

TESTIMONY OF MICHAEL KEBEDE, ESQ.

LD 1492 – Ought to Pass

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

Joint Standing Committee on
Criminal Justice and Public Safety

May 4, 2023

Senator Beebe-Center, Representative Salisbury and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Michael Kebede, and I am Policy Counsel of the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, I urge you to support LD 1290 because it would strengthen the constitutional rights of people in Maine.

If passed, this bill would make the Maine Information Analysis Center (“MIAC” or “Maine’s Fusion Center”) more transparent and more accountable. Specifically, it would establish an auditor in the Attorney General’s office to conduct systematic, ongoing oversight of the Fusion Center. The Auditor would be responsible for giving a report to this committee on February 15th every year. This bill would also designate materials that the Fusion Center shares with private entities as public records within the meaning of Maine’s Freedom of Access Act.

Originally created to improve the sharing of anti-terrorism intelligence among different state, local and federal law enforcement agencies, the scope of Fusion Centers’ mission has quickly expanded to cover “all crimes and all hazards.” The types of information they seek for analysis has also broadened over time to include not just criminal intelligence, but also public and private sector data. Participation in Fusion Centers has grown to include not just law enforcement, but also other government entities, the military and even select members of the private sector – including, in Maine, an agent of Central Maine Power.

Fusion centers raise very serious privacy issues at a time when new technology, government powers are combining to pose unprecedented threats to Americans’ privacy. There are serious questions about whether data fusion is an effective means of preventing terrorism in

the first place, and whether funding the development of these centers is a wise investment of finite public safety resources. In a democracy, the collection and sharing of intelligence information need to be carried out with the utmost care. That is because more and more, the amount of information available on each one of us is enough to assemble a very detailed portrait of our lives. And because security agencies are moving toward using such portraits to profile how “suspicious” we look. Institutions like fusion centers must be planned in a public, open manner, and their implications for privacy and other key values carefully thought out and debated. And like any powerful institution in a democracy, intelligence gathering must be constructed in a carefully bounded and limited manner with sufficient checks and balances to prevent abuse. Maine’s fusion center has not conformed to these vital requirements.

A shroud of secrecy cloaks the MIAC. In 2020, the brave act of a whistleblower momentarily removed that shroud. #BlueLeaks showed us that the MIAC is not just ineffective, but also harmful. We learned from a document titled “CIVIL UNREST DAILY REPORT” that Maine’s Fusion Center was closely surveilling racial justice and other activists from Portland to Presque Isle. In his federal lawsuit against MIAC, State Police Trooper George Loder stated that our Fusion Center “has kept an illegal database of gun owners, illegally conducted surveillance on peace activists and regularly circumvented federal privacy laws.”¹ Those are the words of an eyewitness, a whistleblower. As you all know from your work in criminal justice, it is no small matter for a police officer to impugn a policing institution. The MIAC is exactly what watchdogs feared it was: a highly secretive threat to fundamental constitutional rights. Our First Amendment rights to assemble, petition our government, and speak freely are among the rights threatened by Maine’s Fusion Center. The MIAC has an immigration official in its midst, suggesting that it aids in our country’s profoundly harmful practice of separating families through deportation.

This bill would safeguard the constitutional rights of people in Maine. I urge you to strengthen our civil liberties by voting *ought to pass*.

Thank you for your time and attention.

¹ Matt Byrne, *Maine trooper says he was retaliated against for reporting illegal police surveillance of citizens*, May 14, 2020, Press Herald, available at <https://www.pressherald.com/2020/05/14/maine-trooper-says-he-was-retaliated-against-for-reporting-illegal-police-surveillance-of-citizens/?auth0Authentication=true>