

DRGO on Firearm Confiscation due to Dangerousness

In the wake of the Parkland shooting we've seen a push to find solutions that would keep firearms out of the hands of dangerous people.

“Gun Violence Restraining Order” and “Extreme Risk Protection Order” legislation is gaining attention. Current implementations of such laws establish a dangerous “guilty until proven innocent” standard and have the potential for serious abuse. No tragedy warrants the abandonment of the founding principles of liberty and legal standards stemming from those values.

GVROs and ERPOs passed to date violate multiple Constitutional protections beyond the Second Amendment. These include:

- the rights to equal treatment and against unreasonable search and seizure (4th amendment)
- the rights of the accused (6th)
- the right to due process (5th and 14th)

All existing legislation and all future state or federal GVROs and ERPO legislation must meet the following criteria:

- Must include due process, a pillar on which our legal system is built.
- The accused person must have the right to appear and to a defense before they are deprived of their fundamental and constitutionally protected rights. Exclusively *ex parte* hearings with no avenue for appeal are unacceptable and are an affront to the principles of liberty.
- Must provide substantial consequences for false accusations to prevent abuse. A balance must be struck to encourage reporting of legitimate threats and for punishment of deliberately malicious, false accusation.
- Must establish a protocol for expeditious and inexpensive restoration of Second Amendment rights if the accusation proves to be unfounded or when the person is deemed no longer a threat. Evaluation for resolution of the order must be available whenever requested, not at arbitrary times.
- Provisions must be made for the expeditious return of the accused person's firearms once the order is lifted and the accused person's rights are restored.
- Provisions must be made for the transfer of firearms to a designated friend or family member who is not a prohibited person if the accused person so chooses.
 - Many people own firearms that are collector items or family heirlooms. There is no reason these should be destroyed or stored indefinitely when they can be legally passed on to heirs.
 - If no suitable recipient can be identified and the person accused is not likely to have their rights restored, the firearms should be sold at fair market value and the proceeds should be returned to the accused.
- Those charged with seizing property must be required to store it safely.
 - The seized firearms should not be cluttering evidence rooms interminably, used as range toys by law enforcement, or be destroyed as an exercise in virtue signaling.
- When major mental illness or addiction is implicated, treatment must be provided.