

PRAGMATIC IDEALISM: PRACTICING AND TEACHING  
CARCERAL ABOLITION IN A CRIMINAL DEFENSE CLINIC

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INTRODUCTION

Every year in our Defenders Lawyering Seminar and Clinic we prepare students to represent clients in a variety of criminal related contexts. One central area of our practice has been in New York City's criminal courts. As a part of our preparation to represent clients accused of misdemeanors we focus on practical lawyering skills, such as client interviewing, statutory analysis, and oral advocacy, but we also aim to provide students with contextual fluency. We want them to ask specific questions of the criminal legal system: who is getting arrested and why? What policy choices go into the system operating as it does? Who are the institutional actors involved and what motivates their actions? Importantly, we also attempt to inculcate students with a sense of their role as change agents rather than enforcers of the status quo. We ask questions and provide skills training in service of the ultimate goal: to have students think critically about how their knowledge of the system will affect their client advocacy.

Within recent years, however, the students have pushed to expand the bounds of what it means to be a change agent in the criminal legal system. They have been eager to consider not only how their knowledge of the system impacts their client advocacy, but also how their advocacy impacts the system. One encounter that took place during a guest presentation in our clinic seminar sets this urging in stark relief. We had just completed a series of classes on trial advocacy. Students had been thinking deeply about openings and closings and the different strategies and techniques behind executing an effective cross examination. We were fortunate to be joined by two seasoned public defenders who were there to share their approach to cross examination in the trial context. One of the attorneys was discussing how questioning a witness about their prior convictions can be a powerful way of undermining that witness' credibility. A student, visibly disturbed by the conversation, raised their hand to comment, "how in one moment can we abhor the inherently racist ways that people's criminal histories are constantly being used against them, and then in the other moment exploit someone's criminal record in the name of doing justice for our client? Don't we have an

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\* Author's note.

obligation not to engage in the racist practices that the criminal legal system thrives on? Shouldn't our advocacy refrain from building up the system we supposedly despise?" The defense attorney, a Black man, responded as perhaps many public defenders who have been practicing for countless years would, "I am aware of just how deeply entrenched racism is in the system. However, my obligation is to my client. My job is to effectively defend my client and I will use any means I have available to do so. I will leave taking the system down to the activists and the organizers."

The exchange between student and practitioner left a lasting resonance for many reasons. On a basic level, the discussion revealed the paradox of holding a critical view of the criminal legal system, while still trading on its terms, a quandary many young lawyers must confront. The conversation also surfaced the ongoing cause-lawyering vs. loyalty to the individual client debate that has emerged in criminal defense literature.<sup>1</sup> For me, the interaction raised something many of my current students have been pushing for in recent years: a radical redefinition of what change can look like in the criminal legal system and fresh consideration of the public defenders role in bringing it about. How does an attorney advocate for their client in an inherently racist criminal legal system without subscribing to that system? Is it possible for defenders to play a role in undoing the system as we know it while representing the urgent needs of the clients who stand before us?

I suspected that the "prison abolitionist" stickers on the laptops of my students provided an entry point to the conversation. Scholars are increasingly considering how a carceral abolitionist perspective can be integrated into criminal law doctrine and teaching.<sup>2</sup> Indeed, up until relatively recently, the topic of abolition was essentially relegated to the most left margins of conversations about transforming the criminal legal system.<sup>3</sup>

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<sup>1</sup> Tamar R. Birckhead, *The Racialization of Juvenile Justice and the Role of the Defense Attorney*, 58 B.C. L. REV. 379 (2017) (exploring the difference between the views of Professors Anthony Alfieri and Abbe Smith in debating the ultimate role of the defense attorney: Professor Alfieri arguing for a more cause-centered approach with Professor Smith arguing for a more client-centered approach given the obstacles of the modern day defense lawyer); see also, Robin Walker Sterling, *Defense Attorney Resistance*, 99 IOWA L. REV. 2245, 2263–65 (2014) (discussing the false binary between the defense lawyer's ethical obligation to her client and her desire to challenge harmful racism: "Taking steps to make the criminal justice system more fair for people of color will result in a better system for all criminal defendants, regardless of their race. It will 'frequently be the case' that the client's individual goals and criminal defense counsel's systemic goals will be aligned.").

<sup>2</sup> See Amna Akbar, *Teaching Penal Abolition*, L. & POL. ECON. (July 15, 2019), <https://lpeblog.org/2019/07/15/teaching-abolition/>; see also Allegra M. McLeod, *Prison Abolition and Grounded Justice*, 62 UCLA L. REV. 1156 (2015) (introducing the first sustained discussion of "prison abolitionist ethic" to law scholars).

<sup>3</sup> Dan Berger, et al., *What Abolitionists Do*, Jacobin Mag. (Aug. 24, 2017), <https://www.jacobinmag.com/2017/08/prison-abolition-reform-mass-incarceration>.

Prison abolitionists have long argued that prisons are inherently racist cages of inhumanity that work to further the conditions of enslavement.<sup>4</sup> Many abolitionists argue that prisons, along with the law enforcement processes that further them, such as policing and court adjudication, not only fail to address the historical, social, and economic drivers of crime, but deepen them.<sup>5</sup> As such, abolitionists advocate for doing away with prisons and working to drive out the conditions that cause crime. Abolition focuses on finding new, restorative ways of addressing wrongdoing and ensuring safety.

For many, these goals might once have been considered unrealistic given our understanding of human nature and the criminal legal process as it currently exists. Yet, the energy produced by organizers and activists engaged on issues of criminal justice and race has helped to elevate the long standing and far reaching work that has been done by prison abolitionists.<sup>6</sup> It has caused many to ask whether abolishing prisons, and by extension the institutions that direct people into prison, could be “the next frontier in criminal justice reform.”<sup>7</sup> What may have once been viewed as an impractical and peripheral approach to the administration of criminal law, carceral abolition is relevant, provocative and more than simply theoretical. Indeed criminal practitioners, prosecutors included, are beginning to explore what it means to practice with a decarceral or abolitionist perspective.<sup>8</sup>

As a former public defender and clinician, I often find myself thinking about the kind of motivations, philosophies, and character traits that make someone effective at doing the work of a public defender. As I observe many new public defenders pronouncing themselves to be abolitionists, I increasingly wonder whether it is possible or even desirable to reconcile the

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<sup>4</sup> See generally ANGELA Y. DAVIS, *ARE PRISONS OBSOLETE?* (Greg Ruggiero, 2003); Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Earl Lewis et. al. eds., 2007); Nathan J. Robinson, *Can Abolition Ever be Pragmatic?*, CURRENT AFFAIRS (August 3, 2017), <https://www.currentaffairs.org/2017/08/can-prison-abolition-ever-be-pragmatic>.

<sup>5</sup> Jessi Lee Jackson & Erica R. Meiners, *Feeling Like a Failure: Teaching/Learning Abolition Through the Good, the Bad, and the Innocent*, 88 *Radical Teacher* 20, 22 (Summer 2010); see also McLeod, *supra* note 2, at 1197-8.

<sup>6</sup> See generally Davis, *supra* note 4; Gilmore, *supra* note 4.

<sup>7</sup> Bill Keller, *Is ‘Abolish Prisons’ the Next Frontier in Criminal Justice?*, BLOOMBERG OPINION (June 12, 2019, 9:00 AM), <https://www.bloomberg.com/opinion/articles/2019-06-12/-abolish-prisons-the-next-frontier-in-criminal-justice-reform>.

<sup>8</sup> See Megan Magray, *Tiffany Caban’s Rebel Campaign in Queens*, *New Yorker* (June 4, 2019) <https://www.newyorker.com/news/news-desk/tiffany-caban-the-public-defender-running-for-queens-district-attorney-and-her-feminist-coalition>; see also Larry Krasner, *What Justice Looks Like: Philadelphia’s DA Praises Tiffany Caban’s Addition to the Rank of Reformers*, *N.Y. Daily News* (June 30, 2019 5:00AM) <https://www.nydailynews.com/opinion/ny-oped-what-justice-looks-like-20190630-qs76ddsbjrfk3evikmrbiqxhca-story.html>.

values of abolition with the institutional role the public defender serves. Ultimately, I conclude that while abolition and criminal defense are a messy and imperfect fit, thinking about their relationship to one another has an important place in the clinical pedagogy of a criminal defense clinic.

The clinical classroom is an ideal site for exploring the possibilities and challenges of integrating abolitionist theory into live client representation in the criminal context. It is unlikely that most criminal defense clinics meaningfully contemplate whether and how abolitionist principles can be integrated into the instructional and experiential aspects of their programs. Macro-level thinking about undoing the criminal legal system has not typically been an area of focus for the practicing public defender. There is so much that new, would-be defenders must learn in short order to prepare to represent a client in court that there hardly seems to be sufficient time to focus on what some might consider to be utopian. However, reimagining the systems that we are teaching students to operate in should no longer seem so far out of reach. Public attitudes about the criminal legal system are evolving and the nature of criminal practice is also changing.<sup>9</sup> Criminal defense clinicians have an opportunity to think critically about their role in preparing students to work within these systems, while considering that perhaps learning the “fundamentals” of criminal procedure and lawyering skills is only one part of the job. Can we deepen the new public defender’s training by encouraging an ideological understanding of and advancement toward carceral abolition? Should students be taught to represent clients with abolition as their north star, and if so how might that be accomplished?<sup>10</sup> Perhaps new public defenders can be taught to balance idealism and pragmatism, while being sure to prioritize their obligations to their client’s case as paramount.

This Essay examines whether decarceral and abolitionist ethics fit into the practice and pedagogy of a criminal defense clinic. It argues that although an imperfect fit, criminal defense clinics should teach students how to effectively advocate for their clients through a lens of carceral abolition. It aims to provide an approach for integrating an abolitionist framework into clinical pedagogy. Part I explores the concept of abolition. It draws from the work of early prison abolitionists and more recent abolition theorists to develop an abolition framework for defenders that applies to both prisons and the criminal legal institutions that are the main drivers of imprisonment. This

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<sup>9</sup> Press Release, ACLU, 91 Percent of Americans Support Criminal Justice Reform, ACLU Polling Finds (Nov. 16, 2017), <https://www.aclu.org/press-releases/91-percent-americans-support-criminal-justice-reform-aclu-polling-finds>; Nicole Porter, *Top Trends in State Criminal Justice Reform, 2018*, SENTENCING PROJECT (Jan. 16, 2019), <https://www.sentencingproject.org/publications/top-trends-state-criminal-justice-reform-2018/>; John Washington, *What Is Prison Abolition?*, NATION (July 31, 2018), <https://www.thenation.com/article/what-is-prison-abolition/>

<sup>10</sup> Robinson, *supra* note 4.

Part encourages the conceptualization of a social and legal landscape that practitioners could be working toward so that students can begin to consider what is necessary to achieve that vision.<sup>11</sup>

Part II makes the case for why a criminal defense clinic should integrate the abolitionist principles identified in Part I into its instructional and experiential program. Public defenders can be highly effective at pushing back against systemic injustice. However, as institutional actors, defenders can also become complicit and play a role in legitimizing the very system they may purport to despise.<sup>12</sup> This Part examines the approach that most criminal defense clinics currently take and explores both the benefits and limitations of teaching students from an abolitionist ideological perspective. Finally, Part III proposes specific pedagogical strategies for teaching and practicing abolitionist principles. These approaches are designed to be integrated into seminar, case and project selection, and rounds.

### I. FRAMING CARCERAL ABOLITION

The contemporary abolitionist movement includes a diverse array of people and groups who use varying approaches to advance profound structural changes in the way our society regards and responds to human transgressions.<sup>13</sup> These modern social justice change makers use the term abolition deliberately as a recognition of the historical efforts that have been undertaken to dismantle deeply entrenched racist institutions.<sup>14</sup> Abolitionist social movements in the United States have a long and significant history.<sup>15</sup> From the abolition movements of human chattel slavery to lynching to segregation to capital punishment to criminal incarceration, the common thread that links each is the focus on eliminating state sanctioned, institutionalized, and racialized violence and subordination.<sup>16</sup> Abolitionists work to unsettle the notion that the institutions we have come to accept as

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<sup>11</sup> *Id.* (“As Angela Davis says, “the call for prison abolition urges us to imagine and strive for a very different social landscape.” It’s useful because it gets us thinking about big questions, picturing what very different worlds might be like and then beginning to plot how we might get from here to there.”).

<sup>12</sup> NICOLE GONZALEZ VAN CLEAVE, *CROOK COUNTY: RACISM AND INJUSTICE IN AMERICA’S LARGEST CRIMINAL COURT*, 161 (Stan. U. Press 2016).

<sup>13</sup> Akbar, *supra* note 2 (explain that contemporary abolitionist movements can be seen in campaigns and organization, such as: “[Critical Resistance](#), [BYP100](#), [No New Jails Seattle](#), [Mijente](#), [Survived and Punished](#), [INCITE](#), and more”).

<sup>14</sup> Davis, *supra* note 4, at 24.

<sup>15</sup> Washington, *supra* note 9; see also Rachel Kushner, *Is Prison Necessary? Ruth Wilson Gilmore Might Change Your Mind*, N.Y. Times (Apr. 17, 2019), <https://www.nytimes.com/2019/04/17/magazine/prison-abolition-ruth-wilson-gilmore.html>.

<sup>16</sup> César Cuauhtémoc García Hernández, *Abolish Immigration Prisons*, 97 B.U. L. REV. 245, 262 (2017).

“inextricably woven into our society”<sup>17</sup> must always remain that way. Abolition draws from a historic, moral, social, and political framework to not only call for the eradication of racist systems, but also to encourage the reimaging and redesigning of social institutions.<sup>18</sup> This part will provide contextual background for understanding the carceral abolitionist ethic.

#### A. *Understanding Abolition*

A central feature of the abolitionist approach involves influencing societal attitudes. Abolitionist movements impact the public consciousness by highlighting engrained assumptions and promoting an alternative narrative about the kind of societal norms that are possible.<sup>19</sup> How we think about crime and punishment has developed from a set of historical and social forces that frequently go unexamined by those practicing within the criminal legal system. We tend to accept that the commitment of a transgression makes someone a criminal and that the appropriate response to human wrongdoing is incapacitation and punishment.<sup>20</sup> We rely on a vast system of police, courts, and prisons as the necessary response to deep rooted individual and societal challenges. Academic disciplines such as criminal justice, criminology and criminal law produce theories that serve to affirm the system that is in place.<sup>21</sup> This approach to dealing with human transgression has created what scholars have called “the criminal justice logic.”<sup>22</sup> It is the prevailing view that the criminal justice system is based on objective, neutral standards which serve to further the causes of public safety and justice. This criminal justice logic is so deeply embedded in our thinking and enlivens our politics, social policy, media, entertainment and public dialogue.<sup>23</sup>

An abolitionist ethic highlights the way race and social control animate our approach to criminal justice. It recognizes that we cannot isolate the system from its historic and social context. It also recognizes that while misconduct is both human and pervasive, our responses are often selective.<sup>24</sup>

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<sup>17</sup> Washington, *supra* note 9.

<sup>18</sup> McLeod, *supra* note 2, at 1162–63 (“Abolition instead required the creation of new democratic forms in which the institutions and ideas previously implicated in slavery would be remade to incorporate those persons formerly enslaved and to enable a different future for all members of the polity. To be meaningful, the abolition of slavery required fundamentally reconstructing social, economic and political arrangements.”).

<sup>19</sup> Washington, *supra* note 9; *see also* McLeod, *supra* note 2, at 1197-8 (“Multiple studies have confirmed the implicit, often immediate, and at times unconscious associations made between African Americans, criminality, and threat.”).

<sup>20</sup> Michael J. Coyle & Judah Schept, *Penal Abolition Praxis*, 26 *CRITICAL CRIMINOLOGY* 319, 319 (2018).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 320

<sup>23</sup> *Id.*

<sup>24</sup> M.J. Coyle, *Penal Abolition As the End of Criminal Behavior*, 6 *J Soc. Just.* 1 (2016);

Abolition names white supremacy as the core principle of American social order.<sup>25</sup> The influence of white supremacy and domination of non-white groups is particularly evident in the way institutions regulated the lives of African Americans over the 19<sup>th</sup> and 20<sup>th</sup> centuries.<sup>26</sup> The slave patrol roots of policing in the south, Black Codes, which were the vaguely defined vagrancy laws targeting the newly emancipated, the convict leasing system, and Jim Crow laws, are just some of the historical examples of institutionalized mechanisms of Black repression.<sup>27</sup> The civil rights victories of the 1960s along with the legislative boost of the Civil Rights Act created optimism that the legalized racially repressive practices of the past could effectively be challenged. However, the changes ushered in by the Civil Rights era did not diminish the influence of white supremacy but rather hastened its transformation.<sup>28</sup> The War on Drugs, the War on Poverty, mass criminalization, and mass imprisonment facilitated a more covert way to “rearticulate and repackage racialized social control.”<sup>29</sup>

An abolitionist ethic provides a constant reminder that “history lives in the present, in that white supremacy, settler colonialism and racial capitalism are inextricable from the origins, logic and practices of ‘criminal justice.’”<sup>30</sup> Carceral abolition emphasizes white supremacy’s enduring hold on our legal institutions.<sup>31</sup> The abolitionist ethic extends to each of the institutions, systems, and schools of thought that reduce people to objects and confines, entraps, and incapacitates them.<sup>32</sup> This broad ethos encompasses the criminal legal system from beginning to end: from policing, through the court process to sentencing and reentry.

Abolition does not suggest that violence and wrongdoing will cease to exist. Rather, it recognizes that the criminal legal process as it currently

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L. Hulsman, *Critical Criminology and the Concept of Crime*, 10 *Contemporary Crises* 63 (1986)).

<sup>25</sup> Colleen Hackett & Ben Turk, *Shifting Carceral Landscapes: Decarceration and the Reconfiguration of White Supremacy*, *ABOLITION J.* (Aug. 24, 2017), <https://abolitionjournal.org/shifting-carceral-landscapes/>; See also Anne Bonds & Joshua Inwood, *Beyond White Privilege: Geographies of White Supremacy and Settler Colonialism*, 40 *Progress Human Geo.* 715, 719-20 (2016) (“Most simply defined, white supremacy is the presumed superiority of white racial identities, however problematically defined, in support of the cultural, political, and economic domination of non-white groups.”)

<sup>26</sup> Hackett & Turk, *supra* note 25.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Coyle & Schept, *supra* note 20, at 320 (citing Gilmore, *supra* note 4; Angela Y. Davis, *Abolition Democracy: Beyond Empire, Prisons, and Torture* (Greg Ruggiero, 2005)).

<sup>31</sup> McLeod, *supra* note 2, at 1161–2.

<sup>32</sup> Hackett & Turk, *supra* note 25 (referring to the definition employed by philosopher Michel Foucault).

exists ineffectively uses criminalization, sanctioned state violence, and imprisonment to address the underlying “problems that shape violence in our communities.”<sup>33</sup> Abolition encourages us to consider what we would need in order to reduce our reliance on police and prison and build alternatives that to the criminal legal process. Mass criminalization and mass imprisonment have created a number of fiscal and social ramifications that have caused many from across the political spectrum to recognize that the criminal legal system is in need of attention.<sup>34</sup> However, there is a wide spectrum of opinion on what exactly the issues in the criminal legal system are and what needs to be done to address them.<sup>35</sup>

### *B. Why Abolition and Not Reform?*

The conversation around change in the criminal legal system largely focuses on the idea of reform. While reform and abolition are related, understanding the distinction between the two approaches is vital. Reform seeks to improve some of the techniques and procedures by which “criminal justice” is administered and distributed. Abolition seeks to address the approaches that will ultimately serve to transform the system and the social and economic conditions that drive our understanding of crime of punishment.<sup>36</sup> As one scholar has noted “[reform] deals with pain management and [abolition] with the actual source of the pain.”<sup>37</sup> Abolition can be viewed as existing “in productive tension with efforts to reform the penal system.”<sup>38</sup> While an abolitionist agenda seeks to dismantle the system and create a social order that doesn’t rely on prisons, abolitionists also recognize that in the current moment certain reforms have the potential to bring immediate relief to the individuals currently suffering under the oppressive weight of the criminal legal process.<sup>39</sup>

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<sup>33</sup> Jackson & Meiners, *supra* note 5, at 22 (citing to Angela Davis: prison is “a way of disappearing people in the false hope of disappearing the underlying social problems they represent,” Davis, *supra* note 30, at 41).

<sup>34</sup> Need cite.

<sup>35</sup> Critical Resistance, *The C.R. Abolition Organizing Toolkit*, Criticalresistance.org 33, <http://criticalresistance.org/wp-content/uploads/2012/06/CR-Abolitionist-Toolkit-online.pdf> (describing some issues as “mandatory minimums, determinant sentencing, and the juvenile justice system, are all reforms that have strengthened the [prison industrial complex] instead of tearing it down, or even shrinking it”) (herein “CR Toolkit”).

<sup>36</sup> Angela Y. Davis, *Are Prisons Obsolete?* 20-1 (Greg Ruggiero, 2003).

<sup>37</sup> Washington, *supra* note 9.

<sup>38</sup> Julia Sudbury, *Reform or Abolition? Using Popular Mobilizations to Dismantle the ‘Prison-Industrial Complex,’* 102 CRIM. JUST. MATTERS 17, 19 (2015) <https://www.tandfonline.com/action/showCitFormats?doi=10.1080%2F09627251.2015.1143627>

<sup>39</sup> *Id.*

Even as an abolitionist ethic recognizes the importance of engaging with reform work, it must be noted that not all reforms are created equally. There are many efforts labeled as reforms that work against the primary goals of abolition.<sup>40</sup> The nature of the reform itself must be examined to determine whether it is working in service of transforming the system or rather is supporting the carceral agenda. An establishment reformist ethic ultimately endorses and affirms the value of the legal-penal system and seeks to enhance its functioning by simply correcting identified failings. Establishment reforms seek some change to improve the performance of the institution by, for example, making it less harsh in its punitiveness. Importantly, the primary objective is to maintain the core, fundamental identity of criminal justice logic, albeit through kinder, gentler means. A non reformist,<sup>41</sup> or abolition-serving reform seeks to reduce or diminish the procedures and institutions by which state violence is administered and distributed. These are reforms which reduce the power of the institution, while “illuminating the system’s inability to solve the crises it creates.”<sup>42</sup>

Pursuing an abolitionist agenda as opposed to simply reforming the system may seem extreme until one considers the unique entrenchment of race in the American system of justice. As Allegra McLeod has noted, “Two hundred and forty years of slavery and ninety years of legalized segregation, enforced in large measure through criminal law administration, render U.S. carceral and punitive policing practices less amenable to the reforms undertaken, for example, in Scandinavian countries, which have more substantially humanized their prisons.”<sup>43</sup> Addressing the issues in our criminal legal system requires more than tackling “implementation failures”<sup>44</sup> or fine-tuning around the margins. History has demonstrated that overlaying reforms onto an existing infrastructure does nothing to eradicate the underpinnings of race and social control that simply mutate over time.

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<sup>40</sup> CR Toolkit, *supra* note 35, at 33 (explaining that some groups that support abolitionist approaches will use strategies that seem to emphasize reform “like providing better health care and education to prisoners, making parole and probation accessible to more prisoners, supporting prisoner work stoppages and strikes—all things that don’t necessarily abolish the system itself.” However, there are other strategies that are viewed as “undercut[ting] the work that abolitionists do “like the trade off between “violent” and “non-violent” prisoners or constructing new jails and prisons to create better conditions.”)

<sup>41</sup> Sudbury, *supra* note 38, at 19 (“Described by Angela Y. Davis, as ‘non-reformist reforms,’ these efforts are assessed first in terms of whether they contribute toward decreasing or increasing prison budgets and the reach of the criminal justice system.”).

<sup>42</sup> Berger, et al., *supra* note 3.

<sup>43</sup> McLeod, *supra* note 2, at 1184.

<sup>44</sup> Hernández, *supra* note 16, at 262.

### C. *The Abolitionist Blueprint*

Carceral abolition recognizes that criminal justice logic works to maintain white supremacy.<sup>45</sup> It is a philosophy that prompts us to reframe our response to dealing with human transgressions.<sup>46</sup> It also challenges the idea that the criminal justice system has produced practices that are effective in responding to offenses. An abolitionist ethic urges us to reach beyond our imaginations.<sup>47</sup> It encourages a commitment to ending the use of pro-carceral criminal justice strategies to confine and control human beings through violent means.<sup>48</sup> Marking, punishing, and excluding are the only modes for addressing wrongdoing that American society knows, but not the only ones that might exist. Abolition encourages us to consider that perhaps “wrongdoing, injury, difference, and culturally ingrained prejudice” can be addressed in other ways.<sup>49</sup> Abolition provides those who recognize the dangers of criminal justice logic with a True North, an orienting point that grounds deeply held values and serves as a compass to guide direction and decision making.<sup>50</sup> Abolition is both a goal and framework for eliminating our carceral logic and moving closer to a more transformative model of justice.<sup>51</sup>

Abolitionist movements have also set out the blueprint needed to systematically strip down racist institutions and construct a new social order. An abolitionist ethic provides us with not only the philosophy needed to move away from carceral logic, but also the practical steps. “The three pillars of abolitionism—or the “Attrition Model” as the Prison Research Education Action Project called it in their 1976 pamphlet, “Instead of Prisons: A Handbook for Abolitionists”—capture the steps to help us move closer to prison abolition. The three pillars are: moratorium, decarceration, and

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<sup>45</sup> Coyle & Schept, *supra* note 20, at 320.

<sup>46</sup> Ruth Wilson Gilmore & James Kilgore, *The Case for Abolition*, Marshall Project (June 19, 2019, 6:00 AM), <https://www.themarshallproject.org/2019/06/19/the-case-for-abolition>.

<sup>47</sup> Coyle & Schept, *supra* note 20, at 320 (“Against this society stands another imagined one, the post or non-carceral society (Tyson 2014), which much like the slave-free society of antebellum America that existed only in imagination before the abolition of slavery was accomplished, is neither formed nor known. It is still emerging and displaying its commitments.”).

<sup>48</sup> McLeod, *supra* note 2, at 1161-62.

<sup>49</sup> Washington, *supra* note 9.

<sup>50</sup> Coyle & Schept, *supra* note 20, at 321 (“In addition, abolition is both the horizon toward which we work and a framework within which steps toward that horizon can be analyzed, evaluated and then taken or discarded. As the abolitionist Rose Braz argued, “Abolition defines both the goal we seek and the way we do our work today” (Hans Bennett, *Organizing to Abolish the Prison-Industrial Complex*, Dissident Voice (July 11, 2008)).

<sup>51</sup> *Id.*

excarceration.”<sup>52</sup> The first step is moratorium which simply means halting the construction of new jails and prisons.<sup>53</sup> The second step, decarceration, means finding ways to remove people from prison and reduce the prison population.<sup>54</sup> The third step, excarceration, involves “finding ways to divert people away from the prison-industrial complex in the first place.”<sup>55</sup> According to abolitionists, the criminal legal system uses a blunt tool instead of a more compassionate approach to deal with many of the social issues that bring people into the system. Addressing issues such as mental health, homelessness, and substance abuse, along with with providing meaningful access to quality education and economic stability will help to ameliorate some of the behaviors and conditions that currently lead to criminal legal involvement.

With this understanding of the abolitionist ethic, reform versus abolition, and the practical steps available to move closer to a new social order, the next section will explore why criminal defense clinics are an important space for integrating this approach in pedagogy and practice.

## II. TEACHING CARCERAL ABOLITION IN CRIMINAL DEFENSE CLINICS

### A. *What Do Criminal Defense Clinics Currently Teach?*

Criminal defense clinics are usually a primary clinical education offering in law schools across the country.<sup>56</sup> Criminal law offers students a substantively accessible and engaging area of law as an entry point to the profession. Criminal cases provide students with the ability to engage in individual client representation in a very discrete process where they are often able to see the case through from beginning to end. The practice is rich with substantive law and with practical lawyering skills: client interviewing, oral advocacy in court, ethical decision-making, investigation, pretrial procedures, plea negotiation, client counseling, hearing and trial.<sup>57</sup> When a clinical program is well designed and executed it allows students to provide comprehensive representation of clients accused of crimes. Students focus on a small number of clients, under the close supervision of a field expert. They are often able to go above and beyond what the overburdened public defender is able to provide by conducting extensive legal research, and engaging in far

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<sup>52</sup> Washington, *supra* note 9 (citing Fay Honey Knopp, *Instead of Prisons: A Handbook for Abolitionists* ch. 3 (Mark Morris, 1976) in introducing “the Attrition Model”).

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Need cite.

<sup>57</sup> Need cite.

reaching investigations.<sup>58</sup> Many clinics pride themselves on providing students with the resources, substance and skills needed to provide vigorous client representation.

Clinics often seek to dig deeper by encouraging students to help their clients navigate the collateral consequences that arise from the criminal case. This will often demand that students “manage client crises that arise outside of the four corners of an accusatory instrument, such as public benefits, employment, or housing issues, and, of course, the potential immigration consequences of a criminal conviction.”<sup>59</sup> Additionally, many criminal defense clinicians seek to educate students on the social and political realities that exist within the criminal context. They may teach about racial disparities in sentencing or some of the social conditions that lead to criminal involvement. Criminal clinics take on clients in post conviction cases dealing with all kinds of parole, clemency, reentry and appellate issues. Some clinics have started to take on criminal related projects that go beyond individual case representation, in order to give students a broader sense of the related kinds of issues and advocacy that exist. These clinics have been called “combined advocacy clinics” for their efforts to balance individual representation with “initiatives designed to effect larger-scale change, such as impact litigation, legislative advocacy, community lawyering, and organizing.”<sup>60</sup> In sum, the criminal defense clinic model is varied, but frequently seeks to focus on individual representation as well as educating and responding to systemic injustice.

#### *B. Do Criminal Defense and Abolition Belong Together?*

It is certainly a fair question to ask whether criminal defense work can legitimately espouse an abolitionist ethic. Indeed, the role of the public defender is contemplated by and fits perfectly into the “criminal justice logic.” The public defender, no matter how counter –authoritarian they may be, is just one player in the vast system of police, prosecutors, judges, court administrators, and corrections officials that operate under the prevailing view that the criminal legal system is based on objective, neutral standards which serve to further the causes of public safety and justice.<sup>61</sup> Indeed, many

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<sup>58</sup> Jenny Roberts, *Crashing the Misdemeanor System*, 70 WASH. & LEE L. REV. 1089, 1103–04 (2013).

<sup>59</sup> M. Chris Fabricant, *Rethinking Criminal Defense Clinics in "Zero-Tolerance" Policing Regimes*, 36 N.Y.U. REV. L. & SOC. CHANGE 351, 356 (2012).

<sup>60</sup> *Id.* at 357; see also, Beth A. Colgan, *Lessons from Ferguson on Individual Defense Representation As A Tool of Systemic Reform*, 58 WM. & MARY L. REV. 1171, 1231 (2017) (discussing St. Louis University Criminal Defense Clinic’s individual, impact, and community advocacy in response to Ferguson uprisings.)

<sup>61</sup> Paul Butler, *Poor People Lose: Gideon and the Critique of Rights* 122 YALE L. J. 2176, 2191 (2013) (“Since Gideon, rates of incarceration (which, in the United States, applies mainly to the poor) and racial disparities have multiplied. The right to have a lawyer, at trial

of the people who have suffered under the weight of mass criminalization and mass imprisonment had a defender by their side as they were being adjudicated. Once a case is resolved all the parties involved can feel justified that the accused had representation, so due process was achieved.<sup>62</sup> The criminal defense function, if not undertaken thoughtfully, can expand the scope and performance of the criminal legal system as opposed to diminishing it.

Defenders are tasked with protecting rights, exposing deficiencies in evidence, sharing mitigating information and negotiating over the types and lengths of punishment a client will face. These are very specific tasks that require complete devotion to the client and their particular goals and preferences. In order to carry out those responsibilities, criminal defense practitioners frequently have to work within the parameters established by the criminal legal system. While some of the most effective defenders are committed to constantly calling out and pushing back at every opportunity, ultimately the defender's job involves helping the client navigate within what is usually a limited and undesirable set of options.

Moreover, while the work that many defenders do is valiant and critical, there is rarely an opportunity to examine how their own systemic understandings and unexposed biases work in service of the criminal justice logic. Defenders are rarely encouraged to acknowledge and confront their own implicit beliefs about clients that are often based on learned understandings about class and race.<sup>63</sup> These beliefs can impact the way a defender will manage their cases, specifically how much time they will spend on the case, how they will evaluate evidence, and how they will advise clients about their options.<sup>64</sup> Defense attorneys often serve as “‘ambassadors of racialized justice,’ translators who warn the accused about the culture of the court, conditioning them into compliance.”<sup>65</sup> The criminal legal process depends on the fact that defenders will take on the role of conditioning clients

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or even during the plea bargaining stage, has little impact on either of those central problems. What poor people, and black people, need from criminal justice is to be stopped less, arrested less, prosecuted less, incarcerated less.”).

<sup>62</sup> *Id.* at 2197 (“[Gideon] creates a formal equality between the rich and the poor because now they both have lawyers. The vast overrepresentation of the poor in America's prisons appears more like a narrative about personal responsibility than an indictment of criminal justice.”).

<sup>63</sup> Gonzalez Van Cleve, *supra* note 12 at 161 (“This triage of gauging capital or “goodwill” of the courts and the moral pricing of the defendant requires seeing your clients through the racialized lenses of the Cook County Courts, much like placing a price on slaves and gauging their worth. Each defendant had a going rate, and part of defending was knowing that value in the market of the court.”).

<sup>64</sup> L. Song Richardson & Phillip Atiba Goff, *Implicit Racial Bias in Public Defender Triage*, 122 *YALE L.J.* 2626, 2636 (2013).

<sup>65</sup> Gonzalez Van Cleve, *supra* note 12 at 173.

into acquiescence. Despite the immediate and important function that public defenders play, without conscious consideration of the vulnerabilities of the institutional role and the defender's potential for complicity, there is a danger that defenders provide a conduit for sustaining the harms the system creates. Failing to do this kind of personal and professional reflection potentially allows for an empty cooption of the principles of abolition.<sup>66</sup>

However complicated the institutional role of the defender may be, the truth remains that for the people currently ensnared in the criminal legal system, effective, skilled, and tenacious representation is vital. Because of this, a defender's primary responsibility must always be to prioritize the urgent, life-saving work of helping to mitigate the impact of the system on a client's reality. Abolition is both a philosophy and a practical program, and conscientious defenders can contribute to advancing the long term, practical work of abolition by standing on the front lines and working to resist the infliction of institutional harm.<sup>67</sup> Defenders observe firsthand the ways in which criminalizing and incarcerating people does not ultimately increase safety in our communities or resolve the issues of inadequate employment, housing, and mental health treatment. Every case that a defender advocates vigorously and thoughtfully for is in some way advancing the cause abolition—moving a client out of the systemic ensnarement, overloading the system's functioning, illustrating how the lack of social and economic sustainability.<sup>68</sup>

At this moment, the relationship between race and the criminal process has taken on sustained attention within the popular consciousness. Discussions of police and vigilante violence in the wake of Trayvon Martin, Michael Brown, Eric Garner and countless others, along with critiques of mass incarceration suggest that perhaps there is some desire to shift away from the overly punitive and police reliant approaches of the past. Experiential teaching within the criminal legal context demands that clinicians and practitioners think more expansively about what ideological principles are core to our teaching. This Essay's simple, but urgent contribution to criminal defense pedagogy is that educating clinic students in and orienting case work around an abolitionist ethic will allow students to be aware of and subvert the limitations of the criminal legal system and the profession. While criminal defense does not completely square with carceral abolition, there is much to draw from and contribute to the movement.

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<sup>66</sup>See Deshonay Dozier, *No Room for Planners in Abolition*, PN: PLANNERS NETWORK: THE ORGANIZATION OF PROGRESSIVE PLANNING (August 9, 2018) <http://www.plannersnetwork.org/2018/08/response-to-abolitionist-planning/>

<sup>67</sup> Ruth Wilson Gilmore & James Kilgore *supra* note 46.

<sup>68</sup> Roberts, *supra* note 58.

### C. *What About the Students?*

There are so many things that criminal defense clinicians are trying to achieve with students for the brief period of time that they are in clinic. We try to impart context and skills. We focus on making sure they are giving their clients the highest quality of representation possible. Not all of our students go on to become public defenders. Many of them will enter the private sector, or those who do enter public interest work, may go the route of representing clients in civil matters or working in policy related capacities. Therefore, as clinicians we aim to cultivate skills that are grounded in criminal practice while also ensuring that their knowledge will be transferrable to the many other areas students will find themselves practicing in. Clinicians also aim to provide exposure to the critical values, such as client-centeredness, cultural competency, and basic respect for humanity, that are so inextricably linked to criminal defense lawyering.<sup>69</sup> It may therefore seem overly ambitious and perhaps even a bit off track to try to incorporate an abolition framework into the clinical pedagogy.

Yet, the criminal context provides an ideal space to see and understand how the law uses race and poverty to mark, punish, and exclude. It is not enough to simply point out the system's failures and engage in representation and projects that seek to address them. Anyone who has practiced in the criminal courts for more than a moment has borne witness to the way that the entire process from arrest through re-entry cheapens the value of human life. Through our "small case" misdemeanor docket we meet the young person with emergent mental health concerns arrested for disruptive behavior; the parent arrested for shoplifting basic necessities for their families; the frustrated and stressed veteran living in homeless shelters arrested for getting into a fight.<sup>70</sup> We see first hand how clients are ensnared in a process that seeks to sink resources into punishment rather than services such as housing, health, education and immigration. Clinicians cannot allow students to observe this without having them question their role in and responsibility for exposing the system's shortcomings and reimagining a different way of responding to these social concerns. As Stephen Wizner and Jane Aiken have noted:

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<sup>69</sup> What clinic students see firsthand in terms of their clients' experiences provides them with a meaningful, lasting perspective regardless of the work they later pursue. As Abbe Smith has noted, "One of the most important lessons students learn in a criminal defense clinic is that they are not so different from their clients, no matter who the client is or what he or she may have done. Students come away recognizing that we all make mistakes, do stupid things, lose our tempers, give in to temptation or greed, and fall in with the wrong crowd." Abbe Smith, *In Praise of the Guilty Project: A Criminal Defense Lawyer's Growing Anxiety About Innocence Projects*, 13 U. PA. J.L. & SOC. CHANGE 315, 326 (2010).

<sup>70</sup> Note about clinic cases.

If we simply expose our students to injustice without addressing it explicitly, we are complicit in their desensitization, and fail in carrying out our responsibilities as teachers. We may even become a part of the problem because it is not possible to be a neutral observer of injustice. We want to leave our students with the sense that they can make change.<sup>71</sup>

Abolition, particularly with its emphasis on incarceration, encourages students to envision a more transformative approach to dealing with many of the social issues that lead to criminal legal involvement. Teaching clinic students to consider their fieldwork through an abolitionist lens encourages them to develop a critical consciousness about the system they are being trained to operate in and exposes students to the ‘institutional routines’ they will be expected to assume.<sup>72</sup> We must aim to “effectively and radically displace the the normalized misery, everyday suffering, and mundane state violence that reproduced and/ or passively condoned by dominant and critical pedagogies...”<sup>73</sup> As teachers focused on criminal defense our goal should be to separate the work we are doing from the work of police officers, prosecutors, and judges. We can attempt to understand how we are a part of furthering the carceral system and how we might be a part of abolishing it. Students and clinicians need to have a grounding ideology which will provide an a counter-analysis to the dominant criminal justice logic that pervades legal education.

Undoubtedly, students in the criminal defense clinic classroom will embody the full cross section of experiences and ideological perspectives that people bring to the work. Many of the students we teach are what might be called criminal justice logic believers, and they will likely resist the notion that the criminal legal system needs undoing. They may be even more resistant to the idea that they as lawyers should be a part of that. Other students might identify as proponents of a decarceral approach. These students recognize that the criminal legal system is significantly flawed, however, they don’t fully embrace abolition as the answer. The decarceral proponent might view reforms that reduce the size and scope of the criminal legal system as the appropriate response. Perhaps these students fixate on the lack of a concrete, clearly defined vision of an alternative system with police and prisons. They ultimately question how human wrongdoing can be

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<sup>71</sup> Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 *FORDHAM L. REV.* 997, 1009 (2004).

<sup>72</sup> Dylan Rodríguez, *The Disorientation of the Teaching Act: Abolition as Pedagogical Position*, 88 *THE RADICAL TEACHER*, 7-19 (Summer 2010).

<sup>73</sup> *Id.*

adequately addressed without the systems that dominate the criminal justice logic.<sup>74</sup> Finally, another grouping of students may come to the clinic classroom already embracing a strong sense of abolitionist values. These abolitionist minded students may have a well-developed ideological perspective, but are challenged by the idea of reconciling their principles with their actual practice. These students might be drawn to the idea that criminal defense work is the front line of individual liberation, however they are concerned about becoming disillusioned by the ways the defender often has to trade on the system's terms.

For each of these "types" of criminal defense clinical student, there is value in integrating an abolitionist perspective into clinical pedagogy and practice.

1. Explicitly Grounds Criminal Practice In a Race and Class Conscious, Historical Context

The disproportionate representation of people of color and poor people in criminal courts across the United States is something that defense clinic students must directly confront and grapple with. Much of the narrative that grows out of the criminal justice logic is that lack of personal responsibility, deficiencies in cultural values, and poor life choices are the main drivers for the overrepresentation of people of color and the poor in the criminal legal system. Providing students with a race and class conscious historical context, particularly as it relates to anti-Black sentiment, allows them to explore the ways in which criminal law enforcement is a direct outgrowth of slavery and Jim Crow policies. The historical and social underpinnings of an abolitionist ethic encourage students to consider how deliberate deprivation of economic and social opportunities along with law enforcement policies targeting communities of color have contributed to the the imbalances they observe. By imparting abolitionist ethics into student learning, students are able to think about their client's cases with greater depth. They are also able to take a more macro view of the criminal legal system's progression and their future role in it.

2. Acknowledges How Public Defenders Legitimize the System

The criminal legal system functions by the actions of various institutional actors, who work to maintain the status quo. Undeniably, police officers, prosecutors, and judges wield a tremendous amount of power and discretion when it comes to the functioning of the system. Many public defenders express an awareness of the way that these players consciously and

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<sup>74</sup> Many (although not all) of the students that fall into these first two categories may view a clinical experience in criminal defense as a stepping stone to a career as a prosecutor.

unconsciously engage with race as they exercise their discretion.<sup>75</sup> Public defenders are often left in a reactive mode, forced to respond to and mitigate the actions of these other actors. This can often make it seem as though defenders are some of the most powerless players in the system.

Yet, even in this posture, public defenders have decision making power and how they manage their agency within the racialized culture of criminal court is underexplored. Public defenders often find themselves playing into racialized ideas about their clients. The high volume and fast pace of most criminal courts ensures a “triage-type model where defenders are encouraged to make strategic choices about how hard to fight on each case.”<sup>76</sup> Defenders must calculate the most efficient use of their time and professional resources. Research related to the impact of implicit bias on public defender triage suggest that “when clients are black or otherwise criminally stereotyped, IBs can influence evidence evaluation, potentially causing PDs to unintentionally interpret information as more probative of guilt.”<sup>77</sup> The racialized culture of the criminal court process may lead to defenders unwittingly contributing to the structural violence their client is experiencing, despite their own conscious contempt for it.<sup>78</sup>

Teaching an abolitionist perspective to law students in a criminal defense clinic provides an early and essential way for students to acknowledge and address their role in legitimizing the racism that animates the criminal legal system. Clinicians would do so in the hopes that students will not “become complacent in the reproduction of institutional violence.”<sup>79</sup>

### 3. Provides Professional Guidance and Ideology

We can teach students to develop an ideology of practice that will guide their professional work. For many students who embark on careers as public defenders, the literature on sustaining work as a public defender explores how challenging the work is in terms of demanding caseloads, long odds, emotionally taxing issues, with an eye toward avoiding the inevitable to burnout.

After a few years (or, in some instances, a few months), the idealist discovers, to her chagrin, that even the noblest of efforts falls short in the face of those constraints endemic to most public defender services: staggering caseloads, tremendous time pressure, limited resources, and inadequate

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<sup>75</sup> Gonzalez Van Cleve, *supra* note 12 at 161.

<sup>76</sup> *Id.*

<sup>77</sup> Richardson & Goff, *supra* note 63 at 2636.

<sup>78</sup> Gonzalez Van Cleve, *supra* note 12 at 161 (“one’s perspectives can contradict one’s practices”).

<sup>79</sup> Dozier, *supra* note 66.

training. More importantly, the crusader is saddled with ever-growing doubts about the sanctity of her original mission. The story, all too often, ends with the crusader becoming jaded, disillusioned, or cynical, usually leaving the public defender's office for another career or, alternatively, settling for a routine existence of administering plea-bargained justice with little fervor for the cases or the clients.<sup>80</sup>

Scholars such as Charles Ogletree and Abbe Smith explore motivations for doing the work, such as empathy, heroism, and pride in professional craft. While many of these motivations perhaps still hold true, for many clinic students coming of professional age following the cases of Martin, Brown, Garner and uprisings in Ferguson and cities across the nation, the direct impact of public defender work links directly to a broader vision of individual and collective liberation. For many of these students, the traditional motivations that law school teaches, to uphold the political philosophy of the justice system, no longer seems sufficient. Teaching abolition in a practice context provides another type of philosophy, while exposing students to the challenges that come with practicing from a particular philosophical viewpoint.

### III. STRATEGIES FOR INTEGRATING CARCERAL ABOLITION INTO CRIMINAL DEFENSE PEDAGOGY AND PRACTICE

Ultimately, there is no single set of tools that will seamlessly implement the ideas of abolition into a criminal defense clinic. However, teaching students to contemplate the valorization of our criminal legal institutions and their role in furthering or dismantling these structures is of critical importance, no matter the student's ideological perspective or future career goals.<sup>81</sup> An abolitionist ethic can be explored through various aspects of the clinical method from case/project selection, seminar, supervision, and rounds.

- Seminar is an ideal opportunity to expose students to readings and skills training through abolitionist lens.
  - Critical readings that provide historical framing.
  - Skills sessions that raise critical approaches—how might your negotiation, interviewing or counseling strategies vary?
- For case/project selection and client representation, to the extent possible the work of a criminal defense clinic should expose students to more than one stage of the process or more than one mode of advocacy. Many public defenders send their clients away with no

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<sup>80</sup> Charles J. Ogletree, Jr., *Beyond Justifications: Seeking Motivations To Sustain Public Defenders*, 106 HARV. L. REV. 1239, 1240 (1993).

<sup>81</sup> Rodríguez *surpa* note 72.

concept of what it is they experience in jail or prison; If possible students should have “front end”—client just entering the system and “back end”—client currently imprisoned or leaving the system (reentering).

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- Misdemeanor clients
  - Clients who are not in prison (supervision—what does carceral control look like outside of prison?)
  - Clients who are incarcerated—how do theories of abolition make sense or not hold up after meeting clients exposed to very lengthy sentences. First hand exposure to conditions clients live in while incarcerated.
- For any combined advocacy --for impact litigation, legislative advocacy, or reform projects clinicians should identify what the reform being sought is and whether it fits one of the three pillars.
    - Also, is it an establishment reform or non-reformist reform?
    - Does it engage people most directly impacted?
  - Community projects should support a mutual aid model—
    - “Mutual Aid is “a form of political participation in which people take responsibility for caring for one another and changing political conditions, not just through symbolic acts or putting pressure on their representatives in government, but by actually building new social relations that are more survivable.” We currently have many forms of mutual aid as both harm reduction and steps towards abolitionist organizing including:
      - Community bail funds and targeted bail-out actions that free people from incarceration and lift up data and experience to push for change.
      - Participatory defense organizing that gets families to use their power as community to win freedom, make strong bail arguments for release and fight back against DA requests,

offer alternative diversion plans, initiate plea negotiations with true diversion and alternatives, and fill courtrooms to demonstrate community support.

- Post-release community support projects that establish community-based services to assist individuals upon release and model non-carceral examples.”<sup>82</sup>

- How can clinic/pd cases be used in an ethically appropriate way to provide the individual context necessary to help change the narrative and influence a shift in public consciousness? Influencing societal attitudes is core to the abolitionist approach.<sup>83</sup>
- Supervision/Rounds
  - What kinds of questions can you ask students about their client’s identities and life circumstances that tie into the contextual social and historical concerns carceral abolition raises?
  - For incarcerated parole and clemency clients in particular-- you will meet some clients accused of heinous things on paper. Yet, you get to build a relationship with them and know them on a more interpersonal level. How does that impact the way you view the institutions that deal with them?
    - critique different end goals for the system in light of varying client facts—reform v. decarceration v. abolition
  - Lawyering lessons stage of rounds--encourage students to subvert the limitations of their role

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<sup>82</sup>Community Justice Exchange, et al., *Abolitionist principles and Campaign Strategies for Prosecutor Organizing*, [https://static1.squarespace.com/static/5ba95e4c51f4d408d6784c85/t/5d82b5393c6ce4136efba87b/1568847162115/AbolitionistPrinciples\\_FINAL.pdf](https://static1.squarespace.com/static/5ba95e4c51f4d408d6784c85/t/5d82b5393c6ce4136efba87b/1568847162115/AbolitionistPrinciples_FINAL.pdf)

<sup>83</sup> Nicole Smith Futrell, *Please Tweet Responsibly: The Social and Professional Ethics of Public Defenders Using Client Experiences in Social Media Advocacy*, THE CHAMPION, January 2020.

- Working to identify implicit and explicit biases that are operating for them
- Consider the impact that racialized culture has on their practice