

Testimony in Support of LD-2210

An Act to Establish a Civil Rights Unit and a Civil Rights Review Panel Within the Office of the Attorney General and Require Ongoing Enhanced Civil Rights Training for Civil Rights Officers

My name is Nathan Kempthorne, and I am a former resident of Maine. Today I am submitting my testimony in strong support of LD-2210. As you all are aware, I have been testifying directly to the state legislature repeatedly for this law for over three years, and I am very much looking forward to the day when that is no longer necessary. Maine has had 60 years since the passage of the Civil Rights Act of 1964 to get this done – and not another year should pass without remedying this massive structural gap in human and civil rights protections.

This new Civil Rights Unit will have an immediate positive impact on all Maine residents – particularly the Mainers who live in poverty (statistically children), people of color, immigrants, and the LGBTQ community. For those whose human and civil rights were violated it will also improve access to justice, transparency, oversight and accountability of the Attorney General's response to these crimes and will also make the job of law enforcement safer and increase community trust for police departments. I hope the legislators who will defend this bill's integrity in committee and in legislative debate can utilize the data provided below as evidence this bill **OUGHT TO PASS** in its entirety, and not be gutted during this committee hearing nor during legislative debate.

Question: Since Maine already has the Maine Human Rights Commission, why is this unit necessary, and what is the potential caseload that the Civil Rights Unit will need to address?

CASE ACTIVITY

As in past years, the Commission continued to devote most of its resources to processing discrimination complaints filed with it. During FY 2023, 683 new complaints were filed (up from the prior year) and the Commission closed 654³ cases. By the end of FY 2023, the Commission's pending inventory of cases increased from the prior year.

HISTORICAL CASE ACTIVITY DATA 2014 - 2023

FISCAL YEAR	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
ACTIVE CASES FY START	760	863	842	768*	710	795	726	756	684	713
+ CASES FILED	683	614	760	775	715	709	687	611	739	654
- CASES CLOSED	654	717	713	701	748	755	615	621	667	683
ACTIVE CASES FY END	789	760	863	842	677	749	798	723	756	684

The statistics above are from the Maine Human Rights Commission 2023 annual report that shows **6,947 human rights cases were filed between 2014-2023**. (See [MHRC Annual Report 2023 FY.pdf \(maine.gov\)](#)).

- With so many complaints, one would think there would be more investment and engagement by the Maine Office of the Attorney General.
- Sadly the Attorney General Frey and the previous Attorney General Janet Mills on average have acted on less than .02% of the human and civil rights complaints in Maine. **Of those 6,947 cases** filed, the Office of the Attorney General reported **acting on a grand total of 16**.
- **Last year alone, 683 new human rights cases** were filed, and the Attorney General was oddly proud to announce in the Bangor Daily News that he had **acted on a mere five of these complaints in the whole year**.
<https://www.bangordailynews.com/2023/12/18/politics/maines-laws-neo-nazis-joam40zk0w/>
- Over the last decade, Mainers have had approximately 1:700 odds of winning \$25 with a Megabucks lottery ticket, the same odds as they have to get any attention from the prosecutors at

the Office of the Attorney General when they report human or civil rights violations. <https://www.maineLOTtery.com/games/megabucksplus.shtml>

Impact: The new Civil Rights unit will have an immediate positive impact on those embarrassing and completely unacceptable statistics, and improve Mainers access to justice.

Question: How will Maine afford this unit?

First examine the MHRC's annual reports that demonstrate the current, structurally racist level of investment by the state legislature of Maine in their work.

- Their 2023 report states they have **“extremely small staff, the volume of the Commission’s work in FY 2023 was daunting (and accomplished with very limited resources).”**
- In 2022 their report noted **“our extremely small staff, the volume of the Commission’s work in FY 2022 was overwhelming (and accomplished with very limited resources).”**
- In 2021 the **Commission reported having an “extremely small staff – which was not fully staffed at any point during FY 2021 – the sheer volume of the Commission’s work in FY 2021 was staggering (and accomplished with very limited resources).”**
- This statement is replicated **almost verbatim in every annual MHRC report since 2016**, encompassing the last three years of Governor Janet Mill’s time as Attorney General, and her entire time as Governor and every year Aaron Frey has been Attorney General. One can expect the 2024 report will remain the same.

By comparison, look at the protection mechanisms for wildlife that are prioritized by the Maine legislature and fully funded, while simultaneously intentionally underfunding the only resource human and civil rights protection mechanism in the state year after year.

- The **Maine Department of Inland Fisheries and Wildlife currently has 300 employees, and an annual budget of \$32 million dollars to safeguard the rights of moose, bear, deer, and brook trout (including three full time pilots and three aircraft).** To ensure the safety of lobsters, the Maine legislature and the Maine state government fund a Maine Marine Patrol that has an annual budget of \$27,579,000! Maine, in fact, cares so much about lobster rights and safety that they give the Marine Patrol the following equipment:
 - **A fixed wing aircraft, six large patrol vessels, two 46' high powered diesel patrol boats, two 42' high powered diesel patrol boats, one 38' high powered diesel patrol boat as well as one 35' high powered diesel patrol boat.** Additionally each Marine Patrol Officer is issued an extended cab 4 wheel drive pickup for patrol and a 21' high speed patrol boat.
 - **Fact: There are sovereign countries with fewer resources for their military than Maine spends on ensuring wildlife and fisheries are safe.**
- However, in 2024, **Maine employs not a single civil rights prosecutor, attorney nor investigator at the AG’s office**, and only has **7 non-law enforcement MHRC investigators assigned to protect the human and civil rights of all 1.4 million human beings in Maine.** I’m going to guess they don’t get four aircraft either.

Impact: The civil rights unit, the regular reporting and the oversight by the review panel will help ensure all the mechanisms of justice for survivors of human and civil rights violations are funded.

Question: What else will improve with the new Civil Rights Unit?

- **Improved response time:** The process Maine currently follows is currently an extremely slow, underfunded DMV line-from-hell approach.

- The Maine Human Rights Commission website “How long does it take to investigate my Complaint of Discrimination?” “The time frame for a full investigation of your case, however, will take several months to over a year. The Commission must complete its process within two years after a complaint is filed.” (<https://www.maine.gov/mhrc/file/after>)
 - Most Mainers do not have two years to wait, or money to pay for attorney representation for that time. **To make matters worse, the Maine Department of Education (MDOE) directs all Maine students to engage this DMV-like system when their human and civil rights are violated, forcing vulnerable minors to stand in line with the rest of the 1.4 million Mainers.**

Impact: This new unit will change that with multiple avenues to directly submit complaints, constant independent oversight, and public reporting that will ensure Mainers rights (especially children) will be protected and will give survivors direct access to support, justice and closure.

- **Improved Access to Justice:** *“...the bill requires that all civil rights officers as defined in the Maine Civil Rights Act must fully cooperate with the unit as directed by this bill and undergo ongoing enhanced civil rights training provided by the Maine Criminal Justice Academy as determined by the Office of the Attorney General. Civil Rights Officers are the state directed access points for Mainers to report human and civil rights violations.”*
 - For most of the law enforcement departments in the state, that access point does not exist, or is unlisted on their contact page. To be fair, EVERY police officer with the power to kill a human being in Maine should be a civil rights trained officer. With the enactment of LD-1613 last year, Maine law enforcement is required by law to have at least one trained and publicly identified civil rights officer. **As of today, a vast majority still do not have clearly identified civil rights officers as required by state law.**

Impact: This bill will do much to remedy that access-to-justice issue and ensure law enforcement comply for the first time with state law.

- **Improved Transparency and Community Trust in Law Enforcement:** *“The bill requires that all law enforcement agencies, municipal governments and state departments and agencies and any other divisions of State Government fully cooperate with the unit, make written reports of civil rights violations, and provide file information as requested for the purpose of the unit's official duties. The bill also creates within the Office of the Attorney General the Civil Rights Review Panel, which is separate from the civil rights unit. The panel must be composed of 13 members from various disciplines to be appointed by the Attorney General, the President of the Senate or the Speaker of the House as described in the bill. Under the bill, the panel must issue its own separate report summarizing the results of the panel's investigations, its policy recommendations and any comments or criticisms the panel may have concerning the unit's report. The bill requires that both the panel and the unit submit their reports to the Legislature no later than January 15th annually.”*
 - This is possibly the most important part of this bill. Maine law enforcement is famously anti-transparency and does not want to report any of this information. They actively fought LD-1999 in 2022, and the passage of LD-1613 in 2023. They did not want to collect or report racial bias events, or even to ensure that civil rights officers were trained and clearly identified at all law enforcement departments.
 - **Maine law enforcement don't even attempt to even report accurately when they kill a human being – something Maine Law enforcement do at the highest rate in New England.** For example, the Office of the Maine Attorney General reported 126 homicides from 2017-2022 and during the

same time Maine police reported killing 49 people. That is roughly 38% of the total of killings during the six-year term.

- Per the Portland Press Herald “Any time a law enforcement officer in Maine shoots a person in the line of duty, the Office of the Maine Attorney General investigates whether the use of force was justified. Since at least 1990, the office has never found a police shooting unjustified.” (See: <https://www.pressherald.com/2024/02/06/analysis-of-maine-police-shootings-calls-for-mental-health-investment-stronger-protective-custody-laws/>)
- In the history of Maine, law enforcement officers have killed hundreds of people, and in the last 34 years at least never once been charged with wrongful death – **a completely impossible statistic. In my career I have only seen this level of non-judicial killing by police with complete impunity and top cover from an Attorney General in countries like Afghanistan, Haiti and Mexico.**

Impact: The transparency and oversight of the new Civil Rights Unit will provide Mainers with the long-term positive effects of increasing safety in the community and improving the current lack of trust in law enforcement. Again, this bill will provide survivors a new, improved avenue to find justice, and hopefully closure.

- **Investigative authority:** *“The unit will receive and investigate complaints related to possible violations of the Maine Civil 36 Rights Act, initiate civil actions under the Maine Civil Rights Act, coordinate with other individuals and entities dedicated to advancing civil rights, engage in public education and outreach on civil rights issues related to hate and bias to advance civil rights and provide recommendations on how to ensure protections of civil rights.”*
 - This one is personal to me. When my family desperately needed a civil rights unit to investigate, one did not exist. Almost four years later, it still does not exist. When we reported extreme racism and discrimination from Trump supporters in 2020 to a local law enforcement officer, a state law enforcement officer, and the Attorney General, no one did anything: the AG ignored us, then referred us to a current Assistant Attorney who mocked and belittled my wife and downplayed what happened to her and our children in racist emails to her staff. **(I have also submitted a copy of that evidence in the form of my testimony in support of LD-1613 in 2022.)** The Office of the Attorney General delayed 159 days to speak with my family, by which time we had given up and left the state. They never investigated the multiple credible and documented allegations of racial discrimination, not only by my family, but by dozens of children and adults who bravely told what happened to them. To this day, they still have not. This traumatic experience was profoundly damaging to my family, and in particular my children. Sadly, the statistics reported by the Maine Human Rights Commission prove my family was just one of many, many others.

Impact: As a matter of pure practicality, my family’s experience with reporting civil and human rights violations to the Maine state government and the legislature demonstrated that they find these subjects extremely uncomfortable, and difficult to manage or even discuss. **This unit would provide legislators and the Office of the Attorney General a professional team to immediately investigate complaints of human and civil rights violations, and make their jobs easier.** This bill will address that gap – a massive step in the right direction.

Question: Is Maine capable of implementing this law?

- **The answer is a resounding yes.** It is clear Maine law enforcement can be very effective when they choose to be.
- For example, Maine law enforcement are extremely effective and efficient when intentionally targeting people of color for arrest and excessive incarceration. Per the January 2024 report “Justice for All” by Maine’s own Permanent Commission on the Status of Racial, Indigenous & Tribal Populations. “**Looking**

solely at Maine residents, the state incarcerates Black people at almost six times the rate of white residents. Rates of incarceration are also disproportionately high for Maine's Indigenous population. Clear disparities can also be seen in sentencing for drug possession. Black defendants in Maine faced sentences twice as long as the median sentence of 90-days jail time in 2019-20." (see https://pcritp.me/sites/default/files/inline-files/J4A_2024_digital_0.pdf)

Impact: Just imagine if the Maine justice system applied the same focus they have in violating people's dignity and human and civil rights to investigating and prosecuting violations of those same rights?

Bottom line, a Civil Rights Unit is a high-impact, low-cost, positive change - and something that is long overdue and something Maine can and should afford its citizens. This unit's potential for positive change in Maine is immense, and I believe the measures in this bill should be seen as a template for other states to implement nationally as a best practice. LD2210 **OUGHT TO PASS.**