

Creating Space for Silence in Law School Collaborations

A. Rachel Camp

Introduction

A man's called a traitor—or liberator
A rich man's a thief—or philanthropist
Is one a crusader—or ruthless invader?
It's all in which label
Is able to persist
There are precious few at ease
With moral ambiguities
So we act as though they don't exist'

Within the legal academy there is a trend toward increasing collaborative learning opportunities for law students.² In many clinical programs, collaboration—through team pairings and group work—has long been the

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1. IDINA MENZEL & JOEL GREY, *Wonderful, on WICKED: ORIGINAL CAST RECORDING* (Decca Broadway 2003).
2. See, e.g., Anna Carpenter, *The Project Model of Clinical Education: Eight Principles to Maximize Student Learning and Social Justice Impact*, 20 CLINICAL L. REV. 39 (2013); Sophie M. Sparrow, *Can They Work Well on a Team? Assessing Students' Collaborative Skills*, 38 WM. MITCHELL L. REV. 1162 (2012) (identifying the ways her students collaborate in a legal writing class); Margaret Martin Barry, A. Rachel Camp, Margaret Ellen Johnson, Catherine F. Klein & Lisa V. Martin, *Teaching Social Justice Lawyering: Systematically Including Community Legal Education in Clinic Legal Education*, 18 CLINICAL L. REV. 401 (2012) (describing the integration of community legal education projects into their clinical curriculum); Elizabeth A. Reilly, *Deposing the "Tyranny of Extroverts": Collaborative Learning in the Traditional Classroom Format*, 50 J. LEGAL EDUC. 593, 595 (2000); Catherine Gage O'Grady, *Preparing Students for the Profession: Clinical Education, Collaborative Pedagogy, and the Realities of Practice for the New Lawyer*, 4 CLINICAL L. REV. 485, 512 (1998).

norm and, increasingly, collaborative opportunities are being developed throughout the doctrinal law school curriculum.³ This trend fits within a broader societal emphasis in both professional and educational settings on a collaborative model of working and learning. Professional offices—including law firms—are removing walls in favor of open floor plans so that employees can have quick and easy access to one another;⁴ children’s desks are formed into pods, rather than the rows of one generation prior, to encourage teamwork;⁵ and collaboration and brainstorming are recognized as critical to the success of ideas and products in both settings.⁶

For the current generation of emerging professionals, law students of the “millennial” generation, group work has been a dominant teaching method within their learning environments. Millennials identify a preference for learning in teams, and many are at ease in collaborative learning environments.⁷ The movement toward collaborative learning fits within what academics and learning theorists have long recognized as the benefits of collaborative learning: Group work is routinely understood as one of the most effective learning methods based on the principles that learning is “inherently social” and “an active process.”⁸ For learning, the benefits of group work can be a deeply useful and powerful tool.⁹

3. See *infra* Part I.
4. Brigid Schulte, *End of the Corner Office: D.C. Law Firm Designs Its New Space for Millennials*, WASH. POST, June 21, 2015, http://www.washingtonpost.com/local/social-issues/the-end-of-the-corner-office-a-big-dc-law-firm-designs-its-new-space-with-idealistic-millennials-in-mind/2015/06/21/8851f3e6-15e5-11e5-9518-f9e0a8959f32_story.html; see also Susan Cain, *The Rise of the New Groupthink*, N.Y. TIMES, Jan. 13, 2012, http://www.nytimes.com/2012/01/15/opinion/sunday/the-rise-of-the-new-groupthink.html?_r=0 (“[S]ome 70 percent [of American workers] inhabit open-plan offices, in which no one has ‘a room of one’s own.’”). One of the most commonly discussed open floor plans is the one Steve Jobs created in Pixar’s headquarters, where he created a space where people were forced to run into one another in a center to the building that contained the meeting rooms, bathrooms, and a coffee bar. Jonah Lehrer, *Groupthink: The Brainstorming Myth*, NEW YORKER, Jan. 30, 2012, <http://www.newyorker.com/magazine/2012/01/30/groupthink>.
5. SUSAN CAIN, QUIET: THE POWER OF INTROVERTS IN A WORLD THAT CAN’T STOP TALKING 6 (2012).
6. One study from Northwestern University’s Kellogg School of Management of nearly twenty million peer-reviewed and academic papers and just over two million patents over the past fifty years found that “levels of teamwork have increased in more than ninety-five percent of scientific subfields; the size of the average team has increased by about twenty percent each decade.” Lehrer, *supra* note 4 (citing Stefan Wuchty, Benjamin F. Jones & Brian Uzzi, *The Increasing Dominance of Teams in Production of Knowledge*, 316 SCIENCE 1036 (2007)).
7. Emily Benfer & Colleen F. Shanahan, *Educating the Invincibles: Strategies for Teaching the Millennial Generation in Law School*, 20 CLINICAL L. REV. 1 (2013).
8. Clifford S. Zimmerman, “Thinking Beyond My Own Interpretation”: Reflections on Collaborative and Cooperative Learning Theory in the Law School Curriculum, 31 ARIZ. ST. L.J. 957, 959 (1999). Professor Zimmerman further identifies group learning as a “basic human instinct; that is co-existence requires cooperation.” *Id.* at 986.
9. See *infra* Part I.B.

Given the benefits of collaborative work, legal educators should continue to adopt collaborative learning opportunities within their classrooms.¹⁰ In doing so, however, they must pay close attention to the methods used, and the environments created, to ensure that there is space for a variety of collaborative approaches. One way to create these environments is to send a message that values the students who use deliberation, contemplation and quiet reflection—characteristics of many successful, and often introverted, leaders¹¹—as much as the student who routinely contributes to the class with reliable, quick participation. Both can be incredibly valuable to moving ideas forward in the classroom. The value of the former, however, is routinely discounted. As noted by Professor Sue Bryant in her seminal article on collaboration within the legal profession, “[c]ollaborative work methods cannot improve the work of lawyers unless they approach their work with an understanding of the value and limits of collaboration and with good collaborative skills.”¹² While collaboration can vastly improve product and an individual’s experience, when it becomes a mandate and with preset ideas for success that are disconnected from the participants or the study and mastery of learning, collaborative requirements can lessen effects.

Specifically, collaboration rules of conduct can decrease creativity and productivity, and inhibit the learning and generation of professional identity of the individual participants. As commonly practiced in many professional and educational settings, collaborations become the end goal, rather than a process to achieve a goal; they tend to isolate and ignore individuals who do their best work when given space to contemplate and consider ideas alone, instead rewarding those who are the loudest and most comfortable within the collaborative space. Collaborations fail often because of a lack of understanding about how people work best to achieve the end goals and not because there is something inherently wrong with the collaboration in and of itself.

While legal educators must push students beyond their comfort zone and ask them to take risks, stretch themselves, and develop skills necessary for working with others, in doing so, they must be careful to not ask all students to learn in ways that are best for one particular learning style. Just as the best teachers would not ask a student who processes information in writing to instead prefer to process it orally, they must be careful about asking a student who needs time to reflect and consider a problem before engaging to assume

10. See, e.g., Ian Weinstein, *Learning and Lawyering Across Personality Types*, 21 CLINICAL L. REV. 427, 428 (2015) (Law school has “grown more ambitious, aiming to challenge students intellectually while also better preparing them for the social and emotional dimensions of being a lawyer.”).
11. Some of those leaders include the CEOs of Kimberly-Clark, IBM, Charles Schwab and Microsoft; Rosa Parks, Charles Darwin, Albert Einstein, Theodor Geisel (“Dr. Seuss”), Moses, Mahatma Gandhi, and Marie Curie. See CAIN, *supra* note 5, at 6, 53, 58-61, 78, 86, 269.
12. Sue Bryant, *Collaboration in Law Practice: A Satisfying and Productive Process for a Diverse Profession*, 17 VT. L. REV. 459, 485 (1993).

a preference for discussing ideas before reflecting, and vice versa.¹³ A student whose strengths are devalued, or outright ignored, can become disillusioned with collaborative work, fail to adequately develop collaborative skills, or avoid collaborations altogether before and after graduation. Instead, faculty should strive to teach students to work with the tools they have and to equip them with the skills necessary to find success in different environments and with different types of people.¹⁴ One way to do this is by broadening what successful collaborators look like so to honor different individual approaches to group work. If considered with intention and thought, collaborations can pay off in far better ways than they might currently, educational and professional satisfaction can increase, and deeper learning can occur.

Deeply considering how to execute the collaborative process can be particularly important for individuals whose preferences tend toward introverted personality styles, or others who do not fit within what author Susan Cain labels the “Extrovert Ideal.”¹⁵ The “Extrovert Ideal” assumes that the way an extrovert approaches group work, learning, and decision-making—brainstorming out loud; bouncing ideas off of others; maintaining comfort with conflict—is the standard toward which all individuals should strive. Those who tend toward introversion, according to the Ideal, have a disposition they should work to overcome and have better skills to assimilate. This Ideal holds up one objective standard for behavior, but one not based on evidence. Without a process that includes multiple collaborative preferences, individuals who tend toward an introverted disposition, may be penalized (through grades or exclusion) in their collaborative endeavors, forced to collaborate in ways not comfortable to them, or, perhaps worse, receive a message that their approach to learning and teamwork simply is wrong and, therefore, not valued. Because some approaches to collaboration fail to value different ways individuals in a group best learn and perform, work product also may suffer when participants are expected to conform to a working style not conducive to their learning style.

The “Extrovert Ideal” may be particularly problematic for lawyers who, despite cultural caricatures as brazen, loudmouthed, and domineering, tend toward introversion more than the general population.¹⁶ For many lawyers,

13. See Maryellen Weimer, *Creating Learning Environments That Help Students Stretch and Grow as Learners*, FACULTY FOCUS (Apr. 9, 2014), <http://www.facultyfocus.com/articles/teaching-professor-blog/creating-learning-environments-help-students-stretch-grow-learners/> (arguing that college is “not about changing innate preferences, making introverts into extroverts, or turning hands-on-learners into abstract thinkers.”).

14. See KENNETH A. BRUFFEE, *COLLABORATIVE LEARNING: HIGHER EDUCATION, INTERDEPENDENCE, AND THE AUTHORITY OF KNOWLEDGE I* (1993) (“Collaborative learning gives students practice in working together when the stakes are relatively low, so that they can work effectively together later when the stakes are high.”); Weimer, *supra* note 13.

15. CAIN, *supra* note 5, at 4.

16. NANCY LEVIT & DOUGLAS O. LINDER, *THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW* 74 (2010); Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes*

solitude is critical to creativity, to doing the best work possible for their clients, and to being and feeling most successful in their chosen profession.¹⁷ Social science and learning theory research supports the conclusion that while collaboration often is deeply valuable to productivity and creativity, so, too, are autonomy, solitude, and privacy.¹⁸ Indeed, the professional and epistemological literature is nearly indisputable: When we take time to embrace silence, even the best of collaborative experiences can improve.

Part I of this article identifies the increase in collaborative approaches in professional and educational settings, and explores the relatively recent movement in law schools from a predominantly individualistic culture to one that more routinely incorporates collaboration into the curriculum. Part II explores the behaviors displayed by individuals with extroverted and introverted dispositions, and identifies how those behaviors relate to lawyering, legal education, and collaboration. Building on Susan Cain's work, Part II further explores how the cultural shift in emphasis from "character" to "personality" has resulted in our culture's adoption of the "Extrovert Ideal," and the harm that shift may have on individuals, specifically lawyers, with an introverted disposition. With a grounding in social science research, Part III explores common barriers to successful collaborative learning. Part IV offers concrete teaching methods for faculty and students to use to create a collaborative environment that provides opportunities for reflection and solitude. Finally, Part V considers how legal educators can help students begin to understand their collaborative identity, and how they can use that understanding to be more intentional about, and successful within, collaborative experiences.

A note on terminology: Many different labels exist to describe group work: collaboration, cooperation, input work model, team-based learning, and parallel work model, to name a few.¹⁹ These terms most simply are distinguished by the authority that exists with the group for final decision-

Bearing on Professionalism, 46 AM. U. L. REV. 1337, 1393 (1997) (citing Larry Richard, *How Your Personality Affects Your Practice—The Lawyer Types*, 79 A.B.A. J. 74 (1993)).

17. Susan Cain, *The Power of Introverts*, TED (Feb. 2012), http://www.ted.com/talks/susan_cain_the_power_of_introverts?language=en.
18. CAIN, *supra* note 5; Monica Bhattacharjee, *To What Extent and Under What Conditions Are Solitude and Collaboration Useful/Necessary to Creativity?* 15 (May 1, 2014) (unpublished manuscript), http://www.researchgate.net/publication/261993982_To_What_Extent_and_Under_What_conditions_are_Solitude_and_Collaboration_Useful_Necessary_to_Creativity ("Solitude and collaboration are necessary in their own ways, none superseding the other, and in ideal situations, synergistic and sensitive to the need of the hour, the type of activity, the stage which it is at and the specific directions set by the desired end-result.").
19. See EILEEN SCALLEN, SOPHIE SPARROW & CLIFF ZIMMERMAN, *WORKING TOGETHER IN LAW: TEAMWORK AND SMALL GROUP SKILLS FOR LEGAL PROFESSIONALS* 6 (2014); Bryant, *supra* note 12; Sophie Sparrow, *Team-Based Learning—An Overview*, LAW TEACHER, Spring 2010, at 1, http://lawteaching.org/lawteacher/2010spring/lawteacher_2010spring.pdf; Zimmerman, *supra* note 8, at 961.

making authority.²⁰ However, with the goal of defining collaboration not as a “thing” to be rarefied but as a process, the terms collaboration, collaborative learning, and group work are used interchangeably in this article to encompass the process used in which two or more individuals are working together to achieve a unified goal, or to help an individual within a group reach a particular goal.

I. The Pendulum Swings: Legal Education’s and the Legal Profession’s Movement from Individualism to Collaboration

While collaboration has been peripherally a part of the law school experience for generations—students have collaborated on journals; engaged in study groups; and organized public interest auctions—²¹ it has not, as noted by one educator, been included “where it counts educationally.”²² That is, until recently. Law school programs are increasingly moving from their individualistic history to incorporating collaborative exercises and opportunities into the classroom. This movement is based on an increased understanding of collaboration not only as a learning tool, but also as an important professional skill. This section explores the transition from individualism to collaborative opportunities, and the benefits that a pedagogy that includes collaboration offers to students.

A. Law School Individualism and the Shift Toward Collaborative Pedagogy

Since legal education embraced the Socratic dialogue and case method as its primary pedagogical tools, law school has created a culture of individualism and competition among students.²³ Students have learned early in their first year

20. Bryant, *supra* note 12, at 491.

21. See SCALLEN ET AL., *supra* note 19, at 10 (“Law students have long used study groups to learn legal concepts and practice their analytical and argumentation skills.”).

22. BRUFFEE, *supra* note 14, at 1.

23. In 1870, the first Dean of Harvard Law School, Christopher Columbus Langdell, introduced the Socratic technique of instructor-led, one-on-one engagement with a student, not to “prepare his students for practice” but, instead, “to engage in the ‘scientific’ study of law by distilling its principles from the study of cases.” ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 98 (2007); *see also* Christopher Columbus Langdell, Professor, Harvard Law Sch., Address at the Harvard Law School Association Dinner (Nov. 5, 1886), in A RECORD OF THE COMMEMORATION, NOVEMBER FIFTH TO EIGHTH, 1886, ON THE TWO HUNDRED AND FIFTIETH ANNIVERSARY OF THE FOUNDING OF HARVARD COLLEGE 84, 85 (Justin Winsor ed., 1887) (“[L]aw is a science.”). The Socratic dialogue and case method has been criticized for reasons beyond the individualism it encourages. It has been criticized for intimidating students; failing to engage law students actively enough in the learning process and leaving them confused; producing “constant tension and insecurity about outperforming other students”; creating “the impression that personal values, ideals, and intentions are largely irrelevant to law school or law practice”; and being “teacher centered, giv[ing] little consideration to clients, and treat[ing] feelings as irrelevant.” STUCKEY ET AL., *supra*, at 34. As bluntly asserted by Professor Lawrence Krieger: “One could hardly design purposely a more effective belief system for eroding the self-esteem, relatedness, authenticity, and security of an affected population.” *Id.* (citing Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School and Fresh Empirical Guidance for Constructively Breaking the Silence*,

that distinguishing themselves from their colleagues matters.²⁴ Through class ranking, law review placement and mandatory grading curves, competition and individualism within law school has been repeatedly reinforced and the “individual ownership of ideas” has been deeply valued in legal education.²⁵ Given its culture, it is not surprising that historically within law school classrooms group work has been rare.²⁶ Through this historical dearth of collaborative learning opportunities, students have learned early in their legal education that collaboration is not a particularly relevant or valued aspect of a lawyer’s professional identity, or part of the legal profession broadly.²⁷ As recently as 1992, when the American Bar Association commissioned a report on whether law schools were doing enough to prepare law students for practice, absent among lead author Professor Robert MacCrate’s top ten fundamental lawyering skills was collaboration, cooperation, or any form of group work.²⁸

Critics of law school culture have increased over the past two decades. As argued by Professors Nancy Levit and Douglas Linder, and as expressed by others, law school’s individualism causes students to experience substantial alienation and “create[s] a small number of winners and a large number of losers.”²⁹ Of particular concern has been the data that suggest the mental

52 J. LEGAL EDUC. 112 (2002)). However, innovative modifications to the Socratic method are being used in law school classrooms across the country. See, e.g., Barbara L. Bernier & F. Dennis Greene, *Law School Reset—Pedagogy, Andragogy & Second Life*, in EDUCATING THE DIGITAL LAWYER 11-12 (Oliver Goodenough & Marc Lauritsen eds., 2012); ELIZABETH MERTZ, THE LANGUAGE OF LAW SCHOOL: LEARNING TO “THINK LIKE A LAWYER” 89-91 (2007); Orin S. Kerr, *The Decline of the Socratic Method at Harvard*, 78 NEB. L. REV. 113 (1999).

24. STUCKEY ET AL., *supra* note 23, at 163; Zimmerman, *supra* note 8, at 971; see also LEVIT & LINDER, *supra* note 16, at 127.
25. See Zimmerman, *supra* note 8, at 973, 980 (noting that competition in law school has been historically viewed as being “good, meaningful, and necessary”).
26. See discussion on clinical programs, *infra* Part V(B).
27. See Zimmerman, *supra* note 8, at 965-66 (“The fundamental principles of both pedagogies—classroom equality, shared authority and student-centered learning—are inherently at odds with the development and structure of traditional legal education. Thus, attempts to use collaborative and cooperative learning in legal education typically encounter barriers ranging from institutional constraints to outright hostile reactions.”) (citations omitted).
28. AM. BAR ASS’N., SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM 234-35 (1992) [hereinafter MACCRATE REPORT]; Zimmerman, *supra* note 8. The MacCrate Report does identify, as a subset of a subset of skills, that collaborating with attorneys in the same or other offices is one way to assist in organizing and managing legal work, but does not identify the skill of collaboration—in and of itself—as one fundamental to lawyering. Cf. David F. Chalking, *Matchmaker, Matchmaker: Student Collaboration in Clinical Programs*, 1 CLINICAL L. REV. 199, 232 (1994) (noting that the Committee on the Future of the In-House Clinic (a special committee of the AALS Section on Clinical Legal Education, tasked with examining a broad range of issues related to live-client, in-house clinical education) included “‘providing opportunities for collaborative learning’ as one of the pedagogical goals of in-house live-client clinics.”). For more information on the Committee, see *Report of the Committee on the Future of the In-House Clinic*, 42 J. LEGAL EDUC. 508 (1992).
29. LEVIT & LINDER, *supra* note 16, at 128.

health conditions experienced by many lawyers begin during law school.³⁰ In one study of law students, researchers found that prior to law school, the psychological profile of a law student was similar to that of the general population—three percent to nine percent suffered from a diagnosable mental health condition.³¹ After the first semester of law school, that rate increased to twenty-seven percent; after two semesters, to thirty-four percent; and after three years in law school, they found the rate could reach forty percent.³² Other studies have found that attorneys have the highest rates of depression among all occupations.³³ As noted by Professor Larry Krieger, although these studies appear to be somewhat dated, “there is nothing in the literature, anecdotally or otherwise, to suggest general improvement in the legal profession. . . . If anything, given the negative economic climate and accelerating law school debt in recent years, the well-being of lawyers and law students is likely stagnant or may be eroding further.”³⁴

These challenges often follow law students into the profession, as many lawyers experience depression and substance abuse conditions.³⁵ According to Professor Susan Daicoff, one in five lawyers is “walking wounded”; nearly a quarter of lawyers are working and representing clients while being psychologically impaired enough that intervention is warranted.³⁶ Lawyers lead most professions in substance abuse,³⁷ with nearly one-quarter of practicing

30. See SUSAN S. DAICOFF, *LAWYER, KNOW THYSELF: A PSYCHOLOGICAL ANALYSIS OF PERSONALITY STRENGTHS AND WEAKNESSES* 116 (2004) (noting that a 2001 study found that in law school, “[e]very measure of positive well-being (i.e., positive moods, self-actualization, life-satisfaction)” had significantly decreased and “every measure of negative well-being (i.e., physical symptoms, negative mood, depression) had significantly increased for these law students as a group.”).
31. G. Andrew H. Benjamin, Alfred Kasniak, Bruce Sales & Stephen B. Shanfield, *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 1986 AM. BAR FOUND. RES. J. 225, 247 (1986); DAICOFF, *supra* note 30, at 9.
32. DAICOFF, *supra* note 30, at 9.
33. William W. Eaton et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 J. OCCUPATIONAL MED. 1079, 1085 tbl.3 (1990); *Lawyers & Depression*, DAVE NEE FOUNDATION, <http://www.daveneefoundation.org/scholarship/lawyers-and-depression/> (last visited Aug. 26, 2015).
34. Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success*, 83 GEORGE WASH. L. REV. 554, 558 n.6 (2015).
35. See, e.g., Daicoff, *supra* note 16, at 1347 (“Approximately 20% of lawyers are extremely dissatisfied with their jobs. As evidence of this dissatisfaction, lawyers are currently experiencing a significantly higher level of depression . . . and substance abuse . . . than individuals in other professions. . . .”) (citations omitted); Lawrence R. Richard, *Psychological Type and Job Satisfaction Among Practicing Lawyers in the United States*, 29 CAP. U. L. REV. 979 (2002) (identifying the statistically high rates of job dissatisfaction among lawyers); Kenneth J. Hagreen, *Overcoming Stress, Addiction, and Depression*, 28 GEN. PRAC. SOLO 43 (2011) (discussing the effects of stress on lawyers and the difficulty of overcoming addiction given long work hours and high-anxiety environments).
36. DAICOFF, *supra* note 30, at 14.
37. See Rob Abruzzese, *Lawyers Struggle with Substance Abuse at Nearly Twice the Rate of General Population*,

lawyers suffering from depression, anxiety, alcoholism, or some combination of the three.³⁸

Unsurprisingly, rates of depression and alcohol or drug dependency are correlated to rates of professional satisfaction or dissatisfaction among lawyers.³⁹ Although lawyer satisfaction rates vacillate across studies, generally, lawyers tend to fall somewhere between having statistically significant rates of job dissatisfaction⁴⁰ and falling in the middle range on the satisfaction/dissatisfaction scale when compared with other occupations.⁴¹ A recent study out of the University of Michigan found that while the majority of law graduates were satisfied in their careers, many were only slightly more positive than negative and few were very enthusiastic about their work.⁴² Certainly a multitude of factors may contribute to satisfaction rates of law students and lawyers: work/life balance; control over work and workload; income; and the intellectual challenge of their work, to name a few.⁴³ However, more and more critics identify the law school experience *itself* as a source of the challenges lawyers face. Research suggests that part of the reason law students experience such high levels of depression and anxiety during law school is directly related to individualistic and isolated law school culture, leading to a lack of social support and loss of human connection.⁴⁴ Despite the fact that relationships with colleagues and clients have been identified as critically

BROOKLYN EAGLE (Mar. 22, 2013), <http://www.brooklyneagle.com/articles/lawyers-struggle-substance-abuse-nearly-twice-rate-general-population-2013-03-28-190800> (citing data from the New York Lawyer Assistance Program); LEGAL PROFESSION ASSISTANCE CONFERENCE, DRUG AND ALCOHOL ABUSE & ADDICTION IN THE LEGAL PROFESSION, http://www.benchmarkinstitute.org/t_by_t/mcle/sa.pdf (last visited March 22, 2016).

38. Patrick R. Krill, Ryan Johnson & Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46, 51 (2016).
39. Daicoff, *supra* note 16, at 1347 (“Approximately 20% of lawyers are extremely dissatisfied with their jobs. As evidence of this dissatisfaction, lawyers are currently experiencing a significantly higher level of depression (19%) and substance abuse (15-18%) than individuals in other professions . . .”) (citation omitted).
40. Richard, *supra* note 35 (reporting high rates of job dissatisfaction among lawyers); *see also* LEVIT & LINDER, *supra* note 16, at 2 (citing RONIT DONOVITZER ET AL., AFTER THE J.D.: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS 19 (2004)).
41. David L. Chambers, *Overstating the Satisfaction of Lawyers*, 39 J.L. & SOC. INQUIRY 313 (2014) [hereinafter Chambers, *Overstating*] (citing GEN. SOCIAL SURVEY, NATIONAL OPINION RESEARCH CENTER AT THE UNIVERSITY OF CHICAGO (2007)); LEVIT & LINDER, *supra* note 16, at 2 (citing TOM W. SMITH, NATIONAL OPINION RESEARCH CENTER/UNIVERSITY OF CHICAGO, JOB SATISFACTION IN THE UNITED STATES 3 (Apr. 2007), <http://www-news.uchicago.edu/releases/07/pdf/070417.jobs.pdf>).
42. David L. Chambers, *Satisfaction in the Practice of Law: Findings from a Long-Term Study of Attorneys’ Careers* 3 (Univ. of Michigan Pub. Law Research Paper No. 330, 2013) [hereinafter Chambers, *Satisfaction*].
43. *See* Chambers, *Overstating*, *supra* note 41.
44. DAICOFF, *supra* note 30, at 62, 122, 143 (noting that law school fails to identify “the importance of human relationships in legal problems [and] the human side of legal issues”) (citation omitted).

important to professional satisfaction,⁴⁵ law schools have been criticized for their failure to create environments that value those connections.⁴⁶ The loss of human connection in law school applies to law students with all personality preferences: As explained by one self-identified introverted law student, “I often felt a deep disconnect in law school, which I believe was due, in part, to the strong emphasis on individual work that usually involved little human connection. This seems to indicate that even for students who are more introverted, some level of collaboration and connection is important to supplement solo learning time.”⁴⁷

Based, in part, on an increasing awareness of the dissatisfaction of lawyers and the ways that dissatisfaction may relate to their law school experience, in 2007, two seminal reports considered whether law school programs were doing enough to prepare students for the practice of law. The Carnegie Foundation for the Advancement of Teaching’s report on best practices for preparing law students for the legal profession, and *Best Practices for Legal Education: A Vision and A Road Map* by Professor Roy Stuckey (writing with other legal educators), highlighted a growing number of empirical studies criticizing current legal educational pedagogy for negatively affecting the emotional well-being of law students.⁴⁸ Professor Stuckey and his co-authors reviewed evolving learning theories about teaching and learning that called into question the predominant pedagogical methods used in law schools, including the highly individualistic nature of most programs.⁴⁹ Stuckey’s recommendations on best practices around effective and healthy learning environments included “encouraging collaboration” and reducing reliance on the Socratic dialogue and case method.⁵⁰ Similarly, the Carnegie report identified a significant limitation of legal education in its failure to train students in the social skills needed for practice.⁵¹

The shift toward a more collaborative pedagogical approach to law teaching was further solidified in August 2014 with the American Bar Association’s

45. *Id.* at 100. Professor Daicoff further asserts that “lawyers, regardless of gender, typically embody the ‘masculine’ ideals of rationality and impartiality ... [but] they lack the counterbalancing ‘feminine’ ideals of compassion and care, unlike the American public, which uses both.” *Id.* at 101.
46. LEVIT & LINDER, *supra* note 16, at 122; SCALLEN ET AL., *supra* note 19, at 13; Bryant, *supra* note 12, at 524.
47. Personal conversation. Notes on file with author.
48. STUCKEY ET AL., *supra* note 23; WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) [hereinafter CARNEGIE REPORT]. According to Professor Stuckey, one of the motivations for the identification of law school best practices was a concern “about helping law school graduates to succeed in law practice and to lead satisfied, healthy lives.” STUCKEY ET AL., *supra* note 23, at 1-2.
49. STUCKEY ET AL., *supra* note 23 at 130-32.
50. *Id.* at 132-41, 277. For a longer discussion on how Stuckey’s report advocates for collaboration as a best practice, see SCALLEN ET AL., *supra* note 19, at 11.
51. CARNEGIE REPORT, *supra* note 48, at 188.

revised standards for law school approval.⁵² Among the standards identified is the goal of teaching students the “professional skills needed for competent and ethical participation as a member of the legal profession.”⁵³ Though the ABA does not identify what those specific skills are, allowing law schools to determine those for themselves, the standards list collaboration as one of the options and explicitly identify providing facilities that allow for space for “group study and other forms of collaborative work.”⁵⁴ Although the impact of increasing collaborative learning on the overall satisfaction and productivity of law students has yet to be validated by research, anecdotally, students from my clinic and other clinical programs commonly identify their partnerships as among the highlights of their experience, even when the partnership was not perfect, and recognize the value it brought to both the process of lawyering and to the client’s overall representation.

B. Collaborative Learning Theory and the Value of Diverse Perspectives

Collaborative work can provide significant benefits to the group’s ultimate goal, among them “enhanced productivity, creativity, accuracy, and problem solving;”⁵⁵ it can motivate students to become more involved in the learning process;⁵⁶ can increase participation in “learning, feedback, synthesis, and boundary setting;”⁵⁷ and can reward risk taking.⁵⁸ According to the authors of a faculty handbook on teaching collaboration,

[i]n extensive meta-analyses across hundreds of studies, cooperative arrangements were found superior to either competitive or individualistic structures on a variety of outcome measures, generally showing higher achievement, higher-level reasoning, more frequent generation of new ideas and solutions, and greater transfer of what is learned in one situation to another.⁵⁹

Individuals who belong to a productive group often find the collaborative experience rewarding and identify feeling more committed to the success of the solution identified by the group.⁶⁰ Adult learning theory consistently finds

52. AM. BAR. ASS’N, SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, REVISED STANDARDS FOR APPROVAL OF LAW SCHOOLS (Aug. 2014), http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/201406_revised_standards_clean_copy.authcheckdam.pdf.

53. *Id.* at 14.

54. *Id.* at 42.

55. Bryant, *supra* note 12, at 472 (citations omitted).

56. ELIZABETH F. BARKLEY, K. PATRICIA & CROSS CLAIRE HOWELL MAJOR, COLLABORATIVE LEARNING TECHNIQUES: A HANDBOOK FOR COLLEGE FACULTY 15 (2005).

57. Reilly, *supra* note 2, at 602.

58. *Id.*

59. BARKLEY ET AL., *supra* note 56, at 17-18.

60. SCALLEN ET AL., *supra* note 19, at 10.

that the most successful learning happens when learners actively engage in the learning process.⁶¹ Said differently, passive observers of other students' engagement in discussion with faculty in class retain less information than they would if they were actively participating in the discussion.⁶²

Perhaps the most often articulated benefit of collaborative learning is the value of having multiple perspectives.⁶³ Including multiple perspectives can improve the success of the collaborative experience because of the varied experiences group members bring to the problem being considered and to the process being used. These differences arise not only from the various participants' direct experience with the subject matter, but also from their race, culture, or gender,⁶⁴ which shapes the lens through which group members approach a problem.⁶⁵ According to Professor Bryant,

The theory of collaboration shares an underlying assumption with the theories of critical race and feminist jurisprudence, that significant differences exist among people and dramatically affect the way people define and assess both problems and their solutions. Although few critical race and feminist scholars have applied this analysis to lawyering, the underlying assumption of their scholarship—that personal experiences give one a unique voice—is similar to the underlying assumption that supports collaboration.⁶⁶

These different theories tell us in fairly unambiguous terms that collaborative pedagogy—the idea that students learn best when engaged with others—can lead to better learning outcomes for both students and ideas.⁶⁷

61. BARKLEY ET AL., *supra* note 56, at 10; see also David F. Chavkin, *Matchmaker, Matchmaker: Student Collaboration in Clinical Programs*, 1 CLINICAL L. REV. 199, 239 n.74 (1994).
62. See DAVID W. JOHNSON, ROGER T. JOHNSON & MARY BETH STANNE, *COOPERATIVE LEARNING METHODS: A META-ANALYSIS* (2000); Richard Felder & Rebecca Brent, *Cooperative Learning*, in *ACTIVE LEARNING: MODELS FROM THE ANALYTICAL SCIENCES* 34 (P.A. Mabrouk ed., 2007).
63. See JENNIFER K. ROBBENOLT & JEAN R. STERNLIGHT, *PSYCHOLOGY FOR LAWYERS: UNDERSTANDING THE HUMAN FACTORS IN NEGOTIATION, LITIGATION, AND DECISION MAKING* 109 (2012) (many benefits of group decision-making include “collective wisdom of many minds ... [and] access to different information and perspectives”); SCALLEN ET AL., *supra* note 19, at 9 (identifying that with collaborative work, “the wider variety of skill sets and information-processing styles can generate and test ideas well beyond any one individual’s capacity.”); Bryant, *supra* note 12, at 473-74 (arguing that “[i]ncluding diverse perspectives through joint work can also enhance the final product because these perspectives inform the many complex judgments entailed in legal work. Different lawyers will bring different perspectives to the substantive ideas that inform legal work and the processes used to organize that work.”) (citations omitted); Reilly, *supra* note 2, at 602 (Group problem-solving “encourages contributions of ideas.”).
64. Bryant, *supra* note 12, at 473.
65. *Id.* at 473-74.
66. *Id.* at 477 (citations omitted).
67. See, e.g., Felder & Brent, *supra* note 62, at 35 (“Relative to students taught traditionally—i.e., with instructor-centered lectures, individual assignments, and competitive grading—cooperatively taught students tend to exhibit higher academic achievement, greater persistence through

Although legal education is not likely to discard the Socratic method any time soon, there does appear to be reason for faculty to consider incorporating more collaborative pedagogy into their classrooms. And, indeed, nonclinical faculty members increasingly share stories of incorporating collaboration in their classrooms, from legal writing⁶⁸ to torts⁶⁹ to constitutional law,⁷⁰ with the goal of teaching and habituating students to the skills of working with others. These skills matter not only for the product or idea being considered in the collaboration, but for the satisfaction of many future lawyers within their chosen profession upon graduation.

C. An Increasingly Collaborative Profession

The career trajectory of students leaving law school has shifted mightily over the past forty years. Whereas in the 1970s a large percentage of law students could anticipate a career as solo practitioners,⁷¹ today, it is much less likely that a law student entering the legal profession will work on his or her own or conform to conventional ideas about attorney role.⁷² Many law students who work for firms, governmental agencies, or legal service providers are expected to work on teams or within specialized groups, and it is not uncommon for lawyers to collaborate on written products and oral presentations; embrace a client-centered model of lawyering that assumes a collaborative relationship, rather than a hierarchical one, between attorney and client; work with community partners to help their client base obtain services or benefits; and, through the collaborative law movement, even collaborate with opposing counsel.⁷³ The modern practice of law is one with increasing collaborative opportunities.⁷⁴

graduation, better high-level reasoning and critical thinking skills, deeper understanding of learned material, greater time on task and less disruptive behavior in class, lower levels of anxiety and stress, greater intrinsic motivation to learn and achieve, greater ability to view situations from others' perspectives, more positive and supportive relationships with peers, more positive attitudes toward subject areas, and higher self-esteem.").

68. See, e.g., M. Lisa Bradley, *Implementation of Collaborative Assignments*, 19 PERSP.: TEACHING LEGAL RES. & WRITING 186 (2011); Zimmerman, *supra* note 8.
69. Sparrow, *supra* note 2.
70. Reilly, *supra* note 2.
71. See SCALLEN ET AL., *supra* note 19, at 3.
72. *Id.* at 4 ("[T]he sun has set on the day of the Lone Ranger lawyer"); NAT'L ASS'N FOR LAW PLACEMENT, CLASS OF 2013 NATIONAL SUMMARY REPORT (July 2014), <http://www.nalp.org/uploads/NatlSummaryChartClassof2013.pdf>; Chambers, *Satisfaction*, *supra* note 42, at 1 (noting that in his research study on University of Michigan law graduates, the majority found themselves in firms that have a hundred to more than a thousand lawyers).
73. O'Grady, *supra* note 2, at 495.
74. This is not to suggest that junior attorneys do not feel alone or in need of supervision and guidance when working in large law firms or starting out in legal service organizations. Indeed, in many law firms, junior lawyers have little opportunity to collaborate and engage in a great deal of work on their own, only to then have little ability to engage in collaborative

When successful processes are implemented, collaborations are credited with creating a more satisfying profession.⁷⁵ Increased collaboration within the workplace contributes to a more positive workplace climate, and lawyers who interact with clients and colleagues whom they like and trust report high levels of professional satisfaction.⁷⁶ As a result, understanding *how* to work well with others is becoming recognized as an essential professional skill for lawyers.⁷⁷ Clients can directly benefit from collaborative work on their cases.⁷⁸ Legal work can be complicated, requiring complex thinking and judgment.⁷⁹ Different perspectives can affect how a legal problem is identified or approached, and the past experiences of group members can help identify nuances not seen by others. Through their unique perspectives, lawyers can bring their personal experiences to their clients' experiences, which potentially can lead to richer and more accurate understanding of their clients and their clients' problems.⁸⁰ From this, a client's problem can be more satisfactorily resolved. Collaborating on a project or a client's case also can reduce a lawyer's anxiety by spreading the burden of the outcome among several people.⁸¹ According to one lawyer, "junior lawyers often seek out a kind of collaboration by bouncing ideas off of one another—it can be quite isolating to think through the complex concepts and arguments you're dealing with as a lawyer without input from others."⁸² With anxiety reduced, lawyers are better able to focus their attention on the task at hand, ultimately, producing a better outcome for their clients.

II. Psychological Traits and Lawyers: Introverts, Extroverts, and the "Culture of Personality"

In the early 20th century, psychiatrist Carl Jung introduced a new psychological theory to explain human development.⁸³ That theory, called analytical or Jungian psychology, led to the creation of the Myers-Briggs Type Indicator and related tests that assess a wide range of traits that make up one's

opportunities within the firm's or organization's hierarchical structure. *See id.*

75. Bryant, *supra* note 12, at 461; Alex "Sandy" Pentland, *The New Science of Building Great Teams*, 90 HARV. BUS. REV. 60, 61 (2012).
76. LEVIT & LINDER, *supra* note 16, at 74.
77. SCALLEN ET AL., *supra* note 19, at 5.
78. Bryant, *supra* note 12, at 473-74.
79. *Id.*
80. Chavkin, *supra* note 59.
81. *Id.* at 215-16; Bryant, *supra* note 12, at 473 (noting stress reduction as a benefit of collaboration).
82. Personal conversation. Notes on file with author.
83. This theory is referred to as "analytical psychology" or "Jungian psychology." For more information, see THE HANDBOOK OF JUNGIAN PSYCHOLOGY: THEORY, PRACTICE AND APPLICATIONS (Renos K. Papadopoulos ed., 2006); CALVIN S. HALL & VERNON J. NORDBY, A PRIMER OF JUNGIAN PSYCHOLOGY (1973).

overall personality type.⁸⁴ When he introduced it, Jung identified only two distinct personality categories: the introvert and the extravert.⁸⁵ Though our cultural understanding of personality has become richer and more nuanced since Jung, the terms introvert and extrovert remain widely used in our culture.⁸⁶ Understanding the specific behaviors associated with these terms, how those behaviors manifest themselves, and how our culture values or devalues those behaviors is critical to understanding how different individuals approach group work and how law school faculty can use those difference to improve the collaborative experiences of students. As with any label, identifying someone as an extrovert or an introvert has the potential to *limit* students or colleagues, or lead to assumptions about behavior or capability. Introversion, in particular, is conversationally and culturally referenced in a negative way, and to be labeled as such can have adverse social or professional consequences. This section seeks to provide clarity on the specific behaviors associated with those terms so that the label means less, and the behaviors of the individuals mean more, particularly within the context of collaborative experiences. As such, this section explores the terms “introvert” and “extrovert” as a way to explore the behavior patterns and broad preferences of certain individuals in certain contexts.

A. Introversiion and Extroversiion Explored

Humans respond to, and engage with, their environment in varying ways based in large part on their personalities. Personality is made up of traits, temperaments, or dimensions.⁸⁷ The number of categories identified ranges from five to four thousand, depending on which personality research one reviews.⁸⁸ Still other researchers assert that one’s personality cannot be

84. See *MBTI Basics*, MYERS & BRIGGS FOUND., <http://www.myersbriggs.org/my-mbti-personality-type/mbti-basics/> (last visited Mar. 23, 2016). For a longer discussion on personality type and lawyering, see Weinstein, *supra* note 9.
85. Jung spelled extravert this way in his early writings, and it continues to be spelled this way in many psychology books. However, for the remainder of this article, I will use the more commonly accepted spelling, “extrovert.”
86. The introvert, according to Jung, was based on the Apollo, one who is “focused on the internal world of reflection, dreaming and vision.” *Jung, Carl Gustav*, in *ENCYCLOPEDIA OF THEORY & PRACTICE IN PSYCHOTHERAPY & COUNSELING* 230 (Jose A. Fadul ed. 2014). Extroverts, according to Jung, were based on the Dionysus, the Greek God of fertility and wine, and are individuals “focused on the outside world of objects, sensory perception and action.” *Id.*
87. GORKAN AHMETOGLU & TOMAS CHAMORRO-PREMUZI, *PERSONALITY* 101 (2013); DANIEL NETTLE, *PERSONALITY: WHAT MAKES YOU THE WAY YOU ARE* 19-21 (2007); *About Personality*, SAPA PROJECT, <https://sapa-project.org/info/personality.html> (last visited Mar. 23, 2016).
88. NETTLE, *supra* note 87, at 9; Gordon W. Allport & Henry S. Odbert, *Trait-Names: A Psycho-Lexical Study*, 47 *PSYCHOL. MONOGRAPHS*, at i (1936) (noting more than four thousand words that could be used to describe personality); Raymond B. Cattell, *A Check on the 28 Factor Clinical Analysis Questionnaire Structure on Normal and Pathological Subjects*, 1 *J. MULTIVARIATE EXPERIMENTAL PERSONALITY & CLINICAL PSYCHOL.* 3, 3 (1973) (identifying sixteen key personality factors—

“distilled down to a list of adjectives.”⁸⁹ Regardless of the model used, most researchers agree that at its core, personality can help understand people’s dispositions, who they are, and why they behave as they do.⁹⁰ Two of the most common categories used to explain why and how people behave as they do are those of extroversion and introversion.

To distinguish a person with extroverted behaviors from one with introverted ones, it is not enough to “merely distinguish a bon vivant from a bookworm.”⁹¹ Introversion and extroversion describe an individual’s environmental preferences and the ways in which she gathers her energy.⁹² Extroverts find it invigorating to engage with others and tend to bring high energy to a group discussion.⁹³ They often like to think out loud and in the moment, and prefer generating ideas in a group rather than on their own.⁹⁴ Extroverts also tend to find it more reinforcing to talk through ideas than to listen quietly to them, and are generally more comfortable with conflict and less comfortable with solitude.⁹⁵ Conversely, individuals who identify as introverted derive their energy internally, through self-reflection and thought,⁹⁶ and generally prefer thinking things through before discussing them.⁹⁷ Introverts tend to talk less and listen more, and think before participating in a conversation; they often feel they can better express themselves through writing than through

abstractedness; apprehension; dominance; emotional stability; liveliness; openness to change; perfectionism; privateness; reasoning; rule consciousness; self-reliance; sensitivity; social boldness; tension; vigilance; warmth); Raymond B. Cattell, *A First Approximation to Nature-Nurture Ratios for Eleven Primary Personality Factors in Objective Tests*, 54 J. ABNORMAL & SOC. PSYCHOL. 143 (1957); John M. Digman, *Personality Structure: Emergence of the Five-Factor Model*, 41 ANN. REV. PSYCHOL. 417 (1990); *About Personality*, *supra* note 87 (identifying the “Big Five” personality model: extroversion; agreeableness; conscientiousness; neuroticism; and openness).

89. *About Personality*, *supra* note 87.

90. *Id.*

91. Rosemary Simota Thompson, *What Type of Lawyer Are You? ISTJ? ESTJ? INTJ? ENTP?*, 13 CBA REC. 40, 40 (1999).

92. CAIN, *supra* note 5, at 85; Thompson, *supra* note 91, at 40.

93. CAIN, *supra* note 5; NETTLE, *supra* note 87, at 81-84.

94. CAIN, *supra* note 5; Thompson, *supra* note 91, at 40.

95. CAIN, *supra* note 5, at 83; Thompson, *supra* note 91, at 40.

96. CAIN, *supra* note 5; Martha E. Simmons, *The Collaborative Practitioner: Born or Bred: An Empirical Study Examining the Interrelationship Between Personality Type and Vocational Choice* (2012) (unpublished research paper), <http://www.oclf.ca/Downloads/2012Conf/Conference2012Papers/2012ConfWorkshop17.pdf>.

97. Richard, *supra* note 35, at 1030.

conversation.⁹⁸ Introverts also prefer to generate ideas independently before sharing them in a group, and tend to do their best work alone.⁹⁹

Personality types are not necessarily dichotomous; many people have characteristics of both introversion and extroversion, which engenders the label “ambivert.” Even those who tend more toward one disposition often exhibit traits of the other: Individuals who identify as extroverts might still very much need and cherish moments of quiet reflection, and individuals with introverted personality traits can have strong social skills and enjoy socializing and social gatherings. Indeed, introversion and extroversion are *not* synonyms for shyness or social ease. Although our culture tends to conflate introversion and shyness and, as discussed further below, pathologize people the further they move from the extroverted end of the spectrum, shyness relates to the cognitive and behavioral responses a person experiences in certain social settings, often stemming from anxiety.¹⁰⁰ While certainly introversion and shyness can, and often do, co-exist, an introvert may not experience shyness, while an extrovert may.¹⁰¹

Understanding how individuals with these different personality traits approach their environments can be a valuable tool in a quest to understand what makes collaborations successful and what barriers exist. When an individual’s personality matches both the task at hand and her preferred environment, the reward and pleasure systems of her brain are activated.¹⁰² One reported experience illuminates this point: Participants at a Myers-Briggs Type Indicators (MBTI) workshop were paired based on opposite personality traits (a person with introverted traits was paired with a person with extroverted ones). Each member of the pair was asked to go against his or her type for three minutes—introverts were asked to speak on a topic while extroverts were asked to remain silent and listen.¹⁰³ They then reversed roles. At the conclusion of the experiment, the participants identified “the ease of remaining with one’s type preference and the extra mental energy required to go against type.”¹⁰⁴ Of course, introversion and extroversion are not immutable and may be heavily context-dependent. Even lawyers who tend toward one end of the introvert/extrovert continuum may display behaviors that fall toward another given

98. CAIN, *supra* note 5, at 84; *see also* LEVIT & LINDER, *supra* note 16, at 34-35; Thompson, *supra* note 91, at 40.

99. CAIN, *supra* note 5.

100. *Shyness*, AM. PSYCHOLOGICAL ASS’N, <http://www.apa.org/topics/shyness/> (last visited Mar. 23, 2016).

101. CAIN, *supra* note 5.

102. Lecia Bushak, *The Brain of an Introvert Compared to that of an Extrovert: Are They Really Different?*, MED. DAILY (Aug. 21, 2014, 9:50 AM), <http://www.medicaldaily.com/brain-introvert-compared-extrovert-are-they-really-different-299064> (identifying the role of dopamine activated in a person’s brain depending on the circumstances).

103. *See* Thompson, *supra* note 91, at 41.

104. Thompson, *supra* note 91, at 41.

the lawyering task or context with which they are engaged; some of the most effective litigators self-identify as introverts.¹⁰⁵

B. The Modern Shift from a “Culture of Character” to a “Culture of Personality”¹⁰⁶

American culture has an evolving relationship with introversion and extroversion. Currently, the “Extrovert Ideal” predominates; a “good personality”—a phrase that has become a euphemism for extroversion—is identified as critical to personal and professional success.¹⁰⁷ Conversely, introverts receive the message that their personality is substandard—a work in progress, with extroversion as the ultimate goal. To explain the rise of the “Extrovert Ideal,” Cain explores what she calls the “personality revolution” within the United States at the beginning of the twentieth century. Prior to the Industrial Revolution, successful businessmen were recognized for possessing internally focused traits—“citizenship, duty, work, golden deeds, honor, reputation, morals, manners, integrity.”¹⁰⁸ The Industrial Revolution shifted those traits outward, and businessmen and -women began to be reinforced for having externally focused qualities, including being “magnetic, fascinating, stunning, attractive, glowing, dominant, forceful, and energetic.”¹⁰⁹ Cain argues that the rise of industry within America moved our country from “an agricultural society of little houses on the prairie” to an urbanized powerhouse focused on profitable businesses and industries.¹¹⁰ This “revolution” moved Americans from a “Culture of Character” to a “Culture of Personality.”¹¹¹ According to Cain:

In the Culture of Character, the ideal self was serious, disciplined, and honorable. What counted was not so much the impression one made in public as how one behaved in private. The word *personality* didn’t exist in English until the eighteenth century and the idea of ‘having a good personality’ was not widespread until the twentieth. But when they embraced the Culture of Personality, Americans started to focus on how others perceived them. They became captivated by people who were bold and entertaining. The social role demanded of all in the new Culture of Personality was that of a performer Every American was to become a performing self.¹¹²

105. Psychologists call this “situationism.” That is, although an individual may display behaviors that can fit within one psychological trait, individuals can react differently depending on the situation. See APA COLLEGE DICTIONARY OF PSYCHOLOGY 386 (2009).

106. These phrases come from CAIN, *supra* note 5, at 19-33.

107. See CAIN, *supra* note 5.

108. *Id.* at 23.

109. *Id.* at 23-24.

110. *Id.* at 21.

111. *Id.* at 19-33.

112. *Id.* at 21 (citing cultural historian Warren Susman).

Bold first impressions became a way of identifying an individual's success, and self-help books began to focus on helping people move past their introverted tendencies.¹¹³ For the first time, psychology began to identify behaviors related to introversion as diagnosable psychological conditions.¹¹⁴ Shyness, in particular, was defined broadly and identified as a curable, but pathological, social debility.¹¹⁵ Parents were advised to “socialize their children well,” and schools were guided to “change their emphasis from book-learning to ‘assisting and guiding the developing personality.’”¹¹⁶ According to one best-selling book from the mid-twentieth century, “[s]ave for a few odd parents, most are grateful that the schools work so hard to *offset tendencies to introversion and other suburban abnormalities.*”¹¹⁷ Universities began rejecting “sensitive, neurotic” types and “intellectually over-stimulated” applicants in favor of those who were “healthy extroverted” and “well-rounded.”¹¹⁸ The emphasis on “personality” became what was valued. As a result, success for an introvert could occur only when she was able to learn the tools needed to approach the world through an extroverted lens.¹¹⁹ Continuing through today, leaders often are identified as those who are the loudest, most assertive, and quickest decision-makers—behaviors attributed to extroverted personality styles.¹²⁰ The value placed on extroversion and, by extension, the devaluing of introversion, may come at a great cost not only to those among us who tend towards introversion, but also to learning and professional environments within which we work and learn.

C. *The Introverted Lawyer*

It is no easier to identify a generic personality type for lawyers than it would be for any other group of professionals. Certainly lawyers fall across the introversion/extroversion spectrum.¹²¹ However, many core activities of

113. *Id.* at 22-24.

114. CHRISTOPHER LANE, SHYNESS: HOW NORMAL BEHAVIOR BECAME A SICKNESS (2007).

115. CAIN, *supra* note 5, at 27, 31. See generally LANE, *supra* note 114.

116. CAIN, *supra* note 5, at 27.

117. *Id.* (emphasis added).

118. *Id.* at 28.

119. This point was indirectly made by one law professor reflecting on her experience with collaboration in her classroom and noting that by the end, “[v]irtually everyone became an extrovert.” Reilly, *supra* note 2, at 598 n.7.

120. The power of assertiveness was demonstrably illuminated with the famous Asch test, in which people were asked to judge the length of three lines to determine if they were equal in length. “When faced with a majority who agreed on a different (and erroneous) judgment, many individuals abdicated the information from their own senses and agreed with the incorrect majority.” Charlan Jeanne Nemeth & Brendan Nemeth-Brown, *Better than Individuals: The Potential Benefits of Dissent and Diversity for Group Creativity*, in GROUP CREATIVITY: INNOVATION THROUGH COLLABORATION 63, 65 (Paul B. Paulus & Bernard A. Nijstad eds., 2003).

121. See, e.g., LEVIT & LINDER, *supra* note 16, at 75 (noting that some lawyers have “high dominance” personalities, associated with “a strong competitive drive and . . . marked by frequently

the legal profession correspond with preferences of individuals who tend toward introversion. While the legal profession is increasing opportunities for collaboration, many lawyers continue to spend a great deal of time engaging in solitary work—drafting motions, complaints, contracts, and wills; reading and researching statutes and case law; thinking independently through case strategy; and engaging in factual analysis.¹²² According to one author, lawyering is the sixth-best job for introverts.¹²³ And, indeed, introverts tend to be slightly more drawn to the legal profession, but are less satisfied with their jobs than extroverts.¹²⁴ In the only comprehensive study on lawyering and psychological type, conducted in 1994, Professor Lawrence Richard analyzed MBTI results from hundreds of lawyers, and found that the majority—56.4%—tended toward introversion.¹²⁵ In contrast, less than half the general population exhibits this tendency.¹²⁶

The tension between increasing collaborative opportunities in law school and the legal profession, and the environmental preference for space and solitude for at least half of the lawyers and law students within them, provides an opportunity to consider not only whether to incorporate more collaborative learning opportunities but how legal educators can help students improve their collaborative experiences in law school, and beyond.

III. Deconstructing Barriers to Successful Collaborations

Anyone who has, or is close to, a child between the ages of 3 and 13 undoubtedly has been exposed to the mega-hit song from the 2014 Lego movie, “Everything Is Awesome.” The first verse of that song, repeated multiple times throughout, offers a catchy stanza: “*Everything is awesome; everything is cool when you’re part of a team . . .*”¹²⁷ Indeed, the benefits to working collaboratively with a partner or a team can be more than awesome; as discussed in Part I, they can be critical to personal and professional satisfaction and to the group’s end goal. However, collaborative experiences remain a source of challenge and frustration for many participants, and, for individuals with introverted preferences, may be particularly uncomfortable. Understanding the causes

interrupting, controlling conversations, changing topics, offering unsolicited advice or instruction, and stating strong opinions,” while others are “analytical problem-solvers who value thoughts and ideas, as opposed to feelings, in their interactions with other people.”) (citations omitted).

122. Richard, *supra* note 35, at 1030; *see also* DAICOFF, *supra* note 30, at 34-35 (“Most of what lawyers do involves introverted activity: quiet, concentrated work, reading, writing, researching and analyzing cases, reviewing and drafting legal documents, and thinking through fact situations and strategies.”).

123. LAURENCE SHATKIN, 200 BEST JOBS FOR INTROVERTS (2008).

124. Richard, *supra* note 35, at 981-82, 1040.

125. *Id.* at 1059; LEVIT & LINDER, *supra* note 16, at 74.

126. *See* Richard, *supra* note 35, at 1059.

127. IGX, *Everything Is Awesome*, on LEGO THE MOVIE SOUNDTRACK (HD Music 2014).

of some of the most commonly identified challenges to group work can help generate tools and strategies to avoid or reduce those challenges in a variety of contexts.

A. “Problem” Collaborators and their Problematic Labels

One of the biggest complaints raised about working in groups revolves around the “uneven” communication styles and approaches of the individuals who make up the collaboration.¹²⁸ Some of these complaints relate to the natural growing pains of groups—once group dynamics are figured out, communication styles often even out and the collaboration settles.¹²⁹ Complaints that continue, however, commonly refer to specific individuals who either take control and dominate the collaborative endeavor or, conversely, sit back and allow others to do the group’s work. Individuals who engage in behavior that controls and monopolizes a group conversation are identified in the collaborative literature as “dominators.”¹³⁰ The experience of having certain individuals monopolize a conversation is a common one. One study found that in a four-person group, two people talk sixty-two percent of time.¹³¹ Dominators may “lack the self-awareness to realize their limitations” or the barriers they place on others through what can be described as a dialogue-intensive collaborative approach.¹³²

Conversely, “free riding” or “social loafing” are terms used to describe the behavior of a group member who claims her teammates’ work without contributing her own work or without exerting “meaningful effort” during a collaborative opportunity in which she is involved.¹³³ Research suggests that some individuals exert less effort on collective tasks than they do on individual tasks with the belief that other team members will compensate.¹³⁴ When group

128. See SCALLEN ET AL., *supra* note 19.

129. See, e.g., Bruce W. Tuckman, *Developmental Sequence in Small Groups*, 63 PSYCHOL. BULL. 384 (1965) (laying out the stages of group development as forming (testing and dependence); storming (intragroup conflict); norming (in group cohesiveness and roles adopted); performing (task performance); and adjourning (separation and termination of group)).

130. SCALLEN ET AL., *supra* note 19, at 89-92.

131. LEIGH THOMPSON, CREATIVE CONSPIRACY: THE NEW RULES OF BREAKTHROUGH COLLABORATION 128 (2013). Cf. BRUFFEE, *supra* note 14, at 32 (noting that the “optimum size for decision-making groups . . . is five.”)

132. SCALLEN ET AL., *supra* note 19, at 8.

133. *Id.* at 8; Cheryl L. Asmus & Keith James, *Nominal Group Techniques, Social Loafing, and Group Creative Project Quality*, 17 CREATIVITY RES. J. 349, 350 (2005); Sparrow, *supra* note 19.

134. Asmus & James, *supra* note 133, at 350. One of the earliest studies on “social loafing” demonstrated that individuals did not pull as hard on a rope in a group as they did when pulling alone. See *id.* at 350 (citing David A. Kravitz & B. Martin, *Ringelmann Rediscovered: The Original Article*, 50 J. PERSONALITY & SOC. PSYCHOL. 936 (1986)); Will Felps, Terence R. Mitchell and Eliza Byington, *How, When, and Why Bad Apples Spoil the Barrel: Negative Group Members and Dysfunctional Groups*, 27 RES. ORGANIZATIONAL BEHAV. 175 (2006). But see Bernard A. Nijstad et al., *Production Blocking and Idea Generation: Does Blocking Interfere with Cognitive Processes?*, 39 J. EXPERIMENTAL SOC. PSYCHOL. 531, 531 (2003) (noting that there is little social science

members fail to contribute evenly to the collaborative endeavor, one of the fundamental benefits of collaboration—that of varied perspectives—is lost.¹³⁵ Additionally, of course, the group’s burdens are shifted to a smaller number of individuals, with frustration or resentment often resulting.

Introverts are at particular risk of being identified as “loafers” and excluded when a group includes dominators. As noted by Professors Eileen Scallen, Sophie Sparrow, and Cliff Zimmerman, “[a]s with any other type of legal skill, such as writing or negotiating, some individuals will feel perfectly at home with collaborative work because they are naturally gifted at this type of communication.”¹³⁶ Though it is reasonable to assume that introverts and extroverts have roughly the same number of good and bad ideas, in a group context the loudest and most assertive tend to have their ideas explored while those put forward (or not put forward at all, as the case may be) by introverts are often ignored.¹³⁷ Consistent with the “Extrovert Ideal” and our culture’s tendency to place a premium on presentation over substance,¹³⁸ groups often “coalesce around the loudest extrovert’s confidently asserted idea, no matter how daft it might be.”¹³⁹ The end result is a loss of contribution of ideas from individuals who may contribute more slowly and more thoughtfully, potentially diminishing the overall effectiveness of the group.

While negative consequences can occur when groups have individuals who tend to dominate or “loaf,” those labels are almost exclusively tied to negative *intentions*. A person who dominates is assumed to be obtuse or arrogant—to believe that what he has to say is the most important contribution or that her approach is the correct one.¹⁴⁰ A person who engages in “social loafing” within a group is assumed to be unmotivated, uninterested, or, perhaps worse, just lazy.¹⁴¹ While these labels may accurately describe the motivations of the individuals being observed, they also “are frequently used in ways that suffocate the potential to be seen as capable—or even to be given a chance to demonstrate potential” which can be, at best, unfair and, at worst, incredibly harmful.¹⁴² Individuals who either take control or appear to sit back, in fact, often have better intentions than those ascribed to them. Those who tend to dominate may be in their element when talking with others in a group, may be

evidence that supports a “tendency of group members to shirk and let others do the work.”).

135. Asmus & James, *supra* note 132, at 350. See discussion on diverse perspectives, *infra* Part I(C).

136. SCALLEN ET AL., *supra* note 19, at 13.

137. See generally CAIN, *supra* note 5.

138. CAIN, *supra* note 5, at 34-70.

139. Clive Thompson, *Clive Thompson on the Power of Introversions*, WIRED (Mar. 21, 2012, 12:34 PM), http://www.wired.com/2012/03/st_thompson_introvert/ (reviewing CAIN, *supra* note 5).

140. See SCALLEN ET AL., *supra* note 19, at 90-91.

141. See *id.* at 23 (noting that an extrovert working with an introvert may “not understand why the introvert is not talking, assuming he is lazy, disinterested, or inept”).

142. DARNELL LATTAL & AUBREY DANIELS, *THE WISDOM FACTOR*, CH. 5 (FORTHCOMING 2016)

energized by sharing ideas out loud, and may be comfortable with conflict. In short, they may be behaving in a way consistent with extroverted preferences. Similarly, individuals who are labeled as loafing may need an opportunity to reflect and consider the problem on their own first, unable to keep pace with the speed at which others in the group are bouncing ideas and moving toward final decisions. As a result, they may limit their contributions, exposing themselves to negative assumptions about their motivations.¹⁴³ This is not to suggest that these different approaches are not problematic for collaborating. As described above, they often are. But, by expanding our understanding of what could be happening within these dynamics, and naming the specific behaviors that are problematic, rather than the individuals themselves, we can not only assign better intentions on the part of the collaborator but, perhaps more important, identify concretely strategies to help shape how they engage with others.

B. Psychological Barriers to the Traditional Brainstorm and Other Collaborative Work

One commonly utilized group tool is the oral brainstorm. Created by an advertising executive in the 1930s, brainstorming was introduced as a highly successful way to generate ideas and solve problems.¹⁴⁴ Today, brainstorming is frequently used within groups to generate ideas to solve a problem.¹⁴⁵ Two fundamental principles apply to a traditional brainstorm. First, high quantity of ideas will breed high quality of ideas.¹⁴⁶ That is, the more ideas thrown out—even those that are tentative or outrageous—the more likely a creative solution will be identified.¹⁴⁷ Second, because criticism or judgment of ideas has been determined to cut off the creative generation of ideas, idea generation should be separated from criticism, analysis, or judgment of ideas.¹⁴⁸ The fundamental idea behind this second principle is that generating a large number of ideas, separate from judgment and evaluation, will encourage group members to speak, which will stimulate others to speak up, which will generate even more ideas that, ultimately, will produce a high-quality solution.¹⁴⁹

It turns out, however, that traditional oral brainstorming actually can hinder the creation and generation of ideas. Social science and epistemological

143. Bryant, *supra* note 12, at 504.

144. Alex F. Osborn created the brainstorming process. Lehrer, *supra* note 4.

145. Nijstad et al., *supra* note 134.

146. CHAUNCEY WILSON, BRAINSTORMING AND BEYOND: A USER-CENTERED DESIGN METHOD 3-4 (2013); Ron Zemke, *In Search of . . . Good Ideas*, 30 TRAINING 46 (1993).

147. Paul B. Paulus & Mary T. Dzindolet, *Social Influence Process in Group Brainstorming*, 64 J. PERSONALITY & SOC. PSYCHOL. 575, 575 (1993).

148. Lehrer, *supra* note 4; Eric F. Rietzschel, Bernard A. Nijstad & Wolfgang Stroebe, *Productivity Is Not Enough: A Comparison of Interactive and Nominal Brainstorming Groups on Idea Generation and Selection*, 42 J. EXPERIMENTAL SOC. PSYCHOL. 244, 245 (2006).

149. Paulus & Dzindolet, *supra* note 147, at 575; Rietzschel et al., *supra* note 147, at 245.

research consistently find that traditional brainstorming *stifles* creativity.¹⁵⁰ Findings from a 1963 research study elucidate this point: Groups of four individuals were asked to think through a problem, either collectively or on their own, and researchers collected and evaluated those ideas.¹⁵¹ The results were unequivocal: Out of twenty-four groups, twenty-three produced *more and more creative* ideas when the individual group members first worked alone than they did when initially working with others.¹⁵² The results from this study have been repeatedly replicated.¹⁵³ In fact, since its rise in popularity as the primary method used to generate ideas, nearly all studies have found that group brainstorming leads to lower productivity when compared with the “combined productivity of . . . individuals brainstorming in isolation.”¹⁵⁴ Perhaps more important, the ideas generated are consistently found to be of higher quality when individuals work alone first than when they only brainstorm in a group.¹⁵⁵ As asserted by one author, “[b]rainstorming [doesn’t] unleash the potential of the group, but rather [makes] each individual less creative.”¹⁵⁶

The traditional oral brainstorm may favor a process that works best for those most comfortable with external, and quick, processing. As described above, people who tend toward extroversion may be quite comfortable with the process of communication required by traditional brainstorming—of generating ideas orally and of sharing ideas before developing them fully—while individuals who tend toward introversion may be less comfortable with

150. Nicholas Kohn & Steven M. Smith, *Collaborative Fixation: Effects of Others’ Ideas on Brainstorming*, 25 APPLIED COGNITIVE PSYCHOL. 359 (2011); Nemeth & Nemeth-Brown, *supra* note 120, at 63; Rietzschel et al., *supra* note 148, at 249; Matthew Feinberg & Charlan Nemeth, *The “Rules” of Brainstorming: An Impediment to Creativity?* (Institute for Research on Labor and Employment Working Paper Series, 2008); Zimmerman, *supra* note 8, at 979; Lehrer, *supra* note 4.
151. Marvin Dunnette, John Campbell & Kay Jaastad, *The Effect of Group Participation on Brainstorming for Two Industrial Samples*, 47 J. APPLIED PSYCHOL. 30 (1963).
152. *Id.* at 33.
153. Michael Diehl & Wolfgang Stroebe, *Productivity Loss in Brainstorming Groups: Toward the Solution of a Riddle*, 53 J. PERSONALITY & SOC. PSYCHOL. 497, 497 (1987) (citing a study from 1958 where nominal groups “produced nearly twice as many different ideas as [the group that contained four people]” and had better quality ideas.).
154. Paulus & Dzindolet, *supra* note 147, at 575; *see also* Clive Boddy, *The Nominal Group Technique: An Aid to Brainstorming Ideas in Research*, 15 QUALITATIVE MARKET RES.: AN INT’L J. 6, 7 (2012); Wolfgang Stroebe et al., *Chapter Four—Beyond Productivity Loss in Brainstorming Groups: The Evolution of a Question*, 43 ADVANCES EXPERIMENTAL SOC. PSYCHOL. 157 (2010); *see also* Tony McCaffrey, *Why You Should Stop Brainstorming*, HARV. BUS. REV., Mar. 25, 2014, <https://hbr.org/2014/03/why-you-should-stop-brainstorming>.
155. *See* Dunnette et al., *supra* note 151, at 36.
156. Lehrer, *supra* note 4. Other studies have shown that the second principle of traditional brainstorming—holding off on judgment—also may be detrimental to product. Conflict and disagreement have been shown to help to stimulate, rather than hamper, new ideas. Nemeth & Nemeth-Brown, *supra* note 120, at 118 (identifying that among five teams, those instructed to debate and criticize their team members’ ideas came up with nearly twenty percent more ideas than groups that were explicitly told not to criticize or teams that were given no instructions at all).

that process.¹⁵⁷ Beyond an individual's comfort levels and environmental preferences, psychological phenomena also exist that may further explain why traditional oral brainstorming and other forms of small-group work negatively affect the creation of ideas. Three of the most common are explored below.

1. Production Blocking

Production blocking has been identified as the single most significant barrier to the generation of ideas during a traditional oral brainstorm.¹⁵⁸ Production blocking occurs when ideas are either not generated at all or generated but lost during a group brainstorm or conversation.¹⁵⁹ When engaging in a traditional brainstorm, a group traditionally imposes limited floor time for each member to share her ideas, or requires a democratic process that provides equal opportunity for each participant to speak.¹⁶⁰ While these rules are intended to be inclusive, they can result in production blocking for three primary reasons. The first is a physiological one: When a person is unable to express an idea immediately as it comes to mind, that idea may be lost¹⁶¹ or "prematurely aborted" because human beings' short-term memory can store ideas for only so long before it is filled with other ideas or thoughts.¹⁶² In other words, the idea is forgotten and/or replaced while a group member is listening to others, waiting her turn to speak.¹⁶³ Production blocking also occurs because of the delay of idea formation. If a group member knows that there will be a delay until she can express her ideas, she will delay formation of those ideas.¹⁶⁴ The result can be a negative impact on idea generation.¹⁶⁵ Finally, production blocking can occur because listening to ideas shared by others may be distracting and interfere with the member's independent thinking.¹⁶⁶ Listening to other people's ideas also can result in a group member determining that his idea is not relevant or original, and, therefore, that he

157. Bryant, *supra* note 12, at 504.

158. Diehl & Stroebe, *supra* note 153; Paulus & Dzindolet, *supra* note 147.

159. ROBBENOLT & STERNLIGHT, *supra* note 63, at 109.

160. Diehl & Stroebe, *supra* note 153, at 498; Nijstad et al., *supra* note 134.

161. Nijstad et al., *supra* note 134, at 532.

162. ROBBENOLT & STERNLIGHT, *supra* note 63, at 321; Diehl & Stroebe, *supra* note 153, at 507-08.

163. Paulus & Dzindolet, *supra* note 147, at 575.

164. ROBBENOLT & STERNLIGHT, *supra* note 63, at 109.

165. Nijstad et al., *supra* note 134, at 533 (the delay is tied to the challenge of starting a new "train of thought" which leads to a decrease in the number of ideas generated); *see also* ROBBENOLT & STERNLIGHT, *supra* note 63, at 109 (production blocking can interfere with the ability of a group "to get a productive train of thought started, or can effectively 'derail' an ongoing train of thought").

166. ROBBENOLT & STERNLIGHT, *supra* note 63, at 109; Diehl & Stroebe, *supra* note 153, at 498.

will neither share that idea nor consider a category of ideas different from the categories already raised.¹⁶⁷

2. Pluralistic Ignorance and the Illusion of Transparency

Two coexisting phenomena, known as “pluralistic ignorance” and the “illusion of transparency,” also can interfere with the quantity and quality of ideas generated during group work and brainstorming.¹⁶⁸ Pluralistic ignorance occurs when an individual privately holds one opinion or belief but mistakenly believes that every other group member rejects it.¹⁶⁹ Pluralistic ignorance can arise when a vocal minority expresses an opinion or idea and the majority group members fail to speak up based on an overestimation of support for that opinion by the other group members.¹⁷⁰ A group member may not express her reservations about an idea or an approach that is ill-conceived—or even harmful—for fear of appearing confrontational or disagreeable or out of concern that she will highlight differences between herself and the other group members.¹⁷¹ As a result, a decision is made based on the belief that it is supported by the majority, even if the majority actually feels the position or decision is wrong.¹⁷² Whistleblowers often identify this phenomenon as negatively impacting their decision to take action sooner and, similarly, individuals within the whistleblower’s organization often identify that they shared the concern of the whistleblower, but failed to take action because of the perception that they were in the minority.¹⁷³

Group members also may not share concerns about the position their group has chosen because of a related phenomenon known as the “illusion of transparency,” which is an overestimation by people of the extent to which others can perceive their internal thought processes.¹⁷⁴ The illusion of transparency has been found to apply to people’s perceptions about how easily others can identify their feelings of concern, disgust, alarm, and how easily others can discern when they are lying.¹⁷⁵ People often believe that those feelings or actions are transparent to others when, in fact, they often are not.

167. Diehl & Stroebe, *supra* note 153, at 498.

168. ROBBENNOLT & STERNLIGHT, *supra* note 63, at 110; THOMPSON, *supra* note 131, at 126-27 (noting that both phenomena are essentially failures of communication).

169. ROBBENNOLT & STERNLIGHT, *supra* note 63, at 110.

170. *Id.* at 109-10.

171. THOMPSON, *supra* note 131, at 127.

172. Nemeth & Nemeth-Brown, *supra* note 120, at 65.

173. See Jean Lennane, *What Happens to Whistleblowers, and Why*, 6 SOC. MED. 249, 255 (2012) (“people in groups tend to conform to what others in the group do or say, even when the group view is glaringly wrong.”). See generally Nemeth & Nemeth-Brown, *supra* note 120, at 63-79.

174. Thomas Gilovich, Victoria Husted Medvec & Kenneth Savitsky, *The Illusion of Transparency: Biased Assessments of Others’ Ability to Read One’s Emotional States*, 75 J. PERSONALITY & SOC. PSYCHOL. 332 (1998).

175. See ROBBENNOLT & STERNLIGHT, *supra* note 63, at 65; Gilovich et al., *supra* note 174, at 343.

In essence, the illusion stems from an erroneous perception that individuals are better communicators than they actually are.¹⁷⁶ In one study, participants were asked to tap a well-known melody on a tabletop in front of others and to estimate the proportion of listeners who would be able to identify the song they had tapped.¹⁷⁷ The tappers grossly overestimated how many listeners would be able to identify the song.¹⁷⁸ In another study, subjects were asked to think of four truthful statements and one fictional one and state those to a group of observers. Again, the subjects drastically overestimated the number of observers who would be able to identify which of the five statements was not truthful and believed that their outward behaviors would give the lie away.¹⁷⁹ In these studies, the miscalculation arose from an undervaluing of the importance of the considerably different information the subject had than did the listener—the melody playing in his head or the knowledge about which statement actually was the lie.

In a collaborative experience, an overestimation that one's internal thought process is transparent to a group could play out in the following way: Group member A believes that an idea is a bad one and that she has communicated her feelings of annoyance or concern clearly to her group. However, when the group "ignores" her concern, she may believe that the majority agrees that the idea is a good one and, therefore, that her concerns are not valid or respected, or that her concerns have been considered and overruled. While either theory could be true, it is equally possible that group member A did not directly express her concerns and, though she believed her feelings were communicated, they were not as transparent as she believed. As a result, the remaining group members assumed she was in agreement with the idea advanced.

3. Evaluation Apprehension

A final psychological phenomenon that can limit the quantity of ideas or quality of the collaborative endeavor is one that may be most commonly understood. The phenomenon of evaluation apprehension generally arises from fear of evaluation by a person outside of the group, such as a faculty member or higher-ranking partner, or when some group members perceive other members to be more expert than they are.¹⁸⁰ Essentially, evaluation apprehension is the "fear of looking stupid" in front of others.¹⁸¹ The feeling of being evaluated can result in either self-censorship or going along with the group to avoid being judged or evaluated in a negative way. Within a variety of collaboration processes, the outcome can be that group participants silence

176. THOMPSON, *supra* note 131, at 126.

177. Gilovich et al., *supra* note 174, at 333.

178. *Id.* at 332.

179. *Id.*

180. Diehl & Stroebe, *supra* note 153, at 498.

181. CAIN, *supra* note 5, at 89.

themselves; controversial ideas are not presented; and ideas that are presented, are not challenged.

C. Culture and Collaboration

Diversity can be a sign of a successful group. For the reasons addressed in Part I.B. above, diversity tends to lead to different perspectives, which can lead to different identified outcomes for the issue being considered or for the group process being used. According to Professors Scallen, Sparrow and Zimmerman:

Effective teams include visible demographic diversity such as ethnicity, race, and age, and less visible personal diversity such as backgrounds, experiences, values, sexual preferences and personality types. While diverse groups of people tend to have an initially lower level of group cohesion, after working together, diverse groups perform more effectively on complex tasks.¹⁸²

Though differences of group members can be deeply valuable to perspectives and experiences, they also can lead to conflict within collaborations.¹⁸³ A person's cultural background heavily influences, if not outright determines, her communication style.¹⁸⁴ The "Culture of Personality," discussed above, is not a phenomenon adopted by all cultures. While in Anglo-American culture assertiveness often determines whose ideas are chosen regardless of how "correct" those ideas may be,¹⁸⁵ many other cultures prefer behaviors associated with introversion. For example, many Asian cultures emphasize "soft power, or strength that is derived from quiet persistence rather than bold provocation."¹⁸⁶ That style of communication, however, often is misunderstood in U.S. workplaces and classrooms. As explained by Professor Heejung S. Kim, the silence of many Asian students has been a concern identified by many universities that equate thinking with talking, and talking with the best way to learn how to be a better and more independent thinker.¹⁸⁷ In response to this concern, many universities have begun encouraging Asian students to talk more.¹⁸⁸ Notably, there is no similar movement to encourage Western students to talk less.

182. SCALLEN ET AL., *supra* note 19, at 58 (citations omitted).

183. *See id.* at 83 (noting the differences between "individualist" cultures and "collectivist" cultures and how those affect communication patterns among group members).

184. BRUFFEE, *supra* note 14, at 33.

185. CAIN, *supra* note 5, at 181.

186. MICHAEL T. TREADWAY & DAVID C. TREADWAY, *Quiet TEACHER'S GUIDE* 26 (n.d.), <http://www.penguinrandomhouse.com/books/22821/quiet-by-susan-cain/9780307352156/teachers-guide>.

187. Heejung S. Kim, *We Talk, Therefore We Think? A Cultural Analysis of the Effect of Talking on Thinking*, 83 J. PERSONALITY & SOC. PSYCHOL. 828, 828 (2002).

188. *Id.*

Professor Kim situates the Western belief that talking is critical to academic success within a frame similar to that of Cain's "Culture of Personality." She notes how, according to Western culture, talking is "a basic means through which individuals express their ideas, points of view and individuality—the core value of American culture."¹⁸⁹ However, as a counterexample, she notes that in Chinese preschools, quietness is seen as a "means of control, rather than passivity."¹⁹⁰ Additionally, while Western culture tends to associate talking with engagement,¹⁹¹ "abundant research ... show[s] that the positive meaning of talking is culturally specific" rather than universally required for learning.¹⁹² Indeed, most East Asian cultures "believe that states of silence and introspection are ... beneficial for high levels of thinking, such as the pursuit of truth."¹⁹³ Beyond ethnicity, many other factors influence how one communicates—gender, regional community, religion, group hierarchy, and even the professional environment within which one works, to name a few.¹⁹⁴

Cultural and other diversity within a group can be invaluable to the depth and variety of ideas generated and to rich professional development of the group members. Failure to recognize how one's own culture or how the culture of others affects communication styles, however, can result not only in weak collaborations but, again, in reinforcing the assumption that the communication method preferred by certain cultures makes the individuals who descend from those cultures less valuable to the group than those who are acculturated to talk and interact in a way most comfortable to the "Culture of Personality."

IV. Methods for Creating Space for Silence Within Group Work

As collaboration becomes a new normal within legal education, legal educators have an opportunity to create an inclusive space for collaborative learning, one that embraces a wide variety of student learning preferences. Allowing opportunities for independent work, slowing down before talking, and listening to others before speaking provide space for our students with introverted dispositions to feel, and to be, the most valuable they can be to a collaborative endeavor. More important, perhaps, creating inclusive collaborative processes can help to redefine what it means for collaborations—

189. *Id.*

190. *Id.* at 829.

191. *Id.* at 828.

192. *Id.*

193. *Id.* at 829.

194. *Id.* at 828; Robert R. McCrae and Antonio Terracciano, *Personality Profiles of Cultures: Aggregate Personality Traits*, 89 J. PERSONALITY & SOC. PSYCHOL. 407 (2005). Other cultural differences may affect collaboration as well. Women often "pay a social penalty" for displaying signs of extroversion. See SHERYL SANDBERG, *LEAN IN: WOMEN, WORK, AND THE WILL TO LEAD* 17 (2013). Law firm culture—"junior" and "senior"—also affects collaborations and the rules around speaking, following, and responsibility. See generally O'Grady, *supra* note 2.

and the collaborators who populate them—to be successful. One way to foster successful collaborative experiences is through providing a breadth of exercises and strategies within the classroom, including those that encourage silence and contemplation. This section describes four such group techniques that can serve as “another arrow in a teacher’s quiver of pedagogical tricks”¹⁹⁵ and that can allow law faculty, in an intentional way, to include all learning styles in collaborative classroom endeavors.

A. Brainwriting

Brainwriting is a written brainstorming process.¹⁹⁶ Its goals are similar to those of the traditional oral brainstorm—to generate multiple ideas in an effort to reach a solution for a problem being considered. However, rather than the group members orally presenting one idea at a time, brainwriting allows each participant to write her ideas on paper first. This writing process builds individual introspection into the traditional group brainstorming space and helps achieve what the research tells us about how important independent thought or reflection is to the production of more, and more creative, ideas.¹⁹⁷

There are multiple brainwriting templates and techniques,¹⁹⁸ though the general process is quite simple and requires minimal preparation. In fact, the only preparation needed is one brainwriting template for each group participant.¹⁹⁹ The template is a piece of paper with a space at the top to lay out the problem the group is being asked to consider. Below the problem is a grid, which is a series of rows (usually four to six, depending on the number of people participating in each group) and three columns. The rows are for the participants; the columns are for their ideas. Typically, the groups would be between three and six participants.

After being presented with a clearly identified problem, each participant is given a set period of time to generate written options for resolving the problem. On their brainwriting templates, the participants are instructed to write down a number of ideas, typically at least three, in the first row. Once time is called, the participants pass their template to the person on their right. As the papers are passed around the group, each participant can review ideas written by others. She can then use those ideas either to build on new ones, or she can to add an entirely new idea. The brainwriting process concludes when each participant has her original template back. At that point, the group can

195. BRUFFEE, *supra* note 13, at 9.

196. THOMPSON, *supra* note 131, at 128-29. *See generally* WILSON, *supra* note 146.

197. *See* discussion *supra* Part III.B.

198. One commonly utilized brainwriting method is the “6-3-5 method.” The 6-3-5 method represents six group members writing down three ideas in five minutes. *See What is “Brainwriting”?*, UNIV. OF CENTRAL OKLA., https://www.uco.edu/academic-affairs/cqi/files/docs/facilitator_tools/brainhan.pdf (last visited Mar. 23, 2016).

199. WILSON, *supra* note 146, at 53.

have an oral conversation about the specific ideas that emerged during the writing process and which ideas are worth exploring further.

The brainwriting process can be used in a variety of classroom contexts. Within a clinical program, the following serves as one example: In case rounds, a student identifies she is struggling with the fact that her client is not returning her phone calls and that trial is in a week. After unpacking the facts of the case, but before diving into possible options, the other students are divided into groups and each is given a brainwriting template. To ensure everyone is working toward the same goal, the specific problem as identified by the group is written at the top of each template. Each student is given three minutes to come up with three possible solutions. Student 1 writes in the first row: continue to call the client every day; call the client's mother; and mail the client a letter. Student 2 then is passed Student 1's sheet (while Student 3 gets Student 2's sheet, and so on), and adds, in the second row: call every day but at different times; go to the client's workplace; mail a certified letter. Student 3 then gets Student 2's sheet and continues to add. Among the multiple sheets, duplicate ideas are fine, as are unconventional ones. When their original sheets are returned to them, participants in the small group can have a discussion about which ones to present to the larger group for further discussion.

Brainwriting also could be used in a doctrinal class. For example, in a torts class, after reading the case facts, students could be asked to consider what harms Mrs. Palsgraf suffered. In a criminal law class, students might be asked engage in a brainwrite considering possible legal interventions for persons suffering from mental illness who commit crimes. Though the options for application of this method are endless, brainwriting works best when the problems or ideas being considered are narrow to help increase the relevance and applicability of the ideas generated.

Multiple studies suggest the quantity and quality of ideas improve when using this method, in large part because it reduces production blocking, as students are able to express their ideas as they come rather than waiting their turn;²⁰⁰ yet brainwriting is not without critics. Two complaints asserted by participants recently asked to engage in this process were that it slowed them down too much, interfering with their ability to dig in and begin discussing the topic at hand and, for one participant, it increased her anxiety about what people would write in response to her written ideas, distracting her from the task. These complaints lend support to the ultimate conclusion here, which is that there is not one technique that works for all. Rather, varying the processes used may reach more students and be more responsive to the learning and collaboration preferences of different individuals. Brainwriting, in particular,

200. WILSON, *supra* note 146, at 44 (citing ALEX F. OSBORN, *APPLIED IMAGINATION: PRINCIPLES AND PROCEDURES OF CREATIVE PROBLEM-SOLVING* (3d ed. 1963), and Paul B. Paulus & Vincent R. Brown, *Enhancing Ideational Creativity in Groups: Lessons from Research on Brainstorming*, in *GROUP CREATIVITY: INNOVATION THROUGH COLLABORATION* 110 (Paul B. Paulus & Bernard A. Nijstad eds., 2003)).

creates a space, indeed an expectation, for all individuals to participate and be accountable, while reducing the risk that a minority of voices will dominate.

*B. Chalk Talks*²⁰¹

Chalk talks are used to construct silent conversations among students in a classroom. Chalk talks lend themselves well to reflecting on experiences, but also are useful to generate ideas to a problem or check in on student learning. Despite the name, a chalkboard is not required.²⁰²

Like brainwrites, chalk talks allow students to independently consider an idea or a problem and react both substantively and temporally in a way that feels comfortable to them. Chalk talks also allow space for disagreement and debate, which, as noted in Part I, may improve creativity but also may discourage individuals, particularly conflict-avoidant ones, from orally expressing themselves.²⁰³

This technique can be best explained with an example from my own clinic. In preparation for a class on assumptions, taught late in the semester, we ask our students to reflect broadly on all aspects of their clinic experience and to consider an assumption that they had at the outset of the semester that was challenged by their clinic experience. Our goals for this class are to check in on student learning and to provide students with a space for reflecting. We ask the students to email the faculty: (1) the assumption; (2) how and when the assumption was challenged; and (3) what they learned from that experience. We then pull one sentence from each person's submission, focusing on those that seem to connect with other students' experiences or that might trigger an engaging discussion in class. The phrases are kept anonymous. We print up each sentence on a sheet of paper, paste it in the center of a larger piece of easel paper, and tape the easel papers to the seminar room walls before class begins. Each student is handed a different colored marker and advised that she has approximately fifteen to twenty minutes to walk around the room, read each excerpt, and write any reactions she has. If they want, students may also write their reactions to the written comments of others that preceded them. Because one of the primary purposes of the chalk talk is to allow students space to consider assumptions and respond to them, the chalk talk is a silent conversation; talking is not permitted while students are reading, reflecting on, and reacting to the excerpts. The end result is what one might expect

201. Professor Margaret Johnson introduced me to "chalk talks" while she was a Visiting Associate Professor in our Domestic Violence Clinic in 2009-2010. Our clinic has used them at least once every semester since then.

202. The phrase "chalk talk" originates from a man named Frank Beard who drew illustrations of very short stories as part of exhibitions to support the Methodist Church, and then, later, to support his family. Mr. Beard, who was deaf, used crayons and sometimes chalk to complete his sketches. Although the sketching was the primary focus, Mr. Beard did include a short lecture at the beginning of his chalk talks. See Frank G. Carpenter, *Chalk Talk: An Interview with Frank Beard on American Caricature, Illustrated by Himself*, DESERET NEWS, Sept. 17, 1895.

203. See discussion, *supra* Part I(C) and (D).

following an oral conversation—support for some ideas; generation of new ideas; and disagreement about others.

During our assumptions class, one student shared this assumption: “My assumption ... was that the women who came in [to get a civil protection order] would have not ever been the aggressors in their relationships and/or not fought back to the extent that we’ve seen.” We excerpted that and placed it on the easel paper. In response, students commented: “I think this goes to the prevalence of our perception of these women as victims. Also goes to how we define what a victim is or what she should look like”; “I was shocked at how hard it was to convince our client that she wasn’t the primary aggressor or cause for violence”; “It was also clear that cops have this same assumption of what a ‘victim’ is supposed to be and that may make them more or less eager to help”; “I never had a client I thought was the primary aggressor in the relationship”; “Yes! Goes to the complexity of the relationships. Just because the P has been the aggressor doesn’t take away/detract from their abuse.”

In response to a second assumption, “going into clinic, I assumed that our clients would be much more upset and would rely heavily on the student attorneys for moral support,” the following written conversation occurred, with students using arrows to indicate that their comment was in reference to a prior one: “I remember laughing with clients outside/before TPO hearings—not what I expected”; ⇒ “Some did, it’s very client specific. Being part of this clinic shows how differently people can experience and respond to similar events and traumas”; ⇒ “Which can be a problem on direct because judges sometimes seem confused when people don’t react how they expect them to”; ⇒ “Our clients are real women and are so much more than a stock story or stereotype”; ⇒ “Yes!!!”

Chalk talks could also be used in a seminar or a doctrinal classroom. Beyond assessing students’ substantive learning, chalk talks can be effective ways to introduce students to a sensitive subject or to encourage a minority of students who may be less likely to bring up their views for fear of being negatively evaluated. For example, if a professor is attempting to surface people’s positions or thoughts on rape in a criminal law class or Obamacare in a tax class, a chalk talk airing student positions could be used. A chalk talk also could be used at the beginning of a course to introduce students to a frame for considering multiple theoretical legal underpinnings they will be studying throughout the semester to allow them to formulate ideas early on. For example, in a family law class, a professor could use a chalk talk to ask students to react to the relationship of the state to the family, with each of the chalk talk quotes pulled from cases or other seminar readings assigned throughout the semester relating to different components of family (e.g., spouse to spouse; parent/child; grandparents’ rights; etc.).²⁰⁴ A chalk talk also could be used how we used it in our clinic—as a wrap-up to the students’

204. Thank you to Professor Margaret Johnson for sharing her expertise and suggesting these applications of chalk talk to the doctrinal classroom.

experience with the substantive law or seminar, or to reflect on specific issues students engaged with over the course of the semester.

Although some students have commented they would rather launch into a discussion than spend time writing first, the vast majority of our students, when reflecting on their chalk talk experience, identify it as an incredibly positive and powerful one and specifically express their appreciation for having an opportunity to think through their reactions at their own pace before engaging in a larger group conversation.

C. Nominal Group Techniques

The Nominal Group Technique (NGT)²⁰⁵ is another variation on a small group discussion. Unlike brainwriting, however, NGT imposes a process that facilitates interaction, but after incorporating intentional silence. Group members first work independently and then come together to discuss a topic and try to reach consensus.²⁰⁶ Although variations exist, generally NGT is a five-step process. First, a faculty member identifies a problem for participants to consider. Second, each participant is asked to silently write down ideas within a set period of time. This process works best if participants are provided index cards to write their ideas, one on each card. Third, after time is called, the participants either share their ideas orally, using a round-robin approach as a group member or the professor captures them on the board, or collects the ideas and shares by posting them on a board in the front of the room or via email. A round-robin method ensures that students are given equal opportunity to share their ideas; collecting the ideas and posting them helps maintain anonymity, which, in turn, may ease evaluation apprehension or the self-censoring of controversial ideas.²⁰⁷ Fourth, the group is asked to discuss each of the ideas, or a selection of the ideas that they want to learn more about. Finally, the participants vote on and rank the ideas and either further discuss those with the most votes or move forward with the top-ranked idea.²⁰⁸

The NGT imposes a structure of equal participation among all group members; it supports those who may be more deliberate or, simply, slower in their thinking than others for whom oral brainstorming is more comfortable. NGT also helps to reduce exclusion of some group members by giving

205. See Rietzschel et al., *supra* note 148, at 249. For further discussion, see SCALLEN ET AL., *supra* note 19, at 105.

206. THOMPSON, *supra* note 131, at 130-31; Rietzschel et al., *supra* note 148, at 249; see also SCALLEN ET AL., *supra* note 19, at 105 (identifying multiple techniques for “deciding how to decide.”). Many clinical programs use a similar technique called a “quickwrite” in which students are given an opportunity to reflect on a question on their own, individually. They often are not required, however, to share the ideas during a quickwrite; the goal is more to give participants an opportunity to warm up to an in-class discussion.

207. One person expressed, when engaging in the brainwrite, that she was nervous about what other people were thinking of her ideas and was eager to see what they wrote in response to them, distracting her from being able to focus on generating additional solutions.

208. Asmus & James, *supra* note 133, at 350.

individuals a greater sense that their personal effort is valuable and capable of influencing the group product.²⁰⁹ Finally, NGT avoids the concern of production blocking because ideas can be written down as soon as they are generated. And it works. Multiple research and epistemological studies suggest that “not only do nominal groups outperform real groups in terms of idea generation, they are just as likely to select superior ideas and are just as satisfied with the process as interactive groups.”²¹⁰

D. Cyberstorming and Other Forms of Electronic Brainstorming

Electronic brainstorming, or cyberstorming, is a final tool that allows individuals space and time to think before sharing ideas. Multiple options exist for cyberstorming,²¹¹ but perhaps the most straightforward is through email. As with brainwriting, one individual takes the lead on generating as many ideas as she can to a clearly defined problem or question. Her ideas are electronically circulated to another team member, who can then add his or her own or build on the ideas presented by the preceding participant/s. In order to be most effective, the group members should agree to a set time by which they will respond to the email received and share their own ideas. As with the other techniques, electronic groups have been proved to generate better results than oral, interactive groups. For reasons similar to those identified in NGT and brainwriting, researchers have found that production blocking is essentially eliminated when individuals “type or write simultaneously.”²¹²

The foregoing techniques are options for varying classroom exercises in ways that may be more inclusive of a variety of learning preferences. They are not perfect and do not remove all of the barriers identified in Part III, *supra*. But, they are tools for educators to use that can provide students more opportunities for success in collaborative work within classrooms, and beyond.

V. Cultivating a Reflective Collaborator

The foregoing provides faculty methods for incorporating intentional silence into collaborative endeavors. While important to reaching students with a variety of learning preferences, using those methods alone will not necessarily help our students learn what their learning and collaborative preferences are or how to manage future collaborations. Although some students may have a strong sense of their learning preferences and, therefore, may have real clarity on how they approach collaborations, others may not have had opportunities to intentionally consider how they, or the particular behavior patterns they have learned, affect their collaboration and communication styles. Given the increasing collaborative opportunities within the legal profession, “the time is

209. *Id.* at 351.

210. THOMPSON, *supra* note 131, at 131.

211. WILSON, *supra* note 146, at 29-30.

212. Nijstad et al., *supra* note 134, at 532.

right” to prioritize teaching collaboration as an essential lawyering skill and to give students these intentional opportunities.²¹³

Teaching students how to be successful collaborators requires consideration of a skills-based set of teaching goals and substantive ideas relating to collaboration, as well as a frame over the course of a semester that emphasizes collaboration as a professional skill. Not every law school course provides sufficient opportunities for such experiences and self-reflection. Clinics and other experiential-learning programs—externship programs with in-house seminars, first-year lawyering programs, and collaborative simulation courses, to name a few—are uniquely positioned to teach collaboration skills, as they often provide multiple opportunities to collaborate over a semester and provide opportunities that help shape students’ lawyering identities, assess their professional values, and understand the culture of professional competence. For many of these programs, teamwork and group work are structural components of their design: Students may be paired as co-counsel on cases or cosupervised, or teamed on systemic project work or longer-term classroom assignments; and seminars often include case rounds or small-group work.²¹⁴ Also, for many of these programs, collaboration skills are identified among the core competencies considered critical to a student’s learning and, as a result, such skills often are considered as part of the student’s overall grade.²¹⁵

One way to help students understand their collaborative skills is through an in-class seminar. In Georgetown’s Domestic Violence Clinic, we pair our

213. SCALLEN ET AL., *supra* note 19, at 16-17. For most clinicians, teaching collaborative skills is, and has been for decades, a “fundamental objective.” O’Grady, *supra* note 2, at 513-14. Clinical law programs have historically embraced the value of fostering collaborative skills to prepare students for the practice of law. According to Professor Catherine Gage O’Grady, clinical law programs are most likely to mirror professional practice and are “uniquely situated to teach collaboration skills.” *Id.* However, even clinical faculty members experience barriers to being intentional about how we ask students to collaborate: Clinical faculty members often have limited time, given their case and student loads, to do more than focus on “traditional” lawyering skills such as counseling and fact investigation and often have time only to triage collaborative challenges; clinicians may assume that law students’ past experiences with collaboration provide them the tools needed to navigate their clinical collaborative relationships; clinical faculty members may assume there *is* a best way to approach collaboration—based on their own preferences and experiences—and, therefore, may expect that this style will be comfortable for all students; and clinicians may subscribe to the “Extrovert Ideal,” consciously or unconsciously, and reward students who contribute the quickest. Clinic students may experience uncertainty around when or whether to raise collaboration challenges, for fear that it will negatively affect their clinic grade, or because they feel like they are “tattling” on their partners or undermining them if they seek out faculty members to discuss collaboration challenges. Students also may believe that they are being overly confrontational if they identify challenges within the collaboration or may subscribe to the belief that they should just make problem collaborations work, even if it means engaging in a collaborative method that is neither comfortable nor reflective of their learning styles.

214. SUSAN BRYANT, ELLIOTT S. MILSTEIN, & ANN C. SHALLECK, *TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY* 119 (2014).

215. O’Grady, *supra* note 2, at 513-14.

students for their direct client work. Integral to this pairing is a clinic seminar class early in the semester on collaboration. During that class, we identify the professional norm of collaboration and name it as a skill similar to the skills we teach in other seminars, such as litigation skills, client counseling, and fact investigation. Identifying collaboration as a skill on par with the other skills they are learning compels students to move past the pervasive assumption—often based on their own past, negative experiences—that collaborative relationships simply “are what they are,” or that when collaborative relationships are challenging, the only option is to endure until the project is complete. One of our primary goals for this class is to help students identify strategies to improve collaborative relationship, just as they would develop strategies for improving interviewing or negotiation skills.²¹⁶

We begin our collaboration class with an informal personality “assessment” exercise.²¹⁷ The assessment is not meant to be scientific or to label students’ preferences as good or bad. Instead, the goal of the exercise is to help students consider their approaches to problem-solving, conflict, communication, and work style, and how those approaches may be relevant to their clinic collaborations. Because collaboration challenges often are tied to the communication styles of the participants, it may be enough to arm students with an understanding of whether they fall toward communication preferences that tend towards introversion or extroversion, and what that may mean for their collaborations. An assessment focused on those specific traits is provided in Appendix A.²¹⁸

After the students complete the in-class exercise individually, we then ask them to compare their results with those of their clinic partner and consider three questions: First, what similarities did they notice, and what potential collaborative strengths or challenges might arise from those similarities? Second, what differences did they notice, and what potential collaborative strengths and challenges might arise from those differences? Finally, what concrete strategies can they identify for the most significant potential challenge

216. This seminar, created by Professors Deborah Epstein and Laurie Kohn, is described in full in DEBORAH EPSTEIN, JANE AIKEN & WALLACE MLYNIEC, *THE CLINIC SEMINAR* (2014).

217. Along with the class plan, the book contains an informal “quiz” that requires them to select one out of five options that are closest to their point of view on various topics, including: group or individual performance; internal or external control; quick or deliberative decision-maker; detail-oriented or big-picture oriented; and creative/intuitive or logical/planner. *Id.* at 427-34.

218. Perhaps the best way to gain this understanding is to ask students to engage in the Myers-Briggs Type Indicator assessment. However, administering that assessment requires both time and training, neither of which may be readily available. As such, more informal personality assessments, such as those found at *About Personality*, *supra* note 84, and *Personality Theory and Research*, PERSONALITY PROJECT, <http://personality-project.org/> (last visited Mar. 23, 2016), though not as thorough as the Myers-Briggs, may provide sufficient insight for students to begin to identify and reflect on their personality traits and how those interact with their collaboration preferences and styles. Clinicians Deborah Epstein, Jane Aiken and Wally Mlyniec also identify an informal personality assessment. See EPSTEIN, AIKEN & MLYNIEC, *supra* note 216.

for their partnership, and what they could do or say now, before conflict arises, to prepare for or avoid altogether such challenges? For example, two students who prefer to work independently on their litigation materials while they are drafting them may end up with a solid direct examination and closing argument, but the overall case may suffer by a disjointed or even inconsistent case theory. Similarly, understanding that one person within the collaborative relationship is an internal processor and that the other is an external one can help students understand behaviors displayed by their partners early on, and to think about strategies to help support each other's need for either discussion or space.

The conversation that begins in this collaboration class carries throughout the semester. Collaboration "check-ins" are normalized; students have better clarity about why tensions may arise within their partnerships, and they generally do not get "stuck" in unhelpful assumptions about their partner's motivations. This, in turn, depersonalizes negative collaborative experiences and instead requires students to identify solution-oriented options. When students have an understanding not only of their own collaborative identity, but also their colleagues', it becomes harder to blame and easier to problem-solve; harder to throw up their hands and easier to identify concretely how to improve the relationship. For students with more introverted dispositions, in particular, these conversations can help protect against the "Extrovert Ideal" and provide them with an opportunity to create collaborative structures that allow for the space and silence they may need to feel and to be most successful.

CONCLUSION

We are at a critical moment in legal education. Collaboration, long a practical reality for the vast majority of legal professionals for at least some component of their work, has been long ignored within the law school curriculum. Based on student dissatisfaction with the law school experience, concern over the harm of law school's individualistic culture, and learning benefits of group work, this rebuff appears to be waning. And it should. As a pathway toward best practices for our profession, law school should embrace collaborative learning opportunities and, when the circumstances allow, help students reflect upon what it means to be a successful collaborator. In doing so, legal educators must consider how to design classroom exercises and teach collaborative skills in ways that value all students—including students who historically have been overlooked in favor of the quick and regular participant, and whose social and learning preferences for solitude and reflection are often devalued within professional and educational settings. While encouraging collaboration and collaborative activities within the classroom and beyond, and recognizing the importance of silence, space, and opportunity for reflection, legal educators create an environment that implicitly and explicitly values not only contributions and approaches of the loudest and most assertive, but those of the more contemplative and deliberate. Valuing the rich variety of communication patterns of students allows them to be unencumbered by

their environmental and learning preferences and promotes the notion that everyone, no matter what her style of interaction, can help to enrich the learning environment and her chosen profession.

Appendix A**INFORMAL PERSONALITY TYPE ASSESSMENT²¹⁹**

PLEASE CIRCLE 1-5

1 (COMPLETELY TRUE); 2 (MOSTLY TRUE); 3 (NEITHER TRUE NOR FALSE); 4 (MOSTLY FALSE); 5 (COMPLETELY FALSE)

1. I prefer one-on-one conversations to group activities.
1 2 3 4 5
2. I often prefer to express myself in writing.
1 2 3 4 5
3. I enjoy solitude.
1 2 3 4 5
4. I seem to care less than my peers about wealth, fame, and status.
1 2 3 4 5
5. I dislike small talk, but I enjoy talking in depth about topics that matter to me.
1 2 3 4 5
6. People tell me that I'm a good listener.
1 2 3 4 5
7. I'm not a big risk taker.
1 2 3 4 5
8. I enjoy work that allows me to "dive in" with few interruptions.
1 2 3 4 5
9. I like to celebrate birthdays on a small scale, with only one or two close friends or family members.
1 2 3 4 5

219. Modified from CAIN, *supra* note 5, at 13-14. The more 1-2 answers, the more a person tends toward introversion. Conversely, the more 4-5 answers, the more a person tends toward extroversion. A person who has mostly 3s is an ambivert.

10. People describe me as “soft-spoken” or “mellow.”
1 2 3 4 5
11. I prefer not to show or discuss my work with others until it’s finished.
1 2 3 4 5
12. I dislike conflict.
1 2 3 4 5
13. I do my best work on my own.
1 2 3 4 5
14. I tend to think before I speak.
1 2 3 4 5
15. I feel drained after being out and about, even if I’ve enjoyed myself.
1 2 3 4 5
16. I often let calls go through to voice mail.
1 2 3 4 5
17. If I had to choose, I’d prefer a weekend with absolutely nothing to do to one with too many things scheduled.
1 2 3 4 5
18. I don’t enjoy multitasking.
1 2 3 4 5
19. I can concentrate easily.
1 2 3 4 5
20. In classroom situations, I prefer lectures to seminars.
1 2 3 4 5