



Janet T. Mills
Governor

Michael J. Sauschuck
Commissioner

STATE OF MAINE
Department of Public Safety
MAINE STATE POLICE

45 Commerce Drive - Suite 1
Augusta, Maine 04333



COL. Bill G. Ross
Chief

LTC. Brian P. Scott
Deputy Chief

Testimony of Lieutenant Jason Richards
Maine State Police

Opposed to LD 1056

An Act Restricting State Assistance in Federal Collection of Personal Electronic Data and Metadata
Sponsored by Senator Brakey
Joint Standing Committee on Judiciary

Opposed to LD 1576

An Act to Update the Laws Governing Electronic Device Information as Evidence
Sponsored by Representative O'NEIL
Joint Standing Committee on Judiciary

Senator Carney, Representative Moonen and other distinguished members of the joint standing committee on Judiciary. As you may recall, my name is Lieutenant Jason Richards. I oversee the Maine State Police Computer Crimes Unit and I am the commander of the Northern New England Internet Crimes Against Children Task Force. I am here representing the Maine State Police and the Department of Public Safety and to provide further information on the negative effects that LD1056 and LD1576 would have on children and other victims of crime in Maine.

In reference to the four questions posed by the committee;

1. What is electronic communication data vs. metadata?
2. How can Maine law enforcement access electronic communication data vs. metadata under current state and federal law?
3. How does the third-party doctrine impact law enforcement access to data and metadata?
4. What implementation issues for law enforcement, if any, do you anticipate from LD 1056 or LD 1576—e.g., expense? other difficulties?

I believe you will have information presented from the Maine Office of the Attorney General and/or someone from the Maine Prosecutors Association who can better explain questions 1 through 3. I would certainly be happy to address those questions specific to case investigation within my unit or Major Crimes Investigation in general but for now, let me expand upon question 4 and the issues we would have if these bills were implemented.

Child exploitation has seen an unfortunate and dramatic increase in the past six years. The task force has seen a 344% increase in internet related child exploitation tips during that time. We need the ability to triage these tips. Many of those cross state lines and involve conduct that is better prosecuted at the federal level. These bills would take away our ability to triage and prioritize cases and eliminate our ability to work with our federal partners. Both of which would be detrimental to the victims of these heinous crimes.

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I have spoken with all 5 ICAC's in California and they confirmed everything I am warning you about is now their daily lives. They constantly feel like they are not reaching nearly enough victims and instead spend the majority of their time trying to develop cases that will never go anywhere.

Our triage system is admittedly imperfect. We know there are hundreds more victims in our state that we are missing. We do the best we can to triage over 1800 tips per year to find the most egregious offenders.

We already adhere to strict legal procedure with prosecutorial and judicial oversight. If we want content or information regarding the "substance, purpose or meaning of the communication from an electronic communication service provider, such as Google, Facebook, Instagram, or Verizon, we must get a search warrant. We can only obtain subscriber information once we persuade a prosecutor that the information sought pertains to an investigation. These bills would alter all of that in favor of a broad, vague, poorly defined system that would not in reality protect anyone but the criminals that would hide behind it and create a safe haven for these criminals to prey on Maine's most vulnerable individuals. Please do not allow Maine to become that safe haven for cyber criminals.

Every investigation starts with notification by some form to the police and the police do not immediately have probable cause of a crime and therefore cannot obtain search warrants. Take a homicide where we need to find out who the victim was communicating with. That in and of itself does not provide probable cause for a search warrant to get call detail records. Without the ability to subpoena subscriber information or call detail records we lose our most critical starting point.

Please do not lose sight of how these cases involve real people, real children, real live horrific and violent personal attacks. These cases rely on the need for the subpoena process and federal cooperation to be identified and properly investigated. We find and protect real children and just in the last year we have had Maine cases that touched most New England States, New Jersey, North Carolina, Maryland, Florida, Texas multiple times, California, The United Kingdom, Russia, The Ivory Coast, Nigeria and Columbia.

For example, last spring we were able to quickly locate a young girl who had been communicating with a boy in Florida about her experience having suffered a sexual assault and was considering suicide. Without law enforcement being able to quickly intervene that young lady might not be with us today.

Maine State Police Sgt. Bagley collaborating with agents from Homeland Security Investigations spent a year investigating a man who was found with images of local Maine children and discovered 12 different victims from 3 different states including Maine he was using to produce Child Sexual Assault Material. He was indicted on 10 counts of child pornography including Possession, Production, Dissemination, Transportation, Solicitation and Sex Offender Registry Violations. These victims would never have been identified under the legal constraints mandated by LDs 1056 and 1576.

Maine State Police Computer Crimes Unit Det. Armstrong executed a Search warrant in Lewiston finding thousands of sexually explicit files. An image of an infant female being sexually assaulted appeared different

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than most of the other files. The mother who lives in Texas identified the female as her daughter. This victim might never have been identified under the legal constraints mandated by LDs 1056 and 1576. This case is pending prosecution at this time.

Maine State Police Computer Crimes Unit Det. Northrup collaborating with federal agents from Homeland Security, executed a search warrant in Parsonsfield. This case was a child exploitation tip that involved CSAM videos and pictures of very young girls and some toddlers, being raped by adult men. During the search warrant, forensics came across videos and chats mixed in with the exchange of CSAM where two teenage males were discussing shooting up Sacopee Valley High School. This was the second school shooting threat in less than two weeks during 2023 that CCU was able to help prevent after coming across material in ICAC investigations.

Also in 2023, a Lieutenant from the Maryland State Police was arrested by HSI- Florida for various Child Pornography charges. Starting with an investigation in Biddeford Maine, Maine State Police Computer Crimes Unit Task Force Det. Stepnik worked with HSI and found his suspect was trading CSAM with the Maryland man. The investigation revealed the Maryland man was making frequent trips to Columbia where he was trafficking young children to produce CSAM and then sell it through the peer-to-peer networks. The suspect in this case would never have been identified under the legal constraints mandated by LDs 1056 and 1576.

Lastly in the spring of 2023, CCU received a 96-page priority 1 (child in imminent danger) cyber tip. Facebook reported a suspect was catfishing numerous child victims across the country and threatening to come kidnap them. The suspect (a former Virginia State Trooper) chose a victim in California and upon arriving at that residence ended up killing the victim's entire family, setting the house on fire and kidnapping the victim until he was ultimately located by police where he engaged the police officers with deadly force and was shot and killed by police. For the Maine ICAC, the suspect had been requesting CSAM from "your_local_hoe7598" who appeared to be a 13-year-old girl named Emily. Sgt. Bagley was able to quickly see that the suspect was trading CSAM with this person and linked this to a Cybertip being actively investigated by Det. Bosco. Due to Det. Bosco's preliminary work up, he was able to locate the residence and determine the 13-year-old girl was actually the teenage son of an adult man with prior convictions for hands on sexual offenses against children living in Winthrop. We have no way of knowing why the man chose the California victim out of all of the states he had been soliciting children from. What we do know is had he chosen to come to Maine, we would have likely been able to locate our victim and intervene in time. Our investigators wouldn't have been able to assist with this investigation under the legal constraints mandated by LDs 1056 and 1576.

Our Detectives and affiliates handled 257 investigations during just the first 6 months of 2023, and I will not read every case to you but understand these are but a few examples of cases we investigate frequently. These are real children suffering real abuse on a national and international platform.

Again, we already adhere to strict legal procedures with prosecutorial and judicial oversight. I urge you to strongly consider the legal process and judicial oversight that is already in place, that has been legislated and

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litigated extensively over the past decade or more resulting in established definitions, state statute, federal statute, case law and procedures.

Also, please understand, this legislation would NOT do anything to further protect individuals' civil liberties, it would however eliminate our ability to save these victims due to limiting our subpoena powers right at the very start of the investigative process and an incredibly small fraction of these cases would have ever come to light and the victims and other victims would still be suffering today. All while the attackers hide in a safe haven constructed by the laws being contemplated in these two bills.

It is for these reasons that we remain opposed to LD 1576 and LD 1056.