



Written by [Bob Adelman](#) on August 9, 2019

Pelosi Asks Trump to Call a Senate Vote on House-passed Gun Control

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During Friday morning's free-ranging meeting with the press, President Trump once again reiterated his determination to pass "meaningful," "common sense" background checks and red flag laws.

When asked about resistance from the National Rifle Association, Trump quipped, "They'll come around." (After all, following Trump's demand that his ATF ban bump stocks, there was nary a puff of resistance from the NRA.)

This is the opening that House Speaker Nancy Pelosi is using to demand that President Trump call back the Senate from summer recess to vote on further infringements of the Second Amendment.

Pelosi referred to that opening in her [demand letter](#):

It is with deep sadness and great urgency that I write following the horrific loss of life that occurred in Gilroy, El Paso, Dayton and Chicago, after which you said, "I think background checks are important. I don't want to put guns into the hands of mentally unstable or people with rage or hate, sick people. I'm all in favor of it."...

Today, as Speaker of the House, I am writing in good faith to request that you call the United States Senate back into session immediately ... to consider House-passed bipartisan violence prevention legislation.

During his address following the mass shootings in Texas and Ohio over the weekend, Trump said, "We must make sure that those judged to pose a grave risk to public safety do not have access to firearms and that if they do, those firearms can be taken through rapid due process. That is why I have called for red flag laws, also known as extreme risk protection orders [ERPOs]."

As if that wasn't clear enough, a high-level administration official told the Washington Examiner that the president is still determining "the best way to do it: legislatively, by executive action, engagement with states ... and the private sector, or a mix." In preparing for his move, Trump has already "had his administration look at issues related to law enforcement, mental health, culture, and policies around guns."

Red flag laws, or ERPOs, have raised great concerns among constitutionalists, gun owners, and pro-gun organizations. In an opinion piece at Fox News, Judge Andrew Napolitano said it would be "exquisitely unfair, profoundly unconstitutional and historically un-American for the rights of law-abiding folks ... to be impaired in the name of public safety." He called the laws "horrific":

These horrific statutes permit police or courts to seize guns from those deemed dangerous. Red



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flag laws are unconstitutional. The presumption of innocence and the due process requirement of demonstrable fault [under the Fourth Amendment] as a precondition to any punishment or sanction together prohibit the loss of liberty on the basis of what (em)might(/em) happen in the future.

In America, we do not punish a person or deprive anyone of liberty on the basis of a fear of what the person might do. When the Soviets used psychiatric testimony to predict criminal behavior, President Ronald Reagan condemned it. Now, the president [Trump] wants it here.

Bryan Fischer, the host of “Focal Point” on American Family Radio, detailed the risks to liberty posed by red flag laws:

“Red Flag” laws, which have been a hot topic of discussion since last weekend, are designed to take guns away from mentally unstable people before they can harm themselves or anyone else.

This sounds good in theory, but in practice such laws are a danger to mentally healthy people in our day and a threat to the Constitution to boot.

The main question is this: who gets to decide who is too mentally unstable to own a firearm? And how is that decision made? Most newly adopted laws (six such laws have been signed this year) and newly proposed laws (two dozen have been introduced in various states) require some kind of certification from a mental health professional that a judge can then use to confiscate someone’s firearm.

To put it bluntly, this puts your right to own a firearm into the hands of the American Psychological Association or the American Psychiatric Association, who will set the standards for the mental health community. No thanks.

He reiterated Napolitano’s position that such laws are unconstitutional:

The Constitution is clear that an individual can be required by the state to forfeit a constitutional right, but only after he has received “due process” first. This means that he must be indicted for a crime established by lawmakers, have the right to face his accusers in open court, be put on trial before a jury of his peers, and have the assistance of counsel. If a jury finds him guilty, then and only then can he be deprived of his right to self-defense.

Constitutional scholar and Research Director of the Independent Institute Dave Kopel testified before the Senate Judiciary Committee in March, telling members, “While the idea of these laws is reasonable, some statutes are not. They destroy due process of law, endanger law enforcement and the public, and can be handy tools for stalkers and abusers to disarm innocent victims.”

Michael Hammond, legislative counsel for Gun Owners of America, described red flag laws as allowing “police to convene a Kafkaesque secret proceeding, in which an American can be stripped of his or her gun rights and Fourth Amendment rights, even though [they] are barred from participating in the hearings or arguing their side of the dispute.... If the Constitution can be suspended in a secret hearing, where does this lead?”

Pastor Chuck Baldwin goes even further:

I have spent considerable time and space speaking and writing about the danger of “red flag” gun confiscation laws. I tell you dogmatically and emphatically that “red flag” gun confiscation laws are the most serious assault against our Second Amendment since King George sent troops to confiscate the arms of our colonist forebears at Lexington and Concord. And, yes, I’m telling you straight out that by pushing these “red flag” gun confiscation laws, Donald Trump is as much a



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tyrant as was King George.

This is how rights are abrogated: not all at once, but inch by inch. To secure his second term, Donald Trump should reject out of hand all talk of red flag laws, ignore Pelosi's demand to recall the Senate, and reiterate his campaign promise to support the Second Amendment. Such a move would all but guarantee his reelection in 2020.

Photo: AP Images

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