

Questions for the Record from Senator Kamala D. Harris
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1. At Brady California, you worked to help pass and implement California's Gun Violence Restraining Order (GVRO) law, which was enacted after the mass shooting in Isla Vista, California. In 2014, as Attorney General of California, I also supported California's GVRO law.

a. What features of California's law do you find most helpful in preventing mass shootings?

California's GVRO law, along with many other extreme risk laws across the country, is an important mechanism to prevent gun violence. While many mass shooters have a troubling and escalating history of violence against themselves and other family members, they may not have a conviction for a crime that carries a firearms prohibition with it. Therefore, a GVRO or similar law can be a highly effective measure in preventing a mass shooting - and every day shootings - before they occur. The California GVRO law uses risk-based criteria to identify behavioral warning signs for a possible shooting that can be presented to a judge as evidence to bring a GVRO. In many instances, law enforcement or a family member identifies this escalation of behavior, but prior to 2016, had no legal mechanism to prevent a gun purchase or remove currently possessed guns. The GVRO created this mechanism. While anecdotal evidence exists indicating that extreme risk laws have thwarted potential mass or school shootings in certain states, there is a wealth of data that shows that extreme risk laws are undeniably effective in preventing gun suicide. A study of the first 14 years of Connecticut's extreme risk law (from 1999-2013) showed that for every 10-20 orders issued, at least 1 suicide was prevented.¹

b. In your view, how did the GVRO law fill gaps in existing California law?

The GVRO law in California covers many circumstances where someone is exhibiting dangerous behavior and is a threat to themselves or others, but who doesn't qualify for other types of gun prohibitors.

Section 5150 of the California Welfare and Institutions Code allows a temporary, involuntary psychiatric hold for someone exhibiting danger to themselves or others. However, this "5150 hold," as it is typically called in California, only applies to individuals who are diagnosed with a mental health condition. The GVRO law uses a set of risk-based criteria to identify individuals with *behavioral* risk factors for violence and does not include language specifying that they must be living with a mental illness. This was done intentionally, as decades of data show that individuals living with mental illness are far more likely to be a victim, not a perpetrator, of violence. This law can capture individuals in the midst of personal or situational crisis (i.e. an individual who is deeply distressed due to the recent loss of a family member or due to being laid off and financially struggling and making continual, documented threats against their own life) or with heightened anger (i.e. against former boss who fired the individual), but who does not have a mental health diagnosis. Finally, the GVRO serves one specific purpose – to temporarily separate an individual who is at risk of harming themselves or others from firearms – whereas the 5150 hold is a 72-hour psychiatric hospitalization that includes firearms-related prohibitions.

Additionally, a myriad of research shows that alcohol misuse increases the risk for firearms violence, both against others and themselves. People who drink alcohol are four to six times more likely to die by

¹ Swanson, J. W., Noriko, M. A., Lin, H. J., Alanis-Hirsch, K., Frisman, L. K., Baranoski, M. V. et al. (2017). Implementation and effectiveness of Connecticut's risk-based gun removal law: Does it prevent suicides? *Law and Contemporary Problems*. 80(2), 101-128.

firearm suicide than non-drinkers,² and a recent study found that those who had been arrested for prior alcohol-related convictions were four to five times more likely to be arrested for a violent or firearm-related crime.³ Anecdotal evidence bears this point out, as well: the San Diego City Attorney successfully obtained a GVRO against a man who, while intoxicated at three times the legal limit, believed he was shooting at animals in his backyard, but was shooting into his neighbors' backyards. After they called the police, terrified, a GVRO was issued.⁴ There are clear instances where those misusing alcohol may be dangerous when inebriated and should not have access to firearms but do not fall under the criteria for a 5150 hold. The San Diego City Attorney's office reports that 25% of the first 100 GVROs issued in their jurisdiction were related to some form of substance abuse.

The GVRO is also an excellent complement to existing law governing domestic violence restraining orders (DVROs) in California. While DVROs in California have their own firearm-related prohibitions, a variety of factors can prevent an abuse victim/survivor from seeking a DVRO – from the stigma associated with being a survivor of domestic violence, to threats from a current or former partner, and even being told that they are fabricating their abuse. A GVRO provides an alternative option that can be initiated by law enforcement or other family members to ensure guns are removed from high-risk situations where abuse may escalate into a shooting. It is critical that individuals who have experienced domestic violence and want firearm-related protections work collaboratively with law enforcement and advocates to ensure they are seeking the appropriate order.

Finally, GVROs can provide a mechanism for temporary removal of firearms in cases where an individual has been charged with a crime that clearly exemplifies that they are unable to responsibly own firearms, but that person has made bail or charges are dropped, or the perpetrator pleads down to a lesser crime that doesn't carry a firearms prohibition. In some of these cases, there may clearly be risky behaviors and reasons that the individual should not own a gun despite not being prohibited under state or federal law. In many states, courts may consider the following evidence when considering whether to issue an extreme risk law: threats or actions of violence against themselves or others, both recently or in the past; violation of other protective orders; unlawful or reckless use or brandishing of a gun; or recent offenses of misuse of alcohol or controlled substances. If high-risk and dangerous behavior can be proved in court, a GVRO may prevent future shootings.

2. California's GVRO law has generally been underused, with less than 200 orders issued statewide from 2016-2017.⁵ In your testimony, you mentioned that extreme risk laws must be accompanied by a robust implementation program.

a. **What implementation programs or features do you believe would help to increase the usage of California's GVRO law?**

² Branas CC, Richmond TS, Ten Have TR, *et al.* (2011). Acute alcohol consumption, alcohol outlets, and gun suicide. *Subst Use Misuse*. **46**: 1592-1603.

³ Wintemute GJ, Wright MA, Castillo-Carniglia A, Shev A, Cerda M (2018). Firearms, alcohol and crime: convictions for driving under the influence (DUI) and other alcohol-related crimes and risk for future criminal activity among authorised purchasers of handguns. *Inj Prev*. **24**: 68-72.

⁴ See "City Attorney's Office, San Diego Police Working to Protect the Public From Gun Violence," press release, San Diego City Attorney Mara W. Elliott, Feb. 16, 2018, attached.

⁵ Koseff, Alexei, "'Best tool' to prevent gun violence is rarely used in California," the Sacramento Bee, Mar. 29, 2018, <https://www.sacbee.com/latest-news/article206994229.html>.

Use of California's GVRO law increased dramatically in 2018 as education and training efforts improved. (86 orders in 2016, 104 orders in 2017, and 424 orders in 2018 according to Cal DOJ data). Jurisdictions that have successfully implemented the GVRO law, such as the City of San Diego, have first established a process that works for their agencies and partners, including law enforcement, city attorneys, county counsels, and the courts and have dedicated staff time. Peer-to-peer trainings, such as recent trainings provided by the San Diego City Attorney's office, have helped other jurisdictions move their GVRO process forward. This all takes time and money.

b. Are there any states that you found to have an exemplary implementation process? If yes, please explain and provide examples.

The King County Regional Domestic Violence Firearms Enforcement Unit in Washington State is one example of a county that is doing exemplary work to enforce not only extreme risk protection orders (ERPOs) but also domestic violence protection orders. They have a 9-person, multidisciplinary and multi-jurisdictional unit that identifies individuals who may be appropriate subjects for ERPOs, seeks ERPOs and obtains supplementary firearm-related information to support the petition, serves ERPOs, removes firearms, and ensures the orders are fully enforced. Please see the attached document that provides an overview of the Unit.

c. Do you believe the Extreme Risk Protection Order Act would meaningfully assist with state implementation of extreme risk laws? Why or why not?

Yes, without a doubt. Providing financial assistance to states with complying laws will ensure that appropriate stakeholders are trained quickly and comprehensively and will remove or lessen concerns over budgetary constraints for proper implementation. The "Extreme Risk Protection Order Act," as currently drafted, also designates at least 25% of the funds to be used for training of law enforcement. One of the most important lessons that we learned in California is that law enforcement must be among the first group trained as they are critical stakeholders for seeking orders, serving orders, and removing and storing firearms. According to CA DOJ, law enforcement agencies have been responsible for 97 percent of petitions for a GVRO since the law was enacted. However, use of the law county by county has varied drastically and it remains under-used, partially due to the costs associated with travel and training in a state as expansive with many rural areas as California. After the addition of funding and when more constituencies became aware of the law, use of the GVRO law jumped from just 86 orders in 2016 to 424 orders in 2018. Ensuring funding for every state would help to ameliorate some of the initial struggles that California faced.

Gun Violence Restraining Orders Issued in California 2016-2018

	2018			2017			2016			Totals
	EGV	OGV	TGV	EGV	OGV	TGV	EGV	OGV	TGV	
Alameda	2	1	1		1	2	2	3		12
Butte					1			1	1	3
Calaveras							1	1	1	3
Contra Costa	2		1	1		1	3		2	10
Fresno				2						2
Glenn				1			1			2
Inyo							1			1
Kern	2			1					1	4
Kings				3						3
Lake	2									2
Los Angeles	21	4	6	15		1	8	3	5	63
Mendocino							1	1	1	3
Madera	1									1
Marin	1	1	3	1						6
Merced							1			1
Monterey					1	1	1			3
Napa	1		1							2
Nevada									1	1
Orange	17		1	5			3			26
Placer	3		6			1			1	11
Riverside	5	2	7	4		3	1		2	24
Sacramento	7			3	1	1	4			16
San Benito						2				2
San Bernardino	4	16	32	1		1	1			55
San Diego	4	57	124	4	3	7	4			203
San Francisco	1									1
San Joaquin	2			8			4			14
San Luis Obispo	2	1		1						4
Santa Barbara	12	4	2	8			9	1	3	39
Santa Clara	22	2	7	3		1	7			42
Santa Cruz	5		4	4					1	14
Solano	6			4			1			11
Sonoma	1									1
Trinity									2	2
Tuolumne		2	3			3				8
Tulare	1									1
Ventura	5	3	4	1	1	1	1			16
Yolo				1			1			2
Totals	129	93	202	71	8	25	55	10	21	614

EGV = Emergency 21 day order

OGV = One year order after hearing

TGV = Temporary 21 day order

38 Counties have used the GVRO



REGIONAL DOMESTIC VIOLENCE FIREARMS ENFORCEMENT UNIT
Reducing Harm through More Effective Enforcement of Firearms Laws

Background: The Need for a New Approach

Research on Interpersonal and Self-Directed Firearms Violence

Women in the United States (U.S.) are 11 times more likely to be murdered with a firearm than women in other high-income countriesⁱ. In fact, in the U.S., a woman is fatally shot by her partner every 16 hoursⁱⁱ. Just the presence of a gun in a domestic violence situation means the victim is five times more likely to be murderedⁱⁱⁱ. There are times when these risks are even higher for victims and families. The single most important red flag to predict a lethal response from a partner is recent separation, with 45 percent of domestic violence homicides occurring within 90 days of separation, most within the first few days^{iv}. In addition to increased homicide risks, batterers also employ guns as tools of terror and intimidation against their partners and children. An estimated 4.5 million women in the U.S. have been threatened with a gun by an intimate partner^v. The negative consequences of these actions impact more than just their intended victims, they are also felt by the children who see, hear, or are otherwise affected by the abuse.

Victims of domestic violence often seek civil protection orders to increase their safety. Because of the known dangers associated with a violent intimate partner having access to a firearm, federal statutes and the statutes of many states authorize or require that persons under certain types of protection and no contact orders be prohibited from access to firearms. Enforcing court orders that prohibit abusers from possessing firearms is one of the most important ways to significantly enhance the safety of domestic violence victims and their families^{vi}. In Washington State, 54 percent of domestic violence homicides between 2006 and 2015 were committed by a defendant **who had previously been ordered to surrender firearms**, but those orders had not been enforced^{vii}. For more than 15 years, the Washington State Domestic Violence Fatality Review Board has recommended removal of firearms from abusers as a priority to reduce domestic violence homicide.

Moreover, a 2014 Washington State Institute of Public Policy study found that the risk of harm from access to firearms extends beyond intimate partners; domestic violence is the single greatest predictor of future criminal acts and the single greatest predictor of future violent crime of any kind^{viii}. Additionally, domestic violence calls lead to more police fatalities than any other type of law enforcement response^{ix}.



Access to firearms is also associated with an increase in suicide risk. Suicide accounts for nearly two-thirds of all gun deaths in the U.S., and guns are used in over half of all suicide deaths^x. About 85% of attempts with a firearm are fatal: which is a much higher case fatality rate than nearly every other method^{xi}.

Access to firearms can also pose a danger to self or others when persons experience an acute crisis involving acts or threats of violence, sometimes along with the abuse of drugs or alcohol. Such individuals often exhibit signs that alert family, household members, or law enforcement to the threat. Many mass shooters had a history of domestic violence or displayed these other kinds of warning signs prior to committing gun violence^{xii}.

Federal and State Laws Designed to Address These Risks

Since the mid-1990s, federal law has barred certain categories of people from possessing weapons, including felons, persons who have been convicted of a domestic violence offense, and persons subject to certain restraining orders, among other prohibitors. However, those persons were not necessarily barred under state law. While federal law clearly recognizes the heightened risk domestic abusers pose, it does not prohibit persons with temporary protection orders issued against them from possessing firearms (temporary orders are often issued because the court finds the risk is too great to wait until a hearing occurs). Nor does federal law require firearms to be relinquished, meaning that even though abusers are prohibited from purchasing other firearms, there is no mechanism to remove the firearms they already own.

To address these gaps, in 2014, the Washington State Legislature unanimously adopted ESHB 1840, a firearms relinquishment law. The law authorizes courts to issue “Orders to Surrender Weapons” when protection orders (Domestic Violence Protection Orders, Sexual Assault Protection Orders, and other types of protection orders) are issued. These orders prohibit ownership and access to firearms, prohibit purchase of additional firearms, and require the relinquishment of any and all firearms currently possessed by the respondent (and any Concealed Pistol License (CPL), if it exists). The firearm prohibition can also apply to temporary protection orders.

In 2015, the legislature passed SB 5381, which requires all law enforcement agencies to develop policies for storing surrendered firearms and procedures for notifying family members when firearms are being returned. The law also requires procedures for checking various databases to verify that the person



requesting return of a surrendered firearm is eligible to possess them. In 2016, the legislature passed HB 1501 regarding actions law enforcement must take when they become aware, through a failed background check, that a person prohibited from possessing firearms has attempted to purchase firearms.

In 2016, Washington voters adopted the Extreme Risk Protection Order (ERPO) law, which is designed to temporarily prevent individuals who are at high risk of harming themselves or others from accessing firearms by allowing family, household members, or police to petition a court for an order that requires the person to surrender any firearms currently possessed and prohibits the person from purchasing or obtaining additional firearms. This order may be granted when there is demonstrated evidence that the person poses a significant danger to self or others, including danger because of a dangerous mental health crisis or violent behavior, such as threats to commit suicide or to kill or harm others at a school, place of worship, or business. Prior to this ERPO law, if individuals displayed warning signs of possibly harming themselves or others, their family and law enforcement had no legal authority to address the risk caused by access to firearms without asking that the person be arrested or hospitalized, which is not always the best option, and often only possible **after** the crisis became a tragedy.

These laws provided new, critically important legal authority for courts, prosecutors and law enforcement, but were not leading to significant results because they functioned largely on an honor system. While it was tremendously important that the laws were passed, even the best laws do little to protect victims without full enforcement and a clear delineation of who is responsible for that enforcement. A region-wide systems review conducted in 2016-2017 identified the need for a clear point of responsibility for enforcing the laws and made recommendations for resources, capacity, updated systems, practices, policies, and training to ensure the laws would be effectively enforced within and across jurisdictions (many cases involve parties living in different jurisdictions).

The systems review noted that these orders may be issued by Judges or Commissioners in Washington State's Superior Courts, District Courts, or Municipal Courts, on many types of criminal and civil calendars. In King County, there are 39 different law enforcement agencies to which the courts may direct the responsibility for service of these orders. These 39 agencies vary significantly in size, budget, training and resources. The laws did not provide for funding of staff or technology, nor designate a point of accountability with authority to direct a complicated, multi-party, multi-jurisdictional, often fragmented system to ensure that there is compliance.



Interviews with law enforcement agencies in the region and a review of their policies, as well as limited available court data, showed that service and enforcement of the orders was not prioritized based on risk. Law enforcement policies also did not direct that officers uniformly remove firearms when lawfully possible from 911 domestic violence response scenes or from restrained parties when these types of court orders were served. Also, little tracking was being done to monitor what firearms were surrendered, whether all that were ordered surrendered were in fact surrendered, and how long it took for the firearms to actually be surrendered. This lack of data inhibited the ability to measure or evaluate whether victim and community safety were being improved.

As part of this systems review, model policy and a risk assessment tool for law enforcement were developed and many operational improvements were designed. The creation of a new unit was recommended to strengthen the ways law enforcement, courts, prosecutors, advocates and the community could work together across agencies and across jurisdictions to keep firearms out of the hands of individuals presenting the greatest risks of harm to themselves, their families, their communities, and law enforcement. The recommended reforms were adopted by elected officials in King County and the City of Seattle, funding was authorized, and a multi-year memorandum of understanding was entered. As a result, the Regional Domestic Violence Firearms Enforcement Unit (RDVFEU) was created and officially launched on January 1, 2018.

Solution: The Regional Domestic Violence Firearms Enforcement Unit

The mission of the RDVFEU is to reduce gun violence and increase victim and community safety. This is done through regional collaboration and proactive enforcement to more effectively implement and enforce the State's firearms relinquishment and ERPO laws described above.

Using a risk reduction approach, RDVFEU proactively assists with the service of court orders and helps ensure the *immediate* removal of firearms based on those orders. The Unit helps petitioners and families, and provides additional information about firearm concerns to the court in various types of hearings, including protection order proceedings (civil proceedings where the petitioner is often on her or his own, or where the respondent may be providing conflicting information and the court does not have third parties providing a more complete record). The Unit helps respondents who want to better understand how to comply with the court's order, and is responsible for follow up investigation and prosecution of those who fail to comply with the court's order or who otherwise possess firearms unlawfully. The Unit is also leading efforts to provide model policies and best practices training for law enforcement and courts.



The Unit, the first of its kind in the nation, is multi-disciplinary, multi-jurisdictional, and knits together the civil and criminal systems. It includes three dedicated Firearms Prosecutors, a Firearms Advocate (to assist families and victims), a Court Orders Problem-Solver (to help law enforcement quickly resolve any issues on orders so that they can be quickly served and enforced), a Firearms Court Coordinator (whose role it is to gather additional information to help ensure the court has a more comprehensive record, coordinate with victims and law enforcement, and assist with verifying compliance), a Paralegal, a Data Technician, and a Program Manager. These positions were strategically developed and scoped to address the most critical system gaps. They work together with assigned law enforcement Sergeants and Detectives from the King County Sheriff's Office (KCSO) and Seattle Police Department (SPD), operating as a unified team. While the King County Prosecutor's Office, Seattle City Attorney's Office, KCSO, and SPD are the initial partner agencies, the RDVFEU supports all law enforcement agencies in the county, with cases prioritized based on risk, not on jurisdiction.

Initial Results

The Unit established a new protocol with the King County Superior Court Department of Judicial Administration to receive all Superior Court Orders to Surrender Weapons (OTSWs) and Extreme Risk Protection Orders (ERPOs) within 24 hours of them being entered. This case information allows the Unit to immediately reach out to the victim, run purchase history, and dispatch Unit Detectives to remove firearms, as indicated or able based on the court order. In its initial six months of operation in 2018, the Unit assessed and researched almost 500 cases where OTSWs had been issued by courts to prohibit future purchase and require relinquishment, and successfully removed 232 firearms. By comparison, a total of only 124 firearms were turned in during all of 2016. The Unit also assisted in the voluntary relinquishment of additional firearms, as well as the removal of firearms through almost 50 ERPOs in that time period.

The Unit's "Court Orders Problem-Solver" initiated work with law enforcement and the courts to help address and rectify situations where a court order, because of a flaw, was not able to be entered into Washington State's Crime Information Center database (WACIC), was not served on the respondent, or was unable to be enforced. This is a significant step forward in addressing a decades-old problem that had been highlighted by every law enforcement agency interviewed by the system reform work group. Previously, there was no way for law enforcement to quickly and easily get needed technical corrections made; flawed court orders would simply go un-served and therefore un-enforced, potentially putting victims at greater risk.



The Unit also worked with both the King and Snohomish County Sheriffs and Police Chiefs Associations to adopt the Model Policy and is working with individual law enforcement agencies and the Washington State Criminal Justice Training Commission to update agency, Academy and In-Service training curricula and testing.

Across the country, others are recognizing the importance of adopting these kinds of statutory and system reforms. In the spring of 2018, the American Medical Association recommended: support for laws prohibiting individuals who are under domestic violence restraining orders or who are convicted of a misdemeanor domestic violence crime or stalking, from possessing or purchasing firearms; requiring that domestic violence restraining orders and gun violence restraining orders be entered into the National Instant Criminal Background Check System; and allowing family members, partners, and law enforcement officials to petition courts for gun removal from individuals considered at high risk for violence.

The Police Executive Research Forum (PERF) also advocated in the spring of 2018 for: the enactment and utilization of ERPO laws (because these situations also pose significant risks for law enforcement); the enactment and enforcement of laws that provide for the immediate surrender of firearms upon conviction of domestic violence offenses or other disqualifying events under federal law; the creation and training of specialized units to enforce protection orders and remove firearms from these offenders; and the development and use of lethality assessment tools for officers responding to the scene of a domestic violence incident to help determine if the victim is at an increased risk of being killed in a subsequent incident.

It is important to note as we move forward, that many of our national, state and local systems and laws, were developed **before** we learned about the risks posed when domestic violence abusers or those who are in crisis have access to firearms (particularly in times of heightened volatility). Adopting laws and instituting practices (such as the Regional Domestic Violence Firearms Enforcement Unit) that are grounded in the research, based on harm reduction and risk prevention, and enable inter-jurisdictional, inter-agency collaboration to help keep guns out of the hands of the most dangerous, will help all of us to better protect victims, their families, our communities and law enforcement.

ⁱ Hemenway D, Shinoda-Tagawa T, Miller M. Firearm availability and female homicide victimization rates among 25 populous high-income countries. *J Am Med Womens Assoc.* 2002;57:100-104.

ⁱⁱ <http://data.ap.org/projects/2016/domestic-gun-homicides/>

ⁱⁱⁱ Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study



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^{iv} M. Wilson and M. Daly, "Spousal homicide risk and estrangement," *Violence Vict* 1993;8:3-16. [Medline]

<https://www.thetrace.org/2016/08/15-facts-that-show-how-guns-make-domestic-violence-even-deadlier/>

From research behind the development of ODARA, which is documented in N. Z. Hilton, G. T. Harris, & M. E. Rice, *Risk Assessment for Domestically Violent Men: Tools for Criminal Justice, Offender Intervention, and Victim Services* (Washington, DC: American Psychological Association, 2010).

^v [Trauma Violence Abuse](#). 2018 Oct;19(4):431-442. doi: 10.1177/1524838016668589. Epub 2016 Sep 14. **Nonfatal Gun Use in Intimate Partner Violence: A Systematic Review of the Literature.** [Sorenson SB](#)¹, [Schut RA](#)¹.

^{vi} Removing Firearms From Those Prohibited From Possession by Domestic Violence Restraining Orders: A Survey and Analysis of State Laws. April M. Zeoli, Shannon Frattaroli, Kelly Roskam, Anastasia K. Herrera

^{vii} <https://wscadv.org/resources/issue-brief-firearms-prohibitions-domestic-violence-homicide/>

^{viii} Washington State Institute for Public Policy (2014)

^{ix} National Law Enforcement Officers Memorial Fund, [22 percent of all officer deaths between 2010 and 2014](#) were in response to domestic dispute calls, more fatalities than any other type of call

^x Centers for Disease Control and Prevention. National Centers for Injury Prevention and Control, Web-based Injury Statistics Query and Reporting System (WISQARS) as cited and reported in: https://everytownresearch.org/firearm-suicide/#foot_note_3

^{xi} *Ibid*. A yearly average was developed using five years of most recent available data: 2012-2016 as cited and reported in: https://everytownresearch.org/firearm-suicide/#foot_note_3

^{xii} https://www.washingtonpost.com/news/posteverything/wp/2017/06/15/what-do-many-mass-shooters-have-in-common-a-history-of-domestic-violence/?utm_term=.0a72801228e1