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## **Criminal Justice Funding in North Carolina: A System in Crisis**

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**Douglas L. Yearwood**, Director, North Carolina Criminal Justice Analysis Center

**Abstract:** *This paper presents an impact analysis of the drastic federal and state criminal justice funding cuts which were carried out under the last administration and documents the deleterious effect that these cuts produced for one state. While each component of the state's criminal justice system faces unique problems, issues and challenges, as a direct result of this funding shortage, the net effect invariably impacts the other components and has cumulatively produced a System in Crisis. The paper concludes with a renewed call for increasing both federal and state funding to improve the effectiveness and efficiency of the criminal justice system and to restore public confidence in the practitioners and policy makers who operate within, an oversee, this system of justice.*

### **1. Introduction**

Since the crime rates have been dropping, key public policy figures, politicians, the media and members of the general public have erroneously assumed that crime and the operation of the criminal justice system are no longer pressing and significant problems or topics for public policy debates and discussions. Numerous other, albeit still important, issues dominate the headlines and have consequently bumped criminal justice further down the proverbial public and social "to do list". The war in Iraq, terrorism, the state of the economy, gas prices, hurricanes, health care, education, ethics, immigration, presidential appointments, judicial nominees and even steroids have been on the collective mind of Congress.

As a result federal funding for the criminal justice system has been on the decline with numerous block grant

**Douglas L. Yearwood**, Director, North Carolina Criminal Justice Analysis Center

programs and state-level initiatives either being recommended for “zeroing out” or experiencing dramatic and sizeable cuts in the amount of allocated funds after the budgets are finalized and certified. The amount of available federal funding for North Carolina’s criminal justice system has declined every year since 2002; experiencing a significant and drastic 43% decline during this short term period of five years. The most substantial cuts have occurred in the federal juvenile justice and Byrne/JAG or Justice Assistance Grant programs which are the primary federal funding source for the state’s criminal and juvenile justice systems. These funds have been utilized by law enforcement, courts, corrections and juvenile justice agencies to start, and maintain, numerous and varied programs which have been enormously beneficial for preventing and reducing crime as well as for the development of statewide and multi-agency information sharing programs. Despite the successful application of these funds, the Bush administration “zeroed” them out at the initial 2006 budgetary planning cycle and it is projected that the next budgetary period will begin in a similar fashion with zero funds originally allocated for the Byrne/JAG program and the Juvenile Accountability Incentive Block Grant (JAIBG) program.

For years local and state criminal and juvenile justice agencies, as well as those agencies providing services to crime victims, have relied heavily on these federal funds. Unfortunately, this reliance has produced a situation in which these funds have been perceived as supplanting state funding for the criminal and juvenile justice systems. Many have erroneously assumed that federal funding can adequately maintain these systems and argue that state funding should be directed elsewhere. This over reliance on federal funding has contributed to a lag in state level justice appropriations.

One of the best examples of this supplanting effect has occurred within the realm of the state’s Criminal Justice Information Network or CJIN. The disparity between federal and state support has been substantial with \$91.7 million in federal funds being expended for developing the critical and

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much needed infrastructure for the state's vitally important criminal justice information technology components. By contrast, during the same decade the state's CJIN contribution has lagged at only \$24.1 million. Thus, for every federal dollar invested in CJIN the state invests one quarter and one penny (North Carolina Criminal Justice Information Network Governing Board, 2005).

Other examples include the disproportionate amount of federal funding, at the expense of state allocations, for the juvenile justice system and the judicial branch. Federal funds have been instrumental for implementing numerous recommendations and strategies of the state's juvenile justice reform effort especially in the area of providing funds for the local Juvenile Crime Prevention Councils or JCPCs. The state's courts have also been forced to rely on federal funds for nearly all of their automation efforts with little or no support from state level funding.

The federal funds administered by the Governor's Crime Commission (GCC) have historically been used as "seed monies" starting new and innovative programs with the intent and anticipation that successful programs will be "watered" or picked up with state appropriations. Unfortunately a long-term drought has occurred and as a result many of the seeds have not prospered and developed to their full extent. As an example federal funds were used to devise, implement and expand the Statewide Automated Fingerprint Identification System or SAFIS. This is arguably one of the most significant and important law enforcement tools allowing agencies to capture, share and compare digital fingerprint images on an almost real-time basis. The SAFIS infrastructure desperately needs to be substantially upgraded in order to remain operational. The GCC recommended \$20 million for this work in its last legislative agenda, to the General Assembly, with no forthcoming effect (North Carolina Department of Crime Control and Public Safety, 2004).

While criminal justice funding has dropped, the workload or activity of the system has risen; a rise that has been dramatic in several areas. Adult arrests have increased nearly 3% since 1995 with juvenile arrests growing 10.6%.

**Douglas L. Yearwood**, *Director, North Carolina Criminal Justice Analysis Center*

Felony case filings in the state's courts rose from 83,417 to 101,509 (21.7%) during this same period while misdemeanor filings experienced a 6.4% increase. Prison admissions grew from 24,625 in 1995 to 26,603 a decade later (8.0%) while the state's prison population swelled from 29,495 to 36,620 (24.1%) during the last decade. Probation entries significantly expanded from 49,720 to 63,399 (27.5%) with a corresponding 14% increase in the total number of probationers in 2005 (114,438) contrasted with the number in 1995 (100,381).

(North Carolina Department of Justice, 1996 and 2005; North Carolina Administrative Office of the Courts, 1995 and 2005; North Carolina Department of Correction, 2006).

The cumulative effect of the current economic and fiscal funding situation in conjunction with rising system activities and expenditures is producing, and if trends continue will further exacerbate, a System in Crisis. This paper outlines recent criminal justice funding trends at the state level, and the impact that this has produced for the entire state system and for each of its major justice and public safety components.

## **2. State Appropriations**

An analysis of the state general fund reveals that education appropriations account for over one-half of the entire fund with education growing from 54 percent of the 2000/2001 budget to 58 percent of the 2004/2005 budget. Health and Human Services accounted for 21 percent of the budget in fiscal year 2000/2001 and grew to 24 percent in 2004/2005. While the total Justice and Public Safety (JPS) allocation increased from 2000/2001 to 2004/2005, the growth in this fund category did not keep pace with the growth in education and health and human services, thus the JPS allocation dropped from 11 percent of the total 2000/2001 budget to 10 percent of the total 2004/2005 state general fund (North Carolina General Assembly, 2005).

Growth rates have varied considerably across these fiscal categories since 2000/2001. The highest rate of

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growth has occurred in the health and human services allocation which grew 30.6% since 2000/2001 or an average annual growth rate of 7.7%. Education funds grew 21.8% during this period for an average annual increase of 5.5% per year. Justice and public safety allocations experienced the least amount of growth (11.6%) only increasing an average of 2.9% over the last five years (North Carolina General Assembly, 2005).

An analysis of the Justice and Public Safety (JPS) budgets for the corresponding years indicates that prisons and their associated operating costs account for the largest portion of the justice and public safety allocation. Prisons absorbed 52% of the total FY 2000/2001 JPS allocation (\$1,486,930,528). By fiscal year 2004/2005 the portion of the JPS budgetary allocation dedicated to prisons swelled to 56% of the total budget at the expense of declining allocations to the courts and to other correctional programs (North Carolina General Assembly, 2006).

Obviously health and human services and educational programs are necessary for maintaining the state's vitality and for enhancing quality of life. Fiscal growth in these areas should be encouraged and is representative of progress and improvement. The same can be said for increasing JPS funding which is also imperative for improving the vitality of the state's communities and for promoting a safer and more secure quality of life for its citizens. Despite this slower rate of growth in JPS funding have the major public safety agencies been able to keep pace with crime and criminals or continue to perform their respective core missions? Have these agencies been able to effectively achieve their goals and objectives? Have they been able to plan proactively in order to get ahead of the proverbial curve or are they just keeping their heads above water? How will reductions, level funding or even slight increases in their allocations impact these JPS agencies during the coming years? The following section will address these issues for each of the major criminal and juvenile justice system components.

### *Juvenile Justice*

The state appropriation to the Department of Juvenile Justice and Delinquency Prevention fluctuated significantly between fiscal years 2001/02 and the current fiscal year 2005/2006. The largest appropriation occurred in fiscal year 2001/2002 with a final certified budget of \$140,980,433. This allocation dropped 8.8 % the following year to \$128,585,062. While the department's allocation did rise the following three years, the current appropriation for fiscal year 2005/2006 is still \$602,767 less than it was four years ago.

The state's current fiscal condition combined with inadequate and lagged JPS funding, has negatively impacted the agency's ability to carry out its core mission. The fiscal situation and reduced funding has inhibited the department's effort to provide a seamless system of juvenile justice for the state's youth and their families. Reduced funding has hindered community prevention efforts by the local Juvenile Crime Prevention Councils (JCPCs). These JCPCs have never been fully funded at an adequate and necessary level despite documented need. The GCC recommended funding at \$40 million going back to 1998 yet these councils have never received more than \$20 million. Last year the GCC advocated a \$20 million dollar increase, to be funded with additional revenue from the cigarette tax hike, to no avail. Lower allocations have also forced the department to slow down and phase in a 2003 audit mandate to replace its youth development center beds, as opposed to being able to fulfill this mandate quicker with a full implementation plan.

If the current funding trends continue and/or further cuts are incorporated, the department's effectiveness will be further strained as its ability to control, educate and rehabilitate the state's youth will be compromised. Limited, or insufficient, resources will force the agency to only be able to maintain current services at current levels with the worst impact occurring on the most important mission – prevention.

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Ultimately, long-term budgetary reductions will undermine the intent of the 1999 Juvenile Justice Reform Act which sought to enhance prevention and intervention efforts and reduce the number of children who are committed to the state's youth development centers. If funding is not increased, it is highly plausible that the needs of youthful offenders and their families will not be fully met. Lacking adequate treatment and resources to alleviate educational deficits, many more youth may become more involved in criminal activities and consequently further engaged in the state's juvenile justice system. The same holds true for mental health reform which lacks adequate funding. The GCC has recognized this as a significant juvenile justice issue and has endorsed the need for significantly enhanced funding to address the varied mental health issues which many delinquent children possess and to improve services in this area. Without adequate treatment for the behaviors that brought them into the system, recidivism rates will rise as well.

Again, the same holds true for those offenders who are housed, and will be housed, in the state's youth development centers. Many of these children are serious, chronic and extremely violent offenders who suffer from a host of severe mental health issues and other cognitive and behavioral disorders. Lacking rehabilitation they will recidivate as teens, continue their criminal careers into adulthood and ultimately exact a higher cost to society.

### *Corrections*

Since 2001/02 the state allocation to the Department of Correction (DOC) has expanded 11.5% or 2.3% per year. However, the majority of this increase has been directed to prisons at the expense of other treatment oriented programs and alternatives to incarceration. While this year's final allocation closely parallels the original request, a greater degree of divergence between the two amounts occurred in the past with a 7.9% difference occurring in 2001/02 and a 5.5% differential the following year. While the trend data

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suggest slight improvements in the short-term fiscal situation, the longer-term trend suggests that the DOC will be playing catch-up in order to compensate for the cuts which occurred at the beginning of the decade.

North Carolina's prison population has experienced tremendous growth during the last decade and projections indicate that this trend will continue well into the future. The prison population has grown three times faster than the general population and ten times faster than the state's crime rate since 1984.

Despite the construction of three new facilities and three more on the way, these prison beds will quickly be filled with an imminent 6,000 to 10,000 bed shortage looming on the horizon of the next decade. Based on today's construction cost of \$ 80,693 per bed, the state will have to allocate between \$ 484,158,000 and \$ 806,930,000 to cover the projected shortage. Operating costs will run another \$109,800,000 to \$183,000,000 per year.

A rapidly rising and aging inmate population and a significant increase in the number of offenders under community supervision will place a strain on the state's correctional system. If state allocations only target the prison bed shortage via construction and do not address other correctional issues and needs, deleterious consequences will occur and current problems will only persist and be further exacerbated. Consequently, it is imperative that appropriations continue to parallel needs and rise proactively in order to prevent, or at least minimize, the following problems which will occur if funding is reduced or persists at current levels:

- Increasing staff turnover due to lower and non competitive salaries
- An inability to meet rising medical costs for an older and less healthy inmate population
- Significant reductions in prison rehabilitative programs
- Downsizing community correction programs such as drug treatment courts, residential substance abuse treatment and prisoner reentry initiatives



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- Increasing probation caseloads which will produce less time for officers to adequately supervise potential dangerous offenders in the community
- Increasing prison violence due to an inability to adequately separate and monitor rival gang members

### *Law Enforcement*

The gap or differential between the original Department of Justice (DOJ) budgetary request and the final authorized allocation has widened since the beginning of the decade. For the 2001/2002 cycle the department's final allocation was only 4.4% below the original requested amount. For the current fiscal year this differential nearly doubled with the department's final allocation being 8.3% lower than the original request. Since the beginning of the trend period the Department of Justice's budget has grown 5.7% or 1.1% annually. Comparatively, the department's needs as derived from its original request, grew 10.2% during this period or 2% annually.

Despite this widening gap the department is committed to providing the highest quality and most cost-effective services as possible to the general public. Reduced funding has created strain and produced hardships for this agency and a continued decline in funding could affect the manner in which services are delivered and impact the department's ability to provide innovative services in an expeditious manner. Continued reductions and/or dramatic and significant budget cuts could lead to the following:

- An inability to adequately process drug samples and fingerprint and crime scene evidence in a timely manner. On May 18, 2006 the SBI lab had 15,200 un-worked drug cases and an additional 1,100 un-worked cases in its latent fingerprint section. The average processing time for a drug case is nine to 10 months and seven to eight months for latent fingerprint cases.

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Consequently, this has already produced backlogs in the criminal court dockets as prosecutors cannot proceed to trial or discuss plea arrangements without lab results (North Carolina Department of Justice, 2006).

- An inability to investigate and manage emerging crime problems such as clandestine methamphetamine production labs and cyber crimes such as identity theft and using the Internet to lure children. Over one million dollars in federal funds has been targeted at the state's meth problem just in the last two years (\$1,575,538).
- Critical infrastructure collapse of the Statewide Automated Fingerprint Identification System (SAFIS) which would necessitate a regression back to paper based fingerprinting. Consequently, returning the state to an antiquated condition in which suspect identification takes weeks versus the current timeframe of several days.

One of the tragic lessons learned from 9/11 was that responding police and fire departments as well as other public safety agencies could not communicate with each other and consequently could not mobilize, operate, rescue and proactively respond in a timely and coordinated manner. This inability to communicate not only lost valuable time it also unfortunately translated into lost lives. The same situation exists today in North Carolina with an inability on the part of public safety agencies to communicate during both man-made and natural disasters. The solution to this is VIPER, or the Voice Interoperability Plan for Emergency Responders, which will facilitate true statewide voice communications for every public safety agency in the state. Consequently, investing in an interoperable communications system will significantly enhance the effectiveness and

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efficiency of law enforcement not only during crises but during normal working conditions as well.

### *The Judicial Branch*

Comparative analyses of the nation's judicial systems indicate that North Carolina's courts are indeed facing a crisis of a significant magnitude and that this crisis will only become worse in the coming years. According to a recent national study conducted by the National Center for State Courts, North Carolina has fewer judges (1.3) on a per capita basis than the national average (3.0 per 100,000) and ranks next to last on a state by state comparative basis. These judges also have a substantially higher incoming caseload with the median number (3,085) being nearly three times greater than the national incoming caseload per judge (1,626). North Carolina is also higher than the national median for incoming civil cases and the projected number of incoming criminal cases on a per capita basis (19,188) is more than three times greater than the projected national median of 6,615 incoming criminal cases. This puts North Carolina in first, or depending on how you want to view it, last place among those states that have two-tiered judicial systems (Schauffler, LaFountain, Kauder, and Strickland, 2005).

Perhaps the greatest impact of the state's budget crisis has manifested itself on the judicial system and the courts' ability to provide the public with the level of service that they rightfully deserve and expect. Severe under-funding and budgetary cuts have produced a situation in which the courts do not have sufficient funds to adequately meet staffing, equipment, technology and other operational needs in an effective and efficient manner. The proportion of the general fund dedicated to the judicial branch has historically been low and has even dropped over the course of the last decade from 2.95% in 1994/1995 to an all time low of 2.61% in 2003/2004 (North Carolina Administrative Office of the Courts, 2005b).

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Paradoxically, while the courts actually generate revenue through the collection of fines, restitution and child support payments, alimony and other “court” costs, these funds do not go back to the judicial system but are reallocated back into the general fund or dispersed for other non-judicial purposes. In 2003/2004 the courts collected over \$246 million for state and local governments including \$147.9 million which went directly into the general fund and \$83.7 million for local schools.

Currently funding for the judicial branch is regulated and controlled by the legislative branch; an issue which many see as an abrogation of the separation of powers clause. Independent funding for the judicial branch was a key recommendation of the Court Futures Commission’s report and was endorsed by the Governor’s Crime Commission.

Continued under-funding and budgetary cuts have already had disastrous consequences and will further exacerbate a crisis in the courts unless funding is restored and enhanced in the immediate future. Not only has funding for statewide expansion been denied but cuts have been imposed on nationally recognized, innovative, successful and cost-effective programs such as family and drug treatment courts, and mediation and arbitration programs. Staff salaries have not kept up with the competitive legal markets and consequently prosecutors cannot recruit and retain the brightest young lawyers who decline work in the state’s judicial system for higher wages in the private sector. In fact, a young law school graduate can start as a basic attorney in a private law firm and make more than our state’s judges who are the lowest paid in the southeast. The lack of adequate personnel has plagued the courts with requests for additional personnel, from administrative staff to district attorneys to even judges, being denied repeatedly.

Low JPS allocations have negatively affected the courts’ technology plans and stifled funding in this area has actually hurt initiatives that if implemented would be more cost effective, produce greater cost savings and in the face of an expanding workload slow the need for more expansion.

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The need for courtroom automation and technological enhancements is demonstrated by the fact that by next year over one-half of the computers across the state's courthouses will be more than five years old, statewide criminal and financial automated systems are 20 years old and telephone systems in 36 courthouses are over 10 years old. Without increased state funding automation needs and equipment upgrades cannot be completed. While grant funds may have enabled initial planning and some implementation, over-reliance on these funds is not advisable and even risky given today's turbulent and unstable federal budgetary outlook. State funds have not been sufficiently allocated for maintaining and enhancing vital automated systems such as the statewide warrant repository (NCAWARE), the eCitation project and SAVAN which is a highly effective Statewide Automated Victim Assistance and Notification program. As a result, federal funds have been overwhelmingly used to support information technology initiatives for the courts with over two million alone being allocated for SAVAN and nearly six million for other projects during the period of lagged state funding.

The impact of long term under funding combined with recent and sharp budgetary cuts has exerted the most profound impact on the general public and has undermined their confidence in the state's judicial system. Citizens, businesses, victims and witnesses face overcrowded courtrooms and bulging case dockets on a daily basis which translates into multiple delays and case continuances which in many cases require individuals to return to court numerous times for a single issue or case. The lack of an automated system for tracking payments frustrates the citizenry and can create accounting and auditing nightmares in which the courts do not know who has and has not paid their required fines.

Multiple court appearances produce unnecessary economic drains and contribute to lost personal wages, productivity and time. Victims and witnesses may experience lengthy, painful and psychologically damaging experiences as closure or resolution is prolonged and drawn out.

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Defendants spend excessive pre-trial time in jail with each delay which in turn has produced overcrowding in many of the county jail facilities. Further undermining and compromising of the judicial system occurs when overworked and understaffed prosecutors are forced to plea bargain cases to simply clear dockets and make room for an ever expanding number of incoming criminal cases. Many of these pleas could have been averted if resources were available to prosecute to the fullest extent of the law and obtain and sustain more convictions for the original charge(s).

## **Conclusion**

This article has documented the impact of reduced federal and state funding on the North Carolina criminal justice system and has demonstrated the potential for further and even more profound problems if funding is not restored and substantially enhanced over the coming years. While each component of the system faces unique problems, issues and challenges as a direct result of this funding shortage, the net effect invariably impacts the other components and has cumulatively produced a System in Crisis. This crisis has been felt by the general public and will only continue to negatively impact the citizens' views of our criminal and juvenile justice systems in the future. What will the next decade hold for the system? Will funding be restored and expanded to adequately and sufficiently meet the outlined needs or will continued declines occur and grind the wheels of justice to a halt and produce a compromised, ineffective, inefficient criminal **in**justice system in which the citizens lose faith, trust and the belief that they will obtain adequate and fair justice?

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