

SPURWINK

#### YELLOW FLAG: SUPPORTING MAXIMAL USE OF MAINE'S PROTECTION FROM SUBSTANTIAL THREAT'S STATUTE

November 13, 2023

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# AGENDA Introductions How did we get here? History of Maine's protection from substantial threats/yellow flag law 2022 Introduction of telehealth assessments and hospital partnerships Review of statute: Pertinent definitions Review of process for seeking a weapons restriction order including how to seek a telehealth weapons restriction assessment. Post order next steps Discussion

HOW DID WE GET HERE?

#### DEFINITIONS

- Probable Cause
   Protective Custody vs. Suspicion of a Crime
- Protective Custody
- A Mentally III Person
- Likelihood of Serious Harm
- Likelihood of Foreseeable Harm
- Assessment by a Medical Practitioner

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#### PROBABLE CAUSE: PROTECTIVE CUSTODY

Where the known facts and circumstances, are of a reasonably trustworthy nature, and are sufficient to justify a person of reasonable caution or prudence to believe that a person is mentally ill, and because of that mental illness poses a <u>likelihood</u> of serious harm.

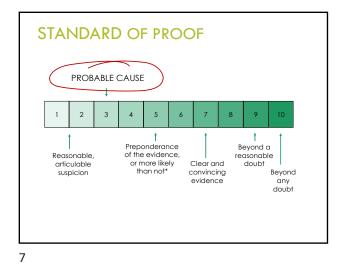
Title 34-B, §3862(A)-1: When formulating probable cause, the law enforcement officer <u>may rely upon information provided by a</u> <u>3rd-party informant</u> if the officer confirms that the informant has reason to believe, based upon the informant's recent personal observations of or conversations with a person, that the person may be mentally ill and that due to that condition the person poses a likelihood of serious harm

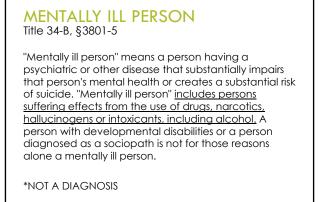
#### **PROTECTIVE CUSTODY**

If a law enforcement officer has <u>probable cause</u> to believe that a person may be <u>mentally ill</u> and that due to that condition the person poses a <u>likelihood of</u> <u>serious harm</u> the law enforcement officer may take the person into protective custody

If the law enforcement officer does take the person into protective custody, shall deliver the person immediately for <u>examination by a medical</u> <u>practitioner.</u>

\*The same criteria is used for involuntary hospitalization.





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#### LIKELIHOOD OF SERIOUS HARM Title 34-B, §3801-4-A

"Likelihood of serious harm" means:

- A. A substantial risk of physical harm to the person as manifested by recent threats of, or attempts at, suicide or serious selfinflicted harm;
- 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;
- C. A reasonable certainty that the person will suffer severe physical or mental harm as manifested by recent behavior demonstrating an inability to avoid risk or to protect the person adequately from impairment or injury.\*

\*There is a section D, but it is specific to the progressive treatment program

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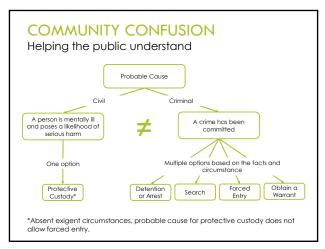
#### WEAPONS RESTRICTIONS

When might an officer seek a weapons restriction order?

 Person is in <u>protective custody</u> under a <u>likelihood of</u> <u>serious harm</u>,

AND

2) The law enforcement officer has probable cause to believe that the person <u>possesses</u>, <u>controls or</u> <u>may acquire a dangerous weapon</u> and presents a <u>"likelihood of foreseeable harm."</u>



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#### LIKELIHOOD OF FORESEEABLE HARM Title 34-B, §3862-1-G

"Likelihood of foreseeable harm" means:

A substantial risk in the foreseeable future of serious physical harm to the person as manifested by <u>recent</u> behaviors or threats of, or attempts at, suicide or <u>serious self-inflicted harm</u>; or a substantial risk in the foreseeable future of serious physical harm to other persons as manifested by <u>recent homicidal or violent</u> behavior or by recent conduct or statements placing others in reasonable fear of serious physical harm.

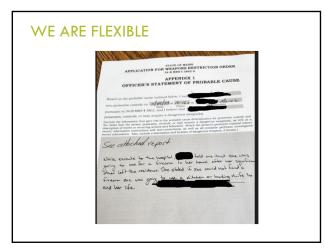
#### HOW TO SEEK A TELEHEALTH ASSESSMENT

Call Spurwink at (207) 535-2009

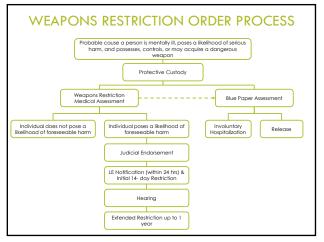


Available 24/7, 365 days a year

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#### WEAPONS RESTRICTION ASSESSMENT PROCESS

- 1. Officer provides the practitioner with a statement of probable cause.
- 2. The medical practitioner interviews the individual and assesses whether they meet criteria for a) a mentally ill person, and b) a likelihood of foreseeable harm.
- If the individual meets criteria, the medical practitioner completes a form that describes why/how the individual meets criteria and recommends either outpatient treatment or voluntary/involuntary hospitalization.
- 4. The practitioner completes the weapons restriction assessment form and returns it to the officer.

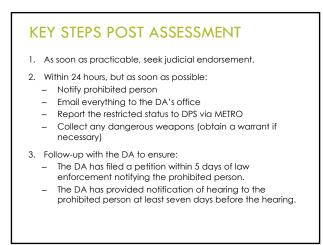
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#### TIPS FROM THE MEDICAL PRACTITIONER

- 1. Don't leave the hospital until the assessment is completed.
- If you leave a message, <u>please provide a call back number</u>. Law enforcement phone numbers rarely show up on our oncall phone.
- Are there any family members or loved ones the practitioner can call to gather collateral information? If so, please provide their contact information.
- When calling, provide a brief summary of what has occurred. The provider will gather details from the statement of probable cause.
  - Does the individual have a known history of mental health problems?
  - Does the individual appear to be under the influence?
  - Has the individual had prior law enforcement contact?

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#### EXAMPLE WROS

#38 79-yr-old man with suicidal and homicidal ideations, "nothing to live for," told a social worker he was going to shoot the head of a VFW club when he showed up at a meeting that evening.

#39 29-yr-old businessman with a history of 911 calls and apparent hallucinations that persons are burglarizing his business; met responding officers with guns despite being instructed by dispatch to disarm.

#49 78-yr-old man with suicidal ideation and clear plan including using a specific weapon on a specific day, and devising a means of postmortem identification if the gunshot to his head left him unidentifiable.

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**QUESTIONS & DISCUSSION** 

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# WEAPONS RESTRICTION ORDER—TELEHEALTH ASSESSMENT STEPS

(Protection from Substantial Threats: 34-B M.R.S. § 3862-A)

Law enforcement may secure a Weapons Restriction Order when there is probable cause that a person in protective custody possesses, controls, or may acquire a dangerous weapon.

- 1) Place the person in protective custody.
- 2) Complete Page 1 of the Application for Weapons Restriction Order and Appendix 1: Officer's Statement of Probable Cause. Sign and date both forms.
- 3) Contact Spurwink at 207-535-2009. (If no answer, leave a voicemail and your call will be returned within 15 minutes.)
- 4) Inform Spurwink that you are seeking an assessment for a Weapons Restriction Order:
  - a) Spurwink will work with law enforcement to establish a telehealth (video) assessment. Zoom is preferred because it is HIPAA compliant.
  - b) Send Spurwink the Application for Weapons Restriction Order and Appendix 1: Officer's Statement of Probable Cause.
  - c) Officer must stay with the person to facilitate the assessment.
- 5) If the person meets the requirements for a weapons restriction order, the practitioner will complete Page 2 of the Application for Weapons Restriction Order and return it to the officer. If the person does not meet the requirements for an order, return the person to hospital protective custody or release the person.
- 6) As soon as practicable, seek the required judicial endorsement from a Superior Court Justice, District Court Judge, Judge of Probate, or Justice of the Peace *(Houlton RCC maintains a list of after-hours judicial officers. Telephone 800-924-2261.)* The judicial officer must complete Page 3 of the Application for Weapons Restriction Order, endorse it, and return it to you.
- 7) Complete the NOTICE OF SERVICE ON RESTRICTED PERSON Form. As soon as practicable, but no later than 24 hours after judicial endorsement, serve the Notice. If possible, read it verbatim to the restricted person, and obtain the person's signature on the form. If the person refuses to sign, indicate the refusal on the form.
- 8) Within 24 hours but AS SOON AS POSSIBLE:
  - a) Notify the contact person, e.g., spouse, parent, other family member, if any.
  - b) Report the restricted status to the Department of Public Safety via METRO.
  - c) Email the entire packet to the DA's Office.
  - d) Obtain a docket number for the court case and enter into METRO.
  - e) Collect any dangerous weapons and enter them into evidence for safekeeping.
  - f) If the person voluntarily complies, the person is not subject to arrest or prosecution.
- 9) If there is probable cause to believe the restricted person possesses or controls but has not surrendered a weapon(s), obtain a warrant to search and seize such weapon(s).



SPURWINK ADULT BEHAVIORAL HEALTH 207.773.7811 phone 207.535.2009 weapons restriction 207.773.0663 fax 62 Elm Street Portland, ME | 04101 www.spurwink.org





# WEAPONS RESTRICTION ASSESSMENT & ORDER FAQ

Q: Do I need to place a person in protective custody if they are willing to go voluntarily to the hospital?

A: Yes. A weapons restriction assessment can only be completed if a person is in protective custody.

Q: Can I drop a person off at the hospital, and come back later for the assessment? A: Most hospitals require that an officer stay with a person until the weapons restriction process is completed. Additionally, if an officer drops the person off at the hospital and leaves, protective custody may end before the officer returns, making an assessment impossible. The best practice is to stay with the person until the assessment has been completed.

Q: When does protective custody end?

A: Protective custody ends after a person receives an assessment by a medical practitioner. After the assessment, the person is either blue papered/involuntarily hospitalized (transferring the person to hospital custody) or released.

Q: Does the medical practitioner need to "see" a person to complete the weapons restriction assessment?

A: Interactive (video) telehealth is the preferred method for completing weapons restriction assessments. Telephonic assessments are allowable if interactive telehealth is unavailable.

Q: Can the hospital facilitate the assessment for me?

A: An ongoing pilot program with Maine Health hospitals requires that law enforcement is responsible for facilitating the assessment. This was a precondition for Maine Health hospitals to allow third-party assessments in their emergency departments.

Q: Can I wait to seek judicial endorsement of a signed order, or do I need to do it right away? A: Title *34-B M.R.S. § 3862-A(3)* (Protection from Substantial Threats) states that the law enforcement officer or law enforcement agency shall <u>as soon as practicable</u> 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.

	DATE	AGENCY	REMARKS
1	20200719	Lewiston PD	Girlfriend reported boyfriend put gun in his mouth while threatening to kill himself.
2	20200807	Scarborough PD	Mother reported son on drugs and alcohol, threatening suicide with knife or "suicide by cop."
3	20200905	Hampden PD	22-yr-old man put gun to his throat in presence of friends and threatened suicide.
4	20200916	Penobscot SO	28-yr-old man in Hermon threatening suicide, threatening to shoot police, fired shotgun during two-hour standoff
5	20201009	Brunswick PD	48-yr-old man, deteriorating mental health, threatening suicide, and threatening friend with a firearm.
6	20201105	Lincoln SO	53-yr-old man in Westport threatening suicide in front of girlfriend, fired gun over her head, no injury.
7	20201116	Androscoggin SO	38-yr-old depressed man in Greene, arguing with wife, threatening to kill himself.
8	20201118	Androscoggin SO	37-yr-old woman in Livermore, suicidal with firearms, threatening to shoot herself in the head.
9	20201201	Bar Harbor PD	54-yr-old man threatening suicide, left suicide note, fired gun over head twice, no injury.
10	20201209	State Police	38-yr-old man in Vassalboro, delusional, fired gun at imaginary terrorists surrounding his house.
11	20201211	Brewer PD	34-yr-old man, armed with gun, people are out to kill him, incidents of wanting to hurt himself or others.
12	20201221	Veazie PD	70-yr-old woman, deteriorating mental health, 16 police incidents in 4 mos., will shoot anyone who comes to her house.
13	20201222	Lewiston PD	68-yr-old man, depressed, called friend to say he was going to kill himself, police arrived, he was armed.
14	20201229	State Police	60-yr-old man left home in Mass. after telling wife he was going to kill himself, stopped by police on turnpike in Litchfield.
15	20210306	State Police	75-yr-old man in Northport, wife with dementia, threatening to kill wife and then himself.
16	20210317	Brewer PD	38-yr-old man, armed with AK-47, believed Stephen King & police are after him, possesses many firearms.
17	20210325	Wells PD	73-yr-old man shot himself in chest, history of depression, "I'm just tired of living."
18	20210603	Aroostook SO	32-yr-old man with homicidal and suicidal ideations planning on "going out with a bang."
19	20210908	Cumberland SO	56-yr-old man in Gray threatened to kill girlfriend and himself with firearm, and accosted police with a knife taunting them to shoot him.
20	20211014	Waterville PD	21-yr-old man held gun to head in presence of two friends threating to kill himself. Taken into custody after brief standoff.
21	20211218	Aroostook SO	46-yr-old man in possession of handgun claimed to be CIA and that DEA was holding his family hostage "up the road" and he needed the gun to rescue family members.
22	20220223	Winthrop PD	80-yr-old woman threatening to "end things" by killing herself with a gun if only she could find the bullets.
23	20220321	State Police	91-yr-old Lyman man with paranoid delusions of men he claims he can see sent electronically into his house to harm him; high risk of harm to self or others; 13 firearms removed from residence.
24	20220612	Biddeford PD	77-yr-old former police officer with dementia increasingly agitated and threatened spouse with handgun. Blue papered and handgun and shotgun removed from residence.
25	20220630	Lincoln SO	32-yr-old combat veteran with longtime PTSD and previous suicide attempts making death threats to staff at Togus VA and expressing desires of self-harm.

26	20220804	State Police	41-yr-old intoxicated man held loaded gun to his head and threatened to kill wife, children and himself.
27	20220926	State Police	63-yr-old man with plan to shoot and kill himself blue papered; brother took gun away from him; released from local hospital because no beds available; later tried to acquire a firearm.
28	20221204	Sanford PD	38-yr-old woman intercepted by police while attempting to purchase firearm to kill herself, taken into protective custody and blue papered.
29	20230101	Sanford PD	38-yr-old man increasingly paranoid, believes wife cheating on him, there are listening devices in light bulbs, and cameras in house watching him, possessed two loaded AR-15s, machete, & Bowie knife.
30	20230102	Waterville PD	42-yr-old "extremely paranoid" woman with schizophrenia, armed with two handguns, an AR-15, and a knife, believing that she's being stabbed and the police are going to shoot her in the back of the head.
31	20230104	Franklin SO	58-yr-old highly intoxicated man w/ past suicidal ideation, attempted suicide by consuming medication, called behavioral health for help. Police took him into protective custody. Seized several handguns, rifles, and shotguns.
32	20230110	Waterville PD	35-yr-old w/ past suicidal attempts cut wrist in suicide attempt, told officer he had a gun and intended to use it to kill himself.
33	20230114	Wells PD	25-yr-old man previously diagnosed with schizophrenia with thoughts of slicing the throat of a co-worker and/or getting a gun to shoot him multiple times.
34	20230208	Westbrook PD	49-yr-old man estranged from domestic partner/mother of his children threatening suicide via texting that included photos of him holding a gun to his head.
35	20230216	Knox SO	54-yr-old man severely depressed, history of suicidal ideation, threatening to kill himself with gun; held gun to his head. Order resulted in seizure of six guns and a crossbow.
36	20230308	Westbrook PD	50-yr-old man with worsening depression, history of suicidal ideation, threatening "suicide by cop" and his daughter who will "soon be dead."
37	20230309	Westbrook PD	35-yr-old man under the influence of marijuana verbalized a clear plan to kill himself and two guests by shooting them with guns he had in his home, and threatened to grab an officer's gun and shoot him with it.
38	20230313	Sanford PD	79-yr-old man with suicidal and homicidal ideations, "nothing to live for," told a social worker he was going to shoot the head of a VFW club when he showed up at a meeting that evening.
39	20230314	South Portland PD	29-yr-old businessman with a history of 911 calls and apparent hallucinations that persons are burglarizing his business; met responding officers with guns despite being instructed by dispatch to disarm.
40	20230325	Farmington PD	47-yr-old man diagnosed experiencing paranoid delusions, convinced persons are under his mobile home cutting holes in floor. Discharged shotgun from inside in direction of neighbor. Also had rifle in home.
41	20230327	Sanford PD	40-yr-old man texted his estranged girlfriend that he was ready to end it all. She later witnessed him place a gun to his head. Bipolar; alcohol and marijuana use.
42	20230401	Wells PD	43-yr-old intoxicated woman reported by husband to have loaded handgun and threatening to make a TikTok video of her killing herself. History of suicide threats when intoxicated.
43	20230403	Lincoln SO	40-yr-old man wrote suicide note after arguing with wife and inserted a hose into the exhaust of his vehicle after wife left home. He also had firearms in the home.
44	20230409	Androscoggin SO	53-yr-old man with MH diagnoses told counselor he was going to kill his ex-wife and himself or a deputy sheriff and himself or create a police standoff at Walmart.

45	20230417	Farmington PD	86-yr-old man believed to be suffering from dementia with paranoid delusions and hallucinations threatened wife with rifle believing she
46	20230418	Somerset SO	<ul> <li>was seeing a boyfriend. Previous threat with a knife.</li> <li>44-yr-old man suffering visual and auditory hallucinations, shot at imaginary people in house, jumped out 2<sup>nd</sup> story window, and thereafter</li> </ul>
			shot at responding police officers.
47	20230426	Augusta PD	52-yr-old man, in conversation with his mental counselor, threatened to shoot and kill a neighbor and then kill himself.
48	20230426	Cumberland County SO	43-yr-old man with acute stress reaction followed by verbal statements to wife and officers of plan to kill himself. Officer found him in an outbuilding with a rifle at hand.
49	20230505	York PD	78-yr-old man with suicidal ideation and clear plan including using a specific weapon on a specific day, and devising a means of postmortem identification if the gunshot to his head left him unidentifiable.
50	20230511	Brewer PD	33-yr-old man with suicidal ideation; and holding a loaded gun in his mouth with stated intention to end his life.
51	20230512	Lincoln County SO	31-yr-old woman threatening suicide; sending texts to mother with rifle under her chin; intoxicated; suspected mother was having sex with her husband.
52	20230513	Lincoln County SO	53-yr-old man suffering from PTSD; intoxicated; threatening suicide with firearm and saying he will make wife watch. Wife hid ammo, left, and called police.
53	20230513	York County SO	59-yr-old man depressed over wife leaving him. Threatening suicide. Son called police. Just as officer arrived, shot himself in the head.
54	20230516	Lewiston PD	26-yr-old man highly intoxicated and taking high dosages of drugs threatening suicide; told police he was going to shoot himself while gesturing under chin.
55	20230523	Waterville PD	26-yr-old man intoxicated at motel talking with wife on phone re divorcing; threatened to "blow my brains out." Had handgun and rifle at hand.
56	20230526	Cumberland SO	19-yr-old man depressed over breakup with girlfriend; told friend he was going to kill himself with a shotgun he purchased that was on a 3-day hold at the dealer's; had already purchased the ammunition.
57	20230529	Cape Elizabeth PD	65-yr-old man with history of depression experiencing extreme paranoia believing there were persons sent to do harm; armed with loaded revolver in his pocket when taken into protective custody.
58	20230530	Newport PD	32-yr-old man with mental health history called brother and sister saying he had a gun to his head and was going to kill himself.
59	20230607	York PD	23-yr-old man with history of mental illness threatening suicide by gun; posted ideations on Facebook including a posting with a gun. 9mm handgun found in his vehicle.
60	20230607	Wilton PD	34-yr-old man making homicidal threats against 11-yr-old daughter who herself suffers from oppositional defiant disorder.
61	20230612	Jay PD	19-yr-old man stressed and anxious over caregiver fatigue held a loaded rifle to his head intending to kill himself. The rifle discharged into a wall after a family pet bumped into the end of the rifle.
62	20230614	Fairfield PD	35-yr-old man experiencing psychotic episode; former psychiatric patient with history of psychosis; recently threatened mother with knife.
63	20230621	Biddeford PD	63-yr-old man in declining health and showing signs of mental illness threatened bank employees with harm.
64	20230623	Lincoln County SO	38-yr-old man threatening suicide via hanging with a paracord that he had around his neck; multiple firearms, 17 strewn around outside gun safe; wanted to be with his deceased veteran friends.
65	20230630	Bridgton PD	60-yr-old veteran making alcohol-induced threats on a crisis hotline to kill himself and to shoot anyone who comes to his house.

66	20230630	Lewiston PD	72-yr-old man presented substantial risk of serious physical harm to himself and others as manifested by recent suicidal threats, e.g., he was
			going to "blow his head off" while waving around a loaded gun.
67	20230718	State Police	56-yr-old woman with history of mental illness threatening suicide and
			saying she will kill responding EMS/LE personnel.
68	20230731	Jay PD	49-yr-old man held loaded shotgun to his head with intent to end his
			life. Verbalized to officers and family members that he is "done with it
			all" and responded in the affirmative when officers asked if he intended
			to harm himself. Previous suicide attempt & recent substance abuse.
69	20230801	Waterville PD	38-yr-old intoxicated man holding loaded pistol to head in presence of
			girlfriend threatening to kill himself.
70	20230801	Rumford PD	56-yr-old intoxicated man arrested for OUI (0.29% BAC) threatened to
			use one of many guns at home to "blow my brains out."
71	20230803	State Police	54-yr-old man made death threats to a local fire chief and family,
			threatened to go to a local festival and "kill everyone," and threatened to
			kill a police officer and himself.
72	20230811	Oxford SO	45-yr-old man shooting at imaginary trespassers in a tree, recent
			substance abuse, history of PTSD.
73	20230823	Sanford PD	22-yr-old man threatening suicide when arguing with girlfriend and
			taking a rifle and ammunition into garage.
74	20230901	Fairfield PD	80-yr-old man with "nothing to live for" attempted suicide by carbon
			monoxide; when unsuccessful, told a town officer clerk of his attempt.
75	20230902	Sanford PD	50-yr-old man threatening suicide with gun if wife left him; history of
			similar threats, including holding a gun to his head; history of
			depression and anxiety.
76	20230907	Ellsworth PD	40-yr-old man with symptoms consistent with mania and psychosis;
			grandiose with multiple paranoid delusions; believes he has a
			"disappearing brain disease."
77	20230906	Knox SO	22 yr-old man threatening suicide; posted photo on Facebook holding
			handgun to his chin.
78	20230908	Lewiston PD	44-yr-old man threatening suicide with gun in presence of wife and
			children.
79	20230913	Sanford PD	Police alerted by VA. 53-yr-old man stated that he wants to die due to
			his "life sucking;" envisioned putting his gun in his mouth; if he got up
			out of his chair today he would get his gun and shoot himself.
80	20230928	Rumford PD	58-yr-old man discharging gun in neighborhood; history of PTSD,
			depression, alcohol abuse; symptoms of severe depression including
			wanting to die.
81	20231009	Brunswick PD	27-yr-old man threatening girlfriend with gun and threatened to shoot
			himself in the head; showed girlfriend video of man shooting himself in
			the head; told brother on phone he was going to kill himself.
82	20231027	Scarborough PD	62-yr-old Man making suicidal threats. Charging at officers saying,
			"Bring it on."
83	20231102	Piscataquis SO	40-yr-old woman threatening suicide in cemetery. Multiple calls to
			Crisis over the past few months threatening suicide. She disclosed
			having multiple means of suicide such as a box cutter, cords, and a belt.
84	20231107	Androscoggin SO	44-yr-old suicidal man concerned he will be the next mass shooter.
			Drinking heavily in the context of financial stress and infidelity. History
			of removing firearms when depressed and suicidal.
85	20231108	Sagadahoc SO	27-yr-old man locked himself in his parents' garage with a pistol,
			writing and reading a suicide note to his wife.
86	20231109	Piscataquis SO	70-yr-old woman with plans to kill herself with a gun or knife; suicidal
			thoughts almost every day since her last suicide attempt two months ago
			when she loaded two guns with incorrect bullets.

87	20231109	Piscataquis SO	17-yr-old boy with access to firearms threatening suicide in text messages.
88	20231110	Dover-Foxcroft PD	59-yr-old woman making suicidal statements to family and police, depressed over the suicide death of her son a year gao; fired several rounds from a pistol on her back porch,
89	20231110	Brunswick PD	22-yr-old suicidal man upset over break-up with girlfriend; texted her that he held a gun to his head for 10 minutes.
90	20231110	Penobscot SO	58-yr-old man charged with DV & terrorizing threatened to kill girlfriend and a list of other persons.
91	20231110	Auburn PD	20-yr-old man attempted suicide by stabbing himself in abdomen; said he was going to be "the next Robert Card."
92	20231110	Presque Isle PD	25-yr-old man threatening to kill himself; past history of suicide attempt with firearm.
93	20231111	Lewiston PD	50-yr-old man with history of suicidal/homicidal ideations told family he was going to do with Robert Card did, but with a knife.
94	20231112	Brunswick PD	29-yr-old man claims he's being ordered to kill his parents or son; referenced Robert Card, the Lewiston mass shooter.