



Statement for the Record
Senate Committee on the Judiciary
Hearing on Red Flag Laws: Examining Guidelines for State Action

March 26, 2019

The American College of Physicians (ACP) appreciates the opportunity to submit a statement for the record to the Senate Judiciary Committee that shares our views on examining guidelines for extreme risk protection orders (ERPOs), also known as “red flag laws,” that may be enacted to reduce the threat of firearms-related violence in this country. We applaud Chairman Lindsey Graham and Ranking Member Diane Feinstein for convening this forum to discuss the guidelines for state action on red flag laws, and we appreciate their bipartisan support of this policy as one measure to improve the safety of our citizens in schools, homes, workplaces, and places of worship. This statement will provide you with our recommendations concerning not only ERPOs but also our support for additional legislation to reduce firearms violence that has already been passed by the House or introduced in the 116th Congress, as well as actions that can be taken at the state level.

The American College of Physicians is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 154,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

For more than 20 years, ACP has advocated for the need to address firearm-related injuries and deaths in the United States. Yet, tragically, firearm violence continues to be a public health crisis that requires the nation's immediate attention and demands bipartisan intervention from the U.S. Congress. In the past two months, our nation is still reeling from mass shootings that have taken place in Louisiana, Florida, Pennsylvania, Texas, and New Jersey. We are deeply saddened for the families of those killed or injured in the recent shooting in New Zealand, in which the human cost has resulted in 50 lives lost and at least 50 injured. ACP is concerned about not only the alarming number of mass shootings but also the daily toll of firearm violence in neighborhoods, homes, workplaces, and public and private places across the country.

On October 30, 2018, the *Annals of Internal Medicine* published ACP’s updated position paper on reducing firearms injuries and deaths. Entitled, “[Reducing Firearm Injuries and Deaths in the United States: A Position Paper from the American College of Physicians](#),” the policy recommendations in the paper build on current ACP policies and are based on analyses of common-sense approaches that the evidence suggests will be effective in reducing deaths and

injuries from firearm-related violence. The paper was an update and expansion of ACP's 2014 position paper. The new paper reaffirms many of ACP's 2014 recommendations, such as banning sales of assault weapons and requiring universal background checks, and proposes new policies on issues including extreme risk protection orders, domestic violence, child access prevention, and others that are found to be effective in reducing gun-related injuries and deaths. A summary of the paper can be found [here](#).

ACP's paper presents reasonable and evidence-based proposals to stem firearm-related violence, consistent with the Second Amendment that could help move and guide the discussion in Congress on ways to address this growing epidemic. It also reaffirms the reality that physicians are indeed on the front lines of encountering patients who have been subjected to firearm-related violence and that this issue is very much a threat to the public health. This prompted a strong negative reaction from the National Rifle Association (NRA) through social media where physicians were told to "stay in their lane." Physicians and other supporters from across the nation quickly took to Twitter in a sharp rebuke to share personal stories of treating and caring for victims of firearm violence through a campaign known as #ThisIsOurLane. This social media maelstrom caught the attention of major media outlets and garnered substantial coverage, including from The New York Times, The Wall Street Journal, Time, the Associated Press, and National Public Radio.

ACP Supports the Enactment of Extreme Risk Protection Orders to Curb Gun Violence

We are pleased that the Chairman and Ranking Member of this Committee have offered their support of extreme risk protection orders, also known in some states as "red flag laws" as one way to stem the threat of firearm violence in this country. ACP supports the enactment of extreme risk protection orders (ERPO) **to allow families and law enforcement to obtain a ruling from an impartial judge within 72 hours to temporarily remove guns from individuals at imminent risk of using them to harm themselves or others, with due process. ERPOs empower families, household members, or law enforcement officers to ask a judge to temporarily remove a person's access to firearms who is found to be at imminent risk of using them to harm themselves or others.**

We urge the Senate Judiciary Committee to approve legislation offered by Senator Feinstein, **S. 506, the Extreme Risk Protection Order Act of 2019**. This legislation would allow states to use Community Oriented Policing Services (COPS) funding to develop court processes to allow family members to petition a court for a firearm violence prevention order to temporarily halt dangerous individuals from purchasing weapons from federally licensed dealers. Under this bill, states could also develop a court process that would allow family members to petition a court for an extreme risk protection order that would grant law enforcement the authority to temporarily take weapons away from individuals who present a threat to themselves or others.

ACP Urges States to Enact ERPO's

We also urge states to consider the enactment of ERPO's to empower family members to act to keep their loved ones safe if they are at risk for impending violence by an individual who threatens them. Depending on the state, family members or law enforcement can go to court and seek an order that would allow police to remove guns from an individual's home and

restrict their ability to purchase firearms if that individual poses a threat to himself/herself or others. If the judge agrees that this person is a threat, those guns would be temporarily removed from the home of the individual – for as few as several weeks to up to a year. According to the Brady Campaign, [42 percent](#) of mass shooters exhibit warning signs before committing their crimes. Many deaths and grievous injuries from suicides and attempted suicides using firearms might be prevented if family members could petition a court to remove firearms from a loved one who they know to be at imminent risk of harming themselves. [Fourteen states](#) and the District of Columbia currently have ERPO laws. Many of these states allow family or household members as well as law enforcement to submit a petition for an ERPO, including Maryland, which also allows mental health providers to petition. At least three states limit the category of petitioners to law enforcement only. Additionally, two states have risk-based firearm removal laws that are similar to ERPOs.

Additional Recommendations to Curb Firearm Violence

As we mentioned, ACP urges the Senate to adopt the Extreme Risk Protection Act of 2019 that will provide funding for states to develop court processes to adopt ERPO's as well as the passage of ERPOs at the state level of government. While these measures are a good first step to protecting the public from the threat of violence from firearms, we believe that the Senate should pass the following measures that will provide additional safety from the dangers posed by firearms.

Background Checks

There must be universal background checks, including for private sales and sales at gun shows. ACP supported enacting legislation that would strengthen the accuracy and reporting of the National Instant Criminal Background Check System (NICS) and would expand Brady background checks to cover all firearm sales, including unlicensed firearms sellers currently not required to use background checks. To that end, ACP strongly [supported the Bipartisan Background Checks Act of 2019 \(H.R. 8\)](#), legislation to expand and enhance the NICS, and was greatly pleased by its passage by the House of Representatives on February 27, 2019. H.R. 8 will strengthen the accuracy and reporting of NICS and will expand Brady background checks to cover all firearm sales, including unlicensed firearms sellers currently not required to use background checks. With some exceptions, the legislation would also expand background checks to cover all private and commercial firearm transfers and sales, including those at gun shows, over the internet, or in classified ads.

ACP also [supports](#) H.R. 1112, the Enhanced Background Checks Act of 2019, which was passed by the House in February. It would close a loophole that allows firearms to be transferred by firearms owners before background checks are complete. This loophole enabled the 2015 mass shooting in Charleston, South Carolina at the Emanuel African Methodist Episcopal Church.

Domestic Violence Loopholes

Loopholes in the background check system that allow domestic violence offenders to buy and own firearms should be closed. Domestic violence offenders include dating partners, cohabitants, stalkers, those who victimize a family member other than a partner or child, and those with temporary restraining orders. Federal law prohibits abusers who have been

convicted of domestic violence misdemeanors and abusers subject to certain domestic violence protective orders from purchasing or possessing firearms. However, federal laws intended to prevent access to firearms by domestic abusers have significant limitations, in that they do not apply to many abusers who victimize non-spouse partners or family members other than a child, and they do not apply to persons with temporary, versus permanent, domestic violence restraining orders. ACP calls on these domestic violence loopholes to be closed by prohibiting sales and possession of firearms by persons convicted of domestic violence offenses on persons outside of their own household, as well as for any person with a temporary restraining order during the time when the restraining order is in effect. States can also work to address this loophole through state-level legislation.

Assault Weapons and Large Capacity Magazines

Sales of semiautomatic firearms that are designed to increase their rapid killing capacity (often called “assault weapons”) should be banned to reduce lethality in mass shootings. Large capacity magazines and bump stocks that allow shooters to continue firing without reloading should also be banned. ACP, therefore, supports enacting legislation to ban the manufacture, sale, transfer, and subsequent ownership for civilian use of assault weapons and their large capacity magazines and supports retaining the current ban on automatic weapons for civilian use. Only as an interim step toward a complete ban, ACP supports increasing the minimum age to purchase semi-automatic firearms to 21, consistent with the federal requirement for handguns. Accordingly, [ACP supports the Raise the Age Act, H.R. 717](#), legislation that would prohibit anyone under 21 from buying semiautomatic rifles, with exceptions for active duty personnel and some police officers.

Firearms Research

ACP submitted a [statement](#) to the House Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies that urged the committee to provide dedicated and increased federal funding for research on firearm violence and lift current restrictions on this research. The College therefore supports the [Gun Violence Prevention Research Act of 2019, H.R. 674 and S. 184](#). The bill would authorize funding for the Centers for Disease Control and Prevention (CDC) to study firearms safety and gun violence prevention. As a data-driven decision maker, ACP has long advocated for robust research about the causes and consequences of firearm violence and unintentional injuries as well as for strategies to reduce firearm-related injuries. The College believes that more research is needed on firearm violence and on intervention and prevention strategies to reduce injuries and deaths caused by firearms. The CDC should receive adequate funding to study the effect of firearm violence and unintentional firearm-related injury on public health and safety. The College strongly supports allocating \$50 million each year for fiscal years 2020 to 2025 for the CDC to fund research on the prevention of firearms-related injuries and deaths to support at least 10 to 20 multi-year studies and help rebuild lost research capacity in this area of study. Access to data should not be restricted, as gaps in data are a major barrier to robust scientific research.

Concealed Carry

Congress should not pass legislation that would require any state to accept concealed carry permits from other states with weaker standards to obtain such permits. Despite ACP's [objections](#), we were disappointed that in 2017 the House passed the Concealed Carry Reciprocity Act of 2017, H.R. 38, which we believe would have been a serious setback to much-needed efforts to reduce firearms-related injury and death in this country. For instance, a state that requires firearm safety training should not have to accept permits from ones that do not. Concealed carry reciprocity makes it possible for individuals who would not meet the requirements in states with more restrictive firearms safety concealed carry laws to carry hidden, loaded firearms in public and poses a threat to public health and safety. For example, 27 states and the District of Columbia currently prohibit individuals convicted of misdemeanor violent crimes from carrying concealed firearms in public. Reciprocity would allow individuals from the other 24 states that do not prohibit individuals convicted of misdemeanor violent crimes to carry firearms into states and jurisdictions that do, making their residents less safe and undermining federalism and state rights. In addition, reciprocity would pre-empt stronger state laws requiring training in firearm safety as a condition of obtaining a permit, weaken background checks and endanger victims of domestic violence by pre-empting state laws that prohibit individuals who have had restraining orders or been charged with domestic violence from obtaining concealed weapon permits. A 2017 study by Stanford University researchers estimated that weak 'shall issue' permitting laws were associated with a 13-15 percent increase in violent crime rates after 10 years.

Conclusion

ACP appreciates this opportunity to share our support for the enactment of ERPO's at the federal and state level as well as other recommendations to stem the tide of firearm violence in this country. There are many steps that can and should be taken by Congress and the states to address this growing public health crisis. ACP will continue to speak out on the need to address firearm-related violence and is committed to advancing reasonable, evidence-based policy reforms to curb such violence. Should you have additional questions regarding our views on this topic, please do not hesitate to contact Brian Buckley on our staff at bbuckley@acponline.org.