

# NORTH CAROLINA GENERAL ASSEMBLY



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## HOUSE SELECT COMMITTEE ON COMMUNITY RELATIONS, LAW ENFORCEMENT AND JUSTICE

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### REPORT TO THE 2020 SESSION of the 2019 GENERAL ASSEMBLY OF NORTH CAROLINA

DECEMBER, 2020

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# TRANSMITTAL LETTER

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December 14, 2020

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TO THE MEMBERS OF THE 2020 REGULAR SESSION  
OF THE 2019 GENERAL ASSEMBLY

**The HOUSE SELECT COMMITTEE ON COMMUNITY RELATIONS, LAW ENFORCEMENT AND JUSTICE, respectfully submits the following report to the 2020 Regular Session of the 2019 General Assembly.**

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Rep. Kristin Baker, MD (Co-Chair)

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Rep. Howard J. Hunter, III (Co-Chair)

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Rep. John Szoka (Co-Chair)

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# COMMITTEE PROCEEDINGS

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The Committee on House Select Committee on Community Relations, Law Enforcement and Justice met 5 times after the 2019 Regular Session. The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

The Committee's first meeting was held on September 2, 2020. The Committee was given an overview of the North Carolina criminal justice system by Professor Jessica Smith of the School of Government. The Committee then received information on law enforcement indicators on community response, use of force, and community engagement from Duren Banks from the Division for Applied Justice Research, RTI International. The meeting concluded with discussion of the information presented. The Committee chairs asked Committee members to submit potential recommendations to the chairs for discussion at future meetings.

The Committee's second meeting was held on September 28, 2020, and was focused on issues related to law enforcement. The Committee heard presentations and recommendations from the North Carolina Chiefs of Police, the North Carolina Sheriffs' Association, and the North Carolina Police Benevolent Association. Committee staff then presented a summary of the recommendations submitted by Committee members regarding law enforcement issues.

The Committee's third meeting was held on October 13, 2020, and was focused on issues related to the courts and the criminal justice system. The Committee heard presentations and recommendations from the North Carolina Administrative Office of the Courts, the North Carolina Conference of District Attorneys, the North Carolina Office of Indigent Defense Services, and the North Carolina Conference of Chief District Court Judges. Committee staff then presented a summary of the recommendations submitted by Committee members regarding the courts and the criminal justice system. The chairs indicated that the Committee members would be receiving a survey to determine the potential committee recommendations with the highest priority.

The Committee's fourth meeting was held on November 18, 2020. The Committee heard a presentation from Raleigh Chief of Police Cassandra Deck-Brown on the ACORNS Program being implemented by the Raleigh Police Department. The Committee then discussed and recommended some changes to the potential committee recommendations as determined by the committee survey. The Committee directed an online form for public comment be made available.

The Committee's final meeting was held on December 14, 2020. The Committee discussed and adopted this report.

Due to time constraints, the Committee was unable to fully explore all potential recommendations proposed by committee members. In order to provide a full record of the proceedings, a list of the recommendations received from committee members but not actively considered is provided in Appendix C.

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## FINDINGS AND RECOMMENDATIONS

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### **RECOMMENDATION 1: CREATE ADDITIONAL STATEWIDE LAW ENFORCEMENT TRAINING REQUIREMENTS AND PROVIDE ADDITIONAL EDUCATIONAL AND TRAINING RESOURCES**

The Committee recommends that the General Assembly enact legislation to improve the quality and consistency of Basic Law Enforcement Training (BLET) offered throughout the state by requiring the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission to include forty (40) hour Crisis Intervention Training (CIT), civil unrest training, and more scenario-based training experiences across topic areas, into the mandatory BLET curriculum.

The Committee recommends that the General Assembly enact legislation standardizing law enforcement applicant requirements such as age, criminal history, and mental health evaluation for law enforcement certification by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission, and requiring BLET completion before performance of any duties requiring certification.

The Committee recommends that the General Assembly enact legislation requiring the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission to include de-escalation tactics, crisis intervention, ethics, mental health for law enforcement, juvenile minority sensitivity, community interaction, interaction with persons with mental health issues, implicit bias, use of force, and duty to intervene and report, as mandatory in-service training topics.

The Committee recommends that the General Assembly enact legislation to enable the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission to respond to immediate or emerging needs in law enforcement training by modifying the current administrative code process.

The Committee further recommends that the General Assembly direct the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission to jointly study and determine specific additional law enforcement training and educational resources that would be beneficial to law enforcement agencies across the state. The Committee recommends the results and recommendations of the study be reported to the Joint Legislative Oversight Committee on Justice and Public Safety no later than August 1, 2021.

## **RECOMMENDATION 2: CREATE REQUIREMENTS FOR LAW ENFORCEMENT AGENCIES TO REPORT DISCIPLINARY ACTIONS, RESIGNATIONS, TERMINATIONS, AND DE-CERTIFICATIONS**

The Committee recommends that the General Assembly enact legislation requiring the following:

- That the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission create and maintain a statewide database of all disciplinary actions, resignations, terminations, Giglio violations, and de-certifications of law enforcement officers certified by those Commissions.
- That the information in the database be accessible to any law enforcement agency for employment purposes.
- That all agencies employing persons certified by either Commission report any disciplinary action, resignation, termination, or de-certification of a certified employee to the appropriate certifying Commission.
- That the Commissions investigate reports in a timely manner.
- That the Department of Justice in consultation with both Commissions, create a standardized Report of Separation Form to be used by all agencies employing persons certified by either Commission.
- That the information in the statewide database be made available to the FBI for inclusion in any similar national database.
- That the Commissions explore the creation of agreements to reciprocally share the information in the statewide database with similar certifying entities in other states.
- To the extent allowed by law, that information in the statewide database be made publicly accessible.

The Committee recommends that the General Assembly enable the increased accountability of law enforcements officers by enacting legislation to allow the release and sharing of law enforcement personnel records as follows:

- Require applicants for certification or transfer of certification to execute a waiver authorizing the release of all personnel records, including any investigative files, in the possession of an agency where the applicant has been employed.
- Create accountability processes to ensure agencies are requesting and providing personnel records as required.
- Provide relief from civil or criminal liability to law enforcement agencies that release personnel records in good faith.
- Modify employment statutes to clearly authorize release of personnel records.

The Committee recommends that the General Assembly enact legislation requiring all certified law enforcement officers applying to transfer to another agency be required to submit a new application to be reviewed by the appropriate Commission for disqualifying conditions.

The Committee further recommends that the General Assembly enact legislation to implement the Records of Arrest and Prosecution Background (RapBack) Program developed by the FBI to share criminal history record information regarding law enforcement officers throughout the United States, and make it applicable to all certified law enforcement agencies in the State.

**RECOMMENDATION 3: CREATE WHISTLE-BLOWER PROTECTION FOR OFFICERS THAT REPORT MISCONDUCT**

The Committee recommends that the General Assembly enact legislation creating protections from retaliation or other discriminatory action for law enforcement employees that report misconduct.

**RECOMMENDATION 4: PROVIDE LAW ENFORCEMENT WITH ADDITIONAL RESOURCES WHEN ENCOUNTERING MENTAL HEALTH ISSUES IN THE FIELD**

The Committee recommends that the General Assembly enact legislation providing additional resources, including any necessary funding, to aid law enforcement officers encountering individuals with mental health issues during the course of their duties.

**RECOMMENDATION 5: PROVIDE LAW ENFORCEMENT WITH ADDITIONAL RESOURCES TO RECEIVE MENTAL HEALTH TREATMENT**

The Committee recommends that the General Assembly enact legislation providing additional resources, including any necessary funding, to make mental health consultants and treatment available to law enforcement personnel.

**RECOMMENDATION 6: EXAMINE THE CLASSIFICATION OF SOME LOWER LEVEL OFFENSES**

The Committee recommends that the General Assembly review the classification of criminal offenses in North Carolina and consider the reclassification of some lower level criminal offenses such as traffic offenses, regulatory offenses, and low level Schedule VI controlled substance offenses to offenses which would result only in civil consequences.

### **RECOMMENDATION 7: INCREASE THE AVAILABILITY OF SPECIALTY COURTS**

The Committee recommends that the General Assembly enact legislation directing the Administrative Office of the Courts to examine each judicial district to determine whether the availability of a drug treatment court, Veterans' court, or other specialty court would be beneficial to that particular judicial district, and make recommendations to the General Assembly on where additional specialty courts should be created, along with information on the cost or cost-savings of creating those additional courts.

### **RECOMMENDATION 8: BAN THE USE OF CHOKEHOLDS**

The Committee recommends that the General Assembly enact legislation prohibiting the use of chokeholds, strangleholds, Lateral Vascular Neck Restraints, Carotid Restraints, or any other tactics that restrict oxygen or blood flow to the head or neck, unless deadly force is authorized pursuant to G.S. 15A-401(d)(2).

### **RECOMMENDATION 9: REQUIRE PSYCHOLOGICAL EVALUATIONS FOR ALL PUBLIC SAFETY OFFICERS**

The Committee recommends that the General Assembly enact legislation requiring that all public safety officers pass psychological evaluations as follows:

- Within one year prior to certification or employment by an agency
- At least once every three years after initial certification or employment screening
- After any critical incident, before returning to active duty

### **RECOMMENDATION 10: REQUIRE LAW ENFORCEMENT TO REPORT USE OF FORCE INCIDENTS**

The Committee recommends that the General Assembly enact legislation requiring the following:

- That the North Carolina Attorney General, in consultation with the Department of Public Safety, the North Carolina Sheriffs' Association, and the North Carolina Association of Chiefs of Police, develop a uniform definition of use of force and a model policy on use of force.
- That law enforcement agencies report all use of force incidents and additional information regarding the use of force, to the Department of Public Safety.
- The Department of Public Safety report the information to the General Assembly annually, no later than August 1st.

- That all agencies employing persons certified by either Commission participate in the Federal Bureau of Investigation's National Use-of-Force Data Collection.

**RECOMMENDATION 11: MANDATE THE DUTY TO INTERVENE AND THE DUTY TO REPORT MISCONDUCT**

The Committee recommends that the General Assembly enact legislation requiring all publicly-funded law enforcement agencies to establish and promote the following policies requiring employees to:

- Report any misconduct the employee witnesses or becomes aware of.
- Intervene to prevent the continuation of any misconduct the employee witnesses, when possible.

**RECOMMENDATION 12: FUND A PILOT PROGRAM FOR STUDENT LAW ENFORCEMENT CAREER EXPLORATION**

The Committee recommends that the General Assembly enact legislation creating and funding a pilot program for high school students to explore law enforcement careers, in at least one location. The Committee recommends the General Assembly allow the North Carolina Sheriffs' Association to develop and administer the pilot program in consultation with the Department of Public Instruction.

**RECOMMENDATION 13: ESTABLISH A SYSTEM TO ALLOW INDIVIDUALS TO RECEIVE ADDITIONAL NOTIFICATION OF COURT DATES**

The Committee recommends that the General Assembly enact legislation directing the Administrative Office of the Courts to develop a system that allows members of the public to choose to receive additional notifications of court dates and other court actions through electronic means, including through text messages on portable devices, and that the General Assembly provide the funding necessary to develop and maintain that system.

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## COMMITTEE MEMBERSHIP

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2019-2020

**Speaker of the House of Representatives Appointments:**

Rep. Kristin Baker, MD (Co-Chair)  
Rep. Howard J. Hunter, III (C (Co-Chair)  
Rep. John Szoka (Co-Chair)

Rep. Carla D. Cunningham  
Rep. Allison A. Dahle  
Rep. Ted Davis, Jr.  
Rep. John Faircloth  
Rep. Elmer Floyd  
Rep. Jon Hardister  
Rep. D. Craig Horn  
Rep. Joe John  
Rep. Perrin Jones, MD  
Rep. Keith Kidwell  
Rep. Carolyn G. Logan  
Rep. Amos L. Quick, III  
Rep. William O. Richardson  
Rep. Stephen M. Ross  
Rep. Phil Shepard  
Rep. Sarah Stevens

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## COMMITTEE CHARGE

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Office of the Speaker  
North Carolina House of Representatives

TIM MOORE  
SPEAKER

**HOUSE SELECT COMMITTEE ON COMMUNITY RELATIONS  
LAW ENFORCEMENT AND JUSTICE  
HONORABLE MEMBERS OF THE  
NORTH CAROLINA HOUSE OF REPRESENTATIVES**

**Section 1.** The House Select Committee on Community Relations, Law Enforcement and Justice (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1) and to Rule 26(a) in Section 1 of the Rules of the House of Representatives of the 2020 General Assembly .

**Section 2.** The Committee consists of thirty-two members appointed by the Speaker of the House of Representatives. The membership of the Committee shall include legislators as specified below. Members serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Committee at any time. Vacancies are filled by the Speaker of the House of Representatives. A Chair, Vice Chair, or other member of the Committee continues to serve until a successor is appointed. The Committee shall meet upon the call of its Co-Chairs.

Representative John Szoka, Chair	Representative Perrin Jones, MD	Sheriff Paula Dance
Representative Kristin Baker, Chair	Representative Keith Kidwell	Judge Fred Gore
Rep. Howard Hunter, Chair	Representative Carolyn Logan	Christine Mumma
Representative Carla Cunningham	Representative Amos Quick	Sheriff Van Shaw
Representative Allison Dahle	Representative Billy Richardson	Councilwoman Nicole Stewart
Representative Ted Davis	Representative Stephen Ross	Nicholas Tessener

Representative John Faircloth	Representative Phil Shepard	Dr. Greg Wallace
Representative Elmer Floyd	Representative Sarah Stevens	Troy A. Williams
Representative Jon Hardister	Dr. Felicia Arriaga	DA William R. West, Jr .
Representative Craig Horn	Judge Marvin K. Blount, III	DAR. Andrew Womble
Representative Joe John	Councilmen Tariq Bokhari	

**Section 3.** The committee shall examine North Carolina's criminal justice systems to propose methods of improving police training and relations between law enforcement and its communities . The committee will review the implementation of the Second Chance Act and Raise the Age to highlight accomplishments thus far. Further the committee shall propose methods of addressing overcriminalization and disparities within the state's criminal justice system to improve public safety.

The Committee and its working groups, while in the discharge of their official duties, may exercise all powers provided for under G.S. 120-19 and Article SA of Chapter 120 of the General Statutes. The Committee and its working groups may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02. The Committee and its working groups may seek information from experts in the fields of healthcare, education, economic development and government and any others deemed appropriate by the Co-Chairs of the Committee. In addition, the Co-Chairs of this Committee may use their discretion in identifying other relevant topics concerning Community Relations, Law Enforcement and Justice.

**Section 4.** Members of the Committee and its working groups shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3 .1.

**Section 5.** The expenses of the Committee and its working groups including per diem, subsistence, travel allowances for Committee and working group members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations. Individual expenses of \$5,000 or less, including per diem, travel and subsistence expenses of members of the Committee and working groups, and clerical expenses shall be paid upon the authorization of any Chair of the Committee. Individual expenses in excess of \$5,000 shall be paid upon the written approval of the Speaker of the House of Representatives.

**Section 6.** The Legislative Services Officer shall assign professional and clerical staff to assist the Committee and its working groups in their work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Committee and its working groups.

**Section 7.** The Committee and its working groups may meet at various locations around the State in order to promote greater public participation in its deliberations.

**Section 8.** The working groups may submit recommendations to the Committee at any time upon the direction of the Co-Chairs of the Committee. The Committee may submit an interim report on the results of its findings, including any proposed legislation, to the members of the House of Representatives at any time. The Committee may submit a final report on the results of its findings, including any proposed legislation to the members of the House of

Representatives on or before December 31, 2020. The Committee may advise the House to concur or not to concur on legislation within the Committee's possession. Reports shall be submitted by filing a copy of the report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library . The Committee terminates on December 31, 2020, or upon the filing of its final report, whichever occurs first.

Effective this 13th day of August, 2020.

A handwritten signature in black ink that reads "Tim Moore". The signature is written in a cursive style with a horizontal line underneath it.

Tim Moore, Speaker

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## SUPPORTING DOCUMENTATION

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Due to time constraints, the Committee was unable to fully explore all potential recommendations proposed by committee members. In order to provide a full record of the proceedings, the following is a list of the recommendations received from committee members but not actively considered:

- Requiring citation in lieu of arrest for low level offenses.
- Increasing re-entry resources for individuals recently released from incarceration.
- Creating an additional over-arching criminal justice standards' commission.
- Ending qualified immunity which may protect officer misconduct from civil liability.
- Eliminating or modifying cash bail.
- Creating statewide uniform pre-trial release procedures.
- Requiring first appearances for misdemeanors.
- Increasing mental health and drug addiction resources for prisoners.
- Requiring law enforcement agencies to report more detailed traffic stop and encounter information.
- Requiring law enforcement to use body cameras.
- Creating a third-party review body with subpoena authority such as a citizen review board.
- Requiring that mental health evaluations for law enforcement include racial bias testing.
- Creating public service announcements regarding traffic stops.
- Requiring that officers educate drivers' education classes on traffic stops.
- Designating offenses that relate to mental health or addiction.
- Digitizing court records.
- Increasing funding for defense attorneys, Prisoner Legal Services, and juror compensation.
- Requiring law enforcement training in situational awareness.
- Requiring training for law enforcement on providing all evidence to district attorneys.
- Requiring law enforcement agencies to compile information and maintain reports on no-knock warrants.
- Making body camera footage publicly accessible.
- Creating a legislative oversight committee on policing.
- Requiring written consent for searches incident to a traffic stop.
- Increasing the hiring of minority officers.
- Providing for use of a risk assessment tool in pre-trial condition determinations.
- Reviewing sovereign and qualified immunity with regard to misconduct by law enforcement and public officials.
- Reviewing the role and supervision of magistrates.
- Ending employment-at-will which might allow prejudicial terminations.
- Eliminating the use of law enforcement for intervention in truancy.

- Requiring the compilation and report of referrals from schools and school resource officers to juvenile justice.
- Increasing judicial discretion in setting bail following a failure to appear.
- Requiring additional training for correctional officers.
- Eliminating mandatory minimum sentences.
- Ending partnerships between local law enforcement and U.S. Immigration and Customs Enforcement.
- Reviewing interview and interrogation procedures.
- Eliminating school resource officers.
- Eliminating felony murder.
- Making grand jury proceedings a matter of record with a transcript.
- Removing notice requirement for judges to waive monetary obligations.
- Allowing non-citizens to obtain a drivers' license.
- Increasing law enforcement reporting requirements.
- Creating a civilian complaint process to a third party.
- Eliminating law enforcement participation in the federal Equitable Sharing Program for forfeited assets.
- Reducing the use of the juvenile justice system for intervention in bullying.
- Establishing an independent trial coordinator to calendar trials and hearings in consultation with the court, the defense, and the prosecution.
- Providing additional COVID-19 testing for individuals in custody.
- Mandating community forums involving law enforcement leadership.
- Expanding existing double jeopardy protections by prohibiting multiple charges based on the same conduct.
- Allowing Indigent Defense Services to fill vacancies by appointing Public Defenders.
- Reviewing statutes regarding treatment of biological evidence.
- Authorizing additional discretion throughout the criminal justice process to respond to the pandemic.