

**Chair Wm. Weston J. Newton**

*First Vice-Chair:*  
*Laurie Slade Funderburk*

## **Legislative Oversight Committee**



*Katherine E. (Katie) Arrington*  
*William K. (Bill) Bowers*  
*Neal A. Collins*  
*MaryGail K. Douglas*  
*William M. (Bill) Hixon*  
*Jeffrey E. (Jeff) Johnson*  
*Robert L. Ridgeway, III*  
*Bill Taylor*  
*John Taliaferro (Jay) West, IV*

*Bruce W. Bannister*  
*Gary E. Clary*  
*Chandra E. Dillard*  
*Phyllis J. Henderson*  
*Joseph H. Jefferson, Jr.*  
*Mandy Powers Norrell*  
*Tommy M. Stringer*  
*Edward R. Tallon, Sr.*  
*Robert Q. Williams*

### **South Carolina House of Representatives**

*Jennifer L. Dobson*  
*Research Director*

*Cathy A. Greer*  
*Administration Coordinator*

*Charles L. Appleby IV*  
*Legal Counsel*

*Carmen J. McCutcheon Simon*  
*Research Analyst/Auditor*

*Kendra H. Wilkerson*  
*Fiscal/Research Analyst*

**Post Office Box 11867**  
**Columbia, South Carolina 29211**  
**Telephone: (803) 212-6810 • Fax: (803) 212-6811**  
**Room 228 Blatt Building**

### **Law Enforcement and Criminal Justice Subcommittee**

**Tuesday, September 18, 2018**

**11:00 am**

**Blatt Room 511**

### **Archived Video Available**

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

### **Attendance**

- I. The Law Enforcement and Criminal Justice Subcommittee meeting was called to order by Chairman Edward R. Tallon, Sr., on Tuesday, September 18, 2018, in Room 511 of the Blatt Building. All members of the Subcommittee, except Representative Katie Arrington, were present for either all or a portion of the meeting.

## Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.
- II. Representative Hixon makes a motion to approve the meeting minutes from the prior Subcommittee meetings.

Rep. Hixon's motion to approve the minutes from the August 28, 2018, meeting:	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

## Discussion of the Prosecution Coordination Commission

- I. Subcommittee Chairman Tallon explains a purpose of the meeting today is for the agency to present its internal and law recommendations, and then address any questions and/or motions from members on topics discussed during prior meetings with the agency.
- II. Subcommittee Chairman Tallon reminds those sworn in during prior meetings that they remain under oath.
- III. Ms. Lisa Catalanotto, Executive Director of the S.C. Commission on Prosecution Coordination, testifies about the agency's internal and law recommendations.
- IV. Members ask questions related to the following topics:
  - a. General responsibilities;
  - b. Agency website;
  - c. Performance;
  - d. Employees;
  - e. Court docket;
  - f. Diversion programs;
  - g. Case management software; and
  - h. Solicitor discussions with law enforcement;

Ms. Catalanotto and Fifth Circuit Solicitor Isaac McDuffie Stone, Chair of the S.C. Commission on Prosecution Coordination, answer the questions.

- V. Subcommittee members make various motions during the meeting, which are listed below. A roll call vote is held for these motions, and, among the members present, the motions pass unanimously.

Rep. Hixon's motion that the Subcommittee Study include a <u>recommendation</u> that the agency transfer state appropriations and funds to the sixteen circuit solicitors' offices electronically, instead of printing and mailing individual checks each quarter.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Johnson's motion that the Subcommittee Study include a <u>recommendation</u> , as requested by the agency in its law recommendation numbers one through fourteen, that the General Assembly consider repealing S.C. Code Sections 1-7-420 through 1-7-540, which discuss assistant solicitors and special investigators for individual circuits, as these statutes may no longer be necessary in light of Section 1-7-405 and 1-7-406 which authorizes the hiring of employees by solicitors.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Johnson's motion that the Subcommittee Study include a <u>recommendation</u> , as requested by the agency in its law recommendation number fifteen, that the General Assembly consider repealing subsection (A)(4) of S.C. Code Section 1-7-940 relating to providing blank indictments to solicitors.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Johnson's motion that the Subcommittee Study include a <u>recommendation</u> , as requested by the agency in its law recommendation number sixteen, that the General Assembly consider repealing S.C. Code Section 22-3-546, because a separate statute allowing solicitors to prosecute these charges (domestic violence) in General Sessions court may no longer be necessary.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Hixon's motion that the Subcommittee Study include a <u>recommendation</u> that the agency provide the Committee a list of data the agency recommends collecting annually (e.g., backlog by circuit) and/or every three years (e.g., caseload analysis), and the following for each type of data: (a) to whom it would be available, and (b) what may be gained from knowing it (e.g., notice that changes may be needed in certain circuits to address backlog, number of prosecutors and public defenders needed to maintain reasonable caseload per attorney, etc.)	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Hixon's motion that the Subcommittee Study include a <u>recommendation</u> that the agency develop a formal replacement cycle plan for technology and educational resources which it states are essential for agency staff (e.g., computers, digital or print publications, etc.). The plan should be updated regularly and include, but not be limited to, anticipated costs and how those costs will be paid.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Hixon's motion that the Subcommittee Study include a <u>recommendation</u> that the agency do the following: (1) obtain baseline customer satisfaction data on the current methods in which the agency provides information, including, but not limited to, frequency and ease with which staff access the information; (2) after the new website is created, continue tracking customer satisfaction to gauge the success of the agency's new methods of communicating. The agency should retain its data should members ever request it in the future. Also, the agency should use this data to update/revise the website as necessary to continually improve customer satisfaction and return on the agency's investment in the new technology; and (3) House Legislative Oversight Committee staff investigate if an agency's carryforward money may be used in asbestos abatement and removal or if the state covers these costs so an agency may focus the spending of its carryforward on the agency mission.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Johnson's motion that the Subcommittee Study include a <u>recommendation</u> that the General Assembly consider assisting the agency in finding a method by which the agency can obtain data on the number of individuals prosecuted annually by circuit and county.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Johnson's motion that the Subcommittee Study include a <u>recommendation</u> that the agency promulgate regulations that provide uniform metrics to measure success based on aggregated data. There may be several metrics utilized for different types of cases (e.g., adult versus juvenile, first time versus repeat offender, felony versus misdemeanor, etc.) but there should be some uniform metrics, including, but not limited to backlog of cases, utilized across all circuits, to allow for comparison from circuit to circuit and county to county.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Hixon's motion that the Subcommittee Study include a <u>recommendation</u> that the agency (1) create a way for each solicitor to electronically report to the agency the same personnel information included in the Commission on Indigent Defense's annual human resources and funding survey, (2) promulgate regulations to require this reporting from circuit solicitors on a regular basis; and (3) publish this information in a report on the website of each circuit solicitor, the agency, and the General Assembly.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Johnson's motion that the Subcommittee Study include a <u>recommendation</u> that the agency make reasonable efforts to communicate with potentially impacted parties about issues present in our state regarding the setting of court dockets; and, afterward, submit to the House Legislative Oversight Committee recommended statutory language to address the issues.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Johnson's motion that the Subcommittee Study include a <u>finding</u> that the expense of storing body camera videos and other law enforcement videos will be an issue the General Assembly will need to address in the future, regardless of whether electronic evidence is managed through a cloud based system or other system.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Johnson's motion that the Subcommittee Study include a <b><u>recommendation</u></b> that the General Assembly consider conforming the retention period for court recordings with the retention period for evidence as established in S.C. Code Section 17-28-320(C), the "Preservation of Evidence Act", that is sufficient in duration to cover the time period during which a defendant may challenge a conviction.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

<p>Rep. Johnson's motion that the Subcommittee Study include a <b><u>recommendation</u></b> that the agency work with impacted parties, including, but not limited to (a) law enforcement entities, (b) Department of Juvenile Justice, (c) Department of Corrections, (d) Department of Probation, Parole, and Pardon, and (e) Department of Mental Health, to determine a uniform definition, or definitions, of recidivism. The definition(s) should allow each entity involved to collect the type of data the agency needs to reliably report recidivism.</p> <p>There may be several definitions of recidivism to account for different types of cases as well as for adult versus juvenile offenses, but the definitions should be uniform statewide. The agency should focus first on domestic violence and driving under the influence cases.</p> <p>By the end of next year the agency should have the following to promulgate in regulations:</p> <p>(a) uniform definition for recidivism in domestic violence and DUI matters,</p> <p>(b) list of data that can be tracked by all parties involved with their current systems,</p> <p>(c) process for how the data will be tracked, aggregated, and electronically reported, and</p> <p>(d) timeline for determining a uniform definition of recidivism in other types of matters.</p>	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

<p>Rep. Johnson's motion that the Subcommittee Study include the following <b><u>recommendations</u></b>:</p> <p>(1) The General Assembly consider revising statutes that list information entities which administer traffic education, alcohol education, and diversion programs must collect and report by stating the Prosecution Commission will determine the data needed (e.g. recidivism, etc.), and the Commission will add the following to its annual report on statewide diversion programs:</p> <p>(a) explanation of the applicable laws and legislative intent, (b) list of the data being collected, and (c) explanation of why the data best illustrates whether the outcomes sought by the General Assembly are being achieved.</p> <p>This revision may allow flexibility to account for changes over time in what data and metrics may best illustrate the outcomes being achieved; and</p> <p>(2) The agency analyze how to measure whether outcomes intended from pre-trial intervention programs are being achieved and include the following in its updated PTI standards and guidelines: (a) outcome(s) sought from the programs, (b) how each program should measure its effectiveness and efficiency in achieving these outcomes, and (c) method and frequency by which each program must record and report its target and actual results on the measures.</p>	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

<p>Rep. Johnson's motion that the Subcommittee Study include a <b><u>recommendation</u></b> that the agency further research case management software to determine if there is software available that will allow a solicitors office to obtain evidence through uploading online as well as through transferring from a cd or flash drive.</p>	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		



Rep. Johnson's motion that the Subcommittee Study include a <b><u>recommendation</u></b> that the agency accomplish the following: (1) determine the current cost to the agency of re-entering information individual circuit solicitors provide about traffic education, alcohol education, diversion programs, and pre-trial intervention programs; and (2) ensure there is a method, to the extent it can securely and efficiently be done, by which individual circuit solicitors can enter data on these programs so the data automatically goes into a format the agency can utilize for analysis and reporting.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

Rep. Hixon's motion that the Subcommittee Study include the following two <b><u>recommendations</u></b> : (1) The agency continue to obtain input from impacted parties regarding potential language for legislation that may encourage increased communication between circuit solicitors' offices and law enforcement personnel regarding cases; and (2) If a consensus is reached among the parties regarding potential language for legislation that may encourage increased communication between solicitors' offices and law enforcement, the General Assembly consider passing the recommended language.	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

<p>Rep. Hixon's motion that the Subcommittee Study include a <u>recommendation</u> that the agency accomplish the following within the next year:</p> <p>(1) work with the Criminal Justice Academy (Academy), Law Enforcement Training Council, and other impacted parties to determine different statistical information that can be collected by solicitors' offices which may be beneficial to the Academy in determining topics which may need additional emphasis during training of all law enforcement personnel, and/or in suggesting specific areas of additional training for certain law enforcement entities or officers. The information may include, but not limited to, the percentage of cases received from each law enforcement entity which are prosecuted; and</p> <p>(2) promulgate regulations which accomplish the following:</p> <p>(a) explain why the data is needed, what it is to be used for, and how it can be beneficial for all involved,</p> <p>(b) clearly define what data is tracked, the method of collection, and the method of reporting; and</p> <p>(c) state the frequency in which the information, including examples of how it has helped all impacted parties in the performance of their jobs, will be available to law enforcement entities, solicitors, General Assembly, and public.</p>	Yea	Nay	Not Voting (Absent)
Rep. Arrington			✓
Rep. Hixon	✓		
Rep. Johnson	✓		
Rep. Tallon	✓		

VI. There being no further business, the meeting is adjourned.