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Through a Clinical Component in Ethics Teaching

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DEVELOPING STUDENTS' SENSE OF AUTONOMY, COMPETENCE AND PURPOSE THROUGH A CLINICAL COMPONENT IN ETHICS TEACHING

ANNA CODY*

I INTRODUCTION

Law students often enter law school with a clear sense of purpose and clearly defined reasons for why they are studying law. Often these reasons encompass a desire to help others and strengthen the community for those most disadvantaged within society.¹ These reasons can be lost as their law studies progress. Studying law can be a confronting and difficult process as students learn with other high achieving peers. Lawyers and law students are disproportionately impacted by mental health issues.² The numbers of law students whose mental health deteriorates during law school is of concern. The reasons for this are likely to be complex and multi-faceted. Working in law can be highly competitive and requires high level reasoning and analytical skills. It can also be perceived to be an area of work which requires

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¹ Adrian Evans and Josephine Palermo, 'Preparing Australia's Future Lawyers: An Exposition of changing Values Over Time in the Context of Teaching About Ethical Dilemmas' (2006) 11(1) *Deakin Law Review* 103; Kennon Sheldon and Lawrence Krieger, 'Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being' (2004) 22(2) *Behavioral Sciences and the Law* 261.

² Lawyers in the United States of America ('USA') have the highest incidence of depression of any occupation See, eg Lawrence Krieger, 'The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness' (2005) 11 *Clinical Law Review* 425, 427 citing William Eaton et al, 'Occupations and the Prevalence of Major Depressive Disorder' (1990) 32(11) *Journal of Occupational and Environmental Medicine* 1079. See also, Kennon Sheldon and Lawrence Krieger, 'Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory' (2007) 33(6) *Personality and Social Psychology Bulletin* 883; Lawrence Krieger, 'The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness' (2005) 11 *Clinical Law Review* 425, 426; Prue Vines, 'Working Towards the Resilient Lawyer: Early Law School Strategies', [2011] *UNSWLRS* 30; Rachael Field, James Duffy and Colin James (eds), *Promoting Law Student and Lawyer Well-Being in Australia and Beyond* (Routledge, 1st ed, 2016); Molly Townes O'Brien, Stephen Tang and Kath Hall, 'No Time to Lose: Negative Impact on Law Student Wellbeing May Begin in Year One' (2012) 2 *International Journal of the First Year in Higher Education* 49.

people to separate themselves and their identity, from their work. This can lead to a sense of disjunct and law students questioning their purpose and reason for working as lawyers.³ Some argue that depression and ‘unprofessional behaviour among law students and lawyers typically proceed from a loss of integrity — a disconnection from intrinsic values and motivations, personal and cultural beliefs, conscience, or other defining parts of their personality and humanity’.⁴ In this context, there is good reason to build into a course of legal studies, experiences which build a student’s sense of purpose and competence. In the legal ethics course at the University of New South Wales (‘UNSW’), there is an inbuilt clinical component which provides students with an opportunity to interview real clients with legal problems. Many of these clients are disadvantaged and need complex responses to deal with their issues. This article describes an empirical research study which examined the impact of this clinical component on students’ sense of confidence in their ability to interview, their confidence in their ability to study law, and ways in which it impacts on their later legal studies. It examines whether students’ sense of autonomy can be grown through a short clinical component.

Clinical legal education is a recognised methodology for teaching law through students being responsible for and engaging in client work and reflecting on their role as a lawyer, as well as the law and the legal system. Students work with real clients who are experiencing legal problems, prepare law reform submissions, or design workshops and seminars which they deliver to community groups, high school students and other community members.⁵

II THE LEGAL ETHICS COURSE AT UNSW

The legal ethics course⁶ at UNSW is unique internationally in that it contains a compulsory clinical component in which all students

³ See, eg, O’Brien, Tang and Hall, ‘No Time to Lose’ (n 2); Tony Foley and Stephen Tang, ‘On Being, Not Just Thinking Like, a Lawyer: Connections Between Uncertainty, Ignorance and Wellbeing’ in Field, Duffy and James, *Promoting Law Student and Lawyer Well-Being in Australia and Beyond* (n 2) 161; Vines, ‘Working Towards the Resilient Lawyer’ (n 2).

⁴ Krieger, ‘The Inseparability of Professionalism and Personal Satisfaction’ (n 2) 426.

⁵ Adrian Evans et al, ‘Teaching Social Justice in Clinics’ in *Australian Clinical Legal Education: Designing and Operating a Best Practice Clinical Program in an Australian Law School* (ANU Press, 2017) 97.

⁶ The course learning outcomes include the learning outcomes for the clinical component. These are : ‘Demonstrate awareness of the principles of legal ethics and their relationships to the role of lawyers and the legal profession in society; critically analyse the status, purpose and workings of the legal profession in light of its wider and changing context; demonstrate an understanding of the factors that enable and constrain ethical legal practice, from the cognitive to the cultural, in their different contexts; explain the relationships between personal values, legal ethics, and professional identity; engage in a deliberate process of ethical decision-making and reflection in context; produce scholarly written and oral work that demonstrates knowledge of the course concepts, critical judgment and reflection on the course themes, and the synthesis of practical and scholarly interdisciplinary research sources; demonstrate effective oral communication skills by debating course themes and concepts in a scholarly, reflective and respectful manner; apply legal and ethical

interview real clients with legal problems, brief a lawyer on the client's legal issues and record the legal advice given to the client. There are other purely clinical courses which teach ethics,⁷ but this course is unique because it is a compulsory legal ethics course which incorporates a clinical component. The aim of this component is to provide students with an actual experience of ethical issues and/or ethical challenges which they may face in legal practice. It also brings to life the theory around access to justice issues and their future role as lawyers within the legal system. All students are taught a two-hour class in which they begin to learn about key principles of effective interviewing, the functioning of community legal centres within Australia, and are introduced to some of the processes of the legal service where they will interview clients. There are readings which students must complete before the class about key principles and approaches to use when interviewing clients.⁸ In addition to this class, they are provided with further training when they attend the Kingsford Legal Centre ('the Centre') for their evening advice clinic. They are shown the Centre, trained in the data base to conduct basic conflict checking, and have the client information sheet and interviewing process explained to them further. They also receive basic training in working with interpreters. Students are taught further about the duty to maintain client confidentiality and to avoid conflict of interests.⁹

The Faculty of Law at UNSW is unique in that it incorporates a functioning community legal centre, the Kingsford Legal Centre.¹⁰ Community legal centres are an intrinsic part of the justice sector in Australia, providing free legal advice, legal representation, community legal education and law reform services to their communities. Over 35 per cent of the clients at Kingsford Legal Centre speak a language other than English at home, seven per cent are Aboriginal or Torres Strait Islanders, 28 per cent of clients have a disability, 28 per cent live in

principles to hypothetical fact scenarios and other contexts, including within a community legal centre practice; demonstrate client skills, including interviewing, handling ethical issues and duties and cultural awareness; work effectively in teams and reflect on how their values and interpersonal styles influence team work; demonstrate self-management through self-assessment of performance and use of previous feedback received in the course'.

⁷ The Latrobe University School of Law uses a clinical methodology to teach ethics to law students. Because it uses a clinical methodology only small numbers of students can be taught in this way. See Adrian Evans et al, *Australian Best Practices in Clinical Legal Education*, (Office for Learning and Teaching Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, 2013).

⁸ Kay Lauchland, *Legal Interviewing: Theory, Tactics and Techniques* (Butterworths 1996); Ross Hyams, Susan Campbell and Adrian Evans, *Practical Legal Skills* (Oxford University Press, 3rd ed, 2007).

⁹ *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* (NSW) rr 9–12.

¹⁰ Within Australia, only Newcastle University also includes a community legal centre, although Monash University and Murdoch University both have very close connections with community legal centres. See Evans et al, 'Teaching Social Justice in Clinics' (n 5).

social housing and 60 per cent receive low or no income.¹¹ Clients of the Centre have a range of legal issues, including employment, debt, tenancy, discrimination, criminal or fines issues or have had an accident.

The evening advice clinics include six UNSW students, one clinical student, a supervising staff solicitor/clinical supervisor, and up to five volunteer lawyers who come from private legal practice, corporate law and government and/or legal aid practice. The role of the UNSW student is to interview the client initially, brief the volunteer lawyer about the legal problem, work with the lawyer to devise the legal advice, record the legal advice given and debrief the experience with the lawyer and supervising staff solicitor. Each student interviews one to two clients on the one advice night which they attend.

Students gain a deep insight into the issues faced by disadvantaged clients and what role they, as future lawyers, may have in resolving these issues. By working with a range of skilled lawyers, most of whom are volunteering their time, they see modelled before them the working out of each lawyer's responsibility to the law and the legal profession. With the supervising staff lawyer, and the volunteer lawyer, they work through how to deal with a client, provide legal advice, deal comprehensively with the client's range of needs and resolve any ethical issues, including managing the client's expectations, and the limited resources available to provide ongoing legal help.

While the clinical component is a short experience of interviewing clients, it is intensive and utterly immersive. It provides students with education related to their own professional formation and students' sense of their identity and the ethical and social meaning of the profession.¹² It does this through providing practising lawyers as role models who are in the process of dealing ethically with real clients, in collaboration with law students. These lawyers are themselves engaging in pro bono work, adding another layer of meaning to the question of 'what is the role of a practising lawyer' in contributing to make the law and legal system fairer. Indeed, many teachers may see their role as one of explaining:

Why what we seek to teach is of value, provide a vision of ends to which that knowledge and skills could be put, and encourag[ing] students to consider if these values are congruent with their own sense of self. Doing so contributes to students' evolving sense of their own purpose in life and how their careers as lawyers will support their own sense of purpose.¹³

The clinical component provides a means towards this vision. For many, the experience builds their confidence in their abilities as well. It

¹¹ UNSW Law Faculty, *Kingsford Legal Centre Annual Report* (2018) 3.

¹² William Sullivan et al, *Educating Lawyers: Preparation for the Profession of the Law* (The Carnegie Foundation for the Advancement of Teaching, 2007) 126–61.

¹³ Leah Wortham, Catherine Klein and Beryl Blaustone, 'Autonomy-Mastery-Purpose: Structuring Clinical Courses To Enhance These Clinical Education Goals' (2012) 18 *International Journal of Clinical Legal Education* 105, 120. The lawyers who are working voluntarily ('pro-bono') with the clients and students are modelling and teaching the students through this process about their own sense of purpose in being a lawyer, having chosen to volunteer with clients.

enables students to explore their sense of purpose and their confidence to be able to realise this purpose. Krieger outlines that:¹⁴

Empirical research for the last two decades has shown that when intrinsic values and motivation dominate a person's choices she tends to experience satisfaction and wellbeing, whereas when extrinsic values and motivation are most important to her she will experience angst and distress.

This inclusion of experiences which nurture a student's expression of their values and springs from their internal motivation, has the potential to improve the mental health status of law students.¹⁵ For some students, interviewing disadvantaged clients will affirm their reasons for studying law. It, therefore, has the potential to reinforce their intrinsic motivation. It also reinforces other elements of the course which teach students how to integrate their personal values with their practice at work. This is taught through the model now known as 'Giving Voice to Values.'¹⁶

Other research has demonstrated that law students can often choose to study law to please their parents, rather than as an expression of their own will.¹⁷ Students also discuss choosing law because they are committed to social justice and become progressively distanced from this purpose. This experience provides students with an opportunity to reconnect with a social justice purpose and for those who are motivated by that, connect with that intrinsic motivation.

III RESEARCH PROJECT

The aim of this research was to measure whether students' sense of autonomy and competence would develop and grow from a relatively short clinical component. This would support the argument that a well-structured clinical learning experience in which the student is expressing themselves and their abilities, grows a student's sense of autonomy and ability.¹⁸ This sense of autonomy,¹⁹ and ability may be

¹⁴ Krieger, 'The Inseparability of Professionalism and Personal Satisfaction' (n 2) 429 citing Kennon Sheldon and Tim Kasser, 'Goals, Congruence and Positive Well-Being: New Empirical Support for Humanistic Theories' (2001) 41(1) *Journal of Humanistic Psychology* 30.

¹⁵ Vines, 'Working Towards the Resilient Lawyer' (n 2).

¹⁶ Mary Gentile, *Giving Voice to Values: How to Speak Your Mind When You Know What is Right* (Yale University Press, 2010).

¹⁷ The study of tertiary students at UNSW in 2005 found that law students had been influenced by external factors or motivators, such as family when deciding to study law. The law students had comparatively worse mental health in comparison to other university students. See Massimiliano Tani and Prue Vines, 'Law Students' Attitude to Education: Pointers to Depression in the Legal Academy and the Profession?' (2009) 19(1) *Legal Education Review* 3.

¹⁸ Wortham, Klein and Blaustone, 'Autonomy-Mastery-Purpose' (n 13).

¹⁹ Wortham, Klein and Blaustone discuss this and use four 'T's to understand how to support autonomy in teaching. These are 'task' which allows the time for a student to talk and be listened to, 'time' allowed for a student to work in their own way, 'technique' where rationales are provided and informational feedback, offering encouragements and hints, and 'team' where the student feels like their supervisor is working with them and is responsive to student generated questions. See *ibid*, 124

nurtured even in a short clinical component and can add to students' sense of intrinsic motivation. This 'enhances a learner's conceptual understanding of what they are trying to learn...[and] promotes flexibility in one's way of thinking, active information processing and tendency to learn in a way that is conceptual rather than rote'.²⁰ While other research²¹ has examined the ways in which a full clinical course grows students' sense of autonomy and competence, the capacity of a relatively short clinical component to achieve this aim has not been examined previously. This is a new and innovative enquiry which takes the next step in asking how a relatively short and intensive clinical component impacts on student growth in confidence and sense of autonomy.

One of the aims of the research was to determine the impact of a short clinical experience on students' sense of autonomy and purpose in their later studies. There were three parts to this research question. The first part inquired 'How students experience their interviewing experience at Kingsford Legal Centre?' The second part examined students' levels of confidence in their interviewing ability both before and after interviewing clients. The third part of the enquiry examined how students felt about their law studies more broadly after the interviewing experience and their confidence in continuing their law studies.

The questions about students' sense of autonomy and purpose link to self-motivation theory which is about people having a greater sense of confidence in themselves, and purpose, as they have structured experiences which allow self-expression.²² The first and third research questions, 'how students experience their interviewing experience' and 'how they felt about their law studies more broadly and their confidence in continuing in them', enable us to explore whether or not students have their sense of purpose in studying law reinforced through the clinical experience. Intrinsic motivation theory recognises the value of people being motivated to act from internalised, rather than external motivations. 'Comparisons between people whose motivation is authentic (literally, self-authored or endorsed) and those who are merely externally controlled for an action typically reveal that the former, relative to the latter, have more interest, excitement, and confidence, which in turn is manifest both as enhanced performance, persistence and creativity'.²³ There are clear links between the development of intrinsic motivation and clinical teaching.²⁴ This may

citing Johnmarshall Reeve and Hyungshim Jang, 'What Teachers Say and Do to Support Students Autonomy During a Learning Activity' (2006) 98(1) *Journal of Educational Psychology* 209, 211.

²⁰ Wortham, Klein and Blaustone, 'Autonomy-Mastery-Purpose' (n 13) 110 citing Reeve and Jang, 'What Teachers Say and Do' (n 20) 112–3.

²¹ Wortham, Klein and Blaustone, 'Autonomy-Mastery-Purpose' (n 13) 120.

²² Shelden and Krieger (n 1) 281; Wortham, Klein and Blaustone, 'Autonomy-Mastery-Purpose' (n 13) 120.

²³ Richard Ryan and Edward Deci, 'Self-Determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well Being' (2000) 55(1) *American Psychologist* 68, 69.

²⁴ Wortham, Klein and Blaustone, 'Autonomy-Mastery-Purpose' (n 13) 120.

be because of the principle of giving students responsibility for their work in clinical legal education, with consistent and clear supervision. Indeed, 'opportunities for self-direction were found to enhance intrinsic motivation because they allow people a greater feeling of autonomy'.²⁵ This is what occurs in the interviewing clinical component as students, with support, are responsible for interviewing the client and establishing what has happened to bring a client to need legal advice. While students' sense of purpose appears to be strengthened through this experience, this finding arises out of the comments students made. Specific questions about students' sense of purpose and motivation were not asked in the surveys. This would provide fruitful ground for further research. The development of a sense of relatedness is also connected to developing students' sense of purpose.

In traditional law teaching a law student can feel a sense of disjunct between learning to argue and think like a lawyer, and yet not feel their own values reflected in the results of cases. 'Their sense of relatedness is likely to suffer from the new emphasis on submerging feelings and sensitivity toward others, from the quest to create new reasoning and arguing legal personae, and from the overriding, perceived need to compete and win.'²⁶ The clinical component provides students with an opportunity to experience legal practice and integrate their views of their own developing sense of professionalism with seeing lawyers in practice. The students are responsible for the interviewing of the client, for responding to their human needs as well as their legal ones. Each student must interact individually with a client and begin to apply the law they have learnt to the frequently complex legal issues the client is experiencing, mixed with a range of social, cultural, gender, economic and disability related issues. Interacting with another person also means they have to integrate their own personalities with a developing sense of identity as a future lawyer who will have to interview and give advice to clients. Students' ability to relate to their clients and to the solicitors they work with is essential to achieve an effective legal interview.

A Current Trends in Legal Education

The teaching of doctrinal law is undergoing constant renovation. But most recently the case method of teaching law, sometimes known as the 'Langdellian method', has been criticised for not providing the context of law to students, nor teaching students adequate problem-solving skills. Students are taught to read cases and deconstruct them for 'facts', reasoning, and outcomes for developing doctrine. This, it has been assumed, teaches them problem solving. However legal issues are complex and context-based and require problem solving skills. The case method does not necessarily teach

²⁵ Ryan and Deci, 'Self-Determination Theory' (n 24) 70.

²⁶ Lawrence Krieger, 'Human Nature as a New Guiding Philosophy for Legal Education and the Profession' (2008) 47 *Washburn Law Journal* 101 citing Elizabeth Mertz, *The Language of Law School: Learning to Think Like a Lawyer* (Oxford University Press, 2007).

students these skills.²⁷ The integration of complex skills development within legal education is an ongoing debate.

In Australia another more recent analysis of legal education examined the content of the Bachelor of Law degree. Currently, there is a requirement that all courses cover the 'Priestley 11'.²⁸ These are 11 areas of law which the Legal Profession Admissions Board considers all law graduates need to have learnt before entering practice. A more recent examination of legal education framed the key areas for legal education within the terms of 'threshold learning outcomes'. These were developed over an extensive research and consultation process over several years. They asked the question, what does a law student need to be able 'to do' at the end of their Bachelor of law degree, rather than what does a law student need 'to know'. The findings included six key areas: (1) knowledge; (2) ethics and professional responsibility; (3) thinking skills; (4) research skills; (5) communication and collaboration; and (6) self-management.²⁹ These have been accepted by the Council of Australian Law Deans in November 2010.³⁰

This 'threshold learning outcomes' project was conducted within the context of an ongoing 'tension between privileging prescribed areas of knowledge versus ongoing generic skills development'.³¹ The research project analysed within this article provides another means to understand how law can be taught within a law degree which ensures that students develop their ability to manage themselves, and develop their sense of ethics and professional responsibility. It demonstrates how through a relatively short clinical component these key skills and learning outcomes can be reached. In this way it provides a replicable model for other faculties of law.

B *How the Research was Conducted*

The research questions were devised after consulting with legal education and clinical legal education experts and conducting a literature review around concepts of professionalism and ethical behaviour and attitudes in students. The questions which students were asked were deliberately open-ended in order not to predetermine or shape the responses of the respondents. The approach taken to develop

²⁷ Debora Threedy and Aaron Dewald, 'Re-conceptualizing Doctrinal Teaching: Blending Online Videos with In-Class Problem-Solving' (2015) 64(4) *Journal of Legal Education* 605.

²⁸ This refers to 11 areas of knowledge which students must learn during their law degree: criminal law, torts, contracts, property, equity, company law, administrative law, federal and state constitutional law, civil procedure, evidence and ethics and professional responsibility. See generally *Legal Profession Uniform Admission Rules 2015* (NSW).

²⁹ Sally Kift, Mark Israel and Rachael Field, *Learning and Teaching Academic Standards Project: Bachelor of Laws Learning and Teaching Academic Standards Statement December 2010* (Report, Australian Learning and Teaching Council, December 2010).

³⁰ *Ibid.*

³¹ Anna Huggins, 'Incremental and Inevitable: Contextualising the Threshold Learning Outcomes for Law' (2015) 38(1) *University of New South Wales Law Journal* 264, 265–6.

the project was one of 'grounded research'. Grounded research is a 'general method of [constant] comparative analysis'.³² This methodology also allows for patterns to develop within the data which can explain the research questions, and allow for the generation of theory.³³ Two surveys were administered to students – pre and post client interview.³⁴ The results of a number of the questions have been discussed elsewhere.³⁵ This article focuses on the ways in which a short clinical component of an applied ethics course can impact substantially on students' confidence in their interviewing skills, and more importantly in their following legal studies.

In analysing the survey responses, a coded data approach was used to classify the data. The researcher initially read through all the survey responses to gain an overall impression of the responses. Following this, a detailed analysis of the data began. Each survey was analysed in order to create a data scheme which would reflect the range of possible responses to the questions. This involved a process of cross checking between survey responses in order to ensure that the categories/code being created were accurate and useful for the survey classification. Once a code had been devised, then each survey was re-read in order to classify its answers into the coded answers. The data of each of the surveys was then compiled in order to make deductions from the data. Once initial trends in responses were identified the surveys were again re-read and coded. After particular trends were identified, the data was again compared and analysed to re-categorise it. This interplay between data and theory is key to using grounded theory.³⁶ An example of a response pre-interview to the question, 'how do you feel about your ability to study law or become a lawyer?', which was coded 'low confidence', is Student 23 who answered: 'I feel that I am unable to become a lawyer, but I am interested in studying law, hoping to help those in need through sharing what I have learnt in university'. Another student answered: 'studying law is a difficult process. But my interest in the area is motivating. Further, my aspirations to help those disadvantaged [sic] motivates me to study with the best of my ability in

³² Barney Glaser, 'The Constant Comparative Method of Qualitative Analysis' (1965) 12(4) *Social Problems* 436; Patricia Ewick and Susan Silbey, 'The Common Place of Law' in Simon Halliday and Patrick Schmidt (eds) *Conducting Law and Society Research: Reflections on Methods and Practices* (Cambridge University Press, 2009); Antony Bryant and Kathy Charmaz, *The Sage Handbook of Grounded Theory* (Sage Publishing, 2007).

³³ Hilary Engward, 'Understanding Grounded Theory' (2013) 28(7) *Nursing Standard* (Royal College of Nursing) 37.

³⁴ The researcher sought ethics approval (HC15042) to conduct a survey of LEJ students. No benefit or disadvantage was experienced by any student who participated in the survey. The survey was conducted via survey monkey and announced to students by a third person who was not involved in the analysis of the data. The respondents' identities are unknown to the researcher.

³⁵ Anna Cody, 'Interviewing Real Clients and the Ways it Deepens Students' Understandings of Legal Ethics' (2018) 21(1) *Legal Ethics* 46.

³⁶ The theory develops as it interplays with the data and the course of the actual research. See Anselm Strauss and Juliet Corbin, 'Grounded Theory Methodology, An Overview' in Norman Denzin and Yvonna Lincoln (eds) *Handbook of Qualitative Research* (Sage Publications, 1994) 273.

order to achieve this outcome.’ (Student 11). This was coded ‘medium confidence’. The question asked post-interview was, ‘what do you think about your ability to do your law studies, after your client interviewing experience?’ A student replied ‘I think after my client interviewing experience, my ability to study law has improved, but of course, I still need to learn a lot more so hopefully I am given the opportunity to do more practice.’ This was classified as ‘medium confidence’. Another student replied, ‘I am encouraged by my performance in interviewing the client and it is useful to be aware of the need to improve my note taking ability if those notes are to be used by someone else’ (Student 39). This answer was coded as ‘medium confidence’.

Because the questions were largely open ended, students could make multiple points in their answers. They were not confined to a specific number of responses.³⁷

C Research Results

1 Respondent Demographics

All students across three semesters were invited to participate. In total, 69 students participated in both the pre-interview and post-interview surveys. This comprises of 28 out of 212 possible students in Semester One, 25 out of 210 in Semester Two and 16 out of 29 students in the summer semester. The total percentage of students who completed both the pre and post-interview survey is 14 per cent of all students enrolled in the subject in 2015. While this is not a large percentage of students, it is sufficient to provide valuable data about the impact of the interviewing clinical experience.³⁸ The students who completed the surveys were comprised of 21 males and 48 females. This is a slightly higher proportion of women than are enrolled in the law degree program. The overall student cohort, however, has a higher percentage of female students, than male. There were 12 international students and 57 non-international students which is representative of the student cohort.

After the students had completed the Kingsford Legal Centre interviewing experience, students were asked an open-ended question about the impact of the interviewing experience. This question was, ‘How was the Kingsford Legal Centre experience?’.

³⁷ Barney Glaser and Anselm Strauss, *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Aldine Publishing Company, 1967); Ewick and Silbey, ‘The Common Place of Law’ (n 33); Bryant and Charmaz, *The Sage Handbook of Grounded Theory* (n 33).

³⁸ For a finite population a significant sample size is generally considered at 5% or above of the population. See Thomas Ryan, *Sample Size, Determination and Power* (John Wiley & Sons, 2013) 32.

| How was the Kingsford Legal Centre experience? | |
|---|----------|
| Interesting/Exciting/Enjoyable/Rewarding/Enlightening | 64 (93%) |
| Confidence building | 13 (19%) |

Ninety-three per cent of respondents said, 'I really enjoyed it/interesting/really interesting/very enjoyable and rewarding'. Nineteen per cent of students also said that, 'it was confidence building' and/or 'they were surprised at their own ability to interview well'. An example of this is the student who replied that:

I found the experience very confidence building. I was worried that I would be completely incompetent but found I was well able to handle the interview. I had difficulty focusing the interview but felt I built rapport quickly with the client (Student 10).

Another student replied that:

I think that my efforts in my law studies have been revitalised after this experience which has helped me to gain a better understanding of advising clients and bearing the responsibilities of a lawyer. Indeed, being exposed to the practical aspect of the legal environment in Australia has motivated me to work harder as a law student so that one day I will be able to responsibly help people (Student 35).

From the other five students, four did not reply to the question and one had a negative experience.

Another student demonstrated other aspects of learning from the clinical experience such as teamwork. They commented:

The experience showed me how easy it actually was to help people, not so much the interviewing but the inter-collaborating with [supervisor] for each case. It was good for me to see solicitors struggling with the answers. Helped me to feel more empowered in regards to [sic] my previous experience and the law knowledge that is being drummed into me week after week (Student 29).

2 Levels of Confidence in Interviewing

The second element of the research questions focussed on student confidence in their interviewing skills. Students were asked about how confident they felt about their ability to interview in both the pre-interview survey and post-interview survey. In the pre-interview survey, students were also asked what skills and abilities they thought were most needed to interview. The question was not asked separately in the post-interview survey.

| How confident did you feel about your ability to interview clients? | Before | After |
|---|----------|----------|
| Low confidence | 8 (12%) | 5 (7%) |
| Medium confidence | 24 (35%) | 41 (59%) |
| High confidence | 32 (46%) | 21 (30%) |

| What skills do you think you will need/were important for the interview? | Before |
|--|----------|
| Empathy/Interpersonal/cultural awareness | 50(72%) |
| Active listening | 50 (72%) |
| Ability to synthesise and analyse/research or know the law | 20 (29%) |
| Can record information accurately | 9 (13%) |

Seventy-two per cent of respondents replied that active listening was a key skill before the interview. Seventy-two per cent replied that showing empathy, having interpersonal skills and having cultural awareness was key. This is demonstrated by the student who when asked about what abilities are needed to interview, replied, ‘good interpersonal skills’ (Student 29).

They were asked about their levels of confidence in doing the interview. Twelve per cent of students had low confidence levels before the interview, whereas seven per cent of students had low confidence after the interview. Before the interview 35 per cent students had medium level confidence whereas 59 per cent of students had medium confidence levels after the interview. Before the interview 46 per cent of students had high levels of confidence, whereas 30 per cent of students had high levels of confidence after the interview. Thus, there was a shift before the interview from a larger number of students who had higher confidence, and after the interview, there were greater numbers with medium level confidence. This is discussed below.

3 *The Impact of the Interviewing Clinical Component on Students’ Law Studies*

The final element of the research questions enquired into the impact of the interviewing experience on students’ law studies, not confined to their study of legal ethics. Students were asked, ‘how do you feel about your ability to study law?’. This question was open ended to examine levels of confidence, but also elicited some wider responses.

| How do you feel about your ability to study law? | Before | After |
|--|----------|----------|
| Low | 13 (19%) | 3 (4%) |
| Medium | 39 (57%) | 36 (52%) |
| High | 17 (25%) | 29 (42%) |
| No answer | | 1 |

In this question, each of the responses was categorised into one of three categories, low, medium or high. This makes it easier to compare the pre-interview and post-interview responses by students. The total students in the ‘before interview’ column adds up to 69 which is the total number of students who completed the survey. This is the same

for the 'after interview' column including one student who did not respond to the question.

In the **pre-interview survey** students were asked, 'how do you feel about your ability to study law or become a lawyer?'. Of the 69 student responses, 25 per cent said they felt highly confident. Fifty-seven per cent of students stated that they had medium levels of confidence. This is demonstrated by these student responses:

- 'It's hard but doable' (Student 19).
- 'I feel that I have the ability to study law, although it is taxing and if I am not careful can adversely affect my mental health. Because of this I do not think I want to become a lawyer — while I think I have the ability, I do not think I want to make the compromises in terms of quality of life that this might represent for me' (Student 33).

Nineteen per cent of students stated that they had low levels of confidence about studying law. This is typified by this response:

Not super-confident, very worried about not being across all the different topics required and not being driven enough to just focus on school/career (Student 38).

In the **post-interview survey**, students were asked, 'what do you think about your ability to do your law studies, after your client interviewing experience?'. The highest response was 52 per cent of students who replied that they had a medium level of confidence in their ability to complete their law studies. This is typified by the student who replied, 'I am more confident after the interviewing experience. I understand that more people need legal help and that is what I mean to do' (Student 27). Another replied that 'the experience showed me how easy it actually was to help people, not so much the interviewing but the inter-collaborating with [the supervisor] for each case. It was good for me to see solicitors struggling with the answers. Helped me to feel more empowered in regards to [sic] my previous experience and the law knowledge that is being drummed into me week after week' (Student 29).

Forty-two per cent of students replied that they had high levels of confidence about their law studies and four per cent of students had low levels of confidence in their law studies.³⁹

In addition to the responses about low, medium or high levels of confidence, students also made comments about the ways in which doing a clinical component impacted on their law studies. This part of the research is more qualitative. The answers have been categorised into four categories: the importance of practical skills and interest in the practice of law; assistance with analytical, research/note taking or problem-solving skills; helping people motivates them; and broadly, confidence building.

³⁹ See the above table, 12.

Nine students replied that they would like to engage in more practical experiences in their legal studies and were interested in the practice of law. This is typified by these comments:

- ‘I think continuing practice and interviewing clients and having exposure to practical legal work will improve my ability to complete my law studies’ (Student 32).
- ‘I’m less intimidated by practice’ (Student 10).
- ‘I think my ability is fine, it’s sort of change my perspective a bit though, seeing law in action and seeing how different it is from the law we learn in class’ (Student 40).

Nine students commented on how the interviewing experience had changed their perspectives on the need for analytical skills, research skills or note-taking or problem solving. These are demonstrated in these comments:

- ‘When it comes to real life, the problems are far more complicated than pure knowledge. It always contains a mixture of many subjects, as well as the skills of communication’ (Student 66).
- ‘I think for the first time I had to engage with the people I am learning to represent-it really made me think how I approach legal issues and thinking’ (Student 20)
- ‘I recognise that research skills are very important’ (Student 14).

Eight students commented on how helping people was motivating for them as demonstrated in these responses:

- ‘It was good to put myself in a practical setting to see how all the theory works together, it has given me more of a drive to work harder as I do feel passionate about working with people and working to help them’ (Student 25).
- ‘I am more motivated to do my law studies as I was exposed to real clients who require lawyers’ expertise to help them be in the best legal position’ (Student 48).
- ‘The experience at KLC has re-affirmed my commitment towards my studies. Lawyers hold the noble ability to serve their community and contribute towards making the world a better place to live in. To eradicate poverty. Lawyers plan an inevitable role towards achieving this goal’ (Student 50).
- ‘I am more confident after the interviewing experience. I understand that more people need legal help and that is what I mean to do’ (Student 27).

Six commented broadly on the ways in which the experience grew their confidence as demonstrated in these responses:

- ‘I am more confident in dealing with real life clients and am certain I want to get into this area of law’ (Student 45).

- 'Helped me feel more empowered in regards to [sic] my previous experience and the law knowledge that is being drummed into me week after week' (Student 29).
- 'It reaffirmed what I was studying and that I knew more than what I thought' (Student 19).

IV DISCUSSION OF RESULTS

These data overwhelmingly support anecdotal reports that students very much enjoy their interviewing experience and learn a great deal from the structured learning experience. The data further demonstrate that even though relatively limited in length, the clinical interviewing experience mostly builds students' confidence in interviewing and affirms their ability to understand a client's legal issues.⁴⁰ If the categories of medium and high confidence are combined, then the number of students who fit in this category grows from 81 per cent to 89 per cent. However, the data is also interesting in that while increasing the number of students who have medium levels of confidence from 35 per cent to 59 per cent of students, it also reduces the number of students with high levels of confidence from 46 per cent to 30 per cent of students. In this way, the study reveals that students have a more complex response to the experience of interviewing clients. Students may realise that they can engage successfully in interviewing clients, but also that it is quite a challenging and demanding task requiring multiple layers of skill and knowledge. For this reason, the number of students with 'high' levels of confidence reduces after the actual experience of interviewing. Students comment on the challenges they face in balancing communicating effectively with the client, guiding the interview and recording the information given. This is demonstrated by these comments:

I am more confident in dealing with real life clients and am certain I want to get into this area of law (Student 45); and also

I am encouraged by my performance in interviewing the client and it is useful to be aware of the need to improve my note taking ability if those notes are to be used by someone else (Student 39).

From these data, and some of the student comments, it is apparent that the interviewing experience also reinforced their understanding of the importance of communication⁴¹ and empathy⁴² that students had also pre-identified as being key skills. After the interviewing experience, students appreciated just how hard it is to get the relevant information from clients and the importance of showing concern and

⁴⁰ This issue was explored in an earlier article on the same empirical research. See Cody, 'Interviewing Real Clients' (n 36).

⁴¹ Sullivan et al, *Educating Lawyers: Preparation for the Profession of the Law* (n 12). The Carnegie Report emphasised the importance of communication skills within law schools and interviewing skills.

⁴² Susan Brooks, 'Using a Communication Perspective to Teach Relational Lawyering' (2015) 15(2) *Nevada Law Journal* 477.

empathy for clients. ‘When it comes to real life, the problems are far more complicated than pure knowledge. It always contains a mixture of many subjects, as well as the skill of communication’ (Student 66). This is demonstrated by this student’s comment:

Work on my practical skills and maintain them to a high standard — it’s important to be a strong writer but law is more so about the communication and interaction if you can communicate sufficiently, build rapport with clients and many lawyers are theory based but cannot communicate their knowledge (Student 43).

A Student Confidence Levels in their Ability to Complete their Law Studies

From this study, it appears that the clinical experience of interviewing clients built students’ sense of ability and competence, not only in interviewing but also their legal studies with 94 per cent of the 69 students rating their confidence in engaging in their legal studies at medium or high after engaging with a real client with a legal problem. It is notable that it was not just their confidence in interviewing clients, but rather their confidence in their ability to continue and complete their law studies which increased.

From the comments of students, the experience appears to have increased their motivation to complete their law studies with a renewed understanding of why they were studying law. This is shown in this comment:

I am more motivated to do my law studies as I was exposed to real clients who require lawyers’ expertise to help them be in the best legal position (Student 48).

This reflects the importance of building into any law degree which is teaching ethical and professional development, experiences which develop this sense of purpose or motivation of students. ‘This kind of education employs principles of effective instruction-active learning and opportunities for practice, assessment and self-assessment, feedback from multiple sources and opportunities for reflection and feedback.’⁴³ Furthermore, it is conducted by those who are actively engaged in professional practice. These elements are key to promoting ethical development and professionalism. While the data suggest a connection between these types of clinical experiences and increasing motivation, the questions asked in the surveys did not specifically probe students’ sense of motivation and purpose. This would be a useful future area of enquiry.

These responses demonstrate the significance within the law degree of including some powerful learning experiences. This clinical component of interviewing is one of those. As the Carnegie Report on legal education observed, powerfully engaging law school experiences

⁴³ Muriel Bebeau, ‘Promoting Ethical Development and Professionalism: Insights from Educational Research in the Professions’ (2008) 5(2) *University of St Thomas Law Journal* 367, 391.

can potentially 'influence the place of moral values such as integrity and social contribution in students' sense of self.'⁴⁴ This connects students to their intrinsic motivation and holds the potential for students to integrate their values and their work as law students and possible future lawyers. This will hopefully improve the mental health of students, although this hasn't been measured in this study. Within the teaching of law, it is vital to

'...do everything possible so that the law school experience preserves and strengthens, rather than dampens the enthusiasm, idealism, and integrity (in its broadest sense) of students. Because intrinsic pursuits and basic need satisfaction are foundational to both professionalism and personal satisfaction, we need to model and encourage them persistently if we genuinely intend to produce happy, thriving, professional lawyers.'⁴⁵

The experience of law students engaging with practising lawyers in interviewing and advising real clients is an experience which appears to provide students with an enriching, satisfying experience where they are stretched in their abilities, but also reassured about their capacity to engage effectively with the client and the lawyer in interviewing, but also to gain confidence in completing their law studies.

This seems to reflect the emphasis of the Carnegie Foundation's Preparation for the Profession Project's 'call for law schools to focus on law students' sense of identity and purpose as part of their professional education.'⁴⁶ It furthermore, appears to have a broader impact than simply increasing their confidence in their interviewing skills, and in fact, increases their confidence in their ability to successfully complete their law studies. The responses also demonstrate the connection between students being motivated to continue in their legal studies by providing an experience where they have the opportunity to help people and put their legal skills to use. This is shown in this comment:

The experience at [Kingsford Legal Centre] has re-affirmed my commitment towards my studies. Lawyers hold the noble ability to serve their community and contribute towards making the world a better place to live in. To eradicate poverty. Lawyers play an inevitable role towards achieving this goal (Student 50).

The strength of these responses can be encapsulated by one student's response of, 'wow I think I can be a lawyer now'. This sentiment of a stronger sense of confidence was repeated across a large number of responses.

⁴⁴ JoNel Newman and Donald Nicolson, 'A Tale of Two Clinics: Similarities and Differences in Evidence of the "Clinic Effect" on the Development of Law Students' Ethical and Altruistic Professional Identities' (Legal Studies Research Paper No 2015, University of Miami, 23 October 2015) 17 citing Sullivan et al, *Educating Lawyers: Preparation for the Profession of the Law* (n 12) 126–9.

⁴⁵ Krieger, 'The Inseparability of Professionalism and Personal Satisfaction' (n 2) 438.

⁴⁶ Wortham, Klein and Blaustone, 'Autonomy-Mastery-Purpose' (n 13) 108 citing Sullivan et al, *Educating Lawyers: Preparation for the Profession of the Law* (n 12).

It appears that this experience builds students' sense of their identity as future lawyers, with a connection between using their skills and also helping others while doing so. It reinforces their intrinsic motivation rather than doing things for extrinsic motivation.

The research would be strengthened by conducting in-depth interviews at the beginning of law school, with groups of the students to gain a deeper understanding of their initial motivations, and further interviews when students are progressing through their law degree. The role of the clinical component could be more effectively identified in its role in developing students' autonomy and intrinsic motivation by doing these in-depth interviews. Furthermore, conducting surveys which ask students about their motivations for studying law would be another mechanism to probe the connection between the clinical experience and the linking with students' sense of purpose for studying law.

This experience is certainly one within the paradigm of strengthening the connections for students between their intrinsic motivation, values and legal skills and analytical reasoning. But there are others within the law curriculum which would similarly develop this capacity of students.

If, as psychologists have argued, identity formation is a life-long developmental process, we educators should not expect young people to come fully prepared to take on professional roles and responsibilities or to demonstrate the kind of integration of personal and professional values that are exhibited by exemplars. The main question here is not whether young people are self-centred rather than other-centred, but the degree to which societal influences may be inhibiting rather than enhancing the development of the moral self.⁴⁷

As educators, particularly teaching legal ethics, we should be teaching our students about how to be ethical lawyers, which includes recognising their duty to provide community service and make law fairer and more just.

V CONCLUSION

In conclusion, including a clinical component of interviewing real clients as a part of an applied legal ethics course has measurable value. It provides one means to develop students' confidence in their interviewing skills and interest in the practice of law. But perhaps surprisingly also has the benefit of building students' confidence in their ability to successfully complete their law studies through building their sense of purpose. The significance of including learning experiences which build students' sense of purpose through developing their intrinsic motivation in law courses has been recognised as essential for developing committed and dedicated lawyers. The Carnegie Report is just one study which emphasises the importance of

⁴⁷ Bebeau, 'Promoting Ethical Development and Professionalism' (n 44) 371.

incorporating these experiences within a law degree. This inclusion of a clinical component within the ethics courses of a law degree is one effective means of achieving this.