

**PUBLIC SAFETY COMMITTEE**  
**OF THE**  
**SUFFOLK COUNTY LEGISLATURE**

A regular meeting of the Public Safety Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on Thursday, February 28, 2013 at 9:30 a.m.

**Members Present:**

Legislator Kate Browning, Chairperson  
Legislator Robert Calarco, Vice-Chair  
Legislator DuWayne Gregory, Member  
Legislator Kara Hahn, Member  
Legislator Tom Muratore, Member  
Legislator William Spencer, Member

**Not Present:**

Legislator Kennedy - Excused

**Also in Attendance:**

Legislator Wayne Horsley, District No. 14  
George Nolan, Counsel to the Legislature  
Renee Ortiz, Chief Deputy Clerk/Suffolk County Legislature  
Josh Slaughter, Aide to Legislator Browning  
Paul Perillie, Aide to Legislator Gregory  
Ali Nazir, Aide to Legislator Kennedy  
Kevin LaValle, Aide to Legislator Muratore  
Lora Gellerstein, Aide to Legislator Spencer  
Debbie Tinnirello, Aide to Legislator Hahn  
Pierre Albert, Intern, Legislator Hahn's Office  
John Ortiz, Budget Review Office  
Tom Vaughn, County Executive Assistant  
Katie Horst, County Executive Assistant  
Dr. Yvonne Milewski, Suffolk County Medical Examiner  
Gerard Frielingsdorf, Sergeant/Chief of Department's Office, SCPD  
Gerard Hardy, Captain/Chief of Departments Office, SCPD  
Mark White, Chief/SCPD Support Services  
David Geer, Lieutenant, SCPD Highway  
Stan Grodski, Deputy Inspector, Highway Patrol, SCPD  
Bill Read, Captain, SC Police Department Pistol Licensing Bureau  
Tracy Pollak, SC Police Department, Principal Research Analyst  
Douglas Death, Stop DWI Program Manager

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Richard Finn, Stop DWI Program Coordinator  
Kevin McEvaddy, AME  
Patrice Dishopolsky, Acting Director, SC Department of Probation  
Laura Ahearn, Parents for Megan's Law  
Daniel DelVolle, SCPOA, Delegate  
Ronald Snyder, Resident of Smithtown  
Carol Swenson, Suffolk County Resident  
Mike Sharkey, Suffolk County Sheriff's Office, Chief of Staff  
Noel Digerolamo, PBA President  
Arty Sanchez, DSPBA  
Jay Egan, SC FRES  
Drew Scott, News 12  
Other Interested Parties

**Minutes Taken By:**

Alison Mahoney, Court Stenographer

**Minutes Transcribed By:**

Kim Castiglione, Legislative Secretary

*(The meeting was called to order at 9:44 a.m.)*

**CHAIRPERSON BROWNING:**

Okay. Good morning. We are ready to start the Public Safety Committee. If everyone could please stand for the Pledge of Allegiance led by Legislator Hahn.

***Salutation***

And if we could stand for a moment of silence for the members of our military and in our country that protect our freedom.

***Moment of Silence Observed***

Thank you. Okay. I have two cards, so we'll take the cards. The first speaker -- I did forget, thank you. Two issues. Legislator Kennedy called me this morning. He had a family emergency so he will not be here this morning, so it's an excused absence. And Commissioner Williams from FRES will not be here either. He has a FEMA meeting. I know he's been very busy even though Hurricane Sandy has been over for quite some time. I know it's been keeping him very busy still. But we do have two cards. The first one is Carol Swenson.

**MS. SWENSON:**

My name is Carol Swenson. I live in Lake Grove. I am asking the Public Safety Committee to conduct an inquiry into why motorists were stranded for 16 hours behind Smith Haven Mall on 347 during the Nemo blizzard. Four firehouses are located within two to three miles of the stranded motorists: Centereach, Stony Brook, Lake Ronkonkoma and Nesconset. A Channel 7 reporter at 11 AM on Saturday, February 9th, the day after the storm, interviewed six stranded motorists who had called 911 the night before. No one rescued them until 16 hours later. Forty-two cars were stranded on 347. Were the firehouses notified by 911? If one firehouse could not respond, were other firehouses asked to respond, as happens in a major fire?

I live in Lake Grove. If I or my husband has a heart attack during a blizzard and call 911, will we be left to die? Route 347 is not a remote, rural road. We have had recent 21 inch plus snowstorms multiple times on Long Island. The blizzard was predicted. The cause of this breakdown needs to be found and corrected so this does not happen again. Luckily no one died, but someone could have.

I am asking for an inquiry and for an improvement in the Suffolk County emergency response. There was a breakdown on every government level for these motorists. Luckily they had gas in their car, some of them, so they had heat for 16 hours; there was no bathroom facility obviously. This is unacceptable. 347, this is a busy road. How did this ever happen? I would appreciate that this committee do an inquiry.

I wrote a letter to Newsday, which was published but changed. It was changed to say that the fire departments made an effort to respond. I have no way of knowing that and I didn't say that in my letter. Were they notified? The only thing I know is on Channel 7 at eleven o'clock the next day Nesconset Fire Department answered, 16 hours later. I think Suffolk County citizens deserve better. Thank you.

**CHAIRPERSON BROWNING:**

Thank you, Mrs. Swenson. Our FRES Commissioner is not here today, like I said, because of the meetings with FEMA today. And I don't know if Chief White would be able to respond to some of her questions. 347 is not a County road, it's a State road, so obviously you would have to reach out to the State and find out what the issues were. So I guess between our Police Department, FRES, someone will reach out to you.

Actually, the second card is Lieutenant David Geer. There's a HOV grant. If you would like to come up and talk about the grant. I believe there's a CN coming.

**LIEUTENANT GEER:**

Yes. Good morning. My name is David Geer. I work with Highway Patrol, Suffolk County Police Department. I'm the administrator of the HOV grant, improving the efficiency of the HOV operations between the terminus end of Riverhead and the 110 corridor. The grant, there's a new Federal overseer and the timeframes have changed a little bit and they're looking for a -- the resolution, which you may have a draft before you, to be presented on the fifth of March. We're asking for a Certificate of Necessity because we need to get the resolution done by March 15th in order to meet the guidelines of the funding, otherwise the funding may not be approved. The grant is completely funded outside. It's State and Federal money. There's no County component, no taxpayer component.

**CHAIRPERSON BROWNING:**

Great. Anybody have any questions? No? So it's basically a timing issue and you need it before the 15th. I don't foresee a problem. I'm sure if there's any other questions we will be reaching out to you.

**LIEUTENANT GEER:**

Thank you for your time.

**CHAIRPERSON BROWNING:**

Okay, thank you.

Okay. With that, Dr. Milewski is here. I'd like to make a motion to take which one, 1049, out of order.

**LEG. MURATORE:**

Second.

**CHAIRPERSON BROWNING:**

Second, Legislator Muratore. All in favor? Opposed? Abstentions? It is out of order.

Resolution *1049-13 - Approving the reappointment Yvonne Isabella Milewski, M.D., as Chief Medical Examiner (Co.Exec.)*. I'll make a motion to approve.

**LEG. MURATORE:**

Second.

**CHAIRPERSON BROWNING:**

Second, Legislator Muratore. Does anyone have any questions for Dr. Milewski?

**LEG. SPENCER:**

Sure.

**CHAIRPERSON BROWNING:**

Okay. Dr. Spencer. Have a seat.

**LEG. SPENCER:**

Good morning, Doctor. Thank you so much for, again, your service in this position. I think you have done a fantastic job. I am supportive of your resolution and I do appreciate you taking the time to reach out to me, too. I do think that that was important to give me a chance to think of any issues or concerns that I may have.

One thing as it relates to some of the issues when you were here last year with regards to staffing and looking at cases that are Medical Examiner cases. I wanted to find out currently with your department has that been stabilized, are you seeing the same number of cases, what is the -- are you not taking cases that you think should be taken at this point?

**DR. MILEWSKI:**

Thank you for the opportunity to answer that question, and thank you for taking me out of order this morning. It was important that I be able to be in New York City to lecture this afternoon.

To answer your question, the workloads in the Medical Examiner's Office within the Medical Department and the Crime Laboratory and the Toxicology Laboratory have steadily increased over the last several years, and show very little sign of dramatically plateauing. Our challenge has always been to maintain baseline staffing, and as positions are vacated, like other departments, we've had some success in maintaining baseline staffing, but sometimes we are carrying vacancies that do impact our ability to handle the caseload.

The question about whether we're not taking cases that we should be, no we're still accepting the workload and we're still doing the caseload and that's it. We've -- we have considered that performance management is on board and we look forward to the opportunity to work with them. Perhaps there are protocols and staffing changes that could be made to assist us with the ongoing caseload, but we really do have to maintain the baseline staffing and we've managed to do fairly well. Everybody who works very hard in the ME's Office knows that when we get the support that we do from you and from County officials for a position that we need, it sometimes does mean that someone else has made a sacrifice, so we balance those things just like every other department.

**LEG. SPENCER:**

Great. Just in follow-up to that particular question, as far as the decision making process, as far as whether or not a case should be taken, that decision is made by yourself as well as your -- would you say Deputy or Assistant, is that reviewed by you? I guess one of the issues that I wanted to make sure would never be the case would be a situation where because of just the rising number of cases and limited resources where it might be a case that you normally would take, but it's borderline and then it's well, this isn't an ME case. So I'm not, you know, I'm just -- if there is a case -- what's the process? If there is a case that's presented and that case is denied, does that go to you as for final approval if it's not appropriate for a Medical Examiner case or are your Deputies able to make that decision and is there a review process? Do you have -- where you ever say, "Well, you know, in retrospect maybe we should have taken that case." How do you handle those issues? What's your quality control?

**DR. MILEWSKI:**

The good news is that so far we have not turned away anything that we should take. You know, we answer our mandate, and our level -- the process is that we're fortunate to have Physician Assistants as Medical Forensic Investigators. They're the frontline to the office, and yes, their decisions are verbally presented to a Deputy Medical Examiner who's on call every day, and then there's an official process in our case management system where those decisions are clicked off or electronically signed off. Any issues or controversies come to my review.

We also have a list of several types of deaths that I just want to be notified on 24/7 whether I'm here, on vacation or whatnot. So we have maintained that stringent level of service and the labs continue to accept all the samples from Probation, methadone, DWI arrests, all the evidentiary material that's submitted to them. We do have -- not to get into details, our DNA section of course is critical to maintain, and we've had some flux in staffing there. But for the most part we're doing a very good job of maintaining our caseload. We are a large user of overtime for this reason, so when the budget comes through and you see that line, it is a much more ample amount because of the vacancies, but it does permit us to keep on top of our caseload.

**LEG. SPENCER:**

Thank you very much. Again, thanks for the job that you've done in the past. I look forward to working with you in the future and I am proud to support your nomination. Thank you.

**DR. MILEWSKI:**

Thank you kindly. I've really very much enjoyed the challenges of the first time. It's been great. Thank you.

**CHAIRPERSON BROWNING:**

Thank you. And any other questions? No? I think you can see there's a very strong support for you. I have to say we do appreciate the work you've been doing. We know that the staffing issues have been a problem and you've definitely done everything that you can possibly do with what you've got, and we appreciate that. And I strongly support your reappointment.

**DR. MILEWSKI:**

Thank you.

**CHAIRPERSON BROWNING:**

So we did have a motion -- Tom, did you have a comment?

**MR. VAUGHN:**

With your permission, Madam Chairwoman. I just wanted to also add our thanks and appreciation to the work that Dr. Milewski has done. We are very proud to be able to put this forward and we appreciate your support on it. Thank you.

**CHAIRPERSON BROWNING:**

Great. I know that there's an issue that you're not going to be able to be here next Tuesday, which is fine. I did reach out to all Legislators to let them know so that they could be here if they needed to be. But I believe we had a motion and a second, correct? All in favor? Opposed? Abstentions? Congratulations. It's been approved. **(VOTE: 6-0-0-1 Not Present: Legislator Kennedy)**. And we'll forward to working with you further.

**DR. MILEWSKI:**

Thank you. Thanks to everybody in the Legislature and thank you to the County Executive, who continues to have faith in me, and even from prior administration. It's been wonderful. Thank you.

**CHAIRPERSON BROWNING:**

Thank you.

**Tabled Resolutions**

So we will go back to the Tabled Resolutions. **1943-12 - Directing the Suffolk County Police Department to offer drug treatment referrals to individuals receiving Narcan (Hahn)**. Legislator Hahn.

**LEG. HAHN:**

Yes. To the Chair, I would like to make a motion to discharge without recommendation.

**LEG. CALARCO:**

Second.

**LEG. HAHN:**

I have made amendments to the bill and I would -- it's going to expire and I'd like to -- the intent of this legislation is we've saved now over 50 individuals using Narcan in our police sector cars, and I very much feel that we now -- those people -- that's 50 individuals who would have otherwise died. And those individuals overdosed and we -- I feel very strongly that we need to reach out to them and try to get them to treatment. We can't mandate treatment, but the intent of this legislation is to reach out to each of the individuals saved after the fact and try to get them into treatment. And so the County Attorney -- I've worked -- I've reached out to the County Attorney because there were some very technical questions on this and she's still looking into it, but I'd like it to get to the floor and we can table it there if those questions aren't answered.

**CHAIRPERSON BROWNING:**

Okay. So we had a motion and a second, Legislator Calarco.

**MS. ORTIZ:**

Yes.

**CHAIRPERSON BROWNING:**

All in favor? Opposed? Abstentions? It is discharged without recommendation.  
**(VOTE: 6-0-0-0-1 Not Present: Legislator Kennedy)**

**LEG. HAHN:**

Thank you.

**CHAIRPERSON BROWNING:**

***2014-12 - Directing the Criminal Justice Coordinating Council to study the effectiveness of the County's Alternative to Incarceration Programs (Hahn).***

**LEG. HAHN:**

Motion to table.

**CHAIRPERSON BROWNING:**

And I will second that. All in favor? Opposed? Abstentions?  
It is tabled. **(VOTE: 6-0-0-1 - Not Present: Legislator Kennedy)**

***2088-12 - Adopting Local Law No. -2013, A Local Law to set minimum safety standards for recreational boats in Suffolk County (Spencer).***

**LEG. SPENCER:**

Motion to table.

**CHAIRPERSON BROWNING:**

Motion to table by Legislator Spencer. I'll second that. All in favor? Opposed? Abstentions? It's tabled. **(VOTE: 6-0-0-1 - Not Present: Legislator Kennedy)**

**Introductory Resolutions**

***1076-13 - Accepting and appropriating an \$180,180 grant from the State of New York Governor's Traffic Safety Committee passed through the STOP-DWI Foundation for the Suffolk County STOP-DWI Program to fund DWI Enforcement related to high visibility road check patrols with 85.56% support (Co. Exec.).*** I'll make a motion to approve.

**LEG. CALARCO:**

Second.

**CHAIRPERSON BROWNING:**

Second, Legislator Calarco. All in favor? Opposed? Abstentions? It's approved.  
*(VOTE: 6-0-0-1 - Not Present: Legislator Kennedy)*

*1077-13 - Accepting and appropriating a grant in the amount of \$133,930 from the New York State Division of Criminal Justice Services for the Suffolk County Police Department's Operation Hot Wheels IX Program with 79.71% support (Co. Exec.). Same motion, same second, same vote. Approved. (VOTE: 6-0-0-1 - Not Present: Legislator Kennedy)*

*1078-13 - Accepting and appropriating Federal funding in the amount of \$16,000 from the United States Department of Justice, U.S. Marshals Service, for the Suffolk County Police Department's participation in the Regional Fugitive Task Force with 78.90% support (Co.Exec.). Same motion, same second, same vote. Approved. (VOTE: 6-0-0-1 - Not Present: Legislator Kennedy)*

*1079-13 - Accepting and appropriating Federal funding in the amount of \$86,012 from the United States Department of Justice, Drug Enforcement Administration, for the Suffolk County Police Department's participation in the DEA Long Island Task Force with 78.90% support (Co.Exec.). Same motion.*

**LEG. SPENCER:**

On the motion, please.

**CHAIRPERSON BROWNING:**

On the motion. Okay, sorry. Do we have a motion? I'll make a motion to approve.

**LEG. CALARCO:**

Second.

**CHAIRPERSON BROWNING:**

Second, Legislator Calarco. On the motion?

**LEG. SPENCER:**

Is there representation from the Police Department; Chief?

**CHAIRPERSON BROWNING:**

Yeah, sure.

**LEG. SPENCER:**

Good morning. How are you?

**CAPTAIN HARDY:**

Good morning, Madam Chair, Ladies and Gentlemen of the committee. Good morning, Legislator Spencer. My name is Captain Gerard Hardy, and I'm currently from the Chief of the Department's Office.

**LEG. SPENCER:**

Thank you. I had a very productive meeting, just to kind of clarify, because these task forces and our participation -- and I see the monies that we're passing here this morning and I wanted to just get some clarification on -- with regards to when we participate in a task force, I know, for instance, one of the reasons we got off of the Gang Task Force on the Federal level was that we send resources and officers and time, and a lot of time what we get back in return doesn't nearly compensate for the hours and the salary that we lose in terms of having these officers participate. In the cases of the monies that we're approving here today, is that also the case? We're accepting

these grants, but the time and participation on these task force, are they something that you feel or that the department feels is beneficial for the resources that we expend.

**CAPTAIN HARDY:**

That's something that I actually can't comment on. These task force that we're speaking about are run through our Detective Division, but I can certainly confer with Chief Madigan in reference to your question and I would be happy to get back to you in reference to that.

**LEG. SPENCER:**

Thank you.

**CAPTAIN HARDY:**

You're very welcome.

**CHAIRPERSON BROWNING:**

Okay. No more questions? Thank you.

**CAPTAIN HARDY:**

Thank you.

**CHAIRPERSON BROWNING:**

So we had a motion and a second. All in favor? Opposed? Abstentions? It's approved.

**(VOTE: 6-0-0-1 - Not Present: Legislator Kennedy)**

***1087-13 - Adopting Local Law No. -2013, A Local Law to deter motorists from leaving the scene of an accident (Browning).*** I'll make a motion to table for public hearing.

**LEG. CALARCO:**

Second.

**CHAIRPERSON BROWNING:**

Second, Legislator Calarco. All in favor? Opposed? Abstentions? It's tabled for public hearing.

**(VOTE: 6-0-0-1 - Not Present: Legislator Kennedy)**

***1101-13 - Appropriating funds in connection with improvements to the County Correctional Facility C-141 - Riverhead (CP 3014) (Co. Exec).*** I'll make a motion to approve and --

**LEG. MURATORE:**

Second.

**LEG. CALARCO:**

Second.

**CHAIRPERSON BROWNING:**

Mike, do you have -- can you tell us what this is? And actually there's another one after that, too.

**CHIEF SHARKEY:**

These are monies that were approved during a Capital Budget Program and they are for the annual expenditures to keep up the Riverhead Correctional Facility. It may sound like a fair amount of money, it's roughly a million and a half dollars that we appropriate annually, however, when you compare that to the cost of constructing the correctional facility it's a well worthwhile investment.

**CHAIRPERSON BROWNING:**

Okay. And Yaphank, is this -- this is renovations to the old part.

**CHIEF SHARKEY:**

Yes, this is renovations to the eight dormitories in the old section of Yaphank.

**CHAIRPERSON BROWNING:**

Okay. Thank you. Actually, you may not want to leave because I know 1121 there might be some questions on that one, because I know it involves the East End, so -- and I think we may have some questions for the Police Department so hang out for a second.

So 1101, appropriating the funds in connection with the improvements to the County Correctional Facility C-141-Riverhead. I believe I made a motion to approve. Do we have a second?

**LEG. CALARCO:**

Second.

**CHAIRPERSON BROWNING:**

Legislator Calarco. All in favor? Opposed? Abstentions? It's approved. *(VOTE: 6-0-0-1 – Not Present: Legislator Kennedy)*

*1102-13 - Appropriating funds in connection with renovations to the original portions of the Yaphank Correctional Facility (CP 3009)(Co.Exec.).* I guess we can do same motion, same second, same vote. Approved. *(VOTE: 6-0-0-1 - Not Present: Legislator Kennedy)*

*1121-13 - Establishing a policy to guard against gun violence (Hahn).*

**LEG. HAHN:**

Motion.

**CHAIRPERSON BROWNING:**

Motion to approve, Legislator Hahn.

**LEG. MURATORE:**

Second.

**CHAIRPERSON BROWNING:**

Second, Legislator Muratore. I would like to kind of ask a couple of questions if you don't mind.

**LEG. HAHN:**

Sure. That's why we're here.

**CHAIRPERSON BROWNING:**

I guess, Chief White, because I know it's going to involve the Police Department on the west end and also on the East End, and I don't know, Kara, if you want to kind of explain what this is about.

**LEG. HAHN:**

Sure, absolutely. Right now the Suffolk County Police Department, so the five west end towns, make 3,000 transports to CPEP annually, about annually. And right now our Police Department, and Captain Bill Read is here as well, our Police Department has the Pistol Licensing Bureau and a pistol license registry, as does our Sheriff's Department, for the East End towns. What this bill aims to do is to connect the dots. Someone is transported involuntarily, which means they are restrained, they are taken into custody, and they are brought to the psychiatric emergency room. That's a red flag, you know, maybe that person shouldn't have a gun. If you check the registry,

you determine they're on the registry, all this does is let's alert the bureaus that there's a red flag here and they should do further investigation.

Other resolved's talk about making sure that there is cooperation between the Sheriffs and the police and the police and the Sheriffs, vice versa, in case you're picking up somebody in Suffolk -- I'm sorry, in the west end towns that live in the East End towns or vice versa, or if a town or a village department does the same. But the bottom line here is that it's -- I just want to make sure that the bureaus that are keeping the registry know that there is a potential issue here and they should do what they do now anyways, which is investigate when a red flag is raised to them about someone who is a licensee.

**CHAIRPERSON BROWNING:**

You know, as far as the Police Department is concerned, one of the things that I'd thought about, and obviously, you know, with the recent events that have happened in Connecticut, is the mental health problem and the fact that I don't believe it's -- the mental health issue is not being addressed properly. You know, the State has been talking about it, but from what I understand they're not putting any money into this -- the SAFE Act on the mental health issue, and I think that's what you're going to have to do if you really want to do something about this.

**LEG. HAHN:**

There's no question that we need additional funds, that funding for mental health in this country -- nationwide, probably worldwide, it's underfunded. We don't have dollars for treatment. We need to work on that, no question. This is a simple connect the dots.

**CHAIRPERSON BROWNING:**

Right, and I think that it's a great idea that we are now looking at that. But one of the questions is because this is only pistol licensing, and one of the things that we all know is that if you have a shotgun you don't have to go for a pistol license, and so would you be addressing that issue? I mean, if you pick somebody up, take them to CPEP, are you now going to be able to see if they have shotguns at home?

**CAPTAIN READ:**

At this time there is no registry for holders of long guns, you know, rifles and shotguns.

**CHAIRPERSON BROWNING:**

Right. So there's still -- so that's my concern, there's still that loophole and, you know, I can't see that any time in the future we're going to see a registration of shotguns. But, you know, and again, there was some discussion about an investigation. Obviously if somebody's getting picked up that is involuntarily going to the CPEP that you will check their pistol license. Now, you also check not just the person by name, but you also check the address?

**CAPTAIN READ:**

Generally speaking if we have the name of the individual, that's sufficient.

**LEG. HAHN:**

This bill requires that the address of the person who was transported is also checked against the registry just in case there's a scenario whereby the son was transported to CPEP, he lives at home with Mom and Dad and Dad has guns in the house. So this will check the address and that red flag will also be brought to the attention of the Bureau if there's, you know, someone with a serious mental illness that lives in the home where there are guns present. Again, they will investigate to determine if it's serious enough and a cause for a suspension.

**CAPTAIN READ:**

Yes, ma'am, that's correct.

**CHAIRPERSON BROWNING:**

And the Sheriff's Department, because I know that on the East End you're the agency that does this, so the Sheriff's Department will be doing this also?

**CHIEF SHARKEY:**

Yeah. We've had discussions with Legislator Hahn, and I had discussions with Commissioner Webber as late as yesterday as far as starting to coordinate, you know, even prior to the legislation passing.

**CHAIRPERSON BROWNING:**

Okay. So like I said, I'm happy to see that we're handling focusing on the mental health problem because that is a serious problem that I don't think it's being properly addressed anywhere yet, and I'd be happy to see if they put more funding in to help all of us to treat people with mental health problems, but then again --

**LEG. HAHN:**

We have -- I think this Legislature this year in our Operating Budget those discussions should come up. We do have --

**CHAIRPERSON BROWNING:**

Uh-huh.

**LEG. HAHN:**

-- out-patient mental health clinics that are underfunded. We need to think about that. This bill doesn't address that. This is laser focused on what it's focused on, which is the individuals that are identified to be a threat to themselves or others, because most individuals with mental health illnesses are not dangerous. But this bill is laser focused on the ones who are.

**CHAIRPERSON BROWNING:**

Okay. Well, thank you and we thank you.

**CAPTAIN READ:**

Thank you.

**CHAIRPERSON BROWNING:**

Oh, question. Legislator Gregory. I'm sorry.

**LEG. GREGORY:**

Thank you, Madam Chair. Now, I know there's been a great big focus on, you know, gun control and restrictions and mental health ever since the Newtown shooting. I just, with the scenario and the specifics of Newtown, would this bill address that? Because in that scenario the weapons were legally obtained by the mother. Apparently the perpetrator has some mental illness and he had gained access to them. So would this bill, if someone is taken to CPEP, and someone has a legal right to have a weapon, would that person's right be taken away from them because their son or someone who is living in that household may or may not have a mental illness?

**CAPTAIN READ:**

Well, sir, as it stands today, any pistol license holder or a member in his household who may suffer mental illness or some type of psychiatric episode would cause us to conduct an investigation to reevaluate the licensee's suitability for a license and for a handgun to be safely located in residents. And by virtue of that we assess all of the residents in the household.

**LEG. GREGORY:**

So you're saying if someone has -- if I own a weapon and I obviously obtained it legally, and my son was taken to CPEP, I can lose my right to maintain my legally obtained gun.

**CAPTAIN READ:**

Yes, sir, in certain circumstances that's correct. To further expound on this, we do require the patient's medical provider to provide us with some kind of a statement regarding their professional judgment on the suitability and safety of a gun being in the hands of the licensee or placed in the household. For example, if a child is suffering some kind of mental illness we would like a mental health provider to tell us that that individual is showing no signs of a danger to himself or others.

**LEG. GREGORY:**

But isn't part of the requirements that the weapon be secured or is that not enough of a barrier to prohibit limiting someone's constitutional rights?

**CAPTAIN READ:**

All licensees are required to safeguard their firearms. The practical factor of the matter is there's not a 100% fail-safe process in securing firearms.

**LEG. GREGORY:**

So what is the process? So, okay, so my son goes to CPEP, there's an investigation or it alerts your office, your Bureau, that there needs to be an investigation. So you contact -- you obviously come to my home to see, I guess, the environment and see if it's secure, I guess, and see who else is in the home potentially. You just mentioned that you check with the mental health -- the doctor, right? And that's the extent of the -- what would -- to what level would you say, "Okay, this is an issue. We need to remove these guns from the home."

**CAPTAIN READ:**

Well, sir, the bottom line is following an investigation if there's an assessment that's allowing a handgun to be located in a household, we would make the determination that we'll suspend that privilege of having a pistol license and owning handguns.

**LEG. GREGORY:**

It's not just simply because someone was taken to CPEP. I mean, it has to be more than that. I mean, people are taken to CPEP for many reasons. I mean, it could be exhaustion, anxiety. It doesn't mean that they have an ongoing mental illness concern. It could be just a temporary situation, where someone else may be, you know, to the guy in the city who's schizophrenic who chopped up his mother. I mean, there are other, you know, there are different levels. At what point do you make that determination -- what's the threshold I guess I'm asking, as to where there should be a level of concern that these weapons need to be removed.

**CAPTAIN READ:**

Well, sir, by virtue of the fact that a person is being taken to CPEP, an involuntary committal, the criteria is that the Police Officer has to have some reason to believe that that individual is a danger to himself or others. You certainly are correct that there are a number of different levels of mental illness or some kind of psychiatric disorder, and we investigate every case, and whatever the circumstances and facts are, we make our determination. We do side, you know, on the error of caution.

**LEG. GREGORY:**

Right, right. No, I understand that. My family was -- my wife's family was very close with one of the victims in Sandy Hook, so this is very close to me. I understand the reaction to this, but I just want to make sure that people's constitutional rights are not infringed upon to the best practicable possibilities, or in the most practicable sense. You know, we have to balance the safety of the

public, but we also have to balance people's constitutional rights. I mean, I believe in the Second Amendment, but I also believe there should be reasonable gun restrictions, but simply because someone may possess or present a mental illness --

**LEG. HAHN:**

Excuse me.

**LEG. GREGORY:**

-- that shouldn't necessarily violate my right to -- my constitutional right to own a weapon.

**LEG. HAHN:**

May I respond to that? Through the Chair?

**LEG. GREGORY:**

Sure.

**LEG. HAHN:**

As I said before, this is not about just anyone with a mental illness. Take away everyone with simple anxiety, everyone with -- this is about someone who has been deemed to be a threat to themselves or others. This is laser focused on the individuals that after Sandy Hook we should be focusing on. Look, that morning, December 14th, was my daughter's birthday. I sat in her classroom that morning, 9:15 AM, read to 20 plus six year olds. We need -- we need to do -- this is not a knee jerk reaction to that, but remembering that, remembering what happened. This is a logical step. We're focusing in on not all -- we're not -- you know, we're focusing in on the ones that have been identified to be a threat to themselves or others.

If it turns out that they were transported involuntarily and there is not a lingering threat, the doctor will write the note and they'll be cleared and they'll have their license. In fact, I expect that will happen -- well, the few times that there's going to be the match, you know, eventually it's going to work out and they're going to get that right back. But in the moments when they're having a psychotic episode and in the days that follow when they're not on their medication they shouldn't have access to weapons.

**LEG. GREGORY:**

No, I appreciate that. And I'm not saying I'm not supportive of the bill, but I do have reservations. As I stated, this is something that's close to me and my family. Let me just backup for a second. When someone applies for their pistol license, is there a mental health evaluation or any type of assessment of someone having mental illness in their family at that point?

**CAPTAIN READ:**

Well, sir, the application -- the application forms themselves does inquire about if there's any history of mental illness. And that further explains why, you know, anxiety, depression. There's questions regarding what medications they may take, you know, such as a prescribed narcotic or antidepressants. We ourselves, the Pistol License Bureau, does not do a mental health assessment. We don't do any testing. We rely upon, you know, the answers that that individual provides and we also have access to a number of databases that provides us with perhaps some reasons to investigate further the statements of the applicant. We also are required by law to make an inquiry to the State Department of Mental Health.

**LEG. GREGORY:**

Okay. So there is initial inquiry or questions that are presented to an applicant. This would just on the back end after a licensee has a weapon there may be present -- there may be some concerns that are presented and you're kind of a follow-up to the initial application in a sense.

**CAPTAIN READ:**

Yes, sir. That would be a fair assessment.

**LEG. GREGORY:**

Okay. All right, thank you.

**CHAIRPERSON BROWNING:**

You know, you started something. When you talk about an investigation, you know, again, two things. Police Officers who have their guns at home and it could be one of their children or a family member of theirs that is being taken to CPEP. Clearly you can't take away the Police Officer's weapons because he needs his gun for his job. So how are you going to handle a Police Officer?

**CAPTAIN READ:**

Well, ma'am, if I can, I would say that Police Officers are exempt from the licensing provisions of the New York State Penal Law. Their authority to possess weapons is by virtue of being a Police Officer, and the Police Commissioner is the determiner of allowing or removing handguns from a, you know, Police Officer.

**CHAIRPERSON BROWNING:**

Okay. You know, I mean, you talk about the investigation because obviously if the individual is taken to the hospital, how long does that investigation -- could that investigation go on? Because are you going to -- is the investigation going to exist during the time that the person's in the hospital and before they're released to decide what you're going to do? You know, it's -- when you say investigation, how long is that investigation and what timeline are you looking at?

**CAPTAIN READ:**

Well, ma'am, every case is different. I would say that with many, many, probably a majority of the CPEP transports, that it's also in conjunction with some other activity, notably involved in an ongoing domestic incident, perhaps having engaged in criminal activity. So there are usually other factors that are associated with an individual who is transported to CPEP. Also drug use, illegal drug use. So depending on the circumstance and the individual there may be a number of things that we have to investigate for suitability to continue to possess the firearm or to allow it in a household where an individual suffers from mental illness.

**CHAIRPERSON BROWNING:**

Okay. There is a law that requires you to secure your gun. If you have a pistol there is a law in place that you're required to secure your gun and keep it out of reach of other people, right?

**CAPTAIN READ:**

I don't think I can say there's a law in place, but by requirements of the pistol licensing officer they must be safeguarded.

**CHAIRPERSON BROWNING:**

Okay. It's just that I know we have guns at home. My husband has his service weapon, but you know, we have shotguns, but we keep trigger locks on them. They're locked up in a case. You know, I just -- again, that's one of my concerns is that when we look at Sandy Hook, it wasn't a pistol that was used. It was -- I believe it was an AR-15 that was used, so you know, again, there's still that hole where, you know, someone could be picked up, taken to CPEP and, you know, there's shotguns at home and they're readily possibly available to that person when they get back home.

**CAPTAIN READ:**

I'll agree that that's somewhat of a loophole.

**CHAIRPERSON BROWNING:**

Right. However, we have to -- I'm sorry. I believe Doc Spencer, you had a question?

**LEG. SPENCER:**

I applaud your efforts on this issue and I can see some of the concerns, and I think what the issues may be is somehow covering every scenario that may occur that sometimes you can't do in legislation, and that makes it difficult. And my concern would be in a situation where you had someone -- well, first I'll speak to supporting Kara with regards to, as a physician, to voluntarily have someone committed. Really there is a very high threshold and that's an extremely small subset of the population, and when that occurs that's one of the only situations where we are able to break a doctor-patient confidentiality, when someone is an eminent threat to themselves or others. So we are talking about extreme circumstances and I do think that we need to have something in place for these very extreme circumstances.

But I had another thought and that was in a situation where you have someone that is potentially, you know, mentally unstable, where they are voluntarily -- involuntarily held against their will, and we've removed a firearm from that family. And if that individual returns to the home where they may still decompensate from time to time and became a threat against someone in that family where they could use a knife or some other object, and then we have now taken away this person's right to have that weapon. If they were harmed I'm just concerned would there be any potential liability there?

**CAPTAIN READ:**

Sir, I think that would have to be evaluated by perhaps our Legal Bureau.

**LEG. SPENCER:**

All right. And, again, I am supportive, but I hear DuWayne's point about someone that has a legal right to have that firearm. I don't know if there's -- I'm sure it's a case by case basis, and when that individual was recompensated back on their medication if that firearm would be returned. But I do think that we have to look very carefully at the legislation to make sure that we define the circumstances and that firearm isn't removed, that there has to be a clear set of standards that have to be in place before it rises to the level to go in and take a licensed firearm away from an individual.

**CHAIRPERSON BROWNING:**

I believe George was going to respond to that.

**MR. NOLAN:**

I was just going to say, Legislator Spencer, I don't think there's any liability problem for the County if we take a license away or deny an application for a license if something happens afterwards. No, there's no liability issue for the County.

**CHAIRPERSON BROWNING:**

Kara?

**LEG. HAHN:**

I'm not -- this proposed legislation does not in any way change the circumstances under which a license can be revoked or suspended. Can you please outline for the committee the reasons that currently exist for revoking or suspending a license?

**CAPTAIN READ:**

There's a number of issues that would cause us to suspend a license. Primarily the majority of circumstances are volatile domestic violence situations, orders of protection. Almost all orders of protection include an order by the judge that firearms and pistol license have to be surrendered and we would suspend it for that. If a licensee is arrested for almost any crime we suspend them

pending our reevaluation investigation. We would have cause to suspend somebody's license if we find out they are a substance abuser, whether, you know, alcohol or illegal drugs. We would suspend a license for failure to comply with the regulations as set forth in the pistol license handbook that every license holder has and has signed for. So there's a variety of reasons why somebody would have their license suspended.

Just to also -- your initial statement there, the proposed legislation is really designed to ensure that my office was notified of a CPEP incident, so the proposed legislation is not going to change what we do in the investigation or how we make our determination, but the legislation ensures that we're notified and we can initiate that investigation.

**LEG. HAHN:**

So already there were five reasons: Arrest, substance abuse, domestic violence, found to be mentally unfit, or they've somehow violated the other rules and regulations set forth in their license agreement. So that exists now. I'm not putting that into place with this bill. That exists now. Okay?

**CHAIRPERSON BROWNING:**

Okay? So I think we're good to go again. So there was a motion to approve and a second. All in favor? Opposed? Abstentions? It's approved. **(VOTE: 6-0-0-1 - Not Present: Legislator Kennedy)**. So thank you, gentlemen.

**CAPTAIN READ:**

Thank you, ma'am.

**CHAIRPERSON BROWNING:**

And we have no more issues on the agenda, no more bills, so I'll make a motion to adjourn. Second, Legislator Calarco. And we're adjourned.

**(\*The meeting was adjourned at 10:34 A.M. \*)**