

I F W Attendance

Interim Meeting
Wednesday, June 1st, 2016
at 9:00a.m.

Rep. Crafts	✓
Rep. Reed	✓
Rep. Dana	X
Rep. Corey	✓
Rep. Ly Ford	✓
Rep. Martin	✓
Rep. Duchesne	✓
Sen. Davis	✓
Sen. Cyrway	✓
Sen. DesChambault	✓
Rep. Short	✓
Rep. Alley	✓
Rep. Hilliard	✓
Rep. Wood	✓

✓ = here

X = not here



MEMORANDUM
Maine Department of Inland Fisheries & Wildlife
284 State Street
Augusta, ME 04333-0041

Date: May 11, 2016

To: Senator, Paul Davis

From: Chandler Woodcock, Commissioner of the Maine Department of Inland Fisheries & Wildlife and Colonel Joel T. Wilkinson, Chief of the Maine Warden Service

Subject: Responses from the Department of Inland Fisheries and Wildlife to Senator Davis' questions regarding warden investigation techniques, "Operation Red Meat" covert investigation and Freedom of Access Act law as it relates to law enforcement in Maine.

Question 1: *An elderly woman in Allagash allegedly had several canned goods taken by the Wardens including fruits and vegetables. The woman claims that most of these goods were not returned. Supposedly, they were checking for illegal game. Did this happen? Why take the vegetables and fruit and why were these items not returned to this woman?*

Response to Question 1:

On February 5, 2014 while serving a search warrant on Hope Kelly's house, the mother of Reid Caron, Game Wardens seized 93 pint and quart sized canning jars of what they believed to be moose meat. When the canning jars were located they were contained inside canning boxes and were set aside in the basement of the residence. At this time Game Wardens separated the jars of vegetables and/or fruit from what was believed to be moose meat. While loading the seized evidence, thirty three jars of mixed vegetables/ fruit were inadvertently loaded in the warden vehicle. In addition to the canning jars that were seized there were numerous illegal moose parts, deer parts, antlers and packages of moose meat that were seized that day. The seizure of the vegetables/fruit was an oversight. On March 3, 2014, we were contacted by Representative John Martin and told that Hope Kelly said she was missing some canned goods which were not part of evidentiary value. On the very same evening of March 3, 2014 the 33 jars of vegetables were returned to Hope Kelly and she signed a receipt for the property.

Question 2: *What is the standard operating procedure for undercover agents in the Warden Service? (Request for a copy of these procedures, rules and policies were made.)*

Response to Question 2:

We will offer Senator Davis the opportunity to review the policy in person.

Question 3: *Are the allegations of Wardens shooting at deer in order to entice a kill true?*

Response to Question 3:

No, the warden investigator did not utilize entrapment to persuade any of the defendants to commit numerous game violations. The target defendants in this case were predisposed to commit criminal acts related to fish and game violations. One of the defendants was still under revocation for previously night hunting a moose. These defendants' patterns of killing occurred both when the warden investigator was present and when he was not. The undercover game warden did kill a small buck deer under the direction of Reid Caron, one of the defendants. This deer was one of two deer that Reid Caron had wounded on October 31, 2013 while night hunting with the warden investigator. This action was in compliance with policies for the following reasons:

1. Reid Caron had engaged in numerous serious hunting violations with the warden investigator present prior to the warden investigator killing this deer. Reid Caron insisted that the warden investigator shoot the deer, he laid out rules as to how the investigator would shoot the deer. He went as far as having the warden investigator pull over and assume the shooter position in the passenger's side of the vehicle. The warden investigator believes Reid Caron wanted him to kill the deer because Reid Caron had committed all of the violations prior to that event and was testing the warden investigator to be sure he wasn't an undercover warden. Due to the known background of the violators, it was clear to the warden investigator that at that point it was necessary to kill the deer in order to maintain the integrity of the warden investigator's cover and avoid an officer safety issue. Here are some reasons an undercover game warden may have to kill wildlife:
2. Game Wardens sometimes are forced to kill wildlife. The reasons are for the purpose of officer safety after being tested by suspects, or at a suspect's demand or order. In the majority of these investigations, the warden investigator is able to satisfy suspects by shooting at and intentionally missing wildlife in order to keep his cover intact. In some investigations, the warden investigator is directed or ordered to be the "shooter". During this investigation, the undercover warden was selected because of his experience. The suspects involved in this case were heavy drinkers, known to be hot tempered toward law enforcement and conducted their illegal activity in the remote areas of the Allagash where there is no assistance or back up for officers and no cell phone service. After Reid Caron shot at and/or wounded multiple deer at night with the warden investigator, Mr. Caron ordered the warden to shoot a deer. The undercover game warden followed the orders of Reid Caron on November 5, 2013 and killed a young buck that Mr. Caron had previously wounded at night on October 31, 2013. Those who do not understand the justification of the warden's actions are not aware of past instances in which this undercover warden has been in serious, life threatening situations while conducting other investigations. Past investigations similar to this one resulted in the suspects testing him to ensure that, in the suspect's minds he was not a law enforcement officer.
3. During one incident previous to this investigation, this warden was working an investigation where convicted felons and other suspects were night hunting and illegally killing deer in the Mount Vernon area, (some of the deer were killed illegally near the residence of former SAM executive director George Smith). While in a remote camp

utilized by the suspects, during a time when they were cutting up two illegal doe deer, the warden was aggressively confronted by one of the leaders in the poaching group. The warden was aggressively threatened by the suspect with a sharp boning knife. The suspect demanded the warden spell out his last name while another suspect documented the name on his smart phone and left the camp to see if the name was real. The highly intoxicated suspect then repeatedly lunged toward the warden telling him that if he was an undercover warden he would spend his life hunting him down and would cut his private area off and hang it in the camp. The accusation stemmed from one of the suspects thinking the warden let three doe deer come by him during an illegal deer drive and did not shoot them despite the orders by the leader to do so. The warden actually never saw the deer because of a thick patch of fir trees where he was positioned. The situation was extraordinarily intense, and the suspect became more and more aggressive. At that point the warden made the decision that if the suspect picked the knife up one more time he was going to strike him and try and escape the camp. Fortunately one of the other suspects present during this incident stuck up for the warden investigator and told him there was no way he was an undercover warden and the situation deescalated.

The above incident is just one example of a warden investigator working these very difficult and dangerous investigations. It is common in these types of investigations for the wardens to be accused of being an undercover warden or even a MDEA or Federal Agent.

Question 4: *What constitutes as "public information"? How much information does the Warden Service have access to, and what are the rules allowing for this access?*

Response to Question 4:

Public records are defined in the Freedom of Access Act within M.R.S. Title 1. In Maine, there are over 300 statutory exceptions to the Freedom of Access Act's definition of a public record that are contained throughout all of Maine's Statutory Titles. Many of these exceptions specifically designate a certain type of record, or a class of information within a record, as confidential or otherwise not subject to the Freedom of Access laws. Warden Service has access to all records that they generate, manage, and have access to through Criminal Justice Information Systems (CJIS.) The rules for allowing access are governed by the CJIS security policy and the Intelligence and Investigative Record Information Act [M.R.S. Title 16 Chapter 9].

The question of what is a public record versus what is a confidential record is complicated when dealing with law enforcement records. All records are considered public unless they are classified as confidential. As a law enforcement agency, some of our records are confidential. The type of confidential examples involved in the circumstance in question, which if they were accidentally or purposefully disseminated to the public have very serious consequences and could cause irreparable damage. There is true liability for agencies to consider when processing Freedom of Access Act requests and which if handled carelessly could result in lawsuits against the agency or the agency being charged with a class E crime under Title 1 § 809 – "unlawful dissemination of confidential intelligence information". The act is designed to protect information about victims, witnesses, suspects, and citizens that were investigated but not charged with a crime and also from providing information to informants that could endanger law enforcement officers or others, and which if released would constitute an invasion of a citizens' privacy.

Every record provided to the public as part of a request for information must be carefully reviewed to "redact" or remove any confidential information. Common examples of redacted

information are names, address, phone numbers, and social security numbers, email addresses, of victims, witnesses, complainants, and suspects as well as compromising photographs of the same people. Agencies would also withhold records that disclose investigative techniques such as a covert policy if disclosing that information could alert criminals to covert behavior and endanger staff. This can be found within M.R.S. Title 16 section 804 – 7. and 8.

Challenges are present when working with these requests. Many times, requests are labor intensive to search, review, and redact information to ensure compliance with the law and don't place people in harm's way by releasing information that is confidential. This process can be expensive and time consuming, depending on the number of employees that are named in a request, the number of search terms that are listed or the number of documents that are being requested. Because the State of Maine data information systems are not like Google, often requesters expect that a search for records requested can be done much easier and in less time. A search for records often entails every employee's computer being individually searched and our employees are spread throughout the State in many locations with varying skill sets to conduct complex email searches.

Typically the department works with the requester to facilitate a productive response by helping them understand the way the search must be conducted and how best to narrow the scope of the search to not only get the best results, but reduce the cost to the requestor and expedite the process for all involved. The requests that Colin Woodard made were difficult for staff to process in terms of developing an estimated cost to produce the responsive records and he was difficult to work with when the department wanted to try to narrow the scope of the search. When the Attorney General's Office, who specializes in the release of public records became involved it was still a difficult process.

Here are some, but not all of the exceptions to public records found in Maine statute that must be reviewed prior to release of a public document:

- M.R.S. Title 16 §804 Limitation on dissemination of intelligence and investigative record information
- Except as provided in sections 805 and 806, a record that is or contains intelligence and investigative record information is confidential and may not be disseminated by a Maine criminal justice agency to any person or public or private entity if there is a reasonable possibility that public release or inspection of the record would: [2013, c. 507, §4 (AMD).]
- Interfere with criminal law enforcement proceedings. Interfere with law enforcement proceedings relating to crimes; [2013, c. 267, Pt. A, §3 (NEW).]
- 2. Result in dissemination of prejudicial information. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury; [2013, c. 267, Pt. A, §3 (NEW) .]
- Constitute an invasion of privacy. Constitute an unwarranted invasion of personal privacy; [2013, c. 267, Pt. A, §3 (NEW) .]
- Disclose confidential source. Disclose the identity of a confidential source; [2013, c. 267, Pt. A, §3 (NEW) .]
- Disclose confidential information. Disclose confidential information furnished only by a confidential source; [2013, c. 267, Pt. A, §3 (NEW) .]
- 6. Disclose trade secrets or other confidential commercial or financial information. Disclose trade secrets or other confidential commercial or financial information

- designated as such by the owner or source of the information, by the Department of the Attorney General or by a district attorney's office; [2013, c. 267, Pt. A, §3 (NEW) .]
- 7. Disclose investigative techniques or security plans. Disclose investigative techniques and procedures or security plans and procedures not known by the general public;[2013, c. 267, Pt. A, §3 (NEW) .]
 - 8. Endanger law enforcement or others. Endanger the life or physical safety of any individual, including law enforcement personnel;[2013, c. 267, Pt. A, §3 (NEW) .]
 - 9. Disclose statutorily designated confidential information. Disclose information designated confidential by statute;[2013, c. 267, Pt. A, §3 (NEW) .]
 - 10. Interfere with civil proceedings. Interfere with proceedings relating to civil violations, civil enforcement proceedings and other civil proceedings conducted by the Department of the Attorney General or by a district attorney's office; [2013, c. 267, Pt. A, §3 (NEW) .]
 - 11. Disclose arbitration or mediation information. Disclose conduct of or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General; or [2013, c. 267, Pt. A, §3 (NEW) .]
 - 12. Identify source of consumer or antitrust complaints. Identify the source of a complaint made to the Department of the Attorney General regarding a violation of consumer or antitrust laws.
 - M.R.S. Title 1 § 402 Public records. The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:
 - Records that have been designated confidential by statute; [1975, c. 758, (NEW).]
 - B. Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding; [1975, c. 758, (NEW).]
 - C. Legislative papers and reports until signed and publicly distributed in accordance with legislative rules, and records, working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the legislative session or sessions in which the papers or reports are prepared or considered or to which the paper or report is carried over; [1991, c. 773, §2 (AMD).]
 - C-1. Information contained in a communication between a constituent and an elected official if the information:
 - Is of a personal nature, consisting of:
 - An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
 - (b) Credit or financial information;
 - (c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family;

- (d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or
- (e) An individual's social security number; or
- (2) Would be confidential if it were in the possession of another public agency or official; [2011, c. 264, §1 (NEW).]
- D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives; [1989, c. 358, §4 (AMD).]
- E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B; [1989, c. 358, §4 (AMD); 1989, c. 443, §2 (AMD); 1989, c. 878, Pt. A, §2 (RPR); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]
- F. Records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions are confidential if those records are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [1991, c. 448, §1 (AMD).]
- G. Materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [1991, c. 448, §1(AMD).]
- H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports must be available upon request to law enforcement officers investigating criminal conduct; [1995, c. 608, §4 (AMD).]
- Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter; [1999, c. 96, §1 (AMD).]
- J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed by a member or in a public meeting of the advisory organization; [2001, c. 675, §1 (AMD).]
- K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services, if the municipality has enacted an ordinance that specifies the circumstances in which the information will be withheld from disclosure. This paragraph does not apply to records governed by Title 20-A, section 6001 and does not supersede Title 20-A, section 6001-A; [2003, c. 392, §1 (AMD).]
- L. Records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism, but only to the extent that release of information contained in the record could reasonably be expected to jeopardize the physical safety of government personnel or the public. Information contained in records covered by this paragraph may be disclosed to the

Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure. For purposes of this paragraph, "terrorism" means conduct that is designed to cause serious bodily injury or substantial risk of bodily injury to multiple persons, substantial damage to multiple structures whether occupied or unoccupied or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure; [2003, c. 614, §1 (AMD).]

- M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure; [2011, c. 662, §2 (AMD).]
- N. Social security numbers; [2011, c. 320, Pt. E, §1 (AMD).]
- O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:
 - "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and
 - (2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials; [RR 2009, c. 1, §1 (COR).]
- P. Geographic information regarding recreational trails that are located on private land that are authorized voluntarily as such by the landowner with no public deed or guaranteed right of public access, unless the landowner authorizes the release of the information; [2011, c. 149, §1 (AMD).] (Paragraph P as enacted by PL 2009, c. 339, §3 is REALLOCATED TO TITLE 1, SECTION 402, SUBSECTION 3, PARAGRAPH Q)
- Q. (REALLOCATED FROM T. 1, §402, sub-§3, ¶P) Security plans, staffing plans, security procedures, architectural drawings or risk assessments prepared for emergency events that are prepared for or by or kept in the custody of the Department of Corrections or a county jail if there is a reasonable possibility that public release or inspection of the records would endanger the life or physical safety of any individual or disclose security plans and procedures not generally known by the general public. Information contained in records covered by this paragraph may be disclosed to state and county officials if necessary to carry out the duties of the officials or the Department of Corrections under conditions that protect the information from further disclosure; [2015, c. 335, §1 (AMD).]
- R. Social security numbers in the possession of the Secretary of State; [2013, c. 518, §1 (AMD).]
- S. E-mail addresses obtained by a political subdivision of the State for the sole purpose of disseminating noninteractive notifications, updates and cancellations that are issued from the political subdivision or its elected officers to an individual or individuals that request or regularly accept these noninteractive communications; [2015, c. 161, §1 (AMD).]
- T. Records describing research for the development of processing techniques for fisheries, aquaculture and seafood processing or the design and operation of a depuration plant in the possession of the Department of Marine Resources; and [2015, c. 161, §2 (AMD).]
- U. Records provided by a railroad company describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, a fire

department or other first responder. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5. [2015, c. 161, §3 (NEW).][2015, c. 161, §§1-3 (AMD); 2015, c. 335, §1 (AMD) .]

- 3-A. Public records further defined. "Public records" also includes the following criminal justice agency records:
 - Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of furlough and dates of furlough; [2013, c. 267, Pt. B, §1 (AMD).]
 - B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of residence and dates of supervision; and [2013, c. 267, Pt. B, §1 (AMD).]
 - C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information. [2013, c. 267, Pt. B, §1 (AMD).] [2013, c. 267, Pt. B, §1 (AMD) .]
- Public records of interscholastic athletic organizations. Any records or minutes of meetings under subsection 2, paragraph G are public records. [2009, c. 334, §4 (NEW) .]
- Public access officer. "Public access officer" means the person designated pursuant to section 413, subsection 1. [2011, c. 662, §3 (NEW) .]
- 6. Reasonable office hours. "Reasonable office hours" includes all regular office hours of an agency or official

Responses from Todd R. Collins
District Attorney, Aroostook County

1. What constitutes "entrapment?"

The defense of entrapment has two elements: government action that induced the defendant to commit the crime, and a lack of predisposition on the part of the defendant to commit the offense. State v. Davis, 591 A.2d 1299, 1300 (Me.1991). "The evidentiary threshold required to generate the issue of entrapment is low.... If there is *any* rational support in the evidence for the defense of entrapment and the court fails to instruct the jury on that defense, it has committed reversible error." *Id.* Even unsubstantial evidence of entrapment necessitates the instruction. The test is whether the record provides evidence to warrant a reasonable hypothesis that an entrapment occurred. *Id.*; *see also State v. Bisson, 491 A.2d 544, 547 (Me.1985)* (evidence warranted an entrapment instruction when a defendant testified that police ordered him to move his car, thereby inducing him to drive while intoxicated); *State v. Lee, 583 A.2d 212, 213 (Me.1990)* (entrapment instruction appropriate when girlfriend of defendant was acting as a government informant when arranging for defendant to sell cocaine to undercover drug agents). When the issue of entrapment is properly generated by the evidence, the burden is on the State to establish beyond a reasonable doubt the absence of entrapment. Davis, 591 A.2d at 1300.

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Generally speaking, simply providing a defendant with an opportunity to commit a crime will not constitute "entrapment." Entrapment requires something more than an opportunity – usually an inducement or coercion by a State actor is required to trigger an entrapment defense; if neither inducement nor coercion is present, courts will often look to the conduct of the law enforcement agency to determine whether the behavior of an agent "shocks the conscience" and should nonetheless bar a conviction.

a. Was this looked at during the trials, and what was the basis for deciding that the Game Warden did not entrap the defendants?

The Court never considered the question of entrapment. It was never raised by the defendant. The Court did not instruct the jury on the issue of entrapment and the defendant did not raise the issue of entrapment in his challenge of his conviction to the Law Court. Given the low threshold required by law to raise the question of entrapment, the fact that it was not raised at any time during the trial and appeal is a clear indication that the IFW Agent did *not* entrap the defendant.

2. Did the Warden follow the policy?

The IFW agent followed the law and conducted a successful undercover investigation that resulted in multiple successful prosecutions.

3. What are the constitutional parameters of undercover investigations?

Under the Constitution, all police activity must conform to the same principles regardless of whether they are "undercover" or otherwise. Law Enforcement Agents are bound by the 4th and 5th Amendments of the Constitution as well as the "Due Process" clauses contained in the 6th and 14th Amendments. In essence, investigations and prosecutions must be "fundamentally fair" in order to be "Constitutional;" the entrapment defense is one way to measure whether or not an investigation comported within the bounds of the law and the Constitution. Given that this case was fully defended through a jury trial and up through an appeal to the Law Court, the Legislature should be wholly satisfied that the IFW operated within constitutional parameters and nothing about the subsequent media scrutiny should undermine the public's confidence in the validity of the convictions secured in these matters.

North Woods lawless

A controversial operation in the town of Allagash raises questions about the Maine Warden Service's undercover operations.

Story by **Colin Woodard**, Staff Writer
Published May 8, 2016

They swept in after dark on a cold winter's night: some 30 armed wardens backed by state troopers and shadowed by two film crews from the television show "North Woods Law." Riding in two dozen vehicles, lights flashing, they rushed up the only road into Allagash as a convoy, then began peeling off in groups to simultaneously raid or visit nine residences housing one-fifth of this isolated hamlet's population.

At that very moment, in three other towns across the state, a half-dozen wardens knocked on doors as part of the operation.

"We're prepared for them if they come out wanting a fight," Warden Chris Simmons told the television crew in the back of his vehicle as they sped through the night on Feb. 5, 2014. "We're ready for anything." They had all been briefed at a staging area that this would be, as the television team would recount, "a high-stakes and possibly dangerous operation."

But the wardens, who were raiding the town after a two-year undercover investigation, met no resistance during the takedown, which was code-named "Operation Red Meat."

They ultimately arrested two people, charging them and 21 others with a total of 300 offenses as they swept up what an undercover agent's supervisor would call "some of the more intentional, serious fish and game violators in the Allagash region."

Simmons, in remarks carefully vetted by his Maine Warden Service superiors before broadcast, told the camera crews he was happy they had ended the “killing spree.”

In reality, the operation had surprisingly scant results. Its main target, a convicted poacher named Jess McBreairty, eventually, and reluctantly, pleaded guilty to charges related to a plate of undocumented venison and onions he cooked for the covert agent, the improper tagging of a deer possessed by his estranged girlfriend, and the shooting of a single grouse. Carter McBreairty, Jess’s first cousin once-removed, was convicted of minor offenses, including taking too many trout, having his girlfriend tag a deer he’d shot, and hunting while drinking.

The undercover agent persuaded a third man, an impressionable 36-year-old, to repeatedly go night poaching with him, providing the man with the gun, ammunition, vehicle and spotlight, and even shooting the first deer himself. Others pleaded guilty to a host of minor charges ranging from having a loaded gun in a vehicle to marijuana possession. Many of them said they didn’t commit the offenses but they couldn’t afford to fight the charges in court.

The undercover operation, raid and their aftermath have disturbed and angered townspeople and raised concerns about how the warden service conducts these operations, during which its operatives are allowed to break the very wildlife laws they enforce.

Law enforcement experts and local civic leaders say the undercover operation and takedown raid appear to be out of proportion to the alleged crimes. And many of those charged are accusing the covert agent of misconduct.

A six-month investigation by the Maine Sunday Telegram uncovered troubling behavior by and serious allegations against the warden service, including entrapment, padding evidence and providing alcohol to suspects to entice them to commit crimes.

It's not the first time the service has been accused of overzealous enforcement. The agency has been trying to overcome a reputation for abusing its powers for almost 20 years.

But in this latest incident, the wardens went so far as to unlawfully seize a stock of canned peaches and vegetables from a 64-year-old woman whom they tried to prosecute for processing illegal game. Despite the intervention of lawyers and a state legislator, the woman says they failed to return most of her canned food. After dropping all charges against her, wardens contacted her seasonal employer of 13 years, which resulted in her not being rehired.

"The disappointment is that we have frequently addressed these issues and there's no real evidence that they are operating differently," says George Smith, who pressured the warden service to reform itself in the late 1990s and early 2000s, when he was head of the Sportsmen's Alliance of Maine. "It's probably the kind of organization that's impossible to change."

The newspaper interviewed 35 people – including town residents, attorneys, legislators, convicted poachers and criminal justice experts – and reviewed more than 1,000 pages of court documents and emails; official reports of the covert investigator, his supervisors, and the wardens and police officers who carried out the raid; and the recorded phone conversations and interviews involving the investigator and his targets released as evidence for court proceedings.

Several of the targeted people accuse the undercover agent of trumping up charges in Allagash by padding evidence, and say he gave people alcohol – a violation of past warden service policies on covert operations. (The department refused to provide an updated version of these policies, declaring them to be a secret.) The agent's own reports say he gave a target a firearm and ammunition – and that he even killed a deer in the target's presence – in an effort to entice him to poach. Wardens also twice sought prosecution for trespassing offenses even when property owners said no violations had taken place.

“The way in which some people were treated was heavy-handed, and that’s what got me really upset,” says Rep. John Martin, who has represented Allagash and other parts of Aroostook County in the state Legislature for most of the past half-century. “I’d be shocked to learn, and somebody should find out, how much money was spent in that operation. Frankly, if we spent it looking at people involved in major crimes, it would be much more productive.”

Joseph L. Giacalone, a retired New York Police Department sergeant who teaches at the John Jay College for Criminal Justice in New York, says the wardens’ Allagash operation was wildly out of proportion to the suspected crimes.

“They spent two years, and this is what they find? It sounds like a whole lot of nonsense,” says Giacalone, who once headed the Bronx’s cold case unit. “This should not be an operation that law enforcement would be involved in for this long unless you had people smuggling drugs or sex workers across the border.”

Giacalone also wondered whether the presence of cameras from “North Woods Law,” an Animal Planet reality show that focuses on Maine wardens, played a role in the large raid. “Many police departments don’t want to get involved with reality TV crews because they don’t want the cops thinking they may be movie stars and to play it up on tape, because that can come back to haunt you,” he says.

But another John Jay College faculty member says outsiders shouldn’t second-guess the actions of undercover investigators. He speculated that the wardens might have suspected the presence of an international game-smuggling syndicate.

“They didn’t get the intended targets with any felonies, which leads me to think the operation didn’t give them as much fruit as they wanted to,” says Jon Shane, a retired police captain in Newark, New Jersey. “I don’t fault law enforcement for doing what they did, but it sounds like a very weak case.”

Getting the warden service’s side of the story hasn’t been easy.

The service and its leader, Col. Joel Wilkinson, refused interview requests, initially saying they would answer questions submitted in writing. Shortly after receiving the newspaper's questions, however, their spokesman invited a reporter to a meeting with a senior officer, Lt. Dan Scott, at the warden service's Augusta headquarters. But the meeting was abruptly canceled hours later without explanation.

"All future conversations between you and Maine Department of Inland Fisheries & Wildlife staff will need to be in writing," spokesman Cpl. John MacDonald said by email.

All of the paper's subsequent contact with the department was routed through its legal counsel, Assistant Attorney General Mark Randlett. Days later, Randlett forwarded a written note from the department that read: "We will not be providing further comment in regard to your line of questions and feel we have made good faith efforts to provide you a timely and reasonable response." Many questions previously posed were left unaddressed.

Inland Fisheries & Wildlife Commissioner Chandler Woodcock also declined to speak with the Telegram, and the warden service refused to share the agency's written policies governing the conduct of undercover investigators or to reveal the cost of the Allagash investigation and raid.

Chace Jackson, an Allagash native whose father, Troy, represented the area in the state Senate, says much of the community is still scarred and angered by the raid.

"These are people's grandmothers and people who aren't bothering anyone, and you come up here with all these vehicles and guys dressed up like a small army, like you're going to meet armed resistance or something," he says. "Do they think all Allagash people are poachers and outlaws? It's an attack against all of us and our decency."

Allagash is literally at the end of the road, a dispersed collection of homes, hunting lodges and small businesses that congeals into a hamlet near where its namesake river meets the St. John River. It's 12 miles back down Route 161 to the nearest village and a half-hour's drive to Fort Kent, the last place with supermarkets and cellphone coverage.

In all other directions, Allagash is surrounded by industrial forests that stretch to the borders of Quebec, New Brunswick, and Baxter State Park, 60 miles south. Cultural factors further the isolation: Almost everyone here is related and descended from the original Scots-Irish settlers, whereas the rest of the Upper Saint John Valley is French Acadian.

Its 228 residents live on an island of sorts, their access to the sea of forest mediated by gatehouses collectively operated by New Brunswick's Irving conglomerate and the other large landowners. Passage beyond the gates requires a fee and a nod that you accept their rules.

The economy orbits around forestry – although mechanization has decimated labor needs – and guiding and supporting those who come from away to hunt, fish or paddle. There isn't enough money to go around, and over the past 60 years the town's population has declined by two-thirds, the elementary and high schools have closed, and the average age has risen steadily.

For fun, people pay the gate fees and travel through the vast expanse of forest, where they can drive for hours without seeing another person or vehicle. There's often a cooler of beer in the back that's empty by the time they return to civilization.

“You know you're not supposed to be out on the woods roads with a couple of 12-packs, but it's also something so common it doesn't feel wrong, like driving 8 miles over the speed limit on the highway,” Jackson says. “It may not be legally defensible, but I can only say that it's so common as to make it almost feel mean

that someone would ride along just to make that into something to bring charges against you. It's like a hit against our way of life."

It's also an unusually trusting place, where people are startlingly open, relaxed and without guile, and strangers are invited to stay in people's houses – or drink beer or smoke dope on a backwoods road – without a second thought. The warmth captivates visitors, many of whom come back year after year as much on account of the people as the trout, grouse or deer.

"That's what makes it so easy for an event like this to take place," says Rep. Martin. "They're an open book. They don't hide things. It's just not their nature."

The warden service, the law enforcement branch of the Department of Inland Fisheries & Wildlife, has 125 officers scattered across the state. Although its primary focus is enforcing fish and wildlife laws, wardens are often the only law enforcement presence in the remote towns and vast unorganized territories where they operate. They perform search-and-rescue operations, act as traffic cops on snowmobile and ATV trails, and investigate hunting-related shootings.

Wardens submit 1,760 charges for prosecution in a typical year, the vast majority for hunting offenses or vehicle registration and license infractions, although about 2 percent are felonies. They also maintain a dedicated undercover unit that embeds agents in hunting or fishing circles suspected of game law violations, which are misdemeanors.

In May 2012, the Fort Kent-based warden responsible for Allagash, Sgt. Jeff Spencer, forwarded his request for an undercover investigation to headquarters. His target was 39-year-old Jess McBreairty, a colorful rogue whose vintage trailer home on the banks of the St. John had electricity but was otherwise off the grid: outhouse, wood heat and no running water.

In 2008, McBreairty was convicted of cultivating marijuana and of poaching a moose with another man, Reid Caron; both men said they had done so because they were in dire straits and needed the food. McBreairty had lost his driver's license, so the only way he could get the 4 miles to the center of the hamlet was by driving his four-wheeler on the back trails and briefly crossing the Dickey Bridge over the river. He sometimes walked a mile to the home of his first cousin once-removed, Carter McBreairty, to shower, socialize or hitch a ride.

Spencer's request for an investigation did not include concerns about a major smuggling operation or other organized crime. Instead, the warden said he had "received information in the past that Jess and Carter have killed moose during closed season and also that Carter takes large limits of brook trout." He said he'd been told that Jess "often leaves his residence late at night" and "uses his canoe to fish and plants marijuana where we won't find it." Carter, he wrote, "has been caught before and is also a heavy drinker." Jess had boasted to him of past poaching, the warden said.

Headquarters approved Spencer's request and assigned a veteran covert operative to infiltrate Jess and Carter's social circle. Over the next two years, the operative, Bill Livezey, would travel to Allagash nine times, partying late with locals at the Moose Shack bar in St. Francis or at Carter's house, where he was welcomed as a guest for days on end, even when the 56-year-old construction worker was out of town. In total, Livezey would spend 40 days in Allagash, posing as Pennsylvania hunter Bill Fried and – according to his own reports – doing his best to tempt locals into violating fish, game and other laws.

In June 2012, Livezey, pretending to be Fried, drove into Allagash, looking to catch Jess and Carter committing serious wildlife crimes. It was the first of nine trips over nearly two years. During those visits, Livezey heard a lot of talk about poaching, but he never caught either man actually doing it.

Jess was suspicious of the agent, who was frustrated to discover that his primary target was keeping his nose clean, even as he allegedly boasted of past poaching exploits. Townspeople told Livezey that Jess had turned over a new leaf under the influence of a new girlfriend. Later in the investigation, Jess stopped drinking and smoking marijuana in accordance with bail terms set in connection with a criminal threatening charge leveled against him by an ex-girlfriend and her father. Jess was proving difficult to ensnare.

Livezey's covert operative reports and telephone recordings show he tried to get Jess to shoot and sell him a buck, to lay bait for deer and to hunt at night – all violations of Maine hunting rules. Jess declined.

“The impression I got of this Bill feller was that he was very gung-ho,” Jess recalls. “When he left that first weekend, he was bound and determined that I was going to shoot him a buck, and I made up my mind right there that I was going to have as little to do with the (expletive) as I could.”

Livezey did not respond to requests for an interview sent both by e-mail and to his home via U.S. mail. The warden service said he would not answer any questions.

Jess did agree to show Livezey where to hunt. During the drive, the agent claims, Jess shot a grouse with a .22 revolver, later resulting in four charges, including firing from a moving vehicle and hunting without a license. “Never happened,” Jess says, noting he never owned such a gun. “He just made it up.” (The warden service said such accusations “are completely inaccurate and untrue” – a phrase it repeatedly used in its written responses to questions – but declined to elaborate.) At one point, Jess made Livezey a meal of onions and venison, for which he would later be charged with possession of undocumented meat. He also would be charged with a tagging violation involving a deer registered by his estranged girlfriend, the one who had accused him of threatening.

When they finally raided Allagash, the wardens didn't obtain a search warrant for Jess's home; he was arrested instead for drinking beer, a violation of his bail terms in the criminal threatening case. (Jess and his sister, Polly Hafford, say their attorney, Toby Jandreau, had wrongly told them the bail terms had been lifted a few days earlier. Jandreau declined to comment.)

Jess initially fought the warden's charges, but after spending 50 days in jail he agreed to plead guilty and accept a punishment of time served and \$3,760 in fines.

"When it come right down to it, it was either make a deal and go home, or be contrary and go back to jail for another two or three weeks or a month," he says.

Carter, whom many residents described as generous to a fault, was more trusting. Livezey finally encountered him at the Moose Shack on his fourth trip to the area. By the end of that weekend he was a house guest.

Carter shot a deer while they hunted together behind the house, and Carter's live-in girlfriend attached her tag to it, improperly claiming it as her own, which allowed Carter to hunt and kill another deer later that season. On this and other occasions, Carter drank beer while taking Livezey on drives in the industrial forest, and on one afternoon the investigator claimed he became extremely intoxicated.

"There are no malls here, no nightclubs, no strip joints – Christ, we're in the Allagash," Carter explained to a reporter as he drove the same roads two years later. "I'm having a beer in the Maine woods. There's no ball or kids coming in the road here! Who cares!"

The agent would stay at Carter's house for days on end, even when his host was working in midcoast Maine. During their time together, Livezey alleged that Carter told him to hide in the back of the vehicle as they passed the gates, to avoid paying a day-use fee to North Maine Woods, the coalition of industrial forest owners that manages access to the woods surrounding Allagash; that Carter had loaded

firearms in his Chevy Suburban and shot at grouse out the window; that during a trout fishing trip, Carter caught six more fish than the legal limit; and that he trespassed on a cousin's land, even though the cousin said otherwise. Carter would contest all these charges, appealing them to Maine's highest court.

The agent took a photograph of Carter with 24 trout, 11 of which he claimed Carter had caught. Carter says that in reality, the agent had taken 11 fish out of the freezer and added them to the photograph. Carter and his other fishing companion, Dana Kelly, gave all the fish to Livezey as a present, court filings say, and he later placed them in evidence in a Bangor freezer.

At trial, Carter's lawyer enlarged the photo to demonstrate that 11 of the fish "had a distinctive different appearance because those fish had been caught on an earlier day at a different location," an assertion that Kelly corroborated. Only after the trial did Carter's defense team learn that wardens still had the fish, which could have been genetically tested.

Asked by the Telegram why they were not, since it would have settled the matter, the warden service would not provide a direct answer, noting that a jury had found Carter guilty. Asked whether Livezey had planted the extra trout, the warden service said the accusation was "completely inaccurate and untrue." (Prosecutor Jim Mitchell says the state would have given defense lawyers access to the fish if they had asked.)

At trial, the head of North Maine Woods, Albro Cowperthwaite, filed paperwork to discharge the trespassing charges against Carter, whose sisters always bought him an annual pass as a birthday present.

"The warden service was disappointed, because I sent the letter before they showed up on my doorstep," Cowperthwaite recalls.

Carter was prosecuted anyway. When asked why, the warden service said Cowperthwaite had not been aware that Carter “often had persons hiding in the back of his truck” when he passed their checkpoints.

Carter, who had no previous convictions, was later found guilty of 13 charges, but the trial judge discharged the two trespassing counts. For hunting under the influence, loaded firearms in his vehicle, the trout, and the deer tagging irregularity, he was fined \$10,300 and sentenced to 354 days in jail, with all but 30 days suspended. He appealed to the Maine Supreme Judicial Court, but his convictions were upheld in an April 21 ruling.

After seven trips and more than a year’s work, Livezey turned his attention to a new target, Reid Caron, who when drunk and stoned had allegedly bragged about regularly poaching deer and moose to feed himself.

On Halloween night in 2013, Livezey showed up at Caron’s dilapidated trailer and hung out while the 36-year-old smoked joints. Four hours later, Caron was drinking beer and blasting away at a deer from the agent’s truck using the agent’s guns, ammo and spotlight. The two repeated this ritual eight more times that fall, Livezey reported.

During these illegal night-hunting expeditions, Livezey was the first to kill a deer, and Caron subsequently shot a deer and a moose, the agent’s reports show.

“I wouldn’t have been going out and doing this if he hadn’t wanted to,” says Caron, who later pleaded guilty to 39 charges. He spent 90 days in jail and owes \$27,240 in fines.

Caron’s mother, Hope Kelly, says her son was an easy mark for the agent. “The relationship they developed was that Reid just wanted him to like him as a person,” she says.

Rep. Martin, who wrote a letter requesting leniency to Caron's sentencing judge, concurs. "Reid is as nice a guy as you can find, always wanting to help people," he says. "To me, it was entrapment."

Many of those who encountered Livezey in Allagash say he often drank and provided drinks to others, although the agent claimed in his reports that he poured most of his beers out or nursed his drinks during multiple three- and four-hour visits to the Moose Shack to gather intelligence and infiltrate local social circles.

"He would drink and hand me beers in the vehicle," says Jared McBreairty, Carter's son, who says he pleaded guilty to hunting under the influence and illegal possession of a grouse during a backwoods drive with the agent because it would have cost too much to fight the charges, even though he says he did not commit them. "Being law enforcement, you wouldn't think he could do that," Jared says.

Caron concurs. "The whole time he was doing this, the guy stayed drunk," he says of the covert agent. "He later claimed he was dumping beers all day, but that isn't so. This was a vacation for him, and he was partying hard."

Jess recalls Livezey arriving at his house with a 12-pack of Yuengling beer and says that the agent drank eight of them.

The warden service says Livezey "was never under the influence" during the investigation, and the only beer he provided was to Jess.

In the past, providing alcohol to third parties violated the warden service's policies for undercover agents, who also were prohibited from committing non-wildlife-related crimes. These policies are presumably still in effect, but the warden service refused to provide them.

The Telegram filed a public records request for them and received a 16-page document with the main body of the text – 15 pages – almost completely redacted on the grounds that the contents had to remain secret to protect agents,

even though a previous version of the document was made public in 2005 with no redactions at all.

According to the unredacted 2005 policy document, undercover wardens must first establish that a target has a “predisposition” to commit wildlife crimes before attempting to entice the target into committing them. Under Maine statute, undercover wardens may also violate fish and wildlife laws, and the 2005 department policy allowed them to drink alcohol in order to fit in with targets they are investigating. Maine’s highest court ruled in a 2006 appeal involving the same investigator, Livezey, that agents can incite people to commit illicit acts as long as they “had a predisposition to commit those crimes.”

On the evening of Feb. 5, 2014, Caron and his mother, Hope Kelly, were watching television when eight or 10 men came into her home unannounced. They said they were wardens, but Kelly says at first she didn’t believe them because they wouldn’t show her a search warrant. They took her son away and made her sit at the kitchen table for hours while they tromped up and down the basement stairs, carrying away case after case of her home-canned peaches, beets, corn, and moose and deer meat – the meat, she says, legally harvested by her brothers.

“It was all men in here, and I wasn’t sure if they wouldn’t be killing me when they finished robbing my house, because I didn’t think real law enforcement would do this,” recalls Kelly, who worked a seasonal job as a North Maine Woods gatekeeper. “I thought it was a home invasion.”

At that moment, wardens and state troopers were serving warrants all over town. Jess was arrested for drinking beer in violation of bail conditions he says he thought had been lifted. A film crew from “North Woods Law” had been invited along on the raid at the last minute, and the crew was posted outside the house of Caron’s father, where Warden Simmons and his partner found no weapons and an elderly man unable to get up from his couch.

Six wardens swarmed Carter's house, finding only his girlfriend. Another team searched the home of a different man, a felon who wasn't allowed to possess the guns Livezey had seen there. Others searched Caron's trailer or interviewed witnesses. Down in Bath – where Carter worked most weeks, sometimes sleeping in his vehicle at night – Carter was met at a bar by two wardens who interviewed him for two hours in their truck, while five more raided the home of another man in Palermo.

Kelly was famous locally for her canned peaches, made with organic fruit grown in Pennsylvania and purchased from the Amish farmers who have bought up stretches of Aroostook County farmland in recent years. She had spent hours preparing the peaches and the organic fruit from her garden and packing them in clear-glass pint jars, 110 in total, she estimates. There also were 36 jars of moose meat, which was never proven to be illicit and which Kelly maintains was from animals legally shot by her siblings. Most of it was never returned, she says, despite interventions by her attorney and Rep. Martin.

“It's robbery and thievery, and to do it by force!” she says, noting that only 33 pints were returned to her. “I'm assuming they ate it all, because otherwise they would have brought it back by now.”

To her surprise, Kelly – who had never laid eyes on Livezey – was charged with four counts related to possession of poached meat. Unlike most of those charged, she pleaded not guilty. The night before the trial, the district attorney dropped all charges against her.

“They didn't have a case,” says her attorney, Ted Smith of Van Buren. “You had a person in there for months, and you have nothing at all.”

Assistant District Attorney Jim Mitchell disagrees, saying he dropped the charges because Kelly's son had “stepped up and accepted responsibility” for his poaching

activities. "It had nothing to do with the strength of the case," he says. "I was more interested in getting the person who did the poaching."

Either way, Kelly would pay. Three weeks later, she says, her boss, Albro Cowperthwaite of North Maine Woods, called to say he had a lengthy conversation with the warden service and decided not to ask her back to work for the coming season, which would have been her 14th. Beyond that, she says he declined to give a reason.

Reached at his office in Ashland, Cowperthwaite confirmed Kelly's account, but declined to comment further.

"I think that's an involvement by the warden service that is a violation of the due process of law," attorney Smith says. "There was a little payback by the game wardens."

Asked why they would do such a thing, the warden's service issued a blanket denial. "Maine Warden Service personnel did not request that North Maine Woods not rehire any employee," the service wrote in an email.

The warden service also says Kelly's "vegetables" – 33 jars – were returned "within two days after this was brought to the attention" of the agency. The meat, prosecutor Mitchell says, was confiscated as contraband even though it was never proven to be illicit, in accordance with the usual procedure in such circumstances. The wardens refused to answer further questions about the 77 pints of fruit and vegetables that Kelly says were never returned.

To this day, many Allagash residents bristle at the way the wardens conducted their investigation and raid. Why, they ask, would a law enforcement agency spend thousands of hours and so many taxpayer dollars to pursue two men suspected, at the most, of garden-variety poaching? Why the focus on enticing someone to go out at night and commit crimes rather than catching people

breaking the law of their own volition? Why the paramilitary-style raid, played out before television cameras?

Many residents believe the theatrical scale of the raid and the presence of cameras are related. “You had a SWAT team here with dozens of vehicles and search lights; it was unbelievable,” says local writer and poet Darrell McBreairty, Carter’s brother. “The thing that’s disturbing for people in the community is that it seemed it was a production for the television program.”

The warden service says such accusations were “completely inaccurate and untrue,” and refused to answer further questions.

A producer of “North Woods Law” says he doesn’t believe the cameras had any effect on the operation.

“I can assure you having been there myself that that wasn’t the case,” says Andy Seestedt, co-executive producer at Engel Entertainment, who was in Allagash as a field producer the night of the raid. “If they are trying to depict it as being all done for our behalf, that’s wholly inaccurate.”

The damage to the community has been lasting.

“What it’s really doing is putting a black mark on the town I grew up in and love so much,” says Jared McBreairty. “People had an open door – now they’re afraid of everyone else. ... It feels like a conspiracy.”

Town matriarch Faye O’Leary Hafford, 91, for whom the village’s library is named, says the raid was unnecessary in this quiet town.

“That scared a lot of people, one car after another coming up the road,” she says. “I wasn’t upset that they were doing their job. What bothered me is the way they handled it.”

Asked to respond, the warden service said only that the scale was required for “operational logistics and officer safety.”

Allagash resident Marilyn McBreairty – a distant relative of Jess and Carter – notes that with border patrol, sheriffs and wardens coming and going on a daily basis, there’s no absence of law enforcement in her town.

“They made it sound like we live on a different planet, like we in Allagash – everyone in Allagash – lives by a separate set of rules,” she says at her kitchen counter, her voice rising with exasperation. “We’re not a bunch of outlaws.”

The SWAT-style raid has changed people’s attitude toward outsiders, says Darrell McBreairty.

“Someone comes to town now and people say, ‘Get out of here. We don’t know who you are,’ ” he says. “These people are so gregarious and full of love of life and craziness – it’s too bad this way of life is being destroyed by a frivolous operation.”

Inland Fisheries & Wildlife

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Press Release

May 11, 2016

Maine Warden Service sets the record straight on “North Woods Lawless” allegations

The Maine Warden Service has been working diligently for the last two days in an effort to properly respond to the many inaccuracies contained within a Portland Press Herald story regarding our undercover operation in Allagash in 2014. We were informed today that the Portland Press Herald will not publish our response. Here it is in its entirety.

The story’s headline— *“North Woods Lawless”* —was correct because in that small isolated area of northern Aroostook County, a lawless attitude toward game laws by a small group of the town’s citizens had prevailed for many years.

That casual disregard was described in the story as “... a hit against our way of life.” that supposedly precipitated the undercover action by the Warden Service. It is well known that within sympathetic, tight-knit communities there is an unwillingness to speak out against one another. Special investigations are often the only means for acquiring evidence necessary for enforcement action. The sentiment of many in Allagash was that this lawlessness had been going on unanswered for far too long and resulted in complaints.

As a result of the investigation, 17 people were convicted of more than 75 crimes and violations that are detailed below. Suspects in this case paid over \$39,000 in fines, spent a total of nearly 180 days in jail and had 80 years’ worth of license revocations handed down to those convicted. Thirty-three game wardens were used while serving five search warrants and one arrest warrant in Allagash. The investigation focused on three primary suspects and 15 other associates. Over the course of two years, 31 days were spent by the game warden investigator in contact with the primary suspects. The investigation ultimately moved its way through Maine’s judicial process, including the Maine Supreme Court just last month, which upheld the convictions previously adjudged by the jury of Aroostook County citizens.

Selecting an undercover case

There are a number of criteria that are considered prior to moving forward with an investigation of this nature. The first is whether or not the suspects of the investigation are inclined on their own to violate fish and game laws. The primary defendants in this

case did have prior serious fish and wildlife violations—contrary to the statements used by the story’s author claiming that Carter McBreairty had “... no previous convictions.”

In addition, game wardens in the area had received numerous complaints about ongoing illegal hunting activity by the defendants, heavy drinking, violent tempers and attempts to try to intimidate local law enforcement. The complaints of ongoing poaching demonstrate that traditional patrol techniques were not successful in curtailing the illegal behavior. Soon after the warden investigator made contact with each of the defendants, they quickly confirmed their continued tendency to violate the law. The seriousness of the violations; coupled with the defendants’ criminal history and continued intent to violate, resulted in the investigation being authorized.

Release of documents

The story leads the reader to believe that the Maine Warden Service only produced a 16-page document and 35 emails in response to the author’s request. In reality, the Department has produced over 232 documents, for which the Portland Press Herald and their attorneys have paid.

Additionally, while attempting to accommodate the Freedom of Access Act request initiated by Colin Woodard, he filed a complaint with the Office of the Attorney General, which compelled the Warden Service to direct communications through attorneys. The Office of the Attorney General determined the Maine Warden Service was compliant with Maine’s Freedom of Access Act. The Maine Warden Service continues to work with the Attorney General’s Office to guide the release of records requested.

The Warden Service routinely processes requests for information through cooperative communication with the public to ensure the correct records are produced. Woodard resisted staff attempts to clarify the scope of his request, which would have reduced staff time and costs incurred by the requester. The Warden Service even dedicated time to create summary documents—which is not required under FOAA—in an attempt to expedite the request and make the process more efficient for Woodard.

“... SWAT-style raid...”

Woodard’s story asserts the Maine Warden Service used SWAT teams and tactics when conducting the operation in Allagash. Additionally, the story alleged the operation was embellished for purposes of the “North Woods Law” camera crews who were present. He is wrong. There were no SWAT teams or tactics used in the investigation, and no part of the investigation was embellished. This can be seen clearly in the episode of “North Woods Law,” which was titled “Throttle Out” and aired June 19, 2014.

The operation in the town of Allagash included serving five search warrants at separate residences as well as an arrest warrant signed by the Honorable Justice Hunter. Occupants of an additional three residences were identified as needing interview follow-ups. For operational logistics and officer safety, four to five game wardens were present at

each search warrant, including one supervisor, one warden assigned to collect evidence, one warden assigned to interview, one warden conducting the search and one safety warden. Additionally, two wardens were typically sent to each of the residences with occupants who required follow-up interviews. One warden for each of these critical roles at a search warrant is well within a reasonable number of officers for such an operation.

On the evening of serving the warrants, one “North Woods Law” camera crew of five was used and divided into two small groups to cover more than one location. As per protocol for the camera crews, they never entered any of the houses and did their filming from the street, gathering video mostly of wardens carrying evidence from the residences.

Undocumented “... meal of onions and venison...”

The story described one of the defendants feeding the warden “... onions and venison, for which he would later be charged with possession of undocumented meat.” The deer was in fact described to the warden by the defendant as being a 140-pound doe which he had killed prior to the open deer season—an “early bird special” as described by Jess McBreairty. Additionally, McBreairty killed the doe in a wildlife management district that has been closed to the taking of antlerless deer for the past several years. This was further indication that the defendants were making a significant negative impact on local game populations.

“... entrapment...”

Woodard attempted to convey to readers that the game warden in this investigation acted outside the law. The author used expressions such as: “...persuaded,” “... entrapment,” “... entice,” and “... padding evidence.” He implied that these techniques were used in an effort to tempt defendants to commit crimes that they otherwise would not have committed. The game warden was also accused of frequently being intoxicated and was “... providing alcohol to suspects to entice them to commit crimes.” None of these unsubstantiated accusations are true.

At no time did the warden in this investigation entrap, persuade, entice or tempt any defendants to commit a crime. The defendants in this investigation had strong, controlling personalities and often commented how they wanted to teach the game warden the “Allagash way.” The warden took a passive role while hunting with the group and followed their lead and instructions. During this investigation, the game warden often attempted to limit and at times stop a defendant from killing moose and other wildlife.

On numerous occasions, Reid Caron attempted to convince the game warden to kill multiple moose and deer. On one occasion, the game warden stopped Caron from attempting to kill both a cow and a calf moose. On another occasion, Caron tried to night hunt a federally protected Lynx; the game warden prevented this by scaring the Lynx into the woods with his vehicle. Those found guilty as a result of this investigation killed five illegal deer, one moose and wounded one additional moose without the undercover

warden being present.

The game warden did shoot one male deer with Reid Caron. This was after Reid Caron shot and wounded two deer at night on Halloween 2013 and after Caron had shot at numerous deer at night.

Caron insisted the game warden shoot and laid out the rules for the game warden to do the shooting.

Defendants often challenge the warden once they realize they [defendants] have been committing all the violations.

By not following the defendant and killing an animal, the game warden would jeopardize his safety and the entire case. The deer which the game warden shot was one of two wounded deer that Caron shot five nights prior. The actions of the game warden were in compliance with policy and law. In some cases, officers are challenged and tested by suspects. Failure to follow their direction or demands will jeopardize the officer's safety and identity with the suspect(s).

Past documented occasions during similar investigations have lead game wardens to be threatened with their lives. Reid Caron had previously shot and wounded two deer at night and shot at other numerous deer at night. The game warden was successful in those instances and avoided killing an animal. The circumstance in this case of a deer being shot by the game warden was the result of Reid Caron ordering the game warden to shoot a deer. The game warden complied to protect his undercover status and quite possibly his life.

Providing/Consuming Alcohol

The warden in this case put himself in situations where he could document as many violations as possible, while at the same time trying to minimize his participation in the illegal activities. However, in order to "fit in" with this group of excessive drinkers, the game warden did consume minimal amounts of alcohol and used several techniques to appear or pretend he was consuming alcohol. At no time during this investigation was the game warden intoxicated while in character.

The customary practice for this group was to buy and bring large amounts of alcohol to camp or while out hunting. The game warden followed that pattern and brought his own alcohol. The game warden did not provide his alcohol to the suspects in this investigation. On one occasion only, in October of 2012, Jess McBreairty specifically asked the game warden for one (1) beer purchased by the game warden.

They were working outdoors on a tractor while McBreairty smoked a marijuana cigarette and were not engaged in hunting activities.

"... providing the man with the gun, ammunition, vehicle, and spotlight..."

Over many years of participating in covert operations, the Warden Service has seen time and again defendants who would rather use other individuals' firearms and vehicles in the event they are caught.

It is common knowledge among suspects, especially those such as Jess McBreairty and Reid Caron who have been convicted of past offenses involving mandatory jail time and loss of firearms, to know the potential to lose valuable equipment. Of the 15 defendants in the case, all used their own firearms and associated equipment at some point to commit fish and wildlife crimes.

Reid Caron, an educated violator

During several incidents of night hunting with Reid Caron, he told the game warden he is more careful and has learned from getting caught in the past. Caron stated numerous times, after finding rifle shells, that he must spend time looking for evidence left behind of his illegal night hunting activity. Caron often commented to the warden that this is why he will never get caught again. It should also be noted the illegal activity continued even when the game warden was not in the area, and they used their own firearms and equipment to commit crimes.

Fact vs. Fiction - Reid Caron

Here are the facts about Reid Caron, who was described in a February 5 story as being "in dire straits and needed the food" back in 2008 when both he and Jess McBreairty killed a moose at night. When Caron committed that crime, he was employed as an Allagash Wilderness Waterway Ranger (see story here:

<http://bangordailynews.com/2008/09/22/news/allagash-ranger-charged-with-illegal-moose-kill/>) and both he and McBreairty were convicted; Caron for night hunting and McBreairty for Hunting Moose in Closed Season and Shooting from a Motor Vehicle. Caron resigned from his position as a waterway ranger shortly thereafter. See full BDN story: <http://bangordailynews.com/2009/03/26/news/park-ranger-resigns-in-wake-of-night-hunting-conviction/>

Contrary to the Portland Press Herald's story, McBreairty and Caron—whom Woodard portrayed as being in "dire straits and needed the food"—subsequently left the moose, which they poached at night, to rot.

Hope Kelly's allegations that "I thought it was a home invasion."

Contrary to Hope Kelly's (Reid Caron's mother) statement that "eight or 10 men came into her house unannounced," game wardens who entered Hope Kelly's residence both knocked and announced their presence and immediately notified Hope Kelly that they were there to execute a search warrant. There were not 8 to 10 wardens that arrived at her residence, as Woodard reported. There was 1 game warden sergeant and 3 game wardens. One additional game warden arrived later to take custody of Reid Caron and to interview him.

The warrant was audio taped and was in the hands of Woodard. However, he chose to mislead readers and relay Hope Kelly's account instead. As soon as the residence was secured, Hope Kelly sat down at her own table, was shown the search warrant and was interviewed about to her involvement in the investigation.

The canned vegetables

During the course of the search warrant, a number of canned vegetables were seized inadvertently, a mistake that wardens made. The vegetables were in canning jars that were identical to and packaged with the illegal moose meat. Immediately upon being informed by Rep. John Martin that some non-evidentiary items were seized from her residence, we promptly returned the items. At the time they were returned, Ms. Kelly signed for the return of the property. That receipt is available to view. At no point did the Warden Service seize peaches.

In addition to the illegal canned moose meat, which was erroneously described by the author as "meat never proven to be illicit," illegal moose and illegal deer parts were also seized from Ms. Kelly's residence. As for any remaining canned evidence not being returned to Ms. Kelly, all other canned evidence was determined to be contraband and was forfeited upon adjudication.

"... scant results."

These are the words that Woodard emphasized in his effort to play down the poaching of Maine's wildlife. This group was found guilty of committing the following and paid nearly \$40,000 dollars in fines.

Reid Caron (37) of Allagash, previously under revocation, but had been reinstated in 2010, received 364 days in jail, all but 90 days suspended. Caron paid \$21,200 in fines and lost his hunting license privileges for 44 years. He was found guilty of:

Nine (9) counts of Night Hunting

Three (3) counts of Hunting Under the Influence

Five (5) counts of Closed Season Hunting of Deer and Moose

Four (4) counts of Exceeding Limit on Deer

Four (4) counts of Illegally Hunting Antlerless Deer

Two (2) counts of Possession of Night Hunted Moose and Deer

One count of Guiding w/out a License

One count of Hunting Moose w/out a Permit

One count of Possession of Unregistered Deer

One count of Over Limit of Grouse

Seven (7) counts of Shooting from/Loaded Firearm in a Motor Vehicle

Carter McBreairty (59) of Allagash received 364 days in jail with all but 30 days suspended and 60 days of 24-hour home confinement. Carter was ordered to pay fines of \$8,550; he surrendered three (3) firearms; and his hunting license privileges in Maine will be suspended for 24 years.

Carter was found guilty of:

Three (3) counts of Hunting Under the Influence

Three (3) counts of Exceeding Bag Limit on Deer

Three (3) counts of Loaded Firearm in a Vehicle

Night Hunting

Failure to Register a Deer

Over the Limit of Brook Trout

Two (2) counts of Theft of Services

Jess M. McBreairty (51) of Allagash, who was already under revocation for a previous night hunting case, received 50 days in the Aroostook County Jail, paid \$3,000 in fines and lost his hunting license privileges for 12 years. Jess McBreairty was found guilty of:

Loaded Firearm in a Motor Vehicle

Hunting w/out a license

Exceeding Bag Limit on Deer

Hunting Under Revocation

Illegal Possession of an Antlerless Deer

Possession of a Deer in Closed Season

Violation of Condition of Bail

Fourteen (14) additional defendants in connection with this case from the towns of Allagash, Winterport (ME), Palermo (ME), Derry (NH), Chester (NH), St. Francis (ME) and Fort Kent (ME) were found guilty of 17 additional violations, including Possession of Firearm by a Felon, Furnishing a Place for Minors to Drink, Illegal Possession of Moose Shot from a Motor Vehicle, Hunting w/out a License, Furnishing a Schedule Z Drug, and Illegal Possession of Grouse. Those fines totaled \$7,250.

The fact remains that all those involved plead guilty or were convicted by a jury of their peers for breaking the law. Some even went so far as to appeal all the way to the Supreme Court, which upheld their convictions and the merits of the case were affirmed 7-0 by Maine's highest arbiters of justice.

We know the Portland Press Herald story leaves some with questions regarding the investigative process used by the Warden Service. We firmly believe that effective special investigations remain an essential part of our 136-year mission to fairly enforce the laws protecting Maine's invaluable fish and wildlife resources. This has been an investigative unit that exemplifies our very best work:

<http://georgesoutdoornews.bangordailynews.com/2012/08/11/maine-woods/mount-vernon-poachers-my-neighbors-rounded-up/>

Maine people and those who are connected to our state deserved to hear the truth. We appreciate being able to set the record straight.

Very respectfully submitted, Corporal John MacDonald Spokesperson - Maine Warden Service

Credits

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Maine Revised Statutes
Title 16: COURT PROCEDURE -- EVIDENCE
Chapter 9: INTELLIGENCE AND
INVESTIGATIVE RECORD INFORMATION ACT

§804. LIMITATION ON DISSEMINATION OF INTELLIGENCE AND INVESTIGATIVE RECORD INFORMATION

Except as provided in sections 805 and 806, a record that is or contains intelligence and investigative record information is confidential and may not be disseminated by a Maine criminal justice agency to any person or public or private entity if there is a reasonable possibility that public release or inspection of the record would: [2013, c. 507, §4 (AMD).]

1. Interfere with criminal law enforcement proceedings. Interfere with law enforcement proceedings relating to crimes;

[2013, c. 267, Pt. A, §3 (NEW) .]

2. Result in dissemination of prejudicial information. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;

[2013, c. 267, Pt. A, §3 (NEW) .]

3. Constitute an invasion of privacy. Constitute an unwarranted invasion of personal privacy;

[2013, c. 267, Pt. A, §3 (NEW) .]

4. Disclose confidential source. Disclose the identity of a confidential source;

[2013, c. 267, Pt. A, §3 (NEW) .]

5. Disclose confidential information. Disclose confidential information furnished only by a confidential source;

[2013, c. 267, Pt. A, §3 (NEW) .]

6. Disclose trade secrets or other confidential commercial or financial information. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information, by the Department of the Attorney General or by a district attorney's office;

[2013, c. 267, Pt. A, §3 (NEW) .]

7. Disclose investigative techniques or security plans. Disclose investigative techniques and procedures or security plans and procedures not known by the general public;

[2013, c. 267, Pt. A, §3 (NEW) .]

8. Endanger law enforcement or others. Endanger the life or physical safety of any individual, including law enforcement personnel;

[2013, c. 267, Pt. A, §3 (NEW) .]

9. Disclose statutorily designated confidential information. Disclose information designated confidential by statute;

[2013, c. 267, Pt. A, §3 (NEW) .]

10. Interfere with civil proceedings. Interfere with proceedings relating to civil violations, civil enforcement proceedings and other civil proceedings conducted by the Department of the Attorney General or by a district attorney's office;

[2013, c. 267, Pt. A, §3 (NEW) .]

11. Disclose arbitration or mediation information. Disclose conduct of or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General; or

[2013, c. 267, Pt. A, §3 (NEW) .]

12. Identify source of consumer or antitrust complaints. Identify the source of a complaint made to the Department of the Attorney General regarding a violation of consumer or antitrust laws.

[2013, c. 267, Pt. A, §3 (NEW) .]

SECTION HISTORY

2013, c. 267, Pt. A, §3 (NEW). 2013, c. 507, §4 (AMD).

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CHANDLER E WOODCOCK
COMMISSIONER

December 1, 2015

Dear

I am writing to you to acknowledge your November 30, 2015 email regarding public documents you requested pursuant to the Freedom of Access Act. *State request here.*

www.maine.gov/foaa

Once there has been an opportunity to thoroughly review the request, I will respond further to your request and include:

- 1) an estimated time for searching, assembling requested documents, and formatting should they exist;
- 2) an estimated cost of copies, and copying, that will be charged by the Department and other Departments,;
- 3) Confidential records with be withheld in whole or in part (some information will be redacted) for example: The name(s) of complainants, witnesses, victims, and suspects.

Once we have collected the documents, we will need to thoroughly review them to determine which documents are subject to disclosure under FOAA. If confidential records are included in your response they will either be withheld or redacted and a more specific explanation for the denial will be included.

The following information is confidential:

- The identity of suspects, witnesses, complainants, victims, and juveniles.
- The results of any investigative procedures, such as blood alcohol tests, polygraph tests, fingerprint comparisons, or lineups, or the suspect's refusal or failure to submit to any such procedures.
- Existence of the contents of any confession, admission or statement of a defendant, or the defendant's failure or unwillingness to make a statement.
- Statements as to the character or reputation of the defendant.
- The defendant's guilt or innocence or other matters relating to the merits of the case or of the evidence.
- Interfere with criminal law enforcement proceedings.
- Result in dissemination of prejudicial information.
- Constitute an invasion of personal privacy.
- Disclose confidential source.
- Disclose confidential information.

- Disclose trade secrets or other confidential commercial or financial information.
- Disclose investigative techniques or security plans.
- Endanger law enforcement or others.
- Disclose statutorily designated confidential information.
- Interfere with civil proceedings.
- Disclose arbitration or mediation information.
- Identity source of consumer or antitrust complaints.

Once any public documents are located that are responsive to your request, we will contact you to discuss whether you would like to purchase copies (if they are in electronic format we can provide them in that format) or schedule a convenient date and time for you to come visit our office for the purpose of reviewing documents without charge.

We will do our very best to provide you with the requested information as soon as possible. In the meantime, if you have any questions please feel free to call me at 207-287-2766.

Best Regards –

Denise M. Brann
Secretary Associate
Maine Warden Service