
Michigan Commission on Law Enforcement Standards
Commission Meeting Minutes
June 3, 2009
MCOLES Offices - Lansing, Michigan

MCOLES MEMBERS PRESENT:

Mr. John Buczek, representing the Fraternal Order of Police
Sheriff James Bosscher, representing the Michigan Sheriffs' Association
Chief James Barren, Detroit Police Department
Mr. James DeVries, representing the Police Officers Association of Michigan
Mr. Thomas C. Cameron, representing Attorney General Mike Cox
Director Kurt Jones, representing the Michigan Association of Chiefs of Police
Chief Richard Mattice, representing the Michigan Association of Chiefs of Police
Trooper Michael Moorman, representing the Michigan State Police Troopers Association
Mr. David Morse, representing the Prosecuting Attorneys Association of Michigan
Sheriff Robert Pickell, representing the Michigan Sheriffs' Association
Captain Jack Shepherd, representing Colonel Peter C. Munoz, Michigan State Police
Mr. Fred Timpner, representing the Michigan Association of Police
Mr. Rich Weiler, representing the Police Officers Labor Council
Sheriff Gene Wriggelsworth, representing the Michigan Sheriffs' Association
Mr. John Szczubelek, Commission Counsel

COMMISSION MEMBERS EXCUSED:

Professor Ron Bretz, representing the Criminal Defense Attorneys of Michigan
Mr. Marty Bandemer, representing the Detroit Police Officers Association
Chief Doreen Olko, representing the Michigan Association of Chiefs of Police

COMMISSION STAFF PRESENT:

Ms. Cheryl Hartwell	Mr. David King
Ms. Hermina Kramp	Mr. David Lee
Mr. John Steele	Mr. Danny Rosa
Mr. Wayne Carlson	Mr. Larry Jones
Mr. Lynn Reid	

GUESTS (signing in):

Chief David K. Elwell, Columbia Township Police Department
Chief Larry Weeks, Morenci Police Department
Chief Mike Randolph, Clinton Police Department
Assistant Director Mike Bath, Northern Michigan University Department of Public Safety
Director Ken Chant, Northern Michigan University Department of Public Safety

CALL TO ORDER:

The Commission meeting was called to order at 10:08 am by Chairman John Buczek at the MCOLES Offices, in Lansing, Michigan.

INTRODUCTIONS:

Chairman Buczek welcomed everyone to the meeting. He asked the Commission members to introduce themselves. Chairman Buczek then asked the audience to introduce themselves and the organizations that they were representing.

PUBLIC FORUM/COMMENTS:

There was no public comment.

ATTORNEY'S REPORT:

Mr. Szczubelek stated that the Commission is involved in two cases that have gone into litigation. The Brandon McGraw case is in Saginaw County Circuit Court, MCOLES has filed a Motion to Dismiss the case that was argued last November. MCOLES has yet to get a decision from Judge Casmerik. The Jeremy Lockwood case is in Shiawassee Circuit Court. This case is actually being heard by a judge in Clinton County Circuit Court. This matter is currently being held in abeyance pending the completion of an administrative hearing which should be completed sometime this month.

ADDITIONS/CHANGES TO THE AGENDA:

The Commission, as a result of the Executive Committee meeting, will be going into closed session to discuss a personnel issue.

CONSENT AGENDA:

There was no consent agenda.

ACCEPTANCE OF THE APRIL 22, 2009, COMMISSION MEETING MINUTES:

A **MOTION** was made by Mr. Morse and supported by Chief Mattice to accept the April 22, 2009, Commission Meeting minutes as written.

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

CHAIRMAN'S REPORT:

Law Enforcement Officer Population – Mr. Buczek explained that a chart depicting the current law enforcement position numbers is in the Commission's portfolios. Michigan is currently down 1,976 law enforcement positions.

Special Use Requests – Mr. Buczek stated that the report on the Special Use Requests that have been submitted to MCOLES since the last Commission meeting are on the Commission laptops and Ms. Cheryl Hartwell has the actual requests with her if there are questions. There were no questions.

Grant Adjustment Requests – Mr. Buczek stated that the report on the Grant Contract Adjustments that have been submitted to MCOLES since the last Commission meeting are on the Commission laptops and Cheryl has the actual documents with her if there are questions. There were no questions.

Mr. Buczek explained that MCOLES recently testified at a Homeland Security Hearing on the Commission's 520 hour regular employment standard. The Commission's opposition to the legislation which requires 120 hours as opposed to the Commission's 520 standard was registered. After about an hour of testimony, the committee took a vote and voted the legislation to the floor of the Senate. After the meeting, MCOLES had a discussion with both Senator Randy Richardville and Senator Valde Garcia and they were curious as to whether a compromise could be reached between MCOLES and the opposition group. Mr. Buczek stated that the Commission has always been willing to sit down and work toward a compromise. A conversation has also taken place with Chief Elwell to work on a compromise. The door is open and the Commission will move forward with a meeting to discuss a possible compromise.

COMMITTEE REPORTS:

Executive Committee – Mr. Buczek stated that the committee met yesterday afternoon and one of the topics of discussion was the Commission’s 520 hour regular employment standard. This item is on the agenda today and Mr. David King will be making the presentation. The committee also discussed the P.A. 203 / 302 ethics language and will also be discussed later in the meeting. The Executive Committee is expected to make a recommendation to the full Commission to move forward with the rest of the items and work through the Ethics Committee on the ethics concerns. A meeting will be held in the near future to move forward on these concerns.

Public Act 203 / 302 Codification – Mr. Buczek stated that in speaking with Representative Mark Meadows, his advice was that the Commission should move forward with P.A. 203 / 302 modifications and add the ethics language later with a separate piece of legislation. Chief Olko, Chair of the Ethics Committee, will be scheduling a meeting in the near future. The committee also discussed budget which will be discussed later in the meeting.

Public Safety Officers Benefit Program - The Commission has one application from the Public Safety Officers Benefit program which is a disability claim. All the information for the application has not yet been received. Once MCOLES has a completed application it will be held pending the federal government’s decision, as they have a more detailed review process.

MCOLES Graduations – Mr. Buczek stated that he is still in need of Commissioners to participate in three upcoming graduations. The graduations are: Oakland Community College on Friday, June 12th; Lake Superior State University on Thursday, June 25th; and the Detroit Police Department on Tuesday, June 30th. Commissioners who can participate in these graduations were asked to contact Ms. Hermina Kramp as soon as possible.

Commissioner Appointments - MCOLES will be sending letters out early to the associations for Commissioners whose terms expire in 2009 in an effort to expedite the appointments process. There are five Commissioners with expiring terms at the end of the 2009 calendar year and they are: Sheriff Wriggelsworth, Chief Mattice, Trooper Moorman, Mr. Timpner and Mr. Buczek.

NEW BUSINESS:

Executive Order 2009-22 – Ms. Kramp stated that on May 5, 2009, the Governor issued Executive Order 2009-22. The intent was to cut the budget due to the downturn in revenue and the need to balance the 2009 budget. All of the cuts in this order are for the current

NEW BUSINESS Continued:

fiscal budget. The impact to MCOLES is that \$600,000 was taken from the Standards & Training Line which is the only general fund line under which MCOLES pays salaries and the costs to do all the work of the PA 203 mandates. The proposed solution to the \$600,000 deficit in the MCOLES budget created by this cut is a transfer that the Legislature is scheduled to act upon this afternoon. This action will take spending authorization from the Michigan Justice Training Fund and direct the Commission to use Justice Training Funds for the purposes of supporting the PA 203 mandates that are affected by the cut. The impact for the Commission and the Justice Training Fund is that MCOLES will have significantly less funding available for the 2010 Competitive Grant Application process. In addition, the Justice Fund collections are down by 12% and this has had a direct impact on the Law Enforcement Distribution. This is the first time in many years that the total distribution is under \$2 million and the per capita distribution amount is under \$100 per officer. The interest accrued on the collections has also dropped by approximately 50%.

Ms. Kramp explained that there was an additional item on the transfer request for this afternoon and that is transferring \$300,000 from the CCW Enforcement Training Fund to another line item within the State Police budget. This transfer is to be acted upon this afternoon and MCOLES has no expectations that this transfer won't happen.

Revised MCOLES Basic Recruit Law Enforcement Training Programs Policies and Procedures (P&P) Manual – Mr. Steele stated that the revised P & P manual is a culmination of MCOLES staff work consistent with the strategic plan, academy accreditation, and the administrative rule process. During this process staff went to the State Office of Administrative Rules & Hearings and spoke with them regarding taking two different rule sets and combining them into one rule set. Through that process it was determined that instead of making administrative rules to include all the specifications necessary for the program, it was determined that the rules would stipulate what requirements need to be met in order to be eligible for certification and the specific details be provided in the P&P manual.

The manual provides guidelines for the training academies on how to screen the recruits, what is necessary for testing, program completion, guidelines on policies for discipline, and safety within the academy. Staff has worked closely with the Training Directors and instructors as they are the ones who will implement the training process. MCOLES staff will inspect the academies based upon the policy and procedures outlined in the manual. An operating contract will be issued if their operating plan is in compliance with the P&P manual.

NEW BUSINESS Continued:

One new area in the P&P manual is the safety guidelines relative to training scenarios. Staff met with Training Directors in July of 2008, to gather consensus from the academies on this area. The final version of the manual was discussed with the Training Directors during their May 2009 conference. The manual is hyperlinked to the administrative rule or specific law that pertains to individual sections. Mr. Steele explained that this manual will continue to be updated as rules, laws, and technology change.

Mr. Szczubelek stated that he has reviewed the manual and the document is consistent with current state law. Mr. Steele asked for the Commission to adopt the P&P manual.

A **MOTION** was made by Sheriff Wriggelsworth and supported by Sheriff Pickell to adopt the Policies and Procedures Manual as presented.

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

Spring 2009 Law Enforcement Distribution – Ms. Hartwell stated that the detailed breakdown of the 2009 Spring Law Enforcement Distribution was provided to all Commissioners in their portfolios. The payments were transmitted to the Department of Treasury on Friday, May 29th. The agencies that had problem mailing codes were researched, edited, and payments to these agencies were released on Tuesday, June 2nd. There were a total of 490 law enforcement agencies participating in the Spring Distribution. The per capita amount for this distribution is \$99.99 per full time equated officer. There were 48 agencies receiving the minimum distribution of \$250 and 442 agencies receiving the per capita distribution. The total distribution for Spring 2009 was \$1,865,914.59.

Mr. Buczek asked why more law enforcement agencies don't participate. Ms. Hartwell stated that staff has been given various reasons. MCOLES staff routinely makes contact with agencies during the annual registration review. Some agencies that had been receiving the distribution had decided not to participate as the agency head felt that it was too much work to track and report the expenditures for only \$500 per year. Other agencies are not receiving the distribution as they have money that is more than two years old and the requirements are that no additional funding is given until the money that is more than two years old is spent. In most cases, it is the decision of the agency head.

Active Duty Firearms Standard Webcast – Mr. Rosa stated that MCOLES worked in partnership with the Department of Homeland Security through the Federal Law Enforcement Training Center (FLETC) via the Rural Policing Institute on the webcast.

NEW BUSINESS Continued:

Mr. Rosa explained that the Rural Policing Institute is an entity that receives federal funds to enhance training for locals around the country.

MCOLES participated in a live webcast relative to the MCOLES Active Duty Firearms Standard. Notifications were sent out advising law enforcement agencies of the live interactive webcast where MCOLES will explain the new standard. Questions could be emailed to the set and one was answered while the webcast was in process. What was most important, MCOLES went with a message regarding the whys behind the standard. The goal of the MCOLES standard is to have officers survive shootings. There are two components to the standard; it is not just a qualification course there is also an educational component dealing with laws and decision making. MCOLES also emphasized that the standard is flexible. While agencies sign to verify compliance with the standard, it is flexible as to how it can be administered based upon financial and logistical situations of individual agencies. Resources and guides have been developed to assist agencies.

Mr. Rosa stated that this is a very productive partnership with FLETC and they want to do more of these webcasts with MCOLES. This is a good opportunity to get information out to all law enforcement officials. He stated that this webcast will remain on the website for a period of two months, so law enforcement agencies can login and watch the presentation.

OLD BUSINESS:

Regular Employment Standard Implementation Update – Mr. King stated that in the Commission materials there is an amended agenda item that reflects the most recent activity on the Regular Employment Standard. He gave a brief thumbnail sketch of the activities in this area over the last year. Mr. King stated that back in February at the MACP Mid Winter Conference there were two meetings that took place that are significant. The stop 520 group, who oppose the Commission's 520 regular employment standard met and it is the will of this group that a 120 hour standard be pursued as opposed to a 520 hour standard. The following day there was a meeting between members of the opposition group and MCOLES Commissioners and staff which was a very cordial meeting. The result of this meeting was the idea that MCOLES would work in a committee setting with committee representatives from both sides sitting down to work through the problems to reach a resolution.

Before the workgroup could assemble, MCOLES received a call from Senator Cameron Brown's office, who was inquiring as to the activities regarding regular employment. This call was quickly followed up by a hearing of the committee that he chairs, the Senate Committee on Homeland Security and Emerging Technology. There was testimony from both sides during this hearing. This hearing was followed by a meeting of the workgroup

OLD BUSINESS Continued:

and the bulk of the discussion focused around the idea of possibly using a 120 threshold for access to remediation for those officers who don't meet the standard while retaining a 520 hour standard.

Two weeks after the meeting that was held on March 11, 2009, a report was sent to the members of the committee outlining what had occurred at the meeting. In early April House Bill 4779 was introduced by Representative Geoff Hanson, who is from the Newaygo area. This legislation would require MCOLES to create a waiver process for officers who did not meet the standard. Later in April, Senate Bill 449 was introduced by Senator Cameron Brown which had a 120 hour standard which would replace the 520 standard and provide for a waiver process, which was later deleted in a substitute bill. Since the legislature has been involved in this matter there have been no further committee meetings between MCOLES and the group in opposition to the standard.

Mr. King stated that there was a hearing yesterday on Senate Bill 449 and testimony was provided by Mr. Buczek, Sheriff Wriggelsworth, Mr. Szczubelek and others. He further stated that all testimony was respectful and basically what we have is differences of opinion. That bill has been reported out of Committee favorably and has gone to the Senate floor.

Sheriff Wriggelsworth stated for the record that Mr. King's packet stated that the Michigan Sheriffs Association will be taking no position on the matter. That is not what Sheriff Wriggelsworth said. He had merely stated that they haven't taken a position on the matter to date. Mr. King stated that MCOLES has been advised of the lack of a position in both directions.

Cultural Competency Curriculum Review Update – Mr. Rosa stated that MCOLES is working with Advocates and Leaders for Police and Community Trust (ALPACT), which is an organization with many members who are interested in cultural diversity/competency. They are providing good information to MCOLES and meetings have been held to work toward updating the MCOLES curriculum to raise the level of officer competency in this area.

2010 Michigan Justice Training Competitive Grant Workshop Update – Ms. Hartwell stated that three workshops had been held one in Lansing, one in Ann Arbor, and one in Roscommon. A total of 89 individuals attended the workshops representing 40 different entities. The application process was covered with the participants in great detail. There was a specific discussion regarding the current MCOLES budget situation and the overall economic condition of the state. Participants were put on notice that there would be reduced

OLD BUSINESS Continued:

funding available, approximately one million dollars less, for award this year which will make the process all that more competitive. Therefore, it is all that more important that applicants write a good solid application in order to be considered for funding.

Traffic Safety Standard Implementation – Mr. Carlson stated that last year MCOLES was asked to validate and update the standards for LIDAR/RADAR operators and instructors in Michigan. MCOLES staff has been moving forward with this project and making good progress. This summer staff plans to run a pilot test on the new standards and update all materials. The date these new standards will be mandated is January 1, 2010. Staff hopes to hire a contractor to assist with the implementation and get all the current instructors on the same page.

Mr. Carlson stated that an issue that arose just one day ago is the manager of one of the labs for the Department of Agriculture wrote a letter to Jim Plow who is head of the Magistrate's Association. The letter indicates that he believes the Department of Agriculture needs to validate RADAR/LIDAR instruments before they are actually used in Michigan. The statute that he referred to in his letter is MCL 290.601 through 634, which is the Michigan Weights & Measures Act. Mr. Carlson researched this Act and it appears to be quite a stretch, but the issue may come up and Mr. Szczubelek is aware of this issue. There is a magistrate meeting in July that Mr. Carlson will be attending. The target for completion of this project is end of this year.

Revision of Public Acts 203 & 302 / Ethics Update – Mr. Szczubelek stated that it has been decided that the five provisions concerning ethics, which basically entail expanding the authority for license revocation, background investigations and disclosures, the Commission is at a bit of an impasse. Mr. Szczubelek stated that the Commission would like to make a recommendation concerning this matter in a unanimous fashion. There may still be some common ground on these issues where some language could be proposed to resolve all the issues. Mr. Szczubelek stated that he understands that some of the new changes that are proposed are very different from what currently exists in the statute, that it has implications for those who are employed as a law enforcement officer and on those that manage these employees. There are many possible policy considerations. Because the Ethics Committee has not met recently, there has not been a chance to sit down as a group and review these items. As Mr. Buczek has indicated, it would be suitable and appropriate to move the other 25 proposed legislative revisions forward and get them in the hands of the Governor's office for their review for policy and fiscal considerations and continue the work on the five ethics provisions.

OLD BUSINESS Continued:

Fiscal Year 2010 Governor's Executive Budget Update – Ms. Kramp stated that the Governor's recommended budget reduced the MCOLES overall budget by \$213,000. Subsequent to the introduction of the Governor's recommended budget, the Senate appropriation subcommittee met and proposed a reduction to the MCOLES General Fund by \$476,400 to fund part of capitol security that was removed in the Governor's recommended budget. The proposal is to then transfer spending authorization to the Commission from the Michigan Justice Training line to cover the \$476,400 reduction. This proposal is currently on the floor of the Senate. Ms. Kramp stated that based upon recent revenue estimating the Governor's recommended 2010 budget will need to be adjusted.

Ms. Kramp explained that back in 2005, a similar transfer took place. At that time it was the Commission's position that the transfer from the Michigan Justice Training Fund to the MCOLES General Fund would not be done. MCOLES has been able to survive without the \$126,300, but with any further general fund reductions MCOLES has reached a place where we won't be able to carryout the MCOLES mandates. Ms. Kramp stated that in 2006, there was boilerplate language placed into the budget bill that stated the Michigan Justice Training Funds will be used as prescribed by the legislation. That boilerplate language has been removed to allow for the shifting of funds. There is also the chance that the \$600,000 that was removed in 2009 will also be reflected in the 2010 MCOLES budget.

Mr. Buczek stated that the Active Duty Firearms Standard Compliance Reporting Update item from the last Commission had been tabled. In order to move this item forward a motion is necessary to remove it from tabled status.

A **MOTION** was made by Chief Mattice supported by Mr. Weiler to remove the Active Duty Firearms Standard Compliance Reporting Update from being tabled.

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

Active Duty Firearms Standard Compliance Reporting Update – Ms. Kramp explained that there were a number of questions from the last presentation with respect to the reporting modules that were proposed to the MCOLES Information and Tracking Network. She stated that additional research has been completed by staff. Ms. Kramp provided an update on the previous discussion during the April Commission meeting. She explained that the standard compliance reporting component will provide a check-off block for agencies to indicate compliance with the new standard during the annual registration period.

MCOLES has received requests from consortia and larger agencies to have a mechanism that can track an officer's progress in completing the standard. MCOLES is also in the process of being required to update the system based on software changes and other

OLD BUSINESS Continued:

requirements from the Department of Information Technology. Ms. Kramp stated that staff will be proceeding with the upgrades that are required. The cost of building the more detailed reporting module will be less than a couple of thousand dollars that was requested by the consortia. The detailed reporting module would involve a web page where agencies can track the progress of their officers in training through their respective consortiums. The final reporting of compliance with the standard will be on the registration page in each Spring however, most of the entries will be done by the training vendors and consortiums.

LEOSA / Public Act 537 of 2008 (HB 4611) Final Report – Mr. King stated that the MCOLES process to handle the licenses is working. The formalized process involves an application to MCOLES, live scan fingerprinting, and retirement verification. The staff from the Macomb Police Academy operated the pilot program for this process. The turnout has been very light due to the costs associated with the federal requirement for annual retraining. The other issue associated with this program is gun free zones that may impact the process in the future and is a large national issue. The MCOLES is providing this service for those retirees that want to access this privilege and their respective law enforcement agencies are not providing it for their retirees. Four individuals have participated in this process to date. The cost of this training is \$95, the cost of live scan depends on location (\$25-\$30 to \$70) and the MCOLES costs are \$35 per applicant.

2009 Annual Registration Final Report – Mr. Steele stated that staff has completed the review of the 2009 Annual Registration information submitted by Michigan law enforcement agencies. Three agencies worked closely with MCOLES staff to resolve their issues and all agencies have reported. All reviews have been finalized and this item is complete.

Mr. Buczek stated that there are 4 other items on the agenda under Old Business that are ongoing projects with no report to be made at this meeting.

American Recovery & Reinvestment Act Update – There was no report on this item.

LED Expenditure Eligibility Review Process – There was no report on this item.

Mental Health Training Initiative – There was no report on this item.

Doing Business with MCOLES Workshops – There was no report on this item.

MISCELLANEOUS:

There were no miscellaneous items.

PUBLIC COMMENT:

Chief Larry Weeks, Morenci Police Department, offered the Commission an opportunity to meet with him, Chief Elwell and Chief Randolph to discuss the issues the opposition group has with the 520 hour regular employment standard after the meeting.

Mr. Buczek stated that the Commission has a Regular Employment Committee that worked on this standard for the past two years. He further stated that he would like to have a meeting of that committee and Chief Weeks' group to discuss the issues. Chief Weeks stated that he would be glad to participate in such a meeting. He further explained that his group pursued a legislative solution as they felt that there was no response from MCOLES relative to their concerns that were expressed in January of 2008. They didn't feel that they were getting any response from MCOLES. Chief Weeks stated that it is not their desire to have a legislative correction. Mr. Buczek stated that there was just miscommunication between the groups. After the meeting in March the legislation was introduced right away, which put the brakes on MCOLES as it was thought that the legislation was not going to be introduced until the two groups had reached more of an impasse. Once legislation is introduced, MCOLES has to determine what our position is to the legislation. After the hearing and after speaking with several of the senators, Mr. Buczek stated that he is encouraged that a compromise can be reached. He further stated that he is willing to set the meeting up and get as many of the committee members to participate as possible.

Mr. Buczek stated that due to budget and travel restrictions remaining for the current fiscal year, the September Commission meeting will be held at the MCOLES offices. The meeting scheduled in October in Auburn Hills and we are under contract for that meeting, so the contract will be honored so that the Commission doesn't incur a penalty for breaking the contract. He also stated that there may be a special meeting scheduled yet this summer as the budget process moves forward. He will keep commissioners updated.

NEXT MEETING:

Date: Wednesday, September 16, 2009 – Commission Meeting

Location: MCOLES Offices, Lansing, Michigan

A **MOTION** was made by Sheriff Wriggelsworth and supported by Trooper Moorman to have the Commission go into closed session to discuss a personnel matter.

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

The commission went into closed session at 11:36 am.

The Commission returned to open session at 12:18 pm.

Amendment passed by the Commission on August 31, 2009:

The following amendment is being made to these minutes to correct an omission of the motion made by the Commission in closed session. With this correction the minutes accurately reflect the actions of the Michigan Commission on Law Enforcement Standards (MCOLES) during the meeting held on this date.

A **MOTION** was made by Sheriff Wriggelsworth and supported by Mr. Morse to amend the June 3, 2009, meeting minutes to reflect the authorization of the Commission's Chairperson to write a letter to the Attorney General on behalf of the Commission.

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

Captain Shepherd representing the Michigan State Police opposed the motion.

In addition, this amendment is also intended to reflect the correct spelling of Judge Kaczmarek's last name.

ADJOURNMENT:

A **MOTION** was made by Sheriff Wriggelsworth and supported by Chief Mattice to adjourn the meeting.

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

The meeting was adjourned at 12:20 pm.

APPROVED BY _____ ON _____

WITNESSED BY _____ ON _____