

Lincoln County Sheriff's Office
Standard Operating Policies Manual

General Order

Subject:	Response To Mental Illness, Involuntary Commitment & Extreme Risk Protection Orders under the Yellow and Red Flag Laws	Policy #	0-12
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	<i>Rescinds All Previous Policies Related To This Current Policy</i>	MCJA Mandatory Policy (BOT 5)	
Issuing Authority:	Sheriff Todd Brackett		

I. POLICY

The Lincoln County Sheriff's Office will assist individuals who appear to be mentally ill or who are experiencing a mental health crisis. This assistance will include crisis intervention and de-escalation practices and when there is probable cause, as appropriate, placing individuals in protective custody and participating in the involuntary commitment/hospitalization or "blue paper" process. This will also include when circumstances establish probable cause to believe that an individual may possess, control, or may acquire dangerous weapons, obtaining an extreme risk protection ("yellow flag" order). When circumstances do not permit a yellow flag order and a person poses a significant danger of causing physical injury to self or others by purchasing, possessing, or receiving a dangerous weapon, deputies may themselves obtain an emergency extreme risk protection order ("red flag") order. **BOT 5-1**

The Lincoln County Sheriff's Office requires all full-time deputies receive at least 8 hours of nationally recognized or best practice in-person training in Mental Health Identification Awareness for Law Enforcement. The Sheriff will maintain at a minimum this level of training and report annually to the Maine Criminal Justice Academy Board of Trustees as outlined in [25 M.R.S. §2805-B](#). However, it is a priority for the Lincoln County Sheriff's Office to train as many full-time employees at the Crisis Intervention Team (CIT) level as possible. Additionally, the Sheriff's Office will maintain a number of qualified CIT Specialists, for crisis response, planning, and follow-up. **BOT 5-20**

If possible, the Sheriff will contract with a licensed provider of mental health services for a full-time "behavioral health liaison" to support Sheriff's Office personnel with mental health, substance use disorder and other behavioral health matters.

Deputies may deviate from this policy for incidents in which their expertise, training, deputy safety actions preclude the time to identify or engage with an individual. For incidents in which an individual lacks capacity to engage in responding to commands regardless of mental health, substance use, or behavioral issues, stabilizing the safety of all involved must be a priority.

This policy is statutorily mandated as it applies to all standards of the Maine Criminal Justice Academy Board of Trustees. Any violation of these standards may result in action by the Board of Trustees. **BOT 5-21**

II. PURPOSE

The purpose of this policy is to provide guidance to Sheriff's Office employees on the options and resources available to assist individuals who appear to be mentally ill or experiencing a behavioral health crisis. This policy is intended to satisfy the mandatory policy requirements set by the Maine Criminal Justice Academy Board of Trustees regarding "Response to Mental Illness and Involuntary Commitment" ([25 M.R.S. § 2803-B\(1-L\)](#)), extreme risk protection orders issued pursuant to [34-B M.R.S. § 3862-A](#), commonly known as "yellow flag" orders, emergency extreme risk protection orders pursuant to [25 M.R.S. chapter 261](#), commonly known as "red flag" orders, and Emergency Involuntary Commitment ([34-B M.R.S. § 3863](#)). **BOT 5-1**

III. DEFINITIONS *BOT 5-2*

Advanced Healthcare Directive: (Green Paper) An individual instruction form, or a power of attorney for health care by, an individual with the capacity for use when the person appears to lack capacity.

Crisis Intervention Deputy (CIO): An deputy specifically trained in identification, handling, and disposition of individuals exhibiting signs of mental health crisis.

Crisis Intervention Specialist (CIS): A deputy specifically trained as a CIO and member(s) of the CIT who specializes in crisis response, planning, and follow up for the Lincoln County Sheriff's Office. The CIS is required to obtain and maintain specialist certification through NAMI Maine and or the Region 6 CIT Regional Council. The criteria for specialist certification are outlined in this policy.

Crisis Intervention Team (CIT): A group of individuals, including deputies specifically trained in the identification, handling, and disposition of individuals exhibiting signs of a mental health crisis.

Crisis Service System: A program provided by the Maine Department of Health and Human Services to provide mobile crisis services anywhere in the State on a 24/7 basis. DHHS can provide triage for consumers, immediate responses to consumer needs when in crisis, and assist with a proper disposition of the situation. This may include hospitalization, placement in a "crisis bed," in-home supports, referral for services, or follow-ups if warranted. The statewide crisis system is accessed free by calling **1-888-568-1112 or 211**.

Dangerous Weapon: Any device, instrument, material or substance, whether animate or inanimate, which, in the manner it is intended to be used by the actor, is capable of producing or threatening death or serious bodily injury to include a firearm defined as any weapon, whether loaded or unloaded, which is designed to expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun or shotgun. Any weapon which can be made into a firearm by the insertion of a firing pin, or another similar thing, or by repair, is a firearm ([17-A M.R.S. §2\(9\)\(C\)](#)), including a firearm as defined in [17-A M.R.S. §2\(12-A\)](#).

"Emergency" Extreme Risk Protection Order: A written order, issued by the court without prior notice to the respondent, that prohibits and enjoins an individual from purchasing, possessing, or receiving a dangerous weapon or having or attempting to have custody or control of a dangerous weapon. (Red Flag)

Extreme Risk Protection Order: A written order that prohibits and enjoins an individual from purchasing, possessing, or receiving a dangerous weapon or having or attempting to have custody or control of a dangerous weapon. (Yellow Flag)

Family or Household Member: A spouse or domestic partner of the respondent, a former spouse or former domestic partner of the respondent, an individual presently or formerly living with the respondent as a spouse of the respondent, a parent of a child of the respondent, an adult sibling of the respondent, an adult child of the respondent, a parent of the respondent or an adult presently living with the respondent.

Involuntary Commitment (Blue Paper Process): Three-step process by which:

1. Any person (friend, relative, social services worker, law enforcement deputy, etc.) applies for admission of an individual to a hospital qualified to provide mental health services.
2. A clinician evaluates the individual, usually at a local hospital, and;
3. If the clinician certifies that the individual is mentally ill and poses a likelihood of harm, a judicial officer reviews and, as appropriate, endorses the paperwork reflecting the first two steps.

(Note: These 3 steps are reflected on sections 1, 2, and 3 of the "blue paper," an application for Emergency Involuntary Admission to a Mental Hospital, form MH-100.) (*Appendix 8*).

Least Restrictive Form of Transportation: The vehicle used for transportation and any restraining devices that may be used during transportation that impose the least amount of restriction, taking into consideration the stigmatizing impact upon the individual being transported.

Likelihood of Serious Harm: For purposes of protective custody, the likelihood of serious harm means:

1. A substantial risk of physical harm to the person as manifested by recent threats of, or attempts at, suicide or serious self-inflicted harm;

2. A substantial risk of physical harm to other persons as manifested by recent homicidal or violent behavior or by recent conduct placing others in reasonable fear of serious physical harm;
3. A reasonable certainty that the person will suffer severe physical or mental harm as manifested by recent behavior demonstrating an inability to avoid risk or protect the person adequately from impairment or injury; or
4. For the purposes of [Title 34-B M.R.S. §3873-A](#) (which addresses progressive treatment programs), in view of the person's treatment history, current behavior, and inability to make an informed decision, a reasonable likelihood that the person's mental health will deteriorate and that the person will in the foreseeable future pose a likelihood of serious physical harm as defined above.

Mental Health Crisis: Behavior, such as loss of contact with reality, extreme agitation, severe depression, imminent suicidal or homicidal statements or actions, or inability to control actions – that creates a threat of imminent and substantial physical harm to the person experiencing the behavior or to others and that appears to be of sufficient severity to require professional evaluation.

NICS: National Instant Criminal background check System is a system maintained by the FBI for rapid response to qualifications for firearms purchases nationwide.

Petition: A petition for an emergency extreme risk protection order (red flag law) filed pursuant to [25 M.R.S chapter 261](#).

Petitioner: A family or household member, law enforcement agency, or law enforcement deputy who files a petition for an emergency extreme risk protection order (red flag law) pursuant to [25 M.R.S chapter 261](#).

Probable Cause: Basis of a deputy's judgment about the appropriateness of protective custody. This judgment must reflect the totality of the circumstances, following the applicable probable cause standards of the most recent edition of the Law Enforcement Officers Manual, and including:

1. Personal observation.
2. Reliable information from third parties, as long as the deputy has confirmed that the third party has reason to believe, based upon recent personal observations or conversations with the person who seems to be experiencing a mental health crisis, that the person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial harm; and
3. History, if known, of the person who seems to be experiencing a mental health crisis.

Protective Custody: Custody taken by a deputy EITHER when that deputy has probable cause to believe that a person may be mentally ill and due to that condition, the person presents a threat of imminent and substantial physical harm to self or others OR when the deputy knows that a person has an advance healthcare directive authorizing mental health treatment and the deputy has probable cause to believe that the person lacks capacity to form reasonable decisions with regard to their safety or the safety of others.

Respondent: An individual named in a petition for an emergency extreme risk protection order ("red flag" law) pursuant to [25 M.R.S., Chapter 261](#) whose possession, receipt, custody or control of a dangerous weapon the petitioner seeks to restrain.

Restricted Person: A person taken into protective custody by a deputy who the deputy has probable cause to believe possesses or controls or may acquire a dangerous weapon and who is found by a medical practitioner to present a likelihood of foreseeable harm ("yellow flag"). It also refers to the individual served in an emergency extreme risk protection order ("red flag").

Threat-based Restriction: A prohibition on a restricted person from purchasing, possessing, or controlling or attempting to purchase, possess or control a dangerous weapon during the restriction period.

IV. PROCEDURES – PROTECTIVE CUSTODY

- A. Deputies shall be familiar with [34B M.R.S. §3862](#), the law governing protective custody. The deputy will assess the situation and determine if the person appears to be experiencing a mental health crisis. Deputies shall also be familiar with [34-B M.R.S. §3862-A](#), the law on Extreme Risk Protection Orders ("yellow flag") and the triggering of the statute after a person has been taken into protective custody, i.e., probable cause exists to believe the person has access or will gain access to dangerous weapons, and a medical practitioner finds that the person presents a likelihood of foreseeable harm. **BOT 5-3, BOT 5-5**

- B.** Deputies shall be familiar with [25 M.R.S. chapter 261](#), on emergency extreme risk protection orders (“red flag”).
BOT 5-14
- C.** If the person appears to be experiencing a mental health crisis, the deputy will assess the need for protective custody, taking into consideration whether the individual is willing to accept immediate voluntary commitment, and assessing the safety of the public. The deputy will consider all options to effectively and safely respond to a situation including involuntary commitment (“blue paper” process) and access to, if available, a CIO or CIT and mental health liaisons or imbedded clinicians. **BOT 5-4** **MLEAP 7.33.A**
- D.** If the deputy determines that protective custody is not appropriate, the deputy may refer the person to the behavioral health liaison, a medical or mental health practitioner, or other services; leave the person in the care of friends, relatives, or service providers, or take other steps necessary to maintain public safety. Agency referral resources include: **BOT 5-6**
MLEAP 7.33.B
1. LCSO Behavioral Health Liaison – LAW ENFORCEMENT ONLY: **727-1406**
 2. Sweetser Mental Health Triage Services – LAW ENFORCEMENT ONLY: **294-4448**.
 3. Maine Behavioral Health – **373-6950 or 373-6000**.
 4. DHHS Adult Protective -**1-800-624-8404**.
 5. DHHS Child Protective – **1-800-452-1999**.
 6. Sweetser Crisis - Call **1-888-568-1112 or 211**.
- E.** If the person requires protective custody and the requisite standard is met, or if the person has an advance healthcare directive and it is determined that the directive is applicable, the deputy may take the person into custody and deliver the person for examination. If the deputy does take the person into protective custody, OR, if the person is transported by or caused to be transported by the deputy voluntarily, s/he shall deliver the person for examination by an available licensed physician or licensed clinical psychologist, as provided in [34-B, M.R.S. §3863](#). The deputy shall complete the “State of Maine Protective Custody Intake Form” and provide it to the examining clinician. The deputy shall retain a copy of the Maine Protective Custody Intake Form. (*Appendix 7*) **BOT 5-7** **MLEAP 7.33.B**
- F.** The examination may be performed by a licensed physician, a licensed clinical psychologist, physician’s assistant, nurse practitioner, or certified psychiatric clinical nurse specialist.
- G.** If the person in protective custody is alleged to have committed a criminal act for which a warrantless arrest pursuant to [17-A M.R.S. §15](#), may be made, the deputy, in consultation with the licensed practitioner examining the person and the deputy’s supervisor, shall determine the most appropriate confinement condition to satisfy the protection of the public and the person’s treatment. **BOT 5-8**
- H.** The deputy may provide either the person or the person’s family with a resource information card.
- I.** If the clinician determines that the person does not satisfy the criteria for emergency involuntary hospitalization or that the person’s advance healthcare directive is inapplicable under the particular circumstances, the deputy will release the person from protective custody and, with the person’s permission, either take the person home (if within the deputy’s territorial jurisdiction) or return the person to the place from which they were taken into custody, except that if the person is also under arrest, the deputy will keep the person in custody until the person is released in accordance with the law. **BOT 5-9**
- J.** If the examining clinician determines that the person satisfies criteria for emergency involuntary hospitalization, unless the law enforcement agency has a custody agreement with the health care facility to which the person is to be transported for examination under [34-B M.R.S. §3863\(2-A\)](#), the deputy shall seek judicial endorsement as soon as possible, and shall transport or cause the person to be transported in the least restrictive manner possible to the hospital authorized by the judicial officer. However, if the examination is completed between the hours of 11:00 p.m. and 7:00 a.m., the deputy may transport the person to a hospital that has agreed to admission, and the hospital will secure judicial officer endorsement as soon as possible thereafter. **BOT 5-10**
- K.** When a deputy transports a person to a hospital for examination, the deputy may request that the hospital provide access to the person for the purpose of notifying the person of their restricted status. The hospital shall

provide law enforcement with an opportunity to notify the person at a time the hospital determines is clinically appropriate, with due consideration of the person's medical condition in accordance with [22 M.R.S. §1727\(1A\)](#).

L. Crisis Intervention Team

1. Purpose

The Crisis Intervention Team (CIT) is established to provide the Sheriff's Office with qualified personnel trained in the handling of individuals in mental health crisis. The primary goal of the CIT is to de-escalate person in mental health crisis and ensure the proper disposition of individuals who come in contact with deputies while in crisis. This is accomplished through the use of skills involving identification of types of crisis and the de-escalation of individuals.

2. Selection

Members of the CIT are recommended annually or as vacancies arise by the CIS directly to the Sheriff. Factors to be considered for eligibility include interest in CIT and mental health issues, commendations, aptitude, disciplinary history, and prior training.

3. Training/Certification: CIS

Deputies selected for the CIT program must at a minimum be certified Crisis Intervention trained:

- a. Successful application to and completion of a NAMI Maine approved 40 hour CIT training program.
- b. All CIT members should attend annual training as approved by the Sheriff or designee and facilitated by the CIS coordinator to maintain proficiency.
- c. The Sheriff will designate a CIS Deputy as the coordinator of the CIT, who shall also maintain proficiency.

** Sheriff to make a memorandum for this policy – designating a coordinator

4. Deployment

- a. All CIT deputies will maintain routine function and assignments.
- b. The CIT Coordinator shall provide a current list of CIT deputies to the Lincoln County Communications Center.
- c. The Lincoln County Sheriff's Office shall strive to maintain at least one CIT Deputy per shift. When available, a CIT Deputy will be assigned to all calls involving possible mental health crisis. CIT deputies shall be assigned directly by the patrol supervisor in obvious circumstances or requested by other responding deputies.
- d. Scene safety and the safety of all involved must always be a priority in these events. Deputies must take the time needed to de-escalate the situation and to use CIT services when available to avoid the potential use of physical force. However, events can evolve rapidly and may preclude these steps.

M. Billing and Documentation

1. This agency may bill the Maine Department of Health and Human Services (DHHS) for transportation expenses of a person to and from an examination that follows protective custody. The total cost for protective custody transportation billing includes mileage and the fully impacted hourly rate of the deputy(ies).
2. This agency may bill DHHS for transportation expenses of a person to and from a psychiatric hospital for admission authorized under the involuntary commitment (blue paper process). The total cost for blue paper process transportation billing includes mileage and the fully impacted hourly rate of the deputy(ies).

V. PROCEDURES – EXTREME RISK PROTECTION ORDER ("YELLOW FLAG" LAW)

- A. If a deputy has probable cause that a person is mentally ill, and due to that condition, the person presents a likelihood of serious harm to themselves or others, the deputy may place the individual into protective custody and transport the person to an appropriate medical facility to start a mental health evaluation and involuntary committal ("blue paper") process. If a blue paper and weapons restriction assessment are not co-occurring, the deputy shall implement the weapon restriction assessment and should do so first in the event that the blue paper assessment results in the person being released from protective custody. There can be no weapon restriction assessment if the person is not in protective custody, except that the weapon restriction assessment may occur within 24 hours after the person is released from protective custody if (1) the protective custody stemmed from a deputy's probable cause to believe the person may be mentally ill and presents a likelihood of serious harm because the person possesses, controls, or may acquire a dangerous weapon, and (2) a blue paper examination has occurred.
- B. An authorized medical practitioner, such as a licensed physician, registered physician assistant, certified clinical nurse specialist, certified nurse practitioner, or licensed clinical psychologist, shall assess the person in protective custody to determine if the person presents a likelihood of serious harm. The deputy shall provide to the medical practitioner the information that led to the protective custody, including, but not limited to, the information that gave rise to the probable cause determination for protective custody, the person's pertinent criminal history record information including conviction and non-conviction data, and other known history and recent or recurring actions and behaviors including intelligence and investigative record information.
- C. If the deputy suspects the individual under protective custody possesses, controls, or may acquire a dangerous weapon(s), the deputy shall complete the Application for Weapons Restriction (Appendix #2) and the Deputy's Statement of Probable Cause (Appendix #1).
- D. The deputy will then contact Spurwink at (207) 535-2009.
 - 1. Inform Spurwink of the pending Weapons Restriction Order assessment.
 - 2. Send Spurwink the completed Application for Weapons Restriction and Probable Cause statement.
 - 3. An individual in protective custody will need to be available to speak with the Spurwink assessor.
 - a. If the individual refuses to speak with Spurwink or is unable to (i.e., sedated by medical staff) the weapons restriction assessment can continue.
 - b. A juvenile subject to this section may be accompanied at the assessment by a parent, guardian, grandparent, aunt or uncle, or a sibling who has attained the age of 18, whose company is requested by the juvenile, who is timely available, and whose accompaniment is practicable.
 - 4. Once the interview is complete, the Spurwink assessor will complete page 2 of the Application for Weapons Restriction.
 - a. If the person qualifies for the order, Spurwink will return the signed application.
 - b. If the person does not qualify, the deputy will either return the person to the blue paper process or release the person.
- E. If the application for weapons restriction is approved, seek the endorsement of a Superior Court Justice, District Court Judge, or Justice of the Peace on the medical practitioner's assessment and law as soon as practicable. The Maine Administrative Office of the Courts has established an "after hours" contact process for judicial officers, to access that service contact the Houlton RCC at **800-924-2261. BOT 5-11**
 - 1. The judicial officer will complete page 3 of the application.
 - 2. At this time, a person whose assessment was signed by the deputy, the Spurwink assessor, and the judicial officer becomes a restricted person upon notification from law enforcement and is subject to prohibitions in [Title 15 M.R.S. §393](#), which are:
 - a. The restricted person is prohibited from possessing, controlling, acquiring, or attempting to possess, control, or acquire a dangerous weapon pending the outcome of a judicial hearing;
 - b. The restricted person shall immediately and temporarily surrender any weapons possessed, controlled, or acquired by the restricted person to a law enforcement deputy who has authority in the jurisdiction in which the weapons are located pending the outcome of a judicial hearing; and

c. The restricted person has a right to a judicial hearing.

- F.** Complete the Notice of Service on a Restricted Person (*Appendix #3*) as soon as practical, unless the restricted person is medically incapacitated, in which case within 48 hours after the deputy has been notified that the person is no longer medically incapacitated. Read the form verbatim to the individual, which advises the person that they are prohibited from possessing, controlling, acquiring or attempting to possess, control, or acquire a dangerous weapon pending the outcome of a judicial hearing. The notification shall also advise the restricted person that they are required to immediately and temporarily surrender any dangerous weapons possessed, controlled, or acquired by the restricted person to a deputy who has authority in the jurisdiction in which the weapons are located pending the outcome of a judicial hearing, and that the person has a right to a judicial hearing within 30 days. Have the person sign the form. If the person refuses to sign the form, indicate so on the form. **BOT 5-12**
- G.** As soon as practicable after judicial endorsement, the deputy shall:
1. Notify the restricted person.
 2. Notify the contact person (husband, wife, parent, etc.), if any or applicable.
 3. Report the person's restricted status to the Department of Public Safety (via M.E.T.R.O.) This can be done by having the Lincoln County Communications Center enter all pertinent information in the packet into the system. (*There is no docket number at this point in the process*).
 4. Provide a copy of the Application (with the NIC number noted appropriately), the Deputy's Statement of Probable Cause, and Notice of Service on Restricted Person, including the date of notification, to the Lincoln County District Court. The documents may be emailed. (Note: Providing a copy to the district attorney's office does not count as providing a copy to the court. The court only has 14 days after the date the restricted person was served to schedule a hearing and appoint counsel, so the clerk's office must receive a copy of the notification to the restricted person as soon as possible.) (*Appendix #5*) **BOT 5-13**
 5. Notify the patrol lieutenant and each of the Lincoln County Assistant District Attorney's and the District Attorney's Office Manager via email as soon as possible. Once the District Attorney's Office receives the packet, it shall provide a docket number for the case, if available. The Lincoln County Communications Center must also be notified as they will have to update this information in the original METRO entry. **BOT 5-13**
- H.** If the restricted person voluntarily complies with the order:
1. If the restricted person makes all practical, immediate efforts to voluntarily comply with a surrender notice, then the person is not subject to arrest or prosecution.
 2. Collect any weapons if they are within the deputy's jurisdiction and enter them into evidence for safekeeping. If the weapons are outside of Lincoln County the deputy shall share any information available with the agency having jurisdiction and coordinate compliance with the order.
- I.** If the restricted person does not comply, and there is probable cause to believe the restricted person possesses or controls a weapon(s), the deputy shall draft a search warrant for the seizure of those weapons. If weapons are seized from the restricted person, the person shall be charged accordingly, including referral to the Bureau of Alcohol, Tobacco, Firearms and Explosives (A.T.F) for consideration of federal prosecution. Deputies shall be familiar with the relevant criminal offenses for a restricted person who possesses a weapon, including, but not limited to, Possession of a Firearm by a Prohibited Person, [15 M.R.S. §393](#). Deputies shall also be aware that a restricted person who makes all practical, immediate efforts to voluntarily comply with a surrender notice is not subject to arrest or prosecution as a prohibited person. **BOT 5-18, 5-19**

J. Protective Custody Warrant

1. If a deputy is unable to physically take a person into protective custody to conduct an assessment, the law enforcement deputy may apply for a protective custody warrant. The deputy must submit an affidavit of

probable cause for a protective custody warrant from to a Justice of the Superior Court, a Judge of the District Court, or a Justice of the Peace.

2. The justice or judge shall issue a protective custody warrant and promptly transmit that warrant to the deputy for execution upon finding the affidavit under this subsection is sufficient to establish:
 - a. Probable cause to believe that the person is mentally ill and, due to that condition, presents a likelihood of serious harm;
 - b. Probable cause to believe that the person possesses, controls, or may acquire a dangerous weapon; and
 - c. That the deputy has made reasonable attempts to take the person into custody without a warrant.
3. A warrant transmitted by facsimile or an electronic warrant transmitted by secure electronic means has the same legal effect and validity as an original endorsement signed by the justice or judge. The law enforcement deputy may execute an electronic or paper arrest warrant authorized to take the person into protective custody.
4. While the protective custody arrest warrant allows the deputy to take the person into custody, a search warrant may still be necessary to search for and seize dangerous weapons if the person taken into protective custody is determined to present a likelihood of foreseeable harm to self or others. Just because there is an active protective custody arrest warrant does not, in itself, establish probable cause for a search warrant.

VI. PROCEDURES – “EMERGENCY” EXTREME RISK PROTECTION ORDER (“RED FLAG” LAW)

A. Petition

- A family or household member, law enforcement agency, or when circumstances do not permit a yellow flag order and a person poses a significant danger of causing physical injury to self or others by purchasing, possessing, or receiving a dangerous weapons, a deputy may file a petition in the jurisdiction where the respondent resides or where the events that gave rise to the petition occurred, requesting that the District Court issue an emergency extreme risk protection order. However, the “yellow flag” process is preferred whenever possible.

Deputies, must be aware that if they take on the role of petitioner and an emergency extreme risk protection order is issued by the court they will be responsible for appearing on the date set by the court in the order and required, without the assistance of the District Attorney, to present the facts and circumstances that lead to their filing the petition.

- A petition filed pursuant to the “red flag” law must allege that the respondent poses a significant danger of causing physical injury to themselves or another by purchasing, possessing, or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon.
- A significant danger of causing physical injury to another may be shown by establishing that:
 - a. The respondent has inflicted or attempted to inflict physical injury on another person;
 - b. By the respondent’s threat or actions, they have placed another person in reasonable fear of physical injury;
 - c. By the respondent’s actions, or inactions, they have presented a danger to another person in their care; or
 - d. The respondent has threatened or attempted suicide or has threatened or attempted serious bodily injury.

- The petition must be supported by an affidavit that:
 - a. State specific facts establishing that the requirements in Section 3 (above) have been met;
 - b. State whether the petitioner knows of any dangerous weapons in the respondent's possession, custody, or control and the identity and location of such weapons, if known;
 - c. State whether the petitioner knows of an existing order issued with respect to the respondent under [Title 5 M.R.S §4655](#) (Protection from Harassment) or [19-A M.R.S. chapter 103](#) (Protection from Abuse) or a similar order issued by a court of competent jurisdiction in the United States or another state, territory, commonwealth or federally recognized Indian tribe; and
 - d. Acknowledge that the petitioner is aware that it is a crime to make a false statement under oath in a court document.

B. Hearing

- The court shall hold a hearing within 14 days after a petition is filed, at which time the petitioner must prove by a preponderance of the evidence that the person poses a significant danger of causing serious harm.
- If the petition is for an *emergency* extreme risk protection order, and the judge finds cause to believe the respondent poses an immediate and significant danger of causing physical injury to themselves or another, the judge can issue an order without prior notice, and the respondent must immediately surrender all weapons.

C. Orders

- If the court finds that the burden of proof has been met, the court will issue an extreme risk protection order which requires that the person surrender all dangerous weapons and prohibits the person from purchasing, possessing or receiving a dangerous weapon or by having or attempting to have custody or control of a dangerous weapon for up to one (1) year.
- If the court finds that the burden of proof is not met, the court will deny the petition. If weapons have been seized, they shall be returned.

D. Service

- The clerk of courts provides the order to the Lincoln County Communications Center (LCCC-PSAP) with jurisdiction in which the respondent resides. The clerk will follow up with the LCCC to confirm receipt of the order. The Communications Center will provide the order's that fall within LCSO's primary jurisdiction to LCSO for service in the same manner as protection orders.
- The Lincoln County Sheriff's Office is responsible for service of both extreme risk protection orders and emergency extreme risk protection orders issued by the court.
- Deputies should conduct a risk assessment prior to service, especially when pre-service notification to the respondent and/or relinquishment of dangerous weapon(s) are involved. The risk assessment should include, but it is not limited to:
 - a. A review of the petitioner's complaint.
 - b. A review of in-house records of prior contact.
 - c. Contact the petitioner to answer any investigative questions, if doing so does not jeopardize their safety.
 - d. Determine justification for pre-service notification and develop a safety plan for the non-law enforcement petitioner.
- Upon completion of the service of an emergency extreme risk protection order ("red flag") and relinquishment of the dangerous weapon(s), the deputy will send the completed abstract to Augusta Regional Communication Center (Augusta RCC) for the Department of Public Safety at rcc.augusta@maine.gov. The deputy must take the time to confirm the receipt of the order. Augusta RCC can be reached at **800-452-4664**. The August RCC will enter the abstract into NCIC. The deputy will also send proof of service and relinquishment to patrol lieutenant and the court via the email address provided by the court (*Appendix 5*).

- The LCSO will ensure that an emergency extreme risk protection order, extreme risk protection order, or notice of a hearing issued pursuant to [25 M.R.S., Chapter 261](#) is served in a manner calculated to ensure the safety of all parties. Deputies shall prioritize methods of service that do not involve advance notification of a request for an emergency extreme risk protection order to the respondent and shall make a good faith effort to serve process expeditiously. Notice of an emergency extreme risk protection order must be served as soon as practicable, but no later than 24 hours after issuance of the order. The deputy making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the respondent. In the event that a deputy is unable to locate the restricted party for service they shall notify the on duty or on call supervisor and document their repeated attempts at service in LCSO RMS system. The on duty or on call supervisor shall ensure the orders is passed on to the next shift for continued attempts at service. **BOT 5-15**
- The service by a deputy of a motion to terminate or renew an extreme risk protection order must be in accordance with Maine Rules of Civil Procedure. In general, this means a deputy can serve the motion to the defendant directly or to the defendants attorney if applicable. **BOT 5-16**
- The deputy shall arrange for the restricted person’s weapons to be collected and entered into property and evidence for storage and safekeeping. A receipt shall be issued upon completion of the transfer. If a restricted person’s weapons are located in LCSO’s jurisdiction but the restricted person lives in another jurisdiction, the Lincoln County Sheriff’s Office will take custody of the weapons and store them for safekeeping. Should the restricted person claim that they transferred possession of the weapons to a third party for storage, the deputy shall verify that claim with the third party and attempt to seize the weapons from the third party. If the third-party refuses to relinquish the weapons the deputy is powerless to take further action unless they have probable cause to believe the restricted person will still have possession or control of the weapons. In which case they should obtain a search warrant for the weapons, if possible. If the restricted person satisfactorily provides proof that ownership of the weapons has been transferred to a third party, we have no authority to collect those weapons. **BOT 5-17**
- The deputy serving the order shall read the order in full but give specific focus to the dangerous weapons required to be relinquished as printed in the order. This should assist the deputy in deciding how to proceed in with regard searches and arrests as outlined in the next paragraph.

Here is a sample excerpt from a court “red flag”order:

IT IS HEREBY ORDERED:

1. *The respondent is prohibited from purchasing, possessing, or receiving dangerous weapons or having or attempting to have custody or control of a dangerous weapon.*
2. *Respondent is ordered to relinquish the following:*

All firearms described in 17-A M.R.S. § 2(12-A); all muzzle-loading firearms, bows, and crossbows; and all other dangerous weapons as described in 17-A M.R.S. § 2(9);

Other weapons: _____

- If the restricted person does not comply, and there is probable cause to believe the restricted person possesses or controls a dangerous weapon(s), the deputy shall draft a search warrant for the seizure of those dangerous weapons. If weapons are not located and probable cause still exists to believe the restricted person possesses or controls a firearm(s) they shall be arrested with or without a warrant dependent upon whether the offense is occurring in the deputy’s presence. If the protected party denies controlling or possessing a firearm(s) and firearms(s) are subsequently seized from the restricted person, the person shall be arrested, this may include referral to the Bureau of Alcohol, Tobacco, Firearms and Explosives (A.T.F) for consideration of federal prosecution. Deputies shall be familiar with the relevant criminal offenses for a restricted person who possesses a dangerous weapon, including, but not limited to, Possession of a Firearm by a Prohibited Person, [Title 15 M.R.S. §393](#). Deputies shall also be aware that a

restricted person who makes all practical, immediate efforts to voluntarily comply with a surrender notice is not subject to arrest or prosecution as a prohibited person. ***BOT 5-18, 5-19***

- The ONLY arrestable offense under Maine’s “red flag” currently is limited to, Possession of a Firearm by a Prohibited Person, [Title 15 M.R.S. §393](#). If deputies encounter a restricted person in possession or control of a dangerous weapon other than a firearm as defined, including an animate or inanimate object used or threatened to be used as a dangerous weapon by definition, it is a civil violation of CONTEMP under the order and NOT an arrestable offense under [Title 15 M.R.S. §393](#). However, circumstances may allow arrest or charges under another Maine Law.

Any items meeting the definition of dangerous weapon(s) in the possession or control of a restricted person or otherwise ordered to be relinquished by the court shall be seized. If the restricted person does not comply, and there is probable cause to believe the restricted person possesses or controls a dangerous weapon(s), the deputy shall draft a search warrant for the seizure of those dangerous weapons.

Items that do not meet the definition of dangerous weapons given the circumstances of the situation or that are not specifically ordered for relinquishment by the courts may not be seized.

- Only the respondent in a “red flag” order can petition the court to hold the restricted person in contempt, if they are found in possession or control of a dangerous weapon other than a firearm. In these circumstances as permitted by Maine’s Freedom of Access laws deputies should make every effort to contact the respondent and inform them of a potential contempt violation. It is up to the respondent to decide whether to proceed with the information or not. In either case this should be documented in the deputy’s report.
- When service is made and the restricted party does not surrender weapons or states that they have no weapons in their possession or control and the deputy lacks probable cause to believe otherwise they may not search for any weapons without written consent or a search warrant.

STATE OF MAINE
APPLICATION FOR WEAPONS RESTRICTION ORDER
34-B MRS § 3862-A

APPENDIX 1
DEPUTY'S STATEMENT OF PROBABLE CAUSE

Based on the probable cause outlined below, I took _____
into protective custody on _____ at _____ in _____
(Date) (Time) (Municipality)
pursuant to 34-B MRS § 3862, and I believe that _____
possesses, controls, or may acquire a dangerous weapon(s).

[Include the information that gave rise to the probable cause determination for protective custody and the belief that the person possesses, controls, or may acquire a dangerous weapon(s), as well as a description of recent or recurring actions and behaviors. Attach the person's pertinent criminal history record information (convictions and non-convictions), as well as all available pertinent investigative record information. Also, include a description and location of dangerous weapons, if known.]

Signature of Deputy

Date

APPENDIX #2

STATE OF MAINE
**APPLICATION FOR WEAPONS RESTRICTION
ORDER**
34-B MRS § 3862-A

Name (First/Middle/Last): _____

AKA _____

Address _____

DOB (mm/dd/yyyy): _____ Sex: _____

Telephone: _____

Race: _____ Height: _____ Weight: _____ Hair: _____ Eyes: _____

Scars, marks, tattoos _____

Driver's license # _____ Social Security # _____

Next of Kin/Designated Person: _____ Telephone: _____

Section 1. Application by Law Enforcement

A. Deputy [Print name and rank] _____

Deputy Contact Information _____

Agency and ORI _____

Agency Case # _____

B. On _____ at _____, law enforcement took the person named above into protective custody pursuant to 34-B MRS § 3862 based on the probable cause outlined in Appendix 1 of this Application.

C. Location where person taken into custody: _____

D. I believe that the person named above possesses, controls or may acquire a dangerous weapon(s) based on the probable cause outlined in Appendix 1 of this Application.

E. Description and location of weapon(s), if known:

Signature of Deputy

Date

Section 2. Assessment by Medical Practitioner

A. Medical Practitioner (Print name): _____ License
(Select one): MD DO PA NP RN, CS Psych, PhD.
Practitioner Contact Information: _____
Physical Address: _____

B. My opinion is that _____ is a mentally ill person within the meaning of 34-B MRS § 3801(5) as a person having a psychiatric or other disease that substantially impairs that person's mental health or creates a substantial risk of suicide, including persons suffering effects from the use of drugs, narcotics, hallucinogens, or alcohol or other intoxicants. The patient is exhibiting the following symptoms (attach additional statement as needed): _____

C. My opinion is that because of this illness, _____ poses a likelihood of foreseeable harm within the meaning of 34-B MRS § 3862-A(1)(G) as follows (check as applicable):

- i) The individual presents a substantial risk in the foreseeable future of serious physical harm to self as manifested by recent threats of, or attempts at, suicide or serious self-inflicted harm.
- ii) The individual presents a substantial risk in the foreseeable future of serious physical harm to other persons as manifested by recent homicidal or violent behavior or by recent conduct placing others in reasonable fear of serious physical harm.

D. The likelihood of foreseeable harm is based on the following recent behaviors or threats (attach additional statement as needed): _____

E. Location of person at time of assessment _____

Check if telemedicine

F. Referral for treatment or services

- Inpatient
 - Voluntary Hospitalization
 - Involuntary Hospitalization pursuant to 34-B MRS §3863
- Outpatient

G. Other Medical Professionals consulted, if any (Name, License, Contact Info)

_____ Signature of Medical Practitioner	_____ Date
--	---------------

Section 3. Judicial Endorsement

- A. The law enforcement deputy identified in Section 1 above has stated that _____ was taken into protective custody pursuant to 34-B M.R.S. § 3862, and that the deputy has probable cause to believe that _____ possesses, controls, or is likely to acquire a dangerous weapon(s).

- B. The medical practitioner identified in Section 2 above has found that _____ is a mentally ill person within the meaning of 34-B M.R.S. § 3801(5) and poses a likelihood of foreseeable harm within the meaning of 34-B M.R.S. § 3862-A.

- C. Based on the above, and pursuant to 34-B MRS § 3862-A (4), I endorse this application and find that _____ is a restricted person pursuant to 34- B MRS § 3862-A(1)(K). This endorsement authorizes law enforcement to notify the restricted person as soon as practicable from the time of this endorsement (1) that the person is prohibited from possessing, controlling, acquiring, or attempting to acquire a dangerous weapon pending the outcome of a judicial hearing, (2) that the person must immediately and temporarily surrender any weapons possessed, controlled, or acquired by the person to a law enforcement deputy who has authority in the jurisdiction in which the weapons are located pending the outcome of a judicial hearing, and (3) that the person has a right to a judicial hearing within 30 days of notice.

<hr/>	Superior Court Justice/District Court Judge/Justice of thePeace
(Printed Name of Judicial Officer)	
<hr/> (Signature)	<hr/> (Date and Time)

**METRO Entering Agency must enter information in METRO upon judicial endorsement.
Transmit the application with judicial endorsement to the District Court and the District Attorney's Office with jurisdiction over the location where the person was taken into protective custody.**

METRO Entry made on _____ at _____ by _____
(Date) (Time)

NIC _____

Transmitted to DA's Office on _____ at _____ by _____
(Date) (Time)

Transmitted to District Court on _____ at _____ by _____
(Date) (Time)

09/03/2025

APPENDIX #3
STATE OF MAINE
WEAPONS RESTRICTION ORDER
34-B MRS § 3862-A

NOTICE OF SERVICE ON RESTRICTED PERSON

TO: _____

1. Law enforcement took you into protective custody.
2. A qualified medical practitioner found that you currently present a likelihood of foreseeable harm, and a judicial official endorsed that determination.
3. You may not possess, control, acquire, or attempt to possess, control, or acquire a firearm or other dangerous weapon until a court dissolves the restriction. You must surrender to law enforcement any firearms or other dangerous weapons currently in your possession or control. If you immediately comply with the surrender order, you are not subject to arrest or prosecution as a person prohibited from possessing or controlling dangerous weapons.
4. If you do not comply with the surrender order or if you possess, control, or acquire or attempt to possess, control, or acquire a dangerous weapon during the period of restriction, you are subject to arrest and prosecution as a person prohibited from possessing or controlling dangerous weapons.
5. You have a right to a court hearing within 30 days of this notice during which you may engage legal counsel, which a court may appoint if you are indigent.
6. Any firearms or other dangerous weapons you surrendered to law enforcement will be returned to you if the court dissolves the restrictions.

_____	_____	_____
(Printed Name of Deputy Making Service)	(Signature of Deputy Making Service)	(Date & Time of Service)
_____ Telephone: _____		
(Printed Name of Restricted Person)	(Signature of Restricted Person)	

**METRO Entering Agency must enter information in METRO upon service of order.
Transmit Service of Order to the District Attorney's Office and the District Court with jurisdiction
over the location where the restricted person was taken into protective custody.**

METRO Entry made on _____ at _____ by _____
(Date) (Time)

Transmitted to DA's Office on _____ at _____ by _____
(Date) (Time)

Transmitted to District Court on _____ at _____ by _____
(Date) (Time)

APPENDIX #4

STATE OF MAINE

DISTRICT COURT

COUNTY: _____

LOCATION: _____

DOCKET NO. _____

IN RE

DOB: _____

AFFIDAVIT IN SUPPORT OF

Address:

PROTECTIVE CUSTODY WARRANT

34-B M.R.S. § 3862-A(2-A)

Height: _____ Weight: _____

Hair: _____ Eyes: _____

Race: _____ Sex: _____

To Any Justice of the Superior Court, Judge of the District Court, or Justice of the Peace:

I, _____, a duly authorized and sworn law enforcement deputy of the
_____, being first duly sworn, deposes and states upon information

and belief that:

1. I have probable cause to believe that the above-named and described person may be mentally ill and, due to that condition, presents a likelihood of serious harm.

[Articulate the basis for this belief.]

2. And, I have probable cause to believe that the above-named and described person possesses, controls, or may acquire a dangerous weapon.

[Articulate the basis for this belief.]

3. And, that law enforcement has made reasonable attempts to take the above-named and described person into protective custody without a warrant.

[Articulate the steps taken to effect protective custody without a warrant.]

I hereby request that a warrant be issued that commands an authorized law enforcement deputy to take the above-named and described person into protective custody and deliver that person immediately for an examination by a medical practitioner pursuant to the provisions of 34-B M.R.S. § 3862.

Date: _____

Affiant

Personally appeared the above-named Affiant and made oath to the truth of the foregoing statements.

Date: _____

Superior Court Justice
District Court Judge
Justice of the Peace

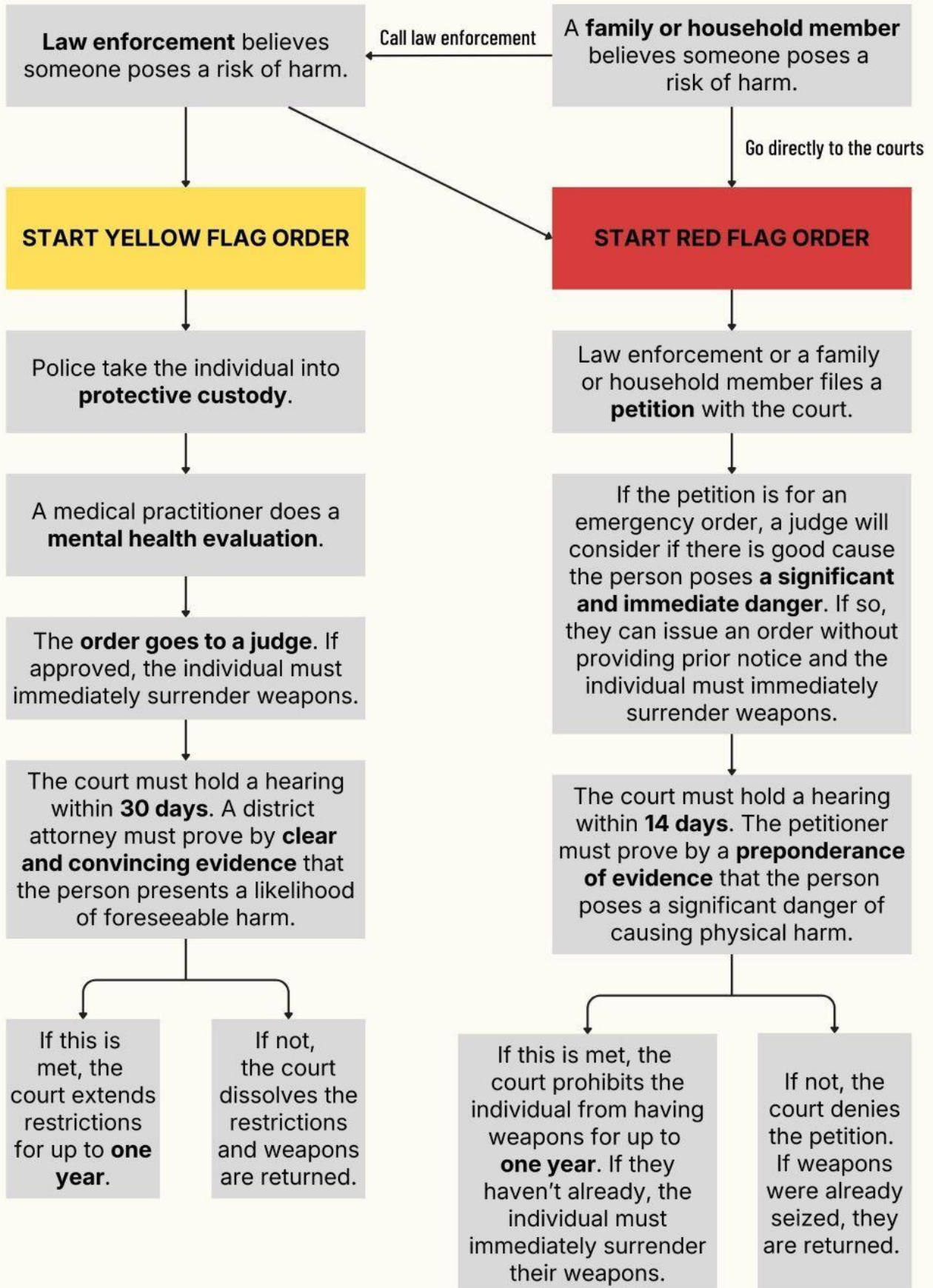
METRO, District Court, and District Attorney Notification of Issuance of Order

METRO Notification. The METRO Entering Agency must expeditiously enter the Weapons Restriction Order into the NCIC Extreme Risk Protection Order File. (An order not yet served is a “suppressed order;” it becomes an “active order” after service of the order on the restricted person.) After the record is entered, NCIC will generate a unique identifier called a NIC number, which will be provided to the METRO Entering Agency for inclusion on the Application and on any subsequent reports. Entering the record into NCIC will also automatically notify the National Instant Criminal Background Check System (NICS) in the event the restricted person attempts to obtain a weapon. The NIC is like an ATN or a bail ID in that it allows for a unique identifier if two or more orders are tied to the same name and date of birth.

District Court Notification: The originating law enforcement agency must immediately transmit a copy of the Application (with the NIC number appropriately noted), the Deputy’s Statement of Probable Cause, and the Weapons Restriction Order that was served on the restricted person and the date it was served to the District Court in the district in which the restricted person was taken into protective custody. The District Court is responsible for scheduling a hearing. The only source of information needed by the court is law enforcement, which makes it imperative that the law enforcement agency is diligent in providing the information promptly. The documents may be emailed to the respective court.

<i>Region</i>	<i>Court</i>	<i>Email</i>
1	Biddeford	yjc.staff.mh@courts.maine.gov
2	Portland	reports-cumberland-portland@courts.maine.gov
2	Bridgton	reports-bridc@courts.maine.gov
3	South Paris	reports-oxford-south.paris@courts.maine.gov
3	Rumford	dc.staff.rumdc@courts.maine.gov
3	Farmington	cco.Franklin-Farmington@courts.maine.gov
3	Lewiston	sandy.therrien@courts.maine.gov, lynn.levesque@courts.maine.gov, joline.tompson@courts.maine.gov, andy.frechette@courts.maine.gov
4	Waterville	clerks-waterville@courts.maine.gov
4	Augusta	clerks-augusta@courts.maine.gov
4	Skowhegan	somersetcriminalucd@courts.maine.gov
5	Bangor	cco.penobscot-bangor@courts.maine.gov
5	Newport	dc.staff.newdc@courts.maine.gov
5	Lincoln/Millinocket	Cco.lincoln-millinocket@courts.maine.gov
5	Dover-Foxcroft	lisa.richardson@courts.maine.gov, donna.weymouth@courts.maine.gov
6	Belfast	cco.waldo-belfast@courts.maine.gov
6	Rockland	clerks-rockland@courts.maine.gov
6	Wiscasset	cco.lincoln-wiscasset@courts.maine.gov
6	West Bath	cco.sagadahoc-west-bath@courts.maine.gov
7	Ellsworth	cco.hancock-ellsworth@courts.maine.gov
7	Calais	dc.staff.caldc@courts.maine.gov
7	Machias	cco.washington-machias@courts.maine.gov
8	Caribou	cco.aroostook-caribou@courts.maine.gov
8	Presque Isle	dc.staff.predec@courts.maine.gov
8	Fort Kent/Madawaska	dc.staff.fordc@courts.maine.gov
8	Houlton	dc.staff.houdec@courts.maine.gov

DA Notification. The originating law enforcement agency must immediately send a copy of the Application, Deputy’s Statement of Probable Cause, the Weapons Restriction Order, and all other relevant reports, forms, or information to the District Attorney’s Office in the prosecutorial district in which the restricted person was taken into protective custody. The NIC must be included in any documentation submitted to the District Attorney’s Office.



APPENDIX #7

State of Maine Protective Custody Intake Form

LCSO Only »» VOLUNTARY INVOLUNTARY / PROTECTIVE CUSTODY

Updated: 03-06-2026

SUBJECT NAME		DOB		CASE #	
ADDRESS		TOWN		DATE/TIME OF INCIDENT	
LOCATION OF INCIDENT		POLICE DEPARTMENT		OFFICER NAME	
MEDICAL FACILITY NAME			DOCTOR NAME		
MENTAL ILLNESS	Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/>	Prior LE Contacts	Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/>		
KNOWN DIAGNOSIS	Depression <input type="checkbox"/> Bipolar <input type="checkbox"/> Anxiety/Panic <input type="checkbox"/> PTSD <input type="checkbox"/> Substance Dependence <input type="checkbox"/> Mental Retardation <input type="checkbox"/> Schizophrenia <input type="checkbox"/> Other _____ Unknown <input type="checkbox"/>	PENDING CRIM. CHARGES	No <input type="checkbox"/> Yes <input type="checkbox"/> List _____		
THREAT ASSESSMENT	None <input type="checkbox"/> Suicide Threat <input type="checkbox"/> Suicide Attempt <input type="checkbox"/> Threat/Harm to Others <input type="checkbox"/> Threat/Harm to Police <input type="checkbox"/> Threat/Harm to Family <input type="checkbox"/> Threat/Harm to Medical Staff <input type="checkbox"/> Expressed Hopelessness <input type="checkbox"/>	INJURIES	Self-Injury <input type="checkbox"/> Bystander Injury <input type="checkbox"/> Police Injury <input type="checkbox"/> Relative Injury <input type="checkbox"/> Medical/EMS Injury <input type="checkbox"/> Hospitalized <input type="checkbox"/> Not Hospitalized <input type="checkbox"/>		
SUBSTANCE ABUSE	Alcohol <input type="checkbox"/> Marijuana <input type="checkbox"/> Cocaine/Crack <input type="checkbox"/> Methadone <input type="checkbox"/> Prescription Med's <input type="checkbox"/> Heroin <input type="checkbox"/> Other _____	WEAPON/METHOD	Firearm <input type="checkbox"/> Edged Weapon <input type="checkbox"/> Overdose <input type="checkbox"/> Hanging <input type="checkbox"/> Jumping <input type="checkbox"/> Police <input type="checkbox"/> Traffic <input type="checkbox"/> Other _____		
BEHAVIOR SIGNS AND/OR INDICATORS	Intoxicated/Impaired <input type="checkbox"/> Threats to Self <input type="checkbox"/> Threat to Others <input type="checkbox"/> Confused Speech <input type="checkbox"/> Irrational Statements <input type="checkbox"/> Irrational Behavior <input type="checkbox"/> Unable to Care for Self <input type="checkbox"/> Recent Negative Life Changing Events (Divorce, Job Loss, Death of Spouse etc.) <input type="checkbox"/>	PRIOR HISTORY	Suicide Attempts <input type="checkbox"/> LE Protective Custody <input type="checkbox"/> LE Non-Protective Custody <input type="checkbox"/> Prior Violence <input type="checkbox"/> Arrests <input type="checkbox"/> Self Injury <input type="checkbox"/> DV Assault <input type="checkbox"/> Psychiatric History <input type="checkbox"/>		
		CURRENT COURT ORDER	Protection from Abuse <input type="checkbox"/> Protection from Harassment <input type="checkbox"/> Criminal Trespass Notice <input type="checkbox"/>		
CURRENT MEDICATIONS	Taking <input type="checkbox"/> Not Taking <input type="checkbox"/> Overdosing <input type="checkbox"/> Under Dosing <input type="checkbox"/>	<input type="checkbox"/> <i>(Check if applicable)</i> The above person was taken into protective custody pursuant to 34-B M.R.S.A., § 3862. I have probable cause to believe that the person may be mentally ill AND that due to that condition the person poses a likelihood of serious harm, or I am aware that the above person has an advance health care directive authorizing mental health treatment and I have probable cause to believe that person lacks capacity. "Serious harm" means (1) a substantial risk of physical harm to the person as manifested by recent threats of, or attempts at, suicide or serious self-inflicted harm, or (2) a substantial risk of physical harm to other persons as manifested by recent homicidal or violent behavior or by recent conduct placing others in reasonable fear of serious physical harm, or (3) a reasonable certainty that the person will suffer severe physical or mental harm as manifested by recent behavior demonstrating an inability to avoid risk or to protect the person adequately from impairment or injury.			
	Narrative Details				
Provide a BRIEF incident overview to establish probable cause for protective custody					
Use Specific Suicidal Comments made by the individual					
<i>Copies MUST be retained by the transporting Law Enforcement Officer and the medical facility</i>					
OFFICER SIGNATURE			DOCTOR/ ADMITTING NURSE SIGNATURE	(Receipt acknowledged)	

APPENDIX #8
STATE OF MAINE "BLUE PAPER"

APPLICATION FOR EMERGENCY INVOLUNTARY ADMISSION TO A PSYCHIATRIC HOSPITAL

1. Application. I hereby apply for emergency admission of:

_____ to a psychiatric hospital under 34-B
Proposed patient's FULL printed name (first, middle, last) gender date of birth

M.R.S. § 3863. I believe that the proposed patient is a **mentally ill person** because _____

_____, and as a result poses a **likelihood of serious harm** because
Grounds for belief about **mental illness**

_____. To my knowledge, the proposed patient
Grounds for belief about **likely harm, including nature of harm**

(select one): is not is (as of _____) currently being held at a hospital pursuant to a previously endorsed
Date detention began

application(s) for emergency involuntary admission to a psychiatric hospital (attached). At this time, (select one):

An available psychiatric hospital has been identified for admission: _____
Name of psychiatric hospital

An available psychiatric hospital has not yet been identified. The proposed patient is currently being held at
_____ and will remain there until an inpatient bed at a psychiatric
Name of hospital where proposed patient is currently located

hospital or other appropriate alternative is located subject to the requirements of 34-B M.R.S. § 3863(3).

Date _____ Applicant's printed name _____ Applicant's signature _____ Applicant's capacity _____

Name and address of proposed patient's guardian, spouse, parent, adult child, next of kin, or friend:

2. Certifying Examination. I hereby certify that: (i) I examined _____ today.
Proposed patient

(ii) In my opinion, the proposed patient is a **mentally ill person**, exhibiting the following **symptoms**: _____

(iii) In my opinion, the proposed patient's **recent actions and behaviors** (not symptoms), described below, show that the proposed patient's illness poses a likelihood of serious harm under paragraph A, B or C.

A. Describe threats of or attempts at suicide or serious self-inflicted harm

B. Describe recent homicidal or violent behavior or recent conduct placing others in reasonable fear of serious physical harm

C. Describe recent behavior and how it shows inability to avoid risk or protect self from severe physical or mental harm

(iv) I have confirmed that adequate community resources are unavailable for care and treatment of the proposed patient's mental illness.

(v) I believe that the least restrictive form of transportation for the proposed patient's clinical needs is _____

Ambulance or other (please specify)

Date _____ Time _____ Examiner's printed name and qualification (select one below) _____ Examiner's signature _____

licensed physician licensed physician assistant certified psychiatric clinical nurse specialist certified nurse practitioner licensed clinical psychologist

(Note on Section 3: The applicant must check which box applies and draw a single diagonal line crossing out the nonapplicable section prior to submitting for judicial review and endorsement.)

3.A Judicial Review and Endorsement (Psychiatric Hospital Identified in Application).

I find this application and certificate to be regular and in accordance with the law. The applicant has identified a psychiatric hospital and the proposed patient may be admitted to _____.
Name of psychiatric hospital

If the proposed patient is not currently at that hospital, _____ is authorized
Person authorized to take proposed patient into custody
to take the proposed patient into custody and transport the proposed patient to that hospital.

Date Time Judicial officer's printed name Judicial officer's signature (District, Probate or Superior Court
Judge or Justice; Justice of the Peace)

3.B Judicial Review and Endorsement (Psychiatric Hospital Not Identified in Application).

(Note on Section 3.B: Both sections below must be completed to authorize the proposed patient's admission to a psychiatric hospital. Section 3.B.1 is completed if a psychiatric hospital is not yet identified in the application. Section 3.B.2 is completed, either by the same or a different judicial officer, once a psychiatric hospital is identified.)

(1) Initial Review and Endorsement: I find this application and certificate to be regular and in accordance with the law. No psychiatric hospital has been located as of the date of the certifying examination. The proposed patient may remain at the current hospital identified in the application pending the location of an inpatient bed at a psychiatric hospital or other appropriate alternative subject to the requirements of 34-B M.R.S. § 3863(3). If an available inpatient bed at a psychiatric hospital is located, and the emergency admission of the proposed patient is still sought, the applicant shall immediately notify a judicial officer for final review and endorsement in Section 3.B.2 below.

Date Time Judicial officer's printed name Judicial officer's signature (District, Probate or Superior Court
Judge or Justice; Justice of the Peace)

(2) Final Review and Endorsement: The undersigned judicial officer has received notification (Form MH-100.B) from the applicant that a psychiatric hospital has been identified within the time periods permitted under 34-B M.R.S.

§ 3863(3). The proposed patient may be admitted to _____.
Psychiatric hospital

not currently at that hospital, _____ is authorized to take the proposed patient into
Person authorized to take proposed patient into custody
custody and transport the proposed patient to that hospital.

Date Time Judicial officer's printed name Judicial officer's signature (District, Probate or Superior Court
Judge or Justice; Justice of the Peace)

General Instructions:

- A. Some of the terms used in this form have a particular meaning under the involuntary hospitalization statutory provisions in Title 34-B, Subchapter 4, including likelihood of serious harm, least restrictive form of transportation, mentally ill person, and psychiatric hospital. Refer to the statute for these definitions.
- B. This form consists of three sections: Section 1 (application), Section 2 (certifying examination), and Section 3 (judicial review and endorsement) with options A and B depending on whether a psychiatric hospital is initially identified. For the form to be complete – and therefore authorize a proposed patient’s admission to an identified psychiatric hospital – either Section 3.A or Section 3.B (not both) must be completed in full.
- C. Following the completion of the certifying examination in Section 2, the applicant in all instances must immediately present the application and certificate to a Justice of the Superior Court, Judge of the District Court, Judge of Probate or a justice of the peace for review and endorsement even if a psychiatric hospital has yet to be identified.
- D. The maximum period a hospital (*i.e.*, emergency department) may detain a proposed patient against their will prior to the identification of an available inpatient bed at a psychiatric hospital is 120 hours. This includes up to 24 hours following the submission of the application and certificate to a judicial officer, pending judicial review and endorsement; and two 48-hour periods during which time the hospital periodically determines that the individual continues to pose a likelihood of serious harm, undertakes its best efforts to locate an inpatient psychiatric bed, and notifies the Department of Health and Human Services of any detention exceeding twenty-four hours. See 34-B M.R.S. § 3863(3)(D)-(E). No further judicial review and endorsement is required during these two 48-hour periods. If the proposed patient cannot be safely released after the authorized maximum 120-hour period has lapsed and if there is still no psychiatric bed available, a new “Blue Paper” may be started.
- E. The psychiatric hospital named in the application may decline to admit the proposed patient, in which case the transporting agency must return the proposed patient from the psychiatric hospital.
- F. Once a judicial officer endorses the proposed patient’s admission to an identified psychiatric hospital by completing either Section 3.A or Section 3.B (as applicable), then the proposed patient may be admitted to the psychiatric hospital. The application expires 3 days after the patient’s admission to the psychiatric hospital, except that if the third day falls on a weekend or holiday, the application expires on the next business day following the weekend or holiday.

Section 1:

- A. Any health deputy, law enforcement or other person may complete Section 1. This section should only be completed once and cannot be altered or amended after it is presented to the certifying examiner in Section 2 and for judicial review and endorsement in Section 3.
- B. The applicant must indicate by checking the appropriate box whether the proposed patient is currently being detained at a hospital pursuant to a prior “Blue Paper” application for emergency involuntary admission to a psychiatric hospital (*i.e.*, the proposed patient has already been held at a hospital involuntarily for at least one maximum up-to-120-hour period). If so, the applicant should list the “date of detention” as when the first “Blue Paper” was initiated. The applicant must attach and provide all immediately preceding “Blue Paper” applications for the proposed patient to the judicial officer.
- C. The applicant must indicate whether an available psychiatric hospital has been identified, and if so, must include the name of the psychiatric hospital.
- D. If no psychiatric hospital has been identified and the proposed patient is currently located at a hospital (*i.e.*, at an emergency department) pending the availability of an inpatient bed at a psychiatric hospital or other appropriate alternative, the applicant must include the name of the current hospital.

- E. The applicant should provide the name and address of the proposed patient’s guardian, spouse, parent, adult child, or if none of those is known, either the next of kin or a friend, so that the psychiatric hospital can fulfill its obligation to notify such person upon the proposed patient’s emergency admission.

Section 2:

- A. Section 2 should only be completed once and cannot be altered or amended after it is presented for judicial review and endorsement in Section 3.
- B. If a psychiatric hospital is identified in Section 1, the certifying examination must take place no more than two days before the patient is admitted to the psychiatric hospital.
- C. The certifying examiner must describe both the symptoms of the mentally ill person and the recent actions and behaviors creating a likelihood of serious harm. The certifying examiner must check at least one box in Section 2.iii and provide the narrative information about recent actions or behaviors to support the opinion that the proposed patient’s mental illness creates a likelihood of serious harm.
- D. The grounds for the certifying examiner’s opinion may be based on personal observation or on history and information from other sources considered reliable by the examiner, including, but not limited to, family members.
- E. The certifying examiner should include the least restrictive form of transportation in Section 2.v, but if no transport is required, the examiner can note this is “N/A.”
- F. The certifying examiner must confirm that they are qualified as a “medical practitioner” under the statute by checking the appropriate box under the signature line.

Section 3:

- A. The applicant must check the box for whether Section 3.A or Section 3.B applies and draw a single line crossing out the nonapplicable section prior to submitting to a judicial officer for review and endorsement.
- B. Section 3.A applies when a psychiatric hospital has been identified by the applicant in Section 1. Prior to submitting to the judicial officer for review and endorsement, the applicant must fill in the name of the psychiatric hospital and the transporter identified by the certifying examiner.
- C. Section 3.B applies when a psychiatric hospital has not been identified in Section 1 and the proposed patient is to remain at a hospital until an inpatient psychiatric bed is available or another appropriate alternative is identified.
 - 1. If a judicial officer executes the initial review and endorsement in Section 3.B.1, this authorizes the hospital to hold the proposed patient against his or her will for up to a maximum duration of 120 hours. This includes the initial 24-hour period pending review and endorsement, and two 48-hour periods during which time further judicial review and endorsement is not needed if the requirements of 34-B M.R.S. § 3863(3)(D)-(E) are met.
 - 2. If a psychiatric hospital is identified during this maximum 120-hour hold period, and the applicant is still seeking the proposed patient’s admission to a psychiatric hospital, the applicant shall immediately seek a judicial officer’s final review and endorsement in Section 3.B.2. The applicant shall submit Form MH-100.B, *State of Maine “Blue Paper” Notification to Judicial Officer of Identification of Psychiatric Hospital*, along with a copy of the completed application (including all immediately preceding “Blue Paper” applications), certifying examination, and initial review and endorsement. On that same copy, the applicant must, in Section 3.B.2, fill in the name of the psychiatric hospital and the transporter identified by the certifying examiner before presenting to a judicial officer for final review and endorsement.
- D. When a psychiatric hospital has been located (either at the time of the certifying examination in Section 2 or during the allowed hold periods thereafter), a proposed patient may be transported between the hours of 11:00 p.m. and 7:00 a.m. to the psychiatric hospital and held there for evaluation and treatment pending judicial endorsement (*i.e.*, in Section 3.A or Section 3.B.2) so long as the endorsement is obtained as soon as possible outside of these hours.