



Lincoln Police Department

Standard Operating Procedures

Integrity, Competency, Fairness



Subject:	Weapons Restriction Order Process	Policy #	O-12.A
Effective Date:	August 4, 2025	Review Cycle:	2 Years
Distribution:	All Sworn Personnel	# of pages:	10
MLEAP:			
	<i>Rescinds All Previous Policies Related to This Current Policy</i>		
Issuing Authority:	Chief of Police Lee Miller		

I. POLICY:

In accordance with *Title 34-B M.R.S. §3862-A*, it is the policy of the Lincoln Police Department to restrict access to dangerous weapons for individuals who have been taken into protective custody and assessed by a medical practitioner to pose a likelihood of foreseeable harm. The agency is committed to prioritizing public safety by implementing measures to limit the availability of dangerous weapons to individuals identified as posing a potential risk, as determined through a thorough and judicially reviewed evaluation process.

II. PURPOSE:

Establish the guidelines for invoking Maine's weapons restriction law, also known as the "Yellow Flag Law."

III. DEFINITIONS:

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, including 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 that can be made into a firearm by the insertion of a firing pin, or another similar thing, or by repair, or another similar thing, or by repair is a firearm.

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

1. Any person (friend, relative, social services worker, officer, etc.) applies for admission of an individual to a hospital qualified to provide mental health services.
2. 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 serious harm, a judicial officer reviews and, as appropriate, endorses the documentation reflecting the first 2 steps.

These 3 steps are reflected in sections 1, 2, and 3 of the "blue paper," an application for Emergency Involuntary Admission to a Mental Hospital, form MH-100.

Likelihood of Foreseeable Harm: For purposes of an extreme risk protection order (weapons restriction order), the "likelihood of foreseeable harm" means a substantial risk in the foreseeable future of serious physical harm to the person as manifested by recent behaviors or threats of, or attempts at, suicide or serious self-inflicted harm; or 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 or statements placing others in reasonable fear of serious physical harm.

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.

Mentally Ill Person: A person having a psychiatric or other disease that substantially impairs that person's mental health or creates a substantial risk of suicide. "Mentally ill person" includes persons suffering effects from the use of drugs, narcotics, hallucinogens, or intoxicants, including alcohol.

Probable Cause¹: Basis of a law enforcement officer's judgment about the appropriateness of protective custody. This judgment should reflect the totality of the circumstances, including:

1. Personal observation.
2. Reliable information from third parties, as long as the officer 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 likelihood of serious harm; and
3. History, if known, of the person who seems to be experiencing a mental health crisis.

Protective Custody: Custody effected by a law enforcement officer EITHER when that officer has probable cause to believe that a person may be mentally ill and, due to that condition, the person presents a likelihood of serious harm to self or others OR when the law enforcement officer knows that a person has an advance healthcare directive authorizing mental health treatment and the officer has probable cause to believe that the person lacks capacity.

Restricted Person: A person taken into protective custody by a law enforcement officer who the officer has probable cause to believe possesses, controls, or may acquire a dangerous weapon and who is found by a medical practitioner to present a likelihood of foreseeable harm.

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

Weapons Restriction Law (Yellow Flag Law): Title 34-B M.R.S. §3862-A is designed to restrict access to dangerous weapons by persons who have been taken into protective custody and found by a medical practitioner to present a likelihood of foreseeable harm. Such a finding is thereafter reviewed and endorsed by a judge.

IV. PROCEDURES:

- A. If an officer has probable cause² that an individual is:
 1. Mentally ill, and due to that condition;
 2. The person presents a likelihood of serious harm to self or others.
- B. The officer may place the individual into protective custody, in accordance with Lincoln Police Department's policy *O-12 Response to Mental Illness & Involuntary Commitment*, and transport the person to an appropriate medical facility to start a mental health evaluation and involuntary committal process (Blue Paper Process). If a blue paper and yellow paper assessment are not co-occurring, measures should be taken to accomplish the yellow paper assessment first in the event that the blue paper assessment results in the person being released from protective custody. There can be no yellow paper assessment if the person is not in protective custody, except that the yellow paper assessment may occur within 24 hours after the person is released from protective custody if (1) the protective custody stemmed from an officer'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.
- C. 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.

¹ See The Maine Law Enforcement Officer's Manual chapter on Probable Cause

² When formulating probable cause, the law enforcement officer may rely upon information provided by a third-party informant if the officer confirms that the informant has reason to believe, based upon the informant's recent personal observations of or conversations with a person, that the person may be mentally ill and that due to that condition the person poses a likelihood of serious harm as defined in § 3801, subsection 4-A, paragraph A, B or C.

- D. The officer 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.
- E. If the officer suspects the individual under protective custody possesses, controls, or may acquire a dangerous weapon(s), the officer shall complete the *Application for Weapons Restriction (Appendix #2)* and the *Officer's Statement of Probable Cause (Appendix #1)*.
- F. The officer 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.
 - i. If the individual refuses to speak with Spurwink or is unable (i.e. sedated by medical staff) the weapons restriction assessment can still continue.
 - ii. 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.
 - i. If the person qualifies for the order, Spurwink will return the signed application.
 - ii. If the person does not qualify, the officer will either return the person to the blue paper process or release the person.
- G. 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. (*Note: Probate Judges can no longer approve these applications*).
1. The judicial officer will complete page 3 of the application.
 2. At this time, a person whose assessment was signed by the law enforcement officer, the Spurwink assessor, and the judicial officer becomes a restricted person, and upon notification of law enforcement is subject to prohibitions in *Title 15, §393*, which are:
 - i. 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;
 - ii. The restricted person shall immediately and temporarily surrender any weapons possessed, controlled, or acquired by the restricted person to a law enforcement officer who has authority in the jurisdiction in which the weapons are located pending the outcome of a judicial hearing; and
 - iii. The restricted person has a right to a judicial hearing.
- H. 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 with 48 hours after the law enforcement officer has been notified that the person is no longer medically incapacitated. Read the form verbatim to the individual.
1. Have the person sign the form. If the person refuses to sign the form, indicate so on the form.
- I. As soon as practicable after judicial enforcement, the officer shall:
1. Notify the restricted person.
 2. Notify the contact person (husband/wife/parent/etc.), if any or applicable.
 3. Notify the district attorney in the district where the person was taken into protective custody.
 4. 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 communications center enter all pertinent information in the packet into the system. They will not be able to enter a docket number at this time, as there is not one at this point in the process.
 5. Provide a copy to the court of the notification to the restricted person, including the date of notification **and** a copy of the petition paperwork. (*Note: Providing a copy to the district attorney's office **does not** count as providing a copy to the court*).
 6. Email the entire packet to the District Attorney in the district where the person was taken into protective custody and Court Officer, if applicable, as soon as possible. (Note: The court only has 14 days after the date the restricted person was served to schedule a hearing and appoint counsel, so it is imperative the clerk's office receives a copy of the approved and served applications as soon as possible).
 - i. When DA's Office has the packet, it shall provide a docket number for the court case, if available. Communications will have to update this information into the original M.E.T.R.O. entry.

- J. 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 officer's jurisdiction and enter them into evidence for safekeeping.
- K. If the restricted person does not comply, and there is probable cause to believe the restricted person possesses or controls a weapon(s)
 - 1. Draft a search warrant and follow the procedures for search warrants in compliance with Lincoln Police Department's policy *O-24 Search Warrants*.

V. Protective Custody has not Occurred

- A. If an officer is unable to physically take a person into protective custody to conduct an assessment, the law enforcement officer may apply for a protective custody warrant. The officer must submit an affidavit of probable cause with the protective custody warrant form to a Justice of the Superior Court, a Judge of the District Court, or a Justice of the Peace.
- B. The justice or judge shall issue a protective custody warrant and promptly transmit that warrant to the officer for execution upon finding the affidavit under this subsection is sufficient to establish:
 - 1. Probable cause to believe that the person is mentally ill and, due to that condition, presents a likelihood of serious harm;
 - 2. Probable cause to believe that the person possesses, controls, or may acquire a dangerous weapon; and
 - 3. That the officer has made reasonable attempts to take the person into custody without a warrant.
- C. 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 electronic arrest warrant or paper arrest warrant may be executed by a law enforcement officer authorized to take the person into protective custody.
- D. While the protective custody arrest warrant allows the officer 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 automatically substantiate probable cause for a search warrant. Once the person is in protective custody, the process outlined in *Section IV - Procedures* is followed.

APPENDIX 1

OFFICER'S STATEMENT OF PROBABLE CAUSE

[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.]

08/09/2024

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. Officer [Print name and rank] _____

Officer 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 Officer

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 officer identified in Section 1 above has stated that _____ was taken into protective custody pursuant to 34-B M.R.S. § 3862, and that the officer 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 officer 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.

 _____ (Printed Name of Judicial Officer)	_____ Superior Court Justice/District Court Judge/Justice of the Peace
_____ (Signature)	_____ (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 Officer Making Service)

(Signature of Officer Making Service)

(Date & Time of Service)

(Printed Name of Restricted Person)

Telephone: _____

(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 officer 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 officer 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

APPENDIX #5

WEAPONS RESTRICTION ORDER PROCESS

