

# North Carolina State Highway Patrol (NCSHP) Leadership Advisory Group

Re: Governor's Issue Number Four: "How to Rebuild the Focus on Integrity, Honor and the Proud Heritage of the Patrol" and Issue Number three "Whether any legislative recommendations for the next session are necessary to enact further reform"

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## Background:

In 2007 and 2008 the Raleigh News and Observer published several newspaper articles which focused on a series of serious disciplinary actions and resignations involving various forms of alleged misconduct by sworn NCSHP personnel. The Department of Crime Control and Public Safety commissioned the KROLL, consulting firm to conduct an independent review of various aspects of the NCSHP in 2008.

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A report issued by KROLL, in April 2008 was generally favorable finding that the NCSHP was a "well managed, ethical and highly professional police organization." In support of this conclusion it was pointed out that despite the critical tone of media reports, less than 1% of the NCSHP force was involved in serious misconduct. The Report went on to say, however, that public trust in the organization had been shaken and there was "room for improvement" in the areas of hiring, promotions, supervision, training and ethics leadership. KROLL reviewers made 42 recommendations to improve the NCSHP's operations in the programs examined by the reviewers including 16 in the area of Hiring and Selection Process; 12 in the area of Supervision and Supervisory Training; and 15 that addressed Ethical Leadership and Ethics Training.

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After the KROLL report was issued in April 2008 another grouping of high profile serious disciplinary actions occurred within a short period of time in 2010. While the Secretary of Crime Control and Public Safety was appropriately aggressive in responding to the incidents and is clearly committed to ensuring the NCSHP demonstrates excellence in every respect, some members of the Leadership Advisory Group believe that the situation that the KROLL addressed in 2008 still exists, i.e continued damage to the NCSHP's public image (whether merited or not) and room for improvement. This is due to the substance and timing of the most recent series of misconduct incidents which resulted in several dismissals or resignations, including the following:

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- A NCSHP Captain who supervised a 12 county area was dismissed in May 2010 after allegedly being stopped for driving while intoxicated and released without charges by a local police agency resulting in the dismissals of three high ranking officers from the local police department;

- A Major who was the NCSHP spokesperson for the NCSHP resigned in June 2010 after allegedly sending inappropriate text messages to a coworker;
- A Master Trooper resigned after being charged with a DUI offense involving a hit and run in June 2010;
- A Trooper resigned after a DWI charge in June 2010;
- A Trooper resigned while under investigation for alleged misconduct against a woman;

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The incidents again raised questions as to whether the NCSHP has experienced a disproportionate level of misconduct over the last five years and, if so, what is the cause and what action should be taken to address this situation.

Shortly after a new series of critical media coverage, NC Governor Beverly Perdue established the NCSHP Leadership Advisory Group with a charge to review and counsel upon the following areas under consideration for change:

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1. The selection process for a new commander;
2. The patrol's structure and policies;
3. Whether any legislative recommendation for the next session are necessary to enact further reform;
4. How to rebuild focus on integrity, honor, and the proud heritage of the patrol.

Over a series of meetings the Leadership Advisory Group was provided information describing the NCSHP disciplinary processes, a report prepared by KROLL in 2008, entitled "Independent Review of Hiring and Selection, Ethics and Supervisory Training"; NCSHP Internal Affairs (IA) Unit Annual Reports for 2006, 2007, 2008 and 2009; and a spreadsheet containing raw data concerning the number of IA complaints from 2005 to 2010. Upon request for further information some members reviewed a spreadsheet containing a summary of the sustained serious disciplinary actions from 2005-2010, the dispositions of those inquiries, the rank/position of the Highway patrol member disciplined and his/her experience level.

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On September 1, 2010 a set of recommendations addressing issues number one and two were forwarded to the Governor for consideration while additional information was requested relative to issues number three and four. Since the Leadership Advisory Group's initial report, a new Commander, Colonel Michael W. Gilchrist was selected to lead the NCSHP.

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The criticism levied on the NCSHP has centered on the ethical culture of the NCSHP and the efficacy of the NCSHP's disciplinary processes, not on the operational effectiveness of the NCSHP. The consensus of the Leadership Advisory Group is that the NCSHP is a highly effective organization in achieving the mission of protecting the citizens of NC, reducing collisions and making the highways of North Carolina as safe as possible. The NCSHP has received the highest rating (Flagship Agency Status) from the Committee for Accrediting Law Enforcement Agencies (CALEA), the primary accrediting organization for law enforcement

agencies. The CALEA review includes an examination of the disciplinary process. Without information regarding peer organizations, however, the Leadership Advisory Group is unable to determine whether the volume or nature of the NCSHP's misconduct incidents is within the norm for comparable sized agencies with similar missions. The "norm" however was not the standard applied by the Leadership Advisory Group. The Leadership Advisory Group believes that the citizens of North Carolina expect and deserve nothing less than the highest standards of excellence in every aspect of law enforcement from the NCSHP and thus the Group applied this standard of excellence to the NCSHP ethical culture and disciplinary programs as well.

The Leadership Advisory Group believes that the Department of Crime Control and Public Safety and NCSHP focused on the issues raised in 2008 and devoted time, resources and capital to enhance the disciplinary system and ethical culture of the NCSHP. Nevertheless, the circumstances surrounding the 2010 misconduct incidents which occurred two years after the KROLL report was issued, and the irony that that these serious infractions were allegedly committed by two high ranking Patrol officers, combined with the other incidents committed by Troopers charged with enforcement of the very laws allegedly violated, again raises the issue of the prevailing culture of the NCSHP and especially whether the patrol took the KROLL report's recommendations seriously.

A review of the KROLL report's recommendations relating to ethical leadership and training reveals that of 15 recommendations advanced by KROLL based on the Q2 2010 report provided to the Leadership Advisory Group in July 2010:

1. one recommendation to adopt a disciplinary matrix was rejected,
2. eight recommendations were either still under study and/or only partially implemented.
3. The status of one recommendation, KROLL Recommendation #11, which called for the implementation of an ethics campaign within the NCSHP is complete and described as "ongoing" after being implemented on July 7<sup>th</sup>, 2010. The Patrol issues a Code of Conduct, which all sworn members must read and sign. As new members are employed with the Patrol, the signing and acknowledgment of the Patrol's Code of Conduct will be "ongoing". The outdated Q2 Report lists the NCSHP's former Public Information Officer as having a key role in the implementation in 2008, when this same officer, a Major, resigned in June 2010 while allegedly under inquiry for sending inappropriate text messages to his secretary.

It is apparent from the data reviewed that IA could make better use of the rich trove of information available to them regarding employee misconduct complaints and incidents. While data is routinely collected and reported, the effective analysis of that data and the conversion of the data to useful information that could form foundations for policy changes, supervisory performance appraisals, training programs, early interventions and public transparency is not available. This situation may have hindered the NCSHP's ability to assess its disciplinary

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programs, the prevailing culture and attitudes regarding certain behaviors and the overall impact of a particular misconduct incident or group of incidents.

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Based on a review of the data presented to the Leadership Advisory Group there are steps that can be taken to further reinforce ethical behavior, monitor employee conduct and prevent serious misconduct violations. The following constructive recommendations are offered relative to issues three and four. The Leadership Advisory Group believes that these actions are necessary to address the public's perception of the NCSHP; improve transparency of NCSHP operations and processes; enable the NCSHP and the Secretary of the Department of Crime Control and Public Safety to more proactively and effectively use their IA data to analyze incidents to address the root cause of the infractions and ultimately prevent or reduce serious misconduct incidents.

Recommendations regarding the Leadership Advisory Group's Issue Four (Focus on integrity, honor, and the proud heritage of the Patrol):

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1. The NCSHP fully complete the implementation of recommendations 2,3,4,5,6, 8,9 and 11 of the KROLL Independent Review. In particular the NCSHP should focus on:
  - a. Implementing a policy that requires a "trial audit" of all sustained serious misconduct cases with a particular emphasis on determining the root cause of the employee's behavior, the role and accountability of the employee's supervisor and the nature and quality of the supervision of the employee who is the subject of the serious disciplinary action. An understanding of the factors that contributed to the misconduct and whether relevant behavior indicators were overlooked is fundamental to adopting policies to prevent future incidents. According to the documents provided to the Advisory Group this Kroll recommendation (number six) was studied but not adopted.
  - b. Implementing the reinvestigation of every sworn employee at 5 year intervals or upon the occasion of a promotion that consists of, at minimum, inquiries with the following: the FBI Criminal Justice Information System (CJIS) for nationwide arrest and convictions; the NC Administrative Office of the Courts for statewide traffic, misdemeanor and felony citations, arrests and convictions and restraining orders; and public source information for any other relevant "red flags" such as bankruptcy, civil suits and judgments, foreclosures or any other adverse administrative actions such as civil fines, penalties or sanctions. This was the subject of Kroll Recommendation number five.
  - c. Completing the implementation of an employee Early Warning System centralized under IA as set forth in Kroll Recommendation number 3 in

conjunction with an effective IA records management system and analytical software per Kroll recommendations number 3 and 4.

Additional recommendations made by the Leadership Advisory Group that were not included in the 2008 KROLL report:

2. That the NCSHP prepare and publish a quarterly generic summary description of disciplinary actions sustained and the action taken. The Patrol Commander should publish and disseminate this information to the entire NCSHP work force to reinforce ethical behavior, highlight the type of actions that are subject to sanctions and prevent misconceptions or misinformation about violations and punishments.
3. That negative public perceptions about the NCSHP be addressed by taking the following actions: a) promoting complete transparency to the public by posting a quarterly summary of disciplinary actions on the NCSHP website and conversely, highlighting NCSHP accomplishments through periodic press releases and website postings; b) establishing a "Citizen's Academy" program that is open to the public and the media and consisting of briefings and demonstrations regarding various aspects of the NCSHP mission and processes; c) regular website postings on significant NCSHP initiatives.

That the NCSHP not just compile IA data, but analyze and interpret the data at regular intervals to identify trends, patterns, and anomalies with respect to the Patrol as a whole and also within troop divisions and units, rank classifications, experience levels etc. This analysis should be formulated to develop remedial policies and procedures, incorporate results into performance appraisals of Supervisors and support the development of ethics and supervisor training programs. For example IA should analyze:

- a. Why serious personnel actions outnumber less serious actions (54% to 46%) over the past 4 years and determine whether lesser misconduct infractions and other indicators are being under-reported by immediate supervisors in favor of informal resolution and/or are overlooked altogether, thus deferring appropriate supervisory action until a very serious misconduct situation occurs;
- b. Whether an aberrant number of serious misconduct violations have occurred within the Officer ranks or among the more tenured Troopers;
- c. Whether a particular Troop or Unit has experienced a disproportional volume or severity of misconduct incidents;

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Deleted: <#>.9 and 11 of the April 28, 2008 Kroll Independent Review. In particular the NCSHP should focus on: ¶ <#>Implementing a policy that requires a "trail audit" of all sustained serious misconduct cases with a particular emphasis on determining the root cause of the employee's behavior, the role and accountability of the employee's supervisor and the nature and quality of the supervision of the employee who is the subject of the serious disciplinary action. An understanding of the factors that contributed to the misconduct and whether relevant behavior indicators were overlooked is fundamental to adopting policies to prevent future incidents. According to the documents provided to the Advisory Group this Kroll recommendation (number six) was studied but not adopted.¶ <#>Implementing the reinvestigation of every sworn employee at 5 year intervals or upon the occasion of a promotion that consists of, at minimum, inquiries with the following: the FBI Criminal Justice Information System (CJIS) for nationwide arrest and convictions; ... [1]
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- d. The number of incidents investigated relative to complaints, the sources of complaints, and actions taken.
- 4. That the NCSHP obtain IA data from peer organizations of comparable size and mission and compare the data, among other relevant information, with the volume of serious actions, the nature and source of IA complaints and the ratio of serious to non-serious actions within the NCSHP to determine whether the NCSHP is within the norm.
- 5. That the NCSHP reconsider the development and implementation of a matrix for classification of violations unique to a law enforcement agency such as the NCSHP and establishes a punishment range and specific factors to consider in imposition of the maximum and minimum punishments. This would clearly establish specific violation categories and punishments and dispel any perceptions of subjectivity or influence in the IA system. It would also elaborate on many violations that are currently captured under the omnibus "conduct unbecoming" classification which is vague and difficult to define.
- 6. That the new Colonel ensure that the role and accountability of supervisors at all levels in reinforcing the values and ethics of the organization is identified as a core supervisory function and is incorporated into the NCSHP individual performance evaluation system and that supervisors are fully trained in the employment of the management tools and techniques available to perform this vital function.

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Recommendations regarding Issue Three (Whether any legislative recommendation for the next session is necessary to enact further reform):

In the current law enforcement environment it is difficult to justify not expanding the pool of candidates for the NCSHP Commander position to include a nationwide executive search. While the culture of the NCSHP is indeed unique, the law enforcement profession has evolved to the point where a large pool of talented and qualified law enforcement executives exist who can provide a broader and more global law enforcement perspective and skill set. This is not to say that the NCSHP does not have an effective leadership development program, nor does it imply that there are not highly qualified leaders such as Mike Gilchrist, the Governor's recent selection to lead the Patrol. Expansion of the pool of law enforcement executive talent to choose from potentially exposes the NCSHP to different leadership styles, new ideas, best practices and an international professional network. In addition, competition is normal and healthy and raises the bar for the NCSHP to develop nationally competitive executives. The citizens of North Carolina deserve nothing less.

The Leadership Advisory Group recommends:

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1. That in order to consider a nationwide law enforcement executive talent pool and broaden the perspective of the NCSHP the NC General Assembly should amend state law to permit the consideration of qualified candidates from outside the NCSHP provided that the outside candidate has at least 15 years of law enforcement experience, of which at least 5 years of this experience is at the executive level and the candidate has earned BLET certification or an equivalent accreditation from another state. Any changes of state law shouldn't preclude consideration of qualified NCSHP candidates.

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As stated in the body of this document the Leadership Advisory Group makes these recommendations in the spirit of promoting excellence within the NCSHP. No conclusions were made that there was any lack of commitment at the highest levels of the NCSHP and the Department of Crime Control and Public Safety to address misconduct issues, quite the contrary. The group does believe however that there is still room for improvement and the Patrol can and should be more proactive in its ethics and disciplinary programs. The Group advocates that the above recommendations, including those made in the 2008 KROLL report be adopted immediately, and implemented as soon as practicable given current limitations on budget and resources.

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Completing the implementation of an Employee Early Warning System centralized under IA as set forth in Kroll Recommendation number 3 in conjunction with an effective IA records management system and analytical software per Kroll recommendations number 3 and 4.