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Paul J. Cain
University of Denver

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A First Step Toward Introducing Emotional Intelligence into the Law School Curriculum: The “Emotional Intelligence and the Clinic Student” Class

*Paul J Cain**

Law schools are in the business of training “lawyers”, that is, people who will practise law. Law schools are *not* in the business of training students to only be able to regurgitate what they have learned in a bar exam.¹ Lawyers must interact with a plethora of different people. They include clients, colleagues, opposing counsel, judges, witnesses, probation officers, court staff, support staff and others. Clients are often in crisis and, thus, emotional. Law schools must train students to effectively and intelligently interact with people on an emotional basis if we are to train students to be effective, good lawyers.

This paper will briefly give an overview of what is meant by “emotional intelligence” and why it is important to the law school curriculum. The primary focus of the paper will be relating my experience in offering a class on emotional intelligence in the internship program² at the University of Denver College of Law, Colorado, USA. I will discuss the goals

* Visiting Professor, University of Denver College of Law. I would like to thank Prof Vijaya Narapareddy, Daniels Business College, for her collaboration, encouragement and assistance and the Hon Jacqueline St Joan (former clinic director) for her support and encouragement. In addition, I would like to thank Asst Prof Christine Cimini for her thoughtful comments on a draft of this paper. Finally, I want to thank the students for their openness and willingness to explore emotional issues.

- 1 In the United States, almost all states require students who have graduated from law school to take an exam prior to being licensed to practise in that state. Typically, bar exams consist of essay questions on substantive topics, a national multiple-choice test on substantive topics, a national ethics multiple-choice test and, more recently, a test of more “hands on” knowledge.
- 2 “Internship” is the term used at Denver University rather than the more commonly used term “externship”; that is, a field placement program in which students work at a law firm, agency or judge under supervision with a classroom component, journal writing and other requirements.

and objectives that I had; the preconceptions that I brought into the process; the organisation of the class; the methodology utilised; the materials used; the student's reactions; and, finally, what modifications I would make to the course.

What is "Emotional Intelligence"?

There is certainly more than one way to define emotional intelligence. One definition is "[E]motional intelligence is the ability to sense, understand, and effectively apply the power and acumen of emotions as a source of human energy, information, connection, and influence."³ It also includes "self-control, zeal and persistence, and the ability to motivate oneself"⁴ as well as "being able ...to rein in emotional impulse; to read another's innermost feelings; to handle relationships smoothly"⁵ As can be seen, defining "emotional intelligence" is a slippery task.

The early pioneers of emotional intelligence include David Wechsler and Robert Thorndike, both of whom wrote about the subject in the 1930s and 1940s; however, their work on the subject was largely ignored until 1983 when Howard Gardner published his seminal book, *Frames of Mind*.⁶ Gardner describes "multiple intelligences", including *interpersonal* and *intrapersonal*. Interpersonal intelligence is the ability to understand other people while intrapersonal intelligence is the ability to understand yourself.⁷ Yale psychologist Peter Salovey furthered this concept⁸ into five domains: knowing one's emotions, managing emotions, motivating oneself, recognising emotions in others and handling relationships.⁹ The subject received wide attention with the publication of the best-selling book, *Emotional Intelligence*.¹⁰

3 R K Cooper, A Sawaf, *Executive EQ: Emotional Intelligence in Leadership and Organisations* (New York: A Perigree Book, The Berkley Publishing Group, trade paperback edition, 1998), p xiii.

4 D Goleman, *Emotional Intelligence* (New York: Bantam Books trade paperback edition, 1997), p xii.

5 Goleman, note 4, p xiii.

6 C Cherniss, "Emotional Intelligence: What it is and Why it Matters", paper presented at the Annual Meeting of the Society for Industrial and Organisational Psychology (New Orleans, LA, 15 April 2000), pp 2-3.

7 Goleman, note 4, pp 38-39.

8 P Salovey, J D Mayer, *Imagination, Cognition, and Personality* (1990), in Goleman, note 4, p 42.

9 Goleman, note 4, p 43.

10 Goleman, note 4, p 43.

Why Emotional Intelligence is Important to the Law School Curriculum

As is illustrated by the scenarios¹¹ below, students have problems dealing with the emotional aspects of practising law. As lawyers we have to deal with this in many respects. We deal with it in the context of our relationship with clients, other attorneys, judges, witnesses, and staff. We also deal with it on an organisational level, not just a personal, one-on-one level. It does not matter whether the organisation is a large or small law firm, or a government agency.

Scenario 1. A student comes bursting into your office having just met with his client. He is ranting and raving about how stupid his client is and about his client denigrating him, eg referring to him as a “neophyte”. This is not the first time the student has come into your office upset. Although the student understands the issues and theory of the case, he is losing his confidence because of his client’s attitude towards him.¹²

Scenario 2. A student has a motion to suppress evidence due. The motion is time sensitive. If it is not filed, the client will lose substantial legal rights. The student fails to turn in a draft by the deadline. The student does not respond to the messages left in their mailbox. The student misses the extension and eventually the final deadline for the motion to suppress. When confronted, the student’s only explanation is that they felt overwhelmed.

Scenario 3. A student is working in a small law firm as an extern for academic credit. The firm has only two attorneys, the supervising attorney and an associate. The supervising attorney has the student working with the associate. They do not get along. Each is blaming the other for mistakes being made. It gets so bad that the associate calls the student a “bitch”. The student calls you on the telephone crying and upset.

11 It should be noted that these scenarios are reflective of student experiences in American law school clinics or externships and may not reflect the experiences of students in other legal cultures or settings.

12 It should be noted that such an attitude by a client toward an attorney or student-attorney might not occur in other legal cultures, eg in legal cultures in which lawyers are held in high esteem. Lawyers are not held in high esteem in the United States. A November 2001 Gallup Poll of how highly regarded different professions are found that of 23 different professions, lawyers ranked 19th, only beating such poorly regarded professions as insurance salesmen and car salesmen. S L Felkins, *Whom Do You Trust? A Logical Dilemma*, <http://www.lewrockwell.com/orig/felkins8.html> (last visited on 25 March 2003).

Scenario 4. A student is working for the public defender office as an extern. They are assigned to assist on a death penalty case. The student is reviewing dozens of facts relating to death penalty cases for a proportionality review. The student is having nightmares and is very distraught.

As clinical teachers we have all faced similar scenarios, whether we teach in an “in-house” clinic,¹³ a “hybrid” clinic¹⁴ or an “externship” program.¹⁵ Helping students to handle the emotional side of practising law is at least as demanding, and perhaps more demanding, than helping students to properly analyse and prepare their cases. Why is this so? First, the law school curriculum is designed to provide students with the fundamental legal principles and concepts to analyse cases. We teach basic concepts such as contracts, torts, etc. The Socratic method is designed to guide students (at least in theory) to “think like lawyers”. It is not designed to enhance students’ emotional acumen.¹⁶ Second, students matriculate at different social and psychological stages of their lives. Many students may not be mature enough or have had enough life experience to deal with difficult emotional issues.¹⁷

Studies have shown that IQ is not a good predictor of job performance and may account for only 4%-25% of the variance.¹⁸ American law firms and other legal employers are

13 An “in-house” clinic is one housed within the law school. Taught by law school faculty, it usually has a small student to faculty ratio, and directly represents clients.

14 A “hybrid” clinic is one that is generally housed outside the law school, eg a public defender office, but is taught by law school faculty (sometimes in conjunction with the attorney at the hosting agency) with a small student to faculty ratio.

15 See above, text accompanying note 2.

16 The Socratic Method derives from Plato’s Dialogues, and in particular the Meno Dialogue. The method is a “question and answer” dialect the purpose of which is to provoke critical thinking. Christopher Columbus Langdell, Dean of Harvard Law School, introduced the method to American law schools when he brought it to Harvard Law School in 1870. Within thirty or forty years, law schools all over the country were using it: see P M Cicchino, “Love and the Socratic Method” (2001) 50 Am U L Rev 533 (arguing that teachers should focus on Plato’s Gorgia Dialogue instead of the Meno Dialogue and for a reconceived concept of elenchus); P C Davis and E E Steinglass, “A Dialogue About Socratic Teaching” (1997) 23 NYU Rev L & Soc Change 249 (discussing the role of the Socratic Method in American law schools and suggesting modifications). It should be recognised, however, that the Socratic Method, while standard in American Law School methodology, might not be a methodology utilised in other law school cultures.

17 L Morton, J Weinstein and M Weinstein, “Not Quite Grown Up: The Difficulty of Applying An Adult Education Model To Legal Externs” (1999) 5 Clinical L Rev 469.

18 Cherniss, note 6, p 4.

beginning to recognise that class rank and GPA are just a part of the picture for good hiring practices.¹⁹ The American law school academy is just beginning to realise the importance of emotional intelligence to the law school curriculum and advocate its incorporation into the curriculum.²⁰

The Internship Program: An Overview

An internship program, called “externships” by most American law schools, is a field placement program in which law students work for academic credit in a law firm, government agency or similar setting while being supervised by an attorney. The program at the University of Denver College of Law places 85-100 interns each semester. The internship program is graded on a “pass/fail” basis and is not graded by the traditional alphabet or four-point scale. Each intern must write a weekly journal that “reflects” upon rather than simply “describes” his or her internship experience.²¹ They must submit a weekly time-sheet and attend a weekly class²² or, in some circumstances, write a paper instead of attending the classroom component. Interns are generally placed into a class depending upon the type of entity at which they are placed for the internship. For example, all interns placed in private law firms attend the “Private Firm” class, all interns

19 L Richard, “The Importance of Hiring ‘Emotionally Intelligent’ Associates” (2000) 22-Feb Pa Law 18; J Wiens, “Law Firms Are Looking for Balance in Young Recruits” (2001) 25 *Colorado Journal* (No 12) 1.

20 M A Silver, “Emotional Intelligence and Legal Education” (1999) 5 *Psychol Pub Pol’y & L* 1173; M A Silver, “Love, Hate, and Other Emotional Interference in the Lawyer/Client Relationship” (1999) 6 *Clinical L Rev* 259.

21 Journals are a well-accepted component of externship pedagogy. See generally H N Katz, “Personal Journals in Law School Externship Program: Improving Pedagogy” (1997) 1 *T M Cooley J-Prac & Clin L* 7 (describing the use of journals in externships and making recommendations); J P Ogilvy, “The Use of Journals in Legal Education: A Tool For Reflection” (1996) 3 *Clin L Rev* 55 (discussing the pedagogical value of journals in legal education).

22 The classroom component is also considered an important part of the clinical program. See generally S Caplow, “From Courtroom to Classroom: Creating an Academic Component to Enhance the Skills and Values Learned in a Student Judicial Clerkship Clinic” (1996) 75 *Neb L Rev* 872 (describing and advocating a classroom component and journal writing for judicial externships); L H Morton, “Creating a Classroom Component for Field Placement Programs: Enhancing Clinical Goals with Feminist Pedagogy” (1993) 45 *Me L Rev* 19 (advocates the use of feminist pedagogy in the classroom component of externships); J P Ogilvy, L Wortham and L G Lerman, *Learning From Practice: A Professional Development Text For Legal Externs* (Eagan, MN: West Group, 1998).

placed in a District Attorney Office attend the "Prosecutor" class, and so on.

The Class Demographics

The class was offered as part of the internship program. There were eleven students in the class, all in their second or third year of law school. Of the eleven, five were male and six were female. They were placed in a variety of internship placements. The placements included public defender offices, prosecutor offices, a private law firm, a non-profit agency, and a bar association.

The students were enrolled in the class, not because of any particular interest in the subject matter, but because they "defaulted" into the class. That is, they were enrolled because they had a scheduling conflict with the class in which they would normally be enrolled.

Goals

A primary goal of the class was to introduce law students to the concept of emotional intelligence. American law schools teach legal concepts and principles beginning with the first year of law school. In fact, it is the primary focus of the first year curriculum to teach law students the legal concepts and principles for the foundational subjects such as contracts, torts and property. The methodology is typically the study of appellate cases utilising the Socratic method of questioning.

An additional goal was to have students think about and apply the concepts of emotional intelligence to their internship placements. This could take the form of how the student related to clients, supervising attorneys, opposing counsel and other people with whom they interacted. It could also take the form of reflecting upon the dynamics and interaction the student observed among the other people at his or her placement office. For example, how did their supervising attorney interact with clients, opposing counsel, support staff, judges and others? What concepts of emotional intelligence did they observe utilised or, just as importantly, not utilised?

Another goal was to have students consider how emotional intelligence might be applied to their law practices after they graduate and become licensed attorneys. I wanted students to take a long-term view of the applicability of emotional intelligence, not just for this particular academic course.

Finally, the course was designed to introduce students to emotional intelligence concepts on two levels. First, on a personal, one-on-one level, that is, applying emotional intelligence to interpersonal relationships. Second, on an organisational, institutional level, that is, applying emotional intelligence to the dynamics of an organisation such as a law firm, government agency or corporation.

Preconceptions

There were some preconceptions and misgivings that I had in offering this class. First, American law students in clinical programs notoriously and almost uniformly believe that the classroom component is a waste of time and resent having to attend the class. They would much rather spend the time at their internship placements doing “real” work. Therefore, I assumed that the students in this class would be especially difficult to engage.

Second, law students are taught to be analytical and logical in their thinking. I believed that it would be difficult to interest students in, and have them appreciate the importance of, such a “touchy, feely” subject matter.²³

Organisation

The class met one hour each week for ten weeks.²⁴ It was divided so that the first half of the course focused on “personal” emotional intelligence and the second half focused on “institutional” emotional intelligence. For example, the syllabus for the second and seventh classes is:

Class No. 2: Thursday, September 6: What are Emotions? What is Emotional Intelligence?

- What are emotions?
- Core emotions
- Nuances, moods, temperament
- Emotional intelligence
- Definition
- Components

23 See generally V R Randall, “The Myers-Briggs Type Indicator, First Year Law Students and Performance” (1995) 26 Cumb L Rev 63 at 108 (Finding that of 154 first-year law students, 78% were thinking types and 22% were feeling types, and 68% preferred judgment while 33% preferred perception).

24 The syllabus for the class is available from the author. Email address is pcain@law.du.edu.

Class Exercise: Discuss handouts; view film clip of attorney-client interview ("Client Interview – Not!") and identify emotions.

Overheads: Emotions; Aristotle's Challenge.

Journal Topic: Identify emotions in your internship, discuss context, appropriateness, etc.

Class No 7: Thursday, October 25: Emotional Intelligence in Organisations: The Four Cornerstones

- The Four Cornerstones: Emotional literacy, emotional fitness, emotional depth and emotional alchemy
- The First Cornerstone
- Emotional literacy
- Emotional honesty
- Emotional energy
- Emotional feedback
- Practical intuition

Handout: The First Cornerstone

Class: EQ Check In exercise

Different materials were used to focus on the differing areas. The class was a seminar style class rather than a lecture style class.

Methodology

The class was taught to some degree in a multi-disciplinary manner. One of the class topics was the physiology of emotions, that is, how the brain and its different parts evolve and interact to affect emotions. As a lawyer, this subject matter was clearly not within my area of expertise. Therefore, I sought the help of a colleague from the Department of Psychology at the University of Denver. He presented a Powerpoint presentation on the different parts of the brain, their function and interaction, as well as describing various relevant psychological studies.

I also engaged the services of a colleague from the Department of Management of the Daniels College of Business who specialises in cross-cultural management. She conducted a class exercise that provides students the opportunity to apply concepts of emotional intelligence in an interactive, playful way.

Further, I also engaged guest speakers to talk about emotional intelligence in the hiring process. One speaker was an attorney who was on the hiring committee for a law firm. The other speaker was from the Career Services Office of the law school. They both addressed the way in which emotional

intelligence plays a role in the hiring decision-making process. Students traditionally focus on their GPA and class rank.

Given the small number of students and the seminar style of the class, small group discussion was an integral part of the class. Discussions focused on the different concepts that were presented for the particular class. In some cases the discussions were in the context of the internships and in some cases the discussion was more broadly based.

In addition to small group discussion, I also utilised videotapes. In one class, students viewed a videotape of a simulated attorney-client initial interview. This videotape is traditionally used in a skills class to discuss interviewing techniques. I used the videotape to have students develop a sense of what emotions are present and why they might be present. Students were asked to identify emotions that the client and the attorney may be feeling at different times during the interview and identify reasons that the client or attorney may be feeling that emotion.

Finally, I also utilised small group exercises. For example, one exercise focused on the concept of “constructive discontent”.²⁵ The students were asked to simulate a law firm meeting to discuss introducing a new practice area to the firm. There were pros and cons to introducing the new practice area to the firm. The students were divided into two groups – one group advocated adopting the new practice area and one group was opposed to adopting the new practice area. One student acted as the moderator or facilitator of the meeting. After engaging in the simulated law firm meeting, the students discussed the dynamics of the meeting and how the concepts of constructive discontent applied to the meeting.

For the final class, the students were asked to complete an emotional intelligence measuring instrument.²⁶ The instrument has 21 scales measuring different emotional intelligence competencies with ranges from “optimal” at the high end to “caution” at the low end. The scores for the class were tabulated and then discussed.

As noted previously, interns are required to write and submit a weekly journal entry reflecting upon their internship experience. For some weeks, I assigned journal topics based upon the topic in class. For example, part of the class topic one week was “What are emotions?” The journal topic assigned that week was “Identify emotions in your internship, discuss context, appropriateness, etc.”

25 Described in Cooper and Sawaf, note 3, Ch 7.

26 Called the EQ Map Questionnaire: Cooper and Sawaf, note 3, pp 273-87.

Materials

The class was based primarily on two books, *Emotional Intelligence* by Daniel Goleman and *Executive EQ: Emotional Intelligence in Leadership and Organisations* by Robert K Cooper, and Ayman Sawaf. Rather than have the students be required to purchase and read each book, I prepared handouts for various classes covering the relevant topic for that class. The handouts were either photocopies of portions of the text or summaries and synopses of the topics gleaned from the book.²⁷ An example follows:

Components of Emotional Intelligence

I. Self-Awareness

Metacognition – awareness of thought processes

Metamood – awareness of mood

- **Self-awareness**

Aware of both our mood and our thoughts about that mood

A nonreactive, non-judgmental attention to inner states

Styles of Dealing with Emotion

Self-aware. Aware of their moods as they are having them, these people understandably have some sophistication about their emotional lives. Their clarity about emotions may undergird other personality traits: they are autonomous and sure of their own boundaries, are in good psychological health and tend to have a positive outlook on life. When they get into a bad mood, they don't ruminate about and obsess about it, and are able to get out of it sooner. In short, their mindfulness helps them manage their emotions.

Engulfed. These are people who often feel swamped by their emotions and helpless to escape them, as though their moods have taken charge. They are mercurial and not very aware of their feelings, so that they are lost in them rather than having some perspective. As a result, they do little to try to escape bad moods, feeling that they have no control over their emotional life. They often feel overwhelmed and emotionally out of control.

Accepting. While these people are often clear about what they are feeling, they also tend to be accepting of their moods, and so don't try to change them. There seem to be two branches of the accepting type: those

²⁷ Handouts are available from the author. Email address is pcain@law.du.edu.

who are usually in good moods and so have little motivation to change them, and people who, despite their clarity about their moods, are susceptible to bad ones but accept them with a laissez-faire attitude, doing nothing to change them despite their distress – a pattern found among, say, depressed people who are resigned to their despair.

One handout was an article from a bar journal discussing the hiring of emotionally intelligent associates.²⁸

Student Reaction

The students' reactions to the class were noted and recorded in a number of ways, including the journals that students wrote, a "one minute" evaluation approximately halfway through the course, an end of the semester evaluation form and my own observations of the students in class.

Approximately halfway through the semester I had the class complete and turn in a "one minute" evaluation²⁹ of the class. The students were given approximately five minutes to complete the questionnaire at the end of one class session. Eight evaluations were completed and returned. The first question was, "What I Like About the Class." Six of the eight responses indicated that the students were interested in the subject matter. The second question was, "What I Dislike About the Class." Two of the responses stated that it did not relate to their internship. One stated the topics needed to be more "compelling". One stated the class was a "waste of time". One did not like a particular guest speaker. In other words, there were a variety of responses to the question. The third question asked, "What Would Improve the Class?" Again, there were a variety of responses. Two students wanted it to relate more to their internships. Two students wanted either more movies or guest speakers. One student wanted a more structured discussion between students. One student suggested doing role-playing. The fourth question was, "What Would I Like to Discuss in the Next Few Weeks?" Once again, there was no common theme in the responses. Two responses related to applying emotional intelligence in the practice of law after law school. One response was how to handle the upset client. Another response related to factors that made for a "bad"

28 L Richard, "The Importance of Hiring 'Emotionally Intelligent' Associates" (2000) 22-Feb Pa Law 18.

29 One Minute Evaluation form available from the author. Email address is pcain@law.du.edu.

client relationship. There were no responses to the fifth and last question, "Anything Else You Would Like to Say?"

Four students responded to a "Final Class Evaluation"³⁰ after the semester ended. Several questions were asked about the class experience. The first question was, "Briefly describe if the class has helped you with any skills, problem solving, ethical issues spotting or practical lawyering involving your internship." One student responded that while "interesting", he or she was not sure of its applicability to his or her future as a lawyer. The student commented, "[Y]ou've either got this EI thing or you don't by this stage of life." It would be interesting to know whether he or she was an older student or one who had recently graduated from college. A second student responded that the class helped them to learn to listen, and to develop empathy and emotional awareness. This, in turn, increased his or her ability to interact with clients. A third student responded that he or she would be more conscientious and aware of empathy. The final student responded, "[K]eeping a cool head when dealing with difficult clients."

The second question asked, "Describe if or how the classes have helped you get insights into other student's internships and experiences." One student did not care for such exchanges, finding them "too touchy feely". A second student said, "[W]e students have developed a habit of communicating information, not necessarily experience, or the learning we gain from experience, when we interact. The class forced us to do both." The other two responses were opposites, one finding everyone else's experience about the same as his or hers and the other finding everyone else's experience to be much different from his or hers.

The third question asked, "Describe if you feel classes could be changed in any way to add value to students." One student responded to get rid of the class on the physiology of emotion. Another had no suggestions and said they liked the class. A third student suggested more self-evaluation tests and more guest speakers. The final student had no suggestions.

My own observations were surprising in that the class was not significantly different from other internship or clinical classes that I have taught. Some students were very engaged in the topic and discussion while other students were not engaged at all. Most students fell somewhere within that continuum. Generally speaking, the students were more

30 Final Evaluation form available from the author. Email address is pcain@law.du.edu.

engaged and interested in the topic than I had anticipated they would be.

The level of discussion in the students' journals about emotional intelligence varied. Some students focused quite a bit on it even when it was not a required topic for that week's journal. Most students discussed emotional intelligence and emotions to some extent in their journal entries. As would be expected among any group of students, some showed more insight and complexity than others in their journal discussions.

EQ Map Questionnaire and Grid

Each semester students were provided an "EQ Map Questionnaire"³¹ to take home and complete. The questionnaire comprises five sections (current environment, emotional literacy, EQ competencies, EQ values and beliefs, EQ outcomes) and twenty-one scales in areas such as life events, work pressures, personal pressures, emotional expression, creativity, interpersonal connections, constructive discontent, compassion, intuition, integrity, general health, and relationship quotient. The results of the questionnaire are scored on a grid. Based upon the score, each scale is rated as either optimal, proficient, vulnerable or caution. Approximately one half of the students completed the questionnaire and turned in scoring grids, a total of eleven students. The scoring grids were returned anonymously.

The results of the two semesters are:

	Life Events	Work Pressures	Personal Pressures	Emotional Self-Awareness	Emotional Expression	Emotional Awareness of Others	Intentionality	Creativity	Resilience	Interpersonal Connections	Constructive Discontent
	1	2	3	4	5	6	7	8	9	10	11
Optimal	1	5	1		1	2		2	1	2	
Proficient	1	5	5	7	3	7	5	4	5	4	3
Vulnerable	7	1	4	2	5	2	4	3	4	2	8
Caution	2		1	2	2		2	2	1	3	

31 Cooper and Sawaf, note 3, p 26.

	Compassion	Outlook	Intuition	Trust Radius	Personal Power	Integrity	General Health	Quality of Life	Relationship Quotient	Optimal Performance
	12	13	14	15	16	17	18	19	20	21
Optimal	1	5	1		1	2		2	1	2
Proficient	1	5	5	7	3	7	5	4	5	4
Vulnerable	7	1	4	2	5	2	4	3	4	2
Caution	2		1	2	2		2	2	1	3

While the results of eleven students do not comprise a statistically significant sample; nevertheless, I think that we can learn from these results. Students scored poorly in “life events” (scale #1) with nine of eleven students scoring in the “vulnerable” or “caution” category. That is, students are under a lot of stress from life events, whether those events are negative, such as divorce, or positive, such as the birth of a child.

Students also seem to be aware of others’ emotions (scale #6) with nine of eleven students scoring in the “optimal” or “proficient” category. Yet, despite the high awareness of others’ emotions, eight of eleven students scored in the “vulnerable” or “caution” category for compassion (scale #12). What does this say about how students will relate to clients? What can we do as law professors to improve students’ compassion towards others?

Eight of eleven students scored in the “vulnerable” range of constructive discontent (scale #11) which addresses the ability to solve problems, motivate others, accept criticism and bring about change. Lawyers often deal with situations that require the ability to effectuate change among people who are at discord with each other. How can we better teach students the techniques of “constructive”, rather than “destructive”, discontent?

It would be instructive to administer this instrument during orientation of first year students and again to those same students during the third year of law school. What changes, if any, might we see?

Changes or Modifications

What have I learned from this first time experience? What modifications or changes might I make to the course before teaching it again in the internship program?

One lesson that I have learned is that the time limitations of the class impose severe restrictions on the amount of material that can be covered. It may be better to focus on a limited topic and cover it in more depth rather than try to cover too much. One possibility would be to offer a one-hour introductory class and then six one-and-a-half hour classes for a total of ten hours rather than ten one-hour classes. This would allow more in-depth coverage of fewer topics. It would also allow more flexibility in the types of activities in which to engage.

A second lesson from this experience is that it is important to more closely relate the concepts of emotional intelligence to the students' internships. They need to have a sense of immediate relevancy rather than some future relevancy after law school. The variety of internship placements made this difficult and challenging.

One planned change is to introduce a "Blackboard" component. "Blackboard" is an electronic classroom. It may be used to post the syllabus and materials, including not only written materials but also video and audio materials as well as other mediums. In addition, links to websites can be set up. A discussion board may also be utilised to encourage discussion among the students outside of the classroom. It could also be utilised for students to electronically submit evaluations and comments about the course.

There are two concepts which are interrelated to emotional intelligence that I would like to incorporate into the curriculum. First, how emotional intelligence and cultural differences are related. Different cultures may express feelings in very different ways to those of your own culture. Under the same circumstances, some cultures may freely express feelings while other cultures will not. These differences may lead to communication difficulties and difficulties in establishing a good relationship. Specific skills and exercises may be utilised to improve cross-cultural lawyering.³² Second, the concepts of "transference" and "countertransference" are well known in the psychological literature.³³ In simple terms, "transference"

32 S Bryant, "The Five Habits: Building Cross-Cultural Competence in Lawyers" (2001) 8 Clinical L Rev 33.

33 M A Silver, "Love, Hate, and Other Emotional Interference in the Lawyer/Client Relationship" (1999) 6 Clinical L Rev 259 at nn 17-21.

is the phenomenon of a patient or client directing feelings toward their psychologist, psychiatrist or attorney that are based on no real relation between them and are unconscious wishful fantasy.³⁴ "Countertransference" is the emotional reaction of the psychologist, psychiatrist or attorney to the transference, or to the patient or client.³⁵ How these concepts affect and inform the attorney-client relationship and relate to emotional competencies, such as empathy, are an additional topic that should be addressed in the curriculum.

Ideally, this class should be taught in a much more interdisciplinary manner. While some guest speakers from other disciplines taught a class, it was not co-taught in a multidisciplinary way. One of the current limitations to doing so is that the law school is housed on a separate campus to the main university campus where the psychology department and the business school are housed. The physical separation of the campuses makes it difficult to collaborate on a weekly basis due to travel time between campuses and limited parking. The curriculum and materials could also be enhanced if developed by a multidisciplinary team, rather than one teacher in a single discipline.

For the exercise previously described in which students simulated a law firm meeting, rather than simply discuss what occurred during the simulated meeting, it might be beneficial to videotape the simulated meeting, then have the students view the videotape prior to, or during, the discussion. Actually "seeing" the dynamics of the meeting would generate more and better discussion.

Conclusion

This class was only a "first step" toward introducing the concept of emotional intelligence into the law school curriculum. Because the class was part of a clinical program and graded on a "pass/fail" basis, I did not have to consider how to assess and evaluate students' performance in the class. If this course were "mainstreamed" into the general curriculum, the issue of assessing and evaluating students would have to be addressed. Evaluation and assessment could take the traditional form of an examination or paper, or could be in a more creative form such as student presentations, role-playing or other means.

As with any course, this one will undergo continual modification and assessment. The use of Blackboard is only

³⁴ Silver, n 33 at 55-56.

³⁵ Silver, n 33 at 56.

one possible change to incorporate. Better materials will be developed over time. The most effective “mix” of lecture, role-playing, videos, small group discussion and other types of classroom presentation will be gleaned through experience and student feedback. My presentation of the concepts will improve as I become more familiar with the subject matter and have had the opportunity to build upon my prior teaching. Overall, the teaching experience was successful and rewarding.