

# Lewiston-Auburn Area Response Fund



## Draft Protocol Overview

The Lewiston-Auburn Area Response Fund (the Fund) will distribute funds as gifts to victims and survivors of the October 25, 2023, shootings at Just-In-Time Recreation and Schemengee's Bar and Grill in Lewiston, Maine. The funds may be used however the recipients wish.

Decisions about eligibility and distribution are made by the local Steering Committee with intentions of transparency, integrity, compassion, and fairness. This Draft Protocol is the Steering Committee's suggestion of what rules should apply to this Fund and was informed by the experience of numerous similar efforts after mass casualty events. The Steering Committee welcomes feedback as to if these proposed rules are fair and reasonable or if changes should be made.

Please submit all feedback no later than **December 6, 2023**, by emailing [Lewiston@MaineCF.org](mailto:Lewiston@MaineCF.org) or by attending the Town Hall on December 6th at 6:00 p.m. at the Lewiston Middle School Auditorium (75 Central Avenue, Lewiston).

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The Draft Protocol proposes four categories of eligibility:

- Legal heirs of those who were killed as a direct result of the shootings
- Those who were physically injured by gunshot wound in the shooting
- Those who suffered some other type of physical injury during the shooting
- Those who were present at the time of the shooting and suffered psychological trauma

Once the rules are finalized, the Steering Committee will release a Final Protocol. An online application will then be available online around January 5, 2024.

All interested parties should sign up for the Fund's contact list by filling out and submitting the form on [www.MaineCF.org/Lewiston](http://www.MaineCF.org/Lewiston). Emails will be sent regarding:

- When the Final Protocol for the Fund is available
- When the application is available
- When the deadline for submitting an application is approaching

Representatives from the Fund are available to help throughout this process through meetings or phone calls. Email [Lewiston@MaineCF.org](mailto:Lewiston@MaineCF.org) with any questions or to set up a meeting.

## Lewiston-Auburn Response Fund Local Steering Committee

|                         |   |
|-------------------------|---|
| <b>Tom Platz, Chair</b> | Platz Associates  |
| <b>Deborah Anthoine</b> | St. Mary's Health System  |
| <b>Kevin Bohlin</b>     | Maine Association for the Deaf; Maine Educational Center for the Deaf & Hard of Hearing |
| <b>Cara Cookson</b>     | Special Liaison to the Maine Office of the Attorney General                             |
| <b>Marc Frenette</b>    | Trafton, Matzen, Belleau & Frenette, LLP  |
| <b>Meg Greene</b>       | Partner, Brann & Isaacson and Board member, John T. Gorman Foundation                   |
| <b>Laura Lee</b>        | Maine Community Foundation  |
| <b>Neil Kiely</b>       | Androscoggin Bank   |
| <b>Steven Littleson</b> | Central Maine Healthcare  |
| <b>John Ochira</b>      | Maine Community Foundation  |
| <b>Catherine Ryder</b>  | Tri-County Mental Health Services   |
| <b>Joe Samaha</b>       | Father of Victim, 2007 Virginia Tech Shooting   |
| <b>Sitara Sheikh</b>    | Maine Association for the Deaf  |
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## Draft Protocol

November 20, 2023

This is the Draft Protocol. The Final Protocol, which will govern distribution of the Lewiston-Auburn Response Fund (the Fund), will be developed by the Fund Administrators, incorporating relevant and appropriate feedback from the Steering Committee, the survivors and victims, and the general public, including those present at the Town Hall meeting to be held by the Administrators on December 6, 2023.

The money paid by the fund is a gift to which no person has a legal claim or entitlement. All aspects of this Draft Protocol including, without limitation, the classifications of applicants, distribution criteria, application process, and timetable, may be revised and are subject to the full and complete discretion of the Fund Administrator. The level of benefits paid within each category of eligibility is determined by the steering committee.

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The Fund was enhanced through the generosity of businesses, foundations, and individual donors. It will be used to assist the families of the victims who were killed, the victims who were physically injured requiring hospitalization, the victims who were physically injured and treated on an outpatient basis, and the victims who were present at the Just-In-Time Recreation and Schemengee's Bar and Grill during the shooting (the Shooting) on October 25, 2023. The Maine Community Foundation is a 501(c)(3) nonprofit organization (Federal Tax ID #01-0391479).

**ALL APPLICATIONS MUST BE SUBMITTED ONLINE NO LATER THAN January 30, 2024, TO BE ELIGIBLE TO RECEIVE PAYMENT. IF THE VICTIM IS UNDER THE AGE OF 18 OR IS A VULNERABLE ADULT, A PARENT OR GUARDIAN MUST APPLY ON THE VICTIM'S BEHALF.**

The amounts awarded from the Fund will take into consideration variables that include: (1) the balance in the Fund when it is closed for donations on February 20, 2024; (2) the completion of the review of all submitted applications; and (3) the review and approval by the Administrators. The Administrators reserve all rights to determine the validity of all information submitted by applicants.

Neither citizenship nor immigration status will be considered in determining an applicant's eligibility.

## SECTION ONE: ELIGIBILITY

### AREA OF ELIGIBILITY

Individuals in the categories listed below will be deemed to have been "present" and eligible for payment if they were physically present inside or in the parking lot of the Just-In-Time Recreation (as indicated by Figure 1 below) at the time of the shooting, or If they were physically present Inside or In the parking lot of Schemengee's Bar and Grill (as indicated by Figure 2 below) at the time of the shooting.



Figure 1



Figure 2

**CATEGORIES OF ELIGIBLE APPLICANTS (ELIGIBILITY IS LIMITED TO ONE CATEGORY)**

**A. Application for Legal Heirs of Those Killed**

Eligible applicants for deceased victims killed as a result of the Shooting will receive the highest level of payment under the scope of this Draft Protocol. A final payment determination will be made upon receipt of all pertinent data and is subject to all comments above.

**B. Individual Physical Injury Applications for Victims Wounded by Gunfire**

Eligible applicants who were physically present within the area of eligibility designated in figures 1 or 2 above at the time of the Shooting and were physically injured by gunfire, which shall be defined as being hit by bullets or shrapnel, will receive payment under this Draft Protocol.

### C. Individual Physical Injury Applications of Victims Treated on an Out-Patient Basis

Eligible applicants who were physically present within the area of eligibility designated in figures 1 or 2 above at the time of the Shooting, who suffered non-gunshot wound physical injuries as a result of the Shooting, and who received medical treatment no later than Wednesday, November 15 will receive a payment under this Draft Protocol.

### D. Individuals Present at the Site Experiencing Psychological Trauma

Any individuals who were physically present within the area of eligibility designated in figures 1 or 2 above at the time of the Shooting and experienced psychological trauma are eligible to receive payment under this Draft Protocol.

## SECTION TWO: PROCESS AND PROCEDURES

Eligible applicants must file an application in order to receive a payment from the Fund. **ALL APPLICATIONS MUST BE SUBMITTED BY THE DEADLINE OF JANUARY 30, 2024;** however, the Fund Administrators reserve the right in their sole discretion to grant a deadline extension.

When completing the application, applicants will specify the category of the applicant: for deceased victims, for physical injury by gunfire, for other physical injury, or for psychological trauma. In their application, applicants must choose only one distribution category for which they are eligible.

Each eligible applicant should submit only one application per victim. An applicant may submit more than one application only on behalf of separate victims. For example, a person who was present or injured may submit their own application. They may also submit an application on behalf of a minor (if that person is the designated parent or legal guardian of the minor) or on behalf of a family member who was killed (if they are the designated representative).

The process and procedures for consideration of eligible applications will be as follows:

**A.** The Final Protocol to govern the Fund and a link to submit an online application for benefits will be emailed to all known potential applicants who have signed up for the Fund's contact list on the Maine CF website (<https://www.MaineCF.org/Lewiston>). The Final Protocol and information concerning the application process will also be available on the Maine CF website beginning on or about December 12, 2023. Representatives from the Fund Administrators will administer and process the applications. Only one application should be submitted by, or on behalf of, each victim. All applications must be completed and submitted to the Fund Administrators (along with all required supporting documentation detailed in the application or such information curing any deficiencies in information) no later than January 30, 2024. Questions regarding the completion of an application should be sent via email to [Lewiston@MaineCF.org](mailto:Lewiston@MaineCF.org).

B. A public meeting will be conducted by the Fund Administrators on Wednesday, December 6, 2023, at 6:00 p.m. at the Lewiston Middle School Auditorium located at 75 Central Avenue in Lewiston. At the meeting, there will be an explanation of the Draft Protocol and the application submission process, and Fund Administrators will invite input and comments from potential applicants and the general public. Information collected from these group meetings, various communications, and correspondence between the applicants, other interested parties, and the Fund Administrators will be considered in finalizing the Final Protocol.

C. Access to the application online will be available at <https://www.MaineCF.org/Lewiston> around January 5, 2024. Applicants who lack access to the internet are invited to call the applicant assistance number at 207-667-9735 for guidance on alternative filing assistance.

D. In the event that an applicant submits an incomplete or deficient application (e.g., the applicant failed to include required documentation or failed to fully complete the application), a representative from the Fund Administrators' office will send an e-mail notification to the applicant in an effort to resolve any such deficiencies.

E. Shortly after the deadline for submission of all financial contributions and the final review and determination of all eligible applications by the Fund Administrators, payments will be issued. The Fund Administrators will submit final payment determinations to the Steering Committee for approval of transmission of the payments, by check or electronic transfer, to each eligible applicant. Applicants may not rely on the timing of any payment. The Administrators, the Steering Committee, and Maine Community Foundation shall have no liability whatsoever for any damage of any kind arising out of or resulting from the timing of any payment from the Fund.

#### F. Applications for Deceased Victims

1. Applications for deceased victims with a Last Will & Testament: If the deceased victim had a Last Will & Testament, the personal representative legally authorized to administer the Estate must submit the application, along with a copy of the Will and the Fund will issue payment in accordance with the Will.
2. Applications for deceased victims with no Last Will & Testament:
  - a. If a personal representative has been appointed to administer the Estate, such personal representative must submit the application and provide the information set out below.
  - b. If there is no court appointed personal representative and the deceased victim was married at the time of death, the deceased victim's spouse or legal partner will submit the application and provide the information set out below.
  - c. If there is no court appointed personal representative and the deceased victim was not married, one application should be submitted on behalf of all of the deceased victim's heirs and provide the information set out below.

- d. For deceased victims who did not have a Last Will & Testament, the application shall include information pertaining to individuals (e.g. spouse, children, parents, siblings) who may be eligible to receive compensation under the local intestacy law of the jurisdiction where the deceased victim was domiciled.
- e. In circumstances where the deceased was, at the time of their death, engaged to be married, cohabitating with an intimate partner, separated from a spouse, the Fund Administrators may, in their discretion, require a fiancé, intimate partner, or household member, to be included in the class of heirs for purposes of making a distribution from the Fund.
- f. In circumstances where an adult: 1) resided with a minor for a significant period of time; 2) was engaged in consistent care taking of the minor; 3) established a bonded and dependent relationship the minor, which relationship was fostered or supported by another parent of the child and the person and the other parent have understood, acknowledged or accepted that or behaved as though the person is a parent of the minor; and 4) accepted full and permanent responsibilities as a parent of the minor without expectation of financial compensation, the Fund Administrators may, in their discretion, require such adult or a minor to be included in the class of heirs of the deceased for purposes of making a distribution from the Fund.
- g. Each application for a deceased victim who did not have a Last Will & Testament must include a proposed plan of distribution of the funds among the deceased's legal heirs and beneficiaries. The proposed plan will be distributed to all known legal heirs, beneficiaries, fiancé or cohabitating intimate partner, and any others directed by the administrators to be included, in the sole discretion of the administrator, as consistent with the deceased's family structure, each of whom must consent to the proposed distribution.

**G.** If a minor child's application must be submitted and signed by a parent or legal guardian. If an application is required for a vulnerable adult lacking legal capacity, it will require proof of representative capacity, such as a power-of-attorney, guardianship, and appointment of guardian or attorney *ad litem*. Minor beneficiaries will have funds paid to the minor's custodian for deposit into a custodial account pursuant to the Maine Uniform Transfer to Minors Act.

**H.** An application filed for a physical injury applicant must include an authorization to release medical information which confirms: (i) the date of initial treatment, (ii) the date of admission to the hospital if applicable, (iii) the date of discharge from the hospital if applicable, and (iv) the nature of the injury and contemporaneous evidence from the treating professional that the injury was sustained as a result of the Shooting.



I. An application filed for psychological trauma must have the applicant's presence in the designated areas of eligibility at the time of the Shootings corroborated by employment records or by law enforcement records. The Fund Administrators (rather than the applicant) will be responsible for validating this information.

J. Maine Community Foundation, the Fund Administrators, and the Steering Committee will use reasonable efforts to maintain confidentiality of all information submitted by applicants but cannot guarantee confidentiality. Applicants are asked to consider any personal ramifications should any information submitted under this Draft Protocol become publicly available.

K. Applicants in Category A (Legal Heirs of those killed) may request an advance payment of \$20,000 per decedent. Applicants in Category B (injury) who were hospitalized overnight may request an advance payment of \$10,000. All advance payments will be deducted from the final distribution amount for the category in which the applicant is validated.

L. The Fund cannot provide tax advice to those receiving payments from the Fund. The Fund Administrators recommend consulting a tax advisor for any questions regarding tax liability for these payments.

M. When all distributions of payments have been completed, a full examination of the Fund will be conducted according to Agreed Upon Procedures by an independent auditing firm. The results of these Agreed Upon Procedures will be made available to all applicants, donors, and the general public, along with a Final Report from the Fund Administrators.

### SECTION THREE: OUTREACH AND COMMUNICATION

A. The Maine Community Foundation (MCF) or its representatives may conduct outreach to victims of the Shooting by telephone, mail, in person, and other forms of electronic communication to provide them with information on the application process, to answer questions related to the filing of applications, to assist victims in curing deficiencies on applications, and to work to ensure that all eligible persons who wish to submit applications are able to do so before the January 30, 2024, filing deadline. MCF does not guarantee that all who may be eligible will be contacted, nor does it guarantee that all eligible persons who are in contact with MCF will be included in the Final Distribution. It is the responsibility of the applicant to make sure that the application is timely filed and received. Contact information that is held by law enforcement or healthcare professionals is never shared with MCF, and there should be no assumption that anyone who is eligible will be contacted simply because they have shared their contact information with either law enforcement, the Red Cross, or any other service provider. Contact information must be shared with MCF via the Fund-specific online contact form.

B. Once finalized, the Final Protocol and application information will be disseminated to all known victims who have signed up for the online contact form on <https://www.MaineCF.org/Lewiston>. The Fund Administrators will work directly with applicants as requested so that applications are submitted by the January 30, 2024, deadline.

C. Applicants may request to schedule optional meetings face-to-face or by telephone with the Fund Administrators. All applications will be processed during the period between January 5, 2024, and February 25, 2024. All applicants requesting meetings with the Fund Administrators before the application is processed will be afforded such a meeting during the period between December 12, 2023, and January 30, 2024. Meetings will be scheduled at mutually convenient times and locations. To request a meeting, please email a request to [Lewiston@MaineCF.org](mailto:Lewiston@MaineCF.org).

## PROPOSED LEWISTON TIMELINE

- October 25, 2023 – Shooting occurs
- October 31, 2023 (alt 11/2, 11/6)– Announce Fund and Chair of Steering Committee
- November 16, 2023 – Meeting of Steering Committee; approve Draft Protocol
- November 21, 2023 – Publish Draft Protocol and public comment period begins
- December 6, 2023 – Town Hall Meeting and public comment period ends
- December 7, 2023 – Steering Committee meets to approve Final Protocol
- December 12, 2023– Final Protocol published to website for survivors, victims, and interested parties
- January 5, 2024 – Application is available online. Application instructions are disseminated to all known applicants and potential applicants.
- **January 5–January 30, 2024 – Applications completed (with required documentation) and submitted to the Fund Administrators**
- December 12, 2023 – January 30, 2024 – All personal meetings requested with the Fund Administrators completed
- **January 30, 2024 – Deadline for submission of applications**
- February 20, 2023 – Fund closes to donations
- March 7, 2024 – Steering Committee approves Funds Distribution Plan
- March 14, 2023 – Distribution of payments to approved eligible beneficiaries begins on a rolling basis
- Three weeks after the end of the month in which all disbursements are completed – Independent auditing firm conducts examination of Fund according to Agreed Upon Procedures