

# **Firearms Technical Assistance Project**

## **Compendium of Information for Victims**



Firearms Technical Assistance Project

Victims of abuse may not know where to turn for information and assistance if they fear for their and their children's safety because the person causing the harm has access to firearms. In addition, legal system professionals frequently are hampered in their efforts to effectively safeguard victims through court orders and their enforcement without specific information about the locations and types of firearms to which abusers have access. Both of these challenges may be overcome through the development and dissemination of accessible and understandable information about the danger posed by abusers' access to firearms, sources of safety and support, and how protection orders may be used as a safety tool. Such informational materials can help connect victims to safety planning resources and advocacy support, and help them to begin to make informed decisions about whether and how to seek protection through the legal system and/or non-legal system sources of support.

We assembled the brochures and informational materials in this document for reference by community stakeholders who are engaged in amending or creating their own resources. Please note that the compilation is meant to provide examples of how other jurisdictions have chosen to inform the public and victims about firearms-related issues in domestic violence cases. You should read through the examples and decide on language that fits your local processes, available legal relief, and community-based and other non-legal system resources.

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## FIREARMS FACTS

An intimate partner's access to firearms is a significant risk factor in domestic violence fatalities.

Firearms are the most commonly used weapon in intimate partner homicides.\*

Intimate partner assaults involving firearms are 12 times more likely to result in death than those involving other weapons or bodily force.

From 2003-2008, 65 women were killed in Oregon by an intimate partner, of which 60% were firearm fatalities.

*\*Other weapons are also used in domestic violence homicides.*

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## Domestic Violence Resources

**24-Hour Hotlines and Resources for Domestic Violence, Sexual Assault and Stalking Assistance:**

**Portland Women's Crisis Line** (statewide):  
**888.235.5333**

**National Domestic Violence Hotline:**  
**800.799.7233** (English and Spanish); TDD **800.787.3224**

**Local Program:**

To report a federal gun law violation: call the Bureau of **Alcohol, Tobacco and Firearms** at **503.331.7820**.

For information and assistance with your rights as a crime victim:  
[www.oregoncrimevictimsrights.org](http://www.oregoncrimevictimsrights.org)

For a directory of legal aid programs and for other legal information:  
[www.oregonlawhelp.org](http://www.oregonlawhelp.org) or  
[www.ojd.state.or.us/familylaw](http://www.ojd.state.or.us/familylaw)

**Note:** It is important to use a computer your abuser does not have access to because you cannot completely erase all trace of the sites you visit.

# Domestic Violence & Guns

**Steps you can take if you are afraid your partner will use a firearm against you.**



Prepared by: Oregon Firearms and Domestic Violence Task Force

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## Are you concerned about your safety?

- Is your intimate partner physically abusing or threatening to abuse you?
- Does your partner have a gun? Has your partner threatened to get a gun?
- Does your partner have a history of using guns to threaten you or others?
- Has your partner ever threatened to commit suicide or threatened to hurt or kill you or your family members?
- Would you feel safer if a court orders that your partner cannot have a gun as part of a restraining order?

*If you answered “yes” to any of these questions, read further to find out what you can do to increase your safety.*

## What can I do to help protect myself?

### Safety Planning

Safety planning means thinking of ways you can be safer and planning how you would respond to a dangerous situation. Part of your safety plan may involve getting a restraining order against your partner, with or without gun restrictions. Contact your local domestic violence program for help making a safety plan.

### Restraining Orders

If you decide a restraining order will help make you safer, you can ask the court to forbid your abuser from having firearms or to make sure that your abuser gets rid of his/her guns by turning them over to the sheriff or another person. You must tell the court what steps you think will make you safest.

### Crime Victim Rights

If your partner faces criminal charges for abusing you, you have rights as a crime victim to be reasonably protected from your partner and to have your voice heard during the criminal case. You can work with your local district attorney, a district attorney victim advocate, or a legal representative of your own choosing to help enforce these rights.

## What laws can help keep guns away from my partner?

### If you get a restraining order:

- A judge may order that your partner cannot have guns or that your partner must give his/her guns to someone else for storage.
- Federal law may make it illegal for your partner to buy or own guns or ammunition while you have a restraining order against him or her, if the order meets certain conditions. 18 USC § 922(g) (8).

### If your partner has been charged with or convicted of a domestic violence crime:

- The court can make ‘no guns’ a condition of a release agreement or probation.
- Federal law may ban your partner from buying or having firearms or ammunition for life after being convicted of certain domestic violence crimes. 18 USC § 922(g)(9).

**Report gun law violations to the police, sheriff or federal law enforcement (Alcohol, Tobacco and Firearms).**

The National Domestic Violence

**HOTLINE**

1.800.799.SAFE (7233) • 1.800.787.3224 (TTY)

## Tip Sheet: Firearm Safety in Domestic Violence Situations



The presence of a firearm in a domestic violence situation increases the likelihood of death by five to eight times. Has your partner:

- Threatened to use a firearm against you, your children, or family and friends?
- Threatened to use a firearm against a pet?
- Threatened to kill him/herself?
- Used a firearm as a threat to keep you from seeking help?

These are signs of escalated danger and it is strongly advised to seek support.

*Please note: This tip sheet is meant to provide general guidance and information. Do not take any actions or follow any tips that make you feel unsafe.*

“He’s never pointed it at me but he has laid it down on the table to say that I shouldn’t, [‘]cross the line[‘].”

“He threatened my five-year-old son that he would shoot the entire family and maybe others.”

### Frequently Asked Questions (FAQs):

#### Can I report my abuser and have their firearms and ammunition taken away?

- If your abuser has been convicted of qualifying misdemeanor crimes of domestic violence (MCDVs), they are prohibited under federal law from possessing a firearm.<sup>1</sup>
- If your abuser has a qualifying protection order filed against them, they are prohibited under federal law from possessing or transporting a firearm or ammunition.<sup>2 3</sup>

#### If I choose to report, where do I do that?

- If you or a loved one are in immediate danger: 911
- To report illegal firearms activity: 1-800-ATF-GUNS (1-800-283-4867)
- To report firearms theft, call the Firearms Theft Hotline: 1-888-930-9275
- Call your local police department using their non-emergency number
- Call your local domestic violence organization to be connected to a victim advocate

### **Can I get a restraining order and/or press charges?**

You have the right to file a charge against your abuser for things such as threat or use of a deadly weapon, threatened or attempted homicide, threat of or actual rape, criminal assault, aggravated assault, harassment, stalking or interfering with child custody. *Go to your local police station or call 911.* If you press charges and firearms were involved in the abuse or violence, ask the police or prosecutor for help in having the firearms removed and getting the court to prohibit the abuser from obtaining any other firearms.

A protective order can help protect you immediately by legally keeping your partner from physically coming near you, harming you or harassing you, your children or your family members. This legal documentation to keep your abusive partner away from you can often contain provisions related to custody, finances and more. If you are concerned about your abuser's use or threatened use or possession of firearms, you can also ask the court to have law enforcement remove the firearms and prohibit the abuser from obtaining any other firearms.

*Please note: a protective order cannot **guarantee** your safety, but it can be one step in an overall safety plan.*

If the abuser possesses firearms and has been threatening or hurting you in any way, with or without the firearms, strongly consider letting a victim advocate or the police know. Domestic violence escalates over time, and an abuser can very quickly move from threats to actual use of a firearm. A victim advocate can help you make a plan for how to stay safe and how to safely report the existence of the firearms.

### **Where can I get an application to get a restraining order?**

- Courthouses
- Women's shelters
- Volunteer legal services offices
- Some police stations

### **What information will I need for the FBI to conduct a background check for a misdemeanor crime of domestic violence (MCDV)?**

- At least one of the following: defendant's (*i.e. the abusive partner*) social security number, driver's license number, address, or date of birth.
- Case or docket number of the MCDV
- If the defendant was an "intimate partner" of the victim
- Has the defendant been convicted of or pleaded guilty to a MCDV
- Did the defendant have the right to a jury
- Was the defendant represented by counsel
- If the defendant received notification of their conviction keeping them from possession of a firearm or ammunition.

*For more legal information visit [womenslaw.org](http://womenslaw.org).*

In a Violence Policy Center study on cases where men murder women there were 239 women shot and killed by either their husband or intimate acquaintance during the course of an argument.

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Nationwide, for homicides in which the weapon could be determined (1,458), more female homicides were committed with firearms (54 percent) than with any other weapon.

### **What can I do to prepare myself for an emergency situation?**

- Safety planning is done best when it is specific to you and your situation. We strongly advise you seek out your local domestic violence organization or shelter to aid you in creating this plan.
- Important things to consider in making your safety plan:
  - Ensuring that law enforcement knows of any firearms prohibitions.
  - Finding friends and family members that can help you in this process.
- Make a list of the firearms your abusive partner possesses and whether they have ammunition, and keep the list in a safe place. This list can be helpful if you need to go to court or law enforcement to ask for help in having the firearms removed. However, if your abuser has access to your phone, computer, or other personal belongings, do not put yourself at further risk by writing this information down.
- Getting a protective order in many states can require that an abusive partner turn over their guns. Ask the court to do so, and also ask the court to do a follow up compliance review to make sure the abuser has actually turned in the firearms.
- If your partner is a convicted felon, anonymously let your partner's parole/probation officer know your partner has a gun.
- Familiarize yourself with First Aid techniques online or take a class through the Red Cross.

*For additional support and information about resources in your area:*

*National Domestic Violence Hotline:*

*1-800-799-7233 | 1-800-787-3224 (TTY) | [thehotline.org](http://thehotline.org)*

## For Further Information

To find out more about federal firearms prohibitions:

Bureau of Alcohol, Tobacco, and Firearms;  
*Misdemeanor Crimes of Domestic Violence  
Frequently Asked Questions* -  
<https://www.atf.gov/firearms/faq/misdemeanor-domestic-violence.html>

To find out more about Batterer Intervention Programs in your area:

Virginia Family Violence & Sexual Assault Hotline;  
1-800-838-8238 (v/tty)  
<http://www.vsdvalliance.org/>

For information about Protective Orders:

VA Office of the Attorney General;  
*What You Should Know About Protective Orders - A  
Guide to Compliance with the Law* -  
[http://www.oag.state.va.us/Programs%20and%20Resources/Domestic%20Violence/DV\\_2012/PO%20brochure%20final%202012.pdf](http://www.oag.state.va.us/Programs%20and%20Resources/Domestic%20Violence/DV_2012/PO%20brochure%20final%202012.pdf)

For legal help:

VA Lawyer Referral Service -  
1-800-552-7977  
<http://www.vsb.org/vlrs/>

## Federal Firearms Law: Domestic Violence Offender Gun Ban

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## Federal Firearms Law: Domestic Violence Offender Gun Ban

### An Important Notice to Persons Convicted of Misdemeanor Crimes of Domestic Violence

Commonwealth of Virginia  
Information Pamphlet

## Have you been convicted of a misdemeanor crime?

### Did the crime involve the use or attempted use of physical force, or threatened use of a deadly weapon, against someone in your household or someone with whom you have a relationship?

If your answers to these questions are “yes,” then you may be subject to federal laws making it a crime for you to possess, ship, transport, or receive any firearm or ammunition.

If you are convicted of a “misdemeanor crime of domestic violence,” it is unlawful for you to possess, ship, transport or receive any firearm or ammunition. 18 U.S.C. § 922(g)(9). This prohibition also applies to federal, state, and local governmental employees in both their official and private capacities. Violation of this prohibition is a federal criminal offense punishable by up to ten years imprisonment.

### What qualifies as a “misdemeanor crime of domestic violence” conviction?

The term “misdemeanor crime of domestic violence” means a criminal offense that:

- Is a federal, state, local or tribal offense that is a misdemeanor under federal or state law;
- Has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon; and,
- At the time the misdemeanor was committed, the convicted offender was:
  - » a current or former spouse, parent, or guardian of the victim,
  - » a person with whom the victim shared a child in common,
  - » a person who was cohabiting with or had cohabited with the victim as a spouse, parent, or guardian, or

» a person who was or had been similarly situated to a spouse, parent, or guardian of the victim.

For the purpose of applying this law, a person is not considered to have been convicted of a misdemeanor crime of domestic violence unless the person was represented by counsel, or knowingly and intelligently waived the right to counsel and, if entitled to have the case tried by a jury, the case was actually tried by a jury or the person knowingly and intelligently waived the right to have the case tried by a jury.

If the conviction is expunged or set aside, or if the convicted offender is pardoned for the offense, the conviction will not qualify, unless the expungement or pardon expressly provides that the person may not ship, transport, possess or receive firearms. 18 U.S.C. § 921(a)(33)(A), (B).

### My qualifying misdemeanor conviction happened many years ago—does the federal law apply to me?

Since the effective date of the federal gun law, September 30, 1996, any person convicted of a misdemeanor crime of domestic violence may no longer possess a firearm or ammunition. This applies to persons who were convicted of misdemeanor crimes of domestic violence **at any time**, even before the passage of the law in September 1996.

## What should I do if I have been convicted of a misdemeanor crime of domestic violence?

The Federal Bureau of Alcohol, Tobacco and Firearms advises that you immediately and lawfully dispose of your firearm and/or ammunition by transferring it to a third party, such as your attorney, local police agency, or a Federal firearms dealer.

## Other Domestic Violence Statutes and Offenses

### Domestic Violence Offenses

- Interstate travel to commit domestic violence: 18 U.S.C. § 2261
- Interstate stalking: 18 U.S.C. § 2261A
- Interstate travel to violate a protective order: 18 U.S.C. § 2262

### Firearms Offenses

- Possession of a firearm while subject to a protective order: 18 U.S.C. § 922(g)(8)
- Transfer of a firearm to person subject to a protective order: 18 U.S.C. § 922(d)(8)
- Transfer of a firearm to person convicted of a misdemeanor crime of domestic violence: 18 U.S.C. § 922(d)(9)
- Possession of a firearm by convicted felon: 18 U.S.C. § 922(g)(1)
- Possession of a concealed handgun while subject to a protective order: Va. Code § 18.2-308.1:4
- Possession of a concealed handgun by person convicted of assault, battery, or stalking: Va. Code §§ 18.2-308.09 and 18.2-308.013(A).