

Magistrates' 2014 Fall Conference: Technology's Role in Domestic Violence

Amily McCool, MSW, JD
Systems Advocacy Coordinator

The NC Coalition Against Domestic Violence



Objectives:

Increase awareness about the dynamics of domestic violence

Learn about ways abusers misuse technology to stalk and terrorize survivors

Learn about roles of Magistrate in Responding to Domestic Violence

What is Domestic Violence?

- Domestic violence is a **pattern** of coercive behavior in which **one** person attempts to **control** another through threats or actual use of tactics, which may include any or all of the following: physical, sexual, verbal and psychological abuse. The behavior may occur **during** the relationship or **after** the relationship has ended.

North Carolina Legal Definition of Domestic Violence

- Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:
 - (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
 - (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3A, that rises to such a level as to inflict substantial emotional distress; or
 - (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

Personal Relationship

- Current or former spouses
- Persons of opposite sex who live together or have lived together
- Persons related as parents and children or grandparents and grandchildren
- Persons who have a child in common
- Current or former household members
- Persons of opposite sex who are in a dating relationship

DV is Prevalent and Lethal

- Every 6.5 seconds, an abuser physically assaults or rapes their female intimate partner.

(CDC, 2010)

- Men murder nearly 4 female intimate partners in the United States each day.

(CDC, 2010)



DV Murders in North Carolina

- 2014: 49 murders
- 2013: 64 murders
- 2012: 63 murders
- 2011: 74 murders
- 2010: 75 murders
- 2009: 72 murders
- 2008: 82 murders
- 2007: 85 murders
- 2006: 80 murders

Who Are the Victims?

- Women and Men
- Teens and Elderly
- Latin@, Black, Indian, Native American, White, (all races and ethnicities)
- Undocumented Immigrants, U.S. Citizens, Documented Immigrants
- Lesbian, Gay, Straight, Transgender, Bisexual, Queer
- Able-bodied and Disabled

Power and Control



Myth

Victims of DV are safer once they leave their abusers.

Reality

- A victim is at the **greatest risk** of being killed at the time of trying to leave because the batterer's power and control is threatened.
- **75% of domestic murders occur when the victim and batterer are separated.**

STALKING

What is Stalking?

- Stalking is *a course of conduct directed at a specific person that would cause a reasonable person to feel fear.*

Who Are Victims Of Stalking??

- Anyone can be a victim of stalking
- 6.6 million people are stalked in one year in the United States
- Young
 - More than half of female victims and more than 1/3 of male victims of stalking indicated that they were stalked before the age of 25.
 - About 1 in 5 female victims and 1 in 14 male victims experienced stalking between the ages of 11 and 17.
- 1 in 4 women and 1 in 13 men reported being a victim of stalking in their lifetime

Stalkers

- The majority of stalking victims are stalked by someone they know.
 - 66% of female victims and 41% of male victims of stalking are stalked by a current or former intimate partner.
- Why do they stalk?
 - Power and control
 - Gain information about victim
 - Interact with the victim

How Stalking Happens

- Physically following someone
- Showing up at their work/home/favorite places
- Driving by their location
- Technology technology technology

Why Do We Need To Know About Technology?

- Abusers, stalkers, & perpetrators are misusing technology to further control, monitor, and harm their current and former intimate partners.
- Abusers are using technology to commit criminal offenses

Abusers and Technology

- Nearly 90% of programs report that survivors come to them for help after abusers intimidated and made threats via cell phone, text messages and email, and 75% of programs noted that abusers accessed victim's accounts (email, social media, etc.) without the victim's consent and oftentimes without their knowledge
- SOURCE: NNEDV SafetyNet Survey, 2014

Ain't Technology Grand???

- Calling/texting repeatedly
 - Call forwarding, blocked caller ID
- Hidden cameras (now tiny and wireless)
- GPS/location services
- Online databases (property tax information etc.)
- E-blaster programs/spyware/keylogger
- Location apps
- Instagram
- Twitter
- Facebook
- Email
- Other social networking sites

How Do Abusers Misuse Phones?

- Intercept phone calls.
- Impersonate someone else or the survivor.
- Monitor survivor:
 - Phone activities, including calls, texts, voicemails.
 - Location

“Smart” Phones

- Mobile phone with more advanced computing capability and connectivity than basic feature phones
- Essentially a hand-held computer
- Touch screen
- Typical features include:
 - Camera
 - GPS navigation
 - Music player
 - Media player
 - Web browsing
 - Wireless
 - Third-party apps

Cell Phone Features

- Caller ID, text messaging, call history, voice mail can be monitored
- Billing information
- Can be used as a listening device:
Silent mode + Auto-Answer = surveillance



Cell Phone SIM Card Spy



- Tap into all files on a cell phone SIM card for viewing, saving or editing
- Price: \$59.95"



Text Messaging

- Three ways to send a traditional text message:
 - From phone to phone (even to a landline). (Audio)
 - From computer using carrier's website.
 - From e-mail, by sending to the 10 digit mobile number (number@cellphonecompany.com).
- Can also send using text messaging apps:
WhatsApp, kik, iMessage, SnapChat



Trapcall

- TrapCall unmasks the Caller ID of blocked and restricted numbers, blacklists harassing callers, and can even record your incoming calls. There is no software to install, and it works on any mobile phone.
- Basic plan is as little as \$4/month
- Can be misused by abuser to learn survivor's number

Cell Phone Spyware

- Difficult to install without physical access.
- Common features:
 - Track GPS location.
 - Monitor calls, texts, messages.
 - Record/listen to calls.
 - Records websites visited.
 - Can view pictures taken.
 - Access contents on phone.
- Difficult to detect.



Cell phone spyware video

Best Spy Software

Remote Cell Phone Tracker & Spy



Secretly Track & Spy On Virtually Any Cell Phone Quickly & Easily
Completely UNDETECTED...
No Monthly Fees - No Hidden Cost
[Start Monitoring>>](#)

GET INSTANT DOWNLOAD...

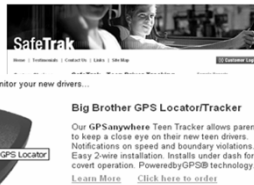
Location & Cell Phones

- Family Locator Plans
 - Verizon Family Locator
 - AT&T Family Map
- Family Locator Apps
 - Life 360 Family Locator
 - Glimpse
- Location-Based Social Media
 - Facebook
 - Instagram
 - Google+



Car Monitoring Programs

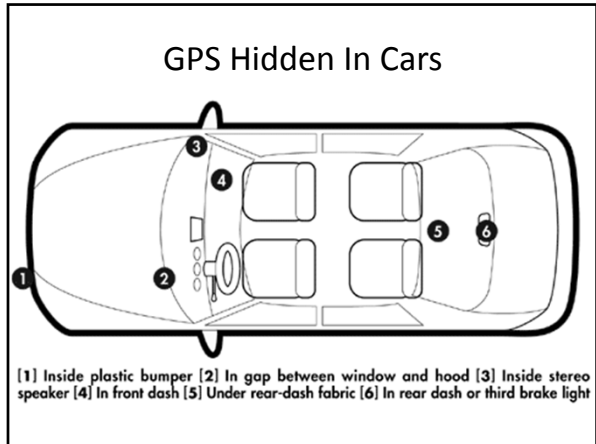
- Marketed to know where your teenager is- but abusers use to track intimate partner
- Know what time they left, what time they arrived and a map to show you the exact location that the car was parked.
- Can set speed limit, unlock doors, enable/disable starter, honk horn.



OnStar Family Link

- OnStar is a safety and navigation system for cars
- Optional add-on service to OnStar.
- Log on to OnStar's Family Link website to view a map with the vehicle's location at any time.
- Schedule e-mail or text alerts to update location of the auto.





Key Copying

- Using only pictures from an iPhone and a free app, there are companies in the US that will duplicate and mail hard copies of keys to Americans for about \$20.
- There are also “KeyMe” stations where abusers can print the key themselves.
- A batterer only needs to have access to a survivor’s keys for a few seconds to scan a picture of them.

Hidden Cameras

- Hidden Cameras:
 - Cheap, affordable, easily hidden.
 - Wired or wireless camera.
- Placement:
 - Access to the home, car
 - Gifts to survivor or children

Hidden Wireless & Wired Cameras

- Connection to Domestic Violence and Sexual Assault:
 - Surveillance tools
 - Footage of consensual sex, distributed without consent
 - Footage of physical and sexual assaults distributed



Social Networks & Online Spaces



Online Communication



How are Online Spaces & Social Media Misused?

- Harass through email, instant messaging, or social networking sites.
- Harass family, friends, and others.
- Create false accounts or hijack accounts to facilitate stalking and monitoring and cause harm.
- Impersonate the victim to cause harm.
 - Craigslist example
- Post and distribute photos and personal information with the intent to harm.
 - MyEx.com

Former boyfriend used Craigslist to arrange woman's rape, police say

Former man is accused of posing online as his former girlfriend and soliciting sex out of a violent sexual fantasy.

January 11, 2010 | By DeeDee Correll

Email Share +1 6 Tweet 0 Recommend 0

...ing from Denver – The advertisement appeared on Craigslist in early December.

...a real aggressive man with no concern for women," read the posting on the Internet classifieds forum. Its purported author was a Casper, Wyo., woman, whose photo also was posted.

...week later, a man accepted the offer, forcing his way into the woman's home, tying her up and raping her at knifepoint.

...how you aggressive," he allegedly said, according to court testimony.

...t, authorities say, the woman had nothing to do with the ad. Instead, they say, a former boyfr

Computer-Based Technologies



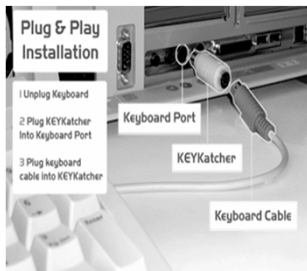
Computer Spyware

- Records all:
 - Keystrokes typed.
 - Websites visited.
 - Emails & instant messages.
 - Details of applications and windows opened.
- It can:
 - Take snapshots of screen.
 - Restart, shutdown, & logoff computer.
 - Control the desktop and mouse.
 - Make computer talk.
- Installation: Can be remotely through link in email, etc. or through downloading spyware directly



Keystroke Logging Hardware

- Hardware can be keystroke logging device, special keyboards, or mouse.
- No software to install or configure – just plug in.
- Records every key typed – capturing chats, email, websites visited, & more.
- Undetectable by software.
- Need physical access to install & remove.



How Batterers Use This Technology

- Victim is still in relationship:
 - Controlling tactic
 - Isolation
 - Forbid victim from going to certain places or talking to certain people
 - Threaten
 - To post sexually explicit photos
 - Harass
 - Repeatedly call, text, email
 - Excuse for physical assaults

How Batterers Use This Technology

- After a victim has left the abuser:
 - Learn victim’s location
 - Show up where victim is
 - Follow victim
 - Send disturbing messages
 - “I can find you wherever you go”
 - Why are you _____ (at the mall; at John’s house, etc.)
 - Harass friends/family victim is communicating with or spending time with

How Batterers Use This Technology

- After a victim has left the abuser:
 - Post sexually explicit photos/videos online or distribute to victim’s family/friends/employer
 - Put victim in danger from online ads impersonating victim
 - Learn victim’s new information
 - Travel patterns
 - Employment
 - Phone number
 - Account information
 - Intimate partner

How Batterers Use This Technology

- After victim has left abuser:
 - To spy on victim for court purposes
 - Break into victim’s residence (with key copy service)
 - Cause victim to remain afraid and feel hopeless
 - Feel better off to be back with abuser- at least victim then knows what he/she is doing and where he/she is at.

Magistrate's Role in Stopping DV

- Help to hold batterers accountable:
 - Issuance of Criminal Charges
 - Issuance of and revocation of Pre-Trial Release Conditions
- Increase victim safety
 - Issuance of Ex Parte Domestic Violence Protective Orders (some jurisdictions)

Magistrate Response

- Independent, unbiased review of charges and complaints by law enforcement officers or citizens
 - Standard: Probable Cause (NOT beyond a reasonable doubt)
- Important to understand HOW stalking happens and the SEVERITY of stalking: Take stalking allegations SERIOUSLY:
 - Stalking behavior typically escalates over time
 - High-risk/Lethality indicator
 - Impact on stalking victims is devastating
 - Constantly “looking over their shoulder,” feel watched, feel “crazy,” feel hopeless- that they’ll never escape

Criminal Charges

- Stalking
- Violation of DVPO

Stalking Legislation: Expanded 2008

- Recognizes the dangerous nature of stalking as well as the strong connections between stalking and domestic violence and between stalking and sexual assault
- Causes a long-lasting impact on the victim's quality of life and creates risks to the security and safety of the victim and others, even in the absence of express threats of physical harm
- Stalking conduct often becomes increasingly violent over time.
- Intends to enact a stalking statute that permits the criminal justice system to hold stalkers accountable for a wide range of acts, communications, and conduct
- Stalking includes, but is not limited to, a pattern of following, observing, or monitoring the victim, or committing violent or intimidating acts against the victim, regardless of the means

Stalking: NC Criminal Offense

- What is Stalking?
 - N.C.G.S. §14-277.3A: willfully on more than one occasion harass another person without legal purpose OR willfully engage in a course of conduct directed at a specific person without legal purpose and the defendant knows or should know that such harassment or course of conduct would cause a reasonable person to:
 - Fear for their safety or safety of their immediate family or close personal associates
 - Suffer substantial emotional distress by placing that person in fear of death, bodily injury or continued harassment

Violation of a DVPO

- Person who **knowingly violates** a valid protective order entered pursuant to Chapter 50B

Evaluate for Elevated Offense

- Stalking as a Felony:
 - Class F – Defendant has previously been convicted of a stalking offense
 - Stalking
 - Cyberstalking
 - Class H – Court order is in effect prohibiting the conduct
 - ANY COURT ORDER
 - DVPO/50B
 - 50C
 - Pre-trial release order
 - Custody order

Evaluate for Elevated Offense

- Violation of a DVPO as a Felony:
 - Class H – Defendant has been convicted twice of DVPO
 - No look-back period limitations
 - Convictions can have the same disposition date

Violation of a DVPO

- Provisions to consider when presented with technology abuses:
 - “No contact” (Pg. 1 of order)
 - Direct or indirect
 - Prohibition against: (Pg. 3 of order)
 - Assault
 - Threaten
 - Abuse
 - Follow
 - Harass
 - **Interfere with**
 - “Not threaten member of Plaintiff’s family or household (Pg. 3 of order)
 - “Stay away provisions (Pg. 3 of order)

Issuing Criminal Charges

- Remember: Standard is PROBABLE CAUSE
 - NOT “Beyond a Reasonable Doubt”
 - NOT- whether magistrate holds subjective belief about whether the DA’s office knows how to prove technology crimes

Evidence of Stalking

- Stalking crimes are VERY hard to document
- Victim MAY only have personal reports of strange activity, being followed, batterer always knowing where s/he is
- Screenshots of phone or computer screen
 - iPhone: Power and Home buttons at same time
 - Computer: “PrtScn” then copy and paste to document
- Printed pages of Facebook chats, emails, forwarded text messages
- Recorded voicemails

DV Pre-Trial Release Conditions and Violations

- **§ 15A-534.1: Crimes of DV and PTR**
 - Crimes:
 - Assault
 - STALKING
 - Communicating Threat,
 - Domestic Criminal Trespass
 - VDVPD
 - Felonies
 - Relationship:
 - Spouse/Former Spouse
 - Person with whom Defendant lives/has lived with as if married

Issuance of Ex Parte DVPOs

- Act of domestic violence
 - INCLUDES: Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury **or continued harassment**, as defined in G.S. 14-277.3A, that rises to such a level as to inflict **substantial emotional distress**

Substantial Emotional Distress

- Stalking causes substantial emotional distress
- Recognized in codified legislative intent in stalking legislation
 - “Causes a long-lasting impact on the victim's quality of life and creates risks to the security and safety of the victim and others, **even in the absence of express threats of physical harm**
- Victim experience...

Issuance of Ex Parte DVPOs

- Standard of proof
 - Preponderance of evidence (More likely than not)
 - Clear danger of acts of domestic violence
- Does NOT require:
 - That victim reported incident(s) to police
 - That a criminal charge was issued
 - That victim be able to prove it beyond a reasonable doubt

Safety Considerations in Order Provisions

- 50B-3(a)(13): Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child
 - Order not use any device/technology to monitor plaintiff or plaintiff’s activities
 - Order defendant to not distribute or make public any pictures/videos of plaintiff without plaintiff’s consent.

10. The defendant plaintiff is presently in possession of the p

11. Other: *(specify)*

12. *(for magistrate only)* This matter was heard at a time when the district c
available and would not be available for a period of four or more hour

CONCLUSIONS

Based on these facts, the Court makes the following conclusions of law:

- 1. The defendant has committed acts of domestic violence against the p
- 2. The defendant has committed acts of domestic violence against the m
- 3. It clearly appears that there is a danger of acts of domestic violence as
[G.S. 50B-2(c)]
- 4. The minor child(ren) is exposed to a substantial risk of physical
[G.S. 50B-2(c)]
- 5. The Court has jurisdiction under the Uniform Child Custody Jurisdiction
- 6. It is in the best interest of and necessary for the safety of the minor ch
child(ren). (and) return the minor child(ren) to the physical care
child(ren) from the physical care of the plaintiff.
- 7. The defendant's conduct requires that he/she surrender all firearms a

Acknowledgements

- Parts of this presentation were adapted from trainings/materials by:
 - National Network to End Domestic Violence
 - Stalking Resource Center
 - National Resource Center on Domestic Violence

Questions?

Amily McCool

amccool@nccadv.org

919-956-9124 x211