

**Committee on Criminal Investigations and Adjudications, NCCALJ
Minutes**

Meeting Date: 10/22/2015

Location: NC Judicial Center

Prepared by Reporter Jessica Smith

Attending: Webb, Adams, Buck, Coleman, Davis, Holcombe, Kemp, McLaurin, Murray, Seigle, Wagoner, Smith (Reporter)

Absent: Byrd, Huffman, Jordan

After a welcome from Committee Chair Webb and an overview of the agenda from Committee Reporter Smith, the Committee began brainstorming possible issues for exploration and engaged in a process of winnowing those issues down to a manageable number for further work. The winnowing process involved Committee members voting on issues, with each Committee member having 12 votes to cast in each of three ways: Explore; Don't Explore; Need More Information to Decide. Members were permitted to spread their votes across multiple topics or cluster them on one or two topics. The results of this process are shown in the table below. Issues adopted for further exploration are shaded in gray. Sub-topics are representative and may change as exploration continues.

The meeting also included a presentation from John Byrd, Director of the N.C. Crime Laboratory, focusing on lab backlog and delay. His PowerPoint presentation is posted on the Commission website and reflects the substance of his presentation.

Topic	Sub-topics	Votes	Action
1. Criminal Case Management	1. DA control of the docket/role of the judge 2. Use of alternate dispute resolution (ADR) ⁱ 3. Specialty “courts” & proceedings e.g., Veterans Courts ⁱⁱ 4. Private warrants ⁱⁱⁱ 5. Felony pleas in district court ^{iv}	29 votes to explore ^v 12 votes for more information ^{vi} 10 votes against ^{vii}	Adopted as an issue for further exploration. Reporter to gather information as requested by Committee.
2. Court System Issues	1. Compensation at all levels of the justice system (chief justice down to magistrates & law enforcement) makes it hard to attract & retain quality employees 2. Need for additional support staff (legal research & administrative support) 3. Cost of living adjustments for personnel in more expensive communities 4. District lines do not correlate with population ^{viii}	23 votes to explore ^{ix} 8 votes for more information ^x 1 vote against ^{xi}	Adopted as an issue for further exploration. Although this issue reaches beyond the criminal justice system, the Committee voted to keep this issue on its roster and to coordinate with other Committees that may be examining it. The Committee recognized that particularly as to compensation, this is a time sensitive issue in light of the AOC’s legislative agenda for the short session. Reporter to gather information as requested by Committee.
3. Post-Conviction & Wrongful Convictions ^{xii}	1. Lack of uniformity in how judges handle motions for appropriate relief (MARs) 2. Limited review by appellate division of MAR rulings leads to inconsistent decisions 3. Lack of tracking of MAR filings & orders 4. Need to study root causes of wrongful convictions	16 votes to explore ^{xiii} 3 votes for more information ^{xiv}	Adopted as an issue for further exploration. Coordinate with ongoing Courts Commission work and, with respect to wrongful convictions, Public Trust & Confidence Committee, if appropriate. Reporter to gather information as requested by Committee.
4. Indigent Defense	1. Concerns about quality of representation ^{xv} 2. Inadequate funding e.g., contract rate	9 votes to explore	Adopted as an issue for further exploration. In light on ongoing JPS Oversight Study the Committee decided to prioritize this issue. This issue will be the focus of the November meeting; Chair & Reporter to coordinate speakers for that meeting.

5. Juveniles	<ol style="list-style-type: none"> 1. Raising the juvenile age 2. NC has only 1 formal juvenile misdemeanor diversion program^{xvi} 3. Disparate charging of juveniles 	<p>7 votes to explore^{xvii}</p> <p>13 votes for more information^{xviii}</p> <p>1 vote against</p>	<p>Adopted as an issue for further exploration.</p> <p>Reporter to gather additional information as requested by Committee.</p>
6. Pretrial Release	<ol style="list-style-type: none"> 1. Risk assessment tool 2. Cleaning up the statutes 3. Model Pretrial Release Policy 	<p>5 votes to explore^{xix}</p> <p>4 votes for more information^{xx}</p> <p>1 vote against^{xxi}</p>	<p>Adopted as an issue for further exploration.</p> <p>Reporter to gather information as requested by Committee members.</p>
7. Race & Poverty	<ol style="list-style-type: none"> 1. Courts costs 2. Racial & socio-economic disparities 3. Implicit & explicit bias 4. Perceptions 5. Policing 6. Mass incarceration 	<p>8 votes to explore^{xxii}</p> <p>3 votes for more information^{xxiii}</p>	<p>The Committee recognized the importance of the overall issue & decided that because it is entwined with other issues adopted for exploration (e.g., pretrial release) this issue would be collapsed into and considered as a component of issues selected for further work.</p> <p>Additionally, refer to Public Trust & Confidence Committee.</p>
8. Crime Lab Backlogs	n/a	14 votes against	The Committee determined that although this issue is important to the criminal justice system, in light of other topics under consideration it will opt to defer to work being done by others on this issue that is yielding positive results.
9. Delay	<ol style="list-style-type: none"> 1. Lab backlogs 2. Lack of court space 3. Perception of liberal defense continuances 4. Standards for case processing 	<p>3 votes to explore</p> <p>3 votes against</p> <p>9 votes for more information</p>	<p>See above re: lab backlogs.</p> <p>The Committee decided to table the other issues for now.</p>
10. Restitution	n/a	1 vote to explore	The Committee decided not to pursue this topic independently, but recognized that it is related to the sub-topic of ADR, listed above and selected for further exploration.

11. Mental Health	1. Limited number of mental health treatment courts 2. Limited options for law enforcement when dealing the mentally ill	2 votes to explore ^{xxiv} 4 votes for more information ^{xxv}	The topic of mental health courts was collapsed in to specialty courts under system issues above. The other topic was tabled for now.
12. Drug Addiction	1. Limited availability of drug treatment courts & drug-related recidivism 2. Effectiveness of drug treatment programs	1 vote to explore ^{xxvi} 5 votes for more information ^{xxvii}	The topic of drug treatment courts was collapsed into Specialty Courts under System Issues above. Other issues were tabled for now.
14. Veterans Courts	n/a	None	This issue was collapsed into specialty “courts” under system issues, above
15. Overcriminalization	n/a	None	This issue will not receive further consideration.
16 Criminal Code	Multiple overlapping offenses	None	This issue will not receive further consideration.

ⁱ Use of ADR pretrial & post-adjudication was discussed. This issue was voted on as a separate topic but is reported here as a sub-topic of criminal case management.

ⁱⁱ This issue was voted on as a separate topic but was folded into this topic as part of the winnowing process.

ⁱⁱⁱ Brainstorming on this issue explored the following responses: Divert to ADR; Colling off period before filing of charges; Fee for charges when complainant later asks for a dismissal; Show cause for charges that are not pursued. No decisions were reached as to these possible solutions.

^{iv} Additional issues raised during the winnowing process and thus not subject to a vote included: pro se litigants and the cost of continuances.

^v 9 votes for ADR; 8 for DA control of the docket/role of the judge; 4 for private warrants; 4 for specialty courts; 2 for the topic generally.

^{vi} 5 votes for ADR & specialty courts; 1 for role of the judge; 1 for private warrants.

^{vii} 9 votes for DA control of docket; 1 for private warrants.

^{viii} An additional issue came up during the winnowing process and thus not subject to a vote: whether District Attorneys belong under the court system or the executive branch. An additional issue that was listed as part of the brainstorming process but received no votes was judicial selection.

^{ix} 9 votes for compensation; 7 votes for support staff; 4 votes for cost of living adjustments; 2 votes for district lines; 1 vote for system issues overall.

^x 3 votes for system issues overall; 3 votes for cost of living adjustments; 1 for compensation; 1 for support staff.

^{xi} 1 vote for compensation.

^{xii} At least as to MARs, this issue could be viewed as a sub-topic of criminal case management.

^{xiii} 7 votes for post-conviction; 7 for wrongful conviction; 2 for limited review.

^{xiv} 1 vote for limited review, lack of tracking and wrongful convictions.

^{xv} It was noted that issues regarding quality of representation spill over into a host of problems including increased jail time and trial court delay.

^{xvi} One Committee member noted that informal programs also exist.

^{xvii} 4 votes for the topic generally; 3 for juvenile age.

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- xviii 4 votes on the topic generally; 5 for misd. diversion programs; 3 for disparate charging; 1 for juvenile age.
 - xix 5 votes for Risk Assessment Tool.
 - xx 1 vote for each of the three sub-topics & for the main topic.
 - xxi 1 vote for Model Policy.
 - xxii All votes were as to main topic.
 - xxiii All votes were as to main topic.
 - xxiv 1 vote for the topic generally; 1 for mental health courts.
 - xxv 2 votes for the topics generally; 2 for limited options for law enforcement.
 - xxvi 1 vote for the topic generally.
 - xxvii 2 votes for the topic generally; 2 for limited availability of drug treatment courts; 1 for effectiveness of programs.