DISABILITY DISCRIMINATION LAW
Mental Health History Issues
Impact on Legal Education and the Legal Profession

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September 26, 2013, marked the 40th anniversary of the enactment of Section 504 of the Rehabilitation Act. Section 504 required that programs receiving federal financial assistance (which includes virtually all law schools) could not discriminate on the basis of disability. The enormous impact of this law (and later the Americans with Disabilities Act) on legal education and the legal profession was not foreseen in 1973. Before 1980 very little response to the law occurred. The first Supreme Court case was in 1979. It is not surprising that some of the earliest litigation occurred in the context of legal and medical education and licensing because the stakes are so high for individuals seeking to enter the legal and medical professions, and the concerns about the public interest are of great significance.

Since the early litigation, the application of disability discrimination law has developed, with an enormous body of judicial opinion and regulatory guidance. The enactment of the Americans with Disabilities Act in 1990, applied virtually the same legal requirements as the Rehabilitation Act and made disability discrimination laws more broadly applicable to the legal profession (affecting both employment of attorneys and providing services to clients with disabilities). Bar admission authorities, who were not subject to the Rehabilitation Act, are covered under the ADA. The 2008 ADA Amendments broadened the definition of coverage, so that today’s focus is less on whether the individual has a disability and more on whether the individual is otherwise qualified and what reasonable accommodations are required.

There are a range of issues affecting legal education and the legal profession that fall within the topic of disability discrimination. One of the most significant is the issue of mental health and substance addiction. Bar admission authorities asking applicants about mental health and substance abuse treatment and diagnosis deter individuals from seeking treatment. Recent challenges to these practices under the Americans with Disabilities Act highlight those concern.
Statutory, Regulatory, and Judicial References

WHO IS PROTECTED

Must be substantially limited in one or more major life activities; be regarded as so impaired or have a record of such an impairment.

Must be otherwise qualified – able to carry out the essential functions of the program with or without reasonable accommodation. Undue hardship, fundamental alteration, lowering standards – not required.

Individual must not pose a direct threat to others. While employment consideration may given to danger to self, it is unclear whether danger to self may be a consideration in taking action.

Individual must make “known” the disability and have appropriate documentation, and must do so in a timely manner. Second chances not generally required.

The ADA Amendments Act of 2008 clarifies and amends the definition of “disability”, see 42 U.S.C. § 12102. The regulations pursuant to the amendments were promulgated on March 25, 2011, effective May 24, 2011. They can be found at 29 C.F.R. 1630 and are available through the website at www.eeoc.gov.

The amendments respond to 1999 and 2002 Supreme Court decisions that had narrowed the definition, and provide for a broad interpretation of the definition of disability under the ADA. Under the revisions, whether an individual is substantially limited is to be determined without reference to mitigating measures, with an exception for ordinary eyeglasses and contact lenses. 42 U.S.C. § 12102(4)(E).

The amendments also add an illustrative list of major life activities, and by doing so codify the existing regulatory definitions and add to them.

The new definition of major life activities specifically includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, and operating major bodily functions (which are further defined). Many of the conditions found not to be disabilities may prospectively be determined to fall within the definition, so long as the condition substantially limits one or more of those major life activities.

The Amendments specifically provide that concentrating, thinking, and communicating are major life activities. This amendment may make it more likely that an individual with a learning disability or with certain mental impairments will fall under the definition.

The Amendments clarified that major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. 42 U.S.C. § 12102(2). A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. 42 U.S.C. § 12102(2).
To meet the requirement of “being regarded as having such an impairment” the individual must establish “that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.” 42 U.S.C. § 12102(3).

The definition of disability does not apply to impairments that are transitory and minor. A transitory impairment is one with an actual or expected duration of six months or less. 42 U.S.C. § 12102(4)(D).

The 2008 amendments further clarify that the determination of whether an impairment substantially limits a major life activity is to be made without regard to the ameliorative effects of mitigating measures. There is an exception for eyeglasses or contact lenses, but covered entities are prohibited from using qualification standards or selection criteria that are based on uncorrected vision unless these are job-related and consistent with business necessity. 42 U.S.C. § 12102(4)(E).

The Amendments also provide that “Nothing in this Act alters the provision…, specifying that reasonable modifications in policies, practices, or procedures shall be required, unless an entity can demonstrate that making such modifications in policies, practices, or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations involved.” 42 U.S.C. § 12201(f).

The ADA Amendments of 2008 (42 U.S.C. § 12103(1)) codify the basic provisions of the ADA and Rehabilitation Act regulations by providing that auxiliary aids and services are to include qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments; qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments; acquisition or modification of equipment or devices; and other similar services and actions.

The Amendments state that the definitions are also to be applied to the Rehabilitation Act.

MAJOR ISSUES IN HIGHER EDUCATION
(Cases involving Professional and Graduate Students are in BOLD)

A. Is the student “disabled” within the definition?

Must be substantially limited in one or more major life activities; be regarded as so impaired or have a record of such an impairment. (see above for amplification of these requirements)

Recent Cases
Ladwig v. Board of Supervisors of Louisiana State University, 842 F. Supp. 2d 1003 (M.D. La. 2012) Doctoral student with recurrent depression and head injury was not substantially limited in a major life activity; accommodation of attendance exceptions was contingent on her providing accommodation letter to professors; work was substandard; denying retroactive withdrawal or assigning grade of “incomplete”/doctoral student.
Singh v. George Washington University School of Medicine, 667 F.3d 1 (D.C. Cir. 2011) The 2008 amendments to the ADA do not apply retroactively to student’s claim. The student failed to establish relationship of impairment to her performance. (facts arose pre-ADA amendments)

Swanson v. University of Cincinnati, 268 F.3d 307 (6th Cir. 2001) Surgical resident with major depression was not substantially limited in ability to perform major life activities; difficulty with concentrating was temporary and alleviated by medication; communications problems were short-term, caused by medication and there were only a few episodes. (facts arose pre-ADA amendments)

Cunningham v. University of New Mexico Board of Regents, 2011 WL 1548389 (D.N.M. 2011) Medical school student did not allege that his Scopic Sensitivity Syndrome was a disability in claims against university.

Rumbin v. Association of American Medical Colleges, 2011 WL 1085618 (D. Conn. 2011) Medical school applicant was not disabled. The accommodated convergence ratio was within normal range. Evaluating optometrist did not compare reading skills to average person.

Forbes v. St. Thomas University, Inc., 2010 WL 6755458, 768 F. Supp. 2d 1222 (S.D. Fla. 2010) Issues of material fact remain regarding law student as to whether post-traumatic stress disorder was a disability and if so if student had received reasonable accommodations; requiring some evidence that denial of requests was based on rational belief that no further accommodation could be made without imposing a hardship on the program.

Pre-ADA-Amendment Cases

Davis v. University of North Carolina, 263 F.3d 95 (4th Cir. 2001) Student with multiple personality disorder was not disabled; she was not perceived as unable to perform broad range of jobs.

Bartlett v. New York State Board of Law Examiners, 226 F.3d 69 (2d Cir. 2000); 2001 WL 930792 (S.D.N.Y. 2001) Bar exam applicant with learning disability who had self accommodated was still substantially limited in major life activity of reading.

McGuinness v. University of New Mexico School of Medicine, 170 F.3d 974 (10th Cir. 1998) Test anxiety not a disability for a medical student.

B. Is the student otherwise qualified?

Southeastern Community College v. Davis, 442 U.S. 397 (1979) Nursing school student must be able to meet the essential program requirements in spite of the disability.
C. Has there been discrimination or denial of reasonable accommodation?

KEY CASE FOR SETTING REASONABLE ACCOMMODATION STANDARD:

Wynne v. Tufts University School of Medicine, 932 F.2d 19, 26 (1st Cir. 1991). In cases involving modifications and accommodations burden is on the institution to demonstrate that relevant officials within the institution considered alternative means, their feasibility, cost and effect on the program, and came to a rationally justifiable conclusion that the alternatives would either lower academic standards or require substantial program alteration.

The ADA Amendments Act of 2008 provides that nothing alters the ADA requirement provision that specifies that reasonable modifications in policies, practices, or procedures shall be required, unless an entity can demonstrate that making such modification...including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations involved. 42 U.S.C. §12201(f)

D. Application of these issues to cases involving students with learning disabilities and mental health problems

1. Admission issues

Colleges must be sure that they do not discriminate in admissions in the recruiting, application, testing, interviewing, and decision making processes. - 29 U.S.C. Section 794; 34 C.F.R. § 104.42; 42 U.S.C. §§ 12101 et seq.

2. Testing issues

Use of standardized tests and other eligibility criteria that tend to screen out individuals with disabilities does not necessarily violate ADA/504.

a. Can students with disabilities be required to take standardized admissions tests?
   Probably in most cases. Accommodations are provided by the testing services.

b. Current litigation about use of certain technology on bar admissions exams.

c. Deference to previous accommodations issue (see below)

3. Documentation issues

If disability is at issue, can documentation be required? Yes.

Who pays? Usually the student.

Documentation Issues – timing, credentials of evaluator, identification of the condition, relationship of condition to requested accommodations, deference to previous accommodations

ADA regulations promulgated in 2008 for Titles II and III provide new guidance on the documentation that should be required to receive accommodations on tests given by testing
companies. 28 C.F.R. § 36.309(1)(iv)-(vi). This section provides that documentation requests should be reasonable and limited to the need for the accommodation, that considerable weight should be given to documentation of past accommodations, and that responses to requests should be timely.

Recent higher education cases indicate a more stringent assessment about whether a documented condition is a disability within the ADA where individual is not substantially limited in a major life activity.

*In re Reasonable Testing Accommodations of Terry Lee LaFleur*, No. 2006 SD 86 (S.D. 9/20/06) Psychologist testifying about extra time with ADD was not an expert on bar exam accommodations; testimony was discounted.


3. Otherwise Qualified

Students must be able to carry out essential requirements of the program, with or without reasonable accommodation. School need not lower standards nor fundamentally alter the program. Misconduct need not be excused even if it relates to the disability, although a later identified disability might justify re-consideration of adverse action in light of the condition.

*Halpern v. Wake Forest University Health Sciences*, 669 F.3d 454, 2012 WL 627788 (4th Cir. 2012) Medical student with ADHD and anxiety disorder did not request accommodations until several years after engaging in unprofessional acts, including abusive treatment of staff and multiple unexcused absences; proposed accommodation (allowing psychiatric treatment, participating in program for distressed physicians, and continuing on strict probation) was not reasonable.

*Ladwig v. Board of Supervisors of Louisiana State University and Agricultural and Mechanical College*, 2012 WL 292508 (M.D. La. 2012) A doctoral student with depression and anxiety did not make out Title I or Title II case. Student did not make out case that she was qualified to perform essential functions of graduate assistantship. Student did not adequately request accommodations for head injury excusing her from attendance and allowing additional time to turn in assignments. University had provided accommodations by providing letters supporting absences and extra time.


*Toledo v. Sanchez*, 454 F.3d 24 (1st Cir. 2006) Upholding attendance requirements for student with schizoaffective disorder.
Marlon v. Western New England College, 27 Nat’l Disability L. Rep. ¶ 70 (1st Cir. 2005) Law school did not discriminate against student with learning disability, panic attacks and depression, insufficient evidence as to whether student was regarded as disabled.

Childress v. Clement, 5 F. Supp. 2d 384 (E.D. Va. 1998) Student who had plagiarized was not otherwise qualified for position as graduate student in criminal justice program. His learning disability had been taken into account in evaluating violations of the honor code. Th inquiry was individualized.

Doe v. Vanderbilt University, 983 F. Supp. 205 (D.D.C. 1997) Student with manic depression need not be readmitted to medical school. The dismissal based on academic deficiencies and behavior problems.

Letter to University of Houston, 32 Nat’l Disability L. Rep. ¶ 74 (OCR 2005) Graduate School of Social Work could dismiss student with bipolar disorder who failed exam; student was not treated differently than other students.

4. Accommodations

Cutrera v. Board of Supervisors of LSU, 429 F.3d 108 (5th Cir. 2005) Institutions should engage in interactive process to determine reasonable accommodations.

Accommodations can include the following:

- additional time for exams;
- other exam modifications (separate room; extra rest time);
- reduction, waiver, substitution, or adaptation of course work;
- extensions on assignments;
- extension of time for degree completion;
- preference in registration;
- permission to tape record classes
- New issues arising regarding animals on campus

Halpern v. Wake Forest University Health Sciences, 669 F.3d 454, 2012 WL 627788 (4th Cir. 2012) Medical student with ADHD and anxiety disorder did not request accommodations until several years after engaging in unprofessional acts, including abusive treatment of staff and multiple unexcused absences; proposed accommodation (allowing psychiatric treatment, participating in program for distressed physicians, and continuing on strict probation) was not reasonable.

Ladwig v. Board of Supervisors of Louisiana State University, 842 F. Supp. 2d 1003 (M.D. La. 2012) Doctoral student with recurrent depression and head injury was not substantially limited in a major life activity; accommodation of attendance exceptions was contingent on her providing accommodation letter to professors; work was substandard; denying retroactive withdrawal or assigning grade of “incomplete”/doctoral student.

Schneider v. Shah, 2012 WL 1161584 (D.N.J. 2012) There is an obligation to engage in interactive process regarding accommodations, but that ends on the day the student sues university. Student in paralegal program had excess absences.
Forbes v. St. Thomas University, Inc., 2010 WL 6755458, 768 F. Supp. 2d 1222 (S.D. Fla. 2010) Issues of material fact remain regarding law student had received reasonable accommodations for post traumatic stress disorder; requiring some evidence that denial of requests was based on rational belief that no further accommodation could be made without imposing a hardship on the program.


Ferris State University, No. 15002052 (OCR 2000) Student with dyslexia and test anxiety had absences that affected class grade; insufficient evidence that any denial of accommodations affected grade.

Amir v. St. Louis University, 12 Nat’l Disability L. Rep. ¶ 151 (E.D. Mo. 1998); 184 F.3d 1017 (8th Cir. 1999) Medical student with obsessive compulsive disorder was dismissed because of academic deficiencies; unreasonable to grant request to change supervisors, which would be fundamental alteration; appeal recognized basis for claim of retaliation.

5. Readmission/Second chances

Academic performance need not be excused because of mental or other impairments, although failure to make reasonable accommodations might justify reconsideration.

Halpern v. Wake Forest University Health Sciences, 669 F.3d 454, 2012 WL 627788 (4th Cir. 2012) Medical student with ADHD and anxiety disorder did not request accommodations until several years after engaging in unprofessional acts.

Maples v. University of Texas Medical Branch at Galveston, 2012 WL 4510524, 46 Nat’ Disability L. Rep. 14 (S.D. Tex 2012) A “second chance” was not a reasonable accommodation; it would fundamentally alter the program; alteration of eligibility criteria not required; medical school student with ADHD and depression dismissed academically; discussed causation factors – ADA prohibits exclusion “by reason of disability”; 504 requires that to be the sole factor; paper was not turned in on time and did not meet standards of the course.

Peters v. University of Cincinnati College of Medicine, 45 Nat’l Disability L. Rep. 236 (S.D. Ohio 2012) Failure to allow a student with a learning disability and ADD to retake exams after it was determined that her medication regimen had been stabilized might be required as a reasonable accommodation; student had only failed exam by a few points; student may have been dismissed because of a pattern of psychiatric problems.

Rivera-Concepcion v. Puerto Rico, 2011 WL 1938239 (D. Puerto Rico 2011) Expulsion of student with bipolar disorder from an internship program was made by officials of the state institution, but was made by employees of the non-profit organization with the coop agreement to operate the program. Officials were unaware of bipolar disorder until after the expulsion.
Singh v. George Washington University, 338 F. Supp. 2d 99 (D.D.C. 2005) Obligation is on the individual student to make known the disability to obtain accommodations; institution not required to give a second chance where accommodations were requested after student was dismissed.

Michael M. v. Millikin University, No. 98-2082 (C.D. Ill. 1998) Student with obsessive compulsive disorder reinstated after settlement agreement; student was withdrawn after a panic attack episode; reenrollment conditioned on receiving weekly therapy and compliance with medication regimes prescribed by psychiatrist.

Haight v. Hawaii Pacific University, 116 F.3d 484 (9th Cir. 1997) Where an institution was aware of behavior or performance deficiencies or where reasonable questions are raised after dismissal, institutions may have discretion to make readmission subject to conditions not applied to students in the initial admission process.

Esmail v. SUNY Health Science Center, 633 N.Y.S.2d 117 (AD 1st 1995) Student's dismissal premature for failure to comply with administrative procedures; dismissal was because of drug addiction.

Gill v. Franklin Pierce Law Center, 899 F. Supp. 850 (D.N.H. 1995) Law student was not otherwise qualified under Section 504. Student had not requested any accommodations. Claim that law school should have known he needed accommodations because of post-traumatic stress syndrome resulting from being the child of alcoholic parents.


E. Mental and Substance Abuse Impairments

Is there any way to know there is a problem student in the application process? Application questions should only ask about behavior and conduct, not status or treatment or history.

Clark v. Virginia Board of Bar Examiners, 880 F. Supp. 430 (E.D. Va. 1994). This case provides a detailed discussion of mental health history questions and a review of the status in other jurisdictions.

For an excellent overview of this issue, see Stanley Herr, Questioning the Questionnaires: Bar Admissions and Candidates with Disabilities, 42 Villanova L. Rev. 635 (1997).

The Department of Justice in August 2014 settled a dispute regarding the character and fitness questions asked in Louisiana raising concerns about inquiries about whether mental health treatment and diagnosis violates the ADA.

http://www.ada.gov/louisiana-supreme-court_sa.htm

Procedural safeguards and balancing with safety issues? Those dealing with students need to be educated on the ADA/504 obligations involving expulsion and other disciplinary measures relating to individuals with disabilities (including mental disabilities and contagious diseases). Importance of confidentiality.

Distinguishing between danger to self (depression, eating disorders, etc.), disruption, and danger.
Direct threat –

Title II regulations provide the following regarding direct threat:

*Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided in § 35.139.* 28 C.F.R. §35.104 (definitions). The determination of direct threat is to be based on an individualized assessment “based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices or procedures or the provision of auxiliary aids or services will mitigate the risk.” 28 C.F.R. §35.139(b).

Title I regulations applicable to employment, however, allow direct threat as a defense when the individual poses a direct threat to the health or safety of the individual or others in the workplace. See 29 §§1630.2(4) &1630.15(b)(2).

The statutory language of the ADA does not define direct threat. While the EEOC regulation has been upheld by the Supreme Court as being valid and within the scope of the statute, *Chevron U.S.A. Inc. v. Echazabal*, 536 U.S. 73 (2002), the Title II regulation (which is part of the regulations issued in 2010) has not been subjected to judicial review.

Many in higher education have raised concerns about how the Title II regulation (not considering threat to “self”) will be applied to actions towards students who are suicidal or who have other self-destructive behaviors such as severe depression or eating disorders.

*Mershon v. St. Louis University*, 442 F.3d 1069 (8th Cir. 2006) Student with disability banned from campus because of threat of violence against a professor.

*Letter to Marietta College*, 31 Nat’l Disability L. Rep. ¶ 23 (OCR XII, Cleveland 2005) Dismissal of student threatening suicide violated Section 504 because decision was not sufficiently based on a high probability to substantial harm.

*St. Thomas University, School of Law*, 23 Nat’l Disability L. Rep. ¶ 160 (2001) (No. 01-4151) Law student with bipolar disorder was dismissed because of threats to “blow up the legal writing department”; dismissal upheld.

*Dixie College (UT)* 8 Nat’l Disability L. Rev. ¶ 31 (OCR 1995) No ADA/Section 504 violation in expelling a student because of stalking and harassing a professor. Expulsion was not because of perceived mental disability but because she posed a threat.

Misconduct and misbehavior need not be excused even if it is caused by mental impairment.

*Rivera-Concepcion v. Commonwealth of Puerto Rico*, 786 F. Supp. 2d 489 (D. Puerto Rico 2011) Student with bipolar disorder expelled from government internship program did not make out case of ADA/504 discrimination. Expulsion was based on manic episode. Program was not aware of mental condition, but based expulsion on behavior.

Other Cases on Mental Impairments

*Toledo v. University of Puerto Rico*, 36 Nat’l Disability L. Rep. ¶ 127 (D. P.R. 2008) Denying dismissal of case against university. Student claimed he was subjected to harassment and discrimination after revealing schizoaffective disorder. Accommodation of afternoon classes because of medication denied although it had offered afternoon classes in the past.

*Letter to Austin Peay State University*, 36 Nat’l Disability L. Rep. ¶ 156 (OCR 2006) Student was not denied academic adjustments because he did not provide required documentation to receive them; expulsion after veiled threat against professor and Web site posting targeting another; student claimed paranoid personality disorder.

*Northern Michigan University*, 7 Nat’l Disability L. Rep. ¶ 244 (OCR 1995) No Section 504 or ADA violation to place observers in classroom of student with Tourette's Syndrome to evaluate whether placement was for benefit of student.
RECENT PUBLICATIONS BY THE PRESENTER


Laura Rothstein, “Litigation over Dismissal of Faculty with Disabilities,” Appendix C of AAUP Report on Accommodating Faculty Members Who Have Disabilities (January 2012)

Laura Rothstein, *Disabilities and the Law* Chapter 3 (Thomson West 2013) and cumulative editions (with Julia Irzyk)


*Southeastern Community College v. Davis*, chapter in *EDUCATION STORIES*, Michael Olivas & Ronna Schneider eds. (Foundation Press 2007)


Bio Summary

**Laura Rothstein, Professor of Law and Distinguished University Scholar**

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Laura Rothstein joined the Louis D. Brandeis School of Law at the University of Louisville as Professor of Law and Dean in 2000 (serving as dean until 2005). She has written fifteen books and dozens of book chapters, articles, and other works on disability discrimination, covering a broad range of issues. Much of her work is in the area of disability issues in higher education, particularly legal education. She has served as founding co-chair of the AALS Section on Disability Law, Chair of the American Bar Association Section of Legal Education and Admission to the Bar Diversity Committee, and a member of the Law School Admission Council Board of Trustees. From 1980 to 1986, she served as Faculty Editor of the Journal of College and University Law, the law journal published by the National Association of College and University Attorneys. She is the recipient of the 2011 William A. Kaplin Award for Excellence in Higher Education Law and Policy Scholarship, awarded by Stetson Law School’s Institute for Higher Education Law and Policy. This award recognizes scholars who have published works on education law that embrace the intersection of law and policy. In 2012 she was one of five faculty members in the University to be recognized by the University of Louisville for Distinguished Scholarship. She is an elected member of the American Law Institute.

Before coming to the University of Louisville, Professor Rothstein was a Law Foundation Professor of Law at the University of Houston where she served as Associate Dean for Graduate Legal Studies (2004-2005) and Associate Dean for Student Affairs (1987-1993). She began law teaching in 1976 after two years in practice and has served on faculties at five law schools.
C. Mental Health and Substance Use and Abuse Issues

Impairments resulting from mental health conditions and substance abuse are a significant issue for attorneys as well as law students. A comprehensive discussion of all of these issues is found in a 2008 article, Law Students and Lawyers With Mental Health and Substance Abuse Problems: Protecting the Public and the Individual.1 The following is a brief summary of the same article by this author and an update of developments since that date.

The article provides an overview of the policies, practices, and procedures relevant to mental impairment and substance abuse, including statutory and regulatory guidance, how the courts have addressed these issues, how regulatory associations (the ABA and the Association of American Law Schools) have responded, the law school admission and enrollment process (including obligations to report mental health and substance abuse issues in the admission and bar certification process), the issue of treatment, issues of discipline, and issues of professional licensing (initial licensing and retention), and employment issues.

The article concludes with a number of recommendations. These include collecting data on the prevalence of mental illness and substance abuse, as well as the impact of stress. The recommendations also include determining what research demonstrates about the benefits of education programs focused on mental health and substance abuse. Collecting data about the effectiveness of treatment programs for lawyers and law students, and on the benefits of education programs about mental health and substance abuse are also recommended. The article further suggests a review and evaluation about initial licensure, issues of license revocation, and other disciplinary measures relating to attorneys with mental health and substance abuse.

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problems. It provides a much more detailed discussion than is possible in this Article, but the following provides more recent cases and developments, and details what has occurred with mental health and substance abuse issues since 2008.

1. Definition of Disability for Mental Health and Substance Abuse

As noted previously, Section 504 and the ADA have essentially the same definition of a disability. For individuals with mental health impairments, the condition must substantially limit a major life activity. An important consideration is whether the cases determining if mental impairment is a disability were decided before or after the effective date of the ADA Amendments Act of 2008. The 2008 amendments intend that certain conditions, particularly mental health conditions, be more likely to be classified as disabilities.

2. Otherwise Qualified

As noted previously, meeting the definition of disability is only the first step to finding that impermissible discrimination has occurred. The individual must also be otherwise qualified to carry out the essential requirements of the position or program, taking reasonable accommodations into account. An important change since 2008 is more likely to affect law schools than employers. In the context of determining whether an individual is otherwise qualified, entities can take into account whether the individual presents a direct threat. Since 2008, the issue of whether a threat to “self” can be considered has become the subject of debate.

Consideration of threat to “self” is permissible in the employment context. But for law

2. See supra Part II.A.

3. Compare Marlon v. W. New Eng. Coll., No. Civ.A. 01-12199DPW, 2003 WL 22914304, at *8 (D. Mass. Dec. 9, 2003), aff’d, 124 F. App’x 15 (1st Cir. 2005) (holding, in a pre-amendment decision, that a law school did not discriminate against a student with a learning disability, panic attacks, and depression, because there was insufficient evidence as to whether the student was regarded as disabled), with Ladwig v. Bd. of Supervisors of La. State Univ. & Agric. & Mech. Coll., 842 F. Supp. 2d 1003, 1007 (M.D. La. 2012) (holding that a doctoral student with a head injury and recurrent depression was not substantially limited in a major life activity), and Forbes v. St. Thomas Univ., 768 F. Supp. 2d 1222, 1230-34 (S.D. Fla. 2010) (finding issues of material fact regarding whether a law student’s post-traumatic stress disorder was a disability and, if so, whether the student had received reasonable accommodations, including requiring evidence that the denial of the requests was based on a rational belief that no further accommodation could be made without imposing a hardship on the program).

4. See supra Part II.A.2; see also Halpern v. Wake Forest Univ. Health Scis., 669 F.3d 454, 465 (4th Cir. 2012) (finding that a medical student with ADHD and an anxiety disorder did not request accommodations until several years after engaging in unprofessional acts, including abusive treatment of staff and multiple unexcused absences, and so the proposed accommodation—allowing psychiatric treatment, participating in program for distressed physicians, and continuing on strict probation—was not reasonable); Ladwig, 842 F. Supp. 2d at 1008 (holding that a doctoral student with depression and anxiety did not adequately request accommodations for a head injury to excuse her from attendance and allow additional time to turn in assignments, and that the university had provided accommodations by providing letters supporting absences and extra time).

5. See Mershon v. St. Louis Univ., 442 F.3d 1069, 1073 (8th Cir. 2006) (regarding a student with a disability who was banned from campus because of a threat of violence against a professor). Several opinion letters from the Office for Civil Rights have also addressed this issue. See St. Thomas Univ. Sch. of Law, OCR Resolution Letter, No. 04-01-2098, 23 NDLR 160, 6-9 (Dep’t of Educ. 2001) (upholding dismissal after noting that a law student with bipolar disorder was dismissed because of threats to “blow up the legal writing department”); Dixie Coll., OCR Resolution Letter, No. 08-95-2111, 8 NDLR 31, 4-5 (Dep’t of Educ. 1995) (finding no ADA or Section 504 violation in expelling a student because of stalking and harassing a professor, as the expulsion was because the student posed a threat and not because of a perceived mental disability).

schools addressing mental health concerns such as depression, eating disorders, and other conditions related to their students, this is not as simple. While being otherwise qualified allows the law school to discipline or take other action where a student is disruptive or dangerous to others, when the potential harm is only to the individual students themselves, it is not clear what is allowed.

The Title II regulations issued in 2010 provide that a “direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.” The determination of direct threat is through an individualized assessment “based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices or procedures or the provision of auxiliary aids or services will mitigate the risk.” The Title II regulatory interpretation probably applies to Title III entities as well. Title I regulations applicable to employment, however, allow direct threat as a defense when the individual poses a direct threat to the health or safety of the individual or others in the workplace.

The statutory language of the ADA does not define direct threat. The EEOC regulation has been upheld by the Supreme Court as being valid in the employment context and within the scope of the statute. The Title II regulation, however, has not been subjected to judicial review. DOE unofficial guidance has indicated that the agency enforcement will interpret the requirement to mean that threat to self may not be considered and entities that act on that basis may be in violation of the ADA. Many in higher education have raised concerns about how the Title II regulation (not considering threat to “self”) will be applied to actions towards students who are suicidal or who have other self-destructive behaviors such as severe depression or eating disorders.

3. Law School Admission and Enrollment

Since 2008, there has been little change in law school admission policies and practices regarding mental health and substance abuse issues. Most law schools inquire only about discipline and behavior issues, not diagnosis and treatment. Law schools continue to use their student codes of conduct to address situations where student misconduct is at issue, even where it may be related to a mental health or substance abuse issue. The bar certification reporting processes have not changed substantially since 2008. While the lawyer assistance programs for law students have evolved, there has not been a comprehensive study on the effectiveness of

8. Id. § 35.139(b); see also Marietta Coll., OCR Resolution Letter, No. 15-04-2060, 31 NDLR 23, 12-13 (Dep’t of Educ. 2005) (asserting dismissal of student threatening suicide violated Section 504 because decision was not sufficiently based on a high probability to substantial harm).
11. See Paul Lannon & Elizabeth Sanghavi, New Title II Regulations Regarding Direct Threat: Do They Change How College and Universities Should Treat Students Who Are Threats to Themselves?, NACUA NOTES, Nov. 1, 2011, at 5-6 (discussing that there is a lack of clear guidance to universities on how to analyze self-harm).
12. See Rothstein, Substance Abuse Problems, supra note 387, at 548 (discussing that students with substance use disorders may have to disclose counseling despite counseling being “confidential,” which might
these programs.

Since the 2008 amendments to the ADA, the concerns about stress and its impact on law students have increased. More attention is being paid to what to do about the impact of stress during law school. One of the major concerns beyond recognition of the need to do more is the availability and affordability of mental health services and whether such treatment will remain confidential.

4. Professional Licensing

Concerns about mental health, substance use, and abuse within the practicing bar have received substantial attention since 2008. The practice of asking questions about diagnosis and treatment for mental health and substance abuse during the licensing process continues to be challenged. As of 2008, the vast majority of courts were upholding these questions as permissible under the ADA. More recent cases have hinted that this may change. reduce the number of students accessing the service).


14. See Jolly-Ryan, Promoting Mental Health, supra note 387, at 96 (exploring the possible causes of law student stress, questioning the teaching method itself, and offering ideas for coping). See generally LAWRENCE S. KRIEGER, THE HIDDEN SOURCES OF LAW SCHOOL STRESS (2005) (discussing reasons that law school is stressful and providing advice to students on how to manage stress, in a booklet that is used at over one hundred law schools).

15. See Michael J. Herkov, Mental Illness and the Practice of Law, B. EXAM’R, Mar. 2013, at 47-51 (providing the perspective of a psychiatrist about what should be appropriate for a bar application review process, and raising concerns about the impact of mental illness on an attorney’s ability to meet essential requirements to practice law); Perlin, Lawyers with Mental Disabilities, supra note 387, at 606 (discussing the value of looking at the role of therapeutic justice in addressing harms done by lawyers with mental illness); see also Symposium, Assisting Law Students with Disabilities in the 21st Century: A New Horizon?, Suffering in Silence: The Tension Between Self-Disclosure and a Law School’s Obligation to Report, 18 AM. U. J. GENDER SOC. POL’Y & L. 121, 122 (2007) (debating amongst panelists on the difficulty on encouraging mental health treatment that carries possible bar application implications); Erica Moeser, Standards, Change, Politics and the Millennium, 28 LOY. U. CHI. L.J. 229, 235 (1996) (discussing ABA accreditation issues); Erica Moeser, Yes: The Public Has the Right to Know About Instability, 80 ABA J. 36, 36 (1994) (asserting that public interest should be balanced against the applicant’s interest and that the ADA does not bar all inquiries into mental health status). See generally JAMES T.R. JONES, A HIDDEN MADNESS (2011) (providing the story of a law professor living with severe bipolar disorder); ELYN SAKS, THE CENTER CANNOT HOLD: MY JOURNEY THROUGH MADNESS (2007) (detailing the experiences of a law professor with severe mental illness).

16. See, e.g., TAYLOR & GOLDSTEIN, supra note 285, at 16, 18-22 (discussing various cases challenging the bar admission process and calling for disclosure to be based on misconduct rather than status); see also Peter Ash, Predicting the Future Behavior of Bar Applicants, B. EXAM’R Dec. 2013, at 6-16 (“Given the complexities inherent in making accurate long-term predictions regarding an individual’s behavior, it seems unlikely that in the coming decade we will have a database that will significantly improve our ability to quantify the future risk of impairment.”). The article discusses the ability to predict future behavior based on past history of substance abuse or mental health problems.

17. See, e.g., Clark v. Va. Bd. of Bar Exam’rs, 880 F. Supp. 430, 431, 438-40, 444 (E.D. Va. 1995) (striking down a question asking whether an applicant has been treated or counseled for any mental, emotional, or nervous disorders within the past five years as being impermissible under Title II). The Clark opinion provides a detailed discussion of the other decisions on this issue and the practices of bar admission authorities in various states. The court left open the possibility that the Texas inquiries might withstand challenge. Id.; see also Campbell v. Greisberger, 80 F.3d 703, 705 (2d Cir. 1996) (indicating that New York had changed its mental health status question); Stoddard v. Fla. Bd. of Bar Exam’rs, 509 F. Supp. 2d 1117, 1124-25 (N.D. Fla. 2006), aff’d, 229 F. App’x. 911 (11th Cir. 2007) (finding no violation of the ADA when reviewing mental health and financial
history or unprofessional conduct, especially since the applicant had many issues that raised concerns); Doe v. Judicial Nominating Comm’n for the Fifteenth Judicial Circuit of Fla., 906 F. Supp. 1534, 1537, 1544-45 (S.D. Fla. 1995) (concluding that questions asked of judicial appointment applicants were overly broad when they concerned any physical impairment, hospitalization, treatment of mental illness, or addiction to drugs or alcohol regardless of whether they would affect applicant’s job performance capabilities); Applicants v. Tex. State Bd. of Law Exam’rs, No. A 93 CA 740 SS, 1994 WL 923404, at *2, *5 (W.D. Tex. Oct. 11, 1994) (permitting narrowly drawn questions asking about treatment for bipolar disorder, schizophrenia, paranoia, or any other psychotic disorders within the past ten years or since age eighteen, whichever time period was shorter); Med. Soc. of N.J. v. Jacobs, No. 93-3607, 1993 WL 413016, at *1 (D.N.J. Oct. 5, 1993) (denying a preliminary injunction to prohibit a state medical board from asking about alcohol or drug abuse and mental or psychiatric illness); In re Frickey, 515 N.W.2d 741, 741 (Minn. 1994) (ordering the board of bar admissions to remove certain mental health treatment questions from Minnesota’s Bar Application because these types of questions would deter law students from seeking appropriate counseling); Jon Bauer, The Character of the Questions and the Fitness of the Process: Mental Health, Bar Admissions and the Americans with Disabilities Act, 49 UCLA L. REV. 93, 94 (2001) (asserting that the bar admissions process is ill-suited to handle disability issues); Stanley Herr, Questioning the Questionnaires: Bar Admissions and Candidates with Disabilities, 42 VILL. L. REV. 635, 637 (1997) (discussing the wide variety of state questionnaires despite increasing number of bar applicants with disabilities); Letter to Karen Richards, Executive Director of Vermont Human Rights Commission, from U.S. Department of Justice Civil Rights Division, Jan. 21, 2014 (responding to inquiries about the use of mental health questions in Vermont, and stating the position that the ADA prohibits discriminatory inquiries, investigations and additional burdens imposed on health disabilities). But see In Re Henry, 841 N.W. 2d 471 (S.D. 2013 ) (holding that Board of Bar Examiner’s inquiry into mental health including prior diagnosis of bipolar disorder was not an ADA violation; facts of case included past conduct that had included arrests for reckless driving).

18. See, e.g., Roe v. Ogden, 253 F.3d 1225, 1225 (10th Cir. 2010) (allowing an individual and a student chapter of the ACLU to challenge bar questions on drug use and mental health); ACLU of Ind. v. Individual Members of the Ind. State Bd. of Bar Exam’rs, No. 1:09-cv-842-TWP-MJD, 2011 WL 4387470, at *9 (S.D. Ind. Sept. 20, 2011) (holding that open-ended questions about mental health diagnosis or treatment for any mental, emotional, or nervous disorder were impermissible, and that permissible questions are those asking whether an applicant had been diagnosed with psychotic disorders and whether the applicant had an impairment involving current substance abuse or current mental health conditions); see also Stoddard, 509 F. Supp. 2d at 1123-24 (declaring that immunity does not shield a board from an ADA claim); Caroline M. Mew & Robert A. Burgoyne, ADA Update: The Status of Eleventh Amendment Immunity and Rooker-Feldman Doctrine as Defenses to Claims Asserted Against Bar Examiners Under the ADA, B. EXAM’R, Aug. 2007, at 17 (concluding that the doctrine would be a defense for bar examiners in fewer cases).

19. See, e.g., Iowa Sup. Ct. Bd. of Prof’l Ethics & Conduct v. Erbes, 604 N.W.2d 656, 657 (Iowa 2000) (deciding that public reprimand was the appropriate sanction for the misconduct of an attorney who took “refreshingly proactive” steps to deal with his depression); In re Burch, 975 N.E.2d 1001, 1003 (Ohio 2012) (requiring an applicant to appear before a review panel for a character and fitness process to answer questions about diagnoses of depression and ADD, and how those conditions related to her law school failures and behavior issues, including failure to take responsibility for actions); In re Zimmerman, 981 N.E.2d 854, 856-57 (Ohio 2012) (upholding the board of bar examiners’ findings and recommendations regarding the denial of character and fitness, but allowing the applicant to resubmit, subject to providing a mental health evaluation by a licensed professional to show compliance with treatment); Cincinnati Bar Ass’n v. Stidham, 721 N.E.2d 977, 983 (Ohio 2000) (finding depression to be a mitigating factor when determining sanction for mishandling client funds); see also Fla. Bar v. Clement, 662 So. 2d 690, 692, 700 (Fla. 1995) (concluding that disbarment was not precluded under the ADA despite an attorney’s bipolar disorder, and that no reasonable accommodations could be made to prevent the attorney’s egregious conduct from recurring); In re Blackwell, 880 N.E.2d 886, 886-88 (Ohio 2007) (upholding a determination of psychological unfitness, but allowing a right to apply to take the next bar exam, subject to proof of treatment and reevaluation at his own expense); Leigh Jones, Reciprocity Denied to Lawyer Treated for Depression, NAT’L L.J. (Jan. 7, 2013), available at http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202583364054 (reporting on case involving an Idaho attorney, designated by the Social Security Administration as disabled by depression, whose practice was interrupted by bouts of depression and who lost a bid for admission by reciprocity to the Utah State Bar).
few involving attorneys with ADD and ADHD and other types of conditions. The concept of conditional licensing or admission in light of these kinds of issues has been addressed and would benefit from additional review as to its efficacy.

20. See, e.g., In re Marshall, 762 A.2d 530, 535 (D.C. 2000) (finding that an attorney with a cocaine addiction was not a “qualified” individual protected from disbarment); Fla. Bd. of Bar Exam’rs ex rel. v. Barnett, 959 So. 2d 234, 234-36 (Fla. 2007) (granting conditional admission for three years due to evidence of several years of rehabilitation, after a resignation from the bar in lieu of disciplinary proceedings and a petition for readmission caused by five character and fitness incidents, including charges of misappropriation of client funds, heroin use, possession of cocaine, and resisting arrest); In re Edwards, 958 So. 2d 1173, 1173 (La. 2007) (denying conditional admission to individual with alcohol-related arrests and citations); In re Lynch, 877 N.E.2d 656, 656 (Ohio 2007) (granting qualified admission that required the bar applicant to undergo a Twelve-Step program to address professional responsibility issues and the applicant’s use of alcohol, with the panel’s decision focused on behavior and conduct issues).

21. See Doe v. Attorney Discipline Bd., No. 95-1259, 1996 WL 78312, at *1, 3 (6th Cir. Feb. 22, 1996) (finding that an attorney with ADD who was suspended for misconduct was not qualified under the ADA); In re Sheridan’s Case, 781 A.2d 7, 10-11 (N.H. 2001) (giving public censure to attorney who violated filing deadline requirements when failures occurred while attorney was recovering from serious eye and hip injuries); In re Acton, 902 N.E.2d 966, 967-68 (Ohio 2009) (regarding a character and fitness denial based on eight speeding violations and other misdemeanor charges, where the applicant claimed to have ADD and that it make him forgetful, but the court found that ADD did not affect ability to abide by law but instead caused him to be slow to learn his lessons); State ex rel. Okla. Bar Ass’n v. Busch, 919 P.2d 1114, 1117 (Okla. 1996) (holding that disability should be a mitigating factor in an attorney discipline case).

Dear Mr. Hicks:

This letter is based on my longstanding interest and work on mental health and substance abuse issues within legal education and the legal profession. The views expressed in this letter are my personal perspectives and do not necessarily reflect the viewpoint of the University of Louisville or any organizations with which I have worked on these issues. I have written and spoken extensively on this issue for more than 25 years. Attached is a summary of my work in this area and it demonstrates a broad range of service activities, scholarship, and administrative work that has addressed issues of mental health and substance use and abuse. My work demonstrates scholarly attention and analysis of these issues; service on numerous national boards, committees, task forces, and conference planning committees; implementation of policy as Dean (Brandeis School of Law) and Associate Dean of Students (University of Houston); and speaking at numerous conferences on these topics. All of these experiences have allowed me to interact and hear the perspectives and opinions from a wide range and a large number of individuals within legal education and the legal profession. This broad set of experiences has resulted in my giving substantial thought and attention to this issue.

I write to encourage the Board to accept the recommendation of the Disability Rights Ohio that the Board of Commissioners on Character and Fitness in Ohio remove inquiries about an applicant’s mental health treatment and diagnosis and focus on conduct and behavior and a record that demonstrates a risk that such conduct and behavior would place the public at risk. My views can be summarized briefly as follows:

1) The current practices of most states, including Ohio, violate Title II of the ADA.

2) There is strong evidence that such practices deter individuals from getting treatment. Such deterrence can have grave consequences as highlighted by recent attention to attorney suicide rates.

3) There is virtually no research demonstrating that such practices actually protect the public.

4) There is strong evidence of the substantial burden placed on individuals subjected to these questions -- these burdens include the cost to the applicant of gathering the material from treating professionals, costs of employing legal counsel in some cases, personal time and effort in attending hearings or similar reviews, and delayed admission
to the bar which significantly adversely affects employment prospects.

5) There is little clarity from bar admission authorities about what those receiving and handling very private medical treatment documents do to ensure privacy protection of the information that is gathered during this process.

6) There is also little clarity about the training of those reviewing submitted treatment and diagnosis material.

7) Engaging in these reviews is costly and burdensome to the bar admission agencies, without demonstrated benefit.

The current practices asking about diagnosis and treatment cannot be justified and discriminate against individuals on the basis of disability. Before such invasive, stigmatizing, and costly burdens are placed on individuals, bar admission authorities should present evidence that these burdens are substantially (or at the very least reasonably) related to the interests that bar admission authorities seek to protect.

The purpose of asking questions about character and fitness is to protect the public, and is well intentioned. I applaud you for that. It would be much better, however, to focus on issues of behavior, conduct, and discipline and to ask questions related to those issues rather than questions about status (treatment/diagnosis). These questions are relevant and should be asked regardless of whether the individual has a disability.

I strongly encourage Ohio to be a leader on this issue and to follow the recommendations of Disability Rights Ohio in removing these questions.

Sincerely,

Laura Rothstein
Professor and Distinguished University Scholar

Date prepared – 1/16/15  File: ABA Professionalism Conference – May 2015
WHAT MAKES LAWYERS HAPPY?

TRANSCENDING THE ANECDOTES WITH DATA FROM 6200 LAWYERS

Lawrence S. Krieger,1 with Kennon M. Sheldon, Ph.D2

“It’s pretty hard to tell what does bring happiness. Poverty an’ wealth have both failed.”3

Attorney well-being and depression are topics of ongoing concern, but there has been no theory-driven empirical research to guide lawyers and law students seeking well-being. The researchers gathered detailed data from several thousand lawyers in four states, to measure a variety of factors considered likely to impact lawyer well-being. These factors included choices and achievements in law school, legal career, and personal life, and psychological needs and motivations established by Self-Determination Theory. Results are standardized and organized into five tiers of well-being factors. They suggest that the priorities and values of law students, lawyers, law schools, and law firms are often misplaced, with apparent negative impacts on lawyer well-being and, by extension, performance, productivity, and professionalism. Factors typically afforded most attention and concern, those relating to prestige and finances (income, law school debt, class rank, law review, and USNWR law school ranking) showed zero to small correlations with lawyer well-being. Conversely, factors typically marginalized in law school and seen in previous research to erode in law students (psychological needs, internal motivation and intrinsic values) were the very strongest predictors of lawyer happiness and satisfaction. Lawyers were grouped by practice type and setting to further test these findings. Despite markedly lower law school grades and current income, public service lawyers had healthier autonomy, purpose, and values and were happier than lawyers in the most prestigious positions (and who had the highest law school grades and incomes). Additional measures raised concerns: subjects did not broadly agree that judge and lawyer behavior is professional, nor that the legal process reaches fair outcomes. Specific explanations and recommendations for lawyers, law teachers, and legal employers are drawn from the data, and the relationships between well-being, productivity, and professionalism are discussed.

1 Clinical Professor of Law, Florida State University College of Law. We particularly appreciate the dedication and focused efforts of the Lawyer Assistance Program directors and Bar administrators who made this study possible. Special appreciation also goes to David Shearon, who generously provided his thrivinglawyers.org website for management of CLE records related to this study. We thank Sarah Spacht for research assistance; Hunter Whaley for research assistance and editing suggestions to complete the draft, Mike Prentice and Mark White for technical assistance with data compilation and expression, Jerry Organ and Daisy Floyd for thoughtful comments on an earlier draft. Deficiencies remain the responsibility of the authors.

2 Professor, Department of Psychological Sciences, University of Missouri (Columbia).

3 KIN HUBBARD, ABE MARTIN’S BROADCAST 191 (1930)
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Introduction

Legal educators, attorneys, and Bar leaders have expressed concern for emotional distress, dissatisfaction, and unethical or unprofessional behavior among practicing lawyers. There is ample...
literature to raise questions about lawyer and law student mental health; the legal profession, as compared to other occupations, may well harbor a disproportionate number of unhappy people. While articles often include anecdotes, observations, and discussion regarding negative (and positive) aspects of law practice, the literature broadly lacks empirical data bearing on the causes or correlates of the problems noted or their possible solutions. More specifically, there has been no theory-driven empirical study investigating the experiences, attitudes, and motivations of practicing lawyers, or how those factors relate to attorney emotional health or well-being. The current study was conceived to address


For an overview of the many surveys on lawyers’ satisfaction with their legal career, see Jerome M. Organ, What Do We Know About the Satisfaction/Disatisfaction of Lawyers? A Meta-Analysis of Research on Lawyer Satisfaction and Well-Being, 8 U. ST. THOMAS L.J. 225 (2011). Results of lawyer job satisfaction surveys are not consistent, perhaps because they employ different sampling techniques and different measures to gauge satisfaction. See, e.g., John P. Heinz ET AL., Lawyers and Their Discontents: Findings from a Survey of the Chicago Bar, 74 IND. L.J. 735, 735-36 (1999); John Monahan & Jeffrey Swanson, Lawyers at Mid-Career: a 20-Year Longitudinal Study of Job and Life Satisfaction, 6 J. EMPIRICAL LEGAL STUD. 451, 452-55, 470 (2009) reporting positive findings of lawyer career satisfaction, and contrasting them with other reports of high lawyer discontent. It is important to note that satisfaction specifically with career is not a focus of the current study. Rather, we sought to determine overall life satisfaction and positive/negative mood – related but more relevant issues for this study that also employ validated measures to provide confident findings. See infra, pp. 25-27.

Susan Daicoff discusses a “tripartite crisis,” including low professionalism, low public opinion, and high emotional distress emerging in the legal profession. Daicoff, supra note 4; See also Schiltz, supra note 4.


One of the most concerning studies includes the stark finding that attorneys had the highest rate of depression of any occupational group in the United States. William Eaton ET AL., Occupations and the Prevalence of Major Depressive Disorder, 32 J. OCCUPATIONAL MED. 1079, 1085 tbl. 3 (1990). While this study is somewhat dated, there is nothing in the literature, anecdotally, or otherwise, to suggest general improvement in the legal profession. Cf. Rosa Flores & Rose Marie Arce, Why are lawyers killing themselves?, CNN (Jan. 20, 2014, 2:42 PM), http://www.cnn.com/2014/01/19/us/lawyer-suicides/. If anything, given the negative economic climate and accelerating law school debt in recent years, the well-being of lawyers and law students is likely stagnant or may be eroding further.

A study with partially related goals but fundamental differences from the current study is ongoing. RONIT DINOVITZER ET AL., AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS (2004) [hereinafter AJD1]; RONIT DINOVITZER ET AL., AFTER THE JD II: SECOND RESULTS FROM A NATIONAL STUDY OF LEGAL CAREERS (2009) [hereinafter AJD2]. The AJD study seeks to follow a large segment of U.S. lawyers admitted to practice in the year 2000. It includes a longitudinal design but a markedly narrower focus than the current study. The AJD data includes one year of bar admits and focuses specifically on satisfaction with career and job choices. The current study, by contrast, surveys lawyers spanning several decades of practice, and measures depression and global well-being. The current study also employs validated measures for well-being, motivation, values, and supervisory support, extending the same measures from previous law student studies to provide a confident
this void. Rather than addressing whether lawyers are happy, this study presents data pointing to who is more, and less, happy in the profession and specifically why that appears to be true. This report, then, is intended to provide practical guidance to lawyers, law students and law teachers seeking to improve their own well-being or that of others -- regardless of the level of well-being or ill-being in the profession as a whole. We also discuss important implications of this data for improved performance, productivity, and professionalism.

I. Background and purposes for the current study

We began empirically investigating likely causes for the reported well-being issues of lawyers by studying the mental health of law students as they progressed through law school. We analyzed the emotional adjustment, life satisfaction, motivations, values, needs, and level of faculty support experienced by students at two contrasting law schools. We then began the current study, extending the same inquiries to practicing lawyers and judges in the United States. We intended this study, considered with the law student studies, to provide a comprehensive picture of the psychodynamics of lawyers, particularly the causes or correlates of their well-being, spanning initial law training and varied careers in the law. We report here data on numerous subjective and objective factors related to work and personal life that bear on lawyer well-being. Factors include, for example, the work setting, area of practice, earnings, family/social status, law school achievements, motivations, values, psychological needs, and level of supervisory support of thousands of lawyers. Importantly, the report includes the relative importance (correlation strength) of each such factor for lawyer happiness and satisfaction.

The data did, as hoped, fit well with the earlier law student data to generate a coherent picture of the relevant personality dynamics of law students and lawyers. Although the study purposes did not include determination of the overall well-being of lawyers, the current data are consistent with a number of previous law student findings, and add support to concerns for the future WB of lawyers expressed in those reports and in the literature more generally. Most particularly, in the context of the previous empirical context for current attorney data. Thus, for the limited number of topics addressed by both studies, the partially shared goals and very different methodologies suggest they be viewed together for increased understanding.

The cross-sectional design of this large study focuses on correlations and thus does not permit firm conclusions about cause and effect. This limitation is common as the design is a virtual necessity for this type of research. See generally, Sonja Lyubomirsky ET AL., The Benefits of Frequent Positive Affect: Does Happiness Lead to Success?, 131 PSYCH. BULL 803 (2005); Lyubomirsky, infra note 23, at 240; and see Bruno Frey & Alois Stutzer, HAPPINESS AND ECONOMICS: HOW THE ECONOMY AND INSTITUTIONS AFFECT HUMAN WELL-BEING 13 (2002). Consequently, findings are reported in terms of correlations, predictive power, or apparent effects of one factor on or with another. Findings demonstrate the extent to which one variable or occurrence makes it probable that another (typically happiness or unhappiness in this study) will occur, although the precise mechanism by which the two variables may interact may be unclear. Notwithstanding the limitation of a correlational study such as this, the consistency of the many findings and the patterns they present provide substantial confidence in apparent causal relationships suggested by the data. This is particularly true because of the large sample sizes and the consistency of our findings with similar findings in previous, related studies conducted with longitudinal designs that permitted more firm causal conclusions. We did not deem a longitudinal design practical for the current study, nor was it required to achieve the purposes of the study.

10 The cross-sectional design of this large study focuses on correlations and thus does not permit firm conclusions about cause and effect. This limitation is common as the design is a virtual necessity for this type of research. See generally, Sonja Lyubomirsky ET AL., The Benefits of Frequent Positive Affect: Does Happiness Lead to Success?, 131 PSYCH. BULL 803 (2005); Lyubomirsky, infra note 23, at 240; and see Bruno Frey & Alois Stutzer, HAPPINESS AND ECONOMICS: HOW THE ECONOMY AND INSTITUTIONS AFFECT HUMAN WELL-BEING 13 (2002). Consequently, findings are reported in terms of correlations, predictive power, or apparent effects of one factor on or with another. Findings demonstrate the extent to which one variable or occurrence makes it probable that another (typically happiness or unhappiness in this study) will occur, although the precise mechanism by which the two variables may interact may be unclear. Notwithstanding the limitation of a correlational study such as this, the consistency of the many findings and the patterns they present provide substantial confidence in apparent causal relationships suggested by the data. This is particularly true because of the large sample sizes and the consistency of our findings with similar findings in previous, related studies conducted with longitudinal designs that permitted more firm causal conclusions. We did not deem a longitudinal design practical for the current study, nor was it required to achieve the purposes of the study.


12 Findings are summarized infra, pp. 7-10.
law school studies, the current data show that the psychological factors seen to erode during law school are the very factors most important for the well-being of lawyers. Conversely, the data reported here indicate that the factors most emphasized in law schools — grades, honors, and potential career income, have nil to modest bearing on lawyer well-being. These conclusions are explained throughout the findings sections of this report, and are then addressed with brief recommendations for legal educators and employers.

As a second purpose of this study, we sought to investigate a question of interest to us and likely many other people: Are lawyers fundamentally different from other people regarding the sources of their happiness? In the common culture of the United States, many people appear to consider lawyers to be different from other people in the most basic ways -- particularly their level of honesty and integrity, the way they think, and their ability to relate to or care about others. The focus of this survey would provide insight into any differences between lawyers and the general population regarding their sources of happiness.

A third primary purpose for this study, as alluded to above, was to investigate the actual importance, for life after law school, of principle sources of stress on law school campuses — grades, honors (exemplified by law review positions), law school debt, and future earnings. The question of interest here was: Are these external “grades and money” factors sufficiently related to happiness after graduation to merit the intensity of competition and concern that law students invest in them? We sought to measure the persisting association of such factors with later attorney satisfaction and well-being, and to then compare those associations with the effect sizes for well-being of other factors over which students could exert more control -- intrinsic psychological factors and choices in work and personal life. We expected that the external stressors dominating the law school experience would prove to be weak

13 The definition and components of well-being and “happiness” as measured in this study are explained infra pp. 5, 9.
14 “Lawyer” jokes, for instance, commonly address one or more of these negative stereotypes.
15 For a broader consideration of differences between lawyers and other people, see Daicoff, supra note 4, at 25. Daicoff postulates a typical “lawyer personality” is distinguished by an ethic of justice rather than an ethic of care, introversion, and Myers-Briggs preference for thinking rather than feeling, and many other traits. Supra note 4, at ch. 2-4, 5. If such differences exist, they may be engendered at least in part by basic law school training. For a linguistic analysis of the depersonalization of the law student personality, see Elizabeth Mertz, THE LANGUAGE OF LAW SCHOOL: LEARNING TO “THINK” LIKE A LAWYER (2007).
16 See e.g. Peterson & Peterson, supra note 7, at 380, 415; Benjamin et al., supra note 7 at 247, 249; Sheldon & Krieger, supra note 7, at 276 fn. 3
17 See Krieger, Human Nature, supra note 7, at 306-07; see also KRIEGER, THE HIDDEN SOURCES OF LAW SCHOOL STRESS (2006) [hereinafter Hidden Sources] (emphasizing that the competition for grades and high income will not determine student or lawyer well-being). These issues garner substantial attention: administrators and teachers at more than half the law schools in the United States, Canada, and Australia purchased approximately 80,000 copies of this booklet for their students from 2006-2013.
18 While it is commonly believed, but not empirically proven, that such factors are major stressors for students, there is little doubt about the heightened level of distress in many law schools. One study, for example, found the levels of depression on law school campuses to be akin to those in psychiatric populations. Stephen B. Shanfield & G. Andrew H.Benjamin, Psychiatric Distress in Law Students, 35 J. LEGAL EDUC. 65 (1985).
19 “Effect size” connotes the correlation strength of two variables, but does not presume a cause-effect relationship. See e.g. Barbara G. Tabachnik & Linda S. Fidell, USING MULTIVARIATE STATISTICS 54 (6th ed. 2013).
predictors of lawyer happiness. If this were true and were communicated to students, it could serve to diminish the level of anxiety and stress on campuses.

The study could have implications for two other highly important considerations that relate to well-being: performance and professionalism. Performance is, of course, a primary concern for educators, employers, and lawyers themselves, and has been empirically linked to well-being. The substantial concerns for unprofessional or unethical behavior among lawyers might also be addressed by clarification of the sources of lawyer well-being, since known sources of well-being in general populations appear to be identical or closely related to important sources of positive professional behavior. All of these considerations are discussed in the context of the data reported below.

II. Theory underlying the studies

Subjective well-being as a measure of happiness

The term “happiness” is subject to many shades of meaning, and might seem out of place when applied to serious professionals doing serious work. Nonetheless, most people would agree that happiness is the prime human motivator, and certainly lawyers go to work and students go to law school in order to further some goal related to experiencing happiness. We employed the concept of


21 A particularly notable article discussing lawyer distress and dissatisfaction is Patrick Schiltz’s stark warning to law students about the “unhappy, unhealthy, and unethical profession” they are seeking to join. Supra note 4. Other than Susan Daicoff’s consideration of lawyer personality and professional behavior, supra note 4, it is one of the few articles that addresses in a coherent way these two seemingly distinct areas of concern about lawyers’ emotional distress and lack of ethical or professional behavior. It is also likely the most frequently cited law review article on these subjects to date. Fred R. Shapiro & Michelle Pearse, The Most-Cited Law Review Articles of All Time, 110 Mich. L. Rev. 1483, 1495 (2012) (finding that this article was the fourth most-cited law review article published in 1999), and has been incorporated into numerous law school courses. Telephone interview with Patrick J. Schiltz, (2000), informing the author that Schiltz had received approximately 300 requests from law teachers for use of this article in law courses. However, as with the literature generally, this article lacks systematic empirical data to support its recommendations, a concern we seek to address with the current study.

22 I have argued that the sources of both attorney well-being and professional/ethical behavior are found within personality and are essentially the same psychological factors measured in this and our previous law student studies. See Lawrence S. Krieger, The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness, 11 CLINICAL L. REV.425 (2005) [hereinafter Inseparability]; Lawrence S. Krieger, The Most Ethical of People, the Least Ethical of People: Proposing Self-Determination Theory to Measure Professional Character Formation, 8 UNIV. OF ST. THOMAS L. J. 168 (2011) [hereinafter Most Ethical People]. For another discussion of the connections in personality between well-being and professionalism, see Daicoff, supra note 4, at 99-112. The applicability of all such conclusions would depend on whether the sources of well-being for attorneys and other people proved to be the same, a principal focus for the current study.

23 For summaries of different approaches to understanding happiness, see Sonja Lyubomirsky, Why Are Some People Happier Than Others?: The Role of Cognitive and Motivational Processes in Well-Being, 56 AM. PSYCHOL. 239, 244 (2001); Levit & Linder, supra note 4, at 18-48; Frey & Stutzer, supra, note 10, at 11-12; Myers, supra note 20, at 23-30; Cf. Huang & Swedlof, supra note 4 at 339.

24 See, e.g., Lyubomirsky ET AL., supra note 10, at 846 (noting happiness as a “prevalent” desire in Western culture); Lyubomirsky, supra note 23, at 239 (observing that happiness is the primary goal of human existence).
“subjective well-being” (SWB) to measure happiness in this study, as in our law school studies and in much other research based on Self-determination Theory (SDT, described below). We quantified SWB as the sum of life satisfaction and positive affect, or mood (after subtracting negative affect), utilizing established instruments for each factor. These affect and satisfaction factors provide data on complementary aspects of personal experience. Although moods are experienced as transient, they have been found to persist over time in stable ways. Positive and negative affect are purely subjective, straightforward experiences of “feeling good” or “feeling bad,” that many people would interpret as happiness or its opposite. Life satisfaction, on the other hand, includes a personal (subjective) evaluation of objective circumstances – one’s work, home, relationships, possessions, income, leisure opportunities, etc. The measure of life satisfaction employed in this study is validated and broader than the concept of career or job satisfaction often discussed regarding lawyers’ attitudes towards their work.

These complementary components of SWB can diverge for an individual -- a person could often feel sad or “down” but also recognize her many positive life circumstances (job, family, finances, etc.); another whose life circumstances are impoverished could feel quite good much of the time. Thus, life satisfaction and affect measure somewhat different aspects of well-being. Combining the two variables in one “subjective well-being” measure has proven an effective way to measure the global idea of a happy life in SDT research. Because SWB includes a combination of these critical but somewhat different aspects of personal experience, we use these and other terms, depending on context, when referring to the concept of happiness.

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26 Lyubomirsky, supra note 23, at 239. Subjective evaluations of happiness also tend to be stable, despite changing experiences. Myers, supra note 20, at 23.
27 Lyubomirsky ET AL., supra note 10, for example, consider short-term positive mood to be the hallmark of happiness, at 816, 840, and observe happiness to involve more than the absence of negative mood or depression; Lyubomirsky ET AL., supra note 10, at 842.
28 See, e.g., Organ, supra note 5; Ronit Dinovitzer & Bryant G. Garth, Lawyer Satisfaction in the Process of Structuring Legal Careers, 41 LAW & SOC’Y REV. 1 (2007). Authors addressing the question of career satisfaction do not appear to use the same, nor an established, measure, which introduces important potential confounds. Monahan & Swanson, supra note 5, at 452, 474-75, measure satisfaction with both life and career in a study of University of Virginia law graduates, finding very high satisfaction in both domains.
29 Though different in some ways, the two aspects of SWB are highly correlated. For our working sample of 6,226 bar members, the relationship of net affect with life satisfaction is .63. A perfect correlation on this scale is 1.0; a strong one is approximately .40 or greater.
31 For example, “well-being” (WB) and “subjective well-being” (SWB) are largely interchangeable, but the latter specifically refers to the term of art defined here. “Well-being” and “happiness” are also generally interchangeable. Lyubomirsky, supra note 23, at 239. These and other terms, including “satisfaction,” are used in this paper separately or in combination to indicate shades of meaning appropriate to the specific discussion context.
Self-Determination Theory

This study and our previous law student research were guided by Self-Determination Theory (SDT),32 a comprehensive theory of human motivation that has been prominent in the psychological literature for more than 40 years. Tenets of SDT include that all human beings have certain basic psychological needs – to feel competent/effective, autonomous/authentic, and related/connected with others.33 These experiences are considered needs because they produce WB or thriving34 in subjects, and because lack of these experiences generates angst, low mood, and/or low vitality.35 SDT also broadly considers the well-being impacts of different values, goals, and motivations at the basis of behavior. Values or goals such as personal growth, love, helping others, and building community are considered “intrinsic,” while “extrinsic” values include affluence, beauty, status, or power.36 Similarly, motivation for behavior is distinguished based on the locus of its source, either “internal” (the behavior is inherently interesting/enjoyable, or it is meaningful because it furthers one’s own values), or “external” (behavior is compelled by guilt, fear, or pressure, or chosen to please or impress others).37 Importantly, research has established that intrinsic values orientations and internal motivations are more predictive of well-being than their extrinsic/external counterparts.38 A fourth important construct of SDT is the effect of supportive (vs. controlling) supervisors, teachers, or mentors. Research has shown that providing autonomy support to subordinates enhances their ability to perform maximally, fulfill their psychological needs, and experience well-being.39 The current study employs measures of all of these well-validated constructs.40

33Kennon M. Sheldon ET AL., What is Satisfying About Psychological Events? Testing 10 Candidate Psychological Needs, 80 J. PERS. & SOC. PSYCHOL. 325 (2001). Although self-esteem was also found to be an important predictor of WB, we did not include it in this study. The instrument was exceptionally long, and our previous studies indicated a subordinate role for esteem because it did not also impact performance as did the other three needs. See Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 884; And see Ryan & Deci, supra note 32, at 654-78; Reis ET AL., Daily Well-Being: The Role of Autonomy, Competence and Relatedness, 26 PERS. & SOC. PSYCHOL. BULL. 419-435 (2000).
34“Thriving” in this report refers to a combination of WB and improved performance.
35Sheldon ET AL., supra note 33, at 327.
36See e.g., Tim Kasser & Richard M. Ryan, A Dark Side of the American Dream: Correlates of Financial Success as a Central Life Aspiration. 65 J. PERS. & SOC. PSYCHOL. 410, 420-21 (1993); And see Ryan & Deci, supra note 32, at 716.
37See Deci & Ryan, supra note 30, at 239-243; Sheldon & Krieger, supra note 7, at 264.
38Deci & Ryan, supra note 30; Sheldon ET AL., The independent effects of goal contents and motives on well-being: It’s both what you pursue and why you pursue it, 30 SOC. PSYCHOL. BULL. 475 (2004); Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 888; Sheldon & Krieger, supra note 7, at 265, 267-70
40The wording of the primary measures in the survey may be viewed at:
III. Foundational studies of law students

We initiated our investigation of the developing psychodynamics of lawyers with two published studies of law students. Both studies employed longitudinal designs to reliably investigate the changes we hypothesized were occurring in student motivations, values, need satisfaction, and emotional health from the beginning to the end of the law school experience. If detrimental changes in adjustment were occurring during this foundational phase of professional formation, those changes could predispose graduates to emotional and behavioral problems in later law practice. Further, if data demonstrated likely causes for any negative changes, ongoing problems could be directly addressed and perhaps prevented by law teachers and deans.

We studied two very diverse law schools in two different regions of the United States. The specific findings and the patterns within the data are important and foundational for the current study. They confirmed earlier reports of increasing anxiety and depression among students while in law school. More importantly, they pointed to reasons for the negative well-being shifts, and thus suggested educational strategies to prevent ongoing problems among students both before and after graduation. They also predicted many of the findings of the current attorney study, providing confidence in the results reported here.

The first law school study demonstrated the following changes occurring in students after they began law school: marked increases in depression, negative mood, and physical symptoms, with corresponding decreases in positive affect and life satisfaction; shifts from helping and community-oriented values to extrinsic, rewards-based values in the first year; similar shifts in motivation for becoming lawyers, from salutary internal purposes (for interest, enjoyment, and meaning) to more superficial/external reasons (such as for financial rewards, recognition, or to impress or please others); and decreases in values of all kinds after the first year, suggesting generalized demoralization or loss of personal purpose. As discussed above, each of these shifts would predict decreased well-being, and

41Sheldon & Krieger, supra note 7.; Sheldon & Krieger, Understanding Negative Effects, supra note 11. There were, of course, earlier studies documenting more straightforward negative changes in students, particularly anxiety and depression; see e.g. Shanfield & Benjamin, supra note 18; Dammeyer & Nunez, supra note 7. There is also a recent, prominent study that supports and further elucidates reasons for the precise negative changes in law students found in our studies. Mertz, supra note 15. The Mertz study employed an entirely different design and methodology from our studies, and thus adds substantial confidence to our findings and conclusions. See also Krieger, Human Nature, supra note 7 at 267 (discussing the impact of the Mertz findings in the context of the Sheldon/Krieger findings, and offering strategies to mitigate the negative phenomena revealed by these studies).
42 For a summary of earlier findings of anxiety and depression in law student populations, see Dammeyer & Nunez, supra note 7.
43 Sheldon & Krieger, supra note 7.
44 Sheldon & Krieger, supra note 7, at 271-72, Table 1.
45 Sheldon & Krieger, supra note 7, at 272, Table 3.
46 Sheldon & Krieger, supra note 7, at 272, Table 3.
47 Sheldon & Krieger, supra note 7, at 273. This specific pattern of changes has been reported among students at Harvard law school; see Note, Making Docile Lawyers: An Essay on the Pacification of Law Students, 111 Harv. L. Rev. 2027 (1998). Neither of our subject schools were Ivy League/elite schools, so this pattern of apparent demoralization may generalize to many law schools.
that result was apparent in the data.\textsuperscript{48} As expected, the data also showed that students beginning law school with the most internal motivations and intrinsic values earned higher grades,\textsuperscript{49} but we also found that those students then shifted to more external (money-oriented) job preferences.\textsuperscript{50} Thus, the concerning findings extended beyond confirming decreasing student wellness; it also appeared that success in law school (measured by grades) could exacerbate the longer-term negative effects of the law school experience. More successful students changed career goals to prefer more extrinsically-oriented jobs than when they began law school, and thus would be predicted to experience diminished satisfaction and well-being.\textsuperscript{51}

The second study\textsuperscript{52} further investigated the mechanisms by which the law school experience generated these negative effects on students in these contrasting schools -- one with a traditional scholarly focus and the other more focused on quality teaching and practical skills for students. We included additional methods and measures to address more subtle and potentially more telling variables -- the level of autonomy support that students experienced from their faculties, and the level of satisfaction of the needs for autonomy, competence, and relatedness to others.\textsuperscript{53}

This study again confirmed broad negative effects occurring during the three law school years, including increasing student distress and decreasing internal motivation for legal work. The negative effects were most pronounced at the more traditional school.\textsuperscript{54} In addition, the added measures did reveal important new insights. First, the data demonstrated that all negative outcomes resulted from decreases in satisfaction of the fundamental needs for autonomy, competence, and relatedness to others after students entered law school.\textsuperscript{55} Of greater practical value for educators, the single factor of autonomy support that students received from their faculty accounted for all of the differences between the two schools in student need satisfaction, and hence in all of the other measured outcomes -- well-being, career motivation, and grades/bar exam performance.\textsuperscript{56} In other words, because of the more

\textsuperscript{48} The study design did not permit firm conclusions about causation, but the consistency of the data certainly suggested this conclusion. As discussed immediately below, our second study employed additional measures and methods, and did establish causation between related psychosocial factors, well-being, and student performance.

\textsuperscript{49} Sheldon & Krieger, supra note 7, at 274-75.

\textsuperscript{50} Sheldon & Krieger, supra note 7, at 274-75.

\textsuperscript{51} This specific pattern has also been described in earlier articles, although not supported with empirical data as here. See Robert Granfield & Thomas Koenig, Learning Collective Eminence: Harvard Law School and the Social Production of Elite Lawyers, 33 SOCIOLOGICAL QUARTERLY 503, 517 (1992); see also Note, supra note 47, at 2040-41. These findings and predictions were also supported in the current study, finding that lawyers with higher law school grades had chosen more affluent, externally motivated career tracks and were less happy than lawyers with lower grades and income. See infra pp. (23-26).

\textsuperscript{52} Sheldon & Krieger, Understanding Negative Effects, supra note 11.

\textsuperscript{53} See supra, notes 33-40 and accompanying text regarding these measures; See also, infra note 55 and accompanying text, regarding the significance of employing Sequential Equation Modeling.

\textsuperscript{54} Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 883, 890.

\textsuperscript{55} Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 894. Importantly, this longitudinal study employed Sequential Equation Modeling and the data supported confident conclusions about causation. The consistent symmetry of findings in the current cross-sectional study with those in this previous longitudinal study provides an additional source of confidence in the conclusions we draw from the current attorney data.

\textsuperscript{56} Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 890.
autonomy-supportive educational environment at the less traditional law school,\textsuperscript{57} students there fared broadly better, experiencing greater well-being, more internal motivation, and higher performance than the other students. Notably, this institution had a far lower standing than the other in the hierarchy of law schools (as ranked by U.S. News and World Report),\textsuperscript{58} suggesting that law school reputation or standing may not relate, or may even relate inversely, to important student outcomes.\textsuperscript{59}

The American Bar Foundation sponsored a third recent study of the law school experience which is also important as context for the current attorney research. Professor Elizabeth Mertz\textsuperscript{60} conducted a linguistic analysis of the initial classroom training of new law students at eight diverse law schools.\textsuperscript{61} Her findings include a number of effects on law students that represent a fundamental undermining of basic personality structures, much as we found using entirely different methodology. Mertz observes, for example, that basic law school training changes student values,\textsuperscript{62} “unmoors the “self”,\textsuperscript{63} marginalizes fairness, justice, morality, emotional life, and caring for others,\textsuperscript{64} and exclusively emphasizes competitive processes to the extent that they become the only goal.\textsuperscript{65} The net result is erosion of the very ability to make an ethical decision.\textsuperscript{66} Given the similar (and concerning) findings coming from this study and the Sheldon/Krieger research, studies performed with entirely different empirical methodologies at different sets of diverse law schools, the findings provide mutual support and increase confidence that such results generalize to many, if not most, law schools across the country.

IV. The current study

\textit{Measures}

As previously stated, our primary measure of happiness was subjective well-being, the aggregate result of the mood and life satisfaction components. We supplemented the SWB measures with the depression scale from the Brief Symptom Inventory.\textsuperscript{67} The latter scale provided a second, inverse view of well-being, and a direct measure of depression -- a matter of concern in the legal profession as previously discussed.\textsuperscript{68} This scale has been previously published in studies of law students

\textsuperscript{57}We could not empirically determine the factors responsible for the difference in autonomy support, but reasoned that students might well perceive greater support from emphases on law practice training (“skills” and clinics) and on faculty teaching expertise at this school, compared to the greater legal theory and research orientation of the second law school studied. Sheldon & Krieger, \textit{Understanding Negative Effects}, supra note 11, at 887.

\textsuperscript{58} \textit{Schools of Law}, U.S. NEWS AND WORLD REPORT: BEST GRADES SCHOOLS 2006, at 60.

\textsuperscript{59} Indeed, data from the current attorney sample indicated only a negligible association of law school rank with well-being and its correlates, other than increased income. \textit{See infra}, pp. (32-33).

\textsuperscript{60} Professor of Law, University of Wisconsin Law School.

\textsuperscript{61} Mertz, \textit{supra} note 15.

\textsuperscript{62} Mertz, \textit{supra} note 15, at 1

\textsuperscript{63} Mertz, \textit{supra} note 15, at 137. This study lends support to the generalized personal alienation reported at Harvard Law School; Note, \textit{supra} note 47, at 2034, 38-40, 44.

\textsuperscript{64} Mertz, \textit{supra} note 15, at 1, 6, 10, 95, 100-01, 120

\textsuperscript{65} Mertz, \textit{supra} note 15, at 77, 82-3, 95, 100-01, 126-27.

\textsuperscript{66} Mertz, \textit{supra} note 15, at 132.

\textsuperscript{67} Leonard R. Derogatis & Nick Melisaratos, \textit{The Brief Symptom Inventory: An introductory Report}, 13 PSYCHOL. MED., 595, 603 tbl. 6 (1983); \textit{See also} Sheldon & Krieger, \textit{Understanding Negative Effects}, \textit{supra} note 11 at 888.

\textsuperscript{68} Eaton ET AL., \textit{supra} note 8.
and lawyers. In addition, given reports of substance abuse among lawyers, we inquired about the frequency and quantity of alcohol use. We expected this measure to provide another inverse indicator of well-being, and, as reported below, this was true with some limitations.

We assessed likely predictors of well-being, including need satisfaction, values, motivations, and perceived autonomy support at work, using the same validated instruments used in our law student studies and previous SDT research. We also asked subjects about previous law school experiences (name of school attended, class rank, law journal membership, and amount of debt when graduating), current working circumstances (office setting, subject area of law practice, hours worked, billable hours required, and earnings), personal life choices likely to impact well-being (exercise, vacations, religious or spiritual practices) and typical demographic information (gender, race/ethnicity, age, relationship status, and number of years out of law school).

Data was analyzed to determine which factors predicted well-being, and the extent of their apparent impacts. We particularly wanted to compare the power for predicting WB of the different categories of subjective and objective factors included in the study, as such information could assist law students and lawyers in making personal life and career decisions. Since the instrument included questions with different response metrics (i.e., dollars for income and debt, percentile for class rank, and level of agreement on Likert scales for psychological measures), we calculated results in terms of standardized Pearson correlation coefficients. This standardization permits meaningful comparison of factors expressed in different metrics. Thus each variable measured was analyzed to determine if it related

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70 See infra p. (21).
71 Sheldon ET AL., What’s satisfying about satisfying events? Comparing ten candidate psychological needs, 80 J. PERS. & SOC. PSYCHOL. 325 (2001); and see Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 888.
73 Kennon M. Sheldon & Andrew J. Elliot, Goal striving, need satisfaction, and longitudinal well-being: The self-concordance model, 76 J. PERS. & SOC. PSYCHOL. 482 (1999); and see Sheldon & Krieger, supra note 7, at 265, 267-70.
74 We modified the Learning Climate Questionnaire for the work environment. Aaron E. Black & Edward L. Deci, The Effects Instructor’s autonomy support and students’ autonomous motivation on learning organic chemistry: A self-determination theory perspective, 84 SCI. & EDUC. 740. And see Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 888.
75 When necessary for clarity and applicability to working bar members, we altered the wording from our law student instruments slightly. For example, a typical item in the autonomy support measure for students read, “The faculty and administration listen to how I would like to do things.” The analogous item in the current survey read, “The supervisors listen to how I would like to do things.” The wording of the primary measures in the survey may be viewed at: http://www.law.fsu.edu/faculty/profiles/krieger/attorneysurvey.docx.
76 See supra, note 10.
77 See, e.g., Tabachnik & Fidell, supra note 19, at 54.
significantly and substantially\textsuperscript{78} to WB, and we report standardized correlations ("r" factors) to indicate how strongly each variable predicts increased or decreased attorney well-being.

**The Bar member sample**

With essential assistance of bar leaders and Lawyer Assistance Program directors, we were able to sample members of four state bar associations in the United States. The states represent four geographically diverse regions of the country, excluding the Pacific and Mountain West regions. One state is predominantly rural but includes a few large cities; one state is very populous with many major urban centers; and two states include a mix of urban and rural areas. The states are also very diverse economically, politically, ethnically, racially, and in their predominant religions. We therefore expected these states to provide a relatively representative view of attorneys and judges in this country.

The number of bar members invited to participate in each state ranged from 11,000 to 20,000. Two bar associations from less populous states invited all of their members. The other two states generated random lists, respectively, of 11,000 and 20,000 invitees; sampling differences resulted from preferences within the governing bodies of the four bar associations. We expected valid results despite the different approaches, because partial invitee lists were randomly generated, and all resulting sample sizes were very large. Invitees were sent an email introducing the project, assuring confidentiality, and providing a link to the online survey. They were told that the survey would remain open for about 14 days, and a reminder email was sent toward the end of the open period.

Of necessity, the instrument was lengthy because we sought to investigate and compare many dimensions of attorney experiences. As an incentive to participate, all subjects were offered a continuing legal education (CLE) program at no cost. The content of the programs in the four states was similar; bar personnel in two states created programs while two states used a video program created by Professor Krieger. The CLE programs were intended to assist participating lawyers by educating them about simple choices that could improve their level of adjustment and well-being. Subjects could access their program via a link that was provided only after completion of the survey, so that the CLE content could not bias responses to the survey. Subjects were not made aware of the purpose and focus of the CLE programs, again to avoid biasing the sample.

The number of responding bar members and the response rates for the states, from least populous (where all members were invited) to most populous (where the described samples were invited), were: 1,757 (13.0%); 2,692 (15.8%); 1,606 (14.6%); and 1,750 (8.8%). The aggregate total sample was N = 7,805, with an overall response rate of 12.7%. One state had a substantially lower response rate (8.8%) than the others (13.0% to 15.8%). The data collection there followed the others by several months, and

\textsuperscript{78} Statistical significance is further discussed infra note 96. With such large sample sizes and statistical power, very small results can attain statistical significance but be essentially meaningless. Tabachnik & Fidell, supra note 19, at 54. “Statistical significance is not the same as practical significance.” DAVID S. MOORE & GEORGE P. MCCABE, INTRODUCTION TO THE PRACTICE OF STATISTICS 425 (2006). We therefore focus on strength of correlations, or “effect sizes,” throughout the report, rather than relying primarily on statistical significance.
the timing in light of CLE cycles may have been less ideal. Bar officials in that state also expressed concern for survey fatigue in the membership early in the process. It is unclear if these or other factors impacted the response; nonetheless, almost 2,000 subjects participated in this state, providing a substantial sample.

Of the 7808 participants who responded to the survey, we established a working sample of N = 6226 subjects. This included all participants who provided complete well-being data and who indicated that they currently worked as lawyers, judges, or in related positions. This working sample was employed for most analyses; for analyses in which a different sample was used, that is noted and explained in the relevant section of the report.

Given the length of the survey and the notorious workloads of this professional group, we felt the overall response to be relatively robust. Considering the typically busy schedule and heavy email traffic of practicing attorneys, it is likely that most who declined did so for lack of time and/or present need for the type of CLE credit offered. Since variations in workload pressure and the cyclical nature of CLE needs are common among lawyers, we expected participants to be representative of their overall bar membership.

Comparisons of the mean age, gender distribution, and racial/ethnic distribution of the respondents from each state with their state’s entire bar membership supported the conclusion of representative samples. Each of the variances between the state samples and bar totals was small; the variances also showed consistent patterns. The percentage of women responding in each state was greater than the corresponding state bar membership by 2-6%, and the percentage of non-Caucasian respondents was 3-5% greater than the non-Caucasian membership by state. In one state the age means for the sample and overall membership were virtually identical (46.4, 46.6); in the other three states the sample mean 2-4 years greater than the mean of the entire membership. We may speculate that, given the length of the survey, slightly older lawyers tended to have the autonomy and time to complete both the survey and the CLE program. It may also be that women, minority, and/or older lawyers were slightly more drawn to the general description of the survey and CLE program (relating to “attitudes and experiences of lawyers”) than their counterparts. Regardless, based on analyses of demographic differences presented below, the slight over-representation of older, female, and minority subjects may mean that the sample differs very slightly from the aggregate total membership in the four states, in terms of marginally greater internal motivation and well-being. Such differences would have no significant bearing on the findings and conclusions of the study.

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79 The form and availability of membership data varied among the four states, introducing some imprecision in the variance calculations presented here. One state did not collect age data. The other states had age data only in 10-20 year increments, requiring approximation by assigning the mean age in each range to those members. One state had race/ethnicity data for only 45% of its bar members, creating doubt as to whether the large number of members declining to respond were disproportionately in one or more of the groups.

80 We compared only the Caucasian/non-Caucasian ratios because in every state Caucasians constituted the overwhelming majority of bar members and respondents (90-96%), leaving very small subsamples (and hence relatively greater sampling error) if the minority groups were treated individually for this purpose.

81 Data comparing groups indicated these trends, but little overall impact of demographic differences, infra pp. 32-33.
A further check of major variables also revealed few statistically significant differences between states, and those differences were slight, reaching significance only because of the large sample sizes involved.\(^{82}\) Ultimately, the subsamples and overall sample provided substantial confidence that the data collected would generalize to lawyers in the United States. The samples were large and each tracked the makeup of its state membership; the data showed negligible to nil differences between demographic groups on major variables; and the states participating were very diverse as previously described. As reported throughout the findings, the consistency of patterns in the data ultimately add confidence in the results.

V. Hypotheses

The breadth and depth of the instrument permitted investigation of a number of primary and secondary hypotheses. The most fundamental inquiry in the study focuses on an expected substantial difference in the correlations with lawyer well-being of selected internal and external factors. Internal factors of interest were the psychosocial factors that previous SDT research would predict to most strongly impact well-being. External factors of interest were those phenomena that are exceptionally important, and generate great concern, for many law students and lawyers -- law school grade performance, law review participation, law school debt, and attorney income. We describe five related hypotheses and report the relevant findings below. Secondary hypotheses and findings then address other categories of variables that we thought likely to impact WB to a lesser extent -- demographics and choices related to work and personal life.

Primary hypotheses

1. Our first hypothesis was that objective factors that often dominate the attention of law students and lawyers (and legal employers and teachers as well) -- law school grade performance, law review membership, law school debt, and income after graduation, would modestly predict attorney WB, and would therefore provide a contrast when compared to the expected stronger associations with WB of the internal factors included in the study. This hypothesized contrast was provocative because, on one hand, research in general populations has shown external factors such as rewards to be quite secondary predictors of happiness,\(^{83}\) and at the same time, law students and lawyers appear to place great emphasis on them. If the correlations with WB of these external factors were strong, or if the hypothesized contrast with the internal factors did not manifest in the data, it would provide evidence

\(^{82}\) Again, it is not unusual in large samples for results to be statistically significant but realistically meaningless. *Supra* note 79 and accompanying text.

\(^{83}\) See Lyubomirsky, *supra* note 23, at 240 (observing that objective circumstances, demographics, and life events are weak predictors of WB, and that wealth typically shows “remarkably small associations” with happiness); David G. Myers, *The Funds, Friends, and Faith of Happy People*, 55 AM. PSYCHOL. 56 (2000).
that lawyers are indeed different from other people regarding the sources of their well-being. If the data did show this contrast, it would suggest that the external factors are simply “overdone” in the legal community and are not as important as typically thought – challenging core assumptions that are important in their own right because they generate so much stress in law schools and law firms.

2. Our second hypothesis was that the frequency of experiences of autonomy (which includes authenticity), competence, and relatedness to other people would very strongly predict lawyer well-being. Any such findings could be particularly important, because lawyers may be specifically inhibited from satisfying these needs by training in legal analysis, habituation to adversarial tactics, demands to adopt imposed client goals and values; personal conflict on many levels; need to prevail in zero-sum proceedings against other aggressive lawyers; billable hour requirements and other controlling supervision methods; and perhaps other concerns particular to the practice of law.

3) Third, we hypothesized that the extent to which subjects’ motivation for their work was internal (for interest, enjoyment, and meaning) rather than external (for money, status, prestige, or imposed by others), would also strongly predict well-being. This finding would also be concerning in this career group, because internal motivation is experienced as autonomous, originating within one’s self rather than externally, and law school may tend to marginalize internal instincts and responses. As a corollary, we expected more external motivation would manifest a “payoff” in greater earnings, but would nonetheless predict decreased happiness compared to subjects with more internal motivation. This would clearly be important for lawyers and law students, given the emphasis typically placed on the external factors previously discussed.

4) Fourth, we expected lawyers who more strongly endorsed intrinsic values (for growth, intimacy, community, and altruism) to be happier than those more strongly endorsing extrinsic values (for affluence, status, fame, appearance). This again would be concerning in light of data showing erosion of healthy values after students enter law school.

We refined this hypothesis after administering the survey in two states. The traditional values measure asks subjects to report their beliefs about what is important in their lives. We conceived a new measure of action taken to give effect to specific values, which we thought would more accurately predict well-

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84 For a thorough report on the effects of traditional law school training, see Mertz, supra note 15; see also Krieger, Human Nature, supra note 7, at 267, discussing the consistency of the Mertz findings with other law student research.

85 For further discussion of the competitive and adversarial paradigm in legal education, see Mertz, supra note 15, at 4, 6; Krieger, Human Nature, supra note 7, at 265-66.

86 See e.g. MARY ANN GLENDON, A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION IS TRANSFORMING AMERICAN SOCIETY 17-108 (1996).

87 For a discussion of many of these factors in the context of legal education, see Lawrence S. Krieger, What We’re Not Telling Law Students—and Lawyers—that They Really Need to Know: Some Thoughts-in-Action Toward Revitalizing the Profession From Its Roots, 12 J.L. & HEALTH 1, 18-20 (1999).

88 See Mertz, supra note 15, at 98-99. See also Krieger, supra note 87, at 18-20, 26-27, discussing the need for conscience and instincts for health and well-being.

89 Sheldon & Krieger, supra note 7, at 279.
being than measuring belief only.\textsuperscript{90} We therefore administered to subjects in the two remaining states both measures -- addressing endorsement of different values, and addressing action in daily life directed towards each value.\textsuperscript{91} We hypothesized that both measures would indicate greater WB benefits from intrinsic valuing, and also that actions would better predict well-being than would endorsements alone. If the data supported both hypotheses, the findings would confirm the importance of intrinsic versus extrinsic values for lawyers, and would suggest a new and perhaps more useful way to approach the values-WB relationship that could be applied in research more generally.

5) Our fifth primary hypothesis was that attorneys who received autonomy-supportive, as opposed to controlling, supervision would thrive to a substantially greater extent than others.\textsuperscript{92} This finding would have overarching importance for various groups. First, it would demonstrate to students and lawyers seeking happiness in their work the importance of supportive mentoring and supervision. Second, since teachers and supervisors can be trained to provide autonomy support to others,\textsuperscript{93} it would provide constructive guidance to educators and employers seeking to enhance the morale and resulting performance of their charges.

VI. Primary findings

A. Grades, law review, and money issues

1) Law school grades

Grade performance is likely the single greatest concern of law students as a group.\textsuperscript{94} We asked subjects to provide their law school class rank (which is based on grade performance) rather than measuring grades directly, since law schools use many different grading scales that would unduly complicate the questions and undermine confidence in the data. The correlation of final law school class rank with current SWB of our bar members (N = 4650)\textsuperscript{95} was \( r = .12, (p < .01) \).\textsuperscript{96} This was in the direction of the

\textsuperscript{90}Values likely produce effects on well-being primarily because actions guided by different values tend to fulfill (or not) basic needs. See Christopher P. Niemiec ET AL., \textit{The Path Taken: Consequences of Attaining Intrinsic and Extrinsic Aspirations in Post-College Life}, 42 J. RES. PERS. 291, 292 (2009). People may also overstate their positive aspirations more easily than their actual behaviors.

\textsuperscript{91}For example, with regard to “gaining prestige, influence, or power,” in the traditional measure, subjects were asked to “indicate how important it is to you that this goal be achieved in the future”; and in the new measure they were asked to “indicate how much you actually work on that goal in your life.” The wording of the primary measures in the survey instrument may be viewed at: \url{http://www.law.fsu.edu/faculty/profiles/krieger/attorneysurvey.docx}

\textsuperscript{92}See Sheldon & Krieger, \textit{Understanding Negative Effects}, supra note 11, at 884, 894.


\textsuperscript{94}It is well accepted that grade competition in law schools is intense and generates substantial stress on many students. \textit{See}, e.g., Daicoff, supra note 4, at 1383; Glesner, supra note 7, at 659; Barbara Glesner Fines, \textit{Competition and the Curve}, 65 UMKC. L. REV. 879, 901 (1996); Sheldon & Krieger, supra note 7, at 276; Krieger, \textit{Human Nature}, supra note 7, at 277; Note, supra note 47, at 2033-37.

\textsuperscript{95}A number of subjects did not respond to this question, perhaps because they did not recall their rank or because their school did not compute or announce rankings. This resulted in a reduced (but still very large) sample size.

\textsuperscript{96}“\( p \)” values indicate the probability that a reported event or relationship occurred randomly or by chance. Findings are generally considered statistically significant when the likelihood of chance occurrence is less than one in twenty
modest correlation\textsuperscript{97} we predicted, but weaker than expected considering the overarching importance attributed to class rank in law schools.\textsuperscript{98}

In light of the preference of many selective employers for applicants with high grades, we investigated the relationship of class rank with attorney income. As expected, there was a positive correlation ($r = .20$, $p< .001$) of law school grade performance with earnings after graduation, a somewhat stronger relationship than the small, and more important, effect size\textsuperscript{99} of class rank for lawyer well-being.

2) Law journal membership

The survey asked subjects to indicate if they had been a member of a law review or law journal. Law review membership is a second primary focus for many law students, as it is considered to connote excellence as a student and potential lawyer. Students can become discouraged when not achieving this recognition.\textsuperscript{100} Since achieving a journal position is an external factor related to high grade performance, we expected journal membership to also modestly predict well-being. The data, however, was surprising, yielding a zero correlation ($r = .00$) based on identical mean well-being (4.862 vs. 4.863) of subjects who had and had not participated on a journal (N’s respectively, 1,656 and 4,570). Much like class rank, there was a modest relationship ($r = .15$, $p < .001$) between journal membership and later earnings, a result certainly expected given the elite status and hiring preferences afforded journal members by most selective employers. As expected, higher grades were also associated with journal membership ($r = .32$, $p< .001$). When regressed with class rank, the relationship of journal membership to income dropped to .09, showing journal work to be an independent but quite weak positive factor, even for income. Three important, though very small, inverse correlations with journal work appeared in the data. Compared to other subjects, journal participants reported lower internal motivation for their current law job ($r = -.06$, $p < .01$), suggesting that they chose jobs for income, status, or reasons other than interest and passion for the work. They also reported less autonomy need satisfaction ($r = -.05$, $p < .01$). These findings likely explain the absolute lack of a well-being benefit, despite the increased income and prestige associated with the law journal honor.\textsuperscript{101} A further note of interest appeared in the

(p < .05). Moore & McCabe, supra note 78, at 405-07, 424-25. The large sample sizes in this study enhance the ability to rule out random events, so that very small correlations in the range of $r = .03$ are statistically significant (p < .05); correlations of $r = .05$ are highly significant (p< .01), and $r = .06$ very highly significant (p < .001).

97In studies with typically smaller sample sizes, correlations in this range might not reach statistical significance. As a rough guide, the relative strength (and practical value) of correlations of different sizes might generally be considered as follows: .05-.10, slight; .11-.20, small; .21-.30, moderate; .31-.40, substantial; .41-.50, strong; > .50, very strong. These are inexact ranges intended only to provide a sense of meaning to reported correlations.

98To avoid biasing this surprisingly weak correlation, we also calculated the class rank-WB relationship employing the largest potential sample (n = 5330), including people not working in the law (and therefore whose low grades may have resulted in poor employment prospects). There was a negligible difference in the direction we predicted, with the correlation of class rank to WB increasing to .13, still a small correlation with WB.

99Recall that effect size does not presume a causal relationship; supra note 19. “Effect size” connotes the correlation strength of two variables, but does not presume a cause-effect relationship. Tabachnik & Fidell, supra note 19, at 54.

100See Note, supra note 47, at 2033-37 (chronicling the emotional distress attending disappointing grades and law review decisions among Harvard law students).

101This data is consistent with previous findings that high-performing law students tended to shift towards less internally motivated job preferences, and appears to confirm the conclusion that academic honors could undermine future well-being if lawyers then choose higher pay rather than interest and meaning in their work. See supra note
data: these particularly successful law students experienced no greater competence in law practice than non-journal members (r = -.01, inverse but not significant).

3) Money issues: Law school debt and income after graduation

Previous studies confirm that financial affluence has a positive effect on well-being in general populations. This effect is generally modest, particularly among subjects with sufficient earnings to provide for basic life needs. Many lawyers and law students, like other people, are concerned about their income level, and competition for grades that will assure well-paying jobs appears to exert great stress on law students. Current law students also often incur $125,000 or more in educational debt, which increases their finance-related concerns. Many may decide to forego preferred service work because of their high debt loads, a particular concern because the most prominent study of human needs to date found an inverse correlation between well-being and the emphasis that subjects placed on high earnings as a source of satisfaction.

Since income can provide comfort and reduce financial stress, we expected increasing income (and decreasing law school debt, as an inverse wealth factor) in the current sample to modestly predict well-being. The data were supportive, showing almost identical, small-to-moderate correlations with WB for both factors (income, r = .192; debt, -.189, both round to .19; p < .001). Further analysis showed that the negative association of debt with WB was stronger for younger lawyers. This would certainly be expected, since law school costs and incurred debt would be less for older lawyers, and those lawyers would also have higher incomes as a result of more years in practice.

B. Psychological need satisfaction

47 and accompanying text. The data suggests an undermining effect on WB and performance, wherein motivation for rewards displaces autonomous motivation. See infra notes 195-196 and accompanying text.


103 See Myers, supra note 83, at 61.

104 Everyone would prefer to have little or no debt, but it is not a given that debt must generate great stress. A previous study showed that, despite substantially higher debt, students at a law school with a more supportive faculty were significantly happier than those at a contrasting school where much less debt was incurred. Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 893.

105 See Granfield & Koenig, supra note 51, at 512-15; Gita Z. Wilder, Law School Debt and Urban Law Schools, 36 SW. U. L. REV. 509, 527; see also ROBERT V. STOVER & HOWARD S. ERLANGER, MAKING IT AND BREAKING IT: THE FATE OF PUBLIC INTEREST COMMITMENT DURING LAW SCHOOL 17 (Howard S. Erlanger ed., 1989). However, empirical analysis suggests that debt is not responsible, to the extent articulated, for students foregoing service work. Christa McGill, Educational Debt and Law Student Failure to Enter Public Service Careers: Bringing Empirical Data to Bear, 31 LAW & SOC. INQUIRY 677 (2006). The author finds motivation for prestige and affluence, coupled with a dearth of public service positions, to be more explanatory than need to repay debt.

106 Sheldon ET AL., supra note 33, at 331-333. Note that affluence itself was not found to relate negatively with well-being, but the fact that subjects attributed importance to affluence did.
Previous research demonstrated the central importance of experiences of autonomy/authenticity, relatedness, and competence for the well-being and performance of law students. Data from our attorney subjects confirmed the central importance of all three needs for their WB. Correlations were exceptionally strong: autonomy, $r = .66$; relatedness, $r = .65$; and competence, $r_e = .63$ (all $p < .001$). Confirming their importance for mental health, the needs also bore strong inverse correlations with depression ($r = -.51$ to $-.63$; all $p < .001$). As hypothesized then, the needs were far more predictive of well-being in our subjects than were the external factors under consideration, with relationships to WB approximately five times stronger than that of class rank and 3.5 times stronger than that of income or school debt.

C. Motivation

Data from the sample fully supported our hypothesis that internal (self-determined or autonomous) reasons for choosing work -- interest, enjoyment, or effectuating core values, would be another critical factor for attorney well-being. The association with WB was very strong ($r = .55$, $p < .001$), with a confirming inverse relationship to attorney depression ($r = -.31$, $p < .001$). This finding is particularly important because law students have been found to turn away from internally-motivated careers, often in favor of more lucrative or prestigious positions, after beginning law school. Because these data indicate that well-being is substantially impaired when law graduates emphasize external over internal factors in their career choices, we sought to clarify the importance for WB of competing internal and external factors that could often affect the decisions of lawyers seeking jobs. We investigated the occurrence in the sample of interest and meaning in work, higher earnings, and higher grades (which would typically tend to generate more, and more lucrative employment opportunities). When motivation, class rank, and income were entered in a simultaneous regression equation with WB, the independent association of healthy (internal) motivation with WB remained at its full correlation strength ($\beta = .55$). By contrast, after regression the external factors lost some of their already modest value for predicting attorney well-being (for income, $\beta = .13$; for class rank, $\beta = .05$). This analysis further supported the importance of choosing interest and meaning in work rather than higher income, when lawyers are faced with that choice in career decisions.

D. Values

As previously explained, we surveyed all subjects with an established measure of intrinsic and extrinsic aspirations, and subjects in two states were also asked the extent to which they acted to achieve each

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107 Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 884-85.
108 See Sheldon & Krieger, supra note 7, at 275, 281-82; Granfield & Koenig, supra note 51, at 512-15; Stover & Erlanger, supra note 105, at 22. We also found that supportive teaching could mitigate some of this negative effect. Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 894-95.
109 Secondary findings, reported infra p. 42, show that, with age and time in career, it is increasingly possible to realize the ideal situation of higher pay and more internally motivated work in the same job.
All data were consistent with findings in other populations, with both measures showing greater well-being for lawyers with more intrinsic, rather than extrinsic, values. The respective correlations with WB were, for intrinsic aspirations, \( r = .21 \); for extrinsic aspirations, \( r = .09 \) (\( N = 6216 \), both \( p < .001 \)). The new, action-oriented measure provided consistent but stronger associations with well-being: for intrinsic actions, \( r = .30 \); and for extrinsic actions, \( r = .19 \) (\( N = 2523 \), both \( p < .001 \)). Thus our hypotheses regarding the primacy for lawyer well-being of intrinsic over extrinsic values, and of actions over aspirations, were both supported by the data.

As with motivation, we had particular concerns about attorney values and WB based on our findings of two distinct types of negative changes in student values during law school. The results here confirmed our concerns about the values shifts that occurred in law school, since these data showed that values operate in practicing attorneys as in other populations.

**Values and professionalism**

Beyond the importance of values for attorney well-being, values have a crucial significance for professionalism and ethical behavior. Intrinsic values include self-understanding and improvement, positive interpersonal relationships, helping others, and building community; such values would logically lead to introspection, honesty, cooperation, respect, and altruistic behavior. These values, then, would tend to promote integrity, candor, dedication to a client or cause, and respectful interactions with clients, opposing parties, and others, thus elevating an attorney’s ethical and professional conduct. By contrast, none of the extrinsic values (achieving high earnings, status, appearance, and influence over others) appears to directly relate to professional or ethical behavior, and such values could actually lead to unethical or unprofessional conduct if perceived as helpful to attain the desired end. Previous articles have addressed this matter in some detail. The scope of the current study did not permit direct testing of these propositions, but given the very definition of the intrinsic values, it would be surprising if they did not tend to promote ethical and professional behavior. Thus, if the findings here, that intrinsic values are positive WB factors for lawyers, resulted in broader adoption of such values, it could have positive implications for attorney professionalism as well.

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110 To avoid response bias, we did not ask subjects directly if they “acted on their values.” They first responded to the traditional aspirations index, and then to the new measure directed to actual behaviors.

111 Note that extrinsic valuing is not negative in itself, and indeed most people value affluence, influence, and recognition by others to some extent. When these values dominate and displace intrinsic values, however, negative effects occur. See Sheldon & Krieger, *supra* note 7, at 282 (finding that law students tended to lose both intrinsic and extrinsic valuing, raising particular concerns for lack of goal-driven behaviors of all kinds).

112 Our first longitudinal study found both that student values shifted toward less healthy extrinsic pursuits rather quickly after entering law school, and that all values then diminished later in law school (a general “dulling” effect). Sheldon & Krieger, *supra* note 7, at 273, 279. Elizabeth Mertz notes specifically that one goal of law teaching is to change student values. Mertz, *supra* note 15, at 1.

113 See Ryan & Deci, *supra* note 30, at 673; Sheldon & Krieger, *supra* note 7, at 263-264; see also Sheldon, *supra* note 33.

E. Autonomy support

Previous research has shown autonomy support to have global benefits for need satisfaction,\textsuperscript{115} internal motivation,\textsuperscript{116} and performance\textsuperscript{117} of law students. If the current study demonstrated similar results, autonomy support could prove to be the single most important consideration for lawyers, and for their teachers and employers interested in fostering well-being and maximal performance. Investigation of autonomy support was necessarily limited to those lawyers who reported having one or more supervisors (N = 4101).\textsuperscript{118} The findings were robust among our bar members, with autonomy support very strongly correlating with subjective well-being (r = .44) and correlating inversely with depression (r = -.30; both p < .001).

Thus, the data clearly supported all primary hypotheses, showing all of the internal factors to more strongly predict lawyer well-being than any of the external “grades and money” factors. The following graph shows the associations of the primary factors in this study with subjective well-being; the darker bars represent the internal factors.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{subjective_wellbeing_correlates.png}
\caption{Subjective Well-being Correlates}
\end{figure}

Replicating the Path Model for autonomy support, motivation, and well-being

Our previous research on law students revealed the critical role of autonomy support in a sequential path affecting their needs, motivation, academic performance, and well-being. We again employed multiple regression analyses of the current data to investigate those relationships in our attorney

\textsuperscript{115}Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 889.
\textsuperscript{116}Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 891.
\textsuperscript{117}Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 895.
\textsuperscript{118}For this smaller, but still very large sample, correlations greater than r = .04 are significant (p<.05), and correlations of .06 are highly significant (p<.01).
subjects. These analyses replicated the previous findings, indicating that autonomy support increased satisfaction of the lawyers’ three basic needs and thereby also increased well-being and internal motivation for their work. A path model representing these relationships for the current study is shown below; all paths are substantial and highly significant ($p < .001$). These findings are particularly important for concerns about attorney wellness, satisfaction, retention, or performance, since supervisors, teachers, and mentors can be taught to provide autonomy support to others. Seen from the contrary perspective, this also suggests that controlling supervisors who are not trained to be supportive will exert a number of avoidable negative effects on their employees and their organizational morale and efficiency.

119 Sheldon & Krieger, Understanding Negative Effects, supra note 11, at 892. Obviously, with this sample of working attorneys we could not seek to replicate the student finding regarding the third principle outcome, improved grades and testing performance. Also, because the path model was generated to test the student findings, it presents motivation as a co-outcome (with well-being) of need satisfaction as was done in the previous study report. However, motivation is also a cause of well-being, as indicated in the current findings, and after regressions controlling for all the factors in the path model below, the independent correlation between WB and internal motivation remained very strong ($r = .45$).

120 Because the path model relies on regression analyses, the coefficients show only unique effects and hence are somewhat smaller than the standardized coefficients reported above.

121 While performance was not measured in this study, we fully expect enhanced performance to result from autonomy support based on the law student findings, and also on the finding here that attorney motivation improved with felt autonomy support. See also, infra notes 189-198 and accompanying text.

122 J. Reeve, Autonomy Support as an Interpersonal Motivating Style: Is it Teachable? 23 CONTEMP. EDUC. PSYCHOL. 312 (1998); J. Reeve ET AL., Enhancing Students’ Engagement by Increasing Teachers’ Autonomy Support, 28 MOTIVATION & EMOTION 147 (2004). For a fully developed article providing such training for law teachers, see Paula J. Manning, Understanding the Impact of Inadequate Feedback: A Means to Reduce Law Student Psychological Distress, Increase Motivation, and Improve Learning Outcomes, 43 CUMB. L. REV. 325 (2012); See also ALFIE KOHN, PUNISHED BY REWARDS (1993), at 186-87, 192-97, instructing supervisors to increase internal (“authentic”) motivation and productivity through provision of understanding, perspective-taking, and choice to employees.
**Path model relating autonomy support, need-satisfaction, and motivation/well-being outcomes**

**Brief Discussion of Primary Findings**

Findings broadly supported the five primary hypotheses, providing an empirically-supported understanding of contrasting factors that predict attorney well-being. We particularly focused on the relative importance for well-being of subjective psychosocial factors compared to more objective, external factors typically of great concern to law students and lawyers (and to their teachers and employers as well). We expected that empirical results would, to some extent, contradict common assumptions about the importance of external factors such as earnings, debt, comparative grade performance, and honors or credentials. The data confirmed our hypotheses, revealing a pattern in which (1) the internal factors seen to erode in students during their initial law training were the precise factors most strongly predictive of lawyer well-being, and (2) the external factors emphasized in law school and by many legal employers were, at best, only modestly associated with lawyer well-being. This unfortunate pattern was somewhat stronger than we expected. One external factor of seemingly great importance to law students and legal employers, law review membership, had no measurable correlation with lawyer happiness and life satisfaction ($r = .00$); and income, the external factor most predictive of WB ($r = .19$), was less predictive than the internal factor with the weakest association with WB (intrinsic values, $r = .30$). Thus, data established a distinct dichotomy of factors bearing on lawyer well-being, with correlations of external factors ranging from zero to .19 (on a scale for which 1.0 is a perfect correlation), and correlations of internal factors from .30 - .66.

In addition to clear implications for the universal search for life satisfaction and happiness, these findings have important implications for attorney ethics and professionalism and for the “bottom line” productivity and/or profits of legal employers. The most powerful predictors of well-being in these data, autonomy ($r = .66$), relatedness to others (.65), competence (.63), and internal motivation for work (.55)
are also sources of professional behavior and positive performance in lawyers; such lawyers are also likely to produce more, remain longer, and raise the morale of others. 123

VII. Secondary findings

We analyzed many additional variables to gain further understanding of lawyer well-being and satisfaction. These included alcohol consumption, demographic differences (age, gender, race, ethnicity, relationship status and children), work variables (practice type, office setting, hours worked, billable hours), personal choices that might contribute to life balance or “stress management” (physical exercise or sports, vacations, religious or spiritual practices), and the ranking of a lawyer’s law school. We investigated two supplementary issues that yielded concerning data: subjects’ perceptions of lawyers, judges, and the legal system, and the extent to which subjects’ early expectations for future income in their legal career were realized. Many results are interesting in their own right, and many confirm the primary findings regarding the overarching importance of the internal factors for well-being -- particularly the three needs and internal motivation for work. A number of consistent patterns in the data also provide confidence in the study as a whole. Implications are discussed after presentation of the findings.

A. Alcohol consumption

Abuse of alcohol by attorneys is a common concern. 124 We viewed increasing alcohol use as a likely indicator of negative well-being, and hypothesized that it would inversely correlate with WB as well as with the psychological variables most strongly associated with well-being.

The survey instrument included established measures for frequency and quantity of consumption. 125 Mean frequency of drinking reported in the sample was approximately once each week. Mean consumption on each occasion was 1.77 drinks. 126 Frequency of drinking was, on first examination,

123 The relationships between well-being, professionalism, and performance are discussed more fully infra text accompanying notes 189-199.
124 For articles addressing attorneys and alcohol use, see Beck ET AL., supra note 4; Susan Daicoff, Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism, 46 AM. U. L. REV. 1337, 1342 (1996); Eric Drogin, Alcoholism in the Legal Profession: Psychological and Legal Perspective and Interventions, 15 LAW & PSYCHOL. REV. 117 (1991). Lawyer Assistance Programs (LAPs) were established in most states to address this problem; see American Bar Association Commission on Lawyer Assistance Programs web page at http://www.americanbar.org/groups/lawyer_assistance.html for current information. LAP professionals provided critical assistance in the course of approval and administration of this survey by various bar associations, and were instrumental in including measures for alcohol use in the instrument itself.
126 A detailed definition of an alcoholic “drink” is provided in the measure. Task Force, supra note 125. Means from the analyses are restated here to express the actual number of drinks reported.
marginally related to WB (r = -.025, p = .051), while quantity consumed per occasion showed a small but more robust negative correlation across the sample (r = -.12, p < .001). However, because frequency correlated very strongly with quantity (r = .61, showing that those who drank more heavily also drank more often), we regressed both measures with well-being to determine independent effects. The result showed that frequency, independent of the influence of increasing quantity, was unrelated to (or even slightly positive for) well-being. Also as hypothesized, important psychological factors for well-being were inversely associated with quantity of drinking: intrinsic values orientation, r = -.13; internal motivation for work, r = -.08; autonomy, relatedness, and competence need satisfaction, r = -.06, -.09, and -.09 respectively (all p < .001). Thus, our hypothesis regarding the inverse relationship between alcohol use and WB was supported, but only for the quantity of drinking per occasion. Given these results, we report only the quantity measure in the remaining analyses of alcohol use.

We then analyzed the level of alcohol use reported by various demographic groups within the sample. Between the genders, mean consumption for men was slightly greater than for women (M = 1.89, 1.56, p < .001), and among the racial and ethnic groups, Caucasian lawyers drank most and African Americans least (M = 1.80, 1.41 respectively; p < .001). Subjects earning more income drank slightly more (r = .04, p = .003). Lawyers in public service positions also drank less than private attorneys, particularly those in positions that typically provide the most income (M = 1.67 vs. 1.90, p < .01).

B. Attorney well-being in contrasting work settings and practice types: testing the internal-external factors dichotomy

The practice of law offers markedly different work settings, earnings, and life-style expectations. Would data indicate that some career paths were more likely than others to provide satisfaction and well-being to lawyers? If so, could we quantify specific factors impacting the WB of lawyers in different settings or types of practice?

The instrument asked subjects to identify both their work setting and the subject matter of their primary practice. We provided 15 setting choices (examples included private firms from solo practice to more than 750 lawyers, in-house work for public agencies, businesses, and other entities, and judicial

127 Quantity per occasion was similarly related to depressive symptoms (r = .10, p < .001).
128 The slight positive result after regression is not surprising, since frequent light drinking is often associated with salutary activities in leisure time, including shared meals or socializing with friends.
129 We also analyzed the product of consumption frequency X quantity. This expression, approximating total consumption of alcohol, was significant but slightly less predictive of WB than the quantity measure alone. This was not surprising, since the product interaction of the two variables could occur in numerous ways, each having a different overall effect on well-being. For example (and using a comparable but more simple scale than that used in the survey): when multiplying the number of drinking occasions per week times the number of drinks per sitting, the product would be identical for two subjects differing greatly in their habits and likely their WB—one drinking a single glass of wine with dinner each night for a week, and another drinking seven glasses of wine in a single sitting, one night per week.
130 This may represent actual equivalence, considering the greater body mass of men.
131 Detailed comparisons of this and other well-being factors among attorneys in different practice types are presented infra pp. 27-31.
chambers). We also included 28 specific choices for type and subject matter of work (examples included criminal prosecution, public criminal defense, private criminal defense, family law, corporate or commercial practice, intellectual property, and tax).\textsuperscript{132}

In order to manage and analyze this multifaceted data in a comprehensible, meaningful way, we first organized respondents into two groups that might manifest the clearest contrasts (in terms of correlates of well-being) in their career paths. One group included subjects who had chosen jobs that tend to be highly sought-after and most typically expected to produce high earnings ("prestige" positions).\textsuperscript{133} The contrasting group included the lawyers in public service positions typically perceived as providing more altruistic service but with modest income ("service" jobs). These groups of lawyers would likely differ in their motivation, values, and need satisfaction, and would certainly differ in external markers of success such as law school grade performance and current income. If well-being differed between these groups, then, it could provide an example of the operation of SDT principles. Thus, the delineation of "service" and "prestige" groups was a theory-based approach both to organize much of the complex occupational data, and to potentially view the applied effects of the dichotomy between internal and external contributors to well-being.

We constituted the groups based on long experience both practicing law and working with law students; choices were somewhat arbitrary but were confirmed by open inquiry to a list serve of approximately 1,000 law teachers who also had substantial experience practicing law. The "service" attorney group included subjects in the following positions: Public Defender, Criminal Prosecutor, Government Agency, Legal Services to the Poor, and In-house Counsel for Non-Profit Organization. The typically lucrative "prestige" positions, all in private practice, included law firm settings of 100 or more lawyers,\textsuperscript{134} plaintiff's tort/malpractice lawyers; corporate, commercial, or transactional law; international business/commercial transactions; securities or partnership law; and tax, estate planning, or patent/copyright. We also included a "judge" group, including judges and hearing officers, that we expected to distinguish itself based on a unique combination of both internal and external positive factors for well-being -- high autonomy, internal work motivation, service values, and time for family/relationships, coupled with power, substantial income, and respect in the community. The fourth group, "other law practice," included all other practicing lawyers, including popular practice areas such as general practice, family law, private criminal defense, and many others not typically

\textsuperscript{132} A complete listing of the practice settings and work types in the survey may be viewed at: [http://www.law.fsu.edu/faculty/profiles/krieger/attorneysurvey.docx](http://www.law.fsu.edu/faculty/profiles/krieger/attorneysurvey.docx)

\textsuperscript{133} "Successful" law students and lawyers are often considered to be those who earn high grades and high income. Success and higher earnings are strongly identified in the United States generally; see Myers, supra note 20, at 126-28. We use prestige to describe this lawyer group, as other descriptive terms could have unintended negative connotations for these lawyers or the contrasting public service lawyers. We did not include other prestigious positions, such as judicial clerks, in the group, in order to maintain homogeneity in terms of law practice as commonly understood, client representation, and a tendency towards high earnings.

\textsuperscript{134} While we chose firms of more than 100 lawyers because of our sense that students and lawyers generally consider this to constitute a "large firm" and that large firm lawyers are high earners, the data did show that firms of this size and larger do offer more pay than smaller firms. See infra pp. 32-33.
associated with either very high earnings or primary public service.\textsuperscript{135} The resulting sub-samples by group were: Other, N = 2852; Prestige, N = 1434; Service, N = 1091; and Judges, N = 141.

Our hypotheses regarding these groups were organized around expected differences between internal/psychological factors and external factors such as income or status:

(1) Prestige lawyers would report far higher income than service lawyers;

(2) Prestige lawyers would have the highest mean law school class rank and greatest law review participation as students;

(3) Service lawyers would report greater self-determined motivation for their work and more intrinsic values than prestige lawyers;

(4) Because motivation and values are stronger factors for WB than prestige or status, service lawyers would enjoy WB equal to or greater than prestige lawyers. Our confidence in this final hypothesis was somewhat compromised, because prestige positions could provide benefits for WB in addition to high pay (work space, better furnishings, equipment, training, supervision, secretarial and paralegal support, etc). A greater confound might be that, if indeed higher grade achievers tended toward prestige positions, their achievement could reflect other positive attributes that would dispose them to well-being regardless of their position -- such as health, energy, alertness, enthusiasm, or resilience. Nonetheless, if the service group did report more than nominally greater internal motivation, intrinsic values, or need satisfaction, Self-determination Theory (and our primary findings reported above) would predict them to be happier and more satisfied lawyers.

(5) As stated above, we expected the judge/hearing officer group to report the highest WB. These subjects would likely have “the best of both worlds,” with substantial internal and external benefits for well-being. They also would not experience the stresses of client representation and vying against other parties in the adversarial process. Thus, the judges could constitute a group fundamentally different from the others, likely distinguishing themselves from the three lawyer groups in many ways.

(6) Because the “other law practice” group was not created based on salient shared traits, we had no theory-driven hypotheses regarding this group. However, we thought this group would experience less WB than the service or prestige groups, since the “others” would not have the financial benefits of the prestige lawyers, nor the internal motivation and intrinsic values of the service group.

\textit{Findings}

\textsuperscript{135} We excluded from this group those subjects identifying themselves as primarily law school teachers, bar administrators, mediators/arbitrators, and clerks or support staff for judges or lawyers, to create a group of more typical lawyers engaged in client representation.
The data broadly supported our hypotheses, yielding many results that conflict with common expectations about who among lawyers will enjoy greatest well-being.\textsuperscript{136} Important findings included:

a) Judges were, indeed, clearly different from the three lawyer groups. The judges reported the greatest well-being on all measures—net affect, life satisfaction, and subjective WB (all \(p < .001\)).\textsuperscript{137} They also reported the greatest internal motivation and satisfaction of all three needs, combined with the second highest mean income, the predicted combination of internal and external WB factors that likely produced their greater happiness. However, judges also reported a mean age almost 10 years greater than any lawyer group, which could explain, at least in part, many of the apparent benefits noted.\textsuperscript{138}

b) As hypothesized, prestige lawyers had robustly higher income, law school grades, and law review participation than the service lawyers (all \(p < .001\)), but also had less internal motivation and intrinsic valuing (both \(p < .001\)). As we had hoped then, these groups provided a view of how internal vs. external well-being factors play out in working professionals. Of primary importance, service lawyers reported greater well-being than the more “elite,” highly paid prestige lawyers \((r = .04, p < .05)\),\textsuperscript{139} despite substantially lower earnings \((r = .33, p < .001)\). Prestige lawyers also reported more alcohol use \((p < .001)\). A comparison of the components of subjective well-being adds detail to the picture. The service and prestige lawyers reported equal life satisfaction despite the greater affluence (presumably providing more expensive houses, cars, etc.) of the latter group, suggesting that more desirable possessions are only marginally helpful, even for satisfaction with life. On the other hand, the service lawyers reported significantly higher day-to-day mood, likely from their sense of service and greater engagement in their work. The net result was greater aggregate well-being for the lawyers in service positions.

Another point of interest emerged in the data: although the prestige lawyers had substantially higher law school grades than any other group, they reported significantly lower satisfaction of the competence need \((p < .01)\) than the group with the lowest grades and pay, the service lawyers. This suggests a core dissonance between “competence” as measured in law school (largely by grade performance), and a lawyer’s ability to feel competent in actual law practice.\textsuperscript{140}

\textsuperscript{136} AJD 1, supra note 9, included a similar finding about enhanced satisfaction of public service lawyers. See also Dinovitzer & Garth, supra note 28, at 22.

\textsuperscript{137} There are many significant differences between these groups, but correlation strengths are typically small. Because of the complexity of numerous cross-comparisons of data among the groups, in this and other sections involving comparison of numerous sub-samples \((i.e.\) racial/ethnic and social support groups) correlation strengths are reported only for the more important analyses.

\textsuperscript{138} The various benefits of age for WB are discussed, infra p. 34.

\textsuperscript{139} This well-being difference may also be slightly under-reported by the data, because service jobs are typically less competitive and easier to secure (as evidenced by the lowest mean class rank of the four groups). Thus, some of the service jobs may be occupied by students who could not obtain other positions they preferred \((i.e.\) this group likely includes a number of people not primarily motivated by service).

\textsuperscript{140} This difference in reported competence likely results from the fact that attorney competencies accrue from the development of practice skills, rather than from the more typical theoretical learning provided by most law schools, coupled with the fact that lawyers in public service positions are often provided case responsibilities sooner than those in prestige positions. The Carnegie Report on legal education appears to recognize this gap between what law schools teach and what their students need to know in order to be competent. Sullivan et al., Educating
c) The “other law practice” group did turn out to be the least happy group. These lawyers, as predicted, reported neither the high earnings of the “prestige” group (p < .001) nor the high service aspirations or internal motivations of the “service” group (both p < .001). However, despite their lower earnings, the “other” lawyers and the higher-earning prestige lawyers reported no difference in mood/affect, demonstrating that greater affluence has little effect on whether lawyers feel happy from day-to-day. As with the prestige lawyers, the “others” had higher class ranks and earnings than the service group (p < .01 and .001 respectively), but again reported less competence need satisfaction (p < .001). Ultimately, the “other” lawyers had significantly lower mood and less life satisfaction than the service lawyers (p < .001 and .01 respectively), resulting in lower overall well-being (p < .001).

Taken together, these data continue to indicate the quite limited value of grades and prestige for well-being. They also call into question law school grades and honors as measures of competence, and suggest more attention to the WB of those lawyers in the more typical practices who are neither highly paid nor in the public sector. The data should also provide some stress relief to law students and lawyers, and guidance to those trying to decide on a career focus. The competition and stress related to high earnings and high grades -- both zero-sum, limited resources, appears overdone. These data consistently indicate that a happy life as a lawyer is much less about grades, affluence, and prestige than about finding work that is interesting, engaging, personally meaningful, and is focused on providing needed help to others. The data therefore also indicate that the tendency of law students and young lawyers to place prestige or financial concerns before their desires to “make a difference” or serve the good of others will undermine their ongoing happiness in life. This is a clear direction for increased education of law students and young lawyers. “If one isn’t happy, what is the point?”

The table below presents means for important variables within the four groups; the groups are listed from highest to lowest subjective well-being. For class rank, increasing means indicate lower class ranks.*

<table>
<thead>
<tr>
<th>Variables by Practice Group</th>
<th>N</th>
<th>Age</th>
<th>SWB</th>
<th>Intrin Values</th>
<th>Pa-Na</th>
<th>LifeSat</th>
<th>Depr.</th>
<th>Motiv</th>
<th>Income</th>
<th>*Class Rank</th>
<th>Autsat</th>
<th>Relsat</th>
<th>CompSat</th>
<th># Drinks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judges</td>
<td>141</td>
<td>56</td>
<td>5.76</td>
<td>1.02</td>
<td>1.97</td>
<td>3.70</td>
<td>1.45</td>
<td>5.20</td>
<td>6.49</td>
<td>3.80</td>
<td>1.05</td>
<td>1.80</td>
<td>1.84</td>
<td>2.53</td>
</tr>
<tr>
<td>Service</td>
<td>1091</td>
<td>46</td>
<td>4.98</td>
<td>1.11</td>
<td>1.62</td>
<td>3.38</td>
<td>1.59</td>
<td>4.55</td>
<td>5.74</td>
<td>3.67</td>
<td>1.73</td>
<td>1.43</td>
<td>1.61</td>
<td>2.67</td>
</tr>
<tr>
<td>Prestige</td>
<td>1434</td>
<td>46</td>
<td>4.86</td>
<td>.73</td>
<td>1.50</td>
<td>3.36</td>
<td>1.59</td>
<td>3.47</td>
<td>8.05</td>
<td>3.15</td>
<td>.71</td>
<td>1.49</td>
<td>1.46</td>
<td>2.90</td>
</tr>
<tr>
<td>Other</td>
<td>2852</td>
<td>47</td>
<td>4.71</td>
<td>.79</td>
<td>1.48</td>
<td>3.27</td>
<td>1.64</td>
<td>3.62</td>
<td>6.30</td>
<td>3.47</td>
<td>.71</td>
<td>1.40</td>
<td>1.37</td>
<td>2.86</td>
</tr>
</tbody>
</table>

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141 Recall that subjects with law review experience also reported no greater competence as attorneys. Supra note 140 and accompanying text.

142 Glesner, supra note 7, at 637; Seligman ET AL., Why Lawyers Are Unhappy, 23 Cardozo L. Rev. 33, 40, 47 (2001); See generally Glesner Fines, supra note 94; Krieger, Hidden Sources, supra note 17.


Do attorney preferences and work settings affect the factors that promote their well-being?

We used these practice group distinctions to perform two more analyses, investigating the possibility that key factors for well-being might operate differently in groups of lawyers with different values, goals, or motivations. It might be that the impact of specific well-being correlates would vary based on differing personal priorities of individuals, their immersion at work with other people sharing (and hence reinforcing) the same motivations and values, or both. For example, in “prestige” lawyer offices with many people focused on high income, the effect size with WB of the collectively desired goal (income) might be greater than for service-oriented lawyers in service-oriented settings. Similarly, in offices of predominantly service-oriented people, the apparent effect of service motivation might also be more important than in offices of lawyers who do not equally share this purpose.

Analyses of income and work motivation in the prestige and service groups suggested that the factors retain their importance for well-being regardless of personal values or work setting. The two fundamentally different factors (income and internal motivation) predicted well-being statistically to the same extent in both work groups (income to WB: r = .19 for service group, .21 for prestige group; internal motivation to WB: r=.55 for service group, .57 for prestige group; no significant differences).

These data indicate that, regardless of people’s subjective preferences, their choices based on internal or external goals and motivations will predict their well-being to the extent reported in the primary findings. The consistency of these focused analyses is striking, and also adds confidence in the study methods and findings.

C. Other work variables

Hours worked, firm size, and billable hours

The purportedly negative work environment of large law firms is legendary, and typically includes long work hours and high billable hour requirements. We hypothesized that WB would tend to decrease (1) as firm size increased, (2) as number of hours worked increased, (3) if billable hours were required, as those hours increased, and (4) with less seniority and status within the firm. Based on the demonstrated importance of internal factors for WB, we thought billable hours would be particularly inimical because the required record-keeping and reporting would keep lawyers constantly focused on an extrinsic goal (money), undermine their autonomy, and increase the sense of supervisory control rather than autonomy support. Similarly, because junior associates in firms often report low autonomy, we expected status in the firm to strongly correlate with WB. We also hypothesized that, if income

increased with firm size, lawyers working in the larger firms would be more externally motivated for those financial benefits and their WB would consequently suffer despite the increased income.

All participants were asked to type in the number of hours they worked in an average week. Subjects who worked in a private firm were asked the number of attorneys in the firm, their position in the firm, whether billable hours were required, and if so, the number of such hours required on an annual basis. We then correlated these variables with the various well-being measures included in the survey.

*Total hours and billable hours*

Surprisingly, WB did not vary significantly with absolute number of hours worked. The data did not support our expectations that the additional stress of longer hours, and the decreased time for personal and family interests, would take a toll on lawyer happiness. This null result may reflect other beneficial correlates of increased hours that balance the expected negatives. First, private attorneys realize significant additional income with increasing work hours $(r = .23, p< .001)$. Second, for lawyers who are enjoying their work as a result of strong engagement or interest, longer hours could result. Further research would be required to explain this result with confidence.

While total hours worked had no bearing on for well-being, the data concerning billable hours was telling. Compared to private attorneys reporting no billable hour requirement, those that had any billable hour requirement reported only slightly less well-being $(r = -.06, p < .01)$. The hypothesized decrease in autonomy need satisfaction was supported $(r= .16; p < .001)$, and billable hours were accompanied by increased alcohol use. Within the subsample reporting billable hours $(N = 975)$, there were a number of meaningful correlations as billable hours increased. As expected, income increased $(r = .22, p < .001)$, but important psychological predictors of WB decreased -- autonomy satisfaction $(r = -.15)$, internal motivation $(r = -.15)$, and relatedness satisfaction $(r = -.11, all p < .001)$. The net result supported our hypothesis: subjects experienced less life satisfaction and lower net affect as billable hours increased. The decrease in SWB is small $(r = -.10, p< .001)$, likely offset in part by the increasing income. Each increase in billable hours brings moderately greater income and slightly less happiness.

*Size of law firm*

As predicted, with increasing firm size lawyers reported more external motivation for their work and less autonomy satisfaction (respectively, $r = .14, -.13; both p < .001$). On the other hand, income increased robustly with firm size $(r = .46, p < .001)$. Both sets of changes were quite linear across the spectrum from sole practice to firms of 750+ lawyers. Internal motivation was greatest for solo attorneys, but income was greatest for the largest firms. Considering all private attorneys, there was a very small decrease in WB approaching significance as firm size increased $(r = -.031, p = .122 N =4,060)$, resulting from slightly less positive affect in larger firms $(r = -.06, p = .02)$. Thus, the data indicate that in the larger firms lawyers earn much more money, but nonetheless experience slightly more negative mood than those in smaller private firms.
Position within law firm

The instrument asked private firm attorneys to indicate whether they were a managing partner, senior partner, junior partner, senior associate, or junior associate. In order to capture meaningful results for these analyses, we focused on subjects in the primary working sample who were in firms large enough to be stratified by position, and thus excluded firms of 15 or fewer attorneys. The resulting subsample for these analyses was N = 748. The number of subjects in four of the five positions did not vary greatly (N = 154 – 227); 28 subjects reported themselves as managing partners.\(^{146}\) Means for primary variables typically fell along a continuum, varying as expected based on seniority of position.

The data provided noteworthy results, not all of which were expected.

1. The “word on the street” regarding diminished well-being among junior associates in firms was amply supported. The mean subjective well-being for this group was very significantly lower than for senior associates, the next lowest mean (M = 4.13, 4.69; p = .01). The reasons were manifest, in that the means for most WB factors in this group were significantly lower than those of the next lowest group (again, senior associates). Most notably, mean differences for each of the human needs critical for well-being exceed one-half of a response interval: autonomy (M = .28, -.22, p < .01), competence (M = 1.55, .78, p < .01), and relatedness ( M = 1.50, .97, p < .01).

2. The second major finding was surprising. “Making partner” represents a milestone of success in law firm culture that presumably makes the new partners much happier and more affluent. While our data did confirm a major increase in compensation (M = 7.58, 10.47; p < .001), there was no evidence that junior partners were happier than the senior associates. For the partners, raw means for SWB, life satisfaction, positive and negative affect, and autonomy satisfaction were very slightly improved, but none of these differences was statistically significant.

These findings represent another indication of the limited ability of increased income to impact the well-being of professionals. Perhaps more importantly, it should give law graduates pause when considering a position in a medium or large firm. While law students and young lawyers likely believe that making partner after several years of difficult associate work will “pay off” with great happiness, such expectations did not materialize across this sample of junior partners.

3. Taken together, lawyers in firms larger than 15 were not happy when compared to the large lawyer groups previously reported. The “Other” lawyers, the group that includes many typical private practice positions (general, family, and criminal defense, among others) offer a useful comparison, since they had the lowest mean well-being of the groups previously reported. Their mean well-being, however, was essentially identical to that of junior partners in the firms with more than 15 lawyers (M = 4.73, 4.71, not sig). Other contrasts are also telling: (1) firm junior associates had far lower WB than the Other lawyers (M= 4.07, 4.71; p < .001), and the overall WB across the firm subsample was significantly

\(^{146}\) Given the small number of managing partners and the similarity in data between them and the senior partners, for simplicity we considered these two as a single group for most purposes.
lower than the WB of both the Judges (M = 4.79, 5.76; p < .01) and the Service lawyers (M = 4.79, 4.98; p < .05).

(4) Motivation in the firm subsample appeared to be the key factor undermining well-being. Income in the firms was notably high compared to the groups previously reported, and would be predicted to provide a modest increase in well-being. Indeed, lawyers in the lowest earning firm position, junior associates, had earnings equivalent to the Judge group, and had greater earnings than Service (M = 6.77, 5.74; p < .01) and Other lawyers (M = 6.77, 6.30; p < .01). However, external motivation for gaining income was significantly higher in the law firm group\footnote{Income motivation is consistent at each position within the law firm subsample, with no significant differences.} than in all of the other lawyer and judge groups reported. As a result, overall motivation for work, a first-tier factor for well-being, was very significantly less healthy for the law firm subsample than the Judges, Service, or Other groups (M = 1.30 vs. 5.20, 4.55, and 3.62 respectively, all p < .01). Simply stated, lawyers appear to be choosing to work in medium and large firms for the wrong reasons, in psychological terms, in that they will not produce well-being.

**Litigation practice, private and public attorneys**

Litigation inevitably generates stress on attorneys. Adversarial, zero-sum contests are stressful by nature,\footnote{See Krieger, *Human Nature*, supra note 7, at 277-84; See generally Seligman ET AL., *supra* note 142.} and the uncertain outcomes often have serious consequences for clients. We therefore hypothesized a modest negative WB impact on subjects who litigated controversies (N = 3097). The instrument asked subjects to indicate the percentage of their work that involved litigating cases (including any stage of litigation). As predicted, as litigation increased in subjects’ practices, there was a very small, inverse correlation with well-being (r = -.06; p < .01). We investigated the possibility that intrinsic purpose and internal motivation for the case work might moderate any negative impact of litigation stress, by comparing subjects in the “prestige” and “service” groups. There was evidence of this protective effect: the negative correlation of WB with litigation was greater (though still small) in the “prestige” group (r = -.10, p < .01) compared to the service group (r = -.04, not sig.). Thus, the data suggest a small negative effect on well-being from litigation, with substantial moderation of the effect from adaptive motivation and values. Further research would be required to draw confident conclusions.

**Pro Bono/community service work**

Pro bono work is commonly encouraged and undertaken in the legal profession, and would logically promote well-being since it embodies the intrinsic value of altruism and community improvement.\footnote{Many people derive “intense satisfaction” from unpaid service work. Frey & Stutzer, *supra* note 10, at 105.} This result could be moderated among lawyers, however, because many are *required* to perform pro
bono work by their bar associations or employers\textsuperscript{150} and thus the service may not be internally motivated.

The instrument asked subjects to report the number of “unpaid public service/pro bono/volunteer hours (whether legal or other community service)” that they “provide in a typical month.” Hours of unpaid service did correlate with greater positive affect (r = .130, p<.001), and subjective well-being (r = .083, p< .001). Confirming the likely source of the WB benefit, hours also related to internal motivation for work and intrinsic values orientation (r = .12, .06 respectively, both p < .001).

D. Personal demographics

Subjects were asked to provide basic demographic data. Because there were few significant demographic differences in our law student data\textsuperscript{151}, we had few expectations of related findings in our attorney sample. We did hypothesize, based on previous research in general populations\textsuperscript{152} that increasing age would associate positively with well-being, as would a current marriage or similar primary relationship.

\textit{Age}

Previous research shows that people generally tend to be happier as they age\textsuperscript{153}. We expected this result in our lawyer sample as well, since maturity would logically bring more autonomy, competence, and self-knowledge, resulting in more income and a better fit with personally preferred work. The mean age of the sample was 46.66 years, and data did show increasing age to predict well-being (r = .17, p < .001). To investigate likely reasons, we determined the correlations with age of income and internal work motivation. Both correlations with age were significant: income, r = .16; internal work motivation, r = .23 (both p < .001). Regression of age and these factors with well-being revealed that internal motivation and income were indeed the operative factors; age itself was unrelated to WB. Thus, our hypotheses were supported, in that age predicted greater WB in our bar members, but other factors that increase with age accounted for the apparent WB benefits\textsuperscript{154}.

\textit{Gender}

\textsuperscript{150} Motivation for service work was not central to this study and not addressed by the survey.
\textsuperscript{151} Sheldon & Krieger, \textit{Understanding Negative Effects, supra note 11, at 889-90; See generally Sheldon & Krieger, supra note 7.}
\textsuperscript{152} See Hyoun K. Kim & Patrick C. McHenry, \textit{The Relationship Between Marriage and Psychological Well-Being: A Longitudinal Analysis, 23 J. FAM. ISSUES 885 (2002); See generally Kennon M. Sheldon & Tim Kasser, \textit{Getting Older, Getting Better? Personal Strivings and Psychological Maturity Across the Life Span, 37 DEV. PSYCHOL. 491 (2001), employing perceived maturity of personal goals and finding older individuals may be more psychologically mature than younger people and may be happier as a result: Myers, supra note 20, at 68-79.}
\textsuperscript{153} \textit{See, e.g., Sheldon & Kasser, supra note 152; Myers, supra note 20, at 68-79.}
\textsuperscript{154} As noted earlier, debt incurred in law school was another factor that decreased with age. Regressions of age and law school debt with well-being showed that about 1/3 of the associations of each variable with well-being was shared.
Gender differences and dynamics are a matter of considerable interest in the legal profession. However, based on our studies of law students, we expected little or no difference in lawyer WB by gender. We did expect men to have greater mean ages and therefore have more time in the profession, resulting in a WB benefit at least from increased income and autonomy. We speculated that this benefit might be offset by WB advantages from stereotypical, but perhaps somewhat accurate, positive internal qualities often attributed to women (i.e. intrinsic valuing of intimacy, community, concern for others, and/or more relatedness to others).

The data supported these hypotheses, showing well-being between male (N = 3740) and female (N = 2340) lawyers to be virtually the same. Men were favored with a very small raw difference in mean SWB (4.89 vs. 4.77; p< .05), with no difference in incidence of depression by gender. Supplemental analyses did reveal the kinds of offsetting differences we predicted; all are very highly significant (p < .001). Men on average had been working in legal jobs longer, had slightly greater autonomy and competence satisfaction, and had higher income and lower loan balances on graduation (likely resulting from the more recent mean graduation date of women). Men also tended more toward lucrative “prestige” positions. Women, however, were stronger in the kinds of salutary psychological variables predicted, showing more intrinsic values, greater relatedness satisfaction, and more affinity for service-oriented positions.

Race/ethnicity

Our main working sample included 5810 Caucasians, 257 African Americans, 80 Asian/Pacific Islanders, and 78 Hispanic/Latinos. Interestingly, MANOVA’s for mean differences between the groups showed no significant differences for either WB or depression. Supplemental analyses showed other differences, however (all p’s < .01). Caucasians had higher earnings, but also had less internal motivation for their work and consumed alcohol more intensely than others. African Americans reporting least alcohol use; Asians and Hispanics generally fell in the middle of the groups on most measures. Overall, then, the data supported our hypothesis of little or no difference between groups, and again demonstrated that higher earnings will not generate increased WB if motivation for work is not also positive.

Marriage/Social Support

As in our law student studies, we asked subjects to identify themselves as either “married (or in long-term, committed relationship),” “dating and in serious relationship,” “dating but not in serious relationship,” and “single/not dating.” We used these categories to create a scale of social support; MANOVA’s revealed significant differences in well-being for each step of the support continuum. The

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156 Even if these gender differences are true, there would, of course, be many exceptions.
157 Multivariate analysis of variance is used to investigate mean differences of multiple independent variables. Tabachnik & Fidell, supra note 19, at 22.
data confirmed our expectation that subjects in a marriage-type relationship would show the greatest well-being of these groups. Depression findings were consistent, with married subjects showing least (and single subjects most) depressive symptoms. This is consistent with findings in other populations. Conversely, single/not dating lawyers showed the lowest well-being, although they also drank less than all other groups. It might be that lawyers who are single and not dating are more solitary or serious people, but further research would be needed to determine this.

Married subjects (N = 4690) had the greatest well-being. Comparing this group with all unmarried subjects (N = 1396) resulted in an effect size of marriage for WB of r = .17 (p < .001). We then investigated the relationship of marriage to satisfaction of the needs for autonomy, relatedness, and competence, the strongest predictors of well-being in the study. Married subjects reported higher satisfaction of all three needs, more so for relatedness as expected (r = .15, p < .001). Autonomy and competence showed very small, but also significant correlations (r = .06 and r = .09 respectively, both p < .001). Regression of marriage and need satisfaction with WB showed that about half of the apparent WB benefit of marriage was related to increased need satisfaction, while the remainder of the effect was unrelated to these needs. Further analyses (not central to this study) would very likely show other WB benefits, such as greater mean age, income, and internal work motivation, associated with marriage. As seen next, having children would be another important contributor to WB that would strongly associate with marriage.

Children

Having children results in powerful experiences that might exert opposing influences on well-being. Children generate ongoing, often major stress on parents (in the literal sense of “stress” as a demand that requires a response), and at the same time children are regarded as sources of deep joy and love. We thought it particularly interesting to research the well-being impact of children on busy professionals with demanding schedules. Would attorney life leave space for real enjoyment of children, or might children often be experienced as another burden in the lives of this purportedly highly stressed occupational group? We had no hypothesis regarding this question.

The survey instrument asked subjects about the number of children they had, offering choices from 0 to “more than 10.” There were 3,850 subjects responding to this question, a very large sample despite the many who did not respond. (It may be that many who did not respond do not have children and hence ignored the question.) Of those responding, 67% indicated that they had at least one child. We analyzed responses first to view the contrast between having children (any number) and having no children. Subjects with one or more children reported moderately greater well-being (r = .20, p < .001). Perhaps surprisingly given the other demands on lawyers, well-being also increased as the number of children increased (r=.18, p<.001). Confirming these findings, depressive symptoms related inversely with number of children (r= -.11, p< .001), as did alcohol consumption (r=-.07, p< .001). Of course, the

\footnote{158}Myers, supra note 83, at 62-64.\footnote{159}The competence need is global in SDT theory and this instrument, not focused only on work or school tasks. Hence responses may reflect subjects’ sense of competence in personal as well as work life.\footnote{160}HANS SELYE, THE STRESS OF LIFE 64 (1956).
occurrence of children and marriage strongly tend to coincide, so that regressions of the two would show substantially overlapping relationships with well-being. We did not perform this and many other analyses that would be interesting but tangential to the purposes of this study.

E. Law School ranking

We collected information on the primary law school attended by subjects, to determine the extent to which differences in their schools’ rankings predicted lawyer well-being. The instrument listed many regional schools and all schools located in or near the states whose bar associations participated in the study. Subjects were asked to select their primary law school from the list, and if not included, to type in the name of the school. A number of subjects declined to respond, perhaps because their school was not listed. Nonetheless, about 5,000 lawyers provided their school information, resulting in a large subsample for this analysis (N = 4,768 subjects responding to all related variables). The sample included graduates of 186 United States law schools, almost every institution ranked in the widely recognized U.S. News & World Report (USNWR) publication employed for the study. Subjects were distributed from the first through fourth tiers of the rankings as follows: N = 1926, 1101, 1321, and 420. The top 100 schools were coded with their specific USNWR ranking; third and fourth tier schools were assigned ranking numbers at the midpoint of their tier (essentially all were treated as “average” for their tier) since schools in those tiers are ranked by USNWR only with a tier designation.

Knowing the “resume value” that many selective employers place on law school ranking, we expected students from more elite schools to report substantially greater earnings. Since ranking and income are external factors, we further expected better ranking of a school to show a small positive relationship with WB. Other factors might vary this result. Since more elite graduates would tend to have more work choices, ranking might well enhance internal motivation for work and therefore WB. The positive

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161 Generally the school from which subjects graduated, unless they attended that school for only a short time while seeking their basic law degree.

162 Schools of Law, U.S. News and World Report: Best Grad Schools, 2011 at 70. Although the accuracy of these rankings is often questioned, they do generate a shared perception of relative ranking. There were other substantial confounds in this analysis, however. Because our subjects spanned many decades of law practice and rankings vary from year to year, any rank chosen would be inexact for the entire sample. Nonetheless, because the relative standing of most law schools does not vary markedly across time, we proceeded with this analysis. Various rationales could lead to the use of rankings from different years during the decades covered by our subjects’ careers; we chose the last rankings published before our data was collected. All subjects would have entered practice after publication of the rankings, and we thought that the methodology used by the publishers for calculating the rankings might have been refined with time and experience.

163 The number of fourth tier graduates participating may reflect the fact that the participating states included few such schools, and where included, some were new and had few graduates to participate in the survey.

164 This lack of specificity would introduce another source of potential error for some purposes, particularly for determining quality of a school (if, indeed the rankings themselves are an accurate measure of quality). However, since the rankings up to this year were expressed in this way, this approach to quantification would likely approximate the perception of these lower tier schools by students and employers (who would also have had only the same general tier designation to consider).

165 Increased earnings could, of course, also occur if attending a more elite school reflected other positive qualities that would independently increase earning ability. This study did not seek to address such questions.
correlation with WB could also be greater if school quality or status resulted in admitting students with positive characteristics that would independently translate later to well-being or satisfaction (intrinsic values, alertness, clarity, perseverance, resilience, interpersonal skills, etc.). On the other hand, any WB benefit of higher ranking would be curtailed if the prestige or financial rewards of positions available to more elite school graduates attracted them away from lower-paying positions for which they felt more passion or interest. Given these mixed potential effects, we hypothesized a modest positive relationship of rank with lawyer well-being, largely based on increased income.

Data was generally supportive, but to a surprisingly slight extent. The data showed an almost meaningless correlation between law school ranking and lawyer well-being ($r = .05$, $p < .01$), despite a modest correlation with greater income ($r = .15$, $p < .001$). Consistent with the very small WB correlation, both depression and positive affect were unrelated to school ranking. Higher ranking was barely positive for internal motivation ($r = .03$, $p < .1$); this marginally significant result may result from the displacement dynamic suggested above, wherein a number of elite graduates are foregoing internally motivated work in favor of additional pay or other benefits. Satisfaction of each of the three basic needs also showed consistent, equally tiny increases with improving school rank (all $r = .03$ to .04; all $p < .05$).

We investigated further, as the insubstantial findings contrasted markedly with the efforts among schools to improve their ranking status, and among students to attend schools with higher rankings. We subdivided the top 100 schools into segments of 25 schools each, and compared means of important variables within the six resulting groups (four groups within the top 100 schools, and the third and fourth tiers as before). The number of subjects in these six ranking groups was: top 25 schools, $N = 804$; 26-50, $N = 1122$; 51-75, $N = 832$; 76-100, $N = 269$; 101-145, $N = 1321$; 145 and above, $N = 420$. A few patterns appeared, confirming and providing detail to the main findings: 166 (1) the means for WB, income, and internal motivation for work declined fairly consistently from the top to the bottom of the rankings; (2) although the overall WB variance was very small ($r = .05$), there was even less variance among the subjects in the middle rankings (75% of the sample; schools ranked #26 through the third tier), with means for schools in this range varying little from the means for the entire sample; (3) larger differences in means occurred at the extremes, above rank 26 and below the third tier, accounting for a disproportionate part of the variance across the entire sample; and (4) the third tier was anomalous, showing a positive “bump” for all variables -- means for income and WB exceeded those for the schools ranked 75-100, while internal work motivation nearly equaled that of the highest group (the top 25 schools). Further research would be needed to explain these phenomena with any confidence.

The primary finding here is the very small association of law school ranking with lawyer well-being. It recalls the data on law review membership, another seemingly important external marker of high career potential among law students. With that prestigious achievement, subjects also enjoyed a modest increase in income, and in that case realized no associated well-being benefit. While such results are consistent with SDT principles and research, they are surprising because they challenge common

166 As with the fine comparisons of the many differences between occupational and demographic groups, these comparisons are reported to provide a sense of patterns in the data only, and thus are not accompanied by significance calculations.
assumptions regarding elite education, distinguished academic honors, and greater income as prime pathways to a happier working life. These and similar results in this study simply confirm the limited ability of external factors to generate well-being, and should encourage legal job seekers to weigh job offers carefully -- particularly considering whether the work or work environment may undermine the more powerful psychological correlates of WB. \(^{167}\)

F. Personal Life/Balance choices

“Work-life balance” and “stress management” have been common themes among lawyers, \(^{168}\) suggesting that personal behavioral choices may provide answers to depression and other problems in the profession. Based on the primary findings here, choices that promote or express autonomy, relatedness, competence, internal motivation or intrinsic values are likely to support lawyer well-being. We have reported positive results for two such choices in personal life -- to marry and/or have children. We surveyed other personal life choices that appeared likely to impact lawyer WB, asking subjects to indicate any of the following in which they typically engaged “at least weekly and for at least the past two months”: “exercise,” “meditation or mindfulness,” “yoga/tai chi,” “active sports or martial arts,” “prayer, affiliated with a religious organization,” “prayer, not affiliated with a religious organization,” and “personal discussion group (book club, support group, etc.).” We hypothesized that such practices would be associated with increased WB. They would likely provide relaxation and respite from work, moderate stress, improve general health, and promote autonomy, self-understanding and growth, relatedness to others, and other subjective benefits.

**Physical activities: exercise, sports/martial arts, yoga/tai chi**

Subjects reporting regular exercise had greater WB than others \((r = .17, p < .001)\), supported by greater satisfaction of all three needs \((r = .14\) for autonomy and relatedness, \(r = .11\) for competence; all \(p < .001\)). Regressions showed that roughly half of the effect size of exercise on well-being was related to increased need satisfaction; the remaining effect was independent of these needs and might be attributed to increased energy, clearer thinking, general health or other factors often associated with physical exercise. Subjects participating in active sports or martial arts showed a very small WB advantage over others \((r = .08, p < .001)\). The more relaxing/meditative activities, yoga and tai chi, were not related to WB, a surprising finding since people commonly report a variety of benefits from these practices. Prayer and meditation practices showed similar results; these null findings are discussed together after reporting the data on prayer and meditation below.

**Vacations**

\(^{167}\) See LAWRENCE S. KRIEGER, A DEEPER UNDERSTANDING OF YOUR CAREER CHOICES, 12-14 (3rd ed. 2013) (describing actual examples of two law students applying these principles (with widely varying success) to their job search).

We asked subjects to indicate the number of days they took in the past year for vacation (whether paid or unpaid, and whether they remained at home or took a vacation trip). As a matter of both theory and common sense, we hypothesized that vacation days taken would associate positively with attorney well-being. People tend to naturally enjoy “time off,” and to come back to work refreshed as a result. From an SDT perspective, vacations could 1) indicate personal autonomy and well-being/life balance as a personal goal; 2) reflect autonomy at the workplace and/or internal motivation (doing things for the inherent enjoyment in them); and 3) associate positively with relatedness, because lawyers with friends or partners might well take more vacations, vacations with important others would increase relatedness satisfaction, or both.

The number of vacation days did correlate moderately with aggregate well-being (r = .23, p < .001), and related positively to important WB factors as predicted: autonomy, relatedness, and competence satisfaction respectively, r = .24, .19, and .15, and internal motivation for work, r = .12 (all p < .001). We considered whether more vacations taken might simply reflect more vacation days permitted by employers, another item measured in the survey. This yielded another surprising result, in that the correlation of vacation days used with vacation days permitted was inverse (r = -.10, p > .01). 169

The correlation strength of vacation days and exercise with well-being are noteworthy, because they equal and in some cases greatly exceed the effect size for WB of increasing income, decreasing debt, better grades, law review participation, or law school ranking. Such findings may provide helpful perspectives for law students anxious about debt and/or grades, or lawyers disappointed with their present earnings. Other simple, healthful life choices appear to be equally (or more) important for happiness and satisfaction in life.

2) Religious and spiritual practice

The United States is known as a country with relatively high religious participation. 170 There is current interest in the legal profession in spiritual practices as a way to alleviate stress and improve judgment. 171 We thought that many lawyers involved with any such regular practice or observance would report greater WB than others. We were also interested to see how such practices would compare to the physical activities and vacations in this regard, as all might well provide relief from stress and reflect intrinsic growth values, attention to autonomy, and a willingness to create life balance. As previously mentioned, the survey instrument asked respondents to indicate participation in meditation/mindfulness and prayer (distinguishing affiliated, or not, with a religious organization).

169 This negative relationship may result from many employers offering benefits that are not realistic or encouraged given the associated workloads, hourly/billable demands, management style, standards for promotion, or other matters. Such speculations would require further research for clarification.
170 See Myers, supra note 20, at 177; Myers, supra note 83, at 63; See generally, BARRY A. KOSMIN, ONE NATION UNDER GOD: RELIGION IN CONTEMPORARY AMERICAN SOCIETY (2011).
Results provided virtually no support for the hypothesized benefits of these practices. The data showed slightly increased well-being ($r = .07, p < .001$), only for subjects practicing prayer and who were affiliated with a religious organization ($n=2263$), but not for the meditating subjects ($N = 684$) nor for those practicing prayer without organizational affiliation ($N = 401$). Given that prayer and meditation are fundamentally individual practices, we considered that most subjects in the latter two groups may pursue their practices by themselves, and that the fellowship afforded at worship services and as a congregant might account for much of the apparent benefit in the affiliated prayer group. It might also be that those subjects were generally more social and less solitary than the others, thus enjoying greater relatedness satisfaction and well-being independent of their religious practice. Supplementary analyses offered support for this proposition. The affiliated prayer group reported greater mean relatedness need satisfaction than the other two groups, and, indeed, than the rest of the entire sample as well ($r = .08, p < .001$). In order to distinguish the impact of relatedness in this affiliated group from that of prayer itself, we entered both factors in a regression equation. After accounting for relatedness benefits, a very small but still significant residual correlation remained between well-being and prayer in the affiliated group ($\beta = .05, p < .01$).

Thus the data support only the conclusion that subjects engaging in prayer when affiliated with a religious group are slightly happier than others. As stated above, data showed yoga and tai chi practices to bear no relationship to WB across the sample, much like unaffiliated prayer, meditation, and mindfulness reported here. These data do not mean that such practices are not helpful for increasing well-being, but certainly offer no evidence that they are. Given the cross-sectional study design, we do not know the level of WB of any of these subjects before they began their practices. It might be, for example that lawyers who choose more self-sufficient approaches of meditation, mindfulness, and prayer, tend to be more anxious or worried, less optimistic and trusting of established organizations, or more isolated and less attracted to joining with others in community, and thus need to “work harder” to maintain baseline well-being in the first place. Further study, likely with an experimental or longitudinal design, would be needed to gain insight into these questions.

G. Smaller city life and practice

We thought that smaller cities and towns, when compared to large cities, would provide more pleasant, less stressful work environments and similarly, more cordial, less aggressively adversarial relationships

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172 Discussion/book/support groups also showed a similar, very small positive relationship with WB ($r = .04, p < .01$), perhaps representing another example of a self-enrichment activity with a social component.
within the community of lawyers. We asked subjects to identify the city population of their primary work location. Results supported our hypothesis, but with exceedingly small (though statistically significant) correlations. As city population decreased, subjects reported very slightly increased well-being ($r = .03, p < .05$). There were other very small effect sizes with decreasing city size: more positive

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<tr>
<th>Five Tiers of Well-being Factors</th>
<th>SWB</th>
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<td><strong>Tier 1</strong></td>
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<td>Autonomy need satisfaction</td>
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<td>Relatedness need satisfaction</td>
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<td>Competence need satisfaction</td>
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<td>Internal work motivation</td>
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<td><strong>Tier 2</strong></td>
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<td>Supervisor autonomy support</td>
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<td>Intrinsic values</td>
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<td><strong>Tier 3</strong></td>
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<td>Vacation days taken</td>
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<td>Children</td>
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<td>Married/long term committed</td>
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<td>Exercise</td>
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<td>Alcohol use (quantity)</td>
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<td>Prayer (affiliated/congregation)</td>
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<td><strong>Tier 4</strong></td>
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<td>Vacation days taken</td>
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<td>Income</td>
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<td>Law school debt, on graduation</td>
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<td>Class rank</td>
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<td>Billable hours (increasing)</td>
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<td><strong>Tier 5</strong></td>
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<td>Age</td>
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<td>Other demographics</td>
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perceptions of lawyers, judges, and the justice system \( (r = .04, p < .01) \), more internal work motivation \( (r = .08, p < .001) \), and more intrinsic values orientation \( (r = .04, p = .001) \). Smaller population centers also predicted moderately lower income \( (r = -.19, p < .001) \). Thus, our perhaps romanticized notion about “small town” life and practice was very modestly supported, with smaller population centers showing slight positive associations despite lower attorney income.

H. Perceptions of professionalism and faith in the justice system

Measurement of professional behavior was beyond the scope of this study. We did, however, ask subjects for perceptions of the legal system and profession, factors that would likely impact the well-being of members of the profession. Questions focused on the fairness of case outcomes and the level of professionalism of judges and other lawyers (limited to those whom they observed regularly, to increase reliability). Fair outcomes and attorney behavior were each addressed by a pair of contrary statements, behavior of judges by one statement. A factor analysis indicated that all five items related to a single factor in subjects’ thinking, probably reflecting the totality of their experiences within the profession and justice system. The combined mean response of all subjects to all questions was 3.22 (after recoding negative statements to a positive orientation) on the 5-point scale, only slightly above the “neutral” response position. These thousands of lawyers, in other words, on average have only a very slight positive sense of their peers and the legal system that provides their livelihood.

We performed two targeted analyses. We first combined the responses to the items relating to faith in the law and in outcomes of the system. The mean response was 3.24, again slightly above neutral. We also analyzed the responses evaluating the behavior of the judges and other lawyers subjects had encountered. As one should expect, mean responses were somewhat higher for judicial than attorney professionalism \( (M = 3.39, 3.06; p<.01) \). Nonetheless, while the mean rating of attorney professionalism was essentially neutral, the higher rating of judges does not reach the midpoint between “neutral” and the first response choice that represents any level of approval of judicial professionalism. These results indicate that there is much room for improvement in the professionalism of judges and lawyers. As reported in the preceding section, lawyers in smaller population centers reported a

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173 Findings regarding perceptions of the profession are presented more fully in the next section.
174 Living expenses are likely somewhat less as well, but this was not a subject of the study.
175 Items appeared as follows: “I don't have much faith that our legal system produces fair outcomes;” “I am concerned by the low level of professionalism among lawyers;” “The lawyers I have encountered consistently exhibit appropriate, professional behavior;” “The judges I have encountered consistently exhibit professional behavior;” and “I believe the law most often produces just results.”
176 Responses were provided on a 5-point Likert scale; choices were “strongly disagree,” “disagree,” “neutral,” “agree,” and “strongly agree.”
177 The judges, analyzed separately, did have modestly higher opinions of their own professionalism and of the fairness of outcomes which, of course, they determine to a great extent. (both \( p < .001 \)). This pattern suggests an example of self-serving bias.
178 See Daicoff, supra note 124; Schiltz, supra note 4. See generally Peter A. Joy, A Professionalism Creed for Judges: Leading by Example, 52 S. C. L. Rev. 667 (2001); Ronald D. Rotunda, Lawyers and Professionalism: A
slightly more positive view, combining the five items in one overall measure (r = .04, p < .01). But fundamentally, this large sample of professionals has a positive view of neither the justice in the justice system nor the professional behavior of professionals in the system, a very troubling finding and a call to action for legal educators and bar leaders.179

I. Earnings expectations compared with actual earnings

Long experience with law students indicates that their expected future earnings are a major factor in attracting many applicants to law school. Students also consistently appear to have an inflated sense of lawyer earnings.180 We hypothesized that, in the overall sample, earnings expectations when deciding to attend law school had not been realized in practice. If this hypothesis were supported, the finding could have important implications for law student and lawyer well-being, and for the overall tenor of the profession. Given that the critical factors for lawyer well-being are not related to earnings, encouraging new people to enter the profession for high earnings (even if expectations were accurate) could result in a pool of future attorneys predisposed to disappointment and lower well-being in their careers as well as in law school, when they learn of their realistic earning potential. Other law school applicants who are motivated more for public service would also encounter more competition for entry to law school, perhaps resulting in overall diminution of a public service orientation among law graduates.

We thought the most relevant data regarding the earnings expectations of prospective law students would be for their first years after graduation, when their economic circumstances would be least stable and their educational debt highest. The survey instruction read, “Think back to when you were applying to law school, what your expectations were at that time for your future earnings in your first few years as a lawyer after law school.” Subjects were then asked, “Tell us how your actual earnings in your first few years working in law jobs compared to those expectations” (emphasis in original survey). Response choices included “much more than expected,” “more than expected,” “about as expected,” “less than expected,” and “much less than expected.”

Far more subjects, by a factor of almost nine to one, indicated that their earnings were much less than expected (N = 941) compared to much more than expected (N = 108). The combined number of subjects reporting earning either less or much less than expected (N = 2190, 55.3% of sample) was more

179 Commentary on the Report of the American Bar Association Commission on Professionalism, 18 LOY. U. CHI. L.J. 1149 (1987). There is no lack of published concern about lawyer professionalism. The finding here that lawyers’ perception of judges is little better than their perception of other lawyers may surprise bar leaders. These findings indicate important directions for inquiry by bar associations: how do bar members think just and fair outcomes might better be attained, and what can be done to improve the professionalism of judges as well as lawyers?
than four times greater than the combined number earning more or much more than expected (N = 501, 12.7% of sample);¹⁸¹ about one-third of the sample (32%) reported earning about as expected.

The data therefore strongly supported our hypothesis about the unrealistic expectations of prospective law students for earnings following graduation. This finding points to an information gap with many potential negative consequences, and one that could readily be eliminated by clear disclosures from college career counselors, and on law school and bar association websites. We recognize that this might also impose additional pressures on law schools, in terms of fewer applicants, less ability to select for high LSAT scores and undergraduate grades, and potentially lower earnings for private law schools. Nonetheless, it would seem that open disclosure of likely earnings would benefit the entire profession, and be only fair¹⁸² to the large percentage of apparently naive prospects indicated by these data.

**Brief Discussion of Secondary Findings**

Secondary inquiries focused on three groups of factors that were likely to impact well-being: personal life choices, work-related variables, and demographic differences. The data generally supported and supplemented the hierarchy of WB factors revealed by the primary findings, while the repeating patterns in the data and the consistency of findings added confidence in the design and validity of the study as a whole. From a more practical perspective, analyses yielded specific findings that may guide lawyers toward more satisfying lives and careers. Specific findings are summarized below; we note the apparent contributing factors (generally internal) that appear to contribute to each result.

Comparisons of subjects in “service,” “prestige,” “other law practice,”, and “judicial” positions offered an applied example of the relative importance of internal and external WB factors. The judges comprised the only career group with high scores for positive factors of both types, and reported the greatest SWB of the four groups. Public service lawyers had the lowest grades and earnings of the lawyer groups, but nonetheless reported greater well-being than the group with the highest grades and earnings. This appeared to result from the more intrinsic values and internal work motivations of the service lawyers, combined with the greater importance for well-being of those internal factors (compared to grades and income).

A related analysis of subjects in firms with 16 or more lawyers confirmed that junior associates lack well-being despite ample compensation, apparently as a result of decreased satisfaction of the needs for autonomy, competence, and relatedness. Somewhat surprisingly, WB did not improve once senior associates attained junior partner status, despite a substantial increase in income. Various contrasts indicated that, overall, lawyers in these firms are very well paid but experience diminished happiness

¹⁸¹ Although there is a current employment problem within the legal profession, the sample spans several decades of graduation dates and the measure is stated in terms of expectations and actual earnings for the “few years following law school graduation.” Thus the data reflects long-term tendencies rather than short-term variations in the job market or lawyer pay.

compared to other lawyers, largely because they are choosing medium-to-large firm work for external reasons that do not promote well-being.

Among more specific work-related factors, increasing vacation days most strongly correlated with increasing well-being; it is discussed further below. Pro bono service hours, which embody the intrinsic value of altruistic service, also predicted increased well-being. By contrast, the specific practice factor that had the strongest negative relationship with well-being was required billable hours. This practice was associated with increasing income but decreasing autonomy, relatedness, and internal motivation, an apparent example of managers undermining workers’ self-determined motivation and well-being by promoting a focus on external rewards. Thus, as billable hours go up, income goes up and happiness goes down. Increasing law firm size presented another apparent example of the internal-external displacement phenomenon, as firm size also correlated with increasing income, but decreasing autonomy, internal motivation for work, and well-being. Litigation activities bore a modest negative relationship to WB; this correlation was substantially smaller for “service” than for “prestige” lawyers. Results for one work factor were surprising: the number of hours that lawyers worked each week showed no significant relationship with WB. Possible explanations were suggested.

Alcohol use proved to be an indicator of negative well-being, and was associated with decreased internal motivation and decreased experiences of autonomy, relatedness, and competence. Married (or similarly committed) subjects had the greatest WB and fewest depressive symptoms of the social support groups, while single/not dating lawyers were the least happy. Regressions showed increased need satisfaction, particularly relatedness, to largely account for the increased WB in married lawyers. Subjects with children were also happier than those without children, and more children also predicted greater well-being. The predictive value for WB of marriage or children was equal to, and often greater than any of the external, financial/credential factors.

Analyses of other personal choice factors focused on those that might provide life balance or stress relief. Physical exercise was related to increased satisfaction of all needs, and predicted well-being to the same extent as higher income, lower debt, marriage, or children; active sports was a lesser but also positive factor. The number of vacation days taken was the strongest predictor of well-being among all specific activities measured in this study. It was associated with increased internal motivation for work and greater satisfaction of autonomy, competence, and relatedness. This provided a healthy overall picture of happier lawyers who tend to choose work for meaning and enjoyment, enjoy the company of others, and who also tend to take personal breaks for rest and recreation.

Analysis of the relationship of law school rankings with the well-being of their graduates was striking. Ranking modestly associated with higher income, but only slightly with well-being. These results were similar to those regarding another presumed marker of potential for success, selection to a law journal.

Data regarding engagement in religious/spiritual practices and relaxing movement were also somewhat surprising. Subjects practicing meditation/mindfulness, prayer (unaffiliated with a religious congregation), and yoga or tai chi reported the same WB as other subjects. Prayer for those associated with a congregation showed a small positive correlation with WB, with increased relatedness need
satisfaction accounting for part of this positive result. Possible explanations were suggested; the usefulness of these practices for lawyers would benefit from continued research.

Demographics other than age showed little predictive value for lawyer well-being. There were reportable, modest differences between the genders and racial/ethnic groups, but ultimately well-being showed no or negligible differences between the groups. As expected, older lawyers were moderately happier than younger lawyers, with regressions showing the WB benefit to relate to increasing internal motivation and, secondarily, increasing income.

Two additional inquiries yielded concerning results. Lawyers broadly reported that their expectations when entering law school for their early career earnings were not realized in their actual careers. This information gap could be addressed by law schools and state and national bar associations with important positive consequence. Secondly, on questions related to professionalism and the judicial system, subjects did not agree to a meaningful extent that the legal system provides fair or just results, or that judges or lawyers whom they had observed behaved professionally. Further study would be important to replicate and clarify the current findings, and to determine steps that might improve the profession. 183

Summary

A. What Makes Lawyers Happy?

Data from several thousand lawyers in four states allowed us to test hypotheses of primary importance for lawyer well-being, and subsidiary factors and practices providing further relevant insights. Well-being was quantified by combining life satisfaction with positive affect and then subtracting negative affect. We included a depression scale and measures of alcohol consumption, as checks on our well-being measures and also because of common concerns about depression and substance use among attorneys. Results were typically expressed as standardized (Pearson) correlations, to permit comparison of the association strength of factors with subjective well-being and other important variables.

Primary hypotheses addressed contrasting sets of variables – subjective/psychological factors established by Self-determination Theory to promote well-being in general populations, and objective/external factors typically emphasized in legal populations – grade performance, law journal membership, law school debt, and income after graduation. The data supported all primary hypotheses, showing that psychological factors were far more important for the well-being of attorneys than the various external factors. Factors fell into three tiers of importance, based on their strength of association with well-being:

183 We suggest below that improving the well-being of lawyers will directly improve their professionalism and productivity, infra pp. 50-51.
Tier 1) Experiences of autonomy (including authenticity), relatedness to others, and competence most strongly predicted attorney WB; correlations ranged from .63 for competence to .66 for autonomy. These large correlations indicate that well-being co-occurs with these experiences so commonly that it may not be possible to attain thriving without relative satisfaction of all of these needs. Choosing work for internally-motivated reasons, i.e. for enjoyment, interest, or meaning within subjects’ belief systems, was also very highly predictive of well-being, with a correlation of .55.

Tier 2) Autonomy-supportive supervision of attorneys at the work place (provision of understanding, respect, and choices, as opposed to control) strongly predicted well-being (r = .44). Replicating law student research, autonomy support also appeared to increase the critical experiences of autonomy, competence, and relatedness, suggesting itself as an effective intervention for promoting well-being. Intrinsic values (for self-improvement, intimacy, and altruism/community), as compared to extrinsic values (for affluence, power, or recognition) had the next highest correlation with WB (r = .30), falling squarely between the preceding measures and the external factors.

Bottom tier) The external factors constituted a distinctly subordinate tier of apparent benefits for well-being, with correlations ranging from .00 for law review membership to .19 for law school debt at graduation and for attorney income. Class rank, perhaps the most emphasized and stress-inducing factor in law school, correlated rather weakly with well-being (r = .12). These results suggest a core reorientation of priorities, to de-emphasize grades, credentials, and money as foundations of happiness in the legal profession.

Important secondary analyses further supported this conclusion, in many cases suggesting the undermining of need satisfaction or internal motivation by external factors: (1) “prestige” job lawyers, with the highest grades and income of all groups analyzed, were not as happy as the “service” lawyers, the group with the lowest pay and law school grades; (2) although income increased very strongly with law firm size (r = .46), well-being decreased at the same time; (3) billable hours, which focus on maximizing the external revenue stream, were the strongest negative predictor of WB studied despite a positive .22 association with increased income; (4) subjects in law firms with 16 or more lawyers were very highly compensated but reported external motivations and broadly diminished well-being, and (5) higher law school ranking was associated with increased income but only negligibly with well-being.

Other secondary findings refine and supplement the hierarchy of well-being factors suggested by the primary analyses. Each of the secondary factors meaningfully predicting WB also correlated with important SDT factors, most particularly internal motivation for work or satisfaction of one or more of the psychological needs. In addition to the specific work-related variables discussed above, secondary findings included two new sets of well-being factors -- personal life choices and demographics. The personal life choices showed generally stronger predictive power for well-being than the external

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184 For example, the correlation in this sample between aspiring to values and acting on the same values was .70, very similar to the needs/well-being correlations. Perhaps more on point, the correlation between depression and its virtual mirror image, well-being was -.69, hardly more strongly associated with well-being (though inverse) than the three needs. One prominent psychologist has included these needs in her expanded definition of well-being. See Carol D. Ryff & Corey Lee M. Keyes, The Structure of Psychological Well-being Revisited, 69 J. PERS. SOC. PSYCHOL. 719 (1995).
grades/money/credentials factors, and replace them in third position in the hierarchy of WB factors. Demographics had the least associations with WB. Thus, the study results may be represented by five tiers of factors that predict and appear to promote lawyer happiness, listed in descending order:

1) Needs for autonomy, relatedness, and competence, and internal motivation for one’s work \( (r = .66-.55) \)

2) Autonomy supportive supervision and intrinsic values \( (r = .44-.30) \)

3) Personal life choices \( (r = .23-.17) \) (vacations, children, marriage relationship, exercise)

4) Work and School; Financial/prestige/credentials \( (r = .19-.00) \) (income, law school debt, class rank, billable hours, law school rank, law review,)

5) Demographics: zero to negligible well-being differences, other than age \( (r = .17) \)

**B. Are lawyers different from other people with regard to their happiness and satisfaction?**

This question would essentially be answered as we investigated the determinants of attorney well-being. However, we wanted to address it explicitly because of the special importance of happiness in the range of human experiences, because lawyers are often considered to think and act differently than others, and because they may indeed be trained to do so in law school (i.e. to “think like lawyers”). Further, our previous studies revealed core changes in student values and motivations during law school, and a linguistic analysis of basic law training found consistent undermining effects on student values, interpersonal caring, and moral/ethical decision-making. All of this suggested the possibility that lawyers, whether by nature or through training, may respond differently than other people to psychological and external factors that typically generate happiness. In addition, such training might convince lawyers that the usual sources of human well-being did not relate to them. If this belief were false, it could lead to life choices inimical to well-being.

The data was consistent and clear when viewed from this perspective, comparing the correlates of happiness in lawyers and in other people. The tenets of SDT established by decades of research in the general population appeared to apply without qualification to this large sample of legal professionals. The relative strength of different factors was also essentially as expected, with fundamental needs and self-determined (internal) motivations more strongly predicting WB than values, and with subjective psychological factors appearing substantially more important than external factors. Simply stated, there

185 As with the external factors, some of the personal variables bore zero correlations to WB. They are not noted here since they were included for interest only, whereas law review had zero correlation with WB but has central importance for law students and lawyers.
186 See Lyubomirsky, *supra* note 23, at 239.
188 Mertz, *supra* note 15.
is nothing in these data to suggest that attorneys differ from non-attorneys with regard to their prerequisites for feeling good and feeling satisfied with life. Thus it would appear that lawyers, and their teachers and employers, should banish any notions that law-trained people are somehow special in this important regard – in order to thrive we need the same authenticity, autonomy, close relationships, supportive teaching and supervision, altruistic values, and focus on self-understanding and growth that promotes thriving in others.

C. Improved well-being implies improved productivity, ethics, and professionalism

Performance was not measured in this study, but previous research indicates that benefits of well-being include improved accomplishment of complex mental tasks, generally improved work performance, and greater culturally valued success. Among law students, increased well-being and internal motivation (resulting from enhanced autonomy support and need satisfaction) were accompanied by better grade and bar exam performance. Numerous studies show well-being to correlate with performance and productivity in general populations, with substantial evidence that WB promotes health, energy, optimism, creativity, altruism, and work performance. Happier employees also tend to remain with employers longer and raise the morale (and hence performance and retention) of others in the organization; less happy employees impose high costs on employers in terms of increased absence and turnover, and poor work performance. The current data demonstrate that lawyers who are more engaged by interest and meaning in their work are much more likely to be happy than others; such engagement also makes high productivity more likely. Conversely, previous research indicates that motivation based on external factors such as increased financial incentives can actually result in decreased performance and productivity, likely by displacing (“crowding out”) more salutary internal motivation for work. These facts, coupled with the current data showing a very large (.55) correlation of internal motivation with well-being, support the conclusion that increased well-being and productivity will tend to associate with each other, mediated in large part by the extent of workers’ sense of autonomy and internal (vs. external) motivation.

189 Lyubomirsky et al., supra note 10, at 840 (noting, in a meta-analysis of hundreds of related studies, some conflicting results among studies but an overall positive effect size between positive affect and mental performance of r = .25).
190 Lyubomirsky et al., supra note 10, at 840, 846; Myers, supra note 20, at 127.
191 Sheldon & Krieger, Understanding Negative Effects, supra note 11.
192 Huang & Swedoff, supra note 4, at 337; Frey & Stutzer, supra note 10, at 105.
193 Huang & Swedoff, supra note 4, at 337 n. 9-17.
194 Frey & Stutzer, supra note 10, at 105.
195 See Daniel H. Pink, Drive: The Surprising Truth About What Motivates Us (2009), for a discussion of internal motivation and productivity. And see Frey and Stutzer, supra note 10, regarding the connectedness of well-being, internal motivation, and productivity in the work place; Kohn, supra note 122, at 119-41, 186-87.
196 Frey & Stutzer, supra note 10, at 105, refer to “hundreds” of laboratory experiments and actual work settings documenting the phenomenon of external incentives undermining work productivity. A meta-analysis of 128 related experiments concluded that, “...tangible rewards tend to have a substantially negative effect on intrinsic motivation...” Edward L. Deci et al., A Meta-Analytic Review of Experiments Examining the Effects of Extrinsic Rewards on Intrinsic Motivation, 125 Psychol. Bull. 627, 658 (1999). And see Kohn, supra note 122, at 119-141.
The survey also does not seek to measure professionalism or ethics, but it does measure psychological factors that are virtually certain to be important sources of ethical and professional behavior for lawyers -- authenticity (which is essentially identical to integrity),\(^{197}\) competence, relating well to others, helping/community values, and valuing self-understanding and growth.\(^{198}\) These factors also include the strongest predictors of well-being in our subjects, suggesting that one powerful approach to raise the level of professional behavior among lawyers is to teach law students and lawyers to maximize their own happiness.

**What it means for lawyers, and their teachers and employers**

While many lawyers, and their teachers and employers, attribute great importance to grades, rankings, honors, and financial rewards, earlier research on general populations revealed basic flaws in the “American Dream” paradigm that regards money, status, and other external factors as foundations of a happy life.\(^{199}\) The current study provided data repeatedly supporting the same conclusion in a large sample of lawyers -- there were no strong predictors of attorney well-being found in this study other than the psychological factors. This research quantifies and highlights the subordinate importance of external considerations that often dominate law schools and law practice, and further highlights the dominant importance of personal and interpersonal considerations that are commonly subordinated in law schools and practice. The data contradicts beliefs that prestige, income, and other external benefits can adequately compensate a lawyer who has not secured autonomy, integrity, meaningful/close relationships, and interest and meaning in her work. The data therefore suggest fundamental changes in the belief system shared by many law students, lawyers, and their teachers and employers. In particular, the shared understanding of “success” needs to be amended so that talented students and lawyers more regularly avoid self-defeating behaviors in the pursuit of success.

We offer only brief comments on ways these findings might be applied by various groups. For pre-law students, the data suggest choosing a law school for its sense of fit with their personal values and personal learning goals and styles, rather than from focusing on school prestige and USNWR rankings. Law students and lawyers would realize greater well-being from culturing their sense of self, personal purpose, and positive relationships with other people in personal and professional life, than from focusing intensely on rewards and recognition.

For teachers and employers, the findings repeatedly suggest a shift in institutional emphasis from competition, status, and tangible benefits to support, collaboration, interest, and personal purpose. The result will likely be happier, more highly functioning students and employees, and therefore more highly...

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197 See generally, Krieger, Most Ethical of People, supra note 22, at 431 (pointing to SDT well-being factors as sources of professionalism, and discussing the essential identity of integrity and the autonomy/authenticity need).
198 These connections recall the Mertz findings, supra notes 61-66 and accompanying text, that replacing values, connection to self, and caring for others with competitive success results in eroding the personal foundations of ethical decision-making.
functioning schools and work places. The research suggest perhaps a more immediate and important responsibility for law teachers. They impact students early in the formation of professional attitudes and identities, and that impact is apparently negative for many students, particularly with regard to the kinds of internal psychological factors found here to be the primary correlates of lawyer well-being. One important strategy would be to approach the task of teaching legal analysis with humility, clearly conveying to students that, while this skill will enable them to dispassionately analyze and argue legal issues while ignoring their own instincts, values, morals, and sense of caring for others, such a skill must be narrowly confined to those analytical situation. This is not a superior way of thinking that can be employed in personal life or even to most work situations, without suffering psychological consequences.

For private sector employers, shifting the external rewards paradigm toward psychological well-being would likely need to be addressed in steps, but should result in improved productivity as well as morale and retention. Decreasing the emphasis on earnings, billable hours, and other external factors should also be more readily contemplated in light of the negative to modestly positive well-being correlations in these data. Public sector employers may increase the satisfaction and retention of their lawyers by educating them about the relative well-being of service lawyers compared to those in the private sector.

One specific, cost-effective strategy supported by the data for application in every setting is the provision of autonomy-supportive, rather than controlling, teaching, mentoring, and work supervision. This practice can be learned and, as stated, has been shown to promote broad improvements in well-being, motivation, and performance. Teachers and employers may consult detailed guides for providing autonomy-supportive mentoring and teaching, and for implementing additional approaches to achieve improved WB and performance outcomes.

Two additional concerns for law teachers and employers were raised by the data. First, subjects had only neutral opinions of the professionalism of lawyers they encountered, only slightly above neutral opinions about appropriate outcomes in the legal system, and did not approach agreement that judge behavior was appropriate. Second, subjects disproportionately reported entering law school with inflated expectations for their earnings as lawyers. While these concerns would benefit from more

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200 Mertz, supra note 15; Sheldon & Krieger, supra note 7; Sheldon & Krieger, Understanding Negative Effects, supra note 11.
201 Mertz, supra note 15, observes that the “subtle use of language conveys a sense of superiority about ‘thinking like a lawyer,’” at 98, in part because of the “forced irrelevance of morality, conscience, and caring,” Mertz, supra note 15, at 100.
202 See Manning, supra note 122 for a thorough and clear example of teaching others how to provide autonomy support. This example focuses on law teachers providing written critique of law student work, but both the general concepts and many of the specific recommendations and examples would equally apply to attorney supervisors.
203 See, supra notes 54-66, and 108-109 and accompanying text.
204 The strategies mentioned here are described in some detail, with recommendations for step-by-step implementation by law schools. Krieger, Human Nature, supra note 7, at 284-310. Such recommendations would broadly apply to employers as well. Provision of autonomy-supportive management in work places is described in Pink, supra note 195, at 83-106; Frey & Stutzer, supra note 10, at 103-5.
focused research, they would seem to merit immediate attention from law teachers, employers, and bar leaders.

**Limitations and Future Directions**

The data was generated by self-report rather than objective observation, and lawyers from only four states were surveyed, with a relatively small percentage of such lawyers responding. While samples were large and results were highly consistent internally, the possibility remains that results do not generalize to lawyers in the United States as a whole. As previously noted, certain limitations are also inherent in the study design. In particular, while this study employed an extensive survey instrument and was consistent with previous longitudinal findings, the cross-sectional design does not permit confident causal conclusions. Finally, standardization of effect sizes for factors expressed in different metrics was accomplished in accordance with accepted practice. However, such standardization does not eliminate the conceptual challenge of comparing factors measured in different units or by different methods.

Future research would benefit from longitudinal design. Although the scope of such studies and diversity of subjects is likely to decrease, such results could be considered together with this and future cross-sectional studies to deepen understanding of the issues. This study did not seek to compare lawyers with other people. Future studies of other occupational groups would further illuminate the extent to which lawyers, law training, and legal work may be unique, potentially leading to improvements in educational, hiring, and management practices. Specific unexpected findings may be of interest to particular researchers, and would benefit from targeted study. Subjects might include the impacts of law journal participation, hours worked at a job, and self-improvement practices such as meditation or yoga.

**CONCLUSION**

This data from a large and diverse sample of practicing attorneys establishes that the processes governing the well-being and life satisfaction of people generally, as elaborated by self-determination theory research, fully apply to lawyers. Psychological factors related to self, others, and meaningful, personally engaging work were far more predictive of well-being than external factors relating to competitive standing, honors, or financial rewards. Secondary analyses showed that public service lawyers were happier and more satisfied than other lawyers, including those in the most prestigious, highly paid positions. Further, across the sample, a number of personal routine and life style choices matched or exceeded the power of income, honors, and credentials as predictors of lawyer well-being.

Informing law students, lawyers, and their teachers and employers about these findings could serve a number of important goals, including improved well-being, performance, and professionalism. This information should decrease anxiety, stress, and excessive competition, because grades, honors, and the other zero-sum factors measured in the study had limited to nil associations with well-being. By contrast, none of the factors found to bear strongly on well-being involve limited resources. All are
products of individual choice, and can thus be broadly promoted by educators and managers without concern. As law students and lawyers increasingly make informed choices about their well-being, the morale and functional quality of legal institutions and organizations, and the overall tenor of the profession, will improve.
How to Help Distressed Students: Guidance for Northwestern Law Faculty
(Recommendations and resources provided by Dean of Students Cliff Zimmerman and Northwestern University Counseling and Psychological Services (CAPS))

IMPORTANT CONTACTS
Consultation and Referrals for Distressed Students:
- Cliff Zimmerman, Dean of Students: W 312-503-7043; Mobile 847-651-7879
- Counseling and Psychological Services (CAPS): 847-491-2151 (M-F, 8:30-5); 847-491-2151 (after hours)

Emergencies:
- University Police (they will also contact Cliff): 312-503-3456
- CAPS emergency number: 847-491-2151 (M-F, 8:30-5, ask for crisis counselor); 847-491-2151 (after hours)
- Cliff Zimmerman, Dean of Students: W 312-503-7043; Mobile 847-651-7879

WHY FACULTY ARE SO IMPORTANT
Faculty members are in an important position to identify and help students who are in distress. You are often the first to witness early signs of concern, whether in the classroom or in your office. This may be particularly true for students who cannot or will not turn to family or friends. Many of these students have not sought counseling and may be unaware of the many services available to them on and off campus. Because you are seen as respected, caring, and trustworthy, students are apt to turn to you, especially if they perceive you as available and willing to listen. Your ability to guide the student to professional resources and assistance can be a critical factor in saving a student’s academic career or even his or her life.

POSSIBLE WARNING SIGNS OF A STUDENT IN DISTRESS
(1-2 alone is not necessarily indicative of trouble or distress, but a cumulative set of them may be concerning)

Academic
- Repeated missed assignments or appointments
- Repeated absences from, or tardiness in attending, class
- Continual requests for unusual accommodations
- Writing or comments with themes of hopelessness, social isolation, rage, despair, or death
- Lack of engagement in participation-oriented segments of class
- Inappropriate disruptions in class, or incoherent or rambling comments unrelated to the matter under discussion
- Marked deterioration in quality of work

Physical
- Marked changes in personal behavior, hygiene, or appearance
- Repeated fatigue, falling asleep in class, or sleep difficulties
- Visible increase or decrease in weight
- Exaggerated personality traits or behaviors (agitation, withdrawal, lack of apparent emotion)
- Excessive use of alcohol or other drugs
- Unprovoked anger or hostility
- Mood swings, such as irritability, excessive anxiety, tearfulness, sadness, or reports a history of depression
- Marked changes in concentration or motivation
- Expression of suicidal thoughts, or of other self-injury or injury to others

Other Signs
- Isolation
- Dependency or seeking a lot of your attention
- Direct statements of family problems, personal losses, relationship break up, history of mental illness, or the like
- Expressions of concern for the student from his/her peers
- Your sense, however vague, that something is seriously amiss

EMERGENCIES
If you are concerned that a student is in extreme crisis or may be at risk of imminent harm to self or others, or you feel unsafe given a student’s statements or behaviors, immediately call the following who can arrange to accompany the student to the hospital or the counseling center:
1. University Police: 312-503-3456 (they will contact Cliff);
2. CAPS emergency number: 847-491-2151 (ask for crisis counselor; if after hours follow message system); or
3. Cliff Zimmerman, Dean of Students: W 312-503-7043; Mobile 847-651-7879.

The situation may be urgent if the student is exhibiting:
- Suicidal statements or attempts
• Extreme anxiety resulting in panic reactions
• Severe obsessive thinking
• Inability to communicate (garbled speech, disjointed thoughts), confusion, hallucinations, or delusions
• Highly disruptive behavior (e.g. hostility, aggression, violence or threats of violence)
• Inability to care for self or loss of functioning (e.g., lack of sleep, diminished appetite, etc.).
• Signs of intoxication by alcohol or drugs

Also be aware of the potential for violence, particularly if you notice:
• Alcohol or drug intoxication
• Homicidal threats (written or verbal) or attempted assault
• Paranoia, agitation, hostility, aggression, recent acts of violence or property damage
• Destruction of property or other criminal acts
• Preoccupation with weapons or known access to firearms or other weapons

NON-EMERGENCIES: A RECOMMENDED FIRST STEP IS CONSULTING WITH THE DEAN OF STUDENTS

If you are concerned about a student’s well-being, before meeting with the student please contact Cliff Zimmerman to discuss various options for handling the situation. You also should feel free to refer the student to Cliff, who will take the lead in coordinating resources and facilitating counseling if appropriate. The concerns need not rise to the level of urgency for consultation to be useful. When you refer a student to Cliff, please emphasize that the student is not in trouble. This is a common misconception students might have from their undergraduate years. You also should feel free to call CAPS for support and consultation during business hours or after hours and weekends at (847) 491-2151.

IF YOU TALK WITH THE STUDENT (AS OPPOSED TO AN IMMEDIATE REFERRAL TO CLIFF):
SUGGESTIONS FOR WORKING WITH TROUBLED STUDENTS -- TALK, LISTEN, ASK, REFER

Talk with the student in private, when both of you have the time and are not rushed or preoccupied.
• Know your limits: Avoid offering advice outside your area of expertise or engaging in a pseudo-therapeutic relationship. Never agree to keep suicidal thoughts, threats, or other troubling communications in confidence. If you suspect potential for violence: do not provoke it. Be non-threatening and non-confrontational; speak in a calm and reassuring manner; avoid touching the student. And do not deal with the situation alone.
• Be direct, specific, and non-judgmental, especially when expressing your concern.
• Avoid judging, evaluating, criticizing, even if the student asks for your opinion.

Listen sensitively to the student’s thoughts and feelings in a non-threatening manner.
• Give the student your undivided attention.
• Let the student talk; do not minimize or immediately provide reassurance. Telling the student that things are not that bad could discourage further disclosure, and may increase the student’s sense of guilt or hopelessness.
• Emphasize that help is available.

Ask specifically about the student’s level of risk if you have reason to be concerned.
• Ask if he has thoughts about suicide. This does not increase the risk, and most students are relieved to have someone to talk with. You can ask, ”Are you thinking about hurting yourself?” or “Do you ever feel so badly that you have thoughts of suicide?”
• If YES ➔ the student may be in immediate danger, consult UP, CAPS, or Cliff; avoid any promise to keep it confidential; get others involved; and get the student to professional help by asking, “Will you go with me to get help?”
  1. The best referral involves taking the person directly to someone who can help (walk them to Cliff, CAPS, UP).
  2. The next best is to get a commitment from the student to accept help, and make arrangements for that help.
  3. The third best referral is to give referral information. Any willingness to accept help at some time, even if in the future, is a good outcome.
• If NO ➔ acknowledge the pain as legitimate and offer to work together to get help. Make sure to follow through. Refer the student to the Dean of Students and/or CAPS:
  • Indicate that seeking help is a sign of strength and courage rather than a sign of weakness or failure, and is also a sign of good judgment and the appropriate use of resources.
  • Let them know help is available: give the student the Dean of Students and CAPS contact numbers.
  • Normalize help seeking by stating that each year a significant number of students use these support services.
  • Follow up with the student to see if they sought help on their own (but know that confidentiality standards will limit what they may tell you and what CAPS can tell you absent a signed release).

*This document was originally constructed by Mitch Ballin, Dean of Students, Georgetown University Law Center, and is used and has been adapted with his permission.
To: All Faculty  
From: Cliff Zimmerman  
Re: Accommodations under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act  
Date: February 2015

Chances are good that one or more of your students have registered with the AccessibleNU Center (ANU) and provided documentation to them regarding disability and functional limitations. The purpose of providing ADA and Section 504 accommodations is to ensure that students have an equal opportunity to participate in the same academic and extracurricular programs as their non-disabled peers. Students registered with AccessibleNU are required to meet the same academic and technical standards as their non-disabled peers with or without accommodations, including our admission standards. Some ADA and Section 504 accommodations are to address matters that are visible, such as a physical condition; others are invisible and unknown to anyone absent disclosure by the student.

To determine if an accommodation is appropriate, ANU reviews the documents presented and, if supported, recommends accommodations to the Dean of Students to implement. At times, ANU and the Dean of Students will discuss the proposed accommodations to better understand the intention of the accommodation, the reasonableness of its implementation, both, or any other related issue. If the student wants to discuss implementation of accommodations, then he or she must contact the Dean of Students and is always welcome to contact ANU. Under the ADA, however, the University is not required to fundamentally alter any essential learning requirements in the program of instruction.

No student should be contacting a faculty member to register for or implement an ADA accommodation. That said, it is the student’s prerogative to share specifics about their condition. If she or he chooses to do so, please respect the student's right to confidentiality, and limit your discussion to private conversations with the student regarding implementation of accommodations. Any student who expresses interest in seeking an ADA accommodation should be referred to AccessibleNU at 312-503-4042 (or to the Dean of Students to do so).

All accommodations are customized to the individual student. Here is a list of some common accommodations:

- Testing accommodations, such as extended time (50% additional time is the standard) and alternative test environment
- Class note-taking services
- Class materials in e-text and audio format
- Access to adaptive equipment and software
- Assistance in activity relocation and/or in obtaining elevator and lift keys

In the Law School, Student Services proctors all accommodated exams. To the greatest degree possible, accommodated exams are proctored at the same time and in the same manner as the exam is taken by other students. Any exam issue on an accommodated exam is reported to the faculty member in the same way as any other exam issue. Once completed, accommodated
exams are provided to the Registration and Records team, or to the faculty assistant in a scheduled upper division exam, and merged with all other exams. In all instances, the accommodation is not revealed to the faculty member unless necessary in reporting an exam issue.
A Primer on The Honor Code for Faculty 2014-2015

This document is to educate members of the law school community on the academic standards and expectations under the Honor Code and addresses (1) the Northwestern University School of Law Honor Code coverage and process and (2) those areas in which violations occur and how students and faculty can avoid these issues.

I. Honor Code Coverage, Prevalent Violations, and Process

“A[n Honor Code] violation occurs when a student knowingly:
(a) steals, destroys or defaces any library materials or, in contravention of library rules, removes from general circulation and accessibility any library materials with the purpose of depriving others the use of that material;
(b) steals, reproduces, circulates or gains access to an examination or other graded assignment before it has been administered;
(c) uses materials not permitted by the professor in an examination or other graded assignment;
(d) cheats, or collaborates in a manner not permitted by the instructor for that course, on an examination or other graded assignment;
(e) plagiarizes; which includes, but is not limited to, failing to attribute language or ideas to their original source or failing to indicate by quotation marks a passage from another source of more than (5) consecutive words;
(f) refuses to testify, or testifies falsely, at a proceeding under the Honor Code with respect to facts within his/her knowledge. It is not, however, an additional Honor Code violation if an accused person declines to be a witness against himself/herself;
(g) engages in any conduct with the purpose of avoiding or circumventing other law school rules governing academic life;
(h) undertakes an activity or course of conduct with the purpose of creating an unfair competitive advantage over other students;
(i) obtains in contravention of Law School rules, or divulges, official school information including, but not limited to, grades or exam numbers, that a reasonable student knows or should know is properly kept confidential; or
(j) attempts to commit any of the above offenses.”

Northwestern University School of Law Honor Code (emphasis added to indicate most common Honor Code issues).

Under our Honor Code process, a faculty member, staff member, or student who suspects an Honor Code violation should promptly refer the matter to the dean’s designate (the Dean of Students) for investigation. **Faculty should not investigate because that investigation could compromise objectivity in evaluating the student’s work if the investigation does not result in issuance of a charge.**

- The Dean of Students will commence an investigation with the resources identified by the faculty member and, in the case of suspected plagiarism, those identified by plagiarism detection software. All resources identified are double-checked and independent research is conducted beyond results obtained by plagiarism software.
- If the Dean of Students determines that there is a reasonable basis to believe the Honor Code has been violated, then the investigation will include checking prior work the student has completed while in law school. All Honor Code charges are resolved by agreed resolution or written decision; a student can appeal the latter to the Honor Code Board of Appeals, which consists of members of the Faculty Advisory Committee and student representatives. The standard of review is de novo.

II. How are students educated about the Honor Code?
- All JD students attend a mandatory session on the Honor Code, professional standards, and related expectations in September of their first year. At the beginning of each year, all students receive an email reiterating this information and providing a link to the Honor Code on the web.
- All LLM students attend a mandatory session on the Honor Code, professional and cultural expectations, and a more in-depth (and at a slower pace) presentation about plagiarism. LLM students also receive the email reiterating this information and providing a link to the Honor Code on the web.
- In both Communication and Legal Reasoning and Common Law Reasoning, JD and LLM students, respectively, learn about citation and attribution form and practice. The LLM students who attend the Legal English program (about one-third of each class) attend an additional session on the Honor Code, plagiarism, and cultural expectations in the law school.
- In exam courses, the syllabus and exam instructions should clearly define what can and cannot be used when taking the exam.
- In paper courses, the professor should clearly communicate expectations regarding the type of research to be done and the need to properly cite and attribute sources.

III. Examples of other Honor Code violations and penalties:

Most Honor Code investigations result in an agreed resolution. Here are some examples of Honor Code violations and associated penalties:
- The exam instructions prohibit the use of commercial outlines. Student received an outline from another person, parts of the outline were copied from a commercial outline, and the student copied those parts into the exam answer. **Honor Code charge for the use of impermissible materials; student received an F in the course.**
- The exam instructions prohibit the use of any Internet materials. Student accessed the Internet during the exam (two different cases – in one student was seen doing so and in the other student copied language from a website). **Honor Code charge for the use of impermissible materials; student received an F in the course.**
- Student used more than the allocated exam time on more than one exam. The extra time taken was in excess of a minimal, inconsequential amount. Student raised no contemporaneous exam issue and had no medical or other excuse for the time taken. **Honor Code charge for undertaking an activity or course of conduct with the purpose of creating an unfair competitive advantage over other students; depending on the amount of time taken, either professor was notified of the charge and lowered the grade or the student received an F in the course.**
- Student continued to work on the exam after the end of the exam period (5 pm on the last day of exams). Student raised no contemporaneous exam issue and had no medical or other excuse for the time taken. **Honor Code charge for undertaking an activity or course of conduct with the purpose of creating an unfair competitive advantage over other students; student received an F in the course.**
- Student and friend were working on the same assignment. Student kept asking friend questions about how he was doing the assignment. Frustrated and tired friend shared his assignment answer which student copied in part. **Honor Code charges (2) for impermissible collaboration; student received an F in the course and friend’s grade was reduced by professor.**
IV. Detail on a Key Area of the Honor Code: Plagiarism

Plagiarism is use of the words or ideas of another without appropriate attribution and for personal gain (e.g., in a grade or course credit).
- When quoting, paraphrasing, or using the ideas of another you must acknowledge the original source in a footnote by identifying the original author, the source publication, where that publication is found, and the page(s) on which you read the material.
- Quoting: Plagiarism occurs when more than five (5) consecutive words are taken from a source and the words are not placed inside quotation marks. Students must not change every fifth word in an effort to use language and avoid quotation marks.
- Paraphrasing is when a student reads the words and ideas of another person and writes or incorporates those ideas in her own words. Paraphrasing another person’s words is permissible, but also requires attribution. Two easy ways to paraphrase are (1) to read a paragraph and summarize it in one sentence and (2) to read a page and summarize it in a paragraph.

Should faculty be looking for plagiarism on drafts of papers?
- Yes.
- However the failure by a faculty member to identify plagiarism at the draft stage, or a faculty member's decision to sign off on a draft, does not in any way absolve the student of responsibility, or diminish responsibility, for plagiarized work.
- Faculty should note any (1) passages that sound like sources or do not sound like the student or (2) changes in voice, writing style, or word choices, or in font or format, all of which can indicate multiple authors.
- Faculty should flag to the student author any issues or concerns seen in an ungraded draft paper.
- If faculty see a lack of citations in outlines and drafts, then communicate to the whole class, orally and in writing, how and why this differs from your expectations.
- The ultimate responsibility for the paper rests with the student.

Tips for students to avoid problems with plagiarism
- Do not put the paper off until the last minute. Most plagiarism occurs when the student has not properly managed their time, which can lead to carelessness and/or bad judgment regarding proper citation and attribution.
- Keep research well-organized so that you know what you were reading when you wrote a passage. One easy way to do this is to insert a footnote at the end of each sentence written and in the footnote write yourself a message to include a cite (for example, “got this from Smith, Civil Rights article 2002 page 43”). Then you can go back later and type the proper citation form.
- During your research, when cutting and pasting words from an electronic source always paste the text in between a pair of quotation marks (""), and immediately type the source citation information including the specific page where the words appear.
- During the writing process, when discussing, including, or writing about someone else’s thoughts and ideas create a footnote at the end of the written passage and include a citation to the original source and the specific page on which the ideas were found.
- When in doubt, include a citation.
- Most research papers include a background section which should include many citations to the sources read to prepare the section.
- Whenever you are unsure if you have included enough citations, ask the professor to clarify whether this is appropriate or not.
What is the standard of intent for plagiarism under the Honor Code?
Honor Code decision 2002-1 addressed the appropriate level of intent with respect to plagiarism. The Review Board rejected the need for a specific intent to deceive in plagiarism cases, stating instead that “[a]bsent a specific ‘purpose’ requirement, the Code requires only a finding that the accused acted knowingly. This is especially clear with respect to plagiarism.” Honor Code Review Council Case No. 2002-1 (reviewing Judicial Council’s opinion in 2001-006) at page 3. Thus, once a student knows what plagiarism is and what is required in citation and attribution, there is no additional intent to plagiarize needed for an Honor Code violation.

What if the work is just sloppy? Is that plagiarism?
- A small degree (less than 10%) of sloppiness in citation form or attribution in a research paper will result in a reprimand, stern warning, and a corrective conversation about the conduct, as well as a potential grade reduction.
- Drawing the line between mere sloppiness and a significant amount of plagiarism will depend on several factors including the assignment, the assignment instructions, other communications of the teacher’s expectations, the actual amount of attribution in the paper, the actual amount of copying, the proportion of the copying to other parts of the paper, and where in the paper the copying occurred (for example, copying in the analysis or recommendations section is of great concern).

What are the typical penalties for plagiarism?
- Plagiarism beyond mere sloppiness is treated very seriously and the standard penalty is an F in the course, a one term suspension, a transcript notation of the Honor Code violation, notification of the bar examiners, and review of all subsequent non-exam, graded work while in law school. Additional penalties can include community service (typically in the hundreds of hours, either service or pro bono), reflective writing assignments, re-writing research papers, and other appropriate penalties. The one term suspension almost always changes a student’s graduation date.
- Multiple violations will result in longer periods of suspension or exclusion from the law school.
Honor Code: Statement of Coverage

The Honor Code is in place to ensure that the highest levels of fairness, integrity, and ethics are present in the law school and, ultimately, in the legal profession. The Honor Code applies to all work submitted in every course, as well as any work done outside of courses that is academic in nature, including but not limited moot court, trial team, law journals, research positions, etc. You are bound by the Honor Code standards in all of your work, unless the professor states otherwise. The two most common Honor Code issues that arise in the law school are the failure to follow exam instructions and plagiarism. The full entire Law School Honor Code process can be found at http://www.law.northwestern.edu/community/currentstudents/studentservices/rulesregs/honorcode/docs/pdfdocs/HC-2004.pdf

Exam instructions

Exam instructions define what you can and cannot use during an exam. You must follow these instructions very closely. If you have any questions about an exam instruction, it is your obligation to ask for clarification from the professor. If you do not know whether you can use certain materials on an exam, then you should not use them.

Plagiarism

Plagiarism is defined in the Primer on The Honor Code for Faculty 2014-2015.
A Primer on The Honor Code for Faculty 2014-2015

This document is to educate members of the law school community on the academic standards and expectations under the Honor Code and addresses (1) the Northwestern University School of Law Honor Code coverage and process and (2) those areas in which violations occur and how students and faculty can avoid these issues.

I. Honor Code Coverage, Prevalent Violations, and Process

“A[n Honor Code] violation occurs when a student knowingly:
(a) steals, destroys or defaces any library materials or, in contravention of library rules, removes from general circulation and accessibility any library materials with the purpose of depriving others the use of that material;
(b) steals, reproduces, circulates or gains access to an examination or other graded assignment before it has been administered;
(c) uses materials not permitted by the professor in an examination or other graded assignment;
(d) cheats, or collaborates in a manner not permitted by the instructor for that course, on an examination or other graded assignment;
(e) plagiarizes; which includes, but is not limited to, failing to attribute language or ideas to their original source or failing to indicate by quotation marks a passage from another source of more than (5) consecutive words;
(f) refuses to testify, or testifies falsely, at a proceeding under the Honor Code with respect to facts within his/her knowledge. It is not, however, an additional Honor Code violation if an accused person declines to be a witness against himself/herself;
(g) engages in any conduct with the purpose of avoiding or circumventing other law school rules governing academic life;
(h) undertakes an activity or course of conduct with the purpose of creating an unfair competitive advantage over other students;
(i) obtains in contravention of Law School rules, or divulges, official school information including, but not limited to, grades or exam numbers, that a reasonable student knows or should know is properly kept confidential; or
(j) attempts to commit any of the above offenses.”

Northwestern University School of Law Honor Code (emphasis added to indicate most common Honor Code issues).

Under our Honor Code process, a faculty member, staff member, or student who suspects an Honor Code violation should promptly refer the matter to the dean’s designate (the Dean of Students) for investigation. Faculty should not investigate because that investigation could compromise objectivity in evaluating the student’s work if the investigation does not result in issuance of a charge.
- The Dean of Students will commence an investigation with the resources identified by the faculty member and, in the case of suspected plagiarism, those identified by plagiarism detection software. All resources identified are double-checked and independent research is conducted beyond results obtained by plagiarism software.
- If the Dean of Students determines that there is a reasonable basis to believe the Honor Code has been violated, then the investigation will include checking prior work the student has completed while in law school.

All Honor Code charges are resolved by agreed resolution or written decision; a student can appeal the latter to the Honor Code Board of Appeals, which consists of members of the Faculty Advisory Committee and student representatives. The standard of review is de novo.

II. How are students educated about the Honor Code?
- All JD students attend a mandatory session on the Honor Code, professional standards, and related expectations in September of their first year. At the beginning of each year, all students receive an email reiterating this information and providing a link to the Honor Code on the web.
- All LLM students attend a mandatory session on the Honor Code, professional and cultural expectations, and a more in-depth (and at a slower pace) presentation about plagiarism. LLM students also receive the email reiterating this information and providing a link to the Honor Code on the web.
- In both Communication and Legal Reasoning and Common Law Reasoning, JD and LLM students, respectively, learn about citation and attribution form and practice. The LLM students who attend the Legal English
program (about one-third of each class) attend an additional session on the Honor Code, plagiarism, and cultural expectations in the law school.

- In exam courses, the syllabus and exam instructions should clearly define what can and cannot be used when taking the exam.
- In paper courses, the professor should clearly communicate expectations regarding the type of research to be done and the need to properly cite and attribute sources.

III. Examples of other Honor Code violations and penalties:

Most Honor Code investigations result in an agreed resolution. Here are some examples of Honor Code violations and associated penalties:

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- Multiple violations will result in longer periods of suspension or exclusion from the law school.
Potential Honor Code Issues:  
Examples and Sample Punishments  
(2014-2015)

This document relates examples of circumstances that potentially raise issues under the Honor Code. Each of the below examples would be investigated and if the investigation revealed a reasonable basis to believe that the Honor Code had been violated, then an Honor Code charge would be issued. Each example references the section of the Honor Code, and includes sample punishments. Please note that an F given for an Honor Code violation is a permanent transcript grade and remains even if the course is retaken.

**Exam Example 1:**

Cliff was studying for an exam. The course outline he used was created partially by him and partially from outlines that he had received from others at the law school and at other law schools. Some outlines were from students who had taken the course in prior years.

- If the professor’s exam instructions state that students can only use course materials and materials that the student created, what risk is Cliff taking by using his outline on the exam?
  - Cliff is taking the risk that using the material in the outline that is not his own and not taken from course material is not permitted.
- If he uses the outline on the exam (generally or by copying from it), could Cliff be violating the Honor Code?
  - Yes, use of impermissible materials (section 2c) and an attempt to create an unfair competitive advantage (section 2h) are both implicated by Cliff’s conduct.
- **Sample punishment:** F in course, transcript notation of Honor Code violation, and notification of bar examiners.

**Exam Example 2:**

Lesley is taking an exam. Lesley does not know the answer to one question so she searches the Internet and finds a great article that explains the answer more clearly and in better language than she could write on her own.

- If the exam instructions do not allow the use of the Internet, what risk is Lesley taking?
  - Lesley is taking the risk that her conduct is not following the exam instructions and potentially plagiarism depending on how she uses that information.
- Is this a violation of the Honor Code?
  - Yes, use of impermissible materials (section 2c), cheating on an exam (section 2d), an attempt to create an unfair competitive advantage (section 2h), and plagiarism (section 2e) are all implicated by Lesley’s conduct.
- If the exam instructions do allow the use of the Internet but do not allow cutting and pasting, what risk is Lesley taking?
  - Same answer as above.
- Is this a violation of the Honor Code?
  - Yes, cheating on an exam (section 2d), an attempt to create an unfair competitive advantage (section 2h), and plagiarism (section 2e) are all implicated by Lesley’s conduct.

- If the exam instructions do allow the use of the Internet and allow cutting and pasting, what risk is Lesley taking?
  - The risk is plagiarism if she does not properly attribute the source or uses more than 5 consecutive words without quotation marks.

- Is this a violation of the Honor Code?
  - Yes, plagiarism (section 2e) is implicated by Lesley’s conduct.

- **Sample punishments:** range from F in course to an F and suspension for one or more term(s), as well as a transcript notation of Honor Code violation and notification of bar examiners.

**Exam Example 3:**

Ernie is taking his last exam on the last day of the exam period. He is well-prepared, but not confident because he left the hardest course for his last exam. He thinks the exam is 3 hours long so he studies until 1:30 pm, then gets some food and finds a good place to write the exam answer. He starts the exam at 2 pm knowing that all exams have to be completed and answers uploaded by the 5 pm deadline (based on emails stating that). He opens the exam and sees that the exam is actually 3 ½ hours long (so he will lose 30 minutes of time by stopping at 5 pm). At 4:55 pm, Ernie still had one full question to answer. Ernie did not talk with anyone in the exam center or Student Services, and decides that he should get the same amount of time as everyone else so he types until 5:30 pm, then uploads his answer.

- What risk did Ernie take?
  - The risk is not following law school rules and trying to gain an advantage over other students who finished their exams on time (even if they were not done).

- Is this a violation of the Honor Code?
  - Yes, conduct to circumvent law school rules (2g) and an attempt to create an unfair competitive advantage (section 2h).

- **Sample punishments:** range from notice to professor and grade reduction to F in course, as well as transcript notation of Honor Code violation and notification of bar examiners. [Note: Multiple exam time violations could implicate the same Honor Code provisions as this conduct.]

**Paper Example 1:**

Susie is working on a graded, written assignment in a course. Susie is struggling with the assignment content and the impending due date. She is in the vicinity of several other students in the same course. Susie repeatedly asks Jim questions about the assignment and how he structured his answer. Frustrated with all of her questions, Jim says, “Here look at how I did it” and shows Susie his answer. The professor’s instructions state that all students are to hand in their own work.

- What risk is Susie taking if she copies part of Jim’s answer into her own?
  - The risk is that her questions and looking at Jim’s answer are impermissible collaboration and that she is not following the assignment instructions.

- What risk is Jim taking by giving his answer to Susie (regardless of what she does with it)?
Jim is risking both that merely sharing his answer is impermissible collaboration and that Susie might also use part of his answer in her own answer.

Are either Susie or Jim violating the Honor Code?

Yes, both are violating the Honor Code. The conduct of both implicates cheating or collaborating in an impermissible manner (section 2d). In addition, Susie's conduct implicates an attempt to create an unfair competitive advantage (section 2h) and, if she copies from Jim, plagiarism (section 2e).


Paper Example 2:

Shannon is in a course in which she has to write a research paper. [Note: this example is equally applicable to a student writing a note or comment for a law school journal.] The subject matter is new for Shannon; she reads a great deal of on-line cases and articles. Shannon is not well organized, and she cuts and pastes many sections from cases and articles into her notes and outlines. She does not include citations to the original sources in her notes or outlines. Shannon rushes to complete the final draft to submit, and includes cut and pasted materials, and only a few citations.

What risk is Shannon taking?

Shannon is risking a plagiarism charge under section 2e. Plagiarism is the use of the thoughts or ideas of another without proper attribution to the author. Presenting more than 5 words in a row from another source without putting the words in quotation marks is plagiarism.

What if Shannon’s work was just sloppy and not intentional?

A small degree (less than 10%) of sloppiness in citation form or attribution in a research paper will result in a reprimand, stern warning, and a corrective conversation about the conduct, as well as a potential grade reduction.

Once a student knows what plagiarism is and what is required in citation and attribution, there is no additional intent to plagiarize needed for an Honor Code violation.

Is this a violation of the Honor Code?

Yes, the conduct implicates plagiarism (section 2e).

Sample punishment: minimum F in the course and a one term suspension (plus transcript notation of Honor Code violation and notification of bar examiners); suspension could be as long as 1 or 2 years.
HAPPINESS 101*
A WINTER BLUES MOOD BOOSTER WORKSHOP
Friday, Jan. 23rd, Noon-1pm
Abbott Hall, Suite 500
BYO Lunch and learn how to overcome the winter blues
Learn about relationship between happiness and performance

MINDFULNESS
INTRODUCTION TO MINDFULNESS WORKSHOP:
Friday, Jan. 30th at Noon in RB 175
DROP-IN MEDITATION: every Thursday at Noon in LM 308

PERFORMING NOT PROCRASTINATING*
Monday, Feb. 9th, Noon-1pm
Abbott Hall, Suite 500
BYO Lunch and learn about what procrastination is and effective ways to put off procrastinating

EMOTIONALLY INTELLIGENT LAWYER WORKSHOP
Wednesday, Feb. 25 at noon
RB 150
Are you interested in learning about what firms are doing for leadership and workforce development? Attend this workshop to get a head start on developing the essential leadership and personal effectiveness skills. Sponsored by the law firm Dinsmore & Shohl

STRESS BUSTERS*
2-Part Workshop Series
Mondays, Feb. 23rd & Mar. 2nd
5pm-6:30pm
Abbott Hall, Suite 500

WELLNESS DAY
April 15th
Wellness Panel
NOON in RB 150
Tabling in Atrium
Yoga in the Courtroom
10am in Parillo Court Room

* Drinks and snacks provided
For more information, contact Rob Durr at RDurr@law.northwestern.edu
Creating “Whole Lawyers”:
Wellness, Balance, and Performance Excellence
At Northwestern University School of Law
April, 2015
Rob Durr, Ph.D.
Law School Psychologist
The Need for “Whole Lawyer Development” in Legal Education

Lawyers are one of the most respected groups of professionals in our society. A career in the law holds the potential to be most prestigious, meaningful, and rewarding. The legal profession is integral to society in that lawyers bear great responsibility to the public, as a whole as well as to their individual clients within that whole. Concurrent with the prestige, honor, and reward that comes with being a lawyer, data shows that it is one of the most unhealthy and unhappy professions. The demanding nature of the work coupled with exacerbating factors (e.g., rising debt load) makes lawyers susceptible to an unhealthy, unhappy career. In fact, lawyers have some of the highest prevalence rates of mental health issues including depression, substance abuse and dependence, relationship conflict, and anxiety. (Krieger, 2002) The recently documented rate of unhealthy lawyers in the profession today poses great risk not only for the personal well-being of lawyers but also for the public at large in terms of lawyers’ fitness for duty.

Many contributing habits, beliefs, coping styles, and profession-specific cultural norms that lead to the high rate of unhappiness among lawyers begin in law school. Though law students start law school with rates of clinical anxiety and depression similar to the national average, a dramatic increase occurs during the first year. Thus, unhappiness and lower health rates among lawyers is an issue for legal education as much as it is one for the profession at large. Legal education institutions must commit to develop the “whole lawyer,” one who is equipped with not only the necessary intellectual and technical skills but also the resiliency, emotional and social intelligence, and professionalism to cope with the demands of a career in law, in order to prevent the mental health problems seen in the profession today and protect clients. The following programs are part of the “Northwestern Law difference,” our way of graduating lawyer leaders who are poised, balanced, and confidently ready for sustainable, effective legal practice, as well as personal achievement, success, and fulfillment.

What is “Whole Lawyer Development”? 

Northwestern University School of Law provides exemplary education in the intellectual and technical skills to be a lawyer. All law schools strive to offer this education. What separates Northwestern Law is a dedication to develop sustainable, balanced, and healthy lawyers who have the resiliency skills to flourish in this demanding profession. Through educational and support programs Northwestern Law develops leaders who value self-care, know how their story translates into the practice of law, who have the self-awareness to find joy in their career, and are thinking about their identity as a lawyer and in the profession. Northwestern Law understands that being a lawyer is a path to great productivity, practice, and problem solving, and that we must take care of the instrument first to achieve greatness in the legal profession.
I. Wellness Plan

The Northwestern University School of Law Student Services, Student Bar Association, Illinois Lawyers Assistance Program (ILAP), and Northwestern University Counseling and Psychological Services (CAPS) collaborate to organize and implement programs throughout the year dedicated to informing, supporting, and leading law students to a healthier and happier approach to legal studies and their place in the legal profession.

1. Wellness Week

A week of programs and events, either in late fall prior to reading week or early in the spring semester. The menu of programs for the week includes:

1. Dance class
2. Yoga class
3. Recreation center tabling in Atrium
4. CAPS and ILAP tabling in Atrium
5. Nutritional education through healthy snacks tabling
6. Sleep hygiene education
7. Chair massages
8. Financial Health programming
9. Panel presentations (featuring students, faculty, and/or alumni) debunking myths and realities of grades, OCI, and exams
10. Student panel on healthy coping
11. Teaching sustainable coping practices (by Law school Psychologist, students, faculty, administrators, members of CAPS and ILAP)
12. Wellness and Performance enhancement workshop (from training catalogue).

2. Training Catalogue

At Northwestern Law we believe that student success in their legal career is largely based on having the ability to stay healthy and happy. When the individual is flourishing so too will his or her career. The program to meet the needs of each class or group will vary. Below is a menu of wellness and performance training possibilities.
MINDFUL/CONTEMPLATIVE LAWYER OFFERINGS

Introduction to Mindfulness
Mindfulness meditation is an empirically supported practice that can decrease stress, boost concentration, and aid in emotion regulation through the cultivation of present-moment awareness. In this workshop, students learn one simple mindfulness skill designed to improve concentration and decrease reactivity to distressing thoughts, emotions, and physical sensations. Additional mindfulness skills can be added by attending mindfulness drop-in sessions or through mindfulness training provided in courses (ADR, Lawyering Success, etc.).

Mindfulness Drop-In Stations
This space is provided for students to meet and share mindfulness insights and experiential practices. Students can explore additional ways in which mindfulness meditation reduces stress, assists in legal practice, and enhances overall well-being. The majority of time is spent meditating or practicing a relaxation technique such as breath meditation.

Biofeedback
In Biofeedback sessions, electronic devices monitor and amplify nervous system activity, which directly reflects the degree to which an individual is feeling calm or stressed. Being able to "see" certain aspects of our nervous system functioning in real time allows the individual to control physical, emotional, and mental activity for the betterment of their health. In this training participants get to use a Stress Eraser, which is a measure of Heart Rate Variability (HRV), and watch as we focus on the breath and slow our mind’s chatter to resolve. Biofeedback sessions are particularly helpful for individuals who need a visual result or are logically oriented (law students) such that they need to see results.

PERSONAL DEVELOPMENT
Most personal development training sessions can be done with any size group and range 1-2 hours (with 1.5 hours being ideal).

Emotional Intelligence (EI): What It Is and Why It Matters for Lawyers
In today’s competitive job market employers seek individuals who not only possess the threshold intellectual and technical capabilities but also a high degree of what is known as emotional intelligence (EI). EI is the ability to recognize and effectively manage emotions in ourselves and in our relationships with others. In this didactic-experiential workshop students start to develop the “people skills” needed to navigate key inter- and intra-personal relationships.
dynamics at the core of all professional work. This session will explore EI in greater depth for students who are interested in a higher degree of self-reflection and actualization.

*Finding Joy in Your Legal Career: Using Positive Psychology to Develop a Sustainable, Meaningful Legal Practice*

Well-being and career satisfaction greatly impact performance. Positive psychology is the scientific study of optimal human functioning and what makes life worth living. This workshop presents empirical research in positive psychology and the key lessons about building and sustaining joy in our career.

*Finding Yourself in the Law*

In this session teaches students gain insight into how to find themselves in the practice of law. Using reflective questions students are asked to contemplate how key experiences shape their legal practice and how they can tell their story to leverage their strengths in their career. The training focuses on enhancing self-awareness to capitalize on individual strengths.

*MBTI, Legal Education, and Law Practice*

In this session students recognize their personal strengths and weaknesses, then learn how those interplay with legal education. Students learn about in-class and study techniques that complement and contrast their strengths, and how to manage both. Students also learn about personality strengths and law practice, such that they can devote time and effort during their legal education to improving their strengths and addressing their weaknesses.

Other sessions in development:

*Goal Setting for Peak Performance*

One challenged for many students is setting goals and charting a reasonable and manageable path to that end. This session will teach the key components to task and performance management.

*Leadership and Collaborative Law*

This session will build on prior sessions on personal strengths and relationship building to allow students to better work in collaborative work environments.
STRESS MANAGEMENT

Resilient Lawyer
Law students and lawyers routinely face failure and setbacks. Resilient lawyers bounce back from obstacles with greater confidence and awareness. In this workshop students learn keys to responding well to adversity. This session also helps students who are experiencing stress, in one or more of the following manifestations:

- Procrastination
- Anxiety, including test anxiety
- Distress arising in connection to personal or academic stressors

Students learn how to:

- Identify physical and emotional symptoms associated with stress
- Uncover the types of situations that create stress
- Manage stress inducing situations
- Manage difficult conversations and relationships

Understanding and Avoiding Burnout
Burnout is defined as a psychological syndrome involving emotional exhaustion, depersonalization, and diminished sense of personal accomplishment that occurs among professionals who work with other people in challenging situations. (Maslach, 1982) Students learn the hallmark symptoms of burnout and evaluate their own burnout level through the Maslach Burnout Inventory (MBI). People who experience burnout are not as productive as their peers and often lack engagement in the work. Students will discuss and learn how to utilize adaptive coping skills such as valuing self-care, finding balance, time management, setting boundaries, and stress reduction techniques.

HEALTHY RELATIONSHIPS

Capitalizing on Appreciative Inquiry
In this interactive workshop, participants are introduced to the Appreciative Inquiry approach, currently trending in leadership development. Through use of appreciative questioning techniques students learn how the appreciative inquiry approach increases the effectiveness of goal setting, team building, team meetings, decision-making processes, and improved client relationships.
Understanding the Science of Love: A Training on Developing Meaningful Connections

Sharing empirical evidence from Social Psychology on love, students learn basic theory about intimate relationships and how to improve meaningful emotional connections with others in their life. Relationships are at the core of wellbeing. In this session, students learn the science of psychology about developing positive relationships at home and work.

Other sessions in development:

Getting Your Needs Met through Productive Communication

Communication skills are key to lawyers and professionals, and are often the source of critique and error. This session will explore how to ensure effective communication and avoid communication breakdowns.

Mastering Work/Life Balance

The most productive lawyers have figured out how to balance their work and their life outside of work. This is key to professional and personal success. Recent research has explored and validated the need for this balance. This session will introduce students to the research and explore how one can achieve balance while working in a hierarchical profession.

In-class consultations (as desired/needed/scheduled)

Certain curricular pieces lend themselves to an integrative approach with many of the skills taught above, particularly mental health and healthy coping. Faculty members often request an in-class workshop. Such courses include Negotiation, Advanced Negotiation, and Clinic. In addition, many degree programs request a workshop as part of their orientation or continuing education to their students (e.g., Tax LLM). We have also added a mindfulness module to our Lawyer as Problem Solver program. Many law school departments integrate this skills training in their programming for staff and students (e.g., Career Strategy).

II. The Student Bar Association (SBA) Role in Wellness Programming

Students who have great interest in wellness programming can join this effort through participation in SBA committees that focus on personal development and well-being. Individual and group participation can make a major difference in promoting the culture in legal education and the profession by assisting students develop positive coping skills and develop a sustainable, balanced approach in their career. Some of their responsibilities include:
1. Create awareness of mental health issues facing law students and the profession in order to acknowledge, normalize and address them rather than avoid, repress, and perpetuate.

2. Offer programming focused on wellness and helping students cope in a healthy way.
   a. Offer these programs at key times when students are at the highest risk.
   b. Attend the workshops and events offered.
   c. Help market events and create student and faculty panels and discussions throughout the semester.
   d. Incorporate existing and traditional committee events into new wellness programs being offered.

3. Ideas for SBA Committees or Mental Health Committee
   a. Bring faculty and students together for a "lunch time" talk on law school Mental Health issues
   b. Develop information posters on Mental Health-related topics
   c. Invite guest lecturers into the community.
   d. Facilitate a monthly "Mental Health roundtable" to discuss critical issues facing the law school.
   e. Develop programs for the ABA law student division National Mental Health Day
   f. Organize final exam stressbusters
   g. Create a student organization on mindfulness
Dean’s Blog Post – Mindfulness

Rob Durr, Ph.D., Psychologist, Instructor, Northwestern University

NU Law: Mindfully Oriented Toward the Future

At a recent mindfulness workshop at Northwestern Law school, which was mostly attended by 1L’s and LLM’s who had just been introduced to mindfulness at a mandatory orientation session on wellbeing and success in law school, I posed the following questions:

- Are you “present” with the people in your life?
- Do you notice a tendency to get distracted or overwhelmed?
- Have you ever noticed that when you are doing familiar, repetitive tasks for school or work, like completing paperwork or reading, that your mind is often miles away thinking about something else?
- Do you find it difficult to listen?
- Do you slip into old habits rather than choosing the most appropriate course of action?
- Do you get interrupted a lot, making it hard to complete a task?
- Is it hard to find downtime?
- Have you noticed feeling like you always have to be “on”?
- Does the amount of information coming in routinely feel overwhelming?
- Are you locked in automatic pilot in how you work with and respond to stressors?

The overwhelming response from the students was, Yes! This pre-packaged 2 or 4-part one and a half hour “Introduction to Mindfulness for Legal Professionals” workshop is just one of a variety of ways Northwestern Law students are being introduced to mindfulness meditation and its potential benefits for legal practice as part of the NU Mindful Lawyer Program.

The Mindful Lawyer Program is part of a larger initiative at NU Law to develop “whole lawyers”, grads who are “client-ready”, self-aware professionals who know their story in the law, demonstrate advanced “soft skills”, and are ready for the myriad of situations their legal practice may put them in immediately upon graduation. This larger initiative, frequently referred to at NU Law as “The Wellness and Performance Enhancement Programs”, was introduced three years ago and has continued to grow in popularity. These programs are just a slice of the innovative programs being offered at the law school to prepare resilient lawyer leaders ready to adapt to the changing legal market. This initiative is also part of NU Law’s value in equipping students with the wellness tools needed to prevent the pitfalls of previous generations of lawyers who experienced low career satisfaction and a rise in mental health issues. The programs capitalize on what psychology subfields like affective neuroscience and positive psychology can offer for developing lawyer leaders, as well as a response to the call from firms who report wanting “client-ready”, mature, savvy lawyers who are ready to hit the ground running at graduation. We are training the next generation of lawyers to be as mentally tough and resilient as they are smart so they can manage the work load, key relationships in both their personal and professional life, and the regular barrage of stressors in the legal life in ways that allow them to flourish while also staying healthy. Something that we refer to as the Northwestern Difference.
Both law school and the practice of law involve demanding work, long hours, a need to balance competing attentional demands at the same time, difficult clients, colleagues and/or co-workers, and emotionally-charged, high stakes, pressure-filled situations that often feels like “win-at-all-costs”. Though the work is prestigious and incredibly rewarding it can feel dire. Ask any law student or lawyer and they are quick to agree that at times the legal world can feel adversarial, competitive, and even hostile. The conflict and hostility surrounding legal work can take a toll on the resilience and wellbeing of lawyers and ultimately impact their performance. Now I probably have a slightly skewed perspective given that I work specifically with students and lawyers who may be going through a particularly challenging time in their legal career, but if you ask most 1L’s or recent alums doing typical legal work out of law school, it does not take long before the themes of feeling overworked, unhealthy, out-of-balance, and/or struggling to stay focused start to surface. Northwestern Law has rolled out the NU Mindful Lawyer Program as part of a series of innovative new programs outside the traditional legal curriculum to introduce and train law students in the practice of mindfulness meditation as a means to meet these 21st century challenges of legal practice.

One of the greatest challenges in today’s fast-paced, technology-driven world is staying present in life’s sacred moments. The overwhelming pace of communication, keeping up with inboxes and texts, the sea of information at our fingertips, and efficiency expectations at work has led to widespread attention and engagement issues and increased stress. It is very easy to get caught up in a sort of auto pilot, constantly thinking about the past and future, mindlessly going through life. One of the best ways to overcome these challenges and effectively manage the stress inherent in the pace of life today is to develop a mindfulness practice.

Mindfulness is quite simply being present with our experience, non-judgmentally. It’s about paying attention in a particular way to the story lines, bodily sensations, and emotions that are present throughout and greatly impact our life. That particular way is with a curiosity, openness, and acceptance of our experience without needing it to be something other than it is. There is a large and growing body of research in a variety of medical subfields on the potential benefits of mindfulness including; reduced anxiety and depression, enhanced concentration and attention, improved memory, improved immune function, reduced blood pressure and cortisol levels among a reduction of many other psychological and medical symptoms. In one study, for example, Dr. Sara Lazar, Ph.D. (2005), an instructor at Harvard Medical School, used neuroimaging techniques to discover thicker regions of the frontal cortex, regions responsible for reasoning and decision-making, in those who had a consistent mindfulness practice compared to those who did not. She also found a thicker insula, which is considered to be central in coordinating thoughts and emotions.

Many of these benefits are thought to be partly the result of neuroplasticity. If you haven’t heard the term neuroplasticity before, it basically means that throughout our lives we have the ability to rewire our brains. For a majority of the past century researchers assumed a static view of the brain. That is, we start with nearly 100 billion neurons that die and are not replaced. The structures and functions of the brain are locked or hard wired. We now know that we can rewire our brains (i.e., strengthen or weaken nerve connections) throughout our lives which results in the ability to develop new thinking, coping, and relating patterns. By using certain key brain regions during mindfulness, such as the Anterior Cingulate...
Cortex (ACC), which plays a key role in attention, more cortical space is devoted to those regions and our performance in that executive function improves.

Neuroscientists (Holzel, Lazar, Gard, Schuman-Olivier, Vago, & Ott, 2011) have also outlined four distinct but interacting mechanisms that produce the benefits of mindfulness: 1. Attention regulation, 2. Body awareness, 3. Emotion regulation, and 4. Change in self-perspective. Each of these components hold the potential to significantly boost legal practice. For example, during mindfulness, attention typically rests on a single object, such as the breath. The exercise of focusing the mind repeatedly on one thing at a time during mindfulness practice leads to an activation of the brain region responsible for attention (the ACC), and it is therefore strengthened. It makes sense that as we learn which brain regions are vital for certain functions essential in certain professions; we focus on the enhancement of those regions, such as the ACC for attention. And let’s face it; we need a robust ACC to stay engaged in the fast-paced world stocked with competing technological demands. ADHD has been on the rise for many years and remains widespread. Our ability to focus is power and mindfulness is a key tool to overcome the ADHD epidemic.

Mindfulness practice is also a key way to develop emotional intelligence (EI), which has been linked to leadership, academic and work performance, teamwork, and wellbeing, because as one practices meditation they become more self- and other-aware. Self-awareness is the heart of EI. When we are self-aware we are tuned in to what we are thinking and feeling and know what triggered these thoughts or feelings. We are more likely to be able to manage our emotions in any moment and choose to respond wisely instead of falling back on out dated habits. Imagine the unaware lawyer whose client evokes a hostile response in him and then his anger sweeps him into conflict with the client. Mindfulness helps us be more self-aware by helping us slow down the momentum of our thoughts, feelings and bodily sensations, so we are less likely to be swept up in some emotion that may cloud our judgment or decision-making. The self-awareness that comes with a mindfulness practice also can bring about a positive outlook, enhanced empathy, and social awareness, all vital competencies for sustainable, balanced legal practice. This is not about feeling better alone, these competencies are what has been referred to as “distinguishing characteristics”, those skills or abilities that separate typical from outstanding lawyers. As we become more mindful of thinking, relating, and coping patterns we start to understand how they play out for us either positively or negatively in our work and can relearn more adaptive habits.

Benefits for Lawyers

You may be thinking at this point, what does this have to do with lawyers? Well, think about the implications of greater attention, concentration, or awareness in legal work, enhanced emotion regulation (being able to stay poised under pressure), and more effective relationship building. There are several versions of mindfulness but each provide – MORE here

NU Law is not the only law program or group ramping up their mindfulness program. I recently gave a talk on the benefits of mindfulness for lawyers through the Practicing lawyer institute (PLI) and over 300 practicing lawyers signed up over their noon-hour without continuing education credit. Over 40 law
schools including UC-Berkeley, Georgetown, NYU, and University of Miami, to name a few, all have strong mindfulness programs.

**NU Mindful Lawyer Program**

The **NU Mindful Lawyer Program** is a unique blend of classes, workshops, groups, special events, and spaces for students to learn about the practice of mindfulness and ways to use the skill develop an effective, sustainable practice of law that is grounded in balance, self-awareness, and emotion regulation. The NU Mindful Lawyer Program teaches the essential skills of mindfulness and emotional intelligence typically not introduced in the traditional classroom but have great potential for leading balanced, sustainable life as a student and eventually lawyer.

**Introduction to Mindfulness Workshops** – a 1 hour workshop offered 3 times per semester to introduce the concept of mindfulness, provide an overview of the research support for the use of mindfulness as a stress management and performance enhancement technique, and participate in a brief experiential meditation exercise.

**Mindfulness Meditation Stations** – 2 per week: one run by Law school Psychologist and other student run by member of NU Mindful Lawyer Student Association.

**NU Mindful Lawyer Student Association/Club** – a student group comprised of student ambassadors who promote building mindfulness in to the philosophy of the law and as a way of being in personal life.

**Special Events or Guest Lectures** – one guest lecture per semester

**Mindfulness based Emotional Intelligence Course: Developing the Whole Lawyer** – a for credit course offered

**Media & Marketing** – website linked to NU Law webpage (housed in student services) with blog and listserv.

**Curriculum** – incorporated into existing classes

*Highlight Prof Riskin’s work
  
  - Clinic
  - Classes
  - **Mindful Lawyer Class** –

Learn how to develop your own mindfulness practice with Dr. Durr in this brief introduction to the basic breath mediation [https://www.youtube.com/watch?v=o__uzjRs-L8&list=PL6ijulQC67YFn8w2Pxe-gfprh7U3tYURt&index=2](https://www.youtube.com/watch?v=o__uzjRs-L8&list=PL6ijulQC67YFn8w2Pxe-gfprh7U3tYURt&index=2)