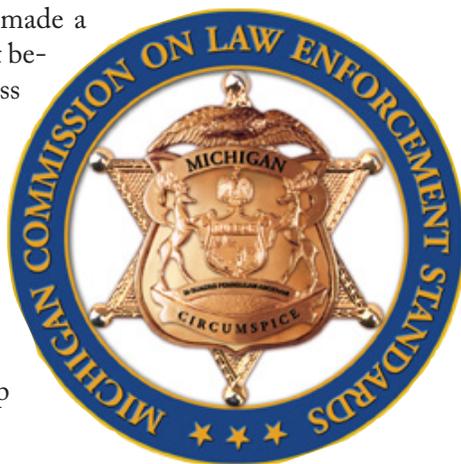




## MCOLES STATUTE REVISIONS TAKE EFFECT

Late last year Governor Rick Snyder signed Public Act 289 of 2016, which made a number of revisions to our enabling legislation (MCL 28.601 et seq.). The Act became effective January 2, 2017, and includes a number of modifications that address requirements for licensure, license revocations, minimum standards for reserve officers, and other procedures.

As we all know, reading statutory language without context can be tedious and confusing, which may lead to misunderstandings that can affect the day-to-day operations of law enforcement agencies across Michigan. Police administrators must have confidence that their officers have the legal and legitimate authority to enforce the laws in their community. Therefore, given the number of changes to our legislation this article is just one of a series of articles we will publish to help shed light on all the revisions.



Over the years, most of you have become familiar with MCOLES' requirements. Few substantive changes were made to the law, yet updates were necessary to help both MCOLES and law enforcement better understand what the administrative requirements and legislative mandates actually mean.

This article focuses on license revocation. In Michigan, the Commission has the authority to revoke the license of a law enforcement officer in two main ways. The first is if an officer:

- obtains the license by committing misrepresentation or fraud; or
- obtains the license because another person committed misrepresentation or fraud.

For example, if we learn at a later date that there was a misrepresentation of material facts or a failure to disclose material facts on a signed affidavit, the Commission will initiate the revocation process. The process starts with a summary suspension and a notification of the intent to revoke the license.

Further, the statute requires licensed officers to report to the Commission any criminal charges for offenses that could result in revocation or any personal protection order (PPO) entered against them. But what are the offenses that could result in revocation? The statute helps us out by listing them as:

- an offense punishable by imprisonment for more than one year;
- misdemeanor OWI or OUID (with a prior conviction within 7 years);
- misdemeanor possession of hallucinogens or Schedule 5 drugs;
- misdemeanor use of Schedule 1, 2, 3, 4, or 5 drugs;

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## A MESSAGE FROM THE EXECUTIVE DIRECTOR.....

With the new year upon us and already quickly passing, the Commission has many new challenges and responsibilities. This newsletter highlights some of those challenges. Finally after many years of trying, needed changes to the statutes that govern MCOLES were approved by the Legislature and signed into law by the Governor.



*David L. Harvey*

The most significant of those changes is the increased authority for license revocations. A profession is only a profession by the standards that it keeps. The law enforcement profession in Michigan does that through many standards to include license revocations for criminal acts. The Commission has had the authority to revoke an officer's license for the plea or conviction of a felony or for evidence of fraud in the obtaining of a license, however, the passage of the legislation increased these standards by adding several misdemeanors to that list. Years of deliberations by the Commission led to this list of misdemeanors and I think most would agree they are offenses that no one in this profession would or should want a person to be convicted of and still remain a police officer in our state.

The Commission itself has changed with an increase in the membership. The city of Detroit and the Detroit Police Officers Association gained seats once again as they had fallen below the statutory requirement of population in their city. The statute modified that population requirement and now the largest police agency and their labor group are once again represented. A citizen was added by the Governor which is a welcome addition to gain perspective from the people we serve. The Deputy Sheriff's Association of Michigan was also added bringing the number of members to nineteen. We bid farewell to many long serving members who were term limited and who gave much of themselves over the years to advancing the profession.

Amongst many other changes is one that has been needed in my opinion for quite some time. The Commission now has the authority to set standards for police reserves. The Commission is very appreciative of citizen volunteers who supplement their local agencies. Many of those local agencies provide excellent training and conduct good background investigations. However, we have seen incidents of organizations utilizing citizens as reserves and doing so without providing any training or only inadequate training. In the future the Commission will be setting some minimum standards to give some guidance to all agencies. This will take time as the staff needs to conduct research into how reserves are being utilized which is normally conducted through the use of a job task analysis. Once it is determined what the basic functions are of reserves across the state, then minimum training standards can be set.

While the new statutory authority for setting standards for reserves is a priority for the Commission, along with other initiatives, some will be delayed due to the very important project given to the Commission by the Governor. Executive Directive 2016-2 was assigned to MCOLES by the Governor in October 2016. The staff and Commission are almost solely focused on this research and final report to the Governor as it must be completed by May 1, 2017. The project is requiring all of our staff as well as the Commission to complete it. Community forums are being conducted around the state along with surveys and hours of research into best practices that will end in a report to the Governor with recommendations for police agencies to utilize to foster better trust with their citizens.

The staff and I are very excited about this next year beginning with the report for the Governor, as well as taking on the many new responsibilities given by the statutory changes. It will be a very busy year and like all years, I am sure it will fly by all too quickly.



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*MCOLES Statute Revisions Take Effect ~ continued from page 1>*

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- misdemeanor second offense domestic violence;
- misdemeanor aggravated assault;
- misdemeanor aggravated domestic violence;
- misdemeanor stalking.

The courts have latitude in adjudicating a criminal proceeding for the offenses listed above. They also have discretion in imposing sentence. To ensure that a license is revoked in all outcomes in which an officer is deemed guilty, the statute requires a revocation if any of the following determinations on those offenses occurs:

- judgment or verdict of guilty;
- judgment or verdict of guilty but mentally ill;
- entry of plea of guilty;
- entry of plea of nolo contendere.

The statute also mandates revocation if one of the above determinations is accompanied by any of the following orders:

- an order delaying sentence under MCL 771.1 or any other order delaying sentence;
- an order of probation under the Holmes Youthful Trainee Act (MCL 762.11);
- an order of probation under section 7411 of the Public Health Code (MCL 333.7411);
- an order of probation for domestic violence assault under section 769.4a of the Code of Criminal Procedure (MCL 760.4a).

In addition, law enforcement agencies must notify the Commission of any personnel transaction that removes an officer's authority to enforce the law. The Commission will contact the agency to find out what happened and then decide what further action needs to be taken, if any. Although we discuss license revocation in this article, remember that misrepresentation also applies to fraud or nondisclosure committed during the application process to become licensed or enter academy training.

The statute contains several other revisions as well, so look for upcoming newsletter articles to help you along. If you would like to comment, or if you require further information regarding the revocation process, please contact the Commission's legal counsel Assistant Attorney General John F. Szczubelek at 517-322-5435 or [szczubelekj@michigan.gov](mailto:szczubelekj@michigan.gov).



# MCOLES REVISITS THE RECRUIT FIREARMS STANDARD

In previous issues of the MCOLES Newsletter we've talked about the latest findings in the cognitive sciences regarding decision making and judgment and how this research has shaped our approach to recruit training. We learned that decision making by patrol officers, like the rest of us, is influenced to a large extent by intuition, impulse, and habits. In policing such automatic thinking is particularly common during high pressure situations such as officer involved shootings or vehicle pursuits. We all know that emotion can affect choice but what is new in psychology is the large extent to which the unconscious mind influences our behavior.

We are re-evaluating the basic training firearms standard from this new perspective. The challenge is to take the latest insights in psychology and turn them into practice. Deadly force situations are rare but yet are so important that officers must be prepared should such an encounter arise.

We know that most of the decisions an officer makes on the job are quick, intuitive, and are based almost entirely on personal perceptions and prior work experiences. These perceptions, or world-views, are unconscious but can influence judgment, particularly under extreme pressure when decisions must be immediate. We also know that instincts are not always accurate and that faulty gut feelings can lead an officer astray. The research refers to this as implicit bias. We all create mental shortcuts to make sense of the world but our perceptions can often prevent an objective consideration of a situation.

During our review of the standard we also talked with experts in law enforcement, evaluated agency best practices, and met with firearms instructors across the state to help refine our thinking and provide direction. The staff also visited each academy and talked with groups of firearms and subject control instructors to obtain their thoughts and insights. Their feedback is an important part of our research and helps maintain the validity and legitimacy of the standard.

In general, the decisions made during high risk encounters can be more effective when officers use sound safety tactics, employ de-escalation techniques, and acquire what's known as unconscious competence. As most firearms instructors know, training must match the practicalities of real life. We made the relevant modifications to the recruit firearms standard and are now preparing the training specifications for pilot testing at select academies.

Based on the research, we divided firearms training into three components intended to develop shooting skills (drills and course of fire), cognitive skills (decision making exercises), and behavior (scenario training). All three components must come together in order to perform properly under pressure. Shooting skills include dynamic physical drills and a live fire pass/fail qualification course. Cognitive skills include a wide range of law enforcement dimensions, including law enforcement authority, tactics, communication, and proper decision making. Reality-based scenarios are then used to place these skills into real world context. Scenarios are important because hands-on practice, coupled with an opportunity to analyze performance, leads to better performance on the job.

Since drills and scenario training have been part of academy training for years, we are not making significant changes to the existing standard. Instead, the intent is to standardize the training and modify our approach to reflect the latest research. The standard consists of three components:

- I. Dynamic Drills:
  - a. Essential skills and tactical concepts, ranked in order of importance
  - b. Less-lethal munitions and/or simulator to facilitate drills
- II. Pass/Fail Course of Fire:
  - a. 65-round course of fire with CQC tactics and techniques
  - b. Moving off line, hip and point shooting, shooting while moving, etc.

*Recruit Firearms Standard ~ continued on page 5>*

## Recruit Firearms Standard ~ continued from page 4 >

- c. Use of a handheld flashlight while shooting
- III. Decision Making Scenarios:
  - a. Dangerous patrol circumstances, ranked in order of risk
  - b. Realistic scenarios based on actual law enforcement situations
  - c. Less-lethal munitions and/or simulator to facilitate scenarios
  - d. Scenarios used as an assessment of performance

To build unconscious competence in close-quarter-combat (CQC) situations recruits must demonstrate the dynamic CQC responses at realistic speeds. This can be safely achieved through mechanical drills using less-than lethal technology. Over time and with enough practice officer safety tactics can become automatic, which is essential when performing under extreme stress.

The 65-round course of fire consists of 5 stages, which range in distance from 2 yards to 15 yards. The course of fire also includes multiple targets, movement, point shooting, and precision shooting along with low-light fire with flashlights. These stages are supported by current FBI statistics regarding officer-involved-shootings.

The scenario component involves deadly force decision making during realistic situations while using non-lethal munitions and/or video simulations to experience and demonstrate proper judgement under stress. This provides an opportunity for instructors to evaluate competency and then offer immediate and meaningful feedback to the students

The recruit firearms standard is still under construction but we hope to officially conduct pilot testing in the near future. We will undoubtedly make further modifications as we evaluate the results. Designing training that is evidence-based helps ensure our recruit delivery system functions as intended. Our thanks go out to all of you who have helped us along the way. Your input is invaluable.

Contact Danny Rosa at [RosaD2@michigan.gov](mailto:RosaD2@michigan.gov) with your comments and questions.

## MCOLES IS ON FACEBOOK:

Please visit, like, and share our page at: [www.facebook.com/Michigan.mcoles](https://www.facebook.com/Michigan.mcoles)



# THE COMMISSION ADOPTS IN-SERVICE TRAINING NATIONAL CERTIFICATION PROGRAM (NCP)

The International Association of Directors of Law Enforcement Standards and Training (IADLEST), in partnership with Envisage Technologies, launched a National Certification Program (NCP) in 2015. The NCP sets national training standards for police by using an extensive review process conducted by professionals and practitioners across the country. This allows training providers in Michigan to compare course offerings and vendors to determine which training is best suited for their local needs.

NCP content experts evaluate programs submitted by training vendors in order to determine their quality and suitability for the law enforcement profession. The NCP tenders a national certification to those training programs that pass the review process. The goals of the program are to ensure that law enforcement professionals receive the very best training and to offer a single site for vendors to obtain NCP certification.

The Michigan Commission on Law Enforcement Standards (MCOLES) formally approved the NCP process for the registration of in-service training programs coming into the state. The Commission adopted the following:

- Private *for-profit* vendors located outside of Michigan, shall be required to obtain NCP approval in order to register in Michigan thereby enabling agencies to use Michigan Justice Training - Law Enforcement Distribution funds to pay for training expenses.
- There will be an exception process for case by case decisions in special circumstances.
- Private *non-profit* vendors and training provided by governmental entities shall be exempt from mandatory NCP registration, although it shall be a recommended practice. These vendors will still be required to register with Michigan to enable agencies to use Michigan Justice Training - Law Enforcement Distribution funds to pay for training expenses.
- The existing special use request (SUR) process and MITN entry shall remain in place for training held out-of-state.
- All other in-service training registration protocols and MITN entries required by MCOLES shall remain in place.

NCP certification applies to in-service training programs coming into Michigan. Travel to attend out of state training shall follow the existing MCOLES registration process and agencies can register in-service training into MITN as usual.

Please visit [www.iadlest.org](http://www.iadlest.org) to learn more about the National Certification Program, the costs for certification, and to view a list of approved programs and vendors.

If you are just getting started with NCP and need assistance learning more please call Nahum (Nam) Martin at 1-812-650-4982 or e-mail at [nahum.martin@envisagenow.com](mailto:nahum.martin@envisagenow.com).

If you already have an account set up but need help with issues, the help team can be reached at 1-812-330-7101.

## MCOLES MEMBERSHIP EXPANDS TO NINETEEN

On October 4, 2016, Governor Rick Snyder announced several new appointments and reappointments to the Michigan Commission on Law Enforcement Standards. MCOLES is a statutorily mandated autonomous agency and the commissioners all serve either by virtue of their position or by appointment to a term of office by the Governor. The number of commissioners and the representation has changed periodically over the years including changes made by the enactment of 289 PA 2016.

The Commission is diverse and the members speak on behalf of a wide range of criminal justice entities, including law enforcement, labor, prosecution, defense, the Michigan State Police, and the Michigan Office of Attorney General. As pointed out in Dave Harvey's Executive Director's message, the Detroit Police Department and the Detroit Police Officers Association have representation once again and the Commission now includes a representative from the public at large. There are now nineteen members.

The "new" Commission held its first full meeting on January 11, 2017, at the MCOLES offices in Lansing. They had a busy agenda, but they talked about a structured process to address Governor Snyder's Executive Directive 2016-2. See the Executive Director's article in this Newsletter.

The MCOLES staff welcomes all members to the Commission and wishes them well in their future deliberations. As with past Commissions, the staff anticipates a great working relationship with all members. Welcome aboard!

### COMMISSIONERS

**Mr. Michael D. Wendling**  
**Chair**

*Prosecuting Attorneys' Association  
of Michigan*

**Chief David Molloy**  
**Vice Chair**

*Michigan Association of Chiefs  
of Police*

**Sheriff Jerry L. Clayton**  
*Michigan Sheriffs' Association*

**Chief Tim Bourgeois**  
*Michigan Association of Chiefs of Police*

**Sheriff L. Douglas Wright**  
*Michigan Sheriffs' Association*

**Mr. Mark Diaz**  
*Detroit Police Officers Association*

**Sheriff Timothy Donnellon**  
*Michigan Sheriffs' Association*

**Mr. Arthur Weiss**  
*Criminal Defense Attorneys  
Association of Michigan*

**Mr. Ken Grabowski**  
*Police Officers Association of Michigan*

**Col. Kriste Kibbey Etue**  
*Michigan State Police*

**Assistant Chief James White**  
*Detroit Police Department*

**Mr. Tom Adams**  
*Public Member*

**Chief Donald Mawer**  
*Michigan Association of Chiefs of Police*

**Mr. David Hiller**  
*Fraternal Order of Police*

**Tpr. Nathan Johnson**  
*Michigan State Police Troopers  
Association*

**Attorney General Bill Schuette**  
*Represented by: Ms. Anica Letica*

**Mr. Thomas Zulch**  
*Police Officers Labor Council*

**Mr. Richard Heins**  
*Michigan Association of Police*

**Cpl. Brian Earle**  
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