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

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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
  - 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.







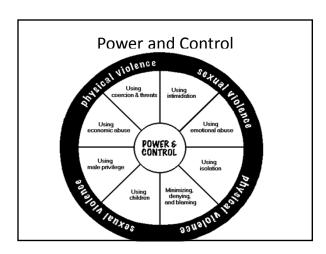
(CDC, 2010)

### 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,
- Able-bodied and Disabled



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# 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

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### **How Stalking Happens**

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



Secrety 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
  - Glympse
- 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.





Big Brother GPS Locator/Tracker
Our GPS-anywhere Teen Tracker allows pare
to keep a close ye on their new tren divers.
Notifications on speed and boundary violations
Easy 2-wire installation. Installs under dash for
covert operation. PoweredbyGPS® technology
Learn More

### **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 autol@sar Family Link



# GPS Hidden In Cars GPS Hidden In Cars (1) Inside plastic bumper (2) In gap between window and hood (3) Inside stereo speaker (4) In front dash (5) Under rear-dash fabric (6) In rear dash or third brake light

### **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 WEFF Officer Linked in Troposition Strick Will Tribe KUQacin Toposition SchoolBank SchoolBank SchoolBank Social Networks & Online Spaces Orkut Toposition Toposition



### 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

### mer boyfriend used Craigslist to arrange woman's raice say

oming man is accused of posing online as his former girlfriend and soliciting so tout a violent sexual fantasy.

#### ary 11, 2010 | By DeeDee Correll



ting 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 classific tising forum. Its purported author was a Casper, Wyo., woman, whose photo also was posted

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

ow 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** Secretly Record All - Keystrokes typed. --- Websites visited. Emails & instant messages. Details of applications and windows opened. Records Every Exact Detail of their PC and Internet Activity. 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 all:

• It can:

- 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, - 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 • Important to understand HOW stalking happens and the SEVERITY of stalking: Take stalking allegations - 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

- 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
Julining.	110	Cililiniai	Official

- · 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

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### **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
    - 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 **VDVPO** 
    - No look-back period limitations
    - Convictions can have the same disposition date

### Violation of a DVPO

- Provisions to consider when presented with technology
  - "No contact" (Pg. 1 of order)
    - Direct or indirect
  - Prohibition against: (Pg. 3 of order)

    - AssaultThreaten
    - 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)

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re a form author, choose Distribute Form in the Forms menu to send it to your recipients.	1	
volved	-	
HEREBY FINDS THAT: s heard by the undersigned district court judge, the court has jurisdiction over the parties and subj	je	
efendant has been provided with reasonable notice and opportunity to be heard.  ngs of this order are set forth on Page 2.		
HEREBY ORDERS THAT:		
named Respondent/Defendant shall not commit any further acts of domestic violence or make any i.S. 50B-1).	1	
named Respondent/Defendant shall have <u>lno contact</u> with the Petitioner/Plaintiff. No contact includ nitiated contact, except through an attorney, direct or indirect, by means such as telephone, perso trateferacing to repeting 1051		
r telefacsimile machine. [05] erms of this order are as set forth on Pages 3 and 4.	†	
is order shall be effective until ,	_	
TO THE RESPONDENT/DEFENDANT: all be enforced, even without registration, by the courts of any state, the District of Columbi may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or trib y result in federal imprisonment (18 U.S.C. Section 2262).		
akes it a crime for you to possess, transport, ship or receive any firearm or ammunition wh der does not prohibit you from possessing firearms. (18 U.S.C. Section 922(g)(8)).	n	
der does not prombit you from possessing meanins. (18 0.5.0. Section 922(9)(8)).	J	
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sault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace, or ot A law enforcement officer shall arrest the defendant if the officer has probable cause to be		
s provision. [01] sault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace, or ot		
ild(ren) residing with or in the custody of the plaintiff. A law enforcement officer shall arre s probable cause to believe the defendant has violated this provision. [01]	e e e e e e e e e e e e e e e e e e e	
eaten a member of the plaintiff's family or household. [02] uelly treat or abuse an animal owned, possessed, kept, or held as a pet by either party or	_	
session of, and the defendant is excluded from, the parties' residence described above as idence except for the defendant's personal clothing, toiletries and tools of trade. [03]		
ncy with jurisdiction shall evict the defendant from the residence and shall assist the plain	_	
defendant [08] is entitled to get personal clothing, toiletries, and tools of trade from the ment officer shall assist the plaintiff defendant in returning to the residence to g		
care, custody, and control of any animal owned, possessed, kept, or held as a pet by eith	-	
	1	
Other Stalking-Related Offenses	_	
l since stamming national strenges		
• 14-196.3: Cyberstalking- Class 2 misdemeanor	_	
• 14-202: Secret Peeping- Varies from class 1		
misdemeanor to Class H Felony • 14-277.1: Communicating threats- Class 1	_	
misdemeanor		
• 14-196: Harassing Phone Calls- Class 2	-	
misdemeanor		
<ul> <li>14-440.1: Unlawful operation of an audiovisual recording device- Varies from class 1</li> </ul>	-	
misdemeanor to class I Felony		
	-	

### **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
  - VDVPO
  - Felonies
  - Relationship:
  - Spouse/Former Spouse
  - Person with whom Defendant lives/has lived with as if married

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# **DV Pre-Trial Release Conditions** • 15A-534.1: Crimes of DV and PTR • Directs Defendant to be held with no bond up to 48 hours so that a Judge can review a criminal history and set the • Magistrates still set bonds: - Dating violence - Child in common - 48 hours expire **DV Pre-Trial Release Conditions** • Keep in mind the severity of stalking (and other DV crimes) when setting bond • Use Form AOC-CR-630 in conjunction with AOC-CR-200 District Superior Above, you are ORDERED to appear before the Court as provided above and at all you will be arrested and you may be charged with the crime of willful failure to appear you violate any condition of release in this Order or in any document incorporated be vised of charge(s) against him/her and his/her right to communicate with counsel and upon execution of your. WRITTEN PROMISE to appear UNSECURED BOND in the SECURED BOND in the amount shown above ELECTRONIC MONITORING administered by (agency) \_ v leave your residence for the purpose(s) of \_\_\_employment \_\_\_counseling \_\_\_\_course of

defendant's warrantless arrest for violation of conditions of release entered previously for the a

or surrendered after failing to appear as required under a prior release order.

cond or subsequent failure to appear in this case

	CONDITIONS OF RELEASE FOR PERSON	
	CHARGED WITH A CRIME	
	OF DOMESTIC VIOLENCE	
	• Q.S. 15A-534.1	
NOTE: Use this form in conjunction with form AOC-CR-200, Cond		 
	DINGS	
person with whom the defendant lives or has lived as if married, will pursuant to Chapter 50B, Domestic Violence, of the General Statut	PS.	
The undersigned judicial official \(\bigcap \) has considered the defendant law enforcement officer or a district attorney. \(\bigcap \) has not considereport because no report could be obtained within a reasonable time.	's criminal history as shown on a criminal history report provided by a red the defendant's criminal history as shown on a criminal history e.	
	DER	
Based upon the foregoing findings, the undersigned judicial official conditions of release set out on the attached form AOC-CR-200:	ORDERS the following conditions of release IN ADDITION TO the	
1. The defendant shall stay away from the home, school, busing	uss or place of employment of the alleged victim.	
2. The defendant shall refrain from assaulting, beating, molesting	g, or wounding the alleged victim.	
judge.  5. for offenses committed on or after December 1, 2012) The defende		
judge.	ant shall abstain from alcohol, as verified by a continuous alcohol violation of this condition to the district attorney.	 

### **DV Pre-Trial Release Violations**

- Domestic Violence Crimes should, as a rule, include a "No Contact With Alleged Victim" condition
- Abusers almost always violate this provision
   Often through use of technology
- Magistrates are responsible for revoking Defendant's bond when evidence is brought to them of violation of PTR condition
  - Standard: Probable Cause (NOT beyond a reasonable doubt)

### **DV Pre-Trial Release Violations**

- §15A-401(b)(2) provides that "[a]n officer may arrest without a warrant any person who the officer has probable cause to believe...[h]as violated a pretrial release order under G.S. 15A-534 or 15A-534.1(a)(2)."
- Any pre-trial release conditions will qualify regardless of "personal relationship"

	District Superior	Date
Above, you are ORDERED to appear before the Cou you will be arrested and you may be charged with the	crime of willful failu	ire to appea
f you violate any condition of release in this Order or in vised of charge(s) against him/her and his/her right to upon execution of your. WRITTEN PROMISE to appear SECURED BOND in the amoun ELECTRONIC MONITORING administered by (agency)	n any document inc communicate with UNSECURED I	orporated by counsel and BOND in the
v leave your residence for the purpose(s) ofemployment	nt counseling	course of s
(i) charged with a felony while on probation (complete AOC- prior conviction requiring registration under G.S. 14, Article 2	s. DNA sample. CR-272, Side One). 27A (complete AOC-CR-	(ii) arrested f 272, Side Two)
defendant's warrantless arrest for violation of conditions of n t or surrendered after failing to appear as required under a p econd or subsequent failure to appear in this case. he conditions as shown on the attached AOC-CR-270	rior release order.	usly for the at
Issuance of Ex Part	e DVPOs	
• § 50B-2(c1)		
<ul> <li>The chief district court judge m magistrate or magistrates to he</li> </ul>		s for
emergency relief ex parte.		
Issuance of Ex Part	o DV/DOs	
issuance of Ex Parti	e DVPOS	
Substantial Emotional Distress     Standard of proof	S	
<ul><li>Standard of proof</li><li>Safety Considerations in Orde</li></ul>	r provisions	

### 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	n possession of the p
11. Other: (specify)	
12. (for magistrate only) This matter was heard at a til	me when the district of
available and would not be available for a period	
	CONCLUSIONS
Based on these facts, the Court makes the following conclusions of law:	
1. The defendant has committed acts of domestic v	iolence against the pl
The defendant has committed acts of domestic v	iolence against the m
3. It clearly appears that there is a danger of acts of	domestic violence ag
[G.S. 50B-2(c)]	
<ul> <li>4. The minor child(ren) is exposed to a substantial [G.S. 50B-2(c)]</li> </ul>	risk of  physica
5. The Court has jurisdiction under the Uniform Chi	ld Custody Jurisdictio
6. It is in the best interest of and necessary for the safety of the minor 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 su	rrender 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?

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