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TESTIMONY OF BRENDAN MCQUADE

In Support—LD 419

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

Submitted to the
Criminal Justice and Public Safety Committee
February 26, 2016

Senator Beebe-Center, Representative Hasenfus and members of the Criminal Justice and Public Safety Committee, thank you for this opportunity to address you today. My name is Brendan McQuade. I am an associate professor and chair of the criminology department at the University of Southern Maine. While I do not speak on behalf of my employer, I do speak as an expert on fusion centers. I've published six academic articles and the only book on the subject.¹ I coordinated the production of *The MIAC Shadow Report*, which we delivered to this committee 2022.² On this basis of this work, I speak in support of LD 419. While I think the most appropriate action to take would be close the MIAC altogether, creating an independent auditor could help address some of the problems posed by the MIAC.

Currently the MIAC policies itself. The advisory board is made of individuals who are largely unaccountable to the public. The colonel of the Maine State Police or his designee, in consultation with the director of the Maine Emergency Management Agency, appoints advisory board members. While previous and current advisory boards have included one to two people outside of government, it is unclear why officials selected these individuals.

The review of past privacy audits does not inspire confidence in this arrangement. For the *MIAC Shadow* report, we reviewed privacy audits and compared them with the hacked documents published in 2020. We identified several documents that violate the MIAC's privacy policy, which, for example, requires that the MIAC respect "legally required protections based on the individual's status as a child, sexual abuse victim, resident of a substance abuse treatment program, resident of a mental health treatment program, or resident of a domestic abuse shelter."³ The MIAC has violated this policy. An August 2018 "Situational Awareness" bulletin on an individual with "possible mental health concerns" notes that the individual "was taken to St. Mary's hospital for evaluation." An April 2019 "Attempt to Locate" bulletin requests assistance "locating a female juvenile that has recently run-away from the Sweetser Behavioral Health Crisis Unit."⁴

¹ Brendan McQuade, *Pacifying the Homeland: Intelligence Fusion and Mass Supervision* (Oakland: University of California Press, 2019); Brendan McQuade, "The Puzzle of Intelligence Expertise: Spaces of Intelligence Analysis and the Production of 'Political' Knowledge," *Qualitative Sociology* 39, no. 3 (2016); Brendan McQuade, "Police and the Post-9/11 Surveillance Surge: 'Technological Dramas' in 'the Bureaucratic Field,'" *Surveillance & Society* 14, no. 1 (2016); Brendan McQuade, "From the Carceral Leviathan to the Police State: Policing Decarceration in New York State." In *After Prisons? Freedom, Decarceration, and Justice Disinvestment*, edited William Martin and Joshua Price, 53-75 (Lanham: Lexington Books, 2016); Rajiv Shah and Brendan McQuade "Surveillance, Security, and Intelligence-Led Policing in Chicago," in *Neoliberal Chicago*, edited by Euan Hague, Larry Bennet and Roberta Garner, 243-259 (Urbana: University of Illinois Press); Brendan McQuade, "World Histories of Big Data Policing," *Journal of World-Systems Research* 27, no. 1 (2021); Brendan McQuade, Lorax B. Horne, Zach Wehrwein, and Milo Z. Trujillo. "The secret of BlueLeaks: security, police, and the continuum of pacification." *Small Wars & Insurgencies* 33, no 4-5 (2021).

² Cushing, Chris; Michael LeComte; Brendan McQuade; Mark Sayre and Maxine Secskas, *The MIAC Shadow Report: Reporting on MIAC Auditing Processes Supplemental to the DPS Report*. The Church of Safe Injection; the Electronic Privacy Information Center, the Maine Association of Criminal Defense Lawyers, the Maine Democratic Socialists of America, Maine Youth Justice and the Muslim Justice League, April 1, 2022.
<https://legislature.maine.gov/doc/8516>

³ The Maine Information and Analysis Center, "Situational Awareness (MIAC-2018-1510)," August 9, 2018, BlueLeaks, Distributed Denial of Secrets, <https://ddosecrets.com/wiki/BlueLeaks>.

⁴ The Maine Information and Analysis Center, "Attempt to Locate (MIAC-2018-0786)," August 4, 2019, BlueLeaks, Distributed Denial of Secrets, <https://ddosecrets.com/wiki/BlueLeaks>.

These documents—and others potentially like them—can easily slip through the cracks of the MIAC’s flawed privacy audit process. The Advisory Board audits a random selection of documents and, as such, avoids scrutinizing many of the documents that pose the greatest risk to privacy and other civil liberties. The MIAC whistleblower trial at the end of 2022, moreover, revealed the results of the environment of impunity created by MIAC’s self-policing. During the trial, MIAC command and the state policy attorney admitted to spying people suspected of no crimes and retaining data indefinitely. Although the executive order that created the MIAC in 2006 specifically says the agency should follow the federal privacy guidelines, the state police attorney said during the trial that he decided sometime before 2017 that the federal rules did not apply to the agency.⁵

Given these serious and repeated failures, it is clear that MIAC cannot be trusted to regulate itself. The lack of oversight has led to routine violations of privacy policies, overreach in surveillance, and a general disregard for legal guidelines. The passage of LD 419 is an essential first step toward meaningful accountability. While the ultimate solution may be to shutter MIAC entirely, an independent auditor will at least introduce an external check on an agency that has, for too long, operated in the shadows. This bill represents a necessary effort to bring transparency, accountability, and public oversight to a fusion center that has repeatedly demonstrated an inability to govern itself responsibly.

Please note: if you would like a copy of any of the material cited in this comment, please contact me at brendan.i.mcquade@gmail.com

⁵ Matt Byrne, “State police collected info on political activist, former attorney testifies,” *The Portland Press Herald*, November 28, 2022, <https://www.pressherald.com/2022/11/28/state-police-collected-info-on-political-activist-former-attorney-testifies/>.