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## Advancing the Future of Family Violence Law Pedagogy: The Founding of a Law School Clinic

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# ADVANCING THE FUTURE OF FAMILY VIOLENCE LAW PEDAGOGY: THE FOUNDING OF A LAW SCHOOL CLINIC

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*This Article advocates for law schools to integrate family violence law further into their curricula and proffers reasons why family violence training is critical in preparing students to practice law. The authors posit that although live-client specialty clinics are the most in-depth way to teach family violence law, the topic should also be offered through doctrinal courses, externships, or general subject matter clinics. The Article then describes the authors' own experiences in co-founding a child advocacy clinic in New York City, outlining the steps taken to transform a vision into the actual formation of a clinic. Finally, the authors conclude with thoughts about the future of family violence law in legal academia, including mandating family violence law education for all law students.*

*The great aim of education is not knowledge but action.*

—Herbert Spencer<sup>1</sup>

Teaching family violence law<sup>2</sup> offers rich and varied opportunities for professors and law students to explore constitutional, ethical, psychological, and legal issues in the academic setting. The topic of family violence law also provides a backdrop for a clinical program as a vehicle for teaching professionalism and lawyering skills. Moreover, law schools have a pressing obligation to train future lawyers to handle the distinct issues that arise in representing families who are experiencing trauma and violence. Law schools should also encourage the proliferation of advocates in the field of family violence law, both pro bono and full-time.

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1. Herbert Spencer, *SOCIAL STATICS* 86 (New York, D. Appleton and Co. 1896).

2. For purposes of this Article, family violence law includes the law governing both intimate partner violence and violence against children perpetrated by a family member. See *infra* Part I.

In recent decades, national organizations such as the American Bar Association (“ABA”), and legal scholars alike have called upon law schools to incorporate family violence law into their regular curriculum, both in the context of child advocacy law and intimate partner violence law.<sup>3</sup> For example, the ABA Commission on Domestic Violence has urged “law schools to fill this desperate gap in legal education by incorporating domestic violence law into core curricula courses, upper level courses, and clinical programs.”<sup>4</sup> Pertaining specifically to child victims, the ABA’s Presidential Working Group on the Unmet Needs of Children and Their Families stated:

Every law school should offer its students the opportunity to learn about children’s issues (including related topics such as poverty and disability law) as part of their substantive studies, and to represent children and families as part of clinical training programs during their law school years. Exposing law students to children’s issues will achieve several goals: it will increase immediate availability of counsel for children; it will train future attorneys who, regardless of their later professional specialties, will be able to provide critical pro bono assistance to children and families; and it will encourage some law students to specialize after graduation in service to low-income and minority children and families.<sup>5</sup>

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3. PRESIDENTIAL WORKING GROUP ON THE UNMET NEEDS OF CHILDREN & THEIR FAMILIES, AM. BAR ASS’N, *AMERICA’S CHILDREN AT RISK: A NATIONAL AGENDA FOR LEGAL ACTION* 8 (1993) [hereinafter *AMERICA’S CHILDREN AT RISK*]; DEBORAH GOELMAN & ROBERTA VALENTE, *WHEN WILL THEY EVER LEARN? EDUCATING TO END DOMESTIC VIOLENCE: A LAW SCHOOL REPORT* 1 (1997), available at <http://www.ojp.usdoj.gov/ovc/publications/infores/etedv/etedvpdf.pdf>. See generally Sarah M. Buel, *The Pedagogy of Domestic Violence Law: Situating Domestic Violence Work in Law Schools, Adding the Lenses of Race and Class*, 11 AM. U.J. GENDER SOC. POL’Y & L. 309, 328–32 (2003); Naomi Cahn & Joan Meier, *Domestic Violence and Feminist Jurisprudence: Towards a New Agenda*, 4 B.U. PUB. INT. L.J. 339, 341–50 (1995); Jennifer R. Gavin, *Child Welfare Law Curricula in Legal Education: Massachusetts’ Untried Opportunity*, 7 B.U. PUB. INT. L.J. 9, 19–20, 24 (1998); Diane C. Geraghty, *The Role of Legal Education in the Emerging Legal Specialty of Pediatric Law*, 26 LOY. U. CHI. L.J. 131, 131–32 (1995); John F. Mahon & Daniel K. Wright, *The Missing Ingredient: Incorporating Domestic Violence Issues Into the Law School Curriculum*, 48 ST. LOUIS U. L.J. 1351, 1358–65 (2004); M. Isabel Medina, *Justifying Integration of Domestic Violence Throughout the Law School Curriculum: An Introduction to the Symposium*, 47 LOY. L. REV. 1, 11–14 (2001); William Wesley Patton, *Law Schools’ Duty to Train Children’s Advocates: Blueprint for an Inexpensive Experimentally Based Juvenile Justice Course*, 45 JUV. & FAM. CT. J. 3, 4 (1994); Elizabeth M. Schneider, *Violence Against Women and Legal Education: An Essay for Mary Joe Frug*, 26 NEW ENG. L. REV. 843, 844–46 (1992); Ann Shalleck, *Feminist Theory and Feminist Method: Transforming the Experience of the Classroom*, 7 AM. U.J. GENDER SOC. POL’Y & L. 229, 230–31 (1998).

4. Goelman & Valente, *supra* note 3, at 1–5.

5. *AMERICA’S CHILDREN AT RISK*, *supra* note 3, at 8.

To some extent, the call to increase family law opportunities in law schools has been answered in recent decades.<sup>6</sup> One third of ABA-approved law schools offer classes in domestic violence, well over one-half offer courses in child advocacy law, and law schools continue to establish family violence specialty clinics.<sup>7</sup> Further, in some instances scholars from different disciplines have collaborated to incorporate modern family law practice into law school education.<sup>8</sup> In the decades ahead, however, institutions must recognize the need for formal curricular integration of family violence law, and law schools should create and expand platforms to teach family violence law.

This Article posits that family violence law is best taught in-depth in live-client specialty clinics, but law schools should additionally make doctrinal courses, externships, or generalized clinics that address family violence issues available. Part I of this Article defines family violence as it is used here and offers reasons why family violence courses are critical in preparing law students for post-graduation practice. Part II describes the authors' own experiences in co-founding a child advocacy clinic, outlining the steps taken to transform a vision into the actual formation of such a clinic at St. John's University School of Law in New York City. Finally, the authors conclude with thoughts about the future of family violence law in academia and suggest a mandate for family violence law training for the future bench and bar.

### I. TEACHING FAMILY VIOLENCE LAW IS A WORTHWHILE AND NECESSARY VENTURE FOR LAW SCHOOLS IN THE TWENTY-FIRST CENTURY

*Education is not the filling of a pail, but the lighting of a fire.*

—William Butler Yeats<sup>9</sup>

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6. See generally, Joan S. Meier, *Notes from the Underground: Integrating Psychological and Legal Perspectives on Domestic Violence in Theory and Practice*, 21 HOFSTRA L. REV. 1295 (1993); Symposium, *Domestic Violence in Legal Education and Legal Practice: A Dialogue Between Professors and Practitioners*, 11 J.L. & POL'Y 409 (2003).

7. For percentages, please refer to the Conclusion *infra*, the Appendix located at the end of this Article, and the charts available at [http://students.law.umich.edu/mjlr/prospectus/Breger\\_Hughes\\_Survey.html](http://students.law.umich.edu/mjlr/prospectus/Breger_Hughes_Survey.html).

8. Mary E. O'Connell & J. Herbie DiFonzo, *The Family Law Education Reform Project Final Report*, 44 FAM. CT. REV. 524, 524-25 (2006).

9. Thinkexist.com, [http://thinkexist.com/quotes/william\\_butler\\_yeats/2.html](http://thinkexist.com/quotes/william_butler_yeats/2.html) (last visited Oct. 17, 2007).

*A. Defining Family Violence Law Broadly*

For purposes of this Article, family violence includes both domestic violence<sup>10</sup> and child maltreatment<sup>11</sup> perpetrated by a family member or intimate partner. Although the dynamics of family violence may differ when violence is inflicted by an intimate partner as compared to a sibling or parent, the issues of power and control and the effects of violence are sufficiently similar to discuss both types together for the purposes of this Article.

The conflation of these two types of violence is also appropriate for this discussion because of their interrelationship and similar position in the legal system. First, in many households where intimate partner violence exists, child abuse is also present.<sup>12</sup> Further, when children are repeatedly exposed to violence in the home,

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10. Domestic violence refers to a coercive pattern of power and control perpetrated by an abuser who is or has been in an intimate relationship with the victim-survivors. See LUNDY BANCROFT, *WHY DOES HE DO THAT? INSIDE THE MINDS OF ANGRY AND CONTROLLING MEN* 49–75 (2002); Joan S. Meier, *Domestic Violence, Child Custody, and Child Protection: Understanding Judicial Resistance and Imagining the Solutions*, 11 AM. U.J. GENDER SOC. POL'Y & L. 657, 696 (2003).

11. Definitions of “child abuse and neglect” vary by jurisdiction; federally, the terms are defined as: “any recent act or failure to act . . . which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm . . . .” 42 U.S.C. § 5106g(2) (2000). Child maltreatment, for the purposes of this Article, is used synonymously with child abuse and neglect. Child maltreatment is no less than a “national emergency,” which involves approximately three million reports of child neglect or abuse annually and results in a national rate of victimization of 12.4 per 1000 children with children under the age of three facing the highest rate of victimization. National Association of Counsel for Children, *Child Maltreatment*, <http://www.naccchildlaw.org/childrenlaw/childmaltreatment.html> (last visited Sept. 18, 2007). “More than 60% of child victims were neglected; approximately 20% were physically abused, 10% were sexually abused; 17% suffered from other types of maltreatment; and 5% were emotionally maltreated.” *Id.*

12. See N.Y. DOM. REL. LAW § 240 (McKinney 1999) (pointing to research showing the correlations between spouse abuse and child abuse); Judith J. Gische, *Domestic Violence as a Factor in Custody Determinations in New York State*, 27 FORDHAM URB. L.J. 937, 938–939 (2000); Goelman & Valente, *supra* note 3, at 32 (citing Lee H. Bowker et al., *On the Relationship Between Wife Beating and Child Abuse*, in FEMINIST PERSPECTIVES ON WIFE ABUSE 158, 159, 162 (K. Yllo & M. Bogard eds., 1988) (revealing that studies show that in 50–70% of cases of domestic violence, physical abuse of a child occurs as well)); see also BANCROFT, *supra* note 10, at 245–47; Gail S. Goodman & Mindy S. Rosenberg, *The Child Witness to Family Violence: Clinical and Legal Considerations*, in DOMESTIC VIOLENCE ON TRIAL: PSYCHOLOGICAL AND LEGAL DIMENSIONS OF FAMILY VIOLENCE 97 (Daniel Jay Sonkin ed., 1987); O’Connell & DiFonzo, *supra* note 8, at 537 n.99 (citing Susan Smith, Comment, *Abused Children Who Kill Abusive Parents: Moving Toward an Appropriate Legal Response*, 42 CATH. U. L. REV. 141–42 (1992)); NAT’L COMM. TO PREVENT CHILD ABUSE, DOMESTIC VIOLENCE AND CHILD ABUSE LINKED, available at <http://www.casenet.org/library/domestic-abuse/linked.htm#abused1> (“Domestic violence often includes child abuse. Children may be victimized and threatened as a way of punishing and controlling the adult victim of domestic violence. Or they may be injured unintentionally when acts of violence occur in their presence. . . . [T]hey [also] can experience serious emotional damage as a result of living in a violent household.”).

they are particularly vulnerable to an array of social, psychological, and physical problems,<sup>13</sup> which in turn increases their risk of becoming the next generation of victims and/or abusers.<sup>14</sup> Additionally, from a systemic perspective, litigants experiencing both types of family violence often enter and exit the legal system repeatedly due to the cyclical nature of abuse.<sup>15</sup> Finally, lawyers in all fields need to be skilled in counseling clients who are dealing with a family crisis and must assess how this trauma may affect corresponding legal issues. Knowledge of the effects of trauma is crucial in the family violence context, where both children and adult survivors often manifest similar psychological barriers to legal representation, such as memory loss, guilt, shame, humiliation, self-blame, post-traumatic stress disorder, overcompensation, re-traumatization, and disassociation.<sup>16</sup> Such obstacles may complicate legal representation and can be challenging to even the most enlightened lawyer.<sup>17</sup> Just as other disciplines are increasingly training their personnel to work with

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13. See Leigh Goodmark, *Assessing and Treating Child Victims of Domestic Violence*, 21 A.B.A. CHILD L. PRAC. 10, 149–50 (2002) (explaining that exposure to domestic violence can result in physical, emotional, behavioral, and cognitive harm to children). *But see* *Nicholson v. Williams*, 203 F. Supp. 2d 153 (E.D.N.Y. 2002) (demonstrating that handling of domestic violence in the context of child maltreatment has begun to evolve such that being a victim of domestic violence is not tantamount to neglecting one's child).

14. See *In re Wissink v. Wissink*, 749 N.Y.S.2d 550 (App. Div. 2002) (stating that “[t]here is overwhelming authority that a child living in a home where there has been abuse between the adults becomes a secondary victim and is likely to suffer psychological injury. Moreover, that child learns a dangerous and morally depraved lesson that abusive behavior is not only acceptable, but may even be rewarded”); Buel, *supra* note 3, at 311–13.

15. This cyclical nature is sometimes referred to as the “revolving doors” of Family Court. See, e.g., Breger, Scarnecchia, Vandervort & Woloshin, *Building Pediatric Law Careers: The University of Michigan Law School Experience*, 34 FAM. L.Q. 531, 536–38 (2000); Gary B. Melton, *Children, Families, and Courts in the Twenty-First Century*, 66 S. CAL. L. REV. 1993, 2045–47 (1993); Jessica Pearson, Book Review, 42 FAM. CT. REV. 384 (2004) (reviewing *JUDGING IN A THERAPEUTIC KEY: THERAPEUTIC JURISPRUDENCE AND THE COURTS* (Bruce J. Winick & David B. Wexler eds., 2003)); Myrna S. Raeder, *The Double-Edged Sword: Admissibility of Battered Women Syndrome by and Against Batterers*, 67 U. COLO. L. REV. 789, 814–16 (1996); Anthony J. Sciolino, *The Changing Role of the Family Court Judge: New Ways of Stemming The Tide*, 3 CARDOZO PUB. L. POL'Y & ETHICS J. 395, 395–98 (2005).

16. See, e.g., Lynette M. Parker, *Increasing Law Students Effectiveness When Representing Traumatized Clients: A Case Study of the Katharine & George Alexander Community Law Center*, 21 GEO. IMMIGR. L.J. 163, 163–65 (2007). Many of these same traumatic repercussions are present in elder abuse cases as well. Although elder abuse is not specifically encompassed within family violence for purposes of this Article, several of the arguments can and should be analogized to elder abuse law courses. For a persuasive examination of the issue, see generally Seymour H. Moskowitz, *Reflecting Reality: Adding Elder Abuse and Neglect to Legal Education*, 47 LOY. L. REV. 191 (2001).

17. Deborah Epstein et al., *Transforming Aggressive Prosecution Policies: Prioritizing Victims' Long-Term Safety in the Prosecution Of Domestic Violence Cases*, 11 AM. U.J. GENDER SOC. POL'Y & L. 465, 468–86 (2003). See generally Mary Ann Douglas, *The Battered Woman Syndrome*, in DOMESTIC VIOLENCE ON TRIAL: PSYCHOLOGICAL AND LEGAL DIMENSIONS OF FAMILY VIOLENCE 39, 47 (Daniel Jay Sonkin ed., 1987); Goodman & Rosenberg, *supra* note 12, at 117–21.

traumatized persons, legal professionals must do the same to avoid the dangers of re-traumatizing the client or experiencing vicarious trauma themselves.<sup>18</sup>

Family violence differs vastly from stranger violence. The distinctions between the two cannot be fully explored within the scope of this Article, but a few relevant differences follow. Family violence is a unique phenomenon in that it enters the private sphere of the home, an area commonly associated with comfort and safety, and such violence is often isolated from public or external scrutiny.<sup>19</sup> Family violence is a pattern of power and control perpetrated upon an intimate partner or family member<sup>20</sup> and is often committed with other family members as the sole eyewitnesses.<sup>21</sup> Physical violence, when present, is often coupled with emotional, financial, sexual, psychological, and other types of abuse.<sup>22</sup> A perpetrator of family violence permeates all aspects of a survivor's life, as the place, method, and timing of the act may change, but the victim always remains the same.<sup>23</sup> Additionally, in the context of family violence, the abused may try to minimize or deny the violence and refuse to cooperate with the abuser's prosecution.<sup>24</sup> For this and other reasons, and unlike victims of stranger violence, family violence survivors are overly scrutinized, analyzed, and judged by the legal system, and are often misunderstood or blamed by even well-meaning lawyers, judges, and social workers.<sup>25</sup>

The dynamics of family violence are intricate and nuanced and may involve individual interests that seem inconsistent to those who are not trained in, or who have not personally experienced, family violence. Such perceived contradictions may include unwavering love simultaneously with fear of the person perpetrating the

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18. See Parker, *supra* note 16, at 172–176.

19. Michelle Madden Dempsey, *What Counts as Domestic Violence? A Conceptual Analysis*, 12 WM. & MARY J. WOMEN & L. 301, 313 (2006).

20. Bancroft, *supra* note 10, at 291–313.

21. Dana Harrington Conner, *To Protect or to Serve: Confidentiality, Client Protection and Domestic Violence*, 79 TEMP. L. REV. 877, 878 (2006).

22. See LUNDY BANCROFT & JAY G. SILVERMAN, *THE BATTERER AS PARENT: ADDRESSING THE IMPACT OF DOMESTIC VIOLENCE ON FAMILY DYNAMICS* 3 (2002); Meier, *supra* note 10, at 691–92; Bonita C. Meyersfeld, *Reconceptualizing Domestic Violence in International Law*, 67 ALB.L. REV. 371, 393 (2003).

23. See generally Alafair S. Burke, *Domestic Violence as a Crime of Pattern and Intent: An Alternative Reconceptualization*, 75 GEO. WASH. L. REV. 552 (2007); Epstein at al., *supra* note 17, at 468–69; Mahon & Wright, *supra* note 3, at 1353–56.

24. See generally Buel, *supra* note 3, at 311–13; Mahon & Wright, *supra* note 3, at 1363–65.

25. See Judith G. Greenberg, *Domestic Violence and the Danger of Joint Custody Presumptions*, 25 N. ILL. U. L. REV. 403, 423 (2005); Ann Shalleck, *Theory and Experience in Constructing the Relationship Between Lawyer and Client: Representing Women Who Have Been Abused*, 64 TENN. L. REV. 1019, 1027 (1997); see also *Nicholson v. Scoppetta*, 3 N.Y.3d 357 (2004).

injury, an overriding interest in protecting one's children by enduring the abuser's violence oneself, or dangerous and complex issues that come into play when a survivor flees<sup>26</sup> or commences legal action.<sup>27</sup> For these reasons, representing survivors of family violence raises quandaries unlike those faced by lawyers in other practice areas.<sup>28</sup> The legal system may further reduce litigants into oversimplified groupings of "family violence survivors" or "domestic violence perpetrators," obscuring the unique, multi-dimensional, and human aspects of each individual.<sup>29</sup> Without sufficient education about and exposure to family violence, legal professionals can easily blame the victim for not leaving the abuser, assume both parties are "mutually engaging" in the violence, or otherwise misinterpret the complex prism of family violence dynamics.<sup>30</sup>

### B. Four Basic Benefits of Teaching Family Violence Law

Family violence clinics provide myriad benefits to law students. First, these clinics increase access to justice for communities in need of legal services and are a potential starting point for systemic reform. Live-client clinics also allow students to practice "hands-on" lawyering skills. Additionally, family violence courses in law school, whether clinical or doctrinal, expose students to an emerging area of law that is increasingly intersecting with many other legal fields.

#### 1. Access to Justice for Families in Need and an Avenue for Legal and Social Policy Reform

The area of family violence law is overripe for academic pursuit and accountability.<sup>31</sup> The legal system is currently confronted with

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26. See Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 MICH. L. REV. 1 (1991); Martha Mahoney, *Victimization or Oppression? Women's Lives, Violence, and Agency*, in THE PUBLIC NATURE OF PRIVATE VIOLENCE 61 (Martha Albertson Fineman & Roxanne Mykitiuk eds., 1994).

27. See Penelope D. Clute, *How Prosecutors Can Make a Difference Pro-Actively Handling Domestic Violence Cases*, N.Y. ST. B.J., July-Aug. 1994, at 44 (highlighting the examples of a victim who may seek an order of protection but not want to bring a criminal or family law proceeding against the perpetrator, or the victim, adult or child, who may recant).

28. Conner, *supra* note 21 at 878.

29. Shalleck, *supra* note 3, at 229. Special thanks to Professor Annette Appell for her insightful comments on this point.

30. See Cahn & Meier, *supra* note 3, at 341-50; Epstein et al., *supra* note 17, at 467-72.

31. See, e.g., Gavin, *supra* note 3, at 9. See generally Mark Hardin, *Legal Barriers in Child Abuse Investigations: State Powers and Individual Rights*, 63 WASH. L. REV. 493 (1988).



increasing numbers of victims of family violence, primarily children and women, who are in dire need of legal representation and facing a system that simply cannot accommodate them.<sup>32</sup> The unfortunate reality is that but for student clinic representation, many litigants would have no representation at all.<sup>33</sup>

Family violence clinics provide families and children with vigorous legal advocacy, while simultaneously educating law students about best practices in the field.<sup>34</sup> In family violence cases, litigants often face the most sensitive and compelling legal issues of their lives, as they deal with issues of life, safety, health, crisis, and family. Yet the reality is that the Family Court system is often overburdened with soaring case numbers and underpaid lawyers.<sup>35</sup> Frequently, after representing clients daily in family violence cases,<sup>36</sup> the lawyers who regularly practice in the field become numb to the relentless exposure to accounts of trauma.<sup>37</sup> In turn,

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32. See BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, FAMILY VIOLENCE STATISTICS: INCLUDING STATISTICS ON STRANGERS AND ACQUAINTANCES 1 (2005), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/fvs.pdf> (defining family violence as an epidemic and noting that family violence accounted for eleven percent of all reported violence between 1998 and 2002 in the United States and noting the following statistics: of these 3.5 million family violence crimes, forty-nine percent were crimes against spouses, eleven percent were children victimized by a parent, and forty-one percent were crimes against other relatives; most offenses were assault; seventy-three percent of family violence victims are women, while three-fourths of the persons committing the violence are males; racially, family violence victims are primarily white, seventy-four percent, and fall within the ages of 25–54 (65%); in 2002, twenty-two percent of murders nationally were family murders, with fifty-eight percent females; child victims under age thirteen were twenty-three percent of murder victims killed by a family member, averaging seven years of age; of the over two million incidents of family violence reported to the police between 1998 and 2002, only thirty-six percent resulted in an arrest; in eighteen states and the District of Columbia, family violence accounted for thirty-three percent of all violent crimes recorded by police).

33. Frances Gail Hill, *Clinical Education and the "Best Interest" Representation of Children in Custody Disputes: Challenges and Opportunities in Lawyering and Pedagogy*, 73 IND. L.J. 605, 611 (1998); Rochelle Klempner, *Unbundled Legal Services in Litigated Matters in New York State: A Proposal to Test the Efficacy through Law School Clinics* 19 (N.Y. State Unified Court Sys., Partners in Justice Colloquium Working Paper, 2005), available at <http://www.courts.state.ny.us/ip/partnersinjustice/Unbundled.pdf>.

34. See, e.g., Barbara Flicker, *Best Practices in Child Protection Courts* 15, May 24, 2005, <http://www.abanet.org/child/rclji/bestpractices.doc>.

35. Sheri Bonstelle & Christine Schessler, *Adjourning Justice: New York State's Failure To Support Assigned Counsel Violates The Rights Of Families In Child Abuse And Neglect Proceedings*, 28 FORDHAM URB. L.J. 1151, 1153 (2001); John Caher, *Statewide Standards Urged for Indigent Defense Counsel*, N.Y.L.J., Apr. 26, 2005, at 1; James Harrington, *Pro Bono Will Not Solve 18-B Crisis*, N.Y.L.J., June 21, 2002, at 2 col.6.

36. See Marc Galanter, *Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change*, 9 LAW & SOC'Y REV. 95, 97 (1974). Professor Marc Galanter coins the term "repeat players" in his scholarship to refer to those lawyers who appear before the same tribunals regularly, distinguishing from the term "one shotters" to describe lawyers who may have a single case in a particular courthouse. *Id.*

37. See generally Charles R. Figley, *Compassion Fatigue as Secondary Traumatic Stress Disorder: An Overview*, in COMPASSION FATIGUE: SECONDARY TRAUMATIC STRESS DISORDERS

this may “[create] an atmosphere and culture in the Family Court that may contribute to a predetermined mindset and myopic decision-making . . . .”<sup>38</sup> Clinics can offer a fresh perspective that challenges the existing system. Family violence proceedings are laced with ethical issues involving confidentiality, privilege, and conflicts, especially in light of diverse fact patterns and, in some states, the ambiguously defined roles of lawyers for children.<sup>39</sup> These ethical issues can be addressed in-depth in a clinical setting where students work to raise awareness and overcome stereotypes while providing a crucial service to the community.<sup>40</sup>

In addition to the opportunities for legal advocacy in individual cases, family violence law also lends itself to systemic critique by students and clinics. Systemic reforms in family violence law have included forming class actions to ensure that survivors of violence retain their parental rights, halting unwarranted removals of children from the home, and safeguarding liberty interests.<sup>41</sup> Because law school clinics are not funded by the court system, a clinic can act as an independent agent for change.<sup>42</sup> Although class action suits and impact litigation are challenging, controversial, and lengthy, students fortunate enough to experience these cases learn invaluable professional lessons.<sup>43</sup>

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IN THOSE WHO TREAT THE TRAUMATIZED 1 (Charles R. Figley ed., 1995); JEAN KOH PETERS, REPRESENTING CHILDREN IN CHILD PROTECTIVE PROCEEDINGS: ETHICAL AND PRACTICAL DIMENSIONS 25–69 (2d ed. 2001); JAMES PTACEK, BATTERED WOMEN IN THE COURTROOM: THE POWER OF JUDICIAL RESPONSES 126 (1999); Anne H. Geraghty & Wallace J. Mlyniec, *Unified Family Courts: Tempering Enthusiasm with Caution*, 40 FAM. CT. REV. 435, 440 (2002).

38. Melissa L. Breger, *Introducing the Construct of the Jury into Family Violence Proceedings and Family Court Jurisprudence*, 13 MICH. J. GENDER & L. 1, 24 (2006) [hereinafter Breger, *Jury*].

39. See Marvin Ventrell, *Legal Representation of Children in Dependency Court: Toward a Better Model—The ABA (NACC Revised) Standards of Practice*, in NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN, CHILDREN’S LAW MANUAL 167, 168 (1999), available at <http://www.naccchildlaw.org/documents/Ventrell.doc>; see also Bruce A. Green & Bernardine Dohrn, *Foreword: Children and the Ethical Practice of Law*, 64 FORDHAM L. REV. 1281, 1282 (1996).

40. Stephen Wizner, *The Law School Clinic: Legal Education in the Interests of Justice*, 70 FORDHAM L. REV. 1929, 1933 (2002).

41. See, e.g., *Nicholson v. Scopetta*, 3 N.Y.3d 357 (2004); Gavin, *supra* note 3, at 14–18.

42. This is the subject of one of the co-author’s work-in-progress, *Making Waves or Keeping the Calm: Institutional Lawyering in the Clinical Legal Education Context* (Breger, forthcoming 2009). See also Melissa Breger et al., *Teaching Professionalism in Context: Insights from Students, Clients, Adversaries and Judges*, 55 S.C. L. REV. 303, 338 (2003); Martin Guggenheim, *Divided Loyalties: Musings on Some Ethical Dilemmas for the Institutional Criminal Defense Attorney*, 14 N.Y.U. REV. L. & SOC. CHANGE 13, 13–21 (1986); Kim Taylor-Thompson, *Individual Actor v. Institutional Player: Alternating Visions of the Public Defender*, 84 GEO. L.J. 2419, 2425 (1996); Amy Sinden, *Why Won’t Mom Cooperate?: A Critique of Informality in Child Welfare Proceedings*, 11 YALE J.L. & FEMINISM 339, 351–53 (1999).

43. Gavin, *supra* note 3, at 22–29. See generally Thomas Geraghty, *The Criminal/Juvenile Clinic as a Public Interest Law Office: Defense Clinics; The Best Way to Teach Justice*, 75 MISS. L.J.

## 2. A Foundational Tool for Teaching Lawyering Skills

Live-client clinics prepare students for the practice of law by teaching the fundamentals of lawyering, such as client-centeredness, role assumption, reflective learning, problem solving, advocacy, and independent thinking.<sup>44</sup> In general, clinical legal education engages students through a hands-on approach and encourages them to be responsible, capable, and thoughtful practitioners.<sup>45</sup> In the family violence context, exposure to clients who are facing trauma broadens the students' educational experiences on many levels, and instills in them a sense of compassion and respect for survivors of violence.<sup>46</sup>

In family violence clinics, students have numerous opportunities to learn specific legal skills, such as trial preparation, oral advocacy, interviewing and counseling clients, fact investigation, negotiating with adversaries, developing case theories, legal research and writing, time and crisis management, professional responsibility, and ethics.<sup>47</sup> Family violence clinics also offer opportunities for students to participate in civil and quasi-criminal litigation and alternative dispute resolution settings.

Family violence proceedings typically share certain characteristics that make them particularly appropriate for clinical study. Cases often continue for many months yet return to court regularly, cases at times transform into other types of proceedings, and the issues presented routinely offer opportunities for appellate review.<sup>48</sup> Further, family violence cases are primarily governed by state statutes and state case law, which tend to be comprehensive but neither overly dense nor Byzantine and can be taught within an

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699 (2006); Nancy M. Maurer, Handling Big Cases in Law School Clinics, or Lessons from My Clinic Sabbatical, 9 CLINICAL L. REV. 879 (2003) (outlining benefits and drawbacks).

44. The authors will not delve into clinical methodology in this Article, as there is already a rich and diverse body of existing literature. The authors also recognize that many subject matter clinics may offer parallel experiences to law students, yet it is the purpose of this Article to demonstrate that law schools have a pressing obligation to ensure that students receive training in the distinct issues of family violence law.

45. See, e.g., DAVID F. CHAVKIN, CLINICAL LEGAL EDUCATION: A TEXTBOOK FOR LAW SCHOOL CLINICAL PROGRAMS (2002); *Clinical Legal Education: An Annotated Bibliography* (2d ed.), 7 CLINICAL L. REV. Special Issue No. 1 (2001); David Chavkin, *Am I My Client's Lawyer: Role Definition and the Clinical Supervisor*, 51 SMU L. REV. 1507 (1998); Melissa L. Breger, Gina M. Calabrese & Theresa A. Hughes, *Teaching Professionalism in Context: Insights from Students, Clients, Adversaries and Judges*, 55 S.C. L. REV. 303, 338 (2003). See generally Mark Neal Aaronson, *We Ask You To Consider: Learning About Practical Judgment in Lawyering*, 4 CLINICAL L. REV. 247 (1998).

46. Mahon & Wright, *supra* note 3, at 1362.

47. CHAVKIN, *supra* note 45, at 7.

48. See, e.g., N.Y. Unif. R. Fam. Ct. 205.14.

academic semester or year.<sup>49</sup> In contrast, the facts in such cases are usually complex and nuanced, which enhances law students' mastery of fact investigation, interviewing, and client counseling. Court appearances are frequent in family violence litigation, and cases are often limited by timelines such that students typically draft at least one pleading and one motion, interview several witnesses, negotiate, appear in court, and even conduct a trial all within a single academic period. It is an extremely rich experience for students.

Immersing students in front-line crisis work may also serve other goals. First, law students are often drawn to legal issues which allow them to help individuals through a sensitive dilemma or crisis.<sup>50</sup> Second, students must address internal conflicts which their clients may face—dependency, co-dependency, and independence, or anger, love, and fear; this provides pedagogical benefits as well as challenges for learning client-centered representation.<sup>51</sup> Furthermore, a student must learn to prioritize and balance the immediacy of a situation against legal requirements and timelines. Lastly, students can learn life lessons by striving to balance their own lives while practicing law, and by remaining cognizant of the phenomenon and risks of vicarious traumatization.<sup>52</sup>

### 3. An Opportunity to Explore an Evolving Area of Law Which Intersects With Almost All Other Legal Topics

Family violence law classes, whether clinical or not, invariably address cutting-edge legal issues in a burgeoning area of law. The permutations of legal issues involved in family violence matters are endless. Recent trends, such as the changing definition of family and parenthood,<sup>53</sup> the developing area of children's rights law,<sup>54</sup> the devastating increase of women and children victimized by human

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49. *But see* Hardin, *supra* note 31, at 589–600 (finding child protection statutes increasingly more complex).

50. *See* Gavin, *supra* note 3, at 27 n.97. The authors have fifteen years of collective clinical teaching experience in family violence law at 5 law schools, and have always had over-subscribed student enrollment. *See also* Buel, *supra* note 3, at 332–33 (noting similar experiences); Goelman & Valente, *supra* note 3, at 33–34.

51. *See generally* Shalleck, *supra* note 25. Special thanks to Professor Annette Appell for her insightful comments on this point.

52. *See supra* note 37; *see also* O'Connell & DiFonzo, *supra* note 8, at 527–29 (positing that in the family violence setting, students learn self-care, emotional effect of cases, and boundaries for lawyers).

53. *See generally* June Carbone, *The Legal Definition of Parenthood: Uncertainty at the Core of Family Identity*, 65 LA. L. REV. 1295 (2005).

54. *See generally* Barbara Bennett Woodhouse, "Out of Children's Needs, Children's Rights": *The Child's Voice in Defining the Family*, 8 BYU J. PUB. L. 321 (1994).

trafficking, genital mutilation, and war,<sup>55</sup> the expanding issue of immigration, and the growing field of bioethics law<sup>56</sup> only add to this wide spectrum of topics. Family violence law opens the door to novel constitutional issues and fascinating factual and legal scenarios.<sup>57</sup> The issues often call for complex analysis, which heightens the level of dialogue and debate in the law school classroom.<sup>58</sup>

Furthermore, family violence issues intersect with virtually all law school courses and legal practice areas.<sup>59</sup> First-year courses abound with opportunities to incorporate family violence law into syllabi;<sup>60</sup> due process rights within constitutional law, assault and battery within tort law, discovery and pleadings within civil procedure, and issues of capacity and validity of contract terms within the law of contracts. Upper level courses also may seamlessly integrate the topic of family violence law. In tax law, issues of family violence may arise when there is an innocent spouse relief claim. In employment law, workers' compensation, safety of the workplace, and absenteeism may involve family violence. In trusts and estates, the topic of family violence can be taught when addressing undue influence and capacity to create a will. In insurance law, issues of family violence can arise when dealing with assumption of risk or pre-existing medical conditions. In immigration law, abundant issues intersect with family violence law, such as human rights violations,<sup>61</sup>

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55. See generally Lisa Avery, *The Women and Children in Conflict Protection Act: An Urgent Call for Leadership and the Prevention of International Victimization of Women and Children in War*, 51 LOY. L. REV. 103 (2005).

56. Melton, *supra* note 15, at 2037–40. See generally Carl E. Schneider, *Bioethics and the Family: The Cautionary View from Family Law*, 1992 UTAH L. REV. 819 (1992).

57. See, e.g., Donald N. Duquette, *Developing a Child Advocacy Law Clinic: A Law School Clinical Legal Education Opportunity*, 31 U. MICH. J.L. REFORM 1, 10–11 (1997). See generally Breger et al., *supra* note 15 at 532–34.

58. Patton, *supra* note 3, at 5–7; Melton, *supra* note 15, at 1994–95 (demonstrating several factors that have altered family structure and dynamics in the twenty-first century, such as population growth, high divorce and remarriage rates, infertility rates and resultant scientific advances, and the AIDS and drug epidemics).

59. The authors certainly propose that schools incorporate family violence law into specialty courses, but recognize that these courses may appeal to a limited student audience. This Article, therefore, proposes integration of family law into mainstream legal courses such as torts, contracts, and employment law. See Sharon G. Portwood et al., *Social Science Contributions to the Study of Domestic Violence within the Law School Curriculum*, 47 LOY. L. REV. 137, 141–46 (2001).

60. See James T.R. Jones, *Integrating Domestic Violence Issues into the Law School Torts Curriculum*, 47 LOY. L. REV. 59 (2001).

61. See Marcia Coyle, *Case of First Impression Pending in Domestic Violence Complaint Against U.S.*, THE NATIONAL LAW JOURNAL ONLINE, <http://www.nlj.com> (last visited Oct. 19, 2007) (detailing how a mother whose three children were killed filed a complaint to the Inter-American Commission on Human Rights, an arm of the Organization of American States (“OAS”), contending that her right to be free from gender-based and domestic violence under the American Declaration of the Rights and Duties of Man was violated. The Commission declared that it had competence to examine the domestic violence survivor mother’s

cultural norms, special immigrant juvenile status,<sup>62</sup> and qualifications for political asylum.

Moreover, the national trend of integrated and unified courts<sup>63</sup> highlights the need for attorneys to be well-versed in multiple areas of law even if they are specialists. Regardless of the specific practice area a law graduate chooses, when dealing with emotionally-charged situations between family members, a lawyer must be cognizant of accompanying social, psychological, and educational issues to provide holistic representation.<sup>64</sup> The proliferation of family violence coupled with its infusion into virtually every field of law underscores why law schools must educate graduates to recognize issues involving violence wherever they surface.<sup>65</sup>

#### 4. A Vehicle to Inspire Law Graduates to Practice Family Violence Law and To Educate the Future Bar and Bench

By demonstrating the ubiquity of family violence law, incorporation of the topic into different types of courses may inspire law students to consider careers in this area. Family violence clinics and other law school courses in the subject area may motivate students who had not otherwise considered practicing family violence law to embark upon such a career path. These future advocates will be more effective if they are educated in law school about the multi-disciplinary aspects of family violence and will be able to advocate for safe solutions while simultaneously respecting their client's wishes.

Exposure to family violence law, however, is invaluable even for those who do not pursue such a career directly. Law students are future judges, policy specialists, civil litigators, prosecutors and criminal defense attorneys and need to be well-informed and sensitive to the issues they will encounter in practice.<sup>66</sup> Without proper

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claims, resulting in the first time the Commission recognized that the American Declaration of the Rights and Duties of Man imposes obligations on the United States to protect individuals from private acts of violence. A decision on whether a human rights violation occurred is pending).

62. See 8 U.S.C. § 1101(a)(27)(J)(i) (2000).

63. Geraghty & Mlyniec, *supra* note 37, at 435; Victor Eugene Flango & H. Ted Rubin, *How Is Court Coordination of Family Cases Working?*, 33 JUDGE'S J. 10 (1994).

64. Breger, *Jury*, *supra* note 38, at 6; Jacqueline St. Joan, *Building Bridges, Building Walls: Collaboration Between Lawyers and Social Workers in a Domestic Violence Clinic and Issues of Client Confidentiality*, 7 CLINICAL L. REV. 403, 405-06 (2001).

65. A.B.A., Report to the House of Delegates 3 (2003), available at <http://www.abanet.org/leadership/2003/summary/120.pdf> (citing Bureau of Justice Statistics, U.S. Dep't of Justice, Special Report: Violence Against Women 3 (1995)).

66. Goelman & Valente, *supra* note 3, at 21-22.

training to serve as a foundation for the attitudes of the future bench and bar, stereotypes about family violence are perpetuated and the risk of violence against victims increases.<sup>67</sup>

## II. THE FOUNDING OF A CHILD ADVOCACY CLINIC AT ST. JOHN'S UNIVERSITY SCHOOL OF LAW: A CASE STUDY

As part of their vision to achieve the educational goals listed above in an urban setting, the authors co-founded the Child Advocacy Clinic at St. John's University School of Law in New York City. Rather than reiterate the wealth of scholarship about the benefits of establishing a clinic,<sup>68</sup> this Part of the Article will detail the particular process used by the authors. In choosing to represent children as clients, the authors called upon years of practicing child advocacy and family violence law and delving into the richness of its unique legal issues. The authors were energized by the idea of expanding an existing clinical law program and by a passion for motivating future lawyers to embark upon a career in family advocacy.

### A. Selecting the Type of Family Violence Law Offering

Both authors had represented hundreds of victims of child abuse and neglect in New York City and were acutely aware of the escalating caseloads overwhelming the court system there. Of the four and a half million children living in New York State, thirteen of every one thousand come in contact with the child welfare system.<sup>69</sup> Due to staggering caseloads in the authors' previous office of The Legal Aid Society-Juvenile Rights Practice,<sup>70</sup> there was ample

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67. See Goelman & Valente, *supra* note 3, at 27; James Martin Truss, *The Subjection of Women . . . Still: Unfulfilled Promises of Protection for Women Victims of Domestic Violence*, 26 ST. MARY'S L.J. 1149, 1182-84 (1995).

68. See generally Duquette, *supra* note 57, at 4-8; Thomas F. Geraghty, *Legal Clinics and the Better Trained Lawyer (Redux): A History of Clinical Education at Northwestern*, 100 NW. U. L. REV. 231, at 233-39, 241-45 (2006); Mary A. Lynch, *Designing a Hybrid Domestic Violence Prosecution Clinic: Making Bedfellows of Academics, Activists and Prosecutors to Teach Students According to Clinical Theory and Best Practices*, 74 MISS. L.J. 1177, 1197-99 (2005); Philip G. Schrag, *Constructing a Clinic*, 3 CLINICAL L. REV. 175, 180-197 (1996); Christina A. Zawisza & Adela Beckerman, *Two Heads Are Better Than One: The Case-Based Rationale For Dual Disciplinary Teaching In Child Advocacy Clinics*, 7 FLA. COASTAL L. REV. 631, 649 (2006).

69. See Kid's Well-being Indicators Clearinghouse, KWIC New York State Indicators, <http://www.nyskwic.org> (last visited Sept. 20, 2007).

70. The Legal Aid Society-Juvenile Rights Practice was formerly known as the Juvenile Rights Division ("JRD").

opportunity for a clinic to assist with representation,<sup>71</sup> and an unquestionable need to generate interest among law school students to pursue careers there. The St. John's Child Advocacy Clinic represents not only children who have been victimized by violence, but also represents children who have been maltreated or neglected by caretakers in any number of ways.

Once the authors narrowed down the geographic and subject matter parameters, targeting a law school was simple. St. John's University has a distinctive mission, rooted in serving those most in need:

Community service programs combine with reflective learning to enlarge the classroom experience. Wherever possible, we devote our intellectual and physical resources to search out the causes of poverty and social injustice and to encourage solutions, which are adaptable, effective, and concrete.<sup>72</sup>

In keeping with this mission, the clinic's goal was to provide free, high quality legal representation, and enhance the academic experience of St. John's law students. At the time, in early 2001, St. John's Law School offered only one in-house clinical program, which made it an ideal place to expand clinical offerings. The authors drafted a proposal containing a statement of need, program summary, proposed methods for securing cases, substance of potential cases, pedagogical and institutional benefits, interdisciplinary aspects, community relationships, community outreach, a sample syllabus, and the authors' own qualifications to establish such a program. This proposal was the result of several months of research, data collection, and networking with various local associations. The proposal underwent dozens of drafts, reflecting input from professional colleagues and others.

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71. Although the Legal Aid Society-Juvenile Rights Practice contractually represents the children on child protective cases in New York City, Juvenile Rights Practice attorneys carry voluminous caseloads of over 100 each. Under the leadership of Monica Drinane and then Tamara Steckler, Attorneys-in-Charge, Legal Aid was entirely supportive and enthusiastic about collaborating with the authors and students of the proposed clinic.

72. St. John's University, St. John's University Mission Statement, <http://www.stjohns.edu/about/general/mission> (last visited Sept. 20, 2007).



### *B. Funding and Law School Commitment*

Because law school clinics are relatively costly<sup>73</sup> due to the low faculty-to-student ratio, financing is the most challenging aspect in persuading a school to adopt a new clinic. The authors, therefore, independently attempted to raise funds for the clinic. With the assistance of a multitude of internet resources, the authors began writing letters of intent to foundations, government sources, and various charities. St. John's School of Law demonstrated its commitment to the clinic by calling upon its own grant-writing experts as well.

Over the course of three years, the authors met with various alumni who supported the program, presented the concept to the Alumni Association's Board of Directors and others, secured the collaboration of local non-profits, and searched for a physical space to house the clinic. When an ample donation not yet earmarked for any particular program was made to the law school, the administration at St. John's, as unfailing advocates of the program, requested that this funding be assigned to the school's first Child Advocacy Clinic.<sup>74</sup> This funding would support the clinic for its first two years, with the expectation that the school would incorporate the program into its financial budget upon the program's success. In April 2005, four years and two months after the original proposal submission, the first law students walked through the clinic's doors under the directorship of co-founder and co-author, Professor Theresa Hughes. In August 2005, the Clinic accepted its first case, and the semester program began that same month with eight students and one administrative secretary.

### *C. Establishing the St. Johns' Law School Child Advocacy Clinic*

The authors had a vision of an interdisciplinary clinic collaborating with psychologists, educational experts, and even artists. The founders also desired to have the Clinic host scholarly conferences, offer legal educational programs to community youth, and most importantly provide direct legal representation for local children in need. Since its inception, the Clinic has grown, with the aid of a

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73. A decade ago, it was roughly estimated that funding a child advocacy clinic, with an 8:1 faculty student ratio and accepting 16 students, costs \$240,000 annually; this varies depending on location, inflation, and other factors. Duquette, *supra* note 57, at 30–32.

74. Financial commitment to the Child Advocacy Clinic was made under the leadership of Dean Mary C. Daly, and Associate Academic Dean Andrew J. Simons, and former Dean Joseph W. Bellacosa, originally welcoming the proposal in 2001.

United States Department of Justice grant piloted by Senator Hillary Clinton,<sup>75</sup> to the current structure of twelve students, one faculty, one clinical teaching fellow, and numerous cross-discipline partners. The Clinic's child clients range in age from newborn to teenagers, with a target population of low-income children from Queens. Along with their legal issues, many of these children have special needs such as learning disabilities, physical disabilities, or other psychological and psychiatric needs. As of the spring in 2006, the Clinic had sixteen cases and twenty-four clients.

Within days of starting the clinic, it was apparent that the entire University community would play an integral role in serving the clinic's clients. In our complex society, the future of any profession is tied to the ability of its members to work effectively with other professionals, and to understand the multiple goals, limitations, and rules of ethics each profession possesses.<sup>76</sup> With this in mind, the Clinic collaborates with the St. John's University Center for Psychological Services and Clinical Studies and the Department of Human Services and Counseling, which enables graduate student trainees to meet with Child Advocacy Clinic students and consult on cases. By engaging in regular dialogue and participating in weekly class seminars, students from psychology, education, and law assess the mental health and educational implications of legal allegations. Students from other disciplines may also assist in the preparation of expert witnesses and make necessary referrals, and psychology and education professionals also lecture at the beginning of the semester about their specific fields and roles. This interdisciplinary approach has proven to be a low-cost method for serving the multi-faceted needs of child victims, has allowed law students to incorporate other areas of expertise, and has encouraged collaboration, conversation, and learning among professionals.

The Child Advocacy Clinic also works with the St. John's University Department of Fine Arts. The collaboration's first project was "Timmy's Story," a legal brochure which explains the child welfare system to children, illustrated by a volunteer fine arts student, and with text drafted by law students.<sup>77</sup> Three thousand copies of the

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75. U.S. Dep't of Justice, Grant No. 2006-JL-FX-K023.

76. See e.g., Zawisza & Beckerman, *supra* note 68, at 649 ("The trajectory of legal education over the past 150 years, which has married 'library-law' with the teaching of skills and values, has now moved to encompass analytical tools, techniques, concepts and devices derived from other professions. . . . Such mutuality requires a respect for the expertise of the other professional and the imperative to work together collaboratively, according to the tenets of each profession, in order to better serve clients.").

77. "Timmy's Story" can be viewed on the St. John's University Law School web site. St. John's University School of Law, Child Advocacy Clinic, <http://www.stjohns.edu/academics/>

brochure were printed and distributed throughout courthouses and legal services offices in New York. Additionally, the Clinic partnered with the University's Department of Speech and Language to provide students with a day long "Acting for Litigators" program in which a professor taught the students acting techniques to improve in-court performance.

In addition to casework, an integral component of the Clinic is community outreach, where students engage in educational activities with local organizations. In one instance, students conducted trainings about the rights of children at local foster care agencies for youth involved in the foster care system.

In order to engage in an expert dialogue and raise awareness of the influences that race, culture, and class have upon the child welfare system, scholars and practitioners from diverse disciplines were brought together in November, 2006, for a child welfare symposium hosted by the St. John's Child Advocacy Clinic.<sup>78</sup> Subsequently, an issue of the *St. John's Law Review* published portions of the proceedings.<sup>79</sup> Teaching cultural competency continues to be critical to the clinic, given the diverse client base and community at large.<sup>80</sup>

Ultimately, it is the authors' hope that other law schools will be inspired by the success of the St. John's Law School Child Advocacy Clinic and will forge ahead with their own visions. As graduates of the Clinic<sup>81</sup> enter into various legal arenas, they are equipped with many of the skills necessary to identify family violence issues and can handle them competently and comprehensively.

The authors have learned many lessons over the last six years, but perhaps the most invaluable one is that dreams can be realized through perseverance, especially when the resolve rests upon a mission to achieve justice through legal education.

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graduate/law/academics/clinical/child (follow "Timmy's Story" hyperlink) (last visited Sept. 20, 2007). Special thanks to volunteer student illustrator Tim Rauch.

78. St. John's University School of Law, *Race, Culture, Class and Crisis in Child Welfare: Theory into Practice Symposium*, <http://www.stjohns.edu/academics/graduate/law/academics/clinical/child/symposium/> (last visited Sept. 20, 2007).

79. Symposium, *Race, Culture, Class and Crisis in Child Welfare: Theory into Practice*, 81 *St. John's L. Rev.* 515 (2007).

80. Within only 109 square miles of Queens County, New York, nearly 2.25 million people live, and 138 languages are spoken. N.Y. City Econ. Dev. Corp., *Borough Update: Queens*, Nov. 2003.

81. As of 2007, there have been forty graduates of the St. John's Law School Child Advocacy Clinic.

CONCLUSION: LOOKING TO THE FUTURE OF FAMILY  
VIOLENCE LAW IN ACADEMIA

*In a gentle way, you can shake the world.*

—Mohandas Gandhi<sup>82</sup>

Just two decades ago, in 1987, when Professor Katheryn Katz of Albany Law School taught her Domestic Violence Seminar, it may well have been the first time such a seminar was taught at an ABA approved school.<sup>83</sup> Over the past decades, law schools have certainly made progress by introducing family violence law into their curricula. After surveying and analyzing family violence course offerings at American law schools in 2006–07, however, it is clear that while exposure to family violence law is growing, it is not currently available to every law student at every law school.

To demonstrate the current state of family violence law in legal education as of 2006–07, the authors compiled results of a national survey of law schools regarding the presence of family violence law courses and clinics.<sup>84</sup> Due to its voluminous nature, the authors have reduced the results to bar graph form with two principal divisions: Survey of Non-Clinic Courses Addressing Family Violence and Survey of Law School Clinics Addressing Family Violence.<sup>85</sup>

Significantly, survey results indicate that among the 196 ABA-approved law schools, the percentage of law schools (30%) offering courses in domestic violence law is less than the percentage (33%) of law schools which offer neither a domestic violence law course or any type of child advocacy course.<sup>86</sup> Thus, one third of law schools in 2006–07 do not offer family violence law in the regular non-clinic curriculum.<sup>87</sup> Furthermore, with regard to clinical

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82. Thinkexist.com, [http://thinkexist.com/quotation/in\\_a\\_gentle\\_way-you\\_can\\_shake\\_the\\_world/252519.html](http://thinkexist.com/quotation/in_a_gentle_way-you_can_shake_the_world/252519.html) (last visited Oct. 17, 2007).

83. Lynch, *supra* note 68, at 1178.

84. The authors conducted a survey of 196 ABA approved law schools by visiting each individual law school website from September 2006 through October 2007 and the authors further verified their results by contacting various individual law professors. While the authors have made reasonable efforts to assure that the survey information is accurate, some programs may no longer be offered and other existing programs may have been omitted. The authors apologize for such and disclaim all responsibility for errors or omissions contained herein. Data collection material available on request from authors and posted on the University of Michigan Journal of Law Reform website at [http://students.law.umich.edu/mjlr/prospectus/Breger\\_Hughes\\_Survey.html](http://students.law.umich.edu/mjlr/prospectus/Breger_Hughes_Survey.html).

85. See *infra* App. A1–A2 for graphed results. See [http://students.law.umich.edu/mjlr/prospectus/Breger\\_Hughes\\_Survey.html](http://students.law.umich.edu/mjlr/prospectus/Breger_Hughes_Survey.html) for the complete survey listing family violence doctrinal courses as well as clinical programs.

86. *Id.*

87. *Id.*

course offerings, almost one-third (27%) of all of the ABA-approved law schools offer no in-house clinics addressing issues of family violence, whether through specialized family law clinics or even general clinics which address a multitude of issues.<sup>88</sup>

Academia has achieved many milestones since the ABA began to encourage course offerings in family violence law, but law schools still have many challenges ahead in comprehensively educating the future bar and bench. Notably, although there have been significant changes in family violence law and practice in recent years, "law school curricula and teaching have remained relatively static."<sup>89</sup>

This Article suggests that the ABA should modify its recommendation, which currently "encourages law schools and law students to promote awareness of domestic violence through law curricula and law school activities and programs,"<sup>90</sup> but does not mandate that all students be introduced to family violence issues. This present stance sends a mixed message in that it supports the value of such education, but does not take the bolder step of compelling its availability to students. Such mandates are essential if there is to be meaningful implementation of the ABA recommendations.

Given the projected population growth<sup>91</sup> and the increase in family violence incidents,<sup>92</sup> now is the time to teach law students about family violence law. Further, in light of the fact that family violence issues pervade virtually every domain of the law, law schools have a professional obligation to train students to identify and handle these issues competently. The pervasiveness and proliferation of family violence demands a greater commitment by law schools in the twenty-first century. It is our hope that this Article serves as a springboard to motivate faculty and law schools to create their own internal mandates resulting in training for all law students on issues of family violence law.

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88. *Id.*

89. O'Connell & DiFonzo, *supra* note 8, at 524; *see also* The Carnegie Foundation for the Advancement of Teaching, *available at* [http://www.carnegiefoundation.org/files/elibrary/EducatingLawyers\\_summary.pdf](http://www.carnegiefoundation.org/files/elibrary/EducatingLawyers_summary.pdf) (last visited Nov. 9, 2007).

90. A.B.A., Resolution Adopted by the House of Delegates 1 (2003), *available at* <http://www.abanet.org/leadership/2003/journal/120.pdf>.

91. In 2006, the population in the United States was approximately 298 million; it is estimated that the population will increase to 352 million over the next 20 years and will grow to 409 million by 2046. U.S. CENSUS BUREAU, STATISTICAL ABSTRACT OF THE UNITED STATES: 2007, at 8 tbl.3, *available at* <http://www.census.gov/prod/2006pubs/07statab/pop.pdf>.

92. National Domestic Violence Hotline, Abuse in America, [http://www.ndvh.org/educate/abuse\\_in\\_america.html](http://www.ndvh.org/educate/abuse_in_america.html) (last visited Sept. 20, 2007). *But see* Frank G. McClatchy, *Violence against Partners Drops*, TIMES UNION (Albany, N.Y.), Mar. 11, 2007, at A5 (discussing a curious decline in family violence incidents).

*Next in importance to freedom and justice is popular education, without which neither freedom nor justice can be permanently maintained.*

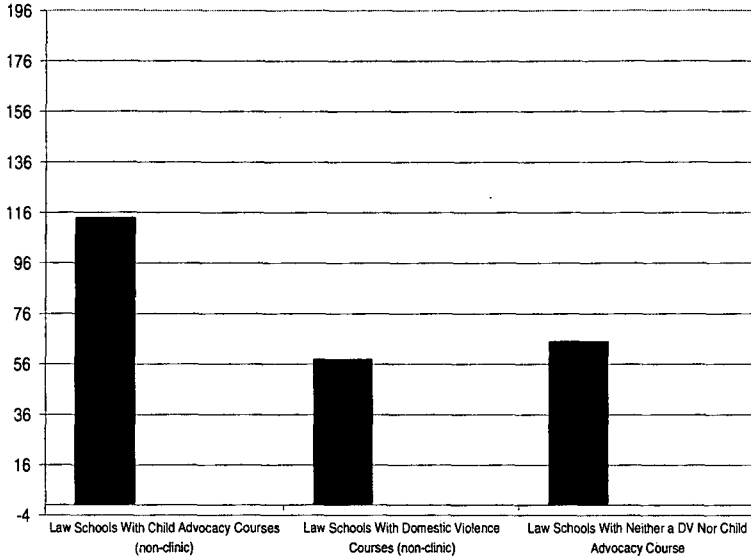
—James A. Garfield<sup>93</sup>

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93. Justice Learning: Civic Education in the Real World, <http://www.justicelearning.org/ownwords/presidency.asp?Command=AllPrez&issueID=11> (last visited Oct. 28, 2007) (quoting James Garfield, Letter of Acceptance of Presidential Nomination (1880)).

APPENDIX

**A1. SURVEY OF 196 ABA-APPROVED LAW SCHOOLS WITH NON-CLINIC COURSES RELATING TO FAMILY VIOLENCE**



**A2. SURVEY OF IN-HOUSE LAW SCHOOL CLINICS ADDRESSING FAMILY VIOLENCE LAW**

