ARTICLES

How We Teach: A Survey of Teaching Techniques In American Law Schools

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"The more I know about my students, the more I know about myself, the more wisely I will teach."

Professor Louis Schmier

I. INTRODUCTION

While much has been written about the Socratic method, and how it has been universally accepted in American law schools, there remains the fundamental and generally unasked question: How do we

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2. Professor Richard Neumann states: The term 'Socratic' often is used misleadingly to identify a style of classroom teaching in which a professor interrogates students. As actually practiced in the classroom, however, this method is not Socratic at all: the accurate term would be "Langdellian" or even "Protagorean." Langdell's technique coincides with the pedagogical technique of Protagoras, the leading Sophist and Socrates' rival. Protagoras taught through eristical questions centered on the interpretation of textual material, a method Socrates scorned.


Perhaps all that can be said about the Socratic Method is that it means different things to different people. It is often recognized, however, in at least some variant, as the centerpiece of legal education methodology. This orthodoxy of the Socratic method has existed throughout much of this century and perhaps can be traced back to the 1870s when Professor Christopher Columbus Langdell "discovered" the casebook and provided a means to approach law as a science. Id. at 728 n.14. The primary tools of this orthodoxy—the "Socratic" method and the casebook—support a particular learning paradigm.
really teach in law school? Because it is generally assumed that education is occurring in the law school classroom and that the methodology used is effective, conscious scrutiny about methods of teaching law is rare. This Article attempts to open the door to a more conscious evaluation of the law school teaching process and the assumptions upon which that pedagogy is based. It is premised on the belief that such a conscious evaluation of teaching objectives and methods might lead to change and improvement.

With the support of a grant from the Institute for Law School Teaching, a nationwide survey was distributed to law professors essentially asking: how do we teach and why? The survey requested information about teaching goals, methods, rationales, new techniques, and any techniques professors wished they had used. To help paint a clearer picture of the respondents, the survey also sought background information.

The attempt to gather information about law school teaching was grounded on several salient premises. It was believed that teaching style and technique can make a difference as to the quality and quantity of learning by the students in the classroom. A corollary to this belief is that teaching and learning are not necessarily causally related, and that some professors do not connect their chosen style of teaching to the learning process. Further, it is posited that students do not necessarily learn in the same manner, rendering a lack of focus on the connection between teaching and learning all the more meaningful.

The questionnaires were designed to produce useful information about law professors' goals and methods, particularly whether and how
instructors connected their teaching methods to the learning process. While no claims are made for the survey's scientific validity, the study offers some data and insight regarding what law professors do in the classroom, and why they do it that way. Several conclusions were drawn from the survey. While law professors predominantly use the Socratic or lecture methods, there is significant use of and interest in a wide variety of alternative methods, such as active participation by students, requiring "such higher order thinking tasks as analysis, synthesis, and evaluation."9 The numerous variety of alternative methods indicates that law professors have widely disparate views about the learning process.

A person's law school teaching is predicated on or supported by one or more learning theories, therefore, Part II of this Article discusses cognitive and developmental learning theories and how they relate to law school teaching methods. Part III explains the teaching survey that was sent to the law schools, including the questionnaire used and the type of respondents who answered. Part IV of the Article reproduces the questionnaire results. Part V analyzes those results. This Article concludes that teaching methods should be consciously related to the learning process. Only by focusing on how students learn can a teacher truly be effective. The survey results show that although many law professors continue to use only the Socratic method, others are exploring alternative methods that may better ensure the effectiveness of the learning process.

II. BACKGROUND: LEARNING THEORY

"The great aim of education is not knowledge but action."
Herbert Spencer.10

A. Learning Theory Generally

Why explore learning theories in a paper on legal education pedagogy? While a Socratic orthodoxy may still exist in the law school teaching arena, a myriad of basic and underlying theories also exist, much like the invisible subatomic particles that comprise all matter. Learning theory is essential to pedagogy. If teaching is seen as what people learn, then effective delivery is paramount. If students do not

retain the information and cannot easily retrieve it for use later, then the best lecture is of little value.

One premise of this Article is that whether conscious or not, a law professor’s teaching methods are predicated on or supported by one or more learning theories. This section offers a brief introduction to some of these learning theories, and provides a context for the results of the teaching survey. The teaching survey becomes illuminating, consequently, by what methodologies are or are not used by legal education professors.

Learning theories focus on students and how they receive and integrate the knowledge, information, and material being communicated. A tacit assumption of most professors is that the teaching style or technique used will “connect up” to all of the students and influence their learning. Yet, more and more educators are characterizing students as “three dimensional” learners who have disparate propensities for learning. This three-dimensional learning theory suggests that teaching methods and techniques must adjust to context, and that the success of teaching techniques or methods may depend on the particular students being taught. In this sense, the learning process is more individual than collective.

Learning theories may overlap or conflict. There appears to be no empirically “correct” theory or approach (although theoreticians certainly have their favorites). The mere recognition, however, that differences in students create differences in learning indicates that learning theories may be very helpful in determining which teaching methods to use. The following subsections discuss two principle learning theories—cognitive and developmental. Cognitive learning theory focuses on how an average person responds to the classroom and the learning process. Developmental learning theory, in contrast, focuses on how people’s learning skills and abilities change as they get older. The principles of these theories are set forth briefly below.

B. Cognitive Learning Theory

Cognitive learning describes the way people obtain, process, store, and recall information. In essence, it describes how human mental functioning occurs. This information either has been perceived in


the outside world or is reconceptualized from "internal knowledge" already possessed.13

Most learning theories view the learning process as an active one, involving the construction of concepts and not merely the receipt of prepackaged knowledge and skills.14 It is widely believed that an individual uses cognitive structures or schemata to help organize the intake of information into a workable concept or idea. The general learning components of perception, memory, and recall effectively provide only the basic engine for the car of learning, not the entire structure. To understand the design and mechanics of the entire car requires an inquiry into cognitive learning styles, and the numerous studies about those styles.15 Several approaches to cognitive learning theory exist. These include: (1) schemata, (2) domain specific versus generic thinking, (3) orders of thinking, and (4) cognitive boundaries and context.

1. Schemata

One cognitive approach contends that knowledge exists in categories or schema. Under this approach, "knowledge is not [simply] a 'basket of facts.'"16 Instead, "the essence of knowledge is structure."17 This structure is created by a person's expectations18 and provides a way to organize information as it is being received. The schema or structure has two parts: "(1) declarative knowledge, the factual information describing the instances and attributes of some particular aspect of the world and (2) associational knowledge, the semantic connections which form a network of interrelationships linking examples and characteristics to schema concepts."19 Once a structure is in place, information is encoded to fit cleanly into the structure in accordance with one's expectations, much like clothes

13. See Asghar Iran-Nejad, Active and Dynamic Self-Regulation of Learning Processes, 60 REV. OF EDUC. RESEARCH 573, 573 (1990) (in which the author argues that learning includes the creative reconfiguration of internal knowledge).
15. For one study about the cognitive styles of law students, see ALFRED G. SMITH, COGNITIVE STYLES IN LAW SCHOOLS (1979).
17. Id.
18. Id.
stored in dresser drawers. Once stored, the information can be readily retrieved and reconstructed in light of the same expectations.

The stronger the schema a person has, the more likely it is that he or she can comprehend principles and think predictively and generally. For example, a person who teaches a course for the first time generally has weaker schema than a person teaching that same course the second time. However, the strength of a person’s schema is not the only determinant of how that person thinks. A person’s current knowledge and capacity for learning is also conditioned by culture and other environmental influences. The schematic approach to cognitive learning therefore overlaps with domain specific versus generic thinking theories discussed in the next subsection.

2. Domain Specific Thinking vs. Generic Thinking

The recognition that culture and other environmental factors influence learning coalesces with the contention that the quality of a person’s thinking depends on the particular context or domain in which that thinking occurs. Domain specific thinking posits that the context of learning is as important as the subject matter being discussed. Thus, the same subject matter delivered in different contexts may have an entirely different effect on a single person.

Generic thinking, by contrast, suggests that thinking occurs in a similar fashion no matter what the time, place, culture, or other stimulus that exists. Thus, the person doing the thinking and not the classroom configuration or environment, is what is considered significant under a generic learning theory. In essence, a combination of domain specific and generic thinking approaches to cognitive learning posit that the quality of the thinking depends both on the specific domain in which the thinking occurs (domain specific approach) and the person who is doing the thinking (generic thinking approach). In addition to generic and domain specific learning theories, cognitive theorists have identified different levels or orders of thinking which occur in the learning process. These orders are discussed in the next subsection.

21. Id.
22. See Raymond S. Nickerson et al., The Teaching of Thinking 57-59 (1985).
23. Id.
3. Orders of Thinking

Professor Benjamin Bloom, in a seminal work,\textsuperscript{25} posited that types of thinking can be identified based on levels of complexity.\textsuperscript{26} These orders of thinking include, in ascending order, knowledge, comprehension, application, analysis, synthesis, and evaluation.\textsuperscript{27} Furthermore, orders of thinking can occur together or separately, and are often treated differently in various educational fora. In law schools, for example, analysis, synthesis and evaluation are often given deference.

One type of thinking associated with law school study is critical thinking, which is defined as "reasonable and reflective thinking that is focused upon deciding what to believe or do."\textsuperscript{28} Critical thinking often involves the higher orders of thinking and is measured indirectly. That is, a person's actions may indicate what that person is thinking. Similarly, a person's writing ability may be related to that person's critical thinking ability.\textsuperscript{29} For example, a student who appears to have a writing problem may in fact have a thinking problem. Along the same vein, a professor who complains that students are performing poorly on examinations may have a teaching problem as much as the students have an examination problem. These levels or orders of thinking can be influenced by many different factors in an individual's life which put the thinking into context. Context approaches to cognitive learning theories are discussed below.

4. Cognitive Boundaries and Context

Questions about types of learning, such as problem solving, critical thinking, and concept synthesis, appear to transcend disciplinary boundaries, history, and even geographic and cultural divisions.

\textsuperscript{25} TAXONOMY OF EDUCATIONAL OBJECTIVES: HANDBOOK I: COGNITIVE DOMAIN (Benjamin S. Bloom et al. eds., 1956).
\textsuperscript{26} See generally id.
\textsuperscript{27} Id. at 18. See also 1 MICHAEL JOSEPHSON, LEARNING & EVALUATION IN LAW SCHOOL 53-54 (Ass'n of American Law Schools Annual Meeting, 1984).
\textsuperscript{28} Stephen P. Norris, Can We Test Validly for Critical Thinking? EDUC. RESEARCHER, Dec. 1989, 21 at 21 (citation omitted).
\textsuperscript{29} This has been an important premise of the examination process. Yet, while an examination taken under time constraints often rewards those test-takers who are "quick on their feet," critical thinking often requires or involves time for reflection and deliberation. The process of thinking often incorporates a period of time in which data and information are sifted, culled, and organized, prior to any inferences or deductions being drawn. Questions are asked about the information, then inferences are drawn and redrawn. Based on such inferences, additional research and reorganization by the critical thinker may be required.
It is fairly apparent that reasoning ability is subject to many influences, from an individual's experience and habits to his or her method of dealing with new information.\textsuperscript{30}

In fact, some suggest that cognitive skills, which can be divided up into general strategic knowledge and specialized domain knowledge, are further intertwined with and dependent on context.\textsuperscript{31} A question posed by researchers studying the relationship between general and specialized knowledge was "which kind of knowledge counts most—general knowledge of how to think well, or specific knowledge about the detailed [contextual] ins and outs of a field?"\textsuperscript{32} The answer found by the researchers is that general cognitive ability is required as a foundation for learning, but for effective learning, some of the general ability must transform into local knowledge and skills.\textsuperscript{33} Both are essential for the development of maximum problem solving ability.

Given that learning is a synthesis of cognitive processes and context, many perspectives and approaches are relevant to the learning process. In essence, to understand a case in law school, a student may have to draw upon history, culture, economics, and other domain-specific or subject-specific information.\textsuperscript{34} Indeed, as one law professor has suggested: "to 'learn' a practice domain one must situate oneself in the domain engaging its authentic dilemmas and actively integrating its multiple sources of information."\textsuperscript{35} While cognitive learning theory focuses on how people obtain, process, store, and recall information, developmental learning theory, discussed below, focuses on how people's learning skills and abilities change as they get older.

\textsuperscript{30} See Glaser, supra note 12, at 23.
\textsuperscript{32} Id. at 16-17.
\textsuperscript{33} Id. at 22-24.
\textsuperscript{34} See, e.g., Kathleen Taylor, Teaching to Support Women's Adult Development, THOUGHT AND ACTION Spring 1994, at 57-72 (analyzing the learning development of adult women who return to higher education within the framework of one theory of development. Topics addressed include providing students with positive feedback, counseling, promoting awareness of growth, encouraging experimental learning and drawing on students' history background and learning styles.).
\textsuperscript{35} Brook K. Baker, Beyond MacCrate: The Role of Context, Experience, Theory, and Reflection in Ecological Learning, 36 AZ. L. REV. 287, 291 (1994). The author adds: "The focus on contextualism naturally gives rise to questions about specialized contexts, historically-based practice domains such as lawyering, and to related questions concerning the degree of transferability of understanding from one specialized domain or subdomain to another." Id.
C. Developmental Learning Theory

Research has shown that the way in which a student learns is not static; the learning "apparatus" used by a student changes over time. Thus, studying how a student's learning process develops over time is as significant as understanding the different learning styles and theories at any given point in a student's development.

The intellectual development process of young adults was explored by the psychologist, William Perry. Perry postulated that there are nine positions of intellectual development. These stages were differentiated by a person's view of the relativism and uncertainty of knowledge, ranging from position one, a developmental stage characterized by a belief that certainty in the world exists, particularly in the form of correct answers, to position nine, a developmental stage in which the student finds that in a relativistic world reason alone is not enough, and that commitment to one's own values is also necessary.

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36. Many people have studied what is now called the theory of developmental education. One of the best known researchers, Jean Piaget, was instrumental in studying and exploring the development of infants and young children. Paul T. Wangerin, Objective, Multiplistic, and Relative Truth in Developmental Psychology and Legal Education, 62 TUL. L. REV. 1237, 1245 (1988).

37. "Working within a student's existing stage of development allows a certain limited scope for greater efficiency, but often only a broad reconceptualization of what a study task is about will provide scope for significant development." GRAHAM GIBBS, TEACHING STUDENTS TO LEARN: A STUDENT-CENTRED APPROACH 90 (1981). For a very instructive analysis of such developmental education theory and its application to legal education, see Wangerin, supra note 36.


39. Wangerin, supra note 36, at 1246.

40. Perry defines relativism as: "Diversity of opinions, values, and judgment derived from coherent sources, evidence, logics, systems, and patterns allowing for analysis and comparison. Some opinions may be found worthless, while there will remain matters about which reasonable people will reasonably disagree. Knowledge is qualitative, dependent on contexts." Perry II, supra note 38, at 80.

41. According to Professor Wangerin, "Perry discovered that young adults go through nine sequential and distinct developmental stages. This discovery was, of course, pure Piaget. Perry then linked these nine stages of young adult intellectual development to [philosopher John] Dewey's ideas about the ultimate uncertainty or relativism of all knowledge." Wangerin, supra note 36, at 1246.

42. See Perry II, supra note 38, at 79.

43. PERRY, supra note 38, at 10.
Perry’s structure of development has been ably applied to law students by Professor Paul T. Wangerin. Professor Wangerin suggests that Perry’s structure creates “an extraordinarily perceptive psychological map of law students.” These positions are summarized below.

Position #1:

In this position the student sees the world in polar terms of we-right-good vs. other-wrong-bad. Right Answers for everything exist in the Absolute, known to Authority whose role is to mediate (teach) them. Knowledge and goodness are perceived as quantitative accretions of discrete rightnesses to be collected by hard work and obedience (paradigm: a spelling test).

A student who falls into this category “has always taken it for granted that knowledge consists of correct answers, that there is one right answer per problem, and that teachers explain these answers for students to learn. He therefore listens for the [instructor] to state which theory he is to learn.”

Professor Wangerin suggests that a “Position One” student is often encountered in first year law school classes. The first year student believes in dualism, an approach to learning which categorizes information as either right or wrong, but definitely not as uncertain. Professor Susan J. Becker concurs. She has noticed that a common question asked by students is the following: “But Professor, what is the black letter law we are supposed to learn from the last three cases?”

Position #2: In this position,

44. Wangerin, supra note 36, at 1246.
45. Id.
46. PERRY, supra note 38, at 9 (footnotes omitted).
47. Id. at 1.
48. Wangerin, supra note 36, at 1247.
50. Id. at 439. Professor Becker explains that, “For most students, any previous problem solving in their educational experience produced exact results. Those schooled in math, chemistry, or accounting were trained to choose one correct formula which would yield one correct answer. Even in more fluid disciplines like literature, history, or psychology, students generally prepared for exams by memorizing a ‘correct’ answer set forth in the textbook or provided by the instructor. It is not surprising, then, that law professors often encounter resistance, if not outright resentment, when they attempt to realign students’ thought processes to consider a variety of approaches to the same set of facts, especially since none of the approaches produces a completely predictable result.” Id.
[a student] makes the same general assumptions [as the student in position #1] but with an elaboration to the effect that teachers sometimes present problems and procedures, rather than answers, "so that we can learn to find the right answer on our own." [The student] therefore perceives the [class] as a kind of guessing game in which he is to "figure out" which theory is correct . . . . 51

This student also engages in dualistic learning, but somewhat less so than the student in position #1.

Position #3: The student recognizes the legitimacy of differences of opinion and "accepts diversity and uncertainty as legitimate but still temporary in areas where Authority 'hasn't found The Answer yet.'" 52

Position #4: As in position three, these students accept multiplicity, which occurs when "[d]iversity of opinion and values [are] recognized as legitimate in areas where right answers are not yet known. Opinions remain atomistic without pattern or system. No judgments can be made among them so 'everyone has a right to his own opinion; none can be called wrong.'" 53 Unlike position three, however, in position four students are more willing to accept diversity as being true for a longer period. 54 Students are still not completely sure it should be accepted but it is no longer just a temporary state as in position three.

Position #5: In this pivotal position, students see "all knowledge and values (including authority's) as contextual and relativistic." 55 As Professor Wangerin notes, "In effect, at position five, position four is reversed. Now, certainty is the rare special case, uncertainty the norm." 56 This student is a full-fledged believer in relativism.

Position #6: In this position, students learn to deal with relativism through commitments to particular values. Perry states:

In the end, reason itself remains reflexively relativistic. . . . [R]eason alone will leave the thinker with several legitimate contexts and no way of choosing among them. . . . If [the student] is still to honor reason he must now also transcend it. . . . In affirming [the student's] values, . . . he must commit himself through his own faith. 57

51. PERRY, supra note 38, at 1.
52. Id. at 9; Wangerin, supra note 36, at 1247.
53. PERRY, supra note 38, at 79-80; see also Wangerin, supra note 36, at 1248.
54. Wangerin, supra note 36, at 1248.
55. Id. at 1248 (citation omitted).
56. Id.
57. Id. at 1260-1261 (citations omitted).
Positions ##7 - 9: Professor Wangerin describes positions seven through nine succinctly. He states:

At position seven, students actually make an initial commitment in some area. At position eight, students experience the implications of commitment and explore the subjective and stylistic issues of responsibility. [In] position nine . . . the student "experiences the affirmation of identity among multiple responsibilities and realizes Commitment as an ongoing, unfolding activity through which he expresses his life style."58

These developmental theories offer a broad-based understanding of the mechanics of the classroom, and resonate not only in secondary or university contexts, but law schools as well. Some professors have applied theories of developmental learning to the legal education arena. For example, Professor Michael Josephson has taken Bloom's learning pyramid and modified it to fit the law school education process.59 He posits that the highest order of cognition in law school is synthesis, and that other orders of cognition, in descending order, are judgment, problem-solving, issue spotting, understanding and, finally, knowledge.60

This general evaluation of learning theories has more specific application to the legal education process. In legal education, the methodology, namely the Socratic method, is seen as the tool used to shape the legal education process. The relationship between legal theory in general, and the Socratic method and other approaches to learning in law school in particular, are addressed in the next section.

D. Teaching and Learning In Law School

A long-standing paradigm for teaching law is the so-called Socratic method. This teaching tool has been an accepted fixture for decades. While the Socratic method has many different variants and is defined in a plethora of ways, its impact has been undeniable. The origins of the Socratic teaching method can be traced as far back as the 1870s, when Professor Christopher Columbus Langdell created the casebook, facilitating the study of law in a similar manner to that of science.61

58. Id. at 1261 (quoting PERRY, supra note 38, at 10).
59. JOSEPHSON, supra note 27, at 58.
60. Id.
The widespread reliance on the Socratic teaching technique in law schools appears to have had several side-effects. While such a technique reinforces the special nature of learning "law," and certainly focuses on particular aspects of critical thinking, the domination of Socratic methodology has arguably led many professors to believe that alternative techniques are less effective or appropriate. As a result, the research and development of alternative teaching techniques in law school has been left to desuetude.

Yet, effective learning modalities other than the Socratic method exist. For example, other instructional methods include the didactic, inquiry, and discovery methods. Some of these methods, such as the use of small groups, have long been used in the law school arena. Other methods, such as concept mapping, which involves visual depictions of concepts, have appeared primarily in different educational venues.

Since students have various learning styles predicated on differing cognitive structures and beliefs as described earlier, tailoring the delivery of legal education to how students learn best may improve the effectiveness of the pedagogy. For example, if a student processes information best when structured into a schemata, a law professor could organize his or her teaching methods to better convey that structure. Accordingly, more professors are now beginning to ask how they can successfully assist their students in the learning process.

One example of an alternative learning approach can be seen in courses on legal writing, often offered in the first year. These courses focus not only on research and writing skills, but also on legal reasoning and critical thought. Students in these courses are routinely

62. See, e.g., Bonwell, supra note 9, at xvii ("Some faculty feel that by lecturing, they have greater control over the content and amount of information dispensed. Once having conveyed this information, lecturers feel they have fulfilled their responsibility to impart its meaning to the students.").


65. See generally Perry II, supra note 38.

66. For example, Professor Grayford Gray of the University of Tennessee routinely asks his students during the semester what they found to be easiest in the course, most difficult, most expected, and most surprising. Grayford Gray, Comments at the A.A.L.S. Conference on New Ideas (June 3-7 1995). Other professors have expressed a willingness to use techniques that work, even if they promote "intellectual playfulness, appreciation, imagination - all [of which] are aspects of instructional learning . . . " Richard E. Snow, Toward Assessment of Cognitive and Conative Structures in Learning, EDUC. RESEARCHER, Dec. 1989, at 8, 11.
asked to write and rewrite on a regular basis. Cloudy writing may signify difficulty with writing skills, but it also may indicate that the writing is based on cloudy thinking. Significantly, since most good legal writing involves rewriting, it also can be inferred that first reactions and inclinations may prove to be only a temporary and relatively inaccurate reflection of a person's ability to solve legal problems. On the other hand, careful editing—a form of the critical thinking process—often occurs on a regular basis with serious legal writing and may be a more important skill than the ability to answer spontaneous Socratic questions in class. In all, the exercises of writing and editing may be very effective ways of learning about critical thinking, even more useful for some students than the Socratic dialogue approach.

In light of the plethora of learning theories and the myriad of ways the educational schema can be configured in the law school classroom, the nationwide teaching survey set out to see how law professors viewed teaching and learning. Of course, the surveys cannot substitute for in-depth and detailed conversations with all of the respondents, but the data that was collected provides at least a glimpse of how law professors view themselves and their work—in particular, whether they consciously or unconsciously use learning theories.

III. THE SURVEY

A. The Questionnaire

The Questionnaire reproduced below was circulated in the fall and spring of the 1994-1995 academic year to full-time law professors at American Bar Association accredited schools. Approximately 2,000 questionnaires were distributed, and a total of 574 surveys were completed and returned. Generally, the surveys were sent to the law schools through each school's dean's office and to some of the academic assistance directors.67

The Questionnaire sought information concerning the respondents' attitudes and approaches to teaching. In particular, the Questionnaire elicited information about the methodologies used by the professors and why those methods were chosen. The questions sought to determine to what degree professors' articulated objectives determined which methodologies they used, and to what degree other causal factors were involved.

67. The completed questionnaires are on file with the Seattle University Law Review.
The Questionnaire did not attempt to define the teaching methods. For example, the phrase "Socratic method" has perhaps as many definitions as there are law schools or even professors. Thus, teaching methods were left, somewhat by necessity, to each instructor to describe. What was really elicited, consequently, were professors' perceptions about what they do in the classroom. These perceptions may vary considerably from reality, particularly reality as seen by students or other colleagues. However, the perceptions are useful just the same.

To minimize subjectivity, respondents were encouraged to provide explanations for their responses in the body of the Questionnaire and to describe their answers with particularity. Explanations were especially helpful in the section on teaching methods and the critiques of the current system. Some of these methods and critiques have been anonymously reproduced below.

The Questionnaire appeared as follows:

Law School Teaching Methods Questionnaire

I. Background (Optional)
   A. I earned a J.D. or LL.B. from ____________ law school. LL.M.? If yes, from which school? ________________
   B. I am: _____ tenured _____ not tenured
   C. I have been a full-time law teacher for ___ years.
   D. My gender is: ___. My race is: ______. My ethnicity is: ________.
   E. My law school is approximately ___ years old.
   F. My law school is large (more than 900 total students)/medium/small (less than 300 total students).
   G. My law school emphasizes theory/skills learning/an even distribution of theory and skills.
   H. I would consider my law school a national/regional/or local school.

II. My goals in teaching my classes are:
   A. First year basic courses ____________________________.
   B. Upper level courses ____________________________.
   C. Seminar or small classes ____________________________.
   D. Skills classes ____________________________.
III. What teaching methods do you use, and what percentage of your teaching time do you use them?

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<th>First year basic course</th>
<th>Upper level course</th>
<th>Seminar/ small class</th>
<th>Skills class</th>
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<tr>
<td>A. &quot;Socratic&quot; Question and Answer</td>
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<td>B. Lecturing</td>
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<td>C. Small Groups or Dyads</td>
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<td>D. Role-Playing</td>
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<td>E. Other</td>
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Describe Other: ____________________________

IV. Why do you use these techniques? (Please circle one or more)

A. I learned them in law school.
B. I am comfortable with them.
C. I believe they are the most effective, because students learn best from them.
D. I prefer not to try techniques different from the majority of my colleagues.
E. Other
   Explanation: ____________________________

V. How often do you experiment with new or different teaching techniques?

A. Very often   B. Sometimes   C. Rarely   D. Never

VI. Are there any teaching "tricks," techniques or tools that you would like to share with other law teachers? Please describe:

__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
VII. What different or new technique(s), if any, would you like to see used more often in legal education generally? (Other than that described in the preceding question)

________________________________________________________________________

Why?
________________________________________________________________________

________________________________________________________________________

VIII. I would be willing to have other law teachers contact me about my teaching techniques. (Optional)

Yes/No/ Name/School ___________________________________________________________________

* * * * *

Thank you for taking the time to complete this questionnaire.
B. Who Responded

Responses from the individual schools varied. A single professor responded from one of the law schools; at another university, 24 professors replied. As the following charts indicate, 100 respondents were from schools in the northeast, 111 from the southeast, 37 from the southwest, 32 from the northwest, 191 from the Midwest, 37 from the west, and 2 from Puerto Rico. Of the total number of respondents, 186 were females and 374 were males.68

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<th>Demographic Information</th>
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<td>Female professors</td>
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<tr>
<td>Tenured professors</td>
<td>63</td>
<td>363</td>
</tr>
<tr>
<td>Nontenured professors</td>
<td>37</td>
<td>211</td>
</tr>
<tr>
<td>Hispanic professors</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>African-American professors</td>
<td>5</td>
<td>27</td>
</tr>
<tr>
<td>Asian-American professors</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>Caucasian professors</td>
<td>90</td>
<td>514</td>
</tr>
<tr>
<td>Average number of years teaching experience</td>
<td>---</td>
<td>12.73</td>
</tr>
</tbody>
</table>

68. The Questionnaire provided respondents with the option of supplying demographic information. This included gender, race and teaching rank. Although most of the respondents chose to supply this data, where respondents did not answer a demographic question, no response was tallied in the demographic totals.
IV. QUESTIONNAIRE RESULTS

A. Teaching Goals

Two professors who have examined teaching methods carefully, Steven and Sherry Hartwell of the University of San Diego School of Law, believe that good teaching involves interrelated methodology and goals.69 They noted that a professor should first “determine which [teaching] method among those tested best meets the instructional objectives of the course.”70 The Hartwells defined the “best method” as “the method that would contribute most to student achievement in mastering the professor’s objectives as measured by performance on the fall examination. The second step involves a cost-benefit analysis to determine whether the benefits of the method are sufficiently great to warrant the associated costs . . . .”71

Questions about teaching goals were included in the Questionnaire to determine if professors possessed articulable goals to be achieved in teaching (most did), and whether they modified their methods to reach such goals (there appeared to be some relationship between the two, perhaps even a causal one).

<table>
<thead>
<tr>
<th>Geographic Information</th>
<th>Percent</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northeast</td>
<td>17</td>
<td>100</td>
</tr>
<tr>
<td>Southeast</td>
<td>19</td>
<td>111</td>
</tr>
<tr>
<td>Southwest</td>
<td>6</td>
<td>37</td>
</tr>
<tr>
<td>Northwest</td>
<td>6</td>
<td>32</td>
</tr>
<tr>
<td>Midwest</td>
<td>33</td>
<td>191</td>
</tr>
<tr>
<td>West</td>
<td>6</td>
<td>37</td>
</tr>
<tr>
<td>Puerto Rico</td>
<td>.3</td>
<td>2</td>
</tr>
</tbody>
</table>

70. Id.
71. Id.
The Questionnaire focused on teaching goals by asking the respondents the following question: "What are your primary goals in teaching your classes?" The respondents were asked to answer this question for several different kinds of classes: large first year classes, upper level courses, upper level seminars, and skills classes. It was assumed that professors' goals might vary in each of these types of classes. In fact, this assumption was born out by the responses.

Furthermore, the responses about a professor's goals varied even within course types. For example, professors teaching seminars indicated widely disparate goals. Perhaps this conclusion is not surprising given the plethora of approaches often used by casebook authors on identical subject matter and by professors covering identical class materials.

1. First Year Basic Courses

<table>
<thead>
<tr>
<th>Goal</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improve students' thinking ability</td>
<td>46%</td>
</tr>
<tr>
<td>Have students learn substantive legal doctrine</td>
<td>15%</td>
</tr>
<tr>
<td>Both of the above</td>
<td>31%</td>
</tr>
</tbody>
</table>

Several themes emerged from the responses to the teaching goals question. For example, many respondents focused on critical thinking skills as an important objective in the first year basic courses. Respondents stated that their objectives included teaching students to "think like lawyers," 72 inculcating students with "basic fundamental theory and doctrine in the substantive area," and communicating the "black letter law."

At least forty-six percent (177 out of 383) of those teaching these basic courses wanted students to improve their thinking ability, and fifteen percent (57 out of 383) sought to have students learn substan-

72. Critical thinking has been defined as "reasonable and reflective thinking that is focused upon deciding what to believe or do." Norris, supra note 28, at 21. Assuming that a large part of at least the first year of law school is intended to teach methods of critical thought, the question arises as to whether the law school examination process is intended to and actually does measure a student's ability to think, analyze and evaluate. Thinking can and often is measured indirectly. That is, a person's actions may indicate what the person is thinking. See Norris, supra note 28 and accompanying text.
tive legal doctrine. Only thirty-one percent (120 out of 383) included both goals in their statement of objectives.73 This last statistic may be due to a variety of causes. Professors may have prioritized their goals for a class and simply listed their most important goal; they might believe that the two objectives conflict; or they may feel that achieving both goals within the time constraints is simply unrealistic.

Perhaps the most interesting aspect of respondents' emphasis on the goal of developing critical thinking ability is the widespread belief that such intellectual development could and should occur during the first year of law school. This emphasis is most significant for what it omitted. There were essentially no responses indicating that the first year of law school should focus on practical lawyering skills or other goals that reconceived the traditional legal education curriculum. Indeed, respondents ignored the practice of law—dealing with clients, judges and other lawyers, billing, or negotiating—and the role of the lawyer in society. This was true despite recent criticism that law school curricula are devoid of practical training.74 It seems as if respondents generally believe that teaching practice skills in the first year of law school might be premature.

Further, it appears that the first year goals tended to be expressed in abstraction, indicating that there was a focus on the students as a collective group, but not as individual learners. There were no responses, for example, indicating that the purpose of the first year was to uncover the individual experiences of the students that might interfere with a scientific, reflective approach to thinking. Rather, there was a belief that once the thinking process was revealed to students, all should have the necessary tools to utilize and incorporate that process. Such a belief is consistent with the generic thinking approach. However, as the domain specific approach to cognitive learning theory suggests, individuals may have different schematas that they use to learn materials. Therefore, a generic approach that lumps all individuals into one group may be less effective.

73. It also must be noted that 22 out of 383 did not respond, and 7 out of 383 did not identify either goal.
74. American Bar Association Section of Legal Education and Admission to the Bar, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, Legal Education and Professional Development - An Educational Continuum (1992) [hereinafter The MacCrAte Report]. This report was commissioned by the ABA and suggested that skills learning should be taught more than critical thinking in law school. In other words, the focus should be more on practical application and less on "thinking like a lawyer."
Of additional interest was the way the responses were phrased. While many professors focused on teaching legal analysis, the descriptions of what they were accomplishing varied considerably. The professors who were teaching students to “think like lawyers” stated that they wanted to “impart the capacity to think logically and rationally in a lawyer-like manner”; “give students an understanding of the full spectrum of tasks that lawyers perform”; “socialize students without doing damage to their minds”; and “help students develop a rapport with legal authority.”

Some professors omitted the term “thinking like a lawyer,” and used phrases about developing analytical ability instead. These professors stated that they aim to “acquaint students with legal analysis skills, transmit elementary knowledge of substantive law, and encourage evaluative thinking”; “teach students how to read and synthesize opinions, how to understand core law development, and how to appreciate importance of facts”; “get students to begin developing basic analytical skills in writing and legal analysis”; “develop in students cooperative legal skills”; “develop critical thinking about the law”; and “teach fundamentals—basic concepts and theories, how to read a case, what it says and what it doesn’t say, learn and think and articulate legal concepts with precision.”

While the Questionnaire did not address the point, it would be interesting to determine whether the term “thinking like a lawyer” is the surrogate of these alternative definitions, or whether in practice they mean different things. Is the notion “thinking like a lawyer” so universally understood by teachers and students alike that all are aligned towards the same goal?

Along these lines, other professors, instead of focusing on a fixed educational point such as “thinking like a lawyer,” offered a broader temporal view of legal education. These professors appeared to recognize the existence of a discontinuity in experiences from college to the working world to law school. This group of professors focused on assisting students in their transition from pre-law generalists to law school pre-professionals. Their goals in this regard were to: “acclimate students to law school rapidly”; “demythologize the law school experience”; “convey useful information on study skills”; and “develop analytical skills, model appropriate professional and ethical behavior, and instill enthusiasm for law.” In a sense, this approach expressly recognized the relevance of prior experience in adjusting to and succeeding in the first year of law school.

A third group of professors emphasized the informational orientation of the law school experience. These professors wanted to
communicate legal rules and principles. Based on the responses, it appeared that coverage of material was more important than the transition from one educational forum to another, or than the abstraction of how to think about legal problems and doctrine (although of course, there likely is some overlap in all three sets of responses). For instance, professors of first year courses intended to "give students a basic understanding of subject and language" and "transfer basic principles of black letter law, but with a heavy dose of subtlety and difficulty in applying it to conflicting values in the system."

A significant group of respondents intended to communicate to students the social roles and responsibilities of lawyering and specifically, the impact of the law on people. Their comments included: "have students explore the impact of basic law on people who are not white middle-class or male"; "develop an understanding of the role of law in society, business, and whatever else the context of the course may be—depth over breadth"; and "convey an understanding of substantive rights and liabilities and the interaction between legal rights and procedures necessary to secure those rights."

2. Upper Level Courses

<table>
<thead>
<tr>
<th>Categories of Goals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relationship between theory and practice</td>
</tr>
<tr>
<td>Policy issues and arguments</td>
</tr>
<tr>
<td>Fostering and nourishing intangible qualities such as legal imagination</td>
</tr>
</tbody>
</table>

The expressed goals of professors of upper level courses differed significantly from goals of those teaching first year courses. In upper level classes, the goals were more substance, rather than process, oriented. The professors were concerned less with critical thinking methods than with the understanding of complex and nuanced legal doctrine and principles. Thus, upper level courses were accompanied by greater expectations and a shift in the learning paradigm—students were to sharpen their existing tools, not fashion altogether new ones. Professors viewed these courses as an opportunity to advance the level and quality of student understanding of substantive material, not
merely to reiterate general legal rules and principles with a different subject matter.

Several distinct categories of goals surfaced. One category focused on the relationship between the theory of law and law practice. This goal acknowledged the transition of students from the realm of legal academia to the real world of law practice. Professors recognized that the enterprise of lawyering involved analysis within practical contexts. Thus, they intended to “provide structure for studying the subject”; “relate practical applications to theory”; and “help students make the transition from the study of legal theories to [the] practical application [of those theories] in discrete areas.” This could be done by “show[ing] the theoretical background of doctrine as a means of understanding and applying it better” and “convey[ing] excitement about the legal process and combining theory, doctrine, and practice in a manner that fully engages my students’ learning abilities.” This relational goal also could be accomplished by “blend[ing] an understanding of the theoretical underpinnings of legal rules with acquisition of the ability to apply those rules effectively in practical situations.” The explicit inclusion by professors of upper level courses of goals relating to lawyering practice was in stark contrast to the responses from first year professors.

A second set of goals for upper level courses involved an express interest in introducing students to policy issues and arguments. Professors meet this goal by “discussing policy alternatives for legislative or judicial questions” at issue; by “trying to reach the deeper imbedded social issues with greater depth of legal understanding”; and “by helping students appreciate the relationship between doctrine and jurisprudential theory.” Again, the theme of these responses appeared to focus on the relationships between doctrinal analysis and other argument forms, theories, and genres. This “bigger picture” approach indicates that upper level courses get both more specific—in their subtlety and nuance—and more general. This generality is in accord with what Professor Leon Green75 noted was a third way to understand cases in addition to the legal doctrine and the facts of the case—the “environmental facts” of the case, such as race, gender, ethnicity, geographic location, time, etc.

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75. Leon Green was a professor of torts at the University of Texas Law School, Austin. He wrote numerous books on tort law including: CASES ON THE LAW OF TORTS (2d. ed 1982), ADVANCED TORTS: INJURIES TO BUSINESS, POLITICAL, AND FAMILY INTERESTS (1977) and JUDGE AND JURY (1930).
A third grouping of objectives for upper level courses offered the most significant evidence that professors view such courses as qualitatively different than first year subjects. Upper level courses offered professors the opportunity to create, nourish and promote other, often intangible, lawyering qualities. These objectives can be collectively labeled as the inculcation of legal imagination in students. Professors described this process as "developing legal imagination and flexibility"; "fostering imagination, skills, ethics, and professional preparation"; "stimulating students into thinking about new visions of law"; "improving upon existing principles and creat[ing] new and more society-assisting principles"; and "teaching students to be critical of normative visions." This later point in students' legal education careers is really the first time that the creativity of lawyering, and its promotion as an art and not a science, is seen with any force.

3. Seminars or Small Classes

<table>
<thead>
<tr>
<th>Categories of Goals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expertise in law</td>
</tr>
<tr>
<td>Practical lawyering skills</td>
</tr>
<tr>
<td>Professional awareness and self evaluation</td>
</tr>
</tbody>
</table>

The goals of professors of seminars or small classes were more specific and in some ways more extensive than those articulated for the larger classes. Three categories of goals emerged. First, professors aimed to assist students in developing an expertise in an area of law. This goal closely resembled the progression from beginning to advanced courses in other educational fora, from the university to graduate degree programs. For example, one professor aimed to "cultivate a mastery of the area and a high level of expertise in narrow areas as well as develop specialized understanding of a discrete area of the law by encouraging an in-depth study of a topic narrow enough to enable expertise."

The second set of objectives focused on a desire to impart practical lawyering skills, often through non-Socratic teaching.
methods. These methods included the following: role-playing; "drafting legal documents and thinking through their consequences"; "teaching how law works in the real world"; "teaching financial concepts, business vocabulary, basic accounting principles and confidence with numbers"; and "making students understand legal systems by applying legal theory to real problems."

The third group of objectives involved encouraging a deeper level of professional awareness and self-evaluation. This approach seemed to emphasize the sociological context of lawyering, and how lawyers participate in society. The responses indicated that the professors were not so much attentive to minimal standards for lawyers, but to the underlying mores, tenets, and values that lawyers ought to utilize in their professional lives. For instance, in this category the professors sought to do the following: "facilitate student growth and development"; "encourage the deepest level of policy discussion by imparting an enhanced sense of professional responsibility"; "develop appreciation of each other’s abilities and interests"; "encourage wide ranging and provocative discussion"; "help students learn the human side of lawyering"; "explore the social and culture background of legal forms"; and "encourage self critique."

4. Skills Classes

<table>
<thead>
<tr>
<th>Categories of Goals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self reliance</td>
</tr>
<tr>
<td>Lawyering skills</td>
</tr>
</tbody>
</table>

Those who taught classes emphasizing lawyering skills intended to develop overall lawyering competency, not thinking skills. Professors articulated their teaching goals in two ways. One was to focus on the general traits of effective lawyers. The second was to focus on the specific skills required for law practice. This dichotomy in the description of goals offers insight into how professors view good lawyering—sometimes by virtue of the attorney’s disposition, and other times by individual performance. Thus, several professors indicated

76. As one respondent noted, these opportunities involved “developing citizen-lawyers, not just technicians.”
they wanted to teach and reinforce in their students the character trait of self-reliance. Some professors achieve this goal by promoting individual qualities such as “trust in one’s own judgment” and “self-learning.”

Second, professors attempt to cultivate particular lawyering skills in their students. To illustrate, professors “teach students how to develop a systematic approach to interviewing and counseling”; “show students how to sharpen their skills in the following areas: financial analysis, negotiations, strategy, advocacy, drafting and writing skills, develop skills in interviewing, counseling, negotiation, trial advocacy, fact investigating, case theory, case planning, effective skills, and conscious reflection, simulate real court experience”; and “develop competence with pretrial preparation and planning.”

B. Teaching Methods

Percentage of Respondents Using Method

<table>
<thead>
<tr>
<th>Method</th>
<th>First Year</th>
<th>Upper Level</th>
<th>Seminars</th>
<th>Skills Courses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Socratic</td>
<td>97</td>
<td>93</td>
<td>67</td>
<td>54</td>
</tr>
<tr>
<td>Lecture</td>
<td>31</td>
<td>94</td>
<td>82</td>
<td>86</td>
</tr>
<tr>
<td>Small Groups</td>
<td>17</td>
<td>62</td>
<td>39</td>
<td>49</td>
</tr>
<tr>
<td>Role Playing</td>
<td>30</td>
<td>12</td>
<td>48</td>
<td>81</td>
</tr>
<tr>
<td>Other</td>
<td>38</td>
<td>32</td>
<td>48</td>
<td>42</td>
</tr>
</tbody>
</table>

Average Percentage of Class Time Used

<table>
<thead>
<tr>
<th>Method</th>
<th>First Year</th>
<th>Upper Level</th>
<th>Seminars</th>
<th>Skills Courses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Socratic</td>
<td>59</td>
<td>47</td>
<td>26</td>
<td>12</td>
</tr>
<tr>
<td>Lecture</td>
<td>25</td>
<td>34</td>
<td>22</td>
<td>20</td>
</tr>
<tr>
<td>Small Groups</td>
<td>4</td>
<td>3</td>
<td>19</td>
<td>16</td>
</tr>
<tr>
<td>Role Playing</td>
<td>5</td>
<td>6</td>
<td>10</td>
<td>35</td>
</tr>
<tr>
<td>Other</td>
<td>7</td>
<td>10</td>
<td>23</td>
<td>18</td>
</tr>
</tbody>
</table>
To elicit information about teaching methods, the Questionnaire asked respondents, “What teaching methods do you use, and what percentage of your teaching time do you use them?” Respondents were given several choices of methods in answering this question, including Socratic, lecturing, small groups or dyads, role-playing, and other. To further determine the relative popularity of these methods, the professors were asked to approximate the percentage of time they spent using each method for certain course types—first year basic courses, upper level courses, seminar/small classes, and skills classes.

1. The Socratic Method

One of the listed teaching approaches was the familiar Socratic method (or dialogue).77 According to the Questionnaire, an overwhelming majority of those who taught first year classes used what they perceived to be the Socratic method. A majority of the professors who responded to the Questionnaire, 383, taught first year courses. Out of those 383, 370 or ninety-seven percent, used the Socratic method at least some of the time in first year classes. This data indicates that the Socratic approach remains firmly entrenched in legal education. Thirty percent of those who used the Socratic method did so “most of the time,” and forty-one percent used it “often.” Of those remaining, twenty-one percent used it “sometimes” and only five percent stated that they “rarely” used it.78 Thus, the common assumption that the Socratic dialogue dominates law teaching methodology is corroborated by this survey. This raises the question of whether professors view their classroom Socratic dialogues as models for legal reasoning, readily utilizable in the practice of law, or as a more limited classroom tool that merely develops the reasoning skills of students. The data in the chart, “Average Percentage of Class Time Used,” above, suggests that there is a pervasive and continuing belief in the viability of the Socratic dialogue as a teaching tool.

77. The term “Socratic” is somewhat difficult to define, since it is often unclear what the Socratic method actually means in the context of the law school class. Most law professors have their own understanding of what the Socratic method means, particularly since this was the purported method by which the current generation of teachers was taught. For many professors, the term “Socratic” describes a question and answer method in which the professor asks a series of questions of the students, uncovering both preconceptions and cogent legal analysis.

78. “Most of the time” equals usage between eighty and one hundred percent of the time; “often” means fifty to seventy-nine percent of the time; “sometimes” refers to twenty to forty-nine percent of the time; and “rarely” equals five to nineteen percent of the time.
2. Lecture Method\textsuperscript{79}

The responses to the questions about the lecture method provided one of the real surprises of the survey. It appears that contrary to popular belief, the lecture method is alive and well in American law schools. The lecture technique is most common in upper level courses, where ninety-four percent (419 out of 445) of those responding stated that they use this method at least some of the time. Further, sixteen percent stated they used lecture most of the time in upper level courses. In comparison, in first year courses, only thirty-one percent of the professors used the lecture approach at least some of the time. One might surmise from this data that upper level courses either (1) do not require emphasis on analytical ability, obviating the need for the Socratic method; (2) have such a significant amount of material and nuance that professors are forced to resort to the lecture method; or that (3) instructors simply believe this was the most effective or expedient method under the circumstances. The data may suggest that law professors believe that the lecture method offers a quick and easy way to cover substantive material. Of course, it is assumed that the information “delivered” in a lecture is “received” by the students. The learning theories presented above, however, suggest that reliance on the lecture method (or entirely on any other method, for that matter) is not all that effective in light of the different ways students learn. The lecture approach, while convenient and effective in sending out information, may not be that effective in allowing students to absorb and use the information in an effective manner. This passive learning approach may, in fact, be counterproductive to future lawyers who will be relying on interactive skills on a regular basis.

3. Small Group or Dyads

This method, which is growing in popularity in other educational fora,\textsuperscript{80} is generally defined as interactions in small groups comprised of two or more students. The student groups may resolve doctrinal issues, work out problems, or synthesize rules of law. The

\textsuperscript{79} The lecture method describes a teaching form that focuses on the delivery of information from teacher to students with few, if any, questions put to the students by the teacher. This method is quite popular in the undergraduate arena. Faculty often believe lecturing provides the most control over the class.

\textsuperscript{80} See, e.g., Schmier, supra note 1 (Professor Schmier uses “triads,” or groups of three students, as the basic unit in his history classes.).
respondents indicated that they used this approach primarily in the skills courses, where forty-nine percent of professors reported using it. A great disparity was reported in its use in first year and upper level courses. In first year courses, for example, only seventeen percent of the respondents who teach those courses stated they used small group methods, while sixty-two percent said they did so in upper level courses.

This data can be viewed in different lights. On the one hand, the percentage of usage in first year classes can be viewed as low in comparison with upper level courses. On the other hand, it is perhaps encouraging that such methods would be used at all in a "traditional" large class of any kind. Even in large classes, small groups can be an effective means of encouraging student involvement, interaction and conceptual analysis. Perhaps the larger number of students, and therefore the larger number of small groups, makes such exercises more daunting. Perhaps it is a question of time allocation, insofar as small group techniques may not be perceived as furthering goals of coverage and legal analysis.

4. Role Playing

The role playing method dominated the skills courses, where eighty-one percent of professors teaching such courses reported using it. Interestingly, thirty-eight percent used it in the first year and upper level courses, and forty-eight percent used it in seminars (at least some of the time). Thus, the role playing method has an across-the-board appeal and appears adaptable to a wide variety of class types and sizes. Perhaps this is due to a belief that role playing is extremely versatile—it facilitates legal analysis and critical thinking while promoting the enhancement of lawyering skills. On the other hand, the respondents may simply have used a generous definition of "role playing," including any arguments by students for or against one of the parties in a case. This administrability issue plagues not only the survey results but even how teachers engage each other in dialogue about law school pedagogy.

81. College and secondary education instructors have long applauded the advantages of small group interactions. These "break out" groups promote active learning and participation by each student. This decentralized approach permits students to practice what they are learning and see more clearly what they don't know. Perhaps law professors are observing the same benefits.

82. Role playing in this context means students taking on the role of attorneys, judges, witnesses, and any other individuals who may be involved in the judicial process.
5. Other Methods

Some professors, between twenty-one and forty-eight percent, stated that they utilized teaching methods different than the kinds discussed above. The professors who used such methods, however, practiced a wide array of techniques. Popular alternative teaching methods included drafting and writing projects, student presentations, watching videos, guest lectures, simulations and demonstrations. The two most popular alternative techniques were "class discussion" and problem solving. The technique of classroom discussion was not defined, and it can only be assumed that it did not mean Socratic, lecture or the like. "Class discussion" could be used to achieve a variety of objectives, including a better understanding of substantive material or a cultivation of interpersonal and communication skills.83

C. The Teaching Method Rationales

<table>
<thead>
<tr>
<th>Why do you use these techniques?</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>They are most effective</td>
<td>90%</td>
</tr>
<tr>
<td>Comfortable with them</td>
<td>59%</td>
</tr>
<tr>
<td>Learned them in law school</td>
<td>32%</td>
</tr>
<tr>
<td>Other</td>
<td>7%</td>
</tr>
<tr>
<td>Prefer not to try new techniques vastly different from majority of other colleagues</td>
<td>4%</td>
</tr>
</tbody>
</table>

The Questionnaire asked respondents, "Why do you use these techniques?" This question sought to explore the rationales offered by professors concerning their choice of methods and, in asking for an explanation, hoped to uncover whether any relationship existed between goals and methodologies.

83. Approximately thirty-eight percent of first year professors and thirty-two percent of upper level professors stated they utilized methods other than the Socratic, lecture, or small group. The reliability of these responses, however, is particularly susceptible to distortion given the different ways professors may define "other techniques."
Respondents were offered a set of options and then asked to provide an explanation. Since professors could select more than one response, there was considerable overlap. For example, of those responding, thirty-two percent said they used the techniques because they learned them in law school; fifty-nine percent said they used the methods because they were comfortable with them; ninety percent stated they utilized methods because they are the most effective (due to the fact that students learn more from them); four percent replied that they preferred not to try techniques vastly different from the majority of their colleagues; and seven percent chose other reasons.\footnote{84}

D. Venturing Into the Unknown: Using New Techniques

The Questionnaire inquired: "How often do you experiment with new or different teaching techniques?"\footnote{85} In some ways, the question measured the willingness of law professors to take risks in the classroom.\footnote{86} In other ways, it measured how legal education was changing in the 1990s, particularly in relation to other graduate school programs.

The answer to this question revealed a willingness of teachers to experiment and explore. Student-to-student interactions such as cooperative learning groups and other methods appear to be slowly gaining a strong foothold in legal education. Many of the respondents indicated a desire to do away with the "Socratic nonsense," or at the very least to de-emphasize it in their teaching. One can infer from this data that a restlessness with the Socratic method is taking root. Professors are supplementing the more traditional methods with alternative techniques that coalesce with the Socratic approach to enhance "intellectual playfulness, appreciation, imagination—all aspects of instructional learning."\footnote{87} Twenty-nine percent of the respondents stated that they used new approaches—and thus took risks in the

\footnote{84}{Significantly, none of the explanations for the techniques described any learning theories as a justification for a technique's use and/or success. While such a reference is not needed or expected, it perhaps indicates that the reasoning process underlying the choice of teaching methodology for law school professors is based on experiential thinking—including prior uses—more than it is based on a scientific, reflective and expressly scrutinized study of what works and why.}

\footnote{85}{Since research has shown that students have various learning styles predicated on differing cognitive structures and beliefs, tailoring the delivery of legal education to how students learn best may be quite useful to the delivery of legal education. \textit{See generally} Snow, supra note 66.}

\footnote{86}{\textit{See} Glaser, supra note 12, at 21-22.}

\footnote{87}{Snow, supra note 66, at 11.}
E. Sharing Teaching Insights

Professors were asked, “Are there any teaching ‘tricks,’ techniques or tools that you would like to share with other law teachers? Please describe.” There was a plethora of answers to this question covering the entire range of teaching methodology. Professors revealed many of their tricks for effective teaching. Several themes surfaced in their responses.

First, professors said that they try to give as much individual attention to students as possible and maximize their accessibility. For instance, some thought that “oral summaries and handouts” were useful, while others tried to “treat students as people, not numbers.” Many provided sage advice. For example, one professor instructed, “[b]e accessible to your students, constantly put yourself in the shoes of the students and realize their limitations regarding time, energy and absorption of material, not to mention treat students with dignity and respect.” Along these lines, some professors noted that tricking students is not conducive to learning. For example, one respondent remarked, “I believe that good exploration of legal issues does not require ‘hiding the ball.’ Be clear in developing with students that issues are often unclear.” Another commented, “[d]on’t trap students desperately seeking help.”

Some professors discussed the evaluation of students as part of their “tricks” or “special techniques.” Obviously, the area of feedback has become a concern of professors as well as students, and not merely as an appendage to the law school educational process. The proposition that more frequent and in-depth evaluation procedures are being integrated into the law school learning process is corroborated by the response of professors who indicated that they preferred to give their students multiple opportunities to be graded. For instance, one professor explained that “regular, detailed evaluation of [the students’] written work” is necessary. Other professors stated they try to “grade everything.”

Professors also heavily supported the use of visual aids. For example, they “use props”; “show and tell” with artifacts related to cases or discussion; and “show portions of famous movies to illustrate a point.” A reported student receptivity to visual aids recognizes that students may learn visually as well as auditorily and is in accord with the view that students are three-dimensional learners.
Some professors found the whole idea of teaching “tricks” to be anathema to their teaching role. These professors expressed doubt about the existence of such “tricks,” which they abhorred for the intimation that teaching shortcuts exist. Some comments included, “There are no secrets” and “I don’t believe in tricks—the refuge of the incompetent.”

F. A Teaching Technique Wish List

Professors were asked, “What different or new technique(s), if any, would you like to see used more often in legal education generally? (Other than that described in the preceding question). Why?” Many professors commented on the value of evaluation and feedback, noting that they would like to see more of it provided to students. Professors said that they try to give “frequent evaluation of students with much feedback,” “more evaluation opportunities,” and “multiple tests,” since “students deserve more feedback than the end of the semester exam.” These responses suggest that it may be wise to rethink the traditional examination process in law school, that of the single essay-oriented examination at the end of the semester.

Second, professors would like to see “more variety in legal pedagogy, such as cooperative and collaborative learning techniques”; “more time spent going deeper and less on coverage”; “a return to lectures for upper-class students”; “more small class tutorials”; and “less indoctrination, and more self-reflective teaching.” One professor observed that “Good dialectical teaching is dying out in American law schools, but it is still one of the best single learning techniques and needs to be resuscitated.” One wonders whether these thoughts are being offered to law school curriculum committees and implemented in some form in the classroom.

Third, many professors remarked that they would like to see more practical and active learning by students. These remarks are consistent with recent criticism that legal education does not include a strong enough practical component. Professors advocated the use of apprenticeships, more “hands on” practical work; “better use of technology and multimedia”; “more active learning”; “more interactive teaching involving students in active participation”; “computer skills”;

88. The word “tricks” does seem to be contrary to viewing teaching as a partnership between instructor and students.
90. See generally THE MACCRATE REPORT, supra note 74.
and "more clinical methodology, more in-class exercises in which students have stake in learning process, and more interesting and participatory methods."

V. DATA ANALYSIS

Even though the survey returns likely do not meet the standards of scientific exactitude, a statistical analysis still can offer useful and provocative insights. Thus, the data extracted from the teaching surveys was used to measure the correlation, if any, that existed between responses in the different categories. Correlation, as a general proposition, measures the relationship between two data sets. It indicates whether two data sets move together in some type of relationship. The statistical evaluation is measured on a scale from negative one to one (-1 to 1). The closer the correlation coefficient is to zero, the worse one variable is at predicting the other. Conversely, the closer the coefficient is to either extreme, -1 or 1, the better one variable is at predicting what the other will be (low or high). For instance, a positive correlation signifies that large values of one variable are associated with large values of another, whereas a negative correlation indicates that large values of one variable are associated with small values of another variable. Correlation near zero indicates that the data sets are unrelated.

The overarching question pursued in the data analysis was whether the responses in one category predicted responses in another. Specifically, was there any relationship, even given the lack of scientific precision, between the following: (1) years of teaching experience, (2) gender, (3) teaching method (Socratic method or an alternative to the Socratic method), (4) tenure, (5) teaching goals (skills or substance

91. While the propriety of alternative techniques could be based on whether the techniques enhanced student performance on examinations, this is not necessary, given the plethora of objectives that may exist in a course. For an interesting analysis of whether several alternative methods—discussion groups, quizzes, and essay writing groups—improved the efficacy of a traditional "Socratic" course, see Hartwell, supra note 69, at 509-523. Some methods may not have an immediate statistical impact on final examination scores, but this does not mean the method is of little value. Alternative methods may contribute to a student's learning in subtle ways a final examination intends to test but does not, and may contribute in large ways to useful skills not tested on a final examination at all. A necessary assumption in tying the efficacy of teaching skills to final examination scores is that the exam can and does accurately measure a student's learning in the class.

Visual learning techniques provide a pertinent illustration of techniques that may not yield a measurable improvement, but may still be helpful. Theorists who have posited the advantages of using visual aids to teach have not been supported by the literature. See, e.g., Bonwell, supra note 9, at 33. Yet, such an approach may augment and reinforce the learning of many students weaned on television and movies.
oriented), and (6) willingness of the professor to try new teaching techniques?

A. Methods of Analysis

A regression analysis was performed using the above-mentioned data sets. For the tenure factor, a “0” was given for those professors not tenured, while a “1” was given for those who are tenured. For gender, a “0” was given for males, and a “1” for females. For number of years of teaching experience, the exact number reported by the professor on the survey was used. For teaching methods, a “0” was given for those professors who indicated the Socratic method as the preferred teaching tool, a “1” for an even mixture of Socratic and lecture, a “2” for those professors who indicated straight lecturing was their preferred method, and a “3” for the professor who used a different alternative teaching method. Thus, a higher number meant that the professor utilized fewer traditional teaching methods. Pursuant to this scale, Socratic is viewed as the most conventional, followed by lecturing. For teaching goals, a “0” was assigned to professors whose responses implied that teaching skills and thought processes was the most important goal, and a “1” denoted those professors who reported substance as the paramount goal. Finally, for the willingness to try new teaching techniques, a “0” was assigned to the response “often,” a “1” for “sometimes,” a “2” for “rarely,” and a “3” for “never.” The less likely a professor was to try new teaching techniques, the larger the number assigned.

With a sample size of 358, the mean and standard deviation were then calculated for each variable to provide stability to the conclusion. The correlation coefficients for each pair of categories were compared.

92. Thus, as the value increased, the frequency of tenure increased.
93. As the value increased, the more “female” the variable. As the value decreased, the more “male” the variable.
94. Thus, as the value increased, the more teaching experience the professor had.
Some findings were consistent for all types of courses taught by the respondents. For instance, there was a very strong, negative correlation between gender and teaching experience (correlation coefficient: -.38). This means that as the gender variable increased ('1' was assigned to females, '0' to males), the number of years of teaching experience decreased. This simply means that those professors with the most teaching experience tend to be male, a fairly unsurprising result.

As might be expected, there was a positive correlation between years of experience and the lack of willingness of a professor to incorporate new techniques into his or her teaching (correlation coefficient: .23). This signifies that the longer a professor has been teaching, the less willing he or she is to vary his or her teaching methods and experiment with new techniques. This data corroborates the cliché, "you can't teach an old(er) dog new tricks," and raises significant issues about how to motivate veteran, tenured professors. Similarly, there was a positive correlation, although a weaker one, between being tenured and showing a lack of willingness to incorporate new teaching techniques (correlation coefficient: .19). This correlation...
implies that tenured professors tend not to incorporate new teaching techniques into their curriculum. While veteran professors may simply become more habituated and comfortable in their approaches, perhaps the security of tenure contributes to or exacerbates the rigidity of some professors' approach to the classroom.

Interestingly, there was a negative correlation between gender and the willingness of a professor to incorporate new techniques into his or her teaching (correlation coefficient: -.19). This raises the inference that females are less likely than males to vary their teaching techniques and try new methods. If such an inference is valid, the causal agent propelling the distinction may be that a lack of tenure can have a "chilling effect" on the willingness to try new techniques. Therefore, the correlation is logical given that more males than females are tenured. On the other hand, the correlation may be attributable to a perception that women must be more traditional in the classroom than men.97 Because the coefficient was weak, it may have little, if any, significance. However, it would be interesting to explore the possible reasons for such a correlation.

C. Results for First Year Courses

<table>
<thead>
<tr>
<th>Correlation</th>
<th>Tenure</th>
<th>Gender</th>
<th>Method</th>
<th>New Techniques</th>
<th>Goals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Years experience</td>
<td>.40</td>
<td>-.38</td>
<td>-.12</td>
<td>.23</td>
<td>.03</td>
</tr>
<tr>
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<td></td>
<td>-.19</td>
<td>.18</td>
<td>.19</td>
<td>-.07</td>
</tr>
<tr>
<td>Gender</td>
<td></td>
<td></td>
<td>.17</td>
<td>-.19</td>
<td>-.07</td>
</tr>
<tr>
<td>New techniques</td>
<td></td>
<td></td>
<td>-.07</td>
<td></td>
<td>-.08</td>
</tr>
<tr>
<td>Method</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-.16</td>
</tr>
</tbody>
</table>

(zero = unrelated; one = positive correlation; minus one = negative correlation)

97. Ironically, by the time tenure is granted, there appears to be a greater incentive for both sexes to maintain the same tools and techniques because of comfort and convenience.
1. Number of Years of Teaching Experience

There was a small negative correlation between the level of teaching experience of the professor and the degree to which a professor uses the Socratic method (correlation coefficient: -.12). This means that as the number of years of teaching experience increased, the tendency to use the Socratic method likewise increased. Less experienced professors thus preferred alternatives to the Socratic approach than their more experienced colleagues. This result is probably best explained generationally. Because older professors were weaned on a strict diet of Socratic method, they are more likely than the younger generation to use this method on their own students. The correlation is also consistent with the general proposition that newer professors tend to experiment more than veteran ones. On the other hand, more experienced professors may find the Socratic method preferable after experimenting with other methods. Additionally, professors may be influenced by peer pressure to use the Socratic method, as the majority of professors use it and the majority of students are accustomed to it. More research is necessary to determine which of these postulates, if any, is accurate.

Interestingly, there was practically no correlation between years of teaching experience and whether a professor is skills or substance oriented (correlation coefficient: -.03). Thus, a professor’s level of experience in teaching appears to be a poor indicator of his or her goals in teaching.

The data showed a slight negative correlation between whether a professor was tenured and his or her goals (correlation coefficient: -.07). Tenure thus does not reflect on whether a professor’s goals are skills or substance oriented.

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98. The lower the number, the more often a professor uses the Socratic method.

99. There is a small, negative correlation between whether a professor is tenured and the teaching method chosen in first year courses. Essentially, as the tenure variable increased, the Socratic variable decreased. That is to say, as the frequency of tenured professors increases, the likelihood of the Socratic method being used most of the time also increases. Thus, tenured professors are more likely to use the Socratic method rather than other methods to teach first year courses. This is not surprising considering that more experienced professors prefer Socratic methods, and the tenured professors have more teaching experience.
2. Gender

There was a slight, positive correlation between gender and first year teaching methods (correlation coefficient: .17). The data indicates that unlike the overall results noted previously, female professors use non-Socratic methods in first year courses to a slightly greater degree than Socratic methods. The implication, if valid, is that female professors prefer to use alternatives to the Socratic method in first year courses, and do so more often than male professors.

D. Results for Upper Level Courses

<table>
<thead>
<tr>
<th>Correlation</th>
<th>Tenure</th>
<th>Gender</th>
<th>Method</th>
<th>New Techniques</th>
<th>Goals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Years experience</td>
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<td>.07</td>
<td>.23</td>
<td>.01</td>
</tr>
<tr>
<td>Tenure</td>
<td>...</td>
<td>-.19</td>
<td>-.03</td>
<td>.19</td>
<td>-.01</td>
</tr>
<tr>
<td>Gender</td>
<td>...</td>
<td>...</td>
<td>-.01</td>
<td>-.19</td>
<td>-.01</td>
</tr>
<tr>
<td>New techniques</td>
<td>...</td>
<td>...</td>
<td>.07</td>
<td>...</td>
<td>-.04</td>
</tr>
<tr>
<td>Method</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>.07</td>
</tr>
</tbody>
</table>

(zero = unrelated; one = positive correlation; minus one = negative correlation)

There are several telling results from comparisons between years of teaching experience, teaching methods, and gender. For example, there was a small correlation between the number of years of teaching experience and the degree to which a professor uses the Socratic method (correlation coefficient: .07). That is, for upper level courses, the more years a professor has been teaching, the less likely the professor will be to use the Socratic method most of the time. This result differs considerably from a comparison of teaching experience and methods used in first year courses. Veteran professors of upper

100. There is hardly any correlation between gender and first year teaching goals. This suggests that gender is a poor predictor of whether a professor's goals are more skills or substance oriented.
level courses appear to be adjusting their teaching approach to the
different nature of the courses. Much like doctoral level courses in
other disciplines, there seems to be a much more individualized design
and architecture in the upper level program. One explanation of the
data is the existence of a relationship between teaching goals and
methodology in this part of legal education.

In a different vein, the data also supported the fact that the
majority of tenured professors who teach upper level courses are male.
There was a small positive correlation between teaching methods and
goals (correlation coefficient: .07), implying that the greater degree to
which professors vary from the Socratic method, the more substance
oriented their upper level courses.

There was a small negative correlation between teaching method
and the willingness of a professor to incorporate new techniques into
his or her teaching (correlation coefficient: -.07), signifying that
professors of upper level courses who prefer the Socratic method are
less likely to incorporate new teaching techniques. There was a small
negative correlation between a professor’s goals and his or her
willingness to incorporate new techniques into his or her teaching
(correlation coefficient: -.04), meaning that professors who teach a
more substance-oriented upper level course are more likely to try new
teaching techniques, while professors whose courses are more skills-
oriented are less likely to try new teaching techniques.

In other areas, there was little if any correlation worth evaluat-
ing. For example, the comparison between years of experience and
whether a professor is skills or substance oriented yielded a correlation
coefficient of .01. A contrast between whether a professor is tenured
and the professor’s goals produced a correlation coefficient of -.03, and
whether a professor is tenured and his or her goals witnessed a
correlation coefficient of -.01. Further, comparisons between gender
and upper level teaching method saw a correlation coefficient of -.01
and likewise between gender and goals (correlation coefficient: -.01).
For these variables, one set is a poor indicator of the other.
There was a very small negative correlation between a professor's experience and whether he or she is skills or substance-oriented (correlation coefficient: -.07), signaling that the more years a professor has been teaching, the more likely he or she is to teach a skills-oriented seminar. There was also a very small negative correlation between whether a professor is tenured and his or her preferred teaching method (correlation coefficient: -.06), implying that tenured professors are more likely to utilize the Socratic method in their seminars.\footnote{There is also a very small negative correlation between whether a professor is tenured and his or her goals (correlation coefficient: -.05), suggesting that professors with tenure are more likely to teach skills-oriented than substance-oriented seminars. There is a very small, if any, negative correlation between gender and teaching method (correlation coefficient: -.03) and gender and goals (correlation coefficient: -.05), indicating that gender is a weak predictor of teaching methods and goals.}

There was a negative correlation between teaching goals and the willingness of a professor to incorporate new techniques into his or her teaching (correlation coefficient: -.14), evincing that professors who teach more substance-oriented seminars are more likely to try new teaching techniques. There was minimal correlation between teaching method and goals (correlation coefficient: -.04), teaching method and the willingness of a professor to incorporate new techniques into his or
her teaching (correlation coefficient: -.05), and years experience and the degree to which a professor uses the Socratic method (correlation coefficient: -.03).

F. Results for Skills Courses

<table>
<thead>
<tr>
<th>Correlation</th>
<th>Tenure</th>
<th>Gender</th>
<th>Method</th>
<th>New Techniques</th>
</tr>
</thead>
<tbody>
<tr>
<td>Years experience</td>
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<td>.02</td>
<td>.23</td>
</tr>
<tr>
<td>Tenure</td>
<td>...</td>
<td>-.19</td>
<td>.01</td>
<td>.19</td>
</tr>
<tr>
<td>Gender</td>
<td>...</td>
<td>...</td>
<td>.02</td>
<td>-.19</td>
</tr>
<tr>
<td>Method</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>-.36</td>
</tr>
</tbody>
</table>

(zero = unrelated; one = positive correlation; minus one = negative correlation)

There was a positive correlation between a professor’s experience and his or her willingness to incorporate new techniques in the classroom (correlation coefficient: .23), indicating that the longer a professor has been teaching, the less willing he or she will be to try new teaching techniques in skills courses. Interestingly, there was a large negative correlation between teaching method and the willingness of a professor to incorporate new techniques into his or her teaching (correlation coefficient: -.36), signifying that the less Socratic a professor’s methods are, the more willing he or she will be to try new teaching techniques in skills courses. However, there was a minimally positive correlation between years of experience and the degree to which a professor uses the Socratic method (correlation coefficient: .02), or between gender and teaching method (correlation coefficient: .02).

VI. CONCLUSION

How law professors teach is an important question. It is important to many groups, including students, employers, regulatory bodies, and perhaps most obviously, professors themselves. For those professors, questioning the teaching process affords conscious insight into habits, behaviors, and all of the choices a professor makes. While this survey may have just scratched the surface, it illuminated the
The significance of teaching goals and methods, and at least in some instances, the important relationship between the two.

The results of the Questionnaire offer many insights into law school teaching. By the number of responses alone, it can be readily inferred that law professors care about how they teach. This conclusion was strongly corroborated by the substance of the responses. Further, it appears that rather than worshipping at the temple of the Socratic method, law professors have explored and continue to explore alternative methods to teach their students. These methods are closely related to the specific context of the class—what level, and whether the class is one emphasizing critical thinking or other skills—and to the particular goals of the instructor. While the future of legal education remains unclear, it is apparent that teaching curricula in law school continue to evolve in an effort to better meet students' needs. At the very least, it seems that law professors are asking more questions about the broader educational context of the training program, and not just about the substance of the courses.