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The Independent Commission to Investigate the Facts of the Tragedy in Lewiston



Initial Interim Report

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Cover painting “*Resilience*” by Wendy Webster Good

Executive Summary

The Independent Commission to Investigate the Facts of the Tragedy in Lewiston (hereinafter the Commission) began its work in late November 2023. Since then, it has conducted seven public hearings, reviewed over a terabyte of electronic reports and records, conducted extensive legal research, participated in site tours, and received private testimony and statements from witnesses and victims. It continues to investigate this matter and anticipates additional public hearings before a comprehensive final report is issued later this year.

This Interim Report is issued for the sole purpose of addressing the actions of local law enforcement and the information provided by the Army Reserve (herein after AR) prior to the shooting on October 25, 2023. The investigation is active and ongoing. The Commission will issue a final report that examines additional facts and the conduct of all relevant actors.

Robert Card Jr. is solely responsible for his own conduct, and he may have committed a mass shooting even if the guns he possessed in September 2023 were removed from his house. Nevertheless, there were several opportunities that, if taken, may have changed the course of events.

The Commission is unanimous in finding that in September 2023, the Sagadahoc County Sheriff's Office (hereinafter SCSO) had sufficient probable cause to take Robert Card Jr. into protective custody under Maine's Yellow Flag¹ law and to remove his firearms and that the SCSO had probable cause to believe that Mr. Card posed a likelihood of serious harm.

Sgt. Aaron Skolfield, responding to a report that Mr. Card was suffering from some sort of mental health crisis, had recently assaulted a friend, had threatened to shoot up the Saco Armory and harm others, and was in possession of numerous firearms, should have realized that he had probable cause to start the Yellow Flag process. Sgt. Skolfield made only limited attempts to accomplish a "face-to-face" meeting with Mr. Card. He failed to consult the agency's records concerning a previous complaint about Mr. Card, failed to contact the individual who was assaulted by Mr. Card and heard his threat, and he failed to follow up on leads to determine how to contact Mr. Card. He also failed to seek assistance from prosecutors or other law enforcement agencies to determine how best to proceed.

When Sgt. Skolfield went on leave on September 18, 2023, his supervisors failed to assign another deputy to take further action. The SCSO failed to take the necessary steps to take Mr. Card into custody and begin the Yellow Flag process.

The Commission unanimously finds that, under the circumstances known to Sgt. Skolfield on September 17, 2023, the decision to turn over the responsibility for removing Mr. Card's firearms to Mr. Card's family was an abdication of law enforcement's responsibility. This decision shifted what is and was a law enforcement responsibility onto civilians who have neither the legal authority to begin the Yellow Flag process nor any legal authority to seize weapons. Even after delegating that responsibility to Mr. Card's

¹ The legal name for this order is a Weapons Restriction order. For ease of reading, this report refers to it as the Yellow Flag law.

family, the SCSO failed to follow up to ensure that the firearms had been removed from Mr. Card's custody and safely secured.

Introduction

Commission Establishment and Membership

On November 9, 2023, by Executive Order No. 4 FY23/24, Governor Janet T. Mills established the Independent Commission to Investigate the Facts of the Tragedy in Lewiston.² The purpose of the Commission is to:

“(d)etermine the facts surrounding the tragedy in Lewiston on October 25th, including relevant facts and circumstances leading up to and the police response to it. The Independent Commission should determine the full scope of its work, and should ask any question necessary of any person that is relevant to the charge of gathering the facts regarding Robert Card’s mental health history, contact with State, Federal or military authorities, access to firearms, the initial law enforcement response to the Lewiston Shootings and the manhunt that ensued, and any other matters the Independent Commission determines are relevant to its purpose.”

Governor Mills named the following individuals, who serve without compensation, to the Commission:

1. The Honorable Daniel E. Wathen, Chair. Chair Wathen is a retired Chief Justice of the Maine Supreme Judicial Court
2. Dr. Debra Baeder. Dr. Baeder is a forensic psychologist and was the Chief Forensic Psychologist for the State Forensic Service in Maine as well as the Director of Clinical Services for the Office of Behavioral Health.
3. George T. (Toby) Dilworth, Esq. Attorney Dilworth is an attorney practicing in Portland and a former federal prosecutor.
4. The Honorable Ellen Gorman. Justice Gorman is a retired Associate Justice of the Maine Supreme Judicial Court.
5. The Honorable Geoffrey Rushlau. Judge Rushlau is a retired District Court judge and the former District Attorney for Lincoln, Knox, Waldo, and Sagadahoc counties.
6. The Honorable Paula D. Silsby. Attorney Silsby is of counsel to a Portland Law firm and served as the U.S. Attorney for the District of Maine for nine years.

² A copy of the Executive Order is attached as Appendix A.

7. Dr. Anthony Ng. Dr. Ng is a practicing psychiatrist in Bangor and previously provided services in the aftermath of the Newtown, CT school shooting and consulted on other mass shootings.

The Executive Order provides that the Chair will preside at, set the agenda for and schedule Commission meetings, seek funding from the Attorney General as determined necessary to hire sufficient staff or consultants on a contract basis to fulfill its mission and to the extent practical without hindrance, conduct its work in a manner that is open and accessible to the public. The records, proceedings and deliberations of the Commission are specifically exempt from the provisions of 1 M.R.S. c. 13.³

Commission Process to Date

The Commission held its first public meeting on November 20, 2023. At that time, it appointed staff members Anne Jordan as the executive director, Brian MacMaster and James Osterrieder as the Commission's investigators and Kevin Kelley as the Commission's media relations specialist. It formally requested that the Governor and the Attorney General seek subpoena power for the Commission so that all the relevant and necessary documents, evidence, and testimony could be secured.

Emergency legislation was introduced on January 25th, 2024⁴ that would grant the Commission the necessary powers to issue subpoenas. After a public hearing before the Legislature's Judiciary Committee on January 29, 2024, and a work session on January 31st, the bill received unanimous support from both the House of Representatives and the Senate and was signed into law by the Governor on February 13, 2024. Because it was emergency legislation, the bill went into effect immediately. To date, the Commission has issued five subpoenas to testify and produce documents and one subpoena to produce documents.⁵

The Commission has received over one terabyte of electronic records from the Maine State Police as well as additional records, transcripts, videos, photographs and other materials from multiple local, county, and federal law enforcement agencies and emergency communication centers, the US Army, the Maine Criminal Justice Academy, prosecuting attorneys, medical facilities, and various local and state government officials.⁶ It has conducted six additional public hearings at three different locations and anticipates conducting more.

³ Maine's Freedom of Information law.

⁴ This legislation was sponsored by leadership from both political parties in the House and the Senate.

⁵ The subpoenas to testify were issued to five members of Mr. Card's Army reserve unit who are also police officers: Jeremy Reamer-Nashua NH Police Department, Kelvin Mote-Ellsworth Police Department, Matthew Noyes-Androscoggin County Sheriff's Office, Jordan Jandreau- Rockland Police Department and Samuel Tlumac- Maine State Police. The subpoena for records was issued to the Maine State Police to secure Mr. Card's Medical Records from The Four Winds Hospital and Keller Hospital at West Point that were in the State Police's possession.

⁶ If all these records were printed on paper, they would exceed five thousand pages.

At each of the public hearings, the Commission arranged for live streaming to allow members of the public to see and hear the events as they unfolded. Tapes of each session were made and are posted on the Commission's website.⁷ At each public hearing, Certified American Sign Language Interpreters were employed, and their interpreting was simultaneously broadcast on a split screen. Some witnesses requested private meetings with the Commission and the Commission agreed. The Commission has received written statements from victims and witnesses.

The Commission has also conducted extensive legal research, read after action reports or investigative reports from past mass shooting incidents across the United States, and reviewed multiple US Department of Defense manuals, instructions, websites, and directives addressing Army practices, policies, and procedures regarding the provision of mental health services to its soldiers and their families. Finally, the Commission has established on its website an automatic email notification system providing the public the option to receive notification of new hearing dates and posting of Commission materials.

Scene Factual Findings

At 6:54:20 pm on October 25, 2023, 40-year-old Army reservist Robert Card Jr. entered the Just-In-Time Recreation Facility in Lewiston, Maine. More than 60 patrons and employees, including 20 children, were present. Mr. Card was armed with a .308 Ruger SFAR⁸ rifle with a scope and a laser targeting device. In 45 seconds, he fired 18 rounds, killing eight people and injuring three others. Seven additional people suffered various injuries while trying to hide or escape.⁹ Among those killed at Just-In-Time were two patrons, Jason Walker and Michael Deslauriers II, who charged and attempted to disarm Mr. Card. The actions of Mr. Walker and Mr. Deslauriers gave other patrons more time to flee or hide and saved many lives. Also killed at Just-In-Time were Tricia Asselin, Thomas Conrad, Robert Violette, his wife Lucille Violette, and Aaron Young and his father William Young.

At 6:55:31 pm, a dispatcher received the first 9-1-1- call from Just-In-Time. Multiple other calls followed. Regional Communications Centers in Lewiston-Auburn, Cumberland County, and Augusta immediately put out calls to law enforcement officers to respond to the scene. At 6:59 pm, the first officers arrived at the scene and entered the building both to search for Mr. Card and to render aid to victims. Emergency medical services also responded to the scene.

⁷ [www. https://www.maine.gov/icl/](https://www.maine.gov/icl/)

⁸ Small frame autoloading rifle. This firearm was legally purchased by Mr. Card on July 6, 2023 from the Fine Line Gun Shop in Poland, Maine, nine days before his hospitalization in New York.

⁹ This figure only counts those who received physical injuries requiring medical attention. It in no way diminishes the psychological and emotional injuries caused to those present, their friends, family and community members and the people of Maine.

Before the police arrived, Mr. Card left Just-In-Time and drove four miles to Schemengees Bar and Grille, also in Lewiston. He left his car running outside the main entrance and entered the building at 7:07 pm. In 78 seconds, he fired 36 rounds, killing ten more people and wounding ten others. Seven people suffered other injuries during the chaos. During the shooting at Schemengees, bar manager Joseph Walker tried to charge Mr. Card to disarm him but he was shot and killed. Patron Michael Roderick quickly found and shut off the main power to the building, which allowed others to flee or hide. These actions saved lives. Mr. Card then fled that scene.

The other persons killed at Schemengees were Arthur Strout, Joshua Seal, Ronald Morin, Stephen Vozella, Keith Mcneir, Bryan MacFarlane, Maxx Hathaway, Peyton Brewer-Ross, and William Brackett. Mr. Seal, Mr. Vozella, Mr. Brackett, and Mr. MacFarlane were members of Maine's Deaf community.

The first call to 9-1-1 from Schemengees was received at 7:08 pm. Three officers arrived in less than five minutes and entered the building. Dozens more officers also responded to this scene. Due to ambulances being tied up at Just-In-Time, officers and private citizens picked up injured individuals and transported them in their police vehicles and private cars to Central Maine Medical Center and St. Mary's Regional Medical Center. Other patrons at both scenes rendered first aid. These actions saved lives.

Eighteen .308 caliber cartridge casings, four live .308 caliber cartridges, multiple bullets, and bullet fragments and one 25 bullet capacity magazine containing 22 live .308 caliber cartridges, were recovered inside Just-In-Time.

Thirty-six fired .308 cartridge casings, one empty 25 round capacity magazine, and multiple bullets and bullet fragments were recovered inside and outside Schemengees.

Officers collected images of Mr. Card and his vehicle from security footage at both locations. An image of Mr. Card from Just-In-Time was released to law enforcement at 7:52 pm and released to the media and public by 8:06 pm. At 8:57 pm, a member of Mr. Card's family called the Regional Communications Center and identified him. His family immediately and fully cooperated with the police. They continue to do so.

At 9:15 pm, a BOLO¹⁰ identifying Mr. Card and his vehicle, including a description and license plate number, was released by the Regional Communications Center. It was immediately broadcast nationwide.

At 9:32 pm, Mr. Card's cell phone company began an exigent circumstances search of his cell phone records. Four minutes later, the State Police received the needed information. Location data determined that Mr. Card's phone had been left at his residence in Bowdoin before the shootings occurred and was last moved at 6:05 pm.

¹⁰ Be On the Lookout

Lisbon police officers found Mr. Card's abandoned car at a Lisbon boat launch at 9:56 pm. Police established a safety perimeter and an overhead search by a New Hampshire State Police helicopter equipped with thermal imaging cameras and spotlights occurred within minutes. Lisbon officers provided geographical information to the New Hampshire troopers via direct radio connection. Mr. Card was not located at the boat launch or on the two walking paths that were immediately adjacent to the area.

The Ruger firearm, with 14 live cartridges in the magazine and one live cartridge in the chamber, and five more magazines containing 63 additional live .308 cartridges, were recovered from the car. There were no notes or other evidence found in the car that would have assisted in the search for Mr. Card.

More than 400 law enforcement officers were involved in a manhunt that occurred over the next 49-hours. It was coordinated from a Central Command Post established initially at the Lewiston Police Department and then at Lewiston High School. Briefings for law enforcement command staff were provided on a scheduled basis. It was expected that the Chiefs or Command staff in attendance from each agency would relay information, as appropriate, to their employees.

The MIAC Center,¹¹ SWAT and emergency response teams, multiple aircraft and dive teams, and other specially trained teams from across the Northeast were used in the search. The emergency communication centers answered more than 900 calls and the tip line entered over 600 calls into its database. Local, county, and state patrol officers provided vital information, searched for Mr. Card, and answered calls from frightened citizens.

In the late afternoon of October 27, 2023, two specially trained search teams began searching and clearing 55 trailers in the overflow lot of the Maine Recycling Company in Lisbon. At 7:40 pm, Mr. Card's body was found in the last trailer to be searched. At that scene, a Smith and Wesson MP 40 .40 caliber handgun with a total of 45 live rounds in three magazines,¹² and a Smith and Wesson MP15 .556 mm rifle,¹³ and 242 live cartridges in eight magazines were recovered. Mr. Card died of a self-inflicted gunshot wound to the head from the handgun. No other evidence that could have provided information or clues as to Mr. Card's actions or whereabouts from after the shootings until his body was recovered at the scene was found.

¹¹ Maine Information and Analysis Center, located at the Maine Department of Public Safety.

¹² This firearm was legally purchased on July 12, 2012, from Cabela's in Scarborough, Maine.

¹³ This firearm was legally purchased on November 16, 2018, from Rideout's Gunworks in Richmond, Maine.

Commission Factual Findings

Law Enforcement Response Prior to October 25, 2023

The Commission makes the following findings based on the evidence presented to it through various police reports, videos, and testimony from witnesses.

On May 3, 2023, Mr. Card's 17-year-old son Colby, and Colby's mother Cara, contacted Topsham School Resource Officer (SRO) Gabrielle Mathieu. Upon learning that Mr. Card resided in Bowdoin, SRO Mathieu requested that a deputy from the Sagadahoc County Sheriff's office also respond. Later that day, Colby and Cara described to SCSO Deputy Sheriff Chad Carleton and SRO Mathieu their concerns that Mr. Card's mental health had been declining since January 2023. Mr. Card was complaining that people were talking about him and calling him names behind his back. Colby also expressed concerns that his father had recently moved 10-15 firearms from Mr. Card's brother's house to his house. Colby said that two to three weeks earlier when he had stopped to visit his father, Mr. Card became very angry and accused Colby of saying things about him behind his back. Colby gave additional examples and stated that his father was angry, hearing voices, and experiencing paranoia.

Both Colby and Cara reported that other members of Mr. Card's family were also concerned about his deteriorating mental health and that their efforts to help had been in vain as Mr. Card was in denial. They described how family members tried to talk to Mr. Card about this, tried to point out that no one was talking about him, and tried to encourage him to get help, but they were unsuccessful. Their good intentioned efforts resulted only in Mr. Card's withdrawal and estrangement.

Deputy Carleton, Colby, and Cara discussed different options. Colby and Cara did not want Mr. Card to know that they had gone to the police, but they did want to get him help. It was decided that Deputy Carleton would reach out to Mr. Card's Army Reserve unit to gather more information and would try to talk to Mr. Card's brother to get more information.

Deputy Carleton then called the Saco Army Reserve Unit and spoke to Administrator Getchell, who related that members of the Unit also had concerns about Mr. Card's recent behavior. Administrator Getchell provided Deputy Carleton with First Sergeant Kelvin Mote's phone number. Sgt. Mote is the senior non-commissioned officer in Mr. Card's company and a full-time Ellsworth police corporal. Deputy Carleton spoke with Sgt. Mote who told him that Mr. Card had been hearing voices and accusing other soldiers of calling him a pedophile. Sgt. Mote stated that he had no idea that the problem was as bad as Colby had reported. He advised that the unit had an upcoming training mission involving crew-served weapons and hand grenades. Sgt. Mote stated he would immediately notify the company commander, Capt. Jeremy Reamer, who is also a Nashua, New Hampshire police officer, and begin to figure out options to get help for Mr. Card.

Deputy Carleton reached out to Mr. Card's brother, Ryan Card, and they spoke at length. Ryan told Deputy Carleton that he was not aware that Mr. Card had picked up his guns and expressed concern about this. He told Deputy Carleton that Mr. Card also had access to other guns in the family gun safe located at the family farm. Ryan also said that he and his wife would try to talk with Mr. Card that evening.

The next day, May 4, 2023, Deputy Carleton called Cara who told him that Ryan and his sister Nicole Herling had visited Mr. Card the prior evening. Cara reported to Deputy Carleton that Mr. Card greeted them at the door with a gun in his hand. Mr. Card told his brother and sister that he felt people were "casing the place." Cara said that Ryan said that the meeting went well, and that Mr. Card agreed to see a doctor. Cara asked Deputy Carleton to provide an update to Mr. Card's Army command. At that point, the Cards and Deputy Carleton agreed to Deputy Carleton's plan to engage Mr. Card's Army unit to get him help. Deputy Carleton thanked Cara and asked her to keep him apprised of any updates.

Deputy Carleton spoke later that day with Sgt. Mote and told him what he had learned. Sgt. Mote told him that the plan was to sit down with Mr. Card in the near future and see if the unit could get him to open up about what was going on. Deputy Carleton specifically warned Sgt. Mote that Mr. Card had reportedly opened the door with a gun the day before.

Deputy Carleton sent a department wide message to all his colleagues warning them to "use caution" when approaching Mr. Card's home. He also relayed that Mr. Card was experiencing "paranoid behavior and has ten to fifteen firearms in his house and/or truck-answered the door with a gun on 5/3/23 when family visited."

Deputy Carleton filed a report of this matter in the Sagadahoc County Sheriff's internal records and reports system. This report was available to any other deputy in the department through a simple name search process. Deputy Carleton took no further action after May 3, 2023, on this matter other than texting Sgt. Mote on June 2, 2023, reporting that he had received a call from Ryan Card and that the family was again concerned about Mr. Card's behavior and wanted to talk with him about trying to get Mr. Card into the VA Hospital at Togus. He asked Sgt. Mote to call him back. No call was ever returned. Deputy Carleton had no follow up conversations with members of the Card family between June and October 25, 2023.

On July 15, 2023, Mr. Card and his unit went to New York to train 1,200 incoming cadets at West Point. Mr. Card was acting erratically and as a result, on July 16, 2023, Capt. Reamer issued a command directed order to have his mental health evaluated. Mr. Card was first seen at the Keller Army Hospital at West Point and was then transferred to the civilian Four Winds hospital. He stayed there until his discharge on August 3, 2023. While Card was hospitalized, his mental health providers told Capt. Reamer they were concerned about Card's access to firearms at his home. They also issued a set of recommendations to Capt. Reamer, including the recommendation that the Army Reserve ensure that Card attend all follow-up appointments after his release, and to restrict Mr. Card's access to all military weapons and ammunition. They also explicitly recommended to Capt. Reamer that "measures be taken to safely remove all firearms and weapons" from Mr. Card's home. Capt. Reamer did not report this information to the SCSO.

On September 15, 2023, at 2:04 am, Army reservist Sgt. Sean Hodgson texted Sgt. Mote and Capt. Reamer.¹⁴ Sgt. Hodgson was a close friend of Mr. Card and served in the same unit in both New Hampshire and Maine for over ten years.¹⁵ Sgt. Hodgson had also temporarily lived with Mr. Card over the summer. Sgt. Hodgson's message read:

"Change the passcode to the unit gate and be armed if sfc card does arrive. Please. I believe he is messed up in the head. And threaten the unit other and other places. I love to death but do not know how to help him and he refuses to get help or continue help. I'm afraid he's going to fuck up his life from hearing things he thinks he heard. When I dropped him off, he was concerned his weapons were still in the car. I believe they were at the unit. And no one searched his vehicle on federal property. And yes he still has all his weapons. I'm not there I'm at my own place. I believe he is going to snap and do a mass shooting."

Sgt. Hodgson's text caused "the hairs to go up on the back of (Sgt. Mote's) neck".

Sgt. Mote discussed Sgt. Hodgson's text with Capt. Reamer, and they decided that the SCSO would be asked to conduct a well-being check on Mr. Card at his residence to gauge his mental health and determine if he was a threat to himself and/or others. After speaking with Capt. Reamer, Sgt. Mote relayed the conversation to the Ellsworth deputy chief who told him to have an Ellsworth Police Department detective make the request for a well-being check to the SCSO.

Later that day, Sgt. Mote spoke with Ellsworth Police Detective Corey Bagley who opened an investigation concerning the threats that Mr. Card made toward Sgt. Mote and his Army unit. Detective Bagley learned that Mr. Card had been hospitalized for two weeks in New York after Sgt. Mote and others in his unit had secured a command directed mental health evaluation of Mr. Card. Detective Bagley attempted to reach Deputy Carleton. When he learned Deputy Carleton was not on duty, he asked for a supervisor as the matter "can't wait" and that it is "time sensitive."

Sgt. Mote understood from Sgt. Hodgson's information that Mr. Card had threatened Sgt. Mote and Capt. Reamer. He was particularly concerned that the unit was scheduled for drill that weekend -- so concerned that he planned to reach out to the Saco Police Department. Saco PD placed police units in the immediate area of the Army Reserve Armory to respond if Mr. Card appeared on September 16, 2023. Sgt. Mote prepared a detailed narrative¹⁶ outlining all that had happened with Mr. Card in the previous months which he told the Commission he intended to be "a statement of probable cause" for use by the SCSO to begin the process of securing a Yellow Flag order. Sgt. Mote had successfully obtained a Weapons Restriction Order (Yellow Flag) the week before and was familiar with the procedure.

¹⁴ Sgt. Mote testified that these early morning texts from Sgt. Hodgson were not unusual as both men worked overnight shifts in their civilian jobs.

¹⁵ He was the individual who transported Mr. Card home from the New York Hospital in August.

¹⁶ See Appendix D for the complete Sgt. Mote narrative.

Det. Bagley requested to speak to a supervisor about a topic that could not wait. It was relayed to Sgt. Aaron Skolfield at 10:22 am on 9/15/2023. Sgt. Skolfield called Det. Bagley. Det. Bagley relayed his concerns, and provided the Mote probable cause statement, the Hodgson text, and other information to Sgt. Skolfield. Despite being informed that Mr. Card had been admitted to and treated at a psychiatric facility for two weeks less than six weeks earlier, and without speaking to Sgt. Hodgson, Sgt. Skolfield determined that the situation was “not as pressing” as it first appeared. However, he agreed to try to perform a well-being check. Sgt. Skolfield did attempt to do a well-being check that day, but no one was home. Sgt. Skolfield asked the evening shift to check Mr. Card’s home and two officers did so. No one was home.

Sgt. Skolfield did, however, issue a File 6 report that was available and broadcast to law enforcement officers statewide. In that File 6, issued at 5:11:50 pm on September 15th, he stated:

***** CAUTION OFFICER SAFETY-KNOWN TO BE ARMED AND DANGEROUS*** ROBERT HAS BEEN SUFFERING FROM PSYCHOTIC EPISODES & HEARING VOICES. HE IS A FIREARMS INSTRUCTOR AND MADE THREATS TO SHOOT UP THE NATIONAL GUARD ARMORY IN SACO. HE WAS COMMITTED OVER THE SUMMER FOR TWO WEEKS DUE TO HIS ALTERED MENTAL HEALTH STATE, BUT THEN RELEASED.....IF LOCATED USE EXTREME CAUTION, CHECK MENTAL HEALTH WELLBEING AND ADVISE SAGADAHOC SD VIA SAGADAHOC COMMS 443-9711.**

The next day, September 16th, at 2:17 am, Lt. Ed Yurek of the Brunswick Police Department, also a member of Mr. Card’s Army Reserve unit, contacted the Saco Police Department to confirm they were aware of the File 6 and of the threats to “shoot up the Armory.” Lt. Yurek provided detailed information about the threats that Sgt. Hodgson had heard and expressed concerns about the possibility that Mr. Card would follow through. Lt. Yurek also provided Saco PD background details about Mr. Card’s hospitalization and declining mental state. As a result of this conversation, the Saco Police Department assigned one sergeant and three patrol officers to position themselves near the Army Reserve Armory later that morning in case Mr. Card appeared for his monthly drill.

At 8:45 am on September 16, 2023, Sgt. Skolfield returned to Mr. Card’s residence. He noticed that Mr. Card’s vehicle was in the yard. He called the Kennebec County Sheriff’s Office and asked that a backup unit from the department respond. A short while later, a Kennebec County Sheriff’s deputy arrived, and the two deputies knocked on Mr. Card’s door. While they could hear someone moving around inside, no one answered. Sgt. Skolfield expressed his concerns about “their exposure” standing in the doorway so they left the residence. The attempt by Sgt. Skolfield and the deputy sheriff took approximately 16 minutes from start to finish.

Later that morning, Sgt. Skolfield attempted to verify that the weapons had been removed from Mr. Card’s home, but Mr. Card’s father told him he was not familiar with the status of the removal. Sgt. Skolfield was unable to reach Ryan Card that day.

Around 10:45 a.m. on September 16, Sgt. Skolfield called Capt. Reamer. Capt. Reamer did not tell Sgt. Skolfield that the providers at Four Winds Hospital in New York had recommended that Mr. Card should not have access to weapons in the military or at home. Capt. Reamer did not suggest that Mr. Card undergo another risk assessment, and despite acknowledging that “I don’t think this is gonna get any

better” because Mr. Card had refused to undergo any mental health treatment after his release from Four Winds, he appeared to minimize the risk that Mr. Card posed to the community. Shortly after this conversation, Sgt. Skolfield was called away to another call and did not return to Mr. Card’s residence that day.

On September 17, 2023, Sgt. Skolfield spoke briefly to Ryan Card. Sgt. Skolfield inquired about the status of the guns¹⁷ and Ryan responded that he would try to secure them. Sgt. Skolfield also asked Ryan to determine whether Mr. Card needed a psychiatric evaluation and to report his observations back to Sgt. Skolfield. Sgt. Skolfield made no plans with Ryan for a follow up conversation other than to state that if Ryan determined a psychiatric evaluation was needed, Ryan should call the SCSO and personnel would “assist the family in arranging for Mr. Card to be evaluated.”

At that point, Sgt. Skolfield determined that the matter was concluded and there was no need for him or the SCSO to be involved any further. Sgt. Skolfield considered the matter “resolved” as no person expressly stated that they “wanted to press charges.” Sgt. Skolfield notified his supervisor, Lt. Brian Quinn, of his conclusions and Lt. Quinn deferred to his judgment as an experienced officer and did not undertake any further action or review than to notify his supervisor, Chief Deputy Brett Strout. Chief Deputy Strout did not notify Sheriff Joel Merry who was out on medical leave at the time.

After September 17, 2023, neither Sgt. Skolfield nor any other member of his department took any further steps in this matter. Sgt. Skolfield was going on vacation the next day and because he considered the matter resolved, he didn’t pass the matter on for further investigation by another deputy. Sgt. Skolfield failed to follow up with Ryan Card, failed to attempt a well-being check, failed to consult with the District Attorney’s Office about the possibility of a Yellow Flag order,¹⁸ and failed to contact the Army Reserve unit for any further information. He failed to conduct a check of internal records that would have revealed Deputy Carleton’s report from May. After Sgt. Skolfield returned from vacation on October 1, 2023, he failed to meet with or engage Mr. Card,¹⁹ check back with other members of the Card family or attempt to call Mr. Card himself. He cancelled the File 6 on October 18, 2023, just one week before Mr. Card committed Maine’s deadliest mass shooting.

The Army Reserve did not encourage law enforcement to charge Card for threatening to “shoot up” the facility. They failed to divulge Four Wind’s recommendations and concerns. They treated Card as a high risk of violence against the unit’s members, but appeared to minimize the threat he posed once they were satisfied that Card was not coming to the unit on September 16, 2023.

¹⁷ It should be noted that Sgt. Skolfield apparently did not understand the seriousness of the fact that there were guns at two locations to which Mr. Card had access- his home and a gun safe located at the family farm. Sgt. Skolfield made no inquiry as to the number, location, and types of firearms at Mr. Card’s home in the family safe.

¹⁸ It should be noted that prior to October 25, 2023, despite having received training per Maine Criminal Justice Academy standards, no one in the SCSO had ever filed for a Yellow Flag order against a resident. At that time, ten of the 16 County Sheriff’s offices, had initiated Yellow Flag petitions. Sgt. Skolfield had received training on Weapon Restriction Orders (Yellow Flag law) and Protective Custody in April 2023.

¹⁹ The Sagadahoc County Sheriff’s office, along with other area law enforcement agencies, had signed a contract in September 2023 with a mental health specialist. This person was hired to provide services, advise officers, and act as a liaison between the department and citizens. The goal of the liaison was to assist law enforcement in handling mental health cases and get citizens the help they need.

Commission Interim Conclusions

Yellow Flag Law

The Commission unanimously concludes that the Sagadahoc County Sheriff's Office had more than sufficient information to begin the process of securing a Yellow Flag order against Robert Card Jr. on September 17th, 2023. SCSO had been provided sufficient details, and a statement of probable cause, by Sgt. Mote. Had the SCSO read Deputy Carleton's report from May 2023, interviewed Sgt. Hodgson (who at a minimum was identified as the victim of an assault) or had they been privy to all the information known to the Army, they would have had even more context for the concerns regarding Mr. Card's mental health. When Sgt. Skolfield ran into difficulty making contact with Mr. Card, had he spoken to Sgt. Hodgson or members of Mr. Card's family, he could have learned where Mr. Card worked, or gathered other information that would have allowed law enforcement officers to make contact with Mr. Card so that protective custody could be established and an application for a Yellow Flag order initiated.

Sgt. Skolfield insisted that he could not have established probable cause to seek a Yellow Flag order as he had "not laid eyes" on Mr. Card. However, it has been long established in Maine that a police officer may determine probable cause through the collective knowledge of all law enforcement officers involved in an investigation. *See, State v. Bradley*, 658 A.2d 236 (Me 1995), *State v. Baker*, 502 A.2d 489 (Me. 1985), *State v. Libby*, 453 A.2d 481, 485 (Me. 1982). This includes information from private citizens who have spoken with or interacted with them. *See, 34-B MRS §3862(1)*. Here, Sgt. Skolfield had obtained a summary of information from Detective Bagley, he had received a copy of the text from Sgt. Hodgson, and he had a copy of Sgt. Mote's statement. In this instance, there was more than sufficient probable cause for the SCSO to begin the Yellow Flag application process in September 2023.

The Commission recognizes that, to take Mr. Card into protective custody, an officer would have had to make "face-to-face" contact with him. We also recognize that that process might not have been without difficulty and potential risk. Taking Mr. Card into protective custody, however, was warranted by the information known to Sgt. Skolfield as of September 17, 2023, and a plan to intervene and take Mr. Card into protective custody should have been undertaken.

As reported, the Yellow Flag process may sometimes be cumbersome. A review of other Yellow Flag orders in Maine, both before and after the October 25th shootings, demonstrates that the process can and has been successfully used. An officer needs to have knowledge of the process, use all the resources the officer has to gather the necessary information, and have the dedication and persistence to follow through with the investigation and the process.

The duty of the SCSO, as a trained law enforcement agency, is to preserve and protect the safety of the public. As of September 17, 2023, the SCSO had information that a member of its community with serious mental illness, had been hospitalized for two weeks related to that illness, had access to 10-15 firearms, had assaulted his friend days earlier, had threatened to shoot up the drill center in Saco and

other places, and had threatened to “get” his superiors who were responsible for his hospitalization. The ultimate response to this information was to leave the responsibility for the removal of Mr. Card’s weapons and the assessment of whether Mr. Card needed a mental health evaluation, with Mr. Card’s family and close the case without any plans for follow up. This responsibility was that of the SCSO, not that of Mr. Card’s family. That is what the Yellow Flag law is for-- it places this responsibility on law enforcement.

The Commission further finds that law enforcement had more than sufficient information to pursue criminal assault²⁰ charges against Mr. Card. Further investigation would have determined in which county the charge should have been brought.²¹ Had they done so, an arrest warrant could have been secured and Mr. Card could have been taken into custody. The prosecutor could then have requested bail conditions that prohibited Mr. Card’s ownership or possession of firearms.²²

Finally, the Commission finds that there is a misperception among some law enforcement officers, including Sgt. Skolfield, that they need to have a victim “press charges” to bring a case to the prosecutor’s office. This is simply wrong. It is the prosecutor, acting on behalf of the citizens of Maine, who brings the charges, but a prosecutor can only act when those charged with investigating crimes, i.e., law enforcement officers, follow through with their investigations.

Next Steps

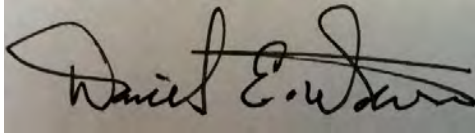
The Commission will continue to pursue the facts in this case and will conduct additional public hearings to gather additional testimony, materials, and reports to gather all the necessary information to determine what happened before, during and after the tragic shootings on October 25, 2023. Upon completion of that investigation, a final comprehensive report, together with recommendations, will be issued and published on the Commission’s website. More work needs to be done and it will be done -- the victims, their families and the people of Maine deserve no less.

²⁰ 17-A MRS § 207

²¹ Sgt. Hodgson had reported being assaulted by Mr. Card in September and had also reported Mr. Card’s comments about “shooting up the Armory”. An interview of Sgt. Hodgson would have revealed where this occurred and then where the charges should have been brought.

²² See 15 MRS §1026(3)(A)(8) and (9-A) which provides that a bail commissioner or the Court can impose a bail condition of no possession of a firearm and require the person subject to the condition to submit to a random search for a firearm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel E. Wathen", is shown within a rectangular frame.

March 15, 2024

Daniel E. Wathen, Chair on Behalf of the Commission

Date

Appendix A: Governor's Executive Order



WHEREAS, on October 25, 2023, Robert Card shot and killed 18 people and wounded 13 more in Lewiston, Maine; and

WHEREAS, on October 27, 2023, nearly 48 hours after these horrendous acts and a massive manhunt by law enforcement, the perpetrator of the violence was found deceased of a self-inflicted gunshot wound; and

WHEREAS, from what is known thus far, on multiple occasions over the last ten months, concerns about Mr. Card's mental health and his behavior were brought to the attention of his Army Reserve Unit, as well as law enforcement agencies in Maine and in New York, raising crucial questions about actions taken and what more could have been done to prevent this tragedy from occurring; and

WHEREAS, the Maine State Police are conducting a criminal investigation of the shooting, but the gravity of the attack on Maine people – an attack that strikes at the core of who we are and the values we hold dear – demands a higher level of scrutiny; and

WHEREAS, a cornerstone of the ability to heal is to know the truth – in this case, the facts of what happened on that tragic night, of the months that led up to it, and of the police response to it; and

WHEREAS, this – the complete facts and circumstances, including any failures and omissions – must be brought to light and known by all because the families of the victims, those who were injured and the people of Maine and the nation deserve nothing less.

NOW, THEREFORE, I, Janet T. Mills, Governor of the State of Maine, pursuant to authority conferred by Me. Const. Art. V, Pt. 1, § 1 and § 12, do hereby Order the following.

I. ESTABLISHMENT AND PURPOSE

- A. The Independent Commission to Investigate the Facts of the Tragedy in Lewiston ("Independent Commission") is hereby established;

- B. The purpose of the Independent Commission is to determine the facts surrounding the tragedy in Lewiston on October 25th, including relevant facts and circumstances leading up to it and the police response to it. The Independent Commission should determine the full scope of its work, and should ask any question necessary of any person that is relevant to the charge of gathering the facts regarding Robert Card's mental health history, contact with State, Federal, or military authorities, access to firearms, the initial law enforcement response to the Lewiston shootings and the manhunt that ensued, and any other matters the Independent Commission determines are relevant to its purpose.

II. MEMBERSHIP, STAFFING AND SUPPORT

The Independent Commission shall consist of seven members, as follows:

A. Chair

1. The Honorable Daniel E. Wathen

B. Members

2. Dr. Deborah Baeder
3. George T. (Toby) Dilworth, Esq.
4. The Honorable Ellen A. Gorman
5. The Honorable Geoffrey A. Rushlau
6. The Honorable Paula D. Silsby
7. Dr. Anthony Ng

C. Funding and Staffing

1. The Office of the Attorney General is hereby requested to provide such funding to the Independent Commission as the Chair determines is necessary to hire sufficient staff or consultants on a contract basis to fulfill the Independent Commission's charge. The terms of such contracts must make clear that those hired will report directly to the Independent Commission;
2. The Chair and the members of the Commission shall serve without compensation.

III. PROCEEDINGS AND RECORDS

- A. **PROCEEDINGS AND RECORDS:** The Chair will preside at, set the agenda for, and schedule Independent Commission meetings. The Commission shall meet as often as it deems necessary to complete its work. Records, proceedings and deliberations of the Independent Commission are not subject to



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the requirements of 1 M.R.S. c. 13, in accordance with sections 402(2)(F), (3)(J) and § 403(6) of that Chapter. To the extent practical, and to the extent that its fact-finding mission is not hindered, the Independent Commission should conduct its work in a manner that is open and accessible to the public. The Independent Commission may conduct its work through subcommittees.

B. **REPORT:** The Independent Commission shall issue a public report of its findings. As it conducts its investigation and prepares its report, the Commission shall balance the need for an appropriately thorough inquiry with the public's interest in timely answers.

IV. EFFECTIVE DATE

The effective date of this Order is November 9, 2023.


JANET T. MILLS



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Appendix B: Resolves 2023, ch. 129

Resolve to Ensure the Independent Commission has Subpoena Power

APPROVED
FEBRUARY 13, 2024
BY GOVERNOR

CHAPTER
129
RESOLVES

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
H.P. 1405 - L.D. 2192

Resolve, to Ensure That the Independent Commission to Investigate the Facts of the Tragedy in Lewiston Has Necessary Authority to Discharge Its Fact-finding Mission

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Governor Janet T. Mills, by executive order of November 9, 2023, established the Independent Commission to Investigate the Facts of the Tragedy in Lewiston; and

Whereas, the independent commission was established for the purpose of conducting a thorough and objective investigation into the facts and circumstances of what happened on that tragic night in Lewiston, the months that led up to it and the police response to it; and

Whereas, the families of the victims and all people of the State deserve to know the truth about what happened; and

Whereas, in order to fulfill its fact-finding mission, the independent commission requires the ability to issue subpoenas to compel the testimony of witnesses and the production of documents and have access to agency records that may not otherwise be subject to disclosure under state law; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order for the independent commission to complete its work in a timely fashion; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Definitions. Resolved: That, as used in this resolve, the following terms have the following meanings.

1. "Chair" means the chair of the independent commission.

2. "Independent commission" means the Independent Commission to Investigate the Facts of the Tragedy in Lewiston, established by executive order of Governor Janet T. Mills on November 9, 2023.

Sec. 2. Issuance of subpoenas. Resolved: That, by a majority vote of its members, the independent commission may issue subpoenas to compel the testimony of witnesses and the production of documents in accordance with this resolve.

Sec. 3. Notice to witnesses. Resolved: That a reasonable time before a witness testifies, a prospective witness must be notified of the investigation's subject matter and provided with a copy of this resolve. The information required by this section must be presented at the time of service of the subpoena.

Sec. 4. Oaths. Resolved: That all testimony of subpoenaed witnesses must be under oath administered by the chair or the chair's designee.

Sec. 5. Testimony of witnesses under subpoena. Resolved: That the independent commission's staff and its members may take testimony of witnesses under subpoena. All testimony of witnesses under subpoena must be taken in open session, except upon request of a witness or by a majority vote of the members of the independent commission, in which case testimony may be taken in executive session. Testimony may be taken in executive session upon a showing that confidentiality is necessary to fulfill the independent commission's fact-finding mission.

Sec. 6. Transcripts of testimony of witnesses under subpoena. Resolved: That the independent commission shall prepare a transcript of all testimony of witnesses taken under subpoena. A witness is entitled to obtain a copy of the transcript of the witness's own testimony, except that the independent commission may delay the release of a transcript until the independent commission determines that release will not compromise the integrity of its investigation.

Sec. 7. Release of testimony under subpoena. Resolved: That the independent commission, by a majority vote of its members, may release transcripts of witness testimony taken under subpoena, except that a transcript of the testimony may not be released without first affording the witness who gave the testimony or the witness's counsel an opportunity to object to the proposed release. The chair or the chair's designee shall rule on an objection. The ruling of the chair or the chair's designee may be overruled by a majority vote of the independent commission's members. The transcript of the testimony may be released over the objection of a witness upon a showing that the release of the transcript is necessary to the independent commission's fact-finding mission, outweighs the interests of the witness and is not in violation of any federal or state laws, rules or regulations.

Sec. 8. Request for court to compel compliance; legal representation. Resolved: That the independent commission, by a majority vote of its members, may apply to the Superior Court to compel compliance with a subpoena and may by lawful process seek to compel compliance in any state, federal or military court or tribunal. The Attorney General, the Attorney General's designee or private counsel approved by the Attorney General may represent the independent commission in such proceedings.

Sec. 9. Compliance with state law and the Maine Rules of Civil Procedure. Resolved: That any time the independent commission exercises its authority to issue a subpoena under this resolve, the independent commission shall comply with state law and the Maine Rules of Civil Procedure.

Sec. 10. Availability of counsel to witnesses under subpoena; objections; privileges. Resolved: That a witness appearing before the independent commission under subpoena may have counsel present to advise the witness at all times. The witness or counsel may, during the time the witness is giving testimony, object to any action of the independent commission that is detrimental to the witness's interests and is entitled to have a ruling by the chair or the chair's designee on the objection. The witness must be given the benefit of any privilege that the witness could claim in court as a party to a civil action, except that the chair or the chair's designee may direct compliance with any request for testimony to which an objection or claim of privilege has been made. The direction of the chair or the chair's designee may be overruled by a majority vote of the independent commission's members.

Sec. 11. Access to state agency records not otherwise subject to disclosure. Resolved: That, notwithstanding any provision of law to the contrary, the independent commission, by a majority vote of its members, is authorized to request and receive records in the possession of any state agency or instrumentality that the independent commission determines are necessary to fulfill its fact-finding mission, including confidential records and records not otherwise subject to public disclosure. The members of the independent commission and its staff are authorized to review records received under this section solely for the purpose of fulfilling the independent commission's fact-finding mission. During meetings of the independent commission, the contents of confidential records and records not otherwise subject to public disclosure may be reviewed only in executive session.

Sec. 12. Cooperation with State Archivist. Resolved: That the independent commission shall cooperate with the State Archivist to ensure that records of the independent commission are maintained in compliance with federal and state laws, rules and regulations.

Sec. 13. Report on use of subpoena issuance. Resolved: That the independent commission, in completing a final report of its work, shall include a detailed account of each subpoena issued.

Sec. 14. Establishment of precedent. Resolved: That nothing in this resolve may be used to establish a precedent authorizing independent commissions to issue subpoenas in the future.

Sec. 15. Sunset. Resolved: That the independent commission's authority to issue subpoenas under this resolve is effective until July 1, 2024. Any subpoena issued by the independent commission before July 1, 2024 remains valid after that date.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Appendix C: Maine's Protection from Substantial Threats Law (Yellow Flag Law)

Title 34-B MRS 3682-A

§3862-A. Protection from substantial threats

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dangerous weapon" or "weapon" has the same meaning as in [Title 17-A, section 2, subsection 9, paragraph C](#), including a firearm as defined in [Title 17-A, section 2, subsection 12-A](#). [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

B. "Extended restrictions" means the continued threat-based restrictions imposed by the court pursuant to [subsection 6, paragraph D](#). [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

C. "Initial restrictions" means the immediate and temporary 14-day threat-based restrictions pursuant to [subsection 4](#). [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

D. "Judicial hearing" means a court hearing under [subsection 6](#). [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

E. "Law enforcement agency" has the same meaning as in [Title 25, section 3701, subsection 1](#). [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

F. "Law enforcement officer" means a person vested by law with the power to make arrests for crimes or serve criminal process, whether that power extends to all crimes or is limited to specific crimes, and who possesses a current and valid certificate issued pursuant to [Title 25, section 2803-A](#). [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

G. "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. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

H. "Medical practitioner" has the same meaning as in [section 3801, subsection 4-B](#). [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

I. "Prohibited person" means a person subject to [Title 15, section 393, subsection 1, paragraph E-1](#) or [E-2](#). [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

J. "Protective custody" means protective custody under [section 3862](#). [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

K. "Restricted person" means a person taken into protective custody by a law enforcement officer who the officer 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. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

L. "Threat-based restriction" means a prohibition on a restricted person from purchasing, possessing or controlling or attempting to purchase, possess or control a dangerous weapon during the period of the restriction. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

[PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

2. Assessment by a medical practitioner; security; immunity. This subsection applies when a law enforcement officer has taken a person into protective custody.

A. Notwithstanding any provision of law to the contrary, the law enforcement 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, the person's pertinent criminal history record information and other known history and recent or recurring actions and behaviors. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

B. The medical practitioner under [paragraph A](#) shall assess whether the person presents a likelihood of foreseeable harm. In assessing the person, a medical practitioner may consult with other medical professionals as the medical practitioner determines advisable. If the medical practitioner finds that the person can benefit from treatment and services, the medical practitioner shall refer the person to treatment and services. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

C. Notwithstanding any provision of law to the contrary, an assessment pursuant to this section may be performed at a health care facility but, when available and as appropriate, must be performed at an alternative location. If the assessment is provided at a health care facility, law enforcement shall, upon request of the facility and consistent with [section 3863, subsection 2-A](#), absent compelling circumstances, assist the facility with the security of the person awaiting the assessment under this section. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

D. A juvenile, as defined in [Title 15, section 3003, subsection 14](#), who is 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. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

E. A medical practitioner and any other medical or mental health professional consulted by the medical practitioner are not liable in a civil action brought by any person for any act performed in good faith in execution of the obligations imposed on medical practitioners by this section, including any decision regarding the affirmative or negative assessment of the likelihood of foreseeable harm. The immunity provided in this paragraph also applies to a principal if the medical practitioner or professional is acting as an agent or employee of the principal. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

[PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

3. Notification by medical practitioner and judicial endorsement. A medical practitioner shall notify in writing the law enforcement officer or law enforcement agency that, based on the assessment under [subsection 2, paragraph B](#), the person is found to present a likelihood of foreseeable harm. If so notified, the law enforcement officer or law enforcement agency shall as soon as practicable seek endorsement by a Superior Court Justice, District Court Judge, judge of probate or justice of the peace of the medical practitioner's assessment and law enforcement's declarations that the person was taken into protective custody and that the law enforcement officer has probable cause that the person possesses, controls or may acquire a dangerous weapon. The judge or justice shall promptly transmit to the law enforcement officer or agency the decision to endorse or not endorse. A decision transmitted electronically has the same legal effect and validity as a signed original. An endorsement must authorize law enforcement to execute the authority in [subsection 4](#). This section may not be construed to prevent law enforcement from accepting a voluntary surrender of dangerous weapons.

[PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

4. Initial restrictions; notice by law enforcement. A person whose assessment is endorsed by a judicial officer under [subsection 3](#) becomes, at the time of notice by a law enforcement officer under [paragraph B](#), a restricted person subject to initial restrictions and subject to the prohibitions in [Title 15, section 393, subsection 1, paragraphs E-1 and E-2](#) as follows:

A. The restricted person, after notice under [paragraph B](#):

- (1) Is prohibited from possessing, controlling, acquiring or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing;
- (2) 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
- (3) Has a right to a judicial hearing within 14 days of notice under [paragraph B](#); and [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

B. A law enforcement officer shall, as soon as practicable, but no later than 24 hours after the judicial endorsement:

(1) Notify the restricted person that the restricted person:

(a) Is prohibited from possessing, controlling, acquiring or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing;

(b) Is required to 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

(c) Has a right to a judicial hearing within 14 days of the notice under this paragraph;

(2) Notify the contact person, if any, disclosed by the restricted person to the medical practitioner and the district attorney in the district of the restricted person's residence of the person's restricted status; and

(3) Report the person's restricted status to the Department of Public Safety. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

[PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

5. Temporary surrender to law enforcement. A law enforcement agency may store, or make arrangements with another law enforcement agency or federally licensed firearms dealer to store, and care for the weapons surrendered by a restricted person in the manner provided in [subsection 7](#). A restricted person who makes all practical, immediate efforts to comply with a surrender notice under [subsection 4](#) is not subject to arrest or prosecution as a prohibited person under [Title 15, section 393, subsection 1, paragraph E-1](#) or E-2. If a law enforcement agency has probable cause to believe the restricted person possesses or controls but has not surrendered a weapon, law enforcement may, prior to or as part of a judicial hearing, search for and seize such a weapon when authorized by a judicially issued warrant or other circumstances approved by law.

[PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

6. Judicial hearing. A judicial hearing under this section is governed by this subsection.

A. Within 5 days of the date of the notice given to a restricted person under [subsection 4, paragraph B](#), the district attorney in the district of the restricted person's residence shall file a petition for judicial review of the initial restrictions by the district court. The district attorney shall provide to the restricted person written notice of the petition and hearing at least 7 days prior to the hearing. The restricted person has the right to be represented by counsel at the hearing, and the court may appoint counsel for an indigent party. Upon a showing of good cause, the court may extend the time to hold the hearing. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

B. Within 14 days of the notice given under [subsection 4](#), the court shall hold a hearing to determine whether to dissolve or extend the initial restrictions. In the hearing determining whether

to dissolve or extend the initial restrictions, the district attorney has the burden to prove by clear and convincing evidence that the restricted person presents a likelihood of foreseeable harm. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

C. In determining whether there are grounds to extend the initial restrictions, the court shall consider all relevant evidence, including, but not limited to, recent threats or acts of violence by the restricted person directed toward other persons; recent threats or acts of violence by the restricted person directed toward the restricted person; recent acts of unlawful abuse of animals by the restricted person; the reckless use or threatening display of a dangerous weapon by the restricted person; a history of the use, attempted use or threatened use of physical force by the restricted person against other persons; a record of prior custodial events or restrictions under this section; prior involuntary confinement of the restricted person in a hospital for persons with psychiatric disabilities; prior protection from abuse and protection from harassment orders against the restricted person or violations regarding protection from abuse or protection from harassment by the restricted person; evidence of stalking behavior, severe obsession or sexual violence by the restricted person; the illegal use of controlled substances by the restricted person; and evidence of alcohol or drug abuse by the restricted person. The court shall also consider whether the restricted person is receiving treatment responsive to that person's mental health or substance use needs. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

D. This paragraph governs court orders.

(1) If the court finds after hearing that there is not clear and convincing evidence to continue or extend the initial restrictions, the court shall dissolve the initial restrictions and order the return of any weapons surrendered or seized. The court shall direct the Department of Public Safety to remove the record of restrictions from the department's pertinent database when developed by the department.

(2) If the court finds after hearing that there is clear and convincing evidence to continue or extend the initial restrictions, the court shall inform the restricted person that the restricted person is prohibited for up to one year from purchasing, possessing or controlling any dangerous weapon or attempting to purchase, possess or control any dangerous weapon. The court shall further order the person to immediately surrender dangerous weapons possessed or controlled by that person to a law enforcement officer and notify the Department of Public Safety for entry in the pertinent database when developed by the department.

(3) Extended restrictions imposed under this paragraph expire according to the terms of the court's order. The court shall schedule a hearing within 45 days prior to the expiration of the order to determine if the order should be extended. The district attorney has the burden of proving that the restricted person continues to pose a likelihood of foreseeable harm. If, after a hearing, the court finds by clear and convincing evidence that the restricted person continues to pose a likelihood of foreseeable harm, the court shall renew the extended restrictions for up to one year. If the court

does not so find, the court shall deny the petition and order the return of any weapons surrendered or seized. Upon motion by the State, the court may for cause shown order that the restricted person be examined for assessment of whether the restricted person continues to pose a likelihood of foreseeable harm. The fees or expenses for an assessment pursuant to this subparagraph may be paid from the Extradition and Prosecution Expenses Account established by [Title 15, section 224-A](#).

(4) A restricted person may file one motion for dissolution during an extended restriction. For that motion, the restricted person has the burden of proving by clear and convincing evidence that the restricted person no longer poses a likelihood of foreseeable harm.

(5) A court shall electronically update or transmit to the Department of Public Safety, Bureau of State Police an abstract of the order issued by the court pursuant to this section that includes a prohibition on the possession of a dangerous weapon. The abstract must include the name, date of birth and gender of the person who is the subject of the order; the court's order and the expiration date of that order; and a notation that the person has been notified by the court.

The abstract required by this subparagraph is confidential and is not a public record as defined in [Title 1, chapter 13](#); however, the information contained in the abstract or a copy of the abstract may be provided by the Department of Public Safety to a criminal justice agency for law enforcement purposes, to the Federal Bureau of Investigation, National Instant Criminal Background Check System or to an issuing authority for the purpose of processing concealed firearm permit applications. The Department of Public Safety shall, when the pertinent database is developed, request that the Federal Bureau of Investigation ensure that, immediately after the order expires, the National Instant Criminal Background Check System no longer reflects that expired order as a ground for prohibiting the subject of the order from possessing or acquiring a firearm. For the purposes of this subsection, "criminal justice agency" means a federal, state, tribal, district, county or local government agency or any subunit of those entities that performs the administration of criminal justice under a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice. Courts and the Department of the Attorney General are considered criminal justice agencies, as is any equivalent agency at any level of Canadian government.

(6) Nothing in this subsection may be construed to prevent the restricted person, district attorney and court from accepting a court-ordered disposition to which each agrees. [PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

[PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

7. Weapons storage and return. A law enforcement agency may store, or make arrangements with another law enforcement agency or federally licensed firearms dealer to store, any weapon surrendered to or seized by law enforcement under this section for as long as the threat-based restrictions are in effect. The duties and liability of a law enforcement agency with

respect to handling and storage of a weapon surrendered or seized are governed by [Title 25, section 2804-C, subsection 2-C](#). A weapon surrendered to or seized by a law enforcement agency must be returned to the restricted person when the threat-based restrictions expire. If a seized or surrendered weapon remains unclaimed for 6 months after the expiration or dissolution of threat-based restrictions, the law enforcement agency may dispose of the weapon consistent with [Title 25, section 3503-A](#).

[PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

8. Offense. Possession of a dangerous weapon by a restricted person is a Class D crime.

[PL 2019, c. 411, Pt. A, §1 (NEW); PL 2019, c. 411, Pt. D, §3 (AFF).]

SECTION HISTORY

PL 2019, c. 411, Pt. A, §1 (NEW). PL 2019, c. 411, Pt. D, §3 (AFF).

Appendix D: Sgt. Mote Statement

Good afternoon,

I received the attached text this morning from SSG Hodgson in reference to Sergeant First Class Robert Card DOB 04-04-83. Card is one of my senior firearms instructors in Bravo Company 3/304 in Saco. Card has been hearing voices calling him a pedophile, saying he has a small dick, and other insults. This hearing voices started in the spring and has only gotten worse. On July 15 2023 while at West Point Card was hanging out with several other soldiers at the hotel they were staying at. They had gone to a convenience store to get some beer. In the parking lot Card accused three of them of calling him a pedophile and said he would take care of it. One of the soldiers who has been friends with Card for a long time was there. Card got in his face, shoved him, and told him to stop calling him a pedophile. They got their beer, calmed Card down a little, and made their way back to the hotel.

Several times on the ride back Card said he would take care of it. When pressed about what he meant by that Card didn't respond. Present during this was Oxford County Sheriff Christopher Wainwright and Androscoggin County Deputy Matthew Noyes, both are in my unit as well. Once they got back to the motel, Card locked himself in his room and would not answer the door when they tried to make contact,

I was informed about this incident early the next morning. I met them at the motel along with a couple other soldiers and we were able to get the key to the room and make contact. Card said he wanted people to stop talking about him. I told him no one was talking about him and everyone here was his friend. Card told me to leave him alone and tried to slam the door in my face. One of the soldiers stopped the door from closing with his foot. I decided, after talking with my commander, that Card needed to be evaluated. We took him to the base hospital where he was seen by a psychologist there and determined to need further treatment. Card was taken to Four Winds Psychiatric Hospital in Katonah NY for treatment and evaluation. During the four hours I was with Card he never spoke, just stared through me without blinking. He spent 14 days at Four Winds then was released. To my knowledge he has not sought any more treatment since being released.

Night before last, at approximately 0230, another soldier that is friends with Card called to tell me that Card had assaulted him. They were driving home from the casino when Card started talking about people calling him a pedophile again. When Hodgson told him to knock it off because he was going to get into trouble talking about shooting up places and people, Card punched him. Hodgson was able to get out of the car and made his own way home. According to Hodgson, Card said he has guns and is going to shoot up the drill center at Saco and other places. He also said he was going to get "them". Since the commander and I are the ones who had him committed we are the "them". He also said I was the reason he can't buy guns anymore because of the commitment. Hodgson is concerned that Card is going to snap and commit a mass shooting. (see text message attached)

Captain Reamer, 3/304th commander, asked that I have Sagadahoc County conduct a well-being check on Card at his residence, 941 Meadow Road in Bowdoin Maine, to gauge his mental health and determine if he is a threat to himself and/or others. I relayed this to Deputy Chief Troy Bires and he advised to have a detective make the request to the SCSO to conduct the well-being check. I have attached the text message and current photograph of Robert Card to this email. The Saco PD has been given a heads up about this and the battalion commander has been briefed as to the threat to the unit in Saco. I would rather err on the side of caution with regards to Card since he is a capable marksman and, if he should set his mind to carry out the threats made to Hodgson, he would be able to do it.

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