

# *Equal Justice Foundation*

## **Domestic Violence – The Facts**

### **IF YOU ARE CHARGED WITH DOMESTIC VIOLENCE**

- **You are presumed guilty until you prove your innocence and due process is nonexistent.**
- **Arrest is mandatory and will be made without a warrant.**
- **Domestic violence is the new Jim Crow.**

If you are black you are much more likely to be arrested, convicted, and spend a longer time in jail.
- In DV cases the DA's are out to win. **Your guilt or innocence is of no consequence to them.**
- Prosecutors often tack on additional charges after your arrest, especially if they can get felony charges added. That gives them a much stronger position when trying to get a plea bargain.

Tacking on additional charges against you also increases the bail you must post.
- The District Attorney **cannot** dismiss a domestic violence case or plea bargain it to anything that does not involve domestic violence C.R.S. § 18-6-801 (3).

The other party cannot get the charges against you dropped either as it is the State vs. you.  
*Realistically, the only way you can clear your record of a domestic violence charge is to go through a jury trial.* The prosecutor will attempt to bluff you about going to trial, and your defense attorney may recommend a plea bargain because he gets paid but doesn't have to go to the time and effort of preparing for trial.  
If you wisely call the prosecutor's bluff and insist on going to a jury trial we have heard innumerable stories from men where the district attorney asks the judge to dismiss the case the morning the trial is to begin.
- In order to be released from jail you will be issued a mandatory restraining order C.R.S. § 18-1-1001 that you must sign and acknowledge. The restraining order will include:
  - (a) An **order to vacate or stay away from the home of the victim** and to stay away from any other location where the victim is likely to be found. Commonly this means you can't go back to your own home or job location even if she doesn't live or work there, or have any claim to be on the property;
  - (b) An **order to refrain from contact or direct or indirect communication with the victim**, i.e., you can't contact any of her or your friends to obtain witnesses on your behalf; **No contact means no contact!**
  - (c) An **order prohibiting possession or control of firearms or other weapons** {a Federal felony under 18 U.S.C. § 922(g)(8 and 9)} and if you have military or police training you are classed as a "trained killer;"
  - (d) An **order prohibiting possession or consumption of alcohol or controlled substances**; and
  - (e) Any other order the court deems appropriate to protect the safety of the alleged victim. For example, as a condition of your release on bail you may be required to wear an electronic tracking bracelet until your trial.  
*The mandatory restraining order only works one way.* You are restrained from contacting the other party but they can contact you. However, you can't reply or speak to them when they do, or you go back to jail.
- **No determination of your guilt is required before imposing such punishments.**

### **WHAT YOU SHOULD DO IF CHARGED WITH DOMESTIC VIOLENCE**

- You will be given a hearing or arraignment before a magistrate or judge and formally charged.

If(?) you have been released on bail before the hearing, you **must** show up in court or you will lose all future rights and surrender your bail bond.
- **Plead innocent and demand a jury trial!**

A guilty or no contest plea at this time, or failure to appear, is a **lifetime** sentence regardless of anything the prosecutor may tell you about a "deferred sentence." (They may legally lie)  
The prosecutor will do everything possible, commonly including lies, intimidation, and often torture (hypothermia is a common method) to get you to plead guilty and accept a plea bargain.  
**A trial to a judge is simply a long, slow way of pleading guilty.**  
Don't make any statement at the hearing other than "**Not guilty**" and a demand for a jury trial. Colorado is required to give you a trial within six months after entering a not guilty plea. Don't accept continuations.
- **Get an attorney!**

**If ever in your life you need a lawyer, now is the time.** If you have not been able to obtain an attorney while in jail, and the court does not, or will not, assign a public defender, you must obtain your own (*see dvmen.org*).
- With luck and a competent criminal defense attorney you may be able to have some terms of the automatic restraining order against you lifted or modified at the hearing, e.g., the no alcohol provision or no contact with your children order, depending on circumstances.
- The court may require a bond or release you on your own recognizance. If you previously posted a bond, and you are released on your own recognizance, ask to have the bond lifted.

*Continued on other side*

*For additional information see Domestic Violence Against Men in Colorado at [dvmen.org](http://dvmen.org)*

- The lifetime cost of pleading guilty is infinite and you cannot appeal. **Demand a jury trial!**  
Unless your guilt is clear, any criminal defense attorney who suggests you accept a plea bargain or deferred judgement should be dismissed instantly as incompetent. Corrupt defense lawyers love plea bargains or deferred judgements because they get the same fees but don't have to go to the labor of preparing for trial.

## **WHAT HAPPENS IF YOU ARE CONVICTED, PLEAD GUILTY, PLEA BARGAIN, OR ACCEPT A DEFERRED SENTENCE ON A DV CHARGE**

- **A conviction usually means the loss of your job and a plea bargain is a conviction.**  
If you accept a plea bargain you surrender all rights to an appeal.  
Under DoD Directive 5220.6 a DV conviction will deny you a security clearance.  
You will also lose your professional license(s) and any financial bond. Thus, doctors and others who require professional licenses or financial bonds, e.g., stockbrokers, cannot continue to practice their trade or profession.
- **The loss of your Second Amendment rights is for life.**  
A conviction will mean the certain loss of your job if you work in a profession, e.g., police, fire, military, construction, trucking, mining, etc. that requires use of firearms, explosives, or other dangerous agents.  
It is a violation of **Federal** law, 18 USC § 922(g)(8 and 9), to purchase, acquire, or be in possession of firearms, ammunition, or other dangerous weapons, *with a mandatory minimum of 5 years in prison if convicted.*
- **You cannot serve in the military and you may lose any military pension you have.**  
If you are currently in the military you will be involuntarily discharged or not allowed to reenlist.  
The Uniformed Services Former Spouses Protection Act (PL 97-252, 1982) "allows" state divorce courts to "divide" as marital property any "pension" earned during the concomitant marriage/service period, regardless of fault, need, or independent wealth. It also penalizes military men for domestic violence inflicted on civilian spouse/dependents by revoking his retirement benefits and providing them to his victims.
- On a first offense for misdemeanor assault the typical sentence is two years probation; second offense up to six months in county jail plus probation; third DV offense is a felony with 6 to 18 months or more in prison. Felony assaults have longer sentences and usually result in at least 6 months in jail though several years in prison are more likely with a felony conviction.
- Commonly there will be a fine as well as court costs.
- You will be required to take, and pay for, 36 weeks of DV counseling, although anger management and drug or alcohol abuse classes may be imposed as well.  
The mandated DV and any other court-ordered counseling will cost you \$1,000-\$2,000 on top of other fines and fees, and require several hours of your time every week for at least nine months. Attendance is mandatory.
- The mandatory restraining order remains in effect until your sentence is completed. If you violate the restraining order you will almost certainly go to jail for 3 to 6 months.  
Your conviction shows on *www.COCourts.com*. As employers check that, getting a new job will be difficult.
- Most marriages end in divorce in these cases.  
**Custody of any children will pass to the mother if you are convicted** and she will be awarded child support and possibly maintenance (alimony). Because of this many women use DV charges to gain custody or hide adultery.  
Fathers will most likely only be able to see their children during supervised visitation periods for at least one to two years after a DV conviction and will pay from \$40 to \$60 per hour of supervised visitation.  
Even without children she will likely get the house, the car, bank accounts, and anything else she wants.
- If you are not a United States citizen you will be deported and cannot reenter the country.  
The law requiring deportation also applies to a wide range of crimes ranging from manslaughter to misdemeanor drunken driving, as well as domestic violence.
- You may never be eligible for welfare or public housing.  
Renting or buying a house will be difficult or impossible under current law.
- You will be unable to obtain a student loan.
- You probably cannot ever hold a public office or get a government job.
- You cannot get a hunting license.
- Your voting rights may be lost.

*Web sites: [www.ejfi.org](http://www.ejfi.org) and [www.domen.org](http://www.domen.org) Email: [comments@ejfi.org](mailto:comments@ejfi.org)*

*Equal Justice Foundation  
455 Bear Creek Road Phone: (719) 520-1089  
Colorado Springs, Colorado 80906-5820*

*Federal employees can contribute through the Combined Federal Campaign in Colorado, Idaho, Wyoming, and Utah. The EJF agency number is 18855.*