

# GOVERNOR'S CRIME COMMISSION



## 2009 LEGISLATIVE AND POLICY AGENDA



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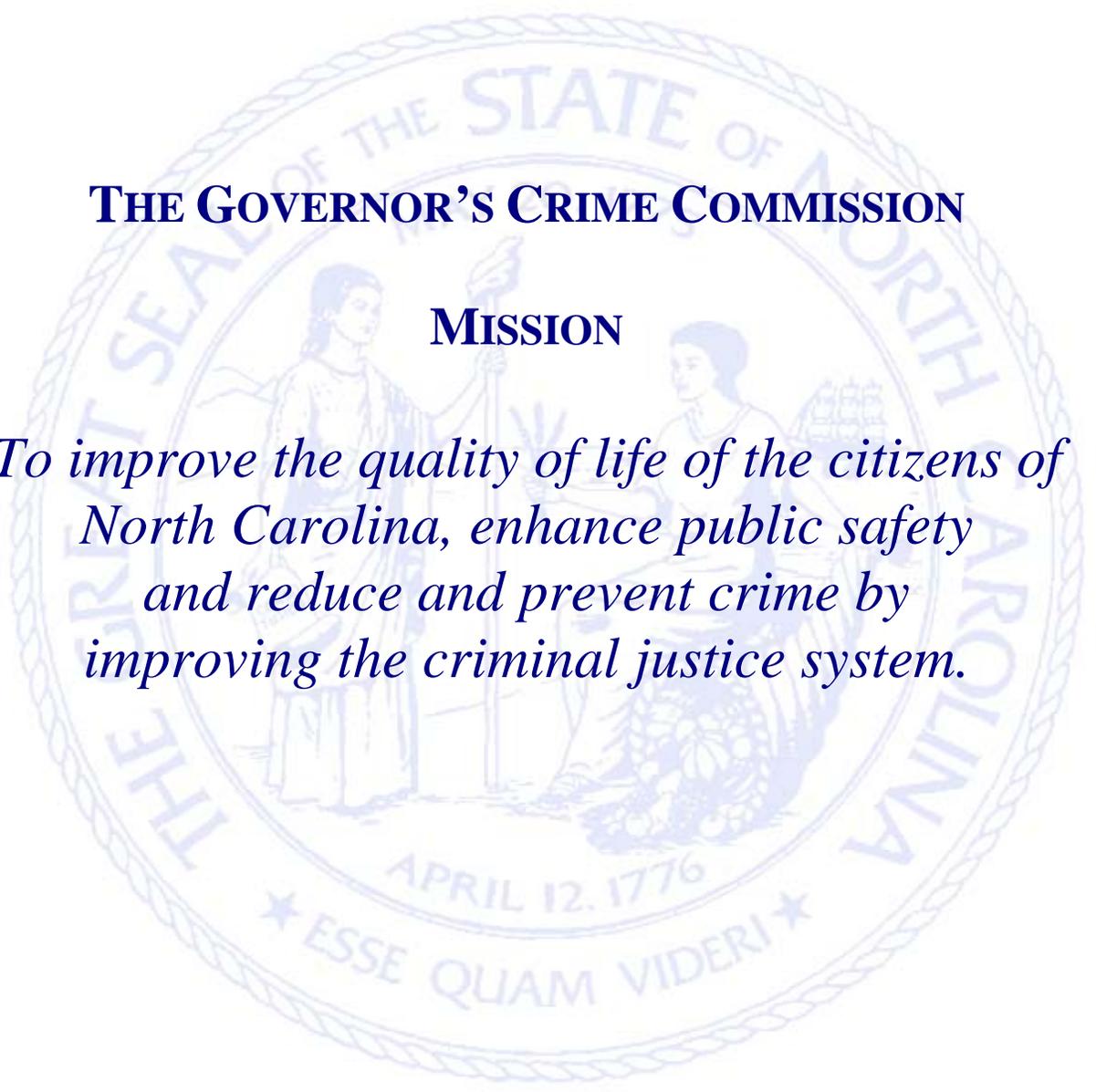
## TABLE OF CONTENTS

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<b>GOVERNOR’S CRIME COMMISSION MISSION</b> .....	i
<b>2009 LEGISLATIVE AND POLICY AGENDA</b> .....	iii
<b>OVERVIEW OF 2009 LEGISLATIVE AND POLICY RECOMMENDATIONS</b> .....	iv
<b>PRIORITY LEGISLATIVE AND POLICY RECOMMENDATIONS</b>	
Suspended and Expelled Youth .....	1
Alternatives to Incarceration.....	2
Serving Children Exposed to Family Violence – Child Advocacy Centers .....	4
Dual Jurisdiction – Cross Training for Social and Court Services Personnel .....	5
GangNet and Justice XChange Expansion .....	6
Trauma and Abuse Training for Local Management Entities .....	7
Criminal Justice Information Network Issues: Amend Session Law 2004-129 .....	8
Detention Reform.....	9
Amend Legislation Relating to Domestic Violence and Sexual Assault Program Funding:	
<i>Amend NCGS 50B-9 to Assign Domestic Violence Funds to DV Commission</i>	
<i>Amend NCGS 143B-394.10 to Assign Domestic Violence Funds to the DV Commission</i>	
<i>Amend NCGS 143B-480.20 to Assign Sexual Assault Funds to DV Commission</i> .....	10
Confidentiality Law for Crime Stopper Informants.....	11
Crisis Intervention Team (CIT) Training for Law Enforcement Officers .....	13
Increase Access to Quality Mental Health Services in Rural Counties .....	14
Expand the Role of Batterer Intervention/Abuser Treatment Programs.....	16
Appropriate Continuation Funds for the Statewide Automated Victim Assistance and Notification System (SAVAN).....	17
Crime Victims’ Rights Act Implementation and Enforcement.....	17
Enact Legislation to Make Assault on a Law Enforcement Officer a Felony Offense.....	19

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The Great Seal of the State of North Carolina is a circular emblem. It features two female figures: Liberty on the left, holding a staff with a Phrygian cap, and Justice on the right, holding a scale. The seal is surrounded by the text "THE GREAT SEAL OF THE STATE OF NORTH CAROLINA" and the date "APRIL 12, 1776". At the bottom, the Latin motto "ESSE QUAM VIDERI" is inscribed between two stars.

## **THE GOVERNOR'S CRIME COMMISSION**

### **MISSION**

*To improve the quality of life of the citizens of North Carolina, enhance public safety and reduce and prevent crime by improving the criminal justice system.*



## **GOVERNOR'S CRIME COMMISSION**

### **2009 Legislative and Policy Agenda**

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Over the past eight years, significant progress has been made to increase the safety of North Carolina's citizens. During this period, the Governor's Crime Commission has helped develop projects that offer exciting advancements and innovations with respect to issues related to crime and justice.

Working in partnership with the NC Legislature, criminal justice system professionals, human service professionals, non-profit agencies, Departments of State government and Universities, the Governor's Crime Commission has provided information and resources to enhance stakeholders' capacity to effectively respond to key issues like:

- Gang violence prevention and intervention
- Juvenile justice and delinquency prevention
- Domestic violence and sexual assault
- Homeland security
- Criminal justice information system technology enhancements
- Child abuse and neglect
- Drug enforcement and interdiction
- Disproportionate minority contact
- Reentry and pre-trial services

While the Governor's Crime Commission has provided ongoing leadership in the development of programs across our state that address timely issues like these, we continue to be challenged to strive to accomplish more.

This legislative and policy agenda identifies recommendations developed by the Governor's Crime Commission over the past two years. The recommendations included in this document require further action. These actions may include the development of new legislation, the adoption of new policies or procedures, modification of existing policies, greater collaboration among state agencies and other key partners, or the need to increase funding.

Although many of these recommendations require action by the General Assembly, others require action by state agencies and other partners including the Governor's Crime Commission itself.

## Overview of the Governor's Crime Commission's Legislative and Policy Agenda

### Priority Legislative and Policy Recommendations

- **Appropriate** funding to support alternative learning and structured day programs statewide for suspended and expelled youth
- **Double** the current appropriation to Community Correction alternative programs to increase current alternatives to incarceration and study possible revision of structured sentencing grid to allow for more effective sentencing and sanctioning of adult offenders
- **Increase** the state appropriation for Child Advocacy Centers and make them part of the recurring budget
- **Appropriate** funding to support cross-training of social service and court service personnel on issues related to youth who have been designated as a dependant child and also committed a delinquent offense, and appropriate funding for the development of enhanced data collection systems that track such “dual jurisdiction” youth
- **Include** as a permanent, recurring line item, funding of the GangNet and Justice Xchange expansion proposal
- **Appropriate** funding to develop training for Local Management Entities on trauma and abuse of domestic and sexual violence victims
- **Amend** GS session law 2004-129 to exclude law enforcement and public safety agencies from the authority of the Information Technology Services with respect to SB 991
- **Appropriate** funding for the development of a formal structure for collaboration across agencies to develop enhanced alternatives to juvenile detention, and enact legislation that addresses needed improvements to the detention reform system
- **Amend** GS 50B-9 so that it designates the Domestic Violence Commission as the agency that shall administer the Domestic Violence Center Fund, and transfer Commission from the Department of Administration to the Department of Crime Control & Public Safety

- **Create** legislation that provides for a statutorily protected status for Crime Stoppers programs
- **Support** the Crisis Intervention Team (CIT) initiative administered by the Department of Health and Human Services
- **Increase** access to quality mental health services in rural counties
- **Appoint** a legislative study committee to identify methods of improving the impact that batterer intervention programs have on offender accountability
- **Appropriate** funding for the Statewide Automated Victim Assistance and Notification (SAVAN) system
- **Create** a Study Committee to review provisions of the Crime Victims' Rights Act





**PRIORITY LEGISLATIVE  
AND POLICY RECOMMENDATIONS**



## **Suspended and Expelled Youth**

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An average of one in ten North Carolina students receives an out of school, short-term suspension each year. During the 2006-07 school year, the number of short-term suspensions totaled 308,010.<sup>1</sup> This is an increase from the 301,693 students short-term suspended during the 2005-06 school year. The average time out of school for a single suspension is between 3-5 days; therefore, between 924,030 and 1,540,050 instructional days were lost during the 2006-07 school year, due to short-term suspensions.

In 2006-07, African American, American Indian, ninth graders, and special education students were among the groups that received a disproportionate number of short-term out-of-school suspensions.

Similar patterns are seen with long-term suspensions (11 or more days) as well. During 2006-07, North Carolina's LEA's reported a total of 4,682 long term suspensions resulting in more than 50,000 days of lost instructional time.

### **Rationale:**

Suspensions are a clear negative outcome for North Carolina's students. Those young people who are suspended from school are at an increased risk of poor academic performance, being less connected to the school setting, dropping out of school and becoming involved in the juvenile justice/criminal justice/ mental health systems. Encouraging school connectedness and focusing on those at risk of being suspended or expelled would undoubtedly improve the outcomes for these children.

***School attachment and academic success-*** positive school engagement and students feeling connected to their schools and teachers are directly related to reduced negative outcomes for students. When a student is suspended and told not to return to school for a certain period of time, this connectivity is lost and/or greatly decreased, putting the student at greater risk of future negative behavior.

***Involvement of parents and other adults-*** research has shown that the involvement of positive and caring adults in the lives of children has a tremendous effect on the lives of youth. One of the '5 Basics' promoted by Communities in Schools is a one on one relationship with a caring adult. Improved academic performance and negative behavior resulting in school suspensions is a true indicator of increased positive adult support.

***Availability of Alternative Learning Programs (ALP's) for suspended and expelled youth-***each school district in North Carolina is legislatively mandated to have an ALP. Although ALP's are designed with the primary purpose of providing a sound education to those young people who have been suspended or expelled from school, are at risk of entering the juvenile justice system or are attempting to transition back into the traditional school, there are still some concerns about ALP's. Alternative Learning Programs in some districts do not have adequate staff to address the

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<sup>1</sup> *Annual Study of Suspensions and Expulsions: 2006-2007*; Public Schools of North Carolina State Board of Education/Department of Public Instruction, Report to the Joint Legislative Oversight Committee, Annual Study of Suspensions and Expulsions, 2006-2007.

behavioral problems of the youth entering the programs. Additionally, some ALP programs operate at capacity and/or may not serve all age/grade levels.

**Recommendation:**

**The Governor's Crime Commission recommends that the General Assembly:**

- Provide additional funding for suspended youth including increased support of ALP's, mentoring, and risk assessments for youth with multiple risk factors
- Mandate the utilization of alternative settings (such as ALPs and Structured Day programs) to ensure youth continue to receive educational services
- Expand focus and responsibilities of the Dropout Prevention and High School Graduation Study Group to include suspension and expulsion issue
- Provide incentives to principals to keep youth in a learning environment
- Encourage schools to engage with their respective communities in the development of suspension and expulsion policy and decision making; utilizing the resources that these community organizations can provide for the youth and families of their school

**Alternatives to Incarceration**

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We must adopt and institutionalize a more cost effective way of sentencing and sanctioning adult offenders in North Carolina. Empirical data and cost benefit analyses support the implementation of more alternative sanctions in lieu of additional prison construction that will reduce prison and criminal justice costs, lower crime rates and improve community safety.

Alternative sanctions will help alleviate the rising costs of prison construction (*over \$615 million spent in the past ten years and a projected additional \$ 1.0 billion over the next ten years*), the lack of sufficient funding for the Division of Community Corrections, and the ineffective utilization of the statewide Community Corrections Partnership Programs.

DOC projects the release of approximately 25,000 inmates by the end of this fiscal year. Without post-release supervision, a lack of adequate ReEntry program resources, and post release substance-abuse treatment, studies suggest a much sharper increase will occur in recidivism rates among these ex-offenders within the first 90 days of release. This would suggest that a comprehensive review of our determinate or structured sentencing philosophy is in order. Additionally, consideration should be given to providing more discretion to judges for alternative sentencing and more post-release supervision authority to correctional officials.

**Rationale:**

North Carolina is facing a major issue in the immediate future and must develop community-based options in developing alternatives to incarceration strategies.

First, we should revisit structured sentencing in an effort to broaden the parameters that dictate fewer active prison terms and expand non-incarceration alternatives including:

- Electronic Monitoring

- Substance Abuse Treatment
- Drug, Family, and Mental Health Courts
- Community Service
- Mental Health Treatment
- ReEntry Programs and Transitional Services
- Intermediate Community Sanctions and Intensive Probation
- Reinstitution of some version of post-release supervision and/or parole.

The majority of the programs within this area would need to be redesigned to successfully implement these main activities:

- Create new standards, strategies, and norms to combat antisocial behavior
- Identify high-risk factors to help communities prepare for the return home of ex-offenders
- Develop specialized programs and skilled vocational training to address high-risk factors
- Identify and enlist support from all sectors of the community to address major issues in dealing with recidivism
- Provide services and assistance that directly impact families and children of ex-offenders
- Reduce the level of violent repeat crime and its overall impact on the community

The focus of successful science-based programs must include community participation, family concerns, and the post release environment. Problems exist due to many factors, including:

- Dysfunctional and separated families
- Increased conditions of poverty and illness
- Lack of marketable vocational skills
- Lack of post aftercare treatment for substance abuse and mental health
- Lack of adequate alternate childcare services.

All these contribute to the problem of rising levels of crime and higher recidivism rates among a greater number of returning ex-offenders back into the general population.

**Recommendation:**

**The Governor's Crime Commission recommends that the General Assembly:**

- Double the current amount of funding to Community Correction alternative programs while curtailing the building of additional prison beds by 33 percent. Additional funding should be targeted toward those intermediate and alternative sanctions that have the greatest cost benefit, relative to expenditures and crime reduction.
- Conduct committee hearings in an effort to propose future legislation to realign the structured sentencing guidelines, the sentencing grid, re-examine all mandatory sentences for nonviolent crimes, and to allow judges the option to impose community sanctions in

conjunction with or in lieu of active prison sentences. Finally, we recommend reinstating post-release supervision of offenders by way of split sentencing and/or parole.

### **Serving Children Exposed to Family Violence – Child Advocacy Centers**

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Programs that provide shelter to families fleeing domestic violence have typically not been designed or funded specifically to respond to the needs of children.<sup>2</sup>

According to A Reference Guide for Domestic Violence Service Agencies to North Carolina's Early Intervention System for 0 to 5 Year Olds produced by The Center for Child and Family Health, there has been a significant amount of research conducted over the past decade documenting the negative effects of domestic violence on children. While not every child will experience problems, there are many reasons why exposure to domestic violence can put children at risk for a host of short and long term problems. For very young children, they are particularly vulnerable because they are reliant on their parents for survival and healthy development, and domestic violence can compromise both parents' ability to respond to their needs (Murphy et al., 2008)<sup>3</sup>

The greatest potential for ameliorating or undoing the negative effects of trauma, including exposure to domestic violence, exists at these early ages, making early identification and intervention critical (Murphy et al., 2008).

#### **Rationale:**

The above referenced study stated that domestic violence programs and shelters are in a unique position to identify these children early on, educate and support their parents regarding risk and protective factors, and refer them to services that are designed to help them overcome the short and long term effects of trauma. In 2007, 5,500 children and adolescents spent time in a domestic violence shelter in North Carolina. Approximately one third of those children were under the age of five years. The earlier these children are identified and provided with appropriate assistance the better their chances are for the future (Murphy et al., 2008).

#### **Recommendations:**

##### **The Governor's Crime Commission recommends that the General Assembly:**

- Increase the state appropriation for accredited Child Advocacy Centers and make them part of the recurring budget

##### **The Governor's Crime Commission recommends that the North Carolina Coalition Against Domestic Violence, on behalf of local domestic violence programs:**

- Partner with regional LME programs, in collaboration with the Governor's Crime Commission and the Council for Women/DV Commission to develop a working MOU to

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<sup>2</sup> Identifying and Responding to The Needs of Children in Domestic Violence Shelters: Final Report, June 1, 2008

<sup>3</sup> A Reference Guide for Domestic Violence Service Agencies to North Carolina's Early Intervention System for 0 to 5 year olds, October, 2008 produced by the Center for Child and Family Health, Durham, NC with support from the Duke Endowment and Z. Smith Reynolds Foundation

address the mental health needs of domestic violence victims in shelter. This MOU should support evidence-based practices when providing services to children.

- Partner with local LMEs and Child Advocacy Centers and Duke Endowment to develop/identify standardized screening tools (including training) to assess a child's mental health and developmental functioning. Some of these instruments are specifically designed for people that are not professionally trained in diagnosis of developmental delays or mental health concerns.
- The Governor's Crime Commission shall continue to give priority to projects that address the establishment of accredited Child Advocacy Centers (CAC) as well as support existing CAC's. CAC's go through a national accreditation process which requires that CAC therapists:
  - Use evidence based-practices when providing services to children, or
  - Demonstrate sufficient training hours in treating children with trauma issues

### **Dual Jurisdiction – Cross Training for Social and Court Services Personnel**

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Dual jurisdiction specifically refers to a minor who has been designated as a dependent child and has committed a delinquent offense and therefore becomes the responsibility of both systems. Many North Carolina youth find themselves involved in both delinquency and dependent cases (dual jurisdiction). These two systems are separate, and as a result, many youth fall into the cracks between the two. There is a clear absence of coordinated responses for these youth who cross into both systems and research has shown that youth in the dependency system are at a much higher risk of juvenile delinquency. Many youth in the delinquency system were victims of child abuse and neglect.

It is not uncommon for youth in both systems to miss out on needed services as a result of their cases and information becoming tangled between delinquency and dependency. The two opposing missions (rehabilitation vs. public safety) along with the fragmented systems results in dual jurisdiction youth not receiving services that may be of great benefit. This often results in youth becoming more deeply involved in the juvenile and criminal justice systems.

#### **Rationale:**

Data supports the rationale that having more coordinated, jointed and collaborative efforts and responses between the juvenile justice and child welfare systems would result in a more efficient use of resources as well as provide better outcomes for the youth involved in both systems. The shared responsibility of both systems through the development of a comprehensive tracking system and increased access to services would enable both the courts and social service systems to work together in a way that would benefit dual jurisdiction youth.

#### **Recommendation:**

**The Governor's Crime Commission recommends that the General Assembly:**

- Appropriate funding to support cross-training of social service and court services personnel on issues related to minors designated as dependant youth who have committed a delinquent offense
- Appropriate funding to support the development of enhanced data collection systems that would track dual jurisdiction youth in order to improve accountability and access to services

### **GangNet and Justice XChange Expansion**

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Centralization of gang intelligence is needed in order to identify definitive correlations between gang members and criminal activity that are often missed and not adequately substantiated in case files. The lack of supporting documentation makes the arrest and successful prosecution of gang-related cases difficult to impossible, and perpetuates a continuing enterprise. Currently, intelligence is gathered either independently at each agency or at one of two NC GangNet regional nodes, with limited information sharing.

The Department of Crime Control and Public Safety would like to expand the level of information shared throughout the entire state linking not only police departments and sheriffs' offices, but also all probation offices, the Department of Corrections penal facilities, the State Bureau of Investigation's Fusion Center, the state's Homeland Security Intelligence Network and the N.C. Justice Xchange which facilitates criminal justice integration by allowing the exchange of information throughout the criminal justice community. Law enforcement, prosecution, public defender, probation, court and correctional agencies can share information between dissimilar technology systems.

#### **Rationale:**

This would allow criminal justice agencies with different databases to share information. It would also support testing of data and would provide tools to ensure that the exchanged information is reliable and accurate. The Justice Xchange inclusion in this plan would place North Carolina into the future phase of justice automation - allowing diverse agencies to share information in a secure, reliable fashion that supports public safety and homeland security. Without the opening of these links many of the sites will lack the ability to share their data across the regions and provide a central statewide database. System support at these sites is provided on a locally funded part-time basis, in addition to regular job duties performed by staff. The Governor's Crime Commission believes that committed resources will expedite agency participation and in turn dramatically increase documented intelligence that can be shared among multiple jurisdictions and agencies simultaneously.

#### **Recommendation:**

##### **The Governor's Crime Commission recommends that the General Assembly:**

Includes, as a permanent, recurring line item in the FY 2009-10 state budget, the GangNet and Justice Xchange expansion proposal. This would result in an annual cost of \$1.8 million and would cover personnel costs, operating costs, maintenance costs, the current rate of inflation, and licensing fees.

## **Trauma and Abuse Training for Local Management Entities**

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Various mental health initiatives are being developed within DHHS, DSS, Public Health, OJJDP and the Criminal Justice System. Many have become highly specialized and isolated from one another. Representatives within the agencies mentioned above would benefit from continued training on how domestic violence impacts the populations they serve and how those same populations become criminal justice system involved. This warrants further exploration.

### **Rationale:**

Since the decentralization of mental health services, pockets of the state are organizing to provide services to specific populations with specific mental health needs. Some programs are working with those who have cognitive issues, some work with individuals displaying behavioral issues and others work specifically with substance abuse issues. Decentralization has not only added to the difficulty of locating services but it has also decentralized partnerships that could be working together to confront complex mental health issues, such as those associated with domestic violence. A continuous theme throughout discussion has been the lack of mental health experts who have proficiency in the dynamics of domestic violence and the impact of family violence on victims.

### **Recommendations:**

#### **The Governor's Crime Commission recommends that the General Assembly:**

- Appropriate funding to Local Management Entity (LME's) and local Area Health Education Centers (AHECs) to train existing mental health and substance abuse providers in trauma violence using evidence based practices.
- The training should be designed as a "Train the Trainer" program. The training would be made available to all contracted providers through LME's. The training would enhance therapists' awareness and understanding of any trauma experienced by victims of violence.

#### **The Governor's Crime Commission recommends that the Governor:**

- Create a policy/research center on criminal justice/mental health to explore:
  - The services needed by common consumers
  - The location and availability of current services
  - Existing models of collaboration
  - The effective delivery of services to victims with complex issues such as family violence and criminal justice involvement.
  - The need for a study commission to identify key stakeholders in mental health/substance abuse, criminal justice agencies, victim service agencies and universities who can support this initiative.

### **Criminal Justice Information Network Issues: Amend Session Law 2004-129**

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In 2004, the General Assembly directed OSBM in conjunction with others to develop a plan to consolidate the information technology infrastructure, staffing, and expenditures in executive branch departments where a statewide approach would be more economical (Session Law 2004-129). The ACT consolidates all of the state's disparate databases (excluding the Administrative Office of the Courts) (AOC) under the authority of the NC State Information Technology Services (ITS).

To better serve citizens of North Carolina and to meet the demands of our state's law enforcement and public safety agencies, existing disparate state and local criminal justice databases should be interoperable and integrated. The development and adoption of standards for entering, storing integrating and transmitting criminal justice information should fall under the authority of the Criminal Justice Information Network Governance Board (CJIN). CJIN was established for this very purpose. It is recommended that public safety and law enforcement agencies be excluded from the authority of the ITS re: Senate Bill 991.

Further, it is recommended that an Integrated Justice Information System (IJIS) Center be created and fall under the purview of the CJIN. Like the proposed NC Business Intelligence Competency Center (NCBICC), the focus of the IJIS Center will be to frame and promote the exchange of ideas, policies, procedures among law enforcement and public safety professionals. The criminal justice community recognizes the value of data integration and promotes data sharing as expressed by the BEACON data integration project. However, the approach of sharing and housing criminal justice data takes on different practices, policies and regulations dictated by state and federal guidelines. The purpose of the IJIS center, under the direction of CJIN, is to develop a strategy that identifies the technology and the business infrastructure needed to promote data sharing at the local and state level, when appropriate, among key stakeholders. Further, the IJIS center will work collaboratively with the NCBICC to achieve public data integration and criminal justice data integration, each being separate.

#### **Rationale:**

Public safety and law enforcement agencies recognize the value of interoperable systems and integrated criminal justice databases. Historically, best practices have been achieved by other states when the management and support of these databases, applications and infrastructure are lead by law enforcement and public safety agencies. FBI CJIS requirements, security policies, personnel security requirements, state and federal regulations and time sensitive matters are among some of the challenges that arise when managing and supporting sensitive data. It is imperative that the housing of this information be managed and supported by a law enforcement agency, a public safety agency, or a contractor that meets CJIS compliance. ..

The CJIN should be given all authority and responsibility for guiding and maintaining all law enforcement and public safety data information and communication systems. The CJIN should remain separate and apart from the oversight of the rest of state government IT systems, by virtue of the type of information that is stored within those systems and that is transmitted between law enforcement and public safety agencies, as well as the inclusion of a separate branch of government in the judicial department.

The fact that the AOC has not been under the purview of ITS, but the other state justice agencies have, has resulted in a disjointed and fragmented effort to achieve systems integration. The

insufficient financial support and authority given to the CJIN has exacerbated this situation. Individual public safety and law enforcement agencies have focused on obtaining approval of their own unique needs for IT development and acquisition and to some extent ignored interface applications with other justice systems.

The CJIN should therefore be elevated to parallel status with ITS with respect to the criminal justice information system, and should have sole governing responsibility over public safety and law enforcement agencies' IT systems.

An IJIS center should comprise of public safety and law enforcement support professionals who manage and develop their respective databases. Work will center on technology and business infrastructure needs to promote data sharing at the local and state level. Policy and procedures recommendations shall be forwarded to the CJIN for approval.

### **Recommendations:**

#### **The Governor's Crime Commission recommends that the General Assembly:**

- Amend GS Session Law 2004-129 to exclude law enforcement and public safety from the authority of the ITS re: Senate Bill 991
- Appropriate funding to support the integration initiatives of CJIN
- Direct (through legislative means) CJIN on matters related to law enforcement and public safety.
- Establish an IJIS center that would fall under the purview of CJIN
- Appoint a cross section of public safety and law enforcement professionals to the CJIN Board.

### **Detention Reform**

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Data shows that most states in the nation have developed an over-reliance detention as means of managing troubled youth. The lack of community based alternatives and non-custody options have resulted in the overuse of secure detention for juveniles. There are many jurisdictions that lack objective criteria and screening tools that accurately identify those young people who really pose serious risks to society. Young people who have been detained in secure custody often have difficulties transitioning back into their communities and are more likely to recidivate. These youth are also more likely to be charged and sent to a more punitive environment after entering detention. Because of the over use of juvenile detention centers, often for first time or non-violent offenders, detention centers have become overcrowded and unsafe.

In addition to the loss of human capital, such a high detention center use has cost developed into an overwhelming expense. The average detention 'bed' costs more than \$70,000 per child.

#### **Rationale:**

Those areas of the country who have participated in deliberate detention reform efforts have seen substantial decreases in juvenile arrest rates and experienced cost savings through the shift in spending away from expensive detention centers towards community-based supervision

programs and services. States that have seen success in detention reform have been successful in enacting legislation and institutionalizing policy changes specific to detention admission criteria. Changes that are made to the juvenile code focusing on case processing and length of detention stay as well as revising the state risk assessment tool will undoubtedly positively affect the state of detention and the lives of youth.

**Recommendation:**

**The Governor's Crime Commission recommends that the General Assembly:**

- Appropriate funding to support the development of a formal structure for collaboration across agencies and among key stakeholders when planning detention reform initiatives
- Support efforts that create accurate, comprehensive data to gauge the issues with the current use of detention and assess the potential impact of detention reform
- Support efforts for new or enhanced alternatives to detention that are community-based and close to the homes of the affected youth and families
- Support systems improvements that will expedite case processing

**Amend Legislation Relating to Domestic Violence and Sexual Assault Program Funding**

*Amend NCGS 50B-9 to Assign Domestic Violence Funds to DV Commission*

*Amend NCGS 143B-394.10 to Assign Domestic Violence Funds to the DV Commission*

*Amend NCGS 143B-480.20 to Assign Sexual Assault Funds to DV Commission*

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Domestic violence and sexual assault service providers currently receive funding from two primary sources. The Governor's Crime Commission administers approximately \$7 million each year using federal Victims of Crime Act and Violence Against Women Act funding. The Council for Women/DV Commission administers state appropriated funding that is also approximately \$7 million each year.

Service providers across the state must submit different applications to both administering agencies. They must also submit different reporting forms and adhere to different state/federal guidelines in order to receive funding. In an effort to improve the administration of state and federal funding to these programs and to reduce the submission of duplicate reporting data, programs need one primary agency to contact or report to regarding the majority of their funding.

**Rationale:**

Since 2000, the Governor's Crime Commission has simplified their grant application process by creating an application that can be entered and submitted online. This prevents the need to hand deliver or mail copies of the application thus reducing the workload on domestic violence and sexual assault service providers. All of our required reporting forms are available online as well, making submission of all reports much simpler and less time consuming.

Virtually every domestic violence and/or sexual assault provider received funding from the Governor's Crime Commission (GCC), the NC Council for Women/DV Commission (CFW/DV) and the NC Department of Health and Human Services (DHHS) Family Violence Prevention program. The overwhelming majority of funding to these agencies comes from GCC

and CFW/DV. All three agencies have different applications, application periods, and also have reporting requirements with different due dates. So much information about the number of victims served, the types of services provided, and the history of the agencies that are providing these services exists but most of it is never compiled in any useable format because it is maintained by different agencies with no shared database.

Ideally, an application could be designed that would allow programs to apply regardless of which funding they were applying for. This would have to be an automated application to allow all agencies to view the application remotely. Ideally, all funding would be housed under one agency to better manage the distribution of funds and the administration of those funds.

**Recommendation:**

**The Governor's Crime Commission recommends that the General Assembly:**

- Modify existing legislation that designates the Department of Administration, Council for Women as the agency that shall administer the Domestic Violence Center funds to reflect that the Domestic Violence Commission shall administer the DV Center funds.
- Modify existing legislation that designates the Department of Administration, Council for Women as the agency that shall administer the Marriage License Fees to reflect that the Domestic Violence Commission shall administer the Marriage License Fees
- Modify existing legislation that designates the Department of Administration, Council for Women as the agency that shall administer the Sexual Assault and Rape Crisis Center funds to reflect that the Domestic Violence Commission shall administer the SA Center funds.
- Transfer the DV Commission from the Department of Administration to the Department of Crime Control and Public Safety
- Fund the Domestic Violence Commission as part of the legislative continuation budget

**Confidentiality Law for Crime Stopper Informants**

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As used in this section, a "Crime Stoppers," "crime solvers," "crime line," or other similarly named organization is defined as a private, nonprofit North Carolina corporation governed by a civilian volunteer board of directors that is operated on a local or statewide level that (i) **offers anonymity to persons providing information** to the organization, (ii) accepts and expends donations for cash rewards to persons who report to the organization information about alleged criminal activity and that the organization forwards to the appropriate law-enforcement agency, and (iii) is established as a cooperative alliance between the news media, the community, and law-enforcement officials.

Evidence of a communication or any information contained therein between a person submitting a report of an alleged criminal act to a "Crime Stoppers" organization and the person who accepted the report on behalf of the organization is **not admissible in a court proceeding [regardless of the means by which a communication is received]**. Law-enforcement agencies

receiving information concerning alleged criminal activity from a "Crime Stoppers" organization **shall maintain confidentiality** pursuant to subsection C . . .

**Disclosure of criminal records; limitations.**

C. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

**From Code of Virginia: § 15.2-1713.1. ; Code of Virginia: § [2.2-3706](#).**

Smith v. State, C-97-0069 (Alabama Crim. App. 12/22/2000)

May v. State, 710 So.2d 1362 (Alabama Crim. App. 1997)

Taylor v. State, 977 P. 2d 123 (Alaska App. 1999)

State v. Natson, 661 So. 2d 926

State v. Cager, 97-1877 (Louisiana App. 4 Cir 3/24/99); 732 So. 2d 97

People v. Stanaway, 446 Michigan 643 (1994), 521 N.W. 2d 557

State v. Brown, 5 Nebraska App. 889 (1997), 567 N.W. 2d 307

State v. Knutson, Unpublished Decision (Ct App. 2001, Court of Appeals of Wisconsin, No. 00-2838-CR)

Castillo v. Johnson, 141 F.3d 218 (5th Cir. 1998)

**Rationale:**

North Carolina's Crime Stoppers programs are increasingly finding it necessary to appeal to the bench for relief from defense attorneys who seek to use North Carolina's discovery laws. Actual Crime Stoppers tips are received via various avenues of communication that include but are not limited to land-lines, cellular phones and person-to-person through School Resource Officers. As such, the tips and tip sheets are open to the threat of subpoena in an effort to identify and discredit the caller.

Each of the 93 individual programs must currently appeal to the Chief Judge in each judicial district for protective orders to maintain the integrity of the anonymity pledge under which these programs have so successfully and beneficially operated in the past. Without the guarantee of anonymity the Crime Stoppers program could not survive.

While most judges are accommodating, the sword over their heads is always there. The North Carolina Crime Stoppers Association is seeking enactment of language as has been enacted by both the states of Florida and Virginia providing a statutorily protected status for their local Crime Stoppers programs regardless of the means by which a tip is received.

**Recommendation:**

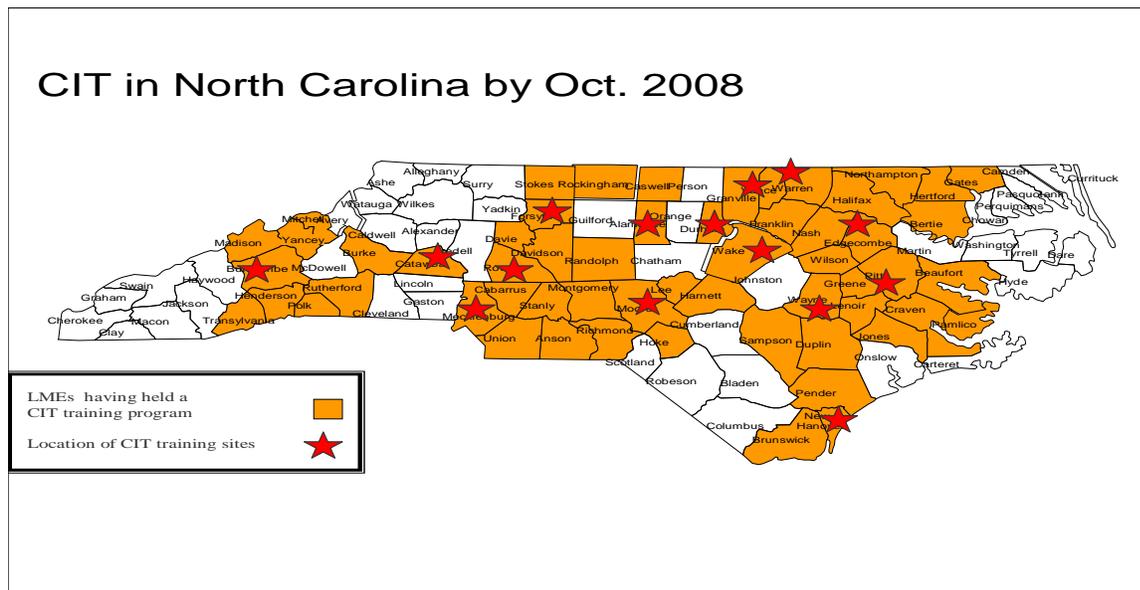
**The Governor's Crime Commission recommends that the General Assembly:**

- Create legislation (similar to that enacted by Florida and Virginia) to provide a statutorily protected status for local Crime Stoppers' programs that offer protection to citizens who provide anonymous tips on unsolved cases.

**Crisis Intervention Team (CIT) Training for Law Enforcement Officers**

The NC Justice Academy currently provides minimal mental health training to officers through the standard basic law enforcement training (BLET). The Academy offers additional eight-hour mental health training as an elective. The Mental Health Association also trains law enforcement officers on how to help people with mental illness. This training is done at the discretion of the law enforcement agency and as a result is very random.

The most intensive training (typically 40 hours) is available to law enforcement through the CIT programs in North Carolina. The map below illustrates where CIT training programs exist in North Carolina or will exist by October 2008.



**Rationale:**

To provide the best services to consumers and the public-at-large, law enforcement must have the ability to assess a situation quickly and accurately and the capacity to implement an effective response. One of the most critical challenges to law enforcement beyond recognizing that a detainee has a mental health issue is what to do with that individual once that observation has been made. The CIT initiative offers a promising solution to address common problems arising when a consumer with a mental health issue is detained. CIT officers receive more intensive training than their non-CIT counterparts and therefore are best equipped to assess situations involving consumers with mental health issues.

Additionally, there is a common protocol that addresses the response to those consumers. This response protocol has at its core, identifying services for the mental health and well-being of the consumer. Often this provides relief to an already over-burdened criminal justice system as these consumers may be diverted from the court system.

The oldest and most established CIT program in the state is in Wake County. It has the advantage of having a crisis unit that can provide a very quick drop-off capacity for law enforcement. Excellent CIT training programs also exist in many other areas of the state.

**Recommendations:**

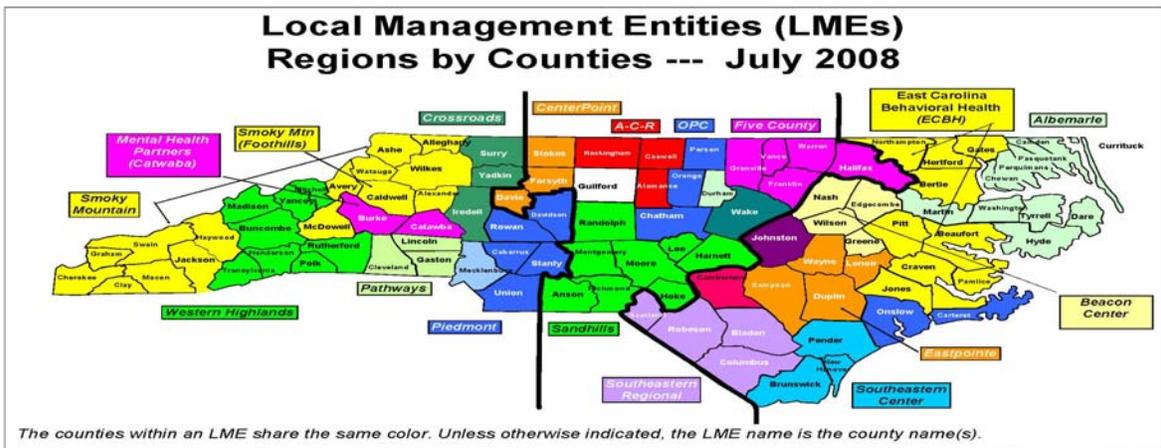
**The Governor’s Crime Commission recommends that the General Assembly:**

- Support the CIT initiative administered by the Department of Health and Human Services through state appropriated and local funding
- Support a statewide CIT conference
- Support regional continuing education training of CIT certified officers through use of federal funding and/or state and local appropriated funding
- Support data collection to document the impact of the CIT approach on consumers

**Increase Access to Quality Mental Health Services in Rural Counties**

According to some service providers, the major issues in rural counties regarding access to services include:

1. Lack of prompt crisis oriented services: Victims who display symptoms commonly associated with violence and abuse do not receive treatment in the preferred amount of time. Services are not provided promptly because ...
2. Services are not accessible: Transportation to receive services and follow-up treatment is extremely limited or does not exist in most rural counties
3. Scope of mental health/substance abuse experts, locality, and providers themselves are constantly changing, resulting in the lack of continuity of care for victims.



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**Rationale:**

In some communities, battered women who need mental health/substance abuse services are identified by the victim service provider, assessed by the regional Local Management Entity

(LME) and referred to a treatment provider. According to the North Carolina Coalition Against Domestic Violence (NCCADV), this is not the case for most rural programs. NCCADV together with domestic violence and sexual assault programs in rural counties, report that traditional mental health systems cater to serious and persistent mental health issues. In some parts of our state, there is a lack of mental health/substance abuse resources. In those areas, women experiencing common mental health/substance abuse issues following abuse must often wait up to four weeks to see a provider. Immediate medical attention is accessed through the emergency room.

Oftentimes, before these battered women see a treatment provider, they are out of medication and not coping well with their mental health/substance abuse issues. For domestic violence service providers, shelter staff and shelter residents are left at risk or seeking other resources wherever available. According to NCCADV, service providers report that most DV victims experience bipolar disorder, post traumatic stress disorder, depression and/or substance abuse problems. These disorders commonly go untreated due to the amount of time it takes to see a therapeutic provider, the lack of resources to transport victims to the provider, or the lack of mental health/substance abuse providers available who are trained in domestic violence. Transporting victims to the provider in a rural community can be very difficult because of the distances and environmental challenges.

Currently, gaps in the timely delivery of services are created when a local provider is not available or is unwilling to provide services, LMEs can request a waiver from the Secretary of DHHS to deliver mental health/substance abuse services themselves. When this happens, DHHS rarely denies the request but LMEs are not required or necessarily encouraged to request permission to provide the services when a local provider is not available.

For many LMEs, there is a stigma associated with asking for permission as it is often viewed as admitting failure as an LME. Many LMEs believe that it is their responsibility to secure local providers and if one does not exist then it may imply that they have not fulfilled their obligation. Unfortunately, it often becomes very difficult, even with active, aggressive recruitment to entice providers to develop the necessary higher end, crisis prevention services that may not be financially lucrative.

Additionally, there is a problem with the availability of licensed psychiatric in-patient services and/or beds in many rural areas. From 2001-2007, North Carolina has witnessed a decrease of 337 in-patient beds. NC operates under the Certificate of Need law. This law requires that certain health care services, including almost all services that hospitals operate, have to go through a process whereby they prove that a new service is necessary before they can deliver that services.

### **Recommendations:**

#### **The Governor's Crime Commission recommends that the General Assembly:**

- Appropriate funding to develop training for LMEs on trauma and abuse related to domestic and sexual assault to increase institutional capacity and counter continual turnover rate of mental health providers.
- Strongly encourage LMEs to request a waiver to provide services when a local provider is not available or is unwilling to provide services

- Provide continuation funding to DHHS to pay for the care of uninsured customers
- Require hospitals to operate licensed psychiatric in-patient beds

**The Governor’s Crime Commission recommends that the North Carolina Coalition Against Domestic Violence, on behalf of local domestic violence programs:**

- Partner with regional LMEs to develop a working MOU to address the mental health needs of domestic violence victims in shelter. The MOU should identify all available mental health/substance abuse resources (including transportation)

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**Expand the Role of Batterer Intervention/Abuser Treatment Programs**

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Court sanctioned Batterer Intervention/Abuser Treatment Programs currently utilize the most promising method of holding batterers accountable. To render effective court judgments, the role of batterer intervention/abuser treatment programs should be expanded to include the ability to make sentencing recommendations.

To further promote effective court judgments, training is needed for court officials on the relationship between substance abuse and domestic violence; two distinct clinical issues that require separate treatment.

**Rationale:**

Service providers express that due to a lack of domestic violence awareness among court officials, batterer intervention/abuser treatment is underutilized. Given the dynamics of domestic violence, court officials in a position to impose sentencing, may best be served by utilizing batterer intervention/abuser treatment program expertise to make sentencing recommendations.

Additionally, service providers indicate that substance abuse is viewed as “causal” to the violence when it actually only aggravates already existing violent behavior (battering). Experts state that treatment protocols require two separate approaches in such cases. Historically, perpetrators of abuse often manipulate their treatment professionals as well as many others. This has supported the necessity for batterer intervention/abuser treatment experts to coordinate referrals with mental health/substance abuse and the courts. It is imperative that sentencing involve a collaborative effort for the accountability of perpetrators and the survival of victims.

**Recommendations:**

**The Governor’s Crime Commission recommends that the Governor:**

- Appoint a legislative study committee to:
  - Research evidence-based batterer intervention and accountability treatment models
  - Identify a statewide standard for batterer accountability
  - Identify how research results can be used effectively in the adjudication process

Partner with the Administrative Office of the Courts to modify the court judgment form so that it supports sentencing recommendations by batterer intervention/abuser treatment experts to be considered by the court.

## **Appropriate Continuation Funds for the Statewide Automated Victim Assistance and Notification System (SAVAN)**

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### **Issue:**

SAVAN (The Statewide Automated Victim Assistance and Notification system) costs should be included in the Department of Crime Control and Public Safety's budget through the General Assembly's appropriation of continuation funds.

### **Rationale:**

Since 1997, the Governor's Crime Commission has been using VOCA funding to support our Statewide Automated Victim Assistance and Notification System (SAVAN). This system is crucial to victims and families of victims who want some sense of security about the status and location of their offender who is incarcerated in any of North Carolina's jails or prisons.

Although this program is a perfect fit for the type of service to crime victims the Governor's Crime Commission wants to support, it has resulted in over 8 million dollars in funding to support the statewide initiative. The funding has become an obligation or responsibility solely of the Governor's Crime Commission. This responsibility falls on the Crime Commission despite the fact that many criminal justice system agencies use SAVAN to help them comply with mandates of the Victims' Rights Constitutional Amendment of 1999.

### **Recommendation:**

#### **The Governor's Crime Commission recommends that the General Assembly:**

Appropriate funding for SAVAN and include funding for SAVAN in the Department of Crime Control & Public Safety's recurring budget through the General Assembly's appropriation of continuation funds.

## **Crime Victims' Rights Act Implementation and Enforcement**

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### **Issue:**

The NC Victim's Rights Amendment, adopted in 1999 by the General Assembly, has not been adequately implemented in the state due largely to resource issues faced by agencies charged with its implementation. A recommendation to 1) Fund ongoing training for criminal justice system professionals, victim service professionals and citizens of our state on the requirements of the 1999 Crime Victims Rights Act and 2) Work with the General Assembly to create a Study Committee that would provide regular reports on the level of compliance and the capacity/ability to comply, is proposed by the Committee.

### **Background:**

- A. Since the passage of NC's Crime Victims' Rights Act (the Act) which went into effect July 1, 1999, the state has failed to provide any funding for the implementation of the provisions of the Act as well as training those professionals charged with its implementation. The Governor's Crime Commission has funded one training summit

conducted by the NC Victim Assistance Network (NCVAN) in which 360 people participated at a cost of approximately \$52,000. Failure to train professionals adequately will result in a lack of proper implementation. In addition, the citizens of this state generally are unaware of the rights afforded them with the passage of this act; and in order for this act to have an impact on the public, they must be educated about these new rights. Professionals who need training include, district attorneys, assistant district attorneys, victim/witness coordinators, legal assistants, all law enforcement agencies including Capital Police and university police, judges, clerks of court, magistrates, Department of Correction victim assistants, and victim service providers. This training should be ongoing in order to keep up with employee attrition and increases in the state's population.

- B. Law enforcement to date has not received any funds to meet their obligations under the Act and only 30 or so victim assistants are currently employed in the approximately 600 law enforcement agencies. Those 30 victim assistants are often funded with "soft monies" which may not be re-granted and are difficult to obtain. District Attorney's had received some funds for additional victim witness assistants; yet, through the budget crisis, many positions have been cut. The Department of Correction also has mandates under the Act and while some funding was provided to meet those mandates, again, these funds are inadequate. For example, staff in Wake County may have as many as 500 cases on their desks and be paid a salary of only \$20,000. Additionally, many of the district staff positions cannot be filled due to low salaries, and those open positions were first frozen and then cut in the budget crisis.
- C. The Act did not ensure that victims' rights would be enforceable as recommended by GCC in its "1997 Annual Report". The following is again proposed by the Victims' Services Committee from its 1997, 2003, 2004, 2005, and 2006 recommendations. Ensure victims' rights are enforceable:

The enabling legislation of the Crime Victims' Rights Act should ensure that victims' rights are enforceable rights by providing the necessary resources to ensure compliance in each district. Once the victims are targeted and the services are delegated, victims are still not guaranteed protection of their rights. What recourse do victims have for the violation of their rights? Monetary liability suits for violating agencies are already excluded, but the wording of the North Carolina amendment allows the legislature to devise some remedies for violations, such as a state management office. Such an office would exist to oversee compliance with the mandatory service provisions of the Act.

An appropriate place for compliance seems to be the Attorney General's office, yet funds are not available for the research and implementation and maintenance of a compliance section.

In 1997, the NC Victim Assistance Network researched funding sources for implementing the Act. Suggestions were made that included raising court costs a mere five to ten dollars. This increase would allow for millions of dollars to be dedicated to these programs.

**Recommendation:**

**The Governor's Crime Commission recommends that the General Assembly:**

Create a Study Committee to review provisions of the Crime Victims' Rights Act to:

- a. Determine whether or not criminal justice system professionals are complying with the mandates of the Act
- b. Conduct a cost analysis to determine how much funding support and/or staffing or other resources are needed to meet mandatory requirements of the Act
- c. Provide regular reports to the General Assembly on the level of compliance and the capacity/ability for agencies to comply

**The Governor's Crime Commission should:**

Support and make available, ongoing training for criminal justice system professionals, victim service professionals and citizens of our state on the requirements of the 1999 Crime Victims' Rights Act.

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**Enact Legislation to Make Assault on a Law Enforcement Officer a Felony Offense**

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**Background:**

In recent years there has been a drastic increase in the number of assaults on law enforcement officers. Over the past 24 months, assaults on local law enforcement officers and Department of Public Instruction officers have doubled. The rate of assaults on jail detention officers has tripled since 2005. Officers responding to domestic violence calls frequently find themselves in volatile situations and school resource officers are often attacked when searching or restraining students. Offenders, when arrested on suspicion of drug or weapons violations, will strike an officer and run in an attempt to evade arrest. In the process, these offenders dispose of any drugs or firearms in their possession. As a result, when later captured, they can only be charged with assault on an officer — a misdemeanor offense — rather than the original charge of illegal possession of a firearm or drugs.

**Recommendation:**

At the September 2008 meeting of the Governor's Crime Commission, the Criminal Justice Improvement Committee voted to support legislation making the act of assaulting a law enforcement officer (a deliberate assault, a deliberate striking, or to further an escape) a felony rather than a misdemeanor. In concordance with that meeting, the members of the Governor's Crime Commission hereby approve and support House Bill 134, dated February 12, 2009, to raise the criminal offense of simple assault on an officer or employee of the state or a political subdivision of the state from a Class A1 misdemeanor to a Class I felony.