

Pumphrey Law Scholarship Essay

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Prompt: Can the Government legally seize or take your firearms?

When the words “seize” and “firearms” come up in the same sentence in the United States, you can usually expect immediate tension in the air and that a heated argument is about to take place. With a country so divided on beliefs about gun rights, it seems unlikely that a law would pass giving a straight yes or no answer to the question, “Can the government legally seize or take your firearms?” The answer is, it depends.

In the U.S., this is largely decided on the state level. Some states have red flag laws, or extreme risk protection order laws, where a gun owner can be reported and petitioned to have their firearms temporarily removed from their possession if it is believed that they are at risk of danger to themselves or others. Variations of this law are in place in at least 17 states, including some of those that have seen their fair share of what is widely believed to be preventable gun violence, including Florida, California, and Connecticut. Under this type of law, if someone’s spouse, for example, is displaying wishes to hurt themselves or others, they can report their loved one to have their firearms taken.

The reasoning behind these red flag laws is the belief that seizing someone’s firearms will prevent possible malice from taking place. Our country has seen a frightening amount of mass shootings take place in the past few years, and in many cases, the shooter had displayed warning signs before the shootings took place and their loved ones reported them. However, without an extreme risk protection order law in place, often times police could not take any action until an actual crime had taken place.

This has resulted in extreme tragedy. In one of the most notorious mass shootings, Nikolas Cruz opened fire at Marjory Stoneman Douglas High School in Parkland, Florida, killing 17 people. Before the shooting, Cruz had a record of discipline from the school, mental health issues, and self-harm. He was still allowed to legally purchase firearms which he used to carry out the attack. Another well-known case in California occurred in 2014, when Elliot Rodger went on a violent rampage and killed 7 people, including himself. Before the incident, his parents had warned authorities that he was dangerous and had firearms, but law enforcement said there was nothing they could do. Soon after the attacks, California passed a red flag law.

After each mass shooting, the topic of gun control is brought up. A common point we hear is that mental health and potential to harm others should be considered more carefully in the process of applying to carry firearms. Since many of the shooters in these attacks have shown obviously suspicious signs, and still been legally allowed to purchase and keep their guns, many of the American people are frustrated. These red flag laws could be a useful strategy to prevent injury and death.

A big question is, do the red flag laws work? Do they actually prevent deaths? Research on this topic is new, and hard to measure, but some studies have shown that the laws do, in fact, prevent deaths – especially suicides. In some years, 80% of all cases where a firearm was seized was due to suspicion of suicide. A lot of the results are promising. On the other side, however, some citizens argue that these laws obstruct the Second Amendment and don't give due process. The seizures can also do more harm than good, as shown in an occurrence in Maryland, where Gary Willis was confronted by police that had come to seize his weapon due to an emergency protective order. Willis started an altercation with the police, where he fired his weapon (no one was hit) and one of the police officers shot and killed Willis. In tragic cases like this, it really is unknown what would have happened if police did not attempt to seize Willis' weapon.

Much of the controversy around red flag laws is from organizations such as the NRA. As strong supporters of the Second Amendment, they argue that the laws can hinder rights by failing to give firearm owners due process. While red flag laws proposed at the federal level have not passed, some senators, like Lindsey Graham of South Carolina, are trying to make it easier for states to pass these laws by offering grants.

Yes, the government can legally take your firearms. But only in certain states in certain conditions. I think that these red flag laws have great intentions and can be a method for success in preventing the all-too-common shootings that occur in our country today. However, I think states and law enforcement officials need to be very careful when designing and enforcing these laws. As someone that has been close to gun violence, this issue is very important to me. When the Florida State University shooting at Strozier library happened in 2014, I was in a nearby dormitory. Before I knew the shooter had been killed by police, I was concerned for my life. It can be difficult to understand the motives for these types of shootings, and to this day, I still don't know why he did it. Lives were changed forever. If red flag laws can prevent even one death, they are valuable. But let's be careful in implementing these laws and make sure to listen and incorporate everyone's values.

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