

CRIMINAL DEFENSE

Challenging the Status Quo

Walking down the street on the way to a friend's house doesn't sound risky, does it? It could be, however, if you are African-American or Latino. Data reveals that most individuals stopped and frisked, arrested, and locked in holding cells in New York City's criminal courts are people of color.

"There are some stops and arrests that would never happen in other neighborhoods. When we have clients who are arrested for trespass while simply trying to visit a friend's apartment, it really makes you question the practices and policies that are being used by the police," said Nicole Smith, an instructor in the Criminal Defense Clinic.

In other scenarios, Smith said young African-American and Latino men can suddenly find themselves handcuffed for resisting arrest, simply because they questioned why they were frisked when only cell phones and keys were found.

"Many law school clinics deal with prisoner reentry," said Clinic Director Steve Zeidman. "We're more concerned with how and why someone entered in the first place. You don't have to look too far to see the racially disparate impact of New York City's heralded quality-of-life policing," he explained. "The end results of so-called 'broken windows' policing, where police target certain neighborhoods and aggressively enforce minor infractions, are the harassment and destabilization of families and neighborhoods of color. If broken windows are the problem, why not just fix the windows?"

Student defenders are wholly involved in their cases. They interview clients and witnesses, investigate the scene, research the law, file all necessary motions, and advocate on their clients' behalf in and out of the courtroom. In addition to this aspect of its docket, the clinic strives to address some of prisoners' unmet legal needs, including addressing disciplinary hearings that result in long stretches of de facto solitary confinement, resentencing under Rockefeller Drug Law reforms, and submitting petitions for gubernatorial clemency. "Given that the U.S. has the highest incarceration rate in the world, our goal is to train new lawyers to help a desperately underserved population and to expose the injustice and absurdity of trying to solve social problems by locking people up," said Clinic Professor Donna Lee.

Recently, the clinic assisted several men eligible for new, lower sentences under Rockefeller Drug Law reforms. The process made a deep impression on clinic student Bronyn Heubach. "The man we met with had no reason to trust us or to put his faith in us. But he did, and he opened up his entire life. You just don't get that in any other context, and it's powerful to tell someone you are going to try to help deliver their freedom," Heubach said. Heubach and her law student partner argued that the reforms were meant specifically for someone like their client, a man with undiagnosed mental health problems serving five-and-a-half to 11 years for being peripherally involved in a drug sale. The motion was granted, and their client was released from prison.

In another case, a man with deep community and family ties was serving four-and-a-half to nine years for selling \$10 worth of cocaine. The students filed a motion on his behalf arguing that on every statutory and moral measure, he had already served more than enough prison time. Although the prosecutor argued in opposition, the motion was granted and the client was released.

"The work in the clinic immediately reconnected me to why I wanted to go to law school," said student Beena Ahmad. "From the initial interaction with a client to seeing a case all the way through, I've had the opportunity to tackle the issues of civil liberties and incarceration." Both Heubach and Ahmad called it "an honor" to work on these cases. ●●

*Back row, from left: Instructor Nicole Smith, Clinic Director Steve Zeidman, Student Bronyn Heubach
Front row, from left: Professor Donna Lee, Student Beena Ahmad*

