

Why Can't We All Just Get Along?" Finding Common Ground Between Domestic Violence and Criminal Defense Clinics

The victim advocacy and defense bars have never really gotten along, but recent domestic violence policy reforms have exacerbated the tensions between the two groups. Each side tends to view the other as blindly zealous and the legal system as unfairly biased against its clients.

Defense counsel, alienated and angered by advocates' support for the now-prevalent mandatory arrest laws, no-drop prosecution policies, and specialized domestic violence courts, are convinced that domestic abuse prosecutions are rigidly punitive and biased against their clients; they see victim advocates as the architects behind, and the primary beneficiaries of, this system. Victim advocates see their efforts as an attempt to correct the long-standing failure of the criminal justice system to protect their clients, and see defense attorneys as overzealous, willing to cross ethical lines to get their clients off by any means, and insufficiently concerned about the destructive impact on the families involved.

In this interactive session, we're going to bring these two groups together, with the hope that we can learn from each other. (Failing that, we'll just confirm our worst suspicions about each other). We'll start by playing two video clips in which students from a domestic violence clinic and from a criminal defense clinic role play a domestic violence scenario. The video will end with the students exploring the cross-practice experience. After viewing and discussing the videotape, we ask the group to plan a class session based on the cross-practice ideas.

In addition to the tangible, planning a class session, we will also ask the participants to explore more theoretical questions about their teaching and their practice, including whether clinicians in domestic violence and criminal defense programs may have failed to serve their clients. We will consider the following questions: How have our assumptions about each others' priorities, ethics, and judgment limited the effectiveness of our own client representation? How can we learn from each other to better represent our clients and help them avoid becoming repeat players in the justice system? How might we help our students achieve a broader understanding of this social problem? What common ground might exist among our clients and our agendas and how might an exploration of this common ground lead to better representation for all of our clients, and systemic change?

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