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What's Love Got to Do With It? How Current Law Overlooks the Complexities of Intimate Partner Violence on College and University Campuses

Ashley Reicher

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WHAT'S LOVE GOT TO DO WITH IT? HOW CURRENT LAW OVERLOOKS THE COMPLEXITIES OF INTIMATE PARTNER VIOLENCE ON COLLEGE AND UNIVERSITY CAMPUSES

*Ashley Reicher**

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INTRODUCTION

*“As I dropped Yeardeley off in Charlottesville each year, my biggest concern was that she may be injured on the lacrosse field or, even worse, be hurt in a car accident. Relationship violence was never on my radar screen”*¹

– Sharon Love, Yeardeley’s Mother

In the spring of 2010, Yeardeley Love was enjoying her final semester at the University of Virginia, where she had dreamed of attending school her whole life. Yeardeley embraced her time in college to the fullest, joining a sorority and playing on the women’s lacrosse team. The shock and horror Yeardeley’s loved ones experienced upon learning that she was beaten to death by her ex-boyfriend just three weeks shy of her graduation is unimaginable. Her story, however, is all too common.² On Thanksgiving of 2014, Shannon Jones, a senior at Cornell University, was strangled to death by her boyfriend.³ The very next day, Nadia Ezaldein, a law student

1. See *Yeardeley’s Story*, ONE LOVE, http://www.joinonelove.org/yeardeleys_story [<http://perma.cc/PBJ8-YHH7>].

2. *Id.*

3. See Crimesider Staff, *Boyfriend Found Guilty in Strangulation Death of Cornell Engineering Student*, CBS NEWS (Oct. 23, 2015), <http://www.cbsnews.com/news/boyfriend-found-guilty-in-strangulation-death-of-cornell-engineering-student/> [<http://perma.cc/BZ8M-TVFA>]; see also Matthew Hayes, *Murder of Cornell Senior Came After Argument, Police Say*, ITHACA J. (Nov. 30, 2014), <http://www.ithacajournal.com/story/news/local/2014/11/29/cayuga-heights-murder/19661747/> [<http://perma.cc/VXT3-B4VE>].

at the University of Chicago, was shot and killed by her ex-boyfriend.⁴ That same year, Cecilia Lam, a student at San Francisco State University,⁵ and Diamoney Greene, a student at the University of South Carolina,⁶ were also killed by intimate partners. The Centers for Disease Control defines intimate partner violence as “physical violence, sexual violence, stalking and psychological aggression . . . by a current or former intimate partner.”⁷ Reports indicate that more than three women are murdered by husbands or boyfriends each day.⁸ Although high-profile stories like these have sent shockwaves through college communities, violence by intimate partners is nonetheless largely overlooked in the college and university setting.

Part I of this Note addresses the prevalence of gender-based violence in the college setting, the unique complexities of intimate partner violence, and the legal requirements schools must comply with under the applicable statutes and regulations. Part II of this

4. See Willis Robinson, *Nadia Ezaldeen Shot Dead by Stalker Ex-Boyfriend in Nordstrom on Black Friday*, DAILY MAIL (Dec. 1, 2014), <http://www.dailymail.co.uk/news/article-2854592/Woman-shot-ex-boyfriend-counter-Nordstrom-Black-Friday-dies-family-reveal-victim-went-months-psychological-torment-hands-suspect.html> [<http://perma.cc/49PN-RKU9>]; see also Jason Meisner & Bonnie Miller Ruben, *Nordstrom Murder-Suicide Highlights Limits Of Abuse Aid*, CHI. TRIB. (Dec. 10, 2014), <http://www.chicagotribune.com/news/ct-abuse-victims-met-20141210-story.html> [<http://perma.cc/C9SF-DQ54>].

5. See *San Francisco Woman Shot By Ex-Boyfriend Before He Killed Himself Dies*, CBS LOC. (Oct. 15, 2014), <http://sanfrancisco.cbslocal.com/2014/10/15/san-francisco-woman-shot-by-ex-boyfriend-before-killing-himself-dies-murder-suicide-cecilia-lam-south-of-market-soma-cedric-young-jr-shooting/> [<http://perma.cc/6R73-4EJ6>]; Vivian Ho, *S.F. Woman Shot by Ex-Boyfriend Dies At Hospital*, SFGATE (Oct. 15, 2014), <http://www.sfgate.com/bayarea/article/S-F-woman-shot-by-ex-boyfriend-dies-at-hospital-5822919.php> [<http://perma.cc/EH3A-P69M>].

6. See *2 USC Students from Lowcountry Dead in Apparent Murder-Suicide*, ABC NEWS 4 (Nov. 12, 2014), <http://abcnews4.com/archive/2-usc-students-from-lowcountry-dead-in-apparent-murder-suicide> [<http://perma.cc/E52F-KELQ>].

7. See generally *Intimate Partner Violence: Definitions*, CDC (last updated July 20, 2016) <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/definitions.html> [<https://perma.cc/KRT7-PBJR>]. The relevant legislation and literature often use the terms “intimate partner violence,” “dating violence,” and “relationship violence” interchangeably. This Note uses the term “intimate partner violence.” Although intimate partner violence can include acts of sexual violence, the term “sexual violence” for the purposes of this Note refers to acts committed by a person who is not and has not been previously in a relationship of a romantic or intimate nature with the victim.

8. See *Intimate Partner Violence Facts & Resources*, AM. PSYCHOL. ASS'N <http://www.apa.org/topics/violence/partner.aspx?item=2> [<http://perma.cc/H9S3-TRAP>]; see also *Domestic (Intimate Partner) Violence Fast Facts*, CNN (May 4, 2016), <http://www.cnn.com/2013/12/06/us/domestic-intimate-partner-violence-fast-facts/> [<https://perma.cc/9PB5-J7R7>].

Note identifies the various shortcomings of the ways in which schools respond to instances of intimate partner violence.⁹ Part III provides regulatory, institutional, and educational recommendations for reforming the ways in which schools address intimate partner violence, to better meet the needs of both victims¹⁰ and the entire campus community.

I. AN OVERVIEW OF INTIMATE PARTNER VIOLENCE ON CAMPUSES: PREVALENCE, CHARACTERISTICS, AND LEGAL OBLIGATIONS FOR SCHOOLS

A. The Scope of the Problem

Both sexual violence and intimate partner violence are epidemics plaguing college and university campuses nationwide.¹¹ Although there is a large body of research exploring the prevalence of sexual violence in this setting, the data available regarding intimate partner violence are far less established. Further, data on both are often comingled because of the overlap between sexual violence and intimate partner violence. For example, six out of ten rapes committed by someone who is an acquaintance to the victim occur in relationships on college or university campuses.¹² This overlap only adds to the confusion surrounding these already complex issues. Although this Note explores the ways in which intimate partner violence is addressed in the collegiate setting, a brief overview of the prevalence of sexual violence in this context is also necessary, as sexual violence and intimate partner violence are often addressed identically by schools.

9. Although ensuring that all parties receive due process is a matter of the highest importance, a discussion of the accused's interests is outside the scope of this Note.

10. This Note uses the term "victim" for purposes of consistency with applicable statutes, regulations, and administrative guidance. This by no means intends to devalue the courage, strength, and resilience of those who have survived violence by intimate partners.

11. See Kristy Holtfreter & Jennifer Boyd, *A Coordinated Community Response to Intimate Partner Violence on the College Campus*, 1 VICTIMS & OFFENDERS 141, 142 (2006) ("Evidence indicates that violence against women is magnified for college students.").

12. See Jake New, *Domestic Violence as Prevalent for College Students as Sexual Assault*, PBS NEWSHOUR (Dec. 2, 2014), <http://www.pbs.org/newshour/run-down/domestic-violence-prevalent-college-students-sexual-assault/> [<http://perma.cc/SRN6-X37R>].

1. *Pervasiveness of Sexual Violence*

Sexual violence on college and university campuses has been at the forefront of national attention in recent years. According to a report by the American Association for Universities, 11.7% of all students are victims of rape or sexual assault during their undergraduate or graduate education.¹³ Female undergraduates, specifically, are more than twice as likely to be victims of sexual assault.¹⁴ Further, college-aged women, between the ages of eighteen and twenty-four, are at an increased risk of sexual violence.¹⁵ Although females in this age range who are not college or university students report incidents of rape and sexual assault to authorities at a rate of thirty-two percent, only twenty percent of rape and sexual assault victimizations are reported to authorities by female college or university students.¹⁶ Among the reasons commonly cited for not reporting rape and sexual assault on campuses are fear of retaliation by the assailant, fear of mistreatment by the police or other law enforcement officials, mistrust in the judicial system, and unawareness of how to report such incidents.¹⁷ Other concerns victims often have after being raped

13. See DAVID CANTOR ET AL., REPORT ON THE AAU CAMPUS CLIMATE SURVEY ON SEXUAL ASSAULT AND SEXUAL MISCONDUCT, ASS'N OF AM. UNIV. 23 (2015), <http://www.aau.edu/Climate-Survey.aspx?id=16525> [<http://perma.cc/X8XP-VP66>]; see also CAMPUS SEXUAL VIOLENCE: STATISTICS, RAPE, ABUSE, & INCEST NAT'L NETWORK, <https://www.rainn.org/statistics/campus-sexual-violence> [<http://perma.cc/ZZ9Y-R5PY>] [hereinafter RAINN STATISTICS]; SOFI SINOZICH & LYNN LANGSTON, BUREAU OF JUST. STAT., U.S. DEP'T OF JUST., RAPE & SEXUAL VICTIMIZATION AMONG COLLEGE-AGED FEMALES, 1995-2013 (2014) [hereinafter BJS STATISTICS].

14. See CANTOR, *supra* note 13 (“The incidence of sexual assault and sexual misconduct due to physical force, threats of physical force, or incapacitation among female undergraduate student respondents was 23.1%.”).

15. See BJS STATISTICS, *supra* note 13, at 4. Further, it is important to note that although college-aged women are at an increased risk of sexual violence, college-aged women who are not students are 1.2 times more likely to be victims of rape or sexual assault than female students between the ages of eighteen and twenty-four. See also RAINN STATISTICS, *supra* note 13 (noting that female students between the ages of eighteen and twenty-four are twenty percent less likely to be victims of rape or sexual assault).

16. See BJS STATISTICS, *supra* note 13, at 1.

17. See DEAN G. KILPATRICK ET AL., DRUG-FACILITATED, INCAPACITATED, & FORCIBLE RAPE: A NAT'L STUDY (2007), <https://www.ncjrs.gov/pdffiles1/nij/grants/219181.pdf> [<https://perma.cc/AMG3-5DEH>]; see also Lauren P. Schroeder, *Cracks in the Ivory Tower: How the Campus Sexual Violence Elimination Act Can Protect Students from Sexual Assault*, 45 LOY. U. CHI. L.J. 1195, 1197 (citing fear of retaliation, mistrust in the campus disciplinary system, and fear of disbelief by others as common reasons for not reporting rape and sexual assault); Rana Sampson, *Acquaintance Rape of College Students*, U.S. DEP'T OF JUST. 4 (2011) https://cops.usdoj.gov/html/cd_rom/inaction1/pubs/AcquaintanceRapeCollegeStudents.pdf [<https://perma.cc/B6NQ-9CVX>] (noting that more than forty percent of rape

include not wanting others, such as family members, to find out, and fear of being blamed for being raped.¹⁸ Further, approximately eighty percent of all females between the ages of eighteen and twenty-four who are victims of rape or sexual assault knew their offender.¹⁹ Despite vast underreporting, rape and sexual assault are extremely prevalent in the collegiate context.

2. *Pervasiveness of Intimate Partner Violence*

There appears to be less data and accompanying literature surrounding the occurrence of intimate partner violence on college or university campuses, but reports indicate that it occurs as frequently as sexual violence in this setting. Approximately twenty-one percent of college or university students report experiencing intimate partner violence by a current partner, and thirty-two percent report experiencing intimate partner violence by a previous one.²⁰ Moreover, women are disproportionately impacted by intimate partner violence.²¹ Eight out of ten violent crimes in which the victim and offender had an intimate relationship involve a female victim.²² Additionally, seventy percent of murders committed by intimate partners kill female victims.²³ Female college and university students are especially vulnerable to intimate partner violence, as females between the ages of eighteen and twenty-four are the most likely to experience it.²⁴ Research reveals that as many as forty-three percent

victims on college campuses did not report the incident out of “fear of reprisal from the assailant and others.”).

18. See KILPATRICK, *supra* note 17, at 39 (noting that college women cite more social concerns after being raped than did women in the general population).

19. See BJS STATISTICS, *supra* note 13, at 7; see also Sampson, *supra* note 17, at 3, (“Ninety percent of college women who are victims of rape or attempted rape know their assailant. The attacker is usually a classmate, friend, boyfriend, ex-boyfriend, or other acquaintance.”).

20. See Christine S. Sellers & Max L. Bromley, *Violent Behavior in College Student Dating Relationships: Implications for Campus Service Providers*, J. OF CONTEMP. CRIM. JUST., 1-27 (1996); see also Juliette Grimmer, *The Challenge of Title IX Responses to Campus Relationship & Intimate Partner Violence*, ASSOC. OF TITLE IX ADM’RS 5 (2015).

21. See LAWRENCE A. GREENFELD ET AL., BUREAU OF JUST. STAT., U.S. DEP’T OF JUST., VIOLENCE BY INTIMATES: ANALYSIS OF DATA ON CRIMES BY CURRENT OR FORMER SPOUSES, BOYFRIENDS, AND GIRLFRIENDS, v, vii (1998).

22. *Id.* at vii.

23. BUREAU OF JUST. STAT., U.S. DEP’T OF JUST., FEMALE VICTIMS OF VIOLENCE 3 (2009).

24. SHANNAN CATALANO, BUREAU OF JUST. STAT., U.S. DEP’T OF JUST., SPECIAL REPORT INTIMATE PARTNER VIOLENCE, 1993-2010 1 (revised Sept. 29, 2015); see also DIV. OF VIOLENCE PREVENTION, NAT’L CTR. FOR INJ. PREVENTION & CONTROL, NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY 2010 SUMMARY

of women who are dating on college and university campuses experience abusive behavior from their partner.²⁵ Of the forty-three percent of women at colleges and universities who report abusive behavior, twenty-two percent experienced physical abuse, sexual abuse, or threats of physical violence by intimate partners.²⁶ Intimate partner violence most commonly takes the form of psychological abuse, and reports indicate that between eighty and ninety percent of students are subjected to psychological abuse by an intimate partner during their time at a college or university.²⁷

REPORT 83 (2010). It is important to note that although college-aged women are the most likely to experience intimate partner violence, college-aged women who are not students are the most likely to be victims of violence by an intimate partner. See generally Ann L. Coker et al., *Are Interpersonal Violence Rates Higher Among Young Women in College Compared With Those Never Attending College?*, 31 J. OF INTERPERSONAL VIOLENCE 1413, 1415-16 (2015) (noting that in addition to intimate partner violence, college-aged women who are not students experience a variety of violent crimes at higher rates than those who are students).

25. KNOWLEDGE NETWORKS, INC., 2011 COLLEGE DATING VIOLENCE AND ABUSE POLL 14 (2011), http://www.loveisrespect.org/pdf/College_Dating_And_Abuse_Final_Study.pdf [<https://perma.cc/Y38P-F2HM>]. In 2011, the company formerly known as Liz Claiborne, Inc. commissioned the research firm Knowledge Networks, Inc., to conduct a survey to “address the lack of data on dating violence and abuse among college students and to increase understanding of this problem on college campuses nationwide.” The study surveyed more than 500 students between enrolled in four-year colleges between the ages of eighteen and twenty-nine. The final data were weighed using Census Bureau school enrollment benchmarks for race, ethnicity, gender, age, and geographic region, in accordance with the 2009 Current Population Survey. Empirical research on this matter appears to be extremely limited, and the 2011 Knowledge Networks study is often cited in relevant literature. For example, data from the 2011 study is referred to or relied upon by websites and organizations including, but not limited to, The Washington Post, The New York State Office for the Prevention of Domestic Violence, The National Coalition Against Domestic Violence, Campus Safety Magazine, The Domestic Violence Resource Center, and the United States Department of Education Office of Safe and Healthy Students. “Abusive dating behaviors” for the purposes of this study included physical, sexual, technological, verbal, or controlling abuse.

26. *Id.*; see also Christine E. Murray et al., *Dating Violence and Self-Injury Among Undergraduate College Students: Attitudes and Experiences*, 11 J. OF COLL. COUNSELING 42, 42 (2008) (noting that rates of physical violence alone by intimate partners ranges anywhere between twenty and forty-five percent of all college students).

27. Tara L. Cornelius et al., *Legal Consequences of Dating Violence: A Critical Review & Directions for Improved Behavioral Contingencies*, 14 AGGRESSION & VIOLENT BEHAV. 194, 195 (2009). According to the American Psychological Association, psychological abuse can take two forms: expressive aggression and coercive control. Expressive aggression includes overt actions such as name calling and belittling by an intimate partner. Coercive control occurs when an intimate partner attempts to systematically manipulate their partner’s actions. Often, abusers attempt to isolate victims by preventing them from seeing or contacting their friends and family, controlling their finances so that they are left to rely on their abuser, and threatening to commit suicide if the victim leaves the abusive relationship. For a

Further, intimate partner violence is often repetitive, occurring on numerous occasions rather than in isolated incidents.²⁸ Of those physically assaulted by an intimate partner, sixty-six percent report experiencing the abuse on multiple occasions.²⁹ Additionally, more than half of the stalking incidences reported by college or university students occur by current or former intimate partners.³⁰ These statistics are particularly troubling as stalking of intimate partners is inextricably linked to violent outcomes. Reports indicate that stalking of intimate partners is coupled with physical violence eighty percent of the time.³¹

Despite the high prevalence of intimate partner violence among this age group, college-aged individuals are markedly reluctant to notify law enforcement about it.³² On average, only one quarter of all physical assaults, one fifth of all rapes, and one half of all stalkings perpetrated against women by intimate partners are reported to the police.³³ Research suggests that the relationship between the victim and the offender is a key factor impacting non-reporting.³⁴ Victims are less likely to report violence perpetrated by a former or current

more in-depth discussion of psychological abuse, *see* AM. PSYCHOL. ASS'N, *supra* note 8.

28. *See* Grimmett, *supra* note 20, at 7 (“[Intimate partner violence] is often both cyclical in nature and prone to spiraling.”); *see also* LENORE E. WALKER, *THE BATTERED WOMAN* 55-70, (1979) (discussing the theory of the cycle of violence between intimate partners); Julia C. Babcock et al., *Does Batterers’ Treatment Work? A Meta-Analytic Review of Domestic Violence Treatment*, 23 *CLINICAL PSYCHOL. REV.* 1023, 1024 (2004) (describing intimate partner violence as a “destructive cycle”) (internal citation omitted).

29. Joetta L. Carr et al., *Campus Violence White Paper*, AM. COLL. HEALTH ASS'N 1, 5 (2005).

30. Angela F. Amar, *College Women’s Experience of Stalking: Mental Health Symptoms and Changes in Routines*, 20 *ARCHIVES OF PSYCHIATRIC NURSING* 108, 108 (2006).

31. Andrew King-Ries, *Teens, Technology, and Cyberstalking: The Domestic Violence Wave of the Future?*, 20 *TEX. J. WOMEN & L.* 131, 133 (noting that eighty percent of stalking of intimate partners is coupled with physical violence against the victim).

32. Cornelius, *supra* note 27, at 199.

33. PATRICIA TJADEN & NANCY THOENNES, U.S. DEP’T OF JUST., *EXTENT, NATURE, AND CONSEQUENCES OF INTIMATE PARTNER VIOLENCE* 49-50 (July 2000), <https://www.ncjrs.gov/pdffiles1/nij/181867.pdf> [<https://perma.cc/R5VD-NPEH>]; *Law Enforcement, Justice Systems, and Domestic Violence*, DOMESTICSHELTERS.ORG (Jan. 7, 2015), <https://www.domesticshelters.org/domestic-violence-statistics/law-enforcement-and-domestic-violence#.WKisirYrK1s> [<https://perma.cc/3992-ZZAF>].

34. *See* Megan S. Stroshine & Amanda L. Robinson, *The Decision to End Abusive Relationships: The Role of Offender Characteristics*, *CRIM. JUST. & BEHAV.* 30, 97-117; *see also* Holtfreter & Boyd, *supra* note 11, at 142.

intimate partner than by a mere acquaintance or a stranger.³⁵ Victims often hesitate to involve authorities due to fear of skepticism from law enforcement, fear that their report will not be considered legitimate, and fear that the police will not perceive minor physical aggression as serious enough to interfere.³⁶ Additionally, research indicates that victims of intimate partner violence are typically less confident in law enforcement's ability to provide assistance than victims of other crimes are.³⁷

Although victims are often reluctant to report abuse by an intimate partner to law enforcement authorities, such abuse is informally disclosed to at least one person—most commonly a friend or family member—by seventy-five percent of victims.³⁸ Negative reactions to such disclosures, which are often characterized by an emphasis on the victim's actions rather than the abusers, can lead to victims internalizing blame and feeling that they are not worthy of assistance.³⁹ Victim blaming can be destructive to a victim's recovery, and has been linked to mental health problems such as depression, post-traumatic stress disorder, and suicide.⁴⁰ In addition to high rates of reluctance in reporting to law enforcement among victims of intimate partner violence, college students are also less likely than the general population to seek necessary medical treatment and psychological counseling when victimized.⁴¹

B. Unique Complexities of Intimate Partner Violence

Understanding the intricacies of intimate partner violence is essential to addressing it effectively. This Section explores the cyclical nature of intimate partner violence, the reasons underlying why many victims may choose to stay in violent relationships, and the risks posed by leaving a violent intimate partner.

35. See Stroshine & Robinson, *supra* note 34.

36. Cornelius, *supra* note 27, at 199.

37. Richard B. Felson, *The Legal Consequences of Intimate Partner Violence for Men and Women*, 30 CHILD. & YOUTH SERVS. REV. 639, 642 (2008).

38. Kateryna M. Sylaska & Katie M. Edwards, *Disclosure of Intimate Partner Violence to Informal Social Support Network Members: A Review of the Literature*, 15 TRAUMA, VIOLENCE, & ABUSE 3, 4 (2014).

39. Christine A. Weingarten, *Intimate Partner Violence and Victim Blaming*, COLL. OF SCI. & HEALTH THESES & DISSERTATIONS, Paper 185 (2016), http://via.library.depaul.edu/csh_etd/185 [<https://perma.cc/BRT8-SS74>].

40. Sylaska & Edwards, *supra* note 38, at 17-18.

41. KATRINA BAUM & PATSY KLAUS, BUREAU OF JUST. STAT., U.S. DEP'T OF JUST., VIOLENT VICTIMIZATION OF COLLEGE STUDENTS, 1995-2002 6 (2005).

1. *The Cycle of Violence*⁴²

In 1979, psychologist and founder of the Domestic Violence Institute Lenore Walker discovered that violent relationships tend to follow a similar, three-stage pattern: the tension-building phase, the explosion phase, and the calm, loving respite phase.⁴³ The patterns in the cycle can vary in both length and intensity, which often corresponds with different stages of life. Understanding these stages is critical in preventing abuse in relationships. Throughout the tension-building phase, the victim tries to keep the situation under control as tension in the relationship builds. Victims in this phase often feel as if they are “walking on eggshells.”⁴⁴ This stage is typically the longest of the three and sometimes includes emotional and minor physical abuse.⁴⁵

Next, the explosion phase occurs. The explosion phase, also referred to as the “acute battering incident,” is principally characterized by abuse of an “uncontrollable” nature.⁴⁶ This abuse is the result of the mounting tension from the first phase.⁴⁷ The event triggering the abuse in this stage is rarely an action by the victim. Typically, the abuse is prompted by either an external event or the abuser’s internal state.⁴⁸ The second phase is typically the shortest of the three, typically lasting for less than a day.⁴⁹

The final phase in the cycle of violence involves calm, kind, and loving behavior.⁵⁰ Often referred to as the “honeymoon” phase, the abuser will appear sorry and apologetic to the victim.⁵¹ Abusers in

42. For a more detailed examination of the Cycle Theory of Violence, see WALKER, *supra* note 28.

43. *Id.* It is important to note that although the cycle of violence is a pervasive phenomenon among victims of violent relationships, the experience is not shared unanimously by victims. For a detailed overview of the critiques of the cycle theory of violence, see Mary Ann Dutton, *Critique of the “Battered Woman Syndrome” Model*, AM. ACAD. OF EXPERTS IN TRAUMATIC STRESS, <http://www.aaets.org/article138.htm> [<https://perma.cc/GSU2-SJX2>].

44. *The Cycle of Violence*, DOMESTICVIOLENCE.ORG, <http://www.domesticviolence.org/cycle-of-violence/> [<https://perma.cc/35UH-XE2T>].

45. See WALKER, *supra* note 28, at 56-59; see also *The Cycle of Violence*, DOMESTIC VIOLENCE SOLUTIONS, <http://www.dvsolutions.org/info/cycle.aspx> [<https://perma.cc/U7RH-XJB3>] [hereinafter DV SOLUTIONS].

46. WALKER, *supra* note 28.

47. *Id.*

48. *Id.*

49. *Id.* Though not typically the case, in extreme instances, phase two may last for weeks at a time.

50. *Id.* at 65.

51. DV SOLUTIONS, *supra* note 45.

the third stage act in a charming manner and often promise to never act abusively again. During this phase, the abuser sincerely believes that he is now able to control himself and will no longer hurt his partner.⁵² Further, the abuser believes that he will no longer be tempted to abuse his partner, as she has now learned never to act in the manner she did previously.⁵³ This cycle of tension, abuse, and apology repeats itself throughout the course of an abusive relationship and typically escalates in severity over time.⁵⁴

2. “Why Don’t You Leave?”

Although most victims make numerous attempts to leave an abusive intimate partner, there are several compelling reasons underlying why many choose to remain.⁵⁵ Victims often experience an array of conflicting emotions in determining whether to stay or leave. Victims often love or care deeply for intimate partners—although they are abusive—and remain in the relationship hoping that the abuse will stop.⁵⁶ Such hopes are further perpetuated by the abuser’s apologies and promises that the abuse will never happen again throughout phase three of the cycle of violence. Victims also often find themselves in a “catch-22,” as they want to shield their intimate partners from facing harsh criminal penalties, but often need the assistance of law enforcement to escape their violent relationships.⁵⁷ Further, abusers commonly threaten to commit

52. As a matter of consistency, this Note assigns abusers the pronoun “he” and victims the pronoun “she.” This is not to say that women cannot be abusers and men cannot be victims.

53. WALKER, *supra* note 28.

54. DV SOLUTIONS, *supra* note 45. The cycle of violence is also often intergenerational. Intimate partner violence may manifest itself in the relationships of people who experienced or witnessed it throughout their upbringing.

55. See NAT’L INST. OF JUST., U.S. DEP’T OF JUST., INTIMATE PARTNER HOMICIDE 6 (2003); Grimmert, *supra* note 20, at 10.

56. LOVE IS RESPECT, <http://www.loveisrespect.org/is-this-abuse/why-do-people-stay> [<https://perma.cc/M4EN-AV7>].

57. See *Understanding Domestic Abusers*, N.Y. ST. OFF. FOR THE PREVENTION OF DOMESTIC VIOLENCE, <http://www.opdv.ny.gov/professionals/abusers/genderandipv.html#note90> [<https://perma.cc/ZK8Y-BLHU>] (discussing victims’ desires to protect their abusers from criminal penalties); see also Lawrence W. Sherman & Heather M. Harris, *Increased death rates of domestic violence victims from arresting vs. warning suspects in the Milwaukee Domestic Violence Experiment*, 11 J. OF EXPERIMENTAL CRIMINOLOGY 1, 1 (2016) (noting that victims in abusive relationships are sixty-four percent more likely to be killed if their abusers are jailed rather than given a warning). Further, women of color may be particularly hesitant to report their partners in incidents of intimate partner violence, as people of color have been historically mistreated by the criminal justice system. Though a comprehensive review of the impact of criminal penalties and mandatory arrest

suicide if their partners leave them, placing the victim in an extremely difficult position.⁵⁸

Additionally, because abusive relationships are often intergenerational, victims who grew up witnessing intimate partner violence may be unaware of what constitutes a healthy relationship.⁵⁹ Victims may not know they are in an abusive relationship, as their upbringing conditioned them to believe that such behavior is normal.⁶⁰ As discussed in Section I.A.2, victims may blame themselves for the violence, worry that they have contributed to the abuse and do not deserve assistance, and fear that their family and friends will judge them if they find out.⁶¹

Victims may also be financially dependent on their abusers, and fear that they lack the resources to survive on their own.⁶² Most notably, victims of intimate partner violence often fear they will be in greater harm if they attempt to leave the relationship.⁶³ These concerns are not unfounded—leaving an abusive relationship is the most dangerous time for victims of intimate partner violence, and seventy-five percent of victims killed by intimate partners are murdered when trying to exit the relationship.⁶⁴ Further, the issuance of civil restraining orders, which are sometimes referred to as “protection from abuse” orders, often trigger violent and even deadly attacks when discovered by the abuser.⁶⁵ Although successfully leaving an intimate partner can end the violence, failed attempts often lead to continued abuse of increased severity.⁶⁶

C. Legal Regimes

The legal authority governing the ways in which colleges and universities must address sexual violence and intimate partner violence has been described as “copious and confusing.”⁶⁷ There

policies is beyond the scope of this Note, for an in-depth discussion on this matter, see Leigh Goodmark, *Reframing Domestic Violence Law & Policy: An Anti-Essentialist Proposal*, 31 WASH. U. L. POL’Y 39, 48 (2009).

58. Grimmatt, *supra* note 20, at 10.

59. *See* DV SOLUTIONS, *supra* note 45.

60. *See id.*

61. *See* Weingarten, *supra* note 39 and accompanying text; Sylaska & Edwards, *supra* note 38 and accompanying text; *see also* LOVE IS RESPECT, *supra* note 56.

62. *See* LOVE IS RESPECT, *supra* note 56.

63. *See id.*

64. *See* NAT’L INST. OF JUST., *supra* note 55.

65. Grimmatt, *supra* note 20, at 10.

66. *See id.*

67. Jill C. Engle, *Mandatory Reporting of Campus Sexual Assault & Domestic Violence: Moving to A Victim-Centric Protocol That Comports with Federal Law*,

have been several legislative initiatives aimed at combating the issues of sexual violence and intimate partner violence on college and university campuses—namely Title IX of the Education Amendments of 1972 (“Title IX”)⁶⁸ and the Violence Against Women Reauthorization Act of 2013 (“VAWA Reauthorization”).⁶⁹ Embodied in Section 304 of the VAWA Reauthorization is the Campus Sexual Violence Elimination Act (“Campus SaVE Act”), which amended the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”).⁷⁰

This Section provides an overview of the statutory and regulatory scheme concerning the ways in which colleges and universities address both sexual and intimate partner violence. Section I.C.1 discusses the ways in which Title IX and its relevant regulations afford students protection in matters of sexual violence and intimate partner violence. Section I.C.2 addresses the application of the VAWA Reauthorization and its relevant regulations in matters of sexual violence and intimate partner violence on college and university campuses.

1. *Title IX Application*

Title IX applies to all schools receiving federal funding⁷¹ and prohibits discrimination on the basis of sex in educational programs and activities.⁷² Title IX and its related regulations⁷³ provide civil remedies for victims of gender discrimination on college and university campuses. Because of Title IX’s brevity and breadth, colleges and universities often look to administrative guidance⁷⁴

24 TEMP. POL. & CIV. RTS. L. REV. 401, 402 (2015) (describing the various legal reporting requirements that schools must comply with as “discordant and ripe for misinterpretation”); *see also* Schroeder, *supra* note 17, at 1196 (describing the lack of direction provided by Title IX.).

68. 20 U.S.C. § 1681 *et. seq.*

69. Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, § 304, 127 Stat. 54, 89-92 (2013).

70. *Id.* (codified as amended at 20 U.S.C. § 1092(f)).

71. Title IX applies to both public and private institutions that receive federal financial assistance. 20 U.S.C. § 1681(c); 34 C.F.R. § 106.11.

72. 20 U.S.C. § 1681(a) (“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”).

73. 34 C.F.R. § 106.

74. Administrative guidance may take the form of various types of documents. The OCR defines “guidance document” as “an agency statement of general applicability and future effect . . . that sets forth a policy on a statutory, regulatory or technical issue or an interpretation of a statutory or regulatory issue.” In addition,

released by the Department of Education's Office of Civil Rights ("OCR") for direction in determining the specific requirements of Title IX.⁷⁵

A 2001 guidance document issued by the OCR considered sexual harassment and assault to constitute forms of sex discrimination when the harassing conduct creates a hostile environment for the student.⁷⁶ As such, sexual harassment and assault are prohibited under Title IX. The issuance of a 2011 "Dear Colleague Letter"⁷⁷ ("2011 Letter") and subsequent additional guidance⁷⁸ in 2014 outlined and clarified the responsibilities of schools in addressing sexual violence specifically.⁷⁹ The 2011 Letter prompted sweeping reform of the ways in which institutional policies address sexual violence. Some experts believe that Title IX is the single most important statute governing the ways in which colleges and universities deal with sexual violence, as schools must comply with its requirements in order to receive federal funding.⁸⁰

agencies may issue "significant guidance documents," which are statements of policy anticipated to annually effect the economy by \$100 million or more, adversely affect the economy in any material way, interfere with the action of another agency, "[m]aterially alter the budgetary impact of entitlements, grants, user fees, or loan programs," or raise novel issues of law or policy. See U.S. DEP'T OF EDUC., *Types of Guidance Documents*, (2016), <https://ed.gov/policy/gen/guid/types-of-guidance-documents.html> [<https://perma.cc/S6RL-4FDW>] (providing a more in-depth discussion of the various types of guidance documents).

75. See Schroeder, *supra* note 17, at 1202 ("Because Title IX is such a short statute with little direction, schools look to specific guidance materials provided by the Department of Education to determine the specific requirements of Title IX.").

76. OFF. OF CIV. R., U.S. DEP'T OF EDUC., REVISED SEXUAL HARASSMENT GUIDANCE: HARASSMENT OF STUDENTS BY SCHOOL EMPLOYEES, OTHER STUDENTS, OR THIRD PARTIES 3 (2001), <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf> [<https://perma.cc/QGE8-M5EC>] [hereinafter 2001 OCR GUIDANCE] ("[S]exual harassment of students can be a form of sex discrimination covered by Title IX.").

77. OFF. OF CIV. R., U.S. DEP'T OF EDUC., *Dear Colleague Letter* (2011), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf> [<https://perma.cc/8MMX-WWYL>] [hereinafter *2011 Letter*].

78. OFF. OF CIV. R., U.S. DEP'T OF EDUC., *Questions & Answers on Title IX and Sexual Violence* (2014), <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> [<https://perma.cc/S7K5-9XV7>] [hereinafter *OCR Q&A*].

79. It is important to note that although such documents are highly persuasive, they do not have the force of law, and are instead aimed at "provid[ing] recipients with information to assist them in meeting their obligations." *2011 Letter*, *supra* note 77, at 1 n.1 ("This letter does not add requirements to applicable law, but provides information and examples to inform recipients about how OCR evaluates whether covered entities are complying with their legal obligations.").

80. See Schroeder, *supra* note 17, n.34; see also Nancy Chi Cantalupo, *Burying Our Heads in The Sand: Lack of Knowledge, Knowledge Avoidance, and the Persistent Problem of Campus Peer Sexual Violence*, 43 LOY. U. CHI. L.J. 205, 224-25

Although the 2001 guidance and 2011 Letter issued by the OCR consider the term “sexual harassment” to include sexually violent and assaultive behavior so long as it is of sufficient seriousness,⁸¹ the guidance fails to mention “intimate partner violence,” “dating violence,” “relationship violence,” or “domestic violence,” and does not provide recommendations regarding how schools should handle such occurrences specifically.⁸² Nonetheless, colleges and universities may find that acts of intimate partner violence create a hostile environment for the victim, and thus constitute discrimination on the basis of gender. If a student is subjected to a hostile environment because of intimate partner violence, the student is protected under Title IX.⁸³ In this event, colleges and universities rely heavily on the protocol recommended for responding to incidents of sexual violence when addressing intimate partner violence.⁸⁴

2. VAWA Reauthorization Application

In addition to Title IX, colleges and universities must comply with Section 304 of the VAWA Reauthorization when addressing both sexual violence and intimate partner violence.⁸⁵ Unlike Title IX, Section 304 explicitly addresses the issue of intimate partner violence in addition to sexual violence.⁸⁶ The VAWA Reauthorization

(2011) (“[O]f the federal statutes that apply to campus peer sexual violence . . . [the] honor . . . belongs to Title IX, which prohibits sexual harassment in schools as a form of sex discrimination.”).

81. See OFF. OF CIV. R., U.S. DEP’T OF EDUC., SEXUAL HARASSMENT GUIDANCE 3 (1997) [hereinafter 1997 OCR GUIDANCE], (defining “sexual harassment” to include quid pro quo and hostile work environment); see also 2011 Letter, *supra* note 77, 1-3 (“The sexual harassment of students, including sexual violence, interferes with students’ right to receive an education free of discrimination.”).

82. See Jeffrey J. Nolan, *Addressing Intimate Partner Violence & Stalking: Going Beyond Legal Compliance to Enhance Campus Safety*, ASPATORE 2 (2015) (“Title IX prohibits discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance, but does not deal directly with IPV or stalking issues.”).

83. See 1997 OCR GUIDANCE, *supra* note 81; 2001 OCR GUIDANCE, *supra* note 76.

84. See Grimmett, *supra* note 20 (detailing the challenges Title IX Administrators face in complying with guidance from OCR in the context of intimate partner violence).

85. See OCR Q&A, *supra* note 78, at 44 (“Institutions of higher education that participate in the federal student financial aid programs are subject to the requirements of the Clery Act as well as Title IX.”).

86. The VAWA Reauthorization uses the term “Dating Violence;” however, as noted in *supra* note 7, this Note uses the term “intimate partner violence” for consistency. “Dating Violence” is defined in the VAWA as

violence committed by a person [] who is or has been in a social relationship of a romantic or intimate nature with the victim; and [] where the existence

provides procedural requirements that schools must comply with, in addition to reporting requirements pursuant to the Clery Act. The Clery Act is a consumer protection law requiring all schools receiving federal funding to inform the public of crime on campuses.⁸⁷ Unlike Title IX, the Clery Act and the VAWA Reauthorization address these matters as crimes rather than as civil violations. Although schools have been required to report sexual violence since the Clery Act's inception in 1990, recent amendments under the VAWA Reauthorization expanded a school's public reporting requirements to include incidents of intimate partner violence.⁸⁸ Further, the VAWA Reauthorization codified many of the recommendations for addressing sexual violence set forth in the 2011 Letter, giving them the force of law. Though such procedural mandates are derived directly from guidelines designed specifically to address sexual violence, the VAWA Reauthorization prescribes identical mandates for schools in addressing intimate partner violence. In addition to the VAWA Reauthorization's statutory provisions, schools must also comply with the Department of Education's accompanying regulations regarding sexual violence and intimate partner violence.⁸⁹

of such a relationship shall be determined based on a consideration of the following factors: [] [t]he length of the relationship[,] [t]he type of relationship[, and] [t]he frequency of interaction between the persons involved in the relationship.

42 U.S.C. § 13925(a)(10).

Many commentators expressed concern that this definition does not include emotional or psychological harm, while the definition of "dating violence," or similar terms used by numerous federal agencies, includes emotional harm. The commentators' main concern was that emotional or psychological abuse can severely impact a victim and often leads to sexual abuse. While acknowledging the importance of including emotional and psychological harm in definitions used for "research, prevention, and victim services," it is not included in the VAWA definition as the Department of Education feared such harm is difficult to operationalize, sometimes does not rise to the level of "violence" protected under VAWA, and would present issues regarding campus security reporting as emotional or psychological harm is often not visible. Violence Against Women Act, 79 Fed. Reg. 35,418, 35,425 (proposed June 20, 2014) (codified at 34 C.F.R. § 668). *Compare* 42 U.S.C. § 13925(a)(10) (excluding psychological and emotional harm from the definition of "dating violence"), *with* CDC, *supra* note 7, and accompanying text (including "psychological aggression" in the definition of intimate partner violence).

87. *Summary of The Jeanne Clery Act*, CLERY CTR. <http://clerycenter.org/summary-jeanne-clery-act> [<https://perma.cc/9HCP-EAUB>] (describing the Clery Act's public disclosure requirements in regards to sexual violence and intimate partner violence).

88. Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, § 304, 127 Stat. 54, 89-92 (2013) (codified as amended at 20 U.S.C. § 1092(f)).

89. 34 C.F.R. § 668.

D. Specific Legal Requirements

The policies crafted by colleges and universities in addressing both sexual and intimate partner violence are profoundly influenced by the requirements of Title IX and the VAWA Reauthorization. This Section discusses the measures colleges and universities must take in order to meet the applicable legal requirements under both.

1. Title IX Compliance

Because Title IX broadly prohibits discrimination on the basis of sex, schools are left to rely heavily on guidance documents issued by the OCR when addressing both sexual and intimate partner violence.⁹⁰ The most notable guidance is the 2011 Letter, which provides procedural guidelines for responding to incidents of sexual assault and proactive measures colleges and universities should take to prevent such occurrences.⁹¹ As discussed previously, although the guidance documents address sexual harassment and sexual violence exclusively, it is common practice for colleges and universities to apply the same procedures in incidents of intimate partner violence if the intimate partner violence created a hostile environment.

a. Notice of Nondiscrimination

Under the guidance issued pursuant to Title IX, a school must publish notice that it does not discriminate on the basis of sex.⁹² The OCR recommends that notice of nondiscrimination be widely distributed among the students and faculty and be made available on a regular basis.⁹³ Under Title IX, schools need not adopt a specific policy prohibiting sexual violence, however it is recommended that schools provide that sexual harassment, which includes sexual violence, is a form of sex discrimination.⁹⁴ Moreover, a school must have at least one employee tasked with ensuring its compliance and fulfilling its responsibilities under Title IX (“Title IX Coordinator”).⁹⁵ Notice of nondiscrimination must include the Title IX Coordinator’s

90. See 20 U.S.C. § 1681(a).

91. See *2011 Letter*, *supra* note 77, at 2 (“This letter concludes by discussing the proactive efforts schools can take to prevent sexual harassment and violence.”).

92. See *id.* at 6; see also 34 C.F.R. § 106.8.

93. See *2011 Letter*, *supra* note 77, at 6.

94. *Id.* at 7; see also 2001 OCR GUIDANCE, *supra* note 76, at 14 (noting that although schools are not required to adopt a specific policy to deal with matters of sexual harassment, a college’s general policy is ineffective, and thus fails to meet its obligations under Title IX, if students are unaware of what conduct constitutes sexual harassment due to the lack of a specific policy).

95. *2011 Letter*, *supra* note 77, at 4; 34 C.F.R. § 106.8(b).

contact information and direct all related inquiries to either the school's Title IX Coordinator or the OCR.⁹⁶ Title IX Coordinators must receive "adequate" training pertaining to sexual harassment and sexual violence, and be well-versed in the school's grievance procedures.⁹⁷ Campus law enforcement should be similarly well-versed, and should notify complainants of their right to file a criminal complaint and a Title IX complaint concurrently.⁹⁸ With the consent of the complainant, campus law enforcement should notify the Title IX coordinator of issues of sexual violence directly.⁹⁹

b. Prompt and Equitable Grievance Procedures

Under Title IX, schools must take "immediate and appropriate action" if they know or reasonably should know that an incident of sexual violence has occurred, regardless of whether a complaint has been filed.¹⁰⁰ Prior to beginning an investigation, schools should obtain the consent of the complainant. A school should do all in its power to comply with a complainant's request for confidentiality, however, if a complainant does not want his or her identifiable information disclosed to the alleged perpetrator, the school must inform the complainant that it may be unable to respond the fullest extent possible.¹⁰¹ Colleges and universities need not create separate grievance procedures for issues of sexual harassment or sexual violence so long as the general grievance procedures provide a "prompt and equitable resolution."¹⁰² Grievance procedures must be widely published and easily accessible for all students, providing an "adequate, impartial, and reliable investigation" for all complainants.¹⁰³ A criminal investigation by law enforcement does

96. 2011 Letter, *supra* note 77, at 4.

97. *Id.* at 4. The 2011 Letter and related regulations do not specify what level of training is sufficiently "adequate" for a Title IX Coordinator to fulfill a school's obligation under Title IX.

98. *Id.* at 4. This is especially important regarding complaints of sexual and intimate partner violence, as they are often filed with campus law enforcement.

99. *Id.*

100. *Id.*

101. *Id.* at 5. The guidance discusses the tension between a college's responsibility to honor a complainant's request for confidentiality and the duty to provide a safe and nondiscriminatory environment for all students under Title IX. "Thus, the school may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual."

102. *Id.* at 8.

103. *Id.* at 9-10. The OCR recommends that such procedures are posted around the campus and on school websites, emailed to both faculty and students, and

not relieve a college of its duty to conduct its own internal investigation once a complaint is filed.¹⁰⁴ Moreover, schools should take immediate steps to protect the complainant rather than waiting for a criminal investigation to conclude.¹⁰⁵ Although schools are afforded access to police reports for assistance in fact gathering, such results are not determinative, as the school's investigation may reach a different outcome.¹⁰⁶

Under Title IX, schools are afforded broad discretion in determining how they resolve complaints of sexual harassment. Although the OCR does not specify whether schools must adopt an adjudicatory or investigative model for disciplinary proceedings, voluntary informal mechanisms, such as mediation, are prohibited in allegations of sexual assault.¹⁰⁷ The OCR strongly discourages parties from conducting cross-examinations, and prescribes a preponderance of the evidence standard in cases of sexual harassment.¹⁰⁸ Additionally, schools must afford both parties equal hearing opportunities regarding the presentation of evidence and witnesses, and access to information that may be used at the hearings.¹⁰⁹ It is within the school's discretion to determine whether attorneys may be

summarized in "major publications" such as student and employee handbooks and codes of conduct.

104. *Id.* at 10.

105. *Id.* A school may need to temporarily delay an investigation while the police are gathering evidence. In this event, the school should resume the fact-finding portion of its Title IX investigation upon the conclusion of the police's gathering of evidence, rather than the conclusion of the entire investigation or filing of charges by law enforcement.

106. *Id.* (noting that criminal and Title IX investigations may reach different outcomes because the standards are different).

107. *Id.* at 8. The OCR finds voluntary informal mechanisms, such as mediation, to be appropriate in resolving certain allegations of sexual harassment so long as they do not involve sexual violence. While voluntary informal mechanisms are allowed, a complainant alleging sexual harassment is not *required* to resolve the matter directly with the alleged perpetrator. Additionally, the guidance recommends that a neutral third party, such as a teacher, administrator, or trained counselor mediate informal proceedings.

108. *Id.* at 11-12. The guidance explains that allowing an alleged perpetrator to directly confront a victim could traumatize and intimidate the victim, perpetuating a hostile environment. Additionally, the 2011 Letter discussed that some schools at the time used a higher standard of proof (a "clear and convincing" standard). Grievance procedures employing any standard of proof higher than the "preponderance of the evidence" standard were inconsistent with the standard applicable to violations of civil rights laws, and therefore not equitable under Title IX. Again, it is important to note that although this Note's discussion is limited to the victim's perspective due to space constraints, it will be important for future work to address the interests of the accused.

109. *Id.* at 11.

present at disciplinary hearings. However, if school policy permits attorneys to be present at any stage of the proceedings, the opportunity must be equally available for both parties.¹¹⁰ Each party must be notified in writing of the outcome of the initial complaint and any subsequent appeal, but the guidance does not mandate that schools provide an appeals process.¹¹¹ Additionally, the guidance recommends, but does not require, that parties be notified of the outcome of the proceedings simultaneously.¹¹² Lastly, those involved in disciplinary proceedings must have training or experience regarding sexual harassment and sexual violence.¹¹³

c. Remedies and Enforcement

Under Title IX, schools must promptly take actions to protect the complainant while an investigation is pending.¹¹⁴ The school must notify the complainant of the option to avoid contact with the alleged perpetrator, offering changes in academic and living arrangements.¹¹⁵ Additionally, schools must inform the complainant of access to resources such as counseling, health, and psychological services.¹¹⁶ Schools must also protect complainants from retaliatory harassment, though the way in which this is achieved is left to the school's discretion.¹¹⁷

d. Education and Prevention Under Title IX

In addition to complying with the requirements of Title IX, the OCR also recommends that schools establish educational programs aimed at awareness and prevention of sexual harassment and

110. *Id.* at 12.

111. *Id.* at 12-13.

112. *Id.*

113. *Id.* at 12. The guidance does not prescribe training procedures or specify what level of experience is sufficient.

114. *Id.* at 15.

115. *Id.* at 15-16. The 2011 Letter notes that schools should minimize the burden on the complainant when attempting to separate her from the alleged perpetrator. Other remedies schools may provide in the interim include academic support such as tutoring, providing an escort to ensure the complainant's safety, and arranging for the complainant to withdraw from a course without being penalized.

116. *Id.* at 16.

117. *Id.* At the very least, schools must ensure that the complainant is informed of how to report acts of retaliation. The guidance recommends that the school contact the complainant after the determination is rendered to see if the problem has been resolved and if retaliation of any kind has occurred.

violence.¹¹⁸ Programs should include information about the definition of sexual harassment and sexual violence, the school's policy for addressing these issues, the services available to victims, and the consequences of violating these policies.¹¹⁹ OCR also recommends that schools create materials specific to their policies and rules addressing sexual violence. These materials should include information regarding to whom individuals should report if they are a victim or learn of an incident of sexual violence.¹²⁰

2. *VAWA Reauthorization Compliance*

As discussed previously, the VAWA Reauthorization imposes new obligations on colleges and universities in regards to addressing both sexual violence and intimate partner violence. Although the VAWA Reauthorization was signed into law on March 7, 2013, the Department of Education's implementing regulations did not take effect until more than two years later, on July 1, 2015.¹²¹ The Campus SaVE provision of the VAWA Reauthorization both bolstered and clarified the existing legal requirements that schools must comply with under federal law, and expanded schools' reporting requirements under the Clery Act.¹²²

a. *The Clery Act*

Under the Clery Act, colleges and universities are required to publicly disclose certain crimes that occur within the school's Clery geography.¹²³ "Clery geography" includes "[b]uildings and property that are part of the institution's campus, "[t]he institution's noncampus buildings and property," and "public property within or immediately adjacent to and accessible from the campus."¹²⁴ Such disclosures are made in the form of a daily crime log,¹²⁵ an annual

118. *Id.* at 14. It is suggested that these programs be presented to new students and faculty at orientation, resident hall assistants throughout training, and athletic teams and coaches during athletic programs.

119. *Id.*

120. *Id.* at 15.

121. 34 C.F.R. § 668.46. In the interim, the Department of Education expected schools to make a good faith effort to comply with the requirements. *See* AM. COUNCIL ON EDUC., *NEW REQUIREMENTS IMPOSED BY THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT 2* (2014), <http://www.acenet.edu/news-room/Documents/VAWA-Summary.pdf> [<https://perma.cc/RE8X-7NG5>].

122. Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, § 304, 127 Stat. 54, 89-92 (2013).

123. 34 C.F.R. § 668.46(a)(i).

124. *Id.*

125. 20 U.S.C. § 1092(f)(4).

security report (“ASR”)¹²⁶ published on October 1, and timely warnings when there is a safety threat to the community.¹²⁷ The Campus Sexual Assault Victims’ Bill of Rights, which was passed in 1992, amended the Clery Act to mandate that colleges and universities provide educational programs aimed at prevention and awareness in addition to fulfilling reporting requirements.¹²⁸ Further, the 1992 amendments require colleges and universities to provide a policy statement promoting the awareness of sexual violence in their ASR.¹²⁹ The Clery Act was again amended in 2013 by the Campus SaVE provision of Section 304 of the VAWA Reauthorization.¹³⁰ Section 304 increased the duties of colleges and universities in preventing and addressing sexual violence, and expanded both reporting and procedural requirements to also include dating violence, domestic violence, and stalking.¹³¹

b. Student Discipline Under the VAWA Reauthorization

Many of the recommendations set forth in the 2011 Letter are codified in Section 304 of the VAWA Reauthorization. Under the VAWA Reauthorization, schools must publish in ASRs the possible sanctions an alleged perpetrator might face following a determination of sexual violence, dating violence, domestic violence, or stalking.¹³² Additionally, schools must include the procedures a victim should follow in such instances. Similar to the guidance under Title IX, these procedures must explain the importance of preserving evidence, notify victims of whom they should report to, and inform victims of their right to notify and be assisted by law enforcement or campus police regarding the alleged crime.¹³³ Additionally, a school must publish its institutional responsibilities pertaining to orders of protection, no-contact orders, and restraining orders.¹³⁴

126. *Id.* § 1092(f)(1).

127. *Id.* § 1092(f)(3).

128. *Id.* § 1092(f)(8).

129. *Id.* §§ 1092(f)(8)(A)(i)-(ii).

130. *Id.* §§ 1092(f)(8)(A)(i)-(ii).

131. *Id.* § 1092(f)(1)(F)(iii).

132. *Id.* § 1092(f)(8)(B)(ii).

133. *Id.* §§ 1092(f)(8)(B)(iii)(I)-(III).

134. *Id.* § 1092(f)(8)(B)(iii)(IV). A “no-contact order” is a “campus based directive to members of the campus community to have no contact with one or more persons.” A no-contact order can be considered the institutional equivalent of a protection from abuse order, but does not carry the force of law. Some believe that the OCR favors no-contact orders in addressing sexual violence. *See* Grimmatt, *supra* note 20, at 7.

Also mirroring the Title IX recommendation for “fair and equitable” grievance procedures, the VAWA Reauthorization calls for proceedings that provide a “fair, prompt, and impartial” investigation and resolution.¹³⁵ The accuser and the accused must also be afforded an equal opportunity to have others present at all disciplinary proceedings, but the VAWA Reauthorization goes a step further in mandating that both be allowed an advisor of their choice.¹³⁶ Although Title IX does not specify the level of training or experience sufficient for someone carrying out disciplinary proceedings, the VAWA Reauthorization mandates that such officials receive training annually and expands the requirement further to include not just training in sexual violence but also in dating violence, domestic violence, and stalking.¹³⁷ As recommended throughout the Title IX guidance, victims must be notified of available physical and mental health services and the possibility for changes in living and learning accommodations.¹³⁸ Additionally, although the VAWA Reauthorization mandates that schools publish the standard of review used in disciplinary proceedings, unlike Title IX, it does not prescribe a standard, instead leaving it to the school’s discretion.¹³⁹ Like Title IX, the VAWA Reauthorization mandates that both parties be notified in writing of the outcome of the initial complaint and any subsequent appeal, but goes a step further in requiring that the notification be issued to both parties simultaneously.¹⁴⁰ One seemingly obvious but especially important requirement under the VAWA Reauthorization that is not mandated under Title IX is that schools publish a statement in ASRs noting that the institution prohibits dating violence, domestic violence, sexual violence, and stalking.¹⁴¹

135. 20 U.S.C. § 1092(f)(8)(B)(iv)(I)(aa).

136. *Id.* § 1092(f)(8)(B)(iv)(II). An advisor of their choice is defined as “any individual who provides the accuser or accused support, guidance or advice.” Although institutions may not prohibit the accuser or the accused from obtaining an advisor or limit their selection, they may restrict the role of advisors so long as they do so equally among the parties. U.S. DEP’T OF EDUC., THE HANDBOOK FOR CAMPUS SAFETY AND SECURITY REPORTING 8-21 (2016), <https://www2.ed.gov/admins/lead/safety/handbook.pdf> [<https://perma.cc/T98L-TXPU>].

137. 20 U.S.C. § 1092 (f)(8)(iii)(IV).

138. *Id.* § 1092 (f)(8)(iv)(III)(vi). Although the manner in which schools must inform complainants under Title IX of such resources is left to the school’s discretion, it is mandatory under the VAWA Reauthorization that it be in writing.

139. *Id.* § 1092(f)(8)(A)(ii).

140. *Id.* §§ 1092(f)(8)(B)(iv)(III)(aa)-(dd). Neither the VAWA Reauthorization nor Title IX require that schools offer an appeals process.

141. *Id.* § 1092(f)(8)(b)(i)(I)(aa).

c. Education and Prevention Under the VAWA Reauthorization

The VAWA Reauthorization also heightens a school's responsibilities regarding prevention and awareness programs. Similar to the programs recommended in the Title IX guidance, the VAWA Reauthorization requires colleges and universities to publish policies in ASRs detailing educational programs promoting the awareness of not only sexual violence, but also dating violence, domestic violence, and stalking. These programs must be multi-phased, consisting of both primary prevention programs, offered to all incoming students and faculty, and periodic ongoing awareness programs. Such programs must discuss, at a minimum, the definition of the crimes in the relevant jurisdiction, bystander intervention, and risk reduction measures.¹⁴²

II. SHORTCOMINGS OF THE WAYS SCHOOLS ADDRESS INTIMATE PARTNER VIOLENCE

Despite well-intentioned recent federal reforms to college disciplinary proceedings, the procedures followed by schools fail to adequately address intimate partner violence. The procedures clarified through the OCR's 2011 Letter are tailored towards responding to incidents of sexual violence and do not provide a sound approach for addressing issues of intimate partner violence for four reasons. The uniqueness of the collegiate setting coupled with the intricate dynamics of intimate partner violence pose additional hurdles that the 2011 Letter guidelines, embodied in the VAWA Reauthorization, do not take into account. This Part discusses how schools following these procedures fail to appropriately respond to the issue of intimate partner violence, despite its pervasiveness.

A. Notice-Based Standard

Title IX's notice-based standard, which requires that a school take "immediate and appropriate action" if it is or reasonably should have been aware of sex or gender discrimination, can result in the school proceeding with an investigation into an abusive partner and subsequent disciplinary process against the victim's wishes.¹⁴³ As discussed previously, there is a plethora of research supporting that

142. *Id.* § 1092(f)(B)(i)(I).

143. 2011 Letter, *supra* note 77, at 4; *see also* Grimm, *supra* note 20, at 7 (noting that schools may have an obligation to proceed with an investigation, against a victim's wishes, in the event of "a threat of future harm").

intimate partner violence is cyclical in nature.¹⁴⁴ Abuse by intimate partners is typically repetitive and increases in severity over time.¹⁴⁵ An abuser is likely to grow enraged upon finding out that police or campus authorities have become aware and are involved. If a school proceeds with notifying an abuser that they are investigating an intimate partner violence issue without first assessing the risks posed, the institution places the victim in grave danger.¹⁴⁶ Unlike victims of sexual violence, intimate partner violence victims expose themselves to greater harm by coming forward to campus authorities, but schools often respond by following protocols designed to address issues of sexual violence specifically.¹⁴⁷ Schools are forced to juggle fulfilling their duties under federal law with the possibility of subjecting a victim to greater harm, which runs counter to the purpose of both Title IX and the VAWA Reauthorization.¹⁴⁸

As discussed previously, victims of intimate partner violence often experience a host of psychological obstacles, such as depression, anxiety, guilt, and shame.¹⁴⁹ Living in constant fear of retaliation by an abusive partner will only exacerbate these negative feelings, making it more challenging for victims to begin to heal. Further, this fear may lead victims to isolate themselves from peers and become distracted in their coursework.¹⁵⁰ This outcome runs completely contrary to Title IX's goal of ensuring educational equality. By rigidly adhering to the duties of Title IX, schools are actually compromising the victim's best interest.

B. No-Contact Orders

A school's actions following a victim's departure from an abusive relationship are crucial to ensuring her safety, as exiting a violent relationship is the most dangerous time for a victim.¹⁵¹ As noted previously, no-contact orders are considered the institutional

144. See Grimmatt, *supra* note 20 (“IPV is often both cyclical in nature and prone to spiraling.”); see also Babcock et al., *supra* note 28, at 1024 (describing intimate partner violence as a “destructive cycle”); James C. Roberts et al., *Why Victims of Intimate Partner Violence Withdraw Protection Orders*, J. OF FAM. VIOLENCE 369 (2008); WALKER, *supra* note 28.

145. See Grimmatt, *supra* note 20, at 7.

146. *Id.* at 9.

147. *Id.* at 7.

148. See Sylaska & Edwards, *supra* note 38 and accompanying text; see also Grimmatt, *supra* note 20, at 5.

149. See Grimmatt, *supra* note 20, at 9.

150. *Id.* at 9.

151. See NAT'L INST. OF JUST, *supra* note 64 and accompanying text; see also Grimmatt, *supra* note 20, at 9.

equivalent of protection from abuse orders, which are known to incite violent attacks by abusers when they become aware of them.¹⁵² Although experts have found that the OCR favors no-contact orders in sexual violence situations, the agency's preferences regarding the application of no-contact orders in intimate partner violence remain unclear.¹⁵³

No-contact orders are likely to be less effective as a remedial tool in the intimate partner violence context for three primary reasons. First, experts suggest that no-contact orders are only truly effective if voluntarily agreed upon by both parties, which may be unlikely when considering the practical features of an intimate relationship, especially for cohabitating intimate partners.¹⁵⁴ Second, because no-contact orders do not carry the force of law, they may provide victims with a false sense of security during a time when they are actually in the most danger if their abuser does not comply.¹⁵⁵ Third, schools often struggle to effectively implement their own decisions in this context.¹⁵⁶ Disciplinary actions such as suspension and no-contact orders prove challenging to enforce from a practical standpoint, regardless of whether they are taken during a pending investigation or after a final determination is rendered.

C. Stalking

The predictability of a college routine, coupled with the close confines of a campus, present additional hurdles for victims in avoiding an abusive partner.¹⁵⁷ Victims may continue to fear they will encounter their abuser even after the school implements measures to prevent such an occurrence, in part because of the close proximity on college campuses. Additionally, class schedules, extra-curricular

152. See Grimmett, *supra* note 65 and accompanying text; see also Grimmett, *supra* note 134.

153. See Grimmett, *supra* note 20, at 9.

154. *Id.*

155. *Id.*

156. For example, Miriam Woods, a graduate of Indiana University at Bloomington, was shocked to find that her ex-boyfriend, who was suspended by the school until December 31, 2016 after being found responsible for physical abuse, had attended her graduation. See Katie J.M. Baker, *Domestic Violence on Campus is The Next Big College Controversy*, BUZZFEED NEWS (June 9, 2015), <https://www.buzzfeed.com/katiejmbaker/domestic-violence-is-the-next-big-college-civil-rights-battl> [<https://perma.cc/F5B5-6SFK>].

157. N.Y. ST. OFF. FOR THE PREVENTION OF DOMESTIC VIOLENCE, *Campus Guide for College Students: Understanding Intimate Partner Violence, Sexual Assault & Stalking*, <http://www.opdv.ny.gov/professionals/campus/ipv-campusguide.html> [<https://perma.cc/V75P-UQQJ>] (“College students face unique obstacles when it comes to IPV, sexual assault, and stalking.”).

activities, and on-campus housing make it easy for an abuser to track the routine of a victim.¹⁵⁸

Technology is also a common mechanism used by abusers to monitor and control a current or former intimate partner. Close physical proximity in incidents of cyber-stalking may exacerbate a victim's anxiety, as the threat of violence is both tangible and heightened.¹⁵⁹ The likelihood that intimate partners will share passwords to email and social media accounts also affords abusers the opportunity to control current or former intimate partners.¹⁶⁰ Intimate partners can monitor a victim's whereabouts through location tracking applications on cell phones, and in extreme cases, may even install spyware on a victim's computer.¹⁶¹ Other forms of harassment, such as repeated emailing, text messaging, and phone calls also constitute abuse through technology.¹⁶²

D. Lack of Specific Acknowledgment

The lack of awareness surrounding intimate partner violence on college and university campuses is multidimensional. Because intimate partner violence is not mentioned in Title IX or the related guidance relied upon by colleges and universities in crafting institutional policy, students who are victims may be unaware that they are even afforded protections under Title IX. Further, as discussed previously, the cycle of violence is intergenerational, often manifesting itself in the relationships of those who grew up witnessing violence between partners.¹⁶³ Because many victims are conditioned to believe that such behavior is the norm throughout their upbringing, they are often unaware of what constitutes a healthy relationship and do not recognize that they are in an abusive one.¹⁶⁴ This confusion only amplifies the need for Title IX to address intimate partner

158. *Guidance for Creating College & University Domestic Violence, Dating Violence, Stalking, & Sexual Violence Prevention & Intervention Programs & Policies for Students*, N.C. COAL. AGAINST DOMESTIC VIOLENCE 9 (2015), https://nccadv.org/images/pdfs/NCCADV_Model_College-University-IPV-Stalking-SV_Policy.pdf [<https://perma.cc/2DYW-6XK7>].

159. See Eileen M. Alexy et al., *Perceptions of Cyberstalking Among College Students*, 5 BRIEF TREATMENT & CRISIS INTERVENTION 279, 286 (2005).

160. See Sloane C. Burke et al., *Using Technology to Control Intimate Partners: An Exploratory Study of College Undergraduates*, 27 COMPUTERS IN HUM. BEHAV. 1162, 1162 (2011).

161. *Id.*

162. *Id.*

163. See DV SOLUTIONS, *supra* note 45; see also DV SOLUTIONS, *supra* note 59 and accompanying text.

164. DV SOLUTIONS, *supra* note 45 and accompanying text.

violence directly, as college-aged females are at the greatest risk of victimization.¹⁶⁵ Moreover, Title IX's failure to explicitly recognize intimate partner violence in its guidance does nothing to affirmatively validate the concerns of victims. This inattention only perpetuates the difficulty many victims face in recognizing that they are experiencing abuse.¹⁶⁶

Though the VAWA Reauthorization addresses intimate partner violence, it does not designate an employee to coordinate a school's efforts to carry out its responsibilities, as a Title IX coordinator does, which further contributes to the difficulties a victim may encounter in trying to leave an abusive relationship.¹⁶⁷ Moreover, the VAWA Reauthorization's mandates merely codified the recommendations established for addressing sexual violence in the 2011 Letter and applied them identically to intimate partner violence. Title IX and the VAWA Reauthorization ignore the very features that make intimate partner violence in the collegiate setting a knotty issue. Because of its many complex dynamics, intimate partner violence must be treated as an issue distinct from sexual violence.

III. RECOMMENDATIONS FOR REFORM

Additional guidance documents that specifically address intimate partner violence on college and university campuses should be created. The prevalence of both sexual violence and intimate partner violence is intolerably high. Although schools have been active in their efforts to combat sexual violence, they must now work fervently to eliminate intimate partner violence, as well. Though equal in prevalence, sexual violence has been at the forefront of national attention in recent years while intimate partner violence has been overlooked. Although the VAWA Reauthorization's requirements are a step in the right direction in addressing intimate partner violence, more must be done to ensure that this issue is dealt with in the most effective manner for both victims and campus communities at large.

The VAWA Reauthorization's inclusion of intimate partner violence throughout its reporting, disciplinary, and educational requirements helps to promote awareness of this issue and shed light on its seriousness. However, by simply codifying many of the

165. CATALANO, *supra* note 24; *see also* DIV. OF VIOLENCE PREVENTION, *supra* note 24.

166. KNOWLEDGE NETWORKS, INC., *supra* note 25 (noting that fifty-seven percent of college students report having difficulty identifying dating abuse).

167. 2011 Letter, *supra* note 77, at 6; 34 C.F.R. § 106.8(b).

recommendations set forth in the 2011 Letter, which are tailored towards addressing sexual violence specifically, the VAWA Reauthorization's requirements fail to take into account the unique challenges that intimate partner violence poses in the college and university setting. Although schools must still comply with the requirements set forth under the VAWA Reauthorization, they should serve as the procedural bare minimum to address intimate partner violence.

A. Regulatory Reforms

Specific recommendations must be tailored to intimate partner violence in order to address it effectively. Intimate partner violence cannot be addressed by a "one-size fits all" approach, and the current guidelines set forth for handling sexual violence do not fit the unique dynamics posed by intimate partner violence. The OCR should issue new administrative guidance in the form of a "Dear Colleague Letter" to specifically address intimate partner violence. Such guidance from the OCR should recommend policies and protocols for schools to adopt that acknowledge the complexities of intimate partner violence in the college and university setting, while also allowing schools to retain flexibility in drafting institutional policy.

It is understandable that schools must be afforded some degree of discretion in drafting policies, to account for variations in campus type and size. School administrators are in the best position to make such specific determinations, as they are the most familiar with the particularities of their campuses. Strategies that are successful at small schools like Swarthmore College, which has a student body of 1581¹⁶⁸, may not be successful at large schools, like The Pennsylvania State University, which has a student body of 46,606.¹⁶⁹ Likewise, a policy that proves effective at an urban school like New York University may not share similar results when applied to the University of Idaho's sprawling, 1450-acre rural campus.¹⁷⁰ Notwithstanding legitimate variation among campuses and student populations, a standardized set of procedures tailored to intimate partner violence must be developed and employed in this context.

168. See SWARTHMORE COLL., *Facts & Figures*, <http://www.swarthmore.edu/about/facts-figures> [https://perma.cc/A2LE-AYS2].

169. See PENN ST., *Campus Facts*, <http://admissions.psu.edu/pennstate/campuses/?campusCode=UP> [https://perma.cc/WZ5B-SZ3R].

170. See *University of Idaho*, U.S. NEWS & WORLD REP., <http://colleges.usnews.rankingsandreviews.com/best-colleges/university-of-idaho-1626> [https://perma.cc/PQ4J-H9B6].

The current lack of uniformity regarding how to address intimate partner violence makes colleges and universities ripe for abuses of discretion, as schools have strong incentives to minimize their required reporting figures in an effort to make campuses appear “safer.” Further, this procedural discord only exacerbates the confusion surrounding an already complex issue. By setting forth procedural guidelines specifically aimed at responding to intimate partner violence, the OCR will afford schools the appropriate amount of discretion necessary to best comport with the chief aims of Title IX. Such guidelines should amend Title IX’s notice-based standard in situations of intimate partner violence, so that schools are not forced to proceed with an investigation and possible disciplinary action against a victim’s wishes. Additionally, no-contact orders should not be issued in response to intimate partner violence without agreement from both abuser and victim so that victims are not given a false sense of security.

Being subjected to violence by an intimate partner undoubtedly disrupts a victim’s pursuit of her education. It is inevitable that the issue of intimate partner violence is inadequately addressed, as there is no proper guidance for schools to follow. Because intimate partner violence disproportionately impacts females, failing to effectively respond to intimate partner violence amplifies, rather than eliminates, discrimination. Since intimate partner violence is often difficult for victims to identify, explicitly acknowledging that it is protected under Title IX would serve not only to clarify the responsibilities of schools, but also to validate the concerns of victims, and legitimize how they may be feeling. Although current guidance documents do not have the force of law, the risk of lawsuits and losing federal funding is an additional incentive for schools to follow Title IX guidance closely. When the OCR issued its 2011 Letter addressing sexual violence, schools were quick to revise their policies, making swift and conscious efforts to take sexual violence more seriously. The issuance of administrative guidance addressing intimate partner violence would likely produce a similar result, without the need to engage in notice and comment rulemaking.

If implemented correctly, Title IX has the potential to be an extremely effective remedy for victims of intimate partner violence. As discussed previously, victims of intimate partner violence often do not want to see their abusers go to jail or face criminal penalties—they simply want the abuse to stop. New Title IX guidance addressing intimate partner violence will allow schools to fulfill their regulatory obligations while providing less-harsh alternatives for abusers and increased protection for victims. This additional

guidance will allow colleges and universities to respond to intimate partner violence in a way that is consistent with the purpose of Title IX.

B. Institutional Reforms

Although schools should be afforded some discretion in drafting institutional policy, there are several measures colleges and universities can specifically implement on their campuses that will provide enhanced protection to both victims and the campus community at large. The Association of Title IX Administrators (“ATIXA”) has identified several practices that should be adopted by colleges and universities when handling intimate partner violence.¹⁷¹ Except for extreme cases, school administrators should always conduct a comprehensive risk assessment prior to notifying the abuser.¹⁷² Though this may appear to be at odds with the notice-based standard set forth in previous OCR guidance, conducting a comprehensive risk assessment prior to notifying the accused allows schools to ensure that victims are not being exposed to greater harm through the school’s actions.¹⁷³ Protecting the victim’s safety aligns with the main objectives of Title IX, the VAWA Reauthorization, and the Clery Act.

Conducting a comprehensive risk assessment will allow administrators to evaluate the legitimate risk posed by the abuser through an analysis of subjective standards, which in turn will allow the school to proceed with a more safe and effective response.¹⁷⁴ This may include consideration of behavioral factors such as drug or alcohol abuse, or past experiences with intimate partner violence in the family.¹⁷⁵ Once the present risks are identified, the administration must next determine which are relevant to the issue at hand. Examples of relevant risks may include access to or previous use of a weapon, or exhibiting stalking behavior.¹⁷⁶ Next, the administration will analyze the motivations behind the risk behavior and develop a list of potential scenarios for when the dangerous behavior might manifest.¹⁷⁷ Finally, administrators will create a mitigation plan, which will allow for the matter to be resolved in the most effective

171. *See generally* Grimm, *supra* note 20.

172. Grimm, *supra* note 20, at 7.

173. *Id.* at 8.

174. *Id.* at 15.

175. *Id.*

176. *Id.*

177. *Id.*

and safe way for both the victim and the campus community.¹⁷⁸ Mitigation plans should be integrative and warrant the collaboration of law enforcement, campus security, the Title IX office, and counseling services.¹⁷⁹

In a similar vein, schools should strongly emphasize the many services available for victims of intimate partner violence. Both Title IX and the VAWA Reauthorization require colleges and universities to notify victims of such services. Research indicates that a coordinated community response best serves the needs of victims of intimate partner violence in the college and university setting.¹⁸⁰ This multidisciplinary approach requires the synchronization of local and campus police, psychiatric and physical health care professionals, student housing officials, and school administrators.¹⁸¹ Providing easy access to such services will eliminate any additional, unnecessary stress for victims who may already be suffering psychologically.¹⁸²

C. Educational and Preventative Initiatives

Though the VAWA Reauthorization does not provide an adequate framework to address instances of intimate partner violence, the current educational measures set forth in the VAWA Reauthorization do sufficiently promote awareness of the cause. The VAWA Reauthorization, which calls for programs specifically addressing intimate partner violence, is of critical importance, as intimate partner violence is often overlooked. Spreading awareness is particularly crucial in the context of intimate partner violence, because, as discussed previously, the cycle of violence is often intergenerational.¹⁸³ Providing comprehensive educational programs about the signs and dynamics of abuse may assist victims who are unaware of what constitutes a healthy relationship in realizing that they are being abused.

Because the majority of victims disclose their abuse informally to a friend or family member, educational measures should also address how friends and family should respond when a victim discloses that they are in a violent relationship.¹⁸⁴ Although intimate partner

178. *Id.* at 16.

179. *Id.*

180. *See* Holtfreter & Boyd, *supra* note 11, at 142.

181. *Id.*

182. *Id.* at 143.

183. *See* DV SOLUTIONS, *supra* note 45; *see also* DV SOLUTIONS, *supra* note 59 and accompanying text.

184. Sylaska & Edwards, *supra* note 38, at 4.

violence is unquestionably most difficult for the victim, friends and family members may be unaware of how to respond after learning that someone close to them is in an abusive relationship.¹⁸⁵ Educational programs should explain the importance of informal support, and emphasize that blame should not be placed on the victim. Such programs should also make clear the ways in which negative responses to intimate partner violence can be destructive to a victim's recovery.¹⁸⁶

CONCLUSION

*"I have yet to see any problem, however complicated, which, when you looked at it in the right way, did not become still more complicated."*¹⁸⁷

– Poul William Anderson

Intimate partner violence is unjustifiably prevalent and largely overlooked on college and university campuses. Despite well-intentioned legislative reforms, the complexities of intimate partner violence remain essentially ignored. Further, the uniqueness of the collegiate setting amplifies the risks of intimate partner violence. By addressing sexual violence and intimate partner violence identically, colleges and universities run the risk of exposing victims to greater harm.

The issuance of new administrative guidance designed to advise schools on how to precisely address intimate partner violence will more effectively protect victims and validate their experiences. The adoption of specialized institutional policies will ensure that all schools—regardless of campus size or type—implement policies that are best for the safety and well-being of victims and the entire campus community. Through continued comprehensive educational initiatives, colleges and universities can spread awareness about intimate partner violence, notify victims of the ways in which they can seek help, and educate the community about the important role informal support plays in a victim's recovery. Carefully considering the distinct, delicate dynamics of intimate partner violence will allow schools to act in a way that best achieves the purposes of both Title IX and the VAWA Reauthorization in the vigorous pursuit of safety and equality across college and university campuses.

185. Grimmett, *supra* note 20, at 6.

186. Sylaska & Edwards, *supra* note 38, at 17-18.

187. CARL GAITHER, STATISTICALLY SPEAKING: A DICTIONARY OF QUOTATIONS 187 (1996).