
Holding Up the Mirror:

A theoretical and practical analysis of the role of reflection in Clinical Legal Education.¹

*Rachel Spencer**

Email: rachel.spencer@unisa.edu.au

<http://www.unisanet.unisa.edu.au/staff/homepage.asp?Name=Rachel.Spencer>

<http://www.unisa.edu.au/law/clinic/default.asp>

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ABSTRACT

This article provides a summary of the broader literature on reflection that has been published over the last twenty years in a variety of disciplines. It then examines the literature from two major clinical legal education journals in relation to reflective writing as a component of clinical legal education courses. It attempts to provide answers to the questions: *What do we mean when we say we ‘teach’ students to be ‘reflective’? How do we do that? How do we ‘teach’ students to write reflectively?* The article looks at the problems we face in teaching ‘reflection’ in the clinical context and examines issues stemming from the reality of reflection being an important part of a clinical program. It also argues that being ‘reflective’ is not necessarily intuitive for students and that clinical teachers must teach students how to ‘be reflective’. The article demonstrates an example of reflection in action by the provision of examples from the writer’s own teaching experiences. Finally, the article collates and reproduces suggestions from the literature on best teaching practice on the use of reflection as a teaching and learning tool within clinical legal education courses.

* Rachel Spencer is Director of Professional Programs in the School of Law at the University of South Australia where she also directs the Clinical Legal Education program.

1 This article had its origins as a conference paper at the Clinical and Experiential Legal Education Conference held at the University of New South Wales on 7-9 September 2011 (See http://www.law.unsw.edu.au/centres/klc/doc/conference_program.pdf.)

PART A: INTRODUCTION

This article has metamorphosed from a few disparate ideas over several years. It was born out of a desire to ensure that the reflective journal that I ask students to submit in my *Legal Professional and Community Service Experience* course² is appropriate as a teaching and learning tool. I wanted to explore the literature in this area and to see if other clinicians had written about their own ideas, so that I could use those ideas and develop best practice in teaching reflection and reflective writing. Having taught in this area for over a decade, and having attended conferences and met with many other academics who teach similar courses to mine, I was reasonably confident that the use of a reflective journal has many benefits. However, I have been conscious that it can be difficult to 'teach' reflection and I was very keen to find out if other teachers had experienced similar dilemmas and how they had overcome them. Researching this article has uncovered a wealth of material that was initially overwhelming. Scholars from almost every discipline have researched and written about 'reflection'. One wonders whether there is really anything left to say. However, the many practical ideas that have been developed merit further exposure and deserve to be shared. Immersing myself in the various theories about reflection has provided a useful basis upon which to develop a scholarship of teaching and learning in this area. I have not only found articles that are useful to me as a teacher, but I have also found several that are useful as reference materials for my students.

Clinical legal education involves the placement of law students either within a legal advice clinic that is directed and supervised by legal practitioners (usually law school staff) or within external organisations (usually referred to as 'externships'). Placements provide not only an opportunity to develop professional skills but also experiences upon which students can then reflect critically.³

Vast research has been completed across several decades on the topic of reflection and reflective practice and the use of reflective writing as a means of assessing student performance in a variety of fields (especially nursing, medicine, psychology and education). Over the last fifteen to twenty years, legal scholars have also written about the benefits of reflective writing in clinical legal education. This article is premised upon the assumption that reflection does enhance the learning process in the context of clinical legal education.⁴ There is nothing in the literature to date to rebut that assumption.

Clinical legal education engages students in authentic legal experience by providing legal services to real clients (under supervision). The clients are usually marginalised or disadvantaged members of the community who would otherwise be unable to access legal advice. Clinical legal education may also involve external work placements or simulated settings.⁵ The goals of clinical legal education have been variously expressed, and not all clinicians agree. '[A]n ethic of preparation, practising

2 At my university, the term 'course' is used where other universities might use the term 'subject', 'topic', or 'unit'. In this article, the term 'course' has this meaning.

3 See, for example, Jaszi P, Shalleck A, Valdez M and Carle S, 'Experience as Text: The History of Externship Pedagogy at the Washington College of Law, American University', (1998-1999) 5 *Clinical Law Review* 403.

4 See Moon, J A *Handbook of Reflective and Experiential Learning*, London and New York: Routledge Falmer, 2004, p 84 – 94 for a discussion about this.

5 See Grimes R, 'The Theory and Practice of Clinical Legal Education', in *Effective Learning and Teaching in Law*, Burridge, R et al (Eds) , Kogan 1996, p 140, cited in Ledvinka, above, n10.

ethical lawyering and developing critical thinking⁶ have been said to be three major goals whilst another view is that the 'primary goal of clinical legal education is to teach students how to learn from experience.'⁷ Other scholars are of the view that of the twin pillars of education and justice access, it is the latter which is the primary goal of clinical legal education. Another view is that the aim of clinical legal education is to analyse and reflect upon what constitutes ethical conduct, not upon skill acquisition⁸ and that in a clinical legal education course, students are encouraged to reflect on the practice of law, the values, dynamics and effectiveness of the legal system, the role of lawyers in society, issues around access to justice and human rights and the potential of law to achieve justice for economically and socially disadvantaged people.⁹

Irrespective of the view that one takes in this ongoing debate, it appears to be widely accepted that a major element of clinical legal education is reflective learning. Georgina Ledvinka describes reflection as 'the magic ingredient which converts legal experience into education.'¹⁰ William Berman speaks of reflection as 'one of the cornerstones of clinical pedagogy'.¹¹ Colin James notes that the 'learning' in experiential learning 'actually happens through the reflection during and after the activity.'¹²

The clinical legal education literature suggests that reflection can take two main forms. The first form is oral reflection or 'debriefing', especially after an experience like interviewing a client or appearing in court.¹³ Berman, for example, describes the role of post-mistake reflection in the clinical context as important in the development of students' 'ability to engage in informed decision making.'¹⁴ The second form is written reflection, suggested to be '[t]he best way to harness the powerful tool of reflection...to provide a structured format for the development and

6 Berman W, 'When will they ever learn? Learning and teaching from mistakes in the clinical context', (2006-2007) 13 *Clinical Law Review* 115, 118.

7 Dunlap JA and Joy PA, 'Reflection-in action: designing new clinical teacher training by using lessons learned from new clinicians', (2004-2005) 11 *Clinical Law Review* 49 at 52-53, citing Kreiling KR, 'Clinical education and Lawyer Competency: The Process of Learning to Learn from Experience through Properly Structured Clinical Supervision', (1981) 40 *Modern Law Review* 248.

8 Noone MA and Dickson J, 'Teaching Towards a New Professionalism: Challenging Law Students to Become Ethical Lawyers', (2003) 4 *Legal Ethics* 2, 139, cited in Curran L, *Responsive Law Reform Initiatives by students on Clinical Placement at La Trobe Law*, 7 *FJLR* 287.

9 Curran L, *Responsive Law Reform Initiatives by students on Clinical Placement at La Trobe Law*, 7 *FJLR* 287, 288.

10 Ledvinka, Georgina, 'Reflection and assessment in clinical legal education: Do you see what I see?' (2006) 9 *International Journal of Clinical Legal Education*, , 29-30.

11 Berman, above, n6, 131.

12 James C, 'Seeing Things As We Are. Emotional Intelligence and Clinical Legal Education,' (2005) 8 *International Journal of Clinical Legal Education* 123, 138.

13 See, for example, Grundlach JA, "'This is a courtroom, not a classroom": So what is the role of the clinical supervisor?' in (2006-2007) 13 *Clinical Law Review* 279, 280.

14 Berman, above, n6, 126-127. Berman describes a protocol for dealing with mistakes which includes:

1. Admit the mistake
2. Student and supervisor should apologise to the client
3. Take action to correct the mistake
4. Reflect upon the mistake in supervision
5. Reflect upon the mistake with other students
6. Implement changes to avoid similar mistakes in future, pp 128 – 132.

nurturing of meaningful and considered student reflection.’¹⁵

Although not all clinical programs use reflective writing as an assessment tool,¹⁶ many clinical legal education courses do require the submission of a reflective journal as an item of assessment. In my course, a reflective portfolio is a major component (50%) of the assessment.¹⁷ I have been involved in clinical legal education for over a decade¹⁸ and have used a reflective journal as the main assessment tool for most of that time. I agree with Ogilvy that ‘[t]hrough writing about what and how they are studying, students can move from superficial comprehension to employing critical thinking skills in their engagement with the material.’¹⁹ I co-ordinate and teach a course which has two main aims. The first aim is to broaden students’ awareness of access to justice issues and to develop a critical approach to legal ethics. The second aim is to develop professional skills and values, including the generic graduate qualities²⁰ of the university in which the course is taught, with a structured analysis of, and reflection on, experience gained in the workplace or in a community service setting. In their reflective journals, students are required to analyse and reflect on their personal placement experience whilst also contemplating the role of legal professionals in the legal system and in society generally. In particular, students are required to refer to the issues that have been discussed in the classroom context: placement preparation, learning in a workplace context, self-awareness, personality types, client-centred practice, active listening, access to justice, legal ethics, law reform and the role of lawyers in society.

Reading students’ reflective journals is a task that I genuinely enjoy. I take great pride and vicarious satisfaction in following how students have developed in confidence and skills across the period of a clinical placement. I am not alone in enjoying the articulation of their goals for the course and how their goals have been fulfilled, and what they have learned across the placement period.²¹

15 Hyams R, ‘On teaching students to ‘act like a lawyer’: What sort of lawyer? (2008) 13 *International Journal of Clinical Legal Education* 21 at 27.

16 E.g. La Trobe in 2004 did not – see Curran L, ‘Responsive Law Reform Initiatives by Students on Clinical placement at La Trobe Law’ in (2004) 7 *Flinders Journal of Law Reform* 287 at 291.

17 For a wider discussion of assessment of reflective writing see Ledvinka, n10; Burton K and McNamara J, ‘Assessing Reflection Skills in Law Using Criterion Referenced Assessment’ 19 (1&2) *Legal Education Review* (2009), pp 171-188; Hyams R, ‘Student assessment in the clinical environment – what can we learn from the US experience?’ (2006) 9 *International Journal of Clinical Legal Education* 77; Hyams R, ‘Assessing Insight: Grading Reflective Journals in Clinical Legal Education, (2010) 17 *James Cook University Law Review* 25; Tummons J, ‘It sort of feels uncomfortable’’: Problematising the Assessment of Reflective Practice’, (2011) *Studies in Higher Education*, vol 36, no. 4, pp. 475-6.

18 First at Flinders University, Adelaide, South Australia and now at the University of South Australia in the same city.

19 Ogilvy JP, ‘The Use of Journals in Legal education: A Tool for Reflection’ in (1996-1997) 3 *Clinical Law Review* 55.

20 See: University of South Australia website: <<http://www.unisa.edu.au/gradquals/default.asp>>. A graduate of the University of South Australia:

1. operates effectively with and upon a body of knowledge of sufficient depth to begin professional practice
2. is prepared for life-long learning in pursuit of personal development and excellence in professional practice
3. is an effective problem solver, capable of applying logical, critical, and creative thinking to a range of problems
4. can work both autonomously and collaboratively as a professional
5. is committed to ethical action and social responsibility as a professional and citizen
6. communicates effectively in professional practice and as a member of the community
7. demonstrates international perspectives as a professional and as a citizen.

21 Usually ten weeks in my course.

Other commentators have expressed similar sentiments, for example about the enjoyment of ‘the ability to talk to students in depth about their experiences and seeing them become more questioning and actively engaged with making sense of those experiences’.²² However, some students write better journals than others. Some students appear to ‘reflect’ better than others, prompting me to improve my own skills in teaching students how to write reflectively. A capacity for personal reflection has been said to be ‘essential for the development of ethical wisdom’²³ and the benefits of reflective writing are well documented. My aim in preparing this article was to examine my own teaching practices and develop a teaching methodology that will equip students to maximise the benefits of writing a reflective journal. In order to do that, I embarked upon a literature search of scholarly work about reflection and reflective writing. The results of that search are provided in parts C and D of this article.

One of the attributes of reflective writing is the ‘licence to write in the first person’ and I have deliberately adopted this technique in this article. It is the first hurdle over which students tread very cautiously because usually they are entering ground which has hitherto been out of bounds. Law students are familiar with writing a particular form of academic essay. The requirement to abandon the traditional third-person discourse²⁴ is confronting to most law students and indeed also to law academics. The use of the third person (e.g. ‘the writer found, the writer is of the view’) and the passive voice (e.g. ‘the literature was analysed’) which form the basis of scientific scholarship style – personal involvement must be eschewed at all costs – are anathema to reflective writing. The fundamental premise of reflective activity is self-awareness, so reflective writing must be owned and acknowledged as personal. Accordingly, this article is deliberately written in a reflective and therefore personal style.²⁵

Paul Ramsden²⁶ poses the following questions which have helped to shape my research: ‘What exactly is teaching about? What do we mean when we say we ‘teach’ someone something? What are the main problems we face in teaching? What methods should we use and why? What helps our students to learn? What stops them learning?’²⁷ I have transposed these questions into the clinical legal education context. Part A of this article provides a background and introduction. Part B explains the methodology I used to research this article. Part C investigates the meaning of reflection and what it means to actually teach reflection and reflective practice. This part analyses reflection theory and the importance of instructing students about the act of reflection. It provides a literature review of work completed by a range of scholars on the theoretical pedagogical base for reflection. Part D examines the methodology of teaching students to write reflectively in the

22 Sparrow C, ‘Reflective Student Practitioner – an example integrating clinical experience into the curriculum’, (2009) 14 *International Journal of Clinical Legal Education* 70, 74.

23 Harris H, ‘Promoting ethical reflection in the teaching of business ethics’, 2008, *Business Ethics: A European Review*, vol 17, no 4, 379, 381.

24 Tummons, above, n17, 475.

25 Brookfield uses the analogy of the lens to demonstrate that there are multiple ways to analyse our own teaching. ‘Our autobiographies as learners and teachers represent one of the most important sources of insight into teaching to which we have access. Yet in much talk and writing about teaching, personal experience is dismissed and demeaned as “merely anecdotal” – in other words, as hopelessly subjective and impressionistic.’ See Brookfield, Stephen, *Becoming Critically Reflective: A Process of Learning and Change*, Jossey-Bass, San Francisco, 1995, 23.

26 Ramsden P, *Learning to Teach in Higher Education*, (2nd Ed) RoutledgeFalmer, Oxon, 2003.

27 Ramsden, above, at 14.

context of my own clinical legal education pedagogy. Part D also includes a reflective analysis of my own teaching, including some of the techniques that I have found helpful and some that I have adapted, changed or improved over the years. I draw on the literature to develop my own teaching methodology and I explain how that is done. Part D also includes reference to assessment of reflective writing but is not an exhaustive examination of the topic of assessment. The focus is on the development of a teaching methodology for reflective writing. The article concludes by acknowledging the vast scholarship in this area and summarises the innovations that I intend to introduce in my own teaching as a consequence of this research. Finally, the appendices include a range of teaching aids which I have compiled. Some are derived from the work of others (who are duly acknowledged) and some are my own.

PART B: A CRITICAL METHODOLOGY

The primary aim of this article is to review the literature about reflective writing in the specific context of clinical legal education. That context has two major components. The first contextual component is the fact that clinical legal education is a type of experiential learning; it has been argued that optimal experiential learning involves a circular sequence of experience, reflection, theory and application.²⁸ The second contextual component is in relation to the learning outcomes of the particular clinical legal education course that I teach. The learning outcomes of my course are articulated as follows:

On completion of this course, students should be able to:

- **Explain** the practical operation of the law in a workplace or community service setting
- **Reflect** upon and **evaluate** their own learning and performance in a workplace or community service setting
- **Identify** and **articulate** the dynamics of various relationships that can arise in a workplace or community service setting
- **Evaluate** the roles of lawyers in the Australian legal system and in Australian society generally by reference to their workplace or community service experience
- **Discuss** the importance of legal ethics and professional conduct and **demonstrate** an appropriate ethical and professional attitude.²⁹

These learning outcomes provide the framework for my teaching methodology and the contextual background for the research I conducted for this article. However, teaching reflective writing is not exclusive to legal scholarship. It is a multidisciplinary phenomenon. It has therefore been important to explore the literature not only in law, but in other professional education fields.

My original title for this article included the words 'Reflecting on Reflection'. I (naïvely) believed this to be an original thought. A preliminary search of education literature about the use of reflection in teaching revealed an article about music teaching entitled 'Reflecting on Reflection'. Curious that someone else had already published an article under 'my' title, I searched 'reflecting on reflection' within the 'title' search box in the online digital library of Education Research and Information (ERIC), unearthing over 151,680 results. Clearly there has been a great deal of

28 Stuckey R, 'Teaching with purpose; defining and achieving desired outcomes in clinical law courses', (2007-2008) 13 *Clinical Law Review* 807, 813.

29 *Legal Professional and Community Service Experience*, LAWS 4007 School of Law, University of South Australia.

reflecting on reflection, especially in the last ten years. Narrowing the search down to articles published between 2000 and 2011 produced 120,197 results. In the last five years, 74,355 articles have been published about reflecting on reflection; 46,931 are scholarly publications. Refining the search further within 'education' yielded 1,754 results.³⁰

I then limited my search using the search terms 'reflection' and 'professional education.' I was particularly interested to find articles which highlight the issue of 'teaching' reflection or reflective writing. This produced a number of articles (predominantly in the psychology, medical, nursing and social work professions³¹) that were useful in the context of providing background information about reflection as an educative tool. Several of them also contained literature reviews of the vast literature that exists on the subject of reflection in professional education. My attention was also drawn to a number of articles about reflection and reflective learning by colleagues.³²

Finally, I also searched the two major journals that publish articles about clinical legal education: the *International Journal of Clinical Legal Education*³³ and the *Clinical Law Review*,³⁴ using the search terms 'reflective learning', 'reflective writing' and 'reflection'.

What follows in this article is a summary and analysis of my findings.

PART C: WHAT DO WE MEAN WHEN WE SAY WE 'TEACH' STUDENTS TO BE REFLECTIVE? HOW DO WE DO THAT?

Experience has taught me that reflection and reflective writing are not innate skills and that students benefit greatly from being taught how to reflect. Ledvinka provides useful ideas about how to promote student reflection³⁵ but notes that it may not be possible to 'teach' reflection.³⁶

30 Routledge publishes a journal called *Reflective Practice*, although I was unable to find anything directly relevant to this article in an on-line search of that journal.

31 For example, Bogossian F, Storytelling, Concept Mapping and Reflection: A Case Study of an Innovative Teaching and Learning Approach to Promote Critical Thinking about Professional Issues [online]. *Focus on Health Professional Education: A Multi-disciplinary Journal*, Vol. 7, No. 1, June 2005: 91-104. Availability: <<http://search.informit.com.au/documentSummary;dn=056078964510213;res=IELHSS>> ISSN: 1442-1100. [cited 10 Apr 11]; Elkin, SA, The Integration of Ethics Teaching in the Therapy Professions [online]. *Focus on Health Professional Education: A Multi-disciplinary Journal*, Vol. 5, No. 3, Feb 2004: 1-6. Availability: <<http://search.informit.com.au/documentSummary;dn=165845798192269;res=IELHSS>> ISSN: 1442-1100. [cited 10 Apr 11] and Dempsey S; Warren-Forward HM and Findlay N, Development of the Newcastle Reflective Analysis Tool [online]. *Focus on Health Professional Education: A Multi-disciplinary Journal*, Vol. 11, No. 1, July 2009: 32-40. Availability: <<http://search.informit.com.au/documentSummary;dn=127940648462956;res=IELHSS>> ISSN: 1442-1100. [cited 10 Apr 11]; Griffiths L, 'Time for Reflection', *Occupational Health*, May 2004 Vol 56 Issue 5, p 20-21.

32 Special thanks to Phiona Stanley who provided me with suggestions and references; to Howard Harris whose slides for his paper *Make them think about it! Using reflection techniques in university courses* presented at the 18th Australian Association of Professional and Applied Ethics National Conference, Hobart, June, 2011 provided further references and also to Michele Leering, Executive Director, Community Advocacy and Legal Centre, Belleville, Ontario *Introduction to "reflective practice" and a working conceptualisation for discussion purposes*, distributed at the Global Alliance for Justice Education Conference, Valencia, 2011.

33 Published by the University of Northumbria since 2000.

34 Jointly sponsored by the Association of American Law Schools, the Clinical Legal Education Association and New York University School of Law; published since 1994.

35 Ledvinka, above, n10, 36-37.

36 Ledvinka, above, n10, 38. See also Race, P. *Evidencing Reflection: Putting the "w" into reflection*, ESCALATE Learning Exchange (2002).

However, after several years of developing a pedagogy in this area, I believe that teaching reflection is indeed possible. Definitions of reflective practice remain contested³⁷ and it is therefore necessary to accept the multiplicity of meanings that students may understand about reflective practice.

Steve Dillon observes that in twenty years of teaching music, he always 'emphasised the practical and experiential. Making music was the priority, composing, improvising, performing, students were intrinsically motivated to make music...'³⁸ He then explains that Dewey's work³⁹ convinced him that 'experience was meaningless without reflection,'⁴⁰ a notion that I have espoused for some time, although I do not recall a particular single event or a specific academic article that convinced me of this. Dillon describes his ten year quest to examine reflection in the classroom⁴¹ and outlines the ways that he introduced reflective components into his music curriculum.

The concept of 'reflective practice' was brought into the academic arena with Donald Schön's *The Reflective Practitioner*.⁴² Jennifer Moon points out that reflective practice was developed initially in the nursing and teaching professions⁴³ and it is in those disciplines that the bulk of scholarship has occurred in this area. The rationale behind teaching students to be reflective is that it encourages reflective practice which, according to Schön and his disciples, is of benefit in professional practice. Moon also argues that '[r]eflection also plays an important part in employability skills and student work experience.'⁴⁴ It is for these reasons that I teach students about reflective practice and use the (assessable) reflective journal as a tool for developing and encouraging reflective practice. It is my aim that students will take the skills of reflection with them into practice after graduation. The use of a journal is an example of what Schön calls reflection on action (conscious reflection after the event⁴⁵), which can lead to the skill of reflection-in-action (the ability of professionals to think about what they are doing while they are doing it).⁴⁶

Georgina Ledvinka provides a useful and comprehensive overview of the theoretical pedagogical basis for reflection, particularly the theories of Kolb (the experiential learning cycle) and Schön (the reflective practitioner). She also contextualises reflection by noting that it is an element of deep learning as opposed to surface learning.⁴⁷ However, Ledvinka asserts that reflection is a method of learning, 'not a cure-all which is guaranteed to turn out sensitive, ethical lawyers, or those who have particularly good negotiation/ advocacy/interviewing skills.'⁴⁸ Ledvinka summarises the meaning of 'reflection' as defined by various scholars⁴⁹ and concludes that 'reflection is a method

37 Tummons J, 'It sort of feels uncomfortable': Problematising the Assessment of Reflective Practice', (2011) *Studies in Higher Education*, vol 36, no. 4, pp. 475-6, p. 479.

38 Dillon S, 'Reflecting on Reflection', 1999 *Victorian Journal of Music Education*, 8.

39 Dewey, J. (1980) *Art as Experience*, USA: Pedigree Books.

40 Dillon, above, n38.

41 Dillon, above, 9.

42 Schön DA, *The Reflective Practitioner: How Professionals Think in Action*, London: Basic Books, 1983.

43 Moon, above, n4, 80.

44 Moon, above, n4, 81.

45 Waters M, 'Educating the Reflective GP: Schön revisited,' in *Teaching Exchange*, Radcliffe Publishing, 2004, 632.

46 Waters, above, 631.

47 Ledvinka, above, n10, 35.

48 Ledvinka, above, n10, 35.

49 Ledvinka, above, n10, 31.

of teaching and learning.⁵⁰ Ledvinka's work is therefore a useful addition to the student reading list. My personal objective in using reflection as a teaching and learning tool is to introduce students to the 'habit of processing cognitive material which can lead students to ideas beyond the curriculum, beyond learning outcomes, and beyond their teachers.'⁵¹ Many of my students have discovered that the process of reflection enables them to articulate their thoughts, their goals and their career aspirations. At a time when more and more law graduates are being produced by universities but fewer graduate positions are available, many law students tell me that they are confused and uncertain about their future. Many have told me that keeping a reflective journal has helped them to identify how they hope to utilise their legal knowledge and skills and to articulate their goals.⁵² Ultimately, developing tools for life-long learning is one of the most important aims of reflection.⁵³

Michael Eraut notes that 'before Schön wrote his seminal work, the concept of reflection tended to be used in the context of Dewey's central emphasis on learning from experience.⁵⁴ Then Kolb re-popularised the idea in 1984 in the contexts of adult education and management education;⁵⁵ its educational purpose was to learn from past experience in order to be better prepared for future problems and decisions.⁵⁶ Eraut argues that Schön advanced the idea of reflective practice into 'reflection on current and ongoing actions to improve the quality of actions through on-the-spot decisions or decisions made soon after the reflective period has concluded.'⁵⁷ It is important to remember though, that 'Schön rarely wrote anything about law or lawyers. If he ever saw a law school class, there is no trace of it in his writing.'⁵⁸ The index of *Educating the Reflective Practitioner* contains only six references to legal education, one of which is incorrect⁵⁹ and the other five of which 'are so obvious that they might be the products of casual chats with law faculty acquaintances.'⁶⁰ Importantly, '[a]t the time he wrote his most oft-cited books, [Schön] seems not to have known about law school clinics.'⁶¹

50 Above.

51 Ledvinka, above, n10, 31, citing Moon J, *Reflection in Higher Education Learning* PDP Working Paper 4, LTSN (2001).

52 I am currently compiling data about this for future publication.

53 See Ledvinka, above, n10, 31.

54 Eraut M, 'The Practice of Reflection,' in 2004, 3,2 *Learning in Health and Social Care*, 47, 48.

55 Kolb DA, *Experiential Learning – experience as the source of learning and development*, Prentice Hall, 1984.

56 Eraut, above, n54, 48.

57 Above.

58 Neumann RK Jr, 'Donald Schön, The Reflective Practitioner, and the Comparative Failures of Legal Education, (1999-2000) 6 *Clinical Law Review* 401.

59 Schön alleges that 'in the law school classroom ... there is presumed to be a right answer for every situation', Schön, *Educating the Reflective Practitioner: Toward a New design for Teaching and Learning in the Professions*, (1987, 1990) at 39, cited in Neumann, above, n 58 at 404, n 16.

60 Neumann, above, n58, 404, citing Schön, *Educating the Reflective Practitioner: Toward a New design for Teaching and Learning in the Professions*, (1987, 1990) 4, 8, 11, 14, 34.

61 Neumann, above, n58, 404. This is evidenced by an edited version of Schön's address to the annual meeting of the Association of American Law Schools in 1992, where Schön refers to 'post-law school training' as an example of the way lawyers have learned, 'probably not in school but through some kind of apprenticeship in a practice setting, to become competent lawyers.' See Schön DA, 'Educating the Reflective Legal Practitioner,' (1995-1996) 2 *Clinical Law Review* 231 at 248.

In 1993, Sue Atkins and Kathy Murphy published a literature review of articles about reflective writing in the context of nursing 'in an attempt to unravel the important aspects of reflection and to identify cognitive and affective skills required to *be* reflective' (my emphasis).⁶² Atkins and Murphy noted a 'lack of definition and clarity of the concept of reflection'⁶³ and that questions can be raised about the meaning of the term 'reflection' and the extent to which readers can make comparisons between the works.⁶⁴ Moon also notes the 'extraordinary complexity of the literature in this area'⁶⁵ and the fact that the 'common sense view of reflection' differs from the 'academic view of reflection'.⁶⁶

Atkins and Murphy argue that the skills of self-awareness, description, critical analysis, synthesis and evaluation are required in order to be reflective. They propose that 'emphasis should be given to developing these skills in professional courses in order to facilitate the use of reflection as a learning tool'.⁶⁷ They note two definitions:

'Reflective learning is the process of internally examining and exploring an issue of concern, triggered by an experience, which creates and clarifies meaning in terms of self, and which results in a changed conceptual perspective.'⁶⁸

'Reflection in the context of learning is a generic term for those intellectual and affective activities in which individuals engage to explore their experiences in order to lead to new understandings and appreciations.'⁶⁹

Atkins and Murphy have distilled various authors' ideas into three key stages in the reflective process:

1. An awareness of uncomfortable feelings or thoughts (Schön's idea of 'surprise'⁷⁰) or inner discomfort (as described by Boyd and Fales⁷¹)
2. Critical analysis of the situation – an examination of feelings and knowledge
3. Development of new perspective, leading to an outcome of *learning*.⁷²

Another analysis of 'good reflective practice' is as follows:

1. Direct experience of a situation
2. Thoughtful examination of existing beliefs, knowledge or values, and

62 Atkins S and Murphy K, 'Reflection: a review of the literature,' in *Journal of Advanced Nursing* 1993, 1188 – 1192, 1188.

63 Above, 1189.

64 Above.

65 Moon, above, n4, 82.

66 Moon, above, n4, 82.

67 Atkins and Murphy, above, n62, 1191.

68 Boyd EM and Fales AW, 'Reflective learning key to learning from experience', (1983) 23(2) *Journal of Humanistic Psychology*, 99-117.

69 Boud D, Keogh R and Walker D, *Reflection Turning Experience into Learning*, London: Kegan Page, 1985.

70 Above, n37.

71 Above, n62.

72 Atkins and Murphy, above, n62, 18, 1188 – 1192, 1189-90.

3. The systematic contemplation of observations and potential actions.⁷³

A further interpretation of the three different stages of reflection is expressed as: **descriptive reflection**, **dialogic reflection** (weighing competing claims and viewpoints, and then exploring alternative solutions) and **critical reflection** (in the context of the ethical criteria of one's profession).⁷⁴

None of these threefold definitions include a specific reference to an acknowledgement of emotions and the development of emotional intelligence. Colin James argues that theories that ignore opportunities for reflection on feelings are inadequate.⁷⁵ He argues that '[r]eflection on feelings and emotions helps us to understand the choices we make ... [and] helps to prioritise our ideas because we know more about their source.'⁷⁶ I agree. Law students engaged in clinical programs are often confronted by unfamiliar feelings. Personal reactions to clients and to fellow students can create tension and anxiety. They can also promote a sense of satisfaction and achievement. One of the exciting yet daunting aspects of clinical practice is that no two days are the same. Reflection on their differing experiences allows students to synthesise what they are learning in a highly personal way, and adapt their learning to their sense of self, helping them, as James suggests, to understand their personal and professional choices.

Reflection often requires stimulation. Moriarty and McKinlay provide a variety of suggestions to stimulate reflection including oral presentations; learning journals, logs and diaries; reflective exercises; reflection on work experience; portfolios and personal development planning.⁷⁷ My own experience supports the recommendation of Moriarty and McKinlay to introduce students to ideas about reflection including what it is and how it is different from other forms of learning. Since introducing a seminar about reflection and what constitutes 'good' reflective writing to my own students, I have observed a marked improvement in their reflective writing.

Howard Harris describes four aspects of teaching students to be reflective:

1. Categories of reflection
2. Helping the neophytes – reflection on action, interactive workshops, early, encouraging feedback⁷⁸, licence to write in the first person.
3. Assessment criteria including depth of reflection, reflection towards a purpose, more than emotional outpouring, comprehension of the topic.
4. Privacy⁷⁹ – not forcing students to disclose themselves, not confessional.

73 Francis D, 'The Reflective Journal: A Window to Preservice Teachers' Practical Knowledge,' (1995) 11 *Teaching and Teacher Education* 229 at 230, cited in James, above, n12, 139.

74 Harris H, *Make them think about it! Using reflection techniques in university courses* presented at the 18th Australian Association of Professional and Applied Ethics National Conference, Hobart, June, 2011; conference power point slides provided by Howard Harris to the author.

75 James, above, n12, 139.

76 Above.

77 Moriarty HJ and McKinlay E, 'Reflective journals reveal the transformative nature of early community-based experience', in *Focus on health Professional Education: A Multi-disciplinary Journal* Vol 10, No 1, 2008, 59.

78 For a thorough discussion about feedback including a 'six step feedback model' see Blaustone B, 'Teaching Law students to self-critique and to develop critical clinical self-awareness in performance,' (2006-7) 13 *Clinical Law Review* 143.

79 Harris, above, n74.

Jennifer Moon's three works on reflective writing⁸⁰ provide an introduction to the academic literature on reflective practice and reflective writing. Moon compiled a major summary of the literature on reflection in 1999,⁸¹ and elaborated on that review in 2004,⁸² noting the work of Burns and Bulman⁸³; Taylor and White⁸⁴; McAlpine and Weston⁸⁵; Stewart⁸⁶ and Lowry.⁸⁷ Moon also identifies that the literature extends to how to introduce reflection into disciplines,⁸⁸ and how to embed it into programs.⁸⁹

In 2000, Sue Duke and Jane Appleton conducted a literature review of articles published between 1985 and 1999, using the key words 'reflection', 'reflective practice' and 'reflective process' in the databases MEDLINE and CINAHL.⁹⁰ They focus on reflection as a means of encouraging integration between theory and practice within professional education, particularly palliative nursing care. Their results suggest that students are able to describe their practice but find it harder to analyse knowledge, the context of care and to action plan. Duke and Appleton summarise the various ways that reflection is depicted in the literature: 'an everyday activity that can be refined for learning from experience'⁹¹ 'a continuum with technical rationality,'⁹² 'a hierarchy of levels

80 Moon, J. *Reflection in learning and Professional Development*, London: Kogan, 1999; Moon, J. *Learning Journals: A Handbook for Academics, Students and Professional development*, London: Kogan, 1999; Moon, above, n4.

81 Moon, J., 1999, above.

82 Moon, above, n4, 81.

83 Burns, S. and Bulman, C. (Eds) *Reflective Practice in Nursing*, 2nd Ed, (2000) Oxford: Blackwell Science.

84 Taylor C. and White, S. (2000) *Practising Reflectivity in Health and Welfare*, Milton Keynes: Open University Press.

85 McAlpine L. and Weston, C, 'Reflection: improving teaching and students learning', in N. Hativa and P. Goodyear (Eds) *Teacher thinking, beliefs and Knowledge in Higher education*, (2002) Dordrecht: Kluwer Academic Publishers, 59-77.

86 Stewart, M, 'Encouraging Reflective Practice,' (2002) *Learning and Teaching Press*, Spring 1 (2), 4-6.

87 Lowry, A, 'Reflective practice and web-based learning', (2002) *Learning and Teaching Press*, 1 (2), 10-11.

88 Jones, J, 'Reflective Learning: helping learners and teachers to see more clearly: the learner's perspective', (2002) *Learning and Teaching* 2(2), 4-6; Race, P. (2002) 'Evidencing reflection – putting the "w" into reflection', ESCALATE Learning Exchange.

89 Knowles, Z, Borrie, A and Stewart, M, 'Embedding reflection within a degree programme', (2001) *Learning and Teaching Press*, 1(2), 8-10.

90 Duke S and Appleton J, 'The use of reflection in a palliative care programme: a quantitative study of the development of reflective skills over an academic year', 2000 *Journal of Advanced Nursing*, 32(6) 1557-1568.

91 Dewey J, *How We Think: A Restatement of the Relation of Reflective Thinking to the Educative Process*, (1933) Chicago: DC Heath; Boyd E and Fales A, 'Reflective Learning: Key to Learning from Experience', (1983) 23 *Journal of Humanistic Psychology* 99-117; Boud D, Keough R & Walker D, 'Promoting Reflection in Learning: A Model' in Boud D, Keough R & Walker D (Eds), *Reflection: Turning Experience Into Learning*, (1985) London: Kogan Page, 18-40; Gibb G *Learning by Doing. A Guide to Teaching and Learning Methods*, (1988) Further Education Unit, Oxford Polytechnic; Boud D and Walker D, 'Barriers to Reflection on Experience' in Boud D, Cohen R and Walker D (Eds), (1993) Buckingham: Open University Press; all cited in Duke and Appleton, above, n90.

92 Powell J, 'The Reflective Practitioner in Nursing', (1989) 14 *Journal of Advanced Nursing*, 824-832; Day C, 'Professional Learning and Researcher Intervention', (1985) 11 *British Educational Research Journal*, 133-151; Day C, 'Reflection: A necessary but not sufficient condition for professional development', (1993) 19 *British Educational Research Journal*, 83-93, all cited in Duke and Appleton, above, n90.

between technical ability and ethical and moral justification of practice',⁹³ 'a process of critical dialogue',⁹⁴ 'a process of emancipation',⁹⁵ 'the integration of calculative and contemplative thinking – transformation of thinking into learning'.⁹⁶ It is the final description that in my view describes most accurately what I require of my own students and the process that I encourage them to engage in, not just during their studies but in their future legal practice. The skills inherent in the act of reflection provide a vehicle for students to engage in a paradigm shift, from passive recipients of information to active learners who ask questions, view information critically and use emotional intelligence.⁹⁷ I have adapted these skills for use as marking criteria for reflective writing exercises (see Appendix A).

In the context of occupational health nursing, reflection has been said to be an important component of experiential learning 'because it can promote the ability to engage in self-assessment, to adapt to change and develop autonomy.'⁹⁸ Ian Weinstein notes that clinical programs can offer 'a rich context for reflection upon [professional] motivation.'⁹⁹ Jane Harris Aiken takes the role of reflection an important step further in the context of clinical legal education. She points out that one of the four fundamental values of the legal profession¹⁰⁰ identified by the MacCrate Report¹⁰¹ is striving to promote justice, fairness and morality. Aiken describes how using Fran Quigley's phenomenon of the 'disorienting moment'¹⁰² in clinical legal education can encourage students to develop compassion and therefore encourage them to promote justice, fairness and morality.

93 Goodman J, 'Reflection and teacher education: a case study and theoretical analysis', (1984) 15 *Interchange* 9-26; Mezirow J, 'A critical theory of adult learning and education', (1981) 32 *Adult Education*, 3-24; Mezirow J, 'How critical reflection triggers transformative learning', *Fostering Critical Reflection in Adulthood* (Mezirow, J. Ed) San Francisco; Jossey Bass, 1991, 1-20; Day C, (1993) 'Reflection: a necessary but not sufficient condition for professional development', 19 *British Educational Research Journal* 19, 83-93; all cited in Duke and Appleton, above, n90.

94 Brookfield S. (1987) *Developing Critical Thinkers*, Open University Press, Buckingham; Brookfield S. (1991) 'Using critical incidents to explore learners' assumptions', *Fostering Critical Reflection in Adulthood* (Mezirow J. Ed), Jossey Bass, San Francisco, 177-193; Brookfield S. (1996) 'On impostership, cultural suicide and other dangers: how nurses learn critical thinking', 24 *Journal of Continuing Education in Nursing*, 197-205; Johns C. (1994) 'Nuances of Reflection', 3 *Journal of Clinical Nursing* 71-73, Johns C. (1995), 'Framing learning through reflection within Carper's fundamental ways of knowing in nursing', 22 *Journal of Advanced Nursing* 226-234, Johns C. (1998) 'Illuminating the transformative potential of guided reflection', *Transforming Nursing through Reflective Practice* Johns C. And Freshwater D. Eds), Blackwell Science, Oxford, 78-90, al, cited in Duke and Appleton, above, n 90.

95 Carr W. and Kemmis S. (1986) *Becoming Critical: Education, Knowledge and Action* research, The Falmer Press, London; Fay B, (1987) *Critical Social Science*, Polity Press, Cambridge, both cited in Duke and Appleton, above, n90.

96 Pierson W, (1998) 'Reflection and nurse education', 27 *Journal of Advanced Nursing*, 165-170, cited in Duke and Appleton, above, n90.

97 See Duke and Appleton, above, n90.

98 Griffiths L, 'Time for Reflection', *Occupational Health*, May 2004 Vol 56 Issue 5, p 20-21.

99 Weinstein I, 'Teaching reflective lawyering in a small case litigation clinic: A love letter to my clinic,' (2006-2007) 13 *Clinical Law Review* 573, 599.

100 The other three values are the provision of competent representation, striving to improve the profession and professional self-development.

101 American Bar Association Section of Legal Education and Admissions to the Bar, Legal Education and Professional Development – An Educational Continuum, *Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*, 1992.

102 Quigley F, 'Seizing the Disorienting Moment', 2 *Clinical Law Review* 37, 51, cited in Aiken JH, 'Striving to Teach "Justice, Fairness and Morality"' in (1997-1998) 4 *Clinical Law Review* 1, 24.

Aiken explains that law students ‘typically come from backgrounds far more privileged than those of their clients’¹⁰³ so they are likely to experience ‘disorienting moments’ in the course of a clinical program, largely because the experience is new. In Aiken’s experience, ‘[t]he majority of these students had been shielded from the reality of people they perceived as different. Experiencing difference is often “disorienting”.’¹⁰⁴ Further, clinical programs can bring students into contact with emotionally challenging situations. Aiken found that ‘[s]uch emotional turmoil also created a willingness to engage in self-reflection and an openness to learning about privilege.’¹⁰⁵

Aiken says that it is at this point that we must add a step in the reflection phase:

‘Not only should we help our students reflect carefully on the disorienting moments caused by the insights into “different” worlds [e.g. realisation of the difficulty of surviving on unemployment benefits, lack of childcare causing a client to miss an appointment] but we must help our students in reflecting on why the moments are disorienting. This requires students not only to analyse the world outside of them but also to turn inward and analyse themselves. They must seize the moment of disorientation and deconstruct it.’¹⁰⁶

According to Aiken, even in classroom moments that are difficult or uncomfortable, ‘[t]he disorienting moment is not enough. This is an opportunity to have the learner reflect on how her values affected her analysis of the problem and, consequently, the delivery of justice...you cannot let the moment fade.’¹⁰⁷ Aiken also suggests questions to assist this reflection process in class (see Appendix D).

Aiken’s idea about injustice being disorienting is compelling. She argues that we should seize upon that disorientation ‘and help our students develop a critical consciousness of the operation of power and privilege both in the situation that they are observing and in themselves.’¹⁰⁸ I am excited by her idea of teaching students to be compassionate and do justice by changing the focus from the ‘other’ and turning the focus onto themselves.¹⁰⁹ This is reflection with a goal for both learner and teacher: striving to promote justice, fairness and morality.

Some clinicians argue that it is important for students to learn about reflection theory.¹¹⁰ Teacher knowledge of educational theory on reflection can be critical to assisting students in their reflective thinking.¹¹¹ I always provide materials about reflective writing to students and in 2011 I introduced a session on reflective writing in class time (see part D). Instruction is provided on

103 Aiken JH, ‘Striving to teach “Justice Fairness and Morality”’, (1997-1998) 4 *Clinical Law Review*, 1, 25.

104 Aiken, above, 37-38.

105 Aiken above, n103, 41. Aiken stresses throughout her article that a recognition of privilege is essential for the development of compassion and an understanding of justice. ‘Learners will not strive to promote justice unless they understand how their own privilege prevented them from seeing injustice as well as how their own privilege allows them to benefit indirectly.’ (at p 44)

106 Aiken, above, n103, 26.

107 Aiken, above, n103, 51.

108 Aiken, above, n103, 63.

109 Aiken, above, n103, 63.

110 Sparrow provides an introduction to the work of academics in the field such as Donald Schön, David Kolb, Georgina Ledvinka and Jenny Moon; see also Maughan, C. And Webb, J., ‘Taking Reflection Seriously: How was it for us?’ in Maughan, C. and Webb, J (Eds), *Teaching Lawyers’ Skills*, Butterworths (1996).

111 Ledvinka, above, n10, 36.

reflective theory, and students complete reflective writing exercises. Informal feedback indicated that this was well accepted and appreciated by students and I have now embedded into the course longer periods of class time for reflective writing training.

There are a number of practical ideas that clinical teachers can employ. For example, the classroom can be arranged to encourage reflection by avoiding placement of the teacher in the ‘power’ role at the front; my own experience confirms that in a circle is best,¹¹² although this is not always possible if the class is held in a lecture theatre, or a room with immovable furniture. In the latter situations, asking the students to sit in the front few rows is helpful, especially if the teacher can join them, or at least avoid being above or detached from them (such as behind a lectern or desk). Ledvinka advocates the idea of the teacher acting as a facilitator of discussion rather than as the ‘master’ who can give the answers on every issue.¹¹³ The encouragement of genuine and egalitarian classroom discussion is indeed one of the most pleasurable aspects of clinical legal education, and provides a non-judgmental learning environment. Small group or pair discussions provide opportunities for peer and self-assessment¹¹⁴ and also encourage discussion amongst less extroverted students who prefer not to speak frankly about personal experiences in front of a larger group. James asserts that ‘[p]eer sharing helps [students] discover they may not be alone in having an emotional reaction or sympathetic response to a client’s situation. It is an opportunity for the students to discuss their attitudes and values, and the reasons for them, and can lead to very productive learning situations and long-lasting relationships.’¹¹⁵ Ledvinka cautions, however, that it should be a supporting group not a support group. There are no right or wrong answers but it is a learning environment; reflection is not just to make people feel better.¹¹⁶

PART D: HOW DO WE ‘TEACH’ STUDENTS TO WRITE REFLECTIVELY?

Sparrow’s research indicates that ‘students do find reflective writing very difficult since it is so unlike any assessment task they have previously undertaken.’¹¹⁷ A study by Kenny, Styles and Zariski in 2004 concluded that law students found the completion of a reflective report confronting, even excruciating, and that ‘they needed to have the tools to deal with it.’ Further, they concluded (as I have from my teaching experience) that students ‘needed to explore ways in which students could develop reflective skills.’¹¹⁸ Further, a primary disincentive of reflective writing is the fact that students might be reluctant to report all their experiences if they fear that they have made mistakes or acted inappropriately.¹¹⁹ It is important to be responsive to students’ feelings of vulnerability with regard to the ‘confessional element’ of reflective writing and their

112 Above.

113 Ledvinka, above, n10, 36; Maughan C & Webb J, above, n 110, 268.

114 Ledvinka, above, n10, 37.

115 James, above, n12, 140.

116 Ledvinka, above, n10, 37, citing Maughan and Webb, above, n110.

117 Sparrow, above, n22, 74.

118 Kenny MA, Styles I & Zariski A, ‘Looking at You Looking at Me Looking at You: Learning Through Reflection In a Law School Clinic,’ (March 2004) 11(1) *E Law – Murdoch University Electronic Journal of Law*, 8.

119 Varnava T and Webb J, ‘Key Aspects of Teaching and Learning: Enhancing learning in legal education’ in (2000) Krathwohl DR & Anderson LW (Eds.), *A taxonomy for learning, teaching and assessing: A revision of Bloom’s taxonomy of educational objectives*, Longman Publishing, 379.

nervousness about being judged when engaging with this unfamiliar genre.¹²⁰

The first component in my pedagogy of teaching reflective writing is the establishment of an appropriate environment. I spend a great deal of class time generating an atmosphere of trust between myself and the students and between the students themselves, to encourage them to disclose personal feelings and to analyse their own reactions to events. Classes are structured so that this relationship of trust builds gradually. The first exercise involves students introducing themselves and articulating why they have chosen to enrol in the course. Subsequent written exercises involve personal goals, self-awareness, personality types, identification of strengths and recognition of opportunities for improvement. These exercises are private, and students are not required to divulge their thoughts. The next task involves discussing 'an unexpected situation which I handled well' in pairs. Then they select a different partner with whom to discuss 'an unexpected situation which I handled badly'. After this, there is usually at least one student who is prepared to share this experience with the class, leading to a discussion about the best way to deal with unexpected situations that might occur on the placement or in a work environment. These early class exercises lay the foundation for later discussions about what they are learning in their clinical placement environments. As the term progresses, students are encouraged to relate experiences from which they have learned something. Divulging personal reactions to work experiences involves an element of risk. In my experience, students are prepared to take that risk if they feel supported and know that the risk will produce a positive result in the form of a validation of their feelings and encouragement for the future.

The next step is to generate reflective writing from the material that is mined from class discussions. The translation of an informal discussion into an assessable piece of reflective writing is not a simple progression. What do we want from our students when we ask them to produce 'a piece of work which demonstrate[s] genuine depth of reflection'?¹²¹

Moon explains that taking the step from reflection to reflective writing involves various factors. It is important to consider the reason for the writing (personal, academic, assessable, to be presented to the class), who else might read it, and the students' emotional state at the time of writing.¹²² Roy Stuckey sets out the importance of the creation of structures and protocols in order to assist students' self-learning. He suggests that students should be given materials on the value of reflective thinking, that they should write journals and do self-evaluations during and at the end of the study period¹²³ and that they need informative feedback.¹²⁴

In defining reflective writing, Jennifer Moon articulates what it is **not**:

- Conveyance of information, instruction or argument
- Straightforward description (although there may be descriptive elements)
- A straightforward decision about whether something is right or wrong, good or bad (i.e. not judgmental)

120 Tummons, above, n 37, 475-6.

121 Sparrow, above, n22, 73.

122 Moon, above, n4, 186-7.

123 Stuckey, above, n28, 824.

124 Stuckey above, n28, 818.

- Simple problem solving¹²⁵

Moon explains that in the educational context,

‘reflective writing will usually have a purpose...it will usually involve the sorting out of bits of knowledge, ideas, feelings, awareness of how you are behaving...it could be seen as a melting pot into which you put a number of thoughts, feelings, other forms of awareness, and perhaps new information. In the process of sorting it out in your head, and representing the sortings out on paper, you may either recognize that you have learnt something new or that you need to reflect more with, perhaps, further input. Your reflections need to come to some sort of end point, even if that is a statement of what you need to consider next.’¹²⁶

Michael Meltsner writes about ‘stimulating reflective writing ... to raise issues of professional values [as] ... an alternative to the use of open-ended journal writing.’¹²⁷ His aim is to deliberately force students to reflect on ‘who they are, what they believe and how this might play out in what they do or expect to do as lawyers.’¹²⁸ Meltsner, unlike Duke and Appleton¹²⁹ stresses that he is ‘trying to stimulate reflection, not teaching a formal set of skills.’¹³⁰ His methodology is influenced by his belief that ‘growth and development proceed from stimulating the natural agenda of the learner’ [and that] these narratives, conversations and personal assignments offer a writing experience that can be deeply supportive and nurturing.’¹³¹ Meltsner requires students to submit short reflective papers every week.¹³² Students are then given written feedback in the next class, and with students’ permission, their work is read out in class.¹³³ The assignment topics are deliberately personal and designed to stimulate reflection about working as a lawyer. Appendix C contains a list of Meltsner’s assignment topics, to which I have added some of my own ideas.

Ogilvy defines the following as goals for journal assignments:

- a) To encourage the exploitation of the demonstrated connection between writing and learning;
- b) To nurture a lifetime of self-directed learning (especially in the context of self-awareness of learning styles; ‘journals can help students engage more deeply with what they learn about themselves’;¹³⁴
- c) To improve problem-solving skills;
- d) To promote reflective behaviour;
- e) To foster self-awareness;¹³⁵

125 Moon, above, n4, 187.

126 Above.

127 Meltsner M, ‘Writing, Reflecting and Professionalism’, in (1998-1999) 5 *Clinical Law Review* 455.

128 Meltsner, above, 467.

129 Above, and see also appendix A.

130 Meltsner, above, n127, 463.

131 Meltsner, above, n127, 467.

132 Meltsner, above, n 127, 459-560.

133 Students may elect not to share their papers with the rest of the class and retain their privacy if they wish.

134 Ogilvy, above, n19, 69

135 Ogilvy, above, n19, especially 80 – 82.

- f) To allow for the release of stress; and
- g) To provide periodic student feedback to the teacher¹³⁶

Whilst Ogilvy specifically declares that his list of aims for the use of a reflective journal is not in any order of priority, he makes it clear that the promotion of reflective behaviour is ‘one of the principal goals of [his] teaching.’¹³⁷ Ogilvy strongly emphasises the use of the journal as a tool for encouraging reflective behaviour because it provides ‘a specific time and place in which to engage in reflection.’¹³⁸ He also suggests using journals with a problem solving emphasis. He provides examples to demonstrate that students are reflective when they contemplate they still need to learn, when considering their relationship to the course material, when monitoring their own learning and when seeking to clarify values, examine assumptions or express tentative understandings, and also when writing about their experiences in legal education and how it affects their lives.¹³⁹

Students in my course augment their placement experiences by engaging in class discussions about what they are learning during the placement, in order to develop a critical perspective on such issues as legal ethics, professionalism, justice access, and law reform. They are challenged to consider their own personal values and beliefs and how these values might affect the choices that they make in later professional life. In addition to analysing and reflecting on their personal experiences, students are required to consider the role of legal professionals in the legal system and in society generally. There is no ‘black letter law’ in my course. It has been acknowledged that one of the challenges of modern legal education is that students need to be taken beyond their own assumptions about the parameters of what the study of law entails.¹⁴⁰ This course recognises this need.

Students in my course are required to produce three pieces of written summative assessment: a seminar presentation, a critical incident report and a reflective portfolio.

The critical incident report is a short (1000 words) reflective exercise, designed to prepare students for the larger reflective portfolio. In the critical incident report, students are required to identify a critical incident or situation that has taken place either during the first few weeks of their placement or in preparing for their placement. It may be critical because it was a learning experience, it was significant in some way, it identified an area of law that the student was either attracted to or repelled by, it may have generated excitement or influenced the student in some way. Students are required to describe the incident and its impact and to reflect on the reason for the impact. This involves the students considering their own values, preconceived ideas and prejudices. It also involves a consideration of the perspectives of others involved in the incident. Students must describe how they dealt with the incident and its impact and what they learned from the incident, including if they have learned something about themselves. Finally, they have to consider how they will approach similar incidents in the future. (Full details are provided in Appendix I.) The questions are designed as prompts to encourage the students to reflect and also to avoid ‘writers’ block’. This assessment is summative (it is worth 25% of their final grade) as well

136 Ogilvy, above, n19, 63. Ogilvy points out that these goals are idiosyncratic and subject to constant revision.

137 Ogilvy, above, n19, 75-76.

138 Ogilvy, above, n19, 77.

139 See examples from student journals in Ogilvy, above, n19, 77 – 79.

140 Varnava T and Webb J, above, n119, 363.

as formative. It is submitted early in the term and students are provided with extensive feedback to assist them with their reflective portfolio that they must submit at the end of the term. The desired outcome is that responses to formative feedback will produce an improvement in student writing.

My personal reflection on this assessment activity has caused me to ensure that the assessment is aligned with the course aims. Jonathan Tummons has noted that there is an established body of literature positing that reflective practice should be a component of professional behaviour and development but he notes that the validity of the assessment of reflective practice is contestable.¹⁴¹ This led me to ponder the rationale behind giving a grade for the reflective exercises in my course and also led me to examine exactly what the assessment criteria are. I asked myself: What exactly am I trying to teach them? What am I trying to assess? Revisiting the course objectives was (is) a useful activity to ensure that each assessment activity meets one or more of the learning objectives of the course. The table in Appendix J addresses whether each of my course objectives are fulfilled by each particular assessment item. Upon considering the taxonomies of Bloom and Gagne¹⁴², I decided that greater specificity was required in my assessment questions; a variety of alternative and more action-specific verbs was necessary. Students are encouraged to be critical and not just descriptive, but the original wording of my assessment activity required my students to merely identify and describe (see Appendix H). Realising that this was potentially confusing for them, I recently amended the wording to that set out in Appendix I. The use of much more powerful verbs indicates to students that critical analysis is required. The improved language is more instructive and less ambiguous, in accordance with the principle that good assessment requires clear articulation of purpose, requirements, standards and criteria.¹⁴³

The use of reflective journals as formative rather than summative assessment has been strongly advocated¹⁴⁴ and many articles about reflective journals encourage the idea of providing feedback to students soon after the journal entries are written.¹⁴⁵ However, in my experience, the submission of reflective writing as formative assessment only is rarely effective. Ross Hyams has investigated the advantages and disadvantages of grading reflective writing and concludes that 'reflective journals can and should be graded'¹⁴⁶ whilst Simon Rice has argued against grading in a clinical environment.¹⁴⁷ My original practice was to invite and encourage students to send me extracts from their journals each week so that I could address any difficulties they were experiencing in their placements and also to give them constructive feedback on their writing. Over many years, very few students availed themselves of this formative assessment opportunity. In 2011 I incorporated two reflective writing workshops into class time in order to 'workshop' their pieces and for them to critically examine each other's writing. This formative experience offers students

141 Tummons, above, n37.

142 Bloom BS, (1956) *Taxonomy of Educational Objectives. The classification of educational goals.* Handbook, New York: David McKay Co Inc.

143 University of South Australia, *Assessment Principles and Requirements* [online]. Availability: <<http://w3.unisa.edu.au/policies/manual/2012/s1-assessment%20principles%20and%20requirements.pdf>>

144 Tummons, above, n37.

145 See, for example, Ogilvy, above, n19, 97 – 101 and Sparrow, above, n22, 74.

146 Hyams, R, 'Assessing Insight: Grading Reflective Journals in Clinical Legal Education, (2010) 17 *James Cook University Law Review* 25.

147 Rice S, 'Assessing – but not Grading – Clinical legal Education' (2007) *Macquarie Law WP* 16, 1.

the opportunity to self-assess and peer-assess.¹⁴⁸ This has resulted in a much stronger response from students seeking formative feedback on their journal entries. They then submit their final edited journals in the form of a portfolio at the end of the course. The portfolio requirements of my course are set out in Appendix F. The reflective portfolio must contain a series of reflections written in a similar manner to the critical incident report. It must also contain reflections on and reference to the literature which has been included on their reading lists. Students are expected to draw from their own experiences in order to illustrate and explain the articles that they have read. The portfolio is assessed and graded. It is hoped that students will have learned to identify 'good' reflective writing from the first piece of assessment and how they can improve it. The two assessment pieces are integral components of the course design; the design of the tasks is intended to have a significant impact on student learning.¹⁴⁹

Showing students written examples of what constitutes 'deep' reflection is extremely helpful, such as excerpts from past students.¹⁵⁰ However, it is not always possible to do this, given the private nature of some reflective writing. Moon provides a chapter entitled "Resources" which includes a map of reflective writing, guidance for students, samples of reflective writing and exercises in reflective writing. These may be copied freely for use with learners.¹⁵¹ Karen Hinnett and the UK Centre for Legal Education have also produced a series of resources about reflective practice which law teachers are encouraged to use and reproduce as resources (with appropriate acknowledgements).¹⁵²

Moon suggests the use of a double entry journal in order to engage in 'second order reflection'.¹⁵³ Students write on one half of a vertically divided page and leave the other side blank. The next time they write, students go through the initial material writing further comments. My experience to date suggests that only the very keenest students will do this; others may need to be encouraged in this task by enforcing it through summative assessment. I have yet to experiment with this idea.

Race¹⁵⁴ suggests providing 'cluster' questions to focus students' thinking, for example:

- a) What worked really well for you?
- b) Why do you now think that this worked well for you?
- c) What are you going to do as a result of this having worked for you?

Another way to encourage deeper reflection is to encourage students to reflect on a situation/ event/ incident from a different perspective, such as the perspective of another person involved.¹⁵⁵ For example, I ask students to reflect on a client interview from the point of view of the student and the client, and any other student (if interviews are conducted in pairs). Weinstein also notes that

148 Brown S and Knight P, (1994) *Assessing Learners in Higher Education*, London, Philadelphia: Kogan Page, 51.

149 This is consistent with the assessment principles of the writer's university. See above, n143.

150 E.g. Sparrow, above, n22.

151 Moon, above, n4, 2004.

152 Hinnett K, *Developing Reflective Practice in Legal Education*, UK Centre for Legal Education, University of Warwick, 2002.

153 Moon J, *Reflection in Higher Education Learning* (2001) PDP Working Paper 4, LTSN, 14.

154 Above, n 36.

155 Moriarty HJ and McKinlay E, 'Reflective journals reveal the transformative nature of early community-based experience', in *Focus on health Professional Education: A Multi-disciplinary Journal* Vol 10, No 1, 2008, 59.

reflection on relationships is important, as is reflection on values. Getting students to reflect on the relationships involved in the clinical experience (e.g. student/client; client/other side; student/supervisor; student/other student(s)) can be an excellent starting point for deeper reflection on an incident or experience that goes beyond mere description. Asking students to reflect on their values in a given situation can also stimulate further self-awareness, especially if one student's reaction differs from that of another student.

In 1997, it was noted that 'the literature on legal education contain[ed] only a few scattered references to journal writing by law students.'¹⁵⁶ Ogilvy has defined a journal as:

'a regular, written communication from a student to a teacher, related to the courses of study, that is authored by the student at the request of the teacher and to which the teacher may respond in writing. The journal, unlike a diary, is only semi-private in that it is intended to be read by at least one person other than the author, the teacher. The journal tends to be more factual and objective than emotive and subjective, but its contents may span the continuum reflected by these terms.'¹⁵⁷

Ogilvy notes that of the thousands of student journals that he has encountered, 'most do not seem to demonstrate sophisticated critical thinking, [but] overall they do consistently represent a quality of introspection and reflection that, while not deeply philosophical, is substantial.'¹⁵⁸ For me, this raises three questions:

1. What is the purpose of journal writing in the clinical setting?
2. Is it necessary or preferable to have students demonstrate sophisticated critical thinking?
3. If yes to question 2, then how do we as clinical teachers develop sophisticated critical thinking skills?

Ogilvy responds (as if anticipating these questions) that 'the journal encourages writing; probing beneath the surface of problems; thinking more deeply about the materials, products and processes of learning; and taking more responsibility for their own learning. It offers some students a less threatening alternative to in-class questions and can provide a safe place for healthy release of the intense emotional stress that is generated by the law school experience.'¹⁵⁹ This philosophy which appears to encourage the privacy of journals, is in contrast with the suggestions made by Michael Meltzner who encourages the sharing the journal entries and discussion of them in class.

Aiken recognises that peer pressure in law school can prevent students from discussing their personal feelings.¹⁶⁰ Her strategy for overcoming peer pressure 'not to be personal' is to 'create opportunities for learners to use their own sense of justice in analysing legal problems and to make that a part of the 'normal' discussion'¹⁶¹ such as in small groups. Aiken also notes that journal writing is a way to 'offer learners a chance to reflect on their experiences, bring their own perspective to a problem, and analyse the issues without the pressure and immediacy of a class

156 Ogilvy, above, n19.

157 Ogilvy, above, n19, 56.

158 Ogilvy, above, n19, 59.

159 Ogilvy, above, n19, 60.

160 Aiken, above, n103, 50.

161 Above.

discussion. Such an exercise can result in a disorienting moment¹⁶² (see above).

Ogilvy points out that '[t]o be successful, the journal assignment must be presented to the students with care. It is important that the purposes and benefits underlying the assignment be presented fully to the students. It is also important that the teacher continually reinforce the value of the journal by making stimulating comments on journal entries before returning them to the students and, with appropriate regard to issues of privacy and confidentiality, by sharing student journals with the entire class.'¹⁶³

The vulnerability of students writing about personal experiences merits consideration. Students completing my course are usually in their final year of a law degree, often uncertain about their futures and often lacking in confidence about their skills. Being objective about their performance in a work experience environment and submitting their reflection about their performance for scrutiny by the course co-ordinator can be a daunting prospect for many students. Stephen Brookfield, for example, has noted that '[n]o matter how much we may think we have an accurate sense of ourselves, we are stymied by the fact that we're using our own interpretive filters to become aware of our own interpretive filters – the pedagogical equivalent of trying to see the back of one's head while looking in the bathroom mirror.'¹⁶⁴

Michael Devlin and others comment on the importance of providing feedback on reflective essays.¹⁶⁵ Their rubric for feedback, from which instructions can be developed, is at Appendix B. Wald and others view feedback as part of the process of *interactive reflective writing*¹⁶⁶ i.e. 'providing individualised guided feedback about their experiences to support learners during important transitions in an authentic, transparent manner'¹⁶⁷ that 'helps to foster students' reflective capacity, self-awareness, and self-confidence as the insights they share are illuminated, reflection is invited with targeted queries, lessons are derived, and concrete recommendations are provided, as relevant.'¹⁶⁸ Wald *et al* emphasise that the provision of feedback creates a 'commonality of experience' within a 'universe of shared experience and shared humanity.'¹⁶⁹ Wald *et al* use the Brown Educational Guide to the Analysis of Narrative (BEGAN) for preparing feedback to students' reflective writing.¹⁷⁰ Wald writes about how reflective writing by medical students when encountering death for the first time provides valuable opportunities for transformative professional growth and student well-being.¹⁷¹ Feedback can guide students to

162 Aiken, above, n103, 53.

163 Ogilvy, above, n19, 106-7.

164 Brookfield S, above, n25, 28.

165 Devlin MJ, Mutnick A, Balmer D & Richards BF, 'Clerkship-based reflective writing: a rubric for feedback' in *Medical Education* 2010, 1117-1147 at 1143.

166 Wald HS, Reis SP, Monroe AD & Borkan JM, 'The Loss of My Elderly Patient: Interactive reflective writing to support medical students' rites of passage,' in *Medical Teacher*, 2010; 32(4): e178-e184.

167 Wald, Reis, Monroe & Borkan, above, e182.

168 Above, e183.

169 MacCurdy M, 'From trauma to writing – A theoretical model for practical use', in CM Anderson & M MacCurdy (Eds), 2000, *Writing and healing: towards an informed practice*, Urbana, I L: National Council of Teachers of English.

170 Wald, Reis, Monroe & Borkan, above, n165, e179. See also Reis SP, Wald HS, Monroe AD, Borkan JM, 2010, 'Begin the BEGAN – Brown educational guide to the analysis of narrative', *Patient Education Counselling*. DOI:1.1016/j.pec.2009.11.014.

171 Wald, Reis, Monroe & Borkan, above, n165, e178.

acknowledge, explore and learn from their emotional experience, potentially bolstering resilience and student well-being'.¹⁷² Similar emotionally powerful experiences can occur in the clinical legal education context – e.g. client being imprisoned; client accused of heinous crime e.g. paedophilia, difficult client; delivering bad news etc. This can also develop emotional intelligence and lessen the sense of emotional isolation.¹⁷³ Ogilvy also recommends using prompts to address some common problems when providing feedback; some of his suggestions are included in Appendix E.

CONCLUSION

This article has critically examined the vast scholarship about reflection and reflective writing in order to inform my own approach to teaching in this area as well as to add to the body of pedagogical knowledge about how reflection assists adult learning. In particular, the article has highlighted the different ways that reflection can be encouraged in the clinical context. Many clinicians use reflection as a teaching tool; this article aims to disseminate the many varied and excellent suggestions that have been published. It is hoped that the compilation of these teaching ideas into one article will provide a useful resource for anyone involved in clinical legal education. For clinical supervisors, the suggestions may enhance their interactions with students and ultimately result in an improved service to clients. For academic staff engaged in classroom teaching, the ideas articulated here will hopefully contribute to student engagement with the aims of clinical programs and foster improved relations between students and teachers.

Finding articles about reflective writing and how to teach reflective writing has been an important step in my own learning journey towards a better understanding of what it means to teach 'reflection'. This article shares my exploration of ideas about reflective writing in the hope that other clinicians will find the ideas useful, as indeed I have. Over the next twelve months I plan to develop my own course to implement my findings and then seek feedback from students about the use of reflection in the course. The work of Ogilvy, Moon, Ledvinka, Devlin, Aiken, Sparrow, Meltsner and others provide a rich source of inspiration to those of us who are always looking for new ways to develop the potential of our students.

The various definitions of 'reflection' have caused me to consider what I actually want my own students to reflect on in their portfolios and what it means to be reflective and will be useful to incorporate within instructions to students. James' work has encouraged me to continue to require students to reflect on their feelings and emotional reactions to clinical experiences, with a view to developing their emotional intelligence. I also plan to experiment with providing feedback to students on a weekly basis. I look forward to experimenting with other ideas that I have found in my extensive reading. One of the great joys of clinical legal education is the genuine camaraderie amongst those of us who teach and supervise clinical programs. This article has been written in the spirit of generosity and sharing that I have encountered in my contact with other clinicians and I hope that this article will be of benefit to other clinical teachers and supervisors, and ultimately our students and our clients.

172 Wald, Reis, Monroe & Borkan, above, n165, e183.

173 Pololi LP and Frankel RM, 2001 'Reply to 'Vanquishing Virtue': The impact of medical education,' *Acad Med* 17(12):1172 cited in Wald, Reis, Monroe & Borkan, above n165, e183.

Appendix A

Marking Criteria for Reflective Writing Derived from Duke and Appleton's Skills Inherent in the Act of Reflection¹⁷⁴

- Ability to describe the event or situation.
- Ability to identify and focus on salient issues from the situation.
- Ability to analyse own feelings and those of others.
- Ability to use knowledge from a variety of sources in order to analyse the situation.
- Ability to place the event or situation in the context of broader social, political and professional perspectives and to analyse how these perspectives influence the event or situation.
- Ability to draw together and summarise description and analysis in order to present a new perspective or to re-vision an existing perspective.
- Ability to identify and discuss the implications for practice that arise from analysis and synthesis.
- Ability to identify learning achieved and learning needs.
- Ability to draw up an action plan based on the implications raised.
- Ability to write clearly and coherently.
- Ability to accurately cite sources of knowledge.
- Ability to self-evaluate own work.

¹⁷⁴Duke and Appleton, 'The use of reflection in a palliative care programme: a quantitative study of the development of reflective skills over an academic year', 2000 *Journal of Advanced Nursing*, 32(6) 1561, Table 1, 1559-1560.

Appendix B

The Devlin-Mutnick-Balmer-Richards Rubric for providing feedback on reflective essays.¹⁷⁵

Dimension 1: clarity of the elaboration of the reflection topic as a problem or question for enquiry.

Is it clear what triggered the reflection?

Can you complete the following sentence from the writer's standpoint: In the course of this reflection, I would like to learn more about...

What is the writer's dilemma or puzzle?

Dimension 2: consideration of relevant alternative perspectives of the problem

Does the writer include all relevant personal perspectives, including her own?

Are perspectives justified by data?

Are perspectives juxtaposed in a way that promotes additional reflection?

Dimension 3: expression of personal intellectual and emotional engagement in the reflection.

Is there evidence of personal struggle on cognitive and emotional levels?

Is it apparent why the writer chose this particular incident for reflection?

What is at stake for the writer?

Dimension 4: commitment to strengthen or alter one's personal understanding and subsequent related behaviours.

Is there an explicit statement of what was learned?

Is there evidence of movement from previously held assumptions or of the deepening of beliefs?

Is there a plan for action or commitment towards personal or systemic change?

¹⁷⁵ Michael J Devlin, Andrew Mutnick, Dorene Balmer & Boyd F Richards, 'Clerkship-based reflective writing: a rubric for feedback' in *Medical Education* 2010, 1117-1147 at 1143.

Appendix C.

Meltsner's questions to stimulate reflection, adapted by the author.¹⁷⁶

How did I get here? (i.e. into law school

Do I like being a law student?)

Is law school what I expected? Why or why not?

How have I changed since I started at law school?

Do clothes make the lawyer?

Could I work with or for someone I don't like?

What do I think about lying?

What is the first sentence of my autobiography?

How do I want clients to think of me?

Would a client recommend me as a lawyer? Why or why not?

¹⁷⁶ Meltsner, M, 'Writing, Reflecting and Professionalism', in (1998-1999) 5 *Clinical Law Review* 455, at 460.

Appendix D

Aiken's questions to assist the reflection process in class after a 'disorienting moment', adapted by Rachel Spencer.¹⁷⁷

Many of you appear moved and surprised by this story. Why were we surprised by what we have learned?

What surprised you?

What values do you have that have perhaps shaped your reaction to this story?

What structural realities of our lives encouraged us to believe ...?

How are the law and society affected by the idea that poverty is escapable?

Who benefits from that belief?

How does believing that everyone is like you influence your ability to be an effective lawyer?

Do you believe that class status is earned? Why or why not?

How do you benefit from the belief that your class status is earned?

How does that belief affect current local and national policy initiatives?

How are poor people harmed by that belief?

How is access to justice affected by that belief?

How does the element of surprise affect your ability to be an effective lawyer?

¹⁷⁷ Jane Harris Aiken, 'Striving to Teach "Justice, Fairness and Morality" in (1997-1998) 4 *Clinical Law Review* 1, 24, 51-52.

Appendix E

Feedback prompts to address common problems in journal writing [from Hettich citing Ogilvy, adapted by Rachel Spencer].¹⁷⁸

Problem in Journal	Prompt from teacher
Concept(s) used superficially	Be more specific. Check text/ notes. What do other authors say about this? Do you agree or disagree? Why?
Concept / information is inaccurate.	Not true. Check text / notes. What does [author on reading list] say about this?
Comments not connected to course material.	How does this relate to the course? Explain. Does this alter your attitude to [client centred practice / access to justice / etc]?
Illegible or long paragraphs.	This paragraph is unclear – please revise and think about the concepts we have discussed in class so far. Rewrite this using one concept per paragraph.
Repeats information verbatim; no personal contribution.	Don't repeat information. Give an example from your own workplace / clinic experience. What are your personal thoughts about this? What might the perspectives of others be?
Uses single concept where related concepts easily fit.	Also, you could consider [client-centred practice / law reform ideas / etc] here.
Entry or pattern of entries shows little evidence that concept is understood.	Briefly explain why this experience is an example of [client-centred practice / a problem with access to justice / etc].
Entries appear to have been written (crammed) on one occasion or hastily.	This seems to have been written in a hurry. Write regularly, and revise your entries. Take your time. Do you feel the same now as when you first had this experience? This journal is for you, not me. Explore and analyse your thoughts and reactions.
Uses concepts superficially that are covered later in course.	Write about this again after we have discussed it in class. What questions do you have? What answers have you found?

¹⁷⁸ Paul Hettich, 'Journal Writing: Old Fare or Nouvelle Cuisine?' In (1990) 17 *Teaching Psychology* 36, reproduced in J.P. Ogilvy, 'The Use of Journals in Legal education: A Tool for Reflection' in (1996-1997) 3 *Clinical Law Review* 55 at 100 from a presentation by Paul Hettich, *Journal Writing for Teaching and Learning in Psychology* at the 99th Annual Convention of the American Psychological Association (San Francisco, CA 1991).36.

Appendix F

Rachel Spencer's Reflective Portfolio Assignment¹⁷⁹

Assessment Item 3

Reflective Portfolio: 3,000 words

This assessment focuses on developing the following graduate qualities:¹⁸⁰

- preparation for **life-long learning** in pursuit of personal development and excellence in professional practice (GQ 2);
- **Commitment to ethical action and social responsibility as a professional and citizen**, especially in relation to ethics in a legal professional context (GQ 5); and
- Effective communication in professional practice and as a member of the community (GQ 6).

Students are required to maintain a reflective journal during the placement. One definition of a journal is:

‘a regular, written communication from a student to a teacher, related to the courses of study, that is authored by the student at the request of the teacher and to which the teacher may respond in writing. The journal, unlike a diary, is only semi-private in that it is intended to be read by at least one person other than the author, the teacher. The journal tends to be more factual and objective than emotive and subjective, but its contents may span the continuum reflected by these terms.’

J.P. Ogilvy, ‘The Use of Journals in Legal Education: A Tool for Reflection’ in (1996-1997) 3 *Clinical Law Review* 55, 56.

The aims of keeping a journal are:

- To encourage the exploitation of the demonstrated connection between writing and learning
- To nurture a lifetime of self-directed learning
- To improve problem-solving skills
- To promote reflective behaviour
- To foster self-awareness
- To allow for the release of stress
- To provide periodic student feedback to the teacher

J.P. Ogilvy, ‘The Use of Journals in Legal Education: A Tool for Reflection’ in (1996-1997) 3 *Clinical Law Review* 55, 63.

¹⁷⁹ *Legal Professional and Community Service Experience Course Information Booklet Study Period 6, 2011*, University of South Australia, 2011. This is one of three assessable items for the course. The other two items are a seminar presentation and a Critical Incident Report.

¹⁸⁰ University of South Australia Graduate Qualities available at <<http://w3.unisa.edu.au/gradquals/default.asp>>

The benefit of keeping a journal will be in direct proportion to the time you spend on it. You are invited and encouraged to send journal entries to me on a weekly basis so that we can engage in a 'conversation' about your placement and how it is going. It will also give you the opportunity to receive feedback about any problems you may be having or indeed to share in your successes and 'high points' of the placement. It will also enable me to give you ideas about how to reflect more deeply on certain issues before submitting your final portfolio.

You are also encouraged to read widely about topics we cover in class.

You are then expected to use the journal as the basis for either option 1 or option 2 of this assessment item.

Option 1: Reflective Portfolio

The Reflective Portfolio is worth 50% of the final grade. Your portfolio will consist mainly of your EDITED journal entries but it should also contain extracts from other writers (correctly attributed) and commentary and reflection upon what these writers have said about certain topics. The portfolio may also contain newspaper cuttings, tables, graphs, cartoons, quotes, notes about films and television shows, descriptions of conversations, and anything that you have found or written about that relates to your placement experience or topics covered in class. It will be a bit like a scholarly scrap book. All work of which you are not the author **MUST BE** properly attributed in footnotes and a bibliography.

The portfolio is not intended to consist of anecdotal recitation of activities. It is intended that the portfolio consist of students' observations and insights into their experiences on placement in the context of the specific topics that we cover in classes. In particular, the portfolio must show your development as a reflective learner. You are expected to describe an experience, analyse what happened, why it happened, what you learned from it, and how you would approach it next time. Your reflections must be critical reflections, not merely descriptive.

The portfolio must contain:

- 1) Your Attendance Record; and
- 2) At least four and a maximum of six of the following written items:
 - A reflective analysis of your preparation for the Placement.
 - A reflective analysis of an ethical issue that arose within your placement.
 - A reflective analysis of an access to justice issue that arose within your placement.
 - A reflective analysis of a law reform issue that arose within your placement.
 - A reflective analysis of a client-centred practice issue that arose within your placement.
 - A reflective analysis of a client interview.
 - A reflective analysis of your personal goals for the placement and whether or not you have achieved those goals or perhaps changed the goals as the term progressed. This analysis should include reflection on your own learning, your performance in the placement and your achievements, as well as plans for personal, educational and career development.
 - A reflective analysis of an incident during your placement which involved you considering your personality type compared with the personality of someone else at the placement office (self-awareness).

- A reflective analysis of your view of the role of lawyers in society in the context of your placement experience(s).

Each item must be clearly identified under one of the above headings. Each item may contain information or reflections from more than one day, especially if the incident took place over several days, or you want to talk about a series of events. You are also expected to integrate the material discussed in seminars with your reflections about your placement experiences. Even though this is quite a personal piece of work you are still expected to write formally and to use proper footnotes and cite all articles correctly. Remember that you will need to edit your work stringently. The writing is the first part of the job. Editing it properly will take longer than the actual writing.

The portfolio will be assessed according to the following criteria:

- 1) Ability to identify and focus on salient issues from each situation;
- 2) Analysis of your own perspective and the perspectives of others;
- 3) Use of a variety of resources in order to analyse the situation and to cite them appropriately;
- 4) Ability to place the event(s) or situation(s) in the context of broader social, political and professional perspectives and to analyse how these perspectives influence the event or situation;
- 5) Identification of the learning that you have achieved and your learning needs;
- 6) Ability to write clearly and coherently.

Option 2: Project Portfolio

You may only select this option if you prepared the Project Plan for Assessment Item Number 2.

The submission of your project as assessment item 3 must include:

- 1) Your Attendance Record; and
- 2) Two of the following written items:
 - A reflective analysis of an ethical issue that arose within the Project.
 - A reflective analysis of an access to justice issue that arose within the Project.
 - A reflective analysis of a law reform issue that arose within the Project.
 - A reflective analysis of a client-centred practice issue that arose within or because of the Project.
 - A reflective analysis of your personal goals for the Project and whether or not you have achieved those goals or perhaps changed the goals as the term progressed. This analysis should include reflection on your own learning, your performance in the placement and your achievements, as well as plans for personal, educational and career development.
 - A reflective analysis of an incident that occurred while working on the project which involved you considering your personality type compared with the personality of someone else at the placement office (self-awareness).
 - A reflective analysis of your view of the role of lawyers in society in the context of your project.

- A reflective analysis of the success or otherwise of the project; and
- 3) A section including the work you have done towards the project. This must include drafts, plans, file notes of telephone conversations, meeting notes, research, and everything you have done to bring the project to its final form. This is particularly important if the project is to be handed to another student for completion of a further stage of its development.
 - 4) A copy of the Project Plan that you submitted as assessment Item 2, together with a reflective analysis of whether or not you abided by the plan, and if not, why not.
 - 5) The final version of the project. This must include any written work, power point slides, reports, brochures, DVDs, etc. If the final project included a presentation, please include as much evidence as possible about the presentation (e.g. photos) and include a detailed analysis of the presentation in the Project report (see item 4 below).
 - 6) A Project Report including exactly what has been done in the project and what still needs to be done (if relevant).

The Project Portfolio will be assessed according to the following criteria:

- 1) Reflective analyses: ability to identify and focus on salient issues from each situation; analysis of your own perspective and the perspectives of others; use of a variety of resources in order to analyse the situation and to cite them appropriately;
- 2) Identification of the learning that you have achieved and your learning needs;
- 3) Achievement of the project goal.
- 4) The overall effort put into the whole project and the overall final result.
- 5) Ability to write clearly and coherently.

Appendix G

Marking Criteria for Reflective Portfolio¹⁸¹

	Fail	Pass	Credit	Distinction	High Distinction
Marking Criterion 1: Analysis & synthesis of experiences	No coherent position discernible. No evidence of self-reflective analysis.	Placement experience is only partly clear. Some evidence of self-reflective analysis.	Placement experience is clear. Clear evidence of self-reflective analysis.	Placement learning experiences and impact are well articulated. Clear evidence of self-reflective analysis at a high level.	Placement learning experiences and impact are clear and compelling. Clear evidence of self-reflective analysis at a very high level.
Marking Criterion 2: Critical Thinking	Negligible critical thinking.	Placement has been described but no evidence of interpretation or application of any principles of reflective learning beyond standard.	Placement has been analysed well in the context of reflective learning. Limited critical thinking.	Student has clearly articulated the learning experiences of the placement. A high level of critical thinking.	Student has applied reflective learning principles to the placement in a sophisticated manner and has demonstrated a superior level of critical thinking.
Marking Criterion 3 Use of appropriate professional writing style and tone	Errors in grammar, spelling and punctuation, and overall poorly written.	Some errors in grammar, spelling and punctuation; overall writing style is satisfactory	Minor/very few errors in grammar, spelling and punctuation; overall uses a writing style that requires little amendment.	No errors in grammar, spelling and punctuation, and overall uses a clear and concise writing style.	No errors in grammar, spelling and punctuation; uses a sophisticated and professional writing style.
Marking Criterion 4: Use of Resources	No reliable sources used; no reference to seminar discussions; or sources not appropriately cited.	Uses a few reliable sources with citation. Limited and superficial reference to seminar discussions.	Uses a range of reliable sources with correct citation. Good references to seminar discussions.	Uses a broad range of pertinent resources with correct citation style. Integrates seminar discussion topics, demonstrating high level of engagement with materials.	Uses a broad range of pertinent resources, with correct citation style; evidence of independent research. Sophisticated integration of seminar discussion topics.
Marking Criterion 5 Overall presentation	Poorly presented; portfolio has not been maintained appropriately over the term.	Adequately presented; portfolio has been maintained at a basic level.	Well presented. Portfolio has clearly been maintained, edited and improved across the term.	Very well presented. Portfolio has been maintained across the term and has been well edited to a high standard.	Exceptionally well presented. Portfolio has clearly been maintained and improved across the term and edited to a sophisticated level.

¹⁸¹ *Legal Professional and Community Service Experience Course Information Booklet Study Period 6, 2011, University of South Australia, 2011.*

Appendix H

Original Assessment Item 2¹⁸²

Assessment Item 2 Critical Incident Report

This assignment focuses on developing the following graduate qualities:

- **life-long learning** in pursuit of personal development and excellence in professional practice (GQ 2);
- **Commitment to ethical action and social responsibility as a professional and citizen**, especially in relation to ethics in a legal professional context (GQ 5); and
- **Written communication skills**: in particular, your ability to use clear, effective and grammatically correct English (GQ 6) and your ability to write reflectively.

Word limit: 1000 words.

Instructions

1. Identify a critical incident or situation that has taken place either during your placement or in preparing for your placement. It may be critical because:
 - you learned something from it;
 - it worried you in some way;
 - it was significant in some way;
 - it identified an area of law where you now think that you would like to work or would not like to work;
 - it excited you; or
 - it has influenced you in some way.
2. Describe the incident.
3. Describe the impact that it has had upon you.
4. Describe why you think this incident had this impact on you. Is there some background to the incident? Has it made you question your values?
5. Consider the perspectives of others involved in the incident.
5. Describe how you dealt with the incident and its impact.
6. Describe what you have learned from the incident. Have you learned something about yourself?
7. How will you approach similar incidents in the future?

¹⁸² *Legal Professional and Community Service Experience Course Information Booklet Study Period 6, 2011*, University of South Australia, 2011. This is one of three assessable items for the course. The other two items are a seminar presentation and a Critical Incident Report.

Appendix I

Revised Assessment Item 2¹⁸³

Assessment Item 2 Critical Incident Report

This assignment focuses on developing the following graduate qualities:

- **life-long learning** in pursuit of personal development and excellence in professional practice (GQ 2);
- **Commitment to ethical action and social responsibility as a professional and citizen**, especially in relation to ethics in a legal professional context (GQ 5); and
- **Written communication skills**: in particular, your ability to use clear, effective and grammatically correct English (GQ 6) and your ability to write reflectively.

Word limit: 1000 words.

Instructions

1. **Identify** a critical incident or situation that has taken place either during your placement or in preparing for your placement. It may be critical because:
 - you learned something from it;
 - it worried you in some way;
 - it was significant in some way;
 - it identified an area of law where you now think that you would like to work or would not like to work;
 - it excited you; or
 - it has influenced you in some way.
2. **Interpret** the incident from the perspectives of everyone involved.
3. **Evaluate and explain** the impact that the incident has had upon you.
4. **Evaluate and appraise** how you dealt with the incident and how you dealt with its impact on you.
5. **Examine, assess and evaluate** what you have learned from the incident.
6. **Formulate and defend** a plan of how you will approach similar incidents in the future.

¹⁸³ *Legal Professional and Community Service Experience Course Information Booklet Study Period 6, 2011*, University of South Australia, 2011. This is one of three assessable items for the course. The other two items are a seminar presentation and a Critical Incident Report.

Appendix J

Course objectives as fulfilled by each assessment item.

Objective 1: On completion of this course, students should be able to explain the practical operation of the law in a workplace or community service setting.	This objective MAY be fulfilled by this assessment, if the student selects an incident that involves the operation of law, especially as to how it has affected a particular client. However, this objective is not the primary focus of this assessment. This objective is fulfilled in the other two items of assessment. On the other hand, this assessment is formative in that it provides students with an opportunity to practise their reflective writing, which is an essential component of assignment 3 which does fulfil this objective. This assessment provides scaffolding for the skill of explaining , the requisite verb in the objective.
Objective 2: On completion of this course, students should be able to reflect upon and evaluate their own learning and performance in a workplace or community service setting.	Assignment Number 1 does fulfil this objective. Students must provide answers to specific questions that encourage and lead them to reflect upon and evaluate their own learning and performance in their placement environment. Students are provided with a lecture and materials on <u>how</u> to reflect. The assignment questions are carefully and deliberately worded, with the aim that in the other assignments, the students will ask themselves these questions, and base their assignments on similar reasoning and critical thinking. In particular, this introduction to reflective writing includes considering the perspectives of others, thinking about what has been learned from an incident and how to approach similar incidents in the future.
Objective 3: On completion of this course, students should be able to identify and articulate the dynamics of various relationships that can arise in a workplace or community service setting.	Prior to submitting this assignment, students participate in a class that explores personality types and the idea of looking at problems from different perspectives, and the fact that different personality types approach problems in different ways. In focussing on the different perspectives of all those involved in the chosen incident, this objective is fulfilled by this assignment.
Objective 4: On completion of this course, students should be able to evaluate the roles of lawyers in the Australian legal system and in Australian society generally by reference to their workplace or community service experience.	This objective might or might not be fulfilled by this assignment, depending on the incident chosen. However, this assignment provides scaffolding for later assignments which do address this objective.
Objective 5: On completion of this course, students should be able to discuss the importance of legal ethics and professional conduct and demonstrate an appropriate ethical and professional attitude.	If a student chooses an ethical issue as the critical incident, this objective will be fulfilled. However, this objective may not be entirely fulfilled by this assignment. In the later reflective portfolio assignment, students are required to critically reflect upon and discuss the importance of legal ethics and professional conduct, so this assignment provides scaffolding for the skills required to complete that reflective work in the later assignment.