



**Division of Criminal
Justice Services**

**New York State's Application for Byrne State Crisis Intervention Formula Solicitation –
FFY 2022 & FFY 2023 Program Narrative
December 19, 2022**

This proposal is for the Byrne State Crisis Intervention Formula Solicitation FFY 2022 & FFY 2023 in the amount of \$13,313,053.

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a. **Description of the Issue**

“Guns are involved in most violent deaths (57.4% in 2018) in the United States. Firearms are the method used in half of all U.S. suicides and three-quarters of all U.S. homicides taking approximately 37,600 lives each year - an average of 103 people every day. The high lethality of firearms makes risky situations fatal. For example, firearms are the most lethal means for suicide. Nine times out of ten, a person who attempts suicide with a gun will die by suicide. Guns do not allow for a second chance or a change of mind in a suicide attempt. Ultimately, easy access to guns significantly increases risk of both firearm suicide and homicide. ERPOs create time and space between an at-risk individual and a firearm. A growing body of research suggests that such policies are valuable gun violence prevention tools.”¹

New York became one of now twenty states to have a “red flag law” when on February 25, 2019, then-Governor Andrew Cuomo signed New York’s Extreme Risk Protection Order (ERPO) law establishing extreme risk protection orders as a court-issued order of protection prohibiting a person from purchasing, possessing, or attempting to purchase or possess a firearm, rifle, or shotgun when there is probable cause to believe that person poses a danger to themselves or others. This law was further strengthened by Executive Order 19 (E.O. 19) issued by Governor Kathy Hochul just four days after the mass shooting in Buffalo this past spring. E.O. 19 directs the State Police to apply for an ERPO whenever they have probable cause to believe that an individual is a threat to themselves or others. E.O. 19 was further expanded on July 6, 2022, when Governor Hochul signed Chapter 208 of the Laws of 2022 which requires all law enforcement agencies and district attorneys to file an ERPO when they have acquired credible

¹ Consortium for Risk-Based Firearm Policy. (2020). Extreme Risk Protection Orders: New Recommendations for Policy and Implementation. Available: www.efsgv.org/ERPO2020, p.12.

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information that an individual is likely to engage in conduct that would result in serious harm—either to themselves or others. The law also added to the list of those who can file ERPOs to include health care practitioners who have examined an individual within the last six months and further ensures mental health practitioners' reports on potentially harmful individuals are considered closely when determining whether to issue a firearm license. Chapter 208 also requires the State Police and the Municipal Police Training Council to create and disseminate policies and procedures to identify when an ERPO petition may be warranted.

E.O. 19 and the recent expansion of New York's ERPO law have led to a major increase in ERPOs issued—with substantially more filed during the period of June - August 2022 than in all of 2021. As of October 24, 2022, courts across the State have issued 1,908 temporary and final ERPOs, more than doubling the number of orders issued since the original law became effective on August 25, 2019. Specifically, there were 1,552 total ERPOs issued between August 25, 2019 and June 1, 2022, which surged to 3,460 total ERPOs issued as of October 1, 2022. The average number of ERPOs issued a month increased to 403 from June 2022 through October 2022, compared to just 45 per month from October 2019 through May 2022.

To further support the New York State Police's efforts to obtain ERPOs when individuals pose a danger to themselves or others, Governor Hochul and Attorney General James recently announced \$4.6 million in new funding to the Attorney General for state fiscal year (SFY) 2023 to support State Police efforts to implement the Law. State Police have filed 339 ERPO applications since Governor Hochul signed E.O. 19 in May 2022, more than three times the total number of applications made in 2021, and courts have approved 86.5 percent of those applications. Currently, State Troopers make applications to the court for an ERPO on their own,

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but with the drastic increase in applications, there is a need for consistent legal representation to ensure the process to remove firearms from potentially dangerous individuals works effectively.

The additional \$4.6 million will allow the Attorney General's Office to add dozens of staff positions to represent the State Police and bolster their efforts to obtain these orders and better protect New Yorkers. This kind of legal support is also needed for the other 600 law enforcement agencies in the state and will likely rank high on the list of funding priorities under SCIP.

Strategy/Funding Priorities for FFY 2022 - 2023 Byrne SCIP funds

Based on an analysis of violent crime by firearm and related data and a review of the first three years of implementation of New York's Extreme Risk Protection Order law, New York State *may* utilize the federal fiscal years (FFY) 2022 and 2023 Byrne SCIP funds to support the following priorities to:

- Extreme Risk Protection Order (ERPO) Support, including but not limited to:
 - Building infrastructure to support implementation of ERPOs
 - Increase data collection and analysis to ensure ERPOs are issued equitably and consistently
 - Training and technical assistance for those implementing ERPO programs, policies, and procedures, including but not limited to assistance for eligible ERPO petitioners under state law
 - Training for judiciary and court staff on ERPO proceedings
 - Training for family members on ERPO
 - Training for first responders and other petitioners on ERPO

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- Communication, Education, and Public Awareness, including but not limited to:
 - Outreach to community members, stakeholders, municipal leaders, law enforcement agencies, and those engaging with at-risk individuals to raise public awareness about the value and public safety benefits of ERPO laws and programs, and promote the importance of effective implementation and enforcement, as well as program development and enhancement.
 - Development and distribution of ERPO fact sheets, brochures, webinars, television, or radio engagement (e.g., advertisements, spotlights, etc.), and social media outreach (e.g., YouTube, Facebook, Twitter, etc.) to execute the communication, education, and public awareness strategy.
 - Publication of best practices and model policies regarding ERPO programs for specific petitioner types under state law.
- Behavioral Health Deflection and Diversion to Services for Those at Risk to Themselves or Others, including but not limited to:
 - Veterans' suicide, including collaboration with the state veteran's services agencies
 - Assertive Community Treatment
 - Behavioral threat assessment programs and related training
 - Triage services, mobile crisis units (both co-responder and civilian only), and peer support specialists
 - Technological supports such as smartphone applications to help families and patients navigate mental health and related systems and telehealth initiatives, including technology solutions for telehealth visits outside the hospital

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- Support behavioral health and civil legal responses such as regional crisis call centers, crisis mobile team response, and receiving and stabilization facilities for individuals in crisis
- Specialized training for individuals who serve or are families of individuals who are in crisis
- Support for implementing the 988 dialing code and integration with 911
- Specialized Court-based Programs Such as Drug, Mental Health, and Veterans’ Treatment Courts, including those that Specifically Accept Clients with Firearm Violations, including but not limited to:
 - Gun violence court initiatives that connect clients in crisis with community resources and services
 - Risk and needs threat assessment training for prosecutors, judges, law enforcement, and public defenders where applicable and appropriate under state law and policy
 - Technology, analysis, or information-sharing solutions for ensuring law enforcement, probation, prosecutors, the courts, and public defenders are informed when a prohibited person attempts to purchase a firearm
 - Development and implementation of validated gun violence risk assessment tools and service case management and navigation programs to assess the risks and needs of clients and connect them to critical services to mitigate their risk of gun violence and enhance their access to effective interventions

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- Expanding the capacity of existing drug, mental health, and veterans’ treatment courts to assist clients who are most likely to commit or become victims of gun crimes
- Domestic Violence Protection Order Support/Enhancement
- Enhancement of current domestic violence protection order infrastructure to include potential firearm surrender initiatives
- Law Enforcement-based Programs, Training and Technology, including but not limited to:
 - Funding for law enforcement agencies to safely secure, store, track, and return relinquished guns
 - Gun locks and storage for individuals and businesses
 - Out of the house gun storage programs
 - “Take the keys” initiatives
 - De-escalation training
 - Active shooter training
 - Overtime for officers to attend specialized training
 - Gun buy-back programs
 - Software/technologies to track relinquished guns
 - Community Violence Intervention Programs
 - Group violence intervention
 - Hospital-based Violence
 - Intervention Programs
 - Violence Interrupters

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- Crime Prevention Through Environmental Design
- Youth gun violence prevention programs for youth at risk for gang involvement that connect youth with community resources and mentoring
- Research, Planning and Evaluation, including but not limited to:
 - Conduct a Firearm Violence Landscape Analysis to determine trends, needs and base level data for evaluation
 - Engage with research partner(s) to meet the assessment, evaluation and data collection needs to ensure equitable and consistent implementation of state laws, policies, and programs, including but not limited to ERPO procedures
 - Study effectiveness of the crisis intervention program or ERPO initiative in preventing violence and suicide

Subaward Process and Timeline

Allocation of Byrne SCIP monies in New York State, including the determination of specific grantees, is a shared responsibility of the Executive and Legislative branches of New York State government concluding with the approval of the Crisis Intervention Advisory Board. During annual budget negotiations each spring, the Executive and Legislature agree on an amount of local pass-through funds to be allocated at the Legislature's discretion. The Commissioner of DCJS will engage in a collaborative dialogue with legislative leaders to foster a coordinated funding approach consistent with the SCIP program and budget plans developed in coordination with and the approval of the Crisis Intervention Advisory Board.

The timeline for awarding Byrne SCIP funds will vary. Byrne SCIP funding authorized by the Commissioner of DCJS will be awarded in varying ways using both directed and

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competitive methodologies. DCJS will award grants designed to advance the public policy objectives identified under “Funding Priorities” and approved by the Crisis Intervention Advisory Board.

Description of the Programs to be Funded

New York is in the process of forming its Crisis Intervention Advisory Board. Once the Board has had an opportunity to convene and plans are drafted and approved, a complete description of programs to be funded will be provided.

Current Efforts

The DCJS Office of Public Safety is responsible for the administration of both mandated police and peace officer certified training programs, as well as initiatives developed to enhance the productivity and professionalism of public and private law enforcement and public safety personnel in New York. Additionally, the Office of Public Safety is responsible for the approval and certification of police training courses and security guard instructors and schools.

The New York State Municipal Police Training Council, to which the DCJS Office of Public Safety provides staff support, issues model policies and standards that outline best practices and guidance for law enforcement agencies. Model policies and standards aim to assist agencies with development of their policies and procedures on current and emerging topics in policing and prosecution practice.

On August 24, 2022, DCJS in conjunction with Everytown for Gun Safety, presented an informational webinar for law enforcement entitled *Extreme Risk Protection Orders- Overview for Law Enforcement*. The webinar provided an overview of New York State’s ERPO statute to educate law enforcement officers on the requirement to file ERPO applications as well as

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provide a summary of components of New York State’s ERPO statutes relevant to law enforcement. The webinar can be found at <https://www.youtube.com/watch?v=oMMkeLHTE9c>. More than 800 people registered for the training, which is available to the public, and has been viewed nearly 2,400 times between September and October 2022.

DCJS also collaborated with key stakeholders and the Municipal Police Training Council to develop and disseminate a model policy designed to provide guidance to law enforcement in using ERPOs to prevent firearm access by those at risk of harming themselves or others and for the quick and safe removal of firearms, rifles, or shotguns in those individuals’ possession. The best practices guidance document will be disseminated to law enforcement agencies in December 2022 which addresses the following areas, including but not limited to, when to file an ERPO application, the process to file an application, service of an ERPO, search and removal of prohibited weapons, preparing for and participation during an ERPO hearing, the ERPO renewal process, and the storage, release, and disposition of the respondent’s prohibited weapon(s).

In addition, DCJS has previously partnered with the New York State Office of Mental Health and key stakeholders to develop a standardized curriculum that serves to train recruit level and veteran officers who do not serve on specialized Crisis Intervention Teams. The curriculum provides officers with the necessary training to effectively respond to a mental health call with the goal of improving outcomes by reducing injuries to both the community member and officer, and appropriately redirecting the person in crisis to local resources. It builds on the core skill sets of communication and decision-making while rooted in an understanding of use of force issues and defensive tactics that are essential in de-escalating a situation involving an individual in emotional crisis. It focuses on specific mental health issues, the impact on community, and how law enforcement can safely and effectively respond to an individual who is

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experiencing an emotional crisis in the event a specialized crisis intervention team is unavailable to respond.

New York State has also implemented a state-wide Crisis Intervention Team (CIT) program coordinated by the Institute for Police, Mental Health & Community Collaboration in conjunction with the New York State Office of Mental Health. It's a partnership comprised of a community of law enforcement and mental health and addiction professionals, supported by those who live with mental illness and/or addiction disorders, their families, and other advocates. The goal of the program is to transform crisis response systems to ensure that when police are the first responders they have the knowledge, skills, and support from mental health practitioners to de-escalate situations and divert individuals from the criminal and juvenile justice systems, when possible.

The development of a New York State Crisis Intervention Teams throughout the state is comprised of several components which at a minimum, includes the following:

- A system mapping workshop,
- Crisis Intervention Team (CIT) training for law enforcement,
- A Steering or Advisory Committee,
- Evaluation of the local program, and
- A CIT Train-the-Trainer course.

Although the specialized training component for responders is an integral part of developing a CIT program, the overall CIT program involves ongoing collaboration and partnership between and among law enforcement, the public mental health system, and consumer and advocacy groups.

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Grants funds received under the State Crisis Intervention Program (SCIP) will likely be utilized to enhance these initiatives, as well as new programs as approved by the Crisis Intervention Advisory Board.

b. Project Design and Implementation

The Crisis Intervention Advisory Board (Board) will play an important role in determining the funding strategy for the State Crisis Intervention Program in New York. The Board will both inform and guide state initiatives. It will include representatives from law enforcement, the community, courts, prosecution, behavioral health providers, victim services, and legal counsel. The primary function of the Board will be to fill knowledge gaps and to offer advice that helps the SCIP money achieve its stated goals.

The number of members of the Board has yet to be determined but will likely be approximately ten members. Board members will be appointed by the Commissioner of DCJS for a two-year term. The Board will meet at least once annually or more as needed.

The funding strategy for SCIP funds will be dependent on which programs are identified for funding. DCJS may use a combination of directed and competitive methodologies to allocate local pass-through funds. Allocation of Byrne SCIP monies in New York State, including the determination of specific grantees, is a shared responsibility of the Executive and Legislative branches concluding with the approval of the Board. Once the Board approves subawards, DCJS will request prior approval from the Bureau of Justice Assistance.

c. Capabilities and Competencies

The Division of Criminal Justice Services (DCJS) has a mission to enhance public safety by providing resources and services that inform decision making and improve the quality of the criminal justice system. As a multi-function support agency, DCJS plays a key role in ensuring

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criminal justice partners across the state have the resources they need to effectively combat crime and improve public safety. DCJS maintains the state’s criminal history records and fingerprint files and performs background checks for employment and licensure. The agency also administers the state’s Sex Offender Registry; the Missing Persons Clearinghouse; the state’s DNA Databank in cooperation with the New York State Police Forensic Investigation Center; and provides staff support to independently appointed commissions and councils, including the New York State Commission on Forensic Science, which monitors and accredits the state’s forensic laboratories.

DCJS assists local government and not-for-profit partners in numerous ways, with a focus on the following key areas:

- Crime reduction, with an emphasis on reducing shootings and firearm-related homicides;
- Criminal justice grant administration;
- Criminal justice research and analysis;
- Programs that reduce recidivism;
- Probation Department and Alternative to Incarceration funding and oversight;
- Youth justice funding and coordination;
- Criminal history record management and identification;
- Sex offender registry management;
- Repair and certification of speed enforcement and Breathalyzer equipment;
- Ignition Interlock Program administration and regulation;
- Forensic services; and
- Law enforcement training, accreditation, and support.

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DCJS also collects, analyzes, and publishes criminal and youth justice system data, including incidents of crime, arrests, and dispositions. Data reported by local police departments, sheriffs' offices, probation departments and the state Office of Court Administration is compiled and made available on the DCJS website to provide the public and policy makers with important information about how the criminal justice system is operating in their communities.

d. **Plan for Collecting the Data Required for this Solicitation's Performance Measures (PMT)**

Since BJA's PMT system became operational, DCJS has integrated the required performance measures into each Byrne JAG subrecipient grant contract. DCJS requires each subrecipient to submit PMT data directly into the PMT system and monitors the submission of such data closely. DCJS also conducts ongoing training for subrecipients and assists them in complying with the reporting requirement. This same practice will continue for SCIP subrecipients.

Also, DCJS works closely with the New York State Office of Court Administration in collecting court data for reporting firearms prohibitors to the National Instant Criminal Background Check System (NICS) and is already collecting data from local law enforcement on ERPOs for entry into NICS. DCJS will most likely use a portion of the SCIP funds to perform an evaluation of the effectiveness of the crisis intervention programs or initiatives in preventing violence and suicide and the measures that have been taken to safeguard the constitutional rights of an individual subject to a crisis intervention program or initiative.