



Transcript of Speech by Hon. Justice Richard Williams
Judge of the Grand Court of the Cayman Islands

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I am going to talk this afternoon about a specific type of domestic violence which I recently had to deal with. In the past I had not felt cause to give specific consideration to violence of this specific nature.

The Director of Programs informed me that the purpose of a panel speech is to stimulate discussion rather than present an in depth review of the subject matter. Accordingly, in the thirty minutes allotted to me to make this presentation to you, my aim is not to give you the answers but simply to give a skeleton review to raise some awareness and hopefully some interest.

Although it is nothing new, I would like to talk to you about a type of violence that has only recently started to be recognised in its own right, requiring a considered and new approach. It is domestic violence cases among teenagers, usually between the ages of 15 and 19, although I accept that juvenile domestic violence may well begin in the early teens. This area of gender violence has been given various labels, but the most commonly used are teen dating violence or teenage partner violence.

It is important to address this issue from the perspective of both the victim's and the abuser's welfare, either may be a girl or boy. For the victim, because one may need to assist them moving forward by empowering them and assisting them to comprehend what constitutes a healthy relationship and to enforce the message to them that they are not at fault for what has happened to them. For the abuser, for example, to address this at an early stage in their life to try to prevent a potentially long term pattern of behaviour developing, which may have its roots

from childhood experiences in the home, by giving rehabilitative and counselling assistance in a way that is age commensurate.

So what is Teenage Dating Violence?

Teen dating violence is a pattern of abusive behaviours that are used to gain power and control over a current or a former dating partner. It includes any behaviour by a dating partner that:

- is used to manipulate someone;
- behaviour that makes a person feel bad about himself or herself;
- behaviour that makes a person afraid of her boyfriend or his girlfriend.

Research seems to show that there are four types of dating violence. It is common for more than one type to surface in a particular instance. You may well have already come across these types of behaviour in cases before you. I feel it might be helpful to set out the four types and to illustrate the same by outlining some examples of inappropriate conduct that may arise in a teen dating relationship. The 4 types are:

- **Verbal** - this can include name-calling, putdowns, yelling or shouting, threatening the partner;
- **Psychological** - this could be insulting a date's beliefs or values, acting in an intimidating way, using sexually derogatory names, isolating a date from others, damaging personal property, humiliating a date in public or private, threatening to harm oneself;
- **Physical** - an assault of any nature;
- **Sexual** - unwanted touching or kissing, forcing the partner to have sex or engage in any unwanted sexual activity, not allowing the partner to use birth control.

The recent matter I had to deal with raised my awareness to the concept of teen date violence and how schools, the courts and supporting agencies might better deal with such matters. The case involved an overlap of the various types of the aforementioned behaviour, so it might serve as a helpful example of this type of case and assist you to recognise the circumstances in which you may confront a case of this nature. ¹In that matter, a 17-year-old girl was seeking to end a relationship with her 18-year-old long-term boyfriend who it later emerged had in the past sporadically struck her, over-curtailed her social interaction with her peers and frequently threatened to self-harm if she ended the relationship (you may recall me already highlighting that the latter amounts to psychological and emotional abuse). They were both at a boarding school where they had together spoken to a school counsellor to whom the girl explained that she was frightened of the boy and wanted to 'break-up'. There appeared to be no school protocol in place to deal with such issues and the school counsellor failed to act upon the clear

¹ The matter was not in the Cayman Islands.

warning signs, and told the teenage students that they should work on their relationship for another week. Alas, at the end of that same week the boy in anger at a school dance burnt the back of the girl's leg by pressing in a piece of lighting equipment causing 2nd to 3rd third-degree burns.

The school faced with this situation did not know how to react and did not have in place a protocol to address the incident within the faculty, with the particular teens, with the student body as a whole or with outside agencies. The school took no meaningful action and permitted the boy to remain on campus. Due to local laws relating to schools' obligations to report being brought to its attention by the victim's parents the school was compelled to reluctantly report the injuries to the police. The police investigated and utilising available legislation decided that there had been criminal domestic violence and charges were brought. The criminal court process commenced in the adult court as the boy was aged 18.

On one side you had the girl seeking a firm punitive response for the boy and orders to protect her. On the other side you had the boy seeking no action, claiming that the matter was a domestic issue best left to the school's internal disciplinary procedure. Not an easy case for the Judge, especially as a lobbying victims' pressure group became involved and, due to the identity of the school, the case drew fairly wide media attention. Sadly the adult criminal court was ill-equipped to deal with the issue and treated the case as a normal adult court proceeding.

Although, in the past adult domestic violence has received much attention by researchers, by the justice system and at addresses made at conferences such as this, juvenile domestic violence was largely ignored until very recently. This has meant that often there has been a failure to adequately address it. In the past it may have been ignored and no action taken, being met by a dated view:

"Oh they are teenagers, I remember what it was like. Relationships and appropriate boundaries are hard for them to understand, especially when their hormones are going helter-skelter. It is all part of growing up and they will learn."

Frequently the civil and criminal courts, even if there is any supporting infrastructure in place, fail to become involved. Schools are often unable or ill-prepared to address it when it happens behind or outside of their gates.

This absence of recognition and adequate response has led to some observers stating that teen dating violence is *"a social problem of epidemic proportion"* or is *"a hidden epidemic"*. The statistics support such an alarming observation, and the Journal of the American Medical Association's Study found that 1 in 5 female high school students reported physical or sexual abuse by a dating partner. The figures emanating from research in the UK are similar.

Governmental guidance in **Working Together to Safeguard Children (HM Government 2006)** officially recognised, for the first time, the need for professionals to safeguard children from harm arising from abuse or violence in their own relationships. This was, at least in part, a response to the Bichard Inquiry in 2004 into the killings in Soham of two 10-year-old girls by their school caretaker. The inquiry raised, among other things, concerns about the way that professionals dealt with previously known and alleged cases of violence and under-age sex involving the murderer.

The first study in Great Britain to provide a detailed picture of the incidence and impact of teenage partner violence was not carried out until fairly recently, in 2009. 1,353 young people, between 13 and 17 years of age from England, Scotland and Wales took part in the research survey and 91 young people took part in in-depth interviews.

I recommend that you read the report to be found on the NSPCC website as it succeeds in its goal to raise awareness in any reader by drawing on experience gained in the UK and in particular in the US. It is also fascinating, as it sets out parts of interviews with some of the victims whose own words give vivid insight into the build up to such incidents and how victims attempt to rationalise what has happened to them.

So what can be done?

School officers/teachers are often best placed to recognise such abuse at an early stage. Legislation that makes them, and other relevant professionals, mandated reporters is to be encouraged and this promotes the necessity for them to be able to recognise the signs of teenage domestic violence. Training may be given to teachers to help them build their understanding of teen dating violence and capacity to help to prevent it.

The objectives of the training being:

- to Identify the norms that create an environment in which teen dating violence is more likely to occur.
- to understand teen dating violence and its consequences.
- to identify factors that can place teens at risk for perpetrating dating violence.
- to build skills to talk with teens about the importance of healthy relationships.
- to identify resources to prevent/respond to dating violence.
- to identify prevention strategies that promote a positive school environment, model respectful behaviors, and help make your school safer and healthier for all students and staff.

Schools should develop a comprehensive school policy that addresses teen dating violence. It should be regularly updated with the most current information and relevant legislation

Schools should educate students about dating abuse and how to recognise the difference between caring, supportive relationships and controlling, manipulative ones.

Schools should reinforce student learning with programs, designed to educate students about their rights and responsibilities in dating relationships. It should highlight key prevention skills while educating students about how to access the civil and criminal justice systems for protections.

Schools should activate student leadership on the issue. For example engage students through youth activism and peer-leadership to address teen dating violence on their campuses and in their communities.

Time does not permit me to develop this further. So moving away from these potential first responders to more legal procedural considerations

Access to Criminal and Civil Courts

There should be a move away from domestic violence legislation governing civil protection orders or criminal domestic violence offences that defines domestic violence as abuse against adults and thereby does not provide protections between victims or include provisions for the arrest of juvenile offenders under the domestic violence laws. So, for example, a comprehensive provision could define domestic violence as being:

“Abuse committed against an adult or a minor who is a spouse, former spouse, cohabitee, former cohabitee, or person with whom the suspect has had a child or was having or who has had a dating relationship.”

A dating relationship could be defined as:

“A frequent, intimate association primarily characterised by the expectation of affectional or sexual involvement independent of financial considerations.”

A simpler definition may be:

“Physical abuse perpetrated by juvenile against person with whom he or she has or has had a dating and relationship.”

Teens should be able to secure protection orders for dating violence. Such orders potentially constitute an important tool for teen victims in terms of deterring re-abuse and satisfying the victim.

The question remains, however, about how protection orders work for juveniles suffering from dating violence.

- Will juveniles avail themselves of these orders?
- Will they be able to navigate the court system to obtain orders?
- Will courts pay attention to juvenile petitioners alleging dating abuse and fashion orders that address teen dating violence?
- Will respondents obey orders or will police enforce them?

The success of such procedures may require police involvement, an alternative network of supportive adults, including parents, school personnel and local help agencies.

I suggest that consideration should be given as to whether all teens aged 13 and older should have the right to apply for protection on their own behalf, without parental involvement. I say this because in some instances consent and parental notification requirements in legislation may cause significant obstacles for many young people. For various reasons, the victim may not want their parents to know that they are having problems in their relationship, or even that they are in a relationship at all. Research shows that even legislation allowing a minor to seek protection orders and only advise parents after an order has been granted could deter some minors from seeking protection orders. **Break the Cycle** is the leading US nonprofit organisation providing comprehensive dating abuse programs exclusively to young people ages 12 to 24 and it believes it is vital that youth be able to access protection orders without the permission or knowledge of their parent or guardian. This, however, raises additional questions -

- If teens will not reveal their abuse to their parents or friends, will they do so to third persons and judges?
- Given the barriers cited by adult victims to obtaining orders, will juveniles, unsupported by parents or other adults, be able to navigate the court system to obtain orders on their own?

As I mentioned earlier, this brief presentation may raise more questions than answers.

One approach might be to set up a specialised juvenile domestic violence court which could focus on teenagers who have committed violence in the context of a specific relationship. The court's priority should be to protect victims and to hold offenders accountable for their actions and also then to prevent further violence. The establishment of such a court would send out the message that juvenile domestic violence is important and thereby offer a better chance for safety, rehabilitation and prevention. This has been done in Brooklyn and in Santa Clara in the USA. I am not sure how feasible establishing such a court would be in a small jurisdiction like the Cayman Islands, but in such jurisdictions maybe the court could sit on set days and have a designated judge always available for emergency applications? Such a court could widen its ambit to also address family violence initiated by teens and violence between teen parents who are not married.

The court would take cases away from the civil and criminal courts and ensure that they come before judges with the required experience and temperament for such cases, and who are backed up by a supportive infrastructure which they would marshal. Thought should be given to having one judge handle the case from the beginning to the end.

Characteristics of a juvenile domestic violence court could be similar to those seen in other collaborative justice (problem solving) courts, including a dedicated calendar, screening for domestic or dating violence, a non-adversarial team approach to court processing, judicial and probation supervision, targeted services and programs for the offender, and victim services.

The approach of the court could focus on 2 areas:

- (i) ensuring accountability by addressing the behavior of the minor who is committing the abusive act(s) and;
- (ii) ensuring safety and providing support for the victim.

The Court could promote accountability by combining judicial supervision with rehabilitation services that are rigorously monitored and focused on recovery.

The Court could involve:

- a problem-solving focus;
- a team approach to decision making;
- integration of social and treatment services;
- judicial supervision of the treatment process;
- community outreach;
- direct interaction between defendants and judge; and
- a proactive role for the judge inside and outside the courtroom).

Hallmarks would be early intervention combining strict accountability with educational programs and victim services. This could be complemented by greater advocacy for victims through delivery of supporting services and providing rehabilitative services for the offender. It would require more intensive supervision of offenders by probation officers.

It appears that most of the programs currently on offer to address an offender's difficulties may necessitate the abuser being in a program with much older individuals, many of whom may have been exhibiting this type of violent behaviour for many years. That would surely undermine the goal of any program.

Re-offending could be dealt with by imposing appropriate conditions of probation to protect the victim, provide community safety and help to rehabilitate the offender and by doing so the court sends a clear message that it will not tolerate violent and abusive behaviour. If there are any sanctions for non-compliance of the court orders then the violation of probation should be brought quickly back to court.