



Maine Freedom of Information Coalition

Sen. Carney, Rep. Kuhn, members of the Joint Standing Committee on Judiciary, my name is Judith Meyer. I am here today on behalf of the Maine Freedom of Information Coalition, on whose board I serve as president, in opposition to LD 1484, An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees.

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The Maine Freedom of Information echoes the position taken by the Maine Press Association that the bill before you would substantially narrow access to final written disciplinary decisions based entirely on whether discipline created a "financial disadvantage."

As already mentioned, several years ago the Maine Freedom of Information Coalition conducted a disciplinary records audit of Maine's law enforcement agencies. The purpose of the audit was to measure response to a straightforward Freedom of Access Act request and to record response and cost.

In response to more than 150 FOAA requests, we received hundreds of records (although nearly a third of all police agencies ignored our request), ranging from no discipline issued in the prior five years in some departments to more than a hundred disciplinary actions in a single department. The tremendous majority of disciplinary records created no "financial disadvantage" for employees.

The full response, including disciplinary records, is available at:

<https://drive.google.com/drive/folders/1lhAS4pvP2uL9ja2MUffWxH4QTHio8M9E?usp=sharing>

Email: Mainefreedomofinfo@gmail.com

Password: Mainenews1!

(Click "my drive" on left to access the documents.)

While it wasn't the goal to chart the types of disciplinary actions, the audit revealed some interesting data on the kinds of behaviors that prompted discipline, from being late for shift to leaving a loaded service weapon in a public location, and many more serious offenses. The audit also revealed whether some – but not all – discipline was issued with or without pay, and whether discipline was the first offense of certain officers or not.

What the data also revealed is that not every department details disciplinary records in such a way that it's clear what the offense was, or the consequence of that offense, which prompted the recent change in law to require that level of written detail for county and state final disciplinary decisions.

The data collected by MFOIC is not complete by any means and for purposes of the bill before you, the audit touched only on law enforcement and not the tens of thousands of other public employees the bill applies to, so this audit data can serve as a starting place to determine the level and frequency of disciplinary actions in one profession, but much more research needs to be done to fully understand what impact setting an access tier may have for employees and for the public. That is especially true if the threshold is whether discipline creates "financial disadvantage" since we know from law enforcement records those records represent a clear minority.

The MFOIC recommends that this bill be forwarded to RTK for further research and consideration, and that RTK be asked to bring a recommendation back to Judiciary next year.

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The **Maine Freedom of Information Coalition** is a broad coalition of public access advocates who strive to educate Maine citizens and legislators about the rights and responsibilities of citizens in accessing information so they may participate more fully in our democracy. MFOIC supports open access to government information, supports those who exercise their rights to access government information under Maine's Freedom of Access Act, and periodically conducts audits of government agency practices in making government information available according to the spirit and letter of FOAA.