

## **The Gun Violence Restraining Order**

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### **Introduction**

In March of 2013, shortly after the massacre at Sandy Hook Elementary School, experts in the areas of mental health, public health, law enforcement, law and gun violence prevention met for a two-day conference to discuss research and identify areas of consensus regarding the intersection of gun violence, public health and mental health. This meeting resulted in the formation of the Consortium for Risk-Based Firearm Policy and the publication of two reports outlining research and recommending evidence-based gun violence prevention policies at the State and Federal level.<sup>1</sup>

The Consortium determined that law enforcement and family members needed a tool to keep firearms out of the hands of individuals who may be a danger to themselves or others, but who have committed no crime, and do not meet the clinical criteria for involuntary psychiatric hospitalization. To address this compelling public safety need, the Consortium reviewed innovative state statutes from Connecticut and Indiana and developed a proposal for a Gun Violence Restraining Order (GVRO). A GVRO would “authorize law enforcement to remove guns from any individual who poses an immediate threat of harm to self or others,” and “create a new civil restraining order process to allow private citizens to petition the court to request that guns be temporarily removed from a family member or intimate partner who poses an immediate risk of harm to self or others.”<sup>2</sup> California was the first state to enact a GVRO law. Since then, Washington and Oregon have passed similar legislation.

### **Connecticut**

The 1998 Connecticut Lottery shooting, in which a disgruntled Connecticut Lottery accountant stabbed and shot one of his bosses and shot three other top executives before turning the gun on himself, prompted the Connecticut legislature to pass, and the governor to sign, legislation that established a process to remove firearms from individuals who pose “a risk of imminent injury to self or others.”<sup>3</sup>

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<sup>1</sup> The Consortium for Risk-Based Firearm Policy. (2013). *Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Policy*. Retrieved July 20, 2015, from <http://www.efsgv.org/wp-content/uploads/2014/10/Final-State-Report.pdf>; see also The Consortium for Risk-Based Firearm Policy.

(2013). *Guns, Public Health, and Mental Illness: An Evidence-Based Approach for Federal Policy*. Retrieved July 20, 2015, from <http://www.efsgv.org/wp-content/uploads/2014/10/Final-Federal-Report.pdf>

<sup>2</sup> The Consortium for Risk-Based Firearm Policy. (2013). *Guns, Public Health, and Mental Illness: An Evidence Based Approach for State Policy*. Retrieved July 20, 2015, from <http://www.efsgv.org/wp-content/uploads/2014/10/Final-State-Report.pdf>

<sup>3</sup> Rabinovitz, Jonathan. "Connecticut Lottery Worker Kills 4 Bosses, Then Himself." *The New York Times*. The New York Times, 06 Mar. 1998. Web. 20 July 2015. <http://www.nytimes.com/1998/03/07/nyregion/rampage-connecticut-overview-connecticut-lottery-worker-kills-4-bosses-then.html>; Conn. Gen. Stat. Ann. § 29-38c (West).

Under the Connecticut statute, two law enforcement officers, state's attorney or assistant state's attorney, may seek a warrant, in Superior Court, to search for and seize firearms from individuals where they assert probable cause to believe that:

“(1) a person poses a risk of imminent personal injury to himself or herself or to other individuals,

(2) such person possesses one or more firearms, and

(3) such firearm or firearms are within or upon any place, thing or person.”<sup>4</sup>

A judge may issue a warrant only on a complaint outlined above that establishes the grounds for issuing a warrant. In determining whether grounds for the warrant exist, a judge shall consider the following:

(1) Recent threats or acts of violence by such person directed toward other persons;

(2) recent threats or acts of violence by such person directed toward himself or herself; and

(3) recent acts of cruelty to animals ... by such person.”<sup>5</sup>

A judge may also consider other factors including, but not limited to, the following:

(1) the reckless use, display or brandishing of a firearm by such person,

(2) a history of the use, attempted use or threatened use of physical force by such person against other persons,

(3) prior involuntary confinement of such person in a hospital for persons with psychiatric disabilities, and

(4) the illegal use of controlled substances or abuse of alcohol by such person.”<sup>6</sup>

If a judge issues a warrant, Connecticut law mandates that a hearing be held within fourteen days to consider whether the guns should be removed for up to one year or returned to the owner.<sup>7</sup> At this hearing the state must prove by clear and convincing evidence that the owner remains “a risk of imminent injury to self or others” for the order to be extended.<sup>8</sup>

## **Indiana**

In 2004, the shooting of five Indiana police officers, in which one officer was killed and four others were injured, prompted the passage of similar legislation that allows law enforcement to remove firearms from individuals they deem dangerous. An individual is defined as “dangerous” if:

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<sup>4</sup> Conn. Gen. Stat. Ann. § 29-38c(a) (West).

<sup>5</sup> Conn. Gen. Stat. Ann. § 29-38c(b) (West).

<sup>6</sup> *Id.*

<sup>7</sup> Conn. Gen. Stat. Ann. § 29-38c(d) (West).

<sup>8</sup> *Id.*

“(1) the individual presents an imminent risk of personal injury to the individual or to another individual; or

(2) the individual may present a risk of personal injury to the individual or to another individual in the future and the individual:

(A) has a mental illness (as defined in IC 12-7-2-130) that may be controlled by medication, and has not demonstrated a pattern of voluntarily and consistently taking the individual's medication while not under supervision; or

(B) is the subject of documented evidence that would give rise to a reasonable belief that the individual has a propensity for violent or emotionally unstable conduct.”<sup>9</sup>

The Indiana law provides two mechanisms for the removal of firearms from individuals whom law enforcement deem to be dangerous; a warrant-based removal process, similar to Connecticut's, and a warrantless removal process.

Under the Indiana law, a circuit court or superior court judge may issue a warrant for the seizure of firearms if:

- (1) The law enforcement officer provides the court a sworn affidavit that: (A) states why the law enforcement officer believes that the individual is dangerous and in possession of a firearm; and (B) describes the law enforcement officer's interactions and conversations with: (i) the individual who is alleged to be dangerous; or (ii) another individual, if the law enforcement officer believes that information obtained from this individual is credible and reliable; that have led the law enforcement officer to believe that the individual is dangerous and in possession of a firearm;
- (2) the affidavit specifically describes the location of the firearm; and
- (3) the circuit or superior court determines that probable cause exists to believe that the individual is: (A) dangerous; and (B) in possession of a firearm.<sup>10</sup>

If the court issues a warrant for the seizure of firearms, the law enforcement officer executing the warrant shall, within 48 hours of the execution of the warrant, notify the court that, among other things, the warrant was served.<sup>11</sup>

If a law enforcement officer, without obtaining a warrant, seizes a firearm from an individual whom the officer believes to be dangerous, the officer is required to submit to the circuit or superior court a written statement under oath or affirmation describing the basis for the officer's

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<sup>9</sup> Ind. Code Ann. § 35-47-14-1 (West).

<sup>10</sup> Ind. Code Ann. § 35-47-14-2 (West).

belief that the individual is dangerous.<sup>12</sup> If the court finds there is probable cause to believe the individual is indeed dangerous, the court shall order the law enforcement agency that has custody over the seized firearms to retain them.<sup>13</sup>

Not later than fourteen days from the date law enforcement notifies the court of the execution of a warrant, or the date on which a written submission is made for a warrantless seizure, the court shall conduct a hearing to determine whether the seized firearm should be returned to the individual or retained by law enforcement.<sup>14</sup> The court shall inform the prosecuting attorney and the individual from whom firearms were seized of the date, time, and location of the hearing.<sup>15</sup> The burden at this hearing is on the state to prove by clear and convincing evidence that the respondent is dangerous.<sup>16</sup> If the state meets the standard, any firearms seized may be held, until the court orders the firearms to be returned or otherwise disposed of, by the state.<sup>17</sup> The respondent also has the option of selling the firearms.<sup>18</sup>

One hundred eighty days after the date on which a court orders a law enforcement agency to retain an individual's firearm, a respondent may petition the court for return of the firearm. The court shall schedule a hearing and inform the prosecuting attorney, who shall represent the state, of the date, time, and location of the hearing. At the hearing, the respondent shall bear the burden of proving by a preponderance of the evidence that he or she is not dangerous. If the respondent meets this burden, the court shall order the law enforcement agency having custody of the firearm to return the firearm to the individual. If the respondent fails to meet this burden, the individual may not file a subsequent petition until at least One hundred eighty days after the date on which the court denied the petition.<sup>19</sup>

### **California Gun Violence Restraining Order**

On May 23, 2014, Elliot Rodger killed six people and injured fourteen others in Isla Vista, California near the University of California, Santa Barbara. He first stabbed three men in his apartment. Afterward, he drove to a sorority house and shot three women, killing two. Rodger then drove to a nearby deli and shot a male student to death. He drove around Isla Vista shooting and wounding several pedestrians. Rodger finally shot and killed himself.

A month prior to the rampage, Rodger's mother, alarmed at some "bizarre" videos Rodger had posted on YouTube, contacted Rodger's therapist. The therapist called a mental health crisis service and they referred the matter to police. On April 30, 2014, police officers arrived at Elliot

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<sup>12</sup> Ind. Code Ann. § 35-47-14-3 (West).

<sup>13</sup> *Id.*

<sup>14</sup> Ind. Code Ann. § 35-47-14-5(a) (West).

<sup>15</sup> Ind. Code Ann. § 35-47-14-5(b) (West).

<sup>16</sup> Ind. Code Ann. § 35-47-14-6 (West).

<sup>17</sup> *Id.*

<sup>18</sup> Ind. Code Ann. § 35-47-14-10 (West).

<sup>19</sup> Ind. Code Ann. § 35-47-14-8 (West).

Rodger's residence to conduct a welfare check but felt they did not have a legal basis to intervene.<sup>20</sup>

Shortly after the shooting in Isla Vista, Assemblywomen Nancy Skinner (D- Berkeley) and Das Williams (D- Santa Barbara) introduced Assembly Bill No. 1014. The law, passed by the legislature and signed by the governor, allows law enforcement and immediate family members to petition the court for a Gun Violence Restraining Order (GVRO). There are three types of GVROs established by Assembly Bill No. 1014: a temporary emergency GVRO, an ex parte GVRO and a GVRO issued after notice and hearing.

### Temporary Emergency GVRO

A temporary emergency GVRO may be sought only by a law enforcement officer based on a petition or oral request to a judicial officer any time of day or night.<sup>21</sup> A temporary emergency GVRO may be issued without providing notice or an opportunity for the respondent to participate (ex parte) if a law enforcement officer asserts, and a judicial officer finds, there is reasonable cause to believe that a person poses an immediate and present danger of injury to self or others by having a firearm in his or her possession and that less restrictive alternatives have been ineffective, inadequate, or inappropriate.<sup>22</sup> The temporary emergency GVRO shall prohibit the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition, and shall expire twenty-one days from the date the order is issued.<sup>23</sup>

### Ex Parte GVRO

An ex parte GVRO may be sought by a law enforcement officer or immediate family member who submits a petition to a judicial officer during normal court hours.<sup>24</sup> An immediate family member is defined as:

- any spouse (whether by marriage or not),
- domestic partner,
- parent,
- child,
- any person related by blood or relationship within the second degree<sup>25</sup>, or
- any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.<sup>26</sup>

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<sup>20</sup> Mather, Kate, Richard Winton, and Adolfo Flores. "Deputies Didn't View Elliot Rodger's Videos in Welfare Check." *Los Angeles Times*. Los Angeles Times, 29 May 2014. Web. 20 July 2015.  
<http://www.latimes.com/local/la-me-rodger-welfare-20140530-story.html>

<sup>21</sup> Cal. Penal Code § 18125 (West).

<sup>22</sup> Cal. Penal Code § 18125(a)(1),(2) (West).

<sup>23</sup> Cal. Penal Code § 18125(b) (West).

<sup>24</sup> Cal. Penal Code § 18150(a)(1) (West).

<sup>25</sup> For example, grandparents and grandchildren; parents-in-law or children-in-law.

<sup>26</sup> Cal. Penal Code §§ 18150(2), 422.4(b)(3) (West).

A court may issue an ex parte GVRO if the petition shows that there is a substantial likelihood that:

(A) “the subject of the petition poses a significant danger, in the near future, of personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm ...” and

(B) “an ex parte gun violence restraining order is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition.”<sup>27</sup>

The court must consider the following types of evidence to determine whether to issue an ex parte GVRO:

- (1) A recent threat of violence or act of violence by the subject of the petition directed toward another.
- (2) A recent threat of violence or act of violence by the subject of the petition directed toward himself or herself.
- (3) A recent violation of a protective order of any kind.
- (4) A conviction of a violent offense.
- (5) A pattern of violent acts or violent threats within the past 12 months, including, but not limited to, threats of violence or acts of violence by the subject of the petition directed toward himself, herself, or another.<sup>28</sup>

The court may also consider any other evidence of an increased risk for violence, including, but not limited to, evidence of any of the following:

- (1) The unlawful and reckless use, display, or brandishing of a firearm by the subject of the petition.
- (2) The history of use, attempted use, or threatened use of physical force by the subject of the petition against another person.
- (3) Any prior arrest of the subject of the petition for a felony offense.
- (4) Any violation of a protective order of any kind.
- (5) Documentary evidence, including, but not limited to, police reports and records of convictions, of either recent criminal offenses by the subject of the petition that involve controlled substances or alcohol or ongoing abuse of controlled substances or alcohol by the subject of the petition.

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<sup>27</sup> Cal. Penal Code § 18150(b)(1),(2) (West).

<sup>28</sup> Cal. Penal Code §§ 18150(b)(1); 18155(b)(1)(West).

- (6) Evidence of recent acquisition of firearms, ammunition, or other deadly weapons.<sup>29</sup>

The ex parte GVRO shall prohibit the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition, and shall either be dissolved or extended at a hearing to be held within twenty-one days of the issuance of an ex parte GVRO.<sup>30</sup>

#### GVRO Issued After Notice and Hearing

Not later than twenty-one days after the issuance of an ex parte GVRO, the court shall provide a hearing for the respondent to determine if a more permanent gun violence restraining order should be issued.<sup>31</sup> At the hearing, the petitioner shall have the burden of proving, by clear and convincing evidence, that

(1) “[t]he subject of the petition, or a person subject to an ex parte gun violence restraining order, as applicable, poses a significant danger of personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition” and

(2) “[a] gun violence restraining order is necessary to prevent personal injury to the subject of the petition, or the person subject to an ex parte gun violence restraining order, as applicable, or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition, or the person subject to an ex parte gun violence restraining order, as applicable.”<sup>32</sup> If the court finds that there is clear and convincing evidence to issue a GVRO, the court shall issue a GVRO that prohibits the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for up to one year, subject to termination or renewal.<sup>33</sup>

#### Termination and Renewal

A respondent may petition for the termination of a GVRO issue after notice and hearing one time while the order is in effect.<sup>34</sup> If the court finds after the hearing that there is no longer clear and convincing evidence to believe that that the subject of a GVRO poses a significant danger of personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition and a GVRO is not necessary to prevent personal injury to the subject of the GVRO or another because less restrictive

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<sup>29</sup> Cal. Penal Code §§ 18150(b)(1); 18155(b)(2)(West).

<sup>30</sup> Cal. Penal Code § 18165 (West).

<sup>31</sup> *Id.*

<sup>32</sup> Cal. Penal Code § 18175(b)(1),(2) (West).

<sup>33</sup> Cal. Penal Code § 18175(c)(1),(d) (West).

<sup>34</sup> Cal. Penal Code § 18185(a) (West).

alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the GVRO are true, the court shall terminate the order.<sup>35</sup>

A law enforcement officer or immediate family member of the respondent may request a renewal of a GVRO at any time within the three months before the expiration of a GVRO.<sup>36</sup> The evidentiary requirements and standard of review are the same as those of an initial GVRO issued after notice and hearing.<sup>37</sup>

### Surrender of Firearms

Upon issuance of a GVRO, the court shall order the subject of the petition to surrender to the local law enforcement agency all firearms and ammunition in their custody or control, or which the subject of the petition possesses or owns.<sup>38</sup> Surrender shall occur by immediately surrendering all firearms and ammunition in a safe manner, upon request of any law enforcement officer, to the control of the officer, after being served with the restraining order.<sup>39</sup> A law enforcement officer serving a gun violence restraining order that indicates that the restrained person possesses any firearms or ammunition shall request that all firearms and ammunition be immediately surrendered.<sup>40</sup> Alternatively, if no request is made by a law enforcement officer, the surrender shall occur within 24 hours of being served with the order, by either surrendering all firearms and ammunition in a safe manner to the control of the local law enforcement agency, by selling all firearms and ammunition to a licensed gun dealer, or transferring all firearms and ammunition to a licensed firearms dealer in accordance with state law.<sup>41</sup> The law enforcement officer or licensed gun dealer taking possession of any firearms or ammunition shall issue a receipt to the person surrendering the firearm or firearms or ammunition or both at the time of surrender.<sup>42</sup> A person ordered to surrender all firearms and ammunition shall file the original receipt with the court that issued the GVRO and a copy of the receipt with the law enforcement agency that served the gun violence restraining order within 48 hours of service of the order.<sup>43</sup>

### Penalties

It is a misdemeanor crime for a person to own or possess a firearm or ammunition knowing that he or she is prohibited from doing so by a temporary emergency GVRO, ex parte GVRO, or GVRO issued after notice and hearing.<sup>44</sup> Such individual shall also be prohibited from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to

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<sup>35</sup> Cal. Penal Code § 18185(b) (West).

<sup>36</sup> Cal. Penal Code § 18190 (West).

<sup>37</sup> *Id.*

<sup>38</sup> Cal. Penal Code § 18120(b)(1) (West).

<sup>39</sup> Cal. Penal Code § 18120(b)(2) (West).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* See also Cal. Penal Code § 29830 (West).

<sup>42</sup> *Id.*

<sup>43</sup> Cal. Penal Code § 18120(b)(2)(A),(B) (West).

<sup>44</sup> Cal. Penal Code § 18205 (West).

purchase or receive, a firearm or ammunition for a period of five years from the expiration of any GVRO.<sup>45</sup>

It is a misdemeanor crime for a person to file a petition for an ex parte GVRO or GVRO issued after notice and a hearing knowing the information in the petition to be false or with the intent to harass.<sup>46</sup>

### **Experience Under Temporary Firearm Removal Statutes**

#### **Connecticut**

In the first fourteen years that the Connecticut statute was in effect (1999-2013), 762 risk-warrants were issued to temporarily remove firearms from individuals who were deemed to pose an imminent risk of violence, with significant increases in the frequency of use following the 2007 shooting at Virginia Tech University and the 2013 shooting at Sandy Hook Elementary in Newtown, Connecticut.<sup>47,48</sup> At least one firearm was removed in 99% of cases, with an average of seven firearms removed per risk-warrant subject.<sup>49</sup>

Threats to self, including suicidality or self-injury, were listed as the type or object of alleged risk in at least 61% of risk-warrant cases where such information was available.<sup>50</sup> Only 1% of individuals served with warrants were in active psychiatric treatment at the time of service and just 12% had been in treatment in the past year for a mental health or substance use disorder in the Connecticut public behavioral health system; the majority of individuals served had no history of treatment.<sup>51,52</sup> However, in the year *following* firearm removal, nearly one-third (29%<sup>53</sup>) of risk-warrant subjects received treatment services in the state system for a mental health and/or substance use disorder.<sup>54</sup> These data highlight that the law's grounds for the issuance of a warrant, based on risk of dangerousness rather than mental illness, allows for

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<sup>45</sup> *Id.*

<sup>46</sup> Cal. Penal Code § 18200 (West).

<sup>47</sup> Norko, MA. & Baranoski, M. *Gun Control Legislation in Connecticut: Effects on Persons with Mental Illness*, 46 Conn. L. Rev. 1609, 1624-1630 (2014).

<sup>48</sup> Swanson, JW. Norko, M, Lin, HJ, Alanis-Hirsch, K, Frisman, L, Baranoski, M. Easter, M, Robertson, AG. Swartz, M, and Bonnie, RJ. Implementation and Effectiveness of Connecticut's Risk-Based Gun Removal Law: Does it Prevent Suicides? (August 24, 2016). Law and Contemporary Problems, Forthcoming. Available at SSRN: <https://ssrn.com/abstract=2828847>.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Norko, MA. & Baranoski, M. *Gun Control Legislation in Connecticut: Effects on Persons with Mental Illness*, 46 Conn. L. Rev. 1609, 1624-1630 (2014).

<sup>52</sup> Swanson, JW. Norko, M, Lin, HJ, Alanis-Hirsch, K, Frisman, L, Baranoski, M. Easter, M, Robertson, AG. Swartz, M, and Bonnie, RJ. Implementation and Effectiveness of Connecticut's Risk-Based Gun Removal Law: Does it Prevent Suicides? (August 24, 2016). Law and Contemporary Problems, Forthcoming. Available at SSRN: <https://ssrn.com/abstract=2828847>.

<sup>53</sup> 29% is a conservative estimate; it is likely that additional risk-warrant subjects sought private mental health and substance use treatment services that are not included in this figure.

<sup>54</sup> Swanson, JW. Norko, M, Lin, HJ, Alanis-Hirsch, K, Frisman, L, Baranoski, M. Easter, M, Robertson, AG. Swartz, M, and Bonnie, RJ. Implementation and Effectiveness of Connecticut's Risk-Based Gun Removal Law: Does it Prevent Suicides? (August 24, 2016). Law and Contemporary Problems, Forthcoming. Available at SSRN: <https://ssrn.com/abstract=2828847>.

intervention to not only occur before treatment begins, but to serve as a portal to treatment in itself.

An analysis of Connecticut's risk-warrant law adds to the growing body of evidence for temporary risk-based firearms removal laws by demonstrating that such policies hold promise as effective tools in suicide prevention. Matching risk-warrant cases to state death records showed that 21 individuals who had been served risk-warrants went on to die by suicide, a rate approximately 40 times higher than the average annualized suicide rate in the adult population in Connecticut during the same time period. Of those 21 suicides, six were carried out with firearms. Using known case fatality rates of the suicide methods used, the researchers estimated that the 21 deaths likely represent 142 suicide attempts, primarily using means that are less lethal than a firearm.<sup>55</sup>

Had firearms been available and used in more of those attempts, more risk-warrant subjects would have died by suicide. To reach this conclusion, the researchers used national data to estimate the likelihood that people in a demographically matched population of gun owners would have chosen a gun in attempting suicide. This likelihood was applied in developing a model for calculating how many more of those estimated 142 suicide attempts would have been fatal had the subjects still been in possession of firearms in the absence of the risk-warrant. Since attempted suicide with a firearm has such a high case fatality rate (85%), reducing the percentage of suicide attempts with a firearm saves lives.<sup>56</sup> The resulting model considers various levels of risk, finding that for every 10 to 20 risk-warrants issued, one suicide is averted.<sup>57</sup> Given that 762 risk-warrants were issued through 2013, an estimated 38 to 76 more people are alive today as a result of risk-warrants in Connecticut.<sup>58</sup>

## Indiana

During 2006 and 2007, the first two years the Indiana law was in effect, one county court in Indianapolis heard 133 cases involving firearms removed under the new statute.<sup>59</sup> In only 6% of cases the judge ordered the firearms returned to the owner; in 53% of the cases, the court retained the weapons and in 42% of cases the gun owners voluntarily gave up their weapons.<sup>60</sup> In 2007, the pattern of hearing outcomes changed dramatically.<sup>61</sup> Retention of firearms by decision

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<sup>55</sup> *Id.*

<sup>56</sup> Miller, M., Azrael, D., & Barber, C. (2012). Suicide mortality in the United States: the importance of attending to method in understanding population-level disparities in the burden of suicide. *Annual review of public health*, 33, 393-408.

<sup>57</sup> Swanson, JW, Norko, M, Lin, HJ, Alanis-Hirsch, K, Frisman, L, Baranoski, M, Easter, M, Robertson, AG, Swartz, M, and Bonnie, RJ. Implementation and Effectiveness of Connecticut's Risk-Based Gun Removal Law: Does it Prevent Suicides? (August 24, 2016). Law and Contemporary Problems, Forthcoming. Available at SSRN: <https://ssrn.com/abstract=2828847>.

<sup>58</sup> Educational Fund to Stop Gun Violence. (2016). Extreme Risk Protection Orders: An Opportunity to Save Lives in Washington. Available at <http://efsgv.org/wp-content/uploads/2016/09/FINAL-ERPO-complete-091916-1.pdf>.

<sup>59</sup> Parker, G. (2010). Application of a firearm seizure law aimed at dangerous persons: outcomes from the first two years. *Psychiatric Services*, 61(5), 478-482.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

of the court dropped to only 8% of cases, and in only 14% of cases did gun owners voluntarily surrender their weapons.<sup>62</sup>

More recent data from 2006-2013 (the first eight years of the law being in effect) from Marion County (Indianapolis) shows the court heard 404 cases regarding firearm removal by police.<sup>63</sup> Over the study period, risk of suicide was the most common reason for firearm removal by police (68% of cases overall, peaking at 88.9% in 2009). Risk of actual or threatened violence occurred in 21% of cases, and psychosis occurred in 16% of cases.<sup>64</sup> More than a quarter of the cases noted intoxication by drugs or alcohol.<sup>65</sup>

During the initial hearing, the court retained firearms in 63% of cases (primarily associated with the individual failing to appear in court) and dismissed 29% of cases. From February 2008 through 2013 the court ordered retention of firearms only in cases where the defendant failed to appear for the scheduled hearing.<sup>66</sup>

The law has rarely been used outside Marion County, according to the study author. On the whole, most of the individuals whose firearms were removed under the Indiana law did not request return of their firearms.<sup>67</sup>

### California, Washington, and Oregon

The California GVRO went into effect January 1, 2016 and the Washington law went into effect December 1, 2016; data on the implementation of either law are not yet publicly available. The Oregon law has not yet gone into effect.

### Conclusion

The GVRO is an evidence-based policy that seeks to provide law enforcement and families with a tool to temporarily remove firearms from an individual during times of crisis regardless of whether that person has been diagnosed with a mental illness. It also seeks to provide a less restrictive means of preventing tragedy from occurring. The GVRO simply prohibits an individual from purchasing or possessing firearms for a temporary period of time. If an individual were involuntarily committed, not only would the person be confined to a hospital, but the accompanying firearm prohibition could be permanent.

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<sup>62</sup> *Id.*

<sup>63</sup> Parker, G. (2015). Circumstances and Outcomes of a Firearm Seizure Law: Marion County, Indiana, 2006–2013. *Behavioral Sciences & the Law*, 33(2-3), 308-322. doi:10.1002/bsl.2175

<sup>64</sup> Parker, G. (2015). Circumstances and Outcomes of a Firearm Seizure Law: Marion County, Indiana, 2006–2013. *Behavioral Sciences & the Law*, 33(2-3), 308-322. doi:10.1002/bsl.2175

<sup>65</sup> Parker, G. (2015). Circumstances and Outcomes of a Firearm Seizure Law: Marion County, Indiana, 2006–2013. *Behavioral Sciences & the Law*, 33(2-3), 308-322. doi:10.1002/bsl.2175

<sup>66</sup> Parker, G. (2015). Circumstances and Outcomes of a Firearm Seizure Law: Marion County, Indiana, 2006–2013. *Behavioral Sciences & the Law*, 33(2-3), 308-322. doi:10.1002/bsl.2175

<sup>67</sup> Parker, G. (2015). Circumstances and Outcomes of a Firearm Seizure Law: Marion County, Indiana, 2006–2013. *Behavioral Sciences & the Law*, 33(2-3), 308-322. doi:10.1002/bsl.2175