

Magistrate Protocol for Domestic Violence Cases

*Guidelines with Emphasis on Issues Related to
Children*



Child Well-Being and Domestic Violence Project
Prevent Child Abuse North Carolina
October 2005

Acknowledgements

The development of this protocol was undertaken as part of a Governor's Crime Commission grant awarded to Prevent Child Abuse North Carolina to implement certain recommendations made by the 2003 Child Well-Being and Domestic Violence Task Force, co-chaired by North Carolina Supreme Court Chief Justice I. Beverly Lake and Secretary of Health and Human Services Carmen Hooker Odom.

The protocol is the product of multiple drafts, lengthy discussions and the input of many, many people. We thank all those who contributed their time and expertise.

Special thanks and appreciation is extended to Lionel Gilbert, President of the North Carolina Magistrates Association and to Judge Bill Reingold, President of the Conference of Chief District Court Judges for their leadership and support, and to Professor Joan Brannon of the School of Government at the University of North Carolina, for her technical expertise.

The following individuals are acknowledged for responding so generously to our solicitation for their feedback: Sgt. John Guard, Pitt County Sheriff's Department; Professor Cheryl Howell, School of Government, UNC-CH; Professor Janet Mason, School of Government, UNC-CH; Mitchell Oakley, Magistrate, Pitt County; and Professor John Rubin, School of Government, UNC-CH. We are also grateful to Dr. Robert Murphy of the Center for Child and Family Health for drafting Appendix C, which provides valuable guidance to magistrates regarding the interviewing of children.

Thanks also to members of the Child Well-Being and Domestic Violence Advisory Committee for their insights, suggestions, and expertise. Special recognition is given to Aaron Cox, an Advisory Committee member and magistrate in Bladen County, for his early and constant direction and support, and generous lending of expertise, and also to Coy Poole of the North Carolina Justice Academy, and Advisory Committee member, for his guidance and feedback on law enforcement related issues.

Finally, special thanks to I. Beverly Lake, Chief Justice of the North Carolina Supreme Court, for his support of this protocol, and his efforts to encourage and promote its use in North Carolina's 39 judicial districts.

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The North Carolina Conference of Chief District Court Judges endorsed this protocol on October 19, 2005, by unanimous vote.

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INTRODUCTION

This protocol is designed to establish guidelines recommended for use by North Carolina magistrates in cases in which violence against partners is alleged. This protocol is distinct from other guidelines regarding domestic violence response in that it pays particular attention to instances in which children are present in the household. The protocol emphasizes issues related to children in domestic violence situations not only because domestic violence affects children, but also because domestic violence and child maltreatment often occur in the same family. The protocol is based on current knowledge regarding the prevalence and characteristics of these types of violence, and what is known about how to evaluate these situations and assist victims in their efforts to achieve future safety and well-being for themselves and their children.

The protocol is separated into two sections. The first section addresses criminal actions and follows each step in that process, beginning with determining probable cause and ending with setting pre-trial release conditions. The second section addresses the civil remedy, available under Chapter 50B. As of this writing, magistrates in 23 North Carolina judicial districts (59 percent of 39 districts) are authorized by the district's chief district court judge to grant ex parte orders in domestic violence protective order cases. (See Appendix A for an accounting of districts where the chief district court judge has granted magistrates this authority.)

As all magistrates are aware, violence within the family and between intimate partners is complicated. For example, some, but not all acts of domestic violence constitute criminal offenses, and some, but not all, may qualify the victim for various forms of relief under Chapter 50B. In addition, some, but not all acts of domestic violence also cause harm to children. Children may be experiencing reportable abuse or criminal abuse at the same time their caregiver is being battered. It is important to evaluate each case individually and to recognize that various forms of abuse often occur simultaneously in the same families.

One of the most confounding aspects of addressing domestic violence and the well-being of children within the criminal justice system is that the offending behavior occurs across time in a pattern designed to maintain control and does not always easily fit into a system that must deal with "incidents." This protocol is designed to consider the dynamics of domestic violence and child maltreatment as it relates to the magistrate's role.

CHILDREN AND DOMESTIC VIOLENCE

Research conducted during the last two decades has documented a high co-occurrence between domestic violence and child maltreatment. The majority of studies suggest that child maltreatment occurs in 30 to 60 percent of families experiencing domestic violence.¹ Research also indicates that while a child may not be the direct victim of abuse, witnessing or other exposure to domestic violence can have significant short- and

¹ H. Lien Bragg, Child Protection in Families Experiencing Domestic Violence, Office on Child Abuse and Neglect, U.S. Department of Health and Human Services, 7 (2003).

long-term psychological, emotional, and physical effects.² Additionally, children who are exposed to domestic violence are more likely to become involved in delinquent behavior and later become victims or batterers themselves.³ Individual characteristics (e.g., age and gender of the child) and environmental factors (e.g., the child's proximity to the violence, the severity and frequency of the violence witnessed by the child) influence the degree to which children are affected.⁴ Hence, in all domestic violence cases, magistrates should inquire about the presence of children in order to determine whether a crime has been committed against them, whether they are at risk of abuse or neglect, and whether there are protections that should be put in place to enhance their safety, through, for example, conditions contained in a civil domestic violence protective order.

North Carolina law requires any person with knowledge leading him or her to suspect that a child is abused, neglected, or dependent to report these circumstances to their local department of social services.⁵ Magistrates, as is true of all citizens, are thus obligated by statute to report when they have reason to suspect that child abuse or neglect is occurring in homes where children are exposed to domestic violence. The state's mandatory reporting laws do not address domestic violence specifically. However, by North Carolina law abuse may be occurring when a parent, guardian, caretaker or custodian of a child under 18 years of age:

- Inflicts or allows someone else to inflict upon the child a serious physical injury by other than accidental means;
- Creates or allows to be created a substantial risk of serious physical injury to the child by other than accidental means; or
- Creates or allows to be created serious emotional damage to the child (serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others).⁶

² *Id.* at 10. (Research has consistently demonstrated three categories of childhood problems associated with exposure to domestic violence: 1) behavioral, social and emotional problems (e.g., higher levels of aggression, anger, hostility, oppositional behavior, and disobedience; fear, anxiety, withdrawal, and depression; poor peer, sibling, and social relationships; and low self-esteem); 2) cognitive and attitudinal problems (e.g., lower cognitive functioning; poor school performance; lack of conflict resolution skills; limited problem solving skills; acceptance of violent behaviors and attitudes; and belief in rigid gender stereotypes and male privilege); and 3) long-term problems (e.g., higher levels of adult depression and trauma syndromes; and increased tolerance for and use of violence in adult relationships).

³ *See id.*

⁴ *Id.* at 11-12.

⁵ N.C. Gen. Stat. 7B-301 (2003). *See also* "Reporting Child Abuse and Neglect in North Carolina, Second Edition," Institute of Government (2003), which can be accessed or ordered from <http://ncinfo.iog.unc.edu/pubs/electronicversions/rca/rca.htm>.

⁶ N.C. Gen. Stat. 7B-101(1) (2003). "Abused juvenile" also refers to any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior; commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first degree rape, second degree rape, first degree sexual offense, second degree sexual offense, sexual act by a custodian, crime against nature, incest, preparation of obscene photographs, slides, or motion pictures of the juvenile, employing or permitting the juvenile to assist in a violation of the obscenity laws, dissemination of obscene material to the juvenile, displaying or disseminating material harmful to the juvenile, first and second degree sexual exploitation of the juvenile, promoting the prostitution of the juvenile, and taking indecent liberties with the juvenile; creates or allows to be created serious emotional

By law, neglect may be occurring when a child under 18 years of age:

- Does not receive proper care, supervision, or discipline from the child's parent, guardian, custodian, or caretaker;
- Is not provided necessary medical care;
- Is not provided necessary remedial care; or
- Lives in an environment injurious to the child's welfare.⁷

Not every domestic violence situation in which children are present will warrant a report to the department of social services. Magistrates will have to rely on their own training and experience to determine whether a report is necessary, and often they will find it helpful to consult with social services officials about particular cases or more generally about the department's policies and procedures. But when in doubt, magistrates, as is true of all citizens, should err on the side of caution and contact the local department of social services whose child protective service workers are trained to assess whether child abuse or neglect is occurring in the home.

As a point of interest for magistrates, new policies and procedures recently put into place within local departments of social services are designed to enhance agencies' handling of and sensitivity to cases of child maltreatment involving domestic violence. In October 2004, the state Division of Social Services adopted new administrative policy governing social services departments' response to domestic violence in child protective service cases. The policy is comprehensive and addresses how each stage of an abuse and/or neglect case should be handled when there is domestic violence in the home. The policy assists child protective service workers in assessing the risks posed to children by the presence of domestic violence and in determining how to protect the child without penalizing the non-offending parent/adult victim or escalating the offender's violent behavior.⁸ Additionally, in 2002, North Carolina's Division of Social Services began piloting the Multiple Response System⁹ that provides for two alternative child protective service responses to reports of child maltreatment. While all reports meeting the definition of abuse or abandonment and special types of neglect reports are investigated and handled following the traditional child protective services approach, most neglect and dependency¹⁰ cases, by contrast, undergo a family assessment to determine whether

damage to the juvenile; serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others; or encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile.

⁷ N.C. Gen. Stat. 7B-101(15) (2003). "Neglected juvenile" also refers to a juvenile who has been abandoned or who has been placed for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.

⁸ A copy of the policy can be downloaded at: <http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1409.htm#TopOfPage>.

⁹ For more information regarding the Multiple Response System, go to <http://www.dhhs.state.nc.us/dss/mrs/index.htm>.

¹⁰ See N.C. Gen. Stat. 7B-101(9). A juvenile is dependent if he or she "is in need of assistance or placement because the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision or whose parent, guardian, or custodian is unable to provide for the care or supervision and lacks an appropriate alternative child care arrangement."

family support services are needed and/or recommended to stabilize the family and enable the parents to better care for their children. The Multiple Response System, initially piloted in 10 counties, will be adopted statewide by October 1, 2005.¹¹

I. CRIMINAL CASES

The following are typical offenses that may be charged against a defendant alleged to have committed an act of domestic violence:

- simple assault, G.S. 14-33(a)
- assault and battery, G.S. 14-33(a)
- assault with a deadly weapon, G.S. 14-33(c)(1)
- assault by pointing a gun, G.S. 14-34
- assault on a female, G.S. 14-33(c)(2)
- assault inflicting serious injury, G.S. 14-33(c)(1)
- assault with a deadly weapon with intent to kill, G.S. 14-32(c)
- assault with a deadly weapon inflicting serious injury, G.S. 14-32(b)
- assault with a deadly weapon with intent to kill inflicting serious injury, G.S. 14-32(a)
- habitual misdemeanor assault, G.S. 14-33.2
- domestic criminal trespass, G.S. 14-134.3
- assault by strangulation, G.S. 14-32.4(b)
- violation of a domestic violence protective order, G.S. 50B-4.1
- communicating threats, G.S. 14-277.1
- interfering with emergency communication, G.S. 14-286.2
- first or second degree rape, G.S. 14-27.2 or -27.3
- first or second degree sex offense, G.S. 14-27.4 or -27.5
- stalking, G.S. 14-277.2 and G.S. 14-277.3
- harassing phone calls, G.S. 14-196
- trespass, G.S. 14-159.12 and G.S. 14-159.13

The following offense, created in 2003, is specifically related to alleged acts of domestic violence involving children:

- assault in the presence of a minor, G.S. 14-33(d)

The following offenses are typically related to the maltreatment of children that may occur at the same time domestic violence is committed:

- misdemeanor child abuse and child neglect, G.S. 14-318.2
- felony child abuse, G.S. 14-318.4
- assault on a child under 12, G.S. 14-33(c)(4)
- sexual battery, G.S. 14-27.5A

¹¹ See S.L. 2005-55, effective October 1, 2005. For more information regarding the Multiple Response System, go to <http://www.dhhs.state.nc.us/dss/mrs/index.htm>.

Though not as common, the following offenses may be related to acts of domestic violence and may also be charged against a defendant:

- damage to real property, G.S. 14-127
- damage to personal property, G.S. 14-160
- breaking or entering, G.S. 14-54
- cruelty to animals, G.S. 14-360

Where the allegations support more than one criminal charge, defendants should be charged with all allegedly committed offenses. When possible, magistrates should advise victims of the difference between civil and criminal penalties and their right to utilize both systems, since victims may believe they must “choose” between a civil remedy and a criminal charge. It is not unusual for victims to simply want the violence to “stop” rather than to focus on punishing the offender, thus they may be concerned about the sanctions related to criminal charges, and the impact of sanctions on the offender and the family. However, if the magistrate finds probable cause to issue an arrest warrant, the magistrate should do so.

A. Determining Probable Cause

1. Law Enforcement

Testimony, reports, or evidence provided by law enforcement may be the primary, if not exclusive, source of information upon which the magistrate will rely to determine probable cause. North Carolina has adopted a training approach for law enforcement for domestic violence cases, referred to as evidence-based investigation, whereby law enforcement officers learn to investigate cases and collect evidence in a way that accounts for a domestic violence victim’s lack of cooperation. Hence, law enforcement may be able to provide the magistrate with evidence and photographs taken from the scene, 911 recordings, and other witness statements, that the magistrate may consider to determine probable cause.

Magistrates should, when appropriate, involve law enforcement to interview and investigate domestic violence cases. For instance, when a victim appears before a magistrate and provides a statement that is incomplete or does not, in and of itself, establish probable cause, magistrates may find it helpful to ask law enforcement to further investigate the situation. Likewise, if law enforcement reports are lacking in information needed to determine whether or not there is probable cause, magistrates should redirect law enforcement to conduct a more thorough investigation.

Some law enforcement agencies use specialized report forms for domestic violence cases. These supplemental domestic violence report forms are designed to capture information that is particularly relevant to the nature of domestic violence offenses. As these forms may provide more complete information about a domestic violence situation and may better assist magistrates in making a probable cause determination, it is recommended that magistrates encourage local law enforcement to use supplemental domestic violence

report forms. (See Appendix B for examples of law enforcement supplemental domestic violence report forms).

2. Victim's Testimony

It is helpful for magistrates to understand the context within which the violence a victim is reporting is occurring. The dynamics of abusive relationships sometimes lead to a belief that victims are misusing the system. Multiple requests for assistance by victims should not be deemed less serious or lacking in credibility. Each claim must be evaluated on its own merits.

Many victims are reluctant to report acts of domestic violence to authorities for a variety of reasons, including fear of retaliation, concern for the offender, and the impact charges may have on the offender's employment status. Sometimes victims report crimes as a way to deter future violent behavior and may choose not to prosecute for that reason. Sometimes victims recant their testimony later because they have reconciled with the offender, are ambivalent or feel guilt, fear retaliation by the offender, are ashamed, or feel that they can control the violence. Also, some victims have had unsatisfactory experiences in the past when they asked for help, so may first "test" the system before fully engaging it. Learning about these dynamics of domestic violence may reduce a magistrate's frustration over seeing the same victim multiple times, and provide insight as to the possible reasons behind a victim appearing uncooperative with efforts to hold the offender accountable.

When necessary or appropriate to ask questions in order to clarify statements or obtain a better understanding of a domestic violence situation, it is recommended that, given the fear, shame, and personal nature of domestic violence cases, magistrates use open-ended, non-judgmental questions. For example, questions like "Can you describe what happened?" or "How were you injured?" or "Where were the children?" are likely to elicit a fuller account of what happened. Questions that blame the victim for the violence (e.g., "Is there something you're doing to provoke the violence?"), judge the victim's response to the violence (e.g., "How serious are you about following through with this process?"), or do not recognize that the victim may have reasons for hesitating to come forward (e.g., "Why haven't you reported this in the past?") should be avoided.

Creating a setting that encourages victims to disclose often painful and personal details can also be helpful.¹² Considering the intimate nature of domestic violence offenses, as much privacy as possible should be accorded the victim when giving testimony to the magistrate to optimize disclosure of information regarding the offense. Whenever feasible, in light of office or space considerations, the magistrate should arrange to take the victim's testimony in a way that limits public exposure to the information.

¹² The North Carolina General Assembly recognized the importance of a private setting for domestic violence and amended G.S. 50B-2(d) in the 2004 legislative session directing the clerk of superior court to provide, whenever feasible, a private area for pro se domestic violence complainants to fill out forms and make inquiries.

Magistrates should also be aware that injuries from battering tend to be concentrated in the torso rather than in the extremities, and thus may not be visible to the eye.¹³ Additionally, bruises often do not become visible for hours or even days after an injury is inflicted.¹⁴ Furthermore, for reasons detailed above, victims may tend to minimize injuries. Hence, as necessary, magistrates are encouraged to ask specific questions about the nature of injuries inflicted on the victim.

3. Testimony of Children

While no formal research exists regarding the benefits or harm to children who provide testimony at pre-trial stages, experts in child trauma believe that, generally, as a matter of best practice, it is not in a child's best interest to provide testimony against someone with whom the child may have a personal relationship. Thus magistrates should seek to rely on the testimony of law enforcement or other adult witnesses, rather than that of any children who may have been present during the domestic violence. For those occasions when a victim brings his or her children to the magistrate's office, if possible, a safe area for the children away from the area where the victim is giving testimony should be provided, so that the victim may speak freely out of the presence of any minor children who may be affected by the violence occurring in the household.

However, when the testimony of a child or children is critical to determining probable cause (i.e., facts cannot be provided or ascertained through testimony of the victim, law enforcement, emergency medical technicians, or other adult witnesses), magistrates may feel compelled to hear the testimony of a minor, and/or find that the minor may be expressing a sincere desire to provide such information. In these instances, a number of issues should be considered. The age and maturity of the child, the risk that such testimony will endanger the child, and the context or environment in which the child would provide testimony are important factors to assess in determining whether the magistrate should hear testimony from the child. Appendix C, "Suggested Guidelines for Interviewing Children" was specifically developed by the Center for Child and Family Health to provide guidance for occasions when interviewing children is unavoidable.

Alternatively, if testimony of a child or children is critical to determining probable cause, the magistrate may elect to involve law enforcement to further investigate the case or interview the children.

4. Involvement of Children in the Incident

There is significant evidence that living in homes where there is domestic violence can be detrimental to children. The effects of witnessing the abuse of a parent can create

¹³ Elizabeth A. Stern, An Exploratory Study of North Carolina Magistrates' Professional Practices with Domestic Violence Cases, 63, Masters Paper, University of North Carolina at Chapel Hill, 1994 (*citing* Evan Stark, A. Flitcraft, D. Zuckerman, A. Grey, J. Robison, & W. Frazier, Wife Abuse in the Medical Setting: An Introduction for Health Personnel. Domestic Violence Monograph Series, #7. National Clearinghouse on Domestic Violence, 1981).

¹⁴ *Id.* (*citing* Jean L. Smith, Rebecca L. Benton, Joyce K. Moore & Desmond K. Runyan. Englewood, Colorado: American Humane Association, 1989).

significant short- and long-term problems for children.¹⁵ While current child protective service policies do not equate witnessing domestic violence with abuse (in fact, many children who witness domestic violence are able to recover and thrive with the benefit of certain protective factors¹⁶) it is important to assess whether children were physically harmed during a domestic violence incident. They may be injured intentionally by the perpetrator as a means of intimidating and controlling the adult victim; or they may be harmed during an attack on the adult victim (e.g., a young child is injured while being held by the victim; an older child is injured when attempting to protect the victim or otherwise intervene in the violence). If the magistrate finds probable cause to believe that an assault or other crime has been committed against a child, the magistrate should charge that offense in addition to any domestic violence offenses that are charged.

5. Local Domestic Violence Agency Staff or Volunteer

Sometimes, a victim may be accompanied by staff or volunteers from the local domestic violence or victim services program. These programs provide advocacy to victims, including helping them negotiate the civil and criminal justice systems by providing information and support, including accompaniment to court hearings. They are generally trained on the confines of their role, including not acting as an attorney, not providing testimony in court proceedings, and not serving as the complaining witness. It is recommended that magistrates have familiarity with the types of services available at those agencies for adult victims and their children, for the purposes of referral. (For a list of programs funded by the state, see Appendix D or go to <http://www.doa.state.nc.us/cfw/dv.htm>. Additionally, local child advocacy resources can be found at <http://www.preventchildabusenc.org/programs>.)

B. Charging the Defendant with a Crime

1. When the Victim Appears Before the Magistrate Before an Arrest

By law, the magistrate must take the victim's testimony under oath or affirmation.¹⁷ Upon finding probable cause to believe that a crime of domestic violence has been committed, the magistrate should issue a warrant for arrest or a criminal summons.¹⁸

The magistrate should immediately advise the appropriate law enforcement agency of the warrant for arrest issued for the defendant so that the warrant will be served as soon as possible to ensure a timely arrest and protection of the victim. The magistrate should advise the victim that although an arrest warrant will be issued, the defendant may not be arrested immediately and that he or she should prioritize his or her safety and that of the children during this time. Research shows that the risk of physical injury to an adult

¹⁵ See *supra* text accompanying note 2.

¹⁶ Bragg, *supra* note 1, at 11. ("Protective factors such as social competence, intelligence, high self-esteem, outgoing temperament, strong sibling and peer relationships, and a supportive relationship with an adult, are thought to be important variables that help protect children from the adverse effects of exposure to domestic violence.")

¹⁷ See N.C. Gen. Stat. 15A-304(d) (2004).

¹⁸ N.C. Gen. Stat. 15A-304 (2004).

victim increases when the adult victim leaves the abusive partner.¹⁹ And recent clinical evidence shows that the risk of physical injury to children by the abusive partner is especially heightened when the defendant's access to the adult victim is limited (e.g., when the adult victim has obtained a domestic violence protective order against the abusive partner).²⁰ Also, the defendant may become enraged when served with a warrant and arrested, and victims should be encouraged to think through the potential impact and plan accordingly. Past behavior, including the defendant's reaction to being served, is often a good indicator of risk to the victim and any children and should be considered. As local domestic violence programs can assist the victim with safety planning for herself or himself and any children, magistrates are encouraged to be familiar with the types of services available locally, and to refer persons to them. (See Appendix D or go to <http://www.doa.state.nc.us/cfw/dv.htm> for a list of programs funded by the state).

If a warrant for arrest is issued, the magistrate should schedule the case to allow for sufficient time between the date of the issuance of the warrant for arrest and the court date for law enforcement to effectuate an arrest. Additionally, especially in districts in which the district attorney has adopted a "no-drop" policy, it is recommended that the magistrate issue subpoenas to complainants in domestic violence cases to appear at the defendant's trial. Otherwise, the magistrate should advise the victim of the court date or identify whom to contact to find out the scheduled court date.

Finally, the magistrate should explain that following arrest the defendant will be entitled to a hearing for pre-trial release and that the defendant may then be released. The magistrate should advise the victim that when the defendant is released certain conditions for pre-trial release may be imposed. The magistrate should advise the victim that he or she may find out about the defendant's release and any release conditions by contacting local jail staff or the Victim/Witness Coordinator for the local district attorney's office. The victim should also contact the Victim/Witness Coordinator to share any safety concerns and provide contact information for the victim in the event that information from the victim is needed at the pre-trial release hearing. (See also "Victim Input" in Section C, Subsection 1.)

If a criminal summons is issued,²¹ the magistrate should advise the victim of the difference between a criminal summons and a warrant for arrest, advise the victim of when the defendant is scheduled to appear in court, and explain that the defendant will appear on that date only if service on the defendant has been accomplished. The magistrate should advise the victim of the limitations of the court system to protect the victim and his or her children if the defendant cannot be located, and explain that the legal action will not proceed if the defendant is not served. The magistrate should advise the victim to provide as much information regarding the defendant's whereabouts as

¹⁹ See e.g., Margo Wilson and Martin Daly, Spousal Homicide Risk and Estrangement, Violence and Victims, Vol. 8, No. 1, 1993. Women are significantly more likely than men to be killed by an intimate partner.

²⁰ Lundy Bancroft & Jay G. Silverman, The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics, Sage Publications, 2002.

²¹ See N.C. Gen. Stat. 15A-303 (2003).

possible to assist with service of process. The safety precautions described in this subsection should be addressed.

2. When the Defendant is Arrested without a Warrant

If the magistrate finds probable cause, by statute, the magistrate shall issue a magistrate's order,²² and then must proceed with determining conditions of pre-trial release when appropriate.²³ (See "Pre-Trial Release" in Section C).

3. Cross-Warrants

In cases of domestic violence, sometimes both parties will engage the justice system for protection. Sometimes referred to as the "whoever gets to the courthouse first" scenario, these cases represent challenges for judicial officers and require important evaluation. If the situation is not one of mutual abuse (which represent a minority of cases and may not be domestic violence cases), one party may be attempting to undermine the other's credibility and interfere with her or his efforts to get help and protection. Merely because one party comes to the magistrate first does not mean that the second party does not have a valid claim for criminal process. These cases should not be dismissed as nuisance cases; rather, these cases require careful evaluation and weighing of the facts in order to determine the aggressor. ("Aggressor" is a term of art that refers to the party who initiated or threatened physical contact, causing the other person to believe it necessary to defend himself, herself, or others, such as a child. Words alone, if they do not threaten physical harm, do not make a person an aggressor. Also, the person who strikes first is not necessarily the aggressor, as he or she may be using force to prevent an assault.²⁴) Evaluating injuries and whether they appear to be defensive or offensive, listening to testimony to evaluate which party appears to be fearful of the other, and gathering historical information on past assaults and past records of contact with the justice system are all useful techniques to determine the predominant aggressor. Further, to avoid the issuance of cross-warrants, if possible, the same magistrate should hear all complaints arising from the same incident.

During the 2004 legislative session, the General Assembly took steps to address this issue and ensure the rights and safety of victims. G.S. 15A-304 was amended by adding the following: "A judicial official shall not refuse to issue a warrant for the arrest of a person solely because a prior warrant has been issued for the arrest of another person involved in the same matter." The intent of this statutory change is to protect a victim who appears before a magistrate seeking criminal process when the defendant may have already obtained a warrant against the victim. For example:

[S]uppose John goes to the magistrate's office and, based on the information he presents that Sally assaulted him, the magistrate issues a

²² N.C. Gen. Stat. 15A-511(c)(3) (2003).

²³ N.C. Gen. Stat. 15A-511(c)(4) (2003).

²⁴ Law enforcement personnel often use the term "predominant aggressor" (or "primary aggressor") to identify the aggressor as described herein.

warrant for Sally’s arrest. Sally later goes to the magistrate and presents sufficient information to show probable cause that John assaulted her. Amended G.S. 15A-304 makes it clear that the magistrate may not refuse to issue a warrant for John’s arrest (or criminal summons) – in other words, a cross-warrant – solely because John got to the courthouse and obtained a warrant first.²⁵

As always, a sufficient showing of probable cause must be demonstrated before the magistrate may issue a criminal process, including situations involving cross-warrants.

C. Pre-Trial Release

1. Setting Pre-Trial Release Conditions

G.S. 15A-534.1(a) provides that in all cases in which the defendant is charged in a warrant with (1) assault, communicating a threat, or committing certain specified felonies upon a spouse or former spouse or a person with whom the defendant lives or has lived as if married; (2) domestic criminal trespass; or (3) violation of an order entered pursuant to Chapter 50B, only a judge may determine conditions of pretrial release for the first 48 hours after arrest. If a judge has not determined pre-trial release within 48 hours of arrest, the magistrate must do so.²⁶

Though the statute is permissive, the magistrate is advised to include the following specific release conditions on any order for pretrial release:

- That the defendant stay away²⁷ from the victim (e.g., not threaten, harass, follow, or otherwise interfere with the victim);²⁸
- That the defendant stay away from the home, school, business or place of employment of the alleged victim;
- That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim.²⁹

The magistrate is also advised to consider whether to include the following conditions depending on the facts of the particular case:

- That the defendant refrain from removing, damaging, or injuring specifically identified property;
- That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge;³⁰

²⁵ John Rubin, 2004 Legislation Affecting Criminal Law and Procedure, 11, Administration of Justice Bulletin, Number 2004/06, Institute of Government, October 2004.

²⁶ N.C. Gen. Stat. 15A-534.1 (2003).

²⁷ A “stay away” order should be specific enough to alert the defendant about what is prohibited.

²⁸ N.C. Gen. Stat. 15A-534(a) (2003).

²⁹ N.C. Gen. Stat. 15A-534.1(a)(2) (2003).

³⁰ N.C. Gen. Stat. 15A-534.1(a)(2) (2003).

- That the defendant shall not possess any dangerous or deadly weapon,³¹ controlled substance, drug paraphernalia, or alcohol;
- That the defendant shall abide by a specified curfew;
- That the defendant shall reside at a specified residence.³²

Conditions Relating to Safety of Children

If authorized by the chief district court judge, the magistrate should carefully consider creating clear conditions as it relates to access to and safety of children when setting conditions of release, and may include the following: restricting access to the children's school(s), ordering supervised visitation, or ordering an exchange of the minor child for visitation in a protected setting or in the presence of an appropriate third party.³³

Recent changes to Chapter 50B governing domestic violence civil protective orders may serve as a helpful resource when weighing risk to children and determining appropriate conditions for pre-trial release. G.S. 50B-3(a1) enumerates certain statutory factors the court must consider in determining custody and visitation in a request for a domestic violence protective order. (For a listing of the statutory factors, see Part II, Section C, Subsection 3. Custody and Visitation). These factors suggest issues the magistrate may consider when determining pre-trial release conditions related to the safety of children. For example:

- Has the child been exposed to a substantial risk of physical or emotional injury or sexual abuse?
- Has the child been physically present during acts of domestic violence?
- Has a weapon been used or threatened to be used during an act of domestic violence?
- Has the defendant caused or attempted to cause serious bodily injury to the victim or the child?
- Has the defendant placed the victim or the child in reasonable fear of imminent serious bodily injury?
- Has the child been harmed in the course of visitation with the defendant, in cases of past separation?
- Has the child been used by the defendant to harass, report on, or manipulate the victimized parent, including harming or threatening to harm the victim or the child?
- Has the defendant failed to return the child during past separations?
- Does the defendant use alcohol or drugs? Has the defendant used alcohol or drugs in the presence of the child?

³¹ Amended N.C. Gen. Stat. 14-415.1 (2004) prohibits any person who has been convicted of a felony from possessing any firearm. This law became effective December 1, 2004.

³² N.C. Gen. Stat. 15A-534(a) (2003).

³³ See N.C. Gen. Stat. 15A-534(c) (2003).

Mental Illness

G.S. 15A-534.1(a)(3) provides that a person who is mentally ill and dangerous to himself or herself or others, or a substance abuser and dangerous to himself or herself or others may be involuntarily committed³⁴ under the provisions of Article 5 of Chapter 122C of the General Statutes.³⁵ A person who is mentally ill and in need of treatment may voluntarily admit himself or herself into a mental health facility for treatment.³⁶

Battering behavior, in and of itself, is not considered a mental illness. However, suicidal or homicidal thoughts, while they may or may not indicate mental illness, are very strong indicators of potential lethality. Whether the defendant has recently attempted or considered suicide and/or has been recently treated or committed for mental health issues should be determined. While commitment should not shield an offender from legal accountability, it is important to recognize that some offenders may commit themselves as a way to avoid accountability for their battering behavior.

Lethality Checklists

Research examining which domestic violence cases are most likely to result in fatalities has resulted in the development of “lethality checklists.” These checklists are generally used as guides for various professionals to determine how much risk an individual case carries based on a number of factors shown to be correlated with serious violence, including fatalities. One widely used lethality checklist, the Danger Assessment,³⁷ examines 20 specific factors to determine the danger of homicide in domestic violence situations:

1. Has the physical violence increased in severity or frequency over the past year?
2. Does he own a gun?
3. Have you left him after living together during the past year?
- 3a. (If you have *never* lived with him, check here ___)
4. Is he unemployed?
5. Has he ever used a weapon against you or threatened you with a lethal weapon?
- 5a. (If yes, was the weapon a gun? ___)
6. Does he threaten to kill you?
7. Has he avoided being arrested for domestic violence?
8. Do you have a child that is not his?
9. Has he ever forced you to have sex when you did not wish to do so?
10. Does he ever try to choke³⁸ you?

³⁴ See N.C. Gen. Stat. 122C-261(2003).

³⁵ See N.C. Gen. Stat. 122C-201-367 (2003).

³⁶ N.C. Gen. Stat. 122C-211 (2003).

³⁷ “Danger Assessment,” Jacquelyn C. Campbell, PhD, RN, FAAN.

³⁸ Though the original Danger Assessment uses the term “choke,” the term “strangle” is a more accurate term.

11. Does he use illegal drugs? By drugs, I mean "uppers" or amphetamines, speed, angel dust, cocaine, "crack", street drugs or mixtures.
12. Is he an alcoholic or problem drinker?
13. Does he control most or all of your daily activities? (For instance: does he tell you who you can be friends with, when you can see your family, how much money you can use, or when you can take the car? (If he tries, but you do not let him, check here: ____))
14. Is he violently and constantly jealous of you? (For instance, does he say "If I can't have you, no one can.")
15. Have you ever been beaten by him while you were pregnant? (If you have never been pregnant by him, check here: ____)
16. Has he ever threatened or tried to commit suicide?
17. Does he threaten to harm your children?
18. Do you believe he is capable of killing you?
19. Does he follow or spy on you, leave threatening notes or messages on an answering machine, destroy your property, or call you when you don't want him to?
20. Have you ever threatened or tried to commit suicide?

One study³⁹ has shown that women who score 8 or higher on the Danger Assessment are at very grave risk of being killed by their intimate partners;⁴⁰ women who score 4 or higher are at great risk.⁴¹ Consideration of specific factors can also indicate a greater likelihood that a victim is at risk of being killed by an intimate partner. For instance, daily substance or alcohol abuse by the batterer is highly associated with murder by an intimate partner.⁴² Presence of a gun in the home, previous threat or assault with a weapon, and previous threat of murder are even more highly correlated with murder.⁴³ Extreme jealousy, strangulation, and forced sex also present higher risk. There may also be increased risk if a male perpetrator is suicidal.⁴⁴ This tool can also assist victims in recognizing their level of risk if they do not already understand the potential for danger. By simply asking the questions in the assessment, magistrates may raise a victim's awareness of the dangerousness of the situation.

Victim Input

If the victim is present, it is important to receive input from the complainant, particularly as it relates to lethality factors, to assist in the determination of pre-trial release conditions. It is also important to know if there is a history of criminal charges or civil protective orders and the level of compliance or type of behavior the defendant has

³⁹ Jacquelyn C. Campbell, Daniel Webster, Jane Koziol-McLain, Carol Rebecca Block, Doris Campbell, Mary Ann Curry, Faye Gary, Judith McFarlane, Carolyn Sachs, Phyllis Sharps, Yvonne Ulrich & Susan A. Wilt, Assessing Risk Factors for Intimate Partner Homicide, 14- 19, NIJ Journal, Issue No. 250.

⁴⁰ *Id.* The average score for women who were murdered was just under 8.

⁴¹ *Id.* The average score for abused women was just over 3.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

exhibited when previously arrested and released. The magistrate should also determine if the defendant is in possession of or has access to firearms.

2. Violations of Pre-Trial Release

If a release order is violated before the defendant's first appearance, the magistrate should issue an order for arrest for the defendant to modify the conditions of pre-trial release.⁴⁵ Facts of the case (including, but not limited to, the offense underlying the original arrest and the name of the victim, the date of the release order and conditions of the order, and conditions which have been violated) that have been brought before the magistrate should be alleged in the order for arrest. If the violation of the pre-trial release conditions also constitutes a new criminal offense, the magistrate may issue a new warrant or summons upon finding probable cause.

Recently amended G.S. 15A-401⁴⁶ provides that law enforcement may arrest without a warrant if the officer has probable cause to believe that a person has violated pre-trial release conditions imposed under G.S. 15A-534.1(a)(2) (see Section C, Subsection 1). If an officer arrests a defendant for violating conditions of pre-trial release, the magistrate should set new conditions of pre-trial release.

3. Referrals to Mediation

Magistrates should not refer complainants to mediation or dispute settlement centers. Mediation and dispute settlement have traditionally been deemed inappropriate for cases involving domestic violence because of the power imbalance that exists between the parties. Because domestic violence is based in large part upon the abusive party's need and efforts to control the victim through physical force or intimidation, or emotional, financial or other coercion, mediation is most often not effective and can be detrimental to the victim's safety. Threat of harm to or separation from the victim's children is often used by the abuser to control the victim. Thus effective negotiation between an abuser and victim is highly unlikely and represents a risk.

The North Carolina Mediation Network, a coalition of 23 dispute settlement centers, has established policy that addresses actions related to cases of domestic violence and reflects the philosophy noted above that mediation is inappropriate in cases of domestic violence in which power imbalances make the process ineffective and often detrimental.

The Administrative Office of the Court's Custody Mediation Program has established policies that provide for careful screening of cases of domestic violence to ensure that such cases are appropriate for mediation and that the emotional and physical safety of the parties are safeguarded.⁴⁷

⁴⁵ If a release order is violated after the defendant's first appearance, a judge must issue the order for arrest unless the chief district court judge has indicated otherwise. N.C. Gen. Stat. 15A-534(e).

⁴⁶ N.C. Gen. Stat. 15A-401(b)(2)f was added in the 2004 legislative session.

⁴⁷ Generally, domestic violence cases which have originated in 50B court or in which violence is a central issue are not appropriate for mediation, but AOC mediators are trained to screen such cases for safety

II. CIVIL CASES

Domestic violence protective orders are one of the most common ways that victims of domestic violence seek protection. These types of statutes were developed across the country during the late 1970s and early 1980s and since that time have undergone significant changes in North Carolina under Chapter 50B and elsewhere, primarily as a result of additional learning regarding the dynamics of domestic violence. One important example is the additional attention to children, their placement and protection, as a form of relief and overall consideration in protective orders. The effectiveness of these orders has been variously described and evaluated. Some have pointed out their ineffectiveness in cases in which the perpetrator of violence has no regard for consequences and is at very high risk for lethality. Others acknowledge that they are effective in some cases, particularly when consequence (of criminal prosecution, loss of reputation and/or income) serves as a strong deterrent, and the conditions imposed within the order are clear to all parties.⁴⁸

A. Required Relationships

According to G.S. 50B-1(b), the defendant and the plaintiff must have one or more of the following relationships in order to be eligible for relief under Chapter 50B:

- Current or former spouses;
- Persons of the opposite sex who live or have lived together (the plaintiff does not have to allege or prove an intimate relationship);
- Persons who have a minor child in common;
- Persons in a parent-child or grandparent-grandchild relationship;
- Current or former household members (this category may include same sex couples who live or have lived together, roommates, relatives who live or have lived together);
- Persons of the opposite sex who are dating or have been in a dating relationship.

B. Acts Required for a Civil Domestic Violence Protective Order

According to G.S. 50B-1(a) domestic violence occurs when a perpetrator commits one or more of the following acts, upon a person with whom he or she has a personal relationship as defined above:

- Attempts to cause bodily injury or intentionally causes bodily injury; or
- Places another person in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3 (stalking), that rises to such a level as to inflict substantial emotional distress; or

issues and determine appropriateness. Current policy allows victims to “opt in” to mediation. If domestic violence cases are accepted for mediation, safety screening and assessment is ongoing throughout mediation.

⁴⁸ See Amy Farmer and Jill Tiefenthaler, Explaining the Recent Decline in Domestic Violence, Contemporary Economic Policy, Vol. 21, No. 2, April 2003, 158-172.

- Commits a sexual assault as defined in G.S. 14-27.2 through G.S. 14-27.7 (e.g., rape, sex offense, sexual battery).

Assaultive behavior committed in self-defense is excluded from the definition of acts required for the issuance of a protective order.⁴⁹

C. Issuing Temporary Domestic Violence Protective Orders

G.S. 50B-2(c1) provides that “[t]he chief district court judge may authorize a magistrate or magistrates to hear any motion for emergency relief ex parte.” As noted earlier in this protocol, as of this writing, at least 23 districts have magistrates who are authorized to hear motions for ex parte orders (see Appendix A). An authorized magistrate may hear a motion for ex parte relief when the district court is not in session and a district court judge is not and will not be available for a period of four or more hours.⁵⁰ The magistrate is authorized to enter orders ex parte if it clearly appears to the magistrate from specific facts shown that there is a “danger of acts of domestic violence against the aggrieved party or minor child.”⁵¹

As previously noted in this protocol, there are many reasons that victims may seek protection from the justice system on multiple occasions (see the discussion in Part I, Section A, Subsection 2. Victim’s Testimony). This is true not only of filing criminal charges, but also of seeking protection under Chapter 50B. Some victims report that obtaining the protective order was effective in deterring further violence and that they found returning for the permanent order hearing unnecessary. Many victims may not return to the hearing for a permanent order or “10-day” hearing fearing retribution and/or having suffered abuse upon seeking the ex parte order. Magistrates should evaluate each case based on its own merits and not assume that the case lacks merit simply because it is not the first filing. Similarly, as with cross-warrants (see Part I, Section B, Subsection 3. Cross-Warrants), when both parties are seeking mutual protective orders and the situation is not one of mutual abuse, one party may be attempting to undermine the other’s credibility and interfere with her or his efforts to get help and protection. Accordingly, these cases should be carefully evaluated to determine the aggressor (see the discussion in Part I, Section B, Subsection 3. Cross-Warrants). Evaluating injuries and whether they appear to be defensive or offensive, listening to testimony to evaluate which party appears to be fearful of the other, gathering historical information on past assaults and past records of contact with the justice system, are all useful.

1. Ex Parte Relief Available Under 50B

A variety of remedies⁵² are available under Chapter 50B that are all designed to “[restrain] the defendant from further acts of domestic violence.”⁵³ Upon finding that an

⁴⁹ N.C. Gen. Stat. 50B-1(a) (2003).

⁵⁰ N.C. Gen. Stat. 50B-2(c1) (2004).

⁵¹ *Id.*

⁵² The remedies discussed are all forms of relief that magistrates authorized (*see* Appendix A) to hear motions for ex parte orders are permitted, by statute, to include in such orders. However, magistrates

act of domestic violence has occurred, magistrates authorized by the chief district court judge to hear requests for emergency ex parte relief shall grant a protective order.⁵⁴ The protective order may include any of the following types of relief provided in G.S. 50B-3(a):

- Direct a party to refrain from [acts of domestic violence];
- Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household;⁵⁵
- Require a party to provide a spouse and his or her children suitable alternate housing;
- Award temporary custody⁵⁶ of minor children and establish temporary visitation⁵⁷ rights pursuant to G.S. 50B-2 if the order is granted ex parte...;
- Order the eviction of a party from the residence or household and assistance to the victim in returning to it;⁵⁸
- Order either party to make payments for the support of a minor child as required by law;
- Order either party to make payments for the support of a spouse as required by law;
- Provide for possession of personal property of the parties;⁵⁹
- Order a party to refrain from doing any or all of the following:
 - Threatening, abusing, or following the other party,
 - Harassing the other party, including by telephone, visiting the home or workplace, or other means, or
 - Otherwise interfering with the other party;
- Award attorney's fees to either party;
- Prohibit a party from purchasing a firearm for a time fixed in the order;
- Order any party the court finds is responsible for acts of domestic violence to attend and complete an abuser treatment program if the program is approved by the Domestic Violence Commission; and

should determine matters of custody and visitation in accordance with any policy established by the chief district court judge. These policies will vary from district to district. When such policy precludes magistrates from handling custody and visitation at the ex parte hearing, G.S. 50B-3(a1) provides that the district court judge presiding at the 10-day hearing must consider such matters upon request of either party.

⁵³ N.C. Gen. Stat. 50B-3(a) (2004).

⁵⁴ *Id.*

⁵⁵ The magistrate may find it helpful to determine certain facts, such as, whether the defendant is currently residing at the residence, whether the defendant rents or owns the residence, who else lives at the defendant's residence, etc., before excluding the defendant from the residence.

⁵⁶ N.C. Gen. Stat. 50B-2(c1) (2004) provides that "...a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the magistrate finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse." (See further discussion below in Part II, Section C, Subsection 3. Custody and Visitation.)

⁵⁷ Typically, the magistrate is not likely to award visitation in an ex parte order since the magistrate has found that "there is a substantial risk of physical or emotional harm to the child" pursuant to N.C. Gen. Stat. 50B-2(c1) (2004) and the order will expire at the end of the next day district court is in session.

⁵⁸ See *supra* note 56.

⁵⁹ Before providing possession of a vehicle to a party, the magistrate may find it helpful to determine certain facts, such as who is currently in possession of the vehicle, who typically drives the vehicle, whether a party has a valid driver's license, etc.

- Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child.

2. Ex Parte Relief and Children

A 2002 study⁶⁰ conducted by the Governor’s Crime Commission of protective orders issued over a two-week period in 25 North Carolina counties found that 88% of plaintiffs had children in common with the defendant. The study found that the form of relief most frequently requested by plaintiffs was that the defendant not interfere with the plaintiff’s children, followed by a request that the defendant have no contact with the plaintiff, followed by a request for temporary custody of the children. The study reflects how Chapter 50B attempts to provide for the safety of the plaintiff in terms that include the safety of the minor children. Through recent legislative changes, the Chapter focuses greater attention on the safety of the plaintiff’s minor children, and reflects North Carolina’s awareness that the safety and well-being of the plaintiff and her or his children are interconnected.⁶¹ Hence, many of the kinds of relief provided under Chapter 50B provide protection for the victim’s children that, by extension, protect the victim, and also enhance the victim’s ability and willingness to leave the perpetrator of domestic violence.

3. Custody and Visitation⁶²

Research indicates that children may suffer short- and long-term physical, psychological, and emotional effects of both direct and indirect exposure to domestic violence.⁶³ Unsafe environments or perceptions of unsafe environments may interfere with a child’s ability to thrive or a parent’s ability to effectively parent or protect a child. Furthermore, research indicates that the risk of lethal violence to the victim or to children increases significantly following separation from the batterer (e.g., retaliatory harm to the victim or children).⁶⁴ Visitation or exchange of children can provide the opportunity for the batterer to access the victim and children. G.S. 50B-2(c1) provides that the court shall consider awarding temporary custody at the ex parte hearing only if it finds that the child “is exposed to a substantial risk of physical⁶⁵ or emotional⁶⁶ injury or sexual abuse.” If the

⁶⁰ Douglas Yearwood & Jenny Ayscue, Dispositional Outcomes of Domestic Violence Ex Parte and Domestic Violence Protective Orders, N.C. Governor’s Crime Commission, September 2001.

⁶¹ In the 2004 legislative session, G.S. 50B-2(c1) and G.S. 50B-3(a) were amended and G.S. 50B-3(a1) was added.

⁶² See *supra* notes 53 and 58.

⁶³ See *supra* text accompanying note 2.

⁶⁴ See *supra* notes 19 and 20.

⁶⁵ For a discussion of “physical” injury, see Joan Brannon, Small Claims and Miscellaneous Legislation Affecting Magistrates, 3, Administration of Justice Bulletin, Number 2004/05, Institute of Government, September 2004. (Physical injury probably means more than mere physical contact and less than “serious” injury. Also, that the defendant struck the plaintiff while the plaintiff was holding the child even though the child was not actually hit may be sufficient to find that the child is exposed to a substantial risk of physical injury.)

⁶⁶ For a discussion of “emotional” injury, see Joan Brannon, Small Claims and Miscellaneous Legislation Affecting Magistrates, 3 (“Emotional injury” for purposes of an ex parte domestic violence protective order does not require serious injury...what is required should be less than that required...for serious personal injury (mental or emotional injury that is extended for some appreciable time). Also, statistical evidence

court makes such a finding, “upon request of the aggrieved party, the magistrate shall consider and may order the other party to stay away from a minor child, or to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis,” if the magistrate finds that the order is in the best interest of the minor child, and that the order is necessary for the safety of the minor child.⁶⁷ Additionally, if the magistrate has reason to believe that acts of child abuse have occurred, the magistrate is obligated by law to report those acts to the local department of social services. (See the discussion in “Children and Domestic Violence.”)

If the magistrate determines that it is in the best interest of the minor child for the defendant to have contact with the minor child or children, G.S. 50B-2(c1) requires the magistrate to issue an order designed to protect the safety and well-being of the minor child and the plaintiff. The order must specify the terms of contact between the defendant and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center,⁶⁸ and any other conditions that will ensure both the well-being of the minor child and the plaintiff.⁶⁹

Though G.S. 50B-3(a1) applies to 10-day hearings, the statutory factors contained therein may provide guidance for a magistrate faced with addressing custody and visitation issues. G.S. 50B-3(a1)(1) provides that in awarding custody or visitation rights, the court should base its decision on the best interest of the child with particular consideration given to the safety of the minor child.⁷⁰ The statute also enumerates certain factors the court should consider:

- Whether the minor child was exposed to a substantial risk of physical or emotional injury or sexual abuse;
- Whether the minor child was present during acts of domestic violence;
- Whether a weapon was used or threatened to be used during any act of domestic violence;
- Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the minor child;
- Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury;

about the effect on children of witnessing domestic violence may be sufficient to show that the child is exposed to a substantial risk of emotional injury.) The statute was amended in 2003 to include “emotional injury.”

⁶⁷ N.C. Gen. Stat. 50B-2(c1) (2004).

⁶⁸ A person, supervised visitation center, or other agency may be approved to supervise visitation after appearing in court or filing an affidavit accepting that responsibility and acknowledging accountability to the court. (See N.C. Gen. Stat. 50B -3(a1)(3) (2004)). North Carolina has 16 supervised visitation centers across the state. These visitation centers are used in domestic violence cases as a means for children and a parent accused of domestic violence, child abuse, threat of violence or other harm to family members to maintain contact while a domestic violence protective order is in place. Visits at these centers reduce or eliminate the number of contacts between parents necessary to exchange children thereby keeping the victim safe. Also, visits occurring at these centers are supervised to ensure that the non-custodial parent does not abuse or harass the child(ren).

⁶⁹ N.C. Gen. Stat. 50B-2(c1) (2004).

⁷⁰ See *supra* note 62.

- Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress;
- Whether there is a pattern of abuse against an aggrieved party or the minor child;
- Whether a party has abused or endangered the minor child during visitation;
- Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party;
- Whether a party has improperly concealed or detained the minor child;
- Whether a party has otherwise acted in a manner that is not in the best interest of the minor child.⁷¹

G.S. 50B-3(a1)(3) provides that if temporary custody is awarded, the court should also consider whether visitation⁷² is in the best interest of the child, and if ordering visitation, must provide for the safety and well-being of the child and victim.⁷³ The court may consider any of the following:

- Ordering an exchange of the minor child to occur in a protected setting or in the presence of an appropriate third party;
- Ordering visitation supervised by an appropriate third party, or at a supervised visitation center or other approved agency;
- Ordering the non-custodial parent to attend and complete, to the satisfaction of the court, an abuser treatment program as a condition of visitation;
- Ordering either or both parents to abstain from possession or consumption of alcohol or controlled substances during the visitation or for 24 hours preceding an exchange of the minor child;
- Ordering the non-custodial parent to pay the costs of supervised visitation;
- Prohibiting overnight visitation;
- Requiring a bond from the non-custodial parent for the return and safety of the minor child;
- Ordering an investigation or appointment of a guardian ad litem or attorney for the minor child;
- Imposing any other condition that is deemed necessary to provide for the safety and well-being of the minor child and the safety of the aggrieved party.⁷⁴

Before a magistrate grants child custody or visitation as part of a protective order, the magistrate must determine that North Carolina has jurisdiction to make a child-custody determination under the Uniform Child Custody Jurisdiction and Enforcement Act, G.S. Chapter 50A. The plaintiff must complete an “Affidavit as to Status of Minor Child” for each child (see Appendix E). The affidavit will give the magistrate the information necessary to determine whether North Carolina has jurisdiction to enter a custody or visitation order.

⁷¹ N.C. Gen. Stat. 50B-3(a1)(2) (2004).

⁷² See *supra* notes 53 and 58.

⁷³ See *supra* note 62.

⁷⁴ N.C. Gen. Stat. 50B-3(a1)(3) (2004).

North Carolina will always have temporary emergency jurisdiction to act in any case with facts sufficient to allow a magistrate to enter an ex parte custody or visitation order, as long as the child is present in North Carolina at the time the order is entered.⁷⁵ In other words, if the child is in North Carolina and the magistrate finds that the child is exposed to substantial risk of bodily injury or sexual abuse, North Carolina courts have jurisdiction to enter the ex parte custody or visitation order.

If the child is not in North Carolina at the time the magistrate is considering the ex parte order, North Carolina will have jurisdiction to enter a custody order in most cases if North Carolina can exercise "home state" jurisdiction. A magistrate should exercise home state jurisdiction if:

- 1) the child has lived in North Carolina for at least six months, or was born in North Carolina and left before he or she turned six months old; and
- 2) the child has been gone from the state for less than six months; and
- 3) at least one parent or person who has acted as a parent to the child remains in North Carolina.⁷⁶

4. Child Support

Financial dependence on the batterer often prevents the victim from leaving the abusive relationship especially when children are involved. Moreover, following separation from the victim, batterers often use economic dependence to control the victim by withholding child and other support. As noted earlier, G.S. 50B-3(a)(6) provides for the court to "order either party to make payments for the support of a minor child as required by law." The magistrate can also advise the plaintiff to apply for Child Support Enforcement (IV-D) services for assistance in obtaining a more permanent support arrangement. Application forms for child support enforcement services can be found in Appendix F.

5. Firearms

Pursuant to G.S. 50B-3.1(b) the magistrate must ask the victim if the defendant owns or otherwise has access to firearms, ammunition, permits to purchase firearms, or permits to carry concealed firearms. The statute also directs the magistrate to include in the ex parte order, whenever possible, identifying information regarding the description, number and location of firearms, ammunition, and permits to purchase or carry firearms.⁷⁷ If the magistrate issues an ex parte order, the statute further requires the magistrate to "order the defendant to surrender to the sheriff all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant" upon a finding of any of the following factors:

⁷⁵ N.C. Gen. Stat. 50A-204. The district court judge will determine how long this "temporary" jurisdiction will last in an individual case.

⁷⁶ N.C. Gen. Stat. 50A-201(a)(1). North Carolina actually may not have jurisdiction even if these conditions are present if another state has "exclusive continuing jurisdiction" over the child. Similarly, there may be other grounds for a North Carolina court to exercise jurisdiction even if these conditions are not present. However, these issues are best addressed by the district court judge at the first hearing on the custody issue.

⁷⁷ N.C. Gen. Stat. 50B-3.1(b) (2004).

- The use or threatened use of a deadly weapon by the defendant (against the victim or child) or a pattern of prior conduct involving the use or threatened use of violence with a firearm against (any) persons;
- Threats to seriously injure or kill the aggrieved party or minor child by the defendant;
- Threats to commit suicide by the defendant;
- Serious injuries inflicted upon the aggrieved party or minor child by the defendant.⁷⁸

If the magistrate orders the defendant to surrender firearms, ammunition, and permits, the magistrate is required by statute to inform the plaintiff of these terms of the protective order, including that the defendant is prohibited from owning, possessing, purchasing, or receiving or attempting to own, possess, purchase, or receive a firearm for so long as the protective order or any successive protective order is in effect.⁷⁹ The magistrate may also order the defendant not to purchase or possess firearms, even if the defendant is not ordered to surrender firearms.⁸⁰

6. Service of Process

In counties in which magistrates are authorized to hear motions for ex parte orders, the magistrate should ensure that paperwork for ex parte orders is delivered to the sheriff's department for service.

D. Violations of Domestic Violence Protective Orders

A violation of a protective order may be enforced by contempt or by charging the defendant with the crime of violating a protective order. G.S. 50B-4.1 makes a knowing violation of a valid protective order a Class A1 misdemeanor. A violation of *any* provision of the order constitutes a crime, and is not limited to acts that cause physical harm or danger to the plaintiff. Before issuing a warrant for violation of a domestic violence protective order, the magistrate should obtain a copy of the order to verify the terms of the order and whether the order was in effect at the time of the alleged violation. If the magistrate finds probable cause to believe that the defendant has violated any provision in the order, the magistrate must issue criminal process. If an arrest warrant is issued for violating a protective order, when the defendant is arrested, only a judge may set conditions of pre-trial release for the first 48 hours.⁸¹ If the conduct constituting the violation of the protective order also constitutes a separate crime, the magistrate should also issue criminal process for the additional crime or crimes. A law enforcement officer who has probable cause to believe the defendant has violated a provision in a protective order excluding the defendant from the residence or household occupied by the plaintiff or directing the defendant to refrain from threatening, abusing, following, harassing (including by telephone, or by visiting the home, workplace or the minor child's school

⁷⁸ N.C. Gen. Stat. 50B-3.1(a) (2004).

⁷⁹ N.C. Gen. Stat. 50B-3.1(d)(1) (2004).

⁸⁰ See N.C. Gen. Stat. 50B-3(11) and (13) (2004).

⁸¹ N.C. Gen. Stat. 15A-534.1(a) (2003).

or daycare or other place where the child may be with the plaintiff) or otherwise interfering with the plaintiff must arrest the defendant without a warrant.⁸² For any other violation of a protective order, an officer may arrest without a warrant.⁸³

The magistrate should advise the plaintiff of the process to follow when the defendant violates a domestic violence protective order. The magistrate should also advise the victim that he or she should follow the terms of the domestic violence protective order, though the plaintiff cannot “violate” any conditions of the order since she or he is not the defendant in the case. The plaintiff should be advised that if he or she wants any of the conditions changed, the plaintiff must return to the court and request a modification to the order. For example, if the two parties reconcile and plan to have contact, the plaintiff may still desire an order that prohibits acts of domestic violence, but may wish to modify the order to eliminate the no-contact provision; or the parties may desire for the defendant to have visitation with the minor children.

Violations of domestic violence protective orders should be treated seriously. They are frequently an indication that the defendant does not take seriously the consequences of his or her actions, and/or is demonstrating relentlessness by a willingness to violate an order from the court. It is important to hold defendants accountable for purposes of protecting the plaintiff, and to communicate to the defendant that the court takes the behavior seriously. All violations, regardless of type, should be considered in this light; for example, leaving notes on a victim’s windshield despite a no-contact provision, having a friend or relative call the victim to ask for reconsideration, or picking up the minor children at school without authorization.

If the plaintiff wishes to enforce a violation of a protective order by contempt, the magistrate should refer the victim to the clerk of superior court. The magistrate should explain that the procedure to enforce a violation of a protective order by holding the defendant in contempt is handled before the clerk, and that the victim should go to the clerk’s office to file a motion for a show cause order for contempt. If the clerk issues an order, there will be a hearing before the district court judge.

If the defendant creates a safety risk to the victim or a minor child, the magistrate should contact the appropriate law enforcement agency, refer the victim to the appropriate law enforcement agency, or refer the victim to a domestic violence advocate or victim assistance staff for assistance in filing a motion to show cause.

E. False Statement Regarding Protective Order

Anyone who deliberately attempts to mislead law enforcement about the existence and/or validity of a domestic violence protective order may be held criminally liable for such misrepresentation. G.S. 50B-4.2 provides:

⁸² N.C. Gen. Stat. 50B-4.1(b) (2003).

⁸³ N.C. Gen. Stat. 15A-401(b)(2)(e) (2004).

A person who knowingly makes a false statement to a law enforcement agency or officer that a protective order entered pursuant to this Chapter or by the courts of another state or Indian tribe remains in effect shall be guilty of a Class 2 misdemeanor.

APPENDICES

Appendix A: Magistrates Authorized to Issue Ex Parte Orders

Appendix B: Law Enforcement Supplemental Domestic Violence Report Forms

Appendix C: Suggested Guidelines for Interviewing Children

Appendix D: North Carolina Domestic Violence Programs by County

Appendix E: Affidavit as to Status of Minor Child

Appendix F: Application for Child Support Enforcement

Appendix A:

Magistrates Authorized to Issue Ex Parte Orders

Report on Magistrates Hearing Ex Parte Domestic Violence Orders

Magistrates are authorized to issue ex parte domestic violence orders in 23 judicial districts (66 counties). In those counties all magistrates are authorized to issue orders when district court is not in session or when a judge is not available except (1) in District 7, the chief district judge issues a specific order for each occasion, but usually for the conferences, when district court is not in session, and in some instances on nights and weekends; (2) in Districts 16B and 21 the magistrates may issue orders only when the judges are gone for conferences; and (3) in District 25 the judge has set out specific scenarios for when magistrates will hear ex parte orders. Listed below are the judicial districts and counties in which magistrates are authorized to issue orders:

- District 1 (Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans)
- District 2 (Martin, Beaufort, Tyrrell, Hyde, Washington)
- District 4 (Sampson, Duplin, Jones, Onslow)
- District 5 (Pender, New Hanover)
- District 6B (Northampton, Bertie, Hertford)
- District 7 (Nash, Edgecombe, Wilson)
- District 9 and 9B (Granville, Vance, Franklin, Warren)
- District 9A (Person, Caswell)
- District 11 (Johnston, Harnett, Lee)
- District 12 (Cumberland)
- District 14 (Durham)
- District 15A (Alamance)
- District 16A (Scotland, Hoke)
- District 16B (Robeson)
- District 17B (Stokes, Surry)
- District 20 (Stanly, Union, Anson, Richmond)
- District 21 (Forsyth)
- District 23 (Alleghany, Ashe, Wilkes, Yadkin)
- District 24 (Avery, Madison, Mitchell, Watauga, Yancey)
- District 25 (Burke, Caldwell, Catawba)
- District 26 (Mecklenburg)
- District 27B (Cleveland, Lincoln)
- District 29 (Henderson, McDowell, Polk, Rutherford, Transylvania)

Magistrates are not authorized to issue ex parte domestic violence orders in 16 judicial districts and 34 counties. Listed below are the districts and counties in which magistrates are not authorized to issue orders:

- District 3A (Pitt)
- District 3B (Craven, Pamlico, Carteret)
- District 6A (Halifax)
- District 8 (Wayne, Greene, Lenoir)
- District 10 (Wake)

District 13 (Bladen, Brunswick, Columbus)
District 15B (Orange, Chatham)
District 17A (Rockingham)
District 18 (Guilford)
District 19A (Cabarrus)
District 19B (Montgomery, Moore, Randolph)
District 19C (Rowan)
District 22 (Alexander, Davidson, Davie, Iredell)
District 27A (Gaston)
District 28 (Buncombe)
District 30 (Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain)

Appendix B:

Law Enforcement

Supplemental Domestic Violence Report Forms

Domestic Violence: Best Practices for Law Enforcement Response, Governor's Crime Commission, January 1998

DOMESTIC VIOLENCE SUPPLEMENTAL REPORT FORM		CASE NUMBER: _____																			
LOCATION: _____		TIME: _____ DATE: _____																			
CALLER: <input type="checkbox"/> VICTIM <input type="checkbox"/> HOSPITAL <input type="checkbox"/> NEIGHBOR <input type="checkbox"/> FAMILY MEMBER <input type="checkbox"/> OTHER																					
CALLER'S NAME: _____																					
VICTIM	CONDITION OF VICTIM UPON ARRIVAL <input type="checkbox"/> ANGRY <input type="checkbox"/> COMPL. OF PAIN <input type="checkbox"/> APOLOGETIC <input type="checkbox"/> BRUISE(S) <input type="checkbox"/> CRYING <input type="checkbox"/> ABRASION(S) <input type="checkbox"/> FEARFUL <input type="checkbox"/> MINOR CUT(S) <input type="checkbox"/> HYSTERICAL <input type="checkbox"/> BITE(S) <input type="checkbox"/> CALM <input type="checkbox"/> FRACTURE(S) <input type="checkbox"/> AFRAID <input type="checkbox"/> CONCUSSION(S) <input type="checkbox"/> IRRATIONAL <input type="checkbox"/> GUNSHOT(S) <input type="checkbox"/> NERVOUS <input type="checkbox"/> DEEP CUT(S) <input type="checkbox"/> THREATENING <input type="checkbox"/> SEXUAL ASSAULT <input type="checkbox"/> OTHER: <input type="checkbox"/> OTHER:	VICTIM NAME(L,F,M): _____ DOB: _____ GENDER: <input type="checkbox"/> M <input type="checkbox"/> F ADDRESS: _____ HOME PHONE: _____ WORK PHONE: _____ AT TEMPORARY ADDRESS? <input type="checkbox"/> YES, SPECIFY _____ <input type="checkbox"/> NO TEMPORARY PHONE #: _____ CONTACT PERSON: _____ SPONTANEOUS STATEMENTS: _____ _____ _____ ALCOHOL/DRUG USE? <input type="checkbox"/> YES <input type="checkbox"/> NO TYPE OF SUBSTANCE: _____																			
	SUSPECT	CONDITION OF SUSPECT UPON ARRIVAL <input type="checkbox"/> ANGRY <input type="checkbox"/> COMPL. OF PAIN <input type="checkbox"/> APOLOGETIC <input type="checkbox"/> BRUISE(S) <input type="checkbox"/> CRYING <input type="checkbox"/> ABRASION(S) <input type="checkbox"/> FEARFUL <input type="checkbox"/> MINOR CUT(S) <input type="checkbox"/> HYSTERICAL <input type="checkbox"/> BITE(S) <input type="checkbox"/> CALM <input type="checkbox"/> FRACTURE(S) <input type="checkbox"/> AFRAID <input type="checkbox"/> CONCUSSION(S) <input type="checkbox"/> IRRATIONAL <input type="checkbox"/> GUNSHOT(S) <input type="checkbox"/> NERVOUS <input type="checkbox"/> DEEP CUTS) <input type="checkbox"/> THREATENING <input type="checkbox"/> SEXUAL ASSAULT <input type="checkbox"/> OTHER: <input type="checkbox"/> OTHER:	SUSPECT NAME(L,F,M): _____ DOB: _____ GENDER: <input type="checkbox"/> M <input type="checkbox"/> F ON PROBATION? <input type="checkbox"/> YES <input type="checkbox"/> NO WHERE: _____ PROB. OFC: _____ SPONTANEOUS STATEMENTS: _____ _____ _____ ALCOHOL/DRUG USE? <input type="checkbox"/> YES <input type="checkbox"/> NO TYPE OF SUBSTANCE: _____ SUSPECT PRESENT? <input type="checkbox"/> YES <input type="checkbox"/> NO ARRESTED? <input type="checkbox"/> YES: <input type="checkbox"/> ON-SCENE <input type="checkbox"/> WARRANT CHARGE: _____ IF <input type="checkbox"/> NO WARRANT ISSUED? <input type="checkbox"/> YES <input type="checkbox"/> NO IF NO ARREST, EXPLAIN FULLY IN REPORT NARRATIVE.																		
		RELATIONSHIP																			
		CHECK ALL THAT APPLY <input type="checkbox"/> SPOUSE <input type="checkbox"/> FORMER SPOUSE <input type="checkbox"/> COHABITANT <input type="checkbox"/> FORMER COHABITANT <input type="checkbox"/> DATING <input type="checkbox"/> FORMER DATING <input type="checkbox"/> CHILD IN COMMON	LENGTH OF RELATIONSHIP: YRS MTHS REL. ENDED? <input type="checkbox"/> YES <input type="checkbox"/> NO DATE ENDED: _____ PRIOR HISTORY OF DV? <input type="checkbox"/> YES <input type="checkbox"/> NO PRIOR HISTORY DOCUMENTED? <input type="checkbox"/> YES <input type="checkbox"/> NO NUMBER OF PRIOR INCIDENTS: _____ <input type="checkbox"/> SERIOUS <input type="checkbox"/> MINOR INVESTIGATING AGENCY: _____ CASE#: _____ PROTECTIVE ORDER EVER ISSUED? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> CURRENT <input type="checkbox"/> EXPIRED EXPIRATION DATE: _____ TYPE OF ORDER: <input type="checkbox"/> EX PARTE <input type="checkbox"/> ONE-YEAR DVPO DEFENDANT SERVED? <input type="checkbox"/> YES <input type="checkbox"/> NO IF NOT SERVED, DID OFFICER GIVE NOTICE TO DEFENDANT OF PROTECTIVE ORDER? <input type="checkbox"/> YES <input type="checkbox"/> NO CONFIRMED BY: <input type="checkbox"/> VICTIM'S COPY <input type="checkbox"/> DEPARTMENT <input type="checkbox"/> OTHER: EXPLAIN: _____																		
		INCIDENT INFORMATION																			
		MARK APPROPRIATELY TO DESCRIBE WHAT OCCURRED <input type="checkbox"/> DESTROYING PROPERTY <input type="checkbox"/> BITING <input type="checkbox"/> THROWING OBJECTS <input type="checkbox"/> KICKING <input type="checkbox"/> PUSHING/SHOVING <input type="checkbox"/> SLAPPING <input type="checkbox"/> HITTING WITH FIST <input type="checkbox"/> CHOKING <input type="checkbox"/> THREAT W/ WEAPON <input type="checkbox"/> BEATING <input type="checkbox"/> PREVENTED FROM LEAVING <input type="checkbox"/> BURNING <input type="checkbox"/> THREAT OF PHYSICAL VIOLENCE <input type="checkbox"/> STALKING <input type="checkbox"/> THREAT OF SEXUAL VIOLENCE <input type="checkbox"/> USED WEAPON <input type="checkbox"/> SEXUAL ASSAULT <input type="checkbox"/> HOMICIDE <input type="checkbox"/> GRABBING <input type="checkbox"/> OTHER	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center; padding: 2px;">WEAPONS USED BY:</th> </tr> <tr> <th style="width: 50%; padding: 2px;">SUSPECT</th> <th style="width: 50%; padding: 2px;">VICTIM</th> </tr> </thead> <tbody> <tr> <td style="padding: 2px;"><input type="checkbox"/> NONE</td> <td style="padding: 2px;"><input type="checkbox"/> NONE</td> </tr> <tr> <td style="padding: 2px;"><input type="checkbox"/> KNIFE</td> <td style="padding: 2px;"><input type="checkbox"/> KNIFE</td> </tr> <tr> <td style="padding: 2px;"><input type="checkbox"/> BLUNT OBJECT</td> <td style="padding: 2px;"><input type="checkbox"/> BLUNT OBJECT</td> </tr> <tr> <td style="padding: 2px;"><input type="checkbox"/> FIREARM</td> <td style="padding: 2px;"><input type="checkbox"/> FIREARM</td> </tr> <tr> <td style="padding: 2px;"><input type="checkbox"/> OTHER:</td> <td style="padding: 2px;"><input type="checkbox"/> OTHER:</td> </tr> </tbody> </table>	WEAPONS USED BY:		SUSPECT	VICTIM	<input type="checkbox"/> NONE	<input type="checkbox"/> NONE	<input type="checkbox"/> KNIFE	<input type="checkbox"/> KNIFE	<input type="checkbox"/> BLUNT OBJECT	<input type="checkbox"/> BLUNT OBJECT	<input type="checkbox"/> FIREARM	<input type="checkbox"/> FIREARM	<input type="checkbox"/> OTHER:	<input type="checkbox"/> OTHER:				
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<input type="checkbox"/> VICTIM'S COMP	<input type="checkbox"/> CASE #, OFC.'S NAME																				
WEAPON SEIZED? <input type="checkbox"/> YES <input type="checkbox"/> NO DOES SUSPECT OWN FIREARMS? <input type="checkbox"/> YES <input type="checkbox"/> NO IMPOUNDED FOR SAFETY? <input type="checkbox"/> YES <input type="checkbox"/> NO																					

MEDICAL TREATMENT

NONE WILL SEEK DOCTOR
 FIRST AID EMS
 HOSPITAL REFUSED

EMS AT SCENE? YES NO
 EMS AGENCY: _____
 NAMES/ID #S: _____

HOSPITAL: _____
 ATTENDING PHYSICIANS: _____

TO BE COMPLETED BY VICTIM--MEDICAL RELEASE TO ALL HEALTH CARE PROVIDERS:
 I hereby consent to the release of my medical records to law enforcement and the attorney general. I have been advised of my right to refuse.

Por este medio autorizo a que mis expedientes médicos se entreguen a oficiales de la policía y al Procurador, he sido notificado/a sobre mi derecho de rehusar.

SIGNATURE: _____ DATE: _____

CHILDREN

PRESENT DURING INCIDENT?
 YES NO
NUMBER PRESENT: _____
DID THEY HEAR THE INCIDENT?
 SEE

NAMES AND AGES:
 1. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

2. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

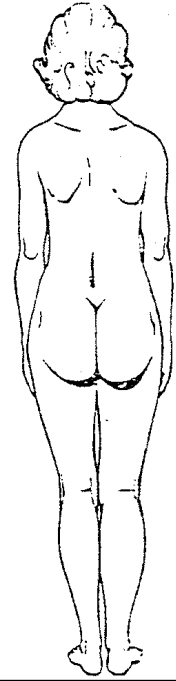
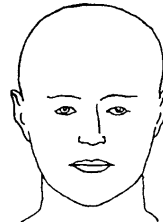
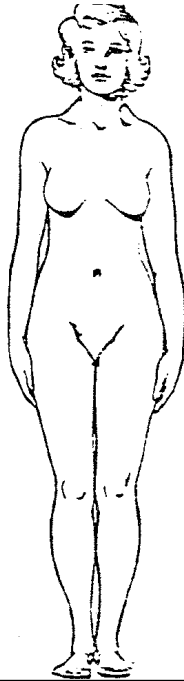
3. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

STATEMENTS TAKEN?
 YES NO

VICTIM
 SUSPECT

HEIGHT: _____

WEIGHT: _____



DRAW ON DIAGRAMS NOTING THE LOCATION OF INJURIES WITH AN "X" FOR THOSE SEEN AND AN "O" FOR THOSE REPORTED BY VICTIM/SUSPECT

WITNESSES

WITNESSES PRESENT DURING INCIDENT? YES NO
NUMBER PRESENT: _____
WITNESS INFO ON INCIDENT RPT?
 YES NO IF NO: _____

NAME, ADDRESS, AND PHONE
 1. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

2. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

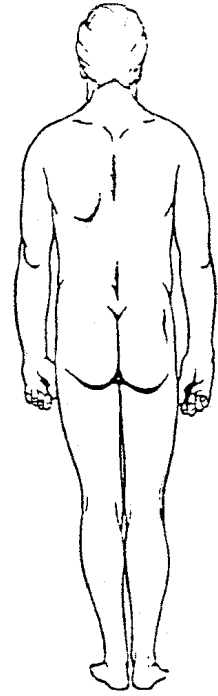
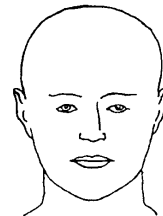
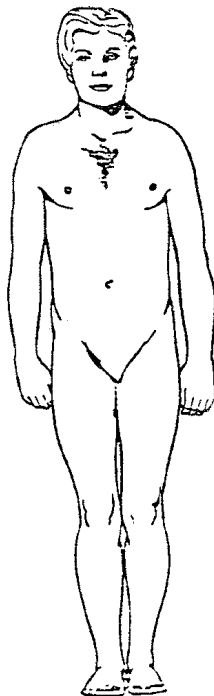
3. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

STATEMENTS TAKEN?
 YES NO

VICTIM
 SUSPECT

HEIGHT: _____

WEIGHT: _____



State of Delaware

DOMESTIC INCIDENT REPORT

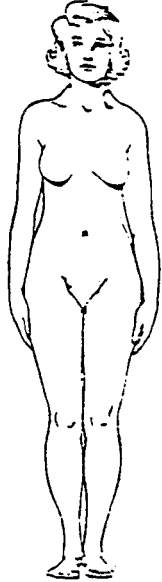

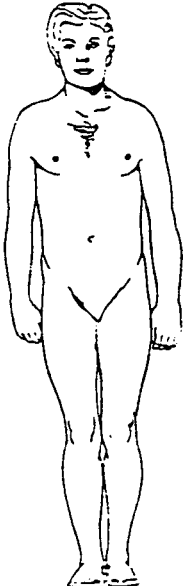
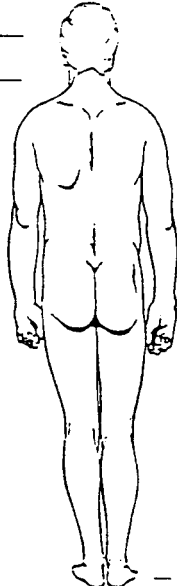
1 <input type="checkbox"/> V <input type="checkbox"/> D <input type="checkbox"/> S <input type="checkbox"/> RP		2 NO. VICT'S		3 REPORT DATE		4 DEPARTMENT		5 PAGE		6 COMPLAINT NO.				
7 NAME (LAST, FIRST, MIDDLE)						8 RACE, SEX, E.O., AGE		9 D.O.B.		10 RESID PHONE OF				
12 ADDRESS						13 RESIDENT <input type="checkbox"/> FUL <input type="checkbox"/> NON <input type="checkbox"/> UNK		14 EMPLOYER/SCHOOL						
15 LOCATION OF INCIDENT						16 GRID		17 SECT	18 CTY	19 NO PREMISE	20 TYPE PREMISE	21 LOC CODE		
22 REPORTED DAY DATE TIME			23 OCCURRED DAY DATE TIME			TO DAY DATE TIME			24 INVOLVEMENT <input type="checkbox"/> ALCOHOL <input type="checkbox"/> DRUGS <input type="checkbox"/> COMPUTER					
25 CRIME OR INCIDENT TITLE SECTION SUBSECTION TYPE CLASS						26 UCR CLASS		27 SUP CODE		28 CRIM ACTIVITY				
135 WAS DFS NOTIFIED? <input type="checkbox"/> YES <input type="checkbox"/> NO		136 DFS PERSON CONTACTED		31 POINT OF ENTRY		32 NATURE OF INJURIES		33 WEAPONS MEANS/ATTACK						
INDICATE RELATIONSHIP TO INVESTIGATION W1 - WITNESS NI - NOT INTERVIEWED RP - REPORTING PERSON P - PARENT C - CHILD PRESENT CN - CHILD NOT PRESENT														
LIST NAME, DOB, AND ADDRESS OF ANY CHILD PRESENT DURING INCIDENT AND ANY OTHER CHILD(REN) LIVING IN THE HOME											137 <input type="checkbox"/> NONE PRESENT			
CODE	34 NAME (L, F, M)			RACE	SEX	D.O.B.	ADDRESS			PHONE				
35 EVID <input type="checkbox"/> YES <input type="checkbox"/> NO		PERFORMED BY		PHOTOS TAKEN OF INJURY			OTHER EVIDENCE WORK DONE - TYPE							
36 METHOD OF OPERATION														
											MO. CLASS			
138 DUAL ARREST MADE? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES JUSTIFY		139		<input type="checkbox"/> ARREST MADE		<input type="checkbox"/> NO ARREST MADE		<input type="checkbox"/> NO CRIME		140 RISK ASSESSMENT DONE? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A				
<input type="checkbox"/> SUSPECT <input type="checkbox"/> DEFENDANT (L, F, M)		<input type="checkbox"/> SUSPECT GOA		<input type="checkbox"/> WARRANT PENDING		<input type="checkbox"/> OTHER		37-2 TYPE OF ARREST <input type="checkbox"/> ON VIEW <input type="checkbox"/> SUMMOND <input type="checkbox"/> WARRANT		37-3 V.O.	37-4 RACE, SEX, E.O., AGE	37-5 D.O.B.	37-6 RESIDENT <input type="checkbox"/> FUL <input type="checkbox"/> NON <input type="checkbox"/> UNK	
37-7 ADDRESS				37-8 DESCRIPTION				37-10 PHONE		37-9 ARMED WITH				
39 SUSP VEH REG # STATE		YEAR	MAKE	MODEL	BODY	COLOR(S)	IDENTIFYING CHARACTERISTICS							
141 <input type="checkbox"/> PROPERTY DISPUTE <input type="checkbox"/> CUSTODY DISPUTE <input type="checkbox"/> SERVE PFA ORDER						142 WAS A VIOLENT ACT THREATENED OR COMMITTED? <input type="checkbox"/> YES <input type="checkbox"/> NO								
142 ARE THERE ANY ACTIVE COURT ORDERS? <input type="checkbox"/> CUSTODY <input type="checkbox"/> PFA <input type="checkbox"/> NO CONTACT <input type="checkbox"/> PROBATION <input type="checkbox"/> OTHER														
143 IS THIS FAMILY ACTIVE WITH THE DIVISION OF FAMILY SERVICES? <input type="checkbox"/> YES <input type="checkbox"/> NO CASE WORKER														
144 HAS THE VICTIM REPORTED AN INCIDENT WITH THIS SUBJECT BEFORE? <input type="checkbox"/> YES <input type="checkbox"/> NO LAST CONTACT														
145 IS THE VICTIM ALSO A VICTIM/COMPLAINANT IN ANY OTHER RECENT/RELEVANT POLICE INVESTIGATION? <input type="checkbox"/> YES <input type="checkbox"/> NO AGENCY														
CODE	PROPERTY TYPE			STOLEN-S	DAMAGED-D	RECOVERED-R	SEIZED-T	TYPE		ID NUMBER		VALUE		
	40-1													
	40-2													
	40-3													
41 DRUG TYPE		42 DRUG QUANTITY		43 DRUG MEASURE		44 DATE RECOVER'D		45 VALUE DAMG		46 VALUE REC		47 VALUE STOLEN		
146 ON SCENE COMMENTS: (11 DEL. SEC 3507) VICTIM (V) SUSPECT (S) WITNESS (W) CHILD (C)														
CODE	48 CONTINUATION OF ABOVE ITEMS													
134 DOES VICT REQUEST NOTICE OF FUTURE PROCEEDINGS UPON ARREST? <input type="checkbox"/> YES <input type="checkbox"/> NO		133 SUSPECTED BIAS/HATE INCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO		49 DET NOTIFIED		50 REFERRED TO		51 SUPERVISOR APPROVAL						
52 REPORTING OFFICER			NO. DIV.			53 STATUS			54 EXCEPTIONAL CLEAR					
55 REPORTING PERSON'S SIGNATURE X			<input type="checkbox"/> UNFOUNDED <input type="checkbox"/> ARREST - JUV			<input type="checkbox"/> DEATH SUSPECT <input type="checkbox"/> NO V COOPERATION			<input type="checkbox"/> PROSECUTION DECLINED <input type="checkbox"/> JUV NO CUSTODY					
56 SOLVABILITY FACTORS			<input type="checkbox"/> WIT <input type="checkbox"/> M.O. <input type="checkbox"/> EVIDENCE <input type="checkbox"/> TRAC STOLEN <input type="checkbox"/> SUSP VEH ID'ED			<input type="checkbox"/> ARREST - ADULT <input type="checkbox"/> SERVICE CLEAR			<input type="checkbox"/> EXTRADITION DECLINED <input type="checkbox"/> ADMIN SANCTION					
			<input type="checkbox"/> SUSP NAMED <input type="checkbox"/> SUSP LOCATED <input type="checkbox"/> SUSP DESCRIBED <input type="checkbox"/> SUSP ID'ED			57			<input type="checkbox"/> OFFICE <input type="checkbox"/> FOLLOW-UP <input type="checkbox"/> CLOSE					

SAN DIEGO POLICE DEPARTMENT		DOMESTIC VIOLENCE SUPPLEMENTAL		13700 P.C.	
VICTIM'S NAME (L, F, M)		DATE OF BIRTH	SDPD CASE NUMBER		
I responded to a call of _____ at _____ (SDPD Dispatch Center # _____)		I found the victim _____ The victim displayed the following emotional and physical conditions:			
ORIGIN / CRIME DESCRIPTION	VICTIM	DESCRIBE ALL CONDITIONS OBSERVED			
	<input type="checkbox"/> ANGRY <input type="checkbox"/> APOLOGETIC <input type="checkbox"/> CRYING <input type="checkbox"/> FEARFUL <input type="checkbox"/> HYSTERICAL <input type="checkbox"/> CALM <input type="checkbox"/> AFRAID <input type="checkbox"/> IRRATIONAL <input type="checkbox"/> NERVOUS <input type="checkbox"/> THREATENING <input type="checkbox"/> OTHER: EXPLAIN	<input type="checkbox"/> COMP OF PAIN <input type="checkbox"/> BRUISE (S) <input type="checkbox"/> ABRASION (S) <input type="checkbox"/> MINOR CUT (S) <input type="checkbox"/> LACERATION (S) <input type="checkbox"/> FRACTURE (S) <input type="checkbox"/> CONCUSSION (S) <input type="checkbox"/> OTHER: EXPLAIN	PHYSICAL:		
	<input type="checkbox"/> ALWAYS explain <input type="checkbox"/> OPPOSITES in narrative.		EMOTIONAL:		
	SUSPECT				
	<input type="checkbox"/> ANGRY <input type="checkbox"/> APOLOGETIC <input type="checkbox"/> CRYING <input type="checkbox"/> FEARFUL <input type="checkbox"/> HYSTERICAL <input type="checkbox"/> CALM <input type="checkbox"/> AFRAID <input type="checkbox"/> IRRATIONAL <input type="checkbox"/> NERVOUS <input type="checkbox"/> THREATENING <input type="checkbox"/> OTHER: EXPLAIN	<input type="checkbox"/> COMP OF PAIN <input type="checkbox"/> BRUISE (S) <input type="checkbox"/> ABRASION (S) <input type="checkbox"/> MINOR CUT (S) <input type="checkbox"/> LACERATION (S) <input type="checkbox"/> FRACTURE (S) <input type="checkbox"/> CONCUSSION (S) <input type="checkbox"/> OTHER: EXPLAIN	CRIME SCENE:		
	<input type="checkbox"/> ALWAYS explain <input type="checkbox"/> OPPOSITES in narrative.				
	RELATIONSHIP BETWEEN VICTIM AND SUSPECT				
	<small>MARK ALL THAT APPLY</small> <input type="checkbox"/> SPOUSE <input type="checkbox"/> FORMER SPOUSE <input type="checkbox"/> COHABITANTS <input type="checkbox"/> FORMER COHABITANTS <input type="checkbox"/> DATING / ENGAGED <input type="checkbox"/> FORMER DATING <input type="checkbox"/> SAME SEX <input type="checkbox"/> EMANCIPATED MINOR <input type="checkbox"/> PARENT OF CHILD FROM RELATIONSHIP				
	LENGTH OF RELATIONSHIP _____ YEAR(s) _____ MONTH(s)		PRIOR HISTORY OF DOMESTIC VIOLENCE? <input type="checkbox"/> YES <input type="checkbox"/> NO		
	IF APPLICABLE, DATE RELATIONSHIP ENDED: _____		PRIOR HISTORY OF VIOLENCE DOCUMENTED? <input type="checkbox"/> YES <input type="checkbox"/> NO		
		NUMBER OF PRIOR INCIDENTS: <input type="text"/> <input type="checkbox"/> MINOR <input type="checkbox"/> SERIOUS			
		CASE NUMBER(s) _____			
		INVESTIGATING AGENCY: _____			
MEDICAL TREATMENT					
<input type="checkbox"/> NONE <input type="checkbox"/> WILL SEEK OWN DOCTOR <input type="checkbox"/> FIRST AID <input type="checkbox"/> PARAMEDICS <input type="checkbox"/> HOSPITAL <input type="checkbox"/> REFUSED MEDICAL AID		PARAMEDICS AT SCENE: <input type="checkbox"/> YES <input type="checkbox"/> NO		HOSPITAL: _____	
		UNIT NUMBER: _____		ATTENDING PHYSICIAN(S): _____	
		NAME(S) ID#: _____		Suspect Under the influence of: Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> N/A <input type="checkbox"/>	
EVIDENCE	EVIDENCE COLLECTED:		DESCRIBE ALL EVIDENCE AND DISPOSITION		
	FROM: <input type="checkbox"/> Crime Scene <input type="checkbox"/> Hospital <input type="checkbox"/> Other: Explain				
	PHOTOS: <input type="checkbox"/> Yes <input type="checkbox"/> No Number: _____				
	TYPE: <input type="checkbox"/> 35mm <input type="checkbox"/> Polaroid				
	TAKEN BY: _____				
	<i>DESCRIBE ALL PHOTOGRAPHS</i>				
	Photo's of victim's injuries: <input type="checkbox"/> Yes <input type="checkbox"/> No				
	Photos of suspect's injuries: <input type="checkbox"/> Yes <input type="checkbox"/> No				
	Weapon used during incident <input type="checkbox"/> Yes <input type="checkbox"/> No				
	Type of weapon used: _____				
Weapon(s) impounded: <input type="checkbox"/> Yes <input type="checkbox"/> No					
Firearm(s) impounded for safety: <input type="checkbox"/> Yes <input type="checkbox"/> No					
PROPERTY TAG NUMBER: _____		<input type="checkbox"/> CONTINUED			
REPORTING OFFICER	ID NUMBER	DIV-WATCH	DATE & TIME	APPROVED BY: NAME & ID	

WITNESSES	WITNESSES PRESENT DURING DOMESTIC VIOLENCE? <input type="checkbox"/> YES <input type="checkbox"/> NO
	STATEMENT(S) TAKEN? <input type="checkbox"/> YES <input type="checkbox"/> NO
	CHILDREN PRESENT DURING DOMESTIC VIOLENCE? <input type="checkbox"/> YES <input type="checkbox"/> NO
	Names, Ages and DOB of ALL Children Present: _____
STATEMENT(S) TAKEN? <input type="checkbox"/> YES <input type="checkbox"/> NO	
WITNESS INFO LISTED ON ARJIS FORMS? <input type="checkbox"/> YES <input type="checkbox"/> NO	

RESTRAINING ORDERS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> CURRENT <input type="checkbox"/> EXPIRED TYPE: <input type="checkbox"/> EMERGENCY <input type="checkbox"/> TEMPORARY <input type="checkbox"/> PERMANENT ISSUING COURT: _____ ORDER OR DOCKET NUMBER: _____	VICTIM GIVEN: <input type="checkbox"/> DOMESTIC VIOLENCE INFORMATION SHEET (PD-964) <input type="checkbox"/> SDPD CRIME CASE NUMBER <input type="checkbox"/> DOMESTIC VIOLENCE UNIT PHONE NUMBER
--	--

VICTIM WILL BE AT A TEMPORARY ADDRESS? YES, INTEROFFICE MEMO ATTACHED. NO

WITNESSES/CHILDREN W1: _____ <input type="checkbox"/> Apologies <input type="checkbox"/> Afraid <input type="checkbox"/> Angry <input type="checkbox"/> Calm <input type="checkbox"/> Calmed Down <input type="checkbox"/> Tearful/Crying <input type="checkbox"/> Hysterical <input type="checkbox"/> Irrational <input type="checkbox"/> Nervous <input type="checkbox"/> Upset <input type="checkbox"/> Threatening <input type="checkbox"/> Other, Explain W2: _____ <input type="checkbox"/> Apologies <input type="checkbox"/> Afraid <input type="checkbox"/> Angry <input type="checkbox"/> Calm <input type="checkbox"/> Calmed Down <input type="checkbox"/> Tearful/Crying <input type="checkbox"/> Hysterical <input type="checkbox"/> Irrational <input type="checkbox"/> Nervous <input type="checkbox"/> Upset <input type="checkbox"/> Threatening <input type="checkbox"/> Other, Explain W3: _____ <input type="checkbox"/> Apologies <input type="checkbox"/> Afraid <input type="checkbox"/> Angry <input type="checkbox"/> Calm <input type="checkbox"/> Calmed Down <input type="checkbox"/> Tearful/Crying <input type="checkbox"/> Hysterical <input type="checkbox"/> Irrational <input type="checkbox"/> Nervous <input type="checkbox"/> Upset <input type="checkbox"/> Threatening <input type="checkbox"/> Other, Explain	V. S.? 	HT. _____ WT. _____ <div style="border: 1px solid black; padding: 5px; text-align: center; margin: 10px auto; width: 80%;"> PLEASE DRAW ON DIAGRAM(S) THE LOCATION OF ANY INJURIES. </div> 	
 	V. S.? 	HT. _____ WT. _____ 	

CONTINUED ON ARJIS 9 FORM

TO ALL HEALTH CARE PROVIDERS:
 Having been advised of my right to refuse, I hereby consent to the release of my medical records to law enforcement, the District Attorney's Office, and the City Attorney's Office.

Signature _____

Appendix C:
Suggested Guidelines for Interviewing Children

SUGGESTED GUIDELINES FOR INTERVIEWING CHILDREN

Developed by:

Robert A. Murphy, Ph.D.

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Associate Clinical Professor, Duke University Medical Center

As a general rule, magistrates are encouraged to interview children only as a last resort in their efforts to establish probable cause for the issue of an arrest warrant in instances of domestic or family violence, or to determine whether to issue an *ex parte* domestic violence protective order. This recommendation is based not only on clinical impressions of children's reactions to family violence, but also derives from the legal concept of acting "in the best interests of the child" (Goldstein *et al.*, 1996). While primarily having to do with the custody and placement of children (Osofsky *et al.*, 2002), the "best interests" standard recognizes that complex legal decisions and actions should consider and incorporate a perspective on child development. This perspective should include creating multiple alternatives to establishing probable cause and recognizing that the goals of the legal system may not always coincide with optimal child functioning and development.

It is important to recognize that any adults in positions of authority, such as magistrates, may play a vital role in helping children and adolescents who experience domestic violence. Magistrates who act as benevolent and caring authority figures can have an important effect on children without compromising their obligation to remain impartial judicial officials. Even though the extent of their contact with children may be limited, magistrates can set a tone for the judicial system that is responsive to some of the developmental and situational conflicts experienced by youth who have witnessed one or more of their caregivers in a domestic violence situation. These situations, by their very nature, involve instances where ostensibly responsible adults behave in out-of-control, overwhelming, and often frightening ways. With their vested legal authority, magistrates can provide a benign, consistent model that may counteract some of the confusing actions children have witnessed. Magistrates who listen attentively and openly to children while providing clear boundaries to their discussions and limits to their expectations for any disclosure of incriminating information about family members can have an important ameliorating effect on the notions that children may sometimes have of authorities as hostile or disinterested.

Despite being accustomed to interacting with individuals from a variety of backgrounds and in a variety of circumstances, magistrates may initially struggle in their conversations with children. Conversations and interactions with adult parties, who are likely to provide direct responses to questions and to obey conventions of social discourse, stand in marked contrast to the measured pace of discussions with children. Because some magistrates may have little direct experience talking with children in their professional or personal lives, the following guidelines may assist them in their efforts to establish rapport and interview children in a range of settings.

Developmental Level

Where a child is functioning on a developmental level is especially important in understanding how that child may respond to domestic violence and the subsequent actions of the legal system (Berkowitz & Murphy, 2000; Pynoos *et al.*, 1995). For example, **infants and very young children** are unable to express their reactions through words. Instead, their responses become evident in changes in their behavior and regression to earlier developmental levels, i.e. temporary loss of language or toileting abilities, self-soothing behaviors such as thumb-sucking, or irritability and altered responses to parents or caregivers. **Toddlers** rely on their parents or primary caregivers, who — ideally — provide a secure base for exploring the world by acting in a consistent, reliable, and emotionally available manner. Domestic violence often creates the exact opposite effect. With increased physical abilities, cognitive capacities, and language development, toddlers may appear more capable of understanding their exposure to domestic violence, but still lack the language skills necessary to communicate what they have seen and experienced. They may also lack the cognitive ability to relate events or experiences logically or coherently. A natural tendency to inter-weave imagination and realistic experience, as a way of making sense of events and experiences, may become even more pronounced under the duress of victimization related to domestic violence. Younger children’s concrete thinking and reasoning complicates their reporting, as complex concepts related to culpability and intentionality are confusing and easily misconstrued. A child attempting to make sense of fragmentary knowledge and frightening memories may generate personal “explanations” that are both distressing and at odds with the experiences of adults and older children. For example, a young child might believe that an incident of domestic violence was caused by a minor behavior transgression in the recent past, (either their own, another member of the family’s, or someone else’s) rather than recognizing the incident as caused by the actual perpetrator of the violence.

During **elementary school years**, children become more able to correctly understand and report their experiences, even those that are emotionally charged and painful. This ability coincides with a developmentally appropriate focus on fairness, rules, and just behavior. School-aged children are better equipped to cope with exposure to domestic violence and subsequent symptoms of distress. This is based on an ability to use thought and language to regulate behavior and express complex ideas. They begin to understand fairness and justice, which gives rise to conflict between loyalties to the offending and victimized parents. In these cases, providing testimony or eyewitness accounts can test their divided loyalties and can easily result in feelings of guilt, anxiety, fear, and sadness.

Adolescents present other challenges and face difficult dilemmas. Because of a natural wish to be independent of adult authority and control, they may act with ambivalence when turning to authorities for help or protection. They may approach the legal system with trepidation that is masked by an appearance of indifference or invulnerability. While they can harness their increasing cognitive capacities and relationships with others to cope with their experiences, their urgent desire to appear strong and adult-like leaves them prone to feelings of guilt and inadequacy when they are confronted by

overwhelming situations, such as domestic violence. The end result may be the experience of conflicting feelings and loyalties, sensing themselves as similar to both the victim and the offender, both of whom may be loved family members.

Rapport & the Interview Setting

In an effort to establish rapport with the child, the magistrate should introduce himself or herself by name and inquire about the child's name and preferred method of being addressed. Such a casual and non-threatening approach may lessen children's initial distress, as they may be hesitant to talk with a legal official who they associate with authority and having the power to punish persons who commit wrongdoings. Magistrates who introduce themselves in a friendly and interested manner will more readily engage children. Along with that introduction, children should be told the reasons for the interview that are truthful but are not overly alarmist. For example, a magistrate might inform a child that the interview will involve difficult questions about fighting with the family in order for those in charge to decide how best to protect people from future harm. Such a measured explanation is much better than one that suggests that the child's testimony will be responsible for whether or not to arrest a parent, placing undue burden on the child.

Given that children who provide testimony are asked to report on personal and highly stressful experiences, magistrates should interview children in a private, quiet setting where they may speak confidentially and without fear of interruption. In their testimony, children will be asked to reveal information that may have significant implications for their relationship to one parent or another, so efforts should be made to keep their testimony confidential wherever possible. By meeting in a private place, opportunities for interruption by other parties, including caregivers and other family members, will be reduced. While a private interview is recommended, younger children or those who are especially distressed may become overly anxious if separated from a parent or primary caregiver. As a result, decisions about whether to interview a child privately or in the company of a trusted adult must be made on an individual basis.

In an effort to establish rapport, magistrates should spend time explaining to children the rationale for any interviews or testimony. Children should be assisted to understand the role of the magistrate in simple, direct terms avoiding legal jargon and using language that can be readily understood. For example, a magistrate might explain that their role, along with police, is to concern themselves with the safety of the child and their family and to hold an offender responsible for his or her violent actions. For younger children especially, it is important to emphasize that they will be asked to answer both difficult (hard) and easy questions. The magistrate might demonstrate an easy and a difficult question as a means of demonstrating to children that they are being asked to respond only to matters about which they have knowledge. For example, a child would readily be able to relate the color of his or her house but would be unable to provide the same information about the magistrate's house. Finally, children should be encouraged to ask for clarifications to inform the magistrate if they do not understand questions, or to ask magistrates to repeat questions or information. In turn, magistrates should, at regular

intervals, remind children of the reason for the interview and provide ample praise when children ask questions for the purposes of increasing accuracy. Magistrates should speak with children and make eye contact at their level of vision. Children generally feel more comfortable when adults speak to them at “eye level.” Ideally, magistrates and children should be seated for important discussions, as this sets a more relaxed and less confrontational approach for youngsters who may be initially hesitant with an unfamiliar official. When seated conversations are not feasible, magistrates should kneel on one knee for smaller children so that they can make eye contact and hold a conversation at their height.

Praise & Support

Magistrates should provide moderate praise and encouragement when talking with children while being careful to praise children’s efforts to respond to questions without leading a child toward a particular response. The primary goal is to praise a child’s efforts at accuracy and truthfulness, while avoiding comments that suggest that certain types of information are more worthy than others.

Magistrates need not provide constant encouragement, exaggerate their praise beyond that which is appropriate to a situation, or endorse inappropriate actions. Instead, praise should convey interest, concern, and the desire to learn about the child’s experience. Children will also benefit from encouragement and praise for any efforts to correct or clarify information.

Magistrates should recognize that a desire to compensate for children’s distress by providing reassurance is a natural reaction that, unfortunately, cannot be realized. Telling children that upsetting or traumatic situations related to domestic violence will improve or resolve, that a problem will disappear, or that “everything will be alright” does not actually reassure children. Most children recognize the impossibility of such a resolution. Instead, children will benefit more from contact with officials who express their concern and willingness to help and tell children what can realistically be done in a given situation. While this may seem inadequate in light of a child’s serious distress, efforts to provide reassurance that is neither feasible nor realistic will not allay a child’s concerns, worries, or fears and will likely be proved false, creating the potential for undermining a child’s faith in authorities, and negatively affecting any efforts to ask for help in the future.

Questioning/Collection of Information

Magistrates should ask open-ended questions of children. Although their interviews may ultimately require factual questioning, this is not always the most effective manner for talking with children. Magistrates may find it helpful to ask questions in a manner that allows children a range of responses, avoiding questions that pull for an “either-or,” “yes-no,” or other dichotomous response. Questions that call for a descriptive response will further conversation, as well as relationships with children. Those that contain words or phrases such as, “how,” “what,” “tell me about,” can lead to more elaborate responses

and stronger relationships. Younger children especially have learned the rule of agreeing with adults, so that a simple affirmation in response to a question may not truly reflect a child's experience. For example, a magistrate might ask a child if he or she was worried or upset by parental disputes, or alternatively ask if the child feels secure or comfortable. Either query could easily result in agreement by the child while conveying little information about the child's actual experiences. The magistrate might more productively ask the child to tell about what happened or to describe how they thought or felt about the experience.

Despite this recommendation to use open-ended questions that do not foreclose a child's explanations, it may be important to follow up with more focused, factual questions that address the central concerns of the interview. Although more specific, these questions too should avoid suggestions of a particular desired response. For example, it would be preferable to ask a child, "what happens when your parents get mad at each other?" rather than, "what happens when your father hits your mother?"

Children may question a magistrate about what might happen in the aftermath of their testimony. Like adults, children are better able to deal with a situation if they feel they understand it. And like adults, understanding provides them with a greater sense of control at a time when things may feel very out of their control, overwhelming, and stressful. Responses to children's questions should start with an inquiry of children about their existing knowledge and understanding of events. Their explanations provide insight into gaps in information or misunderstandings that may be corrected. For example, a child may incorrectly assume that an incident of domestic violence was caused by his or her behavior and worry that he or she might also be arrested. For example, a child may worry that an instance of not following parental directions or their inability to disrupt the violence were themselves actions that could result in punishment by the legal system. With age and maturity, children will be capable of processing information and discussing it in greater detail. Nonetheless, magistrates should strive to provide information in simple and direct terms that become the basis for further questions or discussion. Children may cue the magistrate through their behavior, for example by changing the subject, that an explanation has been sufficient for their needs. Careful attention to these nonverbal cues can guide the magistrate about when to discontinue or pursue a line of inquiry.

Timing & Pace

Magistrates should allow ample time for children to respond to questions. Magistrates may be accustomed to having adults answer questions promptly, to repeating unanswered questions, or simply moving to another line of inquiry in the face of silence. Children, however, require a greater length of time to process and formulate an answer. What seems to an adult a lengthy pause of several seconds or longer may allow a child time to process a question and develop a response. Talking with children requires patience, interest, and an ability to wait for a response. This approach is typically rewarded with greater detail from the child.

Guilt & Remorse

Some children may express guilt or assume an unrealistic sense of responsibility for what has transpired between their parents or caregivers. Even when it seems obvious that there is nothing a child could have done to avert the violence or harm, a child may still feel helpless and wish he or she could change what happened, especially when a loved one has been injured or killed. Magistrates should recognize and support children's wish to have been able to avert tragedy, while emphasizing their true lack of culpability.

Loyalty

By virtue of their relationships and alliances with both offender and victim in a domestic violence situation, some youth may find it easier to blame those in positions of authority, such as magistrates or police, for failing to protect or prevent the violence. While typically inaccurate, magistrates should be reminded of the often untenable position in which testimony places children, where betrayal of one caregiver becomes a requisite for helping or protecting the other, or perhaps themselves, and other family members.

Physical Safety & Psychological Security

Like other judicial colleagues, magistrates should attend to potential concerns related to the safety and well-being of child interviewees (Lederman & Osofsky, 2004). With domestic violence and child maltreatment co-occurring in a majority of cases (Cox *et al.*, 2003) and each type of experience associated with child behavior and emotional problems (Kaplan *et al.*, 1999; Kitzmann *et al.*, 2003) magistrates may well uncover a range of family problems that warrant attention from related justice, child protective, and mental health professionals (Goldsmith *et al.*, 2004; Murphy, 2002).

In fulfilling legal responsibilities for mandated reporting and ethical obligations toward child protection, magistrates contend with a fast pace of work that limits the duration of their contact with family members. Nonetheless, during their testimony, children may overtly display their distress through tearfulness, anger, sadness, irritability, or avoidance. In some instances, this distress is sufficiently severe, as is their exposure to domestic violence, that children require professional assistance. In these instances, magistrates may choose to emphasize to parents, caregivers, or guardians the distressing nature of exposure to domestic violence and suggest professional consultation. The availability of information about domestic violence and children and a resource list of available service providers may not only result in children receiving necessary help but also emphasize the concern by judicial professionals for children's welfare.

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Appendix D:

North Carolina Domestic Violence Programs by County

DOMESTIC VIOLENCE STATE-FUNDED PROGRAMS

ALAMANCE COUNTY
**FAMILY ABUSE SERVICES OF
ALAMANCE CO., INC**
142 S. LEXINGTON AVENUE
BURLINGTON, NC 27215
Office Phone: (336)226-5982
Crisis Phone: (336)226-5985

ASHE COUNTY
A SAFE HOME FOR EVERYONE
626 ASHE CENTRAL SCHOOL
ROAD
UNIT 1
JEFFERSON, NC 28640
Office Phone: (336)982-4588
Crisis Phone: (336)219-2600

BLADEN COUNT
FAMILIES FIRST, INC
WHITEVILLE, NC 28472
Office Phone: (910)642-5996
Crisis Phone: (910)641-0444

ALEXANDER COUNTY
**DOMESTIC VIOLENCE
RESOURCE CENTER**
TAYLORSVILLE, NC 28681
Office Phone: (828)635-8850
Crisis Phone: (828)635-8881

AVERY COUNTY
ACADA HOME, INC.
NEWLAND, NC 28657
Office Phone: (828)733-3512
Crisis Phone: (828)733-3512

BRUNSWICK COUNTY
HOPE HARBOR HOME, INC.
1053 OLD OCEAN HWY 17
SOUTH
SUPPLY, NC 28462
Office Phone: (910)754-5726
Crisis Phone: (910)754-5856

ALLEGHANY COUNTY
**D.A.N.A. SERVICES
(DOMESTIC ABUSE IS NOT
ACCEPTABLE)**
507 NORTH MAIN STREET
SPARTA, NC 28675
Office Phone: (336)372-2846
Crisis Phone: (336)372-3262

BEAUFORT COUNTY
**OPTIONS TO DOMESTIC
VIOLENCE & SEXUAL
ASSAULT, INC.**
WASHINGTON, NC 27889
Office Phone: (252)940-1046
Crisis Phone: (252)946-3219

BUNCOMBE COUNTY
HELPMATE, INC.
56 COLLEGE STREET, SUITE
201
ASHEVILLE, NC 28801
Office Phone: (828)254-2968
Crisis Phone: (828)254-0516

ANSON COUNTY
**ANSON DOMESTIC
VIOLENCE COALITION**
PO BOX 694
148-C EAST MORGAN STREET
WADESBORO, NC 28170
Office Phone: (704)694-4499
Crisis Phone: (704)694-0362

BERTIE COUNTY
ROANOKE-CHOWAN S.A.F.E.
PO BOX 98
AHOSKIE, NC 27910
Office Phone: (252)332-4047
Crisis Phone: (252)332-1933

BURKE COUNTY
OPTIONS, INC.
PO BOX 2512
MORGANTON, NC 28680
Office Phone: (828)438-9444
Crisis Phone: (828)438-9444

CABARRUS COUNTY
**CABARRUS VICTIMS
ASSISTANCE NETWORK
CVAN**
CONCORD, NC 28026
Office Phone: (704)788-1108
Crisis Phone: (704)788-2826

CATAWBA COUNTY
**FAMILY GUIDANCE CENTER,
INC.**
17 HWY. 70, SE
HICKORY, NC 28602
Office Phone: (828)322-1400
Crisis Phone: (828)322-1400

CLEVELAND COUNTY
**CLEVELAND COUNTY ABUSE
PREVENTION COUNCIL, INC.**
SHELBY, NC 28151
Office Phone: (704)487-9325
Crisis Phone: (704)481-0043

CALDWELL COUNTY
**SHELTER HOME OF
CALDWELL COUNTY, INC.**
515 SCROGGS STREET
LENOIR, NC 28645
Office Phone: (828)758-0888
Crisis Phone: (828)758-0888

CHATHAM COUNTY
**FAMILY VIOLENCE & RAPE
CRISIS SERVICES**
PO BOX 1105
PITTSBORO, NC 27312
Office Phone: (919)542-5445
Crisis Phone: (919)545-0224

COLUMBUS COUNTY
FAMILIES FIRST, INC.
WHITEVILLE, NC 28472
Office Phone: (910)642-5996
Crisis Phone: (910)641-0444

CAMDEN COUNTY
ALBEMARLE HOPELINE
PO BOX 2064
ELIZABETH CITY, NC 27906
Office Phone: (252)338-5338
Crisis Phone: (252)338-3011

CHEROKEE COUNTY
**TASK FORCE ON FAMILY
VIOLENCE
REACH, INC.**
MURPHY, NC 28906
Office Phone: (828)837-2097
Crisis Phone: (828)837-8064

CrAVEN COUNTY
**COASTAL WOMEN'S
SHELTER**
PO BOX 13081
1333 GLENBURNIE ROAD
NEW BERN, NC 28561
Office Phone: (252)638-4509
Crisis Phone: (252)638-5995

CARTERET COUNTY
**CARTERET COUNTY
DOMESTIC VIOLENCE
PROGRAM, INC.**
MOREHEAD CITY, NC 28557
Office Phone: (252)726-2336
Crisis Phone: (252)728-3788

CHOWAN COUNTY
ALBEMARLE HOPELINE
ELIZABETH CITY, NC 27906
Office Phone: (252)338-5338
Crisis Phone: (252)338-3011

CUMBERLAND COUNTY
**CARE - FAMILY VIOLENCE
PROGRAM
CUMBERLAND COUNTY
DEPT. OF SOCIAL SERVICES**
FAYETTEVILLE, NC 28302
Office Phone: (910)677-2532
Crisis Phone: (910)677-2532

CASWELL COUNTY
**CASWELL FAMILY
VIOLENCE PREVENTION
PROGRAM
CASWELL COUNTY PARISH,
INC.**
1038 MAIN STREET
YANCEYVILLE, NC 27379
Office Phone: (336)694-6428
Crisis Phone: (336)694-5655

CLAY COUNTY
REACH OF CLAY COUNTY
PO BOX 1485
HAYESVILLE, NC 28904
Office Phone: (828)389-0797
Crisis Phone: (828)389-0797

CURRITUCK COUNTY
ALBEMARLE HOPELINE
ELIZABETH CITY, NC 27906
Office Phone: (252)338-5338
Crisis Phone: (252)338-3011

DARE COUNTY
OUTER BANKS HOTLINE, INC.
MANTEO, NC 27954
Office Phone: (252)473-5121
Crisis Phone: (252)473-3366

EDGECOMBE COUNTY
MY SISTER'S HOUSE, INC.
ROCKY MOUNT, NC 27804
Office Phone: (252)462-0366
Crisis Phone: (252)446-2400

GATES COUNTY
ROANOKE CHOWAN SAFE
AHOSKIE, NC 27910
Office Phone: (252)332-1933
Crisis Phone: (252)332-1933

DAVIDSON COUNTY
**FAMILY SERVICES OF
DAVIDSON COUNTY, INC.**
LEXINGTON, NC 27293
Office Phone: (336)249-0237
Crisis Phone: (336)243-1934

FORSYTH COUNTY
FAMILY SERVICES, INC.
610 COLISEUM DRIVE
WINSTON-SALEM, NC 27104
Office Phone: (336)722-8173
Crisis Phone: (336)723-8125

GRAHAM COUNTY
HOPE FOR FAMILIES, INC.
ROBBINSVILLE, NC 28771
Office Phone: (828)479-4973
Crisis Phone: (828)479-4332

DAVIE COUNTY
**DAVIE DOMESTIC VIOLENCE
SERVICES AND RAPE CRISIS
CTR**
180 SOUTH MAIN STREET,
SUITE 115
MOCKSVILLE, NC 27028
Office Phone: (336)751-3450
Crisis Phone: (336)751-4357

FRANKLIN COUNTY
SAFE SPACE, INC.
102 S. MAIN STREET
LOUISBURG, NC 27549
Office Phone: (919)497-5599
Crisis Phone: (919)497-5444

GRANVILLE COUNTY
**FAMILIES LIVING VIOLENCE
FREE**
OXFORD, NC 27565
Office Phone: (919)693-2662
Crisis Phone: (919)693-2324

DUPLIN COUNTY
SARAH'S REFUGE, INC.
121 WEST COLLEGE STREET
WARSAW, NC 28398
Office Phone: (910)293-3467
Crisis Phone: (910)293-3206

GASTON COUNTY
**THE SHELTER OF GASTON
COUNTY
C/O GASTON CO. DEPT. OF
SOCIAL SERVICES**
330 N. MARIETTA STREET
GASTONIA, NC 28052
Office Phone: (704)866-3826
Crisis Phone: (704)810-6492

GREENE COUNTY
**S.A.F.E. IN LENOIR COUNTY,
INC.**
KINSTON, NC 28502
Office Phone: (252)747-5932
Crisis Phone: (252)523-5573

DURHAM COUNTY
**DURHAM CRISIS RESPONSE
CENTER**
1703 CHAPEL HILL ROAD
DURHAM, NC 27717
Office Phone: (919)403-9425
Crisis Phone: (919)403-6562

GATES COUNTY
ALBEMARLE HOPELINE
ELIZABETH CITY, NC 27906
Office Phone: (252)338-5338
Crisis Phone: (252)338-3011

GUILFORD COUNTY
**FAMILY SERVICE OF THE
PIEDMONT, INC. -
GREENSBORO**
301 E. WASHINGTON ST
GREENSBORO, NC 27401
Office Phone: (336)841-1111
Crisis Phone: (336)273-7273

HALIFAX COUNTY
HANNAH'S PLACE, INC.
ROANOKE RAPIDS, NC 27870
Office Phone: (252)537-2882
Crisis Phone: (252)535-5946

HOKE COUNTY
**HOKE COUNTY YOUTH AND
FAMILY SERVICES**
128 WEST ELWOOD AVENUE
RAEFORD, NC 28376
Office Phone: (910)875-8989
Crisis Phone: (910)875-4494

JONES COUNTY
**COASTAL WOMEN'S
SHELTER**
NEW BERN, NC 28561
Office Phone: (252)638-4509
Crisis Phone: (252)638-5995

HARNETT COUNTY
**S.A.F.E. OF HARNETT
COUNTY, INC.**
1210 SOUTH MAIN STREET
LILLINGTON, NC 27546
Office Phone: (910)893-7233
Crisis Phone: (910)893-7233

HYDE COUNTY
**OPTIONS TO DOMESTIC
VIOLENCE & SEXUAL
ASSAULT, INC.**
WASHINGTON, NC 27889
Office Phone: (252)940-1046
Crisis Phone: (252)946-3219

LEE COUNTY
HAVEN, INC.
310 N. STEELE STREET
SANFORD, NC 27331
Office Phone: (919)774-8923
Crisis Phone: (919)774-8923

HAYWOOD COUNTY
**REACH OF HAYWOOD
COUNTY, INC.**
WAYNESVILLE, NC 28786
Office Phone: (828)456-7898
Crisis Phone: (828)456-7898

IREDELL COUNTY
DIAKONOS, INC
FIFTH STREET MINISTRIES
1400 FIFTH STREET
STATESVILLE, NC 28687
Office Phone: (704)872-4045
Crisis Phone: (704)872-3403

LENOIR COUNTY
**S.A.F.E. IN LENOIR COUNTY,
INC.**
KINSTON, NC 28502
Office Phone: (252)523-5573
Crisis Phone: (252)523-5573

HENDERSON COUNTY
MAINSTAY, INC.
125 SOUTH MAIN STREET
HENDERSONVILLE, NC 28792
Office Phone: (828)693-3840
Crisis Phone: (828)693-3840

JACKSON COUNTY
**REACH OF JACKSON
COUNTY, INC.**
SYLVA, NC 28779
Office Phone: (828)631-4488
Crisis Phone: (828)586-8969

LINCOLN COUNTY
**LINCOLN COUNTY
COALITION AGAINST
DOMESTIC VIOLENCE**
LINCOLNTON, NC 28092
Office Phone: (704)736-0112
Crisis Phone: (704)736-1224

HERTFORD COUNTY
ROANOKE CHOWAN S.A.F.E.
AHOSKIE, NC 27910
Office Phone: (252)332-1933
Crisis Phone: (252)332-1933

JOHNSTON COUNTY
HARBOR, INC.
SMITHFIELD, NC 27577
Office Phone: (919)938-3566
Crisis Phone: (919)934-6161

MACON COUNTY
**REACH OF MACON COUNTY,
INC.**
FRANKLIN, NC 28744
Office Phone: (828)369-5544
Crisis Phone: (828)369-9116

MADISON COUNTY
**HELPMATE OF MADISON
COUNTY, INC.**
MARSHALL, NC 28753
Office Phone: (828)649-2582
Crisis Phone: (828)649-2446

MONTGOMERY COUNTY
CRISIS COUNCIL, INC.
TROY, NC 27371
Office Phone: (910)572-3749
Crisis Phone: (910)572-3747

ONSLow COUNTY
**ONSLow WOMEN'S CENTER,
INC.**
JACKSONVILLE, NC 28541
Office Phone: (910)347-4000
Crisis Phone: (910)347-4000

MARTIN COUNTY
**OPTIONS TO DOMESTIC
VIOLENCE & SEXUAL
ASSAULT, INC.**
WASHINGTON, NC 27889
Office Phone: (252)792-7169
Crisis Phone: (252)792-7169

MOORE COUNTY
FRIEND TO FRIEND
111 MCNEILL STREET
CARTHAGE, NC 28327
Office Phone: (910)947-3333
Crisis Phone: (910)947-3333

ORANGE COUNTY
**FAMILY VIOLENCE
PREVENTION CENTER OF
ORANGE COUNTY**
201 EAST ROSEMARY STREET
CHAPEL HILL, NC 27514
Office Phone: (919)929-3872
Crisis Phone: (919)929-7122

MCDOWELL COUNTY
**FAMILY SERVICES OF
MCDOWELL COUNTY, INC.**
MARION, NC 28752
Office Phone: (828)652-8538
Crisis Phone: (828)652-6150

NASH COUNTY
MY SISTER'S HOUSE
ROCKY MOUNT, NC 27804
Office Phone: (252)462-0366
Crisis Phone: (252)446-2400

PAMLICO COUNTY
**COASTAL WOMEN'S
SHELTER**
1333 SOUTH GLENBURNIE
ROAD
NEW BERN, NC 28561
Office Phone: (252)638-4509
Crisis Phone: (252)638-5995

MECKLENBURG COUNTY
**UNITED FAMILY SERVICES
SHELTER FOR BATTERED
WOMEN**
CHARLOTTE, NC 28222
Office Phone: (704)332-2513
Crisis Phone: (704)332-2513

NEW HANOVER COUNTY
**DOMESTIC VIOLENCE
SHELTER AND SERVICES,
INC.**
WILMINGTON, NC 28402
Office Phone: (910)343-0703
Crisis Phone: (910)343-0703

PASQUOTANK COUNTY
ALBEMARLE HOPELINE
ELIZABETH CITY, NC 27906
Office Phone: (252)338-5338
Crisis Phone: (252)338-3011

MITCHELL COUNTY
**MITCHELL COUNTY
SAFEPLACE**
SPRUCE PINE, NC 28777
Office Phone: (828)765-4015
Crisis Phone: (877)765-4044

NORTHAMPTON COUNTY
ROANOKE-CHOWAN S.A.F.E.
AHOSKIE, NC 27910
Office Phone: (252)332-1933
Crisis Phone: (252)332-1933

PENDER COUNTY
**SAFE HAVEN OF PENDER,
INC.**
110 NORTH WALKER STREET
BURGAW, NC 28425
Office Phone: (910)259-8989
Crisis Phone: (910)259-8989

PERQUIMANS COUNTY
ALBEMARLE HOPELINE
ELIZABETH CITY, NC 27906
Office Phone: (252)338-5338
Crisis Phone: (252)337-3011

RICHMOND COUNTY
WOMENFOLK UNLIMITED
ROCKINGHAM, NC 28380
Office Phone: (910)997-4840
Crisis Phone: (910)995-1872

SAMPSON COUNTY
U CARE, INC.
309 LISBON STREET
CLINTON, NC 28329
Office Phone: (910)596-0931
Crisis Phone: (910)596-0931

PERSON COUNTY
**SAFE HAVEN OF PERSON
COUNTY**
304 S. MORGAN STREET, ROOM
219
ROXBORO, NC 27573
Office Phone: (336)597-8699
Crisis Phone: (336)599-7233

ROBESON COUNTY
**SOUTHEASTERN FAMILY
VIOLENCE CENTER**
LUMBERTON, NC 28359
Office Phone: (910)739-8622
Crisis Phone: (910)739-8622

SCOTLAND COUNTY
**DOMESTIC VIOLENCE &
RAPE CRISIS CTR. OF
SCOTLAND COUNTY**
1000 S. MAIN STREET, SUITE 12
LAURINBURG, NC 28353
Office Phone: (910)276-5505
Crisis Phone: (910)276-6268

PITT COUNTY
**FAMILY VIOLENCE
PROGRAM, INC. OF PITT
COUNTY**
NEW DIRECTIONS
GREENVILLE, NC 27835
Office Phone: (252)758-4400
Crisis Phone: (252)752-3811

ROCKINGHAM COUNTY
HELP, INCORPORATED
335 COUNTRY HOME ROAD
WENTWORTH, NC 27375
Office Phone: (336)342-3331
Fax Number: (336)342-6377
Crisis Phone: (336)342-3331

STANLY COUNTY
CRISIS COUNCIL, INC.
TROY, NC 27371
Office Phone: (910)572-3749
Crisis Phone: (910)572-3742

POLK COUNTY
STEPS TO HOPE, INC.
107 WARD STREET
COLUMBUS, NC 28722
Office Phone: (828)894-2340
Crisis Phone: (828)894-2340

ROWAN COUNTY
**THE RAPE, CHILD & FAMILY
ABUSE CRISIS COUNCIL OF
SALISBURY,**
131 WEST COUNCIL STREET
SALISBURY, NC 28144
Office Phone: (704)636-4718
Crisis Phone: (704)636-4718

STOKES COUNTY
**STOKES FAMILY VIOLENCE
SERVICES**
**YADKIN VALLEY ECONOMIC
DEVELOPMENT DISTRICT,
INC.**
DANBURY, NC 27016
Office Phone: (336)593-9323
Crisis Phone: (336)593-9323

RANDOLPH COUNTY
**RANDOLPH COUNTY FAMILY
CRISIS CENTER, INC.**
ASHEBORO, NC 27204
Office Phone: (336)629-4159
Crisis Phone: (336)629-4159

RUTHERFORD COUNTY
**FAMILY RESOURCES OF
RUTHERFORD COUNTY, INC.**
668 WITHROW RD, FOREST
CITY, NC 28043
SPINDALE, NC 28160
Office Phone: (828)247-1440
Crisis Phone: (828)245-8595

SURRY COUNTY
**SURRY DOMESTIC VIOLENCE
PROGRAM**
**YADKIN VALLEY ECONOMIC
DEVELOPMENT DISTRICT,
INC.**
L. H. JONES FAMILY
RESOURCE CENTER
215 JONES SCHOOL ROAD
MOUNT AIRY, NC 27030
Office Phone: (336)786-6155
Crisis Phone: (336)786-6155

SWAIN COUNTY
SWAIN/QUALLA SAFE, INC.
BRYSON CITY, NC 28713
Office Phone: (828)488-9038
Crisis Phone: (828)488-6809

WAKE COUNTY
**THE FAMILY VIOLENCE
PREVENTION CENTER, INC.**
INTERACT
612 WADE AVENUE
RALEIGH, NC 27605
Office Phone: (919)828-7501
Crisis Phone: (919)828-7740

WILKES COUNTY
**DOMESTIC VIOLENCE
RESOURCE CENTER
SAFE, INC.**
WILKESBORO, NC 28697
Office Phone: (336)838-9169
Crisis Phone: (336)838-7233

TRANSYLVANIA COUNTY
**S.A.F.E., INC. OF
TRANSYLVANIA COUNTY**
BREVARD, NC 28712
Office Phone: (828)885-7233
Crisis Phone: (828)885-7233

WARREN COUNTY
**CITIZENS AGAINST DV dba
Helping Hands**
WARRENTON, NC 27589
Office Phone: (252)257-6781
Crisis Phone: (252)257-6781

WILSON COUNTY
WESLEY SHELTER, INC.
WILSON, NC 27894
Office Phone: (252)291-2344
Crisis Phone: (252)291-2344

TYRRELL COUNTY
**OPTIONS TO DOMESTIC
VIOLENCE & SEXUAL
ASSAULT, INC.**
WASHINGTON, NC 27889
Office Phone: (252)946-3219
Crisis Phone: (252)946-3219

WASHINGTON COUNTY
**OPTIONS TO DOMESTIC
VIOLENCE & SEXUAL
ASSAULT, INC.**
WASHINGTON, NC 27889
Office Phone: (252)793-9514
Crisis Phone: (252)793-9514

YADKIN COUNTY
**YADKIN COUNTY FAMILY
DOMESTIC VIOLENCE
PROGRAM**
YADKINVILLE, NC 27055
Office Phone: (336)679-2072
Crisis Phone: (336)679-2072

UNION COUNTY
**TURNING POINT OF UNION
COUNTY, INC.**
MONROE, NC 28111
Office Phone: (704)283-9150
Crisis Phone: (704)283-7233

WATAUGA COUNTY
**OPPOSING ABUSE WITH
SERVICE, INFORMATION &
SHELTER
OASIS, INC.**
BOONE, NC 28607
Office Phone: (828)264-1532
Crisis Phone: (828)262-5035

YANCEY COUNTY
**THE FAMILY VIOLENCE
COALITION OF YANCEY**
BURNSVILLE, NC 28714
Office Phone: (828)682-5655
Outreach office: (828)682-1186
Crisis Phone: (828)682-0056

VANCE COUNTY
ACTS, INC
305 SOUTH CHESTNUT STREET
HENDERSON, NC 27536
Office Phone: (252)436-2400
Crisis Phone: (252)436-2401

WAYNE COUNTY
**THE LIGHTHOUSE OF
WAYNE COUNTY, INC.**
GOLDSBORO, NC 27533
Office Phone: (919)736-1313
Crisis Phone: (919)736-1313

STATEWIDE
**NC COALITION AGAINST
DOMESTIC VIOLENCE
NCCADV**
115 MARKET STREET, SUITE
400
DURHAM, NC 27701
Office Phone: (919)956-9124

Appendix E:

Affidavit as to Status of Minor Child

STATE OF NORTH CAROLINA

Court File No.

_____ County

In The General Court Of Justice
District Court Division

Name And Address Of Plaintiff

**AFFIDAVIT
AS TO
STATUS OF
MINOR CHILD**

VERSUS

Name And Address Of Defendant

G.S. 50A-9

Name Of Minor Child
Date Of Birth Birthplace

I, the undersigned affiant, being first duly sworn, say that during the past five (5) years the above named minor child has lived as follows:

Period Of Residence		Address	Name Of Person Lived With	Present Address Of Person
From	To			
	Present			

I further say that: (Check those that apply)

I have participated in litigation concerning the custody of the above named child.

Capacity As Participant Date Of Action Name And Address Of Court

Details

I have information of a custody proceeding concerning the above named child pending in a court in this or another state.

Name And Address Of Court Details

I know of a person as listed below, who has physical custody or claims to have custody or visitation rights with respect to the above named child.

Name And Address Of Person Physical Custody
 Claimed Custody
 Visitation Rights

SWORN AND SUBSCRIBED TO BEFORE ME

Date Signature Of Person Authorized To Administer Oaths Signature Of Affiant

Date Deputy CSC Assistant CSC Clerk Of Superior Court Name Of Affiant (Type Or Print)

SEAL Notary Date Commission Expires Relationship To Above Named Child

Appendix F:

Application for Child Support Enforcement

**DOCUMENTS NEEDED TO COMPLETE YOUR APPLICATION
(COPIES ONLY)**

- _____ YOUR PICTURE ID
- _____ SSN CARD FOR YOU AND YOUR CHILD(REN)
- _____ CURRENT WAGE STUBS (LAST 4 WEEKS)
- _____ CHILD CARE RECEIPTS (ON PROVIDERS LETTERHEAD)
- _____ MEDICAL INSURANCE COST PER MONTH (CHILD ONLY)
- _____ MEDICAL INSURANCE CARD
- _____ PHOTOGRAPH OF THE NON-CUSTODIAL PARENT
- _____ CHILD(REN)'S BIRTH CERTIFICATE
- _____ SEPARATION OR DIVORCE DECREE
- _____ CUSTODY / CHILD SUPPORT ORDERS
- _____ APPLICATION FEE \$25.00 (**MONEY ORDER OR CERTIFIED CHECK**)

NO PERSONAL CHECKS

Individuals receiving services through Public Assistance (WFFA, Foster Care, Medicaid) Programs are automatically referred and are eligible for Child Support Enforcement services free of charge. Non-public assistance clients will be responsible for paying up to a twenty-five (\$25) non-refundable application fee. If any application fee is required, no services will begin until the fee is paid.

MAKE ALL PAYMENTS PAYABLE TO: _____ COUNTY DSS CHILD SUPPORT

APPLICATION FOR CHILD SUPPORT SERVICES

_____, SSN _____ hereby contract with the _____ County Child Support Enforcement Agency to provide appropriate child support services. This application constitutes the contract and its terms. I understand that the Child Support Agency determines which services are necessary for me. If any application fee is required, no services will begin until the fee is paid.

Applicant's Rights and Responsibilities

I understand and agree that:

- ___ Any payments sent to me in error are my responsibility to repay.
- ___ The agency will collect any payments sent to me in error. The agency collects 10% of current support payments due to me and ALL money paid toward arrears due to me, until it is paid.
- ___ The agency may use an attorney to establish or enforce my child support order. **The attorney represents the interests of the agency and no attorney-client relationship exists between the attorney and me.** The attorney cannot handle any other legal matter such as custody or visitation.
- ___ I have the right to request that my support order be reviewed for a possible adjustment every three years or an earlier date if there is a significant change in circumstances.

Tax Refund Intercept

Federal law requires that the agency intercept tax refunds to pay off past due child support.

I understand and agree that:

- ___ * If the non custodial parent owes past due support that meets the rules for tax intercept, the agency notifies the Internal Revenue Service and the N. C. Department of Revenue to withhold up to that amount from the non custodial parent's tax refund.
- ___ Past due support owed to the State may be paid before I receive any past due support.
- ___ A processing fee may be charged. The fee is deducted from the tax refund.
- ___ If the refund is intercepted from a joint return, the agency must determine if I can receive any of the money. This process may take up to six months.
- ___ The IRS may adjust the amount of the refund for up to six years. This may require that I return a portion of the refund previously sent to me.

I have received Program information describing services, fees, rights and responsibilities, collection policies, and distribution procedures. I am returning all completed supplemental information sheets with this application.

Applicant Signature
DSS-4451 (10/00)
CSE/ACTS

Date

For Office Use Only

_____ IVD Number

Locate Only

Child Support

Medical Support

**APPLICATION SUPPLEMENTAL DATA
CHILD SUPPORT ENFORCEMENT
PART ONE: APPLICANT**

Please complete the following information about yourself, each noncustodial parent and child for whom you wish to receive our services. The more information that you can tell us, the better we will be able to serve you. If you need assistance in completing this information, please contact your local child support enforcement office. **Please notify us immediately if you have a change of address. We can only send support to you if we have a current mailing address.**

APPLICANT INFORMATION

Your Name

First _____ Middle _____ Last _____ Suffix _____ (e.g. Jr.)

Maiden Name(if appropriate) _____ Other names used currently, or in the past: _____

Date of Birth _____ **Race** _____ **Sex** _____ **Social Security Number** _____

Mailing Address:

Street _____

City _____ County _____ State _____ Zip Code _____

Home Address (if different from mailing address):

Street _____

City _____ County _____ State _____ Zip Code _____

Home Phone: _____ **Work Phone** _____ **May we contact you at work?** Yes No

Cell Phone: _____

APPLICANT INCOME INFORMATION

Employer's Name and address:

Employer's Phone: _____

Income

List all sources in monthly gross amounts

Amount

Source

\$ _____	_____
_____	_____
_____	_____

\$ _____ **Total**

Federal Benefits? Yes No If yes, check all that apply:

Social Security VA RR Retirement Civil Service

Postal Military Retirement Other _____

Unemployment? Yes No

Other Income: Please list source and amount:

LIST THE NAME(S) OF THE NONCUSTODIAL PARENT(S) FROM WHOM YOU NEED SUPPORT.

1. _____ 2. _____

3. _____ 4. _____

I certify that all of the information supplied by me is true and correct to the best of my knowledge and belief.

Applicant's Signature and Date

DSS-4688 (7/05)
CSE/ACTS

CHILD SUPPORT APPLICATION SUPPLEMENTAL DATA
PART TWO: CHILD(REN)

Complete the following information for each child.

CHILD(REN) INFORMATION	
Child's Name	Child's Noncustodial Parent _____
First _____ Middle _____ Last _____	Suffix _____ (e.g. Jr.)
Date of Birth _____	Race _____ Sex _____ Social Security Number _____
Relationship to you: <input type="checkbox"/> Child <input type="checkbox"/> Other (specify) _____	
Birthplace: _____	
City	County
State	
Where was child conceived? City _____ State _____ Child born out of wedlock? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Father named on child's birth certificate:	
First _____	Middle _____ Last _____
Is father named on birth certificate the biological father? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Has paternity been legally established? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please state when , where and how below:	
When? _____	Where? _____
How? (Check one) <input type="checkbox"/> By marriage <input type="checkbox"/> In court <input type="checkbox"/> Voluntary Acknowledgment	
Did father sign Affidavit of Parentage at birth? <input type="checkbox"/> Yes <input type="checkbox"/> No Have paternity/genetic tests been performed? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Has father verbally acknowledged paternity? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, to whom? _____	
Does this child receive SSI or SSA? <input type="checkbox"/> Yes <input type="checkbox"/> No	

CHILD(REN) INFORMATION	
Child's Name	Child's Noncustodial Parent _____
First _____ Middle _____ Last _____	Suffix _____ (e.g. Jr.)
Date of Birth _____	Race _____ Sex _____ Social Security Number _____
Relationship to you: <input type="checkbox"/> Child <input type="checkbox"/> Other (specify) _____	
Birthplace: _____	
City	County
State	
Where was child conceived? City _____ State _____ Child born out of wedlock? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Father named on child's birth certificate:	
First _____	Middle _____ Last _____
Is father named on birth certificate the biological father? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Has paternity been legally established? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please state when , where and how below:	
When? _____	Where? _____
How? (Check one) <input type="checkbox"/> By marriage <input type="checkbox"/> In court <input type="checkbox"/> Voluntary Acknowledgment	
Did father sign Affidavit of Parentage at birth? <input type="checkbox"/> Yes <input type="checkbox"/> No Have paternity/genetic tests been performed? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Has father verbally acknowledged paternity? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, to whom? _____	
Does this child receive SSI or SSA? <input type="checkbox"/> Yes <input type="checkbox"/> No	

**CHILD SUPPORT APPLICATION SUPPLEMENTAL DATA
PART THREE: NONCUSTODIAL PARENT**

NONCUSTODIAL PARENT INFORMATION	
Noncustodial Parent's Name	
First _____ Middle _____ Last _____ Suffix _____ (e.g. Jr.)	
Maiden Name (if appropriate) _____ Alias/nickname/other names used: _____	
Date of Birth _____ Race _____ Sex _____ Social Security Number _____ (or age, if DOB is unknown)	
Relationship to you: <input type="checkbox"/> Spouse <input type="checkbox"/> Former Spouse <input type="checkbox"/> None <input type="checkbox"/> Other (specify) _____	
Marriage Date: _____ Separation/Divorce Date: _____	
Mailing Address: Is this address <input type="checkbox"/> Current or <input type="checkbox"/> Last Known? (Check one) Home Phone: _____	
Cell Phone: _____	
Street _____	
City _____ County _____ State _____ Zip Code _____	
Home Address (if different from mailing address): Is this address <input type="checkbox"/> Current or <input type="checkbox"/> Last Known? (Check one)	
Street _____	
City _____ County _____ State _____ Zip Code _____	
Birthplace: City _____ County _____ State _____	
Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____ Identifying Marks: _____	
Driver License Number: _____ State: _____	
Vehicle Make/Model/Year: _____ License Plate: Number and State: _____	
Usual Occupation: _____	
Father's name: _____ Address: _____	
Mother's name: (including maiden name) _____ Address: _____	
Most Recent Spouse's Name (other than yourself): _____	
Marriage Date: _____ Separation/Divorce Date: _____	

NONCUSTODIAL PARENT INCOME INFORMATION															
Employer's name and address: <input type="checkbox"/> Current or <input type="checkbox"/> Last Known (Check one) _____ _____ _____ Employer's Phone: _____	<table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center; padding: 5px;">Income</th> </tr> <tr> <th colspan="2" style="text-align: center; padding: 5px;">List all sources in monthly gross amounts</th> </tr> <tr> <th style="text-align: center; padding: 5px;"><u>Amount</u></th> <th style="text-align: center; padding: 5px;"><u>Source</u></th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">\$ _____</td> <td style="padding: 5px;">_____</td> </tr> <tr> <td style="padding: 5px;">_____</td> <td style="padding: 5px;">_____</td> </tr> <tr> <td style="padding: 5px;">_____</td> <td style="padding: 5px;">_____</td> </tr> <tr> <td style="padding: 5px;">\$ _____</td> <td style="padding: 5px; text-align: right;">Total</td> </tr> </tbody> </table>	Income		List all sources in monthly gross amounts		<u>Amount</u>	<u>Source</u>	\$ _____	_____	_____	_____	_____	_____	\$ _____	Total
Income															
List all sources in monthly gross amounts															
<u>Amount</u>	<u>Source</u>														
\$ _____	_____														
_____	_____														
_____	_____														
\$ _____	Total														
Is noncustodial parent self employed? <input type="checkbox"/> Yes <input type="checkbox"/> No Has noncustodial parent ever been employed by a Federal Government Agency? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of agency _____															
Federal Benefits? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, check all that apply: <input type="checkbox"/> Social Security <input type="checkbox"/> Postal <input type="checkbox"/> VA <input type="checkbox"/> RR Retirement <input type="checkbox"/> Civil Service <input type="checkbox"/> Military <input type="checkbox"/> Retirement <input type="checkbox"/> Other _____															
Unemployment? <input type="checkbox"/> Yes <input type="checkbox"/> No Other Income: Please list source and amount: _____															

PART FOUR: NONCUSTODIAL PARENT (CONT.)
NONCUSTODIAL PARENT MILITARY AND ARREST RECORD

Military Service? Yes No If yes, what branch? _____ **Rank** _____

Active Duty Reserve Retired Separated AWOL Unknown

Last known duty station _____ Service Start Date _____ Service End Date _____

Currently in prison/jail? Yes No

Prison/Jail Name: _____

Prior Arrest Record: Yes No If yes, when and where? _____

Offense _____ **Convicted?** Yes No Conviction Type Felony Misdemeanor Date _____

Is noncustodial parent currently on parole/probation? Yes No If yes, where? _____

Name of Parole/Probation Officer: _____

PART FIVE: SUPPORT ORDER INFORMATION

Do you get support? Yes No If yes, do you have a Court Order or Voluntary Agreement to support? (check one)

Please attach a copy of your court order or agreement to support.

Type(s) of Support Child Support Medical Support Spousal/Alimony Support (check all that apply)

How is support paid? (Check one) Centralized Collections Direct to you To _____
(landlord, daycare center, etc.)

Court docket number _____ **Order Effective Date** _____ **County** _____ **State** _____

Amount Ordered \$ _____ per _____ Amount of past due support \$ _____

Children included in the order agreement _____

Use this space to tell us any additional information that you think will help us get support for you.

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