

DV Gun

Dispossession

Reducing gun violence between domestic partners

Rod Underhill

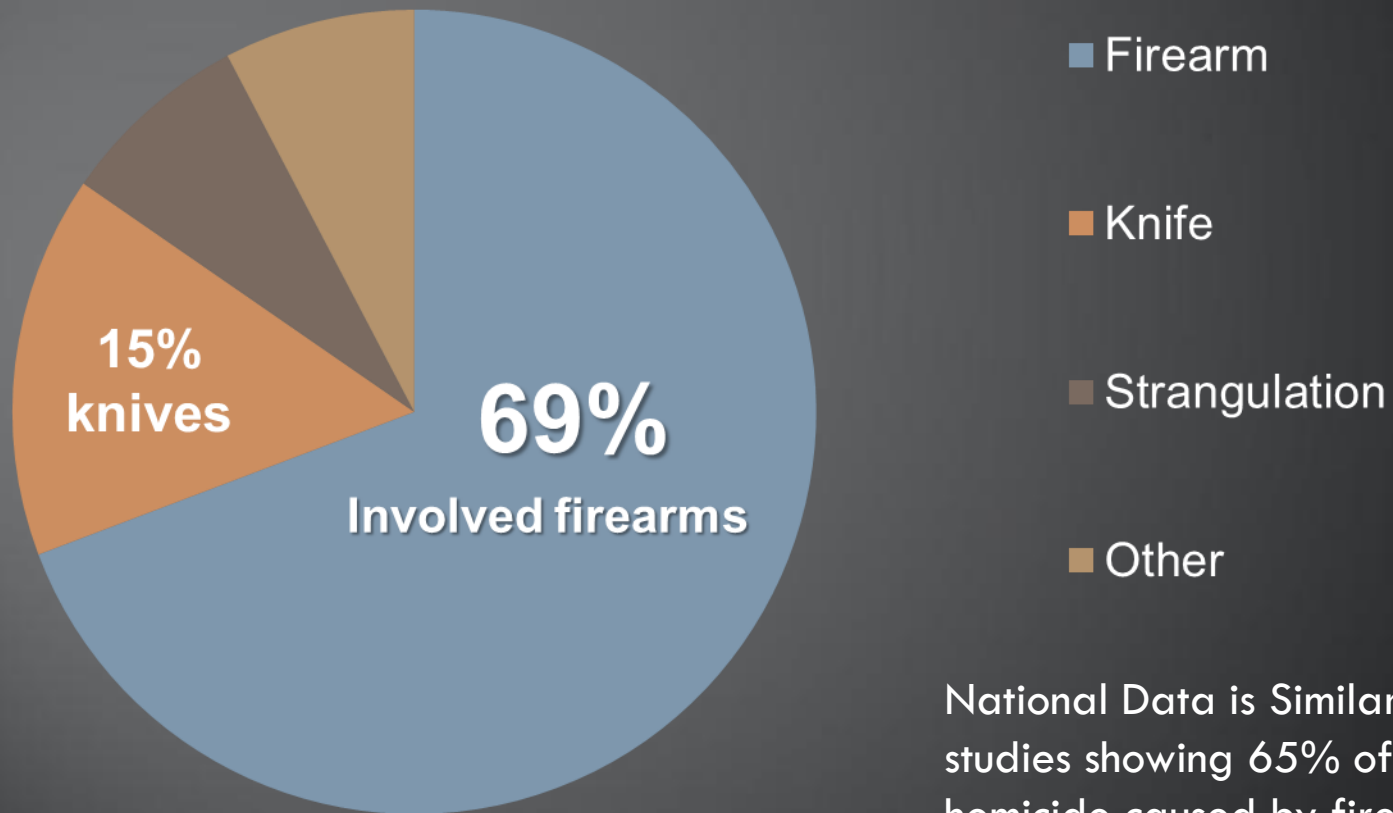
District Attorney for Multnomah County
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Firearms and Domestic Violence

- Guns are the most common weapon used in domestic violence homicides
- The presence of a gun makes it **FIVE** times more likely domestic violence will turn into homicide (American Journal of Public Health, 2003)

Guns and DV Homicide in Oregon

2014: 39 Domestic Violence Homicides in Oregon



National Data is Similar with studies showing 65% of DV homicide caused by firearms

IN ADDITION TO HOMICIDE...

- There is a correlation between **possession** or **access** to guns and **increased abuse**
- Abusers who **possess** guns inflict **more severe forms of abuse**

Focused Attention is Critical

- Developing a team and partner approach to the problem
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- Much effort devoted to developing program and legislation
- Would not be possible without the dedicated efforts of many
 - Senator Monnes-Anderson
 - Chair Deborah Kafoury
 - Portland Police Bureau
 - Multnomah County Sheriff's Department
 - Department of Community Justice
 - District Attorney's Office

DV and Guns

OBJECTIVES

- **Ensure that persons prohibited by DVROs from having guns actually surrender their guns**
- **Provide paths for law enforcement to follow-up and ensure that guns are surrendered**
- **Give prosecutors tools to hold prohibited persons accountable if they violate a DVRO gun dispossession order**
- **Give prosecutors state law gun crimes equivalent to federal DV gun prohibitions**

Current Procedures & Available Tools

Available under Oregon Law:

- Gun Dispossession under Domestic Violence Restraining Orders—DVRO aka FAPA RO
- ORS 107.718(1)(h)
 - The court has authority, upon ex parte appearance by a DVRO petitioner, to bar respondent from possessing firearms and ammunition if necessary to protect the safety of the petitioner and/or children;
 - Respondent has the right to a hearing before a final DVRO issues, including the question of gun dispossession;
 - Violations are prosecuted as Contempt of Court
- ORS 107.720
 - Requires entry of DVROs into state and national law enforcement databases so an on-scene officer anywhere will know of the order and its terms

Multnomah County DV Gun Dispossession Protocol and MOU

- A Cooperative Effort Enforcing DVRO Gun Dispossession Orders
- Agency Partners
 - Multnomah County Circuit Court
 - Portland Police Bureau
 - Multnomah County Sheriff's Office
 - Multnomah County Parole and Probation
 - Multnomah County District Attorney's Office

DV Gun Dispossession MOU*

Between the Court, Police agencies, Parole and Probation, and the District Attorney's Office:

- The court orders DVRO respondent dispossessed of firearms and ammunition to protect the safety of the petitioner and/or children
- Respondents in possession of firearms at the time of RO service must turn them over immediately to the officer serving the RO or...
- They must surrender the firearm to a police agency w/in 48 hours or...
- Transfer their firearms to a friend or relative who must sign an affidavit so stating and pass an Oregon State Police background check.
- Within 3 days of the RO being served, the DVRO Respondent must file his own affidavit that includes either a receipt from a police agency for the firearm surrender or an affidavit from the person who received possession of the firearm(s) or an affidavit stating he has no guns or ammunition
- The court forwards a list of all cases in which no affidavit is filed to the DA's Office and Police Agencies twice a month

DV and Guns: Current Procedure & Available Tools

Portland Police Bureau and MCSO

- PPB/MCSO will assign an investigator based on an assessment of DV lethality factors, severity of current behaviors and the associated offense, available personnel, etc.
- The Investigator will:
 - Contact the RO petitioner and get additional information
 - Contact Parole & Probation if respondent is on supervision
 - Call or visit the respondent to gain compliance and secure the gun
 - IF unable to make contact, mail respondent a letter requiring compliance with directions on how to comply
- If the respondent does not comply the case is referred to the DA's Office for **contempt charges punishable by up to 6 months in jail**
- PPB has dedicated 2 Officers and 1 Sergeant to this effort and MCSO has dedicated 1 Sergeant

Audit – April 2016

- 437 GDP cases provided by Odyssey since December 2014
- 328 GDP cases closed by targeted efforts of team
- 186 GDP cases removed from list when affidavit was filed
- 97 GDP cases removed because RO was terminated
- 15 GDP cases referred to DA's office for prosecution
- 168 VRO cases referred to DA's office for prosecution
- 92 GUNS REMOVED FROM OFFENDERS

Other considerations

- Coordination with Parole and Probation is critical. DV Unit Probation Officers coordinate with police and district attorneys to ensure dispossession orders are followed and alert police if they are not;
- Coordination within the District Attorney's Office is also important. Defendants with other open cases will not have those cases resolved without complying with their dispossession orders;
- Compliance hearings a short time after the temporary DVRO is granted – eg. 30 days – are an effective way to secure compliance.

New DV Gun Dispossession Law, 2015

Oregon Legislature:

SB 525

Similarly to Federal law, Oregon criminalized gun/ammo possession by:

1. **Persons convicted of a “Qualifying DV Misdemeanor”** –one with an element involving the use or attempted use of physical force or the threatened use of a deadly weapon against a “family member;” or
 2. **Persons who are the subject of a DVRO:**
 - Issued or continued after a hearing for which the person had actual notice and an opportunity to be heard;
 - Restraining the person from “stalking, intimidating, molesting or menacing” an intimate partner or child of either petitioner or respondent; and
 - Including a finding that the respondent represents a “credible threat to the physical safety of an intimate partner” or to a child of either.
- **POSSESSION UNDER EITHER 1 OR 2 IS A CLASS A MISDEMEANOR GUN CRIME, PUNISHABLE BY UP TO ONE YEAR**

Compared to Federal Law

1. Broadens the protected family relationship

- The federal law uses the term “Intimate Partners” in defining the DV misdemeanor convictions driving gun dispossession
- Oregon’s use of “family member” encompasses a wider range of family relationships, including victim’s spouse, intimate partner, parent, guardian, or a person who has cohabitated with the victim in a relationship equivalent to one of these

2. Qualifying DV Misdemeanor

- Federal law: the qualifying misdemeanor must include the use or attempted use of physical force, or the threatened use of a deadly weapon
- SB 525 mirrors this: Oregon crimes that would qualify as a prior DV misdemeanor conviction include Assault IV, Attempted Assault IV, Strangulation, Attempted Strangulation, or any other misdemeanor involving the use or attempted use of physical force or threatened use of a deadly weapon

SUMMARY

1. Guns and domestic violence are a deadly combination.
2. We have the mechanisms in place to stop violent DV offenders from possessing firearms.
3. The MOU and new SB 525 gun law are good tools for protecting DV survivors and children.

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