THIS JULY, THE MICHIGAN Community College Risk Management Authority (MCCRMA) celebrated 30 years of service to its member community colleges. Community colleges are a vital component of Michigan’s education system. They offer a host of associate degree programs and are instrumental in providing affordable post-high school education and valuable retraining of the workforce.

According to the Michigan Community College NETwork, total community college enrollment in 2013–2014 was 411,837, and more than 26,000 associate degrees were awarded. The average student age was 26.4 years, but more than 17 percent of enrollees were over age 35.

How MCCRMA Began
MCCRMA was organized in 1985 when its first two members, Schoolcraft College and Oakland Community College, entered into a Joint Exercise of Powers Agreement, officially establishing MCCRMA.

The organization’s purpose was to provide community colleges with a stable and affordable source of property and liability coverage when the commercial insurance industry was unfriendly to public entities. Since then, MCCRMA has grown to include 19 of Michigan’s 28 public community colleges.

A separate, freestanding entity, MCCRMA has its own Joint Powers Agreement, governance structure, and board of directors. The board establishes policy for operations and contracts with outside service providers for essential services. MCCRMA has no employees.

MCCRMA’s partnership with MMRMA dates back to 1985.

The partnership between MMRMA and MCCRMA dates back to its formation. In the early 1980s, various risk management authorities were being created under intergovernmental cooperation statutes.

With membership open to all municipal corporations, MMRMA became the largest risk management authority in Michigan. Smaller communities and special districts participated in MMRMA through the Statewide Pool (which has since become the State Pool).

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Later, it became known that Huff had originally dialed the wrong number. However, after he put his iPhone away, he pocket-dialed the correct number and was connected to Spaw’s phone. (While Huff could not make his technology work for his purposes, it performed more than effectively when he did not intend it to.)

Unfortunately, after unknowingly opening the line between Bologna and Kentucky, Huff spoke to Savage about replacing Spaw’s boss, Candace McGraw, as CEO of CVG. Not-So-Off the Record Of course, Spaw found their conversation interesting, so she listened in… for the next 91 minutes. She later explained that what she heard in the first few moments (before she could make her presence known) made her believe that the two men were planning to discriminate unlawfully against McGraw.

Spaw felt it was her responsibility to document the conversation and report it through appropriate channels. She also involved a coworker, Nancy Hill. Initially, they took notes; then Hill got another iPhone and the two made a recording of the call.

From a legal perspective, the court’s decision in Huff v. Spaw is fairly complex, involving the issue of jurisdiction over international phone calls. We will focus on one question: Does Huff, because he knows what the term “pocket-dial” means, automatically lose his expectation of privacy when he carries his iPhone?

The court likened a pocket-dial to the actions of a careless homeowner who leaves window drapes open or a webcam on. Closing the Mobile “Curtain” The court analyzed the issue by comparing it to prior privacy cases in which homeowners did not pull their curtains shut. Courts have long held that if you don’t go to the trouble of closing your curtains, you can’t complain when someone who is legally on the sidewalk happens to look in your front window.

The court states:
"At his deposition, James Huff admitted that he was aware of the risk of making inadvertent pocket-dial calls and had previously made such calls on his cell phone. A number of simple and well-known measures can prevent pocket-dials from occurring. These include locking the phone, setting up a passcode, and using one of many downloadable apps that prevent pocket-dials calls, see, e.g., Will Verduzco, ‘Prevent Unwanted Butt Dialing with Smart Pocket Guard,’ xdadevelopers, Apr. 15, 2014, available at www.xdadevelopers.com/android/prevent-unwanted-butt-dialing-with-smart-pocket-guard/ (reviewing a smartphone application designed to prevent pocket-dial calls from occurring).

"James Huff did not employ any of these measures. He is no different from the person who exposes in-home activities by leaving drapes open or a webcam on and therefore has not exhibited an expectation of privacy. See Ganoe, 538 F.3d at 1127."

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ISSUES IN RISK MANAGEMENT

Risk Control Consultants Help Members Follow Best Practices

by Al Smolen
Risk Control Consultant

FOR MORE THAN A YEAR, MMRMA’s Risk Control Department has been diligently working to conduct Best Practices Reviews for our member municipalities.

The information and risk control methods shared between members and MMRMA’s Risk Control Consultants (RCCs) have proven invaluable. Our RCCs’ expertise enables them to assess all areas of members’ municipal operations and offer solutions when needed.

Best Practices Review
Overall, MMRMA members provide superior services and diligently apply risk control measures. Occasionally, however, the RCCs and member employees discover areas or practices that need improvement to minimize risk.

Most of MMRMA’s risk control recommendations focus on updating and implementing policies, protocols, procedures, and training.

Following are four key risk control measures that can reduce losses while protecting employees and citizens alike.

1. Create an active Safety and Accident Review Committee that meets regularly to review accidents and tour municipal facilities (interiors and exteriors) to identify potential problems and recommend any proactive remedies.

2. Have a thorough Policies and Procedures Manual and review it at least annually. Create and implement appropriate policies and procedures for your operations. Update any items that are outdated or otherwise need refreshing and delete those that no longer apply.

3. Prioritize employee training programs, including emergency situations and practices as well as awareness training for sexual harassment, workplace violence, diversity, people with disabilities, and other special needs situations.

4. Join the Secretary of State’s Driver Violation Notification Program, which alerts a municipality each time a registered employee receives a traffic violation and/or does not possess a valid Michigan driver license. This service is free to all municipal entities.

Effective risk reduction and accident prevention measures contribute to a safer, more efficient workforce able to provide quality public services.

Make sure employees are well trained in their assigned tasks. Department heads and managers should receive training that reflects current labor laws and disciplinary protocols.

To that end, MMRMA has a designated Risk Control Consultant who acts as a liaison to each member entity (see below for details).

Municipal buildings should be accessible and employees well trained in how to serve people with disabilities.

Liaisons Enhance Member Service and Communication

AS PART OF MMRMA’S ONGOING MISSION to provide excellent service, we are introducing designated Risk Control Consultant (RCC) liaisons for every member.

Some Member Representatives have already received notification letters that outlined the benefits of this new initiative and identified their entity's RCC liaison. Notices will continue to be rolled out over the next several weeks.

Previously, RCCs were assigned as needed to address specific issues and functions within members’ operations. While this approach has proven very successful, designating permanent RCC liaisons will optimize communication and take our service to the next level.

Your assigned RCC liaison will be able to handle most of your risk control needs. In the event that he requires access to specific expertise in assisting your entity, he will consult the appropriate subject matter expert on our RCC staff to help fulfill the assignment.

Member participation and satisfaction have long been hallmarks of MMRMA’s program. The new RCC liaison initiative facilitates our longstanding objective to provide outstanding products and services to all MMRMA members.
MCCRMA’s 30-Year Anniversary, continued from page 1

Initially, the main advantage of risk pools was economies of scale derived from joint purchasing of reinsurance. In the late 1980s, to better control its costs, MMRMA began to assume more risk and rely less on commercial insurers.

Affiliate MMRMA Member
Since its early days, MCCRMA has been an Affiliate Member of MMRMA. As such, MMRMA underwrites and assumes the liability and property risk for MCCRMA member colleges through its risk financing and reinsurance structure.

Each member college assumes a $100,000 casualty self-insured retention (SIR). Losses above the SIR are transferred to MMRMA and its reinsurance partners. MMRMA also provides services such as underwriting and rating, claims administration, litigation management, and finance.

This partnership has worked very well for both organizations. Long-term loss experience has been quite favorable, and MCCRMA does not bear the burden of employing staff and associated overhead expenses. Instead, it can take advantage of MMRMA’s staff, infrastructure, and risk financing capabilities.

Data security is a significant exposure for educational institutions, and MMRMA extended its Data Breach Coverage to community colleges in 2014. More recently, MMRMA provided MCCRMA with access to its new training and updated materials related to the changes in Michigan’s Freedom of Information Act.

Community colleges place an ever-greater emphasis on safety and security, with many campus security teams becoming certified law enforcement agencies. This is another area in which MMRMA can offer significant expertise.

We fully expect our positive, productive partnership to continue and grow. From all of us at MMRMA, I extend hearty congratulations to the board and members of MCCRMA on its 30th anniversary.

Pocket-Dial Privacy, continued from page 2

Many people carry cell phones, yet some can barely operate them. These users may be surprised to learn the court holds them responsible for knowing that “a number of simple and well-known measures can prevent pocket-dials from occurring.”

Huff’s wife was with him for some of the aforementioned 91 minutes, and part of their conversation was also recorded. The court toyed with the idea that she may have lost her expectation of privacy by being in the presence of a known cell phone user, but ultimately did not go that far, noting that such a ruling would eliminate the expectation of privacy for nearly everyone.

The takeaway? Read your manuals and lock down your devices. The court states: “In sum, a person who knowingly operates a device that is capable of inadvertently exposing his conversations to third-party listeners and fails to take simple precautions to prevent such exposure does not have a reasonable expectation of privacy with respect to statements that are exposed to an outsider by the inadvertent operation of that device.”

Simply put, it’s better to prevent pocket-dialing than to suffer the consequences.