



## MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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April 28, 2025

Senator Anne Beebe-Center, Chair  
Representative Tavis Hasenfus, Chair  
Committee on Criminal Justice and Public Safety  
5 State House Station, Room 436  
Augusta, ME 04333

### **RE: LD 1607: An Act to Require Law Enforcement Agencies to Adopt Written Policies Regarding Compliance with Certain Constitutional Obligations Related to Disclosure of Evidence**

Dear Senator Beebe-Center, Representative Hasenfus, and Members of the Committee on Criminal Justice and Public Safety:

The Maine Association of Criminal Defense Lawyers is a non-profit organization that has nearly 300 member attorneys who practice criminal defense across the state. Since 1992, MACDL has advocated for its members and the people we are fortunate to represent in courtrooms throughout Maine and at the State House.

MACDL presents this testimony in **support of LD 1607**.

As criminal defense attorneys, it is hard to convey how difficult it is for us for the vast majority of our cases to receive complete and timely disclosures from prosecutors' offices material that is Constitutionally required to be provided. This bill would be an important first step towards ensuring that the information that is maintained by law enforcement agencies is provided to prosecutors' offices and then disclosed to defense counsel. This information is absolutely vital, and, without a mandated and standardized way to ensure it is being provided as required, the absence of such information is a blatant violation of our clients' rights to due process and a fair trial.

In *Brady v. Maryland* (1963), the United States Supreme Court held that prosecutors must disclose material, exculpatory (goes against the guilty of the accused) information in the government's possession to the defense. "*Brady* material" includes any information that is favorable to the accused or which may reduce the accused's potential sentence (mitigating), go against the credibility of an unfavorable witness, or otherwise allow a jury to make findings against the accused's guilt.

In *Giglio v. United States* (1972), the United States Supreme Court held that prosecutors must disclose information regarding promises of leniency made to government witnesses—as those promises of leniency would impact the credibility of

the testimony provided. The “*Giglio* rule” has become shorthand for information regarding law enforcement and other state-side witnesses that reflect on the officers’ credibility. This includes internal disciplinary procedures, prior problematic testimony, and more.

In theory, “*Brady-Giglio* lists” are records maintained by prosecuting agencies that document peace officers with credibility concerns that could affect their reliability as witnesses. Prosecutors are obligated to disclose this information to defense attorneys. The problem here in Maine is that we have no way of knowing which prosecuting offices maintain such lists and what are the standards between the law enforcement agencies and these offices to ensure that all possibly responsive material is provided to the prosecutors for disclosure to defense counsel.

It was just a few years ago that the [Bangor Daily News](#) exposed the labyrinth around police disciplinary records and how difficult it was even for other law enforcement agencies to access such information when evaluating a potential job candidate. The investigation also uncovered how departments were redacting essential—and ostensibly public—information from the disciplinary records they actually produced. Because there is no standard for what must be disclosed to prosecutor offices, we are all left in the dark—and our clients’ rights to fully confront the witnesses against them with all relevant information are ignored and trampled.

In the past year or so, the Maine Commission on Public Defense Services has contracted with a court-appointed attorney who has specialized knowledge in investigating and tracking down required information from law enforcement to provide to defense counsel. MCPDS has felt the need to fund such work because the information requested is so rarely provided as needed or required. This is extremely concerning—and of course does not provide access to all information that likely exists.

I know that MACDL would be more than happy to consult with law enforcement and prosecutors’ offices in developing these policies. We know how important it is to get this right, and we have the experience and skills necessary to assist everyone in ensuring that the accused’s rights in Maine are both protected and respected.

We urge this Committee to vote **ought to pass** on LD 1607.

Thank you for your consideration, for your attention to this important matter, and for allowing me to present this testimony to you all today.

Sincerely,



Tina H. Nadeau, Esq.  
MACDL Executive Director