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**Michigan Commission on Law Enforcement Standards**  
**Commission Meeting Minutes**  
**September 18, 2019**  
**Lansing, Michigan**

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**COMMISSION MEMBERS PRESENT**

Chief David Molloy, representing the Michigan Association of Chiefs of Police  
Sheriff Timothy Donnellon, representing the Michigan Sheriff's Association  
Mr. Michael Wendling, representing the Prosecuting Attorneys Association of Michigan  
Major Greg Zarotney, representing the Michigan State Police  
Mr. David Tanay, representing Attorney General Dana Nessel  
Mr. Duane Smith, representing the Police Officers Labor Council  
Commander Mark Bliss, representing the Detroit Police Department  
Mr. Arthur Weiss, representing the Criminal Defense Attorneys of Michigan  
Mr. Thomas Adams, representing the Public  
Trooper Nate Johnson, representing the Michigan State Police Troopers Association  
Deputy Matthew Hartig, representing Deputy Sheriff's Association of Michigan  
Sheriff Matthew Saxton, representing the Michigan Sheriffs' Association  
Mr. Ken Grabowski, representing the Police Officers Association of Michigan  
Mr. Michael Sauger, representing the Fraternal Order of Police  
Sheriff Gregory Zybur, representing the Michigan Sheriffs' Association  
Ms. Linda Broden, representing the Detroit Police Officers Association  
Mr. Michael Kunath, representing the Michigan Association of Police

**COMMISSION MEMBERS EXCUSED**

Chief Donald Mawer, representing the Michigan Association of Chiefs of Police  
Chief Karianne Thomas, representing the Michigan Association of Chiefs of Police

**STAFF PRESENT**

Mr. Timothy Bourgeois, MCOLES Executive Director  
Ms. Hermina Kramp, MCOLES Deputy Executive Director  
Ms. Lauryl Scott, Commission Counsel  
Ms. Jacquelyn Beeson, MCOLES Staff  
Mr. David Lee, MCOLES Staff  
Mr. Joe Kempa, MCOLES Staff

**GUESTS (SIGNING-IN)**

Mr. Matt Heins, LEAF Coordinator  
Mr. Joe Pawluszka, Accenture Police Safety

## **CALL TO ORDER**

The Commission meeting was called to order by Chair David Molloy on September 18, 2019 at 10:35 AM. The meeting was held at the MCOLES Office, 927 Centennial Way, Lansing, Michigan.

## **INTRODUCTIONS**

Chair Molloy introduced himself. He then asked the remaining commissioners, staff, and audience members to do the same.

## **ACCEPTANCE OF THE JUNE 19, 2019 COMMISSION MEETING MINUTES**

Chair Malloy advised that the Meeting Minutes had been sent out to the commissioners earlier that week for their review. Since the distribution, there were two items in the minutes that needed to be corrected.

1. Under Acceptance of the June 19, 2019 Meeting Minutes it now states:

Mr. David Tanay representing the Office of the Attorney General requested a change to the April 10, 2019 commission meeting minutes. He asked that the minutes reflect Mr. Brian Kolodziej representing Attorney General Dana Nessel and not Attorney General Bill Schuette.

2. Under the Consent Agenda it now states:

Commission Counsel Laurel Scott advised the Commissioners they have four Proposals for Decision from the Michigan Office of Administrative Hearings to revoke licenses. She advised the role of the Commission is to either approve or decline the Decisions and reminded them the statute mandates revocation if the subjects have an adjudication of guilt for a felony or one of the misdemeanors listed in PA 203 of 1965.

A **MOTION** was made by Commissioner Adams and supported by Commissioner Saxton to approve the June 19, 2019 Commission Meeting Minutes with the above changes.

A **VOTE** was taken. The **MOTION** carried.

## **ADDITIONS/CHANGES TO THE AGENDA**

There were no additions or changes to the Agenda.

A **MOTION** was made by Commissioner Hartig and supported by Commissioner Wendling to approve the September 18, 2019 agenda.

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## **CHAIR'S REPORT**

**New Commissioners** – Commissioner Molloy introduced the new Commissioners.

- Linda Broden representing the Detroit Police Officers Association replacing Mark Diaz
- Michel Kunath representing the Michigan Association of Police
- David Tanay – representing the Office of the Attorney General

**LEO Population Report** – Chair Molloy advised the LEO population report for the month of August was made available to the commissioners. There was a slight increase in the number of officers and positions.

**Special Use Request** – Chair Molloy also stated the Special Use Request report was provided to the Commissioners. He asked if there were any questions and there were none.

## **DIRECTOR'S REPORT**

**Public Act 128 of 2017** – Executive Director Bourgeois stated Public Act 128 of 2017, the Law Enforcement Officer Separation of Service Record Act, created new duties for law enforcement agencies when a licensed officer separates from employment.

Director Bourgeois provided some background and said the intent of this legislation was to stop officers who commit misconduct while at an agency from getting employed at another agency without having to disclose the past misconduct. The Act became effective January 15, 2018 and was subsequently amended to allow MCOLES to obtain the separation records of an individual during the licensing process.

Director Bourgeois added there is still some confusion between the requirements of PA 128 of 2017 and previously required reporting under the MCOLES Act, Public Act 203 of 1965, as amended.

PA 128 of 2017 applies whenever a licensed officer separates from a law enforcement agency for any reason. It requires the agency from which the officer is separating to create and maintain a written separation record that discloses the reason(s) for the separation and describes the circumstances surrounding it. The separating employee has the right to see the record. If the separating officer disagrees with the contents of the employer's separation record, and cannot reach an agreement regarding the removal or revision of the portion(s) they believe to be incorrect, the separating employee may submit a written statement explaining their position. This statement then becomes a part of the agency's separation record and must be released along with the former employer's record whenever properly requested under PA 128 of 2017. A subsequent hiring agency is required to do both a comprehensive background investigation of the applicant under PA 203 of 1965 **and** obtain and review all separation records created for the applicant under PA 128 of 2017. The hiring agency must use the MCOLES Wavier and Release of Information Form, signed by the applicant, to obtain these records. The former agency is also given immunity for good-faith compliance with the law. The separation record does not preclude an agency from hiring someone unless they are determined to be ineligible to be licensed. The intent of the statute was to ensure a hiring agency is as fully informed as possible when making a hiring decision.

**The separation record an agency creates to comply with PA 128 of 2017 is different from the MCOLES separation report, already required under PA 203 of 1965 and Administrative rule R 28.14510.**

The MCOLES separation report that is submitted via the MCOLES Information and Tracking System (MITN), must be completed within 3 days of the removal of an officer's law enforcement authority, regardless of employment or pay status (R28.14510). This report also requires the reason for separation or the removal of law enforcement authority as well as the circumstances under which these events occurred (required in the comments section). To hopefully help eliminate some of the understandable confusion between these two reports, MCOLES is working to redesign its separation report to more closely align it with the separation report required under PA 128 2017 so that ideally agencies would be able to use it to comply with both requirements.

**Marijuana Fund** – Executive Director Bourgeois said in broad terms, approximately 2/3 of MCOLES funding for administrative costs comes from the Justice Training Fund (JTF) and the other third is from the General Fund. The JTF funds have diminished steadily over time and are now down by over \$3 million annually since their high point in 2000. This has severely restricted MCOLES' ability to be fully staffed and operational. As a measure of relief, MCOLES was designated by statute to receive revenue generated from the medical marijuana regulatory fund to pay for its administrative costs. However, the revenue came into this fund at a much slower pace than anticipated. Director Bourgeois reported a recent meeting with the Marijuana Regulatory Agency was advised the revenue is now beginning to come in. He is in negotiations over the transfer of funds but at present cannot count on it to cover all of MCOLES' administrative costs. With the last year's voter approval of recreational marijuana, the medical marijuana fund may diminish or disappear in the not-too distant future as well, so this may be a temporary respite. He added that working to find a stable source of funding for MCOLES is extremely important.

**Justice Training Fund Grants** – Director Bourgeois stated MCOLES has roughly a \$6 million budget. The General Fund provides about \$1.1 million and the JTF approximately \$4.9 million. When MCOLES receives revenue from the JTF, by statute 60% is dispersed as training grants directly to law enforcement agencies on a semi-annual basis. This is known as the Law Enforcement Distribution (LED). The remaining 40% can be used for the administrative expenses of MCOLES and for competitive law enforcement grants. Due to the continued decline of the JTF, the entire 40% has been consumed by administrative costs and despite staffing cuts is longer sufficient to provide for all costs. If the requested money from the medical marijuana fund comes through, it will be used for the administrative costs and hopefully free up at least some of the 40% JTF funds to allow for re-establishment of competitive law enforcement grants in 2021. The plan would be to collect funds in one fiscal year and distribute them in grants the following year. With the ebb and flow of the funding, this process will work better.

**Background Investigations Manual** – Director Bourgeois advised the Commission approved an Advisory Standard in the spring regarding background investigations. The best practices manual is close to being completed. Samples of completed background reports and questionnaires are being added to assist agencies. An electronic copy of the manual will be emailed to each Commissioner soon. He reminded the Commissioners the advisory standard manual is necessarily set to screen to the state's minimum standards and qualifications but encourages agencies to screen to higher standards if they find them to be appropriate for their agency. Agencies who screen to higher standards should carefully vet them with their human resources personnel and legal counsel to ensure they are legitimate, legal and non-discriminatory in nature. This manual is intended to be a guide from the Commission as to what it considers to be a minimum for the required comprehensive pre-employment background investigation.

## **COMMITTEE REPORTS**

**Executive Committee** – Commissioner Molloy advised the Executive Committee met that morning prior to the Commission meeting. He stated that committee members discussed the following issues:

- PA 128 of 2017
- Potential Michigan legislation for reporting law enforcement use of force
- The federal voluntary use of force reporting system hosted by the Federal Bureau of Investigation
- Funding mechanisms for MCOLES
- Potential medical marijuana funding for MCOLES administrative costs

**Reserves Committee** – Director Bourgeois said a great deal of work has been done on the topic of researching standards for armed reserves as was permitted by an act of the legislature. The committee continues to make progress and when ready will report to the Commission.

**CONSENT AGENDA-** None

**NEW BUSINESS -** None

**OLD BUSINESS -** None

**MISCELLANEOUS -** None

**PUBLIC COMMENT -** None

**NEXT MEETING**

Date: November 6, 2019 at 10:30 AM  
Lansing

**ADJOURNMENT:**

A **MOTION** was made by Commissioner Adams and supported by Vice-Chair Donnellon to adjourn the meeting at 11:15 AM.

APPROVED BY Tim Daulton ON 11-6-19

WITNESSED BY Shelley R. Ray ON 11-6-2019