
Michigan Commission on Law Enforcement Standards
Commission Meeting Minutes
April 14, 2021
TEAMS CONFERENCE CALL

COMMISSION MEMBERS PRESENT/LOCATION FOR MEETING

Chief David Molloy, representing the Michigan Association of Chiefs of Police (Novi)
Major Beth Clark, representing the Michigan State Police (Midland 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)
Sheriff Gregory Zyburt, representing the Michigan Sheriffs' Association (Marquette)
Mr. Michael Kunath, representing the Michigan Association of Police (Sterling Heights)
Trooper Nate Johnson, representing the Michigan State Police Troopers Assoc (Vermontville Twp)
Commander Mark Bliss, representing the Detroit Police Department (Detroit)
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)
Pastor Tellis Chapman, representing residents of the state (Detroit)
Pastor Jeffery Hawkins, representing residents of the state (Flint)
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)

COMMISSION MEMBERS EXCUSED

Ms. Linda Broden, representing the Detroit Police Officers Association
Sheriff Matthew Saxton, representing the Michigan Sheriffs' Association
Mr. Ken Grabowski, representing Police Officer Association of Michigan

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
Ms. Rhonda Hooson, MCOLES Staff
Mr. Joe Kempa, MCOLES Staff
Ms. Gretchen Galloway, 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 identify themselves.

- Mr. Dale Mitchell - ALPACT
- Nancy Kaffer – Detroit Free Press/USA Today

CALL TO ORDER

The Commission meeting was called to order by Chair David Molloy on April 14, 2021 at 10:30 AM. This was a virtual meeting held via the TEAMS platform.

Chair Molloy advised the April 14, 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. 21-2-34, effective March 17, 2021 – April 21, 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.
- All votes would be taken by roll call. The chair will call on Ms. Jacque Beeson to call the roll and report the results for each vote.
- 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 announced the Commission had added two new members, and this was their first meeting. Sheriff Anthony Wickersham represents the Michigan Sheriffs' Association and Director Ronald Moore represents the Michigan Association of Chiefs of Police. He asked both to say a few words.

Sheriff Wickersham stated he is the Sheriff of Macomb County and has been in law enforcement for 36 years. He is looking forward to working with the Commission and moving law enforcement in a positive direction.

Director Moore stated he is the Chief of Police for Wixom Police Department and also the Director of Public Safety. He stated he is humbled and honored to be appointed to the Commission. He looks forward to helping move the law enforcement profession forward.

Chair Molloy reminded the Commissioners it is now 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 FEBRUARY 17, 2021 COMMISSION MEETING MINUTES

A **MOTION** was made by Commissioner Wickersham and supported by Commissioner Chapman to approve the February 17, 2021 Commission Meeting Minutes as written.

A **ROLL CALL VOTE** was taken. The **MOTION** carried. The following votes were recorded.

Approval of the February 17, 2021 Meeting Minutes	
Adams, Tom	YES
Zyburt, Gregory	YES
Kunath, Michael	YES
Clark, Beth	YES
Moore, Ronald	YES
Weiss, Arthur	YES
Johnson, Nate	YES
Bliss, Mark	YES
Molloy, David	YES
Hawkins, Jeffery	YES
Smith, Duane	YES
Tanay, David	YES
Wickersham, Anthony	YES
Sauger, Michael	YES
Lewis, Anthony	YES

Jackson, Lisa	YES
Chapman, Tellis	YES
Payne, Eric	YES
Wendling, Michael	YES
Hartig, Matthew	YES

ADDITIONS TO THE AGENDA – None

PUBLIC COMMENT - None

CHAIR'S REPORT

LEO Population Report – Chair Molloy reported the Law Enforcement Officer Population Report for the month of March was made available to the commissioners. The number of officers and positions decreased slightly.

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

Legislation – Director Bourgeois advised there were several bills of interest. HB 4540 and HB 4541 both address the Detroit Transit Authority’s desire for MCOLES licensed personnel. The bills did not pass in the last session. MCOLES supports the bills if this is done in an appropriate fashion.

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:

- Detroit Transit bills
- Revocations
- Relinquishments

Armed Reserve Committee – Director Bourgeois advised the committee was able to find a replacement assistant prosecutor for the legal SME group. He and Mr. Kempa are meeting with

him later today to brief him on the work done to this point. They are still working on developing a more definitive description of an armed reserve officer and this may possibly take legislation.

CONSENT AGENDA

Relinquishments – Chair Molloy advised that the Commissioners were provided a document which outlined the relinquishments obtained in March. The list included:

- Jeremy Meiser
- Brent Studer
- Evan Leach
- David West

Chair Molloy added that David West should not be listed on this report because he was listed on a previous one.

A **MOTION** was made by Commissioner Adams and supported by Commissioner Sauger to approve removing David West’s name and case from this relinquishment report.

A **ROLL CALL VOTE** was taken. The **MOTION** carried. The following votes were recorded.

Approval to Remove David West from the Relinquishment Report	
Adams, Tom	YES
Zyburt, Gregory	YES
Kunath, Michael	YES
Clark, Beth	YES
Moore, Ronald	YES
Weiss, Arthur	YES
Johnson, Nate	YES
Bliss, Mark	YES
Molloy, David	YES
Hawkins, Jeffery	YES
Smith, Duane	YES
Tanay, David	YES
Wickersham, Anthony	YES
Sauger, Michael	YES

Lewis, Anthony	YES
Jackson, Lisa	YES
Chapman, Tellis	YES
Payne, Eric	YES
Wendling, Michael	YES
Hartig, Matthew	YES

Revocation of Law Enforcement License for Michael Oginsky – Director Bourgeois reminded the Commissioners the MCOLES Act requires revocation of a law enforcement license if the individual acquires an adjudication of guilt for certain designated offenses and if the adjudication of guilt is substantiated by court documents. To ensure due process, MCOLES files an action in the Michigan Administrative Hearing System (MAHS), with the licensee as the plaintiff and the Commission as the respondent. The Administrative Law Judge (ALJ) conducts a contested hearing including a review of the statutory requirements and the facts presented. Based on that information, the ALJ provides the Commission with a Proposal for Decision (PFD). In this case, the ALJ issued a PFD for Michael Oginsky opining the statutory requirements have been met for license revocation. Mr. Oginsky was adjudicated guilty on felony charges under HYTA and he did not accurately disclose his adjudication when he applied for licensure and employment as a police officer. Accordingly, Commission staff prepared a draft Final Revocation Order for the Commission’s consideration.

A **MOTION** was made by Commissioner Zyburt and supported by Commissioner Wendling to adopt the Final Order of Revocation thereby revoking Michael Oginsky’s law enforcement license.

A discussion then occurred regarding the revocation. The key statements from Commissioners or staff from this discussion included:

- An assertion this was not an adjudication under the status of youthful trainee under the Holmes Youthful Trainee Act and therefore should not be considered license revocation.
- The 2016 amendment to the MCOLES Act, with respect to revokable offenses, replaced the word “conviction” with the words “adjudication of guilt.” It was an intentional effort to create a higher standard for law enforcement licensure.
- HYTA was specifically included in the 2016 amendments to the statute as revocable adjudications of guilt.
- Michael Oginsky applied for his license before the 2016 amendments to the MCOLES Act, therefore it should not be applicable.
- The previous version of the MCOLES Act (pre-2016) used the term “conviction” which was further defined in the Promulgated Administrative Rules to include any felony set-aside

(including HYTA). The Administrative Rules have the force of Law, so Mr. Oginski's adjudication of guilt for a felony, had it been known, would have denied his entry into the basic training academy and law enforcement licensing system at that time.

- There was discussion about whether this action constituted ex post facto application of the law. It was stated the concept of ex post facto applies only to criminal law, not administrative law for licensing purposes.
- There was an assertion the Commission should not revoke the license because of the time that had passed since the individual received the adjudication of guilt. Commission staff said they only recently became aware of this matter through another review. MCL 28.609(13) states "The Commission shall initiate license revocation proceedings...upon obtaining notice of facts warranting license revocation" and is obligated by the MCOLES Act to take this action.
- On Mr. Oginsky's application/affidavit to enter the law enforcement academy, he indicated the crime was a "MIS", which was assumed to mean ~~mean~~ misdemeanor. At that time, the only criminal acts for which revocation must be initiated were felonies. It is presumed he was also never fingerprinted because the arrest and adjudication of guilt did not show up on his computerized criminal history.

A **ROLL CALL VOTE** was taken. The **MOTION** carried (16-Yes, 3-No, 1-Abstention). The following votes were recorded.

Approval to Revoke the License of Michael Oginsky	
Adams, Tom	YES
Zyburt, Gregory	YES
Kunath, Michael	NO
Clark, Beth	YES
Moore, Ronald	YES
Weiss, Arthur	NO
Johnson, Nate	YES
Bliss, Mark	YES
Molloy, David	YES
Hawkins, Jeffery	YES
Smith, Duane	Abstained
Tanay, David	YES

Wickersham, Anthony	YES
Sauger, Michael	NO
Lewis, Anthony	YES
Jackson, Lisa	YES
Chapman, Tellis	YES
Payne, Eric	YES
Wendling, Michael	YES
Hartig, Matthew	YES

NEW BUSINESS

Commission Resolution 2021-01 – Chair David Molloy read into the record Commission Resolution 2021-01 honoring Fallen Fire Chief Roland Brooks and extending the Public Safety Officers Benefit.

A **MOTION** was made by Commissioner Wickersham and supported by Commissioner Moore to approve Commission Resolution 2021-01 honoring Fallen Fire Chief Roland Brooks.

A **ROLL CALL VOTE** was taken. The **MOTION** carried. The following votes were recorded.

Approve Commission Resolution 2021-01	
Adams, Tom	YES
Zyburt, Gregory	YES
Kunath, Michael	YES
Clark, Beth	YES
Moore, Ronald	YES
Weiss, Arthur	YES
Johnson, Nate	YES
Bliss, Mark	YES
Molloy, David	YES
Hawkins, Jeffery	YES

Smith, Duane	YES
Tanay, David	YES
Wickersham, Anthony	YES
Sauger, Michael	YES
Lewis, Anthony	YES
Jackson, Lisa	YES
Chapman, Tellis	YES
Payne, Eric	YES
Wendling, Michael	YES
Hartig, Matthew	YES

Commission Resolution 2021-02 – Chair David Molloy read into the record Commission Resolution 2021-02 honoring Fallen Firefighter Michael Buitendorp and extending the Public Safety Officers Benefit.

A **MOTION** was made by Commissioner Adams and supported by Commissioner Chapman to approve Commission Resolution 2021-02 honoring Fallen Firefighter Michael Buitendorp.

A **ROLL CALL VOTE** was taken. The **MOTION** carried. The following votes were recorded.

Approve Commission Resolution 2021-02	
Adams, Tom	YES
Zybur, Gregory	YES
Kunath, Michael	YES
Clark, Beth	YES
Moore, Ronald	YES
Weiss, Arthur	YES
Johnson, Nate	YES
Bliss, Mark	YES
Molloy, David	YES

Hawkins, Jeffery	YES
Smith, Duane	YES
Tanay, David	YES
Wickersham, Anthony	YES
Sauger, Michael	YES
Lewis, Anthony	YES
Jackson, Lisa	YES
Chapman, Tellis	YES
Payne, Eric	YES
Wendling, Michael	YES
Hartig, Matthew	YES

OLD BUSINESS - None

MISCELLANEOUS

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

Commissioner Weiss stated he received a call from Nancy Kaffer. He added that she is a reporter and wanted to interview him regarding MCOLES status on Attorney General Nessel’s 2020 report on Police Reform.

Commissioner Molloy advised that he had been contacted as well as MCOLES. Chair Molloy advised he was going to call her back and give her an update. He added that we must remember that bills are introduced through legislation, statute, and individuals and that many of them are done with no funding connected. He agreed improvement is always needed, and training is a big part of it, however without funding we cannot research and develop the training.

PUBLIC COMMENT

Nancy Kaffer introduced herself as a reporter. She said she wants to write a thoughtful piece on police training and reform. She does not want a list of what cannot happen, but actually viable options. She would like to keep a line of discussion open with the Commission.

Dale Mitchell also addressed the Commission. He stated that he is with the Kalamazoo ALPACT, which he said stands for Advocates & Leaders for Police and Community Trust. He stated he is also interested in having an open line of communication with the Commission. He stated that he

works with law enforcement in Kalamazoo County and also sits on the Kalamazoo Valley Community College Advisory Board. He wants to make changes and improvements and is interested in what other training might be mandated.

Commissioner Lewis spoke and advised that he is with the Michigan Department of Civil Rights that oversees Community Engagement, which includes ALPACT. He wanted Mr. Mitchell to know that he oversees all the ALPACT chapters in the state so there is already a direct line of communication between the Commission and ALPACT.

Commissioner Zyburt welcomed the new members to the Commission. He added that we have several Commissioners who are not in law enforcement. He encouraged them to reach out if they have any questions. He encouraged them to do a ride-along with their local departments to get a firsthand look at law enforcement in today's climate.

Commissioner Jackson thanked Commissioner Zyburt for mentioning those who do not have a law enforcement background. She said that she has participated in ride-alongs with Ann Arbor PD and Washtenaw County SO. She added she is a trained law enforcement oversight professional with a particular view of law enforcement. She said that gaining practical knowledge by doing the things Commissioner Zyburt suggested would be very beneficial for anyone who does not already have it and thanked him for the suggestion.

NEXT MEETING

Date: June 16, 2021 @ 10:30 AM
Teams Platform Meeting

ADJOURNMENT:

A **MOTION** was made by Commissioner Wickersham to adjourn the meeting at 11:23 AM.

Approved:  _____ Date ___June 16, 2021___

Witness:  _____ Date ___June 16, 2021___