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# PREVENTING THE NEXT PARKLAND

A Case Study of the Use and Implementation of  
Florida's Extreme Risk Law in Broward County

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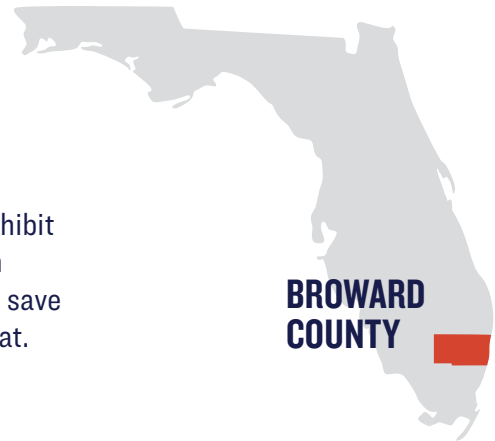
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## EXECUTIVE SUMMARY

# AN IN-DEPTH LOOK AT ERPO USAGE IN BROWARD COUNTY

People who carry out violence against themselves or others often exhibit dangerous behavior and warning signs. Restricting firearm access in these moments of crisis is a critical way to prevent gun violence and save lives. Extreme risk laws give law enforcement a process to do just that.

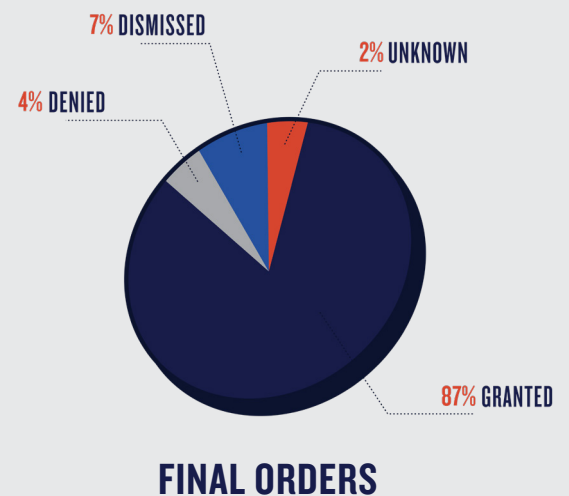
These laws enable law enforcement and, in some states, other key members of the community to petition the court for an order to temporarily restrict a person's access to firearms. As of January 2020, seventeen states and the District of Columbia have enacted some form of an extreme risk law. **This lifesaving tool should be available to law enforcement and concerned family members in every state.**



## ✓ KEY FINDINGS

Giffords Law Center's first-of-its-kind analysis details how Florida's extreme risk law was used to prevent gun violence in Broward County, home of the deadly Parkland school shooting that prompted the law's adoption. This in-depth case-by-case examination shows how extreme risk laws provide a much-needed tool to help intervene before violence escalates.

- **255** unique petitions filed in Broward County between March 9, 2018 and March 9, 2019
- Ex parte (temporary) orders were granted in all cases. Judges granted final orders in **87%** of cases
- Firearms were seized or surrendered in **53%** of cases
- **412** total guns seized
- Average of **3** guns per seizure
- **67** guns surrendered by one individual





# Recommendations for Key Stakeholders

Legislators, law enforcement, and the courts all play a vital role in implementing extreme risk protection orders. Our recommendations for each stakeholder group were informed by Broward County case files, conversations with on-the-ground implementers, and Giffords Law Center's experience drafting and implementing these laws in states around the country.



## LEGISLATORS

- Pass Extreme Risk Laws in all 50 States
- Allow Family Members to Petition
- Require Firearm Surrender to Law Enforcement or Licensed Dealer



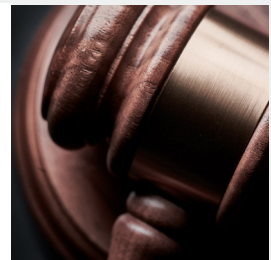
## LAW ENFORCEMENT

- Develop Local Protocols
- Require Training on ERPOs and Intersection with Other Laws
- Designate a Legal Advisor or Attorney for Law Enforcement



## COURTS

- Make Appropriate Judicial Assignments
- Require Judicial Trainings
- Ensure Compliance with Firearm Surrender



For more details, visit:

**[giffordslawcenter.org/broward](https://giffordslawcenter.org/broward)**

Leverage the legal and policy acumen of our experts to pass and effectively implement extreme risk laws in your state. For assistance, please email [lawcenter@giffords.org](mailto:lawcenter@giffords.org)

# Introduction

In August 2018, a young man began attending a church in Broward County, Florida. Located only 15 miles from Marjory Stoneman Douglas High School, where 17 students and teachers were shot and killed just months earlier, the church welcomed the man into their worship service and youth group programs.

But something stuck out about the new congregant. Fellow worshipers noticed that he always carried around a backpack, that he often seemed disengaged and disinterested during church service, and that he was easily agitated.

As church members and the security team tried to befriend the young man and dispel their concerns about his behavior, they learned that he carried around a heavy workout plate in his backpack and was claiming that he was training for the military. He also carried firearms, both in his backpack and on his person.

Despite requests that he leave his backpack and firearms in his vehicle, church security discovered that the man left a loaded firearm unattended in his backpack during a youth night event. He also held up his 10-pound metal workout plate and asked another youth group participant, “What would happen if I smack[ed] you in the head with this?”

Church security consulted with a congregation member who also serves as a Broward County sheriff’s deputy. The deputy informed them that this man had also attended other churches in the area where he displayed similar concerning behaviors. A search of his social media found posts stating that he “hates God” and “hates church.” He also published social media posts talking about the Parkland shooter and posing with an AR-15-style assault weapon. **Youth group participants at one of the churches the man attended voiced concerns that he might turn into the next Parkland shooter.**

Aside from attending various area churches, the young man also attended an emergency medical technician training program. Classmates there said that he was obsessed with the idea of treating gunshot wounds and talked about shooting a dog to have a subject on which to practice his developing medical skills. He also talked about how he wanted to get a gun like one that snipers use because they are more powerful, and said that he liked the idea of “one shot, one kill.”

Law enforcement didn’t have cause to arrest this man for any crime, but they worried about his access to firearms in light of the dangerous warning signs he displayed. So the Broward County Sheriff’s Office turned to a new gun safety law that had recently been enacted in Florida—the state’s extreme risk law. The new law, passed in response to the Marjory Stoneman Douglas High School shooting in Parkland, allowed officers to petition a court for an order to temporarily restrict the man’s access to firearms. They did so, and based on the extensive evidence of danger, a judge granted a protective order. Within hours, and without incident, law enforcement removed nine firearms and multiple rounds of ammunition from the man’s possession.

## **INCREASINGLY, IN CASES LIKE THIS YOUNG MAN'S, EXTREME RISK LAWS ARE BEING USED TO INTERVENE BEFORE VIOLENCE OCCURS AND TEMPORARILY REMOVE FIREARMS FROM INDIVIDUALS IN CRISIS.**

Extreme risk laws are a proven way for law enforcement to take action, without resorting to the criminal justice system, before gun tragedies like mass shootings and suicide occur. Yet gaps remain in what we know about how these laws are used and implemented in jurisdictions across the country. This first-of-its-kind analysis seeks to begin filling those gaps by comprehensively analyzing how Florida's extreme risk law was used in efforts to prevent gun violence in Broward County, home of the deadly Parkland school shooting that prompted the law's adoption.

To understand how Broward County used the extreme risk law, Giffords Law Center leveraged Florida's strong public records law to obtain and review case files for every protective order sought or obtained during the first year the law was in effect. Our analysis found that time after time, Broward County law enforcement used the state's extreme risk law to quickly and safely disarm individuals who made serious, credible threats of violence against themselves, family members, and public places.

This detailed case-by-case analysis provides a granular understanding of how extreme risk laws serve as a much-needed tool to help intervene before violence escalates. At the end of the report, we make recommendations for effective implementation of extreme risk laws based on our case file review as well as interviews with Broward County stakeholders and other legal experts. These findings provide compelling evidence that we hope will help support more states in passing—and effectively implementing—their own extreme risk laws.



# BACKGROUND ON EXTREME RISK LAWS

## What Are Extreme Risk Laws?

People who carry out violence against themselves or others often exhibit dangerous behavior and warning signs before violence occurs. Restricting firearm access in these moments of crisis—before these warning signs escalate into acts of violence—is a critical way to prevent gun violence and save lives.

Extreme risk laws<sup>1</sup> provide those best positioned to see these warnings signs with a legal process to petition a court for an order, usually referred to as an extreme risk protection order (ERPO),<sup>2</sup> to temporarily restrict firearm access. In Florida, law enforcement is empowered to seek such orders; in other states, family members and other key members of the community, such as medical professionals and school administrators, can also request these orders from a court. These orders temporarily prohibit individuals at elevated risk of harming themselves or others from purchasing or accessing firearms and require these individuals to relinquish any guns they possess while the order is in effect.

Extreme risk laws fill an important gap in our gun laws: federal law and the laws of most states prohibit gun possession by individuals who have been adjudicated mentally ill, convicted of certain crimes, or are subject to domestic violence protection orders. While these protections are important, tools for intervening to stop violence before it happens are more limited. Many people displaying dangerous warning signs who are at increased risk of harming themselves or others can still legally buy and possess firearms. Extreme risk laws help to address this problem.

## Extreme Risk Laws Around the Country

There were clear warning signs indicating that the shooter who perpetrated the February 14, 2018, school shooting in Parkland, Florida, posed a threat to himself and others. He was prohibited from carrying a backpack on school grounds for fear that he might be concealing guns.<sup>3</sup> He had also been the subject of dozens of 911 calls to local law enforcement and two tips to the FBI.<sup>4</sup> After the shooting, more than 30 people reported knowing about the shooter's violent threats, tendency to mutilate animals, and expressed desire to perpetrate a school shooting. However, at the time of the shooting,<sup>5</sup> because he had not yet committed a disqualifying crime and did not meet the criteria for an involuntary mental health commitment,<sup>6</sup> Florida law enforcement had no legal means of preventing him from accessing guns.

The circumstances surrounding this case—and the unprecedented activism from students across the country demanding safer gun laws—prompted Florida and twelve additional states to pass extreme risk laws after Parkland. As of January 2020, seventeen states and Washington DC have some version of an extreme risk law, meaning that **nearly 50% of Americans live in states protected by these laws.**

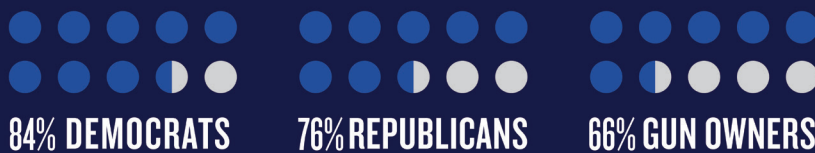


# ERPO LAWS SWEEPING THE NATION



An overwhelming majority of Americans support extreme risk laws, with public support for these laws increasing in recent years.<sup>7</sup> A 2019 survey found that 76% of Americans support a policy that would authorize law enforcement officers to temporarily remove guns from people who pose an immediate threat to themselves or others.<sup>8</sup> Four in five Americans support a policy that would allow family members to ask a court to temporarily remove guns from a relative in this same circumstance.<sup>9</sup>

## STRONG SUPPORT FOR EXTREME RISK LAWS



Importantly, this support cuts across gun ownership status and political party affiliation, with at least 66% of gun owners and 76% of Republicans supporting these policies.<sup>10</sup> In fact, extreme risk laws have emerged as one of the only potential areas for bipartisan cooperation on gun safety in Congress. While Republican members of Congress have generally opposed strengthening federal gun laws, GOP senators like Lindsay Graham and Marco Rubio have introduced bipartisan bills that would help expand extreme risk laws across the country,<sup>11</sup> and even President Trump has expressed support for these policies.<sup>12</sup>

## Impact of Extreme Risk Laws

In the states that have implemented extreme risk laws, ERPOs have been used repeatedly to avert potential tragedies.

A case study conducted by researchers at the University of California's Firearm Violence Research Center found at least 21 cases in which ERPOs were used to disarm people who threatened and posed a credible risk of committing a mass



shooting, including a car dealership employee who threatened to shoot up his workplace and a high school student who threatened to commit a mass shooting at a school assembly.<sup>13</sup> At the time the researchers' analysis was published in August 2019, none of the threatened shootings had occurred, nor did researchers identify other homicides or suicides by persons subject to the orders.<sup>14</sup>

Other examples demonstrate how states across the country are using ERPOs to prevent mass shootings, suicides, and other forms of gun violence:



Law enforcement in Washington obtained an ERPO to remove firearms from a man who posted on Facebook that he wanted to commit a mass shooting at a synagogue, writing that he was “shooting for 30 Jews.”<sup>15</sup>



In Vermont, law enforcement petitioned for an ERPO after a man repeatedly held a pistol to his head and said “I am done” and “this is how I’m going out” during a two-hour standoff with law enforcement. The man also fired shots into the air and attempted to provoke officers to shoot him.<sup>16</sup>



At least four individuals who made threats of violence against schools were disarmed in just the first three months after Maryland enacted its extreme risk law. In one case, law enforcement removed firearms from a teenager who threatened to shoot up his former high school and wrote that he hoped everyone at the school died.<sup>17</sup>

Empirical evidence also demonstrates that these laws are associated with reductions in gun violence, particularly gun suicides. **For example, recent studies show that for every 10 to 20 firearm removals under Connecticut’s and Indiana’s extreme risk laws,<sup>18</sup> approximately one life was saved through an averted suicide.**<sup>19</sup> Studies also suggest that these firearm removals result in population-level reductions in gun suicides: Connecticut’s and Indiana’s extreme risk laws have been associated with 14% and 7.5% reductions in firearm suicide rates in these states, respectively.<sup>20</sup>

## THE INTERSECTION OF GUNS AND SUICIDE

In the last decade, more than 400,000 Americans died by suicide.<sup>21</sup> Over half of these deaths involved a firearm.<sup>22</sup> Although guns are not the most common method by which people attempt suicide, they are the most lethal method typically used in the United States.

Guns are used in only 5% of suicide attempts, but are responsible for over 50% of suicide deaths.<sup>23</sup> While drug overdoses are fatal in fewer than 3% of cases,<sup>24</sup> approximately 85% of suicide attempts with a gun end in death.<sup>25</sup>

Given firearms’ lethality, research shows that temporarily removing them from people in crisis can reduce the risk of suicide. Suicide attempts are often impulsive acts utilizing whatever methods are immediately available—48% of people harm themselves within 10 minutes of deciding to attempt suicide.<sup>26</sup> And the vast majority of people—90%—who survive a suicide attempt do not go on to die by suicide.<sup>27</sup> Measures like extreme risk laws that can limit easy access to firearms among those at a proven risk of suicide can help save lives.

**If you or someone you know may be considering suicide, contact the National Suicide Prevention Lifeline at 1-800-273-8255 or the Crisis Text Line by texting HOME to 741741. These services operate 24/7 and provide free and confidential emotional support to people in suicidal crisis or emotional distress.**

## FLORIDA'S EXTREME RISK LAW

In response to the Parkland shooting on February 14, 2018, and the copious evidence of dangerous behavior displayed by the shooter before the attack, the Florida state legislature quickly moved to pass an extreme risk law. The law was signed by then-governor Rick Scott and took effect on March 9, 2018. **For a state sometimes referred to as the “gunshine state” because of its historically weak gun safety laws, this action was nothing short of unprecedented.**

The extreme risk law passed with bipartisan support, and has since drawn praise from public officials and citizens across the state. Florida Senate President Bill Galvano, a Republican who received an A rating from the National Rifle Association in 2018, has noted that the state’s extreme risk law has “been utilized successfully many, many times” and has publicly expressed interest in expanding and strengthening the law.<sup>28</sup>

Florida sheriffs and law enforcement officers have similarly demonstrated their support for the law. Pinellas County Sheriff Bob Gualtieri has said that the extreme risk law created a much-needed tool for law enforcement, and indicated that “there’s no doubt [the orders] have an impact and have prevented people from engaging in bad acts.”<sup>29</sup> Polk County Sheriff Grady Judd, a self-described “huge Second Amendment person” endorsed ERPOs as creating an important, temporary cooling-off period to defuse significant dangers.<sup>30</sup>

### Parameters of Florida’s Extreme Risk Law

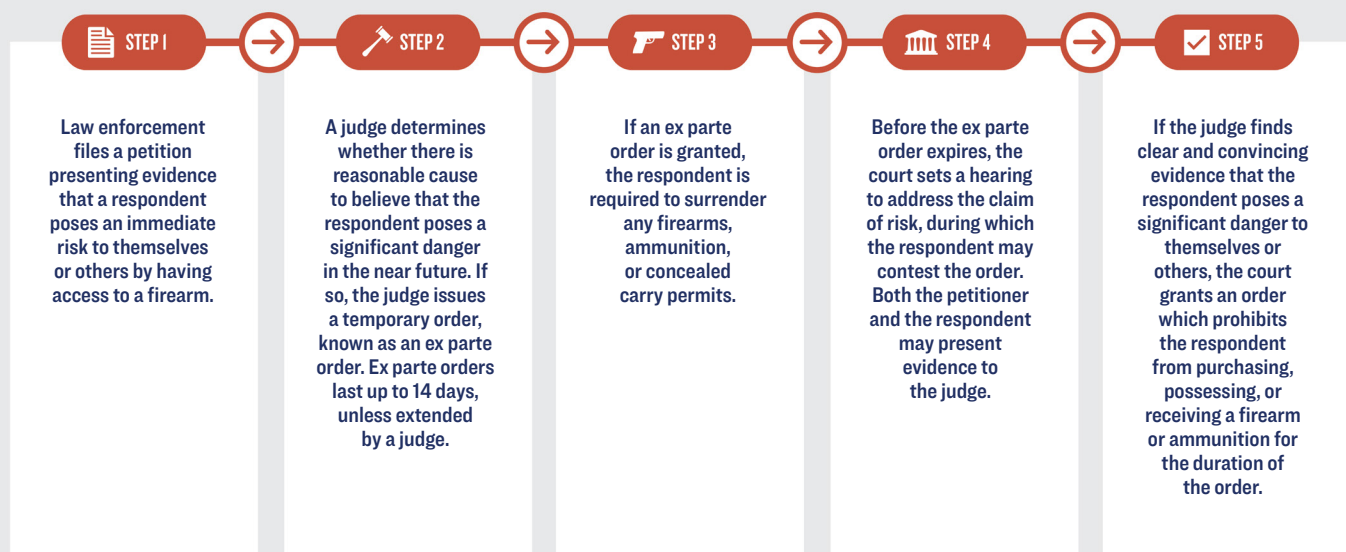
Under Florida’s extreme risk law, law enforcement can petition courts for ERPOs, referred to in Florida as Risk Protection Orders (RPOs). Unlike in some other states, only law enforcement can petition the court for these orders.

To obtain an order, a Florida law enforcement officer or attorney acting on behalf of the law enforcement agency files a written application (known as the petition) in which they present evidence alleging that an individual poses an immediate harm to themselves or others by having a firearm or any ammunition in their custody or control. The law enforcement officer or agency who files this petition is known as the “petitioner.” The person alleged to be at risk of violence (and for whom the ERPO is sought) is called the “respondent.”

Once a petition is filed, a judge determines whether there is reasonable cause to believe that the respondent poses a significant danger in the near future. If so, the judge will issue a temporary order, known as an ex parte order. Ex parte orders are granted by a judge in response to a petition, without the opportunity for the respondent to attend a hearing. This exception to normal due process requirements is permitted due to the emergency and often volatile nature of ERPO cases. If an ex parte order is granted, the respondent is required to surrender any firearms, ammunition, or concealed carry permits. Under Florida’s law, ex parte orders last for up to 14 days, unless extended by a judge.

Before a temporary ex parte order expires, the court sets a hearing to address the claim of risk, during which the respondent may contest the order. At this hearing, the petitioner presents evidence to a judge demonstrating that the respondent poses a significant risk to themselves or others. The respondent then has the opportunity to respond to any evidence presented and to present competing evidence. If the judge finds clear and convincing evidence that the respondent poses a significant danger to themselves or others, the court grants an order which prohibits the respondent from purchasing, possessing, or receiving a firearm or ammunition for the duration of the order. Final orders can last for up to one year.<sup>31</sup>

## PROCESS FOR OBTAINING AN EXTREME RISK PROTECTION ORDER IN FLORIDA



Florida's extreme risk law contains the robust due process protections required by the United States and Florida constitutions. **The United States Supreme Court has affirmed that the ex parte order process—which is also used in other protection order cases involving domestic violence and civil harassment—satisfies due process protections.**

The law also provides strong protection against abuse of the extreme risk law for harassment or retaliation by criminalizing frivolous or unfounded petitions. In addition to other state laws against perjury, Florida makes it a third-degree felony for a person to make a material false statement, which he or she does not believe to be true, under oath in a hearing for an ERPO.

## RESEARCH METHODOLOGY

To better understand the natures and outcomes of ERPO cases in Broward County, Florida, Giffords Law Center sought to examine every ERPO petitioned for in the county during the first year the law was in effect.

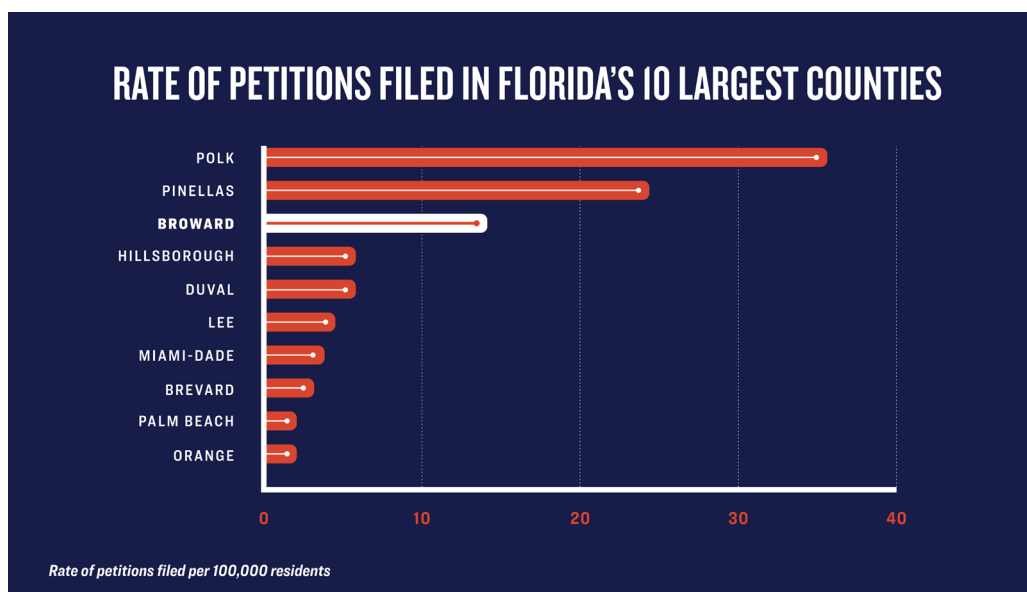
Using Broward County's online court database search system, Giffords Law Center obtained a list of all 257 ERPO case numbers for cases initiated in Broward County from March 9, 2018 through March 9, 2019. Taking advantage of Florida's strong public records laws, we then obtained the case files for all 257 cases. Of those, seven had missing or completely redacted petitions and six had missing final orders, which prevented full analysis of those cases.

After obtaining the comprehensive collection of case files and documents, Giffords Law Center created a database, consisting of more than 70 fields pertaining to the circumstances of each petition, the characteristics of the respondents, and the dispositions of the cases. We then entered the same key information from every case file into the database.

To supplement the quantitative data that forms the basis of our findings, we conducted a qualitative interview with key law enforcement and legal staff at the Broward County Sheriff's Office.

## KEY FINDINGS

In the first year after the law went into effect, law enforcement filed 255 unique petitions for ERPOs in Broward County.<sup>32</sup> Although there is no standard benchmark for how many petitions we would expect to be filed (or granted) in a given jurisdiction, Broward County has seen a relatively high number of ERPO petitions in the law's first year of implementation compared to other jurisdictions with an extreme risk law. Among the ten most populous counties in the state of Florida, Broward County saw the second highest number and third highest rate of ERPO case filings in the first year.<sup>33</sup>





Compared to most other jurisdictions across the country, Broward County has seen much wider use of the law. In the entire state of California, there were typically 10 or fewer petitions filed per month in the first two years the state's extreme risk law was in effect.<sup>34</sup> Broward County averaged roughly twice that number each month—and contains just 1/20th of the population of California. Similarly, in 2018, just 71 petitions were filed in King County, Washington, which has roughly the same size population as Broward County.<sup>35</sup> While some of the variation in ERPO use by jurisdiction may be attributable to variation in gun ownership rates and differences in other state and local laws, it appears Broward County has been particularly focused on utilizing its extreme risk law.

Importantly, however, despite the high volume of ERPO petitions filed by law enforcement, there is still substantial discretion involved in deciding to pursue an ERPO case. **In other words, in relation to the number of situations in Broward County in which an ERPO could help to prevent violence, the number of petitions actually filed is still small.**

For example, each year there are roughly 670 hospital visits in Broward County related to suicide attempts<sup>36</sup> and more than 13,600 people in the county receive an involuntary mental health evaluation under the state's mental health law.<sup>37</sup> Given that access to firearms triples the risk for suicide death,<sup>38</sup> law enforcement should consider ERPOs as a lifesaving tool that can help remove guns and prevent suicides in this group at higher risk for self-harm.

## NATURE AND DYNAMICS OF BROWARD COUNTY ERPO CASES

### Respondent Characteristics

The vast majority (89%) of ERPO respondents in Broward County were male. The average respondent was 38 years old, but respondents ranged in age from 14 to 83. Based on what law enforcement identified and listed in the case file, 67% of respondents were white, 17% were black, 6% were Hispanic, 1% were Asian, and 9% were identified as “other.”<sup>39</sup>

Cases involving the youngest respondents generally involved threats of school shootings or threats of suicide. These cases included a student who threatened to bring guns to school and said killing people would be “fun and addicting,” another student who made threats to kill himself and shoot up his school, and a minor who threatened to commit acts of firearm violence against himself and his family. While minors are generally prohibited from possessing firearms in Florida, law enforcement used ERPOs to remove firearms that a minor in crisis may have access to or to require that such firearms are safely stored and rendered inaccessible to the minor.

Cases involving older respondents tended to represent a similar mix of both threats of self-harm and harm to others. The oldest respondent in Broward County became the subject of an ERPO after unintentionally discharging a firearm into his mattress and holding the gun to his head to threaten suicide. Other cases among older respondents included a man who told his insurance company representative that

he had a loaded gun and was going to kill himself due to his deteriorating health and a man with declining mental health status who made threats to shoot his wife and her friend.

There are several risk factors that led to officers filing a petition for an ERPO. Florida's extreme risk law statute lays out specific criteria for courts to consider in determining whether grounds for granting an ERPO exist. Petitioners are able to select which of these risk factors are displayed by the respondent on the petition form, as well as provide additional information about risky and dangerous behaviors outside of those specifically listed in the statute. These categories are not mutually exclusive, meaning that petitioners could indicate that a single respondent displayed multiple risk factors.

Of the risk factors laid out in the statute, petitioners most commonly indicated that the respondent was "involved in a recent act or threat of violence against himself or others," which was true in 88% of cases. In 72% of cases, the respondent had "used or threatened to use against himself or others any weapons." And in 64% of cases, the respondent was "engaged in an act or threat of violence, including but not limited to acts or threats of violence against himself, within the past 12 months."<sup>40</sup>

## RISK FACTOR PREVALANCE

Petitioners can select from these risk factors laid out in statute, as well as present additional evidence of risk.

WAS INVOLVED IN A RECENT ACT OR THREAT OF VIOLENCE AGAINST HIMSELF OR OTHERS	88%
HAS USED, OR THREATENED TO USE, AGAINST HIMSELF/HERSELF OR OTHERS ANY WEAPONS	72%
ENGAGED IN AN ACT OR THREAT OF VIOLENCE, INCLUDING BUT NOT LIMITED TO ACTS OR THREATS OF VIOLENCE AGAINST HIMSELF/HERSELF, WITHIN THE PAST 12 MONTHS	64%
MAY HAVE RECURRING MENTAL HEALTH ISSUES OR IS SERIOUSLY MENTALLY ILL	58%
HAS BEEN ARRESTED FOR, CONVICTED OF, HAD ADJUDICATION WITHHELD, OR PLED <i>NOLO CONTENDERE</i> TO A CRIME INVOLVING VIOLENCE OR A THREAT OF VIOLENCE IN FLORIDA OR IN ANY OTHER STATE	36%
HAS ABUSED OR IS ABUSING CONTROLLED SUBSTANCES OR ALCOHOL	31%
HAS UNLAWFULLY OR RECKLESSLY USED, DISPLAYED, OR BRANDISHED A FIREARM	30%
HAS USED OR THREATENED TO USE ON A RECURRING BASIS PHYSICAL FORCE AGAINST ANOTHER PERSON OR HAS STALKED ANOTHER PERSON	17%
HAS RECENTLY ACQUIRED FIREARMS OR AMMUNITION	11%
HAS BEEN CONVICTED OF, HAD ADJUDICATION WITHHELD ON, OR PLED <i>NOLO CONTENDERE</i> IN FLORIDA OR ANY OTHER STATE TO A CRIME THAT CONSTITUTES DOMESTIC VIOLENCE	7%
HAS VIOLATED A RISK PROTECTION ORDER OR NO CONTACT ORDER	4%
IS THE SUBJECT OF A PREVIOUS OR EXISTING RISK PROTECTION ORDER	1%
HAS VIOLATED A PREVIOUS OR EXISTING RISK PROTECTION ORDER	0%

Additionally, law enforcement generally petitioned for ERPOs in cases where they knew or suspected that the respondent had access to firearms. In nearly 65% of cases, the petitioner indicated a belief that the respondent had access to firearms or ammunition. In nearly 25% of cases, law enforcement reported not knowing whether the respondent had access to firearms at the time the petition was filed.

In nearly 11% of cases, law enforcement indicated that, while the respondent did not have access to firearms at the time of filing, they believed the respondent had interest in possessing firearms or that the risks of the respondent accessing firearms were particularly severe. For instance, in one case, law enforcement officers filed a petition to remove firearms from a man who threatened, both online and in person, that he could easily buy a gun, “go blazing,” and kill a number of people involved with a project at a local nonprofit. In another case, a man made threats of suicide and talked about going to a pawnshop to buy a firearm. In both of these cases, a judge granted a one-year order that prohibited the men from purchasing or possessing a firearm for the duration of the order.

## Petitioner Characteristics

Multiple law enforcement agencies serve the residents of Broward County: 14 cities within Broward County are served by their own municipal police departments, and the remaining 16 jurisdictions are served by the Broward County Sheriff’s Office. Because of these various law enforcement departments operating in Broward County, implementation and use of the ERPO law was not uniform across the county.

Officers in the Broward County Sheriff’s Office initiated 38% of the county’s ERPO petitions. ERPO use by the police departments in Hollywood, Coral Springs, and Sunrise was also high.

## Case Characteristics

Law enforcement petitioned for ERPOs in response to several different types of threats, including threats of homicide, suicide, family violence, and mass violence. Often, law enforcement noted that respondents threatened multiple, overlapping forms of violence.

### **MORE THAN HALF OF CASES—55%—INVOLVED A RESPONDENT THREATENING HOMICIDE.**

- Law enforcement was called after a man decapitated a duckling and beat other ducks. As the man was being taken into police custody, he threatened to shoot the arresting officers.
- A man threatened to shoot his neighbor in the face or strangle him during an ongoing dispute between the two men.
- A student at a technical school made threats to shoot two fellow students and one of the student’s mothers after getting into an altercation and throwing rocks at the other students.

### **NEARLY HALF—48% OF CASES—INVOLVED A RESPONDENT THREATENING SUICIDE.**

- A teenager struggling with depression told officers that he thought about shooting himself in the head with a gun he retrieved from his father's gun safe.
- An airline pilot whose recent medical diagnosis caused trouble at work and severe depression burned himself with a lighter and stabbed himself repeatedly with a knife. The man's wife had previously removed some of her husband's many firearms from the home over concerns about his mental health.
- A man told his son that he didn't "want to go on living this way" while attempting to remove his firearm from its holster.

### **29% OF CASES INVOLVED A RESPONDENT THREATENING VIOLENCE AGAINST A FAMILY MEMBER OR INTIMATE PARTNER.**

- A man who owned multiple firearms "all over his house" threatened to kill multiple family members, including one of his daughters.
- During a church service, a man threatened to shoot his wife, his wife's sister, and their pastor.
- A college student sent his mother text messages saying he wished someone in the family would die so he could collect life insurance money, and began walking around his house swinging a bat saying "someone needs to die."

### **ALMOST ONE IN FIVE CASES—19%—INVOLVED A RESPONDENT THREATENING TO ATTACK A PUBLIC PLACE.**

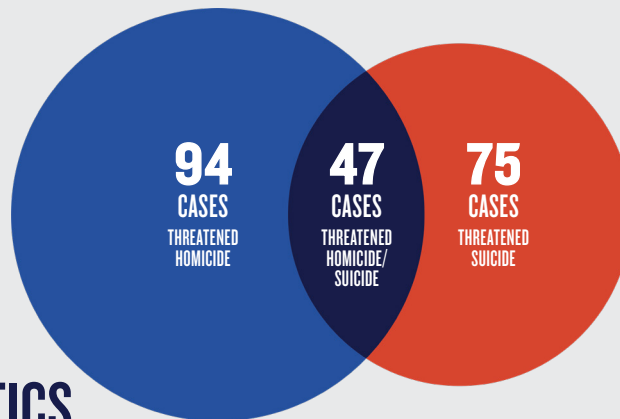
- A man told his co-worker that he was depressed and thinking about shooting up a school. When his co-worker questioned how he would feel if it were his child in the school, the man said he would shoot up a mall instead.
- A man called a hospital social worker and said that he was going to bring a gun into the hospital and "take out" the medical staff.
- A man sent text messages to his sister stating that he was going to buy a gun and shoot up an elementary school to kill as many people as he could.

### **18% OF CASES INVOLVED A RESPONDENT THREATENING BOTH HOMICIDE AND SUICIDE.**

- A range master at a shooting range threatened to shoot everyone in a restaurant, and then his parents and himself. The man's mother also stated that her son had previously told her about suicide attempts and hearing voices telling him to kill people.
- A man admitted to his co-workers that he was thinking about taking his father's gun, bringing it to his workplace, and killing everyone. He also said that he wanted to use his father's gun to kill himself and had stolen the key to access his father's locked firearm.
- A woman told her friend verbally and through text that she was very depressed and wanted to kill herself as soon as she got a gun. She also said she would commit a "bloodbath" before she died.



## BROWARD COUNTY CASE CHARACTERISTICS



## EXTREME RISK LAWS AND DOMESTIC VIOLENCE

Keeping guns out of the hands of people who commit intimate partner violence is a crucial step in protecting families and the larger community: when an abuser has access to a gun, a domestic violence victim is five times more likely to be killed.<sup>41</sup> Although ERPOs are an important tool to remove firearms from dangerous situations, in cases of domestic violence, ERPOs do not provide survivors with the comprehensive protections that domestic violence protection orders do.

Depending on the jurisdiction, in addition to requiring a restrained person to surrender firearms, domestic violence protection orders can also require that restrained parties stay away from their victims and other identified parties and prohibit someone from contacting, stalking, or disturbing a victim. ERPOs generally are limited to removing and preventing the purchase of firearms and ammunition. Additionally, domestic violence orders and procedures, unlike ERPOs, often include referrals to victim services, opportunities to meet with advocates, and other steps focused on safety planning and addressing the alleged or established violence. Thus, in some cases, depending on the jurisdiction, ERPOs can act as a supplement, rather than a replacement for, domestic violence protective orders and other firearm prohibitions related to domestic violence laws.

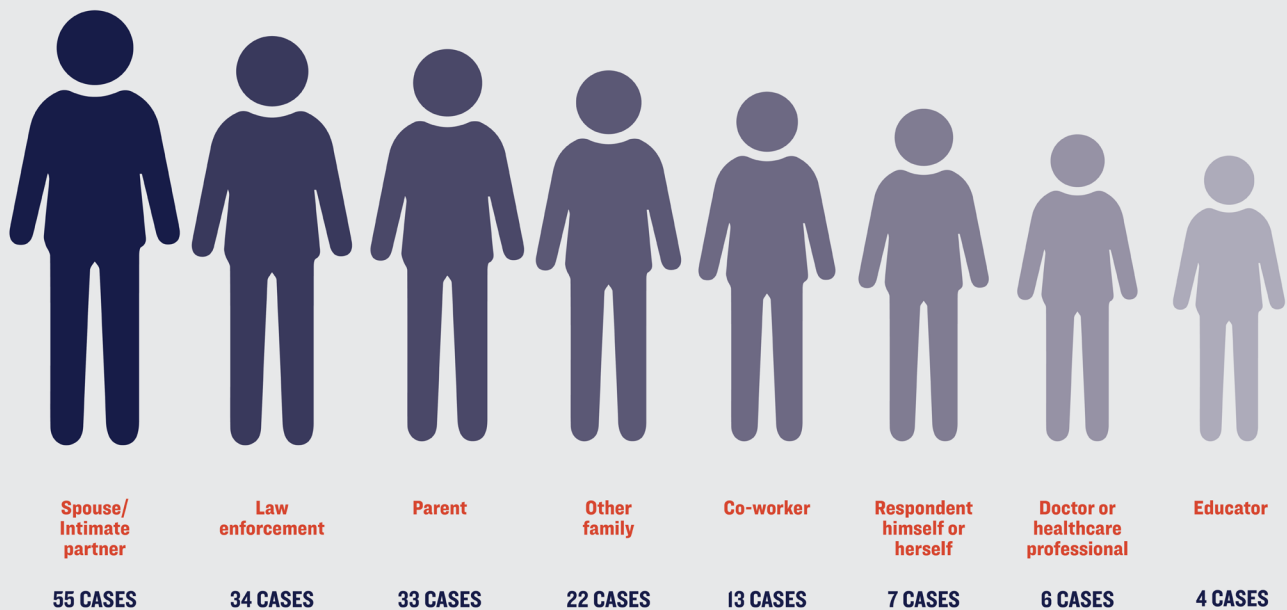
For example, law enforcement might use an ERPO to immediately disarm someone as an emergency, temporary step before a victim files for a domestic violence protective order. Additionally, some survivors might be safer if law enforcement serves as a petitioner rather than if they do so. In one Broward County case, law enforcement petitioned for an ERPO because a victim did not want to serve as a petitioner for a domestic violence protection order. Ideally, in these types of situations, victims would be referred to services that could help with support and safety planning so that their input into the process can be taken into consideration and the risk to them and others decreased.

If you or someone you know is experiencing domestic violence, **contact the National Domestic Violence Hotline at 1-800-799-7233**. This service is available 24/7 and can provide confidential assistance and information from trained advocates.

Jurisdiction-specific analyses show that the breakdown of case characteristics differs among different law enforcement petitioners. For example, cases with threats of suicide and self-harm represented 35% and 33% of the petitions filed by the Broward County Sheriff's Office and Hollywood Police Department, respectively, while such cases represented 71% of those filed by the Sunrise Police Department and 61% of those filed by the Coral Springs Police Department. These differences could in part be a reflection of differences in the demographic and social characteristics of each jurisdiction, but variations could also reflect differences in law enforcement priorities and practices.

Law enforcement was often alerted to potential ERPO cases by individuals closely connected to the respondent. In 22% of cases, a current or former spouse or intimate partner of the respondent first raised the risk. In 13% of cases the respondent's parent first raised the risk. In another 13% of cases, law enforcement noticed the risk themselves.

## LAW ENFORCEMENT WAS OFTEN ALERTED TO POTENTIAL ERPO CASES BY INDIVIDUALS CLOSELY CONNECTED TO THE RESPONDENT



Other individuals, including school staff and classmates, church acquaintances, social workers, and neighbors, raised risk in 81 cases

## Case Outcomes

Law enforcement filed 255 unique ERPO petitions between March 9, 2018 and March 9, 2019. Law enforcement generally filed petitions within days of becoming aware of threats. More than half (56%) of petitions were filed within one week or less of the initial incident that brought respondents to the attention of law enforcement.

## Ex Parte Orders

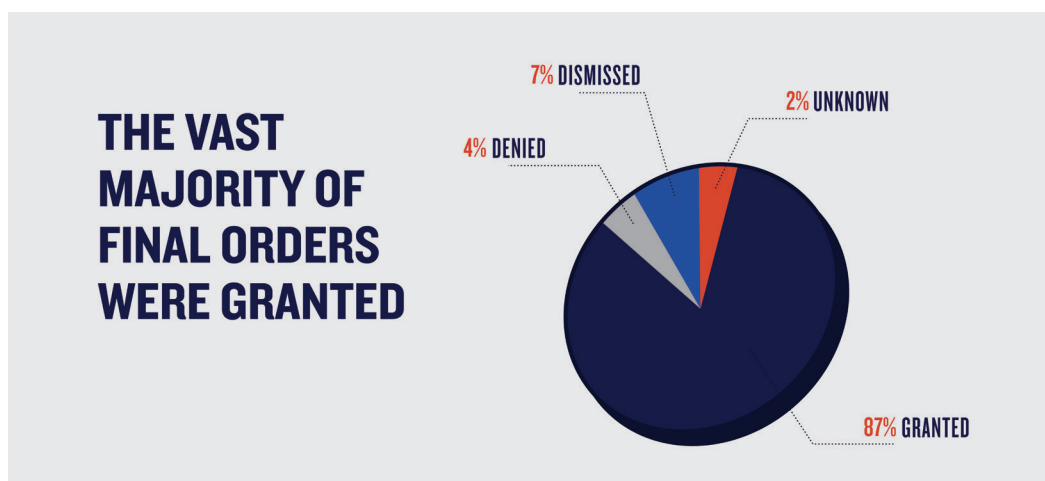
Judges ultimately granted ex parte orders for all 255 unique petitions filed. However, in two cases, ex parte orders were only granted after the petitions were refiled. In one case, the petitioner voluntarily withdrew the original petition because the responding officer who wrote the affidavit was out of the country on a pre-planned vacation on the day the judge considered the ex-parte order. In the other case, law enforcement re-filed the petition after incorrectly submitting an unnotarized affidavit to the court.

Ex parte orders were granted very quickly after petitions were filed, indicating that this law serves as an immediate response tool in cases where the risk of imminent danger is elevated. In 56% of cases, judges granted ex parte orders the same day as the petition was filed. Judges granted 93% of ex parte orders within two days of the petition being filed.

## Final Orders

Judges granted final ERPOs in the vast majority (87%) of cases. In more than 95% of the cases in which a final order was issued, judges ordered final ERPOs lasting for one year, either from the date the petition was originally filed with the court, the date the ex parte order was granted, or the date the final order was signed.

Judges denied four percent of final orders after deciding that the respondents did not in fact pose a “clear and convincing” risk to themselves or others. Judges denied orders in cases where evidence indicated that the threats of violence made by the respondents were isolated in nature, or if they believed the threats were not specific enough.



Seven percent of cases were dismissed before a final order was granted, often because the petitioner voluntarily withdrew the petition. For example, cases were dismissed by the petitioner because the respondent was in police custody, law enforcement was unable to serve the respondent with the ex parte order, or a key witness was not willing or able to testify to the respondent's dangerous behavior in front of a judge.

In the majority of the cases in which a final order was issued, the order was agreed to by the respondent through a stipulation. Although hearings were set in all cases to occur 14 days after the ex parte order was granted, in 76% of cases, respondents agreed to the final orders prior to the hearing. The frequency with which final orders were agreed to by stipulation without a hearing likely minimized the administrative burden these orders placed on the courts while still providing the key elements of due process and ensuring that respondents had notice and an opportunity to be heard.

Because so many orders were agreed to by respondents, full hearings where both parties had the opportunity to present evidence in front of a judge occurred in only 24% of cases, with 9% of all orders granted by default because respondents failed to appear in court after being given proper notice of the hearing.

In more than three-quarters of the cases, 14 days or fewer elapsed from the date the ex parte order was granted by the judge and the date of the court decision regarding the disposition of the final order. In cases in which it took more than 14 days to determine the disposition of the final order, this was generally due to delays granted by a judge in response to requests by either the petitioner or the respondent.

## **Seizure and Surrender of Firearms**

Firearms were surrendered or seized from respondents in 53% of cases (135). In 44% of cases (112), no firearms were surrendered by or seized from the respondent. Importantly, even if they did not actually surrender their firearms to law enforcement, a number of respondents were still disarmed because law enforcement obtained an ERPO. In some cases, respondents transferred their firearms to family members or friends, rather than law enforcement.

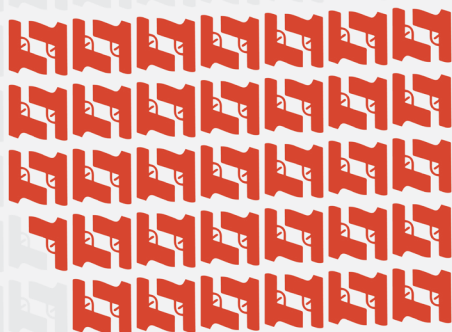
Additionally, in some cases where firearms were not surrendered or seized, law enforcement was able to prevent respondents from obtaining firearms. For example, law enforcement obtained an ERPO to prevent a man from arming himself after he claimed he was saving up to buy an AK-47 to kill people. In another case, law enforcement obtained an ERPO to stop the sale of a firearm to a man who threatened to shoot his family members and give the firearm to his son, a convicted felon. In that case, the man had already paid for the firearm and was waiting for the sale to clear the state's three-day waiting period when the ERPO was issued.



In a small percent of the cases where there was reason to believe that a respondent owned firearms, the case file contains no indication that the respondent actually surrendered them. While this discrepancy may simply reflect a clerical error, **it is crucial for the successful implementation of extreme risk laws that law enforcement properly ensure that firearms are surrendered in all cases where respondents are known or suspected to own firearms.**

In total, during the first year the law was in effect, 412 firearms were surrendered or seized using ERPOs in Broward County—an average of three guns per seizure or surrender. Law enforcement collected the largest number of firearms—67—from a court bailiff who became the subject of an ERPO after threatening his colleagues with violence and simulating pointing a gun at citizens in a courthouse.

# 412 FIREARMS WERE SURRENDERED OR SEIZED USING ERPOS IN BROWARD COUNTY



## 67

LARGEST  
SURRENDER  
OF GUNS FROM  
ONE PERSON



## 3

AVERAGE  
NUMBER OF  
GUNS PER  
SEIZURE OR  
SURRENDER

# BROWARD COUNTY CASE STUDIES

## CASE STUDY #1

After a man made threats to commit mass violence at a school, a family friend contacted law enforcement. The man threatening violence was a musician who organized music functions at schools across Broward County. He had recently been diagnosed with cancer and started chemotherapy treatments, which caused his behavior to become increasingly erratic and aggressive.

Days before a scheduled performance at a local elementary school, law enforcement was made aware of a text message the man sent to his wife in which he threatened to kill her and threatened to perpetrate a school shooting. In the message, the man indicated that his upcoming event at the school was "just a big ploy to get all these people there so I can just [expletive] kill them all."

Law enforcement had also been in contact with the man because of other recent threats of violence. Just days before these text messages were sent, the man's brothers called law enforcement after the man began to scream and yell that he was going to shoot himself and police.

After law enforcement petitioned for an ERPO, a judge granted the ex parte order the next day, and the man subsequently agreed to a final order. The man did not possess any firearms at the time the ERPO was granted, and the order prevented him from purchasing any guns for one year.

**REPORTING OFFICER NARRATIVE**

Broward County Sheriff's Office

Unit: \_\_\_\_\_

Officer: \_\_\_\_\_

Information: \_\_\_\_\_

On Monday April 9, 2018 a W/F (reporting person) walked into the Pompano Beach Police District to report a possible shooting at a \_\_\_\_\_ School.

I spoke with the W/F later identified as \_\_\_\_\_ (reporting person) who reported the following:

\_\_\_\_\_ stated Mr. \_\_\_\_\_ is a musician who conducts music functions at schools throughout Broward County. According to \_\_\_\_\_, \_\_\_\_\_ suffers from stage 3 brain cancer and has been undergoing Chemotherapy treatments. \_\_\_\_\_ said, after the treatments \_\_\_\_\_ has not been the same and will go off on aggressive rants from time to time. \_\_\_\_\_ said \_\_\_\_\_ is known to have firearms in his home. \_\_\_\_\_ told the spouse with \_\_\_\_\_ who also goes by her maiden name of \_\_\_\_\_ told \_\_\_\_\_ that she received a disturbing text message from \_\_\_\_\_.

The message read as follows:

Fwd: You stupid \_\_\_\_\_ just threatened your life and you still won't pick up the phone you can take this text to a police officer in that arrested in 5 seconds just for saying \*\*\*\* like that we're killing this while you're sleeping at night cuz I know where you live cuz you know you had my \*\*\*\*\* brother living there you stupid \_\_\_\_\_ I'm going to get a bomb and I'm going to blow you up I'm going to blow that \*\*\*\*\* piece of \*\*\*\* apartment you think that I'm much better than your house and I'm going to fucking kill you you \*\*\*\*\* not pick up the phone you piece of \*\*\*\* or go to a cop and show him all this that I'm saying to you they'll come out me to put me in jail for \*\*\*\*\* your state and then when I'm done blowing you up I'm going to blow up the world it's just a big ploy to get all these people there so I can just \*\*\*\*\* kill them all going to kill everyone okay sleep good.

\_\_\_\_\_ advised \_\_\_\_\_ was going to be conducting a music event at \_\_\_\_\_ School located at \_\_\_\_\_ Pompano Beach, called \_\_\_\_\_ on \_\_\_\_\_ from 5:45PM to 7:00PM. \_\_\_\_\_ was concerned that \_\_\_\_\_ was using social media i.e. Facebook, to attract more people and children to the event. \_\_\_\_\_ told the tail end of the message was also directed towards the event and the possible shooting at \_\_\_\_\_ School.

A/c/o \_\_\_\_\_

Print \_\_\_\_\_

Info \_\_\_\_\_

Notes \_\_\_\_\_

Notes this p \_\_\_\_\_

Assoc \_\_\_\_\_

Report \_\_\_\_\_

when I'm done blowing you up I'm going to blow up the world it's just a big ploy to get all these people there so I can just f\*\*\*\*\* kill them all going to kill everyone

## CASE STUDY #2

A woman called law enforcement to report that her husband had made multiple threats about harming himself and attempting suicide. The woman said she had recently decided to end their marriage, which caused her husband to become very depressed, distraught, and angry.

On one occasion, the man left his house with one of his guns and a pad of paper and pens after stating that he was going to take his life. Days later, the man left his house again with a firearm and texted his wife that he would "see [her] on the other side."

Law enforcement also learned of text messages the man had sent to his mother-in-law, in which he said that he wrote a suicide note, held a gun to his head, and then changed his mind. He made other references to killing himself, including talking about his life insurance policy. When officers talked to the man, he told them that he was contemplating suicide and that these thoughts of self-harm scared him.

Officers filed a petition for an ERPO. After an ex parte order was granted by the judge the next day, the man surrendered more than 40 firearms, a large amount of ammunition, and a concealed carry weapons permit to law enforcement. The man later agreed to a final order.

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

BROWARD COUNTY SHERIFF'S OFFICE, Petitioner, CASE NO: \_\_\_\_\_

And Respondent, DIVISION NO: \_\_\_\_\_

**AFFIDAVIT IN SUPPORT OF TEMPORARY EX PARTE RISK PROTECTION ORDER**

STATE OF FLORIDA  
COUNTY OF BROWARD

BEFORE ME this day personally appeared Deputy \_\_\_\_\_ who being duly sworn, deposes and says:

On \_\_\_\_\_ at approximately 8:27pm, your Affiant responded to \_\_\_\_\_ Oakland Park in Broward County, Florida, in reference to report of a subject that had made suicide threats to his family and they were in fear of his safety and the danger of him taking his life.

Upon arrival, your Affiant made contact with \_\_\_\_\_ She advised her husband, Respondent \_\_\_\_\_ had left her residence very upset and she was in fear of him taking his life as he had taken a firearm with him.

\_\_\_\_\_ stated that about a week ago she discovered the Respondent had been unfaithful to her and she was in the process of divorcing him. \_\_\_\_\_ advised the Respondent was not taking this well and had been very distraught over the break up and her decision to divorce him. \_\_\_\_\_ advised this is the second incident of this nature within the last week. Approximately 3 days prior to this, the Respondent left the house armed with one of his guns and a pad of paper and a pen, and stated he was going to take his life. She advised that incident was also reported to police however he returned a couple of days later and unharmed.

about his state of mind and being so visibly upset, but he put the driver window of his vehicle up while they were talking and drove away. \_\_\_\_\_ advised she texted him, "Please be safe" and around 7:23pm she received a text from the Respondent with the statement "I will see you on the other side." \_\_\_\_\_ advised that statement really made her fear that the Respondent was in imminent danger and discovered one of the firearms was missing. Your affiant observed large safe located in the Respondent's office area next to his desk. The safe contained a large amount of firearms,

## CASE STUDY #3

A man with mental illness began assaulting construction workers working outside his home, threatening them with knives, slashing the tires of their vehicles, and yelling racial slurs.

The man was arrested at the scene and taken to the Broward County Jail. Officers found that the man had a history of serious violence, including brandishing a weapon at a SWAT team sent to his home and attempting to stab a store employee who caught him shoplifting. Neither of these cases resulted in felony convictions, as one case was filed as a misdemeanor and the other was transferred to mental health court. Therefore, despite this history of violence, the man had no criminal convictions that prohibited him from owning or possessing a firearm.

Law enforcement filed the petition while the man was out on bond pending felony charges for the assault on the construction workers. The judge granted an ex parte order the next day, and the man later agreed to a final one-year order. The ERPO prevented the man from accessing firearms during the adjudication of his pending felony case.

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

CITY OF SUNRISE, a Florida  
Municipal Corporation,  
Petitioner,  
vs.  
Respondent,

CASE NO. [REDACTED]

**AFFIDAVIT IN SUPPORT OF RISK PROTECTION ORDER**

STATE OF FLORIDA :  
COUNTY OF BROWARD :

BEFORE ME, the undersigned authority, personally appeared [REDACTED]  
who, being duly sworn, under oath, deposes and says:

1. I am a sworn law enforcement officer employed by the City of Sunrise.
2. I personally took part in the investigation in this matter and am competent to testify based on personal knowledge developed during the course of my investigation.
3. I have read the Verified Petition for Temporary Ex Parte Risk Protection

construction workers outside of his residence while brandishing two (2) large knives. The Respondent confronted the workers due to the noise they were making while working. The Respondent threatened to throw the knives at the workers. The workers attempted to retreat and were in fear of being seriously injured or killed by the Respondent. One of the workers grabbed a shovel to defend himself. The Respondent then used the knives to slash one of the victim's work vehicles and a second vehicle, causing visible

## CASE STUDY #4

A woman in the hospital claimed to have unintentionally shot herself while putting her firearm in her gun safe. Hospital staff called police after the woman changed her original story and indicated that she unintentionally shot herself while in her car at a grocery store. The woman claimed to have lied because she was worried she might get in trouble for not having a permit allowing her to carry a gun outside her home.

Additionally, the woman shared delusional thoughts with both hospital staff and responding officers. She believed that people were putting worms and other insects in her food and home. She claimed to have taken pictures of these insects, but said that her ex-husband deleted any images before she could share them with others. The woman also believed that people had planted cameras in her home.

Law enforcement officers considered the woman to be a danger to herself because of her extreme delusions and unsafe handling of firearms. They filed a petition for an ERPO, which was granted by a judge the same day the petition was filed. Law enforcement seized five firearms and some miscellaneous ammunition from the woman's home. A final one-year order was ultimately granted.

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

BROWARD COUNTY SHERIFF'S OFFICE,  
Petitioner,  
vs.  
Respondent,

CASE NO. [REDACTED]  
DIVISION: [REDACTED]

**AFFIDAVIT IN SUPPORT OF TEMPORARY  
EX PARTE RISK PROTECTION ORDER**

STATE OF FLORIDA  
COUNTY OF BROWARD

BEFORE ME this day personally appeared Detective [REDACTED] who being duly sworn,  
deposes and says:

On [REDACTED] at approximately 8:20pm, your Affiant responded to [REDACTED] hospital located at [REDACTED] in reference to a self-inflicted gunshot wound.

Upon arrival, your Affiant met with Deputy [REDACTED] who advised the following: the Respondent, [REDACTED] advised him that while she was packing for a trip to Sarasota, she took her Smith & Wesson .38 S&W revolver out from her right stand. The Respondent stated while walking in her suit in her bedroom, her handgun accidentally discharged one round. When the gun discharged, the bullet entered just above her knee and exited from the front of her skin. The Respondent advised minutes after she shot herself, her friend [REDACTED] knocked on her door. At this time, the Respondent stated she said she was going to drive herself to the hospital and gave the revolver to [REDACTED] to hold until she got back from the hospital.

It was learned that Nurse [REDACTED] called 911 due to the injuries of the Respondent upon arrival. After further speaking with the Respondent, she finally confirmed the gunshot occurred in her [REDACTED]. The Respondent advised she was in the Public Plaza in [REDACTED] in the area of [REDACTED] when the incident occurred. She stated she was parked and had the firearm wedged between her and the front center console. After speaking with her sister, she stated she retrieved the firearm to place it inside the center console. As she was placing it there, she stated the firearm accidentally fired, striking her in the left leg. The Respondent then advised that starting she would be arrested because she lost her Concealed Weapons License, she drove to her friend [REDACTED] residence

**EXHIBIT "A"**

Considering the Respondent's mental health status, and the unclear circumstances regarding the gunshot wound, your Affiant was concerned for her safety. Your Affiant believed the Respondent to be a danger to herself regarding her extreme delusions combined with her obvious unsafe handling of firearms. Fearing that without mental health treatment, there was a strong possibility of further incidents

The affidavits and police incident reports included in this section come from the reviewed case files. Names and other identifying information redacted by Giffords Law Center.

## BROWARD COUNTY SHERIFF'S OFFICE ERPO IMPLEMENTATION PROTOCOLS

Just eleven days after Florida's governor signed the state's extreme risk law, the Broward County Sheriff's Office (BSO) filed its first request for an ERPO. According to BSO Assistant General Counsel Kristi MacKenzie there was a "mad scramble" among law enforcement agencies and the courts to figure out how to quickly and effectively implement this critical new law.

The lack of clear protocol during the initial implementation period prompted BSO to quickly establish practices and protocols dictating when and how ERPOs should be used in all BSO districts. BSO's successful model of implementation can provide guidance to other jurisdictions across the state and country that are working on ERPO implementation.

BSO's strategy included creating a policy manual that lays out the procedure for obtaining an ERPO, requiring that all officers be trained on the use of the law, standardizing forms used throughout ERPO cases, and designating a specific legal advisor to assist with cases. **Throughout the process of designing their implementation strategies, BSO focused on building due process protections into their protocols and ensuring that all officers see ERPOs as tools that they are able and, when called for to protect public safety, duty-bound to use.**

The BSO policy manual provides written directives for how officers should determine whether an ERPO is appropriate in a given case, as well as how to fill out the ERPO application form. Law enforcement officers across the department are then trained on the protocols outlined in the manual, ensuring that all officers are versed in what an ERPO is, when they should be used, how to prepare the paperwork, and the procedure for filing the requests for these orders. BSO also created standardized forms for ERPO petitions and service of orders, which likely help to facilitate training and adherence to protocols across the organization.

All officers are also trained on the protocols regarding who needed to be notified in cases that warranted a request for an ERPO. BSO streamlined a process wherein a deputy does the paperwork, immediately scans it, gets his or her boss's approval, and sends an email to the legal unit at BSO. Within the legal unit, a specific staff attorney is responsible for overseeing ERPO cases filed by BSO. This attorney not only helps to support officers in filing cases, but also adds an additional layer of review in determining whether cases meet the thresholds for firearm removal as detailed in the extreme risk law.

Representatives from BSO described the new extreme risk law as an important tool for protecting public safety and preventing gun violence. MacKenzie, who also served as legal advisor on some of the Broward ERPO cases, indicated that the law helped empower law enforcement with a new means to intervene when other systems failed



to disarm people at risk of hurting themselves or others. She noted that because BSO has no control over whether a prosecutor decides to pursue charges or whether a person is involuntarily admitted for mental health treatment, ERPOs are a tool that gives BSO the means to quickly remove firearms from individuals in moments where the risk of violence is highest.

In an interview, Captain Michael Riggio of the BSO Threat Management Division said this tool helped him and his officers “prevent serious harm from occurring in the community” while effectively balancing due process and gun rights concerns.

## RECOMMENDATIONS

Our review of Broward County ERPO case files indicates a clear gap in current federal law that Florida’s new extreme risk law fills, helping keep Florida residents safe from the devastating tragedies of gun suicide and gun homicide, as well as from mass shooting events like the Parkland shooting that prompted the state to pass this law. Based on the effectiveness and lifesaving potential of this law, as demonstrated both in this report and in previous studies, it’s clear that every state should pass and adequately implement an extreme risk law to prevent gun violence.

Over the past few years, Giffords Law Center has helped pass and implement extreme laws around the country. The following recommendations represent key components of effective extreme risk laws, based in part on our case file review and conversations with on-the-ground implementors in Broward County.

Legislators, law enforcement, and the courts all play a vital role in implementing these orders. Our recommendations for each of these stakeholders are outlined below.

### LEGISLATORS

#### **Pass Extreme Risk Laws in All 50 States**

As seen in our review of Broward County ERPO cases, extreme risk laws play an important role in keeping guns out of the hands of people in crisis. States that lack this vital tool should pass extreme risk laws to better protect their citizens from gun violence. At the federal level, efforts to provide incentives and financial resources for states to pass and implement these laws could help complement state legislative efforts.

#### **Allow Family Members to Petition**

A plurality of Broward County ERPO cases were initiated after spouses, intimate partners, or other family members noticed a loved one displaying risky behaviors and contacted law enforcement. Given that family members are often the first to notice when individuals are at risk of harming themselves or others, and that public opinion polls suggest that the public is even more supportive of extreme risk policies that allow family members to serve as petitioners,<sup>42</sup> states should implement or expand extreme risk laws to allow family members, in addition to law enforcement, to petition for ERPOs.

This expansion could empower family members who don't feel comfortable involving law enforcement to take steps to proactively intervene when their loved ones are in crisis, before tragedies occur. Of the 17 states with extreme risk laws, 12 states and Washington DC allow family or household members to submit a petition for an ERPO, in addition to law enforcement.

### **Require Firearm Surrender to Law Enforcement or Licensed Dealer**

State laws should require that people subject to ERPOs surrender their firearms to law enforcement or a federally licensed gun dealer. Requiring surrender to law enforcement or a licensed gun dealer, rather than to friends or neighbors, ensures that individuals do not have access to firearms for the duration of the order. Both law enforcement and licensed gun dealers are able to run firearm background checks before returning guns to respondents, which allows them to verify that the ERPO has expired as well as that the respondent has not become prohibited from having a firearm for any other reason before returning firearms.



## **LAW ENFORCEMENT**

### **Develop Local Protocols**

As states continue to pass extreme risk laws, local law enforcement departments should develop clear written local protocols that set department standards and procedures for serving orders, seizing firearms, obtaining search warrants for firearms, verifying firearm removal, and returning firearms to persons no longer subject to these orders. Clear protocols can help promote appropriate and effective use of ERPOs and ensure that there are appropriate checks and balances in these cases. For example, the Broward County Sheriff's Office's practice of having cases reviewed by the threat management team and an attorney before submitting them to the judge helps verify that cases are filed only in appropriate circumstances.

### **Require Training on ERPOs and Intersection with Other Laws**

Once local protocols are developed, trainings on these protocols and the process for filing a petition for ERPOs should be provided to all law enforcement officers who may come into contact with potential respondents. Trainings should not only cover procedures for procuring an ERPO but should also help educate officers in identifying when an ERPO is appropriate and how to respond effectively to situations that might necessitate the filing of an ERPO. Finally, law enforcement should be properly trained on how extreme risk laws interact with other state laws, such as domestic violence protective orders and civil harassment restraining orders, and under what circumstances it is appropriate to use ERPOs in conjunction with these laws.

### **Designate a Legal Advisor or Attorney for Law Enforcement**

Across most jurisdictions in Broward County, law enforcement officers who petitioned for ERPOs were supported by an attorney who worked on behalf of the law enforcement agency. These attorneys assisted law enforcement with filing petitions, presenting cases

before the judge, and generally supporting agencies throughout the court proceedings. Because law enforcement officers generally do not serve as petitioners in civil orders, having a designated legal advisor can help promote successful use of ERPOs and increase officer willingness to pursue these orders. In Broward County, the designated legal advisors ensured familiarity with and expertise on the law and relevant legal standards pertaining to pursuing these cases.

## COURTS

### **Make Appropriate Judicial Assignments**

As courts implement ERPO laws, court officials should keep the importance of judicial assignments in mind. In some jurisdictions, ERPO cases are heard by civil harassment judges, while in other jurisdictions, cases are heard by domestic violence or family court judges. In Broward County, the first three months of cases were heard initially in family court, but then cases were transferred to probate/mental health court judges. Judges in each type of court have different levels of training and expertise related to issues of firearm lethality, factors associated with increased risk of violence, and mental health and substance misuse. In addition to considering the expertise of their judges, courts should consider that ideally, all ERPO cases would be held on consistent days and times to facilitate scheduling officer testimony in court and to allow community social services providers to easily connect with ERPO respondents.

### **Require Judicial Trainings**

Much like with law enforcement officers, training for judges and court personnel is essential to ensuring successful implementation of extreme risk laws. Broward County judges who hear ERPO cases convened shortly after the law went into effect to create protocols around these cases. Judges should be trained about how the extreme risk law should be used, how to clearly explain a respondent's rights and obligations when an individual is subject to an ERPO, and how to monitor compliance with orders to relinquish firearms. Trainings should also be provided to court personnel and administrators who are responsible for producing court forms and public-facing materials to educate the public about ERPOs.

### **Ensure Compliance with Firearm Surrender**

Courts play an important role in verifying that individuals who own or have access to firearms surrender their firearms after an ERPO is granted. Courts should develop protocols to ensure respondents are given clear orders that include information about surrender as well as sale and purchase prohibitions. Protocols should also ensure that law enforcement understands its responsibility to serve and enforce orders, including obtaining firearms from prohibited persons. If necessary, legislation should be passed to provide law enforcement access to judicial decision-makers on an emergency basis to obtain orders and search warrants, as needed. Courts should assign specific judges and staff, as needed, to be available 24 hours a day for this purpose. Courts should also properly document in case files when firearms are retrieved or surrendered, and set review hearings to ensure prohibited persons have complied with relinquishment requirements.

# Conclusion

Before the Parkland shooter killed 17 people and injured 17 more on February 14, 2018, police deputies responded to numerous incidents in which the teen threatened or perpetrated some form of violence or exhibited concerning behavior. Yet despite the clear threat this individual posed to his family and his community, law enforcement didn't feel that any of these offenses were arrestable and mental health practitioners declined to commit him for treatment, leaving little recourse to restrict his access to firearms.

Today, law enforcement in Florida and 16 other states have the ability to quickly, safely, and effectively intervene in similar situations. Extreme risk laws empower law enforcement and other key members of the community to work with the courts to help prevent warning signs from escalating into tragedies.

Our review of the more than 250 ERPO cases filed in Broward County during the first year of the law's existence clearly demonstrates the lifesaving potential of extreme risk laws. Because Broward County law enforcement had access to this tool, people who made credible threats of gun violence against themselves, family members, and public places were disarmed and prohibited from accessing firearms.

Unfortunately, in far too many states, law enforcement and family members don't have this tool at their disposal. And in too many jurisdictions in states that do have this law, use and implementation of this law has been slow to catch on.

Giffords Law Center attorneys have drafted model legislation for extreme risk laws and models of promising practices for their implementation. Our team of experts is available to consult with legislators, stakeholders, and activists to help pass and implement extreme risk laws in jurisdictions across the country.

Solving our country's gun violence crisis happens both in broad strokes and small moments. It requires not only passing legislation but also effectively implementing it, intervening one crisis at a time to prevent a tragedy and save lives. We hope this report serves as a roadmap for stakeholders committed to preventing tragedies and saving lives in states across the country.



Roya Ann Miller/Contributor via Unsplash

Leverage the legal and policy acumen of our experts to pass and effectively implement extreme risk laws in your state. For assistance, please email [lawcenter@giffords.org](mailto:lawcenter@giffords.org)

# ENDNOTES

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<sup>1</sup> Extreme risk laws are sometimes referred to as red flag laws.

<sup>2</sup> These orders are referred to as ERPOs in CO, DC, MD, NJ, NY, MA, OR, RI, VT, and WA. Other names for these orders include Gun Violence Restraining Order (CA), Lethal Violence Protective Order (DE), Risk Protection Order (FL), Gun Violence Protective Order (HI), Firearm Restraining Order (IL), and Order for Protection Against High-Risk Behavior (NV).

<sup>3</sup> “Initial Report Submitted to the Governor, Speaker of the House of Representatives and Senate President,” Marjory Stoneman Douglas High School Public Safety Commission, January 2, 2019, <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*; See also, Darran Simon and Keenan Willard, “More Than 30 People Knew of Nikolas Cruz’s Disturbing Behavior, But Didn’t Report Until After Shooting, Sheriff Says,” CNN, November 15, 2018, <https://cnn.it/2PwD7Wq>.

<sup>6</sup> Patricia Mazzei, “School Officials Wanted Florida Gunman Committed Long Before a Massacre,” *The New York Times*, March 18, 2018, <https://nyti.ms/2Rx00NR>.

<sup>7</sup> Colleen L. Barry, et al., “Trends In Public Opinion On US Gun Laws: Majorities Of Gun Owners And Non-Gun Owners Support A Range Of Measures,” *Health Affairs* 38, no. 10 (2019): 1727–1734.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Matthew Daly, “Bipartisan ‘Red Flag’ Gun Laws Plan Has Support in Congress,” Associated Press, August 7, 2019, <https://bit.ly/34ndawO>.

<sup>12</sup> Lauren Dezenski, “Trump Backs ‘Red Flag’ Gun Laws. What Do They Actually Do?,” CNN, August 5, 2019, <https://cnn.it/2WumVpW>.

<sup>13</sup> Garen J. Wintemute, et al., “Extreme Risk Protection Orders Intended to Prevent Mass Shootings: a Case Series,” *Annals of Internal Medicine* 171, no. 9 (2019): 655–658.

<sup>14</sup> *Id.*

<sup>15</sup> Ryan J. Foley and Jonathan Mattise, “‘Red Flag Laws’ Offer Tool for Preventing Some Gun Violence,” PBS News, August 24, 2019, <https://to.pbs.org/2NB5ctb>.

<sup>16</sup> Melissa Block, “In Vermont, A Case Of One Man Whose Gun Was Seized Under Red Flag Law,” NPR, August 22, 2019, <https://n.pr/36oxD61>.

<sup>17</sup> Ovetta Wiggins, “Red-flag Law in Maryland Led to Gun Seizures From 148 People in the First Three Months,” *The Washington Post*, January 15, 2019, <https://wapo.st/2KfXwwh>; Peter Jamison and Peter Hermann, “Some U.S. Lawmakers Want a ‘Red Flag’ Law. But States Have Had Mixed Results,” *The Washington Post*, August 8, 2019, <https://wapo.st/325F7HJ>.

<sup>18</sup> Sometimes referred to as firearm removal laws, Connecticut and Indiana’s extreme risk laws may only be used to remove firearms already in the possession of a respondent, whereas extreme risk protection orders may be obtained against individuals who do not possess firearms to prevent future firearm purchases while the order is in effect. For more information about these laws, visit Giffords Law Center’s Extreme Risk Protection Order policy page, available at <https://bit.ly/35XMnr5>.

<sup>19</sup> Jeffrey W. Swanson, et al., “Implementation and Effectiveness of Connecticut’s Risk-based Gun Removal Law: Does it Prevent Suicides,” *Law & Contemporary Problems* 80, (2017): 179–208; Jeffrey W. Swanson, et al., “Criminal Justice and Suicide Outcomes with Indiana’s Risk-Based Gun Seizure Law,” *The Journal of the American Academy of Psychiatry and the Law* (2019).

<sup>20</sup> Aaron J. Kivisto and Peter Lee Phalen, “Effects of Risk-based Firearm Seizure Laws in Connecticut and Indiana on Suicide Rates, 1981–2015,” *Psychiatric Services* 69, no. 8 (2018): 855–862.

<sup>21</sup> Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), “Fatal Injury Data,” last accessed October 31, 2019, <https://www.cdc.gov/injury/wisqars>.

<sup>22</sup> *Id.*

<sup>23</sup> Matthew Miller, Deborah Azrael, and Catherine Barber, “Suicide Mortality in the United States: The Importance of Attending to Method in Understanding Population-Level Disparities in the Burden of Suicide,” *Annual Review of Public Health* 33 (2012): 393–408.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Eberhard A. Deisenhammer, et al., “The Duration of the Suicidal Process: How Much Time Is Left for Intervention Between Consideration and Accomplishment of a Suicide Attempt?,” *The Journal of Clinical Psychiatry* 70, no. 1 (2008): 19–24.

<sup>27</sup> April Opoliner, et al., “Explaining Geographic Patterns of Suicide in the US: The Role of Firearms and Antidepressants,” *Injury Epidemiology* 1, no. 1 (2014).

<sup>28</sup> Zac Anderson, “Political Insider: Florida Senate President Pledging Action on Gun Violence,” *Sarasota Herald-Tribune*, October 5, 2019, <https://bit.ly/2PEgsaw>.



# ENDNOTES

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<sup>29</sup> Erin Donaghue, “Florida’s ‘Red Flag’ Law, Passed After Parkland Shooting, is Thwarting ‘Bad Acts,’ Sheriff Says,” CBS News, August 9, 2019, <https://cbsn.ws/2C2l29J>.

<sup>30</sup> Greg Allen, “Florida Could Serve as Example for Lawmakers Considering Red Flag Laws,” NPR, August 21, 2019, <https://n.pr/2oDvAtT>.

<sup>31</sup> While the order is still in effect, a respondents may request one hearing to vacate the order before the one-year expiration date. Additionally, the petitioner may request that a judge extend a final order within 30 days before the expiration of the order.

<sup>32</sup> Although there were 257 unique cases, petitions in two cases were refiled, in one case due to a paperwork issue and in the other case due to the responding officer’s inability to attend the hearing before the judge for the ex parte order. These two petitions were re-filed, and ex parte orders were granted. Giffords Law Center chose to use a count of 255 unique petitions to avoid double-counting the unique case information in these petitions.

<sup>33</sup> In the first year, Polk County saw the highest number of ERPO petitions filed in Florida; Pinellas County saw the second highest number of ERPO petitions filed across the state. Calculated by Giffords Law Center using county court databases for the ten largest counties in Florida and population data from the US Census Bureau.

<sup>34</sup> Peter Jamison and Peter Hermann, “Some U.S. Lawmakers Want a ‘Red Flag’ Law. But States Have Had Mixed Results,” *The Washington Post*, August 8, 2019, <https://wapo.st/325F7HJ>.

<sup>35</sup> Hanna Scott, “Federal Red Flag Law Appears Unlikely, but Washington and Other States are Covered,” *My Northwest*, August 29, 2019, <https://mynorthwest.com/1491212/red-flag-law-washington/>.

<sup>36</sup> Figure represents an average of the five most recent years of available data (2014–2018). “Profile of Non-Fatal Injury Hospitalizations,” Florida Department of Health, State of Florida, last accessed October 31, 2019, <https://bit.ly/315EL58>.

<sup>37</sup> Figure represents a five-year average of the most recent fiscal years for which data is available (FY2012/2013 through FY 2016/2017). Anette Christy, et al., “The Baker Act, The Florida Mental Health Act: Fiscal Year 2016/2017 Annual Report,” Florida Department of Children and Families, June 2018, <https://bit.ly/37GuHBP>.

<sup>38</sup> Andrew Anglemeyer, Tara Horvath, and George Rutherford, “The Accessibility of Firearms and Risk for Suicide and Homicide Victimization among Household Members: A Systematic Review and Meta-analysis,” *Annals of Internal Medicine* 160, no. 2 (2014): 101–110.

<sup>39</sup> Giffords Law Center cautions against making comparisons between the race of Broward County ERPO respondents and the general population in the county. The basis for law enforcement’s determination of race isn’t clear from our review, and there were instances where racial information was not clear or consistent within case files. Further research is needed to understand the racial impact of extreme risk laws.

<sup>40</sup> This language reflects how these risk factors were categorized on the petition forms used by Broward County law enforcement agencies.

<sup>41</sup> J.C. Campbell, et al., “Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study,” *American Journal of Public Health* 93, no. 7 (2003): 1089–1097.

<sup>42</sup> Colleen L. Barry, et al., “Trends In Public Opinion On US Gun Laws: Majorities Of Gun Owners And Non-Gun Owners Support A Range Of Measures,” *Health Affairs* 38, no. 10 (2019): 1727–1734.

If you or someone you know may be considering suicide, contact the **National Suicide Prevention Lifeline at 1-800-273-8255** or the **Crisis Text Line by texting HOME to 741741**. These services operate 24/7 and provide free and confidential emotional support to people in suicidal crisis or emotional distress.

If you or someone you know is experiencing domestic violence, **contact the National Domestic Violence Hotline at 1-800-799-7233**. This service is available 24/7 and can provide confidential assistance and information from trained advocates.

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For over 25 years, the legal experts at Giffords Law Center to Prevent Gun Violence have been fighting for a safer America by researching, drafting, and defending the laws, policies, and programs proven to save lives from gun violence.