

MINUTES

SENATE INTERIM COMMITTEES ON JUDICIARY

October 1, 2018

The Senate Interim Committee on Judiciary met at 10:00 a.m., on Monday, October 1, 2018, in Room B, MAC, Little Rock, Arkansas.

Committee members present: Senators Linda Collins-Smith, Chair; Terry Rice, Vice Chair; Will Bond, Breanne Davis, Trent Garner, and Gary Stubblefield.

Other legislators present: Senator Alan Clark. Representatives Mary Bentley, Trevor Drown, Jimmy Gazaway, Kim Hammer, and Dwight Tosh.

Senator Collins-Smith called the meeting to order.

Consideration to Approve Minutes [EXHIBIT B]

Senator Rice made a motion to approve the September 17, 2018, meeting minutes. The motion was seconded by Senator Stubblefield, and without objection, the motion carried.

Discussion from Mr. David Sachar, Executive Director, Judicial Discipline and Disability Commission (JDDC), was recognized, and he discussed judicial policy issues, rules, and oversight of administrative law judges (ALJs). Currently, ALJs are not subject to the JDDC jurisdiction, however, they are required to abide by the Code of Judicial Conduct. Mr. Sachar also explained the process of filing a complaint against an attorney. The complaint is reviewed by the JDDC, and it is either dismissed or submitted for a second review. If submitted for a second review, it is completed, and the attorney has no right to appeal the decision. Notably, the Arkansas Supreme Court has the power to suspend, remove, involuntarily retire, or censure judges based on a recommendation from the JDDC.

At the request of Representative Hammer and Senator Stubblefield, Mr. Sachar will inquire if other states have implemented term limits for their judges, and provide the average age of an administrative law judge. Upon request of the Committee, Mr. Sachar offered to discuss recusal issues at a future meeting.

Discussion from Chief Justice Dan Kemp, Arkansas Supreme Court, **Mr. Tim Holthoff**, Director of Court Information Systems Division, Administrative of the Courts (AOC), and **Mr. Marty Sullivan**, State Court Administrator Director, (AOC), were recognized. Justice Kemp discussed the adoption of the first Strategic Plan of Arkansas Judiciary for 2018-2025 [**Handout 1**]. Notably, Arkansas was one of twelve states that did not have a strategic plan for their judiciary system. The court has many issues to deal with such as court security and automation. Justice Kemp submitted [**Handout 2**], and reported, the General Assembly passed Act 576 of 2007 to increase funding for court security to \$250,000 per year for a court security grant program. It awards counties up to \$15,000 per year for court security and emergency preparedness. He expressed he would like for the General Assembly to increase the amount of the court security grant to \$500,000 annually.

Justice Kemp gave a brief overview of the Specialty Courts created by the General Assembly, which he added help people stay out of prison. They include Adult Drug Courts, Juvenile Courts, DWI Courts, Veterans Treatment Courts, and Mental Health Courts. The National Center for State Courts is conducting a statewide evaluation to show the effectiveness of the Specialty Courts. This report will be presented to the Governor and the General Assembly.

Referencing **Handout 3**, Mr. Sullivan provided the Committee with a list of counties that received grant awards. Senator Stubblefield inquired as to whether Yell County applied for the grant. Mr. Sullivan reported some counties did not apply, noting he would research the information to find out if Yell County applied.

Mr. Holthoff discussed the need to update older technology being used by the AOC to handle the automation and technology of the court management, case management, and jury management systems. According to Mr. Holthoff, modernization can save the investment that has been made without spending an additional \$20 million on a new system; it will cost approximately \$1.2 million annually to hire programmers to modernize the system.

In response to a question by Senator Stubblefield regarding the number of times within the last 24 months a court security system has been breached, Justice Kemp said he would forward the question to Mr. Pete Hollingsworth, Director for Court Security and Emergency Preparedness Committee.

Presentations on Procedures and Processes for Serious Crimes Committed

Colonel Bill Bryant, Director, Arkansas State Police (ASP), **Major Matthew Briggs**, Jail Administrator, Pulaski County Jail, **Chief Kenton Buckner**, Little Rock Police Department (LRPD), were recognized. Colonel Bryant explained the process of how the ASP handles arrests of undocumented immigrants who have committed serious crimes. Arkansas is required by federal law under the Vienna Convention on Consular Relations to notify the consulate, U.S. Immigration and Customs Enforcement (ICE), and the prosecuting attorneys' office. Colonel Bryant reported ICE has the sole authority of filing immigration charges or an ICE detainer/hold. Major Briggs informed the Committee that the Pulaski County Jail is the "dumping ground" for all arrests, because there are no city jails within the county. In the last two years, there have been approximately 149 ICE holds placed on prisoners, which includes 21 inmates who were sentenced and transferred to the Arkansas Department of Corrections (ADC). Chief Buckner reported the LRPD's response is similar to the ASP in that the consulate is contacted at the appropriate time.

Mr. Bob McMahon, Prosecutor Coordinator, Office of Prosecutor Coordinator, was recognized. He explained the process of how undocumented immigrants' are considered a flight risk. Prosecutors and judges may take flight risks under consideration if they are aware of it. Senator Stubblefield requested information on the number of undocumented immigrants incarcerated by the ADC, and if long-term records of undocumented immigrants are kept on those who are involved in felony or misdemeanor cases. Mr. McMahon offered to provide that information.

Public Testimony

Ms. Kathryn Hall, Citizen, and **Chief Greg Tabor**, Fayetteville Police Department, were recognized. Ms. Hall provided testimony involving a fatal accident caused by a suspected undocumented immigrant, which resulted in the death of her daughter. It was noted the driver accepted a plea deal and was sentenced to 17 years in April. He may be eligible for parole in July 2021.

Chief Tabor stated the procedures for handling undocumented immigrant's arrests are similar to other law enforcement agencies. He agreed with Ms. Hall's statements that penalties for the leaving the scene of an accident should be tougher. He expressed that he hope the State would work to enhance penalties for hit and run accidents.

There being no further business, the meeting adjourned at 12:20 p.m.