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Writing Our Lives: Making Introspective Writing a Part of Legal Education

James R. Elkins

West Virginia University College of Law, james.elkins@mail.wvu.edu

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**WRITING OUR LIVES: MAKING INTROSPECTIVE
WRITING A PART OF LEGAL EDUCATION**

JAMES R. ELKINS*

I. INTRODUCTION

In legal education, there is much we overlook as we “train” students to take their places in the legal profession. We have forgotten, by widespread, unspoken agreement (if it can be said that we ever knew), the value of introspection. By making introspective writing a part of the law school experience, we law teachers might begin to see how our students are living out, living with, and living against their schooling in legal discourse. One might “revision” a legal education that weaves into the tapestry of professionalism the feelings, perceptions, values, ideals, dreams, fantasies, and pathologies of those who seek to make a life in law.

The work a lawyer does, the listening and talking we do with clients, the way our encounters and interactions with clients are imagined, conceived, and executed, cannot be divorced from the feelings, fears, failures, hopes, and dreams of the person who is the lawyer. It is this subjective dimension of professional life that we take up in introspective writing.

* Professor of Law, West Virginia University. I wish to acknowledge the assistance of Ruth Knight, my colleague, friend, and fellow writer, for her efforts in helping me untangle and organize the quotes selected for this Essay.

One effect of learning, knowing, and practicing law is that it pushes us to be one kind of person rather than another, bringing satisfactions and pleasures, and also fatigue, alienation, and disenchantment. Only if the lawyer were able to view herself purely as a technician, only if her professional work were purely routine, would it be possible to study and understand law, to learn and perform the lawyer role, without the subjective dimension we capture ever so fragily in our introspective writing.

The writings of my students about their experience in legal education and how it has affected their lives has touched me deeply. Their stories of concern, anger and outrage, fear and anxiety, and resilient hope have made me a critic of what we do in legal education. When students write about their lives, we learn that there is more going on in the barren hallways, regimented law school classrooms, and inevitable late-night musings of students than any one of us might have imagined. Reading the introspective writing of law students has changed my teaching and the way I think about legal education.

My students did not write about their lives in legal education with the idea that their experiences, excitement and dismay, exhilaration and failure, triumph and despair would warrant an audience beyond that of their teacher. While their introspective writing may have been initiated as an academic exercise, it ended up being more than that for me and, as I present here, for many of my students, who learned how introspective writing can be used as a tool of learning.

I first asked students to write journals in an Introduction to Law course. I sought to have students actively and imaginatively participate in their introduction to law and to use the course and the journal as a way to reflect on their efforts to forge a lawyer identity. I speculated then, and have confirmed many times since, that it was some story or another that brings one to law school, and that the articulation, explication, and interpretation of this story (or stories) can and should be made a part of one's legal education.

I envisioned introspective journal writing as a way to question how lawyers live, the choices lawyers are asked to make, and how they adopt legal personas and thrill in the wearing of legal masks. We need questions that will provoke us to move just far enough beyond our everyday routines to see what kind of story we tell with the knowledge and skills we acquire as lawyers. We need the imag-

ination of our questions; questions and imagination provoke introspective writing and storytelling.

For many of us, there is a need for more truthful stories than the ones passed on to us, those we see lived around us, and even those we find ourselves living. We seek stories that are more truthful because they reveal how we "give in" and "give up," how we succumb to routines and conventions, and how we let the lawyer life we had hoped to live slip away from us and get telescoped into a hand-me-down role that someone else has designated for us.

When I first asked students to write journals, I did not offer guidelines or explanations for their writing. The lack of structure was prized by some and disturbing to others. Many students seemed unprepared and unwilling to take on the responsibility implied in a writing project that did not lay out explicit guidelines on how to proceed and what to write. Some students were concerned about how introspective writing could be evaluated. Notwithstanding these concerns, the first year I offered the journal writing alternative, approximately two-thirds of the class of 75 students elected to write a journal rather than take a more traditional, take-home essay examination.

Basically, students assumed the risk of introspection and proceeded to take seriously their own experiences of how they were being introduced to law. Others, less bold, succumbed to anxiety and confusion. Together, we were the adventurous, the anxious, and the confused, all venturing into the unknown; we literally did not know whether our journal writing would turn out to be educational or relevant. (I say "our" writing because I was writing along with my students.)

Our fears and anxieties (always associated with some conception or other of what we assume to be reality) are not easily escaped. In response to insistent pleas from the less bold among us, I tried to articulate how introspective writing might locate a sense of self that would have relevance to an "introduction to law." I willingly confessed to having developed no "objective" criteria for the evaluation of introspective writing. I did not try to hide what I did not know. The students were informed, just as we lawyers inform our clients, that final outcomes cannot be predicted and that the choice to go ahead must be taken without guarantees. Some efforts at introspective writing, I speculated, would be "better" (more poignant, evocative, meaningful, creative, powerful) than others. (One might note that "objective" grading schemes do not escape

subjectivity. We can be as "objective" about introspective writing as we can about law itself.)

As consolation for the absence of explicit criteria for evaluating students' journals, I made known my willingness to talk with students about their writing. The only condition was that drafts of journals would not be evaluated for grading purposes until the end of the semester (a common practice, albeit often criticized, in other law school courses). I wanted to reflect on the writing as a whole before making final judgments about the quality of the writing. (A final judgment is never so final as we might assume.) I assumed that, over time, one could grow into introspective writing, that some who do it poorly initially will improve and that premature evaluative judgments would undermine their efforts.

The second time I used journals I was less successful in evoking the sense of shared risk-taking, personal responsibility, and appreciation of mystery that surrounded those first efforts. Virtually the entire class elected to write journals. Journals were "in." The collective anxiety and confusion of the previous year had been forgotten. There were, I was told, rumors that journal writers received better grades than did test-takers. My records indicated otherwise, but efforts to dampen the rumors were less compelling than the gossip. As a result, some students plunged into their first efforts at introspective writing as a way to insure success in the course. As students learned that their instrumental motives would not sustain them, the collective confusion and anxiety about the "novelty" of journal writing in law school became even more evident (and for some more debilitating) than in the first year I used journals. Consequently, I finally provided the journal writers with a memorandum that suggested myriad purposes one might consider in writing a journal. I pointed out that introspective writing made it possible to determine and articulate personal goals for journal writing and, keeping the context of the overall purposes of the writing effort in mind, the writing could be partially evaluated in terms of purposes made explicit by the writer. Few actually accepted the invitation to set out the goals they were pursuing. (There was no penalty for failing to discuss their goals and objectives.) I continued to assert that introspective writing was an invitation to explore their own interest in the law and to see how their views and visions were affected by their legal education. I pointed out that writing a journal does not necessitate disclosure of intimate matters or personal secrets: introspective writing need not be overtly confes-

sional. I did indicate I expected to find some mix of insight and common sense in their reflections on their introduction to law. I noted that my interest was in what was happening to them as students, as students of law, and how they might use this experience to understand what it means to become a lawyer.

“How can I know that my writing is responsive to the concerns that you as a teacher have for me?” I was asked. The question was presented in various ways, some appealing, some crude. One student noted that the idea of receiving a grade on her journal was something akin to a grade on her life. I responded that the idea of a graded journal was paradoxical, at once absurd, as she had suggested, but also as dependent on common sense as any difficult judging we do in professional and everyday life. Each journal, I speculated and later confirmed, is paradoxical in that it is unique to the writer, and at the same time an expression of hopes and dreams, failures and fears that we share with others.

In response to persistent questions about the “evaluation” of the journal, I outlined the following questions: In what ways is the journal of interest to you as its writer? Would the journal be of interest to someone who is trying to decide whether to attend law school? To someone who now practices law and reflects on their years as a student of law? To someone like your teacher? Who would want to read your journal: your spouse, your friends, your parents? To what audience is the journal addressed? In what language, what “voice,” does it speak to its readers?

I asked the journal writers to reflect on how to use the journal to address their concerns about legal education, their fears, and their failures, and how these subjective elements of their education could be used to promote rather than undermine their efforts to become good lawyers. I asked them to focus on how learning the skills and knowledge implied in legal discourse empowered and disempowered them as future lawyers.

In mid-semester, another wave of collective anxiety washed over us and I provided a more detailed memorandum:

Writing a journal and sharing it with a critical reader who has had experiences similar to those of the writer can be exciting for both writer and reader. What is it possible to say in such a mode of expression? Will a reader be able to understand it, to read between the lines if necessary? What meaning can reader and writer share?

Journal writing involves description and explanation at one

level and a search for meaning at another. A descriptive journal can be a diary (private) or a journalistic account (public). But a journal with depth reflects the writer's soul, time, and community—the writer as a whole person. The journalist works to define a view of self. If the writing is an argument about oneself, the argument must be supported. For the journalist to write, knowing that her writing will be disclosed, is to engage in public explanation and argument about the nature of the world and her experience of that world. Such a journal is not merely public disclosure; it is an intellectual and cultural activity.

The central focus of a journal reader (who is a teacher) is to read and judge the work. The reader asks how the writer has acted upon and with the language used. In this context, "language" means something different than selection and usage of words and phrases; it means the way arguments and explanations proceed, how resources, form and substance are used to structure the journal. The reader also wants to know how the journal writer sought to claim and establish the meaning of the activity for self and for the reader. As journal writers and readers, we take what we know of ourselves—existing conventions, expectations, experiences, understandings, and relationships—and create something new, something which exist [sic] now in a concretized "public" form. In our journals we begin to explore the relationship of self to others and the world.

The following questions are ones that I will take with me to the reading of your journals: How do you define yourself in the journal? What sense of identity do you ascribe to yourself in the writing? Is the self "pictured" at all? If not, how is it obscured, hidden in the writing? What kind of changes in self are experienced and reflected over the course of a semester's work? What ideals are represented? In what sense do these ideals help define the writer? How do you locate yourself in the world beyond law school? How is the law school world defined, described, lived? Is it a world that threatens, nourishes, overwhelms, seduces? What place do you make for yourself in this world? Do you cope, subdue, conquer it? How are relations with others defined? Who resides in the worlds that you have located for yourself? How are relations with other students, teachers, friends, family described? How do these relations change as a result of being in law school? What relationship do you have to the journal? How did you choose to do a journal instead of taking a traditional test? How does the motivation in electing to do the journal affect the writing? How does sharing the journal with a teacher affect the writing? Do these views change over the course of time? What kind of form does the journal take?

How does the form relate to the meaning of the journal? To whom is the journal directed? How does the "form" and "meaning" of the journal relate to the audience? How can other readers and writers judge the work?

Notwithstanding their anxiety, few students responded directly to the questions presented in the memorandum. Yet, few found it possible to avoid them. This is the way one student addressed himself, in his journal, to the questions:

If I could type as fast as I could think this journal would be quite a literary work. But, alas, I have resolved that I'm going to keep my exposition confined to whatever I feel like writing down at the time—I can't conceive of you asking any more of one than that. At this time you're probably saying that if I spent as much time writing down the worthwhile things as I did bitching, I would be all right. This is an assignment of infinite proportions and I'm attempting to focus your attention on my perspective (and to the limitations that must necessarily be imposed). As I've reflected upon this journal, I've tried to see whether I satisfied my objectives that I've stated throughout. I believe I have to the extent possible to do so. I cannot come up with any final definitive answers to the questions I prefaced—but then, that wasn't my intention. My main concern was to focus on many of the issues that had become nagging to me from the outset of my legal career. The course and journal have been good for me in the sense that I have been able to structure class effort and time to these problems and have been conscious of them throughout the semester. It has been interesting and consoling that my apprehensions and confusions into [sic] the legal profession are shared by others. I have found this out both in and out of class with the other class members and have made new friends through this course. It does one good to know that his bitching and cynicism about legal education and the legal profession are not atypical. Maybe, with a concentrated effort some of these inadequacies can be effectively pursued and dealt with. I don't mean that this could be done overnight, but by gradual integration of such philosophical principles when each of us is practicing law or by airing our differences with the Bar. None of these problems are particularly monumental but the summation of them and the confusion they effect are disconcerting to the young lawyer about to enter the profession. As it turns out I don't think that this assignment has been all that rigorous as I initially thought it to be. I have tried to be as personal as possible and don't think you really expected an unabridged recitation of all my philosophical thoughts. I did find it

a meaningful learning experience, particularly as to the airing of opinions of others in class. I believe much of my confusion exists because I often think that my viewpoints are special or unique. I'm glad I've had the opportunity to find out that this is unfounded.

With this preface, leaving as it does many unresolved pedagogical questions, I turn to the student writings themselves to report on how introspective journal writing was perceived by those who set out to undertake a kind of writing so at odds with the main focus of legal education.

II. STUDENT WRITINGS

Learning law, practicing it as a lawyer, or teaching it, depends more than we have previously recognized on what we think and imagine of ourselves as persons. The continual exposure to law and legal thinking affects our inner world of images, emotions, and fantasies. Law and legal thinking, the talking and listening we do as lawyers, shape our view of the world and become a world view.

Introspective writing is one means by which we connect our knowledge and our work with our subjectivity, our sense of self. Introspective writing validates subjective experience, brings it into view, and gives it a place in professional life. Subjectivity surrounds our learning, our knowing, and our doing. Introspective writing brings the subjectivity that is always there back into conscious awareness. Writing is one way that we relate knowing to being as we unearth the stories we are living and the stories we hope to live.

As strikingly unique and idiosyncratic as are the people who seek out a life in law, common motifs and themes emerge in student introspective writing. First, there is a recognition that a personal record of law school, a record of events and experiences, is of value in understanding how law school works, how it shapes the kind of persons we seek to be, and how it hinders and undermines the ideals that we bring with us to law. In their writing, some students come to understand that their legal education has touched them deeply.

i.

This journal is probably the greatest adventure I have ever embarked upon. This is a record of my development; a living account of the adjustments and sacrifices that I have made to accomplish a goal that was set so long ago.

ii.

Writing is easier now that I have worked with journals because I have changed. I am not afraid to express or write down my thoughts and feelings anymore. The past two years have been a struggle, [sic] to find myself. I feel I have made some progress and have finally found a certain peace and happiness. I think that is why I couldn't write before and now I can; there wasn't a person within me to write, and now there is. The progress feels good.

iii.

After pursuing my journal the truth of the expression, "Every opinion is a confession," was brought home to me with convincing force. These entries were written by past selves, some of them do not even like each other, some of them are hardly expressed except in writing, none of them alone are I, [sic] all of them grow old. I think perhaps I revealed more of myself (to myself, let alone the reader) than I expected to. I also feel that the journal is incomplete, I haven't told the whole story or expressed my complete self. With this in mind, I have resisted the impulse to edit for consistency or to rearrange the order in which the pieces were written, hoping that the whole will exceed the sum of the parts, and, with the risk of being understood, leaving it to the reader to make some connections which are implicit in the material.

Students found journal writing a tool for reflection, a method for reclaiming insight into an environment in which some part of the self is lost, forgotten, and masked.

i.

I've never tried to impart any understanding in this way to anyone except God. Now He and I talk about my life all the time. Well, actually I do most of the talking: He listens, I hope. I suppose He has said everything that He wanted to say in the Bible. Through the inspiration of writers from Moses in "Genesis" to John in "Revelation" (King James Version), God has stated what I think are the real truths present in the universe. Sometimes it's even tougher to pull out these truths than to extract a rule of law from a case. Nevertheless, it's very difficult sometimes to convey all I want to say, through the use of a vehicle such as this one, to someone else, someone human, because I'm not divinely inspired. I have to inspire myself and that's much harder.

ii.

I have discovered many elements of my nature and my priority of values through the writing of this journal.

iii.

This will be my final journal entry, I will miss this outlet and am considering continuing it. It has provided a constant "ear" and permitted me to view my own development from a time prior to law school.

iv.

The journal has helped me tell myself "to wake up and express myself."

Writing concretizes dreams, hopes, fears, frustrations, anger, confusion, and love. The writer takes that which is amorphous and ephemeral and makes it real.

i.

Men change their environment and are changed by it in their turn. So, this journal exercise may affect me as much as I shape it.

ii.

Written words have always had the power to tantalize, persuade and inspire me. I have always wanted to write, to be a writer. I see writing as a tool for change. There is a saying that goes something like "never listen to the first impulse of an undisciplined mind." Writing and rereading what I wrote helps me test my feelings to see if they are valid.

Validation of the personal voice can open avenues of expression and potential for change and stimulate an empowering image of an inner self. Some students see writing as a means of problem-solving, of working through and clarifying life's complexities. Some become confident that they find "answers" in writing.

When writing introspectively, students frequently turn to the task of reshaping and "revisioning" the relationship of who they are as a private person to the public professional self that emerges during the course of their legal education. Some students dealt with the personal/professional split by consciously (or subconsciously) compartmentalizing the subjective and objective in their writing.

i.

When I think of a journal, I usually envision a memorandum of appointments, the secret diary of a teenage girl, or the memoirs of an old man. I am neither a teenager [n]or retired and since I already keep a boring memo of weekly errands, this journal will be a highly structured account of issues important to me and my profession. I will not be dealing with my everyday subjective

impressions of my environment and myself. I'm sure my commonplace emotions are indistinguishable emotions from those of my fellow students—or indeed any student of law of the last ten years. I believe my emotions and attitudes would be more adequately revealed when turned upon a subject other than themselves. I will therefore direct this journal to a series of essays on law and lawyering.

ii.

Some of the assigned reading has brought me around in a wrenching emotional full circle. I cannot afford that kind of human commitment right now because my priority is to develop a slick non-human impersonation of an appellate advocate. The inner me and appellate advocacy mix like oil and water, and I have not, as yet, discovered a formula for blending them. In fact, I am now officially signing off until my brief is written and my Moot Court argument is over. I am putting myself safely in the folder with my writings for this class (I am so grateful to have such a folder to put me in) and in my place stands a navy blue suit, equipped with well modulated video and a theatrical mask.

Some students envisioned growth and integration and speculated on the use of their writing in bringing this change about:

i.

From this questioning, as I sometimes have done in this journal, I am coming to a greater understanding of myself as a lawyer and the legal system's role in the environment in which I will practice. The end product, hopefully [sic], will be a closer rapport with true justice, as well as that [sic] can be realized here in this world.

ii.

Today I got my first C ever. I felt stifled and unappreciated and invisible. But when I blew the dust off my journal (private journal—not for this class) and began the outpouring which inevitably helps in such situations, and then reread what I poured out, I saw growth instead of shrinking. I see that law school, in spite of its oppression, is maturing me as a person, spouse, parent, citizen, professional, church member, etc. And I thought I was all grown up ten years ago when I was twenty-one!

iii.

The journal gives a student the opportunity for self-expression and self-appraisal not found in other classes. It has been an opportunity for me to see myself grow into the experience of law school.

iv.

I am this day completely revamping my approach to this journal from a chronological "diary" to one closely connected to class materials and topics of discussion. I feel required to explain this change. For the last several class periods, class discussion has focused upon an existing tension in the legal system. This tension is formed on the one hand by the stability and consistency of the law, and on the other hand by the subjectivity of change. The latter, composed of human values, ethics, morality, etc.—the "humanistic side of law"—is one which I knew existed, but at the same time, could neither define nor explain its relationship to "the law." I perceive (somewhat belatedly) the purpose of this class: to explore the human element as it interacts, influences and defines that nebulous entity of "the law." Although slightly chagrined at not grasping this common theme during the first class meeting, I have devised an approach by which to discuss various topics that have been and will be presented by class materials and discussions. Because of my lack of familiarity with the academic device now before me (the journal), I am forced to start fresh—just as I do in [my] career as a law student. Hopefully [sic], by the end of this semester, I may reread this journal and be confronted by a clear and running thread of spiraling self-assurance (and awareness) not only in the legal environment, but also in the writing of the journal itself. The displacement of uncertainty is far from complete, but, then, so is my legal education.

Comparison of legal writing to personal writing becomes a vehicle to "bring together" the fragments of their intellectual professional lives with how they see themselves as persons.

i.

My law school writing is, for the most part, different than [sic] my personal or imaginative writing. I am expected to accurately [sic] record and analyze divergent facts. While analysis can be creative, it is nonetheless no real part of myself. As a law student I am only reacting to factual situations or to theories already formulated by others. At most I am creating theories from separate, smaller groups of ideas already formulated. Legal writing strives for succinctness. While necessary for clarity, brevity removes one's spirit from the work. When clarity is the only emphasis, writing has no soul. Legal writing can, however, be seductive at times. When I am tired or would rather not face up to the world or my feelings, I find it easier to analyze than create. In legal writing it is possible to steer wide of any-

thing that matters to you as a person, but the attraction for such analytical writing passes quickly. I need to face my feelings. That need becomes a craving until it is satisfied. My dreams become wild, my attention to detail lags. Until I write, really write, my restlessness ensures my unhappiness.

ii.

Life in law school is not structured to enable me to tap my creative outlet—myself. All week long the casebook method called [for] and demanded my attention. Getting scheduled, xeroxing, settling into study groups—these leave little time to reflect about writing.

iii.

Writing for an assignment has always been difficult. I've been afraid to sound like myself—for fear that what I'm saying isn't worth listening to. I must sound authoritative and often I find myself using words that I would never use in conversation. I'm still not sure if writing is supposed to sound like me or not. I've concluded that if the assignment involves research on a particular subject, I should never sound like me. Thought papers can sound like me. I remember handing in a writing exercise in high school that was returned to me with every "I" and "me" circled in red ink, along with a comment that these words were used far too often in this essay, that two or three times should be plenty. It had a profound effect on me. I'm still somewhat paranoid about the number of personal pronouns permitted in anything I write So far in Law School all I've written are memos and a brief for the Legal Writing course. It's something you do by writing, but it isn't writing. The memos were the easiest—research and write—"it could be this, it could be that—no feeling, no emotion permitted. The brief permitted the expression of some emotion through powers of persuasion. This was "me" talking and it involved somewhat of an investment. I wrote alone in the apartment all weekend finding it a painful process—almost like labor. It felt as if I had delivered this baby, and now a baby expert was going to look at it and he might tell me it was ugly—or worse yet, that it was dead!

iv.

School causes us to write for our teachers, others, instead of ourselves. We learn that we cannot write, that we are not worthy of writing for ourselves. This process continues in law school. When I have a writing assignment, I panic. Will it be as good as the professor wants it to be? It's so hard to write for oneself when grades and jobs depend on pleasing the professor. Why are we all so caught up in pleasing others with our writing? I associate methodical, sterile, "correct" writing with becoming a

lawyer. When I write for law school, my writing is not original, it is a conglomeration of other people's thoughts and writings on yet other people's thoughts. Everything I write down has to be footnoted! Law school has made me more confident in terms of writing correctly, but not creatively! As a woman, I write more about love, pain, coping, and relationships. It is hard to imagine a woman writing a book about fishing. When I recently began to keep my personal journal, I sat down with nothing particular in mind and simply began to write. No typographical errors to correct, no misspellings, no delay in putting ideas into words. It felt so good

v.

As I think about the kind of writing I associate with becoming a lawyer, I sense the need to be more analytical, precise, intellectual, and efficient. In law school it is easy to lose sight of the beauty of writing.

Recognizing the person/lawyer or private/professional polarity pushed some students to reach out in their writing for dreams, forgotten ideas, and the rhythms of everyday life. Capturing and honoring what they called "emotional," "dormant," "buried," and "ordinary thoughts" created a new sense of depth, even as they strove toward more disciplined, rigorous, and systematic legal analysis.

i.

I think that keeping a journal has made me open my eyes and become more aware of my surroundings. I look more deeply into things than I used to.

ii.

[W]riting [a journal] has allowed me to discover a few of my dormant thoughts about myself, the legal profession, and life in general.

iii.

Any self-reflective writing which [sic] I do is normally the result of my responses and reactions to a situation or a thought. This journal has caused me to think through things which [sic] probably would have been shelved in my mind for "later when I have time." Forcing me to think through these has been the true value of the journal

iv.

There seems to be more incentive [in the journal] to reflect on what is happening.

v.

Without the obligation of writing in this journal, I doubt

whether I would take the time to reflect on what is happening to me and around me. I would probably just take . . . things as they come and not question their significance or effects.

vi.

Journal writing is a good experience for me—[it] makes me reflect. I'm afraid that without it the business of going to Law School might become too weighty, and I would lose sight all too easily of the reasons for being here.

vii.

The journal allows unrestrained expression of response to all I can remember to write about and all I can find time to write about. It has become a rehearsal, but hopefully [sic] not a script.

Introspective writing is a way to stay on an even keel; it keeps us on track, pulling us to attend to our purposes. One student wrote, "I am depending on the journal to keep my thought processes keen, even in the tide of overwhelming amounts of case material and demand for one-lane thought." But the ego that worries about being effective and realistic, of setting goals and achieving them, also has a penchant for ignoring aspects of our lives that don't get expressed by being on track, by the linear movement from goal A to goal B to goal C. Some needs and purposes are unnecessarily sacrificed in making and achieving instrumental goals, in doing what teachers (and later, clients) ask us to do. Goal-oriented achievement poses no small danger, even as it gets us to where we have chosen to go, following the path we have chosen to follow.

i.

This journal has made me confront myself as a person. If this writing serves no other purpose, that is enough. My preconceptions about law have been blasted. I have no certainty in the law.

ii.

I am depending on the journal to keep my thought processes keen, even in the tide of overwhelming amounts of case material and demand for one-lane thought.

iii.

In legal writing it is possible to steer wide of anything that matters to you as a person, but the attraction for such analytical writing passes quickly. I need to face my feelings; that need becomes a craving. Until the craving is satisfied by writing—really writing—my dreams become wild, my attention to detail lags, and my restlessness insures my unhappiness.

iv.

My journal is still full of questions for me to resolve. Hopefully [sic], every time I am in doubt my journal will be a barometer to show me how far I have veered from my course, or how well I have obtained my objectives.

One student, writing about achieving her goal, found law school a great adventure, one that calls for sacrifices. She said of the writing: "This [journal] is a record of my development, a living account of the adjustments and sacrifices that I have made to accomplish a goal that was set so long ago." Writing is a way of seeing what our purpose is and where we have been—if not where we are going. Another student wrote:

I want to see myself in my journal. I have saved my writings for over ten years. By re-reading these writings, I can see many facets of my personality. I can read about how I express anger, love, worry, hopes, dreams, and pain. I can compare how I feel now with how I felt ten years ago. I can evaluate the changes. My collection of writings keeps me aware of what I have been through, and helps me focus on my goals.

Introspective writing is a way to explore, to discover, to see how the goals we make for ourselves in turn bring with them restrictions and limitations.

In journals there is often a sense of discovery, the surprise that there is more going on in our lives than we have been willing to admit. Journal writing teaches that we think we know who we are and we can be mistaken. Introspective writing questions the imagined, idealized self and the conventionally, prescribed routes one follows in becoming a lawyer. We discover ourselves in writing. The self we find is often one that hides to protect itself.

Students in their introspective writing are trying to say *I*, wanting to know who this *I* is, and how this *I* can be a lawyer.

i.

Writing is important to me now to help understand exactly what my thoughts are. Sometimes I don't even know what I'm thinking or feeling. When I write, I begin without a goal or idea in mind. I simply start out with a blank page and begin with a few general comments. Then come the thoughts, and before I know it my most closely guarded secrets are there on the page. It is as if I cannot help myself—my innermost thoughts slip so easily from my mind to my pen that I am hardly aware of it. Afterwards I feel refreshed, whole. I know that if I tried to explain

my thoughts to others rather than write about them, my words would be tempered by my perception of their reactions, or their needs. Only in writing am I completely free, completely open.

ii.

My writing has enabled me, for the first time, to begin to look at myself honestly. Sometimes this is very hard to do, since I still struggle with who I am and what I want from life.

I have begun a journey, through writing, where in [sic] I discover diverse sides of myself. So much territory remains undiscovered. I am beginning to risk expression that I never would have dreamed possible. I feel that I am growing and developing as a person in many new ways. I am no longer afraid of my writing. Rather, I look forward to being able to express myself, not only for release, but as a tool for reflection on who I am. My writing has taken on a whole new meaning. I am writing for me and it feels good.

iii.

Doing the journal has come at a good time for me [the first semester of law school]. It has helped me through a stressful and lonely period, a time in which the only key to survival was a dependence on the development of a source of inner strength.

When students write about keeping journals, they speak of writing as therapy and imagine it as a form of rehabilitation. This is the way one student explained it:

I write to survive. Whenever I feel a lot of pain, I write to some unknown individual, just spewing out my rage and pain. It has a cathartic effect. Sometimes when my feelings and thinking are at odds with each other, I attempt to make decisions through stream-of-consciousness writing. I make a deliberate attempt to write everything about a feeling or thought. After a week or so, I reread my writing to see how the situation has changed.

As another student dramatically put it: "This journal has given me an outlet to plug all my frustrations and problems and ideas into. It has been my psychiatrist." Others refer to the journal as a way of observing and understanding their lives.

This has been an excellent outlet for me and my frustrations and tensions. I write down my problems, insecurities, [and] feelings and then come back and read what I have written and it gives me a different and clearer perspective of the situation. Sometimes just by the actual "writing" physical tensions are released and frustrations calmed. It has been an excellent way for me to look deeper and find out new things about myself.

Journal writing is a therapeutic way of embodying and concretizing experience. In introspective writing we are able to “claim” experiences that otherwise would be denied or viewed as unimportant to the immediate tasks at hand. Introspective writing is a way to recognize that learning (and living) embodies pain, disappointment, confusion, conflict, and failure. Some experiences—the ones we hate so much to admit, the ones we dread having, the ones we hope will just go away—are the kinds of experiences that journal writing helps us confront. Introspective writing helps us see how apprehension, anxiety, anger, and fear, as much as happiness, contentment, and achievement, are inevitable *and* valuable in our lives.

When it works, a journal works as therapy because it gives whatever is troubling us, pulling us down, or moving things too fast or too slow, a chance to speak for itself. The ego crowds out the voices that don't fit easily into a chosen persona, into the demands that our teachers, clients, and the rest of world make upon us. The value of introspective writing comes from bringing back into awareness those voices trampled in the rush of everyday life. One student wrote:

Without regard to the purpose of this journal, the process of drafting it over the semester has been a valuable experience in itself. I have thought about things in depth, whereas without the journal, I would merely have let them pass. I have questioned and criticized, whereas without writing the journal, I would have been apathetic. But, most importantly, I have forced myself to take a step back from “all of this” [law school] and try to gain a perspective of it, whereas without writing the journal, I would not even have attempted this. In essence, the journal has been very beneficial to me, even if I have not created a “purposeful” or “good” journal.

Writing a journal is difficult. With the best intentions, it remains difficult. One student put it bluntly:

I'm stopping right here in my journal and leveling with you. The wealth of materials and their inducing thought-provoking issues bums me out as to the amount of work necessary to make this journal a genuine reflection of my thoughts upon these respective areas. These schools of thought are altogether too extensive to sit down and write my thorough opinions on the matters presented. I feel like tossing this journal into the wastebasket. I am not disciplined enough to sit down and write a twenty-page paper on each theorem touched upon in our reading and class discussion.

Often we are not sure how a journal works, but know it is something we “should” do. So we write a little, get caught up in the immediate demands that are being made on us and forego the writing. A teacher colleague, Tom Shaffer, writing about his efforts to keep a journal, says:

I started a journal once. I started it at a time and for a reason that I thought was very original. It was the day John F. Kennedy was shot. I remember feeling that I had to record what I was feeling. I found out later that this was a decision I shared with many other people. I continued keeping that journal for almost a year—until the stresses and strains of married life and the responsibilities of caring for small children interfered with the time I felt I should be permitted to spend on myself.

We may feel guilty and promise ourselves we will do better in the future, and still not do it.

Writing a journal for a law school class is difficult for all the reasons that any serious writing is difficult.

i.

At the outset, I should say that the thought of keeping a journal scares me. In the past, I have had bad luck in keeping them for several reasons: my high school journals have tended to take the form of diaries; I have found that I lack the initiative to keep up with them; I never know what to write about. As this will be my first real attempt to keep a journal, and as there are two credits riding on it, I must put some effort into writing it and see if I can learn from it.

ii.

This journal is mammoth! I can't believe I wrote so much. I'm grateful to be forced into doing it because I'm afraid that laziness would prevail were there a choice. My entries in my personal journal have become few and far between. Do I justify that because I am doing this?

The first difficulty in introspective writing in an educational setting is to come to terms with the knowledge that the journal is being written for a teacher to read.

i.

I like to write off the top of my head, but when I write for others I am so concerned about sentence structure, [and] grammatical errors, that I lose inspiration.

ii.

I feel uncomfortable knowing someone will be reading what I write. I'm never sure if it's what is expected of me, and I'm

always eager to supply what is expected. I feel a need to explain things in far more detail than is necessary, for fear that the reader will not understand what it is I'm trying to say.

iii.

I'm not terribly comfortable writing this journal. I find myself weighing some phrases and changing them for effect while other times I say, "What the hell," and write something I probably don't believe too much. Writing a journal is a strange process and I'm always surprised afterward when I look back to see what I've written. My only hope is that you have read many journals in your teaching experience and have developed some expertise in evaluating them.

iv.

I understand that I'm doing this journal at my own option and plan to finish it but I've got the feeling that I may not fulfill your expectations. But then, I'm not sure I need to do that, by my reasoning, because my overall goal is to do this for my own benefit. I only hope that I can relate some of the thoughts that cross my mind and somehow show you that I'm thinking about the issues involved. After all, the criteria involved in writing a journal should be personal and expository but can't be objective. Your zealotry to these topics is intriguing, informative and enlightening—it scares the hell out of me though.

v.

I hate writing! Why? Because everyone says I can't write and I believe them. I look stupid when I write. I feel better in a discussion, especially an involved dialogue between two people exchanging points of view. I get nervous when I write and usually put it off to the last minute. Then I waste time staring at a blank sheet of paper—jotting a sentence down, erasing it, jotting another sentence down, scribbling it out, feeling bad because I can't write, feeling stupid and starting the internal dialogue: "You should be able to write. You're 31 years old, in law school—you are going to have to do this someday." Answer: "No, I won't! I'll hire someone." Therefore, if I put it off to the last minute, then I have to do something and I don't have time to worry about [sic]. The most difficult thing about writing is trying to figure out what to say. Even when I've done all the research for a law school assignment and I don't know what to say. I get this panicky feeling. All my ideas get jumbled. I can't get them straight. Sometimes I doubt that I understand the assignment and/or the law! This is the first time I've ever felt comfortable writing because I have strong feelings about this subject, and I don't feel like I have to proofread it for spelling errors. (I cannot spell—I don't even know the correct form

of does/or [sic]. I've tried—I even wrote it 50 times—but the next time I used “does,” I got it wrong. And my grammar is bad. When I was in school the teacher would say “Let's do literature—you will learn grammar later.”) My, this is cathartic—I really hate to write—truly hate to write. I hope I have the nerve to have this paper typed. This assignment is too easy. I'm actually enjoying it. I know I shouldn't be. I just reread this paper. My initial feelings are: (a) I don't think that this is what the professor wants; (b) This sounds stupid; (c) This doesn't look like a writing is supposed to look [sic]—with an introduction, logical development (with interesting twists) and conclusion. However, this is how I feel about it. I don't think of writing as a form of expression. Writing is a torture to be endured.

vi.

My writing is in response to others—assignments, reports, memos, and letters. My writing was to please others and not myself. My only concern was getting it right for the satisfaction of the reader. I was afraid to write my own thoughts, fears, dreams, goals, and frustrations, so my first subjective writing had a very objective tone to it. I tried to write what I thought was expected from me and what the reader would want to hear. This was so frustrating that, in a few isolated instances, I tried to explain the frustration. I seemed to be able to articulate the frustration best when I felt strongly about a certain subject, such as being called on in class for the first time. Strangely, the very process of writing enabled me to begin to pinpoint many of the reasons for my feelings of frustration, anger, confusion, hate

It is when we write for others that we experience the fear of revealing too much.

i.

As I sit here writing all this often personal stuff, I can't help but wonder what you must think of me. I'm trying in this journal to be as honest about myself as I can. Naturally I've shaded some areas and much of what I write intended to portray a certain image. I keep thinking that you might be well versed in psychology and are finding all kinds of behavioral tendencies and personality defects in my words of wisdom.

ii.

I would like to be in your place, reading hundreds of neatly-typed pages in which first-year students expose their genitals to an unseen and unresponsive audience. The power you have is enormous. By assigning this journal, you have created a key

into the private world of people who would never openly expose themselves so easily. You can discover the desires, fears, wants and needs of students who in the normal course of events present a confident mask to others, hiding these same desires and fears. I hope you are enjoying this intellectual peep-show.

iii.

I worry that someone will find out too much about "me."

iv.

I've put off beginning this journal for several days. The idea of putting my thoughts down on paper for others to see makes me nervous. During my early teens, I kept a diary. I wrote in a deluxe dime-store edition with lock and key. Even with the security of a lock, I still dreaded some family member would read those secret thoughts and I'd be exposed. Hence, I wrote to myself in a secret code that was actually an abbreviation of words, and vowels. Tdy went ovr Ptty's hse, etc. As I read over those entries later in my life, I had to smile at that previous little person supposing her mundane activities would ever be the subject of controversy.

v.

Sometimes, I think if I look at myself too closely, that I might be frightened by what I see. I may discover someone who I am truly not aware of. This makes writing a frightening experience.

vi.

In some ways, I've used this journal to escape. I've commented on the readings, but seldom in class. I've used the readings to construct the journal, but in some ways, I've used the journal to escape the class, and to avoid revealing too much of myself.

vii.

I am beginning to have second thoughts about this journal (or whatever you call this bizarre writing I do). I identify with the stereotyped, sheltered, naive, Victorian woman who finally and inevitably opened herself to a man, trusted him, and risked the only part of her she thought had any value. The Victorian man, typically worldly and experienced, accepted the invitation. All he had to do was go in. He did not have to trust her with anything precious, risk any fragile essences of himself. She did not demand anything personal from him in return, because neither of them defined his role as a personally giving one.

viii.

The writer who opens herself, fragilely risks her own essence. She trusts and trusts. Often she does not even know the readers she is inviting in; sometimes it is worse if she does. I mean, I could really get in trouble—and much worse, I could get a friend in trouble—for not reporting a possible breach of the

honor code. I blabbered indiscriminately about professors and students. I identified my personal and professional inadequacies. I did it not to gossip or open worm-cans, but to understand what is happening to me in law school But I would hate myself if I hurt someone. I meant to write only about law school. But law school is so pervasive that when I write about it I wind up telling more about the personal me than I want to. When I reread my words I realize that unspoken thoughts (some are so deep that no words even exist for them) are oozing up. Readers may see things about me I cannot see myself. I am seeing intellectual materials for the first time which deal with issues I previously muddled with in this journal. Real writers, professionals, who know what they are talking about, have established niches into which I fit, into which a knowledgeable reader could shelve me, exposed. And that feels like crud. On the other hand, the reader does not have to trust, give, be niched, or risk—but can just come in when invited and leave at will. I do not want all who read my writing to embarrass me with details of their personal relationships, how they threw up after their first semester law school exams, or the lurid fantasies they conjure when they cannot sleep at night . . . but still I am unsettled about the one-sidedness of the reader-writer experience and do not know how to deal with it. I am uneasy about a reader, with a broader sphere than mine, getting to know me better than I know myself. Is it time I “graduated” to attend responsibly to my “significant” writing? . . . “A federal court is restrained from interfering in a pending state proceeding by the time honored principles of comity and federalism in that constitutional claims would be better heard in the state forum in an action brought by local merchants against a group of unidentified boycotters. The trend of the United States Supreme Court is to extend the sound principles underlying equitable restraint to all civil judicial proceedings where” Or should I try to varnish, disguise, and “improve” my vulnerable, personal outpourings? Is there some way to varnish tastefully and professionally? Or shall I give up and go twentieth-century Victorian?

ix.

Writing is like exploring a cave—there’s no way to know what’s inside without being brave enough to look. I’ve always known that true self-exploration is best accomplished through writing. Even with this belief, I seldom write—at least to others. It’s curious that Joan Didion says that “writing is the act of saying I,” when she tells us why she writes. The act of saying I is mostly responsible for why I don’t write. This requires an explanation. Once I wrote to express my feelings to another per-

son and I have been cautious about saying "I" ever since. I thought he needed to know my feelings. He had caused me horrible pain. I packed my things and left a letter on his desk. That letter contained as much love as I had left, as much hope as I could find, and as much pain as I could feel. With a red pen, he had circled all the I's (there were seventeen—I'll never forget!). I learned that women aren't supposed to put themselves first. Now I write only when I feel it is safe to put myself first. I worry that I'll sound too self-centered.

When we reflect on our own lives, we run the risk of self-discovery. Some journal writing reflects impoverished imaginations: Our stories can be as poor as our pocketbooks. Some images and stories enslave us. The writings that embody them are reflections of the way we live our lives.

Introspective writing is difficult. Knowing that introspective writing is good for you, that you can learn about yourself and begin to understand better the conflicts and hopes experienced as a law student and lawyer, is apparently not enough to prompt a person to do it. The fact that so few lawyers and others in public life keep journals or do any kind of sustained introspective work suggests not only the difficulty of introspection, but an attitude toward it. The demands and intensity of our "public" lives orient us toward power and action and lend an aura of indifference to the subjective and narrative truth that we associate with our private lives. The habits of journal writing and introspection are discouraged in a world dominated by prescribed (and adopted) conventional notions about what it means to be successful.

The routines of everyday professional life—meetings with clients and other lawyers, court appearances, papers to be drafted and filed, briefs to be written—make for busy, crowded lives. Who has time to think, or write, or keep a journal? Busy people have no time to read, no time to write, no time to think about their own lives, no time to tell stories. The busy lawyer tends to justify his life by telling himself, "I don't have time to do anything else." It is this experience of being rushed, of not having time, that becomes a defining feature of our legal persona, our relationship with clients, and our relationship with our own life stories. We avoid introspection. We impoverish our lawyering, living our lives on the run. This experience of lawyering and everyday life, with the conflict it creates and the frustration and burn-out it ultimately produces, is

an opening into understanding who we are, what we have become as lawyers, and the uneasy place we find for ourselves in the world.

III. CONCLUSION

A final practical note about the use of introspective writing in legal education. Why would any law school teacher use reflective writing, or indeed any other innovation, in their teaching? I turned to reflective writing and other innovations in teaching not because their value can be proven, but because the value of what we do by habit—and legal education is shaped and formed by the habits of Langdellian pedagogy, positivism, and professional instrumentalism—has been subjected to fifty years of searching critique. Teachers, innovative and habit-bound, agree that something is wrong with legal education.

The only way I know how to live as a teacher with what I feel, see, and know by confirmation from others (in what I read in the scholarly and introspective writing of law teachers and law students), is to teach in ways that cut against what I know and feel to be wrong. Having no authorization, self-declared or socially-sanctioned, to change the world of legal education, I seek to change my own teaching and the classrooms in which I teach by bringing to the classroom every innovation that brings Langdellian teaching into line with what we have learned about education in the last half-century of legal education critiques. I cannot, emotionally or intellectually, bring to the classroom *every* innovation that will work. Moreover, it is unlikely that every innovation will work for every teacher, or for every group of students. Some innovations pose serious threats to my own habituated ways of teaching; they threaten what I now do as a teacher. Even so, I recommend innovation. I recommend innovation in teaching so that the days of education may be less weighty in their burden and more reflective of the “unbearable lightness of being” (borrowing, unashamedly, from Milan Kundera). I recommend innovation for the sake of facing up to fear. I recommend innovation in teaching to save our souls as teachers.

Will encouraging students to engage in reflective writing save *your* soul as a teacher? I cannot imagine that it will if you ask students to do what you as a teacher are not willing to do yourself. Will reflective writing save the souls of our students? Only the starry-eyed fool would purport to assume that it would. Is reflective writing an innovation worth experiment? Yes, if you value risk

and see how risk-taking teaches, and how risk is an unexplored (and untaught) feature of the practice of law. Reflective writing is a risk, for those who engage in it as well as for those who eschew it. (Some find no risk where others experience it first-hand and tremble at its implications.)

The teacher confronted with innovations in education, like introspective writing, is presented with a practical problem and a question of identity. The practical problem: Will this innovation work for me? Is it worthwhile? Will it be worthwhile for my students? The problem of identity: What does this innovation say of my teaching? What kind of assumptions have I made as a teacher that draw me to this innovation? What does it say of my teaching that I am fearful (or repelled by the thought) of bringing innovations into the course I teach? What kind of identity does it make possible for me and for my students?

Not every innovation is a worthwhile one. Some innovations work for some teachers and not others. How can I know the value of reflective writing and whether it "fits" me and my teaching? It is our world view as teachers, our identity in and out of the classroom, that pulls us toward one or another stance in response to innovation and the questions it evokes about our teaching. Should you ask students—in jurisprudence, clinic, appellate advocacy, interviewing and counseling, constitutional law, or torts—to write in a reflective, introspective fashion about what they are learning about the law and the obstacles they face in learning what you ask them to learn? The answer depends on the intrinsic value of reflective writing and on you the teacher.

Imagine a teacher who knows her teaching to be worthwhile. She knows some area of law and, from all accounts, she knows how to teach it. She knows, from following the literature about this particular area of law, that others teach it differently. She respects pluralism, follows the various "developments" in the field, and is content to carry on in her own fashion. If you "know" what you are doing and are doing it well, innovation seems unnecessary, if not trivial. Indeed, it may be both. Conserving what I "know" to be best and doing so in the face of endless novelty parading as innovation is a mark of my character as a teacher. Conserving what I do because I find it convenient, and because I am fearful of anything that does not allow me to maintain old pedagogical habits, is no virtue. Should you ask *your* students to engage in reflective

writing? It depends on what you are trying to conserve, your habits of convenience, your soul.

One of the ways we shield ourselves against the brutally self-revealing questions provoked by innovative pedagogies is to shift the burden of proof to the author of innovation. By this protective device, a teacher can conserve old habits until they are proven wrong-headed. Knowing that colleagues rarely take it upon themselves to prove another colleague's habits wrong-headed, *stasis* prevails. A teacher bent on self-protection asks not what the innovation demands of her, but holds out a list of demands to be met by those who offer the innovation. The demands (and the skepticism they embrace) are always presented as "reasonable" questions about possible ill effects of the innovation or whether the innovation will have the desired effects. Will this innovation change anything? Will it actually change students? Will reflective writing change the world of legal education? Doubtless, no. Will it change students? A few, perhaps. Will it change me as a teacher? Not unless I am ready to change. Put any innovation to the test of skepticism (disguised as it so often is) and even the most limited innovation can be ignored.

Skepticism about change and the power of any *particular* innovation to bring about change gives habituated stances a semblance of reasonableness. Innovations seem always, to those who eschew them, to promise more than they can ever deliver. The cautious pedagogue believes he can "see through" innovation. What he sees is that no innovation has the power to change the world. In this view of the world nothing called "innovation" has the power to change what is already in place; we are ruled by the hollowness of skepticism.

It is not, however, just skepticism about change that blocks innovation, but a deep skepticism about our students. We (students and teachers of law) readily assume that teaching and learning is a top-down enterprise. We mistrust each other—students do not trust teachers, teachers do not trust students; our motives, habits, skills, identities, and character are called into question. Asking students to write for themselves, to write about themselves and their learning, requires trust. We pay lip-service to trust in legal education. We demand that students who set out to learn law take more responsibility for their own learning than is customary in undergraduate education. We turn to our students for help and advice as research assistants (as paid colleagues). We continue to sanction

their oversight in editing our professional journals (with a few notable exceptions). We engage students in intense classroom conversations about the law. Yet, we mistrust them still.

If you fundamentally mistrust your students, you will have this mistrust borne out when you read their introspective writing. Give students responsibility for their own learning and some will go astray. Create situations in your classroom and your courses that make it possible for students to empower themselves and they will disappoint you.

However, if you trust your students, many will perform in ways that exceed the demands that you make on them. Ask students to teach themselves and significant numbers of them will do exactly that. Ask students to teach each other and they will find a way to do it. Ask students to teach you and they will. They will surprise you and delight you in their good-faith attempt to do what excellence demands of them. Ask students, in their writing, to connect up their "inner" and "outer" worlds and they will attempt to do so, some in daringly brilliant fashion. Students, those predisposed and those initially resistant, can and do use reflective, introspective writing to fill in the holes and gaps of their "formal" education. Would these holes and gaps be filled by other means if they had not been asked to do this kind of writing? Perhaps. But then, how would we ever know? Is the measure of every human activity to be evaluated on the basis of social science methodologies?

Am I saying that trust is the answer? Yes and no. Yes, it is one answer. Does it produce better results than mistrust? Yes. Does it make every student a good student? No. Does it have a dark side? Yes, of course: We law teachers provide schooling in manipulative techniques of reasoning and rhetoric. Do some of our students turn this schooling against us? Yes. Is trust betrayed? Yes. Can you trust students to make responsible use of reflective writing? Yes and no, but it is the same "yes and no" that I find in the truthful answer to the question—can you trust students to make responsible use of the essay examination to further the learning they need to do as future lawyers?

Can you take the risk to trust your students and ask them to trust themselves and evidence this trust in their writing? Should you? Will it work out? a) Yes. b) No. c) It all depends. Is reflective writing a risk worth taking? a) Yes. b) No. c) It all depends.