#2—NAME, ADDRESS OF CLAIMANTS AND CLAIMANTS' PERSONAL REPRESENTATIVE, IF ANY:

Benjamin R. Gideon
bgideon@gideonasenlaw.com
Meryl Poulin
mpoulin@gideonasenlaw.com
Rosalie B.C. Wennberg
rwennberg@gideonasenlaw.com
Gideon Asen, LLC
95 Main Street, Box 5
Auburn, ME 04210
Telephone: (207) 206-8982
Fax: (207) 206-8987

Travis M. Brennan
tbrennan@bermansimmons.com
Chuck P. Hehmeyer
chehmeyer@bermansimmons.com
Elizabeth Kayatta
ekayatta@bermansimmons.com
Berman & Simmons, P.A.
129 Lisbon Street, P.O. Box 961
Lewiston, ME 04243-0961
Telephone: (207) 784-3576
Fax: (207) 784-7699

Jamal K. Alsaffar
jalsaffar@nationaltriallaw.com
Tom Jacob
tjacob@nationaltriallaw.com
Laurie Higginbotham
lhiggintbotham@nationaltriallaw.com
National Trial Law
1114 Lost Creek Blvd., Ste. 410
Austin, TX 78746
Telephone: (512) 476-4346
Fax: (512) 476-4400

Josh Koskoff
JKoskoff@koskoff.com
Katie Mesner-Hage
KMesnerhage@Koskoff.com
Colin Antaya
CAntaya@Koskoff.com
Margaret Donovan
MDonovan@Koskoff.com
Koskoff Koskoff & Bieder, PC
350 Fairfield Avenue, Ste. 501
Bridgeport, CT 06604
Telephone: (475) 766-4989

#6 & #7—DATE AND TIME OF INCIDENT:
Evening of October 25, 2023.

#8—BASIS OF CLAIM:

Summary of Claims

On Wednesday, October 25, 2023, Sergeant Robert Card, a member of the Army Reserve (Army) committed the worst mass shooting in Maine history. Armed with a semi-automatic assault weapon, Card entered two community establishments in Lewiston, a bowling alley and a local bar, and opened fire on innocent men, women, and children, killing eighteen of them and wounding countless others.

Sadly, the October 25 mass shooting was preventable. For at least seven months leading to the shooting, the Army and its personnel were aware that Card's mental health precipitously and unexplainably declined, leaving him paranoid, delusional, with violent ideations and limited impulse control. Army personnel promised local law enforcement and the Card family that they would address Card's declining mental status but took no action until Card's behavior escalated during a battle assembly at West Point in New York in July 2023.

In New York, Card's behavior became so alarming that Army command issued an order for an emergency, command-directed behavioral health evaluation (CDBHE). Army command was aware that the hospitals at which Card was evaluated and treated found that Card reported homicidal ideation and admitted to having a "hit list" of people he intended to kill. Card's targets were those who he perceived, in his delusional state, had wronged him, including those Card had bowled and played cornhole with at the bowling alley and bar he attacked on October 25.

Over the seven months that Card's mental health declined, the Army had numerous warnings and repeated opportunities to intervene to ensure that Card received proper medical treatment for his illness and that he no longer had access to weapons that he could use to carry out acts of mass killing.

Despite these warnings, the Army failed to act. Even worse, in September 2023, after Card's Army colleague warned of an explicit threat to commit a mass shooting, rather than taking decisive action, the Army and its personnel withheld critical information from local law enforcement, downplayed and minimized the risks, and *discouraged* local law enforcement from acting.

In its negligent response to the warnings and threats posed by Card, the United States, through its agencies the Department of Defense, Department of the Army, and Keller Army Community Hospital, and its employees, broke its promises, failed to act reasonably, violated its own policies and procedures, and disregarded directives and orders, including those of Card's treating medical providers. Thus, this Form 95 notifies the United States of the October 25, 2023, mass shooting victims' intent to pursue all available claims and remedies through a civil action brought under the applicable forum state laws and the Federal Tort Claims Act, 28 U.S.C. § 1346(b)(1).

I. The Lewiston, Maine, Mass Shooting of October 25, 2023

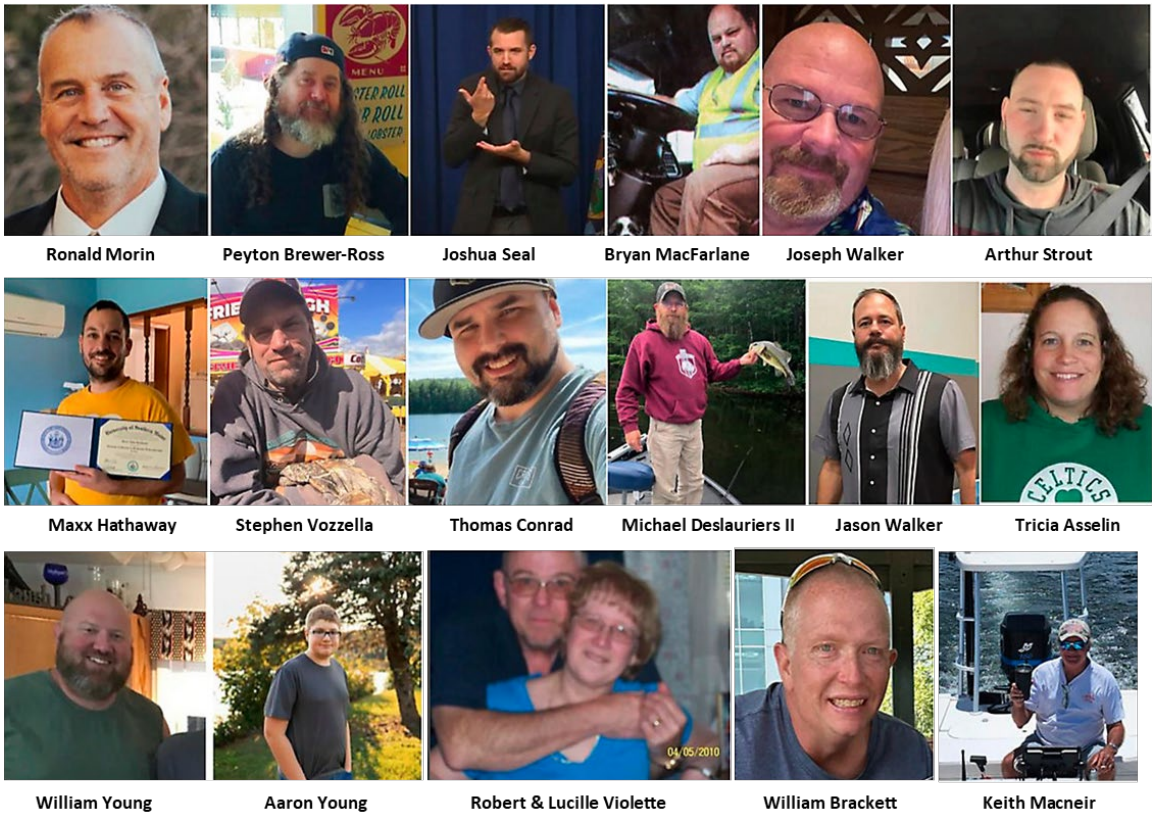
On October 25, 2023, armed with an AR-10 assault weapon, Card entered two local establishments in Lewiston, Maine, and opened fire on large groups of innocent men, women, and children. The two establishments he targeted, a bowling alley and a local bar, were not random or arbitrary. They were locations that Card had frequented many times to participate in bowling and cornhole leagues, and places where Card, in his delusional rants, had accused people of "talking about him." Thus, both locations were foreseeable targets for Card's paranoia-fueled acts of mass violence.

The first location targeted by Card, Just-In-Time Recreation (aka "Sparetime" Recreation), is a popular bowling alley and family game center in Lewiston, Maine. On October 25, more than sixty people, including at least twenty children, were present.

Shortly before 7 PM, Card entered the bowling alley, and within forty-five seconds, fired eighteen rounds, killing eight people and wounding many others. The eight people Card killed were Tricia Asselin, Thomas Conrad, Jason Walker, Michael Deslauriers II, Robert Violette, his wife Lucille Violette, fourteen-year-old Aaron Young, and his father, William Young. Walker and Deslauriers, friends from childhood, charged toward Card during a break in the shooting when it appeared that his rifle may have jammed and attempted to disarm him. Card killed them both at close range in the presence of their wife and significant other, Catherine Walker and Stacy Cyr.

Card left the bowling alley and drove to Schemengees Bar and Grille, another establishment located in Lewiston, Maine. Card targeted Schemengees because it was where the cornhole league in which Card had participated was holding games. That evening, many people were at Schemengees to play cornhole, including teams comprised of members of Maine's deaf community. Card entered Schemengees, and in seventy-eight seconds, fired thirty-six rounds, killing ten and wounding many others. Those killed at Schemengees were Joseph Walker, Arthur Strout, Joshua Seal, Ronald Morin, Stephen Vozzella, Keith Macneir, Bryan MacFarlane, Maxx Hathaway, Peyton Brewer-Ross, and William Brackett.

The eighteen people Card killed in the worst mass shooting in Maine history ranged in ages from fourteen to seventy-six. They included parents and grandparents, husbands and wives, children, veterans, reservists, youth coaches and umpires, avid outdoors men and women, community leaders and volunteers, athletes, dart and cornhole champions, sign language interpreters, local business owners, truckers, and postal carriers. In short, those killed represented a broad cross section of the people who make up the fabric of the community in and around Lewiston, Maine.



The United States, through its agencies the Department of Defense, Department of the Army, and Keller Army Community Hospital, and its employees, have been subject to numerous investigations surrounding their conduct in the days, weeks, and months leading up to the mass shooting. Those relevant investigations along with the facts gathered pursuant to them, are attached as exhibits to this filing and are incorporated by reference into this claim.[1]

—

[1] The reports are as follows:

- Exhibit 1, "Initial Interim Report of the Independent Commission to Investigate the Facts of the Tragedy in Lewiston," March 15, 2024, available at https://www.dropbox.com/scl/fo/votz4mf4eojyr5rm5qswq/AGlHiapS7nR5VGbmqjJuMYY?rlkey=8ssin88bky58fyaq2ucl63m3o&st=7x6ltnv6&dl=0
- Exhibit 2, Response of Aaron Skolfield to Initial Interim Report, March 7, 2024, available at https://www.dropbox.com/scl/fo/votz4mf4eojyr5rm5qswq/AGlHiapS7nR5VGbmqjJuMYY?rlkey=8ssin88bky58fyaq2ucl63m3o&st=7x6ltnv6&dl=0
- Exhibit 3, "Final Report of the Independent Commission to Investigate the Facts of the Tragedy in Lewiston," August 20, 2024, *available at*

In addition, several Army reservists who served with Card along with Card's commanding officers testified under oath before the Maine Independent Commission to Investigate the Facts of the Tragedy in Lewiston. The transcripts of those testimonies are also attached as exhibits to this claim and are incorporated by reference into this claim filing.[2]

—

https://www.dropbox.com/scl/fo/votz4mf4eojyr5rm5qswq/AG1HiapS7nR5VGbmqjJuMYY?rlkey=8ssin88bky58fyaq2ucl63m3o&st=7x6ltnv6&dl=0

- Exhibit 4, Department of Army, "Findings and Recommendations, Army Regulation (AR) 15-6 Investigation into the Suspected Suicide of SFC Robert R. Card II, dated March 7, 2024 (released July 23, 2024), *available at* https://www.dropbox.com/scl/fo/votz4mf4eojyr5rm5qswq/AG1HiapS7nR5VGbmqjJuMYY?rlkey=8ssin88bky58fyaq2ucl63m3o&st=7x6ltnv6&dl=0
- Exhibit 5, United States Army Inspector General Agency Donna Martin's review of U.S. Army Reserve Command's Investigation, released July 23, 2024, *available at https://www.dropbox.com/scl/fo/votz4mf4eojyr5rm5qswq/AG1HiapS7nR5VGbmqjJuMYY?rlkey=8ssin88bky58fyaq2ucl63m3o&st=7x6ltnv6&dl=0*
- Exhibit 6, "An Independent, Third-Party Review of the Sagadahoc County Sheriff's Office's Response to Concerns About the Mental Health of Robert Card," December 8, 2023, *available at* https://www.dropbox.com/scl/fo/votz4mf4eojyr5rm5qswq/AG1HiapS7nR5VGbmqjJuMYY?rlkey=8ssin88bky58fyaq2ucl63m3o&st=7x6ltnv6&dl=0

[2] The transcripts are as follows:

- Exhibit 7, Maine Independent Commission Hearing, Testimony of Reamer, Mote, Tlumac, Jandreau, Noyes, March 7, 2024, *available at* https://www.dropbox.com/scl/fo/votz4mf4eojyr5rm5qswq/AG1HiapS7nR5VGbmqjJuMYY?rlkey=8ssin88bky58fyaq2ucl63m3o&st=7x6ltnv6&dl=0
- Exhibit 8, Maine Independent Commission Hearing, Reamer, April 11, 2024, *available at https://www.dropbox.com/scl/fo/votz4mf4eojyr5rm5qswq/AG1HiapS7nR5VGbmqjJuMYY?rlkey=8ssin88bky58fyaq2ucl63m3o&st=7x6ltnv6&dl=0*
- Exhibit 9, Maine Independent Commission Hearing, Testimony of Reed, Yurek, Hodgson, April 25, 2024, *available at https://www.dropbox.com/scl/fo/votz4mf4eojyr5rm5qswq/AG1HiapS7nR5VGbmqjJuMYY?rlkey=8ssin88bky58fyaq2ucl63m3o&st=7x6ltnv6&dl=0*
- Exhibit 10, Maine Independent Commission Hearing, Testimony of Vazquez, June 17, 2024, *available at https://www.dropbox.com/scl/fo/votz4mf4eojyr5rm5qswq/AG1HiapS7nR5VGbmqjJuMYY?rlkey=8ssin88bky58fyaq2ucl63m3o&st=7x6ltnv6&dl=0*

II. The Army's Negligent Acts and Omissions Leading to the Lewiston Mass Shooting on October 25, 2023

A. The Army's History with Soldier Mass Violence Should Have Prepared the Army to Act on Card's Warning Signs Here

Perhaps there was a time when a mass shooting, like what happened in Lewiston on October 25, 2023, was so rare that no one could have predicted that it could happen. That has not been true in America for decades. Mass shootings, like what happened in Lewiston, are an epidemic in America. Consequently, those in positions of responsibility and authority are required to appreciate the warning signs and behaviors that telegraph the risk of mass violence, take them seriously, and act to prevent their occurrence.

That did not happen here.

Mental health warning signs in service members are key predictors of mass violence risk and demand attention. The military trains soldiers to kill using military-style weapons to maximize casualties. Data has long shown that service members with mental illness present a significantly higher risk of violence to themselves or others.

For example, in 2009, Army soldier, Major Nidal Hassan, who had a documented mental health decline and extremist views, killed thirteen people and wounded thirty others at Fort Hood, Texas. On April 2, 2014, also at Fort Hood, Army Specialist, Ivan Lopez, who suffered from anxiety and depression, shot and killed three people and wounded twelve others before killing himself. Overall, the Violence Project and Mother Jones Mass Shooting Index found that of the 233 mass shootings between 1966 and 2023, fifty-seven were committed by current or former members of the military (a large percentage of those, members of the Army).

It is difficult to conceive of a case in which Army personnel could have more warning signs and opportunities to intervene to prevent a service member from committing a mass shooting than what happened in the case of Army Reservist Robert Card.

B. Army Reservist Sergeant Robert Card

On October 25, 2023, Card was forty years old. He had been a member of the Army Reserve for more than twenty years, following enlistment in 2002 at age nineteen.

In 2014, Card joined Bravo ("B") Company, based in Saco, Maine. Card's job with B Company was training cadets at the U.S. Military Academy in West Point, New York, including live-fire training on the use of hand grenades, assault rifles, and other weapons. Every West Point cadet is

—

- Exhibit 11, Maine Independent Commission Hearing, Testimony of Dickison, July 11, 2024, *available at* *https://www.dropbox.com/scl/fo/votz4mf4eojyr5rm5qswq/AG1HiapS7nR5VGbmqjJuMYY?rlkey=8ssin88bky58fyaq2ucl63m3o&st=7x6ltnv6&dl=0*

required to throw at least one live grenade during training. With over 1000 cadets trained each year, by 2023, Card had been exposed to thousands of explosions.

Until Spring 2023, Card was a normal, stable, and valued member of his Reserve unit. The Army has no record of any prior misconduct or performance deficiencies relating to Card. In interviews with Card's unit members, they described (pre-2023) Card as "kind, friendly, calm, and generous." The Army's investigation concluded that Card had an "unremarkable military career spanning twenty-years."

In early 2023, that all changed.

Beginning in the spring of 2023, Card's unit commanders began to receive reports from unit members that Card was behaving erratically and combatively. Reports were that Card was delusional, believing that people were "talking about him," "calling him a pedophile," commenting on the size of his penis, and lashing out aggressively toward others. The sudden and precipitous decline in Card's mental health continued to progress and worsen until the mass shooting in October.

This critical question of why, after twenty "unremarkable" years of service, Card's mental health abruptly and dramatically declined remained unanswered—and largely uninvestigated—by the Army. By Army policy, it was required to perform a thorough investigation to determine whether Card's mental health decline was "service related" (referred to as a "Line of Duty Investigation"). However, as the Army's own internal investigation concluded, the Army violated its own policy by failing to conduct a "Line of Duty Investigation" of Card.

Following Card's death, his brain was sent for pathological analysis, which revealed evidence that Card suffered from a brain injury with damage to his white matter, degeneration, axonal and myelin loss, inflammation, and small blood vessel injury. The pathologist observed that the findings "align with our previous studies on the effects of blast injury in humans and experimental models."

Of course, by 2023, the U.S. Department of Defense (DoD) understood blast exposure—even at lower-level forces—can cause brain injury that produces a range of mental status changes that create risks to service members and others. This is why soldiers with brain injuries were known to be higher risks for suicide and violence. Nevertheless, despite the DoD's knowledge of these risks, and the fact that Card had been exposed to repetitive blast forces for years during live fire and grenade training, *the Army never investigated to determine whether Card's sudden and precipitous decline in mental health was related to physiological changes to his brain*. In fact, there was a complete lack of curiosity or interest on the part of the Army in trying to understand why Reservist Card, who had been a kind, generous, and valued member of the unit for twenty years, was now suffering from severe mental illness that was impacting his service, job, personal relationships with his teenage son, family members and friends, and causing him to lash out in violence.

C. March – June 2023: The Army Becomes Aware of Card's Precipitous and Unexplained Mental Health Decline

In March 2023, Card's unit commander, Captain Jeremy Reamer, received a call from Reservist and close friend of Card, Sean Hodgson, "indicating he was calling on behalf of Sergeant Card regarding people at the unit calling him a pedophile behind his back." (Reamer Maine Comm. Test., 3.7.24, at 228:21-24.)

In early May 2023, Card's 17-year-old son spoke to his mother (Card's ex-wife), concerning his father's increasingly erratic behavior, anger, and paranoia. He described Card's delusional insistence that people were talking about him and calling him gay and a pedophile. Card's son was so worried about his father's behaviors that he told his mother that he was no longer comfortable spending time at his father's house. Card's son was concerned about his father's access to the ten to fifteen firearms that were stored at his father's house, truck, and other family properties.

Card's son and ex-wife reported their concerns to the Mt. Ararat school resource officer, who, in turn, reported those concerns to a deputy with the Sagadahoc County Sheriff's Office (SCSO). The family told the SCSO deputy that Card would respond better if help came from the Army. The SCSO deputy contacted Card's Army reserve unit and spoke with First Sergeant Kelvin Mote. Among other things, the SCSO deputy told Mote that Card had ten to fifteen handguns and rifles, and that Card's son was concerned. (Mote Maine Comm. Test. of 3.7.24, at 150:1-12.) Mote revealed that the Army *already knew* that something was wrong with Card based upon prior reports from others in the unit. Mote admitted that this additional information "started to concern me, yes." (Mote Maine Comm. Test. of 3.7.24, at 152:12.)

The following day, Mote spoke again with the SCSO deputy. He learned that Card's brother and sister had visited him the night before and Card had answered the door brandishing a gun. (Mote Maine Comm. Test. of 3.7.24, at 153:7-11.) Mote testified that the "gist" of his discussions with the SCSO deputy was that if Card is "making these threats, they need to get him to the hospital." (Mote Maine Comm. Test. of 3.7.24, at 154:1-5.) Mote stated that he told the deputy that "he needed to get him to a hospital." (Mote Maine Comm. Test. of 3.7.24, at 154:22-25.)

Card's ex-wife had asked that Army command be updated, but also wanted them to leave the family out of it because they feared how Card would respond. (Mote Maine Comm. Test. of 3.7.24, at 153:17-22.) Mote was provided with the phone number for Card's brother. (Mote Maine Comm. Test of 3.7.24, at 153:23-25.)

Mote told the SCSO deputy that his plan was to sit down with Card in the near future to see if they could get him to "open up about what was going on." (Mote Maine Comm. Test. of 3.7.24, at 154:6-9.) Mote told the SCSO deputy that "he was going to call Captain Reamer immediately and start to figure out options to get Sergeant Card help." (Mote Maine Comm. Test. of 3.7.24, at 151:23-152:2.) Reamer testified that Mote told him that Card had been involved in an altercation or confrontation at Home Depot where he believed that people were talking about him behind his back. (Reamer Maine Comm. Test. of 3.7.24, at 231:10-16.) Mote told the SCSO deputy that the

Army Reserve had a plan to handle Card's situation, which would include meeting with Card at the upcoming May battle assembly. (Mote Maine Comm. Test. Of 3.7.24 at 151:23-152:8).

Despite these assurances, neither Reamer nor Mote, nor anyone else in Card's Reserve unit, took any steps to address his declining mental health during the May 6-7 battle assembly. (Mote Maine Comm. Test. of 3.7.24, at 159:5-11.) Reamer did not personally attend the May or June battle assemblies for "personal as well as medical reasons." (Reamer Maine Comm. Test. of 3.7.24, at 232:13-16.) Mote could not recall having any conversation with Card between May 4 and July 15. (3.7.24 155:18-156:19, 158:3-12.) Neither Mote nor Reamer ever followed up with or contacted Card's brother. Despite Mote's prior statement that Card needed hospitalization and Army regulations requiring hospitalization of service members whose mental health posed risks to themselves or others, no action was taken to bring or refer Card for medical evaluation at that time. Mote testified that he was, at the time, unaware of the Army regulations relating to ordering a CDBHE.

Throughout the month of June, Card's sister continued to research ways to help her brother. On June 3, 2023, she called the VA Crisis line. She reported that her brother continued to have paranoid delusions, including stating that fellow cornhole players and those at the bowling alley were talking about him. The crisis line worker advised that if she notified Army command about her brother's delusions, "it could harm his career."

Between May and July 15, 2023, Card's family reached out to the Army unit in Saco at least five times to inform them of Card's eroding mental health. No one from the Army returned their calls.

D. July – August 2023: Army Allows Card to Return to Community Without Resolution (or Explanation) of His Mental Illness and Without Fulfilling Its Promise to Secure Card's Firearms

Despite Card's ongoing and unresolved severe mental illness, the Army nevertheless ordered Card to attend the unit's annual training at West Point, New York, in July, where Card would be responsible for training cadets using live grenades and firearms.

1. Events Leading to Command Directed Behavioral Health Evaluation

On July 15, Card drove to New York. Card checked into the hotel and joined his fellow soldiers at the pool. He immediately launched into accusations of paranoid delusions. He stated that the clerk at the hotel desk was talking about him and calling him a pedophile. He reported that the clerk at a Dunkin Donuts, where he stopped on his drive to New York, was also saying things about him.

Card's fellow reservists tried to convince him that he was mistaken. They pointed out that none of the people he claimed were talking about him had ever met him before. Card was, however, adamant and could not be reasoned with.

Later that evening, Card and two other members of his unit, Sergeant Daryl Reed and Sergeant Christopher Wainwright, drove to a nearby gas station to purchase beer and pizza. During the ride, Card accused Reed of calling him a pedophile. When they arrived at the gas station, Card stormed

off angrily. When he returned, Card, unprovoked, suddenly and aggressively charged Reed with balled-up fists, threatening to fight him. Once the fight was broken up, and on the way back to their hotel, Card kept threatening, "I'll take care of it. It's okay. I'll take care of it."

After the incident at the convenience store, Reed texted his wife, stating he thought he and Card were going to get into a fight. "He really has lost his mind," Reed texted.

Card's behavior was so alarming that Reed and Wainwright reported it immediately to Mote and Master Sergeant Ed Yurek. After initially attempting to minimize the concerns by suggesting that Card merely "sleep it off," Mote and Yurek agreed to come to the hotel and investigate Card's condition. Mote confronted Card and described him as having a blank, fixed expression—"a 1000-mile stare"—that made the "hairs on the back of his neck stand up."

The next morning, July 16, Mote and Yurek returned to the hotel and found Card's condition unchanged. Card continued to rant about people talking about him and calling him a pedophile. They summoned the NY State Police. Card told the police that the clerk at the gas station had recognized him and called him a pedophile. Card stated that his fellow reservists are "scared of me [because] ***I am capable***."

After Card made that threatening statement, his unit command, Mote, Yurek, and Reamer (who was not present, but in contact by phone) ordered an emergency, command-directed behavioral health evaluation (CDBHE). They contacted the senior, non-commissioned officer in charge of B Company, Samuel Tlumac, to inform him of this decision.

Under both MEDCOM Policy Memo 22-020 and DoD Instruction 6490.04, before a CDBHE can be ordered, his commanding officers were required to find the following:

> (1) [Card], by actions or words, such as actual, attempted, or threatened violence expresses intent or is likely to cause serious injury to him or herself or others.
>
> (2) the facts and circumstances indicate that the [Card's] intent to cause such injury is likely.
>
> (3) the Commanding officer believes that [Card] may be suffering from a severe mental health disorder.

Mote testified that they made the decision to order the CDBHE based on a totality of the circumstances, including Card's delusions, auditory hallucinations, escalation of conflict with his friend; the fact that none of this could be attributed to alcohol; and his statement that "I am capable." (Mote Maine Comm. Test. of 3/7/24, at 176-179.)

As Reamer later testified, his directive to Card to undergo a CDBHE was a military order that Card was required to follow. Violation of that order would have subjected Card to court-martial under the Uniform Code of Military Justice (UCMJ). (Reamer Maine Comm. Test. of 3/11/24, at 7:7-23.) Under the UCMJ, the penalties for violating a direct order can include imprisonment. According

to Noyes, Card knew of the compulsory nature of the order, stating, "if it's command directed, I don't have a choice." (Noyes Maine Comm. Test. of 3/7/24, at 61:8-24.)

2. July 16, 2023: Keller Army Community Hospital

Unit command transported Card to Keller Army Community Hospital (KACH). They placed Card in the third row of a vehicle driven by Mote, with Noyes and Reed positioned in the second row to prevent Card from escaping. They also requested that the State Police escort them to KACH.

Upon arrival at KACH, medical providers placed Card in an examination room and instructed the reservists to maintain one-on-one watch over Card, ensuring that a reservist remained in the room with him at all times. Reed was keeping watch when Card continued to express paranoid delusions, stating, for example, that he believed the nurses were talking about him, although there was no way Card could have heard the nurses talking given that he was separated from them by glass partitions and a closed door. When Wainwright took over the watch from Reed. Wainwright reported that Card said he wanted to "beat [Reed] up and knock out his teeth."

The KACH emergency department record states as "chief complaint," Card's comment that, "I have been brought here because my chain of command wants me to be evaluated." The history included auditory hallucinations, paranoia, delusional thinking, and Card's statement, "**I am afraid of what I may do** if people still keep bothering me about the so-called voices that I am hearing being homosexual and a pedophile."

The medical chart noted that Card's "reported symptoms have been going on since December 2022." Card stated that he lost a relationship with his girlfriend and had to leave his last job and was "unable to enjoy his hobby of corn hole anymore not being able to be around the people at the bar where he used to play 3 times per week." Card warned that "**he would take action** if people keep talking about him."

The KACH record further noted that Card was "**endorsing HI** [homicidal ideation]." Under "Harm to Others/Violent Behavior," the chart recorded, "yes." The record stated that "due to safety concerns regarding his active AH [auditory hallucinations], paranoia, and statement that, '**I don't know what I might do if people keep on me about the voices**,'" Card "is being recommended for higher level of care to be further assessed and evaluated at this time."

KACH then transferred Card to Four Winds Hospital, a private psychiatric hospital in Katonah, New York. The "Reason for Transfer" indicates that the Card is "Endorsing HI [homicidal ideation]." In connection with the transfer, the physician certified that Card required transfer by ambulance because of his "psychosis" and his risk of "harm to others." The physician indicated that Card was a "danger to self/others" and that there may be a "need, or possible need, for restraints."

3. Failure To File SAFE Act Report

In response to the mass shooting at the Sandy Hook Elementary School in Newtown, Connecticut in 2014, New York passed the Secure Ammunition and Firearms Enforcement Act (SAFE Act). *See* NY Mental Hygiene Law § 9.46. NY's SAFE Act provides:

> when a mental health professional currently providing treatment services to a person determines, in the exercise of reasonable professional judgment, that such person is likely to engage in conduct that would result in serious harm to self or others, he or she shall be required to report, as soon as practicable, to the director of community services, or the director's designee, who shall report to the division of criminal justice services whenever he or she agrees that the person is likely to engage in such conduct.

As indicated, when a patient is assessed as "likely to engage in conduct that would result in serious harm to self or others," SAFE Act reporting is mandatory. While Card was at Four Winds, medical providers at Four Winds spoke with KACH about the need to report Card under New York's SAFE Act. KACH represented to Four Winds that it *had already filed a SAFE Act report*; however, KACH later admitted that it did not do so.

Based upon KACH's own records and the admissions of KACH providers, Card met the standard for mandatory SAFE Act reporting.

- KACH placed Card in one-on-one supervision throughout his stay.
- Card continued to express paranoid delusions while at KACH.
- Card told his providers, "I am afraid of what I may do if people still keep bothering me about the so called voices that I am hearing being homosexual and a pedophile."
- Card stated "he would take action if people keep talking about him."
- Card endorsed homicidal ideation, meaning he was thinking about killing others.
- Card's provider explicitly determined that he presented a danger to himself or others and may require restraints during transport.
- Card's providers explicitly determined that Card was not safe to continue accessing military weapons and his personal firearms should be removed.
- Card's KACH providers represented to Four Winds that it *had* completed SAFE Act reporting and only later admitted that it had not done so because of an erroneous interpretation of reporting requirements.

4. July 16 – August 3, 2023: Admission to Four Winds Hospital

Following transfer from KACH, Four Winds admitted Card late on July 16. On admission, Four Winds recorded Card's history of paranoia and delusions. In addition, they noted that Card was not sleeping well and had lost a substantial amount of weight. Card was also suffering from auditory hallucinations. **Card endorsed having a "hit list."** Card's condition was so bad that providers at Four Winds considered placing him in a "locked unit."

While at Four Winds, Card resisted most group therapy and "psychoeducation," continuing instead to blame others for his behaviors. Four Winds administered a wide range of psychological tests which showed that he had inconsistent coping styles which led to an unstable and unpredictable quality to his behavior. They predicted that Card would at times act appropriately, but at others, because of "**poor emotional controls**," would react in a "**volatile and extreme fashion**," and that **"[a]lmost anything can set off a sudden and extreme emotional reaction in Mr. Card and when this happens its impact on his thinking, judgment and behavior will often be dramatic**." Card remained "extremely paranoid"—to the point where his paranoia could "reach delusional proportions at least part of the time." Aspects of his test scores "suggest that he has psychological traits that increase the risk for violence." They warned that "**it is difficult to know when Mr. Card will react in this volatile and extreme fashion.**"

Four Winds warned that psychotropic medications may be of "limited" value. They further warned that Card's personality made him inherently resistant to treatment and, therefore, Card "appears to be a poor candidate for psychological treatment and his prognosis for significant change must be considered to be guarded."

Despite Card's long history of blast exposure, the Army never informed Four Winds of Card's history or the risks that Card's service-related exposure may have caused injury to his brain. Not only did the Army fail to inform Card's doctors about his blast exposure, but the Army itself performed no evaluation or medical workup designed to explore whether there was a physical (and physiological) explanation for Card's abrupt and precipitous mental health decline.

5. Discharge from the Hospital and Return to Maine

On July 25, Four Winds reported to KACH that Card had put in for a 72-hour release. On July 27, Four Winds applied for a court-ordered retention, which was served on Card. A hearing was scheduled for August 2. After Card withdrew his petition for release, however, the hospital dismissed its petition for a hearing. On August 3, after nineteen days at Four Winds, Card was discharged to return home.

Upon learning that Card had been discharged, Reed's wife texted her husband: "I'm super paranoid about this guy in your unit. If anything ever happens the #1 suspect is Robert Card—just always remember that name."

Hodgson picked Card up at Four Winds and drove Card back to Maine. Eight days later, on August 11, Four Winds faxed its discharge summary to KACH. Those records were not uploaded into the

military medical system until August 21. The Army's investigation noted that "[t]he document included relevant and critical information which if it had been provided to the chain of command would have detailed the extent of Mr. Card's mental health issues."

On July 20, a Commander's Critical Incident Report (CCIR) was drafted by Mote. He submitted the CCIR to the Army Reserve Medical Management Center (AR-MMC), which assigned Card's case to Nurse Case Reviewer, Shane Pupo, and created a MEDCHART case for Card. The medical diagnosis listed in MEDCHART was "F329, Major Depressive Disorder, Single Episode, Unspecified." The Army's investigation noted, "[t]he medical records from KACH and Four Winds do not support this medical diagnosis."

Nurse reviewer Pupo emailed unit command with follow-up instructions. Reamer testified that he missed the email and did not see it until after the October 25 shooting.

An Addendum to the KACH emergency department note, dated July 28, states that someone from KACH spoke with Card's "commander" "about discharge planning for this service member and having Army reserve command to include medical regarding discussion of start medical board process and service member's medical disposition going forward. *It was also discussed with Commander about making sure that steps are taken to remove weapons for service member's home to ensure safety"* (emphasis added).

When the Army orders a CDBHE, its responsibilities do not end with the initial referral. Rather, Army policy requires follow up after the CDBHE to implement any plan of care or action required. MEDCOM Policy Memo 22-020 specifies that DA Form 3822 must be used by Behavioral Health Providers to document the results of the CDBHE to commanders, directing that "DA Form 3822 is the only authorized form to use by MTF BHPs when documenting a report of behavioral or mental status."

Here, providers at KACH completed DA Form 3822 and provided it to Reamer following Card's evaluation at its hospital. Card's 3822 specifies that Card "does NOT meet medical retention standards, has reached medical retention determination point, and a Disability Evaluation System referral is indicated." The 3822 lists as its "pertinent findings," the following: "impaired cognition, impaired perception, abnormal behavior and abnormal impulsivity." It states that "during interview and report Mr. Card was positive for auditory hallucinations and paranoia." It lists a diagnosis of "unspecified psychosis not due to a substance or psychological condition."

More specifically, Card's 3822 provides detailed follow-up requirements:

- Follow up with case manager and brigade surgeon.
- Ensure that Card attends all follow-up appointments.
- Increase leader/supervisory support with intent of keeping Card engaged with unit members and other sources of support.

- Consider placement of service member in barracks for increased support and potentially reduced access to weapons.

- Encourage Card to use gun locks and gun safes or temporarily secure personal weapons with MPs, unit arms room, or other trusted source.

- *Restrict access to or disarm all military weapons and ammunition. No range duties*.

- *Ensure that measures be taken to safely remove all firearms and weapons from Card's HOR* [home of record].

In addition to the 3822, KACH providers emailed Reamer and Card "counseling form" (DA 4856). Card's 4856 directed: "You are ordered to comply with any and all requests and directions made by the AR-MMC," explaining that "[s]oldiers are required to comply with all lawful orders and regulations. Failure to comply with orders and regulations may result in UCMJ action and/or adverse administrative action." Reamer testified that Card's 4856 were military "orders." (Reamer Maine Comm. Test. of 4.11.24, at 21:2-3.)

Card's 4856 ordered him to maintain regular contact with his AR-MMC case management team; to report his status to his unit commander at each "battle assembly;" and to notify his unit commander if he was unable to comply.

Card did not comply with any of these orders.

The 4856 further provided that "Unit commanders are responsible for monitoring their soldiers' IMR, individual medical readiness, status and ensuring compliance." However, Card's unit commanders took *no* action to monitor his compliance (or address his non-compliance). (Reamer Maine Comm. Test. of 4.11.24, at 21:4-22:5.)

Asked why he did not seek to monitory Card's compliance, Reamer testified, "due to my email access being down at the time, I did not access until later on." (Reamer Maine Comm. Test. of 4.11.24, at 21:22:24-23:8.) Reamer testified that he did not gain access to his email or see the 4856 until after the shooting. (Reamer Maine Comm. Test. of 4.11.24, at 23:10-19.) However, Reamer admitted that he *received* the email, but merely "did not see it" until after the shooting. (Reamer Maine Comm. Test. of 4.11.24, at 23:15-19.)

The 4856 was issued on July 20 and was supposed to be returned no later than August 17. It was not returned. (Reamer Maine Comm. Test. of 4.11.24, at 54:24-55:3.) Reamer never signed the 4856, and Card's AR-MCC nurse account manager, Shane Pupo, never contacted Reamer to determine why he had not signed it. (Reamer Maine Comm. Test. of 4.11.24, at 25:13-17.)

Despite telling medical providers at Four Winds and KACH that he would ensure that Card's personal firearms were removed and safely secured, Reamer took *no* action to do so or to verify that anyone else did. Rather, Reamer left it to Hodgson to deal with this issue, despite elsewhere questioning Hodgson's reliability and knowing that Hodgson was under bail conditions that prohibited him from possessing firearms. (Reamer Maine Comm. Test. of 4.11.24, at 111:7-9.)

Reamer believed that Hodgson, in turn, was going to enlist Card's family to assist, despite Reamer knowing that the family had previously solicited that Army's help with Card, precisely because they were afraid of what would happened if they tried to confront him.

Reamer and Mote were not the only ones in Army command who failed to act to protect the community from Card. Lieutenant Colonel Ryan Vazquez, who assumed the position of Battalion Commander in late June 2023, testified that he discussed Card's hospitalization and diagnosis with Reamer as early as July 16, 2023. (Vazquez Maine Comm. Test. of 6/17/24, at 63-65.) Vazquez and Reamer spoke about Card several more times. Yet there is no evidence that Vazquez or others within the chain of command provided any meaningful input or supervision concerning the management of Card's ongoing mental illness, risk to himself or others, or separation from his firearms.

6. No "Line of Duty" Investigation or Medical Evaluation Board Review Performed

The Army's investigation found that Card was discharged from Four Winds and released from his "orders" under "questionable circumstances." (Army Rep. at 3.) The investigation concluded that KACH and the Army should have kept Card on active-duty orders pending competition of a Line of Duty Investigation and review by the Medical Evaluation Board. The 3822 stated that Card "does NOT meet medical retention standards, has reached medical retention determination point, and a Disability Evaluation System referral is indicated." No Line of Duty Investigation was completed. No referral to the Disability Evaluation System was performed.

Card's orders for his annual West Point training ran from July 15-28. Card was then placed on a medical Active-Duty Operational Support-Reserve Component (ADOS-RC) duty order for six additional days to facilitate his stay in Four Winds. (Army Rep. at 2.) Card's orders extended until he arrived back at his "home of record" (HOR) in Maine, following his August 3 discharge from Four Winds.

The requirements and procedures for line of duty investigations are outlined in Army Regulation 600-8-4. A reserve soldier is entitled to "hospital benefits, pensions and other compensation," like that for a soldier of the regular army, for injury illness or disease incurred in the line of duty. A prior illness can be aggravated in the line of duty. In making this "line of duty" determination, "mental soundness can only be determined by a behavioral health expert." A "line of duty" investigation is performed to "determine duty status at the time of incident and whether misconduct was involved and, if so, to what degree." In addition, a line of duty investigation may be required to determine if a condition existed prior to service and, if so, to determine service aggravation. A line of duty investigation requires the Army to collect and establish the evidence "as conclusively and accurately as possible."

Separate and apart from "line of duty" investigations, DoD Instruction 1332.18 outlines the Disability Evaluation System. The policy is "the mechanism for determining fitness for duty because of a disability, and whether a Service member . . . found unfit for duty due to disability will be separated or retired." 1.2.a. The policy provides that disability evaluations will be

"consistently applied" to all service members, including both Active Component and Reserve Component and service members on active duty and non-active-duty status. 1.2.d.

The Medical Evaluation Board is responsible for reviewing "all available medical evidence, including examinations completed as part of DES processing, and document whether the Service member has medical conditions that either singularly, collectively, or through combined effect, may prevent them from reasonably performing the duties of their office, grade, rank, or rating." 3.2.a(1). If the Medical Board determines that a service member has medical conditions that "prevent them from reasonably performing the duties of their office," the Board must refer them to the Physical Evaluation Board. 3.2.d.

As the Army's investigation found, the Army violated its own policies and the recommendations in Card's 3822 by failing to complete a Line of Duty Investigation and Medical Evaluation Board review. As Card required ongoing medical care for his unresolved mental illness, Card's orders should have been extended pending completion of these mandatory administrative processes, determination of whether his mental status changes related to his military service, and a determination of whether his condition was medically treatable, or not, and therefore whether Card was fit to continue his service. Such an investigation required the Army to evaluate the root causes of Card's sudden and precipitous decline in mental health, including whether his condition was the result of the blast exposure he experienced during his years participating in live fire and grenade training. Card should not have been released from his orders until this investigation was complete and the root causes of his mental health decline were identified.

7. Card's Firearms Were Not Secured

Card's 3822 "recommended that measures be taken to safely remove all firearms and weapons from" Card's home. On July 27, 2023, KACH provider, Captain Matthew Dickison called Reamer. Dickison reviewed the findings on the DA 3822 and the need for discharge planning for Card. In the notes he made after speaking with Reamer, Dickison wrote that he told Reamer that he needed to "include medical regarding discussion to start medical board process and service members [sic] medical disposition going forward." He also wrote, "**It was also discussed with Commander [Reamer] about making sure that steps are taken to remove weapons from service members home to ensure safety.**" Dickison wrote, "Commander did not have any questions or concerns after our conversation." (Dickison, Maine Comm. Test. of July 11, 2024, at 34:8-22; 53-54; 61-62.)

In the discharge instructions, providers at Four Winds echoed the recommendation for removal of Card's personal weapons. Four Winds notes that it had coordinated with KACH to "address access to Firearms," and "**spoke with [Card's] commander after admission and related concerns about [Card's] access to personal firearms at home**."

Reamer stated that Hodgson would work with Card's family to remove his weapons but acknowledged that this plan would provide little assurance that Card would be separated from his firearms. Even if the firearms were initially removed, there would be nothing to prevent Card from taking his weapons back from his own family at any time. (Reamer Maine Comm. Test. of 4.11.23, at 42:24-43:15.) Reamer acknowledged that relying upon Hodgson to supervise the removal of Card's firearms departed from Army chain of command, as Card outranked Hodgson. (Reamer

Maine Comm. Test. Of 4.11.23, at 47:16-49:10.) Moreover, Reamer knew that Hodgson could not personally supervise the project, as Hodgson was legally prohibited from possessing firearms due to bail conditions for a domestic violence charge.

According to a timeline prepared by the Army, as of July 25, while Card remained hospitalized in New York, "Sergeant Card **agreed to have his weapons removed**." Thus, given that Card consented at that time, there was nothing preventing the Army from taking possession of the firearms and securing them in a location, such as the Armory in Saco, Maine, that would prevent Card from accessing them. *See* AR-190-11, Sections 4-5 (securing personal weapons).

Reamer never followed up to verify whether Card's personal firearms had been successfully removed. (Reamer Maine Comm. Test. of 4.11.24, at 49:11-13.) Reamer had the contact information of Card's brother, but Reamer never contacted him to see if he had secured Card's firearms. (Reamer Maine Comm. Test. of 4.11.24, at 51:23-25.) The evidence suggests that Card remained in possession of a least some of his weapons throughout.

In short, the Army represented that it would take action to ensure the removal of Card's personal firearms. It undertook that responsibility in connection with the conditions under which Card was discharged from his hospitalization following the Army's own CDBHE. There were several avenues through which the Army could have reasonably carried out this undertaking.

First, as of July 25, according to the Army's own timeline, Card had consented to surrender his personal firearms. It was just a matter of coordinating a reasonable approach to taking possession of his weapons and keeping them in a secure location.

Second, even if Card had not consented, there were legal processes available to the Army to ensure that Card did not have access to firearms while he remained mentally unfit based upon his ongoing paranoia, delusions, homicidal ideations, "hit list," and lack of impulse control.

New York's Extreme Risk Protection Order (ERPO), NY CPLR 6340, et seq., (also known as NY's Red Flag Law), provided a mechanism for KACH medical providers to ensure that its mentally ill patient would be separated from his firearms, as they had explicitly recommended in Card's 3822. Had KACH followed this process, it would have led to a court order prohibiting Card from purchasing or possessing firearms that would have resulted in Card being flagged as a "prohibited person" in the FBI database—information that would have been later available to gun dealers and law enforcement in the State of Maine. Had KACH obtained a ERPO, Maine law enforcement would have been able to use that order to remove Card's personal firearms.

Alternatively, the Army could have ensured the removal of his Card's firearms by notifying local law enforcement, providing the pertinent history and requesting that the firearms be removed under Maine's Yellow Flag Law. Had the Army done this, under the circumstances here, it is highly likely that Maine Court, presented with the history and recommendations of Card's treating doctors, would have entered an order prohibiting Card from purchasing or possessing firearms. By law, that order would have been forwarded to the Maine Department of Public Safety and the FBI National Instant Criminal Background Check System (NICS) for entry into the national database of persons prohibited from purchasing or possessing firearms.

Instead, despite the Army's history of past communications with the SCSO regarding Card, the Army did not notify the SCSO (or any other Maine law enforcement unit) of Card's recent psychiatric hospitalization, the results of his mental health evaluation, or the directives of his treating doctors that his firearms be removed. Despite having no basis to believe that it had successfully fulfilled its promise to remove Card's personal firearms, the Army did not contact any local Maine law enforcement to solicit their help in executing Maine's Yellow Flag Law. As SCSO Aaron Skolfield later wrote, "Reamer failed to notify any other agency, including the SCSO, of the situation with Mr. Card upon his discharge from Four Winds and his recommended weapons restrictions."

E. September 2023: More Neglected Warning Signs

Following discharge, KACH providers called and left voice messages for Card on August 7, 8, 15, 21, 23, 29, and 30. None of those calls were returned. Card did have one conversation with a nurse from KACH on August 11, 2023. During that conversation, he reported he "was fine" but that *he was not taking his medication and would not go for follow-up treatment.* A nursing note from September 21 states that a call was placed to Card to follow up and a voicemail message was left stating that "case will be closed." There was no call back and the KACH chart states "case closed due to noncompliance with communication." The KACH nurses did not report Card's lack of compliance or lack of follow up to his unit command.

Almost immediately after his discharge from Four Winds, Card foreshadowed his lack of mental improvement and plans for future violence by attempting to purchase a silencer at Coastal Defense Firearms, located at 179 High Street, Auburn. To complete the purchase, Card was required to complete ATF Form 4473. One of the questions on the form asks: "Have you ever been adjudicated as a mental defective OR have you ever been committed to a mental institution?" (See Instructions for Question 11.f) The instructions for this question define "committed to a mental institution" consistent with the Federal regulation 27 CFR 478.11. Card answered this question, "Yes," indicating that Card himself believed that he had been "committed" to a mental institution. Because this admission made Card a person prohibited from purchasing firearms under Federal law, the store denied the sale.

1. September 13, 2023: Hodgson Informs Mote That Card Boasted He Could "Take Out" 100 People and Was Going To "Shoot Up" the Drill Center in Saco and Other Places

At 2:30 AM on September 13, Hodgson contacted Mote to tell him that he and Card were returning from a trip to a casino when Card complained that he could hear people calling him a pedophile again. According to the Army investigation, "SFC Card told [Hodgson] that '**he could take out 100 people with this expensive scope**' he had just bought followed by a list of places that he could 'shoot up.'" Hodgson reported that Card had threatened to **"shoot up" the drill center in Saco** and other places. Hodgson told Card to "knock it off" because Card "was going to get into trouble talking about shooting up places and people," at which point Card punched Hodgson and exited the vehicle.

2. September 15, 2023: Hodgson Informs Mote He Was Concerned Card Was "Going to Snap And Do a Mass Shooting"

Two days later, in the early morning hours of September 15, Hodgson sent Mote a text message:

> Today 02:04
>
> You up i have something to report.
>
> Change the passcode to the unit gate and be armed if sfc card does arrive. Please. I believe he's messed up in the head. And threaten the unit other and other places. I love to death but i do not know how to help him and he refuses to get help or to continue help. I'm afraid he's going to fuccck 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 of his weapons. I'm not there I'm at my own place.
>
> ***I believe he's going to snap and do a mass shooting.*** (emphasis added)

Mote testified that "based upon the information I had and everything that had come before," he found Hodgson's account to be credible. (Mote Maine Comm. Test. of 3.7.24, at 194:9-13 ("Based on the information I had and everything that had come before"). As in July, it "caused the hairs on the back of his head to go up." (Mote Maine Comm. Test. of 3.7.24, at 198:2-3l; *id.* at 198:18-22 ("**[M]y belief was that this was a credible threat** and that he was not only capable of carrying out this threat, that he conveyed it to Hodgson and it's in line with everything else that had happened since July.")

Mote spoke with Reamer. Reamer asked him to request a "check well-being" on Card. (Mote Maine Comm. Test. of 3.7.24, at 197:1-4.) Mote also contacted Tlumac, forwarded Tlumac the text message, and explained to Tlumac that "I believe that we need to take this as a **critical threat**." (Mote Maine Comm. Test. of 3.7.24, at 196:14-21.) Mote said that Tlumac "agreed." (*Id.*) Tlumac testified that Mote was concerned that Card was "off his rocker." (Tlumac Maine Comm. Test. of 3.7.24, at 89:19-90:9.)

Despite this "critical threat" of a mass shooting, Reamer "did not contact either CID or the Insider Threat Hub because he 'did not think of it at the time.'" Moreover, Card's Army command failed to report Card's threat through a "serious incident report" (SIR) pursuant to AR 190-45. The Army investigation concluded that a SIR should have been filed.

Card's threat to shoot up the unit and commit a mass shooting required that he be sent for an emergency CDBHE. OTSG MEDCOM Policy Memo 22-020 and DoD Instruction 6490.04

specify that a "Commander or supervisor **will** refer a SM [service member] for an emergency Behavioral Health Evaluation (BHE) **as soon as is feasible** whenever"

> (1) A SM, by actions or words, such as actual, attempted, or threatened violence expresses intent or is likely to cause serious injury to him or herself or others.
>
> (2) When the facts and circumstances indicate that the SM's intent to cause such injury is likely.
>
> (3) When the Commanding officer believes that the SM may be suffering from a severe mental health disorder.

(Emphasis added). Specifically, with respect to Army Reserve members, MEDCOM Policy Memo 22-020 provides:

> The CDBHE is an order. The Commander notifies the SM of the time, location, and name of the BHP for the execution of the CDBHE. **If in a U.S. Army Reserve Component, the SM will be placed on orders by his/her unit for the purpose of moving to and from the evaluation and completing the evaluation.** The U.S. Army Reserve Commanders will coordinate the purpose of the evaluation, appointment time, and mechanism for feedback with the nearest available AD MTF or BH provider. To ensure eligibility for treatment at the facility, Reserve SMs should coordinate with the patient Administration Office prior to presenting at the BH clinic.

Mote testified that Card's new threats were consistent with what caused Mote and Reamer to issue the CDBHE in July. (Mote Maine Comm. Test. of 3.7.24, at 194:14-18.) The new threats, received in September, like Card's behavior in July, caused "the hairs on the back of [Mote's] neck to go up." (Mote Maine Comm. Test. of 3.7.24, at 194:19-24.) Mote believed that Card continued to suffer from mental illness. (*Id.* at 194:25-195:3.) He believed that the issues that had caused him to order the CDBHE in July were continuing. (*Id.* at 195:4-8.) He believed that Card continued to be a threat to himself and others. (*Id.* at 214:4-6.) Nevertheless, despite seeking a CDBHE in July, and these more dire threats in September, Reamer testified that he did not seek to have Card evaluated "[b]ecause I trusted that the law enforcement, based on the information they got, that they would take it and run with whatever policy and however they wanted to handle it." (Reamer Maine Comm. Test. of 4.11.24, at 79:2-14.)

Mote spoke with Corey Bagley, a detective at the Ellsworth Police Department, who, in turn, contacted the SCSO. Bagley spoke with SCSO Deputy Skolfield and told him that the Army was requesting that the SCSO perform a "wellbeing check" on Card. Bagley provided Skolfield with a summary of the history and circumstances involving Card and forwarded Skolfield by email a letter prepared by Mote, which attached Hodgson's text message. Mote's letter reads:

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 this 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 make 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 the 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.

Based upon what he knew about Card and his 24 years of experience and training in law enforcement, **Mote later testified that he believed that there was probable cause to take Card into protective custody and seek removal of his weapons under Maine's Yellow Flag law**. (Mote Maine Comm. Test. of 3.7.24, at 195:15-22.) In fact, Mote testified that his letter was "**basically … a probable cause statement**"—"that's why this is so lengthy." (*Id.* at 195:24-196:6.)

Mote, however, never spoke directly to *anyone* at the SCSO or told anyone, at the time, that he was requesting SCSO to exercise Maine's Yellow Flag law. He never told anyone that his letter was intended to serve as a basis for probable cause to exercise the Yellow Flag law. Indeed, when Mote spoke with Reamer following receipt of the text from Hodgson, there was no discussion of the Yellow Flag law. (Mote Maine Comm. Test. of 3.7.24, at 199:4-7.) After the shooting, Mote testified that he was "frustrated" that a yellow flag had not been executed on Card, but he acknowledged that he never asked the SCSO or anyone else to do that. (*Id.* at 219:24-220:11.)

Not only did Mote's communication fail to request execution of Maine's Yellow Flag Law, but it omitted critical facts. First, it omitted the fact that the Army had revoked Card's access to military weapons because it determined that he was a safety risk. (Mote Maine Comm. Test. of 3.7.24, at 205:12-16.) Mote agreed that this would have been important information to provide the SCSO, but he did not provide it because "it did not come up - - when this threat was levied." (*Id.* at 206:7-12.)

Perhaps more significant, Mote's communication omitted the fact that Card's doctors at two hospitals that had evaluated and treated his mental illness had explicitly conditioned his discharge on the requirement that his personal firearms be removed. Mote's communication failed to mention that the Army had promised to ensure that Card not have access to firearms.

Reamer spoke with Card on September 15. According to Reamer, Card was angry about the events that had occurred over the summer. Card stated that he still wanted to punch Reed. Card advised Reamer that he would not be attending battle assembly the following day.

Despite Card's 3822 specifying that his unit commander was supposed to "increase leader/supervisory support with intent of keeping Mr. Card engaged with unit members and other sources of support," Reamer did not advise Card that he needed to attend battle assembly. Reamer did not ask Card about the threats reported by Hodgson, including his threat to shoot up the base or commit a mass shooting. Reamer did not ask Card whether he had been attending any medical appointments, taking his medications, or whether he still had access to his firearms. When asked why he did not seek any of this information from Card, Reamer testified that it was "[j]ust the way that the conversation led." (Reamer Maine Comm. Test. of 4.11.24, at 70:4-71:15.)

3. September 16, 2023: Reamer Downplayed the Risks Posed by Card When Speaking to Saco Police Officers and Failed to Provide Them with Critical Information

The following morning, September 16, Card did not attend battle assembly, but two Saco Police Officers, worried that Card might show and carry out his threats, went to the site and spoke with Reamer. Reamer downplayed the risks posed by Card and cast doubt on Hodgson's warnings, noting that Hodgson was unable to "really give any specifics." Reamer emphasized that Hodgson sent the text message at "two something in the morning … so, was he drunk?"

Despite Mote's testimony that he found Hodgson's concerns credible, Reamer told the Saco police that Hodgson was not "the most credible of … our soldiers." Reamer observed that Hodgson reported that Card "would shoot places, but never specifically mentioned [the Army Reserve Center], never specifically mentioned any [place] specifically." However, that was incorrect, as Hodgson has specifically informed Mote that Card had threated to shoot up the Army drill center.

In his testimony before the Commission, Reamer denied that he had "downplayed" the information he had received about Card during his conversation with the Saco Police. (Reamer Maine Comm. Test. of 4.11.24, at 74:17 ("No I don't think I downplayed.").) Asked why he did not show Hodgson's texts to the Saco Police, Reamer stated that "it did not occur" to him to do so. (*Id.* at 76:10-12.) Reamer stated that if Card showed up, he would ask Reed to leave the unit, because Card "specifically mentioned … that he wanted to punch Reed," (*Id*. at 76:18-25), but Reamer never considered asking the Saco Police to charge Card with criminal threatening for his threat against Reed or his threat to shoot up the unit, (*Id.* at 77:8-78:7.) Reamer did not ask the Saco Police or the SCSO to bring Card for a mental health evaluation, explaining "I would not dictate how police do their job." (*Id.* at 78:17-25.)

4. September 16, 2023: Reamer Downplayed the Risks Posed by Card When Speaking to Deputy Skolfield and Failed to Provide Him with Critical Information

That morning, Skolfield went to Card's trailer to attempt to locate him. Skolfield spoke with Mote. Mote informed him that the Army command staff was in the process of encouraging Card to retire from the military on the condition that he obtain mental health treatment. Notwithstanding Mote's testimony that he found Hodgson's warnings credible, Mote told Skolfield that Hodgson was being an "alarmist." Not knowing what to make of Mote's apparent attempt to minimize the risks, Skolfield stated that he wanted to speak with someone higher up in the command. Mote provided Skolfield with Reamer's phone number. (Mote Maine Comm. Test. of 3.7.24, at 209:15-18.)

After speaking with Skolfield, Mote called Reamer. During that phone call, Mote and Reamer discussed that they did not know if alerting the Saco police was the right thing to do because "it blew this thing way up." (Mote Maine Comm. Test. of 3.7.24, at 210:21-24.)

At 10:46 AM, Reamer telephoned Skolfield, who was still parked in view of Card's driveway. Skolfield recorded his conversation using his cruiser's surveillance camera. Skolfield informed Reamer that, although he did not want to be an alarmist, he was very concerned about reports that Card would initiate a mass shooting, adding that he understood that Card had been experiencing hallucinations, that he had been "institutionalized" for a couple of weeks over the summer, and that his mental state was not showing signs of improvement. Skolfield asked Reamer, "All of his weapons from the National Guard had been accounted for, right? So, he doesn't have anything at the house?"

Reamer responded as follows:

> so in terms of all the weapons, this is kinda how it went down as far as I know. Um, there was no real court order to take his weapons or anything like that, so what was required was when he went to the institution, um, over there, they -they - part of the thing is - which I wasn't even a part of, uh, to, mind you, like they didn't keep me in the loop on any of this 'cause of HIPAA. Um, but the family was supposed to, uh, take care of all the weapons and move it. Um, obviously I lived in New Hampshire, so I was unable to obviously verify any of it. Um, so as far as I know, his weapons, I was told, his weapons had been moved, um, out into a family member's, um, place. Um, whether he has access to those at the family members', I don't know. But that's what, um, as far as I know, any weapons he had were supposed to be moved by, um, his friend, um, Hodgson, who kinda started this whole thing. And then, uh, his - his brother, um, Ryan Card, which I have his contact information too.

Reamer did not mention the Army's recommendations about firearms. (Reamer Maine Comm. Test. of 4.11.24, at 82:10-12.) Reamer testified that he did not do so, because "[t]he intention behind this conversation was to answer their questions, and the conversation didn't lead to that." (*Id.* at 82:18-21.)

Reamer stated that he had spoken with Card the prior day:

> Um, he called me after he kinda confirmed he wasn't gonna come up to - after we kinda started this whole thing initially, he called later on. Uh, and stated that, you know, he wasn't gonna come to drill. Um, and I was like, okay that's - that's fine. Uh, he – he sounded angry, um, definitely angry at people but made no specific threats like "I'm gonna come there and shoot if nobody does" -I mean nothin' like that. It was not even, he's just "I'm pissed off at how everything went, no I gotta work," um, because of how everything went down there at West Point. He never said any specific names, he never said anyone specific, he didn't target any specific sites, or anything like that.

Reamer stated that he had just spoken with Vazquez and Tlumac, and "Um, and, we kinda went through hashed it out and as far as they're concerned, they - they said like as long as you can kinda – if you're out there he's - he's there, he can be uncooperative or whatever **but there's no sense in you guys pushing in and- and regard, we just wanted to check wellbeing if you can kinda tell he's there and alive just kind of document it**." "So that - that's what I mean we don't - from our end here we don't - and I'm - I'm a cop myself. Um, **I don't want you guys to push into something um, and - and escalate it past something at the moment."**

Reamer went on to explain that when they tried to fact check the text message received from Hodgson, "he was unable to even give specifics on, during that, so I don't know like what, like, the – the validity of the text message is." He noted that they were taking the text message seriously, but "with a grain of salt as well" because "we know where the source is coming from so it's kind of what we were really looking – the goal of it was. **Was just to kind of make sure he's, you know, where he's at, make sure he's good, alive, um, and then just if we can document it and we can go from there**."

Skolfield has stated that the information and communications received from the Army caused him to believe that the situation was not as serious as he first believed and discouraged him from taking Card into custody for medical evaluation or exercising Maine's Yellow Flag law.

Skolfield noted that the fact that it took the Army more than sixty hours to report the incident involving Hodgson, which occurred early in the morning of September 13, suggested a lack of urgency. Mote's statement described the original incident with Hodgson as having occurred "the night before last," meaning, Skolfield realized as he later wrote, "[i]t actually took the Army Reserve over 60 hours (about 2 and a half days) to relay their concerns."

Skolfield further noted that it took the Army more than twelve hours to even report the alarming text message that it had received from Hodgson on the morning of September 15. As Skolfield later wrote, "[t]his new understanding of the longer amount of time between Hodgson's text message and the communication from Bagley requesting the welfare check further diminished the severity and urgency of the request." Consistent with that, on September 15, Skolfield "remember[ed] telling dispatch that it was not as urgent as it originally sounded when it was given to us, uh when dispatch uh received the information it was reported that it was time sensitive, but once I found out that information was, in my mind's eye, over 12 hours old it didn't meet the same urgency standard as someone in crisis right here and now that needs to be dealt with who's who's uh …..half a day had gone by in my mind's eye at that point so I did communicate that to dispatch….."

As Skolfield later stated, "had Mote been as concerned in September of 2023 as he purported to have been when he testified on March 7th, he would have made his concerns known to the SCSO without delay."

Skolfield also questioned why Mote, if he was so concerned, "did not report Hodgson's concerns himself rather than vicariously through Bagley." Skolfield observed that "A seasoned law enforcement officer such as Mote must know that hearsay is a less than desirable way to

communicate information to other law enforcement officers. Mote should have made the initial complaint and encouraged Hodgson to directly contact Sagadahoc County." Skolfield noted that Mote had the phone number for SCSO Deputy Carleton with whom Mote had dealt directly in May, so "why didn't Mote simply contact Deputy Carleton directly?"

Skolfield stated that if Mote had been truly concerned, "he should have reached out to the Saco Police Department to have charges initiated against Mr. Card for Terrorizing thus triggering an arrest and bail conditions prohibiting possession of firearms."

Mote's downplaying of the situation was what caused Skolfield to "go up the chain of command" to speak directly with Reamer. Skolfield had planned to devote a significant amount of time to dealing with Card, as evidenced by the fact that he had arranged to have another deputy come in on his day off to "cover the road" while Skolfield was planning to be occupied with Card. Skolfield stated that his plans changed after he "spoke with **BOTH** Mote and Reamer, both law enforcement officers, who **CONVINCED** Sgt. Skolfield that the welfare check on Card was **NOT** needed, and he could let him be."

Skolfield emphasized that following his conversation with Reamer, both Mote and Reamer had made statements designed to minimize the threat posed by Card and to cast doubt on the credibility of Hodgson's report: "**both** Mote and Reamer indicated the unreliability of Hodgson's report…. He "had a reputation of being a bit of an alarmist, exaggerating the truth, so I relied on his (Hodgson's) commanding officers to make a judgement there."

Skolfield also noted that the failure of Reamer and Mote to inform him of the determination by the physicians in New York that he be restricted from his personal firearms and that his access to military weapons was removed would have played into his probable-cause analysis: "Knowing that Mr. Card's doctors had recommended that he be restricted from access to firearms would have played a crucial role in the totality of the probable cause analysis. Unfortunately, that piece of information, among others, was not shared with Sgt. Skolfield."

Although Mote testified before the Maine Commission that he intended his written statement to form the basis of probable cause to exercise Maine's Yellow Flag law, Skolfield said this was never communicated to him. Skolfield emphasized that neither Mote nor Reamer asked any member of local law enforcement to use the Yellow Flag law or have Card brought in for further mental health evaluation.

Far from advising Skolfield that there was probable cause to execute Maine's Yellow Flag Law, as Mote apparently believed, Reamer went to lengths to talk Skolfield out of taking any action other than merely "documenting" the attempt to contact Card.

Following September 16, Mote testified that he "reached out" to Card but had no contact with him again. Neither Mote nor anyone else in the unit had contact with Card, despite Mote knowing that "at this point [Card had] alienated Sergent Hodgson as well," which caused Mote to be even more concerned about Card's mental status. (Mote Maine Comm. Test. of 3.7.24, at 214:10-19.) Even though the SCSO never made contact with Card, nobody in Card's unit command contacted the

SCSO again, because, as Mote said, they did not feel the need to tell law enforcement "how to do your job." (*Id.* at 214:23-215:4.)

As in September, Card did not attend battle assembly in October. In a letter, dated October 23, two days before the mass shooting, Reamer wrote Card to inform him that he had accrued twelve unexcused absences within a one-year period. (The limit is nine.) The letter states, "I hope as a result of this letter you will take immediate steps to improve your attendance."

F. Card's Untreated Mental Illness Remained Severe in the Days Leading to the Mass Shooting and his Subsequent Suicide

Following Card's threats in mid-September, his mental illness remained severe, with evidence of ongoing paranoia, delusions, violent ideations and lack of emotional and impulse control.

On October 19, Card accused employees of a company to which he was making a trucking delivery of talking about him. One employee told police that Card "got in his face" and warned, "maybe you will be the ones I snap on." On October 22, Card entered a long, rambling missive on his smartphone, fixated on delusional beliefs that his ex-girlfriend and others in the cornhole league were continuing to slander him. Card wrote "I'm having issues. I've had enough. I'm trained to hurt people."

On October 27, two days after he committed the mass shooting, Army Reservist Robert Card was found dead from a gunshot wound to the head that was ruled a suicide.

III. Conclusion

The United States, through its agencies the Department of Defense, Department of the Army, and Keller Army Community Hospital, and its employees failed to protect and defend the people of Lewiston, Maine, from a solider who displayed warning signs of mental illness and specifically expressed intent to commit mass violence. Despite knowledge of Card's mental illness, his access to personal firearms, violent altercations with Army personnel, development of a "hit list," and threats to commit a mass shooting, the United States and its personnel failed at every opportunity to act to protect members of the community:

- The United States and its personnel failed to intervene in May 2023 when Card's own family members expressed concerns about his erratic behavior and access to firearms;

- The United States and its personnel failed in July/August 2023, to take reasonable steps during and following his discharge from his psychiatric hospitalizations in New York; and,

- The United States and its personnel failed to take reasonable steps in September 2023 when Card made threats to the unit and others, and his own friend expressed concern that he would "snap and do a mass shooting."

Instead, the United States and its personnel acted to protect themselves by restricting Card's access to firearms and firearm drills *on base* and permitting him to skip battle assemblies in September

and October. When the SCSO did respond, the United States and its personnel downplayed their level of concern, withheld critical information and actively *discouraged* the SCSO from acting.

The United States and its personnel owed a duty to safeguard and protect the community, including but not limited to the Claimants. The United States and its personnel breached that duty and were negligent. This negligence includes, but is not limited to, failing to act; acting unreasonably; errors and omissions in carrying out its duties and responsibilities; negligent undertaking; promising to act and thereby encouraging reliance on those promises then failing to act and/or acting unreasonably in carrying out those promises; failing to properly train; failing to properly supervise; failing to properly develop, implement, train on and implement policies, procedures, protocols, laws, regulations and guidelines; failing to properly follow and execute chain-of-command; failing to communicate; and failing to evaluate, diagnose, treat, and develop, coordinate and implement a reasonable plan for medical and mental health care.

As a result of the negligence of the United States and its personnel, Card never received the services and help that he needed. As a result of this negligence, Card was released back into the community without a plan to address the ongoing risks he presented to the community. As a result of this negligence, Card remained in possession of multiple firearms, including the weapons and ammunition he used to carry out the mass shooting. As a result of this negligence Card's severe and untreated mental and/or physical illness, paranoia, lack of impulse control and threats of violence, coupled with his access to assault weapons, culminated, on October 25, 2023, in the worst mass shooting in Maine's history, taking the lives of eighteen people and injuring and forever altering the lives of countless others.

#11—WITNESSES

For the identity of witnesses to the incidents described in this claim and persons with knowledge of relevant facts, please refer to Robert Card's medical records at Keller Army Community Hospital and Four Winds Hospital and the various public investigations conducted on this incident (cited above). Additional witnesses, include but are not limited to the Claimants and victims; the Claimants and victims' families friends, and medical providers; Card's family members and friends; Card's medical providers; the Army Reserves; the Army Inspector General; members of Card's unit; local, state, and federal law enforcement and their agencies; local, state, and federal first responders; medical providers; the Maine Medical Examiner's Office. Please note that the families and victims were denied access to the full records, and to the extent the United States has access to such records, Claimants request equal access. Moreover, these reports and others may also have investigative files associated with them (interviews, evidence, etc.). Those documents will have additional names of witnesses and evidence that would support our client's claims.