THROUGH THE LOOKING GLASS: PERCEPTIONS ON THE LAW SCHOOL LEARNING EXPERIENCE

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“In all things success depends on previous preparation, and without such previous preparation there is sure to be failure.”

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I. INTRODUCTION

Oliver Killian sat across the table from his wife over a celebratory dinner. Oliver just found out that he had passed the dreaded bar exam. A sense of relief mixed with a feeling of uncertainty swirled within him. He said to his wife, “I don’t know if I am truly ready and prepared to practice law.” Many new law graduates share this feeling. Oliver had taken the traditional route for an individual to be a licensed attorney. He completed three years of law school, reading book after book to earn his juris doctorate. Then he spent additional months studying and eventually passing his state’s bar exam. Yet with
all the books and preparation for the bar, Oliver was still uncertain about whether he was prepared to practice law.

The legal system affects nearly every aspect of society, from purchasing a house to the contractual agreement between neighbors, sealed with nothing more than a handshake. The law is so ingrained in our society and is so complex that individuals usually rely upon the knowledge, skills, and expertise of legal counsel to guide them through the legal process.

Attorneys advise and advocate for individuals who navigate the legal system. As advisors, lawyers counsel their clients about their legal rights and obligations and provide clients with suggested courses of action. Because of the breadth and complexity of the law, many attorneys find themselves devoting most of their time to select areas of interest.

Recently, members of legal communities have questioned whether the education obtained in a graduate law program provides sufficient training and knowledge for new attorneys to begin their law practice. These communities urge legal educators to develop curricula that depart from the traditional methods of instruction and to find better ways to educate lawyers. Specifically, they request educators create curricula that integrate standard doctrinal courses with practical and clinical experiences to give students a better sense of the profession and more experience in practicing law.

The request to create curricula that integrate experiential learning is not new. In his seminal treatise, The Common Law, Oliver Wendell Holmes stated the most important thing in the


life of the law is experience. This Article addresses whether new attorneys believe that their law school education and experience adequately prepared and trained them to practice law. First, the Article discusses the historical roots and debates about law school education and the need for this study. Second, the Article explores the qualitative research methodology utilized. Third, this article explores and analyzes the findings and draws conclusions from them.

II. BACKGROUND OF THE STUDY

For more than twenty years, law school educators have experienced an internal struggle about whether or not they are adequately preparing students to practice law. The subject itself, legal education, has become a very controversial subject in the legal community within the past decade. There is an overwhelming perception that students have learned only what the law is during their legal education, and not experienced it. Academics suggest that law education should move away from the notion of only training students to think and instruct on the black letter law, focusing instead on the application and practice of law. In general, the practicing bar perceives that law schools fail to adequately prepare their law students for the profession. A debate remains, however, as to whether law school education should be conducted in the traditional sense of graduate education, or whether it should be modeled after professional and vocational education.

The course of study in law school usually follows a general sequence where students are required to take foundational courses during the first year of the curriculum. These include


6. Eduard C. Lindeman, The Meaning of Adult Education 10 (1926). Lindeman used the term adult learner instead of attorney. He proposed that "life is education; education is life, then life is also education. Too much of learning consists of vicarious substitution of someone else's experience and knowledge." Id. at 9-10.

7. See, e.g., Robert MacCrate, Yesterday, Today and Tomorrow: Building the Continuum of Legal Education and Professional Development, 10 Clinical L. Rev. 805 (2004); see also Walter Olson, Schools for Misrule: Legal Academia and an Overlawyered America (2011) (discussing how law schools churn out ideas and lawyers that are catastrophically bad for America).

such courses as property, contracts, constitutional law, civil procedure, torts, criminal law, and legal research and writing. After these initial standard courses, law schools develop a widespread disparity in the number and variety of courses offered. During the remaining years of law school, students take elective courses (i.e., criminal procedure, bankruptcy, water law). Educators also give students the opportunity to engage in extracurricular experiences, from participating in legal clinics, moot court competitions, and trial skills courses, to becoming members of law journals and honing substantial research and writing skills. Proponents of this method intend for the combination of coursework and extracurricular opportunities to provide the student with practical experience. In 1992, the American Bar Association (ABA) and the Association of American Law Schools (AALS) created a working group, chaired by Robert MacCrate, to explore how law schools can better prepare new law school graduates to enter the legal profession. The task force examined three key components of legal careers: first, the public and professional expectations of what lawyers are and ought to be; second, the skills and values they need in order to fulfill those expectations; and finally, how lawyers acquire these skills and values during and after law school. The MacCrate Report contained the findings of this task force.

A. WHAT LAWYERS ARE AND OUGHT TO BE

The authors of the MacCrate Report identified the primary goal of a law school education as the provision of instruction to students on what the law is and how the law should be practiced. Through legal education uninitiated novices join the


ranks of competent attorneys,\textsuperscript{13} and students are expected to master a body of skills and knowledge that "support effective legal analysis, problem solving, and advocacy on behalf of clients in real-world situations."\textsuperscript{14} Furthermore, students must learn to adhere to the highest ethical principles in the service of the greater good.\textsuperscript{15}

**B. The Skills and Values Attorneys Need in Order to Fulfill Those Expectations**

Society expects attorneys to possess a specific set of skills and values upon entering the profession of law. Law schools are expected to teach these skills and values in the legal education process. The MacCrate Report identified the skills and values that any good lawyer should have:

- Problem solving . . .
- [A]nalyz[ing] and apply[ing] legal rules and principles . . .
- [I]dentify[ing] legal issues and . . . research[ing] them thoroughly and efficiently . . .
- [P]articipat[ing] in factual investigation . . .
- [C]ommunicating effectively . . . orally or in writing . . .
- [C]ounsel[ing] clients about decisions or courses of action . . .
- [N]egotiat[ing] . . .
- [A]dvise[ing] . . . client[s] about the options of litigation and alternative dispute resolution . . .
- [B]ecome[ning] familiar with the skills and concepts required for efficient management . . .


• Be[coming] familiar with . . . the processes for recognizing and resolving [e]thical dilemmas . . . .

Furthermore, the report identified four fundamental values of the legal profession. There is general agreement that these values should be incorporated into legal education. These values are:

• Provision of [c]ompetent [r]epresentation . . . .
• Striving to [p]romote [j]ustice, [f]airness, and [m]orality . . . .
• Striving to [i]mprove the [p]rofession . . . .
• Professional [s]elf-[d]evelopment.

16. See MACCRATE REPORT, supra note 11, at 138-40.
17. See id. at 140-41.
19. This value is directed at:
   (a) Attaining a Level of Competence in One’s Own Field of Practice;
   (b) Maintaining a Level of Competence in One’s Own Field of Practice;
   (c) Representing Clients in a Competent Manner.
MACCRATE REPORT, supra note 11, at 140 (cross-references omitted).
20. This value is directed at:
   (a) Promoting Justice, Fairness, and Morality in One’s Own Daily Practice;
   (b) Contributing to the Profession’s Fulfillment of its Responsibility to Ensure that Adequate Legal Services are Provided to Those Who Cannot Afford to Pay for Them; [and]
   (c) Contributing to the Profession’s Fulfillment of its Responsibility to Enhance the Capacity of Law and Legal Institutions to Do Justice.
Id. at 140-41 (cross-references omitted).
21. This value is directed at:
   (a) Participating in Activities Designed to Improve the Profession;
   (b) Assisting in the Training and Preparation of New Lawyers; [and]
   (c) Striving to Rid the Profession of Bias Based on Race, Religion, Ethnic Origin, Gender, Sexual Orientation, or Disability . . . .
Id. at 141 (cross-references omitted).
22. This value is directed at:
   (a) Seeking Out and Taking Advantage of Opportunities to Increase His or Her Knowledge and Improve His or Her Skills; [and]
   (b) Selecting and Maintaining Employment That Will Allow the Lawyer to Develop As a Professional and To Pursue His or Her Professional and Personal Goals.
Id. (cross-references omitted).
The MacCrate Report examined how to improve the preparation of attorneys for practice to achieve these skills and values. The report concluded that what law schools teach has become divorced from what students need to know to be prepared to practice law upon graduation. Since the publication of the report, many have lost faith in the ability of the current law school model to prepare attorneys to practice law. Many practitioners and academics argue that law graduates are ill-equipped to be effective as beginning lawyers. This disconnect has created a gap in beliefs about whether traditional academic and analytical education is more beneficial than experiential learning settings, or if there is a demand for a blend of both methods.

C. ACQUISITION OF THE PROPER SKILLS AND VALUES

In 2007, two reports were published that followed up on the MacCrate Report. First was the Carnegie Foundation’s two year study entitled Educating Lawyers: Preparation for the Profession of Law, which furthered the findings of the MacCrate Report. The report suggested that it was time to merge the two sides of law school education: formal knowledge and the experience to practice. The report found that the three fundamental areas to focus education on were (1) legal analysis, (2) developing the skills and values identified in the MacCrate Report, and (3) professional identity.

Second, the Clinical Legal Education Association (CLEA) presented the Best Practices approach for law school curricula that prepare new lawyers in order to further examine what the MacCrate Report started. The Best Practices approach articulated the philosophy that law school programs should equip law students to acquire the skills, values, and competencies they

24. See Chanen, supra note 4, at 44.
26. See generally SULLIVAN ET AL., supra note 3.
27. Id. at 12.
28. Id. at 12-14.
will need to carry out their professional responsibilities upon entering the legal field, and further to develop the competencies required for their first professional jobs.30

These three reports suggest that the skills and values identified should be incorporated in some form within law school curricula.31 By incorporating these skills and values, students would have a "better grasp on skills necessary to be . . . effective practitioner[s]."32 Intriguingly, adult learning theories, like andragogical principles that highlight experiential learning, may provide the answer.

The traditional approach to legal education seems to be at odds with the major premise of adult learning theories, i.e., andragogy and experiential learning theory, which focus on the premise that experience itself provides a rich resource for learning.33 Traditional first-year legal education places the law professor in the position of an expert, and teaching strategies have been based upon the transmission of this expert knowledge.34 Andragogy, on the other hand, assumes the learner brings valuable experience to the learning situation, values cooperation, and involves an experiential design in the learning process.35 Experiential learning theory posits that "[l]earning is the process whereby knowledge is created through the transformation of experience."36 The principles of adult learning theory thus may provide the strongest support for preparing attorneys.37

31. See, e.g., Sullivan et al., supra note 3, at 12-14; see also Frank, supra note 10 (explaining how to use practical, skills-oriented exercises in class).
32. Frank, supra note 10, at 311.
35. See Malcolm Knowles, Introduction to Andragogy in Action 1, 10 (Malcolm Knowles ed., 1984) [hereinafter Knowles, Introduction]. Frank Bloch's article in Andragogy in Action touches upon the learner bringing valuable experience to the classroom. Frank Bloch, Clinical Legal Education at Vanderbilt University, in Andragogy in Action 227, 233 (Malcolm Knowles ed., 1984) ("Law students, like any other adults, have their experiences in life to draw upon in learning.").
37. See generally Macfarlane, supra note 33.
Malcolm Knowles, a seminal figure in adult learning, popularized the concept of andragogy. Andragogy is the “art and science of helping adults learn,” a predominantly learner-focused education. Andragogy “provides a set of guidelines for designing” self-directed, rather than teacher-directed, instruction. An instructor using andragogical principles functions more as an active facilitator of learning than a transmitter of knowledge and evaluation. “When adults teach and learn in one another’s company,” they are more likely to be “engaged in a challenging, passionate, and creative activity.” Fundamentally, andragogy redraws the assumptions of learners and teachers when planning, realizing, evaluating, and correcting adult learning.

Knowles summarized six key assumptions about adult learners, drawing from Lindeman, which he said are the foundation of adult learning. Those assumptions are as follows:

**Self-concept:** “As a person matures, his [or] her self-concept moves from one of being a dependent personality towards one of being [a] self-directed” human being. “Adults tend to resist situations in which they feel that others are imposing their wills on them.”

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40. Michael Birzer, Andragogy: Student Centered Classrooms in Criminal Justice Programs, 15 J. CRIM. JUST. EDUC. 393, 398 (2004).
41. Id. at 397.
44. Lindeman, supra note 6.
Experience: “As a person matures, he [or] she accumulates a growing reservoir of experience that becomes a resource for learning.”47 Adults enter adult education with a much wider array of experience than that of children entering childhood education; using those prior experiences creates a potentially rich resource for the learning environment.48

Readiness to learn: “As a person matures, his [or] her readiness to learn becomes oriented to the developmental tasks of his [or] her social roles. Readiness to learn is dependent on an appreciation of the relevancy of the topic to the student.”49

Orientation to learn: “As a person matures, his or her time perspective changes from one of postponed application of knowledge to immediacy of application, and accordingly his or her orientation towards learning shifts from one of subject-centeredness to one of problem-centeredness. Adults are motivated to learn to the extent they perceive that the knowledge they are acquiring will help them perform a task or solve a problem that they may be facing in real life.”50

Motivation to learn: “As a person matures, the motivation to learn [becomes] internal.”51 “Although adults feel the pressure of external [motivators], they are mostly driven by internal


47. Taylor & Kroth, supra note 45, at 6 (quoting Yoshimoto, supra note 45, at 81).

48. Id.; see Knowles, ADULT LEARNER, supra note 46, at 59-60; Knowles ET AL., supra note 46, at 65-67; Forrest & Peterson, supra note 46, at 117-19; Knowles, Introduction, supra note 35, at 10-11; Ozuah, supra note 46, at 84; Thompson & Deis, supra note 46, at 108.

49. Taylor & Kroth, supra note 45, at 6 (quoting Yoshimoto, supra note 45, at 81); see Kidd, supra note 46, at 40-41; Knowles, ADULT LEARNER, supra note 46, at 60-61; Knowles ET AL., supra note 46, at 67; Allen Tough, The Adult’s Learning Projects: A Fresh Approach to Theory and Practice in Adult Learning 58-61 (1979); Forrest & Peterson, supra note 46, at 119; Knowles, Introduction, supra note 35, at 11; Ozuah, supra note 46, at 84; Thompson & Deis, supra note 46, at 108-09.

50. Taylor & Kroth, supra note 45, at 6 (quoting Yoshimoto, supra note 45, at 81); see Kidd, supra note 46, at 128-29; Knowles, ADULT LEARNER, supra note 46, at 61-63; Knowles ET AL., supra note 46, at 67-68; Tough, supra note 49, at 59-60; Forrest & Peterson, supra note 46, at 119-20; Knowles, Introduction, supra note 35, at 11-12; Ozuah, supra note 46, at 84; Thompson & Deis, supra note 46, at 109.

51. Yoshimoto, supra note 45, at 81.
motivation and the desire for self-esteem and goal attainment.”

The need to know: “Adults need to know the reason for learning something. In adult learning the first task of the teacher is to help the learner become aware of the need to know. When adults undertake to learn something that they deem valuable, they will invest . . . considerable . . . resources (such as] time and energy).”

Law programs use a variety of teaching methodologies. Nevertheless, scarce literature exists on whether these methods focus more on pedagogical principles (i.e., more teacher directed/facilitated education) or andragogical principles (i.e., more learner self-directed education). The literature that does touch upon the different principles is more based on theory than on empirical evidence.

Adults learn differently than children.” Law students are graduate students and enter their studies as adult learners.

“As adult learners, law students bring a wider array of skills and

52. Taylor & Kroth, supra note 45, at 6; see Kidd, supra note 46, at 108-09; Knowles et al., supra note 46, at 68-69; Tough, supra note 49, at 52-62; Forrest & Peterson, supra note 46, at 116; Knowles, Introduction, supra note 35, at 12; Ozuah, supra note 46, at 84; Thompson & Deis, supra note 46, at 108.

53. Taylor & Kroth, supra note 45, at 6 (quoting Knowles et al., supra note 46, at 64); see Kidd, supra note 46, at 108-09; Knowles, Adult Learner, supra note 46, at 57-58; Knowles et al., supra note 46, at 64-65; Forrest & Peterson, supra note 46, at 116; Ozuah, supra note 46, at 84; Thompson & Deis, supra note 46, at 109.

54. See generally Bryan Taylor, Raising the Bar: A Qualitative Study of Adult Learning Theory and Its Role on the Effectiveness of Law School Education in Preparing New Graduates to Begin the Practice of Law (May 18, 2010) (unpublished Ph.D. dissertation, University of Idaho) (discussing the numerous teaching methodologies found in law schools) (on file with author); see also Knowles et al., supra note 46, at 69-70 (contrasting pedagogy as an ideology with andragogy as a set of assumptions); Conner, supra note 39 (distinguishing andragogy and pedagogy); Knowles, Introduction, supra note 35, at 20 (highlighting wide adoption of andragogy as a model).

55. See Elwood F. Holton et al., Andragogy in Practice: Clarifying the Andragogical Model of Adult Learning, 14 PERFORMANCE IMPROVEMENT Q. 118, 140 (2001).


experiences” to the table “compared with younger and less experienced learners.” They come from such a broad spectrum of previous backgrounds that the learning environment can be extremely dynamic if allowed by the law school professor. Once they arrive on the doorsteps of a law program students want to gain additional experiences and knowledge to further their careers and lives. Most law students are motivated to learn because they have chosen to go to law school and have an interest in obtaining a law degree. “Law students . . . seem to prefer self-directed learning,” which allows for them to be personally involved. They also come to this learning environment with previous experiences. This can be a problem, however, as law school is unique in the way it instructs its students. Previously developed poor habits of learning may hinder law students in acquiring the necessary knowledge and new techniques that most have never practiced. Professors, however, often seem to fail to be aware of what experiences and knowledge students bring to the table.

The literature at large thus suggests that legal academics and individuals who have been practicing law for many years feel that legal education needs to be re-evaluated to address how to help new attorneys enter into the field more prepared. While andragogical principles seem to illustrate a potential solution that would comply well with the findings of the MacCrate Report, the voice of the newly-practicing attorney is still absent from the conversation. Legal academics, practitioners in the field, and law students all have thoughts concerning what are the appropriate skills, knowledge, and experience, but their suggestions and solutions may differ from those of newly-practicing attorneys. Newly-practicing attorneys experience the most impact from their studies immediately following graduation. It is during those first few years of practicing law that the new attorney’s knowledge, skills, and experience from law school will be the most valuable. The opinions and thoughts of these newly-minted professionals could help clarify the debate regarding the best and the worst

60. See Niedwiecki, *supra* note 58, at 47-48.
61. *Id*. at 48.
62. See Bloch, *supra* note 35, at 228-31, 236-39 (discussing how the exchange between a law professor and a student does not reach the andragogical standard as articulated by Knowles, especially in the first year of law school).
elements of legal education.

III. PURPOSE OF THE STUDY

The author intended this qualitative research study to better understand the perspectives of newly-graduated and practicing attorneys' readiness to practice law; in short, to provide empirical data thus far lacking from the broader debate. The study explored law school education to understand the knowledge, skills, and experiences that new attorneys believe they need from this education to be successful in practicing law after graduation. The study analyzed the law school educational delivery methods and determined if the newly admitted attorneys perceived that what they learned in school prepared them for practice after graduation by interviewing a small sample of attorneys in the Third and Fourth Judicial Districts of Idaho.

A. RESEARCH QUESTION

The research question for this study is:

How do newly practicing attorneys perceive their law school education prepared them for the practice of law?

B. SIGNIFICANCE OF THE STUDY

The benefits of this study are two-fold. First, understanding what new attorneys believe was the most helpful and beneficial will provide a framework to better create programs that help law students transition into the profession of law. The research from this study can be provided to new law students so they can take the appropriate steps to assist them in that transition. Second, the information gathered can be used in the current discussion of legal education reform. It provides one of the last missing pieces to truly understand how to provide the best education in law schools. The results may have an impact on the current legal education system by providing data that support current practices or provides suggestions to make them better, and thus, perhaps will transform how law academics teach students. This research will begin to fill the gap that is present in the literature. That gap is the voice of the newly practicing attorney.
IV. RESEARCH METHODS

A. METHODS

This qualitative research study was designed to discover and understand the perspectives of newly graduated and practicing criminal law attorneys to examine in which ways, if any, their legal education prepared them to begin the practice of law. A pilot study was first conducted to examine new attorneys’ perspectives about their educational experiences in law school. The study revealed three themes regarding the effectiveness of law school education.

B. PILOT STUDY

The pilot study, entitled Closing the “Gap”: Novice Criminal Attorneys’ Perceptions on Law School Learning Experiences, was conducted during a fall academic semester. The investigative study examined the effectiveness of law school education from the point of view of five new attorneys regarding their preparation for the practice of law. The study also identified aspects of law school education that helped or could have helped newly admitted attorneys be more effective in their current positions. More specifically, the pilot study explored the skills, knowledge, and experiences new attorneys deemed the most valuable in their education.

One-on-one, face-to-face interviews, observation of the participants in the courtroom over a four month period, and a pre-interview questionnaire provided triangulating data for the five participants included in this study. New attorneys said their law school education did not prepare them to practice law. From the perspective of the five participants, core classes did not provide the necessary skills, knowledge, and experience to facilitate the transition from the classroom to the courtroom. They considered classes that provided practical and experiential learning opportunities to be the most valuable in preparing them to practice law. These new attorneys said that rather than focusing on studying content in books in school and getting ready to pass the bar exam, their communication, practical experience, and skills and knowledge developed through life experiences were far more valuable in actual practice. The pilot study revealed the possibility that andragogy may play a factor in the transference

63. Taylor & Gardiner, supra note 2.
of skills, knowledge, and experience from the classroom to the courtroom. Through the analysis three themes emerged.

The first theme was lack of practical experience in core classes. The most prevalent comments from the five individuals were that they would have preferred that their law school education focus more on the practice of law than the theory. In examining the two core classes (i.e., criminal law and criminal procedure), all five participants felt as though the classes did not analyze practical situations that would translate to practical knowledge. The courses instead dealt with obscure scenarios from years past.

The second theme was the neglect of students' experiential knowledge in the classroom. The five attorneys in the pilot study had different types of previous work and life experiences before entering law school. Each attorney indicated that life itself was the best education. Their previous life experiences helped them get through a number of the initial challenges they faced in their first jobs. Each participant expressed frustration that law school professors neglected to use the student's past experiences and knowledge in enhancing their law school education.

The final theme that emerged was that multicultural communication skills were not taught and yet were considered vital to the practice of law. All five participants believed their careers were dependent upon how well they were able to communicate with their clients and convey their position to the opposing side and to the court. The participants expressed the desire to have more focus and education about communication skills in a diverse society. None of them believed that law school provided them with these skills.

C. RESEARCH DESIGN

A basic interpretive qualitative research design was used to explore the themes that were discovered. "Qualitative research is descriptive and inductive, focusing on uncovering meaning from the perspective of the participants."64 A basic interpretive

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64. Sharan B. Merriam & Gabo Ntseane, Transformational Learning in Botswana: How Culture Shapes the Process, 58 AM. ASS'N FOR ADULT & CONTINUING EDUC. 183, 186 (2008); see also John W. Creswell, QUALITATIVE INQUIRY & RESEARCH DESIGN: CHOOSING AMONG FIVE APPROACHES 37 (2d ed. 2007) ("Qualitative research begins with assumptions, a worldview, the possible use of a theoretical lens, and the study of research problems inquiring into the meaning
qualitative approach was chosen to "discover and understand" the perspectives of newly practicing criminal attorneys. The qualitative tradition most appropriate for this study is a basic interpretive study, which is "interested in (1) how people interpret their experiences, (2) how they construct their worlds, and (3) what meaning they attribute to their experiences." One of the key elements of basic interpretive qualitative research is to understand the meaning people have constructed about their world and their experiences. Because this study sought to understand how new lawyers have made sense of their law school experience and its applicability to their new jobs, this particular design is the most appropriate.

D. SETTING AND PARTICIPANTS

This study collected data from newly practicing criminal attorneys. The participants were selected through a purposeful sampling of individuals with less than three years of experience practicing law in the Third and Fourth Judicial Districts of Idaho. The researchers specifically selected attorneys with experience in the criminal law field. According to Professor Sharan B. Merriam, "the logic and power of purposeful sampling lies in selecting information-rich cases for study in depth. Information-rich cases are those from which one can learn a great deal about issues of central importance to the purpose of the research, thus the term purposeful sampling."

individuals or groups ascribe to a social or human problem. To study this problem, qualitative researchers use an emerging qualitative approach to inquiry, the collection of data in a natural setting sensitive to the people and places under study, and data analysis that is inductive and establishes patterns or themes. The final written report or presentation includes the voices of participants, the reflexivity of the researcher, and a complex description and interpretation of the problem, and it extends the literature or signals a call for action.

65. SHARAN B. MERRIAM, QUALITATIVE RESEARCH AND CASE STUDY APPLICATIONS IN EDUCATION 11-13 (2d ed. 1998) [hereinafter MERRIAM, CASE STUDY]; see also Merriam, Introduction, supra note 64, at 4-5 (noting that understanding the meanings that people create to explain their experience is central to qualitative research).

66. SHARAN B. MERRIAM, QUALITATIVE RESEARCH: A GUIDE TO DESIGN AND IMPLEMENTATION 23 (2d ed. 2009) [hereinafter MERRIAM, GUIDE].

67. See id.

68. See Taylor, supra note 54.

69. MERRIAM, GUIDE, supra note 66, at 77 (quoting MICHAEL Q. PATTON, QUALITATIVE EVALUATION METHODS 169 (2d ed. 1990)).
This type of sample helps eliminate a number of external variables and helps focus on the educational process rather than the actual practice of law. These variables include different types of law, different law school curricula, and different participant backgrounds. Qualitative researchers have not reached a consensus regarding the number of participants to be selected for a basic qualitative study. What is generally accepted is selecting participants until a point of saturation or redundancy is reached in the information. The author of this study anticipated that eight to twelve attorneys would participate.

To begin purposeful sampling, a researcher first determines what selection criteria are essential in choosing the participants to be studied. Potential participants for this study were selected using five inclusionary criteria:

1. Have been out of law school for less than three years,
2. Have handled a Motion to Suppress either orally or in writing,
3. Balanced number of defense attorneys and prosecuting attorneys,
4. Primary practice of law is within the Third and Fourth Judicial Districts of Idaho, and
5. No more than two attorneys from the same law school.

Researchers obtained the names of potential participants through the jurisdiction's Bar Association and local contacts, and also included the names of individuals who had recently take the state bar examination. The participants/attorneys received a pre-interview questionnaire with a return envelope. The questionnaire was used to collect background information (i.e., name of alma mater, time since graduation, and area of focus in their legal practice) about participants and whether they had engaged in a Motion to Suppress either in writing or orally. The

70. See MERRIAM, GUIDE, supra note 66, at 80.
71. See YVONNA S. LINCOLN & Egon G. Guba, NATURALISTIC INQUIRY 233-34 (1985); see also CRESWELL, supra note 64, at 240 (defining saturation as the point at which "I no longer find new information that adds to my understanding"); MERRIAM, CASE STUDY, supra note 65, at 163-64.
72. MARGARET LECOMPT ET AL., ETHNOGRAPHY AND QUALITATIVE DESIGN IN EDUCATIONAL RESEARCH 56-57, 68-72 (2d ed. 1993); see also MERRIAM, GUIDE, supra note 66, at 76 (arguing that a researcher must select a sample from among "numerous" potential sources of information).
questionnaire provided information to enable a selection of a
diverse group of attorneys. Table 1 shows the demographic
summary of the participants.

The study formed a representative sample of males and
females, defense lawyers and prosecutors, and law school alumni. Six (67%) out of nine participants were male and three (33%) were female. Five (55%) of the nine participants were prosecutors and four (45%) were defense attorneys (45%). Five (55%) of the participants had practiced both as a prosecutor and as a defense attorney. The nine participants represented seven
different law schools.

The participants’ ages ranged from twenty-five years to
thirty-four years. Their years of experience at the time of the
interview ranged from four months to thirty-three months.

<table>
<thead>
<tr>
<th>PARTICIPANT CHARACTERISTICS</th>
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</table>

<table>
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<tr>
<th>PSEUDONYM</th>
<th>GENDER</th>
<th>AGE* (YEARS)</th>
<th>EXPERIENCE# (MONTHS)</th>
<th>POSITION</th>
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<td>Cheryl Vincent</td>
<td>Female</td>
<td>25</td>
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<tr>
<td>Markus Johnson</td>
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<td>33</td>
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<td>Mitchell Baxter</td>
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<td>Rachelle Jeffreys</td>
<td>Female</td>
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<td>Jason Gabardino</td>
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<td>Oliver Killian</td>
<td>Male</td>
<td>31</td>
<td>11</td>
<td>Defense (private)</td>
</tr>
</tbody>
</table>

*At graduation from law school.

#At time of interview.

E. DATA COLLECTION

In a basic interpretive qualitative study, researchers may collect data through interviews, observations, or document
analysis. Trustworthiness was established through triangulation. "Triangulation is a term that generally describes the use of multiple approaches to study a phenomenon." The purpose of triangulation is to check the integrity and the validity of the research results that a researcher finds by checking with multiple data sources, methods, theories, or investigators. "A major strength of triangulation is the integration of multiple forms of evidence, various perspectives, and different analytic strategies; such integration can yield more meaningful research findings than any single approach." Triangulation offers a sense of completeness and confirmation of the research findings.

In this study the researcher then collected and evaluated data from three different sources: (1) transcription of the oral interviews of the participants, (2) observation of the participants, and (3) field notes from the researcher.

**F. DATA ANALYSIS**

This study followed a mixture of the steps that Maxwell and Merriam propose for conducting qualitative analysis. The initial step was to read the interview transcripts, observational field notes, and collected documents. The interview transcripts were then analyzed by means of the category construction method described by Merriam.

73. See Merriam, Case Study, supra note 65, at 69-70.
74. See Merriam, Guide, supra note 66, at 215-16; Gretchen Rossman & Sharon Rallis, Learning in the Field: An Introduction to Qualitative Research 69 (2003) (noting that triangulation "helps ensure that you have not studied only a fraction of the complexity that you seek to understand").
77. Briller et al., supra note 75, at 246.
81. See id. at 175-88. Merriam describes data analysis as a process of reading through the data, identifying relevant segments within the data, and then building categories into which to sort those individual segments. Id. The ultimate goal is to use the information now grouped into categories to answer the research questions. Id. at 176.
V. FINDINGS

The results of the study address the expectations: (1) what lawyers are and ought to be, (2) the skills and values they need in order to fulfill those expectations, and (3) their perceptions on whether their law school education provided them those skills and values during and after law school as outlined in the MacCrate Report.82

The findings discussed these expectations in four categories: (1) participants were trained more to think like an attorney and less to do like an attorney, (2) andragogical learning principles were a beneficial method of instruction, (3) the professor was an instrumental component, and (4) certain skills and values were determined to be necessary to help in the beginning practice of law.

A. FINDING 1: TRAINED MORE TO THINK LIKE ATTORNEYS LESS HOW TO DO LIKE ATTORNEYS

Participants identified that law school education was designed to teach students how to think and not how to do. Through the curriculum design, law school was successful in providing the education necessary for students to think like an attorney. Participants were generally satisfied with their law school education. Although law school was not the most enjoyable experience of their educational endeavors, the participants felt that law school succeeded in doing what it was supposed to do: providing attorneys a general understanding and familiarization of the law. As Cheryl Vincent said, "I think [law school] probably . . . give[s] people a general understanding, and I mean general, because I really feel like when you are done with law school, you are not prepared to do . . . ."83 Markus Johnson’s perspective was:

I think the purpose of law school should be to sharpen a person's analytical ability, to hone that ability through exposure to many different areas of law and many different legal issues to be able to analyze an issue, understanding the scope of different areas of laws and how they intersect. So, I think that the law school’s purpose, you know, I think it is

82. See MACCRATE REPORT, supra note 11, at 138-41 (outlining the skills and values).
83. Interview with Cheryl Vincent, deputy prosecutor, in Boise, Idaho (Nov. 24, 2009) [hereinafter Vincent Interview].
two-fold, because you need to be learning enough to be able to pass a bar exam. But I think that's an incidental aspect of law school. I think that the biggest purpose of law school is to change the way a person looks at things, and the way that a person analyzes issues.84

While many participants felt that law school failed in teaching them how to practice law, they felt it did teach them how to think like attorneys. Mitchell Baxter expressed, "[W]hat I expected from law school was that they teach me what I needed to know as a stepping stone to get out in the real world."85 Bruce Palfreyman suggested, "[I]f the end result is you want to have people practicing law," then he was not prepared.86

In contrast to the participants' perceptions that the purpose for their law education was to train them to think like lawyers, they generally did not perceive their law educations prepared them to practice like lawyers. The actual handling of motions, drafting pleadings, and handling appropriate tasks in the practice of law was not provided. Bruce Palfreyman stated:

I think research and writing are essential to practicing law, and it was taught, I thought, somewhat effectively in my law school education . . . It does as far as you need to reason and logically work out issues, and decide what's relevant in a fact pattern . . . I think that it does not prepare you to practice as an attorney from the standpoint of—and maybe this is partly my own fault, my own decision-making in classes to take—but I didn't feel like I could really go in front of a judge and feel as comfortable as I did after a bit of time in the prosecutor's office. I know that there were programs like moot court, and you could practice and be on a team, and you could make oral arguments and be in front of a judge . . . there could have been a lot more writing, a lot more practical hands-on experiences, arguing in front of a judge, doing jury selection.87

84. Interview with Markus Johnson, private defense attorney, in Caldwell, Idaho (Nov. 25, 2009) [hereinafter Johnson Interview].
86. Interview with Bruce Palfreyman, private defense attorney, in Caldwell, Idaho (Dec. 2, 2009) [hereinafter Palfreyman Interview].
87. Palfreyman Interview, supra note 86.
B. FINDING 2: ANDRAGOGICAL LEARNING PRINCIPLES WERE THE MOST BENEFICIAL METHOD OF INSTRUCTION

The participants distinguished between two different types of learning methods: (1) experiential, and (2) didactic, which is an instructive delivery method such as lecture. The experiential opportunities were those that were hands-on and practical exercises, whereas the didactic opportunities focus more on theoretical framework education. The participants indicated that the experiential type of classes and opportunities were helpful in their preparation, especially on how to do like attorneys. Experiential classes were instrumental in knowledge retention, and developing skills, whereas didactic types of classes and opportunities were less effective. Participants identified that andragogical learning principles were the most beneficial in their preparation for the practice of law. The classes that centered on these principles were ones where participants felt that they acquired necessary skills, knowledge, and experience.

This study included students from seven different law schools from throughout the country. Some were public institutions and others were private. All law schools in this study required certain mandatory classes, and six of the seven were structured in the traditional three-year model. Every school had instructors who utilized similar teaching methods. The participants found that the way the information was delivered was a very important factor in whether or not the information was retained and thus able to be recalled later during their early careers as attorneys. Some methods were deemed more beneficial than others, and the effectiveness of some methods depended upon the instructor who used them. The methods were deemed very important in helping them in their preparation and retention of material, especially in their first year of classes. Oliver Killian observed that "the first semester is almost like learning a different language" and that the way the language was taught was vitally determinative as to how well one would succeed in law school.88

Participants stressed the importance of their experiential opportunities in preparing them for performing their duties as

88. Interview with Oliver Killian, private defense attorney, in Boise, Idaho (Dec. 10, 2009) [hereinafter Killian Interview].
attorneys. All the participants engaged in at least one of the three types of experiential opportunities: (1) courses with experiential components, (2) clinics and moot courts, and (3) externships, internships, and clerkships.

1. COURSES WITH EXPERIENTIAL COMPONENTS: HANDS ON

Most of the participants took a trial advocacy course during the second or third year of their law education. These courses were electives with limited enrollment, so some of the participants were not able to get into the course. Participants who had the opportunity deemed it a very valuable learning experience. As Jason Gabardino explained:

My trial practice class was basically you go through every point of a possible trial, and discuss, you know, what procedures were, how procedures went. So [my professor] actually called me up, and asked me to present something into evidence my second day of class, and I did it horribly. I didn’t know what I was doing, because it was my second day of class. She basically didn’t give me any leeway. It got thrown out, and afterwards she told me that is how it’s going to be in court and you better know what you are doing.89

Participants also found the required research and writing courses valuable in preparing them to practice. A number of participants took advanced research and writing classes as well because of the additional writing opportunities they offered. Markus Johnson talked about his experience:

The legal research and writing class, we spent time, you know, not only did we learn how to cite things—and there was a definite period of time in the classes where we spent time, learning how to read through *The Bluebook* and know how to cite things, and know where to find the instruction on how to cite different sources, but we spent time learning in the library—being taken there, physically shown the books after a class discussion of this is what you do, this is what you are going to go look for, this is where you are going to find the cite, this is where you are going to go and Shepardize that cite . . . it was hands-on.90

89. Interview with Jason Gabardino, deputy public defender, in Caldwell, Idaho (Nov. 30, 2009).
90. Johnson Interview, *supra* note 84.
The majority of the participants believed that the most important skills and knowledge they received from law school to prepare Motion to Suppress pleadings were research and writing. As Cheryl Vincent expressed:

You need to know how to research. You need to know how to put together your ideas, and I think that's what's tough for some people are putting together the ideas in your head onto a piece of paper so that they make sense.91

Kristina Gonzalez stated:

I think . . . the main thing I got from law school was being a good legal writer. I was good in legal research and writing . . . I did moot court to keep doing legal research and writing.92

2. CLINICS AND MOOT COURTS: A SAFE AND VALUABLE LEARNING SETTING

Those who had clinics found them to be invaluable learning opportunities. For many of the participants it was their first real exposure to the law, although they were still under the supervision of a law school faculty member. Most of the participants discovered that the area of law they were most interested in when beginning law school quickly changed after their clinical experience. For example, Markus Johnson originally wanted to go into tax law:

[The tax law clinic] was fabulous, because it saved me from hanging my license with some firm and getting stuck in a job that I hated . . . I actually had clients, and dealt with the IRS, and handled issues. And, in the clinic, it was hands-on . . . I enjoyed the setting. I did not enjoy the work—that was because it was tax law.93

Kristina Gonzalez felt similar to Markus Johnson. Kristina had an interest in immigration law and participated in a clinic, which ultimately “solidified” the idea that she did not want to practice immigration law after graduation.94

91. Vincent Interview, supra note 83.
92. Interview with Kristina Gonzalez, deputy prosecutor, in Boise, Idaho (Dec. 10, 2009) [hereinafter Gonzalez Interview].
93. Johnson Interview, supra note 84.
94. Gonzalez Interview, supra note 92.
3. INTERNSHIPS, EXTERNSHIPS, AND CLERKSHIPS: CLOSEST THING TO PRACTICING LAW

Of all the available experiential opportunities, participants deemed internships, externships, and clerkships to be the most valuable in preparing them to practice law. The participants had these experiences in a wide variety of positions (e.g., work at a prosecutor’s office, a public defender’s office, work for private defense attorneys, and judges). Participants viewed the experiences to be extremely important in their success for their first legal job. Participants did not connect these experiences with the law school curriculum; rather, the participants identified and sought these opportunities on their own.

Andrew Donnelly shared his experience at a prosecutor's office:

I don’t know if my law school education helped me get [an] externship. I had taken criminal procedure and criminal law. So I guess I knew the stuff, but I don’t remember that being too relevant. I think when you are exposed to the fast-paced, high volume court system, you know, there’s few and far between are the cases that have real legal issues that have to be delved into and worked out. It’s more about—at least when you’re an intern, it’s more about learning the system that goes on in the courtroom, you know, just reading everybody’s shorthand, their little forms for everything, all of that.95

4. WHAT SHOULD LAW SCHOOL DO TO MAKE SURE THESE OPPORTUNITIES ARE AVAILABLE?

All the participants stated that experiential opportunities are vital in the preparation of becoming practicing attorneys. The majority of the participants felt that it was up to each individual student to decide what type of experiences they wanted after their first year of law school classes. Law schools offered the opportunities, but because they were electives it was up to the individual to decide what to take or not take. Rachelle Jeffreys said about her experience:

Your first year and probably your second year, you are studying just the black letter law of each of those subjects.

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95. Interview with Andrew Donnelly, deputy prosecutor, in Boise, Idaho (Dec. 15, 2009) [hereinafter Donnelly Interview].
But starting your second year, students have an opportunity to become involved in more practical classes, and it's kind of up to the student whether they want to take advantage of those or not. I signed up for—like lawyering process was a course where we had an opportunity to actually draft motions, do depositions, different kind of practical experiences that you wouldn't learn in the classroom. But that wasn't a required course—not everybody had to take that. I also signed up for different clinics and trial advocacy... If I hadn't taken advantage of those, law school would have been probably a whole different experience for me.96

They felt that the experiential opportunities were so vital that they should be mandatory rather than elective, as Mitchell Baxter suggested:

I really don't have any good suggestion on how to change law school, except maybe to require students to participate in some of the legal aid clinics, because I think it's good to experience pro bono work, and those are the best opportunities to actually learn.97

Rachelle Jeffreys expanded on what Baxter stated:

I do [believe that law schools should require these types of practical classes] in a lot of ways. I think if you are going to practice law, you need to have a blend of not only being able to produce good written work, but also be able to present it.98

C. FINDING 3: THE PROFESSOR WAS AN INSTRUMENTAL COMPONENT

An unexpected theme that emerged from the data was the importance of the professor's personality. While discussing the mandatory courses, the participants reiterated that while the instructional method was important, the professor's personality made the difference in whether they internalized the material. Two professors might both use a Socratic method, but depending on their personalities one would be able to make the subject come alive which assisted students in retaining the information while

97. Baxter Interview, supra note 85.
98. Jeffreys Interview, supra note 96.
the other instructor would not be able to achieve the same end. When asked the question, "Do you think the professor really makes the difference in a class?" Rachelle Jeffreys responded, "I do think so."99 Participants felt the professor was an instrumental component in law school education. The personality and the teaching style of the professor impacted student learning.

Professors played a large role in preparation of the participants. Professors could inspire "a learner to want to learn more" as suggested by Oliver Killian.100 When participants found a professor who they truly enjoyed, they learned more from that professor and could recall what they learned. This was not true for the professors they disliked. Andrew Donnelly reflects upon a course in creditor's rights that he took because the material was going to be on the bar exam, not because he was interested in the content:

I took creditor's rights my second year as an elective. The professor was very knowledgeable and hard. And incredibly—I don't know if boring is the right word, but a seemingly uninterested class, like creditor's rights, became very interesting, and I felt like I knew that class better than any of my other classes.101

Participants identified a number of ideal characteristics they found important in their professors. These characteristics were identified as:

- Excited to teach the subject
- Practical experience
- Good conversationalist
- Good storyteller
- Used visual props or hands on items
- Teaching style would mimic the learners' learning style
- Relate to the students and able to take their experiences of life into consideration
- Creative and interactive

99. Jeffreys Interview, supra note 96.
100. Killian Interview, supra note 88.
101. Donnelly Interview, supra note 95.
The Law School Learning Experience

- Knowledgeable of the subject matter
- Trained in teaching as well as knowledgeable about the subject matter

The teaching methods that professors used in the classroom were also important in preparing students for law practice. Professors who made course content “relevant and meaningful to the students,” suggested Bruce Palfreyman, were much more effective.\(^{102}\) Learning black letter law was important, but it was crucial to see how it related to real life situations that were applicable and relevant to the learner. Illustrating the concept from a contract that was currently being disputed was far more helpful than finding the applicability of a contract from the 1920s.

Real life examples that touched on the students’ past experiences were very valuable. Markus Johnson expressed:

Real life experiences are always a wonderful memory hook, especially for the person relaying the experience, but it makes it relatable. And, always, the learning process is better if somebody can relate to how the issue applies.\(^{103}\)

Professors who used a variety of teaching strategies to match students’ various learning styles were also more effective. Professors who were engaging and had a passion for the subject material created a better retention of the material. They were also the most sought after. Oliver Killian was one of the participants who discussed the role of the professor:

My professor in criminal procedure class had such a keen awareness of learning—adult learning, specifically, and he had talked about that, adult learning techniques, and how things are. I think it’s beneficial to have training, maybe not necessarily background, but an awareness of what it is, a professional teacher . . . You have to have some idea of how to teach.\(^{104}\)

The participants also appreciated the professors who provided them with practical skills and guided them to helpful materials. Reference materials, flow charts, and tricks of the trade, were deemed knowledge and skills that the participants

\(^{102}\) Palfreyman Interview, \(supra\) note 86.
\(^{103}\) Johnson Interview, \(supra\) note 84.
\(^{104}\) Killian Interview, \(supra\) note 88.
took with them to the practice of law.

**D. FINDING 4: SKILLS AND VALUES THAT ARE INSTRUMENTAL IN BEGINNING THE PRACTICE OF LAW**

Participants identified skills and values that were instrumental in beginning the practice of law. These skills and values were determined to be important in order to effectively transform their understanding from the classroom to the courtroom.

The participants as a group identified a number of different skills that were necessary for the practice of law, and specifically the practice of criminal law. The participants identified a general list of skills, including the cultivation of a likeable and personable demeanor; an understanding of basic rules and basic black letter law; competency and conviction; well-honed logical and analytical abilities; the capacity to be persuasive, yet flexible; the ability to communicate effectively and articulately; mastery of oral advocacy and the ability to present oneself; the development of basic organizational skills; and finally an ability to research and write effectively.

Research and writing skills were the two skills most frequently mentioned by participants as necessary for criminal law practice. Being able to present a position orally in a clear and concise manner was also considered as necessary. Rachelle Jeffreys stated:

> Presentation, as far as how to present myself in a courtroom, and make sure I'm getting across to the court is important. Also how I interpret the law and statutes, and apply those to whatever situation or hypothetical I was given. Writing skills and technical writing skills were important, because I lacked those when I went to law school.¹⁰⁵

Markus Johnson also suggested that “law school should prepare somebody to be able to research, and to be able to communicate in an articulate manner.”¹⁰⁶ Participants believed that law school helped them acquire basic skills. However, only upon entering the profession of law did the participants begin to understand why these skills were taught. While in law school the participants could only make assumptions about the purpose of

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¹⁰⁶. Johnson Interview, *supra* note 84.
these skill sets; actual application in the legal profession provided the actual context for these skills.

Values were deemed as important to the participants as were the skills. Participants felt certain values were vital to the practice of law: honesty, integrity, good reputation, and truthfulness. Andrew Donnelly summarized the general consensus of the participants: “I think honesty is probably number one, especially in this criminal world. I mean, your integrity and your upfrontness go a long way.”

Participants acknowledged that most individuals had acquired their values before entering law school. Law school education was instrumental in helping students learn how to bracket their values and mores, thus enabling them to ethically represent their clients and to better serve their communities. Markus Johnson explained this point:

As far as the values go, I think [law school] should teach you to displace your own personal values, and even, perhaps, morals and worries that you grow up with to analyze legal issues . . . be able to set aside your personal views and look at things as a legislator would look at it, and be able to understand and take everything you learned growing up and set it aside, and look at it is for the betterment of the community.

The participants identified skills and values which they perceived should be acquired in law school. Tables 2 and 3 provide a comparison between those skills and values identified by the participants and those listed in the MacCrate Report.

107. Donnelly Interview, supra note 95.
108. Johnson Interview, supra note 84.
TABLE 2
COMPARISON OF SKILLS

<table>
<thead>
<tr>
<th>MACCRATE REPORT—SKILLS</th>
<th>PARTICIPANTS—SKILLS</th>
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<tbody>
<tr>
<td>Problem Solving</td>
<td>Likeable and personable</td>
</tr>
<tr>
<td>Analyzing and applying legal rules and principles</td>
<td>Logical and analytical abilities</td>
</tr>
<tr>
<td>Identifying legal issues and researching them thoroughly and efficiently</td>
<td>Competent and have a little conviction</td>
</tr>
<tr>
<td>Participating in factual investigation</td>
<td>Basic rules and basic black letter law</td>
</tr>
<tr>
<td>Communicating effectively (written and orally)</td>
<td>Communicate &amp; articulate</td>
</tr>
<tr>
<td>Counseling clients about decisions or courses of action</td>
<td>Persuasive yet flexible</td>
</tr>
<tr>
<td>Negotiating</td>
<td>Oral advocacy/the ability to present oneself</td>
</tr>
<tr>
<td>Advising clients about problem resolution options</td>
<td>Research</td>
</tr>
<tr>
<td>Learning law office administration</td>
<td>Organizational skills</td>
</tr>
<tr>
<td>Learning skills involved in recognizing and resolving ethical dilemmas</td>
<td>Writing</td>
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TABLE 3
COMPARISON OF VALUES

<table>
<thead>
<tr>
<th>MACCRATE REPORT—VALUES</th>
<th>PARTICIPANTS—VALUES</th>
</tr>
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<tbody>
<tr>
<td>Provide competent representation</td>
<td>Honesty</td>
</tr>
<tr>
<td>Strive to promote justice, fairness, and morality</td>
<td>Integrity</td>
</tr>
<tr>
<td>Strive to improve the profession</td>
<td>Good reputation</td>
</tr>
<tr>
<td>Increase professional self-development</td>
<td>Truthfulness</td>
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VI. CONCLUSIONS, REFLECTIONS, AND RECOMMENDATIONS

Law schools are designed to provide basic skills, knowledge, and experiences for students and are structured throughout the country in a similar manner and utilize traditional approaches to their instructional methods. The results of the study reveal first the expectations of what lawyers are and ought to be; second, the skills and values they need in order to fulfill those expectations; and finally, their perceptions of whether or not their law school education provided them those skills and values. 109

A. CONCLUSION 1: LAW SCHOOL EDUCATION TRAINED THEM TO THINK LIKE ATTORNEYS NOT TO DO LIKE ATTORNEYS

William M. Sullivan et al. observed that law school education should provide students with three fundamental areas of knowledge: (1) legal analysis, (2) practical skill development, and (3) professional identity. 110 The general perception of the participants of this study was that law school education prepared them how to think like attorneys through legal analysis. However it did little to provide them with professional identity or practical skills of how to practice law. Participants stated that the experiential opportunities they participated in were very valuable components of their preparation for the practice of law. Though participants received law school credits for their experiential opportunities, because the experiences were not in the law school setting, they did not associate these particular opportunities as part of their law school education.

The literature suggests that there are conflicting positions regarding the purpose of law school education; these positions derive from the practicing bar’s general perception versus the law school institution’s perception. 111 The debate surrounds the development of thinking like an attorney versus doing like an

109. See Maccrate Report, supra note 11.
110. See Sullivan et al., supra note 3, at 12-14.
111. See generally Nancy Rapoport, Is “Thinking Like a Lawyer” Really What We Want to Teach? 1 J. Ass’n Legal Writing Directors 91 (2002); see also Stefanie M. Benson, It Is Time for Legal Education to Prepare Law Students for Law Practice, J. Kan. Bar Ass’n, May 2005, at 12 (providing the perspective of a law student on this debate); Friedman, supra note 25, at 81-85, 90-93 (arguing for a shift away from a paradigm of thinking like a lawyer); Alan Watson, Legal Education Reform: Modest Suggestions, 51 J. Legal Educ. 91, 93-96 (2001) (suggesting systemic reforms and a move away from the casebook method).
attorney. The newly practicing attorney’s viewpoint has been missing from this debate. One of the purposes of this study was to explore this disconnect from the viewpoint of the newly practicing attorney. Participants in this study voiced that the purpose of law school education was to train individuals to think like an attorney rather than to do like an attorney. Law school curricula were designed to develop the ability of an individual to identify an issue, research that issue, and write like an attorney. The participants of this study felt that law school curricula were not designed to prepare students for the actual doing like an attorney upon graduation. The attorneys’ responses suggest that they were not going through the different stages of Kolb’s experiential learning model. Each classroom had a different method and often times missed different parts of the cycle. For example, they did not see how curricula could be developed to teach the drafting of multiple different pleadings, how to run a law practice, how to deal with multiple types of clients, and how to understand every aspect of the legal profession without restructuring current designs and requiring a year or more of field practice before graduation. Further, they felt that preparing students to practice like attorneys was impractical because often law students did not know the type of law they were interested in entering until they were in their last year of school. Overall, participants were satisfied that law school education prepared them to think like an attorney. Thinking like an attorney was determined to be the most important skill they took from law school.

B. CONCLUSION 2: EXPERIENTIAL OPPORTUNITIES WERE VERY VALUABLE FOR EARLY PRACTICE OF LAW.

Experiential opportunities in the field, those that provide hands-on experience (e.g., working at a prosecutor’s office), were identified as extremely valuable experiences in preparing the student for the practice. Participants strongly recommended that law schools make some experiential opportunities mandatory. However, they felt it was the student’s responsibility to find these opportunities.

The ABA Standards for Approval of Law Schools address these propositions and identify the need to offer real-life practical experiences to students:
A law school shall provide substantial opportunities to students for:

(1) law clinics and field placement(s); and

(2) student participation in pro bono legal services, including law-related public service activities.

A field placement program shall include:

. . . .

opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student may earn three or more credit hours in a field placement program, the opportunity for student reflection must be provided contemporaneously. 112

Corresponding with the standards, participants identified three types of experiential opportunities that they found valuable. As outlined in the ABA Standards, participants engaged in real-life experiences in the form of externships, internships, and clerkships. Although the participants did not explain the differences among the activities, all talked about these opportunities as ones that were done outside of the law school setting in a real-world environment. These experiences offered three-fold opportunities: first, they opened the participants' eyes to the high-paced environment of the legal world, teaching them how to handle a high volume of cases and to process issues quickly. Second, the opportunities gave them their first understanding of how the legal system works. The participants felt this helped in their transformation from law school to the real world because they finally understood where certain components learned in law school were applied in practice. Third, these experiences allowed for the participants to be exposed to a specific area of law and helped the students determine if this was an area they might be interested in for their future. For example, participants who engaged in externships or internships in the criminal justice field found a passion and a desire for this area of the law.

C. CONCLUSION 3: ADULT LEARNING PRINCIPLES WERE VALUABLE FOR PREPARATION

Throughout the interviews participants referred to adult learning principles in their descriptions of coursework. Their suggestions focused on the learning principles found in the andragogical literature. Because the literature suggests that the principles of adult learning theory provide the strongest support for adult learners—participants’ ages ranged from twenty-five to thirty-four years at the time they graduated from law school—this study provides useful qualitative data that may help to demonstrate the efficacy of andragogical theories. Knowles’s six assumptions about adult learners—self-concept, experience, readiness to learn, orientation to learn, motivation to learn, and the need to know—can be seen demonstrated in the responses of these newly-practicing attorneys. The critique of andragogy found in the literature is that it lacks empirical evidence that is usually identified in most learning theories; this study provides that empirical evidence from the data provided by the participants.

D. CONCLUSION 4: PROFESSORS WERE IMPORTANT IN THE DEVELOPMENT OF STUDENTS’ PREPAREDNESS TO PRACTICE LAW

Each of the participants completed a mandatory set of courses during their first year of law school. During that first year the courses were identified as didactic in their instructional design. In these classes a number of different teaching styles were used. Two of the most common were the lecture method and the Socratic method. Occasionally there was a commingling of the two. As these first-year didactic courses were discussed, the participants continually expressed that the professor played a far

113. For discussion of the effectiveness of andragogical theories, see Bolton, supra note 56, at 5 (describing andragogy in the context of the use of rubrics); Holton et al., supra note 55 (expanding andragogy to include practical considerations of learning context).

114. Taylor & Kroth, supra note 45, at 5-7; see Knowles, Adult Learner, supra note 46, at 57-63; Knowles et al., supra note 46, at 64-69; Knowles, Introduction, supra note 35, at 9-12.

greater role in the development of one's preparedness to practice law than the teaching methodology used. The participants as a whole pointed out that the courses they found most beneficial were those where the professor was identified as good.

Research has indicated that a good professor possesses seven qualities:

1. Accessibility/Approachability
2. Fairness
3. Open-Mindedness
4. Mastery and Delivery of Academic Material
5. Enthusiasm
6. Humor
7. Knowledge and Inspiration Imparted.

The participants' responses generally indicated that it was important to them that a professor possesses these seven qualities. Students desired solid course content and clear enthusiastic communication from their professors first and foremost, but also wanted the opportunity to approach the professors to discuss the material. The literature demonstrates that the professor plays a very important role in the education of a student. The behaviors and qualities of the professor are more valuable than the method of instruction, it seems, and can determine whether or not a student retains knowledge or not.

E. RECOMMENDATIONS

This study provides the voice of the newly practicing attorney in the discussion that is currently taking place about the disconnection between what law schools teach and what students

117. See also GEORGE KUH ET AL., WHAT MATTERS TO STUDENTS: A REVIEW OF THE LITERATURE 40-42, 67-68, 86-87 (2006) (emphasizing the importance of student-faculty contact in a variety of settings); David Walsh & Mary Maffei, Never in a Class by Themselves: An Examination of Behaviors Affecting the Student-Professor Relationship, 5 J. ON EXCELLENCE C. TEACHING 23, 39 (1994) (noting that students rate highly student-professor relationships that "reduce social distance" and encourage interaction).
118. See KUH ET AL., supra note 117, at 67-68.
need to learn for initial competence in practicing law. While providing initial insight into these concerns, this study further demonstrates the need for more empirical evidence regarding the effectiveness of law school education.

It is recommended that further research be conducted on the following four topics:

(1) Continue to focus on the field of criminal law, but focus solely on the issue of a Motion to Suppress or another common motion practice.

(2) Take the same research method and apply it to a different area of the law (e.g., contracts, estate planning, probate).

(3) Add an additional inclusionary criterion where the participants received no experiential opportunities, and inquire if they had different perceptions and experiences.

(4) Provide the Learning Styles Inventory to the participants and compare their preferred learning style to the instructional methods they received in law school.