

## A Gun-Control Measure Conservatives Should Consider

<https://www.nationalreview.com/2018/02/gun-control-republicans-consider-gvro/>

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• uary 16, 2018 3:32 PM



*(Adrees Latif/Reuters)* Gun-violence restraining orders (GVROs) make us all safer while empowering the individual and protecting liberty.

**T**o understand the American gun-control

debate, you have to understand the fundamentally different starting positions of the two sides. Among conservatives, there is the broad belief that the right to own a weapon for self-defense is every bit as inherent and unalienable as the right to speak freely or practice your religion. It's a co-equal liberty in the Bill of Rights, grounded not just in the minds of the Founders but in natural law.

Against this backdrop, most forms of gun control proposed after each mass killing represent a collective punishment. The rights of the law-abiding are restricted with **no real evidence** that these alleged "common sense" reforms will prevent future tragedies in any meaningful way.

Many progressives, however, simply don't care about restrictions on gun ownership. They don't view it as an individual right, much less an unalienable one. To them, the Second Amendment is an embarrassment, an American quirk that should be limited and confined as much as possible. To them, gun ownership is a privilege, not a right, and can be heavily regulated and restricted without doing any violence at all to individual liberty.

To describe these differences is not to say that the two sides never meet. Putting aside the relatively meaningless polls about various gun-control measures — the polls that truly matter are at the ballot box, and there the results are very clear and very distinct for both red and blue — there is broad

conceptual agreement that regardless of whether you view gun ownership as a right or a privilege, a person can demonstrate *through their conduct* that they have no business possessing a weapon.

Felons, the dangerously mentally ill, perpetrators of domestic violence — these people have not only demonstrated their unfitness to own a weapon, they've been granted due process to contest the charges or claims against them. There is no arbitrary state action. There is no collective punishment. There is, rather, an individual, constitutional state process, and the result of that process is a set of defined consequences that includes revoking the right to gun ownership.

Now, let's back up for a moment and apply this reasoning to our contagion of mass shootings. Time and again mass shooters give off warning signals. They issue generalized threats. They post disturbing images. They exhibit fascination with mass killings. But before the deadly act itself, there is no clear path to denying them access to guns. Though people can report their concerns to authorities, sometimes those authorities fail or have limited tools to deal with the emerging danger.

What if, however, there was an evidence-based process for temporarily denying a troubled person access to guns? What if this process empowered family members and others close to a potential shooter, allowing them to “do something” after they “see something” and “say something”? I've written that the best line of defense against mass shootings is an empowered, vigilant citizenry. There is a method that has the potential to empower citizens even more, when it's carefully and properly implemented.

It's called a gun-violence restraining order, or GVRO.

While there are various versions of these laws working their way through the states (California passed a **GVRO statute** in 2014, and it went into effect in 2016), broadly speaking they permit a spouse, parent, sibling, or person living with a troubled individual to petition a court for an order enabling law enforcement to *temporarily* take that individual's guns right away. A well-crafted GVRO should contain the following elements (“petitioners” are those who seek the order, “the respondent” is its subject):

1. It should limit those who have standing to seek the order to a narrowly defined class of people (close relatives, those living with the respondent);

2. It should require petitioners to come forward with clear, convincing, admissible evidence that the respondent is a significant danger to himself or others;
3. It should grant the respondent an opportunity to contest the claims against him;
4. In the event of an emergency, *ex parte* order (an order granted before the respondent can contest the claims), a full hearing should be scheduled quickly — preferably within 72 hours; and
5. The order should lapse after a defined period of time unless petitioners can come forward with clear and convincing evidence that it should remain in place.

The concept of the GVRO is simple, not substantially different from the restraining orders that are common in family law, and far easier to explain to the public than our nation’s mental-health adjudications. Moreover, the requirement that the order come from people close to the respondent and that they come forward with real evidence (e.g. sworn statements, screenshots of social-media posts, copies of journal entries) minimizes the chance of bad-faith claims.

The great benefit of the GVRO is that it provides citizens with options other than relying on, say, the FBI. As the bureau admitted today, it **did not respond appropriately** to a timely warning from a “person close to Nikolas Cruz.” According the FBI, that person provided “information about Cruz’s gun ownership, desire to kill people, erratic behavior, and disturbing social media posts, as well as the potential of him conducting a school shooting.”

In other words, it appears the FBI received *exactly* the kind of information that would justify granting a GVRO.

Just since 2015, the Charleston church shooter, the Orlando nightclub shooter, the Sutherland Springs church shooter, and the Parkland school shooter each happened after federal authorities missed chances to stop them. For those keeping score, that’s four horrific mass shootings in four years where federal systems failed, at a cost of more than 100 lives.

In other words, proper application of existing policies and procedures could have saved lives, but the *people* in the federal government failed. And they keep failing. So let’s empower different people. Let’s empower the people who have the most to lose, and let’s place accountability on the lowest possible

level of government: the local judges who consistently and regularly adjudicate similar claims in the context of family and criminal law.

The GVRO is consistent with and recognizes both the inherent right of self-defense *and* the inherent right of due process. It is not collective punishment. It is precisely targeted.

Advocates for GVROs have been mostly clustered on the left, but there is nothing inherently leftist about the concept. After all, the GVRO is consistent with and recognizes both the inherent right of self-defense *and* the inherent right of due process. It is not collective punishment. It is precisely targeted.

As I wrote the night of the Parkland shooting, a vigilant citizenry is a far better defense against a mass shooting than the sweeping, allegedly “common sense” gun-control measures debated after every massacre. But when individual citizens are vigilant and individual government officials are not, then it’s time to consider different measures. It’s time to consider rearranging the balance of power.

I don’t pretend that a GVRO is the solution to mass killings. There is no “solution.” It’s a tool, one among many. In 2016 California courts **granted 86 restraining orders**. Most of them applied for a mere 21 days. In ten instances those orders were extended for a year. Until I’m persuaded otherwise (and I look forward to the conversation), I’ll believe that a restraining order can give a family the power federal incompetence has taken away — the power to save lives.



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