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## SEX BEFORE VIOLENCE: GIRLS, DATING VIOLENCE, AND (PERCEIVED) SEXUAL AUTONOMY

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# SEX BEFORE VIOLENCE: GIRLS, DATING VIOLENCE, AND (PERCEIVED) SEXUAL AUTONOMY

## **Cover Page Footnote**

Cheryl Hanna, Professor of Law, Vermont Law School. Thanks to Sarah Flint for all of her excellent research help on his project. Naomi Flint, my assistant, was invaluable to this project, as was Glenn Marvel and the staff at the Cornell Library. Thanks also to the students in the "Women and the Law: Domestic Violence" seminar for their insights and inspiration. This project was funded in part by a faculty research grant from Vermont Law School. This author can be reached at [channa@vermontlaw.edu](mailto:channa@vermontlaw.edu).

## SEX BEFORE VIOLENCE: GIRLS, DATING VIOLENCE, AND (*PERCEIVED*) SEXUAL AUTONOMY

*Cheryl Hanna*\*

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### INTRODUCTION

Something amiss is happening to adolescent girls on their way to womanhood. It appears that girls today are experiencing violence, both as victims and as perpetrators, to a far greater extent than a generation ago.<sup>1</sup> Thus, they are finding themselves more frequently in contact with the criminal justice system, both as victims and, increasingly, as defendants.

Two related trends are particularly troubling. The first is the rising tide of girl violence, which has received much literary attention.<sup>2</sup> The interest in girl violence is fueled by government statistics that show that even though violent crime rates are down overall, they are rising among women under age eighteen. For example, from 1993 to 2002, juvenile arrests for simple assaults rose forty-one percent for girls but only four percent for boys.<sup>3</sup> During this period, girls also experienced a seven percent increase in arrests for

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\* Cheryl Hanna, Professor of Law, Vermont Law School. Thanks to Sarah Flint for all of her excellent research help on this project. Naomi Flint, my assistant, was invaluable to this project, as was Glenn Marvel and the staff at the Cornell Library. Thanks also to the students in the "Women and the Law: Domestic Violence" seminar for their insights and inspiration. This project was funded in part by a faculty research grant from Vermont Law School. The author can be reached at [channa@vermontlaw.edu](mailto:channa@vermontlaw.edu).

1. *See, e.g., infra* notes 10-12 and accompanying text.

2. *See generally* LYN MIKEL BROWN, *GIRLFIGHTING: BETRAYAL AND REJECTION AMONG GIRLS* (2003); LYN MIKEL BROWN, *RAISING THEIR VOICES: THE POLITICS OF GIRLS' ANGER* (1998); MARION K. UNDERWOOD, *SOCIAL AGGRESSION AMONG GIRLS* (2003); *GIRLS' VIOLENCE: MYTHS AND REALITIES* (Christine Alder & Anne Worrall eds., 2004); DEBORAH PROTHROW-STITH & HOWARD R. SPIVAK, *SUGAR AND SPICE AND NO LONGER NICE: HOW WE CAN STOP GIRLS' VIOLENCE?* (2005).

3. Howard N. Snyder, *Juvenile Arrests 2002*, *JUV. JUST. BULL.* (Office of Justice Programs, U.S. Dep't of Just., Wash., D.C.), Sept. 2004, at 8, *available at* <http://www.ncjrs.gov/pdffiles1/ojdp/204608.pdf>.

aggravated assault, while boys experienced a twenty-nine percent decline.<sup>4</sup> Even though boys are far more likely to engage in violent crime than girls,<sup>5</sup> this and other data suggest that aggression and physical violence play an increasingly prominent role in girls' behavioral repertoires. What is particularly striking is that forty-two percent of female victims of violent crimes by juveniles were victimized by other females.<sup>6</sup>

A similar amount of media attention and scholarly research has focused on dating violence.<sup>7</sup> Even though rates of domestic violence as measured by domestic homicides have fallen dramatically in the last fifteen years,<sup>8</sup> teen dating violence seems to be a serious, and arguably growing, problem among our nation's youth. Girls between the ages of sixteen and twenty-four are most at risk for non-fatal dating violence.<sup>9</sup> Some studies estimate that one-third of teenagers have been victimized by dating violence,<sup>10</sup> and one-fourth of teenage girls in relationships endure repeated verbal abuse.<sup>11</sup> This suggests that aggression is more commonplace among teen dating relationships today

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4. *Id.*

5. *Id.* at 3 (noting that girls account for only eighteen percent of violent arrests).

6. Carl McCurley & Howard N. Snyder, *Victims of Violent Juvenile Crime*, JUV. JUST. BULL. (Office of Justice Programs, U.S. Dep't of Just., Wash., D.C.), July 2004, at 1, available at <http://www.ncjrs.org/pdffiles1/ojjdp/201628.pdf>.

7. See, e.g., Stacy Hawkins Adams, *Group Backs Safe Dating for Teen Girls*, RICHMOND TIMES DISPATCH, Aug. 7, 2004, at B1; Nicolette Bautistais, *Teach Teens to Recognize Violence in Relationships*, SACRAMENTO BEE, Aug. 22, 2004, at E5; Alexa Capeloto & Peggy Walsh-Sarnecki, *Teen's Stabbing at School Followed Threats*, DETROIT FREE PRESS, Sept. 28, 2004, at B1; Leslie Fulbright, *Immigrant Teens to Get Help Halting Date Abuse Eastside*, SEATTLE TIMES, June 18, 2004, at B3; Colleen Sparks, *When Dates Get Violent*, ARIZ. REPUBLIC, Mar. 22, 2005, at B3; Kimberly Hayes Taylor, *Girls Can Beat Teen Dating Abuse*, DETROIT NEWS, Nov. 2, 2004, at F1; Joyce Yiu, *Study: Asian Teens Don't Tell Parents of Dating*, N.W. ASIAN WKLY., June 26, 2004, at 8; Bill Zlatos, *Trying to Weed Out Dangerous Dating*, PITTSBURGH TRIB. REV., Apr. 10, 2005.

8. See, e.g., Bureau of Justice Statistics, U.S. Dep't of Justice, *Homicide Trends in the U.S.: Intimate Violence*, available at <http://www.ojp.usdoj.gov/bjs/homicide/intimates.htm> (last visited Jan. 12, 2005). From 1976 to 2002, the number of men killed by an intimate partner declined by seventy-one percent, while for women the decline was approximately twenty-five percent. *Id.*

9. See generally FED. BUREAU OF INVESTIGATION, UNIFORM CRIME REPORTS, SECTION V: SPECIAL REPORT—VIOLENCE AMONG FAMILY MEMBERS AND INTIMATE PARTNERS 339 (2003), available at [http://www.fbi.gov/ucr/cius\\_03/pdf/03sec5.pdf](http://www.fbi.gov/ucr/cius_03/pdf/03sec5.pdf).

10. Carolyn T. Halpern et al., *Partner Violence Among Adolescents in Opposite-Sex Romantic Relationships: Findings From the National Longitudinal Study of Adolescent Health*, 91 AM. J. PUB. HEALTH 1679, 1679 (2001) [hereinafter Halpern et al., *Partner Violence Among Adolescents*].

11. TEENAGE RESEARCH UNLIMITED, LIZ CLAIBORNE INC. OMNIBUZZ® TOPLINE FINDINGS: TEEN RELATIONSHIP ABUSE RESEARCH 1 (2005), available at <http://www.loveisnotabuse.com> (search "what we're doing," then click "teen dating abuse survey 2005") [hereinafter TEEN RELATIONSHIP ABUSE RESEARCH].

than it was a generation ago. More than half of teens know friends or peers who have been physically, sexually, or verbally abused.<sup>12</sup> While girls are more likely than boys to be severely injured in violent exchanges,<sup>13</sup> both girls and boys report that girls increasingly use physical aggression in their intimate relationships.<sup>14</sup>

What is even more troubling about these trends is that, if violence is becoming more common in the lives of young women, it comes after more than three decades of legal reform geared at advancing women's physical safety and personal autonomy. Women today still face subtle, and sometimes not-so-subtle, discrimination. Yet, young women born after 1985 have come of age in an era where most legal barriers to women's advancement in education and the marketplace have been removed. Young women have unprecedented access to reproductive choices, and have never known a time before Title IX. They excel in the classroom and on the playing field. These granddaughters of the women's rights movement are the inventors of girl power—that in-your-face, I-can-be-and-do-anything-I-want attitude. Why then would we see an increase in violence, both by and against them?

In this paper, I explore that question. In particular, I explore the phenomenon of girl violence by examining teen dating violence and girls' experiences with intimate abuse both as victims and as perpetrators. While there is a tendency to view women's experiences as victims of violence as separate and distinct from their experiences as inflictors of violence, the two phenomena are interrelated. A girl's violent victimization can lead her to victimize someone else, just as her own violence can lead her to violent victimization.<sup>15</sup> Indeed, recent research suggests that boys and girls who have been victims of violence are more likely to perpetrate adolescent violence.<sup>16</sup> Moreover, any exposure to violence within an intimate relationship puts a girl

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12. *Id.*

13. *Id.* at 5 (noting that seven percent of girls but only three percent of boys report being physically hurt at the hands of a partner); Christian Molidor et al., *Gender and Contextual Factors in Adolescent Dating Violence*, THE PREVENTION RESEARCHER, Feb. 2000, at 1, 2 ("For violence in any dating relationship, girls, significantly more often than boys, reported that they experienced severe violence.").

14. See *infra* notes 59-66 and accompanying text.

15. Deborah M. Capaldi & Deborah Gorman-Smith, *The Development of Aggression in Young Male/Female Couples*, in ADOLESCENT ROMANTIC RELATIONSHIPS AND SEXUAL BEHAVIOR 243, 263-64 (Paul Florsheim ed., 2003) (finding that when a young woman is aggressive against her partner, she is three times more likely to be injured and has a higher probability of more frequent and severe injuries).

16. Shaista Malik et al., *Community and Dating Violence Among Adolescents: Perpetration and Victimization*, 21 J. ADOLESCENT HEALTH 291, 300 (1997) (noting that 98.8 percent of perpetrators of community violence were also victims of community violence, and 96.5 percent of victims were also perpetrators).

at risk of finding herself in the criminal justice system.<sup>17</sup> Thus, if we want to respond to the growing number of arrests of girls for violent crimes, we ought to ask what it is about girls, at this point in our history, that leaves them vulnerable to experiencing violence with such frequency.

One factor that may fuel the increase in girl violence is girls' willingness or desire to become sexually involved with boys. While much data suggests that sex and violence coexist in violent dating relationships, the relationship between the two has never been clear.<sup>18</sup> One could assume that boyfriends use violence to initiate a sexual relationship.<sup>19</sup> Recent research on teenage dating violence, however, indicates that violence most often happens *after* a young couple has consensual sex.<sup>20</sup> Thus, engaging in sexual activity within a dating relationship appears dramatically to increase the risk of physical and sexual violence.<sup>21</sup>

Adolescent girls often perceive that it is acceptable, even desirable, to have a sexual relationship with their boyfriends. For many girls, having sex is a way to express love for a partner.<sup>22</sup> Yet, girls are finding that an unintended consequence of their love, and their perceived sexual autonomy to express that love, is that men and boys will use violence to control them both sexually and socially. Sexual activity may also be the precursor to a girl engaging in violent behavior.<sup>23</sup> This is especially true if the girl has become more invested in a relationship because she had sex with her boyfriend.<sup>24</sup> She may then engage in violence out of fear and frustration that she may lose him.<sup>25</sup>

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17. MARY E. GILFUS, NAT'L ELEC. NETWORK ON VIOLENCE AGAINST WOMEN, WOMEN'S EXPERIENCES OF ABUSE AS A RISK FACTOR FOR INCARCERATION 1-4 (2002), available at [http://www.vawnet.org/DomesticViolence/Research/VAWnetDocs/AR\\_Incarceration.pdf](http://www.vawnet.org/DomesticViolence/Research/VAWnetDocs/AR_Incarceration.pdf) (describing how violence perpetrated against women and girls increases their risk of arrest and incarceration).

18. Christine E. Kaestle & Carolyn T. Halpern, *Sexual Intercourse Precedes Partner Violence in Adolescent Romantic Relationships*, 36 J. OF ADOLESCENT HEALTH 386, 387 (2005) ("Although past research has demonstrated broad linkages between sexual and violent experiences, these studies of youth have not been able to examine connections between violence and sexual behavior within the same relationship . . .").

19. *Id.*

20. *Id.* at 390 (noting statistical evidence showing that violence mostly occurs after sexual intercourse).

21. *Id.*

22. Jessica Tracy et al., *Attachment Styles and Adolescent Sexuality*, in ADOLESCENT ROMANTIC RELATIONS AND SEXUAL BEHAVIOR 137, 141-42 (Paul Florsheim ed., 2003).

23. Kaestle & Halpern, *supra* note 18, at 390-91.

24. *See id.* ("If sexual intercourse marks the development of greater emotional intensity within the relationship, it may also foster feelings of jealousy or a greater need for power in the relationship.").

25. Severe violent events between young couples tend to happen once separation is underway. *See* Capaldi & Gorman-Smith, *supra* note 15, at 263.

These risks may be especially true for younger girls, who often lack the emotional maturity needed to handle the demands of a sexual relationship. While young women may perceive themselves as making choices about their sexual lives, they may have far less control than they think. For many girls, love, and the sex that accompanies it, becomes the gateway to violent relationships, as well as to other high risk behaviors such as alcohol and drug use. For a growing number of girls, it becomes the gateway to the criminal justice system.

What makes any discussion about girls and sexual behavior difficult is that the mere suggestion that a young woman's sexual autonomy may make her more vulnerable to violence often triggers a socially conservative response about the breakdown of sexual mores. Hostility toward women's social advancement often underlies this rhetoric. Unfortunately, social conservatives have co-opted the debate about sexuality and gender to such an extent that it is difficult, if not impossible, to suggest that certain strategies may help protect young women from becoming violent or becoming victims of violence. Yet, if we want to protect the autonomy and sexual freedom of young women, we must engage in conversations about girls and sexual behavior.

These conversations about young women and sexual behavior are especially important for lawyers and advocates. While the implementation of legal strategies such as civil restraining orders and more aggressive criminal prosecutions provide victims of intimate violence with greater legal options, there have been no studies which suggest that these strategies help prevent violence among teens. Thus, we must explore more proactive strategies, such as programs geared to reducing dating violence and sex education classes that fully inform adolescents of the risks of early sexual activity.

### AGE AND INTIMATE VIOLENCE

During the past two decades, much theoretical and practical work on domestic violence has emerged. Many such works examine domestic violence through the gender lens. Domestic violence was initially understood within the larger context of gender discrimination, given that the vast majority of domestic violence victims are women.<sup>26</sup> More nuanced analyses followed, looking at the impact of race, ethnicity, class, disability, sexual orientation, and citizen status on domestic violence and our legal responses to it.<sup>27</sup> Such

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26. See Shannon Selden, *The Practice of Domestic Violence*, 12 UCLA WOMEN'S L.J. 1, 4 n.13 (2001).

27. See, e.g., Sarah L. Lewis & William Fremouw, *Dating Violence: A Critical Review of the Literature*, 21 CLINICAL PSYCHOL. REV. 105, 109 (2001) (providing a critical review of current research on dating violence, and noting that demographic variables help identify domestic violence victims).

analyses have greatly aided our understanding of domestic violence and have helped shape the development of legal policies that respond to victims' needs. The relationship between age and domestic violence, however, has largely gone unexplored.<sup>28</sup>

Throughout one's life, as long as one is in an intimate relationship, one is always at some risk of domestic violence. Whether someone is fourteen or eighty years old, the primary reason one engages in verbal, physical, or sexual abuse against an intimate partner is a desire for control.<sup>29</sup> Violence is often triggered by sexual conflict, sexual jealousy, or a fear that the relationship is changing or will end.<sup>30</sup> The context for domestic violence is intimacy—both sexual and emotional. Yet, one of the reasons we often “miss” the young and the elderly in our analysis of domestic violence is that our culture denies that the young and the elderly engage in the kinds of romantic or sexual relationships that can lead to violence.

We often misconstrue violence by young people as being something other than domestic violence. We may attribute violence in dating relationships to individual social problems, or we may minimize it as innocent horseplay. It is telling that among the volumes of legal academic literature on domestic violence, for example, few articles focus specifically on adolescent dating relationships.<sup>31</sup>

Similarly, there is a popular misunderstanding that violence among the elderly is triggered by “caregiver” stress.<sup>32</sup> When abuse happens in the context of an intimate relationship, however, it is almost always an outgrowth

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28. *See id.* at 109 (“Age has traditionally not been found to be a significant predictor of dating violence, although this may be a function of limited empirical investigation.”).

29. *See* Heidi M. Ronfeldt et al., *Satisfaction with Relationship Power and the Perpetration of Dating Violence*, 60 J. OF MARRIAGE & THE FAM. 70, 71 (1998) (reviewing both feminist and resource theories on domestic violence and finding that while they vary, both focus on the relationship between violence and the need for power).

30. Selden, *supra* note 26, at 24-29 (reviewing research on separation assault and sexual jealousy in violent relationships).

31. Although limited, there is some literature that focuses specifically on adolescent dating relationships. *See generally* Stacy L. Brustin, *Legal Responses to Teen Dating Violence*, 29 FAM. L.Q. 331 (1995); Roger J.R. Levesque, *Dating Violence, Adolescents, and the Law*, 4 VA. J. SOC. POL'Y & L. 339 (1997); Cynthia Rodriguez, *Cynthia's Story*, 3 WHITTIER J. OF CHILD & FAM. ADVOC. 123 (2003) (providing a first-hand account of a seventeen-year-old girl's experience as a victim of an abusive relationship); Carole A. Sousa, *Teen Dating Violence: The Hidden Epidemic*, 37 FAM. & CONCILIATION CTS. REV. 356 (1999); Kathryn Suarez, *Teenage Dating Violence: The Need for Expanded Awareness and Legislation*, 82 CAL. L. REV. 423 (1994).

32. Dona Playton, *Domestic Abuse of the Elderly*, WYO. LAW., Oct. 2002, at 23-24 (“While there remains the popular image of the stressed caregiver and the dependent victim, recent evidence has indicated that neither caregiver stress levels nor victims' dependence are core factors leading to elder abuse.”).



of domestic violence.<sup>33</sup> Once an elderly couple reaches a certain age, we label it “elder abuse” when, in fact, it is the similar pattern of domestic abuse that we see among younger couples.<sup>34</sup> The overall pattern of behavior in violent relationships is similar regardless of the age of the abuser or the victim.<sup>35</sup>

One might speculate that older women experience more violence than younger women, because older women are likely to take less advantage of the available legal and social interventions and to maintain more traditional views of domestic violence as a private family matter. Their spouses, too, would arguably be more likely to have come of age in a time when it was considered acceptable, or at least not punishable, to batter one’s spouse. Yet, violent crime data shows that the young are more likely to engage in violence, including domestic violence.<sup>36</sup> Data from the Federal Bureau of Investigation Uniform Crime Reports shows that, between 1996 and 2001, there were 5,148 incidents of domestic abuse perpetrated by a significant other against someone over age sixty-five.<sup>37</sup> In contrast, there were 47,000 domestic violence incidents perpetrated by a significant other against someone under the age of eighteen.<sup>38</sup> This suggests that the older one gets without experiencing violence, the less likely he or she will become a victim of it.

The earlier in her life a woman is exposed to violence or becomes violent, the more likely she is to continue those patterns of abuse throughout her life,<sup>39</sup> and the more likely she is to experience a host of other social problems, including an increased likelihood of ending up in the criminal justice system.<sup>40</sup> Yet, most of our legal and social strategies have focused almost exclusively on adults. By the time these adults end up in the criminal justice system, they may already have long histories of violence within their

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33. Sarah B. Harris, *For Better or for Worse: Spouse Abuse Grown Old*, 8 J. OF ELDER ABUSE & NEGLECT 1, 26 (1996) (noting that in a study of older married couples, “[m]ore than half of the older respondents reporting physical abuse had experienced this kind of abusive behavior for many years—spouse abuse grown old”); see also Playton, *supra* note 32, at 24 (“Elder abuse is often domestic violence which has graduated into older age.”).

34. See generally Harris, *supra* note 33.

35. See, e.g., *id.* at 19 (describing findings that suggest “both older and younger couples experiencing abusive relationships report similarly on many of the same risk factors related to physical abuse”); Playton, *supra* note 32, at 23 (“There are many similarities between domestic abuse of the elderly and non-elderly victims.”).

36. See, e.g., FED. BUREAU OF INVESTIGATION, *supra* note 9, at 346-47; Harris, *supra* note 33, at 2 (noting that spouse abuse is more common in the young).

37. FED. BUREAU OF INVESTIGATION, *supra* note 9, at 347.

38. *Id.*

39. GILFUS, *supra* note 17, at 1 (describing the correlation between incarcerated women and their violent victimization at an earlier age).

40. *Id.* at 3-4 (highlighting prostitution, drug use, and drug addiction as pathways to incarceration).

relationships. Thus, early intervention could be an effective strategy for reducing intimate violence both by and against women. In turn, such intervention could reduce women's exposure to the criminal justice system.

### THE INCIDENCE & PREVELANCE OF DATING VIOLENCE

Most studies of intimate violence have not included non-residential dating relationships<sup>41</sup> or teenagers.<sup>42</sup> Thus, there is limited data on the extent to which teens experience aggression within their earliest relationships. It is particularly difficult to measure whether teenagers face more violence today than a generation ago, since very little data from before the 1990s exists on this issue. Nevertheless, the research that does exist suggests that violence in heterosexual teenage relationships is fairly common.<sup>43</sup>

In recent literature, Carolyn Tucker Halpern used data from the National Longitudinal Study of Adolescent Health ("Add Health") to determine the extent of dating violence.<sup>44</sup> Add Health contains the most comprehensive data to date on the health-related behaviors of adolescents in the seventh to twelfth grades, with more than 90,000 adolescents completing questionnaires.<sup>45</sup> In analyzing a sample from this data, Halpern and her colleagues found that thirty-two percent of respondents reported experiencing aggression within a heterosexual romantic relationship.<sup>46</sup> Most of the aggressive behaviors reported were psychological—particularly swearing.<sup>47</sup> Approximately twelve percent of those surveyed reported being the victim of physical violence.<sup>48</sup>

These estimates are consistent with other recent studies both in the United

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41. Halpern et al., *Partner Violence Among Adolescents*, *supra* note 10, at 1679.

42. *Id.* ("No nationally representative studies of dating violence have focused on adolescents younger than 18.")

43. *See infra* notes 45-58 and accompanying text (describing various studies of the incidence of adolescent dating violence). While this paper focuses exclusively on dating relationships between boys and girls, recent research also suggests that violence is common within same-sex teenage relationships as well. *See generally* Carolyn T. Halpern et al., *Prevalence of Partner Violence in Same-Sex Romantic and Sexual Relationships in a National Sample of Adolescents*, 35 J. OF ADOLESCENT HEALTH 124, 128 (2004) [hereinafter Halpern et al., *Prevalence of Partner Violence*] (finding that almost twenty-five percent of adolescents in same-sex relationships report some type of partner violence, and females in same-sex relationships report higher levels of both psychological and physical violence than males).

44. *See generally* Halpern et al., *Partner Violence Among Adolescents*, *supra* note 10.

45. For information on the Adolescent Health Study, see Carolina Population Center, The National Longitudinal Study on Adolescent Health, <http://www.cpc.unc.edu/projects/addhealth> (last visited Jan. 13, 2005).

46. Halpern et al., *Partner Violence Among Adolescents*, *supra* note 10, at 1682.

47. *Id.*

48. *Id.*

States and in other Anglo countries. The Commonwealth Fund Survey of the Health of Adolescent Girls found that twenty-six percent of American girls surveyed said that they had been either sexually and/or physically abused by a date or boyfriend.<sup>49</sup> A survey of Massachusetts high school students found that one in five females had experienced physical or sexual violence from dating partners.<sup>50</sup> A similar survey of New Zealand teens found that about one-fifth of females had been physically hurt in a dating relationship.<sup>51</sup> In a qualitative study of Canadian teens aged fourteen to nineteen, Francine Lavoie and her colleagues also found a wide variety of adolescent dating violence, including death threats, sexual and psychological abuse, and what some of the teens considered “consensual” rough sex.<sup>52</sup>

Recently, Liz Claiborne, Inc. commissioned a study to determine the level of sexual, physical, and verbal abuse among American teenagers as part of its Love is Not Abuse Campaign.<sup>53</sup> The Company has had a long-standing interest in preventing domestic violence.<sup>54</sup> In 2005, it surveyed close to 700 teenagers via the Internet.<sup>55</sup> Thirteen percent of the teen girls surveyed admitted to being physically hurt, while twenty-five percent reported being verbally abused.<sup>56</sup>

These findings are remarkably similar to those in Halpern’s study,<sup>57</sup> which suggests that even when research methods vary considerably, somewhere between ten to twenty percent of girls experience some physical or sexual violence, while approximately twenty-five percent are the victim of some form of psychological abuse. What is even more striking is that more than half of the teenagers (fifty-seven percent) in the Liz Claiborne study reported knowing a friend or peer who was physically, sexually, or verbally abused; one-third know someone who had been hit, kicked, slapped, or otherwise

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49. CATHY SCHOEN ET AL., COMMONWEALTH FUND, THE COMMONWEALTH FUND SURVEY OF THE HEALTH OF ADOLESCENT GIRLS 2 (1997), available at [http://www.cmwf.org/usr\\_doc/Schoen\\_adolescentgirls.pdf](http://www.cmwf.org/usr_doc/Schoen_adolescentgirls.pdf).

50. Jay G. Silverman et al., *Dating Violence Against Adolescent Girls and Associated Substance Use, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy, and Suicidality*, 286 JAMA 572, 574 (2001).

51. Susan M. Jackson et al., *Violence and Sexual Coercion in High School Students’ Dating Relationships*, 15 J. OF FAM. VIOLENCE 23, 31 (2000) [hereinafter Jackson et al., *Violence and Sexual Coercion*].

52. Francine Lavoie et al., *Teen Dating Relationships and Aggression: An Exploratory Study*, 6 VIOLENCE AGAINST WOMEN 6, 23 (2000).

53. See TEEN RELATIONSHIP ABUSE RESEARCH, *supra* note 11, at 1.

54. For information on Liz Claiborne Inc.’s work with domestic violence, see Liz Claiborne Inc., Love is Not Abuse, <http://www.loveisnotabuse.com> (last viewed Jan. 13, 2005).

55. See TEEN RELATIONSHIP ABUSE RESEARCH, *supra* note 11, at 5.

56. *Id.* at 1.

57. See *supra* notes 44-48 and accompanying text.

physically hurt by a dating partner; and forty-five percent of girls know someone who has been pressured into having either intercourse or oral sex.<sup>58</sup>

Interestingly, some surveys find that boys and girls demonstrate aggressive behavior to a similar extent, which calls into question the stereotype that boys are always the aggressors and girls always the victims.<sup>59</sup> In the Liz Claiborne study, for example, roughly the same number of girls and boys reported having experienced physical violence, although more girls reported being hurt by it.<sup>60</sup> In Lavoie's study of Canadian teenagers, nearly half of the girls and less than twenty percent of the boys reported that they had engaged in at least one physically aggressive behavior during a disagreement.<sup>61</sup> The Oregon Social Learning Center found that young women were more likely to initiate physical aggression than young men.<sup>62</sup> Similarly, in a study of same-sex relationships, Halpern and her colleagues found that adolescent girls were almost twice as likely as adolescent males in same-sex relationships to report higher levels of both psychological and physical violence.<sup>63</sup> This suggests that, at least among the young, both homosexual and heterosexual girls are at similar risk of victimization, and that girls are as likely as boys to engage in minor violence.<sup>64</sup>

There is often social disapproval if a boy hits a girl, while there's very little social disapproval if a girl hits a boy. Thus, some commentators have suggested that boys may be more reluctant than girls to report being the victim of violence in a heterosexual dating relationship.<sup>65</sup> Although this may

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58. *Id.*

59. *See id.*; *see also* Ximena B. Arriaga & Vangie A. Foshee, *Adolescent Dating Violence: Do Adolescents Follow In Their Friends, or Their Parents*, *Footsteps*, 19 J. OF INTERPERSONAL VIOLENCE 162, 178-79 (2004) (reporting the results of a study of 560 eighth and ninth graders in a rural county of North Carolina and finding that girls were more likely to be perpetrators of violence than boys).

60. TEEN RELATIONSHIP ABUSE RESEARCH, *supra* note 11, at 5.

61. Lavoie et al., *supra* note 52, at 6.

62. NAT'L RES. CTR. ON DOMESTIC VIOLENCE, *TEEN DATING VIOLENCE: KEY ISSUE: USE OF VIOLENCE BY GIRLS AND BOYS IN HETEROSEXUAL TEEN RELATIONSHIPS 2* (2004), available at [http://www.vawnet.org/NRCDVDPublications/TAPE/Packets/NRC\\_TDV-KeyIssue3.pdf](http://www.vawnet.org/NRCDVDPublications/TAPE/Packets/NRC_TDV-KeyIssue3.pdf) (quoting Deborah Capaldi of the Oregon Social Learning Center).

63. Halpern et al., *Prevalence of Partner Violence*, *supra* note 43, at 128.

64. *Id.* While definitions of "minor violence" vary in the research, generally it includes such behaviors as pulling hair, scratching, slapping, and pinching. *See* Molitor et al., *supra* note 13, at 3.

65. NAT'L RES. CTR. ON DOMESTIC VIOLENCE, *supra* note 62, at 2; Linda Kelly, *Disabusing the Definition of Domestic Abuse: How Women Batter Men and the Role of the Feminist State*, 30 FLA. ST. U. L. REV. 791, 809-11 (2003) (arguing that scholarship on domestic violence has underplayed the role of women's violence in intimate relationships); Murray A. Straus, *The Controversy Over Domestic Violence by Women*, in *VIOLENCE IN INTIMATE RELATIONSHIPS: CLAREMONT SYMPOSIUM ON APPLIED SOCIAL PSYCHOLOGY* 17, 27-28 (Ximena B. Arriaga & Oskamp Stuart eds., 1998).

account for some of the similar self-reporting between the sexes, research suggests that girls use aggression in their intimate relationships to a much greater extent than previously recognized.<sup>66</sup>

A closer look at the existing data, however, reveals that patterns of violence differ for boys and girls. In one study of dating violence in a large Midwestern high school, researchers found that 31.3 percent of girls and 32.6 percent of boys experienced some physical violence within their dating relationships.<sup>67</sup> Yet, girls were far more likely to experience “severe” violence, such as being punched or forced into sexual activity, while boys experience “moderate” violence, such as being pinched, slapped, or kicked.<sup>68</sup> The consequences of experiencing dating violence are also more pronounced for girls than for boys. When asked to describe their worst incident of dating violence, boys reported it “did not hurt at all” in ninety percent of the incidents, while girls reported that it did not hurt at all in less than nine percent of the incidents.<sup>69</sup> More importantly, the reasons boys and girls gave for the violence was different. The girls reported that their partner initiated the violence seventy percent of the time, while the boys reported their partners initiated the violence only twenty-seven percent of the time.<sup>70</sup> This suggests that girls’ violence is often triggered by self-defense.

The Midwestern high school study revealed additional differences between the sexes.<sup>71</sup> Approximately seventeen percent of the boys reported that when their female partner was violent, it was because the boys were making sexual advances.<sup>72</sup> In contrast, only three percent of the girls stated that they were subjected to violence as a result of their own sexual advances.<sup>73</sup> The researchers concluded that a large portion of violence against girls is provoked by the girls’ refusal to engage in unwanted sex.<sup>74</sup> In addition, twenty-one percent of the boys, versus ten percent of the girls, suggested that their own jealousy was the reason for the violence expressed against them.<sup>75</sup> Finally, fifty-five percent of the girls reported that their partner was drunk when hitting them.<sup>76</sup>

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66. See Straus, *supra* note 65, at 18 (discussing findings of studies conducted in the 1970s revealing higher-than-expected levels of violence by women).

67. Molidor et al., *supra* note 13, at 2.

68. *Id.* at 2.

69. *Id.* at 2-3.

70. *Id.* at 3.

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

Boys tend to minimize or “laugh-off” violence, while girls are more likely to feel threatened by it.<sup>77</sup> Furthermore, while girls are more likely to report that abuse worsened or ended the relationship, boys tend to report that the relationship stayed the same or improved as a result of their partners’ physical violence.<sup>78</sup> This suggests that some girls may use physical violence to try to improve their relationships. Girls who display violence may also simply be acting out in anger against their boyfriends, particularly around issues of sexual jealousy.<sup>79</sup> By doing so, these girls put themselves at risk for physical retaliation, which further escalates the cycle of violence. Indeed, girls tend to report self-defense as a primary motivation for using violence.<sup>80</sup> For many girls, the use of violence in self-defense is preferred over passive victimization, which further heightens the cycle of dating violence.<sup>81</sup>

While little data suggests what consequences boys suffer when they either engage in or are victimized by an intimate partner, sizeable evidence indicates that for girls, the consequences can be serious. Violence in intimate relationships can put girls at increased risk for substance abuse,<sup>82</sup> unhealthy weight control behaviors (such as laxative use or bulimia), suicide,<sup>83</sup> and pregnancy.<sup>84</sup> Female victims of domestic violence are also more likely to have unhealthy attitudes about sexual relationships.<sup>85</sup>

These studies suggest that among American and other Western teenagers, physical, sexual, and verbal aggression is commonplace. Whether violence among teens has increased in the last thirty years is extremely difficult to

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77. See, e.g., Jackson et al., *Violence and Sexual Coercion*, *supra* note 51, at 34 (finding “a tendency for male students to be less bothered by violence”); Molidor et al., *supra* note 13, at 3 (stating that 53.8 percent of the boys reported laughing after the worst incident of violence).

78. Lavoie et al., *supra* note 52, at 26; Molidor et al., *supra* note 13, at 4.

79. Lavoie et al., *supra* note 52, at 27-28.

80. NAT’L RES. CTR. ON DOMESTIC VIOLENCE, *supra* note 62, at 2.

81. See Lavoie et al., *supra* note 52, at 26 (“The most frequent reactions of girls were to cry and fight back.”).

82. Sandra L. Martin et al., *Violence in the Lives of Pregnant Teenage Women: Associations with Multiple Substance Use*, 25 AM. J. OF DRUG & ALCOHOL ABUSE 425, 436 (1999) (finding that “compared to nonvictims, victims of violence were more likely to smoke cigarettes, drink alcohol, and use illicit drugs”); Silverman et al., *supra* note 50, at 572.

83. Silverman et al., *supra* note 50, at 572.

84. See, e.g., Constance M. Wiemann et al., *Pregnant Adolescents: Experiences and Behaviors Associated with Physical Assault by an Intimate Partner*, 4 MATERNAL & CHILD HEALTH J. 93, 98 (2000) (“One out of every eight pregnant adolescents in the study reported having been physically assaulted by the father of her baby within the prior twelve months.”).

85. Gina M. Wingood et al., *Abstract: Dating Violence and the Sexual Health of Black Adolescent Females*, 107 PEDIATRICS 1169, 1169 (2001).

measure, given the lack of historical data, and one should be cautious before suggesting that there has been an increase in teen dating violence. Nevertheless, violence among teens likely has worsened since the early 1980s, mirroring the increase in juvenile violence more generally. As noted above, girls are becoming more physically aggressive, as reflected in both criminal justice statistics and social science inquiries.<sup>86</sup> One would expect this aggression to manifest itself in dating relationships, especially given that boys and girls report using violence in their relationships equally. Furthermore, some commentators have suggested that young adults believe that some violence is normal within their relationships, as long as that violence is not too severe.<sup>87</sup> Thus, these two cultural shifts—increased female aggression and an acceptance of violence as part of a normal relationship—have arguably influenced romantic teenage relationships at the beginning of the twenty-first century.

### SEXUAL PATTERNS OF BEHAVIOR

Many factors can put a teenager at risk for dating violence, including being from a non-traditional (single parent) family,<sup>88</sup> being maltreated as a child,<sup>89</sup> witnessing some parental spousal violence as a child,<sup>90</sup> being exposed to violence in one's community, especially exposure to weapons,<sup>91</sup> lack of success in school as measured by grade point average,<sup>92</sup> lack of attachment to school or family,<sup>93</sup> possessing individual psychological characteristics such as low self-esteem and inability to cope with conflict,<sup>94</sup> and having friends who are perpetrators or victims of dating violence.<sup>95</sup> Most teens have little control over these factors. Rather, these factors are more a product of family history and social institutions than individual choices.

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86. See *supra* notes 2-6 and accompanying text.

87. See Julie Miethke Beyers et al., *Gender Differences in the Perception of Courtship Abuse*, 15 J. OF INTERPERSONAL VIOLENCE 451, 463 (2000).

88. See Marino A. Bruce, *Inequality and Adolescent Violence: An Exploration of Community, Family, and Individual Factors*, 96 J. OF THE NAT'L MED. ASS'N 486, 492 (2004).

89. See David A. Wolfe et al., *Predicting Abuse in Adolescent Dating Relationships Over 1 Year: The Role of Child Maltreatment and Trauma*, 113 J. OF ABNORMAL PSYCHOL. 406, 411 (2004).

90. See Malik et al., *supra* note 16, at 300.

91. See *id.*

92. See Halpern et al., *Partner Violence Among Adolescents*, *supra* note 10, at 1684.

93. See Todd M. Franke, *The Effect of Attachment on Adolescent Violence*, THE PREVENTION RESEARCHER, Feb. 2003, at 14, 14-15.

94. See Lewis & Fremouw, *supra* note 27, at 111-12.

95. See Arriaga & Foshee, *supra* note 59, at 179 (finding that "girls whose friends experience dating violence may themselves become violent").

One critical aspect that is often underplayed in discussions of dating violence is the role that sex plays as a precursor to violence. Research suggests that one of the most effective ways to reduce violence in a girl's life is to encourage her not to become intimately involved as an adolescent.<sup>96</sup> Abstinence, or at least delaying sexual activity, can protect her not only against violence, but also against unwanted pregnancy, sexually transmitted diseases, depression, suicide, and criminal delinquency.<sup>97</sup>

It is imperative, however, to acknowledge that teenagers engage in sexual relationships. According to the Centers for Disease Control (CDC) Youth Risk Behavior Survey, in 2003, forty-five percent of high school girls and forty-eight percent of high school boys reported that they had sexual intercourse.<sup>98</sup> The CDC found that the percent of high school students who have had sexual intercourse increases by grade: sixty-two percent of the twelfth graders surveyed had engaged in sexual intercourse, compared to only thirty-three percent of the ninth graders.<sup>99</sup> While this represents a slight decline in sexual activity over the previous decade,<sup>100</sup> the percentage of teens who do engage in sexual intercourse remains significant. Of those teens that are sexually active, thirty-three percent reported being in a relationship where they felt things were "moving too fast sexually," while twenty-nine percent reported feeling pressure to have sex.<sup>101</sup> In another recent study relying on data from the CDC's National Survey of Family Growth, just over half of teenage boys and girls aged fifteen to nineteen reported that they had oral sex.<sup>102</sup>

The link between sexual activity, the seriousness of a relationship, and the incidence of dating violence is becoming better understood. Most teen dating violence occurs within a "serious" relationship.<sup>103</sup> Girls are more likely than

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96. Jay Silverman, *Dating Violence Against Adolescent Girls and Associated Substance Use, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy and Suicidality*, 286 JAMA 572, 572 (2001).

97. ROBERT E. RECTOR ET AL., HERITAGE FOUND., SEXUALLY ACTIVE TEENAGERS ARE MORE LIKELY TO BE DEPRESSED AND TO ATTEMPT SUICIDE 5-6 (2003).

98. KAISER FAMILY FOUND., U.S. TEEN SEXUAL ACTIVITY (2005), available at <http://www.kff.org/youthhivstds/upload/U-S-Teen-Sexual-Activity-Fact-Sheet.pdf> (citing the Centers for Disease Control and Prevention Youth Risk Behavior Survey).

99. *Id.*

100. *Id.*

101. KAISER FAMILY FOUND., *supra* note 98 at 2.

102. NAT'L CAMPAIGN TO END TEEN PREGNANCY, SCIENCE SAYS: TEENS AND ORAL SEX 2 (2005), available at [http://www.teenpregnancy.org/works/pdf/sciencesays\\_17\\_oralsex.pdf](http://www.teenpregnancy.org/works/pdf/sciencesays_17_oralsex.pdf).

103. JILL MURRAY, BUT I LOVE HIM, PROTECTING YOUR TEEN DAUGHTER FROM CONTROLLING ABUSIVE DATING RELATIONSHIPS 10 (2000); H. Harrington Cleveland et al., *Abusive Males and Abused Females in Adolescent Relationships: Risk Factor Similarity and Dissimilarity and the Role of Relationship Seriousness*, 18 J. OF FAM. VIOLENCE 325, 327 (2003) ("Studies indicate that dating violence tends to occur during the serious phase of



boys to have had sexual intercourse within a serious relationship, in part because girls are more likely to have older partners.<sup>104</sup> Girls are also more likely to have sex to avoid losing their partners—especially girls who are insecure in their romantic relationships.<sup>105</sup>

Furthermore, one recent study suggests that sexual activity happens before the relationship becomes violent. Christine Kaestle and Carolyn Halpern examined a representative sample of 6,548 adolescents aged twelve to twenty-one from Add Health.<sup>106</sup> They analyzed whether those who experienced dating violence had first had sexual intercourse.<sup>107</sup> Approximately twenty-eight percent had experienced at least one form of violent victimization in their dating relationships, and many reported multiple types of victimization.<sup>108</sup> Again, these findings are consistent with other studies.<sup>109</sup> For both girls and boys, Kaestle and Halpern found that all types of violence were more likely to occur among those who had intercourse.<sup>110</sup> Even when controlling for race, gender, and socio-economic status, the odds of being a victim of some type of violence was significantly higher for those who had already had sexual intercourse.<sup>111</sup> For those who reported both intercourse and being insulted in public, for example, seventy-four percent had intercourse with a partner before the first incident.<sup>112</sup> The authors conclude:

Sexual intercourse and partner violence are likely to co-occur in adolescent romantic relationships. Based on the sequence of occurrence, engaging in sexual intercourse appears to dramatically increase the risk of partner violence, especially physical violence, rather than the reverse. This pattern holds for both male and female victims of violence. If sexual intercourse marks the development of greater emotional intensity within the relationship, it may also foster feelings of jealousy or a greater need for power in the relationship. These are emotions that teens themselves offer as reasons for dating violence. Such an interpretation is consistent with the findings of other studies that tie partner violence to other indicators of relationship intensity, such as love and commitment.<sup>113</sup>

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relationships.”).

104. Karen Carver et al., *National Estimates of Adolescent Romantic Relationships*, in *ADOLESCENT ROMANTIC RELATIONS AND SEXUAL BEHAVIOR: THEORY, RESEARCH, AND PRACTICAL IMPLICATIONS* 23, 45-46 (Paul Florsheim ed., 2003).

105. Tracy et al., *supra* note 22, at 150.

106. Kaestle & Halpern, *supra* note 18, at 387.

107. *Id.*

108. *Id.* at 388.

109. *See supra* notes 45-56 and accompanying text.

110. Kaestle & Halpern, *supra* note 18, at 389.

111. *Id.*

112. *Id.* at 390.

113. *Id.* (internal citations omitted).

While Kaestle and Halpern explicitly note that they cannot determine the nature of the relationship between victimization and sexual intercourse, they suggest that sexual activity may be a pathway to violence.<sup>114</sup>

While it is difficult to know the extent to which the initial decision to have sex is voluntary or coerced, only one-third of sexually-active teenagers report being in a relationship where things were moving too fast sexually.<sup>115</sup> Moreover, only twenty-four percent report engaging in some sexual act that they really did not want to do.<sup>116</sup> Teens are likely to be pressured into sex by their friends as much as by their partners. Indeed, peers have a greater influence on adolescent dating behavior than do parents.<sup>117</sup> Teens may also feel that they need to become sexually active to show their love and commitment.

Yet most girls *perceive* that having sex is a choice they make, as the vast majority of them *do not* claim to have been coerced or forced to have sex.<sup>118</sup> Their motivations are not much different than the motivations of adult women. Along with wanting to satisfy their biological urges to engage in sexual activity,<sup>119</sup> most teenage girls are searching for love.<sup>120</sup> A teenage girl may see having sex as a way to demonstrate her love, and may hope that having sex will make her partner more committed to the relationship. Some girls may even be sexually aggressive in their relationships,<sup>121</sup> especially if they have been sexually abused in the past or hold negative attitudes about sexual relationships.<sup>122</sup>

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114. *Id.* at 391 (“It appears that sex often, but not always, precedes violence victimization in adolescent romantic relationships.”).

115. KAISER FAMILY FOUND., *supra* note 98, at 2.

116. *Id.*

117. Arriaga & Foshee, *supra* note 59, at 178.

118. *See, e.g.*, KATIE DILLARD, ADVOCATES FOR YOUTH, ADOLESCENT SEXUAL BEHAVIOR I: DEMOGRAPHICS 2 (2002), *available at* <http://www.advocatesforyouth.org/publications/factsheet/fsbehdem.pdf> (noting that, in a survey of women between the ages of thirteen to eighteen, eight percent cited pressure from a partner when asked what motivated them to have sexual intercourse for the first time); SCHOEN ET AL., *supra* note 49, at 2 (finding that eight percent of high school girls surveyed said that they had been forced to have sex against their will); TEEN RELATIONSHIP ABUSE RESEARCH, *supra* note 11, at 5 (finding that only eighteen percent of girls surveyed said they had been pressured to have intercourse).

119. *See generally* Carolyn T. Halpern, *Biological Influences on Adolescent Romantic and Sexual Behavior*, in ADOLESCENT ROMANTIC RELATIONSHIPS AND SEXUAL BEHAVIOR: THEORY, RESEARCH, AND PRACTICAL IMPLICATIONS 57 (Paul Florsheim ed., 2003) (reviewing theories of biological factors related to teenage sexual activity).

120. MURRAY, *supra* note 103, at 85–101.

121. Lavoie et al., *supra* note 52, at 29.

122. Peter B. Anderson, *Women’s Motives for Sexual Initiation and Aggression*, in SEXUALLY AGGRESSIVE WOMEN 79, 90-91 (Peter B. Anderson & Cindy Struckman-Johnson eds., 1998).

For some teenage girls, sex, violence, and feelings of love are intertwined. In one study of teenage dating violence, Lavoie and her colleagues found that violence and aggression in sexual relationships convey positive images, and that some teenage girls find “rough sex” desirable.<sup>123</sup> Thus, some adolescents have a strong desire to explore violent sex. Lavoie and her colleagues suggest that a normative expectancy of violence in sexual relationships may be developing among young adults.<sup>124</sup> These findings are consistent with other findings that suggest that some teens feel that violence makes a relationship stronger,<sup>125</sup> or is a sign of love.<sup>126</sup>

Also, teenage girls face enormous pressure to be sexy.<sup>127</sup> This pressure leads many girls to engage in high risk behaviors such as underage drinking<sup>128</sup> and drug use.<sup>129</sup> Indeed, the more time a girl spends with her boyfriend, the more likely she is to use alcohol and drugs.<sup>130</sup> The users of such substances are more likely to engage in unprotected sex, which in turn exposes them to sexually transmitted diseases.<sup>131</sup> Also, adolescents who are sexually experienced are more likely to engage in delinquency, which further increases the likelihood that they will come into contact with the juvenile justice system.<sup>132</sup> Finally, when teenage girls engage in violence against

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123. Lavoie et al., *supra* note 52, at 11-12.

124. *Id.* at 24.

125. See Molitor et al., *supra* note 13, at 1, 4 (describing the results of the study and noting that abuse is more likely to damage or end a relationship for girls, while boys are more likely to think abuse does not affect or else even improves relationships).

126. See MURRAY, *supra* note 103, at 82-102; NAT'L RES. CTR. ON DOMESTIC VIOLENCE, TEEN DATING VIOLENCE : STATISTICS 4 (2004), available at [http://www.vawnet.org/NRC\\_DV\\_Publications/TAPE/Packets/NRC\\_TDV-Stats.pdf](http://www.vawnet.org/NRC_DV_Publications/TAPE/Packets/NRC_TDV-Stats.pdf) (citing a study by Barrie Levy that found that twenty-five to thirty-five percent of victims interpret their partners' violence as love).

127. Elizabeth Armstrong & Christina McCarroll, *The New Face of Underage Drinking: Teenage Girls*, CHRISTIAN SCI. MONITOR, July 8, 2004, at 1.

128. *Id.* (“The push to be sexy often goes hand in hand with the pressure to drink.”).

129. NAT'L CTR. ON ADDICTION & SUBSTANCE ABUSE AT COLUMBIA UNIV., NATIONAL SURVEY OF AMERICAN ATTITUDES ON SUBSTANCE ABUSE IX: TEEN DATING PRACTICES & SEXUAL ACTIVITY 5 (2004), available at [http://www.casacolumbia.org/pdshopprov/files/august\\_2004\\_casa\\_teen\\_survey.pdf](http://www.casacolumbia.org/pdshopprov/files/august_2004_casa_teen_survey.pdf).

130. See, e.g., *id.* (“Teens who spend more than 10 hours a week with their boyfriend or girlfriend are at more than twice the risk of smoking, drinking or using drugs as those who spend less time together.”).

131. NAT'L CTR. ON ADDICTION & SUBSTANCE ABUSE AT COLUMBIA UNIV., DANGEROUS LIAISONS: SUBSTANCE ABUSE AND SEX 7-8 (1999), available at [http://www.casacolumbia.org/Absolutenm/articlefiles/Dangerous\\_Liasons\\_12\\_7\\_99.pdf](http://www.casacolumbia.org/Absolutenm/articlefiles/Dangerous_Liasons_12_7_99.pdf).

132. Hannah Bruckner & Peter Bearman, *Dating Behavior and Sexual Activity of Young Adolescents: Analyses of the National Longitudinal Study of Adolescent Health*, in 14 AND YOUNGER; THE SEXUAL BEHAVIOR OF YOUNG ADOLESCENTS 31, 55 (Nat'l Campaign to Prevent Teen Pregnancy ed., 2003).

other girls, they are often fighting over boys.<sup>133</sup> They fight to defend their sexual reputations or their connection to their boyfriends.<sup>134</sup> Thus, whether a girl is violent against another girl or violent against her boyfriend, most often her violence stems from love—the desire to be loved or to maintain love that motivates or sustains her.

### LAWS, PROGRAMS, AND SEXUAL POLITICS

In the past ten years, many commentators have advocated for better legal remedies for teen victims of intimate violence.<sup>135</sup> These commentators propose increasing the availability of civil protection orders to teens,<sup>136</sup> expanding warrantless arrest statutes to include dating relationships,<sup>137</sup> holding schools liable for teen dating violence,<sup>138</sup> and, to a lesser extent, criminalizing teen offenders.<sup>139</sup> One of the most promising interventions for teens is a specialized juvenile court for domestic violence offenses.<sup>140</sup> Santa Clara County created such a court in April 1999 after discovering that most of the county's domestic violence-related homicides happened in relationships that began when the victim was underage.<sup>141</sup> This specialized

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133. Cheryl Hanna, *Ganging Up on Girls: Young Women & Their Emerging Violence*, 41 ARIZ. L. REV. 93, 98 (1999) (arguing that much of female aggression is related to a girl's sexual status).

134. Sibylle Artz, *Violence in the Schoolyard: School Girls' Use of Violence*, in GIRLS' VIOLENCE 151, 160 (Christine Adler & Anne Worrall eds., 2004).

135. See Suarez, *supra* note 31, at 435-37.

136. See Levesque, *supra* note 31, at 370.

137. See Elizabeth Barravecchia, *Expanding the Warrantless Arrest Exception to Dating Relationships*, 32 MCGEORGE L. REV. 579, 592 (2001) (finding that including dating relationships in the scope of California's domestic violence statute "serves to aid victims of abuse in dating relationships by providing them with legal remedies that were previously unavailable").

138. See Christine N. Carlson, *Invisible Victims: Holding the Educational System Liable for Teen Dating Violence at School*, 26 HARV. WOMEN'S L.J. 351, 352 (2003) ("[S]chools have a duty to provide protection for their students, including safeguarding them from physical harm inflicted by other students.").

139. See Sarah M. Buel, *Why Juvenile Courts Should Address Family Violence: Promising Practices to Improve Intervention Outcomes*, JUV. & FAM. CT. J., Spring 2002, at 1, 3 ("Routine screening, suitable referrals, and judicial oversight, for both victims and offenders, should become institutionalized practices within our juvenile courts."); Tiffany J. Zwicker, *Education Policy Brief: The Imperative of Developing Teen Dating Violence Prevention and Intervention Programs in Secondary Schools*, 12 S. CAL. REV. L. & WOMEN'S STUD. 131, 141-45 (2002) (examining whether criminalization is effective for teen offenders).

140. See, e.g., EMILY SACK, FAMILY VIOLENCE PREVENTION FUND, CREATING A DOMESTIC VIOLENCE COURT: GUIDELINES AND BEST PRACTICES 1 (2002) (describing the benefits of a domestic violence court).

141. Inger Sagatun-Edwards et al., *The Santa Clara County Juvenile Domestic and Family Violence Court*, 4 J. CENTER FAMILIES, CHILD. & CTS. 91, 93 (2003). The Santa

court seeks to intervene early and aggressively in the lives of adolescents involved in dating violence.<sup>142</sup> It requires perpetrators to take responsibility for their behaviors, provides extensive background investigations, offers a teen batterer program that is supplemented by substance abuse programs and other mental health services, and supplies advocacy and services for victims.<sup>143</sup> Although the reduction in recidivism has been hard to measure,<sup>144</sup> the program at least offers an innovative approach to breaking patterns of violent relationships early in a person's life.<sup>145</sup>

While such legal strategies provide remedies for teen victims and give teen perpetrators an opportunity to rehabilitate, there is little evidence that teens widely use the legal system as a means to exit violent relationships. Most data suggests that teens do not turn to an adult when they are in a violent relationship. Rather, they are more likely to talk with their friends about being abused.<sup>146</sup> If a teen is sexually involved with her abuser, she may be even more reluctant to turn to her parents or the civil legal system for help. Thus, while legal remedies play some role in mitigating dating violence and protecting teens from further harm, relying on legal strategies to *prevent* dating violence would be shortsighted.

To date, few programs for teens have been geared toward preventing violence in their intimate relationships.<sup>147</sup> Mounting evidence, however, suggests that some intervention in the lives of young people when they first form intimate relationships may reduce the likelihood of victimization.<sup>148</sup> In 1993, Massachusetts became the first state to institute a statewide strategy to combat dating violence. This strategy includes provisions for

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Clara County Juvenile Domestic and Family Violence Court is "a promising approach to the problem of intimate violence among youth." *Id.* at 91.

142. *See id.* at 95.

143. *Id.*

144. *Id.* at 108 (pointing out different rates of recidivism for those who successfully completed the program and those who did not).

145. *Id.* at 110 (noting that the Santa Clara County Juvenile Domestic and Family Violence Court already "has produced better services for victims and offenders and has raised the awareness of the important problem of juvenile domestic and family violence").

146. *See, e.g.,* TEEN RELATIONSHIP ABUSE RESEARCH, *supra* note 11, at 2 (finding seventy-three percent of teens surveyed would talk with a friend about being in an abusive relationship); Yiu, *supra* note 7, at 8 (noting that rather than talking with their parents, Asian female youths only tell their peers about their dating problems).

147. David A. Wolfe & Peter G. Jaffe, *Prevention of Domestic Violence During Adolescence*, THE PREVENTION RESEARCHER, Feb. 2005, at 8, 10.

148. *See* Donna Scott Tilley & Margaret Brackley, *Violent Lives of Women: Critical Points for Intervention-Phase I Focus Groups*, 40 PERSPECTIVES PSYCHIATRIC CARE 157, 166 (2004) (noting that women experience increased risk for violence when they first establish intimate relationships).

teen dating violence prevention programs.<sup>149</sup> Since then, a number of different programs have developed around the country to combat teen dating violence.<sup>150</sup> Most of these programs educate teens about healthy romantic relationships and emphasize that teens have the right to refuse unwanted sexual activity.<sup>151</sup> A few programs have shown some success in reducing teen dating violence—in particular, North Carolina’s Safe Dates Project for eighth and ninth graders reduced physical and sexual violence.<sup>152</sup> The Safe Dates Project, a ten-session curriculum taught by highly-trained teachers, focuses on improving conflict management skills and changing dating norms to reduce physical and sexual violence.<sup>153</sup> Although the Safe Dates Project has been successful, the effectiveness of most other dating violence prevention programs is mixed.<sup>154</sup>

Most programs implicitly assume that teenagers use violence in order to have sex. This assumption ignores data suggesting that serious romantic relationships that include consensual sex can become violent.<sup>155</sup> When programs do not specifically address this gateway, teens are not being fully informed about the consequences of forming sexual relationships. Teens can make better choices about their romantic relationships if they are taught that delaying sexual intimacy will protect them not only against dating violence, but also against other risky behaviors that could entangle them in

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149. See Sousa, *supra* note 31, at 363-64.

150. See, e.g., Adams, *supra* note 7, at B1 (describing a teen support group at the Richmond YWCA intended to “limit girls’ exposure to unhealthy relationships”); Fulbright, *supra* note 7, at B3 (describing a Seattle program run by the Asian Counseling and Referral Service that trains high school girls to educate their peers about safe dating relationships); Emily Shartin, *Teens Learn to Say No to Date Violence Groups Help Organize, Spread Word*, BOSTON GLOBE, Feb. 1, 2004, at 1 (describing the Massachusetts Teen Action Campaign, a student-led effort to help prevent teen dating violence); Zlatos, *supra* note 7 (describing programs in Pittsburgh public schools that seek to reduce the occurrence of dating violence).

151. See, e.g., Vangie A. Foshee et al., *The Safe Dates Project: Theoretical Basis, Evaluation Design, and Selected Baseline Findings*, 12 AM. J. OF PREVENTIVE MED. 39, 46 (1996) [hereinafter Foshee et al., *The Safe Dates Project*].

152. Vangie A. Foshee, *Assessing the Long Term Effects of the Safe Dates Program and a Booster in Preventing and Reducing Adolescent Dating Violence, Victimization and Perpetration*, 94 AM. J. OF PUB. HEALTH 619, 619 (2004) (“Safe Dates prevented and reduced dating violence and positively changed cognitive mediating variables that were based on program content.”).

153. Foshee et al., *The Safe Dates Project*, *supra* note 151, at 41.

154. Zwicker, *supra* note 139, at 146-49 (examining two studies evaluating the effectiveness of specific teen dating violence prevention programs and noting that the studies arrive at opposite conclusions).

155. Cleveland, *supra* note 103, at 327 (noting that “dating violence tends to occur during the serious phase of dating relationships”); Kaestle & Halpern, *supra* note 18, at 386 (“Partner violence is more likely to occur in relationships of longer duration . . .”).

the criminal justice system.<sup>156</sup>

Sex education programs should address the increased risk of violence for sexually-active teens. Unfortunately, the political divide concerning the role of abstinence and abstinence-only education programs has made discussions about the relationship between a girl's (perceived) sexual autonomy and her risk of violence difficult.<sup>157</sup> On one hand, there has been "a growth in abstinence education programs that stand in sharp contrast to 'safe sex' curricula."<sup>158</sup> Most of these abstinence programs do not discuss birth control, and many urge teens to take "virginity pledges" to reinforce abstinence.<sup>159</sup> Such abstinence programs, especially those that are government funded, are not controversial because they suggest that delaying sexual activity for as long as possible can be very beneficial. Rather, they are controversial because their underlying goal seems to be to reinforce traditional (and arguably oppressive) sex roles. Such programs (and the rhetoric that accompanies them) are often hostile to homosexuality, birth control, abortion, and other reproductive freedoms that have been central to women's advancements in society.<sup>160</sup>

On the other hand, many organizations, such as Planned Parenthood, that are committed to ensuring that women and girls have control over their reproductive lives, have urged the development of more comprehensive sex education programs that teach young people how to make appropriate choices in their lives.<sup>161</sup> Such programs provide information about human sexuality, birth control, and the prevention of sexually transmitted diseases.<sup>162</sup> Implicit in this comprehensive education approach is that for some teens, sexual relationships can be safe, consensual, and part of one's coming of age.<sup>163</sup> Advocates of abstinence-only programs criticize

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156. David E. Arredondo, *Principles of Child Development and Juvenile Justice: Information for Decision-Makers*, 5 J. OF THE CENTER FOR FAMILIES, CHILD. & THE CTS. 127, 136 (2004) (finding that teaching girls in particular about healthy romantic relationships is a key component of any juvenile justice intervention).

157. Katy Kelly, *Just Don't Do It!*, U.S. NEWS & WORLD REP., Oct. 17, 2005, at 44 (detailing the prevailing controversy between teaching abstinence and teaching safe sex to schoolchildren).

158. RECTOR ET AL., *supra* note 97, at 5-6.

159. See, e.g., Cynthia Dailard, *Recent Findings from the "Add Health" Survey: Teens and Sexual Activity*, THE GUTTMACHER REP. ON PUB. POL'Y, Aug. 2001, at 1, 2-3, available at <http://www.guttmacher.org/pubs/tgr/04/4/gr040401.pdf>; Kelly, *Just Don't Do It!*, *supra* note 157, at 44.

160. See, e.g., Planned Parenthood, Abstinence-Only "Sex" Education, <http://www.plannedparenthood.org/pp2/portal/files/portal/medicalinfo/teensexualhealth/fact-abstinence-education.xml> (last visited Jan. 13, 2006).

161. See, e.g., *id.* (detailing the pitfalls of abstinence-only sex education).

162. *Id.*

163. See Kelly, *Just Don't Do It!*, *supra* note 157, at 44.

Planned Parenthood-type programs for not sending a strong enough message to delay sexual activity and for failing adequately to address the long-term emotional aspects of having sex.<sup>164</sup>

The sex education debate is an extension of the ongoing debate about women and sexuality. Although sexual and reproductive freedoms have been central to women's social advancement, they have also put women at an increased risk of becoming victims or becoming violent. In turn, one consequence of this increased exposure to violence is the increased likelihood that a girl will find her way into the criminal justice system. As such, we must recognize that for girls as well as for women, what we perceive as sexual autonomy sometimes comes at a cost to our long-term physical safety and emotional health. Thus, those of us who are committed to ending violence against girls and women must recognize that dating violence is a risk of early sexual activity. Yet, we must do so without passing judgment on what constitutes a "moral" relationship, and without reinforcing oppressive gender roles.<sup>165</sup>

One of the most promising findings of recent research on adolescent dating behavior is that teens can be educated about the risks of teenage sex even when they lack the emotional maturity to deal with the consequences. One researcher noted that, "whether or not a teenager has ever had sexual intercourse is largely explained by that individual's own sexual history and his or her own *perceptions* about the costs and benefits of having sex."<sup>166</sup> Teenagers are capable of weighing the relative risks of sexual activity and deciding whether to have sex. We can enhance their autonomy by better informing them about the increased risk of violence associated with teenage sexual activity.

Unfortunately, messages about delayed sexual activity can be hard for teens to hear, especially the current generation of teenage girls who may perceive no real difference between girls and boys and who thus assume that the risks of sexual activity are no greater for them. Girls today are not physically passive in the same way their mothers and grandmothers may have been; many of the taboos about women and aggression have melted away. Furthermore, because of the strong connection between sexual abstinence and religious values, teenage girls may reject some messages about teen sexual activity as in conflict with their own moral values.

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164. RECTOR ET AL., *supra* note 97, at 5.

165. See Bonnie L. Barber & Jaquelyne S. Eccles, *The Joy of Romance: Healthy Adolescent Relationships as an Educational Agenda*, in ADOLESCENT ROMANTIC RELATIONSHIPS AND SEXUAL BEHAVIOR: THEORY, RESEARCH, AND PRACTICAL IMPLICATIONS 355, 364 (Paul Florsheim ed., 2003).

166. Dailard, *supra* note 159, at 1 (emphasis added).



Teens, however, need to hear these messages about the risks of adolescent sexual activity. As long as girls (and women) perceive that consenting to sex is an expression of love, they will continue to expose themselves to high-risk, and sometimes criminal, behavior. This can be especially true for girls whose self-esteem is intricately tied to being in a romantic relationship. While the law can try to discourage and punish violent behaviors and compensate victims, it can only do so much. To keep girls out of harm's way, and ultimately out of the criminal justice system, we have to encourage them to define themselves through something other than a boyfriend and discourage them from getting sexually involved at too young an age. They cannot be so desperate for love. In particular, we need much more research into why some girls become so dependent on having a romantic relationship and what role girls' relationships with their parents play in that dependence.

Parents, not public policy programs, arguably play the most critical role in helping teens delay sexual activity. Research suggests that teenagers who have strong relationships with their parents are far more likely to delay sexual activity, as are teens who perceive that their mothers disapprove of sexual activity.<sup>167</sup> One study found that teens who feel highly satisfied with their relationship with their mother are more likely to use contraception and to delay sexual activity.<sup>168</sup> Sadly, not all teens have strong relationships with their parents. Thus, many teens would benefit from a program that explicitly warns them of the risk of early sexual activity, including the increased risk of violence.<sup>169</sup>

We need a new conversation, a new rhetoric, about the lives of women in America—one that both acknowledges some of the unintended consequences of the changing status of women and also stays committed to the goal of moving women forward. This new rhetoric needs to acknowledge more fully that the status of girls and boys are intertwined. It needs to account for the basic human desire to love, be loved, and express that love sexually, while clearly delineating what behaviors a civilized society will and will not tolerate. That conversation cannot happen unless we are all willing to shed our political and ideological labels and be open to new ways of thinking about what it means to be a girl in the twenty-first century.

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167. *See id.* at 3.

168. *Id.*

169. *See, e.g.,* Zwicker, *supra* note 139, at 158 (advocating the implementation of state-wide prevention and intervention programs, and providing evidence that such programs would be effective).