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FINAL REPORT:

Preventing Firearm Violence Among Victims of Intimate Partner Violence: An Evaluation of a New North Carolina Law

CH2004-IJ-CX-00025

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Executive Summary

Overview

On December 1, 2003, North Carolina enacted S.L. 2003-410 (S919) which prohibits persons subject to a qualifying domestic violence protective order (DVPO) from owning or possessing any firearms or ammunition, and requires them to surrender to the county sheriff within 24 hours any firearms, ammunition, and permits to purchase firearms.

The study described in this report examined: 1) the scope and nature of firearm possession by DVPO defendants; 2) pre- and post-legislation experiences of firearm-related intimate partner violence (IPV) among women applying for domestic violence protective orders; 3) judges' behaviors specifying firearm-related conditions in DVPOs prior to and following the legislation; and 4) the proportion of and manner in which male DVPO defendants' surrendered firearms subsequent to the enactment of the new legislation. We also include suggestions for research, policy, and practice.

Background

It is now well-established that physical, sexual, and psychological domestic or intimate partner violence against women is both widespread and a serious threat to women's well-being. Abusers' access to firearms may amplify the potential for fatal and non-fatal injuries. Every year, 700-800 women are shot and killed by their current or former intimate partners,¹ and the presence of a firearm in the home increases a woman's risk of intimate partner homicide, particularly in homes where there have been previous incidents of IPV.

Domestic violence protective orders (DVPOs) are the most widely-used legal intervention for IPV, and there is emerging evidence that DVPO's are effective as an

intervention for secondary prevention of IPV. It also appears that DVPO conditions and enforcement play a critical role in their effectiveness.

In recognition of the potentially lethal danger posed by IPV perpetrators, several federal laws have been enacted that are designed to restrict abusers' access to firearms in the past decade. The Violence Against Women Act (VAWA) added persons subject to civil restraining orders to the list of people who are prohibited from purchasing or possessing a firearm. Despite federal mandates, states exercise a great deal of discretion regarding the qualifying criteria for both for domestic violence protective orders and the conditions contained in those orders.

The North Carolina Homicide Prevention Act/Domestic Violence (S 919) (SL 2003-410), became effective on December 1, 2003. It states that if the court finds any of the legislation's enumerated factors *at the ex parte or DVPO hearings*, the defendant must surrender his or her firearms, machine guns, ammunition, permits to purchase firearms and permits to carry concealed weapons to the sheriff's department within 24 hours of service of the order, or provide verification that s/he has disposed of the firearms. The legislation further states that the court should inquire of the plaintiff at the ex parte hearing and the defendant at the DVPO hearing, about the defendant's access to firearms. Failure to surrender the firearms and violating conditions restricting access to firearms are considered a Class H Felony.

Scope and Methodology

The project's research objectives were addressed through analysis of data from several existing data sources: the DVPO case files in the study county; a subset of eligible cases that contained longitudinal interview data gathered as part of the Court Ordered Protection Evaluation (COPE) study; and criminal record background checks of all the defendants named in

the Durham ex parte orders filed by the study plaintiffs. In addition, we had COPE interview and DVPO case file information from 221 eligible women filing for protective orders in an adjacent county. This study was reviewed and approved by the Institutional Review Board of the Pacific Institute for Research and Evaluation (PIRE).

Data were described with various univariate procedures, and we tested bivariate associations among variables of interest. We computed an adjusted logistic regression model predicting judges' restrictions regarding access to firearms at the ex parte hearing and a second adjusted logistic regression model to predict judges' restrictions of firearms at the DVPO hearing.

Detailed Findings

There were 731 domestic violence protection order case files housed in the Durham County Courthouse that met study inclusion criteria; 460 (63%) were filed pre-legislation and 271 (37%) post-legislation . Of these 731 Durham women, 129 were included in the COPE study, 83 (64%) pre legislation and 46 (36%) post-legislation. In addition, there were 221 COPE study participants from Wake county; 190 (86%) who filed pre-legislation and 31 (14%) who filed post-legislation.

There was evidence, gleaned from the various data sources, that over one third (38%) of the defendants in the Durham DVPO cases had access to firearms prior to or at the time that their partners filed for domestic violence protective orders. Further, we were able to establish that nearly one quarter (23%) of these Durham plaintiffs had experienced firearm-related IPV in the 12 months prior to filing for the DVPO.

We compared plaintiffs' experiences with firearm-related IPV subsequent to receiving the ex parte order pre- and post-legislation for the 350 COPE participants in Durham and Wake counties. The proportion of COPE women with ex parte orders in Durham County who reported experiencing firearm-related IPV increased from 4.8% to 6.5% post legislation, but this change was not statistically significant (Fisher's Exact $p=.699$). In Wake County, the proportion of COPE participants who experienced firearm-related IPV after receiving an ex parte decreased from 6.8% to 6.5%, but that this change also was not statistically significant (Fisher's Exact $p=.300$).

Just over half (51%) of defendants had recorded criminal charges that could be matched to them as part of a statewide criminal background check prior to the date of the DVPO filing (Table 7). Half of *all* the defendants had prior IPV-related criminal charges on record prior to the plaintiff filing for a DVPO, and nearly all (98%) of the defendants who had criminal records had previous IPV-related criminal charges that predated the DVPO filing. In addition, 25% of the defendants had IPV-related charges incurred on a date later than the date on which the ex parte order was issued, and half of these subsequent charges were DVPO violations, in all likelihood of that particular order.

We were able to determine whether the judge inquired about defendants' access to firearms during the ex parte hearing only for the COPE participants in Durham and Wake counties ($n=350$), of whom 78% filed for DVPOs pre-legislation and 22% filed post-legislation. Specifically, 42% of the women interviewed reported that the judge had asked them about the defendants' access to firearms pre-legislation compared to 45% post-legislation. This modest increase in judges' inquiry about firearms was not statistically significant ($\chi^2 = 0.2720$; $p = .602$).

Women who filed for domestic violence protective orders after passage of the Homicide Prevention Act were significantly more likely to receive an ex parte order that included firearms-related restrictions (94%) than women who filed before enactment of the Homicide Prevention Act (90%; $p=.036$). Although there was a trend toward slightly increased inclusion of prohibitions on owning or receiving firearms (88% to 93%), and purchasing firearms (88% to 91%) pre- versus post-legislation, the only statistically significant increase was in the percentage of forms that included the condition that revoked the defendant's concealed handgun permit (8% to 28%; $p<.001$).

Interestingly, we observed no such changes among the 366 permanent DVPOs issued during the study period. The percentage of DVPOs with any noted firearm restrictions remained virtually the same (90% versus 91%; $p=.636$) after the legislation took effect, and none of the specific firearms prohibitions checked on the form varied significantly by pre- versus post-legislation status.

After adjusting for plaintiffs' and defendants' age and race, whether or not they have children in common, marital status between plaintiff and defendant, prior IPV-related criminal charges, and evidence of firearm access before the ex parte was filed, women who received ex parte domestic violence protective orders before the legislation went into effect were more than twice as likely for a judge to choose *not* to restrict the defendant's access to firearms, as compared to women who filed after the legislation (OR = 2.44; 95% CI = 1.12 – 1.91) (Table 10). No other variables were statistically significantly associated with a judge choosing *not* to restrict the defendant's access to firearms.

After adjusting for plaintiffs' and defendants' age and race, whether or not they have children in common, marital status between plaintiff and defendant, prior IPV-related criminal

charges, and evidence of firearm access before the ex parte was filed, women for whom the judge did *not* restrict access to firearms on the permanent DVPO had over eight times the odds of having ex parte orders in which defendants received no restrictions on access to firearms, as compared to women for whom the judge *did* restrict access to firearms on the permanent DVPO (OR = 8.71; 95% CI = 2.74, 27.67). No statistically significant associations with the judge not restricting access to firearms on the permanent DVPO were found for any of the other variables, including filing pre-legislation versus post-legislation.

We found that there was no systematic method to document the status of defendants' firearms, ammunition, or permits contained in the hard copy DVPO files. Further, there was no electronic or paper trail for firearms confiscated or surrendered as a condition of a DVPO. Thus, we were only able to obtain information about the disposition of firearms in DVPO cases for the 350 COPE participants. Among the 43 women (13% of COPE participants) who reported that their partners had firearms *and* that the judge had indicated gun-related restrictions on the ex parte order, over one third (37%) either did not know (what the defendant did with his gun(s)) or did not respond to this question); in 37% of these cases the plaintiff said that the defendant had kept his gun(s); 14% said that sheriff's deputies had confiscated the gun(s); and 5% each said that he (the plaintiff) had turned the gun(s) in to the Sheriff's Department or gave it away. The proportion of respondents that noted that their partners kept their guns did not vary pre- versus post-legislation.

Discussion and Implications

Our findings revealed characteristics of the DVPO defendants, administrative process, case files, and judicial behaviors that have implications for policy, practice, and research

pertaining to firearms and DVPOs, both within North Carolina and in other states. To this end, we suggest the following list of strategies to advance the research agenda on DVPOs and firearms and increase implementation fidelity of the HPA and similar statutes, in the hope that improved implementation will lead to increased safety for women who apply for DVPOs.

Suggestions for Research

Funders should support, and researchers should conduct, research that includes:

- collection of primary data about judges' inquiries about firearm access, as well as the plaintiffs and defendants' responses;
- comparison of the experiences of states that require automatic firearms restrictions to those whose restrictions are conditional and/or discretionary;
- assessments of implementation fidelity; and
- evaluation of strategies to enhance compliance.

Suggestions for Policies

Legislation restricting DVPO defendant's access to firearms should include:

- prohibitions on firearm purchase and possession and the requirement of firearm removal as mandatory conditions for all DVPOs;
- resources to establish and/or maintain a statewide protective order database that includes current information on the status and conditions of the orders;
- requirements to proactively enforce DVPO firearms restrictions, and specification of who is responsible for enforcement;
- mechanisms for reporting, monitoring and feedback by courts; and
- appropriations of resources to train court personnel and others involved in the DVPO process.

Suggestions for Practice

Agencies involved in the DVPO process should:

- ensure that applicants understand the DVPO forms and process;
- develop clear operating procedures to ensuring that firearm-related restrictions are consistently applied and enforced;
- secure the support of agency leadership for full enforcement of firearms restrictions in DVPO cases; and
- monitor implementation of procedures and provide timely feedback.

There is strong public and legislative support for limiting batterers' access to firearms, as demonstrated by the large number of state statutes that enhance federal provisions, including the Homicide Prevention Act in North Carolina. Difficulty in assessing the true effectiveness of DVPO gun restrictions resulting from sporadic implementation of the law is a consistent theme among researchers. As Frattaroli and Teret lament, "if implementation goes awry, an evaluation of the law may conclude that the law is ineffective, when the law have been well designed, but was underfunded, mismanaged, or not enforced (p.358)."

TECHNICAL REPORT

Project Description

Overview

On December 1, 2003, North Carolina enacted S.L. 2003-410 (S919) which prohibits persons subject to a qualifying domestic violence protective order (DVPO) from owning or possessing any firearms or ammunition, and requires them to surrender to the county sheriff within 24 hours any firearms, ammunition, and permits to purchase firearms.² In doing so, North Carolina joined the growing ranks of states that have passed similar legislation complementing federal laws restricting access to firearms for perpetrators of domestic violence as a means of preventing and reducing intimate partner violence (IPV) - related firearm violence.^{3, 4}

The study described in this report examined: 1) the scope and nature of firearm possession by DVPO defendants; 2) pre- and post-legislation experiences of IPV-related firearm violence among women applying for domestic violence protective orders; 3) judges' behaviors specifying firearm-related conditions in DVPOs prior to and following the legislation; and 4) the proportion of and manner in which male DVPO defendants' surrendered firearms subsequent to the enactment of the new legislation.

Our project addressed one of the National Institute of Justice's priority topics, the role of firearms in contributing to violent crime, serious injury, and death, and is consistent with NIJ's focus on demand-side studies assessing gun violence reduction strategies, particularly those intended to prevent firearm access to high-risk groups of offenders, such as domestic abusers. To date, however, there has been a dearth of information regarding how and the extent to which such strategies have been implemented, and whether they are effective in reducing firearm-related violence. In the case of firearms and intimate partner violence, little is known about the

impact of laws on the firearm-related conditions set forth in domestic violence protective orders, or of victims' subsequent experiences with firearm violence at the hands of their abusers. These gaps in our knowledge limit the ability of criminal justice programs and policy makers to develop and refine appropriate interventions and policies aimed at reducing and preventing firearm violence among victims of intimate partner violence.

Our study addressed these gaps by examining a legislative initiative similar to those that many states have enacted or are considering enacting. We abstracted data from the hardcopy DVPO case (or court) files for all women (n=731) 18 and older who received ex parte (temporary or emergency) domestic violence protective orders against a male partner in Durham county, North Carolina, during a 17-month period that spanned pre- and post-legislation (n=460; 64% pre-legislation; n=271; 36% post-legislation). We also examined the criminal histories of the 731 defendants in these cases. In addition, we had complementary interview data from a subset (n=129) of the Durham plaintiffs, as well as interview and DVPO file data from 229 additional women who received ex parte orders in Wake County, North Carolina, during the same 17-month time period.

Background

Intimate Partner Violence (IPV)

It is now well-established that physical, sexual, and psychological domestic or intimate partner violence against women is both widespread and a serious threat to women's health. Intimate partners are the perpetrators of over one third of the homicides of women every year, making intimate partner homicide the most common form of homicide for women.⁵⁻⁷ The National Crime Victimization Survey reports an annual violent victimization rate by intimate

partners of 5 per 1,000 women aged 12 and older in 2001, and the National Violence Against Women survey estimates that 25% of women are physically or sexually assaulted by intimate partners in their lifetimes.^{7, 8}

Intimate partner violence has serious long and short-term physical and mental health sequelae. Physical and sexual assaults may result in fatal and non-fatal injuries, trauma-specific and generalized pain, unwanted pregnancies, sexually transmitted infections, and a variety of mental health problems, including depression, anxiety and post-traumatic stress disorder (PTSD).⁸⁻
¹⁶ Victimized women also perceive themselves as being less healthy, and report lower levels of physical and mental well-being than women who have not been victimized.^{9, 13, 14, 16}

Intimate partner violence also exacts a tremendous societal cost. Miller, Cohen, and Wiersema (1996) estimated that “adult domestic violence” resulted in \$67 billion in annual losses, measured in 1993 dollars.¹⁷ The Centers for Disease Control and Prevention used data from the National Violence Against Women survey and estimated that the direct medical and mental health care services related to IPV exceeded \$4.1 billion annually.¹⁸

Abusers’ access to firearms may amplify the potential for fatal and non-fatal injuries. Every year, 700-800 women are shot and killed by their current or former intimate partners. Nationwide, firearms are used in 60% of intimate partner homicides of women, and a statewide study of intimate partner homicides in North Carolina found that two thirds of female victims of intimate partner homicide were killed with firearms, 72% of which were handguns.⁵⁻⁷ The presence of a firearm in the home increases a woman’s risk of intimate partner homicide, particularly in homes where there have been previous incidents of IPV.¹⁹ Not surprisingly, assaults by intimate partners involving firearms are 12 times more likely to result in fatal injury than assaults that do not involve firearms.²⁰

There is far less information on non-fatal firearm-related injuries and the use of firearms that does not result in physical injury (e.g., threats or minor injuries that do not require immediate medical attention), particularly incidents that occur within the context of intimate partner violence. In 2000, there were nearly 76,000 nonfatal firearm-related injuries in the United States, yielding a rate of 27.5 firearm-related injuries per 100,000 people.²¹ The medical costs of gunshot injuries are substantial, with a mean medical cost per injury of approximately \$17,000 (in 1994 dollars). The lifetime medical costs of treating all nonfatal gunshot injuries in the U.S. in 1994 was \$2.3 billion, nearly half of which (49%) was paid by the government.²²

The National Violence Against Women survey found that 3.5% of *all* female respondents in that population-based sample had been threatened with a gun by their intimate partners in their adult lifetimes. For the subset of respondents who had been physically assaulted by their partners, the proportion rose to 16%.⁸

Most other prevalence estimates of firearm possession and IPV utilize specialized or clinical samples; for example, 24% of the battered women sampled in a Kansas study and 41% of battered women from samples in Texas and Virginia reported that a gun(s) was present in the home.^{23, 24} In Los Angeles, 16.6 % of female applicants for temporary restraining orders noted that they had been threatened or harmed with a firearm in their applications.²⁵ A Massachusetts study examining the records of 8,529 male clients of state-certified court mandated batterer intervention programs (BIPs), found that 7% of those clients reported owning a gun in the previous three years. In the multivariate model, BIP clients who reported gun ownership were nearly eight times more likely (adjusted OR 7.9; 95% CI=5.6-11.0) to have threatened their partners with guns than non-gun owners. Clients whose partners had obtained DVPOs at the time of the client's enrollment in the BIP were 60% more likely (adjusted OR 1.6; 95% CI 1.1-

2.2) to have threatened their partners with guns than were clients whose partners had not obtained DVPOs. Finally, the study noted that clients with a history of substance abuse (adjusted OR 1.6; 95% CI 1.2-2.1) or self-reported homicidal behavior (adjusted OR 4.4; 95% CI 2.7-7.0) were more likely to have used a gun to threaten their partners than those who did not report such histories.²⁶

In interviews with 417 women residing in battered women's shelters in California, Sorenson and Wiebe (2004) found that 37% of respondents reported that their partners had ever used a firearm to "hurt, scare, or intimidate" them. Having been victimized with a firearm was positively associated with the number of other weapons (e.g. fists, knife, tools) used; specifically, women who had been victimized with firearms reported 8.1 types of weapons used against them by their current partner, compared to 4.6 types for women who had not been victimized with firearms.²⁷ Guns were often present and easily accessible in homes where IPV occurred; 38% of the respondents reported that there was at least one gun in the home during their relationship with their most recent partner (i.e. the one they were seeking refuge from at the shelter), and in 71% of these cases, the gun(s) was kept unlocked. Further, nearly two thirds (64.5%) of respondents who lived in a home where guns were kept reported that their partners had used a gun against them.²⁷

DVPOs as a Preventive Intervention for Intimate Partner Violence

In the past 25 years, all 50 states and the District of Columbia have enacted legislation that mandates civil protection orders specifically for victims of intimate partner violence.^{3, 4} Although states use a variety of monikers, including civil protective orders, no contact orders, restraining orders, personal protective orders, domestic violence protective orders, and stay away

orders, all such orders limit accused abuser's contact with the plaintiff, and most states treat violation of a protective order as a criminal (though most often misdemeanor) offense.⁴

The Violence Against Women Act (VAWA), enacted in 1994 as part of the National Crime Control and Law Enforcement Bill, included specific provisions regarding domestic violence protective orders, including eliminating filing and service fees, restricting access to firearms, stipulating that DVPOs are enforceable across state lines ("full faith and credit"), establishing penalties for crossing state lines to commit IPV, adding cyberstalking to interstate stalking offenses, and making interstate IPV and stalking a federal crime.^{3, 4, 28}

All states allow plaintiffs to file ex parte DVPOs, or orders filed without the defendant present. However, most states differentiate between temporary and permanent DVPOs, issuing emergency or temporary orders to plaintiffs without a hearing or following a brief court hearing conducted in the absence of the defendant (ex parte).^{3, 4, 28} These temporary orders (often called ex parte orders) are designed to protect the plaintiff during the interim period between the issuance of the temporary order and the "permanent" DVPO hearing date; however temporary orders are not enforceable until they have been served to the defendant. At the permanent DVPO hearing, both the plaintiff and defendant have the opportunity to speak with the judge who, in turn, decides whether to extend the temporary order, with or without modifications, for a specified period of time.^{3, 4, 29}

There is substantial heterogeneity among state DVPO legislation in terms of the: definition of domestic violence; persons eligible to file for a DVPO (e.g. current or former spouses, dating partners, same sex partners); ability to file pro se (without legal counsel); criteria for waiving filing fees; custody and child support provisions; and other conditions included in DVPOs.^{3, 4, 29-32} Further, many states have different provisions for temporary versus permanent

protective orders. DeJong and Burgess-Proctor developed four indicators to measure how “victim friendly” DVPO statutes were, including compliance with VAWA, qualifying relationship between petitioner and respondent, ease of administrative process, and severity of punishment for violations, and reviewed DVPO statutes in the 50 states and District of Columbia that were in force through June 2003. They found that, in general, statutes complied with VAWA provisions: for example, 43 states and the District of Columbia were consistent with VAWA’s ‘full faith and credit’ provision. However the investigators also noted that states “differed dramatically in their language regarding PPOs, organization of statutes, and degree to which the statutes were “victim-friendly,” and that regional differences were quite pronounced, with states in the southeastern region of the United states receiving lowest overall “victim friendliness” score, and Midwestern states receiving the highest.⁴

The degree to which DVPO statutes are supportive of victims is important, because domestic violence protective orders are the most widely-used IPV-related legal intervention in the United States.^{4, 8, 31} Over a million DVPOs are issued every year, and the National Violence Against Women survey reported that 17% of physical assault and 17% of stalking victims obtained protective orders after their most recent victimizations.⁸ Data from the Massachusetts Behavioral Risk Factor Surveillance System (BRFSS) indicate that of the women 18-59 who reported experiencing IPV during the preceding five years, 39% had police contact, and 34% had obtained a protective order.¹⁴

Women who seek protective orders often do so after being subjected to severe and frequent violence. Fifty-five to 77% have been beaten, choked, sexually assaulted or injured with a weapon, and most (89-98%) report intimidation through threats and/or stalking.^{23, 24, 31, 33-}
³⁹ Researchers in Seattle found that 96% of the women who had obtained protection orders had

experienced psychological abuse in the past year, 79% had experienced physical and 48% sexual violence.⁴⁰ Similarly, a Kentucky study of women filing for protective orders in three rural and one urban county found that 96% of them had experienced physical violence, 76% reported physical injuries resulting from IPV, and about a quarter (24%) had been sexually assaulted by their partners.²³ In California, a review of 1,354 restraining order applications revealed that 87% of the applicants mentioned being physically and/or sexually assaulted, and 45% noted having been injured by the defendant. Firearms were mentioned in 16% of these applications.²⁵ Further, research on DVPOs indicates that an acute incident of serious physical and/or sexual violence precedes filing for a DVPO in the majority of cases.^{23-25, 33, 35-39, 41, 42}

There is emerging evidence that DVPO's are effective as an intervention for secondary prevention of IPV, and that DVPO conditions and enforcement play a critical role in their effectiveness. Using individual-level survey data, Dugan (2003) found that families living in states with more "aggressive" statutes regarding the issuance and enforcement of DVPOs had lower probabilities of experiencing IPV.⁴³ Results from a prospective cohort study of 448 Seattle women, 240 of whom had obtained civil protective orders (CPOs) and 157 of whom had had an "IPV incident" reported to the police but no CPO, found that women with CPOs had a significantly decreased risk of contact with the abuser, threats with weapons, and injury when compared to women who did not have CPOs. Further, there appeared to be a "dose-response" effect of the CPOs, with longer duration of the CPO associated with larger decreases in risk.^{36, 41} Similarly, several earlier studies indicated that the majority (72-100%) of women receiving protective orders reported either no further violence or a reduction in violence subsequent to receiving the order.^{33, 37, 38} However, several earlier studies had dissimilar results, finding high rates of recidivism by protective order defendants within a year of the order.^{35, 44}

There is also evidence that the two-step process for applying for a DVPO is cumbersome and confusing, and poses barriers to many applicants. A study of 150 women applying for protective orders in an urban district in Texas found that 24% of the 42 women who dropped their orders noted that the process of obtaining a DVPO, which included a 2-3 hours of filling out forms, meeting with a caseworker, and taking photographs, was “too much of a hassle.”²⁴ Urban and rural battered women in Kentucky who participated in focus groups and individual interviews cited bureaucratic obstacles (excessive paperwork, long waits and inconvenient hours at the courthouse), costs, nonservice of orders by law enforcement to the defendant, and lack of confidentiality as barriers to obtaining protective orders.²³ In California, applicants must complete a 25-page form, and face long waits to appear before the judicial official who issues temporary orders.^{25, 31}

Legislation Regarding Domestic Violence Protective Orders and Firearms

In recognition of the potentially lethal danger posed by IPV perpetrators, VAWA added persons subject to qualifying domestic violence-related civil restraining orders to the list of people who are prohibited from purchasing or possessing a firearm.²⁸ However, ex parte and other temporary orders are not included under this federal legislation.^{3, 28}

The Lautenberg Amendment, enacted by the Omnibus Consolidated Appropriations Act of 1997, (Pub. L. No. 104-208), and effective September 30, 1996, prohibited from purchasing or possessing firearms individuals with a conviction status related to domestic violence of criminal misdemeanor or greater.^{3, 4} In addition, the National Stalker and Domestic Violence Reduction Act of 2001 authorized the inclusion of civil protection orders into the National Crime Information Center (NCIC) database in order to assist in state-to-state tracking and enforcement

of Protective Orders. The NCIC Protection Order File (POF) presently includes 23 states that enter protection orders into the NCIC POF.^{3, 4, 29}

Recent research indicates that there is a high degree of public support for separating batterers from their firearms. A statewide telephone survey in California found high endorsement for removing firearms from assailants in domestic violence incidents vignettes, *even when they (the respondents) did not think that the incident defined in the vignettes merited a protective order.*⁴⁵ This widespread support is also evinced in the wide margins with which legislation requiring firearms restrictions in qualifying DVPO cases has passed in various state legislatures.

Despite Federal mandates, states exercise a great deal of discretion regarding the qualifying criteria for firearm-related restrictions in domestic violence protective orders, and the types of restrictions contained in those orders. Most states have enacted or are considering enacting legislation that complements federal laws restricting access to firearms for perpetrators of domestic violence.³ As with state-level DVPO statutes in general, there is substantial heterogeneity among states' legislation concerning the provisions to restrict access to firearms, the amount of discretion exercised by judges, the nature of the firearm restrictions included, and the level of involvement of the court and law enforcement in removing firearms or ensuring their removal. For example, some states empower civil courts to order plaintiffs to surrender their firearms upon issuance of a qualifying domestic violence protective order, and others have enacted legislation that contains specific language requiring or authorizing the removal of firearms from alleged batterers by law enforcement officers. In other cases, the legislation simply indicates that defendants are prohibited from purchasing or possessing firearms.^{3, 4} A review of state statutes pertaining to IPV and firearm removal published in 2006 found that:

- 18 states have laws that allow law enforcement officers to confiscate firearms from the scene of an alleged IPV incident. Eleven of these states require law enforcement officers to seize guns that were used in an assault or threatened assault; 3 of these 11 also allow the confiscation of other guns that are present. The remaining 7 states leave firearm seizure to the officers' discretion;
- 24 states have laws restricting access to firearms for individuals subject to domestic violence protective orders. Of these, 9 prohibit firearm possession only, 1 prohibits firearm purchase only, 10 prohibit possession and purchase, and the remaining 4 states prohibit a variety of other types of firearm access (e.g. carrying, transfer);
- 4 states limit their DVPO firearm restrictions to handguns;
- 13 states include temporary protective orders in their firearm restrictions; and
- 7 states authorize civil courts to order firearms *removed* upon issuance of a permanent protective orders; nine also include temporary protective orders.³

Despite the fact that a growing number of states have enacted or are considering enacting legislation restricting access to firearms for perpetrators of domestic violence, it has been difficult to determine whether that these laws are an effective means of preventing and reducing firearm violence among victims of intimate partner violence. A systematic review of existing literature conducted by the Task Force for Community Preventive Services reported that, overall, evaluations of the effects of firearm acquisition restrictions on violent outcomes have produced inconsistent findings.⁴⁶ A California study examining the effect of prohibiting felons from purchasing handguns found that arrest rates for violent crimes by felons were reduced by 19%,⁴⁷ and a similar study on a state law prohibiting handgun purchase by those convicted of violent misdemeanors found a 22% decrease in violent arrest rates.^{48, 49}

In terms of firearm restrictions and IPV, Vigdor and Mercy (2006) compared rates of intimate partner homicide across states between 1982 and 2002, based on the states' enactment and provisions of laws prohibiting gun possession by abusers.³⁰ They found that, overall, compared to states with no such legislation, states that had passed laws prohibiting gun

possession or purchase by defendants in DVPOs had an 8% reduction in intimate partner homicide (IPH) rates; 9% for IPHs committed with a firearm³⁰ The decrease is slightly larger for female victims, with an 8% reduction in female IPH rates, and largest for IPH of women committed with a firearm (10%).³⁰ However, only the states that included restrictions on purchasing firearms (versus possession only) and had the capacity to check a statewide restraining order database during gun purchases had statistically significant reductions in IPH rates. In those states, there was an overall reduction of 10% in IPH rates, and a 12% reduction for firearm IPH rates. Again the effect for females was somewhat greater, with a 10% reduction in female IPH rates and 13% for female firearm IPH rates.

There is also a dearth of information regarding how and the extent to which these laws are implemented, the impact of these laws on the firearm-related conditions set forth in domestic violence protective orders, and the barriers and facilitating factors to implementation. An important component of evaluation research is documenting the extent to which a program or policy is fully implemented as intended, and thus avoiding a Type III evaluation error, attributing the lack of observable effect of an intervention or policy to the intervention itself, rather than to a failure of implementation.^{50, 51}

A case study of the implementation process of the domestic violence provisions of the Maryland Gun Violence Act identified a number of challenges to implementation, which the investigators grouped into two thematic categories: (1) characteristics of the policies themselves, and (2) characteristics of the people responsible for implementation.⁵¹ Problematic policy attributes included the lack of: specificity in the provisions (e.g. what agency is responsible for enforcement); important implementation details (e.g. process of securing court-ordered

surrendered guns); and appropriated funding for training and education for those responsible for implementation. In terms of attributes of the policy “implementers,” the investigators noted that the values and expertise of leadership figures within implementing organizations was an important factor in determining how resources are allocated and policies implemented within their organizations. The investigators also identified specific implementation challenges. Victim advocates interviewed as part of the study noted that their clients sometimes misunderstood the gun provisions, believing, for example, that they did not apply to illegal firearms. Law enforcement officers interviewed as part of the study noted that DVPO defendants often resisted complying with firearms surrender by denying that they owned guns or simply refusing to turn them over to the officers serving the orders. Without the authority to search for guns, officers must either convince the defendant to comply with the order, or return to court to obtain a search warrant.⁵¹

Similarly, the California Attorney General’s Task Force on the Local Criminal Justice Response to Domestic Violence also identified challenges and “problematic practices” related to implementation of firearms restrictions in DVPOs.⁵² The Task Force found that there was tremendous variation among counties in terms of the extent and quality of implementation. They also found that firearms prohibitions were not always entered into the statewide protective order database, and that data entry compliance varied by county. Finally, the Task Force noted that very few law enforcement agencies had policies of proactively enforcing firearms provisions in protective orders.⁵²

Another important area of ambiguity in the implementation process is how and whether judges determine that the defendant has access to firearms, which presumably would lead the

judge to invoke firearms restrictions in qualifying DVPO cases. In their observations in a civil domestic violence court as part of the Maryland gun provision implementation case study, the investigators noted a variety of approaches in presiding over DVPO hearings and reviewing relief options with the plaintiffs. In the more proactive approach, the judges would ask the plaintiffs and/or defendants whether the defendant possessed a firearm, read aloud to those present at the hearing every relief option available, and then inform the defendant that he was prohibited from owning or possessing a firearm (and that he must surrender guns in his possession, if applicable). On the other end of the spectrum, some judges merely asked the plaintiff which provisions she wanted to have included in the order.⁵¹

DVPOs and DVPO legislation in North Carolina

Figure 1 illustrates the two-stage North Carolina DVPO process. In North Carolina, a woman may file for a domestic violence protective order without an attorney (*pro se*) by requesting the necessary forms from the Clerk of Court at the District Courthouse. If she or her children are clearly in danger of harm or threat of harm, an emergency order will be granted by a district court judge or authorized magistrate, without the presence of the defendant (*ex parte*). When issuing an *ex parte* order, the judge specifies the conditions of the order, which may include surrender of all firearms, ammunition, permits to purchase firearms, and concealed carry permits. A full hearing before the authorized court, generally the District Court or a specialized domestic violence court, is then scheduled for 10-14 days from the date of issuance of the *ex parte* order, or seven days from the date when the defendant is served with the summons, whichever comes later. These proceedings, usually called the “10-day” or “DVPO” hearing, are attended by the plaintiff and the defendant (as well as their attorneys, if any), and the presiding judge decides whether to: grant a permanent DVPO; deny the order; or dismiss the order (either voluntarily or involuntarily).

“Permanent” DVPOs are granted for specified time periods, not to exceed one year. In almost all cases, if a permanent DVPO is granted, it is in effect for 12 months. Defendants in DVPO cases are subject to arrest and criminal prosecution if they violate the conditions of the order. Violating a DVPO is a Class A1 misdemeanor criminal offense in North Carolina and requires mandatory arrest under state law (See North Carolina Domestic Violence statutes [Chapter 50-B] in the Appendix).

The North Carolina Homicide Prevention Act/Domestic Violence (S 919) (SL 2003-410), enacted in July 2003, became effective on December 1, 2003. This bill amends Chapter 50B of the N.C. General Statutes to *require* the surrender of firearms in certain protective order cases (See copy of legislation and NC Domestic Violence Statutes in the Appendix). If the court finds any of the legislation’s enumerated factors at the *ex parte* or permanent DVPO hearings, the defendant must surrender his or her firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed weapons, to the sheriff’s department *within 24 hours* of service of the order, or provide verification that s/he has disposed of the firearms. The enumerated criteria for invoking firearm restrictions include: 1) use or threatened use of a deadly weapon or pattern of prior conduct involving use or threatened use of violence with a firearm; 2) threats to seriously injure or kill the aggrieved party or minor child; 3) threats to commit suicide; and/or 4) serious injuries inflicted upon aggrieved party or minor child. The legislation further states that the court should inquire of the plaintiff at the *ex parte* hearing and the defendant at the DVPO hearing about the defendant’s access to firearms, and also requires a court hearing for the return of firearms to the defendant or a third party following the expiration of a protective order or the eventual disposal of the firearms by the sheriff if a request for hearing is not made within 90 days following the DVPO expiration date. Hence, the HPA falls on the more comprehensive end of the spectrum of state

legislation designed to protect IPV from firearm violence by their abuses.³ Any violations of the firearms provisions contained in ex parte and permanent DVPOs are a Class H Felony under North Carolina law, provided the orders have been served.

Summary and Project Goals

There is strong political and public support for limiting access to firearms in cases of intimate partner violence, as evinced by the fact that a growing number of states have enacted or are considering enacting legislation that complements or expands upon similar federal laws. However, there is still little empirical evidence demonstrating whether these laws are effective in preventing and reducing firearm violence among victims of intimate partner violence. Further, there is also a lack of information regarding how and the extent to which these laws are implemented, the impact of these laws on the firearm-related conditions set forth in domestic violence protective orders, and the barriers and facilitating factors to implementation.

Our project sought to address these gaps by documenting the implementation process of legislation designed to restrict firearm access to abusers, including the barriers and facilitating factors to achieving full implementation. By examining judicial behavior and plaintiffs' experiences pre- and post-legislation, we assessed the short-term impact of the legislation in these domains. Our hope is that the findings of our study will contribute useful information for criminal justice policy makers and practitioners to guide policy development, training initiatives, and future applied research in this important arena.

Scope and Methodology

This evaluation study used a pretest-posttest design to examine: the scope of firearm possession by male defendants in domestic violence protective order cases; experiences of

firearm-related intimate partner violence by female plaintiffs in domestic violence protective order cases, pre- and post-enactment of S.L. 2003-410; changes in judges' behavior regarding inquiring about firearm possession and including firearm-related prohibitions in ex parte and permanent domestic violence protective orders pre- and post-enactment of S.L. 2003-410; and changes in firearm surrender and confiscation among defendants in domestic violence protective order cases pre- and post-enactment of S.L. 2003-410. Specific questions for each of the study aims are described in Table 1.

The study's primary target population was all adult women (age 18 and older) seeking relief from a male intimate partner through filing a civil action under NC Statute Chapter 50B in Durham county, North Carolina from February 1, 2003 to June 30, 2004. Durham is an urban county located in north-central North Carolina with a population of 242,582 in 2004, of whom 38% are African American, and 56% are white.⁵³ In addition, 10% percent of the population was described as being of "Hispanic or Latino" descent in the 2004 Census Bureau estimate, and 14% speak a language other than English at home. The median household income was \$43,095 in 2004, and 14% of households live below the poverty level.⁵³

The project's research objectives were addressed through analysis of data from several secondary data sources: the DVPO case files in the study county; a subset of eligible cases that contained longitudinal interview data gathered as part of the Court Ordered Protection Evaluation (COPE) study; and criminal record background checks of all the defendants named in the Durham ex parte orders filed by the study plaintiffs. In addition, we had COPE interview and DVPO case file information from 221 eligible women filing for protective orders in adjacent Wake County. Wake is also an urban county with an estimated population of 748,815 in 2005, of whom 20.5% are African-American, 73.5% are white, and 7% are described as being of Hispanic

or Latino descent. The median household income in Wake county 2004 was \$56,945, and 9% of households live below the poverty level.⁵³

The study data sources are described in greater detail in the following section. In addition, Table 2 outlines the various data sources, and Table 3 depicts the operationalization and data source for each principal study variable. This study was reviewed and approved by the Institutional Review Board of the Pacific Institute for Research and Evaluation (PIRE). A copy of the IRB application and approval letter are included in the Appendix.

Data Sources

DVPO Files:

All DVPO case files are copied and maintained in the office of the Domestic Violence Services Coordinator in the Durham County Sheriff's Department. The case files contain a variety of forms, including: Complaint and Motion for Domestic Violence Protective Order (AOC-CV-303, Rev. 11/02, Rev. 12/03); Ex Parte Domestic Violence Protective Order and Notice to Parties (AOC-CV-304, New 06/00, Rev. 6/01, 11/02, 12/03, 3/04); Identifying Information About Defendant Domestic Violence Action (AOC-CV-312, Rev. 6/2000); Notice of Hearing on Domestic Violence Protective Order (AOC-CV-305, Rev. 6/2000); Domestic Violence Protective Order and Notice to Parties/Consent Order (AOC-CV-306, Rev. 07/99, New 06/00, Rev. 06/01, Rev. 11/02, Rev.12/03, Rev. 03/04, Rev. 12/04). Some files contained the following additional forms: Motion to Renew/Set Aside Domestic Violence Protective Order Notice of Hearing (AOC-CV-313, Rev. 11/02); Order Setting Aside Domestic Violence Protective Order (AOC-CV-314 Rev. 11/03); Civil Summons Domestic Violence (AOC-CV-317, Rev. 10/01); Notice of Voluntary Dismissal (AOC-CV-405, Rev. 11/02), Memorandum of

Judgment/Order (AOC-CV-220, New 04/97), Order Continuing Domestic Violence Hearing and Ex Parte Order (AOC-CV-316, Rev. 09/02), Application and Order to Appoint Guardian Ad Litem in Action for Domestic Violence Protection Order (AOC-CV-318, New 06/00), Motion to Return Weapons Surrendered Under Protection Order (AOC-CV-320 TEST, New 12/03). The initial forms are available in English and Spanish, although they have to be filled out in English.

Several forms were revised by the North Carolina Administrative Office of the Courts (AOC) during the study period. The 12/03 revision of the "Complaint and Motion for Domestic Violence Protective Order" (i.e. the form the plaintiff fills out to start the DVPO process) included the addition of the following checkboxes: "The defendant has: firearms and ammunition as described below; has a permit to purchase a firearm; and has a permit to carry a concealed weapon." Also added were checkboxes for: "the defendant has used or threatened to use a deadly weapon against me or a minor child in my custody or has a pattern of prior conduct involving the use or threatened use of violence with a firearm against any persons in that..." and here the plaintiff is asked to "give specific dates and describe in detail what happened." An additional checkbox in the request section states: "I want the Court to order the defendant to surrender to the sheriff his/her firearms, ammunition, and gun permits to purchase a firearm and carry a concealed weapon."

As a result of the legislation, the ex parte order form was revised in 12/03 to include two checkboxes: "the defendant is in possession of, owns or has access to firearms, ammunition, and gun permits describe below" and "State any additional facts that support ordering the defendant to surrender firearms, ammunition, and gun permits to sheriff." Also, in the conclusions section, an additional checkbox was added detailing conclusions regarding the defendant's use of firearms, threats of homicide and/or suicide, and infliction of serious injury. Finally, a checkbox

was added in the Order section indicating that the defendant is to surrender any firearms, ammunition, and gun permits that he possesses. The 03/04 revision kept these additional items, but changed the layout of the form and added a box labeled "Caution: Weapon Involved," as a red flag for sheriff's deputies serving the order. There were similar revisions to the DVPO form (i.e., the protective order that results from the DVPO hearing). Copies of the forms that contain variables used in the study analyses are included in the appendix.

We created a data entry template in Epi Info to capture the information of interest to the study that was contained on the forms, including: demographic information about the plaintiff and defendant; the relationship between the plaintiff and defendant; number of children under 18 in common; incident prompting the DVPO motion, DVPO conditions requested by the plaintiff; ex parte conditions granted, including firearm-related restrictions; details of DVPO hearing (e.g. date, presence of attorneys), disposition of the permanent DVPO; and conditions of the DVPO, if granted. Each case was assigned a unique identifier, which corresponded to the Civil District (CVD) number for that case. We created codes for the many of the variables, and these coded data were entered into the Epi Info database. We also photocopied and stored the entire case file, so as to have access to the raw data for verification or re-coding.

COPE Study

This research project, funded by the Centers for Disease Control (CDC) and the North Carolina Governor's Crime Commission (GCC), is a longitudinal panel study of 350 women who obtained ex parte domestic violence protective orders in Durham (n=129) and Wake (n=221) counties, North Carolina from February 1, 2003 to June 30, 2004, the same time period covered by the current study. Details about the COPE study are included in the Appendix.

There are four distinct waves of data collection in the COPE study corresponding with: 1) the initial filing for a DVPO, resulting in an ex parte order (Time 1); 2) the scheduled date of the DVPO hearing, usually 7-14 days after the ex parte order was issued (Time 2); 3) six months after the DVPO filing (Time 3); and 4) 12 months post DVPO filing (Time 4). These interviews provided in-depth contextual information about the DVPO process and outcomes, as well as an “emic,” or insider’s perspective for a subset of our study population. We used data from all four COPE interviews in the current study. Specifically, we included COPE interview information regarding women’s IPV experiences prior to filing for the DVPO (including firearm-related IPV); whether the judge inquired about firearms during the ex parte or DVPO hearings; whether the defendant possessed firearm(s) and whether he surrendered them; and women’s IPV experiences post-ex parte (including firearm-related IPV). We created a COPE dataset that contained variables of interest to our study, and then matched the COPE participant data to abstracted DVPO files data by CVD number in order to add COPE data to a subset of our study cases.

Criminal background check data:

We contracted with an employment screening agency to conduct statewide (NC) criminal records checks of all defendants named the Ex Parte Notice to Parties filed by the women in our Durham county study population. Criminal records and case files are maintained by the clerks of court in all 100 North Carolina counties. As arrests are made or as warrants are sworn out, a case file is started by a clerk of court in that particular county. They keep track of these cases by assigning a unique number to that case and by making an electronic entry about that case. This electronic record replaced the handwritten index cards used in the courthouses up until the mid 1980's. The electronic record contains information about a given case such as the original charge,

the final charge, the trial date and the disposition of the case. The record is a snapshot of what is contained in the actual case file housed in the courthouse, and contains information about criminal misdemeanors dating back seven years and felonies dating back indefinitely. For the purposes of this study, the criminal background check covered the time period from the earliest electronic records through June 30, 2005 (i.e. one year from the latest study DVPO filing).

The criminal background check yielded a report for each defendant. For those defendants without criminal charges on file, “no” was indicated under the “records found” heading. In situations where a criminal record existed, but could not be verified as an exact match to the defendant (due to missing birthdate, etc.), we noted the record as a probable match. We abstracted pertinent information from each report, including applicable charges (assault on female, communicating threats, violation of Domestic Violence Protection Order, stalking, other domestic violence related charges, firearm charges, and concealed weapon charges), the associated offense dates, and the existence and scope of other types of charges (i.e. one or more than one additional charges), and included the CVD number for that case. We then merged the data into the study datafile by CVD number.

At the conclusion of these data entry and validation processes, our final study dataset contained information from the DVPO case files and criminal background checks (for all Durham participants), and the COPE study (for a subset of participants). Once the study dataset had been created, we proceeded to create the study variables, described in the next section and in Table 3.

Study variables

Plaintiff and defendant characteristics

We obtained information about the plaintiffs' and defendants' ages (collapsed into 10-year age groups) and race (within the categories listed on the DVPO forms, i.e., Black/African American, White, American Indian Asian/Pacific Islander, or Other), from information in the DVPO case files. Although there was no place on the forms to indicate plaintiff or defendant ethnicity (i.e. Latino versus non-Latino) we coded whether the Spanish version of the "Complaint and Motion" form was completed. The DVPO files also contained information about the relationship between the plaintiff and defendant (checkboxes for married, divorced, cohabitating, current or former dating relationship), and the number of children the plaintiff and defendant had in common, which we categorized into 0,1, 2, and 3 or more.

Time variables

We created several time-related variables, in order to delineate behavior and events that occurred pre- and post-legislation, as well as prior and subsequent to plaintiff filing for a DVPO. We used the date noted on the "Complaint and Motion for Domestic Violence Protective Order (AOC-CV-303, Rev. 11/02, 12/03)" to create these variables. "Pre-legislation" events occurred on any date prior to December 1, 2003, and "Post-legislation" included any event occurring on or subsequent to December 1, 2003. Similarly, "Prior to DVPO filing" included any date prior to the date that the women filed for a domestic violence protective order up until one week before filing. "Concurrent with the Ex parte Order" included the six days prior to filing for the DVPO and the day the ex parte order was issued. Our reasoning was that events that occurred within a week of the woman filing for a DVPO, particularly those that resulted in criminal domestic violence charges, were likely violence incidents that precipitated the woman's decision to seek a

protective order. “Subsequent to the Ex parte Order” referred to any date after the date that the ex parte order went into effect.

Defendant firearm possession or access prior to DVPO

In order to determine whether the male partners of women filing for DVPOs possessed or had access to firearms prior to the DVPO filing, we compiled information from all three data sources, and created a dichotomous variable that indicated that the defendant had access to firearms during the time period before the plaintiff filed for the DVPO. From the DVPO files, we read through the incident descriptions provided by the plaintiffs in the “Complaint and Motion for Domestic Violence Protective Order (AOC-CV-303, Rev. 11/02, 12/03)” and coded (yes/no) for any mention of firearm use (including waving and threatening with a firearm) or information that indicated access to firearms. DVPO case file information also included information from checkboxes on the “Identifying Information about the Defendant Domestic Violence Action” form that indicate whether or not the defendant has a permit to: “purchase a handgun” and/or “carry a concealed handgun.” If either of these boxes were checked “yes,” we coded that case a “yes” for defendant access to firearms. Similarly, on the same form, if the plaintiff indicated that the defendant had a firearm under the item which inquired whether law enforcement should consider the defendant a potential threat, we coded that case as “yes.” If a 12-month DVPO was granted in the case, we abstracted similar information from the “Complaint and Motion for Domestic Violence Protective Order form, i.e., we considered the item that included the incident description and the item which suspended the defendant’s concealed handgun permit.

Several of the revised forms included in the DVPO files also contained information about defendants' firearm possession or access. The Complaint and Motion for Domestic Violence Protective Order (AOC-CV-303, Rev. 12/03) has checkboxes for the plaintiff to indicate whether the defendant: "has firearms and ammunition," "has a permit to purchase a firearm," and/or "has a permit to carry a concealed weapon," as well as an item with a checkbox for the plaintiff to indicate whether the "defendant has used or threatened to use a deadly weapon against me or a minor child in my custody or has a pattern or prior conduct involving the use or threatened use of violence with a firearm against any persons." If the plaintiff's response indicated prior use or threatened use of a firearm, we coded the case "yes." Similarly, the revised "Ex Parte Domestic Violence Protective Order and Notice to Parties form (AOC-CV-304, Rev. 12/03 and 3/04) and the revised Domestic Violence Notice and Order to Parties (if a DVPO was granted) (AOC-CV-306, 12/03, 3/04) have items indicating prior pattern of conduct regarding use or threats of use of firearms as well as checkboxes to indicate that the defendant has "possession or access to deadly weapons," with a subsequent space to describe the weapon. Any mention of the defendant having access to firearms on these forms was categorized as "yes."

We also used data from the COPE Time 1 and Time 2 and Time 3 interviews. From the COPE Time 1, we searched the participants' account of the incident that led them to file for a DVPO, and coded any specific mention of firearm-related IPV as an indication that the defendant had access to a firearm. In the Time 2 interview, participants were asked how the defendant "got rid of any guns that he had" with one option being that the defendant did not have any guns. If the plaintiff responded that the defendant had gotten rid of his gun(s) or that he had a gun(s) but did not surrender it, we coded the case positive for defendant access to firearms. In the Time 3 COPE interview, respondents were asked specifically about firearm related IPV prior

to filing for the DVPO; we coded a positive response to this query as “yes” for defendant access to firearms.

Finally, we coded any firearms-related criminal charge that occurred prior to the date of the DVPO filing from the criminal record background check as “yes” for defendant access to firearms.

Experience with firearm-related IPV

In order to determine the female plaintiffs’ experiences with firearm-related intimate partner violence by the defendant prior to filing for the DVPO, we again combined information from all three data sources to create a single dichotomous variable indicating prior gun-related IPV. As described previously, from the DVPO case files, we abstracted information from the Complaint and Motion for Domestic Violence Protective order (AOC-CV-303, Rev. 11/02, 12/03) regarding the incident leading to filing for the DVPO, and information from the revised forms that indicated prior conduct involving firearm use or threatened use against the plaintiff by the defendant.

We also used data from the COPE Time 3 and Time 4 interviews, specifically the questions that inquired about the defendants’ use or threatened use of firearms against the plaintiffs prior to filing for the DVPO. Any positive response to these inquiries was coded as “yes” for this variable.

Judges’ behavior regarding defendants’ access to firearms

We were interested in whether the judges inquired about defendants’ access to firearms during the ex parte and DVPO hearings. The COPE Time 1 survey asks participants whether ex

parte hearing judge asked them about: “weapons he [the defendant] might have access to” and to specify the type of weapon. A similar question is asked about the one-year DVPO hearing (if the woman attended it) in the COPE Time 2 interview. We created dichotomous variables to indicate whether the judge asked the plaintiff about the defendant’s access to firearms for each of these hearings. This information was only available for COPE participants.

Additionally, we used the revised version (Rev. 12/03) of the “Complaint and Motion for Domestic Violence Protective Order,” which provides judges with a space for writing descriptions of each gun in the defendant’s possession, and indicates that the judge asked the plaintiff for this information. 210 cases used the revised form, and this information was added to the dichotomous variable described above.

We also created a dichotomous variable that noted whether there were restrictive conditions prohibiting the defendant from having access to firearms as part of the ex parte domestic violence protective order. We used the Ex parte Domestic Violence Protective Order form (AOC-CV-304), which contains a list of conditions that apply to the ex parte order, including three items that state that the defendant is prohibited from: 1) possessing or 2) purchasing a firearm for the effective period of the order, and/or that 3) the defendant’s concealed handgun permit is suspended for the effective period of the order. If any of the three above items were checked, we considered the item a “yes” for firearm-related restrictions.

We used a similar process with the Domestic Violence Protective Order and Notice to Parties (CV-306, Rev 11/02 and 12/03) to determine whether boxes were checked forbidding defendants from possessing and/or owning firearms on the one year Domestic Violence Protective Order, if a DVPO was granted.

Disposition of Domestic Violence Protective Order

As noted earlier, we abstracted information from the DVPO case files to determine the disposition of the DVPO, in other words, the outcome of the permanent DVPO hearing, usually held within two weeks of the ex parte order being issued. We grouped the outcomes into five categories that correspond to the “issue order codes” used by the Clerks of Court when reporting information about DVPOs to the North Carolina Administrative Office of the Courts (AOC); granted, denied, involuntarily dismissed, voluntarily dismissed, and other/not enough information. “Permanent “ DVPOs were considered granted if an order (form AOC-CV-306) was contained in the case file that indicated that the case had been heard in District Court, and that the judicial official (usually a District Court judge) had checked the box indicating that “this domestic violence protective order is necessary to bring about a cessation of acts of domestic violence.” DVPOs were considered denied if an order (form AOC-CV-306) was contained in the case file that indicated that the case had been heard in District Court, and that the judicial official had checked the box indicating that, “the plaintiff has failed to prove grounds for a domestic violence protective order.” We counted a DVPO as involuntarily dismissed if an order (form AOC-CV-306) was contained in the case file that indicated that the case had been heard in District Court, the plaintiff was not present, and the judicial official checked the box noting that “This action is dismissed and as of this date any ex parte order issued in this case is null and void.” We should note that in the majority of these cases there was also the notation somewhere in the file that action was dismissed *because* the plaintiff was not present in court. Cases that we categorized as voluntarily dismissed contained some notation in the file that the DVPO was dismissed at the request of the plaintiff and the judicial official checked the box noting that “This action is dismissed and as of this date any ex parte order issued in this case is null and void.” We

were conservative in our coding, and did not classify a case as voluntarily or involuntarily dismissed unless there were clear evidence in the file as to the nature of the dismissal.

Disposition of defendants' firearms

We were also interested in whether and how defendants' access to firearms was limited subsequent to the granting of ex parte and permanent DVPOs. At the Time 2 Interviews, COPE respondents were asked: "How did [defendant] get rid of the gun(s) he already had, or did he not have any?" For this study, the open-ended responses were coded to indicate that the defendant: 1) didn't have any gun(s); 2) didn't give up his gun(s); 3) gave his gun(s) to someone (other than the sheriff) for safekeeping; 4) voluntarily surrendered his gun to the sheriff's department; and/or 5) had gun(s) confiscated by sheriff's deputies. These data were only available for COPE participants. We also attempted to enumerate the firearms confiscated and stored in evidence room the Durham county sheriff's departments.

Data Analysis

Once the data from the various data sets were checked for valid responses and appropriate adherence to skip patterns, all data sets were converted into SAS data sets and matched by their unique CVD numbers. Some additional data coding was also performed at this point, for example we converted two of the demographic variables into dichotomous variables, namely number of children in common (none versus any) and marital status (married versus not married). Data were described using frequencies and associated percentages for categorical variables, and medians and associated interquartile ranges for continuous variables. Although our study collected information on populations rather than random samples, we tested bivariate assumptions in a manner consistent with other such study designs by computing bivariate Chi-

Square tests for dichotomous variables and Cochran-Mantel-Haenszel Nonzero Correlation Chi-Square statistics when one of the categorical variables had more than two non-ordered groups.⁵⁴ In several instances, the sample sizes were too small to allow for a typical Chi-Square statistic so the Fisher's Exact Test was computed. In addition, we used Wilcoxon Rank Sum statistics to compare medians for continuous variables that were not normally distributed and Spearman rank correlations to describe the association between continuous variables that were not normally distributed.⁵⁴

In order to explore the protective effect of the Homicide Prevention Act, we compared plaintiffs' experiences with firearm related IPV subsequent to receiving the ex parte order pre- and post-legislation. All information concerning women's firearm-related IPV subsequent to the ex parte order came from the COPE interviews; therefore we limited this analysis to the 350 COPE participants in Durham and Wake counties.

Finally, after checking for collinearity among potential correlates, we computed an adjusted logistic regression model predicting judges' restrictions regarding access to firearms at the ex parte hearing based on sociodemographic characteristics of the participants, whether or not the defendant had access to firearms during the 12 months before the ex parte hearing, whether the defendant had a criminal record that included IPV-related charges, and whether or not the ex parte order was filed before or after the HPA legislation went into effect. Including all of these variables resulted in a reduced sample size of 593 cases with complete data. Missing data from the remaining 138 cases (18% of total sample) were primarily variables related to the defendants' demographic characteristics, namely age and race, and the marital status between the defendant and plaintiff. We explored the effects of removing the defendant age and race variables, which reduced the number of cases with missing information to 79, and of creating a

“data missing” nominal variable for marital status. None of these actions resulted in changes in the results of our multivariate models, in terms of coefficients for the variables of interest. Given the lack of impact resulting from removing those variables, our belief that the complete models (i.e. the ones containing the defendant characteristics) were more aligned with our conceptual model, and the fact that the number of cases with missing information represented less than 20% of our total cases, we elected to present the multivariate models that included all the variables of interest, deleting cases with missing information.

We then computed a second adjusted logistic regression model to predict judges’ restrictions of firearms at the DVPO hearing as a function of the judge’s decision at the ex parte hearing, sociodemographic characteristics of the participants, whether or not the defendant had access to firearms during the 12 months before the ex parte hearing, and whether or not the ex parte was filed before or after the legislation went into effect. For both models, we used the Hosmer and Lemeshow Goodness of Fit Test.⁵⁴ All statistics were considered statistically significant at the alpha = 0.05 level.

Detailed Findings

Description of Study Population

There were 731 domestic violence protection order case files housed in the Durham County Courthouse that met study inclusion criteria; 460 (63%) were filed pre-legislation and 271 (37%) post-legislation . In most cases (91%), the originating paperwork, the “Complaint and Motion for a Domestic Violence Protection Order” was signed by a District Court judge (n=13 different judges, with a single judge signing about 80% of the forms). Of these 731 Durham women, 129 were included in the COPE study, 83 (64%) pre legislation and 46 (36%)

post-legislation. In addition, there were 221 COPE study participants from Wake county; 190 (86%) who filed pre-legislation and 31 (14%) who filed post-legislation. As in Durham County, the originating paperwork, the “Complaint and Motion for a Domestic Violence Protection Order” for the Wake county COPE participants was signed by a District Court judge in most (n=207; 94%) cases (n=18 different judges, with no single judge signing more than 22% of the forms).

Demographic characteristics of all 731 Durham county DVPO plaintiffs and defendants are described in Table 4, and similar characteristics are describe for Durham and Wake County COPE study participants in Table 5. In Durham county, plaintiffs were slightly younger than the defendants, with a median age of 31.8 years (IQR = 13.87) compared to 34.5 years (IQR = 13.85) for the defendants (Table 4). Six percent of the plaintiffs completed the Spanish version of the “Complaint and Motion for a Domestic Violence Protection Order” forms. The majority (59%) of the plaintiffs and defendants were not married to each other at the time of the filing, and nearly half (48%) had at least one child under the age of 18 in common. As shown in Table 5, we compared the demographic characteristics of the subgroup of Durham plaintiffs who participated in the COPE study to Durham plaintiffs who did not participate in the COPE study, and found that they were not significantly different from the overall study population, except that the COPE plaintiffs and defendants were slightly more likely to be African-American (70% of Durham COPE versus 66% of Durham Non-COPE for plaintiffs ($\chi^2 = 7.66$; $p=.022$), and 78% of Durham COPE versus 68% of Durham Non-COPEfor defendants ($\chi^2 = 8.71$; $p=.013$). Wake County COPE participants were more likely to be white than Durham County COPE participants (44% versus 28%; [$\chi^2 = 10.14$; $p=.006$]) as were the defendants (37% versus 20%; [$\chi^2 = 11.86$; $p=.003$]), a finding consistent with the demographic composition of the two counties.

Firearm Access, IPV, and Firearm -Related Intimate Partner Violence

There was evidence, gleaned from the various data sources described in the previous section, that over one third (38%) of the defendants in the Durham DVPO cases had access to firearms prior to or at the time that their partners filed for domestic violence protective orders. Further, we were able to establish that nearly one quarter (23%) of these Durham plaintiffs had experienced firearm-related IPV in the 12 months prior to filing for the DVPO.

As noted in the previous section, we compared plaintiffs' experiences with firearm-related IPV subsequent to receiving the ex parte order pre- and post-legislation for the 350 COPE participants in Durham and Wake counties. We found that the proportion of COPE women with ex parte orders in Durham County who reported experiencing firearm-related IPV increased from 4.8% to 6.5% post legislation, but this change was not statistically significant (Fisher's Exact $p=.699$). In Wake County, the proportion of COPE participants who experienced firearm-related IPV after receiving an ex parte decreased from 6.8% to 6.5%, but that this change also was not statistically significant (Fisher's Exact $p=.300$).

On nearly three quarters of the Ex Parte Domestic Violence Protective Orders filed in Durham County during the study period ($n=731$), the judicial official (usually a District Court Judge) found that the defendant "committed acts of domestic violence against the plaintiff" (73%), and in 80% s/he found that that there appeared to be a "danger of acts of domestic violence against the plaintiff" (Table 6). The judicial officials found that acts of domestic violence had been committed against minor children residing with the plaintiff in 8% of the ex parte forms (13% of the cases where the plaintiff and defendant had children in common), and

noted substantial risk of future harm to minor children in 14% of the cases (24% of cases with children in common).

The revised Ex Parte DVPO forms (n=209) had specific checkboxes where the findings regarding defendants' prior use of firearms could be noted, as well as checkboxes for specific types of violent behavior (Table 6). In 25% of these cases, the defendant threatened to injure or kill the plaintiff, and in 12% the defendant had threatened to use a deadly weapon against the plaintiff. In terms of prior use of a firearm, 4% of the forms were checked; and in 3% of the forms, prior threatened use of a firearm was checked.

We also examined the criminal histories of the defendants in all 731 Durham county cases, in part to determine whether they had a history of gun-related violence and/or intimate partner violence charges, and also to determine whether they had been charged with any gun-related offenses during the period when the ex parte and 12-month DVPOs (if granted), were in effect. The results of the criminal background checks revealed that just over half (51%) of defendants had recorded criminal charges that could be matched to them as part of a statewide criminal background check prior to the date of the DVPO filing (Table 7). Half of *all* the defendants had prior IPV-related criminal charges on record prior to the plaintiff filing for a DVPO, though we could not ascertain whether these offenses were committed against the plaintiffs for the DVPOs included in this study or against a different partner. Virtually all (98%) of the defendants who had criminal records had previous IPV-related criminal charges that predated the DVPO filing. In addition, 12% of all defendants had been charged with criminal IPV charges that were concurrent with the ex parte order, indicating that those criminal charges may be related to the same incident that prompted the plaintiff to file for a DVPO. Finally, 25% of the defendants had IPV-related charges incurred on a date later than the date that the ex parte

order was issued. Given that half of these domestic violence related charges occurring subsequent to the ex parte filing were DVPO violations, in all likelihood these charges were violations of that particular order.

A smaller percentage (16%) of the defendants had firearm-related criminal charges that predated the study DVPO filing. Interestingly, defendants with previous IPV-related charges were significantly more likely to have previous gun-related charges than defendants who did not have previous IPV-related charges. Over a quarter (27%; n=98) of defendants with IPV-related charges prior to the ex parte order also had at least one gun-related charge before the ex parte, compared to 19% (n=68) of defendants without IPV charges prior to the ex parte ($\chi^2 = 7.49$; p = .006; data not shown).

Not surprisingly, the prevalence of firearms-related charges among defendants occurred much less frequently concurrent with (<1%) or subsequent to (4%) the plaintiffs receiving the ex parte orders as compared to prior to the ex parte. Given how infrequently these charges occurred, the number of cases was too small to allow us to compare the prevalence of firearms-related charges pre- versus post-legislation.

Judges' Behavior Restricting Access to Firearms

Of the 731 ex parte orders issued in Durham County during the study period, 366 (50%) were subsequently granted as 12-month DVPOs, 11% were denied; 31% were involuntarily dismissed, usually because the plaintiff did not show up for the DVPO hearing; 7% were voluntarily dismissed (i.e. at the request of the plaintiff), and 1% did not have sufficient information to allow us to ascertain the case disposition (Table 8). Among Durham County COPE participants (n=129), the disposition proportions were similar; however among Wake

County COPE participants, a higher percentage of DVPOs were granted (60%), and a lower proportion were denied (4%), although overall, the dispositions did vary significantly ($\chi^2=6.62$; $df=3$; $p=.084$).

We were able to determine whether the judge inquired about defendants' access to firearms during the ex parte hearing only for the COPE participants in Durham and Wake counties ($n=350$), of whom 78% filed for DVPOs pre-legislation and 22% filed post-legislation. Specifically, 42% of the women interviewed reported that the judge had asked them about the defendants' access to firearms pre-legislation compared to 45% post-legislation (data not shown). This modest increase in judges' inquiry about firearms was not statistically significant ($\chi^2 = 0.2720$; $p = .602$).

Overall, women who filed for domestic violence protective orders after the Homicide Prevention Act was passed were significantly more likely to receive an ex parte order that included firearms-related restrictions (94%) than women who filed before enactment of the Homicide Prevention Act (90%; $p=.036$) (Table 9). In terms of specific prohibitions, although there was a trend toward slightly increased inclusion of prohibitions on owning or receiving firearms (88% to 93%), and purchasing firearms (88% to 91%) pre- versus post-legislation, although the only statistically significant increase was in the percentage of forms that included the condition that revoked the defendant's concealed handgun permit (8% to 28%; $p<.001$).

Interestingly, we observed no such changes among the 366 permanent DVPOs issued during the study period. The percentage of DVPOs with any firearm restrictions noted remained virtually the same (90% versus 91%; $p=.636$) after the legislation took effect, and none of the specific firearms prohibitions checked on the form varied significantly by pre- versus post-legislation status. In fact, the percentage of DVPOs that included the condition that revoked the

defendant's concealed handgun permit, which increased significantly post-legislation on the ex parte forms, actually *decreased* slightly on the DVPO forms post-legislation, though this difference was not statistically significant.

As noted in the previous section, as a result of the passage of the Homicide Prevention Act, both the Ex Parte Notice to Parties and Domestic Violence Protective Order and Notice to Parties forms were revised, and the new versions of these forms were introduced during the study period. One addition to both of the forms was a checkbox for the condition that the defendant must "surrender to the Sheriff serving this order, the firearms, ammunition, gun permits described in block No. 4 of the Findings on page 2 of this Order, and any other firearms and ammunition in the defendant's care, custody, possession, ownership and control." Post legislation, 40% of the ex parte orders and 35% of the 12-month DVPOs had those conditions checked (Table 9).

Tables 10 and 11 present the findings of the multivariate analyses. After adjusting for plaintiffs' and defendants' age and race, whether or not they have children in common, marital status between plaintiff and defendant, prior IPV-related criminal charges, and evidence of firearm access before the ex parte was filed, women who received ex parte domestic violence protective orders before the legislation went into effect were more than twice as likely for a judge to choose *not* to restrict the defendant's access to firearms, as compared to women who filed after the legislation (OR = 2.44; 95% CI = 1.12 – 1.91) (Table 10). No other variables were statistically significantly associated with a judge choosing *not* to restrict the defendant's access to firearms.

As described in Table 11, after adjusting for plaintiffs' and defendants' age and race, whether or not they have children in common, marital status between plaintiff and defendant,

prior IPV-related criminal charges, and evidence of firearm access before the *ex parte* was filed, women for whom the judge did *not* restrict access to firearms on the permanent DVPO had over eight times the odds of having *ex parte* orders in which defendants received no restrictions on access to firearms, as compared to women for whom the judge *did* restrict access to firearms on the permanent DVPO (OR = 8.71; 95% CI = 2.74, 27.67). No statistically significant associations with the judge not restricting access to firearms on the permanent DVPO were found for any of the other variables, including filing pre-legislation versus post-legislation.

Disposition of Firearms

One of the goals of this study was to ascertain what happened to DVPO defendants' existing firearms when the defendants were restricted from owning or possessing firearms as a condition of a Domestic Violence Protective Order, and whether there were any differences between defendants' disposition of firearms pre- and post-legislation. We found that there was no systematic method to document the status of defendants' firearms, ammunition, or permits contained in the hard copy DVPO files. Further, our inquiries to the Sheriff's Department revealed that there was no electronic or paper trail for firearms confiscated or surrendered as a condition of a DVPO. Thus, we were only able to obtain information about the disposition of firearms in DVPO cases for the 350 COPE participants, who were asked specifically what happened to their partners' guns during the Time 2 interview (subsequent to the date of the DVPO hearing). Among the 43 women (13% of COPE participants) who reported that their partners had firearms *and* that the judge had indicated gun-related restrictions on the *ex parte*, over one third (37%) either did not know (what the defendant did with his gun(s)) or did not respond to this question; in 37% of these cases the plaintiff said that the defendant had kept his

gun(s); 14% said that sheriff's deputies had confiscated the gun(s); and 5% each said that he (the plaintiff) had turned the gun(s) in to the Sheriff's Department or gave it away. The small number of responses to this interview item precluded bivariate or multivariate analyses, however, the proportion of respondents that noted that their partners kept their guns did not vary pre- versus post-legislation.

Discussion and Implications

Discussion

The goals of this study were to describe the scope of firearm possession by DVPO defendants, and pre- and post-legislation differences in: experiences of firearm-related intimate partner violence, and judges' behaviors specifying firearm-related conditions in DVPOs. As is always the case, the findings should be viewed within the context of the study's limitations. First, we conducted analyses of data from three different secondary sources, thus we had no control over the quantity and quality of the available data. For instance, in the DVPO case files there was minimal information about judges' inquiries about the defendants' access to firearms or whether guns that were noted to be in the defendants' possession were confiscated or surrendered as ordered. We were able to determine this information to some extent using the COPE interview data, albeit for only a subset of the study sample, and could infer judges' behavior based on checkboxes on the revised (i.e., post-legislation) forms in some cases. However, these sources give us only partial information. Ideally we would have primary data about judges' inquiries, as well as the plaintiffs and defendants' responses via court observation—a recommendation for future research.

Another limitation was the fact that the DVPO forms, which served as our data collection instruments for some variables, were revised several times during the study period. While it appears that these changes affected court officials' behavior in the desired manner, it also made it difficult to differentiate the independent effects of the legislation from related changes in the forms. Finally our study involved DVPO cases in two counties from one state, and the majority of cases in Durham County were presided over by a single judge, both of which limit the generalizability of our findings. However, as we will note in the following section, many of our findings were consistent with previous research, providing some indication that the associated implications may be relevant to other states and communities.

Despite these limitations, our findings revealed characteristics of the DVPO defendants, administrative process, case files, and judicial behaviors that have implications for policy, practice, and research pertaining to domestic violence protective orders and firearms. We discuss these implications and suggest directions for future research, policy and practice efforts in the following text.

There was evidence that over one third of the defendants had access to firearms at the time of the DVPO filing, and that over one quarter of them had used firearms against the plaintiffs within 12 months of the filing. We should note that these are probably considerable underestimates of the prevalence of firearm access and firearm-related IPV, as we were conservative in our coding; only information that specifically indicated firearm access or use was used to identify positive cases. In all other instances (e.g., a lack of information, mention of "weapon", but not firearm) we coded "no."

We also found that over half of the defendants named in DVPO cases had criminal histories documented in public records accessed via a statewide criminal record search, and that

nearly half of the defendants had documented IPV criminal charges predating the index DVPO. These findings are consistent with other research involving defendants in DVPO cases, which consistently find high levels of defendant involvement in the criminal justice system, particularly previous domestic violence-related criminal charges.^{23, 31, 35, 38, 44, 45} For example, a case review of 500 Civil Protective Order in a Washington, DC Domestic Violence Court found that 53% of defendants had previous non-domestic violence criminal charges;⁵⁵ and a review of DVPO applications in California indicated that 32% of the defendants cases had previously been arrested on domestic violence-related charges for violence committed against the defendant.²⁵

Finally, there was evidence in the public record that 12% of the defendants violated the DVPO within months of its issue. Again, this is likely an underestimate of DVPO violations, as there is ample research indicating that DVPO violations are rarely enforced, and that offenders are frequently not charged.^{8, 23, 25, 29, 31, 33-35, 38, 39, 44, 52, 55} For example, a Kentucky study found that 29% of DVPOs issued during the study period were violated within 40 days.^{8, 23, 25, 29, 31, 33-35, 38, 39, 44, 52, 55}

However, we found discordance between women's experiences of firearm-related violence and firearms restrictions marked on ex parte and permanent DVPOs. Our multivariate analyses indicated that judges' behaviors restricting firearm access as conditions of ex parte and permanent DVPOs were *not* associated with evidence of prior IPV-related charges *or* with the defendants' access to firearms. These findings echo those of the Maryland case study court observations where, in the five cases where victims mentioned firearms as part of their abuse, none resulted in DVPOs that required defendants to surrender firearms.⁵¹ In a similar vein, an examination of protective orders filed in Los Angeles revealed that the mention of gun violence on the DVPO application not associated with a judicial decision to grant the order.²⁵

Most state statutes regarding firearms and IPV function as (at best) mechanisms for secondary prevention of firearm violence. Currently there is a great deal of disparity in the extent to which these statutes restrict those subject to DVPOs from owning, possessing, and purchasing firearms, with only eight states having statutory language prohibiting firearm possession as a mandatory condition of DVPOs, and most other states, including North Carolina, either prohibiting firearm possession only if certain conditions (e.g. previous use or threatened uses of a firearm) are met, or leaving the decision to the discretion of the judicial official.³⁰ Further, firearms are routinely confiscated only *after* a DVPO violation occurs, and it is generally left to the defendant to voluntarily surrender the guns(s) or dispose of them in some other way.^{3, 52}

Previous research consistently demonstrates that: women file for protective orders after being subjected to severe and frequent abuse; the majority of DVPO defendants have previous IPV-related and other criminal charges; a substantial proportion of defendants have access to firearms and have used guns against their partners in the recent past; and that DVPOs are frequently violated. Given the potential lethal threat posed by DVPO defendants with access to firearms, and the demonstrated discrepancy between women's experiences and DVPO conditions received, statutory language prohibiting firearm possession and ordering firearm removal as mandatory conditions for all DVPOs appears warranted. Such language would increase the likelihood that firearm restrictions would be applied consistently across judicial districts, and decrease the dependence on individual judicial officials' discretion. It may also increase the potential of these statutes to serve as primary prevention strategies, i.e. preventing the first occurrence of firearm-related IPV, by eliminating defendants' access to guns. Mandatory restrictions and removal of firearms may also increase the effectiveness of these statutes as

mechanisms for secondary prevention of firearm-related IPV by reducing the risk of additional incidents among plaintiffs who have already experienced firearm-related IPV. Further research examining the experience of states that require automatic firearms restrictions compared to those states where restrictions are conditional and/or discretionary could reveal the relative advantages of the various approaches, as well as suggest evidence-based parameters for conditional restrictions.

Our study also revealed several areas where the Homicide Prevention Act was not fully implemented. Frattaroli and Teret (2006) describe policy implementation as “all activities involved in the process of translating a law into action.”⁵¹ To this definition we add the concept of implementation *fidelity*, or the extent to which an intervention or policy was delivered as planned by its developers, i.e. the quality of implementation.⁵⁰ Translating the Homicide Prevention Act (and similar legislation) into action involves success at multiple levels (e.g. legislature, District Court, sheriffs department), and requires cooperation from numerous players in various roles at every level. Consequently there are a variety of potential barriers to and opportunities for implementation fidelity.

Less than half of the plaintiffs in our study reported being asked about defendants’ access to firearms as part of the ex parte hearings, and that this proportion did not change subsequent to the enactment of the Homicide Prevention Act. Our data sources could not provide us with a complete assessment because we did not have similar information for the DVPO hearing. However these findings do suggest that judges were *not* routinely asking plaintiffs about the defendants’ access to firearms, either before or after the enactment of the Homicide Prevention Act, despite the fact that the legislation requires that: “the court shall inquire of the plaintiff, at the ex parte or emergency hearing, the presence of, ownership of, or otherwise access to firearms

by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.” This is an important omission, because by specifically inquiring about guns, the judge both identifies firearms that should be surrendered when the ex parte order is served by the sheriff’s department, thereby alerting them to the type(s) and quantity of guns they should be able to account for, and sends a message to the plaintiff that these firearms pose a serious threat to her and her family and that the court is taking this danger seriously. An encouraging development is that the revised forms for the ex parte and permanent DVPOs include prompts and spaces for including information about the defendant’s access to “firearms, ammunition, and gun permits,” although it is unclear how accurately these items are completed, or whether the information used to complete the item originates from the written DVPO application forms, judges’ inquiries, or other sources.

An associated concern is that these firearm-related prohibitions should be enacted as part of the ex parte process, not just for permanent DVPOs. The North Carolina Homicide Prevention Act is considered to be “victim friendly” because it goes beyond the provisions specified in the VAWA in that the stipulations of the legislation apply to both the ex parte and permanent (usually 12 months) protective orders and court processes, and is not limited to protective orders that have been issued after a hearing attended by both parties. Limiting firearm prohibitions to these permanent DVPOs misses the important potential protective opportunity offered by the ex parte process. Consistent with previous research,^{4, 23, 24, 31, 38} we found that only half of the ex parte orders filed were later granted as permanent DVPOs, either because they were denied by the District Court judge at the DVPO hearing or, as was more frequently the

case, because they were voluntarily or involuntarily dismissed. Further, the time period between the issuance of the ex parte order and the DVPO hearing can vary greatly, particularly if the DVPO hearing is postponed because the defendant has not been served or does not show up in court, which usually results in continuance of the ex parte order. Including restrictions on access to firearms in the ex parte orders will extend the added protection afforded by those restrictions to the period that the ex parte is in effect, at least in the cases where the ex parte order is served.

Given the importance of the ex parte hearing as the “portal of entry” into the DVPO process, thorough and consistent inquiry regarding the defendants’ possession of and access to firearms should be ensured. Potential mechanisms for increasing inquiry include education and training for court personnel, continued revisions to ex parte and DVPO forms that will prompt judges to ask about defendants’ access to firearms and mark appropriate restrictions, monitoring implementation fidelity and providing timely feedback in cases of noncompliance. The California Task Force found that “publicly monitoring counties [regarding compliance with entering firearm restrictions into a statewide DVPO database], and providing data directly to them can significantly affect their performance.”⁵²

Ultimately new legislation and forms are only effective insofar as they are catalysts for the desired change. We were encouraged by the findings that in a large majority of cases judges were including firearms-related restrictions in ex parte and permanent DVPOs, and that judges were significantly more likely to check firearm-related conditions on the ex parte orders post-legislation, and that whether the ex parte order was granted pre or post legislation was a significant predictor of firearm restrictions having been included as conditions of the ex parte order. Both of these findings indicate that the legislation positively influenced judges’ behavior. That no such changes were found for judges’ noting restrictions on the DVPO forms is consistent

with this interpretation; the VAWA (which predates the HPA by a decade) stipulations concerning firearm restrictions apply only to permanent DVPOs.

We were also encouraged to note that modifications to the ex parte and DVPO forms resulted in judges including many more specific notations regarding firearm-related restrictions on both the ex parte and DVPO forms. Nearly half of the judges checked the item noting that the defendant must surrender to the sheriff the firearms noted in the order on the revised ex parte form; more than one third did so on the revised DVPO form. This item did not exist on previous versions of the form. Presumably the new checkboxes on the forms both prompted the judges to inquire about firearms (in order to be able to list them) and cued the sheriff's deputies serving the orders to inquire into the whereabouts and disposition of the named firearms—both desired effects. This finding indicates that changing the content and format of a strategic form in conjunction with new policies or procedures may be a useful strategy for prompting the desired (and necessary) changes in behavior. However, we should note that these items were checked in less than half the cases, indicating a great deal of room for improvement—another situation for which additional training for judicial officials could be helpful.

On a less positive note, our investigation yielded very little evidence that there was a system of follow-up and documentation that would ensure restricting batterers' access to firearms, even if inquiries were made and appropriate restrictions were imposed as conditions of the DVPO. Only a small fraction of the women in the COPE study reported that their abusers gave up their guns, or that their guns were confiscated. Alarming, over one third of the COPE participants reported that their abusers "kept their guns." We also saw little documentation of gun surrender or confiscation in the DVPO files, and there was no apparent method to identify DVPO-related firearms stored in the Sheriff's Departments' evidence area. We recognize that a

lack of documentation does not preclude the existence of widespread gun surrender and confiscation; however without a paper or electronic trail, we were limited in our ability to assess the extent to which this aspect of the HPA implementation was occurring. Perhaps more importantly, without systematic record-keeping, law enforcement officers cannot easily determine whether defendants have complied with the firearm-related conditions of their DVPOs. This finding of “nonenforcement” of firearm restrictions is similar to the case studies in Maryland and California.^{51, 52} In both cases, investigators cited a lack of specificity regarding the process by which court-ordered surround guns are obtained. Key Informant interviews in Maryland revealed consensus in the belief that the presence of a specialized domestic violence unit vested with the responsibility to confiscate firearms when serving a DVPO and/or following up with defendants to make certain that they have surrendered or disposed of the guns would result in increased compliance.⁵¹ The California Task Force identified a promising proactive enforcement tactic in place in one county, which required defendants to call the Firearms Division within 24 hours to arrange for firearms surrender. During the call, the defendants’ were required to identify all firearms in their possession and were informed that the information they furnished would be compared to the data in the state’s Automated Firearms System. This practice resulted in one firearm surrendered for every eight defendants.⁵²

A related concern is the lack of a centralized, current, and easily accessible data base for DVPOs. Approximately 37 states have statewide protective order data bases, of varying levels of accessibility and comprehensiveness. Efforts to create a national Protective Order File (POF) file housed in the National Criminal Information Center (NCIC) have been met with limited success; currently, only 23 states submit DVPO data to the NCIC POF. In fact NCIC publications warn that the “The NCIC system may not capture 100% of valid, enforceable orders

even for those states that are entering orders into it. If a query does not result in a positive “hit,” the order may still be a valid and enforceable protection order.”

Suggestions for Future Research Policy and Practice

Our findings revealed characteristics of the DVPO defendants, administrative process, case files, and judicial behaviors that have implications for policy, practice, and research pertaining to firearms and DVPOs, both within North Carolina and in other states. To this end, we suggest the following list of strategies to advance the research agenda on DVPOs and firearms and increase implementation fidelity of the HPA and similar statutes, in the hope that improved implementation will lead to increased safety for women who apply for DVPOs.

Suggestions for Research

Funders should support, and researchers should conduct, research that includes:

- collection of primary data about judges’ inquiries about firearm access, as well as the plaintiffs and defendants’ responses;
- comparison of the experiences of states that require automatic firearms restrictions to those whose restrictions are conditional and/or discretionary;
- assessments of implementation fidelity; and
- evaluation of strategies to enhance compliance.

Suggestions for Policies

Legislation restricting DVPO defendant’s access to firearms should include:

- prohibitions on firearm purchase and possession and the requirement of firearm removal as mandatory conditions for all DVPOs;

- resources to establish and/or maintain a statewide protective order database that includes current information on the status and conditions of the orders;
- requirements to proactively enforce DVPO firearms restrictions, and specification of who is responsible for enforcement;
- mechanisms for reporting, monitoring and feedback by courts; and
- appropriations of resources to train court personnel and others involved in the DVPO process.

Suggestions for Practice

Agencies involved in the DVPO process should:

- ensure that applicants understand the DVPO forms and process;
- develop clear operating procedures to ensuring that firearm-related restrictions are consistently applied and enforced;
- secure the support of agency leadership for full enforcement of firearms restrictions in DVPO cases; and
- monitor implementation of procedures and provide timely feedback.

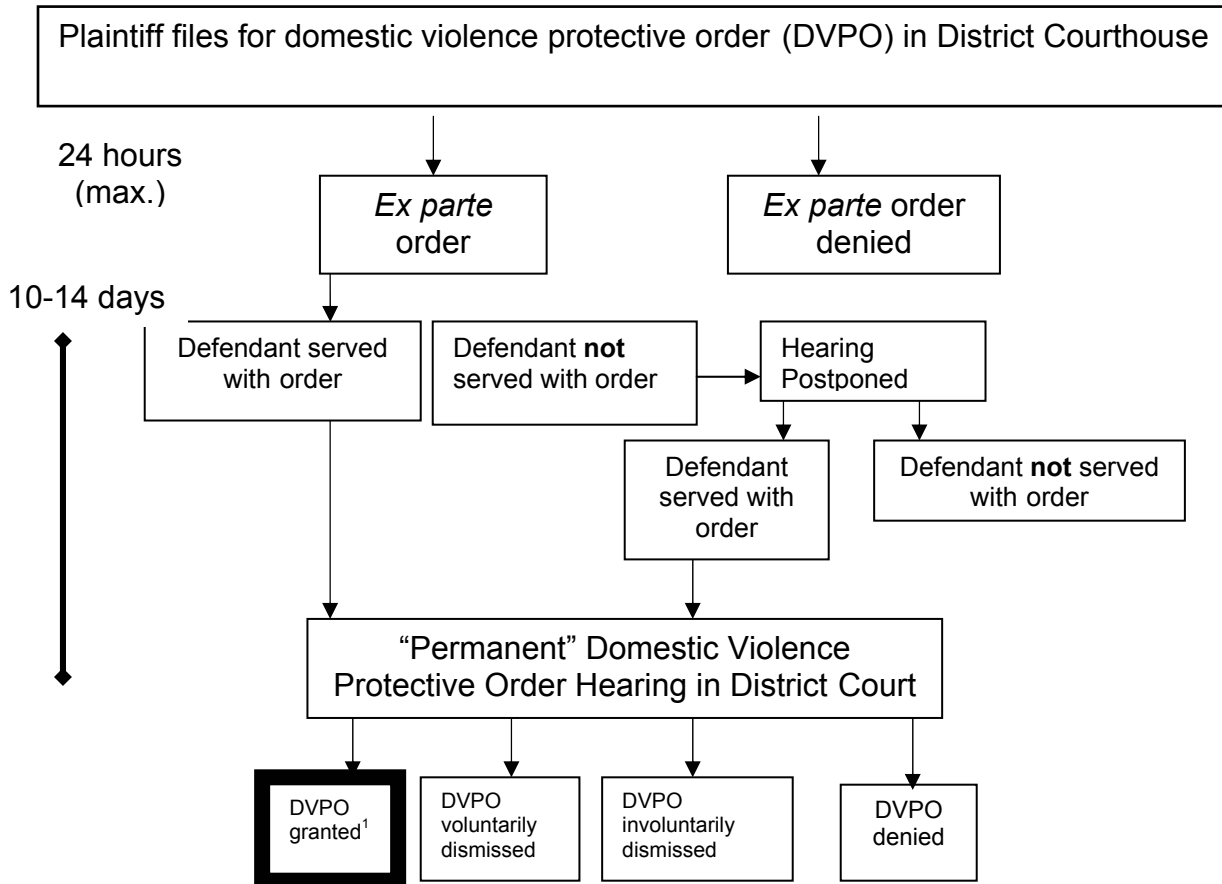
There is strong public and legislative support for limiting batterers' access to firearms, as demonstrated by the large number of state statutes that enhance federal provisions, including the Homicide Prevention Act in North Carolina. Difficulty in assessing the true effectiveness of DVPO gun restrictions resulting from sporadic implementation of the law is a consistent theme among researchers. As Frattaroli and Teret lament, "if implementation goes awry, an evaluation of the law may conclude that the law is ineffective, when the law have been well designed, but was underfunded, mismanaged, or not enforced (p.358)."⁵¹

Our study examined the process and impact of new legislation limiting access to firearms by defendants in DVPO cases. Although the findings indicate that such restrictions are

warranted, and that judges' were more likely to note firearm-related restrictions on the ex parte form after the passage of the legislation, it is less clear whether there is systematic follow-up and documentation regarding guns in DVPO cases, or whether defendants' risk of firearm-related IPV has been reduced. Future research, policy initiatives, and enhanced practices are clearly needed to increase the safety of IPV victims and their families.

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Figure 1. DVPO Process in North Carolina.



¹Permanent DVPOs are usually in effect for 12 months, and the issuing judicial official must specify conditions of the DVPO (e.g. firearms restrictions) at the DVPO hearing.

Table 1. Research Objectives and Corresponding Research Questions

Objective 1: Describe the scope and nature of firearm possession by male defendants in domestic violence protective order cases.	
RQ-1	What percentage of male defendants in domestic violence protective order cases own or possess firearms?
RQ-2	What percentage of male domestic violence protective order defendants have been charged with firearm-related offenses: 4.1 Prior to their partner filing for an <i>ex parte</i> protective order? 4.2 Subsequent to their partner filing for an <i>ex parte</i> protective order?
Objective 2: Describe the experiences of firearm-related violence by female plaintiffs in domestic violence protective order cases, pre- and post-enactment of S.L. 2003-410.	
RQ-3	What proportion of female domestic violence protective order plaintiffs have experienced firearm-related violence by the defendants: 4.1 Prior to filing for the <i>ex parte</i> order? 4.2 Subsequent to filing for the <i>ex parte</i> order ?
RQ-4	Does the likelihood of experiencing firearm-related violence after obtaining an <i>ex parte</i> order decline subsequent to the enactment of S.L. 2003-410, as compared to before enactment?
RQ-5	Does the likelihood of experiencing firearm-related violence after obtaining a permanent domestic violence protective order decline subsequent to the enactment of S.L. 2003-410, as compared to before enactment?
Objective 3: Assess changes in judges' behavior regarding inquiring about firearm possession and including firearm-related prohibitions in domestic violence protective orders pre- and post-enactment of S.L. 2003-410.	
RQ-6	As part of the <i>ex parte</i> process, what percentage of plaintiffs are asked by the judge about their partners' firearm ownership and possession?
RQ-7	As part of the <i>ex parte</i> process, are judges more likely to ask plaintiffs about their partners' firearm possession and ownership subsequent to the enactment of S.L. 2003-410, as compared to before enactment?
RQ-8	What percentage of the <i>ex parte</i> forms are checked to include conditions that prohibit the defendant from: 9.1 possessing a firearm; and 9.2 purchasing a firearm?
RQ-	Are judges more likely to check firearm-related conditions on the <i>ex parte</i> form

9	subsequent to the enactment of S.L. 2003-410, as compared to before enactment?
RQ-10	At the 10-day hearing, what percentage of defendants are asked by a judge about their firearm ownership and possession?
RQ-11	<p>What percentage of the permanent DVPO forms are checked to include conditions that prohibit the defendant from:</p> <p>14.1 possessing a firearm; and</p> <p>14.2 purchasing a firearm?</p>
RQ-12	Are judges more likely to check firearm-related conditions on the permanent DVPO form subsequent to the enactment of S.L. 2003-410, as compared to before enactment.
<p>Objective 4: Assess changes in firearm surrender and confiscation among defendants in domestic violence protective order cases pre- and post-enactment of S.L. 2003-410.</p>	
RQ-13	What proportion of male domestic violence protective order defendants who have been identified by plaintiffs as owning or possessing firearms surrender their firearms?
RQ-14	Does the proportion of male domestic violence protective order defendants who surrender their firearms increase subsequent to the enactment of S.L. 2003-410, as compared to before enactment?

Table 2: Study Data by Sources and County

Data Source	Durham County		Wake County	
	Sample	N	Sample	N
DVPO files	All eligible women 18+ who filed for and received exparte orders between February 2003 and June 2004	731	All eligible women 18+ who filed for and received exparte orders between February 2003 and June 2004 and participated in COPE Time 1 and Time 2 interviews	221
Criminal History	All eligible women 18+ who filed for and received exparte orders between February 2003 and June 2004	730	None	0
COPE Interview	All eligible women 18+ who filed for and received exparte orders between February 2003 and June 2004 and participated in COPE Time 1 and Time 2 interviews	129	All eligible women 18+ who filed for and received exparte orders between February 2003 and June 2004 and participated in COPE Time 1 and Time 2 interviews	221

Note that the criminal history number includes some folks “without” a criminal history; only 1 was “unsearchable” so we don’t know if it is a “no” or “no criminal history”

Table 3. Variable names, operationalization, response options, and data sources.

Variable	Operationalization	Response Options	Data Source
County	County in which plaintiff filed for DVPO	1=Durham 2=Wake	DVPO files
Plaintiff's Age	Age (in years) of the plaintiff at the time she filed for the DVPO	18-24 25-34 35-44 46-54 55-64 65+	DVPO files
Plaintiff's Race	Self-ascribed race of plaintiff	African-American White Other	DVPO files
Spanish Form	Spanish version of DVPO Filing Form used	Yes No	DVPO files
Defendant's Age	Age (in years) of the defendant at the time she filed for the DVPO	18-24 25-34 35-44 46-54 55-64 65+	DVPO files
Defendant's Race	Self-ascribed race of defendant	African-American White Other	DVPO files
Number of Children in Common	Number of children under the age of 18 the plaintiff and defendant have in common	0 1 2 3 or more	DVPO files
Defendant's Criminal Record	Any criminal charges against defendant prior to date of DVPO filing	Yes No	Criminal Background Check
Any Domestic Violence Charges	Any domestic violence criminal charges against defendant	Yes No	Criminal Background Check
Any Firearm/Concealed Weapon Charge	Any firearms-related or concealed weapons charges against defendant	Yes No	Criminal Background Check
Prior to Filing for DVPO	Any date prior to the date that the	Yes	DVPO files

Variable	Operationalization	Response Options	Data Source
	women filed for a domestic violence protective order up until one week before filing	No	
Concurrent with DVPO	Six days prior to filing for the DVPO and the day the ex parte order was issued	Yes No	DVPO files
Subsequent to Receiving Ex Parte order	Any date after the date that the ex parte order went into effect	Yes No	DVPO Files
Pre or Post legislation	Whether event took place before or after the Homicide Prevention Act went into effect	Pre-legislation (before 12/01/03) Post-legislation (on or after 12/03/03)	DVPO files
Any defendant gun possession or access prior to DVPO	Evidence of defendant possessing or having access to firearms prior to filing for the ex parte	Yes No	DVPO files COPE Time 1 Interview COPE Time 2 Interview Cope Time 3 Interview Criminal Records check
Any gun-related IPV prior to DVPO	Any gun-related violence prior to filing for DVPO	Yes No	DVPO files COPE Time 3 Interview Cope Time 4 Interview Criminal Records check
Judge asked about defendant's access to	Any mention of the judge asking about defendant's access to	Yes No	COPE Time 1 Interview

Variable	Operationalization	Response Options	Data Source
firearms	firearms in the during the ex parte process		DVPO files (revised form only)
Judge prohibited defendant's access to firearms on ex parte protective order	Judge checked any firearms prohibitions on the ex parte order form	Yes	DVPO files
Judge prohibited defendant's access to firearms on DVPO	Judge checked any firearms prohibitions on the 12-month protective order	No	DVPO files COPE Time 2 COPE Time 3
Defendant's firearm related charges: prior filing	Indication from background check that defendant arrested or convicted of crime involving firearm in preceding ex parte		Background check DVPO files for date
Defendant's firearm related charges: after filing	Indication from background check that defendant arrested or convicted of crime involving firearm in year after ex parte		Background check DVPO files for date

Table 4. Characteristics of Plaintiffs and Defendants in Ex Parte Domestic Violence Protective Orders, Durham County, NC, n=731

Characteristic	n	(%)
Plaintiff Age ¹		
18 – 24	167	(23)
25 – 34	283	(39)
35 – 44	192	(26)
45 – 54	69	(9)
55 – 64	19	(3)
65+	1	(<1)
Missing	0	
Defendant Age ²		
< 18	2	(<1)
18 – 24	109	(16)
25 – 34	233	(35)
35 – 44	222	(33)
45 – 54	82	(12)
55 – 64	13	(2)
65+	4	(1)
Missing	66	
Plaintiff Race, n=718		
White	180	(25)
Black	476	(66)
Other	62	(9)
Missing	13	
Defendant Race, n=727		
White	156	(21)
Black	508	(70)
Other	63	(9)
Missing	4	
Spanish Form		
Yes	45	(6)
No	686	(94)
Missing	0	
Relationship Status, n=58		
Married	278	(41)
Divorced	31	(5)
Dating	151	(22)
Cohabiting	213	(32)
Missing	58	
Number of Children < 18 in Common, n=722		
0	379	(53)
1	213	(30)
2	87	(12)
3+	43	(6)
Missing	9	

¹All DVPO plaintiffs in this study are female.

²All DVPO defendants in this study are male.

Table 5. Characteristics of Plaintiffs and Defendants in Court Ordered Protection (COPE) Study Orders, by County, n=350

Characteristic	Durham County COPE Study Participants n=129		Wake County COPE Study Participants n=221	
	n	(%)	n	(%)
Plaintiff Age ¹				
18 – 24	24	(18)	42	(19)
25 – 34	45	(35)	87	(39)
35 – 44	42	(33)	66	(30)
45 – 54	12	(9)	24	(11)
55 – 64	6	(5)	2	(1)
65+	0	(0)	0	(0)
Defendant Age ²				
< 18	0	(0)	0	(0)
18 – 24	16	(14)	27	(13)
25 – 34	35	(30)	75	(37)
35 – 44	39	(34)	72	(36)
45 – 54	20	(17)	25	(12)
55 – 64	4	(3)	3	(1)
65+	1	(1)	0	(0)
Plaintiff Race ³				
White	35	(28)	96	(44)
Black	88	(70)	114	(52)
Other	3	(2)	8	(4)
Defendant Race ⁴				
White	26	(20)	83	(37)
Black	100	(78)	132	(60)
Other	3	(2)	6	(3)
Spanish Form				
Yes	0	(0)	0	(0)
No	129	(100)	221	(100)
Relationship Status				
Married	40	(36)	81	(40)
Divorced	8	(7)	13	(6)
Dating	26	(23)	40	(20)
Cohabiting	38	(34)	70	(34)
Number of Common Children < 18				
0	68	(53)	92	(49)
1	34	(27)	56	(30)
2	17	(13)	26	(14)
3+	9	(7)	13	(7)

Table 6. “Conclusions of Law”¹ noted on Ex Parte Domestic Violence Protective Orders Issued, Durham County, NC, n=731

IPV Experience Checked on Ex Parte Orders²	n	(%)
<i>All Ex Parte Forms (N=731)</i>		
Defendant committed DV acts against plaintiff	535	(73)
Danger of DV (future) acts of domestic violence against plaintiff	584	(80)
Defendant DV acts against minor children residing with plaintiff	58	(8)
Any risk of DV acts against minor children ³	98	(13)
<i>Revised Ex parte (12/03) Forms (N=209)</i>		
Threats to injure or kill plaintiff	53	(25)
Defendant threatened to use deadly weapon against plaintiff	26	(12)
Defendant threatened to use deadly weapon against minor children residing with plaintiff	4	(2)
Threats to injure or kill minor children living with plaintiff	5	(2)
Pattern of prior conduct – use of firearm	8	(4)
Pattern of prior conduct – threatened to use firearm	7	(3)
Threats to commit suicide	22	(11)

¹ Checked on Ex Parte Domestic Violence Protective Order and Notice to Parties (AOC-CV-04, Rev. 11/02, 12/03).

² Experiences not mutually exclusive.

³ Any risk of DV acts against minor children combines: risk to children of bodily injury, risk to children of sexual abuse, and danger of DV acts against minor children

Table 7. Criminal Charges of Defendants in Ex Parte Domestic Violence Protective Orders, n=731

Type of Criminal Charges Noted	Prior to Filing for DVPO ¹		Concurrent with Filing for DVPO ²		Subsequent to Ex Parte Order ³	
	n	(%)	n	(%)	n	(%)
None	359	(49)	642	(88)	532	(73)
Any Domestic Violence Charges ⁴	363	(50)	86	(12)	185	(25)
Assault on Female	330	(45)	78	(11)	121	(17)
DVPO Violation	120	(16)	1	(<1)	89	(12)
Stalking	2	(<1)	2	(<1)	6	(1)
Other	42	(6)	5	(1)	27	(4)
Any Firearm-Related / Concealed Weapon Charge	117	(16)	2	(<1)	30	(4)

¹Charge occurred any time within seven days prior to DVPO filing.

²Six days preceding DVPO filing and day of DVPO filing.

³Any time subsequent to DVPO filing.

⁴Domestic violence charges are not mutually exclusive.

Table 8. Domestic Violence Protective Order Dispositions by Data Source and County

DVPO Disposition	Durham County All Participants (n=731)		Durham County COPE Participants¹ (n=129)		Wake County COPE Participants (n=221)	
	n	(%)	n	%	n	%
Granted	366	(50)	67	(52)	132	(60)
Denied	82	(11)	14	(11)	9	(4)
Involuntarily Dismissed²	223	(31)	39	(30)	62	(29)
Voluntarily Dismissed³	52	(7)	8	(6)	15	(7)
Not Enough Information	8	(1)	1	(1)	1	(<1)

¹ ‘Durham County COPE Participants’ are a subset of ‘All Durham County’ cases.

² DVPO was dismissed, but not at the request of plaintiff (usually because plaintiff was not present at hearing).

³ DVPO dismissed at request of the plaintiff.

Table 9. Judges' Behavior Restricting Access to Firearms by DVPO Defendants, Pre and Post-S.L. 2003-410.

	Noted in Ex Parte Order n=731					Noted in 12-Month DVPO ² n=366				
	Pre-Legislation n=460		Post-Legislation n=271		p-value ³	Pre-Legislation n=227		Post-Legislation n=139		p-value ³
Restriction Noted	n	(%)	n	(%)		n	(%)	n	(%)	
<i>Any</i> notation that restricts access to firearms marked as condition of order	412	(90)	255	(94)	.0363	204	(90)	127	(91)	.6360
Restriction on owning or receiving firearms noted in order	406	(88)	251	(93)	.0591	202	(89)	124	(89)	.9474
Restriction on purchasing firearm noted in order	403	(88)	247	(91)	.1414	199	(88)	124	(89)	.6563
Defendant's concealed handgun permit revoked noted in order	38	(8)	77	(28)	<.0001	183	(81)	104	(75)	.1908
Defendant must surrender firearms to sheriff noted in order ¹	na	na	84	(40)	na	na	na	33	(35)	na

¹Data on surrendering firearm to sheriff was not collected on DVPO forms prior to 12/03.

² Includes only the cases in which the plaintiff was granted a permanent DVPO at the DVPO hearing (n=366).

³Statistical significance at the .05 level indicated in bold font.

Table 10. Adjusted Model for Predicting the Judge NOT restricting access to firearms on Ex Parte Domestic Violence Protective Order, n = 593. ¹

Variable	Adjusted Odds Ratio ²	95% CI	P-Value
Filed Pre Legislation	2.44	(1.12-5.34)	.0251
Plaintiff Age, in 10 years	1.19	(.73-1.91)	.479
Plaintiff Race			
White	Referent		
Black	.70	(.18-2.77)	.615
Other	.46	(.08-2.75)	.395
Defendant Age, in 10 years	1.28	(.80-2.06)	.307
Defendant Race			
White	Referent		
Black	1.11	(.26-4.65)	.887
Other	2.18	(.41-11.76)	.364
Kids in Common	.99	(.50-1.99)	.987
Married	.65	(.32-1.30)	.221
Evidence that Defendant had Access to Firearms	1.08	(.55-2.13)	.815
Defendant had Previous IPV Criminal Charges	.82	.43-1.55	.532

¹138 deleted observations due to missing values for one or more variable in the model.

²Statistical significance at the .05 level indicated in bold font.

³Hosmer and Lemeshow Goodness of fit test $\chi^2=8.26$ df=8 p=.408

Table 11. Adjusted Model for Predicting the Judge NOT restricting access to firearms on DVPO, n = 304.¹

Variable	Adjusted Odds Ratio ²	95% CI	P-Value
Filed Pre Legislation	1.05	(.46-2.40)	.905
Plaintiff Age, in 10 years	1.11	(.60-2.05)	.749
Plaintiff Race			
White	Referent		
Black	.94	(.14-6.13)	.947
Other	1.15	(.16-8.23)	.889
Defendant Age, in 10 years	1.33	(.72-2.44)	.360
Defendant Race			
White	Referent		
Black	.52	(.08-3.54)	.505
Other	.48	(.05-4.33)	.509
Kids	2.41	(.99-5.85)	.052
Married	.83	(.35-1.96)	.676
Evidence that Defendant had Access to Firearms	.77	(.34-1.77)	.542
No Restrictions on Firearms Noted on Ex Parte Order	8.71	(2.74-27.67)	.0002
	1.50	.66-3.41	.335

¹64 deleted observations due to missing values for one or more variable in the model

²Statistical significance at the .05 level indicated in bold font.

³Hosmer and Lemeshow Goodness of Fit test $\chi^2=8.25$; $df=8$ $p=.4071$

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LIST OF APPENDICES

Appendix A: Homicide Prevention Act Legislation

Appendix B: Chapter 50-B

Appendix C: Institutional Review Board Application and Approval

Appendix D: DVPO Forms

Appendix E: Description of Court Ordered Protection Evaluation (COPE) Study

Appendix A:

HPA Legislation

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

SESSION LAW 2003-410
SENATE BILL 919

AN ACT TO ENHANCE THE SAFETY OF VICTIMS IN SERIOUS DOMESTIC
VIOLENCE CASES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 50B of the General Statutes is amended by adding a new section to read:

"§ 50B-3.1. Surrender and disposal of firearms; violations; exemptions.

(a) Required Surrender of Firearms. – Upon issuance of an emergency or ex parte order pursuant to this Chapter, the court shall 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 if the court finds any of the following factors:

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

(b) Ex Parte or Emergency Hearing. – The court shall inquire of the plaintiff, at the ex parte or emergency hearing, the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(c) Ten-Day Hearing. – The court, at the 10-day hearing, shall inquire of the defendant the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(d) Surrender. – Upon service of the order, the defendant shall immediately surrender to the sheriff possession of 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. In the event that weapons cannot be surrendered at the time the order is served, the defendant shall surrender the firearms, ammunitions, and permits to the sheriff within 24 hours of service at a time and place specified by the sheriff. The sheriff shall store the firearms or contract with a licensed firearms dealer to provide storage.

- (1) If the court orders the defendant to surrender firearms, ammunition, and permits, the court shall inform the plaintiff and the defendant of the terms of the protective order and include these terms on the face of the 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. The terms of the order shall include instructions as to how the defendant may request retrieval of any firearms, ammunition, and permits surrendered to the sheriff when the protective order is no longer in effect. The terms shall also include notice of the penalty for violation of G.S. 14-269.8.

- (2) The sheriff may charge the defendant a reasonable fee for the storage of any firearms and ammunition taken pursuant to a protective order. The fees are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer. The fees shall be used by the sheriff to pay the costs of administering this section and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only. The sheriff shall not release firearms, ammunition, or permits without a court order granting the release. The defendant must remit all fees owed prior to the authorized return of any firearms, ammunition, or permits. The sheriff shall not incur any civil or criminal liability for alleged damage or deterioration due to storage or transportation of any firearms or ammunition held pursuant to this section.

(e) Retrieval. – If the court does not enter a protective order when the ex parte or emergency order expires, the defendant may retrieve any weapons surrendered to the sheriff unless the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law.

(f) Motion for Return. – The defendant may request the return of any firearms, ammunition, or permits surrendered by filing a motion with the court at the expiration of the current order and not later than 90 days after the expiration of the current order. Upon receipt of the motion, the court shall schedule a hearing and provide written notice to the plaintiff who shall have the right to appear and be heard and to the sheriff who has control of the firearms, ammunition, or permits. The court shall determine whether the defendant is subject to any State or federal law or court order that precludes the defendant from owning or possessing a firearm. The inquiry shall include:

- (1) Whether the protective order has been renewed;
- (2) Whether the defendant is subject to any other protective orders; or
- (3) Whether the defendant is disqualified from owning or possessing a firearm pursuant to 18 U.S.C. § 922 or any State law.

The court shall deny the return of firearms, ammunition, or permits if the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law.

(g) Motion for Return by Third-Party Owner. – A third-party owner of firearms, ammunition, or permits who is otherwise eligible to possess such items may file a motion requesting the return to said third party of any such items in the possession of the sheriff seized as a result of the entry of a domestic violence protective order. The motion must be filed not later than 30 days after the seizure of the items by the sheriff. Upon receipt of the third party's motion, the court shall schedule a hearing and provide written notice to all parties and the sheriff. The court shall order return of the items to the third party unless the court determines that the third party is disqualified from owning or possessing said items pursuant to State or federal law. If the court denies the return of said items to the third party, the items shall be disposed of by the sheriff as provided in subsection (h) of this section.

(h) Disposal of Firearms. – If the defendant does not file a motion requesting the return of any firearms, ammunition, or permits surrendered within the time period prescribed by this section, if the court determines that the defendant is precluded from regaining possession of any firearms, ammunition, or permits surrendered, or if the defendant or third-party owner fails to remit all fees owed for the storage of the firearms or ammunition within 30 days of the entry of the order granting the return of the firearms, ammunition, or permits, the sheriff who has control of the firearms,

ammunition, or permits shall give notice to the defendant, and the sheriff shall apply to the court for an order of disposition of the firearms, ammunition, or permits. The judge, after a hearing, may order the disposition of the firearms, ammunition, or permits in one or more of the ways authorized by subdivision (4), (4a), (5), or (6) of G.S. 14-269.1. If a sale by the sheriff does occur, any proceeds from the sale after deducting any costs associated with the sale, and in accordance with all applicable State and federal law, shall be provided to the defendant, if requested by the defendant by motion made before the hearing or at the hearing and if ordered by the judge.

(i) It is unlawful for any person subject to a protective order prohibiting the possession or purchase of firearms to:

- (1) Fail to surrender all firearms, ammunition, permits to purchase firearms, and permits to carry concealed firearms to the sheriff as ordered by the court;
- (2) Fail to disclose all information pertaining to the possession of firearms, ammunition, and permits to purchase and permits to carry concealed firearms as requested by the court; or
- (3) Provide false information to the court pertaining to any of these items.

(j) Violations. – In accordance with G.S. 14-269.8, it is unlawful for any person to own, possess, purchase, or receive or attempt to own, possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to this Chapter is in effect. Any defendant violating the provisions of this section shall be guilty of a Class H felony.

(k) Official Use Exemption. – This section shall not prohibit law enforcement officers and members of any branch of the United States armed forces, not otherwise prohibited under federal law, from possessing or using firearms for official use only.

(l) Nothing in this section is intended to limit the discretion of the court in granting additional relief as provided in other sections of this Chapter."

SECTION 2. G.S. 14-269.8 reads as rewritten:

"§ 14-269.8. Purchase or possession of firearms by person subject to domestic violence order prohibited.

(a) ~~It~~In accordance with G.S. 50B-3.1, it is unlawful for any person to purchase or attempt to purchase any gun, rifle, pistol, or other firearm while there remains in force and effect a domestic violence order issued pursuant to Chapter 50B of the General Statutes, prohibiting the person from purchasing a firearm. own, possess, purchase, or receive or attempt to own, possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to Chapter 50B of the General Statutes is in effect.

(b) Any person violating the provisions of this section shall be guilty of a Class H felony."

SECTION 3. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 10:40 a.m. this 13th day of August, 2003

Appendix B:

North Carolina General Statutes, Chapter 50-B: Domestic Violence

Chapter 50B.

Domestic Violence.

§ 50B-1. Domestic violence; definition.

(a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
- (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3, that rises to such a level as to inflict substantial emotional distress; or
- (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

(b) For purposes of this section, the term "personal relationship" means a relationship wherein the parties involved:

- (1) Are current or former spouses;
- (2) Are persons of opposite sex who live together or have lived together;
- (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;
- (4) Have a child in common;
- (5) Are current or former household members;
- (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

(c) As used in this Chapter, the term "protective order" includes any order entered pursuant to this Chapter upon hearing by the court or consent of the parties. (1979, c. 561, s. 1; 1985, c. 113, s. 1; 1987, c. 828; 1987 (Reg. Sess., 1988), c. 893, ss. 1, 3; 1995 (Reg. Sess., 1996), c. 591, s. 1; 1997-471, s. 1; 2001-518, s. 3; 2003-107, s. 1.)

§ 50B-2. Institution of civil action; motion for emergency relief; temporary orders; temporary custody.

(a) Any person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed pro se, without the assistance

of legal counsel. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter. No court costs shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena in compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5.

(b) Emergency Relief. – A party may move the court for emergency relief if he or she believes there is a danger of serious and immediate injury to himself or herself or a minor child. A hearing on a motion for emergency relief, where no ex parte order is entered, shall be held after five days' notice of the hearing to the other party or after five days from the date of service of process on the other party, whichever occurs first, provided, however, that no hearing shall be required if the service of process is not completed on the other party. If the party is proceeding pro se and does not request an ex parte hearing, the clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c) Ex Parte Orders. – Prior to the hearing, if it clearly appears to the court from specific facts shown, that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the court may enter orders as it deems necessary to protect the aggrieved party or minor children from those acts provided, however, that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the court finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse. If the court finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the court 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 court finds that the order is in the best interest of the minor child and is necessary for the safety of the minor child. If the court determines that it is in the best interest of the minor child for the other party to have contact with the minor child or children, the court shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party 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, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party. Upon the issuance of an ex parte order under this subsection, a hearing shall be held within 10 days from the date of issuance of the order or within seven days from the date of service of process on the other party, whichever occurs later. If an aggrieved party acting pro se requests ex parte relief, the clerk of superior court shall schedule an ex parte hearing with the district court division of the General Court of Justice within 72 hours of the filing for said relief, or by the end of the next day on which the district court is in session in the county in which the action was filed, whichever shall first occur. If the district court is not in session in said county, the aggrieved party may contact the clerk of superior court

in any other county within the same judicial district who shall schedule an ex parte hearing with the district court division of the General Court of Justice by the end of the next day on which said court division is in session in that county. Upon the issuance of an ex parte order under this subsection, if the party is proceeding pro se, the Clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, order and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex parte the district court is not in session and a district court judge is not and will not be available to hear the motion for a period of four or more hours, the motion may be heard by the magistrate. 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 a minor child, the magistrate may enter orders as it deems necessary to protect the aggrieved party or minor children from those acts, except 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. If the magistrate finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, 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 is necessary for the safety of the minor child. If the magistrate determines that it is in the best interest of the minor child for the other party to have contact with the minor child or children, the magistrate shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party 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, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party. An ex parte order entered under this subsection shall expire and the magistrate shall schedule an ex parte hearing before a district court judge by the end of the next day on which the district court is in session in the county in which the action was filed. Ex parte orders entered by the district court judge pursuant to this subsection shall be entered and scheduled in accordance with subsection (c) of this section.

(c2) The authority granted to authorized magistrates to award temporary child custody pursuant to subsection (c1) of this section and pursuant to G.S. 50B-3(a)(4) is granted subject to custody rules to be established by the supervising chief district judge of each judicial district.

(d) Pro Se Forms. – The clerk of superior court of each county shall provide to pro se complainants all forms that are necessary or appropriate to enable them to proceed pro

se pursuant to this section. The clerk shall, whenever feasible, provide a private area for complainants to fill out forms and make inquiries. The clerk shall provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section. (1979, c. 561, s. 1; 1985, c. 113, ss. 2, 3; 1987 (Reg. Sess., 1988), c. 893, s. 2; 1989, c. 461, s. 1; 1994, Ex. Sess., c. 4, s. 1; 1997-471, s. 2; 2001-518, s. 4; 2002-126, s. 29A.6(a); 2004-186, ss. 17.2, 19.1.)

§ 50B-3. Relief.

(a) If the court, including magistrates as authorized under G.S. 50B-2(c1), finds that an act of domestic violence has occurred, the court shall grant a protective order restraining the defendant from further acts of domestic violence. A protective order may include any of the following types of relief:

- (1) Direct a party to refrain from such acts.
- (2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household.
- (3) Require a party to provide a spouse and his or her children suitable alternate housing.
- (4) Award temporary custody of minor children and establish temporary visitation rights pursuant to G.S. 50B-2 if the order is granted ex parte, and pursuant to subsection (a1) of this section if the order is granted after notice or service of process.
- (5) Order the eviction of a party from the residence or household and assistance to the victim in returning to it.
- (6) Order either party to make payments for the support of a minor child as required by law.
- (7) Order either party to make payments for the support of a spouse as required by law.
- (8) Provide for possession of personal property of the parties.
- (9) Order a party to refrain from doing any or all of the following:
 - a. Threatening, abusing, or following the other party.
 - b. Harassing the other party, including by telephone, visiting the home or workplace, or other means.
 - c. Otherwise interfering with the other party.
- (10) Award attorney's fees to either party.
- (11) Prohibit a party from purchasing a firearm for a time fixed in the order.
- (12) 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.
- (13) Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child.

(a1) Upon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish temporary visitation rights as follows:

- (1) In awarding custody or visitation rights, the court shall base its decision on the best interest of the minor child with particular consideration given to the safety of the minor child.
- (2) For purposes of determining custody and visitation issues, the court shall consider:
 - a. Whether the minor child was exposed to a substantial risk of physical or emotional injury or sexual abuse.
 - b. Whether the minor child was present during acts of domestic violence.
 - c. Whether a weapon was used or threatened to be used during any act of domestic violence.
 - d. Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the minor child.
 - e. Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury.
 - f. Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.
 - g. Whether there is a pattern of abuse against an aggrieved party or the minor child.
 - h. Whether a party has abused or endangered the minor child during visitation.
 - i. Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.
 - j. Whether a party has improperly concealed or detained the minor child.
 - k. Whether a party has otherwise acted in a manner that is not in the best interest of the minor child.
- (3) If the court awards custody, the court shall also consider whether visitation is in the best interest of the minor child. If ordering visitation, the court shall provide for the safety and well-being of the minor child and the safety of the aggrieved party. The court may consider any of the following:
 - a. Ordering an exchange of the minor child to occur in a protected setting or in the presence of an appropriate third party.
 - b. Ordering visitation supervised by an appropriate third party, or at a supervised visitation center or other approved agency.
 - c. Ordering the noncustodial parent to attend and complete, to the satisfaction of the court, an abuser treatment program as a condition of visitation.
 - d. 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.

- e. Ordering the noncustodial parent to pay the costs of supervised visitation.
- f. Prohibiting overnight visitation.
- g. Requiring a bond from the noncustodial parent for the return and safety of the minor child.
- h. Ordering an investigation or appointment of a guardian ad litem or attorney for the minor child.
- i. 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.

If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. 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.

- (4) A temporary custody order entered pursuant to this Chapter shall be without prejudice and shall be for a fixed period of time not to exceed one year. Nothing in this section shall be construed to affect the right of the parties to a de novo hearing under Chapter 50 of the General Statutes. Any subsequent custody order entered under Chapter 50 of the General Statutes supersedes a temporary order issued pursuant to this Chapter.

(b) Protective orders entered pursuant to this Chapter shall be for a fixed period of time not to exceed one year. The court may renew a protective order for a fixed period of time not to exceed two years, including an order that previously has been renewed, upon a motion by the aggrieved party filed before the expiration of the current order; provided, however, that a temporary award of custody entered as part of a protective order may not be renewed to extend a temporary award of custody beyond the maximum one-year period. The court may renew a protective order for good cause. The commission of an act as defined in G.S. 50B-1(a) by the defendant after entry of the current order is not required for an order to be renewed. Protective orders entered, including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved.

(c) A copy of any order entered and filed under this Article shall be issued to each party. In addition, a copy of the order shall be issued promptly to and retained by the police department of the city of the victim's residence. If the victim does not reside in a city or resides in a city with no police department, copies shall be issued promptly to and retained by the sheriff, and the county police department, if any, of the county in which the victim resides. If the defendant is ordered to stay away from the child's school, a copy of the order shall be delivered promptly by the sheriff to the principal or, in the principal's

absence, the assistant principal or the principal's designee of each school named in the order.

(c1) When a protective order issued under this Chapter is filed with the Clerk of Superior Court, the clerk shall provide to the applicant an informational sheet developed by the Administrative Office of the Courts that explains the plaintiff's right to apply for a permit under G.S. 14-415.15.

(d) The sheriff of the county where a domestic violence order is entered shall provide for prompt entry of the order into the National Crime Information Center registry and shall provide for access of such orders to magistrates on a 24-hour-a-day basis. Modifications, terminations, renewals, and dismissals of the order shall also be promptly entered. (1979, c. 561, s. 1; 1985, c. 463; 1994, Ex. Sess., c. 4, s. 2; 1995, c. 527, s. 1; 1995 (Reg. Sess., 1996), c. 591, s. 2; c. 742, s. 42.1.; 1999-23, s. 1; 2000-125, s. 9; 2002-105, s. 2; 2002-126, s. 29A.6(b); 2003-107, s. 2; 2004-186, ss. 17.3-17.5; 2005-343, s. 2; 2005-423, s. 1.)

§ 50B-3.1. Surrender and disposal of firearms; violations; exemptions.

(a) Required Surrender of Firearms. – Upon issuance of an emergency or ex parte order pursuant to this Chapter, the court shall 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 if the court finds any of the following factors:

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

(b) Ex Parte or Emergency Hearing. – The court shall inquire of the plaintiff, at the ex parte or emergency hearing, the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(c) Ten-Day Hearing. – The court, at the 10-day hearing, shall inquire of the defendant the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(d) Surrender. – Upon service of the order, the defendant shall immediately surrender to the sheriff possession of 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. In the event that weapons cannot be surrendered at the time the order is served, the defendant shall surrender the firearms, ammunitions, and permits to the sheriff within 24 hours of service at a time and place specified by the sheriff. The sheriff shall store the firearms or contract with a licensed firearms dealer to provide storage.

- (1) If the court orders the defendant to surrender firearms, ammunition, and permits, the court shall inform the plaintiff and the defendant of the terms of the protective order and include these terms on the face of the 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. The terms of the order shall include instructions as to how the defendant may request retrieval of any firearms, ammunition, and permits surrendered to the sheriff when the protective order is no longer in effect. The terms shall also include notice of the penalty for violation of G.S. 14-269.8.
- (2) The sheriff may charge the defendant a reasonable fee for the storage of any firearms and ammunition taken pursuant to a protective order. The fees are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer. The fees shall be used by the sheriff to pay the costs of administering this section and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only. The sheriff shall not release firearms, ammunition, or permits without a court order granting the release. The defendant must remit all fees owed prior to the authorized return of any firearms, ammunition, or permits. The sheriff shall not incur any civil or criminal liability for alleged damage or deterioration due to storage or transportation of any firearms or ammunition held pursuant to this section.

(e) Retrieval. – If the court does not enter a protective order when the ex parte or emergency order expires, the defendant may retrieve any weapons surrendered to the sheriff unless the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order.

(f) Motion for Return. – The defendant may request the return of any firearms, ammunition, or permits surrendered by filing a motion with the court at the expiration of the current order or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order and not later than 90 days after the expiration of the current order or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order. Upon receipt of the motion, the court shall schedule a hearing and provide written notice to the plaintiff who shall have the right to appear and be heard and to the sheriff who has control of the firearms, ammunition, or permits. The court shall determine whether the

defendant is subject to any State or federal law or court order that precludes the defendant from owning or possessing a firearm. The inquiry shall include:

- (1) Whether the protective order has been renewed.
- (2) Whether the defendant is subject to any other protective orders.
- (3) Whether the defendant is disqualified from owning or possessing a firearm pursuant to 18 U.S.C. § 922 or any State law.
- (4) Whether the defendant has any pending criminal charges, in either State or federal court, committed against the person that is the subject of the current protective order.

The court shall deny the return of firearms, ammunition, or permits if the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law or if the defendant has any pending criminal charges, in either State or federal court, committed against the person that is the subject of the current protective order until the final disposition of those charges.

(g) Motion for Return by Third-Party Owner. – A third-party owner of firearms, ammunition, or permits who is otherwise eligible to possess such items may file a motion requesting the return to said third party of any such items in the possession of the sheriff seized as a result of the entry of a domestic violence protective order. The motion must be filed not later than 30 days after the seizure of the items by the sheriff. Upon receipt of the third party's motion, the court shall schedule a hearing and provide written notice to all parties and the sheriff. The court shall order return of the items to the third party unless the court determines that the third party is disqualified from owning or possessing said items pursuant to State or federal law. If the court denies the return of said items to the third party, the items shall be disposed of by the sheriff as provided in subsection (h) of this section.

(h) Disposal of Firearms. – If the defendant does not file a motion requesting the return of any firearms, ammunition, or permits surrendered within the time period prescribed by this section, if the court determines that the defendant is precluded from regaining possession of any firearms, ammunition, or permits surrendered, or if the defendant or third-party owner fails to remit all fees owed for the storage of the firearms or ammunition within 30 days of the entry of the order granting the return of the firearms, ammunition, or permits, the sheriff who has control of the firearms, ammunition, or permits shall give notice to the defendant, and the sheriff shall apply to the court for an order of disposition of the firearms, ammunition, or permits. The judge, after a hearing, may order the disposition of the firearms, ammunition, or permits in one or more of the ways authorized by law, including subdivision (4), (4b), (5), or (6) of G.S. 14-269.1. If a sale by the sheriff does occur, any proceeds from the sale after deducting any costs associated with the sale, and in accordance with all applicable State and federal law, shall be provided to the defendant, if requested by the defendant by motion made before the hearing or at the hearing and if ordered by the judge.

(i) It is unlawful for any person subject to a protective order prohibiting the possession or purchase of firearms to:

- (1) Fail to surrender all firearms, ammunition, permits to purchase firearms, and permits to carry concealed firearms to the sheriff as ordered by the court;
- (2) Fail to disclose all information pertaining to the possession of firearms, ammunition, and permits to purchase and permits to carry concealed firearms as requested by the court; or
- (3) Provide false information to the court pertaining to any of these items.

(j) **Violations.** – In accordance with G.S. 14-269.8, it is unlawful for any person to own, possess, purchase, or receive or attempt to own, possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to this Chapter is in effect. Any defendant violating the provisions of this section shall be guilty of a Class H felony.

(k) **Official Use Exemption.** – This section shall not prohibit law enforcement officers and members of any branch of the United States armed forces, not otherwise prohibited under federal law, from possessing or using firearms for official use only.

(l) Nothing in this section is intended to limit the discretion of the court in granting additional relief as provided in other sections of this Chapter. (2003-410, s. 1; 2004-203, s. 34(a); 2005-287, s. 4; 2005-423, ss. 2, 3.)

§ 50B-4. Enforcement of orders.

(a) A party may file a motion for contempt for violation of any order entered pursuant to this Chapter. This party may file and proceed with that motion pro se, using forms provided by the clerk of superior court or a magistrate authorized under G.S. 50B-2(c1). Upon the filing pro se of a motion for contempt under this subsection, the clerk, or the authorized magistrate, if the facts show clearly that there is danger of acts of domestic violence against the aggrieved party or a minor child and the motion is made at a time when the clerk is not available, shall schedule and issue notice of a show cause hearing with the district court division of the General Court of Justice at the earliest possible date pursuant to G.S. 5A-23. The Clerk, or the magistrate in the case of notice issued by the magistrate pursuant to this subsection, shall effect service of the motion, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served.

(b) Repealed by Session Laws 1999-23, s. 2, effective February 1, 2000.

(c) A valid protective order entered pursuant to this Chapter shall be enforced by all North Carolina law enforcement agencies without further order of the court.

(d) A valid protective order entered by the courts of another state or the courts of an Indian tribe shall be accorded full faith and credit by the courts of North Carolina whether or not the order has been registered and shall be enforced by the courts and the law enforcement agencies of North Carolina as if it were an order issued by a North Carolina court. In determining the validity of an out-of-state order for purposes of enforcement, a law enforcement officer may rely upon a copy of the protective order

issued by another state or the courts of an Indian tribe that is provided to the officer and on the statement of a person protected by the order that the order remains in effect. Even though registration is not required, a copy of a protective order may be registered in North Carolina by filing with the clerk of superior court in any county a copy of the order and an affidavit by a person protected by the order that to the best of that person's knowledge the order is presently in effect as written. Notice of the registration shall not be given to the defendant. Upon registration of the order, the clerk shall promptly forward a copy to the sheriff of that county. Unless the issuing state has already entered the order, the sheriff shall provide for prompt entry of the order into the National Crime Information Center registry pursuant to G.S. 50B-3(d).

(e) Upon application or motion by a party to the court, the court shall determine whether an out-of-state order remains in full force and effect. (1979, c. 561, s. 1; 1985, c. 113, s. 4; 1987, c. 739, s. 6; 1989, c. 461, s. 2; 1994, Ex. Sess., c. 4, s. 3; 1995 (Reg. Sess., 1996), c. 591, s. 3; 1999-23, s. 2; 2002-126, s. 29A.6(c); 2003-107, s. 3.)

§ 50B-4.1. Violation of valid protective order.

(a) Except as otherwise provided by law, a person who knowingly violates a valid protective order entered pursuant to this Chapter or who knowingly violates a valid protective order entered by the courts of another state or the courts of an Indian tribe shall be guilty of a Class A1 misdemeanor.

(b) A law enforcement officer shall arrest and take a person into custody without a warrant or other process if the officer has probable cause to believe that the person knowingly has violated a valid protective order excluding the person from the residence or household occupied by a victim of domestic violence or directing the person to refrain from doing any or all of the acts specified in G.S. 50B-3(a)(9).

(c) When a law enforcement officer makes an arrest under this section without a warrant, and the party arrested contests that the out-of-state order or the order issued by an Indian court remains in full force and effect, the party arrested shall be promptly provided with a copy of the information applicable to the party which appears on the National Crime Information Center registry by the sheriff of the county in which the arrest occurs.

(d) Unless covered under some other provision of law providing greater punishment, a person who commits a felony at a time when the person knows the behavior is prohibited by a valid protective order as provided in subsection (a) of this section shall be guilty of a felony one class higher than the principal felony described in the charging document. This subsection shall not apply to a person who is charged with or convicted of a Class A or B1 felony or to a person charged under subsection (f) of this section.

(e) An indictment or information that charges a person with committing felonious conduct as described in subsection (d) of this section shall also allege that the person knowingly violated a valid protective order as described in subsection (a) of this section in the course of the conduct constituting the underlying felony. In order for a person to be punished as described in subsection (d) of this section, a finding shall be made that the

person knowingly violated the protective order in the course of conduct constituting the underlying felony.

(f) Unless covered under some other provision of law providing greater punishment, any person who knowingly violates a valid protective order as provided in subsection (a) of this section, after having been previously convicted of three offenses under this Chapter, shall be guilty of a Class H felony. (1997-471, s. 3; 1997-456, s. 27; 1999-23, s. 4; 2001-518, s. 5.)

§ 50B-4.2. False statement regarding protective order a misdemeanor.

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. (1999-23, s. 5.)

§ 50B-5. Emergency assistance.

(a) A person who alleges that he or she or a minor child has been the victim of domestic violence may request the assistance of a local law enforcement agency. The local law enforcement agency shall respond to the request for assistance as soon as practicable. The local law enforcement officer responding to the request for assistance may take whatever steps are reasonably necessary to protect the complainant from harm and may advise the complainant of sources of shelter, medical care, counseling and other services. Upon request by the complainant and where feasible, the law enforcement officer may transport the complainant to appropriate facilities such as hospitals, magistrates' offices, or public or private facilities for shelter and accompany the complainant to his or her residence, within the jurisdiction in which the request for assistance was made, so that the complainant may remove food, clothing, medication and such other personal property as is reasonably necessary to enable the complainant and any minor children who are presently in the care of the complainant to remain elsewhere pending further proceedings.

(b) In providing the assistance authorized by subsection (a), no officer may be held criminally or civilly liable on account of reasonable measures taken under authority of subsection (a). (1979, c. 561, s. 1; 1985, c. 113, s. 5; 1999-23, s. 6.)

§ 50B-5.5. Employment discrimination unlawful.

(a) No employer shall discharge, demote, deny a promotion, or discipline an employee because the employee took reasonable time off from work to obtain or attempt to obtain relief under this Chapter. An employee who is absent from the workplace shall follow the employer's usual time-off policy or procedure, including advance notice to the employer, when required by the employer's usual procedures, unless an emergency prevents the employee from doing so. An employer may require documentation of any emergency that prevented the employee from complying in advance with the employer's usual time-off policy or procedure, or any other information available to the employee which supports the employee's reason for being absent from the workplace.

(b) The Commissioner of Labor shall enforce the provisions of this section according to Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued pursuant to the Article. (2004-186, s. 18.1.)

§ 50B-6. Construction of Chapter.

This Chapter shall not be construed as granting a status to any person for any purpose other than those expressly stated herein. This Chapter shall not be construed as relieving any person or institution of the duty to report to the department of social services, as required by G.S. 7B-301, if the person or institution has cause to suspect that a juvenile is abused or neglected. (1979, c. 561, s. 1; 1985, c. 113, s. 6; 1998-202, s. 13(r).)

§ 50B-7. Remedies not exclusive.

The remedies provided by this Chapter are not exclusive but are additional to remedies provided under Chapter 50 and elsewhere in the General Statutes. (1979, c. 561, s. 1.)

§ 50B-8. Effect upon prosecution for violation of § 14-184 or other offense against public morals.

The granting of a protective order, prosecution for violation of this Chapter, or the granting of any other relief or the institution of any other enforcement proceedings under this Chapter shall not be construed to afford a defense to any person or persons charged with fornication and adultery under G.S. 14-184 or charged with any other offense against the public morals; and prosecution, conviction, or prosecution and conviction for violation of any provision of this Chapter shall not be a bar to prosecution for violation of G.S. 14-184 or of any other statute defining an offense or offenses against the public morals. (1979, c. 561, s. 1; 2003-107, s. 4.)

§ 50B-9. Domestic Violence Center Fund.

The Domestic Violence Center Fund is established within the State Treasury. The fund shall be administered by the Department of Administration, North Carolina Council for Women, and shall be used to make grants to centers for victims of domestic violence and to The North Carolina Coalition Against Domestic Violence, Inc. This fund shall be administered in accordance with the provisions of the Executive Budget Act. The Department of Administration shall make quarterly grants to each eligible domestic violence center and to The North Carolina Coalition Against Domestic Violence, Inc. Each grant recipient shall receive the same amount. To be eligible to receive funds under this section, a domestic violence center must meet the following requirements:

- (1) It shall have been in operation on the preceding July 1 and shall continue to be in operation.
- (2) It shall offer all of the following services: a hotline, transportation services, community education programs, daytime services, and call forwarding during the night and it shall fulfill other criteria established by the Department of Administration.

- (3) It shall be a nonprofit corporation or a local governmental entity. (1991, c. 693, s. 3; 1991 (Reg. Sess., 1992), c. 988, s. 1.)

Appendix C:

Institutional Review Board Application and Approval

Submission for Initial IRB Review

Name of Project:	Preventing Firearm Violence Among Victims of Intimate Partner Violence: An Evaluation of a New North Carolina Law	
Principal Investigator (PI):	Kathryn E. (Beth) Moracco	E-Mail: moracco@pire.org
		Phone: 919 265 2627
Affiliation:	PIRE Chapel Hill Center	
Address:	1516 E. Franklin St., Suite 200 Chapel Hill, NC 27714	
Name of person presenting to IRB, if other than PI:		E-Mail:
		Phone:
Date of Request:	11/01/04	
Type of Review Requested:	Initial Review of <input checked="" type="checkbox"/> Full Protocol <input type="checkbox"/> Partial Protocol	
PIRE Subaccount # (if known):	496459	
Funding Type:	<input checked="" type="checkbox"/> Grant	Grant/Contract # (if known): 2004-IJ-CX-0025
	<input type="checkbox"/> Contract	
<input type="checkbox"/> Subcontract		
<input type="checkbox"/> Other:		
Funding Agency:	National Institute of Justice	
Any new or innovative techniques (including but not limited to internet data collection or approaches involving technology which might require additional expertise on the IRB)?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does this protocol include all of the planned research activities for this project? (Be sure to list all research activities planned for this project, regardless of how many are being reviewed in the current submission.)		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Summary

This project will use data from the Court Ordered Protection (COPE) study, a CDC-funded project examining the effectiveness of domestic violence protective orders, and complementary data from the criminal justice system to examine the implementation and impact of a new North Carolina Law that requires defendants in domestic violence protective order (DVPO) cases surrender their firearms and permits to purchase firearms.

Subjects

(NOTE: Please include information about the local research context).

All of the data for this project will be obtained from secondary sources, including:

- **COPE study database (n=500)**

The COPE dataset includes information from interviews with approximately 500 women in Durham and Wake counties, North Carolina, who applied for *ex parte*, or emergency, domestic violence protective orders between February 1, 2003 and June 30, 2004. The four COPE interviews take place at the time of the *ex parte* application, after the 10-day hearing date (when a 12-month dvpo is granted or denied), and at 6 and 12 months after obtaining the *ex parte* order. The COPE data have been collected via projects funded by the Centers for Disease Control and Prevention (CDC), and the North Carolina Governor's Crime Commission (GCC). The University of North Carolina School of Public Health IRB has reviewed and approved the COPE study.

- ***Ex parte* Domestic Violence Protective Order (DVPO) forms (n=approximately 1,200)**

All *ex parte* forms for women filing for DVPOs between February 1, 2003 and June 30, 2004 will be copied at the Durham and Wake County Courthouses and abstracted into an ACCESS data base for analysis. Forms for COPE study participants have already been copied and the data abstracted. These data will be available to the project electronically. DVPOs forms and the information contained on them are public record.

- **Criminal records of DVPO Defendants (n= approximately 1,200)**

We will contract with Castlebranch Inc., an employment screening agency, to run criminal background checks of all defendants named the *Ex Parte* Notice to Parties for women who filed for protection orders between February 2003 and June 2004, including COPE study participants. The information contained in the criminal background report includes previous arrests, charges, and convictions for named individuals, and is available to the public.

Procedures

We will create a project dataset containing data from the three sources noted above.

The **COPE dataset** that we will use for this project will not contain any identifying information about the female domestic violence victims interviewed for the COPE study. A study ID number links individual participants' four separate interviews. The list linking the study ID numbers with the names of participants is stored in the COPE study office on the campus of the University of North Carolina at Chapel Hill, in a locked file cabinet. COPE investigators will link the COPE interview data with both the DVPO forms and criminal background data before transmitting the dataset.

All ***ex parte* forms** for women filing for DVPOs between February 1, 2003 and June 30, 2004 will be copied at the Durham and Wake County Courthouses and abstracted into an ACCESS data base for analysis. We will assign each of the *ex parte* forms a unique study identification number, and the plaintiffs' names will not be entered into the database. A separate list linking the defendants' names and study identification numbers will be stored separately in a locked file cabinet in the PI's Chapel Hill office.

Castlebranch Inc. will conduct **criminal background checks (i.e. criminal record checks)** on the defendants named in the *ex parte* domestic violence protective orders during the COPE study period. Although these data are public information, we will take care to ensure the privacy and confidentiality of the defendants. We will provide Castlebranch with a list of defendants' names, as abstracted from the DVPO forms, in order for them to run statewide criminal records checks. Castlebranch will send us the results of the criminal records check as an electronic file. We will

then use the list that links the defendants' names with the unique study identification number to merge the criminal background information with the corresponding *ex parte* DVPO information. At this point, the defendants' names will be removed from the data abstraction forms.

Risks

The main risk of this study is that the subjects' privacy could be compromised due a breach in data confidentiality.

Safeguards

All electronic data will be stored on the project's password-protected computer in the PIRE office in Chapel Hill. Project data, including data from interviews with COPE study participants, will be archived in a dataset without any identifiable information. Hard copies of the DVPO forms and criminal background checks will not contain personal identifiers (they will be blacked out), and will be stored in a locked file cabinet in the PIs PIRE office. The list linking the defendants' names and study identification numbers will be stored separately in a locked file cabinet in the PI's Chapel Hill office.

Access to the data will be limited to the following individuals, all of whom have undergone approved training on human subjects protection:

Principal Investigator: Kathryn E. Moracco, PhD

Co-Investigator: J. Michael Bowling, PhD

Co-Investigator: Allison Anders, MA

Co-Investigator: Jessica Frits, BA

Programmer: Kathryn Andersen Clark, PhD

Benefits

The individuals about whom we have collected information will not benefit directly from this study. The societal benefits of this study include the potential to reduce firearm-related violence by persons subject to a domestic violence protection order.

Appendix Materials

None.



November 19, 2004

Kathryn Moracco, Ph.D.
Pacific Institute for Research and Evaluation
1516 E. Franklin Street, Suite 200
Chapel Hill, NC 27516

Re: *Preventing Firearm Violence Among Victims of Intimate Partner Violence: An Evaluation of a New North Carolina Law*

Dear Dr. Moracco:

At its meeting on November 18, 2004, Pacific Institute's East IRB (IRB00000631) approved the human subjects protocol of the above referenced study, pursuant to 45 CFR 46. The IRB will continue to review this project at least annually to reconfirm human subjects procedures. **This IRB approval expires on November 18, 2005.**

Should there be any changes in protocols, including the ending of a project, or incidents involving human subjects during the conduct of this research, you are required to report them immediately to the IRB. Changes in research during the period for which IRB approval has already been granted may not be implemented without prior IRB review and approval, except where necessary to protect subjects (see regulations). Proposed changes to approved human subjects protocols must be reported promptly to the IRB for review using the Continuation Review format, or if the project has ended, the Final Report format.

For your records, our Federalwide Assurance number is FWA00003078, and our organization number is IORG0000373.

Sincerely,

Robert W. Carpenter
President and Chief Executive Officer
IRB Executive Secretary

Protection of Human Subjects

Assurance Identification/IRB Certification/Declaration of Exemption (Common Rule)

Policy: Research activities involving human subjects may not be conducted or supported by the Departments and Agencies adopting the Common Rule (56FR28003, June 18, 1991) unless the activities are exempt from or approved in accordance with the Common Rule. See section 101(b) of the Common Rule for exemptions. Institutions submitting applications or proposals for support must submit certification of appropriate Institutional Review Board (IRB) review and approval to the Department or Agency in accordance with the Common Rule.

Institutions must have an assurance of compliance that applies to the research to be conducted and should submit certification of IRB review and approval with each application or proposal unless otherwise advised by the Department or Agency.

1. Request Type <input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> CONTINUATION <input type="checkbox"/> EXEMPTION	2. Type of Mechanism <input checked="" type="checkbox"/> GRANT <input type="checkbox"/> CONTRACT <input type="checkbox"/> FELLOWSHIP <input type="checkbox"/> COOPERATIVE AGREEMENT <input type="checkbox"/> OTHER:	3. Name of Federal Department or Agency and, if known, Application or Proposal Identification No. <p style="text-align: center;">National Institute of Justice</p>
4. Title of Application or Activity Preventing Firearm Violence Among Victims of Intimate Partner Violence: An Evaluation of a New North Carolina Law		5. Name of Principal Investigator, Program Director, Fellow, or Other <p style="text-align: center;">Kathryn Moracco, Ph.D.</p>

6. Assurance Status of this Project (*Respond to one of the following*)

- This Assurance, on file with Department of Health and Human Services, covers this activity: Assurance Identification No. FWA00003078, expiration date June 25, 2008, IRB Registration No. IRB00000631
- This Assurance, on file with (*agency/dept*) _____, Assurance No. _____, the expiration date _____, IRB Registration/Identification No. _____, covers this activity. (if applicable)
- No assurance has been filed for this institution. This institution declares that it will provide an Assurance and Certification of IRB review and approval upon request.
- Exemption Status: Human subjects are involved, but this activity qualifies for exemption under Section 101(b), paragraph _____.

7. Certification of IRB Review (*Respond to one of the following IF you have an Assurance on file*)

- This activity has been reviewed and approved by the IRB in accordance with the Common Rule and any other governing regulations.
 by: Full IRB Review on November 18, 2004 or Expedited Review on _____
 If less than one year approval, provide expiration date _____
- This activity contains multiple projects, some of which have not been reviewed. The IRB has granted approval on condition that all projects covered by the Common Rule will be reviewed and approved before they are initiated and that appropriate further certification will be submitted.

8. Comments

9. The official signing below certifies that the information provided above is correct and that, as required, future reviews will be performed until study closure and certification will be provided.	10. Name and Address of Institution Pacific Institute for Research and Evaluation 11710 Beltsville Drive, Suite 300 Calverton, Maryland 20705
11. Phone No.: (301) 755-2703 12. Fax No.: (301) 755-2799 13. Email: carpente@pire.org	15. Title <p style="text-align: center;">President and Chief Executive Officer</p>
14. Name of Official <p style="text-align: center;">Robert W. Carpenter</p>	17. Date <p style="text-align: center;">November 18, 2004</p>
16. Signature 	

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Appendix D:

DVPO Forms

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

Name Of Plaintiff

VERSUS

Name Of Defendant

EX PARTE DOMESTIC VIOLENCE
PROTECTIVE ORDER
AND NOTICE TO PARTIES

G.S. 50B-2, -3, -3.1

FINDINGS

This matter was heard before the judicial official named below, ex parte. After reading the plaintiff's complaint and request for temporary ex parte relief under G.S. 50B-2(c) and hearing from the plaintiff, the Court makes the following findings of fact:

1. The parties are married. are divorced.
 are persons of the opposite sex who are not married but live together or have lived together.
 have a child in common. are parent and child or grandparent and grandchild.
 are current or former household members.
 are persons of the opposite sex who are in or have been in a dating relationship.
2. That on (date of most recent conduct) _____, the defendant
- a. attempted to cause intentionally caused bodily injury to the plaintiff the child(ren) living with or in the custody of the plaintiff
- b. placed in fear of imminent serious bodily injury the plaintiff a member of the plaintiff's family
 a member of the plaintiff's household
- c. placed in fear of continued harassment that rises to such a level as to inflict substantial emotional distress
 the plaintiff a member of plaintiff's family a member of plaintiff's household
- d. committed an act defined in G.S. 14- 27.2 (1st deg. rape) 27.3 (2nd deg. rape) 27.4 (1st deg. sexual off.)
 27.5 (2nd deg. sexual off.) 27.7 (sexual activity by substitute parent) against the plaintiff a child living with or in the custody of the plaintiff

by (describe defendant's conduct) _____

3. The defendant is in possession of, owns or has access to firearms, ammunition, and gun permits described below. (Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms)

4. (State any additional facts that support ordering the defendant to surrender firearms, ammunition and gun permits to sheriff.)

5. The parties are the parents of the following children under the age of eighteen (18). The children are presently in the physical custody of the plaintiff. defendant. The plaintiff has submitted an "Affidavit As To The Status Of The Minor Child." NOTE TO JUDGE: A copy of AOC-CV-609 for each child must be attached to the order.

Name	Date Of Birth	Name	Date Of Birth

6. The defendant plaintiff is presently in possession of the parties' residence at _____

7. The defendant plaintiff is presently in possession of the parties' vehicle. (describe vehicle)

8. (for magistrate only) This matter was heard at a time when the district court was not in session and a district court judge was not available and would not be available for a period of four or more hours.

9. Other: (specify) _____

CONCLUSIONS

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

- 1. The court has jurisdiction over the subject matter of the case.
- 2. The defendant has committed acts of domestic violence against the plaintiff.
- 3. The defendant has committed acts of domestic violence against the minor child(ren) residing with or in the custody of the plaintiff.
- 4. It clearly appears that there is a danger of acts of domestic violence against the plaintiff.
 minor child(ren). [G.S. 50B-2(c)]
- 5. The minor child(ren) is exposed to a substantial risk of bodily injury. sexual abuse.
- 6. The Court has jurisdiction under the Uniform Child Custody Jurisdiction And Enforcement Act, and it is in the best interests of the minor child(ren) of the parties that temporary custody be given to the plaintiff.
- 7. This ex parte domestic violence protective order is necessary to protect the plaintiff. minor child(ren) from violence and to bring about a cessation of acts of domestic violence. [G.S. 50B-2(c), 3(a)]
- 8. The defendant
 - a. used threatened to use a deadly weapon against the plaintiff. minor child residing with or in the custody of the plaintiff.
 - b. has a pattern of prior conduct involving the use threatened use of violence with a firearm against persons.
 - c. made threats to seriously injure or kill the plaintiff. minor child residing with or in the custody of the plaintiff.
 - d. made threats to commit suicide.
 - e. inflicted serious injuries upon the plaintiff. minor child residing with or in the custody of the plaintiff.
- 9. The plaintiff has failed to prove grounds for ex parte relief.

ORDER

It is ORDERED that:

- 1. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [01]
- 2. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the minor child(ren) residing with or in the custody of the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [01]
- 3. the defendant shall not threaten a member of the plaintiff's family or household. [02]
- 4. the plaintiff is granted possession of, and the defendant is excluded from, the parties' residence described above and all personal property located in the residence except for the defendant's personal clothing, toiletries and tools of trade. [03]
- 5. any law enforcement agency with jurisdiction shall evict the defendant from the residence and shall assist the plaintiff in returning to the residence. [08]
- 6. the plaintiff [08] defendant [08] is entitled to get personal clothing, toiletries, and tools of trade from the parties' residence. A law enforcement officer shall assist the plaintiff defendant in returning to the residence to get these items.
- 7. the defendant shall stay away from the plaintiff's residence or any place where the plaintiff receives temporary shelter. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [04]
- 8. the defendant shall stay away from the following places:
 - (a) the place where the plaintiff works [04].
 - (b) the child(ren)'s school. [04]
 - (c) the place where the child(ren) receives day care. [04]
 - (d) the plaintiff's school. [04]
 - (e) Other: (name other places) [04]
- 9. the defendant shall have no contact with the plaintiff. No contact includes any defendant-initiated contact, direct or indirect, by means such as telephone, personal contact, e-mail, pager, gift-giving, or telefacsimile machine. [05]
- 10. the plaintiff is granted possession and use of the vehicle described on the reverse. [08]
- 11. (Check this block only if blocks No. 5 and 6 in Conclusions are checked.) the plaintiff is awarded temporary custody of the child(ren) named in Finding No. 3. [08]
- 12. the defendant is prohibited from possessing, owning or receiving [07] purchasing a firearm for the effective period of this Order [07] and the defendant's concealed handgun permit is suspended for the effective period of this Order. [08] This section does not prohibit law enforcement officers or members of the armed forces from possessing or using firearms for official use only.

VERSUS	File No.
<i>Name Of Defendant</i>	
<input type="checkbox"/> 13. the defendant surrender to the Sheriff of _____ County the firearms, ammunition, and gun permits described in Number 3 of the Findings on Page one of this Order and any other firearms and ammunition in the defendant's care, custody, possession, ownership or control.	
NOTE TO DEFENDANT: You must surrender these items at the time the sheriff serves this Order on you. If the weapons cannot be surrendered at that time, you must surrender them to the sheriff within 24 hours at the time and place specified by the sheriff. Failure to surrender the weapons and permits as ordered or possessing, owning, purchasing, or receiving a firearm, ammunition or permits to purchase or carry concealed firearms after being ordered not to possess firearms, ammunition or permits is a crime. See "Notice To Parties: To The Defendant on page 3 of this Order for information regarding the penalty for these crimes and instructions on how to request retrieval of surrendered weapons when the protective order is no longer in effect.	
14. this order is effective until <input type="checkbox"/> a. ten days from the date it is issued. <input type="checkbox"/> b. the date and time listed below:	
<div style="border: 1px solid black; padding: 2px;">Date Order Expires</div>	<div style="border: 1px solid black; padding: 2px;">Time Order Expires <input type="checkbox"/> AM <input type="checkbox"/> PM</div>
(NOTE TO MAGISTRATE: You must check option b. and you must enter 11:59 PM of the next day on which district court is in session as the time of expiration.)	
<input type="checkbox"/> 15. the request for Ex Parte Order is denied.	
<input type="checkbox"/> 16. Other: (specify) [08]	
<i>Date</i>	<i>Signature</i>
	<input type="checkbox"/> District Court Judge <input type="checkbox"/> Designated Magistrate

NOTICE TO PARTIES

TO THE DEFENDANT:

1. You must obey this protective order entered against you. If you violate the order anywhere in North Carolina, you are subject to criminal and civil penalties.
2. This order is also valid and will be enforced against you in all 50 States of the United States, the District of Columbia, any Indian lands, and any commonwealth, territory or possession of the United States.
3. If this Order prohibits you from possessing, owning, receiving or purchasing a firearm and you violate or attempt to violate that provision, you may be charged with a Class H felony pursuant to North Carolina G.S. 14-269.8 and may be imprisoned for up to 30 months.
4. If you have been ordered to surrender firearms, ammunition, and gun permits and you fail to surrender them as required by this Order, or if you failed to disclose to the Court all information requested about possession of these items or provide false information about any of these items you may be charged with a Class H felony and may be imprisoned for up to 30 months. If you surrendered your firearms, ammunition, and permits, you may file a motion for the return of weapons with the clerk of court when the protective order is no longer in effect in the county in which this order was entered. The form motion, "Motion For Return Of Weapons Surrendered Under Domestic Violence Order" AOC-CV-319, is available from the clerk of court's office. The motion must be filed not later than 90 days after the expiration of this Order. At the time you file the motion, the clerk will schedule a hearing before the district court for a judge to determine whether to return the weapons to you. The sheriff cannot return your weapons unless the Court orders the sheriff to do so. You must pay the sheriff's storage fee before the sheriff returns your weapons. If you fail to file a motion for return of the weapons within 90 days after the expiration of this Order or fail to pay the storage fees within 30 days after the Court enters an order to return your weapons, the sheriff may seek an order from the Court to dispose of your weapons.
5. If you travel across state lines or enter Indian lands with the intent to violate this order, you are subject to prosecution for a federal crime.
6. If you travel across state lines or enter Indian lands with the intent to injure, harass, or intimidate the person protected by this order or if you travel across state lines or enter Indian lands or use the mail or any facility of interstate commerce across state lines with the intent to place that person or a member of the immediate family of that person in fear of serious bodily harm, you are subject to prosecution for a federal crime.
7. The court or judge is the only one that can make changes to this order. The plaintiff cannot give you permission to violate this order. If you violate this order, you can be charged with a crime even though the party protected has agreed to your violation.

TO THE PLAINTIFF:

1. You should keep a copy of this order on you at all times and should make copies to give to your friends and family. If you move to another county or state, you may wish to give a copy to the law enforcement agency where you move, but you are not required to do so.
2. This protective order is valid in all 50 states of the United States, the District of Columbia, Indian lands, and U.S. territories and also may be enforced anywhere in North Carolina.
3. The court or judge is the only one that can make changes to this order. If you wish to change any of the terms of this order, you must come back into court to have the judge modify the order.
4. If the defendant violates any provision of this order, you may call a law enforcement officer or go to a magistrate to charge the defendant with the crime of violating a protective order. You also may go to the Clerk of Court's office in the county where the protective order was issued and ask to fill out form AOC-CV-307, Motion For Order To Show Cause Domestic Violence Protective Order, to have an order issued for the defendant to appear before a district court judge to be held in contempt for violating the order.

RETURN OF SERVICE WHEN MAGISTRATE ISSUES ORDER

I certify that this Ex Parte Order was received and served on the defendant as follows:

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- By delivering to the defendant named above a copy of this Ex Parte Order in this action.
- By leaving a copy of this Ex Parte Order at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

Defendant WAS NOT served for the following reason:

Date Received	Date Of Return	County Of Sheriff	Name Of Sheriff	Deputy Sheriff Making Return
---------------	----------------	-------------------	-----------------	------------------------------

CERTIFICATION

I certify this order is a true copy:

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
		<input type="checkbox"/> Clerk of Superior Court	

NOTE TO PLAINTIFF: If the judge signs this Order and gives it to you, take it to the Clerk's office immediately. If the magistrate signs this Order and gives it to you, follow the magistrate's directions.

NOTE TO CLERK: Give or mail a copy of this Order to the plaintiff and to the appropriate local law enforcement agency. Send copies to sheriff with Notice Of Hearing, Complaint and Summons for service on defendant.

STATE OF NORTH CAROLINA		File No. _____												
_____ County		In The General Court Of Justice District Court Division												
Name Of Plaintiff _____		DOMESTIC VIOLENCE PROTECTIVE ORDER AND NOTICE TO PARTIES <input type="checkbox"/> CONSENT ORDER <small>G.S. 50B-2, -3, -3.1</small>												
VERSUS														
Name Of Defendant _____														
FINDINGS														
This matter was heard by the district court judge named below after due notice to the defendant. The Court makes the following findings of fact:														
<p><input type="checkbox"/> 1. Present at the hearing were: <input type="checkbox"/> the plaintiff, represented by _____ <input type="checkbox"/> the defendant, represented by _____</p> <p><input type="checkbox"/> 2. The parties: <input type="checkbox"/> are married. <input type="checkbox"/> are divorced. <input type="checkbox"/> are persons of the opposite sex who are not married but live together or have lived together. <input type="checkbox"/> have a child in common. <input type="checkbox"/> are parent and child or grandparent and grandchild. <input type="checkbox"/> are current or former household members. <input type="checkbox"/> are persons of the opposite sex who are in or have been in a dating relationship.</p> <p><input type="checkbox"/> 3. That on (date of most recent conduct) _____, the defendant</p> <p><input type="checkbox"/> a. <input type="checkbox"/> attempted to cause <input type="checkbox"/> intentionally caused bodily injury to <input type="checkbox"/> the plaintiff. <input type="checkbox"/> children living with or in the custody of the plaintiff</p> <p><input type="checkbox"/> b. placed in fear of imminent serious bodily injury <input type="checkbox"/> the plaintiff <input type="checkbox"/> a member of the plaintiff's family <input type="checkbox"/> a member of the plaintiff's household</p> <p><input type="checkbox"/> c. placed in fear of continued harassment that rises to such a level as to inflict substantial emotional distress <input type="checkbox"/> the plaintiff <input type="checkbox"/> a member of plaintiff's family. <input type="checkbox"/> a member of plaintiff's household</p> <p><input type="checkbox"/> d. committed an act defined in G.S. 14- <input type="checkbox"/> 27.2 (1st deg. rape) <input type="checkbox"/> 27.3 (2nd deg. rape) <input type="checkbox"/> 27.4 (1st deg. sexual off.) <input type="checkbox"/> 27.5 (2nd deg. sexual off.) <input type="checkbox"/> 27.7 (sexual activity by substitute parent) against <input type="checkbox"/> the plaintiff. <input type="checkbox"/> a child living with or in the custody of the plaintiff.</p> <p>by (describe defendant's conduct) _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> 4. The defendant is in possession of, owns or has access to firearms, ammunition, and gun permits described below. (Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms.)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> 5. (State any additional facts that support ordering the defendant to surrender firearms, ammunition and gun permits to sheriff.)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> 6. The parties are the parents of the following children under the age of eighteen. The children are presently in the physical custody of the <input type="checkbox"/> plaintiff. <input type="checkbox"/> defendant. The plaintiff has submitted an "Affidavit As To The Status Of The Minor Child." NOTE TO JUDGE: A copy of AOC-CV-609 for each child must be attached to the order.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Name</th> <th style="width: 25%;">Date Of Birth</th> <th style="width: 25%;">Name</th> <th style="width: 25%;">Date Of Birth</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p><input type="checkbox"/> 7. The <input type="checkbox"/> defendant <input type="checkbox"/> plaintiff is presently in possession of the parties' residence at _____</p> <p><input type="checkbox"/> 8. The <input type="checkbox"/> defendant <input type="checkbox"/> plaintiff is presently in possession of the parties' vehicle described below:</p> <p>_____</p>			Name	Date Of Birth	Name	Date Of Birth								
Name	Date Of Birth	Name	Date Of Birth											

9. Other: (specify)

CONCLUSIONS

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

- 1. The Court has jurisdiction over the parties and the subject matter of the case.
- 2. The defendant had reasonable notice and an opportunity to be heard in this matter.
- 3. The defendant has committed acts of domestic violence against the plaintiff.
- 4. The defendant has committed acts of domestic violence against the minor child(ren) residing with or in the custody of the plaintiff.
- 5. There is danger of serious and immediate injury to the plaintiff. minor child(ren). [G.S. 50B-2(b)]
- 6. The Court has jurisdiction under the Uniform Child Custody Jurisdiction And Enforcement Act, and it is in the best interests of the minor child(ren) of the parties that temporary custody of them be given to the plaintiff.
- 7. This domestic violence protective order is necessary to bring about a cessation of acts of domestic violence. [G.S. 50B-3(a)]
- 8. The defendant
 - a. used threatened to use a deadly weapon against the plaintiff. minor child residing with or in the custody of the plaintiff.
 - b. has a pattern of prior conduct involving the use threatened use of violence with a firearm against persons.
 - c. made threats to seriously injure or kill the plaintiff. minor child residing with or in the custody of the plaintiff.
 - d. made threats to commit suicide.
 - e. inflicted serious injuries upon the plaintiff. minor child residing with or in the custody of the plaintiff.
- 9. The plaintiff has failed to prove grounds for issuance of a domestic violence protective order.

ORDER

It is ORDERED that:

- 1. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [01]
- 2. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the minor child(ren) residing with or in the custody of the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [01]
- 3. the defendant shall not threaten a member of the plaintiff's family or household. [02]
- 4. the plaintiff is granted possession of, and the defendant is excluded from, the parties' residence described above and all personal property located in the residence except for the defendant's personal clothing, toiletries and tools of trade. [03]
- 5. any law enforcement agency with jurisdiction shall evict the defendant from the residence and shall assist the plaintiff in returning to the residence. [08]
- 6. the plaintiff [08] defendant [08] is entitled to get personal clothing, toiletries, and tools of trade from the parties' residence. A law enforcement officer shall assist the plaintiff defendant in returning to the residence to get these items.
- 7. the defendant shall stay away from the plaintiff's residence or any place where the plaintiff receives temporary shelter. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [04]

VERSUS

File No.

Name Of Defendant

- 8. the defendant shall stay away from the following places:
 - (a) the place where the plaintiff works. [04]
 - (b) the child(ren)'s school. [04]
 - (c) the place where the child(ren) receives day care. [04]
 - (d) the plaintiff's school. [04]
 - (e) Other: *(name other places)* [04]

- 9. the defendant shall have no contact with the plaintiff. No contact includes any defendant-initiated contact, direct or indirect, by means such as telephone, personal contact, e-mail, pager, gift giving, or telefacsimile machine. [05]
- 10. the plaintiff is granted possession and use of the vehicle described on reverse. [08]
- 11. *(Check this block only if Block No. 6 in Conclusions is checked.)* the plaintiff is awarded temporary custody of the child(ren) named in Finding No. 6. [08]
- 12. the defendant is ordered to make payments to the plaintiff for support of the minor child(ren) as required by law. [08]
- 13. the defendant is prohibited from possessing, owning or receiving [07] purchasing a firearm for the effective period of this Order [07] and the defendant's concealed handgun permit is suspended for the effective period of this Order. [08] This section does not prohibit law enforcement officers and members of the armed services from possessing or using firearms for official use only.
- 14. the defendant surrender to the Sheriff of _____ County the firearms, ammunition, gun permits described in Number 4 of the Findings on Page one of this Order and any other firearms and ammunition in the defendant's care, custody, possession, ownership or control.

NOTE TO DEFENDANT: *You must surrender these items at the time the sheriff serves this Order on you. If the weapons cannot be surrendered at that time, you must surrender them to the sheriff within 24 hours at the time and place specified by the sheriff. Failure to surrender the weapons and permits as ordered or possessing, owning, purchasing, or receiving a firearm, ammunition or permits to purchase or carry concealed firearms after being ordered not to possess firearms, ammunition or permits is a crime. See "Notice To Parties; To The Defendant" on page 4 of this Order for information regarding the penalty for these crimes and instructions on how to request retrieval of surrendered weapons when the protective order is no longer in effect.*

- 15. the defendant shall attend and complete an abuser treatment program offered by the following agency, which is approved by the Domestic Violence Commission: [08]
- 16. Other: *(specify)* [08]

- 17. this Order is effective until one year from the date below. other.
- 18. this action is dismissed and as of this date, any ex parte order issued in this case is null and void.

FOR CONSENT JUDGMENTS ONLY

Each of us enters into this Consent Order knowingly, freely, and voluntarily. We waive specific findings of fact not otherwise made in the Order. The defendant understands that in consenting to this Order, that all of the consequences set out in the Notice to Parties in this Order apply.

Date	Signature Of Plaintiff	Date	Signature Of Defendant
------	------------------------	------	------------------------

SIGNATURE OF JUDGE	
Date	Signature Of District Court Judge
Name Of District Court Judge (Type Or Print)	

NOTICE TO PARTIES

TO THE DEFENDANT:

1. You must obey this protective order entered against you. If you violate the order anywhere in North Carolina, you are subject to criminal and civil penalties.
2. This order is also valid and will be enforced against you in all 50 States of the United States, the District of Columbia, any Indian lands and any commonwealth, territory of possession of the United States.
3. Federal firearms crime. It is a federal crime punishable for up to 10 years imprisonment for you to possess any firearm or ammunition while subject to this Order even if this Order does not expressly forbid you from possessing or purchasing firearms.
4. State firearms crimes. If this Order prohibits you from possessing, owning, receiving or purchasing a firearm and you violate or attempt to violate that provision, you may be charged with a Class H felony pursuant to North Carolina G.S. 14-269.8 and may be imprisoned for up to 30 months.
5. If you have been ordered to surrender your firearms, ammunition, and gun permits and you fail to surrender them as required by this Order, or if you failed to disclose to the Court all information requested about possession of these items, or provided false information to the Court about any of these items you may be charged with a Class H felony and may be imprisoned for up to 30 months. If you surrendered your firearms, ammunition, and permits, you may file a motion for the return of weapons with the clerk of court when the protective order is no longer in effect in the county in which this order was entered. The form motion, "Motion For Return Of Weapons Surrendered Under Domestic Violence Order" AOC-CV-319, is available from the clerk of court's office. The motion must be filed not later than 90 days after the expiration of this Order. At the time you file the motion, the clerk will schedule a hearing before the district court for a judge to determine whether to return the surrendered weapons to you. The sheriff cannot return your weapons unless the Court orders the sheriff to do so. You must pay the sheriff's storage fee before the sheriff returns your weapon. If you fail to file a motion for return of the weapons within 90 days after the expiration of this Order or fail to pay the storage fees within 30 days after the Court enters an order to return your weapons, the sheriff may seek an order from the Court to dispose of your weapons.
6. If you travel across state lines or enter Indian lands with the intent to violate this order, you are subject to prosecution for a federal crime.
7. If you travel across state lines or enter Indian lands with the intent to injure, harass, or intimidate the person protected by this order or if you travel across state lines or enter Indian lands or use the mail or any facility of interstate commerce across state lines with the intent to place that person or a member of the immediate family of that person in fear of serious bodily harm, you are subject to prosecution for a federal crime.
8. The court or judge is the only one that can make changes to this order. The plaintiff cannot give you permission to violate this order. If you violate this order, you can be charged with a crime even though the party protected has agreed to your violation.

TO THE PLAINTIFF:

1. You should keep a copy of this protective order on you at all times and should make copies to give your friends and family. If you move to another county or state, you may wish to give a copy to the law enforcement agency where you move, but you are not required to do so.
2. This protective order is valid in all 50 states of the United States, the District of Columbia, Indian lands, and U.S. territories and also may be enforced anywhere in North Carolina.
3. The court or judge is the only one that can make changes to this order. If you wish to change any of the terms of this order, you must come back into court to have the judge modify the order.
4. If the defendant violates any provision of this order, you may call a law enforcement officer or go to a magistrate to charge the defendant with the crime of violating a protective order. You also may go to the Clerk of Court's office in the county where the protective order was issued and ask to fill out form AOC-CV-307 Motion And Order To Show Cause Domestic Violation Protective Order to have an order issued for the defendant to appear before a district court judge to be held in contempt for violating the order.

CERTIFICATE OF SERVICE WHEN DEFENDANT NOT PRESENT AT HEARING

I certify that this Order and Notice to Parties has been served on the defendant named by depositing a copy in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
		<input type="checkbox"/> Clerk of Superior Court	

CERTIFICATION

I certify this order is a true copy.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
		<input type="checkbox"/> Clerk of Superior Court	

NOTE TO CLERK: A copy of this Order shall be mailed or given to each party, to your sheriff, and to the police department of the plaintiff's residence, if any.

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
District Court Division

Name Of Plaintiff (Person Filing Complaint)

VERSUS

Name And Address Of Defendant (Person Accused Of Abuse)

**COMPLAINT AND MOTION
FOR
DOMESTIC VIOLENCE
PROTECTIVE ORDER**

G.S. 50B-1, -2, -3, -4

(Check only boxes that apply and fill in blanks. Additional sheets may be attached.)

1. I live in _____ County, North Carolina.

2. The defendant and I are married. are divorced.
 are persons of the opposite sex who are not married but live together or have lived together.
 have a child in common.
 are parent and child or grandparent and grandchild.
 are current or former household members.
 are persons of the opposite sex who are in or have been in a dating relationship.

3. There is is not another court proceeding between the defendant and me pending in this or any other state.
(List county, state and what kind of proceeding, if applicable.)

4. The defendant has attempted to cause or has intentionally caused me bodily injury; or has placed me or a member of my family or household in fear of imminent serious bodily injury or in fear of continued harassment that rises to such a level as to inflict substantial emotional distress; or has committed a sexual offense against me in that: *(Give specific dates and describe in detail what happened.)*

5. The defendant has attempted to cause or has intentionally caused bodily injury to the child(ren) living with me or in my custody; has placed my child(ren) in fear of imminent serious bodily injury or in fear of continued harassment that rises to such a level as to inflict substantial emotional distress; or has committed a sexual offense against the child(ren) in that: *(Give specific dates and describe in detail what happened.)*

6. I believe there is danger of serious and immediate injury to me or my children.

7. *(Check this block if you ask for temporary child custody.)* The defendant and I are the parents of the following children under the age of eighteen.

A COPY OF "AFFIDAVIT AS TO STATUS OF MINOR CHILD" (AOC-CV-609) MUST BE ATTACHED FOR EACH CHILD.

Name	Date Of Birth	Name	Date Of Birth

8. The defendant has firearms and ammunition as described below. has a permit to purchase a firearm, and has a permit to carry a concealed weapon. (Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms and gun permits.)
- _____
- _____
- _____
9. The defendant has used or threatened to use a deadly weapon against me or a minor child in my custody or has a pattern of prior conduct involving the use or threatened use of violence with a firearm against any persons in that (give specific dates and describe in detail what happened)
- _____
- _____
- _____
10. The defendant has made threats to commit suicide in that (give specific dates and describe in detail what happened)
- _____
- _____
- _____

Because Of The Acts Of Domestic Violence By The Defendant, I Am Requesting That The Court Give Me The Following Relief:

(Check only boxes that apply.)

1. I want emergency relief.
2. Since there is a danger of acts of domestic violence against me or my child(ren), I want an Ex Parte Order before notice of a hearing is given to the defendant.
3. I want the Court to order the defendant not to assault, threaten, abuse, follow, harass or interfere with me and my child(ren).
4. I want possession of our residence at the address listed below, and I want the defendant to move from and not return to the residence.
- Address Of Residence
- _____
5. I want the Court to order the eviction of the defendant from the residence listed above and I want assistance in returning to the residence.
6. I want possession of the personal property such as clothing and household goods in the residence listed above except for the defendant's personal clothing, toiletries and tools of trade.
7. I want the defendant to be ordered not to come on or about:
- | | |
|--|--|
| <input type="checkbox"/> (a) my residence. | <input type="checkbox"/> (b) any place where I am receiving temporary shelter. |
| <input type="checkbox"/> (c) the place where I work. | <input type="checkbox"/> (d) the child(ren)'s school. |
| <input type="checkbox"/> (e) the place where the child(ren) receives day care. | <input type="checkbox"/> (f) the place where I go to school. |
| <input type="checkbox"/> (g) Other: (name other places) | |
- _____
8. I want the defendant to be ordered to have no contact with me.
9. I want possession and use of the following vehicle:
- Describe Vehicle
- _____
10. I want temporary custody of our minor child(ren) listed in this Complaint. I understand that I must file a separate child custody action for permanent custody.
11. I want the defendant to be ordered to make payments for the support of our minor child(ren), as required by law, but I understand it is only temporary and that I must file a separate child support action for regular, permanent child support.
12. I want the Court to prohibit the defendant from possessing or purchasing a firearm.

VERSUS	File No. ▶
---------------	---

Name Of Defendant _____

- 13. I want the Court to order the defendant to surrender to the sheriff his/her firearms, ammunition, and gun permits to purchase a firearm and carry a concealed weapon.
- 14. I want the defendant to be ordered to attend an abuser treatment program.
- 15. I want the defendant to be ordered to provide me and the children suitable alternative housing.
- 16. I want the defendant to be ordered to make payments for my support as required by law, but I understand it is only temporary and that I must file a separate action for regular permanent spousal support.
- 17. Other: (specify)

Date _____	Signature Of Plaintiff (Person Filing Complaint) _____
------------	--

VERIFICATION

I, the undersigned, being first duly sworn, say that I am the plaintiff in this action; that I have read the Complaint and Motion; that the matters and things alleged in the Complaint and Motion are true except as to those things alleged upon information and belief and as to those I believe them to be true and accurate.

SWORN AND SUBSCRIBED TO BEFORE ME		Date _____
Date _____	Signature _____	Signature Of Plaintiff _____
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk of Superior Court <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Designated Magistrate		Name Of Plaintiff (Type Or Print) _____
SEAL	<input type="checkbox"/> Notary	Date My Commission Expires _____

Case No. <input style="width:150px;" type="text"/> Court General Court of Justice District Court Division County <input style="width:150px;" type="text"/> NORTH CAROLINA	EX PARTE DOMESTIC VIOLENCE ORDER OF PROTECTION <small>G.S. 50B-2, -3, -3.1</small>
---	--

PETITIONER/PLAINTIFF <input style="width:90%; height: 20px;" type="text"/> <small>First Middle Last</small>	PETITIONER/PLAINTIFF IDENTIFIERS <input style="width:80%; height: 20px;" type="text"/> <small>Date Of Birth Of Petitioner</small>
--	--

And/or on behalf of minor family member(s): <i>(List Name And DOB)</i> <table border="1" style="width:100%; height: 40px;"> <tr><td style="width:70%;"></td><td style="width:30%;"></td></tr> <tr><td></td><td></td></tr> <tr><td></td><td></td></tr> <tr><td></td><td></td></tr> </table>									Other Protected Persons/DOB: <table border="1" style="width:100%; height: 40px;"> <tr><td style="width:70%;"></td><td style="width:30%;"></td></tr> <tr><td></td><td></td></tr> <tr><td></td><td></td></tr> <tr><td></td><td></td></tr> </table>								

VERSUS

RESPONDENT/DEFENDANT <input style="width:90%; height: 20px;" type="text"/> <small>First Middle Last</small> Relationship to Petitioner: <input type="checkbox"/> spouse <input type="checkbox"/> former spouse <input type="checkbox"/> unmarried, of opposite sex, currently or formerly living together <input type="checkbox"/> unmarried, have a child in common <input type="checkbox"/> of opposite sex, currently or formerly in dating relationship <input type="checkbox"/> current or former household member <input type="checkbox"/> parent <input type="checkbox"/> grandparent <input type="checkbox"/> child <input type="checkbox"/> grandchild Respondent's/Defendant's Address <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	RESPONDENT/DEFENDANT IDENTIFIERS <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;">Sex</td> <td style="width:15%;">Race</td> <td style="width:15%;">DOB</td> <td style="width:10%;">HT</td> <td style="width:10%;">WT</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td>Eyes</td> <td>Hair</td> <td colspan="3">Social Security Number</td> </tr> <tr> <td> </td> <td> </td> <td colspan="3"> </td> </tr> <tr> <td colspan="2">Drivers License No.</td> <td>State</td> <td colspan="2">Expiration Date</td> </tr> <tr> <td colspan="2"> </td> <td> </td> <td colspan="2"> </td> </tr> </table> Distinguishing Features <div style="border: 1px solid black; height: 80px; width: 100%;"></div>	Sex	Race	DOB	HT	WT						Eyes	Hair	Social Security Number								Drivers License No.		State	Expiration Date						
Sex	Race	DOB	HT	WT																											
Eyes	Hair	Social Security Number																													
Drivers License No.		State	Expiration Date																												

CAUTION:
 Weapon Involved

THE COURT HEREBY FINDS THAT:
 This matter was heard by the undersigned district court judge. magistrate. The court has jurisdiction over the subject matter.

Additional findings of this order are set forth on Page 2.

THE COURT HEREBY ORDERS THAT:
 The above named Respondent/Defendant shall not commit any further acts of abuse or make any threats of abuse.
 The above named Respondent/Defendant shall have no contact with the Petitioner/Plaintiff. No contact includes any defendant-initiated contact, direct or indirect, by means such as telephone, personal contact, email, pager, gift-giving or telefacsimile machine. [05]
 Additional terms of this order are as set forth on Pages 3 and 4.

The terms of this order shall be effective until , ,

WARNINGS TO THE RESPONDENT/DEFENDANT:
 This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).
 This order will be enforced anywhere in North Carolina.
 Only the Court can change this order. The plaintiff cannot give you permission to violate this order.
 See additional warnings on Page 4.

ADDITIONAL FINDINGS

1. As indicated by the check block under Respondent/Defendant's name on Page 1, the parties are or have been in a personal relationship.

2. That on (date of most recent conduct) _____, the defendant
- a. attempted to cause intentionally caused bodily injury to the plaintiff the child(ren) living with or in the custody of the plaintiff
 - b. placed in fear of imminent serious bodily injury the plaintiff a member of the plaintiff's family a member of the plaintiff's household
 - c. placed in fear of continued harassment that rises to such a level as to inflict substantial emotional distress the plaintiff a member of plaintiff's family a member of plaintiff's household
 - d. committed an act defined in G.S. 14- 27.2 (1st deg. rape) 27.3 (2nd deg. rape) 27.4 (1st deg. sexual off.) 27.5 (2nd deg. sexual off.) 27.5A (sexual battery) 27.7 (sexual activity by substitute parent) against the plaintiff a child(ren) living with or in the custody of the plaintiff by
- (describe defendant's conduct)

3. The defendant is in possession of, owns or has access to firearms, ammunition, and gun permits described below. (Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms)

4. The defendant
- a. used threatened to use a deadly weapon against the plaintiff minor child(ren) residing with or in the custody of the plaintiff
 - b. has a pattern of prior conduct involving the use threatened use of violence with a firearm against persons
 - c. made threats to seriously injure or kill the plaintiff minor child(ren) residing with or in the custody of the plaintiff
 - d. made threats to commit suicide
 - e. inflicted serious injuries upon the plaintiff minor child(ren) residing with or in the custody of the plaintiff
- in that (state facts):

5. The parties are the parents of the following child(ren) under the age of eighteen (18). The child(ren) are presently in the physical custody of the plaintiff. defendant. The plaintiff has submitted an "Affidavit As To The Status Of The Minor Child."
NOTE TO JUDGE: A copy of AOC-CV-609 for each child must be attached to the order.

Name	Sex	Date Of Birth	Name	Sex	Date Of Birth

6. The minor child(ren) is exposed to a substantial risk of physical or emotional injury or sexual abuse in that:

7. It is in the best interest of and necessary for the safety of the minor child(ren) that the defendant return the minor child(ren) to plaintiff that defendant stay away from the minor child(ren) from plaintiff in that: and that the defendant not remove the

8. (Check block only if plaintiff is entitled to physical care of child.) It is the best interest of the minor child(ren) that defendant have contact with the minor child(ren) in that:

9. The defendant plaintiff is presently in possession of the parties' residence at _____

Name Of Defendant

File No.

10. The defendant plaintiff is presently in possession of the parties' vehicle. (describe vehicle)

11. Other: (specify)

12. (for magistrate only) This matter was heard at a time when the district court was not in session and a district court judge was not available and would not be available for a period of four or more hours.

CONCLUSIONS

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

- 1. The defendant has committed acts of domestic violence against the plaintiff.
- 2. The defendant has committed acts of domestic violence against the minor child(ren) residing with or in the custody of the plaintiff.
- 3. It clearly appears that there is a danger of acts of domestic violence against the plaintiff. minor child(ren). [G.S. 50B-2(c)]
- 4. The minor child(ren) is exposed to a substantial risk of physical injury. emotional injury. sexual abuse. [G.S. 50B-2(c)]
- 5. The Court has jurisdiction under the Uniform Child Custody Jurisdiction And Enforcement Act.
- 6. It is in the best interest of and necessary for the safety of the minor child(ren) that the defendant stay away from the minor child(ren). (and) return the minor child(ren) to the physical care of the plaintiff. (and) not remove the minor from the physical care of the plaintiff.
- 7. This ex parte domestic violence protective order is necessary to protect the plaintiff minor child(ren) from violence and to bring about a cessation of acts of domestic violence. [G.S. 50B-2(c), 3(a)]
- 8. The defendant's conduct requires that he/she surrender all firearms, ammunition and gun permits. [G.S. 50B-3.1]
- 9. The plaintiff has failed to prove grounds for ex parte relief.

ORDER

It is ORDERED that:

- 1. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [01]
- 2. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the minor child(ren) residing with or in the custody of the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [01]
- 3. the defendant shall not threaten a member of the plaintiff's family or household. [02]
- 4. the plaintiff is granted possession of, and the defendant is excluded from, the parties' residence described above and all personal property located in the residence except for the defendant's personal clothing, toiletries and tools of trade. [03]
- 5. any law enforcement agency with jurisdiction shall evict the defendant from the residence and shall assist the plaintiff in returning to the residence. [08]
- 6. the plaintiff [08] defendant [08] is entitled to get personal clothing, toiletries, and tools of trade from the parties' residence. A law enforcement officer shall assist the plaintiff defendant in returning to the residence to get these items.
- 7. the defendant shall stay away from the plaintiff's residence or any place where the plaintiff receives temporary shelter. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [04]
- 8. the defendant shall stay away from the following places:
 - (a) the place where the plaintiff works. [04]
 - (b) the child(ren)'s school. [04]
 - (c) the place where the child(ren) receives day care. [04]
 - (d) the plaintiff's school. [04]
 - (e) Other: (name other places) [04]
- 9. the plaintiff is granted possession and use of the vehicle described in Block No. 10 on Page 3. [08]
- 10. The plaintiff is awarded temporary custody of the minor child(ren) (Check any of a, b, or c that apply.)
 - a. and the defendant is ordered to stay away from the minor child(ren).
 - b. and the defendant is ordered to immediately return the minor child(ren) to the care of the plaintiff.
 - c. and the defendant is ordered not to remove the minor child(ren) from the care of the plaintiff.
- 11. (If No. 10 is checked and you are allowing visitation to defendant) The defendant is allowed the following contact with the minor child(ren):

12. the defendant is prohibited from possessing, owning or receiving [07] purchasing a firearm for the effective period of this Order [07] and the defendant's concealed handgun permit is suspended for the effective period of this of this Order. [08]
- The defendant is a law enforcement officer/member of the armed services and may may not possess or use a firearm for official use.
13. the defendant surrender to the Sheriff serving this order the firearms, ammunition, and gun permits described in Number 3 of the Findings on Page 2 of this Order and any other firearms and ammunition in the defendant's care, custody, possession, ownership or control. **NOTE TO DEFENDANT: You must surrender these items to the serving officer at the time this Order is served on you. If the weapons cannot be surrendered at that time, you must surrender them to the sheriff within 24 hours at the time and place specified by the sheriff. Failure to surrender the weapons and permits as ordered or possessing, owning, purchasing, or receiving a firearm, ammunition or permits to purchase or carry concealed firearms after being ordered not to possess firearms, ammunition or permits is a crime. See "Notice To Parties: To The Defendant" on page 4 of this Order for information regarding the penalty for these crimes and instructions on how to request retrieval of surrendered weapons when the protective order is no longer in effect.**
14. the request for Ex Parte Order is denied.
15. Other: (specify) [08]

Date

Signature

- District Court Judge
 Designated Magistrate

NOTE TO PLAINTIFF: If the judge signs this Order and gives it to you, take it to the Clerk's office immediately. If the magistrate signs this Order and gives it to you, follow the magistrate's directions.

NOTE TO CLERK: Give or mail a copy of this Order to the plaintiff and to the appropriate local law enforcement agency. Send copies to sheriff with Notice Of Hearing, Complaint and Summons for service on defendant.

NOTICE TO PARTIES

TO THE DEFENDANT:

1. If this Order prohibits you from possessing, owning, receiving or purchasing a firearm and you violate or attempt to violate that provision, you may be charged with a Class H felony pursuant to North Carolina G.S. 14-269.8 and may be imprisoned for up to 30 months.
2. If you have been ordered to surrender firearms, ammunition, and gun permits and you fail to surrender them as required by this Order, or if you failed to disclose to the Court all information requested about possession of these items or provide false information about any of these items you may be charged with a Class H felony and may be imprisoned for up to 30 months. If you surrendered your firearms, ammunition, and permits, you may file a motion for the return of weapons with the clerk of court when the protective order is no longer in effect in the county in which this order was entered. The form motion, "Motion For Return Of Weapons Surrendered Under Domestic Violence Order" AOC-CV-319, is available from the clerk of court's office. The motion must be filed not later than 90 days after the expiration of the Order that requires you to surrender the firearms. At the time you file the motion, the clerk will schedule a hearing before the district court for a judge to determine whether to return the weapons to you. The sheriff cannot return your weapons unless the Court orders the sheriff to do so. You must pay the sheriff's storage fee before the sheriff returns your weapons. If you fail to file a motion for return of the weapons within 90 days after the expiration of this Order or fail to pay the storage fees within 30 days after the Court enters an order to return your weapons, the sheriff may seek an order from the Court to dispose of your weapons.

TO THE PLAINTIFF:

1. You should keep a copy of this order on you at all times and should make copies to give to your friends and family. If you move to another county or state, you may wish to give a copy to the law enforcement agency where you move, but you are not required to do so.
2. The court or judge is the only one that can make changes to this order. If you wish to change any of the terms of this order, you must come back into court to have the judge modify the order.
3. If the defendant violates any provision of this order, you may call a law enforcement officer or go to a magistrate to charge the defendant with the crime of violating a protective order. You also may go to the Clerk of Court's office in the county where the protective order was issued and ask to fill out form AOC-CV-307, Motion For Order To Show Cause Domestic Violence Protective Order, to have an order issued for the defendant to appear before a district court judge to be held in contempt for violating the order.

CERTIFICATION

I certify this order is a true copy.

Date

Signature Of Clerk

- Deputy CSC Assistant CSC
 Clerk of Superior Court

STATE OF NORTH CAROLINA

File No. _____

_____ County

In The General Court Of Justice
District Court Division

Name Of Defendant _____

Street Address Of Defendant (Not P.O. Box) _____

City _____

State _____

Zip _____

IDENTIFYING INFORMATION ABOUT DEFENDANT DOMESTIC VIOLENCE ACTION

G.S. 50B-3(d)

INSTRUCTIONS: *In order to assist law enforcement agencies in serving and enforcing this Order, if issued by the Court, the following information is requested. It is not required for the issuance of this Order, but may allow law enforcement agencies to locate and more quickly identify the persons involved in this case and to enforce the provisions of this Order more effectively. Answer these questions accurately and honestly.*

If you do not know the answer to any of the following questions, leave the question blank.

INFORMATION ABOUT DEFENDANT

Date Of Birth _____

Race:

White

Black

Indian

Asian/Pacific Islander

Other

Sex:

Male

Female

Height _____

Weight _____

Hair Color _____

Eye Color _____

Identifying Marks (List any marks, scars, tattoos) _____

Does the defendant have a driver's license or state-issued identification card from any state? Yes No

If yes, provide the state and number if possible: State: _____

Number: _____

Vehicle description and license plate number: _____

Social Security No. Of Defendant _____

Telephone No. Of Defendant _____

The defendant's current work information:

Employer's Business Name _____

Business Address _____

Business Telephone No. _____

Defendant's Work Hours (List Work Start Time And Work Stop Time) _____

Does the defendant have a permit to purchase a handgun or crossbow? Yes No

If yes, state which law enforcement agency issued the permit, if known: _____

Does the defendant have a permit to carry a concealed handgun? Yes: No

If yes, state which law enforcement agency issued the permit, if known: _____

Is there any reason that a law enforcement officer should consider the defendant a potential threat (i.e., carries concealed weapons while drinking alcohol, has threatened an officer, etc.)? Yes No

If yes, specify the circumstances: _____

PLAINTIFF

Date Of Birth _____

Race:

White

Black

Indian

Asian/Pacific Islander

Other

Sex:

Male

Female

Date _____

Name Of Plaintiff (Type Or Print) _____

Signature Of Plaintiff _____

NOTE TO CLERK OR MAGISTRATE: *If an order is issued, a copy of this form should be attached to the appropriate order and forwarded to the sheriff of the issuing court county.*

AOC-CV-312, Rev. 6/2000

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Original-Court File Copy-Sheriff

ADDITIONAL FINDINGS

1. Present at the hearing were: the plaintiff, represented by _____
 the defendant, represented by _____
2. As indicated by the check block under Respondent/Defendant's name on Page 1, the parties are or have been in a personal relationship.
3. On (date of most recent conduct) _____, the defendant
- a. attempted to cause intentionally caused bodily injury to the plaintiff a minor child(ren) in the custody of the plaintiff
- b. placed in fear of imminent serious bodily injury the plaintiff a member of the plaintiff's family
 a member of the plaintiff's household
- c. placed in fear of continued harassment that rises to such a level as to inflict substantial emotional distress
 the plaintiff a member of plaintiff's family a member of plaintiff's household
- d. committed an act defined in G.S. 14- 27.2 (1st deg. rape) 27.3 (2nd deg. rape) 27.4 (1st deg. sexual off.)
 27.5 (2nd deg. sexual off.) 27.5A (sexual battery) 27.7 (sexual activity by substitute parent) against the
 plaintiff child(ren) living with or in the custody of the plaintiff
- by (describe defendant's conduct)

4. The defendant is in possession of, owns or has access to firearms, ammunition, and gun permits described below. (Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms.)

5. The defendant
- a. used threatened to use a deadly weapon against the plaintiff minor child(ren) residing with or in the custody of the plaintiff
- b. has a pattern of prior conduct involving the use threatened use of violence with a firearm against persons
- c. made threats to seriously injure or kill the plaintiff minor child(ren) residing with or in the custody of the plaintiff
- d. made threats to commit suicide
- e. inflicted serious injuries upon the plaintiff minor child(ren) residing with or in the custody of the plaintiff in that (state facts) _____

6. The defendant plaintiff is presently in possession of the parties' residence at _____
7. The defendant plaintiff is presently in possession of the parties' vehicle described below:

8. Other: (specify)

CONCLUSIONS

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

1. The defendant has committed acts of domestic violence against the plaintiff.
2. The defendant has committed acts of domestic violence against the minor child(ren) residing with or in the custody of the plaintiff.
3. There is danger of serious and immediate injury to the plaintiff. minor child(ren). [G.S. 50B-2(b)]

Name Of Defendant

File No.

- 4. This domestic violence protective order is necessary to bring about a cessation of acts of domestic violence. [G.S. 50B-3(a)]
- 5. The defendant's conduct requires that he/she surrender all firearms, ammunition and gun permits. (G.S. 50.B-3.1)
- 6. The plaintiff has failed to prove grounds for issuance of a domestic violence protective order.

ORDER

It is ORDERED that:

- 1. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [01]
- 2. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the minor child(ren) residing with or in the custody of the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [02]
- 3. the defendant shall not threaten a member of the plaintiff's family or household. [02]
- 4. the plaintiff is granted possession of, and the defendant is excluded from, the parties' residence described above and all personal property located in the residence except for the defendant's personal clothing, toiletries and tools of trade. [03]
- 5. any law enforcement agency with jurisdiction shall evict the defendant from the residence and shall assist the plaintiff in returning to the residence. [08]
- 6. the plaintiff [08] defendant [08] is entitled to get personal clothing, toiletries, and tools of trade from the parties' residence. A law enforcement officer shall assist the plaintiff defendant in returning to the residence to get these items.
- 7. the defendant shall stay away from the plaintiff's residence or any place where the plaintiff receives temporary shelter. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [04]
- 8. the defendant shall stay away from the following places:
 - (a) the place where the plaintiff works. [04]
 - (b) the child(ren)'s school. [04]
 - (c) the place where the child(ren) receives day care. [04]
 - (d) the plaintiff's school. [04]
 - (e) Other: (name other places) [04]

- 9. the plaintiff is granted possession and use of the vehicle described on Page 2. [08]
- 10. the defendant is ordered to make payments to the plaintiff for support of the minor child(ren) as required by law. [08]
- 11. the defendant is prohibited from possessing, owning or receiving [07] purchasing a firearm for the effective period of this Order [07] and the defendant's concealed handgun permit is suspended for the effective period of this Order. [08]
 - The defendant is a law enforcement officer/member of the armed services and may may not possess or use a firearm for official use.
- 12. the defendant surrender to the Sheriff serving this order the firearms, ammunition, gun permits described in block No. 4 of the Findings on Page 2 of this Order and any other firearms and ammunition in the defendant's care, custody, possession, ownership or control. **NOTE TO DEFENDANT: You must surrender these items at the time the sheriff serves this Order on you. If the weapons cannot be surrendered at that time, you must surrender them to the sheriff within 24 hours at the time and place specified by the sheriff. Failure to surrender the weapons and permits as ordered or possessing, owning, purchasing, or receiving a firearm, ammunition or permits to purchase or carry concealed firearms after being ordered not to possess firearms, ammunition or permits is a crime. See "Notice To Parties: To The Defendant" on Page 4 of this Order for information regarding the penalty for these crimes and instructions on how to request retrieval of surrendered weapons when the protective order is no longer in effect.**
- 13. the defendant shall attend and complete an abuser treatment program offered by the following agency, which is approved by the Domestic Violence Commission: [08]

14. Other: (specify) [08]

15. this action is dismissed and as of this date any ex parte order issued in this case is null and void.

TEMPORARY CUSTODY

"Temporary Child Custody Addendum To Domestic Violence Protective Order," AOC-CV-306A, is attached and incorporated into this Order.

FOR CONSENT JUDGMENTS ONLY

Each of us enters into this Consent Order knowingly, freely, and voluntarily. The defendant understands that in consenting to this Order all of the consequences set out in the Notice to Parties and Warnings to Respondent/Defendant in this Order apply.

Date	Signature Of Plaintiff	Date	Signature Of Defendant
------	------------------------	------	------------------------

SIGNATURE OF JUDGE

Date	Name Of District Court Judge (Type Or Print)	Signature Of District Court Judge
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NOTICE TO PARTIES

TO THE DEFENDANT:

1. If this Order prohibits you from possessing, owning, receiving or purchasing a firearm and you violate or attempt to violate that provision, you may be charged with a Class H felony pursuant to North Carolina G.S. 14-269.8 and may be imprisoned for up to 30 months.
2. If you have been ordered to surrender your firearms, ammunition, and gun permits and you fail to surrender them as required by this Order, or if you failed to disclose to the Court all information requested about possession of these items, or provided false information to the Court about any of these items you may be charged with a Class H felony and may be imprisoned for up to 30 months. If you surrendered your firearms, ammunition, and permits, you may file a motion for the return of weapons with the clerk of court when the protective order is no longer in effect in the county in which this order was entered. The form motion, "Motion For Return Of Weapons Surrendered Under Domestic Violence Order" AOC-CV-319, is available from the clerk of court's office. The motion must be filed **not later than 90 days after the expiration of the Order that required you to surrender the firearms**. At the time you file the motion, the clerk will schedule a hearing before the district court for a judge to determine whether to return the surrendered weapons to you. The sheriff cannot return your weapons unless the Court orders the sheriff to do so. You must pay the sheriff's storage fee before the sheriff returns your weapon. If you fail to file a motion for return of the weapons within 90 days after the expiration of this Order or fail to pay the storage fees **within 30 days after the Court enters an order to return your weapons**, the sheriff may seek an order from the Court to dispose of your weapons.

TO THE PLAINTIFF:

1. You should keep a copy of this protective order on you at all times and should make copies to give to your friends and family. If you move to another county or state, you may wish to give a copy to the law enforcement agency where you move, but you are not required to do so.
2. The court or judge is the only one that can make changes to this order. If you wish to change any of the terms of this order, you must come back into court to have the judge modify the order.
3. If the defendant violates any provision of this order, you may call a law enforcement officer or go to a magistrate to charge the defendant with the crime of violating a protective order. You also may go to the Clerk of Court's office in the county where the protective order was issued and ask to fill out form AOC-CV-307, Motion For Order To Show Cause Domestic Violence Protection Order, to have an order issued for the defendant to appear before a district court judge to be held in contempt for violating the order.

CERTIFICATE OF SERVICE WHEN DEFENDANT NOT PRESENT AT HEARING

I certify that this Order and Notice to Parties has been served on the defendant named by depositing a copy in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date	Signature	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
		<input type="checkbox"/> Clerk Of Superior Court	<input type="checkbox"/> Other _____

CERTIFICATION

I certify this order is a true copy.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
		<input type="checkbox"/> Clerk Of Superior Court	

NOTE TO CLERK: A copy of this Order shall be mailed or given to each party, to your sheriff, and to the police department of the plaintiff's residence, if any.

Name Of Plaintiff	Name Of Defendant	File No.
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**TEMPORARY CHILD CUSTODY ADDENDUM
TO DOMESTIC VIOLENCE PROTECTIVE ORDER
(must be attached to Domestic Violence Order of Protection)**

NOTE TO THE JUDGE: *G.S. 50B-3(a1) provides that "upon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish temporary visitation rights." The Court shall base its decision on the best interest of the child with particular consideration given to the safety of the child.*

FINDINGS

1. The defendant requested custody and gave proper notice of this request to the plaintiff.
2. The parties are the parents of the following children under the age of eighteen (18). The child(ren) are presently in the physical custody of the plaintiff, defendant. The plaintiff defendant has submitted an "Affidavit As To The Status Of The Status Of The Minor Child," which is incorporated by reference into this Order. **NOTE TO JUDGE:** *A copy of AOC-CV-609 for each child must be attached to the order.*

Name	Sex	Date Of Birth	Name	Sex	Date Of Birth

3. The following statutory factors were raised by the evidence and the Court makes the following findings based on the evidence presented. *(Check only those factors for which evidence was presented and make findings regarding the evidence presented for those factors.)*
- "Whether the minor child was exposed to a substantial risk of physical or emotional injury or sexual abuse." Findings:

- "Whether the minor child was present during acts of domestic violence." Findings:

- "Whether a weapon was used or threatened to be used during any act of violence." Findings:

- "Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or minor child." Findings:

- "Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury." Findings:

- "Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat or duress." Findings:

- "Whether there is a pattern of abuse against the aggrieved party or minor child." Findings:

- "Whether a party has abused or endangered the minor child during visitation." Findings:

FINDINGS (continued)

"Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party." Findings:

"Whether a party has improperly concealed or detained the minor child." Findings:

"Whether a party has otherwise acted in a manner that is not in the best interest of the minor child." Findings:

4. Other findings as to whether it is in the best interest of the child(ren) that custody be awarded with particular consideration given to the safety of the child(ren):

CONCLUSIONS

- 1. The Court has jurisdiction under the Uniform Child Custody Jurisdiction And Enforcement Act.
- 2. It is in the best interest of the minor child(ren) that temporary custody be given to plaintiff. defendant. [08]
 and that the defendant plaintiff be granted visitation.
- 3. The Court concludes that temporary custody should not be awarded at this time.

ORDER

Therefore it is ORDERED that:

1. temporary custody of the minor child(ren) named on Side One is granted to plaintiff. defendant.

2. The defendant plaintiff is entitled to visitation under the terms listed below:

a. supervised visitation as follows: (specify the person or agency providing supervision, the location, frequency and length of visitation)

OR

unsupervised visitation as follows: (specify the location, frequency and length of visitation)

b. (Name person) _____ shall be responsible for transportation of the minor child(ren) to visitation and (name person) _____ shall be responsible for transportation of the minor child(ren) from visitation. The exchange at the start of visitation shall occur at (name location) _____ and the exchange at the conclusion of visitation shall occur at (name location) _____

c. Other: _____

3. temporary custody is not awarded.

4. The order is effective until (give date which cannot be longer than one year): _____

Date	Name Of District Court Judge (Type Or Print)	Signature Of District Court Judge

Principal Investigator: Moracco, Kathryn E.

Description of COPE Study Methodology and Human Subjects Protection

In COPE, women are initially informed of the study by one of two methods. An index card-sized flyer about the study is attached to each *ex parte* application given to women in the Court of Clerks office. From there, either an Interact staff person (Wake County) or a Durham Crisis Response Center staff person (Durham County) introduces the COPE recruiter to women. If they are interested in participating and are eligible, the women meet with the COPE study recruiter for about five minutes either *right after receiving* or *while waiting* for the *ex parte* paperwork. The COPE recruiter is available to answer any questions. She also schedules the two phone interviews, completes an informed consent form, and hands out response cards. The informed consent form details what will be asked of her, and what benefits and risks she may encounter through her participation in the study. Once she has signed the informed consent form, a photocopy of her *ex parte* form is made.

In addition, the DV Coordinator for the Durham Sheriff's Department provides women who are filing for *ex parte* orders with a brochure describing this study. If COPE recruiters are not present in the courthouse when the woman receives her *ex parte*, the DV Coordinator for the Durham Sheriff's Department ensures she is aware of how to contact COPE staff via the project's toll-free number.

The COPE baseline phone interview takes approximately 60 minutes. At the end of the interview, the interviewers collect contact information from the respondent that will facilitate follow-up telephone contact subsequent to the 10-day hearing. In addition respondents supply the names and telephone numbers of three individuals who will know of their whereabouts. At the conclusion of the interview, the interviewer gives the participants the project's toll-free

Principal Investigator: Moracco, Kathryn E.

number to call if there is a change in their contact information or any questions about how to pick up their incentive money.

The Time 2 telephone interview is conducted on a date and time scheduled during the baseline interview that is within 48 hours of the respondent's DVPO hearing. If, at contact, the woman indicates that her civil case has been continued, another call is scheduled. If her case has been closed through either the granting, denial, or dismissal of the DVPO the interviewer proceeds with the interview. The Time 2 interview takes approximately 25 minutes.

The six (Time 3) and twelve-month (Time 4) follow-back telephone interviews are initially scheduled during the Time 2 (post-DVPO hearing) interview. Names, telephone numbers, and unique code identifiers are transcribed from the master contact lists. Interviewers obtain verbal informed consent from participants prior to conducting the Time 3 and Time 4 interviews.

Trained female interviewers conduct the phone interviews using Computer Assisted Telephone Interviewing (CATI) procedures, in which each interview question appears on the screen and is read verbatim by the interviewer. The advantages of the CATI system are that it permits immediate data entry in the course of the interview, thus reducing errors associated with coding and keypunching. In addition, programming of the system facilitates use of skip patterns in that the computer automatically directs the interviewer to the appropriate next question based on the response pattern given. This, in turn, reduces interviewer errors.

Telephone interview data will be entered directly into the BLAISE system, a Computer Assisted Telephone Interviewing program, and converted to SAS files for data editing and analysis. Separate data files are maintained for in-person and telephone questionnaire information. Each electronic record is identified through the use of a numeric identification numbers.

Appendix E:

Description of Court Ordered Protection Evaluation (COPE) Study

Principal Investigator: Moracco, Kathryn E.

Potential Risks to Human Subjects in the COPE study

All women participating in the COPE study have been involved in an abusive relationship within the last three to six months. Their participation runs the risk that the abuser could become aware of the study and physically and/or emotionally harm the women in response. We have taken considerable precautions to insure the safety of women participating in the COPE study, which has been deemed beyond minimal risks by the UNC Institutional Review Board. COPE study procedures have received full board review and approval for two consecutive years.

All women participating in COPE were initially recruited to participate in the study at the Wake or Durham County Courthouses as they obtained an *ex parte* protection order against an intimate partner. At that time, they completed and signed an informed consent form reviewed and approved by the UNC School of Public Health Institutional Review Board. The informed consent form details what will be asked of her, and what benefits and risks she may encounter through her participation in the study. All participants read and sign the informed consent form indicating their willingness to participate in a baseline interview via telephone of approximately one hour, and a follow-up interviews lasting approximately 30 minutes.

At the Time 3 and time 4 interviews, women are read an informed consent script over the telephone reminding of their rights to decline participation, similar to the section contained in the Time 2 interview script.

Due to the intense nature of some of the topics covered, we were concerned that some respondents might not be in a safe environment to discuss some of the study issues, particularly

Principal Investigator: Moracco, Kathryn E.

partner violence. We pre-arrange times to conduct our interviews with the express purpose of minimizing participants' exposure to risks. All of the interviews are conducted via telephone. In some cases we call participants' work settings during lunch hours, and others at homes of parents or friends, according to the participants' desires.

We have incorporated a number of measures within the screening and interview processes to ensure that the respondents are not endangered by participating in the study. We provide women with a code phrase (e.g. "I don't care to contribute today, thank-you") that respondents can use if they need to end the interview abruptly due to safety concerns (e.g. an abusive partner enters the room). All interviewers are women, thereby allaying potential jealousy issues that may arise if the batterer answers the phone. We ask for women by first name when calling households and never leave messages with others answering the telephone or on answering machines. Women are free to end participation in any interview or the study by indicating this to interviewers or leaving a message on a toll free telephone number.

Women participating in COPE receive \$35 for participation the baseline interview and \$10 for each subsequent interview.