

Maine Office of the Attorney General—Criminal Division
LD 1056 and 1576 Implementation Concerns

The changes to current law proposed by LD 1056 and 1576 would have a direct impact on the effective investigation and prosecution of serious offenses, including child sexual abuse materials, elder abuse, financial crimes, drug trafficking, and homicides. This includes:

Grand Jury Subpoenas

Prosecutors routinely use grand jury subpoena to obtain records of subscriber information and financial records to initiate investigations, which would be prohibited by LD 1576.

- In homicide cases, grand jury subpoenas are routinely used to obtain subscriber information, bank records, camera footage and other investigative leads which establish to probable cause for a search warrant or an arrest warrant.
- Cybertips: grand jury subpoenas are used by Computer Crimes to obtain the IP address associated with suspected child sexual abuse materials (child porn). Detectives then obtain search warrants to access the images and other information.
- *State v. Thistle*: grand jury subpoenas used to obtain bank records leading to conviction of attorney who stole nearly \$300,000 in settlement funds from deceased client.
- *State v. Tony Glidden*: grand jury subpoenas used to obtain banking records leading to conviction of roofer who defrauded over 20 customers, mostly elderly. Defendant ordered to pay \$100,000 in restitution, including \$25,000 to an 83-year-old widow.

Other Investigatory Techniques

LD 1576's prohibition on physical interaction or communication with a device absent a warrant would prohibit other important techniques used by law enforcement.

- Overdose death investigations: best evidence to identify the sources of drugs are messages between the decedent and drug trafficker.
 - *State v. Dixon, State v. Adams*: access to decedent's phone identified drug trafficker, agents used phone to set up additional buy, investigation led to supplier and the recovery of 200 grams of methamphetamine and a handgun.
 - Overdose death of Sierra Thibeault: access to decedent's phone led to the conviction of three men who supplied the drugs, investigation also identified out of state supplier.
- Child sexual abuse material investigations: when suspects make materials available on peer-to-peer networks, investigators use the network to download the explicit images being shared and obtain a search warrant for the suspect's residence.
- Drug trafficking investigations often will involve setting up transactions with a specific phone number. When a search warrant is executed, agents will call the number to confirm that it is in the suspect's possession.

Collaboration with Federal Partners

Collaboration between state and federal law enforcement depends on the constant, real-time sharing of information, which would not be possible with enactment of LD 1056.

- *U.S. v. Chad Savage*: federal prosecution for seizure of 558 grams of fentanyl.
- *State v. Shane Rodriguez*: state prosecution for quarter kilo of cocaine base.
- 30 codefendant conspiracy case in state court involving multiple kilos of seized fentanyl.