

INSIDE-OUT: BRINGING LAW STUDENTS  
FACE-TO-FACE<sup>1</sup> WITH INJUSTICE

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INTRODUCTION

In 1995 Fran Quigley introduced legal education to transformative social justice learning, a well-established theory of adult education.<sup>2</sup> In his article, *Seizing the Disorienting Moment*, Quigley persuasively demonstrated that law school clinics are a form of such learning and argued that they should be a core element of a complete legal education.<sup>3</sup>

The Inside-Out Prison Exchange Program brings together students who are in prison and students who are in a traditional higher education setting to learn from and with each other, using a pedagogy created for this purpose.<sup>4</sup> Over the past twenty years, the Inside-Out model has become widely recognized by educational scholars as an exemplary form of transformative social justice learning,<sup>5</sup> and has been adapted to a wide variety of higher

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<sup>1</sup> By ethics Levinias means the *face-to-face* encounter with a unique human being for whom I am uniquely and inescapably responsible. Steven Shankman, *Turned Inside-Out: Reading the Russian Novel in Prison after Levinias*, TURNING TEACHING INSIDE OUT, A PEDAGOGY OF TRANSFORMATION FOR COMMUNITY-BASED EDUCATION [hereinafter TURNING TEACHING INSIDE-OUT] (Simone Weil Davis & Barbara Sherr Roswell eds., 2013), 143-153, 145.

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<sup>2</sup> Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 CLINICAL L.REV.37 (1995).

<sup>3</sup> *Id.*

<sup>4</sup> <https://www.insideoutcenter.org/> [hereinafter Inside-Out Program].

<sup>5</sup> See Dan Butin, *Justice-learning: service-learning as justice oriented education* in EQUITY & EXCELLENCE IN EDUCATION 40(2), 177-183 (2007).

educational disciplines.<sup>6</sup> In this article, I argue that adding Inside-Out courses to our law school curricula can play a pivotal role in justice learning, with an eye towards transforming our deeply flawed criminal system.<sup>7</sup>

Bryan Stevenson, founder and Executive Director of the Equal Justice Initiative, is today one of the most prominent American lawyers advocating for the reform of our criminal system.<sup>8</sup> His book *Just Mercy* is one of the texts I use in my Inside-Out course.<sup>9</sup> When Stevenson addresses large audiences of young adults across the country, he offers a four-part template for social change:

1. Get proximate to the suffering.
2. Change the narrative.
3. Be uncomfortable.
4. Hope is your Superpower (Alternatively, hope is the enemy of injustice).<sup>10</sup>

This template echoes the Inside-Out model: bring people who have different life experiences together so that they may learn from each other with an eye toward creating a more just world for all of us. I suggest that the most powerful group that can benefit from this experience is America's next generation of lawyers.

I first learned about Inside-Out on Martin Luther King Day, 2015, when Swarthmore College Political Science Professor Keith Reeves gave a talk at my law school. Keith talked that day about his experience taking his undergraduate students into a prison where they had a combined class with students inside the facility.<sup>11</sup> I was mesmerized and perplexed. Mesmerized because the Inside-Out

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<sup>6</sup> See note 29.

<sup>7</sup> I choose to refer to our set of criminal laws, institutions, and policies as 'criminal system' rather than 'criminal justice system' or 'criminal legal system' because the latter imply that the current system promotes justice.

<sup>8</sup> <https://eji.org/bryan-stevenson/>.

<sup>9</sup> Bryan Stevenson, *JUST MERCY*, (Random House, 2014).

<sup>10</sup> See <https://www.swarthmore.edu/commencement-2019/bryan-stevenson>.

<sup>11</sup> See <https://www.swarthmore.edu/meet-swarthmore/inside-out-prison-exchange>.

program offered me, as an educator, an opportunity to bring my experiences as an indigent defender to a different audience than my clinic students.<sup>12</sup> My Inside-Out class would be comprised of ten (10) students serving a sentence in a correctional institution,<sup>13</sup> and (10) law students. While not all of the law student participants would end up practicing criminal law, all of them would become lawyers, legislators, judges, policy makers; in short, people with power. I was perplexed because Inside-Out had not yet made its way into legal education, or at least I had never heard of it during my many years of clinical teaching. I was inspired enough by what I heard that I participated in the next Inside-Out instructor training offered.<sup>14</sup> At the training, I learned that Giovanni Shay had taught the first Inside-Out law course in 2010 and wrote about her experience.<sup>15</sup>

Once I began teaching my Inside-Out course, I realized very quickly that participants were reaping benefits beyond what I had envisioned. I am constantly amazed at how Inside-Out benefits me,<sup>16</sup> and all of my students.<sup>17</sup> For purposes of this article, I will focus on

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<sup>12</sup> I have been a criminal defense clinical professor for 20 years. I cherish the transformative nature of the law school clinic and I have welcomed the opportunity to bring a distinct transformative experience to a different set of law students through my Inside-Out course.

<sup>13</sup> As an indigent defender for more than 25 years, I have gotten to know the people who are subject to our criminal system, know that they are disproportionately poor people of color, and know that they have the same potential to be productive members of society as the free people I interact with every day.

<sup>14</sup> To read reflections on my transformational experience at the Inside-Out teacher training in 2015 visit <https://romiegr.tumblr.com/post/123646086697/inside-out-a-few-reflections>; See also, Deanna Chappell Belcher, *Fresh Starts Behind Bars...Teaching with the Inside-Out Prison Exchange Program*, NORTHWEST J. OF TEACHER EDUCATION, Vol. 13 : Iss. 1, Article 3, pp. 3-4 (2018). Available at: <https://pdxscholar.library.pdx.edu/nwjte/vol13/iss1/3>.

<sup>15</sup> Shay, *Inside-Out as Law School Pedagogy*, 62 J. LEGAL EDUC. 207 (2012).

<sup>16</sup> *Supra*, note 14; including Belcher at 11.

<sup>17</sup> One of my inside students last year reflected on why he loved the class, “for three (3) hours each week, I get to escape life inside.” Other benefits for inside students include being able to take part in meaningful discussions about reforming the system that directly affects them, and being afforded an educational opportunity that is usually reserved for the privileged. I am proud that my University offers inside students college credit for successful completion of the course. See Brett Dignan, *Learning to Counter Mass*

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articulating the unique benefits I see for law students and legal reform by including Inside-Out courses in law school curricula.

In Part I of this article, I describe the Inside-Out Program in more detail.

In Part II I argue that today's law students are not primarily engaged in justice learning or in recognizing the deeply flawed nature of our criminal system.

In Part III I demonstrate that Inside-Out is a model of transformative social justice learning that can be adapted to any number of law school courses.

In Part IV I distinguish Inside-Out from other law school experiential learning opportunities and explain its unique ability to foster empathy.

In Part V I explain how Inside-Out is also particularly well suited to expand law students' cultural proficiency.

In Part VI I offer guidance to law professors inspired to teach Inside-Out courses.

In Part VII I share my hope that by including Inside-Out in our law school curricula, our nation's future lawyers will lead us towards a more just criminal system and society.

## I. WHAT IS INSIDE-OUT

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*Incarceration*, 48 CONN.L.REV.1217 (2016) (noting that the educational opportunities offered to people in prison have steadily declined since 1994 and are inconsistent with research regarding the positive effects education has on recidivism). *See also* Butin, *supra* note 5, at 181 (noting that inside students may also begin to understand their particular situations within a larger theoretical context).

Inside-Out is an international program housed at Temple University.<sup>18</sup> Lori Pompa is the program's founder and Executive Director.<sup>19</sup> Over the past twenty-four (24) years, Pompa and others,<sup>20</sup> have developed the pedagogical model centered on a combined learning experience for students from the outside (free people attending an academic institution) and students on the inside (people serving a sentence in a correctional institution).<sup>21</sup> The educational model of Inside-Out is based heavily on dialogue, dignity, and equality, and encourages extensive self-reflection.<sup>22</sup> Although the subject matter of each Inside-Out course is up to the individual professor and her expertise, every Inside-Out course has an underlying current of social change.<sup>23</sup>

The Inside-Out program has trained more than 1,000 professors from more than 350 academic institutions to teach courses at more than 200 correctional institutions, reaching more than 50,000 students.<sup>24</sup> The number of law professors who are trained Inside-Out

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<sup>18</sup> <https://www.insideoutcenter.org/about-inside-out.html> (*The Inside-Out Center*).

<sup>19</sup> <https://www.insideoutcenter.org/inside-out-center.html>.

<sup>20</sup> The others include many people serving life sentences inside correctional institutions who are an integral part of the program.

<https://www.insideoutcenter.org/think-tank-phoenix.html>.

<sup>21</sup> <https://www.insideoutcenter.org/about-inside-out.html> (*The Inside-Out Prison Exchange Program*).

<sup>22</sup> <https://www.insideoutcenter.org/about-inside-out.html> (*The Inside-Out Praxis*); *See also*, INSIDE-OUT PRISON EXCHANGE PROGRAM INSTRUCTOR'S MANUAL (Temple University, 2016)[hereinafter INSTRUCTOR'S MANUAL], p. 6-7; *See also*, INSIDE-OUT PRISON EXCHANGE PROGRAM CURRICULUM [hereinafter INSIDE-OUT CURRICULUM], *Guidelines for Reflection*.

<sup>23</sup> *Id.* The subject matter of my Inside-Out course is Crime and Punishment in the United States. It is an advanced policy course on the American criminal system. This topic adds an additional layer of complexity to what is already a multilayered experience because the inside students, who are directly impacted by the system, are part of the conversation. The course goals are to explore the history and policies of our criminal system, expose injustices, and develop ideas for positive change.

<sup>24</sup> <https://www.insideoutcenter.org/network.html>;  
[https://www.insideoutcenter.org/PDFs\\_new/InfoGraphic\\_August2020\\_site.pdf](https://www.insideoutcenter.org/PDFs_new/InfoGraphic_August2020_site.pdf).

instructors is minute in comparison.<sup>25</sup> Although I am not suggesting that we judge a pedagogical model by its popularity, it is a model that has exploded in other higher education settings and the Carnegie Report encourages law schools to look at educational approaches from other disciplines.<sup>26</sup> There are two books,<sup>27</sup> and more than fifty (50) articles written on the pedagogy of Inside-Out.<sup>28</sup> A quick scan of Inside-Out courses reveals twenty-seven (27) subject matter areas that have used the model.<sup>29</sup> The number of subjects and variety of

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<sup>25</sup> I am aware of the following additional law professors who have offered Inside-Out courses to date: Giovanni Shay, Western New England University School of Law (2010 & 2012), Penelope Pether, Villanova University School of Law (2012), James Forman, Yale Law School (beginning 2017), Rose Corrigan, Drexel University Thomas Kline School of Law (beginning 2018), Rhea Ballard-Thrower, Howard Law School (beginning 2018), Emily Gran, Washburn School of Law (beginning December 2019).

<sup>26</sup> William M. Sullivan, et al., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 57 (2007) [hereinafter CARNEGIE REPORT].

<sup>27</sup> TURNING TEACHING INSIDE OUT; Steven Shankman, TURNED INSIDE-OUT: READING THE RUSSIAN NOVEL IN PRISON (Northwestern University Press, 2017).

<sup>28</sup> M. Bennallick, L. Österman, C. Stengel, G. Zampini, G. *Turning Gender Inside-Out: Delivering Higher Education in Women's Carceral Spaces*, JOURNAL OF PRISON EDUCATION AND REENTRY, 6(1)(2019). Norman Conti, *Intersection of Art and Science in an Era of Mass Incarceration*, STANTON HEIGHTS, 5(2), 372-393 (2018), doi: 10.15367/kf.v5i2.221; E. Metzger & S. Glazier, *Environmental Justice: Chemistry in Context for Prison Inmates and Non-majors*, LIBERAL ARTS STRATEGIES FOR THE CHEMISTRY CLASSROOM, 1266, 167-183, Washington, DC: American Chemical Society (2017). doi 10.1021/bk-2017-1266.ch010; *See generally*, <http://www.insideoutcenter.org/scholarship-inside-out.html>.

<sup>29</sup> African-American Studies, Anthropology, Art, Chemistry, Communications, Criminal Justice, Drama, Economics, Education, English, Gender Studies, Geography, History, Humanities, Mathematics, Nursing, Philosophy, Political Science, Psychology, Public Health, Public Policy, Religious Studies, Social Work, Sociology, Theater, Writing, Women's Studies. INSIDE-OUT INSTRUCTOR PLATFORM (available to all trained instructors).

courses developed speaks to the flexibility of the model.<sup>30</sup> The ability to adapt a course to the model is limited only by the professor's imagination. The common thread among all Inside-Out courses is that they seek to explore society, privilege and power in relation to their subject matter.<sup>31</sup> Because law, by definition, provides rules for society to live by, it is difficult to imagine a course in any area of law that should not explore these issues.<sup>32</sup>

As flexible as the Inside-Out program model is, its implementation requires a great deal of care.<sup>33</sup> A couple of years ago at the AALS Clinical Conference, I talked about Inside-Out among colleagues from other law schools. One colleague asked what appeared to be a simple question, "so you get these people in a room, and then what?" This is a great question and raises the pedagogical concerns that arise in bringing these two groups together. The people at the Inside-Out Center have been doing this work for many years and developed the model with this in mind. The first critical part of the model is the intensive weeklong teacher training.<sup>34</sup> The training incorporates methods from the field of social work for bringing two diverse groups together and facilitating difficult conversations

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<sup>30</sup> Philosophy: Exploring Death and Dying; English: The Literature of Confinement; Mathematics: Introduction to Number Theory; Public Health: Health and Inequality; Public Policy: Constitutional Controversies; Psychology: Infant and Child Development; Gender: Men and Masculinities. INSIDE-OUT INSTRUCTOR PLATFORM.

<sup>31</sup> See Jennifer Lanterman, *Transformative and Social Justice Dimensions of a Jail-based College Course*, DIALOGUES IN SOCIAL JUSTICE, 3(1), 46-65, 50 (2018).

<sup>32</sup> <https://www.merriam-webster.com/dictionary/law>; See also Taja-Nia Y. Henderson, *Teaching the Carceral Crisis: An Ethical and Pedagogical Imperative*, 13 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 104, 105 (2013)(The emergence of the American carceral state has implications for several areas of law, including constitutional law, administrative law, criminal law, sentencing, criminal procedure, civil procedure, legislation, employment law, civil rights, and immigration law).

<sup>33</sup>"[T]here are landmines everywhere in this work. It can be likened to a tightrope walk – a constant balancing act that calls for great care, attention, and consciousness in the navigations and negotiations that are necessary to make the program work." INSTRUCTOR'S MANUAL, p.2.

<sup>34</sup> <https://www.insideoutcenter.org/training.html> ("topics include curriculum development, setting parameters, institutional relationships, group dynamics, interactive pedagogical approaches, and much more").

without causing harm.<sup>35</sup> During this training, professors are given a seventy-six (76) page instructor manual,<sup>36</sup> as well as the Inside-Out curriculum that is used as a jumping off point for any Inside-Out course.<sup>37</sup> Jennifer Drew describes the training as enviable and believes that the intense level of training is one reason the program has been so successful.<sup>38</sup>

A second critical component of Inside-Out provided by the Center is ongoing support from very experienced people. Pompa has a wealth of knowledge and experience that she readily shares. In addition to Pompa, the Center has five (5) experienced staff members who are available to trained instructors.<sup>39</sup> Trained professors become part of a community connected through the unique Inside-Out experience. The Center operates an international list-serve as well as an online resource platform that houses the curriculum, sample syllabi, reading materials and course exercises related to teaching Inside-Out courses.<sup>40</sup> The Center also provides additional opportunities for collaboration and the exchange of ideas among Inside-Out colleagues.<sup>41</sup>

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<sup>35</sup> Debra Chop advocates bringing social work education to the legal profession for similar reasons. Debra Chopp, *Addressing Cultural Bias in the Legal Profession*, 41 N.Y.U. REV.L.&SOC.CHANGE 367, 390 (2017) (Social workers recognize the extent to which a culture's structures and values may oppress, marginalize, alienate, or create or enhance privilege and power; gain sufficient self-awareness to eliminate the influence of personal biases and values in working with diverse groups; recognize and communicate their understanding of the importance of difference in shaping life experiences; view themselves as learners and engage those with whom they work as informants).

<sup>36</sup> INSTRUCTOR'S MANUAL.

<sup>37</sup> INSIDE-OUT CURRICULUM.

<sup>38</sup> Jennifer Drew, *The Right Preposition: Objectifying the Relationship between Prison Postsecondary Education Programs, Departments of Correction, and Academic Institutions*, 33 ST. LOUIS U. PUB.L.REV. 317, 320-21 (2014).

<sup>39</sup> <https://www.insideoutcenter.org/inside-out-center.html>.

<sup>40</sup> INSIDE-OUT INSTRUCTOR PLATFORM.

<sup>41</sup> During the pandemic, the Center has offered a number of valuable online learning opportunities. One featured three returned citizens discussing the effects of the pandemic on those who are inside; another featured writer



## II. WHY LAW SCHOOLS NEED INSIDE-OUT

Law schools need Inside-Out courses for many reasons. The first derives from the legal profession itself. Seeking justice is a core value of being a lawyer.<sup>42</sup> Since the publication of the McCrate Report in 1992, critics have noted an erosion of this core value in the legal profession and have asserted that legal education bears some responsibility for this.<sup>43</sup> Bezdek elaborates:

Law schooling exaggerates the importance of external rules, claims and defenses, and analytic reasoning. It treats these as the subject of thought processes that can and should be conducted independently from other thought processes. This compartmentalization is one of the basic ways in which traditional legal education signals the irrelevance of social context, moral reasoning, and concerns for justice and equity.<sup>44</sup>

In 2007, the Carnegie Report cited the failure of law schools to focus on the social and cultural contexts of legal institutions as one

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John Edgar Wideman and his brother Faruk, whose relationship was the subject of Wideman's book *BROTHERS AND KEEPERS* (Mariner Books, 2005). Faruk, now a returned citizen, co-teaches an Inside-Out course that is required of all Pittsburgh police recruits.

See <https://www.gazettenet.com/Columnist-Razvan-Sibii-37771690> (Razvan Sibii, a senior lecturer of journalism at UMass Amherst, argues that the Police Training Inside-Out program should be implemented in every police academy in the country).

<sup>42</sup> ABA MODEL RULES OF PROFESSIONAL CONDUCT, PREAMBLE: A LAWYER'S RESPONSIBILITIES, NUMBER 1 (2016); MCCRATE, AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT-AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, p. 213 (1992)[hereinafter MCCRATE REPORT].

<sup>43</sup> See Barbara Bezdek, *Reflections on the Practice of a Theory: Law Teaching and Social Change*, 32 LOY. L. A. REV. 707 (1999); CARNEGIE REPORT.

<sup>44</sup> *Id.* at 709.

cause of the profession's demoralization.<sup>45</sup> Because of the McCrate and Carnegie Reports, American law schools faced tremendous pressure to rethink legal education. In response to these and other criticisms, law schools embarked upon expansive curricular changes including putting greater emphasis on experiential education. This article does not seek to criticize the substantial progress that has been made in law school curricula, but to offer another dimension to expand justice learning in law schools.<sup>46</sup>

Another reason law students need the Inside-Out experience stems from the sweeping reforms needed in the largest legal system in our country. During the past decade, and more every day, the American criminal system has come under attack.<sup>47</sup> Many of us believe the system is unjust.<sup>48</sup> Police corruption and brutality, mass incarceration, and the lifelong consequences of criminal convictions that fall disproportionately on poor people of color, are frequent headlines.<sup>49</sup> There has been a plethora of legal scholarship and social science research on the subject.<sup>50</sup> Unfortunately, law school courses do not often give this massive problem the attention it is due.

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<sup>45</sup> CARNEGIE REPORT.

<sup>46</sup> Cf. Taja-Nia Y. Henderson, *Teaching the Carceral Crisis: An Ethical and Pedagogical Imperative*, 13 U. Md. L.J. Race, Religion, Gender & Class 104, 117 (2013) (noting that curricular gridlock and bar courses are sometimes excuses given for the slow pace of law school reform).

<sup>47</sup> Michelle Alexander, *THE NEW JIM CROWE: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (The New Press, 2010).

<sup>48</sup> I have been privy to countless individual injustices suffered by my clients' and witnessed the cumulative injustice as this system has become increasingly more punitive.

<sup>49</sup> See <https://www.themarshallproject.org/records/2528-police-corruption>; <https://www.nytimes.com/topic/subject/police-brutality-misconduct-and-shootings>; <https://www.npr.org/2019/08/14/751126384/mass-incarceration>; See also [https://www.americanbar.org/groups/criminal\\_justice/niccc/](https://www.americanbar.org/groups/criminal_justice/niccc/).

<sup>50</sup> See Dorothy Roberts, *The Social and Moral Cost of Mass Incarceration in African American Communities*, 56 STANFORD LAW REVIEW 1271 (2004); Danielle Jones', *When the Fallout of a Criminal Conviction Goes Too Far*, 11 STAN. J.C.R. & C.L. 237 (2015); THE GROWTH OF INCARCERATION IN THE UNITED STATES: CAUSES AND CONSEQUENCES (Nat'l Research Council, 2014), <https://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>.

Henderson highlights the dramatic disconnect between the urgency of this crisis on the one hand and its cursory examination in law school curricula on the other:

[W]hile law students are pedagogically insulated from thinking seriously about the 2.3 million people currently incarcerated in this country-- or the millions more who have a criminal conviction in their "background"-- hordes of convicted persons continue to live under a cloud of scrutiny and proscription, and the troubling trends of mass conviction and mass incarceration in the United States remain largely unchecked and unexamined as a matter of law.<sup>51</sup>

Tyrone Werts, 2013 Soros Justice Fellow and Inside-Out International Think Tank Coordinator, has often said,

The walls are built not only to keep certain people inside, but also to keep other people out.<sup>52</sup>

Sharon Dolovich refers to this reality as society's *carceral bargain*, keeping the people in prison invisible to the rest of society.<sup>53</sup> Dolovich suggests that society's normative carceral bargain is replicated in law schools by the absence of prison law in their curricula -- keeping prisoners invisible to the people best positioned to vindicate their rights.<sup>54</sup> I propose that bringing law students into prisons to learn alongside classmates on the inside is turning the normative carceral bargain on its head.

As lawyers, we have the obligation, the tools, and the power to work to change legal systems that are unjust. As legal educators, we have an obligation to prepare the next generation of lawyers to

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<sup>51</sup> Henderson, *supra* note 46, at 105. *See also*, Sharon Dolovich, *Teaching Prison Law*, 62 J. LEGAL EDUC. 218 (2012).

<sup>52</sup> *See* <https://dialogueinstitute.org/insideout-pedagogy-and-dialogue>; <https://www.insideoutcenter.org/inside-out-center.html> (Werts, a returned citizen, helped Pompa start the Inside-Out program while he was serving a sentence inside Grateford prison in Philadelphia).

<sup>53</sup> Dolovich, *Exclusion and Control in the Carceral State*, 16 BERKELEY J. CRIM. L. 259, 267 (2011).

<sup>54</sup> Dolovich, *Teaching Prison Law*, *supra* note 51, at 229.

take on this very large and complicated task.<sup>55</sup> Deepening our students understanding of the criminal system's injustices and the types of reforms required should be a priority for American law schools. These goals are at the core of the Inside-Out experience.

### III. A MODEL DESIGNED FOR JUSTICE LEARNING

Inside-Out places law students in a *face-to-face* encounter with injustice, requiring them to think critically about their previous assumptions. My Inside-Out students start the semester by considering a Dostoyevsky quote, “[O]ne can judge the civilization of a society by entering its prisons.”<sup>56</sup> Law students have varied responses to what they think this quote means. One may suggest that people in prison are the most vulnerable people in a society, therefore, the quote suggests that how you treat the most vulnerable is a reflection of your society's humanity. One of my inside students shared with the class what this quote meant to him, “We will always be judged by our criminal past.” Inside-Out offers law students the most proximate experience with our criminal system that they can have without being subject to it themselves. The result is that no law student can complete an Inside-Out course without asking themselves, what does justice look like, and, what am I going to do make my vision of justice a reality?

Inside-Out is an educational model based in experiential, community-based, and most importantly, transformational social

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<sup>55</sup> Shawn King, a journalist and activist for criminal system reform, published an article titled, *We must fully unpack the complicated evils of our justice system in order to build the sophisticated solutions we need*. (“[The graph demonstrating the growth of incarceration from 1975 to today] looks simple, but what’s behind it and inside of it is a beast unlike anything we’ve ever fought in modern American history.....Our problems are far more complicated, and sophisticated, and nuanced than most of our solutions.”) <https://medium.com/@ShaunKing/we-must-fully-unpack-the-complicated-evils-of-our-justice-system-in-order-to-build-the-630135a99e8a>.

<sup>56</sup> Fyodor Dostoyevski, *THE HOUSE OF THE DEAD* (1860).

justice learning.<sup>57</sup> American legal education is very familiar with experiential and community-based learning. These models are exemplified in law schools primarily through the live-practice opportunities of law clinics, externships, and pro bono lawyering. Because of Fran Quigley's article and others that followed, legal educators know that clinic teaching is a form of transformational social justice learning.<sup>58</sup> On the other hand, there has not been much legal scholarship about transformative social justice learning outside of the live-practice arena.<sup>59</sup> Inside-Out opens a wide avenue for law schools to incorporate this type of learning into doctrinal and other non-clinical courses.

Educational scholars have been studying transformational social justice learning since Jack Mezirow introduced the concept thirty (30) years ago.<sup>60</sup> This adult learning theory has three components:

- (1) Disorienting dilemmas are used to challenge students thinking;
- (2) Students are then encouraged to use critical thinking and questioning to consider if their underlying assumptions and beliefs about the world are accurate;

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<sup>57</sup> Butin, *supra* note 5, at 180-181; *See also* Lanterman, *supra* note 31, at 61 (researchers saw universal personal transformations among Inside-Out students).

<sup>58</sup> *See* Quigley, *supra* note 2; *See also* Jane Harris Aiken, *Striving to Teach "Justice, Fairness, and Morality"*, 4 CLINICAL L. REV. 1, 26 (1997).

<sup>59</sup> *Cf.* Barbara Bezdek, *Reflections on the Practice of a Theory: Law Teaching and Social Change*, 32 LOY.L.A.L.REV. 707, 709 (1999) (Bezdek and her colleagues developed first year Legal Practice Theory (LPT) courses at the University of Maryland Law School where students engage in a semester of trying to find solutions to legal problems of poor people); *See also*, Emily Hughes, *Taking First-Year Students to Court: Disorienting Moments As Catalysts for Change*, 28 WASH. U. J.L. & POL'Y 11 (2008).

<sup>60</sup> Jack Mezirow, TRANSFORMATIVE DIMENSIONS OF ADULT LEARNING 211 (1991) at 168; *See also*, Quigley, *supra* note 2, at 51-52.

- (3) The result is that students are transformed (alternatively, re-oriented), thinking about societal problems in new ways and looking for solutions.<sup>61</sup>

The Inside-Out model has each of these three components. First, visiting a prison is a very emotional experience.<sup>62</sup> Imagine how disoriented law students feel upon entering a prison.

[It is] an experience that's hard to shake. And that is one reason we do it. I do not want my students to shake these encounters easily; in fact, I want the students to be shaken by them.<sup>63</sup>

In reflecting on this experience after the first class one of my law students shared– “I felt heavy, I had a need to write.”<sup>64</sup>

Ironically and unfortunately, entering a prison is a rare occurrence for most law students and lawyers.<sup>65</sup> Law students in an

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<sup>61</sup> *Id.* at 167-164; Jack Mezirow et al., FOSTERING CRITICAL REFLECTION IN ADULTHOOD: A GUIDE TO TRANSFORMATIVE AND EMANCIPATORY LEARNING 12 (1990) AT 13-14; *See also*, Quigley, *supra* note 2, at 52.

<sup>62</sup> [T]he smells, sights and sounds, a sensory cacophony of stale sweat, old sneakers, clanging bars, crumbling cement, deafening announcements over the PA system, and men...hundreds of men, who seemed to be locked in some bizarre dance, a listless fugue arrested in time.

Lori Pompa, *Drawing Forth, Finding Voice, Making Change: Inside-Out Learning as Transformative Pedagogy*, TURNING TEACHING INSIDE OUT at 14 (Pompa graphically describes her first prison visit in 1985)[hereinafter *Drawing Forth*].

<sup>63</sup> Lori Pompa, *Service-Learning as Crucible: Reflections on Immersion, Context, Power, and Transformation*, MICHIGAN JOURNAL OF COMMUNITY SERVICE LEARNING (Fall 2002, p. 67)[hereinafter *Service-Learning as Crucible*].

<sup>64</sup> The quotes from my law students come primarily from their reflection papers.

<sup>65</sup> *Cf.* <https://fairandjustprosecution.org/wp-content/uploads/2019/11/Prison-Visit-Release-FINAL.pdf> (On November 25, 2019, 39 elected prosecutors across the country pledged to visit their local prisons); Jasmine Carnegie, *Interim Prisoners: Why Law Students Should Go On Prison Tours*, ABA

Inside-Out course spend three hours each week inside a correctional facility. They must become accustomed to many seemingly arbitrary rules that are not present in their day-to-day lives such as what they may wear and what they can possess. They are subject to a TSA-like screening upon entry. On the way to the classroom, they pass people inside the facility. They can see inside some areas but they try not to invade people's privacy by peering. There is an additional wait before their inside classmates are escorted to the classroom. Even after class begins, it is interrupted more than once by correctional officers coming to do count. The law students must witness their classmates providing their inmate numbers in order to have their bodies counted among the total prison population. One of my law students described her reaction to this process, "How unbelievably humiliating to be labeled by an inmate number, stripped of one's legal, given name."

And their classmates are most directly impacted by the criminal system. This opens a window for law students, revealing a piece of what life is like on the inside. They see how prison staff treat their classmates. They see what the facility is like, what the food is like, what opportunities for rehabilitation exist or do not exist. Although the facility where I teach is a step-down facility where most people are released in the short term, most inside students come from a lengthier stay at a more secure facility and talk about those experiences. One of my law students wrote, "I learned through the inside students that the cells are awful. Some of my own classmates were crammed into a two-person cell with four people, under inhumane conditions."

The relationships that develop between the law students and inside students have innumerable benefits. One is that the law students are getting to know their classmates as human beings, not as people convicted of crimes, or as clients. With every Inside-Out class, it is common for all of the students to share that they are most surprised by how much they have in common and by how the other

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Student Lawyer Blog (August 23, 2019)

<https://abaforlawstudents.com/2016/08/23/why-law-schools-should-go-on-prison-tours/#:~:text=Having%20prison%20tours%20would%20expose,of%20our%20clients%20and%20adversaries.&text=Education%20about%20the%20prison%20system,wrong%20side%20of%20the%20law.>

students' viewpoints defied their expectations. Another benefit of these relationships is that they are learning first-hand about their classmates lived experiences. They hear the pain of being separated from a child for years.<sup>66</sup> They discuss the reality of what they will encounter on the outside as a felon for life.<sup>67</sup> The students form bonds. They care about each other. Every law student inevitably realizes how privileged they are to be able to go home at the end of class each week. Some weeks law students arrive in class to learn that an inside classmate has been sent back to a long-term facility due to an infraction and will not be returning. As with the final class of the semester, a sadness overcomes the group upon losing one of its members.

This is the second component of the transformative learning experience: Law students' underlying assumptions about people in prison are challenged to their core. As they begin to see their classmates as people just like them, the experience provokes fundamental questions: What is crime and, who gets to decide? Why do people commit crimes and, what societal factors affect this answer? What are prisons for and, are they working? When is justice served for the victim, the community, the defendant? For law students, these questions are intimately intertwined with their future profession.

As a result of this experience, law students become re-oriented and consider what approaches to crime might better serve our communities. Importantly, research on Inside-Out suggests that the model cultivates the critical-thinking skills necessary to develop

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<sup>66</sup> The [people] society incarcerates are fathers, mothers, brothers, sisters, uncles, and aunts, yet the prison facilities are often miles away from their families, creating hardship and alienation. Members of society usually only hear one side of the story [] but what if members of society could hear the other side of the story from incarcerated individuals themselves?

Laura Mishne ("Lo") et al. *Breaking Down Barriers: Student Experiences of the Inside-Out Prison Exchange Program*. UNDERGRADUATE JOURNAL OF SERVICE-LEARNING AND COMMUNITY-BASED RESEARCH (Penn State Berks, Vol. 1, Fall 2012).

<sup>67</sup> *Id.*



viable solutions to problems.<sup>68</sup> This is the third component of the transformational learning experience, thinking about problems in new ways and looking for solutions. The law students and their inside classmates work together during the final weeks of the semester on final group projects with the goal of improving one aspect of the criminal system.<sup>69</sup>

I am able to see law student views changing throughout the semester in their individual reflection papers. Often law students see themselves as future public defenders or prosecutors, working within the system to try to make positive change. The choices and decisions these future lawyers make will directly impact the administration of justice.<sup>70</sup>

One of my law students, who plans to be a prosecutor, cited the following message of Preet Bahara in advocating for more robust and quality rehabilitation programs in prison:

In a just and fair society, the healthy should care about the sick, the rich should care about the poor, the mighty should care about the weak, and the prosecutor should care about the prisoner.<sup>71</sup>

And, many of the law students will not actively practice in the criminal system. Some will become corporate counsel, some family lawyers, and others law professors.<sup>72</sup> Regardless of the path these

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<sup>68</sup> Lanterman, *supra* note 31, at 62; *Accord*, Brian R. Wyant & Brian Lockwood, *Transformative Learning, Higher Order Thinking and the Inside-Out Prison Exchange Program*, 69 JOURNAL OF CORRECTIONAL EDUCATION, Vol. 69, No.3, pp. 49-67, 63 (2018) (finding Inside-Out courses emphasize higher order thinking skills).

<sup>69</sup> Student group projects for reforming our criminal system in my course have included eliminating racial bias, encouraging community policing, educating all Americans about the problems in the criminal system, returning to a rehabilitative model of sentencing, focusing on reentry, creating correctional facilities that support families, and allowing for the expungement of certain criminal records.

<sup>70</sup> See Shay, *supra* note 15, at 209-210.

<sup>71</sup> Preet Bharara, *DOING JUSTICE: A PROSECUTOR'S THOUGHTS ON CRIME, PUNISHMENT, AND THE RULE OF LAW* (Knopf Publishing Group, 2019), p. 303-304.

<sup>72</sup> Bezdek, *supra* note 43, at 710, (“In addition to making law through formal channels in their capacity as counselors, legislators, and judges, our graduates will enact their social vision in corporate boardrooms, churches and synagogues, bars and clubs, and living rooms.”)

future lawyers choose, they are joining a profession that has an obligation to seek justice.<sup>73</sup> By bringing them *face-to-face* with people in prison, Inside-Out is forcing them to ask themselves whether justice is being served.

One of my law students wrote:

We are two groups who came together to understand the struggles that poverty and race have created in the U.S. We truly believe that fighting for change is not only the right thing to do, but necessary for the future of this country. Bryan Stevenson said it best, *The opposite of poverty is not wealth; the opposite of poverty is justice*. We believe that justice is the only way, and also that justice needs to be redefined to actually change lives for the better, instead of just punishment for the sake of punishment.

Evident in this law student's reflections is a transition from learning into action and a belief that one can make a difference. Educational scholars call this a personal (or micro-level) transformation and, a necessary step in the pursuit of (macro-level) social justice.<sup>74</sup> Lanterman explains that this type of learning requires that teachers and students acknowledge the role of power, privilege, and hierarchy in the classroom and society.<sup>75</sup> Aiken similarly argues that learning about justice in law school involves students having the ability to deconstruct power, to identify privilege, and to take responsibility for the ways in which the law confers dominance.<sup>76</sup> The Lanterman study found that the Inside-Out model provides, "a forum for inside and outside students to systematically examine the direct and indirect consequences of these inequalities and to start considering strategies to rectify inequalities and the associated

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<sup>73</sup> Aiken, *supra* note 58, at 6.

<sup>74</sup> Lanterman, *supra* note 31, at 62.

<sup>75</sup> *Id.* at 50.

<sup>76</sup> Aiken, *supra* note 58, at 11.

injustice.”<sup>77</sup> Learning about justice in this way can have a major impact on law students who are building their professional identity.<sup>78</sup>

#### IV. A POWERFUL TOOL FOR BROADENING EMPATHY

Like legal clinics and externships, the pedagogy of Inside-Out is experiential, community-based, and transformative. Distinct from clinics and externships, Inside-Out courses are not taught in the context of the lawyer-client relationship. On a very practical level, the absence of the lawyer-client relationship makes the Inside-Out model more flexible, allowing for its adaptation to any number of law school courses. Inside-Out provides a model for clinical and doctrinal faculty alike. The absence of a lawyer-client relationship is also significant in other ways.

As a clinic professor, I strongly believe that clinical experiences teach students to be better lawyers and very often more empathetic human beings. As an Inside-Out professor, I have found growth in my students’ empathy from the experience to be profound. An important distinction between an Inside-Out course and a law clinic is that inside and outside students are on equal footing in the Inside-Out classroom. In a legal clinic, law students are helping people who need legal services and cannot afford to hire a lawyer. While this is an ideal setting for learning how to be a poverty lawyer, it is not necessarily bringing one closer to the indigent client’s lived experience. The helping nature of the legal clinic interjects a power dynamic between law clinic students and clients.<sup>79</sup> The law students are fulfilling a helper role, and the clients are fulfilling a needing help role.

Pompa explains that equity, and the absence of charity, is crucial to the intimate connections and personal relationships Inside-Out strives to cultivate.<sup>80</sup>

Through the other we come to experience the self. Mutuality is about how we both give and receive because we connect to

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<sup>77</sup> Lanterman, *supra* note 31, at 61.

<sup>78</sup> Bezdek, *supra* note 43, at 717 (Law school is one of the key places that can either support or derail students on their paths to promote justice).

<sup>79</sup> Aiken, *supra* note 58, at 26-28 (Aiken advises clinic professors to pay attention to occasions when law students may use clinic experiences to confirm rather than challenge their stereotypes. Aiken argues that teaching justice in a legal clinic requires helping law students unmask their own privilege so that it can be used to rectify injustice.)

<sup>80</sup> Pompa, *Drawing Forth*, *supra* note 62, at 17.

the other through a concern, which in the name of caring, bridges whatever differences we have.<sup>81</sup>

While complete equality cannot be attained inside prison walls, the Inside-Out instructor strives for parity in the classroom.<sup>82</sup> This theme begins with the physical space of the classroom. In a typical law school classroom, the professor and the podium are at the front. The Inside-Out classroom ideally has movable chairs in order for all of the students and the professor to sit in a circle.<sup>83</sup> The circle formation is an ancient community building tradition in many cultures and is used in Inside-Out as one way to equalize the power-dynamics that creep in.<sup>84</sup> Students are told in advance to sit alternately “inside student”, “outside student.”<sup>85</sup> Although the method at first may seem awkward, it becomes second nature quickly and facilitates the merging of the two groups.<sup>86</sup> Taking her place within the circle, the Inside-Out professor takes on the role of an experienced facilitator.<sup>87</sup>

One example of an Inside-Out ice-breaker is the Wagon-Wheel. Law students sit in a circle on the facing outwards (the inside circle) and inside

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<sup>81</sup> Pompa, *Service Learning as Crucible*, *supra* note 63, at 69 (quoting educational scholar Robert A. Rhoads, COMMUNITY SERVICE AND HIGHER LEARNING: EXPLORATIONS OF THE CARING SELF, p. 139, SUNY Press, NY (1997)).

<sup>82</sup> Pompa, *Drawing Forth*, *supra* note 62, at 16.

<sup>83</sup> INSTRUCTOR MANUAL at 17.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> INSTRUCTOR MANUAL at 16 (Pompa quotes educational scholar Paulo Friere’s definition of a teacher as “...not directive of the *students*, but directive of the *process*... ”); See also, Wyant & Lockwood, *supra* note 68, at 63:

Unlike many traditional courses where instructors lecture from the front of the classroom to students, Inside-Out instructors act as facilitators emphasizing communication. Research has suggested that critical thinking skills are fostered in classrooms that encourage participation rather than passivity (Mayer, 1986). Further, research has highlighted the importance of dialogue with others and hearing multiple viewpoints as a means to develop higher order thinking skills (Barnes & Todd, 1977).

students create a circle on the outside facing in (the outside circle). An unfinished sentence is given and the students facing each other (one law student, one inside student) start by each finishing the sentence fragment leading to brief conversation. After the first pairings are finished, the inside students stand up and move to the next law student. The exercise reverses the reality in which the inside students are incarcerated and the outside students are free. Steven Shankman, Distinguished Professor of English and Classics at University of Oregon, sees Inside-Out and this core exercise as a metaphor for something that happens emotionally to those participating in the class:

You are turned inside-out, emptied of your ego as you transcend labels and categories – *student, teacher, murderer, prisoner, criminal* – and respond to the other as fully human.<sup>88</sup>

Another tool that helps equalize the classroom and provides dignity to individual participants is that we know each other by our first names only.<sup>89</sup> The simplicity and informality of this helps symbolize that we are a different type of community.<sup>90</sup> We are not defined by the labels – *professor, criminal, lawyer* – and prejudices that accompany getting to know people in society.<sup>91</sup> Shankman suggests that, our need to know *about* the other may well inhibit our ability to live *in relation* to the other.<sup>92</sup> For example, law students do not ask the inside students why they are incarcerated, although inside students often choose to share this information. My law students come to recognize through the semester that this piece of information, that society deems most important, actually tells them very little about the human being sitting next to them.

One of my law students reflected on how different the relationship between the law students and the inside students was from a lawyer-client relationship:

Our Monday night meetings exposed me to a group of people that I never would have been exposed to. Sure, defense attorneys interact with people who have been incarcerated, or who have been accused, but that is not the same as the bond that we created with the men in the Plummer Community

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<sup>88</sup> Shankman, *supra* note 1, at 146.

<sup>89</sup> INSTRUCTOR MANUAL at 37-39.

<sup>90</sup> *Id.*

<sup>91</sup> *See also*, Belcher, *supra* note 14, at 5-6, (one student explains how coming to class in anonymous clothing was a transformative experience).

<sup>92</sup> Shankman, *supra* note 1, at 145.

Correctional Center. This was not an attorney-client relationship, but a relationship that was based on respect and understanding created between the two vastly different groups.

Many Inside-Out professors notice that Inside-Out discussions tend to be much richer than in typical classes.<sup>93</sup> One of the reasons for this richness is related to empathy. My law students take the different perspectives shared more seriously than they do in a law school classroom because to challenge another's perspective is to challenge a friend's experience, not an imaginary person whom they will never encounter. The law students are seeing their classmates as fellow human beings and are beginning to understand some of the costs involved in our system. Out of common human decency, they must think critically and with compassion about the topics we are discussing.

The Inside-Out model is designed to create a safe space for sharing experiences, opinions, and feelings. Students are encouraged to be brutally honest, vulnerable, and take risks. This is very different from the stereotypical law student mindset that they must choose their answers carefully, compete with their classmates, and meet the high expectations of professors. The ideal Inside-Out classroom is one where no one has an agenda with regard to other participants except learning and sharing.<sup>94</sup> The Inside-Out training models facilitation techniques around othering, labeling and the like. While perfection is not possible, the Inside-Out classroom is the safest educational environment I have ever experienced. Ironically, this goal is furthered by the prison rule prohibiting electronic devices.<sup>95</sup> We have three (3) hours each week together for twelve (12) weeks where we are fully present for each other. We all know that our time together is finite and therefore, we treat it with respect.

A research study by Carly M. Hilinski-Rosick and Alicia N. Blackmer, found support for these otherwise anecdotal observations.<sup>96</sup> The study examined the growth experienced by outside students in four iterations

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<sup>93</sup> See Shankman, *supra* note 1, at 148; See also Shay, *supra* note 15, at 216.

<sup>94</sup> For inside students, this space is very much a contrast to their prison environment where people with agendas surround them.

<sup>95</sup> See Shay, *supra* note 15, at 217.

<sup>96</sup> Carly M. Hilinski-Rosick & Alicia N. Blackmer, *An Exploratory Examination of the Impact of the Inside-Out Prison Exchange Program*, JOURNAL OF CRIMINAL JUSTICE EDUCATION, 25:3, 386-397 (2014).

of an Inside-Out course.<sup>97</sup> The researchers used the outside student reflection papers to look at attitudes of punitiveness and empathy.<sup>98</sup> The sample contained students with both conservative and liberal punishment philosophies.<sup>99</sup> The study found that, as a result of the course, the outside students were engaged in critically assessing their value and belief structure particularly with respect to punishment and the criminal system.<sup>100</sup> The growth in empathy among outside students was most evident in the humanization of the inside students they experienced.<sup>101</sup> As the semester progressed, outside students reported seeing the inside students not as criminals but as friends and fellow students who were not defined by their worst actions.<sup>102</sup>

The McCrate Report states that a lawyer must have “the ability to see the world through the eyes of others.”<sup>103</sup> In my Inside-Out class, I have seen firsthand how my students come to realizations, not because of what they read, or what I said, but because one of their classmates described an experience or point of view that resonated with them.

One of the inside students pointed out to me that in real life, many people who are selling drugs do so because they have no other means to provide for their families. They may have been to prison before and now they cannot get a job, or they are a product of their environment and simply do not know any better, or do not have the resources to go out and seek better opportunities to earn money. Listening to the discussion changed my perspective.

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<sup>97</sup> *Id* at 389.

<sup>98</sup> *Id.*

<sup>99</sup> *Id* at 390-391.

<sup>100</sup> *Id.*

<sup>101</sup> *Id* at 395-396.

<sup>102</sup> *Id* at 394. *See also* Lanterman, *supra* note 31, at 59:

All outside students reported at some point coming to think of the inside students as peers before their status as people convicted of crimes; they began focusing on the person before their behavior or legal status.

<sup>103</sup> MCCRATE REPORT; *See also* Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admission Decisions*, 36 LAW & SOC. INQUIRY 620 (2011)(over 2,000 lawyers identified this as an essential lawyering competency).

*Inside-Out: Bringing Law Students Face-to-Face with Injustice*

The law students hear firsthand about the multitude of obstacles their classmates will face upon release due to their criminal records.

We are given the right to be autonomous when we cast our votes, yet over six million people are banned from voting due to the disfranchisement laws of the states. We have the liberty to work at a job of our choosing, however, so many with former convictions are severely limited in where they can work....We have the right to housing that does not discriminate based upon race or gender, yet housing authorities can discriminate based on past convictions.

My law students also know that their classmates will return to a community that too often suffers from poverty, inadequate education, unemployment, mental illness, drug addiction, and other societal ills.

[They] are people just like me, who were simply disadvantaged from the start and are even more disadvantaged once they are released from prison.

These realizations by my law students are consistent with additional findings in the Lanterman study:<sup>104</sup> First, outside students reported learning the most about the realities of incarceration, detention, and life upon return to the community.<sup>105</sup> Second, all students' knowledge of the political, economic, and social circumstances that contribute to the deep inequalities in American society were expanded.<sup>106</sup>

## V. EXPANDING LAW STUDENTS' CULTURAL PROFICIENCY

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<sup>104</sup> Lanterman, *supra* note 31, at 62.

<sup>105</sup> *Id.* at 61.

<sup>106</sup> *Id.* at 62.



Law schools, like many institutions in our country, were built upon white privilege and power.<sup>107</sup> While cultural proficiency requires expanding knowledge in all areas of difference, I agree with colleagues who have identified race as the most salient difference, and believe that race can serve as a paradigm for diversity inclusion generally.<sup>108</sup> Many legal scholars have explored critical race theory, yet difficult discussions about race are not happening often enough in law school classrooms.<sup>109</sup> Boles warns law professors against teaching students to deliver culturally proficient legal services while ignoring discussions of the effects of racial difference, privilege, and oppression.<sup>110</sup>

There is little to no discussion of how a student's personal biases, values, and unconscious beliefs shape their opinion of the law, future practice, and future client relationships.<sup>111</sup>

Boles shares four ways this failure affects law students:

- (1) It communicates that law exists in a place void of conflicting cultures, privileges, and values.
- (2) It reinforces the isolation felt by those not benefiting from the assumed dominant privileges.
- (3) It leaves law students ill equipped to practice in a culturally diverse legal environment.

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<sup>107</sup> See Anastasia M. Boles, *Seeking Inclusion from the inside out: Towards a Paradigm of Culturally Proficient Legal Education*, 11 CHARLESTON L.REV. 209, 210-211 (2017) (Harvard Law School was founded with the endowment of a slaveholder.)

<sup>108</sup> See Boles *supra* note 101, at 211, fn. 10; Marjorie A. Silver, *Emotional Competence, Multicultural Lawyering and Race*, 3 FLORIDA LA. COASTAL L.J. 219, 231 (2002).

<sup>109</sup> In 2021, due to a myriad of racial incidents including the unlawful killing of many black men by police, many law schools in our country are looking more carefully at this issue. See e.g. <https://www.aals.org/antiracist-clearinghouse/> (AALS Law Deans Antiracist Clearinghouse).

<sup>110</sup> Boles, *supra* note 108.

<sup>111</sup> *Id.* at 222.

(4) It fails to answer the charge that law schools develop the emotional, ethical, and cultural competence of law graduates.<sup>112</sup>

In truth, no one has taught law professors how to do this complicated work.<sup>113</sup> The Inside-Out training addresses issues of race, privilege, and oppression head on.<sup>114</sup> The location of the Inside-Out classroom and the demographics of inside students and law students brings issues of race and class to the forefront. In my first Inside-Out course, I had nine (9) white law students and one (1) black law student, nine (9) black inside students and one (1) Latino inside student. The inside students educational background and economic status also aligned with statistical norms of people in prison. To ignore these facts, and to try to discuss the content of the course outside of their context, would be dishonest and irresponsible. The Inside-Out model begins with the acknowledgment that we are all a product of our experiences, that we have all made mistakes, and that we can all learn from each other.<sup>115</sup> Rather than avoid the difficult subjects of race and class, Inside-Out facilitates dialogue between and among the students about them that are honest and respectful.<sup>116</sup>

One hypothetical that my inside students posed to the outside students last year was, “it’s late at night and you see a black person wearing a hoodie on the sidewalk walking towards you, how do you behave?” Many black students (inside and outside) described how frequently they experience microaggressions from white people and how that makes them feel. We heard from other students that in certain black neighborhoods, this behavior would be received as a threat on their turf. Some female students talked about how vulnerable they feel when walking alone. This same group of students had many rich conversations about policing and race. Two members of the class had parents who were police officers. At the same time, many members of the class shared their negative

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<sup>112</sup> *Id.*

<sup>113</sup> *Id.* at 237.

<sup>114</sup> INSTRUCTOR’S MANUAL at 12, *Race, Class, and Other Diversity Issues*.

<sup>115</sup> INSTRUCTOR’S MANUAL at 12, *Preconceptions*.

<sup>116</sup> INSTRUCTOR’S MANUAL at 13-14, *Setting the Tone*.

experiences with police and believed them to be racially prejudiced. The students brainstormed about how to encourage policing that serves the community.

One of my law students chose to write about the danger of prejudice in discretionary decision making. In particular, the student focused on three (3) stakeholders in the criminal system: the police officer, the prosecutor and the judge. Because the student wants to be a prosecutor, he reminded himself of the need to keep his discretion in check,

No person should feel like a lesser human because of an immutable trait, and it is my generation's duty to perform our jobs without one's race or ethnicity playing a role. The role of a prosecutor is important, yet the power and deference entrusted to prosecutors should be carefully utilized.

Another law student hopes to use her privilege to help those who need help and do not have such privilege. She does not see her goals as self-serving or herself as suffering from *white savior complex*,<sup>117</sup>

I think lawyers, especially white lawyers, who work to improve the rights and lives of minority groups do so because they understand how unfair life can be. They have lived on the side of privilege and recognize the disparity of how different races are treated in this country. They understand that this country does not treat every man as equal and they want to change that. For me, it is not about saving anyone, it is about giving people who have been oppressed a voice to change their future and the future of others like them. I want to be a lawyer to make a difference. I truly believe that I, along with my fellow colleagues, can make a positive change in this country.

## VI. NOTES FOR LAW PROFESSORS ON INSIDE-OUT

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<sup>117</sup> See also Aiken, *supra* note 58, at 26 (Reorienting to an understanding of privilege will [] allow the student to use his or her own privilege in a responsible way: to lend that privilege to those denied it).

An Inside-Out law professor will experience all of the benefits described in Sections I through V of this article. In addition, they will encounter some obstacles. Largely, the Inside-Out law professor will run into the same obstacles teaching in a prison as a member of any academic institution.<sup>118</sup> As mentioned above, teaching in prison is a very intense emotional experience.<sup>119</sup> If you have not spent much time in prison before, you will need to prepare and take care of yourself.<sup>120</sup> The fact that you are bringing students into a prison with you distinguishes Inside-Out from other courses offered inside prisons and makes it more complicated.<sup>121</sup> As discussed above, there are concerns regarding the dynamics of bringing these two groups together.<sup>122</sup> In addition, the law students will have their own emotional reaction to being inside a prison and the professor needs to make sure those students' needs are cared for.<sup>123</sup>

Another very real obstacle for any Inside-Out professor is the conflict between academic freedom and the rules of correctional institutions.<sup>124</sup> Most academic institutions embrace freedom: freedom of thought, speech, and action.<sup>125</sup> Correctional Institutions take away freedom and their primary focus is on maintaining security.<sup>126</sup> It is common for Inside-Out professors to have their syllabi and reading materials reviewed by the institution. Depending on the administration at a given facility, you may not get approval or may be required to revise your syllabus. The facility may require a corrections officer to be present in your classroom. You can imagine, based upon the hierarchical relationship between corrections officers and inside students, that this could have a chilling effect on classroom conversations. Yet, it is something you may need to navigate. The

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<sup>118</sup> INSTRUCTOR'S MANUAL at 22, *Getting Inside Prison*.

<sup>119</sup> Pompa, *Service-Learning as Crucible*, *supra* note 63; INSTRUCTOR'S MANUAL at 10-11, *Emotional Risks*.

<sup>120</sup> *Id.*

<sup>121</sup> INSTRUCTOR'S MANUAL at 9-11, *Instructor Issues*.

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> *Id.* at 22, *Getting Inside Prison*.

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

institution has to trust that you do not have an outside agenda that would jeopardize security and that you have the skills to maintain order in the classroom.<sup>127</sup> If you are new to teaching at the facility, this trust can take some time. Drew describes this well,

[Sometimes t]he best the academic and the corrections professional can hope for is a sort of *detente* in which each recognizes the other's priorities and does its best to accommodate and comply.<sup>128</sup>

Law professors should take solace in my assurance that the Inside-Out training prepares you well for this sometimes-bumpy road.

There are a couple of ways that law professors bringing law students into a prison may experience an additional layer of complication. The first is that prison administrators may have good reason to find lawyers a threat to the efficient and secure operation of their facility. They may view lawyers as watchdogs, coming in to find something wrong with the living conditions or legal cases of those inside. Therefore, prisons may be more reluctant to become engaged with a law school Inside-Out course than they would with an Inside-Out course from an another academic discipline. Although I cannot say for sure that I have had this experience, when I have gotten pushback from a facility, I have wondered if this could be a factor. Clarity and firmness in your mission for your course, as modeled by Inside-Out will help you establish trust.<sup>129</sup> You and your law students are there to create an educational community where learning will take place over the course of the semester.<sup>130</sup> You are not entering the prison as watchdogs to find wrongdoing; you are not there to discuss the legal cases of the students in your class. You must be firm about these two things with your students, with yourself and with the facility. There may be other areas of your life where you address similar injustices but you are not addressing any specific injustice in your Inside-Out course.

Another potential complication for law professors and law students in an Inside-Out course is the negative impression that inside students may have of lawyers. As an indigent defender, I am not

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<sup>127</sup> *Id.* at 9, *What Inside-Out is Not*.

<sup>128</sup> Drew, *supra* note 38, at 320.

<sup>129</sup> INSTRUCTOR'S MANUAL at 9.

<sup>130</sup> INSTRUCTOR'S MANUAL, at 8-9, 26.

easily insulted by the term, *public pretender*. However, if any of my inside students are labeling me or the law students in this way; it interferes with our goals for the class. I have viewed this possibility more as an opportunity for discussion than a problem. I can hardly imagine a better ethical discussion for law students to have than one that considers: What are our expectations of lawyers? Have we had good experiences? Bad? To what standards should lawyers be held? What role should lawyers play with regard to the injustices in the criminal system? The dialogue about these issues can be very fruitful and meaningful especially for law students forming their professional identities.

## VII. CONCLUSION

I propose that there is no more important place for Inside-Out courses to be held than in American law schools, and no more important time than the present. The Inside-Out experience makes personal and real the injustice in our criminal system to our nation's future lawyers charged with finding a new path forward.

Inside-Out is a well-respected transformative educational model that encourages a critical examination of our criminal system. By taking place inside a prison with half of the students subject to the criminal system, Inside-Out is the epitome of a disorienting dilemma. It operates in a space and with participants that force difficult topics to the fore. Inside-Out creates a safe space to facilitate important conversations about power, race, class and other inequities in our criminal system and society. After participating in Inside-Out, law students think about the people in the criminal system as fellow human beings and themselves as capable of bringing about changes needed to make our criminal system more just.

The Inside-Out model follows the roadmap Bryan Stevenson advocates: get proximate to the suffering, change the narrative, be uncomfortable, and have hope. Inside-Out gets law students as proximate as possible to mass incarceration and other problems in our criminal system. It changes the narrative of people who are incarcerated with law students, causing them to question their underlying assumptions about the other. It puts law students in uncomfortable conversations, left to answer for how we got here.

Law students grapple with this discomfort through conversations with their classmates and reflect upon them in journal-like papers until they are, in some way, re-oriented. Together with their inside classmates, law students come up with potential solutions and think of themselves as change agents. These future lawyers will go out into the world and share this experience with the people and systems they encounter. And this is where the hope comes in. Inside-Out offers hope that our nation's future lawyers will lead us to a more just criminal system and society.