

Domestic Violence in the Military Implementing Collaborative MOUs

Though separated from surrounding communities in many ways, military installations are not islands. Service members and their families regularly visit such communities, and many live outside the installation in them. Any domestic violence (DV) incident that occurs off installations is under the jurisdiction of local civilian authorities. In fact, civilian authorities may also have jurisdiction (and be first responders) over incidents that occur *on* installations. Thus, one of the recommendations of the Defense Task Force on Domestic Violence (DTFDV)—which conducted a comprehensive review from 2000 to 2003 of how the military could most effectively prevent and respond to DV by and against its service members—was that the Department of Defense (DoD) “require installation/regional commanders to seek MOUs [memorandums of understanding] with local communities to address responses to domestic violence.”

While issuing such uniform policy may be relatively simple for the DoD, meeting this goal is likely to be a considerable challenge for both installations and communities. RAND examined some of the key challenges that must be addressed in establishing MOUs and recommend some ways to address them.

MILITARY CHALLENGES IN CREATING MOUs

Of all the challenges facing the military, perhaps the weightiest is how much the civilian community has adopted the philosophy and reforms of the modern DV reform movement. Legal changes have broadened those covered by DV laws to include (1) current and former spouses, (2) present or former cohabitants, (3) present or former non-cohabiting dating partners, (4) other persons related by blood and/or marriage, and (5) persons with a child in common regardless of cohabitation.

But states vary in how much they reflect these changes. Looking at 15 states where a substantial number of military personnel are stationed—Alaska, California, Colorado, Florida, Georgia, Hawaii, Kansas, Kentucky, Maryland, New York, North Carolina, Oklahoma, Texas, Virginia, and

Washington—we find that all 15 states include categories 1, 2, and 5 in their legal definition of DV, but only 9 of 15 and 12 of 15 include categories 3 and 4, respectively. Variation also exists in whether an arrest by police officers is discretionary or mandatory for DV crimes or violations of civil orders forbidding contact with victims (see table).

State Variation in DV-Related Arrest Requirements

State	Misdemeanor DV Arrest		Protection Order Violation Arrest	
	Discretionary	Mandatory	Discretionary	Mandatory
AK		X ^a		X
CA	X			X
CO		X		X
FL	X		X	X
GA	X		X	
HI	X		X	
KA		X		X
KY	X			X
MD	X			X
NY		X		X
NC	X			X
OK	X		X	
TX	X		X ^b	
VA		X ^c		X ^c
WA		X ^d		X

^aIf in past 12 hours; ^bMandatory if occurs in officer’s presence—since uncommon, classified as discretionary; ^cExcept under “special circumstances”—not defined in statute; ^dIf in past 4 hours and victim is injured or in fear of serious injury.

Another challenge is that while state law may mandate particular actions in DV cases, responses by communities within the state also vary. Installations must also deal with variations in how communities use their resources to respond to DV (e.g., whether they form specialized units) and variations in how much they emphasize establishing and enhancing a coordinated community response to DV that involves criminal justice, social service, and nonprofit agencies; citizen groups; major employers; religious and medical communities; and schools.

Finally, complicating matters further is that many installations neighbor more than one civilian jurisdiction. In fact, service members at larger installations may live in several different municipalities or different counties, and some service members in installations near state borders (e.g., the Army's Fort Campbell) may live in different states.

CIVILIAN CHALLENGES IN CREATING MOUs

A key challenge facing civilians is that civilian authorities tend to view DV as a criminal matter requiring formal intervention, whereas the military tends to have a quasi-Employee Assistance Program and a disciplinary approach that operates through installation-based Family Advocacy Programs (FAPs). FAP workers are often social workers or health professionals, not police officers. The role of military law enforcement is typically oriented toward referral to FAP services, not toward collecting evidence for prosecuting criminal behavior. Thus, MOUs need to reconcile such differences.

Another challenge is that while there are very few legitimate excuses for civilian defendants to avoid appearing in court or completing a required DV intervention program, legitimate military needs—such as deployment or relocation—can interfere with scheduled court appearances, court orders, or prosecutor agreements. MOUs need to address this issue so that there is a predictable and agreed-upon military response.

Providing services for victims of domestic violence involving service members is another challenge. Because the current DoD working definition of DV recognizes only military members and current spouses, ex-spouses and unmarried cohabiting and dating partners do not qualify for FAP services and may turn to civilian communities for assistance. And even those who do qualify may choose civilian resources. FAP counseling and other assistance is not confidential—DoD policy mandates that commanding officers be notified about reports of spouse abuse. MOUs need to recognize and address these concerns.

The DTFDV has recommended that the military orientation toward DV shift in the direction of the predominant civilian model, which treats such abuse as criminal behavior. This shift would produce more areas of commonality in approach and would likely facilitate the formation of collaborative relationships.

RECOMMENDATIONS

In providing guidance to installation commanders about how to form MOUs with neighboring communities, the DoD has been developing example MOUs that may serve as models. While models will certainly help, they are likely to be insufficient. Given the wide variations among civilian communities, all agencies within them are unlikely to agree to a uniform “model” MOU. Moreover, model MOUs cannot respond to local conditions in enough detail. Thus, when the DoD distributes the models, it should inform installation commanders that they represent starting points, not the end of the process.

Also, the DoD should continue and expand its Incentive Program for Improving Responses to Domestic Violence, established in fiscal year 2000, which provides a potentially valuable mechanism for supporting installations, in particular during the resource-intensive early steps of forming collaborative partnerships.

The DTFDV's recommendation that the U.S. Violence Against Women Office (VAWO) develop an incentive program for civilian communities to support the birth and growth of collaborations with installations makes sense. Such an incentive program targeted toward civilian-military collaborations is likely to provide a catalyst for more civilian communities to seek out such relationships and could also support the testing of innovative programs and practices in communities that already have some level of cooperation with neighboring installations.

Finally, the DoD and VAWO (either jointly or separately) should consider funding a research program targeting the factors that facilitate and hinder civilian-military collaborations. The lack of knowledge is glaring given the rapidly growing body of knowledge about DV community collaborations among civilian organizations. The products of such a research program could provide direction to local jurisdictions seeking to anticipate and overcome challenges to successful collaboration and could also inform the refinement of incentive programs by highlighting the types of partnership models that the DoD and VAWO should encourage. Ultimately, once some fundamental knowledge has been acquired, a research program could assess the outcomes of established collaborative relationships.

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