

# Promising Approaches for Implementing Extreme Risk Laws:

**A Guide for Practitioners and Policymakers**

May 2023



Center for  
Gun Violence Solutions





# About this Report

## About the Everytown for Gun Safety Support Fund:

Everytown for Gun Safety Support Fund (the “Everytown Support Fund”) is the education, research, and litigation arm of Everytown for Gun Safety, the largest gun violence prevention organization in the country with nearly 10 million supporters. The Everytown Support Fund seeks to improve our understanding of the causes of gun violence and help to reduce it by conducting groundbreaking original research, developing evidence-based policies, communicating this knowledge to the American public, and advancing gun safety and gun violence prevention in communities and the courts. Learn more at [www.everytownsupportfund.org](http://www.everytownsupportfund.org).

## About the Johns Hopkins Center for Gun Violence Solutions:

The Johns Hopkins Center for Gun Violence Solutions combines the expertise of highly respected gun violence researchers with the skills of deeply experienced gun violence prevention advocates. We use a public health approach to conduct rigorous scientific research to identify a range of innovative solutions to gun violence. Because gun violence disproportionately impacts communities of color, we ground our work in equity and seek insights from those most impacted on appropriate solutions. Using the best available science, our Center works toward expanding evidence-based advocacy and policy-making efforts. This combination of expertise creates a unique opportunity to turn public health research into action that reduces deaths and injuries from gun violence.

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# Executive Summary



Extreme Risk Protection Order (ERPO) laws create an opportunity to intervene and prevent firearm violence when there are warning signs that an individual poses a risk of harm to self or others. While ERPO laws are relatively new, a growing body of research demonstrates the potential for these laws to prevent firearm violence, particularly firearm suicide, and multiple victim/mass shootings. Interest in ERPO laws has increased in recent years, with 16 states having enacted these laws between 2018 and 2023. Implementation varies widely across and within states. As a result of strong ERPO implementation efforts in some jurisdictions, more information is now available for state and local leaders about how to implement and adapt ERPO laws for their own communities. In addition, the Bipartisan Safer Communities Act of 2022 included \$750 million in new federal grant funding for states, some of which is designated to support ERPO implementation.

To meet this moment, the Everytown for Gun Safety Support Fund and the Johns Hopkins Center for Gun Violence Solutions have partnered to compile this guide of the best available practices and promising approaches to effective implementation of extreme risk laws. These recommendations are informed by conversations with individuals who are pioneering ERPO implementation, in addition to the best practices shared at a December 2022 convening of ERPO leaders from around the country.

This guide is organized by six key areas where we have identified promising approaches and examples of success in jurisdictions across the country that may be customized to meet the needs of individual states and localities.

- 1 State and Local ERPO Infrastructure:** State ERPO infrastructure should focus on statewide coordination of training and outreach to system actors, data collection and sharing, and funding, whereas local ERPO infrastructure's focus should be on ERPO petition and service, and firearm dispossession and return processes. State and local infrastructure should include an emphasis on equity throughout, engaging with community members impacted by gun violence and including their perspectives in the design of ERPO implementation plans.
- 2 Pre-Petition Inquiry:** Law enforcement officers should consider ERPO as one of several crisis intervention tools when responding to calls reporting threats of harm to self or others. Officers should work collaboratively with the individual's family or extended support system in potential ERPO cases and, where appropriate, engage mental health and other social service providers early in the process.
- 3 Petition Process:** Institutional actors with a role in the ERPO petition process should work together to ensure that the petition process is clear and transparent, that the courts are accessible, that informational resources are available to petitioners and respondents, and that assistance is available to help all parties navigate the process from start to finish.
- 4 Service of Order and Firearm Dispossession:** Having a clear protocol for law enforcement officers that involves gathering detailed information about the respondent and their firearms and working with the respondent's support networks can ensure safe service of orders and firearm dispossession. Jurisdictions also need to establish a comprehensive protocol for firearm storage and a transparent process for firearm return.
- 5 Special Considerations for Family Members and Other Non-Law Enforcement Petitioners:** In states that allow civilians to file ERPO petitions, courts, judges, law enforcement, and other institutional actors should ensure that the processes in place for ERPO cases are accessible to the general public with little knowledge about the law. Law enforcement should work with civilian petitioners—such as family members, clinicians, and educators—to guide them through the process and to connect them to service providers, when appropriate.
- 6 Ensuring Transparency and Accountability:** Collecting timely, accurate, and comprehensive data about ERPO cases is crucial to ensuring that these laws are being implemented effectively and equitably. In addition, all of the relevant institutional and community partners involved in the ERPO process should participate in a regular systematic review of the process and case outcomes to identify any gaps and potential inequities in the implementation of the law.

# Introduction



Gun violence is an urgent public health crisis devastating communities across the country. In 2021, the latest year for which we have national data, someone died from gun violence every 11 minutes.<sup>1</sup> Indeed, 2021 recorded the highest rate of gun violence since 1993.<sup>2</sup> And while tragic mass shootings capture national headlines with numbing regularity, they are the tip of the iceberg of this country's gun violence epidemic. Over half of gun deaths are suicides, and about 40% are homicides.<sup>3</sup> In many incidents of gun violence, warning signs in advance could have created an opportunity to intervene.

Extreme risk laws, also called Extreme Risk Protection Order (ERPO) or red flag laws, have become a vital tool in efforts to proactively intervene to prevent gun violence. These laws create a civil legal process through which law enforcement officers (in all states), family members and domestic partners (in most states), and clinicians and other parties (in a few states) can petition a court to temporarily prevent a person from purchasing and possessing firearms if that person is at risk of harming themselves or others. ERPO laws provide a mechanism to act when warning signs are present that an individual may be at risk rather than waiting for a tragedy to occur.



Connecticut enacted the first extreme risk law in 1999 following a mass shooting at the state's lottery headquarters, and Indiana followed six years later by enacting another early version of this type of law. In 2013, following the shooting at Sandy Hook Elementary School, the Educational Fund to Stop Gun Violence, in partnership with the Johns Hopkins Center for Gun Violence Prevention and Research, brought together the nation's leading researchers, practitioners, and advocates in gun violence prevention, public health, law, and mental health to form the Consortium for Risk-Based Firearm Policy. Based on evidence from domestic violence protection order laws that temporarily prohibit gun purchase and possession, the Consortium expanded upon the Connecticut and Indiana laws to develop and recommend the modern extreme risk protection order policy.<sup>4</sup> Interest in and enactment of these laws increased substantially after the 2018 mass shooting at Marjory Stoneman Douglas High School in Parkland, Florida. From 2018 to 2023, 16 states and Washington, D.C., enacted extreme risk laws, bringing the total number of states with these laws to 21. As of May 2023, just over half of the U.S. population lives in a state with an extreme risk law. According to research by Everytown for Gun Safety, between 1999 and 2021, at least 20,440 ERPO petitions were filed, the majority since the Parkland, Florida, shooting.<sup>5</sup> ERPOs are being used in a variety of circumstances to intervene when the risk of suicide and violence against others—including mass shootings, extremist-motivated attacks, school violence, and domestic violence—is imminent.

While these laws are relatively new, a growing body of research demonstrates ERPOs' promise for preventing gun violence (particularly suicide) when implemented effectively.<sup>6</sup> Early evidence from Indiana and Connecticut suggests that the states' ERPO laws are associated with reductions in firearm suicide,<sup>7</sup> and another study estimates that Connecticut's law prevented one suicide for every 10–20 firearm orders issued.<sup>8</sup> Extreme risk laws are also being used to intervene in response to threats of mass violence. One review of ERPO petitions in six states found that 10% of petitions filed concerned threats of violence against at least three people, and of those cases, the most common type of threat was directed at a K–12 school.<sup>9</sup> A California study analyzed nearly two dozen mass shooting threat cases that prompted an ERPO and found no evidence that those respondents later committed a homicide or subsequently died by suicide.<sup>10</sup>

### **But what does it mean to implement extreme risk laws effectively?**

Since the enactment of ERPO laws, a number of states and localities have developed model programs and built the infrastructure, operational protocols, and judicial processes to ensure that ERPOs are being used consistently and equitably as part of a broader suite of potential crisis intervention options. Some jurisdictions have had great success incorporating ERPOs into their existing crisis intervention practices and programs, while others have used this tool sporadically and sparingly—or not at all. For example, in Maryland, where courts have issued ERPOs in every county, during the first 20 months of the law being in effect, the rate of ERPO use ranged from 5.5 ERPOs filed per 100,000 residents to 77.3.<sup>11</sup> California, Florida, and Washington state all include jurisdictions with model ERPO implementation initiatives underway, and all have counties where no ERPOs were issued during the initial years following enactment of their laws.<sup>12</sup> Still other states lag far behind with limited and inconsistent use of ERPOs and no dedicated infrastructure to support their uptake.

As a result of strong ERPO implementation efforts in some jurisdictions, there is now more information and guidance available that can provide a blueprint for state and local leaders to

adapt for their own communities. Model jurisdictions are often the result of one individual implementer in a police department, sheriff's office, county attorney's office, or courthouse, or from the community becoming an ERPO champion and advocating for implementation.

There is now unprecedented support for extreme risk law implementation efforts. In 2022 Congress passed the Bipartisan Safer Communities Act, which included \$750 million in new federal grant funding for states over the next five years through the Byrne State Crisis Intervention Program (SCIP) in part to support ERPO implementation. In addition, any federal funding that a state or local government receives annually through the Edward Byrne Memorial Justice Assistance Grant (JAG) program can now be used to support extreme risk law implementation. The U.S. Department of Justice announced the first round of these new SCIP awards in February 2023.<sup>13</sup>

## **This guide presents foundational issues for state and local leaders to consider when developing the infrastructure and fielding programs to institute extreme risk laws, with an emphasis on ensuring equitable implementation throughout.**

Everytown for Gun Safety Support Fund and the Johns Hopkins Center for Gun Violence Solutions have partnered to collect the best available ERPO practices and compile this guide of promising approaches to effective implementation of extreme risk laws. These recommendations are informed by many conversations with individuals who are pioneering ERPO usage, including best practices shared at a December 2022 convening where we brought together ERPO leaders from around the country to learn from their experiences. This guide presents foundational issues for state and local leaders to consider when developing the infrastructure and fielding programs to institute extreme risk laws, with an emphasis on ensuring equitable implementation throughout. Also included are highlights of promising practices from around the country that operationalize these considerations and provide examples of how ERPOs are working. This guide also offers options for how state and local leaders can most effectively allocate grant funding to support the successful uptake of these laws.

Moreover, this guide includes a focus on equitable implementation of extreme risk laws, acknowledging the particular challenges that arise as a result of ERPOs' reliance on law enforcement, even as a civil legal remedy. These challenges are a product of racism in the U.S. criminal legal system. People in Black and Brown communities experience higher rates of arrest and incarceration, and therefore have a higher rate of felony convictions, which make it a crime to possess a firearm. This dynamic, coupled with distrust of law enforcement brought on by generations of oppressive policing, may make ERPO uptake less common within some communities most impacted by violence. However, ERPO laws do present an opportunity to intervene in times of potential violence, and implementation efforts should include an intentional focus on ensuring equitable use of extreme risk laws and striving to make this tool available and accessible to all communities.

# Section 1— State and Local ERPO Infrastructure

Successful implementation of extreme risk laws requires a robust infrastructure at the state and local levels to support the use of this tool. These laws create a civil legal remedy that is maximized by coordination among executive leadership, law enforcement agencies, prosecutors and city/county attorneys, judges and court personnel, and social service and mental health care providers (including crisis responders) to ensure that this remedy is widely available and accessible, that it is used in appropriate cases and in an equitable manner, and that the rights of ERPO respondents are protected. A thoughtfully designed ERPO infrastructure will ensure that this coordination is ongoing and that key ERPO partners develop comprehensive processes for each stage of an ERPO case. State and local infrastructure should also include an emphasis on equity from the outset and include collaboration with a variety of representatives from communities impacted by gun violence to ensure that those perspectives are included in the design of ERPO implementation plans. Robust ERPO infrastructure will also enable state and local entities to identify additional resource needs for implementing these laws and to collaborate on shared needs with the state, such as training, public-facing resources, and data collection.

## Key Considerations for ERPO Infrastructure

Dedicated ERPO infrastructure at the state and local levels is needed to ensure robust implementation of extreme risk laws. At the state level, ERPO infrastructure should focus on statewide coordination of training and outreach to system actors, data collection and sharing, and funding. In addition, another important state coordinating function is supporting state law enforcement agencies to file ERPO petitions to help fill gaps where local use of the law may be lagging.

Local ERPO infrastructure should focus on the ERPO investigation and petition process, such as by establishing dedicated ERPO units or points of contact within law enforcement agencies, prosecutors' or county attorneys' offices, and dedicated judges to hear ERPO cases. Local leaders should also work with service providers to create pathways to connect ERPO respondents to treatment options and services that can help address the crisis that led to the ERPO.

Furthermore, preventing racial discrimination in ERPO use and nonuse is a critical part of ERPO implementation and should be built in to state and local infrastructures. Key to ensuring equitable implementation is instituting standardized and consistent processes for collecting and analyzing data about ERPO cases, as discussed in section 6 of this guide. In addition, representatives from historically marginalized communities, particularly communities of color, that are disproportionately impacted by gun violence should be included in ERPO implementation efforts to ensure that their perspectives are included in developing implementation plans.

## Model Approaches for ERPO Infrastructure— State Level



### Designate a state ERPO coordinator

A promising approach to state-level ERPO infrastructure is to designate a state ERPO coordinator. This individual would be responsible for ensuring robust implementation of the law, coordinating with key partners across the state to address implementation barriers, overseeing data collection, and working with legislators to secure sufficient funding to support implementation and recommend any statutory changes to improve the law. The ERPO coordinator should also regularly review ERPO data to assess how the law is being used and look for opportunities to advance equitable implementation practices.

In 2022 **Vermont** Governor Phil Scott appointed the state's first director of violence prevention as part of a broader public safety and violence reduction plan. The director has a broad mandate that includes working to "maximize the use" of the state's extreme risk law.<sup>14</sup>



## Create a statewide ERPO task force

Another approach to statewide infrastructure is to create an ERPO task force that provides a central locus for the state's ERPO initiatives. This task force would bring together executive leadership from relevant state and local agencies and organizations. Such a task force can collaborate on developing best practices for ERPO implementation, identify barriers to use of the law and develop strategies to address them, review ERPO cases to further refine implementation protocols and address any disparate impacts, create and maintain a website hosting public-facing ERPO resources (e.g., court information, petition forms, FAQs, key points of contact), and ensure that respondents are connected to appropriate social service resources. This task force should be led by the state ERPO coordinator or another dedicated full-time state government representative. While task force members vary from state to state, key agencies to consider include representatives from state and local law enforcement agencies; the attorney general's office; the judicial branch; state and local departments of health; organizations that address mental health, domestic violence, suicide prevention (including those leading 988 efforts in the state), and community violence prevention; organizations that provide services to victims and veterans; faith-based organizations; legal aid staff; and researchers.

States receiving SCIP funding are required to establish a Crisis Intervention Advisory Board to develop and approve the grant program plan, which must include representatives from law enforcement, the community, courts, prosecutors, behavioral health providers, victim services, and legal counsel.<sup>15</sup> This board may also serve the function of an ERPO task force to maximize representatives' impact and minimize the burdens on these leaders who otherwise may be asked to engage in multiple ERPO implementation efforts.

In 2022 **New Mexico** Governor Michelle Luhan Grisham issued an executive order establishing an Extreme Risk Task Force to “coordinate and promote state and local efforts to strengthen implementation” of the state's extreme risk law. The task force is chaired by the secretary of the Department of Public Safety, and members will be appointed by the governor and include law enforcement, mental health, and public health professionals.<sup>16</sup>

In 2022 **Vermont** Governor Phil Scott announced the creation of a statewide Violence Prevention Task Force as part of a broader public safety and violence reduction plan. The task force “will be composed of senior executive branch officials appointed by the Governor and responsible for implementation of specific and measurable community violence prevention policies across state government, with an emphasis on preventing gun crimes in schools and in community settings.” One of the specific responsibilities of the task force is to “facilitate better use of ERPO implementation/enhancements.”<sup>17</sup>

The **Illinois** General Assembly passed legislation in 2021 to establish the Commission on Implementing the Firearms Restraining Order (FRO) Act. The commission is chaired by the Illinois state police director, Brendan Kelly, and includes “State's Attorneys, chiefs of police, a sheriff, circuit court judge, representatives of the Illinois Attorney General's Office, public defender, the Illinois Department of Public Health, and the Illinois Law Enforcement Training and Standards Board.” The commission also includes ERPO experts from other states. In October 2022 the commission submitted a model FRO policy to the Illinois General Assembly.<sup>18</sup>



## Implement statewide data collection protocols

Collecting comprehensive ERPO case data allows for monitoring use of the law to inform ongoing implementation efforts and identify emerging issues related to the law's use and impact. Ideally, this data collection would be standardized at the state level, be made publicly available, and the ERPO coordinator and/or task force would monitor compliance with data collection protocols by agencies statewide. For detailed guidance on the ERPO case data that should be collected, see section 6 of this guide.

The **California** Department of Justice (CalDOJ) collects and publishes data about its ERPO law, called a Gun Violence Restraining Order (GVRO), including information about the number of orders per year, the county in which the GVRO proceedings occurred, the type of order (emergency GVROs, temporary GVROs, and GVROs After Hearing), and the petitioner (co-worker, employer, family, law enforcement, school employee/teacher). Data collection began in California on January 1, 2016, when a bill requiring data collection went into effect.<sup>19</sup>

The **Massachusetts** Trial Court, Department of Research and Planning collects and disseminates data on the state's ERPO law through a public portal. This portal features information about the number of orders per month; petition outcomes; the race, ethnicity, and gender of the respondent; and information about return of service and surrender of firearms.<sup>20</sup>



## Implement a statewide ERPO training curriculum

One of the most immediate needs in starting up a robust ERPO program in a state is increasing awareness about the law among implementers and those professionals who regularly work with people who may be at risk of harm to self or others, including law enforcement, prosecutors, court personnel and judges, and clinicians. State leaders should engage subject-matter experts to create specialized training modules for each key partner in the ERPO process: law enforcement, prosecutors/county attorneys, judges and court personnel, health care/mental health/social service providers, and other community leaders. State leaders can work with experts in the research and nonprofit advocacy communities to develop these materials.

## Training for law enforcement personnel in particular is crucial, as they are often the first responders when individuals are in crisis and may benefit from an ERPO.

Training for law enforcement personnel in particular is crucial, as they are often the first responders when individuals are in crisis and may benefit from an ERPO. In addition, law enforcement officers are responsible for serving the order and removing firearms after an ERPO is issued. Yet a recent study focusing on law enforcement officers found that while awareness about ERPOs was higher than in the general population, only half of the participants had received any training regarding these laws.<sup>21</sup> Training on ERPOs should be included in basic training curricula for new officers, as well as in continuing education and training curricula,

and incorporated into roll call on a regular basis. ERPO training for law enforcement officers should include an overview of the law that provides details on the legal standard and factors that judges will consider, discussion of the differences between ERPOs and other potential interventions such as domestic violence restraining orders, specific guidance on best practices for serving orders and facilitating dispossession of firearms, resources for officers to refer families to services, and a review of scenarios and case examples in which ERPOs were used effectively. Training for law enforcement should also include discussion of how implicit bias based on race, racism, ethnicity, gender, sexual orientation, gender identity, religion, language proficiency, and classism may influence an officer’s decision-making related to whether to file an ERPO petition and best practices for recognizing and countering these biases.

In 2021 **Illinois** amended its state law to require law enforcement officer training on the state’s ERPO law, specifically “the use of firearms restraining orders, how to identify situations in which a firearms restraining order is appropriate, and how to safely promote the usage of the firearms restraining order in different situations.”

The **Maryland** Chiefs of Police Association & Sheriffs Association led ERPO training efforts in the state. Under the leadership of recently retired sheriff Darren Popkin, several instructors created and led trainings that reached over 160 Maryland law enforcement agencies. Sheriff Popkin’s “train-the-trainer” model involved sharing training materials with law enforcement agencies that then used the materials in their jurisdictional trainings. In addition, ERPO training is now a part of the Maryland police academy’s core instruction.

In **King County, Washington**, the Washington State Criminal Justice Training Commission, along with law enforcement and members of the Regional Domestic Violence Firearms Enforcement Unit, created ERPO training videos and materials to educate law enforcement statewide on the use of ERPOs.



### **Increase awareness of ERPO laws through targeted education and outreach efforts**

A key element to robust use of extreme risk laws is ensuring that the individuals most likely to apply this intervention are aware of it and know how to use it. For example, because ERPOs are an important intervention tool to help prevent suicide, tailored ERPO educational materials should be offered to physicians, mental health professionals, social workers and other staff in hospital emergency departments, crisis intervention clinics, hotline centers, urgent care clinics, and other locations where a person experiencing a suicidal crisis or their family may seek help. Information about ERPOs should also be made available to family justice centers, domestic violence service organizations, Veterans Affairs’ facilities, and other providers where people experiencing domestic violence may seek assistance. Information about ERPOs should be provided to educators and school administrators so that they can help inform family members about this option when appropriate. While some jurisdictions have launched broad education campaigns to reach the general public, a more efficient use of limited resources is to focus outreach and education on first responders and other key community leaders who will be in a position to help direct individuals and family members toward an ERPO in appropriate cases.

In **King County, Washington**, the Prosecuting Attorney's Office trained the Veterans Affairs' social workers about ERPOs. The office frequently receives inquiries about veterans with access to firearms who may be at risk of harm to self or others. Once they are trained about the law, providers can then reach out to the office to discuss if ERPO could be an appropriate intervention and, if so, be connected with law enforcement to begin that process.



### Consider options for a state law enforcement agency to file ERPO petitions

A review of available data on ERPO petition filings reveals that, in most states that have enacted the law, wide variations in use of the law are present from county to county, with a small number of counties generally making up a large percentage of statewide petition numbers. While some variation across counties can be expected, inconsistent implementation efforts and, in some jurisdictions, politically motivated resistance to these laws are likely factors in their disparate use. As a result, access to ERPOs may not be as available to all residents of states where extreme risk laws are in place.

Creating a process through which a state law enforcement agency can file a petition can **help ensure statewide access to ERPOs**, even when local law enforcement is unable or unwilling to use this law.

State leadership may be able to help address implementation disparities by establishing a process for a state law enforcement agency to file ERPO petitions. Upon receipt of information that an individual may be exhibiting behaviors that meet the statutory requirements for an ERPO, a state law enforcement agency may be able to consult with local law enforcement to determine if filing an ERPO petition would be appropriate. Creating a process through which a state law enforcement agency can file a petition can help ensure statewide access to ERPOs, even when local law enforcement is unable or unwilling to use this law.

In 2022, following the racially motivated mass shooting in Buffalo, New York targeting the Black community, **New York** created a process for the New York State Police to file ERPO petitions with representation by the New York Attorney General's office, which created a new unit to focus on these cases and increase access to ERPO statewide.<sup>22</sup>



## Model Approaches for ERPO Infrastructure— Local Level



### Designate ERPO leads in law enforcement agencies and prosecutors' or county attorneys' offices

Several jurisdictions that have seen success in ERPO implementation have dedicated staff in local law enforcement agencies and prosecutors' or county attorneys' offices who are trained on ERPOs and responsible for overseeing ERPO cases from the decision to file an ERPO petition through final disposition. This may take different forms depending on the specific needs and size of the jurisdiction, from a dedicated ERPO unit with multiple officers or attorneys to a single designated ERPO person serving as the point of contact. Dedicated ERPO specialists in these agencies can develop protocols, ensure proper data collection, build relationships with other ERPO stakeholders in the jurisdiction to facilitate effective case processing, and network with ERPO practitioners and experts nationally to share best practices and problem-solve implementation challenges. One promising approach used in some jurisdictions is to build ERPO expertise into existing domestic violence units, as some of the processes between domestic violence protection orders and ERPOs are similar. Crisis intervention teams, and other models that pair crisis responders with law enforcement, are another approach for assigning local ERPO specialists to oversee ERPO implementation. Partnerships with trained crisis responders have the advantage of complementing a law enforcement response (important when dealing with firearms) with a therapeutic response that may be better suited to working with a person in crisis.

In **King County, Washington**, responsibility for ERPO cases is part of the Regional Domestic Violence Firearms Enforcement Unit, a collaboration focused on proactive enforcement of firearm safety laws that includes the King County Prosecuting Attorney's Office, Seattle City Attorney's Office, Seattle Police Department, and the King County Sheriff's Office.<sup>23</sup>

The **San Diego** City Attorney established a Gun Violence Restraining Order Team that is a collaboration between the office and the San Diego Police Department. This team includes both legal staff and police officers/investigators to streamline the process of investigating and filing ERPO petitions, which California refers to as Gun Violence Restraining Orders.<sup>24</sup>



### Designate dedicated ERPO judges

Similarly, courts should consider identifying specific judges to preside over ERPO cases to allow courts to develop specialized expertise and help promote consistency in ERPO decisions. Again, one promising approach that some jurisdictions use is to route ERPO cases to courts where domestic violence protection orders are heard because of the similarities between these two types of cases. However, routing ERPO cases to designated civil domestic violence divisions should include an increase in staffing and other resources to ensure that any increase in ERPO caseload does not divert resources from domestic violence protection order cases.

The 11th Judicial Circuit in **Miami-Dade County, Florida**, instituted a process that requires ERPO petitions to be handled by the court's Domestic Violence Division.<sup>25</sup>

In **Denver, Colorado**, ERPO petitions are generally heard by a single judge who has developed expertise in these cases.<sup>26</sup>



### Create a local ERPO working group or coordinator to facilitate cooperation among key partners and connection to services

Local leadership at the municipal or county level should consider establishing a local ERPO working group or identifying an ERPO coordinator to ensure ongoing collaboration among law enforcement, prosecutors/county attorneys, judges and court personnel, social service and mental health care providers, victims services, community violence intervention experts, and other local partners. This approach may not be appropriate or necessary in all jurisdictions, but where there are a wide range of partners engaged and a consistent volume of ERPO cases, standardizing coordination at the local level may help support successful implementation. This group would function similarly to a statewide task force but with a focus on the local ERPO ecosystem and the daily functioning of the ERPO process. One core function of this type of working group or coordinator should be to build relationships between the law enforcement agencies that primarily file ERPO petitions and social service providers and other community leaders, as the ERPO process can serve as a crucial entry point for individuals to be connected to services to help address the underlying causes of the crisis precipitating the petition being filed.<sup>27</sup>

In **Maryland**, the Frederick County State's Attorney's Office, in partnership with the Frederick County Health Department, is forming a workgroup to discuss ERPO policies and procedures. Stakeholders have begun discussing the intersection of mental health and violence prevention, and the workgroup hopes to review national best practices and legislation to improve public safety.



### Designate a local advocate to guide respondents and civilians involved in the ERPO process

Local leadership at the municipal or county level should designate a local advocate to guide respondents and civilians associated with ERPO cases through the ERPO process. Responsibilities of the advocate would include aiding family members in filing petitions or coordinating petitions with law enforcement, answering questions from community members, and explaining what to expect throughout the process.

The **King County, Washington**, Regional Domestic Violence Firearms Enforcement Unit—which handles ERPO cases—employs Extreme Risk Protection Order Advocates to work with families at all stages of an ERPO proceeding.



## Implement a local ERPO training curriculum

In addition to statewide training, there should also be an emphasis on ERPO training at the local level for law enforcement as well as other key actors, such as county attorneys, court personnel and judges, local victim advocates and service providers, and clinicians. Again, training for law enforcement members is crucial, as they often serve as first responders who receive reports of individuals at risk of harm to self or others who may benefit from an ERPO. Training on ERPOs should be included in the basic curricula for new officers, as well as in continuing education and training materials. Local leaders should also offer creative options for raising awareness about ERPO among law enforcement and other key partners in addition to traditional training approaches, such as pocket cards, posters, and videos. Local training curricula should similarly include an emphasis on recognizing and countering implicit bias in the ERPO context, as described earlier.

**Fairfax County, Virginia**, has instituted a number of approaches to training officers about ERPO. Officers complete a one-hour ERPO training as part of their initial curriculum, and information about ERPO is incorporated into other training sessions. Officers are also given a pocket card that serves as a cheat sheet about the law and when to consider using it and provided a video to watch with scenarios when the law may be appropriate.

The **Fort Lauderdale, Florida**, Police Department (FLPD) has created a one-hour ERPO training for recruits and has begun including ERPO training in new supervisor orientation. Additionally, new detectives to the FLPD Threat Response Unit, responsible for all ERPO investigations in the city, undergo an additional full day of training on ERPO and threat investigations. These detectives continue to train with regional, state, and federal partners on best practices in behavioral threat assessment and mitigation and apply these best practices to the agency's safe and effective use of ERPOs.


Training on ERPOs should be **included in the basic curricula for new officers**, as well as in continuing education and training materials.



## Implement protocols to immediately share ERPO information with background check databases to prevent firearm purchases

For an ERPO to prevent new firearm purchases by a respondent, databases queried during a firearm purchase background check must be updated once the ERPO goes into effect. Courts should already be familiar with this kind of information sharing regarding domestic violence protection orders, and the same protocol can be applied to ERPOs.

# Section 2— Pre-Petition Inquiry



A key element of effective implementation of extreme risk laws is ensuring that this tool is considered as an option when an individual presents as being a risk of harm to self or others. Law enforcement officers evaluating such reports should consider an ERPO among the potential intervention options. Conversations with concerned family and community members, for example, can help refine the list of potential appropriate interventions, which could include legal interventions such as an ERPO or a domestic or family violence protection order. Nonlegal interventions may also be appropriate, such as referring for mental health evaluation or offering options for out-of-home firearm storage.<sup>28</sup> These pre-petition assessments are aided by strong state and local infrastructure where law enforcement is knowledgeable about when ERPO use is appropriate, the evidence required to meet the statutory burden of proof, and what steps are needed to file a petition.

## Key Considerations for the Pre-Petition Inquiry Stage

Officers investigating whether to file an ERPO petition in a particular case should consider a number of factors, including whether there is sufficient evidence to meet the statutory requirements for an ERPO and, when required, the availability of witnesses to participate in court proceedings. An ERPO is not necessarily the best or only intervention in all circumstances, and law enforcement officers and other key partners should be trained to consider ERPOs as one of several potential crisis intervention tools.

Law enforcement agencies responding to calls for assistance where an ERPO may be useful should approach these cases collaboratively, working with the individual's family, if appropriate, or extended support system. When appropriate, mental health and other social service providers could be engaged early in the process to help ensure that the risk in the immediate term is reduced and the individual is connected with the supports and services that will help stabilize the situation.

Law enforcement agencies responding to calls for assistance where an ERPO may be useful should **approach these cases collaboratively**, working with the individual's family, if appropriate, or extended support system.

## Model Approaches



### Develop a process for assessing ERPOs alongside other potential crisis intervention tools

A number of potential intervention options are available when an individual is demonstrating a risk of harm to self or others. In situations where information suggests that the individual may benefit from mental health treatment—including in response to suicide risk—providing treatment resources, including connections to treatment providers, should be considered. Most states have a process for a mental health hold evaluation to determine if the individual meets the statutory criteria for involuntary commitment or if outpatient treatment is recommended. When risk of harm to family members or intimate partners is at issue, a state's domestic violence protection order process may help ensure the safety of those individuals, including in some states by prohibiting firearm purchase and possession for the duration of the order. Other types of treatment and services, such as substance use disorder treatment or treatment for anger management that may be contributing to the current risk, could also be appropriate. Available resources vary among jurisdictions, so awareness of the local resources is important for professionals who respond when people are demonstrating risk of harm to self or others.

Law enforcement officers evaluating reports of individuals exhibiting risky behaviors should consider which interventions best address the circumstances. An ERPO temporarily restricts an individual in crisis from easily accessing firearms; however, other urgent needs could be addressed by other interventions. For example, in a domestic violence context, it may be more appropriate to seek a domestic violence protective order that provides a broader set of remedies, such as restraining the individual from having contact with the victim and setting child custody and visitation terms, in addition to prohibiting firearm purchase and possession. For a domestic violence situation, it is also important to prioritize survivor autonomy by ensuring that the individual experiencing the threat or violence has a significant role in the decision-making process. Other types of legal proceedings, such as guardianship, may also be appropriate. These interventions are not mutually exclusive; an ERPO may be a useful add-on to these approaches to prevent firearm purchase and possession during the pendency of other processes.

Agencies should develop a process for examining the particular risks to determine which intervention is most appropriate, such as by creating a checklist of concerning behaviors, or a lethality assessment tool similar to what is used in the domestic violence context in some jurisdictions.<sup>29</sup> When possible and appropriate, officers should strive to work closely with an individual's family members or other supportive services to develop an intervention strategy best suited to ameliorate the immediate risk while addressing the underlying causes of the crisis.

In **San Diego**, officers use guidelines to evaluate potential ERPO cases that consider relevant criminal history, known information about access to firearms, any history of restraining orders, mental health history, previous calls for service involving the individual (including any history of escalation), and other indicators of potential dangerousness. In order to obtain an ERPO, officers must show, as required by statute, that less restrictive alternatives are inadequate or inappropriate for the circumstances.



### **Consider whether an ERPO is an appropriate remedy in criminal cases, either in addition to or as an alternative to criminal charges**

Many situations involving individuals who present a risk of harm to others are brought to the attention of law enforcement through an arrest, and criminal proceedings can result in prohibitions on firearm purchase and possession. For example, an individual who is under indictment for or convicted of a felony will become prohibited from buying or possessing firearms. Firearm surrender could also be ordered by a judge as a condition of bail when a criminal case is pending. However, in some cases filing an ERPO petition while a criminal investigation is underway may be appropriate. For example, an ERPO may be the only way to dispossess someone of firearms who is behaving dangerously and at risk of violence and under criminal investigation or awaiting trial as a result of those behaviors. ERPOs may also be used in plea negotiations in criminal cases where a charge may be reduced from a felony to a misdemeanor, but access to and possession of firearms remain a concern. Law enforcement agencies should consider whether seeking an ERPO alongside a criminal investigation or during the pendency of criminal proceedings is appropriate. At the same time, officers should be cautious about overuse of ERPOs in criminal matters and mindful of avoiding redundancy.

In one **Florida** case, the respondent in an ERPO proceeding was also the subject of concurrent domestic violence-related charges following an incident in which he had been drinking and began waving a gun in front of his wife and implying he would hurt her or himself. After he was detained, the investigation was handled jointly by detectives from an ERPO Unit and a Special Victims Unit. While the wife was unwilling to prosecute or give a statement in the criminal case, she was willing to speak about her husband's recent violent behavior in support of an ERPO. Though criminal charges were not filed, an ERPO was granted, resulting in the removal of more than 20 firearms and thousands of rounds of ammunition from the home. The respondent was able to seek counseling, and no further incidents of violence were reported while the ERPO was in effect.

Law enforcement officers should also consider whether filing an ERPO petition could serve as a way of **diverting individuals away from the criminal justice system** in cases where the risk can be ameliorated with the civil order.

Law enforcement officers should also consider whether filing an ERPO petition could serve as a way of diverting individuals away from the criminal justice system in cases where the risk can be ameliorated with the civil order. In considering an ERPO as a tool of diversion from the criminal legal system, officers and other system actors should be mindful of the risk that implicit biases against historically marginalized communities may contribute to ERPOs not being considered in lieu of charges and strive to recognize and counter any such biases.

For example, a 30-year-old man in **Florida** had become increasingly lonely and depressed due to isolation during COVID-19 lockdowns. He purchased several long guns during the pandemic and began drinking heavily. One evening he was highly intoxicated and, after a drunken scuffle, retrieved an AR-15 rifle from his apartment and chased his landlord and her guests from their yard at gunpoint. He was initially detained under an involuntary commitment and law enforcement took custody of his firearms, but he was later released. The landlord did not support prosecuting the young man as she was sympathetic to his struggles with depression and alcohol. She was, however, deeply concerned that the young man would be able to regain possession of his firearms. She decided to cooperate with law enforcement on an ERPO petition instead of seeking criminal charges. The order was granted and the police retained his firearms for the duration of the order. The respondent was grateful for the intervention, began treatment, and reunited with family for additional support. The ERPO served as a de facto diversion, dispossessing the respondent of his firearms at a time of crisis, and allowing the space for him to seek services safely without further intervention from the criminal justice system.

Law enforcement agencies should also be vigilant about identifying any potential conflicts created by parallel criminal and ERPO proceedings. If the local ERPO process involves the prosecutor filing the petition on behalf of the police department, this may create a conflict if an officer would also be a witness for the prosecution in a criminal proceeding. In these situations, it may be advisable for the police department or a city or county attorney to file the petition directly instead of the prosecutor's office. In addition, an ERPO respondent may have concerns related to potential self-incrimination if there are concurrent criminal and ERPO proceedings.



### **Collaborate with service providers to help connect respondents to appropriate resources**

While ERPO cases are often led by law enforcement agencies in response to reports of people behaving dangerously, ERPOs should be viewed as a potential opportunity not only to mitigate the immediate risk but to connect an individual to appropriate services to address the underlying causes of the concerning behavior. Law enforcement should work closely with service providers when appropriate to ensure that connection to services is part of the process from the beginning. Formalized relationships with crisis intervention programs, alternative emergency response programs, and the 988 system should be implemented to facilitate referrals for services.

In **Broward County, Florida**, law enforcement partners with Henderson Behavioral Health. This partnership allows law enforcement to connect individuals showing signs of risk of harm to self or others with relevant services as early as their first contact, and provides a pathway of communication for clinicians at Henderson to contact law enforcement when appropriate.<sup>30</sup>

**Maryland** was the first state to include licensed health care professionals as authorized ERPO petitioners. However, clinicians make up less than 1% of all petitioners. Early research identified time as a major barrier to clinicians initiating ERPO petitions and established support for navigators (designated ERPO specialists) to manage the ERPO process when a patient was determined to potentially benefit from an ERPO. In 2022 the city of Baltimore approved support for two ERPO navigators employed by Baltimore Crisis Response Inc. Johns Hopkins Hospital clinicians will have access to these navigators.<sup>31</sup>



### **Considerations when a person in crisis possesses a gun unlawfully**

In some cases, an individual who poses a risk of harm to self or others may already be legally prohibited from gun possession and therefore violating the law if they are in possession of a firearm. In these situations, concerned family members may be reluctant to reach out for help when a loved one is presenting a risk of harm to self or others if they fear their call will result in an arrest and criminal charges. In considering the best approach in these cases, law enforcement should carefully consider the nature of the risk presented (i.e., risk of self-harm versus risk of harm to others), any history of violence, and the circumstances resulting in the prior legal prohibition on gun possession, rather than approaching these situations as presenting the same level of risk to public safety. Working collaboratively with the individual and their family could lead to immediate voluntary mitigation of the firearm risk.





## **Create supports for non-law enforcement petitioners in the pre-petition process**

In nearly every state that allows civilians (e.g., family, partners) to file ERPO petitions, law enforcement files the vast majority of petitions. In states where designated civilians may file ERPO petitions, law enforcement officers fielding requests for assistance should discuss the option of a family member filing the petition instead of law enforcement, while being mindful of not burdening the family when they are looking for law enforcement to take the lead and intervene. In some circumstances and with guidance, some family members may choose to file petitions themselves.

**Courts should create simple, easily accessible ERPO forms to enable people without legal representation to file ERPO petitions.** These forms should be available in multiple languages online and in courthouses, and court personnel should be trained to address questions from petitioners.

Law enforcement agencies and the designated local ERPO resource organizations previously described should offer support to family members interested in filing an ERPO petition, including with filling out court forms, identifying the type of information needed for the petition, and providing guidance about how the process works and next steps after filing. In addition, courts should create simple, easily accessible ERPO forms to enable people without legal representation to file ERPO petitions. These forms should be available in multiple languages online and in courthouses, and court personnel should be trained to address questions from petitioners.

For a more detailed discussion related to supporting non-law enforcement ERPO petitioners, see section 5 of this guide.

# Section 3— Petition Process



Once a petitioner has decided to file an ERPO petition, the success of that effort will depend, in part, on the strength of the ERPO infrastructure in place. Institutional actors with a role in the ERPO petition process should work together to ensure that the petition process is clear, the courts are accessible, informational resources are available to petitioners and respondents, and assistance is available to help all parties navigate the process from start to finish.

## Key Considerations for the Petition Process

A primary consideration for the petition process is making each step as simple and efficient as possible for the parties involved while ensuring due process protections. By creating and disseminating information about court processes, providing instructions for how to complete forms, ensuring ongoing participation by relevant agencies and individuals, and addressing the risk and meeting the needs of the parties involved, jurisdictions can establish a system that is supportive of ERPO implementation.

A primary consideration for the petition process is making **each step as simple and efficient as possible** for the parties involved while ensuring due process protections.

## Model Approaches



### Create clear and accessible court forms to facilitate the filing of ERPO petitions

Petitioners will benefit from ERPO forms that clearly detail the burden of proof and type of information the court requires—including questions about the risks of violence and what, if any, firearms the respondent can access (note: respondents do not need to have access to firearms to meet the requirements of an ERPO—this is a preventative intervention). Forms that are easy to complete (e.g., with adequate space to write, clear skip patterns, and accessible reading levels), elicit information about the dangerous behaviors motivating the petition in nonlegal terms, and prompt information about firearms that people unfamiliar with firearms can respond to (such as pictures) can facilitate the petition process. These forms should be standardized across the state, available online and at the courthouse in multiple languages, and written to be understandable by individuals with little preexisting knowledge of the ERPO process. Agencies should also consider appending answers to frequently asked questions to the form to further assist petitioners in completing the petition.

The **Colorado** Judicial Branch website includes a page dedicated to ERPO forms. The documents are available in English and Spanish and can be translated into any language upon request.<sup>32</sup>

The **Maryland** District Court website provides detailed information about ERPOs, including forms, resources, and information on where to file. Maryland clearly outlines the risk factors for violence that judges consider when deciding whether to issue an ERPO.<sup>33</sup>



## Create a 24/7 process for courts to consider temporary ERPO petitions

Extreme risk laws create a responsive process for removing firearms when there is a demonstrated risk of imminent harm to self or others, including a path for immediate action through orders issued ex parte, or in the absence of the respondent. In order for ERPO laws to function as an emergency crisis intervention tool, providing a process for ERPO hearings around the clock, even when courts are closed, is important. This is not a new concept: courts routinely address urgent matters after hours in criminal and domestic violence contexts.

Courts should consider **providing a mechanism for deciding on ERPO petitions filed after hours**. This could occur in person or by telephone or virtual conferencing.

Courts should consider providing a mechanism for deciding on ERPO petitions filed after hours. This could occur in person or by telephone or virtual conferencing. Increasing accessibility through expanded hours and days, and through telephonic and virtual mechanisms, could facilitate the process for family members, clinicians, and other civilian petitioners who may be unwilling or unable to travel, or to appear in court during specified hours and days.

In **Maryland**, ERPO petitions are heard 24 hours a day, seven days a week. Judicial commissioners hear interim ERPO petitions when the court is closed and have the authority to issue orders for 48 hours until a judge can hear the petition.

In **Miami-Dade County, Florida**, judges are on call 24 hours a day, seven days a week to conduct temporary ERPO hearings. The hearings that occur after court hours are generally conducted by telephone.

In **Washington** state, law enforcement has the ability to file an ERPO petition 24 hours a day, seven days a week.

# Section 4— Service of Order and Firearm Dispossession

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Taking steps to promote a safe and positive dispossession process for all parties is a critical aspect of ERPO implementation. Engaging in comprehensive safety planning in advance of service that gives officers detailed information about the respondent and their firearms allows officers to be prepared and plan for successful service. When appropriate, any involved family members and service providers should be engaged in developing the plan for service to ensure safety and to connect the respondent to a support system or recognize an existing support system.

## Key Considerations for Service of Orders and Firearm Dispossession

Ensuring the safety of respondents, officers, and any other individuals involved is the primary consideration when serving ERPOs and requires attention to the circumstances of each case. Having a clear protocol that is responsive to the case and trained personnel is important. Engaging with respondents' support networks and social service providers (e.g., crisis response teams, faith leaders) when appropriate can help minimize the risks and ensure successful and safe dispossession of firearms.

Jurisdictions also need to establish a comprehensive protocol for firearm storage, including potentially dedicating additional funding to create or improve firearm storage facilities. A combination of storage with a local law enforcement agency and options for non-law enforcement storage—such as with a licensed gun dealer—may be offered when permitted by law. In addition, courts and law enforcement agencies need to establish clear steps for how a respondent can retrieve their firearms when an ERPO expires or is terminated. Explaining the process for regaining firearms to respondents can help alleviate concerns and contribute to successful ERPO service.

## Model Approaches



### Implement a protocol for service of ERPOs and firearm dispossession that relies on specially trained officers

Law enforcement agencies should designate specific officers to serve ERPOs and oversee firearm surrender. Designated law enforcement personnel should receive training on how to engage with people in crisis and de-escalation tactics to engage in best practices for safe and effective service. These officers should also develop relationships with local social service providers so as to engage them as appropriate when serving ERPOs. Some jurisdictions already have specialized units that are responsible for effectuating firearm dispossession for individuals prohibited from having guns due to criminal, domestic violence, or other prohibiting histories and may be well positioned to take on this role for ERPOs as well.<sup>34</sup>

Detectives in the **Fort Lauderdale, Florida**, Police Department's Threat Response Unit (TRU) respond to any case that may require an ERPO in their jurisdiction. TRU works with the department's legal adviser and consults with mental health clinicians where appropriate during the ERPO process. Because of their experience with the ERPO process, and their ability to communicate that process to potential respondents and their loved ones, the majority of respondents in Fort Lauderdale stipulate to the ERPO and cooperate in surrendering any firearms in their possession. In the rare case that an ERPO respondent is uncooperative, TRU has the experience to manage tensions and use the appropriate legal process to carry out the order so as not to leave the respondent or the public at risk.



## **Prepare an individualized comprehensive safety plan prior to service that engages a respondent's family and broader support system**

Officers responsible for serving ERPOs should prepare an individualized service plan whenever possible. Before contact is made, officers should decide who will be the lead so that communication with the respondent is clear. Officers should consider communicating with close family or friends before service, and assess whether having them present would be beneficial for the respondent.

**Collaborating with a respondent's support system also creates the opportunity for service to be a positive intervention moment when the underlying causes of the crisis can begin to be addressed.**

As with any safety plan, officers should collect as much background information as is feasible for the purpose of maintaining the safety of all. Considerations should include, but are not limited to, concerns related to the respondent's general opinions of and attitudes toward law enforcement and government, whether any dogs or other potentially dangerous animals are in the home, whether other individuals may be present in the home who are potentially disruptive to service, details about the respondent's typical daily schedule and best times to engage safely, and consideration of the recent behavior that prompted the ERPO process. Information related to a respondent's firearms can inform safe service and effective dispossession and should include the number and type of firearms in their possession, where they are typically stored, and whether they are stored loaded (information that a court sometimes asks about as part of the ERPO petition). A number of ERPO states keep records of gun sales, which officers can use to account for or identify respondents' guns.<sup>35</sup> While records of sales can be helpful, information from family, social media, and past law enforcement records of calls for assistance can also inform service plans. Working collaboratively to understand a respondent's state of mind and present circumstances can provide officers with information to develop an approach to service that mitigates risk.

Collaborating with a respondent's support system also creates the opportunity for service to be a positive intervention moment when the underlying causes of the crisis can begin to be addressed. Service providers can help explain to the respondent how the ERPO process works and how it can benefit the respondent, and can begin to identify other immediate needs, such as mental health or substance use disorder treatment.

In **Fort Lauderdale, Florida**, the vast majority of ERPOs are served peacefully. The police department prioritizes working with respondents and their families to create an environment where the respondent cooperates and service becomes an opportunity for intervention.

Officers in **King County, Washington**, use a "warm approach" to serving orders and effectuating dispossession, based on experience from California with serving domestic violence restraining orders that emphasizes a process of talking respondents out of their guns that is rooted in transparency and respect.



## Develop protocols for noncompliance with ERPOs

Discussions with agencies that have experience serving ERPOs reveal that the majority of ERPOs are served without incident and respondents generally comply with the order to turn over any firearms in their possession once they are served with the order and the process is explained. However, in some situations, a respondent refuses to comply with an ERPO. Guidelines for how to proceed in these cases and how to achieve dispossession without further escalating the situation are important.

In some states, the extreme risk law includes a process for obtaining a search warrant, which allows officers to enter a respondent's home to search for firearms. In some states, a search warrant may be issued simultaneously with the ERPO, and in other states, the law specifies that law enforcement may seek a search warrant when there is probable cause to believe the respondent failed to surrender their firearms. Where this procedure is not explicitly written into a state's extreme risk statute, officers can typically return to court seeking a warrant to enforce the ERPO and retrieve the respondent's guns. Officers should engage in additional safety planning in coordination with the respondent's family prior to executing a search warrant to continue working to de-escalate the situation and achieve voluntary compliance. Officers should also clearly explain to respondents the potential legal consequences of noncompliance, including the potential of criminal charges for failure to comply with an ERPO. Officers should also seek advice from agency legal counsel in these circumstances.



## Implement standard compliance measures to ensure that firearms are promptly surrendered

Judges should require standard compliance measures to ensure that firearm dispossession occurs pursuant to ERPOs. This can take the form of a compliance hearing following the service of an order or requiring an affidavit of surrender to be filed with the court that details the firearms that are no longer in the respondent's possession, when dispossession occurred, and where the firearms are being stored. Law enforcement should continue to work with the respondent's family to confirm that all guns were turned in, and judges should require some proof that the respondent is no longer in possession of firearms identified in the petition or during subsequent communications.

In **Washington** state, ERPO compliance hearings are to be held within three days of the issuance of the full ERPO order. If all known firearms are accounted for, the court can enter findings indicating that the respondent is in compliance with the ERPO order and the compliance hearing can be waived.

In **Miami-Dade County, Florida**, judges in the 11th Judicial Circuit's Domestic Violence Court set up compliance hearings for every ERPO case to ensure that firearms are surrendered and that subsequent compliance hearings are scheduled to monitor compliance with any treatment plan that was ordered. In this court, case management in all cases, including ERPOs, is undertaken by the Advocate Program, a nonprofit organization. Their role includes guiding ERPO respondents through the court procedures, providing compliance updates to the court, and ensuring that the respondents are connected to social and other services and are keeping in communication with law enforcement associated with the case. This partnership ensures support for the respondents and efficient processes for the court around ERPO compliance. In addition, Miami-Dade County law enforcement plays a significant role by monitoring compliance with the terms of the ERPO.





## Develop protocols for when a respondent has access to guns owned by other individuals

ERPOs prevent a respondent from having access to firearms, regardless of gun ownership. While facilitating dispossession of any firearms they own is clearly within the purview of an ERPO, when a respondent lives in a home with a gun owner or has access to firearms owned by someone else, compliance is more nuanced. This is often an issue in cases involving juvenile respondents.<sup>36</sup> Several states' laws include provisions relating to guns owned by individuals other than the respondent, which often include requirements to store the guns so that respondents cannot access them. In states without these specifications, law enforcement agencies and courts need to create clear guidelines and processes for how to handle these situations, which could include working with the gun owner to identify voluntary out-of-home options for these firearms for the duration of the ERPO or obtaining assurances from the gun owner that the gun will be kept locked and inaccessible to the respondent if left in the home.

In **Fort Lauderdale, Florida**, officers raise the issue of third-party-owned firearms at the service compliance hearing, and judges assess options for ensuring that the respondent does not have access to these guns. This is an opportunity for the judge to amend or clarify their orders, or issue search warrants for firearms owned or accessible by the respondent through a third party, as appropriate.



## Identify multiple options for storage of dispossessed firearms, including storage with a law enforcement agency or gun dealer

Most extreme risk laws address the issue of storage and include provisions regarding with whom surrendered guns may be stored for the duration of the order. The laws generally look to the local law enforcement agency that served the order to store the firearms. This approach may require additional resources for agencies to upgrade or otherwise modify their storage facilities to accommodate these firearms. Some laws also provide for additional firearm storage options, including for licensed gun dealers to store these firearms while the order is pending. This approach may be particularly helpful in cases where there is a third-party-owned gun in the home and the owner is not comfortable with their gun being held by law enforcement but is willing to voluntarily remove it from the home. Other states' laws may allow firearms to be transferred to and stored with a third party, in some cases if certain conditions are met. In states where third-party storage is permitted, including protections for ensuring that the third party will not allow the respondent to access their guns should be part of the third-party agreement. For example, third-party storage is allowable with the judge's approval, only if the third party does not live in the same household as the respondent, agrees to hold the gun for the respondent while the order is in effect, passes a background check, and signs an affidavit stating that they will not allow the respondent to access the gun for the duration of the ERPO and will not return the gun after the order ends until the respondent passes a background check. These options may make the respondent more comfortable with complying and reduce any burden on law enforcement related to gun storage.

In **Fairfax County, Virginia**, law enforcement officers initially take custody of all guns following ERPO service, as required by state law. However, if the respondent identifies an agreed-upon third party to store their guns (someone older than 21 who passes a background check), officers seek approval from the court and then transfer possession to that individual.

Through both government-supported and private efforts, licensed gun dealers in a number of states have offered to voluntarily store firearms for gun owners (generally for a fee). These programs provide another storage option for individuals seeking to temporarily remove firearms from their home.

In January 2023 the **Vermont** State Police announced the Firearms Storage Program, through which eight federally licensed firearms dealers will temporarily store firearms surrendered pursuant to a court order or at the request of a gun owner.

Maps of gun dealers offering temporary firearms storage are available for Colorado, New Jersey, Maryland, New York, Wisconsin, Mississippi, and Washington.<sup>37</sup>



### **Develop clear protocols for return of firearms after an ERPO expires, consistent with state law**

Many extreme risk laws detail the process for returning guns once an ERPO expires or is terminated. In some states, the law enforcement agency has an obligation to return firearms without a respondent request. In others, the respondent must formally request that law enforcement return their guns after the ERPO is no longer in effect. Other state laws are silent on which party bears the responsibility for initiating the firearm return process.<sup>38</sup>

Law enforcement agencies and courts should develop and disseminate clear protocols that comply with state law regarding the process for returning firearms. Making this process clear and transparent at the outset—and emphasizing that the order and the requirement to surrender firearms is temporary—can help alleviate respondents' concerns and facilitate compliance with the order, as well as assuage concerns of potential ERPO petitioners. Regardless of the process used to return firearms after the expiration of an ERPO and whether guns have been stored with law enforcement, a licensed firearms dealer, or a third party, it should include confirming with the court that the ERPO has expired and that the respondent passes a background check prior to returning any guns to ensure they are not prohibited from possessing guns under federal or state law.<sup>39</sup>

The **Illinois** State Police have issued a model policy that requires officers who facilitate firearms dispossession pursuant to an ERPO to provide information to the respondent about the process for regaining possession of their firearms upon expiration of the order.<sup>40</sup>

# Section 5— Special Considerations for Family Members and Other Non-Law Enforcement Petitioners

Ensuring that the extreme risk order petition process is accessible to non-law enforcement petitioners in states where family, partners, and other petitioners are authorized petitioners is a core aspect of effective ERPO implementation. Most states with an extreme risk law authorize family, partners, and/or household members to file ERPO petitions; some states also allow combinations of health care providers, educators, school administrators, and coworkers to petition.<sup>41</sup> In some circumstances, it may be preferable for a family member or clinician to file an ERPO petition without involving law enforcement. For example, where there is a history of mistrust of law enforcement and a general hesitancy to engage with police, as with many communities of color, minimizing law enforcement contact may be a priority. For family members who fear that bringing law enforcement into a family crisis may result in an arrest or an assault, or may otherwise exacerbate an already tense situation, the ability to initiate an ERPO without involving the police may make the process more acceptable.

## Key Considerations for ERPO Cases with Civilian Petitioners

In states that allow civilians to file ERPO petitions, courts, judges, law enforcement, and other institutional actors should ensure that the processes in place for ERPO cases are accessible to the public who may have minimal knowledge about the law. Information about the process for filing a petition should be widely available through the courts and other public fora and should be available in the languages spoken in the community. Law enforcement agencies should be prepared to work with civilian ERPO petitioners to provide guidance about the petition process, including service of orders and firearm dispossession. Law enforcement can also help connect petitioners to programs and services that may help address the crisis that prompted the ERPO petition.

Ensuring that the extreme risk order petition process is **accessible to non-law enforcement petitioners** in states where family, partners, and other petitioners are authorized petitioners is a core aspect of effective ERPO implementation.

## Model Approaches



### Offer customized training and outreach for non-law enforcement professionals

The two most common categories of professional non-law enforcement petitioners included in extreme risk laws are clinicians and educators. Outside of family, these individuals are among those most likely to encounter an individual experiencing a crisis that creates a risk of harm to self or others and, as such, are often in the best position to identify when an ERPO may be an appropriate intervention. However, these professionals are generally not accustomed to initiating a legal proceeding involving a patient or student, and will likely have questions about the process.

The state or local ERPO coordinator or task force (described in section 1 of this guide) should create a customized training curriculum for professional petitioners included in the state ERPO law. These trainings should review the unique considerations facing these petitioners and how an ERPO may be part of a comprehensive intervention plan.

The **Maryland** Department of Health created an informational tool kit about ERPOs for health care professionals that is available on its website and provides information about using an ERPO as an intervention to prevent suicide.<sup>42</sup>



## Designate ERPO advocates to help civilian petitioners through the process

As detailed in section 1 of this guide, local leadership should designate an advocate to help guide respondents and civilian petitioners through the ERPO process. These advocates can help non-law enforcement petitioners draft and file petitions, make necessary connections to law enforcement and service providers, help petitioners understand the process, and answer questions from community members about the extreme risk law. These advocates could be housed in the local courthouse, with a law enforcement agency, or with a social service provider. Advocates could be particularly helpful for professional civilian petitioners, such as clinicians and educators, who may face logistical challenges in initiating an ERPO during working hours. In these cases, the advocates could connect the civilian with the appropriate law enforcement agency to enable law enforcement to file on their behalf.



## Develop protocols between the courts and local law enforcement agencies to facilitate service of civilian-filed ERPO petitions

Even when a civilian files an ERPO petition, law enforcement will serve the order and facilitate firearm dispossession. As discussed in section 4 of this report, one model approach for service of ERPOs is to engage in safety planning that involves coordination with a respondent's family or other support system. However, this planning process is abbreviated when law enforcement is not involved in the petition process and it is therefore important to ensure coordination between the court and the law enforcement agency responsible for service to provide additional time to develop a safety plan for service and dispossession in cases with civilian petitioners.

In **King County, Washington**, court clerks provide a daily list of new ERPO petitions to the county attorney's office to allow for advance notice of these cases so that the ERPO advocate can reach out to the petitioner and offer support through the process.

In **Denver, Colorado**, when a family or household member files an ERPO petition, the Probate Court notifies the Domestic Violence Unit of the Denver Police Department, which in turn notifies the Mental Health Unit in the City Attorney's Office. According to the Denver Police Department Operations Manual, a detective from the Domestic Violence Unit and an attorney from the Mental Health Unit then attend subsequent hearings.<sup>43</sup>

# Section 6— Ensuring Transparency and Accountability

As jurisdictions work to develop infrastructure to implement extreme risk laws, they should also build in measures to allow ongoing and comprehensive evaluation of how the laws are being used. Regular evaluation—including soliciting feedback from key partners and community members—will help identify successes as well as potential problems or challenges in the ERPO process and enable iterative improvements to implementation in real time. Evaluation can also help identify urgent funding needs and any potential legislative revisions to the law that could improve the ERPO process.

Key to any evaluation program is a comprehensive plan for collecting and evaluating ERPO case data. Data collection, sharing, and analysis should not be an afterthought but rather a core focus of any comprehensive ERPO implementation plan at the state and local levels. Collecting timely, accurate, and comprehensive data about ERPO cases—including situations where filing an ERPO petition was considered and rejected—is crucial to ensuring that extreme risk laws are being implemented and used equitably and in ways that maximize public safety impacts. With regard to equity, attention to overuse and underuse should be monitored to identify any disparate impacts on historically marginalized communities. Regularly evaluating ERPO use will also help recognize local jurisdictions engaged in successful efforts, identify best practices that can be shared across the state and country, and enable study of the impact of ERPO implementation efforts on gun violence outcomes.

## Key Considerations for Transparency and Accountability

All of the relevant institutional and community partners involved in the ERPO process should participate in a regular systematic review of the process and case outcomes, including cases where judges denied and dismissed an ERPO petition. A primary goal of this review should be to identify any potential inequities in the implementation of the law, including communities that are over- or underrepresented in ERPO petitions and identify any disparate impacts of ERPOs. This review should also identify jurisdictions in the state in which ERPOs are not being used in order to inform education and outreach efforts to implementers that will increase uptake and use of this intervention in those places.

Robust data collection is a foundational requirement for transparency and accountability in any system. Local ERPO partners should regularly review individual case data to enable a thorough evaluation of the local processes and accountability for those actors. In addition, case data should be collected, analyzed, and to the extent possible be made publicly available to enable rigorous research of ERPO laws and their impact on preventing firearm tragedies.

## Model Approaches



### Develop guidelines for ERPO data collection and sharing to enable oversight and research

The state ERPO coordinator should oversee the creation of a centralized state database to capture every ERPO petition filed in the state and the subsequent details of each case. This data should include information about the petitioner, respondent, precipitating event(s) that led to the petition, outcome of the petition process including any concurrent criminal proceedings, and the firearms involved (for a detailed list of data that should be collected, see the October 2020 report by the Consortium for Risk-Based Firearms Policy, “Extreme Risk Protection Orders: New Recommendations for Policy and Implementation”).<sup>44</sup> In order to ensure a streamlined and research-friendly data system, the state should consider partnering with a researcher or academic partner who can provide advice for efficient data collection and management.

The state coordinator along with the task force should encourage all local agencies in the state to collect ERPO data in accordance with state guidelines and report their information to the state database. The aggregated state data should be made publicly available, and individual-level data should be made available to researchers (with standard human-subjects protections) to evaluate the implementation of the law and its impact on gun violence in the state.

**Maryland** uses a common ERPO petition across all counties, and the District Court maintains on its website a monthly count of ERPO petitions filed by county.<sup>45</sup>



### **Create a process for regular review of the local ERPO program that involves all key partners**

Key ERPO partners and system actors should convene at least annually to evaluate the jurisdiction's ERPO processes, identify challenges and funding needs, and review ERPO case data and outcomes. This type of collaborative review process will enable jurisdictions to identify issues and develop timely solutions to address them and improve the implementation of the law. ERPO implementers should also use the data collected to focus on equity issues, assessing whether ERPOs are being over- or underutilized in specific communities and if any particular demographics are bearing negative consequences, such as disproportionate criminal charges alongside or resulting from ERPOs. It is critical to engage community organizations and members in this review process to understand how the implementation process can be improved to make ERPOs an accessible and safe tool for all.

**ERPO implementers should use the data collected to focus on equity issues, assessing whether ERPOs are being over- or underutilized in specific communities and if any particular demographics are bearing negative consequences, such as disproportionate criminal charges alongside or resulting from ERPOs.**



### **Publish an annual statewide ERPO report**

The state ERPO coordinator and task force should publish an annual report that includes ERPO use across the state, the underlying precipitating factors that led to ERPO petitions, and respondents' demographics. This report should also include information about strategies and processes that various jurisdictions are using and highlight any best practices employed in the state. Finally, any lessons learned from the review process noted above should also be included in this report.

In 2021 the **Colorado** Attorney General's Office issued a report reviewing the first year of implementation of the state's extreme risk law. The report provided data on the number of petitions filed (stratified by law enforcement and civilian petitioners), the categories of risk behaviors that precipitated the petition, and case outcomes. The report also offered recommendations for improving implementation.<sup>46</sup>



# Conclusion



With new federal funding to support implementation of extreme risk laws, state and local leaders are well positioned to create infrastructure, institute comprehensive training programs, and develop focused education initiatives to raise awareness about the availability of this crisis intervention tool. ERPOs provide a mechanism to intervene after someone at risk of committing violence has been identified but before an act of gun violence occurs, offering an opportunity to prevent tragedies and save lives. But these laws will not implement themselves and require a focused and sustained effort to ensure that they are used as intended and to maximize the potential to reduce gun violence.

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## APPENDIX A: EXTREME RISK LAWS BY STATE

Last updated May 2023

State	Policy Name	Effective Date <sup>1</sup>	Who May Ask for an Extreme Risk Order: Law Enforcement	Who May Ask for an Extreme Risk Order: Family Member <sup>2</sup>	Maximum Duration of the Ex Parte Order (Emergency Order, if applicable) <sup>3</sup>	Duration of the Final Order	Renewal Lasts for
<b>California</b>							
Cal. Penal Code § 18100, et. seq.	Gun Violence Restraining Order	January 1, 2016	✓	✓ <sup>4</sup>	21 days (21 days)	1–5 years	1–5 years
<b>Colorado</b>							
CRS § 13-14.5-101, et seq.	Extreme Risk Protection Order	April 12, 2019	✓	✓ <sup>5</sup>	14 days	364 days	Up to 1 year
<b>Connecticut</b>							
Conn. Gen. Stat. § 29-38c	Risk Protection Order	October 1, 1999	✓ <sup>6</sup>	✓ <sup>7</sup>	14 days <sup>8</sup>	Until terminated by the court <sup>9</sup>	N/A
<b>Delaware</b>							
10 Del. C. § 7701, et seq.	Lethal Violence Protective Order	December 27, 2018	✓	✓ <sup>10</sup>	15 days	Up to 1 year	Up to 1 year
<b>District of Columbia</b>							
DC Code § 7-2510.01, et seq.	Extreme Risk Protection Order	January 30, 2019 <sup>11</sup>	✓	✓ <sup>12</sup>	14 days	1 year	1 year
<b>Florida</b>							
Fla. Stat. § 790.401	Risk Protection Order	March 9, 2018	✓		14 days	Up to 1 year	Up to 1 year
<b>Hawaii</b>							
H.R.S. § 134-61, et. seq.	Gun Violence Protective Order	January 1, 2020	✓	✓ <sup>13</sup>	14 days	1 year	1 year
<b>Illinois</b>							
430 ILCS §67/1, et seq.	Firearms Restraining Order	January 1, 2019	✓	✓	14 days	6 months–1 year	Up to 1 year
<b>Indiana<sup>14</sup></b>							
Ind Code § 35-47-14-1, et seq.	Seizure and Retention of Firearms	July 1, 2005	✓		14 days (14 days) <sup>15</sup>	Until terminated by the court <sup>16</sup>	N/A
<b>Maryland</b>							
Md Public Safety Code § 5-601, et seq.	Extreme Risk Protective Order	October 1, 2018	✓	✓ <sup>17</sup>	7 days (Earlier of ex parte hearing or end of the second court day after issuance)	Up to 1 year	6 months
<b>Massachusetts</b>							
Mass. Gen. Laws ch. 140, §§ 121, 129B(C), 131(C), 131R-Z	Extreme Risk Protection Order	August 17, 2018	✓	✓	10 days (Earlier of ex parte hearing or end of the next court day after issuance)	Up to 1 year	Up to 1 year

State	Policy Name	Effective Date <sup>1</sup>	Who May Ask for an Extreme Risk Order: Law Enforcement	Who May Ask for an Extreme Risk Order: Family Member <sup>2</sup>	Maximum Duration of the Ex Parte Order (Emergency Order, if applicable) <sup>3</sup>	Duration of the Final Order	Renewal Lasts for
<b>Michigan</b> Senate Bill 83 (2023)	Extreme Risk Protection Order	January 1, 2024	✓	✓ <sup>18</sup>	One year unless a hearing is requested, which then must be held within 14 days (same for emergency orders) <sup>19</sup>	1 year	1 year
<b>Minnesota</b> Minn. Stat. § 624.7171, et. seq.	Extreme Risk Protection Order	January 1, 2024	✓	✓	14 days	6 months–1 year	6 months–1 year
<b>Nevada</b> Nev. Rev. Stat. Ann. § 33.500, et. seq.	Order for Protection against High-Risk Behavior	January 1, 2020	✓	✓	7 days	Up to 1 year	Up to 1 year
<b>New Jersey</b> N.J. Stat. § 2C:58–20, et seq.	Extreme Risk Protective Order	September 1, 2019	✓	✓	10 days	Until terminated by the court <sup>20</sup>	N/A
<b>New Mexico</b> N.M. Stat. Ann. § 40-17-1, et seq.	Extreme Risk Firearm Protection Order	May 20, 2020	✓ <sup>21</sup>		10 days	Up to 1 year	Up to 1 year
<b>New York</b> NY CLS CPLR § 6340, et seq.	Extreme Risk Protection Order	August 24, 2019	✓	✓ <sup>22</sup>	6 days <sup>23</sup>	Up to 1 year	Up to 1 year
<b>Oregon</b> ORS § 166.525, et seq.	Extreme Risk Protection Order	January 1, 2018	✓	✓	Up to a year unless a hearing is requested, which then must be held within 21 days. <sup>24</sup>	1 year	Up to 1 year
<b>Rhode Island</b> RI Gen Laws § 8-8.3-1, et seq.	Extreme Risk Protection Order	June 1, 2018	✓		14 days	1 year	1 year
<b>Vermont</b> 13 VSA § 4051, et seq.	Extreme Risk Protection Order	April 11, 2018	✓ <sup>25</sup>		14 days	Up to 6 months	Up to 6 months
<b>Virginia</b> Va. Code 19.2-152.13, et seq.	Substantial Risk Order	July 1, 2020	✓ <sup>26</sup>		14 days	Up to 180 days	Up to 180 days
<b>Washington</b> RCW 7.105	Extreme Risk Protection Order	December 8, 2016	✓	✓	14 days	1 year	1 year

- 1 The effective date is the date the law first took effect in the state. The law may have been subsequently amended.
- 2 Or household member.
- 3 In California, a judicial officer may issue a temporary emergency gun violence restraining order pursuant to specific request by a law enforcement officer. In Indiana, a law enforcement officer may seize a firearm without a warrant in certain circumstances. In Maryland, a court commissioner may issue an interim extreme risk protective order when the court is closed. In Massachusetts, a justice of the court may issue an emergency extreme risk protection order when the court is closed. In Michigan, a law enforcement officer may request an immediate emergency extreme risk protection order if the officer is responding to a complaint involving the respondent in certain circumstances.
- 4 Employers, certain coworkers, certain teachers, roommates, dating partners, and a person with a child in common can also file a petition. However, only law enforcement may petition for a temporary emergency order.
- 5 Certain medical professionals and educators may also file a petition.
- 6 State's attorney or assistant state's attorney; any two police officers.
- 7 Certain health professionals can also file a petition.
- 8 Fourteen days after the service of the order or the execution of the search warrant.
- 9 Lasts until terminated by the court after a petition and a hearing.
- 10 While law enforcement and family or household members may petition for a final order, only law enforcement may petition for an ex parte order.
- 11 Effective date of initial emergency law.
- 12 Certain mental health professionals can also file a petition.
- 13 Certain medical professionals, educators, and colleagues may also file a petition.
- 14 Law is structured as a firearm removal by law enforcement.
- 15 If law enforcement seizes a firearm without a warrant, the officer must, within 48 hours, file an affidavit with the basis for the officer's belief that the individual is dangerous, which the court must review as soon as possible. The court must hold a hearing within 14 days of the filing. If law enforcement seizes a firearm pursuant to a warrant, the court must hold a hearing within 14 days of the filing of the search warrant return.
- 16 Lasts until terminated by the court after a petition and a hearing; petition may be made no earlier than 180 days after the final order.
- 17 Certain health professionals can also file a petition.
- 18 Certain health care providers can also file a petition. However, only law enforcement may petition for an immediate emergency extreme risk protection order.
- 19 A requested hearing must be held within 5 days for certain respondents who are required to carry a firearm as part of their employment.
- 20 Lasts until terminated by the court after a petition and a hearing.
- 21 While New Mexico's Extreme Risk law does not allow family members to petition for an Extreme Risk Firearm Protection Order directly with the court, it allows certain family members, people with close personal relationships, employers, or school administrators ("reporting parties") to request that law enforcement file a petition for an Extreme Risk Firearm Protection Order. Law enforcement must file a petition upon receiving credible information that gives law enforcement probable cause to believe that a person poses a significant danger of causing imminent personal injury to self or others by having access to a firearm.
- 22 School administrators and certain health professionals can also file a petition.
- 23 Business days.
- 24 After an ex parte order is issued, the respondent has 30 days to request a court hearing. If a hearing is requested, it must be held within 21 days. If a hearing is not requested within 30 days, the order will be confirmed and become the final order.
- 25 State's Attorney or the Office of the Attorney General.
- 26 Attorney for the Commonwealth or a Law Enforcement Officer.



**APPENDIX B:  
EMERGENCY SUBSTANTIAL RISK ORDER BENCH CARD  
FROM FAIRFAX COUNTY**

Emergency Substantial Risk Order Guide Fairfax County Police Department
When to obtain?
<ul style="list-style-type: none"> <li>• Probable cause that a subject poses a substantial risk by either being in possession or purchasing a firearm</li> <li>• Common cases include: Brandishing, Mental health with a firearm, DV with a firearm, Threat of firearm</li> </ul>
How to obtain?
<ul style="list-style-type: none"> <li>• Fill out DV4060 (ESRO Petition) at the magistrates office</li> <li>• Fill out form online and bring to magistrates office</li> </ul>

Emergency Substantial Risk Order Guide Fairfax County Police Department
What next?
<ul style="list-style-type: none"> <li>• Serve Respondent in person</li> <li>• MUST ASK for CONSENT for firearms</li> <li>• Respondent must be aware of the ESRO and served before taking police actions</li> <li>• If verbally refuses to surrender firearms, can write a Search Warrant (Consult with CID)</li> <li>• Turn served paperwork into the Circuit Court and Warrant Desk</li> </ul>
Questions?
Contact Sgt. Amanda Paris

## APPENDIX C: ERPO DATA REPORTING AND AVAILABILITY RECOMMENDATIONS

### Data Reporting and Availability

As states enact and implement extreme risk laws, strategic evaluation is critical. Research will enhance understanding of the laws' impacts on firearm violence, provide necessary feedback to implementers of the policy to help improve outcomes, help to spot and correct inequitable use of the orders, and ultimately empower legislatures to make more informed policy decisions. States should require reporting of ERPO case data to a centralized state database and should facilitate access to these data for research and policy purposes. Specific data required to be reported to these researcher-accessible databases may include but are not limited to:

#### Petitioner Information

1. Relationship of petitioner to respondent;
2. Petitioner type (category of eligible petitioner according to state law);
3. Demographic information of petitioner, including age, gender identity, and racial or ethnic identity; and
4. For law enforcement petitioners, the specific department or agency for which the petitioner works or which the petitioner is representing.

#### Respondent Information

1. Demographic information of respondent, including age, gender identity, and racial or ethnic identity;
2. Whether the respondent is or has been the respondent to another ERPO and/or other protective order; and
3. Whether the respondent has a concurrent criminal case.

#### Order Information and Circumstances

1. City, county, and date of petition and issuance;
2. Expiration date for petition;
3. Risk profile of respondent:
  - a. Risk to self only,
  - b. Risk to others only, or
  - c. Risk to self and others;
4. Brief synopsis of event that precipitated the order;
5. Petition Outcome:
  - a. Temporary ERPO granted or denied and reasons for petition being granted, denied, or renewed,
  - b. Full ERPO granted, denied, or renewed and reasons for petition being granted, denied, or renewed,
  - c. Case dismissed and reasons for dismissal, or
  - d. If the respondent contested the order;
6. Whether the order was served, and if yes, the date of service;
7. Whether the respondent was arrested, hospitalized, or referred for services; and
8. Whether a search warrant was issued.

#### Firearms Information

1. Number and type of known firearms in respondent's possession or accessible to respondent;
2. Number and type of firearms recovered, seized, and/or transferred;
3. Number of firearms unaccounted for; and
4. Whether the respondent was compliant with the order to relinquish firearms.

### Data Reporting and Availability - the Consortium Recommends:

- States should assure that ERPO case data are entered into a centralized state database and should facilitate access to these data for research and policy purposes.





Center for  
Gun Violence Solutions

