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Leslie Larkin Cooney

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ARTICLES

## Giving Millennials a Leg-Up: How to Avoid the “If I Knew Then What I Know Now” Syndrome

*Leslie Larkin Cooney*<sup>1</sup>

We live in the Postmodern world, where everything is possible  
and almost nothing is certain.

Vaclav Havel<sup>2</sup>

WHILE it may not be possible for law schools to train students completely within three years for the practice of law, we can come much closer to this goal and make the transition to professional life an easier and more productive one.

Today's clinical student is a member of a class known simultaneously as “Millennials,” “Gen Y” and “Net Gen.”<sup>3</sup> Known for their proclivity to bricolage, the ability to piece together information from variety sources,<sup>4</sup> these students gravitate toward group activity, are fascinated by new technologies, are focused on grades and performance, and learn well through discovery. Millennial students are those born after 1981 and they are quite different from the Gen X students with whom legal educators are familiar.<sup>5</sup>

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<sup>1</sup> Professor of Law and Co-Director of the Business Practice Clinic, Shepard Broad Law Center, Nova Southeastern University.

<sup>2</sup> Vaclav Havel, *The New Measure of Man*, N.Y. TIMES, July 8, 1994, at A27.

<sup>3</sup> NEIL HOWE & WILLIAM STRAUSS, MILLENNIALS RISING: THE NEXT GREAT GENERATION (2000). Other names for this generation include “Echo boomers,” “iGeneration,” “Me Generation,” “Cynical Generation,” “Generation Sept. 11,” and “Google Generation.”

<sup>4</sup> John Seely Brown, *Growing up Digital*, CHANGE, Mar.–Apr. 2000, at 14. These students prefer to construct their own learning by assembling information, tools and frameworks from many sources.

<sup>5</sup> Gen-X are those students born between 1966 and 1981. Lisa Brennan, *Pitching the Gen-X Jury: As Jurors Get Younger, Law Schools Are Thinking More Like MTV*, NAT'L L.J., June 7, 2004, at 1. The generation is called X because the symbol connotes an unknown or mystery. Elizabeth A. Foley, *The Changing Face of Juries: Understanding Generation X*, 14 CHICAGO BAR ASS'N RECORD 28 (2000). See generally PETER SACKS, GENERATION X GOES TO COLLEGE (1996);

Indeed, members of this generation prefer the label “Millennial” to others because of their expressed wish not to be associated with Generation X. The core personality traits of Millennials include: confident, conventional, sheltered, team-oriented, achieving and pressured.<sup>6</sup> Millennials are ambitious, demanding, and they question everything.<sup>7</sup>

Since Millennials prefer to learn by doing rather than being told what to do,<sup>8</sup> clinical education will have a particular appeal to them. We need to recognize these are students who have an exploratory style which causes them not only to retain information better but it enables them to use it in creative and innovative ways.<sup>9</sup> As a generation who grew up exploring the Internet, most of these students rarely download instructions for anything—instead, they experiment until they get it right.<sup>10</sup> They are oriented to inductive reasoning, formulating hypotheses and figuring out rules; they crave interactivity and “may need to be encouraged to stop experiencing and spend time reflecting.”<sup>11</sup> As clinical educators, we too have exploratory styles and innovative ways. If we take the time to learn and understand the characteristics of Millennials, we cannot only capitalize on the strengths of students who crave our experiential approach to learning, but we can also redesign our clinical focus to insure these students move into the next decade better prepared than any other generation of lawyers.<sup>12</sup>

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BRUCE TULGAN, *MANAGING GENERATION X: HOW TO BRING OUT THE BEST IN YOUNG TALENT* (2000).

6 Tricia Kasting, Commentary, *The “Millennial” Law Student Generation*, 186 N.J.L.J. 265 (2006). The author describes Millennials as “confident” as they expect good news and believe in themselves; “conventional” as they accept social rules; “sheltered” as they have been kept from harm’s way and have highly structured lives; “team-oriented” as they like to work together and keep in contact with peers; “achieving” as they expect to accomplish a lot; and, “pressured” as much is expected from them. *Id.*

7 Nadira A. Hira, *Attracting the Twentysomething Worker*, CNNMONEY.COM, May 15, 2007, [http://money.cnn.com/magazines/fortune/fortune\\_archive/2007/05/28/100033934/](http://money.cnn.com/magazines/fortune/fortune_archive/2007/05/28/100033934/)

8 Diana Oblinger & James Oblinger, *Is it Age or IT: First Steps Toward Understanding the Net Generation*, in *EDUCATING THE NEXT GENERATION* 2.6 (Diana G. Oblinger & James L. Oblinger eds., 2005), <http://www.educause.edu/it/library/pdf/pub7101.pdf> [hereinafter Oblinger & Oblinger, *Is it Age or IT*].

9 See generally DON TAPSCOTT, *GROWING UP DIGITAL: THE RISE OF THE NET GENERATION* (1998).

10 Carrie Windham, *The Student’s Perspective*, in *EDUCATING THE NEXT GENERATION* 5.6 (Diana G. Oblinger & James L. Oblinger eds., 2005), <http://www.educause.edu/it/library/pdf/pub7101.pdf>. “We are academically driven, family oriented, and racially and ethnically diverse. We are committed to telling the truth and traditional values, yet we refuse to accept our elders’ speeches or sermons at face value. We are not politically active, but community centered. We truly believe we have the tools and the desire to solve the lingering problems that our parents’ generation has left behind.” *Id.* at 5.3.

11 Oblinger & Oblinger, *Is it Age or IT*, *supra* note 8, at 2.7 (citing Marc Prensky, *Digital Natives, Digital Immigrants Part 2: Do They Really Think Differently?*, ON THE HORIZON, Nov./Dec. 2001, at 1, 6, available at <http://www.marcprensky.com/writing>).

12 Millennials crave stimulation and dislike mundane work. When this is coupled with

In addition to being experiential, Millennials have been described as engaged and constantly connected, with a strong need for immediacy.<sup>13</sup> Many traditional faculty members expect students to be like they were when the faculty members were students themselves.<sup>14</sup> If, however, we recognize that a Millennial was born around the time the personal computer was introduced and is more likely to use the Internet for research than visit the library,<sup>15</sup> we can begin to understand Millennials are different and unique, and we need to engage these learners who have an “information–age mindset.”<sup>16</sup> We should not be surprised when these students question our approaches to legal education and expect us to match the “interactive access to information and modes of communication by which they learn in other aspects of their lives.”<sup>17</sup> We teach law students to question as part of their educational experience; we should certainly not be surprised when Millennials, who by their nature are explorers, turn around and question the usefulness and viability of the existing law school approach to education.<sup>18</sup> “Millennials expect to be able to choose what kind of education they buy, and what, where, and how they learn.”<sup>19</sup> Millennials perceive value in internships as evidenced by the significant growth in student and employer

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the mass media impression that work should be fun and exciting and result in high pay, their expectations of achievement and success may not be realistic, and Millennials could become directionless. Kasting, *supra* note 6.

13 Judith Ramaley & Lee Zia, *The Real Versus the Possible: Closing the Gaps in Engagement and Learning*, in *EDUCATING THE NEXT GENERATION* 8.7 (Diana G. Oblinger & James L. Oblinger eds., 2005), <http://www.educause.edu/ir/library/pdf/pub7101.pdf>.

14 Instead of encouraging diversity of thought, experience, and opinion, legal education favors the single–minded concept of “think[ing] like a lawyer.” Morrison Torrey, *You Call That Education?*, 19 *WIS. WOMEN’S L.J.* 93, 107 (2004).

15 Oblinger & Oblinger, *Is it Age or IT*, *supra* note 8, at 2.5 (citing, *How Academic Librarians Can Influence Students’ Web–Based Information Choices*, Online Computer Library Center (2002), available at <http://www5.oclc.org/downloads/community/informationhabits.pdf>).

16 Jason L. Frand, *The Information–Age Mindset: Changes in Students and Implications for Higher Learning*, *EDUCAUSE REV.*, Sept.–Oct. 2000, at 15–16, available at <http://www.educause.edu/ir/library/pdf/ERM0051.pdf>.

17 Carole Barone, *The New Academy*, in *EDUCATING THE NEXT GENERATION* 14.4 (Diana G. Oblinger & James L. Oblinger eds., 2005), <http://www.educause.edu/ir/library/pdf/pub7101.pdf>.

18 B. A. Glesner, *Fear and Loathing in the Law Schools*, 23 *CONN. L. REV.* 627 (1991); Lawrence S. Krieger, *Institutional Denial about the Dark Side of Law School and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 *J. LEGAL EDUC.* 112 (2002); Lawrence S. Krieger, *The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness*, 11 *CLINICAL L. REV.* 425 (2005); Elizabeth Mertz, *Inside the Law School Classroom: Toward a New Legal Realist Pedagogy*, 60 *VAND. L. REV.* 483 (2007); Robert P. Schuwerk, *The Law Professor as a Fiduciary: What Duties Do We Owe to Our Students*, 45 *S. TEX. L. REV.* 753, 758 (2003).

19 Scott Carlson, *The Net Generation in the Classroom*, *THE CHRON. OF HIGHER EDUC.*, Oct. 7, 2005, at A34–37.

involvement at the undergraduate level in the last few years.<sup>20</sup> It should be expected that this will continue. As a recent survey indicates, attorneys who became lawyers in 2000 have indicated the top five most helpful experiences in preparing them for their careers were: “legal employment during summers; legal employment during school year; clinical courses; legal writing; and internships.”<sup>21</sup>

“As long as they’ve been alive, the world has been a connected place, and more than any preceding generation they have seized on the potential of the networked media.”<sup>22</sup> Some Millennials are excellent communicators and they gravitate toward activities that promote social interaction, although many times this is through Instant Messaging or Text Messaging.<sup>23</sup> While studies show they do not read as much as previous generations, digital technology is second nature to them and they prefer video, audio and interactive media to traditional printed matter. “They like portability, and they are frustrated by technology that tethers them to a specific location.”<sup>24</sup> As one student explained:

Most people have this idea that Millennials aren’t social, which is kind of true. When I first meet someone, I’m not going to talk. I’m just going to sit in my corner and pretty much ignore what’s going on. Trying to get that initiation, trying to get someone to spark up, is always hard. Online, I’ll start talking immediately. I can join a discussion forum, and I can tell everybody that I love nonrepresentational art and that Piet Mondrian is my favorite, and I can say exactly why. I can talk about history and all sorts of things. Universities need to provide a way for shy students, or for Millennials, or for any students to connect to the university and to the other people there. A discussion board, a forum, or some sort of social networking can allow students to meet others like them, something that might not happen face-to-face.<sup>25</sup>

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20 Sherry J. Cook et al., *The Perceptions of Interns: A Longitudinal Case Study*, 79 J. EDUC. FOR BUS. 3, 179 (2004). Indeed, current undergraduate students believe internships are the single most effective strategy for gaining employment. *Id.* at 180.

21 Anahid Gharakhanian, *ABA Standard 305’s “Guided Reflections”: A Perfect Fit for Guided Fieldwork*, 14 CLINICAL L. REV. 61, 70 (2007) (citing Ronit Dinovitzer, Bryant G. Garth, Richard Sander, Joyce Sterling & Gita Z. Wilder, *After the JD: First Results of a National Study of Legal Careers* 79–81 (2004), available at [http://www.nalpfoundation.org/webmodules/articles/articlefiles/87-After\\_JD\\_2004\\_web.pdf](http://www.nalpfoundation.org/webmodules/articles/articlefiles/87-After_JD_2004_web.pdf)).

22 Scott Crittenden, *Silicon Daydreams: Digital Pastimes of the Wired Generation*, UNIVERSITY OF VIRGINIA, Fall 2002, <http://www.itc.virginia.edu/virginia.edu/fallo2/daydreams/home.html>.

23 *Id.*

24 Carlson, *supra* note 19 (quoting Richard T. Sweeney, university librarian at the New Jersey Institute of Technology).

25 Kitzzy Aviles, Bill Phillips, Tim Rosenblatt & Jessica Vargas, *If Higher Education Listened to Me*, EDUCAUSE REV., Sept.–Oct. 2005, at 17, 24.

We can enhance the communication skills these students bring into our clinical settings, and by recognizing the modes in which they have already honed their existing skills, we can address the particular areas in which they may need to develop additional skills to deal with actual clients and the legal work environment. Introducing students to the concepts of therapeutic jurisprudence (TJ) and teaching our clinical courses with TJ as a backdrop is an excellent way to meet the particularized needs of Millennials.

The theory of therapeutic jurisprudence has spread its wings over the last fifteen years and is making its way out of the periphery and into the mainstream. Its purpose—to integrate the psychological and emotional well-being of the client into the practice of law—has affected not only the lawyer–client relationship with practitioners, but has also found its way into the law school arena where its fundamentals are being introduced in the classrooms and through the internship and externship programs around the country.<sup>26</sup> It has been defined as “the use of social science to study the extent to which a legal rule or practice promotes the psychological and physical well-being of the people it affects.”<sup>27</sup> Acknowledging that the definition is broad, one author suggests therapeutic jurisprudence allows scholars to “roam within the intuitive and common sense contours of the concept.”<sup>28</sup> Over the years the concept has been combined with

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26 Gregory Baker & Jennifer Zawid, *The Birth of a Therapeutic Courts Externship Program: Hard Labor but Worth the Effort*, 17 ST. THOMAS L. REV. 711 (2005) (describing the focus of therapeutic jurisprudence at William & Mary Law School’s therapeutic courts practice externship and the therapeutic court externship clinic at University of Miami Law School); Susan L. Brooks, *Practicing (and Teaching) Therapeutic Jurisprudence: Importing Social Work Principles and Techniques into Clinical Legal Education*, 17 ST. THOMAS L. REV. 513 (2005) (demonstrating the use of therapeutic jurisprudence in a family clinic at Vanderbilt University School of Law); Cindy E. Faulkner, *Therapeutic Jurisprudence and Preventative Law in the Thomas M. Cooley Sixty Plus, Inc., Elder Law Clinic*, 17 ST. THOMAS L. REV. 685 (2005) (describing the introduction of therapeutic jurisprudence to interns at the Sixty Plus Elder Law Clinic at Cooley Law School); Bernard P. Perlmutter, *George’s Story: Voice and Transformation Through the Teaching and Practice of Therapeutic Jurisprudence in a Law School Child Advocacy Clinic*, 17 ST. THOMAS L. REV. 561 (2005) (describing the interaction of therapeutic jurisprudence in the Children & Youth Law Clinic at the University of Miami School of Law); Carolyn S. Salisbury, *From Violence and Victimization to Voice and Validation: Incorporating Therapeutic Jurisprudence in a Children’s Law Clinic*, 17 ST. THOMAS L. REV. 623 (2005) (describing its use in the University of Miami Children & Youth Law Clinic); Jennifer L. Wright, *Therapeutic Jurisprudence in an Interprofessional Practice at the University of St. Thomas Interprofessional Center for Counseling and Legal Services*, 17 ST. THOMAS L. REV. 501 (2005) (explaining the use of therapeutic jurisprudence at the Interprofessional Center for Counseling and Legal Services at the University of St. Thomas School of Law in Minneapolis, Minnesota); Christina A. Zawisza, *Taking Hold of the Elephant in Child Dependency and Neglect Cases*, 17 ST. THOMAS L. REV. 531 (2005) (describing its use in a child advocacy clinic at the University of Memphis School of Law).

27 Christopher Slobogin, *Therapeutic Jurisprudence: Five Dilemmas to Ponder*, 1 PSYCHOL. PUB. POL’Y & L. 193, 196 (1995).

28 David B. Wexler, *Reflections on the Scope of Therapeutic Jurisprudence*, 1 PSYCHOL. PUB.



the theories and principles of Preventive Law.<sup>29</sup> The fusion of the two theories, sometimes referred to as “theralaw,” is the “delivery of legal services in a manner designed to anticipate and avoid acute legal problems . . . and to perform both prophylactic and acute legal services in a manner designed to maximize the physical and mental well-being of clients and other affected entities.”<sup>30</sup> In its series of reports on professional education, The Carnegie Foundation for the Advancement of Teaching recognized teaching practical legal knowledge should “draw insight from the social sciences and the humanistic disciplines.”<sup>31</sup>

Yet, as the theories of therapeutic jurisprudence are being defined and refined, it has become apparent that practitioners are unintentionally applying facets of the theory in their everyday practice, just as law professors are indirectly integrating its purpose in the classroom.<sup>32</sup> This unintentional application is not enough; although such is beneficial, the purposeful integration of TJ is important to enhance a student’s interpersonal skills and fulfill legal education’s duty to improve our profession. A lawyer must be supportive, non-judgmental and sensitive to her client’s psychological state in order to establish the critical relationship of trust and confidence with the client.<sup>33</sup>

Introducing the methodology of therapeutic jurisprudence in the clinical setting has proven beneficial especially in four distinct areas: “(a) problem solving, (b) client counseling, (c) self-reflection or ‘learning to learn,’ and (d) professional responsibility.”<sup>34</sup> To improve problem solving, students are

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POLY & L. 220, 221 (1995).

29 “[P]reventive [L]aw] is a ‘proactive approach to lawyering’ that ‘emphasizes the lawyer’s roles as a planner and proposes the careful private ordering of affairs as a method of avoiding the high costs of litigation and ensuring desired outcomes and opportunities.’” Jeffrey W. Stempel, *Theralaw and the Law-Business Paradigm Debate*, 5 PSYCHOL. PUB. POLY & L. 849, 849 (1999) (quoting Dennis P. Stolle et al., *Integrating Preventive Law and Therapeutic Jurisprudence: A Law and Psychology Based Approach to Lawyering*, 34 CAL. W.L. REV. 15, 16 (1997)).

30 Stempel, *supra* note 29, at 853.

31 WILLIAM SULLIVAN, ANN COLBY, JUDITH WEGNER, LLOYD BOND & LEE SCHULMAN, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 14 (2007) [hereinafter, EDUCATING LAWYERS]. *Educating Lawyers* is the second of five projected studies by the Carnegie Foundation on professional education in the areas of clergy, law, medicine, engineering and nursing. The series began with a general introductory essay: WILLIAM SULLIVAN, WORK AND INTEGRITY: THE CRISIS AND PROMISE OF PROFESSIONALISM IN AMERICA (2d ed. 2005). The study of clergy education is also complete: CHARLES A. FOSTER ET AL., EDUCATING CLERGY: TEACHING PRACTICES AND PASTORAL IMAGINATION (2005).

32 David B. Wexler & Bruce J. Winick, *Putting Therapeutic Jurisprudence to Work: The Term May Sound Academic but it Embodies a Hands-on Approach to Solving Problems Rather than Simply Winning Cases*, 89 A.B.A.J. 54, 56 (2003).

33 Bruce Winick, *Therapeutic Jurisprudence and the Role of Counsel in Litigation*, 37 Cal. W.L. Rev. 105, 115 (2000).

34 Mary Berkheiser, *Frasier Meets CLEA: Therapeutic Jurisprudence and Law School Clinics*, 5 PSYCHOL. PUB. POLY & L. 1147, 1148 (1999).

taught methods that require them to look beyond what resembles simply a legal issue.<sup>35</sup> This is done by encouraging the students to identify the core of the client's concern and to decide whether that client's issue is one that can be better handled by other professionals.<sup>36</sup> This approach to counseling promotes clients to make decisions themselves rather than the traditional method of lawyer-made decisions.<sup>37</sup> The "learning to learn" aspect of the clinic requires the students to carry only a small caseload so that students have the opportunity to develop analytical, self-evaluative characteristics.<sup>38</sup> The application aids in the development of professional responsibility and "develop[s] in students an appreciation of their roles as lawyers and an acceptance of their personal responsibility for the impacts that lawyers have in society."<sup>39</sup>

Therapeutic jurisprudence provides both a framework to structure foundational training for the practice of law and also challenges students to introduce an ethic of care into the workplace itself. While law schools have implicitly and explicitly encouraged individual behavior, a strong benefit of clinical education is that it provides a forum to teach and reinforce cooperative, caring behavior.<sup>40</sup> If we provide students with a clinical experience that shows them that the purpose of the law and legal system is to build a bridge and realize common aspirations between the lawyer and the client, then we will certainly be changing our profession for the better.<sup>41</sup>

It has been said that lawyers are unhappy and dissatisfied with their profession and themselves.<sup>42</sup> This trend can be reversed if lawyers force the organizations through which they practice law to commit to extending an ethic of care to the way lawyers work and live.<sup>43</sup> Therapeutic jurisprudence's

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35 *Id.*

36 *Id.* at 1156.

37 *Id.* at 1156–57.

38 *Id.* at 1160.

39 *Id.* at 1163.

40 Theresa Glennon, *Lawyers and Caring: Building the Ethic of Care into Professional Responsibility*, 43 HASTINGS L.J. 1175, 1177 (1992).

41 Stewart Levine, *A New Kind of Law School*, LAW PRAC. MGMT., Sept. 2002, at 51, 52 (suggesting law school curriculum include communication arts, psychology, counseling skills, systems theory, problem solving, creativity, conflict theory and resolution, the arts of agreement, and holism).

42 Deborah L. Rhode, *The Profession and Its Discontents*, 61 OHIO ST. L.J. 1335 (2000); Susan Daicoff, *Lawyer, Know Thyself: A Review of the Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U.L. REV. 1337, 1342–48 (1997); Susan Daicoff, *Asking Leopards to Change Their Spots: Should Lawyers Change? A Critique of Solutions to Problems with Professionalism by Reference to Empirically-Derived Attorney Personality Attributes*, 11 GEO. J. LEGAL ETHICS 547, 549–57 (1996).

43 Leslie Larkin Cooney, *Lawyer, Heal Thyself: Bringing Rational Expectations to the Law Firm Environment*, 22 WHITTIER L. REV. 967, 982 (2001) (positing lawyers have a unique responsibility to bring balance into their own workplaces); Lawrence S. Krieger, *What We're*

emphasis on the healing aspects of the profession and emotional well-being assists the accomplishment of these needed changes. Indeed, some professional organizations and practice approaches value the importance of human connectivity.<sup>44</sup> Legal practice need not be an unhappy and emotionally unhealthy profession.<sup>45</sup>

Therapeutic jurisprudence values the intangibles of imagination and trust and teaches students to view the role of lawyers in a different light.<sup>46</sup> Keri K. Gould and Michael L. Perlin have explored the incorporation of therapeutic jurisprudence into clinical education and have suggested that such an incorporation would improve not only the teaching of skills, but give a better understanding of the dynamics of clinical relationships and the effect of ethical concerns on lawyering roles, as well as invigorate the way professors and students question accepted legal principles.<sup>47</sup>

The clinic extern classroom requirement has been criticized for implicitly containing an anti-practitioner bias, lacking compelling subject matter, and struggling to incorporate clinic methodology.<sup>48</sup> However, using therapeutic jurisprudence as a foundation for this class can ameliorate such concerns.<sup>49</sup> Therapeutic jurisprudence is explicitly practitioner supportive and, its use in the classroom component ameliorates any anti-practitioner bias.<sup>50</sup> Therapeutic jurisprudence provides a compelling platform which unifies a variety of subject matters as well as skills training.<sup>51</sup>

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*Not telling Law Students—and Lawyers—That They really Need to Know: Some Thoughts—in—Action Toward Revitalizing the Profession from Its Roots*, 13 J.L. & HEALTH 1, 17–18 (1999); Benjamin R. Civiletti, *What America Really Thinks About Lawyers and What Lawyers Can Do About It*, NAT'L L.J., Aug. 18, 1986, at S9 (quoting Former Attorney General Benjamin Civiletti, "Instead of worrying about our image, we should focus on two concepts—one, the full performance of our duty to practice our profession in the interest of the public and two, the practice of our profession consistent with personal values and satisfaction").

44 Susan Daicoff, *Law as a Healing Profession: Comprehensive Law Movement*, 6 PEPP. DISP. RESOL. L.J. 1 (2006) (describing the movement in law toward a comprehensive, humanistic and restorative approach with the convergence of the main vectors of collaborative law, creative problem solving, holistic justice, preventative law, problem solving courts, procedural justice, restorative justice, transformative mediation, and, therapeutic jurisprudence).

45 Jason M. Dolin, *Opportunity Lost: How Law School Disappoints Law Students, The Public, and the Legal Profession*, 44 CAL. W.L. REV. 210, 239 (2007).

46 Baker & Zawid, *supra* note 26, at 713.

47 Keri K. Gould & Michael L. Perlin, *Therapeutic Jurisprudence: Issues, Analysis, and Applications: "Johnny's in the Basement/Mixing Up His Medicine,"* 24 SEATTLE U.L. REV. 339, 365 (2000).

48 Erica M. Eisinger, *The Externship Class Requirement: An Idea Whose Time Has Passed*, 10 CLINICAL L. REV. 659, 661–67 (2004).

49 Leslie Larkin Cooney, *Heart and Soul: A New Rhythm for Clinical Externships*, 17 ST. THOMAS L. REV. 407, 418 (2005).

50 *Id.*

51 Robert W. Denney, *Preparing for the Real World: More Law Schools Add Practical Courses*, LAW PRAC., June 2007, at 10, 11 ("more practical courses . . . begin preparing young lawyers for the realities of practicing in today's environment. Whether they choose to work in a law

Just as the tenets of TJ espouse a multi-disciplinary approach to law,<sup>52</sup> we can look to disciplines outside legal education for approaches to educating and training interns. For example, Madan M. Batra suggests in-depth pedagogical guidelines based upon the experience of supervising hundreds of marketing students for more than ten years in a successful internship program. One aspect of these guidelines includes the outline of an extensive final internship report which includes requirements for the students to describe and evaluate the placement company's programs, objectives, strategies and competitors. Students, who are business school undergraduates, must also include a discussion of the nature of their responsibilities and ways in which they could perform the same responsibilities differently, linking suggestions with the principles and theories learned in various business courses. This gives the intern "an opportunity to think and express clearly how business theory and academic knowledge is applied to a practical situation."<sup>53</sup> The education theory posits that the way the intern evaluates, organizes and expresses the material in the final report is the most convincing proof that learning has occurred.<sup>54</sup> While the typical law school clinical experience may not lend itself to this same type of extensive final report, many of us have tried to achieve some of the same learning outcomes by requiring journals and reflective writings. Journaling assignments require students to reflect upon personal values, ethics, morality, and the psychological aspects of dealing with clients, as well as the emotions and personal beliefs that are involved in the decision making process.<sup>55</sup> The journal entries can offer not only a valuable source of information about the placement,<sup>56</sup> but "[t]houghtfully prepared journals, with specifically defined and required content, will encourage most externs to explore the role of personal values and beliefs in the work experience, possible moral conflicts in personal values and beliefs

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firm, a non-profit, in-house, in government or in a completely different type of entity, being prepared to practice in the real world has to be a positive thing").

52 Dennis P. Stolle et al., *Integrating Preventive Law and Therapeutic Jurisprudence: A Law and Psychology Based Approach to Lawyering*, 34 CAL. W.L. REV. 15, 17 (1997).

53 Madan M. Batra, *Faculty Supervision of Internships*, 2 J. ACAD. OF BUS. EDUC. 12, 17 (2001). The author also suggests the final internship report include an updated resume that includes a 3–4 line summary about the newly acquired experience to provide "tangible evidence" about the student's learning. I plan to incorporate this updated resume requirement as part of the clinical experience for my law students. I agree with Batra's premise that the "tangible evidence" will reinforce acquired knowledge.

54 *Id.* See also Joseph F. Michlitsch & Meg Wright Sidle, *Assessing Student Learning Outcomes: A Comparative Study of Techniques Used in Business School Disciplines*, 77 J. EDUC. FOR BUS. 125, 129 (2002) (opining management faculty used a wide variety of assessment methods and frequently included a capstone course as well as projects in marketing).

55 Barbara A. Blanco & Sande L. Buhai, *Externship Field Supervision: Effective Techniques for Training Supervisors and Students*, 10 CLINICAL L. REV. 611, 643 (2004).

56 Harriet N. Katz, *Personal Journals in Law School Externship Programs: Improving Pedagogy*, 1 T.M. COOLEY J. PRAC. & CLINICAL L. 7, 18 (1997).

with the work experience, changing perceptions in the role of law and the practice of law in society and their role, both as a student and in the future as a lawyer, in the institutions comprising the legal system.”<sup>57</sup>

A law school clinic journaling assignment can be conflated with Batra’s suggested extensive final internship report to create a therapeutic jurisprudence report designed to have students consider and write about examples of TJ they observed during their clinical experience. The TJ Report also requires students to consider and discuss instances where they found those in the legal profession to have failed to practice an “ethic of care.” The TJ Report asks students to answer eight questions and is modeled after a questionnaire designed as a format for the discussion of legal situations that may have an impact on psychological well-being—“Identification of Psycholegal Soft Spots and Strategies.”<sup>58</sup> The TJ Report requires students to discuss the message of therapeutic jurisprudence of law as a healing profession and: (1) “Provide a brief description of the legal situation;” (2) “Describe the potential or actual nonlegal motivations or consequences to the parties involved;” (3) “Provide a description of the action taken and the legal and nonlegal outcomes;” (4) “Explain whether or not you believe this approach resulted in successful legal and nonlegal outcomes and explain why;” (5) “Describe alternate approaches that could have been taken and how the legal and nonlegal outcomes may have been more or less successful than the actual outcomes;” (6) “(D)escribe how this situation may have been prevented or diminished in severity by other attorneys or other judges at earlier points in time;” (8) Include any “general comments.”<sup>59</sup>

Students in the NSU Law Center’s Business Practice Clinic<sup>60</sup> read articles on therapeutic jurisprudence,<sup>61</sup> discussed its concepts and applications in

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57 Blanco & Buhai, *supra* note 55, at 646. The authors suggest that the journal entries should contain self-reflections of legal resolutions, not in a detached “legal resolution” manner, but rather from the “human viewpoint” focusing on psychological aspects of the client’s situation. The purpose of these self-reflective journals are to provide the student with a manner in which to evaluate their experiences, reactions, and “lessons learned in the field.” *Id.* at 643, 645.

58 Marc W. Patry et al., *Better Legal Counseling Through Empirical Research: Identifying Psycholegal Soft Spots and Strategies*, 34 CAL. W.L. REV. 439, 443 (1998).

59 *Id.* at 443–45.

60 “The Business Practice Clinic prepares students to enter the challenging field of business law. Clinic students have the opportunity to develop transactional skills, including planning, interviewing, counseling, negotiation, and drafting. Following the clinic’s instructional component, students are placed with a corporate law office, business law firm, or government/administrative legal department where they are mentored by an experienced business law attorney.” *Clinic Descriptions*, Nova Southeastern University <http://www.nsulaw.nova.edu/clinics/descriptions.cfm>.

61 A concise yet thorough article is David B. Wexler and Bruce J. Winick, *Putting Therapeutic Jurisprudence to Work: The Term May Sound Academic but it Embodies a Hands-On Approach to Solving Problems Rather than Simply Winning Cases*, 89 A.B.A.J. 54 (2003).

class and, after spending significant time at their externship placements,<sup>62</sup> completed a TJ Report. Students were told:

The message of therapeutic jurisprudence is simple—focus on emotional life and psychological well-being and practice law as a healing profession. Please consider examples both of when you have observed therapeutic jurisprudence during your externship and of where you observed those in the legal profession failing to practice an “ethic of care.” Use both types of events to answer the following questions.<sup>63</sup>

This exercise helped students to think broadly about the profession they would soon be entering while at the same time forcing them to focus on specific events<sup>64</sup> where they might have observed therapeutic jurisprudence—or even the lack thereof. Most students reported pleasant surprise at how attorneys in their field placement offices did focus on their clients’ entire well-being, rather than just rush to complete individual legal tasks for clients.<sup>65</sup> “Successful apprenticeship instills these habits of the practical mind as the learner sees expert judgment in action and is then coached through similar activities.”<sup>66</sup> For example, one student reported

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62 Extern clinical formats vary, but most share the following components: students practice in a setting outside the law school in the capacity of a junior associate, usually under the supervision of any attorney who is not a member of the faculty; the student receives law school credit rather than pay; students usually must attend a class, taught by a faculty member and covering lawyering, substantive law, ethics, or other topics related to the externship work; and, students generally keep a journal reflecting their work and what they are learning. Elliott S. Milstein, *Clinical Legal Education in the United States: In-House Clinics, Externships, and Simulations*, 51 J. LEGAL EDUC. 375 (2001); Mary Jo Eyster, *Designing and Teaching the Large Externship Clinic*, 5 CLINICAL L. REV. 347, 349 (1999) (citing Robert F. Seibel & Linda H. Morton, *Field Placement Programs: Practices, Problems and Possibilities*, 2 CLINICAL L. REV. 413 (1996); Marc Stickgold, *Exploring the Invisible Curriculum: Clinical Field Work in American Law Schools*, 19 N.M.L. REV. 287 (1989); Janet Motley, *Self-Directed Learning and the Out-Of-House Placement*, 19 N.M.L. REV. 211 (1989); J.P. Ogilvy, *The Use of Journals in Legal Education: A Tool for Reflection*, 3 CLINICAL L. REV. 55 (1996)). See generally James H. Backman, *Practical Examples for Establishing an Externship Program Available to Every Student*, 14 CLINICAL L. REV. 1 (2007) (discussing apprenticeships based externs which shift the emphasis from the faculty supervisor to the individual students).

63 Therapeutic Jurisprudence Report Questionnaire, Nova S.E.U. Shepard Broad L. Ctr. (Mar. 17, 2005) IRB Exempt, Protocol #KLC001. (on file with author). Completion of the report was purely voluntary by the students. Students were informed and consented to the use of their reports in the writing of this article.

64 A major limitation of legal education today is that only casual attention is given to “teaching students how to use legal thinking in the complexity of actual law practice.” SULLIVAN ET AL., *EDUCATING LAWYERS*, *supra* note 31, at 188.

65 The second major limitation of legal education is its failure to provide support for developing the ethical and social dimensions of the profession. “Students need opportunities to learn about, reflect on, and practice the responsibilities of legal professionals.” *Id.*

66 *Id.* at 97 (contending the most complex challenge in the preparation of legal practitioners is the blending of analytical and practical habits).

about the discussion an attorney had with a client while discussing a real estate matter. After the legal issue had been discussed, the attorney proceeded to ask some general questions about how the client was doing. The student described the client as distraught and “getting a divorce after 20 years of marriage.”<sup>67</sup> The student recounted how the attorney spent time listening to and consoling the client, even though it was obvious that this was not something the real estate attorney would be using to generate revenue. The student further observed the attorney discussed the range of emotions the client may be experiencing and even suggested several strategies to help the client cope. In the student’s own words:

The attorney appeared concern [sic] with no legal motivations behind his discussion. The attorney, a highly respected professional, was very busy that day, and although he may have had a legal motivation to look out for his client’s best interests, the attorney was definitely more concerned with the well-being of this individual.<sup>68</sup>

The student continued in the TJ Report by wondering if some would argue that the attorney had overstepped by going beyond an issue purely legal in nature; the student also questioned whether the other members of the law firm would “frown on this use of time.” Nonetheless, the student concluded the result was positive to the client and generated a stronger attorney–client relationship.<sup>69</sup> Stories such as these can be used by the clinical classroom instructor to generate rich discussions not only on these aspects but also about trust, concern, and attorney job satisfaction as well.<sup>70</sup> As one critic stated: “Law school does not teach lawyers how to effectively interact with clients . . . . Lawyers learn . . . from the ‘School of Hard Knocks.’”<sup>71</sup> The TJ Report is one way to avoid the ‘hard knock’ approach to learning and give Millennials a “leg-up” so they can begin their professional careers with these lessons already learned.

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67 Therapeutic Jurisprudence Report Interview with Student 101, Law Student, Nova S.E.U. Shepard Broad L. Ctr., in Fort Lauderdale, Fla. (Apr. 11, 2005).

68 *Id.*

69 *Id.*

70 Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 874 (1999) (“Lawyers seem to be among the most depressed people in America”).

71 Edward Poll, *Coaches Teach What Law Schools Don’t*, L. PRAC. TODAY, May 2007, available at <http://www.abanet.org/lpm/lpt/articles/mgt05071.shtml>.

A TJ Report such as this one indicates the student is achieving a number of desirable outcomes necessary for an entry level of competence for the legal profession. *Best Practices for Legal Education*<sup>72</sup> lists the following statement of outcomes:

1. Demonstrate appropriate behavior and integrity in a range of situations, including contentious and non-contentious areas of work.
2. Demonstrate the capacity to deal sensitively and effectively with clients, colleagues and others from a range of social, economic and ethnic backgrounds, identifying and responding positively and appropriately to issues of culture and disability that might affect communication techniques and influence a client's objectives.
3. Apply techniques to communicate effectively with clients, colleagues and members of other professions.
4. Recognize clients' financial, commercial and personal constraints and priorities.
5. Effectively approach problem-solving.
6. Effectively use current technologies and strategies to store, retrieve and analyze information and to undertake factual and legal research.
7. Demonstrate an appreciation of the commercial environment of legal practice, including the market for legal services.
8. Recognize and resolve ethical dilemmas.
9. Use risk management skills.
10. Recognize personal and professional strengths and weaknesses, to identify the limits of personal knowledge and skill and to develop strategies that will enhance their personal performance.
11. Manage their personal workload and manage efficiently and concurrently a number of client matters.
12. Work as part of a team.<sup>73</sup>

When we fashion legal education to maximize student attainment of these outcomes, we can improve upon the observations of many law graduates who report they learned many important lawyering skills only after graduating from law school.<sup>74</sup>

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<sup>72</sup> ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION* (2007). The book is the product of the Best Practices Project of the Clinical Legal Education Association.

<sup>73</sup> *Id.* at 54 (citing THE LAW SOCIETY, *SECOND CONSULTATION ON A NEW TRAINING FRAMEWORK FOR SOLICITORS*, § 4, ¶ 46 (2003)). Best Practices has adopted, with a few changes, the statement of outcomes being pursued in England and Wales. STUCKEY ET AL., *supra* note 72, at 53.

<sup>74</sup> John Sonsteng & David Camarotto, *Minnesota Lawyers Evaluate Law Schools, Training and Job Satisfaction*, 26 WM. MITCHELL L. REV. 327, 330 (2000); Dolin, *supra* note 45, at 220.



Other students reported on specific examples of lawyers practicing therapeutic jurisprudence within the framework of their everyday practices. In one instance, a client had designed a product for her employer but had been fired before the product was produced. The client had been barred from returning to the place of employment and had been denied access to her product designs. This had caused aggressive behavior by the client which, in turn, led to the employer obtaining a temporary injunction order against the client. At the time of the first hearing on the temporary injunction, the employer was granted a continuance. In discussing the impact of this continuance and the additional stress it placed upon the client, the student noted how difficult it was for clients who do not understand the legal system. Opposing counsel only sent notification about the request for continuance late the night before the hearing. The student reported that the client, unaware of this, traveled a long distance on the scheduled day in hopes of some resolution, and then found out, the hearing had been continued. The student reported on the need for attorneys to listen to the client, empathize with the client, and allow the client the ability to vent frustrations.<sup>75</sup> The student was able to understand that although a positive result in the case was important for the client in the long run, a short-term resolution was nearly impossible and so it was critical to seek other avenues of providing non-legal relief to this client.<sup>76</sup> Such recognition is often not achieved until after one has practiced law for a period of time. The TJ Report caused this student to amplify her clinical observation and convert it to future skills much more rapidly and it also allowed other students to experience similar benefits when the report became a focal point in the clinical classroom. A student in another law office observed therapeutic jurisprudence in a real estate transaction. In this particular case, the seller needed an additional couple of days after the closing to vacate completely and give the buyer possession, but the seller did not want to pay rent for the additional days. The student's office represented the buyer. The buyer's attorneys, recognizing the buyer was not planning on moving into the property for several weeks, realized a few days continued possession by the seller was not going to financially harm their client, but did understand there were risks which needed to be avoided. The attorneys were able to accommodate the needs of both parties by drafting a post-closing

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<sup>75</sup> Therapeutic Jurisprudence Report Interview with Student 102, Law Student, Nova S.E.U. Shepard Broad L. Ctr., in Fort Lauderdale, Fla. (Apr. 11, 2005).

<sup>76</sup> The goal of legal education should not be solely, or even predominately, analytical knowledge. The goal has to be holistic, one which moves students towards becoming lawyers who embody the profession's highest levels of skill in the service of its defining purpose. *Educating Lawyers* proposes a three part model: (a) "the teaching of legal doctrine and analysis, which provides the basis for professional growth"; (b) "introduction to the several facets of practice . . . leading to acting with responsibility for clients"; and, (c) "a theoretical and practical emphasis on inculcation of the identity, values, and dispositions consonant with the fundamental purposes of the legal profession." STUCKEY ET AL., *supra* note 72, at 275.

occupancy agreement in which the seller was granted a few days to move out in exchange for a putting money in escrow for the buyer's protection. The student wrote: "Considering the fact that this real estate transaction was sometimes complicated by differences in opinions and personalities between the buyer and the seller, the attorneys resorted to an approach that was amicable and cooperative in nature. This is an example of what I feel therapeutic jurisprudence seeks to enforce."<sup>77</sup> Even more importantly, this student is chronicling in the TJ Report the investigative and interpersonal capacities that good lawyering requires.<sup>78</sup>

Conversely, some students reported about the failure to practice therapeutic jurisprudence. One student was clearly troubled in her report about the filing of a malicious prosecution action. The client was the parent of a teenager who had been the driver of an automobile involved in a collision in which a number of other teenagers were very seriously injured. The client/parent did not own the vehicle and the driver had resolved all of the civil cases against him, yet the victims were continuing to file suits individually against the client just before the statute of limitations was to expire. Rather than defend each lawsuit as it arose, the client chose to file actions for malicious prosecution. The student reported how the client was likely tired of being harassed and being labeled as the parent of a bad person; the child was actually incarcerated as a result of the accidents, and this, naturally, would cause the client to have additional stress. While the student did see the legal action as part of client's healing process, the student also recognized the needs of the victims who had suffered such great losses. The student's reflections in the TJ Report indicate the student spoke to the supervising attorney several times about these conflicted objectives.<sup>79</sup> The student wrote:

The malicious prosecution actions could definitely have been prevented if the victim's [sic] attorney [sic] had abided by the judge's prior ruling. They had to know the [parent's] cases would be dismissed because the judge in the first case concretely stated that no lawsuit could be brought against the

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<sup>77</sup> Therapeutic Jurisprudence Report Interview with Student 103, Law Student, Nova S.E.U. Shepard Broad L. Ctr., in Fort Lauderdale, Fla. (Apr. 11, 2005). This passage by the student is an illustration of the importance of reflection to learning. Reflection has been identified as essential to lifelong learning. Donald A. Schon, *Essay: Educating the Reflective Legal Practitioner*, 2 CLINICAL L. REV. 231, 243 (1995); GUY CLAXTON, WISE UP: THE CHALLENGE OF LIFELONG LEARNING 14 (1999); DONALD A. SCHON, THE REFLECTIVE PRACTITIONER: HOW PROFESSIONALS THINK IN ACTION 68 (1983).

<sup>78</sup> Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 516, 519 (2007) (stating "legal imagination" is what lawyers need most to efficiently fulfill lawyering roles and arguing that law schools breed a culture of competition and conformity).

<sup>79</sup> Such conversations are not only helpful for students to gain insight, but also useful in generating multiple perspectives and developing alternative approaches. Katherine R. Kruse, *Biting Off More Than They Can Chew*, 8 CLINICAL L. REV. 405, 438 (2002).

[parent]. And still they named [the parent] in the individual civil suits and [the parent] had to fight the same battle several times over.<sup>80</sup>

The TJ Report aided this student to work through the realities of having a professional role. As stated by Judith Welch Wegner, one of the authors of *Educating Lawyers: Preparation for the Profession of Law*, “There is a new generation of students, and we need to continue to expose them to the profession and make an effort to help them be more well-rounded—to help them think, to learn to be lawyers, to understand ethics, to work through the realities of having a professional role and having their own professional appreciation about what is important to them.”<sup>81</sup> Not only do Millennials crave learning which goes beyond the academic slant of current legal education, but they also express dissatisfaction with the irrelevant.<sup>82</sup>

Finally, some students reported finding therapeutic jurisprudence being practiced proactively. For instance, a student who was working in a university athletic office, discussed how it was important for lawyers working in areas of collegiate athletic compliance to work with student-athletes in terms of their educational, emotional, and psychological well-being and not as revenue generators. Such an approach, the student reported, created an atmosphere not only where student athletes thrived academically, but also caused a good legal result: the client had an athletic department which was able to avoid rule infractions and avoid a lack of eligibility and non-retention of student athletes. The student stated “Advice concerning how to apply the NCAA bylaws to a specific institution provides attorneys/compliance coordinators familiar with TJ the opportunity to promote the well-being of the student athletes which will result in promoting compliance with the NCAA bylaws.”<sup>83</sup> The student concluded this served everyone’s interests: fewer rules’ infractions, more scholarships to deserving student-athletes, move revenue for the client, and tremendous career satisfaction for the attorney. The TJ Report helped this student better understand what she was learning from her experience.<sup>84</sup> It provided the vehicle for her reflection

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80 Therapeutic Jurisprudence Report Interview with Student 104, Law Student, Nova S.E.U. Shepard Broad L. Ctr., in Fort Lauderdale, Fla. (Apr. 11, 2005). The Therapeutic Jurisprudence Report can aid in filling in the “gap between teaching students to think like a lawyer and act like a lawyer—especially in ethical situation . . . .” Katherine Mangan, *A Plea for Real-World Training in Law Schools*, CHRON. OF HIGHER EDUC., Jan. 19, 2007 (quoting Lee. S. Shulman, President of the Carnegie Foundation and one of the authors of EDUCATING LAWYERS, *supra* note 31).

81 Jill Schachner Chanen, *Re-engineering the JD: Schools Across the Country are Teaching Less About the Law and More About Lawyering*, 93 A.B.A.J. 42 (2007) (quoting Judith Welch Wegner).

82 Dolin, *supra* note 45, at 241–42.

83 Therapeutic Jurisprudence Report Interview with Student 105, Law Student, Nova S.E.U. Shepard Broad L. Ctr., in Fort Lauderdale, Fla. (Apr. 11, 2005).

84 Richard K. Neumann Jr., *Donald Schon: The Reflective Practitioner, and the Comparative Failures of Legal Education*, 6 CLINICAL L. REV. 401 (2000). “Professional thinking is best

and allowed her to focus on both the cognitive and affective aspects of her experience.<sup>85</sup> Reflection is particularly important for Millennials, but it is also one of the most challenging skills to teach adult learners. It is, however, the act of reflecting that causes students to make sense of what they have learned and link that which has been learned to the wider perspective and their existing understanding.<sup>86</sup>

Therapeutic jurisprudence provides a methodology in which we can teach, rekindle and reinforce interpersonal skills.<sup>87</sup> Therapeutic jurisprudence can bring students a great deal more satisfaction than traditional lawyering might.<sup>88</sup> “Knowing that you have helped a client accomplish his or her goals and move toward leading a more satisfying life is extraordinarily gratifying, both personally and professionally. For me, it is what makes being a healing lawyer worth the effort.”<sup>89</sup> Introducing the ethic of care harmonizes the practice of law for both lawyers and clients and contributes to satisfaction while decreasing distress.<sup>90</sup> “Likewise, when students form relationships with professionals who inspire them, they can internalize new images of what they want to be like more deeply and vividly than they are likely to do through reading.”<sup>91</sup>

Clinical legal education can also work with Millennials in giving them a professional head start by incorporating concepts from undergraduate schools of education. In the training of intern teachers, such programs have employed computer-mediated communication to develop reflective thinking in an on-line environment.<sup>92</sup> Because teacher interns spend an extensive amount of time actually teaching, their opportunities for reflective

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learned in a ‘reflective practicum,’ where students learn by doing while interacting with teachers who view themselves as coaches.” *Id.* at 414–15.

85 Steven Hartwell, *Six Easy Pieces: Teaching Experientially*, 41 SAN DIEGO L. REV. 1011, 1012–13 (2004) (explaining that optimal learning requires a continuation of experience, reflection, theory, and application).

86 John O. Sonsteng, Donna Ward, Colleen Bruce & Michael Petersen, *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 WM. MITCHELL L. REV. 303, 405–06 (2007).

87 See Marjorie A. Silver, *Therapeutic Jurisprudence/Preventative Law and Teaching: Emotional Intelligence and Legal Education*, 5 PSYCHOL. PUB. POL’Y & L. 1173, 1200 (emphasizing that students should “integrate into their visions of lawyering an appreciation of the importance of personal skills and emotional intelligence”).

88 Cooney, *supra* note 49, at 416.

89 Richard L. Halpert, *More Than One Kind of Recovery: In Personal Injury Cases, Money Does Not Always Answer the Client’s Needs*, 89 A.B.A.J. 58, 59 (2003).

90 David Wexler, *Therapeutic Jurisprudence and the Culture of Critique*, 10 J. CONTEMP. LEGAL ISSUES, 263, 276 (1999).

91 SULLIVAN ET AL., EDUCATING LAWYERS, *supra* note 31, at 146–7 (listing this as “one of the important, though rarely documented, benefits of well-designed experiences of pro-bono and service work, of good externships, and especially of clinical courses”).

92 Bradley W. Hough et al., *Using Computer Mediated Communication to Create Virtual Communities of Practice for Intern Teachers*, 12 J. OF TECH. & TEACHER EDUC. 361 (2004).

dialogue are minimal, yet educators sought a beneficial way to connect their interns to reduce isolation, increase professional growth, and positively impact the interns' own learning experience.<sup>93</sup> A study of thirty-five intern teachers participating in an intensive training program at a private university required the interns to participate in an on-line conference, and the interns were required to post a minimum number of messages which could be accessed by all participants asynchronously.<sup>94</sup> Just as computer-mediated communication is an attractive low-cost alternative for facilitating intern teacher dialogue by providing a convenient opportunity for interaction; likewise, law school clinic students could use a virtual community to enhance discussion of legal theories, best practices for attorneys, and reflective topics. Millennials are familiar with communicating via the computer; law school clinicians should seize this familiarity and use it in a beneficial way to connect their interns, increase communication, and create more thoughtful discussions. On-line conferences can be thoughtful and reflective when the topics have a focused purpose or a problem base for discussion.<sup>95</sup>

We can also look to the business world in general and law firms in particular and study how they train existing employees to give us a basis for designing enhanced programs to train our students. One trend has been to adopt a Japanese style approach to employee training with an emphasis on teamwork and relationships. Management personnel are often trained in all aspects of a business, including clerical or factory-type functions as a way to close the psychological gap between managers and those they supervise. Toshiba, Hitachi, and other companies also routinely utilize retreats in isolated locations to force interaction, including problem solving activities and even housekeeping chores.<sup>96</sup> Whirlpool has expanded on these concepts and is trying to prepare its youthful marketing representatives in a pragmatic and effective way.<sup>97</sup> Whirlpool has modeled its program after the MTV series "The Real World"<sup>98</sup> and several times a year it selects seven young trainees to "live together for eight weeks in a leased, seven bedroom house not far from its corporate headquarters."<sup>99</sup> Whirlpool has designed the training to build team spirit and also trust. There are no restrictions

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93 This situation obviously is comparable to law school clinic students who spend extensive time "lawyering" causing their time for reflective dialogue to be minimal.

94 Hough et al., *supra* note 92, at 365, 382.

95 See Gharakhanian, *supra* note 21, at 86-91 (outlining a the use of on-line guided reflections in the externship Program at Southwestern Law School and noting its success and the delivery of a substantially better educational experience).

96 Susan Chira, *Business Schools, Japanese Style*, N.Y. TIMES, Aug. 4, 1985, at 34.

97 David Barboza, *Living and Learning at Dishwasher U.; Whirlpool Trainees Prepare for Real World*, N.Y. TIMES, Sept. 12, 2000, at C1.

98 The Real World is a MTV series which chronicles the experiences of seven Millennials living together for five months.

99 Barboza, *supra* note 97, at C1.

on the trainees' relationships at the house and no legal documents laying out guidelines for living together.<sup>100</sup> The group does visit local stores to determine how well the company's appliances sell. They go on repair calls with a local crew, visit the company's manufacturing plant, and tour the research center. The main emphasis, however, is for the group to "stay at home" cooking, cleaning, and mastering the company's appliances.<sup>101</sup> The appliances are periodically swapped for different models—sometimes even for those of a competitor, for comparison purposes. There are written tests, oral presentations, and frequent quizzes on the products' "attributes and idiosyncrasies."<sup>102</sup>

The Walt Disney Company uses imaginative seminars to teach its business executives "its distinctive approach to fostering good customer service."<sup>103</sup> Indeed, it trains 1,600 participants each year with a goal of making 36,000 employees "think and act as one."<sup>104</sup> At a three day retreat the company focuses on its "pixie dust," the Disney synonym for "creating a corporate culture that makes employees happy, which leads . . . to excellent customer service without costly employee supervision."<sup>105</sup> Of course, just because a training program is long, or conducted in an isolated atmosphere, does not mean it will be effective. For example, Deloitte Consulting had a weeklong training program which, while fun for attendees, did not really provide any relevance to what was needed in the workplace.<sup>106</sup> While training should be aligned with a company's business strategy, the prominence of leadership development indicates that many organizations believe the employment landscape is ripe for a dramatic shift.<sup>107</sup> In 2011, when the first of the baby boomers turn sixty-five and begin to retire, available jobs will outnumber available workers by 4.3 million; a worker shortage will present many challenges, and the business training community is recognizing the need to groom today's Millennial workforce to assume future leadership roles.<sup>108</sup> One author posits that such

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<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> Douglas C. McGill, *A 'Mickey Mouse' Class—For Real*, N.Y. TIMES, Aug. 27, 1989, at 34.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> Abby Ellin, *Management; Training Programs Often Miss the Point on the Job*, N.Y. TIMES, Mar. 3, 2000, at C12.

<sup>107</sup> Brandon Hall & Sarah Boehle, *Top Training Priorities for 2004: The Second Annual Leaders of Learning Survey: Here are the Top Issues Facing Senior Training Professionals in the Coming Year—How Do Your Priorities Compare?*, 41 TRAINING 26, 27, 28–30 (2004). Over 8% of all respondents to a survey of learning professionals from U.S. organizations of all sizes, including for-profits, non-profits, and governmental organizations, ranked leadership development as one of their three top priorities.

<sup>108</sup> *Id.* at 30.

training is essential because Millennials are “woefully unprepared” for what they will encounter in the workplace because they have been raised to believe self-esteem is more important than achievement.<sup>109</sup> “You can’t imagine someone graduating from medical school without spending time in a hospital, and you can’t be a rabbi without some serious clinical experience . . . . Law is about the only profession that doesn’t require it. That’s wrong, and it has to be corrected.”<sup>110</sup> Educational experiences oriented toward preparation for the practice of law provide the “more fluid expertise needed in much professional work” and provide important motivation for “engaging with the moral dimension of lawyering.”<sup>111</sup>

Lifelong learning skills are important for all lawyers to acquire so they can continue developing their problem solving expertise.<sup>112</sup> Key to this is development of the skills of “teamwork, communication, diplomacy, and adaptability.”<sup>113</sup> One way to accomplish self-learning by students is to create protocols such as the TJ Report that will help them reflect on and understand better what they are learning from experience.<sup>114</sup> Millennials want to learn, but only in “a style that is best for them.”<sup>115</sup> They need to discuss goals and have opportunities for interaction.<sup>116</sup> “If you want an organization that’s adaptable, robust and flexible, the nexus change is relationships. People need a sense of community.”<sup>117</sup> Millennials are masters of multitasking<sup>118</sup> and are much more likely to mix work and play;

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109 JEAN M. TWENGE, *GENERATION ME: WHY TODAY’S YOUNG AMERICANS ARE MORE CONFIDENT, ASSERTIVE, ENTITLED—AND MORE MISERABLE THAN EVER BEFORE* 130 (2006).

110 Mangan, *supra* note 80, at A8 (quoting Larry D. Kramer, Dean of Stanford University Law School); Neumann, *supra* note 84, at 426 (“It would be unthinkable to graduate physicians with no clinical clerkships or architects with no experience in a design studio”).

111 SULLIVAN ET AL., *EDUCATING LAWYERS*, *supra* note 31, at 88. “Students cannot become effective lawyers unless they have opportunities to engage in problem solving activities in hypothetical or real legal contexts.” *Id.* at 95 (concurring in this same thesis, found in ROY STUCKEY ET AL., *supra* note 72)).

112 STUCKEY ET AL., *supra* note 72, at 126.

113 Wesley W. Ehrecke, *Sharpening Your Staff Skills*, 56 ASS’N. MGMT. 83, 83 (2004).

114 STUCKEY ET AL., *supra* note 72, at 127.

115 Scott Carlson, *supra* note 19, at A36.

116 Millennials respond to flexible schedules, praise, and independence and, conversely, do not adapt well to rigid rules, criticism, and micromanagement. TWENGE, *supra* note 109, at 216–21.

117 Ellin, *supra* note 106, at C12 (quoting Birute Regine, who, with Roger Lewin, authored *THE SOUL AT WORK* (Simon & Schuster 2000)).

118 Studies, however, show that when one engages in simultaneous tasks almost without exception the performance of one or both tasks directly suffers. Helene Hembrooke & Geri Gay, *The Laptop and the Lecture: The Effects of Multitasking in Learning Environments*, 15 J. COMPUTING IN HIGHER EDUC. 1, 4 (2003). Researchers have also concluded that even though people can learn while multitasking, they won’t learn as well as they otherwise would. Karin Foerde et al., *Modulation of Competing Memory Systems by Distraction*, 103 PROCEEDINGS OF THE NAT’L ACAD. SCIENCES 11778 (2006).

their collaboration is not only in-person, but also virtual. An organization which encourages this kind of development creates leaders which are more energized, passionate, knowledgeable, and driven to exceed expectations at the highest level.<sup>119</sup>

This is the most high-maintenance workforce in the history of the world. . . . The good news is they're also going to be the most high-performing workforce in the history of the world. They walk in with more information in their heads, more information at their fingertips—and, sure, they have high expectations, but they have the highest expectations first and foremost for themselves.<sup>120</sup>

Clinical legal education can encourage Millennials not only to be thoughtful and responsible practitioners, but it can give them a head start in “making ethically responsible decisions. . . being continually self reflective, and critically analy[zing] one’s own experiences.”<sup>121</sup> Just think what Millennials will accomplish if clinical education gives them a leg-up!

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<sup>119</sup> Ehrecke, *supra* note 113, at 84.

<sup>120</sup> Hira, *supra* note 7.

<sup>121</sup> Mark Neal Aaronson, *We Ask You to Consider: Learning About Practical Judgment in Lawyering*, 4 CLINICAL L. REV. 247, 249 (1998).



