

SECRETARY OF STATE

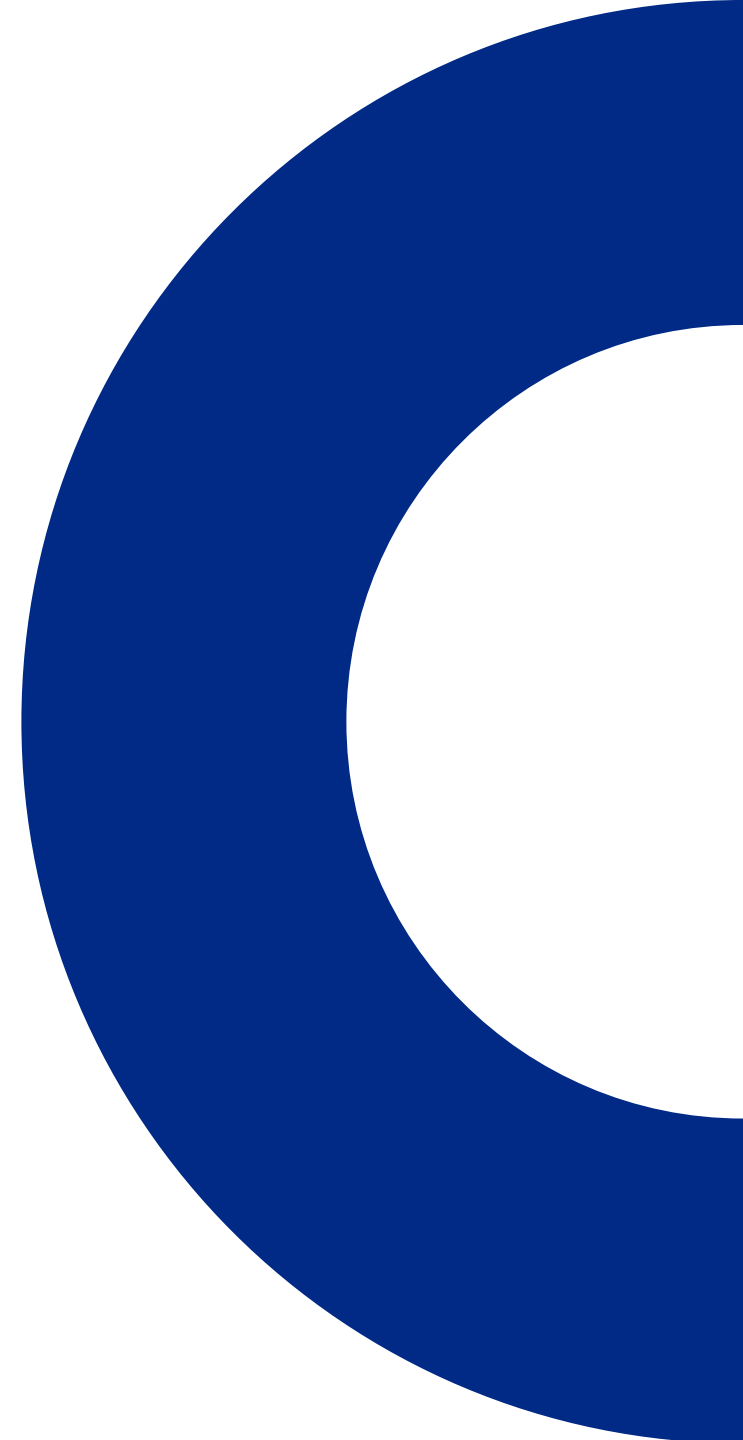
Joint Legislative Audit Committee Hearing: 01/11/2024



Advisory Report: Increased Awareness and Training Could Enhance the Effectiveness of Oregon's Extreme Risk Protection Order Law

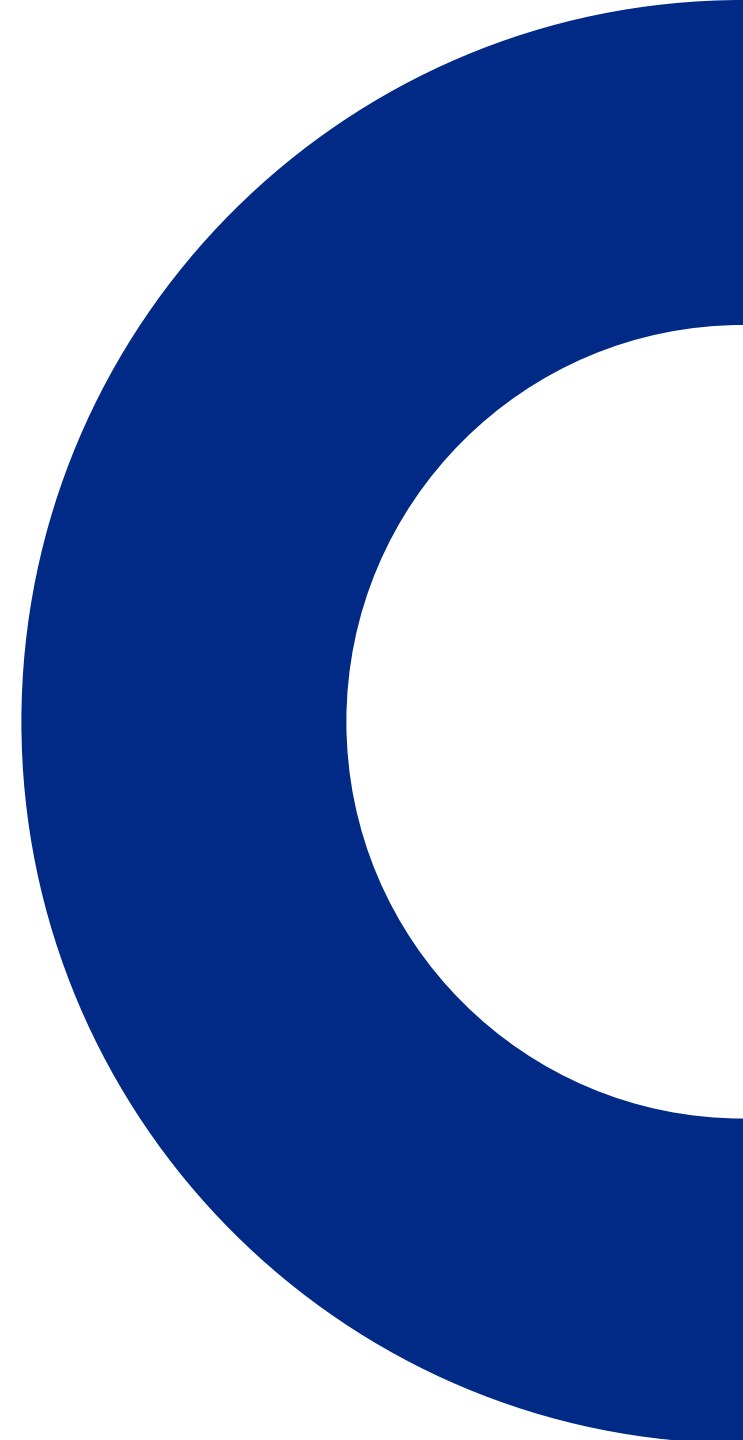
WHY WE DID THIS ADVISORY REPORT

1. Firearm-related deaths are on the rise both nationally and in Oregon.
2. Mass shooting incidents as well as recent federal legislation in 2022 brought increased attention to ERPO laws.
3. Extreme Risk Protection Orders (ERPOs) are seen as a potentially effective tool for reducing gun violence. Oregon is one of 21 states and the District of Columbia with these laws.



REPORT OBJECTIVES

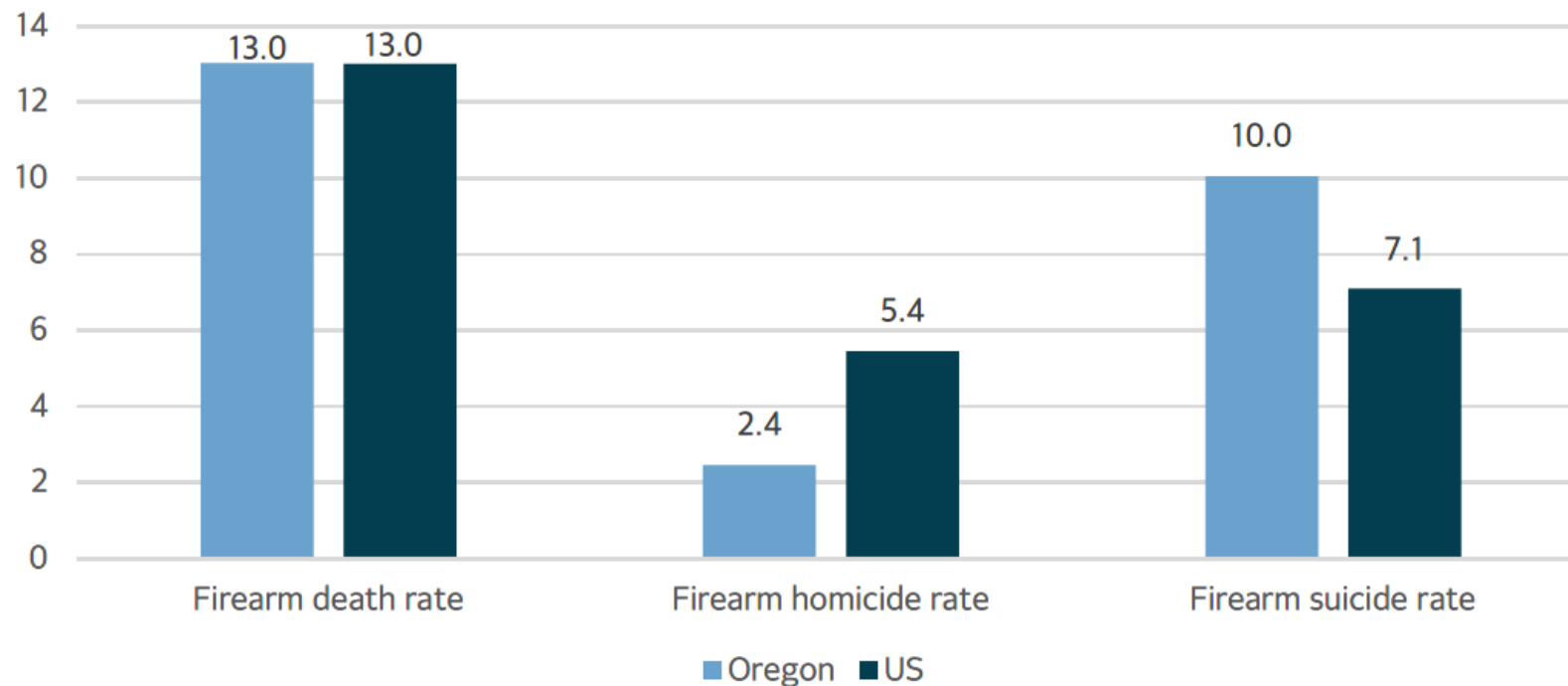
1. What is Oregon's ERPO law and how does it work?
2. What state and local entities are involved in the process?
3. How is Oregon's ERPO law being used and is it working as intended?
4. How does Oregon's ERPO law compare to best practices and similar laws in other states?
5. What resources are available to law enforcement and the public to learn more about Oregon's ERPO law?



FIREARM-RELATED DEATHS IN OREGON

Oregon's firearm suicide rate is 42% higher than the national average.

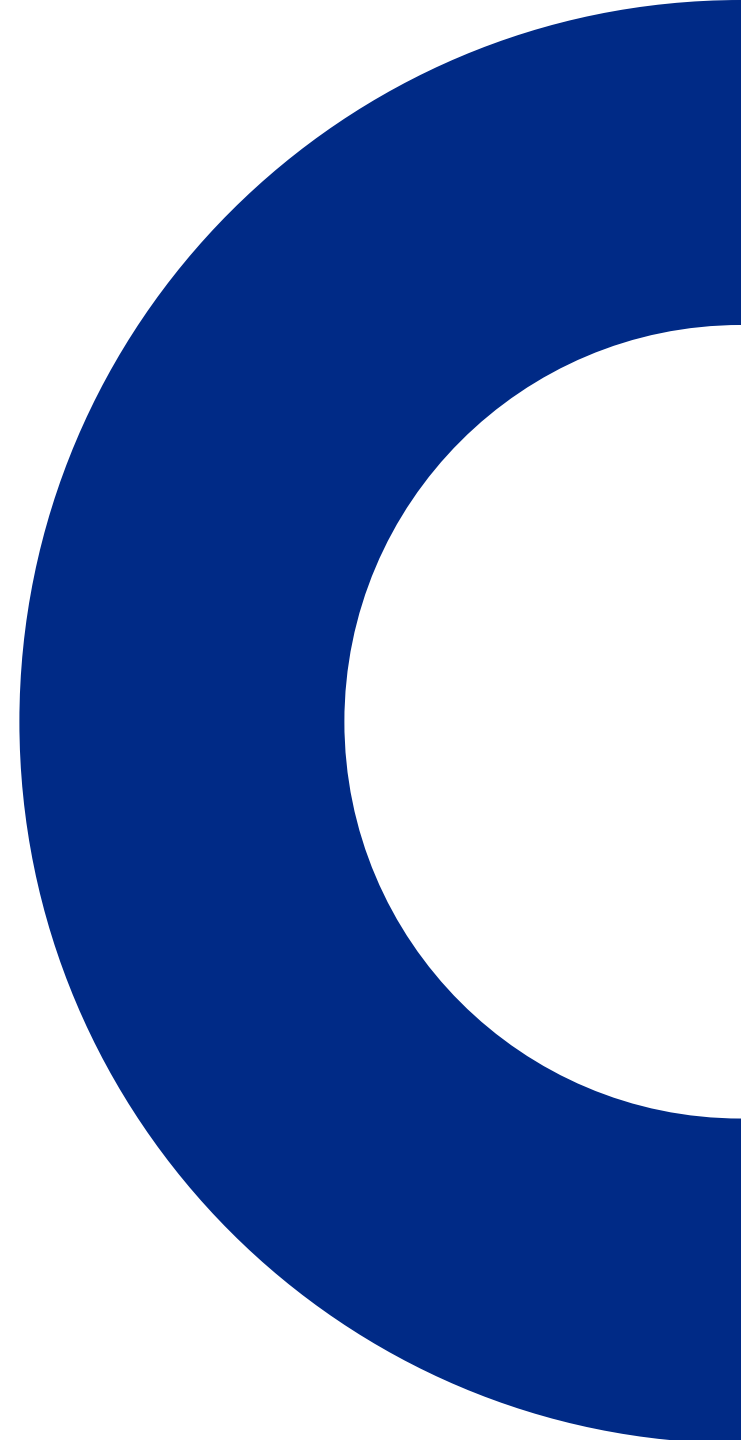
Figure 1: Oregon's age-adjusted firearm death rate is close to the national average, but the distribution between homicides and suicides varies considerably



Source: Combined CDC WONDER data from 2018-2021 compiled by Everytown for Gun Safety

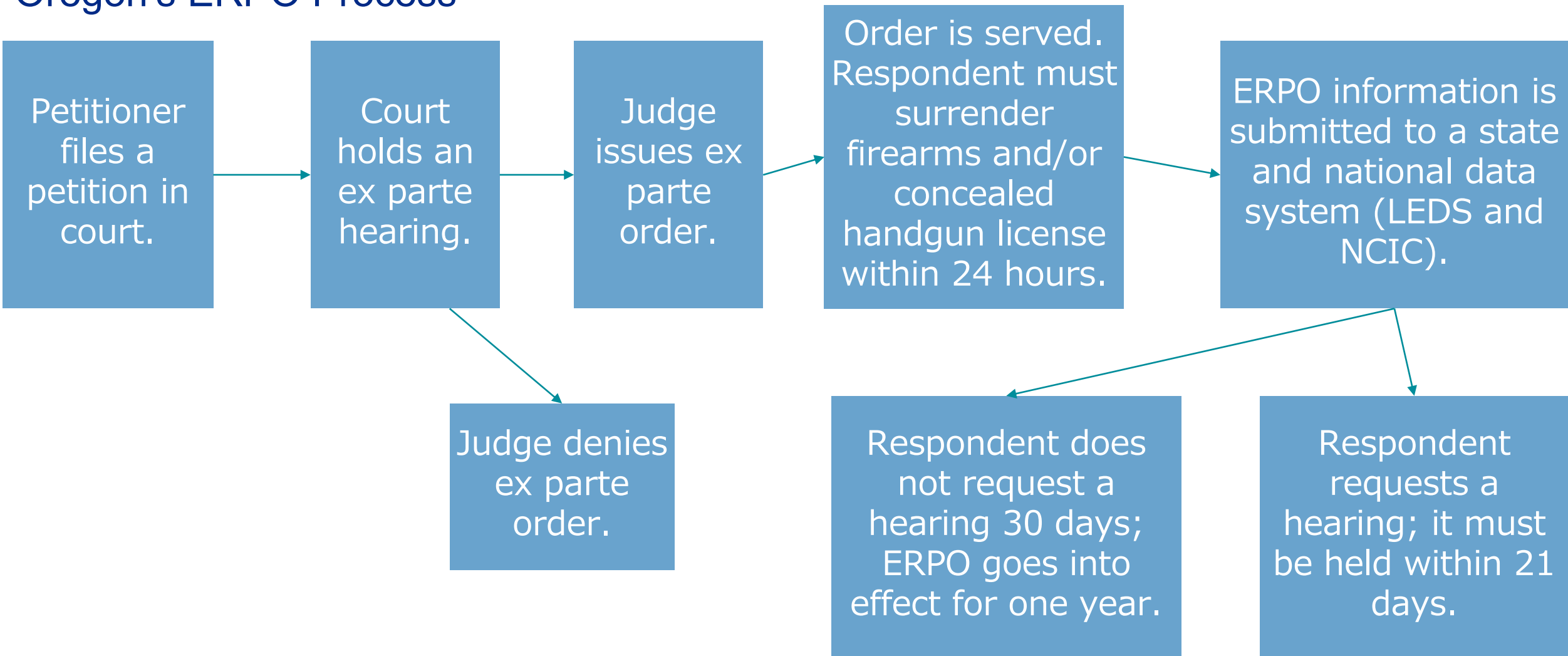
WHAT IS OREGON'S ERPO LAW AND HOW DOES IT WORK?

- Oregon's ERPO law went into effect in 2018
- An ERPO is a civil court order, requested by a family or household member or law enforcement officer, that prevents a person at risk of hurting themselves or others from having or getting deadly weapons, especially firearms.
- ERPOs require "clear and convincing evidence" that the respondent is at risk of suicide or of causing physical injury to another person.
- ERPOs should focus on individuals exhibiting dangerous behaviors, not those with mental illness



WHAT IS OREGON'S ERPO LAW AND HOW DOES IT WORK?

Oregon's ERPO Process

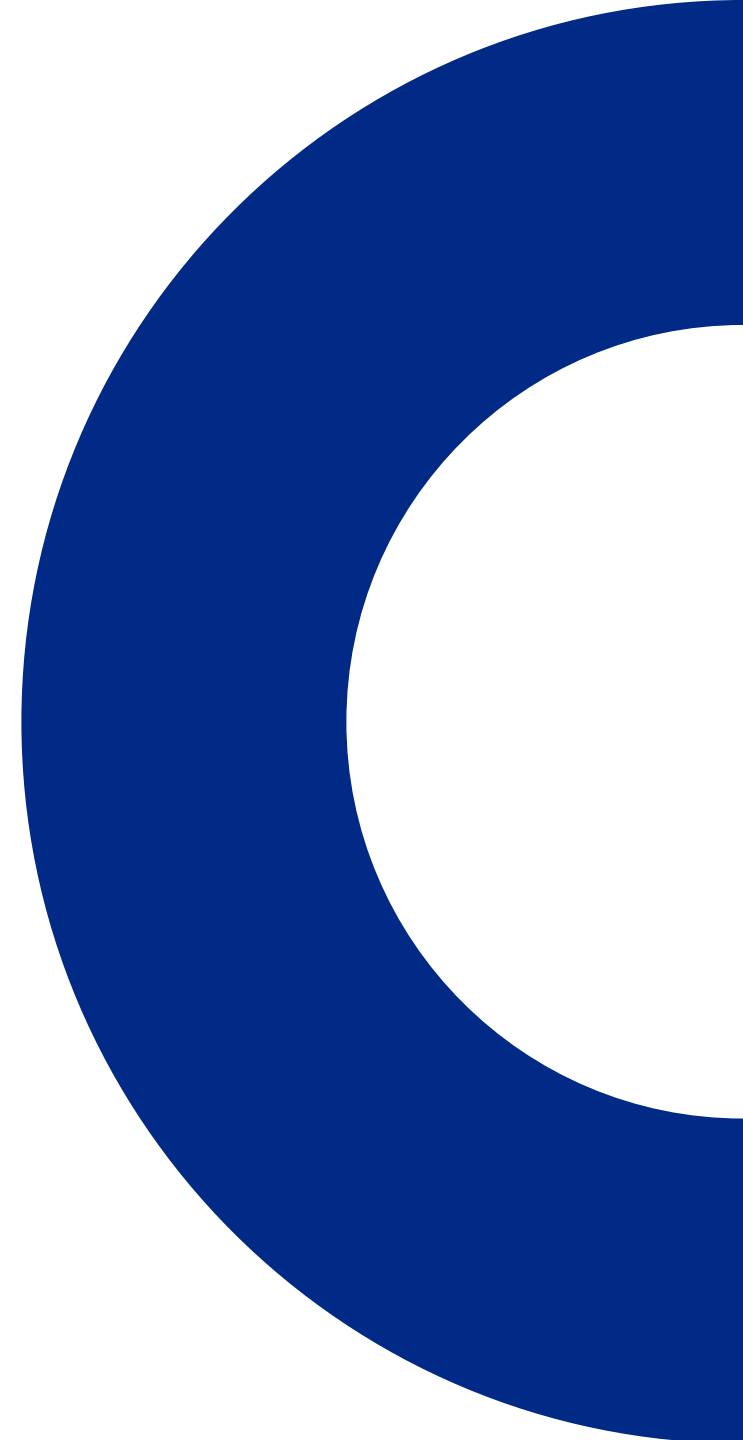


ERPO Risk Factors Outlined in Statute

- A history of suicide threats or attempts or acts of violence by the respondent directed against another person
- A history of use, attempted use or threatened use of physical force against another person
- A previous conviction for: misdemeanors involving violence, a stalking or other similar offense, domestic violence, driving under the influence, or cruelty to animals
- Evidence of recent use of controlled substances
- Previous unlawful and reckless use, display or brandishing of a deadly weapon
- A previous violation of a court order including restraining orders
- Evidence of the acquisition or attempted acquisition of a deadly within the previous 180 days
- Any additional information the court finds to be reliable, including statements from the respondent

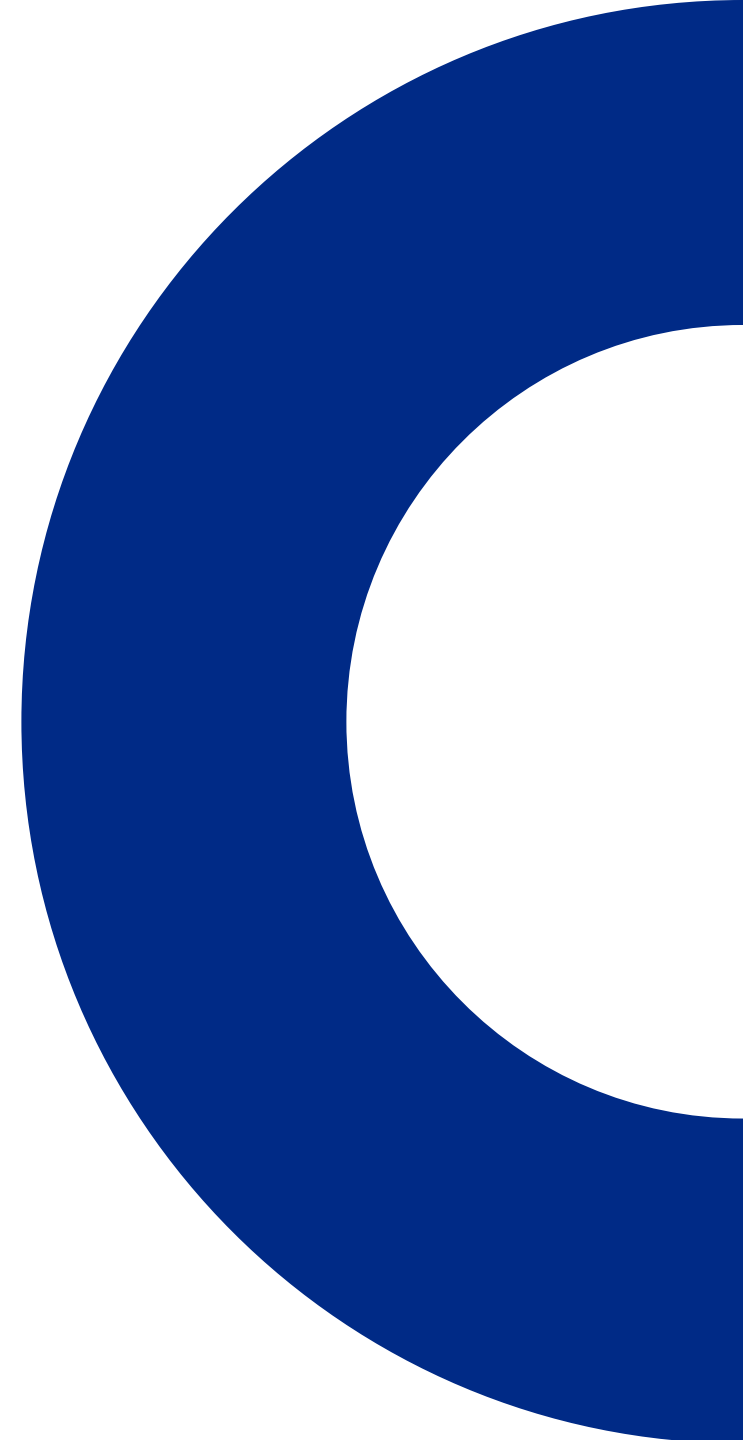
WHAT IS OREGON'S ERPO LAW AND HOW DOES IT WORK?

- It is a Class A Misdemeanor violate the terms of an ERPO.
- It is also a Class A Misdemeanor to petition for an ERPO with the intent to harass the respondent or for knowingly filing providing false information.
- The process is similar to that used for other civil protective orders.
- Other protective orders have a more robust process for documenting firearm surrenders.
- ERPOs are a relatively new public policy tool for reducing incidents of gun violence, but initial research findings are encouraging.



WHAT STATE AND LOCAL ENTITIES ARE INVOLVED IN THE PROCESS AND WHAT IS THEIR ROLE?

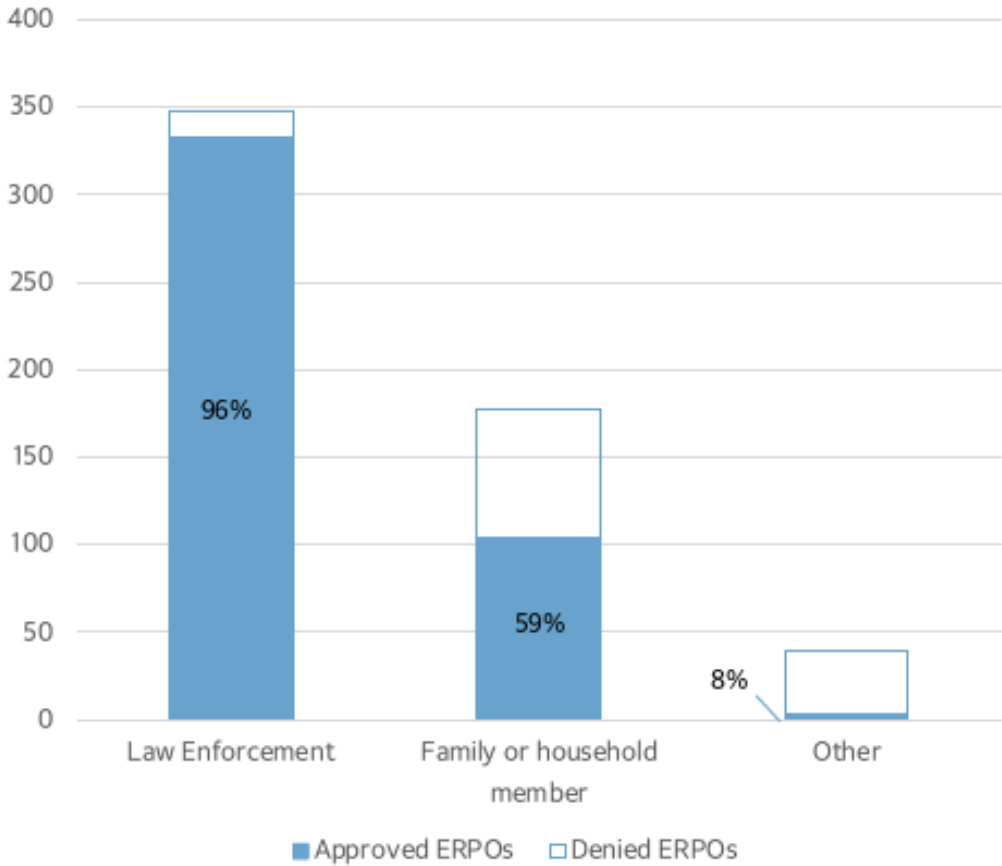
- Local courts and law enforcement.
 - Circuit Courts hear cases and decide if ERPO petitions meet legal thresholds.
 - Sheriff's Offices serve orders, input data into LEDS and NCIC, can be petitioners
- State-Level Entities:
 - OJD unified system of state courts, creates forms and uniform process
 - OSP administers state LEDS database, responsible for firearm related background checks.
- Report identifies other non-ERPO, state-level efforts to address gun violence and suicide.



HOW IS OREGON'S ERPO LAW BEING USED AND IS IT WORKING AS INTENDED?

- Between 01/2018-06/2022 564 ERPOs were requested
- 78% of ex parte orders approved

Figure 3: Members of law enforcement petitioned for the most ERPOs and nearly all were approved

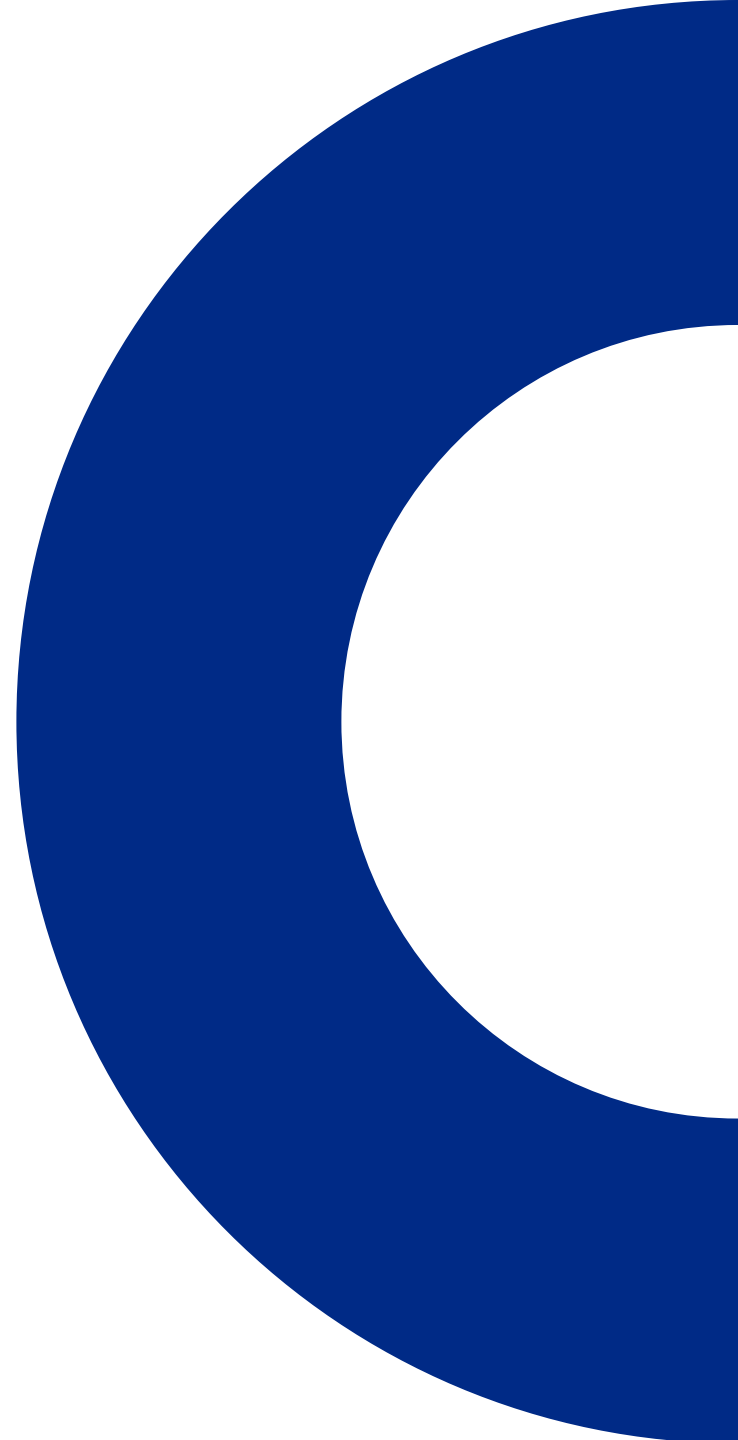


Source: OAD analysis of OJD compiled ERPO case data

HOW IS OREGON'S ERPO LAW BEING USED AND IS IT WORKING AS INTENDED?

Contesting Ex Parte Orders

- Only 19% of respondents requested hearings to challenge an ex parte order.
- Challenged ERPOs upheld 54% of the time after challenge
- Roughly 20% below the rate that ex parte orders are approved.



HOW IS OREGON'S ERPO LAW BEING USED AND IS IT WORKING AS INTENDED?

Figure 4: ERPO use varies widely between counties in Oregon

County	Total ERPOs	ERPOs/100k Residents	County	Total ERPOs	ERPOs/100k Residents
Washington	94	15.2	Clatsop	8	20.3
Deschutes	78	39.6	Lake	8	99.1
Multnomah	70	8.4	Jefferson	6	24.9
Clackamas	60	14.1	Linn	6	4.7
Josephine	45	52.0	Klamath	5	7.3
Marion	29	8.3	Lincoln	5	10.4
Yamhill	26	23.9	Crook	4	17.1
Jackson	17	7.6	Malheur	4	12.5
Lane	15	3.9	Curry	3	13.0
Douglas	14	12.4	Wasco	3	11.0
Umatilla	14	17.2	Hood River	2	7.8
Coos	13	20.5	Baker	1	5.9
Benton	11	11.6	Tillamook	1	3.8
Columbia	11	20.6	Union	1	3.7
Polk	10	11.9	Oregon Total	564	13.2

Source: OAD analysis of OJD compiled ERPO case data

HOW IS OREGON'S ERPO LAW BEING USED AND IS IT WORKING AS INTENDED?

ERPOs are used far less frequently than other protective order types

Figure 5: ERPOs make up less than 1% of all protection orders requested in Oregon between 2018 and 2021

Order Type	Orders requested	Percent of total
Family Abuse Protection Act	37,533	58.6%
Stalking Protection Orders	13,572	21.2%
Elderly Persons and Persons with Disabilities Abuse Prevention Act	11,860	18.5%
Sexual Abuse Protection Order	555	0.9%
Extreme Risk Protection Order	485	0.8%
Total	64,005	100%

Source: OAD analysis of OJD compiled protective order case data

HOW IS OREGON'S ERPO LAW BEING USED AND IS IT WORKING AS INTENDED?

Enhanced data collection and evaluation is needed to assess the effectiveness and equity of the ERPO law.

- OJD collects information on every ERPO requested (petitioner type, date, whether it was approved for an ex parte order, location, etc).
- Researchers need additional information in order to fully assess the effectiveness and equity of the program.
- More detailed information on petitioners, respondents, order information and circumstances, and firearm information would be needed to fully evaluate the effectiveness and equity of the law.
- Statute lacks requirement for information gathering and evaluation.

HOW IS OREGON'S ERPO LAW BEING USED AND IS IT WORKING AS INTENDED?

Demographics and equity considerations

- Based on data provided by OSP, active ERPO respondents tend to be young to middle-aged white men, but the population is small.

Figure 6: Current ERPO respondents in Oregon are largely white men under the age of 45

Race	Count	%
White	100	95%
Asian/Pacific Islander	2	2%
Black	2	2%
Unknown	1	1%
Gender		
Male	90	86%
Female	15	14%
Age		
18-25	26	25%
26-35	22	21%
36-45	24	23%
46-55	13	12%
>55	20	19%

Source: OAD analysis of OSP LEDS ERPO data

HOW IS OREGON'S ERPO LAW BEING USED AND IS IT WORKING AS INTENDED?

ERPO Barriers and Challenges

- Petitioners and respondents: time, lack of familiarity with court processes, lack of awareness of the law, and language barriers.
- Law enforcement: similar to other orders and rare but serving ERPOs can be risky due to known risk, lack of mechanism to ensure that all firearms are surrendered.

HOW DOES OREGON'S ERPO LAW COMPARE TO BEST PRACTICES AND SIMILAR LAWS IN OTHER STATES?

Comparing Oregon's ERPO Law to other states:

- Evidence: The highest burden of evidence for ex parte orders (along with Michigan) which is maintained for final orders
 - 14 other states use "clear and convincing" for final orders
- Duration: The longest ex parte order period of 21 days
 - Most states have periods less than 14 days
- Eligible Petitioners: A typical set of eligible petitioners, same as 15 other states
 - Some states only allow law enforcement, others allow additional types such as employers, health care workers and school personnel

HOW DOES OREGON'S ERPO LAW COMPARE TO BEST PRACTICES AND SIMILAR LAWS IN OTHER STATES?

Compared to best practices and some states Oregon has:

- Less robust firearm surrender procedures
 - Recommended practice is for immediate surrender, availability of search warrants
- Lacks protections for minor respondents
 - Confidentiality of court records and additional support
- Washington's ERPO law includes both of these elements

HOW DOES OREGON'S ERPO LAW COMPARE TO BEST PRACTICES AND SIMILAR LAWS IN OTHER STATES?

Figure 9: Since 2020 Oregon has had the 10th most ERPOs per 100,000 adults

State	ERPOs since 2020	ERPO rate per 100k adults	State	ERPOs since 2020	ERPO rate per 100k adults
Florida	5,872	33.6	Washington	419	7.1
Delaware	137	25.2	Vermont	30	5.7
Maryland	903	18.8	Virginia*	282	4.2
Connecticut	524	18.2	Colorado	151	3.3
Indiana	645	12.4	D.C.	15	1.9
New Jersey	877	12.1	Illinois	154	1.6
California	3,197	10.5	New Mexico*	8	0.5
New York	1,442	9.2	Nevada*	11	0.4
Rhode Island	79	8.9	Massachusetts	12	0.2
Oregon	290	8.6	Hawaii*	1	0.1

Source: Associated Press count of approved ERPOs as of September 2022

WHAT RESOURCES ARE AVAILABLE TO LAW ENFORCEMENT AND THE PUBLIC TO LEARN MORE ABOUT OREGON'S ERPO LAW?

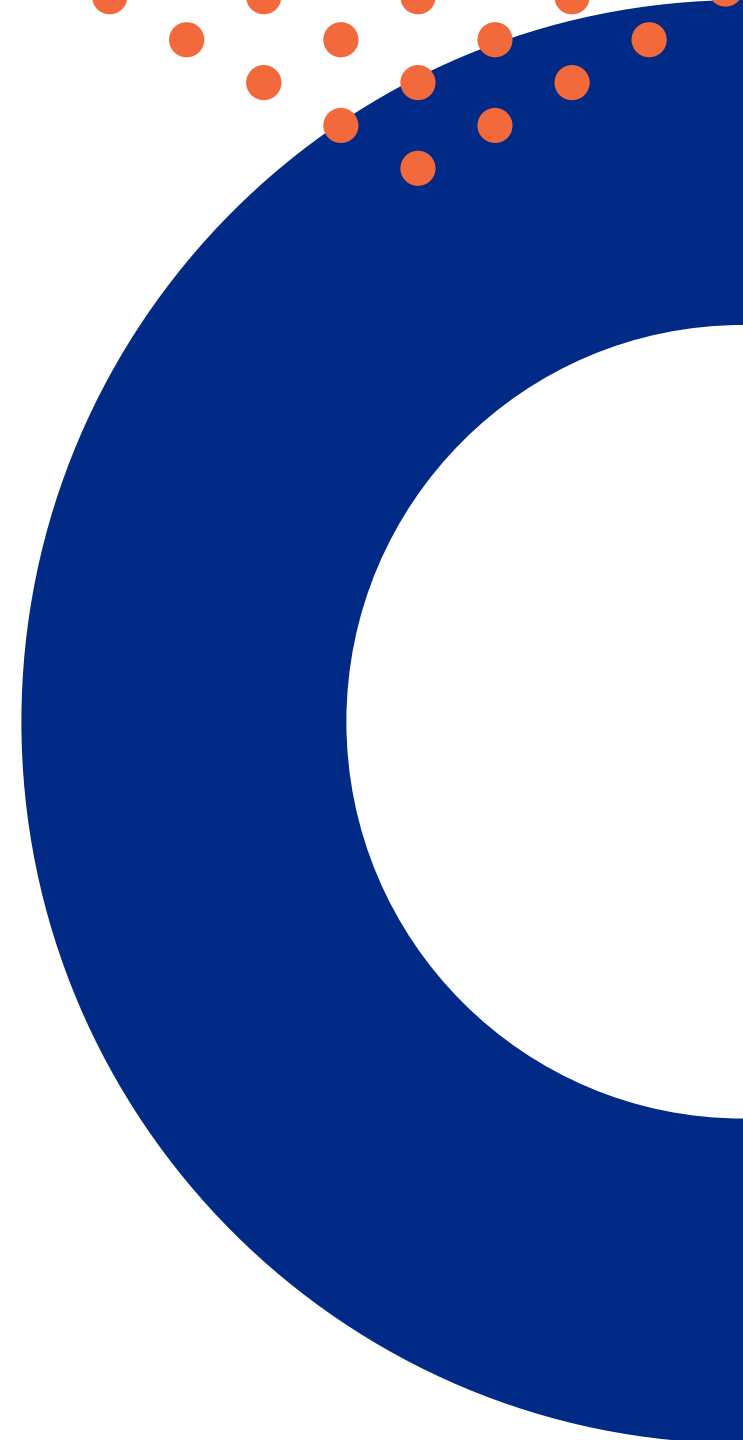
- OJD provides detailed forms and instructions for petitioners and respondents. DOJ has an informational webpage.
- Non-profits such as Legal Aid of Oregon and OCADSV provide information.
- Other states have begun to provide more resources:
 - California \$10 million for increased awareness and training
 - Colorado created an Office of Gun Violence Prevention
 - Illinois created a public education campaign through their department of health.
- In our interviews a lack of public awareness was regularly cited as a barrier to ERPO use.

WHAT RESOURCES ARE AVAILABLE TO LAW ENFORCEMENT AND THE PUBLIC TO LEARN MORE ABOUT OREGON'S ERPO LAW?

Law enforcement training and awareness

- We were told by multiple stakeholders that there is a need for more law enforcement training on ERPOs.
- DPSST does not provide any statewide or regional training on ERPOs
- Bend PD had an officer who developed training and Deschutes County has one of the highest numbers of ERPOs
- Other states, such as California, have begun to invest more heavily in law enforcement training.

QUESTIONS?





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