

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 2nd Meeting of the 2021 Interim

July 20, 2021

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Local Government was held on Tuesday, July 20, 2021, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Michael J. Nemes, Adrienne Southworth, Damon Thayer, and Phillip Wheeler; Representatives Danny Bentley, Josh Bray, George Brown Jr., Jonathan Dixon, Jeffery Donohue, Ken Fleming, Deanna Frazier, Regina Huff, Mary Beth Imes, DJ Johnson, Adam Koenig, Matt Lockett, Mary Lou Marzian, Brandon Reed, Rachel Roberts, and Walker Thomas.

Guests: Heath Cox, Henderson Police Department; Shawn Butler and Robert Nader, Kentucky Association of Chiefs of Police; Nicolai Jelik, John Schwartz, and Joseph Wallace, Department of Criminal Justice Training.

LRC Staff: Mark Mitchell, Christopher Jacovitch, and Cheryl Walters.

Approval of Minutes

Upon the motion of Representative Fleming, seconded by Representative Johnson, the minutes from the June 15, 2021 meeting were approved.

Police Officer Recruiting and Retention

Chief Heath Cox, Henderson Police Department, told the Committee that his Department offers the following to promote recruitment and retention: offering differing pay for differing shifts; providing pay raises; providing additional rank promotions with commensurate pay increases; implementing a lateral program which compensates people for work experience when hiring; rehiring retired officers at particular pay points to bring their experience to new officers; offering load bearing vests to offset equipment weight and assist in officer health; providing take home vehicles for officers living in the county rather than only in the city or adjacent to the city; reviving an annual awards banquet; keeping

the vehicle fleet replenished; providing an officer wellness program; and providing in-house supervisor training.

Henderson's Police Department currently has six recruits in training. The Department is moving to a 12-hour shift to maximize its current manpower. Most agencies in Kentucky are doing ten hour shifts or twelve hour shifts. The work schedule will change to provide work life balances. There will be efforts at seeking permission to expand the take-home vehicle program to include officers living in adjacent counties, rather than limiting it to only officers residing within the county.

The Henderson Police Department is looking for authorization to hire public safety officers. The public safety officer is a non-sworn position responsible for performing non-hazardous and non-emergency calls for service and assisting police officers with routine duties. They do not carry firearms. They have different uniforms and vehicles. The position also serves as a recruitment tool to determine if these individuals would have the desire and character to become a full officer. The types of call handled by a public safety officer would include investigating accidents; parking problems and motorist assistance. The number of those types of calls will be over 3,000 in a year just in Henderson's department.

The problems that need to be solved, with help from the legislature, include: increasing the infrastructure to train new recruits; changing the way policing is viewed; building pipelines for future recruits, such as criminal justice programs in schools and colleges; and augmenting revenue opportunities through allowing all cities to have the same revenue options.

Chief Shawn Butler, Executive Director of the Kentucky Association of Chiefs of Police (KACP), told the committee that police recruitment is a major concern across the nation in both large departments and small departments. The reasons are many and include: the dangerous aspects of the job which seem to be growing worse; the misunderstanding by many members of the public on how police officers do their jobs; troubling rhetoric such as "defund the police"; a lack of adequate training and equipment at times; and the loss of respect for officers by many in society. The dwindling numbers of young men and women who want to make law enforcement a career is jarring.

Chief Robert Nader, third vice president of KACP and Chief of the Covington Police Department, told the committee that pensions for law enforcement officers has been a major issue for several years and has still not been fully addressed. KACP and law enforcement understands the difficult decisions that the legislature, as policymakers, must make to keep the pension solvent. But removing new hires from the Tier 1 to the Tier 3 system with a potentially unreliable 401-K hybrid system, coupled with what is widely seen as minimal health insurance, is dramatically effecting local law enforcement departments' ability to recruit and retain officers. The KACP implores the legislature to revisit some of the decisions that have been made to the state's retirement system regarding

law enforcement. Failing to make changes means fewer applicants will be drawn to the profession; and that means fewer officers protecting the people, businesses, and communities in the legislative districts.

The KACP would also like to suggest changes to the law that is designed to make it financially difficult for officers to leave a community that paid for their training. Under existing law, an officer must remain with the city that sponsored and paid for their training for three years. If officers leave prior to three years of service, they must repay their training costs. That has helped in keeping young officers from having their training paid for and then quickly leaving for a higher paying job in another community or state—an issue that is acute in communities like Covington—that border another state. KACP suggests extending the time an officer has to remain with a city to four or five years, which will keep officers at their jobs for a longer period of time and allow cities to recoup its return on investment.

Chief Butler said that he and the Department for Criminal Justice Training are working on remote training opportunities to make it easier and less expensive to get training. He also mentioned a former federal program called the Police Corps that helped put police officers on the street several years ago. The Police Corps was started in 1994 to address violent crime by increasing the number of patrol officers with advanced education and training. The program has been dormant for many years, but now may be the time to look at a similar program that could be adapted for use in Kentucky. Improvements in calculating reciprocity for other states' academies would be welcome without relaxing standards to include recalculating real world policing experience. Some police officers also retired in response to changing pension laws.

In response to a question from Representative Meredith, Chief Cox agreed that incentives at the beginning of a police officer's career would be more attractive than the pension at the end of a police officer's career.

In response to another question from Representative Meredith, Chief Butler said the data exists regarding how many police officers took advantage of early retirement and then took other, maybe different, jobs, but still in law enforcement, but that the KACP has not collected it yet. Representative Meredith requested that data be given to the Committee when it is collected.

Representative Donohue suggested that the KACP research some of the bigger police departments to see if there is drawback to the 12-hour work shift.

Senator Thayer commented that 2013 SB 2 did not include a 401K. The instrument is a portable, defined benefit plan that has some of the properties of a defined contribution plan. The 401K narrative will be a negative for new recruits. The portability is a plus. Regarding retirements for the changes in pension plans, if command staff left in 2020, it

was not due to being in the hybrid cash balance plan. The officers were probably in Tier I or Tier II. The Tier III hybrid cash balance plan was not effective until 2014. Attributing those retirements to the hybrid cash balance plan is incorrect. There could have been issues with the actuarial analysis which is controlled by the County Employees Retirement System board.

In response to a question from Representative Thayer, Chief Butler said that the “defunding police” narrative is having a hugely negative effect on recruits. In any organization “bad apples” can exist. 2021 SB 80 gives police the tools to begin reform and remove people who should not be in policing.

Chief Butler clarified that he did not mean to insinuate that command staff was leaving because of the Tier III retirement changes. The actuarial analysis, that was appropriate to do, should have encompassed 50 years. When the contributions were calculated in response to the new analysis, they retired in response to the potential monthly reduction in income.

In response to a question for Representative Thomas, Chief Cox said he would have to research the Deferred Retirement Option Plan (DROP) program to see if that would be a viable retention tool. The program Henderson has in place employing retired officers would potentially hinder DROP. Chief Butler added that Ohio has that program.

In response to a question from Senator Alvarado, Chief Butler replied that it is difficult recruiting police officers from other states because sometimes they do not meet Kentucky’s standards of training.

In response to another question from Senator Alvarado, Chief Cox replied that the public safety officers are required to have 120 hours of training as set out in the statutes. However, the statutes do not specify the type of training. Standardization of the training would be beneficial.

In response to a question from Senator Southworth, Chief Cox stated that the starting salary for a public safety officer is \$17 per hour, and a regular police officer’s starting salary is \$19.73 per hour.

Senator Southworth discussed the attributes young people may need to possess to be attracted to a career in law enforcement.

Peace Officer Professional Standards Training

Commissioner Nicolai Jelik, Department of Criminal Justice Training (DOCJT), told the Committee that Kentucky offers standardized training for peace officer recruits throughout the state, excluding Louisville, Lexington, and Bowling Green Police Departments, and the Kentucky State Police, each of which conducts their own training.

DOCJT conducts basic training and annual in-service training. Before COVID, there was a 3 to 4 month backlog. At present the department is approaching a similar backlog making up for delays during COVID. Each class has 30 recruits. The department conducts about 10 basic training classes each year which equals around 300 recruits a year. The department will host 30 recruits also in each class of in-service training each year. There are around 200 separate classes scheduled each year for that. The department shut down for about 3 months with the onset of the pandemic to figure out how best to resume classes in the safest way.

Due to COVID restrictions, DOCJT's dorms have only been able to house one recruit in a room instead of two. The department sought to limit contact between students. Classes resumed in July 2020, with only 3 classes based on housing concerns. In-service training was not conducted, except for post critical incident seminar (PCIS) classes, which were conducted off campus. In January, 2021, a fourth class was added. In-service training was conducted off-campus, around the state. A reduction in officers per class was called for due to room space limitations. This year there were 250 classes of 20 to 25 officers per class.

Due to the dedicated and talented schedulers, in June of this year, the department added a 5th class, and likely one more additional class at the end of the year more closely approaching pre-COVID levels through contracting with Eastern Kentucky University. Low vaccination rates among recruits keep dorm occupancies at one per room.

In response to a question from Representative Meredith, Commissioner Jelik said DOCJT has not looked into why there is a reluctance for recruits to get a COVID vaccination but gave assurance that DOCJT would look into it.

In response to a question from Representative Koenig, Commissioner Jelik replied that the Louisville, Lexington, and Bowling Green Police Departments fund their own training in contrast to DOCJT's training which is funded by DOCJT from the insurance premium surcharge.

In response to another question from Representative Koenig, Deputy Commissioner John Schwartz of DOCJT, stated that the number of recruits not completing the training satisfactorily is very small.

In response to another question from Representative Koenig, Commissioner Jelik said the requirements for the recruitment process are set up by the Kentucky Law Enforcement Council, and include physical fitness, polygraph tests, minimum age requirements, criminal background checks, etc. Representative Koenig asked that the Commissioner send those requirements to the committee.

In response to a question from Representative Bentley, Commissioner Jelik stated that training for mental health includes PCIS for officers themselves, as well as resiliency, peer support, and suicide prevention classes. Deputy Schwartz added that there is also crisis intervention training (CIT), and training on how to deal with mentally ill people and special needs people that the officers come in contact with.

In response to a question from Representative Fleming, Commissioner Jelik said that DOCJT is in the process of compiling data for the annual comprehensive survey on the number of law enforcement officers currently serving, being trained, and those who are retired or retiring.

Senator Mills announced that the next meeting of the Committee would be August 26th at the State Fair.

There being no further business, the meeting was adjourned at 11:40 a.m.