

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



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HEARING BEFORE THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

“Stop Gun Violence: Extreme Risk Orders/Red Flag Laws”

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Written Testimony of Kimberly Wyatt

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Good Afternoon Chairman Blumenthal, Ranking Member Cruz and distinguished members of the Senate Judiciary Committee.

My name is Kimberly Wyatt and I am a Senior Deputy Prosecuting Attorney from King County, Washington. I am grateful for the opportunity to testify and share with you the importance of having an Extreme Risk Protection Order law and how it has worked in our state over the past four and a half years. You will hear about the need for ERPO implementation, the benefits of increased coordination with local and federal law enforcement and real-life applications of how ERPO has been used to save lives.

As our nation faces the most recent tragedies and senseless losses of life in Indianapolis, Boulder and Atlanta, our nation grieves, as it all too frequently does in the aftermath of mass shootings. I am here today, speaking from experience, to say that we have an opportunity to get ahead of this and create a viable path forward. It is time for us to systematically act and lean into the tools that can make a difference in curbing firearm violence, including suicide. One of those tools is the Extreme Risk Protection Order.

Extreme Risk Protection Orders are a critical tool to intervene to prevent a firearm-related tragedy from occurring. Countless reports published by the US Secret Service and others have found that most people who intend to do harm to themselves or others share that information in one form or another. Being alert to that information, being primed to competently intervene and having the legal tools to do so during those brief windows of opportunity are the key to saving lives. Extreme Risk Protections Orders and engaging in efforts to effectively implement them, are how our Unit, the Regional Domestic Violence Firearms Enforcement Unit (RDVFEU), has helped intervene and disrupt several potential suicides, mass shootings, and other threats to community safety since our Unit was formed in January 2018.

Using a harm-reduction model and triaging risk, our Unit assists law enforcement and family or household members to file ERPOs in cases where there is a credible threat of self-harm or harm to others. Extreme Risk Protection Orders allow family members and law enforcement (who have seen warning signs), to immediately (at the time of crisis) come before a court and petition for a temporary order that prevents the at-risk individual from purchasing and possessing firearms. Intervening at the time of warning signs and threats can make the difference between life and death. Contrary to some of the unfortunate rhetoric around ERPOs, due process is built into every step, as judicial officers oversee each phase.

Implementation of ERPO Laws

As we have learned locally, and in collaboration with partners across the nation, ERPO laws do not implement themselves. As our Unit formed in January of 2018, we quickly realized the need for robust ERPO education. Having a law alone is insufficient. It is critically important that law enforcement and other system partners and community members are aware of ERPO as a tool to intervene to prevent suicides and threats to others—including threats of mass violence. Equally essential is the need for the public to know that ERPOs are a tool of intervention for a loved one in crisis. Having a designated ERPO prosecutor and advocate to help educate the community and law enforcement has proven to be a successful model. We have increased our outreach to the community by providing ERPO training. To name a few examples, we have trained those most in a position to learn of risks and threats, such as local crisis line workers, Veterans Affairs social workers, county-designated crisis responders, medical providers, various community groups, judicial officers, local and state-wide law enforcement, our local United States Attorney's Office and federal law enforcement.

Need for Federal Funding

Although ERPO education is one of the foundations for the successful implementation of ERPO laws, it is also essential to have subject matter experts on ERPOs to assist families and law enforcement with the ERPO process in **real time**. When the crisis is occurring, families and law enforcement need the ability to move quickly to intervene to prevent gun violence. Federal funding is needed to provide states a model policy to adopt ERPO implementation and to have an ERPO commission, or something similar, to study the effectiveness of ERPO laws in each state. Collecting, analyzing and researching ERPO data is critical for transparency, better implementation and learning about outcomes that can inform other life-saving interventions.

Case Examples of ERPO in King County, Washington

For context, King County Washington has a population of approximately 2.2 million people and is comprised of more than 30 different law enforcement agencies. The county has densely populated urban areas like Seattle but also contains many suburban and rural areas. In 2020, our Unit assisted with 79 ERPO petitions. The number of petitions filed each year has been at, or around, that rate since we began 2018. ERPOs are a specific intervention, not a blanket response, as some try to argue. What you will see from the case examples below is that these targeted interventions were successful in putting space and distance between someone threatening harm to self or others and their access to firearms.

ERPOs are singularly focused on temporarily restricting access to firearms only **for those who pose a danger of harm to self or others**. Firearm owners in general need not fear and should support the use of ERPOs in these narrow and high-risk situations. As a distraught father below mentioned, this is “just common sense.”

Suicide Prevention:

A father reached out to our ERPO email, expressing concern that his son was actively suicidal, had access to firearms, was emotionally unstable and had a significant substance abuse issue. An ERPO was filed to temporarily remove the firearms from the home. The father testified at the hearing and told the court that he “believes in the law of common sense” and that the ERPO was needed to protect his son and family. Because of the ERPO, his son is still alive today. As many experts in suicide prevention share, suicidal thoughts are often temporary and attempts impulsive, but having access to a firearm during that period of crisis, however fleeting, is often fatal (compared to other means).

Crisis Behaviors:

Law enforcement responded to a crisis call of an individual who had displayed over 20 firearms with loaded magazine clips on his front lawn. Most troubling to law enforcement was the fact that the firearms were within reach of a well populated residential street where children were playing. The individual was experiencing delusions and believed that he was 700 billion years old. An ERPO was obtained and the firearms were secured by law enforcement while the individual was evaluated for a mental health hold.

Coordination with Federal Partners

Over the past several years, our Unit has built and increased cooperation with federal law enforcement partners to include multiple federal law enforcement agencies petitioning for an ERPO. Federal law enforcement has praised the use of ERPOs as a tool that allows them to intervene in real time to disrupt and deescalate individuals who are exhibiting warning signs that include violent behaviors and threats.

Threats to Others- Preventing Workplace Violence:

A federal employee made threats of mass violence towards his employer after he was placed on leave. The employee made threats that included a reference to a “massive massacre in the federal workplace” and stated that he had nothing to live for and that it was going to be “a blood bath.” He also explicitly named his former managers in several of the threats. Our Unit was contacted to assist with the filing of an ERPO. While federal law enforcement was investigating the threats, the employee traveled out of state. A temporary ERPO was obtained. With the cooperation of law enforcement in a multi-state and multi-jurisdictional investigation, the respondent was served with the temporary ERPO and the firearm parts that the respondent had

purchased were intercepted by law enforcement before he could carry out his plot. The ERPO also prevented the future purchase of other firearms while the order was in place.

Threats of Ideologically Motivated Violence:

In cooperation with federal and local law enforcement, an ERPO was filed against a self-admitted member of a Neo-Nazi group known for promoting and advancing a violent ideology. The respondent was organizing hate camps, that included firearm training, access to firearms while promoting threats of mass violence—including threats to kill members of the Jewish community. A temporary ERPO was served and numerous firearms were recovered, including ghost guns.

Every example above illustrates the importance of acting when there are words, actions or behaviors that suggest that someone may be a danger to themselves or others. In so many situations, we do not get a second chance to intervene. Extreme Risk Protection Orders save lives. I know firsthand. Every state in the nation deserves to have this lifesaving legislation. Thank you.