
Michigan Commission on Law Enforcement Standards
Commission Meeting Minutes
November 1, 2017
Lansing, Michigan

COMMISSION MEMBERS PRESENT

Mr. Michael Wendling, representing the Prosecuting Attorneys Association of Michigan
Chief David Molloy, representing the Michigan Association of Chiefs of Police
Lt. Col. Rick Arnold, representing the Michigan State Police
Sheriff Doug Wright, representing the Michigan Sheriffs' Association
Ms. Anica Letica, representing Attorney General Bill Schuette
Mr. Ken Grabowski, representing the Police Officers Association of Michigan
Mr. David Hiller, representing the Michigan Fraternal Order of Police
Sheriff Timothy Donnellon, representing the Michigan Sheriff's Association
Mr. Arthur Weiss, representing the Criminal Defense Attorneys of Michigan
Mr. Thomas Adams, representing the Public
Chief Donald Mawer, representing the Michigan Association of Chiefs of Police
Mr. Duane Smith, representing the Police Officers Labor Council

COMMISSION MEMBERS EXCUSED

Sheriff Jerry Clayton, representing the Michigan Sheriffs' Association
Mr. Richard Heins, representing the Michigan Association of Police
Cpl. Brian Earle, representing the Deputy Sheriff's Association of Michigan
Mr. Mark Diaz, representing the Detroit Police Officers Association
Asst. Chief James White, representing the Detroit Police Department
Trooper Nate Johnson, representing the Michigan State Police Troopers Association
Chief Tim Bourgeois, representing the Michigan Association of Chiefs of Police

STAFF PRESENT

Ms. Hermina Kramp, MCOLES Interim Executive Director
Mr. John Szczubelek, Assistant Attorney General and Commission Counsel
Ms. Jacquelyn Beeson, MCOLES Staff
Mr. Danny Rosa, MCOLES Staff
Mr. David Lee, MCOLES Staff
Mr. Ryan Speidel, MCOLES Staff
Ms. Barbara Johns, MCOLES Staff
Mr. Pat Hutting, MCOLES Staff
Ms. Rhonda Hooson, MCOLES Staff
Mr. John Steele, MCOLES Staff
Ms. Sandi Luther, MCOLES Staff

Mr. Greg Kalisz, MCOLES Staff
Ms. Diane Horwath, MCOLES Staff
Ms. Deb Thelen, MCOLES Staff
Mr. Wayne Carlson, MCOLES Staff

GUESTS (SIGNING-IN)

Commander Marlon Wilson, Detroit Police Department
Mr. Jermaine Wyvick, BOPC-Detroit
Ms. Melanie White, BOPC-Detroit

CALL TO ORDER

The Commission meeting was called to order by Chair Michael Wendling on November 1, 2017 at 10:30 AM. The meeting was held at the MCOLES Office in Lansing, Michigan.

INTRODUCTIONS

Chair Wendling introduced the newest Commissioner, Duane Smith. He advised this was Mr. Smith's first meeting and he would be representing the Police Officers Labor Council and is replacing Mr. Tom Zulch.

Chair Wendling introduced himself and then asked the Commissioners, staff and audience members to do the same.

ACCEPTANCE OF THE SEPTEMBER 27, 2017 COMMISSION MEETING MINUTES

A **MOTION** was made by Commissioner Molloy and supported by Commissioner Donnellon to approve the September 27, 2017 Commission Meeting Minutes as written.

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

ADDITIONS/CHANGES TO THE AGENDA - None

CHAIR'S REPORT

LEO Population Report – Chair Wendling advised that the LEO Population Report had been provided for the Commissioners' review. He added that there was a slight decline in the number of officers and positions from the previous month.

Special Use Request - The Special Use Request report was also provided for the Commissioners. There were no questions or comments.

Grant Adjustments – The Commissioners had an opportunity to review this report also. There were no questions or comments.

Nominating Committee – Chair Wendling advised that even though the Chair and Vice-Chair can serve for two years, it is required that each year the Commission uses the nomination process. Chair Wendling asked Commissioner Mawer, Commissioner Weiss, and Commissioner Smith to sit on the committee. He requested Commissioner Donnellon chair the committee. All of them agreed.

DIRECTOR’S REPORT

Academy Graduations – Interim Executive Director Kramp advised that there are a number of academy graduations scheduled for November and December. She asked the Commissioners to advise if they were available to attend any of the graduations and present the Outstanding Recruit award. She said her Director’s Report would be sent out shortly and all of the graduations would be listed.

Proposed 2018 Meeting Dates – Acting Director Kramp advised that a list of the proposed 2018 meeting dates had been passed out to each Commissioner. She asked if there were any conflicts and was advised that February 7, 2018 was the first day of the MACP winter conference. A proposal was made to move the February meeting to February 14, 2018. A vote would be taken at the December meeting to confirm the dates. She also stated that the September meeting was moved to earlier in the month. This was because late September was too close to the fiscal year end to allow time to make travel reimbursements to the Commissioners. Also it caused the June and September meetings to be too far apart.

Ms. Kramp asked for input on holding some of the meetings at locations in other parts of the state. Commissioner Grabowski stated that moving the meetings was costly and he did not think it was necessary.

COMMITTEE REPORTS

Selection Committee – Chair Wendling advised that the Selection Committee interviewed four candidates for the Executive Director position on October 11, 2017. He said the committee was recommending Tim Bourgeois to fill the opening.

Commissioner Wright voiced his opinion that in the future there needs to be better communication during the hiring process. He indicated he felt Commissioners should have had an opportunity to provide background information. He said that he had members mentioning the names of the candidates before he even heard anything. Commissioner Wendling advised that the Selection Committee was charged with maintaining confidentiality and therefore the names were not made public until the public meeting notice for the interviews was published. It was also noted that the entire Commission voted to allow the Selection Committee to act on their behalf and that once a conditional offer is made the background would begin.

Commissioner Mawer confirmed that the conditional offer was based upon the candidate passing the background check, psychological exam and drug test.

Commissioner Adams asked for a breakdown of the applicants by race and gender. Acting Director Kramp advised him that the information he was requesting could not be asked on the application and therefore could not be provided.

A **MOTION** was made by Commissioner Mawer and supported by Commissioner Wright to accept the Selection Committee's recommendation of Tim Bourgeois as the candidate for the position of Executive Director.

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

A **MOTION** was then made by Commissioner Donnellon and supported by Commissioner Molloy to follow the selection process adopted by the Commission in April and make a conditional offer to Tim Bourgeois contingent upon the candidate passing the background, psychological exam and drug test.

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

CONSENT AGENDA – There was no consent agenda.

NEW BUSINESS

Michigan Justice Training Grants – Acting Executive Director Kramp addressed the Commissioners and said that originally MCOLES' staff member Deb Thelen was going to give the Commission information on this year's grant applications and money available. However, there has been a major change and there will be no money available this year for the grants.

Ms. Kramp gave some background information regarding the Michigan Justice Training fund. She stated it was established by statute and 60% was to be used for LED and 40% for grants. The statute states that 60% of the collections will go directly to law enforcement agencies to train licensed law enforcement officers. This money must be kept in a separate fund and can only be used for training licensed law enforcement officers, and can only be used by the law enforcement agency that receives the money.

The other 40% of the revenue was to be used for MCOLES' administrative costs and the competitive grant program. Originally the amount received was a specific dollar amount and then it changed to a percentage. In 2004 MCOLES received 13% of the Justice System Fund. In 2005 it went down to 12.4%. In 2009 more changes were made because two additional funds were added to the Justice System Fund which caused the percentage of the fund dedicated to the Michigan Justice Training Fund to drop to 11.8% of the total revenue collected. With the steady decrease in the

amount received by MCOLES and an increase in expenses and IT costs, there was very little left to be used for the grants. There was a major increase in IT costs with required changes for SIGMA, statute changes and DTMB required fixes for newly identified web vulnerabilities. Also we had not anticipated that the amount of revenue collected by the Justice System Fund would go down by \$261,000.00 in a single fiscal year.

With all of this happening there was approximately \$52,000 left to distribute with \$1.6 million in grant requests. Acting Director Kramp stated that she is recommending the Commission vote to not move forward with the grant award process. This will allow proper immediate notification to grant applicants. Any current grant recipients that have unused money from their 2017 grants would be allowed to extend the training into the new year and use the money they had left instead of closing out their grants and de-obligating remaining funds.

Commissioner Donnellon inquired as to what will happen to the \$52,000 that is available. Director Kramp advised that it would be carried forward and added to the next grant cycle.

A **MOTION** was made by Commissioner Grabowski and supported by Commissioner Donnellon to award no grants for calendar year 2018.

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

Acting Director Kramp advised that she would be notifying all grant applicants via a letter of the Commission's decision.

Commissioner Weiss asked where do we go to try and get more money for the future. He was advised that it would have to go through the legislature.

Discussion of SB 594 – John Szczubelek addressed the Commission and stated that he had provided them with a concise summary of SB 594. The bill creates a “Special Police Officer and Special Police Agency” and the bill explains the requirements and authority of these officers and agencies.

Chair Wendling read into the record Commission Resolution 2017-11 which is the Commission's opposition to 2017 Senate Bill 594. The resolution states that the proliferation of Special Law Enforcement Agencies and Special Law Enforcement Officers would adversely affect the quality and accountability of law enforcement in Michigan.

A **MOTION** was made by Commissioner Donnellon and supported by Commissioner Smith to approve Commission Resolution 2017-11 opposing 2017 Senate Bill 594.

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

Discussion of the Substitute for HB 4827 – Mr. John Szczubelek advised that he did not do an analysis for this Bill however there are some concerns. He stated that this bill requires MCOLES to be the depository for reports/investigations involving complaints about use of force; shooting incidents; investigations concerning use of force; investigations concerning shooting incidents; racial, ethnic, and gender information concerning individuals making complaints about use of force; and racial, ethnic, and gender information concerning individuals making complaints about shooting

incidents. The Bill also requires the Commission to publish an annual compendium of data collected from the Use of Force Reports.

Chair Wendling read into the record Commission Resolution 2017-12 opposing the Substitute for 2017 House Bill 4827.

A discussion occurred with the following mentioned:

- IT costs will rise for MCOLES
- Creation of new data base
- FOIA requests will increase
- No mention of funding for MCOLES in the Bill

Interim Director Kramp advised that Representative Chang, the sponsor of the Bill, was asking about the Commission's position.

A **MOTION** was made by Commissioner Hiller and supported by Commissioner Molloy to approve Commission Resolution 2017-12 in opposition to the substitute for 2017 House Bill 4827.

A **ROLL-CALL VOTE** was taken with the following votes recorded. The **MOTION** carried.

COMMISSIONER	VOTE
Commissioner Adams	Yes
Commissioner Smith	Yes
Commissioner Letica	Yes
Commissioner Wright	Yes
Commissioner Mawer	Yes
Commissioner Molloy	Yes
Commissioner Donnellon	Yes
Commissioner Weiss	Yes
Commissioner Grabowski	Yes
Commissioner Arnold	Yes
Commissioner Hiller	Yes
Commissioner Wendling	Yes

OLD BUSINESS – None

MISCELLANEOUS - None

PUBLIC COMMENT - None

NEXT MEETING

Date: February 14, 2018 @ 10:30 AM
Location: Lansing

ADJOURNMENT:

A **MOTION** was made by Commissioner Molloy and supported by Commissioner Hiller to adjourn the meeting.

APPROVED BY Molloy ON 12/6/17

WITNESSED BY Jaquelyn Beason ON 12-6-17



MCOLES

Michigan Commission on Law Enforcement Standards

*Commission Resolution 2017-12
Opposition to the Substitute for
2017 House Bill 4827*

WHEREAS, the Michigan Commission on Law Enforcement Standards is authorized under MCL 28.611(1)(e) to make recommendations to the Legislature on matters pertaining to qualifications and training of law enforcement officers; and

WHEREAS, the Commission is required by Executive Order 2001-5 to perform its statutory functions in a manner that ensures professionalism in law enforcement; and

WHEREAS, the Commission is required by Executive Directive 2016-2 to perform its statutory functions in a manner that engenders public trust in law enforcement; and

WHEREAS, the Michigan Commission on Law Enforcement Standards Act and its supporting administrative rules are principally concerned with licensure of law enforcement officers; and

WHEREAS, the Michigan Commission on Law Enforcement Standards Act and its supporting administrative rules impose reporting requirements relevant to licensure, such as employment status, licensing standards compliance, conferral of law enforcement authority, and misconduct that authorizes revocation of a license; and

WHEREAS, since its inception in 1965, the Commission has not sought to be a general record repository for employment information beyond that necessary to administer its licensing functions; and

WHEREAS, the Substitute for 2017 House Bill 4827 would, if enacted, require the Commission to be a general record repository for "Use of Force Reports" submitted annually by Michigan's nearly 600 law enforcement agencies; and

WHEREAS, the Use of Force Reports would include information concerning all use of force; complaints about use of force; shooting incidents; investigations concerning use of force; investigations concerning shooting incidents; racial, ethnic, and gender information concerning individuals making complaints about use of force; and racial, ethnic, and gender information concerning individuals making complaints about shooting incidents; and

WHEREAS, the Bill would, if enacted, also require the Commission to publish an annual compendium of data collected from the Use of Force Reports; and

WHEREAS, federal and Michigan courts have consistently observed that proper analysis of use of force is dependent upon careful attention to the facts and circumstances of each case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight; and

WHEREAS, the information for which the Bill mandates collection and publication does not ensure careful attention to the facts and circumstances of each case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively attempting to evade arrest by flight; and

WHEREAS, without the proper context acknowledged by federal and Michigan courts, the information for which the Bill mandates collection and publication would likely have a negative effect on public perception of professionalism in Michigan law enforcement and erode public trust in Michigan law enforcement; and

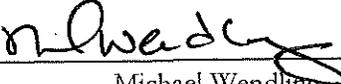
WHEREAS, disseminating information about pending civil or criminal investigations related to alleged misconduct attributed to law enforcement officers and alleged criminal misconduct attributed to suspects could have significant impact on their rights to due process; and

WHEREAS, there are other potential sources from which the public may obtain information about the use of force and investigations related to the use of force; and

WHEREAS, the record compilation, retention, and publication mandates of the Bill would require the Commission to endure substantial administrative burdens and publicly funded expense; therefore:

BE IT RESOLVED THAT the Commission opposes enactment of the Substitute for 2017 House Bill 4827.

Adopted by the Michigan Commission on Law Enforcement Standards on November 1, 2017


Michael Wendling



MCOLES

Michigan Commission on Law Enforcement Standards

*Commission Resolution 2017-12
Opposition to the Substitute for
2017 House Bill 4827*

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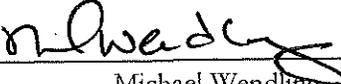
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