Legal scholars are enamored with characterizing violence as an “infection,” or “contagion.”¹ The metaphor has seductive appeal, particularly when used to focus

political attention on the goal of reducing violence in our communities. It adds a
panicky punch to scholars’ arguments (in its warning that violence could spread like
deadly illness) and distances readers emotionally from the disturbing processes by
which we encourage one another to act violently: Suddenly, “disease” transmits
violence, like any other plague; “we” do not. The imagery of illness thus energizes anti-
violence agendas without emphasizing offenders’ blame or tangling with other moral
problems created by violent human relationships. The metaphor’s effects encourage
us to address violence clinically, as a matter of public health, rather than solely one of
criminal justice. Though this morally aloof characterization of violence has its upsides,
this paper will show that the contagion metaphor has other, more deleterious
consequences, being its dangerous characterization of offenders and its invitation to
perform an inexact analysis of the root causes of violence: As I will argue more
precisely, the contagion metaphor obscures the pedagogy of violence – that is, the
ways that we teach each other to be violent.

The “violence as contagion” metaphor appears to have found its genesis as an
extension of the argument that violence is a “learned behavior,” a theory that scholars

Am. 311, 311 (2001/2) (“Lynching is a distinctive form of collective violence that infects many
societies.”); Daniel J. French, Note: Biting the Bullet: Shifting the Paradigm from Law Enforcement to
Epidemiology; A Public Health Approach to Firearm Violence in America, 45 Syracuse L. Rev. 1073,
1086 (1995) (“By their nature, epidemics affect health, require warnings, restrict behavior, and curtail
movement in the infected area. Gun violence in America has all these characteristics.”); Martha
Minow, Between Intimates, supra note 1 at and between Nations: Can Law Stop the Violence, 50
Case W. Res. 851, 860 (2000) (“Societies with chronic conditions of war and intergroup conflict also
witness increases in family violence. This phenomenon might reflect how people bring societal stress
into the home, tempers flare, and people displace onto those in their intimate sphere frustration with
loss of control elsewhere. Or it could reflect a more basic contagion theory of violence; people
surrounded by violence pick it up and pass it on.”); Gilbert and Richard Grimm, and John Parnham,
Applying Therapeutic Principles to a Family-Focused Juvenile Justice Model (Delinquency), 52 Ala. L.
Rev. 1153, 1153 (2001) (“Over the past decade, juvenile violence has spread like an epidemic. “By
the early 1990’s, rates of criminal violence, including youth violence, reached unparalleled levels in
American society. Compared to adolescents in other countries, American teenagers exhibit alarmingly
high rates of violence. For example, an American seventeen-year-old is ten times more likely to
commit murder than his or her Canadian counterpart.”)
such as Dr. Albert Bandura and Dr. Lenore Walker began to advance in the 1970’s and mid-1980’s, and that has a great deal of scientific proof to back it up.\(^2\) At first glance, then, the contagion metaphor may be seen as a hyperbolic expression of the well-supported thesis that human beings transfer violent behaviors between themselves, just as they teach each other customs, fashions, tastes, and languages. However, the contagion metaphor has taken on a life of its own, giving vigor to an entirely different theory expounded by scholars such as criminologist Colin Loftin and Columbia Law Professor Jeffrey Fagan. These scholars advocate that we address violence using the “epidemiological” approach – in other words, by using the same techniques to combat violence that we use to fight disease. The public health approach does offer some very useful strategies to address violence, mainly in its “depoliticizing” or “demoralizing” of the anti-violence agenda,\(^3\) focusing on prevention as much as after-the-fact solutions,\(^4\) and promoting the accessing of data on violence gathered by public health organizations.\(^5\) Nevertheless, the epidemiological approach has been inextricably paired with the contagion metaphor, and this creates at least two serious hazards: 1) The metaphor dehumanizes offenders as “vectors” of pestilence, so that we may be more likely to treat them unjustly as a matter of criminal justice or other social strategies; 2) it obscures the pedagogy of violence, meaning the specific behaviors by which we educate each other in violence; it also obfuscates the emotions, desires, and personal histories that help the lessons of violence “stick.” This obscurantism may seriously

\(^2\) See text accompanying notes 10-16, infra.
\(^3\) See note 105, infra. (Daniel J. French, Note: Biting the Bullet: Shifting the Paradigm from Law Enforcement to Epidemiology; A Public Health Approach to Firearm Violence in America, 45 Syracuse L. Rev. 1073, 1088-89 (1995)).
\(^5\) See note 37, infra. (setting forth 4 prong approach).
hamper our development of social and legal strategies to prevent and otherwise address such pedagogies.

During the development of the contagion thesis, the “learned behavior” model for describing violence has flourished on a parallel scholarly track; it possesses many virtues, as it acknowledges the human rituals by which we train each other in violent behaviors, and the sensations that make us such very good students of violence. The “learned behavior” model proves such a well-honed and -supported thesis for violence that I submit we should expand upon it, developing deeper jurisprudential accounts of the teacher-student relationship, as well as the needs and feelings that energize the instruction and learning of violence. Simultaneously, I also recognize the benefits of the public health approach to the problem of violence, even while maintaining that is marred by its advocates’ use of the contagion metaphor.

Consequently, in this Essay I will advocate that we abandon the “violence as contagion” metaphor in our jurisprudential analyses of violence, but retain the data-gathering strategies advocated by the epidemiological approach to which the metaphor has been heretofore fixed; I will also argue for an enriched learned behavior approach, employing a legal-literary analysis to enlarge upon the previous work in this area, which has primarily been done by psychologists and social scientists. In the end, I will advocate a synthesis of the epidemiological and the expanded learned behavior approaches, the latter of which may also be called the “pedagogy of violence” approach.

In Section I, I will set forth the history of the contagion metaphor, and make my case against it, while advocating the retention of the data-gathering methods that
accompany the epidemiological approach. In Section II, I will demonstrate the virtues of the “violence as a learned behavior” model, lauding it for its emphasis on the performances and emotions involved in the transfer of violent behavior from one person to another, and which the contagion model obscures. I will then recommend that we deepen our understanding of this learning process, and advise that in our studies of learned violence we employ interdisciplinary approaches that extend beyond social science: Here, I will advance a legal-literary analysis, using Nobel Laureate Elfriede Jelinek’s novel *The Piano Teacher* to illustrate the dynamics of teaching and learning violence. Specifically, I will examine how Jelinek’s characters use specific techniques to teach each other violence – surveillance, control, and trampling. I will also study how Jelinek’s characters learn violence in a particular emotional state, being a state of desire; in this discussion of violence and desire I will make a brief foray into classical philosophy, showing how Jelinek’s work exists in a long literary tradition connecting desire and moral education, a tradition that can be traced back to Plato’s *Phaedrus*. Last, in Section III, I will analyze *N.A.A.C.P. v. AcuSport*, a 2003 opinion addressing a nuisance claim against a gun manufacturer, where the court accepted the contagion thesis, while denying relief to the N.A.A.C.P.; I will show how data gathering informed by the pedagogy of violence – that is, informed by an awareness of the specific strategies of teachers and the desires of students – would have led to a better analysis of gun violence in New York, and might have garnered the N.A.A.C.P. deserved relief.

I. How we got here: The move from ‘Violence as Social Learning’ to ‘Violence as Contagion.’
a. The history of the social learning thesis, the epidemiological approach, and the development of the contagion metaphor

Scholars have long noticed that human beings act violently – that is, that they act with the intent to physically or mentally harm one another6 – in large part because they come into contact with other violent actors and model their behavior on them. The concept of teaching or inheriting violence is as old as the cycle of revenge murders found in Greek tragedy, the history of the French Revolution, and the aftermath of World War II.7 Indeed, early theorists of the role of education and the development of man’s character are Plato8 and Jean-Jacques Rousseau,9 who each acknowledged that education could shape men to be good or ill.

6 It must be noted here that there are many definitions of violence. For example, in my previous article on law and nonviolence, I posited a many factored test to determine whether conduct was violent. See Yxta Maya Murray, A Jurisprudence of Nonviolence, 9 Conn. Pub. Int. L.J. 65 (2009). However, scholars tend to use the “violence as contagion” metaphor in connection with gun violence or other forms of physical violence, particularly domestic violence. See text accompanying notes 44-71, infra. Thus, I am using a definition of violence that coheres to the forms of violence attended to in those articles; in the future, I may expand upon a theory of the pedagogy of violence that encompasses teachings that extend intentional physical and mental harms, but for now, I am containing my definition.

7 Consider, for example, Albert Camus’s excoriation of the purge in France, post WWII: “To the hatred of their persecutors, the victims responded with their own hatred. And the persecutors having departed, the French remain on their soil with their hatred in need of an object. They still look at one another with the remains of their anger.” Susan Dunn, Albert Camus and the Dubious Politics of Mercy, in Ideas Matter, Essays in Honor of Conor Cruise O’Brien 350 (1998).

8 See Plato, The Republic 51 (G.M.A. Grube, trans. 1992): Then, we may confidently assume in the case of a human being, too, that if he is to be gentle toward his own and those he knows, he must be a lover of learning and wisdom.

9 Jean Jacques Rousseau, Emile, or On Education 13 (1762) (Barbara Foxley, trans.). With respect to Jean-Jacques Rousseau, consider his 1762 novel Emile, or on Education, where Rousseau observes that “[w]e are born sensitive and from our birth onwards are affected in various ways by our environment.” Rousseau objected to the ways in which civilization trained individuals to be “citizens” in lieu of “natural men:” “Good social institutions are those best fitted to make a man unnatural, to exchange his independence for dependence, to merge the unit in the group, so that he no longer regards himself as one, but as a part of the whole, and is only conscious of the common life.” Id. at 14. What Rousseau preferred was the natural man, who could be made by resisting his training to solely be a citizen: “To be something, to be himself, and always at one with himself, a man must act
In the 20th century, psychologist Dr. Albert Bandura connected pedagogy and violence in his famous theory that aggression is a product of “social learning,” which was based on an experiment that involved children watching films of adults attacking plastic dolls, known as “Bobo dolls.” The children later exhibited “modeling” behavior, similarly attacking the dolls.\textsuperscript{10} Bandura concluded in 1976 that “aggression in children is influenced by the reinforcement of family members, the media, and the environment.”\textsuperscript{11} In 1986, Dr. Leonore Walker also theorized about social learning and violence, in this case suggesting that domestic violence may be a product of social modeling.\textsuperscript{12} Richard Gelles, Suzanne Steinmetz and Murray Straus similarly promote the learned behavior model, positing the now-famous “cycle of violence” theory, which depicts violence as being taught by parent to child.\textsuperscript{13} Psychologist Donald J. Dutton expanded on this theory in 1995, noting that “painful experiences of shame, rejection, and abusiveness from family members are manifested in adulthood as delusional jealousy, inability to trust, and violent mood cycles.”\textsuperscript{14} A 2001 study by Craig A.

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\textsuperscript{10} Bandura, \textit{Aggression: A Social Learning Analysis} (1973). Yxta, check.
\textsuperscript{11} Bandura, A., & Ribes-Inesta, Emilio. \textit{Analysis of Delinquency and Aggression} 206-8 (1976).
\textsuperscript{12} Dr. Leonore Walker set forth the stages of battered woman syndrome in her well-known work, \textit{The Battered Woman Syndrome} 86-104 (Violet Franks ed., 1984). In Walker’s 1984 study, she hypothesized that “The impact of the strict, punitive, and violent father is better known today – exposure to him creates the greatest risk for a boy to use violence as an adult.” Yxta, check this pub. date of ‘the bws’, because she cites the 1985 workshop of koop. Id. At 16. See also Brian J. Orrio, \textit{Comment: Ending the Domestic Violence Cycle Through Victim Education in Oregon’s Restraining Order Process}, 33 \textit{Willamette L. Rev.} 971, 984 (1997). (“Reports from battered women's shelters support the theory that aggression is a learned behavior: male and female children, as young as two years old, model "daddy hitting mommy" to get what they want. Not only do children suffer more physical abuse when their parents are in violent relationships, Walker’s study suggests they learn that such violence is appropriate.”)
\textsuperscript{13} Murray A. Straus and Richard J. Gelles, \textit{Physical Violence in American Families} 96-98 (1990). See also, e.g., Carolyn Puzella, \textit{Domestic Violence: Social Scientists' Perspectives on the Causes of Spousal Abuse} 40 (2000). Yxta check these both
\textsuperscript{14} Donald D. Dutton and Susan K. Golant, \textit{The Batterer} 83, 101, 103 (1995). See also Puzalla, \textit{id.} At 40. For a curious mixture of the "learned behavior" and "contagion" metaphors, see Beverly Merz, \textit{Wheel of misfortune; a family's risk factors can increase its chance of developing the "cancer" of violence}, 35 \textit{American Medical News}, No. 1 (1992).
\end{flushleft}
Anderson and Brad J. Bushman, and a 2000 study by Dr. Robert H. DuRant, Professor of Pediatrics at Wake Forest University, additionally reveal that adolescents’ exposure to violence increases the probability that they will harm other people: "When children are disciplined with severe corporal punishment or verbal abuse or when they are physically or sexually abused, it is not surprising that they behave aggressively or violently toward others."  

Legal scholars have also promoted the “violence as a learned behavior” model, such as Professor Jane Rutherford, who argues that there may be a genetic link to aggressive behavior, which is enhanced by a person’s childhood exposure to violence. Scholars such as Catherine F. Klein and Leslye E. Orloff, G. Kristian Miccio, Carolyn Harris Johnson, Wendy Perlmutter, Deborah Epstein, the Honorable Ronald


18 SYMPOSIUM ON DOMESTIC VIOLENCE: ARTICLE: PROVIDING LEGAL PROTECTION FOR BATTERED WOMEN: AN ANALYSIS OF STATE STATUTES AND CASE LAW, 21 Hofstra L. Rev. 801 n. 1077 (1993) ("Since violence is a learned behavior, witnessing violence in the home as a child can have profound effects on the child's adult life.") (citing the Walker study).

19 G. Kristian Miccio, Male Violence - State Silence: These and Other Tragedies of the 20th Century, 5 J. Gender Race & Just. 339, n. 67 (2002) ("There is little basis for ascribing biology to the different moral voices of boys and girls. The current psychological literature suggests that violence is learned behavior and not a consequence of testosterone.")

20 Familicide and Family Law: A Study of Filicide-Suicide Following Separation, 44 Fam. Ct. Rev. 448, 459-60 (2006) (noting that family courts should pay special attention to "the safety of children who are having access with a parent who has been violent toward his spouse, even though there may be no apparent evidence of the children having been previously harmed. It should not be assumed that the family members of a parent with a history of violence and/or child abuse will be suitable supervisors of access. It is more likely that the parent learned those behaviors in their family of origin and that violence and abuse will be minimized, ignored, or denied in that family. Therefore, their supervision is likely to be inadequate and the children are unlikely to be protected.")

21 An Application of Refugee Law to Child Soldiers 6 Geo. Public Pol'y Rev., 137, 146-7 (2001) (noting that violence is a learned behavior among child soldiers, but that it can be unlearned).
Adrine and Michael W. Runner, Videtta A. Brown, Jerry von Talge, Leigh Goodmark, the authors of the 1996 American Psychological Task Force on Domestic

Effective Intervention in Domestic Violence Cases: Rethinking the Roles of Prosecutors, Judges, and the Court System, 11 Yale J.L. & Feminism 3, 8 (1999) ("A recent national study, for example, showed that juvenile delinquents are four times more likely to have come from violent homes.") (citing Bureau of Juvenile Justice, Violence by and Against America's Children, Digest XVII (12), at 6, and Donna M. Welch, Mandatory Arrest of Domestic Abusers: Panacea or Perpetuation of the Problem of Abuse? 43 DePaul L. Rev. 1133, 1136-37 & n.31 (1994)).

Hon. Ronal Adrine and Michael W. Runner, 6 J. Center for Fam. Child. & Cts. 175 181-2 (2005) ("Much of the work to address domestic violence during the past three decades has been predicated on the belief that violence is a learned behavior that can be unlearned. Similarly, innovative prevention efforts employing public-education strategies have been based on the conviction that social norms condoning violence can be shifted. Indeed, educational efforts aimed at changing social norms have had considerable success in addressing alcohol, tobacco, and drug use and abuse in high school, college, and community settings. Within the field of domestic violence, experts agree that current, predominant social norms play a significant role in sanctioning and perpetuating inappropriate male behavior. Thus, men can play a powerful role in promoting more positive attitudes and behavior with regard to violence against women and children.")

Videtta A. Brown, Gang Member Perpetrated Domestic Violence: A New Conversation, 7 RRGC 395, 408 (2007) ("Male domination and female victimization are also often a part of the gang culture. Female and girlfriend abuse among gang members is, in part, a product of the gender ideologies found within the gang. Physical and sexual violence toward young women, although not considered violence by the gang, becomes a learned behavior.")

Victimization Dynamics: The Psycho-Social and Legal Implications of Family Violence Directed Toward Women and the Impact on Child Witnesses, 27 W. St. U. L. Rev. 111, 174 (1999/2000) ("Both adults and children unconsciously use defense mechanisms to cope with psychological conflict and distress. Unfortunately, a child learning to become violent can be associated with the development of the defense mechanism called identification with the aggressor, a concept first described by Anna Freud, the daughter of Sigmund Freud. This writer has seen the tragedy of domestic violence exacerbated when older children, especially boys, mimic their fathers, becoming violent towards their battered mother, identifying with the aggressor in order to feel safer and more powerful."). Von Talge also cites Leonore Walker, Lenore E. Walker, Report of the American Psychological American Association Presidential Task Force on Violence and the Family 17 (1996). ("We do know that violence often is learned behavior and that much of that learning takes place at home. This conclusion is supported by more than five decades of psychological research on aggression and violence in the family and outside the family.") Id.

From Property to Personhood: What the Legal System Should Do for Children in Family Violence Cases, 102 W. Va. L. Rev. 237, 249 (1999) ("Disturbed emotional and behavioral development is typical in children who witness, although the damage varies with the age and the gender of the child. For example, boys are thought generally to become more aggressive and girls more passive as a result of witnessing, although there is some evidence that as they age, girls too display aggressive tendencies. Children who become aggressive may be reacting to the stress of witnessing violence or modeling behavior that they have learned through witnessing. Children who witness may also display borderline to severe behavioral problems and below average adaptive behavior skills. They can be disruptive, impulsive and irritable. These children also become "hyper-alert," ready to react to the slightest indication of trouble; because maintaining this state of "hyper-alertness" drains children of energy, it can cause distraction and persistent exhaustion.

Children who have witnessed domestic violence have an increased sense of fatalism. Exposure to violence changes the way that children view the world and their place within it. They see the world as a dangerous and unpredictable place and believe they are likely to die at an early age, which decreases their concern for their personal safety. Their sense of imminent doom pushes these children
Violence, Sean D. Thueson, and the authors of the United States Department of Justice Final Report all agree that people learn violent behavior from others.

The contagion thesis, which characterizes violence as an illness that we catch from one another, seems to have developed out of or at least in tandem with the social learning argument. This may be best illustrated by the following quote from Lenore Walker’s study on battered women. Though she was an early adopter of the learned behavior model, she readily began to use the metaphors of disease to describe it:

Once it was established that family violence and violence against women was at epidemic or even pandemic proportions by U.S. Surgeon General Everette Koop (1986), violence began to be conceptualized as a public health problem that would be best understood through epidemiological community standards. . . . . One of the more interesting analogies comes from the public health initiative to eradicate malaria.

It was found that people would be less likely to become sick from exposure to malaria if they were given quinine as a preventative measures. So, strengthening the potential victims by prescribing quinine tablets was an important way to keep safe those who could not stay out of the malaria infested area. Once it was learned that diseased mosquitoes carried the malaria germs, it became possible to kill the mosquito. However, unless the swamps that bred the malaria germs that infected the mosquito were drained and cleaned up, all the work in strengthening the host and killing the germ carrier, would not have eliminated malaria – it would have returned!

So, too for domestic violence. We can strengthen girls and women so they are more resistant to the effects of the abusive behavior directed towards them and we can change the attitudes of known batterers so

\[\text{towards behavior that increases their risk of injury or death, like drinking, using drugs, or using weapons. Children who witness also have increased rates of suicide.}^{27}\]

\[27\text{ Id.}\]

\[28\text{ Sean D. Thueson, Civil Domestic Violence Protection Orders in Wyoming: Do they Protect Victims of Domestic Violence? (2004) ("Domestic violence is usually a learned behavior. Nevertheless, domestic violence is not only learned from one's own family, but also learned from society. Those who care can make a difference, perhaps not with the current abuser, but at least with generations to come. Domestic violence is not caused by alcohol, drugs, "out of control behavior," stress, or problems that are "inherent" in every relationship. Batterers can be found in every age, racial, socioeconomic, educational, occupational, and religious group. Thus, doctors, lawyers, and even judges could be batterers; however, the majority of batterers are male, and the majority of all victims are female. It is important for everyone to realize that there is no "typical" batterer so as not to stereotype and miss the signs of domestic violence.")}\]

\[29\text{ United States Department of Justice Final Report (1984) ("Battering is learned behavior. To tolerate family violence is to allow the seeds of violence to be sown into the next generation.")}\]
they stop bearing women. However, unless we also change the social conditions that breed, facilitate, and maintain all forms of violence against women, we will not eradicate domestic and other violence – it will return!  

As Walker notes, during October 27-29, 1985, Surgeon General Koop did convene an “unprecedented” Workshop on Violence and Public Health. At this workshop, violence was addressed as a public health concern, and participants advocated using an epidemiological model for addressing it. As criminologist Dr. Marvin Wolfgang exhorted conferees: "Our nation must feel as comfortable in controlling its violent behavioral urges and practices as it does in controlling bacterial, viral, and physical manifestations of morbidity and death." In their book Violence in America: A Public Health Approach, a collection of the “revised papers from the Surgeon General’s Workshop on Violence and Public Health of the papers collected at the Workshop,” Mark L. Rosenberg and James A. Mercy provide the strategy for such "control," illustrating the epidemiological method in their discussion of anti-gun-violence goals: “The magnitude and distribution of fire-arm related morbidity, disability, and behavioral risk factors should be routinely monitored through public health surveillance systems. . . . High priority should be given to epidemiologic investigations that focus on quantifying the risks for injury associated with firearm possession or lack thereof in individuals.” The authors then set forth the four prongs of the epidemiologic approach: 1) Public health surveillance, 2) risk group identification, 3) risk factor

30 Walker, supra note 12, at 18-19.
31 Exact date given in Violence in America, infra note 34 at iv.
33 Id.
35 Id. at iv.
36 Id. At 6.
identification, and 4) program implementation and evaluation (e.g., intervention methods based on the data collected as per 1-3).  

How did we get from violence as a learned behavior to violence as a public health problem to violence as a contagion? First came the 1970’s social learning hypothesis, and in the mid-80’s advocates began to promote the epidemiological approach. Both camps sought to address the “spread” of violence from person to person, and found a superwattaged metaphor in the language of the epidemiological approach – which, after all, is the study of disease. At this early stage, advocates of learned behavior approach might have questioned the full absorption of the violence problem into a disease model, particularly as it threatened to deflect attention from the specifics of violence-learning with its description of the transmission as an insentient, amoral process. However, scholars such as Dr. Walker found the language of illness too powerful to pass up in their own arguments.

The enthusiastic use of this metaphor bore fruit rather quickly. One year after the Surgeon General’s workshop, the jurisprudential “violence as a public health problem” rhetoric officially evolved into the “violence as contagion” thesis with Colin Loftin’s 1986 publication of Assaultive Violence as a Social Contagion. It was then expanded upon by articles such as Guns, Youth Violence, and Social Identity in Inner Cities and The Social Contagion of Violence, published by a group of authors that include Columbia Professor of Epidemiology and Law, Jeffrey Fagan.

b. Colin Loftin and Jeffrey Fagan’s work on the social contagion of violence

37 Id. At 17. See also Mark L. Rosenberg, Violence Is a Public Health Problem, 10 Transactions & Stud. C. Physicians Phila. 147, 148 (1988).
In *Assaultive Violence as a Social Contagion*, Professor Loftin (who teaches in the School of Criminal Justice at the University of Albany, State University of New York) argues that “serious assaultive violence is subcultural and therefore analogous to disease. Most important, it has the potential to spread explosively in a vulnerable population.”  

Professor Loftin reaches this conclusion by noting that “serious assaultive violence is usually distributed spatially in clusters,” a particular hot spot being “the southeastern states.” He also notes that victims of violence often become violent actors themselves. Further, citing a study of violence in Detroit from 1968-1974, he describes its escalation as a “rapid spread” and “epidemic-like.”

He notes that Social networks are the channels through which assaultive violence, like other types of communication, flows. It seems reasonable to refer to the language, lore, tastes, myths, skills and artifacts that develop around violent interaction as subcultural, and there is no doubt that they involve commitment and motivation. Be that as it may, the point is that personal violence spreads because offenders and victims are part of social and moral networks.

Professor Loftin’s article is short, around five pages, including graphs. As might be event to many from this recap, it seems curious that he insists on describing violence as a disease, which has no moral aspect, when he ends his essay so conscious of the emotional and cultural factors that facilitate its transmission from one person to another.

Nevertheless, the violence as contagion thesis remains popular, particularly in jurisprudential circles. Prominent advocates of the contagion thesis are Professor Jeffrey 

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39 *Id.* At X. Editors, I’m citing from a copy I got from the web: [http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1629262/pdf/bullnyacadmed00051-0184.pdf](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1629262/pdf/bullnyacadmed00051-0184.pdf)

40 *Id.*. Cite. Yxta, editors, check.
41 *Id.* (noting how a study by Simon Singer showed that “two thirds of cohort members who indicated having committed an act of serious assaultive violence (rape, homicide or assault with serious victim injury) had, themselves, been the victims of serious violence (either shot or stabbed).”) Yxta, editors, check.
42 *Id.*, at X. Yxta, editors, check.
43 *Id.* at X. Yxta, editors, check.
Fagan and Deanna L. Wilkinson, who together, and with other authors, have written a series of articles detailing their argument that violence is a social contagion. In an early article, *Guns, Youth Violence, and Social Identity in Inner Cities,* they write quite persuasively of the social contagion of gun violence. Their object is to address high gun homicide rates among inner city African American youths, describing the problem as one stemming from a developmental “ecology of violence,” in which beliefs about guns and the dangers of everyday life may be internalized in early childhood and shape cognitive frameworks for interpreting events and actions during adolescence. In turn, this context of danger, built in part around a dominating cognitive schema of violence and firearms, creates, shapes, and highly valued scripts skewed toward violence and underscores the central role of guns in achieving the instrumental goals of aggressive actions or defensive violence in specific social contexts. The processes of contagion, however, are little understood and are an important part of a future research agenda on this problem.

The authors caution that they do “not deny the importance of the individual attributes that bring people to situations,” but rather seek to understand how “other processes” and “rules” develop in social “contexts” that may encourage people to carry and use guns. They acknowledge how guns emphasize the “toughness” and “masculinity” much cherished among young males, and how “disrespect” may encourage some young males to use guns to reassert their high macho status. The authors additionally give a mini-history of the role of guns in gangs and youth street culture from the 1920’s onward, and acknowledge studies demonstrating how emotions such as fear of death and violence can influence youths to carry guns.

Positing that guns are used to create a kind of performative identity (such as that of a

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45. Id. At 107.
46. Id. At 108.
47. Id. At 112.
48. Id. At 113.
49. Id. At 114-118.
50. Id. At 119, and 122.
“tough” or leader), the authors go on to argue that street youths perform according to “scripts” that will enhance their status, and that such scripts, street codes, and modes of retaliation are “learned” by the youths early in their lives, at home, school, and also as a result of playing in the street and seeing violent confrontations. The article is replete with fascinating interviews conducted with young men who have engaged in violent behavior, and describe the rules of the street. Through these interviews, the reader is given insight into how fear, desires for status, and anger influence the promulgation of violent behavior. The authors’ engagement with the “contagion” metaphor, in fact, leaves less of an impression on the reader than these in-depth interviews, and the descriptions of cultural norms and the emotional lives of the interviewees. Furthermore, in one of the final sections of the articles, when the authors make their case that gun violence in the inter city should be viewed as a contagion, there appears little difference between their concept of contagion and the concept of social learning:

The development of an ecology of danger reflects the confluence and interaction of several sources of contagion. First is the contagion of fear. . . . Second is the contagion of gun behaviors themselves. . . . Third is the contagion of violent identities. . . . The street environment provides the “classroom” for violent “schooling” and learning about manhood. . . . Each violent event or potentially violent interaction provides a lesson for the participants, firsthand observers, vicarious observers, and others influenced by the communication of stories about the situation which may follow. Children learn from both personal experience and observing others using violence to “make” their social identity or “break” someone else’s identity on the street.

By 2007, however, Fagan and Wilkin’s scholarly tone and focus appear to have undergone a troubling shift. That year, with Gareth Davies, they published an article

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51 Id. at 132-33.
52 Id. at 135.
53 Id. at 138-173.
54 Id. at 175.
called *The Social Contagion of Violence*. Here, the authors put the contagion metaphor front and center, describing the transmission of violent behaviors as follows:

Although disease spreads through a host and agent... social contagion involves the mutual influence of individuals within social networks who turn to each other for cues and behavioral tools that reflect the contingencies of specific situations. The contagious dimension is especially salient during the upswing of an epidemic, when physical or social contact is critical to spread pursuant to exposure... the phenomenon is endemic to the people and places where its occurrence is highest and... this behavior may be effectively passed from one person to another through some process of contact or interaction.

In *The Social Contagion of Violence*, the authors expand their definition of social contagion to mean “a process of mutual influence involving contact, communication, and competition... Contagious epidemics involve the transmission of an agent via a host through susceptible organisms whose resilience is weakened by other conditions or factors... Susceptibility is critical to the ability of an agent to exert its process on a host. This medical rendering of contagion can be analogized to social contagion.”

This influence is deployed via the transmission of ideas, or “memes,” which become the “scripts” discussed in the earlier 1998 article. Now the authors explain that these scripts become adopted “automatically” through “social interactions.” The authors observe that these adoptions are wildly efficient, particularly where “the memes of toughness and the valued status from violence are the object of transmission and exchange among similarly situated male youth.” The presence of guns also increases the “toxicity” of the contagion, as “guns can be constructed as a primary

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56 Id. at 690
57 Id. at 690-1
58 Id. at 691.
59 Id. at 692.
agent of violence contagion.”\textsuperscript{60} “Violent identities,” that is, acting “tough” is another sub-“contagion,” particularly when considering “the contagion of violent identities and the consequent eclipsing or devaluation of other identities in increasingly socially isolated neighborhoods.”\textsuperscript{61} In other words, boys plus guns plus a mandate that said boys act “tough” equals violence as a social contagion. The authors go on to press their characterization of violence as an epidemic or contagion by citing statistics of gun violence in New York, noting a decrease in gun violence in the 1990’s, a period which nevertheless exhibited three “sub-epidemics.”\textsuperscript{62} Violence not involving guns roughly also decreased along the same lines.\textsuperscript{63} The authors note that a gun violence epidemic that occurred during 1985-1995 largely had to do with men.\textsuperscript{64} that adolescent gun violence spiked during this period, and then such violence declined for all age groups after 1992.\textsuperscript{65} The increase of gun violence was largely experienced by African American males living in dense urban areas.\textsuperscript{66} In addition, the gun “epidemic” tracked a drug “epidemic:”\textsuperscript{67} “Competition between sellers, conflicts between buyers and sellers, and intraorganizational conflict were all contributors to lethal violence within crack markets.”\textsuperscript{68} However, the authors observe that the drug market and its fluctuations could not be the sole explanation for the rise and fall of gun violence.\textsuperscript{69} Poverty and inequality, it is understood, make violence worse.\textsuperscript{70} The authors emphasize

\textsuperscript{60} Id.
\textsuperscript{61} Id. at 693.
\textsuperscript{62} Id. at 695.
\textsuperscript{63} Id.
\textsuperscript{64} Id. at 697. (“Nearly all the increase and decline in killings from 1985–1995 were gun homicides of males.”)
\textsuperscript{65} Id.
\textsuperscript{66} Id. at 698.
\textsuperscript{67} Id. at 699 (“Homicide peaks in 1972, 1979, and 1991 mirror three drug epidemics: heroin, cocaine hydrochloride (powder), and crack cocaine.”)
\textsuperscript{68} Id.
\textsuperscript{69} Id. at 701.
\textsuperscript{70} Id. at 702.
studies focusing on violence committed and experienced by black males to buttress their conclusion that “(s)ocial contagion theory suggests that individuals are likely to mutually influence the behaviors of others with whom they are in frequent and redundant contact . . . . The social interactions underlying assaultive violence suggest its spread by social contact.”

The authors illustrate this “spread” by invoking “three scenarios” of violence. In the first, two men named Aron and Bruce get into a fight where Bruce slashes Aron; Aron goes to his group of friends and suggests retaliation; Aron and his friends arm themselves with guns, go to Bruce and his friends, and open fire. Two people are shot.

In the second scenario, Rich and Mike fight over a girl at a club; each man has an accompanying group of friends, who watch by the sidelines; the fight escalates; both groups begin discussing plans for retaliation and punishment; later, both sides open fire on one another with guns; one boy dies. In the third, Pete and his drug crew of two associates attempt to rob the drug house of a Dominican crew; the plan was foiled, but Pete’s friend Franky was recognized by the Dominicans; the Dominicans stalk Franky to his and Pete’s neighborhood and shoot Franky.

The authors conclude:

The event process can be dissected into specific stages: anticipatory stage, opening moves, countermoves and brewing period, persistence stage, intensification stage, early violence stage, stewing period, assessment stage, the casting/recasting stage, and the retaliatory stage. The examples above demonstrate that network peers play important roles at almost every stage of a conflict that escalates into violence. The communication of normative expectations, violence scripts, and violence strategies filters through direct observation, word of mouth via rumors, and telling of “war stories.”

71 Id. at 710; see also chart on page 708, detailing “African American Gun Homicides” and the analysis of the “Oliver” study of “violent confrontations between Black males in bars and bar settings” on page 711.
72 Id. at 713.
73 Id. at 713-4.
74 Id. at 714-15.
75 Id. at 715.
Emphasizing that this process is all part of the disease model, the authors close with the observation that

The dynamics of social contagion . . . suggest an endogenous process, in which the spread of social norms occurs through the everyday interactions of individuals within networks that are structurally equivalent and closely packed. Here, the ill grows and spreads from the inside, often long after the origins have subsided. This is analogous to influenza contagion or to the spread of cultural or political thought.76

The authors end their article in classic public health model. Having studied data on injuries and deaths in New York collected by the Injury Surveillance System of the New York City Department of Health and Mental Hygiene,77 they then identifies the “poorest neighborhoods”78 and those suffering from “inequality” as the risk group,79 and suggest intervention in the form of increased gun control.80

While Loftin’s work has not spread like wildfire,81 the contagion metaphor most certainly has.82 Furthermore, articles such as Fagan’s, Wilkin’s, and Davies’ The Social Contagion of Violence have found much traction in the scholarly and judicial communities. The trio’s articles have been cited with approval several times, and similar arguments have been made in numerous jurisprudential articles. “Violence as contagion” has been invoked in articles dealing with the war on terror,83 domestic

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76 Id. at 716.
77 Id. at 689.
78 Id. at 710.
79 Id at 702.
80 Id. at 717 (sugesting “gun-oriented policing strategies.”) For the four-step public health protocol, see text accompanying note 37, supra; Id. at 17. See also Mark L. Rosenberg, Violence Is a Public Health Problem, 10 Transactions & Stud. C. Physicians Phila. 147, 148 (1988).
81 My Lexis research reveals only six citations to his Assaultive Violence as a Contagious Social Process.
82 See note 1, supra.
83 Stephen Holmes, The Brennan Center Jorde Symposium on Constitutional Law: In Case of Emergency: Misunderstanding Tradeoffs in the War on Terror, 97 Calif. L. Rev. 301, 348 (2009) (“Restricting criminal liability to actual perpetrators, carefully excluding clansmen and kin, is in fact a
fragile historical achievement aimed precisely at quelling mimetic violence, at interrupting spirals of bloody inter-communal vendetta. In other words, the rules of criminal procedure have evolved and survived over time as instruments for managing violence and restricting its inherently contagious effects.”); Manus I. Midlarsky et al., Why Violence Spreads: The Contagion of International Terrorism, 24 Int’l Stud. Q. 262 (1980).

84 Martha Minow, Between Intimates and between Nations: Can Law Stop the Violence, supra note 1 at 860 (2000) (“Dr. Robert McAfee, president of the American Medical Association, suggests that family violence is a disease, and Dr. Lawrence Stone, president of the American Academy of Child and Adolescent Psychiatry, compares violence to a contagious disease.”)

85 Philip J. Cook and John H. Laub, After the Epidemic: Recent Trends in Youth Violence in the United States, 2002 Crime & Just. 1, n. 14 (2002) (“Yet another possibility is that the epidemic increase and decline are the result of an endogenous, self-generating process, rather than exogenous environmental effects. For example, if youth violence is in some sense contagious, then the volatility of rates could be explained by the same internal dynamic as, say, a measles epidemic.”); Philip J. Cook and John H. Laub, The Unprecedented Epidemic in Youth Violence, 24 Crime & Just. 27 (1998); Kenyon C. Knapp, BOOK REVIEW: School Violence: Assessment, Management, Prevention, 30 J.L. & Educ. 571, 571 (2001) (“The most useful concept by Garbarino is that of viewing youth violence as a contagious disease epidemic. Garbarino says of violent youth, “They lost their way in the pervasive experience of vicarious violence, crude sexuality, shallow materialism, competitiveness, and spiritual emptiness that affects us all to some degree but poison these especially vulnerable kids”).

86 Linda G. Mills, The Justice of Recovery: How the State Can Heal the Violence of Crime, 57 Hastings L.J. 457, 481 (2006) (“For a long time, evidence has shown that once a person has been victimized, he or she is vulnerable to additional victimizations. In the past several years, researchers have also established that violence can be contagious; victims and victimizers are often “interchangeable.”)

87 Denise Dunleavy, Beyond Tobacco Symposium: Tort Issues in Light of the Cigarette Litigation: Comments on Hamilton v. Accu-Tek (2000) 27 Pepp. L. Rev. 743, 747 (“Criminologist, Dr. Jeffrey Fagan discussed how handgun violence is a virus, a contagious disease. His studies in New York have shown that when handguns are used by youths in one neighborhood in one year, in the next year, in the next neighboring community, there will be handgun violence.”)

88 Edgardo Rotman, Therapeutic Jurisprudence at the Conference of the International Association of Law & Mental Health in Padua, Italy: Therapeutic Jurisprudence and Terrorism, 30 T. Jefferson L. Rev. 525 , 536 (2008) (“... fear fuels hatred and a tendency toward highly contagious, irrational violence. Maintaining clarity of mind is necessary to transcend the fear instilled by terrorists, overcome threats to physical safety, and ensure the emotional well-being of the population. Otherwise, fear fuels hatred and a tendency toward highly contagious, irrational violence.”)


90 Anthony V. Alifieri, Race-ing Legal Ethics, 96 Colum. L. Rev. 800, 800 (1996) (discussing “1993 trial of Damian Williams and Henry Watson in Los Angeles County Superior Court on charges of attempted murder and aggravated mayhem arising out of the beating of Reginald Denny and seven others during the South Central Los Angeles riots of April 1992. To win acquittals, the Williams-Watson defense teams refuted evidence of intent and voluntary conduct required to prove criminal liability for murder and mayhem. The defense relied on a “group contagion” theory of mob violence-incited diminished capacity. Invoked as a partially exculpatory defense, the theory suggests that young black
co-authors have also extended their group contagion thesis in articles dealing with youth violence,\textsuperscript{91} neighborhood violence,\textsuperscript{92} and punishment theory.\textsuperscript{93}

The contagion thesis appears to have been accepted by at least one court, as well. Fagan provided important testimony in an unsuccessful 2003 nuisance suit that the NAACP brought against gun manufacturer and distributor AcuSport. In \textit{NAACP v. AcuSport},\textsuperscript{94} the NAACP alleged that their members and “potential members” – being members of the African American community – suffered special harm as a result of AcuSport’s irresponsible marketing and sales practices; specifically, they alleged that their members and potential members suffered special harms from gun violence whose extremity could be traced back to AcuSport’s shoddy merchandising methods, which led to the dissemination of unlicensed guns. The critical factor in the lawsuit came down to whether the N.A.A.C.P. and the black community in New York suffered from specific harms: Plaintiffs needed to establish not only the existence of a nuisance (here being gun violence), and defendants’ negligent or intentional conduct (via their irresponsible marketing protocols that allowed large numbers of guns to be captured by violent offenders), but also prove that the black community’s consequent suffering


was different not just in “degree” but in “kind.” 95 Though the court accepted 96 Fagan’s testimony concerning the “contagious effects of gun acquisition, gun injury and homicide among youth,” 97 and the “disproportionate” effect gun violence has on the African-American community in New York, 98 it determined that the N.A.A.C.P. had not made out its case that this harm was different in kind. 99 Fagan’s testimony appears to have been central to the N.A.A.C.P.’s case, in that he attempted to characterize the specific impact gun violence has on African-Americans, using data collected by public health institutions, which demonstrate that African-Americans suffer more from gun violence than other groups; moreover, the court credited Fagan’s testimony over defendants’. 100

The problem that I target in this essay, however, is not the use of public health data per se, or the use of the 4-pronged strategy advocated by the epidemiology approach, but in the use of dehumanizing language embodied in the contagion metaphor; human beings and their teachings, after all, are not “ill(nesses).” Loftin’s terminology appears awkward in his first and most notable 1986 article; however, it must be said that Fagan and Wilkinson’s 1998 piece sufficiently emphasizes human emotions and culture so that the contagion metaphor does not raise alarm. But by 2007, the latter authors’ enthusiasm for the imagery of disease is evident in The Social Contagion of Violence. Whereas the 1998 article acknowledged the social teachings of violence, 101 and appears to call for a greater understanding of the “processes of learning and diffusion” “of . . . gun ‘knowledge,’ (as it) remain(s) unstudied and

95 Id. at 447-448.
96 Id. at 508.
97 Id. at 520.
98 Id.
99 Id. at 28.
100 Id. at 520.
101 See text accompanying note 44, supra.
the 2007 piece is overrun with images of violence not as a human emotional process, but an “automatic” one created by disease, toxins, “spreading” “ills,” epidemics, and pestilential carriers. Furthermore, though the scenarios the authors invoke in the 2007 article are interesting, they are streamlined narratives that seem designed to demonstrate that violence is spread by immediate social contact, like any other disease; very little information is given of the backgrounds, and emotional and personal histories of the individuals involved in the scenarios.

As we will see, the use of the contagion metaphor carries several risks, among them being the dangerous imposition of stigma on violent offenders and encouragement of analytical sloppiness. Moreover, a devotion to the violence-as-contagion construction might even have shaped Fagan’s testimony and methods in such a way that the N.A.A.C.P. inevitably lost its case against AcuSport.

II. A study of the epidemiological approach and its accompanying contagion metaphor

Any critique of the contagion metaphor must accompany an analysis of the public health model, with which it appears inextricably connected. In the following section, I will conclude that the retrieval of data on violence collected by public health officials, and the four-step “epidemiological” attack suggested by the likes of Rosenberg and Mercy need not be abandoned completely. However, anti-violence agendas need to drop the dangerous language of disease, and any criminal

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102 See note 44, supra, at 134.
103 See note 34, supra.
Justice/public health approach must be enriched with a more precise understanding of the human interactions that transfer violent behaviors. In other words, we need a deeper comprehension of the pedagogy of violence.

A. Critiques of the public health model

As the proliferation of the contagion metaphor issued from the decision to treat violence as a public health problem, any critique of that thesis seems to presuppose an attack on the epidemiological approach. Though I will be making criticisms based on sensitivities to the stigmatic and other unfortunate effects of the contagion metaphor, I am not arguing against the public health model per se. Indeed, the advocates of epidemiological approach crafted their strategy out of an ambition to uncouple anti-violence strategies from febrile pro-gun politics and severe criminal sentences that disparately impact communities of color while doing little to combat the root causes of violence. Fagan’s work, in particular, demonstrates his frustration with high prison sentences and their effects on the lives of men of color, and his aim to

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104 See text accompanying note 3, supra.
105 See Daniel J. French, Note: Biting the Bullet, supra note 1 at 1088-89 (“Public health brings to the table a time-tested, systematic approach to reducing the burden of illness and premature death among human populations. The idea is to steer the debate away from the polarizing pro/anti gun control issue and into the hands of epidemiologists where meaningful, effective, and acceptable control measure can be developed. The nation’s public health should not be a political matter. Whether you are a member of the NRA, like to hunt, or collect guns, there is an obligation, from a public health perspective, to understand and minimize the thousands of deaths and injuries associated with firearms. It is not a complicated idea and common sense requires it in a civilized society.”); David Garland, Overall Perspectives on Crime is Not the Problem, Crime Control, and "The American Difference," 69 U. Colo. L. Rev. 1137, 1146-7 (1995) (“the adoption of a public health approach to criminal violence has the radical effect of "demoralizing" the phenomenon. It removes violent conduct (redefined as "non-accidental injury") from the framework of condemnation, blame allocation, and punishment and views it as injurious behavior that should be addressed by the most effective methods, whether or not these accord with the traditional values and objectives of law enforcement and criminal justice.”)
106 See Jeffrey A. Fagan & Tracey L. Meares, Symposium: Legitimacy and Criminal Justice: Punishment, Deterrence and Social Control: The Paradox of Punishment in Minority Communities, supra note 93, 6 Ohio St. J. Crim. L. at 224 (“Despite good evidence of cyclical patterns of contagion and violent crime, a variety of social constructions of the "violence" problem have been advanced, each one justifying new demands for "tougher" sentences and increased punishment. For example,
make communities of color safer.\textsuperscript{107} Furthermore, the public health approach possesses the advantage of reducing violence through preventative strategies rather than after-the-fact punishments, and this former approach may be more effective.\textsuperscript{108}

Nevertheless, the epidemiological approach has been aptly criticized in ways that relate to the negative effects of the contagion metaphor. The most prominent critique has been advanced by Hattie Ruttenberg in her 1994 Yale Law Journal article increases in violent crime in the 1960s were attributed to sharp increases in heroin addiction in large U.S. cities, in the 1970s to youth violence, and in the 1980s to youth gangs, guns, and drug traffickers. Each successive iteration of the etiology of rising violence rates lead to the identification culturally, politically and socially of new "dangerous classes" that threatened public safety and whose crimes merited increased doses of punishment."\textsuperscript{107}) and 225 ("Importantly, the "dangerous classes" of the last two decades were "raced." That is, crime became inextricably linked to African Americans, and African-American men, in particular. Thus, the escalation in imprisonment can be read not only as a reaction to the changing nature of violent crime and the country's changing mores regarding drug offending, but it also can be read as a statement regarding mainstream society's linkage of African-American men with crime."\textsuperscript{107})

\textsuperscript{107} See., e.g., Fagan's testimony in support of holding Acusport responsible in nuisance for the illegal distribution of guns in New York, in text accompanying supra notes 94-100.

\textsuperscript{108} James C. Howell and J. David Hawkins, \textit{Prevention of Youth Violence}, 24 \textit{Crime & Just.} 263, 302(1998) ("for maximum and sustained impact, violence prevention needs to be linked with early intervention and graduated sanctions components in a comprehensive strategy [\ldots]). Comprehensive approaches to delinquency prevention and intervention require collaborative efforts between prevention agencies, the juvenile justice system, and other service provision systems, including mental health, health, child welfare, and education. If prevention programs are effective in reducing the number of youths who reach the juvenile justice system, the resources devoted to costly correctional services and sanctions can be reallocated to prevention services. Recent advances in prevention science and health epidemiology are providing tools communities can use to plan and implement strategic, outcome-focused plans for reducing the prevalence of antisocial behavior among adolescents and young adults."\textsuperscript{107}); Murray A. Straus & Carrie L. Yodanis, \textit{Corporal Punishment by Parents: Implications for Primary Prevention of Assaults on Spouses and Children}, 2 \textit{U Chi L Sch Roundtable} 35, 35 (1995) ("The concept of primary prevention is borrowed from the fields of public health and mental health. To paraphrase a definition from Caplan, primary prevention lowers the incidence of family violence by counteracting harmful circumstances before they have a chance to produce violence. Primary prevention does not seek to prevent a specific person from committing a violent act; instead, it seeks to reduce the risk for a whole population. The outcome envisioned as a result of primary prevention is that although some individuals may continue to be violent, their numbers will be reduced. The concept of primary prevention is borrowed from the fields of public health and mental health. To paraphrase a definition from Caplan, primary prevention lowers the incidence of family violence by counteracting harmful circumstances before they have a chance to produce violence. Primary prevention does not seek to prevent a specific person from committing a violent act; instead, it seeks to reduce the risk for a whole population. The outcome envisioned as a result of primary prevention is that although some individuals may continue to be violent, their numbers will be reduced."\textsuperscript{107}); Deborah Prothrow-Stith, \textit{Strengthening the Collaboration between Public Health and Criminal Justice to Prevent Violence}, 32 \textit{J.L. Med. & Ethics} 82, 82-83 (2004) ("The utilization of public health approaches has generated several contributions to the understanding and prevention of violence, including new and expanded knowledge in surveillance, delineation of risk factors, and program design, including implementation and evaluation strategies. \ldots") Public health strategies are required for violence prevention because criminal justice strategies primarily target stranger violence committed during another crime, not the significant problem of acquaintance, family and intimate violence."\textsuperscript{107})
The Limited Promise of Public Health Methodologies to Prevent Youth Violence. Ruttenberg acknowledges that the public health model is most effective when dealing with the so-called “pathogen” of guns, and collecting data on community violence, but that it runs into trouble when characterizing human beings as vectors of “disease”:

The difficulty in using this model to address the incidence of youth violence stems from the fact that, in this case, the public health community must address the particular vulnerabilities that cause individuals to engage in the assaultive behavior that injures and kills other individuals. In this scenario, therefore, the vulnerabilities inhere not in the victim, but in the aggressor, who is also the pathogen. . . . (However) the public health model, like the criminal justice system, is ill-suited to improving the fundamental social conditions, such as poverty, joblessness, and a lack of family and community supports, that seem to underlie much violence behavior. The public health community, however, does have the capacity to collect violence data, identify violence risk factors, and educate the public about the risks associated with firearms. Ultimately, the public health model promises to be much more effective in reducing the lethality of violent behavior (by addressing the lethality of firearms) than in preventing that behavior. Ruttenberg levies particular criticism at the inability of the public health model to come up with factors that correlate to a risk of violence, but have not yet been proved to cause violence:

(R)esearchers have been able to identify various risk factors correlated with youth violence. Those factors include: (1) poverty; (2) repeated exposure to violence; (3) drugs; (4) easy access to firearms; (5) unstable family life and family violence; (6) delinquent peer groups; and (7) media violence. . . . Studies also have demonstrated that a small number of juveniles commit the majority of violent offenses. For instance, in a longitudinal study that followed approximately 4000 youths in Denver, Pittsburgh, and Rochester for five years, more than half of

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109 103 Yale L.J. 1885 (1994).
110 Id. at 1888. See also Dean G. Kilpatrick, Interpersonal Violence and Public Policy: What about the Victims?, 32 J.L. Med. & Ethics 73, 76 (2004) ("Understanding the complex, multi-determined causes of violence perpetration is considerably more difficult than understanding the causes of polio. Likewise, developing a method for preventing polio has proved to be a much simpler task than attempting to develop methods for preventing perpetration of interpersonal violence. Given these limitations in our current knowledge about the effectiveness of primary prevention of interpersonal violence, the question must be raised as to whether it is premature to devote substantial resources to primary prevention efforts that remain unevaluated, particularly if these resources might be better utilized in secondary or tertiary prevention services to victims.")
the youths admitted to some form of violent criminal behavior by age sixteen; however, 15% of the sample were responsible for 75% of the violent offenses. That a small percentage of juveniles is responsible for the great majority of violent offenses further underscores the failure, to date, to pinpoint causative factors. If the risk factors identified above were causally related to violence, the primary offending cohort would be much greater than it is, because more juveniles experience those factors than engage in violent crime.111

Thus, while the public health model retains relevance because it supports the gathering of data on violence, and is effective in addressing the proliferation of guns in our community (say, by encouraging lawmakers to enact gun control laws and funding public service announcements that identify the risks of having guns in the home), it is not designed to address poverty, unemployment, and family unrest; nor has it accurately identified when these factors will in fact translate into violent behavior. These problems can only be exacerbated by characterizing violence as a contagion: Much of Ruttenberg’s critique comes between the disconnect between treating human beings as diseases and vectors of epidemics. Though Ruttenberg herself uses the contagion metaphor,112 her argument grows out of a frustration with epidemiology’s ill-equipment to deal with human emotions and motivations that influence future violent behavior. That is, violent people are not communicable diseases, and such a characterization of them raises the specter not only of inaccuracy but also of dehumanization. The rhetorical leap from addressing violence as a public health problem to that of a contagion has obscured more than it revealed: The insistence on describing human beings as pestilence dangerously stigmatizes offenders and has created a significant obstacle in understanding why we act violently.

111 Id. at 1894.
112 Id. at 1885 (“In the quest for new answers, the public health model of violence prevention recently has been proffered as a possible response to the epidemic of youth violence.”)
B. The problems with the “violence as contagion” metaphor

While “violence as contagion” is a powerful metaphor, it dehumanizes offenders. As my review of their work demonstrates, Loftin’s and Fagan’s and Wilkins’ articles are rife with troubling descriptions of people engaged in violent behavior. The emotional disengagement and nerve-wracking language of disease encouraged by the contagion metaphor could make us more amenable to draconian social policies, such as the kind as has often been used to combat virulent contagious diseases. At the very least, the contagion metaphor’s diversion of attention from the emotional dynamics that drive the transmission of violent behaviors will impoverish our analysis of violence and its redresses. Thus, while neither Loftin, Fagan, Wilkins, nor any other cited author advocate treating offenders in unfair ways, and, indeed, demonstrate their commitment to social justice, we should remain wary of using language that distracts us from the human face of violence.

Fagan’s, Wilkin’s, and Loftin’s work unfortunately does create the risks that we will overreact to and under-comprehend the causes of violence. For example, Fagan’s and Wilkin’s descriptions of offenders do not cohere with our common understanding of how human motivation and behavior operates, which creates the impression that offenders are somehow outcasts from the community of men. In the “scenarios” recounted by Fagan and Wilkins in The Social Contagion of Violence, the offenders are described as spontaneously and instinctively engaging in violence that they catch from one another.\footnote{See text accompanying notes 72, supra.} Again, though these scenarios describe group behavior, and the article mentions “mutual influence” and “contact(s),”\footnote{Supra note 56.} Fagan and Wilkins do not detail the emotional relationships that exist between co-offenders, or offenders and
bystanders. There is also no history given about the offenders, nor any description of the specific tutorials by which they may have learned violence in the home, on the streets, from the media, literature, or social and political history (e.g., the social aftershocks of the slavery trade in the United States or the persistent use of the death penalty in this country). Despite Fagan and Wilkins’ admission that violence is transmitted through “social” and “moral” networks, all of the actors in their scenarios seem deprived of deep moral and emotional sensation; indeed, the authors assert that the offenders are acting almost automatically, from “scripts.”

The connotation that offenders are somehow sub-human is additionally reinforced by the very word “contagion.” “Contagion” comes from the Latin

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115 See, e.g., supra notes 43 & 56.
116 See The Social Contagion of Violence at 713 (“Aron goes back to his block and recounts the story to his associates. He rallies their support for a counterattack by highlighting the ways that his opponent was trying to destroy his attractiveness by scarring his face and how he disrespected him. After a few days pass and the group was fueled by visions of revenge, Aron and four of his associates armed themselves with handguns and went to Bruce’s block.”); id. at 714 (“Mike discusses ways of punishing Rich. Both sides watch the other. The status of who “gets” the girl remains open. Both sides plan to attack at the end of the night. Mike believed that Rich must have called some of his friends for additional reinforcements and to make sure that when Rich got outside he would have a gun available. Mike and his boys essentially make the same type of preparations. As soon as Mike moved toward exiting the club, Rich’s group was preparing for a gun battle. Mike recalls that his side had three guns that they retrieved from nearby stashes, whereas it seemed like the other side had five or more guns. With more than 20 shots fired, injuries were sustained on both sides.”); id. at 715 (“The event process can be dissected into specific stages: anticipatory stage, opening moves, countermoves and brewing period, persistence stage, intensification stage, early violence stage, stewing period, assessment stage, the casting/recasting stage, and the retaliatory stage. The examples above demonstrate that network peers play important roles at almost every stage of a conflict that escalates into violence. The communication of normative expectations, violence scripts, and violence strategies filters through direct observation, word of mouth via rumors, and telling of “war stories.”). See also Susan Sontag, Illness as Metaphor, 60 (1977) (noting that the illness (particularly cancer) as metaphor is used to depict “whatever seems ruthless, implacable [and] predatory.”); Note: The Disenfranchisement of Ex-Felons: Citizenship, Criminality, and “The Purity of the Ballot Box,” 102 Harv. L. Rev. 1300 n. 70 (1989) (“Metaphors of disease in the rhetoric of disenfranchisement project a picture of criminality as an evil alien force, which, if not rooted out, will spread and contaminate the entire body politic. Cf. Buck v. Bell, 274 U.S. 200 (1927) (Holmes, J.) (“[I]n order to prevent our being swamped with incompetence . . . [i]t is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind.”).
contagionem, which means “touch;” thus, the direct implication of this word is that offenders are untouchable. Loftin was one of the pioneers of the use of this word; Fagan and Wilkin’s work also especially courts this vision of offenders as untouchables. Again, as to the latter to authors write: “Contagious epidemics involve the transmission of an agent via a host through susceptible organisms whose resilience is weakened by other conditions or factors. Susceptibility is critical to the ability of an agent to exert its process on a host.”

This impression, that violent offenders are automatons or outcasts from the category human, mingles dangerously with the insinuation that they are carriers or “vectors” or disease. Loftin, for one, describes the process by which we learn violent behavior from one another as an “epidemic,” a word that is sure to generate feelings of anxiety and even panic. The record of the United States’ and other countries’ address of actual epidemics is littered with examples of almost uncontrollable public alarm, and the consequent limitations on civil and human rights. Further,

118 See text accompanying note 57, supra.
119 Michelle Therese Moran, Colonizing Leprosy, Imperialism and the Politics of Public Health in the United States 63 (2007) (detailing the history of leprosy containment in Hawaii) (“Hawaiians did not consider forced removal from their families and life-long banishment . . . a peaceful undertaking, but Euroamerican officials convinced of Hawaiian passivity did not anticipate strong opposition to the round-up and deportation.”); Andrew T. Price-Smith, Contagion and Chaos: Disease, Ecology, and National Security in the Era of Globalization 41-2 (2009) (“[The 15th century wave of the Black Death] was also responsible for exacerbating pre-existing inter-ethnic tensions, manifesting in the scapegoating and often torture of minorities. Exceptional violence was directed by panicked Christian populations against Jewish minorities throughout Europe during this period. Anti-Jewish pogroms were carried out throughout Europe, and with a particular intensity in France and Germany, largely as a result of the dissemination of conspiracy theories that the Jews were poisoning the wells of Christian communities.”); John Parascandola, Sex Sin, and Science: A History of Syphilis in America 124 (2008) (detailing the World War II arrests and mandatory treatments of prostitutes and ‘loose women’ who were suspected of having syphilis) (“[A]dmittance to a rapid treatment center was not always on a voluntary basis, nor were patients necessarily free to leave of their own accord. Many were confined to the centers under state laws involving the control of communicable diseases, i.e., they were considered to be quarantined. Not only were they detained in these facilities, but they were required to accept treatment until they had been cured of the disease.”); Jonathan Engel, The Epidemic: A Global History of AIDS 36 (2006) (“AIDS clearly fell within the purview of public health. As an infectious but possibly controllable disease, it could be targeted by traditional public health techniques, whether by identifying contagious individuals, regulating their behavior, circumscribing their motions
‘epidemics’ and ‘plagues’ are near synonyms in the *Oxford English Dictionary*, and, as Susan Sontag notes in her book *Aids and its Metaphors*, “(p)lague, from the Latin *plaga* (stroke, wound), has long been used metaphorically as the highest standard of collective calamity, evil, scourge.” Sontag also observes that “(t)he most feared diseases, those that are not simply fatal but transform the body into something alienating, like leprosy and syphilis and cholera and (in the imagination of many) cancer, are the ones that seem particularly susceptible to promotion to ‘plague.’”

Thus, to characterize human beings as carriers of this level of disease specifically disgraces them as “calamitous” “evil” and “repulsive” – and once we have so constructed violent offenders, we may feel all the more free to treat them with unduly harsh measures. On this point, we may consider Sontag again: “The melodramatics... and activities, or publicizing their existence. Although nobody in the early 1980s was suggesting reopening the archaic leper colonies of old, public health professionals did consider identifying AIDS patients, warning others of their existence, regulating their behavior, and possibly limiting their freedoms. All of these techniques had proven effective in the past in controlling infectious disease, and there was little reason to suspect that they could not successfully be employed again.” See also id. At 37 (“Civil libertarians were particularly adamant in their opposition to almost all traditional public health efforts at controlling the disease.”)

120 *Oxford English Dictionary* vol II, p 2193 *plague*, 3b, “an infectious disease or epidemic attended with great mortality; a pestilence.” *See also* Susan Sontag, *Aids and its Metaphors* 133 (1988) (“It is usually epidemics that are thought of as plagues. And these mass incidences of illness are understood as inflicted, not just endured. . . . The most feared diseases, those that are not simply fatal by transform the body into something alienating, like leprosy and syphilis and cholera and (in the imagination of many) cancer, are the ones that seem particularly susceptible to promotion to ‘plague.’”)

121 *Id*. At 133.

122 *Id*.

123 Though Fagan does advance his social contagion theory as an antidote to excessive sentences, see Jeffrey A. Fagan & Tracey L. Meares, *Symposium: Legitimacy and Criminal Justice: Punishment, Deterrence and Social Control: The Paradox of Punishment in Minority Communities*, 6 *Ohio St. J. Crim. L.* at 224 (“Despite good evidence of cyclical patterns of contagion and violent crime, a variety of social constructions of the “violence” problem have been advanced, each one justifying new demands for “tougher” sentences and increased punishment. For example, increases in violent crime in the 1960s were attributed to sharp increases in heroin addiction in large U.S. cities, in the 1970s to youth violence, and in the 1980s to youth gangs, guns, and drug traffickers. Each successive iteration of the etiology of rising violence rates lead to the identification culturally, politically and socially of new "dangerous classes" that threatened public safety and whose crimes merited increased doses of punishment.”), Susan Sontag notes in *Illness as Metaphor* that the cancer metaphor “the use of cancer as a metaphor . . . amounts to saying, first of all, that the event or situation is unqualifiedly and unredeemably wicked. It enormously ups the ante . . . To describe a phenomenon as a cancer is an incitement to violence. The use of cancer in political discourse encourages fatalism and justifies...
of the disease metaphor in modern political discourse assume a punitive notion: of the disease not as a punishment but as a sign of evil.”

As Fagan’s work focuses on the violent behavior of black men, we may also be particularly saddened by a characterization of racial minorities as pestilential carriers of disease; the effects of this metaphor seem especially hazardous as we live in a racist society. In the end, Fagan, Wilkins’ and Loftin’s certainly unintentional implication

'\textit{severe}’ measures.' \textit{Illness as Metaphor} at 82-83. Violence as a “contagion” may have the same, or even a greater such effect, leading lawmakers to think in terms of quarantine and other extreme responses to control a “plague.”

With respect to the relationship between the dehumanization of offenders and too-harsh treatment of them, c.f., Albert W. Alschuler, \textit{The Failure of Sentencing Guidelines: A Plea for Less Aggregation}, 58 \textit{U. Chi. L. Rev.} 901, 901 (1991) (noting that the “aggregation” of criminal law cases under the federal sentencing guidelines, in the form of high mandatory minimum sentences, led to a harm-based penology that “dehumanized the sentencing process.”); Marques P. Richeson, \textit{Beyond the Final Frontier: A "Post-Racial" America?: The Obligations of Lawyers, the Legislature, and The Court: Sex, Drugs, and ... Race-to-Castrate: A Black Box Warning of Chemical Castration’s Potential Racial Side Effects}, 25 \textit{Harv. BlackLetter J.} 95, 95 (2009) (arguing that chemical castration is related to a long American tradition of dehumanizing and hypersexualizing African American men); H. Mitchell Caldwell and Thomas W. Brewer, \textit{Death Without Due Consideration?: Overcoming Barriers to Mitigation Evidence by "Warming" Capital Jurors to the Accused}, 51 \textit{How. L.J.} 193, 200, 203 (2008) (“Dehumanization proves to be one of the most powerful cognitive processes that can distance people from the moral implications of their actions. . . . Racism originates from anger, hatred, fear, and ignorance and is facilitated when people are dehumanized. A sentence of death may often originate from the same emotions. Historical data exemplifies race’s impact in capital punishment, and highlights the disproportionate number of death sentences received by African-Americans.”); Elizabeth-Heger Boyle, 41 \textit{Law & Soc’y Rev}. 741, 743 (2007) (review of Susan B. Hirsch’s book \textit{In the Moment of Greatest Calamity: Terrorism, Grief and a Victim’s Quest for Justice}, noting Hirsch’s analysis of \textit{Payne v. Tennessee}, the “1991 Supreme Court decision to allow inclusion of victim impact evidence in capital cases. Although, as a victim, she recognizes the need to tell her story, she doubts that the trial--where such testimony may \textit{dehumanize} defendants, swaying jurors toward feelings of vengeance--is the most adequate place.); Amanda K. Eklund, \textit{Comment: The Death Penalty in Montana: A Violation of the Constitutional Right to Individual Dignity}, 65 \textit{Mont. L. Rev.} 135, 144-145 (2004) (“The ultimate dehumanization occurs when a government systematically discriminates against a class of its own people based on factors beyond their control. Such is the case in the American system of capital punishment.”).

that violent offenders are reflexive, automatic, untouchable, evil, destitute of deeply complicated emotive and personal histories, and plague carriers may lay the groundwork for dangerous social policy.

The concern that the contagion metaphor will fertilize draconian or even racist political and legal agendas, however, is at this point speculative. One critique that is not speculative, however, is as follows: Since the contagion metaphor blurs the humanity of offenders, it allows us too easily to disregard the rituals, practices, and emotional processes by which we learn to be violent, and this may lead to an inferior analysis of how violent behavior is transferred from person to person. This impoverished analysis will then give rise, if not to frightening social policies, at the very least incomplete or wrongheaded forms of redress.

My critique, then, lines up with Ruttenberg’s assessment that the public health approach is not equipped to address poverty, unemployment, and family unrest; nor has it accurately identified when these factors will in fact translate into violent behavior.126 In other words, it is insufficiently vested in human emotions and personal and social history, a dilemma that is only exacerbated – perhaps even created – by the use and overreliance on the contagion metaphor, which confusingly describes human relationships as “vectors.” Furthermore, as I will show later, this disconnection from emotions and history may also account for the incomplete expert testimony that Fagan

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126 See Ruttenberg, supra note 111 at 1894.
gave in N.A.A.C.P.’s unsuccessful nuisance lawsuit against gun manufacturer Acusport. ¹²⁷

Consequently, I advocate that we abandon this metaphor in favor of an approach that acknowledges the transmissions of violence as a pedagogy of violence. Though I share Ruttenberg’s approval of the epidemiological method’s information gathering and public service messaging,¹²⁸ the model’s rhetoric and focus has blinded us to crucial factors that lead to the sharings of violent behaviors. As the work of Bandura, Walker, Gelles, Suzanne Steinmetz, Straus, and the other previously cited social scientists shows us,¹²⁹ violence is a learned behavior; the example of violence proves to be a teaching lesson. And if we want a deeper understanding of what makes us such good teachers and students of violence, we must make a study of the personal histories, emotions, and desires of those who teach and learn violence.

Thus, we should merge the two models, retaining the data-gathering and public-serving of the epidemiological method, while incorporating the language and insights of the learned behavior method. However, we need to go farther than that: The problem of violence transmission is so dire and complicated that we need to expand our studies of it. Legal scholars should develop a richer analysis of the pedagogy of violence, which may look not only to the work of Bandura, Walker, and the other learned behavior theorists – as well as the helpful data collected by epidemiologists -- but to other interdisciplinary sources as well.

It must be said that some scholars have been making inroads in this direction. For example, Jane Rutherford, mentioned above, builds upon criminologist Lonnie

¹²⁷ See text accompanying notes 277-284, infra. ¹²⁸ See text accompanying note 110, supra. ¹²⁹ See text accompanying notes 10-16, supra.
Athens’ work, which describes the learning of violence behavior as progressing in the following stages: The development of the learning moves from “brutalization” to ‘belligerency’ to ‘violent performances’ and, finally, to ‘virulency.” Rutherford, also, focuses on the power of “violent coaching” to transfer the lessons of violence.\textsuperscript{131}

Additionally, Videtta A. Brown has written about how gang members tutor each other to commit violence upon women in their circle, citing the work of Canadian sociologist Mark Douglas Totten,\textsuperscript{132} Jeffrey von Talge has applied the psychoanalytic theories of Anna Freud to explain how child witnesses of domestic violence absorb its lessons,\textsuperscript{133} and Leigh Goodmark has referred to other psychoanalytic studies of the emotional impact experienced by child witnesses of domestic violence, which include an increased sense of fatalism and “hyperalertness.”\textsuperscript{134}

Nevertheless, a varied, textured account of the pedagogy of violence is still in the workings. Though legal scholars have turned to psychological and sociological studies to help shed light on the process of learning violence, we need to dig deeper into this particular pedagogical relationship. Case studies, interviews of offenders and victims, a study of the economic influences on violence,\textsuperscript{135} and other scholarly strategies may reveal insights into the pedagogy of violence. In this article, I will be

\textsuperscript{130} See Community Accountability for the Effect of Child Abuse on Juvenile Delinquency in the Brave New World of Behavioral Genetics, 56 DePaul L. Rev. at 979.

\textsuperscript{131} Id. at 979-980 (“Violent coaching occurs when an authority figure encourages the minor to act violently. The authority figure belittles any attempts minors make to smooth over conflicts or flee. Children are taught that it is their duty to stand up for themselves and to be prepared to physically attack others when necessary. The authority figure often tells stories glorifying those who triumph in physical fights. Sometimes, especially within gangs, the coaching is coercive. If the minor does not act aggressively toward an outsider, he will be a victim of the gang.”).

\textsuperscript{132} See Brown, supra note 24, at 408 (“Physical and sexual violence toward young women, although not considered violence by the gang, becomes a learned behavior. Members adopt their leaders’ violent sexual behavior against women as well as the leaders’ misogynistic philosophies.”).

\textsuperscript{133} See Von Talge, Victimization Dynamics, supra note 25, at 174.


employing a different interdisciplinary method, that of law and literature. I choose a legal-literary analysis of violence transmission because of literature’s intense focus on characters’ relationships and personal history, which are exactly the elements that are missing from the exegeses that track the “contagion” of violence. I will employ a close analysis of Elfriede Jelinek’s novel *The Piano Teacher* in order to study the dynamics that exist between teachers and students of violence. In particular, I will examine how *The Piano Teacher* gives a specific account of the ways in which we train each other in violence, by surveilling, controlling, and what Jelinek calls “trampling” one another. Furthermore, I will show how, in the novel, the characters’ emotions and desires make them such adept students of this deadly pedagogy.

III. *The Pedagogy of Violence: A Literary Legal-Approach*

A) *The Plot of the Piano Teacher*

Austrian 2004 Nobel Laureate\(^{136}\) Elfriede Jelinek published *The Piano Teacher* in 1983; horrifyingly, she claims that the novel is autobiographical.\(^{137}\) The story concerns one Erika Kohut, a spinster and Austrian professor of music who teaches at the Vienna Conservatory.\(^{138}\) Erika lives with her mother\(^{139}\) in a small two bedroom apartment, her father having been sent by the women to a sanatorium.\(^{140}\) The novel begins with a baffling set piece: Erik, having returned late home one night, immediately is set upon

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137 Ruth Franklin, *Nobel Savage*, *The New Republic* 32 (November 1, 2004) (“The book provoked a sensation not just for its subject matter and its graphic, indeed pornographic, imagery . . . but also for Jelinek’s acknowledgment that many of its elements were autobiographical.”)
138 *Id.* at 7.
139 *The Piano Teacher* 1 (1985).
140 *Id.* at 93.
by Mother, who typically monitors all of Erika’s movements out of fear that her daughter will one day leave her for a man.\textsuperscript{141} Mother begins interrogating Erika, pulling her daughter’s briefcase away from her and rifling through it. Inside she finds the “bitter answer to all questions” -- that Erika has been shopping for a new dress, which she secreted away in said briefcase.\textsuperscript{142} Mother is incensed at this betrayal; dinner has been kept waiting. The two women struggle over the dress, and Erika “grabs her mother’s dark-blond hair with its gray roots. . . She pulls it furiously,”\textsuperscript{143} later throwing the torn hair into the garbage. The women then bicker at each other about clothing and fashion, and which clothes are appropriate for Erika to wear.\textsuperscript{144} Soon after, the women both cry and make up, then go to sleep in the same bed, which is their nightly practice.\textsuperscript{145}

Day breaks. Erika travels by streetcar to her teaching job at the Conservatory, growing so frustrated at the crowd that she kicks at a lady, a man,\textsuperscript{146} and an old woman.\textsuperscript{147} She experiences a flashback memory of her mother’s ambitions that Erika become a vastly famous pianist,\textsuperscript{148} and recalls also the one day that Erika failed a crucial performance, destroying all possibilities of this dream becoming a reality.\textsuperscript{149} During that occasion Erika’s mother had slapped her, “for even musical laymen could read Erika’s failure in her face if not in her hands.”\textsuperscript{150}

Erika eventually arrives at the Conservatory. She begins her first lesson, the narrator informing us that she particularly enjoys her work with “good advanced

\textsuperscript{141} Id. at 11 (“Mother does not wish to become a mother-in-law. She prefers remaining a normal mother; she is quite content with her status.”)
\textsuperscript{142} Id. at 4.
\textsuperscript{143} Id. at 8.
\textsuperscript{144} Id. at 9, 11.
\textsuperscript{145} Id. at 10.
\textsuperscript{146} Id. at 16.
\textsuperscript{147} Id. at 21.
\textsuperscript{148} Id. at 25 (“Erika is truly a keyboard genius, but she has not been properly discovered as yet.”)
\textsuperscript{149} Id. at 25-6.
\textsuperscript{150} Id. at 27.
students. “Erika is drawn to one student in particular, the attractive, blond, and athletic Walter Klemmer, who has shown inordinate interest in his teacher. The day continues without incident, but when evening arrives, Erika takes a curious path home. She travels through the less savory part of town, observing the run-down atmosphere as well as a child who is being physically chastened by its mother. Erika eventually makes her way to a sex shop. Here, she watches a pornographic film, sniffing at semen-encrusted tissues that have been left in her booth. Night falls; she returns home.

The next day, Erika performs at a concert that takes place in the home of a Polish émigré family. Klemmer’s family is in attendance, as is he. Klemmer gazes lustily at his professor as she plays the piano, and later chats with Erika about Schumann. She discloses to Klemmer that, like Schumann, her father suffered from a terrible mental illness. Klemmer attempts to walk Erika and Mother home after the concert but the women won’t permit it for long. Once at home, Erika goes into a reverie and self-harms with a razor while hidden away in the bathroom.

Another morning breaks. On her way to work Erika observes a doppelganger in action: It is one of her other students; this boy is staring at pornographic film stills that advertise movies at a theater. Teacher and student walk together to his lesson, Erika

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151 Id. at 28.
152 Id. at 29.
153 Id. (“[He is a] nice-looking blond boy, who lately has been the first to show up in the morning and the last to leave in the evening.”).
154 Id. at 46.
155 Id. at 46-56.
156 Id. at p 60, 62.
157 Id. at 63.
158 Id. at 71-2.
159 Id.
160 Id. at 73-80.
161 Id. at 86.
162 Id. at 99.
berating the boy all the while.\textsuperscript{163} During the lesson, Erika treats the student with such savagery that he cannot perform.\textsuperscript{164}

The book moves to another day, describing another lesson, this time with the intriguing Klemmer. Klemmer and Erika engage in a debate about music, and during their exchange their sexual tension escalates.\textsuperscript{165} They separate, and Walter goes home; Erika follows him, clandestinely.\textsuperscript{166} Erika then goes to another unsavory part of town, this time wearing sturdy walking shoes.\textsuperscript{167} In the Prater Meadows, she witnesses a sex act between a “Turk” and an Austrian woman, who either is the Turk’s lover or a prostitute.\textsuperscript{168} The Turk hears Erika lurking in the bushes and goes scrabbling around to investigate. Thankfully, he is unable to find her.\textsuperscript{169} Erika, hidden in the brush, has grown extremely excited. In her rapture, she urinates in the ground, under the cover of darkness.\textsuperscript{170} This diversion makes Erika late for dinner at home with Mother, and Mother, in another one of her furies, destroys one of Erika’s dresses with shears.\textsuperscript{171} Erika finally comes home and the two women have a strange, violent, utterly silent physical battle.\textsuperscript{172} Then they grow exhausted and go to sleep.\textsuperscript{173}

The next day, during a rehearsal, Klemmer flirts with a girl with long legs.\textsuperscript{174} Erika keeps a keen and jealous watch on this behavior.\textsuperscript{175} As the rehearsal progresses, Erika’s rage intensifies, and she leaves the rehearsal room, moving to the coat room. She finds

\textsuperscript{163} Id. at 101.
\textsuperscript{164} Id.
\textsuperscript{165} Id. at 114.
\textsuperscript{166} Id. at 127-131.
\textsuperscript{167} Id. at 137.
\textsuperscript{168} Id. at 141-149.
\textsuperscript{169} Id. at 147-8.
\textsuperscript{170} Id. at 148.
\textsuperscript{171} Id. at 152.
\textsuperscript{172} Id. at 156.
\textsuperscript{173} Id. at 158-9.
\textsuperscript{174} Id. at 160.
\textsuperscript{175} Id.
a bright coat that she knows belongs to the recipient of Klemmer’s amorous attentions; she smashes a glass and slips the sharp shards into one of its pockets.\textsuperscript{176} Erika returns to the rehearsal room as if she has made an innocent trip to the bathroom, and the rehearsal ends. Soon after, the girl gets her coat, puts her hand in its pocket, and rips her tendons on the glass.\textsuperscript{177} In a decisive moment in the novel, the narrator tells us: “Erika observes everything carefully and then leaves. Walter Klemmer observes Erika Kohut like a freshly hatched chick that recognizes its food source; he then almost dogs her heels as she leaves.”\textsuperscript{178}

Klemmer follows her into the bathroom, where she is urinating out of excitement.\textsuperscript{179} Klemmer “pulls her out of the toilet stall” and begins kissing her.\textsuperscript{180} However, what might have been a traditional (except for its setting) love scene quickly grows baroque. Erika begins to masturbate Klemmer until just before he reaches climax. Here, she stops touching him altogether. Every time that Klemmer attempts to caress her, she denies him, saying that she’ll leave if he touches her.\textsuperscript{181} She hurts him with her fingernails\textsuperscript{182} and fellates him,\textsuperscript{183} but before he can have an orgasm she ceases, giving him her demands: She will write him a list of all the things that he can do to her.\textsuperscript{184} After Klemmer regains his composure, he tries to laugh off the incident, shadowboxing with her, slapping her on the neck, and saying that next time they’ll do better.\textsuperscript{185}

\begin{itemize}
\item \textsuperscript{176} \textit{Id.} at 166.
\item \textsuperscript{177} \textit{Id.} at 170.
\item \textsuperscript{178} \textit{Id.} at p 171.
\item \textsuperscript{179} \textit{Id.} at 172.
\item \textsuperscript{180} \textit{Id.} at 176.
\item \textsuperscript{181} \textit{Id.} at 178.
\item \textsuperscript{182} \textit{Id.} at 180.
\item \textsuperscript{183} \textit{Id.}
\item \textsuperscript{184} \textit{Id.}
\item \textsuperscript{185} \textit{Id.} at 183.
\end{itemize}
The next day, at Klemmer’s lesson, Erika hands him a letter that “indicates the progress a certain kind of love should take.” On her way home that evening, Klemmer follows her to her apartment. Though Mother is waiting with dinner for two Klemmer talks his way into their home. He and Erika head to Erika’s room, dragging a heavy bureau to the door and barricading themselves inside. Klemmer believes that he is about to engage in a conventional sexual episode with Erika, but Erika insists on his reading her letter, which he hasn’t yet accomplished. They argue about this until he finally relents, reading it. The letter asks Klemmer to tie Erika up and beat her. “Erika’s letters says she wants to be dimmed out under him, snuffed out.” Klemmer laughs. As it dawns on Klemmer that Erika is not joking, he grows disgusted, swears at her, and says he wouldn’t now touch her with a “ten-foot pole.” He leaves. Erika then goes to bed with her mother, boiling with sexual and emotional frustration. Erika turns toward Mother and attacks her sexually in a bizarre maternal rape scene.

The next day, Erika follows Klemmer to his clarinet class and drags him into a janitor’s closet, all the while declaring her love for him. She attempts to fellate him. But it’s a failure. Klemmer grows impotent while Erika chokes and vomits.

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186 *Id.* at 190.
187 *Id.* at 199.
188 *Id.* at 205.
189 *Id.* at 209.
190 *Id.* at 213.
191 *Id.* at 216.
192 *Id.*
193 *Id.*
194 *Id.* at 230.
195 *Id.* at 231.
196 *Id.* at 232-35.
197 *Id.* at 238.
198 *Id.* at 240.
199 *Id.* at 242.
200 *Id.* at 243.
201 *Id.* at 244.
tells her that she physically stinks.\textsuperscript{202} They then part ways and, later at home, Erika self-harms with clothespins.\textsuperscript{203} Night falls. In a rage, Klemmer goes stalking into the evening; he wants to kill an animal.\textsuperscript{204} He finds an amorous couple instead and, in scene that mirrors Mother’s and Erika’s previous behaviors, observes the lovers, then threatens them and destroys their clothes when they flee.\textsuperscript{205} Klemmer immediately heads to Erika’s and Mother’s apartment, masturbates in the dark outside, and rings their doorbell.\textsuperscript{206} He shoves Mother into a bedroom, locking her in,\textsuperscript{207} and begins to brutally beat Erika. Erika pleads with him to stop but he rapes her.\textsuperscript{208} He leaves.

The next day, Erika searches for Klemmer at the University. She has taken a knife.\textsuperscript{209} She finds Klemmer in a group of students; he is flirting with yet another girl.\textsuperscript{210} The students stand up en masse and head for class; Erika is left standing alone.\textsuperscript{211} As the ultimate self-harm, she stabs herself in the shoulder, and then goes home.\textsuperscript{212}

\textit{B. Violence as a teaching lesson in The Piano Teacher}

In the novel, Jelinek studies both the teachers and the students of violence, depicting the hellish rituals employed by the teachers and the emotions that make the students such rapt acolytes. With the sharp observations of a psychologist or

\begin{footnotesize}
\begin{enumerate}
\item Id. at 246.
\item Id. at 249.
\item Id. at 252.
\item Id. at 254-6.
\item Id. at 259-60.
\item Id. at 265.
\item Id. at 272.
\item Id. at 276.
\item Id. at 279.
\item Id. at 280.
\item Id.
\end{enumerate}
\end{footnotesize}
anthropologist, Jelinek reports on the teachers’ strange, violent exemplars, which are then modeled by the student. She also shows how desire both animates a teacher’s lessons, and also intensifies – or even creates – a student’s receptivity to those instructions.

_The exemplars of the teacher: Control, Surveillance, and Trampling_

Jelinek dramatizes violence’s catechism in the mirrors that she erects between the Erika/Mother scenes, Erika’s act of self-harm, and the Erika/Klemmer scenes. Mother and Erika track and trash each other, crimes that are then reflected in Erika’s brutal domination of herself as well as the dance of mutual annihilation in which she leads Klemmer.

In particular, each character repeats the following three behaviors with each other: They surveil one another, control one another, and trample one another.

As noted above, the novel begins with Erika’s tardy homecoming and a violent scene between Erika and Mother. Mother’s constant surveillance of Erika is described in the first pages: Jelinek’s narrator observes that Erika rarely shows up late for dinner because she’s so hounded by her parent:

(E)very day, the daughter punctually shows up where she belongs: at home . . . If not, her mother knows where she’s flitting about . . . . Her mother can ring up her (at the Conservatory) in an emergency. (Or if Erika is with colleagues) her mother can telephone her at such times too.

. . .

Erika visits a café once a month, but her mother knows which café, and she can ring her up there too. Mother makes generous use of this privilege, this homemade structure of security and intimacy.\(^{213}\)

\(^{213}\) _Id_. at 6.
Mother exercises her power of lese majeste in the novel’s first few pages, in an effort to “control” her daughter: “Mother worries a lot, for the first thing a proprietor learns, and painfully at that, is: Trust is fine, but control is better. Her greatest anxiety is to keep her property immovable, tie it down so it won’t run away.” In a scene that takes place before the novel commences, Mother had already grown angry at Erika’s tardiness and hidden one of Erika’s dresses as punishment; when Erika returns, and Mother realizes that Erika’s late because she’s been shopping for clothes, she admonishes her daughter for her “vanity.” At this point, Erika realizes that Mother has stolen one of her ensembles and hidden it or destroyed it in an effort to control her social life. She lashes out by tearing Mother’s hair out of her head.

Later in the narrative, Erika mirrors Mother’s surveillance example by spying on the Austrian and Turk having sex, which again makes her late for dinner. Mother retaliates by ripping another gown out of Erika’s closet and takes her time trampling, destroying, and displaying it:

She digs her teeth into an old concert gown. . . . . Mother tramples the gown under her slippers, which are as clean as the floor and therefore unable to violate the gown. Ultimately, the gown just looks a bit crumpled. So, grabbing some kitchen shears, Mother . . . . slashes her own dreams along with the dress.

When Erika finally comes home from her spying expedition, Mother physically attacks her, and tears hair out of her head (here, mirroring Erika’s initial denuding of Mother’s own poor skull):

\[\text{\textsuperscript{214} \textit{Id.} at 5.} \]
\[\text{\textsuperscript{215} \textit{Id.} at 7.} \]
\[\text{\textsuperscript{216} \textit{Id.} at 7.} \]
\[\text{\textsuperscript{217} \textit{Id.} at 8.} \]
\[\text{\textsuperscript{218} \textit{Id.} at 141-3.} \]
\[\text{\textsuperscript{219} \textit{Id.} at 152.} \]
“Mother takes her advantage and rips out a handful of Erika’s forelock, some of the hair
that Erika is proud of because it curls down in such a pretty twirl.”

Erika enacts Mother’s tripartite lessons even before this latter scene, particularly
in the first incident involving self-harm that takes place after the piano recital hosted by
Klemmer’s aunt. Here, Erika exercises tyrannical control and tramples over herself. The
Piano Teacher’s narrator explicitly describes this self-harm as a direct product of her
maternal pedagogy, or Erika’s “learning and obeying” (in the following text, “SHE” in all
caps denotes Erika):

SHE would never get into a situation in which she might appear weak, much less
inferior. That is why she stays where she is. She only goes through the familiar
stages of learning and obeying, she never looks for new areas. The gears squeal
in the press that squeezes the blood out from under her fingernails. Learning
requires her to be sensible: No pain, no gain, she’s told. Her mother demands
obedience. If you take a risk, you perish. That advice comes from Mother, too.
When SHE’S home alone, she cuts herself, slicing off her nose to spite other
people’s faces. She always waits and waits for the moment when she can cut
herself unobserved. No sooner does the sound of the closing door die down
than she takes out her little talisman, the paternal all-purpose razor.

Later, Erika makes further use of her surveillance lessons, by first gathering
intelligence on the male student and his friends examining pornography: “Seek and
you shall find the repulsive things you secretly hope to find. Outside the Metro Film
Theater, Erika has been finding treasures. . . . The student(’s) senses are concentrated
on new focal points: film stills.

Erika uses the information gleaned during the surveillance to trample this
weakling student: “Then, all at once, hurled by the squall, the piano teacher explodes

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220 Id. at 157.
221 Id. at 85-6.
222 Id. at 99.
in (the boys’) midst – like a hand grenade.”

However, since this little boy is “not a worthy opponent,” she soon trades the object of her gaze for Klemmer, by tracking him the next day as he leaves the Conservatory and goes home: “Like a lioness, she hits the trail and follows his track.”

She obsesses on how Klemmer looks at young girls he passes: “Those girls harmlessly cross the harmless student’s path; and yet they could seep into Klemmer like the singing of sirens, dazzling him, making him follow them. She checks to see how long he looks at a woman, and she then neatly erases that look.”

Erika also sharpens her surveillance skills by checking in on the Turk and the Austrian, a sight that moves her so much that she relieves herself in the nearby brush.

Erika’s transition from Mother’s student to Klemmer’s teacher later fully expresses itself during her first sexual interaction with the boy, which occurs after she injures her female rival by putting glass in her pocket and then fleeing to the bathroom. When Klemmer follows her in, Erika performs the bizarre touch-me-don’t-touch-me masturbation game, in an effort to control him:

For the last time, the teacher commands the pupil to say nothing – in regard to the matter at hand or anything else! Has she made herself clear?! Klemmer Erika digs her teeth into the crown of his dick, the crown doesn’t lose any points, but the owner shrieks nonetheless. He is told to shut up. . . Erika removes the tool from her mouth and instructs its owner: In the future she is going to make a list of all the things he can do to her. My wishes will be jotted down and made available to you at any time.

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223 Id. at 101.
224 Id. at 102.
225 Id. at 102.
226 Id. at 127.
227 Id. at 128.
228 Id. at 148.
230 Id. at 180.
It is during Erika’s control and trampling of Klemmer that he receives his first tutelage in violence, lessons that he will replay and mirror just as Erika has replayed and mirrored Mother’s examples.

First, after she gives him her letter with its as-yet unread list of demands, Klemmer shadows Erika as she goes home to her apartment: “For half an hour now, Walter Klemmer has been viewing his teacher only from behind. This may not be Erika’s favorite side, but he could identify it among a thousand others! He knows women, knows them from all sides, inside and out. He sees the soft, slightly squooshy pillow of her behind, which rests upon solid leg columns. He thinks about how he will handle this body; he, the expert, is not so easily put off by malfunction.”

Almost immediately, Klemmer’s act of surveillance triggers thoughts of control; and here, there is a mirror not only of Erika’s behavior, but also Mother’s, as Klemmer’s desire to puppeteer Erika finds its first manifestation (like Mother’s) in his need to control her wardrobe: “He resolutely wants to tear off the meticulously accumulated strata of modish and sometimes outmoded convictions and those hulls and shells held together by a feeble sense of form, those colorful disguises of rags and skins that stick to her. She doesn’t have a clue, but soon she will. She’ll learn how a woman ought to decorate herself: nicely, but, above all, practically.”

The lessons really begin to imprint on Klemmer when Erika requires him to read her letter; this interaction may be seen not only as a mode of control over Klemmer, but also as a form of trampling: It humiliates him during the moment when he thought he was going to share something normal and even ecstatic with her. “He nestles against

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232 Id. at 201.
233 Id.
the woman, but she is not his mother, and she shows he isn’t by not enclosing the man in her arms like a son. The young man asks for a tender emotion and moves tenderly close to her. He requests a loving reaction, which only a complete monster could refuse him after such a shock. . . . Klemmer attacks her: That’s all you’ve got to offer. How dare you! One can’t always be a taker.”

Erika’s letter introduces Klemmer to the blow-by-blow practices of violence, which he almost immediately replicates, almost without realizing it. “His voice is almost toneless. Erika knows that tone from her mother.” Even though Erika fathoms during her spiel that she does in fact not desire to be abused, Klemmer commences to attack her verbally. His spoken violence prefigures his later physical assault: “He tentatively hurls a foul-letter word at her, but at least he doesn’t hit her. He calls Erika names, adding the adjective ‘old.’ Erika knows she has to be prepared to such reactions, and she shields her face with her arms. If he’s going to hit now, then go right ahead. Klemmer says he wouldn’t touch her with a ten-foot pole.”

But Klemmer’s trampling of Erika will come soon. Hints of her destruction come during their next intimate scene, during which he attempts to be successfully fellated by her, but is unable to achieve orgasm because of impotence: “(S)he tries to spit his dick out inconspicuously. But, ignoring their teacher/student relationship, the student Klemmer orders her to take it right back in. He doesn’t give up that easily!” He continues until she vomits, then tells her she stinks.

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234 Id. at 224.
235 Id. at 229.
236 Id. (”Erika cringes, hoping his hand will come down lovingly, not destructively.”)
237 Id. at 230.
238 Id. at 244.
239 Id. at 245.
240 Id. at 246.
Later that night, in a replay of Mother’s trampling of the dress and Erika’s surveillance of the Austrian and Turk, Klemmer hunts for an animal to slaughter, but finds only the amorous couple who flees from him, leaving behind a jacket. Klemmer stamps all over it: “He’d rather trample the jacket. He doesn’t look for a purse or wallet in its pockets. He doesn’t look for an ID card. He doesn’t look for valuables. He tramples the jacket underfoot, and makes himself at home in his trampling: A chained elephant, whose leg irons leave him only a few inches of free play, which he nonetheless knows how to exploit to the fullest.”

Having practiced on the children and the jacket, he then makes his way to Erika’s and Mother’s apartment, where he barricades Mother and beats and rapes Erika.

C. Desire and the Pedagogy of Violence

As The Piano Teacher provides a close study of tactics used by teachers of violence, it also gives a detailed portrait of the students of violence and their internal workings. Namely, Jelinek reveals that one only learns violence in an emotional state. The pupil who is not touched viscerally by the exemplars of her teacher will emerge from the lesson unchanged but for grief; however, if the instructions intersect with the pupil’s own powerful desire or desires, the potent combination of violent example and student longing will cause the pupil to embrace the lesson almost as tightly as the beloved for whom the violence itself may be seen as a surrogate.

And who or what is this beloved that spurs on students to embrace violence? A brief sojourn into the philosophy of antiquity will help answer this question, as the pairing

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241 Id. at 256.
of desire and effective moral education is as old as Plato himself: After all, Plato made the relationship between desire and learning a central theme of his famous *Phaedrus*.

1) *Plato’s Phaedrus, Desire, and Education*

Via his character of Socrates, Plato teaches us in the *Phaedrus* that the student’s experience of the erotic was a crucial element in learning The Good. That is, in order for the student to understand the virtues, he must achieve a kind of transcendence, a state which Plato said was like having “wings:”

The function of a wing is to take what is heavy and raise it into the regions above, where the gods dwell; of all things connected with the body, it has the greatest affinity with the divine, which is endowed with beauty, wisdom, goodness, and every other excellence. These qualities are the prime source of nourishment and worth to the wings of the soul, but their opposites, such as ugliness and evil, cause the wings to waste and perish.²⁴²

In the famous allegory of the Charioteer, Plato tells us that the soul is as a chariot guided by two horses, one good, one bad; the soul which travels the universe – in its “circular revolution”²⁴³ – and sees the most Truth will be advantaged with the status of Philosopher once he sets down upon earth and is made mortal. Upon his death, the philosopher may readily regain his precious wings. Here on earth, when students experience the erotic, or love, they encounter the necessary nourishment that will aid the growth of these wings; this nourishment is the forth, or highest type of “madness:”

“(We speak of the) the fourth type of madness, which befalls when a man, reminded by the sight of beauty on earth of the truth beauty, grows his wings and endeavors to fly upward, but in vain.”²⁴⁴ Thus, to know and understand true beauty, that is, an example

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²⁴³ Id. at 53.
²⁴⁴ Id. at 56.
of the perfect Forms, becomes the goal of the student of philosophy. Erotic love
inspires the pupil to learn the good, and, indeed, is the "highest and best form of
inspiration for the person who has it as well as those who share in it." To gaze upon
beauty, in the form of the beloved, is to be reminded constantly of the good, and thus
to "form a continual initiation into the mystic vision" that allows a man to "become
perfect in the true sense of the word." But what happens when the bad horse guides the student’s soul, and his gaze
upon beauty leads him not into perfect mysticism and soul-flight, but into that which is
"ugliness and evil?" This is not a question that arises in the Phaedrus, but it is a central
obsession in The Piano Teacher; indeed, the Teacher may be seen as a saturnine
reading of Plato’s masterpiece.

ii) Desire in the Piano Teacher

In the Piano Teacher, desire forms the necessary prerequisite for the successful
teaching of violence; each student who mirrors the depredations of the others does so
out of thwarted longing for beauty – a corrupt form of Plato’s fourth “madness.” In
Erika’s case, it is the desire that she herself be beautiful, and through this beauty
encounter love. For Klemmer, it is the desire to be a man, and to experience freedom.

a) Erika

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245 Id. at 55.
246 Id. at 55. Interestingly, there are modern updates of this thesis. Modern studies of emotion and
learning have also noted the correlation between these two phenomenon. For example, Nancy L.
Stein and Linda J. Levine observe that “[E]motional experience is almost always associated with
attending to and making sense out of new information. Consequently, learning almost always results
during an emotional episode.” Nancy L. Stein & Linda J. Levine, Making Sense out of Emotion, in
Nancy L. Stein, Bennett Leventhal, Tom Trabasso (eds), Psychological and Biological Approaches
to Emotion 45, 46 (1990).
What girl does not wish to be beautiful? Erika is like any other woman in this weakness, which is exploited by her mother. If Erika were less vulnerable to this desire, she would not be such a ready student of her mother’s teachings. It is her longings that make Mother’s lessons in violence “stick;” this “vanity.”

But that vanity of hers, that wretched vanity. Erika’s vanity is a major problem for her mother, driving thorns into her flesh. Erika’s vanity is the only thing Erika should learn to do without. Better now than later. For in old age, which is just around the corner, vanity is a heavy load to bear. And old age is enough of a burden as it is. Oh, that Erika! Were the great musicians vain? They weren’t. The only thing Erika should give up is her vanity. If necessary, Mother can smooth out the rough edges, so there won’t be anything abrasive in Erika’s character.247

Indeed, Mother has long “smoothed out” Erika’s character by explaining to her that she is not, and never will be lovely. Though she encourages Erika’s belief that she is “one in a million” as a musician,248 a “sharply defined individual,”249 and a “genius,”250 she denies Erika the one identity that she craves: “Erika is not pretty. Had she wanted to be pretty, her mother would have promptly ordered her to forget it.”251

Mother feeds like a succubus upon Erika’s desire by savaging Erika’s meticulously-curated wardrobe, the details of which Jelinek devotes considerable attention. In the initial scene where Mother’s fury boils over when she finds a new dress secreted in Erika’s briefcase, Mother metaphorically kills the piece of clothing in order to exterminate Erika’s dream of beauty: “Mother rails against the purchase. The dress, pierced by a hook, was so seductive at the shop, so soft and colorful. Now it lies there, a droopy rag, pierced by Mother’s glare.”252

247 The Piano Teacher at 7.
248 Id. at 12.
249 Id. at 13.
250 Id. at 25.
251 Id. at 26.
252 Id. at 4.
Mother requires Erika to wear only clothes that she approves, and not get “gussied up.”\textsuperscript{253} “Mother . . . can dictate what Erika puts on. Mother is an absolute ruler. She decides what Erika will wear outside the house. You are not going out in that getup, Mother dictates, fearing what will happen if Erika enters strange homes with strange men in them.”\textsuperscript{254} It is in the thick of these torments that Erika rises to her mother’s tutorial, responding to the destruction of her wardrobe with physical retaliations.

But Erika does not just beat her mother out of crushed \textit{amour-propre}, for Mother is pushing another, yet more sensitive button. Beyond being an end in itself, beauty’s other purpose is to garner Erika exactly what Mother fears – “strange men,” and the love that they are supposed to offer attractive women.

Erika presents the shadow side of Plato’s philosopher when she forms her designs on Klemmer. Having discovered that Klemmer desires her as a woman, she immediately determines to give him all of her love. Unfortunately, Erika’s instinct for this form of beauty has already been warped by Mother’s lessons: “Her mother has always possessed Erika’s will, and now Erika hands it, like a runner’s staff, to Walter Klemmer.”\textsuperscript{255} Even at this early stage, the runner’s staff is already a weapon: “Erika is using her love to make this boy her master. The more power he attains over her, the more he will become Erika’s pliant creature.”\textsuperscript{256}

As Erika’s letter reads:

Her most haunting wish – the adored Herr Klemmer reads – is for you to punish me. She would like Klemmer as a punishment. And in such a way that he ties her up with the ropes I’ve collected, and also the leather straps and even the

\begin{flushleft}
\textsuperscript{253} \textit{Id.} at 9. \\
\textsuperscript{254} \textit{Id.} \\
\textsuperscript{255} \textit{Id.} at 207. \\
\textsuperscript{256} \textit{Id.}
\end{flushleft}
chains! Hogtie her, bind her up as thoroughly as he can – solidly, intensely, artfully, cruelly, tormentingly, cunningly. He should bore his knees into her abdomen, if you should be so kind.\textsuperscript{257}

Yet even in her degradation, Erika’s desire for more perfect beauty persists. She wishes that True Love will provide her an escape hatch out of this hell in which she lives with Mother, and that Klemmer will save the radiant beauty that he sees glimmering inside of her: “Please don’t hurt me; that’s what’s written illegibly between the lines. . . . She now hopes that love will prevent anything from occurring. She will insist on it, but an amorous reply will make up for his refusal. Love excuses and forgives, that’s what Erika thinks.”\textsuperscript{258}

\textit{b) Klemmer}

Such grace is not to be awarded to poor Erika, however. Klemmer, as it develops, proves just as talented an apprentice of violence as his tutor, on account of own desires for beauty. Even in the midst of his disgust at the contents of the letter, he finds himself to be strangely affected: “(H)e is moved imperceptibly. The glue of lust smears up his diverse attitudes, and the bureaucratic solutions that Erika prescribes him offer him the guidelines to act in accordance with his pleasures.”\textsuperscript{259}

That he \textit{will} be moved Erika has already been foreshadowed by his initial reaction to Erika’s violent example; recall he follows her to the bathroom after Erika salts the pocket of her rival with glass.\textsuperscript{260} But what are these pleasures, these desires, which fix Erika’s lessons so dangerously in Klemmer?

Just like Erika desires to be physically beautiful and to experience the beauty of love, Klemmer also desires two different forms of beauty. In the scheme of things, these

\textsuperscript{257} \textit{Id.} at 215.
\textsuperscript{258} \textit{Id.} at 226.
\textsuperscript{259} \textit{Id.} at 225.
\textsuperscript{260} \textit{Id.} at 171.
forms are related – or perhaps even synonymous: Klemmer desires to be a man, and to be free.

Klemmer’s worship of unfettered masculinity is established early in the novel, via his status as an athlete:

The sport doesn’t matter, but he’ll probably go to his canoeing club. He has a very personal urge to work out until he drops, inhaling completely unused air. . . . (In the river, he’ll appear as a) harsh orange splotch because of his helmet, life jacket, and spray cover, he’ll shoot along between two forests, careening now here, now there, but always in the same direction: forward, following the course of the torrent. . . . Some buddy, another paddler, will be in hot pursuit behind him, but he won’t catch up, much less shoot ahead of Klemmer. . . . When it comes to working out of playing out, Klemmer is not a good loser. That’s why he’s so annoyed with Erika Kohut.261

It is this beautiful image that Erika sullies, though without intending to. When she first masturbates Klemmer in the bathroom of the Conservatory, then tortures him by stopping, his reaction is predictably “vehement()”: “(H)is dick shrinks in slow motion. Klemmer is anything but a born follower. He is the sort of man who has to ask why, and so he finally starts reviling his teacher. He loses all control because the man in him is being abused.”262 Erika does have quite the facility for abusing the man in him, even at a later piano lesson, when she derides him for not being half the hero that Schubert was. For while Schubert braved “violent contrasts,”263 he (that is, Klemmer) “never take(s) a risk! (He) step(s) across puddles so (he) won’t get (his) shoes wet. When (he) turn(s) upside down while canoeing . . . (he) instantly turns himself right side up. (He’s) even scared of the water, that unique submission, in which (his) head’s been dunked!”264

261 Id. at 126.
262 Id. at 181.
263 Id. at 184.
264 Id. at 186.
Though Klemmer “wrings his hands to prevent his beloved . . . from taking this path . . . for her own good,” he won’t be able to protect himself from her slurs on his manhood for long. Quick enough, the debt she has incurred by making his “dick” “shrink” will come due; the catalyst arrives when she attempts to fellate him and he becomes impotent. He attempts to regain his machismo by “lightly strik(ing) her neck with the edge of his hand.” But it doesn’t work. He recognizes that she is the master, and he the servant: “Promises, emitted unclearly, drive the young man crazy: He hear the subliminal command . . . she disgusts him more than he can say.”

And later, as he prepares to invade her apartment and rape her, Jelinek names the sensation that drives him: It is rage spurred by this insult to this “(bad) loser,” he who can’t be caught by buddies and paddlers. “The woman insulted him, so he injured her.”

His desire to be a man, which also means to be free, is so strong that Erika’s mastery of him makes “(m)inature worlds, like those on TV, open() up to him.” Like Erika’s desire to be beautiful and experience love proved the perfect medium for her mother’s lessons to ferment, so, too, this damaged wish to be an unbounded man strengthens Klemmer’s resolve to learn the techniques that jailed him. “(T)he corset of classical music training is much too tight for him. He likes to enjoy a view that’s not marred by any limits. He sense a vast landscape . . . (and has musical plans that) will fit in well with his distinct urge for freedom.”

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265 *Id.*
266 *Id.* at 242.
267 *Id.* at 243.
268 *Id.* at 250.
269 *Id.* at 221.
270 *Id.* at 237.
These “musical plans,” such as they are, transform into his nighttime plot to kill a 
bird or other animal, his frightening of the lovers in the park, and the practice trampling 
of the boy-lover’s jacket. But even at this stage, Klemmer can feel that his freedom has 
already been fatally constrained: “He tramples the jacket underfoot, and makes 
himself at home in his trampling: a chained elephant, whose leg irons leave him only a 
few inches of free play, which he nonetheless knows how to exploit to the fullest.”

On the heels of this practice test, Klemmer finally readies himself for the fulfillment 
of the hunger that has shaped his character and his motives throughout the novel: 
“Klemmer has arrived at Erika’s building. How keen the joy of arrival. . . . Anger resides in 
Klemmer. . . . He would never have guessed how quickly a fruit ripens. . . . Klemmer is 
getting to know freedom.” This found liberty allows him to “smash() his right fist” into 
her belly, while feeling “intensely at one with himself.” In this ecstasy, he beats her, 
and then rapes her.

Thus, the pupil now has become the master.

IV) What we can learn from the pedagogy of violence

When we are theorizing about the transfer of violent behaviors, we should take 
to characterize this communication as a pedagogy rather than a contagion. As I have 
attempted to show in this essay, the pedagogy model articulates the specific practices 
by which we teach one another violence, and the particular desires that enable us to

271 Id. at 256.  
272 Id. at 258.  
273 Id. at 266-7.
be such good students of these lessons. Whereas employees of the contagion metaphor do allow that social networks and relationships are the conduits by which violence travels, the construction of violence as a “disease” may allow them to provide distracted and incomplete descriptions of how this transference takes place.

The weaknesses of the contagion thesis and the benefits of the pedagogy model may best be seen in the aforementioned case *N.A.A.C.P. v. Acusport*. As noted, in this case Fagan gave testimony concerning gun violence in order to support the N.A.A.C.P.’s claim that AcuSport’s shoddy marketing practices had created a public nuisance. In this section, I will argue that the contagion metaphor hamstrung Fagan’s testimony and prevented him from demonstrating the specifics of harm suffered by the African American community. However, I observe that if we analyze the questions raised by AcuSport under the pedagogy model, we may get a more complete understanding of the special harm suffered by members of that community, which might have led to a verdict that recognized the precise ways that negligent gun retailing visits violence upon victims.

The N.A.A.C.P.’s success in their private nuisance action against gun manufacturer AcuSport depended upon their establishment of three factors: 1) the existence of a nuisance, defined as “a substantial interference with a right common to the public,”274 that is, a harm common to “health, safety, and comfort;” 275 2) negligent or intentional conduct on the part of the defendants; and 3) a harm suffered by plaintiff that is different in kind from that suffered by the community at large.276 The case was tried before a federal court, with the help of an advisory jury; the jury and court

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274 *NAACP v. Acusport* at 448.
275 *Id.*
276 *Id.*
determined that the first two, but not the third factor had been established.\textsuperscript{277} In other words, the court found that the defendants did create a public nuisance by negligently failing to take marketing precautions that would prevent the illegal distribution of AcuSport’s guns. These precautions included “that they not sell at gun shows, but sell from the equivalent of a store front with a supply of stocked guns; that they not sell under a variety of names; that they protect against theft; that they train and supervise employees to prevent straw sales (which are often notoriously obvious to the seller); and that they take other appropriate and available protective action.”\textsuperscript{278} Two of the most pressing problems were the sale to “straw purchasers” – that is, to individuals who purchased many guns at the same time, with the intention of selling them illegally later\textsuperscript{279} – and the sale of guns at gun shows, which “are the source of substantial quantities of guns that fall into the hands of criminals.”\textsuperscript{280} However, the court determined that this nuisance did not particularly affect the African American community.

Fagan testified at trial, pronouncing on “interviews in which young men were asked about the kind of situations where gun violence takes place or where gun violence might have taken place or where they decided not to engage in gun violence,’ and other reliable information.”\textsuperscript{281} Fagan also “obtained firearm trace data and added gun recovery information in his analysis of the contagious effects of gun acquisition, gun injury and homicide among youth,”\textsuperscript{282} and relied on “New York City Department of Health (Vital Statistics and Injury) data for all persons whose deaths were

\textsuperscript{277} Id. at 449.
\textsuperscript{278} Id. at 450.
\textsuperscript{279} Id. at 501.
\textsuperscript{280} Id. at 502.
\textsuperscript{281} Id. at 520.
\textsuperscript{282} Id.
classified as homicides by the Medical Examiner’s Office and from the hospitalization records for persons admitted to the hospital because they were the victim of some kind of assault."\textsuperscript{283} He relied on census data to support his claims that prospective members of the New York branch of the N.A.A.C.P. – that is, members of the New York African-American community – suffered disproportionately from gun violence.\textsuperscript{284} He also characterized the travel of gun violence as a contagion that “spread” ‘‘outward’’ to and ‘‘inward’’ from adjacent neighborhoods.”\textsuperscript{285}

As stated, the court did not find that African Americans suffered a harm that was different in kind from other people in New York; the difference was only one in “degree.”\textsuperscript{286} Quoting Shakespeare’s \textit{Merchant of Venice}, the court noted that everyone touched by gun violence shares the same fate: They “bleed.”\textsuperscript{287} The court then went on to compare the case with two successful private nuisance actions; in one, fishermen in New York were able to establish that they were particularly affected by water pollution; in another, the owner of an apartment showed that he was specially slighted by an obstruction in the sidewalk, because he was completely prevented from getting into his apartment, whereas members of the public still had some slight leeway in their peregrinations.\textsuperscript{288}

The use of a pedagogy construction of violence in the \textit{AcuSport} case, as opposed to the contagion model, might have created a different result. At the very

\begin{thebibliography}{99}
\bibitem{283} \textit{Id.}
\bibitem{284} \textit{Id.}
\bibitem{285} \textit{Id.}
\bibitem{286} \textit{Id.} at 455.
\bibitem{287} \textit{Id.} at 451.
\end{thebibliography}
least, it would have allowed for larger and different questions about the ways in which AcuSport helped disseminate gun violence through its marketing malpractices.

In *The Piano Teacher*, the teachers of violence use specific strategies to teach their pupils; these strategies are often dependent upon the particular relationships that exist between the characters, such as Mother’s intense awareness, cultivation, and exploitation of Erika’s self regard, or “vanity.” Mother then tailors her teaching lessons – her surveillance, her control, and her trampling – to Erika’s profound desires for love and beauty. Similarly, Erika is intensely aware of and exploits Klemmer’s desires for beauty – that is, his worship of masculinity and his concomitant desire for freedom (“You never take a risk. You scoot around crags gingerly – gingerly for you – before you really notice them.”)\(^{289}\) – and sculpts her pedagogy around these vulnerabilities.

If the plaintiffs and court in *N.A.A.C.P. v AcuSport* had paid close attention to how AcuSport’s shabby control of its retailers gave those salespeople the opportunities to surveil prospective African American purchasers of AcuSport’s guns and exploit the purchasers’ desires through a (pedagogical) sales pitch of these guns, they may have established evidence that the harm experienced by “prospective members of the N.A.A.C.P.” was in fact different in kind, and not just degree from the rest of the population of New York. Such an investigation would require plaintiff’s experts to ask questions such as: What were the specific practices of these rogue retailers, particularly at the infamous gun shows? Did they study and then target gun shows that might be attended by people of color – in a way, surveilling such prospective buyers? Moreover, did these rogue retailers, in their sales pitches, model violence, albeit verbally? Also, did

\(^{289}\) *The Piano Teacher* at 185.
they elicit particular desires, for freedom, for revenge, for power, for a reassertion of masculinity – which might have been rooted in a frustration or disempowerment for which some African American men in New York might possess a particular sensitivity, based in part on their historical, cultural, and economic circumstances? Fagan himself has acknowledged that inequality aggravates violence and also cites a cherishment of masculinity as one factor that can exacerbate violence. However, a specific analysis of culture, history, inequality, and desire is lacking in the Acusport case’s analysis of “harm.”

In other words, if we make pedagogy, rather than contagion, the model for our analysis, we may be better prepared to ask questions like: Did AcuSport, via its marketing malfeasance, act as “teachers” in a pedagogy of violence that fed upon the particular histories and emotional dynamics of African American men? What kind of sales pitches did these exchanges involve? Who said what to whom? How did the retailers influence and exploit the buyers? Answers to these questions would require more information than that which is currently given under the public health model: So, for example, in the AcuSport case, we could go beyond analyzing data regarding “the kind of situations where gun violence takes place or where gun violence might have taken place or where they decided not to engage in gun violence,” “firearm trace data and gun recovery information,” and “New York City Department of Health (Vital Statistics and Injury) data for all persons whose deaths were classified as homicides.”

We would have to do additional field work, asking retailers and purchasers questions.

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290 The Social Contagion of Violence, at 702.
292 Acusport at 520.
293 Id.
294 Id.
about the specifics of the sales exchange, and how purchasers responded to retailers’ sales pitches, to see if and how violence was being taught by the seller to the purchaser.

If they did participate in this pedagogy through negligent control of their sales force, then AcuSport may have committed two types of nuisances. First, they might have helped to teach African American men violence by exposing them to illegal guns and educational sales pitches – which might itself constitute a form of violence, or at the very least, a “harm” implicating “safety” and “comfort.” Second, those same pupils would go forward and replicate the lessons (or, in Jelinek’s language, “trampling”) – as we find in the data concerning “disproportionate” gun violence in African American communities in New York. Moreover, because these lessons may have been shaped by the specific, race-and-class shaped desires, histories, and relationships of the customers and retailers, they could be said to be at least as different in “kind” as were the financial harms experienced by fishermen (who suffered professionally as a result of water pollution) and the obstruction suffered apartment owner in the above-mentioned cases. In sum, the violence taught to “prospective members of the N.A.A.C.P.,” which were a consequence of AcuSport’s shoddy marketing practices, may have been as especially injurious to New York African American men as water pollution proved to be to fishermen and laundry baskets were to the apartment-dweller. However, we cannot know if this is the case until we begin asking questions that are informed by an awareness of the pedagogy of violence.

IV. Conclusion

295 See note 275, supra.
296 See note 98, supra.
297 See note 288, supra.
We must develop a full, textured, and mature understanding of violence. It is very hard for us to understand why we act violently toward one another. Is it caused by an “evil” that we all harbor inside of us? Is it a failure to grow up? Is it that some people are bad apples and others are good? Is it a side effect of oppression, bad childrearing, or economic disadvantage?

Our frustrations in answering these questions lead us to describe violence and its transmissions through metaphors that do most of the work for us. “Contagion” allocates responsibility for the transmissions of violence to mysterious and hidden processes, like those involved in the transfer of viruses from one host to another.

This habit creates at least two problems. The first is how the contagion metaphor dehumanizes violent actors and recipients of violent behaviors. Though neither Loftin, Fagan, nor any other cited author in this paper advocate that we treat criminal offenders in an unduly harsh way, an overenthusiasm for the contagion metaphor may create the risk that we actually act the way we’re speaking and writing about violent offenders — e.g., that we begin to treat such offenders like sub-human carriers of epidemics and plagues. The global and U.S. history of government handling of contagious persons is sufficiently rife with human rights offenses that we should be very wary of paving such a course. The second problem is related to the first: While operating under the auspices of the contagion metaphor, we may be less likely to investigate the emotional lives, personal histories, and desires of violent offenders in part because they seem less human to us. This oversight leads to an inapt analysis of the root causes of violence, which may hamper preventative and recompensatory efforts. Such shortcomings can be found in the *N.A.A.C.P. v. Acusport* case.
To comprehend violence as a teaching lesson alleviates some of these dilemmas. The pedagogy construct I advance here does not completely disregard the methods of the public health model that the contagion metaphor seems so much a part of. However, it does require us to first, speak about violence and its transmission in more humane terms, and second, to do deeper work than the public health model now requires: Again, an analyst of the transmission of violent behavior under the pedagogy model must investigate the specific rituals, emotions, personal histories, and desires of teacher and student in this process. Violence is taught, and desires – often for beauty -- allows the student to attach to the lessons of her teacher. As The Piano Teacher shows us, the pedagogy of violence is the shadow side of Plato’s Phaedrus. If we come to grips with this old lesson, we may be better able to craft punishments and public strategies to address violent crimes. More than that comes the hope that we may be better equipped to articulate and even supply our citizenry with the freedom and beauties that their hearts so desire. If were ever able to do so, perhaps we might supplant the grief, anxiety, and feelings of banishment that inspire us to use illegal force.