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

1

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

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Michael Wendling