

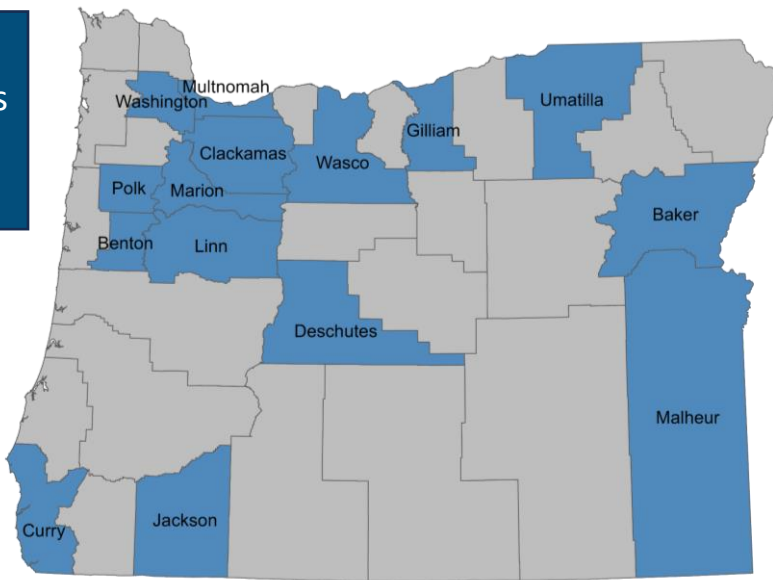
UNDERSTANDING OREGON'S EXTREME RISK PROTECTION ORDER LAW

Key Takeaways from Interviews with Professionals Involved in Implementation

INTRODUCTION

Oregon's Extreme Risk Protection Order (ERPO) law allows family/household members or law enforcement officers (LEOs) to petition a civil court for an order to temporarily restrict a person's access to firearms when at imminent risk of harming themselves or others. To learn more about the implementation of Oregon's ERPO law, we conducted 33 qualitative interviews with professionals involved in ERPO implementation, with representation from 15 of Oregon's 36 counties. Overall, most interviewees saw ERPOs as a beneficial tool to prevent harm in extreme situations. Still, professionals recognized the limitations of this tool and offered suggestions for bridging current gaps and more effectively implementing Oregon's ERPO law. 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.

33
Interviews
Across 15
Counties



Law Enforcement Officers (LEOs)
(n=18)



Circuit Court Judges
(n=5)



District and City Attorneys' Offices
(n=5)



Prevention Professionals
(n=5)

PROFESSIONAL KNOWLEDGE AND TRAINING

Few interviewees felt that professionals in their field were knowledgeable about the ERPO process. Knowledge was dependent on the training offered and the frequency of ERPO utilization within each agency.

Few interviewees reported receiving professional training on the ERPO process. In the absence of professional training, many LEOs described learning about the ERPO process when a relevant case arose and struggling to navigate the process. As one LEO interviewee said, "It really kind of felt like wandering through the dark and doing my best to pick my way through."

A need for more training was expressed by a majority of the interviewees. Interviewees recommended more in-depth training for all LEOs at the academy, with annual refresher courses. Other professionals desired short reference materials (e.g., bench card for judges, fact sheets) that describe and answer questions on the ERPO process.

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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

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SCHOOL OF
PUBLIC HEALTH

PURPOSE AND UTILITY OF ERPOS

Interviewees said ERPOs are most suitable when there is a threat of harm to oneself or others, particularly **when firearms are involved**. Interviewees emphasized that ERPOs allow LEOs to respond to **threats that do not reach the level of a crime or civil commitment**. Still, interviewees emphasized the limited scope of ERPOs, noted that they tend to use many alternatives before ERPOs (e.g., restraining orders or voluntary firearm removal), and **cautioned against overuse**.

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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.

District Attorney/City Attorney interviewee

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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

IMPACT AND EFFECTIVENESS OF ERPOS

Interviewees generally viewed ERPOs as beneficial and effective. Some saw ERPOs as a way to make situations safer by removing firearms, allowing further steps of intervention to then 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.

Interviewees tended to express agreement that ERPOs are effective for reducing:

Firearm
Deaths

Interpersonal
Violence

Mass
Violence

Firearm
Suicide

“

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

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.”** 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. 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).

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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

CHALLENGES TO ERPO IMPLEMENTATION

A lack of resources may impede ERPO utilization.

ERPOs require time and manpower. LEO petitioners may spend multiple hours or days completing the petition and attending court proceedings. The lack of resources, staffing, and time may be especially challenging for smaller law enforcement agencies. As one LEO interviewee said, “Go throughout Oregon and there are agencies of 5 to 10 people. They are not going to be able to do it.”

Crises are not limited to weekdays and business hours. Many courthouses have clear protocols for ERPO petitioning, requiring petitions to be filed by a certain time in order to be heard at a hearing that afternoon. If filed after this time, the ex parte hearing may not occur until the next judicial business day. Given the emergency nature of these orders, many interviewees expressed concerns and called for ways to petition at all hours. As one judge expressed, “Homicide and suicide threats...don’t only occur during the business day.” Judges reported mixed interpretations as to whether the ERPO statute currently allows this and requested clarification from the legislature or a higher court.

Timeliness and safety of ERPO service are essential but challenging. Timely service of ERPOs is important because the order does not go into effect until after it has been served, but some interviewees said service by the sheriff’s office can take days or even weeks. 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. Interviewees also raised concerns around the safety of ERPO service, both for the respondent and LEOs.

“Enforcement is a real conundrum.” (LEO interviewee) Many interviewees described enforcement of ERPOs as a major challenge. Some felt that firearm surrender was happening successfully and described ways they try to ensure compliance, including working with family members of the respondent and following up with the respondent. Still, many expressed concerns around enforcement due to the lack of legal mechanisms to confirm whether respondents truly surrendered all of their firearms, the 24-hour period that respondents have to surrender firearms, and the risk of “poking the bear” and escalating the situation.

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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

Interviewees’ Recommendations to Address these Challenges

- Fund behavioral health specialists or units to support ERPO utilization.
- Allow LEO petitioners to call judges on a recorded line to petition ex parte outside of business hours, similar to the process for search warrants.
- Develop strong working relationships between local law enforcement agencies and the sheriff’s office to coordinate ERPO service.
- Shorten the 24-hour timeframe to require respondents to surrender firearms more quickly after service.
- Require respondents to file declaration of firearm surrender forms with the court indicating to whom they surrendered their firearms or attesting that they do not have firearms in their possession. If respondents do not file such documentation within a certain timeframe, require respondents to go before a judge at a compliance hearing.

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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

EXPANSION OF PETITIONER ELIGIBILITY

Most interviewees supported expanding the list of those who are eligible to petition for an ERPO, but many recommended caution and thoughtfulness when expanding petitioners. 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, extended family, and friends.

Some feared that expansion may lead to overuse, misuse, or abuse of the ERPO law. As one LEO interviewee said, “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.” Some interviewees reported a preference that LEOs remain the primary petitioners and that other groups refer cases to LEOs to provide a checks and balances system to prevent abuse of the ERPO law.

Ex-Spouses and Ex-Intimate Partners

- **Support:** Some interviewees, especially prevention professionals, supported expansion to ex-spouses and ex-intimate partners. These interviewees emphasized the continued risk that many ex-spouses and ex-intimate partners face, including elevated risk of homicide when leaving domestic violence situations.
- **Opposition:** Many interviewees feared that ex-spouses and ex-intimate partners would use ERPOs for retaliation or revenge and that expansion to these petitioners would result in frequent abuse of ERPOs.

Healthcare and Mental Health Professionals

- **Support:** Some interviewees said that healthcare providers may encounter individuals at risk and these individuals may share information with them that they would not share with LEOs.
- **Opposition:** Interviewees worried that allowing mental health providers to petition would result in fewer firearm owners seeking treatment. Additionally, they discussed how a trusted healthcare provider petitioning could seriously harm the therapeutic relationship at a time when the patient may need that healthcare provider’s support.
- **A middle ground:** Some interviewees supported allowing healthcare providers with less intimate relationships with potential respondents (such as emergency room doctors, county mental health coordinators, or mental health specialists embedded in law enforcement agencies) to petition.

PUBLIC KNOWLEDGE AND OPINIONS

Interviewees felt that some members of the public view ERPOs negatively, while the majority of the public lack knowledge that ERPOs exist. Interviewees said that negative views of ERPOs may be especially prevalent among firearm owners, Veterans, and rural populations, who may see ERPOs as a punishment or a threat to their Second Amendment rights. As one prevention professional interviewee said, “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.”

Interviewees believed that negative public opinion is primarily rooted in misinformation and misunderstanding (e.g., fears that ERPOs are a way for the government to take firearms without due process). They 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.

To address this lack of knowledge and to counter misinformation, interviewees proposed ideas for public education campaigns, 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 provide education and assistance to the family of the individual in crisis. These education campaigns may help facilitate petitioning among family/household members and would be important if expanding petitioner eligibility.



USE OF ERPOS FOR FIREARM SUICIDE PREVENTION

Interviewees discussed many alternatives that they would use before using an ERPO for situations involving risk of suicide. Some LEO interviewees said they were more likely to use a police officer mental health hold than an ERPO when responding to threats of suicide. Prevention professional interviewees emphasized a preference for more upstream or voluntary measures when individuals are at risk of suicide or self-harm, including temporarily storing firearms out of the home with family or friends or encouraging secure firearm storage and safety planning.

Some interviewees did not consider ERPOs as part of their suicide prevention toolkit. These interviewees viewed ERPOs as too downstream and reported that ERPOs may further isolate the respondent or discourage them from asking for help in the future. 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.



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

INTERVIEWEES' SUGGESTIONS FOR MAKING ERPOS MORE TRAUMA INFORMED

Use more caring language and messaging when discussing ERPOs. Prevention professionals emphasized that the language used to discuss ERPOs is very punitive and stigmatizing. Prevention professionals 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. They discouraged the use of terms like "firearm surrender" (which does not elicit a safety or caring mindset) and noted that even the name "Extreme Risk Protection Order" can feel stigmatizing.

Have a mental health professional, trusted messenger, or family member accompany LEOs when serving ERPOs. This individual can then sit with the respondent and more fully explain the ERPO process. They can also advocate for the respondent and help them with the court processes to make the ERPO process less daunting.

Connect respondents to needed mental health and social services through the ERPO process. Most interviewees were unaware of any follow up or engagement occurring with respondents during the ERPO process but felt that this would be beneficial. Some said that most respondents likely would have already been connected to services by the time an ERPO was used. Others expressed barriers to connecting respondents to services, including limited accessibility and availability of these services and the lack of willingness of respondents to participate in such services. To address the lack of accessibility of services, some interviewees suggested that there should be mental health professionals dedicated to working with ERPO respondents so that treatment or therapy sessions could be scheduled with respondents in a timely manner if 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.