
Michigan Commission on Law Enforcement Standards
Commission Meeting Minutes
June 16, 2021
TEAMS CONFERENCE CALL

COMMISSION MEMBERS PRESENT/LOCATION FOR MEETING

Chief David Molloy, representing the Michigan Association of Chiefs of Police (Novi)
Sheriff Gregory Zybur, representing the Michigan Sheriffs' Association (Lansing)
Major Beth Clark, representing the Michigan State Police (Genesee County)
Mr. Duane Smith, representing the Police Officers Labor Council (York Township)
Mr. Arthur Weiss, representing the Criminal Defense Attorneys of Michigan (Farmington Hills)
Mr. Thomas Adams, representing the Public (Detroit)
Mr. Michael Kunath, representing the Michigan Association of Police (Sterling Heights)
Trooper Nate Johnson, representing the Michigan State Police Troopers Assoc (East Lansing)
Mr. Michael Sauger, representing the Fraternal Order of Police (Clinton Twp)
Mr. Anthony Lewis, representing the Michigan Department of Civil Rights (St. Clair Shores)
Dr. Lisa Jackson, representing residents of the state (Pittsfield Township)
Mr. David Tanay, representing the Office of the Attorney General (Meridian Twp)
Chief Eric Payne, representing the Michigan Association of Chiefs of Police (Grand Rapids)
Mr. Michael Wendling, representing the Prosecuting Attorneys Assoc of Michigan (Port Huron)
Deputy Matthew Hartig, representing Deputy Sheriff's Association of Michigan (Calhoun County)
Sheriff Anthony Wickersham, representing the Michigan Sheriff's Association (Mt. Clemons)
Director Ronald Moore, representing the Michigan Association of Chiefs of Police (Wixom)
Mr. Ken Grabowski, representing Police Officer Association of Michigan
Sheriff Matthew Saxton, representing the Michigan Sheriffs' Association (Lansing)

COMMISSION MEMBERS EXCUSED

Ms. Linda Broden, representing the Detroit Police Officers Association
Commander Mark Bliss, representing the Detroit Police Department
Pastor Tellis Chapman, representing residents of the State
Pastor Jeffery Hawkins, representing residents of the State

STAFF PRESENT

Mr. Timothy Bourgeois, MCOLES Executive Director
Ms. Hermina Kramp, MCOLES Deputy Executive Director
Ms. Jacquelyn Beeson, MCOLES Staff
Ms. Lauryl Scott, Commission Counsel
Mr. Danny Rosa, MCOLES Staff
Mr. Ben Zyber, MCOLES Staff
Mr. Pat Hutting, MCOLES Staff
Ms. Kayla Hanselman, MCOLES Staff
Mr. Joe Kempa, MCOLES Staff
Ms. Gretchen Galloway, MCOLES Staff
Mr. Matt Krumbach, MCOLES Staff
Mr. Josh Monte, MCOLES Staff

GUESTS ATTENDING

Ms. Beeson asked if there were any members of the public on the call who wished to identify themselves for the minutes. They were advised they were not required to do so.

- Mr. Dale Mitchell - ALPACT
- Mr. Matt Heins – Michigan Municipal League

CALL TO ORDER

The Commission meeting was called to order by Chair David Molloy on June 16, 2021 at 10:30 AM. This was a virtual meeting held via the TEAMS platform.

Chair Molloy advised the June 16, 2021 virtual commission meeting complies with the Open Meetings Act (OMA), MCL 15.261 et seq, as authorized by Eaton County Board of Commissioners Resolution No. 21-4-53, effective April 21, 2021 – September 15, 2021. He then provided the following guidelines for the meeting:

- Reminded members to mute their microphones unless speaking.
- Advised everyone if the Teams application crashed, each person was to disconnect and then reconnect. If video connectivity could not be re-established, everyone was instructed to dial back in using only the phone number and access code provided. The meeting would continue like a traditional audio conference call.
- Before speaking, everyone was asked to state their name and wait to be recognized by the chair, so it was clear who was speaking.
- Finally, he advised if a member of the public wanted to make a comment, they would have two opportunities. The first is after the Agenda Changes and the second opportunity would be at the end of the meeting under Public Comment. The Commission is asking that comments be limited to 3 minutes. He also advised that this would not be a question-and-answer situation, only an opportunity to address the Commissioners.

INTRODUCTIONS

Chair Molloy reminded the Commissioners it is required that the Commissioners identify the geographic unit (Village, Township, City or County) they are physically in during this meeting when Ms. Beeson takes the attendance. This applies only to the Commissioners. (The Commissioners' locations are listed following their names and whom they are appointed to represent above.)

Chair Molloy introduced himself. He then asked Ms. Beeson to take attendance. All Commissioners and staff members noted above participated in the meeting. The Commissioners also stated where they were located as listed above.

ACCEPTANCE OF THE APRIL 14, 2021 COMMISSION MEETING MINUTES

A **MOTION** was made by Commissioner Moore and supported by Commissioner Tanay to approve the April 14, 2021 Commission Meeting Minutes as written.

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

ADDITIONS TO THE AGENDA

Chair Molloy advised that two additional PSOB investigations were completed earlier in the week and the payments were issued. He said he would like to add the Commission Resolutions related to the payments to this meeting. He requested a motion to add Commission Resolution 2021-04 and Commission Resolution 2021-05 to the agenda. The two Resolutions will be addressed under New Business.

A **MOTION** was made by Commissioner Jackson and supported by Commissioner Zyburt to add Resolution 2021-04 (Waldis Johnson PSOB) and Resolution 2021-05 (Michael Andrews PSOB) to the agenda.

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

Chair Molloy stated Executive Director Bourgeois wanted to provide information regarding another senate bill that was not on the list provided. Chair Molloy asked for a motion to add Senate Bill 375 to the agenda.

A **MOTION** was made by Commissioner Zyburt and supported by Commissioner Adams to add Senate Bill 375 to the agenda.

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

PUBLIC COMMENT

Chair Molloy stated this was the first opportunity to address the Commission. He reminded them of the 3-minute time limit. He advised the Commission would listen but not respond.

No one spoke during public comment.

CHAIR'S REPORT

LEO Population Report – Chair Molloy reported the Law Enforcement Officer Population Report for the month of May was made available to the commissioners. The number of officers and positions remained relatively the same.

Grant Adjustments – This report provides information on adjustments requested by the grantees for the Justice Training Grants. This report was sent out with the electronic distribution and does not require Commission action.

Special Use Requests – The Commissioners received this report via the electronic distribution. There were no questions.

DIRECTOR'S REPORT

New Staff Members – Executive Director Bourgeois advised that MCOLES has two new employees that started on Monday.

Matt Krumbach: He filled the vacant Career Development position as the STOP Grant Training Coordinator. Matt retired from the Lansing Police Department in February of 2021, after serving 25 years. While with the Lansing Police Department, Matt served as the Michigan Department of Health and Human Services STOP Grant lead investigator. As the STOP Grant Investigator, he worked closely with survivors of domestic violence as their advocate and point of contact throughout the criminal investigation and court processes. He possesses a bachelor's degree from Central Michigan University in business administration. Matt's education, training and experience make him uniquely qualified for the MCOLES STOP Violence Against Women Training Coordinator and we are very happy to welcome him to MCOLES.

Josh Monte: He is filling our vacant Investigator position. Josh retired from the Romulus Police Department after 25 years of law enforcement. Retiring as the Operations Captain, he was responsible for the Patrol Division of the department, including the investigation of all citizen complaints and internal investigations. Josh served in the Romulus Police Department Investigative Services Bureau for eight years as Detective and as a Detective Sergeant, until his promotion to Lieutenant in 2011. He was promoted to Captain of Operations in 2012. Josh is a graduate of Eastern Michigan University where he earned a bachelor's degree in Education and a Master of Science Degree in Homeland Security and Emergency Management. He is a graduate of the FBI National Academy and the Eastern Michigan University School of Police Staff and Command. We feel he is a great addition to the MCOLES staff.

Review of IADLEST National Decertification Index – IADLEST stands for the International Association of Directors of Law Enforcement Standards and Training. The purpose of the National Decertification Index (NDI) is to serve as a national registry of certificate or license revocation actions relating to officer misconduct. This is a voluntary reporting index that has been in operation for 20 years. There are 45 states utilizing the database and over 30,500 individuals are listed. Currently there is federal legislation seeking to establish a mandated National Registry run by the Department of Justice. Executive Director Bourgeois stated he among many are suggesting that Congress simply fund and mandate participation in the NDI rather than trying to create a new one. MCOLES is a long-time contributor to and user of the NDI and encourages agencies to have their background investigators apply to have access to this database.

Legislative Review – Executive Director Bourgeois advised there is a great deal of activity in the area of police improvement currently in the legislature. A bipartisan group of state senators introduced a 13-bill package that addresses police reform. The Director reminded the Commissioners that he is the Commission's lobbyist agent, but the MCOLES Act limits the

Commission's lobbying activities to "matters pertaining to qualification and training of law enforcement officers". In the 3 ½ years with MCOLES, he has testified several times before the Legislature on various bills and regarding the lack of funding and staffing for the Commission. He testified before the Senate Judiciary and Public Safety Committee on the following bills and SB 375. The Committee encouraged frank testimony to assist them in understanding the impact of the bills as well as the staffing and funding necessary to carry them out if they become law. The following bills and information were provided to Commissioners in their meeting packet:

SB 473 – Sponsored by Sen. Victory. It directs MCOLES to compose guidelines for the independent investigation of officer-involved deaths and mandates that police agencies follow the guidelines. Director Bourgeois stated that MCOLES would need additional funding and staff.

SB 474 – This bill is sponsored by Senator Moss. Currently under 2017 PA 128, the agency must keep a record of the reason for the separation and the facts surrounding it. This bill would require the police separation records maintained by MCOLES to include use of force violations. The Director said he had a discussion with Senator Moss and respectfully suggested additional items not be added to the Separation Record, as they are already covered under the comprehensive background required under the MCOLES Act. Discussion ensued on how the two Acts work together to increase professionalism in law enforcement. He reported it was an excellent conversation and several additional suggestions were offered to increase the effectiveness of PA 128 and help it complement to an even greater extent the existing requirements under the MCOLES Act.

SB 475 – Sponsored by Sen. Horn. It gives MCOLES the authority to revoke the law enforcement licenses of officers who use excessive force that causes death or serious bodily harm. Director Bourgeois stated he had a good discussion with Sen. Horn regarding this bill. He also stated that MCOLES would need additional staff and funding to implement the requirements of this legislation, were it to become law.

SB 482 – This bill is sponsored by Sen. Irwin. It requires MCOLES to develop standards for training around de-escalation, implicit bias and behavioral health, and mandate continuing education for officers. The Director advised he and others worked extensively on a similar bill last summer in the previous legislative session. That bill passed the House but not the Senate. Much of the items the bill would mandate are already being taught, however the most significant part of the bill would be to mandate in-service training for law enforcement officers. An issue is the funding necessary to mandate this training.

SB 483 – This bill would require MCOLES to commission a study examining barriers to recruiting and retaining highly qualified candidates for law enforcement jobs. Executive Director Bourgeois stated there has been a great deal of discussion of the value of the study, may have been done including the Commission's 2017 gubernatorial report entitled "Fostering Publicin Law Enforcement", versus using the funding to assist in recruitment and retention efforts.

SB 375 – An employed recruit is defined in the MCOLES Act as a person who is employed by an agency and paid to attend an academy (including all training costs). This is opposed to a pre-service recruit, who attends at his or her own cost. An employed recruit may only be licensed by the agency that sent them to the academy, however nothing precludes the employee from immediately leaving and seeking employment at another agency. This is very problematic for agencies, particularly in times like these with a lack of qualified candidates. This bill would allow

the agency to get reimbursed for costs at a certain percentage by the employed recruit/nov licensed officer, if they left less than 3 years after becoming a licensed officer.

HB 4525 – This bill addresses training of law enforcement officers. Beginning January 1, 2023, MCOLES would require an individual to have either the rank of blue belt or higher in Brazilian jiu-jitsu (BJJ) or a certificate of equivalent training to be or become a license law enforcement officer in Michigan. There are also some additional training requirements. The Commission opposes this bill as written for several reasons. They include the very high cost to both individuals and agencies and the applicability of BJJ skills training without specific context to the legal requirements of an officer's response to resistance as is currently provided in the basic academy curriculum. Director Bourgeois reported having positive, extensive discussions with the bill's sponsor regarding potential benefits of incorporating some BJJ tactics into the Subject Control curriculum and the process the Commission follows to ensure the curriculum is valid, effective, job related and legally defensible.

COMMITTEE REPORTS

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

- Pending Legislation
- New Staff
- De-escalation Training

Armed Reserve Committee – Chair Molloy advised there was no update. Commissioner Grabowski asked the status of the Committee. Executive Director Bourgeois advised him they recently replaced the legal SME. He added that Joe Kempa has the majority of the material written but is waiting to see if the legislature is inclined to legally define a reserve officer. Once everything is complete it will be brought before the whole Commission.

CONSENT AGENDA

Relinquishments – Commissioners received notice of the voluntary relinquishment of a law enforcement license by David Lubahn. As a part of plea agreement, Mr. Lubahn pled guilty to Lying to a Peace Officer, a felony punishable by up to 2 years in prison (MCL 750.479c(2)(c)). This notice required no action on the Commission's part.

Executive Director Bourgeois reminded the Commissioners an individual's voluntary relinquishment of a law enforcement license has the same legal effect as a license revocation by the Commission. They are often done as a part of a plea agreement in a criminal case, particularly when an adjudication of guilt for an offense requires license revocation under the MCOLES Act.

NEW BUSINESS

Commission Resolution 2021-03 – Chair David Molloy read into the record Commission Resolution 2021-03 honoring Fallen Detroit Police Department Corporal Waldis Johnson and extending Public

Safety Officer Benefits.

A **MOTION** was made by Commissioner Zyburt and supported by Commissioner Grabowski to approve Commission Resolution 2021-03 honoring Fallen Detroit Police Department Corporal Waldis Johnson and extending Public Safety Officer Benefits.

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

Commission Resolution 2021-04 – Chair David Molloy read into the record Commission Resolution 2021-04 honoring Fallen Monroe Township Firefighter Joseph Liedel and extending Public Safety Officer Benefits.

A **MOTION** was made by Commissioner Adams and supported by Commissioner Saxton to approve Commission Resolution 2021-04 honoring Fallen Monroe Township Firefighter Joseph Liedel and extending the Public Safety Officer Benefits.

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

Commission Resolution 2021-05 – Chair David Molloy read into the record Commission Resolution 2021-05 honoring Fallen MSP Trooper and Tittabawassee Township Officer Michael Andrews and extending the Public Safety Officer Benefits.

A **MOTION** was made by Commissioner Moore and supported by Commissioner Wickersham to approve Commission Resolution 2021-05 honoring Fallen MSP Trooper and Tittabawassee Township Officer Michael Andrews and extending the Public Safety Officer Benefits.

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

OLD BUSINESS

Adjudication of Guilt – Executive Director Bourgeois reminded the Commissioners that at the February meeting, Sheriff Swanson addressed the Commission. He said he employs a corrections officer he attempted to send to a basic law enforcement academy. The individual had an adjudication of guilt for a felony that was deferred under the Holmes Youthful Trainee Act (HYTA), and therefore did not meet the statutory standards for licensed law enforcement officers. Sheriff Swanson sent a letter to Commission Chair Molloy requesting the Commission change its standard and allow individual agency heads the discretion to employ and license individuals as law enforcement officers who have disqualifying adjudications of guilt under HYTA. Chair Molloy asked Executive Director Bourgeois to provide information to the Commission regarding this statutory standard.

Director Bourgeois did the following in response to the Chair's request:

- Spoke to Sheriff Swanson to explain the disqualifying/revocable offenses for law enforcement licensing are set by statute, not MCOLES' standards.
- Asked the Commission's legal counsel, AAG Lauryl Scott, to research and write a memo explaining the relevant portion of the MCOLES Act and the distinction between a conviction and an adjudication of guilt as defined by the Act. This memo was provided to the Commissioners in their meeting packet.
- Interviewed the previous Executive Director and two previous Commission chairs to gain an historical perspective regarding the 2016 amendments to the MCOLES Act.

He reported learning the following: Beginning in 2007, in keeping with a mandate under Executive Reorganization Order 2001-2 (MCL 28.621(I)(D)(1)), the Commission undertook an initiative to enhance professionalism in law enforcement. Among the issues examined was a concern unqualified individuals were becoming or remaining licensed law enforcement officers. The Commission created an Ethics Committee to examine these issues as well as the existing MCOLES Act and associated administrative rules.

The Committee worked for several years and made several recommendations to the Commission. After debate and discussion, they asked the legislature to consider changes to the MCOLES Act. Bills were introduced in the 2014-15 legislature but work on them was not completed by the end of that session. They were reintroduced in the next session and one bill relevant to this discussion became Public Act 289 of 2016 with an effective date of January 2, 2017.

PA 289 amended the MCOLES Act by replacing the term "conviction" with "adjudication of guilt" as the standard for screening an applicant's criminal history. This broader definition includes instances where an individual admitted guilt to the court for a felony offense that was subsequently dismissed, diverted, or set aside under a statutory sentencing program. It specifically includes the HYTA diversion program. The legislature stated they intentionally used this new definition to create a higher ethical standard for law enforcement officer licensing than that for the general public or other professions or occupations. Prior to this statutory change, law enforcement licensure under such circumstances was already prohibited by the administrative rules promulgated under the Act, but the legislature chose to include this this definition in the Act itself.

MISCELLANEOUS

Chair Molloy inquired if any of the Commissioners had questions or items they wished to discuss.

Commissioner Tom Adams advised the Commission that he had met with Chair Molloy prior to today's meeting. He stated that he would like to include on the Commission Meeting Agendas topics that are developing in the nation and discuss what the impact might be in Michigan. He would also like to bring in presenters to address the issues.

PUBLIC COMMENT


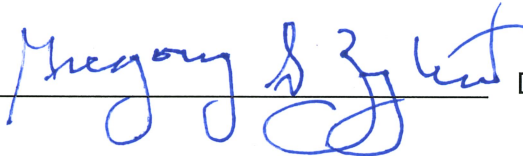
There was no public comment.

NEXT MEETING

Date: September 15, 2021 @ 10:30 AM
Teams Platform Meeting

ADJOURNMENT:

A **MOTION** was made by Commissioner Tanay and supported by Commissioner Adams to adjourn the meeting.

Approved:  Date 9.15.2021
Witness:  Date 9-15-2021