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## **Michigan Commission on Law Enforcement Standards**

**June 12, 2024**

**Marshall Regional Law Enforcement Center**

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### **COMMISSION MEMBERS PRESENT**

Director Kimberly Koster, representing the Michigan Association of Chiefs of Police  
Sheriff Anthony Wickersham, representing the Michigan Sheriffs' Association  
Lt. Col. Michael Krumm, representing the Michigan State Police  
Colonel James Grady, representing the Michigan State Police  
Mr. David Tanay, representing the Office of the Attorney General  
Trooper Nate Johnson, representing the Michigan State Police Troopers Association  
Chief Ronald Wiles, representing the Michigan Association of Chiefs of Police  
Dr. Lisa Jackson, representing residents of the State  
Mr. Ken Grabowski, representing Police Officer Association of Michigan  
Ms. Chianti' Lymon, representing residents of the State  
Mr. Michael Wendling, representing the Prosecuting Attorneys Association of Michigan  
Mr. Grant Ha, representing the Detroit Police Department  
Ms. Linda Broden, representing the Detroit Police Officers Association  
Mr. Jim Stachowski, representing the Police Officers Labor Council  
Sheriff Gregory Zyburt, representing the Michigan Sheriff's Association  
Deputy Matthew Hartig, representing the Deputy Sheriffs' Association of Michigan  
Mr. Michael Sauger, representing the Fraternal Order of Police  
Chief Issa Shahin, representing the Michigan Association of Chiefs of Police  
Pastor Jeffery Hawkins, representing residents of the State

### **COMMISSION MEMBERS EXCUSED**

Pastor Tellis Chapman, representing residents of the State  
Mr. Matthew Saxton, representing the Michigan Sheriffs' Association  
Mr. Anthony Lewis, representing the Michigan Department of Civil Rights  
Mr. Arthur Weiss, representing the Criminal Defense Attorneys of Michigan

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### **STAFF PRESENT (In Person)**

Mr. Timothy Bourgeois, MCOLES Executive Director  
Mr. Joseph Kempa, MCOLES Deputy Executive Director  
Ms. Jacquelyn Beeson, MCOLES Staff  
Mr. Mark Sands, MCOLES Legal Counsel  
Ms. Kayla Hanselman, MCOLES Staff  
Ms. Ali Pirich, MCOLES Staff  
Mr. Rob LaMarche, MCOLES Staff  
Mr. Leon Boyer, MCOLES Staff  
Mr. Danny Rosa, MCOLES Staff

## GUESTS ATTENDING

Mr. Andrew Minegar, MIRS News – In Person  
Mr. Jerry Carlin – Virtual  
Mr. Nicholas McCormick - Virtual

## CALL TO ORDER

The Commission meeting was called to order by Chair Kim Koster on June 12, 2024 at 10:30 AM. The meeting was held in person in accordance with the Open Meetings Act and shared virtually via the Teams platform for staff and members of the public. Commissioners were required to attend in person to have voting rights.

## INTRODUCTIONS

Chair Koster introduced herself and then asked the other Commissioners attending in person to do the same. Next, visitors attending in person were asked to introduce themselves, as were staff members in attendance. Finally, members of the public that were attending virtually were asked to identify themselves if they chose to be part of the minutes.

Commissioner Koster announced that if any member of the public wishes to make a comment, they will have two opportunities to do so. The first opportunity will be after the Changes or Additions to the Agenda portion of the meeting and the second opportunity will be at the end of the meeting. If you are present at the meeting, and wish to speak, please raise your hand. If you are attending virtually, please electronically or physically raise your hand. When the chair recognizes you to speak, you will have up to 3 minutes to make your comments. The purpose is for the Commission to listen to comments from the public. As such, they will not answer questions or engage in a dialogue with the speakers.

## ACCEPTANCE OF THE APRIL 24, 2024 COMMISSION MEETING MINUTES

The Minutes from the April 24, 2024 meeting were made available electronically to the Commissioners. Chair Koster asked for a motion to approve the minutes and then held a voice vote.

A **MOTION** was made by Commissioner Zyburt and supported by Commissioner Lymon-Hamilton to approve the April 24, 2024 Commission Meeting Minutes.

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

## ADDITIONS TO THE AGENDA

Chair Koster inquired if any Commissioner wanted to make a change or addition to the agenda. Commissioner Wickersham stated he wanted to include Commission Resolution 2024-06 honoring Blackman-Leoni Township Department of Public Safety Officer Justin Davis.



A **MOTION** was made by Commissioner Wickersham and supported by Commissioner Wiles to approve the June 12, 2024 agenda with the addition of Commission Resolution 2024-06.

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

## PUBLIC COMMENT

Mr. Jerry Carlin advised he would like to speak. He was attending the Commission meeting virtually. Mr. Carlin was addressing the Commission on behalf of his grandson. He explained that his grandson had applied for the RPTE program and was awaiting a decision on a character fitness review and he felt the process was taking too long.

## CHAIR'S REPORT

LEO Population – The Law Enforcement Officer Population Report for May was sent electronically to the Commissioners. The number of officers and positions both increased. The increase is most likely due to the academy graduations.

Grant Adjustments – This report provides information on adjustments requested by the grantees of the Justice Training Fund grants. The report was sent out earlier and does not require Commission action. It is for information only.

SUR Report – Any Special Use Request made by an agency is reported to the Commission. This report includes requests for out-of-state training and equipment purchases. The total amount requested since our last meeting was \$18,144.05. This report is also for information only.

## DIRECTOR'S REPORT

Explanation of License & Standards Compliance Reviews – Executive Director Bourgeois said he wanted to refresh everyone's memory regarding the process for licensing and for when standards compliance reviews for individuals whose law enforcement licenses are in an inactive or lapsed state and wish to return to law enforcement positions are necessary. This includes individuals who leave one agency and wish to be employed and licensed with a new or subsequent agency as a law enforcement officer. The process has been prescribed by the legislature through the Michigan Commission on Law Enforcement Act, 1965 PA 203, as amended.

In the simplest sense, a law enforcement officer license is unique among professional licenses in Michigan, in that an individual who meets all applicable standards, successfully completes the required training and education as well as successfully completes the licensing exam is not licensed. Instead, they become eligible for licensure. The final requirements for licensure are regular employment with a bona fide law enforcement agency and an oath of office that empowers them to enforce all criminal statutes in the state (as opposed to some individuals who have some very specific law enforcement authority, but not general authority.) Once all of the above occur, the agency attests under oath to the Commission that the individual has been

screened and meets all requirements and requests the Commission to activate or reactivate the individual's law enforcement license. In the vast majority of cases, well into the high 90<sup>th</sup> percentile, that immediately occurs because upon the Commission's review all requirements have been met. In a tiny percentage of cases, due to articulable facts known to the Commission, the individual will require a standards compliance review to ensure they meet the applicable standards. Nearly all of these reviews focus on compliance with the character fitness standard, defined in MCL 28.609(2)(i) & Mich Admin R 28.14203(e).

It is important to note that by legislative design, it is the agency's initial responsibility to fully screen the individual to all applicable standards. If the Commission were required to be the sole screening authority, it would need hundreds of more employees. Considering 1,000 – 1,500 individuals are admitted to basic law enforcement academies each year, hundreds more into the Recognition of Prior Basic Training and Experience program, and several hundred officers who move from one agency to another each year, one can quickly see the immense amount of time and effort required. One also has to consider that many more individuals apply for entry into the system than are admitted. A conservative estimate of just the number of background investigations that are performed in the state each year would be between 3-4,000.

A law enforcement license can be in any of the following states, however only those with active licenses can perform the functions of a law enforcement officer under the statutes of the state (MCL 28.609(14))

- 1) Active (Met all standards, currently employed with an oath of office)
- 2) Inactive (Is not currently employed and empowered and has not been for up to 1 or 2 years depending on length of service, or has had their law enforcement authority removed by their employer or operation of law.)
- 3) Lapsed (Has exceeded the time limit of inactive status without license reactivation)
- 4) Summarily Suspended (Necessary for the health, welfare and safety of the public if sufficient evidence exists that revocation proceedings are required)
- 5) Revoked (Meets the mandatory requirements for revocation under MCL 28.609(12)(a-d))

To focus just on standards compliance reviews with respect to character fitness, it is important to understand that there is a distinction between employment – which is entirely within the purview of the agency (provided all standards are met), and licensing, which is in the purview of the state through the Commission. It is also very important to understand that the legislature amended the MCOLES Act by 2016 PA 289, which for the first time required agencies and the Commission to apply the character fitness standard for those with inactive licenses seeking reactivation, not just for initial licensing or for those with lapsed licenses, which was previously the case. Although the law has been in effect for over seven years, there are individuals and agencies who are still unaware of or are adjusting to this change.

If the Commission is aware of information that suggests an individual may not meet the character fitness standard, when the hiring agency license reactivation the licensing unit refers it to a regulation agent. The regulation agent typically contacts the hiring agency and requests a copy of the statutorily mandated comprehensive background investigation through which the agency attests the individual meets the character fitness standard, and any other relevant documents. The regulation agent then seeks whatever other information is required for a decision. These may include court documents, police reports, internal investigations, etc. The regulation agency may also conduct interviews. Once this information is compiled, it is reviewed



and forwarded to the executive director for a preliminary decision. (Due in part to the volume of these reviews, the Commission has delegated by resolution its responsibility in this area to its executive director).

The executive director may request additional information be obtained or even interview the individual if necessary. There are three possible outcomes.

First, the determination is made the individual meets the standard and license reactivation occurs.

The second is that the individual appears, based on articulable facts, to not meet the standard. In that case, both the formerly licensed officer and the agency requesting reactivation receive an extensive Intent to Deny letter, laying out the relevant law and authority, the material considered in the review, and articulating the facts that would appear to demonstrate the individual does not meet the standard. The individual is also informed of their options. They may accept the Commission's intent to deny, in which case it becomes a final agency decision. They may also appeal in writing to the executive director and provide information as to why they believe the Commission's intent to deny is not correct. The executive director reviews this information and makes a final agency decision. Lastly, the individual may also request a contested hearing before an administrative law judge (ALJ), conducted under the Administrative Procedures Act. The ALJ issues a proposal for decision, which is considered by the executive director, and a final agency decision is made. Final agency decisions are appealable to the Court of Claims.

The third option is further screening under MCL 28.609(5)(c) If the Commissions believes based on the facts presented the individual, through further screening, can meet the standard, the individual has the voluntary option to enter this process. Various requirements are set and the individual agrees if they do not meet those requirements, they will voluntarily relinquish their law enforcement license. This program has been very successful, with the vast majority of individuals who undergo further screening successfully completing it.

Executive Director Bourgeois said that there has been a significant increase in these reviews. One of the likely reasons is the shortage of law enforcement officer candidates. Individuals who have engaged in misconduct in the past see the job openings and seek to be readmitted when they would have previously likely not done so when there were many more qualified candidates seeking for those positions who did not have that type of conduct in their backgrounds. He said the Commission staff is reorganizing and increasing to handle this influx. It is expected that wait times will decrease as this staff comes on board and all agencies better screen applicants.

Executive Director Bourgeois said while most agencies faithfully and effectively carry out their statutory responsibilities with respect to hiring and licensing, there continues to be difficulties with agencies who do not conduct comprehensive background investigations required under the Act and do not comply with the Law Enforcement Officer Separation of Service Record Act, 2017 PA 128. PA 128 says the Commission cannot reactivate the law enforcement license of an individual unless both the separating and hiring agencies comply with the requirements set in the Act. Several recent media reports have highlighted the issue of agencies hiring officers who have demonstrated significant past misconduct, due to poor or non-existent background investigations, despite attesting that they did so.

Executive Director Bourgeois asked if there were any questions. A discussion occurred with the following topics addressed:

- Is there a statutory time frame for completion of the investigations?
- What is the average number of reviews per year?
- Request for data (number of reviews per year, average time for each review, number of reviews that result in officers being eligible for licensing) at the end of the year.
- Is there a mechanism in place to penalize an agency who does not follow the MCOLES Act in terms of reporting separations.
- The Commissioners were asked how they felt about penalties for non-compliance.
- If we developed a mechanism and then penalties for non-compliance, is the chief or sheriff penalized, the department head, the whole agency or a particular person?
- Suggestion to look into other ways to handle the problem besides penalties. For example, education or gradual steps of corrective action.

After the discussion it was determined that a committee would be established to review the possibility of penalties for not following the requirements of both the MCOLES Act, 1965 PA 203 and the Law Enforcement Officer Separation of Service Record Act, 2017 PA 128. The following commissioners were assigned to the committee:

- Commissioner Grabowski
- Commissioner Ha
- Commissioner Jackson
- Commissioner Shahin

Public Safety Academy Assistance (PSAA) Program Update – Executive Director Bourgeois advised the funding for this program was almost gone. There is legislation that will potentially allow the funding to continue next year. The figures he provided were as of June 6, 2024.

Agency Stipends	\$ 20,515,739.10
Academy Payments	\$ 1,354,268.75
Recruit Other – Payments	\$ 2,130,972.02
Other Expenditures	\$ 27,333.48
Total Expended	\$ 24,028,313.35
Total Available	\$ 5,971,686.65

## COMMITTEE REPORTS

Executive Committee – Chair Koster advised that the Executive Committee met that morning prior to the full commission meeting. The topics on the agenda were discussed.

**CONSENT AGENDA** – There were no items on the consent agenda.

## NEW BUSINESS

Commission Resolution 2024-04 – Chair Koster read Commission Resolution 2024-04 into the record. The resolution offered recognition to Chief Jeff King and the Farmington Hills Police Department for the leadership and steadfast commitment to their law enforcement profession.



Chief Jeff King and the Farmington Hills Police Department chose to problem solve through proactively building relationships with community mental health partners through the Commission's co-developed and co-instructed Behavioral Health Emergency Partnership (BHEP) training curriculum. They demonstrated dedication and performance above and beyond the standard by becoming the first law enforcement agency in the state to have 100% of their sworn officers, dispatchers and cadets educated in the Commission's 20-hour BHEP training.

A **MOTION** was made by Commissioner Zyburdt and supported by Commissioner Saxton to approve Commission Resolution 2024-04 honoring Farmington Hills Police Department.

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

Commission Resolution 2024-05 – Chair Koster read Commission Resolution 2024-05 into the record. The Resolution offers recognition to Director Bob Houhanisin and the Farmington Public Safety Department for their leadership and steadfast commitment to their employees, the citizens of their communities, and to the State of Michigan.

Director Bob Houhanisin and the Farmington Public Safety Department have demonstrated dedication and performance above and beyond the standard by becoming the first public safety department in the state to have 100% of their personnel educated in the Commission's 20-hour BHEP training.

This resolution and the members of the Michigan Commission on Law Enforcement Standards extend their gratitude to Director Bob Houhanisin and the Farmington Public Safety Department for this service to their department members, their community, and the State of Michigan.

A **MOTION** was made by Commissioner Broden and supported by Commissioner Lymon to approve Commission Resolution 2024-05 honoring Director Bob Houhanisin and the Farmington Public Safety Department.

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

Commission Resolution 2024-06 – Chair Koster read into the record Commission Resolution 2024-06 honoring Blackman-Leoni Township Public Safety Department Officer Justin Davis and Extend Public Safety Officer Benefits. Officer Justin Davis is permanently disabled from catastrophic injuries sustained in the line of duty.

A **MOTION** was made by Commissioner Wiles and supported by Commissioner Wendling to approve Commission Resolution 2024-06 honoring Blackman-Leoni Township Officer Justin Davis.

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

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## OLD BUSINESS

Continuing Professional Education (CPE) – Executive Director Bourgeois asked Section Manager Leon Boyer to give a short update on CPE. Mr. Boyer started by reminding the Commissioners at the last Commission meeting in April we notified them staff was very near to launching the CPE Pilot Program. This pilot program is the mechanism for law enforcement officers to meet mandatory in-service annual training.

He said that today he is beginning where we left off following the Commission's approval of the distribution of CPE funds. There are four primary goals the Commission staff will meet this year:

1. Ensure agencies understand the CPE pilot.
2. Provide the necessary support to the agencies.
3. Fill the open positions.
4. Continue with research and development for CPE.

He stated a communication plan was established. Staff have been working on creating the Commission's CPE website. On June 10, the site was launched, and it included several links with supporting information and easy reference. Following the launch of the site, an email was sent to all agency heads with the communications letter. This letter explains the CPE Pilot program with the CPE requirements for the rest of 2024 and those projected for 2025. The letter also provides an overview of:

1. Funding,
2. Curriculum,
3. Statutory Requirements and,
4. The CPE delivery

Throughout the cycle Commission staff will continue to evaluate CPE and will have the Commission agency representatives to support the agency personnel.

On Jun 11, 2024 a hard copy of the communications letter and reference guide was sent out via US Postal Service.

On June 13, 2024 a follow-up email was sent to all agency heads to ensure the message was received.

Starting June 14, 2024 Commission staff will begin distribution of \$500 per Full Time Equivalent licensed officer based on the last annual reporting.

Mr. Boyer continued his update announcing the funding distribution for this year will amount to just over \$8.8 million.

Once the pilot program was released, we received questions from the agencies. The Frequently Asked Questions document was created with questions we anticipated and is also being updated frequently as we receive additional questions.

Going forward, staff will be releasing further information on the MCOLES website. The year 2025 will be the first entire year of the pilot implementation. It will include approximately 24 hours of CPE.



He ended by saying there is an extensive amount of information but most of it will be available online.

## **PUBLIC COMMENT**

Nicholas McCormick was attending the meeting virtually and requested to address the Commission. He stated he felt the visual acuity standards were too strict. MCOLES requires 20/20 vision in each eye. He said that back in 2013 they used a monocular standard but now it is binocular. He feels the standard needs to be re-evaluated.

Executive Director Bourgeois advised that MCOLES staff has had a number of conversations and communications with Mr. McCormick. He was advised that the visual acuity standard is currently under a standards validation review, something that occurs periodically for all standards. He reminded the Commission that the color vision standard validation was recently completed as a part of this ongoing process. He explained the process is very comprehensive, and depending on the other work and programs underway in the Career Development Section, the validation process could take six to eight months or longer and at its conclusion, the staff's findings will be presented to the Commission as a whole for their review and action.

Jerry Carlin advised he wished to speak again. He reiterated he thought MCOLES was taking too long to complete the standard compliance review for his grandson and also feels he deserves veteran's preference. He also felt that his grandson should have an opportunity to speak to the Executive Director because he believes MCOLES thinks they are the sole authority of who is or is not licensed as a law enforcement officer.

## **MISCELLANEOUS**

MCOLES section manager, Danny Rosa addressed the commissioners. He introduced a new MCOLES staff member. Mr. Rosa explained funding was provided for new hires through the Continuing Professional Education Program money. The program allowed for three agency representatives to be hired, one for the east, one for the west, and one for the northern section of the state. MCOLES newest hire is Rob LaMarche. Mr. LaMarche stated he lives in the Upper Peninsula and therefore is the north agency representative. He comes with 25 years of law enforcement experience including the position of chief at Escanaba DPS. He added he is looking forward to continuing his career at MCOLES.

**NEXT MEETING** – The next meeting is scheduled for September 11, 2024. The location will be determined at a later date. The Commissioners were reminded to respond via email whether they will be attending the commission meetings.

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## ADJOURNMENT

A **MOTION** was made by Commissioner Wendling to adjourn the meeting at 12:05 PM.



Kimberly Koster, Chair

09/11/2024

Date



Kempa

Witness

9/11/2024

Date