
Michigan Commission on Law Enforcement Standards
Commission Meeting Minutes
September 27, 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
Colonel Kriste Etue, 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
Trooper Nate Johnson, representing the Michigan State Police Troopers Association
Mr. David Hiller, representing Michigan Fraternal Order of Police
Sheriff Timothy Donnellon, representing Michigan Sheriff's Association
Chief Tim Bourgeois, representing Michigan Association of Chiefs of Police
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

COMMISSION MEMBERS EXCUSED

Sheriff Jerry Clayton, representing the Michigan Sheriffs' Association
Mr. Richard Heins, representing Michigan Association of Police
Cpl. Brian Earle, representing Deputy Sheriff's Association of Michigan
Mr. Mark Diaz, representing Detroit Police Officers Association
Asst. Chief James White, representing Detroit Police Department

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. Darnell Blackburn, MCOLES Staff
Mr. Michael Logghe, MCOLES Staff

GUESTS (SIGNING-IN)

Commander Marlon Wilson, Detroit Police Department
Mr. Lynn Ried (Ret.), MCOLES Staff
Ms. Norma Bauer, Homeless Angels
Shannon Bitterman, Citizen/Oakley, MI
Dennis Bitterman, Citizen/Oakley, MI
Francis Koski, Citizen/Oakley, MI
Phillip Ellison, Legal Counsel
Gina Kaufman, Detroit Free Press
Jim Schaffer, Detroit Free Press
Chief Jon Gale, Norton Shores Police Department
Lt. Michael Kasher, Norton Shores Police Department

CALL TO ORDER

The Commission meeting was called to order by Chair Michael Wendling on September 27, 2017 at 10:30 AM. The meeting was held at the MCOLES Office in Lansing, Michigan.

INTRODUCTIONS

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

ACCEPTANCE OF THE JUNE 14, 2017 COMMISSION MEETING MINUTES

A **MOTION** was made by Commissioner Grabowski and supported by Commissioner Molloy to approve the June 14, 2017 Commission Meeting Minutes as written.

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

ADDITIONS/CHANGES TO THE AGENDA

Chair Wendling pointed out that under “New Business” the last item was Commission Resolution 2017-11. He explained that this was put on the agenda in error. There will be no Commission Resolution 2017-11.

A **MOTION** was made by Commissioner Etui and supported by Commissioner Wright to approve the changes to the Agenda.

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

CHAIR'S REPORT

Moment of Silence – Chair Wendling stated that the Michigan State Police lost a trooper in the line of duty last week. He added that at this time he would like to ask everyone to share a moment of silence in remembrance of Trooper Timothy O'Neill and send our condolences to the Michigan State Police and the family of Trooper O'Neill.

Chair Wendling added that he attended the funeral and was proud to represent the Prosecutor's Office and the Michigan Commission on Law Enforcement Standards. He was also encouraged by the amount of support that he witnessed for the family.

LEO Population Report – Chair Wendling advised that the LEO Population Report had been provided for the Commissioners' review. He added that the report showed a slight uptick in the number of officers and positions.

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

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

House Bills 4416 through 4419 – Chair Wendling explained that at the last commission meeting a motion was made to allow staff to draft a resolution to oppose House Bills 4416-4419. However after looking into MCOLES' authority to provide input to the legislature it was found there may be a problem with that authority therefore no resolution was drafted. Chair Wendling turned it over to Commission counsel, John Szczubelek, to explain the limits of the Commission's authority.

Mr. Szczubelek explained that Section 11(1)(e) of the MCOLES Act states the Commission only has authority to make recommendations when it deals with the qualifications and training of law enforcement officers. A resolution to oppose these bills is not within the section. He added that any of the individual agencies that comprise the Commission can use their lobbyist to comment. Commissioner Hiller questioned whether the Commission would still write their letter to the Governor opposing the Bills. Mr. Szczubelek stated that the Commission can only do what the Statute allows and there is nothing in the statute that allows for a letter to the Governor. Commissioner Grabowski asked if the Commission had made recommendations in the past. Mr. Szczubelek advised that he was not aware of any that didn't address the qualifications or training of law enforcement officers.

Employee Recognition – John Steele addressed the Commission and asked Lynn Ried to join him. Mr. Steele advised that Lynn had retired from MCOLES the day before. He stated that Lynn was hired in 1969 by Lansing Police Department and was employed there for 25 years. He held positions in patrol, the motorcycle unit, the Detective Bureau, Internal Affairs and Command. He was also an

instructor and trainer at Lansing Community College. Lynn started with MCOLES in 1994 as a field representative. He covered the Upper Peninsula and most recently he worked with the academies on the west side of the state. John added that Lynn will be greatly missed.

Lynn Ried addressed the Commission and said it was an honor and privilege to work for them. He thanked Colonel Etue for the job and Interim Director Kramp for her guidance. Col. Etue added that Lynn was a friend and true professional and wished him well.

DIRECTOR'S REPORT

Public Safety Officer Benefit Program – Acting Director Hermina Kramp stated the PSOB appropriation has been \$150,000 since its inception in 2004. In recent years the number of eligible claims has risen resulting in the appropriated amount being insufficient to cover all the eligible claims in a given fiscal year. In FY 2017 there were a total of 13 completed and approved applications. There are two additional applications pending that will be approved. However, we only had funds to pay the first nine.

We have made a total of nine awards in FY17. This has exhausted all current year appropriated funds as well as the additional funding that was made available by a legislative transfer.

We currently have four additional completed awards and two awards pending that are unfunded. These totals do not include Trooper O'Neill who was killed in the line of duty last week since the investigation and application for that death has not been completed yet. That case will probably be the first new application approved during FY 2018.

The insufficient funding has come to the attention of a number of legislators and several have reached out to MCOLES for the funding data in order to work on rectifying the problem.

SB 054 MCOLES Access to Fingerprint Information – Ms. Kramp advised the Commission that Senator Jones introduced SB 054 and it would provide MCOLES access to the fingerprint results of certain applicants to training to allow MCOLES to comply with its statutory mandates.

- The fingerprinting requirement applies to two categories of individuals:
 - Pre-service individuals seeking admission to one of Michigan's basic law enforcement training academies
 - Those seeking admission to the MCOLES program that allows individuals who have been previously trained to re-enter the training process (RPTE).
- Fingerprinting is needed to ensure that the individuals have no criminal history or legal other restrictions, that would make them unacceptable to be trained, employed and licensed as a law enforcement officer

- MCOLES is the entity statutorily authorized to screen and deny applicants enrollment in these programs.
- MCOLES currently does not have the statutory authority to require fingerprinting and receive the results of this screening for these individuals in order to make the enrollment/denial decision.
- The procedures to obtain, use, and store fingerprints and criminal history record information are prescribed by federal law and regulations, and SB 524 is drafted in compliance with those requirements.
- The requirement that an individual be free from legal restrictions that inhibit his or her ability to be trained, employed, and licensed as a law enforcement officer is new and is being added to address individuals who have, for example, personal protection orders, firearms restrictions, or other legal impediments.

The Bill has passed the Senate and has been assigned to the House Judiciary Committee.

Pre-service Academy Student Educational Requirement – Interim Director Kramp advised that it was brought to her attention by a couple commissioners that on the chief's ListServe a question had been posted about the pre-service student educational requirement for graduation and eligibility for licensing. There was confusion as to whether this was a new program or requirement and the difference between preservice recruits and employed recruits.

To the first point this is not a new requirement or program. The pre-service program was put into place in the late 1970s. Pre-service candidates are required to qualify for an associate's degree by the completion of their academy training.

The first set of administrative rules governing the administration of the program went into effect March 3, 1981. The rules are specific to a student that is entering the system as an individual (pre-service recruit) versus someone who is entering training as an employee of an agency being enrolled into training by the agency (employed recruit).

An employed recruit is someone who has been totally screened to the licensing standards in advance of basic training, has been hired by the agency as a recruit and is being paid in accordance with the Fair Labor Standards Act for every hour worked which includes time spent in the training environment. It applies equally to all law enforcement agencies not just those who run academies. Any agency can hire someone with just a high school education and enroll them into an academy.

When this was implemented agencies that had the funding available to follow the employed recruit path wanted the flexibility to meet their own needs and follow their own existing standards. In some cases this meant a baccalaureate degree, and in some cases it meant a high school diploma or equivalency.

The educational requirement for pre-service students was in keeping with the recommendations coming from the national and academic research. The requirement was seen as an improvement to the overall professionalism of law enforcement.

Since these requirements are pre-employment and licensing, most agency heads never deal with this since students who present themselves for hire have already met this requirement. This may have become an issue now because most colleges and universities have implemented time and cost savings and refuse to generate transcripts for students upon their completion of the training causing them to come into conflict with an administrative rule requiring an original transcript showing the awarding of the degree.

We fixed that problem about 20 years ago by accepting letters from the colleges indicating the student qualifies for the award of a degree as an initial submission and required students to provide the actual documentation when it became available. In that way no student was ever held up because they could not produce a document. Recently however a number of institutions have determined that they can no longer provide separate documentation for this purpose.

We are working on a fix to that problem right now but it will require a change to the administrative rules so will take us a little longer. In the meantime we work with each individual and each agency individually that runs into this problem to get them through it.

HB 4827 Law Enforcement Use of Force Reporting – Acting Executive Director Kramp advised that this is a reintroduction of a bill that Representative Chang had introduced during the last legislative session. Representative Chang reached out to MCOLES and requested a meeting to discuss what is intended with this bill since MCOLES is the body named as the repository. I met with Representative Chang and we discussed the purpose of the legislation and what the desired outcomes would be. She clarified that the intent is not for MCOLES to evaluate, review or act upon anything being reported but rather serve as the central collection point.

Acting Director Kramp asked that if any of the Commissioners have any thoughts or opinions reference HB 4827 to contact her.

Public Act 85 of 2017 – The act addresses a variety of issues related to the audio and video recording by law enforcement body-worn cameras. The act becomes effective on January 8, 2018. A significant requirement in the act is the requirement that all agencies utilizing body-worn cameras must develop a written policy regarding their use and the maintenance and disclosure of recordings. A group of subject matter experts is being convened by the Domestic and Sexual Violence Prevention and Treatment Board to assist in developing a guidance document related to the concerns of victims that can be distributed. Some of the insurance carriers have sample policies.

Michigan Justice Training Fund Grant applications – MCOLES received 22 grant applications totaling \$1,629,561.23 in requested funds. The estimated funding that will be available is in the \$600,000 - \$700,000 range. There were no prosecution or defense grant applications, one adjudication application, 19 law enforcement applications, and two specialized applications from MSP. The categories break down as follows:

Applicant	# of Applications	Amount Requested
Adjudication	1	\$ 14,819.66
Law Enforcement	19	\$1,042,041.16
Specialized	2	\$ 572,700.41
Total	22	\$1,629,561.23

At the November Commission meeting, the recommended cuts will be presented. The current policy and procedure will be used to make cuts and at the December meeting the Commission will vote on the final grant amounts to be awarded.

COMMITTEE REPORTS

Executive Committee – Chair Wendling advised that the Executive Committee met on August 16. The only topic of discussion was moving the location of the MCOLES Office in Lansing.

Interim Executive Director Kramp advised that they were in the process of searching for a new location due to some building related issues and a smaller staff. She explained that DTMB requires a bidding process. There were six total bids. Four of these had cost or structural issues. She added that she and Chair Wendling did a walk-through of the remaining two sites. One of the locations they believe will meet the current needs and reduce costs.

Chair Wendling advised that at the Committee meeting a Motion was made by Col. Etue and supported by Commission Molloy to move forward with the bidding process to relocate the offices.

Since that meeting a bid was received and accepted. Commissioner Wendling added that he personally inspected several of the sites and the bid that was accepted was by far the best of and probably the only viable option of those offered.

Acting Director Kramp added that the ideal timeline would be to be moved into the new location before the new Executive Director starts. Hopefully we will be done moving by the end of January.

Selection Committee – Chair Wendling advised that the Executive Director Selection Committee met on August 16th. He stated that as a group they reviewed and scored the applications that were received for the Director's position.

There were a total of 84 applications submitted through the State's mandatory application system. Of the 84 applications there were:

- 33 applicants with no law enforcement, criminal justice, public safety or legal experience thereby not meeting the minimum Civil Service requirements for this position. Of these 33 applicants there were 11 that did not even complete the application.
- 13 of the applicants who reported having law enforcement experience were found to have been state or local corrections officers, parole officers, probation officers, reserve or private security.

The Committee reviewed the remaining applicants based on the job description which was posted, the minimum requirements posted in the job announcement, the resumes submitted and the cover letters submitted. The pool was reduced based on this evaluation leaving 26 candidates in the pool.

These 26 applications and documents were scored in advance using a standardized scoring rubric. At the meeting the Committee discussed all 26 applicants and came to consensus scores and the pool was reduced to 8 candidates.

The remaining 8 applicants were invited to participate in a writing exercise. The exercise was developed to be currently applicable and designed to assess an individual's ability to communicate in writing on a topic related to the foundation of the Commission's mission. All 8 candidates responded and their submissions were scored in advance using a standardized scoring rubric.

The Selection Committee will be meeting immediately following this meeting to discuss all 8 submissions and come to consensus on the writing exercise. We will then discuss and come to consensus on what candidates will be invited to interview on October 11th.

If you refer to the selection process document that was provided, you will find that we have completed steps 1 through 7 of the process that was adopted by the Commission at the April meeting. If you refer to the timeline you were also provided, you will see that we are right on track to have a candidate to recommend to the full Commission for discussion at the November 1st meeting and then a vote by the full Commission at the December 6th meeting to extend a contract based on the outcome of the background process.

Chair Wendling advised that all of the 8 applicants are very impressive and asked if there were questions.

Commissioner Adams inquired as to the diversity of the applicants. Chair Wendling advised that within the process they concentrated on diversity as well as the applicant's ability to move MCOLES forward. He added that the interviews will take place on October 11 and are open to the public.

CONSENT AGENDA

Chair Wendling stated that next item on the agenda were the revocations. He turned the discussion over to MCOLES investigator, Ryan Speidel.

Mr. Speidel advised that six license revocation hearings were convened since the last Commission meeting which included the following:

- 1) Robert Glen Wilson v Michigan Commission on Law Enforcement Standards
- 2) Derryl Wade Shelton v Michigan Commission on Law Enforcement Standards
- 3) Thomas Arthur Pedersen v Michigan Commission on Law Enforcement Standards
- 4) Adam John Brown v Michigan Commission on Law Enforcement Standards
- 5) Lolita Monique-Rene Carter v Michigan Commission on Law Enforcement Standards
- 6) Thomas Irawan DeasFernandes v Michigan Commission on Law Enforcement Standards

Mr. Speidel stated that the Commissioners had been provided the certified records of the six proceedings for their review and added the records are also available to the public through the Michigan Administrative Hearing System.

Under the MCOLES Act, the Commission shall revoke a license if an officer was subjected to an adjudication of guilt for an offense enumerated in the Act.

In each of these six cases, the Administrative Law Judge has issued a Proposal for Decision recommending that the officer's license be revoked because the officer was subjected to an adjudication of guilt for an offense enumerated in the Act.

Mr. Speidel added that the Commission's consideration of facts and evidence was limited to those in the certified records.

Chair Wendling then asked for a motion to adopt the Proposals for Decision for each of these six cases.

A **MOTION** was made by Commissioner Molloy and supported by Commissioner Adams to approve the revocation of licenses for Robert Wilson, Derryl Shelton, Thomas Pedersen, Adam Brown, Lolita Carter and Thomas DeasFernandes.

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

NEW BUSINESS

Commission Resolution 2017-07 - Resolution honoring Fallen Detroit Police Department Sergeant Kenneth Steil.

Chair Wendling asked that Commander Marlon Wilson of the Detroit Police Department join him. Chair Wendling read into record Commission Resolution 2017-07 honoring Fallen Detroit Police Department Sergeant Kenneth Steil and presented Commander Wilson with the plaque.

A **MOTION** was made by Commissioner Hiller and supported by Commissioner Molloy to approve Commission Resolution 2017-07 honoring Sergeant Kenneth Steil and extend the Public Safety Officer Benefit.

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

Commission Resolution 2017-08 – Resolution honoring Fallen Charter Township of Comstock Fire Department Chief Edward Switalski.

Chair Wendling read into record Commission Resolution 2017-08 honoring Fallen Charter Township of Comstock Fire Department Chief Edward Switalski.

A **MOTION** was made by Commissioner Bourgeois and supported by Commissioner Molloy to approve Commission Resolution 2017-08 honoring Chief Edward Switalski and extend the Public Safety Officer Benefit.

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

Commission Resolution 2017-09 - Resolution honoring Fallen Norton Shores Police Department Officer Jonathan Ginka

Chair Wendling requested Chief Jon Gale and Lt. Michael Kasher of the Norton Shores Police Department to join him. Commissioner Wendling read into record Commission Resolution 2017-09 honoring Fallen Norton Shores Police Department Officer Jonathan Ginka and presented Chief Gale and Lt. Kasher with the plaque.

A **MOTION** was made by Commissioner Hiller and supported by Commissioner Molloy to approve Commission Resolution 2017-09 honoring Officer Jonathan Ginka and extend the Public Safety Officer Benefit.

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

Commission Resolution 2017-10 - Resolution honoring Fallen Somerset Township Fire Fighter, Captain Fred Newton.

Chair Wendling read into record Commission Resolution 2017-10 honoring Fallen Somerset Township Fire Fighter Captain Fred Newton.

A **MOTION** was made by Commissioner Molloy and supported by Commissioner Donnellon to approve Commission Resolution 2017-10 honoring Captain Fred Newton and extend the Public Safety Officer Benefit.

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

OLD BUSINESS – None

MISCELLANEOUS

Interim Director Hermina Kramp advised the Commissioners that this year the September meeting date was later than usual. She stated that the fiscal year end was this Friday. Therefore we needed any travel reimbursement requests for FY17 to be turned in by noon tomorrow.

PUBLIC COMMENT

Chair Wendling stated that it was time for public comment. He added that the Commission Bylaws provide for members of the public to make comments to the Commission. These comments are limited to three minutes per person. He stated that he would appreciate anyone making comment limit it to three minutes. He also asked that everyone state their name for the record.

Shannon Bitterman from Oakley, Michigan addressed the Commission. She explained that the Village of Oakley was one square mile and had a population of 300 people. She added that the Village has 12 certified police officers and 168 reserve officers. She continued saying that the Chief, Robert Resnick, has too much power and this much power in the wrong hands is dangerous. She was asking that MCOLES and the Attorney General's Office stay on top of the situation. Shannon Bitterman added that they have already spent years of litigation trying to deal with Chief Resnick and are still dealing with the situation. She stated that the Village of Oakley was asking for help and hoped MCOLES would continue to keep Oakley on their radar.

Francis Koski was the next audience member to address the Commission. He stated that he wanted to address the issue of reserve officers in the Village of Oakley. He said that when you take into account the size of the village, 300 residents, it was clear that 168 reserve officers were not needed. He added that it was a pay-to-play opportunity. If someone gave \$1,200 they could become a law enforcement officer in Oakley. He was asking for MCOLES help also. He said he knew that MCOLES had been given the authority to set standards for reserve officers and wanted to emphasize how important the issue was in their village.

Philip Ellison also made public comment. He advised the Commission he was legal counsel for the Bittermans. He implored that this Commission write regulatory standards for reserve officers. He said that the situation in Oakley demonstrated the flaws with the current system of no oversight. He added that the Commission now has the authority to set stringent standards and he is requesting they do so as quickly as possible. He said when money becomes involved in the process, like in Oakley; there are no limits especially when the Chief has no oversight.

NEXT MEETING

Date: November 1, 2017 @ 10:30 AM

Location: Lansing

Commissioner Adams stated that he had two questions.

- 1) He asked that Chair if it would be possible to take any of the future Commission meetings on the road.
- 2) With the current issues regarding police officers, what is the Commission doing to get ahead of the issues?

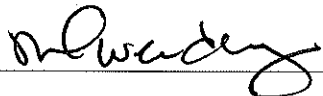
Chair Wendling advised that we had taken Commission meetings on the road in the past. He added that one problem is the cost involved. Also, when done in the past, there was no public attendance. However, he did add that if the Commission is interested we could explore taking a 2018 meeting on the road.


With regard to question 2, Chair Wendling advised that the Executive Directive report recently completed by MCOLES addressed many of the issues. He asked Commissioner Adams if he had any specific recommendations. Commissioner Adams stated that we needed to do training for the community members.

Chair Wendling stated that the recommendations were for law enforcement officers. He added that there was a lack of funding to train officers let alone the general public.

ADJOURNMENT:

A **MOTION** was made by Commissioner Etue and supported by Commissioner Hiller to adjourn the meeting at 11:40 AM.

APPROVED BY  ON 11/1/17

WITNESSED BY  ON 11/1/17