

March 6, 2020

Hon. Andrew Cuomo
Governor, New York State
The Capitol
Albany, New York 12224

Re: Issuance of Extreme Risk Protection Order (“ERPO”) (Red Flag Law)
Against United States Senator Charles Schumer of Brooklyn, New York

Governor Cuomo:

Last year, New York enacted a Red Flag law, effective August 24, 2019, which [your website](#) states “prevents individuals who show signs of being a threat to themselves or others from purchasing or possessing any kind of firearm.” You tout this new law as one which “builds on New York’s strongest in the nation gun laws...”

[Gun Owners of America](#) (“GOA”) opposed the enactment of this New York law, and opposes the enactment of such laws in other states, in part because of our anticipated selective enforcement of this law, applying it to the poor and minorities, while giving a pass to the rich, powerful and politically connected. Your response to this letter will help demonstrate whether our concerns were valid.

Enactment of a similar law elsewhere has already led to the homicide of an African-American gentleman. A Red Flag order was served at 5:17 a.m. at the home of Gary J. Willis, age 61, of Anne Arundel County, Maryland. But for execution of that order, Mr. Willis would be alive today. We are now writing to determine whether YOUR Red Flag law will only be enforced against the poor, minorities, and political enemies of those in power.

On March 4, 2020, United States Senator Charles Schumer of Brooklyn, New York made an [unveiled threat](#) against two Justices of the United States Supreme Court while on the grounds of the United States Supreme Court.

I want to tell you, [Associate Supreme Court Justice] Gorsuch. I want to tell you, [Associate Supreme Court Justice] Kavanaugh, you have released the whirlwind, and you will pay the price. You won’t know what hit you if you go forward with these awful decisions.

Chief Justice John Roberts was compelled to issue a [rare public statement](#) defending Justices Kavanaugh and Gorsuch, calling the statement both “threatening” and “dangerous”:

Justices know that criticism comes with the territory, but threatening statements of this sort from the highest levels of government are not only inappropriate, they are dangerous.

As Senate Majority Leader [Mitch McConnell stated](#), there is “nothing to call this except a threat.”

The finding required under YOUR Red Flag law is “that there is probable cause to believe the respondent is likely to engage in conduct that would result in serious harm to himself, herself or others....” Further, in determining whether grounds exist for issuance of a red flag order, “the court shall consider any relevant factors, including ... a threat ... directed toward ... another person.” [2019 NY CPLR section 6342](#).

As further evidence of the seriousness of the matter, Senator Schumer’s threats violate [40 U.S.C. section 6134](#) which states: “It is unlawful to ... make a harangue or oration, or utter loud, threatening, or abusive language in the Supreme Court Building or grounds.” The penalty for violation of that statute is a fine or imprisonment of not more than 60 days, or both. *See* [40 U.S.C. section 6137\(a\)](#). The American people await the action of the U.S. Attorney for the District of Columbia in enforcing that criminal statute.

If you are serious about the law that you signed, and if you believe that it should apply to the ruling class as well as those ruled, then will the nation soon see reports that you will be directing an appropriate official to seek a red flag order against Senator Schumer? (We have attached a draft Application for a Temporary Extreme Risk Protection Order for your convenience.) We understand that Senator Schumer is, like you, a member of the Democrat Party, and, like you, is a powerful New York politician. Moreover, he actively supported YOUR New York Red Flag law, as well as adoption of such laws elsewhere. Do these factors give him immunity for violating the law you improvidently signed? If you do not enforce YOUR law against Senator Schumer, the American People will understand that gun laws are intended to be used selectively to suppress minorities, the politically powerless, and political opponents. Additionally, it will demonstrate that in New York there is one law for the rich and powerful, and another law for the rest of The People.

Although some have asked Senator Schumer to apologize, for ordinary people, an apology would not withdraw the criminal violation, nor would it negate what YOUR law, by its terms, would view his words as a threat. Nor would the fact that the threat occurred outside the State of New York absolve the Senator of the consequences under the law which he supported, and you signed. We look forward to your response.

Sincerely,



Erich Pratt
Senior Vice President

Attachment: Draft Application for a Temporary Extreme Risk Protection Order for Charles Ellis Schumer

CC: Hon. Letitia James, Attorney General, New York State, The Capitol, Albany, NY 12224-9341