

DOMESTIC VIOLENCE in Multnomah County

-- A Few Selected Public Safety Issues

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Issues

- Protection orders
 - Trends
 - Firearms
- LEDS / LEA Database Entry
- Assessment
- Batterers' Intervention Programs

Overview of Protection Orders

1 year duration (renewable) unless *

- **FAPA** – Family Abuse Prevention Act
- **EPPWDAPA** – Elderly Persons & Persons with Disabilities Abuse Prevention Act
- **SPO** – Stalking Protection Order (*unlimited)
- **SAPO** – Sexual Abuse Protection Order
- **EPO** – Emergency Protection Orders (*7 days)
- **No contact** – in *pending criminal case or probation case

- All the civil orders are **available *ex parte*** (without notice to the other party)
- All of the civil orders are **available w/o court fees,** and **without service fees** by law enforcement
- All the civil orders subject the respondent to **mandatory arrest** on probable cause of violation

1FTE Judge just for *civil* protection orders

Protection Orders Vary re:

- Eligibility
- Showing needed to obtain relief
- Relief that can be ordered
- Whether a hearing for the Respondent is set automatically, or only if the Respondent requests, or at all
- Duration of the order
- Violations -- criminal charge, or contempt of court

Family Abuse Prevention Act

- Victim is “family or household member” (not minor)
- “Abuse” w/in the last 6 months
 - Physical injury
 - Attempt to physically injure
 - Placing in fear of imminent serious physical injury
 - Forced sex
- + imminent danger of further abuse
- Relief: no (or limited) contact, ouster, restraint from premises, child custody, & “any other relief necessary to protect” & more.
- Lasts for 1 year. Renewable.

Elderly / Disabled Persons Abuse Prevention Act



- Petitioner must be ≥ 65 or disabled
- Need ABUSE w/in last 6 months + immediate & present danger of further abuse

- Physical injury
- Neglect \rightarrow physical harm
- Abandonment/desertion
- Willful infliction of physical pain
- Certain actions/speech \rightarrow threat of significant physical or emotional harm
- Wrongful appropriation of property
- Sexual contact with non-consenter

- Relief -- restraint from abuse; no/limited contact, premises restraint; ouster ; + “any other relief”
- Lasts for 1 year; renewable

Stalking Protective Orders

- No relationship test
 - Minors can petition through parents. Minors can be respondents. Numerous neighbor-neighbor cases as well as partner and former partner cases
- 2 unwanted contacts in last 2 years that alarm or coerce the Victim (or person in V's household) +
 - Alarm/coercion is objectively reasonable
- Victim is reasonably apprehensive about own/household member's personal safety
- Relief: prohibit contact (no "any other relief" clause)
- Unlimited duration

Sexual Abuse Protection Order

- No relationship test but cannot apply if “family or household” member

Sexual Contact w/
Non-Consenter or
person incapable of
consent

- “Sexual abuse” w/in last 6 months +
- Subjective + objective fear for personal safety

- Relief: No contact, restraint from premises, “other relief necessary” to protect
- Lasts 1 year. Renewable.

Emergency Protection Order

- Family or Household member – through officer
 - Office responding has probable cause re assault or menacing re family/household member or
 - Officer has probable cause family/household member in immediate danger of abuse
- Court hears on 24/7 basis, as with warrants.
- Relief: limited -- No contact or interference
- Lasts only 7 calendar days after issuance



No Contact Orders in Criminal Cases

■ PreTrial

Required in DV cases whether or not Def in custody

Can be modified after hearing

Victim entitled to notice

Standard term in release orders, but judge could allow contact

Lasts until conviction/dismissal

■ Post-Conviction

Standard condition in DV probation case, but some type of contact could be allowed

Lasts as long as probation lasts

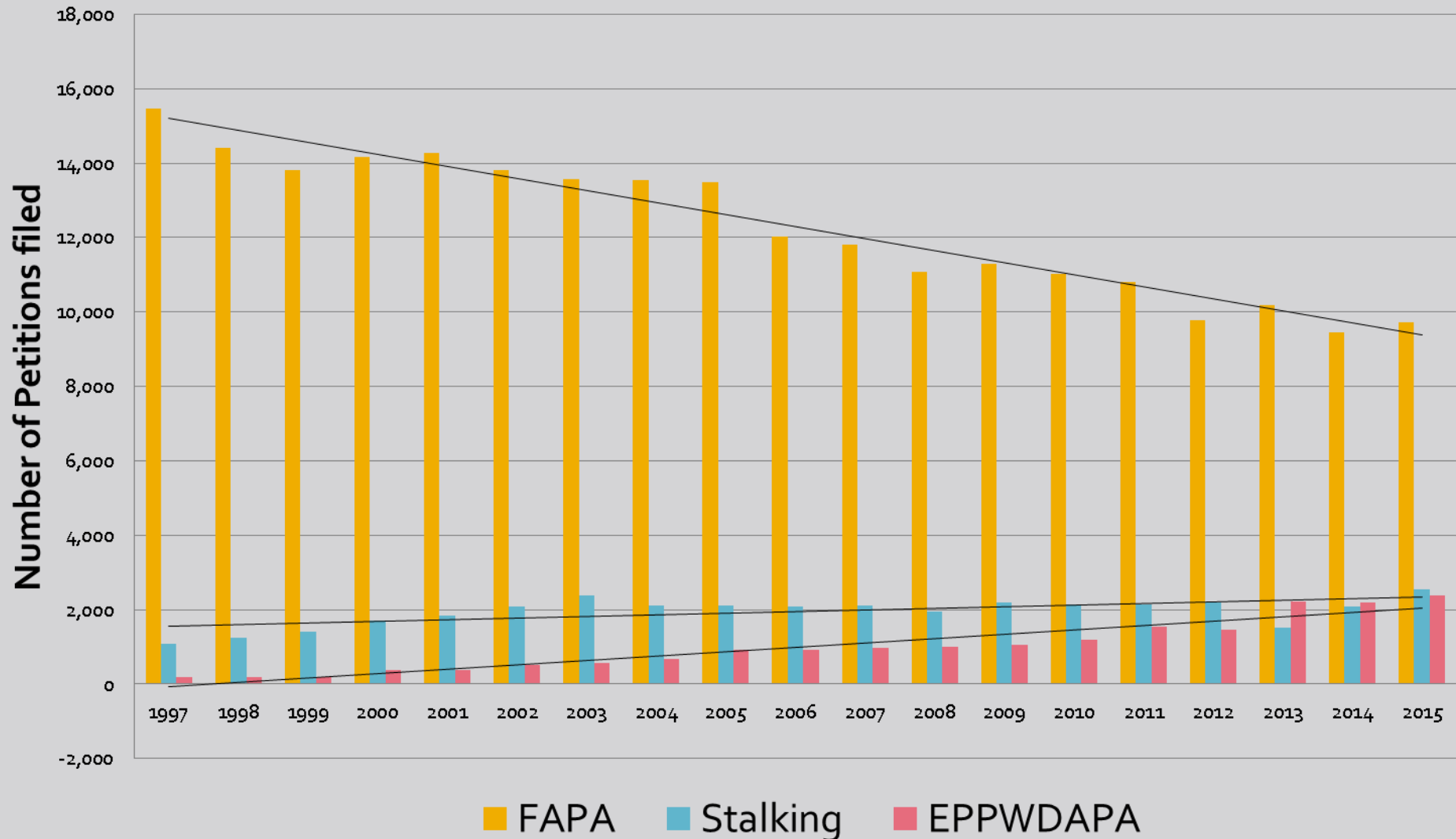
Bench
Probation/????

Court is working to
improve LEDS
entry/removal

Filing Trends

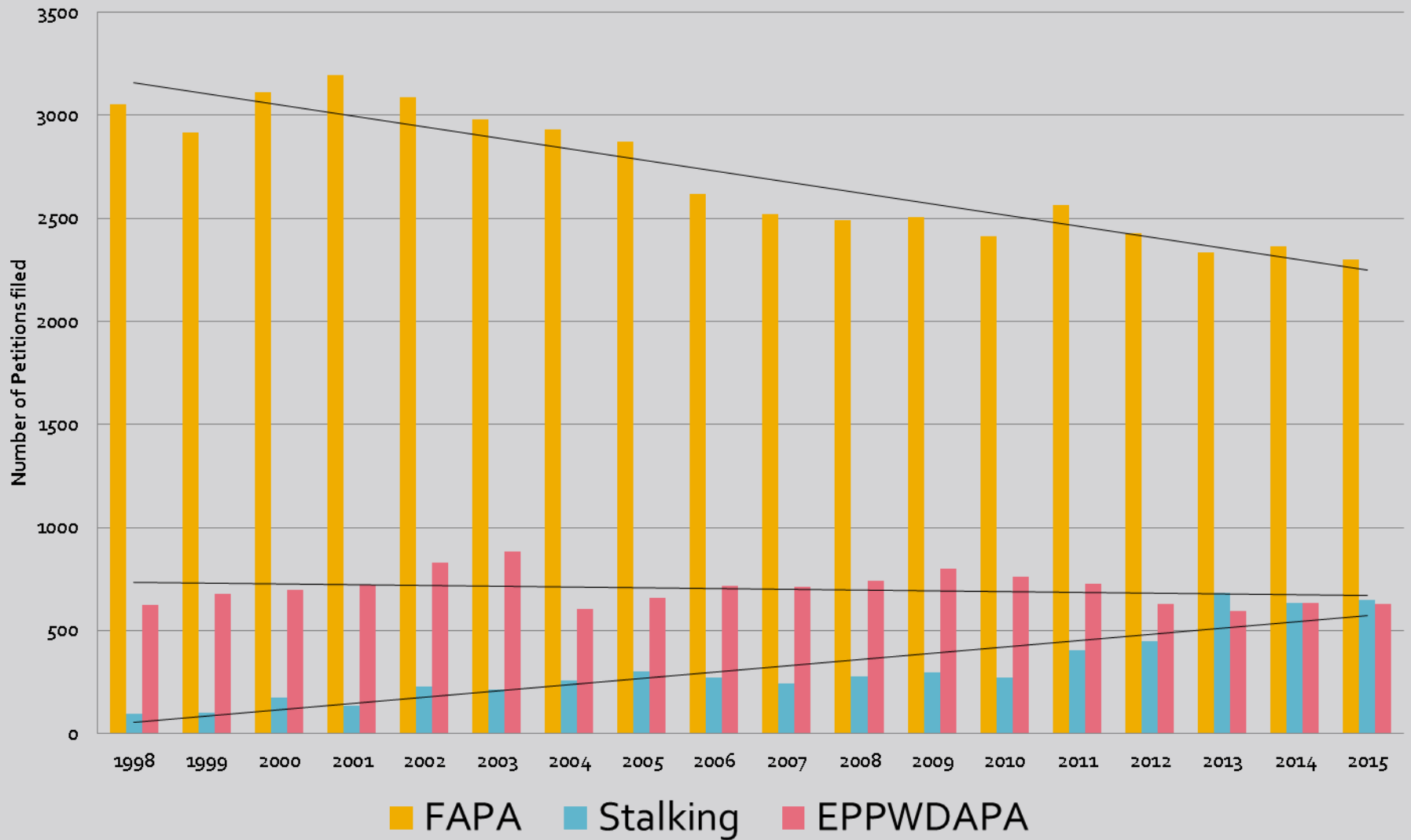
- Multnomah County:
 - Similar to Statewide on FAPA
 - *Differs* from Statewide on Stalking and Elderly/Disabled

Oregon Statewide Restraining Order Filings 1997-2015



74 SAPO statewide in 2015

Multnomah County Protective Order Filings, 1998-2015



Multnomah County Filing Data vs. Statewide Filing Data


- **FAPA** – very similar downward trend




- **Elderly/Disabled** –

 - Mult Cty is flat while Statewide is increasing.

 - MultCty always has had more Elder/Disabled filings than Stalking, unlike Statewide trend



- ★ **Stalking** – MultCty #s are increasing much more quickly than Statewide's slow climb, and are nearing Elderly/Disabled #s



MCSO Civil Process Unit – Primary Servers of Protection Orders

- In 2015, MCSO received 2511 sets of Protection Order documents for service
 - Must serve w/in 10 days or return documents to court
- 59% service rate (compared to 80% average rate for service of all civil documents)
 - Respondent location often unknown
 - Increasing amount of on-line conduct predicated protection orders makes location of Respondent, and therefore service, even more problematic

More time, more resources
- Safety issues at point of service

Firearms Dispossession

- FAPA order *can* order firearm dispossession
- LPSCC presentation in 9/14 re local protocols
 - Have PPB & MCSO locations to store weapons
 - Respondent may also transfer to 3rd party passing OSP background check
- As of 1/1/16, most FAPA respondents whose orders are continued after hearing *cannot* possess firearms without violating state criminal law
- Data reports from court to DA, PPB, DCJ, Defense, provide “prohibited “ Resps” w/o timely-filed dispossession affidavit

Current/past Intimate partner or joint parent

ALL FAPA RESPONDENTS --
get COURT SHEET re Firearms duties

ALL FAPA RESPONDENTS ORDERED NOT
TO POSSESS FIREARMS – must
document their compliance by filing
the AFFIDAVIT re firearm

ALL FAPA RESPONDENTS
ORDERED NOT TO POSSESS
FIREARMS WHO CURRENTLY HAVE A
WEAPON ALLEGED are NOTED on
the order (Box 10A)

Reporting to LEA databases

Since 2007, federal law requires States to report to NICS (in FBI):

- **Protection order records &**
- **Convictions for “Misdemeanor Crimes of DV” (MCDV)**
 - Defined in federal law. Primarily Assault, Strangulation in Oregon
- **Mental Health adjudications**
 - (Involuntarily) committed to mental institution (Civil Commitments)
 - “Adjudicated to be mentally defective” (by case law, includes Civil Commitments and Guilty except for insanity (GEI))



- State laws require reports to LEDS (& NCIC) thru MCSO for protection orders & Civil Commitments
 - but misdemeanor conviction reporting is problematic because unless the Defendant has a control # (from being fingerprinted), there is nothing for the conviction record to “connect up with”
- Ø prints = Ø report into NICS or NCIC

Problems --



- Inconsistent completion of Federal Firearms Findings (FFF) on Protection Orders
- Logistics/consistency in getting pretrial “no contact” orders in criminal cases in/out of LEDS/NCIC
- DCJ “no contact” terms are entered into LEDS but not “no contact” terms in bench probation ???
- Logistics/consistency re FFF on MCDV cases (misdemeanor crimes of DV)

Assessment

■ Who is assessing in our community?

- Victim service programs in safety planning
- PPB at scene
- DCJ for formal probationers
- DCJ for Release of Pretrial Criminal Defendant (Jail Beds)

***Discussions starting -- instrument(s) used for
pretrial release decisions re DV offenders

■ Unaddressed:

- Bench probations – sometimes high risk
- Restraining order cases
- Child Custody and Parenting time cases (no \$)
- Child Welfare (DHS – very few professional assessments of DV offender; \$)

Batterers' Intervention Programs

- DV research -- 2 decades behind drug and sex offender research
- *Do know:* Generalities
 - BIP produces *slight/modest* but positive reductions in recidivism for *some* offenders
 - Probably not the personality-disordered or non-treating substance abusing
 - Dosage effect: longer is better for those affected
 - In BIP, cognitive-behavioral approach probably most useful for most offenders

- BIP not effective with highest-risk offenders
 - Use risk assessment & risk management to contain?
 - Assessment would involve actuarial instruments (need Victim input) as well as clinical interviews
- Strongest predictors of re-arrest in year after BIP intake are offender characteristics, rather than completion of BIP
 - Lower education
 - Younger
 - Not married to Victim
 - Longer criminal history
 - Drug/alcohol dependency

- We probably **should be assessing more**, to **differentiate** among perpetrators and interventions
 - Need to assess NEEDS as well as RISK
 - On Risk, use validated instruments and victim perspective as well as

As a community, we lack an imperative and resources for adequate assessment

