

# **INTERIM JOINT COMMITTEE ON JUDICIARY**

## **Minutes of the 5th Meeting of the 2023 Interim**

**October 13, 2023**

### **Call to Order and Roll Call**

The 5th meeting of the Interim Joint Committee on Judiciary was held on Friday, October 13, 2023, at 2:00 p.m., in Room 149 of the Capitol Annex. Representative Daniel Elliott, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Daniel Elliott, Co-Chair; Senators Karen Berg, Danny Carroll, Matthew Deneen, Gerald A. Neal, John Schickel, Brandon J. Storm, and Johnnie Turner; Representatives Kim Banta, Kevin D. Bratcher, Josh Bray, Lindsey Burke, Jennifer Decker, Stephanie Dietz, Patrick Flannery, Keturah Herron, Nima Kulkarni, Kimberly Poore Moser, Jason Nemes, Jason Petrie, Steve Rawlings, Pamela Stevenson, and Nick Wilson.

Guests: Jacquelyn Gwinn-Villaroel, Chief of Police, Louisville Metro Police Department; Phillip Burnett, Jr., Commissioner, Kentucky State Police; Ashley Spence, DNA Justice Project; Louis Kelly, Commonwealth's Attorney, 54th Judicial Circuit; Melanie Lowe, General Counsel, Department of Public Advocacy; John T. McGarvey, Esquire, Uniform Law Commission; and Trish McAllister, Esquire.

LRC Staff: Roberta Kiser, Matt Trebelhorn, Randall Roof, Stacy Byrns Taulbee, Joshua Shelepak, Elizabeth Hardy, and Robert Wright.

A motion was made by Senator Schickel and seconded by Senator Storm to approve the minutes of the September 21, 2023, meeting. Minutes were approved by voice vote without objection.

### **2022 Crime in Kentucky Report**

Jacquelyn Gwinn-Villaroel, Chief of Police, Louisville Metro Police Department and Phillip Burnett, Jr., Commissioner, Kentucky State Police testified regarding the reported discrepancy in crime statistics reported by LMPD for the 2022 Crime in Kentucky Report.

In response to questions from Representative Elliot, Commissioner Burnett stated that crime statistics for 2022 are slated to be updated when the 2023 Crime in Kentucky

Report is released. Chief Gwinn-Villaroel stated that LMPD did submit their data correctly and that the discrepancy was the result of a digital reporting system error.

In response to questions from Senator Westerfield, Chief Gwinn-Villaroel discussed the Mark43 record management system used by LMPD and explained how LMPD's reporting system shares data with KSP's reporting system, KY OPS. Chief Gwinn-Villaroel also stated that LMPD and KSP have reconciled the discrepancy between statistics and confirmed that LMPD submitted the correct numbers.

In response to questions from Senator Carroll, Commissioner Burnett stated KSP discovered the discrepancy after the investigative report was released. Commissioner Burnett also stated there was no communication between KSP and LMPD regarding LMPD's switch to the Mark43 reporting software, because it was not deemed an issue. Commissioner Burnett also stated KSP is only a repository for crime statistics and that they do not analyze crime reports when compiling the Crime in Kentucky Report. Chief Gwinn-Villaroel restated the discrepancy was a technical error and that monthly reports are being commissioned to verify statistics. Commissioner Burnett also stated that there is no statutory regulation for police organizations to use KY OPS. Chief Gwinn-Villaroel stated LMPD does not use KY OPS because Mark43 offers LMPD more in their day-to-day operations.

In response to questions from Representative Bratcher, Commissioner Burnett stated KSP is responsible for its crime data, but is only a repository for crime data from other police organizations. Commissioner Burnett also stated the discrepancy would have been discovered internally, if the investigative report had not discovered it.

In response to questions from Senator Deneen, Chief Gwinn-Villaroel stated LMPD was on-boarding the Mark43 reporting software before she was hired, and discussed her experience with the Mark43 software. Commissioner Burnett stated that there are four police organizations that do not use KY OPS, including LMPD. Commissioner Burnett stated he does not know what reporting system the other three police organizations use.

### **Rapid DNA and DNA Evidence**

Representative Patrick Flannery, House District 96, stated he wished to give the committee an overview of what Rapid DNA technology is and how it is used by the federal government and other states.

Ashley Spence, DNA Justice Project, shared her experience as a victim of sexual violence and outlined the purpose of her organization. She outlined Rapid DNA technology and procedures that are used to match an arrestee's DNA to open cases, how Rapid DNA technology has been rolled out in other states, and how it is used to reduce crime.

Melanie Lowe, General Counsel, Department of Public Advocacy, discussed her experience with DNA evidence in her position as General Counsel for the Department of Public Advocacy.

In response to a question from Senator Berg, Ms. Spence stated that if an arrestee is found not guilty, their DNA is expunged from national databases. Ms. Spence also stated that some states have automatic expungement, while others require a letter requesting expungement.

In response to questions from Senator Carroll, Representative Flannery confirmed that any match in a national database from an arrestee must be followed up with a second test. Representative Flannery also stated he was unsure if there was a report with the statistics of DNA swabs upon felony conviction. Ms. Spence stated that there are no other long-standing legal challenges to Rapid DNA. Ms. Lowe explained why technicians must be certified to take a DNA swab from an arrestee.

### **Transfer on Death Deed**

Representative Steve Rawlings, House District 66, John T. McGarvey, Uniform Law Commission, and Trish McAllister presented a proposed bill with two parts, the first being transfer on death deeds that permit a property owner to designate a beneficiary who will automatically inherit the property upon the owner's death, avoiding probate, and the second being the phasing out of the inheritance tax for deaths occurring on or after July 1, 2024.

Mr. McGarvey presented background information on transfer on death deeds. Ms. McAllister presented information on the transfer on death deeds legislation that Texas passed in 2014.

In response to a question from Senator Turner, Mr. McGarvey stated that this legislation includes provisions to include real property and listed property, like automobiles.

In response to a question from Representative Flannery, Mr. McGarvey was not sure if the proposal required an affidavit of death to be filed with a decedent's county clerk's office regarding automobiles.

In response to questions from Senator Storm, Mr. McGarvey stated that other states that have passed similar legislation have not encountered issues with obtaining title insurance. Representative Rawlings stated that they have only worked with Texas officials regarding this legislation.

In response to a question from Representative Burke, Representative Rawlings stated he would be amenable to adjusting the inheritance tax portion of the bill.

In response to a question from Senator Berg, Representative Rawlings stated he did not know what amount of revenue the state would lose if this bill was law, but that those calculations would be done. Representative Rawlings stated that Kentucky is one of only six states that have an inheritance tax.

### **Adjournment**

There being no further business, the meeting adjourned at 3:54 p.m.