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Testimony of Lt. Col. Brian P. Scott
131st First Regular Session

NEITHER FOR NOR AGAINST LD 1613 AN ACT TO PROHIBIT PROFILING AND TO STRENGTHEN CIVIL RIGHTS IN MAINE

Senator Carney, Representative Moonen and members of the Joint Standing Committee on Judiciary, my name is Lt Col Brian P Scott, and I am here today to testify on behalf of the Maine State Police and the Department of Public Safety NFNA LD 1613 An Act to Prohibit Profiling and to Strengthen Civil Rights in Maine

We take no position on Parts A and C of this bill Although we 100% agree that profiling should not be tolerated in Maine, Part B leaves us with some concerns as currently written The "Profiling" definition states

"Profiling" means relying, to any degree, on actual or perceived race, gender, ethnicity, religion, socioeconomic status, ancestry, sexual orientation, gender identity, color, physical or mental disability or national origin in targeting an individual for routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except in the event the officer or agency is relying on trustworthy information that is relevant to the locality and time frame and that links a person with a particular characteristic described in this section to a specific criminal incident or scheme

First, we question if this definition and prohibition is even required to be added to statute in this manner, as the Maine Human Rights Act and the Maine Civil Rights Act already provide similar protections Also, there is already a requirement that every law enforcement agency in Maine has a policy that prohibits profiling A violation of this policy subjects the officer to sanctions against their certification up to and including revocation of their law enforcement certification I would also like to point out that this proposed definition of profiling includes two new categories, "Ethnicity and Socioeconomic Status," that are not currently in either

the Human Rights or Civil Rights acts Differing language could be confusing and create conflict between these Acts and this proposed statute

If the Committee feels it is necessary to have a definition and prohibition, we feel that the definition below would be clearer and more workable from a law enforcement perspective

"Profiling" means relying, to any degree, solely on actual or perceived race, gender, ethnicity, religion, socioeconomic status, ancestry, sexual orientation, gender identity, color, physical or mental disability or national origin in targeting an individual for routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except in the event the officer or agency is relying on trustworthy relevant information that in the totality of the circumstances that is relevant to the locality and time frame and that links a person or persons with a particular characteristic described in this section to a specific criminal incident, or scheme, or suspicious activity

We would also ask the Committee to determine the appropriate remedy in the unlikely event it was determined that an officer or agency violated the prohibition Would the officer's certification be in jeopardy? Would the Exclusionary Rule and suppression in a criminal case be sought? Would the officer and agency be subject to a civil lawsuit for a violation? Possibly all three? Other remedies?

For these reasons, we urge the Committee to remove Part B, if you decide to move forward with the bill Or alternatively we respectfully ask you to consider the language change recommended above.

On behalf of the Department of Public Safety and the Maine State Police, I thank you for your time and I would be happy to try and answer any questions that you might have.