



THE LAW TEACHER

Institute for Law School Teaching

Spring 1996

Bully pulpit

Effective teachers face their power over students honestly

By Kenneth L. Schneyer

David Copperfield notwithstanding, everyone is usually the hero of her/his own story. The teacher thinks about the classroom as it is seen from the podium, and it is frequently difficult to remember what things were like from the other side of the stage. This is such a truism that it appears trivial, but the truth is that there are certain aspects of the student's perspective about which we would all prefer to avoid thinking.

It is especially difficult to remember that the student usually regards the teacher-student relationship as one involving considerable power. The teacher (from the student's point of view) has practically unlimited, arbitrary authority, and the ability to enforce it with little or no recourse for the student. Nowhere does that power seem more pronounced, or more frequently cruel, than in the so-called Socratic method, where systematic humiliation of the student is only a hair's breadth away from the formal structure and purpose of the pedagogical method. Student rebellions, attempts to undermine faculty authority, and signs of disrespect all are symptoms of the students' wish to fight back against this perceived arbitrary exercise of power.

Of course, most of us find it hard to remember this, because we are frequently imprisoned in our own heads. We are aware of the difficulty of the concepts we are trying to teach, of the frequent refusal of students to think as we would like them to, and, indeed, of the institutional power we think that students have over us. (I was astounded, in a recent Internet discussion of classroom decorum, to hear how many professors felt belittled, harassed, oppressed, or threatened by their students.) Teachers with the best of intentions and a genuine desire to communicate have reduced students to tears in the classroom, simply out of a failure to empathize with the student's perspective. We've all seen it happen, and more than a few of us (myself included) have had the misfortune to actually do it.

Some teachers pretend that the power isn't there. Professor Blinders tells himself that he is merely doing what he does, that no sensible person could feel at all

manipulated, threatened, or dominated by his teaching methods. When students leave the classroom in tears, Blinders puts it down to their oversensitivity or family problems. He is the professor who is probably regarded as the most terrifying.

Some delude themselves into believing that they can

Teachers with the best of intentions have reduced students to tears in the classroom, simply out of a failure to empathize with their perspective.

somehow dissolve their power. Professor Chummy tries to be the students' friend: She encourages informality inside and outside of class, goes drinking with students after class, gives advice on personal problems, and does

her best to be a pal. But when grading time comes around and Chummy has to flunk one of her pals, suddenly both teacher and student are reminded of the power within the relationship. The student is likely to think, "How could she do that to me? I thought she was my friend!"

Others know about their power but don't care. Professor Entitlement figures that she worked really hard to get where she is, that she is rightly in a position of control, and that the students' feelings don't really matter anyway. If she can do her job better by flattening a few egos and causing a few sleepless nights, then so be it. Ironically, some students may find Entitlement easier to deal with than Blinders or Chummy: at least everybody knows who is on which side.

Others enjoy the power. Professor Whip actually gets a kick out of seeing people squirm, and relishes telling stories about how he "zapped" an annoying or rude student in class. There are people like this in every profession; thankfully, they are relatively rare. Whip's students are divided into two

Continued on page 2

Inside

A day in the life of a first-year student	2-3
Institute's summer conference	6-7
How to "market" your course	9-10
"Connecting the dots" for students	11

Power

Continued from page 1

campus: those in utter fear of him and those who come to class spoiling for a fight.

Professors Blinders, Chummy, Entitlement, and Whip are obviously caricatures. Indeed, I believe there is a little bit of all of them in each of us. But I also believe there is a responsible way for teachers to deal with their power without falling into one of the traps I have described.

I think teachers should act with constant awareness of the power dynamic. Draw the students' attention to it, and attempt to teach them about what their own reactions, and yours, mean in that context. There's no way to get rid of the power imbalance, but at least one can be honest about it and live within it. Indeed, coming clean to your students about the power in your relationship provides a fantastic "teachable moment" for a galaxy of legal topics. Consider what it would mean to talk about teacher-student power in the context of discussing undue influence or negotiation; to talk about the classroom as a "constitution" involving established roles and behaviors; to compare teachers to judges while discussing the difficult decision of whether, and when, to raise objections in court.

You also increase your credibility by this sort of truthfulness. The student who hears a teacher talk about power on the first days of class knows that this teacher is willing to be honest about difficult and embarrassing subjects.

One of the best teachers I ever knew opened the first day of Criminal Law class by talking about forms of address:

You can call me by my first name, or you can call me by my honorific. Both have pitfalls. When you go into law practice, you will probably find that you will be expected to address the senior partner by his first name; in that context, addressing me by a title seems silly. On the other hand, we cannot ignore the fact that when this course is over, I am going to be assigning a grade, which gives me a certain power over you. If calling me by my first name would delude us into believing that that power isn't there, that we are actually closer than we are (if not closer than we'd like to be), then it might be unwise.

Most of us ended up calling him "David," and he ended up calling us by our first names as well, but I never lost my gratitude for his honesty and his clear desire to use every excuse to teach me something useful.

Teaching students about power, politics, and the possibilities of law within the context of classroom dynamics expands the reach of your pedagogy. It can also significantly reduce the threat you present to students, while simultaneously reducing the threat they present to you. Best of all, it will repeatedly remind you of who your students think you are and what you are doing.

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Algorithms can take flow charts to next step for complex situations

By Richard G. Fox

Law teachers who use white boards, overhead projectors, or other visual aids know the value of using diagrams and flow charts as powerful means of conveying relationships between ideas.

Visual aids help students to see the components of a rule and the situations it is intended to cover. One sophisticated visual aid is the algorithm — a flow chart containing more specific instructions for the application of the rule to fact situations. It serves as a checklist indicating what is required by the rule at each step and what follows if that element is, or is not, satisfied.

Over the years, I have encouraged my students, particularly first-years, to adopt this technique to help them understand new and complex legal rules. I have been willing to accept student research papers in this form where the task I have set for them is to prepare an algorithm analyzing

The algorithm on the right demonstrates some students' inventiveness.

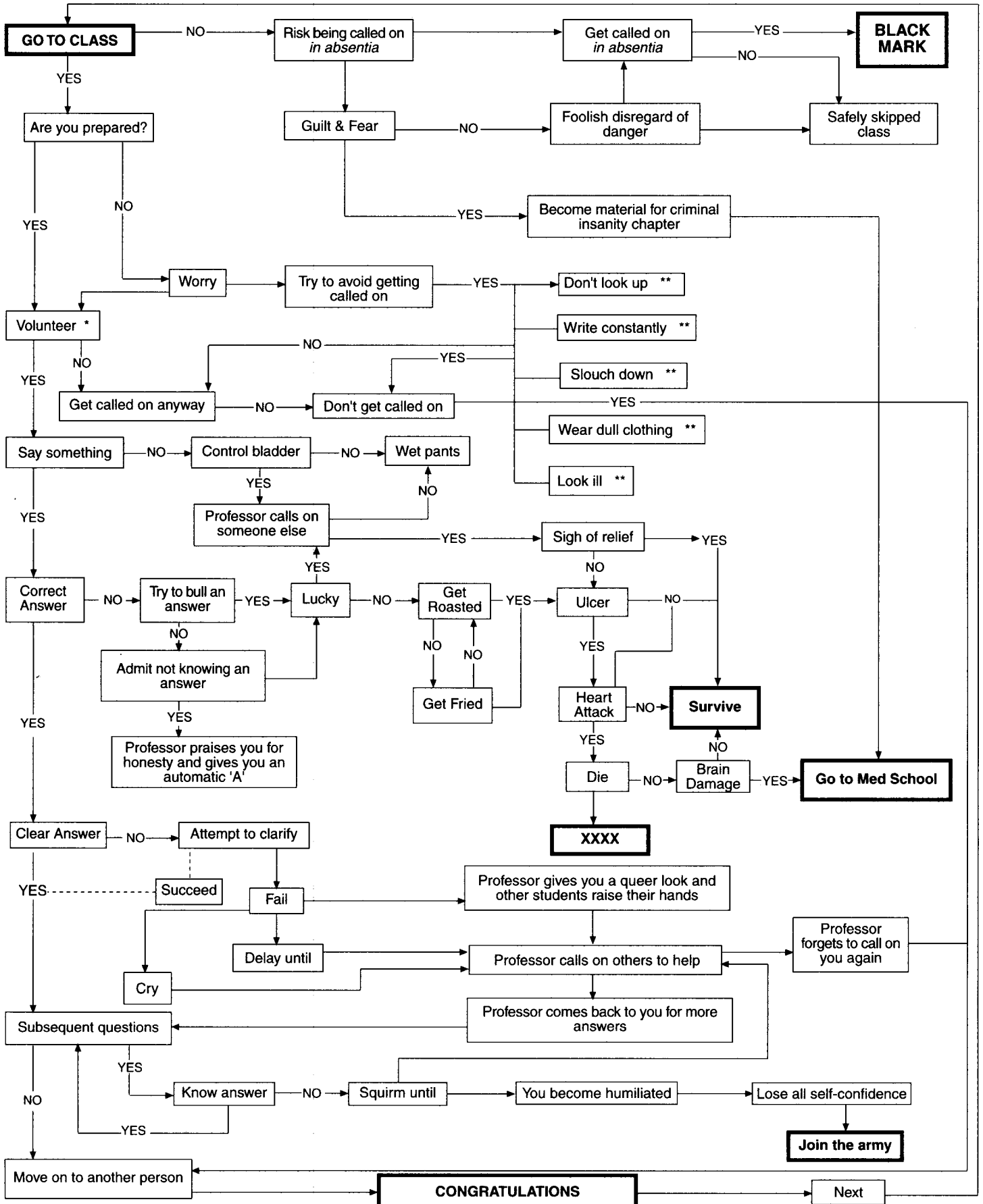
majority and dissenting judgments in some new and important case and to defend their diagram by providing accompanying notes explaining and critically evaluating the major choice points represented in it.

Some years ago, in order to illustrate the merits of algorithms, I started to sketch out the class survival skills required of first-year students and invited members of the class to assist in finishing it. The algorithm on the opposite page is the product of successive generations of student inventiveness and the application of computer-aided design skills in law schools in both Australia and the United States. It is now distributed routinely to my first-year students during discussion of study methods in law. It serves both as an ice-breaker in the first week of classes and as an illustration of the value of diagrams in note-taking and briefing.

Teachers as well as students recognize themselves in the illustration, but it contains a troubling message for the teachers. I have taken both it and my *Thoughts on Questioning Students* (see *The Law Teacher*, Fall 1995, at 6-7) to discussion groups on teaching methods for new and experienced teachers in order to invite them to consider why there is such an apparent gap between what we think we are doing in the classroom with our Socratic methods of teaching and how the students view the process as revealed in this algorithm.

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A DAY IN THE LIFE OF A FIRST-YEAR LAW STUDENT



* Volunteer on any easy question where you know the answer and hope that you don't get called on again - If you do get called on again, the tactic failed.
 ** The more of these devices you use the safer you'll be.

Institute seeks ideas for book on teaching techniques

The Institute seeks your ideas for a new book, *TECHNIQUES FOR TEACHING LAW*. The authors, Gerald Hess (director of the Institute and professor of law at Gonzaga University School of Law) and Steven Friedland (professor of law at Nova Southeastern University Shepard Broad Law Center), hope this monograph will help legal educators improve their teaching and the quality and quantity of learning in their classrooms.

TECHNIQUES FOR TEACHING LAW encompasses a variety of topics, including: course and class planning, effective discussions, visual tools, cooperative learning, computers, real-life learning opportunities, simulations, writing exercises, seminars, feedback to teachers, and evaluation of students. Each of these topics is the subject of a chapter in the book. Each chapter begins with an overview of the higher education research relevant to the topic. The

overview is followed by a collection of teaching "ideas" in which law teachers describe how they implement the topic in their classrooms.

The authors have collected more than 100 teaching ideas to date and hope to gather many more before the book is finished. Why not send them one of your teaching ideas? The idea can fit one of the topics listed above or any other topic related to law teaching. If you would like to submit an idea for possible inclusion in the book, please describe the idea in 500 to 1,000 words and send it to the Institute by May 15, 1996. If the authors include your idea in the book, they will give you appropriate recognition. You can send your idea via paper mail (Institute for Law School Teaching, Gonzaga University School of Law, Box 3528, Spokane, WA 99220-3528), FAX (509-324-5840), or E-mail (ilst@gulaw.gonzaga.edu).

Students learn while building houses, community

By Maryann Zavez

When Adam, a second-year law student and a participant in the South Royalton Legal Clinic at Vermont Law School, and I went out to do an initial interview with a new client last fall, we weren't prepared for the poverty that greeted us at the doorstep.

The client and his family lived a half-mile up a dirt road, impassable in all but summer without a four-wheel-drive vehicle.

The family's homestead consisted of a small travel trailer with an attached wood-frame structure that the family hoped someday would become a full-scale house. There was not even a tarp roof to keep rain and snow out of the unfinished structure, even though the family used this space for cooking and storage. There was no electricity or running water. The family hauled water from a nearby stream.

After the client interview, Adam and I wondered what we could do to assist him in improving the family's housing conditions. Unbeknownst to me at the time, the law school had formed a campus chapter of Habitat For Humanity a few years before. Students had worked with local community-action agencies to renovate and weatherize mobile homes. It wasn't long before a formal steering committee was formed to discuss a Habitat building project for this client's family. The steering committee consisted of four students and me, the faculty advisor to the group. The group's first steps included videotaping the site for presentation to the Habitat parent chapter's family selection committee; developing fundraising strategies and beginning to implement them; and, with volunteer experts, evaluating the house site to see what kind of site preparation was necessary.

Vermont Law School is nationally known for its environmental law programs. Consistent with this focus, it was the consensus of the steering committee that our building project would use recycled materials as much as

possible, that we would get our lumber from local sawmills, and that the structure would be energy efficient and use alternative sources of energy as much as possible.

The result is a small, energy-efficient house on a site adjacent to the family's former home. The building design and construction people on the steering committee drew the sketches for the house and worked with local town officials

and engineers to design appropriate septic and water systems. A local sawmill provided timber.

What did the students learn from this experience? They received some real-life

experience in land-use planning, municipal law, and the entire realm of nonprofit organization and management.

They also learned something about our responsibility as lawyers, and as members of a larger community, to respond to community need. And they learned about finding the common ground that enables members of a community to work together.

The law school Habitat chapter hopes to remain a viable community resource and to work with other housing organizations. Several years may go by before our chapter has the human and financial capital to build a complete structure again. But in the meantime, assisting our parent chapter with building projects and fundraising and doing smaller renovation projects will undoubtedly keep our Habitat chapter busy and continue to provide students with an outlet for putting some of their public-interest zeal into a hands-on, multi-faceted experience.

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Debriefing students can demystify the classroom

By Paul Bateman

Law school classes often end with students picking up their books and bags and heading for the exit, while a few surround the teacher to ask questions.

In the Academic Support Program at Southwestern, we have formalized the end of class by debriefing students on their classroom performance so they leave class with focus and understanding about the process of the law school classroom.

A student's comfort level with the classroom is essential to her socialization to the study of law and to her academic success. We need to inform students about their performance as class participants.

In our summer program for first-year students, we reserve about 20 minutes each morning to debrief students on their classroom performance. The method is simple. I observe students during class, taking notes about the questions and answers and the ways students respond. When class is over, I discuss with the students their performance and suggest ways to capitalize on the classroom experience. Individual comments might cover the following areas:

□ *Case briefs.* There are two kinds of briefing problems: Briefs are either too long (the student has not recognized the material from the immaterial) or too short (the student has leaned toward abstraction and toward knowing only rules without a clue as to their limits and peculiarities). We ask the following kinds of questions:

- How did your notes help or hinder you in class today? When students discuss this question, they understand that case briefing is not an end in itself, but a tool for class participation. Students soon discover that useful briefs anticipate that day's questions, which, in a perfect teaching world, reflect the significance of the assigned material. Often, we can show a student that the answer to a professor's hypothetical was in the analysis of a case they have just read.

- When you were unable to respond, was it because of a problem with your brief? If so, what was that problem? Should the brief have contained the answer? Should the process of creating the brief have suggested the answer? These questions help students think critically about their briefs and about the specific demands that teachers place on a brief's ability to help students in class.

- Why did the teacher ask a particular question? Students begin to see the value of anticipating where a line of questions is heading.

□ *Teaching Style.* We also ask students about the effect of the professor's teaching style that day. Law students seem to concentrate on the differences between teachers, but we try to point out the similarities by cutting through the professor's particular style of teaching.

We ask students about their passive participation. Could they participate vicariously or was there a tendency to tune out when other students were reciting? From these clues, students begin to see the value of preparation and participation, even vicarious participation.

□ *Hypotheticals.* Students need to know that a teacher's

hypothetical was not merely a convenience but an example of the kind of question they may see on an exam.

□ *Classroom technology.* When teachers write on the board, we tell students to pay special attention: Has the teacher set out the elements of the rule that she expects to see on an exam? Unless alerted, students may not recognize

the significance of these doodlings.

□ *Effective review.* Many students come from an undergraduate model that accom-

modated last-minute review. However, we encourage students to review constantly — before and after each class.

Within two days of the debriefing sessions, the level of student participation increases. More students raise their hands, and the range of responses indicates an increased level of understanding. Furthermore, rather than fighting the process of the law school classroom, students begin to buy into it because they can see where it is going, and they see how they can better prepare to reap its benefits.

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Institute offers resources to help law teachers

Looking for ideas on how to improve the quality of legal education? The Institute has available a number of resources:

- *GETTING GRAPHIC2®* by Corinne Cooper: Discusses the "why" and "how" of using graphics; describes functions and types of graphics; and provides examples of graphics used in various law school courses. Cost: \$20.

- *A Day In The Life Of Law School Teaching*, produced by Larry Dubin: Video program (35 minutes) designed to stimulate faculty discussion about law teaching methods. Cost: \$20.

- *THE SCIENCE AND ART OF LAW TEACHING (1995 CONFERENCE MATERIALS)*: Teaching tools and ideas on (1) the "why" and "how" of multiple-choice exams, (2) discussion techniques, (3) how to introduce and teach skills in the classroom, (4) cooperative learning techniques, (5) effective course planning, and (6) the use of verbal and nonverbal communication in the classroom. Cost: \$60.

- *Bibliography*: Annotates articles about law school teaching methods and techniques and describes higher education publications that focus on teaching. No cost.

Contact the Institute for more information or to order any of these publications.

Institute's third conference is set for June

The Institute for Law School Teaching will present its third conference on law teaching on June 28 and 29, 1996, at Gonzaga University in Spokane, Washington. The conference will help experienced legal educators become more effective teachers.

During the two-day conference, participants will be able to attend four workshops of their choice and two idea-sharing sessions. Attendance will be limited to 50, to ensure that the workshops and idea-sharing sessions will be small-group experiences. Participants should come away from the conference with both an increased understanding of educational principles and specific teaching techniques that they can implement in courses next fall.

Workshops

The conference will feature six workshops, from which participants may choose to attend four. (See page 7 for a detailed description.) Each workshop will last two hours.

Idea-sharing sessions

Each day of the conference will include an idea-sharing session, during which participants will meet in small groups.

In the Friday session, each participant will share a teaching idea or tip with the other group members. In the Saturday session, each participant will raise a teaching problem or dilemma for group discussion. Participants should summarize their ideas and dilemmas in writing. The idea and dilemma should be on separate pages, and each summary should be limited to one single-spaced page. The Institute will copy the summaries and include them in the conference materials. The Institute should receive the summaries by June 7.

Registration fee and deadlines

The roster will be filled in the order that the Institute receives the registration form *and* conference fee (\$425;

checks only; payable to Gonzaga University).

Refunds: Attendees must notify the Institute in writing to receive refunds. If notice is received on or before June 3, 1996, a full refund will be provided. No fees will be refunded if notice is received after June 3, 1996.

Lodging and transportation

Cavanaugh's River Inn — adjacent to the conference center — is offering rooms for attendees at a reduced rate. To take advantage of the rate, participants must make reservations before June 5, 1996.

Rates: \$56 for single; \$66 for double/double (two beds for two to four people). For reservations, call 1-800-THE-INNS or (509) 326-5577 and mention the Institute for Law School Teaching. Shuttle service from the airport is available.

Conference schedule

Friday, June 28, 1996:

- 8:00 a.m. Check-in, breakfast buffet
9:00 a.m. Welcome, introductions, overview
9:30 a.m. Workshops:
• *Adult Learning Theory*
• *Constructing and Using Graphics*
• *The Assessment-Centered Law School Course*
11:45 a.m. Lunch
1:15 p.m. Small-Group Session:
• *Idea Sharing*
2:15 p.m. Workshops:
• *Diversity in the Classroom*
• *Technology to Assist Teaching*
• *Student Moral Development*
4:30 p.m. Adjourn
6:30 p.m. Dinner at Arbor Crest Wine Cellars

Saturday, June 29, 1996

- 8:00 a.m. Breakfast buffet
8:45 a.m. Workshops:
• *Repeat Friday a.m. workshops*
11:00 a.m. Small-Group Session:
• *Teaching Dilemmas*
12:00 noon Lunch
1:30 p.m. Workshops:
• *Repeat Friday p.m. workshops*
3:45 p.m. Final thoughts, evaluation
4:15 p.m. Adjourn

Meals

Breakfast, lunch, and dinner on Friday, June 28, and breakfast and lunch on Saturday, June 29, are included in the registration fee. The dinner will feature wine-tasting and a Pacific Northwest menu at Arbor Crest Wine Cellars, with a panoramic view of the Spokane River and surrounding mountains. Because of hazards at the site, minors will not be permitted. All meals will accommodate vegetarian diets.

Summer conference features six workshops

The Institute's third summer conference on "The Science and Art of Law Teaching" will feature six two-hour workshops. Participants will select two workshops to attend each day. Following is a description of the workshops and their discussion leaders:

• **Adult Learning Theory.** Dr. Martha M. Peters, Director of the Law Student Resource Program, University of Florida College of Law. The first part of the session will examine the research on adult learning. The second part will involve participants in a learning project that will illustrate the processes of learning. Participants are invited to keep journals during the two weeks before the conference to increase awareness of their own learning methods and motivators.

• **Constructing and Using Graphics.** Stephen L. Sepinuck, Associate Professor of Law, Gonzaga University School of Law. This presentation will focus on the ways in which teachers can use graphics to help illustrate, explain, and organize legal concepts. Participants will explore principles of good graphic design, types of graphics that are best-suited for various kinds of information, and ways teachers can use graphics. Participants are encouraged to bring graphics they have made, and to come prepared with information they wish to incorporate into a new graphic.

• **The Assessment-Centered Law School Course.** Gregory S. Munro, Professor and Director of Professional Skills, University of Montana School of Law. Professor Munro has proposed that American law schools adopt missions, identify institutional goals, specify student learning objectives, and measure effectiveness in attaining these outcomes. In this workshop, Professor Munro will introduce participants to basic aspects of "student assessment-as-learning" and the development of an assessment-centered law school course. Acting collaboratively, participants will strive to develop a formula for the perfect law school course.

• **Diversity in the Classroom.** Okianer Christian Dark, Professor of Law, T.C. Williams School of Law, University of Richmond (currently on leave at the U.S. Attorney's Office in Portland, Oregon). This workshop will focus on two separate themes concerning diversity in the classroom. First, participants will discuss some of the challenges in teaching students whose perspectives are informed by race, gender, class, sexual orientation, or disability. Second, they will consider how to raise these issues in a classroom discussion and in course materials, particularly focusing on the first-year program. Participants will consider the problems created when a teacher broaches these topics in the classroom. The goal is not merely to raise issues but also to develop ways to respond.

• **Technology to Assist Learning.** William R. Andersen, Professor of Law, University of Washington School of Law, and Immediate Past-President, Center for Computer Assisted Legal Instruction. The focus of this workshop will be the use of computers to aid teaching and learning in law schools. The workshop will include cutting-edge topics such as student use of electronic casebooks and preparation of a computer-based exercise using new authoring software. The Institute will ask major vendors to provide participants with free copies of their most recent software for law teachers.

• **Student Moral Development.** Steven Hartwell, Clinic Professor of Law, University of San Diego School of Law. Participants will learn how to teach in a way that fosters moral development. In the first hour, participants will become students in an experientially taught legal ethics course. During the second hour, they will learn what "moral development" means and the results of actual classroom research using the teaching methods experienced in the first hour. Participants will have an opportunity to discuss how they might incorporate these teaching methods in their own teaching.

'THE SCIENCE AND ART OF LAW TEACHING'

INSTITUTE FOR LAW SCHOOL TEACHING SUMMER CONFERENCE: JUNE 28-29, 1996

Name: _____
School: _____
Address: _____
City/State/Zip: _____
E-mail: _____
Phone: () _____
Fax: () _____
Courses you teach: _____

Check 2 of these morning workshops:

- Adult Learning Theory
- Constructing and Using Graphics
- The Assessment-Centered Law School Course

Check 2 of these afternoon workshops:

- Diversity in the Classroom
- Technology to Assist Teaching
- Student Moral Development

- Enclosed is a check for \$425. (Includes all meals on Friday, June 28, and 2 meals on Saturday, June 29.)

Return this form and your check (payable to Gonzaga University) to:
Institute for Law School Teaching, Attn: P. Prather
Gonzaga University School of Law, P.O. Box 3528, Spokane, WA 99220-3528

Graphic helps students decipher evidence rule

By Kevin C. McMunigal

I use an "aperture grid" graphic device, which analogizes Federal Rule of Evidence 609 to a camera lens, to help students decipher and remember the rule's complicated provisions on impeachment by prior conviction.

I first suggest that students clarify Rule 609 by breaking it into a series of provisions keyed to the type and age of the conviction and the identity of the witness being impeached. These provisions vary in restrictiveness in admitting prior convictions. If one thinks of Rule 609 as a camera lens, its rules can be thought of as different aperture settings on the lens. As one changes the aperture setting on a lens, its receptivity to light changes. Similarly, as one moves from provision to provision within Rule 609, receptivity to admission of prior convictions changes.

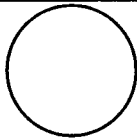
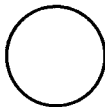



I distribute copies of the following "aperture grid" a few days before the class on Rule 609 and use an overhead transparency to explain its use.

Federal Rule of Evidence 609 Aperture Grid				
		Conviction/ Witness Category	"Weighing" Rule	Admission "Aperture"
Least Restrictive	1			
	2			
	3			
	4			
Most Restrictive	5			

I ask the students to prepare for the class on Rule 609 by ranking its provisions on the grid according to their restrictiveness, with the least restrictive at the top and the most restrictive at the bottom. They fill in the far left column with the conditions that trigger each provision. The weighing formula each provision uses for balancing probative value against the likelihood of prejudice goes in the middle column. In the far right column, I have them draw a circle, the size of which corresponds to the rule's restrictiveness. Finally, I suggest that they test their completed grids by asking themselves what happens under each provision if a

conviction's probative value equals its likelihood of prejudice.

During the class session on Rule 609, I again put a transparency of the blank grid on the overhead projector and enlist the students to direct me in completing it. The grid can become illegible by the time we are done, so I put up the following printed version of the completed grid for students to compare with their own grids.

Federal Rule of Evidence 609 Aperture Grid				
		Conviction/ Witness Category	"Weighing" Rule	Admission "Aperture"
Least Restrictive	1	Crimes falsi	None: Admit without weighing	
	2	Felony (not crimes falsi) + any witness other than criminal defendant	Rule 403: Exclude if prejudice substantially > probative value	
	3	Felony (not crimes falsi) + witness is criminal defendant	Admit if probative value > prejudice	
	4	10 years since conviction/release	Exclude unless probative value substantially > prejudice	
Most Restrictive	5	Misdemeanor (not crimes falsi)	None: Exclude without weighing	

To avoid reducing the students' incentive to work on their own grids both before and during class, I do not hand out copies of the printed form of the completed grid. At the end of the class, we go over what happens under each provision when a conviction's probative value equals likely prejudice.

Both the aperture analogy and the completed grid's diagram help to reveal the underlying structure of Rule 609, leading to better understanding and retention of its provisions. The Evidence class in which I use this grid is typically highly active and participatory. In my view, this is partly because students come to class better prepared and more confident in their mastery of Rule 609, and partly because of the visual stimulation and participatory nature of the group exercise.

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Here are some ways to ‘market’ your class

By Joel Newman and Eddie Easley

Small classes are nice, but there is such a thing as too small. Can you really conduct a lecture to a class of one?

When classes become too small, administrators raise questions about the efficient use of faculty resources. Prudent teachers, looking over their shoulders at the brooding presence of the dean, will strive to keep enrollments up, lest their deans tell them to offer a more popular course.

The problem often arises in “boutique” courses, which have limited potential audiences in the best of circumstances. Teachers frequently wonder how they can market these courses to increase enrollment.

Some factors affecting course popularity are beyond the instructor’s control. For example, some subjects are simply not engaging to some students. Other factors might be within the instructor’s control, but ethically should not be used as marketing devices. Raising grades or reducing student workload comes to mind.

There are, however, some factors that an instructor can manipulate for marketing reasons with little or no ethical problem. These factors include course credit hours, the choice of a final exam or a paper, the pass-fail option, and course scheduling.

Inspired by these concerns, we surveyed the rising third-year students of all five North Carolina law schools in 1994. A total of 530 responses were collected from the five schools distributed as follows: North Carolina, 163; Wake Forest, 147; Duke, 125; Campbell, 68; and Central, 27. The students were asked the following questions:

- Would you prefer a two-hour [semester] course or a three-hour course?
- In two-hour courses, would you prefer to meet twice a week for an hour or once a week for two hours?
- Would you prefer a three-hour course or a four-hour course?
- Would you prefer a paper course or an exam course?
- Would you ever take a course pass-fail that you would not take for a grade?

The survey also asked the students to rate various times of day and days of the week. They were asked if the fact that classes were scheduled at such times would be a positive factor in course selection, a negative factor, or a matter of indifference. The students were to answer all of the questions assuming that all other factors were equal.

In responding to all of the questions relating to the number of hours, papers versus exams, and the pass-fail option, students commented that their answers often depended on the course. Some courses really need four hours; some do not. Some courses are just made for papers; some work better with exams. Moreover, a

number of students, although willing to state general preferences, said that they actually preferred to have a variety of course offerings, of different lengths, and of different types. Then again, one student probably spoke for many with a blanket response to all of these questions: “Whatever will prepare me for the bar exam.”

The detailed results were, by and large, not surprising. However, not all of the responses would have been intuitively obvious.

Two-hour courses versus three-hour courses

Students had a clear preference for three hours over two. Overall, 60% of respondents preferred three hours, as opposed to only 17% who preferred two and 23% with no preference.

By far, the major reason given for the preference for three-hour courses was the belief that there is little difference in the work required for two-hour courses and three-hour courses. One student commented, “[N]ot

that much more work; 50% more credit.” Others noted the books cost the same whether the course carries two hours of credit or three.

But there were some comments in defense of two-hour courses. Some students believed courses had been stretched to fill out the third hour: “[I]t seems as if we are dragging things out.” “Three times a week gets to be tiresome, boring.” Others pointed out that two-hour courses allow students to take a greater variety of courses. “There are so many interesting classes — two-hour courses allow one to get a taste of more topics.”

Should two-hour courses meet once a week for two hours or twice a week for one hour?

Here, the results were quite mixed. Overall, there was a 54% to 39% preference for meeting once a week, with 6% undecided.

Comments in favor of once a week included the following: “[A] single block of time would mean less time wasted.” “Get it over with.” “I commute from 1.25 hours away. So this probably affects my answer.” “You can actually cover some ground in a two-hour class.”

However, there were quite a few comments against meeting once a week. Two-hour classes are “too long” and “tough — hard to keep focused.” One student commented, “My attention span is tragically truncated.” Another noted a “huge drain on attention span in the second hour.” Finally, there was this unsettling thought: “The fewer times a week a course meets, the less time students spend thinking about the material.” Another comment in favor of twice a week noted that it was “easier to absorb information in small chunks.”

Teachers frequently wonder how they can market courses to increase student enrollment. We examined several factors they can manipulate, with little or no ethical problem, to avoid the brooding presence of the dean.

Continued on page 10

'Marketing'

Continued from page 9

Three-hour courses versus four-hour courses

Overall, 78% of the students preferred three hours to four hours, with 11% preferring four and 11% stating no preference.

Students called four-hour courses "ridiculous," "boring," and "too much of a good thing." Focusing on the weight of a grade in a four-hour course, one student wrote, "Too much rides on a four-hour class." Another commented, "Not enough time to 'digest' if a course meets four to five times a week; neglect background reading."

But there were some positive statements about four-hour classes: "I'd rather invest more time getting to know a few fields well than a little time knowing many." "So I can take fewer courses per semester." "The more frequently you're forced to think about a subject, even a broad area, the more adept you become in it."

Would you prefer a paper course or an exam?

Overall, 42% preferred paper courses, 38% preferred exams, and 20% had no preference.

This ambivalence came through in the comments. By far the most frequent comment was that a mixture of paper courses and exam courses was best, and that some subjects lend themselves better to exams and some to papers. Many students wished that grades did not depend entirely upon just one effort at the end of the semester.

One who preferred exams said tersely: "Closed book, closed notes, 3 hours to separate the men from the boys." Another commented: "I'd just rather not write papers. I'd prefer three hours of hell." Other pro-exam commenters pointed out that exams, at least potentially, covered the entire course. "Exams form a synthesis of everything taught."

Anti-exam comments also occasionally had a terse, macho quality: "Exams suck." Other commenters characterized the law school exam as a "fundamentally wrong approach to legal education," a "memorization exercise," and "painfully and embarrassingly inadequate as a tool for evaluation." Students felt that exam grades were more random, more a function of luck than paper grades. Also, some felt that exams did not relate to the real-world practice of law: "How often does [a] client come to an attorney saying, 'I've got to know the answer in three hours — and don't use any books!'"

Students favoring papers felt that stress levels were reduced in a paper course. Papers afforded the opportunity "to explore a single subject" and were more likely to give students a feeling of accomplishment. Paper grades were more likely to relate to the amount of work put in by the student. Moreover, paper courses allowed students to get instructor guidance and feedback before submission of the final, graded products.

But there were many complaints about papers. They are "a big hassle," "an enormous time consumer," "subjective," and "nagging." Also, paper courses, in which little turns upon

daily class preparation, risk making the classes less meaningful: "You don't learn a thing in a paper course. You just screw around all semester and then write your paper. With a paper course there is a tendency not to prepare for class discussion which ultimately leads to a student not receiving as much benefit from the class as potentially exists."

Would you ever take a course pass-fail that you wouldn't take for a grade?

The overall numbers were 82% yes and 18% no.

Many students suggested that an instructor's reputation for giving low grades would be a reason to take a course pass-fail. Others suggested they would favor pass-fail grades in particular subject areas, such as tax and

commercial law. One student commented, "Sometimes you merely want to stimulate your mind for interest's sake — with no stress!"

But there was one positive comment that was disturbing, from the instructor's point of view: "Allows exposure to subject matter without time

restraints of studying hard."

Some respondents did not respect their colleagues who elected pass-fail options: "Why bother?" "If that interested, take the grade!" "A person afraid of grades is a person who is not doing his or her best at all times. Don't put that person in my firm."

Time of day, day of week

Like most people, law students would prefer for their day to begin at 10 a.m. and end at 2 p.m. This time frame is the overwhelming choice for the total sample. Evening classes are preferred the least, followed by early morning classes.

In terms of Monday and Friday classes, 68% of the students expressed adverse feelings toward Friday classes, while slightly over half, 54%, were ambivalent toward Monday. Overall, for most students, Monday is much preferred over Friday as a class day. A let's-get-it-over attitude is evident. With some exceptions, the market preference can be identified as Monday through Thursday from 10 a.m. to 2 p.m.

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Connecting the dots: Working across the curriculum

By Doris Estelle Long

One of the unfortunate results of current first-year curricula is the tunnel vision many students develop regarding the individual core courses.

From the students' perspective, issues studied in Contracts relate only to contract law, issues studied in Torts relate only to tort law, and so forth. Students learn quickly to wear their "contract hat" in Contracts and to take it off the minute they step out of the classroom.

Life in the outside world is not so neatly regimented. In today's world of complex legal relationships, the best lawyers are those who perceive the interrelationship of issues and can either consider the application of various subjects to the question or, when necessary, consult with a specialist. This ability to wear several hats at once is a difficult one to teach.

I do not advocate a curriculum with no subject matter lines, although it might be an interesting experiment. But I can combat some of this tunnel vision by encouraging students to recognize the interrelationships among the courses they are studying.

In my first-year Contracts class, although the focus of the discussions is on contract law, we spend time "connecting the dots" with torts, property law, ethics, civil procedure, criminal law, and constitutional theory. In the first week of classes, I introduce students to *Matter of Baby M*, 537 A.2d 1227 (N.J. 1988). Aside from encouraging some lively debates about surrogacy contracts, this case allows students to see that judicial relief in a "contract" case may be influenced by principles adopted from another branch of law — in this instance, family law.

To introduce students to ethics, I use cases such as *Fleming Co. of Nebraska, Inc. v. Michals*, 433 N.W. 2d 505 (Neb. 1988), and *In re Segall*, 509 N.E.2d 988 (Ill. 1987). *Fleming* addresses some basic contract issues, but also gives me the opportunity to discuss the lawyer's responsibility for prompt and clear client communications and the need for the swift treatment of settlement offers. *Segall* provides an unfortunate example of a lawyer violating Disciplinary Rule 7-104 (communication between an attorney and a party represented by counsel) and gives students the opportunity to explore the contract issues of accord and satisfaction within the context of a lively ethical debate.

I introduce students to constitutional concepts such as free speech and the interrelationship between state-based contract laws and constitutional rights by assigning *Cohen v. Cowles Media Co.*, 501 U.S. 663 (1991) (involving breach of a reporter's promise of confidentiality). I demonstrate the interrelationship between criminal law and the contract issue of consideration by assigning *People v. Starks*, 478 N.E.2d 350 (Ill. 1985) (involving breach of an agreement to dismiss an indictment upon the accused's passing a polygraph test).

One of the best examples of the interrelationship between contracts and other first-year subjects is *Sullivan v. O'Connor*, 296 N.E.2d 183 (Mass. 1973). The court's holding in *Sullivan* that a physician's actions did not qualify as negligence, combined with its willingness to consider

awarding monetary relief on the plaintiff's contract claim for such "traditional" tort relief as pain and suffering and mental anguish, provides an excellent opportunity to discuss the policy issues behind two related areas of law.

I also use contract cases early in the semester to discuss the structure of the civil judicial system. I spend part of one class period having one of my colleagues provide a brief overview of the stages of civil litigation. This overview eliminates much of the confusion over the procedural posture of the cases we study.

This approach doesn't have to take a great deal of class time. With a little diligence and by keeping our eyes open for opportunities, each of us can expose our students to the important principle that no subject area of law exists in a vacuum. By starting this process early in students' law school careers, we can begin to fight the tunnel vision approach that can be so disastrous to their future endeavors. Although I have focused on the use of contract cases, I am certain other first-year courses provide similar opportunities to "connect the dots."

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How to submit articles to *The Law Teacher*

The Law Teacher encourages readers to submit brief articles explaining interesting and practical ideas to help law teachers become better classroom teachers.

Articles should be 500 to 1,500 words long. The author should describe the idea and tell readers where they can get more information on the topic of the article (from a book, another article, or the author). Footnotes are neither necessary nor desired.

The deadline for articles to be considered for the fall edition of *The Law Teacher* is September 15, 1996.

You may submit articles on paper. If you have composed your manuscript on a word processor, please also include a copy of your article on floppy disk. Submissions through electronic mail also are welcome.

The editors will review all manuscripts; those that are accepted will become the property of the Institute for Law School Teaching.

Manuscripts, comments, and letters should be sent to:

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'Service learning' brings real world into class

By Mary Pat Treuthart

I have searched for seven years for ways to help my Women in the Law students gain a real-world understanding of the difficulties many women face.

I developed my own materials, and asked speakers to visit the class to provide information. The stories of battered women in particular were powerful in allowing students to gain greater insight into the reality of violence against women. On occasion, I used film excerpts to make specific points.

Still, my teaching methodologies seemed inadequate. As a former legal services program director, I had basic familiarity with some of the day-to-day problems confronting low-income women and women in transition. As a classroom teacher who has also done some clinical work, I had some sense that many students had little occasion to deal directly with people whose life experiences might be radically different from their own.

Last May, a faculty member from the undergraduate division of the university made a presentation at a law school faculty meeting about service learning programs offered in various college courses. He suggested that we consider adopting a similar program. The idea sounded intriguing but a bit daunting. I thought about it for a few weeks; developing the concept was a welcome diversion during exam-grading.

As a result of my own community volunteer work, I was aware of a few agencies that might be interested in participating. I made a couple of phone calls, and the process was underway.

A week before the fall semester began, the university's volunteer services office, which was eager to include the law school, began diligently working to develop agency placements for the 28 students in the class. Some of the agencies had used undergraduate volunteers in the past, but agencies' staffs seemed particularly interested in using the services of law students. The agency contacts previously established by the volunteer services office and the personal dedication of the director, a former legal services paralegal, were essential in allowing me to develop this program within the necessary time frame.

In the past, I had required students in the class to complete three papers for evaluation. I decided to substitute the service learning component for one of the papers and asked the students to keep a journal and submit it periodically throughout the semester for my review. My assessment of the journals counted 25% of the final grade. I also encouraged students to discuss their experiences when we covered relevant subject matter.

A 20- to 25-hour time commitment for each student seemed reasonable; however, two students dropped the course due, in part, to the newly imposed obligation. The remaining students were placed with 15 different agencies. Three of the students developed their own placements in areas of interest to them. The placements ran the gamut from traditional legal work (the Bar Association's Volunteer Lawyer's Project assisting women litigants in domestic

relations cases) to volunteer activities completely unrelated to the law (preparing and serving meals at the Women and Children's Free Restaurant).

One unexpected occurrence underscored the issue of sex discrimination. Some of the agencies were unwilling to accept male volunteers because of the sensitive nature of the agencies' work (those dealing with sexual assault victims

being a prime example). As a result, it was more difficult to place the five male students, who discovered firsthand the way it felt to have their options limited solely because

of their gender.

The experiences of the students varied, but the overall response was positive as documented in their journals and in student evaluations. A few students characterized the opportunity to volunteer as the highlight of their law school education. Some class members who selected less traditional placements remarked that it was refreshing to help others in ways unrelated to their status as law students. The agency response was also favorable, as determined by a questionnaire distributed at the end of the semester.

I consider the "experiment" a success, partly because some of the students continued to volunteer after the semester ended. Along with heightening student awareness of women's issues, promoting a longer-term commitment to public service work was a central part of my not-so-hidden agenda. I would welcome the opportunity to discuss service learning with other law faculty who are interested in integrating this into their classes.

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