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# THE LAW TEACHER

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## Puzzle your students

By Stephanie J. Willbanks

I love crossword puzzles. I enjoy working out the solutions, piece by piece. I can even see an analogy to the law in crossword puzzles. The law develops piece by piece, case by case, statute by statute, regulation by regulation, until it is one interrelated whole.

So, on the second day of my Wills and Trusts course, I assign a crossword puzzle. My goal is nothing as lofty as leading students to the realization that law in its entirety can be viewed, and learned, like a crossword puzzle. Rather, my goal is much more mundane. The material in the book is vocabulary and history, what law professors typically assign as background reading. I do not like to assign material that I do not cover in class. It sends a signal to the students that this material is not important. But it is. The vocabulary of the law helps us communicate and informs us of important underlying concepts. In Wills and Trusts, the language also tells the history. Moreover, I believe that active learning is more efficient. If students “do,” they remember. The exercise fosters cooperation and confidence, requiring all students to participate. This helps establish my expectations for the rest of the semester.

The exercise is relatively simple, although it takes some preparation on my part. I create a grid (using the table feature in WordPerfect) and fill it in with as many of the words from the reading as possible. Crossword puzzle fans realize that this is not as easy as it first appears, because many of the words are long, and creating a pattern where they intersect without colliding is difficult. I am never able to get all the legal words that I want into the puzzle, but I do manage to insert a reasonable number of them. I then finish off the puzzle with “normal” words that will assist the students in solving the puzzle. I then test my creation on family members, friends, or staff to catch the inevitable errors. Although it creates additional work, I construct a new puzzle each year so that my students cannot acquire the answers from prior classes.

On the syllabus, I simply assign the text pages and tell the students to bring a pencil to class. The first year or two, this created a sense of unease among the students. While this was an added benefit to the exercise, I am sure that the student grapevine now relays to each new group that this is not a standardized test and they can rest easy. I allow students to work alone or in groups of two or three, but all books and notes must be closed. This requires all students

to participate in the exercise and forces them to rely on their colleagues for answers. I bold the clues for the words from the course and tell students that those are the ones I want them to complete. I allow students approximately 35 to 40 minutes to complete the grid, circulating through the room to determine when a reasonable number have completed the essential words. Then I “debrief” by going through the class, student by student, asking for the answers. At the end, everyone will have completed his or her puzzle and learned the terms.

Students enjoy this exercise because it is novel. The students who do not enjoy crossword puzzles are few and far between. Because it is not graded, or even collected, students are willing to take risks. This exercise works well at the beginning of the semester, and it might work in a review session.

The lesson I learned from this exercise is to be adventurous and try something different. By the third year, students are tired of the same old case analysis and Socratic method. They will learn more if the material is presented in different ways. The other lesson I have learned is that students react positively to this exercise because I enjoy it. They are willing to take the risk of something new because of my enthusiasm. So when you try something different, make sure it is something that **you** like.

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# Puzzle your students

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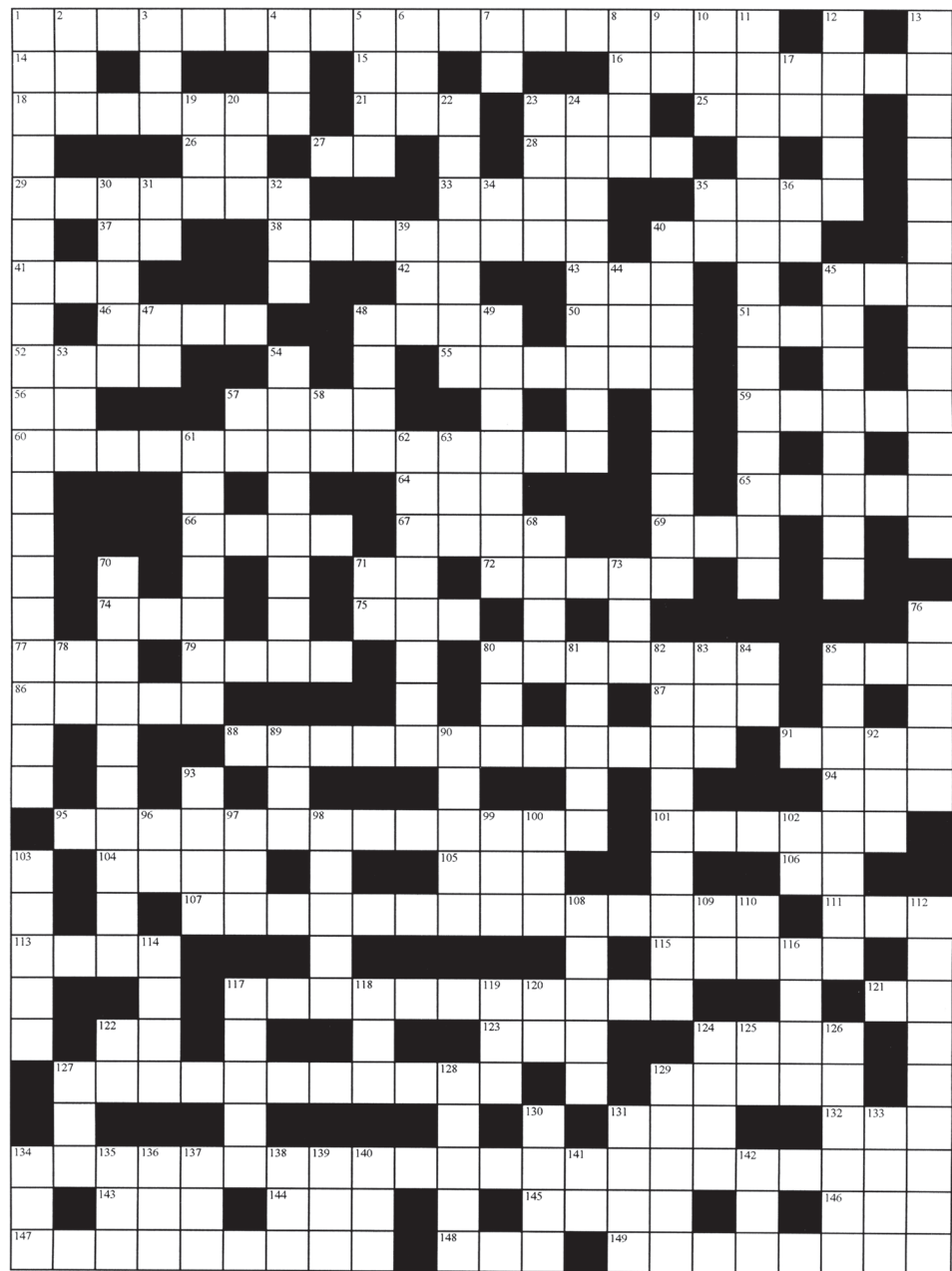
Answers on page 7

## Estates Crossword Puzzle

Complete the puzzle without using your text or other reference books. Clues for words from the text are in boldface; others are extra. Some answers are phrases; there are no spaces or hyphens.

### ACROSS

- 1** First promulgated in 1969 & adopted in a number of jurisdictions  
 14 13th letter of the Greek alphabet  
 15 Elevated railway  
**16** Person named in will to administer the probate estate  
**18** Acquire property through intestacy  
 21 To combine  
 23 Storage container  
 25 Soreness  
 26 Preposition  
 27 See 15 across  
 28 Picnic spoilers  
**29** Name of this course  
 33 Rod holding meat over a fire  
**35** Person taking real property by intestacy  
 37 Pronoun  
**38** Where decedent lived at time of death  
 40 Bird's home  
 41 Pose  
 42 Second tone of the scale  
 43 Holy woman; French  
 45 Busy as a \_\_\_\_  
**46** Type of insurance  
 48 Type of ad  
 50 The other certainty besides death; sing.  
 51 Copy  
 52 Charge upon property  
 55 One who plays hooky  
 56 Thus  
 57 Work hard  
**59** Arrangement where individual or corporation holds property for others  
**60** Improper duress which overcomes will of testator  
 64 Mayday!  
 65 Item of furniture  
 66 Part of a prison  
 67 Single quantity  
 69 See 39 down  
 71 In the event that  
 72 Fare  
 74 Born  
 75 Attempt  
 77 Posed  
 79 Host  
**80** Process to determine heirs and beneficiaries  
 85 Dove's cry  
 86 Unable to move  
 87 \_\_\_\_ de plume  
**88** Property passing automatically to survivor at death  
 91 Delayed  
 94 Neither, \_\_\_\_  
**95** Contract to pay money at death  
**101** Bequest of personal property in will  
 104 Swerve  
 105 Goddess, Lat.  
 106 Pronoun; masc.  
**107** Bank account payable to named beneficiary  
 111 Groove  
 113 Part of the face  
 115 Large  
**117** Property is held in trust for this person  
 121 Pronoun  
 122 Hello  
 123 Picnic spoiler



**124** Usually required of 134 across to protect the beneficiaries

**127** Often occurs when a close relative is omitted from the will

**129** One who receives property by gift

131 Feathery accessory

132 Energy

**134** One who oversees the winding up of a decedent's affairs

143 Part of the head

144 Meadow

145 Not one

146 \_\_\_\_ Francisco

**147** Historically, court that controlled succession to land

148 Rodent

**149** Person who dies

### DOWN

**1** System of inheritance in Europe, Quebec, & Louisiana

2 Sister

**3** Paid to 16 across

4 Sign of welcome

**5** Type of property

6 Ancient

7 Public notice

8 Penny

9 Castrated male bovine

10 Goddess, Lat.

**11** Historically, courts that dealt with personal property

12 A young number 9 down

**13** System where eldest son inherited the land

17 Sound of hesitation

19 See 148 across

20 Resident of, suffix

**22** In most jurisdictions, a single statute of \_\_\_\_ and distribution control

intestacy

23 Required to get out of jail

**24** To die without a will

**30** Represents ownership of property

31 See 26 across

32 Radical student organization of the 60s

34 16th letter of the Greek alphabet

35 Pronoun, masc.

36 Pronoun, neut.

39 Retirement savings account

Continued on page 3

## DOWN *Continued*

- 40 Those who take an intestate's personal property  
 44 Light brown  
 45 To give personal property in a will  
 47 Preposition  
 48 Instrument disposing of property at death  
 49 Passing through  
 53 Charged particle  
 54 Statute requiring creditors to file claims within a specified time  
 57 7th note of the scale  
 58 See 71 across  
 61 This happens when the decedent leaves no heirs  
 62 In civil law, the right to enjoy property  
 63 A long time  
 68 Journey  
 70 During life  
 71 Pronoun, neut.  
 73 Recede  
 76 Provision for widow to share in decedent's property  
 78 Indefinite article  
 80 Pastry dessert

- 81 Make a speech  
 82 Probate proceeding where decedent owns real property but does not live  
 83 Found under the Christmas tree  
 84 Unit of type  
 85 Court which took over administration of personal property after decline of 11 down  
 89 Possess  
 90 Swap  
 92 See 83 down  
 93 Retain  
 96 Symbol for iron  
 97 See 39 down  
 98 Blot  
 99 Recent  
 100 Tin  
 102 Sound of satisfaction  
 103 One who makes a gift  
 108 The other certainty besides 50 across  
 109 Preposition  
 110 What Santa says  
 112 Last will and \_\_\_\_\_  
 114 Bad  
 116 Lion's pride

- 118 Nosh  
 119 Feline  
 120 Preposition  
 122 See 122 across  
 124 Vessel  
 125 Preposition  
 126 To leave real property by will  
 127 Small  
 128 Great  
 129 Recipient of a gift  
 130 Gone  
 131 Curve  
 133 One of the Tsars  
 134 \_\_\_\_-Man  
 135 Stage of sleep  
 136 Famous Uncle  
 137 Gold; Spanish  
 138 Everyone  
 139 Meadow  
 140 Not cooked  
 141 See 56 across  
 142 Exist

## A much-laugh must-read

**Book Review:** THE LAW SCHOOL TRIP: THE INSIDER'S GUIDE TO LAW SCHOOL by Andrew J. McClurg

By Mark Drumbl

Peer into the frazzled faces of the students sitting in the first contracts class of their lives. And, gauging from the five-star "I love it" comments posted on amazon.com by ribald law student readers, I figure that some of the students out there already have read Andrew McClurg's THE LAW SCHOOL TRIP. Adorned with a psychedelic cover and festooned throughout with plenty of wit, THE LAW SCHOOL TRIP is a delightful parody on the lawyer-limbo of law school, that necessary rite of passage into lawyerdom.

Just as I try to get students to think in the categories of promises and contracts, offers and acceptances (and appreciate the centrifugal force of the mailbox rule), they create categories of their own to make sense of the law school experience. Now McClurg, a professor at the University of Arkansas-Little Rock Bowen School of Law, has provided a road map for them. His typology of law teachers – including the body-pierced "Professor formerly known as Ed," the performer, the legend, the strange creature from outer space – humanizes the professoriat. So, too, has McClurg provided students a road map to understand their first-year comrades-in-arms and to survive the disemboweling effects of the Socratic method. McClurg even takes on the Bluebook – that bastion of "technical due process," – its acolyte The Comma, and their enforcers, the law review board, and makes all three warm, fuzzy, and lovable. His tips regarding "leegle righting" are hilarious yet helpful.

The law school community badly needs to laugh. Especially students and teachers involved in that topsyturvy first year. Laughter is what McClurg's book provides. Lots of laughter. Heaps and mounds of undulating and ululating laughter. Laughter that ranges from the tightly lipped smile when you realize that he is writing about something you previously thought only you had observed, to the hearty guffaw when he takes something everyone has

observed but no one ever has made funny. Such as the fact that *Hadley v. Baxendale* is one of the most boring things ever written. It's true. But at least I've now got McClurg's action-packed rewrite of *Hadley v. Baxendale* (where Baxendale delays shipping the millshaft because he uses it to thwart a shark attack) to spice up the topic of consequential damages and the limitations thereto.

There's a lot of writing that purports to be legal humor. We've all been impelled to read some of it. We've all been cornered at boring parties and forcibly told some of it. And, frankly, it's not funny. It's stereotypical, ridiculing, and demeaning; it makes a caricature of us all by denying the spirit, generosity, and creativity of our profession. The kind of humor that laughs at us. But McClurg's is strikingly different. McClurg makes the law school experience sparkle and shine. He has the unique ability among satirists to make us laugh with each other, but never at each other.

Folks, this is a must-read. Law schools, assign this as part of a first-year orientation package. Mental health experts, this book has therapeutic karma. And McClurg, you must write more of this!

Andrew J. McClurg, author of THE LAW SCHOOL TRIP, is the monthly humor columnist for the ABA Journal. Professor McClurg's legal humor Web site is <http://www.lawhaha.com>.

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# Video reenactments make simulations more realistic

By Lee Stuesser

A staple teaching method in many clinical courses is the simulation. A problem is posed and the scenarios are handed out to the would-be witnesses, who are then interviewed or examined by the student lawyers. The trouble is that the witnesses have seen nothing, heard nothing, and experienced nothing. They are actors pure and simple, who have no true memory of the alleged incident. The result is that the simulated exercise lacks realism. It is a work of fiction that requires the witnesses to re-create the incident in their minds.

To make simulations more realistic, try videotape reenactments. These are forms of “crime stopper” vignettes. The witnesses are given background information. They are told who they are, where they were, and what they saw. The witnesses then watch a videotape of the incident – only once. Following the viewing they write a witness statement, which ties them to what they have seen. The student witnesses can then be interviewed by counsel and examined upon what they actually saw.

Professor Michael Ahlen at the University of North Dakota first developed this technique. He used clips from “Cops.” You know the ones, in which a police officer is shown in pursuit of a stolen car or making an arrest. A problem is then posed surrounding the clip, and students are instructed to prepare a direct and cross-examination.

## An Example

One clip involves the pursuit of a stolen truck. The camera is in the police car. It follows the pursuit, which ends when the truck spins out of control, rolls, and lands in a field. The accused is charged with causing death by dangerous driving. The witnesses are told that they are law students who were in the police car as part of a “ride along” program offered by the local police department. The issue is whether the accused actually was the driver of the truck and, if so, was he driving in a dangerous manner. The witnesses watch the videotape, write their statements, and are interviewed by counsel, who prepare and present direct examination. The witnesses’ statements are turned over to opposing counsel who conduct cross-examination.

I have added to the videotape vignette idea by creating trial problem reenactments. Our students are required to prepare and conduct a full trial. They work in pairs and the problems are designed to have two witnesses per side so

that each counsel conducts one direct and one cross-examination. The examinations are designed to be done in 15 to 20 minutes. For the trial reenactments videotapes are prepared from the perspective of each witness. Therefore, instead of watching one scenario, each witness sees the event through his or her own eyes. Four witness perspectives are created.

## A Sample Trial Problem

An action is brought against the local police department for assault and battery. The police shot a young woman as she was driving away from a liquor store. The police thought she was the driver of a getaway car. The officers received a dispatch call that a robbery was taking place at the liquor store. A description of the robber was given. When the officers arrived at the scene they saw a young man run from the store. He fit the description. They chased the suspect on foot until he got into the getaway car. As it was leaving the parking lot one of the officers fired twice. The young woman was shot. She survived. It was a mistake. The young man seen running actually was fleeing from the real robber. The issue in the case is one of reasonable

use of force by the police. The videotape is shorter than three minutes.

The police officers view a videotape that starts with the dispatch call. The camera shows the man running from the scene. It then follows the two officers as they pursue.

The driver and the young man watch a videotape that begins with them arriving at the liquor store. The camera then follows the young man to the store and his return to the car. Another camera remains with the driver in the car.

The case is built on the witness statements supplemented with other material. I give counsel a map of the scene and a transcript of the dispatch call. I also provide a medical report so that counsel can prepare proper pleadings and conduct a meaningful settlement negotiation.

As a final exercise, we show the examining students the videotapes that their witnesses saw. This exposes two important realities: 1) The frailties of eyewitness testimony (it is amazing how differently witnesses will interpret and retain information on a given incident) and 2) the need for counsel to conduct a thorough and well-structured interview to uncover all the pertinent information from witnesses.

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*For the trial reenactments videotapes are prepared from the perspective of each witness. Therefore, instead of watching one scenario, each witness sees the event through his or her own eyes.*

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# Video reenactments

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## A Series of Reenactments

I have prepared five other videotape reenactments.

1) **Police Assault and Battery** – The police pursued a speeding white van. They momentarily lost contact but saw a white van parked in the driveway of a home. The engine was still warm. The officers entered the home. The homeowner resisted arrest and he was pepper sprayed.

2) **A Lawyer's Duty to Warn** – A lawyer represented a man charged with the attempted murder of his wife. The man underwent a psychiatric evaluation and was released on bail. Family members came to the lawyer with concerns about the man. A rifle was missing and so was the husband. Later that day the husband murdered his wife and killed himself.

3) **An Intoxicated University Student Brings an Action Against the University and Supplier of Alcohol** – An underage student living at a university became intoxicated in his residence room. He was provided with free samples of alcohol from a marketing representative of a rum distillery. The residence floor supervisor allowed the representative to distribute the samples on the floor and was aware that the student was drinking. The student fell down a flight of stairs and his football career was ended.

4) **Acting in Defense of a Third Person** – A couple were drinking in a bar. The husband engaged another patron in a pool game. The husband lost and was not happy. The couple left. Outside the bar they argued over the car keys. The wife wanted to drive and the husband refused to give her the car keys. They struggled and she fell to the ground. At this moment the bar patron who won the pool game came out. He saw the husband standing over the wife. The man reacted by hitting the husband.

5) **False Arrest** – A young woman entered the university bookstore. She did not leave her bag in the lockers provided. Store security observed her put a book in her bag. As she left the store the alarm went off. She claimed innocence. She also had a rental videotape with her. These rental tapes have in the past set off the alarm.

Readers can obtain copies of the reenactments by contacting me.

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## Bored third-years? Think again.

By Gerry Hess

I asked the third-year students in Legal Education Seminar last spring to write a paragraph giving advice for teachers about enhancing learning for upper-level students. "Your advice could deal with things teachers should avoid, methods that are especially effective, components of poor or good learning experiences, or anything else you think the teachers should know." Their responses surprised and challenged me. Here are three samples:

*I get kind of tired of the perception that by our third year we law students are too bored or disenfranchised to bother reading or learning anymore. I don't know about all of my peers, but I've never felt more stupid or more frantic to learn all that I can while I'm still in school. As a result, I want the professors to challenge me and teach me. I do not want the professors to assume that I don't care about the material or that I'm coasting to graduation. I see the classes that I'm taking now as all that stands between me and a malpractice suit! So, to you upper-level professors: teach already. Quit telling us we probably haven't read, or that we won't recite cases, or that we won't complete projects. Get on with it already. I've got stuff to learn.*

*My advice to 2L and 3L profs is to take charge. Keep in mind that we are taking your class for a reason – either it is required and bar-related or it is an elective and we are interested in practicing in this particular area. Think about*

*that one. You will either provide materials and methods to enable us to pass the bar or you will help us make decisions on our career path. Either way, you are instrumental in our life. Your motivation, passion for the material, and continued high expectations will keep us engaged and our time together will be productive and successful.*

*Boredom may be perceived by teachers or exhibited by upper-class students because students are ready for new challenges that the same old law teaching techniques do not address. Instead of seeing if I can recite a case, IRAC an exam question, or spew black letter law from 1066, help me become a lawyer. Build a bridge from the classroom to the real world. Quit talking about Blackacre and help us learn how to quiet title on a piece of real property. Don't require an elemental analysis of homicide, teach us how to defend/prosecute someone criminally accused. Require that we do things in the community that relate to the course. Have us bring our internship/volunteer/work experience that relates to the subject into class to teach others. Show us how what you are teaching in class will be valuable to us as lawyers. Help us become good lawyers.*

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# Mirror, Mirror: Using non-traditional reflective exercises

By Kim Diana Connolly

The best practitioners in various professions develop their skills through continual reflection about the uncertainties, complexities, and value conflicts they confront in practice situations. In his essay *Educating the Reflective Legal Practitioner* (2 Clinical L. Rev. 231, 247 (1995)), Donald A. Schön describes the processes of reflection-in-action and reflecting on actions as follows:

[R]eflection-in-action is the process by which a new response is generated in the situation, in response to surprise and under conditions of uncertainty, in a way that involves on-the-spot experimentation and that does not necessarily take place in words.

Reflection on that process, however, does have to take place in words or at least in formal symbols. This reflection on reflection-in-action is an attempt to describe the knowledge that was generated and the conditions under which it was generated and the on-the-spot experimentation that was carried out.

Many of my favorite professors and role models in the academy integrate reflection (both reflection-in-action and reflecting on processes) into their teaching.

As a group, law students are not particularly reflective, and the majority of their experiences in law school do not help them become reflective practitioners. In light of the importance of learning this skill, one principal goal of my teaching has become motivating law students to adopt a more reflective attitude and assisting them in developing corresponding practices. In addition to accomplishing the objectives set forth by Schön above, reflective practices incorporate the process of critical inquiry and evaluation. This dual process recognizes that while knowledge of reality is subject to our own perceptions and interpretations, it permits us also to consider the how and why of actual success or failure. By requiring students to observe and evaluate themselves (their thoughts, feelings, learning, and/or actions) in a number of situations throughout the semester, I cause students to engage in exercises that I hope improve their ability to be reflective in all aspects of their future professional lives. As I tell my students, I hope the required reflective exercises will improve problem-solving skills, foster self-awareness, nurture a lifetime of self-directed learning, and help “process” some of what they actually are doing in law school classes.

Yet, encouraging students truly to reflect seems to require nudging them to step far outside “the box” that has become their perception of what law students and lawyers do. To this end, I now incorporate non-traditional reflective exercises into my teaching. My original exercises focused on simple written and oral discourse on an event or concept. I found, however, that this approach limited many students’ abilities to truly reflect. My “non-traditional” exercises ask students to think and communicate without traditional prose or from an unusual premise.

In an upper-level, large-enrollment class, I start the semester with a brief exercise to set the tone for later

discussions about integrating reflection into legal practice. At the very beginning of the first class, I hand around blank, unlined paper and boxes of crayons. I ask students to depict, without words, what they hope to get out of the class. Then I leave the classroom for 10 minutes. During the debrief of this exercise, I ask students why they think I asked them to draw. They have many ideas (including, I’m sure, the unspoken one that I was just confirming my reputation for having a peculiar approach to teaching). We then discuss my goals, which are: (1) getting them comfortable reflecting; (2) getting them comfortable being creative; and (3) giving them a lesson about how some of their future clients may feel, by being directed to do something they likely were not expecting or comfortable doing.

This simple, short exercise is a springboard for rich discussions woven throughout future classes.

In smaller classes, it is easier for me to provide opportunities for teaching about reflection. Last spring, as I was about to design a series of non-traditional reflective exercises for my new environmental law clinic, I sent an email to the “humanizing legal education” listserv. This listserv is made up of professors and administrators committed to adding a humanizing dimension to the legal education process (you can get more information about this initiative at <http://www.law.fsu.edu/centers/hle/index.php> and can subscribe to the listserv by sending an empty e-mail to [legaled-subscribe@mail.law.fsu.edu](mailto:legaled-subscribe@mail.law.fsu.edu) from which you should receive an immediate confirming reply). I received many helpful suggestions from listserv members that led me to design the four exercises described below.

The first exercise asked students to reflect on their initial client interview. I provided the following format instructions: “Your reflection should be in writing, using whatever format you feel is most appropriate (simple text, memorandum, poem, etc.) and whatever language style you

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*[O]ne principal goal of my teaching has become motivating law students to adopt a more reflective attitude and assisting them in developing corresponding practices. In addition to accomplishing the objectives set forth by Schön..., reflective practices incorporate the process of critical inquiry and evaluation.*

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# Mirror, mirror

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feel helps you best reflect (formal, stream-of-consciousness, iambic pentameter, etc.).” I wanted students to go beyond a review of the mechanics in their reflections on the interview. Over half of the students elected to submit poems or “classic” stream-of-consciousness type pieces. I have permission from one student to share his haiku (and some accompanying explanatory text) in which he reflected on his failure to offer his client a drink:

**Talking rapidly  
A drink of water for her  
Would have been real nice**

*I felt really bad for not offering [Ms. T] something to drink. I don't know why I didn't do this. I watch attorneys every day at work bring people into the office and immediately ask if they want something to drink. Sometimes it seems like they say it just to have something to say but that is not why I didn't ask. I think I was too wrapped up in what I had to get done and what I had to accomplish at the beginning of the interview and getting her something to drink did not cross my mind. It didn't even cross my mind later in the interview. But time was just flying by in the interview and I didn't realize [Ms. T] had talked for two hours until it was over. For the rest of my life I will always think about asking someone if they would like something to drink. But I won't ask just because there is nothing else to say (or will I?). . . .*

The second reflective exercise was during the class session that met at a pub near our law school. It involved students (all third years) telling their colleagues what they would say if they could go back in time and give themselves advice as 1Ls. It was the only non-clinic-specific exercise, but it was very rich and led to some discussion about how they could use those thoughts in preparing for their imminent future as attorneys. My purpose for this exercise was to encourage students to apply creatively past experience in planning for the future.

The third exercise was not very successful, but I'm thinking of revamping it and trying it again with my next clinic. I asked students to write a memo in their client's voice, reflecting on a counseling session (or initial interview, for those who had not yet met with their client to counsel). I hoped this experience would get them outside their own heads in thinking about client interactions. Most of the responses, however, were very much like minutes of the meeting and didn't contain anything very deep. I suspect I didn't give them sufficient direction to imagine what their client really was thinking about or direction to explore the client's experience from multiple levels. I think a diary entry (rather than a memo) in the client's voice may encourage more reflection next time.

The fourth exercise was during the final clinic class. I taped together four sheets of flip-chart paper and asked students to gather around a table to reflect through drawing (using crayons) on their clinic experience. This exercise is somewhat similar to my large-class crayon exercise, although because it happens at the end of the semester and is a group project the students approach it both with some level of familiarity regarding what my purposes might be and with a sense of team spirit. My purpose was to give them experience reflecting as a group and seeing what they could take away by connecting with their colleagues as part of their reflection. After some initial reluctance, it became a raucous and fun exercise that truly elicited some deep conversation about the implications of what they were putting on paper.

These non-traditional reflective exercises supplemented a few more traditional writing exercises and discussions on reflective practice. In the end, however, the non-traditional exercises seemed to provide students the freedom they needed to get out of their typical law-school lock-step and really start reflecting on the process of becoming a lawyer.

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*Answers to puzzle on page 3*

U	N	I	F	O	R	M	P	R	O	B	A	T	E	C	O	D	E	S	P		
N	U	E	A	E	L	D	E	X	E	C	U	T	O	R							
I	N	H	E	R	I	T	A	D	D	B	I	N	A	C	H	E	I				
V	A	T	E	L	E	A	N	T	S	L	E	M									
E	S	T	A	T	E	S	S	P	I	T	H	E	I	R	O						
R	I	T	D	O	M	I	C	I	L	E	N	E	S	T	G						
S	I	T	S	R	E	S	T	E	I	B	E	E									
A	L	I	F	E	W	A	N	T	T	A	X	A	P	E	N						
L	I	E	N	N	I	T	R	U	A	N	T	S	Q	I							
S	O	T	O	I	L	A	T	O	T	R	U	S	T								
U	N	D	U	E	I	N	F	L	U	E	N	C	E	F	I	E	U				
C	S	C	S	O	S	K	C	H	A	I	R										
C	C	E	L	L	U	N	I	T	I	R	A	T	E								
E	I	H	A	I	F	T	O	K	E	N	L	H									
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# Institute's 2002 conference to be held at Franklin Pierce Law Center

The Institute is moving its summer 2002 conference for law teachers to New England. "Demonstrating and Deconstructing Our Teaching" will be held in Concord, New Hampshire, on June 27-29, 2002. The 2002 conference is a collaboration between the Institute and Franklin Pierce Law Center, whose faculty have been committed to effective teaching since Pierce Law's founding in 1973. The capital of New Hampshire, Concord is an hour's drive from Boston and New Hampshire's majestic White Mountains, pristine lakes, and Atlantic seacoast.

The conference focus will be teaching demonstrations, deconstruction, and discussion. Much of the conference will be built around concurrent, 75-minute workshops. Each workshop will involve a 15- to 30-minute teaching demonstration, either live or on video; a 15-minute deconstruction by the presenter (choices made and

why); and 30 to 45 minutes of discussion and application to participants' courses. The conference will feature 18 workshops, divided into six sessions, spread over two days.

During each session, three workshops will run simultaneously. Participants will choose which workshops they want to attend.

Participants will be able take part in an optional teaching lab. In the lab, they can work one-on-one with experienced teacher "coaches" to examine and develop a new aspect of their teaching. Lab participants may also choose to engage in a teaching and feedback workshop. At that workshop, each participant in the lab will have the option to do a 10- to 15-minute teaching demonstration and receive three types of feedback: oral, written, and video.

Look for a registration form and details about "Demonstrating and Deconstructing Our Teaching" in the spring edition of *The Law Teacher*.

<b>"Demonstrating and Deconstructing Our Teaching"</b>	
<b>Thursday, June 27</b> ( <i>Optional Activities</i> ) 6:00 - 8:00 p.m. Casual dinner and reception	
<b>Friday, June 28</b>	
8:30 a.m.	Welcome, Introductions, Overview
8:45 a.m.	Opening
9:15 a.m.	Break
9:30 a.m.	Session 1
10:45 a.m.	Break
11:00 a.m.	Session 2
12:15 p.m.	Lunch
1:15 p.m.	Session 3
2:30 p.m.	Break
2:45 p.m.	<i>Optional: Teaching Lab</i>
4:45 p.m.	Adjourn
6:00 p.m.	Dinner event
<b>Saturday, June 29</b>	
9:00 a.m.	Session 4
10:15 a.m.	Break
10:30 a.m.	Session 5
11:45 a.m.	Lunch
1:00 p.m.	Session 6
2:15 p.m.	Break
2:30 p.m.	Closing
3:00 p.m.	Conference adjourns

## Principles video enhances legal education

What can faculty and students do to enhance the quality of teaching and learning in law school? What principles define good pedagogical practice in legal education? How can principles of good practice be implemented in the law classroom?

These critical questions are the subject of a new faculty development resource, "Principles for Enhancing Legal Education," which consists of a videotape and written materials. This resource was created for the Institute by Gerry Hess (Gonzaga), Paula Lustbader (Seattle University), and Laurie Zimet (Hastings).

In the past several years, interest in and literature about how to improve law school pedagogy have been increasing, especially given the changing demographics of law students. These written materials and the videotape have been created to provoke reflection and generate discussion about how faculty and teaching methods affect today's students and their learning.

The videotape features comments from students at seven law schools (Brooklyn, Gonzaga, Hastings, Iowa, New Mexico, North Carolina, and Seattle University). These schools were selected to provide a cross-section (geographic, public/private, demographic, size) of experiences in legal education. A coordinator from each institution selected students who varied in age, ethnicity, gender, learning styles, physical and learning disabilities,

race, religion, sexual orientation, socioeconomic status, year in school, and class rank. All of the students were asked to respond to two questions: "What occurred in the classroom that interfered with your ability to learn? What occurred in the classroom that enhanced your learning?" Seventy-two students were interviewed, producing eighteen hours of videotape, which were edited into this 28-minute videotape.

The students' comments reflect a set of principles of good practice for contemporary higher education. The videotape and written materials apply the principles to legal education, explore their implications, and describe practical methods to implement them in the law school classroom. The principles, which are not ranked in order of importance, establish that effective learning environments:

- Promote student-faculty contact;
- Articulate clear, high expectations;
- Use time effectively;
- Respect differences among students;
- Foster cooperation;
- Provide prompt feedback; and
- Encourage active learning.

"Principles for Enhancing Legal Education" is available from the Institute for \$150.

# Video gives exam-taking advice to students

When Kent Syverud, Dean and Garner Anthony Professor at the Vanderbilt University of Law School, offered the Institute a video that captures his exam-taking advice for students, we had the good sense to accept. Dean Syverud has taught courses in civil procedure, negotiation, settlement, drafting, complex litigation, and professional responsibility. His insights on taking law school examinations are based on 15 years of going over exams with hundreds of students.

The video, titled “Taking Law School Examinations,” is a sixty-minute lecture. Dean Syverud addresses seven main topics:

- Preparing for Law School Exams
- Types of Exams
- Classic Mistakes in Answering Law School Exams
- A Suggested Approach for In-Class Exams
- Take-Home Exams
- Common Questions About Law School Exams
- After the Examination

This video is intended to help students with a critical aspect of their law school education. The Institute will not be submitting “Taking Law School Examinations” to the Sundance Film Festival. It consists of a straightforward lecture and plain graphics. But, it is chock-full of excellent advice for students from an experienced, thoughtful legal educator.

## Excerpt

*The next question I’m commonly asked: “What do I do if I realize the last four paragraphs I’ve given in response to this hypothetical question are wrong?”*

*O my god, I’ve mixed up the plaintiff and the defendant! – which I did on my first exam in law school – or “I’ve been talking about the wrong doctrine; this question really involves the issue of \_\_\_\_\_ and I thought it was a different kind of question. What do I do?” Many students’ reaction in that situation is to take the pages in their bluebooks or their typing pages in which they’ve written those wrong paragraphs, rip them out, tear them up, throw them away, and start over again answering the question. I urge you not to do this. From talking with many professors, over many years, the empirical observation is that the first four paragraphs the student writes are often the right ones. Many times I have given credit for the brilliant analysis reflecting how difficult the question was in the first four paragraphs that a student has written an “X” on, followed by paragraphs that analyze the wrong issue that followed it. So, if you find yourself convinced you’ve answered the wrong question or given the wrong information, I would advise, unless your professor specifically tells you otherwise, that you instead write on the exam what you’re thinking, which is, “I’m suddenly uncertain this is the right way to approach this question. I think I should address this issue instead, and now I’m going to address it.” But leave the first sentences or paragraphs of analysis in place.*

“Taking Law School Examinations” is available from the Institute for \$20.

# “Assessment, Feedback, and Evaluation” is available

The Institute is now taking orders for “Assessment, Feedback, and Evaluation.” This teaching resource is the materials (360 pages) from the Institute’s July 2001 conference. The range of topics covered in the materials is wide. In the context of the conference, “assessment” was defined as the process of articulating the specific competencies (skills, knowledge, and values) that students should gain from a course or from three years of law school and the means to measure how well they have learned those competencies. “Feedback” included ways teachers can provide developmental feedback to their students throughout the course and means for teachers to get feedback from students and peers to improve their teaching effectiveness. “Evaluation” encompassed the methods of appraising student learning (tests, papers, performance, portfolios, etc.). To see the complete Table of Contents, go to <http://www.law.gonzaga.edu/ILST/Pubs&Resources/main.htm> and click on the link for the 2001 conference materials. Here is a sample:

- Classroom Assessment Techniques for Law School Teaching;

- Testing What We Teach Using Familiar, Nonlegal Contexts to Introduce New Students to the Challenges of Preparing for, and Taking, Essay Exams;
- Describing the Ball – Enhancing Student Learning and Fair Grading with Rubrics;
- Tools for Promoting Vocational Integration in Law Students;
- The Trial Advocacy Model of Mastery and Feedback in a Substantive Course;
- Using Multiple-Choice Questions for Assessing Higher-Level Skills;
- Learning from Ourselves – Strategies for Self-Assessment;
- Assessment, Evaluation, and Feedback in a Transactional Skills Workshop; and
- Customizing Standardized Evaluation Devices for Assessing and Improving Student Legal Practice Skills.

“Assessment, Feedback, and Evaluation” costs \$60. To order a copy, contact Paula Prather at [pprather@lawschool.gonzaga.edu](mailto:pprather@lawschool.gonzaga.edu) or (509) 323-3740.

# Poverty law connects theory and practice

By William F. Maestri

A constant challenge for teacher and student is connecting theory with practice; head and heart; mind and emotions. Such a holistic approach seeks to avoid two classical extremes: an overly rationalistic perspective, which values logic to the exclusion of empathy, and the other extreme, emotionalism, which bases actions and decisions on feelings. The contemporary law school knows well this tension between theory and practice. It is often played out as the conflict between academic law and clinical practice. The challenge is to build a bridge between the two cultures. My course in poverty law attempts to provide such a bridge.

## Poverty Law

The area of poverty law offers a splendid opportunity for integrating black letter law, social policy, and legal practice. My approach involves an academic component (a seminar) as well as a clinical placement. The academic-seminar component involves a collection of selected readings appropriate to various topics of poverty law: welfare reform, work, housing, and legal-policy perspectives for poverty law, to name but a few. The clinical setting provides the student an opportunity to experience the law made flesh.

Various clinical settings and areas of interest include a faith-based organization concerned with immigration, a public defender's office, and a social services agency involving a child and family law practice.

The Poverty Law course aims at the following educational objectives:

- Integration: to connect theory with practice.
- Multiplicity: to develop both analytic and synthetic learning skills to effect a creative advance.
- Empirical: to gain experience, the fundamental source of our knowledge.
- Reflective: to enrich experience through reflection that is both personal and communal.
- Personalism: to recognize that the law in all its components is ultimately about the human person.

## Integration Seminar

Each week the students, clinical instructors from the various placements, and a seminar facilitator meet to discuss assigned readings as well as relevant aspects of clinical practice. Throughout the seminar emphasis is placed on the ability to relate various aspects of the readings to particular experiences within the clinical setting. The seminar calls for an integrative, holistic approach to education.

The role of the seminar facilitator is crucial. The

facilitator's role is to draw out various experiences from the students as well as invite them to relate their experiences within a larger context – readings and the experience of others. Clinical instructors serve as resource persons. That is, as sources of experience as well as legal and theoretical knowledge.

Throughout the seminar the focus is on integrative learning, combining theory and practice. With an integrative approach to education both analytic and synthetic skills are valued. There is the need to understand complex issues and problems through precise analysis. Students need to understand various components of an issue. Yet the whole is greater than the sum of its parts. Students must move beyond the particulars. In advancing beyond individual elements we are able to see new possibilities, the familiar with new eyes.

Students prepare a seminar paper to be handed in at the end of the semester. This paper draws on an aspect of their clinical experience within the context of the seminar readings as well as their additional research. A crucial component of the paper is a section in which the students write a reflection on how the total Poverty Law course affected their conception of the law and themselves as lawyers.

These educational objectives help the law student to avoid two dangers: One is viewing those in need and at risk as simply statistics. The other is a paternalism that views the poor as simply victims, powerless to change their situation. An integrative approach is a genuine humanism that values each unique person, challenges each person to achieve according to his or her abilities, and confronts those social structures that unjustly exploit the person.

## Conclusion

It has been my experience that an integrative approach improves the quality of teaching as well as learning. Throughout the course I am constantly challenged to make those vital connections between the law and our complex world. The student is challenged to see the human face of law. An integrated course in Poverty Law helps to meet these challenges. Such an approach can serve as a model across the curriculum.

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*William F. Maestri taught at Pepperdine School of Law and can now be reached in New Orleans at (504) 899-8953; fax (504) 899-9040; cbrunies@archdiocese-no.org.*

# Rules for Monica

By Charles Calleros

In teaching both Contracts I and Legal Method and Writing, I have noticed that two features of the law school experience can impede learning: the law itself and the near panic that sweeps through the first-year class as the first set of final examinations approaches. It may seem odd to identify the law itself as an obstacle, but we profess to use the cases and statutes in our first-year courses primarily as vehicles for teaching techniques of legal method and analysis rather than as a comprehensive source of a body of law that students must master. Whether we really practice what we preach on that score is debatable in light of our common preoccupation with “coverage” in non-skills courses. Nonetheless, an occasional diversion to nonlegal cases can be justified if they teach something about the law and legal method through metaphor or analogy.

Moreover, if the nonlegal context is familiar and universal, the students can quickly bring their personal experiences to bear on the problem and can focus all their attention on the lessons of legal method, without being

distracted or confused by the introduction of complex and unfamiliar legal rules. Once they gain confidence in addressing ambiguities in the holdings of cases in a nonlegal context and understand what it means to synthesize

those holdings, first-semester students can apply their newly formed conceptual frameworks to more complicated and unfamiliar cases dealing with elusive legal concepts such as consideration and causation.

This relatively nurturing approach is especially welcome about a month before the first set of finals, when students are furiously outlining course material in preparation for examinations – or are desperately trying to comprehend what it means to outline course material. At that time, they very much appreciate a workshop that ties together key concepts of legal method and shows how the concepts relate to future success on examinations. And their anxiety is greatly reduced if we can use a familiar, nonthreatening nonlegal setting to demonstrate the relationships between case analysis, case synthesis, outlining, and exam taking.

One such demonstration is described in my article, *Using Classroom Demonstrations in Familiar Nonlegal Contexts to Introduce New Students to Unfamiliar Concepts of Legal Method and Analysis*, 7 Leg. Writing 37 (2001). That article describes in detail a workshop, 60 to 90 minutes in length, in which a classroom instructor can lead students through an overview of case analysis and synthesis, outlining, and essay exam taking. Through a grant from the Institute for Law School Teaching, I have now produced an accompanying videotape, in which a mother and a daughter

act out the “cases” that form the basis for parental rule-making regarding the daughter’s evening social activities.

The videotape, *Rules for Monica*, presents four scenes, or cases, in which (1) the daughter, Monica, either arrives home after an evening social outing or requests permission to participate in a social outing and (2) her mother, Carmen, reacts to the daughter’s actions or requests. In the first scene, Carmen reacts negatively to Monica’s return from a football game and pizza. From Carmen’s statements, it is fairly plain that Carmen is concerned as a general policy matter about Monica’s sleep and her studies and that Carmen believes that Monica has violated some curfew rule. But what precisely is the holding, and what rule governs Monica’s future actions? Did Monica misbehave by going out for pizza after the game, or was it only because she “hung out” at the pizza parlor after finishing her pizza, or did she displease her mother simply by returning after some previously unannounced, bright-line curfew, such as 11 p.m.? Carmen’s statements are ambiguous, allowing some debate about the precise

meaning of her ruling.

By intermittently viewing the video and pausing it for discussion, students quickly learn that new cases, presenting Carmen’s reactions on slightly different facts, help to clarify the ruling in the first case and to add

new dimensions to Carmen’s initial rulings. By the time students have analyzed and synthesized all four cases, they end up with a policy rationale that is implemented with a two-part rule, qualified by an exception. Some students also read between the lines and infer that Carmen’s rules are really driven by her concern for Monica’s safety in unsupervised settings and not by her expressed concern for Monica’s ability to get enough sleep and finish her homework.

What should students do with these policies, rules, and illustrative cases? The video encourages them to outline the material, organizing the outline around the rules and then illustrating each rule with a brief summary of one or more cases. Even if students have only enough time to begin such an outline, an instructor’s example on an overhead projector can drive the lesson home.

Finally, the video invites the instructor to distribute an essay examination that presents new facts raising now familiar issues about Monica’s social outings. Armed with the rules in the sample outline and with the analytic reasoning and policy considerations presented in the previous cases, students can present reasonable arguments both for and against the proposition that Monica violated Carmen’s rules in the cases presented in the examination.

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*After this workshop, most students seem to feel a bit less anxious about examinations and better prepared to study for them.*

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Continued on page 12

# Rules for Monica

Continued from page 11

Following the brief examination period of 10 minutes or so in which students can at least analyze the problem and outline their answers, the instructor can lead the class in discussion about the question.

After this workshop, most students seem to feel a bit less anxious about examinations and better prepared to study for them. They may also understand more concretely that the examinations will not ask them to simply recall particular legal rules or facts that they have studied, but will invite them to apply analytic skills to recognize issues and arguments and to apply past lessons to novel facts, some-

times requiring attention to underlying policies when interpreting and applying specific rules.

If you would like a copy of the videotape, e-mail me at [charles.calleros@asu.edu](mailto:charles.calleros@asu.edu).

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## Why do you teach?

**W**e are interested in knowing why you teach. Please tell us your story in 350 words or less. Send your story to the Institute at [ilst@lawschool.gonzaga.edu](mailto:ilst@lawschool.gonzaga.edu).

Professor Tony Arnold wrote about why he teaches. His article, which originally appeared in the Chapman Journal (Fall 2000), inspired us to find out why others teach. Here is why Tony teaches:

### *Why I teach*

*By Tony Arnold*

More than anything, my passion for a model of personalized education that emphasizes mentoring influenced me to select an offer to teach at Chapman University School of Law six years ago. Although mentoring each student is unique and multifaceted, I have appreciated several features of my rapport with students at Chapman.

I am available and accessible outside of class. I try to be keenly attuned to the struggles, successes, strengths, and weaknesses of each student. I enjoy supervising student papers, because students choose topics that excite them and I am able to provide them detailed feedback on drafts. I praise intelligent insights and encourage more rigorous thinking, as the students craft their own “masterpieces.” I care very much about what a student will do with his or her education. I am an advocate for my students with prospective employers, picking up the phone or offering to write a letter of recommendation whenever appropriate.

Finally, I believe that a vastly higher degree of learning occurs when faculty and students come to know each other as humans, not just educational participants. The rewards of mentorship have been tremendous. Along the way, my ideas and values, and even my life have become interwoven with the ideas, values, and lives of those students who in turn will make a difference in the lives of others.

Dozens of students and former students attended my wedding in June 2000, and three former students participated in the wedding. It was a testimony to the privilege of mentoring students – they are a part of my life and I a part of theirs. Because we learn not just from books or classes but from life itself, I am confident that they and I have learned more from our shared journeys than we could learn merely by study and lecture.

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# Integrating public service into nonclinical courses

By Russell Engler

**A**t New England School of Law in Boston, faculty members have begun to experiment with incorporating public service legal work into the classroom. In each instance, nonclinical faculty members have collaborated with practicing lawyers engaged in public service legal work. The faculty and lawyers have identified research and writing issues within the subject area of the course. Instructors have then assigned students to complete projects related to those issues.

I describe below some of the projects that have been undertaken by my colleagues. Although we are early in our experimentation with this model, a number of benefits are already evident. First, the projects provide interesting topics that have helped our students both understand the subject matter of the course and develop their research and writing skills. Second, we have provided our students with an opportunity to perform public service legal work. Third, the structure has allowed us to engage in collaborative projects with lawyers outside the academy. Fourth, the endeavors have made our teaching more fulfilling. Our classes are engaged in exciting projects, and collaboration among faculty members has increased as we have shared common challenges emerging from our efforts to integrate theory and practice.

## Description of Projects

Peter Manus has experimented with this model twice in his Environmental Justice seminar. Manus and his students took on various projects on behalf of several federal, state, and public interest law offices working in the environmental justice area. For example, the class produced one memorandum that evaluated various state environmental justice policies and bills and offered a detailed analysis of how elements of such policies and bills might function in relation to existing Massachusetts environmental regulations. The memorandum culminated with sample language for an environmental justice statute or its implementing regulations.

David Siegel has incorporated legal projects into his seminar on Mental Health Issues in Criminal Proceedings, offered for the first time in the spring 2001 semester. In his seminar, Siegel identified projects involving unsettled areas of law. Students ranked their top three preferences and sorted themselves into groups of two to five. Two groups worked with a senior lawyer in the local public defender's office, who oversees the office's mental health-related litigation. One group researched competency issues in probation surrender hearings, which are garden-variety litigation for public defenders but concerning which there is very little "law." Another group explored procedural issues

that will arise in the implementation of a new sex-offender commitment statute. A third group worked with a professor of law in psychiatry at a medical school's postgraduate program in law and psychiatry, conducting a nationwide study of the use of actuarial instruments to predict dangerousness. A fourth group worked with a retired state court judge to study programs that teach police officers to recognize and divert mentally ill persons from the criminal

justice system. This group conducted factual research on the existence of such programs and legal research on the degree to which they could be implemented locally and then prepared a grant application to create such programs.

Judi Greenberg also experimented with the model in the spring 2001 semester in her Domestic Violence course. Greenberg collaborated with two Boston lawyers, one of whom is a New England graduate, to develop projects for her course. One project related to the interface between protective orders and schools, while another dealt with batterers' misuse of the courts.

## Why New England Adopted This Model

A number of factors have contributed to the advent of this teaching model at New England at this time. First, the faculty recently established our Center for Law and Social Responsibility (CLSR), designed in part to support faculty teaching, scholarship, pro bono projects, and other activities that focus on unequal access to, or treatment under, the law. All four of us are affiliated with the CLSR and working with the CLSR's support. Nine other faculty members are affiliated with the CLSR, some of whom are considering engaging in classroom projects similar to the ones discussed here. (For more information about the CLSR, go to [www.nesl.edu/csr](http://www.nesl.edu/csr).)

Second, the faculty members teaching seminars have engaged in pro bono legal work while at New England. Manus has engaged in research and policy-focused projects to aid environmental groups. Siegel handles pro bono cases in the area of criminal law, including the case of an inmate seeking DNA testing of evidence in his case, to pursue his claim of wrongful conviction. Siegel also helped develop the New England Innocence Project. Greenberg has performed volunteer work for Greater Boston Legal Services. Each faculty member remains dedicated not only to teaching, scholarship, and participation in law school governance, but also to performing work that benefits the profession and the public. (See ABA Standard 404.)

Third, New England has worked to break down barriers between classroom and clinical work, integrating both nonclinical faculty into the clinical courses and clinical faculty into classroom settings. The

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*Our classes are engaged in exciting projects, and collaboration among faculty members has increased as we have shared common challenges...*

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# Integrating public service

Continued from page 13

involves full-time and part-time faculty, and clinical and non-clinical faculty, in a co-teaching model. The program even blends the in-house clinics and externship placements into hybrid clinical courses. All student work for course credit at New England occurs as part of existing clinical courses, under my direction as Clinical Director. The courses are organized by subject matter, each with its separate classroom component. Most courses are “clinical component courses,” which are clinical courses appended to the underlying course of the same subject matter. Thus, in the semesters in which Manus teaches Environmental Law, he also co-teaches with me the Environmental Law Clinic. The Clinic brings together all students receiving course credit for Environmental Law internships in seminars designed to bridge the gap between the classroom Environmental Law course and the clinical work. When Greenberg teaches Family Law, we co-teach the Family Law Clinic, and when she teaches either Domestic Violence or Women and the Law, we co-teach the Domestic Violence Clinic. While nonclinical faculty members teach clinical courses, the other full-time clinical faculty, Ilene Klein and Barbara Oro, both teach more traditional classroom courses in addition to performing their duties as clinical teachers. (For more information about our clinical courses, go to [www.nesl.edu/academics/clinics.cfm](http://www.nesl.edu/academics/clinics.cfm).)

Fourth, New England is attempting to increase public service work performed by its students. The new CLSR includes a Public Service Project, created to identify, support, and increase public service work among New England faculty, students, and alumni. Our initial picture of work by our students suggests that only a small number are engaged in volunteer, pro bono legal work during the school year. Yet, more students perform public service legal work for credit, which provides them with essential training and experience to enhance their future pro bono work. Between 60 and 70 students a year work in clinical placements in which the students represent indigent clients in civil or criminal cases. (For an exploration of the connection between representation of indigent litigants in

clinics and a future orientation toward performing pro bono work, see <http://www.nesl.edu/csr/service/probono.htm>.) Another 40 students per year work at the school’s Prison Outreach Project, teaching law to inmates as part of the work required of the students as staff members of the *New England Journal of Criminal and Civil Confinement*. Through the seminar courses described in this article, an additional 40 to 50 students are performing public service legal work, a figure that will grow as more instructors experiment with the model.

## Conclusion

The new model therefore contributes to our school’s efforts to break down the traditional dichotomy between theory and practice, and between classroom and clinic, while providing our students with public service legal work that enhances their understanding of their course work. This is not to suggest that all experiments with the new model have met with complete success. Manus concluded that the legal work had taken over one course to the point where students learned less of the theoretical underpinnings of the law than he considered optimal. In another class, the outside attorney was unable to commit the minimal amount of thought and time necessary to maintain a presence in the course, rendering the legal work little more than a “real-life simulation.” In both those instances, however, the failure to achieve the desired balance did not render the course an overall failure. Students learned at least as much as they would have in a seminar involving guest speakers and issues from current cases. Even with its problems, the model offers the potential of giving students a vision of being lawyers who think beyond their cases to better serve their clients and their community.

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*The new model therefore contributes to our school’s efforts to break down the traditional dichotomy between theory and practice, and between classroom and clinic...*

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*Russell Engler teaches at New England School of Law, 154 Stuart Street, Boston, MA 02116, (617) 422-7380; fax (617) 422-7385; [rengler@fac.nesl.edu](mailto:rengler@fac.nesl.edu).*

## Submit articles to *The Law Teacher*

**T**he *Law Teacher* encourages readers to submit brief articles explaining interesting and practical ideas to help law teachers become more effective teachers. Articles should be 500 to 1,500 words long. Footnotes are neither necessary nor desired. The deadline for articles to be considered for the next issue is February 1, 2002. Send your article via email, if possible. After

review, all accepted manuscripts will become property of the Institute for Law School Teaching.

The Institute’s address is: Institute for Law School Teaching, Gonzaga University School of Law, P.O. Box 3528, Spokane, WA 99220-3528,

E-mail: [ilst@lawschool.gonzaga.edu](mailto:ilst@lawschool.gonzaga.edu).

For more information, call (509) 323-3740.

# Please contribute to new book on teaching law

The co-authors of a new book on teaching law, Steve Friedland, Gerald Hess, and Stephen Sepinuck, are soliciting contributions from legal educators. TEACHING THE LAW SCHOOL CURRICULUM is designed to provide ideas, materials, and alternatives for teaching a variety of law school courses. The book offers guidance for new and experienced law teachers to plan and deliver effective courses. The book is organized by subject matter. Each chapter addresses one of the fifteen courses most students take during their legal education:

- Business Associations
- Civil Procedure
- Clinic and Externship
- Constitutional Law
- Contracts
- Criminal Law
- Criminal Procedure
- Evidence
- Family Law
- Federal Income Taxation
- Legal Research & Writing
- Professional Responsibility
- Property
- Sales & Secured Transactions
- Torts

Each chapter will have five sections: (1) Approach, (2) Materials, (3) Class Exercises, (4) Brief Gems, and (5) Evaluation of Students.

## Approach

How can a teacher approach this course? This section will encompass global issues about a course, such as goals, planning, organizational scheme, general philosophy, syllabi, and coverage. For any given chapter, it might include different teachers' thoughts on the following areas:

- how to prepare to teach the course;
- whether the course is best taught through the problem method, case method, a practicum, or some other manner;
- the main principles or skills that students should take away from the course; or
- the key topics and the order in which they should be covered (e.g., whether Civil Procedure should cover the rules before jurisdiction and *Erie*, or vice versa; whether in a Contracts course damages should come first or last; how to handle the top ten cases or the top ten topics in the course).

## Materials

What kinds of materials will enhance the course? This section will include various teachers' views on using materials, such as:

- **Textbooks.** Discuss the merits of different types of basic course materials. For example, the Commercial Law texts authored by Keating, Mann, LoPucki, and Warren all purport to use a "systems approach," which seeks to show students how the law interacts with various non-legal forces to shape the way people interact in commercial settings;
- **Handouts.** Reproduce specific handouts that teachers have created and suggest ways to use handouts (i.e., hand

them out all prepared, build them in class, or have students participate in their creation); or

- **Other Resources.** Suggest legal and nonlegal materials, whether print, audio, video, or of other electronic nature (e.g., Internet site, CALI exercises), that provide useful background, evoke an emotive response, or promote discussion (e.g., a Harlan Ellison essay about being arrested, a segment from *Eyes on the Prize* concerning school desegregation, or Judge Kozinski's *New Yorker* article about hearing last-minute death penalty appeals).

## Class Exercises

What teaching and learning activities work well in this course? This section will provide specific suggestions for both in-class and out-of-class projects. It could include virtually anything that promotes or involves learning, such as:

- simulations and role-playing projects;
- drafting assignments; or
- collaborative problem solving.

## Brief Gems

What succeeds in this course? In this section, teachers will share devices and ideas that have proven effective in their classes. They might be:

- useful analogies (i.e., prefiling a financing statement is like saving a seat at a movie theater or saving a place in line at the bank);
- humor (cartoons to illustrate concepts);
- ways to treat a particular case; or
- means to incorporate humanism, ethics, and professionalism into the course.

## Evaluation of Students

When and how should students be evaluated? This section will include teachers' thoughts on feedback and assessment both during and at the end of the course. It may include:

- helping students to perform self-evaluation;
- providing students with feedback on their performance or understanding before the end of the semester; or
- a variety of evaluation mechanisms (e.g., essay exam, objective exam, paper, journal, drafting exercise) most appropriate to the subject matter.

**The deadline for contributions is February 28, 2002.** Please take a little time to contribute your ideas to TEACHING THE LAW SCHOOL CURRICULUM. Of course, anything you send that is included in the book will be attributed to you. The co-authors are looking for contributions as short as one paragraph and as long as two pages, single spaced. Send your contributions via email (preferred) to: pprather@lawschool.gonzaga.edu or send a disk or paper to Institute for Law School Teaching, Attn: Paula Prather, Gonzaga University School of Law, P.O. Box

# Make the student the professor

by Katharine F. Nelson

Like many teachers, I often use old exam questions to help students review specific course material and prepare for final exams. Typically, the students prepare the answers for class discussion. A twist on this method of review is to make the students the law professor and have them critique and grade sample student answers to an exam question.

For this exercise I choose an issue that provides a good review of the subject area and involves the type of multi-step analysis that students often find difficult on exams. For example, in Civil Procedure, transfer of venue under 28 U.S.C. § 1404 works well. To determine whether an action should be transferred to a different venue, the students must analyze whether the new venue would be proper under 28 U.S.C. § 1391. They must also evaluate the convenience of the parties and witnesses and determine whether the transfer would serve the interests of justice.

At the end of the unit on venue, I give the class a fact-intensive essay question in which the students are asked whether the court should grant a motion to transfer venue. The students prepare the answer for the next class. I generally have them write out the answer or at least do a detailed outline. At the beginning of the next class, we walk through the possible answers and deal with any questions. Then I waive my “magic gavel” and declare that the students have all been promoted to the “exalted rank of law professor.” (The students are always delighted to learn that they have survived Civil Procedure, graduated from law school at the top of their class, passed the bar exam, and had brilliant careers.)

Next, I give the students two sample student answers and two detailed grading sheets. The grading sheets have general point values for the major sections of the analysis. One of the sample answers is weak. The other is a good answer. Both contain the types of flaws often found in student exams. I generally start with actual student answers from a prior class and then doctor them as needed to illustrate both good legal analysis and the problems that I want the students to see.

Working in groups of three, the students analyze the sample answers, score them, and give them letter grades. I circulate through the class answering questions, often with “I don’t know how many points to take off (or give). You are the professor; it’s your call.” I also commiserate with their frustration over poor organization, sweeping conclusions without proof, and gaps in factual analysis. Toward the end of class the students share their comments, scores, and grades with the rest of the class. I chart both their scores and grades on the board. The students are usually harder on the weak answer than I would be. I tell them that in the hope of alleviating some exam jitters.

This exercise generally provokes lively discussion within both the small groups and the larger class. It also provides a good review of the subject matter, a different approach to evaluating written analysis, and a break from the normal routine. By becoming the professor, they gain

some insight into the mysterious process of grading exams. More important, the ego threat of critiquing their own writing or having me critique it is removed. The students can be more objective in evaluating not only the substantive content of the sample answers but also the way in which that content is presented. They become more sensitive to the need for logical organization and good factual development in answering exam questions. This sensitivity, in turn, should help the students improve their own written analysis. It should also facilitate communication between the professor and the students on future writing assignments and in exam conferences. The class can use the good student answer, the detailed grading sheet, and their insights from grading the sample answers to assess their own answers to the question. Finally, the students enjoy being the professor for a change, which results in a fun class for them and me.

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