
Michigan Commission on Law Enforcement Standards
Commission Meeting Minutes
April 24, 2007
Grand Valley State University
Allendale, Michigan

COMMISSION MEMBERS PRESENT:

Sheriff Gene Wriggelsworth, representing the Michigan Sheriffs' Association
Mr. John Buczek, representing the Fraternal Order of Police
Mr. Jim DeVries, representing the Police Officers Association of Michigan
Lt. Col. Timothy Yungfer, representing the Michigan State Police
Mr. Bill Dennis, representing the Attorney General
Director Kurt Jones, representing the Michigan Association of Chiefs of Police
Prof. Ron Bretz, representing the Criminal Defense Attorneys of Michigan
Sheriff Robert Pickell, representing the Michigan Sheriffs' Association
Chief Doreen Olko, representing the Michigan Association of Chiefs of Police
Sheriff James Bosscher, representing the Michigan Sheriffs' Association
Deputy Chief Deborah Robinson, representing the Detroit Police Department
Trooper Michael Moorman, representing the Michigan State Police Troopers Association
Mr. Raymond Beach, Executive Director
Mr. Tom Furtaw, Commission Counsel

COMMISSION MEMBERS EXCUSED:

Mr. David Morse, representing the Prosecuting Attorneys Association of Michigan
Officer Richard Weaver, representing the Detroit Police Officers Association
Chief James St. Louis, representing the Michigan Association of Chiefs of Police

COMMISSION STAFF PRESENT:

Ms. Theresa Hart	Ms. Hermina Kramp
Mr. Gary Ruffini	Ms. Cheryl Hartwell
Mr. John Steele	Mr. Dale Rothenberger
Mr. David King	Mr. Dan Furniss
Ms. Donna Park	

GUESTS SIGNING IN:

Undersheriff Michael Bridson, Iosco County Sheriff's Office
Mr. Keith Valentine
Chief John Kruithoff, Holland Police Department
Director Billy Wallace, Grand Valley State University, Criminal Justice Training
Sheriff Gary Rosema, Ottawa County Sheriff's Office
Chief William Olney, Chair, Western Michigan Criminal Justice Training Consortium
Chief Barbara Bergers, Grand Valley State University Public Safety

CALL TO ORDER:

The Commission Meeting was called to order by Sheriff Gene Wriggelsworth on April 24, 2007, at 9:30 a.m. at Grand Valley State University in Allendale, Michigan.

INTRODUCTIONS:

Sheriff Wriggelsworth welcomed everyone to the Commission meeting and asked that the Commission members introduce themselves. He recognized and thanked Director Billy Wallace and Grand Valley State University for hosting the meeting.

PUBLIC FORUM/COMMENTS:

Mr. Keith Valentine: Mr. Valentine addressed the Commission regarding the current MCOLES vision standard concerning color-deficiency. He explained that he had been a police officer in the state of Texas for two years and received recognition on several occasions for his performance. He feels he has proven that he can function as a successful police officer in another state but cannot do so in Michigan because of his color vision deficiency. He asked that the Commission review this standard and he would like to meet with them in the future to further discuss it.

Sheriff Wriggelsworth asked Mr. Valentine to contact Mr. Beach to schedule a meeting and discuss his suggestions and concerns regarding this standard.

Mr. Michael Bridson: Mr. Bridson asked to address the Commission regarding the revocation of his law enforcement license. He was asked to hold his comments until that portion of the agenda.

COMMISSION ATTORNEY REPORT:

Mr. Furtaw reported to the Commission on the following items:

University of Detroit Mercy v. MCOLES – This case involves a permanent injunction granted by Judge Giddings barring MCOLES from no longer recognizing the University of Detroit Mercy (UDM) as a public agency eligible to hire and employ licensed police officers. MCOLES received a favorable ruling last month from the Court of Appeals who reversed Judge Giddings' order and remanded the matter for entry of a judgment favorable to MCOLES. The required 42 days during which time UDM can appeal to the Supreme Court and seek application for leave has been exhausted.

Staff met with the attorneys for UDM this week on an application for license under the Private Security Act 330. They will be granted a temporary license while they pursue legislative remedies. MCOLES will file their judgment with the trial court in the next week.

Proposal 2 – The Department of Civil Rights issued a formal report following an Executive Order of the Governor. An audit of all state programs was conducted relative to Proposal 2 which bars discrimination and preference based on gender, race and other considerations. The Attorney General's office reviewed the MCOLES physical fitness test and indicated that the program does not give preferential treatment and therefore the program be continued as developed.

ADDITIONS TO THE AGENDA:

There were no additions to the agenda.

CONSENT AGENDA:

There were no consent agenda items.

APPROVAL OF THE MARCH 14, 2007, MEETING MINUTES:

A **MOTION** was made by Chief Olko and supported by Mr. DeVries to accept the March 14, 2007, meeting minutes as written.

A **VOTE** was taken, the **MOTION** carried.

CHAIRMAN'S REPORT:

Sheriff Wriggelsworth deferred his report to the Committee reports portion of the agenda.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Beach updated the Commission on the following items:

302 Fund Concerns - Several potential grant recipients have called inquiring about the expenditure of grant dollars and the timeliness of the law enforcement distribution this spring due to the recent Executive Directives issued by the Governor. They are being advised that MCOLES has not been put under any restrictions that would require the limitation of the grant contracts in place and are preparing to release the law enforcement distribution in May. If this changes by any type of Executive Directive or Order from the Governor's office, the information will be shared with the field.

Annual Registration – Full compliance of all agencies in the state has now been achieved. The annual registration identified 60 officers from various departments who did not work any hours during 2006. Staff is working with those agencies, putting them on notice that an indication of zero hours worked identifies they are not regularly employed and they will be recognized as inactive. In reviewing the list, there were only 20 officers identified from the 60 who were with other departments for the full year. Letters will be sent asking the agencies to take these officers off of their rosters.

Imaging - Standards Compliance and Licensing Services Sections are in the process of imaging academy operating plans and documents as well as investigation files into the MCOLES data base. Each investigation file will be reviewed; organized and appropriate changes will be made to accurately reflect the most current status before imaging.

PA 330 - The chair appointed an ad hoc committee to review the MCOLES relationship with private security police (PA 330). Presently, MCOLES oversees for the State Police the licensing of private police entities. It was agreed in the first committee meeting that staff would try to assess from the current license holders areas that they had deficiency concerns with. The surveys were approved by the committee, sent out, and are due for return to MCOLES on April 27, 2007. Once the surveys come back, the responses will be compiled and a meeting will be scheduled of the PA 330 subcommittee to review the needs and operations of those agencies. A meeting with the licensees will be scheduled soon after to further discuss and understand the needs and operations, as well as communicate the desired changes in the requirements for licensure and training.

EXECUTIVE DIRECTOR'S REPORT Continued:

Training Directors' Meeting - The next meeting of the training directors is scheduled for May 16, 2007, beginning at 9:00 a.m. at the South Campus of Macomb Community College. Any Commission members that are interested, are welcome to attend.

Active Duty Firearms Standard – Regional information meetings with volunteer pilot test sites have begun. Staff is meeting with the agency trainers and range masters to provide background research and information on the standard. The standard is being well received and actual pilot testing will begin shortly and continue through the fall. Some Commission members have volunteered to participate in that pilot test. The standard will be demonstrated to the Executive Committee at the next meeting hosted by Chief Olko in Auburn Hills.

Reading and Writing Exam and Licensing Exam On-line Administration Contract– The Invitation to Bid (ITB) has not yet been forwarded to the Department of Management and Budget (DMB). The process has been on hold while new procedures were developed and put in place to enforce the requirements of the executive directives and orders. The request cannot be forwarded by MSP to DMB until both the state budget office (SBO) and the new state purchasing monitor have signed off on the request. At that point the ITB will be forwarded to DMB to be put out for bid. It is not anticipated that there will be a problem with obtaining SBO and monitor approval since no state funds will be expended, however the request must be processed through all of the same purchasing channels.

Legislative Update:

HB 4611 – was introduced by Rep. Rick Jones on April 19, 2007. This bill allows for the state implementation of HR 218, the federal act for retired and active duty law enforcement officers to carry concealed firearms anywhere in the United States. This bill gives the Commission the authority to be identified as a state agency that will name our academies as the agents to provide the qualifications under HR 218. To date, this bill has not received any opposition and the anticipated implementation is January of 2008. A copy of this bill was provided to the Commission.

Legislative Tribute – There will be a legislative tribute this week at the Capitol to honor fallen firefighter Joseph Torkos. Mr. Beach will attend on behalf of the Commission to present the resolution considered by the Commission today to the family.

Michigan Law Enforcement Officer Position Strength – As outlined in the graph supplied to the Commission, current law enforcement officer positions as of April 19, 2007 is 21,500. Statistics yearly since 2001 are provided in the handout. The total reduction in the number of officers since September 11, 2001, is 1,650.

EXECUTIVE DIRECTOR'S REPORT Continued:

Special Use and Grant Adjustment Requests – Recent activity on special use and grant adjustments were provided to the Commission. If there are any questions, please contact Mr. Beach.

Upcoming Commission Meetings:

June 5, 2007 – Lake Superior State University, Sault Ste. Marie – To minimize travel, staff is scheduling various committee meetings of the Commission to coincide with regular meetings.

September 11-12, 2007 - St. Joseph (Working Session/Regular Meeting) – Annual planning session for setting priorities that will coincide with the approval of the division budget.

October 24-25, 2007 – Detroit (Working Session/Regular Meeting) – Annual review of grant applications.

December 11, 2007 – Lansing

COMMITTEE REPORTS:

Regular Employment Committee – Sheriff Pickell reported that the Committee recently held public hearings across the state and heard from a number of law enforcement leaders regarding their concerns. Staff also sent out a survey and compiled the results for presentation to the Committee. The results of this survey along with an Executive Briefing of the hearings will be sent to all participants in May. The next meeting of the Regular Employment Committee will be held on June 4th in Sault Ste. Marie to discuss what the next steps will be. The majority of agencies that responded said that MCOLES needs some set hours but the minimum was not discussed. Mr. Furtaw will review the information and those issues will be discussed at the next meeting. The field will be allowed to have input on recommendations the committee will have.

Executive Committee – Sheriff Wriggelsworth reported that the Committee met this morning to discuss proposal 2 and the Commission Bylaws which will be outlined under Old Business.

Public Safety Funding Coalition – Sheriff Wriggelsworth reported that the Coalition met last week and the Coalition's proposal has grown with the addition of several other entities. The revised proposal places a \$1.60 surcharge on each telephone line in the state which would raise an estimated \$160 million. A lot of issues were discussed at the meeting and another meeting will be held on May 7th to review detail of the needs from the other entities.

NEW BUSINESS:

Western Michigan Criminal Justice Training Consortium Overview – Mr. William Olney, Chair, explained that the consortium began in 1995 and currently has 70 agency members from several counties in Michigan. Last year they had five grants that allowed them to offer 45 topic areas of training. A lot of their member agencies contribute their services at no charge. The dues for membership are 35% of an agency's Law Enforcement Distribution payment twice a year. Training is conducted at several different sites throughout the consortium area.

Grand Valley State University Academy Overview – Director Billy Wallace explained that the academy program at Grand Valley consists of approximately 60 instructors with approximately 85% active law enforcement officers. The other instructors are either retired officers or criminal justice administrators.

The academy program has a 75% average employment rate in the first year of graduation. The program consists of 15 credit hours and 80% of the recruits are Grand Valley Students. The other 20% are from other two or four year institutions.

Law Enforcement Officers Online – A PowerPoint presentation was made for the Commission on the proposed MCOLES Network Officers On-line Project. Mr. Furniss explained that law enforcement officers are the next user group identified for access to their personal records in the MCOLES Tracking Network.

Ms. Donna Park explained that officer access to the system will be in a read-only mode, meaning that they will be able to access and view their personal record, but they will not be able to add, delete, or modify the record. Access will be granted to academy students only after their law enforcement license is activated. The officers will be required to sign a security agreement, as are Tracking Network operators by an agency.

Mr. Furniss provided a PowerPoint presentation overview of the officer on-line process from the point of logging onto the system. The officers themselves will also be able to view the inquiry history which lists all law enforcement agencies that have viewed their records. An agency wishing to screen an officer can do so by obtaining a signed release from the officer as part of the application process.

Commission Revocations – Mr. Furtaw presented the following case recommending the Commission consider the proofs, finding of facts, and conclusions of law found in the "Proposal for Decision" issued by Administrative Law Judge (ALJ) Michael Zimmer.

The contested case revocation hearing of Michael C. Bridson was held on December 7, 2006. Following the hearing, both sides filed briefs. Judge Zimmer then issued a Proposal

NEW BUSINESS Continued:

for Decision recommending revocation. An exception was filed by Mr. Bridson, and Commission Counsel filed a response. The filing of an exception is an appeal to the Commission challenging the findings and conclusions of the ALJ.

He explained that the Commission is empowered to take one of three actions:

- Determine the exceptions to be without merit, formally adopt the Proposal for Decision and enter an Order of Revocation.
- Reverse the decision of the ALJ based on the record.
- If the record is found to be incomplete, remand the case back to the ALJ for reconsideration with specific instructions as to the matter in the case to be reconsidered.

A certified record of this matter was provided to the Commission. Mr. Furtaw drafted proposed Orders reflecting all three potential actions by the Commission.

Mr. Bridson addressed the Commission explaining that he was charged with eavesdropping at the county jail while monitoring the jail phone system. This incident occurred during the course of his duties and a deputy filed a complaint that he was eavesdropping on personal conversations. He stated that a plea agreement was made with the court due to financial reasons even though he felt he was not guilty. The agreement was there will be no conviction entered for a one year period. Once the one year is completed without incident, the complaint will be dismissed. When this is completed, he wants to be able to return to the department as undersheriff. He asked the Commission to wait on a decision until he completes the one year period for the case to be dismissed.

A discussion was held regarding if the conviction were vacated by the judge after the one-year time frame could Mr. Bridson reapply for licensing.

A **MOTION** was made by Mr. DeVries and supported by Mr. Buczek to accept the Proposal for Decision of the Administrative Law Judge and revoke the law enforcement license of Mr. Michael Bridson.

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

Mr. Ronald Nunn- Mr. Nunn, an MCOLES-licensed law enforcement officer, was convicted of a felony in U.S. District Court. Accordingly, Mr. Nunn was given Notice of Intent to Revoke and his MCOLES-license was summarily suspended.

NEW BUSINESS Continued:

A potential jurisdictional defect was later identified in the MCOLES Act with respect to felony convictions under federal law. The Act does not specifically incorporate a law “of the United States” in the definition of a felony.

Mr. Furtaw previously recommended to the Executive Committee withdrawal of the Notice of Revocation in order to avoid a potentially unfavorable ruling in a court of record on a technical interpretation of the Act and the Executive Committee approved the recommendation. A motion to withdraw the Notice of Revocation was granted on March 29, 2007. An Order to that effect was issued by the ALJ on April 6, 2007.

A **MOTION** was made by Mr. DeVries and supported by Mr. Bretz to approve signing the proposed Order reflecting Withdrawal of the Notice of Revocation. Mr. Furtaw will draft language clarifying MCL 28.602(f) for amendment of PA 203.

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

Commission Resolution – Sheriff Wriggelsworth read into the record a resolution to honor the service of fallen Detroit Firefighter Joseph Torkos. Firefighter Torkos was killed in a traffic crash while responding to a fire when a speeding vehicle hit his.

A **MOTION** was made by Lt. Colonel Yungfer and supported by Mr. Buczek to accept the resolution honoring the service of fallen Detroit Firefighter Joseph Torkos.

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

OLD BUSINESS:

Commission Bylaws – Mr. Furtaw explained that the Executive Committee had met at the direction of Sheriff Wriggelsworth to review draft language in some areas to revise the bylaws and make a recommendation to the full Commission.

The Committee recommended the following revisions:

- **Method of election of Chair and Vice Chair.** The Bylaws currently provide for election by a majority vote of the Commission. It is recommended a majority *of those present*, be added. The Chairperson shall take the vote by a show of hands. Trooper Moorman added the clause or voice vote for each candidate and it was accepted. The Chairperson shall not vote on the question unless there is a tie, at which point he or she shall cast a vote in order to break the tie.

OLD BUSINESS Continued:

- **Method of nominations.** Since the Bylaws currently provide no formal mechanism for nominating candidates for Chair and Vice Chair, it is recommended the Bylaws require the formation of an ad hoc nominations committee that is representative of the Commission. The Bylaws should also require that at the time of the committee report the floor be opened for nominations by any dissenting member or members of the committee, or any member of the Commission.
- **Terms of office and action dates.** The Bylaws currently do not specify terms of office of either Chair or Vice Chair, and do not specify action dates relative to the nominations and elections process. It is recommended that the Bylaws define both terms of office by calendar year and that the formation of the nominations committee take place at the regularly scheduled meeting in October, and nominations and elections take place at the regularly scheduled meeting in December.
- **Vacancy of Chair or Vice Chair.** The Bylaws do not currently specifically discuss when a vacancy occurs, or provide a process to select a presiding officer when a vacancy occurs. It is recommended the Commission incorporate language that defines when vacancies are recognized – by resignation, Order of the Governor, or death. In the event of a vacancy of the Chair, the Vice Chair will serve as the presiding officer. In the event of a vacancy in both the Chair and Vice Chair, the immediate past Chair will serve as the presiding officer. If the immediate past Chair is not present, the Commission shall elect a presiding officer by majority vote of those present.
- **Filling the Vacancy of Chair or Vice Chair.** It is recommended that the democratic process formally be maintained upon vacancy by requiring the presiding officer to re-form the nominations committee, including making new appointments if necessary. The nominations committee will then report nominations at the next regularly scheduled Commission meeting.
- **Parliamentary Procedure.** The Bylaws follow Roberts Rules of Order for voting on motions and other Commission business. If the Bylaws are silent on specific procedure, then a motion passes if a majority of those present vote in support. Ties mean that the question fails. A two-thirds vote is required on important questions that directly affect the rights of individual members: a) limiting or closing debate; suspending or modifying a rule; b) taking away membership or office; c) limiting voting or nominations; or d) preventing the introduction of a motion.

OLD BUSINESS Continued:

Under a strict interpretation of Roberts Rules, the presiding officer does not vote unless it is to break a tie, or to create a tie, in order to avoid influencing the process. In a ballot vote, which is secret, or a roll call vote, the presiding officer may vote.

It is recommended that, subject to the limitations of Article III, the presiding officer has the same voting rights as any Commission member on issues brought before the Commission. Each meeting shall otherwise be conducted pursuant to Roberts Rules of Order, in so far as practicable and as interpreted by the presiding officer.

A **MOTION** was made by Lt. Colonel Yungfer and supported by Trooper Moorman to adopt the Executive Committee's recommendation along with the clarification on show of hands and voice voting revisions to the Commission Bylaws as discussed.

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

A revised copy of the bylaws will be provided to the Commission at the next meeting.

FY 2007-08 Budget Updates – Mr. Rothenberger explained that in February the Governor introduced her recommended budget for 2008 and MCOLES funding remained status quo. The appropriations committees of the House and Senate have been meeting since that time.

On January 25, 2007, the Governor issued Executive Directives 2007-1 to 2007-9 providing for general reductions in state spending. Simultaneous with the introduction of the FY 2008 budget, the Governor issued Executive Order 2007-1, ordering expenditure reductions of \$166, 929,400 in the FY 2007 budget. The Executive Order was rejected by the Senate.

On March 22, 2007, the governor issued Executive Order 2007-3. It provided for \$274,245,000 in general fund reductions and \$70,383,100 in special purpose reductions. EO 2007-3 was approved by the Senate and House Appropriations Committees and became effective.

The Senate passed SB 220 (a supplemental), on March 22, 2007; it provides for \$565,595,700 in reductions to the FY 2007 state budget. The State Police share is a \$4,000,000 reduction to the Auto Theft Prevention Fund, \$900,000 additional to fleet leasing, and \$1,600,000 additional to uniform services (to prevent the layoff of 29 troopers).

OLD BUSINESS Continued:

On March 29, 2007, the Governor issued Executive Directives 2007-10 to 2007-19 further restricting state expenditures. The Executive Directive's address the categories of: state grant moratorium, state employee training moratorium, a comprehensive hiring freeze, no performance pay awards, enhanced revenue collection, subscriptions moratorium, non-essential purchasing moratorium, service contracts and temporary employee moratorium, and a travel moratorium. A PowerPoint presentation was provided detailing each directive.

The Governor has set a deadline of June 1 to have issues for both budget years resolved. A further update on both budgets will be provided at the next meeting.

Mr. Beach stated that he and Lt. Colonel Yungfer would be meeting next week with Shawn Sible from the State Police Budget Office to discuss the impact of these directives on MCOLES.

Active Duty Firearms Standard – Report presented as part of Executive Director's report.

Examination Automation Contract Update – Report presented as part of Executive Director's report.

2008 Competitive Grant Application Process Revisions – Ms. Hartwell explained the recommended proposed revisions to the 2008 Grant Application Process as follows:

- Rename the Subject Matter Expert (SME) Review to Practitioner Review to better reflect the active purpose of the review.
- Amend the Consortium Definition: Primary funding consideration will continue to be given to grant applications meeting the consortium definition which is defined as “a formal organization or group that has been established to facilitate training for multiple agencies within a specific geographic region. Law enforcement agencies employing more than 100 MCOLES licensed law enforcement officers can be considered a consortium by definition. Law enforcement consortiums will require a financial commitment from their member agencies.” In addition, the Commission may also give funding consideration to grant applications submitted by statewide training providers for specialized training endeavors that meet an identified statewide need.
- Remove the individual staff reviewer's name from the Grant Summary Analysis Form that is provided to the grant administrator to reduce confusion as to the MCOLES contact for providing the Commission with additional information.

OLD BUSINESS Continued:

- The Prioritized Training List has been updated to reflect the training needs for the five criminal justice disciplines for calendar year 2008. Each of the five criminal justice disciplines provided MCOLES staff with information relative to their respective training needs. Revisions to the law enforcement prioritized training list are a result of the recent in-service training needs survey.

A **MOTION** was made by Mr. Buczek and supported by Mr. Dennis to approve the recommendations to modify the 2008 Competitive Grant process as outlined by staff.

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

Paperless Commission Meeting Update – Ms. Kramp explained that the staff has been working since February to streamline the paperless meeting concept. At the March meeting, the Commission asked that the information be made available on the web following the meeting and that it be indexed to easily find information. A sample index was provided to the Commission which will be available on the notebook desktops allowing for a search by topic. This type of format will also be developed for use on the website with live links.

At the last meeting, Commissioner Morse had asked for the ability to add notes to documents after they have been downloaded from the web. Staff is still working on that process.

Ms. Kramp demonstrated on the web page where copies of the Commission approved minutes as well as meeting links would be located.

MISCELLANEOUS:

There were no miscellaneous items to report.

PUBLIC COMMENT:

Mr. Bridson addressed the Commission asking if he is able to re-apply for licensing once his case is dismissed. Mr. Furtaw stated that he would need to seek an opinion from his attorney.

NEXT MEETING:

DATE: June 5, 2007

LOCATION: Lake Superior State University, Sault Ste. Marie, Michigan

ADJOURNMENT:

A **MOTION** was made by Lt. Colonel Yungfer and supported by Mr. DeVries to adjourn the meeting.

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

The meeting adjourned at 12:24 p.m.

APPROVED BY _____ ON _____

WITNESSED BY _____ ON _____