

NEW YORK'S EXTREME RISK PROTECTION ORDER (ERPO)

HOW TO USE THE EXTREME RISK PROTECTION ORDER TO PREVENT GUN VIOLENCE

The Extreme Risk Protection Order (ERPO) is a civil court-issued order that prohibits people found to be dangerous to themselves or others from temporarily purchasing or possessing a firearm, rifle, or shotgun. ERPOs can be used to prevent mass shootings, suicides, and interpersonal gun violence before it occurs (1).

WHO CAN FILE AN ERPO PETITION?

- Police Officer or District Attorney
- Family or Household Member
- School Administrator or School Designee: Anyone chosen by the school to start the case, like teachers, guidance counselors, school psychologists, school nurse, and coaches.

WHERE IS AN ERPO PETITION FILED?

- File the ERPO petition with the NYS Supreme Court in the county where the individual (the “respondent”) who is allegedly dangerous lives.
- To locate the appropriate court go to the NY courts website.

WHAT TYPE OF BEHAVIOR MAY WARRANT THE ISSUANCE OF AN ERPO?

- Threat or act of violence or use of physical force directed toward self or another person
- Violation or alleged violation of an Order of Protection
- Pending charge or conviction for an offense involving use of a weapon
- Reckless use, display or brandishing of a gun
- Prior violation of an ERPO
- Recent or ongoing abuse of controlled substances or alcohol
- Evidence of recent acquisition of a gun or another deadly weapon, dangerous instrument, or ammunition. Other behavior indicating that the individual is likely to harm self or others.
- Did the behavior happen within 6 months of the time of the application?

WHAT HAPPENS AFTER THE FINAL ERPO EXPIRES?

- Return guns to lawful owner
- Return guns to respondent

CITATIONS

(1) [HTTPS://WWW.NYCOURTS.GOV/COURTHELP/SAFETY/EXTREMERISK.SHTML](https://www.nycourts.gov/courthelp/safety/extremrisk.shtml)

WHAT IS THE PROCESS FOR FILING AND OBTAINING AN ERPO?

STEP 1: FILE AN APPLICATION FOR A TEMPORARY EXTREME RISK PROTECTION ORDER

- Temporary ERPO application notifies the court that an individual is showing behavioral risk factors for danger to themselves or others and requests a short-term order to temporarily prohibit access or removal of guns.
- The application must include a description of the dangerous behaviors at issue, a list of the firearms and locations, if known, and other information.
- For the application go to the NY Courts website.

STEP 2: GATHER AND ATTACH ANY SUPPORTING DOCUMENTS TO THE APPLICATION.

STEP 3: COMPLETE A REQUEST FOR JUDICIAL INTERVENTION FORM (RJI FORM)

STEP 4: COMPLETE AN APPLICATION TO WAIVE FILING FEES AND FILE WITH COURT, AS NEEDED.

STEP 5: FILE APPLICATION, FEE WAIVER AND RJI FORMS AND ANY SUPPORTING DOCUMENTS WITH COURT'S CLERK.

STEP 6: JUDGE DECIDES IF A TEMPORARY ERPO WILL BE ISSUED.

If issued, a police officer will remove any guns that the respondent owns or possesses.

STEP 7: NOTICE AND HEARING

After the Temporary ERPO is issued, the respondent is still entitled to a hearing within 3-10 days. At the hearing, both sides can testify and present more evidence including witnesses. A higher level of proof must be presented to obtain a final ERPO.

STEP 8: DECISION

After hearing from both parties, the judge will then decide whether to issue a final ERPO which can be ordered for up to 1 year. If the ERPO is not issued, the case is dismissed and the guns must be returned to the respondent.

- **Change in circumstance:** A respondent may petition to have the ERPO lifted earlier and have their guns returned by filing an **Application to Amend or Vacate Extreme Risk Protection Order** with the court.

STEP 9: EXPIRATION AND EXTENSION OF THE ERPO

An application to extend an ERPO can be made within 60 days of the expiration of the existing order.

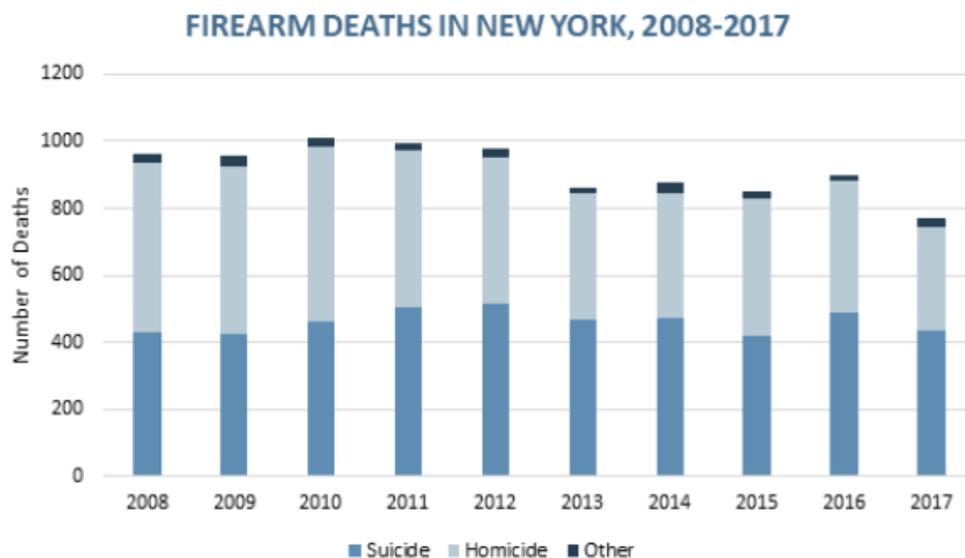
NEW YORK EXTREME RISK PROTECTION ORDER DATA, RESEARCH, AND CASE STUDIES

The Extreme Risk Protection Order (ERPO) is a civil court-issued order that prohibits people found to be dangerous to themselves or others from temporarily purchasing or possessing a firearm, rifle, or shotgun. ERPOs can be used to prevent mass shootings, suicides, and interpersonal gun violence before it occur (1).

NEW YORK FIREARM DEATH DATA

What does firearm violence look like in New York?

- In 2018, the most recent year of data available, there were 821 firearm deaths, of which 54% were firearm suicides (445 deaths) and 43% were firearm homicides (356 deaths) (2).



RESEARCH ON ERPO - HOW DO ERPOS PREVENT SUICIDE AND MASS SHOOTINGS?

- Evidence from Connecticut and Indiana show that ERPOs are an effective tool for suicide prevention, and research from California shows that ERPOs can be used to help prevent mass shootings.

CITATIONS

(1) [HTTPS://WWW.NYCOURTS.GOV/COURTHELP/SAFETY/EXTREMERISK.SHTML](https://www.nycourts.gov/courthelp/safety/extremrisk.shtml)

(2) CENTERS FOR DISEASE CONTROL AND PREVENTION, NATIONAL CENTER FOR HEALTH STATISTICS. SUICIDE DEATHS AND RATES PER 100,000. WONDER ONLINE DATABASE, 1999-2018. AVAILABLE: [HTTP://WONDER.CDC.GOV/UCD-ICD10.HTML](http://wonder.cdc.gov/UCD-ICD10.html). NOTE: THE MOST RECENTLY AVAILABLE CDC DATA IS 2018; AS SUCH, 2018 DATA IS USED WHERE APPROPRIATE.

CASE STUDIES - HOW HAVE ERPOS BEEN USED IN OTHER STATES?

MASS VIOLENCE

"A 21-year-old male posted a series of threatening statements on Instagram that were directed at his former high school, including, "Rip [name deleted] high school," "Nobody w[ill] be graduating from [ZIP code deleted]," "I hate all of u," "Hope I die tonight somehow," and "Dead or in jail." An acquaintance who saw the posts flagged down a police officer, and a different acquaintance reported a post that appeared to show the man holding an AR-type rifle. Both reporting parties were aware of prior school shootings and were concerned about a recurrence. The school district learned of the threats the following day and closed the school, and the subject was arrested that afternoon on a charge of making a threat with intent to terrorize. A temporary Gun Violence Restraining Order (GVRO) was obtained, and a 1-year order after hearing was subsequently issued (3).

SUICIDE

In January of 2016, deputies obtained an Emergency Protective Order to remove firearms owned by a 34-year-old woman who was in temporary crisis and had made suicidal statements (4).

DEMENTIA

An 81-year-old man from Carmel Mountain who threatened to shoot his 75-year-old wife and a neighbor because he believed they were having an affair. His wife escaped the house, barefoot, by climbing a fence and running through cactus. His family reported him to be in the early stages of dementia." "Family members of a 91-year-old man with dementia contacted police last month expressing concern about him after he began threatening to shoot anyone that came to his home. The family members knew he had firearms in the house and were very concerned that he might harm himself or others. A Crisis Response Unit officer took the lead and petitioned the King County Superior Court for an Extreme Risk Protection Order (ERPO). The order was granted. The order was served and the man voluntarily turned over eighteen firearms from inside his West Seattle home. The firearms were submitted into evidence for safekeeping (5).

ALCOHOL AND GUNS

A 39-year-old San Carlos man who, while intoxicated (at three times the legal limit), believed he was shooting at raccoons and rats in his backyard. Terrified neighbors called police as bullets flew into their backyards" (6).

CONNECTICUT, 1999-2013 (7):

- The typical risk-warrant subject was a middle-aged or older man and suicidality or self-injury was listed as a concern in at least 61% of cases where such information was available.
- Police found firearms in 99% of instances when an order was issued, removing an average of seven guns per subject.
- People in Connecticut subject to orders had an annual suicide rate 40 times higher than the general population, showing the increased risk among this population.
- For every 10-20 orders issued, at least one suicide was prevented.

CALIFORNIA, 2016-2019:

- A study out of California highlighted 21 cases where an ERPO had been used to help prevent an act of mass violence (8).

CITATIONS

(3) Wintemute, G. J., Pear, V. A., Schleimer, J. P., Pallin, R., Sohl, S., Kravitz-Wirtz, N., & Tomsich, E. A. (2019). Extreme risk protection orders intended to prevent mass shootings: a case series. *Annals of Internal Medicine*.

(4) PRESS RELEASE. SEPTEMBER 29, 2016. "SANTA BARBARA SHERIFF'S GVRO (FIREARMS EMERGENCY PROTECTIVE ORDERS)." OFFICE OF THE SHERIFF, SANTA BARBARA COUNTY.

(5) PRESS RELEASE. SEPTEMBER 29, 2016. "SANTA BARBARA SHERIFF'S GVRO (FIREARMS EMERGENCY PROTECTIVE ORDERS)." OFFICE OF THE SHERIFF, SANTA BARBARA COUNTY.

(6) SEATTLE POLICE DEPARTMENT. SEPTEMBER 2019. [HTTPS://SPDBLOTTER.SEATTLE.GOV/2019/09/30/EXTREME-RISK-PROTECTION-ORDER-SERVED-IN-WEST-SEATTLE-FIREARMS-RECOVERED/](https://spdblotter.seattle.gov/2019/09/30/extreme-risk-protection-order-served-in-west-seattle-firearms-recovered/)

(7) PRESS RELEASE. FEBRUARY 16, 2018. "CITY ATTORNEY'S OFFICE, SAN DIEGO POLICE WORKING TO PROTECT THE PUBLIC FROM GUN VIOLENCE." SAN DIEGO CITY ATTORNEY'S OFFICE.