



MEMORANDUM

Date: March 8, 2023

To: Senator Anne Carney, Chair
Representative Matt Moonen, Chair
Members of the Joint Standing Committee on Judiciary

From: Daniel Scott, Game Warden Colonel

Subject: Letter regarding L.D. 748 in lieu of testimony.
An Act to Strengthen the Due Process Rights of Persons in Law Enforcement Custody

Dear Committee Members,

The Department is in opposition of LD 748, "An Act to Strengthen the Due Process Rights of Persons in Law Enforcement Custody".

Currently, Miranda warnings are required when police are conducting a custodial interrogation and is current and standard police practice used to inform citizens of their constitutional rights. This bill would greatly expand when Miranda warnings are required to be administered and provides a State civil remedy for failing to provide Miranda warnings when required under the bill. This bill would require Miranda warnings to be given to persons placed under arrest, in custody, under interrogation or **temporarily detained**.

The phrase, "temporarily detained" is overly broad, and could be applied to almost all police-citizens encounters. Currently the Maine Warden Service conducts over 75,000 regulatory inspections of licenses, permits, and watercraft safety checks. All of these could potentially be considered temporary detainments and our staff may be subject to providing Miranda warnings prior to inspecting a hunting or fishing license or checking life jackets and other safety equipment in a watercraft.

There is well established Federal and State Case Law which provides sufficient procedural safeguards and protections for the accused that adequately address the harms this bill is seeking to prevent. Our current system allows an impartial magistrate to make the decision when a reasonable person would feel they are subject to custodial interrogation, and that magistrate has the authority to then exclude evidence they feel was not obtained legally. This is an important balance as we know every single law enforcement encounter is not the same and the



totality of the circumstances is what is often used to determine if the government intrusion was out of balance with the protection of the safety of the public.

We feel the reading of Miranda at the onset of every temporary detainment would result in adversarial interactions of what would otherwise likely be cordial, inquisitive encounters. Circumstances which are unwanted by both law enforcement as well as the public we serve.

Finally, we fear that the possibility of potential civil action against law enforcement officials for every conversation with a member of the public will adversely change the proven effectiveness of the public safety community and relationship we have with the citizens of Maine.