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**Testimony of Major William Ross
Maine State Police
Department of Public Safety**

IN OPPOSITION TO LD 1607

**An Act To Criminalize Calls Made to Emergency Services Based on
Racial Profiling**

Hearing Date: April 12, 2021
Criminal Justice and Public Safety

Sponsored by: Representative Tepler of Topsham.

Senator Deschambault, Representative Warren, and Distinguished Members of the Joint Standing Committee on Criminal Justice and Public Safety;

My name is Major William Ross, and I am here to represent the Department of Public Safety and the Maine State Police to testify against LD 1607, “An Act To Criminalize Calls Made to Emergency Services Based on Racial Profiling”

The State of Maine has no specific hate crime or racial profiling statute but an established process to address these issues is in place. Adding the racial profiling or bias language to this statute or other similar statues would present significant challenges for law enforcement and negatively impact successful prosecution. All crimes

are investigated by law enforcement and when enough evidence, “Probable Cause” of the crime has been determined, enforcement of the statute takes place. Law enforcement during their investigation will have gathered evidence, conducted interviews and documented these findings in a report before the case is submitted to the prosecuting authority. The racial profiling or bias aspect of the proposed bill would put the burden on law enforcement to not only provide evidence of the elements of the existing crime, i.e. “False Public Alarm or Report” but to determine the motivation behind the offender’s actions. This nuance makes enforcement considerably more difficult, as uncovering an individual’s motivation for committing a crime isn’t captured as easily or clearly. Law enforcement investigations with subsequent enforcement must provide how the crime was committed but doesn’t necessarily need to establish why the crime was committed. This bill if enacted, would make the offender’s motivation part of the elements of the crime and considered for a law enforcement officers determination of probable cause. It will also need to be proven beyond a reasonable doubt for successful prosecution.

The racial profiling or bias aspect of any criminal act is presently and most effectively handled by the prosecuting authority through the Maine Criminal Code by either the Attorney General’s Office or the respective the District Attorney’s Office under existing sentencing provisions, “The selection by the person of the victim or of the property that was damaged or otherwise affected by the crime because of the race, color, religion, sex, ancestry, national origin, physical or mental disability, sexual orientation or homelessness of the victim or of the owner or occupant of that property; “. In addition, law enforcement agencies can make referrals to the Attorney General’s Office where these types of incidents can be addressed through the Maine Civil Rights Act.

The racial profiling or hate crime aspect of any crime is already addressed universally through existing law which would avoid adding this kind of language to this specific statute.

The proposed legislation also creates a private right of action in small claims court with damages up to \$250 for a race-based false public alarm or report. The existing sentencing provisions would address this concern more efficiently.

For these reasons, I strongly urge the Committee to vote Ought Not to Pass on this bill.

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On behalf of the Department of Public Safety and the Maine State Police, I thank you for your time and would be happy to try and answer any questions that you might have.

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