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Testimony on Assembly Bill 331

Assembly Committee on Criminal Justice and Public Safety

Thursday, May 27, 2021

Chairman Spiros and members,

I'd like to thank you for hearing Assembly Bill 331, which would require prospective law enforcement officers to complete a psychological examination prior to employment.

Recently, the report of the Speaker's Task Force Subcommittee on Law Enforcement Policies and Standards was released that summarized the activities and topics of consensus identified through multiple meetings and discussions. As co-chair of the subcommittee, I am incredibly proud of the bipartisan work we've done to have the hard conversations that will make a difference in the lives of people of color in Wisconsin. As we all know, these issues can be incredibly polarizing, yet we have succeeded in bringing the community and law enforcement voices to the table finding consensus where available and moving forward together.

This bill reflects the work on the subcommittee to help build further trust in our law enforcement officers. AB 331 would require a psychological evaluation and to determine a prospective law enforcement officer's personality characteristics and suitability to perform his or her duties as an officer.

It is important to note, as a current condition to employment as a law enforcement officer, an individual must already meet several recruitment qualifications which are established by the Law Enforcement Safety Board (LESB). These qualifications ensure the applicant does not suffer from any physical, emotional or mental condition which might make affect adversely affect performance of duties as an officer. However, under current law, it does not require an individual to undergo a psychological evaluation as a condition of employment, though some agencies currently require these evaluations as a condition of hire.

Additionally, this bill would also require the LESB to promulgate administrative rules that will govern the administration and interpretation of these examinations, including the type of test administered.

Serving in law enforcement is an incredibly difficult job, and the duties of the position can often be emotionally, physically and psychologically taxing. Officers are often exposed to horrific crime scenes and forced to make difficult, split-second decisions. The primary goal of requiring a psychological evaluation is to ensure a law enforcement officer has the capacity to deal with this difficult and demanding line of work.

This is not the first time legislation requiring law enforcement officers undergo psychological evaluations has been introduced. In 2009, similar legislation received bipartisan support in both senate and assembly committees.

Assembly Bill 331 is the direct result of the hard work and dedication put forth by the members of the Speaker's Task Force Subcommittee on Law Enforcement Policies and Standards. I am confident that the

psychological examination does its best to shortlist candidates based on a judgement regarding their desirable and undesirable traits. Therefore, these assessments hold great value when it comes to ensuring the most-capable people are hired in a law enforcement agency.

In closing, I want to thank my task force co-chair, Representative Stubbs, for her work developing these recommendations and members of the task force for their valued input. While there is more work to be done, this and the other task force bills before you today are a great step forward in addressing racial disparities in Wisconsin.



WISCONSIN STATE REPRESENTATIVE

Shelia Stubbs

77TH ASSEMBLY DISTRICT

Thursday May 27th, 2021

Assembly Bill 331; Relating to: requiring prospective law enforcement officers to complete a psychological examination prior to employment as a law enforcement officer and granting rule-making authority

Assembly Committee on Criminal Justice and Public Safety

Good morning Chairman Spiros and Members of the Committee,

Thank you for the opportunity to testify on Assembly Bill 331, which would mandate that all prospective law enforcement officers complete a psychological evaluation. This legislation arose from a recommendation by the Speaker's Taskforce on Racial Disparities Subcommittee on Law Enforcement Policies and Standards. This committee came to consensus on a variety of law enforcement reforms, and was comprised of leaders in the community, experts in law enforcement, and leaders in the faith community.

Assembly Bill 331 would ensure that the Law Enforcement Standards Board promulgates administrative rules to ensure all full time officers submit to a psychological evaluation before they are employed. This common sense measure would ensure that all law enforcement officers are mentally capable to perform their duties. This legislation would protect our community from officers that are not mentally able to handle stressful or high-pressure situations. This bill would also ensure that law enforcement agencies are being represented by officers that are able to carry out the duties of their department.

The profession of law enforcement needs officers that are mentally able and willing to serve their communities. This often means being in critical situations that can have a life changing impact. A psychological evaluation would help ensure that the officers that police our community have sound judgment, and are able to last in the profession long term.



WISCONSIN STATE REPRESENTATIVE
Shelia Stubbs
77TH ASSEMBLY DISTRICT

These kinds of evaluations are already used in the hiring practices of many law enforcement agencies. While this practice has been successful in those agencies, their use is not standardized or mandated by policy. This legislation would empower the Law Enforcement Standards Board to create a mandated and standard evaluation that will help all departments hire the best officers possible.

We also heard clearly from community leaders that the psychological state of an officer can harm the community they serve. All members of the taskforce agree that policing is a stressful occupation, and that over-stress can easily lead to bad outcomes. This legislation is just one step in ensuring that our officers can handle the weight of the uniform they wear.

Thank you again members of the committee for reading my testimony today. I ask that you vote in favor of this legislation to promote a higher standard for our law enforcement officers, and to ensure our communities are served by the most mentally fit individuals.

Testimony on 2021 Assembly Bill 331

Senator Robert Cowles
Assembly Committee on Criminal Justice and Public Safety
May 27th, 2021

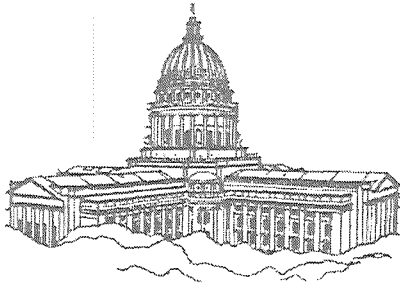
Thank you, Chairman Spiros and Committee Members, for holding a hearing and allowing me to submit testimony on 2021 Assembly Bill 331. This bill – which is part of the Speaker’s Task Force on Racial Disparities – will help to ensure that the officers safeguarding our streets have essential emotional and psychological traits to manage the demanding nature of law enforcement.

Serving as a law enforcement officer is an incredibly difficult job. Officers can be exposed to horrific crime scenes, challenging and emotional circumstances, and tremendous verbal or sometimes physical abuse. They are regularly tasked with making split-second decisions in the face of crisis. Through the process of this Task Force, its members recognized the challenging nature of law enforcement and recommended that a pre-employment psychological evaluation be completed for law enforcement officers.

2021 Assembly Bill 331 puts those recommendations into action, by requiring any individual seeking full-time employment as a law enforcement officer to submit to a psychological evaluation prior to hire. Under current law, as a condition to employment, an individual must meet several qualifications established through the Law Enforcement Standards Board (LESB), which includes ensuring the applicant is free from any physical, emotional, or mental condition which might affect performance of duties as an officer. This legislation requires LESB to promulgate rules to govern the administration and examination methods of the evaluations.

While the term “Psychological Evaluation” seems self-explanatory on a face level, I want to spend a moment discussing what a psychological evaluation is and particularly what it *isn’t*. The purpose of a psychological screening is to assess personality traits, general intelligence, judgement abilities, integrity, stress tolerance, and personal bias. These evaluations use a battery of tests which include several components to help a psychologist assess an applicant’s suitability for law enforcement. What these evaluations are *not* is to determine if someone is crazy or not. These evaluations are scientifically backed tools to help assess whether a candidate for law enforcement has character traits desirable to be an effective member of a police force or possibly possesses traits that could serve as an obstacle in the line of duty.

A recent survey by the Wisconsin Department of Justice noted that many, but not all, law enforcement agencies in Wisconsin already require psychological evaluations as a condition of employment. Were 2021 Assembly Bill 331 to become law, these tools would be adopted statewide to ensure that Wisconsin’s law enforcement officers have been screened in a psychological evaluation prior to an employment decision.



LENA C. TAYLOR

Wisconsin State Senator • 4th District

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Written Testimony of Sen. Lena Taylor
Assembly Committee on Criminal Justice and Public Safety
Public Hearing - AB 331

Good morning Chair Spiros, Vice-Chair Horlacher and members of the Assembly Committee on Criminal Justice and Public Safety. Thank you for the opportunity to provide testimony on AB 331 regarding requiring prospective law enforcement officers to complete a psychological examination prior to employment as a law enforcement officer and granting rule-making authority.

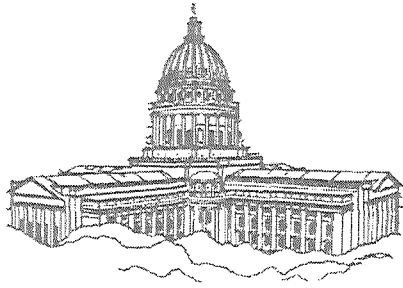
The International Association of Chiefs of Police consider an evaluation of psychological suitability is considered a best practice. According to a recent article in The Balance Careers, many police departments agree that the “police psychological exam is perhaps the most important but least understood aspects of preemployment screening for law enforcement and other criminal justice careers. It's one of the last steps in the hiring process for police officers, and it can make or break your chances for getting the job. It's estimated that more than 90% of law enforcement agencies in the U.S. require psychological screening of their applicants, either before or after receiving a conditional offer of employment.

While these exams are viewed as tools to identify or flag any personality traits or mood disorder, possible implicit or explicit bias, or significant pathologies that might be incompatible with the stress of being a police officer, these exams also can be used “to proactively identify and hire the positive—the candidates who possess the values, character traits, and capabilities that agencies are looking for in their employees” according to information in the Hiring for the 21st Century Law Enforcement Officer.

We also have to be honest about the cost of police misconduct. Two days ago, a CNBC op-ed recently discussed how settlements and lawsuits regarding police misconduct cases are handled, and said the following:

Typically, taxpayers pay for police misconduct judgments and settlements in one of three ways. If their municipality uses liability insurance (typical of smaller municipalities), they pay for them indirectly in the form of premiums. If their municipality uses money from a general or dedicated fund (typical of larger municipalities), then they pay for them directly. The same goes if their municipality issues a bond.

Bonds are particularly common for large judgments or settlements that exceed insurer liabilities or the capacity of general or dedicated funds and often result in taxpayers paying nearly double



LENA C. TAYLOR

Wisconsin State Senator • 4th District

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because the city or county must pay fees to financial institutions and interest to investors. One recent study found that from 2008-2017, taxpayers in Chicago, IL (limited to 2010-2017); Cleveland, OH; Lake County, IN; Los Angeles, CA; and Milwaukee, WI, paid an estimated combined total of \$1.73 billion in bonds and interest payments for police misconduct.

The study was called Police Brutality Bonds: How Wall Street Profits From Police Violence. Two days ago was the 1 year anniversary of the George Floyd's murder at the hands of a former Minneapolis police officer. Minneapolis taxpayers paid \$27 million to settle Floyd's case with his family.

In September of 2020, a billboard across from a New York Police Department (NYPD) station in Time Square read: "Hey NYPD. It's us. NYC residents. The ones who pay your salary. We paid \$300 million to settle your lawsuits. You paid nothing. We need to talk."

In 2020, WISN 12 News obtained the details of the payouts made by the city of Milwaukee in the last 10 years in settlements for officer misconduct. Milwaukee spent over \$40 million for officer misconduct that included wrongful arrests, strip searches, excessive force and wrongful deaths.

AB 331 is a start to remove Milwaukee, and other municipalities from these statistics. On the front end, we have a better chance to get it right. Support of this bills allows us to get closer to the goal to "proactively identify and hire the positive—the candidates who possess the values, character traits, and capabilities that agencies are looking for in their employees". I encourage your support of this bill and thank you for your time.

WISCONSIN PROFESSIONAL POLICE ASSOCIATION

Law Enforcement Employee Relations Division • Supervisory Officers Relations Division • Civilian Employees Relations Division

MEMORANDUM

DATE: May 27, 2021

TO: ASSEMBLY COMMITTEE ON CRIMINAL JUSTICE & PUBLIC SAFETY

FROM: Jim Palmer, Executive Director
Wisconsin Professional Police Association

RE: Support of 2021 Assembly Bill 329 (no-knock search warrant reporting)
Support of 2021 Assembly Bill 330 (school resource officer training & standards)
Support of 2021 Assembly Bill 331 (pre-employment psychological testing)
Support of 2021 Assembly Bill 332 (annual crisis management training)
Support of 2021 Assembly Bill 333 (crisis program enhancement grants)
Support of 2021 Assembly Bill 334 (post-critical incident drug testing)
Support of 2021 Assembly Bill 335 (grants for body-worn cameras)

Representing over 10,000 members from more than 300 local association affiliates, the Wisconsin Professional Police Association (WPPA) is the state's largest law enforcement group. Our mission is to protect and promote public safety, as well as the interests of the dedicated men and women that serve to provide it. In that vein, we offer this memorandum to express our ardent **SUPPORT** of the above-referenced bills before this committee today.

Since it was first convened last year, the Assembly Speaker's Task Force on Racial Disparities Subcommittee on Law Enforcement Policies and Standards conducted a substantive exploration of ways to strengthen the relationship between law enforcement and the communities it serves. This endeavor marked the first time that advocates for communities of color, faith-based organizations, law enforcement, and lawmakers from both parties all came together to discuss how to evolve policing in Wisconsin. I was honored to serve on that body, and I can personally attest to the invaluable exchange of information, ideas and perspectives that the Task Force served to facilitate.

During the course of the Subcommittee's discussions, the members reached consensus on a series of recommendations that fall within four general categories: (1) use of force by law enforcement; (2) law enforcement oversight and accountability; (3) officer training and standards; and (4) community engagement. Those recommendations are highlighted in an April 21, 2021 public report summarizing the Subcommittee's proceedings. Each of the bills before the Assembly Committee on Criminal Justice and Public Safety today are among those recommendations.

In support of the specific Task Force legislation before this committee, we would offer the following commentary:

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- **Assembly Bill 329** (no-knock search warrant reporting): In general, law enforcement in Wisconsin believes the use of no-knock warrants is limited, but that they effectively safeguard both officers and the public when the facts of a particular case support their necessity. Conversely, critics of no-knock warrants assert that they are overused, abused, and unnecessary.

In Wisconsin, no cumulative data exists relative to the use of no-knock warrants. As such, the WPPA supports AB 329 to require the Wisconsin Department of Justice to collect data on the use of no-knock search warrants from all state and local law enforcement agencies. In our view, this data will provide policymakers with a better gauge as to whether statutory changes regarding the use of no-knock warrants are needed.

- **Assembly Bill 330** (school resource officer training & standards): Currently, no specific training requirements or standards exist for school resource officers in Wisconsin. While the Wisconsin Department of Justice Office of School Safety offers guidance to school districts in developing SRO programs, the WPPA supports AB 330 to establish uniform minimum standards governing the training and education of school resource officers throughout the state. Such standards would ensure greater uniformity, promote best practices, and help enable the Office of School Safety within the Wisconsin Department of Justice to provide training resources to school resource officers and the school districts that utilize them. Additionally, maintaining consistent training and certification standards would also help promote positive outcomes and reduce legal liability.
- **Assembly Bill 331** (pre-employment psychological testing): It appears that numerous law enforcement agencies in Wisconsin already require individuals pursuing employment as law enforcement officers to undergo psychological testing as a step in the application or screening process. While we recognize legitimate concerns that this measure will represent an unfunded mandate, the WPPA nonetheless supports AB 331. Ensuring the psychological fitness of individuals pursuing employment as law enforcement officers in this state effectively serves the interests of both public safety and officer safety. AB 331 is very similar to legislation introduced during the 2007 and 2009 legislation sessions by Senator Dave Hansen and Representative Ann Hraychuck.
- **Assembly Bill 332** (annual crisis management training): Crisis management training has continued to become increasingly prevalent throughout Wisconsin in recent years. In light of the increasing number of calls for service involving mental health issues, we support AB 332 to establish a uniform statewide recertification training requirement.
- **Assembly Bill 333** (crisis program enhancement grants): Crisis response teams that include mental health professionals with experience in working in a clinical mental health facility are currently used by many counties to respond and provide services to individuals experiencing crisis. The WPPA supports AB 333 to increase the availability and accessibility of grant funding for local governments to establish and enhance collaborative programs between law

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enforcement agencies and behavioral health programs to for responding to mental health crises and other similar calls for service. In our estimation, supporting such innovations in crisis intervention alternatives will lead to better outcomes and the development of meaningful best practices that can guide such collaborations as they continue to proliferate throughout the state.

- **Assembly Bill 334** (post-critical incident drug testing): It is not uncommon for law enforcement agencies in Wisconsin to have policies to provide for the drug and alcohol testing of officers involved in critical incidents. Law enforcement relies upon having the credibility of the people it serves. As such, the WPPA supports AB 334 to establish a uniform standard for such policies and to require that all law enforcement agencies in the state adopt a post-critical incident alcohol and drug test policy in conformance with that standard.
- **Assembly Bill 335** (grants for body-worn cameras): The WPPA has long-support the proliferation of body-worn camera programs by law enforcement agencies in Wisconsin. According to annual statewide polls commissions by the WPPA, enormous public support also exists for law enforcement's use of body-worn cameras. Not surprisingly, the use of body-worn cameras by law enforcement agencies in Wisconsin has proliferated in recent years. According to a recent report by the Wisconsin Department of Justice, approximately two-thirds of the law enforcement agencies in the state currently utilize the technology to one degree or another. That report also indicated that the costs associated with body-worn camera programs were the most prominent obstacle for agencies that do not currently utilize them. As such, the WPPA supports AB 335 to establish a state grant program to assist law enforcement agencies in implementing body-worn camera programs for patrol officers. While body-worn cameras have limitations, they promote accountability and are vital to any community impacted by a controversial use of force incident.

In enacted, the foregoing measures will serve to increase law enforcement transparency and accountability, enhance the training and qualifications that officers need to meet the demands of their profession, and provide local governments with more resources to better serve the public. We strongly support these measures and urge this committee to approve them as soon as possible.

Thank you in advance for your consideration.



May 27, 2021

To: Chairman Spiros and Members of the Assembly Committee on Criminal Justice and Public Safety

From: Wisconsin Chiefs of Police Association

Re: Support Legislation from Speaker's Task Force Recommendations

Chairman Spiros, thank you for your willingness to hold a hearing on these important bills. We would also like to take a moment to thank Majority Leader Steineke and Representative Stubbs for authoring these bills and helping lead this important discussion with the Speaker's Task Force on Racial Disparities.

The Wisconsin Chiefs of Police Association was honored to have two members of our leadership team serve as members of the task force and actively participate in this important conversation. The wide range of input from citizens throughout Wisconsin helped produce positive legislation and concepts that our organization is here today to advocate in support of.

WCPA is proud to support Assembly Bills 329, 330, 331, 332, 333, 334, and 335, and once again applauds legislators for working to find bipartisan solutions that help improve our communities.

Assembly Bill 329

Reporting the use of no-knock entry search warrants means Wisconsin will be able to better collect data on these incidents, providing further transparency to citizens in our communities. This data on the number and the outcome of no-knock entry search warrants will provide a better picture on the usage and results from these warrants.

Assembly Bill 330

Standardizing minimal training requirements for full time school resource officers is a positive change for our schools and our communities. It is important for an officer to be properly and professionally trained when interacting with children. These changes will make a good program in our schools even better.

Assembly Bill 331

Requiring all agencies to conduct pre-employment psychological evaluations will further ensure our departments are hiring mentally suitable officers. The additional step in the hiring process means our departments will have better officers working to keep our communities safe.

Assembly Bill 332

This legislation requires four hours biennially of additional training for crisis management. Crisis management is a critical skill for officers in departments throughout Wisconsin. Ensuring officers who deal with the public on a day-to-day basis are periodically trained in this important area is positive change for our state.

Assembly Bill 333

Crisis response teams have already demonstrated their value in communities across Wisconsin. This bill would expand this highly successful grant program, allowing for more departments to utilize this as a further tool.

Assembly Bill 334

Critical incidents are the most scrutinized events for law enforcement. This bill would increase transparency to our community members by demonstrating that officers were not impaired during any such event.

Assembly Bill 335

If approved, this legislation will allow more Wisconsin law enforcement departments to buy body worn cameras for their officers. Body worn cameras continue to be a popular form of transparency for the community and officers alike. Body worn cameras help protect all involved – community members and police officers alike.

Closing

The WCPA would like to thank you, committee members and those who served on the Task Force for working together to make good public policy. These proposals will have a positive impact for years to come.

Thank you.



To: Members, Assembly Committee on Criminal Justice and Public Safety
From: Badger State Sheriffs' Association
Wisconsin Sheriffs and Deputy Sheriffs Association
Date: May 27, 2021.
RE: Testimony in support of Assembly Bills 329, 330, 331, 332, 333, 334, 335

Chairman Spiros, Vice-Chairman Horlacher, and members of the committee, thank you for the opportunity to testify today. My name is Nate Dreckman, and I am the Grant County Sheriff as well as the President of the Badger State Sheriffs' Association. Together with the Wisconsin Sheriffs and Deputy Sheriffs Association, our organizations represent all of Wisconsin's 72 Sheriffs and over 1,000 deputies and jail officers.

I had the opportunity to be appointed to the Task Force and on behalf of the county law enforcement community, we are grateful to Representatives Steineke and Stubbs for the opportunity to listen, contribute and find consensus on numerous critical policy items impacting law enforcement and the citizens we serve and protect. Our organizations are committed to finding and supporting policies that increase training, utilize best practices, and promote public safety transparency for all Wisconsin residents.

I want to highlight a few of the bills that the Speaker's Task Force has put forward with our support:

- AB 329 (no-knock warrants): AB 329 requires the Department of Justice to collect information about the use of no-knock warrants and unannounced entries by law enforcement in Wisconsin. This information, which will be reported annually, will help policymakers better understand how no-knock warrants are used in Wisconsin and if any changes need to be made to that process.
- AB 331 (psychological evaluation): Law enforcement is a difficult job that is not only physically taxing, but emotionally and psychologically challenging as well. AB 331 will help ensure that law enforcement officers are of stable mental health when they are hired by requiring prospective officers to have a psychological evaluation. According to DOJ, nearly two-thirds of Wisconsin law enforcement agencies already require a psychological evaluation as a condition of employment. The Legislature has considered this policy in the past; a similar bill in 2009 had widespread legislative support but died at the end of session. Finally, we are working on an amendment with the authors and the Wisconsin Psychological Association to ensure this bill follows best practice and streamlines paperwork.
- AB 335 (body camera grants): While some law enforcement agencies in Wisconsin use body cameras, others are unable to afford them. Body cameras can help protect both citizens and law enforcement officers by documenting critical situations. AB 335 will

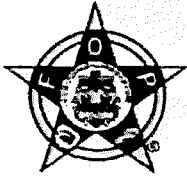
help more law enforcement agencies acquire body cameras by creating a grant program administered by DOJ. The bill requires agencies that receive a DOJ body camera grant to use and maintain the camera technology, ensuring that the grants are not wasted.

I also want to highlight two more bills from that package that deal with crisis management, an important but highly sensitive aspect of our jobs. Law enforcement officers are almost always the first to respond to urgent events where an individual is reported to be a danger to themselves or others. Our officers work hard to deal with these situations appropriately, but sometimes they result in tragic outcomes. Two bills from the package will help improve the outcome of crisis situations:

- AB 332 (crisis training): Wisconsin law enforcement officers are required to complete 24 hours of recertification training every year. AB 332 will make crisis management training a required part of that training. This will help law enforcement respond more effectively to crisis situations and will help officers stay up to date on best practices for dealing with individuals in crisis.
- AB 333 (crisis program grants): AB 333 expands an already-existing grant program that assists local governments in developing certified mental health crisis teams consisting of both trained law enforcement officers and crisis professionals. These teams will be able to respond more effectively to crisis situations involving mental health than law enforcement can do on its own.

Wisconsin's county law enforcement also supports AB 330, which will provide specific standards and training for law enforcement officers working in schools, and AB 334, which will ensure that officers involved in critical incidents are not compromised using alcohol or illegal drugs.

Thank you for the opportunity to testify today and I am happy to answer any questions you might have.



Wisconsin State Lodge *Fraternal Order of Police*



PO Box 206 West Bend, WI 53095

Ryan Windorff
President

Shane Wrucke
Secretary

May 27, 2021

Wisconsin Fraternal Order of Police Testimony in Support of
AB329, AB330, AB331, AB332, AB333, AB334 and AB335
Assembly Committee on Criminal Justice and Public Safety

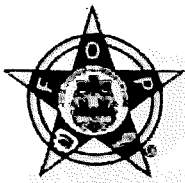
Thank you, Chairman Spiros and fellow committee members for the opportunity to provide testimony in support of Assembly Bills 329, 330, 331, 332, 334, and 335. I also want to extend our appreciation to the Speaker's Task Force on Racial Disparities for their work on these bills.

My name is Ryan Windorff, and I am the President of the Wisconsin State Lodge of the Fraternal Order of Police. With me today is Zak Holschbach, a member of our Green Bay Wisconsin Lodge #2. The Fraternal Order of Police is the world's largest organization of sworn law enforcement officers, with more than 356,000 members in more than 2,100 lodges. The Wisconsin State Lodge is made up of more than 2,300 members in 20 lodges throughout the state. We are committed to improving the working conditions of law enforcement officers and the safety of those we serve through education, legislation, information, community involvement, and employee representation.

The Fraternal Order of Police is working to bring effective, balanced, and fair improvements to policing in America. When citizens don't feel safe around police, we must rebuild community trust. These bills will increase transparency between law enforcement and the public and take needed steps to rebuild that trust.

Assembly Bill 329 would require the Department of Justice to collect information from law enforcement agencies and prepare an annual report to the legislature about the issuance of search warrants and the use of no-knock search warrants. The collection and analysis of data is critical to law enforcement because it guides the decision-making process with respect to deploying police assets, identifying potential problems, and improving public and officer safety. No-knock search warrants are a necessary tool for law enforcement when certain dangerous circumstances arise. As someone who has executed hundreds of search warrants in my career, including no-knock search warrants, I can assure you that the safety of civilians and law enforcement personnel is the top priority when planning these complex operations. Although it is preferable to mitigate threats that would justify a no-knock warrant, sometimes it is unavoidable to meet an immediate law enforcement objective. There has been much discussion about no-knock search warrants after recent high-profile incidents but no collective data about their use and their outcomes. The data collected through the passage of this bill will be instrumental in fostering an honest, fact-based discussion about their prevalence and application.

Assembly Bill 330 would require the Department of Justice's Office of School Safety to develop standards and approve a certified training program for school resource officers and require officers assigned to these roles to complete the training. School resource officers play a unique and necessary role in our criminal justice system. These dedicated professionals are often the first contact with law enforcement that our young people have and



Wisconsin State Lodge *Fraternal Order of Police*



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Ryan Windorff
President

Shane Wrucke
Secretary

can play an integral role in the development of a positive relationship with law enforcement as they move through adolescence into adulthood. School resource officers wear many hats: disciplinarian, protector, coach, mentor, teacher, counselor, and friend. Because of these additional roles outside the normal duties of law enforcement officers, additional training on dealing with our youth and adolescent community members would be an asset to the officers as well as the students, schools, and parents they serve. We do recommend amending the bill to allow departments one year from the date of appointment for school resource officers to obtain this training. Additionally, we would like to see a mechanism to assist departments with paying for the costs associated with this training. Department budgets are already strained, and Department of Justice's Division of Law Enforcement Services recently announced that their budget for specialized training is exhausted for this biennial budget and that it is unlikely that they will be able to provide any grants for specialized training in the next biennial budget.

Assembly Bill 331 would require that an individual must submit to a psychological examination to determine their suitability to perform the duties of an officer prior to their appointment as a full-time officer. Law enforcement is a demanding profession, not just physically but mentally. Law enforcement officers often see the worst that humanity has to offer and carry these first and secondhand traumas around with them for life. We believe it is important to make sure that individuals have the capacity to process these stresses and repeated traumas so that they can complete successful careers of service to their communities and enjoy long and healthy retirements. More than half of the law enforcement agencies in Wisconsin already require pre-appointment psychological examinations and those that do not are largely limited by budgetary concerns. This bill would require departments to pay for the fees associated with the examination. For the reasons previously mentioned, we would like to see a mechanism to assist departments with paying these costs.

Assembly Bill 332 would require law enforcement officers to complete at least four hours of crisis management training on a biennial basis, which would count towards the officer's annual 24-hour recertification training requirement. Training both in statutorily mandated topics and others to advance specialized knowledge, skills, and tactics is part of every law enforcement officer's life. We support adding this training requirement as every day the men and women of law enforcement in Wisconsin deal with individuals in some sort of crisis. Many officers already undergo advanced training in dealing with individuals in crisis and this requirement would ensure that officers are staying up to date on best practices and are knowledgeable about the resources available to them in their communities. Again, for the reasons previously mentioned, we would like to see a mechanism to assist departments with paying for this training.

Assembly Bill 333 would expand current grant funding to also award grants to counties and municipalities to establish and enhance law enforcement and behavioral health services emergency response collaboration programs. Numerous communities in Wisconsin are already implementing collaborative response models with law enforcement and behavioral health providers and seeing great success. These collaborations can provide better services to members of the community, reduce repeat calls requiring a law enforcement response, and keep community members and officers safe. We support the expansion of grant funding that would assist additional communities with implementing these important programs.



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President

Shane Wrucke
Secretary

Assembly Bill 334 would require law enforcement agencies to adopt a written policy regarding drug and alcohol testing following an officer-involved critical incident. The policy must require that a law enforcement officer who is involved in an officer-involved critical incident submit to a drug and alcohol test following the incident. We support this bill that would add to existing laws on the investigation of these incidents to ensure transparency and build trust with the communities we serve. We do recommend an amendment that more clearly defines an “officer who is involved in an officer-involved critical incident”. In many critical incidents, there are many officers on a scene or playing some role in the incident. Testing of several or even dozens of officers, who may have played the smallest role, would be cost prohibitive for many departments. We believe that prescribing testing for an officer whose individual actions or omissions result in or contribute to the death or great bodily harm of an individual, or a law enforcement officer who discharges a firearm at a person, would more accurately convey the intent of this legislation. Additionally, since this would require agencies to adopt a policy that affects conditions of employment for law enforcement officers, collective bargaining agreements currently in place would need to be modified to accommodate these changes. For this reason, we recommend a delayed enactment to allow employers and bargaining units to make the necessary agreements to be in compliance.

Finally, Assembly Bill 335 would require the Department of Justice to award grants to law enforcement agencies to purchase body cameras to use on law enforcement officers whose primary duties are patrolling duties. Many law enforcement agencies throughout Wisconsin are already deploying body cameras and those that do not are largely limited by budgetary concerns. Depending on the specific type of body camera and data retention practices, body cameras can cost departments \$1,200 or more per year per officer. We find that the use of body cameras has a benefit to law enforcement and increases transparency with the communities we serve. We support grant funding that would expand the availability of these valuable tools.

Thank you again for the opportunity to testify in support of these bills and we are happy to answer any questions you may have.



Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

Kimberly Montgomery
Director of Intergovernmental Relations

City of Milwaukee Testimony on Assembly Bills 329, 331, 332, 333, 334 and 335
Assembly Committee on Criminal Justice and Public Safety

May 27, 2021

Thank you, Chairman Spiros and Members of the Assembly Committee on Criminal Justice and Public Safety, for the opportunity to provide testimony on Assembly Bills 329, 331, 332, 333, 334 and 335 this morning. With your permission, I will respond to all of the individual bills consecutively in my testimony below.

The City of Milwaukee SUPPORTS Assembly Bill 329, relating to reporting the use of no-knock entry in the execution of a search warrant. No-knock search warrants have disproportionately impacted communities of color throughout the country. This legislation will help the City of Milwaukee and the State of Wisconsin obtain a better understanding of the approval, use of, and results of no-knock search warrants by local law enforcement agencies. The availability of this information will help the City make more informed and educated decisions about the use of no-knock warrants in the future.

The City of Milwaukee SUPPORTS Assembly Bill 331, relating to requiring prospective law enforcement officers to complete a psychological examination prior to employment as a law enforcement officer. The Milwaukee's Police Department and Fire and Police Commission current procedures already require psychological examinations prior to the hiring of all new law enforcement officers. The City of Milwaukee supports this change in law that would require all law enforcement agencies state-wide adopt this practice as well. The City of Milwaukee also encourages this committee to extend psychological evaluations of not only new officers, but psychological evaluations of officers after critical incidents involving that officer. We are all aware that a person's mindset and mental health can vastly change over time, in particular for law enforcement officers who endure significant pressure associated with their jobs. We believe it would be a positive step forward to have further psychological evaluations of officers who have been involved in critical incidents to ensure a continued safe mindset. We would be happy to work with the Committee to include an amendment with this provision.

The City of Milwaukee SUPPORTS Assembly Bill 332, relating to crisis training for law enforcement officers. The City of Milwaukee Police Department already conducts Crisis Intervention Training with its officers. Additional crisis training for law enforcement officers will aid officers in addressing tense and difficult situations involving individuals with mental health illnesses and those experiencing a mental health crisis. This legislation will help continue our efforts to train Milwaukee Police Officers to respond to complex mental health situations.

The City of Milwaukee SUPPORTS Assembly Bill 333, relating to crisis program grants. The City of Milwaukee already has efforts focused on collaboration between the Milwaukee Police Department and the Trauma-Informed Response Team to respond to crisis interventions. This grant program will allow the City of Milwaukee to continue and potentially expand upon these partnerships. These partnerships allow for safer interactions for both law enforcement officers and the community.

The City of Milwaukee SUPPORTS Assembly Bill 334, relating to drug testing of law enforcement officers involved in certain critical incidents while on duty. The Milwaukee Police Department already requires that police officers involved in critical incidents are required to undergo drug testing through Standard Operation Procedure 770. This bill will expand upon the current policy and the City of Milwaukee supports this legislation to create this policy in law enforcement departments statewide.

The City of Milwaukee SUPPORTS Assembly Bill 335, relating to grants to law enforcement agencies for body cameras. The City of Milwaukee Police Department already has a broad and robust body camera program for its officers. This legislation could help the Milwaukee Police Department further improve upon and expand our existing body camera program as well as assist other law enforcement agencies implement their own body camera programs.

If the Committee has any additional questions or would like any additional information, please contact Jordan Primakow, Intergovernmental Relations Division, at 414-708-6433 or jprima@milwaukee.gov.

**Overarching Concerns, Comments, and Suggestions Regarding Assembly Bill 331 - Relating to:
requiring prospective law enforcement officers to complete a psychological examination prior to
employment as a law enforcement officer and granting rule-making authority**

Written Testimony Authored by:

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Raymond Koziol, Ph.D: Owner, The Psychology Center in Madison, WI

*Presented at the Committee on Criminal Justice and Public Safety's Public Hearing on May 27, 2021 in
Madison, WI.*

Background:

Dr. Koziol and I both have worked very hard over the years, in our respective practices, to support the law enforcement community in Wisconsin through education, assessment, consultation, and other avenues. We fully support progress as it relates to law enforcement in Wisconsin and are excited to see discussions taking place to enhance policing. The following concerns, comments, and suggestions are not intended to be viewed as an obstruction to these discussions and subsequent progress, but rather are intended to help move these conversations forward in a manner in which we can attempt to ensure that the decisions being made in this Bill will serve their intended purpose and move law enforcement in Wisconsin in a positive direction. We believe that some of the language in the latest version of the Bill we have been able to review would result in negative ramifications for law enforcement and the citizens of Wisconsin in general, which is why we want to raise these concerns from our point of view as professionals in the field of Police and Public Safety Psychology.

Overarching Concerns, Comments, and Suggestions

1. Bill 331 is written only requiring evaluations for Full-Time Officers

- a. ~~Sworn officers, be they full or part time, have the same essential job duties. As such, their level of accountability will not be different in the eyes of the law. Will the courts differentiate between part-time, limited term, etc. if officer misconduct occurs?~~
 - i. *Bonsignore v. New York*, 521 F. Supp. 394 (S.D.N.Y. 1981), affirmed 683 F.2d 635, 637 (2nd Cir. 1982)
 - ii. The court decided that, had the agency conducted PPEs, *which was reasonably within their means*, they would have found that Bonsignore was mentally ill and unfit to carry a firearm and awarded the plaintiff damages due to negligent hiring practices. If evaluating prospective full-time employees is "reasonably within their means" would the courts consider evaluating part-time members to be outside of their means? This seems to be a rather large risk to take and could place departments or the State at risk for liability related to negligent hiring.
- b. **Suggested Solution** – Require an evaluation for all sworn positions. Cost implications of this could become a significant hurdle, especially for smaller agencies, and this must be

given consideration. I propose that the State, since they are mandating that these evaluations take place, should have a mechanism for subsidizing them, at least for a period of time after initial implementation of the bill, to help ease the burden for departments with a tax base under a certain threshold.

2. Bill allows LESB to stipulate Administration and Interpretation of PPEs in addition to the Type of Examination to be used.
 - a. Pre-employment psychological evaluations are Medical Evaluations.
 - b. Can only be conducted by doctoral level, licensed professionals with training in Statistics, Psychological Assessment, Psychometrics, Personality and Psychopathology, etc.
 - c. Psychologists who conduct PPE's should be required to have specialized training and continuing education in the field the police psychology/public safety in order to be fully capable of providing a comprehensive effective evaluation.
 - d. You have to meet threshold requirements even to Access most tests:
 - i. To access the MMPI-2-RF for instance:
 1. Test Manual States – “The user should be conversant with relevant studies reported in the professional literature. This includes reviewing and evaluating psychometric data on the reliability and validity of scale scores.”
 2. “To conduct a competent review of the MMPI-2-RF documentation and literature and thus conform to this standard, the user must have graduate-level training in psychological testing and assessment and be familiar with the means by which basic psychometric functioning of test scores – such as reliability, measurement error, the various facets or validity, classification statistics and accuracy analyses, norms, and the derivation of standard scores – are evaluated.
 3. “Training and supervised experience in the administration, scoring, and interpretation of the MMPI-2 or the MMPI-2-RF is also needed.”
 - e. ~~The present proposal places an undue burden upon the LESB, a non-medical body, to specify the Type of Examination and components of the evaluation when members of the organization do not meet the academic criteria and training requirements needed to even access test materials. This would place the LESB in the precarious position of trying to provide rules and oversight for functions it does not possess the training and certification to manage. This is likely to create significant legal liability for the state.~~
 - i. For Instance, a neighboring state currently utilizes a process in which their psychological evaluation process is comprised of the administration of one specific test, a version of the MMPI, at times without a conditional offer of employment being given, and is then interpreted by a mental health provider without conducting an interview with the examinee or review of background information, polygraph data, etc.
 1. This model exposes the State to liability in several ways:
 - a. Administration and interpretation of an MMPI instrument without an interview and review of other available information

is not only inadvisable from a quality of evaluation perspective, it is not in line with how the MMPI instruments are intended to be used in the first place.

- i. Yossef Ben Porath, Ph.D, a member of the IACP's Police Psychological Services Section, co-developer and co-author of the MMPI-2-RF, MMPI-3, and numerous books and articles related to the MMPI family of instruments has stated in a personal email to Dr. Childs that the use of the MMPI in the absence of an interview and review of other relevant information would not be a valid means of evaluating law enforcement personnel for hiring decisions.

1. Dr. Ben-Porath stated that **this is not in line with IACP Guidelines nor is it in line with his own recommendations for evaluating public safety personnel** presented in his book, *Assessing Police and Other Public Safety Personnel Using the MMPI-2-RF: A practical guide (2018)*.

- a. David Corey, PhD, ABPP, co-author of the above book, has also stated in a personal email to Dr. Childs that **"-the test (in this case, the MMPI-3) is intended to be used, in personnel screening contexts, in combination with background and job information, the clinical interview, findings from other tests, and other relevant information. This is particularly important because the test alone does not provide**

potentially mitigating information (i.e., "potential strengths"). In addition, as we indicate in our discussion of underreporting, judgments about the reliability of a test taker's responses requires consideration of non-test data (background and interview, in particular."

- b. Dr. Corey continues, **"-a competent psychological evaluation must rely on the standard data sources: personal history, psychological testing (abnormal and normal-range trait measurements), and interview."**

- b. Not only is this state using the only test being administered in a manner in which the co-author himself does not recommend, but they are also administering the test, at times, without the examinee being in receipt of a conditional offer of employment, which violates the ADA.
 - i. The ADA clearly defines the sequence of the hiring process and mandates that a medical examination may not be conducted during a hiring process until after a bona fide conditional offer of employment has been given.
- 2. This model is mentioned as a way to illustrate some of the pitfalls associated with creating a process that is not in line with national guidelines or best practices. The state utilizing this process is doing so from a very precarious position and is accepting a tremendous amount of risk in doing so.
 - a. Incorporating mental health providers in the creation of the pre-employment psychological evaluation rules should help Wisconsin avoid these types of obvious liability factors.
 - ii. **Suggested Solution** - The language could read that the LESB, *in conjunction with the Wisconsin Psychology Board*, shall promulgate rules to govern the psychological evaluation process to ensure administration and interpretation of such evaluations are consistent with national guidelines and best practices within the field of Police and Public Safety Psychology.
 - 1. It is proposed that the language mirrors the IACP PPSS Guidelines. In essence, any test used for law enforcement selection should be valid and reliable with research supporting its use for this purpose.
 - 2. This not only ensures that appropriate tests are utilized in the evaluation process, but it would also ensure that practitioners conducting these evaluations possess a baseline level of competence and prevent the utilization of testing instruments that have not been found to be valid and reliable in the assessment of law enforcement personnel.

3. The Bill gives the LESB access to the Overall Results as well as the Record/Report itself

- a. Who is the Client?
 - i. Considerable precedent exists which suggests that the hiring department who initiates the evaluation and pays the bill is the evaluator's client. As such they should own the report. These reports are medical evaluations and can contain highly confidential medical and personal information which is likely best safeguarded by the agency itself.
 - ii. If the hiring department is the client, then why does the LESB require a copy of the report itself?
 - 1. **Suggested Solution** - If the role of the LESB is to govern the process to ensure compliance, then I propose that the LESB create a form (or preferably a few boxes to check on a webpage) which the department or the provider completes to certify that the individual listed on the

form has completed an evaluation on such and such date and time for the specific hiring department.

- a. That form then is the property of the LESB so that they can keep track of all of the evaluations taking place and can certify that one has been completed for a specific individual prior to being hired.
 - b. This would protect the LESB from the administrative and legal challenges associated with the management of medical records as well as litigation brought on by prospective law enforcement candidates related to HIPAA.
- iii. If the LESB must have a copy of the actual report, then they will be in custody of a significant number of medical documents that must be maintained to at least HIPAA standards (HIPAA being the minimum-security requirement, not the ceiling).
1. Does the board want to take on the responsibility of ownership over that many medical records?
 2. This is not how most states typically do this so it would be an uncommon approach.
 - a. My consent forms essentially state that the candidate understands that the report will contain HIPAA information, but due to the currently accepted best practice for pre-employment evaluations, they will not be allowed to access a copy of this report (even though it is a HIPAA document).
 - b. Candidates are informed that the report will only go to the hiring agency and should be maintained in a separate health file (under HIPAA security) and not kept with their personnel file.
 - c. Candidates provide their signature consenting that the report created is a HIPAA document and therefore is health information. However, they are willing accept that they will not have access to it personally.

b. The Bill later allows for Records/Reports to be shared with other departments.

i. If these are, in fact, medical records, how will the LESB share health information without violating HIPAA?

1. It is one thing for a candidate to allow a hiring agency to view their medical information, but another thing entirely to grant any potential agency in the future access to their record.
2. HIPAA requires specific releases of information to specific parties for a specific, limited time frame.
 - a. The Candidate does not have the capacity to provide a valid Release Of Information to any department at any time to review their private medical information.
 - b. Over time, this information could also no longer be a valid assessment of their present functioning. Hiring decisions could

be made on invalid data which could create considerable legal liability.

- ii. **Suggested Solution** - Best practice, from a legal perspective, is that reports should not be shared as the psychological evaluation is an individualized evaluation of one candidate, at one point in time, for one specific agency.
 - 1. As a professional, I am not comfortable with a document bearing my signature being passed around as the basis for a psychological determination for a hiring agency I may not know anything about or be familiar with at all.
 - 2. Current practice in the field also recognizes that a candidate may not be the right fit for one agency while they may work quite well at another agency.
 - a. A psychological evaluation suitability determination is not, nor should it be, a one size fits all statement.
 - b. It is an assessment of how well the essential job duties for a particular agency position in that community are being addressed within the context of the relative strengths and weaknesses of a Candidate at a given time.
- 4. The bill still states essentially that anyone who fails a psychological evaluation cannot be hired as a law enforcement officer "on a full-time basis."
 - a. There is no time frame specified so can they never be hired into a full-time position?
 - b. This seems legally unwise.
 - i. A great deal of growth and maturity can happen in a person's life in, for instance, a year's time.
 - 1. I have had candidates not pass at one point in time and then pass at another point in the future due to having gained more experience, maturity, etc.
 - ii. As noted above a Candidate may not be seen as suitable to manage the demands of working in one position in one community, but could be considered suitable to work in another position in another agency
 - 1. For instance – a 19-year-old academy graduate with an associate's degree may not possess the social judgement and assertiveness to work as a patrol officer. However, the same candidate could do a fine job working as a jail deputy for several years until which time he or she could further develop the social skills necessary to function as a patrol officer or road deputy.
 - c. "On a full-time basis" language is difficult
 - i. If I find a candidate is not psychologically qualified for a specific full-time position, does that mean another department (or even the same department) could hire them as a part-time officer? I would have an issue with that based on my previously-stated opinion that sworn is sworn regardless of how many hours are being worked. If the job duties are the same, the number of hours worked should not factor into it.

- d. **Proposed Solution** – If a candidate is deemed to be psychologically unqualified for a sworn law enforcement position with the prospective hiring agency, they cannot be hired as a sworn law enforcement officer or re-evaluated for the position by that same agency within 12 months of the initial evaluation. Both the Candidate and the department should maintain the right to do their due diligence to determine if a Candidate is a good fit for a position in a given community regardless of being found to be unfit in a prior evaluation.
- i. This allows for the evaluation to have appropriate weight for the prospective employer, for whom the individualized evaluation is being conducted, but does not unfairly preclude the candidate, whom may be an excellent fit for another agency, from obtaining law enforcement employment elsewhere.
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Wisconsin Psychological Association

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MEMORANDUM

FROM: JONATHAN GRAPENGIESER, PSYD

RE: Assembly Bill 331 – Pre-employment Psychological Examination for Law Enforcement

DATE: 05/26/2021

I would like to provide testimony on behalf of the Wisconsin Psychological Association (WPA) regarding AB331. Individuals working directly on development of this bill from Representative Steineke's office graciously allowed representatives from WPA to provide input and feedback into the process as it pertains heavily to the practice of psychology in our state. We were very pleased with their openness and willingness to craft a bill that will allow for provision of quality psychological services in the law enforcement pre-employment process while also remaining consistent with national guidelines and best practice. The legislators eagerly sought information from the psychological community in their efforts to put forth a sound and comprehensive bill. WPA is pleased with the proposed revisions to the bill and would like to offer its support on AB331.

Sincerely,

Jonathan Grapengieser, Psy.D.

President

Wisconsin Psychological Association (WPA)



Wisconsin Troopers' Association

Executive Director – Matt Johnson

Glen Jones – President

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To: Chairman Spiros and Members of the Assembly Committee on Criminal Justice and Public Safety

From: Wisconsin Troopers' Association (WTA)

Date: May 27, 2021

RE: **Testimony in support of AB 329, 330, 331, 332, 333, 334, 335**

Chairman Spiros and committee members, thank you for the opportunity to submit testimony in support of Assembly Bills 329, 330, 331, 332, 333, 334, and 335.

The Wisconsin Troopers' Association (WTA) is comprised of more than 500 current and former troopers and inspectors that have a shared commitment and vision to make Wisconsin safer for its citizens and tourists.

Members of the Wisconsin Troopers' Association (WTA) support the efforts of the Subcommittee on Law Enforcement Policies and Standards - part of the Speaker's Task Force on Racial Disparities - for putting together a list of proposed bills that will help create more transparency, accountability, and further public education.

Assembly bills 329-335 are a good collaboration between law enforcement and the community.

We appreciate all the work the task force members did to come together to discuss ways to help evolve policing in Wisconsin. After several months of meetings and discussions we believe the legislation that resulted is a proactive step in the right direction.

The Task Force co-chairs: Representative Steineke (R-Kaukauna) and Representative Stubbs (D-Madison) deserve special recognition for their leadership and work with task force members to find a consensus on legislation that would be meaningful and protect all of Wisconsin's citizens.

The WTA supports these proposed bills and hope this collaborative work continues.

Thank you again for the opportunity to submit testimony in support of these bills and should you have any questions feel free to reach out to us.