

ORANGE COUNTY BOARD OF COMMISSIONERS

AGENDA

BOCC Regular Work Session

October 6, 2016

Meeting – Approximately 8:30 p.m. (Immediately Following Adjournment of Joint Meeting with
Chiefs' Council

Richard Whitted Meeting Facility

300 West Tryon Street

Hillsborough, NC

- | | | |
|----------------|----|--|
| (8:30 – 9:00) | 1. | Detention Center: Update on Project Schedule and Discussion of Potential Scope Expansion to Include Law Enforcement Center/Sheriff's Offices |
| (9:00 – 9:30) | 2. | Discussion of Body-Worn Cameras |
| (9:30 – 10:00) | 3. | Written Consent to Search Requirement for Law Enforcement |

Orange County Board of Commissioners' regular meetings and work sessions are available via live streaming video at http://www.orangecountync.gov/departments/board_of_county_commissioners/videos.php and Orange County Gov-TV on channels 1301 or 97.6 (Time Warner Cable).

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 6, 2016

**Action Agenda
Item No. 1**

SUBJECT: Detention Center: Update on Project Schedule and Discussion of Potential Scope Expansion to Include Law Enforcement Center/Sheriff's Offices

DEPARTMENT: Asset Management Services,
County Manager's Office,
Sheriff's Office

ATTACHMENT(S):
Scope Options, Comparative Information

INFORMATION CONTACT:
Jeff Thompson, 919-245-2658
Travis Myren, 919-245-2308
Sheriff Charles Blackwood, 919-245-
2900

PURPOSE: To:

- a) receive an update on the Detention Center project schedule; and
- b) discuss and provide feedback to staff regarding a potential project scope expansion to move the existing Sheriff's Office administrative offices from the lower level of the courthouse to a co-located Law Enforcement Center on the new jail site. Court security staff would maintain offices in the courthouse.

BACKGROUND: After authorizing the Manager to engage Moseley Architects as the designer for the Detention Center project in the summer of 2015, initial project vision planning, comprehensive stakeholder input sessions, the jail population profile, and projections for future growth were conducted in the fall of 2015.

Subsequent schematic programming and planning activities were halted in the fall of 2015 in order to process an amendment to the County's Ground Lease with the State of North Carolina enabling the County to provide the built detention facility as collateral for standard project debt financing. This amendment was successfully achieved through enabling legislation approved by the State Legislature in the summer of 2016. The County is currently awaiting an executed lease amendment from the State and will fully resume planning and design efforts once this fully executed amendment is returned to the County.

Based upon the receipt of the executed Lease Agreement Amendment in October 2016, the projected timeline for this project is as follows:

Activity	Estimated Date Range
BOCC: Construction Manager at Risk Award	October-November, 2016
Schematic and Developmental Design Preparations with Board and Stakeholder Review/Feedback	Fall-Winter, 2016-2017
BOCC: Approval of Final Design, Guaranteed Maximum Price	Summer-Fall, 2017
Permitting, State Review, Construction Period (16-20 months)	Fall 2017 – Summer 2019
Occupation	Fall-Winter, 2019

Concurrent to this process, staff was requested to provide information to the Board regarding a potential scope expansion of the project to include the co-location of a Law Enforcement Center/Sheriff's Offices ("LEC") with the proposed Detention Center. Staff proposes that this scope discussion include three options:

- 1) Standalone Detention Center only – This option represents the current project scope as contained in the County's Capital Investment Plan (CIP).
- 2) Detention Center with co-located LEC – This option would construct new administrative office space on the Detention Center site and relocate the Sheriff's administrative offices from the courthouse to the Detention Center.
- 3) Detention Center with infrastructure for future co-located LEC – This option would prepare the Detention Center site and install appropriate utilities and infrastructure for a colocation of the Sheriff's administrative offices on the Detention Center site at some point in the future.

If the Board of Commissioners authorizes further analysis of these options, staff recommends five evaluation criteria to inform the decision making process. These factors include:

- 1) Cost of Construction
- 2) Staffing (Detention and LEC)
- 3) Operations and Maintenance (Detention and LEC)
- 4) Court operations support and security
- 5) "Backfill" options for potentially vacated spaces within the Justice Facility

A matrix of general information regarding the three development options as well as comparative topics to be addressed in the Designer's analysis for each of the five decision factors is attached. This will be presented in an effort to encourage Board discussion and feedback to staff.

FINANCIAL IMPACT: The analysis of the additional options will require an amendment to the Designer's current contract. The additional cost will not exceed \$30,000. The project contains sufficient funds to pay for the cost of the additional analysis. The Board has appropriated \$1,250,000 for engineering, site feasibility, and design work within the current and previous years within the FY2016-21 CIP as well as approximately \$20.5 million in additional project funds in year 2 (FY2017-18) for construction and equipment for a standalone Detention Center. Should the Board authorize the Manager to investigate one or more scope expansion scenarios, corresponding financial impacts would be prepared and presented to the Board at a later date as part of the ongoing design process.

SOCIAL JUSTICE IMPACT: The design, construction and operation of the Orange County Detention Center meets the following social justice goal:

GOAL: CREATE A SAFE COMMUNITY

The reduction of risks from vehicle/traffic accidents, childhood and senior injuries, gang activity, substance abuse and domestic violence.

RECOMMENDATION(S): The Manager recommends the Board:

- a) receive an update on the Detention Center project schedule;
- b) discuss and provide feedback to staff regarding a potential project scope expansion to include co-located Law Enforcement Center facilities; and
- c) should the Board reach a consensus on the project scope expansion, the Manager will sign an amendment with Moseley Architects to analyze the implications of adding a Law Enforcement Center to the current Detention Center project at a cost not to exceed \$30,000.

Options and General Information to Assist in Board Discussion

	Detention Center Only	Detention Center with built, co-located Law Enforcement Center (LEC)	Detention Center with LEC infrastructure for future co-location
General Facility Information	Current detention facility information: Original construction: 1925 Capacity: 139 Detainees Square Footage: 40,227 Area: 1.4 acres	Current LEC facility information: Constructed/renovation: 2009 Estimated Project Cost: \$5MM Square Footage: 20,000	
Design Process Currently Authorized by BOCC	yes	no	no
Schematic Characteristics	Secure 144 bed facility with "core" infrastructure for 250 bed maximum capacity; approximately 49,500-52,200 square feet of Detention Center space; 6.8 acre site ¹	Detention Center with additional estimated 12,000-18,000 square feet of LEC space	Detention Center with prepared additional site and infrastructure connections for future LEC ²
Conceptual Project "First Cost" Estimates	Est. \$17.6-\$19.9 million ²	tbd	tbd

1. Based upon initial conceptual cost estimate provided by Moseley Architects in the fall of 2015, coupled with adequate contingency funds and a reasonable construction cost inflation factor projecting costs in the summer of 2016.

2. Infrastructure contemplated: fine graded and crowned building pad and associated site with appropriate stormwater management installations and utility connection feeds ("stub-outs") from the constructed facility.

Operational Factors and needed analysis	Detention Center Only	Detention Center with built, co-located Law Enforcement Center (LEC)	Detention Center with LEC infrastructure for future co-location
-Construction Cost		-Additional first cost and life cycle impact -Life cycle cost impacts	
-Staffing	-Staffing study anticipated Fall 2016 comparing spindle vs. rear chase design options.	-Potential staffing impacts on both the spindle and rear chase designs options.	
-Operations and Maintenance	-Significant improvements in programming, housing conditions, workplace safety and security, and maintenance of operations equipment. -Additional improvements anticipated in facilities maintenance activities due to new facility and modern equipment.	-Potential Impacts on efficiencies for both operations and maintenance activities. -Potential sustainability impacts associated with co-location.	
-Court Operations Support and Security	-Court staff unchanged. -Efficiency improvements with video-conferencing technology within Court facilities and detention pods for Court officials and detainees. -Designed multi-purpose room can serve as court space.	-Potential Impacts of co-location on opportunity of Court staff to be housed in close proximity within a co-located facility.	
-"Backfill" options for vacated LEC facilities		-Analysis of Potential Uses ³ : -Child Support Services; -Probation and Parole; -Public Defender; -District Attorney; -Justice Resource Office;	

3. Existing offices, if re-located to vacated LEC spaces, would provide collaborative opportunities for re-purposing, selling, or partnering with other stakeholders regarding the vacated facilities. Granular analysis of these uses including cost and benefit comparatives would be provided as part of the LEC co-location study. Existing offices are not considered stressed facilities according to the County Space Study Analysis.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 6, 2016

**Action Agenda
Item No. 2**

SUBJECT: Discussion of Body-Worn Cameras

DEPARTMENT: Sheriff's Office

ATTACHMENT(S):

N.C. General Statute § 132-1.4A (S.L. 2016-88 (HB 972))

**UNDER SEPARATE COVER-ONLY
AVAILABLE ONLINE**

Implementing a Body-Worn Camera
Program: Recommendations and
Lessons Learned

<http://www.policeforum.org/assets/docs/Free Online Documents/Technology/implementing%20a%20body-worn%20camera%20program.pdf>

INFORMATION CONTACT:

Sheriff Charles S. Blackwood,
919.245.2900

Chief Deputy, Jamison Sykes
919.245.2913

Jennifer Galassi, Legal Advisor,
919.245.2952

PURPOSE: To discuss issues related to possible implementation of body-worn cameras by Orange County Sheriff's Deputies.

BACKGROUND: At the May 5, 2016 Board of Orange County Commissioners meeting, Commissioner Mark Dorosin submitted a petition requesting that the Board discuss, with Orange County Sheriff Charles S. Blackwood, adopting a policy to institute the use of body-worn cameras by Deputies. Body-worn camera usage is a topic that has been in the national spotlight in recent years due to officer involved shootings. Although believed to be a panacea for reducing distrust of law enforcement and incidents of unnecessary use of force, the use of body-worn cameras is surrounded by a number of outstanding questions. Unfortunately, little research exists to assist law enforcement leaders to decide whether to join a growing minority of agencies that are implementing use of body-worn cameras.

FINANCIAL IMPACT: No financial impact is associated with discussion regarding body-worn cameras.

SOCIAL JUSTICE IMPACT: The following Social Justice Goal is applicable to this agenda item:

- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**

The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.

A discussion about the use of body-worn cameras by law enforcement furthers the above Goal.

RECOMMENDATION(S): The Manager recommends that the Board engage in discussion with Sheriff Charles S. Blackwood about body-worn cameras.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2016-88
HOUSE BILL 972**

AN ACT TO PROVIDE THAT RECORDINGS MADE BY LAW ENFORCEMENT AGENCIES ARE NOT PUBLIC RECORDS, TO ESTABLISH WHETHER, TO WHOM, AND WHAT PORTIONS OF A RECORDING MAY BE DISCLOSED OR A COPY RELEASED, TO ESTABLISH THE PROCEDURE FOR CONTESTING A REFUSAL TO DISCLOSE A RECORDING OR TO OBTAIN A COPY OF A RECORDING, TO DIRECT STATE OR LOCAL LAW ENFORCEMENT AGENCIES TO PROVIDE, UPON REQUEST, ACCESS TO A METHOD TO VIEW AND ANALYZE RECORDINGS TO THE STATE BUREAU OF INVESTIGATION AND THE NORTH CAROLINA STATE CRIME LABORATORY, TO AUTHORIZE GOVERNMENTAL AND NONGOVERNMENTAL ORGANIZATIONS TO ESTABLISH AND OPERATE HYPODERMIC SYRINGE AND NEEDLE EXCHANGE PROGRAMS, AND TO OFFER LIMITED IMMUNITY TO EMPLOYEES, VOLUNTEERS, AND PARTICIPANTS OF AUTHORIZED HYPODERMIC SYRINGE AND NEEDLE EXCHANGE PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 132 of the General Statutes is amended by adding a new section to read:

"§ 132-1.4A. Law enforcement agency recordings.

(a) Definitions. – The following definitions apply in this section:

- (1) Body-worn camera. – An operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions the law enforcement agency personnel has with others.
- (2) Custodial law enforcement agency. – The law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made.
- (3) Dashboard camera. – A device or system installed or used in a law enforcement agency vehicle that electronically records images or audio depicting interaction with others by law enforcement agency personnel. This term does not include body-worn cameras.
- (4) Disclose or disclosure. – To make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording.
- (5) Personal representative. – A parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased.
- (6) Recording. – A visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of



interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.

(7) Release. – To provide a copy of a recording.

(b) Public Record and Personnel Record Classification. – Recordings are not public records as defined by G.S. 132-1. Recordings are not personnel records as defined in Part 7 of Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98.

(c) Disclosure; General. – Recordings in the custody of a law enforcement agency shall be disclosed only as provided by this section. A person requesting disclosure of a recording must make a written request to the head of the custodial law enforcement agency that states the date and approximate time of the activity captured in the recording or otherwise identifies the activity with reasonable particularity sufficient to identify the recording to which the request refers.

The head of the custodial law enforcement agency may only disclose a recording to the following:

- (1) A person whose image or voice is in the recording.
- (2) A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure.
- (3) A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.
- (4) A personal representative of a deceased person whose image or voice is in the recording.
- (5) A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.

When disclosing the recording, the law enforcement agency shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording.

(d) Disclosure; Factors for Consideration. – Upon receipt of the written request for disclosure, as promptly as possible, the custodial law enforcement agency must either disclose the portion of the recording relevant to the person's request or notify the requestor of the custodial law enforcement agency's decision not to disclose the recording to the requestor.

The custodial law enforcement agency may consider any of the following factors in determining if a recording is disclosed:

- (1) If the person requesting disclosure of the recording is a person authorized to receive disclosure pursuant to subsection (c) of this section.
- (2) If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) If disclosure would reveal information regarding a person that is of a highly sensitive personal nature.
- (4) If disclosure may harm the reputation or jeopardize the safety of a person.
- (5) If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice.
- (6) If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

(e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure pursuant to subsection (d) of this section, or has failed to provide disclosure more than three business days after the request for disclosure, the person seeking disclosure may apply to the superior court in any county where any portion of the recording was made for a review of the denial of disclosure. The court may conduct an in-camera review of the recording. The court may order the disclosure of the recording only if the court finds that the law enforcement agency abused its discretion in denying the request for disclosure. The court may only order disclosure of those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording. An order issued pursuant to this subsection may not order the release of the recording.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to

this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(e1) Release of Recordings to Certain Persons; Expedited Process. – Notwithstanding the provisions of subsection (f) of this section, a person authorized to receive disclosure pursuant to subsection (c) of this section, or the custodial law enforcement agency, may petition the superior court in any county where any portion of the recording was made for an order releasing the recording to a person authorized to receive disclosure. There shall be no fee for filing the petition which shall be filed on a form approved by the Administrative Office of the Courts and shall state the date and approximate time of the activity captured in the recording, or otherwise identify the activity with reasonable particularity sufficient to identify the recording. If the petitioner is a person authorized to receive disclosure, notice and an opportunity to be heard shall be given to the head of the custodial law enforcement agency. Petitions filed pursuant to this subsection shall be set down for hearing as soon as practicable and shall be accorded priority by the court.

The court shall first determine if the person to whom release of the recording is requested is a person authorized to receive disclosure pursuant to subsection (c) of this section. In making this determination, the court may conduct an in-camera review of the recording and may, in its discretion, allow the petitioner to be present to assist in identifying the image or voice in the recording that authorizes disclosure to the person to whom release is requested. If the court determines that the person is not authorized to receive disclosure pursuant to subsection (c) of this section, there shall be no right of appeal and the petitioner may file an action for release pursuant to subsection (f) of this section.

If the court determines that the person to whom release of the recording is requested is a person authorized to receive disclosure pursuant to subsection (c) of this section, the court shall consider the standards set out in subsection (f) of this section and any other standards the court deems relevant in determining whether to order the release of all or a portion of the recording. The court may conduct an in-camera review of the recording. The court shall release only those portions of the recording that are relevant to the person's request and may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate.

(f) Release of Recordings; General; Court Order Required. – Recordings in the custody of a law enforcement agency shall only be released pursuant to court order. Any custodial law enforcement agency or any person requesting release of a recording may file an action in the superior court in any county where any portion of the recording was made for an order releasing the recording. The request for release must state the date and approximate time of the activity captured in the recording, or otherwise identify the activity with reasonable particularity sufficient to identify the recording to which the action refers. The court may conduct an in-camera review of the recording. In determining whether to order the release of all or a portion of the recording, in addition to any other standards the court deems relevant, the court shall consider the applicability of all of the following standards:

- (1) Release is necessary to advance a compelling public interest.
- (2) The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding.
- (4) Release would reveal information regarding a person that is of a highly sensitive personal nature.
- (5) Release may harm the reputation or jeopardize the safety of a person.
- (6) Release would create a serious threat to the fair, impartial, and orderly administration of justice.
- (7) Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.
- (8) There is good cause shown to release all portions of a recording.

The court shall release only those portions of the recording that are relevant to the person's request, and may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's

employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(g) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the requirements of subsections (c), (e1), and (f) of this section, a custodial law enforcement agency shall disclose or release a recording to a district attorney (i) for review of potential criminal charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for use in criminal proceedings in district court, or (iv) any other law enforcement purpose, and may disclose or release a recording for any of the following purposes:

- (1) For law enforcement training purposes.
- (2) Within the custodial law enforcement agency for any administrative, training, or law enforcement purpose.
- (3) To another law enforcement agency for law enforcement purposes.

(h) Retention of Recordings. – Any recording subject to the provisions of this section shall be retained for at least the period of time required by the applicable records retention and disposition schedule developed by the Department of Natural and Cultural Resources, Division of Archives and Records.

(i) Agency Policy Required. – Each law enforcement agency that uses body-worn cameras or dashboard cameras shall adopt a policy applicable to the use of those cameras.

(j) No civil liability shall arise from compliance with the provisions of this section, provided that the acts or omissions are made in good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional wrongdoing.

(k) Fee for Copies. – A law enforcement agency may charge a fee to offset the cost incurred by it to make a copy of a recording for release. The fee shall not exceed the actual cost of making the copy.

(l) Attorneys' Fees. – The court may not award attorneys' fees to any party in any action brought pursuant to this section."

SECTION 2.(a) Article 23 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-458. SBI and State Crime Laboratory access to view and analyze recordings.

The local law enforcement agency of any county that uses the services of the State Bureau of Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by G.S. 132-1.4A shall, at no cost, provide access to a method to view and analyze the recording upon request of the State Bureau of Investigation or the North Carolina State Crime Laboratory."

SECTION 2.(b) Article 21 of Chapter 160 of the General Statutes is amended by adding a new section to read:

"§ 160A-490.1. SBI and State Crime Laboratory access to view and analyze recordings.

The local law enforcement agency of any city that uses the services of the State Bureau of Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by G.S. 132-1.4A shall, at no cost, provide access to a method to view and analyze the recording upon request of the State Bureau of Investigation or the North Carolina State Crime Laboratory."

SECTION 2.(c) Article 9 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-64. SBI and State Crime Laboratory access to view and analyze recordings.

Any State or local law enforcement agency that uses the services of the State Bureau of Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by G.S. 132-1.4A shall, at no cost, provide access to a method to view and analyze the recording upon request of the State Bureau of Investigation or the North Carolina State Crime Laboratory."

SECTION 2.(d) Chapter 15A of the General Statutes is amended by adding a new Article to read:

"Article 8A.

"SBI and State Crime Laboratory Access to View and Analyze Recordings.

"§ 15A-220. SBI and State Crime Laboratory access to view and analyze recordings.

Any State or local law enforcement agency that uses the services of the State Bureau of Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by G.S. 132-1.4A shall, at no cost, provide access to a method to view and analyze the recording

upon request of the State Bureau of Investigation or the North Carolina State Crime Laboratory."

SECTION 3. G.S. 143-318.11(a) reads as rewritten:

"(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

...
(10) To view a recording released pursuant to G.S. 132-1.4A."

SECTION 4. Article 5C of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-113.27. Needle and hypodermic syringe exchange programs authorized; limited immunity.

(a) Any governmental or nongovernmental organization, including a local or district health department or an organization that promotes scientifically proven ways of mitigating health risks associated with drug use and other high-risk behaviors, may establish and operate a needle and hypodermic syringe exchange program. The objectives of the program shall be to do all of the following:

- (1) Reduce the spread of HIV, AIDS, viral hepatitis, and other bloodborne diseases in this State.
- (2) Reduce needle stick injuries to law enforcement officers and other emergency personnel.
- (3) Encourage individuals who inject drugs to enroll in evidence-based treatment.

(b) Programs established pursuant to this section shall offer all of the following:

- (1) Disposal of used needles and hypodermic syringes.
- (2) Needles, hypodermic syringes, and other injection supplies at no cost and in quantities sufficient to ensure that needles, hypodermic syringes, and other injection supplies are not shared or reused. No public funds may be used to purchase needles, hypodermic syringes, or other injection supplies.
- (3) Reasonable and adequate security of program sites, equipment, and personnel. Written plans for security shall be provided to the police and sheriff's offices with jurisdiction in the program location and shall be updated annually.
- (4) Educational materials on all of the following:
 - a. Overdose prevention.
 - b. The prevention of HIV, AIDS, and viral hepatitis transmission.
 - c. Drug abuse prevention.
 - d. Treatment for mental illness, including treatment referrals.
 - e. Treatment for substance abuse, including referrals for medication assisted treatment.

(5) Access to naloxone kits that contain naloxone hydrochloride that is approved by the federal Food and Drug Administration for the treatment of a drug overdose, or referrals to programs that provide access to naloxone hydrochloride that is approved by the federal Food and Drug Administration for the treatment of a drug overdose.

(6) For each individual requesting services, personal consultations from a program employee or volunteer concerning mental health or addiction treatment as appropriate.

(c) Notwithstanding any provision of the Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes or any other law, no employee, volunteer, or participant of a program established pursuant to this section shall be charged with or prosecuted for possession of any of the following:

- (1) Needles, hypodermic syringes, or other injection supplies obtained from or returned to a program established pursuant to this section.
- (2) Residual amounts of a controlled substance contained in a used needle, used hypodermic syringe, or used injection supplies obtained from or returned to a program established pursuant to this section.

The limited immunity provided in this subsection shall apply only if the person claiming immunity provides written verification that a needle, syringe, or other injection supplies were obtained from a needle and hypodermic syringe exchange program established pursuant to this section. In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer who, acting on good faith, arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution under this section shall not be subject to civil liability for the arrest or filing of charges.

(d) Prior to commencing operations of a program established pursuant to this section, the governmental or nongovernmental organization shall report to the North Carolina Department of Health and Human Services, Division of Public Health, all of the following information:

- (1) The legal name of the organization or agency operating the program.
- (2) The areas and populations to be served by the program.
- (3) The methods by which the program will meet the requirements of subsection (b) of this section.

(e) Not later than one year after commencing operations of a program established pursuant to this section, and every 12 months thereafter, each organization operating such a program shall report the following information to the North Carolina Department of Health and Human Services, Division of Public Health:

- (1) The number of individuals served by the program.
- (2) The number of needles, hypodermic syringes, and needle injection supplies dispensed by the program and returned to the program.
- (3) The number of naloxone kits distributed by the program.
- (4) The number and type of treatment referrals provided to individuals served by the program, including a separate report of the number of individuals referred to programs that provide access to naloxone hydrochloride that is approved by the federal Food and Drug Administration for the treatment of a drug overdose."

SECTION 5. Sections 1, 2, and 3 of this act become effective October 1, 2016, and apply to all requests made on or after that date for the disclosure or release of a recording. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2016.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 2:51 p.m. this 11th day of July, 2016

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT
Meeting Date: October 6, 2016**

**Action Agenda
Item No. 3**

SUBJECT: Written Consent to Search Requirement for Law Enforcement

DEPARTMENT: Sheriff's Office

ATTACHMENT(S):

Orange County Sheriff's Office Written
Consent to Search Form

INFORMATION CONTACT:

Sheriff Charles S. Blackwood,
919.245.2900
Chief Deputy Jamison Sykes
919.245.2913
Jennifer Galassi, Legal Advisor,
919.245.2952

PURPOSE: To discuss issues related to possibly requiring Orange County Sheriff's Deputies to obtain written consent to conduct a search.

BACKGROUND: At the September 6, 2016 Board of Commissioners' ("BOCC") meeting, Commissioner Mark Dorosin submitted a petition that the topic of written consent to search be discussed at an upcoming BOCC work session. Some law enforcement agencies in North Carolina, including the Durham, Greensboro, and Fayetteville Police Departments have adopted policies requiring police to obtain written consent to search. Both federal and State law, however, allow consent to be provided in writing, orally, or by other means, as long as the expression of consent communicates its meaning clearly.

Proponents of requiring use of written consent to search forms assert that this measure is necessary given statistics that seem to indicate that minorities are disproportionately more likely to be stopped and searched than white drivers. Meanwhile, concern has been voiced from law enforcement that such a requirement would negatively affect their ability to engage in efforts to combat crime and ensure public safety.

FINANCIAL IMPACT: No financial impact is associated with discussing the requirement that law enforcement obtain written consent prior to conducting a search.

SOCIAL JUSTICE IMPACT: The following Social Justice Goal is applicable to this agenda item:

- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**

The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.

A discussion about written consent to search furthers the above Goal.

RECOMMENDATION(S): The Manager recommends that the Board engage in discussion with Sheriff Charles S. Blackwood about written consent to search.



OFFICE OF THE ORANGE COUNTY SHERIFF

Sheriff Charles S. Blackwood

106 East Margaret Lane, Hillsborough, North Carolina 27278

919-245-2900



Consent to Search Form

Person to be Searched

Person

I, _____, agree to allow law enforcement to perform a complete search of my person, including all property on my person.

Property to be Searched

Vehicle Plate: _____ VIN: _____

Make: _____ Model: _____

Premises Address: _____

Description: _____

Electronic Device Type of Device: _____

Make: _____ Model: _____

Serial Number: _____

Passwords/log-ins/specific directions for entry: _____

Other (Describe property): _____

I, _____, own, possess, or have authority over the property described above and do hereby agree to allow law enforcement to perform a complete search of the property listed above, to include all property located on or within the vehicle, premise, electronic device, or other property listed above.

I have been advised of my right to refuse to consent to this search. I give this consent voluntarily, without any promises made to me or threats of any kind any kind made against me. I understand any evidence of a crime may be seized as a result of this search.

Signature: _____ Date/Time: _____

Check if consent denied

Person Authorizing

Name: _____

Date of Birth: _____ Age: _____ Phone Number: _____

Address: _____

Officer Name: _____ Employee ID#: _____

Officer Signature: _____ Date/Time: _____