



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 Michael Zabarsky
Maine State Police

Opposed to LD 1771

An Act Regarding Speedy Trials
Sponsored by Representative Moonen of Portland
Joint Standing Committee of Judiciary

Representative Moonen, Senator Carney, and other distinguished members of the Joint Standing Committee of Judiciary, my name is Lieutenant Mike Zabarsky and I am here today to testify on behalf of the Maine State Police Crime Laboratory and the Department of Public Safety in opposition to LD 1771, An Act Regarding Speedy Trials

The easiest way to understand our objection to this bill is to look at homicide cases. Homicide cases can have 10 items of evidence or 100 items of evidence. Although LD 1771 establishes time limits to resolve criminal cases, it does not acknowledge some cases require significant analysis of evidence in not only felony level, but also misdemeanor cases that are complex in nature. For example, evidence in a homicide case is likely going to be analyzed at the Lab by multiple sections and disciplines, thereby compounding the time needed to complete all the various analyses, because each section will process evidence in sequence - not in parallel - due to nature of it and the susceptibility to contamination and perishability.

For example, a bloody firearm used in a murder case will need to be first analyzed in the Latent Print section so that the fragile prints can be located and preserved before the evidence moves to the next section where the prints would be otherwise decimated if not already preserved. The firearm is then transferred to the Chemistry section for examination of the red brown stains around the muzzle. The chemist examines the weapon for trace evidence and then tests the red brown stains and swabs the item. Those swabs are then sent from the Chemistry section to the Forensic DNA section for DNA analysis and interpretation. The firearm itself is at the same time sent to the Firearm section for examination by the Firearms examiner where the scientist may test fire the weapon and compare known projectiles from the firearm to those found at the scene or from the body.

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My point here is that this is only **one** item of evidence. Many homicide cases have between 20 and 50 items of evidence submitted for analysis. Some have less items and other cases involve hundreds of items of evidence. Examination in each section of the lab takes time and cannot be rushed in order to produce reliable and trustworthy results. Our goal at the lab is to complete homicide evidence examinations in each section of the lab and meet with investigators and prosecutors about those results within 180 days (six months). Currently, we struggle to meet that goal since we are operating at capacity. If this bill were to pass, our lab would need to complete every exam for each item of evidence in each section of the lab in less than half that time regardless of the number of items delivered for processing.

If this bill were to pass, we would need to complete all evidence in a maximum allotted time of 75 days, because other experts involved in the case use our completed reports to produce expert reconstruction analysis in blood spatter and trajectory reconstruction. This would allow those experts a maximum of 45 days to complete those additional expert processes so that the defense could get those reports at a minimum of 60 days before trial so they could find experts to provide their own rebuttal examinations and reports. Please bear in mind, this 90-day window is a very tight timeline for processing evidence and the 45 days afterwards for expert reports is extremely tight especially considering someone may be on vacation, assigned to other major investigations or otherwise occupied. As our lab is currently structured, we could not handle the shortened timetable.

Since this bill would cut our current timeline from 180 days to 75 days, our lab is requesting additional scientists in each section in order to meet this expectation. We would need additional chemists, DNA analysts, forensic scientists, supervisors and office assistance. Additionally, our lab has no additional office space and as a result would require either a large-scale renovation or a new building to house the additional staff. Also understand that other cases would also need to be pulsing through the lab at a very quick pace occupying limited space on our limited instruments and would require additional scientific instrumentation to keep up with the speed of the cases going through the lab at any one time. Also don't forget that homicide case investigations do not end when an arrest is made, these cases continue to be investigated all the way up to trial. As a result, speeding up homicide case trials would require additional detectives in order to complete the investigation in half the time it would normally take. Because of this, we are also asking for additional detectives, office staff and supervisors to review their work.

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Our lab strives to prioritize violent crimes against persons as part of our overall management practices concerning case flow, policy, and procedure. This has always been the most prudent way for our lab to operate. In order to meet the bill's criteria for speedy trials however, we would have to re-prioritize property crimes over violent crimes against people.

In our view, this bill would require a significant increase in lab staffing, investigative staff and more resources than we currently have to process and analyze evidence and to produce expert reports. For these reasons, we strongly urge you to vote Ought Not To Pass on this bill. On behalf of the Department of Public Safety and the Maine State Police Crime Laboratory, I thank you for your time and would be happy to try and answer any questions that you might have.