

# Understanding the Implementation and Use of Oregon's Extreme Risk Protection Order Law Through Interviews with Professionals Involved in Implementation

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SCHOOL OF  
**PUBLIC HEALTH**

The following report summarizes the key themes and takeaways from 33 qualitative interviews conducted with professionals involved in the Extreme Risk Protection Order (ERPO) process in Oregon. Interviews were completed between July and October 2024. Interviewees described their professional experiences with the ERPO law, expressed different attitudes and perceptions about the law’s use and effectiveness, highlighted factors that may support or hinder ERPO utilization, and suggested policy and practice changes that may improve ERPO utilization and effectiveness. Overall, most interviewees saw ERPOs as a beneficial tool to prevent harm in extreme situations, but these professionals also recognized the limitations of this tool and offered suggestions for bridging current gaps and more effectively implementing Oregon’s ERPO law.

This work was completed by researchers at the Oregon Health and Science University Gun Violence Prevention Research Center and the Oregon Health and Science University-Portland State University School of Public Health. This work was funded by the Oregon Health Authority through a grant provided by the U.S. Centers for Disease Control and Prevention Comprehensive Suicide Prevention Program. For questions, please email the research team at [gunviolenceprevention@ohsu.edu](mailto:gunviolenceprevention@ohsu.edu).

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# Oregon's Extreme Risk Protection Order Law

## Key ERPO Terms

**Petitioner:** The individual requesting the court to order an ERPO. Eligible petitioners in Oregon include law enforcement officers, family (current spouses and intimate partners, parents, children, and siblings), and household members.

**Respondent:** The individual subject to the ERPO.

**Ex parte hearing:** The hearing that occurs on the same day or next judicial business day following the filing of an ERPO petition. The term “ex parte” is a legal term that indicates that only one party (in this case, the petitioner) presents evidence at the hearing.

**Service:** The process by which a respondent is notified of an ERPO after it is granted at the ex parte hearing. The Sheriff's Office is typically responsible for service of ERPOs.

**Contested hearing:** The hearing that is held with both parties (petitioner and respondent) present if the respondent requests this hearing to challenge the ERPO within 30 days of service.

An Extreme Risk Protection Order (ERPO) is a civil court order that temporarily restricts one's access to firearms or other deadly weapons if the court determines that the person is at imminent risk of harming themselves or others.<sup>1</sup> ERPO laws exist in 21 states and the District of Columbia. While the exact provisions of ERPO laws vary from state to state, in general, they provide a mechanism for temporary removal of firearms from a person's possession and for preventing the person from purchasing firearms for the duration of the order. Research on ERPO laws across the U.S. suggests that ERPOs may be effective tools for preventing firearm suicide and homicide, including mass shootings.<sup>2</sup>

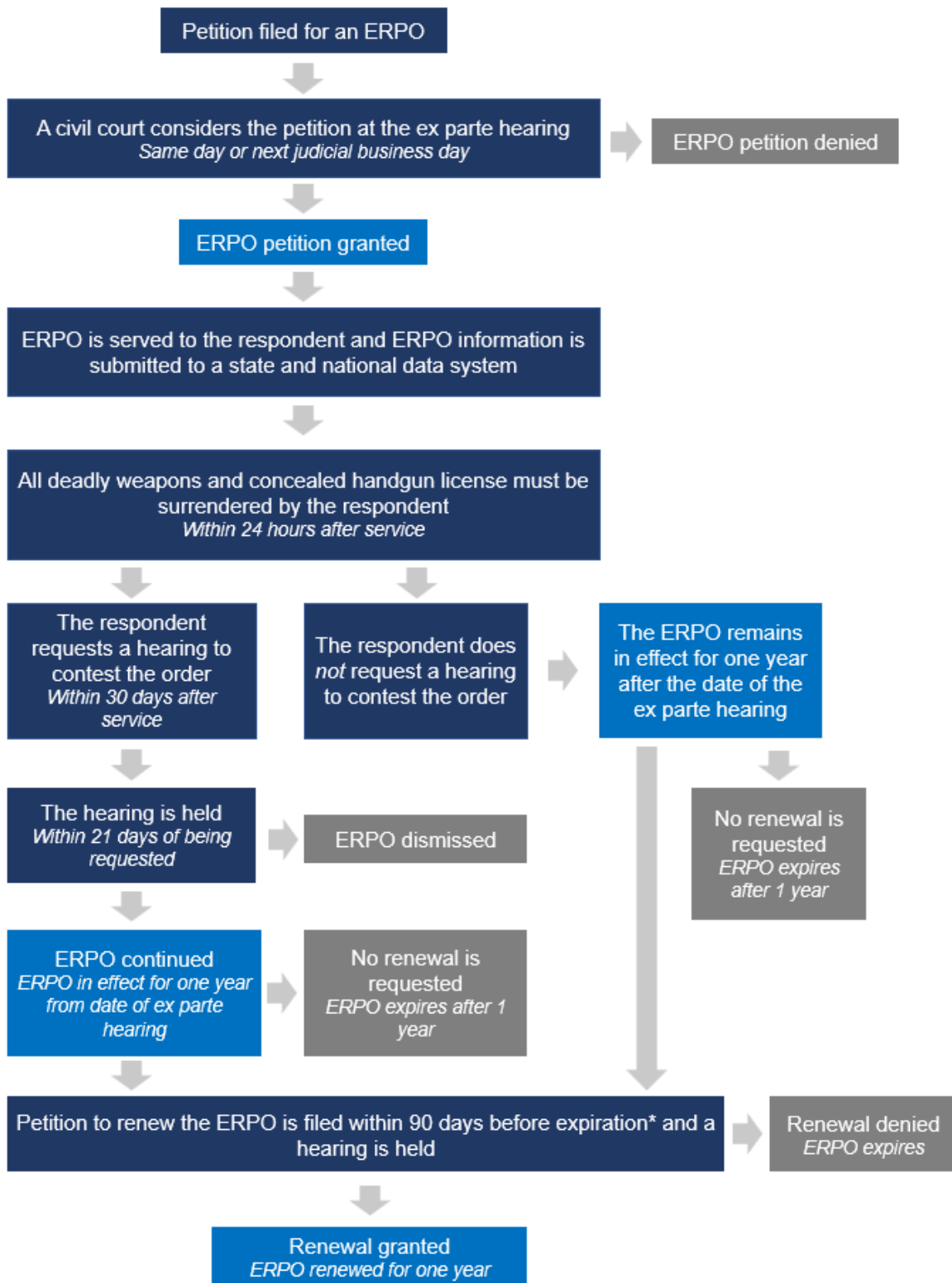
Oregon's ERPO law (ORS §§ 166.525–166.543) was passed in 2017 and took effect on January 1, 2018, making Oregon the fifth state to adopt an ERPO law.<sup>3</sup> Individuals allowed to petition a civil court under Oregon's ERPO law include family (defined as current spouses and intimate partners, parents, children, or siblings of the respondent), household members, and law enforcement officers (LEOs). The court applies a standard of clear and convincing evidence to determine if the respondent is at imminent risk of harming themselves or others. For a more in-depth description of Oregon's ERPO law, please see the Oregon Secretary of State's Advisory Report: [Increased Awareness and Training Could Enhance the Effectiveness of Oregon's Extreme Risk Protection Order Law](#).

<sup>1</sup> Johns Hopkins Bloomberg School of Public Health. (n.d.). The National ERPO Resource Center. <https://erpo.org/>.

<sup>2</sup> Kivisto AJ, Phalen PL. Effects of risk-based firearm seizure laws in Connecticut and Indiana on suicide rates, 1981-2015. *Psych Services*. 2018;69(8):855-862; Swanson JW, et al. Implementation and effectiveness of Connecticut's risk-based gun removal law: Does it prevent suicides? *Law and Contemporary Problems*. 2017;80(2):179-208; Miller M, et al. Updated estimate of the number of Extreme Risk Protection Orders needed to prevent 1 suicide. *JAMA Netw Open*. 2024;7(6):e2414864; Gimbrone C, Rudolph KE. Florida's Red Flag gun law and firearm and nonfirearm homicide and suicide rates. *JAMA*. 2024; 332(11):931-933; Wintemute GJ, et al. Extreme risk protection orders intended to prevent mass shootings: A case series. *Ann Int Med*. 2019;171:655-658.

<sup>3</sup> Extreme Risk Protection Orders. OR Rev. Stat. Ann. §§ 166.525 - 166.543. [https://oregon.public.law/statutes/ors\\_166.525](https://oregon.public.law/statutes/ors_166.525); Johns Hopkins Bloomberg School of Public Health. (n.d.). The National ERPO Resource Center. <https://erpo.org/>.

The following flowchart depicts the steps in Oregon’s ERPO process (ORS §§ 166.525 to 166.543) from petitioning to potential renewal.



\* The renewal petition must be filed with enough time before the expiration of the current ERPO to schedule a hearing and provide both the petitioner and the respondent with 14 days’ notice of the hearing.

As depicted in the above flow chart, after an ERPO petition is filed, it must be considered by a civil court on the same day or the next judicial business day at an ex parte hearing. This ex parte hearing is attended by the petitioner only, as the respondent (the person the petition is filed against) is not given advance notice of the hearing. The court applies a standard of clear and convincing evidence to determine if the respondent is at imminent risk of harming themselves or others. If the petition is granted, a law enforcement officer, commonly from the county sheriff's office, serves the ERPO to the respondent. After an ERPO is served to the respondent, information is submitted to state and national data systems (Oregon's Law Enforcement Data System and the National Crime Information Center systems) to prevent the respondent from purchasing new firearms. The respondent is required to surrender all deadly weapons and any concealed handgun license within 24 hours of being served with the order and is restricted from possessing or purchasing firearms, typically for one year, unless a request to terminate earlier or a renewal is granted. The weapons may be surrendered to a law enforcement agency, gun dealer, or other third party who may lawfully possess firearms. The respondent may request a hearing to contest the ERPO within 30 days of being served with the order. At the hearing, the order can be continued, modified, or dismissed. ERPOs may be renewed beyond one year if an eligible petitioner files a petition within 90 days before the existing order is set to expire and demonstrates evidence of continued risk. Because hearings for ERPO renewals are not ex parte hearings, both petitioners and respondents must attend, and courts must provide notice to all parties at least 14 days prior to the scheduled hearing. Therefore, renewal petitions must be filed at least two weeks prior to the expiration of the ERPO.

Our team has analyzed Oregon's ERPO court records from January 1, 2018, when the law took effect, to December 31, 2023. In that time, 835 ERPO petitions were filed in Oregon, 78% of which were granted. The majority of these ERPOs were filed by LEOs (61%), followed by family/household members (25%). At least one ERPO was filed in 30 of Oregon's 36 counties (83%), with a median filing rate<sup>4</sup> among these 30 counties of 16.6 ERPOs filed per 100,000 county residents. These ERPO petitions cited a variety of threats, including assault/homicide (86%), self-harm/suicide (62%), domestic violence (37%), and mass violence (11%), and many petitions cited multiple threats. Results from 2018-2022 have been previously published.<sup>5</sup> Additional fact sheets describing results are available [here](#). The data show that Oregon's ERPO law is being used to address a variety of threats, including self-harm, assault, domestic violence, mass violence, and threats to schools. Still, gaps remained in our understanding of the implementation of ERPOs that could not be answered through the court records alone.

## Interviews with Professionals Involved in ERPO Implementation

In order to bridge these gaps, we conducted semi-structured interviews with LEOs, judges, representatives from the district attorneys' (DAs) and city attorneys' (CA) offices, prevention

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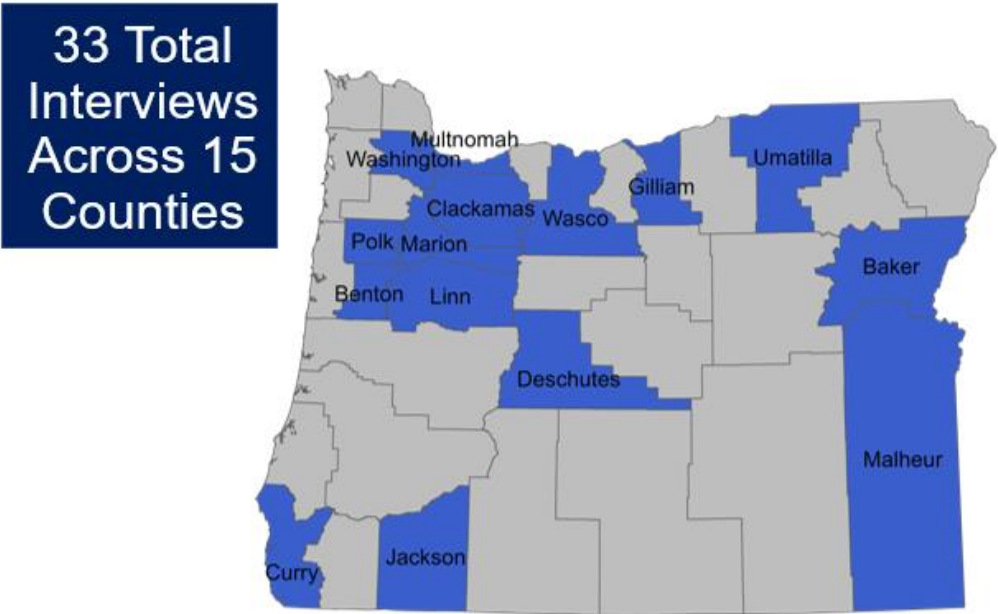
<sup>4</sup> The median filing rate is the rate in the middle of the dataset among counties with at least one ERPO filed, meaning that 50% of the rates of petitions filed are above that rate and 50% are below.

<sup>5</sup> Rakshe S, Valek R, Teichman R, Freeman K, DeFrancesco S, Carlson KF. Five years of extreme risk protection orders in Oregon: a descriptive analysis. *Psychological Reports*. 2024 Apr 26.

professionals, and other professionals involved in the ERPO process. While DAs, CAs, and prevention professionals are not as directly involved in the ERPO process as LEOs, who act as petitioners and serve and enforce ERPOs, or judges, who preside over ERPO hearings and grant or deny ERPO petitions, we included these additional professional groups because they may play advisory or supportive roles in the process. DAs, CAs, and prevention professionals can educate LEOs or family/household members about ERPOs and support them when working through an ERPO petition or contested hearings. Additionally, DAs may play a larger role when an ERPO is violated, as that is when it becomes a criminal offense.

Interviews were primarily conducted virtually and lasted approximately one hour each. Interviewees were offered a \$50 gift card in appreciation for their participation. Recordings and notes from interviews were analyzed using rapid qualitative analysis.

Purposive sampling was used to reach a variety of participants across the state, including those in urban and rural counties and counties with current high and low ERPO utilization, to ensure that the interviews reflected diverse perspectives and experiences. Urban and rural classifications were based on the Oregon Office of Rural Health designations. ERPO utilization was based on the average number of ERPOs filed in urban and rural counties; urban counties were considered high ERPO utilizers if 60 or more ERPOs had been filed in that county between 2018-2023 and rural counties were considered high utilizers if 10 or more ERPOs had been filed. While we initially planned to stratify analyses to compare across these characteristics, it became evident through the interviews that these county-level classifications were not necessarily representative of the interviewees' experiences. For example, some interviewees from counties labelled as urban described being in very rural parts of the county and some interviewees from high-utilizer counties were from agencies with low ERPO utilization. Over 250 individuals and agencies were contacted as part of our recruitment.



In total, we completed 33 interviews with 35 interviewees. These interviewees represented 15 of Oregon's 36 counties. Males and females were nearly equally represented (49% and 51% of interviewees, respectively). Eighteen interviews were with sworn LEOs, including officers or investigators from police departments, sheriff's offices, and DA's offices. These LEOs were employed by departments of a variety of sizes, from fewer than 10 employees to over 1,000 employees. Additionally, five interviews were with judges, five were with non-LEO representatives from DA's offices or paralegals from CA's offices, and five were with those working in suicide, substance use, and domestic violence prevention.



**Law Enforcement Officers (LEOs)**  
(n=18)



**Circuit Court Judges**  
(n=5)



**District and City Attorneys' Offices**  
(n=5)



**Prevention Professionals**  
(n=5)

## Key Takeaways from the Interviews

### Professionals' Knowledge and Awareness of the ERPO Law

#### **Professional knowledge and awareness of the ERPO law are low.**

Few interviewees felt that professionals in their field were knowledgeable about the ERPO process. Judges most commonly reported that other judges were knowledgeable, especially family law judges, whereas none of the prevention professionals thought that others working in prevention were knowledgeable. Representatives from DA and CA offices reported mixed feelings on whether others in DA and CA offices were knowledgeable. Some LEOs thought that the other LEOs in their agency or county were knowledgeable, especially after using an ERPO or because of training efforts, but most reported low knowledge among LEOs generally.

#### **Many interviewees had lingering questions about different aspects of the ERPO process and did not know where to find answers to these questions.**

While some interviewees viewed the ERPO process as easy and straightforward, others described it as foreign or confusing. Even among those who found the process straightforward overall, questions or confusion remained for many interviewees around certain stages of the ERPO process. For example, one LEO had been involved in petitioning within the months prior to the interview, so he felt comfortable with that part of the process but did not know how the later stages of the process worked, such as firearm surrender or renewal of the ERPO.

Questions expressed by different interviewees included:



- Will judges treat ERPOs like restraining orders, requiring petitioning during business hours, or like search warrants, allowing LEOs to petition via a recorded line at all hours?
- What liability do officers take on when they file ERPOs? Or if they don't renew an ERPO?
- Can you enforce an ERPO in the first 30 days while the person decides whether to contest the order?
- What options do LEOs have for enforcing ERPOs?
- How do LEOs ensure compliance when a person refuses to surrender their firearms or claims to have given the firearms to a third party, but will not name that party?
- What constitutes noncompliance/violation of the ERPO? Does repeatedly attempting to get weapons back or attempting to purchase a firearm qualify as noncompliance?

Additionally, interviewees requested clarification about the interpretation of different parts of the ERPO statute, as they felt some judges interpreted the statute differently.

- The statute says ERPO hearings can occur in person or by electronic video. Some judges question whether ERPO hearings can also occur by phone (e.g., on a recorded line, as is used for search warrants).
- The ERPO statute says that “the Oregon Evidence Code shall apply” (ORS 166.530 (2)(a)), but also that judges may consider sworn affidavits. Judge interviewees expressed that there is confusion as to whether affidavits are allowed at contested hearings, or only ex parte hearings, and when hearsay is admissible in ERPO proceedings. These interviewees requested clarification and guidance on the evidence code for both ex parte and contested hearings.

### **Training, knowledge, and utilization reinforce each other.**

Interviewees expressed that the level of knowledge of others in their fields was dependent on the training offered and the frequency of ERPO utilization within each agency. More frequent ERPO utilization led to increased knowledge among those in that agency or county. As one judge interviewee said, “Volume brings a critical mass of knowledge.” Additionally, training or knowledge facilitated utilization of the tool. As one LEO interviewee noted, “When the information is given to a person...they are more likely to utilize it and implement it into their investigation and problem solving.” In this way, training, knowledge, and utilization reinforced each other.

## **ERPO Training and Resources**

### **LEOs described learning by doing.**

Many LEO interviewees who did not receive professional training described learning how to navigate the ERPO process by working their way through it. Some had never even heard of an ERPO before it was suggested to them for specific cases. One LEO interviewee described, “I had never heard of it until my trainer said, ‘I remember this thing called an ERPO. You should probably do one on this guy.’” Another LEO interviewee said that navigating the process without

training was difficult, saying, “It really kind of felt like wandering through the dark and doing my best to pick my way through.”

This pattern of learning by doing was described by one interviewee as more of an agency-level problem resulting from a lack of training:

The unfortunate problem right now is that people aren’t really looking for training until they have a significant case where an ERPO pops up and they’re trying to scramble and learn about it at that time. They’re trying to basically learn and do it all at once. (LEO interviewee)

### **Few professionals reported receiving training on the ERPO process.**

This agency-level problem was evident in that few interviewees reported receiving professional training on the ERPO process. Some of the LEOs from agencies that recently worked through cases were interested in creating or providing a training to their officers, reinforcing the idea that many agencies are not looking for training until they have a significant case.

Six of the interviewees created their own trainings for LEOs, judges, or those working in suicide prevention. These trainings covered the steps of the ERPO process, including petitioning, service, and firearm surrender; the eligible petitioners; the statutory requirements; and case studies of ERPO use. In some cases, trainings also addressed constitutional concerns and Second Amendment rights. These trainings were often informal and offered to others in their agency, department, or county. Some DAs in smaller, more rural counties provided brief ERPO trainings to the LEOs in their county as well.

Despite the limited training, many interviewees felt that resources to navigate the ERPO process were generally available, including the Oregon Department of Justice website, information provided by the Oregon State Sheriff’s Association, the statute itself, and agency policies or standard operating procedures. Some interviewees found these resources useful, while others felt more resources were needed to help navigate the process.

### **There is a need for more professional training.**

Most interviewees described a need for more professional training among their professions, and some noted a need for training of other professionals, such as LEOs seeing a need for more training for judges and vice versa. Representatives from the DA’s office were an exception, as many did not see a need for more training for themselves due to their limited role in the ERPO process.

When asked what an ideal training would look like, interviewees varied widely in terms of their suggestions. Given their more direct role in the ERPO process as petitioners, LEOs may require a more in-depth training offered at the academy, with refresher trainings provided annually. LEO interviewees varied in terms of recommendations for the duration and format of the training, with some suggesting just a brief 10-minute training video and others favoring an in-person training with a victim impact panel. Other professionals saw a need for brief trainings, but largely expressed a preference for information sheets or quick reference materials that they could use when answering questions about or working through an ERPO. For judges, this may take the form of bench cards, which may be created by the local court or the Oregon Judicial Department

and include details about the ERPO statute such as eligible petitioners and evidentiary requirements. As one judge described, “Being a lawyer or judge is about knowing where to find the answer, not necessarily having the answer.” For DAs/CAs and prevention professionals, online resources or flow charts describing the nuts and bolts of the ERPO process were preferred, as these could help these professionals answer questions and advise LEOs or family/household members that may be considering petitioning. The table in **Appendix A** provides more details on the ideal trainings and resources described by interviewees.

Because ERPOs are used so infrequently, some felt that formal training was unnecessary. As one DA/CA interviewee said, “We just don’t have the staffing to go to trainings, especially on things that don’t happen very often.” More frequently, though, interviewees emphasized that their infrequent use made training and education even more important. One LEO interviewee emphasized that “low frequency, high risk means you need to train it well.” Those expressing this sentiment felt that training was important to remind officers that ERPOs are an option for them to use. As another LEO interviewee commented, “Sometimes we get so many tools in our tool belts that we forget some of them.” Additionally, interviewees emphasized the importance of brief resources, such as bench cards for judges and online resources and fact sheets describing ERPOs, so that they have something to reference quickly when ERPOs do arise. One prevention professional interviewee said, “If I’m going to use this information once every five years, then having something that I can refer to really quickly in the moment I think is really helpful.”

### **Interviewees stressed the importance of having a point of contact or an ERPO expert within the county.**

The most important resource noted by interviewees was the availability of a point of contact in the agency or county that was knowledgeable about the ERPO process and could answer questions and guide LEOs through the process when needed.

I think that the most important thing would be a law enforcement officer in the county being a point of contact and understanding how they [ERPOs] work...I think the most important thing is having someone that is available...in the county that has an interest and wants to be like the expert, that is going to be a point of contact for ERPOs as they come up until everybody gets trained on them. (LEO interviewee)

This point of contact may be an individual in the DA’s office or an officer within a police department. Where the individual works is less important than the fact that they are easily accessible to LEOs and others looking for answers and trying to navigate the ERPO process.

## **Attitudes Toward the ERPO Law**

### **Interviewees perceived public attitudes of ERPOs as primarily negative, although few people seem to even know ERPOs exist.**

Some interviewees thought that the public viewed ERPOs negatively, primarily due to misinformation and misunderstanding (e.g., fears that ERPOs are a way for the government to take firearms without due process). This sentiment may be especially prevalent among gun owners and Veterans, who may see ERPOs as a punishment or a threat to their Second

Amendment rights, and among rural populations, who, as one DA/CA interviewee commented, “are just kind of sick and tired of...some of the policies they feel forced upon them.” Many interviewees described how a strong gun culture and political tensions around any policies related to guns have contributed to fears and negativity around ERPOs.

Gun culture is so strong...Threatening to take somebody’s gun away is a threat to their identity. It’s a threat to their safety. It’s a threat to their patriotism. (prevention professional interviewee)

Still, most interviewees who expressed these opinions said that the public’s attitudes around ERPOs are malleable, both by time and by education. Some saw that public fear and outcry had eased over time. One DA/CA interviewee noted, “That [backlash] may have just kind of faded away when people saw that there wasn’t this mass taking away of people’s firearms that they were afraid of.” Others felt that when members of the public learned about the scenarios for which ERPOs have been used, they almost always agreed that these individuals should not have firearms at this time.

More broadly [among the public], I think there would be more pushback to ERPOs. There was a lot of concern that...this is the first step to taking their guns and taking their rights away. That is diminished, partly because it’s not in the news right now. So I think generally the public in our county would be initially opposed to an ERPO. I think if we put our cases forward and showed when we use them, those same people would say, “Oh, okay. I think that’s good.” (LEO interviewee)

Because many of the fears driving negative public opinion were thought to be rooted in a misunderstanding of the law, some felt that public attitudes toward ERPOs would be more positive if more public education was available. Nearly all interviewees felt that the majority of the public simply did not know about ERPOs. One DA/CA interviewee said, “I could count on one or two hands the number of people in my county who actually know about this law and understand its purposes.” Interviewees proposed ideas for public education campaigns to increase general knowledge and awareness of ERPOs among the public, including monthly clinics or presentations targeting those dealing with a family member in crisis, short videos offering general information or resources, billboard campaigns, and fact sheets on ERPOs provided at gun shops or along with gun locks. Additionally, interviewees said that LEOs, mental health providers, domestic violence advocates, and others who may encounter individuals in crisis should be knowledgeable about ERPOs and able to educate the family of the individual in crisis about ERPOs and assist them with the ERPO process.

**Professionals had mostly neutral to positive attitudes toward the ERPO law, but also noted the importance of balancing safety and Second Amendment rights.**

Most interviewees expressed positive attitudes toward the ERPO law, describing ERPOs as a helpful tool. Still, many emphasized that their professions and communities are very supportive of the Second Amendment. Interviewees, especially LEO interviewees, discussed a delicate balance between promoting safety and respecting Second Amendment rights.

The law enforcement community as a whole is very pro-Second Amendment, but there's also a common sense understanding that some people should not have firearms sometimes. (LEO interviewee)

Honestly, they [ERPOs] were very helpful for us, but I'm also a very strong advocate of the Second Amendment. And so there needs to be a balanced approach to understanding the Second Amendment, the Constitution, and case law surrounding that versus the need to help people and keep people safe. (LEO interviewee)

Everybody has their right to bear arms, to own firearms. I strongly support that right. There need to be safeguards in place in situations where it can be articulated that they are not safe to possess them at that point. (LEO interviewee)

While I do fully support the Second amendment, I also believe that there are some people at points in their lives who should not own or possess firearms. It is too lethal a means to be utilized without some sort of reasonable controls. Similar to if somebody's driving unsafe, you lose your driver's license (LEO interviewee)

The DA/CA interviewees that we spoke with were primarily supportive of ERPOs but described other DAs as avoiding ERPOs due to political consequences of expressing support: "The ODS [Office of the District Attorney] has consistently stayed out of taking any position on gun legislation because...it's too divisive and it would really burn a lot of the DAs in the smaller counties."

Additionally, prevention professionals expressed more nuanced opinions of ERPOs, especially as a suicide prevention tool. Many suicide prevention professionals did not view ERPOs as a suicide prevention tool because ERPOs are too downstream of an intervention, the messaging around ERPOs can be stigmatizing, and ERPO utilization may impact help-seeking behaviors among gun owners. Some prevention professionals with more patient-facing roles felt hesitant to address ERPOs or firearms generally with their patients because of the culture around avoiding political topics.

I think it's a really touchy subject because people are very attached to their firearms and...in suicide prevention, we help everybody, right? And we really work hard to not...have our opinions impact the care that we provide to people who might have different opinions than us...So when we start talking about ERPOs, it gets a little bit scary because we're like, "Oh, am I talking about politics? Am I talking about gun control right now?" ...So we choose not to bring those things up because we receive so much training around...don't talk about politics unless they bring it up. And so this [ERPOs] can kind of fall into that category in a lot of people's minds. (prevention professional interviewee)

## Purpose and Utility of ERPOs

**Interviewees described the scenarios for which an ERPO is most suitable as cases where there is a threat of harm to oneself or others, especially when firearms are involved and when the threats do not reach the level of a crime or civil commitment.**

Interviewees discussed various situations where ERPOs may be appropriate, including threats of suicide or harm to others with a gun nexus and cases involving mental health risk, substance use, or domestic violence. Some also discussed scenarios where a loved one has become more aggressive or violent due to cognitive decline or dementia. Regardless of the scenario, interviewees emphasized that the main goal is to save a life. As one LEO interviewee said, “The bottom line with an ERPO is I’m trying to save a life...the whole goal is to prevent that person from killing somebody, including themselves.”

In particular, interviewees saw ERPOs as filling a gap by allowing LEOs to intervene when a person’s threats or actions do not reach the level of a crime or civil commitment.

Especially with people that are borderline right in the middle where their behavior is concerning, but it hasn’t risen to the level of a crime. We need some tools that help us deal with those people. (LEO interviewee)

We saw this gaping hole of, there’s somebody we know is dangerous, but we have to wait until they actually hurt somebody to take their firearms away. (DA/CA interviewee)

**Still, interviewees emphasized the limited scope of ERPOs and cautioned against overuse.**

As mentioned previously, interviewees emphasized the need to balance safety and Second Amendment rights. For many, this balance informed the limited utilization of ERPOs.

Interviewees emphasized how egregious the cases needed to be to justify the use of an ERPO.

We’re a very pro-gun area and our deputies are that way, so I think they would consider it a useful tool, but one that should be used sparingly for the right situations. (LEO interviewee)

ERPOs are called extreme risk protection orders and everything about them is extreme. You shouldn’t be using them just willy nilly. So we really try to exhaust all avenues to get help for these folks before we get to that point. (LEO interviewee)

Some also described using ERPOs with caution out of fear of the law being challenged or overturned. One LEO interviewee noted, “I’ve been extremely careful in my decision-making on this not to lose this tool – in other words, overuse it. I’ve been extremely cautious, because I’m afraid that overuse or weak application of it will get it removed.”

Despite this need for balance, interviewees recognized the risk of not using or granting an ERPO in cases where it may be warranted. As one judge said, “The initial order provides the cooling off, which is really important...If I make a mistake here and don’t grant it, someone could get really hurt.”

**Many alternatives are often considered before choosing to petition for an ERPO, especially in cases involving risk of suicide or harm to self.**

Many interviewees described ERPOs as a last resort and said many alternatives are typically considered first. These alternatives differ depending on the type of threat being addressed. For threats of harm toward others, alternatives include criminal penalties and stalking or restraining orders (if threats were directed at a specific person). For threats of suicide or self-harm, more

voluntary measures are preferred, including temporary out-of-home storage through family or friends, secure firearm storage, safety planning, and disabling the firearm. LEO interviewees also discussed that police officer holds or mental health holds would likely be used before ERPOs.

There are many other avenues that we would normally take if...we were worried about somebody being in possession of guns. We would be way more likely to take a different route like a restraining order, domestic violence charges, family members. (DA/CA interviewee)

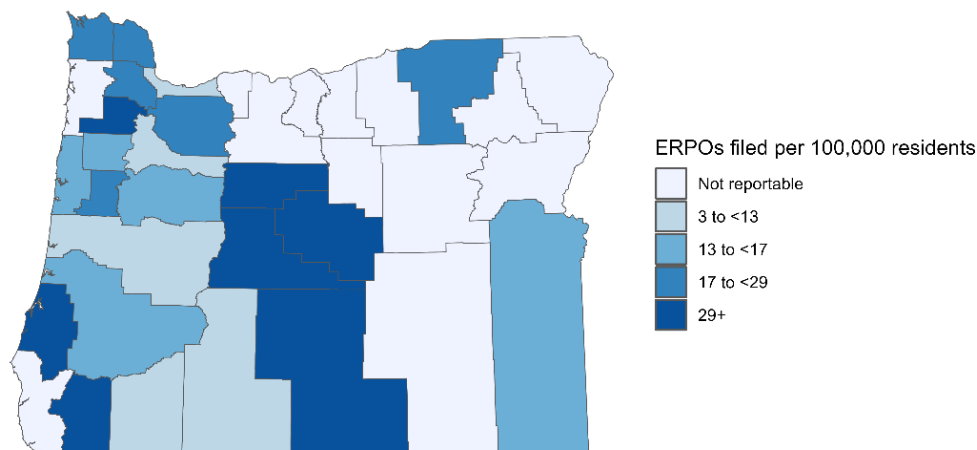
It's not something that we jump to... it tends to be more of a situation where there's a significant ongoing risk, an articulable threat, not that they're in a brief crisis and we can get them to a hospital and get them some help...We tend to utilize other tools. (LEO interviewee)

In the suicide situation, it would be more fitting to do a police officer hold and try to get them helped through different avenues. And in those situations ...oftentimes they'll surrender guns or give them to a family member. So we take similar actions, but maybe in a little different way. (LEO interviewee)

### Interviewees provided potential explanations for differences in ERPO utilization across Oregon's counties.

In the first six years since Oregon's ERPO law took effect, utilization has varied dramatically across Oregon's 36 counties, with some counties having no ERPOs filed in that time and others surpassing 100 ERPO petitions filed. At least one ERPO was filed in 30 of Oregon's 36 counties (83%), with a median filing rate among these 30 counties of 16.6 ERPOs filed per 100,000 county residents. The map below depicts the rate of ERPOs filed per 100,000 residents in each county from 2018 to 2023.

ERPOs filed in Oregon counties  
Jan. 1, 2018-Dec. 31, 2023



When asked what may account for these differences in uptake and utilization, interviewees offered a variety of potential explanations. Interviewees suggested that law enforcement agencies in counties with higher ERPO utilization may have more funding, resources, and ERPO training, whereas smaller law enforcement agencies may not have the resources or manpower to have

LEOs frequently petitioning for ERPOs. Additionally, support for ERPOs among law enforcement agency leadership may drive training and knowledge, and in turn utilization, among LEOs in the county. Many interviewees also commented on how political will and culture may impact ERPO utilization, with some suggesting that more conservative views on gun laws may lead to lower utilization. Beyond the differences in resources and views on gun laws, some interviewees felt that smaller, more rural counties may be less likely to use ERPOs as frequently because of the closeness and familiarity of residents in the county.

My guess is that it would have across the board lower utilization in rural communities because they're smaller, you know the people, and I think there's probably not as much collaboration. There should be the opportunity for even more collaboration, but I think that maybe there could be more of a sense of "Hey, we can handle this on our own" even in law enforcement... "I know this guy" or "I sure wouldn't want someone to take this away from me." (prevention professional interviewee)

Importantly, some interviewees from counties with lower ERPO utilization noted that they did not view lower utilization as a problem or see higher utilization as a goal, emphasizing the limited scope of ERPOs and the fact that they should only be used for specific, extreme instances. One LEO interviewee suggested that some counties may have higher utilization because their leadership has a broader view of what may constitute extreme risk: "I think a lot of it would be dependent on your leadership, whether that's a chief or a sheriff, and where they draw that line... They might have a lower threshold than what I have here."

## Perceived Impacts and Effectiveness of ERPOs

### **Overall, few interviewees reported perceptions of serious adverse impacts of ERPOs.**

Most interviewees could only speak to potential or hypothetical adverse impacts, including potential impacts on employment, military service, custody or parenting time, public assistance, or housing. Still, most thought these impacts would be temporary, since they believed the ERPO would be removed from one's record after it expired. Some interviewees speculated that ERPOs may adversely impact the respondent's relationships with family or law enforcement and may risk raising tensions or escalating violence. One major concern raised by prevention professionals was the risk of discouraging firearm owners from seeking treatment or mental health services out of fear of losing their firearms. As one prevention professional expressed, "Having an ERPO come in, I guess, again, we'll keep people alive in the moment perhaps, but I worry about the long-term effect of people ever seeking care." Many felt that these potential adverse impacts were justified given that ERPOs are temporary and only used in cases of extreme risk.

### **Most interviewees generally viewed ERPOs as beneficial and effective.**

Many interviewees viewed ERPOs as just the first step toward implementing a more preventative approach. ERPOs can make a situation safer by removing firearms, allowing further steps of intervention to occur. ERPOs also help to slow a situation down and allow a crisis to pass by creating time and space between an individual in crisis and a lethal weapon.



I think that's the point of the order... I know you're wrapped up and emotional, you want to be a good citizen. We can all get a little worked up about something and go too far... these ERPOs have been great tools to slow them down... make them re-think. (DA/CA interviewee)

I view these kind of laws as putting brakes on everything... It's not going to resolve the problem permanently...but what it does do is it slows everything down and in my many years of doing crisis work, a lot of times if you can slow things down...[people] have that opportunity to reset, whether it's getting treatment or getting clean or sober, getting back on meds, whatever it is. (LEO interviewee)

It gives people another day to get through their crisis or another day to get treatment or another day to get outreach. And sometimes that's all we're looking for is just one more day and one more week and one more year and just keep on going forward instead of getting stuck on this fixation of killing themselves with a firearm. (LEO interviewee)

Interviewees generally viewed ERPOs as effective at reducing firearm deaths, interpersonal violence, mass violence, and firearm suicide and most agreed that other states should adopt ERPO policies. Many interviewees agreed with the effectiveness of ERPOs for these different types of firearm violence in theory but expressed hesitation or uncertainty due to the lack of documented evidence and research showing effectiveness. Some interviewees spoke from firsthand knowledge of the effectiveness of ERPOs:

We know firsthand that ERPOs are effective. We know from people that have engaged with us afterwards that this ERPO that was served on the person saved their life, so anytime we can save a life, whether it be that person's or a person in the community, we need to do it, and that goes across all 50 states. (LEO interviewee)

ERPOs are a way to keep guns out of the hands of people who are the most dangerous, at the times they are the most dangerous...Guns don't kill people. People kill people, and keeping guns out of the hands of people who are dangerous to other people saves lives. (judge interviewee)

When describing the use of ERPOs to reduce interpersonal violence, many interviewees noted that there are many ways to commit assault or violence without a firearm, but that firearms typically increase the lethality of these situations. In essence, ERPOs may reduce interpersonal homicide, but not necessarily interpersonal violence. Additionally, interviewees discussed that other tools such as restraining orders and stalking orders may be more effective for addressing interpersonal violence in many instances.

Agreement that ERPOs are effective for reducing mass violence was largely driven by perceptions that most perpetrators exhibit warning signs or threats prior to committing mass violence that LEOs can effectively recognize. ERPOs provide a tool for LEOs to intervene when these warning signs are evident, even if they don't rise to the level of a crime. Still, others reported a preference for more upstream interventions to address mass violence, like teaching gun safety and addressing mental health.

When discussing the effectiveness of ERPOs for reducing firearm suicide, many emphasized the importance of lethal means restriction and creating time and distance between a person in crisis and firearms. As one DA/CA interviewee said, “Prohibiting access to firearms does prevent suicide... The majority of suicides are committed by firearms and it’s because those moments of lows are so low and you have access to an effective tool of doing it that you believe will be quick and painless.” Interviewees noted that ERPO effectiveness for suicide prevention may be limited to those with chronic ideation or those who vocalized their plans, whereas many individuals may never tell anyone until it is too late.

Means substitution was commonly discussed. Some interviewees believed that respondents would just find another means, emphasizing the need for additional intervention and support for respondents. One prevention professional interviewee emphasized, “There are a lot of other means by which people choose to take their life, so if it just stops there, then I mean, that just is not enough...Cause if a person is determined and there aren’t those outside helps, we’ll lose them by another means.” Others expressed that means substitution was uncommon. Another prevention professional said, “When you take away somebody’s chosen method, the likelihood that they choose another method is very low.” Even those that felt a respondent may use different means to attempt suicide still saw the benefit of ERPOs in making it harder for a respondent to act on suicidal ideation. As one judge said, “If someone wants to do it, they’re going to do it. But any steps that you can do to make it less likely to happen is a win.”

### **Despite viewing ERPOs as effective or beneficial, many interviewees recognized the limitations of ERPOs.**

When discussing limitations to the potential effectiveness of ERPOs, a phrase that was commonly used was that ERPOs are just “a piece of paper” and therefore cannot be wholly effective at reducing violence. Interviewees acknowledged that enforcement of firearm prohibitions is challenging and that restricted individuals may not turn over all of their firearms or may obtain firearms through illegal means. Many interviewees emphasized the widespread accessibility of firearms. One LEO interviewee said, “If somebody wants a firearm, whether they can legally possess one or not, there's always ways to get it.” While ERPOs may not prevent firearm access altogether, they can make obtaining a firearm more difficult and were viewed as particularly effective at preventing legal firearm purchasing.

Despite these limitations, most interviewees appreciated having ERPOs as a tool or as a “step in the right direction” (LEO interviewee).

Like a restraining order, it’s a piece of paper. So there’s always some risk that remains, but if we can do everything we can to try to prevent it, we should be doing it. (LEO interviewee)

That piece of paper doesn’t make you any safer. And it doesn’t magically make the firearms go away. (LEO interviewee)

I don’t think there’s a nexus between now we’ve saved tons of lives, but we’ve definitely given them [LEOs] a tool to deal with these people. (LEO interviewee)

## Challenges to and Improvements of the ERPO Process

The following section highlights many challenges or barriers to ERPO implementation and use described by interviewees, as well as interviewees' recommendations to address these challenges or improve the process. For a complete list of policy and practice recommendations suggested by interviewees, see **Appendix B**.

### **A lack of resources may impede ERPO utilization. Funding and resources like behavioral health units can help drive utilization.**

Resources and time were identified as potential barriers for professionals across the ERPO process:

Sometimes people will say, “Oh, it’s just one more thing that needs to be done.” Well, it’s one more thing that needs to be done by every single person in the system that this piece of paper passes through. (judge interviewee)

I think our resources are already stretched...I think you have to use the law enforcement and courts, but you also need to fund us for that to allow us to be effective...The more people we have to put at a problem, typically the better the result. (LEO interviewee)

LEO interviewees described that ERPOs can take multiple hours or full days to complete on top of their other workload and that service of ERPOs can sometimes take multiple weeks due to lack of resources. The lack of resources, staffing, and time may be especially challenging for smaller law enforcement agencies.

We have the luxury of being a medium-sized agency, but go throughout Oregon and there are agencies of 5-10 people. They are not going to be able to do it. (LEO interviewee)

Additionally, DA/CA interviewees expressed that limited staffing and resources hindered their ability to attend trainings on the ERPO process and provide support to LEO petitioners.

Interviewees highlighted increased funding and resources as key to overcoming this barrier. One LEO interviewee noted, “It’s going to take people and resources focused on the problem to really impact it.” Specialized behavioral health teams or units within law enforcement agencies were identified as a critical resource, described by one LEO interviewee as “the driving force” behind ERPO utilization. These teams or specialists have expertise in the types of scenarios for which ERPOs may be relevant and the time to dedicate to these cases. These officers could petition for ERPOs and may serve as a resource or point of contact for other LEOs in the agency to support ERPO petitioning.

### **Crises are not limited to weekdays and business hours. Interviewees called for ways to petition at all hours.**

Many LEOs and judges described clear protocols for ERPO petitioning and hearings in their counties, typically requiring petitions to be filed by a certain time in order to be heard at the hearing scheduled for ERPOs and restraining orders that afternoon. If filed after this time, the ex parte hearing would not occur until the next judicial business day. While some interviewees described judges deviating from this process for emergency situations or using less formal

protocols in smaller counties where ERPOs have been used less frequently, many expressed concerns about this general procedure and questioned how they should handle crises that occur outside of business hours:

Law enforcement calls me and says, “The person has told me who he's going to kill, when he's going to kill, how he's going to kill, and why he's mad. But it's after 5:00 p.m. ... How can I stop this? I'm really scared.” And that's the worry here because some judges may interpret this [the ERPO statute] to say, “Nope, not hearing it because it's outside the scope.” (judge interviewee)

This procedure may be especially burdensome for night shift and swing shift officers, whose work schedules do not align with the schedule of the courthouse, although some interviewees described that these officers may reach out to day shift officers to petition on their behalf.

One judge went so far as to say that this concern “keeps [her] up at night.”

In order to provide more flexibility to address crises at all hours, some interviewees recommended that courts treat ERPOs more like search warrants, allowing LEOs to call judges on a recorded line to petition ex parte. One judge interviewee suggested, “We can take them all hours and you make it a priority rather than worrying, ‘Did the law enforcement get here before 11?’”

Some judges reported already allowing this practice of treating ERPOs more like search warrants, but judges reported mixed interpretations as to whether the ERPO statute currently allows this. Interviewees requested clarification from the legislature or a higher court as to whether this practice is permitted under the current ERPO statute:

When we look at the text of the ERPO law, there is some ambiguity as to whether the judge has to have it as a hearing during only business hours...Homicide and suicide threats or feelings or expressions and behaviors don't only occur during the business day. (judge interviewee)

### **Non-LEO petitioners may struggle to navigate the court process and articulate risk. LEOs and family advocates can help.**

Our analysis of ERPO court records revealed that the majority of ERPO petitions filed from 2018-2023 were filed by LEOs (61%) and that petitions filed by LEOs were the most likely to be approved (96% approval rate). Family/household members, also eligible petitioners, made up only 25% of all ERPO petitions in this time and had a lower approval rating than LEO petitioners (63% approval rate). When told about these disparities in petitioning and approval, interviewees shared potential explanations, including the fact that non-LEO petitioners may struggle to navigate the court process and that LEO petitioners may have more documented evidence and experience articulating risk.

There's an advantage to those who are already trained in synthesis and saliency than a member of the public coming in when they don't know what to expect and they don't know what the key elements are and all they did was fill out a form. (judge interviewee)

Some interviewees also noted that family/household members may be petitioning in the cases where LEOs told them that they did not have enough evidence to petition, potentially contributing to the lower approval rating.

Interviewees suggested ways to support non-LEO petitioners, including ensuring that the advocates that support petitioners with restraining orders and other protective orders are educated about ERPOs and can provide support for ERPO petitioning as well.

When possible, interviewees felt that LEOs should petition for ERPOs on behalf of family/household members. While some LEOs described telling family members about ERPOs to allow them to petition, many expressed a preference that LEOs petition on their behalf when there was adequate evidence. Some saw this ability of LEOs to act as petitioners on behalf of family members as a major benefit of ERPOs over restraining orders or stalking orders:

Most family members are reluctant to be the ones to file the petition... We can be the bad guys. You guys can stay out of it as much as possible. I feel like any time we can maintain those relationships, it's better off. (LEO interviewee)

### **Showing imminent risk at contested hearings was described as a challenge by many interviewees.**

Some interviewees expressed uncertainty as to whether contested hearings served to re-evaluate the evidence presented originally in the petition, or if new evidence of continued risk was needed. If requiring evidence of continued risk since the time of the initial petition, some interviewees feared that such evidence may be unavailable, not because of a true lack of continued risk, but rather because respondents may be on their best behavior after being served an ERPO because they know that they need to appear before the court and make their case to have the ERPO dismissed. As one LEO interviewee said, "I'm not sure how any ERPO could stand for any length of time unless someone every day is saying, 'I want to kill other people, I want to kill myself.'" Some interviewees expressed that there may be a need to review or revise the standard of imminent risk.

I don't know if there's room for somewhat softening that standard, but to me it's hard to imagine that very many petitioners would ever be able to meet that standard at the contested hearing stage... Maybe that's the proper balance between safety and peoples' right to possess arms, I don't know, but it's a pretty high burden, a pretty high standard to meet. (judge interviewee)

### **Collaboration with the city attorney's office can provide support to LEOs during contested hearings and ensure LEO petitioners receive notifications of hearing dates.**

Interviewees in a few counties described previously having issues with LEOs being notified of court dates when contested hearings were requested, resulting in some ERPOs being dismissed due to the LEO petitioner not being present in court. Additionally, some LEOs viewed the contested hearing as intimidating and struggled with the hearing procedures.

It's not your typical role for a law enforcement officer where someone else is doing all this case management work and you just get an email saying when to show up, you know, and then you just testify and then you're done. (judge interviewee)

To remedy this challenge, one county engaged their city attorney's office, which now provides assistance with court notifications and helps LEO petitioners call witnesses and prepare for contested hearings.

### **Interviewees expressed mixed opinions around expanding the list of eligible petitioners.**

Most interviewees supported expanding the list of those who are eligible to petition for an ERPO in Oregon in some way. Some categories of potential petitioners that received support included ex-spouses and ex-intimate partners, mental health providers, medical professionals, educators, co-workers, neighbors, social workers, faith leaders, and natural supports like extended family and friends.

Many interviewees, even those who supported expansion, recommended caution and thoughtfulness when expanding petitioners.

The more you expand, the more care you have to give to the process to make sure that it's not being inappropriately used. (LEO interviewee)

It's never a bad thing to open it up to more petitioners...but I would be cautious. (DA/CA interviewee)

Some feared that expansion may lead to overuse, misuse, or abuse of the ERPO law.

Any time you make it too broad, then it gets overused and it can lose its effectiveness... You don't want to go too broad that you lose the importance of this being a serious order. (LEO interviewee)

The more people who are available to apply for something means that you may get more applications that may not be of merit. (judge interviewee)

In particular, many interviewees feared that expansion to ex-spouses and ex-intimate partners would lead to the use of ERPOs for retaliation or revenge. Prevention professionals did not often share this fear and more commonly supported expansion to ex-spouses and ex-intimate partners than other professional groups, emphasizing the continued risk that many ex-spouses and ex-intimate partners face, including elevated risk of homicide when leaving domestic violence situations.

Some interviewees felt that the benefits of expanding petitioners may outweigh the risks of abuse. One judge interviewee expressed, "I think any harm of inappropriately granting an ERPO is substantially outweighed by the harm of not granting a valid one." Others felt that the risk of triggering anger and concern among the public by adding petitioner categories would outweigh the benefits of expansion.

When asked about the role of healthcare providers and mental health professionals in the ERPO process, some interviewees supported including these groups as petitioners, but others expressed

concerns. Many interviewees worried that allowing mental health providers to petition would result in fewer firearm owners seeking treatment.

I know there's a push to sort of change that [to allow therapists and mental health providers to petition], but that will break my heart if that happens, because there'll be no way any veteran will ever talk about suicide again in a therapist's office. (prevention professional interviewee)

Additionally, they discussed how a trusted healthcare provider petitioning when a patient was in crisis could seriously harm the therapeutic relationship at a time when the patient may need that healthcare provider's support. A middle ground that many interviewees agreed with was expanding to allow healthcare providers with less intimate relationships with the potential respondents (such as emergency room doctors, county mental health coordinators, or mental health specialists embedded in law enforcement agencies) to petition, as this would not harm the therapeutic relationship. Prevention professionals also raised concerns about the liability of healthcare providers if allowed to petition.

Regardless of their views on expanding petitioners, some interviewees reported a preference that LEOs remain the primary petitioners and that any other groups refer cases to LEOs or file in conjunction with LEOs. Interviewees thought this could provide a checks and balances system within the ERPO process to prevent abuse. While some felt that the courts can weed out cases where ERPOs were being misused, others said that this responsibility should lie with LEOs since courts do not investigate. Additionally, interviewees reported this preference for LEO petitioners since other groups like healthcare providers may not have a global view of the respondent, may have a lower threshold for perceptions of risk, and may view firearms as inherently dangerous, further impacting their perception of risk.

### **Timeliness and safety of ERPO service are essential, but challenging.**

Various aspects of the ERPO service process were identified as challenging, including the timeliness and safety of service. Timely service of ERPOs is important because the order does not go into effect until after it has been served. Some LEO interviewees expressed frustration and concern about the timeliness of the service process, with one commenting, "If we file them with the civil deputies at the county, it could be days or weeks before they're able to get out there and serve it." This longer timeframe can prevent LEOs from serving orders while the respondent is still hospitalized or in jail, which are viewed as the safest times for service.

Some interviewees described ways that they try to improve the timeliness of service, including developing a strong working relationship between the local law enforcement agencies and the sheriff's office to alert the sheriff's office when to expect an ERPO service or having the law enforcement agency that filed the ERPO handle the service instead of the sheriff's office. While the LEO who petitioned for the ERPO cannot serve the order, interviewees suggested that other officers from their team or agency may be the best individuals to serve the order, as they can serve the order more quickly, would have more knowledge of the risk of the situation, and may have an existing relationship with the respondent. One LEO interviewee suggested, "They [respondents] know who I am... And I knew the risks also, so I knew the risks I was walking into or walking back into so I could coordinate with my team the proper way." Other interviewees

suggested potential policy improvements to ensure timely ERPO service, such as mandating that ERPOs are served within 72 hours of being granted.

Another concern related to the safety of ERPO service for ERPOs addressing threats of suicide was the risk of suicide by cop incidents. As one LEO interviewee emphasized, “We don’t want to be the reason this person is able to kill themselves.”

Some interviewees noted that service and firearm dispossession can be dangerous for the officers serving ERPOs as well.

Primarily what you’re looking at when someone doesn’t comply voluntarily is a big safety issue. Because if people already think this person’s a risk because they have firearms and then you set them off by saying, “I’m going to come take your firearms away,” and then you have a show of force to come up and do that, you’re essentially putting all the ingredients in for a really bad situation. (DA/CA interviewee)

As a result, some interviewees noted that some sheriff’s offices are hesitant to serve protective orders or to approach respondents regarding firearm dispossession. Interviewees described the need for safety planning to ensure safe service, including working with the family of the respondent when possible. Additionally, they described that the safest time to serve an ERPO is when a respondent is in the hospital or jail or otherwise separated from their firearms.

### **ERPO service needs to be trauma-informed and better incorporate connections to mental health treatment or social service agencies.**

ERPOs provide a potential opportunity to connect respondents to services that can help to address underlying causes of the threatening behaviors. From our review of the court records, we saw that many petitions mentioned domestic violence (37%), threats of self-harm or suicide (62%), or alcohol use or abuse (25%), but in most cases, we found no evidence in the records that respondents were connected to services such as mental health or substance use treatment or domestic violence intervention services during the ERPO process.

When asked about these potential connections to services, most interviewees expressed that they were unaware of any follow up or engagement occurring with respondents but felt that this would be beneficial. Some LEO interviewees suggested that they may be more likely to make connections to services for respondents threatening harm to self or suicide, whereas they may offer services to potential victims in ERPO cases where the respondent was threatening harm to others. Some LEO interviewees said that their agencies refer anyone making threats of suicide or homicide to county mental or behavioral health teams or crisis teams for follow up, regardless of whether an ERPO is used.

A few interviewees noted that connections to services may not happen directly through the ERPO process because these connections likely would have already occurred before the ERPO was filed. Because ERPOs are used in cases where one’s behaviors indicate extreme risk, many interviewees felt that most respondents would have already been known to local service providers.



Some barriers to connecting respondents to mental health services included the accessibility and availability of these services, especially in rural areas. Some interviewees described the services being readily available in their community, but many said that services are inaccessible and have long wait times. One interviewee in a smaller, rural county described that the nearest hospital was over an hour away and that not everyone's health insurance may be accepted at the clinics, preventing many in the county from receiving care.

Our community is desperately short on mental health resources and substance use disorder resources for people in need. (judge interviewee)

I think that there's a lot more people at risk than there is intervention for it. (prevention professional interviewee)

Many also raised the point that individuals need to accept the services and want to get help, which may not be the case for many respondents. One LEO interviewee commented, "We have a hard enough time getting someone to talk to someone who wants help."

Prevention professionals emphasized the importance of creating supports to address the underlying causes of the crises and prioritize safety and wellbeing, even beyond the time of the ERPO. These more upstream supports are important for respondents, but also for the broader community so fewer people reach the point of such extreme crises where an ERPO is needed.

The goal with an Extreme Risk Protection Order is to give the person time to get well so that they can have it [the firearm] back. You can't just take and not provide a pathway to that. (prevention professional interviewee)

If we're going to push this protective order, we need to at the same time make sure we're doing more to help whoever is in that situation. We need to be doing more helping up front so there's less people that get into that state. (prevention professional interviewee)

Prevention professional interviewees also suggested ways to make the ERPO service process more trauma-informed, including providing wrap-around services to respondents and their families, clearly explaining the ERPO process to respondents, and having a family member, mental health professional, or other trusted individual accompany LEOs when serving ERPOs.

Collaborative, wrap around care, locations already identified to take the firearms, have it feel like a warm and fuzzy process versus, you know, here's your ERPO. Call a therapist. I'll see you in three months... And letting people really know what their rights are. And I know it's all written down in that, but we're assuming that people can read and comprehend things in a heightened state. (prevention professional interviewee)

To address the lack of accessibility of mental health services, some interviewees suggested there should be mental health professionals dedicated to working with ERPO respondents. These professionals may accompany LEOs when serving the ERPO and can schedule therapy sessions with respondents in a more timely manner in cases where therapy or treatment may be needed. Interviewees also suggested creating clear protocols for follow up with respondents (e.g., monthly follow-up visits with social services or behavioral health professionals).

While interviewees acknowledged this need for more connections to services, they also emphasized that mental health services and treatment should not be mandatory for all ERPO respondents. Services should be made available and accessible to respondents and protocols should be put into place for further follow up and engagement of respondents, but the respondent should have the choice of whether to engage in such services.

### **Interviewees described many challenges to ensuring compliance with ERPOs and expressed ideas for improvement.**

Most interviewees described enforcement of ERPOs as a major challenge. As one LEO interviewee succinctly stated, “Enforcement is a real conundrum.” Some interviewees felt that firearm surrender was happening successfully, especially those in smaller, more rural counties, where interviewees described that everyone knows each other. LEO interviewees described some ways they try to ensure compliance, including working with the families of respondents and following up with respondents 24 hours after service. Despite these efforts, many interviewees still expressed concerns around ERPO compliance and enforcement. As one LEO interviewee said, “We’re all agreeing that this person should not have guns, but we’re not making sure that they don’t have guns.” While respondents could be charged with a Class A misdemeanor for violating an ERPO, none of the interviewees were aware of any cases of prosecution for non-compliance and many said it would be very difficult to make this case unless the respondent was caught with a firearm.

One common reason for concern about enforcement was the fact that LEOs have to rely on the word of the respondent that they surrendered their firearms or that they don’t have any firearms without any legal mechanism to confirm this.

When you go in and ask somebody to surrender their weapon, you’re assuming that they’ll say, “Oh sure, these are all my weapons,” but as far as you know, they can have five semi-automatics in the garage. (LEO interviewee)

One of the tough things is knowing...how many guns, I mean, they can sign a thing that says, “I gave up all my guns,” or whatnot, “I gave them to somebody else,” but how do we know truly? That’s one of the questions that we’ve had over the years. (DA/CA interviewee)

This is particularly challenging because firearms can be surrendered to firearms dealers or third parties, as well as law enforcement, so law enforcement may not always know to whom firearms were surrendered. LEO interviewees approximated that firearms were surrendered to family or third parties in over 1/3 of firearm dispossession cases. Some interviewees suggested a need to increase accountability for these third parties who store the firearms for the duration of the ERPO, such as requiring them to provide verification to law enforcement or courts or to undergo a background check, which is currently not required if the third party is a family member.

Another suggestion to increase confidence that firearms were truly dispossessed was to incorporate search or seizure warrants into the ERPO process. Interviewees described that they cannot search a respondent’s home for firearms because they would need probable cause for a search warrant. One interviewee said a seizure warrant may be more realistic if LEOs know that a person owns firearms and where they are stored. Some expressed that this inability to search

was frustrating, but many described it as a necessary barrier to protect respondents' Fourth Amendment right prohibiting unreasonable searches and seizures by the government.

We live in a free society and there's always a risk with a free society, which is a good thing, but sometimes that can also be a harmful or difficult thing to navigate. But as a police officer, I wouldn't want that any other way. (LEO interviewee)

There's barriers and challenges, but the whole system is set up that way because you are always balancing the protection of the public with the interest of the individuals. (LEO interviewee)

Many interviewees supported policies or practices that may improve compliance, such as declaration of firearm surrender forms and compliance hearings. Declaration of firearm surrender forms are documents that a respondent has to sign and submit to the court either listing to whom they surrendered their firearms or attesting that they do not have any firearms in their possession. There is an additional form for third parties that store firearms for respondents, requiring them to attest that they will not allow respondents to access the firearms for the duration of the order and alerting them of potential criminal or civil penalties if they do. This paperwork is required for Oregon's domestic violence restraining order (the Family Abuse Prevention Act) if the respondent is prohibited from possessing firearms, and respondents who do not file these forms with the court within two days of being served the order may be subject to contempt of court or criminal charges. Some interviewees reported already utilizing these forms for ERPOs and providing them to respondents upon service, but many counties do not currently use this practice. Many interviewees felt that ERPO respondents should be statutorily required to submit declaration of firearm surrender forms to the court as part of the ERPO process. Interviewees acknowledged that respondents could still provide false information on these forms but felt that it was a positive step toward improving compliance. Additionally, they felt that the ability to hold respondents in contempt or charge them with violation of the ERPO for not filing these forms would bolster compliance.

Another practice that may improve compliance is the use of compliance hearings, which require the respondent to attend a hearing to verify that firearm relinquishment occurred. These hearings would be held shortly after the ERPO was issued and may be cancelled if the respondent submits proof of compliance beforehand. Some counties in Oregon have already implemented this practice for ERPOs. Most interviewees supported the idea of implementing compliance hearings for ERPOs, but some expressed concerns about court resources.

If you had time to do them [compliance hearings], I think they're better than the affidavits, but what are you going to give up doing to do those? Because it's not like we're sitting around, you know, with nothing to do. (judge interviewee)

Still, some felt that compliance hearings or other methods taken by LEOs to follow up with respondents and ensure compliance may be feasible for ERPOs since there are so few cases each year.

You're talking about just a little over a hundred a year in 36 counties...If law enforcement was invested enough to do these and get these orders and you're talking, you might in a big county, you might have done 20 in one year. It's not that hard to follow up



and find out from the same family members that contacted you in the first place whether or not they were able to get those guns. (DA/CA interviewee)

While interviewees again acknowledged the potential for respondents to respond untruthfully at compliance hearings, some felt that compliance hearings would still create more legal mechanisms to try to get respondents to comply or to hold them accountable for noncompliance. For example, one interviewee said that, hypothetically, if a respondent did not attend a compliance hearing, the respondent could be held in contempt of court, with a maximum penalty of six months in jail (although more commonly 10 days) or a fine, and this could be used as a tool to bring respondents back into court. As one DA/CA interviewee noted, “It’s basically sitting in jail until you’re willing to comply. They give up their guns pretty quick.”

In addition to concerns about limited mechanisms to ensure compliance, many interviewees expressed concerns about the fact that the respondent has 24 hours after being served an ERPO to surrender their firearms. Many interviewees discussed the risk of “poking the bear” or increasing the risk that the respondent would act on their threats in these 24 hours.

You have to balance the effectiveness of the ERPO to truly separate somebody from their firearms with escalating or upsetting somebody. We're poking the bear... So if you get somebody who you're pretty concerned about access to a lot of firearms saying they're going to do something terrible, and then you'll go serve them with a piece of paper that says you can't have your firearms anymore, but you have 24 hours to turn them over. And then, enforcement of that is questionable, potentially that at minimum gives them a 24-hour period to decide whether they want to do that terrible thing or not. (LEO interviewee)

There is a lag time...that makes you nervous. What is he going to do in the next 24 hours? Maybe this sets him off and he goes on some kind of shooting rampage. (LEO interviewee)

Due to these concerns, some interviewees suggested a need to shorten this 24-hour timeframe to require respondents to surrender firearms immediately upon service or more quickly after service.

### **Agencies need systems to track ERPO expiration and renewal.**

Petitions to renew an ERPO must be filed within 90 days before the ERPO expires, but they must also be filed with enough time to provide 14 days’ notice to respondents of a hearing regarding the renewal. Some LEO interviewees described internal or personal systems implemented to track ERPOs and check whether they need to be renewed, including putting reminders on their calendars or creating spreadsheets with all important dates. Other interviewees described a collaboration with the city attorney’s office to track ERPOs and provide reminders to LEOs at 120 and 90 days before ERPO expiration. Still, many interviewees described not having any system to track ERPO expiration and many did not know how they would be notified of the expiration. Some LEO interviewees expressed assumptions that the court may follow up or notify them of an upcoming ERPO expiration, which is not accurate. This lack of consistent policy creates the risk that ERPOs may be left to expire, even when the threats or risks are still imminent. Expressing this concern, one LEO interviewee said, “We always have a bunch of

reports and documentation where we have to testify...I don't want it to get slipped by the wayside and just not redo it if we're unaware."

There is a need for a system to track ERPO expiration and ensure that someone is investigating whether ERPOs need to be renewed. Some LEO interviewees suggested that this may be a statewide system or database, whereas others thought it would need to be specific to each agency. Some saw a statewide system as beneficial because it could alert LEOs when ERPO respondents move in or out of their jurisdictions so that they are aware and can investigate whether existing ERPOs need to be renewed.

Additionally, some interviewees recommended that the process for renewing an ERPO should be consistent with other protective orders. The requirement that a renewal petition is filed with enough time to give 14 days' notice to respondents for a hearing means that judges have to deny renewal requests made within two weeks prior to the ERPO's expiration, even if continued risk is evident. Interviewees felt that it would be better if renewal requests could be considered if filed at any time prior to ERPO expiration, even if that required the ERPO to be extended for a few days until a hearing could be held.

## Exploring ERPOs as a Suicide Prevention Tool

**Most interviewees expressed that they would not treat ERPOs intended for self-harm or suicide prevention differently from ERPOs involving the risk of harm to others, but some felt they would be less likely to use an ERPO in these cases.**

LEO interviewees described following the same process regardless of the threats being made, although some felt the respondent may be more likely to be connected to services if making threats of self-harm or suicide. All judge interviewees said they would apply the same standards to all ERPO cases: "As a judge, my responsibility is to apply the law."

Some LEO interviewees said they were less likely to use an ERPO when a person was only making threats of harming themselves, whether because they would not think to use an ERPO in these situations ("More often it really pops into my head when there's threats to others.") or because they do not see firearm removal as warranted in these situations. As one LEO interviewee commented, "It's not a crime to harm yourself, so I don't feel that they feel the need to remove the guns if it is only going to affect that individual." Still, many noted that the presence of a firearm would elevate their perception of risks of suicide and may lead to the decision to petition for an ERPO and that there were cases where an ERPO may be warranted in response to persistent threats of suicide or self-harm.

It's not something that we jump to... it tends to be more of a situation where there's a significant ongoing risk, an articulable threat, not that they're in a brief crisis and we can get them to a hospital and get them some help...We tend to utilize other tools. (LEO interviewee)

We deal with that [calls to respond to suicidal individuals] pretty regularly. And a lot of times somebody...might just need assistance...For us, for an ERPO, it's going to be a little bit more extreme. It's that person that is not responding to anything else that is a tool

or any other options that you're giving them. And that has repeat behavior, not just a one-time thing. (LEO interviewee)

**Some interviewees suggested ways to make the ERPO process more trauma informed, including using more caring language and incorporating connections to services when needed.**

Many prevention professionals interviewed expressed that they did not currently view ERPOs as part of their suicide prevention toolkit and suggested for ways to make the ERPO process more trauma informed. These suggestions included providing training to LEOs on how to communicate with a person in crisis, changing the messaging and language used in discussion of ERPOs, and incorporating connections to services for respondents, as discussed previously.

Prevention professionals emphasized that the language used to discuss ERPOs is very punitive and stigmatizing. They recommended instead using caring language (e.g., “You’re important to me. You’re important to our community. And we’re going to help you through this.”) and framing ERPOs as a lethal means safety measure and an act of care for the respondent.

Part of what I don't like is the language around ERPO...It feels like a very punitive way, like you're acting in a way that's scaring us and so we are going to try and temporarily take your gun away versus we really have concern for you...The language was not written by suicide prevention people. (prevention professional interviewee)

How we message about things really makes a difference as to whether or not people are going to feel like it is useful, and ERPO is not considered by most a suicide prevention strategy. (prevention professional interviewee)

In particular, some interviewees expressed issues with terms like firearm surrender, which does not elicit a caring or safety mindset, and with the name of the law itself. As one prevention professional noted, “The name itself is...not a friendly name. Extreme risk protection order. It just feels like, again, it feels like I've done something wrong.”

Other suggestions included having a mental health professional, trusted messenger, or family member accompany LEOs when serving ERPOs so that the respondent has someone who can sit with them and more fully explain the ERPO. This person can also advocate for the respondent and help them with the court processes to make the process less daunting. Additionally, the process must include connections to services and additional supports for the respondent.

How do we work together as a community to support this person versus just removing something? (prevention professional interviewee)

Prevention professional interviewees also highlighted the benefits of having options of places to store firearms other than law enforcement so that the respondent can feel more comfortable about where their firearms are stored and can have some choice within the process.

Collaboration, even if it's something tiny, like that [choosing who will hold your firearms for you during the ERPO period], having a choice, a say in it, can be so powerful when it comes to how somebody's processing what is happening. (prevention professional interviewee)

**Other interviewees, in particular, prevention professionals, emphasized a preference for more upstream or voluntary measures for suicide prevention as opposed to ERPOs.**

While interviewees described ways that the ERPO process may become more trauma informed, some felt that there was a need for separate processes for addressing risks of harm to self and risks of harm to others. One interviewee suggested that this separate order should have a lower burden of proof to allow intervention to occur before people reach extreme crises.

Additionally, many expressed a preference for more upstream or voluntary measures as opposed to ERPOs when individuals are at risk of suicide or self-harm. Some said that by the time a person reaches the level of risk to warrant an ERPO, it feels like the mental health community has already failed. More upstream and voluntary measures could provide intervention before individuals reach the level of extreme risk. These options also give people hope and choices, whereas ERPOs can feel like more of a punishment and may further isolate the respondent or discourage them from asking for help in the future.

When I think about suicide prevention, I think about program implementation, policies, you know, things that provide hope and really clear resources. And ERPO is not that. It is better than nothing, I will admit, but we need something different than that. (prevention professional interviewee)

I think the ERPO is just not a great tool when it comes to suicide prevention because...if you all filed an ERPO against me because you were my family members, I'm just going to be pissed. And I'm probably going to stay alive because you've taken my firearm away from me for a period of time, but let me tell you...I'm never going to talk to you about my suicidal thoughts ever again, and I'm certainly not going to seek treatment for it because, in my experience, I've been penalized because I was suicidal. (prevention professional interviewee)

Some suggestions for more upstream interventions included:

- Normalizing voluntary, out-of-home firearm storage for all kinds of situations.
- Creating more options for temporary and voluntary out-of-home storage, such as pawn shops and gun shops. This would require legislation to limit the liability of those providing this storage so more businesses would be willing to offer this service.
- Creating a voluntary “do not sell” list that allows individuals to choose to be added to a list of individuals prohibited from being sold firearms. This would be a voluntary opt-in process that would be available to everyone, not just those who have reached a level of concern to warrant an ERPO. Similar policies exist in Washington, Virginia, and Utah.

## Appendix A. Ideas for Professional Trainings on the ERPO Process

Target	Content	Format	Duration/Frequency	Offered by
<b>LEOs</b>	<ul style="list-style-type: none"> <li>Steps of ERPO process</li> <li>When ERPOs are applicable</li> <li>Limitations of ERPOs</li> <li>Navigating forms</li> <li>Responsibilities of LEOs</li> <li>Constitutional concerns</li> </ul>	<ul style="list-style-type: none"> <li>Brief video</li> <li>Training during in-house briefings</li> <li>Multi-part class covering all restraining orders</li> <li>In-person training with victim impact panel</li> </ul>	<ul style="list-style-type: none"> <li>Responses ranged from 10-minutes to a multi-day class (commonly ~30 minutes)</li> <li>All officers trained at academy</li> <li>Annual refresher courses</li> </ul>	<ul style="list-style-type: none"> <li>Oregon Judicial Department</li> <li>Oregon State Police</li> <li>Department of Public Safety Standards and Training</li> <li>Oregon State Sheriff's Association</li> </ul>
<b>Judges</b>	<ul style="list-style-type: none"> <li>History of the ERPO law</li> <li>Key elements of the statute (eligible petitioners, evidentiary standards, etc.)</li> <li>Training on risk assessment</li> </ul>	<ul style="list-style-type: none"> <li>Bench cards</li> <li>Short videos</li> <li>Internal lunch-and-learn</li> <li>Panel with LEO, behavioral health professional, judge, and someone impacted by ERPOs</li> </ul>	<ul style="list-style-type: none"> <li>Judges emphasized that the training should be short and simple</li> <li>Part of new judge onboarding</li> <li>Roaming committee offered ~2x per year</li> </ul>	<ul style="list-style-type: none"> <li>Judge or DA with practical knowledge of ERPOs</li> <li>Judicial Leadership and Education Committee</li> </ul>
<b>District Attorneys and City Attorneys</b>	<ul style="list-style-type: none"> <li>Steps of ERPO process, including conduct of hearings</li> <li>Key elements of the statute (eligible petitioners, evidentiary standards, etc.)</li> </ul>	<ul style="list-style-type: none"> <li>Online resource to easily reference</li> <li>Bulleted list describing process</li> </ul>	<ul style="list-style-type: none"> <li>Many did not see a need for any training or favored only a very short training</li> <li>More in favor of a handout or online resource</li> </ul>	<ul style="list-style-type: none"> <li>District Attorneys Association</li> </ul>
<b>Prevention Professionals</b>	<ul style="list-style-type: none"> <li>Use of ERPOs for suicide prevention</li> <li>Dispel myths about ERPOs</li> </ul>	<ul style="list-style-type: none"> <li>Include as a resource in existing suicide prevention trainings</li> <li>Fact sheet or online resource</li> </ul>	<ul style="list-style-type: none"> <li>Short and simple</li> <li>Offered voluntarily as part of other trainings</li> </ul>	<ul style="list-style-type: none"> <li>Someone with credibility in suicide prevention</li> <li>Someone with lived experience</li> </ul>



## Appendix B. Interviewees' Recommendations for Improving the ERPO Law and Its Implementation

**This list does not reflect our endorsement of or support for any of these recommendations. It simply documents the many recommendations suggested by interviewees.**

- Expand categories of eligible petitioners.
  - Most interviewees supported expanding the categories of eligible petitioners in some way. Others were against expansion. Many recommended caution and discussion before expanding.
- Change the term deadly weapon to dangerous weapon to allow ERPOs to be used in response to threats with other weapons like large knives.
  - Some expressed hesitation around the effectiveness of this, as background checks are not required for weapons like knives so purchasing would be hard to prevent.
- Create a way to petition for ERPOs outside of business hours, similar to search warrants.
  - As with search warrants, LEO petitioners would be able to petition ex parte over a recorded line. This may require a change to the statute clarifying that this is permissible, or it may just require changes to policies within courthouses normalizing this practice or guidance or clarification on whether this is allowed under the current statute, as judges currently interpret this aspect of the statute differently.
- Revise the ERPO petition and hearing forms.
  - Make the petition forms virtual and fillable online.
  - Revise the hearing forms to provide space for judges to write narrative on their findings, as is required by the statute.
- Increase training and education for LEOs so they are aware of ERPOs as an option.
- Have a point of contact in every county or agency that can serve as a resource for other LEOs on the ERPO process.
  - “The most important thing would be a law enforcement officer in the county being a point of contact and understanding how they work.” (LEO interviewee)
- Allow LEOs to file ERPO petitions in any state court.
  - Currently, LEOs have to file ERPO petitions in the county where the respondent lives, which is not always where the police contact happens. LEO interviewees expressed a desire to be able to file ERPO petitions in any state court. These petitions could then be transferred to the court corresponding with the respondent’s residence and LEO petitioners could appear virtually at any hearings.
- Create an exemption to the misdemeanor for petitioners filing maliciously for LEO petitioners.
  - The ERPO statute includes an anti-harassment clause that makes it a Class A misdemeanor to petition for an ERPO “with the intent to harass the respondent, or knowing that the information in the petition is false” (ORS 166.543 (3)). LEO interviewees in leadership roles expressed concerns about this clause and the

potential that they put their officers at risk if they encourage ERPO use. An exemption to this clause for LEO petitioners would reduce this concern.

- Create partnerships between law enforcement agencies and the city attorney’s office or district attorney’s office to support LEO petitioners.
  - Representatives in either the city attorney’s office or the district attorney’s office can support LEO petitioners by advising them on ERPO use, supporting them at contested hearings, notifying them of court dates, and reminding them of upcoming ERPO expiration.
- Improve the timeliness of ERPO service by mandating that all ERPOs are served within 72 hours of the order being granted.
- Create a statutory requirement to submit documentation of firearm surrender to the court, with penalties for those that do not submit such documentation within a certain timeframe.
- Implement the practice of compliance hearings.
  - This may be done through a change to the statute outlining requirements for compliance hearings or may be done through court policies and practices. Some counties in Oregon are already using compliance hearings for ERPO cases.
- Require family members/third parties to provide verification to LEOs or courts when firearms are surrendered to them and increase their accountability by holding them criminally responsible if the respondent accesses the firearms while the ERPO is in place.
- Create a statutory requirement for background checks for all third parties storing firearms for respondents, including family members, who are currently exempt.
- Create processes to allow LEOs to get search or seizure warrants to seize firearms.
- Shorten the timeframe allowed for weapon surrender so respondents need to surrender firearms immediately/in less than 24 hours after service.
- Make the ERPO process more trauma-informed and incorporate connections to services.
- Create standard protocols for following up with respondents (e.g., monthly follow up with social services or behavioral health professionals).
- Increase resources and funding to LEOs and courts to manage ERPOs and to agencies to provide follow up.
- Create a system for tracking ERPO expiration.
- Make the ERPO renewal process consistent with other types of restraining orders, so that renewals can be considered if they are requested before the expiration of the order.
  - Right now, the renewal must be requested with enough time to give respondents 14 days’ notice and hold a hearing before the original ERPO expires.
- Make ERPOs permanent, with the option for a judge to terminate the order if the respondent proves they were no longer at imminent risk of harming themselves or others.
  - This was suggested by two LEO interviewees, but both acknowledged that many people would likely disagree with them.
  - “There’s a place where people can fall through the cracks who are true danger, but if they had to petition to say, ‘Hey, I’m not a danger anymore, look at me,’ then you have that checks and balances where their rights haven’t been taken away

permanently, but we've protected folks who need to be protected.” (LEO interviewee)

- Create an LEO database or statewide portal with relevant ERPO information and documentation.
  - This was identified as useful for LEOs for tracking when respondents move to other cities or areas so that LEOs can be vigilant: “If you see that they’re starting to fall into behavior that’s worrisome and troublesome, maybe you can intervene early rather than waiting for when it gets out of control and someone gets in trouble.” (LEO interviewee)
  - It may also serve as a tool for tracking ERPO expiration and notifying LEOs to investigate whether an ERPO needs to be renewed.
- Decrease data-sharing barriers between agencies that may provide follow up services to ERPO respondents so they can coordinate their response.
- Create a centralized resource or website with ERPO information and education that can serve as a forum for discussion around ERPOs.
  - “Talking about it, reminding people the relief exists, brainstorming ways to improve it, sharing stories of what people did when they got this problem, you know, just creating a forum. There is no forum for ERPOs right now that I know of.” (judge interviewee)
- Increase collaboration among the different agencies and individuals involved in ERPO implementation within each county and statewide.
  - “That would be my number one recommendation – everybody that touches ERPOs get in the same room together and talk about the process.” (DA/CA interviewee)

