

CLINICAL LAW REVIEW

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TOWARD TRAUMA-INFORMED LEGAL EDUCATION

RHIANNON SIÂN ADAMS,* JUSTINA BRUERA,**
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The practice of lawyering is an inherently relational practice. At its core, lawyering exists largely to address conflict. Yet, despite the problem-solving nature of the profession, law schools teach the academic and practical elements of legal practice without the critical methodologies and theories that relate to law's relational practice. Regardless of the area of law, trauma informs the conflicts and tensions within legal relationships, shaping how individuals present, react and communicate. Trauma-informed lawyering thus presents an effective educational framework. While trauma-informed lawyering is increasingly incorporated within legal clinics, little is done outside of the clinical space to educate law students on methodological approaches to lawyering. This Article presents one tested approach to providing a trauma-informed legal education beyond the clinic—through a for-credit reading group on trauma-informed lawyering. Drawing from the authors' experience designing and facilitating the Reading Group on Trauma-Informed Lawyering at Columbia Law School, the Article examines both the theoretical foundations and practical implementation of trauma-informed pedagogy within legal education. Through a reading group, law schools can provide students an opportunity to engage in a critical reflection on retraumatization and vicarious trauma, while navigating their own relationality to trauma. Ultimately, trauma-informed lawyering provides the scaffolding for a legal practice informed by a sensitivity to well-being, empathy, and justice, and should thus be incorporated into each student's legal education.

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INTRODUCTION

*To the oppressed,
and to those who suffer with them
and fight at their side
– Paulo Freire¹*

*Trauma-informed lawyering is a practice in awareness,
not an awareness of a practice – Alejo Rodriguez²*

The practice of lawyering is an inherently relational practice. Intrinsic to its existence is the bringing together of people: attorney with client, movements with collaborators, partners with rights-holders. At its core, lawyering exists largely to address or mitigate conflict, people rarely seek out a lawyer unless they face a problem.³ Yet, despite the problem-solving nature of the profession, which inherently fosters close relational engagement, law schools teach the academic and practical elements to legal practice with minimal, or usually zero, emphasis in the critical methodologies and theories that relate to our relational practice.

Interpersonal relationships are often imbued with power dynamics.⁴ You may have an Ivy League-educated lawyer working with an undocumented individual, or a student attorney before a judge who has been on the bench for longer than the student has been alive. As

¹ PAULO FREIRE, *PEDAGOGY OF THE OPPRESSED* (Myra Bergman trans., 30th Anniv. ed., 2000).

² A spontaneous quote from Alejo Rodriguez during a Reading Group meeting on Trauma-Informed Lawyering at Columbia Law School (Feb. 26, 2024).

³ See, e.g., KENNETH EINAR HIMMA, *The Conceptual Function of Law: Law, Coercion, and Keeping the Peace*, in *LAW AS AN ARTIFACT* 144 (2018) (describing the law's conceptual function as “keeping the peace by regulating behavior”); William L. Felstiner et al., *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming . . .*, 5 *LAW & SOC’Y REV.* 631, 645 (1980) (“lawyers play a central role in dispute decisions . . .”); AUSTIN SARAT & WILLIAM L.F. FELSTINER, *DIVORCE LAWYERS AND THEIR CLIENTS: POWER AND MEANING IN THE LEGAL PROCESS* 142 (1995) (“lawyer-client relationships are sites of conflicts and negotiation in which the conditions of power change from moment to moment . . .”); Robert C. Clark, *Why So Many Lawyers? Are They Good or Bad?*, 61 *FORDHAM L. REV.* 275, 281 (1992) (“My answer is that [lawyers] create, find, interpret, adapt, apply, and enforce rules and principles that structure human relationships and interactions.”); Joshua D. Rosenberg, *Interpersonal Dynamics: Helping Lawyers Learn the Skills, and the Importance, of Human Relationships in the Practice of Law*, 58 *U. MIA. L. REV.* 1225, 1226 (2004) (“Most lawyers live in a world full of disagreement, hostility, competition, and pressure”). See generally H. L. A. HART, *THE CONCEPT OF LAW* (1961) (describing how laws govern general societal conduct, and combat uncertainty, inefficiency, and the static quality of law).

⁴ See, e.g., Kate Porterfield, *Trauma-Informed Client Communication Strategies for Lawyers*, in *TRAUMA-INFORMED LAW: A PRIMER FOR LAWYER RESILIENCE AND HEALING* 68 (Helgi Maki et al. eds., 2023); see also SARAT & FELSTINER, *supra* note 3 at 1664, 1679 (describing how lawyers are intermediaries between clients and the law because of their greater experience and knowledge).

Dr. Kate Porterfield has recognized, this “power differential” can lead to clients having “difficulty communicating their needs.”⁵ Unless a student seeks it out, law school is unlikely to provide training on how lawyers are to navigate these power dynamics in ways that do not cause harm.

Whether in immigration proceedings, criminal trials, or with those who have suffered grave human rights violations, interactions between lawyers and those they assist are often at a time of acute and severe stress. Clients and partners will often have to disclose “some of the most intimate and painful details of their lives” when speaking to their lawyer.⁶ This is not contained to the public-interest sphere. Emotion runs high throughout ‘BigLaw’ practice: corporate lawyers guide new business founders to grow their businesses; employment lawyers delicately negotiate severance packages for workers; family lawyers help their clients draft and plan their wills; judges see hundreds of individuals, lawyers and non-lawyers alike, pass through their courtrooms. It is in the space of these conflicts and tensions that a lawyer’s role comes to play.⁷

However, there is a myopic focus on legal expertise in the profession’s understanding of ‘good’ lawyering. By focusing purely on the letter of the law, we lose sight of the spaces where excellent lawyering can take place.⁸ Take, for example, Nancy Polikoff’s experiences as a progressive lawyer representing “demonstrators arrested for committing acts of civil disobedience in support of lesbian and gay rights and ... AIDS issues.”⁹ By unpacking her experiences as both an activist and lawyer for the very same movement, Polikoff explores how her relationships with her clients and within the legal system worked to ensure she is a better lawyer and activist.¹⁰ She identified what many would consider to be non-legal tasks, such as carrying messages between those arrested and their supporters, as crucial: “it [was] one of the few ways in which my clients and I can clearly see ourselves as part of a common

⁵ Porterfield, *supra* note 4, at 68.

⁶ Sarah Katz & Deeya Halder, *The Pedagogy of Trauma-Informed Lawyering*, 22 CLIN. L. REV. 359, 361 (2016).

⁷ If we are client-centered in our lawyering. See Porterfield, *supra* note 4, at 68 (“Client-centered legal work requires a recognition from the lawyer that the person in front of him/her/them, seeking or utilizing their services, has an entire life history and an array of reactions and feelings that may impact that person’s ability to work with the attorney.”); see also Monroe H. Freedman, *Client-Centered Lawyering-What it Isn’t*, 40 HOFSTRA L. REV. 349, 349-350 (2011).

⁸ See Nancy Polikoff, *Am I My Client?: The Role Confusion of a Lawyer Activist*, 31 HARV. C.R.-C.L. L. REV. 443, 444 (1996); Kristin B. Gerdy, *Clients, Empathy, and Compassion: Introducing First-Year Students to the “Heart” of Lawyering*, 87 NEB. L. REV. 15, 15-17 (2010); Rosenberg, *supra* note 3, at 1226 (“Unfortunately, however, we do not teach people how to use these skills in the contexts where they are most needed - in interactions and relationships with colleagues, opposing counsel, clients and decision-makers”); Stephen Wiesner, *Is Learning to Think Like A Lawyer Enough?*, 17 YALE L. & POL’Y REV. 583, 586 (1998).

⁹ Polikoff, *supra* note 8, at 444.

¹⁰ *Id.* at 446.

struggle.”¹¹ Had she focused solely on the law, her ability to sustain the relationships she had with the movement and its participants would have weakened, cutting across her ability to represent them and achieve the radical change the movement sought to achieve.¹² Navigating the ethical with the legal is the role of the lawyer and the lack of space in legal education to develop the strengths and skills to explore this tension cuts short the ability for student lawyers to grow, explore their own lawyering identity, and learn how to navigate the complex relationships that exist within legal practice.¹³

Many relationships that exist within the law are informed by trauma.¹⁴ Trauma, in its many forms, shapes how individuals present, react and communicate—each of which are essential to the lawyering dynamic.¹⁵ Trauma is thus a helpful entry point for exploring the methodology of lawyering and provides an opportunity to reimagine the interpersonal aspects to the law. These inquiries became central to our own efforts to design a trauma-informed pedagogical space within legal education. Many scholars and practitioners have advocated for the incorporation of an understanding of trauma within the work of lawyers, to help better connect with clients and partners, as well as be a more effective representative.¹⁶ Nonetheless, law schools do very little to assist lawyers-in-training with this unavoidable aspect of legal work.¹⁷ In some law school clinic environments, there has been an increase in teaching of how “to recognize the effects these traumatic experiences

¹¹ *Id.* at 454.

¹² *Id.* at 446.

¹³ Rosenberg, *supra* note 3, at 1226; Wiesner, *supra* note 8, at 586 (calling for the expansion of clinics to play this role).

¹⁴ See Porterfield, *supra* note 4, at 69; Katz & Haldar, *supra* note 6, at 366; Marjorie Silver, et. al, *Stress, Burnout, Vicarious Trauma, and Other Emotional Realities in the Lawyer/Client Relationship*, 19 *TOURO L. REV.* 845, 853 (2015) (“It is my hypothesis that everyone here has experienced what would be called vicarious trauma.”).

¹⁵ *Id.*

¹⁶ See, e.g., Katz & Haldar, *supra* note 6, at 364 (citing S.D. Solomon & J.R.T. Davidson, *Trauma: Prevalence, Impairment, Service Use, and Cost*, 58 *J. CLIN. PSYCH.* (Suppl. 9) 5-11, 7 (1997)); Rebecca Howlett & Cynthia Sharp, *Strategies for a Trauma-informed Law Practice*, *AM. BAR ASS’N* (Oct. 26, 2021), https://www.americanbar.org/groups/gpsolo/publications/gpsolo_ereport/2021/october-2021/legal-burnout-solution-strategies-trauma-informed-law-practice/; Kimberly A. Hardtke, *A Practical Guide To Trauma-Informed Lawyering*, *WIS. LAWYER* (Jul. 20, 2023), <https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?ArticleID=29912>.

¹⁷ Lindsay Harris & Hillary Mellinger, *Asylum Attorney Burnout and Secondary Trauma*, 56 *WAKE FOREST L. REV.* 733, 801 (2021); Mallika Kaur, *Negotiating Trauma & Teaching Law*, 35 *J.L. & Soc. POL’Y* 113, 115–16 (2021) (quoting a UC Berkeley 3L, “‘Better than a ‘trigger warning’ is to train professors on how to respond to and address trauma in the classroom”); Brittany Stringfellow Otey, *Buffering Burnout: Preparing the Online Generation for the Occupational Hazards of the Legal Profession*, 24 *S. CAL. INTERDISC. L.J.* 147, 150 (2014) (“[L]egal education has yet to find a comprehensive and effective way to educate and prepare young lawyers to mitigate or even prevent these professional impairments.”).

may have on their clients' actions and behaviors... [and] the effect that their clients' stories and hardships are having on their own advocacy and lives as a whole."¹⁸ Yet, this (un)learning rarely goes beyond the clinic environment.¹⁹

This Article emerges from our experience attempting to address that pedagogical gap through the creation of the Reading Group on Trauma-Informed Lawyering at Columbia Law School. Designed as an interdisciplinary, discussion-based space for students to engage critically with trauma-informed legal practice across legal fields, the Reading Group became both a pedagogical experiment and a broader inquiry into what trauma-informed legal education might look like beyond the clinic setting. Our experience designing, facilitating, and refining the Reading Group informs the theoretical and practical arguments developed throughout this Article, particularly how legal education can better prepare students to navigate the relational and power-laden realities of legal practice.

Paulo Freire, in the opening page of 'Pedagogy of the Oppressed,' dedicates the book to two categories of individuals: the 'oppressed' and those who fight at their side.²⁰ His description of the two individuals as both suffering is striking—the oppressed and “those who suffer with them.”²¹ It is the unquestioned acknowledgement that those who work alongside those who are suffering will also suffer. This is reflected in cultures of lawyering, for example some have suggested that human rights practice “emphasise[s] self-sacrifice, heroism, and martyrdom.”²² It is this dynamic that trauma-informed lawyering seeks to change and mitigate: the idea that both groups of people suffer through this process.²³ Through learning about and understanding retraumatization and vicarious trauma, lawyers can take steps to prevent the further suffering of the people they work with, as well as the mitigation of their

¹⁸ Katz & Haldar, *supra* note 6, at 362.

¹⁹ Often scholarship that addresses trauma-informed lawyering focuses on the clinic space. *See, e.g., id.* at 362.

²⁰ FREIRE, *supra* note 1. Paulo Freire was a Brazilian educator and theorist. In this book, he critiques traditional teaching methods as perpetuating oppression. *See id.* We would like to thank Kelsey Jost-Creegan for this recommendation and for inspiring us to frame this Article with these quotes, as well as inform our own practice with participatory methodologies including trauma-informed lawyering.

²¹ *Id.*

²² Alice Nah, *Wellbeing, Risk, and Human Rights Practice*, HUM. RTS. DEFENDER HUB POL'Y BR. 1, 1 (2017).

²³ *See generally* Silver et al., *supra* note 14 (discussing vicarious trauma); Porterfield, *supra* note 4, at 68-69. *See, e.g.,* Sarah Knuckey, Margaret Satterthwaite & Adam Brown, *Trauma, Depression, and Burnout in the Human Rights Field: Identifying Barriers and Pathways to Resilient Advocacy*, 49 COLUM. HUM. RTS. L. REV. 269 (2018) (describing how human rights lawyers are impacted by secondary trauma).

own suffering by way of vicarious trauma—facilitating a critical reflection upon one’s own relationality to such trauma.²⁴

This Article builds upon the crucial work of Sarah Katz and Deeya Haldar who observe the importance of trauma-informed lawyering in furthering the goals of the legal clinic and provide pedagogical approaches to do so.²⁵ We add to this by offering a different method for introducing trauma-informed lawyering into non-clinical legal curricula. This Article explores how the authors set out to create spaces at law school to extend the education of trauma-informed practices to beyond the clinical sphere. This Article maps our work bringing together a reading group at Columbia Law School on trauma-informed lawyering, through which we were able to explore ways that combine pedagogical tools and expertise from across legal disciplines, with dedicated law students who have already identified a need for trauma-informed practices, language, and methodologies to be part of their lawyering repertoire.

This Article is not a guide to trauma-informed practice. There are many other brilliant papers and guides on trauma-informed practice from both a lawyering and psychological perspective, authored by those with the requisite expertise.²⁶ Instead, this Article details what worked for our reading group, what didn’t work, and the reasons behind the choices we made. We advocate for an inclusion of trauma-informed lawyering practices within the foundational teachings that occur for all law students, regardless of intended practice area of interest. But first, we posit that an initial step would be to provide spaces akin to a reading group to allow a trauma-informed community to begin to grow and flourish. The Reading Group, we hope, could provide a template to

²⁴ See Silver et al., *supra* note 14; Porterfield, *supra* note 4, at 68-69; Knuckey, *supra* note 23.

²⁵ Katz & Haldar, *supra* note 6.

²⁶ See, e.g., Howlett & Sharp, *supra* note 16; Howard Pinderhughes, Rachel A. Davis & Myesha Williams, *Adverse Community Experiences and Resilience: A Framework for Addressing and Preventing Community Trauma*, PREVENTION INST. (2015); Eva McKinsey, et al., *Trauma-Informed Judicial Practice from the Judges’ Perspective*, 106 JUDICATURE 34 (2022); Theresa Bohannon, et al., *Voices from the Bench: Judicial Perspectives on Handling Child Sex Trafficking Cases*, NAT’L COUNCIL OF JUV. & FAM. CT. JUDGES (2019); *Strategies for Connecting with Survivors Involved with Legal Proceedings (Module 1)*, NAT’L CTR. ON DOMESTIC VIOLENCE, TRAUMA, AND MENTAL HEALTH, <https://ncdvtmh.org/toolkit/strategies-for-connecting-with-survivors-involved-with-legal-proceedings/> [hereinafter NAT’L CTR. ON DOMESTIC VIOLENCE]; *Guidelines for Interviewing Survivors of Trauma and Conducting Research on Sexual Violence*, HUM. RTS. WATCH (2016) (on file with authors) [hereinafter *Guidelines*]; Elise Baker, et al., *Safer Viewing: A Study of Secondary Trauma Mitigation Techniques in Open Source Investigations*, 22 HEALTH & HUM. RTS. J. 293 (Jun. 2020); *Guide to Trauma-Informed Legal Writing*, BRIT. COLUM. L. INST. (Feb. 2025), <https://www.bcli.org/wp-content/uploads/TILWG-Final.pdf>; *Trauma-Informed Toolkit for Legal Professionals*, GOLDEN EAGLE RISING SOC’Y, <https://www.goldeneaglerising.org/initiatives-and-actions/trauma-informed-toolkit-for-legal-professionals/>.

spark the development of other trauma-informed communities at law schools across the U.S. (and beyond), and provide a toolkit for implementing institutional and professional change.

Section I explores the theory of trauma-informed lawyering. It defines the methodology, identifies its relevance to different areas of legal practice, and observes its potential to offer both individual and systematic change in lawyering identities. Section II draws from our experience creating and facilitating the Reading Group on Trauma-Informed Lawyering at Columbia Law School to explore how trauma-informed pedagogy can be incorporated into legal education beyond the clinic setting. Section III explores other opportunities for institutional transformation through trauma-informed lawyering. It outlines reforms and concrete alternatives for the inclusion of trauma-informed lawyering in legal education, drawn from, but going beyond, our experience developing the Reading Group.

Ultimately, this Article hints at how a trauma-informed legal education can provide an opportunity for profession-wide transformation. Trauma-informed lawyering provides the intellectual and methodological backbone for institutional change that offers a window into what lawyering can be, if informed by a sensitivity to well-being, empathy, and justice. But first, let's equip more students with the essential trauma-informed lawyering skills necessary to navigate the complex relationality of legal practice.

I. TRAUMA-INFORMED LAWYERING THEORY

People may encounter the legal system at some of the most difficult moments in their lives. They may be facing criminal charges, seeking protection from violence, navigating family disputes, or dealing with immigration or housing issues. In many of these situations, legal issues are closely connected to experiences of conflict, which may be traumatic.

Trauma affects how individuals interact with the legal system and with their attorneys.²⁷ Trauma-informed lawyering is a practice that asks lawyers to understand how trauma shapes the experiences of those they work with, as well as their own experiences.²⁸ A trauma-informed approach seeks to prevent the retraumatization of clients and protect lawyers from the effects of vicarious trauma.²⁹

²⁷ See Porterfield, *supra* note 4, at 69; Katz & Haldar, *supra* note 6, at 366; Silver et al., *supra* note 14, at 853 (“It is my hypothesis that everyone here has experienced what would be called vicarious trauma.”).

²⁸ Porterfield, *supra* note 4, at 69.

²⁹ See generally Silver et al., *supra* note 14 (discussing vicarious trauma); Porterfield, *supra* note 4, at 68-69. See, e.g., Knuckey, *supra* note 23 (describing how human rights lawyers are impacted by secondary trauma).

This Section introduces the concept of trauma-informed lawyering by focusing on five key components: a definition of trauma; how it shows up in the legal system; trauma-informed lawyering as both a methodological approach and a professional ethic; practical examples across legal contexts; and its positive impact on clients, communities, and lawyers themselves. These theoretical and practical components of trauma-informed lawyering laid the foundations for the structure of the Reading Group. Our goal was for students to leave the Reading Group having a deepened understanding of each.

A. What is Trauma?

Trauma is a biopsychosocial experience that shapes humans' physiological, cognitive, emotional, and interpersonal functioning.³⁰ Agreeing on a clear definition of trauma is a challenging task since it is not a singular, uniform experience but a profoundly personal and multifaceted phenomenon.³¹ Simply, the American Psychological Association defines trauma as: "[An] emotional response to a terrible event like an accident, rape or natural disaster."³²

Trauma can arise from various sources, ranging from sudden, distressing events to more subtle, persistent experiences. Dr. Van Der Kolk describes how "[o]ne does not have to be a combat soldier, or visit a refugee camp in Syria or the Congo to encounter trauma."³³ Experiencing violence, being involved in a life-threatening accident, facing the sudden death of loved ones, enduring natural disasters, suffering childhood neglect, experiencing intimate partner violence, and encountering various forms of abuse such as physical, emotional, or sexual abuse, as well as violence from war, can all be significant sources of trauma.³⁴ Trauma can also be experienced in cultural, intergenerational and historical ways, particularly for marginalized communities.³⁵ Individuals can be affected by trauma caused by structural violence, which prevents people and communities from meeting their basic needs.³⁶ In communities where there is a high level of violence, the community as a whole can be traumatized—trauma manifests as symptoms at the community level.³⁷

³⁰ Porterfield, *supra* note 4, at 69.

³¹ See generally *id.*

³² Trauma, AM. PSYCH. ASS'N, <http://www.apa.org/topics/trauma/>.

³³ BASSEL VAN DER KOLK, THE BODY KEEPS THE SCORE. BRAIN, MIND, AND BODY IN THE HEALING OF TRAUMA 1 (2014).

³⁴ Katz & Haldar, *supra* note 6, at 365 (citing S.D. Solomon & J.R.T. Davidson, *Trauma: Prevalence, Impairment, Service Use, and Cost*, 58 J. CLIN. PSYCH. 5-11 (1997)); Howlett & Sharp, *supra* note 16.

³⁵ Howlett & Sharp, *supra* note 16.

³⁶ See, e.g., Pinderhughes et al., *supra* note 26.

³⁷ *Id.* at 3.

Trauma does not only affect those who experience it directly. Professionals who assist people who have experienced trauma may themselves experience trauma as a result of exposure to others' suffering.³⁸ This experience is known as "vicarious trauma" or "secondary trauma" and it refers to the emotional and psychological effects that arise from engaging with another person's traumatic experiences. Its effects are wide-ranging—from severe stress, anxiety, and insomnia, to over-identification with clients or denial of their trauma.³⁹ This is particularly relevant for lawyers, whose regular engagement with clients' traumatic experiences may expose them to these symptoms, which, if left unaddressed, can undermine their effectiveness.⁴⁰ A trauma-informed approach recognizes this risk and encourages lawyers to attend not only to the trauma of those they work with, but also to their own trauma.⁴¹

The effects of trauma can vary widely from one person to another. Responses to trauma are psychobiologic—individualized with no one universal experience.⁴² The Centers for Disease Control and Prevention states that traumatic events are marked by feelings of horror, helplessness, severe injury, or the threat of serious injury or death.⁴³ Responses to trauma can be categorized as either "short-term or long-term"⁴⁴ and "acute or chronic."⁴⁵ Acute trauma involves suffering from a single traumatic event or a brief period of distress. In contrast, chronic trauma refers to multiple traumatic events that occur over an extended period.⁴⁶ Examples of chronic trauma include living in poverty, enduring a conflict setting, experiencing domestic violence, or being subjected to abusive conditions of detention or imprisonment.⁴⁷

Advances in neuroscience help us understand trauma's more general effects on the brain and body. Dr. Van der Kolk explains that trauma is not merely an event that occurred in the past; it also leaves a lasting imprint on the mind, brain, and body.⁴⁸ This imprint reshapes how both

³⁸ Silver et al., *supra* note 14, at 859.

³⁹ Katz & Haldar, *supra* note 6, at 368-369.

⁴⁰ *Id.* at 369.

⁴¹ *Id.* at 370 ("trauma-informed services and programs are more supportive (rather than controlling and punitive), avoid retraumatizing and punishing those served, and avoid vicarious traumatization of those serving the survivors.").

⁴² *Id.* at 367 (citing Richard R. Kluft, Sandra L. Bloom, & John D. Kinzie, *Treating the Traumatized Patient and Victims of Violence*, 86 NEW DIRECTIONS IN MENTAL HEALTH SERVS. 79, 3 (2000)).

⁴³ *Helping Patients Cope with a Traumatic Event*, CTRS. FOR DISEASE CONTROL AND PREVENTION, https://www.cdc.gov/masstrauma/factsheets/professionals/coping_professional.pdf [https://perma.cc/SH6H-MJAM].

⁴⁴ Katz & Haldar, *supra* note 6, at 367.

⁴⁵ *Guidelines*, *supra* note 26, at 5 (on file with authors).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ VAN DER KOLK, *supra* note 33, at 94.

the body and mind perceive the world.⁴⁹ Overwhelming experiences can profoundly affect our innermost sensations and connection to our physical reality, touching the very core of our identity.⁵⁰ When people face a traumatic experience, “their emotional brains take the reins and supersede their executive functions.”⁵¹ As a consequence, after experiencing trauma, a person may be without words to express it.⁵² Consequently, trauma can influence social relationships and interactions, impacting how individuals connect with the legal system, particularly with their attorneys.⁵³

B. Trauma and the Legal System

Many individuals only interact with the legal system following a traumatic event.⁵⁴ Legal processes can be inherently distressing for non-lawyers, especially for those who have already experienced trauma.⁵⁵ Individuals may also experience trauma that is entirely unrelated to the legal issue at hand.⁵⁶ Courts, administrative proceedings, and legal disputes often involve adversarial settings, bureaucratic complexities, and prolonged uncertainty which can exacerbate feelings of powerlessness and anxiety: simply, “[t]he bright lights, loud noises, questioning by guards and staff, harsh physical handling/movement, restrictions, and sparse living quarters can be triggering.”⁵⁷

The structure of legal proceedings often fails to accommodate the emotional and psychological needs of those who have endured trauma: “[d]ealing with the legal system’s rules and unfamiliar setting, testifying about a traumatic incident, and even merely appearing in court can create new, painful memories that compound old ones.”⁵⁸ Courtrooms prioritize logic, evidence, and procedural fairness, yet these principles do not always align with the lived realities of trauma survivors.⁵⁹ Many

⁴⁹ *Id.* at 97.

⁵⁰ *Id.* at 94.

⁵¹ *Id.* at 178.

⁵² *Id.*

⁵³ Katz & Haldar, *supra* note 6, at 366.

⁵⁴ See Porterfield, *supra* note 4; SARAT & FELSTINER, *supra* note 4.

⁵⁵ Hardtke, *supra* note 16, at 21.

⁵⁶ Howlett & Sharp, *supra* note 16.

⁵⁷ Sharyn Adams, Jaclyn Houston-Kolnick, & Jessica Reichert, *Trauma-Informed and Evidence-Based Practices and Programs to Address Trauma in Correctional Settings*, ILL. CRIM. JUST. INFO. AUTH. (Jul. 25, 2017), <https://icjia.illinois.gov/researchhub/articles/trauma-informed-and-evidence-based-practices-and-programs-to-address-trauma-in-correctional-settings> (citing Craig Haney, *The psychological impact of incarceration: Implications for post-prison adjustment*, U.S. DEP’T OF HEALTH AND HUM. SERVS. (2002)).

⁵⁸ Hardtke, *supra* note 16.

⁵⁹ *Id.* (describing the ways that the courtroom and court procedures could be adapted to be more trauma-informed: “other important rights aimed at reducing the trauma that victims might experience in the courtroom include the right to privacy, to ‘timely disposition of the

legal systems emphasize objectivity and skepticism, which can invalidate or minimize personal experiences, particularly if victims struggle with memory fragmentation: a well-documented psychological effect of trauma.⁶⁰ One example comes from the criminal sphere. Victims of domestic violence or sexual assault may be required to recount their experiences multiple times in settings that feel hostile or dismissive, forcing them to relive painful events while under scrutiny.⁶¹ This process can compound their trauma, especially when their credibility is questioned or their emotions are perceived as exaggeration.⁶² Providing testimony in these circumstances is an essential part to the justice process, but the methods in which this testimony is taken can be adjusted to help the individual feel more comfortable, in of itself facilitating a stronger testimony.⁶³

In addition, the formal atmosphere of legal settings, along with the presence of authority figures such as judges and opposing counsel, can lead to increased anxiety for participants.⁶⁴ The requirement to testify in public may also make the process feel overwhelming or even unmanageable for some individuals.⁶⁵ Moreover, the power imbalance between legal professionals and everyday people can heighten this distress, as individuals often find it difficult to navigate unfamiliar terms, tight deadlines, and high-stakes results without sufficient support.⁶⁶ While lawyers may not always be conscious of it, the structure of legal representation often places attorneys in control, deciding when, where, and how meetings occur, and setting the tone of communication.⁶⁷ For trauma survivors, this dynamic can unintentionally echo previous experiences

case,’ to ‘reasonable protection from the accused’ throughout the case, and to ‘be heard in any proceeding during which a right of the victim is implicated.’”).

⁶⁰ Katz & Haldar, *supra* note 6, at 366.

⁶¹ *Trauma-Informed Legal Advocacy: Practice Scenarios Series. Trauma, Memory & Trust-Building*, NAT’L CTR. ON DOMESTIC VIOLENCE, TRAUMA & MENTAL HEALTH 1, 2 (Mar. 2015), https://ncdvtmh.org/wp-content/uploads/2022/08/TILA_Trauma_Memory_TrustBuildingApr22.pdf.

⁶² See, e.g., Laura Nacyte, *Trauma-Misinformed Justice at the International Criminal Court*, INTLAWGRRLS (Mar. 3, 2020), <https://ilg2.blog/2020/03/03/trauma-misinformed-justice-at-the-international-criminal-court/> (discussing *Prosecutor v. Ntaganda*, ICC-01/04-02/06, Judgment, paragraph 91 (Jul. 8, 2019), where the defense characterized a witness struggling to recall traumatic details as “combative, biased and uncooperative”).

⁶³ *Id.*

⁶⁴ See, e.g., Hardtke, *supra* note 16, at 25 (“judges and lawyers sometimes seem to be operating under a secret code and language that can be difficult to decipher for the uninitiated”).

⁶⁵ Hardtke *supra* note 16, at 22 (“Attorneys can then build on this foundation using similar trauma-informed principles to help minimize the effects of additional trauma, created or exacerbated by activities like speaking with investigators, going to court proceedings, or testifying.”); see also Katz & Haldar, *supra* note 6, at 372 (describing the fear involved in testifying against, and in front of, a client’s abusive ex-husband).

⁶⁶ Hardtke, *supra* note 16, at 24.

⁶⁷ See SARAT & FELSTINER, *supra* note 3, at 635.

of powerlessness or lack of agency. Recognizing this imbalance is crucial, as it can “impact on a victim’s sense of agency and well-being.”⁶⁸ Before even entering the courtroom, legal bureaucracy itself can be an exhausting and alienating force. Instructing a lawyer, navigating legal aid systems, filing claims, or seeking asylum often requires individuals to repeatedly justify their pain and suffering to strangers in positions of power.⁶⁹ This is particularly so for some areas of law that may more acutely or universally feel the symptoms of trauma—such as criminal law or human rights.⁷⁰ Trauma brushes up against many aspects of the criminal justice system and scholars and practitioners have advocated to “reduce future offending and protect the safety of the community more effectively than incarceration” by recognizing the trauma of parties involved.⁷¹ Evidence of a defendant’s past trauma has remained “legally irrelevant” for the majority of criminal cases, i.e. those not involving the death penalty or juvenile life without parole.⁷² For example, Miriam S. Gohara proposes, to remedy this, trauma mitigation should be instrumental as a criminal defense attorney in order to be an effective legal representative, to progress beyond “antiquated sentencing practices.”⁷³

Human rights law presents a similarly trauma-proximate field of practice. As Knuckey, Satterthwaite & Brown recognize, human rights practitioners brush up against trauma as part of their work frequently due to *inter alia* their work gathering “testimony about heinous abuses,” being located in “insecure locations,” and “directly witness[ing] abuses.”⁷⁴ Whilst human rights practice can vary enormously, the authors highlight how most practitioners will “work in environments with abusive, violent, threatening, or otherwise distressing materials that can pose risks to advocates’ mental health and wellbeing.”⁷⁵ Technological developments have improved human rights researchers’ capabilities in their fact-finding missions and evidence gathering, allowing them to explore the depth and veracity of violations online. Sometimes labeled “digital open source investigation,” many organizations use this methodology to document violations.⁷⁶ However, as has been noted by the American

⁶⁸ Hardtke, *supra* note 16, at 24.

⁶⁹ *Id.* at 25.

⁷⁰ See, e.g., Knuckey, *supra* note 23, at 269; Baker et al., *supra* note 26, at 293-304; Mika’il DeVeaux, *The Trauma of the Incarceration Experience*, 48 HARVARD C.R.—C.L. L. REV. 257 (2013).

⁷¹ Kathy McLachlan, *Trauma-informed Sentencing in South Australian Courts*, 55 J. OF CRIM. 495, 496 (2022).

⁷² Miriam S. Gohara, *In Defense of the Injured: How Trauma-Informed Criminal Defense Can Reform Sentencing*, 45 AM. J. CRIM. L. 1, 2 (2018).

⁷³ *Id.* at 5.

⁷⁴ Knuckey et al., *supra* note 23, at 269.

⁷⁵ *Id.*

⁷⁶ Baker et al., *supra* note 26, at 293-304.

Psychiatric Association, “witnessing traumatic events on screens poses mental health risks.”⁷⁷ Such investigations can be incredibly difficult and involve incredibly graphic content.⁷⁸

However, as lawyering is inherently about the relationships between people and how we regulate them, there is no practice unaffected and no practice that would not be improved by a trauma-informed practice. Consider here the role of the judge. From the judicial perspective, a trauma-informed approach may be centered on the courtroom. Research highlights five elements of what judges perceive to add to a “trauma-informed courtroom”:⁷⁹ the judge’s demeanor and behavior, the prioritization of treatment, slowing down the judicial process, changing the court environment, and involving all actors in the courtroom in becoming trauma-informed.⁸⁰ Some analysis has indicated that, in Australia, judges don’t always recognize the link between trauma and criminal behavior, even though they realize “trauma was present in the lives of many defendants.”⁸¹ This suggests the importance of recognition of trauma in the sentences that judges hand out, regardless of area of law. Others have called for a trauma-informed approach from judges, with the aim to readjust power differentials in the courtroom and for “non-adversarial approaches to cases.”⁸²

The goal of the legal system is not to address or heal the trauma individuals may carry.⁸³ However, in undertaking this pursuit, law can adopt measures for harm reduction and, at the very least, strive not to re-traumatize individuals during their interactions with the system. This facilitates a more effective and sustainable pursuit of justice: “[f]or many people who interact with the legal system, their interaction with

⁷⁷ *Id.* at 294 (citing DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 61 (5th ed., 2013)).

⁷⁸ *Id.* at 300. A 2015 study of human rights workers found that 19.4% of respondents met post-traumatic stress disorder (PTSD) criteria, 18.8% met subthreshold PTSD criteria, and 14.7% met criteria for probable major depression. Amy Joscelyne et al., *Mental health functioning in the human rights field: Findings from an international internet-based survey*, 10 PLOS ONE I (2015). In 2017, a paper published by the University of York found that 86% of human rights defenders at risk were “somewhat concerned” or “very concerned” about their “mental and emotional wellbeing.” See Nah, *supra* note 22, at 1. In another 2015 study assessing the effects of traumatic content on the mental health of human rights workers and journalists, it was found that 44% of human rights respondents reported high or very high personal adverse effects, and 25% reported high or very high professional adverse effects. See Baker, *supra* note 26, at 293-304.

⁷⁹ McKinsey et al., *supra* note 26, at 40.

⁸⁰ *Id.* at 40-41.

⁸¹ McLachlan, *supra* note 71, at 495.

⁸² Nicole McKenna & Kristy Holtfreter, *Trauma-Informed Courts: A Review and Integration of Justice Perspectives and Gender Responsiveness*, 30 J. OF AGGRESSION, MALTREATMENT & TRAUMA 450, 453 (2021).

⁸³ See, e.g., HIMMA, *supra* note 3 (describing the law’s conceptual function as to “keep the peace” by regulating behavior).

the legal system itself represents an event that overwhelms their ability to cope, and over which they have little, if any, control, and may be traumatic in and of itself.”⁸⁴ In creating a more trauma-informed legal system, all of those who engage in it can participate in more intentional, sustainable, and effective ways.⁸⁵ Teaching a trauma-informed approach to lawyering in law school helps to alleviate these issues, as was our goal with the Reading Group. A trauma-led methodology provides one means of reshaping the existing parameters individuals must navigate when grappling with the legal system, whatever role that may be in.⁸⁶

C. Trauma-informed Lawyering

Being trauma-informed is “[being] educated about the impact of interpersonal violence and victimization on an individual’s life and development.”⁸⁷ A practice is considered trauma-informed when the practitioner prioritizes the client’s trauma experiences while interacting with them; when they adjust their approach based on the individual client’s unique trauma history; and involves the practitioner using self-care strategies to mitigate the impact that the client’s trauma may have on them.⁸⁸ Trauma-informed practices focus on how services are delivered, and how service-systems are organized.⁸⁹ It helps the practitioner to understand a person’s behavior and how their actions and decisions are connected to their trauma, “rather than isolating their actions to the current circumstances and assuming a character flaw.”⁹⁰

For the practice of lawyering, the American Bar Association denotes a two-fold process of establishing a trauma-informed practice: firstly, preventing retraumatization; and secondly, protecting a lawyer’s health and well-being from vicarious trauma.⁹¹ We use this bifurcated model to explore the practice of trauma-informed lawyering.

⁸⁴ Negar Katirai, *Retraumatized in Court*, 62 ARIZ. L. REV 81, 88-89 (2020) (explaining re-traumatization, also known as secondary victimization, as “the experience of survivors who encounter ‘victim-blaming attitudes, behaviors, and practices’ from service providers and institutions ‘which result in additional trauma.’”)

⁸⁵ See, e.g., Hardtke, *supra* note 16; McKenna & Holtfreter, *supra* note 82 (on courts); McKinsey et al., *supra* note 26 (on judges); Porterfield, *supra* note 4 (on interviewing attorneys).

⁸⁶ See generally Porterfield, *supra* note 4.

⁸⁷ Howlett & Sharp, *supra* note 16.

⁸⁸ Katz & Haldar, *supra* note 6, at 359.

⁸⁹ *Id.* at 363 (citing Sandra L. Bloom, *The Sanctuary Model of Trauma-Informed Organizational Change*, 16 THE SOURCE 12, 14 (2007), <https://sandrabloom.com/wp-content/uploads/2007-BLOOM-SANCTUARY-MODEL-VINITA-AND-INTER-IM-HOUSEThe-Source-Articles-Sanctuary.pdf>).

⁹⁰ Sandra L. Bloom, *Why Should Philadelphia Become a Trauma-Informed City*, SANCTUARY WEB (2015) (on file with authors).

⁹¹ Howlett & Sharp, *supra* note 16.

1. Avoiding Retraumatization

Lawyers can play a critical role in mitigating the risk of a client reexperiencing their trauma—otherwise known as retraumatization. The practice of law goes beyond simply handling legal cases; it involves actively guiding “clients through a system that is often foreign to them, often while they are still deep within the throes of whatever traumatic situation brought them to the courthouse.”⁹² This process requires a nuanced understanding of both the legal system and the emotional impact it can have on individuals, including retraumatization.⁹³

To explain how lawyers can avoid retraumatizing their clients, Dr. Kate Porterfield presents a framework to help guide lawyers to recognize the symptoms of trauma that “make it difficult for [clients/partners] to fully utilize their lawyer’s knowledge, skills, and services.”⁹⁴ The framework seeks to mitigate the retraumatization of the people who lawyers work with and details how the legal processes can trigger and retraumatize. For Dr. Porterfield, creating a “trauma-informed dynamic” means a situation where “the client’s experiences, reactions, and opinions are paramount.”⁹⁵ She provides a trauma-informed frame for communicating with clients based on *safety*, *control*, *reflection*, and *closure*. Each element explores how lawyers can shift power and provide agency to the individual that the lawyer is working with and provides a “conceptual approach” to that relationship.⁹⁶ The framework also works to explain, inversely, the risks of retraumatization.⁹⁷

In Dr. Porterfield’s scheme, *safety* helps clients to understand what is happening to them and around them.⁹⁸ Without *safety*, the interaction with their lawyer can make it difficult or even impossible to communicate properly and effectively.⁹⁹ Simple things, such as not acknowledging the client’s physical space for a meeting, can generate significant gaps and mistakes in the information-gathering process.¹⁰⁰ Lawyers who do

⁹² Hardtke, *supra* note 16.

⁹³ See, e.g., Porterfield, *supra* note 4, at 68 (“Client-centered legal work requires a recognition from the lawyer that the person in front of him/her/them, seeking or utilizing their services, has an entire life history and an array of reactions and feelings that may impact that person’s ability to work with an attorney”); Hardtke, *supra* note 16, at 20 (“lawyers must recognize trauma’s existence and symptoms, be present, offer choices, and share knowledge.”).

⁹⁴ Hardtke, *supra* note 16.

⁹⁵ Porterfield, *supra* note 4, at 76.

⁹⁶ *Id.* at 68.

⁹⁷ See *id.*

⁹⁸ *Id.* at 69-71.

⁹⁹ *Id.* at 69-70 (describing how without safety, survivors may “shut-down” or dissociate “a lawyering may ‘push’ the client to answer, inadvertently exacerbating the client’s sense of danger and threat, thereby derailing their communication.”).

¹⁰⁰ *Id.* at 70 (describing how acknowledging the physical space can provide safety-enhancing communication).

not explain what will happen in the meeting deprive the client of a clear sense of what to expect, which increases uncertainty and anxiety.¹⁰¹

Control refers to reinforcing the client's ability to participate actively in the legal process.¹⁰² For someone who has experienced trauma, the loss of power during the traumatic episode can be mirrored in dynamics with others. *Control* provides gestures that contribute to the client's sense of control: for example, asking for permission to move from one topic to another or asking for feedback throughout the meeting.¹⁰³ Dismissing these trauma-informed tools can lead to a defensive reaction or a shutdown and impede the lawyer from getting relevant information to the case.¹⁰⁴

One of the most forceful tools for communication with trauma survivors is to make them feel heard, respected and understood. *Reflection back* on what is said, without interpretation, analysis, or disagreement, can contribute to creating a sense of empowerment and validation.¹⁰⁵ As Porterfield describes, "[f]or clients who have suffered experiences of powerlessness, persecution, and erasure, this kind of communication is essential to lay the groundwork for a constructive professional relationship."¹⁰⁶

Closure recognizes that conversations with lawyers can trigger intense memories in traumatized clients, which can lead to strong physical and emotional reactions.¹⁰⁷ Because of this, *closure* can avoid leaving a client "exposed and distressed" after a meeting.¹⁰⁸ To do this, lawyers can avoid ending meetings abruptly, ask for feedback on the conversation, and help a client prepare for the next steps.¹⁰⁹

2. Mitigating Vicarious Trauma

Trauma-informed lawyering asks lawyers to shift the lens not just to their client's trauma, but also to their own risks of trauma through the work they do. Inadequate handling of trauma in legal practice can directly affect lawyers themselves.¹¹⁰ Lawyers who engage empathically

¹⁰¹ *Id.* at 71 (advising lawyers to explain what will happen in the meeting and the role of the lawyer in detail to the client).

¹⁰² *Id.* at 72.

¹⁰³ *Id.* (describing ways to enhance the client's control of the situation).

¹⁰⁴ *Id.* (a "barrage of questions can feel overwhelming and can lead to a defensive reaction of shutting down").

¹⁰⁵ *Id.* at 74.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* at 74 – 76.

¹¹⁰ Silver et al., *supra* note 14, at 857 (describing how stress and depression are of particular concern to lawyers. "For those of you who work compassionately with people who experience trauma, you are at risk of this particular occupational hazard.").

and with compassion with clients who have experienced trauma are at risk of a version of what their traumatized clients experience: vicarious trauma.¹¹¹

Vicarious trauma, also known as secondary trauma, does not have a universally accepted definition. It refers to the emotional and psychological effects that can arise from being “exposed to the graphic details of another person’s traumatic experience.”¹¹² This phenomenon is often associated with “compassion fatigue,” which is one of the symptoms of vicarious trauma that highlights the impact that working with trauma survivors can have on those who provide them with support and assistance.¹¹³ Vicarious trauma can also arise from the handling of traumatic materials, such as graphic imagery, videos, or text.¹¹⁴ The effect can manifest in different ways, including:

denial of clients’ trauma, over-identification with clients, no time and energy for oneself, feelings of great vulnerability, experiencing insignificant daily events as threatening, feelings of alienation, social withdrawal, disconnection from loved ones, loss of confidence that good is still possible in the world, generalized despair and hopelessness, loss of feeling secure, increased sensitivity to violence, cynicism, feeling disillusioned by humanity, disrupted frame of reference, changes in identity, world view, and spirituality, diminished self-capacities, impaired ego resources, and alterations in sensory experiences.¹¹⁵

Vicarious trauma can cause a wide variety of effects. Some of these directly affect the lawyer’s personal life and health, such as severe stress, anxiety, anger, insomnia, feelings of great vulnerability, “experiencing insignificant daily events as threatening,” generalized despair and hopelessness, and diminished self-capacities, to name a few.¹¹⁶ Other symptoms of vicarious trauma directly jeopardize the lawyer’s effectiveness

¹¹¹ Silver et al., *supra* note 14, at 854.

¹¹² Baker, *supra* note 26, at 294 (“secondary trauma refers to a range of trauma-related stress reactions and symptoms that may result from exposure to graphic details of another individual’s traumatic experience”); Silver et al., *supra* note 14, at 859 (describing how people working in human rights or capital punishment “become experts in the very thing they are fighting... [but] that window of empathy will give you a view screen of only pain.”).

¹¹³ Katz & Haldar, *supra* note 6, at 367-368 (citing American Counseling Association, *Vicarious Trauma Fact Sheet #9*, CRISIS SUPPORT (Apr. 2015), https://web.archive.org/web/20151011224630/https://www.crisissupport.org/wp-content/uploads/2015/04/vicarious-trauma_fact_sheet_.pdf).

¹¹⁴ See, e.g., Baker et al., *supra* note 26, at 294.

¹¹⁵ Katz & Haldar, *supra* note 6, at 369 (citing Christian Pross, *Burnout, Vicarious Traumatization And Its Prevention*, 16 TORTURE 1, 1 (2006)).

¹¹⁶ See, e.g., Katz & Haldar, *supra* note 6, at 369; Office on Violence Against Women, *The Importance of Understanding Trauma-informed Care and Self-Care for Victim Service*

and ability to do their jobs well,¹¹⁷ such as denial of clients' trauma or over-identifying with clients.¹¹⁸ Vicarious trauma usually manifests in two ways: either to overwhelm lawyers or shut down lawyers.¹¹⁹ The lack of a trauma-informed practice that addresses vicarious trauma increases the likelihood for lawyers to suffer these symptoms, directly affecting their effectiveness, work quality, and, in the end, the actual possibility of really helping their clients. Vicarious trauma increases the likelihood that lawyers will run afoul of both written and unwritten rules of professional responsibility,¹²⁰ and may also contribute to fatigued practitioners leaving the profession.¹²¹

Vicarious trauma is present at higher levels among the legal profession than amongst mental health professionals.¹²² A possible explanation for this phenomenon is that, in contrast with mental health professionals, lawyers do not receive foundational education about the effects of trauma in themselves.¹²³ Scholars have noticed something qualitatively different in lawyers' depression compared to depression in other professions—often, responses to confronting issues are “this is just the way it is” or “this is the way business works,” which may respond to the business pressures of lawyering, the pressure for billable hours, or the experience of having to deal daily with the expectations and demands of clients.¹²⁴ Another example comes from the human rights field—human rights advocates tend to deprioritize their own wellbeing “in the pursuit of the rights of others.”¹²⁵ Many human rights practitioners perceive that they are “expected to sacrifice their own time and wellbeing, and to prioritize the needs of the... human rights cause above themselves.”¹²⁶ The pervasive and structural underpayment of human rights practitioners also contributes to poor wellbeing: whether this is financial insecurity, short-term funding, or the need to spend personal money on security.¹²⁷ Further, human rights

Providers, U.S. DEPT OF JUST. (Apr. 27, 2017), <https://www.justice.gov/archives/ovw/blog/importance-understanding-trauma-informed-care-and-self-care-victim-service-providers>.

¹¹⁷ Office on Violence Against Women, *supra* note 116.

¹¹⁸ Katz & Haldar, *supra* note 6, at 369.

¹¹⁹ Silver et al., *supra* note 14, at 861.

¹²⁰ Kenneth Townsend, *Ethics and Professional Responsibility: What Lawyers Should Know and Trauma-Informed Lawyering as a Legal Competency*, in *TRAUMA-INFORMED LAW* 76-77 (Helgi Maki et al. eds., 2023).

¹²¹ Office on Violence Against Women, *supra* note 116.

¹²² Katz & Haldar, *supra* note 6, at 382.

¹²³ *Id.*

¹²⁴ Silver et al., *supra* note 14, at 855-856.

¹²⁵ Knuckey et al., *supra* note 23.

¹²⁶ Knuckey et al., *supra* note 23, at 274 (citing JANE BARRY & JELENA DJORDJEVIC, *WHAT'S THE POINT OF REVOLUTION IF WE CAN'T DANCE?* (2008)).

¹²⁷ Nah, *supra* note 22, at 3.

organizations themselves have been “slow to recognize the risk of secondary trauma.”¹²⁸

Considering this, some scholars consider the trauma-informed approach as an ethical duty, as otherwise, lawyers may be unable to perform their important work.¹²⁹

D. *The Importance of a Trauma-informed Lawyering Approach*

Alejo Rodriguez has described trauma-informed lawyering as “a practice in awareness, not an awareness of a practice.”¹³⁰ Trauma-informed lawyering is not simply a checklist approach to legal practice. Instead, it is a participatory method that influences how lawyers collaborate with others.¹³¹ It emphasizes the importance of knowing how trauma can impact a lawyer’s work. When lawyers handle cases involving trauma and individuals who have experienced it, they must adjust their approach to meet both the client and themselves in a manner that is emotionally intelligent and psychologically informed.¹³² Many scholars and practitioners have highlighted areas of law that necessitate a trauma-informed approach, such as probate,¹³³ domestic violence,¹³⁴ immigration law,¹³⁵ and family law.¹³⁶ But the need for trauma-informed lawyering doesn’t stop at public interest law.

¹²⁸ Baker et al., *supra* note 26, at 293.

¹²⁹ Silver et al., *supra* note 14, at 854.

¹³⁰ Alejo Rodriguez, *supra* note 2.

¹³¹ Helgi Maki, *Introduction: Legal Practice and Trauma*, TRAUMA-INFORMED LAW 63 (Helgi Maki et al. eds., 2023).

¹³² *Id.*

¹³³ Kelly McGrath, *When Unawareness Increases Pain: Why Probate Attorneys and Staff Need Trauma Training*, TRAUMA-INFORMED LAW 66 (Helgi Maki et al. eds., 2023).

¹³⁴ See, e.g., NAT’L CTR. ON DOMESTIC VIOLENCE, *supra* note 26; Jane M. Wangmann, et al., *What is ‘good’ domestic violence lawyering?: views from specialist legal services in Australia*, 37 INT. J. L. POL’Y & FAM. (Jan. 2023); Deborah Epstein & Lisa Goodman, *Discounting Women: Doubting Domestic Violence Survivors’ Credibility and Dismissing Their Experiences*, 167 U. PENN. L. REV. 399 (2019); Annie S. Lemoine, *Good Storytelling: A Trauma-Informed Approach to the Preparation of Domestic Violence-Related Asylum Claims*, 19 LOY. J. PUB. INT. L. 27 (2017).

¹³⁵ Ann E. Webb et al., *Trauma-Informed Lawyering in The Asylum Process: Engagement and Practice in Immigration Law*, 4 J MENT HEALTH SOC BEHAV., 171, 171 (2022); Kate Aschenbrenner, *Ripples Against the Other Shore: The Impact of Trauma Exposure on the Immigration Process through Adjudicators*, 19 MICH. J. RACE & L. 53 (2013); Lemoine, *supra* note 134; Krisztina Szabo, et al., *Advocate’s and Attorney’s Tool for Developing a Survivor’s Story: Trauma Informed Approach*, NAT’L IMMIGRANT WOMEN’S ADVOC. PROJECT (2023), <https://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/pdf/TRAUM-Qref-AdvocatesToolDevelopingSurvivorStory-7.10.17.pdf>; Mary Ann Dutton, et al., *Trauma Informed Structured Interview Questionnaires for Immigration Cases (SIQI)*, NAT’L IMMIGRANT WOMEN’S ADVOC. PROJECT (Apr. 27, 2023), <https://niwaplibrary.wcl.american.edu/wp-content/uploads/SIQI-Update-7.23.24-1.pdf>.

¹³⁶ Sarah Katz, *We Need to Talk About Trauma: Integrating Trauma-Informed Practice Into The Family Law Classroom*, 60 FAM. CT. REV., 757, 758 (2022); Sarah Katz, *Trauma-Informed*

Take technology law. Legal practice involving intellectual property and information policy law may appear to be a ‘neutral,’ uncomplicated area of practice, void of trauma or lacking a need for a trauma-informed methodology.¹³⁷ In fact, intellectual property and copyright mechanisms have been, and continue to be, implemented to take down non-consensual intimate imagery;¹³⁸ tech lawyers grapple with how to combat deepfakes both legally and at a policy level; they engage with the ways that Internet of Things devices are used to perpetrate intimate partner violence; and they engage with cyberlaws, such as the Computer Fraud and Abuse Act, that have failed to protect women and girls from harassment and abuse.¹³⁹ Similar dynamics arise in emerging areas such as artificial intelligence; a lawyer advising on the deployment of smart-home devices may confront situations in which those technologies are used as tools of coercive control in intimate partner violence.¹⁴⁰ Likewise, counsel working on deepfake regulation or platform moderation policies must engage with the psychological harm inflicted by deepfake sexual images and online harassment, harms that are often minimized within doctrinal or policy-oriented legal frameworks.¹⁴¹ A trauma-informed approach to this area is necessary to ensure a sustainable, ethical practice.¹⁴²

Those working in corporate positions will—clearly—interact with individuals throughout their work and even take on pro-bono cases which may grapple with difficult, traumatic topics. Consider also how a corporate lawyer may be advising a young business owner on how to grow their business; another may be processing the bankruptcy of a small business owner; another may be working on a deal they consider to be ethically fraught. As Jane Aiken observes, “[t]here is no such thing

Practice: The Future of Child Welfare, 28 WIDENER COMMW. L. REV. 51 (2019); Janice Beller, *Understanding Trauma beyond the Numbers: Integrating Trauma-Informed Practices in Family, Child Protection, and Juvenile Law*, 66 ADVOCATE 14 (2023).

¹³⁷ Anecdotally, many of Rhiannon’s students in the Intellectual Property and Information Policy legal clinic at Georgetown Law School mention this as being the very reason for choosing this area of practice.

¹³⁸ Amanda Levendowski, Note, *Using Copyright to Combat Revenge Porn*, 3 N.Y.U. J. INTELL. PROP. & ENT. L. 422, 426 (2014).

¹³⁹ See, e.g., Amanda Levendowski, *Defragging Feminist Cyberlaw*, 38 BERKELEY J. L. TECH. 857-863 (2023). See generally *United States v. Valle*, 807 F.3d 508 (2d Cir. 2015); *Van Buren v. United States*, 141 S. Ct. 1648 (2021).

¹⁴⁰ See generally EDVAW Platform, *Online and technology-facilitated violence against women and girls*, U.N. OFF. OF HIGH COMM’R FOR HUM. RTS., <https://www.ohchr.org/en/edvaw/online-and-technology-facilitated-violence-against-women-and-girls>.

¹⁴¹ *Id.*

¹⁴² Rhiannon works with her students throughout the semester to incorporate trauma-informed lawyering principles into their clinical practice, which has been cited by students as something they have incorporated into their work and has helped them to handle the more troubling areas of tech law.

as neutrality; everything has just or unjust effects.”¹⁴³ She explains how “[e]verything a lawyer does has to do with justice or injustice, sometimes on the surface and sometimes in the background.”¹⁴⁴ These examples illustrate that even ostensibly corporate, technical or ‘neutral’ legal work may intersect with trauma, underscoring the need for trauma-informed competencies across legal practice.

For Aiken, the fact that the law is imbued with justice issues necessitates the preparation of law students to “identify injustice when they see it and develop the skills and strategic thinking to remedy it.”¹⁴⁵ She calls for students to be not only practice ready upon graduation, but “justice ready,” or in other words, having an awareness of “injustice and commit[ing] to fighting it in their legal careers.”¹⁴⁶ She calls for clinical faculty to incorporate a justice readiness into their teaching.¹⁴⁷ We go one step further to recognize its importance far beyond the clinic.

Trauma-informed lawyering can help lawyers to provide “more effective representation” by being able to “identify trauma... [and] adjust their methods of counselling and representation to incorporate an understanding of their clients’ trauma history.”¹⁴⁸ Katz & Haldar describe how a trauma-informed approach, “with its emphasis on the effects of prior trauma, persuades [law] students to look at what the client may be seeking from the representation, and to consider whether the litigation process will achieve that goal, or whether that goal is best achieved by non-legal methods.”¹⁴⁹ It transitions a lawyer’s approach from only an “intellectual” one, that which is the method taught in law schools, to a “biopsychosocial” one.¹⁵⁰ It also brings an awareness of the retraumatization that can take place in attorneys, meaning individuals, organizations, and systems of lawyering can be shaped by these needs and incorporate sustainable practices.¹⁵¹ These skills strengthen a student’s justice readiness by incorporating new entry points to understand injustice.

Trauma-informed lawyering does not require nor expect lawyers to become social workers or psychologists.¹⁵² A trauma-informed practice

¹⁴³ Jane Aiken, *The Clinical Mission of Justice Readiness*, 32 B.C. J. OF L & SOC. CHANGE 231, 231 (2012).

¹⁴⁴ *Id.* at 233.

¹⁴⁵ *Id.* at 232.

¹⁴⁶ *Id.* at 233.

¹⁴⁷ *Id.* at 231.

¹⁴⁸ Katz & Haldar, *supra* note 6, at 371.

¹⁴⁹ *Id.* at 376.

¹⁵⁰ Maki, *supra* note 131, at 32.

¹⁵¹ Katz & Haldar, *supra* note 6, at 371.

¹⁵² Anne L. Ganley, *Attorney’s Handbook on Domestic Violence Representation*, NAT’L CTR. ON DOMESTIC VIOLENCE, TRAUMA & MENTAL HEALTH 1, 13 (2012), <https://ncdvtmh.org/wp-content/uploads/2022/10/AttorneyHandbookMay282012.pdf> (“Even the most seasoned domestic violence lawyers cannot know all there is to know about mental health issues facing survivors. Nor can attorneys take on the role of mental health professionals.”).

recognizes that lawyers are trained to be lawyers and encompasses what lawyers can do that does not interfere with their need to apply the law.¹⁵³ It is an awareness, a practice, and a methodology that can work for all legal disciplines.

II. LEGAL EDUCATION AND TRAUMA-INFORMED LAWYERING

Section I established the theoretical, practical, and ethical foundations of trauma-informed lawyering, emphasizing its relevance across all areas of legal practice and its potential to transform attorney-client relationships, courtroom dynamics, the well-being of legal professionals, as well as function as a method for social change. Having laid out why a trauma-informed approach is essential for competent, ethical, and sustainable lawyering, this Section turns to the structural gap we have identified in legal education.¹⁵⁴ Despite the growing recognition of trauma's pervasive impact on legal processes and actors, this Section argues that law schools continue to treat trauma-informed lawyering as optional or limited to clinical teaching. While Section I explained what trauma-informed lawyering is and why it matters, this Section explores where and how legal education has incorporated it, and it examines the profound consequences of any failure to do so. Fundamentally, this Section explores how the authors of this Article designed a reading group on trauma-informed lawyering to fill this gap.

This Section is divided into three parts. Part A examines the current state of trauma-informed legal education, and documents how, if taught at all, such an education is confined to optional clinical experiences or otherwise treated as an ancillary skill rather than a foundational

¹⁵³ *Id.*

¹⁵⁴ This section is also relevant to the ongoing debates concerning the American Bar Association's proposed changes to learning requirements that would require more hands-on training for law students. The original plan doubled the number of credits from experiential learning that law students would be required to take before graduating. The plan has brought about a split in the legal profession, with some professors celebrating the proposals and others panning them. The vote on the proposals was delayed in August 2025 following strong opposition to the changes. Nonetheless, the proposals indicate potential changes in the future that would require law students to take additional experiential classes. The reading group explored in this Article would provide one (low-cost) way of building additional methodological options for students within the wider curriculum. See Karen Sloan, *Law pros applaud, and pan, ABA's delay on hands-on learning requirement*, REUTERS (Aug. 25, 2025), <https://www.reuters.com/legal/legalindustry/law-profs-applaud-pan-abas-delay-hands-on-learning-requirement-2025-08-25/>; Julianne Hill, *ABA Legal Ed council proposal to increase experiential learning credit requirement faces pushback*, ABA J. (Jul. 17, 2025), <https://www.abajournal.com/web/article/proposal-to-double-experiential-learning-credits-faces-pushback-from-law-deans>; *ABA Revises Experiential Learning Proposal Amid Pushback from Law School Deans*, LEGAL.IO (Aug. 19, 2025), <https://www.legal.io/articles/5716104/ABA-Revises-Experiential-Learning-Proposal-Amid-Pushback-From-Law-School-Deans>.

professional ethic. Part B details the steps the authors took to establish the Reading Group on trauma-informed lawyering, available to those outside of the clinic space. Part C outlines fundamental principles that we learned through establishing the Reading Group on trauma-informed lawyering.

Together, these three parts underscore the urgent need to reimagine legal education to reflect the human realities of lawyering, to incorporate courses such as our reading group into curricula, to equip future lawyers with the tools to engage in their work with empathy, effectiveness, and sustainability, and to reimagine legal education as a tool for positive change.

A. *A Limited Approach Thus Far*

While there have been recent developments and opportunities for an education in trauma-informed lawyering in some schools, these experiences are limited, unevenly distributed, and often optional.¹⁵⁵ This has not gone unnoticed. Law schools have “long been criticized for inadequately addressing trauma and its effects and for failing to prepare law students to consider psychological and emotional responses to lawyering.”¹⁵⁶

Traditionally, lawyers are trained to separate emotions from the law to analyze and resolve legal problems efficiently.¹⁵⁷ In fact, a fiction surrounding legal education concerns the notion that “emotion has little to do with law.”¹⁵⁸ Therefore, trauma-informed lawyering is a relatively modern incorporation of U.S. legal education, which began and remains, for the most part, in law school clinics. Law clinics were established and developed between 1920 and 1930, but they did not take hold in law schools until 1960 and 1970.¹⁵⁹ Initially, law clinics were established to provide legal services to low-income clients.¹⁶⁰ Law clinics have since grown to become an essential tool for law students, providing them with

¹⁵⁵ Harris & Mellinger, *supra* note 17, at 801; Kaur, *supra* note 17, at 115–16; Stringfellow Otey, *supra* note 17, at 150.

¹⁵⁶ Katz, *supra* note 136, at 759 (citing Angela Lindsay & Hillary Mellinger, *Asylum Attorney Burnout and Secondary Trauma*, 56 WAKE FOREST L. REV. 733, 801 (2021)).

¹⁵⁷ Katz & Haldar, *supra* note 6, at 371.

¹⁵⁸ Katz, *supra* note 136, at 759 (citing Andrew J. Wistrich, Jeffrey J. Rachlinski & Chris Guthrie, *Heart Versus Head: Do Judges Follow the Law or Follow Their Feelings?*, 93 TEXAS L. REV. 855 (2015)).

¹⁵⁹ Katz & Haldar, *supra* note 6, at 373.

¹⁶⁰ There was once a debate as to whether the legal clinic’s purpose was primarily service or teaching, however, this progressed into an understanding that the purpose was simply both. See Aiken, *supra* note 143, at 232 (citing Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997, 999 (2004)).

exposure to reality and the legal system's limitations, and teaching them both the skills and 'justice readiness' to do so.¹⁶¹

Law clinics emphasize teaching social justice values, a client-centered approach, and acquiring practical skills.¹⁶² For this reason, they emerged as a natural venue for exploring trauma-informed lawyering. Trauma-informed lawyering reinforces clinical legal education's emphasis on teaching social justice principles and client-centered lawyering.¹⁶³ This is reflected in how trauma-informed methodologies have been incorporated into clinics across the clinical teaching spectrum, such as family law, immigration, human rights, criminal law, juvenile law, and veterans' rights clinics.¹⁶⁴ It also counterbalances how "attorneys are trained to separate emotions from the law in order to competently analyze legal problems."¹⁶⁵

Law school clinics are valuable places to pilot and refine trauma-informed lawyering, focusing on reflective practice and teaching law students' critical practical skills for their careers.¹⁶⁶ Many scholars focus their analysis on the legal clinic as a nexus for pedagogical and justice-oriented change.¹⁶⁷ Yet, as demonstrated above, trauma is an element undeniably present in the practice of law even outside of clinical teaching's purview.¹⁶⁸ The traditional methods of legal pedagogy outside of clinical education do not consider the skills lawyers need to meet to their client's specific needs.¹⁶⁹ Absent deliberate curricular reform, law schools will continue to leave graduating lawyers insufficiently prepared to navigate the pervasive psychological dimensions of legal advocacy. If trauma-informed practice were to be introduced earlier into a lawyer's education, law students will be better equipped to handle the realities of legal practice.¹⁷⁰

It is far less common, for example, to have trauma-informed lawyering incorporated into doctrinal classes or traditional legal skills workshops, whether mandatory or not.¹⁷¹ Others have also identified spaces outside of the clinical setting that would be ripe for trauma-informed

¹⁶¹ Katz & Haldar, *supra* note 6, at 373 (2016); Aiken, *supra* note 143, at 232 (regarding justice-readiness).

¹⁶² Katz & Haldar, *supra* note 6, at 372.

¹⁶³ *Id.* at 373.

¹⁶⁴ Angela P. Harris & Monika B. Kashyap, *From Trauma to Transformation: Trauma-Informed Pedagogy in Law School*, 27 U. PA. J.L. & SOC. CHANGE 1, 3 (2023).

¹⁶⁵ Katz & Haldar, *supra* note 6, at 371 (citing Lynette M. Parker, *Increasing Law Students' Effectiveness When Representing Traumatized Clients: A Case Study of the Katherine & George Alexander Community Law Center*, 21 GEO. IMMIGR. L.J. 163 (2007)).

¹⁶⁶ Katz & Haldar, *supra* note 6, at 372-373.

¹⁶⁷ See, e.g., Aiken, *supra* note 143.

¹⁶⁸ See *supra* Section I.

¹⁶⁹ *Id.*

¹⁷⁰ Katz, *supra* note 136, at 761.

¹⁷¹ *Id.* at 762.

teaching.¹⁷² One example is within the family law classroom, where students learn traditional lawyering skills such as interviewing alongside the doctrinal content of family law. Emphasizing how trauma is “baked in” to family law practice, Katz argues that trauma and trauma-informed practice should be interwoven into doctrinal family law classes in law school.¹⁷³

Katz identifies different pedagogical examples for how to do this within a family law classroom: using reading to introduce students to the basics of identifying trauma; using videos to show how trauma impacts the brain; incorporating the identification of trauma into the reading of reported cases; using roleplays to demonstrate how trauma may present; or building a client’s trauma history into a hypothetical fact scenario.¹⁷⁴ These suggestions could easily go beyond the family law classroom and simultaneously demonstrate the importance of incorporating such skills into spaces outside of the clinic environment.

In our own experiences as law students, practitioners, and legal educators, we found that trauma-informed practices were almost entirely absent from the mainstream curriculum—sometimes even from clinical syllabi.¹⁷⁵ This means that many law students, even those deeply committed to public interest or client-centered work, graduate without ever learning how trauma shapes the attorney-client relationship, courtroom dynamics, or their own well-being.

The continued marginalization of trauma-informed lawyering as an “add-on” to traditional pedagogy sustains a vision of the legal profession that is emotionally detached, adversarial, and disconnected from the lived realities of those it purports to serve. It reinforces outdated paradigms of the lawyer as a neutral technician rather than as a relational actor embedded in structures of power and harm.¹⁷⁶ Trauma-informed legal education teaches students to recognize the effects that traumatic experiences may have on their client’s actions and behaviors and to identify the impacts that these traumatic stories are having on their own lives.¹⁷⁷

¹⁷² See, e.g., Natalie Netzel, *Trauma-Informed (as a Matter of) Course*, 31 AM. U. J. GENDER SOC. POL’Y & L. 383 (2023).

¹⁷³ Katz, *supra* note 136, at 771.

¹⁷⁴ *Id.* at 771-772.

¹⁷⁵ We are grateful for the discussions one of our authors had with clinical faculty at the TechClinic Camp Workshop. These discussions identified how very few clinics outside of the traditional human rights, immigration, and criminal law clinics incorporate trauma-informed lawyering as a general practice. Instead, many may incorporate readings and discussions on an ad-hoc basis, such as if there was a particular concern with a client, project or student.

¹⁷⁶ Katz & Haldar, *supra* note 6, at 359; Rosenberg, *supra* note 3, at 1226 (“Unfortunately, however, we do not teach people how to use these skills in the contexts where they are most needed - in interactions and relationships with colleagues, opposing counsel, clients and decision-makers”); Wiesner, *supra* note 8, at 586.

¹⁷⁷ Katz & Haldar, *supra* note 6, at 359.

Finally, law schools serve as the primary incubator of professional norms and competencies, embedding trauma-informed practices in the curriculum ensures that graduates enter practice equipped to meet their ethical obligations and to protect both client welfare and their own well-being from the very outset of their careers.¹⁷⁸ Trauma-informed lawyering encompasses a group of skills that are not always cognizable by a rules-oriented legal culture.¹⁷⁹ However, some advocates have observed how trauma-informed lawyering may work in support of lawyers' Rule 1.1 of the Model Rules of Professional Conduct obligations—the 2017 American Bar Association Report titled “The Path Lawyer Well-Being Report” has recommended amending Rule 1.1 to “include language. . . which defines “competence” to include the mental, emotional, and physical ability reasonably necessary for the representation.”¹⁸⁰ From a legal ethics perspective, trauma-informed lawyering is crucial in the exercise of the profession and a pedagogical tool in understanding legal ethics.¹⁸¹

B. The Reading Group on Trauma-informed Lawyering

Drawing from our experience designing and facilitating a trauma-informed lawyering reading group at Columbia Law School (CLS), this Part outlines a concrete model for introducing trauma-informed pedagogy into legal education. Although structured as a “reading group,” the initiative occupied a space between an informal discussion group and a traditional law school course. Approved by the law school, supervised by faculty, and offered for one academic credit on a pass/fail basis, the Group combined structured readings, guided discussions, and guest speakers across a limited number of class sessions.¹⁸² We do not present the Reading Group as a comprehensive solution, but rather as a starting point: a space to cultivate awareness, develop foundational skills, and begin building a professional culture that takes trauma and empathy seriously. In doing so, we offer both a practical intervention and a broader vision for curricular reform.¹⁸³

¹⁷⁸ Townsend, *supra* note 120, at 76-77.

¹⁷⁹ Polikoff, *supra* note 8; Gerdy, *supra* note 8, at 15-17.

¹⁸⁰ Townsend, *supra* note 120, at 76-77.

¹⁸¹ *Id.*

¹⁸² See *infra* Example Syllabus, Appendix C.

¹⁸³ Our own paths illustrate both the need and the opportunity for change. Although we hail from Argentina, Chile, Mexico, and the United Kingdom, and our legal training and professional experiences vary widely, we discovered at Columbia Law School a shared commitment to supporting people who have endured profound harm: incarcerated individuals, survivors of sexual violence, and victims of human rights abuses. We soon began collaborating on a project to bring our experience and knowledge to American legal education. During this process, we recognized that none of us, each of whom had worked closely with trauma survivors, had received any specialized training. Despite our diverse origins, we all learned

What initially brought us together was a dedication to developing our own skills in trauma-informed lawyering. With little on offer to us, we set out to develop our own class. As we prepared our initial proposal for CLS, we observed how trauma-informed lawyering is incorporated into some areas of U.S. legal education, as explored above. Our response began modestly—we submitted a (successful) project proposal through the Davis Polk Innovation Grant initiative at CLS, which aims to support projects involving CLS community members engaging in leadership through tackling real-world challenges.¹⁸⁴ Our proposal focused on creating a resource for the broader CLS community on trauma-informed lawyering. It included developing a Reading Group, organizing speaker events to foster connections with trauma-informed academics, and establishing a student association dedicated to trauma-informed lawyering as a space to facilitate these activities.¹⁸⁵

The Reading Group specifically was designed to be a space where interested students could discuss key ideas in trauma-informed lawyering through the lens of different areas of law. With support from the grant, and guidance from Professor Amber Baylor, that idea evolved into a one-credit course called the ‘Reading Group on Trauma-Informed Lawyering.’¹⁸⁶ First offered in Spring 2024 and repeated in Spring 2025, the Reading Group consisted of a limited number of class sessions, eight in the inaugural year and ten in the second iteration, through which students explored trauma-informed practices in the legal profession. While more limited in scope than a traditional doctrinal course, the Reading Group sought to combine theoretical understanding with practical skills, preparing students to implement these practices in diverse legal contexts. More broadly, the Reading Group sought to be a setting in which we could carve a space and community within the law school, for both students and faculty, where trauma-informed education could grow.

The pages that follow detail the Reading Group’s structure, discussions, and outcomes. We focus here on the inaugural 2024 course, which laid the foundation for subsequent iterations, but also note the ways that we refined the syllabus in 2025. This Part also includes

to support trauma-affected clients through practical experience, benefiting from mentors, observing peers, or basic on-the-job guidance. None of us encountered trauma-informed legal education in law school.

¹⁸⁴ *Davis Polk Leadership Initiative*, COLUM. L. SCH., <https://leadership-initiative.law.columbia.edu/>.

¹⁸⁵ Discussion of activities outside of the Reading Group are beyond the scope of this Article.

¹⁸⁶ *Reading Group on Trauma-informed Lawyering*, COLUM. L. SCH., <https://web.archive.org/web/20250515215151/https://www.law.columbia.edu/academics/courses/34592/>; see also *infra* Example Syllabus, Appendix C.

the feedback we received from students in both 2024 and 2025, plus suggestions of future refinements following the conclusion of our 2025 course. By sharing our experience, we aim to encourage other scholars to embed trauma-informed perspectives throughout their curricula and thereby prepare the next generation of lawyers to serve clients respecting trauma-informed perspectives and guidelines.

1. *Preparation and Inauguration of the Reading Group*

The first Reading Group took place in the Spring semester of 2024 at CLS, under the supervision of Professor Amber Baylor. Before launching the Reading Group, we undertook a series of carefully planned preparatory steps aiming for the program's success and a long-term impact. These efforts were two-pronged: first, administrative and organizational steps, and second, substantial research to develop a syllabus that encompassed a wide variety of trauma-informed practices and approaches. We aimed to include as many perspectives on trauma-informed practices as we could in one semester, with the purpose of showing different legal areas of its application.¹⁸⁷ The holistic approach of the syllabus was designed to engage law students with different legal interests and backgrounds to the Reading Group. Equally, the syllabus was intended to reflect our foundational purpose: to show that trauma-informed lawyering is essential to legal practice *per se* and should be taught to all law students. The syllabus hence provided material to promote discussion among the students on the importance of a trauma-informed practice as a core pillar of legal education.¹⁸⁸

The syllabus featured readings, multimedia resources, and guest speakers for each of its sessions.¹⁸⁹ It not only reflected an interdisciplinary approach but also integrated practical exercises for the students.¹⁹⁰ Once the initial draft of the syllabus was completed, we asked for feedback from a group of professors, who we also asked to participate in the Reading Group as discussion leaders to draw upon both the readings and their own experiences in practice: these professors specialized in the

¹⁸⁷ Our syllabus included classes on the criminal justice system, in the judicial branch, and its application in human rights practice. See *infra* Example Syllabus, Appendix C. This equally reflected the expertise available at CLS and the existing legal scholarship on the subject.

¹⁸⁸ See *infra* Example Syllabus, Appendix C. The materials for each class are incorporated throughout the descriptions forthcoming of each class session.

¹⁸⁹ The classes also sought to grapple with and interrogate existing definitions of trauma, its origin, and its effects. Some readings focused on the impact of trauma on traditionally marginalized communities, such as the LGBTQ+ community, racialized individuals, and criminalized individuals. These topics were divided among the faculty members that supported our project and joined us in the Reading Group, according to their expertise.

¹⁹⁰ Such as interviewing practice, mind mapping, and reflection exercises.

criminal system and criminal proceedings, social justice, the court system and human rights. This meaningful collaboration not only strengthened the content of the sessions but also reaffirmed the Reading Group's commitment to cultivating a trauma-informed community within CLS across legal disciplines.

2. *Reading Group, 2024*

The 2024 Reading Group consisted of eight in-depth sessions held twice a month, each lasting one hour and fifty minutes, focused on a distinct dimension of trauma-informed lawyering, and were led by prominent experts in the field. Open to J.D. and LL.M. students, fifteen students participated in this inaugural class; each from diverse professional and cultural backgrounds, including Argentina, Austria, Chile, China, India, Japan, Mexico, Sri Lanka, the U.K. and the U.S.¹⁹¹ This ensured that our discussions were informed by a diversity of perspectives and cultural-political ideas around lawyering.¹⁹²

To promote an environment of trust and openness, and to mitigate stress associated with competitive curve-based grading systems, the Reading Group was offered on a pass/fail basis and graded based on attendance and participation. The physical setup of the classroom, chairs arranged in a circle, was deliberately chosen to reduce traditional hierarchies and foster egalitarian, empathetic dialogue. Guest speakers would join the circle just as the students joined. Discussions illuminated the gap in legal education around trauma, the unintentional harm lawyers may cause without proper training, and the need for more human-centered approaches to advocacy. By course end, students had not only acquired a deeper understanding of trauma-informed lawyering but also developed practical tools for minimizing harm, fostering resilience, and pursuing justice with greater empathy and intentionality.

a. *Session One*

The opening session, led by our guest professor, specialized in criminal justice, introduced foundational concepts on trauma-informed

¹⁹¹ Excluding 1Ls due to curriculum restrictions.

¹⁹² We emphasize here the importance of including LL.M students as part of this cohort. In many law schools, LL.M students are unable to participate in clinical education. Often, this is because of the way that clinics time the selection of their incoming students—before LL.M students even have their acceptance offers. Sometimes, it is because so few spaces are kept available to LL.M students, that many are unable to participate, even if they wanted to do so. Other clinics also do not incorporate LL.M students as it is perceived to be a wasted investment on students who may simply return to their countries at the end of their studies. This final aspect requires deep reflection on the part of schools who take such a myopic approach to the values of LL.M students and their contributions beyond U.S. law school.

lawyering,¹⁹³ and encouraged early reflection through a pre-distributed questionnaire.¹⁹⁴ The students were asked to reflect on: What is trauma? How does it manifest in legal contexts? How does it intersect with law? A key focus of the class was identifying the gap in legal education related to trauma-informed practices, which often prioritize facts and evidence over the human elements of the law. By providing a reflective questionnaire, this also acted as a marker of the students' knowledge of the topics at that stage in the semester and their educational journey on trauma-informed lawyering, a resource to reflect back upon in the future. To help build a sense of community and ease participants into these sensitive discussions, we incorporated shared food during the first meeting, building on ideas of commensality and community through food.¹⁹⁵

A number of students had already gained experience working in legal settings where a trauma-informed approach to lawyering would have been helpful.¹⁹⁶ As a result, the discussion reflected on moments when they struggled due to a lack of formal training in this area. Through these reflections, it became clear how even a basic understanding of trauma-informed principles, and a knowledge of helpful language, could have transformed their approach, allowing them to engage more sensitively, adapt their questioning techniques, and foster a sense of safety for their clients.

b. Sessions Two and Three

The next two sessions were led by another guest professor, formerly incarcerated, with experience in the criminal legal system.¹⁹⁷ The students learned about the retraumatization of criminal defendants by both the legal system, and lawyers themselves. The professor interrogated the idea that trauma-informed lawyering as a tick-box exercise and explored how a trauma-informed “awareness” was crucial.

¹⁹³ See *infra* Example Syllabus, Appendix C; Howlett & Sharp, *supra* note 16; Kathy Minella, *Trauma-Informed Lawyering: What Is It and Why Does It Matter*, MINELLA L. GRP. (Feb. 22, 2022), <https://minellalawgroup.com/blog/trauma-informed-lawyering-what-is-it-and-why-does-it-matter/>; Alexander S. Rusek & Aylysh B. Gallagher, *An Introduction to Trauma-Informed Lawyering*, MICH. B.J. (Aug. 2023), <https://www.michbar.org/journal/Details/An-introduction-to-trauma-informed-lawyering?ArticleID=4671>.

¹⁹⁴ A copy of the questionnaire is attached as an appendix to this Article. See *infra* Initial Survey, Appendix A.

¹⁹⁵ See, e.g., Harry G. West, *We Are Who We Eat With: Food, Distinction, and Commensality*, THE MIT PRESS READER, <https://thereader.mitpress.mit.edu/we-are-who-we-eat-with/>; Claudine Cassar, *From Sharing a Meal to Sharing Culture – How Commensality Shapes Social Identity*, ANTHROPOLOGY REV. (Oct. 10, 2024), <https://anthropologyreview.org/anthropology-glossary-of-terms/commensality-the-social-practice-of-eating-together/>.

¹⁹⁶ Another reason why the input of LL.M students, many of whom have come from years of legal practice, is crucial.

¹⁹⁷ See *infra* Example Syllabus, Appendix C.

We were fortunate in the third session to also have insights from another three professors in a discussion around the systemic challenges of mass incarceration, dehumanization, and structural inequality.¹⁹⁸ Through assigned readings and the short film *Unbecoming*,¹⁹⁹ students examined how trauma is both inflicted and revealed within criminal law procedures and the behavior of legal actors. *Unbecoming* acted as a crucial pedagogical tool to explore the moments where a trauma-informed practice becomes relevant in the experiences of a Black prosecutor (the film's protagonist).

The discussions unpacked how trauma surfaces at different stages of the criminal process and how these experiences shape individuals' interactions with the system. Emphasis was placed on developing thoughtful, humane strategies for working with both directly impacted individuals and community organizations involved in criminal legal reform. The discussions also explored the intersection of trauma with systemic oppression, such as racism and mass incarceration, and considered how alternative restorative practices might offer more healing-centered approaches to justice.

c. Sessions Four and Five

The next two sessions examined the judicial system's role in perpetuating trauma.²⁰⁰ The professor shared her experiences from 30 years as a judge, and as an attorney working on pro bono family law cases, and as a leading advocate for LGBTQ+ individuals in the legal profession.

The first session highlighted the importance, and absence, of trauma-informed training for courtroom actors, including judges, court clerks, and interpreters, and the balance between supporting victims and maintaining fairness in courtrooms.²⁰¹

The second session focused on the experiences of LGBTQ+ individuals within the legal system. We explored whether there is the need for specialized courts and greater representation amongst legal

¹⁹⁸ See Helgi Maki, *Trauma-Informed Law*, <https://www.traumainformedlaw.org/about>; Danielle Rousseau, *Traumatic Experiences in Correctional Facilities: Who Has It Worse? Correctional Staff or Those Who Are Incarcerated*, B.U. COURSE BLOGS (Jun. 20, 2021), <https://sites.bu.edu/daniellerousseau/2021/06/20/traumatic-experiences-in-correctional-facilities-who-has-it-worse-correctional-staff-or-those-who-are-incarcerated/>; Pinderhughes et al., *supra* note 26.

¹⁹⁹ *Unbecoming* is a short film about the arrest of a protester and their passage through the criminal legal system, including detention, encounters with other incarcerated people, and a court appearance with their lawyer before a judge. UNBECOMING (On file with authors).

²⁰⁰ The session readings included NAT'L CTR. ON DOMESTIC VIOLENCE, *supra* note 26; Eva McKinsey et al., *supra* note 26; Bohannon et al., *supra* note 26. See *infra* Example Syllabus, Appendix C.

²⁰¹ See, e.g., McKinsey et al., *supra* note 26, at 43.

professionals, such as LGBTQ+ judges, to mitigate systemic harm and alleviate trauma for marginalized identities.²⁰²

d. Sessions Six and Seven

Our guest professor who specialized in human rights, led two sessions on trauma in such a context.²⁰³ Topics included retraumatization, vicarious trauma, and self-care strategies.²⁰⁴ Through these discussions, we emphasized the ethical and practical considerations that legal professionals must navigate when engaging with survivors of human rights violations through effective strategies for conducting interviews, while also highlighting practices for ensuring their own well-being in high-stakes, emotionally demanding fields.²⁰⁵

In the second session, a key component was a mock interview exercise where students practiced trauma-informed client interaction in paired simulations, with one student playing human rights practitioner and the other as interviewee.²⁰⁶ Each student only had access to information about their own role, meaning that the students could explore the impact of making assumptions about an individual based on minimal information, and developed empathy with interviewees, exploring the impact of interviewing approaches that fail to center the individual. This hands-on experience emphasized empathy, active listening, and the importance of creating safe, non-judgmental spaces.

e. Session Eight

The final class sought to offer students a space to reflect on lessons learned and to envision how trauma-informed principles could be integrated into their future legal practices and develop collaborative approaches that prioritize client well-being.²⁰⁷ A closing questionnaire

²⁰² See, e.g., Adam Frankel, “Do You See How Much I’m Suffering Here?” *Abuse against Transgender Women in US Immigration Detention*, HUM. RTS. WATCH (Mar. 23, 2016) <https://www.hrw.org/report/2016/03/23/do-you-see-how-much-im-suffering-here/abuse-against-transgender-women-us>.

²⁰³ See *infra* Example Syllabus, Appendix C.

²⁰⁴ See Porterfield, *supra* note 4; *Guidelines*, *supra* note 26; Threa Almontaser, *And That Fast, You’re Thinking About Their Bodies*, in *THE WILD FOX OF YEMEN* 1, 83 (2021); Simone Cruz & Jelena Dordevic, *Protection, Self-Care, and the Safety of Human Rights Defenders*, 30 *SUR INT’L J. ON HUM. RTS.* 239 (2020); Nah, *supra* note 22; Baker et al., *supra* note 26.

²⁰⁵ Porterfield, *supra* note 4; HUM. RTS. WATCH, *supra* note 35; Almontaser, *supra* note 204; Cruz & Dordevic, *supra* note 204; Nah, *supra* note 22; Baker et al., *supra* note 26.

²⁰⁶ The hypothetical was based on a scenario in which an individual had witnessed serious human rights violations committed against their community, including the forced removal and detention of almost all the community members. The interviewee was mainly concerned about the fate of her husband, while the purpose of the interview was limited to gathering information rather than providing legal advice or assistance.

²⁰⁷ See *infra* Example Syllabus, Appendix C.

revisited early themes and helped solidify students' personal takeaways. By reflecting at both the beginning and the end of the semester, students were able to acknowledge and visualize their growth and educational journey through the course.²⁰⁸

3. *Feedback*

Through the final reflective exercise in the last class, we were able to obtain feedback from the students on the content of the classes as well as the pedagogical tools to explore the topics addressed. This feedback offers detailed insights into how the course impacted their perspectives and practices.²⁰⁹

a. Practical Skills

Overall, participants expressed that the Reading Group provided them with both theoretical knowledge and practical tools to implement trauma-informed approaches in their work. A central realization was the importance of being mindful of a client's history and how trauma impacts their behavior and communication. For example, students noted that preparation for client's interviews should go beyond gathering legal facts and include consideration of the client's emotional state and specific needs. They emphasized techniques that they had learned through the classes, like active listening, allowing clients to take breaks when needed, and being clear about their intentions to create trust and rapport. Many highlighted the necessity of being sensitive to cultural and linguistic differences, noting that translation issues and cultural norms could exacerbate misunderstandings or harm.

b. Long-term Strategies

Another important takeaway was the value of self-awareness in legal practice. Students reflected on the need to acknowledge their own emotional limits and engage in self-care to prevent burnout. They appreciated learning strategies for balancing compassion with professionalism to sustain a long-term career in law. These insights encouraged participants to view trauma-informed lawyering as a dynamic and evolving practice that requires constant reflection and adaptability throughout their careers.

²⁰⁸ Unfortunately, due to circumstances beyond our control, we were unable to meet in person for our final session. Instead, a reflection exercise was assigned and the class reflected remotely and provided feedback via email.

²⁰⁹ See *infra* Final Survey, Appendix B.

c. *Systemic Issues*

Feedback also revealed that participants recognized how certain elements of the legal system and lawyer behaviors could inadvertently re-traumatize clients. For example, lawyers may unintentionally trigger clients by asking insensitive or overly direct questions about traumatic events. In this regard, a student claimed: “[i]t can lead the client to be triggered and re-experience the trauma and build up a resistance towards the efficacy and trustworthiness of the legal system, rather than helping them out through its complexities we would only pull them away from it and aggravate their suffering.”²¹⁰

Students noted that clients often feel powerless and disrespected in legal proceedings, which can lead to further distrust of the legal system. Another recurring observation was the lack of understanding among legal professionals about how trauma manifests in clients, such as memory lapses or emotional detachment, and how this can affect crucial elements of the legal process like providing testimony. The students recognized that these behaviors, when misunderstood, can lead to credibility challenges for clients and hinder their ability to access justice. The very acknowledgement of these risks highlights the students’ new readiness to tackle these challenges.

d. *Relationships of Trust*

Students also pointed out that public defenders, often burdened with overwhelming caseloads, may struggle to build the strong relationships of trust necessary for effective trauma-informed representation. In this sense, a participant said: “[t]he caseloads may significantly impair PDs [“public defenders”] ability to build strong relationships with clients. Failure to communicate can be seen as not caring about the client. Failing to recognize that while you might have seen a lot of cases like this before and know things will turn out well, this might be a client’s first encounter with the criminal punishment system and they might be terrified of what is going to happen.”²¹¹

e. *Agency and safety*

In addition, students offered thoughtful suggestions on how lawyers can foster safe spaces for clients who have experienced trauma. A recurring theme was the importance of giving clients agency and control over the process, such as allowing them to choose when and where to meet or collaboratively deciding on legal strategies. Students agreed on the idea that, by providing clear explanations of legal procedures and

²¹⁰ Notes on file with authors.

²¹¹ *Id.*

setting realistic expectations, lawyers can alleviate some of the anxiety and confusion clients may feel.

f. A Holistic Approach

Additionally, students stressed the importance of empathy and holistic thinking. Lawyers should consider the broader context of a client's life, including external stressors that may impact their ability to engage with the legal process. Several students emphasized the role of collaboration, suggesting that lawyers work alongside social workers, psychologists, or other professionals to provide comprehensive support for clients. They also advocated for small but impactful gestures, such as ensuring privacy, showing respect in communication, and creating a comfortable physical environment during meetings.

g. New Areas of Law

Students suggested expanding the curriculum to include areas such as immigration, corporate law, housing, and family law in the following editions of the Reading Group. Students identified these fields as particularly rife with trauma and in need of trauma-informed approaches. Some participants proposed including a session on interdisciplinary collaboration, focusing on how lawyers can effectively work with social workers and mental health professionals. Others recommended inviting psychologists or psychiatrists to provide scientific insights into trauma, its effects on clients, and best practices for legal professionals when addressing it. Participants also expressed interest in exploring the role of trauma in other contexts, such as dispute resolution and academic environments. These suggestions reflect a recognition that trauma is not limited to specific legal fields and that trauma-informed principles can be applied broadly.

h. Pedagogy

Students also highlighted that guest speakers brought invaluable real-world perspectives to the discussions. Having professors with experience with incarceration and as a judge were some of the most powerful experiences that helped provide a better understanding in how trauma informed practices can be applied. Finally, our invited professor specialized in human rights' exercises and simulations were frequently cited as some of the most effective learning tools students got from the Reading Group.

The overall feedback on the Reading Group was overwhelmingly positive, with many students describing it as a transformative experience that filled a gap in traditional legal education. Some students suggested logistical adjustments, such as providing discussion questions in

advance to help participants prepare for class discussions or adjusting the timing of sessions for better focus. Others recommended continuing to integrate interactive activities, such as role-playing and mediation exercises, to further enhance engagement and learning. A particularly meaningful observation was that the Reading Group created an open environment for discussing sensitive topics. Students appreciated the opportunity to explore trauma-informed lawyering without the usual academic focus on exams and grades. Finally, many expressed hope that the course could continue in future semesters and even expand its scope.

4. *Reading Group, 2025*

The 2025 Reading Group consisted of ten sessions held every two weeks. Each session lasted one hour and fifty minutes, focused on a different aspect of trauma-informed lawyering and was led by guest speakers with vast experience working in the field. The Group included twelve 2L, 3L, and LL.M. students from diverse professional and cultural backgrounds, including Belgium, Australia, Switzerland, India, and the U.S.

Building on the success and insights of the inaugural edition in 2024, the 2025 iteration of the Reading Group reflected a significant expansion in both content and scope.²¹² Drawing directly from participants' feedback and self-assessment from the 2024 cycle, the course syllabus was revised to address previously identified gaps, enrich the legal and practical foundations of the program, and strengthen interdisciplinary engagement.

Responding to the enthusiastic feedback to the in-class role-playing and practical exercises from the previous year, we not only preserved these components but also expanded their scope and frequency. Our aim was to ensure that each session incorporated at least one practical exercise, allowing students to actively apply trauma-informed principles in simulated legal contexts: for example, we maintained the use of the *Unbecoming* film as a pedagogical tool; the interviewing exercise was extended to cover an entire session to facilitate a deeper exercise and room for reflections on the process; students were asked to plan ways to mitigate vicarious trauma in their own lives and legal practices. These experiential learning opportunities proved essential in bridging theory and practice, deepening students' understanding through reflection and skill-building.

Lastly, we continued to prioritize an inclusive and non-hierarchical classroom environment. Sessions remained pass/fail and the classroom continued to be arranged in a circle to minimize power dynamics

²¹² Syllabus on file with authors.

between participants and guest speakers, promoting open dialogue and collaborative learning.

a. Session One and Two

The opening session for 2025, again specialized in criminal justice, examined trauma within the criminal law system, beginning with a short survey on students' legal experience and interest in trauma-informed lawyering to foster an open and intimate environment.²¹³ Little was changed between the 2024 and 2025 reading groups for the opening session.

After discussing survey results and sharing personal experiences, the session moved to foundational definitions of trauma and its effects, emphasizing its influence on individuals and communities involved in the justice system. Readings such as "The Body Keeps the Score" were added to encourage students to reflect on issues like stigma, institutionalization, reentry, and systemic discrimination.

Class activities included collaborative reading reflections, a critical analysis of trauma-informed frameworks, and a film viewing on vicarious trauma. As in the 2024 iteration of the Reading Group, the short film *Unbecoming*²¹⁴ encouraged students to reflect on trauma throughout the various stages of the criminal process, highlighting trauma that is both inflicted by and re-experienced by the actors operating within the system itself. Other activities, including an open group discussion highlighted the importance of preventing retraumatization, supporting client wellbeing, and exploring both personal and systemic factors contributing to trauma in justice contexts. Throughout the session, participants examined ethical challenges and the self-care responsibilities of legal professionals, emphasizing the importance of trauma awareness and sensitivity for those working within the legal system and for the communities they serve. The course fostered collaborative reflection on the lawyer's role in advancing client wellbeing and highlighted the need for practical, trauma-informed approaches in legal practice.

b. Session Three and Four

The next two sessions were again led by our invited professor with experience on the bench, and expertise in the court system. The sessions began with an in-depth exploration of trauma within the U.S. legal system, examining the unique pressures and emotional burdens

²¹³ Myrna McCallum, *Trauma & Compassion: My Interview with Gabor Maté* (Apple Podcasts, independently recorded Jun. 1, 2020), <https://thetraumainformedlawyer.simplecast.com/episodes/trauma-compassion-my-interview-with-gabor-mate/transcript>; Katz & Haldar, *supra* note 6; VAN DER KOLK, *supra* note 26; Pinderhughes et al., *supra* note 26; DeVeaux, *supra* note 70.

²¹⁴ See *supra* note 199 and accompanying text.

faced by judges, lawyers, defendants, jurors, and especially those from marginalized backgrounds.²¹⁵ Readings such as “Trauma-Informed Judicial Practice from the Judges’ Perspective,”²¹⁶ “Judicial Perspectives on Handling Child Trafficking Cases,”²¹⁷ and a collection of papers on “Strategies for Connecting with Survivors Involved with Legal Proceedings”²¹⁸ opened the discussion for finding key components of a trauma-informed courtroom.

By comparing state and federal court experiences, students gained insight into how systemic challenges—such as high caseloads, insufficient legal representation, and mandatory minimum sentencing—exacerbate trauma for those navigating the justice system. The discussion highlighted the dual necessity and difficulty of fostering empathy and trauma-informed practices among legal professionals, who often must balance compassion with the demands for impartiality and emotional distance.

During the second class, special focus was given to the compounded trauma experienced by immigrants, LGBTQ individuals, and other vulnerable groups, both inside and outside the courtroom. Readings such as “Do You See How Much I’m Suffering Here?”²¹⁹, “Banning the Use of Gay and Trans Panic Defenses”²²⁰ and “The Lives of Lesbian, Gay, Bisexual, and Transgender People: A Trauma-Informed and Human Rights Perspective”²²¹ allowed an in-depth reflection of structural barriers to justice for LGBTQ+ victims and legislative reform efforts to equal protection under the law.

Both classes were structured through a dynamic combination of lecture, open discussion, Q&A sessions, and hands-on exercises. Students engaged deeply with readings, case studies, and media analysis, considering how public perception and social media influence judicial outcomes. Throughout, participants critically examined ethical boundaries and the

²¹⁵ *Domestic Violence: A Q & A With Trauma Researcher Maja Bergman*, COLUM. UNIV. DEP’T OF PSYCH. (Sep. 25, 2024), <https://www.columbiapsychiatry.org/news/domestic-violence-q-trauma-researcher-maja-bergman>; NAT’L CTR. ON DOMESTIC VIOLENCE, *supra* note 26; McKinsey et al., *supra* note 26; Bohannon et al., *supra* note 26; Brooke Migdon & Rebecca Beitsch, *Federal agencies ordered to implement transgender bathroom ban*, THE HILL (Jan. 30, 2025), <https://thehill.com/homenews/lgbtq/5117077-trump-transgender-bathroom-ban-opm-gender-ideology/>; Christy Mallory, Brad Sears, & Luis A. Vasquez, *Banning the Use of Gay and Trans Panic Defenses*, UCLA SCH. OF L. WILLIAMS INST. (2021), <https://williamsinstitute.law.ucla.edu/publications/model-leg-gay-trans-panic/>; Frankel, *supra* note 202.

²¹⁶ McKinsey et al., *supra* note 26.

²¹⁷ Bohannon et al., *supra* note 26.

²¹⁸ NAT’L CTR. ON DOMESTIC VIOLENCE, *supra* note 26.

²¹⁹ Frankel, *supra* note 202.

²²⁰ Mallory, et al., *supra* note 215.

²²¹ Diane E. Elze, *The Lives of Lesbian, Gay, Bisexual, and Transgender People: A Trauma-Informed and Human Rights Perspective*, in *TRAUMA AND HUMAN RIGHTS* (L. D. Butler, F. M. Critelli & J. Carello eds, 2019).

importance of self-care for legal practitioners. The sessions ultimately underscored the urgent need for trauma-awareness, active listening, and adaptable courtroom practices that prioritize reducing harm and promoting well-being for everyone involved.

c. Session Five, Six and Seven

Session six, led by our invited professor specialized in human rights opened up with reflection on the poem “And That Fast, You’re Thinking About Their Bodies”²²² to illustrate the omnipresence of trauma in daily life, particularly through sensory details and personal interactions. The central discussions examined how identity, memory, and systemic violence intersect with trauma, and included a critical evaluation of the “Human Rights Watch Guidelines for Interviewing Survivors of Trauma and Conducting Research on Sexual Violence”²²³ and trauma-informed frameworks highlighting ethical considerations, power imbalances, and the dangers of retraumatization.

The second focused exclusively on a hands-on trauma-informed interviewing exercise, departing from the approach in 2024. Theoretical learning went from preparing before the interview, conducting the interview, addressing interview challenges and reporting findings. As with the previous version of the Reading Group, the class split into two groups, interviewer and interviewee, to practice interviewing in a trauma-informed style. It finalized with a reflection exercise exploring the effect of playing the interviewee, as well as understanding how different approaches to interviewing work

The third session—revised to be more reflective and practitioner-centered—delved into the complexities of retraumatization and vicarious trauma. Students actively bridged academic concepts with real-world challenges, critically analyzing both theory and ethical dilemmas in practice. The redesigned session on vicarious trauma, added in this 2025 edition offered a deeper, more practitioner-focused understanding of the emotional demands of human rights advocacy, equipping participants with practical strategies for sustaining ethical, client-centered, and resilient legal practice. Students were encouraged to engage in private reflection exercises on the emotional toll of legal work and develop personal strategies for well-being and sustainability in trauma-exposed environments.²²⁴

²²² Almontaser, *supra* note 204.

²²³ *Guidelines*, *supra* note 26.

²²⁴ See, e.g., Porterfield, *supra* note 4; Cruz & Dordevic, *supra* note 176; Nah *supra* note 22; Baker et al., *supra* note 26.

d. Session Eight

One of the most notable changes to the 2024 curricula was the expansion of the curriculum from eight to ten sessions.²²⁵ This allowed for a deeper exploration of trauma in domestic and international legal contexts, and greater incorporation of interdisciplinary and practitioner-oriented perspectives. Considering that many of the students were interested in international criminal and human rights law, the revised syllabus included a session on international criminal investigations, examining the explicit recognition of trauma in proceedings before the International Criminal Court (ICC).

This eighth session, led by a visiting professor specialized in international law, focused on understanding how the explicit mention of trauma within the Rome Statute has shaped international criminal investigations into mass atrocities, and how this can influence the trial proceedings.

The professor provided a framework on international criminal justice, and an overview for students who didn't have an international law background. Then, "The Trauma Expert"²²⁶ and "Trauma-Misinformed Justice at the International Criminal Court"²²⁷ readings helped students examine the ICC's current practices and explore avenues for reform to better accommodate the psychological realities of trauma in international criminal justice.

e. Session Nine

To provide students with the scientific and medical understanding of trauma-informed practice, we integrated psychological expertise into the Reading Group and introduced a new session led by a trauma psychologist. This session offered students essential insights into the clinical and neurological dimensions of trauma, including therapeutic communication techniques, vicarious trauma prevention strategies, and trauma-informed interview practices grounded in psychological theory.

By reading "Journalists covering the refugee and migration crisis are affected by moral injury not PTSD,"²²⁸ the Reading Group's discussion shifted toward emotional health, with a focus on the distinct symptoms of PTSD, depression, and moral injury. The professor illustrated how symptoms of PTSD may emerge during interviews with clients who

²²⁵ *The Trauma Expert*, INT'L CRIM. CT., <https://www.icc-cpi.int/get-involved/justice-at-work/story/the-trauma-expert>; Nacyte, *supra* note 62.

²²⁶ *Id.*

²²⁷ Nacyte, *supra* note 62.

²²⁸ Anthony Feinstein, Bennis Pavisian & Hannah Storm, *Journalists covering the refugee and migration crisis are affected by moral injury not PTSD*, 9 J. OF THE ROYAL SOC. OF MED. OPEN 1 (2018).

have experienced trauma and explained the physiological and neurological processes that occur after a traumatic event and can give rise to such responses.

The reflection then focused on the role of the lawyer in responding to these reactions, highlighting the importance of understanding them as part of a trauma-informed interviewing process. It also addressed how lawyers can support individuals during difficult episodes and, in doing so, improve their own practice.

Having a psychologist participate in the Reading Group proved invaluable in helping students understand the scientific dimensions of trauma. From a clinical perspective, the psychologist explained how trauma manifests in the body and brain, how it may be identified in professional interactions, and why it is essential for lawyers to clearly establish their role when working with trauma-affected individuals. This interdisciplinary perspective also equipped students with practical tools to respond appropriately and ethically, reducing the risk of retraumatization while fostering a trauma-informed legal practice.

f. Session Ten

Our final session did not change in function or format from the 2024 version, providing a moment to reflect upon the learnings from throughout the semester.

In summary, the 2025 Reading Group consolidated the foundational work laid in its first edition and significantly broadened its scope and deepened its impact.²²⁹ Through interdisciplinary collaboration, new thematic additions, and enhanced pedagogical tools, this year's course reflected an evolving, responsive approach to trauma-informed legal education and one that remains committed to fostering resilience, empathy, and justice in the legal profession.

C. Foundational Principles of a TIL Reading Group

By reflecting on the experiences of designing the 2024 and 2025 Reading Groups, and incorporating feedback from the students in both sessions, we have compiled foundational principles that have been instrumental in guiding this Reading Group.²³⁰ We include these here for guidance for future scholars and teachers who may be interested in replicating the format of the Reading Group.

²²⁹ GOLDEN EAGLE RISING SOC'Y, *supra* note 26; Lorilei Williams, *An Antiracist Approach to Trauma-Informed Lawyering*, SHRIVER CTR. ON POVERTY LAW (Jun. 29, 2021), <https://www.povertylaw.org/article/trauma-informed-lawyering/>.

²³⁰ As in 2024, in the final session of the 2025 Reading Group, students were asked for their feedback through a questionnaire provided during the last class. Their insights were extremely valuable in understanding what worked for the students. *See infra* Final Survey, Appendix B.

The recommendations and suggestions reflect the factors that were most successful in the two Reading Groups: those that we think must be protected due to their success as part of the groups, those that must be incorporated considering the scholarship that we drew from in developing the Reading Group, and those that reflect our collective ambition to extend trauma-informed lawyering communities in law school and beyond. We acknowledge how these principles have been developed and formed through the community we built—through the scholars and scholarship we engage with throughout the semester, but most importantly through the students that enroll and their contributions. These principles concern: (i) vicarious trauma training, (ii) smaller group sizes, (iii) experiential learning, (iv) intersectional approaches, and (v) community building.

1. Space for Vicarious Trauma

Much trauma-informed lawyering scholarship focuses on the prevention of retraumatization of the people that lawyers work with; However, a top priority identified by students was the prevention of vicarious trauma through the use of concrete tools built into systems of work to help monitor emotional and psychological well-being. The subject of vicarious trauma was repeatedly raised throughout the course, as well as in the feedback, as a priority, emphasizing the need to deeply grapple with the subject throughout the syllabus. Any discussion of trauma-informed lawyering, regardless of disciplinary focus, must incorporate skills concerning vicarious trauma.²³¹

2. Smaller Groups

Students underscored the importance of creating intentional spaces for peer-to-peer exchange and how the Reading Group functioned as a crucial physical and emotional environment for community building whilst in law school. Many students remarked on the size of the Reading Group being optimal for community building and conducive for deeper discussions on the tricky topics discussed in the classroom.²³² As discussion leaders, we found the seminar-sized classroom to be conducive to discussions around trauma. Students in the 2025 Reading Group were concerned about expanding trauma-informed lawyering to larger

²³¹ Anecdotally, it was far easier to engage students in discussions surrounding retraumatization, as opposed to vicarious trauma. Students appear to be naturally inclined to focus on the well-being of their clients; less so as to their own well-being and sustainable practice. Incorporating structured time to reflect and develop skills in vicarious trauma identification and mitigation was essential to ensuring that these conversations were not overtaken by conversations concerning retraumatization.

²³² Each year consisted of 15 students, plus one to four additional discussion leaders.

groups at the risk of jeopardizing the ability to have the nuanced, sensitive conversations required as part of a trauma-informed education.

3. *Experiential Elements*

Some students advocated for more opportunities to develop and share personal and professional experiences from diverse legal and cultural contexts, whether drawn from internships, community work, or lived realities. This seemed to be particularly important for students who did not have as much experience in legal practice as others.²³³ To ground these conversations in practice, students proposed expanding observation opportunities through partnerships with courts, legal aid organizations, or initiatives like CourtWatch,²³⁴ allowing them to witness the real-world application, or absence, of trauma-informed principles. These experiences equally could be incorporated into any assessment, whereby students are asked to reflect on the moments where a trauma-informed approach comes into tension with what they are observing or where such an approach could have improved it.

Many also emphasized the value of incorporating audio-visual materials into the syllabus, recommending films and series like *I May Destroy You*²³⁵ or *The Strike*²³⁶ documentary to stimulate critical reflection on how trauma is represented and addressed in broader cultural and legal contexts. These narrative tools, they suggested, provide important entry points for discussing justice, identity, and healing in ways that transcend conventional legal texts and work as impactful pedagogical tools.

As such, incorporating experiences into the curriculum is a crucial principle for any future iterations of a trauma-informed reading group. As detailed, there are many ways of incorporating experiences into the curriculum and should be a foundational pillar of designing a group.

4. *Intersectional Approaches*

Sessions dedicated to specific, intersecting forms of trauma, such as LGBTQ+ experiences, gender-based violence, and the unique challenges faced by children, were received well by students and strengthened their ability to build a more nuanced understanding of trauma in legal settings. These thematic sessions may traverse legal areas but allow for the exploration of specific intersections of trauma-impacted

²³³ As discussed *supra*, LL.M students tended to have more practical experience, compared with the J.D. students.

²³⁴ COURTWATCH, <https://courtwatch.org/>.

²³⁵ I MAY DESTROY YOU (BBC One television broadcast Jun.-Jul. 2020) <https://www.bbc.co.uk/iplayer/episodes/m000jxyx/i-may-destroy-you>.

²³⁶ THE STRIKE (BBC 2007).

individuals' experiences. As part of the way we designed the Reading Group, we ensured that voices and perspectives presented in the classroom were diverse, and this is a necessary pillar in taking the group forward. Students encouraged the regular inclusion of guest speakers with lived experiences, such as formerly incarcerated individuals, survivors, or frontline advocates from underrepresented jurisdictions, as a way to challenge dominant narratives in the legal field.

5. *Community Building*

As part of our own experience in creating the Reading Group, one remarkable aspect has been the community we have been able to form with legal scholars, practitioners, and students. Our original mission was to build community, and through the Reading Group we have been able to build connections between interested and engaged individuals who are similarly passionate about our mission. Students remarked how they would enjoy staying connected with the community built in the Reading Group, beyond the end of the semester. Not only would this be for the purpose of maintaining the relationships developed in the classroom, but also to share resources and ask questions when they are in their own legal practice. Students envisioned online platforms, such as LinkedIn groups, to support ongoing dialogue, resource-sharing, and alumni engagement beyond the classroom.

Some students recommended opening select sessions of future Reading Group classes to alumni and practitioners to cultivate a broader trauma-informed legal community. This could be either on specific sessions to invite back alumni who have worked in these specific areas of law, or even in a more social setting whereby future Reading Group members are connected with alumni.

In sum, these community-driven proposals offer a thoughtful, actionable roadmap for deepening the impact and reach of trauma-informed legal education, both in the Reading Group and beyond. Through the integration of practical tools, reflective exercises, diverse voices, and community-building strategies, the Reading Group can continue evolving into a transformative space, one that not only trains future lawyers in trauma awareness but also empowers them to lead systemic change in their own lives grounded in empathy, sustainability, and justice.

III. A TRANSFORMATIONAL APPROACH

This Article articulates one approach to incorporating trauma-informed lawyering into legal education. However, we recognize that many may be unable to dedicate the time and resources that we did to creating such a group. We hope that this Article might facilitate this process, particularly by providing the syllabi and our foundational

principles. Nonetheless, this Section provides a range of suggested means of incorporating trauma-informed lawyering into legal education that require a shorter time commitment. These ideas are derived from the work we did in the Reading Group, but we offer alternative approaches to answering the call we have made, to incorporate trauma-informed lawyering beyond the clinic (and certainly within all clinics). We have divided these suggestions into temporal categories: (A.) big ideas, that would require a year from start to finish; (B.) medium ideas, that might require a semester to complete; and (C.) small ideas, that would require a mere couple of hours.²³⁷

A. *Big Ideas*

1. *Make Your Own Reading Group*

As suggested throughout this Article, the reading group format provides a fruitful, effective method of incorporating a robust education of trauma-informed lawyering. We suggest that this Article works as the starting point for such a project and provides detailed instruction on how it might be incorporated in other schools. The syllabus is provided as an appendix to this Article,²³⁸ and the readings throughout provide alternative sources for reading group discussion topics.

2. *Incorporation into 1L Curriculum as a Stand-alone Class*

The 1L curriculum requires introductory classes, including legal research and writing. Legal research professors and instructors, as well as those in charge of introductory classes, can incorporate trauma-informed lawyering into these classes. Particularly as writing groups are often smaller groups, sometimes working with librarians, these might offer an opportunity to engage in trauma-informed lawyering discussions and training, whilst being dedicated to smaller class formats, community building, and providing opportunities for experiential, practical learning.

B. *Medium Ideas*

1. *Incorporation into Doctrinal Classes*

Integrating trauma-informed lawyering more formally into the core legal curriculum is one smaller way of incorporating trauma-informed lawyering into legal education. Embedding these discussions within

²³⁷ The authors of this Article are grateful for the discussions Rhiannon had with participants in the TechClinic Camp workshop in June 2025 who identified how a range of suggestions would be helpful for busy scholars and practitioners.

²³⁸ See *infra* Example Syllabus, Appendix C.

professional responsibility and ethics modules, or relevant doctrinal classes—such as family law, constitutional law, or criminal law—offer additional opportunities.²³⁹ This could be executed through integration of reflective and/or practical exercises exploring the implementation of trauma-informed lawyering into a specific discipline. Other suggestions included offering it as a J-Term or intensive course to improve accessibility.

2. *Establishing a TIL Association Who Could Facilitate a Reading Group or Start Building Community*

Working with students who might be interested in developing a trauma-informed lawyering curriculum is another smaller step in establishing trauma-informed lawyering into legal education. Identify students who can facilitate a trauma-informed lawyering association or society in the law school, who can invite external speakers to speak to the law school broadly. Alternatively, these students can help form a reading group—just like we did when we were at law school.

C. *Small Ideas*

1. *Case Rounds and Reflection on Trauma-informed Lawyering*

As a baseline, we encourage all legal clinics to incorporate trauma-informed lawyering resources and readings into their curriculum. The syllabus is attached as an appendix to this Article, plus the readings incorporated throughout, provide a quick basis for incorporating into existing syllabi. Regardless of whether a transactional, criminal, or technology law clinic, this Article demonstrates how a trauma-informed lawyering education is essential to the development of students' lawyering skills and identity.

One simple way of introducing this concept to clinic students would be through engaging in case rounds on trauma-informed lawyering, allowing students to grapple with the ways in which trauma is shaping the relationships they have with their client, as well as with their teammates, or even with the subject-matter itself.²⁴⁰

An alternative would be a reflection exercise asking students to reflect on how trauma may be shaping the relationships within their clinic experience, providing scholarship as scaffolding for this reflection.²⁴¹

²³⁹ See, e.g., Katz & Haldar, *supra* note 6.

²⁴⁰ For more information on case rounds, see Deborah Epstein, *Beyond the Classroom: Applying the Stages of Rounds Structure to Analysis of Clinical Supervision* (on file with authors); Susan Bryant & Elliot S. Milstein, *Rounds: A "Signature Pedagogy" for Clinical Education?*, 14 CLIN. L. REV. 195 (2007).

²⁴¹ Helpful scholarship could include Porterfield, *supra* note 4 at 68; Katz & Haldar, *supra* note 6 at 361; Silver et al., *supra* note 14, at 847.

CONCLUSION

As trauma-informed lawyering becomes increasingly recognized as a crucial methodology to navigate the complexities of legal practice, the disconnect between legal education and the reality of practice becomes more pronounced. Legal education needs to prepare law students to be excellent lawyers, ones that can engage in a robust and critical exploration of power, trauma, and relationality. Even if the nuances of trauma responsiveness can't be fully captured in a lecture, exposure to its principles can lay the groundwork for more empathetic, effective advocacy.

A trauma-informed approach to lawyering is essential if lawyers are to effectively work with other individuals who may have suffered or continued to suffer the effects of trauma. As this Article observes, trauma touches upon any area of law, as all lawyers are required to engage, work with, and serve other human beings. Trauma-informed lawyering is an awareness and methodology that shapes all aspects of lawyering and guides a lawyer into an approach that is more successful and ensures greater competency. It also helps lawyers to create stronger relationships with their clients, facilitates the information gathering that makes a stronger case, and provides the lawyer with tools to be able to work more sustainably for themselves.

Law school shapes the way that lawyers practice. Some areas of practice, such as human rights and criminal defense, have begun to incorporate a trauma-informed legal education into their foundational methodologies. Scholars and educators must now explore ways of incorporating trauma-informed lawyering beyond the clinic. Law school must be re-interpreted and re-imagined to facilitate a lawyer's transition to a trauma-informed approach, otherwise, the work of the radical lawyers who are already undertaking this transition will be lost.

A reading group is one step on the way to this fundamental change. It facilitates the bringing together of people, ideas, and disciplines, while challenging pedagogical structures and presumptions. A reading group builds community, provides space for exploration of new ideas, and promotes a hybrid pedagogical environment for both doctrinal and experiential rigor. This Article has offered one example of how to implement this in practice—a success story for trauma-informed legal education. It also offers several additional strategies that may support educators seeking to advance trauma-informed legal education.

Through a trauma-informed reading group, our students took steps toward a system that seeks to end suffering, that embodies sustainable practice, and orients legal relationships through a focus on justice. They went beyond traditional understandings of legal education and expertise to ready themselves to handle the complex relationships that their legal practice will bring. All law students deserve this education. This Article is one step toward this goal.

APPENDICES

Appendix A – Initial Survey

This Appendix includes the survey distributed to participants at the opening session of the Reading Group:

This brief survey helps us understand your current knowledge and perspectives on trauma. Your responses will be kept confidential and used solely to reflect on the learning outcomes of this Trauma-Informed Lawyering reading group by the end of the semester. Please answer all questions to the best of your ability within 10 minutes. You will be asked whether you want to share your answers with the class, but all comments are voluntary.

1. Briefly define what you understand by the term “trauma.”
2. How does law connect with trauma? Are there specific areas of law that are relevant to this work?
3. Can you think of any legal situations where a client’s past trauma might be relevant to their case? Do you have any personal examples from previous work?
4. Do you think legal professionals generally receive adequate training in understanding and responding to trauma-affected clients?
5. How might a lawyer’s actions or the legal system itself potentially re-traumatize or further disadvantage a client who has experienced trauma? Do you have any examples from previous work?
6. How can a lawyer create a safe and supportive environment for a client who has experienced trauma?
7. Is there anything else you would like to share about your understanding of trauma or its relevance to the legal field? This might include experiences from a cultural or national perspective.

Appendix B - Final Survey

This Appendix includes the survey distributed to participants at the final session of the Reading Group:

1. How do you define trauma-informed lawyering?
2. How do you think trauma-informed lawyering impacts your area of practice?
3. What will you take forward into the future from this class, either into your legal studies or into your work?
4. How might a lawyer’s actions or the legal system itself potentially re-traumatize or disadvantage a client who has experienced trauma?

5. How can a lawyer create a safe and supportive environment for a client who has experienced trauma?
6. What do you think needs to be changed about the legal system to incorporate a trauma-informed approach?
7. Were there other topics or areas of law that you think the Reading Group should cover?
8. What were the most successful parts of the Reading Group, in terms of developing your knowledge of trauma-informed lawyering?
9. Do you have any other feedback for the Reading Group?

Appendix C - Example Syllabus

The syllabus reproduced below is a consolidated version prepared for purposes of this publication. The Reading Group on which this Article is based was offered in 2024 and 2025, at Columbia Law School. While each year's syllabus differed in structure, readings, and scheduling, the version presented here reflects a synthesized compilation of the core themes, topics, and pedagogical components that were addressed across those iterations.

To provide a clear and representative overview of the course, specific dates, session sequencing, guest speakers, and year-specific materials have been omitted or harmonized. Accordingly, the syllabus should be understood not as a verbatim reproduction of any single year's course materials, but rather as an illustrative summary of the subjects and approaches explored throughout the development of the course. We encourage readers of this Article to use the following syllabus as a basis to incorporate into their own trauma-informed law classes.

Introduction to Trauma-informed Lawyering

Illustrative materials:

- Rebecca Howlett & Cynthia Sharp, *Strategies for a Trauma-Informed Law Practice*, A.B.A. GPSOLO EREPORT (Oct. 26, 2021), <https://www.americanbar.org/groups/gpsolo/resources/ereport/archive/strategies-trauma-informed-law-practice/>.
- Kathy Minella, *TRAUMA-INFORMED LAWYERING: WHAT IS IT AND WHY DOES IT MATTER*, MINELLA L. GRP. BLOG (Feb. 22, 2022), <https://minellalawgroup.com/blog/trauma-informed-lawyering-what-is-it-and-why-does-it-matter/>.
- Alexander S. Rusek & Aylysh B. Gallagher, *An Introduction to Trauma-Informed Lawyering*, MICH. B.J., (Aug. 2023), <https://www.michbar.org/journal/Details/An-introduction-to-trauma-informed-lawyering?ArticleID=4671>.

- Sarah Katz & Deeya Haldar, *The Pedagogy Of Trauma-Informed Lawyering*, 22 Clinical L. Rev. 359 (2016) [Part I, pp. 363-370; and Part III(A), pp. 382-384].
- Marjorie Silver, et. al, *Stress, Burnout, Vicarious Trauma, and Other Emotional Realities in the Lawyer/Client Relationship*, 19 TOURO L. REV. 845 (2015).
- Myrna McCallum, *Trauma & Compassion: My Interview with Gabor Maté*, THE TRAUMA-INFORMED LAWYER PODCAST (Jun. 1, 2020) <https://thetraumainformedlawyer.simplecast.com/episodes/trauma-compassion-my-interview-with-gabor-mate/transcript>.
- Shawn Ginwright, *The Future of Healing: Shifting From Trauma Informed Care to Healing Centered Engagement* (May 21, 2018) <https://ginwright.medium.com/the-future-of-healing-shifting-from-trauma-informed-care-to-healing-centered-engagement-634f557ce69c>.

Criminal Law: Trauma and the Criminal Legal System

Illustrative materials:

- Helgi Maki, *Introduction: Legal Practice and Trauma*, TRAUMA-INFORMED LAW (Helgi Maki et al. eds. 2023).
- Danielle Rousseau, *Traumatic Experiences in Correctional Facilities: Who Has It Worse? Correctional Staff or Those Who Are Incarcerated*, BU Course Blogs (June 20, 2021), <https://sites.bu.edu/daniellerousseau/2021/06/20/traumatic-experiences-in-correctional-facilities-who-has-it-worse-correctional-staff-or-those-who-are-incarcerated/>.
- Bassel Van der Kolk, *Chapter Six*, THE BODY KEEPS THE SCORE. BRAIN, MIND, AND BODY IN THE HEALING OF TRAUMA (2014).
- Mika'il DeVeaux, *The Trauma of the Incarceration Experience*, 48 HARVARD C.R.-C.L. L. REV. 257 (2013) https://journals.law.harvard.edu/crcl/wp-content/uploads/sites/80/2013/04/DeVeaux_257-277.pdf.
- Howard Pinderhughes, *Adverse Community Experiences and Resilience: A Framework for Addressing and Preventing Community Trauma*, PREVENTION INSTITUTE (2015).

Criminal Law: Healing and Challenging Harm

Illustrative materials:

- Sarah Katz & Deeya Haldar, *The Pedagogy Of Trauma-Informed Lawyering*, 22 Clinical L. Rev. 359 (2016).

- Bassel Van der Kolk, *Communal Rhythms and Theater*, THE BODY KEEPS THE SCORE. BRAIN, MIND, AND BODY IN THE HEALING OF TRAUMA (2014).
- Mike Milton, *A love letter to St. Louis*, <https://www.freedomstl.org/a-love-letter-to-st-louis>.

Judiciary: Trauma and the Court System

Illustrative materials:

- Eva McKinsey et al., *Trauma-Informed Judicial Practice from the Judges' Perspective*, 106 JUDICATURE 34 (2022).
- Theresa Bohannon et al., *Voices from the Bench: Judicial Perspectives on Handling Child Sex Trafficking Cases*, NAT'L COUNCIL OF JUV. & FAM. CT. JUDGES (2019).
- *Strategies for Connecting with Survivors Involved with Legal Proceedings (Module 1)* NATIONAL CENTER ON DOMESTIC VIOLENCE, TRAUMA, AND MENTAL HEALTH, <https://ncdvtmh.org/toolkit/strategies-for-connecting-with-survivors-involved-with-legal-proceedings/> (Last accessed Jan. 23, 2026).
- *Domestic Violence: A Q & A With Trauma Researcher Maja Bergman*, COLUMBIA UNIVERSITY DEPARTMENT OF PSYCHIATRY (Sep. 25, 2024).

Intersectional approaches: Trauma & the LGBTQ+ Community

Illustrative materials:

- Adam Frankel, “Do You See How Much I’m Suffering Here?” *Abuse against Transgender Women in US Immigration Detention*, HUMAN RIGHTS WATCH (Mar. 23, 2016) <https://www.hrw.org/report/2016/03/23/do-you-see-how-much-im-suffering-here/abuse-against-transgender-women-usus>.
- Diane E. Elze, *The Lives of Lesbian, Gay, Bisexual, and Transgender People: A Trauma-Informed and Human Rights Perspective*, TRAUMA AND HUMAN RIGHTS (L. D. Butler, F. M. Critelli & J. Carello eds, 2019) https://link.springer.com/chapter/10.1007/978-3-030-16395-2_8.

Human Rights: Retraumatization

Illustrative materials:

- Helgi Maki, *Introduction: Legal Practice and Trauma*, TRAUMA-INFORMED LAW (Helgi Maki et al. eds. 2023).

- Human Rights Watch, *Guidelines for Interviewing Survivors of Trauma and Conducting Research on Sexual Violence* (2016), <https://www.hrw.org/report/2016/03/31/guidelines-interviewing-survivors-trauma-and-conducting-research-sexual-violence>.
- Threa Almontaser, *And That Fast, You're Thinking About Their Bodies*, THE WILD FOX OF YEMEN (Graywolf Press, 2021).

Human Rights: Vicarious Trauma

Illustrative materials:

- Simone Cruz & Jelena Dordevic, *Protection, Self-Care, and the Safety of Human Rights Defenders*, 30 Sur Int'l J. on Hum. Rts. (2020).
- Alice Nah, *Wellbeing, Risk, and Human Rights Practice*, 1 Hum. Rts. Defender Hub Pol'y Brief (Jan. 2017).
- Elise Baker et al., *Safer Viewing: A Study of Secondary Trauma Mitigation Techniques in Open Source Investigations*, 22 Health & Hum. Rts. J. 293 (2020).

International Law: International Criminal Investigations

Illustrative materials:

- *The Trauma Expert*, INTERNATIONAL CRIMINAL COURT (last accessed Jan. 24, 2026) <https://www.icc-cpi.int/get-involved/justice-at-work/story/the-trauma-expert>; Laura Nacyte, *Trauma-Misinformed Justice at the International Criminal Court*, IntLawGrrls (Mar. 3, 2020) <https://ilg2.blog/2020/03/03/trauma-misinformed-justice-at-the-international-criminal-court/>.
- Laura Nacyte, *Trauma-Misinformed Justice at the International Criminal Court*, IntLawGrrls (Mar. 3, 2020) <https://ilg2.blog/2020/03/03/trauma-misinformed-justice-at-the-international-criminal-court/>.

Immigration Law: Resilience

Illustrative materials:

- Allison Detzel, A 'prison for children': Lawyer describes harrowing conditions at Texas ICE facility (Feb.18,2026) <https://www.ms.now/news/dilley-texas-ice-center-conditions-children-trump-immigration>.

- Elora Mukherjee, *Liam Ramos Was Just One of Hundreds of Children at This Detention Center. Release Them All*, (Feb 1, 2026) <https://www.nytimes.com/2026/02/01/opinion/liam-ramos-ice-detention.html>.
- Pilar Hernández, David Gangsei & David Engstrom, *Vicarious Resilience: A New Concept in Work with Those Who Survive Trauma, Family Process* (June 2007).
- Angela Lindsay & Hillary Mellinger, *Asylum Attorney Burnout and Secondary Trauma*, 56 WAKE FOREST L. REV. 733, 801 (2021).

Building a Trauma-Informed Legal Practice: Theory of change

Illustrative materials:

- British Columbia Law Institute, *Guide to Trauma-Informed Legal Writing*, (February 2025) <https://www.bcli.org/wp-content/uploads/TILWG-Final.pdf>.
- Howard Pinderhughes, *Adverse Community Experiences and Resilience: A Framework for Addressing and Preventing Community Trauma*, PREVENTION INSTITUTE (2015).

Building a Trauma-Informed Legal Practice: Key Principles and Strategies

Illustrative materials:

- *Trauma-Informed Toolkit for Legal Professionals*, GOLDEN EAGLE RISING SOCIETY (last accessed Jan. 24, 2026) <https://www.goldeneaglerising.org/initiatives-and-actions/trauma-informed-toolkit-for-legal-professionals/>.
- Lorilei Williams, *An Antiracist Approach to Trauma-Informed Lawyering*, SHRIVER CENTER ON POVERTY LAW (Jun. 29, 2021) <https://www.povertylaw.org/article/trauma-informed-lawyering/>.

WHICH COMES FIRST? INTEGRATING THE SKILL OF STORYTELLING INTO THE PROCESS OF REFLECTION

DAWN BARKER ANDERSON* & JUNE T. TAI**

Storytelling is a buzzword in fields ranging from education to exercise. There are twenty-six TED Talks on the subject alone. Whole legal conferences are devoted to the subject of storytelling because of its power. Relatedly, many scholars have discussed the benefits of telling one's own story. Within legal education, few legal educators have written about the benefits of storytelling as a reflective activity on learning, particularly in the context of experiential education. Drawing from other professional fields such as healthcare and education, this article explores the potential of using reflection essays and exercises in law school as a vehicle for developing storytelling skills. Underlying the authors' interest in this area is a belief that storytelling—and the stories one tells oneself and others about their work—is fundamental to formation of a professional identity. This article seeks to explore how legal educators can teach both storytelling and reflection at the same time and further discusses why reflecting on one's own experiences might be the perfect starting point for storytelling.

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A STORY¹

There was a 1L appointment this semester that I did not feel excited for. It took me a while to review their draft and to provide thoughtful feedback. The writing was rough. . . . During the appointment, I focused on big-ticket items and showed the student some writing resources to help them work on some skills. . . . I felt like the appointment was not going well because the student had a serious face while I gave feedback and did not seem like they wanted to socialize. . . .

Toward the middle of the appointment, the student asked more questions. Instead of seeming detached and disinterested, they seemed anxious to get a good grade. . . . They asked a lot of specific questions and at one point asked how much more time they should spend revising the draft. I gave them my honest assessment, with the caveat that it depends on the writer.

The student made a face. . . . I responded, “You made a face. My answer surprised you, tell me why.” The student shared that they were surprised because the amount of time I suggested was far less than they expected. They thought that they needed to spend at least double the amount of time on the draft. This led to a conversation about work-life balance. They admitted that they work on law school non-stop and that their friends and family told them to work less. . . .

The student paused. They then asked if I was a first-generation law student—I said yes. . . and the student then opened up about their experience as a child of an immigrant and the sense of personal responsibility they felt to help their parent economically. They felt protective of their parent, who works a hard, low paying job, and wanted to do well in law school to make sure their parent could be okay one day. Throughout the conversation, I listened and shared some of my own experiences. It seemed to comfort the student to know someone else experienced something similar and to be able to tell someone else about what they were going through.

¹ Student Essay, Fall 2024 (edited for length and reproduced with permission). A student wrote this essay as part of a class entitled “Advanced Legal Writing: Writing Center.” The prompt was: Tell the story of an experience you had during the Writing Center this semester and explain how it informed or changed your tutoring practice going forward. Describe the actors in the story and what role they played, what happened in the story, what you took away from the experience, and why.

The experience reminded me how important it is to “show up” to appointments. . . . Tutoring appointments sometimes can be a straightforward feedback session, or they can be something deeper and more complicated. What felt like a mundane appointment going in, turned into a time for the student to get something off their chest. During a hectic week, it can feel so tempting to put the bare minimum into an appointment and just think: It’s just a 1L memo assignment. But the grade and writing sample that comes from that memo can directly impact a student’s job prospects. In law school, we are told to not worry so much about grades, but something that seems to get lost along the way is that there are students who have a lot riding on a grade and have a reason why they are desperate to climb to the top.

The appointment also reminded me that we do not know what other people are going through. The student’s anxious questions about grades and creating the perfect memo seemed like typical “gunner” behavior, but when put in context, the questions came from a place of determination and maybe a little desperation. The grade-obsessed questions were a bit off-putting without context, but once I knew where those questions were coming from, instead of just telling the student to not care about grades too much, I was able to provide fuller advice.

Ultimately, the experience hammered into my head again that as tutors, we can have a huge impact on a person’s life. Sometimes an appointment is just an appointment, but often times [sic] they are a venue for a 1L to feel less lonely in their journey. When put in that context, what could be a mundane appointment with a stranger becomes something precious and something to treat with care.

The lesson the student tells from this story is that every interaction that a tutor has with another student is an opportunity to make a positive difference. It also reminds us that interactions are complex, and the parties rarely know the full back story of the other. If the student had just written this lesson—or moral, it may or may not have stuck with her or even the reader. But when wrapped in a story, with characters, a plot, emotion, and a moral, the lesson resonates in a different way with the writer and the reader and stays with them more completely as a result. How can an instructor persuade students of the value of exploring each of these elements of a story? And does the craft of developing a story matter? What is the reasoning for this approach? These are the questions we seek to answer in this Article.

INTRODUCTION

The benefits of telling one's own story are pervasive in scholarly literature. Within legal education, numerous articles analyze the role of reflection in learning, particularly in the context of experiential education.² Other articles emphasize storytelling as a legal skill deployed in advocating for a client.³ But we have found few articles that discuss specifics of why and how to combine teaching of the two skills—reflection and storytelling—within the legal academy.⁴ Drawing from other professional fields, such as healthcare and education, we explore the potential of using reflection essays and exercises in law school as vehicles for developing storytelling skills. Underlying our interest in this area is a belief that storytelling—and the stories one tells oneself and others about their work—is fundamental to formation of a professional identity.

This Article seeks to explore how legal educators can teach both storytelling and reflection at the same time and further discusses why reflecting on one's own experiences might be the perfect starting point for storytelling. Part I provides an overview of the reflective process and the role of storytelling within lawyering, and how the goals of each converge and diverge. Part II discusses the benefits of combining the two and identifies potential areas for caution and consideration. Finally, Part III shares specific creative writing techniques that spark reflection and relate to lawyering skills.

² See, e.g., Nancy Levit, *Legal Storytelling: The Theory and the Practice—Reflective Writing Across the Curriculum*, 15 J. LEGAL WRITING INST. 259, 260 (2009) (advocating for incorporation of storytelling as a type of reflective writing across the law school curriculum); Jo A. Tyler & Faith Mullen, *Telling Tales in School: Storytelling for Self-Reflection and Pedagogical Improvement in Clinical Legal Education*, 18 CLINICAL L. REV. 283, 288 (2011) (describing storytelling as a way of reflecting on client work in a law school clinic).

³ See, e.g., Stephen P. Lindsay, *Storytelling: Why We Do It and How to Do It Better*, CHAMPION at 30 (Dec. 1999) (describing storytelling in the context of opening statements to a jury); Laurie Shanks, *Whose Story Is It, Anyway?—Guiding Students to Client-Centered Interviewing Through Storytelling*, 14 CLINICAL L. REV. 509, 517–22 (2008) (pairing students to interview and tell each other's stories in order to teach client-centered interviewing skills); Sarah E. Warner, *The Power of Storytelling*, J. KAN. BAR ASS'N (Oct. 2018), at 6 (describing importance of storytelling in different aspects of legal practice).

⁴ See, e.g., Levit, *supra* note 2, at 265 (explaining that writing reflectively across the law school curriculum teaches more than just storytelling skills); see also Tyler & Mullen, *supra* note 2, at 297 (“What is largely absent from this mix are stories told by law students about their own experiences with the law.”). While Tyler and Mullen analyze student and faculty stories for reflective purposes, they do so through a research study analyzing how students tell a client story. By contrast, we are focused here on structured creative writing prompts that explore narrative techniques while using the students' experiences as the subject of the writing.

I. WHY REFLECTION AND STORYTELLING BELONG TOGETHER

A. *Reflection as a Framework for Professional Growth*

Books and articles foundational to legal education pedagogy emphasize the use of reflection to learn from experience.⁵ “Deliberate reflection provides a new professional with a process to develop professional judgment.”⁶ For clinical and skills teachers, for example, the core skills of reflection encompass a wide range of goals, including: (1) formation of a professional identity that values expertise and ongoing improvement; (2) a habit of examining work for what went well and what might be improved next time; and (3) an ability to transfer the knowledge and skills developed to new situations.⁷ Experiential learning in legal education, therefore, emphasizes reflection as foundational. The Clinical Legal Education Association’s Handbook for New Clinical Teachers, for example, states:

Without reflection, an experience that a student might have working with a client or on a matter simply becomes a trope of what a particular area of practice is like. With reflection added in, the experience allows a student to understand how they—with their biases, baggage, and beliefs—fit into the narrative of what it means to be a lawyer.⁸

To convey the process of reflection, researchers and learning theorists have developed various models for adult learning. One model—the Gibbs reflective cycle—illustrates how adults learn from experience. Developed by Graham Gibbs, the Gibbs Cycle contemplates six stages for examining one’s own experiences: (1) Description, (2) Feelings,

⁵ See, e.g., WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (Carnegie Foundation for the Advancement of Teaching 2007) (hereinafter cited as “Carnegie Report”) (describing the importance of reflection to move from novice to expert lawyering); ROY STUCKEY AND OTHERS, *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* 172–73 (Clinical Legal Education Association 2007) (describing the use of reflection as one structure to teach students to identify what they are learning from experience).

⁶ Timothy Casey, *Reflective Practice in Legal Education: The Stages of Reflection*, 20 CLIN. L. REV. 317, 319 (2014).

⁷ SUSAN BRYANT, ELLIOTT S. MILSTEIN, & ANN C. SHALLECK, *TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY* 23–24 (2014).

⁸ CLINICAL LEGAL EDUCATION ASSOCIATION, *HANDBOOK FOR NEW CLINICAL TEACHERS* 24 (2023), <https://www.cleaweb.org/new-clinician-resources>; see also American Bar Association, 2025-26 Standards and Rules of Procedure for Approval of Law Schools, Standard 304(a)(4)-(5) (requiring self-evaluation in experiential courses); Standard 304(d)(2)(i) (reiterating the need for self-evaluation in a field placement), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2025-2026/2025-2026-standards-chapter-3.pdf.

(3) Evaluation, (4) Analysis, (5) Conclusion, and (6) Action Plan.⁹ Gibbs relates these steps as flowing from each other and being recursive, as shown in the diagram below.¹⁰

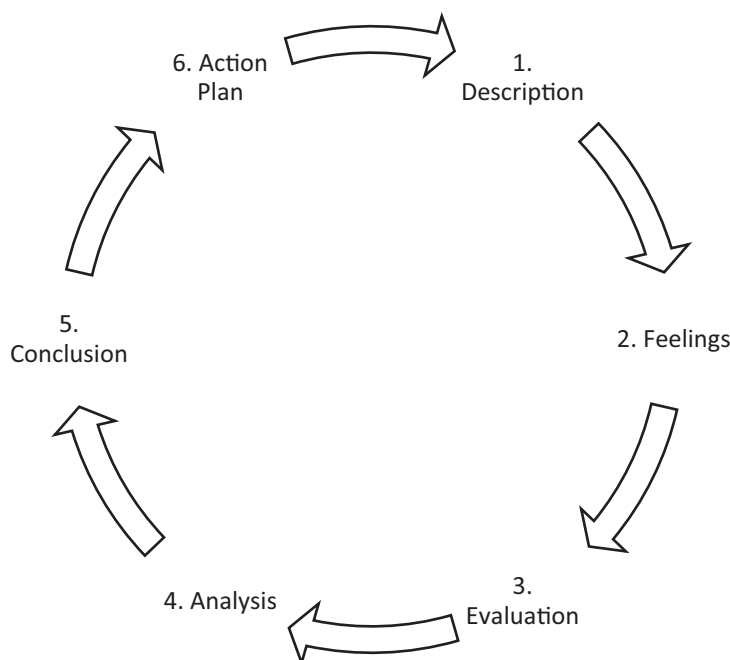


FIG. 1. DIAGRAM OF GIBBS CYCLE

The excerpt from the reflection essay in the introductory section demonstrates this structure. The writer recounts their experience with the tutoring session by describing the context for the session and what each person said. The writer explains their own feelings as they progressed through the tutoring appointment, starting with “I did not feel excited,” progressing to “was not going well,” and then, in the last half, balancing between “off-putting” and “treat[ing] with care.” The writer similarly explores their impression of the other student’s feelings by recounting their facial expressions and statements. The second half of the essay moves into evaluation and analysis of how the writer’s understanding shifted over the course of the appointment, and the lessons they drew from the event—that first impressions may not be reliable, that students carry unseen pressures, the importance of being present for each

⁹ GRAHAM GIBBS, *LEARNING BY DOING: A GUIDE TO TEACHING AND LEARNING METHODS* 49-50 (1988).

¹⁰ *Id.*

student, that ordinary events can make an impact on others, and more. Having processed and identified these lessons, the writer emphasizes the need to treat all appointments with care and intention and thereby lays groundwork to see how the insights they drew from this situation apply in other, similar tutoring sessions.

Engaging in reflection can be challenging, however, especially for students who might have little experience with it. Students' experience with reflection before or during law school varies widely, and student buy-in to reflection can also vary. As a result, students can be resistant to reflection.¹¹ It can feel uncomfortable. It takes time, space, and skill.¹² And it requires their willingness to continue to contemplate an experience that may have already occupied much of their time during the day. Reflection is a process that looks inward, has no single correct process, and may not lead to a single correct answer. Course design principles encourage instructors to share the rationale for their teaching approaches with students, which can include explicit explanations of the purpose of an assignment, the task to be completed, and the criteria for success.¹³ At the same time, learning theorists suggest that reflective pedagogy should be open-ended, allowing "venues for experience, ideas, and experimentation."¹⁴ Instructors must strike a delicate balance between these competing considerations.

Perhaps as a result, the reflections our students write vary widely—sometimes they are deeply thoughtful examinations of an experience; sometimes the reflections feel stilted and forced.¹⁵ On one hand, the Gibbs cycle can provide a vehicle for instructors to teach reflection and can make the seemingly abstract concept of reflection more concrete and actionable for students.¹⁶ On the other hand, over-emphasizing

¹¹ J.P. Ogilvy, *The Use of Journals in Legal Education: A Tool for Reflection*, 3 CLIN. L. REV. 55, 86–92 (1996) (describing potential reasons underlying student resistance to journal writing); Harriet N. Katz, *Personal Journals in Law School Externship Programs: Improving Pedagogy*, 1 T.M. COOLEY J. PRAC. & CLINICAL L. 7, 8 (1997) (noting anecdotal observation from faculty that "[w]hile some write very thoughtfully, others show little learning.").

¹² Levit, *supra* note 2, at 268 (noting that many law students do not know how to write reflectively).

¹³ See, e.g., TILT Higher Ed, Checklist* for Designing Transparent Assignments, <https://bd12jezatgadvbda.public.blob.vercel-storage.com/pdf/Checklist%20for%20Designing-cSC056JvFLKpHUBit1OkkRDUPYLEGY.pdf>.

¹⁴ Anthony A. Ciccone, Ree A. Meyers, & Stephanie Waldmann, *What's So Funny? Moving Students Towards Complex Thinking in a Course on Comedy and Laughter*, 7 ARTS & HUMANITIES IN HIGHER EDUCATION 308, 318 (2008) (stating that an overly transparent process may not be effective).

¹⁵ See, e.g., Mary Pat Treuthart, *Weaving a Tapestry: Providing Context Through Service-Learning*, 38 GONZ. L. REV. 215, 229 (2003) (describing wide variation in work product, ranging from "stream of conscious musings" to "legal briefs" to a "detailed log of activities" when assigning journals in a service-learning course).

¹⁶ See Jodi S. Balsam, Susan L. Brooks & Margaret Reuter, *Assessing Law Students as Reflective Practitioners*, 62 N.Y. L. SCH. L. REV. 49, 58–59 (2017) (describing use of a rubric for

these specific steps can create a mechanical “check the box” approach to reflective essay writing.¹⁷

Taking a step back, as educators, we have found that the most meaningful reflections are the ones that display emotion and depth, communicated through language in creative ways. As shown in the introduction, essays that deviate from an established structure to explore emotion and use words to evoke those feelings in the reader can feel more meaningful and persuasive. But how does an instructor convince students that emotion is safe and desirable in written work product—especially in a discipline such as law, which has traditionally focused on technical rationality?¹⁸ And, does it feel counterintuitive for students to inject emotion into a piece of writing when objective and emotionless work is what is expected of them in law school? We posit that teaching reflection as a way to develop storytelling skills provides missing structure and motivation for law students.

B. Storytelling as a Meaning-Making Tool: How We Do It and Why We Do It

The law is awash in storytelling.¹⁹

Stories are sticky; they stick with people in a way that other narrative strategies, such as poetry or essays, may not.²⁰ “What does or doesn’t matter to a culture can be traced back through the culture’s stories, its genres,

reflection essays based on four criteria); *see also, e.g.*, Michael Moffitt, *Lights, Camera, Begin Final Exam*, 54 J. LEG. EDUC. 91, 98–100, n.19 (2004) (describing tension between assigning specific topics for reflective journals and prompting students to identify those aspects that most need reflection); Alistair Newbern & Emily F. Suski, *Translating the Values of Clinical Pedagogy Across the Generations*, 20 CLIN. L. REV. 181, 210 (Fall 2013) (describing frameworks and specific topics for focused reflection as an entrée to meaningful reflection).

¹⁷ *See* Balsam et al., *supra* note 16, at 68 (emphasizing that reflective writing should not be “formulaic,” and that it should allow students the “freedom to write creatively” and “from the heart and gut”); *see also* David McLean, Neville Chiavaroli, Charlotte Denniston & Martin Richardson, *In-verse reflection: Structured Creating Writing Exercises to Promote Reflective Learning in Medical Students*, 43 J. MED. HUMANITIES 493, 494 (2022) (noting that students can feel obliged to provide the exact rote analysis they believe the instructor desires in response to focused reflection prompts); Ciccone et al., *supra* note 14, at 318 (citing John Dewey for the proposition that prescribed methods for reflection are ineffective and reflective thinking should be self-discovered by the student).

¹⁸ *See* Richard K. Neumann Jr., *Donald Schön, the Reflective Practitioner, and the Comparative Failures of Legal Education*, 6 CLIN. L. REV. 401, 405 (2000); *see also id.* at 418 (noting examination of other professions might yield insights that would enrich legal education).

¹⁹ ANTHONY G. AMSTERDAM & JEROME BRUNER, *MINDING THE LAW* 110 (2000).

²⁰ CHIP HEATH & DAN HEATH, *MADE TO STICK* 204–37 (2007); *see also* FRANCIS DE VÉRICOURT, KENNETH CUKIER & VIKTOR MAYER-SCHÖNBERGER, *FRAMERS* 82–85 (2021) (describing the compelling nature of stories); Lindsay, *supra* note 3, at 31.

to its enduring myths.”²¹ As a result, storytelling is a key lawyering skill, and yet it is under-emphasized in legal education.²² To set the stage, and to compare how reflection and storytelling interact, we begin first with a discussion of what a story entails and storytelling’s role in lawyering practice.

1. What is a Story?

A story is made up of elements. These elements include, at a minimum, characters and plot. Aristotle famously described a story as having a beginning, middle, and end.²³ Syd Field describes a story as made up of three acts: a setup that presents the background and *context* for the story, confrontation (containing a conflict or climax), and resolution.²⁴ Characters in a story have needs and goals, and moving between the two creates conflict.²⁵ Conflict in turn defines the *theme*—the overarching message, lesson, or moral the reader takes from the story.²⁶ Similarly, in *Minding the Law*, Anthony Amsterdam and Jerome Bruner identify *characters* as those players in the story with the capacity to exercise agency, and they identify *plot* as a sequence of phases, beginning with a “steady state” that is disrupted by *trouble* (i.e., conflict).²⁷ Over the course of the story, characters make efforts to address the conflict and resolve the conflict, either returning to the original state or a new and improved state.²⁸ Each of these story models—from Aristotle to Field to Amsterdam and Bruner—conveys a sense of completion or return to the beginning. The characters then attempt to make meaning from what happened.²⁹

For our purposes, we focus on the following story elements:

- characters (with needs and goals)
- a setup/steady state describing time, setting, and other contextual elements (for the anticipated plot)
- a conflict
- resolution
- overall theme, theory, or lesson that accompanies the resolution.

²¹ AMSTERDAM & BRUNER, *supra* note 19, at 111.

²² See Section I.E.1, *infra*.

²³ ARISTOTLE, *POETICS* 76–77 (George Whalley trans., 1997).

²⁴ SYD FIELD, *SCREENPLAY: THE FOUNDATIONS OF SCREENWRITING* 7–8 (1982) (describing a screenplay as a story with pictures); see also Brian J. Foley & Ruth Anne Robbins, *Fiction 101: A Primer for Lawyers on How to Use Fiction Writing Techniques to Write Persuasive Facts Sections*, 32 *RUTGERS L.J.* 459, 476–77 (2001).

²⁵ FIELD, *supra* note 24, at 20, 26; Foley & Robbins, *supra* note 24, at 468.

²⁶ Foley & Robbins, *supra* note 24, at 469.

²⁷ See AMSTERDAM & BRUNER, *supra* note 19 at 113–14; Carolyn Grose, *Storytelling Across the Curriculum: From Margin to Center, from Clinic to the Classroom*, 7 *J. ASS’N LEGAL WRITING DIRECTORS* 37, 42 (2010).

²⁸ AMSTERDAM & BRUNER, *supra* note 19, at 114; Grose, *supra* note 27, at 42; see also Foley & Robbins, *supra* note 24, at 476–78.

²⁹ Grose, *supra* note 27, at 42.

Carolyn Grose distinguishes storytelling, narrative, and narrative theory.³⁰ She describes narrative theory as the study of the elements that make up the story³¹ and “an exploration and elaboration of the idea that the law is made up of stories that are constructed by lawyers, clients, and decisionmakers.”³² Storytelling, on the other hand, is “the performance” of the story: “the actual craft of constructing stories based on choices made with intention and reflection.”³³

2. *Storytelling as a Lawyering Technique*

Men decide far more problems by hate, or love, or lust, or rage, or sorrow, or joy, or hope, or fear, or illusion, or some other inward emotion, than by reality, or authority, or any legal standard, or judicial precedent, or statute.³⁴

Persuasion is a fundamental lawyering skill, and lawyers “persuade by telling stories that decision makers believe and adopt.”³⁵ Storytelling exists in every context of the practice of law.³⁶ When lawyers construct legal arguments, they decide what story to tell and how to tell it.³⁷ The lawyer must also consider at least three factors that make up the theory of the case: the law, the facts, and the client’s goals.³⁸ The law frames what matters; the facts and the client’s goals dictate the description of the plot or events at issue, the characters and their motivations, along with the resulting conflict.³⁹

Litigation is replete with story construction. As Carolyn Grose describes, fact investigation and pretrial discovery are inherently about

³⁰ *Id.* at 39; see also Binny Miller, *Telling Stories About Cases and Clients: The Ethics of Narrative*, 14 GEO. J. LEGAL ETHICS 1, 1–2 (2000) (“While the terms ‘narrative’ and ‘story’ are sometimes used interchangeably, they are not quite the same thing. A story describes an account of a happening, while a narrative denotes a broader theme or meaning. Stories are the raw material of personal experience; narratives are a construction from those stories.”).

³¹ Grose, *supra* note 27, at 39.

³² *Id.* at 41.

³³ *Id.* at 39–40. While many authors distinguish storytelling from narrative, we use them interchangeably in this article. And it is this craft of construction—stories or narratives—that we wish to focus on in our discussion here.

³⁴ WALTER R. FISHER, *HUMAN COMMUNICATION AS NARRATION: TOWARD A PHILOSOPHY OF REASON, VALUE, AND ACTION* 37 (1987).

³⁵ Grose, *supra* note 27, at 46.

³⁶ See *id.* at 49–60 (describing use of narrative theory and storytelling in a variety of course types and subjects).

³⁷ *Id.* at 44.

³⁸ *Id.*; see also STEVEN LUBET, *MODERN TRIAL ADVOCACY: ANALYSIS AND PRACTICE* 7–8 (4th ed. 2009).

³⁹ See Grose, *supra* note 27, at 39–47; see also LUBET, *supra* note 38, at 8–9 (describing how the lawyer develops the case theory and theme within the story frame as perceived by the factfinder).

obtaining and developing the client's story.⁴⁰ Lawyers then make decisions about how to express the story once they determine what facts to include. While the law dictates what facts are legally relevant, the law does not dictate how attorneys should express the facts.⁴¹ Lawyers—on both sides—“pick and choose from available facts to present a picture of what happened” but emphasize different aspects to serve their own client's goals.⁴² Storytelling enables a lawyer to “set the stage, cast the players, create the mood, and put into place a tailored framework” to accomplish the goals.⁴³

A lawyer thus weaves together a story. In a trial, the story starts in the opening argument and, if done well, affects “the manner in which each juror will perceive all that is to follow.”⁴⁴ The story allows jurors to put the evidence into a framework that they can remember, that resonates with them, and that reflects the lawyer's theory of the case.⁴⁵ To do so, lawyers do not merely “string[] together a set of ‘hard facts.’”⁴⁶ Rather, “parties create narratives from the same broad set of facts (events and people). . . yet they are different narratives.”⁴⁷ Organizing the facts and the law to provide the context (background), leading into the middle (conflict) and the expected resolution (return to order) can give the audience of the story authority to act and support the resolution.⁴⁸ Because there is no resolution until the end of the trial or a settlement, the lawyer's task is to paint the story so that the decisionmaker will favor the lawyer's resolution over the other party's.⁴⁹ Choosing words that tell the story from the client's perspective can encourage empathy with the client.⁵⁰ Unlike a fictional story, however, a lawyer faces a further challenge: the resolution must follow from “*actual facts*” and fit the judge's sense of “*actual justice*.”⁵¹

Transactional practices similarly leverage storytelling skills. Deal lawyers must have a firm handle on their clients' goals and how to shape

⁴⁰ Grose, *supra* note 27, at 44.

⁴¹ *Id.* at 45.

⁴² *Id.* at 44 (citing Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2421 (1988)); see also Gerald P. Lopez, *Lay Lawyering*, 32 UCLA L. REV. 1, 31–32 (1984) (“[J]ust as a storyteller will upplay, downplay or hide particular features in telling a story that he hopes makes sense, so too will the storyteller emphasize, de-emphasize or obscure certain factual features in asserting that a particular meaning should be given to the facts as found.”).

⁴³ Lindsay, *supra* note 3, at 31.

⁴⁴ *Id.*

⁴⁵ *Id.* at 31–32.

⁴⁶ Grose, *supra* note 27, at 45.

⁴⁷ CAROLYN GROSE & MARGARET E. JOHNSON, *LAWYERS, CLIENTS & NARRATIVE: A FRAMEWORK FOR LAW STUDENTS AND PRACTITIONERS* (2d ed. 2024).

⁴⁸ Foley & Robbins, *supra* note 24, at 475–78.

⁴⁹ *Id.* at 467.

⁵⁰ *Id.* at 478–80.

⁵¹ *Id.* at 467 (emphasis in original).

a client's story going forward.⁵² They do so by probing for facts, guided by an understanding of how a specific transaction or decision fits into the planned narrative arc of a client. Counseling clients, in turn, requires lawyers to imagine and anticipate the potential effects of a decision and identify ways to ensure a positive outcome. Transactional documents do more than deliver information; they also contain narrative. "The purposes of transactional documents include the building of relationships, the safeguarding of property, and the securing of legacies. These purposes are furthered by presenting the narratives inherent within each transaction."⁵³

Judges similarly tell stories, and they craft their decisions around them. Kim Lane Scheppele outlines the choices judges make when drafting opinions—through both word choice ("lightly choke" versus "heavy caress") and framing (beginning with the defendant's childhood rather than beginning with the night of the crime).⁵⁴ Judge Mary Pat Gunderson, in her article *Gender and the Language of Judicial Opinion Writing*, analyzed the language of four Iowa Supreme Court opinions addressing allegations of abuse by male attorneys towards women.⁵⁵ The all-male court issued the opinions on appeal from the Grievance Commission, a division of the Iowa Attorney Disciplinary Board, which had a mix of men and women.⁵⁶ Judge Gunderson identified that "the recitation of facts [of the story] in these opinions generally followed a pattern: minimizing the abusive actions of male attorneys and highlighting their positive professional and personal attributes—while subtly implicating the actions of the female survivors."⁵⁷ Additionally, the opinions omitted factual findings the Grievance Commission found particularly compelling.⁵⁸ The narrative crafted by the Iowa Supreme Court was used to justify more lenient sanctions than those recommended by the disciplinary board.⁵⁹ Choices in language, Judge Gunderson warns, can reflect unconscious biases of the decisionmaker.

⁵² See ALICIA ALVAREZ & PAUL TREMBLAY, INTRODUCTION TO TRANSACTIONAL LAWYERING PRACTICE 3–4 (2d ed. 2022).

⁵³ Susan M. Chesler & Karen J. Sneddon, *Telling Tales: The Transactional Lawyer as Storyteller*, 15 LEGAL COMM. & RHETORIC: JALWD 119, 122 (2018).

⁵⁴ Grose, *supra* note 27, at 45 (citing Kim Lane Scheppele, *Foreword: Telling Stories*, 87 MICH. L. REV. 2073, 2086, 2094–96 (1989)).

⁵⁵ Mary Pat Gunderson, *Gender and the Language of Judicial Opinion Writing*, 21 GEO. J. GENDER & L. 1 (2019).

⁵⁶ *Id.* at 3, 6.

⁵⁷ *Id.* at 4.

⁵⁸ *Id.*

⁵⁹ *Id.*

C. *A Comparison of Two Essays: One Mechanical and One Narrative*

All these aspects of crafting stories can be explored through reflection essays. In contrast to lawyering, in which lawyers construct and tell their clients' stories, reflection enables people to tell their own stories. Storytelling is a natural vehicle for reflection, as it is a process of making sense and meaning when dealing with high levels of complexity. Bruner proposes, "Telling oneself about oneself is like making up a story about who and what we are, what's happened, and why we're doing what we're doing."⁶⁰ Stories trigger ideas, beliefs, values and concepts, and are easily associated and reflected by listeners.⁶¹ We can explore how storytelling techniques can enhance the depth of meaning and emotion in a reflection essay by comparing two examples.

STUDENT ESSAY A⁶²

This past week I was faced with a challenging assignment. I was asked to research a topic that I was unfamiliar

⁶⁰ JEROME S. BRUNER, MAKING STORIES: LAW, LITERATURE, LIFE 64 (2002).

⁶¹ See JANICE McDRURY & MAXINE ALTERIO, LEARNING THROUGH STORYTELLING IN HIGHER EDUCATION: USING REFLECTION & EXPERIENCE TO IMPROVE LEARNING 31–42 (2002) (discussing how stories "enable us to convey. . . aspects of ourselves and others, and the worlds, real or imagined, that we inhabit"); Lindsay, *supra* note 3, at 31–32.

⁶² This is a fictionalized reflection based on a combination of typical student essays over the years. The prompt reads:

Write a reflection on something that you experienced in your externship in the previous week. When writing your journal entry, be sure to describe the situation or experience, why you feel it was interesting or important, what you learned from it, and what you might do in the future if faced with a similar situation. Your journal entry can be as long as you feel is needed, but at least two pages, double-spaced, is likely necessary to fully develop your thoughts. Journal entries are a chance to unpack and process the work you are doing in your placement. They are also an opportunity to focus on developing written narrative skills.

Some topics students have covered in the past are listed below.

- Advice from your field supervisor or others on strategies to improve a lawyering skill or develop in your career goals
- Observations from court or a client meeting, which may lead to observations about the substantive law or legal process
- Critique of a performance by a lawyer or a judge, what you felt was good, what needed improvement, and why
- A challenging assignment in your placement, how it went, and how you would do things differently in the future
- Interactions with other employees and those in your office
- Comparison of something you learned in law school and how that relates to or operates in actual legal practice
- Thoughts on the legal system or access to justice based on your experiences in your placement.

with and given a short turnaround time to complete it. This particular assignment had to do with state privacy laws that had just been passed, and certain requirements for notice to the consumer. My supervising attorney gave me a very high-level overview of one state's law in this context and then more details about what exactly we were trying to accomplish with my research. At the end of our discussion, he told me to check in with him at the end of the day to let him know what I had found. I used the whole day to research this issue and at the end of the day I checked back in with my supervising attorney to go through statutes and cases that I had found and what might be helpful for us.

This was a very interesting and important project because privacy is a huge part of consumer protection law right now, and I am hoping to specialize in data privacy or consumer protection. This assignment also allowed me to do some statutory interpretation and even a little bit of legislative history research. This project also taught me that background research can speed up the researching process. I felt like I took a while to get into researching the actual issue, because I started with some general Google searches and read some materials from law firms before diving into the specific state laws. Once I did all of that, I felt like I was able to better pinpoint the issues I was hoping to find.

In the future I will definitely do this kind of background research if I am unfamiliar with an area of the law. I found that once I did more background research it helped me research the specific issue more efficiently. Furthermore, I think I would have benefitted from speaking with my supervisor earlier than just at the end of the day about my progress so I could be even more efficient in my research and confirm that I was on the right track. Although it ended up being ok, and I was ultimately on the right track and researching what he wanted, the whole day I was unsure where my results were leading me and whether I was being efficient with my time. Overall, although this was a stressful situation, it was definitely a great experience to have.

Essay A, while detailed and structured to address each element expected in a reflection essay, lacks exploration of emotion or greater themes. The situation itself does not seem to naturally prompt larger themes or conclusions. Instead, compare Essay A with Essay B below. Essay B expresses and evokes emotion in a more

powerful way than Student Essay A, and thus connects more easily with the reader.⁶³

STUDENT ESSAY B⁶⁴

Before law school, I started out my first 22 years of life as a classical cellist. I still wince every time my law student friends ask if the cello is the “big one, or the really big one?” Growing up, I lived a very affluent life. A brand-new Audi or Lexus in the driveway each year, family trips to Turks and Caicos in our own plane, and every music, dance, acting, singing, Spanish, and Chinese lesson I could ever ask for. Our teachers at school who commuted from the neighboring towns would warn us that, “This isn’t what the real world is like.” We knew why. Our classes were full of spawn of hedgefund managers, Lehman Brothers investment bankers, venture capitalists, and inside traders who hadn’t been caught yet. I remember fifth grade was the first I heard a classmate say he was, “socially liberal, fiscally conservative.”

It was not until I started law school and could read the court documents that I figured out what my dad was doing. My mom and I never exactly understood what he did for work, but the default judgments against him helped explain why. Living beyond one’s means is the number one indicator of financial fraud and lying is right up there, too. For what it’s worth, I grew up around plenty of both. In 2018, when my childhood home was foreclosed on, it all started to click.

Since working in my externship, I have discovered that I love catching people in their lies. It feels like home. Vague answers with a twist of complex financial jargon to confuse the listener. An eerily confident, imperceptibly arrogant demeanor. When I confronted my dad as a kid, his financial jargon flustered me. Now, at work while sitting across from a grown man accused of defrauding investors, his “trading strategy” and “liquid net worth threshold” slang does not intimidate me in the slightest. Knowledge really is power.

⁶³ To be fair to the students, the prompt—and the structure of the class—likely makes much of the difference. Essay B was written after a semester focused on different aspects of creative writing. The course included opportunities for thinking about and writing one’s own life story, exploring metaphors for work and career, and discussing the role of reflection in the practice of law. By focusing on creativity and imagination, students can feel freer to experiment within their essays. For more, *see infra*, Section I.D.

⁶⁴ E.A. Student Essay, Spring 2024 (edited for length and shared with permission).

A challenge I have felt so far and anticipate feeling in the future is projecting my own experiences with fraud onto my work or feeling triggered by the work with fraudsters. Some days, reading transcripts of brokers who scammed investors felt like lifting up the Band-Aid and poking what was underneath. I hope to reach a point within myself when it doesn't feel personal. For now, armoring myself with more knowledge and understanding of the financial industry feels like an empowering and mostly healthy way to deal with what I witnessed growing up.

The law can feel cold and clinical at times. Music felt that way, too. Drilling the same notes over and over again in a tiny windowless practice room. But it's all a bit more human than that. We drill the notes and apply the statutes to make a listener light up or help an investor get their money back. I predict that humanizing my work will keep me happier in it. Not everyone's story is mine, and not every fraud report needs to be about what I went through. We are all just mushy blobs trying to get through life and none of us does it perfectly.

In Essay B, a student describes what feels like an atypical reason for pursuing a career in securities law. It has elements of suspense, mystery, and surprise. It employs metaphor for describing the complex and excruciating aspects of practicing law—and it relates this to a bigger lesson: the impact financial fraud can have on people's lives. Reading this essay is compelling; this student has a reason for their career choice. At the same time, the essay highlights the student's creative and careful crafting of a narrative.

We theorize that evocative reflective essays do not just contain perfunctory elements of reflection. The essays also employ elements of a narrative that describe growth and change, similar to the growth and change associated with a good story with resolution of the plot. Like the reflective process, storytelling is a way to critically analyze new experiences to make new meaning out of those experiences. A storyteller must understand, describe, and evoke the full range of human interactions and emotions to convey the full breadth of the story. This process, when used in reflection in law school, reinforces the judgment, empathy, and humanity of attorneys.⁶⁵ Framing the reflective process

⁶⁵ See, e.g., Kristin B. Gerdy, *Clients, Empathy, and Compassion: Introducing First-Year Students to the "Heart" of Lawyering*, 87 NEB. L. REV. 1, 44 (2008) (advocating for teaching empathy and compassion in law school because of the importance of those skills in legal

as an opportunity for storytelling connects the skill of reflection more concretely to the act of lawyering. We believe that this connection, in turn, increases student motivation.⁶⁶ Embracing creativity, narrative techniques, and emphasizing the craft of writing makes reflection feel more relevant and compelling.

Just as there are different ways of describing the elements of a story, the general structure of a story maps onto the elements of reflection, as described by Gibbs:

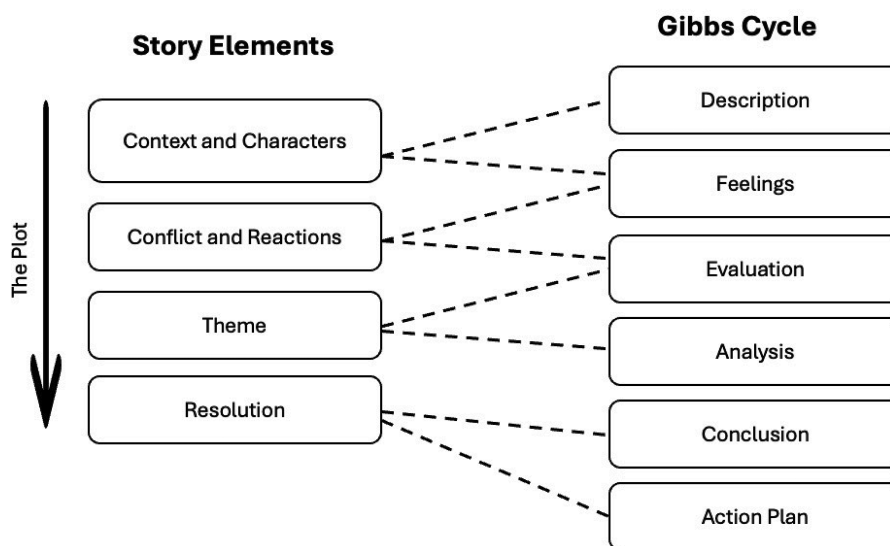


FIG. 2. ELEMENTS OF A STORY COMPARED TO THE GIBBS CYCLE

practice); Camesha Little, *Think, Reflect, Refine: Shaping the Modern Lawyer*, 28 UDC L. REV. 30, 31–32 (2025) (stating that the modern lawyer must have “social, humanistic, and critical thinking skills”); Gerald Reading Powell, *Opening Statements: The Art of Storytelling*, 31 STETSON L. REV. 89, 92–93 (2001) (describing importance of humanity and emotions in opening statements).

⁶⁶ See, e.g., John M. Keller, *Strategies for Stimulating the Motivation to Learn*, 26 PERFORMANCE + INSTRUCTION 1 (Oct. 1987) (describing methods of increasing student motivation by establishing the relevance of the material to the learner’s job, or another future goal).

We compared the two essays using this mapping in the below chart:

STORYTELLING ELEMENTS	GIBBS	ESSAY A	ESSAY B
Character and Context	Description	Focused on getting privacy assignment and researching it over the course of one day	Timeline and setting that moved from childhood through externship. Used words that evoke emotion, like “wince,” “eerily confident,” “defrauding,” “slang,” “triggering,” “vague answers with a twist of complex financial jargon to confuse the listener.”
Conflict and Reactions	Feelings	“Interesting” Stressful to be unfamiliar with an area of law.	“Knowledge really is power.” Working in white collar crime and especially in financial fraud triggered experiences growing up.
	Evaluation	It is good to learn more about privacy laws.	Feels powerless.
Theme	Evaluation	Background research is helpful. Efficiency is good.	Having knowledge and understanding can create power when one lacks it. Financial fraud/crime affects more people than those defrauded.
	Analysis	Asking questions can be a method of creating efficiency.	Bringing humanity into one’s work can make one happier.
Resolution	Conclusion	Successful research	Managing one’s back- ground and feelings to be effective is important.
	Action Plan	Ask questions earlier.	It is ok to be human and to try to get through life the best we can.

When writing a reflective essay, students can be encouraged to start by writing a story and describing the situation. This is an opportunity for the student to flesh out the characters and provide some explanation of their background and motivations. Following the Gibbs cycle, students can focus on a single experience and develop a detailed description of that experience—the “who, what, when, where, and why” of the situation (step 1) [or, in narrative terms, the characters and plot]. The students then confront their feelings and emotional reactions (step 2) [which in turn equates to a reaction and conflict]; evaluate what that means and thereby begin to develop a theme (step 3); and analyze the situation by comparing the event to any reading, assumptions, or experiences to develop a theory of the event (step 4). This process leads naturally into a resolution comprising a conclusion (step 5) and an action plan for how one would approach a similar situation in the future (step 6).

The difference between this method and a method based on the Gibbs cycle or other reflective model alone is that the focus on storytelling elements encourages a comprehensive description of the characters, plot, and setting and prompts the learner to use this information to explore the source of internal or external conflict. To create the main character (the self), the writer must explore the character’s background and biography and describe the forces confronting the character—personal, professional, or private.⁶⁷

With the earlier example of Essay A, the student using a storytelling framework might have been encouraged to develop the setting and the characters in the experience further. What was the reason for the short turn-around—was there an impending deadline? What was the supervisor’s demeanor or emotions when giving the assignment? Was this typical or atypical? How does the student feel about last-minute projects? Is this a casual office setting, where externs can walk around and ask attorneys questions? Or is it more formal, where appointments are needed? How did the student feel over the course of the day researching—were they ready to pivot to a new project, apprehensive about a new subject, or confident in their approach? The last sentence acknowledging the pressure the student felt while researching under a deadline and their ultimate success may be fodder for a different kind of story the student tells themselves about facing challenging situations in the future, but the essay itself did not focus on or develop that part of the situation. This storytelling approach might also help an instructor reading and providing feedback on the reflection essay ask questions that probe deeper into the student’s understanding about their own values, beliefs, or behaviors. This could, in turn, lead to a different framing altogether for the focus of Essay A.

⁶⁷ FIELD, *supra* note 24, at 23–26, 46.

We see, therefore, that—as often happens as a writer writes, edits, rewrites, or revisits their writing—there are choices that further frame the story around the theme or theory and resolution. This frame, in turn, leads to more completeness and depth in reflection. The frame the writer imposes affects the lesson the writer extracts from the experience. We discuss these effects in the remainder of Part I.

D. Storytelling and Reflection Converge in Formation of a Professional Identity

The concept of a professional identity has arguably existed in professional school pedagogy for hundreds of years, starting with medical education.⁶⁸ However, professional identity first received real attention in law school education after an ABA Task Force on Legal Education conducted a series of public hearings, gathered data, and issued a report describing the evolution of legal education. Dubbed the MacCrate Report, the report contemplated four fundamental lawyering values and ten lawyering skills that law schools and lawyers should emphasize in educating and mentoring law students.⁶⁹ Subsequently, the Carnegie Foundation published a report entitled *Educating Lawyers: Preparation for the Profession of Law* (the “Carnegie Report”) as part of a series examining professional education.⁷⁰ The Carnegie Report identified the “three apprenticeships” of effective legal training: (1) the intellectual or cognitive, (2) the forms of expert practice, and (3) the apprenticeship of

⁶⁸ David I. C. Thomson, “Teaching” Formation of Professional Identity, 27 REGENT U.L. REV. 303, 304 (2015) (noting that medicine is the first profession to combine scientific expertise with individual moral commitments).

⁶⁹ A.B.A. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT – AN EDUCATIONAL CONTINUUM (REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP) xi–xiv (1992). The complete list of skills and values follows:

Skills

- Problem solving
- Legal analysis and reasoning
- Legal research
- Factual investigation
- Communication
- Counseling
- Negotiation
- Litigation and alternative dispute resolution
- Organization and management of legal work
- Recognizing and resolving ethical dilemmas

Values

- Provision of competent representation
- Striving to promote justice, fairness, and morality
- Striving to improve the profession
- Professional self-development

⁷⁰ See Carnegie Report, *supra* note 5.

identity and purpose, guided by the values of the professional.⁷¹ A professional education, as outlined by the Carnegie Report, would integrate all three aspects with a focus on the last—the ethical-social apprenticeship “through which the student’s professional self can be most broadly explored and developed.”⁷²

The traditional law school setting expects students to compartmentalize their emotional reactions and separate their personal and professional identities.⁷³ As law students progress through their education, they are challenged by the conflict between the materials that they study and the experiences they have, as well as their own values, identity, and beliefs.⁷⁴ This conflict, or cognitive dissonance, can lead to negative personal effects.⁷⁵ Integration of professional identity, on the other hand, is accomplished primarily through personal and professional reflection where students use reflection to arrive at a personal view.⁷⁶ In “*Teaching*” *Formation of Professional Identity*, David Thomson identified reflection as the common component in various law school courses that focus on professional identity.⁷⁷ In one course, Professor Cliff Zimmerman asks students to write their own personal narrative. Students then “read and talk about personal moral codes, the ethics of storytelling, the ethics of counseling and interviewing, and multiple ethics-based challenging situations to learn more about how they will react when the situations are real.”⁷⁸ In this way, Zimmerman strives to help students connect their own narratives and values with their personal identity.

Written reflection helps the writer solidify their experiences. Author Sarah Manguso observes, “[T]o write a diary is to make a series of choices about what to omit, what to forget. A memorable sandwich, an unmemorable flight of stairs. A memorable bit of conversation surrounded by chatter that no one records.”⁷⁹ Lisa Genova, in her 2021 bestseller *Remember: The Science of Memory and the Art of Forgetting*, states: “Writing something down allows you to rehearse and therefore strengthen the memory for the details you choose to write about.”⁸⁰

⁷¹ *Id.* at 28.

⁷² *Id.*

⁷³ See Little, *supra* note 65, at 42; Katya Cronin, *Value-Centered Lawyering: Reshaping the Law School Curriculum to Promote Well-Being, Quality Client Representation, and a Thriving Legal Field*, 101 U. DET. L. REV. 257, 268–72 (2024).

⁷⁴ Little, *supra* note 65, at 42.

⁷⁵ *Id.* at 43.

⁷⁶ Mary Bair, David Bair, Rui Niu-Cooper & Nagnon Diarrassouba, *Border Crossings: The Role of Narrative Storytelling in the Professional Identity Development of Faculty of Color*, 72 COLLEGE TEACHING 82, 83 (2024).

⁷⁷ Thomson, *supra* note 68, at 319–20.

⁷⁸ *Id.* at 320.

⁷⁹ SARAH MANGUSO, ONGOINGNESS: THE END OF A DIARY 6 (2015).

⁸⁰ LISA GENOVA, REMEMBER: THE SCIENCE OF MEMORY AND THE ART OF FORGETTING 107 (2021); see also Dani Shapiro, “I Don’t Want Anyone to Read My Diaries, Yet I Can’t Burn

This action also “unwittingly prevent[s] you from rehearsing, and therefore later remembering, any details you didn’t include.”⁸¹

Besides the more solitary experience of reflection, students also make sense of their identities by interacting with others.⁸² The choices of what to emphasize and what themes or lessons to draw from an experience can be kept private, but through dialogue, listeners can gain insight, add to, and challenge aspects of the teller’s story.⁸³

In choosing what story to tell, and what details to include and omit, the storyteller chooses the aspects of identity to present to the audience. . . . Identity comprises many narratives that people construct and recount to make sense of themselves and their professional practice, narratives which can vary with time, audience (e.g., self, colleagues, students), and situation.⁸⁴

Through the process of sharing with others, the teller identifies and describes the event, filters and interprets it for their audience, and highlights specific aspects of the event to create the tension and choices—or the theme—the teller faces to reach resolution. By crafting their experiences as stories with themes and resolutions, students are more likely to make meaning from their professional experiences and identify learning gains.⁸⁵

The goals of reflective essays and storytelling are thus often parallel, which makes them a natural pairing. The choices we make when we tell our stories are not dictated by externalities such as the law or the client’s wishes; rather, they reflect our own values, viewpoint, and motives.⁸⁶ While reflective essays allow the author to critically analyze experiences to make meaning, storytelling similarly allows the teller to

Them,” NY TIMES (Mar. 16, 2025), <https://www.nytimes.com/2025/03/16/opinion/diary-didion-writing.html> (“I had always thought of my diaries as garbage cans into which I tossed all the detritus: the obsessions, petty jealousies, fantasies, secret crushes, stinging rejections, all to clear the path to my ‘real’ work, which is to say the attempt to make meaning and even beauty out of the chaos of being human.”).

⁸¹ GENOVA, *supra* note 80, at 107.

⁸² Bair et al., *supra* note 76, at 83 (“Individuals discover themselves and reveal themselves to others by the stories they tell.”).

⁸³ McDRURY & ALTERIO, *supra* note 61, at 88–90.

⁸⁴ Bair et al., *supra* note 76, at 84.

⁸⁵ Janice McDrury & Maxine Alterio, *Achieving Reflective Learning Using Storytelling Pathways*, 38 INNOVATIONS EDUC. AND TEACHING INT’L 63, 64–65 (2001); McDRURY & ALTERIO, *supra* note 61, at 113 (noting that processing an event in an informal setting through “response stories” rather than “response dialogue” may not help the storyteller address their situation and can also result in the teller feeling overwhelmed); Gibbs, *supra* note 9, at 47–50.

⁸⁶ McDrury & Alterio, *supra* note 85, at 64 (noting that even when reflective stories are shared, the storyteller has control over how they respond to dialogue from listeners); McDRURY & ALTERIO, *supra* note 61, at 47 (describing how storytellers make choices in their story, tone and point of view).

make sense of events around them. Stories can be personal and non-fictional or generally known and fictional—but stories can be used to highlight the norms, values, and challenges in a culture or, more narrowly, in a profession. “[T]hey involve us in the value we give and extract from what we see going on around us, the value of our intentions, involvements, and commitments.”⁸⁷ Telling stories, in other words, is a way to share, explore, and develop one’s professional identity.

As described in Section I.E.3 below, both reflective essays and stories are a way of examining and describing emotion—the responses to an event, and an emotional release. Further, seeking that emotional release and resolution may help avoid unproductive rumination.⁸⁸ In this way, both reflective essays and stories lead to professional identity development. These shared goals can be expressed in overlapping circles as follows:

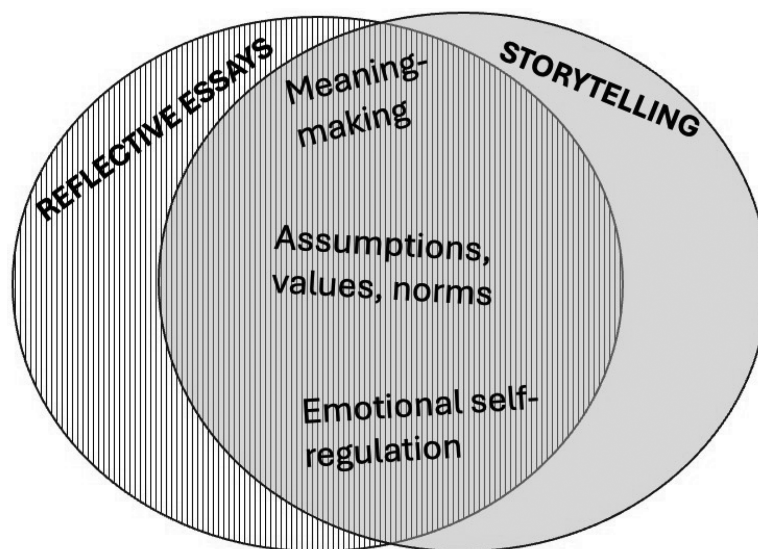


FIG. 3. SHARED GOALS FOR REFLECTIVE ESSAYS AND STORYTELLING

Returning to Essay B above, the student writer had many emotions associated with their childhood that worked their way into their professional life. Through evaluating their values and assumptions in their reflective essay, the student was able to make meaning of their identity and perhaps seek resolution through expression of their emotions.

⁸⁷ James Elkins, *The Stories We Tell Ourselves in Law*, 40 J. LEGAL EDUC. 47, 55 (1990).

⁸⁸ See McDRURY & ALTERIO, *supra* note 61, at 50 (noting that when students tell and retell stories without advancement or resolution, they miss out on learning gains); Gibbs, *supra* note 9, at 47–50.

Tim Casey describes the different levels of a learner's cognitive and moral development as discrete stages of reflective lawyering.⁸⁹ The first stage is concrete and asks the student to compare their performance to that of a competent lawyer.⁹⁰ The second seeks alternative means to achieve the goals.⁹¹ The third and fourth stages—internal context and external context—focus on different factors that affect the decision-making process.⁹² The fifth stage moves to understanding the social, historical, political, and economic structures that affect the lawyering process.⁹³ And, in the final stage, the student should demonstrate awareness of reflection and its effect on thinking.⁹⁴ These stages range from concrete to more abstract reflection and are also suited to different stages of law school coursework.⁹⁵ Seeking reflection on one's own performance (stage 1) compared to that of a more competent lawyer is concrete, and is best suited to a first-year legal writing course.⁹⁶ As students proceed into live client experiences, such as working in clinics and externships, students can grapple with how the societal context (stage 5) affects the choices they made in their reflections.⁹⁷

Casey contemplates that deliberate scaffolding and teaching of reflection will prompt students to naturally move from a straightforward self-evaluation process to a more intricate process of reflecting on contextual, structural, and metacognitive factors over time. His expectation that students will use their casework or field work in third year experiential courses as the basis for conceptual levels of reflection seems contrary to students' motivation to engage in experiential learning. Since students enroll in clinic or externships partly for the chance to see

⁸⁹ Casey, *supra* note 6, at 320–21; *see also id.* at 319 (stating “[w]hile the seasoned professional integrates seamlessly thought and action, the new professional must de-couple the action from the thinking about the action; the new professional must consciously activate a process to guide the rendering of professional judgment.”). Gerald Hess describes similar stages of development as a teacher, from reflecting on specific effectiveness of teaching techniques to exploring ones' own philosophy of teaching to greater critical awareness of their actions and its connection to the broader social, political, and economic landscape. Gerald F. Hess, *Learning to Think Like a Teacher: Reflective Journals for Legal Educators*, 38 GONZ. L. REV. 129, 134 (2002/2003) (citing Max Van Manen, *Linking Ways of Knowing with Ways of Being Practical*, 6 CURRICULUM INQUIRY 205, 226–27 (1977)).

⁹⁰ Casey, *supra* note 6, at 334–38.

⁹¹ *Id.* at 338–39.

⁹² *Id.* at 339–44.

⁹³ *Id.* at 344–46.

⁹⁴ *Id.* at 346–47.

⁹⁵ *See id.* at 345–47.

⁹⁶ *Id.* at 335 (describing legal research as a topic for reflection in the first stage).

⁹⁷ *Id.* at 344–45 (stating that live client experiences provide the best opportunities to develop Stage Five reflection); *see also* JENNIFER A. MOON, *LEARNING JOURNALS: A HANDBOOK FOR REFLECTIVE PRACTICE AND PROFESSIONAL DEVELOPMENT* 122 (2d ed. 2006) (commenting that journal and story processes enrich each other and “integrat[ing] story activity with journal-writing extends the value of the latter by widening its context from the world of the individual perception into the social, political and historical context of the individual”).

and do practical work, is it contradictory to push students to reflect at a higher, more abstract, level at the same time? After a year or more of an “academic” foundation in their lawyering education, how does one encourage students to embrace the theoretical and intellectual aspects of a clinic or externship experience? Focusing explicitly on the benefits of lawyering skill-building in a reflective writing prompt may help navigate this dichotomy. Casey offers prompts that can promote each stage of reflection.⁹⁸ Just as these questions encourage students to explore the context of the situation that they reflect on, the narrative techniques we describe also promote a fuller examination of an experience.⁹⁹

E. Storytelling and Reflection Converge to Develop Other Lawyering Skills

As discussed above, storytelling and reflection synergize for students developing their professional identities; combining storytelling and reflection also provides synergies as students develop other lawyering skills. In the context of experiential learning in higher education generally, McDrury and Alterio use a narrative approach to help students tell stories about their work and learn from experience.¹⁰⁰ Reflection is the hallmark of learning from experience and for adult learning. To support that learning, describing reflection as a storytelling process and storytelling as a lawyering skill can both prompt higher stages of reflection and motivate students to spend time on the reflective process. These synergies are underused in legal education, and legal education could be improved by this recognition.

1. Process of constructing facts and telling stories is under-practiced in legal education

The craft of storytelling is under-utilized in law school. In the first year, the case method focuses on cases with limited facts and thereby truncated stories. Casebooks focus on appellate decisions, which have been filtered through many lenses before publication; casebook authors then further excerpt those decisions. Professors, in class, talk about fact patterns rather than clients. Unless faculty or students do extra research and review alternative sources, the stories behind the common law in the first-year curriculum are largely missing or are delegated to notes after

⁹⁸ Casey, *supra* note 6, at 349.

⁹⁹ See, e.g., *id.* (asking questions about the different characteristics, experiences, preferences, or biases of the learner and the other people involved); see also Katz, *supra* note 11, at 47, 50 (concluding that students, when writing journals, described as “first impression accounts,” could challenge themselves more and examine more thoroughly different facets of the legal system and the legal profession).

¹⁰⁰ McDRURY & ALTERIO, *supra* note 61, at 37–42.

the cases.¹⁰¹ By failing to build stories into the first year, faculty lose an important tool to help students learn. Further, this editing and focus on “objective” facts in opinions has led some commentators to criticize the first-year law school curriculum for “whitewashing the law.”¹⁰²

Similarly, in the traditional first-year curriculum, law students have little opportunity to engage in factual investigation. Law school coursework—which is heavily litigation-focused and treats facts as established—and the casebook method leave little room or material to highlight the ingenuity and creativity necessary for effective lawyering.¹⁰³ Rather, law school focuses on the narrow case and the rule being applied. Even if professors discuss stories in the doctrinal classroom, the stories themselves are not important for exams, so students may not understand their value to lawyering. While most first-year legal writing curricula cover predictive and persuasive writing, students get very little practice with developing story, much less exercising the flexibility to develop alternative stories. Most legal writing faculty present limited facts to the students so as to narrow the issues students must evaluate. With the decline in enrollment in undergraduate humanities courses, law students also may not have had as much experience with crafting stories in their previous educational training as they had in prior generations.¹⁰⁴

As students move into upper division experiential courses, they may learn the theory of storytelling skills for use in practice. But, as Stefan Krieger and Serge Martinez note, the traditional model for clinical education does not stress the skill of storytelling in a repetitive way.¹⁰⁵ Students must balance their clients’ goals and the constraints of

¹⁰¹ See, e.g., West Academic “Law Stories” series, <https://www.westacademic.com/series/Law-Stories>; see also Carrie Menkel-Meadow, *Telling Stories in School: Using Case Studies and Stories to Teach Legal Ethics*, 69 *FORDHAM L. REV.* 787, 793 (2000) (stating “cases and stories give us more information and more choices to consider than does the primary text of education—the ‘completed’ appellate case”).

¹⁰² See Margalynne J. Armstrong & Stephanie M. Wildman, *Teaching Race/Teaching Whiteness: Transforming Colorblindness to Color Insight*, 86 *N.C. L. REV.* 635, 652 (2008); Daniel Harawa, *Whitewashing the Fourth Amendment*, 111 *GEORGETOWN L.J.* 923, 970–71 (2023) (describing how the criminal legal education curriculum contemplates a normative, color-blind, system divorced from how it operates in practice); Bennett Capers, *The Law School as a White Space*, 106 *MINN. L. REV.* 7, 35–36 (2021).

¹⁰³ See ALVAREZ & TREMBLAY, *supra* note 52, at 4 (stating that the work of a transactional lawyer is “collaborative, forward-looking, and imaginative”); see also Janeen Kerper, *Creative Problem Solving vs. the Case Method: A Marvelous Adventure in Which Winnie-the-Pooh Meets Mrs. Palsgraf*, 34 *CAL. W. L. REV.* 351, 366 (1998) (describing creative problem solving as beginning with not knowing and surrendering to curiosity).

¹⁰⁴ See, e.g., Nathan Heller, *The End of the English Major*, *NEW YORKER* (Mar. 6, 2023), <https://www.newyorker.com/magazine/2023/03/06/the-end-of-the-english-major>, at 28 (for a discussion of declining enrollments in undergraduate humanities majors); David McLean et al., *supra* note 17, at 498 (noting that medical students may resist reflection partly because they have limited experience with humanities or the arts).

¹⁰⁵ Stefan H. Krieger & Serge A. Martinez, *A Tale of Election Day 2008: Teaching Storytelling Through Repeated Experiences*, 16 *J. LEGAL WRITING INS.* 117, 158 (2010).

the law, typically in an environment that stresses careful and intense focus on a small caseload.¹⁰⁶ While Krieger and Martinez suggest that a high-volume, repetitive practice offers opportunities for students to focus on crafting stories without the added layer of complex substantive law and court formalities,¹⁰⁷ teaching storytelling as a part of crafting the reflective essay offers similar benefits within the existing structure of a clinic, externship, or other skills course.

Learning theory further supports the benefits of teaching a skill in multiple settings. By explicitly describing how a skill used in the classroom can be generalized and then applied to a future situation—in this case, storytelling in a reflection essay analogized to storytelling in a legal matter—instructors teach for transfer.¹⁰⁸ This technique, described by educational psychologists Gavriel Salomon and David Perkins as “bridging,” supports transfer for learning.¹⁰⁹ According to neuroscientist Lisa Genova, this repetition and focused practice creates muscle memory.¹¹⁰ And, Salomon and Perkins note, *teaching* for transfer translates to the student developing the skill of *learning* for transfer.¹¹¹

In a reflection essay, students need to identify the facts, and the salient facts are ones that they already command. Following Casey’s model, a reflective writer has at hand the memory of their experience, their understanding of the choices that they made, their personal history, characteristics, biases, and perceptions of others.¹¹² They are aware of the various contextual factors or can describe or research them in some way to animate the story that they craft.¹¹³ To the extent students are reluctant to invest in this process, the reality is that this process is central to the very kind of research and knowledge that goes into any fact section of a persuasive brief.¹¹⁴ Moreover, just as lawyers must grapple with facts obtained from a client, they must be attuned to the client’s

¹⁰⁶ *See id.*

¹⁰⁷ *Id.* at 161.

¹⁰⁸ D.N. Perkins & Gavriel Salomon, *Teaching for Transfer*, 46 EDUC. LEADERSHIP 22, 28 (Sept. 1988).

¹⁰⁹ *Id.* (explaining that “bridging” focuses on how to generalize a principle or skill and tell the students how they would apply it in a different setting).

¹¹⁰ GENOVA, *supra* note 80, at 51.

¹¹¹ Perkins & Salomon, *supra* note 108, at 30.

¹¹² *See* Casey, *supra* note 6, at 349; *see also* MICHAEL R. SMITH, ADVANCED LEGAL WRITING: THEORIES AND STRATEGIES IN PERSUASIVE WRITING 33 (2nd ed. 2008) (“A person is basically the protagonist in the story that is his or her own life.”).

¹¹³ *See* Casey, *supra* note 6, at 349.

¹¹⁴ ROBIN WELLFORD SLOCUM, LEGAL REASONING WRITING, AND PERSUASIVE ARGUMENT 462 (2d ed. 2006) (discussing how fact creation and storytelling intersect); *see also* Smith, *supra* note 112, at 33 (stating that stories communicate the lived experience, which is “the most fundamental way in which humans process and understand information”).

emotions, wishes, and goals.¹¹⁵ And lawyers must know how their own emotions, past experiences, and tendencies can affect their own judgment and well-being.¹¹⁶ While client-centered lawyering seeks to empower the client as the locus of a matter, the lawyer must remain on guard as to how their own brain may unconsciously shape the client's story.¹¹⁷ Fostering a strong self-awareness is critical to law practice.

2. *Key lawyering skills are deployed when developing narrative in a reflection essay.*

An explicit focus on crafting the narrative in the reflective process hones lawyering skills such as observation, listening, and empathy. According to physician and author Dr. Abraham Verghese, "joy, fascination, and empathy stem from the right brain's capacity for imagination, whereas medical training generally focuses on the left brain."¹¹⁸ Writing focuses a doctor (and, by extension, a lawyer) on developing skills of observation and empathy.¹¹⁹

Research from the field of medical humanities highlights the use of creative writing in physician education programs. One director of a medical humanities program, Lisa Kerr, distinguishes between creative writing and reflective writing, noting that the field of creative writing expects that students will develop critical reading, writing skills, and the ability to learn to express themselves.¹²⁰ In Kerr's view, reflective writing may be a start for the creative process, but creative writing develops the *craft* of writing by focusing on further revision and editing.¹²¹

In a creative writing workshop for medical residents at Yale (modeled on the Iowa Writers Workshop), researchers reported that focusing in greater detail on crafting a creative narrative, rather than a more typical critical incident report or personal journal, provided the residents with "the unique opportunity both to understand their own experiences more deeply and to imagine more fully the experiences of those they

¹¹⁵ See generally Marjorie A. Silver, "Emotional Competence and the Lawyer's Journey," in *THE AFFECTIVE ASSISTANCE OF COUNSEL: PRACTICING LAW AS A HEALING PROFESSION* (Marjorie A. Silver ed. 2007).

¹¹⁶ See generally *id.*

¹¹⁷ See, e.g., Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 *BUFF. L. REV.* 1, 45–46 (1990).

¹¹⁸ Anna B. Reisman, Helena Hansen & Asghar Rastegar, *The Craft of Writing: A Physician Writer's Workshop for Resident Physicians*, 21 *J. GEN. INTERNAL MED.* 1109, 1109 (2006) (paraphrasing Dr. Verghese's words from the workshop and citing Abraham Verghese, *The Physician as Storyteller*, 135 *ANN. INTERN. MED.* 1012 (2001)).

¹¹⁹ *Id.*

¹²⁰ Lisa Kerr, *More than Words: Applying the Discipline of Literary Creative Writing to the Practice of Reflective Writing in Health Care Education*, 31 *J. MED. HUMANS.* 295, 296 (2010).

¹²¹ *Id.*

write about.”¹²² By being aware of the need to obtain a patient’s story, physicians better observe, listen, empathize, and develop a sensitivity for the patient’s language, and understand different perspectives and points of view.¹²³ We extrapolate from this literature that the benefits of focusing on storytelling in the context of reflective essay writing carry over to legal training as well. Lawyers that have been trained to observe, listen, and empathize are more likely to develop a sensitivity to the story the client is telling them. “[W]riting concurrently in non-professional forms can help [] bridge the distance between lawyerly language, personal voice, and interpersonal communication.”¹²⁴ These skills, therefore, enhance a student or lawyer’s ability to serve clients in a culturally sensitive and ethically sound manner by more deeply understanding the client’s story and effectuating the client’s wishes.

Crafting a reflection essay as a narrative is also an opportunity to practice creativity.¹²⁵ While Aristotle describes a story as having a beginning, middle, and end, the structure of stories can be flexible and rearranged to capture the audience’s attention, relay the story, and change their minds in some way.¹²⁶ Lawyering—like many professions—ultimately relies on creativity in addition to the technical fundamentals learned in school.¹²⁷

3. *Cathartic nature of creative writing transfers to lifelong wellness practices*

Extensive literature analyzes the dissatisfaction, depression, and unhappiness experienced by attorneys.¹²⁸ Whether these phenomena are due to long hours, the competitive and adversarial nature of the

¹²² Reisman, *supra* note 118, at 1111.

¹²³ Kerr, *supra* note 120, at 300; Johanna Shapiro, Deborah Kasman & Audrey Shafer, *Words and Wards: A Model of Reflective Writing and Its Uses in Medical Education*, 27 J. MED. HUMANS. 231, 238–39 (2006).

¹²⁴ See Andrea McArdle, *Teaching Writing in Clinical, Lawyering, and Legal Writing Courses: Negotiating Professional and Personal Voice*, 12 CLINICAL L. REV. 501, 526 (Spring 2006).

¹²⁵ See BRUNER, *supra* note 60, at 13–14 (describing how law looks to the past, while literature or fiction looks to the future and “the possible”).

¹²⁶ GILLIE BOLTON, *REFLECTIVE PRACTICE: WRITING AND PROFESSIONAL DEVELOPMENT* 105 (2d ed. 2005) (describing one’s stories as a volatile system that is constantly changing), 114–16 (describing the ability to omit, fictionalize, and experiment with one’s experiences through reflective stories).

¹²⁷ As generative AI technology automates more rote tasks in lawyers’ daily work, creativity will play an increasingly important role for lawyers. Bernard Marr, *How Generative AI Will Change the Jobs of Lawyers*, FORBES (Mar. 14, 2024), <https://www.forbes.com/sites/bernardmarr/2024/03/14/how-generative-ai-will-change-the-jobs-of-lawyers/?sh=335a48a815a1>; see also Jay M. Baruch, *Creative Writing as a Medical Instrument*, 34 J. MED. HUMANS. 459 (2013) (comparing the practice of medicine directly to the act of creative writing).

¹²⁸ Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy? A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554, 557–58, n.2–6 (2015) (collecting publications describing high levels of emotional distress, dissatisfaction, and mental health distress amongst lawyers).

profession, or working in areas of law that are emotional and high stakes, the stressful nature of the work is largely accepted and perhaps even expected.¹²⁹ Spending time focused on creativity and creative writing in law school can promote well-being.

The Yale creative writing workshop for medical residents found that not only did the participants sharpen their observational skills and their own sense of self, the process of creative writing and sharing that writing with a trusting group had an unanticipated therapeutic effect.¹³⁰ Writers considered their role as doctors, how to maintain passion for medicine, and how to prevent burnout.¹³¹ By sharing their work in a workshop, residents felt they developed greater community and observed that it was helpful to see others going through similar experiences.¹³² This research comports with observations of law externship faculty who conduct rounds discussing the experiences of externship students; students express appreciation for peer advice and feel less alone knowing others are experiencing similar issues.¹³³

Incorporating storytelling into reflection helps serve as an emotional release.¹³⁴ In fact, sometimes, emotional release is the most compelling reason to tell a story.¹³⁵ Practitioners experience “anger, frustration, elation, pride, sadness and joy.”¹³⁶ The catharsis of storytelling compels practitioners to seek out storytelling opportunities. For example, Anderson, in her academic success practice, meets with students who have struggled in the first semester of the first year. She asks the students when she meets with them to tell the stories of their first semester. While her initial goal in encouraging students’ storytelling is to learn from practice and experience, she has found that the students use the opportunity as an emotional release. Only when they express the shame, humiliation, embarrassment, and shock of their first semesters can they start to make sense of the experience and grow from it. During meetings over the course of a semester, students tell and retell their stories of the first semester; their stories change and eventually they make more meaning out of their experience.

¹²⁹ See, e.g., Dustin S. McCrary, *What I Wish I Had Known Before Becoming a Lawyer*, HARV. BUS. REV. (Jan. 6, 2022), <https://hbr.org/2022/01/what-i-wish-i-had-known-before-becoming-a-lawyer>; Patrick R. Krill, Ryan Johnson & Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46 (2016).

¹³⁰ Reisman, *supra* note 118, at 1111.

¹³¹ *Id.* at 1110.

¹³² *Id.* at 1110–11.

¹³³ Megan Bess, Ryan Johnson & Linda Albert, *Case Rounds Redefined: Multidisciplinary Perspectives in Reflective Practice*, 75 WASH. UNIV. J.L. & POL’Y 71, 81–82, 107–08 (2024).

¹³⁴ McDrury & Alterio, *supra* note 85, at 63, 64.

¹³⁵ *Id.*

¹³⁶ *Id.*

Many books that are the subject of happiness or career satisfaction incorporate personal reflection through guided writing. The guided writings combine the concepts of reflective writing and storytelling.¹³⁷ These prompts integrate a lawyer's personal values into their professional identity and ground the lawyer in the meaning of their work, and in turn, support their well-being.¹³⁸

Framing reflection as a personal story, with the attendant elements of a story, creates a “two for the price of one” approach. By focusing on creative writing techniques, students gain the benefits of crafting stories and the reflective process. This emphasis on the story risks making reflection incidental to the writing, but it may also yield interesting and imaginative results. Finally, students understand the relevance of storytelling to the legal advocacy process and feel less like reflection is an “extra” activity that takes time.

Although storytelling and reflection converge in many ways, they also diverge in one key respect. Reflection on professional identity development and growth is about self-evaluation and self-regulation. Storytelling by its very nature is meant to be shared—to have an audience. In fact, in nearly all the descriptions of storytelling that exist, the audience is a key constant of the equation. It is the very reason that stories are told. That divergence is described in Part II.

II. STORYTELLING AND REFLECTION DIVERGE

A. Audience

Write with the door closed, rewrite with the door open. Your stuff starts out being just for you. . . , but then it goes out. Once you know what the story is and get it right—as right as you can, anyway, it belongs to anyone who wants to read it.

—Stephen King¹³⁹

¹³⁷ For example, in his book *The Creative Lawyer*, Michael Melcher uses discussion prompts for career discernment. MICHAEL MELCHER, *THE CREATIVE LAWYER: A PRACTICAL GUIDE TO AUTHENTIC PROFESSIONAL SATISFACTION* (2007). Similarly, Nathalie Martin discusses the importance of identifying and writing about peak experiences in one's life as method of ascertaining one's core values. NATHALIE MARTIN, *LAWYERING FROM THE INSIDE OUT: LEARNING PROFESSIONAL DEVELOPMENT THROUGH MINDFULNESS AND EMOTIONAL INTELLIGENCE* (2018).

¹³⁸ Little, *supra* note 65, at 50 (describing how reflective thinking and writing helps learners process their emotions and build awareness of others' emotions).

¹³⁹ STEPHEN KING, *ON WRITING* 57 (2000).

As writers and teachers, we think about the story as comprised of the characters, context, theme, and directed to a specific audience. In a reflective essay, however, the audience is really oneself and the story told is often an effort to resolve a conflict within oneself.¹⁴⁰ We illustrate this with diverging circles below.

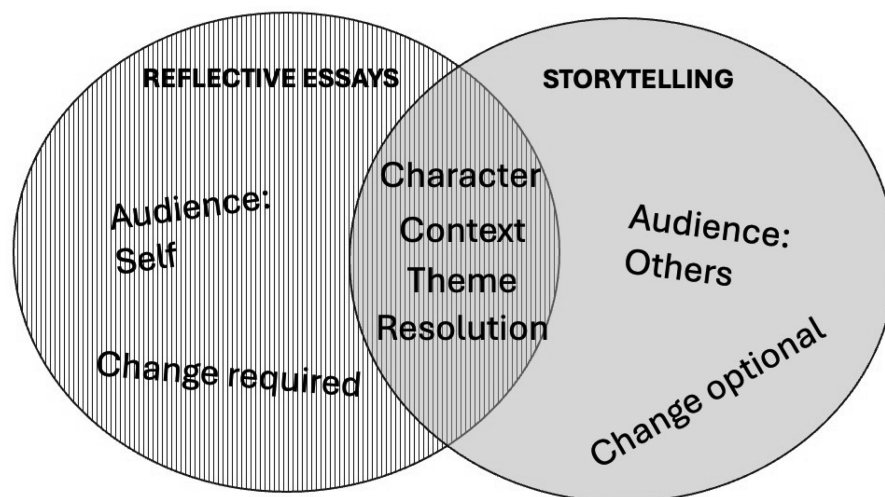


FIG. 4. CONVERGING AND DIVERGING ASPECTS OF REFLECTIVE ESSAYS AND STORYTELLING

Jerome Bruner contemplates that one's understanding of the "self" evolves based on the telling of one's own story and context: "[W]e constantly construct and reconstruct our selves to meet the needs of the situations we encounter, and we do so with the guidance of our memories of the past and our hopes and fears for the future."¹⁴¹

Does this construction and reconstruction work, however, if a reflection becomes an assignment for a law school course? The benefits of construction and reconstruction seem premised on an assumption that the learner sees the intrinsic value and engages in writing reflections and processing the event for themselves and their own growth. Assigning a reflection essay and focusing on it as a (potentially

¹⁴⁰ See Jennifer N. Rosen Valverde, *Using Narrative Therapy to Re-author the Dominant Law Student Narrative, Foster Professional Identity Development, and Restore Hope*, 28 CLIN. L. REV. 329, 335–38 (2021) (describing narrative therapy as including an exploring stage where the client explores their own lives, a deconstruction stage where they break the narrative into smaller parts, and a re-authoring stage where the client rewrites the problematic narrative).

¹⁴¹ BRUNER, *supra* note 60, at 64.

graded) story risks changing the primary audience to the instructor.¹⁴² Sarah Saffian, a memoirist and psychotherapist, distinguishes writing for other readers and writing for oneself. In her therapy practice, Saffian uses memoir-writing prompts to encourage reflection and processing.¹⁴³ At the same time, she notes that memoir writing is a craft intended to create meaning out of an experience in order to share it with others.¹⁴⁴ To the extent that the writer needs to process their experiences, therapeutic writing is a different type of writing and a different kind of setting and focus.¹⁴⁵

Perhaps the answer, then, is that reflection paired with storytelling is a two-stage process. Learners experience the immediate benefit of writing and reflecting on an event without an audience and with the goal of developing their skill for reflection as part of their own habits of practice. If the learner later uses their initial written reflection as a story that is told to a group, the group can dissect and challenge the assumptions and interpretations inherent in the story.¹⁴⁶ And, in the context of professional education such as law school, a group's reaction and examination of a professional situation can prompt shared understanding and community.¹⁴⁷ In this way, the reflective essay moves from a tool for therapeutic processing in Saffian's framing to a tool to pass on and create a collective understanding of meaning for the group and to shape group values.

This thesis is consistent with another key lawyering principle related to storytelling: regardless of the writer's intent, it is unlikely that all writing will be experienced in the same way by all audiences. Jenny Moon writes, "There is a logical argument that all fiction is generated on the basis of the inner experience of the writer and that we read it by matching it to our own inner experiences."¹⁴⁸ The reader necessarily brings their own experiences, biases, and preferences to their understanding and interpretation of a reflective essay. Similarly, judges or other decisionmakers will bring their same lived experiences when evaluating a legal argument in a brief. As lawyers and writers, one must keep in mind the individual experiences of the reader when framing

¹⁴² See Tyler & Mullen, *supra* note 2, at 294 (noting creating a "safe and liberating space" for storytelling—divorced from grading—was fundamental).

¹⁴³ Sarah Saffian, "The Crucial Distinction Between Writing for Other Readers and Writing for Yourself," *The Eleventh Hour: Iowa Summer Writing Festival Podcast* (Mar. 24, 2025), <https://www.youtube.com/watch?v=EXzhhsLaWC0>.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ McDRURY & ALTERIO, *supra* note 61, at 49.

¹⁴⁷ Bess et al., *supra* note 133, at 102.

¹⁴⁸ MOON, *supra* note 97, at 122; JENNIFER A. MOON, USING STORY IN HIGHER EDUCATION AND PROFESSIONAL DEVELOPMENT 15 (2010) (noting that "strategic or perceptive" students will modify written journals reviewed by instructors to suit the criteria for assessment).

persuasive arguments. Using reflection to better understand the storytelling process can be a way for the teacher to highlight how choices the storyteller makes can frame their thoughts for the audience.¹⁴⁹

B. Accuracy and Authenticity

Considering the audience and the role of the audience hints at a key concern. Does emphasizing story encourage fictionalization? Tyler and Mullen suggest that fictionalization may be fine. Stories, as used in their research project, were not intended to identify the objective truth—or even “to persuade or to provoke.”¹⁵⁰ Rather, the value of storytelling is in the process itself.¹⁵¹ “[T]elling a story helps students better understand what they have experienced.”¹⁵² Similarly, Jenny Moon states, “‘fact’ and ‘fiction’ are not, of course, discrete categories.”¹⁵³ Research demonstrates that much of our memories are “full of distortions, additions, omissions, elaborations, and other errors.”¹⁵⁴ In fact, Lisa Genova describes multiple studies in which researchers have duped participants, through leading questions, into remembering something they had never experienced.¹⁵⁵ A personal story wrapped in fiction—intentionally or unintentionally—may allow more exploration. Reflection often focuses on the learner’s decisions and what can be gleaned from that decision. Fiction may allow exploration of the choice not taken.¹⁵⁶ Even if the writer fictionalizes or stretches their imagination for some reason, the writer learns something about themselves in the process.

Couching the practice of writing reflective essays as a genre of storytelling may give students more agency. The writer can choose what facts, feelings, and elements to emphasize and what to share or not share. The writer can explore themes that concern them the most. In Essay B

¹⁴⁹ See Section III.B., *infra*.

¹⁵⁰ Tyler & Mullen, *supra* note 2, at 298.

¹⁵¹ *Id.*

¹⁵² *Id.* (quoting James Elkins, *On the Emergence of Narrative Jurisprudence, The Humanistic Perspective Finds a New Path*, 9 LEGAL STUD. F. 123, 143 (1985) (“We find out who we are as persons by the story we tell, by the conversations we have with others, the way we imagine ourselves, and the way we are able to understand and reflect on the ways our lives unfold.”)).

¹⁵³ MOON, *supra* note 97, at 122; see also Kathryn Abrams, *Hearing the Call of Stories*, 79 CAL. L. REV. 971, 1026 (1991) (“Creating any narrative involves a process of mediation, of muting and amplification, of selection among details.”).

¹⁵⁴ GENOVA, *supra* note 80, at 99.

¹⁵⁵ *Id.* at 102. Genova describes one study in which investigators told participants stories about autobiographical events that had never happened, claiming that they had learned the stories from family. *Id.* at 103. The results of the study were astounding: 25-50% of the people insisted that they remembered details about the events that were completely fictionalized. *Id.*

¹⁵⁶ MOON, *supra* note 97, at 129 (describing an exercise where the writer takes one element of a story and changes it to explore the consequences of having made a different choice).

above, for example, the writer focused on what sparked their interest in a particular area of practice. Another writer could have taken the same incident of interviewing a witness accused of securities fraud, emphasized the details of that experience, and thereby explored in greater depth the experience of fact investigation rather than their own career arc that led them to law school. Similarly, in the introductory story, the writer emphasized the importance of showing up for every appointment. Another writer might have emphasized the first-generation law student experience, or the importance of not making assumptions based on student signals.

The same authenticity and accuracy concerns that arise in reflective essays exist when a lawyer shares a client's story. Laurie Shanks uses a storytelling technique to highlight the challenges of client-centered interviewing.¹⁵⁷ Students tell each other a story about an event that changed their lives and then present the other's story to the audience.¹⁵⁸ In debriefing the activity, Shanks explores factors that may have changed the story that each student shared—including the ease of telling the story, the impact it would have on the audience's impressions, the identity of the audience, and (for the second speaker in the pair) the partner's story.¹⁵⁹ Students discuss what it means to represent another person and tell that person's story and reflect on the difference in this exercise, where they had the ability to choose the story that they wished to share and where their clients do not.¹⁶⁰ Sharing students' reflective stories prompts "[t]he ability to be both self-aware and empathic to clients"—"a skill that the best attorneys are constantly striving to improve."¹⁶¹

Self-awareness is also a basis for understanding professional identity, ethics, and wellness for lawyers themselves. Applying self-determination theory research, Larry Krieger identifies autonomy, competence, and relatedness to others as three of the four psychological needs for a satisfying human life.¹⁶² (The fourth is self-esteem.¹⁶³) These three factors are related and tied to one's capacity to act consistently with one's own values and "true self."¹⁶⁴ Self-awareness, therefore, relates

¹⁵⁷ Shanks, *supra* note 3, at 526–35.

¹⁵⁸ *Id.* at 517–18.

¹⁵⁹ *Id.* at 521–25.

¹⁶⁰ *Id.* at 527 (describing the students' stories as a "snapshot" carefully selected from a "photo album" and crafted in a positive light, with the ability to "crop" the picture of details that they did not wish to share).

¹⁶¹ *Id.* at 530.

¹⁶² Larry Krieger, *The Most Ethical of People, the Least Ethical of People: Proposing Self-Determination Theory to Measure Professional Character Formation*, 8 UNIV. ST. THOMAS L.J. 168, 171 (2011).

¹⁶³ *Id.*

¹⁶⁴ *Id.* at 174–75.

to authenticity and meaningfulness in interactions with others.¹⁶⁵ Finally, sharing reflections—even with an instructor alone and not the class as a whole—can increase feelings of vulnerability. Honest reflection requires trust. To be authentic, students may end up revealing aspects of their own personal history that they would not usually share, and that they may not even admit to themselves. By doing so, a student reconciles the internal and external contexts that affect their choices.¹⁶⁶

C. Advancement

Issues of authenticity and accuracy move us in turn to the question of whether the lesson identified by the storyteller leads to advancement and growth for the storyteller. Put another way, is the resolution of the story the right one? In writing reflective essays, where there is limited opportunity to question the person and engage in reflective dialogue, do we risk the student becoming an “echo chamber” and failing to identify the “right” lesson from the experience? In analyzing his own teaching, Gerald Hess notes numerous pitfalls of reflection—including lack of confidence, overwhelming complexity, and the slow pace of change.¹⁶⁷

Following from counseling and therapy disciplines, we understand that to *heal*, the storyteller must seek to become a more honest storyteller and be prompted to see their stories evolve over time, from an initial “self-serving” story to one that is the “most honest and truthful.”¹⁶⁸ Narrative therapy, in particular, recognizes that “each of us is storied by both self and other; ‘other’ may include family members, friends, membership in groups and communities, as well as social, cultural and political forces.”¹⁶⁹ Each person has a dominant narrative, and the therapist serves as a guide to help the client rewrite the story of their own life.¹⁷⁰

Here, then, is where storytelling and reflective essays diverge. While storytelling outlines a narrative arc, with a theme and a lesson and provides a means to share those learnings with an audience, reflective essays are the first step in a journey to explore one’s own self-development. At a time when AI can create text quickly and seamlessly, instructors are emphasizing writing as a process; writing is about “shaping ideas and engaging in meaningful discourse.”¹⁷¹ It involves “cultivating

¹⁶⁵ *Id.* at 173–75.

¹⁶⁶ Casey, *supra* note 6, at 339–42 (describing different ways students adapt internally to accommodate external factors that may affect their lawyering performance).

¹⁶⁷ Hess, *supra* note 89, at 138.

¹⁶⁸ Elkins, *supra* note 87, at 61.

¹⁶⁹ Valverde, *supra* note 140, at 335.

¹⁷⁰ *Id.*

¹⁷¹ Steven Mintz, “Teaching Writing in the Age of AI,” *Inside Higher Ed* (May 2, 2025), <https://www.insidehighered.com/opinion/columns/higher-ed-gamma/2025/05/02/challenges-and-approaches-teaching-writing-age-ai>.

essential habits of mind—critical thinking, argumentation, synthesis and the ability to navigate complexity.”¹⁷² We turn now to explore different classroom exercises that take advantage of the synergies between storytelling and reflection.

III. REFRAMING CLASSROOM DISCUSSIONS AND WRITING PROMPTS TO HIGHLIGHT DEVELOPMENT OF STORYTELLING SKILLS

In this section, we explore elements of the storytelling process that are useful to lawyers. What exercises train lawyers to be both reflective and good storytellers?

A. Finding and Identifying Stories for Reflection

Education theorists such as Drs. Gillie Bolton, Janice McDrury, and Maxine Alterio offer a variety of reflective creative writing exercises, and we have adapted some for the law school classroom. First, students need to find stories. They need to develop awareness, and a sense of observation, and look for learning events. Focusing on the story-finding aspect of the storytelling process encourages reflection by identifying learning that can be extracted from “*non*-critical incidents,” i.e., the things that would otherwise be ignored or forgotten.¹⁷³ In fact, the process of writing things down builds awareness and recall—or episodic memory.¹⁷⁴

In her field placement class, Tai asked her students to write for six minutes about anything that was on their minds.¹⁷⁵ Then students were asked to write in response to a specific prompt about the time they were most engaged as a learner.¹⁷⁶ Students spent fifteen minutes for this exercise in class, but it was not turned in. Instead, students were instructed to keep a log of short in-class written reflections that would be the basis for an end-of-semester long-form essay. This exercise allows for writing on what comes to the writer’s mind without self-censoring or worrying about a potential audience. Bolton describes this process as “a gift to yourself.”¹⁷⁷

¹⁷² *Id.*

¹⁷³ BOLTON, *supra* note 126, at 3; *see also* BRUNER, *supra* note 60, at 20 (“[G]reat narrative is an invitation to problem finding, not a lesson in problem solving.”). To illustrate how easy it is to miss things that one is not looking for (and thereby the importance of reflection), we play the invisible gorilla experiment video for students. *See* CHRISTOPHER CHABRIS & DANIEL SIMONS, *THE INVISIBLE GORILLA* 5–8 (2011).

¹⁷⁴ GENOVA, *supra* note 80, at 107.

¹⁷⁵ With credit to Amy Sankaran, University of Michigan. *See* Jenny Tubbs, *This I Believe: An Exercise with “Hot Pen,”* ZINGERMAN’S PRESS (Jan. 24, 2017), <https://www.zingermanpress.com/blog/2017/01/this-i-believe-an-exercise-with-hot-pen/>.

¹⁷⁶ *See, e.g.,* McDRURY & ALTERIO, *supra* note 61, at 68–69.

¹⁷⁷ BOLTON, *supra* note 126, at 145. In addition, in a classroom setting, the use of a free-writing exercise might also take the form of a formative assessment—an opportunity for

Anderson teaches Advanced Legal Writing: Writing Center—a course for 2L and 3L students who serve as tutors in the law school's Writing Center. In this class, she asked students to write answers to questions in response to class readings related to their tutoring practice before class discussion. The answers are not shared, but they are an opportunity for the student to think freely about their feelings. The opportunity gives students practice forms of writing—especially free writing—not utilized frequently in law school. It also gives students the chance to express their feelings and collect their thoughts before class discussion, which they may or may not choose to share with the class. Students then use class discussions and free writing to build their weekly reflections.

Providing a structure—without dictating the subject—may also enable the creativity and freedom needed for reflective exploration. In a study at the Melbourne University Medical School, David McLean and his coauthors applied an approach to reflection using short, structured tasks that they termed “in-verse reflection.”¹⁷⁸ The study described four different exercises; each exercise asked students to write a short word or a phrase response to a prompt.¹⁷⁹ The topics included the students' impressions of their medical studies, their experiences in their current rotation, the kinds of phrases they have overheard doctors use, and the senses associated with an incident in the last year.¹⁸⁰ After concluding the exercises, students read each other's writings and discussed. The study found these exercises sparked a sense of shared experience and camaraderie, and allowed medical students to engage with the affective dimension of medical practice.¹⁸¹ These findings highlight the process of developing a professional identity, and the research group theorized that engaging in these short group activities “aimed to awaken reflection in students instead of attempting to guarantee it.”¹⁸²

These impromptu stories and uncensored writings can be revisited later, and students can gather and collate their thoughts into a larger final reflection essay.¹⁸³ This method provides more time for students to reflect between the event and the writing. The writer can “freeze the

students to identify or share with the teacher their understanding of a subject so as to shape future class discussions.

¹⁷⁸ McLean, *supra* note 17, at 494.

¹⁷⁹ *Id.* at 497.

¹⁸⁰ *Id.*

¹⁸¹ *Id.* at 500.

¹⁸² *Id.* at 494.

¹⁸³ See McDRURY & ALTERIO, *supra* note 61, at 103–04 (discussing using reflections to create exemplars (i.e., case studies) of an experience). For Tai's externship class, after spending a portion of class time each week writing in response to reflective prompts and discussing storytelling in the law, students are asked to write a final reflection essay that discusses their own story. The prompt for this essay states:

film” on a particular frame, replay it, and examine it in a different light.¹⁸⁴ Feedback and questions from classmates or teachers can prompt students to re-examine their stories and consider whether there are new insights learned, or growth and development over time.¹⁸⁵ Moon describes this as “secondary reflection.”¹⁸⁶ This act—moving from small stories to

As you wrap up your externship, this final reflection is an opportunity to pull together the experiences that you have had this semester (and last semester or in other legal internship experiences) into your own story and autobiography.

As you write your reflection, look back at your reflections from our in-class writing sessions and consider whether any of those writings can be expanded and used to illustrate your story. Describe your story, choosing your own starting point. Thinking about yourself as both the actor in an autobiography and audience for the writing, pull yourself back from your description and think critically. Reflect on how, why, what, where, and when.

- How have you arrived at this destination?
- What have been the challenges, trials and successes so far?
- Why do you think you were challenged or succeeded?
- Who/what helped and/or hindered you?

Each of us has a story, and when presenting that narrative to others, we make decisions about what gets included and excluded. For this journal prompt, think about your story and the story of the lawyer you read about. Next, considering the story of the lawyer you read about, think about:

- What did you and they choose to share?
- What did you and they choose not to share?

Finally, please consider the following:

- How would you describe your purpose? Has this sense of purpose changed over the course of your career/law school?
- What beliefs and values underpin your desire to be a lawyer? Why do you think you hold these beliefs or values?
- What can you do to make a difference?
- Are you surprised about what you learned or did not learn? Are there things you wished you had done or not done?
- What are you excited or worried about now?
- What are your personal and professional goals for the immediate future (approx. 2 years)?
- Do you feel satisfaction in your career/trajectory? Elaborate on when you feel satisfied and any concerns you may have about finding satisfaction now/in the future.

¹⁸⁴ BOLTON, *supra* note 126, at 8; *see also* MCDRURY & ALTERIO, *supra* note 61, at 108; Ogilvy, *supra* note 11, at 75–76 (citing DONALD A. SCHÖN, *THE REFLECTIVE PRACTITIONER* (1983) and DONALD A. SCHÖN, *EDUCATING THE REFLECTIVE PRACTITIONER* (1987) for the distinction between reflection-on-action and reflection-in-action, both necessary for professional development).

¹⁸⁵ *See* MCDRURY & ALTERIO, *supra* note 61, at 53–54.

¹⁸⁶ MOON, *supra* note 148, at 69 (stating that re-writing a reflection of an experience from a brief journal into a story is an effective means of making sense of an experience); DONALD A. SCHÖN, *EDUCATING THE REFLECTIVE PRACTITIONER* 31(1987) (discussing how reflection on past reflection-in-action may shape one’s future action); Bess et al., *supra* note 133, at 113–14 (describing an exercise that traces the evolution of the problem definition in rounds over the course of a class session); MCDRURY & Alterio, *supra* note 85, at 64–65 (providing time

a larger reconstructed story—echoes Tyler and Mullen’s observations of how stories allow students to synthesize complex aspects of their client’s experiences and their relationship to their clients.¹⁸⁷

B. *The Art of (Re)Framing and Perspective-Taking*

During the 2023 Applied Legal Storytelling Conference, we asked participants for ideas of storytelling exercises that could be adapted to teach reflection as well. Several attendees shared exercises focused on perspective-taking by asking students to re-write a previous essay from the perspective of a different actor. Much like the parallel universe thinking exercises developed by Jean Koh Peters and Susan Bryant, these exercises are a foundation for pausing, suspending judgment, and searching for alternative explanations.¹⁸⁸

We have adapted Peters and Bryant’s seminal work to experiment with different forms of parallel universe thinking, or perspective taking. In a class session focused on professional identity development, a prompt could ask students to think of an unsatisfactory interaction they recently had with a professional (e.g., doctor, lawyer, dentist, etc.).¹⁸⁹ The student can write that story from their own perspective and then write it from the perspective of the professional.¹⁹⁰

In a session of Anderson’s tutoring class that focuses on handling difficult situations, students roleplay peer tutoring of first-year writing students. Students take turns playing the tutor and the tutored student discussing a mock writing assignment. An unexpected result of the role-play exercise is how rich the tutored student’s perspective was about the role they played. Even when participants adopted a tutored student perspective using an example of writing *they did not write*, students felt invested in that writing and encouraged by positive feedback. They also felt disarmed by the peer tutor using strategies discussed in class and used by their peers to handle them as the difficult student. These

for additional responses and dialogue with listeners creates “[d]ePTH from a single perspective, and breadth from multiple views . . . provid[ing]opportunities to maximize reflective learning”).

¹⁸⁷ Tyler & Mullen, *supra* note 2, at 294–96.

¹⁸⁸ See Susan Bryant & Jean Koh Peters, *Reflecting on the Habits: Teaching About Identity, Culture, Language, and Difference*, in *TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY* 349, 358–59 (Susan J. Bryant, Elliott S. Milstein, & Ann Shalleck eds., 2014); *see also* Sue Bryant & Jean Koh Peters, *Habit 3: Parallel Universe Thinking*, FIVE HABITS OF CROSS-CULTURAL LAWYERING & MORE, <https://fivehabit-sandmore.law.yale.edu/jean-and-sues-materials/habits/habit-3/> (last visited Nov. 14, 2024).

¹⁸⁹ McDRURY & ALTERIO, *supra* note 61, at 70–72; *see also* Gerdy, *supra* note 65, at 57; Grose, *supra* note 27, at 59 (describing class exercises where students tell the story in a case from the points of view of different characters in a family law class or drafting a will from different perspectives in a trusts and estates course).

¹⁹⁰ McDRURY & ALTERIO, *supra* note 61, at 70–72.

feelings and observations enabled them to then translate these perspectives into their own tutoring practices. Interestingly, students often compare these sessions to feedback experiences that they had in their summer positions or at other times in law school. This combination—a roleplay from two different perspectives, coupled with connection to past experiences—cues students to effectively articulate why those feedback experiences fell short of the ideals discussed in class.

Likewise, in a class session discussing conflict management, Tai has asked students to write about a situation of conflict, to then write about that situation from the perspective of another actor, and then write it from the “third story.”¹⁹¹ The third story, as described by Doug Stone, Bruce Patton, and Sheila Heen, focuses on the difference between the two stories of the actors and crafts a description of the situation that starts from a neutral position.¹⁹² Starting a difficult discussion from the third story strives to remove the language of judgment and focuses the actors in the conflict on how to explore the issue.¹⁹³ “[T]he incident can be turned over in the hands, examined from different sides, looked at from underneath or looked at afresh.”¹⁹⁴ Considering this “third story” is a useful reframing by mediators to diffuse tensions between parties; similarly this approach could also be used as a reflection prompt in a judicial externship seminar or another course where students step out of the role of an advocate.¹⁹⁵

Similarly, Camesha Little describes the use of a dialoguing journaling technique as a way to prepare students for difficult conversations.¹⁹⁶ Using a “movie script” format, students write what person A states, and then how person B responds.¹⁹⁷ The writer can brainstorm and prepare multiple versions, experimenting with different tones for the conversation, different responses by the speakers, and the potentially different resulting outcomes.¹⁹⁸ This creative writing method essentially gives

¹⁹¹ The prompt states: “For our next class meeting, our guest speaker will discuss handling conflict and high-tension situations, conflict styles, and ways to de-escalate conflict. To help personalize the discussion, describe a real-life work situation where you have had to navigate conflict. Draft a 1-2 paragraph story. We will use this in class as a case study, so please feel free to anonymize the situation as needed.”

¹⁹² DOUGLAS STONE, BRUCE PATTON & SHEILA HEEN, *DIFFICULT CONVERSATIONS: HOW TO DISCUSS WHAT MATTERS MOST* 149–62 (1999).

¹⁹³ *Id.*

¹⁹⁴ MOON, *supra* note 148, at 123.

¹⁹⁵ See KENNETH CLOKE & JOAN GOLDSMITH, *RESOLVING PERSONAL AND ORGANIZATIONAL CONFLICT: STORIES OF TRANSFORMATION AND FORGIVENESS* 57–58 (2000) (describing the magic of the third story that a mediator helps the parties craft from conflicting and opposing stories).

¹⁹⁶ Little, *supra* note 65, at 62–65.

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

students the opportunity to envision the other person's position and formulate a plan for how to navigate conflict.

Another exercise could have students write about a case from two different points of view: first, from that of the attorney as a main character and then, next, from the view of the client as the protagonist. We see this exercise underlying articles authored by clinicians. Clark Cunningham describes a clinic case involving a misdemeanor traffic stop and contrasts his clinic team's approach to the case as a *Terry* stop violation with the client M. Dujon Johnson's own unstated belief that the arrest was racially motivated.¹⁹⁹ In "Give them Back Their Lives," Binny Miller analyzes the perspectives of the different actors in a dispute that resulted in the arrest of her clinic's client in a department store.²⁰⁰ In Lucie White's "Sunday Shoes," White contrasts her own perspective as a white legal aid lawyer during a hearing for the overpayment of public benefits with that of her client, Mrs. G, an African American low-income woman.²⁰¹ These articles demonstrate the internal context, external context, and societal context that Tim Casey describes as higher stages of reflection.

Introducing narrative strategies in brief writing in a first-year legal writing course is a straightforward way to discuss perspective early in a student's legal education. When introducing facts and theme in persuasive writing, Anderson has students discuss strategies the writer uses in sample briefs to develop sympathies for the client, including character development and plot. Anderson then has students reframe the facts for the other side. She asks students to consider how to recast the antagonist as the protagonist using character development and plot. It is surprisingly difficult for students to recast their thinking and their writing in this way, and it yields interesting discussion of the power and limitations of persuasion.

Anderson also has students practice perspective-taking and reframing in her externship supervision seminar. There, she prompts students to tell the story of receiving feedback in their externship or to tell a story of another meaningful interaction they had with their supervisor. She asks students to think about and describe the story from their perspective first, and then to re-write the story from the perspective of the supervisor. She has found that this exercise, when students are willing to invest in it, provides the student with powerful insights. Further, she emphasizes both in her tutoring class and her externship seminar how these skills transfer to lawyering.

¹⁹⁹ Clark D. Cunningham, *Lawyer as Translator, Representation as Text: Towards an Ethnography of Legal Discourse*, 77 CORNELL L. REV. 1298 (1992).

²⁰⁰ Binny Miller, *Give Them Back Their Lives: Recognizing Client Narrative in Case Theory*, 93 MICH. L. REV. 485 (1994).

²⁰¹ See generally, White, *supra* note 117.

Perspective-taking also reminds us to consider the power of framing. Cognitive framing can be used to evoke different associations for the same “states of the world.”²⁰² Economists Francis de Véricourt, Kenneth Cukier, and Viktor Mayer-Schönberger describe the law school case study method as way to constantly consider, “what if?”²⁰³ This practice develops the skills of imagining alternative realities and practicing framing skills.²⁰⁴ Understanding the use of frames translates directly to lawyering, with examples ranging from Spotify’s innovation of selling music as a streaming service rather than a thing one “owns,” to civil rights’ advocates re-positioning of same-sex marriage from a “rights”-based framework to one focused on values of love, commitment, and family.²⁰⁵

To illustrate reframing, teachers might use improv exercises in their class.²⁰⁶ For example, in “The Rant” game, students are placed in pairs. One person talks for one or two minutes about a subject of their choice—usually a pet peeve.²⁰⁷ The second person listens for the underlying needs and values of the speaker and translates the rant into a positive statement. Another common reframing exercise is the failure resume, where students, instructors, or successful attorneys share their failures and what they learned from what went wrong.²⁰⁸ The exercise acknowledges that everyone fails—it is part of the growth process—and encourages kinder self-talk about those failures. Writer Oset Babur states, “if you’re hung up on calling yourself dumb or a bad writer, it’s hard to get to the part where you make your piece a lot better.”²⁰⁹

To highlight reframing as a reflective exercise, Emily Esfahani Smith’s TED Talk is instructive. She reframes happiness as meaning with four pillars: belonging, purpose, transcendence, and storytelling.²¹⁰ She emphasizes that each individual has the ability to “edit, interpret, and retell [their own] story” even when “constrained by the facts.”²¹¹

²⁰² DANIEL KAHNEMAN, *THINKING, FAST AND SLOW* 363 (2011); *see also* DE VÉRICOURT ET AL., *supra* note 20, at 6 (explaining different frames evoke different conclusions despite the same underlying data).

²⁰³ DE VÉRICOURT ET AL., *supra* note 20, at 86–88.

²⁰⁴ *Id.*

²⁰⁵ *Id.* at 145–46, 189–90.

²⁰⁶ We use improv games to highlight and practice communication skills. For potential reading materials, *see* ALAN ALDA, *IF I UNDERSTOOD YOU, WOULD I HAVE THIS LOOK ON MY FACE?: MY ADVENTURES IN THE ART AND SCIENCE OF RELATING AND COMMUNICATING* (2017); BOB KULHAN & CHUCK CRISAFULLI, *GETTING TO “YES AND”: THE ART OF BUSINESS IMPROV* (2017).

²⁰⁷ Timothy M. Smith, *How Medical Improv Training Sparks Better Communication, Teamwork*, AMA Ed Hub (Nov. 13, 2020), <https://www.ama-assn.org/education/changemed-initiative/how-medical-improv-training-sparks-better-communication-teamwork>.

²⁰⁸ Tim Herrera, “Do You Keep a Failure Résumé? Here’s Why You Should Start,” *N.Y. TIMES* (Feb. 3, 2019), <https://www.nytimes.com/2019/02/03/smarter-living/failure-resume.html>.

²⁰⁹ *Id.*

²¹⁰ Emily Esfahani Smith, *There’s More to Life than Being Happy*, TED (April 2017), <https://youtu.be/y9Trdafp83U>.

²¹¹ *Id.*

Smith counsels that considering one's experiences, what one has one has lost or gained, can help develop a meaningful life story containing "redemption, growth, and love."²¹² For law students, who often feel the stress of their time in law school, developing reframing skills can help foster resilience, growth mindset, and satisfaction in law school and legal practice. So often, as human beings, we default into unproductive re-hashing and re-living of past events. By resisting rumination and using reflection for productive growth and problem-solving, students can shape their own stories into one of meaning and confidence.

C. Recognizing Categories in Storytelling: Stock Stories, Scripts or Schemas

Writing reflections can also lead to a discussion of the use of categories in writing, such as stock stories, scripts, or schemas. Lawyers habitually shape their client's story to parallel a familiar form or narrative arc, such as the Hero's Journey or the battle between David and Goliath.²¹³ They do so because "[w]e see and understand the world through 'stock stories'" that represent shared "human, social, and political values."²¹⁴ Within these stock stories is hidden assumed information; the stories also provide a concrete articulation of commonly shared values within a culture.²¹⁵ Amsterdam and Bruner explain that categories are "almost never constructed arbitrarily," rather, "they are extracted from some larger scale, more encompassing way of looking at things—either from some *theory* about the world or a *narrative* about the human condition and its vicissitudes."²¹⁶ Categories are a convenient shorthand, but the usefulness of categories is premised on a common understanding of "*what matters* to ourselves and those on whom we depend."²¹⁷ Categories, therefore, are related to frames, as how categories are defined and redefined are established by how useful the category is for the person's needs.²¹⁸

²¹² *Id.*

²¹³ See, e.g., Ruth Anne Robbins, *Harry Potter, Ruby Slippers, and Merlin: Telling the Client's Story Using the Characters and Paradigm of the Archetypal Hero's Journey*, 29 SEATTLE L. REV. 767, 776 (2006); see also MOON, *supra* note 148, at 57–58 (noting Western fairy tales typically structure events in threes).

²¹⁴ Lopez, *supra* note 42, at 3 (noting that stock stories help one person persuade others to help problem solve, which in turn is an activity characterized as "lay lawyering").

²¹⁵ *Id.* at 8–9; see also Elkins, *supra* note 87, at 49–52 (describing his own family story as one inherited from prior generations and tied to a specific place (Kentucky's Jackson Purchase) and values (Democrat in a fundamentalist church)).

²¹⁶ AMSTERDAM & BRUNER, *supra* note 19, at 11–12 (emphasis in original).

²¹⁷ *Id.* at 23 (emphasis in original).

²¹⁸ *Id.* at 22 (discussing use of a broad category "crime" as opposed to narrow category "felony, misdemeanor, or infraction" by lawyers due to the difference in consequences for a client facing charges).

A predictable storyline can serve as a bridge that eases the reader's understanding of the story.²¹⁹ When categories are drawn from folk stories, myths, or other stock frameworks, the reader is predisposed to follow the storyline to the inevitable conclusion, whether it is a heroic return from a quest, a rags to riches *Cinderella* story, or a tragic downfall of a sympathetic character.²²⁰ However, schema, scripts, and stock stories have negative traits; using them can risk imposing a presumed and traditional structure by those with power on persons with minoritized identities.²²¹ Lawyers and law students must understand the appeal of stock stories and make intentional decisions whether to use them or develop alternatives in their advocacy.²²²

To practice this skill, students could experiment with emphasizing characters and actions and selecting descriptors to follow different types of story structures or genres.²²³ Anderson teaches these strategies in brief writing. She teaches students to identify their client as the protagonist in the story and to develop their character to make them sympathetic. She also discusses strategies to make the antagonist less sympathetic. She initially uses a sample brief from Linda Edwards's text to teach these strategies.²²⁴ There, the protagonist/client is an individual who runs a credit agency. The protagonist was sued by a debtor who disputed an item on his credit report.²²⁵ The client failed to respond to the complaint in a timely way and filed a motion to set aside the default judgment.²²⁶ The client failed to respond to the complaint because his wife suffered a heart attack while they were out of town, and he was caring for her for several weeks.²²⁷ The client—clearly a family man struggling to make a living—befell a great personal tragedy.

Anderson discusses with her students the descriptors and verbs used in the fact section, and the placement of the key facts (and negative facts). When the writer is describing the protagonist, the writer

²¹⁹ MOON, *supra* note 148, at 57.

²²⁰ Lopez, *supra* note 4, at 9; *see also* AMSTERDAM & BRUNER, *supra* note 19, at 47 (explaining that receivers of stories “are quicker to see the expected than the unexpected”).

²²¹ AMSTERDAM & BRUNER, *supra* note 19, at 24, 37 (emphasizing that “[n]either habit nor culture has the final word on how we categorize things in our worlds”).

²²² *See, e.g.*, Aleksandra E. Olszewski, *Narrative, Compassion, and Counter Stories*, 24 *AMA J. ETHICS* 212, 213 (Mar. 2022) (“Stock stories and stories about stock characters are shared and shaped by people in power. Such stories present perspectives that support existing power structures as the neutral and given reality, while skirting responsibility for injustice.”).

²²³ *See, e.g.*, McDRURY & ALTERIO, *supra* note 61, at 72–75 (describing creative writing exercises that prompt reflection while following arbitrary story structures such as a journey); BOLTON, *supra* note 126, at 180–93 (describing reflective writing in different genre forms, including fantasy, poetry, and parody).

²²⁴ LINDA H. EDWARDS, *LEGAL WRITING & ANALYSIS* 319–24 (4th ed. 2015).

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ *Id.*

uses verbs like *promise*, *suffer*, *offer*, and *reply*.²²⁸ The writer also uses three paragraphs to describe the only slightly important heart attack of his wife.²²⁹ On the contrary, the writer uses similarly effective strategies to create a villain. In that brief, the antagonist/villain is never named.²³⁰ The first question Anderson asks is the plaintiff's name, and students scramble to find it. They eventually find it in the caption. Students then identify the verbs the writer associates with the antagonist. Students find words like *refuse*, *demand*, *argue*, and *defect*.²³¹ The class then discusses how they would use character, plot, and emphasis to create a different narrative arc, one in which the antagonist becomes the protagonist. Students struggle to flip the script, but they eventually discuss how the protagonist is a credit bureau—and credit bureaus typically are not sympathetic businesses—and the business owner becomes incompetent in running the business.

Examining stories and story structures allows for discussion of the potential harms of forcing a client's story into a stock story. Because stock stories can play such a powerful role in compelling a particular result, they challenge the notion of the legal process as a logical and neutral system.²³² Periodically, students can be upset by such a suggestion, especially after they feel trained from their 1L inception to view the law as neutral and objective. Does persuasive narrative have a place in a system that yields only an objectively fair result? The sample brief Anderson uses is a good example of how using stock stories creates risks. When examined from the other side's perspective, the antagonist/villain is at least as sympathetic as the client. Can a lawyer empower a client by freeing their narrative from some predetermined story? Does doing so also free the lawyer to engage in different means of achieving the client's goals?²³³

A lawyer should not make these choices reflexively. Examining counter-stories, as in "Sunday Shoes," can lead to a better understanding of both lawyering strategies and the impact of dominant narratives.²³⁴ Similarly, Liz Keyes has explored the role of binary immigrant narratives (namely, immigrants in search of the American Dream versus

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *Id.*

²³² Lopez, *supra* note 42, at 10 (stating stories acknowledge "perhaps to an uncomfortable degree that we can only aspire to be neutral, certain and in control").

²³³ See, e.g., Carolyn Grose, *Of Victims, Villains and Fairy Godmothers: Regnant Tales of Predatory Lending*, 2 NE. UNIV. L.J. 71, 97 (2010); see generally White, *supra* note 117.

²³⁴ See White, *supra* note 117, at 28. There, the author describes the experience of a legal aid lawyer making choices about how to tell her clients' stories. She states: "I would counsel clients to describe themselves as totally helpless in order to convince the court that they met the statutory definition of disability. . . . [And] in AFDC work, . . . when I taught women to present themselves as abandoned, depleted of resources, and encumbered by children to qualify for relief, I taught them to say yes to the degrading terms."

poor, troubled, or criminal immigrants taking jobs and other resources from Americans) within the complexity of the immigration system.²³⁵ In the context of domestic violence cases, Leigh Goodmark contrasts the narrative of the “battered woman” characterized as passive and submissive with that of a “survivor,” which evokes strength, resilience, and triumph over violence.²³⁶ Failure to recognize and allow stories to be told—in all their intricacies and messiness—risks eliminating those voices from the conversation altogether.²³⁷ Lawyers must also recognize that decisionmakers face these challenges as well.²³⁸ Understanding the use of stock stories can lead to a discussion, in class, on how to address cognitive dissonance resulting from shifting the narrative to a more complex and multilayered understanding.²³⁹

After examining the use of stock stories and these considerations, students can turn to their own reflection essays and examine whether the narratives that they have crafted fall within similar patterns. Perhaps the stories they tell themselves fall into recognizable patterns focused on competition, self-interest, and winning such as: “Grades 1L year determine your career trajectory;” “It’s important to be on Law Review because firms will look for that on your resume;” or “BigLaw is the best way to get training to be a good lawyer.”²⁴⁰ Once students recognize that they are falling into the stock story, they can identify how to make choices to craft a different story for themselves.²⁴¹

D. *Experimenting with Rhetorical Devices: Metaphors, Similes or Analogies*

Like categories, lawyers wield metaphors, similes, and analogies in advocacy. Although law students have likely studied the importance of metaphors in writing, teaching storytelling—and storytelling techniques

²³⁵ Elizabeth Keyes, *Beyond Saints and Sinners: Discretion and the Need for New Narratives in the U.S. Immigration System*, 26 GEORGETOWN IMMIG. L. J. 207, 216–17 (2012).

²³⁶ Leigh Goodmark, *When Is a Battered Woman Not a Battered Woman? When She Fights Back*, 20 YALE J. L. & FEMINISM 75, 82–86 (2008).

²³⁷ *Id.* at 118 (“When we edit the stories of battered women, we lie about who they are and how they perceive the world around them. When those stories are accepted by others as truth, women are forced to live that lie.”); *see generally id.* at 114–34; Keyes, *supra* note 235, at 250–56 (describing the need to tell more complex stories of immigration to help shape views of lawmakers).

²³⁸ Keyes, *supra* note 235, at 252–53.

²³⁹ *Id.* at 253 (describing techniques, such as directly naming the preconceived narrative, to reframe the client’s narrative within a different context outside of “good” and “bad”).

²⁴⁰ These stock stories comport with Jennifer Rosen Valverde’s description of dominant narratives, which push out alternate stories. Valverde, *supra* note 140, at 335–36 (describing the process of exploration, deconstruction, and re-authoring narratives); *see also id.* at 345–56 (describing five “discourses” that support the dominant law student narrative).

²⁴¹ *Id.* at 338 (describing how people have agency and power to change their own narratives).

such as metaphors, similes, and analogies—in conjunction with reflection highlights the strategic and careful choice of language. For law students, this is a reminder that metaphors serve as a bridge between the known and the unknown.²⁴² They help convey a message in a compact way, while keeping the interest of the audience and even creating a lasting memory in the listener or the reader.²⁴³ Moreover, a well-chosen metaphor can suggest a particular trajectory or future and reinforce the persuasive message the lawyer wishes to convey.²⁴⁴

The selection of the metaphor, therefore, is important. “[M]etaphor is not merely an optional, rhetorical flourish. It is our most pervasive means of ordering our experience into conceptual systems.”²⁴⁵ “The metaphor we choose dictates our thoughts by defining which groups of concepts and images we can blend to create meaning. . . . [It] defines your viewpoint, expectations, strategy, and actions.”²⁴⁶ Michael R. Smith identifies four different ways metaphors are used in legal writing.²⁴⁷ A course on legal writing could analyze the ways attorneys employ these metaphors by examining cases and examples. Students could be encouraged to embrace use of metaphor in their trial advocacy simulations or when writing briefs. Practical strategies—such as jotting down potential metaphors for use in different types of cases or deals—can help convey the practical nature of this kind of creative thinking and connection.²⁴⁸

Being careful and conscious of language turns naturally into a discussion of the challenges with using metaphors. How can they be used incorrectly or poorly? What happens if one employs a metaphor that doesn’t fit?²⁴⁹ Or has the opposite effect of that intended? For example, a common example of a metaphor is a grade school model portray-

²⁴² KENDALL HAVEN, *STORY PROOF: THE SCIENCE BEHIND THE STARTLING POWER OF STORY* 58 (2007). Metaphors are also pervasive; Haven cites research that finds the average American uses almost six metaphors per minute when speaking. *Id.*

²⁴³ See *id.* at 60.

²⁴⁴ For examples of metaphors and their use to make ideas “stick,” see HEATH & HEATH, *supra* note 20, at 57–62.

²⁴⁵ Levit, *supra* note 2, at 265–66 (citing Susan Bandes, *Empathy, Narrative, and Victim Impact Statements*, 63 U. CHI. L. REV. 361, 383–84 (1996) and noting that this is a skill “only learned by doing”).

²⁴⁶ HAVEN, *supra* note 242, at 58–59; see also Elkins, *supra* note 87, at 47 (noting metaphors are inevitably accompanied by images).

²⁴⁷ Michael R. Smith, *Levels of Metaphor in Persuasive Legal Writing*, 58 MERCER L. REV. 919, 920–21 (2007) (listing these types of metaphors as doctrinal, legal method, stylistic, and inherent).

²⁴⁸ Robert A. Creo, *In the Arena: The Art of Persuasion—Analogies, Metaphors and Similes*, PA. LAW. at 14, 15 (Nov./Dec. 2016) (discussing the examples of analogies used to persuade in litigation).

²⁴⁹ See, e.g., Stephen A. Newman, *Uses of Metaphor in Legal Argument*, 222 N.Y.L.J. 3:1 (Nov. 10, 1999) (noting that metaphors can be “misleading, overpowering or seductive”).

ing electrons orbiting around a nucleus. These images are compelling and readily recall images of planets orbiting around the sun.²⁵⁰ Yet the orbital mechanics of atoms are a metaphorical representation.²⁵¹ If this metaphor were, for example, to be used to explain aspects of a chemical compound in a court hearing, one must think about whether the metaphor works, and whether the metaphor appropriately balances accessibility with accuracy. Moreover, because metaphors are a form of pattern recognition, the audience must recognize the pattern to understand and adopt it. In a class session on metaphors, this is an opportunity to discuss the influences of culture, values, and unconscious biases in communication and consider settings in which metaphors may not translate well or may be misunderstood entirely.²⁵²

With this groundwork, one can then turn to using reflective prompts to practice applying metaphors to our everyday lives. Classroom exercises focusing on metaphors can give students freedom to be creative when they might feel otherwise constrained in the legal education classroom. Anderson, in her tutoring class, asks students to identify the animal that most closely reflects their tutoring personas. Even for those students who struggled to create emotion and depth in their reflective practices, the introduction of a metaphor into their reflection generated freedom and creativity in their reflections. One student wrote:

Elephants have around 150,000 muscle units in their trunks and are perhaps the most finely tuned organ found in any mammal. . . . In law school, my “trunk” feels like my brain. Every day is a test of how fierce it can flex in remembering balancing tests, how sensitive it can be in bringing emotional intelligence to a school sometimes operating in a feeling-less vacuum, and how multi-dimensional it can show up in being a good student, good friend, good mentor, and good person. I often joke about having to do other things to remind myself I am not just a brain in a chair, like working out, spending time with my husband, and connecting with my friends and family outside of Iowa. While my brain is strong, it also tires. Finding ways to best rest such a heavy-lifting muscle is a continual learning process.

²⁵⁰ HEATH & HEATH, *supra* note 20, at 56 (explaining this analogy is accessible in its simplicity and connection to solar systems).

²⁵¹ *See id.*

²⁵² Harold Anthony Lloyd, *Law as Trope: Framing and Evaluating Conceptual Metaphors*, 37 PACE L. REV. 89, 93–94 (2017) (discussing bias and the role of culture).

... [E]lephants have no natural predators They can crush and kill any other land animal, even rhinoceros. While part of their power comes from their sheer size, they have enormous versatility in their trunk . . . and a highly tuned emotional sensitivity and concern for others. . . . Elephants even have greeting ceremonies when a friend that has been away for some time returns to the group. I have always felt very attuned to the feelings of those around me. I am the go-to person for advice in my friend group and the “helper” or “problem-solver” in my family. Sometimes, this means I am sharing the emotional weight of others to lighten their burden while still holding on to my own struggles But if I continually pour into others, I have no water left in my own well . . .

I have to embody another characteristic of elephants—their thick skin. Elephants’ skin is 2.5 cm in most places. It folds and wrinkles so they can retain up to 10 times more water than flat skin, helping to cool them down. In a place where a professor can call up your name randomly, ask you a difficult question, and put you on blast in front of classmates if you answer poorly, I have to have thick skin to survive. Even more so when it comes to a competitive environment and the urge to compare myself to my classmates (how much more they’re studying, how much better their outlines are, how more efficient they are at managing their time), those without thick skin fall prey to a vicious cycle of not feeling good enough. I continually try to find my thick skin and embody resiliency, confidence, and belief in myself to succeed as a law student. Reminding myself of my worth and purpose helps me ‘stay cool.’

Lastly, elephants form deep family bonds and live in . . . herds. . . . The herd is led by the oldest and often largest female in the herd (the matriarch). In more ways than one, the Writing Center has become my herd this semester Community is the antidote for law schools’ difficulty. I feel belonging when I know others care for me, understand what I am going through, and believe in my potential. Finding supportive and authentic peers in the Writing Center has been a guiding light. The family we have created is foundational for me.²⁵³

²⁵³ Student Essay, Fall 2024 (edited for length and reproduced with permission). A student wrote this essay as part of the course “Advanced Legal Writing: Writing Center.” The

Similarly, a reflection prompt in a course exploring professional identity could ask students to brainstorm metaphors that illustrate their conception of lawyering.²⁵⁴ Listing out potential words can then lead to a discussion within the class of how each person conceives of their own professional identity.²⁵⁵ Class discussion can then analyze whether the words have positive or negative associations, what emotions are conveyed by the metaphors, and whether they reveal insights about each students' envisioned relationship with clients or the practice of law. The metaphors may highlight the ways our experiences might differ depending on our backgrounds or our planned practice area. One can start with these words and brainstorm ways that they reveal other layers in the professional identity of an attorney.²⁵⁶

CONCLUSION

As discussed in this Article, reflection is a critical skill for formation of professional identity, and storytelling is a fundamental lawyering skill. When the skills are taught in tandem, students get “two for the price of one.” We have discussed a series of exercises that prompt storytelling and experiment with literary devices and narrative techniques as tools for reflective practice. For Professor Tai, the writing and re-writing of one's story is particularly interesting, so she asks students to assemble the short writing that they completed in class during the semester into one larger final essay at the end of the year. Students are asked to write a story describing the arc of their law school and externship experiences and how that fits with their own values and their conception of the role of a lawyer. For Professor Anderson, using exercises to develop students' ability to empathize and express emotion is important to develop critical lawyering skills, professional identity, empathy,

prompt was: If you had to describe your experience in law school or in the Writing Center as an animal, what might it be and why? What is it like to be you?

²⁵⁴ See BOLTON, *supra* note 126, at 160 (providing prompt that begins “if my work were an animal [or food, drink, flower], what animal would it be?”). While Bolton's prompt is playful, James Elkins provides some more typical metaphors for the role of a lawyer. Elkins, *supra* note 87, at 47–48 (listing metaphors such as the lawyer as hired gun, friend, companion, problem solver, counselor, or warrior).

²⁵⁵ To contrast, one could discuss how lawyers are traditionally characterized as members of a hierarchical and privileged profession. See Jonnette Watson Hamilton, *Metaphors of Lawyers' Professionalism*, 33 ALTA. L. REV. 833 (1995).

²⁵⁶ See Martin White, *Metaphor and Reflective Teaching*, 16 Q. NAT'L WRITING PROJECT & STUDY WRITING & LITERACY 23, 25 (Fall 1994) (using this exercise to generate metaphors that can be used to analyze the role of a teacher); see also Donald Roth, *Narrative Metaphor: Integrating Insights in Cognitive Science into a Toolset for Intentionally Shaping Vocational Pursuits*, 23 INT'L J. CHRISTIANITY & EDUC. 69, 76–77 (2019) (describing a similar exercise and its use to examine and shape professional identity of teachers in a Christian college).

and well-being. While in the end, there is no single right approach for reflective writing, we believe the exercises and philosophy described in this Article—which focus on developing creative writing skills as part of the reflective process—may provide students with better guidance on how to engage in higher-level forms of reflection and avoid routine and surface-level reflection.

DEMOCRATIZING LEGAL EDUCATION: IMPLEMENTING A LEGAL RESEARCH COURSE AT A PRETRIAL DETENTION FACILITY

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Legal education in carceral settings presents a pedagogical challenge: how can educators teach law without reproducing the hierarchical relationships embedded in both traditional legal education and the criminal legal system? This Article examines that question through the development and implementation of a legal research course at Nashua Street Jail, a pretrial detention facility in Boston, Massachusetts. The Article draws on the liberative pedagogies of Paulo Freire and bell hooks to help frame the collaborative learning process inside the jail. Rather than relying on a traditional “Know Your Rights” model that positions educators as experts and participants as passive recipients of legal information, the course treats pretrial detained persons and law students as co-learners who bring distinct forms of knowledge and experience to the classroom. The Article proceeds in three parts. Part I describes the development of the Nashua Street Jail legal research course and grounds it in the liberative pedagogies of Freire and hooks, contrasting the course’s approach with traditional models of “know-your-rights” trainings. Part II examines how liberative theory translates into practice, using the development and implementation of the course’s initial lessons to explore the challenges and possibilities of building a curriculum within a pretrial detention facility. Part III turns to the role of the law student-facilitator, examining the art of facilitation and creating a space for law students to learn

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alongside pretrial detained persons, as the law students facilitate the class through dialogue, active listening, and shared power—thereby creating opportunities for epistemic friction and critical engagement. The Article illustrates how legal education in carceral settings can democratize access to legal information, equip pretrial detained persons with tools to understand and question the legal structures that affect their lives, and cultivate a more relational approach to legal practice grounded in learning with rather than working for people affected by the criminal legal system.

INTRODUCTION

As an educator working in prisons and jails, I grapple with how to teach law in carceral settings without reinforcing the harms well-documented in traditional legal education. This paper is my effort to explore how I navigated power imbalances in legal education while teaching a legal research course at the Suffolk County Jail, also called Nashua Street Jail, a pretrial detention facility in Boston, Massachusetts. In teaching the course and writing this paper, I drew on the liberative pedagogies of Paulo Freire and bell hooks. Specifically, I aimed to create a learning environment that emphasized dialogue, critical thinking, and shared authority, while acknowledging the inherent power dynamics in a carceral setting. As bell hooks states, “Education as the practice of freedom is not just about liberatory knowledge, it’s about a liberatory practice within the classroom.”¹ The legal research course at Nashua Street Jail brought together law students and pretrial detained persons in a collaborative learning environment, fostering a bottom-up perspective, a shared exploration of legal research tools, and discussions of criminal procedure.² The course, developed and refined over two years while I was in law school, reflects an ongoing process of creating, learning, and relearning how to teach a legal research course inside a pretrial detention facility. After I graduated from law school, Boston University’s Criminal Law Clinic continued to teach the course at Nashua Street Jail, supplementing the lessons I included in the appendix.³

¹ BELL HOOKS, *TEACHING TO TRANSGRESS: EDUCATION AS THE PRACTICE OF FREEDOM* 147 (1994).

² In 1987, Mari Matsuda urged legal scholars to “look to the bottom” to (re)theorize justice and equality under the law. *See generally* Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 324 (1987) (“Looking to the bottom—adopting the perspective of those who have seen and felt the falsity of the liberal promise—can assist critical scholars in the task of fathoming the phenomenology of law and defining the elements of justice. . . . When notions of right and wrong, justice and injustice, are examined not from an abstract position but from the position of groups who have suffered through history, moral relativism recedes, and identifiable normative priorities emerge.”).

³ Prison Education Practicum, Bos. Univ. Sch. of L., <https://www.bu.edu/law/experiential-learning/clinics/prison-education-practicum/> (last visited June 8, 2025).

There is no single way to teach this course. Each class, each facilitator, and each participant brings their perspective, which helps to refine and improve how the course is taught.⁴ What I have documented is offered not as a definitive solution but as a guide for those interested in undertaking similar projects. The following descriptions in this paper explore how liberative pedagogies are translated and negotiated in practice, bridging the gap between abstract concepts and their implementation in the course. While the students are not providing single-client representation, often characteristic of clinical legal education, they still play a valuable role in providing community legal education to pretrial detained persons.⁵

I hope to contribute to a broader understanding of legal education in carceral contexts and encourage a wider conversation about how to teach law inside carceral facilities by detailing the course's development, pedagogical approach, and the challenges faced along the way. Given the increasing presence of legal courses in carceral settings⁶ and the limited scholarship on this topic, we need to examine our practices. We should aim to transgress institutional boundaries and educational hierarchies toward a relational model of learning, avoiding the reproduction of the systems of domination prevalent in legal education and carceral facilities.⁷ Law students, through teaching this course, move "closer to the ground" by challenging the hierarchies that structure public interest

⁴ See generally HOOKS, *supra* note 1, at 10 ("Even though I share strategies, these works do not offer blueprints for ways to make the classroom an exciting place for learning. To do so would undermine the insistence that engaged pedagogy recognize each classroom as different, that strategies must constantly be changed, invented, reconceptualized to address each new teaching experience.").

⁵ See Rachel Camp, Margaret E. Johnson, Catherine F. Klein & Lisa V. Martin, *Teaching Social Justice Lawyering: Systematically Including Community Legal Education in Law School Clinics*, 18 CLIN. L. REV. 401, 407 (2012).

⁶ While some law schools, like Georgetown, have a longstanding commitment to provide legal education to incarcerated persons—Georgetown's program with youth detention centers began in the 1970s—others have more recently initiated such programs. See *Learning to Teach, and Teaching to Learn: A Conversation with Professor Richard Roe of Georgetown Law's Street Law*, Georgetown University Law Center (June 25, 2018), <https://www.law.georgetown.edu/news/learning-to-teach-and-teaching-to-learn-a-conversation-with-professor-richard-roe-of-georgetown-laws-street-law/> (last visited Apr. 6, 2026). For instance, Cornell Law School launched its prison education program in 2024. Cornell Law School *Prison Education Law School Practicum*, <https://www.lawschool.cornell.edu/academics/experiential-learning/clinical-program/prison-education-practicum/> (last visited Apr. 6, 2026). Columbia Law School established a paralegal training program for formerly incarcerated individuals in 2018. Paralegal Pathways Program Trains Formerly Incarcerated People to Be Paralegals, News 12 New York (Nov. 2, 2023), <https://newyork.news12.com/paralegal-pathways-program-trains-formerly-incarcerated-people-to-be-paralegals> (last visited Apr. 6, 2026). The legal education program I helped to start at Nashua Street Jail was integrated into Boston University's Criminal Law Clinic and is now taught through a practicum starting in 2026.

⁷ Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591, 591 (1982).

legal practice and cultivating a more relational vision of lawyering – one grounded in solidarity, because “[r]adical change only comes about by working with people; it is never the result of working for people.”⁸ This course offers an opportunity to cross institutional boundaries, anchoring budding lawyers in the day-to-day operations of oppressive legal structures and helping them understand what fighting alongside future clients can look like through a community education model, opening up new ways of seeing the law.⁹ Most importantly, it provides pretrial detained persons with legal literacy skills that help them understand, question, and navigate the legal structures infringing on their lives.

This article is divided into three parts. In Section One, I discuss the course’s initial development and theoretical foundation, drawing on the liberative pedagogies of Paulo Freire and bell hooks to critique traditional educational models. Section Two explains the theory behind the curriculum, highlighting the challenges and opportunities faced when applying Freire’s pedagogy at Nashua Street Jail. I examine the first three lessons and detail the decision-making process for each lesson plan. Section Three focuses on the facilitator’s role as a co-learner, emphasizing active listening, shared power, and fostering critical engagement within legal discourse. The article aims to add to the growing body of knowledge on creating meaningful and transformative learning experiences in carceral spaces and encourages critical reflection on legal education within carceral systems.

I. DESCRIPTION OF THE LEGAL RESEARCH CLASS

The legal research class emerged from a question during a mindfulness session I taught at Nashua Street Jail in the spring semester of 2021.¹⁰ A participant challenged the mindfulness practice, asking

⁸ William P. Quigley, *Revolutionary Lawyering: Addressing the Root Causes of Poverty and Wealth*, 20 WASH. U. J. L. & POL’Y 101, 149 (2006).

⁹ This kind of education extends what community lawyering can look like and develops the essential skills needed for Gerald López’s vision of radical lawyering: lawyers who strive to engage in the collective fight for social change, acknowledge the skills and expertise clients offer; cultivate the consciousness of the interpersonal relationships required for collaboration; continuously evaluate both legal and non-legal approaches to social problems; and maintain an awareness of the impact lawyers have on a client’s life. Anthony V. Alfieri, *Rebellious Pedagogy and Practice*, 23 CLINICAL L. REV. 5, 11–13 (2016) (“Lopez’s vision focuses on enhancing the community informed, collaboration . . .”).

¹⁰ Nashua Street Jail is a pretrial detention facility in Boston, Massachusetts, operated by the Suffolk County Sheriff. The jail is 249,540 square feet and houses 13 maximum-security units, 453 cells, and 654 beds for pretrial detention. Suffolk County Jail, Suffolk Cnty. Sheriff’s Dep’t, <https://scsdma.org/facilities/nashua-street-jail/> (last visited June 8, 2025). Nashua Street Jail was built on a 2.1-acre site, next to the Charles River and across the street from TD Garden. *Id.* The jail’s backdrop cannot entirely disguise its six-story concrete and brick walls, punctuated by narrow, slitted windows, confining many of the students I have grown to respect over the three years I taught at the jail.

whether meditation could disrupt generational cycles of incarceration. He mentioned being incarcerated with his nephew. His question sparked a discussion about the type of class the participants envisioned, which centered on theories of justice and the criminal legal system. Although I was nearly finished with my first-year criminal law course, my limited knowledge left me ill-equipped to guide the discussion they imagined. Our conversation planted the seed for a course designed to help incarcerated learners at Nashua Street Jail navigate the complexities of the criminal legal system.

After finishing the mindfulness course, I emailed Nashua Street's education director about teaching a law-related class. Unsure about the course structure, I told the director it would be based on a Know Your Rights curriculum called StreetLaw. I also mentioned I was open to teaching other non-law classes, not wanting to rule out the chance to teach a different subject. Legal education behind bars is fairly rare because few carceral facilities offer education programs,¹¹ and carceral systems tend to be cautious about legal education.¹²

During my 1L summer and 2L fall semester, I developed a legal research course with the help of two of my law professors at Boston University, Marni Caputo and Kate Devlin Joyce, along with law librarian Brian Flaherty. In my final year of law school, Clinical Law Faculty members Shira Diner and Angelo Petrigh helped me refine the curriculum. We concentrated on legal research skills, including interpreting case law, conducting legal research, and using search terms and connectors. I intentionally moved away from the initially proposed Know Your Rights curriculum because I wanted to develop a program that fosters conversation rather than simply dispensing information. My lawyering professors and librarians helped me understand how the legal skills I learned in my first-year legal research and writing course could help incarcerated individuals access legal databases and interpret case law, which are often challenging to use without formal training.

¹¹ Postsecondary education programs in prisons are "rare and getting rarer." Natasha Yousefi, *The Case for Prison Education Reform*, 18 DEPAUL J. SOC. JUST. 1, 10 (2024) ("Policymakers, state courts, and public political sentiments reinforce this punitive ideology by characterizing services for prisoners as undeserved and misallocated handouts, and these sentiments have underscored the gradual elimination of prison postsecondary programs since the introduction of Pell Grants in the 1960s.").

¹² Through conversations with prison educators, including those at the National Conference on Higher Education in Prison, I have learned that legal research courses are typically prohibited within carceral facilities. When I presented this class at the National Conference on Higher Education, attendees expressed surprise that Nashua Street Jail permitted law classes, confirming that this restriction is widely recognized. My own experience—with a rejected proposal at another Boston-area jail—further supports this observation. I am deeply grateful that Nashua Street Jail partnered with me to offer this course.

I recruited several of my law school friends to co-facilitate the initial sessions.¹³ A co-facilitation model not only creates a dynamic learning environment but also challenges traditional classroom power structures.¹⁴ We aimed to embody the class's collaborative spirit by fostering mutual support, building on each other's ideas, and ultimately demonstrating a horizontal power structure through sharing facilitation responsibilities. Our approach acknowledged that power is shared between facilitators and participants. Co-facilitation provides a practical way to challenge hierarchical education models by dispersing classroom authority among facilitators.¹⁵ Everyone was encouraged to actively co-create knowledge rather than passively receive information.

A. *Synopsis of the Curriculum*

I developed a guide to facilitate the course based on popular education models and Freirean principles. The guide compiles the lessons we pieced together in conversation with class participants over the first two years of teaching.¹⁶ The course emphasized practical legal research skills for finding and applying relevant statutes and case law in motions to dismiss and motions to suppress. For many class participants, the criminal legal system is a confusing maze. This course helps demystify the process by providing individuals with knowledge of their procedural rights and tools to participate actively in their defense. Simultaneously, the format allows law students to gain legal insight from those directly impacted by the system.

The facilitation guide establishes common ground by creating shared parameters and a flexible framework that facilitators and participants can use as a template for meaningful discussion. We recognize the expertise and insight held by those navigating the legal system from within, treating participants as valued partners in a collaborative learning process. The following sessions delve into common themes that participants were most interested in, including criminal procedure, bail and arraignment, search and seizure, *Terry* motions, *Miranda* rights, and other procedural safeguards.

¹³ Thank you, Eric Wellers, Jacob Cantor, Nana Boateng, Marie Tashima, Peter Kaplan, Sam Packard, Aoife Croucher, Adam Luban, Angel Yi, and Carolyn Sacco.

¹⁴ Reema Harrison et al. highlight how co-facilitation enables facilitators to share authority, redistribute decision-making, and monitor power dynamics within group work in ways that can shift power imbalances. Reema Harrison, Bronwyn Newman, Ashfaq Chauhan & Mashreka Sarwar, *Employing Co-Facilitation to Balance Power and Priorities During Health Service Codesign*, 27 HEALTH EXPECTATIONS e13875 (2023).

¹⁵ See generally *id.*

¹⁶ Please see the appendix for the Facilitators' Guide.

Session 1: Laying the Foundation

- Introduces key legal terminology and the structure of a case timeline and explores different sources of legal authority. Participants will understand common legal terms and how case law and statutes form the basis of the legal system. Using a Massachusetts bail-reform case, *Brangan v. Commonwealth*, 477 Mass. 691 (2017), participants will identify the types of authority in a decision.

Session 2: Case Analysis and IRAC

- Participants are invited to examine the IRAC method (Issue, Rule, Application, Conclusion), a systematic approach for analyzing case law. Using *Brangan*, participants will practice identifying the relevant legal issues and rules and how the court applied the law to reach its conclusions. This session equips participants with the tools to break down case law.

Session 3: From Case Analysis to Legal Research Strategy

- This session bridges the gap between case analysis and the development of focused research strategies. Participants will revisit *Brangan* to identify the specific legal questions the court addressed. Using these questions, participants will learn to craft concentrated research questions using keywords and Boolean search terms. This session teaches participants how to translate legal issues into research plans.

Session 4: Motions to Dismiss

- Participants will delve into Motions to Dismiss and understand their purpose and role in criminal proceedings. They will learn about probable cause; review provided fact patterns and analyze whether the facts support probable cause for an arrest. They will practice crafting research questions and apply their skills by finding relevant case law and statutes. This session emphasizes the connection between research and the development of legal arguments for a motion to dismiss.

Session 5: Discovery Motions

- This session focuses on discovery in criminal cases, specifically under Rule 14 (mandatory discovery rules). Participants will learn about automatic discovery, exculpatory evidence (including the prosecution's obligations under *Brady*), and analyze Rule 14 to understand what the prosecution must disclose. Participants will identify potential exculpatory information using fact patterns. This session emphasizes the strategic use of discovery to bolster defense arguments.

Session 6: Evidentiary Motions - *Terry* Stops

- Participants will learn about the exclusionary rule and how it applies to evidentiary motions. This session focuses on *Terry* stops, defining reasonable suspicion and how it differs from probable cause. Participants will analyze fact patterns using videos and case law to determine if stops meet the reasonable suspicion standard and outline how a defense attorney would frame a Motion to Suppress based on a potential *Terry* stop violation.

The lessons should remain open to modification based on the evolving discussions and circumstances within each class. The course's flexibility underscores a key commitment behind the class: it is not meant to be a traditional "know your rights" training that treats participants as receptacles for information.¹⁷ Know-your-rights campaigns are "often dry recitations of law" that "fail to mention the practical difficulties in implementing" the discussed rights.¹⁸ Instead, the lessons should center on participants' questions and foster an exchange of knowledge and experience.

It's important to note that centering the experiences of justice-impacted groups is not a novel concept. In 1987, Mari Matsuda called for a bottom-up perspective in legal scholarship, recognizing the importance of centering the voices of those most affected by the legal system's injustices.¹⁹ Her approach has been further developed through participatory models such as Participatory Legal Scholarship (PLS), which aims to generate legal theory grounded in co-analysis with those with lived experience of the law's dysfunctions.²⁰ These models challenge the traditional top-down approach to legal knowledge and equip marginalized communities to help shape the legal landscape. I hope the legal research course can contribute to this collaborative movement by fostering a participatory learning environment that centers the voices

¹⁷ Brandi M. Lupo, *Legal Rights, Real-World Consequences: The Ethics of Know Your Rights Efforts and Towards Improved Community Legal Education*, 17 NW. J. HUM. RTS. 1, 17 (2019).

¹⁸ Charles Elsesser, *Community Lawyering - The Role of Lawyers in the Social Justice Movement*, 14 Loy. J. Pub. Int. L. 375, 393 (2013).

¹⁹ Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 324-25 (1987) ("Looking to the bottom—adopting the perspective of those who have seen and felt the falsity of the liberal promise—can assist critical scholars in the task of fathoming the phenomenology of law and defining the elements of justice. . . . What is suggested here is not abstract consideration of the position of the least advantaged. The imagination of the academic philosopher cannot recreate the experience of life on the bottom. Instead, we must look to what Gramsci called 'organic intellectuals,' grass roots philosophers who are uniquely able to relate theory to the concrete experience of oppression.").

²⁰ Rachel López, *Participatory Law Scholarship*, 123 COLUM. L. REV. 1795 (2023).

of incarcerated persons. Matsuda's and López's work has been crucial to my understanding of how to model bell hooks' and Paulo Freire's pedagogy in a legal literacy program.

B. The Model's Theoretical Foundation: bell hooks and Paulo Freire

I primarily used Paulo Freire's classic text, *Pedagogy of the Oppressed*, to develop the course. In *Pedagogy of the Oppressed*, Freire's educational model was designed to engender social action among people who have suffered socioeconomic repression.²¹ Freire diverged from traditional, vertical models of education and proposed a liberative model of education for adult literacy.²² Freire's method considers the practice of dialogue as a cornerstone of education and a bulwark of resistance against structural violence: "no one teaches another, nor is anyone self-taught. People teach each other, mediated by the world."²³ Freire's dialogical process opens space for students and teachers to co-create the learning process, thereby challenging the oppressive structures that can be reproduced within traditional lecture-style classrooms.²⁴

The educator's role is to engage in dialogue with students and provide them with tools to teach themselves how to deconstruct and reconstruct their social contexts.²⁵ The dialogical process begins when educators present codified situations to help learners arrive at a critical understanding of their own situation.²⁶ In Freirean pedagogy, a code refers to a theme or identified problem that the learning community may face.²⁷ Codes can include scripts, role-plays from written or oral dialogues, stories from participants' lives, texts from newspapers and magazines, and videos on social media; these codifications

²¹ PAULO FREIRE, *PEDAGOGY OF THE OPPRESSED* 72 (1970). Freire's pedagogy and theory are well known and often referenced in clinical legal scholarship, particularly his analysis of the banking method, which is often used to describe the deficits of traditional, lecture-style education. Less often mentioned is Freire's description of how to subvert banking-method education and extend participation, dispersing power between student-teachers and teacher-students. This section draws out Freire's method through his use of social codes and generative themes.

²² Daryn Egan-Simon, *Active Agents of Change: A Conceptual Framework for Social Justice-Orientated Citizenship Education*, 1 *EQUITY IN EDUC. & SOC'Y* 297 (2022).

²³ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 80.

²⁴ *Id.* at 81 ("The students—no longer docile listeners—are now critical co-investigators in dialogue with the teacher.").

²⁵ *Id.* at 80 ("The teacher is no longer merely the-one-who-teaches, but one who is himself taught in dialogue with the students, who in turn while being taught also teach. . . . They become jointly responsible for a process in which all grow.").

²⁶ See generally PAULO FREIRE, *THE POLITICS OF EDUCATION: CULTURE, POWER, AND LIBERATION* 50–52 (1985).

²⁷ *Id.*

are knowable objects that mediate between the knowing subjects, educators, and learners.²⁸ Educators utilize these coded representations of social issues to guide conversations and anchor the problem-posing process.

Freire recommends that educators enter a community to talk with students and learn their perspectives on the problematic realities they face.²⁹ The educators would investigate what words and expressions the community most used to describe their issues (codes).³⁰ Educators then incorporate those words into the lesson so that students and educators can share a vocabulary to describe the situations students face.³¹ Freire called these words and themes generative because they appeal to the students' interests and lay the foundation for dialogue.³²

In line with liberative education models, the Nashua Street Jail class's approach positions facilitators as learners alongside students, acknowledging that while power dynamics inevitably exist, their shared commitment to learning ensures that educators and learners are respected as equally knowledgeable subjects in the classroom.³³ In Freire's pedagogy, students and educators maintain their individual identities as dialectical partners in the educational process.³⁴ The process does not impose an artificial erasure of social distinctions, nor does it collapse the social identities of students and educators, which would inevitably obscure each person's individual identity.³⁵ Rather, differing social locations and identities are crucial to the learning process. Genuine learning and growth occur through respectful engagement with distinct identities, not their erasure.

In order to engage in this discursive process, facilitators "must examine their priors – their prior perspectives, prior academic training, and prior understanding of expertise and how knowledge is produced – through critical dialogue and collective inquiry."³⁶ Facilitators

²⁸ *Id.* at 56.

²⁹ Freire describes how curriculum development begins with educators engaging in informal conversations with members of the community where classes will be held. *Id.* at 43–47. The educators identify commonly used words and explore their meanings to understand the issues faced by the community. *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 47–48 ("The codification represents familiar local situations—which, however, open perspectives for the analysis of regional and national problems. The generative words are set into the codifications, graduating according to their phonetic difficulty."); *see also* FREIRE, PEDAGOGY OF THE OPPRESSED, *supra* note 21, at 115 ("[C]odifications should open up in the direction of other themes.").

³³ FREIRE, THE POLITICS OF EDUCATION, *supra* note 26, at 51.

³⁴ *Id.*

³⁵ *Id.* at 101.

³⁶ López, *supra* note 20, at 1852.

cannot enter the classroom assuming that their interpretation of the law is correct or that learning is unidirectional. The learning process is bidirectional, flowing between facilitators and participants. Freire's process, ultimately what this course inspires, is not just about "changing something 'out there'" but is "also about both changing ourselves and our mental models, and our relationships between the 'out there' and the 'in here.'" ³⁷

The facilitator's critical self-reflection is an essential part of the education process. "Without greater reflexivity in [the learning] processes, the power differences that exist between [educators] and participants may lead them to reenact the relations and norms that uphold the repressive legal order [that the educators] aim to unsettle." ³⁸ The reflective process must be continual because educators can never fully escape the systems they teach within, despite their best efforts to resist social norms. ³⁹ Freire described this process of critical awareness as *conscientização*, conscientization, in which "we become more fully conscious through self-reflection and action in community with others." ⁴⁰ In Freire's paradigm, dialogue with another perspective allows educators and students to better discern the material world because, through that dialogue, we are not limited to our own subjective understandings. ⁴¹

Recognizing that educators and students contribute equally to discussions from their distinct social locations is fundamental to Freire's approach; however, this acknowledgment does not imply a relinquishment of the educator's positional authority to manage the classroom. Freire's liberatory pedagogy necessitates that teachers retain directional authority within the learning environment. ⁴² For the educator, this means being an authority in the classroom but not authoritarian. ⁴³ In *Epistemology of the Oppressed: The Dialectics of Paulo Freire's Theory of Knowledge*, Wayne Au explicates Freire's position:

³⁷ *Id.* at 1828 (quoting Hillary Bradbury et al., *A Call to Action Research for Transformations: The Times Demand It*, 17 ACTION RSCH. 3, 8 (2019)).

³⁸ *Id.*

³⁹ *Id.* at 1828.

⁴⁰ *Id.* at 1834.

⁴¹ *Id.* at 1819 ("In short, Freire believed that humans are unable to perceive the world objectively through our own consciousness; instead, he maintained that we learn what the material world is only through sharing our subjective lens with others to reveal the bigger picture.").

⁴² Wayne Au, *Epistemology of the Oppressed: The Dialectics of Paulo Freire*, 5 J. FOR CRITICAL EDUC. POL'Y STUD. 175, 186 (2007).

⁴³ See *id.*; see also FREIRE, PEDAGOGY OF THE OPPRESSED, *supra* note 21, at 178 ("In the theory of dialogical action, organization requires authority, so it cannot be authoritarian; it requires freedom, so it cannot be licentious.").

To be authoritarian would, after all, be to treat students as objects, and therefore dehumanize them. Liberatory pedagogy, then, requires that teachers negotiate the relationship between freedom and authority in the teaching process, and understand that “authority. . . has its foundation in the freedom of others.” This means being neither completely hands-off and “laissez-faire” nor does it mean being authoritarian and dictatorial. As Freire puts it, liberatory educators must be “radically democratic” in their pedagogy, which translates into being “responsible and directive” in the classroom while respecting the students’ right to come to their own conclusions.⁴⁴

Here, the teacher’s limited authority is to guide and facilitate critical thinking by providing structure and resources, while simultaneously helping students construct their own understanding of the curriculum.

In the first iteration of the class, I was hesitant to exercise my positional authority, which allowed the class to veer off course. We easily got sidetracked. Sometimes, the lack of structure hindered student engagement, as some students would dominate the discussion without clear boundaries to bring the class back to the main topic. My initial attempt at teaching this course was characterized as a misunderstanding of liberatory pedagogy. I mistakenly adopted a laissez-faire approach, lacking a clear structure, hoping that an unstructured conversation would encourage participation. However, the absence of guidance proved ineffective and ultimately hindered student engagement.

After stumbling through the first few lessons, I started to understand the importance of clear expectations. One of my co-facilitators offered valuable guidance, suggesting that the class needed more structure. Providing this structure, far from being a strict authoritarian rule, helps students understand the day’s lesson goals and direction, encouraging them to contribute and give feedback at the beginning of each session. Therefore, the lesson plans outlined in section II are not rigid models that lead participants to a predetermined answer. Instead, they serve as helpful guideposts to support a two-way learning process between facilitators and participants.

C. What the Course Is Not: Banking Method and Know Your Rights

Traditional models of education, which Freire critiqued as the “banking method,” treat students as depositories and teachers as

⁴⁴ Au, *supra* note 42, at 186.

depositors.⁴⁵ In this approach, communication is one-way, flowing from the teacher to the students. Students are expected to “meekly” receive what the teacher tells them and contribute little to the conversation.⁴⁶ Students are treated as empty receptacles for the information passed from teacher to student. bell hooks states that traditional classrooms that use the banking method often create “docile bodies,” reinforcing existing power structures.⁴⁷ To break this cycle, Freire and hooks suggest a model that values each student’s experience and input.⁴⁸

Freire’s descriptions of the banking method echo critiques of the Socratic method in legal education. The Socratic method places the professor as the sole questioner, guiding students toward predetermined answers through a structured question-and-answer exchange (the “Law School Socratic Method”).⁴⁹ Rory Bahadur and Liyun Zhang describe the Law School Socratic Method as “neither active nor student-centered . . . a classic example of a passive sage on the stage, teacher-centered pedagogy, which has been shown to leave a respondent feeling ‘passive, powerless, and unknowing.’”⁵⁰ The Socratic method mirrors Freire’s banking method as a coercive “gift bestowed by those who consider themselves knowledgeable upon those whom they consider to know nothing.”⁵¹ This teacher-centric model is often the default in educational settings, and is how many educators naturally operate and what many learners expect.⁵² Consequently, in designing the class, I had to make a deliberate choice to resist this ingrained socialization and adopt alternative pedagogical approaches.⁵³

⁴⁵ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 72 (explaining in the “banking” model of education, “the scope of action allowed to the students extends only as far as receiving, filing, and storing the deposits.”).

⁴⁶ *Id.* (“Worse yet, it turns them into ‘containers,’ into ‘receptacles’ to be ‘filled’ by the teacher. The more completely she fills the receptacles, the better a teacher she is. The more meekly the receptacles permit themselves to be filled, the better students they are.”).

⁴⁷ HOOKS, *supra* note 1, at 4–6.

⁴⁸ *Id.* at 14–15 (arguing that the banking system of education resists dialogue). For Freire, education begins with the solution of the teacher-student contradiction, by “reconciling the poles of the contradiction so that both are simultaneously teachers and students.” FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 72. He adds, “Authentic education is not carried on by A for B or by A about B, but rather by A with B.” *Id.* at 93.

⁴⁹ Rory Bahadur & Liyun Zhang, *Socratic Teaching and Learning Styles: Exposing the Pervasiveness of Implicit Bias and White Privilege in Legal Pedagogy*, 18 HASTINGS RACE & POVERTY L.J. 114, 125 (2021).

⁵⁰ *Id.*

⁵¹ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 72.

⁵² See generally Emma Sokoloff-Rubin, *Centering Student Voices in the Clinic Seminar*, 32 CLINICAL L. REV. 391, 405 (2026) (discussing that dialogic discourse, a form of conversation that centers student voices, encourages critical thinking and independent thought to engage more around difficult conversations and topics because students feel a collective responsibility to keep the conversation.).

⁵³ *Id.*

In a similar vein, pre-scripted know-your-rights training in carceral facilities risks indoctrinating participants into a corrosive legal system. In *Addressing Recidivism: Legal Education in Correctional Settings*, Justin Brooks argues that StreetLaw, as a traditional know-your-rights curriculum, can help “rehabilitate [incarcerated individuals] and decrease recidivism” by fostering a sense of belonging within the law-making society, thereby encouraging respect for the law.⁵⁴ He suggests that “to accept the legal system, [incarcerated individuals] must first accept the necessity of laws, and society’s role in creating them,” presenting the StreetLaw curriculum as an educational model that guides students toward assumed legal truths as a form of socialization.⁵⁵ Freire might describe this as a process of domestication, which “represents the imposition of one individual’s choice upon another, transforming the consciousness of the person prescribed to into one that conforms with the prescriber’s consciousness.”⁵⁶ Like the “banking method,” a pre-scripted know-your-rights training generally emphasizes information transfer without encouraging critical thinking or connecting knowledge to real-life experiences.⁵⁷ When instructors deliver information without creating space for exploration and questioning, they reinforce the traditional power dynamic of teacher-as-knower and student-as-recipient.⁵⁸

Our shift away from the StreetLaw curriculum and similar Know Your Rights Trainings reflects our focus on actively engaging participants in the learning process by sharing legal research skills and writing tools. I aimed to create a space that encourages critical participation and centers participants rather than positioning facilitators as experts, emphasizing co-creation of the learning space between participants and facilitators. This collaborative approach ensures that course development reflects participants’ input and provides an accurate, normative understanding of the systems that negatively impact them. The shared ownership of the Nashua Street Jail process aims to empower facilitators and participants to critically analyze their experiences within the legal system rather than passively accept pre-set legal truths.

⁵⁴ Justin P. Brooks, *Addressing Recidivism: Legal Education in Correctional Settings*, 44 RUTGERS L. REV. 699, 735 (1992) (explaining that incarcerated individuals must “learn how to legally cope with everyday dilemmas, both inside and outside of correctional facilities,” or else they will “continue to come in and out of the system because they cannot deal with their problems in society.”).

⁵⁵ *Id.* at 722.

⁵⁶ FREIRE, PEDAGOGY OF THE OPPRESSED, *supra* note 21, at 46.

⁵⁷ See *id.* at 72 (“In the banking concept of education, knowledge is a gift bestowed by those who consider themselves knowledgeable upon those whom they consider to know nothing. Projecting an absolute ignorance onto others, a characteristic of the ideology of oppression, negates education and knowledge as processes of inquiry.”).

⁵⁸ See *id.* at 73 (“[B]anking education maintains and even stimulates the contradiction through the following attitudes and practices, which mirror oppressive society as a whole.”).

D. What the Program Accomplishes: Epistemic Friction

In liberative education models, learning is a reciprocal process – teachers and students learn from each other, ideally fostering an environment of mutual respect and trust. As bell hooks explains, to create an engaged classroom, a teacher must be open and vulnerable, willing to learn from students.⁵⁹ Entering into dialogue presupposes that the educator questions what they know and remains open to the possibility that their thoughts will change and new knowledge will be created from the co-learning process. Transformational teaching involves creating a classroom of support where diverse perspectives can interact and generate new understandings of the material for both students and teachers, challenging previously held beliefs.⁶⁰ This section explores how this collaboration fosters epistemic growth and challenges the cognitive limitations of law students like me who facilitate the class.

The lived experiences of participants in the class challenge the abstract views often presented in traditional 1L criminal law courses. As Alice Ristroph explains in her article, *The Curriculum of the Carceral State*, substantive criminal law sustains mass incarceration because it is disconnected from the realities of the carceral system.⁶¹ Ristroph argues that this disconnect has led to several consequences, including a false sense of fairness and objectivity created by an emphasis on internal constraints and logical structures within criminal law, which hide systemic biases and discriminatory practices still present in the legal system.⁶² Additionally, the focus on homicide as the archetypal crime reinforces the idea that criminal law mainly deals with serious violent offenses, while ignoring the over-policing and disproportionate punishment of marginalized communities.⁶³ The doctrinal approach is sanitized and decontextualized, maintaining mass incarceration by not challenging the assumptions and biases underlying the criminal legal system. As a result, law schools produce legal professionals who do not fully grasp the impact of the criminal legal system, thus continuing the cycle of oppression and injustice.⁶⁴

⁵⁹ HOOKS, *supra* note 1, at 21 (explaining that “empowerment cannot happen if we refuse to be vulnerable” because vulnerability creates the possibility for mutual connection that disrupts hierarchical relationships.).

⁶⁰ See generally *id.* at 41 (explaining that “[o]ften, professors and students have to learn to accept different ways of knowing, new epistemologies, in the multicultural setting.”).

⁶¹ Alice Ristroph, *The Curriculum of the Carceral State*, 120 COLUM. L. REV. 1631 (2020).

⁶² *Id.* at 1701.

⁶³ *Id.* at 1667.

⁶⁴ *Id.* at 1707 (“[T]here is a particular vision of criminal law that made millions of criminal prosecutions seem, when each was considered individually, like a good idea. *That is the vision of a noble, impartial, and constrained criminal law, and it is a mirage.*”) (emphasis added).

The harms caused by the criminal legal system are kept hidden from public view. José Medina in *The Epistemology of Resistance* says, “The machinery in charge of the discipline and punishment of the oppressed is certainly in the hands of those in power, its day-to-day operation – and sometimes even the machinery itself – are not always rendered visible to all who occupy a position of power.”⁶⁵ This machinery is often deliberately concealed, shielding those in privileged positions from the harsh realities of the system it sustains.⁶⁶ Legally privileged individuals, like myself, often remain unaware of carceral violence despite having access to information.⁶⁷

In constructive dialogue, the epistemic journeys of differently positioned groups can enrich each individual, enabling facilitators to learn and close their epistemic gaps while acknowledging the complexities and subtleties that their own limited views might have previously obscured. Epistemic friction, as a process of mutual learning and understanding, is vital for developing a consciousness capable of challenging oppressive systems.⁶⁸ Using critical dialogue as a teaching method, the legal research class encourages Freire’s process of conscientization, which involves a willingness to engage with differences, listen deeply to others’ experiences, and recognize the limits of one’s own perspective. Through these exchanges – where alternative viewpoints oppose dominant ones – epistemic friction is created, challenging assumptions and expanding facilitators’ and participants’ understanding.⁶⁹

Unlike traditional substantive criminal law, the Nashua Street Jail class offers a contextual understanding of the law’s impact and encourages broader perspectives on the criminal legal system. Law students can challenge their assumptions and biases through engaging with class participants and developing a critically conscious approach to legal practice. The close proximity between law students and incarcerated individuals creates a critical space in which participants’ perspectives serve as epistemic counterpoints to the facilitators.⁷⁰

⁶⁵ JOSÉ MEDINA, *THE EPISTEMOLOGY OF RESISTANCE: GENDER AND RACIAL OPPRESSION, EPISTEMIC INJUSTICE, AND RESISTANT IMAGINATIONS* 33 (2013).

⁶⁶ *Id.*

⁶⁷ *Id.* at 109 (arguing that privileged subjects are “conceptually ill-equipped to make sense of certain things,” which “are precisely the things they may not want to understand” because doing so would require them to confront uncomfortable truths that may threaten the privileges they enjoy).

⁶⁸ *See id.* at 203 (explaining that “[t]he expansion of one’s social sensibilities . . . is an ongoing task that does not have an end” and “that individuals cannot fully carry out all by themselves”).

⁶⁹ *See id.* at 78 (“Alternative social imaginaries can serve as correctives to each other, epistemic counterpoints that enable people to see limitations of each viewpoint, creating beneficial epistemic friction.”).

⁷⁰ *See id.* at 176 (arguing that “[e]pistemic counterpoints can offer . . . beneficial epistemic friction,” which “enables us to acknowledge and engage alternative viewpoints and to

While I understand the importance of these viewpoints, it would be a mistake to idealize carceral perspectives or assume they are uniform. As José Medina argues, oppressed groups do not inherently possess a superior cognitive perspective or a unified point of view.⁷¹ However, the participants I work with hold an epistemic advantage, having experienced critical demystifying experiences through their understanding of the system.⁷² Instead of thinking one perspective is better than another, it is important to recognize how facilitators' and participants' perspectives can work together to fill each other's epistemic gaps.

II. APPLYING THE MODEL: BUILDING LIBERATIVE CURRICULUM

The Nashua Street Jail's classroom, with its seemingly simple layout, whiteboards, and participants' artwork, reflected the effort and energy many students had invested in the program and in their own transformation. The artwork depicted breaking chains and scenes of visceral, transformative experiences, a stark contrast to the off-white hallways surrounding the entrance to the education unit. The classroom was pre-arranged in rows of chairs for a lecture. While we waited for participants to arrive, we pushed the tables together to form one large, communal surface. We sat at the corners or along the sides of the table, deliberately avoiding the head, to reduce any perceived power dynamic. Our goal was to design a space that fostered dialogue and encouraged open conversation, allowing ideas to flow freely rather than being filtered through the lead facilitator.⁷³ As each participant entered, we stood to greet them with a handshake or a nod, acknowledging their presence and welcoming them into this shared learning environment.

Each class brought an element of unpredictability. While a few familiar faces might return, the group's composition was constantly in flux: court dates, revoked privileges, conflicts with canteen schedules, or lack of motivation led to absences. The lack of continuity meant we had to stay flexible, creating lessons that could stand alone while building on previous material. No matter who walked through the door, our goal remained the same: cultivating an inclusive environment where everyone felt comfortable participating, whether it was their first or last lesson.

We began with introductions once participants had settled into their seats; reintroductions were often needed because attendance varied. We asked participants what they wanted to be called. While this is

reach epistemic equilibrium among alternative perspectives on problems or phenomenon," thereby "enabl[ing] subjects and communities to detect and sensitize themselves to their blind spots and shared self-ignorance.").

⁷¹ *Id.* at 73.

⁷² *Id.*

⁷³ See generally Sokoloff-Rubin, *supra* note 52.

common in many classrooms, choosing a name clashed with the jail's culture of referring to participants by their legal last names.⁷⁴

We emphasized that our primary goal is to create a community of co-learners and share foundational legal research skills.⁷⁵ We stressed that we were not their lawyers but facilitators in their learning journey, sharing resources and information.⁷⁶ After our introductory remarks, we presented the day's agenda, a roadmap for the class session. However, this roadmap was always open to negotiation. Some days, the class might skip a planned activity to delve deeper into a topic that resonated with the participants' immediate questions. Our flexibility and responsiveness helped to maintain engagement and extend shared ownership over the learning process.

The idea for a flexible "roadmap" came from a participant. He requested that we present the day's lessons at the start of each class, allowing him and his classmates to choose the day's focus. This simple request transformed our approach toward a more responsive curriculum. Navigating the uncertainty of each session meant arriving with three or four lesson plans, knowing that only one or two might resonate with the class. Our flexibility was key to sparking discussions and extending ownership of the learning process.

Our initial lesson plans were designed to ask participants their legal questions and to hear how they would like to explore those questions. As Freire indicated, "If the educators [have the ability] to carry out the preliminary investigation [alongside students], they can – with minimum knowledge of the situation – select some basic themes to serve as

⁷⁴ We transgressed the jail's culture and gestured to the students that we were not part of the carceral culture by inviting participants to share their names. This act of recognizing individual agency extends to other aspects of language, such as using "incarcerated person," the person-first language, rather than "inmate," the language choice of the carceral system. See Eddie Ellis, *An Open Letter to Our Friends on the Question of Language*, CTR. FOR NULEADERSHIP ON URB. SOLS. 1–2 (Jan. 2020) ("We habitually underestimate the power of language. . . . [B]y insisting on being called 'people' we reaffirm our right to be recognized as human beings, not animals, inmates, prisoners or offenders. We also firmly believe that if we cannot persuade you to refer to us, and think of us, as people, then all our other efforts at reform and change are seriously compromised."). Language choices have a significant impact on how we perceive and treat those who are incarcerated. Ethicist Rachelle Green observes that "[t]he practice of choosing names signals not only that a person can have the agency to choose the name they desire for themselves, but they can also express agency in naming the world as they experience it." RACHELLE GREEN, *LEARNING TO LIVE: PRISONS, PEDAGOGY, AND THEOLOGICAL EDUCATION* (2024).

⁷⁵ HOOKS, *supra* note 1, at 153 ("When I enter the classroom at the beginning of each semester the weight is on me to establish that our purpose is to be, for however brief a time, a community of learners together.").

⁷⁶ I refer to "participants" and "facilitators" rather than "students" and "teacher" to reflect the dynamic we sought to foster in the course. Our aim was to cultivate a collaborative environment—one that built a community of co-learners. Those who attended the weekly sessions were not merely recipients of knowledge but active participants and co-creators of the learning process.

codifications to be investigated.”⁷⁷ We could not invite the participants to the initial planning process to learn about their specific interests because of the participants’ pretrial detention.⁷⁸ Despite this limitation, we aimed to incorporate the spirit of Freire’s pedagogy as much as possible.

In the initial planning sessions, we developed a variety of topics to present to the participants. We considered starting with an introduction to legal research, including how to read and analyze case law, distinguish holdings from dicta, and use effective search strategies. We also prepared mini-lessons on specific legal topics, such as the Fourth, Fifth, Sixth, and Eighth Amendments, as well as practical skills, such as sealing criminal records. However, we understood the importance of staying flexible and responsive to participants’ interests, so we planned to use the first sessions to gauge their questions and the legal resources available to them. For example, some participants showed interest in prosecutorial misconduct and Fourth Amendment violations. Letting participants choose discussion topics helped us find material on what Freire calls “limit-situations,” the daily realities that limit a person’s freedom.⁷⁹ Designing a course around these limit-situations connects with participants’ experiences and provokes lively discussions.⁸⁰ These early conversations helped us understand the group’s specific interests and how to develop

⁷⁷ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 123.

⁷⁸ Freire’s pedagogical approach starts with educators planning the curriculum together with students. FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 120–124. Before teaching a class, Freire advises that educators engage with a community to talk with students and learn their views on the real issues they face. *Id.* Freire’s educators would investigate what words and expressions the community frequently uses to describe their problems. *Id.* They would then include those words in the lessons so that students and teachers share a common vocabulary to describe their experiences. *Id.* Freire calls these words generative because they connect with students’ interests and create the foundation for dialogue. *Id.* The term generative connotes the potential for students and educators to act as co-explorers working toward a shared understanding of their world. *Id.*

⁷⁹ Freire describes “limit-situations” as conditions that people come to recognize as “fetters” or “obstacles to their liberation.” *Id.* at 99. Once recognized, these conditions can become the object of action aimed at “negating and overcoming” rather than passively accepting them. *Id.* For people held pretrial, such limit-situations can include restricted access to books, legal materials, libraries, and educational opportunities, as well as language and literacy barriers that make it difficult to navigate institutional rules, legal documents, and their own cases. These daily constraints can hinder a person’s ability to understand their pretrial detention, advocate for themselves, and participate in their own defense.

⁸⁰ Designing a course around these limit-situations connects participants to what is discussed, provoking lively engagement in discussions that are meaningfully relevant to their lives. *See generally id.* at 104. Freire argues that critically examining these realities can produce “a new, critical attitude towards the limit-situations.” *Id.* For participants in a legal research course, beginning with the concrete barriers they encounter in detention – such as limited access to legal information or difficulty navigating legal language – creates an opportunity to examine those barriers critically rather than simply accepting them as features of incarceration. In this sense, the course seeks not only to teach participants how to conduct legal research but also to cultivate *conscientização*: a critical understanding of the legal and institutional world in which they are situated.

the curriculum in a meaningful, engaging way. As we moved through the first version of the class, we observed what worked well and what needed improvement.

The participants responded positively to our initial method of asking about their legal questions. Their feedback shaped our teaching process and aligned sessions with their interests. Some of the mini-lessons we designed helped foster dialogue and guided participants in asking thoughtful questions about their legal issues. However, at times, trying to spark discussion by asking about their legal questions disrupted group conversations because the over-detailed responses weren't suitable for the overall class, especially when one person dominated the discussion. Some participants spoke over others quickly, while most stayed quiet. At times, a class on legal research in a pretrial detention facility can get chaotic, with a classroom full of people facing unique legal situations and seeking immediate answers.

As facilitators, we realized we needed to create a classroom environment that encouraged participation from everyone. Simply asking legal questions without a guiding framework did not foster mutual discussion and, unfortunately, created an atmosphere where participants sought answers instead of exploring questions collaboratively. The challenges we faced stemmed from the fact that we could not answer everyone's questions. Some participants appeared to disengage once they realized we were not there to answer their specific legal questions or provide direct legal advice. The unstructured conversations highlighted the need for a framework that promoted collaboration between class participants and facilitators.

After each iteration, we continued developing various curriculum elements in collaboration with the participants. The main parts of the first three lessons are outlined in the following three subsections.

A. Lesson One

In our introduction, we emphasized that we are not experts but fellow learners, each offering a valuable perspective. Our goal was to share resources and knowledge, such as how to conduct legal research, use case law databases, and other skills we had learned in law school. We believed that through collaboration, we could deepen our understanding of the law and enhance our research skills, especially in identifying relevant cases for specific criminal motions.

We found it necessary to clarify from the start that we were not offering legal advice or addressing specific legal questions. Ethically, we could not provide such advice,⁸¹ and pedagogically, we wanted to avoid

⁸¹ See Lupo, *supra* note 17.

reinforcing a passive, lecture-style learning approach where knowledge is simply transferred. Instead, we sought to create a space of co-creation, with everyone actively participating in the learning process. As one participant noted, “You cannot give legal advice but share legal knowledge.”

We then distributed the course outline, which included lesson plans for the six classes. Sharing the lesson plan invited class participants to note what they wanted to include and other topics we could cover in the coming weeks. To organize the lessons, we presented a visual timeline of a criminal case within Massachusetts, highlighting key points in the case’s progression that we planned to discuss: Motions to Dismiss (MTD) and Motions to Suppress (MTS). The first half focuses on bail, followed by the second half on MTD and MTS.

We began the first formal group exercise by distributing a sheet of legal definitions. We read through the definitions and asked volunteers to explain them in their own words. We encouraged participants to indicate which words were familiar and which were unfamiliar. The legal definitions served as a starting point for discussion and a foundation for developing a critical understanding of the legal system. As we reviewed the definitions, participants and facilitators worked as co-investigators, creating a shared vocabulary to use throughout the course. Similar to Freire’s generative words, we developed a shared vocabulary to navigate the legal landscape by inviting participants to share their understandings and interpretations of these terms. This initial exercise established the expectation that participants would co-create knowledge through active participation and dialogue.⁸²

The course then shifted to an applied exploration of the terms within the context of a Massachusetts bail reform case, *Brangan v. Commonwealth*.⁸³ The facilitators guided participants through *Brangan*, breaking it into manageable parts that mirrored Freire’s concept of “codification.” Codifications represent oppressive situations faced by the group, described as “coded situation-problems containing elements to be decoded by the groups with the collaboration of the [educator].”⁸⁴ Codes served as tools to represent real-world situations through problem-solving questions.⁸⁵ The three guidelines for

⁸² See PAULO FREIRE, *EDUCATION FOR CRITICAL CONSCIOUSNESS* 46 (2013) (discussing the importance of “[r]esearching the vocabulary of the groups with which one is working,” which involves selecting the words and expressions “most weighted with existential meaning” and “linked to the experience of the groups in which the researcher participates”).

⁸³ *Brangan v. Commonwealth*, 477 Mass. 691 (2017).

⁸⁴ FREIRE, *EDUCATION FOR CRITICAL CONSCIOUSNESS*, *supra* note 82, at 47 (explaining that “[d]iscussion of these codifications will lead the groups toward a more critical consciousness at the same time that they begin to learn to read and write”).

⁸⁵ Codes represent real-world situations through pictures, words, or other media. FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 115.

codification were: “1) The situation must be familiar, 2) The meanings should not be too explicit or too vague, and 3) The codifications must open into multiple themes.”⁸⁶

Here, *Brangan* was on point: at Nashua Street Jail, many participants are detained due to unaffordable bail. *Brangan*, which directly addressed bail rights, was a strategic choice for interrogating the key terms previously introduced, allowing participants to observe how terms such as “precedent,” “binding authority,” and “jurisdiction” functioned in case law.⁸⁷ Participants went beyond simply learning definitions by actively analyzing the case and identifying the legal authorities the court used. Freire explains that codification allows learners to distance themselves from their daily lives so they can see their situation from a new perspective.⁸⁸ Participants engaged in a process of “decoding” the legal system, uncovering how different sources of law worked together and influenced legal outcomes.⁸⁹

Brangan encouraged participants to share their legal knowledge and past interpretations of bail. Using *Brangan* as an anchor text contextualized the learning process, fostered a sense of ownership, and invited participants to engage with the material and share their perspectives. At the end of the first session, we reviewed next week’s plan and asked for feedback on which topics they would like us to focus on in the following classes.

B. Lesson Two

At the start of the second lesson, we restated the purpose of the course and clarified that we could not provide legal advice. We then reviewed the previous lesson as an opportunity for participants to reflect on what they had learned and remembered. In the second class, we presented the legal definitions and their relation to *Brangan*. Next, we outlined the roadmap and discussed how the second lesson would build on the first by introducing the IRAC (*Issue, Rule, Application, Conclusion*) method for analyzing case law.

⁸⁶ Bonnie Burstow, *Freirian Codifications and Social Work Education*, 27 J. Soc. WORK EDUC. 196, 198 (1991).

⁸⁷ From Freire’s perspective, codification is the presentation of an existential situation that is related to the generative word. FREIRE, *EDUCATION FOR CRITICAL CONSCIOUSNESS*, *supra* note 82, at 47–48.

⁸⁸ *Id.*

⁸⁹ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 105 (explaining that decoding “requires moving from the abstract to the concrete . . . from the part to the whole and then returning to the parts,” which, “in turn requires that the Subject recognize himself in the object . . . and recognize the object as a situation in which he finds himself, together with other Subjects.”).

We introduced IRAC as a framework we learned in law school for analyzing and constructing legal arguments. Sharing this framework supported a core goal of the course: to equip participants with the resources to actively participate in their defense. By understanding the IRAC structure – identifying the Issue, stating the Rule, Applying the rules to the facts, and reaching a Conclusion – participants developed a better grasp of how lawyers are trained, how legal arguments are structured, and how judges write opinions. Participants received a handout explaining the IRAC method and a non-law fact pattern to practice applying it. Participants worked with IRAC in a simple context, broken down into core elements, as a problem-posing activity. Participants saw how IRAC can be used to analyze and develop arguments before applying it to *Brangan*.

Facilitators guided participants through an IRAC analysis of *Brangan*, demonstrating how the court identifies issues, pulls relevant rules, applies those rules, and then reaches a conclusion. The issue we guided the participants toward was the due process requirements when bail is unaffordable.⁹⁰ The *Brangan* court outlines several bail-related rules, including those on alleged dangerousness and flight risk.⁹¹ Through a guided conversation, we highlighted how the applications of the rules, including the procedural requirements that judges must follow when setting bail, will likely result in long-term pretrial detention.⁹²

Participants were often surprised that judges must explain their reasoning in writing or on the record. Under *Brangan*, judges should consider “the defendant’s financial resources, explain how the bail amount was calculated, and state why, notwithstanding the fact that the bail amount will likely result in the defendant’s detention, the defendant’s risk of flight is so great that no alternative, less restrictive financial or nonfinancial conditions will suffice to assure his or her presence at future court proceedings.”⁹³ In practice, however, judges rarely follow *Brangan*’s procedural requirements.⁹⁴ Participants often returned to the next lesson with their bail papers, showing that the judge in their case did not provide a written finding on the record, which demonstrated their ability to analyze legal documents and spot potential procedural violations that impacted their lives. Here, IRAC aligned with what Freire calls “Decodification.”⁹⁵ Participants used the IRAC method to

⁹⁰ See *Brangan v. Commonwealth*, 477 Mass. 691, 703–707 (2017).

⁹¹ See *id.*

⁹² See *id.*

⁹³ *Id.*

⁹⁴ M. Leonard, *The State of Bail in Massachusetts Following the Brangan Decision*, NE. U. L. REV. ONLINE FORUM (Jan. 10, 2018), <https://nulawreview.org/forum-posts/2022/8/23/the-state-of-bail-in-massachusetts-following-the-brangan-decision>.

⁹⁵ FREIRE, PEDAGOGY OF THE OPPRESSED, *supra* note 21, at 104–06.

break down *Brangan* into intelligible parts, allowing them to better understand the relationship between due process and the requirements a judge must follow when setting unaffordable bail.⁹⁶

Freire emphasizes that knowledge is not passively absorbed but actively built through critical engagement with social reality.⁹⁷ Central to Freire's approach is *conscientização* (conscientization), which is achieved through dialogue that encourages individuals to examine their reality, beliefs, and assumptions about the world around them.⁹⁸ In the context of the legal system, this translates to equipping pretrial detained persons with the tools to challenge traditional narratives and develop their understanding of their rights and the legal process. The lesson is grounded in *Brangan*, draws on participants' lived experiences, and helps them develop the skills to question, analyze, and problematize the legal system through the lens of *IRAC*.

C. Lesson Three

The third lesson connects case analysis with legal research strategy. After reviewing the previous lesson, participants revisit *Brangan* to identify the specific legal questions the court addressed, showing how legal issues can steer research strategies. We asked participants to write down keywords in *Brangan* to pinpoint areas for further research into bail protections. We used these keywords as a template for effective research skills and legal research methods. We asked participants how they would search for a case, excavating their current research habits, which often involve basic keyword searches. We used a projector to visually demonstrate the limitations of just searching a keyword or a string of words, especially its tendency to produce overly broad results. We then introduced natural language and Boolean search terms to help participants find more precise and efficient ways to improve their legal searches. Through small group exercises, participants practiced developing research questions and identified potential search terms to strengthen their understanding and boost confidence in their research skills. The facilitators prepared participants to engage with the law actively and effectively by linking case analysis to research strategy and introducing essential research techniques.

⁹⁶ *Id.* *Brangan* served as the codification of understanding pre-trial detention, and *IRAC* provided a method for breaking the code into parts for analysis.

⁹⁷ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 104 (“When carried out with a methodology of *conscientização* the investigation of the generative theme contained in the minimum thematic universe (the generative themes in interaction) thus introduces or begins to introduce women and men to a critical form of thinking about their world.”).

⁹⁸ *Id.*

Lesson three marked a crucial turning point in the course. Up to this point, *Brangan* was a foundational text guiding class discussions on legal analysis. As Freire suggests, decodification opens up new themes and questions.⁹⁹ Building on the legal concepts in *Brangan*, we guided exploration and analysis in later lessons that sparked participants' interest, often Motions to Dismiss and Motions to Suppress. This shift encouraged participants to engage with their legal questions and influence the course's direction.

Each class participant most likely had an attorney representing them in their pending criminal case. The course was neither intended nor designed to serve as a program for *pro se* litigants. Rather, it was designed to help criminal defendants understand what was happening in their cases so they could participate in their defense as fully and meaningfully as possible. The realities of criminal defense practice can make it difficult for even the most committed attorney to explain every aspect of a case in the depth or detail a client may desire, despite the attorney's obligation to communicate with clients and explain the legal issues relevant to their case. Time constraints, large caseloads, and the demands of navigating the pretrial process can limit opportunities for extended conversations about legal doctrine, procedural rules, or potential research strategies.

Moreover, criminal defendants often want to understand and research their own cases. Providing participants with basic legal research skills therefore does not displace the role of counsel; instead, it gives defendants additional tools to make sense of the legal system in which they are situated. A participant who understands how to identify relevant legal questions, locate cases, and recognize the rules governing a particular issue may be better positioned to ask their attorney informed questions and communicate concerns about their case. This is particularly important because defendants possess knowledge that their attorneys may not: they know the facts of their cases, their experiences with the alleged conduct, and the circumstances surrounding their arrest. Defendants may be able to bring their knowledge into conversation with their attorneys when defendants develop a stronger understanding of the legal rules that bear on those facts.¹⁰⁰

⁹⁹ *Id.* at 115 ("As the decoders reflect on the codifications, the codifications should open up in the direction of other themes.").

¹⁰⁰ The goal is not to turn participants into their own lawyers, but to create conditions in which they can be informed and collaborate with their attorney. Legal education can give defendants a stronger vocabulary for articulating questions, identifying concerns, and engaging with the legal issues that shape their cases. In this sense, legal research becomes not merely a technical skill but a means of supporting defendants' participation in the decisions that affect their lives.

III. THE ROLE OF THE FACILITATOR IN FOSTERING CRITICAL DIALOGUE

The facilitator's role in the Nashua course signifies a democratization of power within the classroom. Unlike a traditional teacher who acts as the sole authority, the facilitator functions as a co-learner, sharing control with other facilitators and participants, creating a space where everyone's voice is valued.¹⁰¹ Moving toward a liberative education model requires a deliberate effort to relinquish control, resist the urge to dominate discussions, and adopt a more dialogic approach to teaching and learning. Our approach aligns with Freire's emphasis on a dialogical relationship between teacher and student, where both are learners. As discussed earlier, facilitation involves a shift from a banking education model, where knowledge is deposited into passive recipients, to a problem-posing model, where students are encouraged to critically engage with their issues and develop their own answers. Facilitators do not teach the law; instead, they guide participants through a process of critically analyzing the law and exploring legal research tools for their cases.

Freire's educational model helps facilitators demystify the criminal legal system, fostering critical engagement with the law and promoting a focus on the perspectives of those impacted by the system. A key element of this approach is Freire's idea of *conscientização*, achieved through dialogue that prompts individuals to examine their reality, beliefs, and assumptions about the world.¹⁰² In the context of the legal system, this means equipping pretrial detained persons with tools to challenge social myths about the legal system that may prevent a critical awareness of the system.

During class discussions, participants often voiced frustrations with their assigned attorneys. In one instance, a participant asked, "What gives my public defender the right to make choices in my case?" As a second-year law student, I was unsure how to answer his question, or even if I should, since responding could be considered legal advice. Instead of answering directly, we, as facilitators, paused the discussion and asked if we could delay providing an answer until the next class.

The participant's question led to the following week's lesson plan: the authority of assigned counsel. In that session, we passed out *Florida v. Nixon*, and I told the participants that this was a case I recently read in my criminal procedure class to establish the rule that an assigned counsel has professional discretion in making strategic decisions.¹⁰³

¹⁰¹ Au, *supra* note 42, at 186.

¹⁰² FREIRE, PEDAGOGY OF THE OPPRESSED, *supra* note 21, at 104.

¹⁰³ See *Florida v. Nixon*, 543 U.S. 175, 187 (2004) ("That obligation, however, does not require counsel to obtain the defendant's consent to 'every tactical decision.'") (citations omitted).

As we read key portions of the text, one participant pointed out that a defendant does not have to approve “every tactical decision” made by their lawyer.¹⁰⁴ Class participants, through their experiences with the legal system, offered a critique of lawyers’ ability to make tactical decisions. They questioned *Nixon’s* holding that a lawyer may concede guilt without a client’s explicit consent, given the power imbalance between an attorney and an indigent client.¹⁰⁵ One participant said he felt less frustrated with his attorney after reading *Nixon* because he now had a frame of reference for understanding his appointed attorney. The facilitated discussion opened avenues for class participants to pose questions, guide lessons, and co-create and direct the class’s curriculum.

The above vignette illustrates the facilitation process by discussing a shared text, posing questions, and investigating ideas through active listening.

A. Shared Text

A shared text serves as the starting point for dialogue. Learners engage with the material presented, whether it’s a fact pattern or a case, and share their perspectives. These texts provide a framework, offering a focus that guides the themes identified by participants. The specific text being discussed is less about the document itself and more about creating common ground for conversation and critical reflection. It’s about using something – a theme, a representation, a case – to provoke discussion, connect to lived experience, and help participants become active learners in their own process.¹⁰⁶

In the scenario above, *Florida v. Nixon* provides a framework for understanding attorney authority, but its pedagogical use comes from how it intersects with the participants’ experiences. The case itself is a coded representation of power dynamics, legal strategy, and client agency. The participants’ experiences—their frustrations and questions about their own lawyers—became the generative themes illuminated by the *Nixon case*. The shared text allows them to move beyond anecdotal frustration to a structured analysis of the system.

The *Nixon case*, as a shared text, provided focus for class discussions. It’s not just a free-floating discussion about lawyers; it’s an examination of attorney authority within the context of a specific legal case. The text provides guardrails for the conversation. While the conversation may branch out to related issues, the shared text provides a grounding point, a common reference that keeps the discussion productive and relevant.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ FREIRE, EDUCATION FOR CRITICAL CONSCIOUSNESS, *supra* note 82, at 47–48.

A shared text creates a parameter for exploring complex issues without giving direct legal advice.

B. Problem-Posing Questions

Initial questions are grounded in the text or fact pattern. After the class has read a portion of the text, the facilitators ask what issues the court is trying to answer or what rules the court applies. It is helpful to first define the problem prior to examining the text.

To elaborate on the issue, a facilitator can personalize the problem by asking what the participants think or feel about the issue facing the court. Ron Scapp, in dialogue with bell hooks, points out that “[w]hen one speaks from the perspective of one’s immediate experiences, something’s created in the classroom for students, sometimes for the very first time. Focusing on experience allows students to claim a knowledge base from which they can speak.”¹⁰⁷ In investigating personal insight, problem-posing questions are essential for developing critical consciousness. Problem-posing questions encourage learners to move beyond a superficial understanding of the text and to critically examine the root causes of social problems and injustices.¹⁰⁸

These problem-posing questions, grounded in the shared text connected to the lived experiences of the participants, facilitate a meaningful learning process. The questions and resulting discussions foster critical engagement by enabling facilitators and participants to collaboratively explore their critical perspectives, sociopolitical context, and the lived experiences of those impacted by legal injustice, thereby integrating experience with theory. The pedagogical aim of problem questions is twofold. First, problem-posing questions lead facilitators and participants to grapple with the officially stated purpose of the law and the sociopolitical undercurrents that drive the enforcement of the law.¹⁰⁹ Second, these discussions open a space for facilitators and participants to imagine what could be and explore ideas that inherently challenge the vertical power relations that are embedded in the law.¹¹⁰

Most importantly, these questions and the discussions they spark create a space for facilitators and participants to face each other. As bell hooks states, “[t]o engage in dialogue is one of the simplest ways

¹⁰⁷ HOOKS, *supra* note 1, at 148.

¹⁰⁸ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 83 (“In problem-posing education, people develop their power to perceive critically the way they exist in the world with which and in which they find themselves; they come to see the world not as a static reality, but as a reality in process, in transformation.”).

¹⁰⁹ *See generally id.*

¹¹⁰ *See generally id.*

we can begin as teachers, scholars, and critical thinkers to cross boundaries, the barriers that may or may not be erected by race, gender, class, professional standing, and a host of other differences.”¹¹¹ Skilled facilitators make participants feel safe sharing their opinions, avoid excessively pushing their own agenda, and foster an atmosphere of trust.¹¹² The aim of facilitation is to ask questions and provide responses to questions from participants that promote dialogue and trust, which are essential for ensuring full participation in the learning process.

C. Active Listening

As discussions unfold, the facilitators allow the threads to unravel organically. Rather than rigidly adhering to a predetermined agenda, we embrace the dynamic nature of learning and enable the conversations to guide the class. Facilitators must carefully listen and observe, attuning to the nuances of the discussion and identifying the core issues that ignite participants’ interest. Facilitators can orchestrate the flow toward a generative path, guiding the participants toward critical engagement with the material, by actively listening to what is alive within a conversation.

For example, during a discussion on bail, a participant brought up the topic of sovereign citizenship.¹¹³ The participant explained how sovereign citizens are not under the government’s jurisdiction and believe they are exempt from U.S. laws if they follow certain procedures. His beliefs about his rights could have easily derailed the planned lesson, and if the facilitators had shut down the conversation, it could have damaged the participant’s trust by not giving him the chance to ask questions. Instead of ending the discussion, the facilitators listened actively and observed, guiding the conversation back on track. As participants debated the benefits of sovereign citizenship, a common theme emerged: the sources of individual rights.

Our observations as facilitators allowed us to gently guide the conversation back toward the class topic, linking the questions about

¹¹¹ HOOKS, *supra* note 1, at 130.

¹¹² University of Minnesota Human Rights Center, *The Practice of Facilitation*, in *Human Rights Education Handbook*, Part II(B), <https://hrlibrary.umn.edu/edumat/hreduse-ries/hrhandbook/part2B.html> (last visited Mar. 30, 2026).

¹¹³ Sovereign citizens believe that courts and law enforcement authorities have no jurisdiction over people who undergo certain procedures and exploit legal loopholes to avoid government laws and regulations. Southern Poverty Law Ctr., *Sovereign Citizens Movement*, <https://www.splcenter.org/resources/extremist-files/sovereign-citizens-movement/> (last visited Aug. 30, 2026). They believe that the contemporary legal system is based on a decades-old conspiracy in which the U.S. government, established by the Founding Fathers under a common-law legal system, was secretly replaced. *Id.* Specifically, they believe that the government replaced common law with admiralty or maritime law. Sovereign citizens therefore reject government-issued forms of identification, such as Social Security cards, and other legal documents and requirements. *Id.*

sovereign citizenship to broader discussions about constitutional rights and due process of law.¹¹⁴ The underlying question for the participant was how he could access his rights. As bell hooks and Ron Scapp insist, the quality of an educator comes from their ability to listen to the student.¹¹⁵ Thus, the facilitators are not passive in the learning process but actively guide the class toward a critical awareness of the materials through the in-class exercises, as they listen and respond to the students.¹¹⁶ The facilitators' ability to actively listen honors divergent points of view and creates a responsive learning environment where unexpected detours can lead to valuable insights and a shared understanding of the law. Freire says that a critical perception of the world cannot be imposed; it must be developed through dialogue and critical reflection.¹¹⁷

The participant's questions about sovereign citizenship underscore the importance of a Freirean approach to legal education, particularly within a marginalized setting like a jail. The facilitator's task is not to lecture but to engage participants in problem-posing questions, encouraging them to examine their assumptions and beliefs.¹¹⁸ From a facilitation standpoint, this means expanding participants' understanding of how various legal concepts and processes interact, helping to demystify the legal system.

To ask the right questions, one must honor the participants' perspectives, even when those perspectives seem misguided or contradictory. As Freire emphasizes, "I cannot think for others or without others, nor can others think for me."¹¹⁹ Even if participants' thinking is initially rooted in misinformation or conspiracy theories, they can change only by rethinking their assumptions.¹²⁰ By creating a space for open

¹¹⁴ FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 116–117 (explaining that "the co-ordinator must not only listen to the individuals but must challenge them, posing as problems both the codified existential situation and their own answers," encouraging participants to "externalize a series of sentiments and opinions about themselves, the world, and others, that perhaps they would not express under different circumstances").

¹¹⁵ See generally HOOKS, *supra* note 1, at 150 ("I see it as a fundamental responsibility of the teacher to show by example the ability to listen to others seriously.").

¹¹⁶ See generally *id.* at 41 ("To hear each other (the sound of different voices), to listen to one another, is an exercise in recognition. It also ensures that no student remains invisible in the classroom.").

¹¹⁷ See FREIRE, *PEDAGOGY OF THE OPPRESSED*, *supra* note 21, at 108 ("Even if the people's thinking is superstitious or naive, it is only as they rethink their assumptions in action that they can change. Producing and acting upon their own ideas—not consuming those of others—must constitute that process.").

¹¹⁸ See *id.* at 134 (explaining that facilitators "cannot impose themselves and their knowledge on the people" and should instead "enter into dialogue with them, so that the people's empirical knowledge of reality, nourished by the leaders' critical knowledge, gradually becomes transformed into knowledge of the causes of reality").

¹¹⁹ *Id.* at 108.

¹²⁰ *Id.*

dialogue and critical inquiry, facilitators can help participants challenge their own beliefs and develop a nuanced understanding of the law and its implications for their lives and the lives of the facilitators. The facilitator's task is to hold the conversation together and honor the divergent voices that emerge.

The most crucial learning moments occurred when participants turned to one another, sharing resources and past experiences related to specific legal questions.¹²¹ Participants might discuss a relevant court case, offer advice from a previous hearing, or share a letter they wrote to their lawyer. These simple exchanges transformed the classroom into a space of collective empowerment, where knowledge flows horizontally, and everyone, including the facilitators, becomes a co-learner.¹²² When facilitators and participants create space where each person can share and learn together, traditional hierarchies are challenged, critical consciousness is fostered, and ultimately, legal education is democratized.

CONCLUSION

As explored throughout this paper, the course has evolved continuously as my understanding of classroom dynamics has grown and as feedback from participants and facilitators has been incorporated. This course continues to adapt each lesson and each iteration over time. There is no single way to teach this course. The class structure is a dynamic, iterative process – a “laboratory of discovery,” as my professor Gregory Ellison aptly puts it: “In any good laboratory, things have to blow up or break down in order to achieve a breakthrough.”¹²³ The class remains fluid, with elements pulled apart and reassembled to create the most effective, collaborative, and transformative learning process. Facilitators must embrace this dynamic of refinement, recognizing that the course's strength lies in its ability to engage in conversation with participants. It is an ongoing conversation that mirrors my hope for the legal system: a belief that understanding the law is not static but demands constant questioning, adaptation, and a willingness to embrace the perspectives of those most impacted by the legal system.

¹²¹ PAULO FREIRE & IRA SHOR, *A PEDAGOGY FOR LIBERATION* 146 (1987) (“Still another in-process test for me is if students address each other in verbal exchanges If they respond to each other's statements in a serious way, then I see some desocialization is underway, because they recognize their peers as creators of worthy discussion in an intellectual setting.”).

¹²² I often learned about the law in new ways, gaining fresh perspectives on legal concepts through the participants' experiences.

¹²³ Gail O'Neill, *Emory's Gregory Ellison Sparks Difficult Conversations with “Fearless Dialogues,”* Arts Atl (Jan. 8, 2018), <https://www.artsatl.org/emorys-gregory-ellison-encourages-citizens-engage-fearless-dialogues/>.

APPENDIX

Facilitators’ Guide

NASHUA STREET JAIL

Introduction to Legal Research and Pretrial Motions

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Course Description

Course Summary

The legal research course at Nashua Street Jail is a six to eight-week program designed to equip pretrial detained persons with research skills while providing law students with valuable practical experience. The collaboration breaks down traditional barriers in legal education, creating a shared learning environment where participants strengthen their research abilities and develop an understanding of the criminal legal system.

The course delves into core aspects of criminal procedure, from bail and arraignment to search and seizure, *Terry* motions, *Miranda* rights, and other procedural safeguards. The course emphasizes developing effective legal research skills to find and apply relevant statutes and case law in Motions to Dismiss and Motions to Suppress.

For many class participants, the criminal legal system is a confusing maze. This course helps demystify the process by giving individuals knowledge of their procedural rights and tools to actively participate in their defense. At the same time, the format gives law students the opportunity to gain legal insight from those directly impacted by the system.

The class embodies a transformative approach to legal education. Drawing on Mari Matsuda's work, it recognizes the expertise and insight of those navigating the legal system from within and treats participants as valued partners in a collaborative learning process. This co-learning partnership not only enhances the learning experience but also has the potential to spark new ways of understanding and applying the law for participants and law students alike.

Course Design and Collaborative Learning

The course brings together law students (class facilitators) and pretrial detained persons (class participants) for collaborative learning about legal research and criminal procedure. Unlike law school's traditionally hierarchical structure, the class promotes a co-learning environment rooted in mutual respect and shared expertise between facilitators and participants. This approach draws inspiration from Paulo Freire's *Pedagogy of the Oppressed*, which emphasizes dialogue, critical thinking, and empowerment for those marginalized by conventional education systems. Freire argued that traditional education can uphold the status quo if teachers are the sole source of knowledge

and students remain passive. The Nashua Street course actively breaks down this hierarchy, encouraging open discussion and mutual learning. Participants aren't just taught "black letter law," but are equipped with tools to analyze the law and understand its influence on their lives and cases.

Since its beginning, the course has evolved through ongoing input from both facilitators and participants. It serves as a dynamic laboratory of discovery, where elements are continually adapted and refined to create the most transformative learning experience. The course's flexibility reflects the idea that legal understanding isn't fixed but thrives on questioning, adaptation, and incorporating perspectives from those most adversely impacted by the system. While the curriculum helps solidify the project, the hope is that this document remains a living resource, continually evolving based on the input of those involved.

Session Summaries

Session 1: Laying the Foundation

- Introduces key legal terminology and the structure of a case timeline and explores different sources of legal authority. Participants will understand common legal terms and how case law and statutes form the basis of the legal system. Using *Brangan v. Commonwealth*, 477 Mass. 691 (2017), a bail-reform case, participants will identify the types of authority within a decision.

Session 2: Case Analysis and IRAC

- Participants are invited to examine the IRAC method (Issue, Rule, Application, Conclusion), a systematic approach for analyzing case law. Using *Brangan*, participants will practice identifying the relevant legal issues and rules and how the court applied the law to reach its conclusions. This session equips participants with the tools to break down case law.

Session 3: From Case Analysis to Legal Research Strategy

- This session bridges the gap between case analysis and the development of focused research strategies. Participants will revisit *Brangan* to identify the specific legal questions the court addressed. Using these questions, participants will learn to craft concentrated research questions using keywords and Boolean search terms. This session teaches participants how to translate legal issues into research plans.

Session 4: Motions to Dismiss

- Participants will delve into Motions to Dismiss and understand their purpose and role in criminal proceedings. They will learn about probable cause; review provided fact patterns and analyze whether the facts support probable cause for an arrest. They will practice crafting research questions and apply their skills by finding relevant case law and statutes. This session emphasizes the connection between research and the development of legal arguments for a motion to dismiss.

Session 5: Discovery Motions

- This session focuses on discovery in criminal cases, specifically under Rule 14 (mandatory discovery rules). Participants will learn about automatic discovery, exculpatory evidence (including the prosecution's obligations under *Brady*), and analyze Rule 14 to understand what the prosecution must disclose. Participants will identify potential exculpatory information using fact patterns. This session emphasizes the strategic use of discovery to bolster defense arguments.

Session 6: Evidentiary Motions - Terry Stops

- Participants will learn about the exclusionary rule and how it applies to evidentiary motions. This session focuses on *Terry* stops, defining reasonable suspicion and how it differs from probable cause. Participants will analyze fact patterns using videos and case law to determine if stops meet the reasonable suspicion standard and outline how a defense attorney would frame a Motion to Suppress based on a potential *Terry* stop violation.

Session 1

Laying the Foundation

GOALS

- **Establish a foundation in legal research:**
 - This includes understanding legal terminology (common definitions), the structure of a case (brief overview of a case timeline), and the different sources of legal authority (Common Law, Statutes).
- **Introduce key legal research skills:**
 - The session aims to introduce participants to how to find and analyze legal resources like case law and statutes.
- **Develop a plan for further learning:**
 - Map out a plan for the next 6 weeks, suggesting the sessions will introduce a roadmap for participants to continue building their legal research skills.

LESSON OUTLINE

1. Introductions (10-15 minutes)
 - a. A brief introduction to the Course
 - b. Instructor introductions
 - c. Participant introductions
 - d. Expectations Setting: Outline the format and goals of the course. Briefly discuss how this session fits within a larger learning roadmap (pass out course syllabus)
 - i. **Stress:** class facilitators cannot offer legal advice
2. Laying the Foundation: Definitions and Concepts (20-30 minutes)
 - a. Case Timeline: Provide a visual representation of a typical case timeline, highlight key points in the life of a case and motions attorneys file to move the case along. Suggestion: connect the timeline to the subject material of the class: MTD and MTS.
 - b. Key Definitions: Define common legal terms the participants will encounter (e.g., precedent, binding authority, jurisdiction, etc.) (pass out definition chart)

3. Exploring Authority and Sources (30-40 minutes)
 - a. Definitions:
 - i. Explain the difference between primary and secondary sources.
 - ii. Focus on primary sources:
 - iii. Common Law (Precedent, Binding vs. Persuasive Authority)
 - iv. Statutes (Federal vs. State)
 - v. Hierarchy of Courts
 - b. Interactive Exercise: Authority Identification (*Brangan*)
 - i. Explain the holding and facts of *Brangan*.
 - ii. Identify the various legal authorities throughout *Brangan*.
 - c. On the bottom of the second page, highlight usage of G. L. c. 276, § 57
 - i. Invite participants to identify how the court uses legal authority to arrive at their holding.
4. Closing & Planning for the subsequent weeks
 - a. Pass out course schedule.
 - b. Provide a template for the next five weeks of the material the class will cover.
 - c. Ask participants whether they have any procedural questions about the criminal legal system.
 - d. Ask participants whether they have any substantive questions about the criminal legal system.
 - e. Provide information about next week's class: Review of *Brangan* and IRAC

Session 2

Case Analysis and IRAC

GOALS

- **Reinforce Understanding of Key Legal Concepts and Framework**
 - The lesson begins with a review of basic legal definitions and Massachusetts courts. This recaps essential knowledge needed to analyze cases effectively.
 - It introduces the IRAC method, a tool for legal reasoning and structuring legal arguments.
- **Develop Case Analysis Skills**
 - Revisit *Brangan*, demonstrating how to identify and analyze the following within a court decision:
 - Issues presented in the case
 - Relevant legal rules
 - How those rules are applied to the specific facts
 - The court's conclusions
- **Understand Binding vs. Persuasive Authority**
 - The lesson will explicitly discuss how a court's decision creates protections within the legal system.
 - This helps to differentiate between binding authority (which must be followed in a jurisdiction) and persuasive authority (which may influence courts from other jurisdictions).

LESSON OUTLINE

1. Review and Roadmap (10-15 minutes)
 - a. Introductions
 - b. Brief Check-In: Ask participants what they remember from the previous lesson.
 - c. Quick Definitions Review: Have participants call out definitions for key terms (precedent, jurisdiction, statute, etc.)
 - d. Massachusetts Courts Recap: Display a visual of the Massachusetts court hierarchy as a reminder.
 - e. Provide a roadmap for today's lesson

2. Introduction to IRAC (20-30 minutes)
 - a. Explain what IRAC stands for: Issue, Rule, Application, Conclusion
 - b. Discuss how IRAC structures legal arguments and analysis.
 - c. Provide a handout or visual representation of the IRAC method.
 - d. Example/exercise: Use a non-legal hypothetical scenario to demonstrate IRAC in basic terms (please see handout)
3. *Brangan* Case Analysis (30-40 minutes)
 - a. Review *Brangan* Facts: Briefly summarize the key facts of the case (or ask participants to recap).
 - b. Guided IRAC Analysis:
 - i. Lead the class through identifying the Issue(s), relevant Rule(s), and how the court Applied these rules to reach its Conclusion
 - A. First Issue: Whether bail must be affordable
 - B. Second Issue: Due process requirements
 - ii. Suggestion: write responses on a board or shared document.
 - c. Dissect the Decision:
 - i. Discuss the protections the court established through its ruling.
 - d. Discuss whether the *Brangan* decision is binding or persuasive within and outside of Massachusetts.
4. Binding vs. Persuasive (if there is extra time) (15-20 Minutes)
 - a. Clarify the difference and how it impacts legal research/arguments.
 - b. Small Group Exercise: highlight the various cases used in the *Brangan* decision and ask participants to identify whether the authority is binding or persuasive, and why.
5. Wrap-Up (5-10 Minutes)
 - a. Q&A: Address any outstanding questions.
 - b. Connection to Next Lesson: Briefly mention how these skills will be used in future research or analysis tasks.

Session 3

From Case Analysis to Legal Research Strategy

GOALS

- **Connect Case Analysis to Research Strategy**
 - Participants will analyze the *Brangan* decision to understand the specific legal question(s) the court sought to answer.
 - By reviewing the court's reasoning, participants can see how the legal issue shaped the types of resources (statutes, case law, etc.) the court used to arrive at its decision.
- **Develop Legal Research Question Framing**
 - The lesson will use *Brangan* as a case study to demonstrate how to turn a broad legal issue into a specific and focused research question.
 - Participants will learn how to identify key terms and concepts within the legal issues of a case to guide their research strategy.
- **Introduce Technical Research Concepts**
 - The lesson will explain the difference between natural language searches (like a regular web search) and Boolean search methods used in legal databases.
 - Participants will learn about key search terms (e.g., synonyms, broader/narrower terms) and how to use Boolean connectors (AND, OR, NOT) to refine their searches.

LESSON OUTLINE

1. Review and Roadmap (10-15 minutes)
 - a. Re-Introductions
 - b. Brief Check-In: Ask participants what they remember from the previous lesson.
2. *Brangan* Case Review (15-20 minutes)
 - a. Recap: Ask participants to briefly summarize the key facts of the *Brangan* case.
 - b. The Legal Question: Guide participants to identify the specific legal question(s) the court had to answer in *Brangan*. Write these questions down for reference.
 - c. Court's Reasoning: Discuss what types of authority the court relied on (e.g., statutes, case law) and how those sources helped answer the legal question.

3. Framing Research Questions (15-20 minutes)
 - a. From Issue to Question: Using the *Brangan* question(s) as an example, demonstrate how to turn a broad legal issue into focused research questions.
 - b. Identify Keywords: Have participants highlight key terms and concepts from the *Brangan* questions that would form the basis of a research strategy.
4. Introduction to Legal Research Techniques (20-30 minutes)
 - a. Natural Language vs. Boolean: Explain the difference between everyday search terms and Boolean search methods used in legal research databases.
 - b. Connectors and Search Terms.
 - c. Introduce Boolean connectors (AND, OR, NOT).
 - d. Discuss synonyms and broader/narrower terms to expand or refine searches.
 - e. Brief Demo: If possible, provide a short demonstration of a legal database, showing how to use Boolean searches with terms derived from the *Brangan* analysis: Find new cases that use *Brangan*.
5. Practice and Application (10-15 minutes)
 - a. Small Group Exercise: Divide participants into groups.
 - b. Provide new legal scenarios/fact patterns, and have groups practice developing 2-3 research questions and suggest potential search terms.
6. Wrap-Up (5-10 minutes)
 - a. Q&A: Address outstanding questions about search techniques or research strategy.
 - b. Next Steps: Briefly outline how these research skills will be further practiced and applied in future sessions: Motion to Dismiss and Motion to Suppress.
 - c. Check-in and go over the next few classes

Session 4

Motions to Dismiss

GOALS

- **Understand Probable Cause and its Role in Motions to Dismiss**
 - Participants will analyze police reports to determine whether probable cause exists to support an arrest and charges.
 - The lesson will introduce the concept of probable cause and how it relates to Motions to Dismiss.
- **Apply Legal Research to Motions to Dismiss**
 - Participants will practice crafting research questions based on fact patterns and use legal research tools to find relevant case law and statutes.
- **Develop Legal Analysis Skills**
 - Participants will apply researched case law and statutes to support arguments for or against granting a Motion to Dismiss based on the provided fact patterns.
 - The lesson will introduce burdens of proof and how they impact a Motion to Dismiss decision.

LESSON OUTLINE

1. Review and Roadmap (10-15 minutes)
 - a. Re-Introductions (if needed)
 - b. Brief Check-In: Ask participants what they remember from the previous lesson.
2. Probable Cause Introduction (15-20 minutes)
 - a. What is Probable Cause: Define the concept and explain its significance in criminal proceedings.
 - b. Tie Probable Cause to Motions to Dismiss: “Four Corners of the complaint.”
 - c. Review: MCLE MTD handout
 - d. Optional: Present *DiBenedetto*

3. Problem-Based Exercise: Fact Pattern Analysis (35-45 minutes).
 - a. Elements of a Charge: Fact Pattern #1 (OUI):
 - i. Distribute OUI fact pattern.
 - ii. Break into Groups of 3-4 (A facilitator should be in each group).
 - iii. Identify Elements of an OUI: Participants dissect the fact pattern to identify the key elements the Commonwealth would need to prove for an OUI conviction.
 - iv. Research Questions: Guide them to develop research questions around the legal definition of OUI and the concept of “operation” of a vehicle.
 - v. Reconvene: Discuss the elements identified and potential research strategies.
 - b. Intent Fact Pattern #2 (Possession charges):
 - i. Distribute the Intent to Distribute fact pattern.
 - ii. Break into Groups of 3-4 (A facilitator should be in each group).
 - iii. Identify Elements: Participants dissect the fact pattern to identify the key elements the Commonwealth would need to reach a conviction for possession with intent to distribute.
 - iv. Research Questions: Guide participants to develop research questions around the legal definition of “intent to distribute.”
 - v. Reconvene to discuss the elements identified by each group, highlighting how the quantity or packaging of drugs might influence “intent.” Suggest avenues for further research.
 - vi. Distribute and Talk through MTD example.
4. Research Demo/Review: (10-15 minutes)
 - a. Provide a brief demonstration or review of legal research databases (Fastcase or Lexis) focusing on searching for relevant case law and statutes.
 - b. Research Time (If possible): Allow participants time to explore legal databases, using the questions they developed for Fact Pattern #1 and #2.

5. Wrap-Up (10 minutes)
 - a. Summary: Reiterate the key concepts of probable cause, Motions to Dismiss, and how legal research informs legal arguments in this context.
 - b. Q&A: Address outstanding questions.
 - c. Next Steps: Briefly outline any upcoming assignments or how this lesson connects to broader coursework.

Session 5

Discovery Motions

GOALS

- **Understand Automatic Discovery Under Rule 14(b)**
 - Participants will analyze Rule 14(b)(1)–(2) and identify the categories of information the prosecution is automatically required to disclose to the defense.
 - The lesson will discuss the rationale for automatic discovery and its role in promoting fairness.
- **Identify the Scope of Discovery and Exculpatory Evidence**
 - The lesson will define “exculpatory evidence” and explore its implications through case law (including *Brady*).
 - Participants will revisit the fact patterns and, applying Rule 14, identify potential discovery items that might contain exculpatory information.
- **Analyze Motions for Additional Discovery**
 - Participants will learn about Rule 14.2(d) and the process for seeking materials not covered by automatic discovery.
 - The lesson will cover *Long/Cuffee* motions and their role in obtaining additional discovery relevant to a defense strategy.

LESSON OUTLINE

1. Review and Roadmap (10-15 minutes)
 - a. Re-Introductions (if needed)
 - b. Brief Check-In: Ask participants what they remember from the previous lesson.
 - c. Review MTD and Probable cause
2. Rule 14 Analysis (25-30 minutes)
 - a. Dissect the Rule: Break down Rule 14(b)(1)–(2) section by section, focusing on:
 - i. Automatic disclosures by the prosecution
 - ii. Limits on prosecutorial discovery
 - iii. Procedures and deadlines
 - b. Exculpatory Evidence
 - i. Define Exculpatory: Explain the concept and discuss *Brady* (use handout)

3. Fact Pattern Analysis
 - a. Pass out fact pattern #3.
 - b. Small Group Work: Participants identify information related to the arrest itself (location, officer attire, initial reason for the stop) that could be exculpatory IF it casts doubt on the legality of the arrest/search.
 - c. Class Discussion:
 - i. Discuss possible defense challenges to the stop/search.
 - ii. What discovery items are crucial to build this argument?
4. Motions for Further Discovery & Case Strategy (25-30 Minutes)
 - a. Rule 14.2(d): Explain the purpose of motions for additional discovery.
 - b. *Long/Cuffee*: suppression of evidence from a racially motivated stop
 - i. Introduce the concepts, focusing on how they could be used to gain information to support either.
 - ii. Suppression of Evidence: If the stop/search were questionable.
 - iii. Building a Defense: If other evidence exists that might mitigate the charges (e.g., substances weren't drugs).
 - c. Fact Pattern Application:
 - i. Groups brainstorm what they might request in a discovery motion and connect their requests to specific potential defense strategies.
5. Wrap-Up (5-10 Minutes)
 - a. Summary: Key points about discovery under Rule 14 and how it shapes case strategy.
 - b. Next Steps: Preview how discovery could lead to motion practice (suppression, etc.) and trial preparation.

Session 6

Evidentiary Motions - *Terry* Stops

GOALS

- Understand the Exclusionary Rule & Evidentiary Motions
 - Participants will learn about the exclusionary rule, its purpose, and its application in different contexts (search warrants, warrantless searches).
 - The lesson will highlight the shift from non-evidentiary motions (like basic Motions to Dismiss) to evidentiary motions that require hearings.
- Analyze Reasonable Suspicion and *Terry* Stops
 - Participants will define “reasonable suspicion” and how it differs from “probable cause” in the context of warrantless stops.
 - The lesson will use case law and videos to illustrate these concepts, emphasizing the totality of circumstances.
- Apply *Terry* Stop Analysis to Motions to Suppress
 - Participants will dissect the provided fact pattern to determine whether the initial stop of the individual meets the reasonable suspicion standard.
 - The lesson will outline how a defense attorney would build a Motion to Suppress based on a potential *Terry* Stop violation, including what evidence arises from the facts.

LESSON OUTLINE

1. Review and Roadmap (10-15 minutes)
 - a. Brief Check-In: Ask participants what they remember from the previous lesson.
 - b. Quick Review: Remind participants about probable cause and its role in past lessons.
2. Exclusionary Rule & Evidentiary Motions (15 minutes)
 - a. The Exclusionary Rule: Introduce the concept and its rationale.

- b. Evidentiary Motions: Briefly explain how Motions to Suppress are used to challenge evidence based on constitutional violations, requiring a hearing with testimony.
 - c. Distinguish Evidentiary Motions from Motions to Dismiss (Four Corner Motions).
- 3. *Terry* Stops: Reasonable Suspicion vs. Probable Cause (20-25 minutes)
 - a. Definitions & Distinction: explain reasonable suspicion and how it differs from probable cause (burden of proof, required level of certainty).
 - b. Quimbee Video (if possible): Show the *Terry* video and follow up with a discussion of key points.
 - c. MCLE Resource: Briefly review the resource, focusing on factors courts consider for reasonable suspicion in warrantless stops.
 - d. (You may also want to provide information on warrant procedures)
- 4. Fact Pattern Analysis & Motion to Suppress (30-35 minutes)
 - a. Distribute the fact pattern #3
 - b. Small Group Work: Participants identify the key facts related to the initial stop and consider whether they raise the following issues:
 - i. **Reasonable Suspicion:** Did officers have reasonable suspicion to justify the stop based on the time of day, location, offense, the vehicle being known to police, and the race of the suspect?
 - ii. **Scope of the Stop:** Even if the initial stop was justified, did the scope of the stop exceed what was reasonable based on the offense?
 - c. Motion to Suppress Outline:
 - i. Discuss how a defense attorney would structure a Motion to Suppress, focusing on TWO potential arguments:
 - A. Lack of Reasonable Suspicion for the initial stop.
 - B. Exceeding the scope of a permissible stop under the *Terry* standard.
 - ii. Evidence: Discuss what specific evidence from the fact pattern they would cite, focusing on how the new details might shape the legal arguments.

5. (If Time) Introduction to Long Motions (10 minutes)
 - a. Briefly explain *Long* Motions in the context of obtaining additional evidence to support a suppression argument.
 - b. Apply a *Long* Motion analysis to the fact pattern #3.
6. Conclusion: If Final Class (20–30 minutes)
 - a. Recap the course with the course outline
 - b. Provide course review/feedback form.
 - c. Hold a closing ceremony.
 - i. Pass out certificates of completion.
 - ii. Pep talk/congratulatory speech.

FILLING A GAP IN LEGAL-EDUCATION SERVICE-LEARNING: A MODEL FOR A PROJECT-BASED COURSE TO SUPPORT PEDAGOGY, JOB-READINESS AND COMMUNITY

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Service-learning has become a significant feature of legal education because it integrates academic learning with practical experience, community engagement, and structured reflection. While service-learning in law schools is most commonly associated with clinical legal education, the dominance of clinic-based models limits understandings of how broader service-learning objectives can be achieved. Drawing on a case study from the University of Newcastle (Australia) School of Law and Justice, this article argues that project-based courses offer a valuable complementary model of service-learning that can be integrated into existing law school structures with relatively low cost and limited administrative burden. The skills and experiential learning that such a course provides are especially important as the use of AI becomes rapidly normalized.

The article situates the relevant Project Course within global service-learning scholarship and examines its pedagogical benefits and value for students, law schools and community partners. Using the 4M framework to analyze influences across individual, departmental, institutional, and national and international levels, the article shows how a project-course model aligns with the goals of clinical legal education while also filling gaps in the clinical space to maximize broader service-learning goals. Identifying key design and sustainability considerations, the article suggests how project-based service-learning can productively expand legal education, helping students to connect legal knowledge with public purpose, professional identity formation, and community-engaged practice.

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INTRODUCTION

Service-learning is a pedagogical model that complements traditional legal education by combining academic instruction with practical experience, community engagement, and structured reflection.¹ The importance of service-learning is widely accepted as an essential element for building a foundation for student career-readiness.² In legal pedagogy, service-learning models have become increasingly integrated throughout law schools worldwide as they seek to redress a long-growing concern that legal education should not be limited to the mere transmission of doctrinal knowledge.³ That concern is founded on an understanding, gaining traction globally, that law students likewise need to learn how legal knowledge operates in practice, how law affects communities, and how lawyers exercise professional judgment in contexts shaped by ethical, civic, and social responsibilities.

Service-learning in law schools is most commonly associated with clinical legal education.⁴ Legal clinics provide students with supervised exposure to client responsibility, reflective learning, and access-to-justice work.⁵ Clinical legal education is therefore an important form of service-learning,⁶ but the scope of service-learning extends beyond the clinical model. In particular, service-learning need not be organized around client advice or representation. It may also take the form of supervised community-engaged research, legal-policy work, public legal education, and other activities directed toward a public or community purpose. Nevertheless, the prominence of clinical legal education narrows the institutional imagination of what can be achieved through legal service-learning. At the same time, practical considerations, including cost, supervision, and administrative demands, as well as assumptions about

¹ See generally Laurie Morin & Susan Waysdorf, *The Service-Learning Model in the Law School Curriculum*, 56 N.Y.L. SCH. L. REV. 561 (2011-2012).

² See, e.g., Francina Cantatore, *The Impact of Pro Bono Law Clinics on Employability and Work Readiness in Law Students*, 25 INT'L J. CLIN. L. EDUC. 147 (2018); Jill Alexander, *Modelling Employability Through Clinical Legal Education: Building Confidence and Professional Identity*, 57 L. TCHR. 135 (2023).

³ See, e.g., Paul McKeown, *An Analysis of Clinical Legal Education in Europe Through the Lens of the 4M Framework*, in CLINICAL LEGAL EDUCATION IN EUROPE: INNOVATION AND SOCIAL JUSTICE (Paul McKeown, Laura Bugatti, Rachel Stalker, Aleksandra Klich, Liubou Krasnitskaya & Jason Tucker eds, 2026), at 15; see also Anthony G. Amsterdam, *Clinical Legal Education – A 21st-Century Perspective*, 34 J. LEGAL EDUC. 612 (1984).

⁴ See generally ASSOCIATION OF AMERICAN LAW SCHOOLS, SECTION ON CLINICAL LEGAL EDUCATION, GLOSSARY FOR EXPERIENTIAL EDUCATION (2017), <https://www.aals.org/wp-content/uploads/sites/12/2017/05/AALS-policy-Vocabulary-list-FINAL.pdf>; see also Antoinette Sedillo Lopez, *Learning through Service in a Clinical Setting: The Effect of Specialization on Social Justice and Skills Training*, 7 CLIN. L. REV. 307 (2001).

⁵ See generally Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997 (2004).

⁶ See generally Amsterdam, *supra* note 3.

the role and purpose of clinics within the curriculum,⁷ may limit the ways in which law schools can provide service-learning opportunities.

This article argues that some – even if not all – of these gaps can be remedied through a well-structured project-based course that provides a complementary, alternative model of community-engaged legal education. Through supervised legal or legal-policy projects that provide benefit to the broader community, students can deepen their academic and professional learning, develop their personal and professional capacities, enhance their intercultural competence and awareness of community needs, reflect critically on the civic and social-justice dimensions of law, and cultivate the adaptability and creativity required in an evolving legal profession. Such a course can realize the aims of service-learning without the need for dedicated infrastructure or staff, and without being constrained by the requirements of legal representation. As such, this type of course provides an opportunity to enhance existing service-learning methodologies with low investment costs and minimal administrative burden, building directly into established university course structures.

Pedagogical moves of this sort are becoming more critical in light of the proliferation of AI.⁸ Legal education and legal practice are undergoing seismic shifts. Through increasing efficiency and access to resources and information,⁹ AI can now perform with unprecedented speed some research, analysis, and drafting tasks that have traditionally occupied substantial amounts of junior lawyers' time. This shift alters both the work expected of new graduates and the skills they need in legal practice.¹⁰ In legal education, the capacity of AI to generate research and written work is creating concerns about the erosion of independent thinking¹¹ and causing professors to reconsider assessment design and the skills that law schools should cultivate.¹² A project course is not a panacea. But it provides significant added value in these changing circumstances. Among other contributions, the authentic engagement with

⁷ *Id.* at 617-18.

⁸ Paul McKeown, Rachel Stalker and Laura Bugatti, *Introduction*, in CLINICAL LEGAL EDUCATION IN EUROPE: INNOVATION AND SOCIAL JUSTICE *supra* note 3, at 2.

⁹ Zubair Abbasi, *Legal Education in the Age of Generative Artificial Intelligence*, 7 L. TECH. & HUMANS 1 (2025); UNIVERSITY OF CHICAGO, *Rethinking Legal Education in the AI Era*, (July 9, 2026), <https://www.law.uchicago.edu/news/ai-strategy-statement>.

¹⁰ See generally INT'L BAR ASS'N & CTR. FOR AI & DIG. POL'Y, *THE FUTURE IS NOW: ARTIFICIAL INTELLIGENCE AND THE LEGAL PROFESSION* (Sept. 2024), <https://www.ibanet.org/document?id=The-future-is%20now-AI-and-the-legal-profession-report>.

¹¹ Haoming Lin, Wei Wei & Handan Lu, *Facilitator or Barrier? Systematic Review on the Relationship between Artificial Intelligence Technologies and the Development of Critical Thinking Skills*, 7 J. EDUC. TECH. & INNOVATION 11, 12 (2025).

¹² See generally Steve Lorteau & Douglas Sarro, *Artificial Intelligence in Legal Education: A Scoping Review*, 60 L. TCHR. 138 (2026); John Bliss, *Teaching Law in the Age of Generative AI*, 64 JURIMETRICS J. 111 (2024).

the law that such a course provides makes it possible for students to develop a cross-cutting suite of job-ready skills, such that traditional critical-thinking skills and social-interaction skills can be learned alongside, rather than in competition with, AI skills. In this way, the project-course model offers a path for building capacities that remain distinctively human while simultaneously being of increasing importance to the future of legal practice.

We examine the role that such a course can play in the legal-education service-learning environment through the “4M” framework. The 4M framework is an analytical tool that contributors to the scholarship of teaching and learning (SoTL)¹³ have formulated to structure understanding and interrogation of “layers of influence” within educational systems.¹⁴ In an insightful book chapter, Paul McKeown extends the use of 4M to analyze clinical legal education, having adopted the framework from its original broader foundations. Inspired by that instrumental extension, we find the 4M theoretical lens to be constructive for analyzing a pedagogical approach that sits outside of, but is complementary to, the clinical legal education framework.

In this article, we apply the 4M framework through a case study of the Project Course that one of the authors developed at the University of Newcastle (Australia) School of Law and Justice. Offered from 2020 to 2025, the Project Course was an elective in which law students completed projects with community, institutional, and public-interest partners, producing legally informed outputs intended for use beyond the classroom. Depending on the needs of each project, students were supervised by academic staff from the School, staff affiliated with university research centers, community partners, or a combination of these, while the course coordinator retained overall oversight of all projects. We show how a well-designed project course can maximize the productive impact of the service-learning model by supplementing clinical legal education and expanding the pathways through which students engage with the public, institutional, and community-facing dimensions of the law.

The article proceeds as follows. Part I introduces service-learning as a pedagogical framework, tracing its development in legal education in

¹³ A foundational work refers to the scholarship of teaching and learning in this way: “A scholarship of teaching is *not* synonymous with excellent teaching. It requires a kind of ‘going meta,’ in which faculty frame and systematically investigate questions related to student learning—the conditions under which it occurs, what it looks like, how to deepen it, and so forth—and do so with an eye not only to improving their own classroom but to advancing practice beyond it.” Pat Hutchings & Lee S. Shulman, *The Scholarship of Teaching: New Elaborations, New Developments*, 31 *CHANGE: THE MAGAZINE OF HIGHER LEARNING* 10, 13 (1999).

¹⁴ McKeown, *supra* note 3, at 9.

the United States, United Kingdom, and Australia. Here we show how the dominant institutional expression of service-learning in law schools tends to be through clinical legal education. Part II introduces the 4M framework. Through that analytical lens, we examine the University of Newcastle Project Course as a case study of course-structured, project-based service-learning. We consider the structure of the course, the projects and partnerships that resulted, its pedagogical benefits for students, and its reciprocal value for community partners. We then draw on the 4M framework to map out the relationship between the Project Course and clinical legal education, suggesting ways that a project course can fill gaps left by clinical legal education to maximize the potential of service-learning. Part III identifies sustainability and design considerations for law schools seeking to implement similar courses, including supervision, resourcing, student autonomy, partnership management, and institutional commitment. The article concludes by summarizing how project-based service-learning offers a valuable complementary model for service-learning in legal education, capable of connecting legal knowledge with public purpose in ways that are pedagogically rigorous and socially engaged.

I. SERVICE-LEARNING IN LEGAL EDUCATION

Service-learning is a teaching strategy that integrates learning, community service, and reflection to strengthen engagement, impart civic responsibility, and improve on traditional teaching methods.¹⁵ Its theoretical roots can be traced to John Dewey's account of experiential education,¹⁶ which was subsequently expounded on by David Kolb's experiential learning cycle¹⁷ and Paulo Freire's emphasis on critical pedagogy and praxis.¹⁸ Service-learning is not considered a fixed pedagogical strategy but instead has developed over time as a combination of experiential education, practical learning, action, social justice, reflection, and research.¹⁹

¹⁵ Maimoona Salam, Dayang N. A. Iskandar, Dayang H. A. Ibrahim & Mohammed S. Farooq, *Service-Learning in Higher Education: A Systematic Literature Review*, 20 ASIA PAC. EDUC. REV. 573, 575 (2019); Saul McLeod, *Kolb's Learning Styles and Experiential Learning Cycle*, (August 26, 2026), <https://fossil.org.uk/wp-content/uploads/2022/04/simplypsychology.org-Kolb-Learning-Styles.pdf>; Matthew Atkinson & Rachel Spencer, *Towards a Pedagogy of the Integration of Clinical Legal Education Within the Law Curriculum: Using De-Identified Clinic Files Within Tutorial Programs*, 25 LEGAL EDUC. REV. 121, 122–23 (2015).

¹⁶ See generally JOHN DEWEY, *EXPERIENCE & EDUCATION* (1938).

¹⁷ See Alice Kolb & David Kolb, *Eight Important Things to Know About the Experiential Learning Cycle*, 40 AUSTL. EDUC. LEADER 8 (2018).

¹⁸ Thomas Deans, *Service-Learning in Two Keys: Paulo Freire's Critical Pedagogy in Relation to John Dewey's Pragmatism*, 6 MICH. J. CMTY. SERV. LEARNING 15, 20–22 (1999).

¹⁹ Dan Butin, *The Limits of Service-Learning in Higher Education*, 29 HIGHER EDUC. REV. 473, 490 (2006).

Service-learning addresses a sustained concern within legal education scholarship: doctrinal knowledge alone is insufficient to prepare students for legal practice.²⁰ Traditional legal pedagogy, with its emphasis on case analysis, legislation, and hypothetical problem-solving, remains foundational. Service-learning, however, supplements that pedagogy in two ways. On the one hand, it integrates educational objectives into its structure and outcomes to focus on enhancing students' understanding of their theoretical knowledge²¹; on the other hand, it provides students with opportunities to apply legal knowledge in practical settings,²² develop professional judgment, reflect on the social role of law, and engage with communities beyond the classroom. As such, service-learning is widely recognized as essential in modern legal education because it provides a framework through which law schools can connect academic study with practical capability, professional formation, and civic responsibility.²³

The primary form of service-learning in law schools has been through clinical legal education. Jeff Giddings defines clinical legal education as involving students taking responsibility for client work, receiving feedback and reflecting on their experiences and on the ethics of legal practice.²⁴ Such a model aligns with service-learning because both emphasize experiential engagement, structured reflection, and service to individuals or communities.²⁵

A. Comparative Development of Service-Learning

Service-learning in legal education has developed unevenly across jurisdictions. In the United States, it became associated with the growth of university legal clinics in the 1960s.²⁶ This period saw experimentation

²⁰ See generally Amsterdam, *supra* note 3.

²¹ Robert Bringle, *Designing Interventions to Promote Civic Engagement*, in PROCESSES OF COMMUNITY CHANGE AND SOCIAL ACTION 167, 168 (Allen M. Omoto ed. 2005).

²² Michael Cassidy, *Beyond Practical Skills: Nine Steps for Improving Legal Education Now*, 53 B.C.L. REV. 1515, 1521 (2012).

²³ Anna Smedley-Lopez, Heidi Johnson & Arlene Amarante, *SLICES: Critical Theory as Praxis and Research-Based Service-Learning*, 39 HUMBOLDT J. SOC. REL. 176, 177 (2017); Matthew Atkinson & Rachel Spencer, *Towards a Pedagogy of the Integration of Clinical Legal Education Within the Law Curriculum: Using De-Identified Clinic Files Within Tutorial Programs*, 25 LEGAL EDUC. REV. 121, 121 (2015).

²⁴ Jeff Giddings, *Why No Clinic Is an Island: The Merits and Challenges of Integrating Clinical Insights Across the Law Curriculum*, 34 WASH. U. J. L. & POL'Y 261, 265 (2010).

²⁵ Adrian Evans, Anna Cody, Anna Copeland, Jeff Giddings, Mary Anne Noone, Simon Rice, *Best Practices Australian Clinical Legal Education* (September 2012), at 4, <https://cald.asn.au/wp-content/uploads/2023/11/Best-Practices-Australian-Clinical-Legal-Education-Sept-2012.pdf>.

²⁶ Louise G. Trubek, *U.S. Legal Education and Legal Services for the Indigent: A Historical and Personal Perspective*, 5 MD. J. CONTEMP. LEGAL ISSUES, 383, 385 (1994).

with clinical legal education and legal ethics. Sandy Ogilvy suggests that that experimentation coincided with the adoption of the new Codes and Canons of Ethics by the American Bar Association (“ABA”) at the same time as the Ford Foundation Council on Legal Education for Professional Responsibility was providing grants to law schools for the purpose of starting or expanding legal clinics and externships.²⁷ By 1980, nearly every law school in the US had at least one clinical course, although with varying success.²⁸

In 1992, the ABA produced the *Report of the ABA Task Force on Law Schools and the Profession: Narrowing the Gap*, commonly referred to as the MacCrate Report. This initiative was a response to an inquiry into the “skills and values necessary for a lawyer to assume responsibility for handling a legal matter.”²⁹ Shifting the focus to skills-based education, the MacCrate Report concluded that there were ten fundamental “lawyering” skills and four fundamental values that should be promoted and taught in law schools.³⁰ But even though the MacCrate Report heralded discussion about the role of skills development in legal education,³¹ its recommendations were not widely adopted.³² Fifteen years later, however, the Carnegie Report, *Educating Lawyers: Preparation for the Profession of Law*, became an influential point of reference in debates about legal education reform.³³

²⁷ Sandy Ogilvy, *Celebrating CLEPR's 40th Anniversary: The Early Development of Clinical Legal Education and Legal Ethics Instruction in U.S. Law Schools*, 16 CLIN. L. REV. 1, 5, 12 (2009).

²⁸ *Id.* at 15.

²⁹ ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT – AN EDUCATIONAL CONTINUUM (REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP) (1992) [hereinafter MACCRATE REPORT] at xi, as cited in Eugene Clark, *Legal Education and Professional Development - an Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*, 4 LEGAL EDUC. REV. 1 (1993).

³⁰ The fundamental skills are problem solving, legal analysis and reasoning, legal research, factual investigation, communication, counselling, negotiation, litigation and alternative dispute resolution practices, organization and management of legal work and recognition and resolution of ethical dilemmas. The fundamental values are to provide competent representation, strive to promote justice, fairness and morality, improve the profession and undertake professional self-development. Wallace Loh, *Introduction: The MacCrate Report – Heuristic or Prescriptive?*, 69 WASH. L. REV. 505, 508-509 (1994).

³¹ Bryant Garth, *From MacCrate to Carnegie: Very Different Movements for Curricular Reform*, 17 J. LEGAL WRITING INST. 261, 262 (2011).

³² See Gary Shaw, *A Heretical View of Teaching: A Contrarian Looks at Teaching, the Carnegie Report and Best Practices*, 28 TOURO L. REV. 1239, 1240 n.5 (2012); Russell Pierce, *MacCrate's Missed Opportunity: The MacCrate Report's Failure to Advance Professional Values Symposium*, 23 PACE L. REV. 575, 592 (2002); John Sonsteng, *A Legal Education Renaissance: A Practical Approach for the Twenty-first Century*, 34 WM. MITCHELL L. REV. 303, 332 (2007).

³³ See generally WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW*

The Carnegie Report recognized that students need a dynamic curriculum that teaches a combination of skills such as understanding, enactment, experience, and analysis in order to be prepared for legal practice.³⁴ In this way, legal education can adapt to the challenge of balancing the interests of legal educators with the ethical and social responsibility demands of the legal profession by bridging the gap between analytical and practical knowledge to produce competent and committed professionals.³⁵ In comparison with traditional teaching methods, the proposed methods focused on the benefits that could be provided to students through interdisciplinary, experiential, and reflective curricular approaches.³⁶

A standout contribution of the Carnegie Report was its conceptualization of legal education through three apprenticeships: legal knowledge and analysis; practical skill; and professional identity.³⁷ While recognizing the strength of law schools in teaching legal analysis, the report criticized the insufficient integration within legal curricula of practical judgment and professional formation. This critique aligns with the aims of service-learning, which seeks to connect academic study with practical engagement, reflection, and public responsibility. Similarly, the 2007 *Best Practices for Legal Education: A Vision and A Road Map* aimed to address the deficiencies in law schools in preparing students to be practice-ready, suggesting a twelve-step program for the reform of legal education that included goal setting, instruction based on knowledge, skills and values, and reflection.³⁸

The development of clinical and service-learning models in the United Kingdom followed a different path. The first legal clinic was established at the University of Kent in 1973,³⁹ but closed only a few years later. The clinic's difficulties can be understood across several levels of the 4M framework. At the micro level, students reportedly struggled to reconcile demands to think as lawyers with expectations of social critique, while, at the meso level, uncertainty over whether the clinic should prioritize legal training or social objectives contributed to a lack of strategic direction and, ultimately, the withdrawal of university

(Carnegie Foundation for the Advancement of Teaching 2007) [hereinafter CARNEGIE REPORT].

³⁴ *Id.* at 8.

³⁵ *Id.* at 22.

³⁶ Peter Felton & Patti H. Clayton, *Service Learning*, 128 NEW DIRECTIONS FOR TEACHING & LEARNING 75, 77 (2011).

³⁷ CARNEGIE REPORT, *supra* note 33.

³⁸ ROY STUCKEY AND OTHERS, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (Clinical Legal Education Association 2007); Beverly Jennison, *Beyond Langdell: Innovating Legal Education*, 62 CATHOLIC U. L. REV. 643, 660-662 (2013).

³⁹ Elizabeth Ruinard, Evan Hamman & Judith McNamara, *Community Projects: Extending the Community Lawyering Model*, 21 INT'L J. CLIN. LEGAL EDUC. 1, 5 (2014).

funding.⁴⁰ Against that backdrop, only four legal clinics operated within UK universities in the 1980s.⁴¹ One explanation offered for this slower development in the UK is that the existence of state-funded legal aid reduced the perceived need for university-based legal service provision,⁴² as compared with the United States. Since the 1990s, however, clinical programs have experienced renewed growth in the UK,⁴³ reflecting broader interest in experiential learning.

In Australia, service-learning in law developed alongside broader shifts in legal education.⁴⁴ Earlier models of legal education tended to focus on doctrinal legal principles and case studies.⁴⁵ Over time, employers and business organizations began to call attention to the need for law schools to prepare students with professional skills alongside legal knowledge.⁴⁶ In a context of increasing competition among schools themselves, the Review of Australian Higher Education (Bradley Review) emphasized the need for universities to prepare graduates better for work.⁴⁷ Law schools thereafter expanded experiential learning through legal clinics, community legal center partnerships, and pro bono services.⁴⁸

In 2012, the Council of Australian Law Deans endorsed the influential report *Best Practices: Australian Clinical Legal Education*, prepared by a national team of clinical legal educators.⁴⁹ The report highlighted the pedagogical value specifically of clinical methodology in legal education.⁵⁰ The report's authors also affirmed the importance of recognizing social justice in legal education and teaching students in ways that

⁴⁰ *Id.*

⁴¹ Emma Jones, Hugh McFaul & Francine Ryan, *Clinical Legal Education in the United Kingdom: Origins, Growth and the Technological Innovations and Challenges of Its Future*, 4 GER. J. LEGAL EDUC. 107, 113 (2017).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Carol-Joy Patrick, Faith Valencia-Forrester, Bridget Backhaus, Rosie McGregor, Glenda Cain & Kate Lloyd, *The State of Service-Learning in Australia*, 23 J. HIGHER EDUC. OUTREACH & ENGAGEMENT 185 (2019).

⁴⁵ Ross Hyams, *Student Assessment in the Clinical Environment—What We Can Learn from the US Experience*, 10 INT'L J. CLIN. LEGAL EDUC. 77, 78 (2006).

⁴⁶ *Id.*

⁴⁷ DENISE BRADLEY, PETER NOONAN, HELEN NUGENT & BILL SCALES, REVIEW OF AUSTRALIAN HIGHER EDUCATION: FINAL REPORT, DEPT. ED., EMP. & WORKPLACE RELATIONS (AUS) (17 Dec. 2008), at 78, <https://apo.org.au/sites/default/files/resource-files/2008-12/apo-nid15776.pdf>; Jeff Giddings, *A Circle Game: Issues in Australian Clinical Education*, 10 LEGAL EDUC. REV. 33, 39–40 (1999).

⁴⁸ John Corker, *Student Experiential Learning in a Social Justice Context—the Way Forward*, in COMMUNITY ENGAGEMENT IN CONTEMPORARY LEGAL EDUCATION: PRO BONO, CLINICAL LEGAL EDUCATION AND SERVICE-LEARNING (Patrick Keyzer, Amy Kenworthy & Gail S. Wilson eds, 2009), at 2.

⁴⁹ Evans et al., *supra* note 25, at 4.

⁵⁰ Evans et al., *supra* note 25.

build their awareness of individual and social responsibility.⁵¹ Clinical legal education has since become the prominent form of service-learning in Australia, now implemented in some form across most Australian law schools, enabling students to gain exposure to practical skills and social justice praxis before they move into legal practice.

B. Service-Learning in the Form of Clinical Legal Education in Australia, with an Example from the University of Newcastle

At the School of Law and Justice at the University of Newcastle (Australia), clinical legal education has been firmly established through the School's Practical Legal Training ("PLT") Program. In New South Wales, the state where the School is located, the usual pathway to legal practice requires completion of both the relevant academic qualification and accredited practical legal training.⁵² In most Australian law school programs, students complete their practical legal training separately after graduation. Since the early 1990s, however, the University of Newcastle's PLT Program has enabled students to complete, within the five-year Bachelor of Laws (Honours) degree and three-year Juris Doctor degree, the practical legal training components required for admission as a lawyer, without needing to take on the separate program after graduation.⁵³

The University of Newcastle is the only university in Australia that automatically embeds accredited PLT training for all interested students within the LLB(Hons) and JD programs. Through the PLT Program, students in their fourth year LLB(Hons) / second year JD participate in the legal clinic at the University of Newcastle Legal Center (the "Legal Center") to work on real-world matters under a supervising lawyer. This work involves interviews with clients, discussion and analysis of legal issues with supervising lawyers, and the preparation of draft documents and legal research.

In the fifth year of their LLB(Hons) / third year of their JD, students in the PLT Program undertake an external placement with a local

⁵¹ Margaret Thornton, *The New Knowledge Economy and the Transformation of the Law Discipline*, 19 INT'L J. LEGAL PROF. 265, 277 (2012); Kim Economides, *Being a lawyer: Professionalism, values and service*, in ENCOUNTERS WITH CONSTITUTIONAL INTERPRETATION AND LEGAL EDUCATION: ESSAYS IN HONOR OF MICHAEL COPER (James Stellios ed, 2018), at 154, 159.

⁵² LAW SOCIETY OF NEW SOUTH WALES, PRACTICAL LEGAL TRAINING (last visited Sept. 6, 2026), <https://www.lawsociety.com.au/practical-legal-training>.

⁵³ SCHOOL OF LAW AND JUSTICE, LAW IN PRACTICE, UNIVERSITY OF NEWCASTLE (last visited July 25, 2026), <https://www.newcastle.edu.au/school/law-and-justice/experience/law-in-practice>. Although the PLT components of the LLB(Hons) and the JD are substantively equivalent, the LLB(Hons) degree requires five years of full-time study because students must complete it together with a second degree, whereas the JD can be completed in three years because it comprises only law courses. *Id.*

firm or agency to gain exposure to legal practice in a professional environment. In this way, the placement reflects the experiential dimension of service-learning by engaging students in practical activities relevant to legal practice in a professional setting. For example, students are required to prepare court documents, provide letters of advice, and draft contracts. Students receive feedback on their work from lawyers experienced in the relevant area of law. The University of Newcastle prioritizes early exposure to clinic-based learning through mandatory first-year and optional second- and third-year observations at the Legal Center, through which students sit in on clinic activities, albeit without actively contributing. This allows for clinical activities to be integrated throughout a student's years of study rather than only focusing on later years. This approach – integrating involvement in the Legal Center from the beginning of a student's degree – enhances the effectiveness and sustainability of the clinical program.⁵⁴

II. BEYOND THE CLINIC: THE UNIVERSITY OF NEWCASTLE PROJECT COURSE AS A COMPLEMENT TO THE CLINICAL LEGAL EDUCATION MODEL

Although clinical legal education has been an important development in ensuring the widespread implementation of service-learning programs, its prominence has produced a shortcoming: it has narrowed the institutional imagination of other productive service-learning methods for enhancing legal curricula. To explore what an expanded imagination can make possible, the article introduces the Project Course at the Newcastle School of Law and Justice. The Project Course offers a successful, efficient, and low-cost framework for project-based learning that other universities could adopt as a complement to clinical legal education, providing a powerful and well-rounded service-learning experience for students.

The analysis presents the Project Course through the lens of the 4M framework, explained below. This framework helps to situate the course not only within the structure of legal pedagogy but also at the intersection of several of the internal and external forces that impact that pedagogy and influence its sustainability.

The analysis then broadens to compare the Project Course with clinical legal education. Drawing on insight from the 4M framework, the comparison demonstrates how the benefits of the Project Course both support the core foundations of service-learning and fill several of the gaps left by clinical legal education in that space.

⁵⁴ See also Giddings, *supra* note 24, at 262.

A. *The 4M Framework*

The 4M framework provides a tool for revealing and mapping the “layers of influence” that impact on component parts of an educational system.⁵⁵ The four layers of interest are: the micro, at the level of the individual, whether student or faculty member; the meso, in relation to the relevant department or faculty; the macro, addressing the university; and the mega, extending to national and international sources of influence.⁵⁶

In other words, the components of a curriculum do not exist in a vacuum. Instead, each is born of and subject to the ongoing influence of a multitude of factors that shape it and determine its sustainability and success. Each layer, in turn, influences a given initiative in different ways. Some initiatives might be suggested by students or inspired by staff, others might be imposed from the outside, such as by a regulatory body. Either way, each will need some support at the school and university levels, where both funding and administrative approval will be foundational steps. At the same time, national and international trends may then empower or inhibit any forward momentum.

Ideally, therefore, the four layers will be in harmony. In any event, it is essential to understand the influences so as to be able to address and manage them. The Project Course discussed here is an excellent example: as explained further below, the course as originally run was well-aligned with all four layers. But when school support evaporated, this broadly successful version of the course came to an end notwithstanding the remaining alignment with the other three layers.

B. *Structure and Design of the Project Course*

From 2020 to 2025, the University of Newcastle School of Law and Justice offered an elective project-based course formally known as LAWS6091 but generally referred to in the School as “the Project Course.” Its elective status was important because students chose to enroll in the course on the basis of interest in particular projects, or in the self-motivated project-based mode of learning itself.

⁵⁵ McKeown, *supra* note 3, at 9.

⁵⁶ The framework itself has been used in the broader scholarship of teaching and learning literature as an analytical lens. *See generally* Nicola Simmons, *The 4M Framework as Analytic Lens for SoTL's Impact: A Study of Seven Scholars*, 8 TEACHING & LEARNING INQUIRY 76 (2020); Ekaterina Pechenkina, *Chasing Impact: The Tale of Three SoTL Studies*, 8 TEACHING & LEARNING INQUIRY 91, 93 (2020). The framework has more recently come to be referred to as 4M. Jennifer Friberg, *Might the 4M Framework Support SoTL Advocacy?*, THE SoTL ADVOCATE (July 11, 2016), <https://illinoisstateuniversitysotl.wordpress.com/2016/07/11/might-the-4m-framework-support-sotl-advocacy/#comments>, cited in Nicola Simmons, *The 4M Framework as Analytic Lens for SoTL's Impact: A Study of Seven Scholars*, 8 TEACHING & LEARNING INQUIRY 76, 77 (2020).

The Project Course was offered each semester, enrolling more than 200 students over five and a half years. The course was open to fourth- and fifth-year LLB(Hons) students and second- and third-year JD students, many of whom were also engaged with legal clinics through the School's PLT program.

Before each semester, the Course Coordinator circulated a list of available projects, each of which was largely adaptable to student interests, supervisor expertise, and the needs of community or institutional partners. Students could either apply to participate in one of those projects or propose a project of their own. In either case, students were required to submit an expression of interest identifying the project they wished to take part in, explaining their reasons for choosing it, and outlining what they hoped to learn and contribute. This process assisted in matching students with projects and supervisors, while also encouraging students to approach the course as an exercise in purposeful, self-directed learning. Depending on the nature of the project, students worked either individually or collaboratively with other students, supervisors, and external contacts.

This structure speaks to the micro-level of the course, with its focus on students as well as supervisors. At the same time, one can see structural elements of other levels, including international echoes of the mega. This is because the projects themselves all aimed to support the United Nations' Sustainable Development Goals (SDGs),⁵⁷ which, as such, serve as a background "political driver" to the projects.⁵⁸ The specific SDGs that were covered included: quality education, gender equality, reduced inequalities, sustainable cities and communities, climate action and peace, justice and strong institutions. This orientation likewise connected the course to the social-justice and public-purpose dimensions of service-learning, while allowing individual projects to differ substantially in topic, method, and output.

The course learning outcomes reflected the project-based design of the course. By the end of the course, students were expected to be able to:

1. *Design an advanced project regarding a specialized topic relating in some respect to law and/or legal policy.*
2. *Carry out research as applicable to the project by using primary and secondary sources, as well as the possible use of interdisciplinary material, in order to meet the goal of the project.*

⁵⁷ G.A. Res. 70/1, Transforming Our World: The 2030 Agenda for Sustainable Development (Sept. 25, 2015); *see also* U.N. Dept. Econ. & Soc. Affairs, The 17 Goals, (Sept. 6, 2026), <https://sdgs.un.org/goals>.

⁵⁸ McKeown, *supra* note 3, at 29.

3. *Demonstrate professional project management skills such as timeliness, initiative and responsiveness.*
4. *Effectively communicate the resulting project at an appropriate level for the relevant audience.*

These learning outcomes show that the course was not designed as volunteering or general work experience. Rather, it embedded legal research, communication, project management, and professional responsibility into the completion of a defined project. The emphasis on audience was important because most of the projects required students to produce outputs intended for use beyond the classroom, including by community partners, public institutions, university centers, or non-specialist audiences. Viewed through the lens of the 4M framework, the course connected four levels of influence within legal education. At the micro level, students developed legal and professional capabilities through supervised project work, while at the meso level these experiences were embedded within the law school's curricular and pedagogical objectives. The course also linked these micro- and meso-level activities to the macro level by situating student projects within broader university priorities and community engagement. At the mega level, the legal and policy issues addressed through the projects were often shaped by wider social, professional, national, and international developments. In this way, the course linked individual student learning and law-school pedagogy with broader institutional, community, and external contexts.

Following the completion of their project, students were required to complete two tasks. First, there was a reflection. The reflection component drove students to develop a deeper understanding of their learning objectives and how the project impacted their personal life and professional development.⁵⁹ It was not a part of the formal assessment for the course and students were thus motivated to consider and reflect authentically upon their experiences rather than crafting a text for purposes of trying to appeal to the grader.

The second mandatory task was for each student to submit a portfolio of their work – including drafts, research and key communications – from throughout the course. The purpose was for skills-building, with an eye to project management, and also ensuring that students remained actively engaged in the learning experience.⁶⁰

The grading of the Project Course was different from the usual manner of traditional law courses. In the Project Course, each student

⁵⁹ See Laurie Morin & Susan Waysdorf, *Teaching the Reflective Approach Within the Service-Learning Model*, 62 J. LEGAL EDUC. 600, 603 (2013).

⁶⁰ See Anna Carpenter, *Developing 'NextGen' Lawyers through Project-Based Learning*, in MODERNISING LEGAL EDUCATION (Catrina Denvir ed, 2019), at 126, 137.

was assessed not only by reference to their final output, but also by reference to their engagement with the course. The purpose of this approach was to encourage students to take on new areas of learning and step out of their comfort zones to become more versatile in different skills. In other words, if grading had been based solely on output, there would have been a risk that students would seek to perform tasks that they were already most confident in so as to ensure the highest possible grade. By realigning the structural incentives, supervisors were able to motivate students to skills-build in novel areas and to reward them for doing so. At the same time, the focus on self-motivated learning permitted students to act in regard to their own project, increasing confidence while still also benefiting from essential collaboration with supervisors and sometimes other students.

C. The Project Course in Practice: Projects, Partners, and Outputs

The Project Course translated service-learning principles into practice through partnerships directed toward identifiable public, community, or institutional purposes. Its projects shared a common structure: students undertook supervised work that produced concrete outputs, such as research reports, policy submissions, legislative materials, and community legal education resources. The projects nevertheless varied in scale, subject matter, and institutional setting.

Strong partnerships underpinned the operation of the Project Course.⁶¹ Rather than requiring students to complete abstract or simulated tasks, the course connected students' work to the needs of external international and domestic organizations, community stakeholders, and university initiatives. This format demonstrates the link between on the one hand micro actors in the form of students and on the other meso and mega actors in the form of university teams and diverse community organizations. It is important to recognize how that link is symbiotic because the students in each instance were contributing to the goals of the relevant university teams and community organizations, but always precisely because they had been inspired in the first place by the call to action in response to the needs of those teams and organizations.

The projects conducted can be grouped into four broad categories: international projects, national projects, local and regional projects, and university or school-based projects. Each is discussed in turn below.

⁶¹ See Feby Arma Putra, Nafiz Annas & Ren Reni, *Service-Learning in Higher Education: Impact Evaluation and Best Practices*, 1 J. LIGUNDI CMTY. SERV. 82, 84 (2024).

1. *International Projects*

At the international level, students participated in projects that exposed them to transnational legal issues, comparative legal research, and access-to-justice work beyond the domestic legal system. One significant example was the partnership between one of the authors here, Kevin Sobel-Read, and the Cook Islands Minister for Foreign Affairs, the Hon. Tingika Elikana. This project allowed students to participate in a range of law-related activities together with Cook Islands government leaders, including policy research, submissions to the Cook Islands Parliament, and preliminary legislation drafting. It gave students the opportunity to contribute to work connected to economic development, consumer education, and human rights protections. In one recent project, students were involved in supporting the updating of the Cook Islands' corrections-related legislation to better reflect a range of changes since the laws were first enacted decades ago, including developments in technology that impact on prison safety, evolving local norms, and updated international human rights obligations in the treatment of prisoners.

Another international project involved collaboration with the Australia Secretariat of the Pacific Regional Environment Programme, which led to the publication of a report titled *Loss and Damage: Identifying the Funding Gap*.⁶² This report highlighted gaps in international policy responses to the lived experiences of Pacific Island nations and communities affected by climate change.⁶³ Students in the project had further opportunity to present their research in meetings which informed Pacific Island states in preparation for their meeting under the International Climate Governance Scheme.

Other international (from the Australian perspective) projects included student collaboration and publication of over 100 articles with JURIST,⁶⁴ a US-based non-profit and award-winning news organization housed at the University of Pittsburgh School of Law. This opportunity provided students with experience in research and writing as a part of a team of over 50 law schools in 25 countries. University of Newcastle students wrote about topical legal issues in Australia such as the Royal Commission into the "Robodebt" Scheme, funding cuts for Legal Aid lawyers, and the Voice to Parliament referendum.⁶⁵ Furthermore,

⁶² MADELEINE HOWLE, LUCY BERT & ALEX GRAHAM, FINAL REPORT: LOSS AND DAMAGE: IDENTIFYING THE FUNDING GAP (June 28, 2023), <https://library.sprep.org/content/loss-and-damage-identifying-funding-gap>.

⁶³ *Id.*

⁶⁴ JURISTNEWS, <https://www.jurist.org/> (last visited Sept. 7, 2026).

⁶⁵ Gwendolyn Devoy, *Australia Dispatch: Robodebt Scheme Royal Commission Hearings Confirm the Australian Government was Warned About Illegality*, JURISTNEWS (Feb. 16, 2023), <https://www.jurist.org/news/2023/02/australia-dispatch-robodebt-scheme-royal-commission-hearings-confirm-the-australian-government-was-warned-about-illegality/>;

during the COVID-19 restrictions, the course coordinator partnered with BABSEACLE, a not-for-profit legal education and justice organization based in Chiang Mai (Thailand), Yangon (Myanmar) and Hanoi (Vietnam). This enabled students to participate virtually in international access-to-justice education initiatives despite restrictions on physical mobility.

2. National Projects

At the national level, the Project Course connected students with projects involving law reform, policy development, climate justice, consumer protection, and First Nations economic sovereignty. Students worked with national organization Reconciliation Australia on a range of projects, including contributing to the development of strategies for unengaged city councils to identify best practices, gaps, and opportunities to promote their engagement with their Reconciliation Action Plans.

Other national projects included work with the National Anti-Scam Centre, which led to a submission concerning romance scams, and the Indigenous Business Project, which involved multiple sub-projects that contributed to economic empowerment for First Nations people in Australia. These projects demonstrate the capacity of the Project Course to connect student legal work with mega-level national policy conversations and issues of contemporary public significance.

3. Local and Regional Projects

The Project Course also supported local and regional projects. These projects required students to consider how legal research and policy analysis could respond to specific regional and local concerns, including economic transition and refugee support. One example was Hunter Renewal's *Community Blueprint to Restore the Hunter*, which contained recommendations for the governance of the region's transition to a post-coal future for certain mining-affected communities.⁶⁶ Students also worked with a local not-for-profit organization called Refugee Hub to develop resources to support local refugee communities.

Sophia Richards and James Trevallion, *The Impact of Stagnant Legal Aid Rates on Access to Justice in Australia*, JURISTNEWS (May 8, 2023), <https://www.jurist.org/commentary/2023/05/richards-trevallion-legal-aid-rates-australia/>; Sophia Richards, Chloe Menzies and Meg Abbot, *Australia's Voice to Parliament Referendum: Understanding No and Yes*, JURISTNEWS (Sept. 30, 2023), <https://www.jurist.org/commentary/2023/09/richards-abbot-menzies-australia-voice-referendum/>.

⁶⁶ HUNTER RENEWAL, AFTER THE COAL RUSH, THE CLEAN UP: A COMMUNITY BLUEPRINT TO RESTORE THE HUNTER (Final Report, 2022), https://assets.pc.gov.au/392337/sub206-circular-economy-attachment.pdf?VersionId=pnajaB_66R5n2Qaky60NyvRSbsmokW8V (last visited Sept. 6, 2026).

4. *University and School-based Projects*

A final category of projects involved engagement with initiatives within the School of Law and Justice and the broader University community. Among others, the course coordinator partnered with the University's Centre of Excellence for Equity in Higher Education to engage in projects addressing gender-based violence and providing refugee support. Other projects involved collaboration with the University's Digital Technology Solutions Team that contributed to internal institutional improvement.

The School of Law and Justice hosts a Justice Clinic, which is run by the School's Criminology discipline. The flexibility of the Project Course made it possible for Law students to contribute to that clinic in a cross-disciplinary space, engaging – often together with Criminology students – in projects involving research into miscarriages of justice and reforms around regulations and procedures for expert witnesses.

Faculty members in the School of Law and Justice supervised several School-based projects that used the Project Course to promote and implement projects of personal interest, some with a Street Law methodology. Through this Street Law methodology, students communicated legal information in accessible formats, including community resources and infographics. Some resulting outputs are featured on the webpage of the School's Centre for Law and Social Justice.⁶⁷

Taken together, these projects demonstrate the adaptability of the Project Course as a service-learning model. The course enabled students to contribute to work operating across several scales. Its significance lies not only in the variety of projects undertaken, but in the common pedagogical structure that linked them: supervised student engagement, legally informed project work, partnership collaboration and the production of outputs intended for use beyond the classroom.

D. Pedagogical Benefits of the Project Course to Students

Service-learning is an invaluable teaching model that makes possible a number of reciprocal benefits for the relevant students, institutions, and wider community. This article identifies five educational goals of service-learning for students: (1) academic and professional learning; (2) personal and professional formation; (3) intercultural competence and community awareness; (4) civic and social-justice outcomes; and (5) adaptability, creativity, and responsibility in the AI-era legal profession. These goals develop and particularize the broader conception of professional legal education reflected in the Carnegie Report. The Project

⁶⁷ CENTRE FOR LAW AND JUSTICE, RESEARCH PROJECTS, <https://www.newcastle.edu.au/research/centre/law-and-social-justice/research> (last visited Sept. 6, 2026).

Course provides a concrete example of how these goals can be pursued through a project-based structure.⁶⁸ The following subparts explore these goals in greater detail. The discussion will then circle back to clinical legal education to clarify the relationship between the two models and to identify the distinctive value of a course like the Project Course.

1. *Academic and Professional Learning*

Academic learning is one of the core benefits associated with service-learning. Students who participate in service-learning often demonstrate higher levels of engagement, which in turn contributes to a deeper understanding of the relevant content.⁶⁹ The Project Course required students to apply their legal knowledge to real scenarios, which encouraged precisely that kind of stronger engagement with their academic learning. Similarly, the course's applied methods enhanced students' understanding of theoretical concepts beyond classroom analysis.⁷⁰ Students are often more engaged in this learning because it has actual application and impacts which provide higher stakes than in in-class, problem-based learning.⁷¹ At the same time, through projects students gain insight into how their knowledge can be used in practice which better prepares them for their legal career and gives them insight into potential career options. This insight allows students to form an idea, at an earlier stage, about what their personal career as a lawyer might look like.⁷² This can be a considerable motivating factor for students pursuing a law degree. It provides career direction and the development of their professional identity.⁷³

Further, due to the practical nature of service-learning generally, students benefit from the building of cognitive skills such as increased critical thinking and intellectual development.⁷⁴ The Project Course is particularly valuable in this respect. As Anna Carpenter observes, project-based courses engage students in learning that complements and enhances the more traditional skills that are taught in clinical education.⁷⁵ The Project Course therefore strengthened students'

⁶⁸ Salam et al., *supra* note 15, at 576.

⁶⁹ Putra et al., *supra* note 61, at 83.

⁷⁰ Salam et al., *supra* note 15, at 574; Anna Copeland, *Clinical Legal Education within a Community Legal Centre Context*, 10 MURDOCH U. ELEC. J.L. 25, ¶ 21 (2003), <https://www5.austlii.edu.au/au/journals/MurdochUeJlLaw/2003/25.html> (last visited Sept. 6, 2026).

⁷¹ Carpenter, *supra* note 60, at 139.

⁷² Ruinard et al., *supra* note 39, at 6.

⁷³ Anna Cody, *Developing Students' Sense of Autonomy, Competence and Purpose Through a Clinical Component in Ethics Teaching*, 29 LEGAL EDUC. REV. 1, 4 (2019); Ruinard et al., *supra* note 39, at 31.

⁷⁴ Salam et al., *supra* note 15, at 574, 578.

⁷⁵ Anna Carpenter, *The Project Model of Clinical Education: Eight Principles to Maximize Student Learning and Social Justice Impact*, 20 CLIN. L. REV. 39, 41 (2013).

professional capability by giving students opportunities to practice multidimensional skills that are essential for future career pathways, including project management, problem-solving, collaboration, and communication – qualities that are increasingly valued in the contemporary legal profession.

2. *Personal and Professional Formation*

Project-based service-learning can also contribute to students' personal and professional formation. The benefits commonly associated with this dimension include self-awareness, self-efficacy, identity development, spirituality, leadership, and moral development.⁷⁶ In legal education, these outcomes are particularly important because students are not merely acquiring doctrinal legal knowledge; they are also expanding on their empathy and personal ethics.⁷⁷

By engaging with community-facing work, students are encouraged to consider law not only as a body of doctrine, but also as a profession connected to people, institutions, and social problems. Anna Cody suggests that through this identity development, students are able to reconnect with their reasons for studying law, especially if they have had a previous disillusionment arising from their experiences during their studies.⁷⁸ Through this exposure, students can identify areas of legal work that align with their interests, values, and career aspirations.⁷⁹

In contributing in these areas, the Project Course also supported self-efficacy and confidence. Because students were required to take responsibility for a sustained project, they needed to manage uncertainty, make decisions, respond to feedback, and see their work develop over time. Unlike many traditional law school assessments, which are completed for the purpose of grading alone, the Project Course required students to produce work directed toward an external, institutional, or community-facing purpose. This allowed students to see that their legal knowledge and labor could contribute to something beyond the classroom. This helped to achieve deeper learning and enhance the impact of these experiences on students' personal lives and professional development.⁸⁰

⁷⁶ Giddings, *supra* note 24, at 261.

⁷⁷ SALLY BERMAN, *SERVICE-LEARNING: A GUIDE TO PLANNING, IMPLEMENTING, AND ASSESSING STUDENT PROJECTS*, xxi (2d ed. 2006).

⁷⁸ Cody, *supra* note 73, at 5; Ruinard et al., *supra* note 39, at 31.

⁷⁹ Ruinard et al., *supra* note 39, at 29.

⁸⁰ Morin & Waysdorf, *supra* note 59, at 602-3.

3. *Intercultural Competence and Community Awareness*

Intercultural competence involves more than exposure to people from different backgrounds. It includes respect, curiosity, sociolinguistic awareness, listening, empathy, and ethnorelative perspectives.⁸¹ These capacities are critical because lawyers of course frequently work with clients, communities, and organizations whose experiences of law are shaped by different social, cultural, economic, and institutional contexts.⁸²

In the Project Course, students worked on projects connected to a range of community needs. They were required to consider the legal accuracy of their work, and the context in which that work would be received and used. For example, in undertaking Street Law-style projects, students were exposed to the inequalities inherent in legal expression and the strength of language in improving accessibility to legal knowledge which they could address in these projects.⁸³ Through engaging in these community-service projects, which by their nature provided culturally diverse contexts, the students could “become more aware of social issues and the importance of civic involvement.”⁸⁴

4. *Civic and Social-Justice Outcomes*

Civic outcomes highlight skills of communication, collaboration and public problem-solving, as well as knowledge of community history and organization.⁸⁵ Collaboration plays an essential role as it can further improve competency, confidence, and teamwork in law students.⁸⁶ Students in the Project Course worked with supervisors, with peers and, in different ways, with external stakeholders. This required them to communicate clearly, respond to feedback, and understand the needs and expectations of others, which enhanced their understanding of legal work as something that often occurs through relationships with communities, organizations, and institutions.

⁸¹ Robert Bringle & Patti Clayton, *Integrating Service Learning and Digital Technologies: Examining the Challenge and the Promise*, 23 RIED (REVISTA IBEROAMERICANA DE EDUCACIÓN A DISTANCIA) 43, 44 (2020).

⁸² See generally JOHN M. CONLEY & WILLIAM M. O'BARR, *JUST WORDS: LAW, LANGUAGE AND POWER* (1998); Sally Engle Merry, *Rights Talk and the Experience of Law: Implementing Women's Human Rights to Protection from Violence*, 25 HUM. RTS. Q. 343 (2003); THOMAS BIOLSI, *DEADLIEST ENEMIES: LAW AND THE MAKING OF RACE RELATIONS ON AND OFF ROSEBUD RESERVATION* (2001).

⁸³ Joanna Kowalczyk, *Legal Communication: The Sociolinguistic Value of Plain Language Rules*, 45 J. PROF. & SCI. COMMUN 131, 131 (2023).

⁸⁴ Putra et al., *supra* note 61, at 83.

⁸⁵ Bringle & Clayton, *supra* note 81.

⁸⁶ Doris Bozin et al., *Thinking Outside the Disciplinary Box: Building Better Lawyers to Solve Wicked Problems*, 32 INT'L J. CLIN. LEGAL EDUC. 3, 8 (2025).

The direct supervision by experienced professionals and academics that was provided to students in the Project Course also played an important role because it gave students a different and more focused teaching method compared with traditional pedagogy. This type of supervision makes possible civic outcomes that deepen learning and interest in the project's area of law and allows students to continually utilize communication and collaboration skills with their supervisors. Supervisors' mentorship and guidance play a strong role in maximizing understanding and personal growth for students.⁸⁷ This form of sustained engagement is a distinctive civic benefit of project-based service-learning.

5. *Adaptability, Creativity, and the AI-Era Legal Profession*

The Project Course model also has particular significance in light of technological change, in particular the increasing use of artificial intelligence ("AI") in legal education and the practice of law. As legal information becomes more readily accessible through digital tools and generative AI, the value of legal education cannot rest solely on the transmission or reproduction of knowledge. As Patrick Dodd suggests, the focus of employers has now shifted to junior lawyers who can compensate the use of AI with skills that AI lacks in its current form.⁸⁸ The skills identified by Dodd include critical thinking, resilience and adaptability, emotional intelligence, accountability, teamwork, creativity, and reflection.⁸⁹ They speak directly to the importance of personal and professional formation and to the need for adaptability and creativity in preparing students for an AI-era legal profession.

These are precisely the kinds of capacities that the Project Course promoted. Rather than merely identifying legal rules or producing a conventional research essay, students defined problems, planned their work, evaluated sources, communicated with supervisors and stakeholders, revised their drafts in response to feedback, and produced outputs with practical or public-facing value. This process required adaptability and creativity. In some cases, students had to respond to unexpected challenges, such as gaps in the available literature or resources that necessitated adjustments to a project's direction or outcomes. In others, projects evolved over time. The Cook Islands project, for example, engaged multiple cohorts of students across several years and continuously adapted to the Cook Islands' changing policy needs.

⁸⁷ Putra et al., *supra* note 61, at 87.

⁸⁸ Patrick Dodd, *AI is Driving Down the Price of Knowledge – Universities Have to Rethink What They Offer*, THE CONVERSATION (July 9, 2025), <https://theconversation.com/ai-is-driving-down-the-price-of-knowledge-universities-have-to-rethink-what-they-offer-260493>.

⁸⁹ *Id.*

Such student-directed projects can help students build resilience from failing and then having to adapt, as well as engaging with skills of project-management practice such as planning and execution.⁹⁰

Indeed, there is strong evidence that in spite of new demands for lawyers to possess AI skills, legal practitioners simultaneously value specifically human skills.⁹¹ To this end, the experiences of Project Course students illustrate how one of the most important educational responses to AI may be to increase opportunities for authentic engagement with real-world problems. Many projects required students to work with community groups, government agencies, non-government organizations, and other external stakeholders. Success in these contexts depended not simply on gathering information – which is a core AI competence – but on understanding the needs of particular audiences, exercising judgment about competing priorities, and translating legal knowledge into practical outcomes. These tasks relied upon the kinds of contextual awareness, interpersonal engagement, and professional responsibility that remain fundamentally human. The Project Course therefore suggests that experiential, project-based learning may be particularly valuable in preparing graduates for a profession in which information is increasingly abundant but the capacity to apply it meaningfully remains at a premium.

The Project Course model can also be valuable in addressing the need to respond to emerging challenges in the specific area of testing and assessment.⁹² With the increasing use of AI, approaches to testing and assessment have needed to shift in design to ensure active learning and meaningful interaction.⁹³ The Project Course assessed learning over time rather than through a single static product. Students were required to participate in supervision meetings, respond to formative feedback, and demonstrate progress through the development of their project. The constant collaboration with supervisors in the Project Course allowed students to engage in a type of formative assessment⁹⁴ where they

⁹⁰ Carpenter, *supra* note 60, at 142.

⁹¹ See Tania Sourdin, *Judge v Robot? Artificial Intelligence and Judicial Decision-Making* 41 U.N.S.W.L.J. 1114 (2018); SIMMONS & SIMMONS, LEGAL HEADS PREDICT SWEEPING CHANGES TO PROFESSION IN GLOBAL SURVEY (Mar. 12, 2025), <https://www.simmons-simmons.com/en/about-us/news/legal-heads-predict-sweeping-changes-to-profession-in-global-survey> (last visited Aug. 1, 2026); Julian Taylor, *Lawyers Must Reskill in This Era of Tech—but We Should Focus on Human Traits Too*, L. SOC'Y GAZETTE (Feb. 20, 2025), <https://www.law-gazette.co.uk/practice/lawyers-must-reskill-in-this-era-of-tech-but-we-should-focus-on-human-traits-too/5122383.article> (last visited Aug. 1, 2026).

⁹² Craig Hansen, *Assessment Approaches, Pedagogies, and Practices: A Comprehensive Research Summary* (Jan. 17, 2025), 5, https://www.researchgate.net/publication/394072521_Assessment_Approaches_Pedagogies_and_Practices_A_Research_Summary.

⁹³ *Id.* at 6.

⁹⁴ Randy Elliott Bennett, *Formative Assessment: A Critical Review*, 18 ASSESSMENT IN EDUC.: PRINCIPLES, POL'Y & PRAC. 5, 6 (2011).

were frequently involved in a cyclical planning-and-feedback process with their supervisors in order to achieve the end product of the project.

Students were also, as noted, required to draft a final reflection. Reflection tends to be a form of assessment that students cannot fully create with AI because they are required to critically engage with how their personal experiences have reached the learning outcomes.⁹⁵ While AI may assist with drafting, it cannot substitute for the student's actual participation in the project or the personal and professional judgment developed through that experience. As such, reflection increases authenticity and deeper understanding.⁹⁶ The Project Course overall helped students in developing capacities that remain distinctively human and increasingly important to the future of legal practice.

E. Community Benefits and Reciprocal Value

Community engagement is a key aspect of service-learning. In all forms of service-learning, the community is an intended beneficiary of the work that the students do, whether this is in the form of legal advice to help resolve immediate issues as in clinical legal education, or in regard to resources to increase the legal education of the community as in the Project Course.⁹⁷ Service-learning provides the flexibility to adapt to emerging community needs which is particularly prevalent in Street Law projects, allowing for prominent legal issues to be readily addressed and disseminated to the public.⁹⁸

The community-service element of the Project Course helped students to recognize the importance of thinking outside the law itself and of continuing throughout their career to contribute their services to the community. In this way, the Project Course not only contributed to community development in real time, but also gave to the community by cultivating ongoing student habits of community involvement, potentially inspiring more longstanding benefit.⁹⁹ Indeed, student reflections in the Project Course repeatedly showed that many participants left the course with a greater awareness of the role of pro bono and public-interest contributions in legal practice, as well as a strengthened commitment to social-justice-oriented work into the future.¹⁰⁰

⁹⁵ Timothy Casey, *Reflective Practices in Legal Education: The Stages of Reflection*, 20 CLIN. L. REV. 317, 350 (2014).

⁹⁶ Chloe Sheppick, *Unveiling the Benefits of Reflective Learning in Professional Legal Practice*, 31 INT'L J. LEGAL PROF. 207, 219 (2024).

⁹⁷ Ka Hing Lau, Maureen Yin Lee Chan, Cynthia Lok Sum Yeung & Robin Stanley Snell, *An Exploratory Study of the Community Impacts of Service-Learning*, 32 METRO. UNIV. 106, 116 (2021).

⁹⁸ Ruinard et al., *supra* note 39, at 39.

⁹⁹ Bringle, *supra* note 21, at 168, 182.

¹⁰⁰ Ruinard et al., *supra* note 39, at 27.

F. Comparison with Clinical Legal Education

Project-based courses and clinical legal education pursue overlapping service-learning objectives. They both connect legal learning with practical engagement, supervision, reflection, and community benefit. Both likewise “provide students with the requisite skills they need in the graduate job market, thus boosting their employment prospects, while also enhancing their experience at university.”¹⁰¹ But they operate differently in terms of the form of legal work, community benefit, and the impact on future career projection, student responsibility, and reflection.

1. Cost and Administrative Burden

The Project Course and law clinics both provide value in relation to student skills and community development. It is necessary, however, to recognize that the financial and administrative sustainability of any such initiative is always going to be a precondition to operation and success.

In this regard, there is no question that legal clinics can be expensive.¹⁰²

The financial health of universities is significant in relation to clinical legal education, with a reported 60 per cent of law clinic budgets drawn from university funds, as the higher running costs expose them as an area where efficiency savings could potentially be made. Thus, in relation to funding, there is a trickle-down effect from the mega to the micro level where political decisions on the funding of higher education and immigration, as well as the overall health of the economy, potentially have an adverse impact on the development of clinical programmes.¹⁰³

At the same time, at both the macro and mega levels, McKeown discusses how funding restrictions have impeded the spread and sustainability of legal clinics in Europe.

A course like the Project Course offers a low-cost and low-burden alternative. It is, certainly, not a replacement for clinical legal education. A project course is likely to be smaller in scope than a legal clinic,

¹⁰¹ McKeown, *supra* note 3, at 16.

¹⁰² See Robert R. Kuehn, David Santacroce, & Margaret Reuter, June Tai & Gautam Hans, 2022-23 SURVEY OF APPLIED LEGAL EDUCATION at tbl. 5 (2023), <https://ssrn.com/abstract=4568376> [<http://dx.doi.org/10.2139/ssrn.4568376>].

¹⁰³ McKeown, *supra* note 3, at 21.

perhaps able to service fewer students per year. At the same time, by drawing on existing faculty members and external organizations for supervision, no dedicated staff are necessary. Instead, the only cost, if one calls it that, is the allocation of a course-worth of teaching load to an academic, who, within that load, can manage the administrative and oversight roles in relation to the projects. As such, a project course can be less cost-dependent and therefore more nimble in precarious times than clinical offerings.

2. The Form of Legal Work, Community Benefit, and Impact on Future Career Projection

Clinical legal education is conventionally structured around individual client matters. The Project Course, by contrast, was organized around sustained project development and the production of tangible outputs directed toward identified community needs. This distinction carries conceptual significance: legal service-learning should not be confined to direct client-facing work. The Project Course was able to broaden access to service-learning opportunities within the curriculum because it was not dependent on live client matters or in-person client interaction. This flexibility is particularly valuable where traditional clinical opportunities are unavailable, limited, or difficult to sustain.

In conventional clinical models, community benefit is typically delivered through legal advice or assistance to individual clients. In the Project Course, community benefit was generated through research, policy analysis, public legal education, submissions, and other outputs directed toward broader community or institutional purposes. The Project Course thus offered a flexible mechanism for engaging with legal and social issues where the most valuable contribution went beyond advice to a specific client and included the production of materials or analysis capable of informing organizations, communities, or decision-makers.

Relatedly, the Project Course was able to help students envision and plan for legal practice in more expansive terms that go beyond client-based matters. Through their projects, students encountered possible career pathways in law reform, policy work, public legal education, community organizations, international development, and institutional reform. This wide exposure can assist students in clarifying their professional interests and developing a stronger sense of the kind of legal work they may wish to pursue.

3. The Form of Student Responsibility

The Project Course also developed student responsibility differently from clinical legal education. In clinical settings, supervision and

professional responsibility requirements shape the scope of student autonomy. Supervisors retain ultimate responsibility for client matters and students work within structures designed to protect clients, ensure professional accountability, and maintain the quality of legal service. This is a strength of clinical legal education, because it exposes students to the ethical and professional constraints of practice.

The Project Course occupied a different pedagogical space. Students worked with supervisory guidance but were expected to take substantial initiative and responsibility for planning, managing, and completing their projects. This structure allowed students to practice self-direction, time management, project ownership, responsiveness, and legal communication over an extended period. This did not make the Project Course superior to clinical legal education. Rather, it gave students a different form of experiential learning that centered on project development, public-facing outputs, and sustained ownership of a project task.

4. The Form of Reflection

In clinical legal education, reflection is often required to assist students to process client responsibility, professional ethics, legal advice-giving, and the realities of legal practice. In the Project Course, reflection was directed toward a different form of professional learning. The reflective process also corresponded with the progression captured by the 4M framework, moving from the student's internal experience to wider meta-level considerations. Students reflected on their own role in the project, the challenges of self-directed work, the skills they developed, and the effectiveness of their collaboration. They were also encouraged to consider the broader purpose and impact of their work, including its contribution to a community or institutional objective. Reflection therefore connected project ownership with professional formation by prompting students to consider not only what they had produced, but also how the process of producing it helped shape their understanding of law, legal practice, and social responsibility.

5. Insight from the 4M Framework

The 4M framework provides a helpful lens for comparing clinical legal education with the Project Course. This article has presented the Project Course as complementary to clinical legal pedagogies. The analysis has suggested that a project-course model can supplement clinical legal education rather than compete with it, and that as such, the two models align. The 4M framework confirms that approach.

The 4M framework reveals that several of the goals, along with many (though not all) of the pressure points, are shared by the two

models. At the micro level, teachers globally are increasingly looking for pathways for providing skills and knowledge beyond the core, historical legal doctrinal tenets; students, in turn, frequently find themselves facing competitive job markets after graduation and so are actively seeking “career-ready” components to contribute to their core curriculum. With both clinical legal education and the Project Course, those goals go neatly hand in hand.

At the other end of the spectrum, there is also some alignment at the mega level. Both clinical legal education and the Project Course, as noted above, involve goals that by their nature support the United Nations SDGs. Both models address SDG 1 (No Poverty), SDG 4 (Quality Education), SDG 5 (Gender Equality), SDG 10 (Reduced Inequalities), SDG 13 (Climate Action), SDG 16 (Peace, Justice and Strong Institutions) and SDG 17 (Partnerships for the Goals).¹⁰⁴ One difference at this level, however, is that clinical efforts tend to focus on local client matters, whereas the Project Course contained scope for projects that themselves connected with international partners and therefore involved actual cross-border mega impact.

The meso and macro levels likewise impact clinical legal education and a project-course model in similar ways, although here is where the greatest variation can be seen. The most significant distinction is in relation to cost and administrative burden, discussed above. That said, the benefits that clinical legal education and a project course can provide are largely the same for both schools and universities and include improved curriculum and positive publicity and reputation-building that in turn can enhance student recruitment and boost survey rankings and other metrics.¹⁰⁵

As noted below, there can also at times be tension between the meso and macro levels, that is, different interests between a school and a university that impact the success of an initiative. In this space, as we learned the hard way, internal politics can influence outcomes even where there is other alignment.

Overall, however, the 4M framework shows clinical legal education and the Project Course to share consistent goals, suggesting that they fit well together. This is especially true in relation to the goals and benefits of the two models. It is, then, precisely in relation to the differences in constraints between the models that the true value of the Project-Course model as complementary to clinical legal education becomes evident.

¹⁰⁴ McKeown, *supra* note 3, at 29.

¹⁰⁵ McKeown, *supra* note 3, at 19-20.

III. IMPLEMENTING PROJECT-BASED SERVICE-LEARNING: SUSTAINABILITY AND DESIGN CHALLENGES

The Project Course demonstrates the pedagogical value of project-based service-learning, but its successful implementation depends on various key conditions, some of which the 4M framework helps to isolate. For law schools seeking to implement similar courses, several design conditions should be considered.

One practical challenge concerns supervision. The course should include a realistic supervision model that accounts for staff workload. One strength of the Project Course was that students could apply for available projects or propose projects of their own. This promoted motivation, ownership, and alignment between student interests and project objectives. However, student-generated projects also increase supervisory demand. If there are insufficient supervisors or external partners, students may be unable to pursue projects that align with their interests. Conversely, if too many projects are offered without adequate oversight, the quality of supervision, feedback, and outputs may suffer.

Project-based learning requires students to receive and respond to effective feedback throughout the life of a project. Feedback is central to project-based learning, but sustained feedback can be time-consuming for supervisors who may already carry teaching, research, and administrative responsibilities.¹⁰⁶ This supervisory challenge is especially important where students are given a high degree of autonomy. Students normally require clear support where project-based learning gives them significant responsibility for directing their own work. Without adequate guidance, particularly in the early stages, students may experience uncertainty about the scope, purpose, methodology, or expected output of the project.¹⁰⁷

Another significant condition is sustainability. Project-based service-learning requires project generation, student matching, supervision, relationship management, progress monitoring, and quality assurance of final outputs. Where external partners are involved, the Course Coordinator and law school must also manage expectations about student capacity, project timelines, deliverables, and the limits of student responsibility. Project-based courses thus depend greatly on relationships among students, academic supervisors, community partners, and institutional decision-makers. These relationships take time to establish and maintain, and institutional commitment is essential.¹⁰⁸ Institutions should consider long-term sustainability before cultivating

¹⁰⁶ Roma Forbes, *Descriptions of Learning and Teaching Innovations Using Project-Based Learning to Support Clinical Education*, 9 AUSTL. J. CLIN. LEGAL EDUC. 29, 35 (2021).

¹⁰⁷ Ruinard et al., *supra* note 39, at 31.

¹⁰⁸ Giddings, *supra* note 24, at 263.

external partnerships that may be difficult to maintain if priorities or resources change.

The Project Course at the University of Newcastle presents a case in point. After five and a half years of successful operation and completion of more than 200 student projects, changes in School priorities led to a restructuring of the course that reduced its scope and benefit. The experience demonstrates a broader vulnerability of project-based service-learning. Once a course becomes embedded in external partnerships, substantial restructuring can affect not only students and staff, but also community partners who have invested time, trust and resources in the relationship. Sustainability planning is therefore not merely an internal curriculum question but also a matter of responsible partnership management.

CONCLUSION

Service-learning has become an important framework within legal education because it connects doctrinal legal knowledge with practical experience, community engagement, and reflection. Clinical legal education has been the most prominent form through which service-learning has been implemented in law schools globally. Legal clinics provide students with supervised exposure to legal practice, client responsibility, professional ethics and access-to-justice work. As important as such initiatives are, this article argues that the understanding and implementation of legal service-learning should be conducted beyond clinical legal education alone.

Due to inherent shortcomings in clinical legal education, a well-designed project-based course can offer a distinct and complementary model through which law schools can overcome some of the gaps of clinical legal education and thereby expand overall service-learning objectives. As analysis through the 4M framework helped to confirm, a project-based course shares the service-learning-related goals of clinical legal education but is subject to different constraints in key ways and so can serve as an ideal complement.

Unlike clinical legal education models, project-based service-learning is not primarily structured around individual client advice or representation. Instead, it creates a flexible course-based structure through which students can undertake sustained, community-facing legal work while developing autonomy, collaboration, communication, project-management skills, and reflective professional identity. These capacities are increasingly important in a legal profession shaped by technological change and evolving expectations of graduate capability.

The Project Course at the University of Newcastle School of Law and Justice provides a useful case study of a project-based service-learning

model. Over five and a half years, the course enabled students to work on supervised projects involving community organizations, university initiatives, and public bodies, and with local, national, and international partners. These projects produced outputs including legal research reports, submissions, educational resources, and policy materials. In doing so, the course allowed students to apply legal knowledge, develop professional skills, engage with social-justice concerns, and contribute to work of practical value beyond the classroom. Moreover, this project-based service-learning expanded students' understanding of possible legal careers and prepared graduates not only for practice as lawyers, but also for careers that draw on legal knowledge in broader public, organizational, and interdisciplinary contexts.

Yet project-based service-learning is not without challenges. Its successful operation requires dedicated supervision, strong partnerships, realistic expectations, and sustainable institutional support. Where law schools cultivate external partnerships through project-based courses, they also assume responsibility for maintaining those relationships in a considered and durable way. If poorly supported, project courses risk over-reliance on individual academics, uneven student experiences, and disruption to valuable community partnerships. Properly designed and resourced, however, project courses can expand the repertoire of experiential legal education by creating additional pathways for students to connect legal knowledge with public purpose. Through this, law schools can reconceptualize service-learning to better serve students, institutions, and the wider community.

