

APPROVED NOVEMBER 26, 2018

EXHIBIT B

MINUTES

HOUSE AND SENATE INTERIM COMMITTEES ON JUDICIARY

October 22, 2018

The House and Senate Interim Committees on Judiciary met at 1:30 p.m., on Monday, October 22, 2018, in Room B-MAC, in Little Rock, Arkansas.

Senate Committee members present: Senators Linda Collins-Smith, Chair; Breanne Davis, Trent Garner, and Gary Stubblefield.

House Committee members present: Representatives Dwight Tosh, Vice-Chair; Bob Ballinger, Sarah Capp, Carol Dalby, Trevor Drown, Lanny Fite, Jimmy Gazaway, Douglas House, Laurie Rushing, Brandt Smith, and David Whitaker.

Other legislators present: Senators Ronald Caldwell, Joyce Elliott, and Larry Teague. Representatives Kenneth Ferguson, Vivian Flowers, Ken Henderson, Grant Hodges, John Maddox, Josh Miller, and Reginald Murdock.

Representative Tosh called the meeting to order.

Consideration to Adopt Senate Judiciary Minutes for October 12 and October 15, 2018
[Exhibit C]

Senator Stubblefield made a motion to adopt the October 12 and October 15, 2018, meeting minutes. The motion was seconded by Senator Garner, and without objection, the motion carried.

Consideration to Adopt Minutes of Rules Review Meetings for August 27-28, 2018
[Exhibit D]

Representative House made a motion to adopt the minutes of the rules review meetings held on August 27-28, 2018. The motion was seconded by Representative Ballinger, and without objection, the motion carried.

Consideration to Adopt Interim Study Proposals (ISPs)

Representative Tosh made a motion to adopt Interim Study Proposals 2017-071, and 2017-072. Without objection, the motion carried. He informed the Committees that both ISPs would be reviewed for further study, noting that Representative Vivian Flowers would explain

the ISPs and testimonies would be given by invited guests. He stated that ISP 2017-071 deals with body cameras for law enforcement officers, and establish incentives for the use of body cameras and data storage.

Interim Study Proposal (ISP) 2017-071: “Concerning Body Cameras for Law Enforcement Officers; and to Establish Incentives for the Use of Body Cameras and Body Camera Data Storage”.

Representative Flowers provided an explanation of ISP 2017-071. She stated there is a growing concern regarding unarmed citizens being shot by police officers. According to Representative Flowers, Arkansas is doing a good job with utilizing tools to help protect and support citizens and law enforcement officers. She stated that accountability is also important, and another issue that impacts police departments is the ongoing cost that affects their ability to utilize body cameras.

Mr. Ricky Whitmore, Assistant Police Chief, Pine Bluff Police Department and Mr. Efrem Elliott, Police Chief, Gould Police Department, were recognized. They discussed their department’s experience with purchasing body cameras, how their officers use them, costs, challenges, and the benefits.

Assistant Chief Whitmore stated technology has changed, and their car video cameras were obsolete and may not capture what the officers are doing. The public wanted body cameras, and the department set out to provide them. To purchase the vehicle video cameras and body cameras, Assistant Chief Whitmore reported a \$600,000 loan was taken out to cover the costs for 60 car cameras, and the department received free body cameras with their purchase.

He explained some of the challenges to the body cameras that include clips which may not adjust or position properly to an officer’s clothing depending on his or her size. He said one way to alleviate this problem is to have body cameras built into the uniform to secure it in a certain position for the best video footage.

Regarding data storage, Assistant Chief Whitmore explained after an officer’s video is downloaded to a server, it is archived after 30 days. The data space cost will increase to preserve it on a computer server, and the file cannot be separated after it is archived. He stated that since officers have been wearing the body cameras there has been a decrease in the amount of complaints filed against them. Officers are penalized for not wearing their body cameras to work.

Senator Elliott asked whether various cities or counties explored working together to have a procurement contract to purchase body cameras in bulk or work together with the Municipal League to have something done. Assistant Chief Whitmore replied, he is not aware of any collaboration with other cities or counties, but thinks this is a good idea.

Chief Elliott provided a brief overview of the Gould Police Department. He stated the department is small and consists of eight police officers, noting body cameras are essential to law enforcement, as they show everything that occurred. Chief Elliott stated the Gould Police Department’s policy requires officers to wear body cameras or stay at home, noting the department spent \$3,000 per body camera for each officer. In response to a question by Senator Collins-Smith regarding the length of time data is stored, Chief Elliott replied, the department does not have the resources to store data for a long time (up to 1 or 2 months).

Ms. Amanda Yarbrough, General Counsel, Commission on Law Enforcement Standards and Training (CLEST), was recognized. She stated body cameras are a local issue. They can be cost prohibitive, as some of the smaller police departments may not be able to afford the quality of cameras that larger departments can purchase.

Ms. Yarbrough discussed some of the concerns and asked the following questions:

- If purchasing body cameras is a statewide mandate, who will fund it?
- Regarding data storage concerns, there is a state records retention schedule in place, therefore will departments be subject to it?
- What size servers are needed to store the data for the mandated time period?

She added CLEST does not have oversight over the body cameras or rules associated with them. In response to a question by Representative House regarding whether legislation is needed to develop a standard for the type of cameras that are needed statewide, Ms. Yarbrough replied, some sort of legislation is needed that would involve the types of cameras that would be used, noting the legislation would have to give the CLEST the authority to promulgate rules related to body cameras.

Representative Flowers stated she is not sure what other states are doing regarding mandating standards for body cameras, noting she is not opposed to investigating the mandate option if it would make it better for the police departments. However, she would be interested investigating ways to assist the police departments without promulgating rules such as the benefit of departments coming together with the Municipal League to assist departments with being more efficient.

Interim Study Proposal (ISP) 2017-072: “To Establish a Uniform Standard for Data Collection Among Law Enforcement Agencies.” Representative Flowers, Sponsor, provided an explanation of ISP 2017-072. She provided the number of individuals in the U.S. that were killed by police as follows: 788 individuals were killed in 2018, 987 in 2017, 963 in 2016, and 955 in 2015. The number of individuals killed by police officers in Arkansas was low. She stated establishing a standard of data collection helps to see if the police departments are doing well.

Ms. Yarbrough stated that CLEST purchased an online software system that maintains a profile for every law enforcement in the State. Typically, when an officer is hired, promoted, demoted, terminated, or resigns that change in status is reported to the standards office and kept as part of the officer’s permanent file along with the training record. This information is available to police departments.

Colonel Bill Bryant, Director, Arkansas State Police (ASP), was recognized. He stated the ASP is in the process of beginning an electronic records management system that will cover some of the criteria that Representative Flowers listed in her bill. The ASP has an ASP22 form that is used to report simple force to deadly force. Supervisors review front and rear dash cam videos, to check if the behavior of the state troopers is professional and appropriate. When deadly force is used, it is always reviewed by the deadly force committee and a prosecutor. Colonel Bryant stated that sometimes an officer does not have time to give a verbal warning, specifically, when someone pulls a gun on the officer, and each case must be reviewed individually. Notably, body cameras have benefited ASP more than they have hurt them, particularly regarding complaints. Colonel Bryant reported ASP paid approximately \$5,200 per

vehicle for the dash cameras and \$900 for each body camera, noting that most of the cost comes from the server and storage fees.

Discussion on Arkansas “Red Flag” Draft Legislation [EXHIBIT F]

Mr. Tim Loggins, Citizen, was recognized and discussed the Arkansas Court of Appeals decision regarding and upholding the validity of open carry or concealed carry of a firearm without a license/permit in Arkansas. He stated the court affirmed the fact that you must have the intent to employ a weapon against a person before you can be charged or cited. He reported Act 46 states you do not need a permit to carry a weapon openly or concealed. Mr. Loggins stated, we face other challenges and erosions regarding our gun rights. He reported the Red Flag legislation will have many challenges in the upcoming legislative session. Mr. Loggins appealed to the Committees to stand firm against red flag laws and a ban on assault weapons, noting that an assault weapon does not exist, as any weapon can be used to assault someone and Red Flag laws target a weapon. According to Mr. Loggins, Arkansas will be the second Republican state to adopt such laws and that Red Flag laws violate the following constitutional amendments: 1st, 2nd, 5th, 7th, and 14th.

Senator Collins-Smith stated, all gun legislation goes through the Judiciary Committees and feels that Arkansas does not need any Red Flag laws. Senator Garner expressed strong objections to the proposed draft Red Flag legislation. He said if the bill made it to committee, he would offer an amendment to it, noting the amendment would change the name of the legislation to *The Arkansas Gun and Personal Property Seizure Law*, which he feels will add transparency.

Discussion on of Draft Legislation Regarding the Purchase of an Assault Weapon [EXHIBIT G]

Senator Collins-Smith stated that this gun legislation was presented to the Joint Performance Review Committee, and the legislation should have gone through the Judiciary Committees for discussion. Representative Tosh reminded the committee members and the public that the sponsors of the legislation were not in attendance to defend their position on the legislation. Mr. Loggins expressed he would not comment directly on the legislation due to the sponsors not being there. He reiterated there is no such thing as an assault weapon. Senator Collins-Smith stated she finds it very offensive and insulting that there would be an age limit on purchasing a gun.

There being no further business, the meeting adjourned at 3:03 p.m.