

## Taking First-Year Students to Court: Disorienting Moments as Catalysts for Change

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*Picture a first-year criminal law class of eighty-eight students. For the bulk of the semester, the class meets three times a week, working its way through a criminal law casebook. Once a semester the students are separated into eight different groups. Each group meets the criminal law professor one morning in front of the local county courthouse. After a brief tour—the clerk’s office, the bond window, the prosecuting attorney’s office, and the public defender’s office—the students and their professor sit in court to watch a typical morning in a typical associate criminal docket. On any given day, they might see initial appearances, bond hearings, and pleas. After court, the students return to the law school in time to attend their first scheduled class of the day. After their morning classes are over, the students and their professor reconvene to eat lunch and talk about what they observed in court that morning.*

How can taking first-year criminal law students to court encourage transformational learning both in and out of the classroom? Taking students to court is a teaching tool that can create a “disorienting moment” that sparks discussion about the interplay

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between social justice<sup>1</sup> and criminal law. It is an example of how those of us who are new law professors might be mindful of how the courses we develop could serve a particular learning need<sup>2</sup> of our students (and possibly a curricular need as well) that is not part of the students' other first-year classes. To be clear: this is not to say that the modes of instruction our more experienced colleagues are using are wrong. We new professors have a great deal to gain by watching our colleagues and learning better ways to teach through their examples. At the same time, because we are beginning our teaching careers and are constructing our courses anew, we have the chance to consider how our teaching methods can complement rather than mirror the modes of instruction our colleagues employ. We have a tremendous opportunity to be cognizant not only of what is taught but of how it is taught, and how our teaching may fill a void.

Within the scholarship discussing teaching methods in the first-year curriculum,<sup>3</sup> one often-emphasized theme is the importance of

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1. In their article, *Teaching Social Justice Through Legal Writing*, Professors Pamela Edwards and Sheila Vance define "social justice" as "the process of remedying oppression, which includes 'exploitation, marginalization, powerlessness, cultural imperialism, and violence.'" They also provide a list of some social justice issues, including "problems involving race, ethnicity, and interracial conflict, 'class conflict, gender distinctions, . . . religious differences,' and sexual orientation conflicts." 7 LEGAL WRITING J. 63, 64 (2001), *reprinted in* 7 BERKELEY WOMEN'S L.J. 63 (2001). For purposes of this Article, I use the term "social justice" as a frame that captures the ideas of power and privilege, although I am mindful that "social justice" is much broader than those issues.

2. A variety of possible learning needs might exist. Part III, *infra*, discusses some of these learning needs as they relate to adult learning theory. In addition to the needs that adult learning theorists have identified, I also have in mind the fact that students benefit from a variety of pedagogical approaches. If no other first-year professor is taking students to court, the simple act of getting out of the classroom and into the courtroom—and debriefing about the experience with colleagues and professor afterwards—might help the doctrinal theory of the classroom come alive. *See also* WILLIAM SULLIVAN ET AL., EDUCATING LAWYERS 56 (The Carnegie Foundation for the Advancement of Teaching 2007) [hereinafter THE CARNEGIE REPORT] (noting that legal education's "signature pedagogy"—the case-dialogue method—is missing two "complements": (1) experience with clients, and (2) concern that the profession itself lacks ethical standards).

3. *See, e.g.*, Anthony S. Niedwiecki, *Lawyers and Learning: A Metacognitive Approach to Legal Education*, 13 WIDENER L. REV. 33, 34 (2006) (suggesting the importance of introducing learning theory into the law school curriculum and specifically teaching students how to learn); Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 SEATTLE U. L. REV. 1 (1996). Another example is a 2004 volume of the St. Louis University Law Journal, which dedicated its entire issue to "Teaching Criminal Law." The articles in that volume address such topics as teaching criminal law from a trial perspective, the difference between the case method and problem method, teaching ethics in

approaching our courses with the goal of teaching students how to be good lawyers: how to think like a lawyer;<sup>4</sup> how to argue, negotiate, and write effectively;<sup>5</sup> how to write to learn;<sup>6</sup> how to research;<sup>7</sup> and how to be mindful of ethical issues.<sup>8</sup> While the debate continues regarding the degree to which first-year teachers should teach “black letter” law—as well as the degree to which students retain anything they learn in law school—most legal scholars and adult learning theorists agree that, at a minimum, law students do retain a basic framework and process for approaching legal questions.<sup>9</sup> Some have even argued that law school does more than teach students how to think like lawyers, asserting that it “instills in them, either consciously or unconsciously, normative values with which to evaluate and analyze law and society.”<sup>10</sup>

Assume for a moment that it is true that professors—especially those of us teaching first-year law courses—have an opportunity to

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criminal law, and considering moral theory and feminism. *See Teaching Criminal Law*, 43 ST. LOUIS U. L.J. 1143 (2004).

4. *See, e.g.*, Nancy L. Shultz, *How Do Lawyers Really Think?*, 42 J. LEGAL EDUC. 57 (1992).

5. For an overview of some of the scholarship in this area (and others), see Terrill Pollman & Linda H. Edwards, *Scholarship by Legal Writing Professors: New Voices in the Legal Academy*, 11 LEGAL WRITING J. 3 (2005) (providing a thorough bibliography of current scholarship by legal writing professors, some of which addresses teaching students how to argue, negotiate, and write effectively).

6. *See, e.g.*, Laurel C. Oates, *Beyond Communication: Writing as a Means of Learning*, 6 LEGAL WRITING J. 1 (2000).

7. *See* Laurel C. Oates, *I Know that I Taught Them How to Do That*, 7 LEGAL WRITING J. 1 (2001).

8. *See, e.g.*, Peter Joy, *Teaching Ethics in the Criminal Law Course*, 48 ST. LOUIS U. L.J. 1239 (2004).

9. For example, a professor teaching criminal law may use a chart with the words “mens rea, actus reus, causation, and concurrence.” Each day that she comes to class, the teacher might place the same four-part chart on a wall to ground that day’s discussion in the particular elements at issue in that day’s reading. At the end of the semester, or at the end of a three-year legal education, or five or ten years into their legal career, most likely the former student will not remember the point of discussing the fact that three shipmen killed and ate a fellow crewperson when they were at sea (*The Queen v. Dudley & Stephens*, (1884) 14 Q.B.D. 273, discussed *infra* Part II), but they will remember the four elements on the daily chart and how those four elements structured their discussions of criminal law. *See* Alison Grey Anderson & Kristine S. Knaplund, materials and lecture prepared for their workshop on “Learning Theory” at the 2007 AALS New Law Teachers Workshop in Washington, D.C. (June 29, 2007) (materials on file with author).

10. Catherine L. La Fleur, *Surveying Poverty: Addressing Poverty Law in a Required Course*, 42 WASH. U.J. URB. & CONTEMP. L. 147, 147–48 (1992).

introduce a basic framework that will largely influence the way our students approach a subject, even after they have forgotten the substance with which to fill that frame.<sup>11</sup> If this proposition is true, then why should issues of power and privilege<sup>12</sup> not be part of the overarching framework we introduce, especially in a first-year criminal law class? If it is also true that this basic framework includes normative values with which to evaluate and analyze society, why should an awareness of power and privilege not be part of the normative values we explicitly teach students from the very beginning, rather than relegating such learning to elective courses in clinical law, poverty law, or critical race studies?<sup>13</sup>

Even when we do not teach normative values to our students consciously, every day, in every class, we convey normative values to our students. Whether or not we make them explicit, we convey normative values through the readings we select, the questions we ask, the questions we do not ask, the way we approach the material, and the way we test the material. For example, when I selected Cynthia Lee and Angela Harris's criminal law casebook<sup>14</sup> for my first-year criminal law class, I made a conscious choice to teach through the diverse cultural perspectives that frame their book. Implicit in this choice was my normative judgment that teaching criminal law through a cultural lens was a good way to teach criminal law, and that it was worth my students' time to read the cultural articles that accompany the different cases in their book. Even though I do not announce to my students during every class that "culture is important," that is the normative assumption organizing the class

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11. Anderson & Knaplund, *supra* note 9.

12. In her article, *Striving to Teach "Justice, Fairness, and Morality,"* Professor Jane Harris Aiken explains that the term "privilege" describes "that 'invisible package of unearned assets that I can count on cashing in each day, but about which I was 'meant' to remain oblivious.' It is conferred dominance. It is the vehicle by which systems of power operate. Too often we focus on disadvantage as the sole result of power disparities rather than recognizing that there is a subtle system of privilege that necessarily follows systems of subordination." 4 CLINICAL L. REV. 1, 12-13 (1997) (citing Peggy McIntosh, *Unpacking the Invisible Knapsack: White Privilege*, CREATION SPIRITUALITY, Jan.-Feb. 1992, at 33). For further discussion, see Stephanie M. Wildman & Adrienne D. Davis, *Language and Silence: Making Systems of Privilege Visible*, 35 SANTA CLARA L. REV. 881 (1995).

13. See, e.g., Aiken, *supra* note 12. See also La Fleur, *supra* note 10.

14. CYNTHIA LEE & ANGELA HARRIS, CRIMINAL LAW: CASES AND MATERIALS (Thomson West 2005).

readings and discussion. Because we are already conveying normative values to our students every time we teach, the act of taking students to court might be a vehicle to foster more open discussion about what our normative assumptions are, especially as those normative assumptions relate to issues of power and privilege.

This Article explores the advantages and limitations of taking first-year criminal law students to court to provide a nontraditional first-year experience that encourages students to consider how power and privilege operate within the construction of criminal law. Taking students to court can be a deliberate attempt to disorient them, to encourage them to question the very moorings on which criminal law rests. While the concept of “disorienting moments” is extensively discussed in clinical literature,<sup>15</sup> few scholars have discussed how this teaching tool might be used in a large doctrinal class.<sup>16</sup> Creating “disorienting moments” for first-year criminal law students by taking them to court is an example of one such teaching tool.

Not every person who teaches criminal law will necessarily embrace the goal of incorporating lessons in social justice<sup>17</sup> in their first-year classes; mandating that everyone teach social justice or that every criminal law teacher must take her students to court is not the point. If we are to be catalysts for change—if we new law teachers truly want to reinvigorate the first-year curriculum in our schools,

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15. Two of the seminal articles framing this discussion are Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 CLINICAL L. REV. 37 (1995), and Aiken, *supra* note 12.

16. Aiken, *supra* note 12, at 47–63, discusses how disorienting moments can be used in both clinical courses and traditional classes. Her focus is on techniques that can be used within the traditional classroom itself, such as the power of recognizing the diverse backgrounds and perspectives of the students themselves, self-disclosure by using her own “slips of privilege” as fodder for class discussion, in-class exercises that break students into smaller groups, and the use of journals. In addition to this focus, she lists several ideas that teachers could employ outside of the classroom, such as combining the class with a clinical component, touring legal institutions outside the law school, or requiring students to live on a welfare budget for a limited period of time. This Article takes one of the items in Aiken’s list—the touring of legal institutions outside the classroom—and focuses on it exclusively.

17. For a discussion of the benefits that social justice learning offers students, see Edwards & Vance, *supra* note 1, at 64–70 (explaining that teaching social justice encourages a diverse student body; maintains student interest; raises and addresses issues of race, ethnicity, class, and gender in society; supports the creation of more sensitive and understanding attorneys; broadens students’ exposure; provides an outlet for students’ voices; and introduces students to attorneys’ roles in developing law).

rather than automatically repeat what has been done before (and what we ourselves most likely experienced in our own first-year classes when we were students)—we must consider the small steps that can effect change. Taking students to court is one small step that can lead to frank discussions regarding the interface of power, privilege, and criminal law, but it is not the only way to get there.

This Article proceeds in four parts. Part I begins by discussing how the clinical literature has framed the concept of using “disorienting moments” as a teaching tool in clinical courses. Part II explains how taking first-year students to court to observe a regular morning docket in a local county courtroom is an example of a teaching strategy that can complement traditional classroom instruction by creating “disorienting moments” to incorporate social justice issues more purposefully into the teaching of criminal law. Part III outlines some basic contours of adult learning theory to understand the advantages and limitations of using courtroom observation as a teaching tool to help adult learners understand the breadth of power and privilege operating in criminal law. Part IV concludes by suggesting changes that might be useful to improve the overall effectiveness of this teaching strategy.

#### I. COURTROOM OBSERVATION AS A “DISORIENTING MOMENT” FOR FIRST-YEAR STUDENTS

A “disorienting moment” occurs “when the learner confronts an experience that is disorienting or even disturbing because the experience cannot be easily explained by reference to the learner’s prior understanding—referred to in learning theory as ‘meaning schemes’—of how the world works.”<sup>18</sup> While the experience of a disorienting moment is often eye-opening, the experience itself is only the first step in the learning process.

Adult learning theorist Jack Mezirow describes two more stages that students must undergo after experiencing the disorienting moment in order truly to learn from their experience: exploration and reflection, then reorientation.<sup>19</sup> Following the first stage of exposure

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18. Quigley, *supra* note 15, at 51; *see also* Aiken, *supra* note 12, at 24.

19. Quigley, *supra* note 15, at 51 (citing JACK MEZIROW ET AL., FOSTERING CRITICAL

to the disorienting moment, students must have an opportunity to “explore and reflect” upon the disorienting moment before having an opportunity to “reorient” their “meaning schemes about justice”<sup>20</sup> in light of what they have experienced. If a teacher simply exposes students to the disorienting moment and does not “provide a proper environment for these three stages to unfold,”<sup>21</sup> students are more likely to ignore or reject the experience than to learn from it.<sup>22</sup>

Much of the scholarship analyzing this three-stage concept of experiencing and processing disorienting moments in legal education focuses on clinical legal education.<sup>23</sup> Perhaps one reason that adult learning theory—especially as it relates to the use of disorienting moments in adult learning—seems somewhat confined to clinical scholarship is the direct connection between representing victims of injustice in poverty law clinics and the disorienting moments that such representation presents.<sup>24</sup> Scholars have even asserted that “[o]pportunities for social justice learning in legal education can best be provided through application of principles of adult learning theory in the clinical setting, where experiential learning is central to the teaching methodology.”<sup>25</sup>

While the smaller class size, hands-on learning, and direct client representation that happen in clinics may offer a more natural location for social justice learning than a traditional first-year criminal law class, it would be tragic if criminal law scholars and teachers—especially those of us who are new law teachers, striving to re-envision our first-year criminal law classes—ignore the possibility of incorporating social justice learning simply because we are not teaching a clinical class. Clinicians have long argued that a “complete legal education, and in particular, a complete clinical

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REFLECTION IN ADULTHOOD: A GUIDE TO TRANSFORMATIVE AND EMANCIPATORY LEARNING 13–14 (Jossey-Bass Publishers 1990)).

20. Quigley, *supra* note 15, at 55.

21. *Id.* at 52.

22. *Id.* at 51 (citing MEZIRROW, *supra* note 19, at 13–14).

23. *See, e.g.*, Quigley, *supra* note 15, and Aiken, *supra* note 12. In addition, within the legal writing literature, some scholars have also discussed the intersection of adult learning theory and legal writing, by reference to Quigley or Aiken’s literature on “disorienting moments.” *See, e.g.*, Edwards & Vance, *supra* note 1.

24. *See* Quigley, *supra* note 15, at 46.

25. *Id.*

educational experience, should include lessons of social justice.”<sup>26</sup> If we are striving to help students experience a “complete legal education,” why should we relegate social justice learning to the clinical classroom or to specialty seminars? Why should we not strive to teach social justice, even in the smallest ways, to our first-year criminal law students?

Field trips are not a new suggestion to the law school curriculum. Sometimes called “staged experiences,”<sup>27</sup> scholars have frequently heralded the advantages that such experiences offer adult learners.<sup>28</sup> However, most of this scholarship has discussed the benefits of field trips in clinical education or specialty courses,<sup>29</sup> rather than in first-year classes like criminal law. Not only is it possible to take first-year students to court, but it might be critical to do so as early as possible within our students’ law school careers: the experience can catalyze change in the dynamics and focus of in-class discussions, which in turn may help students develop a more nuanced framework within which to understand criminal law. Ultimately, it may lead to critical discussions regarding the interplay of criminal law and social justice.

Professors on all sides of the spectrum have long debated the Langdellian model of legal instruction.<sup>30</sup> It is beyond the scope of this Article to join that debate. This Article, rather, posits that a variety of modes of instruction are useful to help adult learners excel in their law school education. For example, in my own law school, one well-regarded professor teaches a first-year class in which students stand every time they engage with him in Socratic dialogue. In fact, not only do students stand every time they speak, but the very first student he calls on often stands for two or three consecutive class periods—for a total of approximately 150 minutes—until the professor feels that the student and he have discussed the case

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26. *Id.* at 38; *see also* Aiken, *supra* note 12, at 10.

27. Quigley, *supra* note 15, at 70.

28. *See, e.g.*, La Fleur, *supra* note 10, at 159 (discussing the use of field trips in a Poverty Law class, and noting that the field trips “had a greater effect on students if they had learned something about the demographics of the poor and about the poverty programs” prior to taking the field trips).

29. *See, e.g.*, La Fleur, *supra* note 10.

30. *See, e.g.*, Arturo Lopez Torres & Mary Kay Lundwall, *Moving Beyond Langdell II: An Annotated Bibliography of Current Methods for Law Teaching*, 35 GONZ. L. REV. 1 (2000); Quigley, *supra* note 15, at 39 nn.2–3.



thoroughly. Another well-regarded professor separates the students in her class into small working groups, orchestrating discussion within the small groups through worksheets, specific assignments, and oral and written reports. Both of their teaching styles may reach some learners and alienate others. The strength of the overall teaching of our first-year curriculum rests, at least partially, on the diverse modes of instruction to which each learner is exposed. Through awareness of how our colleagues are teaching their classes, we can better understand how our own teaching methods complement the overall pedagogy<sup>31</sup> our students encounter in their first year.<sup>32</sup> Part II examines the act of taking first-year criminal law students to court as a way to create a “disorienting moment” that sparks reflection on how social justice issues interweave with criminal law.

## II. TAKING FIRST-YEAR CRIMINAL LAW STUDENTS TO COURT

The purpose of taking my students to court once a semester was relatively straightforward when I planned it. I wanted my students to understand that our discussions of the elements of cases involve real people affected by real crimes. Because casebooks sometimes have a removed-from-reality tone, I stress that the names included in the text are not abstract characters in a distant narrative, but real people with real lives. I try to do this during our regular classroom discussion, especially when we discuss the homicide and rape cases, by underscoring the names within the cases: I ask students the names of the victim and the defendant if a student forgets to include the name when describing the facts of the case. As I explain to my class, my rationale is to respect each person’s humanity by acknowledging the individual as a person with a name—not as “the victim,” “the deceased,” “the prosecutrix,” or “the defendant.”

Admittedly, sometimes it is difficult to remember the real people in the cases we study, because the cases are so removed from our everyday experiences. Like many criminal law students in the United

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31. The use of the term “pedagogy” as opposed to the term “andragogy” is discussed in Part III.

32. Because most schools have a mandated first-year curriculum that assigns specific courses and teachers to the students, thereby making it easy to determine exactly which teachers our students have, this Article focuses on first-year curricula rather than the curricula at large.

States,<sup>33</sup> my students read *The Queen v. Dudley and Stephens*<sup>34</sup> and talk at length about whether the act of eating a fellow sailor is excused by the necessity of being stranded at sea with no food or water. In addition to this standard first-year fare, they also read cases that may hit unfortunately close to home, such as cases about college rapes<sup>35</sup> or a theft from the bathroom stall at a swimming pool.<sup>36</sup> In addition to a mix of cases, going to court provides at least one moment during the semester to watch the reality of criminal law unfold.

Going to court also encourages students to question the circumstances underlying the crime in a way that is not always possible in the one-sided rendition that courts relay in published opinions. For example, a group of students and I recently observed the initial appearance of a young, white male who had turned himself in after receiving notice that there was a warrant out for his arrest because he had missed a prior court date. Even though the “facts of the case” as they might be recorded in a probation violation report were straightforward, the students were struck by how sad he and his parents looked, and by his genuine confusion about the fact that he had missed his court date.<sup>37</sup> After observing and analyzing the nuanced dimensions of the defendant’s seemingly routine probation violation, the students can later translate that experience into more active questioning of the facts in the published opinions in their book.

In essence, I hope that taking students to court achieves a similar goal as asking students to remember the names of the people in their cases. By sitting with my students to observe a regular, run-of-the-mill associate district court on a regular, run-of-the-mill day, I encourage students to visualize the inner workings of a real (as

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33. A brief survey of some criminal law texts—such as JOSHUA DRESSLER, *CASES AND MATERIALS ON CRIMINAL LAW* (4th ed. Thomson West 2007); MARKUS D. DUBBER & MARK G. KELMAN, *AMERICAN CRIMINAL LAW: CASES, STATUTES, AND COMMENTS* (Foundation Press 2005); SANFORD KADISH & STEPHEN J. SCHULHOFER, *CRIMINAL LAW AND ITS PROCESSES, SEVENTH EDITION* (7th ed. Aspen Publishers 2001); and LEE & HARRIS, *supra* note 14—reveals that each of these texts includes *The Queen v. Dudley and Stephens*, (1884) 14 Q.B.O. 273.

34. (1884) 14 Q.B.D. 273.

35. *See, e.g.*, *Commonwealth v. Berkowitz*, 609 A.2d 1338 (Pa. Super. Ct. 1992).

36. *Miller v. Superior Court*, 115 Cal. App. 4th 216 (Cal. Ct. App. 2004).

37. Personal observation, St. Louis County Associate Court, Feb. 28, 2008.

opposed to a *Boston Legal*) courtroom. My hope is that later, when they are no longer sitting in the courtroom—when they are reading their cases at coffee shops or discussing them in class—they will visualize a person behind the case: a handcuffed man in a jail-issued jumpsuit asking the judge to let him out of jail because he needs to get back to work; a disheveled woman in street clothes who has been held in jail for the last two days, pending her initial appearance; a pressed-suit-wearing man sitting next to us on our wooden bench, standing when the bailiff calls his name and walking alongside his privately hired attorney toward the judge. And in order to imagine the person behind the case, my hope is that the students will also consider the circumstances that person likely experienced before they ever appeared in the courtroom, before they were even arrested.

For some students, it is the first time they have ever stepped into a courtroom. Their emotions range from excited to scared, bored to curious. Others have limited experience working in or attending court (usually as jurors or paralegals, sometimes as victims or as family members of defendants, and rarely as defendants themselves). Regardless of the fact that most students have little or no prior experience in court, most students have seen so many Hollywood courtrooms that they feel like they have seen it all before, even if *L.A. Law*, *Law and Order*, and *Matlock* have relatively little semblance to reality. Taking my students to court thus begins with my students' realization that the day-to-day workings of a real courtroom are relatively boring compared to the crazy cases that lawyers on *The Practice* are perpetually litigating.<sup>38</sup> Seated in our local county courtroom, students cannot believe that a black teenager just spent two days in jail because he got caught jumping the subway turnstile instead of paying two dollars. They see parents who have fallen behind in child support payments charged with felonies. They listen to a young mother charged with second-degree robbery after brushing past a security guard in a Wal-Mart parking lot while she shoplifted a VCR.<sup>39</sup>

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38. For example, it is not every day that a private criminal defense attorney's former client walks into the law office with a bag containing a human head. *The Practice: Body Count* (ABC television broadcast Oct. 11, 1998).

39. In Missouri, "[a] person commits the crime of robbery in the second degree [if] he

These typical cases intermix with car jackings, rapes, and murders, but the steadiness of the seemingly mundane is an important revelation for some students. In one way, seeing the seemingly mundane cases that fill the criminal court docket supplements the discussion we have at the beginning of the semester about what constitutes a crime. In other ways, it serves as a welcome precursor to a discussion I begin about halfway through the semester regarding the strengths and limitations of prosecutorial discretion.

While the students are processing how unbelievably tedious some of the cases are, gender and race dynamics also fill the courtroom. My students (about half men and half women) are overwhelming white. The defendants in our local county courtroom are overwhelmingly black and overwhelmingly male.

As far removed as our local courts are from *Dudley and Stephens*<sup>40</sup> (or from most of my students' everyday life experiences),<sup>41</sup> something is achingly familiar about the operation of our local criminal courts, and I hope that taking my students to court gives them a sense of that as well. Given our county demographics,<sup>42</sup> the disproportionately large number of black defendants in court each

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forcibly steals property." MO. REV. STAT. § 569.030 (2006). Because this is essentially "stealing by force," see *Hagan v. Missouri*, 836 S.W.2d 459 (Mo. 1992), and because the act of "brushing" against a security officer could be interpreted as "force," the simple theft of the VCR might be elevated to the more serious Class B felony of second-degree robbery.

40. See *The Queen v. Dudley and Stephens*, (1884) 14 Q.B.D. 273. As the maritime question of whether to kill and eat one's fellow sailor may be alien to most of my students' everyday life experiences, another benefit of going to court is that the questions of necessity at issue in *Dudley* sometimes arise in a more contemporary context in the county courtroom.

41. While many of the students in our school share middle- or upper-class backgrounds, there are certainly exceptions. See, e.g., Aiken, *supra* note 12, at 50–51 (describing an experience in a course she taught at Washington University School of Law). Aiken describes a student in a civil rights course who disclosed to her fellow classmates the severe poverty in which she was reared, as well as her feelings that she would never escape that poverty, even with a law school education. Aiken explains how the students were utterly surprised by this disclosure. They later told Aiken that "they had always assumed that everyone in the class was just like they were and had been raised in middle-class homes. They were taken aback that their assumptions about their peers had been untrue. They could no longer rely on those assumptions." *Id.*

42. St. Louis County has a total population of just over one million people. Approximately 73 percent of that population is white, 21 percent is black or African American, 3 percent is Asian American, and 2 percent is Latino or Hispanic. See Missouri Census Data Center, *ACS Profile Reports 2006*, [http://mcdc2.missouri.edu/cgi-bin/broker?\\_PROGRAM=websas.acsprofile.sas&\\_SERVICE=appdev&geoid1=05000US29189&geoid2=04000US29](http://mcdc2.missouri.edu/cgi-bin/broker?_PROGRAM=websas.acsprofile.sas&_SERVICE=appdev&geoid1=05000US29189&geoid2=04000US29).

day has been, and continues to be, unsettling.<sup>43</sup> It is one thing to read cases and articles discussing race issues in criminal law.<sup>44</sup> It is another to be a white, privileged law student sitting in a county courtroom, watching a stream of black defendants brought in tan jumpsuits and handcuffs before a judge. In addition to the reality of cases and the individuals in them, I want to expose students to the issues of power and privilege—interwoven with race, gender, and class—of a typical criminal courtroom in our typical U.S. city.

Let me put it another way. In addition to observing the disproportionately large number of black defendants, I also hope my students will notice the manner in which the defendants are “processed” through the system. No matter how noble the judges’ intentions may be, when one combines the sheer number of people arrested each night with the limited hours in a given work day (let alone a morning court docket), judges, out of necessity, often race through the information they are constitutionally obligated to tell defendants.<sup>45</sup> While listening to the judge spew out the elements of first-degree robbery, I sometimes watch my students’ faces as they realize that the nuanced terms that took us a week to discuss in class have been reduced to a thirty-second-long, incomprehensible monologue.

This is all to say that while the initial purpose of taking my students to court was seemingly straightforward, the result is more complex than I had initially imagined. When I really look at what I

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43. Although specific numbers are not available, approximately 75 percent of the clients of the St. Louis County Office of the Missouri State Public Defender System are black or African American, approximately 10 percent are Hispanic or Latino, and the remaining 15 percent are white. Interview with Patrick Brayer, Assistant Public Defender, St. Louis County Public Defender Office, in St. Louis, Missouri (Dec. 2006) (notes on file with author).

44. See, e.g., PAUL HARRIS, *BLACK RAGE CONFRONTS THE LAW* (1997); Kevin Brown, *The Social Construction of a Rape Victim: Stories of African-American Males About the Rape of Desiree Washington*, in *BLACK MEN ON RACE, GENDER, AND SEXUALITY: A CRITICAL READER* 147 (Carbado ed. 1999); Angela P. Harris, *Gender Violence, Race, and Criminal Justice*, 52 *STAN. L. REV.* 777 (2000); Randall Kennedy, *The State, Criminal Law, and Racial Discrimination: A Comment*, 107 *HARV. L. REV.* 1255 (1994); Regina Austin, “*The Black Community, Its Lawbreakers, and a Politics of Identification*,” 65 *S. CAL. L. REV.* 1769 (1992).

45. STEVE BOGIRA, *COURTROOM 302: A YEAR BEHIND THE SCENES IN AN AMERICAN CRIMINAL COURTHOUSE* (2006), provides a thorough description of this experience. Bogira observed a typical criminal courtroom—Courtroom 302—in Cook County, Illinois, for one year. He documents his observations in the book.

am doing when I take students to court, I realize that as much as I am trying to make the law come alive and help students remember the personhood of those affected by all facets of our cases, victims and defendants alike, the act of taking students to court is also a deliberate attempt to disorient them, to encourage my students to examine social justice issues.

Even though my students are sitting in a public courtroom, observing so commonplace an event that court personnel—judges, attorneys, clerks, and bailiffs alike—rarely think twice about what they are doing, most of my students are observing it through fresh eyes. Seen from this vantage point, some students find the entire scene extremely unsettling. When explaining that experience, one described feeling like a “voyeur” as she watched the judge inform a handcuffed defendant about his charges and the amount of his bond.

It took me a while before I realized that some students were distressed by what they experienced as a voyeuristic court observation. Having practiced in a criminal courtroom before I became a professor, I was so accustomed to being in court that I had long forgotten any unsettling feelings I might have once had about watching a judge tell someone that they are charged with a crime. I expected students to note the racial and gender dynamics at play in the courtroom. I also expected them to be distressed by the speed with which the judge informs defendants about their constitutional rights and their charges. And of course I anticipated that some would feel uneasy by the specific charges themselves (sexual molestation is always uncomfortable to discuss, let alone in a public courtroom). Law professors teaching in clinical programs work with students who experience such reactions so often that it is tempting “to take such reactions for granted.”<sup>46</sup>

What I had not fully appreciated was how uncomfortable some first-year law students would feel by the act of simply sitting in the gallery of a courtroom while defendants sat in a jury box forty feet away from them. Even though it was a public courtroom with dozens of people watching the proceedings alongside us, I wondered what it was about the experience that was unsettling—what exactly was

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46. Quigley, *supra* note 15, at 37.

making some students feel like voyeurs watching a private matter rather than public observers watching the workings of a public court? It was then that I realized that the act of mandating that students attend court with me one time during the semester had pushed some of my first-year students into experiencing a disorienting moment that neither I nor they had fully anticipated.

Indeed, the courtroom observation might disorient different students for different reasons. Some students may be disturbed because their “prior understanding of how the world works”<sup>47</sup> does not coincide with sitting in a courtroom in which they do not understand what is happening. Because they understand television courtroom dramas and have performed well during their first-semester exams, they might assume they will feel comfortable and knowledgeable during their first foray into a real courtroom, and the chaos of morning court surprisingly might disarm them. Others might feel disoriented because of the tangible power differential they observe between the shackled defendants and the courtroom personnel. If their prior understanding of how the world works includes notions of justice and due process, observing the confusion on various defendants’ faces might lead them to question how justice is being served.

The fact that different students were disoriented for different reasons led me to explore further how their life experiences—resulting in part from their diverse learning styles and educational backgrounds—influenced the way they experienced the courtroom observation. In order to understand how their learning styles and educational experiences interacted with their courtroom observation, I turned to adult learning theory to investigate how it informs the law school curriculum.

### III. ADULT LEARNING THEORY AND THE FIRST-YEAR CURRICULUM

In order to understand my students’ experience in their courtroom observation, as well as how this teaching method may complement the pedagogical styles other first-year teachers employ, I began to explore some basic contours of adult learning theory. There again,

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47. See Quigley, *supra* note 15, at 51; see also Aiken, *supra* note 12, at 24.

within the discussion of adult learning theory and law school pedagogy, clinicians rather than non-clinical professors have dominated the scholarship field, publishing numerous articles explaining the intersection between adult learning theory and clinical teaching methodology.<sup>48</sup> While it may be true that adult learning theory's teaching methodology has "found its law school home in clinical courses,"<sup>49</sup> there is no reason that it cannot establish a "home-away-from-home" within traditional first-year classes. This section outlines adult learning theory in order to explore how it might be applied to designing innovative teaching methods in first-year classes.<sup>50</sup>

The median age of the first-year law students at my school is twenty-three years old.<sup>51</sup> In the class that began in 2006, the youngest student was nineteen years old and the oldest student was thirty-two.<sup>52</sup> Learning theorists debate the extent to which teaching methods that are used to teach children ("pedagogy" literally means the "teaching of children")<sup>53</sup> can be applied to teach adults.<sup>54</sup> Proponents

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48. One of seminal works in this area is Frank Bloch, *The Andragogical Basis of Clinical Legal Education*, 35 VAND. L. REV. 321 (1982) (reprinted in ANDRAGOGY IN ACTION (Malcolm Knowles ed., 1984)).

49. Quigley, *supra* note 15, at 49. See also Aiken, *supra* note 12, at 24.

50. See Bloch, *supra* note 48, at 328–33. Bloch identifies four assumptions in Knowles's theory of andragogy, which he summarizes as "self-concept," "role of experience," "readiness to learn," and "orientation to learning." Bloch also discusses three limitations to Knowles's theory of andragogy, namely the observations that (1) the "professional education of adults is fundamentally different from the general field of adult education that applies andragogical theory to activities such as continuing, remedial, and supplemental education programs"; (2) "law students are not necessarily typical of the adult learners that are the focus and subject of andragogical literature"; and (3) "not all educators are convinced that even the basic premises of andragogy are either correct or valuable." Bloch, *supra* note 48, at 327–28.

51. Information provided by the Admissions Office at Washington University School of Law (Apr. 15, 2008) (notes on files with author).

52. *Id.*

53. "'Pedagogy' is derived from the Greek words *paid*, meaning 'child' . . . and *agogus*, meaning 'leader of.' Thus, pedagogy literally means the art and science of teaching children." MALCOLM KNOWLES, *THE ADULT LEARNER: A NEGLECTED SPECIES* 54 (4th ed. 1990). See also Bloch, *supra* note 48, at 326–27.

54. Malcolm Knowles identifies at least four different definitions of "adult." They include the biological definition (a person who has become capable of reproducing); the legal definition (a person whom the government allows to vote, marry without consent, obtain a driver's license); the social definition (a person who has begun performing adult roles); and the psychological definition (a person who has developed a concept of responsibility for her own life, i.e., self-direction). KNOWLES, *supra* note 53, at 57.



of “andragogy” (“the teaching of adults”)<sup>55</sup> assert that significant differences exist between the two groups of learners, arguing that the education of adults requires “special teachers, special methods, and a special philosophy.”<sup>56</sup> Indeed, the very question of whether to call the teaching of adults “pedagogy” or “andragogy” continues to stir debate among learning theorists.<sup>57</sup> At the same time, one can also imagine people wondering about the limitations of applying adult learning theory to the teaching of twenty-three-year-old law students,<sup>58</sup> who might vary significantly in the degree to which they have developed one of the hallmarks of the psychological definition of “adulthood”: self-directedness.<sup>59</sup>

According to adult learning theorist Malcolm Knowles, who adheres to the “andragogy” side of the debate, once a person reaches the age of seventeen or eighteen, adult learning theory is more appropriately practiced than child learning theory.<sup>60</sup> According to Knowles, child learning theory focuses on giving the teacher full responsibility for making all decisions about what will be learned, how it will be learned, when it will be learned, and if it must be learned. It is teacher-directed education, leaving to the learner only the submissive role of following a teacher’s instructions.<sup>61</sup>

Knowles posits that child learning theory (or teacher-directed education) is most appropriate during the first year of a child’s life, and that every year thereafter, it becomes less and less appropriate to employ only that teaching method, although it remains necessary to employ it to a limited extent. When a person turns approximately seventeen years old, Knowles asserts that adult learning theory is the more appropriate teaching method and that teacher-directed education is largely inappropriate from that point forward.<sup>62</sup>

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55. *See id.* at 51–54 (providing an extensive historical summary of the meaning and origins of the word “andragogy”).

56. *Id.* at 52 (discussing the work of Eugen Rosenstock).

57. *See id.* at 51–54 (outlining this debate).

58. *See Bloch, supra* note 48, at 327–28.

59. *See KNOWLES, supra* note 53, at 55 (asserting that American culture “does not nurture the development of the abilities required for self-direction, while the need to be increasingly self-directing continues to develop organically”).

60. *Id.* at 56.

61. *Id.* at 55.

62. *Id.* at 55–56.

In contrast to child learners, Knowles' theory about adult learning<sup>63</sup> makes six different assumptions about how adults learn:<sup>64</sup> (1) *The need to know*. Adults need to know why they need to learn something before undertaking it; (2) *The learner's self-concept*. Adults have a self-concept of being responsible for their own decisions, for their own lives. They resent and resist situations in which they feel others are imposing their wills on them; (3) *The role of the learner's experience*. Adults approach an educational activity with both a greater volume and a different quality of experience than youths; (4) *Readiness to learn*. Adults become ready to learn the things they need to know so that they may deal effectively with their real-life situations; (5) *Orientation to learning*. Adults are life-centered in their orientation to learning (as opposed to children, who are subject-centered); (6) *Motivation*. The most potent motivators are internal pressures (the desire for increased job satisfaction, self-esteem, quality of life).

In order to explore how adult learning theory helps to understand why some students experience a disorienting moment during their courtroom observation—and how this disorienting moment might serve some of the fundamental needs of adult learners<sup>65</sup>—the remainder of this section analyzes the assumptions of adult learning theory within the context of the courtroom observation.

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63. Certainly there are almost as many (or more) theories of adult learning as there are adult learning theorists. This Article focuses on Knowles's six assumptions about adult learning, because they resonate most vividly with my own observations. In addition, this Article uses Knowles's six assumptions as a basic framework within which to consider adult learning theory, because clinicians Quigley and Aiken have discussed parts of Knowles's adult learning theory in the context of the use of disorienting moments in clinical legal education. See *supra* notes 12 and 15. For a survey of dozens of different theories of adult learning, see KNOWLES, *supra* note 53, which provides a thorough overview.

64. *Id.* at 55–63.

65. Cf. John Kip Cornwell, *Teaching Criminal Law*, 48 ST. LOUIS U. L.J. 1167 (2004). Cornwell uses David Kolb's assessment of four types of learners (convergers, divergers, assimilators, and accommodators) to discuss the importance of reaching students with different learning styles when teaching criminal law. His analysis focuses on engaging students within the classroom itself.

*A. The Need to Understand*

Very few students in my first-year criminal law class plan to practice criminal law after they finish law school.<sup>66</sup> Those who do aspire to become prosecutors, public defenders, general practice attorneys, or judges probably see a ready connection between the class material and their life ambition, and because of this connection, they sometimes approach the class with corresponding gusto. Other students may not come to class with the same “need to know.” For some students, the most salient connection between the course and their legal careers might be that their state bar examination tests them on criminal law through the Multistate Bar Examination and individual state essays. They come to class wanting to know “what they need to know” to pass the bar. While serving the adult learning theory’s “need to know” function, a bar-exam-driven learning motivation might encourage students to focus on passing the bar examination to the exclusion of other information that is equally important (or perhaps more important)<sup>67</sup> to learn.

Taking students to court, especially in their first year, offers a different kind of “need to know” orientation—something perhaps more akin to a “need to understand.” Some students who do not want to practice criminal law leave the courtroom realizing that they have not understood everything they have just seen, and they are motivated to learn criminal law in order to comprehend it. At a minimum, the experience shows them how the elements of the crimes we study in our class are relevant to what happens in an actual courtroom. For example, they see the importance of knowing how the act of “force” in the elements of robbery may be as simple a gesture as brushing past a security guard, and how charging somebody with robbery in

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66. This observation is based on handouts I had students complete on the first day of class, in which one of the questions I asked students was what they hoped to do after law school.

67. See, e.g., Thomas D. Morgan, *National Symposium on the Role of a Corporate Lawyer: “The Client(s) of a Corporate Lawyer,”* 33 CAP. U.L. REV. 17, 47 (2004) (“Bar examinations, for example, should not continue to drive students to take courses like trusts and estates—a perfectly good course but a field in which most lawyers will never practice—when many students actually need more training in corporate finance and, increasingly, foreign languages. Law schools and bar leaders who fail to understand the changing world will shortchange both their students and those students’ later clients.”).

the first degree means that the person is held on such a high bond that she will most likely remain in jail until her case resolves.

*B. The Tension of Students' Self-Directedness*

This second concept is more complicated than meets the eye. On the one hand, it suggests that because adult learners are self-directed, they “resent and resist situations in which they feel others are imposing their wills on them.”<sup>68</sup> On the other hand, when adult learners walk into a classroom, the act of engaging in “an activity called ‘education’ or ‘training’ or any of their synonyms” takes them “back to their conditioning in their previous school experiences,” where they “fold[ed] their arms, [sat] back, and sa[id], ‘Teach me.’”<sup>69</sup>

Most of us have probably experienced the tension between law students’ self-directedness and their desire to sit back and demand that we “teach them.” Taking students to court does not alleviate this tension, but it does allow students to engage in limited self-directed learning. Although court attendance once a semester is mandatory, students are self-directed in terms of choosing the day (from a limited number of options) when they will attend court.<sup>70</sup> More significant than scheduling the date, however, is the students’ ability to direct what we discuss after court. I do not dictate what we are going to talk about during our lunch meeting. I begin the discussion by asking them what they want to talk about regarding what they saw in court, and the discussion always progresses—with very limited prompting—from there.<sup>71</sup>

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68. KNOWLES, *supra* note 53, at 58.

69. *Id.*

70. Last semester, a group of students approached me and asked whether the day they had chosen could be changed to a later date because they did not realize that they had a writing assignment due that same morning. I readily agreed.

71. While this limited self-directedness has worked so far, the research I encountered in writing this Article led me to consider other ways to foster more self-directedness in future years. For example, to temper any resistance that stems from the act of imposing my will on them (they must attend court, even if they do not want to attend court), the next time that I taught criminal law I tried to offer different experiences—including a tour of a local jail, a court observation, and the opportunity to serve as a juror in a mock trial hosted by the local bar association (in which young attorneys practiced trying their first case before real judges in the federal courthouse). My decision to offer different experiences was also necessitated, in part, by the fact that the schedules of half of my first-year students precluded them from observing

### *C. The Importance of Life Experience*

The role that experience serves in adult education is something of a two-edged sword. On the positive side, adult learners draw on a broader array of life experiences than do child learners, and these experiences can enrich everyone's learning. This idea is easily understood through the example of a first-year criminal law student who worked as legislative counsel before she began law school. That person can vividly explain statute drafting in a way that makes statutory interpretation more vibrant to her fellow students.

On the negative side, students' prior experiences also mean that they have developed "mental habits, biases, and presuppositions"<sup>72</sup> that may close their minds to new ways of thinking. The disorienting moment that attending court sometimes provides is one way to stir students into examining faulty assumptions that they are otherwise reluctant to discard.

Yet another dimension of the role of experience in adult learning theory is that adults often define themselves in terms of the experiences they have had, such as where they have attended school and where they have worked, rather than who their parents are and what their parents do.<sup>73</sup> According to Knowles, a danger of ignoring or devaluing our students' prior experiences is that "they perceive this as not rejecting just their experiences, but rejecting them as persons."<sup>74</sup> While it is nearly impossible to validate each student's prior life experience in an eighty-eight person criminal law class, it is not as hard to facilitate a discussion that validates their prior experiences in a small group of ten or eleven people. During our

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morning court, which forced me to think of alternatives. Although I was hesitant to offer the staged experience of the mock trial as one of their three choices, I decided to try it, because we spend a considerable amount of time in class talking about the different roles of the jury, the court, and the lawyers. Even though it was a mock trial, the experience of being able to deliberate as a jury after the trial helped to offset the negative aspects of seeing a "fake" trial instead of a "real" courtroom experience. Students chose among these experiences, although their class schedules dictated some of their decision-making. Although I still required attendance at one of these three experiences, my hope was that the act of choosing which one most interested them would help to temper (albeit in a small way) any residual resentment aimed at the mandated exercise.

72. KNOWLES, *supra* note 53, at 60.

73. *Id.*

74. *Id.*

post-court lunch, I often find myself asking students how their prior work or life experiences informed what they saw in court. In doing so, I am not only conveying to them that I care about who they were before they started law school (which I genuinely do), but I also find that I learn a great deal myself by listening to my students describe their previous life experiences. The act of talking with students about their prior experiences and how they relate to what they observed also begins the “exploration and reflection, then reorientation” steps that Mezirow and Quigley discuss as being critical to the process of learning from disorienting moments.<sup>75</sup>

#### *D. The Importance of Timing*

One of the assumptions underlying adult learners’ “readiness to learn” is the “importance of timing learning experiences to coincide with . . . developmental tasks.”<sup>76</sup> Since I teach criminal law in the second semester of our students’ first year, I take students to court shortly after they have received their first semester grades. Anybody who has taught first-year law students the day after they have received their first-semester grades can describe the palpable shift in class enthusiasm. Some students who have never talked in class are suddenly empowered to speak, armed with the confidence that unexpectedly high first-semester grades instill. Other students who have been steadily volunteering with keen insight withdraw behind their laptops, embarrassed by their unexpectedly poor first-semester performance even though they are the only ones who know what their grades were. Class dynamics inevitably change after students know their first-semester grades.

Taking students to court does not take away the sting of poor grades or the headiness of high grades, but the learning experience coincides with a time when students might be more receptive to it. Those who did not do as well as they had hoped are sometimes ready to depart from the typical mode of instruction they experienced during their first semester. Those who did better than they had expected are excited to see how the knowledge they are mastering

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75. Quigley, *supra* note 15, at 51 (citing MEZIROW ET AL., *supra* note 19, at 13–14.)

76. KNOWLES, *supra* note 53, at 61.

applies in the real world. And the experience helps to remind both groups of students why they came to law school in the first place: they are not just students; they are adults who are soon-to-be lawyers. Even if they do not want to be criminal lawyers, a working courtroom has an inherent energy that is grounding and invigorating. Combining that energy with the nontraditional, small-group discussion that follows is a refreshing change.

#### *E. Real-Life Applicability*

Knowles posits that adults “learn new knowledge, understanding, skills, values, and attitudes most effectively when they are presented in the context of application to real-life situations.”<sup>77</sup> One would be hard-pressed to conceive of a more real-world application than first-year criminal law students observing the workings of a typical criminal courtroom. Perhaps the only more real-world application law students could experience is the act of actually prosecuting or defending, rather than simply observing, defendants in court. To the extent that adult learning theory has “found its law school home in clinical courses”<sup>78</sup> through direct representation clinics, the act of observing court does not come close to the complex, hands-on, experience-driven learning that clinics offer adult learners. At the same time, no clinics are available to first-year students and not all upper-level students elect to take clinics,<sup>79</sup> so some students may leave law school without ever having stepped foot in a courtroom. Although it certainly has limitations, the act of taking first-year students to court fulfills modest “orientation to learning” goals. Perhaps it may also plant seeds that will encourage students to take classes—such as a prosecuting attorney clinic, a criminal defense clinic, or a trial advocacy class—that they may not have thought interesting before.

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77. *Id.*

78. Quigley, *supra* note 15, at 49.

79. Interview with Karen Tokarz, Director of Clinical Programs at Washington University from 1980–2008, in St. Louis, Missouri (Mar. 3, 2008).

*F. Jumpstarting Students' Motivation to Learn*

Social science research reveals that “normal adults are motivated to keep growing and developing, but . . . this motivation is frequently blocked by such barriers as negative self-concept, inaccessibility of opportunities or resources, time constraints, and programs that violate principles of adult learning.”<sup>80</sup>

It is impossible to address all of the motivational barriers our students experience on a day-to-day basis, let alone during the course of their first-year curriculum or their three-year law school education. To the extent that taking first-year students to court reaches some students who might not otherwise be reached, it is worth the effort. The downsides of additional time required of both the students and the professor and basic resistance from self-directed learners are largely offset by the benefits it provides.

CONCLUSION

Although my first foray into taking criminal law students to court served the basic goals I had intended (as well as some I had not), I changed how I executed the idea the next time I taught criminal law, and I am sure I will keep fine-tuning it for years to come. Once I saw the potential it offered, my goals expanded to match that rich potential. Foremost among my goals is developing better ways to explore and reflect on the experience. Because the disorienting moment is only the first step in the process—and because students do not fully learn from the experience unless they can “explore and reflect” before they then “reorient”<sup>81</sup>—I am trying to ensure that the courtroom observation does not stop with the experience of going to court, and that students continue learning from it through broader opportunities to explore and reflect on it. For example, in addition to our small-group lunch discussion, I am considering adding the option of completing an open-ended journal entry to encourage students to

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80. KNOWLES, *supra* note 53, at 63 (citing ALLEN TOUGH, *THE ADULT'S LEARNING PROJECTS* (1979)).

81. *See supra* Part I (citing Quigley, *supra* note 15, at 51 (citing MEZIRROW ET AL., *supra* note 19, at 13–14)).



“explore and reflect on” their observation. As a further incentive to complete the journal entry, counting the journal entry toward bonus points within their overall participation grade for the class may provide students who do not enjoy public speaking a different avenue in which to have their voices heard.

I am also brainstorming new ways to “reorient” my students to our full class once they have completed the observation experience. The reorientation step is complicated because of the staggered dates on which the observations occur; I cannot take eight different small groups to court (or jail or prison) on the same day, so by the time we have worked through all of the small groups, several weeks have passed. The difficulty of the reorientation step, however, should not discourage me from attending to it. I am considering ways in which an out-of-class assignment, or our class web site, or perhaps another journal entry, might help students work through the staggered reorientation process. My goals for the reorientation process include the larger goals of helping students to approach our criminal law readings and exercises differently, as well as the broader goal of approaching their law school education differently.

In closing, in addition to the enormous potential for fostering discussions about the interface of social justice and criminal law, the experience of going to court with one’s students and meeting with them afterwards also gives a professor a chance to meet with her students in small groups, out of the classroom, in a nontraditional learning space. That act alone helps to break some of the ice within the larger classroom space.<sup>82</sup> It helps the professor get to know her students a little better,<sup>83</sup> it helps the students get to know their

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82. See *id.* at 92 (explaining that, “[s]ubstantial research on effective teaching in higher education documents the importance of student-faculty contact,” and that “[s]tudent-faculty contact has positive effects on students’ educational goals, satisfaction with their educational experience, tolerance for ambiguity, intellectual independence, and persistence toward their degree”).

83. Among other benefits, meeting with students in small groups at the beginning of the semester also helps the professor learn students’ names, which is a critical step in creating an affirming environment in the classroom. Kent Syverud, *Taking Students Seriously*, 43 J. LEGAL EDUC. 247, 248–49 (1993) (discussing how learning the names and faces of one’s students is important to creating the right atmosphere in class). See also Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. LEGAL EDUC. 75, 88 (2002) (“Perhaps the single most important thing a teacher can do to create a positive climate in the classroom is to learn students’ names.”).

professor a little better,<sup>84</sup> and it might also create a disorienting moment that helps students begin to broaden their thinking about criminal law—and perhaps their law school education.

Taking students to court is a small, relatively easy-to-implement suggestion that carries the potential to reap immense rewards. The relative smallness of the idea may also be its biggest strength. In his book, *The Tipping Point*, Malcolm Gladwell explains how a “tipping point” is that magical moment when an idea crosses a threshold, tips, and spreads like wildfire.<sup>85</sup> As new law professors brainstorm ways to complement and strengthen the existing first-year curriculum from an adult learning perspective, maybe taking students to court is the kind of idea that crosses a threshold and spreads like wildfire. Or maybe it simply sparks discussion of other ways we can accelerate change. As long as we are talking, brainstorming, and striving, we are well on our way to improving our students’ education.

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84. See Hess, *supra* note 83, at 89 (explaining that familiarity among a teacher and her students, “through office hours, lunches with students, or attending student events” *outside* of the classroom, importantly affects the teaching and learning environment *inside* the classroom).

85. MALCOLM GLADWELL, *THE TIPPING POINT* (2002).