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Testimony of Timothy S. Bourgeois before the
Presidential Commission on Law Enforcement and Administration

Good afternoon, Chair Keith, Vice Chair Sullivan, and members of the Commission. It is indeed my honor and privilege to testify before this Commission as it goes about its important work.

My name is Tim Bourgeois. I have served as the executive director of the Michigan Commission on Law Enforcement Standards (MCOLES) for the past two- and one-half years. Prior to my appointment, I served in a local law enforcement agency for 41 years, leading it for just under my final 15 years there. During that time, I was incredibly fortunate to have had a wide variety of experiences, educational opportunities, and appointments both inside and outside of the department, including as a gubernatorially appointed MCOLES commissioner. I say that not in an effort to impress, but rather to help you understand the influences that shape my perspectives regarding the practicalities of professional law enforcement today and how it is impacted by other parts of the criminal justice system, behavioral health, substance abuse, resource availability and inequities in our society.

Our specific focus today is on models for accreditation and standards in law enforcement. These two topics are the fundamental pillars to enhancing the law enforcement profession. If you will indulge me, I would like to address them in reverse order.

MCOLES, like many state-level police officer standards and training (POST) organizations in our country, is in the law enforcement standards business. One of MCOLES's primary duties is to research, develop, implement, and enforce statewide mandatory standards for the selection, employment, training, licensing, retention, and revocation of law enforcement officers. There are over 19,000 licensed officers and 584 law enforcement agencies in Michigan.

Those standards are developed through a rigorous process that includes a job task analysis, foundational research of peer reviewed literature, examining best practices from around the country, the empanelment of subject matter experts and a legal review to produce a standard that is appropriate, effective in its intended purpose, valid and legally defensible. The importance of such standards cannot be overstated. Law enforcement, like any other profession, must require its practitioners to hold each other mutually accountable for a high level of professionalism, ethical conduct, and continual self-improvement.

I belong to the [International Association of Directors of Law Enforcement Standards and Training](#) (IADLEST), a professional organization comprised of POST directors, training directors and associated professionals from all 50 states and 13 other countries. Upon joining, I immediately noticed each state's POST, or the law enforcement regulatory entity in each state,

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Mr. Michael Wendling • Mr. David Tanay representing Attorney General Dana Nessel • Officer Linda Broden • Chief Karianne Thomas
Mr. Arthur Weiss • Chief James Craig represented by Asst. Chief James White • Mr. Tom Adams • Officer Michael Kunath
Mr. Kenneth Grabowski • Mr. Michael Sauger • Sheriff Matthew Saxton • Sheriff Gregory Zyburt • Mr. Duane Smith

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has a different level of statutory authority and funding regarding professional regulation, to include basic (academy) and advanced (in-service) training requirements.

My first recommendation for your consideration is to support the development of nationwide minimum standards for the selection, employment, training, licensing, retention, and revocation of law enforcement officers and incentivize their adoption by the states. The public has the right to expect the same fundamental level of professional knowledge, expertise, and conduct from law enforcement officers regardless of where they are in our country. I would differentiate this idea from a model for the national control of state and local law enforcement. Such standards must allow for the individuality and uniqueness of the various states but must provide the basic framework and a minimum foundation. An organization such as IADLEST would perhaps be ideally suited to this task.

Key in this discussion is funding. Policy is operationalized only through the provision of the necessary resources. Funding for law enforcement standards and training was already insufficient and has now been made exponentially worse due to the novel coronavirus COVID-19 pandemic. Michigan is predicting a \$6 billion shortfall in revenue over the next year and a half and other states are similarly situated. The resources of the federal government are necessary to incentivize the adoption of such standards.

A few key areas for consideration in national standards should include, but not be limited to:

- **Screening standards** for selecting applicants for law enforcement positions including education, medical and non-medical standards, psychological fitness suitability, physical preparedness, and character fitness.
 - Perhaps one of the most important screening tools is a comprehensive background investigation conducted by a specifically trained background investigator.
- **Allow full access to all state and federal criminal justice information systems and data bases by state POSTs and/or those state agencies responsible for the licensing or certification of law enforcement officers to screen applicants.** This will require modifying the verbiage of **§28 CFR 20.3(b)**. I believe the public would be extremely concerned to know that currently, not all candidates for law enforcement academies, particularly pre-service (not employed) candidates, are fully screened against all data bases. This is because POSTs are not recognized as criminal justice agencies and the inquiry is treated as a licensing inquiry, not the screening of a law enforcement officer. Licensing for law enforcement is different than licensing for other professions and needs to be treated as such. The tremendous power entrusted to officers and the high-risk knowledge, skills and abilities required to do the job correctly demands nothing less. Ensuring individuals who are prohibited from possessing firearms and ammunition, as well as those who do not meet the legal or character standards for employment are not allowed into law enforcement training academies should be the first critical screening step.
- **Standards for a national decertification/license revocation index with mandatory reporting**, including voluntary relinquishment of a license in lieu of other sanctions. IADLEST has run the [National Decertification Index \(NDI\)](#) for over 20 years, with 28,420 actions voluntarily reported by 45 POST or law enforcement regulatory agencies. All that is lacking is a mandate for its use. In addition to requiring thorough background investigations, the existence of such an index would help ensure problem officers do not simply move to other states. I would also encourage the Commission to consider Michigan's [PA 128 of 2017, the Law Enforcement Separation of Service Record Act](#). In addition to mandated separation reports submitted to MCOLES, this Act requires an agency to create a record that clearly states the reason(s) and circumstances surrounding a licensed officer's separation from employment. It also requires an agency who wishes to re-hire a separated officer to attest receipt of those records when seeking to have their law enforcement license reactivated. The purpose

of the Act was to eliminate the possibility of a separation for misconduct being kept secret through a non-disclosure agreement.

- **Minimum standards for continuing professional education** for law enforcement officers to retain their certification/license. Such standards vary widely across the states, ranging from no in-service training requirement to several hours per year. The constantly changing knowledge, skills, and abilities (KNAs) a law enforcement officer must possess is truly expansive. That those KNAs must be used to make split second, life or death decisions, often under incredibly stressful circumstances, make this even more important. To expect that performance without regular, effective training is illogical at best and a recipe for disaster at worst. I know of no other profession that would expect a period of initial training and whatever ad-hoc updates came along would suffice for a 10, 20 or 30+ year career. Once again, funding is a key. Training does not always have to be conducted in day-long, sessions requiring positions to be backfilled. I am reminded of retired Captain Gordon Graham of the California Highway Patrol, a noted expert in police training and risk management. His “Every Day Is A Training Day” mantra promoted daily 10-15-minute presentations suitable for rollcall (or perhaps in today’s environment, electronically delivered) that helps keep key, high-risk policy and skills constantly refreshed and renewed.
- **Standards for physical readiness**, as well as medical and emotional health care for officers. Law enforcement is a physically and emotionally demanding profession. Assistance in maintaining physical readiness makes sense. In addition to the toxicity officers often face, the need to deliver 24/7/365 service in a world that traditionally works 8-5 means adequate sleep for officers can easily become an issue. Lack of sleep has been demonstrated to impair cognitive performance in addition to be detrimental to good health. A rested, physically fit officer is better equipped to make critical decisions. Fitness contributes to better physical and emotional health. It is well documented that law enforcement officers have higher rates of suicide and divorce and are more susceptible to alcohol and substance abuse than the general population. As a group, they also have a shorter life expectancy. In addition to the ethical obligation we have to care for those who protect and serve us, it also makes sense from an operational and financial perspective.
- **Standards for recruiting and community engagement.** Ideally, law enforcement officers come from the community they serve. The various strategies around community policing and procedural justice necessitate a close and genuine trust factor of the community in the police and the police in the community. Due to the socio-economic challenges people of color disproportionately have as a group, a lack of resources and opportunity to obtain the education and training necessary to enter the profession can inadvertently exclude the very groups law enforcement seeks to recruit. Standards and financial resources that would enable universal employment of recruits while training would be of great assistance in this regard.

My second recommendation for your consideration is to support the development of nationwide basic standards for law enforcement agencies, POST agencies and training academies and incentivize their adoption.

Well run accreditation programs are a proven way to ensure policies and practices are practical, effective, and up to date. In short, it helps ensure best practices are in use. They improve service and reduce liability.

IADLEST has an excellent voluntary [accreditation program for POSTs and law enforcement training academies](#) that I would commend for your study. In my experience, the biggest roadblock to greater participation in this program is simply the lack of the financial and staff time necessary to devote to this process.

There are also several national and state-level law enforcement agency accreditation programs currently in existence. I will take the opportunity to highlight one such state level program with which I am familiar, the Michigan Law Enforcement Accreditation Program (MLEAP). Following a presentation at the International Association of Chiefs of Police's (IACP) State Associations of Chiefs of Police (SACOP) work group, Michigan Association of Chiefs of Police (MACP) executive director Robert Stevenson brought the idea of an affordable, effective state level accreditation agency accreditation process to Michigan. The concept was enthusiastically supported by the MACP executive board. The New Jersey Association of Chiefs of Police generously shared their time, expertise, and experience with their own highly successful program. Once accreditation standards were approved by the MACP Executive Board, MLEAP was created in 2016 to carry out the implementation.

To date, 23 Michigan law enforcement agencies have been accredited and 5 more are pending final approval in September. An additional 32 agencies are in the process. Significantly, the Michigan Sheriff's Association (MSA) has recently joined this effort to offer accreditation to its 83 sheriff's offices. There are currently 108 standards and on average it takes an agency 1.5 years to complete the process. MLEAC offers a professional and reasonably attainable process of accreditation for agencies of all sizes. MLEAC is a member of AccredNet, a national federation of state law enforcement accreditation entities that provides guidance, advocacy, and support for its members.

Once again, the primary barrier to agencies who want to seek accreditation is insufficient resources to commit the staff time and expense necessary to complete the process. As with many of the other topics I have discussed, the lack of resources creates an inability to provide the change these professionals seek, and the public expects. Incentivizing this process may be the best way to take advantage of the efforts which have already been invested.

Closing

Members of the Commission, I sincerely thank you for your hard work to improve our profession. As you know, professional law enforcement is critical to the operation of our society as we strive to live up to the ideals expressed in our Constitution and allow each citizen the opportunity to fully exercise their rights. The hallmark of professionalism is the continuous pursuit of improvement to achieve excellence.

While there are those who seek to reduce funding for law enforcement, I believe exactly to opposite is required. That is not to suggest there are other programs services and entities worthy of funding. However, law enforcement cannot make the changes it seeks, and the public demands without adequate resources. Those resources must also come with strict accountability for their effective use.

Lastly, I believe there must be a realistic expectation of what law enforcement can and cannot do. While it plays a vital role in society, law enforcement by itself cannot alone redress all societal inequities. To adequately address those issues, many more need to be at the table. —