shapes powerfully one's employment prospects after law school. Thus, in the Signal Story, what one studies or what grades one makes in the last two years of law school are supremely unimportant because these have virtually no bearing on the job one will get after law school.

In 1997 the present authors sketched out a projected survey of third-year law students at 11 law schools. They suspected at the outset of the study that they would find third-year students not taking law school very seriously, but underestimated matters considerably. Among the third-year students who do attend class, there appears to be little engagement with course work. Ironically, most law schools devote the bulk of their teaching resources to upper-level courses. The average third-year class is far smaller than the average first-year class, and of course third-years have far more discretion when choosing which classes they will take. These factors might seem likely to simulate student interest and participation. But even among those students actually attending class and completing our survey, the frequency with which students volunteer comments in class seems remarkably low.

The profound disengagement of third-year students is a blow against the Official Story. The third year cannot be the culmination of legal training if almost no one is paying attention. According to the Bleak Story, lack of interest in the third year of law school is the natural consequence of an unpleasant, demoralising environment. Disengagement reflects alienation. Students feel that the only future for which they are being prepared and the only one from which they can hope to pay back their enormous debts is the world of the big firm.

The students in the survey seemed to have a different view of their future. 79 percent of respondents were on the optimistic side of a five-point scale when responding to the question, 'How optimistic are you that you will have a satisfying career after law school?' Third-year students' satisfaction with their decision to go to law school rates their optimism and positive views about their prospective employers higher than the Bleak Story projects. While it is true that law students often experience stress and some show symptoms of depression, these feelings are far from pervasive, and feelings of depression diminish substantially as law school progresses. The emotional well being, satisfaction and optimism of third-year law students are all relatively high. None of these results match the Bleak Story.

Thus far, only The Signal Story seems capable of explaining both features found in the mainstream third-year condition: substantial disengagement from school, but surprisingly high levels of satisfaction with both school and prospective careers. The Signal Story predicts that students believe the determinants of law firm hiring — especially at the big elite firms — are dominated by the hierarchical ranking of schools and students on the basis of easy-to-rank signals such as eliteness of law school attended and grades, not students' substantive knowledge or testimony from faculty about their character or promise.

The Signal Story holds up best against the data. Law school operates as a sorting and credentialling mechanism for students. A large percentage of students find law school to be excessively theoretical and feel that they could be better prepared to practise law. But this does not cause them to be dissatisfied with their schools. Every law school gives voice to the Official Story, or a close variant of it. But to a very large degree the substantive policies of law schools suggest a deeper belief in the Signal Story, and law school deans act in ways that encourage students to believe in it.

The results in this paper suggest that it is time to revisit the question of abolishing the third year of law school. One could imagine a revamped legal education that has as its core a mandatory two-year degree and a number of postgraduate options in specialised fields. Judging from their results and from informal discussions with students, the authors suspect that a majority of law students would support abolishing the third year.

Students are bored with the fare that law schools provide them in the third year. Most of the solutions discussed thus far try to remedy boredom through some variation on the clinical theme: bring students up against real clients. Alienation arises when students find the normative assumptions or the professional socialisation process of law school to be too narrow and constricting. The authors' recommendation is not that every school create a public interest program, but that innovative curricula can help students relate their own interests to the law school environment. By thinking about the student process of acculturation seriously, legal educators can ultimately make their student bodies more cohesive.

EVALUATION

The MacCrate report turns 10: assessing its impact and identifying gaps we should seek to narrow
R Engler
8 *Clinical L Rev*, 2001, pp 109–182

The year 2002 marks the tenth anniversary of the publication of the MacCrate Report. The MacCrate Report triggered a flurry of activity in the world of legal education. At various conferences, and in an array of law review articles, commentators analysed and criticised the Report and its recommendations, but also discussed strategies for the Report's implementation. As the articles and conferences reflected, at least some law

schools started to respond to the Report's calls for study and curricular change.

Whether or not we continue to invoke the MacCrate Report in framing our questions and setting our agendas, we should acknowledge our debt to the Report and to those who contributed to the efforts to produce the Report and implement its recommendations. It would be a sad fate for the Report to die without anyone noticing, or become passé in the eyes of most in legal education, while some smaller group clings to the notion that the Report has wrought important changes. Since clinical teachers played a major role in the writing of the report, as well as efforts to implement its recommendations at the national, state and individual law school level, it is appropriate for clinical teachers to ensure that analysis and assessment occur.

The Report emphasises the importance of clinical legal education in the teaching of skills and values. The importance of the MacCrate Report to clinicians resonated through clinical scholarship. Most of the law review articles discussing the MacCrate Report were written by clinical teachers. Issue after issue of the Clinical Law Review included articles in which the MacCrate Report figured prominently. As the debate over the MacCrate Report swirled around the national stage, awareness of the Report and its recommendations began to grow at many individual law schools around the country.

A number of conclusions about the Report's impact nationwide nonetheless may be drawn from the sparse information available. First, even if the overall impact of the MacCrate Report on legal education is unclear, the Report's impact on clinical teachers is not. The MacCrate Report's greatest success might be as an effective organising tool for the activities and thinking of clinical teachers and proponents of clinical legal education. The issues raised in the Report have remained in the forefront of clinical legal education, and the Report continues to influence clinical scholarship. At the same time, understanding the Report as an organising tool helps to explain why direct reliance on the Report has faded.

At the same time, however, there is little evidence to believe that the MacCrate Report transformed legal education, or led to sweeping changes when measured by the more ambitious criteria or goals. Indeed, the authors themselves conclude that nearly a decade after the MacCrate Report, both the ABA and the legal academy are still ambivalent toward the essential tenet that law schools must prepare students for the practice of law and the exercise of sound judgment to solve client problems. A third conclusion is that difficulties in determining causation will impede further efforts to identify the MacCrate Report's precise impact beyond the changes to the ABA Standards.

Although we may never overcome the problem of causation, we should remove the major impediment to assessment resulting from a dearth of information regarding the current status of the teaching of skills and values at our various schools and regarding changes that have occurred in those areas over the past ten years. We know from our scholarship, conferences, and newsletters that the Report at least triggered discussions about curricula and the teaching of skills and values around the country. We know that a few schools made significant curricular changes soon after the MacCrate Report's publication and relied, at least in part, on the Report in designing or justifying the changes.

The MacCrate Report focused attention on the teaching of skills and values. That focus remains as important to us today as it did in 1992. To the extent the focus at our schools has shifted away from the teaching of skills and values, we should discuss how to return the focus to those issues.

The imperatives of clarifying our goals and untangling the extent to which our programs are shaped by learning theory or political reality must guide our discussions involving the respective roles of in-house clinics and externship programs. The MacCrate Report itself fuelled the debate as to the relative merits of each type of program. Proponents in each camp expressed fear that implementing the Report might harm their programs, but also invoked the Report and its recommendations in support of their various programs. The decade since the MacCrate Report has seen not only a steady stream of clinical scholarship focusing on in-house clinics, but an outpouring of scholarship focused on externship pedagogy as well.

Although clinical teachers should confront the hard questions involving the teaching of skills and values ten years after the MacCrate Report, questions involving the superiority of in-house programs versus externship programs are a poor place to start the conversation. Rather, the discussion should begin with the context of the rest of law school and its failure to prepare students for practice, which led to the MacCrate Report and its predecessors. Given the enormous gaps in legal education that remain beyond in-house clinics and externship programs, it is foolhardy to suggest that any single experience, regardless of the structure, can fill all the gaps. The MacCrate Report itself, with its emphasis on an 'Educational Continuum,' is a powerful reminder of this reality.

As we approach the ten-year anniversary of the publication of the MacCrate Report, proponents of clinical legal education should begin the process of assessing the Report's impact. As a movement, we dedicated

tremendous resources not only to the Report itself, but to subsequent efforts to analyse it and implement its recommendations both nationally and at our various law schools. It would be disturbing if we did not pause to assess whether the Report made no difference or a big difference.

Regardless of our sense of the impact of the MacCrate Report itself, however, it is worth returning to the document at least for its recommendations and its methodology. The Report's overall purpose is to help narrow the gap and to urge law schools as part of an educational continuum to improve their teaching of fundamental lawyering skills and values to help prepare law graduates for practice. The specific recommendations include the development and expansion of programs designed to strengthen instruction in lawyering skills that tend to get lesser treatment in law school curricula, to emphasise training in ethics and fundamental lawyering values, to promote justice, fairness and morality, and to emphasise the profession's expectation that lawyers will fulfil their commitment to provide legal services to those who cannot afford to pay. Even were we to conclude that the Report itself has lost much of its strategic value outside of clinical legal education, it would be hard to imagine that the goals articulated in the Report's recommendations have become passé.

GENDER ISSUES

The logician versus the linguist — an empirical tale of functional discrimination in the legal academy
A Kaufman
8 *Mich J Gender & L*, 2002, pp 247–270

Studies have indicated that men receive better grades than women at many law schools, and that men have reported more satisfaction and comfort with law school than women. This paper introduces the concept of 'functional discrimination', addressing the ways in which law school functionally discriminates against women by significantly favouring logical intelligence. Logical intelligence is the capacity to calculate, quantify, and consider propositions and hypotheses. Linguistic intelligence is the capacity 'to think in words and to use language to express and appreciate complex meanings. While legal practitioners draw upon many of these intelligences, law school narrowly concentrates on logical intelligence. Law school creates an artificial hierarchy of intelligences that unfairly rewards those traditional students who think with logical intelligence at the expense of those non-traditional students who think with other intelligences.

Conservatives and feminists and everyone in between have proposed different explanations for the disturbing phenomenon of men feeling more comfortable in law school. Many blame the patriarchal nature of legal education. Others suggest that women and men have different learning preferences and that the male learning preferences are more easily adapted to the Socratic case method, the standard bluebook exam, and the hierarchical competitive nature of law school. Underlying many of these criticisms is the explicit and implicit assumption that female law students struggle with law school's preoccupation with normative notions of logic and reason.

This paper, focusing exclusively on gender, asks whether male and female law students express different preferences for logic-based learning models. A wide variety of educational theories and other theories have been used to conceptualise different learning preferences among law students but until now, none has focused on logical intelligence compared with the other intelligences. This paper describes an empirical study establishing that male and female law students express differences in preferring logical intelligence to the other intelligences. This paper introduces the concept of 'functional discrimination,' addressing the ways in which law school functionally discriminates against women by significantly favouring logical intelligence.

While legal practitioners draw upon many of these intelligences, law school narrowly concentrates on logical intelligence. Traditional schooling, traditional intelligence testing, and most standardised tests are written for and reward logical thinking. Logical intelligence involves the capacity to formulate and apply abstract rules, use long chains of reasoning to develop theories, and understand and articulate logical patterns.

Most first year law students learn using the Socratic case method, which has been criticised for being too logical. Even though very few law students will practise appellate law after graduation, this is the predominant teaching methodology used in law schools today for doctrinal courses. In addition to teaching, most law schools emphasise logical intelligence in the evaluation of students as well. Many first-year courses evaluate students using standard bluebook examinations. These timed tests require students to 'issue spot' and apply the holdings of appellate decisions from their case books to a complex set of facts and to use the logic of precedential reasoning to predict possible legal outcomes. This logical testing has been criticised for ignoring the importance of creative synthesis and legal imagination. While ignored by a significant proportion of law school education, particularly the first-year courses, other intelligences are integral to the varied and multifaceted roles of lawyering.

Interpersonal intelligence is the capacity to understand and make distinctions between the intentions, motivations, and desires of other people. It also includes the ability to