

131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1492

H.P. 947

House of Representatives, April 5, 2023

An Act to Increase the Transparency and Accountability of the Maine Information and Analysis Center

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

ROBERT B. HUNT

Presented by Representative LOOKNER of Portland.

Cosponsored by Representatives: BOYER of Poland, HASENFUS of Readfield, JAUCH of Topsham, MILLIKEN of Blue Hill, O'NEIL of Saco, RECKITT of South Portland, Speaker TALBOT ROSS of Portland, Senator: HICKMAN of Kennebec.

3	<u>§1802. Auditor</u>
4 5	1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
6	A. "Auditor" means the auditor of the center pursuant to this section.
7 8	B. "Committee" means the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.
9 10 11	2. Creation of position. There is created within the Office of the Attorney General the position of auditor of the center. The auditor must be a person qualified by integrity and demonstrated ability in relevant fields.
12 13	3. Appointment. The Attorney General shall appoint the auditor without regard to political affiliation.
14 15 16 17	4. Powers and duties. The auditor shall conduct systematic, ongoing oversight of the center to help bring transparency and accountability to its operations and to ensure that the center operates within the law and in a manner that preserves the privacy and liberty of all people in the State. The auditor:
18	A. Shall assist the committee in the oversight duties of the committee over the center;
19 20 21	B. Shall maintain a publicly accessible website that includes reports made to the committee pursuant to section 1801 and a means for the public to ask a question about the auditor or the center or submit a complaint about the auditor or center;
22 23	C. Shall keep confidential the identity of an officer that makes a good faith complaint against the center; and
24	D. May select the type and extent of reviews of center activities to conduct.
25	5. Reporting. The auditor shall make the following reports to the committee:
26 27	A. An annual report no later than February 15th of each year regarding the oversight of the center;
28 29 30	B. An interim progress report no later than September 15th of each year, including progress made on previous goals, if applicable, and any obstacles the auditor has found in performing the requirements of this section;
31 32 33	C. A report whenever the center or a state or local law enforcement agency refuses a data request or to make personnel available for auditor interviews, including the reason for the refusal, if known; and
34	D. Other reports as the auditor determines necessary.
35 36 37	The auditor shall redact from a report made under this subsection any information that is prohibited from disclosure, is sensitive and pertains to an ongoing investigation of criminal activity or would cause a specific and imminent threat to safety.
38	6. Limitations. The auditor may not:
39	A. Require the center to take corrective action; or

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA $\S1802$ is enacted to read:

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- B. Disclose the name or other personally identifying information of an informant, witness or suspect or other source of information to the center.
 - 7. Center cooperation. The center shall make available documents and personnel as requested by the auditor.
 - **8.** Commissioner input. The Commissioner of Public Safety may present a response to an issue reported by the auditor.
 - Sec. 2. 25 MRSA §1803 is enacted to read:

§1803. Public record

<u>Information shared by the center with a private entity is a public record within the meaning of the Freedom of Access Act.</u>

Sec. 3. Priority of tasks. Notwithstanding the Maine Revised Statutes, Title 25, section 1802, subsection 4, paragraph D, the auditor of the Department of Public Safety, Maine Information and Analysis Center, a cooperative effort between the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency and the State Police, in preparation for the auditor's first required report, shall review the center's record-keeping and information-sharing practices, particularly with respect to intelligence gathering. The auditor shall assess the policies that the center uses to determine the quality or veracity of the information that the center gathers and whether those policies appropriately consider the privacy and liberty interests of all people in the State. The auditor shall determine whether the center's practices comply with the requirements of federal regulations regarding criminal intelligence collection, retention and sharing, particularly 28 Code of Federal Regulations, Part 23.

23 SUMMARY

This bill creates the position of auditor within the Office of the Attorney General for the purpose of conducting systematic, ongoing oversight of the Department of Public Safety, Maine Information and Analysis Center, a cooperative effort between the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency and the State Police, to help bring transparency and accountability to its operations and to ensure that the center operates within the law and in a manner that preserves the privacy and liberty of all people in the State and directs the auditor to include certain reviews in the auditor's first required report. The bill provides that information shared by the center with a private entity is a public record within the meaning of the Freedom of Access Act.