



From the Desk of

Staff Judge Advocate

October - Domestic Violence Awareness Month

Domestic violence statistics for the V.I.:

- In 2009, there were **348** domestic violence cases filed in the district of St. Thomas/ St. John and **717** domestic violence cases filed in the district of St. Croix.
- So far, this year, there have been **208** domestic violence cases filed in the district of St. Thomas/ St. John and **312** domestic violence cases filed in the district of St. Croix.
- This year, the amount of deaths that resulted from domestic violence for all three districts totals **9**.

What is domestic violence?

Title 16, section 91 of the Virgin Islands Code defines "domestic violence" as the occurrence of any of the following acts, attempts, or threats against a spouse, former spouse, parent, child, or any other person related by blood or marriage, a present or former household member, a person with whom there is a child in common, or a person with whom a sexual or otherwise intimate relationship has been or is in existence:

- | | |
|--------------------------------|-----------------------------|
| (1) Assault | (8) Coercion |
| (2) Battery | (9) Destruction of property |
| (3) Burglary | (10) Harassment |
| (4) Kidnapping | (11) Threats |
| (5) Unlawful sexual contact | (12) False imprisonment |
| (6) Rape | (13) Stalking |
| (7) Forcible or unlawful entry | |

Can I be arrested?

Under VI law, police officers or other peace officers have the power to make arrests **without a warrant** if there is probable cause to believe that a misdemeanor or felony involving domestic violence, as defined by section 91, has been committed by the suspect in violation of a court order or any criminal statute of this Territory.

What happens if I am arrested?

A person arrested for a crime that constitutes domestic violence must appear before a judge. The judge shall determine whether to grant bail or to detain the defendant pending trial. Bail set will range from one thousand dollars (\$1,000.00) to fifteen thousand dollars (\$15,000.00) and is determined by the following factors:

- (1) the degree of injury to the victim;
- (2) the defendant's history of domestic violence as documented by police reports or other credible reports;
- (3) the use or threatened use of a weapon;
- (4) the potential threat to the alleged victim or other family or household member;
- (5) the potential threat to the public; and
- (6) the likelihood that the defendant will appear for trial.

TRUE or FALSE: If there are no witnesses, I can get away with it.

FALSE:

A victim may file a complaint alleging the commission of an act of domestic violence with the Family Division of the Territorial Court. The Court shall not dismiss any complaint and a hearing shall be scheduled in Court within 10 days of the filing of a complaint, provided the defendant has received notice of the proceedings.

What will happen at the hearing?

At the hearing, the Court may issue an Order granting **any** or **all** of the following relief:

- (1) An Order prohibiting the defendant from subjecting the plaintiff to domestic violence.
- (2) An Order prohibiting the defendant from having contact with the plaintiff, including, but not limited to, restraining the defendant from entering the plaintiff's residence, place of employment or business, or school.

(3) An Order granting possession of the residence to the plaintiff and excluding the defendant when the residence or household is jointly owned or leased by the parties.

(4) An Order determining temporary child support or child custody, or establishing visitation rights.

(5) An Order requiring the defendant to pay monetary compensation for losses suffered as a direct result of the act of domestic violence.

(6) An Order granting the plaintiff temporary possession of specified personal property, such as automobiles, checkbooks, keys, and other personal effects.

(7) An Order requiring the defendant to receive professional counseling or other appropriate treatment.

How will a domestic violence conviction affect my military career?

- As a National Guard member, a domestic violence conviction will subject you to a variety of administrative procedures, the most severe being reduction in rank (AR 600-8-19) and military separation (AR 135-178).

- Additionally, under the 2006 National Defense Authorization Act, Pub. L. 109-163, sec 554, 119 Stat. 3136, 3264-65 all Soldiers/Airmen in the rank of E-6 and above have a duty to self-report all criminal convictions to their first-line supervisor.

- To ensure that this mandate is met VING is working closely with the VI Police Department and the court to monitor domestic cases so that we are aware when there are cases filed that may involve our Soldiers/Airmen.

Although there is no specific Article in the UCMJ related to domestic violence, the acts committed in association with domestic violence can still be punished under other Articles of the UCMJ. These Articles include, but are not limited to, Article 97 (Unlawful detention), Article 109 (Property other than military property of the United States - waste, spoilage, or destruction), Article 120 (Rape, sexual assault, and other sexual misconduct), Article 120a (Stalking), Article 128 (Assault), Article 129 (Burglary), and Article 134 (Assault; Child endangerment; Firearm, discharging - willfully, under such circumstances as to endanger human life; Kidnapping; and Threat). Punishments for these crimes include, but are not limited to, **confinement, discharge, and forfeiture of pay and allowances.**

Additionally, if you have a 'qualifying conviction' for a misdemeanor or felony crime of domestic violence, the **Lautenberg Amendment** will

- (1) prohibit you from possessing firearms and ammunition, thus preventing you from carrying out duties requiring the bearing of arms and;
- (2) prohibit you from receiving OCONUS assignments; and
- (3) prohibit you from reenlisting.

What are some early warning signs that a mate may become abusive?

- Extreme jealousy
- Controlling behavior
- Quick involvement
- Unpredictable mood swings
- Alcohol and drug use
- Explosive anger
- Isolation from friends and family
- Uses force during an argument
- Shows hypersensitivity
- Believes in rigid sex roles
- Blames others for his/her problems or feelings
- Cruelty to animals or children
- Verbally abusive
- Abused former partners
- Threatens violence

Do you need help?

If you need assistance with respect to domestic violence issues, whether as a victim or a perpetrator, you can get help through the following resources:

- www.militaryonesource.com
- Dr. Chester Copemann, Director of Psychological Health, 518-5113 (O)