

Spring 2011

# Teens, Technology, and Cyberstalking: The Domestic Violence Wave of the Future?

Andrew King-Ries

*Alexander Blewett III School of Law at the University of Montana, [andrew.king-ries@umontana.edu](mailto:andrew.king-ries@umontana.edu)*

Follow this and additional works at: [http://scholarship.law.umt.edu/faculty\\_lawreviews](http://scholarship.law.umt.edu/faculty_lawreviews)

 Part of the [Computer Law Commons](#), [Criminal Law Commons](#), [Family Law Commons](#), [Internet Law Commons](#), and the [Privacy Law Commons](#)

---

## Recommended Citation

Andrew King-Ries, *Teens, Technology, and Cyberstalking: The Domestic Violence Wave of the Future?*, 20 *Tex. J. Women & L.* 131 (2011), Available at: [http://scholarship.law.umt.edu/faculty\\_lawreviews/118](http://scholarship.law.umt.edu/faculty_lawreviews/118)

This Article is brought to you for free and open access by the Faculty Publications at The Scholarly Forum @ Montana Law. It has been accepted for inclusion in Faculty Law Review Articles by an authorized administrator of The Scholarly Forum @ Montana Law.

## TEENS, TECHNOLOGY, AND CYBERSTALKING: THE DOMESTIC VIOLENCE WAVE OF THE FUTURE?

Andrew King-Ries\*

I. INTRODUCTION.....	131
II. DOMESTIC VIOLENCE DYNAMICS, STALKING, AND TECHNOLOGY .....	134
III. TEENS, TECHNOLOGY, AND IDENTITY FORMATION.....	142
A. <i>Teenage Identity Development</i> .....	143
B. <i>Teenage Sexual Identity Development</i> .....	144
C. <i>Exposure to Domestic Violence</i> .....	148
D. <i>Teenage Incorporation of Technology into Sexual Identity Development</i> .....	149
IV. ARE WE PRODUCING A NEW WAVE OF DOMESTIC VIOLENCE ABUSERS?.....	154
V. THE IMPORTANCE OF RECOGNIZING THE RISK AND RE- NORMING NORMS .....	160
VI. CONCLUSION .....	164

### I. INTRODUCTION

The American criminal justice system is on the cusp of a potential domestic violence crisis. The United States has made progress in combating domestic violence in the last thirty years, primarily by recognizing that domestic violence is a crime and one that should be prosecuted. This progress is at risk of being undermined by the intersection of two recent developments: first, teenagers normalizing unhealthy relationship patterns through pervasive use of technology and second, law enforcement's inability to adequately respond to cyberstalking. The combination of these two trends suggests that American society is

---

\* Associate Professor, The University of Montana School of Law; B.A., Brown University, 1988; J.D., Washington University in St. Louis, 1993. I owe many thanks to Kristin King-Ries for her editing and encouragement and Jori Quinlan for her outstanding research assistance.

producing a whole new generation of domestic violence batterers.

Several recent studies have found that nearly all teenagers are using technology—primarily cell phones and text messaging—and using it to a staggering degree.<sup>1</sup> More importantly, teenagers are incorporating technology into the formation of their sexual identities and the patterns of their intimate relationships.<sup>2</sup> The incorporation of this pervasive technology use into normal teenage development is occurring largely without adult supervision or modeling.<sup>3</sup> Teenagers' use of technology has reduced or changed their expectations of privacy in their intimate relationships, normalizing a "boundarylessness" which may make them more accepting of—and more at risk from—abusive behaviors by their intimate partners. Given the well-documented prevalence of domestic violence in teenage relationships,<sup>4</sup> the damaging impact of violence during

1. *E.g.*, THE NAT'L CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY & COSMOGIRL.COM, SEX AND TECH: RESULTS FROM A SURVEY OF TEENS AND YOUNG ADULTS 6-7 (2008), available at [http://www.thenationalcampaign.org/sextech/pdf/sextech\\_summary.pdf](http://www.thenationalcampaign.org/sextech/pdf/sextech_summary.pdf) (finding that 87% of teens ages 13-19 reported having and using a cellphone; 84% reported that they send and receive text messages); *see also* VICTORIA J. RIDEOUT ET AL., KAISER FAMILY FOUNDATION, GENERATION M<sup>2</sup>: MEDIA IN THE LIVES OF 8- TO 18-YEAR-OLDS 2-3 (Jan. 2010), available at <http://www.kff.org/entmedia/upload/8010.pdf> (finding that 7th-12th grade students spend an average of an hour and a half a day texting); AMANDA LENHART ET AL., PEW RESEARCH CENTER, TEENS AND MOBILE PHONES: TEXT MESSAGING EXPLODES AS TEENS EMBRACE IT AS THE CENTERPIECE OF THEIR COMMUNICATION STRATEGIES WITH FRIENDS 2 (Apr. 20, 2010), available at <http://www.pewinternet.org/~media/Files/Reports/2010/PIP-Teens-and-Mobile-2010.pdf>; HARRIS INTERACTIVE, A GENERATION UNPLUGGED: RESEARCH REPORT 2, 16 (Sept. 12, 2008), available at [http://files.ctia.org/pdf/HI\\_TeenMobileStudy\\_ResearchReport.pdf](http://files.ctia.org/pdf/HI_TeenMobileStudy_ResearchReport.pdf).

2. *See* PETER PICARD, TEEN RESEARCH UNLIMITED, TECH ABUSE IN TEEN RELATIONSHIPS STUDY (prepared for Liz Claiborne, Inc.) (2007), available at [http://www.loveisnotabuse.com/c/document\\_library/get\\_file?p\\_l\\_id=45693&folderId=72612&name=DLFE-204.pdf](http://www.loveisnotabuse.com/c/document_library/get_file?p_l_id=45693&folderId=72612&name=DLFE-204.pdf); THE NAT'L CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, *supra* note 1, at 1, 3; THE ASSOCIATED PRESS & MTV, A THIN LINE: 2009 AP-MTV DIGITAL ABUSE STUDY, EXECUTIVE SUMMARY 2-3 (2009), available at [http://www.athinline.org/MTV-AP\\_Digital\\_Abuse\\_Study\\_Executive\\_Summary.pdf](http://www.athinline.org/MTV-AP_Digital_Abuse_Study_Executive_Summary.pdf).

3. THE NAT'L CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, *supra* note 1, at 6-7; MARY MADDEN & LEE RAINIE, PEW RESEARCH CENTER, ADULTS AND CELL PHONE DISTRACTIONS 5 (June 18, 2010), available at <http://www.pewinternet.org/Reports/2010/Cell-Phone-Distractions.aspx>; AMANDA LENHART, PEW RESEARCH CENTER, ADULTS AND SOCIAL NETWORK WEBSITES, DATA MEMO 1 (Jan. 2009), available at <http://www.pewinternet.org/Reports/2009/Adults-and-Social-Network-Websites.aspx>. Moreover, many parents do not supervise technology use. RIDEOUT ET AL., *supra* note 1, at 18.

4. Teens experience violence in their relationships at a higher rate than any other age group. Susan L. Pollet, *Teen Dating Violence Is Not 'Puppy Love,'* 32 WESTCHESTER B.J. 29, 29 (2005). About one in three teens have been physically, verbally, or emotionally abused by a dating partner. ANTOINETTE DAVIS, THE NAT'L COUNCIL ON CRIME AND DELINQUENCY, INTERPERSONAL AND PHYSICAL DATING VIOLENCE AMONG TEENS 2 (Sept. 2008), available at <http://www.nccd->

these formative relationships,<sup>5</sup> and the effectiveness of technology as a tool for domestic violence,<sup>6</sup> America is facing a crisis in its efforts to combat domestic violence. Our emerging adult population is normalizing unhealthy relationship patterns while embracing technology, which has become an effective tool for establishing power and control imbalances in those relationships.

The criminal justice system has yet to develop an effective response to cyberstalking. Technology provides increasingly sophisticated ways for batterers to stalk their intimate partners and avoid detection, apprehension, and prosecution. The centrality of stalking and cyberstalking to domestic violence is well-established. Twenty-six percent of stalking victims report being stalked through the use of some form of technology, such as e-mail, instant messaging (IM), or monitoring through global positioning systems (GPS), spyware, or digital surveillance.<sup>7</sup> Although stalking and cyberstalking are chronically under-reported, the connection between stalking and violence is clear: 80% of all stalking of intimate partners is coupled with physical violence against the victims<sup>8</sup> and 76% of all women killed by their intimate partners had also been stalked by that partner.<sup>9</sup> Efforts to prosecute digital domestic violence have been mainly ineffective, largely due to the continuing development of technology, the difficulty of investigation, and the lack of adequate resources.<sup>10</sup>

---

crc.org/nccd/pubs/2008\_focus\_teen\_dating\_violence.pdf. In 2009, 9.8% of teens reported being “hit, slapped, or physically hurt on purpose by their boyfriend or girlfriend” within the previous year. Danice K. Eaton et al., Center for Disease Control and Prevention, *Youth Risk Behavior Surveillance: United States, 2009*, 59 MORBIDITY & MORTALITY WEEKLY REP. 6 (June 4, 2010), available at <http://www.cdc.gov/mmwr/pdf/ss/ss5905.pdf> [hereinafter CDC 2009]. See also PICARD, *supra* note 2, at 12; SARAH SORENSEN, ACT FOR YOUTH CENTER OF EXCELLENCE, ADOLESCENT ROMANTIC RELATIONSHIPS FACT SHEET 2 (July 2007), available at [http://www.actforyouth.net/documents/AdolescentRomanticRelationships\\_July07.pdf](http://www.actforyouth.net/documents/AdolescentRomanticRelationships_July07.pdf).

5. SORENSEN, *supra* note 4, at 2.

6. PICARD, *supra* note 2, at 8, 15; Laura Silverstein, *The Double-Edged Sword: An Examination of the Global Positioning System, Enhanced 911, and the Internet and Their Relationships to the Lives of Domestic Violence Victims and Their Abusers*, 13 BUFF. WOMEN’S L.J. 97, 118, 121-22 (2006).

7. KATRINA BAUM ET AL., BUREAU OF JUSTICE STATISTICS SPECIAL REPORT, STALKING VICTIMIZATION IN THE UNITED STATES 5 (Jan. 2009), available at <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1211>; see also PATRICIA TJADEN & NANCY THOENNES, NAT’L INST. OF JUSTICE, STALKING IN AMERICA: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY 6, 8 (April 1998), available at <http://www.ncjrs.gov/pdffiles/169592.pdf>.

8. See PATRICIA TJADEN & NANCY THOENNES, NAT’L INST. OF JUSTICE, EXTENT, NATURE AND CONSEQUENCES OF INTIMATE PARTNER VIOLENCE: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY iv (July 2000), available at <http://www.ncjrs.gov/pdffiles1/nij/181867.pdf>.

9. Judith M. McFarlane et al., *Stalking and Intimate Partner Femicide*, 3 HOMICIDE STUD. 300, 311 (1999).

10. U.S. DEP’T OF JUSTICE, 1999 REPORT ON CYBERSTALKING: A NEW CHALLENGE FOR

The American criminal justice system, therefore, is facing a future domestic violence crisis. Unfortunately, authorities—both parents and law enforcement—tend to minimize the seriousness of violence within adolescent relationships and to minimize the seriousness of stalking. In addition, given the prevalence and embrace of technology by teenagers, criminalizing “normal” teenage behavior seems counter-productive. While an effective criminal justice system response to this problem has yet to be developed, the first step will be for parents and law enforcement to recognize the risk and take it seriously. The second step will be to “re-norm” unhealthy teenage relationship norms. It is possible that the very embrace of technology might hold a solution. With guidance, the power of social networking may provide an effective counter to the isolation and imbalance of the domestic violence relationship. The combination of these steps might help avert this domestic violence crisis.

Section II of this article will explore the dynamics and intersection of the domestic violence relationship, stalking, and technology. Section III will examine teenage identity formation, teenage use of technology, the incorporation of technology into teenagers’ identity formation and relationships, and the prevalence of teenage domestic violence. Section IV will explore the potential consequences of current technology use in teenagers’ intimate relationships. Section V will propose possible solutions to the burgeoning crisis in America’s efforts to combat domestic violence.

## II. DOMESTIC VIOLENCE DYNAMICS, STALKING, AND TECHNOLOGY

In the past thirty years, American society has developed a greater awareness and understanding of domestic violence.<sup>11</sup> Today, we understand that domestic violence is the leading cause of injury to American women and that a huge portion of women will experience violence in their intimate relationships.<sup>12</sup> This greater societal understanding of domestic violence has led to criminalization of domestic violence at the state and federal levels.<sup>13</sup>

---

LAW ENFORCEMENT AND INDUSTRY 6-9 (August 1999), available at <http://www.justice.gov/criminal/cybercrime/cyberstalking.htm>; Ellen Luu, *Web-Assisted Suicide and the First Amendment*, 36 HASTINGS CONST. L.Q. 307, 321 (2009). Silverstein, *supra* note 6, at 132-35; Mary L. Boland, *Model Code Revisited: Taking Aim at the High-Tech Stalker*, 20 CRIM. JUST. 40, 42-43, 57 (2005).

11. Arthur L. Rizer III, *Mandatory Arrest: Do We Need to Take a Closer Look?*, 36 UWLA L. REV. 1, 6-7 (2005).

12. *Id.*

13. JEFFREY FAGAN, NAT’L INST. OF JUSTICE, *THE CRIMINALIZATION OF DOMESTIC VIOLENCE: PROMISES AND LIMITS* 7-9 (Jan. 1996), available at <http://www.ncjrs.gov/pdffiles/crimdom.pdf>.

It is also understood that some domestic violence relationships—battering relationships—are not simply about violence.<sup>14</sup> While violence is a critical component of the relationship, the broader power and control dynamic prevails:

The battering relationship is not about conflict between two people; rather, it is about one person exercising power and control over the other. Battering is a pattern of verbal and physical abuse, but the batterer's behavior can take many forms. Common manifestations of that behavior include imposing economic or financial restrictions, enforcing physical and emotional isolation, repeatedly invading the victim's privacy, supervising the victim's behavior, terminating support from family or friends, threatening violence toward the victim, threatening suicide, getting the victim addicted to drugs or alcohol, and physically or sexually assaulting the victim. The purpose of the abusive behavior is to subjugate the victim and establish the batterer's superiority.<sup>15</sup>

Underlying the concept of power and control—and inherent in each of the potential tactics to establish that power and control—is a fundamental lack of appreciation or respect for the autonomy of the victim.<sup>16</sup> The batterer acts in ways that ignore, undermine, violate, or undervalue the autonomy of the victim to make decisions regarding her own body, life, work, and acquaintances.<sup>17</sup> Critically, this lack of respect for the autonomy of the victim can be viewed as an over-emphasis of the autonomy of the batterer and an under-emphasis of the victim's autonomy. The batterer does not appreciate or respect the victim's physical or emotional boundaries. Enduring a pattern of repeated violations of her boundaries, the victim may

---

14. The National Coalition Against Domestic Violence defines battering as a "pattern of behavior used to establish power and control over another person through fear and intimidation, often including the threat or use of violence." *The Problem: What is Battering?*, NAT'L COALITION AGAINST DOMESTIC VIOLENCE, [http://www.ncadv.org/learn/TheProblem\\_100.html](http://www.ncadv.org/learn/TheProblem_100.html) (last visited Mar. 28, 2011).

15. Andrew J. King-Ries, *Crawford v. Washington: The End of Victimless Prosecution?*, 28 SEATTLE U. L. REV. 301, 304 (2005) (citations omitted).

16. See Margaret E. Johnson, *Redefining Harm, Reimagining Remedies, and Reclaiming Domestic Violence Law*, 42 U.C. DAVIS L. REV. 1107, 1138-39 (2009); Alafair S. Burke, *Domestic Violence as a Crime of Pattern and Intent: An Alternative Reconceptualization*, 75 GEO. WASH. L. REV. 552, 602-03 (2007).

17. Johnson, *supra* note 16, at 1121-22; Power and Control Wheel, DOMESTIC ABUSE INTERVENTION PROJECT, <http://www.ncdsv.org/images/PowerControlwheelNOSHADING.pdf> (last visited Mar. 28, 2011); Melinda Smith & Jeanne Segal, *Domestic Violence and Abuse: Signs of Abuse and Abusive Relationships*, HELPGUIDE.ORG, [http://www.helpguide.org/mental/domestic\\_violence\\_abuse\\_types\\_signs\\_causes\\_effects.htm](http://www.helpguide.org/mental/domestic_violence_abuse_types_signs_causes_effects.htm) (last rev'd Mar. 2011).

come to accept that her batterer will assert his right to invade those boundaries.<sup>18</sup> Importantly, acceptance of the fact that the batterer will invade her autonomy is not acceptance of the invasion.<sup>19</sup> While the lack of privacy and safety are accepted as a given, they are not accepted as appropriate.<sup>20</sup>

Survivors of intimate partner violence report extensive amounts of stalking behavior by their intimate partners.<sup>21</sup> In fact, recent studies of domestic violence document greater levels of stalking than previously considered, prompting the National Violence Against Women Survey to conclude that “intimate partner stalking is a serious criminal justice problem.”<sup>22</sup> A 2009 Bureau of Justice Statistics study found that 3.4 million people over the age of eighteen are stalked each year in the United States.<sup>23</sup> Of that number, 75% of stalking victims are stalked by someone they know and 30% are stalked by a current or former intimate partner.<sup>24</sup>

The recent studies also demonstrate the centrality of stalking to the domestic violence relationship and the connection between stalking and risk of physical violence. According to the 1998 National Violence Against Women survey, more than 80% of stalking victims who were stalked by an intimate partner reported that they had also been physically assaulted by that partner; 31% were also sexually assaulted by that partner.<sup>25</sup> Further, 76% of women killed by their intimate partners were stalked by that intimate partner within twelve months prior to the murder.<sup>26</sup>

Broadly, stalking involves surveillance of the victim’s whereabouts, activities, and contacts.<sup>27</sup> Stalking is an example of the batterer’s belief that he has the right to control the victim.<sup>28</sup> Sometimes the surveillance is

---

18. Kathryn E. Suarez, *Teenage Dating Violence: The Need for Expanded Awareness and Legislation*, 82 CAL. L. REV. 423, 430 (1994).

19. While it has been hypothesized that battered women will fall into a condition of “learned helplessness,” (see Suarez, *supra* note 18, at 432-33 (describing Lenore Walker’s theory of learned helplessness)), I do not believe that acceptance of the fact of the invasion is the same thing as acceptance of the invasion.

20. *Id.* at 431.

21. BAUM ET AL., *supra* note 7, at 4; see TJADEN & THOENNES, *supra* note 8, at 9.

22. TJADEN & THOENNES, *supra* note 8, at iii.

23. BAUM ET AL., *supra* note 7, at 1.

24. *Id.* at 4.

25. TJADEN & THOENNES, *supra* note 7, at 8.

26. McFarlane et al., *supra* note 9, at 311.

27. The National Crime Victimization Survey defined stalking as “a course of conduct directed at a specific person that would cause a reasonable person to feel fear.” BAUM ET AL., *supra* note 7, at 1. The requirement that the victim feel fear is common to many stalking laws. However, stalking behaviors may not cause fear at first or in every case, especially in teens. *Teen Stalking Deserves Another Look*, 5 THE SOURCE 1, 2 (Summer 2005), <http://www.ncvc.org/src/AGP.Net/Components/DocumentViewer/Download.aspx?DocumentID=46628>.

28. U.S. DEP’T OF JUSTICE, *supra* note 10, at 3.

surreptitious; other times, it is overt.<sup>29</sup> In either situation, the stalker asserts his “right” to invade the victim’s boundaries and to know the victim’s whereabouts, activities, and social interactions at all times.

Recent studies documenting unexpectedly high levels of stalking are also exposing high rates of cyberstalking—stalking using technology.<sup>30</sup> Cyberstalkers use GPS, spyware computer programs, cell phone monitoring chips, and tiny surveillance cameras to track the locations, activities, and communications of their victims.<sup>31</sup> They also use technologies such as social-networking sites, chat rooms, e-mail, and cell phones to harass or humiliate their victims.<sup>32</sup> Often the same power and control dynamic in off-line stalking is present with cyberstalking: “Many stalkers—online or off—are motivated by a desire to exert control over their victims and engage in similar types of behavior to accomplish this end.”<sup>33</sup> Twenty-six percent of stalking victims report being stalked through the use of some form of technology, such as e-mail or instant messaging.<sup>34</sup> Eleven percent of stalking victims who report cyberstalking report being monitored with GPS, 46% report being monitored through video or digital cameras, and 42% report being monitored through listening devices.<sup>35</sup> As noted by the Attorney General in 1999, “As with offline stalking, the available evidence (which is largely anecdotal) suggests that the majority of cyberstalkers are men and the majority of their victims are women.”<sup>36</sup>

For three primary reasons, it is anticipated that these statistics significantly underestimate the actual extent of cyberstalking: data on cyberstalking is truly in its infancy; our society is becoming ever more digitally dependent; and cyberstalking can take many forms and be difficult to detect.<sup>37</sup> First, according to the United States Department of Justice

29. For example, spyware can be completely hidden from the ordinary computer user or a stalker can make his presence, if not his identity, known by sending anonymous emails or texts. See, e.g., Chris Jenkins, *Stalkers Go High Tech to Intimidate Victims*, WASH. POST, Apr. 14, 2007, at A1.

30. See BAUM ET AL., *supra* note 7, at 5. “Cyberstalking is the use of the Internet, email, and other electronic communication devices to stalk another person . . . . Cyberstalking includes such acts as ‘flooding a victim’s email box with unwanted mail,’ sending computer viruses to victims, ‘using a victim’s email address to subscribe her to multiple list servers,’ sending out false information about the victim, and identity theft.” Silverstein, *supra* note 6, at 120-21.

31. Jenkins, *supra* note 29.

32. *Id.*

33. U.S. DEP’T OF JUSTICE, *supra* note 10, at 3.

34. BAUM ET AL., *supra* note 7, at 4.

35. *Id.* at 5.

36. U.S. DEP’T OF JUSTICE, *supra* note 10, at 3.

37. *Id.* at 1, 3, 5; see also RIDEOUT ET AL., *supra* note 1, at 2-4 (discussing the increase in online media consumption among teens); Paul Bocij, *Victims of Cyberstalking: An Exploratory Study of Harassment Perpetrated via the Internet*, 8 FIRST MONDAY 10 (Oct. 6, 2003), available at



Bureau of Justice Statistics, “[f]ew national studies have measured the extent and nature of stalking in the United States.”<sup>38</sup> In 2006, the Bureau of Justice Statistics conducted a supplemental victimization survey focusing specifically on stalking. The survey defines stalking as “a course of conduct directed at a specific person that would cause a reasonable person to feel fear.”<sup>39</sup> The survey measured the following stalking behaviors: making unwanted phone calls; sending unsolicited or unwanted letters or e-mails; following or spying on the victim; showing up at places without a legitimate reason; waiting at places for the victim; leaving unwanted items, presents, or flowers; and posting information or spreading rumors about the victim on the Internet, in a public place, or by word of mouth.<sup>40</sup> This survey “represents the largest study of stalking conducted to date” and—for the first time—included information about possible cyberstalking.<sup>41</sup> As when the 1999 Attorney General Report on Cyberstalking was published, “current trends and evidence suggest that cyberstalking is a serious problem that will grow in scope and complexity as more people take advantage of the Internet and other telecommunications technologies.”<sup>42</sup>

Second, our society continues to become increasingly digital. The move to a digital world creates greater opportunity to monitor individuals and to gather important information about them.<sup>43</sup> As the Attorney General noted, “Given the enormous amount of personal information available through the Internet, a cyberstalker can easily locate private information about a potential victim with a few mouse clicks or key strokes.”<sup>44</sup> For instance, an increasing number of devices, such as cellphones and BlackBerries, are equipped with GPS. With downloadable, undetectable software, or savvy use of programs like Foursquare or Google Buzz, a stalker can use the GPS feature to determine the exact location of the device at all times.<sup>45</sup> As long as the victim is in possession of the GPS

---

<http://firstmonday.org/htbin/cgiwrap/bin/ojs/index.php/fm/article/view/1086/1006>.

38. BAUM ET AL., *supra* note 7, at 2.

39. *Id.* at 1.

40. *Id.*

41. Carolyn Thompson, *Stalkers Turn to Cell Phones to ‘Textually Harass’*, ASSOCIATED PRESS, Mar. 3, 2009, available at <http://www.msnbc.msn.com/id/29493158/>.

42. U.S. DEP’T OF JUSTICE, *supra* note 10, at 2.

43. Silverstein, *supra* note 6, at 119-21, 124-28. “And the problem is only likely to grow, fueled by the availability of personal data online and the huge growth in social networking and dating sites, which are attracting investment from big companies.” Tom Zeller, *A Sinister Web Entraps Victims of Cyberstalkers*, N.Y. TIMES, Apr. 17, 2006, available at <http://www.nytimes.com/2006/04/17/technology/17stalk.html>.

44. U.S. DEP’T OF JUSTICE, *supra* note 10, at 3.

45. Silverstein, *supra* note 6, at 103-07; Justin Scheck, *Stalkers Exploit Cellphone GPS*, WALL ST. J., Aug. 3, 2010, at A1; Leo Hickman, *How I Became a Foursquare Cyberstalker*, THE GUARDIAN, July 23, 2010, at G2. See also *Spy Software for Mobile Phones*, MOBILE

device, the stalker can easily keep tabs on her location from his own computer or iPhone.<sup>46</sup>

Another example of society's potentially dangerous digital dependence is the increasing number of important transactions that are being conducted electronically. Banking, travel plans, and legal activity are three significant examples. In addition, much business and personal communication is conducted electronically, particularly through e-mail and texting. Further, significantly more personal information is being stored electronically, including tax and financial statements and medical records. Computer programs that allow a person to remotely monitor every keystroke of another computer mean that a stalker can keep track of every financial transaction, every correspondence, and every website visited.<sup>47</sup> Imagine a victim trying to leave a relationship: her financial records, her travel plans, even her correspondence with attorneys could all be available to her cyberstalking batterer.

According to one cyberstalking domestic violence victim whose ex-husband engaged in online and off-line stalking, he "presented the computer information to prove that he could violate her sense of security whenever and wherever he wanted, even after he moved out of the region."<sup>48</sup> She stated,

When the stalking comes from someplace, anyplace, it makes you wonder what he's really capable of... what he was going to do next. He could have been anywhere at any time looking into my life and getting to me. He could have seen anything, like legal documents I was forwarding; or where I was going to be. That's what I never knew.<sup>49</sup>

A third reason that cyberstalking rates are probably underestimated is that cyberstalking can take many forms and is often difficult to detect.<sup>50</sup>

---

SPY, <http://www.mobile-spy.com/> (last visited Aug. 8, 2010).

46. Disturbingly, Forbes.com recently published an article normalizing several cyberstalking methods as merely options for "little spousely spying" to "track a cheating spouse." The options outlined including checking one's partner's voice and email logs, tracking a spouse's location by GPS, and installing keystroke logging software, motion-activated video cameras, and voice-activated recorders to capture a spouse's actions and conversations. Brian Caulfield, *How to Track a Cheating Spouse*, FORBES (Apr. 14, 2010), <http://www.forbes.com/2010/04/14/tiger-woods-facebook-technology-security-cheating.html>.

47. Silverstein, *supra* note 6, at 124, 128-30 (discussing the availability of court documents on the internet and the ability of batterers using spyware to monitor every keystroke, including passwords and websites visited).

48. Jenkins, *supra* note 29.

49. *Id.*

50. "Novice users may be less likely to detect and counter certain threats, such as computer viruses, due to a lack of technical knowledge and experience." Bocij, *supra* note 37.

Some spyware programs, for example, allow a person to monitor every keystroke entered on another computer; a person can gather passwords to access files, e-mail accounts, and bank accounts.<sup>51</sup> Other programs can combine GPS information to map current locations of several individuals. Importantly, it is often difficult to even discover that these programs are in operation or that a computer has been compromised. While this begins to sound far-fetched and infeasible, these programs are commercially available and, with a little computer savvy, are fairly straightforward to install.

Technology also provides opportunities for cyberstalkers to avoid being personally identified when the cyberstalking is not surreptitious, but difficult to trace. For instance, batterers can use technology to harass their victims by proxy. In 1999, Gary Dellapenta was sentenced to prison for posing as his ex-girlfriend on various online chat rooms and personal websites.<sup>52</sup> Dellapenta posted rape fantasies under his ex-girlfriend's name, providing her home address, and begging strangers to fulfill her fantasies.<sup>53</sup> Six men responded to the requests, terrifying Dellapenta's victim, before Dellapenta was arrested.<sup>54</sup> Additionally, "more experienced stalkers can use anonymous remailers to make it all-but-impossible to determine the true identity of the source of an email or other electronic communication."<sup>55</sup> Stalkers can also easily defeat caller identification systems. Caller ID spoofing is the practice of "deliberately falsify[ing] the telephone number relayed as the Caller ID number to disguise the identity and originator of the call."<sup>56</sup> BluffMyCall.com is one example of a Caller ID spoofing service. The BluffMyCall.com website states:

Changing your Caller ID allows you to control what other people see when placing calls. It's that simple. Whether you want to make it seem like you are at the office when you're playing golf, or your kids are not picking up the phone when they see the house number on Caller ID, Bluff My Call is your only solution.<sup>57</sup>

BluffMyCall.com also offers the ability to "change your voice to sound like a male, female or just a sound that's not yours."<sup>58</sup> While Congress has

---

51. Silverstein, *supra* note 6, at 128-30.

52. Zeller, *supra* note 43.

53. *Id.*

54. *Id.*

55. U.S. DEP'T OF JUSTICE, *supra* note 10, at 5.

56. *Caller ID and Spoofing: FCC Consumer Facts*, FEDERAL COMMUNICATIONS COMMISSION, <http://www.fcc.gov/cgb/consumerfacts/callerid.html> (last updated Oct. 20, 2008).

57. BLUFF MY CALL FEATURES (2009), <http://bluffmycall.com/features>.

58. *Id.*

passed, and President Obama has signed, a bill to make it a federal offense “to cause any caller ID service to transmit misleading or inaccurate caller ID information, with the intent to defraud, cause harm, or wrongfully obtain anything of value,”<sup>59</sup> it is unlikely that this law will greatly impact state investigation and prosecution of cyberstalking since all states already have laws criminalizing stalking and cyberstalking.<sup>60</sup> At this point, it takes far more computer know-how to identify, understand, and protect against the threat of cyberstalking than it does to engage in cyberstalking.

Importantly, cyberstalking poses a significant challenge to law enforcement. According to the 1999 Attorney General’s report:

Cyberstalking is a relatively new challenge for most law enforcement agencies. The first traditional stalking law was enacted by the State of California in 1990—less than a decade ago. Since that time, some law enforcement agencies have trained their personnel on stalking and/or established specialized units to handle stalking cases. Nonetheless, many agencies are still developing the expertise and resources to investigate and prosecute traditional stalking cases; only a handful of agencies throughout the country have focused attention or resources specifically on the cyberstalking problem.<sup>61</sup>

The report identifies that the primary obstacles to effective law enforcement investigation of cyberstalking are lack of specific training, expertise, and resources.<sup>62</sup> Officers must acquire “technological proficiency” and will often be required to use “unfamiliar legal processes.”<sup>63</sup> In addition, technology continues to advance, compounding difficulties for law enforcement. “It seems like these stalkers are a step ahead of us. We’re trying to keep up with it, but it seems like every day things are changing,” stated Amy Santiago, a domestic violence detective with the Alexandria Police Department.<sup>64</sup> As a result of these difficulties, effective investigation and prosecution of cyberstalking is essentially non-existent.

Cyberstalking, as with all stalking, is a critical criminal justice concern, particularly given the fact that 80% of all stalking of intimate partners was coupled with physical violence against the victims and 76% of all women killed by their intimate partners had also been stalked by that

---

59. Truth in Caller ID Act of 2009, Pub. L. No. 111-331, 124 Stat. 3572 (2010).

60. BAUM ET AL. *supra* note 7, at 1; *see also* NAT’L STALKING RES. CTR., CRIMINAL STALKING LAWS (Jan. 2010), [http://www.ncvc.org/src/main.aspx?dbID=DB\\_StatebyState\\_Statutes117](http://www.ncvc.org/src/main.aspx?dbID=DB_StatebyState_Statutes117) (compiling the criminal stalking laws of all the U.S. states and territories).

61. U.S. DEP’T OF JUSTICE, *supra* note 10, at 6.

62. *Id.* at 6-7.

63. *Id.* at 8.

64. Jenkins, *supra* note 29.

partner.<sup>65</sup> Unfortunately, technology provides an increasingly effective way for batterers to stalk their intimate partners. Technological developments continue to outstrip the criminal justice system's ability to combat cyberstalking. Victims of cyberstalking have great difficulty in even identifying that they are being stalked electronically. Further, stalking is chronically underreported to the police. According to the National Crime Victimization Survey, less than 50% of the stalking of women was reported to the police.<sup>66</sup> Even of those incidents reported, police departments do not have adequate resources to commit to investigation of cyberstalking, which requires specific computer training and investigation resources. Cyberstalking, therefore, is a major invasion of the victim's autonomy that has largely been unaddressed in the criminal justice system. And, given current trends in technology use by teenagers, the United States may be on the cusp of a rising wave of domestic violence.

### III. TEENS, TECHNOLOGY, AND IDENTITY FORMATION

Adolescence is a critical stage in the development of future adult patterns. Teenagers are trying to figure out who they are, who they will become, and how to handle intimate relationships. These relationships are predictive of patterns they will experience in their adult relationships.<sup>67</sup> During this turbulent developmental stage, teenagers are also shifting their orientation from their parents to their peers.<sup>68</sup> Peers, therefore, become central sources of information about relationships and important sounding boards for assessing intimate relationships.<sup>69</sup> Teen peer communities tend to evince exaggerated stereotypical gender roles in which the male is expected to assume the dominant role and the female a submissive role.<sup>70</sup> Surrounded by these attitudes, teens may not see their relationships as abusive; rather, they may see possessiveness, harassment or even violence

---

65. TJADEN & THOENNES, *supra* note 7, at 8.

66. BAUM ET AL., *supra* note 7, at 9.

67. Ximena B. Arriaga & Vangie A. Foshee, *Adolescent Dating Violence: Do Adolescents Follow in Their Friends', or Their Parents', Footsteps?*, 19 J. INTERPERSONAL VIOLENCE 162, 163 (2004).

68. Wyndol Furman, Christine McDunn, & Brennan J. Young, *The Role of Peer and Romantic Relationships in Adolescent Affective Development*, in ADOLESCENT EMOTIONAL DEVELOPMENT AND THE EMERGENCE OF DEPRESSIVE DISORDERS 299, \*3 (Nicholas B. Allen & Lisa B. Sheeber eds., 2008), available at <http://www.du.edu/psychology/relationshipcenter/publications/pdfs/TheRoleofpeerandromanticrelationships.pdf> (manuscript at 3).

69. Jennifer Manganello, *Teens, Dating Violence, and Media Use: A Review of the Literature and Conceptual Model for Future Research*, 9 TRAUMA, VIOLENCE, & ABUSE 3, 11 (2008).

70. Suarez, *supra* note 18, at 427; Pamela Saperstein, *Teen Dating Violence: Eliminating Statutory Barriers to Civil Protection Orders*, 39 FAM. L.Q. 181, 186-87 (2005).

as signs of love.<sup>71</sup> While teenagers are trying to establish their sexual identities, they are also confronting violence in their relationships and exposure to technology. . . . Studies document that teenagers are experiencing significant amounts of dating or domestic violence. Depending on the population studied and the way dating violence is defined, between 9 and 35% of teens have experienced domestic violence in a dating relationship.<sup>72</sup> When a broader definition of abuse that encompasses physical, sexual, and emotional abuse is used, one in three teen girls is subjected to dating abuse.<sup>73</sup> Additionally, a significant number of teens are victims of stalking by intimate partners.<sup>74</sup> Studies also show that teenage use of technology is pervasive.<sup>75</sup> In fact, adolescents are incorporating technology into their sexual identity development. Too often, these patterns are unhealthy and suggest an imbalance in power and control.

#### A. Teenage Identity Development

The teenage years are a time of intense development and transition.<sup>76</sup> Teenagers have to navigate the turbulent waters between childhood and adulthood. During this transition, teenagers develop the ability to self-regulate, appreciate risk, and calculate future consequences of their actions.<sup>77</sup> In addition, teenagers are differentiating themselves from their parents, a necessary developmental process.<sup>78</sup> Inherent in that process of individualization is a fluidity of identity, caused by exploration.<sup>79</sup> Separation from parental control also involves a shift in focus and influence from adults to peers.<sup>80</sup>

The differences between adolescents and adults are well established. As the Supreme Court of the United States recognized, teenagers often demonstrate a “lack of maturity,” greater susceptibility to peer pressure, and more fluid characters.<sup>81</sup> Adolescence is a period during which

---

71. *Id.*

72. DAVIS, *supra* note 4, at 1. Moreover, most experts say that because teens often do not identify abusive relationships as abusive, the incidence of dating violence is underreported. Amy Karan & Lisa Keating, *Obsessive Teenage Love: The Precursor to Domestic Violence*, 46 JUDGES’ J. 23, 24 (2007).

73. DAVIS, *supra* note 4, at 1; Suarez, *supra* note 18, at 426.

74. *Teen Stalking Deserves Another Look*, *supra* note 27, at 3 n.1.

75. See discussion *infra* Section III.D and accompanying notes.

76. Elizabeth S. Scott & Laurence Steinberg, *Blaming Youth*, 81 TEXAS L. REV. 799, 820 (2003).

77. *Id.* at 813-14.

78. *Id.*

79. *Id.* at 801.

80. *Id.* at 813.

81. *Roper v. Simmons*, 543 U.S. 551, 569 (2005).

teenagers are trying to figure out who they are going to become, largely without significant input from adult authority figures. The “becoming” process is often difficult:

Adolescence has often been described as a period of “identity crisis”—an ongoing struggle to achieve self-definition. According to developmental theory, the process of identity development is a lengthy one that involves considerable exploration and experimentation with different behaviors and identity “elements.” These elements include both superficial characteristics, such as style of dress, appearance, or manner of speaking, and deeper phenomena, such as personality traits, attitudes, values, and beliefs. As the individual experiments, she gauges the reactions of others as well as her own satisfaction, and through a process of trial and error, over time selects and integrates the identity elements of a realized self. Not surprisingly, given adolescent risk preferences (perhaps combined with rebellion against parental values in the course of individuation), identity experimentation often involves risky, illegal, or dangerous activities—alcohol use, drug use, unsafe sex, delinquent conduct, and the like. For most teens, this experimentation is fleeting; it ceases with maturity as identity becomes settled.<sup>82</sup>

Significantly, this period of “trial and error” occurs when adolescents are also coming under greater influence of their peers. “Susceptibility to peer influence increases between childhood and early adolescence as adolescents begin to individuate from parental control.”<sup>83</sup> As they separate from their parents, teenagers seek a safe harbor in their friends. The increased peer orientation is manifested by “desire for peer approval (and fear of rejection).”<sup>84</sup> Adolescence, therefore, is marked by teenagers’ rejection of their parents and conformity with their peer groups.

### *B. Teenage Sexual Identity Development*

A critical aspect of the identity development taking place during adolescence is the development of sexual identity, largely through involvement in romantic or dating relationships.<sup>85</sup> A vast majority of teenagers become involved in significant romantic relationships for the first time during adolescence.<sup>86</sup> In fact, romantic relationships are a central part

---

82. Scott & Steinberg, *supra* note 76, at 813, 819.

83. *Id.* at 813.

84. *Id.* at 814.

85. Wyndol Furman, *The Emerging Field of Adolescent Romantic Relationships*, 11 CURRENT DIRECTIONS IN PSYCHOL. SCI. 177, 178 (2002).

86. CENTER FOR DISEASE CONTROL AND PREVENTION, UNDERSTANDING TEEN DATING

of adolescent social life.<sup>87</sup> According to several adolescent psychology experts:

Romantic experiences are believed to play important roles in the development of an identity; the development of close relationships with peers; the transformation of family relationships; sexuality; and scholastic achievement and career planning. Mounting evidence indicates that, contrary to widespread skepticism, such experiences are also linked to individual adjustment and may influence the nature of subsequent romantic relationships.<sup>88</sup>

Although most adolescent relationships are of relatively short duration—a few weeks or months—“romantic relationships become increasingly significant” in the lives of teenagers as they move through adolescence.<sup>89</sup> A 2006 study found that 43% of teens at ages thirteen to fifteen reported having been in a dating relationship, going on dates, or hooking up, and 15 percent of reported having been in a serious relationship.<sup>90</sup> Among sixteen to eighteen year olds, the numbers go up to 71% having been in a dating relationship, going on dates, or hooking up, and 49% characterizing those relationships as serious.<sup>91</sup>

The nature of adolescent romantic relationships changes as teenagers move through adolescence. Generally, this progression follows three phases. First, teenagers begin to engage in mix-gendered group activities, such as dances and parties.<sup>92</sup> Second, adolescents begin to “date” in a group context.<sup>93</sup> Finally, teenagers begin to form individual intimate

VIOLENCE: FACT SHEET 1 (2009), available at <http://www.cdc.gov/violenceprevention/pdf/TeenDatingViolence2009-a.pdf>.

87. Furman, *supra* note 85, at 178; SORENSEN, *supra* note 4, at 1.

88. Wyndol Furman & W. Andrew Collins, *Adolescent Romantic Relationships and Experiences*, in HANDBOOK OF PEER INTERACTIONS, RELATIONSHIPS, AND GROUPS 341, 341 (Kenneth H. Rubin, William M. Bukowski, & Brett Laursen eds., 2009) (citations omitted).

89. SORENSEN, *supra* note 4, at 1.

90. TEEN RESEARCH UNLIMITED, TEEN RELATIONSHIP ABUSE SURVEY (prepared for Liz Clairborne, Inc.) 1, 2 (2006), available at [http://www.loveisnotabuse.com/c/document\\_library/get\\_file?p\\_1\\_id=45693&folderId=72612&name=DLFE-205.pdf](http://www.loveisnotabuse.com/c/document_library/get_file?p_1_id=45693&folderId=72612&name=DLFE-205.pdf) [hereinafter TEEN RESEARCH UNLIMITED 2006]. Moreover, dating appears to be occurring more frequently and at a younger age: a 2008 study of dating among “tweens,” youth ages eleven to fourteen, 47% of tweens and 37% of eleven and twelve year olds reported having been in a dating relationship. TEEN RESEARCH UNLIMITED, TWEEN AND TEEN DATING VIOLENCE AND ABUSE STUDY (prepared for Liz Clairborne, Inc.) 1, 7 (2008), available at [http://www.loveisnotabuse.com/c/document\\_library/get\\_file?p\\_1\\_id=45693&folderId=72612&name=DLFE-203.pdf](http://www.loveisnotabuse.com/c/document_library/get_file?p_1_id=45693&folderId=72612&name=DLFE-203.pdf) [hereinafter TEEN RESEARCH UNLIMITED 2008].

91. TEEN RESEARCH UNLIMITED 2006, *supra* note 90, at 2.

92. Furman & Collins, *supra* note 88, at 346.

93. *Id.*



relationships outside the group context.<sup>94</sup>

Sexual identity development involves the same three processes present in adolescent identity development generally: self-regulation, individuation from authority figures, and peer orientation. For a long time, social scientists have identified that teenagers are incomplete decision-makers. More recently, neuroscience studies based on new brain imaging technology have confirmed this social science research.<sup>95</sup> According to these studies,

brain maturation is a process that continues through adolescence and into early adulthood. For example, there is good evidence that the brain systems that govern impulse control, planning, and thinking ahead are still developing well beyond age 18.<sup>96</sup>

Teenagers tend to be more short-sighted in their decision-making;<sup>97</sup> while teens are able to identify potential consequences of their actions, their awareness of risk does not significantly impact their choices.<sup>98</sup> In addition, teenagers have far less impulse control than adults.<sup>99</sup> Teenagers are willing to engage in risky behavior, partially due to the fact that they tend to overemphasize the potential benefits and underestimate the possible costs of the behavior.<sup>100</sup> Specifically in connection with intimate relationships, this lack of cognitive ability and development means that teenagers are more likely to engage in risky sexual activity.<sup>101</sup> Not surprisingly, teenagers report increased amounts of unwanted sexual activity and pregnancy.<sup>102</sup> Nearly one-fourth of teenage girls report having gone further sexually in a relationship than they wanted.<sup>103</sup> In addition, nearly one out of every three sexually active teenage girls will become pregnant.<sup>104</sup> Further, one out of two sexually active young people can expect to contract

---

94. *Id.*

95. Laura Cohen & Randi Mandelbaum, *Kids Will Be Kids: Creating a Framework for Interviewing and Counseling Adolescent Clients*, 79 TEMP. L. REV. 357, 362 (2006), citing Elizabeth R. Sowell et al., *Mapping Continued Brain Growth and Gray Matter Density Reduction in Dorsal Frontal Cortex: Inverse Relationships During Postadolescent Brain Maturation*, 21 J. NEUROSCI. 8819, 8827 (2001).

96. MACARTHER FOUNDATION RESEARCH NETWORK ON ADOLESCENT DEVELOPMENT AND JUVENILE JUSTICE, ISSUE BRIEF 3: LESS GUILTY BY REASON OF ADOLESCENCE, 1, 3, available at [http://www.adjj.org/downloads/6093issue\\_brief\\_3.pdf](http://www.adjj.org/downloads/6093issue_brief_3.pdf) (last visited Aug. 17, 2010).

97. *Id.*

98. Cohen & Mandelbaum, *supra* note 95, at 364.

99. *Id.* at 365.

100. Scott & Steinberg, *supra* note 76, at 815.

101. SORENSEN, *supra* note 4, at 2.

102. *Id.*

103. *Id.*

104. *Id.*

a sexually transmitted disease prior to age twenty-five.<sup>105</sup> In the domestic violence context, it is notable that domestic violence behaviors tend to increase or begin once dating teens begin to date “seriously” or engage in sexual activity.<sup>106</sup>

Despite the risks involved, intimate relationships are an important component of adolescent development.<sup>107</sup> Intimate relationships are a principal way teenagers express their individuality and rejection of authority figures.<sup>108</sup> Researchers have found that for some adolescents, particularly boys, dating is viewed as a means of achieving independence.<sup>109</sup> In addition, teenagers who are individuating from their parents increasingly rely on their dating relationships for emotional support.<sup>110</sup> Importantly, teenage dating relationships are a “training ground” for adolescents to improve communication and negotiation skills, increase empathy, and learn how to sustain dating relationships.<sup>111</sup> This “trial and error” period involves increased reliance on peers for data on interpersonal relationships as opposed to parents.<sup>112</sup>

The shift to greater peer orientation plays a multifaceted role in the development of adolescent sexual identity. Many mid- to late-adolescents report spending more time with their romantic partners than with family or friends.<sup>113</sup> Social scientists have found that teenagers consider friends their primary source of information about dating and report that friends have the greatest influence on their dating choices.<sup>114</sup> Teenagers rank their peers higher than their parents with respect to information about dating: peers had more information, teens are more comfortable discussing dating issues

---

105. *Id.*

106. TEEN RESEARCH UNLIMITED 2006, *supra* note 90, at 6, 8, 10, 12, 14, 16; TEEN RESEARCH UNLIMITED 2008, *supra* note 90, at 13-14; Pollet, *supra* note 4, at 29; Karan & Keating, *supra* note 72, at 24.

107. Eileen Wood et al., *Sources of Information about Dating and Their Perceived Influence on Adolescents*, 17 J. ADOLESCENT RES. 401, 403 (2002) (noting that “intimate relationships serve as an important context” for the major task of adolescence, identity formation); SORENSEN, *supra* note 4, at 1-2 (noting that “[t]he quality of adolescent romantic relationships can have long lasting effects on self-esteem and shape personal values regarding romance, intimate relationships, and sexuality”).

108. See Wood et al., *supra* note 107, at 403, 407 (while teens identify adults—parents and teachers—as the most accurate source of information about dating, they are most influenced by information garnered from peers); Furman & Collins, *supra* note 88, at 341 (as they age, teens spend increasingly more time with their romantic partner); Furman, *supra* note 85, at 178 (romantic partners become a major source of support during the teen years); Suarez, *supra* note 18, at 428.

109. Wood et al., *supra* note 107, at 403.

110. SORENSEN, *supra* note 4, at 2.

111. *Id.*

112. Wood et al., *supra* note 107, at 407.

113. SORENSEN, *supra* note 4, at 2.

114. Wood et al., *supra* note 107, at 407.

with peers, and peers have more influence on their dating choices.<sup>115</sup>

Not surprisingly, then, teenagers look to each other to assess their interpersonal relationships. This process of “gauging the reactions of others” is essentially a normalization process.<sup>116</sup> Although parental relationships remain influential, teens predominately use other teens to gauge the health of their relationships and to assess the appropriateness of particular behaviors within those relationships.<sup>117</sup> Recent studies indicate that “friends seem to be more influential than parents in shaping standards of acceptable dating behavior during adolescence.”<sup>118</sup>

Significantly, adolescent intimate relationships are influential in the development of teenagers. These relationships can have “long lasting effects on self-esteem and shape personal values regarding romance, intimate relationships, and sexuality.”<sup>119</sup> As teens explore these intimate relationships, developing patterns that will carry into their adult intimate relationships, they look to their peers far more than their parents to analyze the health of their relationships.

### C. *Exposure to Domestic Violence*

Although involvement with romantic relationships is a critical aspect of adolescence, these relationships also present serious risks for teenagers. Unfortunately, adolescents in dating relationships are at greater risk of intimate partner violence than any other age group.<sup>120</sup> Approximately one third of adolescent girls are victims of physical, emotional, or verbal abuse from a dating partner.<sup>121</sup> Estimates of sexual victimization range from 14% to 43% of girls and 0.3% to 36% for boys.<sup>122</sup> According to the Center for Disease Control, in 2009, nearly 10% of students nationwide had been intentionally hit, slapped, or physically hurt by their boyfriend or girlfriend.<sup>123</sup> Twenty-six percent of girls in a relationship reported being threatened with violence or experiencing verbal abuse; 13 % reported being physically hurt or hit.<sup>124</sup> These statistics are especially concerning because

---

115. *Id.* at 411 However, teens perceive that parents and teachers have slightly more accurate information. *Id.*

116. Saperstein, *supra* note 70, at 186.

117. Arriaga & Foshee, *supra* note 67, at 178; Suarez, *supra* note 18, at 429.

118. Arriaga & Foshee, *supra* note 67, at 178.

119. SORENSEN, *supra* note 4, at 1.

120. *Id.* at 2; Pollet, *supra* note 4, at 29.

121. DAVIS, *supra* note 4, at 1.

122. Furman, McDunn, & Young, *supra* note 68, at 18.

123. CDC 2009, *supra* note 4, at 6.

124. FAMILY VIOLENCE PREVENTION FUND, THE FACTS ON TWEENS AND TEENS AND DATING VIOLENCE 1 (2011), available at <http://www.endabuse.org/userfiles/file/Teens/The%20Facts%20on%20Twens%20and%20>

dating violence can have long-term impacts on victims, including anxiety, depression, suicidal ideation, and post-traumatic stress disorder.<sup>125</sup>

As adolescents explore their sexual identities through romantic relationships, it is clear that they learn the patterns for those dating relationships largely from their peers. Significantly, the romantic relationship patterns learned in adolescence can impact romantic relationship patterns in adulthood. In other words, if teenagers learn unhealthy relationship patterns, there is a tendency for those unhealthy patterns to carry over into their adult relationships. Teens experiencing domestic violence in their intimate relationships are more likely to be involved in intimate partner violence as adults.<sup>126</sup>

#### *D. Teenage Incorporation of Technology into Sexual Identity Development*

During this time of individuation, identity formation, and creation of a sexual identity, studies indicate pervasive use of technology by teenagers.<sup>127</sup> In fact, it appears that teenagers are incorporating technology into that very process of identity formation. Cell phones, text messaging, e-mail, blogs, and social-networking sites—such as the appropriately named “MySpace” and Facebook—are significant components of adolescent social life.<sup>128</sup> Adolescence is a time of intense peer interaction. Often to differentiate themselves from authority figures, teenagers will develop idiosyncratic language usage, rules of engagement or interaction, and social conventions. Not surprisingly, as teens interact extensively with one another electronically, they have developed their own language idiosyncrasies, their own rules of engagement, and unique social conventions electronically as well.<sup>129</sup> Importantly, these patterns further the gap between adults and teenagers, as most parents are unaware of their

---

Teens%20and%20Dating%20Violence%20FINAL.pdf.

125. Furman, McDunn, & Young, *supra* note 68, at 18.

126. SORENSEN, *supra* note 4, at 2.

127. Young people ages eight to eighteen consume almost 7.5 hours of media every day, seven days a week. In 2009, 66% report owning a cell phone, up from 39% in 2004 (85% of fifteen to eighteen year olds report owning a cell phone). Additionally, 84% of youth ages eight to eighteen report having home internet access and 33% report having internet access in their bedrooms. RIDEOUT ET AL., *supra* note 1, at 2-4.

128. Seven to twelfth graders report texting for over an hour a half every day. Eleven to eighteen year olds report an hour and a half of recreational computer time during a typical day. Of this computer time, 25% is spent on social networking sites, 13% instant messaging, and 6% on email—socially interactive activities. *Id.* at 18, 20-21.

129. See e.g. Ann Pleshette Murphy & Jennifer Allen, *ABC Good Morning America, Webspeak: The Secret Language of Teens*, ABC NEWS (Jan. 25, 2007), <http://abcnews.go.com/GMA/AmericanFamily/story?id=2820582&page=1>.

teenagers' electronic activities.<sup>130</sup>

Several recent studies document pervasive use of technology by teenagers and demonstrate how teenagers incorporate technology into their identity and sexual identity development. A 2009 study by the National Campaign to Prevent Teen and Unplanned Pregnancy and *CosmoGirl.com* demonstrated pervasive use of technology by teenagers.<sup>131</sup> The study found that nearly 90% of teenagers and young adults are online.<sup>132</sup> In addition: nearly 80% of teenagers have a computer; nearly 90% have a cell phone; nearly 90% have a profile in a social-networking site and actively view others' profiles and pictures on social-networking sites; more than 80% send and receive pictures or video on a computer; more than 60% of teenagers send and receive pictures and video on their cell phones; more than 80% of teenagers send and receive text messages; and 25% of all teenagers write personal blogs.<sup>133</sup>

According to the Nielson Company, in 2009, teenagers with cell phones average 2,272 text messages per month.<sup>134</sup> In comparison, in 2008, teenagers averaged 1,742 text messages per month while Americans in general averaged 357 texts per month.<sup>135</sup> Teenagers are far more likely to text each other on their cell phones than to call; however, calling remains the favored way to contact parents.<sup>136</sup> The average teenager only makes 203 calls per month.<sup>137</sup>

The Pew Internet and American Life Project conducts ongoing studies about American technology use, including teen use of social-networking sites. Social-networking sites, such as Facebook and MySpace, are websites which allow a user to create a profile and build a "personal network that connects him or her to other users."<sup>138</sup> In 2009, 73% of American teens reported using social-networking sites, compared to just

---

130. PICARD, *supra* note 2, at 5, 11-13.

131. THE NATIONAL CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, *supra* note 1.

132. *Id.* at 6.

133. *Id.* at 7.

134. Donna St. George, *6,473 Texts a Month, But at What Cost?*, WASH. POST, Feb. 22, 2009, at A1. One in three teens send over 100 texts a day, or 3000 texts a month. LENHART ET AL., *supra* note 1, at 2.

135. *In U.S., SMS Text Messaging Tops Mobile Phone Calling*, NIELSEN WIRE (Sept. 22, 2008), [http://blog.nielsen.com/nielsenwire/online\\_mobile/in-us-text-messaging-tops-mobile-phone-calling/](http://blog.nielsen.com/nielsenwire/online_mobile/in-us-text-messaging-tops-mobile-phone-calling/).

136. LENHART ET AL., *supra* note 1, at 3.

137. St. George, *supra* note 134.

138. Project memorandum by Amanda Lenhart & Mary Madden for the Pew Internet & American Life Project, Re: Social Networking Websites and Teens: An Overview (Jan. 3, 2007), *available at* [http://www.pewinternet.org/~media/Files/Reports/2007/PIP\\_SNS\\_Data\\_Memo\\_Jan\\_2007.pdf](http://www.pewinternet.org/~media/Files/Reports/2007/PIP_SNS_Data_Memo_Jan_2007.pdf).

5% in November 2006 and 65% in February 2008.<sup>139</sup> The primary use of social-networking sites for teenagers is to stay in touch with friends (90%) and to make plans with friends (72%).<sup>140</sup> The most popular way for teenagers to communicate on their social-networking sites is to post messages on a friend's profile, page, or "wall."<sup>141</sup> Amazingly, in 2010, Facebook has over 12.4 million users between the ages of thirteen and seventeen.<sup>142</sup> Of those, 6.9 million are girls and 5.6 million are boys.<sup>143</sup> MySpace, Bebo, and other sites have an even higher proportion of teenage users than Facebook.<sup>144</sup>

The *CosmoGirl.com* study also demonstrates that teenagers are using technology in their courtship and dating rituals. According to the survey, nearly 70% of teenagers have sent or posted sexually suggestive messages, or nude or semi-nude pictures or videos of themselves, to their boyfriend or girlfriend.<sup>145</sup> Nearly 60% of teenagers consider sending or posting sexually explicit messages or photos to be a form of flirtation.<sup>146</sup> Interestingly, more than 70% of teenagers believed that girls send sexy messages or pictures of themselves to get a guy's attention (85%), as a "sexy" present for a boyfriend (74%), to feel sexy (72%), to get a guy to like them (76%), to be fun or flirtatious (78%), and to get noticed (80%).<sup>147</sup> Far fewer teens thought boys send sexy messages or pictures of themselves for these reasons, although about 60% of teens still ranked getting or keeping a girl's attention and getting a girl to like them as the top reasons boys engage in

---

139. AMANDA LENHART ET AL., PEW RESEARCH CENTER, SOCIAL MEDIA AND MOBILE INTERNET USE AMONG TEENS AND YOUNG ADULTS 2 (Feb. 3 2010), available at [http://www.pewinternet.org/~media/Files/Reports/2010/PIP\\_Social\\_Media\\_and\\_Young\\_Adults\\_Report\\_Final\\_with\\_toplines.pdf](http://www.pewinternet.org/~media/Files/Reports/2010/PIP_Social_Media_and_Young_Adults_Report_Final_with_toplines.pdf). The Kaiser Family Foundation study *Generation M2* found similar numbers: 74% of 7<sup>th</sup> through 12<sup>th</sup> graders reported having a social networking site profile and 82% reported having visited a social networking site at some point. RIDEOUT ET AL., *supra* note 1, at 22.

140. Lenhart & Madden, *supra* note 138, at 2.

141. *Id.* at 6; LENHART ET AL., *supra* note 139, at 20.

142. Eric Eldon, *Facebook's May 2010 US Traffic by Age and Sex: Younger Users Lead Growth*, INSIDE FACEBOOK (Jun. 3, 2010), <http://www.insidefacebook.com/2010/06/03/facebook%E2%80%99s-may-2010-us-traffic-by-age-and-sex-younger-users-lead-growth>.

143. *Id.*

144. Forty-four percent of Bebo users and 33% of MySpace users are 17 or younger, compared to about 26% of Facebook users. *Study: Ages of Social Network Users*, PINGDOM (Feb. 16, 2010), <http://royal.pingdom.com/2010/02/16/study-ages-of-social-network-users/> (comparing demographics of several social networking sites using data from Google's Ad Planner).

145. THE NATIONAL CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, *supra* note 1, at 12.

146. *Id.* at 10.

147. *Id.* at 9.

“sexting”.<sup>148</sup> These findings were also replicated in a recent study by the Associated Press (AP) and Music Television (MTV). In that study, of those who had shared a naked photo or video of themselves, a majority “report that they initially sent the photo to a significant other or romantic interest.”<sup>149</sup> All of these reasons are related to initiating or conducting dating relationships. Interestingly, the AP/MTV study also found that almost half of all sexually active young people report engaging in “sexting.”<sup>150</sup>

A 2007 study commissioned by Liz Claiborne, Inc. further demonstrates that teens are incorporating technology into their intimate relationships.<sup>151</sup> The study had four primary objectives: learn the rate at which teenagers employ cell phones and computers in dating relationships; determine whether technology was being used by adolescents to abuse or control their intimate partners; understand teenagers’ perceptions of the seriousness of behaviors involving technology in intimate relationships; and document parent awareness of teen dating behaviors involving technology.<sup>152</sup> The study found pervasive use of technology by teenagers in their dating relationships.<sup>153</sup> The study also found that the technology was frequently being used to abuse or control the dating partner.<sup>154</sup>

First of all, the study documented that teenagers use technology to remain in constant connectivity with their partners.<sup>155</sup> For instance, during the period of time after school until 10:00 p.m., 50% of teenagers indicated that they either called or texted their partners.<sup>156</sup> Nearly 40% reported that they were in cell phone or text contact with their partners ten to thirty times an hour.<sup>157</sup> From the hours of 10:00 p.m. to midnight, 43% percent of teenagers had repeated contact with their partners (30% ten to thirty times an hour, 13% less than ten times per hour).<sup>158</sup> Amazingly, nearly 25% of teenagers reported cell phone conversations or text messages between the hours of midnight and 5:00 a.m.<sup>159</sup> In fact, one in six teenagers admitted to having communicated with their partners between ten and thirty times an hour between midnight and 5:00 a.m.<sup>160</sup>

---

148. *Id.*

149. THE ASSOCIATED PRESS & MTV, *supra* note 2, at 2.

150. *Id.* at 2.

151. PICARD, *supra* note 2.

152. *Id.* at 3.

153. *Id.* at 5.

154. *Id.*

155. *Id.* at 7.

156. *Id.*

157. PICARD, *supra* note 2, at 7.

158. *Id.*

159. *Id.*

160. *Id.*

Recent studies have also documented that technology is being used in negative ways in intimate teenage relationships. The Claiborne study found that over 35% of teenagers report that their partners use technology—cell phones, e-mail, or text messages—to check where they are, who they are with, and what they are doing.<sup>161</sup> The AP/MTV study found similar results.<sup>162</sup> Both studies also found a significant number of teenagers reporting that their partners use technology—Internet, e-mail, or cell phone—to call them names, harass them, or put them down.<sup>163</sup> The AP/MTV study also found that 25% of teenagers report that their intimate partners have checked the text messages on their phones without permission, and 10% report their partners demand their electronic passwords.<sup>164</sup>

Amazingly, the Claiborne study found a significant percentage of teenagers reporting classic cyberstalking behavior. For instance, 18% reported that their partners posted negative information about them on a social-networking site; 17% stated that their partners had impersonated them on e-mail, text messages, chat rooms, and social-networking sites; 16% reported that their partners purchased them a cell phone or cell phone minutes to stay in contact with them; 11% documented that their partners had shared private pictures of them against their will; 10% reported that they had been physically threatened by their partners via e-mail, instant messaging, text, chat, or cell phone; and 5% reported that their dating partners had used spyware to track their Internet activity.<sup>165</sup> Significantly, 17% of teenagers reported that their partners had made them afraid not to respond to a cell phone call, e-mail, or text message out of fear of what their partners might do.<sup>166</sup>

The Claiborne study also documented that teenagers do not generally share information about their relationships or technology use with their parents. For instance, 82% of teenagers did not tell their parents that their partners had asked for unwanted sexual activity; 78% did not tell their parents that their partners were harassing or embarrassing them on social-networking sites; 72% did not inform their parents that their partners were checking up on them over ten times an hour by e-mail or text messaging; and 77% did not share with their parents that their partners made them

---

161. *Id.* at 8.

162. THE ASSOCIATED PRESS & MTV, *supra* note 2, at 3 (nearly 25% of young people in a romantic relationship report that “their boyfriend or girlfriend checks up with them multiple times per day, either online or on a cellphone, to see where they are, who they’re with, or what they’re doing.”)

163. PICARD, *supra* note 2, at 8 (25%); THE ASSOCIATED PRESS & MTV, *supra* note 2, at 3 (12%).

164. THE ASSOCIATED PRESS & MTV, *supra* note 2, at 3.

165. PICARD, *supra* note 2, at 9.

166. *Id.*



afraid not to respond to e-mails or text messages.<sup>167</sup>

Teenagers gave three primary reasons for not bringing these behaviors to the attention of their parents. Sixty-eight percent believed that the behaviors were not serious enough to report.<sup>168</sup> Over 25% of teenagers feared that their parents would limit their computer or cell phone usage if they knew of the conduct.<sup>169</sup> Finally, 27% feared that their parents would prevent them from seeing their partners.<sup>170</sup>

These recent studies confirm that teenagers' use of technology is widespread and particularly pervasive in their dating relationships. Further, they show that teenagers are actually incorporating technology into their intimate relationships. Teenagers use technology to initiate relationships, from "flirtatious" use of suggestive e-mails to nude texts. In addition, vast numbers of teenagers in intimate relationships are in nearly constant contact with their dating partners. Further, many dating teenagers are having their on- and off-line conduct monitored through technology by their intimate partners. Finally, nearly half of all teenagers do not see any serious problem in the way technology is being used in their relationships, and most teens do not think these behaviors are serious enough to report.

#### IV. ARE WE PRODUCING A NEW WAVE OF DOMESTIC VIOLENCE ABUSERS?

Given what we know about domestic violence and the pervasive use of technology in the lives of teenagers, should we be concerned that teenage use of technology might produce a profound increase in domestic violence in the future? Are we producing a new generation of domestic violence batterers?

There are four primary factors that suggest that the answer to these questions might be "yes." First, teenagers have fully incorporated technology into their personal lives. Second, teenagers are particularly vulnerable to unhealthy relationship patterns due to their developmental stage (which involves separating from their parents), their involvement in romantic relationships for the first time, and efforts to match their expectations about intimate relationships to their peers'. Third, there is a significant similarity between the dynamic in adult-battering relationships and the use of technology by teenagers in their intimate relationships. Finally, the power of the teenage norming process suggests that teenagers might be normalizing unhealthy relationship patterns that will carry over

---

167. *Id.* at 10.

168. *Id.* at 14.

169. *Id.*

170. *Id.*

into adulthood.

Teenagers have incorporated technology into all aspects of their lives.<sup>171</sup> Teenagers are online and connected in staggering amounts. Nearly all teenagers have cell phones and access to the Internet through computers and cell phones. Nearly all teenagers are engaging in social networking. More specifically, teenagers are incorporating technology into their romantic relationships in new and profound ways.<sup>172</sup> Teenagers use technology to meet and flirt with prospective romantic partners. They use technology to stay in contact and to plan activities with their dating partners. In fact, some teenagers may conduct entire relationships online. Regardless of how one feels about it, it is a settled fact that teenagers pervasively use and incorporate technology in their intimate relationships.

Further, due to aspects unique to the adolescent developmental phase, teenagers are particularly vulnerable to developing unhealthy relationship patterns.<sup>173</sup> Recall that adolescence is marked by several distinct developmental steps: identity development, individuation from parents, maturation of decision-making abilities, and a shift in orientation towards peers. Within this turbulent period of identity development—and as a significant aspect of it—teenagers are engaging in romantic relationships for the first time. During adolescence, most teenagers will experience their first romantic relationships. Interestingly, the shift in orientation from parents to peers means that teenagers look at each other's behavior and turn to each other for assessment of the health of their intimate relationships. Numerous risk factors are colliding: having friends who are perpetrators or victims of dating violence is an important predictor of an adolescent's own experiences;<sup>174</sup> many teens are experiencing power and control patterns in their relationships through technology,<sup>175</sup> and teens tend to believe that what is happening to themselves or their peers is normal.<sup>176</sup> Given their limited life experiences, teens are at significant risk of failing to identify unhealthy relationship patterns:

[Teens] are especially susceptible to becoming “trapped” in the cycle of violence because of their vulnerable developmental stage. They are going through emotional, intellectual, and physiological changes while struggling with self-esteem issue and identity formation. They do not have the experience to know what is a healthy or unhealthy relationship.<sup>177</sup>

---

171. *See supra* notes 121-134.

172. *See supra* notes 135-159.

173. *See supra* notes 76-103.

174. Arriaga & Foshee, *supra* note 67, at 178.

175. PICARD, *supra* note 2.

176. Roger J.R. Levesque, *Dating Violence, Adolescents, and the Law*, 4. VA. J. SOC. POLICY & L. 339, 350 (1997).

177. Pollet, *supra* note 4, at 30.

A significant number of teenagers experience violence in their intimate relationships. Nearly one third of adolescents are victims of physical, emotional, or verbal abuse from a dating partner.<sup>178</sup> Many teenagers are also sexually assaulted in their intimate relationships.<sup>179</sup> Dating violence can have a long-term impact on victims, including anxiety, depression, suicidal ideation, and post-traumatic stress disorder.<sup>180</sup> In addition, as teenagers place more of their lives in the digital universe, they expose themselves to greater risk of perpetration and cyberstalking.

The risk of teenagers failing to recognize unhealthy relationship patterns is compounded by the fact that their incorporation of technology into their intimate relationships is largely unsupervised by their parents.<sup>181</sup> Nearly all teenagers have personal cell phones, allowing them to conduct their conversations in private, away from eavesdropping parents. In some ways, texting is even more private given its relative silence. Of course, cell phone records document call times, numbers, and duration, and parents can obtain access to text messages and to social-networking sites. However, this kind of monitoring by parents may create more conflict and be considered a breach of privacy by their teenagers. Unfortunately, many parents do not monitor their teenagers' use of technology with dating partners. Only 18% of teenagers report that their parents actually limit their use of technological devices for communication with their intimate partners.<sup>182</sup> Additionally, teenagers rarely have the benefit of parental modeling of appropriate technology use in intimate relationships. While children can observe their parents' interaction with each other, it is harder to observe their parents engaging in texting, social networking, or other uses of technology. Moreover, adults use technology less and differently than do adolescents, so adolescents may not consider the technology use they do observe to be relevant in their own lives.<sup>183</sup>

---

178. DAVIS, *supra* note 4, at 1.

179. Furman, McDunn, & Young, *supra* note 68, at 18.

180. *Id.*

181. Rules do work. The Kaiser *Generation M2* study showed that teens whose parents set limits on their use consume almost three hours less media per day. Additionally, the Kaiser study showed that only 36% of fifteen to eighteen year olds reported being subjected to rules about computer use by their parents, compared to 60% of eleven to fourteen year olds. Only 16% of teens reported that their parents enforced any rules about media use most of the time. RIDEOUT ET AL., *supra* note 1, at 36. Additionally, only 14% of teens reported that their parents imposed rules about how much they could text. *Id.* at 62.

182. PICARD, *supra* note 2, at 16. In contrast, 28% of parents reported that they limited their teens' communications. *Id.*

183. For example, while 84% of teens report texting, only 58% of parents report texting. THE NATIONAL CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, *supra* note 1, at 6-7. Similarly, 35% of American adults who are online have profiles on a social networking sites, compared to 65% of online teens. LENHART, *supra* note 3, at 1. Moreover, the modeling that is occurring may not be positive. *E.g.* Rosalind Wiseman, *Caught in the Act*,

The similarity between the dynamic in an adult battering relationship and teenage use of technology is concerning. As discussed above, the adult-battering relationship is built on the premise that one party has the right to control the other party.<sup>184</sup> Inherent in this concept of control is a fundamental lack of respect for the victim's autonomy and for the understanding of boundaries implicit in personal autonomy. Over time, a power and control dynamic develops in battering relationships, which involves an assertion on the part of the batterer of the right to violate the victim's autonomy. The victim, on the other hand, accepts that the batterer will assert this right. A particular example of this assertion of the right to violate autonomy is manifested in stalking behavior. Stalking and cyberstalking often involve one party attempting to maintain constant contact and control over another person. This can involve surveillance of the other partner and monitoring of whom the partner is interacting with, where the partner is, and what the partner is doing. In this way, the victim's boundaries are always subject to violation; for the victim therefore, the domestic violence battering relationship can be conceptualized as "boundaryless."

As discussed above, teenage technology use is pervasive; many teenagers use technology around the clock and demand constant connectivity. Without question, connectivity can be a positive concept. It involves interaction and community. The concept behind a "social network" is to build a connection to a community. Unfortunately, constant connectivity can also have negative aspects. Studies document that teenage technology use is often about access to information about where their partner is, whom the person is with, and what the person is doing.<sup>185</sup> Constant connectivity can blur the notion of individual boundaries and can create a sense of entitlement or the perceived expectation that each party is privileged to information about the other party's location, activities, and acquaintances, resulting in a loss of boundaries in the relationship. Technology use has the potential to transform teenage intimate relationships into "boundaryless" relationships. In this way, it is possible to see a similarity between teenage use of technology and the dynamics in a domestic violence relationship. Of course, there is a dramatic difference between acceptance of a "boundaryless" relationship (teenage use of technology) and assertion of the right to violate the boundaries of another person's autonomy (domestic violence battering relationship).

---

LG TEXT ED, <http://www.lg.com/us/mobile-phones/text-education/articles/caught-in-the-act-11007011338.jsp> (last visited Aug. 1, 2010) (noting that 38% of parents and 83% of teens report texting in the middle of the night, and that 28% of parents and 43% of teens report "sexting").

184. See *supra* notes 11-17.

185. See *supra* note 159 and accompanying text.

Nevertheless, there is a disturbing conceptual similarity between the two and a potentially thin line between acceptance and assertion.

During a period of development when teenagers are already significantly at risk of exposure to unhealthy relationship violence and patterns, the concern is that teenagers' use of technology in their intimate relationships is normalizing the very behavior—a right to “boundarylessness”—underlying adult battering relationships. As discussed above, teenagers tend to assess the health of their intimate relationships and appropriateness of dating behavior by looking to other teenagers. Since teenagers are experiencing dyadic romantic relationships for the first time, they have extremely limited experience from which to assess appropriate relationship patterns. Looking primarily to peers produces a potentially unhealthy myopia and plays a significant role in normalizing attitudes about relationship behaviors. As the Claiborne study documented, more than two-thirds of teenagers in intimate relationships do not consider it a problem serious enough to inform their parents when their intimate partners: ask them for unwanted sexual activity; use information on social-networking sites to harass or put them down; make them afraid to not respond to electronic communication for fear of what the partner might do; share private or embarrassing pictures or videos of them; e-mail or text them up to thirty times an hour to check on them; or spread electronic rumors about them.<sup>186</sup> These types of behaviors reflect unhealthy relationship patterns similar to those in adult-battering relationships. The fact that a majority of teenagers do not see this type of behavior as unhealthy or problematic suggests a normalization of the idea that intimate relationships are “boundaryless.”

It is important to highlight that the typical social norming process that occurs amongst teen peers is reinforced by the often public nature of technological use and abuse. Several of the problematic behaviors documented in the Claiborne study involved using information on social-networking sites to harass or put down intimate partners, sharing private or embarrassing pictures or videos of them, and spreading electronic rumors about them.<sup>187</sup> In contrast to the sense that domestic violence is a private matter, these behaviors are essentially public. Because they are public, if they are not responded to or identified as being inappropriate, the silence of the community can add to the normalization and, paradoxically, the

---

186. PICARD, *supra* note 2, at 10.

187. For example, 19% of teens reported that they have had a boyfriend or girlfriend spread rumors about them using a cellphone, email, instant messaging, text, web chat, a blog, or a social networking site such as MySpace, and Facebook. Eighteen percent reported that their boyfriend or girlfriend had used information from a social networking site against them. Eleven percent reported that their boyfriend or girlfriend shared private or embarrassing pictures or video of them with others. *Id.* at 8-9.

isolating effect of the conduct. Unfortunately, the majority of teenagers do not feel comfortable responding to derogatory comments made about them on social-networking sites.<sup>188</sup>

One critic of the use of technology in romantic relationships made a similar observation this way: “Facebook brings us too close to people too quickly. Dating is as much about maintaining healthy and safe boundaries as it is about intimacy—at least at first—and social networking makes that harder than ever. It’s not dissimilar to dating someone who works in your office; you can’t control the exposure you’ll have, and that can be a recipe for disaster.”<sup>189</sup>

There appears to be widespread acceptance by teenagers that their dating partners have total access—a right to know where they are, whom they are with, and what they are doing at all times. The concern is that once this concept is normalized within the teenage population, it is a short distance from acceptance by both parties to the assertion by one party of the right to this information. As this assertion of the right to violate personal autonomy is the heart of a domestic violence battering relationship, it is possible that teenage incorporation of technology into their intimate relationships puts more teenagers at risk of developing unhealthy relationship patterns.

An entire generation is normalizing “boundarylessness” and incorporating technology use into their intimate relationships. This generation of teenagers will become adults with great technological abilities. For those inclined to become batterers, they will have the know-how to be effective cyberstalkers. Additionally, a greater use of technology in engaging in intimate relationships means greater risk of being cyberstalked as adults. According to some researchers of teenage dating violence:

Teen dating violence often occurs as adolescents begin dating and are unaware of boundaries for behavior in relationships. Because teens may have a greater likelihood of entering into other abusive relationships in the future once they have been exposed to dating violence, it is crucial to address this problem at an early age, as identifying and mitigating risk factors for partner violence during adolescence can reduce exposure to partner violence later in life.<sup>190</sup>

---

188. THE ASSOCIATED PRESS & MTV, *supra* note 2, at 4.

189. Samuel Axon, *Five Ways Facebook Has Changed Dating (for the Worse)*, MASHABLE (Apr. 10, 2010), <http://mashable.com/2010/04/10/facebook-dating/>.

190. Manganello, *supra* note 69, at 13 (citations omitted).

## V. THE IMPORTANCE OF RECOGNIZING THE RISK AND RE-NORMING NORMS

The American criminal justice system is facing a domestic violence crisis. There are two steps that might help address—and possibly avert—this crisis. First, authorities—both parents and law enforcement—must recognize the risk and take it seriously. A critical aspect of this is to dedicate adequate resources for training of law enforcement officers and prosecutors and for investigation of digital crimes. Second, authorities need to provide guidance to teenagers and work to “re-norm” unhealthy teenage relationship norms. The combination of these two steps will help teenagers and society overcome the risk to today’s teenagers for future domestic violence.

First and foremost, authorities must begin to take these risks seriously. Teenagers are reluctant to report domestic violence to authorities. This reluctance can stem from a fear of losing independence.<sup>191</sup> In addition, many teens do not receive support or validation from parents or law enforcement. Often, authorities fail to take teenage dating violence seriously.<sup>192</sup> This is manifested on two levels: first, authorities minimize the seriousness of relationships between teenagers and second, minimize the seriousness of the violence within those relationships:

[Many misperceive] that dating violence does not really exist among teens, and, even if it does, it is not a serious problem.... Others believe that while teen dating violence may in fact exist, it is not a serious problem because, unlike adults, teens do not usually have serious romantic relationships and can easily leave their partners if the relationship becomes abusive. Individuals who adhere to this innocent notion of “puppy love” among teens are probably the ones most likely to advise a young victim to simply break up with her partner. Adults, including a teen’s parents, may minimize the bonding that has occurred between two teens, and may not recognize that teens take their relationships very seriously. At least three research studies have indicated that parents themselves may contribute to the problem

---

191. Stacy L. Brustin, *Legal Responses to Teen Dating Violence*, 29 FAM. L.Q. 331, 349 (1995).

192. HELEN M. MARCY, CENTER FOR IMPACT RESEARCH, HELPING WITH DOMESTIC VIOLENCE: LEGAL BARRIERS TO SERVING TEENS IN ILLINOIS 18 (Nov. 2000), available at <http://www.impactresearch.org/documents/legalissuesreport.pdf> (“Teens were also adamant in their belief that police do not take domestic violence between teens seriously. One teen said that she knew someone who had called the police when she was fighting with her boyfriend. Once the police established that it was a dating relationship, the officers told the victim to ‘stay away from him’ and left.”).

of teen dating violence by denying or minimizing the problem.<sup>193</sup>

In addition, law enforcement must dedicate sufficient resources for investigation, training, and prosecution of digital domestic violence. According to the United States Department of Justice:

[I]t appears that the majority of cyberstalking victims do not report the conduct to law enforcement, either because they feel that the conduct has not reached the point of being a criminal offense or that law enforcement will not take them seriously. Second, most law enforcement agencies have not had the training to recognize the serious nature of cyberstalking and to investigate such offenses.<sup>194</sup>

Until law enforcement has adequate training and resources for investigation, batterers using technology will continue to avoid detection, apprehension, and prosecution for their crimes.

Secondly, adults must attempt to provide positive relationship guidance to teenagers. Studies establish that the health of teenagers' relationships—and the patterns developed in those relationships—are correlated to the health of their future adult relationships.<sup>195</sup> Given this connection, it is imperative that teenagers be given as much assistance as possible in developing healthy intimate relationships.<sup>196</sup> Because of the pervasiveness of technology use in their intimate relationships and the connections between technology use in intimate relationships and unhealthy relationship patterns, it is essential that healthy relationship assistance include discussion of appropriate use of technology.<sup>197</sup> Because the concern is that technology use in intimate teenage relationships has the potential to normalize unhealthy relationship patterns, the challenge is to “re-norm” the norm.<sup>198</sup> Although the design of programs will vary, this primary challenge remains constant. To be successful in this endeavor, any program will also need to be consistent with adolescent psychological development—it will need to reflect their individuation and their increasing peer focus.<sup>199</sup>

Addressing any major social issue is often a question of “re-norming” the norm. Driving under the influence is one example. Several generations ago, the ability to drink and drive was unquestioned.<sup>200</sup> In 1980, Mothers

---

193. Christine N. Carlson, *Invisible Victims: Holding The Educational System Liable For Teen Dating Violence At School*, 26 HARV. WOMEN'S L.J. 351, 359 (2003).

194. U.S. DEP'T OF JUSTICE, *supra* note 10, at 3.

195. Arriaga & Foshee, *supra* note 67, at 163.

196. SORENSEN, *supra* note 4, at 3.

197. Manganello, *supra* note 69, at 13.

198. *See id.* at 11, 13; SORENSEN, *supra* note 4, at 3.

199. *Id.*

200. Nady El-Guebaly, *Don't Drink and Drive: The Successful Message of Mothers*



Against Drunk Driving (“MADD”) was founded and began the process of “re-norming” this norm of drinking and driving.<sup>201</sup> Since 1980, alcohol-related traffic fatalities have decreased nearly 50%, from more than 30,000 to fewer than 15,500.<sup>202</sup> MADD has been successful in changing the way American society perceives drinking and driving through the use of aggressive media campaigns, increased criminal penalties, and greater law enforcement.<sup>203</sup>

Today, it appears that teenagers are normalizing unhealthy patterns in their use of technology. Changing the way that teenagers think about their relationships and the way they think about their use of technology will be an uphill battle. Several organizations are currently making important efforts in this direction. For example, loveisrespect.org is an online resource around teenage dating abuse developed by the National Domestic Violence Hotline.<sup>204</sup> In 2007, loveisrespect.org launched its National Teen Dating Abuse Helpline with help from Liz Clairborne Inc. The hotline is a twenty-four-hour resource—accessible by phone or Internet, specifically designed for teens and young adults. The Helpline and loveisrespect.org offer real-time, one-on-one support from trained peer advocates.<sup>205</sup>

Another effort is That’s Not Cool.com, a national advertising campaign developed by the Family Violence Prevention Fund, in partnership with the Department of Justice’s Office on Violence Against Women and the Advertising Council.<sup>206</sup> That’s Not Cool tries to empower teenagers to address digital dating abuse. According to its website, “Your cell phone, IM, and social networks are all a digital extension of who you are. When someone you’re with pressures you or disrespects you in those places, that’s not cool.”<sup>207</sup> The program has developed “callout cards” that can be sent to people to notify them that a particular behavior is inappropriate or unappreciated. For example, one “callout card” reads, “Now that you’ve violated my e-mail account, I won’t feel bad dumping you.”<sup>208</sup> Another reads, “Congrats! With that last text you’ve officially

---

*Against Drunk Driving (MADD)*, 4 *WORLD PSYCHIATRY* 35-36 (2005).

201. *Id.*

202. Pamela Laughery, *Statistics*, REMEMBERING KELLY JEAN LAUGHERY (July 4, 2009), <http://inmemoryofkelly.com/m-a-d-d/>.

203. El-Guebaly, *supra* note 199.

204. *Who We Are*, NATIONAL DOMESTIC VIOLENCE HOTLINE, <http://www.loveisrespect.org/who-we-are/> (last visited Aug. 16, 2010).

205. *Id.*

206. *Campaigns: That’s Not Cool*, FAMILY VIOLENCE PREVENTION FUND, <http://www.endabuse.org/content/campaigns/detail/1206> (last visited Aug. 16, 2010).

207. *Where Do You Draw Your Digital Line?*, FAMILY VIOLENCE PREVENTION FUND, <http://www.thatsnotcool.com> (last visited Aug. 16, 2010).

208. *Callout Cards*, FAMILY VIOLENCE PREVENTION FUND, <http://www.thatsnotcool.com/CalloutCards.aspx> (last visited Aug. 16, 2010).

achieved stalker status.”<sup>209</sup> These callout cards can be e-mailed or posted to social-networking site.

MTV has initiated another project, A Thin Line, aimed at appropriate use of technology. According to its website:

MTV’s A Thin Line campaign was developed to empower you to identify, respond to, and stop the spread of digital abuse in your life and amongst your peers. The campaign is built on the understanding that there’s a “thin line” between what may begin as a harmless joke and something that could end up having a serious impact on you or someone else. We know no generation has ever had to deal with this, so we want to partner with you to help figure it out. On-air, online and on your cell, we hope to spark a conversation and deliver information that helps you draw your own digital line.<sup>210</sup>

Efforts such as That’s Not Cool.com, loveisrespect.org, and A Thin Line, among others, are critical to supporting the development of healthy and respectful relationship norms among today’s teenage population.

The success of any effort to re-norm the current norms must be consistent with adolescent development. During adolescence, teenagers are differentiating themselves from their parents and other authority figures. In connection with this process, teenagers become more peer focused. Consistent with these developmental changes, a successful program will need to engage teenagers to help other teenagers.<sup>211</sup> If other teenagers are perceived to consider particular behaviors and patterns to be unacceptable, adolescents will internalize that information. Efforts at educating teenagers about healthy relationship patterns will likely be more successful as a ground-up rather than a top-down type program. At all costs, the sense that adults are prescribing “appropriate” teenage behavior must be avoided.

On the other hand, adults should purposely model and discuss healthy relationship norms, establish appropriate media guidelines, and be open to teens who might be experiencing abusive relationships. Adults too often are not receptive or respectful when teens report dating abuse. Parents, teachers, and other authority figures may have a tendency to dismiss the seriousness of the teen’s experience, believing that it is merely a phase, melodrama, or “puppy love.”<sup>212</sup> Understanding and validating teens’ experiences while helping them identify what makes a relationship healthy can go a long way towards counteracting unhealthy norms.<sup>213</sup>

---

209. *Id.*

210. *About A Thin Line*, MTV & THE ASSOCIATED PRESS, <http://www.athinline.org/about> (last visited Aug. 16, 2010).

211. SORENSEN, *supra* note 4, at 3.

212. Saperstein, *supra* note 70, at 187.

213. SORENSEN, *supra* note 4, at 3.

Similarly, because teenagers are embracing technology to an unprecedented degree, a successful re-norming program, ironically, will likely need to embrace technology rather than cast aspersions on it.<sup>214</sup> First, teens are accessible online, are engaged online, and can absorb information online. Second, the apparent independence offered by technology connects with teenagers' need for greater independence and separation from their parents. Third, technology—particularly social networking—has demonstrated its ability to connect individuals to larger communities or communities of interest. Often domestic violence victims—teenagers or adults—experience a profound sense of isolation, frequently due to the concerted efforts of the batterer to isolate the victim from friends and family. Access to an online community has the power to break down that isolation and provide the victim with resources, support, and options.<sup>215</sup>

In addition, because some of the unhealthy behavior is actually being made public through social-networking sites, the social-networking community has the opportunity to see and assess that behavior. In many adult domestic violence relationships, the abusive behavior largely remains private and unavailable for public censure. In contrast, teenage technology abuse can have public aspects. These public aspects—for example, derogatory postings on social-networking sites—provide a wonderful opportunity for public censure. Teens and parents can be empowered to respond to unacceptable demonstrations of power and control dynamics. Therefore, not only does technology potentially provide victims a means of combating isolation and shame, it also gives the online community the opportunity to condemn specific, inappropriate conduct. In this way, the “re-norming” process has the benefit of being very personal and victim-specific yet public at the same time.

## VI. CONCLUSION

America is on the verge of a domestic violence crisis. Technology, particularly the intense use of technology by teenagers in their intimate relationships, has the potential to reverse societal recognition of domestic violence as a crime. Only through the legal system's recognition of this risk, commitment to the seriousness of the risk, and dedication of sufficient resources for investigation and prosecution of digital domestic violence, will the production of a new generation of domestic violence batterers be avoided.

---

214. Manganello, *supra* note 69, at 13.

215. See Silverstein, *supra* note 6, at 113-16.