



Michigan Commission on Law Enforcement Standards MCOLES

Presented to the

Michigan Municipal Executives

February 1, 2023

MCOLES History

- Created by Public Act 203 of 1965 as the Michigan Law Enforcement Officers Training Council - MLEOTC
 - MCOLES has evolved through many statute changes and executive reorganization orders. It also absorbed the Michigan Justice Training Commission 2001.
 - MCOLES is an independent agency, administratively housed within the Department of State Police.
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MCOLES Today

- 23-member Commission appointed by the governor:
 - MSA (3)
 - MACP (3)
 - Director of the Michigan State Police
 - Attorney General
 - Chief of the Detroit Police Department
 - Director of the Department of Civil Rights
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MCOLES Today

– Labor (6)

- Michigan State Police Troopers Association
 - Fraternal Order of Police
 - Police Officers Association of Michigan
 - Michigan Association of Police
 - Police Officers Labor Council
 - Detroit Police Officers Association
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MCOLES Today

- Prosecutors Association of Michigan
 - Criminal Defense Attorneys of Michigan
 - Others (5)
 - Individuals not associated with law enforcement representing the public (4)
 - Deputy Sheriff's Association of Michigan
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MCOLES Authorized Staff

- Executive Director
 - Deputy Executive Director
 - 3 Managers
 - 15 regulation agents, analysts, developers, coordinators and field representatives
 - Legal Counsel – Assistant Attorney General
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MCOLES Financials

- Historically funded by a mix of Michigan Justice Training Fund (2/3) and general fund revenues (1/3)
 - MJTF trended down, first slowly, now rapidly with predictable results
 - State funding for law enforcement training is at an all-time low since its inception in 1982
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Justice Training Fund

- By statute, the MJTF is dispersed:
 - 60% to Law Enforcement Distribution (LED)
 - 40% to administrative costs/competitive grants
- Lack of general fund appropriations forced the use of the 40% share entirely for MCOLES administrative costs

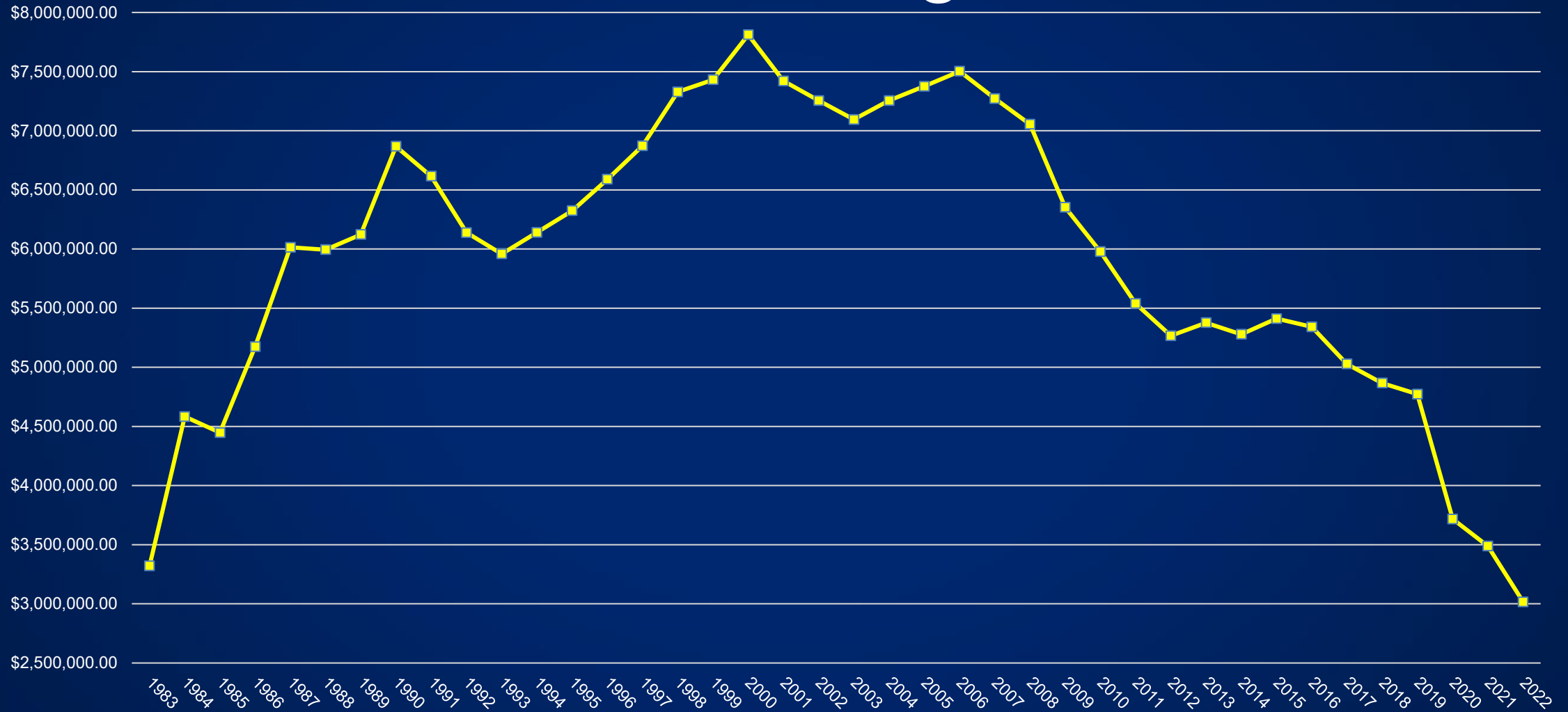
Justice Training Fund

2000 = \$7.8 million

2022 = \$3.0 million

And...it takes \$1.72 today to buy what
\$1 bought in 2000

Justice Training Fund



Justice Training Fund

- Some good news
 - The legislature changed and improved the funding source for the Secondary Road Patrol (SRP) and is removed from the Justice System Fund (JSF)
 - The funding from the JSF that formerly funded the SRP are now designated to bolster the Michigan Justice Training Fund.
 - This means:
 - More Law Enforcement Distribution (LED) funds for eligible agencies
 - More funding for MJTF competitive grants

Some Great News!

- The legislature passed and yesterday Governor Whitmer signed Public Act 1 of 2023, which includes \$20 million to fund and implement mandatory in-service training for law enforcement officers as a condition of maintaining licensure
 - The Commission is beginning the work of designing effective, appropriate and necessary training to help ensure all law enforcement officers maintain best practices and professional competence throughout their entire careers
 - Stay tuned for the details
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MCOLES Financials

- The legislature designated the Medical Marijuana Regulatory Fund to pay the administrative costs of MCOLES, became effective at the end of FY 2019
 - Finally provided a stable funding stream and allowed staff vacancies to be filled

Competitive Grants returned in 2021!!

- With the appropriation from the Medical Marijuana Regulatory Fund the Commission could reinstate competitive Justice Training grants beginning with the 2021 calendar year
 - 2021 8 grants for \$937,000 were awarded
 - 2022 7 grants for \$1.1 million were awarded
 - 2023 9 grants for \$1.2 million were awarded

New Grants

- The legislature passed a supplemental appropriations bill just before FY 2022 closed and established 6 new grants for the Commission to administer
 - All will last until September 30, 2026 or the funding runs out
 - Some are open, some restricted to certain designees
 - 3 are from the general fund and 3 are from federal American Recovery Act funding provided to the state
 - We are hiring two limited-term staff members to assist in administering these grants
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New Grants

- Community Policing Competitive Grants (\$11 million)
 - Community Policing Grants (Restricted) (\$4.5 million)
 - MCOLES Licensing Fees (2.7 million)
 - Narcotics Teams/Task Forces Training & Equipment (\$3 million)
 - Police Athletic Leagues (Restricted) (\$7.5 million)
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New Grants

- Public Safety Academy Assistance Program (\$30 million) OPEN NOW
 - For employed recruits starting an academy on or after January 1, 2023
 - Helps pay for academy costs and wages – information on website
 - Employed recruits must be screened before admission to the academy just like someone hired as pre-service candidate to be a licensed officer, even if they are already working for your agency in another capacity
 - Don't wait until the last minute – talk to the academy early, they may refer you to the MCOLES Field Representative
 - There will be a high demand – get your paperwork in as early as possible!

Behavioral Health Training

- Michigan Joint Task Force on Jail and Pretrial Incarceration recommendation #7
 - With the DHHS Mental Health Diversion Council developed **Behavioral Health Partnership Training** a new “short course” to compliment Crisis Intervention Team (CIT) training for both the basic academy and in-service officers
 - Also addresses officer wellness
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Victim Services

- Michigan Joint Task Force on Jail and Pretrial Incarceration recommendation #17
 - Compliments work MCOLES has been doing with DHHS for decades on a federal STOP Act grant in the areas of domestic violence, sexual assault, non-fatal strangulation and PPO violations
 - Seeks to improve/support the PPO process, teach trauma informed interviewing, etc.
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MCOLES - Duties

- Research, develop and enforce standards for the selection, employment, training, licensing, retention and revocation of licenses for law enforcement officers
- Disburse, track and audit certain training funds and competitive grants
- Oversee and inspect the operation of 20 basic police academies

MCOLES –Duties

- Inspect law enforcement agencies for compliance with certain MCOLES-related statutes and administrative rules
- Provide direct training to law enforcement via a federal STOP grant in the areas of domestic violence and sexual assault
- License facilities who have private security police under PA 330 (1968)
- Administer the Public Safety Officer Benefit program for line of duty deaths and disabilities

MCOLES -Duties

- Resource center for certain model policies
 - Recognition of Prior Basic Training and Experience (RPTE), a program for former and/or out of state law enforcement officers who seek licensure in Michigan
 - Operate a program for firearms qualification under the Law Enforcement Officers Safety Act (LEOSA) for those not served by their former agencies
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Job Task Analysis

- Forms the basis for training and selection standards as well as the licensing exam
 - Helps ensure the validity and defensibility of standards
- Defines the tasks of an entry level patrol officer
- For the first time, this JTA also identified the work behaviors of first line supervisors
- A representative, validated sample of 100 agencies participated
- Final report is on the Commission website
- Curriculum/exam review for validity based on the JTA

Statistics

- In Michigan there are:
 - 20 basic law enforcement training academies, 12 regional, 5 track and 3 run by individual agencies for their recruits only
 - 18,345 MCOLES licensed law enforcement officers filling 18,811 positions – we don't know how many remain unfilled
 - 581 law enforcement agencies, ranging in size from 1 to 2,459 officers
 - 41% have 10 or less licensed officers
 - 57% have 15 or less licensed officers

Armed Reserve Standards

- The Commission created a committee to address standards for armed reserves
 - As one part of our regular standard-setting process, two subject matter expert groups have been empaneled to provide input
 - A great deal of work has been accomplished to date with more to be done
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Response to Active Violence

- PA 552 of 2018
- Requires:
 - Basic academy curriculum update, training required for any newly licensed officers as of January 1, 2020 (Done!)
 - The Act requires MCOLES to begin training actively licensed officers on the same date
 - No funds were appropriated with the passage of the bill
 - \$1.9 million appropriated in 2020 budget of the \$3.5 million required
 - Despite the pandemic-induced delays a 3-tier process is underway, over 5,000 officers already certified as having received the training

Licensing

- Law enforcement licensing in Michigan is virtual, a paper license certificate is not proof of current licensure
 - However, agencies do receive certificates to give to the licensed officer – keep a **copy** if you like but the certificate must go to the officer
- Status can only be determined via MITN – please don't ask applicants for certificates to prove licensure for backgrounds
- Individual Employment History (IEH) is exactly like a transcript – that is proof of licensure on a specific day
- Your background investigator would never accept a copy of a driver's license as proof someone had a valid ops

Licensing

- MCOLES **licenses** officers. (It was previously certification.)
- For license eligibility the student/employed recruit must:
 - Meet the applicable selection standards
 - Successfully complete all mandatory training
 - Pass the licensing exam
 - For pre-service students, provide an official transcript showing the award of at least an Associate's degree

Licensing

- To activate a license the agency must:
 - Screen applicant to ensure they meet all selection and employment standards
 - Employ *and* confer authority via an oath to enforce the general criminal statutes of the State of Michigan
 - Print, sign (agency head) and submit the licensing affidavit to MCOLES attesting the standards have been met. Also submit the personal history statement, the oath of office and the waiver and release to request activation of the license

Licensing

- Agency screening for standards means:
 - Look up the applicant in MITN (with the signed release you acquired from your application packet)
 - If they are already in MITN click “Proceed with Hiring”
 - If they are not in MITN, enter them (most likely an applicant to become an employed recruit)
 - Make a conditional offer of employment
 - Conduct a thorough background investigation (more to come on this topic)
 - Conduct an interview
 - Screen for medical, non-medical and psychological standards
 - Drug screen

Licensing

- Licensing and employment are separate and distinct concepts that interrelate
- 3 – legged stool, see R 28.14102(d)
- Employment is the purview of the agency
- Licensing is the purview of the state through the Commission

Licensing

- License Status
 - Active – (Listed as “current” on your roster). This is the only status that can perform the functions of a law enforcement officer per MCL 28.609(14)
 - Inactive
 - Lapsed
 - Summarily Suspended
 - Revoked
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Licensing

- To comply with amendments made to the MCOLES Act in 2016 by the legislature, background investigations to determine character fitness are required for those with inactive licenses whom an agency wishes to reactivate, just as they always were for lapsed licenses or those seeking licensure for the first time
- Possible impact on individuals returned to employment by a post-termination appeal process
- Once again, the distinction of licensing vs employment is important
- Review based on underlying behavior, not CBA considerations

Background Investigations

- The single most important thing you do when hiring
 - Time and money well spent
 - Critical for your agency and our profession
- Must be thorough and comprehensive – per the MCOLES Act
 - It is a specialty just like homicide, narcotics, auto theft, etc. (ADA, EEOC, HIPPA, potential discrimination claims, timing of conditional offers, etc.)
 - Understanding conditional offers
 - Must be in writing
 - Strongly consider a condition that says “must qualify for licensure”
 - Has your conditional offer been reviewed by your corporate or labor counsel?

Background Investigations

- The background investigation must be written and well-documented. Others may get the ability to see it and you may have to share it with the Commission if a Standards Compliance Review is required
- Advisory standard/best practices guide
 - Available on the Commission website
 - Geared to state standards
 - Includes examples of questionnaires and completed reports
- This is a guide, not a substitute for having well-trained background investigators
- Some agencies outsource – ensure a background investigation contractor is qualified if you do so

Background Investigations

- ALWAYS start with a MITN check
 - Get a signed MCOLES release with application
 - Make sure it is the 2018 version – not older!
 - Already ineligible? Leads? Previous affidavits?
 - Know the difference, if any, between your agency standards and the MCOLES standards
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PA 203 and PA 128

- PA 203 of 1965, also known as the MCOLES Act
 - Along with companion administrative rules, governs licensing, training, etc.
 - PA 128 of 2017, also known as the Law Enforcement Officer Separation of Service Record Act
 - Places additional requirements on separations/hiring
 - Different Acts, but are often confused/conflated
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Separation **Affidavit** under PA 203

- Certain personnel transactions must be reported to MCOLES within 3 days per MCL 28.609(8)(a) & R 28.14509
- Separation (for any reason) is one of them
 - Reported using MITN, print form, agency head signs it and it is sent to MCOLES, original stays at agency
 - Must report the reason(s) for the separation and fully describe the circumstances

Separation **Affidavit** - options

- **Deceased**
 - **Retirement**
 - Retired in good standing
 - Retired while under investigation
 - Retired while under criminal charges
 - Retired in lieu of termination
 - **Resignation**
 - Resigned in good standing
 - Resigned while under investigation
 - Resigned while under criminal charges
 - Resigned in lieu of termination
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Separation **Affidavit** - options

- **Separation**
 - Separation due to position eliminated/seasonal position
 - Separation due to department policy violation
 - Separation due to criminal violation(s) for non-revocable offenses
- **Separation – For Adjudication of Guilt for a Revocable Offense of Fraud in Obtaining Licensure**
 - Separation for Revocable Offense
 - Separation for Fraud in Obtaining Law Enforcement Licensure

MUST ALSO MAKE COMMENTS TO EXPLAIN – BE SPECIFIC !!!
(CRIMINAL? POLICY VIOLATIONS? – IDENTIFY THEM BY NAME)

Separation **Record** under PA 128 of 2017

- **In addition** to requirements under the MCOLES Act
 - Requires a written record of the **reason(s) and circumstances** under which a licensed officer separated employment with a LE agency
 - Separating officer can ask to see it, request “corrections” and/or include information. Must be written!
 - Record remains with the agency
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Separation **Record** under PA 128 of 2017

- With the proper MCOLES waiver/release this **record** must be shared with a LE agency seeking to hire the former officer
 - Provides good faith immunity
 - Became effective on January 15, 2018
 - Hiring agency must **attest** to MCOLES they received this **record(s)** when seeking to relicense a former officer
 - Bullard Plawecki Employee Right to Know Act amended in 2018 to accommodate PA 128 of 2017
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Removal of Law Enforcement Authority While Maintaining Employment

- Governed by MCL 28.609(8)(b) & R 28.14510
 - LE authority can be removed and restored at the discretion of the law enforcement agency head, provided restoration occurs before the license lapses
 - Removal or restoration of law enforcement authority must be reported to MCOLES via MITN within 3 business days – print, have agency head sign and submit. It is a real problem if the signed document isn't received.
 - Tends to have a negative connotation but isn't always
 - Please consult with us
 - Pointer index – value to the profession
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Not Totally Sure What to Do?

- **Please call or email us**

- It is so much easier to spend a few minutes up front talking through your question or circumstance to get information and options before you commit to a course of action
 - We are still in a hybrid working arrangement so if your call goes to voicemail, please leave some detail about your question or circumstance so we can be sure to have the best person return your call
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Important Email Contacts

- Unless directed otherwise:
 - Use the MSP-MCOLES-Compliance@michigan.gov email address for any Standards Compliance documents
 - Use the MSP-MCOLES-Licensing@michigan.gov email address for Licensing Reports and Administrative Services Communications
 - Use the MSP-MCOLES@michigan.gov email address for anything else
- This ensures more people will see your email and you will get a quicker response

Contact Information

- MCOLES 517-636-7864
- MITN Help Desk 517-636-7867
- Web www.michigan.gov/mcoles
- Tim Bourgeois
Desk 517-636-7865
Cell 517-599-6922 – **Use this!!**
email bourgeois1@michigan.gov

Questions?

