

# In Love or In Trouble: Examining Ways Court Professionals Can Better Respond to Victims of Adolescent Partner Violence

By Judge Eugene M. Hyman, Wanda Lucibello, and Emilie Meyer

## ABSTRACT

This article explores adolescent partner violence and the responses to it from the legal system. Research suggests that as many as 45% of high school students have experienced some form of adolescent partner violence. Despite these findings, the legal response to domestic violence has focused on assisting adult victims and has often excluded adolescents. This article examines the innovative approaches of two of the country's first adolescent-oriented domestic violence courts and uses the lessons learned from these courts and the research to suggest a larger role court professionals can play in responding to adolescent partner violence.

Adolescents, parents, community members, and researchers are increasingly becoming aware and acknowledging the prevalence of adolescent partner violence and its impact on the adolescent victims.<sup>1</sup> The focus so far has been on research, awareness-raising campaigns,<sup>2</sup> and the development of school prevention curricula.<sup>3</sup>

<sup>1</sup> Devon M. Largio, *Refining the Meaning and Application of "Dating Relationship" Language in Domestic Violence Statutes*, 60 VANDERBILT L. REV. 939, 942 (2007).

<sup>2</sup> See, for example, The Family Violence Prevention Fund's That's Not Cool Campaign, <http://www.endabuse.org/content/campaigns/detail/1206> (last viewed April 12, 2010).

<sup>3</sup> See generally David A. Wolfe et al., *A School-Based Program to Prevent Adolescent Dating Violence: A Cluster Randomized Trial*, 163 ARCH. PEDIATR. ADOL. MED. 692 (2009); Barbara Ball et al., *Like a Family but Better Because You Can Actually Trust Each Other: The Expect Respect Dating Violence Prevention Program for At-Risk Youth*, 10 HEALTH PROMOTION PRACTICE 45s (2009).

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There is, however, a lack of discussion about the role of legal professionals in responding to adolescent partner violence and how legal professionals can best respond to adolescent victims.<sup>4</sup> This article provides guidance for court professionals<sup>5</sup> including judges, prosecutors, defense attorneys, and others on how to begin to better assist adolescents by improving their safety, increasing services, and ultimately striving to break the cycle of violence.

This article explores adolescent partner violence and the responses to that violence from the legal system. It also identifies some of the challenges in responding to adolescent partner violence and strategies professionals can explore when responding to victims and perpetrators of adolescent partner violence. Part I of this article examines the terminology, prevalence, and nature of adolescent partner violence. Part II reviews the limited role the legal system currently plays in responding to adolescent partner violence and examines the innovative approaches of both the Santa Clara County (California) Juvenile Domestic and Family Violence Court (JDFVC)<sup>6</sup> and the Brooklyn (New York) Youth Offender Domestic Violence Court (YODVC),<sup>7</sup> two of the country's first adolescent-oriented domestic violence courts. Part III considers the need for greater court involvement and suggests a larger role court professionals can play in responding to adolescent partner violence.

## PART I: ADOLESCENT PARTNER VIOLENCE

This article uses the term adolescent partner violence because the phrase "teen dating violence" fails to capture the range of young people affected and the relationships they engage in and also hides the seriousness of the violence.<sup>8</sup> The term adolescent is used to encompass the full range of young people who routinely engage in intimate relationships;<sup>9</sup> this group includes both adolescent victims and perpetrators and those who are referred sometimes as "teens," young people between the ages of

4 AMANDA B. CISSNER, U.S. DEPARTMENT OF JUSTICE, PROCESS EVALUATION OF THE BROOKLYN YOUTHFUL OFFENDER DOMESTIC VIOLENCE COURT (2005) at 2.

5 This article uses the term court professional throughout to highlight the need for the response to be collaborative. See generally Robyn Mazur & Liberty Aldrich, *What Makes a Domestic Violence Court Work: Lessons from New York*, 42 JUDGES J. 2 (2003).

6 For a general discussion of the Santa Clara program, see Inger Sagatun-Edwards et al., *The Santa Clara County Juvenile Domestic and Family Violence Court*, 4 J. CTR. FOR FAMILIES, CHILDREN & CTS. 91, 93 (2003). See also BRENDA UEKERT, ET AL., NATIONAL CENTER FOR STATE COURTS, JUVENILE DOMESTIC AND FAMILY VIOLENCE: THE EFFECTS OF COURT-BASED INTERVENTION PROGRAMS ON RECIDIVISM (2006).

7 For a general discussion of the Brooklyn program, see CISSNER, *supra* note 4.

8 Although both men and women can be victims of domestic violence, the majority of victims of abuse and coercive control are women. Therefore, this guide uses gendered terms. However, the values and strategies would apply equally where the victim is male. See generally, BUREAU JUST. STAT., U.S. DEP'T JUST., FAMILY VIOLENCE STATISTICS: INCLUDING STATISTICS ON STRANGERS AND ACQUAINTANCES 1 (2005), available at <http://www.ojp.usdoj.gov/bjs/abstract/fvs.htm> (last visited Nov. 5, 2009) (finding that females were 84% of spouse abuse victims and 86% victims of abuse by a boyfriend or girlfriend, and that males were 83% of spouse murderers and 75% of murderers who killed a boyfriend or girlfriend).

9 Christine Barter, *In the Name of Love: Abuse and Violence in Teenage Relationships*, 39 BRITISH J. SOC. WORK 211, 214 (2009) (reflecting on the need for more research on "the fluidity of teenage relationships").

11-14.<sup>10</sup> Using inclusive language is important to developing a legal response that can better protect adolescents because it encompasses the broadness of the problem. In addition, the concept of dating is increasingly less relevant to a comprehensive view of adolescents' intimate relationships.<sup>11</sup> Adolescents engage in sexual relationships both within and outside of dating relationships, with more than half of sexually active adolescents "hooking up" with a person who is not their boyfriend or girlfriend.<sup>12</sup> The term adolescent partner violence used in this article captures the range of intimate partnerships adolescents engage in, which is not limited to relationships that follow conventional ideas of dating patterns.

### Adolescent Partner Violence: A Serious Problem

The range of relationships and developmental stages involved in adolescent partner violence can hide a central reality necessary to developing a suitable legal response: adolescent partner violence is violence. It is not "puppy love" or "young love" or "kids being kids."<sup>13</sup> Studies have shown that adults have a tendency to ignore the prevalence and minimize the impact of adolescent partner violence under the assumption that the adolescents will grow out of it.<sup>14</sup> However, research shows that, as with domestic violence perpetrated by adults, violence between intimate adolescents increases over time and can affect adolescents' choices, including choices regarding substance use and abuse and sexual activity.<sup>15</sup> Adolescent partner violence is a pattern of power and control used by or against an adolescent. It includes, but is not limited to, sexual and physical violence, stalking behaviors, and verbal and emotional manipulation, such as threats and intimidation, that occur as part of the pattern of controlling behavior.<sup>16</sup> Isolation features prominently as part of the perpetrator's arsenal of tools.<sup>17</sup> For example, in a recent study a quarter of adolescents polled said that their partner had asked them to "only spend time with him/her."<sup>18</sup> Findings like this show that adolescent partner violence, like domestic

10 THE NATIONAL DOMESTIC VIOLENCE HOTLINE, IN PARTNERSHIP WITH LIZ CLAIBORNE, INC., TWEEN AND TEEN DATING VIOLENCE STUDY (2008). This study uses 11-14 as the age range for "tweens." Although the age range implied by "tween" may vary slightly, it is important to note that the majority of adolescent partner violence prevention programs target high schools or post high school adolescents and do not include younger adolescents.

11 See generally Wendy D. Manning et al., *Hooking Up: The Relationship Contexts of "Nonrelationship" Sex*, 21 J. OF ADOL. RES. 259 (2006).

12 *Id.*

13 Susan L. Pollet, *Teen Dating Violence Is Not Puppy Love*, 32 WESTCHESTER B. J. 29 (2005).

14 *Id.*

15 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 (2001).

16 Amy Karan & Lisa Keating, *Obsessive Teenage Love: The Precursor to Domestic Violence*, 46 JUDGES J. 23, 24 (2007).

17 Tara L. Cornelius & Nicole Resseguie, *Primary and Secondary Prevention Programs for Dating Violence: A Review of the Literature*, 12 AGGRESSION & VIOLENT BEHAVIOR 364 (2007) ("[n]eglecting [non-physical] forms of partner violence limits the conceptualization of dating violence and may hinder the development of effective interventions for preventing or managing courtship problems").

18 Teenage Research Unlimited, HOT SHEET: LIZ CLAIBORNE INC. TOPLINE FINDINGS TEEN RELATIONSHIP ABUSE SURVEY (CONDUCTED MARCH 2006), available at <http://www.loveisrespect.org/resource-center> (last viewed May 3, 2010).

violence perpetrated by adults, is not limited to, or even typified by, physical assaults. In fact, adolescent perpetrators are more likely to use non-physical abuse against their victims including threats, peer pressure, and other forms of intimidation.<sup>19</sup> Despite this finding, adolescent partner violence is a danger in adolescents' lives and can be lethal. The National Center for Health Statistics found that the leading cause of death for African-American girls between the ages of 15 and 19 is intimate partner homicide and that intimate partner homicide is the second leading cause of death for adolescent girls of other races.<sup>20</sup>

The statistic concerning the number of adolescent victims of partner violence varies greatly in the research literature. Currently, the most commonly cited studies from across the country suggest that between 20% and 45% of high school students have experienced some form of adolescent partner violence. However, individual studies show an even greater range in the statistics. In 2005, the New York City Department of Health conducted a survey of randomly selected high school students. The survey question asked students whether, in the past year, their "boyfriend or girlfriend ever hit, slapped, or physically hurt" them on purpose. According to the findings, 11.8% of Brooklyn adolescents surveyed in this study had experienced physical adolescent partner violence.<sup>21</sup> By contrast, a study of adolescents in Madrid, Spain, found that 40% of adolescents had engaged in "physically aggressive behaviors against their partners."<sup>22</sup>

Developing reliable statistics is difficult because much of the current research relies on self-reporting.<sup>23</sup> Although self-reporting is a commonly used method of studying the prevalence of domestic violence, the nature of adolescents' relationships with adults complicates studies that rely on self-reports: "teens are less likely than any other group to report crimes against them. Statistically, the U.S. Department of Justice found that teens report less than 36 percent of crimes against them."<sup>24</sup> This tendency not to report makes it even more important that professionals who work in this area understand that adolescent partner violence can involve a wide range of behaviors. Perpetrators may use many forms of abuse to maintain control ranging from physical assaults like hitting, shoving, biting, strangling, kicking, or using a weapon, to emotional manipulation through threats, insults, constant monitoring, humiliation, intimidation, isolation, or stalking, to sexual violence, which may include rape, coercion, or restricting access to birth control.<sup>25</sup> Adolescents may not recognize some of these behaviors as abuse, and therefore may be

19 Cheryl Hanna, *Sex Before Violence: Girls, Dating Violence and (Perceived) Sexual Autonomy*, 33 *FORDHAM URBAN L.J.* 437, 446 (2006) (finding "[s]omewhere 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").

20 Karan & Keating, *supra* note 16 at 24.

21 STAYTON C. OLSON ET AL., *NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE, INTIMATE PARTNER VIOLENCE AGAINST WOMEN IN NEW YORK CITY* (2008) at 12.

22 Marina J. Muñoz-Rivas et al., *Aggression in Adolescent Dating Relationships: Prevalence, Justification, and Health Consequences*, 40 *J. ADOL. HEALTH* 298, 302 (2007).

23 Vangie A. Foshee et al., *The Development of Four Types of Adolescent Dating Abuse and Selected Demographic Correlates*, 19 *J. RES. ADOL.* 380 (2009).

24 Karan & Keating, *supra* note 16 at 24.

25 Barter, *supra* note 9. See also Break the Cycle's Web site at <http://www.breakthecycle.org/dating-violence-101> (last viewed April 30, 2010).

even less likely to report abuse. Identifying the majority of adolescent partner violence would require each person who routinely interacts with adolescents to ask the right questions and create an environment for safe disclosure, including parents, school officials, law enforcement officers, medical professionals, district attorneys, probation officers, and courts.

While the statistics still need further development, even the lowest estimates—that approximately one in ten adolescents have been physically assaulted in the last year<sup>26</sup>—sufficiently demonstrate that adolescent partner violence is a major issue in the lives of adolescents. Understanding the scope of the issue requires not only appreciating the prevalence, but also appreciating the characteristics of adolescent partner violence. As mentioned above, relationship violence, including violence in adolescent relationships, is all about power and control. “The basic attributes and characteristics of domestic violence remain the same whether the victim or perpetrator is an adult or an [adolescent].”<sup>27</sup> Therefore, many of the characteristics will be familiar to those professionals who work in the larger area of domestic violence. However, despite the commonalities with characteristics of domestic violence in adult relationships, there are differences in how adolescents experience abuse and how it impacts their lives.

Some of the differences between adolescent partner violence and domestic violence in adult relationships may be interpreted as resiliency factors that enable adolescents to recover more easily from intimate partner violence. For example, in Santa Clara County’s Juvenile Domestic and Family Violence Court, the level of injury in adolescent partner violence cases was generally less serious than in the adult cases, an observation that is consistent with research that shows that although incidences of violence decreased as adolescents grew up, the severity of the incidences (as marked by physical injury) worsened.<sup>28</sup> Also, in many cases, adolescent relationships are free of some of the barriers present for adults trying to end abusive relationships, such as marriage, children,<sup>29</sup> and joint housing.<sup>30</sup>

### Distinct Social Issues for Adolescents

Adolescents’ life circumstances are not purely, or even primarily, protective. Adolescents are in the process of developing their identity, and the formation of the sense of self is still fragile and developing. Name-calling and disparaging comments can have a much more profound effect when the youthful psyche has not fully developed into mature

26 Carrie Mulford & Peggy C. Giordano, *Teen Dating Violence: A Closer Look at Adolescent Romantic Relationships*, 261 NIJ JOURNAL 34 (2008).

27 Largio, *supra* note 1 at 950.

28 Muñoz-Rivas et al., *supra* note 22 at 303.

29 While generally adolescent victims are less likely to have children in common with the perpetrator than adult victims, see CISSNER, *supra* note 4 at 17 (finding that in Brooklyn’s YODVC, “nearly half of the defendants have a child in common with the complaining witness”).

30 Videtta Brown, *Gang Member Perpetrated Domestic Violence: A New Conversation*, 7 U. MARYLAND L.J. ON RACE, RELIGION, GENDER, AND CLASS 395, 399 (2008). (“Unlike in adult relationships, teens are not forever tied to their abusers.”)

adulthood.<sup>31</sup> Therefore, adolescent victims are more susceptible than adult victims to believing perpetrators' opinions of them.<sup>32</sup> The vulnerability of an adolescent's self-image can result in victims remaining with an abusive partner for a longer period of time despite a lack of social ties.<sup>33</sup> There are studies that show "teens may be at a higher risk for 'traumatic bonding,' which refers to a victim feeling more attached<sup>34</sup> to the perpetrator of the abuse as she loses her<sup>35</sup> own identity, than adults because of these intensified gender roles and the need for social acceptance and self-esteem."<sup>36</sup>

Another unique challenge professionals confront when working with adolescents is that while escalation of violence happens in the same way as in adult relationships,<sup>37</sup> adolescents accept a certain level of violence as a part of intimate relationships.<sup>38</sup> Adolescents are in a transitional developmental stage during which time they look to peers for normative values.<sup>39</sup> Therefore, if adolescent victims accept a level of violence as part of play<sup>40</sup> or traditional gender roles<sup>41</sup> because the peer group they belong to accepts that level of violence, then it may be harder for victims to perceive when the violence escalates. The acceptance of violence also skews the picture of adolescent partner violence regarding gender. For example, several studies suggest that young men and women use violence in relationships at approximately equal rates.<sup>42</sup> However, the meaning, impact, and consequences of the violence differ by gender. Young women report using violence in defense and experiencing violence against them that is more severe and traumatic than that experience by their male counterparts.<sup>43</sup> Young women are also more likely to be injured. These gender differences in the use of violence and the general acceptance of violence create another layer of contextualization necessary in analyzing adolescent partner violence.<sup>44</sup>

Finally, not only is the impact of emotional abuse greater for adolescent victims and the violence part of accepted norms, but the techniques adolescent perpetrators use to create social isolation and humiliation often center around technology, making it harder

31 Barter, *supra* note 9 at 223.

32 Brown, *supra* note 30 at 399 (stating "the experiences of teens and young adults are notably more critical than those of adult victims because teen victims are less mature and have fewer coping skills").

33 Barter, *supra* note 9 at 219.

34 See also Largio, *supra* note 1 at 952 (before this quotation finding "teenagers often lack dating experience and therefore encounter control issues that fuel already 'highly passionate, exciting, and possessive' relationships. In fact, teens may confuse jealousy with love and remorse with intimacy.").

35 Although both young men and women can be victims of adolescent partner violence, the majority of victims of abuse and coercive control are young women, as discussed *supra* note 8. See also Barter, *supra* note 9 at 215 (finding "girls generally suffer more severe forms of violence and report greater feelings of fear than their male counterparts").

36 Largio, *supra* note 1 at 952.

37 Brown, *supra* note 30 at 399.

38 See generally Hanna, *supra* note 19 at 449-450; Barter, *supra* note 9 at 218 (finding particularly that "young people are more likely to view violence as acceptable if it follows an individual incidence of frustration").

39 Barter, *supra* note 9 at 225.

40 Muñoz-Rivas et al., *supra* note 22 at 303.

41 Barter, *supra* note 9 at 223.

42 Mulford & Giordano, *supra* note 26.

43 *Id.* at 36. See also Christian Molidor & Richard Tolman, *Gender and Contextual Factors in Adolescent Dating Violence*, 4 VIOLENCE AGAINST WOMEN 180 (1998).

44 Muñoz-Rivas et al., *supra* note 22 at 303.

for adults to assess the scope of the problem.<sup>45</sup> Adolescents are accustomed to sharing details of their lives more widely than many adults.<sup>46</sup> The technological presence of adolescents includes regular public assertions of who one's friends are, what one is doing, and photos of one's activities.<sup>47</sup> It has become routine to share highly personal information, which may contribute to a blurring of the lines between normal interest, controlling surveillance, or illegal abuse.<sup>48</sup> E-mails and images with sexual content provide an example of this blurred line.<sup>49</sup> A recent survey found that more than one in three adolescents (39%) have sent or posted sexually suggestive e-mails or text messages and that more than one in five have sent or posted nude or semi-nude images of themselves.<sup>50</sup> These messages and images can often then be used as revenge in abusive relationships; the photos and information that once were "private" between the couple are easily publicized to hundreds of people instantly.<sup>51</sup> Jessica Logan provides a tragic example of the ramifications of such behavior; the 18-year-old committed suicide after her ex-boyfriend sent nude photographs she e-mailed him to classmates who began to harass Jessica.<sup>52</sup>

### Adolescents and Sexual Abuse

It is rare for professionals to include sexual abuse within the larger scope of a pattern of adolescent partner violence,<sup>53</sup> yet sexual abuse is intimately connected within many perpetrators' patterns of abuse.<sup>54</sup> In 2003, a study by the Centers for Disease Control found that more than half (62%) of girls had engaged in sexual intercourse by the 12<sup>th</sup> grade and that more than one-fourth (29%) of those who were sexually active felt pressure to have sex.<sup>55</sup> These findings, while troubling, are made even more worrisome by studies that show adolescent partner violence is a major sexual health risk. Adolescents in abusive relationships often engage in risky sexual behavior, including failure to use condoms.<sup>56</sup> In particular, one victim in the Brooklyn Youth Offender Domestic Violence Court (YODVC) explained that if she were to use a condom with her abusive boyfriend, he

45 THE NATIONAL DOMESTIC VIOLENCE HOTLINE, *supra* note 10 at 20 (While the study focuses on behaviors between tweens, adolescents between 11-14 years old, it provides an interesting breakdown of some of the technological abuse. The study found that 24% of tweens knew friends or peers who were checked on by their partner using texting more than 20 times in a single day).

46 *Id.*

47 The Family Violence Prevention Fund's That's Not Cool Campaign, *supra* note 2.

48 Clay Calvert, *Sex, Cell Phones, Privacy, and the First Amendment: When Children Become Child Pornographers and the Lolita Effect Undermines the Law*, 18 COMMLAW CONSPECTUS 1, 17-18 (2009).

49 *Id.*

50 THE NATIONAL CAMPAIGN TO END TEEN AND UNPLANNED PREGNANCY, SEX AND TECH: RESULTS FROM A SURVEY OF TEENS AND YOUNG ADULTS (2008), available at <http://www.thenationalcampaign.org/sextech/> (last viewed May 3, 2010).

51 *Id.* at 23.

52 Today Show, "Her Teen Committed Suicide Over 'Sexting'" (March. 6, 2009).

53 Cornelius & Resseguie, *supra* note 17 at 365.

54 Hanna, *supra* note 19 at 450-455.

55 *Id.* at 451.

56 Silverman et al., *supra* note 15.

would accuse her of sleeping around and not trusting him.<sup>57</sup> Another victim in the YODVC program would use condoms with anyone she slept with except her abusive partner, due to his controlling behavior and refusal to have protected sex. She ultimately contracted a bacterial sexually transmitted disease from the perpetrator.<sup>58</sup>

Attendant with risky sexual behavior is an increased likelihood of adolescent pregnancy. The relationship between both adolescent partner violence and early pregnancy rates is fairly high, with victims of adolescent partner violence “4 to 6 times more likely than their non-abused peers to have ever been pregnant.”<sup>59</sup> A recent study, which focused on unintended pregnancy and reproductive abuse, including birth control sabotaging, found that in a sample group composed largely of women under the age of 24, 40.9% had experienced at least one unintended pregnancy.<sup>60</sup> Although this finding does not lead directly to a reliable statistic regarding the percentage of adolescents who have children with a perpetrator, it does indicate that a significant portion of adolescent victims may have a child in common with a perpetrator.

When a victim does have a child with a perpetrator, the victim can be ambivalent about leaving the relationship. For example, an adolescent may have a deep emotional bond with a perpetrator of violence. This is particularly true with an adolescent who is living without any strong familial connection, and an abusive partner may be the only person with whom a victim has an established emotional connection. Or, an adolescent victim may have more practical concerns related to attending school, with a perpetrator providing needed child care for the victim.<sup>61</sup> Victims who seek help often express the feeling that the violence is “the least” of their problems.<sup>62</sup> This is not surprising given the range of factors that increase an adolescent’s risk for victimization, which include:

- being maltreated as a child;
- witnessing some domestic violence as a child;
- being exposed to violence in one’s community, especially exposure to weapons;
- struggling in school as measured by grade point average;

57 For similar examples, see CTR. FOR IMPACT RESEARCH, DOMESTIC VIOLENCE AND BIRTH CONTROL SABOTAGE: A REPORT FROM THE TEEN PARENT PROJECT (2000), available at <http://www.impactresearch.org/publication/publicationdate.html> (finding that 62% of adolescent partner violence victims had experienced verbal threats and harassment regarding their use of birth control).

58 For more information on the sexual risks, see Silverman et al., *supra* note 15.

59 *Id.* at 577.

60 Elizabeth Miller et al., *Pregnancy Coercion, Intimate Partner Violence and Unintended Pregnancy*, 81 CONTRACEPTION 316, 318 (2010) (finding “[p]regnancy coercion was reported by approximately 1 in 5 (19.1%), and birth control sabotage was reported by approximately 1 in 7 (15.0%). More than 2 in 5 (40.9%) had experienced at least one unintended pregnancy”).

61 S. A. STEPHENS ET AL., CENTER FOR ASSESSMENT AND POLICY DEVELOPMENT, IMPROVING OUTCOMES FOR TEEN PARENTS AND THEIR YOUNG CHILDREN BY STRENGTHENING SCHOOL-BASED PROGRAMS (1999), available at <http://www.cabd.org/pubfiles/pub-1999-04-01.pdf> (finding that there is an absence of school-based programs providing child care, and even when care is available adolescents tend to prefer or may be pressured to use family or friends for child care).

62 Jonathan D. Klein & Committee on Adolescence, *Adolescent Pregnancy: Current Trends and Issues*, 116 PEDIATRICS 281, 283 (2005) (finding “the psychosocial problems of adolescent pregnancy include school interruption, persistent poverty, limited vocational opportunities, separation from the child’s father, divorce, and repeat pregnancy”).



- lacking attachment to school or family;
- possessing individual psychological characteristics such as low self-esteem and inability to cope with conflict; and
- having friends who are perpetrators or victims of dating violence.<sup>63</sup>

This range of factors highlights the need for specialized interventions by professionals who understand and are ready to respond to the challenges adolescent victims face.

Finally, pregnancy and early motherhood are risk factors for other increased negative consequences. A study that focused on pregnant adolescents found that almost one in ten reported severe violence during their pregnancy by their boyfriend, including kicking and stabbing.<sup>64</sup> Even if violence in the relationship does not increase, for adolescents pregnancy increases the likelihood that the mother will not complete high school and, as a result, increases the likelihood she will live in poverty.<sup>65</sup> These studies highlight the increased risk of both adolescent pregnancy as a consequence of partner violence and, in turn, the increased risk to these victims of other negative consequences.

## PART II: THE CURRENT LEGAL RESPONSE

Appreciating the dynamics of adolescent partner violence and the impact of the violence beyond the adolescent relationship can help adults exert and initiate a shift of the power and control away from perpetrators of violence. Particularly, court professionals are in a key position to support the victim and take the power away from the perpetrator, thereby providing victims an ally. By creating interventions and protections, court professionals capitalize on their unique position to stem the tide of violence before it accelerates to highly dangerous or even lethal levels. “During adolescence, violent behavior can become a habitual way of relating to others, and aggressive and violent behavior can affect the way that subsequent personal and emotional relationships are established.”<sup>66</sup> Court professionals with access to complete information regarding both parties and the context in which the violent behaviors occurred can tailor their decisions to address and inform criminal justice results adequately.

Even though there are more and more studies showing that adolescent partner violence is a serious concern, “there are few programs designed for either youthful victims or perpetrators to end the cycle of violence before adolescents enter adulthood.”<sup>67</sup> The majority of programs that target victims and perpetrators of adolescent partner violence are primarily prevention programs that work to educate adolescents on the violence in

<sup>63</sup> Hanna, *supra* note 19 at 450. See also Johanne Vézina & Martine Hébert, *Risk Factors for Victimization in Romantic Relationships of Young Women*, 8 TRAUMA, VIOLENCE, & ABUSE 33 (2007).

<sup>64</sup> Sarah Buel, *Why Juvenile Courts Should Address Family Violence: Promising Practices to Improve Intervention Outcomes*, 53 JUV. & FAM. CT. J. 1, 3 (2002).

<sup>65</sup> *Id.* at 2.

<sup>66</sup> Muñoz-Rivas et al., *supra* note 22 at 298.

<sup>67</sup> CISSNER, *supra* note 4 at 2.

relationships.<sup>68</sup> While educational programs are an important tool in helping break the cycle of violence,<sup>69</sup> an appropriate legal response to adolescent partner violence is necessary to protect victims and hold perpetrators accountable.

The legal response to domestic violence, including the availability of protection orders, shelters, and domestic violence courts, has generally focused on assisting adult victims and has often excluded adolescents. This focus is partially attributed to laws that fail to recognize adolescent partner violence as domestic violence.<sup>70</sup> While there are now a number of laws that have expanded domestic violence protections to those individuals in a dating relationship,<sup>71</sup> few have specific provisions for adolescents in dating relationships. In fact, across the country, only a handful of court cases with clear findings about how general “dating violence” provisions relate to adolescent relationships.<sup>72</sup>

As discussed above, adolescent partner violence is similar in many ways to domestic violence perpetrated by adults, but “while the dynamics of teen and adult intimate violence are quite similar, the protections provided by the law are often dramatically different.”<sup>73</sup> Generally, both criminal and civil laws are targeted at domestic violence perpetrated by adults, and these laws may not protect adolescent victims.<sup>74</sup> For example, in 49 states and the District of Columbia, officers may arrest a person suspected of perpetrating domestic violence without a warrant if there is probable cause that the person committed an act of domestic violence, and in more than 20 of these states, officers are encouraged or required to make such arrests.<sup>75</sup> However, these laws depend on the statutory definition of domestic violence. Therefore, unless the statutory definition of domestic violence explicitly includes adolescent partner violence, these laws provide adolescent victims little protection.<sup>76</sup> A similar problem occurs in protection order legislation.

This gap in the law means that the legal response not only fails to protect adolescent victims of partner violence, it also fails to provide interventions for adolescents that can break the cycle of violence. A recent study found that “a court-based intervention

68 In 2002, only one state (Massachusetts) legislated that funds be provided for an adolescent partner violence curriculum in schools. Since then, several dating violence programs have been developed across the country. In 2008 and 2009, there was an increase in this trend where five states passed laws requiring schools to either develop or incorporate a teen dating violence curriculum (Illinois (730 § 5/5-8A-7), Maryland (§ 7-411), Nebraska (§ 79-2.138 et seq.), Ohio (§§ 3313.60 and 4414.666), and Rhode Island (§§ 16-85-1 and 16-85-2)). See also Tiffany 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, 151-152 (2002).

69 *Id.*

70 Largio, *supra* note 1 at 949.

71 In 2008 and 2009, four states expanded the definition of domestic violence to include individuals in dating relationships (Arizona (§ 13-3601), Mississippi (§ 93-21-3), New Mexico (§ 30-3-11), and Tennessee (§ 39-13-111)).

72 Largio, *supra* note 1 at 943.

73 Sagatun-Edwards et al., *supra* note 6 at 93.

74 Kathryn E. Suarez, *Teenage Dating Violence: The Need for Expanded Awareness and Legislation*, 82 CAL. L. REV. 423, 426 (1994).

75 Laurie Kohn, *The Justice System and Domestic Violence: Engaging the Case but Divorcing the Victim*, 32 N.Y.U. REV. L. & SOC. CHANGE 191, 214-215 (2008).

76 Largio, *supra* note 1 at 962-968.

program for juveniles who commit crimes of domestic or family violence is especially effective for first-time offenders who have not yet 'hardened' into a destructive behavior pattern."<sup>77</sup> Also, a number of studies have found that victims of violence in adolescence are more likely to become victims of violence as adults.<sup>78</sup> Taken together, these findings suggest that by working with adolescent victims and perpetrators, courts may be able to attain a level of rehabilitation that might otherwise be unattainable in an adult population where the violence has become more entrenched in a perpetrator's life.<sup>79</sup>

Despite this relationship between early intervention and increased potential for rehabilitation, few court responses are designed to provide targeted assistance to adolescent victims and perpetrators.<sup>80</sup> However, some of the courts that have developed strategies are seeing compelling results.<sup>81</sup> Two innovative court approaches, Santa Clara County's Juvenile Domestic and Family Violence Court and Brooklyn's Youth Offender Domestic Violence Court, are examined below.

### Santa Clara County's Juvenile Domestic and Family Violence Court (JDFVC)

"The Santa Clara County Juvenile Domestic and Family Violence Court, begun in 1999, was the first of its kind in the nation."<sup>82</sup> The JDFVC program has a number of features designed to ensure that intervention with adolescents is early and appropriate.<sup>83</sup> The court, which handles both misdemeanor and felony cases, developed a number of strategies to target the response to the needs of adolescents including: intake procedures that flag cases; a dedicated docket with dedicated attorneys in both the District Attorney's Office and the Public Defender's Office who all receive annual training on the issues and best practices; and monthly meetings with involved staff.<sup>84</sup> The JDFVC collaborative partners worked to ensure comprehensive victim services throughout the process. One of the goals of the court's work was to make sure that victims were provided the services necessary to make the changes each victim wanted to make. JDFVC accomplished this by having advocates available to provide services including: counseling; victim witness services; and assistance with civil restraining orders, paternity determinations, custody and access orders, and child support orders. Advocates were also available to work on locating other assistance when the victim needed further help.

The JDFVC also took a two-pronged approach to promoting adolescent victim safety through the protection order process. The first approach is to issue a protection

77 UEKERT ET AL., *supra* note 6 at 90.

78 Barter, *supra* note 9 at 220.

79 Roger J.R. Levesque, *Dating Violence, Adolescence, and the Law*, 4 VA. J. SOC. POL'Y & L. 339, 343 (1996) (summarizing this connection, "the examination of adolescent battering is not only central to legal efforts to assist youth in crisis, it is also an essential component of the fight against domestic violence and other crimes perpetrated in intimate relationships").

80 Hanna, *supra* note 19 at 437.

81 For a discussion of the results in juvenile domestic violence courts, *see* UEKERT ET AL., *supra* note 6.

82 UEKERT ET AL., *supra* note 6 at 22.

83 For a full discussion of the court, *see generally* UEKERT ET AL., *supra* note 6, or Sagatun-Edwards et al., *supra* note 6.

84 *Id.*

order as part of a criminal case at the first appearance in court. At the appearance, the defendant is served with a complete “stay-away” order, also referred to as a “no contact” order. These orders prohibit all contact, including texting, e-mail, phone, and through friends. The second approach focused on civil protection orders. California law allows a person 12 years or older to obtain civil protection orders without a request from an adult. Professionals found that the dual protection order approach was central to the protection of victims.

The JDFVC process depends on holding adolescent perpetrators accountable, which the court does, in part, by incorporating and adapting a number of laws applicable to adults into its procedures. For example, § 1203.097 of the California Penal Code applies to adult cases and requires that courts issue a protection order as part of probation for a person convicted of a domestic violence related offense. The JDFVC incorporated this requirement into the probation procedures of the court, thereby making it mandatory that the judge in an adolescent partner violence related offense issue a protection order as a condition of probation.<sup>85</sup> The JDFVC also developed a 26-week program which all juveniles on probation are required to attend.<sup>86</sup> The court is able to monitor the adolescent’s compliance with these requirements during mandatory probation reviews that the adolescents’ probation officers are also required to attend and to have probation reports prepared for the court.

Finally, it is important to note that the JDFVC started with no additional financial resources; it was able to begin with an initial commitment from court professionals using the structures in place in 1999. The collaborative depended on partners providing the additional services from their agencies or departments by reorganizing and reallocating existing resources. Once JDFVC demonstrated the value of the program to adolescent victims and defendants, grant funds became available for some additional services to be offered or continued.

### Brooklyn’s Youth Offender Domestic Violence Court (YODVC)

In 2003, four years after JDFVC began, New York opened the YODVC in Brooklyn with a U. S. Department of Justice grant. The YODVC operates collaboratively through partnership with the Center for Court Innovation, the Kings County District Attorney’s Office (under the leadership of District Attorney Charles J. Hynes), the criminal defense bar in Brooklyn, and Steps to End Family Violence which, among other services, provides a teen accountability program for male offenders between the ages of 16 and 19.<sup>87</sup> It is now one of three courts, all in New York, dedicated exclusively to misdemeanor cases involving adolescent partner violence.<sup>88</sup> However, although the YODVC focuses on adolescent partner violence, it is an adult court. As discussed above, Santa Clara’s JDFVC

<sup>85</sup> UEKERT ET AL., *supra* note 6 at 25 (describing this as a “formal probation model . . . [which] looks at any juvenile domestic violence or family violence incident as a serious problem and assumes that early formal intervention is the best way to prevent further incidents”).

<sup>86</sup> *Id.* at 58.

<sup>87</sup> CISSNER, *supra* note 4 at 1.

<sup>88</sup> Khadijah Rentas, *Trying to Keep Abusive Teens from Becoming Abusive Adults*, GOTHAM GAZETTE (March 2, 2009).

adapted some adult legal provisions and procedures to apply to juvenile perpetrators. In contrast, the YODVC addresses perpetrators between the ages of 16 and 19, which means they are treated as adults under the criminal law. While the YODVC may apply some special sentencing provisions because of the perpetrator's age and prior criminal record, it is still an adult, as opposed to a juvenile, court.

The YODVC is designed, first and foremost, to provide an avenue through which adolescent victims can receive accurate, straightforward, and honest information about the criminal court process.<sup>89</sup> The information is critical to adolescent victims and is a central way court professionals can support adolescent victims.<sup>90</sup> Even if the victim does not take immediate steps to use the system, at least she has received a clear message from the system that the relationship might be unhealthy and dangerous; she is not alone; help is available; and the avenue for getting that help is mapped out for the adolescent.

A key component of this information-sharing approach is the Early Victim Engagement Project (EVE).<sup>91</sup> Soon after an arrest brings a potential victim to the attention of the YODVC, a liaison reaches out to the victim to explain that there is a criminal protection order in place that was issued on behalf of the victim at the arraignment, which in New York City takes place within 24 hours of the arrest. This means that by the time the victim meets with a social worker, assigned to the victim through the district attorney's office, she has already been prepared for what to expect regarding the criminal process.<sup>92</sup> Even though about 75% of victims come in saying that they do not want anything to do with further prosecution, the social worker gives invaluable information to the victim. For example, a victim often does not want formal interaction with the legal system, but will express a desire that her partner get help. Conversations with a liaison allow a victim to discuss her fears and concerns about the legal system and to explore alternate avenues and services for the victim. Many victims report a positive experience with this approach because an adult listened, gave them honest and accurate information, and helped them understand the next steps in the case.<sup>93</sup>

Because the YODVC is part of a Family Justice Center (FJC),<sup>94</sup> there is a completely confidential civil track that an adolescent can pursue which may make her more amenable to full disclosure. This is particularly important for adolescents wishing to stay in a

89 KRISTINE HERMAN, CENTER FOR COURT INNOVATION, *YOUTH DATING VIOLENCE: CAN COURTS HELP BREAK THE CYCLE?* (2004) at 3 ("The court does not expect to change teen victims' reluctance to trust the criminal justice process but does aim to at least let them know it is available").

90 NATIONAL CRIME PREVENTION COUNCIL AND NATIONAL CENTER FOR VICTIMS OF CRIME, *REACHING AND SERVING TEEN VICTIMS: A PRACTICAL HANDBOOK* (2005) (finding one of the "most important functions of violence and victimization education for teen victims is to let them know that they are not alone and that help is available").

91 Family Justice Center EVE Project, OVW Grant # 2007-AX-WE-0024.

92 HERMAN, *supra* note 89 at 3.

93 *See also* Ball et al., *supra* note 3 at 52s (noting adolescent participant felt that the presence of a neutral adult who "wanted 'to hear what we had to say and felt,' validated their feelings and opinions, and was emotionally supportive" was an important and positive part of the program).

94 *See generally* New York City Family Justice Center Initiative at <http://www.nyc.gov/html/ocdv/html/fjc/fjc.shtml> (last checked May 7, 2010) (The Family Justice Center is a collaboration between the state and the private sector that "enables victims to meet with a prosecutor, speak with a trained counselor, and apply for housing and financial assistance in just one visit—all in their native language while their children play safely in the next room").

relationship. Essentially, the combination of YODVC and FJC co-located services allows for two “tracks”—criminal justice and community support, which encompass civil justice, economic justice, and mental health justice—to run concurrently for a victim. Either or both tracks may ultimately conclude with a victim pursuing avenues to keep herself or her kids safe. Opportunities for success have been maximized in a tailored way for adolescent victims by, among other things, providing self-sufficiency coordinators who can help adolescent victims with GED classes, getting driver’s licenses, and finding jobs.

### Common Strategies and Challenges

While Santa Clara’s JDFVC and Brooklyn’s YODVC differ somewhat in focus and approach, four commonalities are central to their ability to support adolescent victims and hold perpetrators accountable. First, both courts have a strong collaborative base that allows professionals throughout the process to gain a shared understanding of the objectives of the program.<sup>95</sup> Second, both courts provide victims with significant and specific services targeted to their needs.<sup>96</sup> Third, both programs have developed batterer intervention programs specific to the adolescent population.<sup>97</sup> Finally, both programs are designed to reach reasonably fast dispositions.<sup>98</sup> This quick resolution is particularly important because the developmental reality of children makes quick resolution vital to reforming adolescent behavior, providing safety to adolescent victims, and keeping adolescent perpetrators out of the adult system.

Many of the problems encountered in the JDFVC and YODVC were shared by professionals in both courts, specifically problems related to a unified response to adolescents. The legal response to adolescent partner violence requires more than just understanding some legal principles in the area of adolescent partner violence because adolescents have numerous challenges to living violence-free lives.<sup>99</sup> For many adolescent victims and perpetrators, the court was involved in their parents’ lives. For example, either the victim or the perpetrator may have parents in family court as part of a divorce or custody proceeding or involved in an abuse and neglect proceeding in juvenile court or in criminal court. Therefore, court professionals need to understand the legal crossover issues among criminal, family, juvenile, and probate law in order to work effectively with adolescents in these cases. Without this understanding, the judge in the adolescent partner violence case may be missing potential information useful, or necessary, in making safety-driven decisions and may inadvertently re-victimize adolescents or expose them to greater risk. This is equally possible with adolescent perpetrators, with the potential of affecting intervention plans. Court professionals who are aware of the extent

<sup>95</sup> UEKERT ET AL., *supra* note 6 at 24; HERMAN *supra* note 89 at 4.

<sup>96</sup> See generally UEKERT ET AL., *supra* note 6 and HERMAN, *supra* note 89.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.* Early assessment and specialized dockets are present in both courts and allow for speedier resolution than in courts without these procedures.

<sup>99</sup> MADELINE WORDES & MICHELL NUNEZ, NATIONAL COUNCIL ON CRIME AND DELINQUENCY, OUR VULNERABLE TEENAGERS, THEIR VICTIMIZATION, ITS CONSEQUENCES, AND DIRECTIONS FOR PREVENTION AND INTERVENTION (2002) (starting off the study at 1 by stating that “[t]eenagers are victimized at alarming rates at home, in school, and on the street”).

to which the legal system is involved in an adolescent's life can use the documentation from this involvement to assist victims and increase the efficacy of each layer of the system's involvement.<sup>100</sup>

Despite the challenges, the successful results in both the JDFVC and the YODVC<sup>101</sup> suggest that adolescent partner violence courts, similar to adult domestic violence courts, need to be established. By creating effective interventions on behalf of victims, monitoring perpetrators effectively, and meting out graduated consequences, courts can be powerful mechanisms for eliminating future adolescent partner violence.

### PART III: INCORPORATING LESSONS, IMPROVING RESPONSES

Court programs like Santa Clara's JDFVC and Brooklyn's YODVC are examples of promising practices in the legal response to adolescent partner violence.<sup>102</sup> These courts show how a legal system dedicated to addressing the issues adolescents are facing through a systematic approach can have a positive impact on reducing the level of violence and increasing services for victims.<sup>103</sup> JDFVC and YODVC have instituted a systemic response to and rejection of adolescent partner violence; however, these courts are the exception and not the norm. There needs to be an increased response to adolescent partner violence designed around victim safety, perpetrator accountability, and collaboration.

#### Victim-Centered Courts Focused on Adolescent Partner Violence

Because adolescent partner violence is similar in many ways to domestic violence perpetrated by adults,<sup>104</sup> many of the responses developed over the last three decades to protect adult victims of abuse are applicable to court professionals and others trying to protect abused adolescents. As of 2009, more than 200 courts or judges had dockets dedicated to domestic violence across the United States.<sup>105</sup> In many ways, these adult domestic violence courts can serve as the model for courts targeting adolescents. For example, adult domestic violence courts have a variety of different models, but each court attempts to balance victim safety with perpetrator accountability and does so, in part, through increased collaboration.<sup>106</sup> Court professionals working with adolescents need to

100 *Id.* at 19 (strategy 10 of 18 in the report focuses on the need to “assess all juvenile justice involved youths for victimization and related problems”).

101 Sagatun-Edwards et al., *supra* note 6 at 20 discussing the Santa Clara court, and CISSNER, *supra* note 4 at 39 on Brooklyn's court.

102 See generally Sagatun-Edwards et al., *supra* note 6, and CISSNER, *supra* note 4.

103 Buel, *supra* note 64 at 9 on Santa Clara's court, and CISSNER *supra* note 4 at 39 on Brooklyn's court.

104 Brown, *supra* note 30.

105 MELISSA LABRIOLA ET AL., CENTER FOR COURT INNOVATION, A NATIONAL PORTRAIT OF DOMESTIC VIOLENCE COURTS (2009).

106 Robyn Mazur & Liberty Aldrich, *What Makes a Domestic Violence Court Work: Lessons from New York*, 42 JUDGES J. 2 (2003) (finding at 11, “the progressive nature of domestic violence crime—which tends to

balance these same interests and design strategies particular to the social role and reality of adolescent victims and perpetrators. As with adult domestic violence courts, the ability of professionals to maintain that balance successfully often depends on the collaboration both within the court system and with those in the communities in which adolescents live.<sup>107</sup> Even though adult domestic violence courts may be a general framework for developing an adolescent court, the current model for the majority of adult domestic violence courts tends to focus the court's resources on perpetrators rather than victims.<sup>108</sup> Adolescent courts can invert this model and create a victim-centered approach that will allow the court system to better provide for victim safety and participation.<sup>109</sup>

A victim-centered approach is particularly important when working with adolescents because choosing to access the system is a difficult choice, and a court system that validates this choice by making the wants and needs of victims the motivation behind the system's involvement will encourage, rather than discourage victim participation.<sup>110</sup> While the court response under a victim-centered approach varies by case, generally responses share certain features designed to ensure the victim is protected. For example, in a victim-centered adolescent partner violence court, an advocate is assigned to the victim from the beginning of a case and is available to explain the process, to help ensure that she receives services that meet her needs, and to go with her to court.<sup>111</sup> Similarly, other professionals in a victim-centered court support the victim and her right to make choices, and they provide meaningful guidance and protection that meet the victim's actual needs.<sup>112</sup>

Tailoring the court's response to meet the needs of each victim requires that court professionals engage with an adolescent victim in ways designed to encourage her participation throughout the process.<sup>113</sup> Court professionals who want to help ensure that an adolescent victim is fully protected need to have information about concerns and claims that may be outside the scope of the incident of abuse, like the need for transitional living provisions,<sup>114</sup> establishing paternity, or child support

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become more and more violent—underscores that courts cannot look only at individual cases. They must look for broader system outcomes, seeking to reduce recidivism, increase safety for victims, and improve inter-agency collaboration”).

107 Sagatun-Edwards et al., *supra* note 6 at 20; NATIONAL CRIME PREVENTION COUNCIL AND NATIONAL CENTER FOR VICTIMS OF CRIME, *supra* note 90 at 25 (reminding professionals that “young people grow up in communities, not programs”).

108 Buel, *supra* note 64 at 13.

109 Brown, *supra* note 30 at 397 (finding that “because of our cultural denial that teenagers engage in sexual relationships they are the most underserved population” with regards to rehabilitative services).

110 Sally F. Goldfarb, *Re-conceiving Civil Protection Orders for Domestic Violence: Can Law Help End the Abuse Without Ending the Relationship*, 29 CARDOZO L. REV. 1487, 1503-04 (2008).

111 Although there is a lack of research on the role of advocate support in adolescent partner violence cases, see CISSNER, *supra* note 4 at 39 (listing the increase in victim services as one of the lessons to take away from the YODVC project).

112 For example, see above and the YODVC self sufficiency coordinators who help adolescent victims with GED classes, getting driver's licenses, and finding jobs.

113 Karan & Keating, *supra* note 16 at 26. (“The court should treat the minor victim as a participant, not an observer”).

114 Shelter provisions for victims of adolescent partner violence are a looming issue. While this article will not address this issue, communities working to protect adolescent victims will need to confront the challenges and need for shelter services. For a detailed example of the issue in one state, see HELENE M.



payments.<sup>115</sup> Additionally, a victim may have issues related to the perpetrator and the social dynamics of her life, such as how she will be protected while sharing a school or engaging in an extracurricular activity with the perpetrator. A victim-centered response focuses both on ways to provide comprehensive legal services to a victim and on ways to protect her academic and social activities.<sup>116</sup>

A victim may also have needs specific to her culture. An adolescent victim may need to negotiate cultural expectations and hurdles related to issues like immigration,<sup>117</sup> religion,<sup>118</sup> race and ethnicity,<sup>119</sup> and community norms when seeking help. Although there is a general lack of information about how professionals can help victims of adolescent partner violence negotiate these hurdles,<sup>120</sup> a recent case in Brooklyn's YODVC illustrates some of the challenges professionals face. The case involved a 16-year-old immigrant who had been brought to Brooklyn from Mexico by her father. Her father found a bed for himself in an illegal tenement but was unable to keep his daughter with him. The adolescent found lodging elsewhere and began a relationship with an abusive boyfriend. YODVC court professionals helped find emergency shelter for the teen, which was limited,<sup>121</sup> worked with child welfare, and respected her father's involvement and the limitations on that involvement. This case shows how protecting an adolescent victim may require professionals to be competent in issues associated with different cultural considerations, like those in immigrant communities, both in regards to the adolescent and the family.

### Due Process Protections and Rehabilitation for Adolescent Perpetrators

Although protecting adolescent victims requires the court to focus on her needs, the system must also ensure that the adolescent perpetrator is afforded all due process protections and programming tailored to stop the use of violence. Court efforts hold perpetrators accountable by letting them know that the legal system, both civil and criminal, can be brought to bear on their behavior.<sup>122</sup> However, the legal response to

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MARCY & MONICA MARTINEZ, CENTER FOR IMPACT RESEARCH, HELPING WITH DOMESTIC VIOLENCE: LEGAL BARRIERS TO SERVING TEENS IN ILLINOIS (2000) at 8-14.

115 HERMAN, *supra* note 89 at 3. (The study also supports the idea that an assigned advocate helps both the victim and the system. In the YODVC program, victims' advocates obtained corroborating affidavits from the victim in 50% of cases, as compared to 10% in cases without such an advocate.)

116 Karan & Keating, *supra* note 16 at 26.

117 See generally Jay G. Silverman et al., *Immigration-Based Disparities in Adolescent Girls' Vulnerability to Dating Violence*, 11 MATERN. CHILD HEALTH J. 37 (2007).

118 See generally Donna Howard et al., *Personal and Social Contextual Correlates of Adolescent Dating Violence*, 33 J. OF ADOL. HEALTH 9 (2003).

119 Barter, *supra* note 9 at 221-222.

120 Silverman et al., *supra* note 117 at 37-38.

121 Pollet, *supra* note 13 at 29 ("There are few battered women's shelters that will accept an unemancipated teen").

122 UEKERT ET AL., *supra* note 6 at 91 (summarizing the findings of the recidivism study that included the Santa Clara court, "strategies designed to improve probation/program success rates, without compromising the program, should have a deterrent effect on juvenile offenders of domestic and family violence").

violence can move beyond punishment and can have a rehabilitative effect, particularly when the system intervenes early in the perpetrator's life with responses designed to have both a deterrent and therapeutic effect.<sup>123</sup> Examples of such intervention can be seen in both Santa Clara's JDFVC and Brooklyn's YODVC, which designed batterer intervention programs for adolescent perpetrators that were distinct from traditional batterer intervention programs.<sup>124</sup> By working with adolescent perpetrators to condemn the use of violence while simultaneously addressing perpetrators' histories that inform their use of violence, the system shows victims and perpetrators alike that "love and affection are not about controlling other people, and violence is not an effective or appropriate method of getting what you want."<sup>125</sup>

Showing adolescent victims and perpetrators that violence is not tolerated and that adolescents in need of help are supported requires court professionals to collaborate with others in the system.<sup>126</sup> Santa Clara's JDFVC program requires monthly meetings with the judges, prosecutors, defense attorneys, and law enforcement officers involved in the program.<sup>127</sup> These meetings allow each of the system stakeholders to contribute to court procedures and case processing plans.<sup>128</sup> Similarly, Brooklyn's YODVC stakeholders focus on increasing communication by developing an informal "communication hub."<sup>129</sup> This hub centers on the judge, resource coordinator, and YODVC coordinator and allows professionals across the system to stay connected with others doing the work.<sup>130</sup> Both programs designed mechanisms for collaboration that encourage system professionals to work together, which ultimately allows the system to operate more efficiently and remain victim focused.<sup>131</sup> Other programs that work with adolescent victims and perpetrators are likely to find a similar need for cooperation across the system.<sup>132</sup>

### Engaging the Community

Effective collaboration in the area of adolescent partner violence also requires significant efforts with those outside the legal system.<sup>133</sup> By the time an arrest and prosecution is initiated, court professionals are typically in a reactive position because they must address what has already occurred in terms of victim safety and offender

123 Buel, *supra* note 64 at 9. ("Many juvenile courts pay scant attention to the defendant's concurrent victimization . . . Recognizing the folly of ignoring the source of the juvenile's abusive behavior, Santa Clara County devotes reasonable efforts to identifying and treating violence modeled for youth").

124 UEKERT ET AL., *supra* note 6 at 24; HERMAN, *supra* note 89 at 4.

125 Marina Angel, *Abusive Boys Kill Girls Just Like Abusive Men Kill Women: Explaining the Obvious*, 8 TEMPLE POL. & CIV. RTS. L. REV. 283, 292 (1999).

126 Buel, *supra* note 64 at 9 (quoting Santa Clara Superior Court Judge Leonard Edwards, "In order to have a successful prosecution where the offender 'gets it' and ultimately changes his behavior, you have to have good police work, good judicial work, good probation work and good follow-up").

127 UEKERT ET AL., *supra* note 6 at 22.

128 *Id.*

129 CISSNER, *supra* note 4 at 9.

130 *Id.*

131 Despite the general collaboration, Cissner noted a general lack of engagement with the defense bar, *supra* note 4 at 9; this may be an area of opportunity for programs in the future.

132 Buel, *supra* note 64 at 9.

133 Howard et al., *supra* note 118 at 15.

accountability.<sup>134</sup> Studies show that adolescent victims are hesitant to engage the legal system.<sup>135</sup> Therefore, even if court professionals develop systems designed to protect victims and hold perpetrators accountable, those systems may be underused unless they are connected in a meaningful way to the resources adolescents turn to for support, including teachers, parents, and perhaps most importantly, peers.<sup>136</sup>

There is a growing emphasis placed on schools as a necessary institution in identifying and preventing adolescent partner violence.<sup>137</sup> Legislatures are increasingly mandating that schools develop and implement curricula designed to educate on and prevent adolescent partner violence.<sup>138</sup> The general goal of these curricula centers on raising adolescent awareness of the issues related to violence, empowering adolescents to reject violence, and equipping adolescents with relationship skills.<sup>139</sup> However, schools need to provide more than just violence prevention education for students to be effective in deterring and responding to adolescent partner violence.<sup>140</sup> Teachers need training on how to recognize adolescent partner violence, what state law requires,<sup>141</sup> and how to be supportive<sup>142</sup> when victims are attending school with the perpetrator.<sup>143</sup> Court professionals are in a position to work with teachers and school administrators to develop a relationship that allows for open communication about these challenges.<sup>144</sup>

Court professionals can also seek out opportunities to work with parents. An example of the need to work with adolescents' parents comes from a recent experience of a counselor in Brooklyn's YODVC program who went to a meeting of adolescents with behavioral issues at the Office of Children and Family Services. The counselor asked the adolescents how the YODVC could be more effective in getting the word out about

134 Zwicker, *supra* note 68 at 145.

135 Beverly M. Black et al., *When Will Adolescents Tell Someone About Dating Violence Victimization?* 14 VIOLENCE AGAINST WOMEN 741, 744 (2008) ("Literature on help-seeking consistently finds that adolescents do not view formal community resources or school personnel as viable options for help with their problems. Law enforcement or community agencies are among the resources adolescents are least willing to use").

136 Pollet, *supra* note 13 at 31.

137 Ball et al., *supra* note 3 at 46s.

138 In 2008 and 2009, five states passed laws requiring schools to either develop or incorporate teen dating violence curriculum (Illinois (730 § 5/5-8A-7), Maryland (§ 7-411), Nebraska (§ 79-2.138 et seq.), Ohio (§§ 3313.60 and 4414.666), and Rhode Island (§§ 16-85-1 and 16-85-2)). *See also* Zwicker, *supra* note 68.

139 *See generally* Cornelius & Resseguie, *supra* note 17, which reviews a number of studies focused on different curricula.

140 Ball et al., *supra* note 3 at 55s.

141 Thomas A. Mayes, *Students with No-Contact Orders Against Abusive Classmates: Recommendations for Educators*, 52 PREVENTING SCHOOL FAILURE 37, 40 (2008).

142 *Id.* at 41.

143 Adolescent partner violence raises a host of complex safety issues and due process rights that require school districts to develop a comprehensive approach to ensure students can learn in a safe environment. The focus of this article is on court professionals, and therefore a broad discussion of school programs is outside the scope. However, for an example of one state's model approach, *see* CALIFORNIA WOMEN'S LAW CENTER, CALIFORNIA MODEL POLICY ON SCHOOL RESPONSE TO TEEN DATING VIOLENCE AND SEXUAL VIOLENCE (2007) available at [http://www.cwlc.org/files/docs/Model\\_Protocol\\_v9.pdf](http://www.cwlc.org/files/docs/Model_Protocol_v9.pdf).

144 Mayes, *supra* note 141 at 41 (finding that when schools create a plan for assisting students with protection orders against classmates, the school should meet with legal counsel to help ensure the plan is appropriate and comprehensive).

adolescent partner violence. One adolescent suggested that courts do more work with adults because adolescents want to hear from significant adults in their lives about the issue of relationship violence. Research supports the finding that many adolescents impacted by violence lack positive adult role models<sup>145</sup> and, of particular importance, that exposure to family violence increases the likelihood an adolescent will be the victim or perpetrator of adolescent partner violence.<sup>146</sup> Court professionals should strive to incorporate this need when working with adult perpetrators and victims of domestic violence.

Finally, court professionals, school staff, and parents will be limited in their impact on adolescents' sense of relationship norms unless their responses honor the role of peer influence.<sup>147</sup> Adolescent relationships are not often seen as such by adults for a number of reasons, including a reticence on behalf of many adults to acknowledge the sexuality of adolescents<sup>148</sup> and a desire of adolescents to limit discussions about their relationships to their peers.<sup>149</sup> The tendency to rely on friends and other peers means that opportunities for adults to discuss relationships with adolescents are critical. For example, adolescent reliance on peers for information can become problematic if peers are modeling normalized uses of violence in relationships or gender expectations that legitimize one partner's control of the other.<sup>150</sup> By acknowledging this reality of adolescent relationship dynamics, court professionals can work with others in the community to develop programs for adolescents that "provide knowledge and skill training on how to intervene without increasing the danger to the youth who intervenes."<sup>151</sup>

## CONCLUSION

While the amount of court and community collaboration required to address the adolescent partner violence comprehensively is significant, the potential to influence not only the lives of individual adolescents, but also the cycle of violence more broadly, is also important.<sup>152</sup> Research indicates that approximately one in five adolescent girls will suffer from adolescent partner violence.<sup>153</sup> This violence affects the decisions adolescents make and their ability to succeed in the future.<sup>154</sup> Despite the prevalence and impact of adolescent partner violence, the legal system has been slow to respond with approaches

145 Ball et al., *supra* note 3 at 55s.

146 Barter, *supra* note 9 at 220.

147 Black, *supra* note 135 at 752.

148 Brown, *supra* note 30 at 397.

149 THE NATIONAL DOMESTIC VIOLENCE HOTLINE, *supra* note 10 (finding only 48% of adolescents talk to their parents about their relationships as compared to 78% who talk to friends).

150 Barter, *supra* note 9 at 223.

151 Black, *supra* note 135 at 752.

152 Muñoz-Rivas et al., *supra* note 22 at 298.

153 Hanna, *supra* note 19 at 445.

154 Silverman et al., *supra* note 15.

tailored to meet the needs of adolescent victims and perpetrators.<sup>155</sup> A comprehensive response that centers on victims' safety will show adolescents that the legal system and social structures support each person's right to live free from violence.<sup>156</sup> A response that holds perpetrators accountable, while providing rehabilitative opportunities, will show adolescents that the legal system and social structures do not condone violence but also do not discard youth either.<sup>157</sup> A response that unites the efforts of court professionals, school personnel, parents, and adolescents is necessary to show adolescents that there are effective mechanisms to deter violence in relationships and effective responses to address violence when it occurs.<sup>158</sup> Two innovative programs, Santa Clara's JDFVC and Brooklyn's YODVC, provide examples of how the legal response to adolescent partner violence can make the victim central and hold the perpetrator accountable. By incorporating the lessons learned by these two courts and by domestic violence courts across the country, court professionals can develop mechanisms to promote a collaborative and victim-centered response to adolescent partner violence. Professionals who invest time and energy in creating this kind of tailored response to adolescent partner violence will have an impact on victimization more broadly.<sup>159</sup> In doing so, court professionals send the message that adolescent partner violence is unacceptable and have the opportunity to work with adolescent victims and perpetrators to curtail future violence.<sup>160</sup>

155 Largio, *supra* note 1 at 980-81.

156 Angel, *supra* note 125 at 292.

157 Sagatun-Edwards et al., *supra* note 6 at 20 ("A coordinated community response incorporating both rehabilitation and accountability is our hope for stopping the violence").

158 Buel, *supra* note 64 at 9.

159 Hanna, *supra* note 19 at 437 ("[e]arly 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").

160 HERMAN, *supra* note 89 at 2.