



## **Planning and Public Safety Committee Virtual Meeting**

May 4, 2021

### **Summary and Motions**

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Chair J. Brown called the meeting to order at 1:05 p.m. Committee Members Ellinger, McCurn, Lamb, Kloiber, Worley, Baxter, Bledsoe, Reynolds, and Plomin were in attendance. Vice-Mayor Kay and Council Members Moloney, Sheehan, and F. Brown were in attendance as non-voting members.

J. Brown began the meeting with the following statement: "Due to the COVID-19 pandemic and State of Emergency, this meeting is being held via live video teleconference pursuant to 2020 *Senate Bill 150*, and in accordance with KRS 61.826, because it is not feasible to offer a primary physical location for the meeting."

#### **I. Approval of April 6, 2021 Committee Summary**

Motion by Plomin to approve the April 6, 2021 planning and Public Safety Committee Summary. Seconded by McCurn. The motion passed without dissent.

#### **II. Recruitment, Retirement, and Retention for Public Safety**

Ken Armstrong, Commissioner of Public Safety, provided a presentation on recruitment, retirement, and retention for the Divisions of Fire, Police, and Community Corrections. He explained that recruitment and retention may vary as each division has certain issues they experience with retention, the application process, and retirements. He pointed out that the hiring process was impacted by COVID-19 as well social unrest in the community, but he stressed that all 3 divisions have a solid recruitment plan in place for the long-term and short-term using both new and traditional methods. He mentioned the budgetary impact from overtime, equipment, and training. He reviewed the current staffing levels, highlighting that there is a recruiting class currently in process and one that is scheduled to begin. He reviewed the timeline for the hiring process and emphasized the rigorous application process which is necessary to get the best employees especially considering the liability involved with these positions. He spoke about the seniority of current strength and highlighted those with 20 or more years of service compared to those with 3 years or less years and said typically when someone stays 3 or more years, they stay long-term.

Responding to Baxter's question about whether testing is provided in-house or by an outside agency, Armstrong explained that Police and Fire testing is administered by outside entities and Community Corrections uses a certified test provided by an outside entity, but it is administered by staff.

Lamb asked if candidates currently complete the academy and leave to join another agency as they have in the past or if there are now parameters in place that stipulate a service requirement upon completion of the training. Armstrong said he is not aware of a requirement in place right now and this is not a pattern that he is seeing currently, but there are people retiring and going to other law enforcement entities. Since Police and Fire have their own retirement system, Lamb asked if Community Corrections is the only division moving from a 20-year to a 25-year retirement and Armstrong clarified that this also includes Police and Fire, with the exception of those who were grandfathered in under a different system. Lamb expressed concern that the number of current strength in Division of Police with 20 or more years seems

low and Armstrong explained that this is because there were several officers who unexpectedly retired last year.

Of the 31 retirements in Police, Plomin asked how many of those were considered early retirements. Armstrong stressed that the majority of the “early” retirements refers to those who served 21 or 22 years and they were exercising their right to retire after meeting the minimum service requirement. Plomin asked about the budgetary impact for overtime and equipment and Armstrong explained this was for new recruits.

Bledsoe spoke about the the screening process which is designed to get quality candidates for all 3 divisions before we invest time in the lengthy training. She expressed concern about the difference already this year in the Police Academy which is down 20% when typically we lose 15-20% from the first day of training until the last (which is months away) and this indicates we will have fewer officers on patrol and/or able to respond to district issues. Armstrong explained that the training program is designed to instruct Police, Fire, or Corrections candidates on how to correctly perform the job and in a way that best serves the community. He highlighted the primary responsibility in Division of Police is that the calls for service are answered. At times, he said, the allocation of personnel in specialized units has to be put on hold to ensure there is adequate patrol on the street and officers responding to those calls. Bledsoe clarified that by “calls for service” she means calls for extra patrol, surveillance, speeding or other traffic violations, theft, and neighborhood patrol which take precedence in addition to K-9 or specialized units. She said with fewer officers, there would be a reduction in some of the services provided which will impact the community and she highlighted that it is an 18-month process to get people trained and on the job serving.

Ellinger asked what accounts for the difference in actual versus sworn available and Armstrong explained that sworn available is the number of actual officers available for duty and the difference in actual and available could be due to military leave, illness, or another type of leave. Ellinger asked why the difference would be larger in Division of Police and Armstrong said the actual number includes 35 recruits.

Moloney asked if we still have candidates completing our training process, but relocating to another city for an increase in salary. Armstrong said this occurs occasionally, but normally there is a reason behind it such as retiring and going on to work for another organization. Moloney asked if there is a significant difference between retiring at 20 years or 25 years and Armstrong said it amounts to an additional 2.5% for every year served after 20 years.

Speaking about the number of police officer resignations on today’s Work Copy Docket, Lamb asked if recruits also come through as resignations or if these are only sworn police officers. Armstrong confirmed that recruits are included in this number and that 5 out of the 8 resignations on the Work Copy Docket for today came from recruits.

Plomin asked if we could implement a strategy to replace an officer in a position that could be performed by a civilian so the officer could be on the street. Armstrong explained that this is reviewed frequently, but often it is based on the sensitivity of the assignment.

J. Brown spoke about the lengthy training process, but emphasized the need for officers to have the training provided. He asked if it would be beneficial to add money in the budget for recruiting in Public Safety which could be shifted based on a division’s vacancies. Armstrong said any funding allocated to

recruitment would be great. J. Brown stressed that a holistic approach might be the best way to address recruiting across all Public Safety divisions.

No comment or action was taken on this item.

### **III. Lexington Police Department Policy – No-Knock Warrants**

Keith Horn, Managing Attorney in the Law Department, began the presentation by defining a no-knock warrant as a search or arrest warrant that authorizes entry without notice, meaning officers would not be required to knock and announce themselves and their purpose prior to entry. He provided a summary of *Senate Bill 4*, the state legislation, which establishes requirements for issuance and execution of no-knock warrants and prohibits issuance of such warrants unless there are exigent circumstances, part of which would be establishing a life is in danger. He spoke about the meaning of a violent offender as defined in KRS 439.3401 and detailed a variety of offenses that fall under this category. He reviewed the requirements under *Senate Bill 4* that an officer is to follow when obtaining and executing a warrant and he explained the penalties associated with violating the provision of the act. Concluding the presentation, Horn emphasized that the proposed LFUCG *Draft Ordinance* bans the use of no-knock warrants by Lexington Police Department and the *Draft Ordinance* provides general requirements for executing warrants.

J. Brown explained that *Senate Bill 4* provided guidance for no-knock warrants on a statewide basis, but it is important to have a local policy to address the issues raised by our community. In addition to having a permanent policy, he said, this allows us to have our own ordinance to protect the citizens and officers in our community. He requested the consideration of an effective date of July 1, 2021 which would allow time to have all officers equipped with body worn cameras.

Kloiber asked who was involved in putting the proposal together. J. Brown explained that a *Draft Ordinance* had already been put together by Law Department, but there was a review of language provided by the Black Faith Leaders and Louisville's Ordinance. Considering both of these, we worked with the Lexington Police Department and the Law Department to craft the language included in the LFUCG *Draft Ordinance*.

Lamb asked if the "absent exigent circumstances" language removes the ban. Horn explained the *Draft Ordinance* bans no-knock warrants which means those would no longer be utilized by Division of Police. He explained exigent circumstances is doctrine that has existed for a long time and it permits entry of a premises without a warrant if exigent circumstances exist and it permits entry without announcing if you have a warrant and an exigent circumstance exists. As an example, he said, if an officer approaches a house and sees through the window that someone is in danger or a violent crime is in process, the officer can enter without knocking or announcing because it is an exigent circumstance. Responding to Lamb's question about the effective date of *Senate Bill 4*, Horn said it goes into effect June 29, 2021. He added that if we do not move forward with the ban on no-knock warrants, any no-knock warrant sought would have to meet the requirements set forth in *Senate Bill 4* before it could be issued.

Worley asked how the proposed *Draft Ordinance* and *Senate Bill 4* correlate since *Senate Bill 4* still allows for no-knock warrants. Horn explained that *Senate Bill 4* does not require a department to use a no-knock warrant, but it sets parameters for seeking and executing no-knock warrants. He added that it does not prohibit a local government from deciding that their department is not going to seek no-knock warrants. Worley asked if there is space for a local government to regulate even though the state statute does not prohibit no-knock warrants. Horn said the state has not preempted the field in this case so local

governments can be more restrictive in their legislation, but can't pass something that would permit less than what has been laid out in *Senate Bill 4*. In reference to no-knock warrants in Lexington, Worley asked if it is true that in the past 5 years there have been (4) no-knock warrants executed and Weathers confirmed this to be correct. Worley asked if it is true that in these cases, all 4 were violent offenders and Lawrence Weathers, Chief of Lexington Police Department, said that is correct. When Worley asked about the outcome of these and if there were issues or injuries, Weathers said he is not aware of injuries associated with any of them. Worley spoke about the language "15 seconds or reasonable time" and he asked if there is a policy directly related to reasonable time in the current execution standards. Weathers said the "reasonable time" requirement is included because situations are dynamic. He said placing a time limit on this because of dynamic situations could be dangerous for officers or those on the inside.

J. Brown asked if the language "15 seconds or reasonable time" language was to build consistency in the General Orders regarding the execution of warrants. Horn said that is correct and the General Order pertaining to search warrants says that a reasonable amount of time is typically 15-20 seconds, but this leaves room for circumstances on the ground. J. Brown spoke about Executive Orders such as a Moratorium in relation to Ordinances and asked which would take precedence. Horn explained that if it is an area that can be legislated on, then the legislation is going to take precedence over the Moratorium. He said this is an area that be legislated on and an ordinance can be passed that bans no-knock warrants. The Moratorium would no longer be necessary because Lexington Police Officers would no longer be seeking no-knock warrants.

Motion by Reynolds to move the ordinance on no-knocks to the full Council [an ordinance enacting section 23-51 of the code of ordinances of the Lexington-Fayette Urban County Government, banning the use of no-knock warrants by the Division of Police; requiring Lexington police officers to knock and announce themselves before entering a premises to execute a warrant; and requiring any Lexington police officer present in the initial entry and securing of the scene of a warrant to be equipped with and activate a body worn camera] (effective July 1, 2021). Seconded by Ellinger. The motion passed without dissent.

Bledsoe spoke about the issue of 15 seconds which is in policy and she understands the concern that comes with dynamic situations and different types of housing.

Motion by Bledsoe to amend section 23-51 (c)(3) to remove the language "15 seconds" and have it read "wait a reasonable amount of time after knocking and announcing before entering". Seconded by Ellinger. The motion passed without dissent.

Reynolds expressed concern that a reasonable amount of time can be vague, but she does not want to limit this to 15 seconds if that is too much. Weathers explained that sometimes there is a need to execute a no-knock search warrant. He said they are strictly served for the safety and protection of those on the other side of the door. He said the history of no-knocks shows they are safe, but there are exceptions like the incident in Louisville, but those exceptions are not the rule. He said we need to look at department's experience and expertise and stop focusing on what happened somewhere else. Regarding the 15 seconds, he said it comes down to judgment and regardless of the amount of time they wait, they will do their best to ensure that no one is hurt.

Worley said he is supportive of the Ordinance and he wants the public to be aware of the full scope of no-knock warrants in Fayette County and he stressed that doing this is not a criticism of the Chief's judgment

or of the Lexington Police Department. Lamb suggested gathering public input while this is moving forward through the process to provide the public an opportunity to voice their concerns. J. Brown said the intent is not to rush this through, but to allow time for public comment during council meetings and constituents also have time to e-mail concerns before the report-out. Kay expressed gratitude to the Police Department for their service to this community. In larger context, he said, there are abuses that can occur because they have occurred in other places, but we are approaching this in a responsible way. J. Brown agrees that this is no reflection on our local Police Department, but we are being responsive to community concerns.

#### **IV. Items Referred to Committee**

Motion by Lamb to remove *Article 6 - Alternative Zone Change Process* item from committee. Seconded by Plomin. The motion passed without dissent.

Motion by McCurn to remove the *Dockless Vehicles (Scooters) Ordinance Amendments* item from committee. Seconded by Lamb. The motion passed without dissent.

Worley requested an update on the *Electronic Billboards* item since there are lawsuits with advertising companies that claim our current sign ordinance is unconstitutional. Plomin said because of the litigation, the subcommittee has paused the work on this. Worley asked if there was an update that could be provided and Plomin said there could be update on what has taken place so far.

Motion by Reynolds to remove the *Lexington Police Department Policies and Procedures: Off-Duty Employment* and *Lexington Police Department Policies and Procedures: Use of Force* items from committee. Seconded by Lamb. The motion passed without dissent.

Motion by Lamb to adjourn. Seconded by McCurn. Motion passed without dissent.

The meeting adjourned at 2:43 p.m.