

# **INQUIRING MINDS, SEPTEMBER 20, 2019**

## **TOPIC: RED FLAG LAWS**

## **MODERATOR: AL KAPLAN**

**Is the Concept of Red Flag Laws a valid infringement on our individual 2nd amendment rights (in our constitution) as described in the enclosed papers, as a means of avoiding unnecessary and perhaps illegally inflicted personal injuries by Guns ?**

**That question, while complicated, is the basis for much of the discussion today regarding the availability and use of weapons in the average person's hands.**

**And so we offer a WSJ editorial, the abstract of a Medical Journal valuation, and the web site to the Wikipedia description the concept.**

**The Baker Act, as passed in Florida and other states, while not related directly to the Gun issue is also pertinent to our discussion, and merits your consideration at this time.**

**No simple solutions, but what say you??**

## **What 'Red Flags' Really Look Like**

He consorted with a jihadist, flew one-way to Turkey, and later bought an 'AK-47-type rifle.'

[The Editorial Board](#) Aug. 22, 2019 7:10 pm ET..WSJ..

The debate over red-flag laws, which let police impound a person's guns if a legal process determines he poses a threat, is playing out mostly in the abstract. How about a few real-life stories? An academic paper this week [presents 21 case studies](#) from 2016-18 in which California's law was used "in efforts to prevent mass shootings." Here are three:

- Local police got a warning from the FBI about a 22-year-old man. He was an associate of someone recently charged with aiding a Syrian jihadist group, the Nusra Front, which had encouraged terror

attacks. The two men once flew to Turkey on one-way tickets. A month earlier the 22-year-old began working at a shooting range, but he was fired. His manager told the FBI that he didn't like customers but enjoyed handling the guns.

The man had recently bought an "AK-47-type rifle," and California's 10-day waiting period was set to expire soon. In a few weeks nearby public events were expected to draw crowds of 50,000 or more. Local police got a short-term red-flag order to block the gun purchase, and after a hearing a one-year order was issued.

- Police were tipped off by school officials that a 14-year-old boy had praised mass shootings. He used campus computers to search firearms and terms like "white power." Taken to a psychiatrist, the student said he was joking.

The boy's father owned a rifle and a pistol. A short-term red-flag order was obtained, and the two firearms were relinquished. After a hearing a one-year order was issued.

- A group of children, ages 11 to 15, told police that a 62-year-old woman had threatened to "blow their heads off." They seemed to think she pointed a gun at them, but it turned out to be a paper-towel roll covered in duct tape.

When police arrived, she admitted to also having a revolver in the house. The officer got a short-term red-flag order, took the gun, and arrested the woman for making a criminal threat. She kept saying that she wanted to "teach those kids a lesson" and "go to their homes to finish off each one of them." After a hearing a one-year order was issued.

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These examples are a small subset. California had 414 red-flag cases from 2016-18, the paper says. Its seven authors have so far obtained court records for 159. The 21 thumbnail sketches they offer leave important questions unanswered.

Did the father whose guns were handed over suggest that he was unable or unwilling to secure them from his 14-year-old son? How many of these people were thought dangerous enough a year later that the order was renewed? In a counterfactual world without these orders, the authors admit, "it is impossible to know whether violence would have occurred."

Still, the particulars are a challenge to critics of such laws, some of whom charge that California's process amounts to a seizure scheme. In a state of 40 million people, 414 cases over a few years doesn't sound like an abusively high rate of red flags.

Most of the 21 examples include specific threats: "I'm going to come and hunt you down"; "if I pull the trigger on one person" then "I'm not stopping there until I'm caught"; "Rip [name deleted] high school."

Due process is vital whenever a constitutional right, including the Second Amendment, is curtailed. There are legitimate arguments over how heavy the burden of proof should be, particularly for emergency orders granted before a full hearing can be held.

More research and experience are warranted, and red-flag laws are no panacea for mass shootings. But only 17 states have these laws today and, if reasonably drafted, they appear to be a step forward: gun control for the dangerous and unstable. The genius of federalism is that the states can see what works, and useful lessons can be drawn and spread.

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Extreme Risk Protection Orders Intended to Prevent Mass Shootings | Annals of Internal Medicine | American College of Physicians

# **Extreme Risk Protection Orders Intended to Prevent Mass Shootings: A Case Series**

## **Annals of Internal Medicine | American College of Physicians**

### **Abstract**

Urgent, individualized interventions to reduce firearm access, such as extreme risk protection orders (ERPOs, colloquially known as “red flag” orders), provide a rapid, focused response when risk for imminent firearm violence is high. Studies to date suggest such interventions are most commonly used to prevent suicide and are effective. Authorizing legislation has often been enacted after public mass shootings but, to our knowledge, there have been only 2 reported cases of ERPO use in efforts to prevent mass shootings.

California enacted the nation's first ERPO statute, which took effect in January 2016. The authors are evaluating that statute's implementation and effectiveness and are seeking to obtain court records for all 414 cases occurring in 2016 to 2018. Based on 159 records received thus far, this article presents an aggregate summary and individual histories for a preliminary series of 21 cases in which ERPOs were used in efforts to prevent mass shootings. Most subjects were male and non-Hispanic white; the mean age was 35 years. Most subjects made explicit threats and owned firearms. Four cases arose primarily in relation to medical or mental health conditions, and such conditions were noted in 4 others. Fifty-two firearms were recovered. As of early August 2019, none of the threatened shootings had occurred, and no other homicides or suicides by persons subject to the orders were identified. It is impossible to know whether violence would have occurred had ERPOs not been issued, and the authors make no claim of a causal relationship.

Nonetheless, the cases suggest that this urgent, individualized intervention can play a role in efforts to prevent mass shootings, in health care settings and elsewhere. Further evaluation would be helpful.

Urgent, individualized interventions to reduce firearm access provide a rapid, sharply focused response when risk for imminent firearm violence is high and alternative measures, such as arrest or psychiatric hospitalization, are inappropriate or have been ineffective (1–3). Special-purpose, court-issued restraining orders are most common; these are properly referred to as extreme risk protection orders (ERPOs) and are known colloquially as “red flag” orders. Policies and procedures for ERPOs are based on those for domestic violence restraining orders. Petitions can be submitted to the court by family members; by law enforcement officers; and, in Maryland, by Physicians and other health professionals. As of August 2019, fifteen states and the District of Columbia have enacted ERPO statutes. Two other states use a related firearm recovery procedure known as a risk warrant, which can be issued by a judge following a request from law enforcement.

Both ERPOs and risk warrants rely on actions by judges or other judicial officers and include due process protections. They provide for immediate firearm recovery and a time-limited prohibition on possession and purchase of firearms and ammunition.

Studies to date suggest such interventions are most commonly used to prevent Suicide and are effective for that purpose (3–5). History links these interventions to public mass shootings as well. Legislatures in Connecticut, Indiana, California, and Florida enacted ERPO or risk warrant laws after public mass shootings occurred in those states. Post event investigations of mass shootings suggest that ERPOs and risk warrants can play a role in preventing them.

Nearly 80% of perpetrators of mass violence in public places make explicit threats or behave in a manner “indicative of their intent to carry out an attack” (6, 7). For example, public mass shootings in Parkland, Florida (8); Aurora, Colorado (9); and Tucson, Arizona (10), among others, were committed by assailants known to family members, acquaintances, law enforcement agencies, and in some cases health professionals to be at high risk for violence. Public mass shootings in California, Texas, and Ohio in late July and early August 2019 have led to widespread discussion of the potential for ERPOs to prevent such events (11, 12) and reports that Congress may consider legislation to create a federal ERPO policy (13).

To our knowledge, there have been only 2 reported cases of ERPO use in efforts to prevent mass shootings. In Vermont, an 18-year-old man described the Parkland shooting as “fantastic” the day after it occurred, made concrete threats (even to the police), wrote plans to commit a mass shooting at his school (“I’m aiming to kill as many as I can”), and owned firearms (14). Vermont’s first ERPO was issued against this man in April 2018, the day after the governor signed the authorizing legislation (15). In December 2018, an ERPO was obtained for a Washington man accused of threatening a mass shooting at a synagogue (“I’m shooting for 30 Jews”) and a school. Twelve firearms were recovered (16). Neither of these credibly threatened mass shootings occurred.

California enacted the nation’s first ERPO statute (17), which took effect in January 2016. We are evaluating the implementation and effectiveness of that statute and describe here a preliminary series of 21 cases in which ERPOs were used in efforts to prevent mass shootings. Descriptions include outcome data through August 2019.

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[https://en.m.wikipedia.org/wiki/Red\\_flag\\_law](https://en.m.wikipedia.org/wiki/Red_flag_law)