

# Civilian Petitioners and Extreme Risk Protection Orders in the State of Washington

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**Objective:** Extreme risk protection orders (ERPOs) are civil orders designed to temporarily restrict access to firearms when people are at substantial risk of harm to themselves or others. A minority of ERPOs in the United States have been filed by civilians, with most filed by law enforcement. The authors examined barriers and facilitators to the ERPO filing process from the perspective of the civilian petitioner.

**Methods:** Semistructured interviews of civilian petitioners who filed ERPOs in Washington State from December 2016 to September 2020 were conducted. The interviews examined both barriers and facilitators to filing an ERPO. A descriptive and qualitative approach with inductive-deductive thematic analysis was used to identify and code themes.

**Results:** Fifteen civilian petitioners were interviewed. Barriers to ERPO filing included perceived lack of help connecting with social services to address the potential for harmful behavior, confusion regarding the filing and court process, and petitioner distress. Facilitators included having previous legal experience, having assistance from advocates who helped shepherd petitioners through the process, and simplification of the ERPO process.

**Conclusions:** ERPO is a useful tool for suicide and violence prevention, but several barriers may be inhibiting ERPO use among civilian petitioners. Better educational resources and advocacy programs, as well as simplified filing steps, could improve the process and make ERPOs more accessible for civilians.

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More than 40,000 individuals die annually from firearm injuries in the United States; two-thirds of these deaths are suicides (1). Having a firearm in the home, especially during periods of crisis, increases the risk for suicide (2–5). Restricting access to firearms and other highly lethal means of self-directed harm is an evidence-based approach to preventing suicide as well as other harm caused by firearms (6–8). Federal law restricts certain groups from purchasing and possessing firearms, such as persons with a previous felony record, those with previous involuntary psychiatric hospitalizations, and those in conservatorship, among others (9). Some states have begun focusing on restricting firearm access for those exhibiting dangerous behavior with the adoption of extreme risk protection order (ERPO) laws (10, 11).

ERPOs are civil orders intended to be a nonpunitive means to limit firearm access to those at risk (called “respondents”) who have demonstrated dangerous behavior or threats of violence (10, 11). Granting an ERPO relies on an evaluation of the respondent’s concerning behavior, and as stated in the enabling legislation, the judge should not consider underlying mental illness or require a mental health evaluation as a condition of the ERPO being granted or

denied (12). However, the respondent’s behaviors and petitioner’s concerns could suggest that the respondent may have a mental illness that is not being adequately treated by mental health services, especially for cases of self-harm (7).

Categories of eligible “petitioners,” that is, the individual filing the ERPO, vary by state but always include law enforcement (3). As of October 2021, 19 states and the District of Columbia have adopted an ERPO policy. In 13 of these

## HIGHLIGHTS

- Extreme risk protection orders (ERPOs) are tools for preventing suicide and violence, and most states allow civilians to file ERPO petitions to remove firearms from someone expressing concerning behavior.
- Although civilian petitioners mostly felt that the ERPOs served their intended purpose, they also felt frustrated that ERPOs did not address or assist in addressing the underlying cause of the behavioral disturbance.
- The civilian petitioners indicated improvements to make in educational resources and advocacy programs and recommended simplifying the ERPO filing steps.

19 states and the District of Columbia (California, Colorado, Delaware, District of Columbia, Hawaii, Illinois, Maryland, Massachusetts, Nevada, New Jersey, New York, Oregon, and Washington), civilians such as intimate partners, family members, and domestic partners are also eligible to file an ERPO (13). Washington State's ERPO law went into effect on December 8, 2016 (14), and since then, several hundred ERPOs have been filed in the state (15).

Most commonly, ERPOs have been petitioned by law enforcement (15, 16). Although several studies have described petitioner and respondent characteristics (15–19), none have explored the civilian experience (13). The process for filing an ERPO involves several administrative steps, including filing a temporary (*ex parte*) order requiring a hearing before a judge, the service of the order to the respondent, and a full hearing 14 days after the initial *ex parte* order to determine whether a 1-year order is warranted (15, 20). In this study, we conducted interviews with civilian petitioners to better understand their experiences with the ERPO filing process, including barriers or facilitators of filing; petitioners' understanding of the process and implications of an ERPO, including linkage to social services and behavioral health care when necessary; and their overall perceptions of the effectiveness of filing an ERPO in the specific context in which they pursued it.

## METHODS

### Recruitment

Potential study participants were identified as civilian petitioners in ERPO petitions filed from December 8, 2016, to September 30, 2020, through county court records in Washington State. Eligible petitioners with an *ex parte* order were mailed letters explaining the study and alerting them that they would be contacted by a study researcher to schedule an interview, also giving them an opportunity to opt out of future contact. Remaining potential study participants were contacted by telephone to set up the interview. We identified 58 civilian petitioners, of whom 45 had complete contact information (i.e., working telephone number and full address) and were contacted. The University of Washington Institutional Review Board granted ethical approval for this study (STUDY00009616).

### Interviews

Interviews consisted of open-ended questions on perceived barriers or facilitators during the filing process, petitioner's understanding of the process and implications of an ERPO, petitioner's overall perceptions of the effectiveness of filing an ERPO, and perceptions on how the process could be improved. (Information on the interview process, as well as themes and associated quotes, is provided in an online supplement to this article.)

For those agreeing to participate in and consenting to the study, two interviewers (L.P., L.R.) conducted 1-hour-long, recorded interviews conducted over the Zoom videoconferencing platform. We stopped recruiting participants

when no new themes emerged from our interviews and the coding process (21). The interviews were transcribed, and identifiable information was removed to ensure participant confidentiality. After transcription, interviews were uploaded to Dedoose, version 8.0.35 (22), for analysis.

### Analysis

We used the qualitative descriptive approach (23), focusing not on identifying a justification or an extension of existing theory but instead describing and better understanding civilian petitioner perceptions of the ERPO process. Two researchers (L.R., A.M.) coded the interviews by using initial themes in the codebook and expanding them as new themes emerged. The interviews were reviewed at weekly meetings, and disagreements among researchers about when and where to apply codes were discussed and resolved. Agreement was calculated through the Dedoose testing feature, which assessed each coder's labeling of previously coded text excerpts from other coders, resulting in two Cohen's kappa values for each rater's coding application relative to the other rater. This assessment resulted in kappa values of 0.72 and 0.91, indicating good agreement among coders (24). We used both inductive and deductive processes to develop our interview guide and codebook. The interview guide had three sections: events preceding the ERPO, the filing and court process, and experiences of the respondent and petitioner after the ERPO was filed. The codebook was iteratively developed, initially by using these three sections, as well as barriers and facilitators, understanding of the process, implications of the ERPO, and overall perceptions of the effectiveness of the ERPO; the codebook was then expanded through a collaborative coding and discussion process. The final codebook had a definition of each parent and child code along with example quotations to facilitate consistent application (25).

## RESULTS

Of the 45 civilian petitioners contacted, 15 (33%) agreed to participate and were interviewed between July 2020 and April 2021. Of those who did not participate, 12 (40%) refused to be a part of the study, and the remaining 18 (60%) did not respond. The relationships between the respondent and petitioner included spouses, ex-spouses, siblings, children, and parents. Most of the petitioners ( $N=8$ , 53%) we interviewed had pursued an ERPO because the respondent had expressed intentions of causing harm to themselves, with three (38%) of these cases involving respondents who threatened both harm to self and to others. The remaining seven respondents (47%) represented a potential threat to others. We organized emerging themes as either a barrier or facilitator to the ERPO process. Barriers included perceived lack of help with connecting with social services, administrative and legal process-related ambiguities, and petitioner distress. Facilitators included petitioners' previous legal experience, appointing advocates, and simplifying the ERPO

process. Demographic information of the participants is listed in Table 1. Race-ethnicity was unavailable because of a high number of missing values for petitioners (N=10 of 15 were missing). All five petitioners (33%) who reported race-ethnicity were White and non-Hispanic. Data were more complete for respondents, with 13 (87%) identifying as White and one (7%) identifying as Asian; race information was missing for one respondent (7%), and all respondents were non-Hispanic.

### Barriers

*Perceived lack of help connecting with services.* The primary motivation for petitioners to pursue an ERPO was to protect the respondent from harm and to have the respondent connected to mental health services that would assist in addressing the concerning behavior. Several petitioners expressed that the respondent had been connected to social services previously but that the respondent was likely not in current treatment at the time of the ERPO. Many noted that the connection to services did not occur and was not addressed through the process of petitioning for the ERPO. In several cases, the judge required that a mental health or substance use evaluation be done within the year of the order and before the firearm could be returned; however, the ERPO process did not result or assist in achieving the expectation of connections to full treatment. Petitioners who could connect the respondent to services had to do so through other avenues, such as the U.S. Department of Veterans Affairs, family or divorce court, or involuntary commitment. Participant 9 stated, “[W]hen I asked about it, they gave me a piece of paper and said, ‘Well, you know, you can call around and see what help you can get.’” In addition, participant 4 said:

So, the system was extremely difficult to navigate. And to get services that he needed, it was extremely difficult, and we had to become adversaries [because the petitioner and respondent were at odds with each other] in order to get him what he needed. . . . Honestly, if there could be something that when there is an ERPO . . . that there also be a mental health evaluation connected to that. I think that’s really critical. Substance abuse and mental health are really critical components that I think are missing right now.

Petitioners expressed a sense of disappointment regarding the time and effort they had put into the ERPO process without receiving connection to services that would address the concerning behavior. Others also expressed disappointment but felt that it was not the primary function of the ERPO to connect respondents to mental health services. In the following quote, a petitioner (a parent of the respondent) discussed the acute mental health crisis the respondent experienced during the ERPO filing. The ERPO respondent needed to be connected to services, but the petitioner perceived that there was no mechanism through which to do so as part of the filing process:

The sheriff went and met [the respondent’s] father and . . . was able to get the gun, but it was not a good situation. Anyway,

**TABLE 1. Demographic characteristics for the 15 civilian petitioners in Washington State interviewed from July 2020 to April 2021<sup>a</sup>**

Characteristic	N	%
Age in years		
18–24	0	—
25–64	8	53
≥65	4	27
Unknown	3	20
Gender		
Male	4	27
Female	9	60
Unknown	2	13
Location		
Urban	14	93
Rural	1	7
Relationship to respondent		
Parent	3	20
Partner or spouse or former partner or spouse	6	40
Sibling	3	20
Child	2	13
Neighbor	1	7

<sup>a</sup> Petitioners’ race-ethnicity had a significant amount of missing data and is therefore not included in this table.

from there, we ended up going to court. The day we went into court, before the court proceeding, I asked the judge if he could order mental health treatment for my son. He said he could not. . . . My son was in and out of reality. He was having a psychotic break still. And when the judge asked him about the [ERPO], luckily my son agreed in court to go along with it. He didn’t fight it. Sitting outside the courtroom, several times he was threatening to run away, to leave. I had to talk him down and [to get] him calmed down so we could move forward with the court hearing. He was very paranoid. And it was extremely challenging. So, he agreed to the [ERPO] in court, but at that point, he was still unable to get any kind of mental health intervention voluntarily or involuntarily. (participant 4)

Some felt that the ERPO served the intended purpose but did not address the respondent’s mental health concerns:

It was effective for what it was designed to do. It didn’t solve his mental health problems, but that’s not what the intention of what the ERPO is for. And so, it prevented him from being able to purchase a weapon. So, I think it was effective in that. (participant 2)

*Administrative and judicial process-related ambiguities.* Petitioners expressed a lack of clarity on the function of the ERPO, the proper steps to take during the filing process, possible restrictions to close contact between the petitioner and the respondent during ERPO filing and after the ERPO was granted, how and when the respondent’s firearms would be removed, and the mechanism through which the ERPO restricted the respondent’s access to firearms. Petitioners discussed their confusion about how a firearm sale would be prohibited. According to participant 11, “There’s a little bit of confusion about, like, now that I’ve put the

process in place, how do I stop the sale of the gun from happening there?" Participant 11 also stated:

The people at the court . . . they were like, well, maybe do this, maybe call the gun store, maybe call the courthouse. . . . I was like, is there anything else I need to do? . . . It just kind of seems like magically the gun store got notified.

Some courthouse workers and law enforcement incorrectly told petitioners that they could not file as a civilian. Several petitioners expressed concern over incidents in which a respondent was questioned at the Canadian border while traveling; both petitioner and respondent were unaware that the ERPO would be flagged in the respondent's legal records while crossing the border. Petitioners' concerns about such flagging during border crossing are reflected in the following quotes:

There was one incident very soon after the ERPO, in which we were crossing the Canadian border . . . from Canada into the [United States]. . . . The authorities decided to, I believe, check everyone's ID, . . . and they saw the ERPO on his file. And they had him get out of the car and go inside and discuss. . . . He had to make himself really vulnerable to [the border agent] who probably never deals with this scenario, when it's about a suicide attempt, and he had to say, "Yes, there was a weapon involved, but it was about myself." (participant 6)

She didn't know if we could travel. . . . I didn't know if we could go to the Canadian border and get turned away. . . . It was the lack of knowledge that frustrated me. Nobody knew where this information went. . . . I still don't know if we can go to Canada or not. . . . He's mentally ill, he's not a criminal. (participant 10)

Some petitioners felt surprised to have law enforcement show up to serve the ERPO to the respondent. Petitioners also voiced concern that law enforcement officers were generally unfamiliar with the ERPO process, including ambiguity in how to serve the order:

So then the task is to . . . serve the respondent. Now, at the time my son was houseless . . . and, living out of his truck. So, when I asked the police or the sheriff's office to serve him, they said they couldn't because I didn't have an address for them to serve him. So that's the second complication. . . . I mean, it's not valid until he's served, so that was problematic. (participant 9)

We wanted to preserve as much as possible his relationship with his mother. And what he probably does know in his heart [is that] his mother has been one of the proponents of getting him assistance, and she was definitely behind my doing the [ERPO]. Her husband works for the [city police department] and had never heard of it by the way. . . . isn't that interesting? I was aware of this law, and he had never heard about it. (participant 1)

In the above situations, the law enforcement officers' confusion heightened the petitioner's confusion, making the process frustrating for them.

**Petitioner distress.** The petitioners reported feeling distressed throughout the process of filing and afterward in

interactions with the respondent. This distress was often associated with the initial circumstances that led to the ERPO filing, which sometimes involved substance use and mental health crises. Others commented on how the ERPO process felt like a conflict with the respondent:

The process of getting the gun away from him, that whole drama around that was extremely stressful. The fact that we had to be put in an adversarial role was extremely stressful. . . . The problem with the [ERPO] is [that] it puts you in direct conflict with someone who probably needs your support through a very difficult and challenging time, and so you become an adversary at that point. (participant 4)

Petitioners perceived that officials involved in the ERPO process, such as clerks, judges, and law enforcement officers, had a personal bias against ERPO. As one petitioner was trying to prevent a respondent from harming the petitioner and her family, she went to a police station, and the police suggested that she get an antiharassment order and protect herself with a firearm:

After receiving some disturbing messages from my brother who is mentally unstable, . . . I contacted the . . . police department where I live [and] showed them the messages that I received. They urged me to get an antiharassment protection order and also said, "It's just a piece of paper, and it's not going to help, . . . so you should arm yourself and know how to use a gun." (participant 12)

In this case, the petitioner learned of ERPOs on her own and later requested one to remove the respondent's firearms. Although the judge was well educated on the purpose of an ERPO, this petitioner faced resistance. The judge strongly suggested that the petitioner get an attorney and implied that the ERPO would not solve the larger threat posed by the family member. Overall, the petitioner felt that the process was overwhelming and that it would result in other petitioners not following through and getting the help they need.

## Facilitators

**Petitioner previous legal experience.** Petitioners who had previous legal or court experience found that it helped them to navigate the ERPO filing process and the judicial system. Having professional experience with the legal or court system and personal family or firsthand experiences with the court system both were mentioned as facilitating the navigation of the ERPO process. Petitioners could handle the ERPO processes more effectively, including appearing before the judge, by drawing from their previous experiences. Even those without professional legal experience but who had personal connections to people who did have such experience felt that they were better prepared to navigate the ERPO process:

I thought it was pretty smooth. . . . I'm a paralegal, so I have experience filing and filling out court forms. So, I kind of had an advantage there, and I think that's why I went down that route. But I thought it was pretty smooth. (participant 2)



Overall, participants with any exposure to the court system demonstrated a sense of self-efficacy for completing the process on their own.

*Advocates.* Several participants mentioned that someone had helped them with the ERPO process, acting informally as an advocate. Court clerks were frequently mentioned as helpful advocates; clerks helped with paperwork, scheduling of court appearances, and preparations for appearances. Participants who did not have an advocate emphasized that they wished they had a person to help them through the process:

[T]he YWCA [a nonprofit organization dedicated to empowering women] helped me fill out the forms and explained the process that I had to do at the court. . . . And then when I went to the court, the clerk's office helped with the additional forms, and they had a person there who . . . I guess you could call her a facilitator, and she made sure the forms were filled out correctly before you went up to wait in line to talk to the judge. (participant 9)

There was a lady . . . at the county courthouse that kind of talked me through the form. I don't know if she was like a victim advocate or something, but that kind of seemed to be her job where she . . . asked me a bunch of questions and told me this is what was going to happen next, because I was a little confused. (participant 11)

Participant 4 suggested using domestic violence advocates' assistance with the domestic violence protection order (DVPO) as a template or model for ERPO advocates: "Well, I think the idea of having [a] domestic violence advocate assist people who aren't familiar with the court system and what needs to be done [is] important."

The petitioners above all felt that advocates would be helpful if available. Those who received support from available people at the courthouse or a community agency felt that it was instrumental in their success with the filing process.

*Simplification of the ERPO process.* Most of the petitioners mentioned the burden or confusion attributable to the complicated and multistep process for filing an ERPO. Petitioners also felt that the process might be particularly challenging for those without resources. For example, one petitioner mentioned the challenge of having to take off work twice to go into court:

The other issues that I mentioned about timing . . . having to go to court twice. I think for a lot of people [the issue] is . . . you got to take off work to go into court, [and] to have to go twice is problematic. I think for people [who] have jobs [who] can't get away, I was lucky [because] I don't have that issue. And then being in open court is really unsettling for a lot of people, [and] that would be a dissuading factor. (participant 14)

Petitioners also expressed that having a more effective website to guide them through the process would have been helpful. ERPO websites often vary by county and court jurisdiction.

I think that having a more streamlined main page would be helpful and that . . . explaining that you'd have to see the judge would be helpful . . . something that really recognizes that most people who do this have zero experience in, like, law or court. (participant 2)

Petitioners also expressed a desire for more comprehensive materials, beyond what would be available in a standard brochure:

I know the brochure, for it . . . is just that, it's a brochure. It gives some basic information, but maybe if there was more . . . of an extensive document that talked more about all the points on that . . . so someone like myself [who] would rather read . . . a whole document about it. Something like that could be more helpful. (participant 7)

This participant felt more detailed and specific information would have helped, instead of a simple brochure that is perhaps aligned toward a more generic understanding of the process.

## DISCUSSION

To our knowledge, this study is the first to characterize the experiences of civilian petitioners during the ERPO filing process. We uncovered new insights into the barriers and facilitators of this process for civilians. One of the most striking findings was that the petitioners felt that acceptable mental health service connections were often needed but were not available for respondents in acute crisis or for continued care after the crisis. An earlier study (15) reported that 30% of ERPO respondents were ordered to complete a mental health evaluation. Although a judge may require such evaluations after an ERPO is filed, petitioners and respondents were still left with the task of finding a professional to conduct the evaluation, which might not have addressed the respondent's needs of continued care. Although the petitioners noted that the ERPO met its major function of removing the firearm, many mentioned the unmet need for linkage to resources at a time when respondents are particularly vulnerable, especially in circumstances in which the respondent expressed suicidal ideation.

Research into ERPOs has highlighted that they have been used primarily in circumstances in which a person has expressed suicidal ideation or intent (7), as was reflected in our study. Several of the petitioners we interviewed wished to connect the respondent to mental health services to address the underlying concerns raised by the respondent's behavior. The granting of an ERPO cannot consider mental illness as a criterion; however, it is clear that opportunities for addressing mental illness may emerge throughout the process, particularly in the case of risk for self-harm (7). Individuals experiencing suicidal ideation or intent tend to have lower rates of behavioral or mental health service use than adults who had experienced depression but no suicidal thoughts; moreover, those using a firearm for suicide tend to have lower rates of diagnosed mental illness (26).

Access to firearms has been shown to increase suicide risk (5, 27), but another study has shown that the supply of

behavioral health care workers may also significantly reduce suicide by firearm (28). More specifically, connecting and coordinating the care of individuals at acute risk for suicidal behaviors have been identified as a national suicide prevention strategy (26, 29, 30). Given this recommendation and findings from our study, providing resources for the coordination of behavioral health care and other necessary social services at the point of ERPO filing may confer substantial benefit to suicidal respondents. More research is needed into the views and experiences of the respondents to understand their perspectives on connections to services. The extent to which family and friends view petitioning for an ERPO as a means to obtaining help to address respondents' mental illness is unknown.

We found that petitioners, law enforcement, and judges sometimes misunderstood the ERPO process. In some cases, petitioners confused the ERPO with restrictions more consistent with a DVPO or a temporary or permanent restraining order. In some of these cases, more than one protection order was likely in place, but the separation and function of each were unclear to the petitioner. Current legislation in Washington State aims to harmonize orders and reduce administrative burden, but the impact of this legislation is still unclear (31). Several petitioners perceived that law enforcement and judicial officials were uninformed and unable to assist in answering questions. It should be noted that two of the petitioners in our study filed ERPOs within the first 2 months of the initial enactment of ERPOs, so court officials and law enforcement may have developed a better understanding of the details of the law over time. Petitioners also consistently said that the ERPO filing process was very stressful and caused interpersonal conflict. The trauma and stress associated with the ERPO process could also make the administrative components more difficult to independently navigate (32, 33).

Many petitioners felt that the ERPO process was difficult and that they needed assistance that was unavailable to them. The suggestions for improvement centered on creating advocate roles to ease confusion about the process and to offset the administrative burden. To improve resources for petitioners, advocate models may be structured similarly to those that have been successfully implemented for DVPOs. These DVPO advocate models have eased stress and helped achieve better outcomes for the filers, including reductions in depression and posttraumatic stress disorder (34). Domestic violence advocate programs are somewhat broadly defined, offering help with safety, housing, legal assistance, and employment (35). Components of the program offered to help ease domestic violence survivors' challenges of navigating the judicial process could be applied to ERPO petitioners, many of whom are operating under significant stress and recent trauma.

Our study had some limitations. Recruitment of participants was limited to the State of Washington; thus, this study is an assessment of Washington's ERPO law, although rules vary by state. The petitioners we interviewed and the

respondents they filed for (and for whom data were available) were overwhelmingly non-Hispanic White. It is unclear whether this sample accurately reflected the civilian population acting as ERPO petitioners, and other researchers (36) have suggested a need to examine and reflect on racial equity issues in ERPO policy. Because of a lack of diversity in our study sample, we were unable to conduct an in-depth assessment of perceptions of inequality or racism. As civilians continue to learn about ERPOs and as petitions increase in number, future studies should recruit a more diverse sample of petitioners as well as individuals who wanted to file an ERPO but were unable to do so because of systemic barriers.

## CONCLUSIONS

Our interviews with civilian petitioners highlighted that ERPOs can be a useful tool for people seeking a way to limit access to firearms for people who display dangerous behavior. Many of the civilian ERPO petitioners felt that the process served its purpose, which was primarily to help protect respondents from self-harm, although in some cases the ERPO served to protect against risk to others. The findings of this study also highlight current challenges of the ERPO process for civilian petitioners, and we offer recommendations for building on the current policy to reduce perceived barriers to civilian filing. Although continued research may be needed to gain insight into the views of civilian petitioners in other states, we believe that the observations from this study can be applied to make the ERPO filing process more efficient, easier to navigate, and a continued resource for civilians concerned about a loved one's firearm access.

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