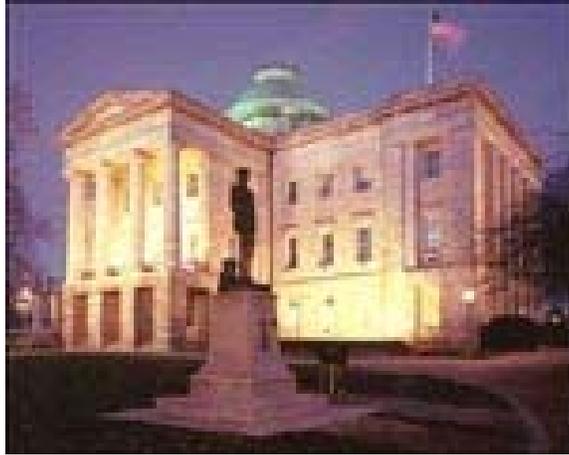


Governor's Crime Commission Legislative Agenda 2005



Governor's Crime Commission
NC Dept. of Crime Control & Public Safety

January 2005

Strengthening Justice Services: Maintaining Security *Issues for the People of North Carolina*

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Secretary
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North Carolina Department of Crime Control and Public Safety Governor's Crime Commission

Michael F. Easley, Governor
Bryan E. Beatty, Secretary

Linda W. Hayes, Chair
David E. Jones, Director

December 9, 2004

The Honorable Michael F. Easley
Governor of the State of North Carolina
State Capital
20301 Mail Service Center
Raleigh, North Carolina 27699

Dear Governor Easley:

On behalf of the members and staff of the Governor's Crime Commission, I am pleased to submit our Legislative Agenda for 2005: *Strengthening Justice Services: Maintaining Security*.

The Commission began crafting this agenda last summer by considering the matters most urgent to the safety and security of the state. A range of suggestions came from those focused conferences. Then the Legislative Committee, under the generous and capable leadership of Mack Jarvis, retired Secretary of Correction, heard numerous presentations from practitioners, experts, and consultants in the areas of interest. The committee then focused on the few recommendations that were most urgent, practical, realistic, and would have the most impact on the people of our state.

This is not a priority list as each recommendation is equally important.

Implementation of the state's Voice Interoperability Plan for Emergency Responders (VIPER) will give law enforcement agencies and first responders statewide the ability to communicate more efficiently and effectively at the most critical time. Interoperable voice communication is currently our most pressing public safety need and is vital to our emergency preparedness for acts of terrorism, natural or man-made disasters, and the complex, multi-agency demands of daily operations.

The Statewide Automated Fingerprint Identification System, (SAFIS) has become indispensable to our criminal justice system. It is due for scheduled equipment replacement and upgrades which, if begun by this summer, will avoid additional costs and loss of essential functions in subsequent years.

We must enhance our efforts to address the needs of our youth at risk who have been suspended or expelled from school. These youth often end up in the juvenile justice system.

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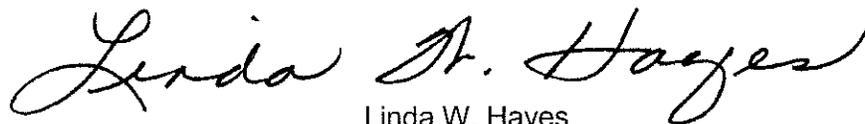


One of the most efficient and especially effective ways to answer their complex needs is with community based alternatives. And one of the best ways to deliver these local services is via our Juvenile Crime Prevention Councils. The education of these youth must continue at all costs and one of the best ways to accomplish that is via our Juvenile Structured Day Programs. The federal funds that have started and sustained many of these programs are all but exhausted. There are alternative and realistic ways of generating funds for this urgent need, such as a cigarette tax, which should be considered.

And, equally important, we are poised to treat with respect and dignity, the needs of innocent victims of violent crime. Every year this very needy group of North Carolinians is at the mercy of declining revenues and competing priorities. While Victims' Compensation is continued, we can adopt an offender fee system similar to those adopted by 40 other states throughout the nation. We can learn and lead in this area. It is time to fulfill this obligation.

The Governor's Crime Commission is fully aware of the hard road to the realization of these recommendations, and it is necessary to travel it. It is with sincere pride that I submit this agenda on behalf of your Governor's Crime Commission. I know that I speak for all the Commissioners and staff when I say we stand ready to assist you in any way with this agenda effort.

Sincerely,

A handwritten signature in black ink that reads "Linda W. Hayes". The signature is written in a cursive, flowing style.

Linda W. Hayes
Chair

Crime Commission Members

The Commission consists of the heads of statewide criminal justice and human service agencies, as well as representatives from the courts, law enforcement, local government, the General Assembly, and

Governor Michael F. Easley (Raleigh)
Secretary Bryan E. Beatty (Raleigh)
Chairman Linda W. Hayes (Dunn)
Judge J.B. Allen, Jr. (Burlington)
Secretary Theodis Beck (Raleigh)
Mr. Boyd Bennett (Raleigh)
District Attorney Howard Boney (Tarboro)
Miss Carrah Brown (Cary)
Judge Joseph M. Buckner (Hillsboro)
Ms. Claudette Burroughs-White (Greensboro)
Sheriff Earl R. "Moose" Butler (Fayetteville)
Judge J. C. Cole (Hertford)
Attorney General Roy Cooper (Raleigh)
Chief Francis Thomas D'Ambra, Jr. (Manteo)
Representative Rick Eddins (Raleigh)
Mr. Robert L. Guy (Raleigh)
Representative R. Phillip Haire (Sylva)
Mr. Donn Hargrove (Raleigh)
Sheriff Worth W. Hill (Durham)
Senator Robert Lee Holloman (Ahoskie)
Mr. R. Mack Jarvis (Hudson)
Robin H. Jenkins, Ph.D. (Fayetteville)
Mr. Bobby G. Kilgore (Monroe)
Chief Justice I. Beverly Lake, Jr. (Raleigh)
Ms. Carol J. Mattocks (New Bern)
Sheriff Glen Maynor (Lumberton)
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Senator Scott Thomas (New Bern)
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Mr. Thomas H. Thompson (Hendersonville)
Judge Ralph Walker (Raleigh)
Sheriff Connie R. Watson (Dobson)
Ms. Patricia Willoughby (Raleigh)
Mr. Daryl M. Woodard (Goldsboro)

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Executive Summary

The North Carolina Governor's Crime Commission proposes this agenda which achieves several purposes. First and foremost it seeks to continually improve the safety and security of our communities. Secondly, it is comprehensive. It considers present danger from natural and man made disasters, criminal justice systems capacity, juvenile delinquency prevention, and assisting innocent victims of crime. Lastly, this agenda will have a significant impact on our entire state.

Every two years the Commission prepares a formal Legislative Agenda. The process begins in August 2004 when the Commission's committees hear presentations by some of the state's leading experts and officials on topics of greatest need and urgency. The presentations covered numerous issues concerning the North Carolina criminal justice system, the role of technology, juvenile delinquency prevention, and crime victims. The discussions also focused on how best to enhance community safety and security in light of recent natural disasters and terrorism.

Every item in this agenda is significant; this is not a priority list. The Legislative Committee, under the Chairmanship of former Secretary of Correction Mack Jarvis, fashioned this agenda to have the greatest potential to affect all North Carolinians in important ways, far into the future.

VIPER

The Voice Interoperability Plan for Emergency Responders, VIPER, is a dramatic step in improved criminal justice services. It allows communication between our first responders throughout the state. VIPER will improve daily operations, and most importantly, greatly enhance our ability to prepare for, respond to, and recover from natural and man made disasters.

The Commission recommends:

1. *Fund VIPER with a blend of ready or allocable funds and appropriate debt financing* - The NC Governor's Crime Commission supports funding approximately \$192 million for VIPER to cover the four year plan of construction and maintenance as recommended by the Criminal Justice Information (CJIN) Governance Board. The project can be "jump started" with ready funds and completed with appropriate debt financing.

SAFIS Replacement

The Statewide Automated Fingerprint Identification System (SAFIS) is a backbone of our criminal justice record keeping system. It is continually relied upon to process fingerprints and related data statewide. SAFIS equipment must be replaced as scheduled. Action now is required to maintain and ensure system continuity.

The Commission recommends:

2. *Complete the SAFIS project plan* - The Crime Commission will assist the NC DOJ in funding a third party consultant to add another level of expertise to complete the replacement plan. The replacement plan will be ready no later than the summer of 2005 after which implementation of the refresh plan should be approved and put in place.
3. *Fund the SAFIS replacement.* - The Crime Commission supports full funding for SAFIS replacement. The sources for funding the SAFIS replacement should include: state appropriations, federal earmark, federal grant and/or debt financing.

Funding for At-risk Youth

The Commission is concerned about the statewide problem of long term suspended and expelled students who do not have alternatives to regular school. Many times these students are returned to the community without the structure of and opportunity to continue their primary education. Because of services inadequacies, these at-risk students are being denied an education as a form of punishment. Furthermore, this points to a larger problem of not having adequate or enough local services for at-risk youth in general. The grant funding that started many of the current programs via the Juvenile Crime Prevention Councils (JCPC) is all but exhausted. We need a state supported funding plan for services for long term suspended and expelled students especially via our local JCPCs and in particular, to the Juvenile Structured Day Reporting Centers.

The Commission recommends:

4. *Fully fund Department of Juvenile Justice and Delinquency Prevention (DJJDP) JCPC operation and programming* - Fully fund our Juvenile Crime Prevention Councils at least to \$40 million total. Appropriated funds should be allocated to DJJDP for JCPCs to continue structured day services and academic programs for at risk youth, especially those that are long term suspended and expelled.

5. *Seek alternative sources of funding for at-risk youth* - Alternative sources of funding such as cigarette and beer taxes should augment funding for services for at-risk youth especially the long term suspended student. Initially, the Commission recommends seeking tax parity with other tobacco producing states, in particular Virginia at \$.30 per pack. This has the potential to generate \$143 million for at-risk youth programming and operation.

Victims' Compensation

The Victims Compensation Fund is grossly under funded. Therefore, the processing of claims from the innocent victims of violent crime is continually backlogged. By June 30, 2004, Victim Compensation Services had a \$4.7 million dollar shortfall to address 489 outstanding claims from FY 2003 victims. In light of the constituents' passage of the Victims Rights Amendment in 1998, this is unacceptable.

The Commission Recommends:

6. *Support the Division of Victims' Compensation expansion budget request* - Support the recurring and expansion budget request being made by the Division of Victims Compensation of the Department of Crime Control and Public Safety (DCCPS) at \$5 million.
7. *Legislate offender fee revenues* - Support legislation to create an offender based revenue stream.

The Commission recommends the following court fees by offense for victims' compensation:

- *Felony* - Assess \$35 on conviction of a felony
- *Level A1 misdemeanor* - Assess \$30 on conviction of a Level A1 misdemeanor
- *Levels 1, 2, 3 misdemeanors* - Assess \$25 on conviction of a Level 1, 2, or 3 misdemeanor

This schedule, over time and when fully operational, could potentially generate \$5 million for the current needs of victims' compensation. Other states make their programs adjustable. Then when needs change so can revenue; the Victims' Compensation Division will never have to ask for general revenues again.

The NC Governor's Crime Commission is committed to supporting and facilitating this agenda which will immeasurably strengthen justice services and help maintain safety and security in our state.

Strengthening Justice Services

Maintaining Security

Issues for the People of North Carolina - 2005

The North Carolina Governor's Crime Commission

Information Systems and Technology Committee

North Carolina Voice Interoperability Plan for Emergency Responders (VIPER)

Issue

Law enforcement, public safety, and all first responders should have interoperable voice communications which will enhance daily operations, safety and security, and facilitate a more effective response to natural and man made disasters.

Problem

The state's ability to plan for the prevention of and especially respond to man made and natural disasters is currently at a great disadvantage. First responders such as law enforcement, public safety, fire, emergency management, emergency medical service personnel, and those mustering critical resources cannot adequately communicate. There is a dire need for law enforcement and other first responders to communicate with each other during routine and daily operations as well as during emergencies. Communication is complicated and confounded because responsible agencies use various and disparate radio systems. Those who respond to and are responsible for crisis management cannot communicate with each other during urgent situations because of the lack of a statewide uniform voice communications infrastructure and protocol.

Discussion¹

Background and Impact²

There has been a historic and persistent need for interoperable communications in North Carolina. The recommendation for an interoperable voice communications system for North Carolina was formally made in 1995 by a systems analysis commissioned by the NC General assembly, the Price Waterhouse LLP study. The need for such a communications system grows more important over time, especially when considering

1. The reader is referred to two sources for complete information on the VIPER project. The State Highway Patrol, Captain Woody Sandy, has done the extensive feasibility study and cost estimates. The CJIN Board Director, Carol Morin, has background on the issue and the detailed recommendations for funding.
2. CJIN General Assembly Report, December 2004, VIPER.

the need to plan for, respond to, and recover from natural and man made disasters and the need to conduct daily safety and security business.

There is a unifying common interest at the federal, state, and local levels of government to proceed with an 800 MHz communications system for North Carolina.

In 1995 Price Waterhouse LLP recommended in its Criminal Justice Information Network (CJIN) report that the CJIN Governance Board establish standards and implement a mobile voice and data communications network that would allow all North Carolina law enforcement and public safety agencies, statewide, to communicate with each other. While the CJIN Mobile Data Network solution is fully deployed across the state, the CJIN Voice Trunked Network initiative, now known as VIPER, is still not realized, and the need grows on a daily basis.

VIPER is a priority for the CJIN Governing Board and the State Emergency Response Commission, (SERC). While it has the greatest projected cost and is the most comprehensive project of the original Price Waterhouse recommendations, there is a common sentiment that once it has begun there will be a large and growing material buy-in from all three levels of government as was the experience with the Mobile Date Network, MDN project. Once this system begins operation, users will realize projected and increasingly creative uses of this network which will enhance operation, users will realize projected and increasingly creative uses of this network which will enhance operations and ultimately translate into safer, more secure communities.

Concerns

Funding is the major obstacle.³ Financing a project of this scope, magnitude, and complexity for the four years of anticipated initial construction and operation will perhaps be burdensome to funding via the General Fund. This leaves the consideration of a debt financing or a blend of debt financing and other funds or revenues. The use of debt depends on the available debt amount, which won't be known until mid January 2005. Even if there is available debt, there will be competing interests for that source of funding.

3. Detailed funding proposals are contained in the December, 2004 CJIN governing board report to the General Assembly.

Costs

VIPER Implementation Estimated Cost Schedule4

	First Year	Second Year	Third Year	Fourth Year
Infrastructure	47,780,168	45,213,168	31,119,168	31,907,168
Recurring	6,144,915	7,805,756	9,845,896	11,512,476
Total	\$53,925,083	\$53,018,924	\$40,965,064	\$43,419,644

This cost estimate reflects a plan which will provide North Carolina with the infrastructure for 100 percent interoperable communications coverage. The plan is to begin construction largely from East to West. This is preferred primarily because of the greater population coverage in the Piedmont and Eastern areas of North Carolina plus construction is less expensive and comparatively easier than in the mountains. Naturally, opportunities of the moment, such as partnering with the private sector, may also determine some variance in the construction sequence for the communications infrastructure.

Possible funding sources

The CJIN Governing Board has had extensive discussions on possibilities for funding.⁵ While there seem to be numerous possibilities to generate funding streams, the most realistic is a blend of debt financing and other sources to get the project going. User fees and surcharges will most likely be used to cover maintenance, operational, and replacement expenses once the system is in place. The CJIN report to the General Assembly (December 2004) considers the following funding possibilities:

- *Public Safety General Obligation bond* – This recommendation would fund the entire project with an appropriate debt instrument.
- *Designated reserves and funds* – This recommendation suggests that established funds be sought. The Highway Fund, for example, may be considered.
- *General Funds* – Fund the project done with an appropriation from the general fund.
- *A blended approach* – This is a combination of ready or allocable funds which would “jump start” the project while debt financing is sought.

4. The complete and detailed cost spreadsheets are available from the NC SHP.

5. For example, refer to the *North Carolina State and Local Taxes*, 2003, Tax Research Division, NC Department of Revenue, for some ideas that were considered.

Both the N. C. General Assembly and federal sources have contributed to the VIPER project for planning and initial work. The sentiment is that North Carolina must “prime the pump” to get further monetary and relevant support. It is important to complete the installation of the infrastructure within four years to equip our first responder community as soon as possible. While funding VIPER with North Carolina General Funds augmented by some federal funds and local support is an option, this project lends itself to a blended approach for funding which relies for the bulk of the project on debt financing.

Recommended Action

Demand for a statewide interoperable voice communications system is strong. Local support is strong. And there is a willingness to share costs.

A statewide system based on 800 MHz technology will facilitate the timely exchange of information during normal operations, acts of terrorism, and especially during natural disasters. The total cost of this four year project is estimated to be approximately \$192 million. This figure considers construction and recurring costs for the four planned phases.⁶ Phase I will be around forty million dollars. Most of the total costs for VIPER can be funded with debt financing.

Fund VIPER with a blend of ready or allocable funds and appropriate debt financing

The N. C. Governor’s Crime Commission supports funding \$192 million for VIPER to cover the four year plan of construction and maintenance as recommended by the CJIN Governing Board. The issuance of appropriate debt financing should be the primary source of funding. The Highway Fund, for example, should be considered to “jump start” the project. Whatever funding mechanism is chosen, the project must be started as soon as possible and completed in four years as per the CJIN and State Highway Patrol plan of construction and implementation.

Interoperable communications for law enforcement and emergency responders is a necessity. This four year plan to implement VIPER is most sensible and economical. Without such a plan, not only essential capability will be deficient, but individual and local efforts to build interoperable communications will be prohibitively expensive and disjointed. It is time for VIPER.

6. This estimate is according to the feasibility study done by the NC SHP.

The NC SAFIS Infrastructure Replacement

Issue

The NC Statewide Automated Fingerprint Identification System (SAFIS) infrastructure is at a decision point for scheduled replacement as the current infrastructure and equipment are reaching the end of their life cycles. The major provider of SAFIS infrastructure cannot guarantee system support and maintenance after December 2006.

Problem

Criminal justice electronic data management equipment is dated and is reaching planned replacement schedules. The major provider of SAFIS infrastructure cannot guarantee system support and maintenance after December 2006.

SAFIS allows for the rapid identification of offenders via electronic fingerprints. Plus it is widely used for background checks and civil cases. SAFIS facilitates the submission of electronic records to the state database for criminal history management. This fingerprint database and repository system is used by federal, state, and local law enforcement. The increased threat of domestic and international terrorism underscores its critical need for upgrade and enhancement.

There is no alternative to electronic fingerprint processing as a return to fingerprint cards is not feasible. Prior to SAFIS, the average turnaround time for processing fingerprint cards was as high as 100 days for criminal fingerprint cards and in excess of one year for civil/applicant fingerprint cards. During the past few years, these turnaround times have been reduced to approximately two hours for criminal and approximately four weeks for civil/applicant fingerprint submissions.

Discussion

Background and impact

The first SAFIS installation occurred at the State Bureau of Investigation in 1987 with major upgrades to the infrastructure occurring in 1995 and 1998. The replacement and upgrade proposed at this time has been anticipated since then and has been a major recommendation from the CJIN Governing Board.

SAFIS was primarily funded with federal monies. Currently there are 134 electronic fingerprint workstations in 96 criminal justice agencies. Eighty-eight percent of all criminal fingerprint submissions are processed electronically via SAFIS with the promise of increased production and capacity with replacement.

A primary goal of SAFIS is to provide for the positive and immediate identification of individuals from the point of fingerprinting in less than two hours with increasing performance as technology and operational processes improve. Many non-criminal justice agencies use SAFIS for fingerprint based background checks.

Another primary goal of SAFIS is to provide law enforcement agencies the ability to solve previously unsolvable crimes by allowing them to search unsolved latent fingerprints. No identifying descriptor or demographic data is necessary other than the fingerprint characteristics that make all fingerprints unique. SAFIS makes this and other investigatory techniques possible.

By December, 2006 Motorola, the major provider of SAFIS infrastructure, cannot guarantee support and maintenance. A replacement plan and schedule that begins by December, 2005 will ensure database stability, security and effective operation. Furthermore, this expected and necessary replacement will take advantage of progress in technology which will realize a continuing improvement in accuracy and an expansion of data base capacity.

Concerns

Funding is the major barrier. State and federal funds are becoming increasingly more difficult to secure. SAFIS replacement funds must be secured to ensure and maintain system continuity. It is simply impossible to do fingerprinting and record keeping manually. This automation is necessary as is this scheduled replacement. While this is a large automation project, it is relatively routine if a plan and funding is in place and working by the end of 2005. Delay will likely increase the cost and difficulty of the project.

Costs

Costs are computed on the basis of beginning the systems replacement by December 2005. If the project is delayed these figures will likely have to be adjusted upward.

Summary of SAFIS Replacement Expenditures

\$ 8.7 M	Replaces SBI hardware/central database
\$ 0.6 M	Replaces Mecklenburg County workstations
\$ 1.2 M	Replaces NC Correction workstations
\$ 5.2 M	Replaces 130 remote livescan stations
\$ 1.7 M	Replaces 17 latent fingerprint stations
\$ 2.0 M	Project management/operating costs
\$ 19.4 M	Total Estimated Expenditures

Possible funding sources

The state needs to fund this successful and critical tool for law enforcement. The sources for funding this project should include: state appropriations, federal grants, federal earmarks, and/or debt financing.

Recommended Action

There needs to be a major overhaul of the SAFIS infrastructure and equipment. The proposal is to replace both SAFIS infrastructure and equipment which includes a fixed price, turn-key contract for the life of the project.

Complete the SAFIS project plan

The Crime Commission will assist the NC DOJ in funding a third party consultant to add another level of expertise to complete the replacement plan. The plan will be ready no later than the summer of 2005 after which implementation of the replacement plan should be approved and put in place.

Fund the SAFIS replacement

The Crime Commission supports the full funding for SAFIS replacement as recommended by the NC Department of Justice.

SAFIS replacement is necessary. If begun as suggested above it will be a routine undertaking. If not, it will only be more expensive and complicated. Simply, SAFIS is essential to criminal justice in North Carolina and must be maintained. The Commission urges the replacement plan be implemented as scheduled and funded as recommended by the CJIN Governing Board.

Juvenile Justice and Delinquency Prevention Committee

Funding services for at-risk and especially suspended and expelled youth

Issue

Many students who are placed on long term suspension or expelled from school are made even more at-risk for delinquent behavior by being placed in an unsupervised situation and deprived of an education. This group of children is indicative of a continuing need for targeted services for at-risk youth in communities across the state.

Discussion

Background and impact

More and more North Carolina public school students are being put out of school. One of nine students was suspended at least once in 2002-03. Furthermore, for the same year, over 1,000,000 instructional days were lost to suspensions and nearly 4,400 students were suspended or expelled long term.⁷ Many at risk youth, especially suspended and expelled youth, are not getting needed educational services after being put out of mainstream school. Federal Juvenile Justice Funds have declined by 64 percent in the past three years.⁸ Those initial funds have always been very limited, now they are all but exhausted.

There are two primary community based alternatives to institutional response; the alternative learning program, ALP, and the structured day program. In many local educational areas, the ALP is the only non-institutional support system for the child who is removed from regular school. These programs are very effective but still don't reach enough of these children.⁹

The structured day program is the other non-institutional response for children put out of the regular classroom. Serving this population is complex and expensive yet still cost effective. These services will further diminish without state support. Children being suspended and expelled for extended periods need services that keep them in an educational environment which will lead to high school graduation and productivity in the community.

7. *Annual Study of Suspensions and Expulsions: 2002-03*, March 2004, Public Schools of North Carolina, State Board of Education/Department of Public Instruction, Office of Curriculum and School Reform Services and Office of Accountability and Technology Services, Division of Accountability Services.

8. The Crime Commission has worked with local communities to develop some 32 programs while assisting with \$ 13,350,692.00 in funding over the past several years.

9. *Alternative Learning Programs in North Carolina (2002-2003)*, November 2003, Public Schools of North Carolina, State Board of Education/Department of Public Instruction, Office of Accountability and Technology Services, Division of Accountability Services.

The problem of the long term suspended or expelled youth is much more severe when considering ethnicity. Minorities are disproportionately represented in these suspensions and expulsions.¹⁰

- *Disproportionality* – Black/multi-racial students are suspended and expelled more than white students.
- *Overall increasing enrollments* – The number of long term suspensions given to students in each ethnic group increased in 2002-03.
- *Disproportionate increases in enrollments* – The number of long-term suspensions given to Asian and to Black/multi-racial students has more that doubled since 1990. The number given to Hispanic students has more that tripled over that same time span.
- *Increasing disproportionality* – Since 1999-00, Black/multi-racial students have accounted for an increasing percentage of long-term suspension while the percentage given to white students during that same time period has declined.

These factors outline above lead to disproportionality in the juvenile justice system and drop out rates. The situation is dire when considering that ALPs serve only a small portion of the long term and expelled student population. Many of these suspended and expelled students simply find themselves back in the community with no plan to return to their main-stream school.

The alternatives to ALPs and JSDPs are much more expensive institutional responses. For example, the Guilford County Juvenile Structured Day program costs only \$26 per day per student versus detention which is approximately \$172 per day (FY 03-04). Many times it is the criminal justice system that has to take over. This expensive and difficult situation can be avoided in most cases if alternatives are available.

The State Board of Education, with the help of numerous stakeholder groups and experts, has been working with the General Assembly to resolve, satisfactorily, the issue of the student who is removed from regular school for an extended period of time.¹¹ These very involved groups continue to grapple with the problem.

10. *Annual Study of Suspensions and Expulsions: 2002-03*, March 2004, Public Schools of North Carolina, State Board of Education/Department of Public Instruction, Office of Curriculum and School reform Services and Office of Accountability and Technology Services, Division of Accountability Services.

11. *The (NC) House Interim Committee on Providing an Appropriate Education for Students on Long-Term Suspension*, April 15, 2004.

Likewise, with funding from the Governor's Crime Commission, the Department of Juvenile Justice and Delinquency Prevention is working on this issue by being a major sponsor of statewide and community based services such as:¹²

- *Alternatives to suspension* – The Burke County Alternatives to Suspension, or BATS, program is an exemplary program being explored for statewide application.
- *Examination of promising practices* – Educational Alternatives to Suspension and Expulsion, project EASE, is an examination of ten schools exhibiting high and low rates of expulsion respectively, to determine how to transfer strategies for low rates.
- *Addressing disproportionate minority suspensions* – Disproportionate Minority Involvement of Suspended Students, project DisMISS, uses project EASE in 15 schools and works on reducing minority suspension/expulsion rates.
- *Alternatives to suspension Toolkit* – This is a “toolkit” of information for community members, especially those in the JCPCs, to collaborate with schools to implement alternatives to suspension programming.

This target population is indicative of a wider problem, the lack of services for at-risk children in general. While this group is difficult to serve, it is common knowledge that there is a great cost benefit in attending to their needs. And one of the most cost effective measures is keeping them in school and out of trouble. Simply put, it is much less expensive to keep a child in a supervised situation, studying, and on the way to being productive rather than have them in and out of the criminal justice system.

Concerns

Barriers to addressing the needs of long term suspended or expelled students revolve around a few themes:

- *Difficulty in defining the problem* – It is tough to know precisely how these students are absorbed into the community. A child can be escorted to an ALP, be taken care of privately, sent to detention, drop out of school, or simply go home.
- *The complexity of need* – These students leave the regular classroom for a reason. While some students just need a little redirection, many have serious mental, social, and behavioral needs. Returning them to their potential as productive students is a long term, involved proposition.

12. Refer to the Department of Juvenile Justice and Delinquency Prevention, the Center for the Prevention of School Violence.

- *Funding* – A difficult to understand and complex problem is by definition, expensive to resolve. And the resources for these children must compete with equally important educational priorities for the majority of students who are not suspended or expelled.

Costs

One of the most efficient ways to target limited resources for juvenile justice is the local Juvenile Crime Prevention Councils which are located in all 100 North Carolina counties. The JCPCs are in the best position to target monies, especially state funds, to areas and children in need. One of the more effective community based programs, for example, is the Juvenile Structured Day Programs. These centers tailor an array of services to the individual child according to individual need. These services consider academic, behavioral, physical, and therapeutic needs.

A promising and exemplary service model is the national award winning Guilford County Court Alternatives Department Juvenile Structured Day Program. This program has successfully reintegrated 79.4 percent of its students into regular school and 72.1 percent have remained crime free. Also, attendance and academic performance improves. These programs work; most times they are the only community based alternative for the at-risk suspended or expelled youth.

Possible funding sources

One of the more efficient and especially effective means of targeting funds to at-risk children, especially the long term suspended or expelled student, is for the state to fully fund our JCPCs which, in turn, can fund programs through juvenile day programs. The original Juvenile Justice Reform Act called for \$40 million for JCPC funding; only about half has been funded since 1998.

There are well known sources of additional revenue to meet this critical need. One example, and one of the most illuminating, is the revenue that can be generated from a cigarette tax. North Carolina is one of a hand full of states that do not have an appreciable state tax on cigarettes. North Carolina ranks #50 with a \$.05 state tax.¹³ Increasing the cigarette tax \$.75 per pack would bring the state to national parity, bring an estimated \$380 Million in revenues to the state, and save an estimated \$1.85 Billion in associated health costs to the state.

13. National Center for Tobacco-Free Kids, 2004, *Campaign for Tobacco-Free Kids: State Cigarette Excise Tax Rates and Rankings*, www.tobaccofreekids.org

Following the example of a neighboring tobacco state, Virginia, is a place to begin. Increasing the tax incrementally to parity with Virginia, at \$.30 per pack, would be worthy of legislation as it could generate approximately \$143 million for at-risk youth programming.

Recommended Action

Fully fund DJJDP JCPC operation and programming

Fully fund the Juvenile Crime Prevention Councils at least at \$40 million total. Appropriated funds should be allocated to DJJDP for JCPCs to continue structured day services and academic programs for at risk youth, especially those that are long term suspended and expelled.

Seek alternative sources of funding for at-risk youth

Alternative sources of funding such as cigarette and beer taxes should augment funding for services for at-risk youth especially the long term suspended student. Initially, the Commission recommends seeking tax parity with other tobacco producing states, in particular Virginia, at \$.30 per pack.

These measures, fully funding the JCPCs and then securing alternative sources of funding, will significantly address the needs of some of the most at-risk youth. Study after study determines that resources spent in keeping at risk students in school and out of the criminal justice system return multiples of the initial investment to the community. These recommendations for struggling youth are important, significant and urgent.

The Victims' Services Committee

Victims' Compensation Appropriations and Revenue

Issue

The Victims Compensation Fund is grossly under funded. Therefore, the processing of claims from the innocent victims of violent crime is continually backlogged.

Problem

North Carolina citizens are not being reimbursed in a timely manner for expenses incurred as a result of being an innocent victim of a violent crime. The delay in reimbursing victims for medical, funeral, mental health, and other expenses is due to a lack of adequate funding for the Victims' Compensation program. For a number of years, claims have exceeded the continuing appropriation by the General Assembly. For example, on June 30, 2004, Victim Compensation Services had a \$4.7 million dollar shortfall to address 489 outstanding claims from victims for FY 2003. In light of the citizens' of North Carolina ratifying the Victims Rights Amendment in 1998, this is certainly an unacceptable situation.

Discussion

Background and impact

The Victims' Compensation Division of the Department of Crime Control and Public Safety, must make an annual budget request to assist qualified victims. There is always a budget shortfall which makes it easier to reduce or cut spending on programs like victims' compensation. The Victims' Compensation Division is perennially hundreds of cases behind. For the six years from 1999 to the present, year end unpaid claims were 1,230; 2,333; 2,765; 1,701; 1,500, and 1,432 respectively. This is an egregious dereliction of duty on the part of the State of North Carolina in redressing worthy citizens who are the innocent victims of violent crime. Until there is another means to fund victims' compensation, the General Assembly will have to continually support it which forces difficult fiscal decisions at the expense of these victims.

There are many examples of a victims compensation offender fee based systems which alleviate all these difficulties. Texas for example, has had such a system in place for about 20 years and generated \$80 Million for crime victims according to a recent annual report. They not only have a reserve for any disaster, they contribute revenues to the General Fund on an annual basis. If North Carolina was to adopt a similar system, over time the North Carolina revenues would be about \$30 Million on a per capita basis

Forty states address the needs of crime victims with an offender based fee program. Only 10 states, including North Carolina, do not have such a system.

The Federal Victims of Crime Act will match every state dollar with \$0.60 no matter the source of that dollar. North Carolina is foregoing its rightful share of these monies by not generating additional funds for the Crime Victims' Compensation Fund. Unfortunately, with a growing population, even with a decreasing crime rate, the number of North Carolina citizens who are eligible for victims' compensation increases every year.

An offender fee system is not a tax, it is not a fine, nor is it a forfeiture. With such a system in place and given time to ramp up to expected performance, there will never be another demand made on the General Fund for this moral obligation.

Concerns

Funding again remains the major barrier to victims' compensation. By all observations, this will be another very difficult budget year for the General Assembly. Therefore, it will be difficult though necessary to fully fund the Victims' Compensation Fund to clear up the backlog and anticipate the increasing demand.

Secondly, there is the issue of considering an offender fee program. States with an offender fee program have met every objection and barrier and successfully resolved each one. Some of those answered concerns follow:

- *Offender's ability to pay* – Most of the fees come from misdemeanants who tend to pay. Experience shows collection rates are very high. Pennsylvania for example, collects 81 percent of these assessed fees and that rate improves every year.
- *Difficulty of assessment* – Some courts have raised questions about assessing yet another fee and causing subsequent bother. Again, other states observe that the procedure becomes routine and is corrected or improved with education and training.
The systems for collection are in place, it is just a matter of accommodating an offender fee.
- *Constitutional challenge* – This mechanism has *never* been successfully challenged constitutionally.
- *Unfair transfer of burden to misdemeanants* – Misdemeanants are most able to pay and assessing them is one of the more fair ways to generate necessary funds to fulfill the obligation to victims of crime.
- *Unpredictable legislative passage* – This funding stream can not ignore the work required for it to become law. It may take considerable time; therefore, General Funds will have to continue to be appropriated until and if this proven plan can be enacted.

Costs

The DCCPS Division of Victims Compensation is submitting a budget request for approximately \$5 Million. This includes \$3 Million for recurring costs and a \$2 Million expansion request to address the increased demand.

Possible funding sources

There are two funding sources both of which are necessary. First is ensuring that the expansion budget request being made by the DCCPS Division of Victims Compensation is fully funded. Secondly, that legislation is introduced that enacts an offender fee system to generate a revenue stream dedicated to compensating qualified victims of crime. This legislation can be patterned after many successful programs nation wide.

Recommended Action

Support the Division of Victims' Compensation expansion budget request

Support the recurring and expansion budget request being made by the DCCPS Division of Victims Compensation of the DCCPS for \$5 million.

Legislate offender fee revenues

Support legislation to create an offender based revenue stream. The Commission recommends the following court fees by offense for victims' compensation:¹⁴

- *Felony* – Assess \$35 on conviction of a felony
- *Level A1 misdemeanor* – Assess \$30 on conviction of a Level A1 misdemeanor
- *Levels 1, 2, 3 misdemeanors* – Assess \$25 on conviction of a Level 1, 2, or 3 misdemeanor

This schedule, over time and when fully operational, could potentially generate approximately \$5 million. Other states make their programs adjustable so when needs change so can revenue; the Victims' Compensation Division will never have to ask for general revenues again.

14. There are numerous examples of successful offender fee schedules; one of the most successful programs is in Texas. Similar fees are suggested in *Crossroads 2003: Crime Victims' Compensation Program 2003 Annual Report*, Office of the Attorney General, Texas.

Conclusion

This agenda can have a significant if not profound impact on North Carolina from here forward. With a VIPER, law enforcement will be much better prepared to plan for, respond to and recover from natural disasters and terrorism. The State Automated Fingerprint Identification System refresh will continue this exemplary and now essential backbone element of our crime fighting infrastructure. We must recognize that there is an acute problem with providing enough programs and services for at risk youth, especially those who are long term suspended and expelled. And we have a moral obligation to help innocent victims of crime.

The time is right for this ambitious and most possible agenda to *strengthen justice services and maintain security* in North Carolina. We have new realities and threats that require our law enforcement and emergency responders to be equipped with the latest technology that will allow them to communicate not only on a day to day basis but especially in an emergency. Our criminal justice automated record-keeping must be kept current. At risk youth can be served with innovative revenue generation such as exemplified by many states that are taxing cigarettes. And our moral obligation to our innocent victims' of crime can be amply addressed by an offender fee revenue system.

Every recommendation made by the North Carolina Governor's Crime Commission has been carefully thought through to make certain each item addresses an important need, is fully justified, can be done, and will serve the entire state. Some of these recommendations may seem daunting but such are the risks of real progress. Taken comprehensively this agenda will move the criminal justice system, juvenile delinquency prevention and victims' redress very far forward and make North Carolina a leader in these areas.