

# GUNS: 2012 policy allows Milton-Freewater employees to have guns at work

Continued from 1A

a San Bernardino County Department of Public Health employee and his wife shot and killed 14 people and wounded 22 others at an office Christmas party.

He said the federation heard from people concerned how the policy affects them. The spouse of one state employee, Starrett said, is worried about his wife having to walk three blocks to work in the dark without a weapon to protect herself.

Still, Starrett said he believes the governor has the authority to make lack of weapons a condition of employment, based on court rulings from two cases the federation brought: the 2007 lawsuit to support a Medford teacher's ability to bring a gun to work to protect herself from an abusive ex-husband; and a 2009 lawsuit challenging the Oregon University System's rules banning guns on campus.

The federation lost the Medford case but prevailed against the state universities. Starrett said the two decisions "form a fairly bright line" governing guns in Oregon, but the new policy raises questions.

State legislators, for example, determine the rules for the Capitol in Salem, not the governor or Department of Administrative Services. The department, however, oversees the parking garage under the Capitol. Can a legislative staffer with a gun and concealed carry permit have a weapon in the garage or another state building?

"Frankly, I don't know what happens," Starrett said. "I don't think anybody does."

James Leuenberger was the attorney in the Medford case, representing Shirley Katz, the high school teacher who wanted to carry a gun to campus for self defense.

Leuenberger said he hasn't handled any cases related to gun rights recently, but takes issue with the state's ban.

"I think it's silly, of course," he said. "I don't think there's any gray area whatsoever. The Second Amendment doesn't allow for deviation — the right of people to keep and bear arms shall not be infringed," he said. "There's a fundamental problem with the U.S. Supreme Court's interpretation (of the amendment)."

"I would call the ban unconstitutional," Leuenberger said. "But that's just one man's opinion. In order to have the right to do something, you have to convince a panel of judges you have the right."

Rep. Greg Barreto of Cove, the deputy leader for the Oregon House Republicans, said the ban was a topic of discussion at the party caucus last week. He said he is doubtful the gun ban is constitutional.

"Right now, I don't think they can do that," Barreto said.

Legislative counsel is looking at the policy and has yet to offer an opinion, but Barreto said his constituents have already weighed in.

"I've heard from a lot of them, and none of them see it as a good idea," Barreto said.

Barreto owns a manufacturing business in Union County and said he has employees who pack. He said he's OK with that because businesses have the right to set policies as long as they don't break the law.

"But that's different in the public arena," he said.

## Rule support

Some citizens think the ban has merit. Paul Kemp, of the group Gun Owners for Responsible Gun Ownership, said his organization sees the ban as an update of a current rule.

"My understanding is that this is an attempt by the governor's office to clarify an already-existing human resource policy that was implemented almost 20 years ago," Kemp said. "They haven't taken anyone's gun away. They've asked them not to bring it into the workplace. It's within the privilege of the governor to make that order."

He added that Governor Kate Brown has been very supportive of gun violence prevention measures.

"Do we have to wait until there's a shooting in a state office building to say, 'the governor was right?'" Kemp said.

Kemp said one goal of his group is to advocate for safe storage laws for guns — of which Oregon has none. He said Oregon's requirements for getting a concealed handgun license are also fairly loose and require no training, which members of his organization find risky.

The group was formed in 2012 after a shooting at Clackamas Town Center. The two victims were related to Kemp and another group member.

The shooter, who did not know either victim, got the gun from a friend who had purchased it legally but left it fully loaded and unlocked.

Kemp said one of the biggest problems with Oregon's lack of safe storage laws is that it allows access to people who shouldn't have it.

"Us in the group — our guns are secured," he said, adding that when their guns

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— James Leuenberger, Lake Oswego attorney

are not with them, they're secured and unloaded.

Kemp said his group hopes advocating for safe storage and responsible handling of guns will cut down on suicides and accidents — especially with young kids.

"There are too many kids getting injured or killed senselessly," he said. "Suicides, too. If you put a temporary road bump, make them more difficult to access — you reduce the ability for someone to act on impulse — you can make a change."

## DAS perspective

Matt Shelby is the spokesperson for the Department of Administrative Services. He said the policy applies only to state employees in state buildings, not the general public in state buildings.

While some policy revisions come down from on high, he said this was not one of them.

"This was a response to requests the (human resources) shop was getting from state employees," Shelby said.

Administrative Services policy has banned weapons in state facilities since 1998, but Shelby said it was a "blanket, no-weapons DAS buildings policy," and "silent on concealed carry."

However, the Legislature is the only body that can set a law governing firearms, and the overly-broad policy could read like a law.

"It was not really enforceable," he said. "It didn't align with state law or the Constitution."

Several state agencies also had specific weapon restrictions as conditions of employment, such as the Department of Human Services, the Oregon Youth Authority and Oregon Department of Corrections.

the state of Oregon," he said. "We are not restricting their ability to conceal to carry — if they have a permit — from carrying in our buildings."

Administrative Services has received a lot of positive feedback from state employees, he said, thanking the agency for the clarification. He also acknowledged restrictions on guns raise red flags for plenty of people.

"And we get that," Shelby said. "The reason this policy was created: We were receiving request for clarification and we provided it."

They also said the policy aligns with the kinds of weapons restrictions Oregon cities and counties use as conditions for employment.

## Local level

Umatilla and Union counties lack weapons policies, though their courthouses fall under state and local bans. Pendleton's employee handbook lists rules violations that could result in termination of employment. The first entry on that list: "Bringing firearms or weapons of any kind, intoxicating beverages, drugs or chemicals not medically required onto the premises."

Pendleton human resources manager Andrea Denton said there are exceptions for police officers, and victims of domestic violence might be able to carry mace or other protections.

In Hermiston, city manager Byron Smith said there is a policy in the employee handbook prohibiting possession of a weapon on city property or in a vehicle, unless the person has prior permission.

"I've had a number of employees come to me and ask what I think about changing that policy and we've consulted our insurance agency about it," he said, "but so far we've found no reason to change it."

Stanfield city manager Blair Larsen said there is a city law on the books against

discharging a weapon within city limits, but there's no restriction on carrying a weapon for employees or anyone else.

"If someone comes in to pay a bill and they visibly have a weapon on them, there's actually no rule against that," he said. He added that Stanfield's courtroom does not allow guns.

Larsen said the issue hasn't really come up since he has been city manager.

"I'd hope employees would come talk to me if they felt it was a cause for concern," he said.

Milton-Freewater since August 2012 has a policy allowing its employees to have guns at work. City manager Linda Hall said those employees must meet state criteria to have a concealed to carry permit.

## No policy cops

"At the end of the day, this is like any other HR-type policy," Shelby said. "From proper use of email to offensive language at work. And we don't have policy cops that go around and try to regulate that kind of stuff. It's more of a complaint-driven process."

Employees who spot a violation can reach out to a supervisor or their human resources office. And like any other policy violations, discipline would be progressive.

Lawmakers can address the policy, but Starrett with the Oregon Firearms Federation said he does not see that happening, and the federation is not pushing for it. The chance for any success is minimal given the Democrat majority in the Legislature and the Democrat governor. And there's another reason the federation is not going to fight this.

"To be honest with you, I think this is an issue that public employees should be addressing," Starrett said. "I think at this point, it is going to be up to them to do it."



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