversight Committee on Justice & Public Safety — 11/15/2018

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dennis Reynolds	e GOV NOW
Molly Jordan	Intern for Sen J Jackson
Tonya Horton	OSHR
Lou Ann Phillips	OSHR
Kristin Siemek	OSHR
Mary Beth Leonard	SAS
Jennifer Simmons	EATJC
NICK OCHSNER	