

BRIDGING GAPS AND BLURRING LINES: INTEGRATING ANALYSIS, WRITING, DOCTRINE, AND THEORY

Susan J. Hankin*

“The revolution will be complete . . . when Legal Writing faculty and legal writing courses are fully integrated into the law school curriculum.”¹

INTRODUCTION

In a 2007 report, *Educating Lawyers: Preparation for the Profession of Law (Carnegie Report)*, the Carnegie Foundation for the Advancement of Teaching reported on a number of gaps in legal education and set out a series of recommendations for bridging those gaps.² Among the authors’ findings was the “increasingly urgent need to bridge the gap between analytical and practical knowledge”³ The resulting recommendation that the teaching of legal doctrine be integrated beyond “case-dialogue courses” and into courses that focus on more practical skills acknowledged that this idea was “building on the work already underway in

* © 2011, Susan J. Hankin. All rights reserved. Director of Legal Writing and Law School Associate Professor, University of Maryland School of Law. This Article arose from my participation in a panel presentation, “*Change in Legal Education: Practical Skills*,” at the Symposium, YES WE CARNEGIE: Change in Legal Education after the Carnegie Report, John Marshall Law School, Chicago, Illinois (July 29, 2009). I would like to thank Steven Schwinn for inviting me to present at the symposium, and for sharing his innovative teaching ideas, many of which served to inspire the work that I describe in Part II of this Article. I am grateful to Sherri Lee Keene for her helpful comments on an earlier draft of this Article and to Christina Gubitosa and Susan McCarty for their research assistance and help with the footnotes.

1. Mary Beth Beazley, *Better Writing, Better Thinking: Using Legal Writing Pedagogy in the “Casebook” Classroom (Without Grading Papers)*, 10 *Leg. Writing* 23, 26 (2004) (citing Amy E. Sloan, *Erasing Lines: Integrating the Law School Curriculum*, 1 *J. ALWD* 3, 3 (2002)).

2. See William M. Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law* (Jossey-Bass 2007) [hereinafter *Carnegie Report*].

3. William M. Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law: Summary*, http://www.carnegiefoundation.org/sites/default/files/publications/elibrary_pdf_632.pdf (2007) [hereinafter *Carnegie Summary*].

several law schools”⁴ One of the schools where the teaching of legal analysis has long been integrated into practice-focused courses is the University of Maryland School of Law (Maryland). Beginning in their first semester, students at Maryland have numerous opportunities to take courses—some required and some elective—that integrate doctrine, theory, and practice in varied and innovative ways.⁵

This Article will discuss two models for integrating skills with doctrine in the first-year curriculum and will recommend additional ways to build such integration into law school courses. Part I will discuss a model of integration that is built into curriculum: Maryland’s approach to teaching the first-semester Legal Analysis and Writing course by pairing it with another required course. This part will describe the development of this model; it will then present observations and examples of what makes this model work so well and reasons why such integration is a good idea. Part II will describe an example of one way in which the author built on these ideas by pairing one section of the required second-semester Advocacy course with a first-year elective seminar in Public Health Law. Part III of the Article will suggest ways of translating these ideas into other settings—no matter how the curriculum is structured—by recommending other ways of integrating analysis and writing skills with theory and doctrine in law school courses.

I. Maryland’s Legal Writing Program: Integrating Doctrine and Writing in the First Semester and Integrating the Faculty Who Teach the Connected Courses

As Maryland’s Director of Legal Writing, I fill out the yearly Legal Writing survey, and the box I always check to describe our first-year program is “complex hybrid.” From a program staffing perspective, we are certainly a hybrid: in the fall semester, the

4. *Id.* at 9 (Recommendation no. 2). The recommendation goes on to state, “the teaching of legal analysis, while remaining central, should not stand alone as it does in so many schools.” *Id.*

5. See e.g. Barbara L. Bezdek, “*Legal Theory and Practice*” *Development at the University of Maryland: One Teacher’s Experience in Programmatic Context*, 42 Wash. U. J. Urb. & Contemp. L. 127 (1992); Alan D. Hornstein & Jerome E. Deise, *Greater Than the Sum of Its Parts: Integrating Trial Evidence & Advocacy*, 7 Clin. L. Rev. 77 (2000); Michael A. Millemann & Steven D. Schwinn, *Teaching Legal Research and Writing with Actual Legal Work: Extending Clinical Education into the First Year*, 12 Clin. L. Rev. 441 (2006).

three-credit Legal Analysis and Writing (LA&W)⁶ course is taught primarily by tenured and tenure-track “casebook faculty,”⁷ although two of us who teach this course are better described as legal writing professionals. These classes are taught in small sections of approximately twenty-five students, and each day-division section also meets with the same professor—which could be a casebook professor or a legal writing professional—for a two-credit, “Introduction to”⁸ one of the required first-year courses.⁹ The spring-semester two-credit Written and Oral Advocacy (Advocacy)¹⁰ classes are taught primarily by adjunct faculty, in sections that are half the size of the fall-semester classes, with about twelve or thirteen students per section. The spring course is coordinated by the Associate Director of the Writing Program, who also teaches one Advocacy section. First-year students also take a one-credit Introduction to Legal Research course in the spring semester, taught by the library faculty. Student teaching assistants work with both the full-time faculty who teach LA&W in the fall and the adjunct faculty who teach Advocacy classes in the spring. The staffing of the first-year Legal Research and Writing Program thus includes full-time casebook faculty, legal writing professionals, library faculty, part-time adjunct faculty, and student teaching assistants.

Maryland’s program is therefore integrated in two important ways. The hybrid nature of our program staffing, particularly in the first semester, has created a fundamental integration at the faculty level: traditional casebook faculty teach legal writing classes, and—because the first-semester course is connected to a required core course, such as torts, contracts, or civil procedure—legal writing professionals teach traditional casebook classes. Over time, then, the distinctions between these “different” types of faculty are becoming blurred. The other type of integration

6. This course was formerly named Legal Analysis, Writing, and Research (LAWR) I. I will use both of these course names throughout this Article, depending on which time period I am discussing.

7. This term was coined by Mary Beth Beazley to describe faculty who primarily teach casebook courses. See Beazley, *supra* n. 1, at 38.

8. While the courses are titled, “Introduction to Torts,” etc. they are not the typical Introduction to Law courses, but simply the first two credits of a five-credit course offering. A more descriptive course title might have been “Torts I.”

9. Evening Division Legal Analysis and Writing classes are not connected to first-year required courses. This point is discussed further below.

10. This course was formerly named LAWR II.

fostered by this curricular model is, of course, the integration of writing with doctrine. Not only do the lines between different types of faculty members become blurred, the lines between the subjects of writing and the connected doctrinal course become blurred as well, both in terms of program design and the various ways in which the connected courses are taught together.

A. *The Evolution of an Integrated Program: How Much Doctrine Is Enough?*

A program integrating doctrine and writing has been an on-going commitment at Maryland since well before I arrived in 1996 as the school's first Director of Legal Writing.¹¹ Maryland's integrated program has, however, gone through several iterations to get to where it is now. Each version involves integrating legal writing with doctrine; the differences come down to the question of how much doctrine suffices for a meaningful integration. In discussing this evolution, I will focus on three time periods: (1) the period before 2000, which was the year that the entire curriculum went through a comprehensive review; (2) changes that resulted from the 2000 curricular overhaul; and (3) revisions that came about after a scheduled review of the 2000 curricular changes. In framing these three iterations, I am often reminded of the Thesis, Antithesis, and Synthesis triad¹² that I was first introduced to in my undergraduate Philosophy classes.

1. Thesis: The Twentieth Century Integrated Program

When I came to Maryland in 1996 as its first Director of Legal Writing (and its first legal writing professional), every first-year student took a fall-semester class called Legal Method/(Core

11. See Hornstein & Deise, *supra* n. 5, at 78 (indicating that “[a]s early as the early ’70’s [the University of Maryland School of Law] integrated the typical first year course in Legal Method/Legal Writing with the standard first year courses, the integrated course taught by full time tenure track faculty”).

12. Under this formulation, the “thesis” represents an initial idea, the “antithesis” is a conflicting idea, and the “synthesis” overcomes the conflict by finding a way to reconcile the common truths of the thesis and the antithesis. See Hegel: *Thesis, Antithesis, Synthesis*, <http://stories-straight.blogspot.com/2008/12/hegel-thesis-antithesis-synthesis.html> (accessed Apr. 15, 2011).

While I, like many others, was taught that this notion was part of Hegel’s dialectic, apparently this attribution was not fully accurate. See Gustav E. Mueller, *The Hegel Legend of “Thesis-Antithesis-Synthesis,”* 19 J. Hist. Ideas 411 (1958) (explaining that “dialectic” to Hegel connoted something different from “thesis, antithesis, synthesis”).

Course),¹³ a class that combined legal method and writing with one of the required first-year doctrinal subjects. These classes were taught by traditional casebook professors, most of whom had little training in legal writing pedagogy. The course was structured as a single four- or five-credit course, with two credits devoted to Legal Method and two or three credits to the core course. Only one additional class meeting hour was allotted for the two-credit Legal Method component,¹⁴ and students received one combined grade for the class.¹⁵ Writing assignments in the early part of the semester were closed-universe problems. Students took Introduction to Legal Research for the first half of the semester (non-credit and non-graded), and then did open research for their final Legal Method writing assignment.

The course and its staffing reflected a faculty-wide commitment to emphasizing the importance of legal writing by integrating it with a core course and having “regular” full-time faculty teach it.¹⁶ The integrated structure reflected a core belief that analysis and writing are inextricably intertwined and therefore the teaching of legal writing cannot meaningfully be separated from the teaching of substantive legal analysis. Similarly, using full-time faculty to teach the course was a way that Maryland emphasized to its students the importance that the law school placed on legal writing.

While these were worthwhile goals, a variety of costs and disadvantages plagued this particular structure and rendered it a less than perfect model. The labor-intensive nature of commenting on drafts and grading numerous student papers, along with the fact that most faculty members lacked a pedagogical background in the teaching of writing, led to faculty dissatisfaction and a resulting difficulty in recruiting and retaining faculty to teach the course. Many faculty members who did continue to

13. Students might take, for example, Legal Method/Contracts, Legal Method/Property, Legal Method/Civil Procedure, or Legal Method/Torts.

14. See Beazley, *supra* n. 1, at 29 (describing, among other attributes that give legal writing courses the “status of ‘other,’” the award of fewer credits than other required courses).

15. The grade was supposed to be weighted according to the amount of credits devoted to each component. So, for example, in a five-credit course, with two of those credits devoted to Legal Method, the grade would be weighted 60 percent core course and 40 percent Legal Method.

16. Compare with Beazley, *supra* n. 1, at 38 (discussing the “separate or ‘other’” status of legal writing faculty at most law schools).

teach the combined course tended to stay within their teaching comfort zone—teaching doctrine and theory—and therefore the single-course nature of the model meant that the teaching of legal writing often got crowded out.

For some of the same reasons that caused faculty dissatisfaction, many students were less than satisfied with the Legal Method model. Students often voiced the concern that they were getting inadequate instruction in legal writing. Only one additional course hour was allotted to the Legal Method and Writing component in the first place, and faculty often used that time to teach additional doctrine. Because the course was taught by a varying contingent of full-time faculty members, with no central direction, there was a great deal of variability in the writing component of the course, including the number and character of the assigned memos, the amount of writing instruction, whether drafts were required, and the amount and nature of feedback on the student writing.

This dissatisfaction from students and faculty led the faculty to examine alternatives. Several important interim changes occurred prior to the major curricular overhaul that the law school underwent in the year 2000. I was hired as Director of Legal Writing in 1996, and a second legal writing professional was hired in 1998. We began offering a regular series of teaching meetings in an effort to bring the Legal Method faculty together and to bring more consistency to the student experience. I also recruited, selected, and trained Teaching Assistants to work with Legal Method faculty¹⁷ as another way of giving students a more even experience, more writing instruction, and more feedback on their writing. And I taught a section of Legal Method that was not paired with a required first-year course as an “experiment” that I hoped would demonstrate a way to teach the course that focused more heavily on analysis and writing and less on a particular body of doctrine.

17. Interestingly, the training that the Teaching Assistants received often “filtered up” to the faculty members they were working with. I remember one particular instance where the TA met with her faculty member to make sure that she understood the specific goals of a writing assignment before commenting on the student drafts (as we had discussed in the training seminar). The faculty member later told me that having to articulate the assignment’s pedagogical goals required him to think about the assignment in an entirely different way.

2. Antithesis:¹⁸ Year-2000 Curricular Reform

Maryland's curriculum underwent an extensive review in 1999–2000, and significant changes to the writing program came about in the resulting curricular reform of 2000.¹⁹ The new curriculum increased the number of credits devoted to required legal writing and research classes, particularly in the first semester. It also created a Legal Analysis and Writing course that was separated from a core first-year course, although this new course was still intended to have a doctrinal component.

One of the goals of the curricular overhaul was to strengthen the required legal analysis, writing, and research components of the curriculum.²⁰ After discussing a number of ways to do so, the committee recommended that the required curriculum be changed by replacing first-semester Legal Method and second-semester Introduction to Appellate Advocacy with an expanded three-semester sequence²¹ of courses entitled Legal Analysis, Writing, and Research (LAWR) I, II, and III.²² These expansions retained Maryland's commitment to having the first-semester course taught by full-time faculty, but a big change in the new first-semester course, LAWR I, was that it was not joined to another first-year course. Instead, the LAWR I faculty members would have the option of teaching analysis and writing within a chosen doctrinal area. The hope was that the new course would retain a doctrinal component in which to frame the analysis, but not be driven by the doctrine.²³

18. "Antithesis" is the idea that is in conflict with the original thesis. *See supra* n. 12.

19. For an extensive discussion of the process of Maryland's curricular review, see Rena I. Steinzor & Alan D. Hornstein, *The Unplanned Obsolescence of American Legal Education*, 75 *Temp. L. Rev.* 447 (2002).

20. *See id.* at 472 (discussing the importance of effective legal writing programs and emphasizing that legal writing is meant to connote "the understanding of legal analysis in concrete form It cannot be separated from the analysis it substantiates").

21. In 2006, the Faculty Council voted to return to a two-semester requirement of legal writing courses, with upper-level writing occurring through elective courses in instrumental writing, writing within clinical courses, and satisfaction of an Advanced Writing Requirement that is in the form of a seminar paper. The faculty did, however, retain a required one-credit, upper-level Advanced Legal Research course.

22. Other changes in 2000 included moving the research component into the second-semester course, reforming the upper-level writing requirement, and adding a one-credit Advanced Legal Research course requirement, to be taken any time after the first year and before graduating. *See* Md. L. Sch. Curriculum Comm., Report, *Reforming the Required Curriculum* (Nov. 29, 2000) [hereinafter *2000 Report*] (copy on file with Author).

23. *2000 Report*, *supra* n. 22; *see also* Steinzor & Hornstein, *supra* n. 19, at 470 (dis-

While the committee had considered retaining the connected-course approach, it ultimately concluded that its costs outweighed its benefits. Two reasons drove this conclusion: (1) the belief that a separate course would provide a better framework for teaching analysis and writing; and (2) a concern about the practical implications of making the combined course structure work together with the other big change brought by the 2000 curricular review—consolidated, one-semester versions of most first-year courses.²⁴ The proposed changes to the writing program generated quite a bit of debate,²⁵ and its ultimate approval came with an agreement that the new courses would be evaluated after a few years.

3. Synthesis: Integrating Writing and Doctrine in the Twenty-First Century

The question of whether the consolidated Legal Method course was preferable to a dedicated legal writing course with a small doctrinal component was taken up by a special committee appointed in 2003 to evaluate the three-semester LAWR sequence. The primary theme that emerged from the review was that the stand-alone LAWR I class was not working as well as we had hoped. The faculty members who were not legal writing professionals were less comfortable teaching the class this way, and as a result the students who took these classes were often unsatisfied with their experiences.

The most significant change that followed the 2003 review was the reconnection of the LAWR I course to a required doctrinal course. To do so within our recently consolidated curriculum, this change required recreating two-semester versions (two credits in the fall and three in spring) of some of courses that had been made into one-semester, four-credit courses in the 2000 curricular overhaul. The 2003 change thus put back into the first-semester

cussing the diminished importance of “doctrinal details . . . except as a vehicle for learning legal analysis or other fundamentals”).

24. This consolidation (or, as some called it, “semesterization”) led to the creation of single-semester, four-credit versions of Torts, Civil Procedure, Property, and Contracts, all of which had previously been five-credit courses taught over two semesters, with two or three credits per semester. Criminal Law remained a three-credit, single-semester course.

25. Part of the debate revolved around the question of how much doctrine was optimal to serve as a vehicle for teaching the fundamental concepts of legal reasoning, analysis of precedent, sources of authority, and communication of legal analysis.

curriculum a two-credit, required first-year course that would be taught in a small section by the same faculty member who would teach the LAWR I class.

In a sense, then, this reconnection of LAWR I and a required course returned to the integrated aspect of the Legal Method model, recognizing that analysis and writing are taught best when they are connected not just to some doctrinal component, but to a sufficient body of doctrine. That body of doctrine, the faculty believed, comes from connecting the legal writing course to enough of a doctrinal component to warrant a two-credit course. This reconnection was not, however, simply a return to our previous model, but rather a synthesis, in the sense of bringing together the best aspects of the two previous models.

The synthesized model takes a different approach from Legal Methods in that LAWR I (three credits) and the required doctrinal course (two credits) comprise two distinct courses, with separate forms of evaluation and separate grading. Having two separate courses makes it less likely that the doctrinal subject will take over the writing instruction—a big reason that the courses were disconnected in the first place. In addition, compared to the Legal Method version, the credit structure has been flipped—the Legal Analysis and Writing course is a three-credit course, and the doctrinal course is only two credits. Class hours are allotted accordingly. Separate forms of evaluation in the two courses ensure that students who are strong writers, but not necessarily successful exam-takers, can receive a grade that reflects their writing skills. Faculty members can, of course, choose to blur these distinctions in the way they teach the course, and many do to varying degrees. But both the students' schedules and their transcripts reflect the two-course structure, which sends a message about the importance of legal writing that is different from that which the students were receiving when writing was subsumed within the larger Legal Method course structure.²⁶

The 2003 review also reaffirmed our institutional commitment to having the first-semester LAWR I course taught by full-time faculty. The decision to reintegrate the courses further supported this goal because—as became clear in the few years that LAWR I was “disconnected”—our full-time professors much prefer

26. The special committee report that led to this result stressed both the importance of integration and the preference for the two-course approach.

to teach the integrated course. Recruiting faculty to teach LAWR I had been much more difficult in the years prior to the reintegration.

While the option of reconnecting was strongly preferred, the structure of our evening program made that option very difficult to achieve. Integration of doctrinal material is still expected, but LAWR I courses for evening students remain free-standing offerings that are not connected to another required course. As originally designed, LAWR I courses in the evening division continue to be built around a doctrinal component of the faculty member's choice.

B. How it Works: My Experience with Maryland's Integrated Program

In the integrated program's current incarnation, each professor who teaches a Legal Analysis and Writing (LA&W, formerly LAWR I) class also teaches a two-credit connected course, either Torts, Contracts, or Civil Procedure.²⁷ Both courses are taught in small sections of approximately twenty-five students, with a total of five (combined) hours of meeting time each week. As noted above, the full-time professors who teach in this program include legal writing professionals²⁸ and faculty who typically teach case-book classes. All of the professors now work with two teaching assistants in the LA&W class; the teaching assistants help by giving feedback on drafts, meeting one-on-one with students, and teaching some in-class workshops.²⁹ The grade for the writing course is based on three closed-universe, objective writing assignments. The grade for the connected class is based on a standard issue-spotting and issue-analyzing law school exam. Some of us also weigh class participation into the grades for both courses.

27. Next year, for the first time, the writing class will be offered with the three-credit Criminal Law course in the fall semester.

28. There are currently two of us, a Director and Associate Director of Legal Writing.

29. All of the Teaching Assistants participate in the Teaching Fellow Seminar, in which they are trained for the various roles they will play as TAs. Among the many benefits of working with a TA is that it gives the students additional opportunities to discuss their writing choices—in this case with a more experienced, upper-class peer. These interactions help to further enhance the students' understanding of legal writing conventions. See Susan DeJarnatt, *Law Talk: Speaking, Writing, and Entering the Discourse of Law*, 40 Duq. L. Rev. 489 (2002).

While the goals of LA&W are similar to those of legal writing classes taught at many schools—to teach students to understand, analyze, and apply legal authority and to communicate the results of that analysis in writing—the course also contains some components that are influenced by its Legal Methods roots, as well as some that may or may not be taught in a first-semester civil procedure class: a focus on judicial methods, an introduction to legal institutions and processes, and instruction on the anatomy of a civil law suit, the timeline of a civil case, and the link between procedural and substantive law.³⁰ The full set of course goals was outlined in the 2000 Report and has remained unchanged:

LAWR I . . . introduces students to the structure of the American legal system and the sources of legal authority. Students are taught to read and understand cases by examining the anatomy of a lawsuit and the elements of court decisions. They also learn to read and analyze statutes and to understand the relationships among cases, statutes, and regulations. The course teaches students to distinguish among and evaluate various types of legal authority, and to use that authority to solve legal problems. The students then learn to communicate their analyses by writing, for example, office memos to supervising attorneys, advice letters to clients, or bench memos to judges. Through these writing assignments, students learn how to meet the needs and expectations of the legal audience, and to understand the role that various documents play in law practice.³¹

Teaching these additional components makes the course particularly well suited to be combined with a required first-year course. Rather than teaching methods and process through, for example, a specialized legal methods casebook,³² the cases that the stu-

30. To teach these last components, I typically assign Peter Simon's *Anatomy of a Lawsuit* (rev. ed., Michie 1996).

31. 2000 Report, *supra* n. 22, at 17. In addition, see Maryland's online-course catalog (http://www.law.umaryland.edu/academics/program/curriculum/catalog/course_details.html?coursenum=531A), which incorporates this language into the course description of the current Legal Analysis and Writing course.

32. In 2001–2003, when I taught the stand-alone version of the Legal Analysis and Writing Course, I assigned readings from Edgar Bodenheimer et al., *An Introduction to the Anglo-American Legal System: Readings and Cases* (3d ed., West Group 2001) to cover these components. See also Michael A. Berch et al., *Introduction to Legal Method and Process* (West 1992).

dents are reading for their connected class can typically be used to accomplish this same goal.

In the years that I have taught in the integrated program, I have always taught the two-credit Torts course as my connected class. All of the writing problems I use, therefore, are torts problems, and I have made an effort to assign problems that connect closely with the material we are covering in the Torts class. For example, because the casebook I use to teach Torts³³ begins with strict liability, my students' first writing assignment is based on a statute that imposes strict liability for dog bites.³⁴ This connection between the two classes has sometimes led to a need to "tweak" the Torts syllabus so that the order of the material we cover fits better with the timing of the writing assignments (which I discuss in more detail below).

Unlike some of my colleagues, I choose to teach the classes as relatively separate ones. I say "relatively separate" because I do use a joint syllabus to show the connections between the courses, and I sometimes have an overlapping class that addresses both subjects. Most class meetings, however, are designated as either LA&W or Torts. I have chosen to go this route for several reasons. The first has to do with student perception. I have found that students are generally more comfortable when they can get a sense of the big picture of a course (or, in this case, the two connected courses). Even with a good deal of overlap, it seems that there is less student anxiety when they know in advance that, for example, Tuesday class meetings will cover Torts, and Wednesdays will cover LA&W. The other reasons have to do with my own pacing of each course: scheduling different days for each helps me make sure that each component will get sufficient coverage. It both keeps me on track and forces me to plan out the semester well in advance, taking into account the various interconnections between the two courses. Even though scheduling the classes separately is the norm, I do sometimes "borrow" time from one class to focus on the other. These class meetings, however, often contain components of the class being borrowed from.³⁵

33. Harry Shulman et al., *Cases and Materials on the Law of Torts* (4th ed., Found. Press 2003).

34. Mich. Comp. Laws Ann. § 287.351 (West 2003).

35. For example, I have used time from the legal writing class to do practice Torts exams and Torts hypotheticals. When I hold these classes, I make a point to emphasize how the analysis and writing skills that students are learning through the memos they are

Even with separately designated class meetings, as the professor who teaches both courses, I am able to take advantage of cross-referencing between the two classes in ways that would not be possible if I were the legal writing professor who was coordinating with another colleague teaching the Torts class. And I have found many opportunities for such cross-referencing. In Torts, for example, class assignments typically consist of reading cases from our casebook. When we discuss these cases, we primarily focus on the theory and doctrine of tort law. But I often find myself referencing these cases to highlight concepts the students are learning in the analysis and writing class. The discussion of Torts cases can therefore reinforce the students' understanding the structure of the American court system, the hierarchy of trial and appellate courts, and the relationships between cases and statutes, and between courts and legislatures.³⁶

I can also use Torts cases to highlight points about writing and organization. If a case is particularly difficult to follow, I often have a conversation with my students about what aspects of the writing made the opinion so challenging for the reader.³⁷ We

writing in their legal writing class will be helpful to them on exams. See Charles R. Calleros, *Legal Method and Writing* ch. 9 (5th ed., Aspen Publishers 2006).

36. See Joseph W. Glannon et al., *Coordinating Civil Procedure with Legal Research and Writing: A Field Experiment*, 47 J. Leg. Educ. 246, 248 (1997) (discussing the goals of a collaboration between the Civil Procedure and Legal Writing courses).

37. In a document I give my students early in the semester, which is entitled, "*Notes on Reading Cases*," I impart the following advice:

Some cases that you read will be easier to follow and to understand than others. When you have a particularly difficult time following a case, I urge you to pay attention to the reasons why this may be occurring. Sometimes it will be because there is so much going on in the case that is still unfamiliar to you. But difficulty following a case may often be exacerbated because the case is just not very well written. What is it about the writing and organization of a case that can make it difficult to follow? There may be long sentences with convoluted structures that lose you before you get to the period. The large-scale organization may not be effective, and the early paragraphs may lack important context that is needed to understand the discussion that follows.

Whatever the reasons may be, I encourage you to read cases critically in this way. It will be helpful to pay attention not only to the substance of the court's opinion, but to the manner in which the opinion is written. If a case is particularly hard to follow, might it have something to do with the court's failure to organize the opinion in a way that a reader can easily follow the court's analysis? On the flip side, if you find a case that is particularly easy to understand, how much of this ease is due to the fact that the court has organized its written opinion in fashion that makes it very easy for the reader to follow the court's reasoning and logic? I urge you to model your own writing on the well-written and well-organized opinions, not the poorly written ones. Unfortunately, you are likely to read many opinions that do not serve as good models.

explore questions pertaining to the opinion's organization, its lack of a roadmap or other helpful contextual clues, its overly long paragraphs that contain multiple legal points, or its ridiculously long sentences with numerous embedded clauses. In fact, many of the older Torts cases provide wonderful examples for critical reading.³⁸ We can then talk about the importance of making sure that the students' writing does not similarly confound its intended audience; as part of this discussion, we can focus on techniques for effective communication.

The cross-referencing that happens in the legal writing class will be necessarily influenced by which core course it is connected to. In my class, Torts doctrine becomes the vehicle for teaching analysis, reasoning, and writing. All of our writing assignments are based on the substantive law of Torts.³⁹ In addition to the cases that students use directly for their writing assignments, they will often read Torts cases from their casebook that are connected to (and thus give an important context for) the area they are writing about. Sometimes this has meant assigning cases that are not within our "coverage" for that semester, and other times it required changing the order of the material we are covering to make the timing work better for their writing assignments. As an example of the former, one of the subject areas I have used for a writing assignment is landowner liability to trespassing children.⁴⁰ Even though these cases are not within our first-semester coverage, I assign several cases from a later part of the casebook so the students can see how this area of law has evolved and how it works in different jurisdictions.⁴¹ An example of reor-

38. For example, one of the opinions in the students' casebook begins with this sentence: "This action is for the recovery of damages sustained by the plaintiff, by the falling of a bridge over a stream in the town of Florida, in the county of Montgomery, which was alleged to be in an unsafe condition through the neglect of the defendants, who were commissioners of highways of that town, whereby the horses, wagon and harness of the plaintiff were injured." *Hover v. Barkhoof*, 44 N.Y. 113 (1870) (excerpted in Shulman et al., *supra* n. 33, at 166).

39. See Christine Hurt, *Erasing Lines: Let the LRW Professor without Lines Throw the First Eraser*, 1 J. ALWD 79, 82 (2002) ("As anyone who has ever designed an LRW problem knows, students (and lawyers) do not research and write in the abstract. Legal writers research and write about doctrinal subjects.").

40. Under *Restatement (Second) of Torts* § 339, most jurisdictions will hold the landowner liable, despite the child's status as a trespasser, if certain conditions are met.

41. The problem is set in a jurisdiction that has adopted the Restatement Rule, *see id.*; however, among the cases that the students read from their Torts casebook is one from Maryland, *Osterman v. Peters*, one of the few jurisdictions that has declined to adopt this rule. *See* 272 A.2d 21 (Md. 1971).

dering covered material occurs around the final writing assignment, which involves a landlord's liability for the criminal act of a third party. Because liability can be based, in part, on violation of duties imposed in the Landlord-Tenant statute,⁴² I move the Torts coverage of liability based on statutes to an early enough point in the semester to benefit the students' understanding for purposes of the memo assignment.

While the courses are connected and the material is often overlapping, the students receive separate grades for Torts and for LA&W. The Torts grade is based on a traditional law school exam, and the LA&W grade is based on the three individual writing assignments (with the final assignment graded most heavily). I have made a point not to include within the Torts exam coverage the "extra" material that I assigned solely for the purpose of giving context to a writing assignment (e.g., the liability to trespassing children issue described above). Any material that was covered both in Torts and LA&W, however, is fair game for the Torts exam. I have sometimes omitted issues from the exam that the students covered heavily in a writing assignment, but not always. I have discovered—not surprisingly—that students often write better exam answers on issues that have been reinforced through their writing assignments.⁴³ With many students, there is a strong correlation between doing well on writing assignments and doing well on the exam. But there are always some surprises; when I decode the exams that I have graded anonymously, I will often find that not all strong writers are strong exam-takers. Conversely, some students who struggle with their writing all semester do surprisingly well on their exams.

Over the many years that I have taught legal writing,⁴⁴ I have taught the course in a number of different ways. When I began my teaching career, at Georgetown, I taught a traditional legal writing course with writing assignments drawn from a variety of doctrinal areas, paying more attention to skills I wanted to

42. I have, in alternate years, set this problem in Florida and Ohio. See Fla. Stat. Ann. §§ 83.40–83.682 (West 2004 & Supp. 2010); Ohio Rev. Code Ann. §§ 5321.01–5321.19 (Lexis 2004 & Supp. 2010).

43. See Glannon et al., *supra* n. 36, at 255 (observing, in a collaboration between Legal Writing and Civil Procedure courses, that "the collaboration also seemed to improve some students' exam performance").

44. I began teaching Legal Writing in 1991 at Georgetown University Law Center. I became Director of Legal Writing at Maryland in 1996.

teach—e.g. analyzing statutes, using elements tests, analogizing and distinguishing cases, synthesizing case and statutory law, etc.—than to integrating any particular area of doctrine. In my first years at Maryland, I taught the “stand-alone” legal analysis and writing courses that typically focused on a quite narrow area of doctrine.⁴⁵ Since 2003, I have been teaching the fully integrated course described in this section. I have to admit that I went into the integrated approach as an agnostic; at the time I believed that there were any number of effective ways to teach legal writing, and I was happy to teach it in the way that worked best for my institution. In the years I have been teaching the integrated course, however, I have gone from agnostic to committed convert. I now strongly believe that the integrated approach is significantly more effective than non-integrated ways of teaching analysis, writing, theory, and doctrine.

C. *Why the Integrated Approach Works: Meeting the Carnegie Report's Goals*

In looking at the reasons why this integrated program works as well as it does, one of the ways to frame the answer is through the lens of the *Carnegie Report*. By connecting its LA&W course with one of the required first-year courses, Maryland's approach to first-year instruction has been in line with a number of the Report's specific recommendations: “Offer an Integrated Curriculum,” “Join ‘Lawyering,’ Professionalism and Legal Analysis from the Start,” and “Support Faculty to Work Across the Curriculum.”⁴⁶ Maryland's program is an example of an integrated curriculum that marries lawyering skills, legal analysis, and, to a lesser but growing degree, professionalism⁴⁷ from day one of the students' law school career. In addition, the program supports inter-curricular faculty work by having traditional “doctrinal” faculty teach LA&W while at the same time traditional “legal

45. For example, in the years that I taught the Legal Analysis and Writing course in a chosen doctrinal area, I focused on case and statutory law that protects employees from wrongful discharge or firing for reasons proscribed by statute.

46. *Carnegie Summary*, *supra* n. 3, at 8–9 (Recommendations 1, 2, and 4).

47. As part of the law school's Leadership, Ethics and Democracy (LEAD) initiative, professionalism teaching is being integrated throughout the curriculum. Our students first address professionalism issues through their small sections classes during orientation week. See U. of Md. Sch. of L., *LEAD Initiative*, <http://www.law.umaryland.edu/programs/initiatives/lead/> (accessed May 14, 2011).

writing” faculty teach a doctrinal course, with members of both groups working together in regularly scheduled teaching meetings and in less formal settings.

1. Integrating the Teaching of Legal Doctrine with Analysis & Writing⁴⁸

Well before the *Carnegie Report* was published, a number of law schools were integrating the teaching of legal doctrine with legal writing. In fact, the *Carnegie Report's* recommendation to this effect acknowledges that it is “building on the work already underway in several law schools”⁴⁹ And based on these experiences, a robust literature has developed extolling the virtues of integrating writing with doctrine.⁵⁰ In reviewing this literature, a number of themes emerge: integration sends the right institutional message to students about the importance of writing in their legal careers and about the relationships between doctrine, analysis, and writing;⁵¹ there is a strong connection between writing and thinking;⁵² and writing is an integral part of the learning process.⁵³ Integrating doctrine and writing therefore sends an

48. “The teaching of legal doctrine needs to be fully integrated into the curriculum . . . to become part of learning to ‘think like a lawyer’ in practice settings.” *Carnegie Summary*, *supra* n. 3, at 9 (Recommendation 2).

49. *Id.*

50. See e.g. Byron D. Cooper, *The Integration of Theory, Doctrine, and Practice in Legal Education*, 1 J. ALWD 50 (2002); Laurie C. Kadoch, *The Third Paradigm: Bringing Legal Writing “Out of the Box” and into the Mainstream: A Marriage of Doctrinal Subject Matter and Legal Writing Doctrine*, 13 Leg. Writing 55 (2007); Michelle S. Simon, *Teaching Writing through Substance: The Integration of Legal Writing with All Deliberate Speed*, 42 DePaul L. Rev. 619 (1992).

51. See e.g. Simon, *supra* n. 50, at 624–626 (asserting the integration of a Criminal Law class eliminates the common pitfalls of traditional writing courses, such as their tendency to create the student perception that legal writing is less important than doctrinal courses and that legal writing is unrelated to the development of doctrinal knowledge and legal analysis).

52. See Susan L. DeJarnatt, *In re MacCrate: Using Consumer Bankruptcy as a Context for Learning in Advanced Legal Writing*, 50 J. Leg. Educ. 50, 53 (2000) (“[W]riting is thinking. Thinking on paper. Thinking made visible.” (Quoting Joseph Kimble, *On Legal Writing Programs*, 2 Persps. 1, 2 (1994)); Philip C. Kissam, *Thinking (By Writing) About Legal Writing*, 40 Vand. L. Rev. 135, 140 (1987) (explaining “that the writing process itself can serve as an independent source, or critical standard, that alters and enriches the nature of legal thought”).

53. See Kadoch, *supra* n. 50, at 69 (noting that writing about a particular doctrinal subject increases students’ understanding because writing requires them to engage critically with the complexities of the subject so that they can effectively share information with the reader); Pamela Lysaght & Cristina D. Lockwood, *Writing-Across-the-Law-School Curriculum: Theoretical Justifications, Curricular Implications*, 2 J. ALWD 73, 74 (2004)

explicit message that law students do not write in a vacuum, they always write about some legal doctrine, and they learn that doctrine better when they analyze it fully enough to be able to write about it.

Maryland's integrated program realizes all of these benefits. By integrating writing and doctrine in the first semester, we are sending a message to our students, at outset of their legal education, that there is no real divide between analyzing legal doctrine and the writing that communicates that analysis.⁵⁴ By writing within a doctrinal context, students are able to see the ways in which the law and how it is structured influence their writing choices.⁵⁵ Moreover, students tend to develop a deeper understanding of the connected doctrinal course because of the writing that occurs in that doctrinal area.⁵⁶ Thus a number of the benefits that result from integrating the two courses arise from the synergies that come from teaching both courses together.⁵⁷ What follows are some specific synergies that I have observed in teaching the integrated LA&W and Introduction to Torts courses.

Students understand specific legal issues better when they are placed within a context.⁵⁸ It follows, then, that when student

(observing that most legal writing scholarship largely embraces the “writing-to-learn” philosophy, in which “writing is viewed as a means, as a tool, for learning more information, or for coming to a more confident understanding of ideas that are still in development”) (quoting James Marshall, Presentation, *Writing Across the Curriculum: Two or Three Things We Know for Sure* 3 (AALS Annual Meeting, Wash., D.C., Jan. 8, 2000)); Carol McCrehan Parker, *Writing Is Everybody's Business: Theoretical and Practical Justifications for Teaching Writing Across the Law School Curriculum*, 12 *Leg. Writing* 175, 177 (2006) (explaining that writing provides the context necessary for the acquisition and development of knowledge).

54. See Simon, *supra* n. 50, at 624 (“[L]egal analysis, no matter how brilliant, is only useful if it is communicated well.”).

55. See Kadoch, *supra* n. 50, at 69 (explaining that in integrated courses “writing becomes the vehicle through which students explore the doctrine; doctrine frames and determines the audience, purpose, and format of both written and oral communication”).

56. See Kadoch, *supra* n. 50; Parker, *supra* n. 53.

57. Glannon et al., *supra* n. 36, at 246 (reporting that the coordinated pairing of a Civil Procedure course with a legal writing course “turned out to be more than the sum of the parts”).

58. See Lysaght & Lockwood, *supra* n. 53, at 101 (discussing how the placing of doctrinal concepts in context enhances students' understanding of those concepts); Parker, *supra* n. 53, at 176–181 (explaining that various learning and composition theories emphasize the crucial role of context in creating knowledge); Susan E. Thrower, *Teaching Legal Writing through Subject-Matter Specialties: A Reconception of Writing Across the Curriculum*, 13 *Leg. Writing* 3, 36 (2007) (“When students understand the context for what they are doing—whether it is research, writing, or anything else—their overall learning quickens and steepens.”).

writing assignments are connected to a sufficient doctrinal context, their understanding of the legal problems they are writing about tends to be more sophisticated and their analysis can be more comprehensive and deeper.⁵⁹ I saw a vivid example of this more in-depth understanding after using the same writing problem in both a stand-alone legal writing class and in an integrated class. Comparing the two, I was able to see a significant difference between how the students approached the problem and at what level they understood the law they were writing about. This writing assignment, as I noted in the previous section, is based on a *Restatement* rule that addresses landowner liability to trespassing children.⁶⁰ This subject works well as an analysis and writing exercise because the law is presented as a clear five-element test, and the problem gives students good practice in distinguishing and analogizing facts to determine if their client's case meets each element of that test. And it worked fine in these ways in the stand-alone class: students did a good job of understanding that they needed to organize their analysis around this five-element test, and they learned how to use case analogies and distinctions to analyze each element. Students in the integrated classes, however, engaged at a much deeper level of analysis. They were able to understand the rule not just as a five-element test; they were also able to situate each element of the rule within the broader context of tort doctrine.⁶¹ They knew which parts of the test spoke to the landowner's duty, and which addressed how that duty is breached,⁶² and they used that understanding to write much more sophisticated memos.

59. See Glannon et al., *supra* n. 36, at 255–256 (expecting and observing more nuanced analysis in students' memos after coordinating Civil Procedure courses with legal writing courses).

60. *Restatement (Second) of Torts* § 339 (1965).

61. See Lysaght & Lockwood, *supra* n. 53.

62. For example, the first several elements go toward duty:

(a) the place where the condition exists is one upon which the possessor knows or has reason to know that children are likely to trespass, and (b) the condition is one of which the possessor knows or has reason to know and which he realizes or should realize will involve an unreasonable risk of death or serious bodily harm to such children, and (c) the children because of their youth do not discover the condition or realize the risk involved in intermeddling with it or in coming within the area made dangerous by it.

See *Restatement (Second) of Torts* § 339. The requirement that "(e) the possessor fails to exercise reasonable care to eliminate the danger or otherwise to protect the children" goes to the question of whether the landlord breached a duty established by the first elements. See *id.*

I observed a similar difference in analytical depth and understanding when I used a writing problem that contained elements of causation.⁶³ In some years, causation was not included in our first-semester Torts coverage, and I found that students often struggled with this part of their final memo assignment. In part because of that struggle, last year I was able to negotiate with their second-semester Torts professor to shift the mix of coverage between the two semesters so I could teach causation in the integrated class in the fall. With the context of learning causation through our Torts class, this group of students had much less trouble with these components of their final memo, and as a result they produced a much more effective final work product.⁶⁴ Student writing really is stronger when they understand the context in which they are writing.

These synergies, of course, work in both directions. Not only were the students writing at a more sophisticated level, but also the additional attention to Torts cases helped to enhance their understanding of tort law.⁶⁵ And part of what deepened their understanding was that they were *writing about* tort law.⁶⁶ For example, in the liability to trespassing children assignment, students were able to connect each element of the Restatement's rule to the negligence requirements of duty and breach. And in turn,

63. The problem involved landlord liability for criminal conduct of third parties, and part of the analysis included a discussion of when the landlord's negligence could be found to have caused the tenant's harm. See e.g. *Paterson v. Deeb*, 472 So. 2d 1210, 1217–1218 (Fla. 1st Dist. App. 1985).

64. See Glannon et al., *supra* n. 36 (reporting that after the integration of a Civil Procedure course with a legal writing course students' written analysis effectively conveyed the subtleties of more complex doctrinal issues).

65. The integration of writing exercises in traditional casebook classes may improve students' doctrinal knowledge as well. See Lysaght & Lockwood, *supra* n. 53, at 102 (asserting that doctrinal courses' incorporation of legal writing assignments that are unique to their particular area of law, such as the drafting of jury instructions or deeds, will increase students' doctrinal knowledge); Eric Goldman, *Integrating Contract Drafting Skills and Doctrine*, 12 Leg. Writing 209, 210 (2006) (describing how writing exercises employed in Contracts courses provided "unique pedagogical opportunity to use drafting skills-building to reinforce doctrine"). However, the time constraints of such courses are naturally obstacles for the knowledge-enhancing potential of the writing exercises. See *id.* at 213 (explaining that a contract-drafting exercise in a traditional Contracts course occurs entirely out of the classroom to avoid sacrificing coverage of doctrine and that students are not required to attend the review session).

66. See e.g. Laurel Currie Oates, *Beyond Communication: Writing as a Means of Learning*, 6 Leg. Writing 1, 21 (2000) (discussing "writing assignments that help students either to integrate new information into their existing knowledge structures or to create new knowledge structures").

this work on their writing assignment, along with the sustained attention it required, helped the students in their Torts course better to tease out the sometimes difficult distinction between when a duty exists at all and when that duty has been breached.

The enrichment of the students' Torts experience was evident both in class discussions and on their exam performance. In class, students were often able to make explicit connections between material they had learned through the productive struggle that we often classify as the "pre-writing" part of a writing assignment and the substance that was part of their Torts class.⁶⁷ On exams, I could often see differences between the strength of the answers when students were writing about issues that they had learned in more depth through writing assignments and those that they were encountering (or at least writing about) for the first time on their exams.⁶⁸

One of the additional ways in which I was able to take advantage of this synergy was in teaching the similarities and differences between writing legal memos and writing law school exams.⁶⁹ Focusing first on the similarities in structure and analysis, I was able to emphasize to my students how their memo-writing skill could transfer to other contexts. Looking at the differences provided an opportunity to teach transitions between different types of legal writing and to provide a concrete (and immediate) example of how their writing choices need to account for the different goals and different audiences of each document.⁷⁰

Glannon et al. report similar benefits in an experimental pairing of Civil Procedure with Legal Research and Writing (LRW).⁷¹ This pairing differed from Maryland's integrated pro-

67. See Glannon et al., *supra* n. 36 (explaining the coordination of a Civil Procedure course with a legal writing course strengthened students' understanding of the doctrine).

68. See *id.* at 255 (witnessing improved exam performance after the coordination of a Civil Procedure course with a legal writing course).

69. See Calleros, *supra* n. 35.

70. For a discussion of additional practical teaching exercises that can be incorporated into legal writing courses to advance students' awareness of audience and writing goals, see DeJarnatt, *supra* n. 29, at 517–521; see also Patricia Grande Montana, *Better Revision: Encouraging Student Writers to See through the Eyes of the Reader*, 14 *Leg. Writing* 291, 292 (2008) (suggesting that teaching students to understand writing as a recursive process would enable them to view their work from the reader's perspective, and in turn, increase the quality of their revisions).

71. See Glannon et al., *supra* n. 36, at 246. Two members of the Civil Procedure faculty joined with two members of the legal writing faculty at Suffolk University Law School to create an integrated curriculum by coordinating their courses. *Id.* As a result, students

gram in the important respect that it involved a coordinated effort between the Civil Procedure teachers and the LRW teachers,⁷² rather than having one professor teach both the legal writing and doctrinal courses. Nonetheless, some of the same upsides emerged. Going into what they considered a “field experiment,” the Civil Procedure teachers hoped that, among other goals, the students “would simply learn more about the procedural issues” they were writing about;⁷³ in turn, the LRW professors wanted their students to understand the relevant law more effectively and get to a more sophisticated level of analysis, based on the “more meaningful context” in which they would be writing.⁷⁴ The article reported that these goals were realized,⁷⁵ along with—not surprisingly—an improvement in the students’ exam performance.⁷⁶ While this coordinated effort reaped many of the same

wrote about the doctrinal concepts while they were studying them in their Civil Procedure courses. *Id.* For example, as students learned about diversity jurisdiction in their doctrinal course, they were drafting office memoranda analyzing domicile of a medical malpractice plaintiff. *Id.* at 249–250.

72. *See id.* at 249, 258–259 (discussing the planning and compromises required in such coordination). The doctrinal teachers had to reorganize their syllabi, adhere to their class schedule, and borrow additional class time from the legal writing teachers to address substantive material that needed to be added to the coordinated curriculum. *Id.* at 258. The LRW professors had to create new legal writing problems and supporting court documents. *Id.* The LRW professors also occasionally needed to alter their deadlines for writing assignments. *Id.* at 249. In addition to regular planning meetings, both the doctrinal and LRW professors occasionally attended each other’s classes to insure effective coordination. *Id.* at 258–259.

73. Glannon et al., *supra* n. 36, at 248. The Civil Procedure professors based this goal of increased learning on their belief that “[students’] research and writing in those areas would complement the more abstract discussion in procedure class.” *Id.*

74. *Id.*

75. *Id.* at 253–258. Specifically, the Civil Procedure teachers observed that students’ participation increased in those classes addressing the procedural issues about which they were writing, they generally appeared more engaged, and they asked more pointed questions. *Id.* at 253–254. The collaboration’s most significant success from the point of view of the doctrinal teachers was that the “[t]he analysis of the [Rule 12(b)(6)] motion in Civil Procedure and its use in the LRW assignment operated symbiotically to provide a much richer appreciation for [the] procedural device.” *Id.* at 255. Through the legal writing assignment, the students had to grapple with the ambiguous effect a general allegation made in a complaint had on a motion to dismiss. *Id.* at 254. The LRW teachers found that students’ greater doctrinal understanding from the Civil Procedure course increased the sophistication of students’ written analysis. *Id.* at 255. For example, the legal writing teachers explained that, for the first time, the students’ analysis genuinely recognized the differing impacts a motion to dismiss and a motion for summary judgment had on their legal arguments. *Id.* at 257.

76. *Id.* at 255. Numerous legal educators have also witnessed enhanced student learning after the integration of doctrine and legal writing. *See e.g.* DeJarnatt, *supra* n. 52, at 69; Kadoch, *supra* n. 50, at 73; Simon, *supra* n. 50, at 626; Thrower, *supra* n. 58, at 38; *but see* Oates, *supra* n. 66, at 3 (noting that many reports regarding writing’s ability to in-

benefits as Maryland's integrated program, there are additional benefits that result when same professor teaches both courses. These points will be addressed in next section.

2. Teaching across the Curriculum: Casebook Faculty Teaching Legal Writing and Legal Writing Faculty Teaching Casebook Courses

The effectiveness of Maryland's integrated program is enhanced by the way in which the faculty teaching the integrated classes—both traditional casebook faculty and legal writing professionals—are integrated along with the classes themselves. The integrated faculty model works not only because of the teaching synergies described above, but also for a reason captured in the comments to Recommendation 4 in the *Carnegie Report*: “Both doctrinal and practical courses are likely to be most effective if faculty who teach them have some significant experience with the other, complementary area.”⁷⁷ In Maryland's program, such “significant experience” comes not just through the faculty development programs contemplated by the *Carnegie Report*, but by actually teaching in the other area, together with resources that support that teaching.

The integrated program in which I teach affords numerous opportunities for faculty members to learn from each others' expertise, or what one commentator has described as “useful cross-pollination between legal writing faculty and casebook faculty.”⁷⁸ As someone who began her career teaching legal writing and then added upper-level seminars before teaching a traditional casebook course, it has been relatively easy for me to import legal writing pedagogy into these other contexts,⁷⁹ and I have been able to share these and other teaching ideas with my casebook colleagues. In turn, the experience of teaching a casebook course—with exchanging suggestions for texts, sharing of syllabi, discussions of specific doctrinal issues, and the other support I have re-

crease learning are based on anecdotal rather than empirical evidence).

77. *Carnegie Summary*, *supra* n. 3; *see also* Beazley, *supra* n. 1, at 38–40 (explaining the negative consequences that flow from the common segregation of casebook from legal writing faculty at law schools).

78. *See* Beazley, *supra* n. 1, at 38.

79. *See* part II below for a discussion of a combined seminar and legal writing class.

ceived from my casebook colleagues—has made me a more effective Torts professor.⁸⁰

Our program's structure provides a number of ways for casebook faculty to become more familiar with legal writing pedagogy: through their work with trained teaching assistants, through teaching meetings and connected teaching resources, and through informal conversations among casebook faculty and legal writing faculty. Each faculty member who teaches LA&W uses two teaching assistants who are concurrently taking the Teaching Fellow Seminar, a year-long course that trains them for the various tasks they will perform: primarily commenting on student drafts and meeting with students in conferences.⁸¹ The training that the teaching assistants receive benefits faculty members in a number of ways. By having to answer a teaching assistant's inquiry about the goals of a particular writing assignment, the professor may be forced to focus on the assignment's pedagogical goals in a more deliberate way than that to which he was accustomed.⁸² As casebook faculty have become more aware of what their teaching assistants are learning in the Teaching Fellow Seminar, they have requested copies of the teaching materials we use for the seminar,⁸³ and one visiting faculty member even chose to "audit" the class (fully participating in the readings and discussions) during the semester in which she was teaching the integrated writing and doctrinal courses.

The faculty who teach in our integrated program have also benefited by participating in a teaching group that meets regularly every fall semester. The topics covered in the teaching group

80. Effective integration may also require LRW programs to be more receptive to hiring applicants interested in teaching doctrinal courses and creating legal writing problems that are transactional-based or that involve different doctrinal subjects. See Hurt, *supra* n. 39, at 81–83; see also Cooper, *supra* n. 50, at 59 (noting that the lack of faculty expertise has the potential to inhibit effective integration, but faculty members can largely mitigate this problem by learning about current practices through conversations with lawyers who are active in the areas in which they teach).

81. See U. of Md. Sch. of L., *Teaching Fellow Seminar (1 and 2)*, http://www.law.umaryland.edu/academics/program/curriculum/catalog/course_details.html?coursenum=562C (accessed May 15, 2011).

82. See *supra* n. 17.

83. Among the articles that the TAs read in their training seminar are M.H. Sam Jacobson, *A Primer on Learning Styles: Reaching Every Student*, 25 Seattle U. L. Rev. 139 (2001); Nancy Sommers, *Responding to Student Writing*, 33 Coll. Composition & Comm. 148 (1982) (available at <http://web.missouri.edu/~ricejr/Spring08/sommers.pdf>); Joseph M. Williams, *On the Maturing of Legal Writers: Two Models of Growth and Development*, 1 Leg. Writing 1 (1991).

meetings have included working effectively with teaching assistants, commenting on student papers, the pros and cons of grading rubrics, and effective ways of teaching case synthesis. Faculty members participating in these meetings become more acquainted with legal writing pedagogy by participating in the discussions and by reading the materials I provide in advance of the meetings, many of which are the same ones used in the Teaching Fellow Seminar. A great deal of “cross-pollination” tends to happen at these teaching group meetings, as well as in more informal gatherings that arise among faculty who are teaching their integrated courses in the same doctrinal area.

In addition to the teaching group meetings, I often meet individually with professors who are new to teaching LA&W, both before and during the semester, providing them with teaching materials and ideas, sample assignments, in-class exercises, and other resources. We have been building a library of shared teaching resources as a faculty through a dedicated Blackboard page. All of these avenues become ways of importing legal writing pedagogy into both the writing and casebook classrooms.

Speaking from personal experience, I have seen “useful cross-pollination” work in both directions. Importing legal writing pedagogy into my own Torts classroom was a natural outcome of my background as a legal writing professor. And additional opportunities for cross-pollination have improved my teaching in both of the combined classes. In the previous section, I described how my students benefited from the synergies of learning Torts doctrine from the same professor who was assigning their Torts-based writing problems. These benefits have accrued to me as well: through teaching Torts, I have gained a better and more complete understanding of Torts doctrine.⁸⁴ This in turn has allowed me to do better job of using and teaching Torts-based writing problems.⁸⁵

84. See Hurt, *supra* n. 39, at 82 (explaining that LRW professors without proficiency in the doctrinal subjects they are using in their writing assignments will likely create “poorly conceived and executed LRW assignments”).

85. I will have a chance to test this more complete understanding in a stand-alone context in the coming academic year. Because I will be teaching an evening section of Legal Analysis and Writing, I will not be teaching a connected course (due to the way our evening curriculum is structured). However, my students will be taking Torts in the same semester, and I plan to use torts-based writing problems similar to those I use when I teach the combined class. With six years of teaching Torts under my belt, I hope to be able to bring into my stand-alone course the “pedagogical discoveries” I made through this

The various pedagogical benefits of Maryland's integrated program have naturally led to thoughts about ways to continue such integration throughout the curriculum. While the first-semester LA&W class provides this wonderful opportunity for integration, the ability to combine the legal writing class with a core first-year course depends on a particular structuring of the curriculum that does not extend into the second semester. Our second semester does, however, include an elective course for first-year students. And the possibility of pairing a first-year elective with the second-semester legal writing requirement presents an opportunity to replicate many of the synergies of the integrated first-semester courses. One example of such a pairing will be described in the next section.

II. Expanding the Model: Pairing the Spring-Semester Advocacy Class with an Elective First-Year Seminar

In the spring semesters of 2008 and 2009, with the hope of replicating the pedagogical synergies of our first-semester program, I taught two courses together: the second required legal writing course—a two-credit class that focused on trial and appellate advocacy—and a first-year elective seminar, Public Health and the Law. When I decided to build on the success of Maryland's integrated first-semester program by combining these courses, I was able to take advantage of a long history of institutional support for an innovative, integrated curriculum at the law school. Our integrated first-year course has been in place for nearly forty years,⁸⁶ and Legal Theory and Practice courses—combining theory, doctrine, analysis, and writing with experienced-based social justice work—have been part of the curriculum for more than twenty years.⁸⁷ The law school has been similarly welcoming of experimental course pairings that integrate theory and doctrine with practical skills, and several such examples⁸⁸ led

enterprise.

86. See Hornstein & Deise, *supra* n. 5, at 78.

87. See Bezdek, *supra* n. 5; see also Barbara Bezdek, *Reconstructing a Pedagogy of Responsibility*, 43 *Hastings L.J.* 1159 (1992); Richard Boldt & Marc Feldman, *The Faces of Law in Theory and Practice: Doctrine, Rhetoric, and Social Context*, 43 *Hastings L.J.* 1111 (1992).

88. See e.g. Hornstein & Deise, *supra* n. 5, at 77, 78 (describing the authors' integration of theory, doctrine, and practice by co-teaching a Trial Evidence and Advocacy course that paired the basic Evidence course with the basic Trial Advocacy course).

the way for the work I did in my own experimental course package.⁸⁹

A. Adapting the Elective Seminar for First-Year Students to Make it a Better “Fit” with the Connected Legal Writing Class

To make this pairing work, I first had to adapt Public Health and the Law, a three-credit seminar I had previously taught as an upper-level elective. The new version of the seminar would be offered to first-year students only, and all students who elected to take the seminar would be placed in my section of Legal Analysis, Writing, and Research⁹⁰ (LAWR) II. Having the students enroll in both courses together would allow for the integration of theory, doctrine, and practical skills that was the goal of the combination. One of the additional advantages that arose from combining the required writing course with an elective seminar was the small size of the seminar class. Enrollment was capped at twelve students, and in the two years I taught the combined classes, I only had eleven or twelve students each time.

There were two ways in which I changed the Public Health Law seminar from how I had taught it as an upper-level elective. First, while I covered the same material that I had in upper-division seminar, I did some rearranging of the order of that coverage, and I spent more time on some of the background legal issues that first-year students would not yet have encountered in their classes. The second change came in the writing that was required for the seminar: rather than have my first-year students write a traditional seminar paper, the primary writing requirement consisted of nine short “thought papers” based on the class readings.⁹¹

89. In particular, my decision to teach the required second-semester advocacy course in conjunction with another course was inspired by a similar undertaking by my then-colleague Steve Schwinn, who paired the required Constitutional Law II course with a required appellate advocacy course. See Steven D. Schwinn, *Developmental Learning Theory and the American Law School Curriculum*, 3 John Marshall L.J. 33, 46–47 (2009) (describing this experimental two-course combination).

90. Students were concurrently taking a one-credit research course from our library faculty. I did, however, teach some research in my LAWR II class that specifically focused on the problem my students were working on.

91. I changed the seminar’s writing requirement for several reasons. I was already assigning my students quite a bit of writing in their advocacy class: two short “warm-up exercises,” a memo in support of or in opposition to a motion for summary judgment, and an appellate brief. (The students were also required to do an oral argument on the appel-

The change in the order of covered material was driven by the writing problem that I assigned in the companion advocacy class, which was based on a constitutional challenge to a state law mandating that, as a condition for admission to public or private school, all girls entering the sixth grade be immunized against human papillomavirus (HPV).⁹² Given the point in the semester when I needed to assign the problem, I moved the seminar's coverage of compulsory vaccination into the earlier weeks. I also spent more class time working through constitutional issues that these students had not yet encountered,⁹³ particularly the various constitutional limitations on state police powers to regulate the public's health.⁹⁴

The short "thought papers" (two to three pages, double-spaced) required the students to be doing some writing nearly every week.⁹⁵ The form and content of the thought papers gave the students a more open-ended writing opportunity than they typically get in their first year of law school. They were invited to respond to any of the several questions that I would pose about the week's readings, to express an opinion about what they had read, or to respond to any other issues that had occurred to them when they were doing the reading. There was no prescribed format; the papers could be reflective⁹⁶ or they could take the form of an op-ed piece or blog posting, as long as they were connected to

late issues.) In a sense, then, my opting not to assign a typical seminar paper was a decision not to create competing writing demands between the two classes. The appellate brief already gave my students a big writing project to manage that semester; I therefore wanted the writing for the seminar to provide the students with a different type of writing opportunity on a more regular schedule that was less likely to compete with their motion memo and brief-writing requirements. I also wanted the students to experience different ways that they could learn by writing.

92. See *infra* sec. II(B).

93. The students were taking their first constitutional law course the same semester. While this class addressed some of the constitutional issues we were confronting in the Public Health Law seminar (Federalism, regulation under the Commerce Clause, and federal powers to tax and spend), the individual rights issues would not be taught until the required third-semester Constitutional Law II.

94. See generally Lawrence O. Gostin, *Public Health Law: Power, Duty, Restraint* 77–146 (rev. 2d ed., U. Cal. Press 2008).

95. For eleven of the fourteen weeks of seminar classes, the students were required to write weekly papers based on the assigned reading; only nine papers were actually required because I allowed them to skip any two weeks of their choosing.

96. Some of the most thoughtful papers would start something like this: "Before I did the readings for today's class, I thought I believed X. But after reading these articles, I now realize"

the assigned material and included the author's thoughts about that material.

The thought-papers requirement turned out to have numerous benefits. It was less formal than most other law school writing, and the students appreciated the opportunity to bring their own voices and their creativity into their writing. They were also able to experience another aspect of writing as learning, specifically writing as a way to discover and express their opinions.⁹⁷ Finally, the weekly thought papers played a valuable role of "jump-starting" class discussions in the seminar. Having written about a class topic, the students were much more eager to talk about that topic in class. In some ways, moving from writing to speaking in this context paralleled the work they were doing in the connected advocacy class. In the seminar, the students were effectively translating their writing skills to oral "advocacy,"⁹⁸ in the sense that the discussions often involved efforts to persuade their classmates to their own point of view.

B. The Advocacy Problem: Connected Content and a Realistic Simulation

As in the first-semester integrated program, the synergies of connecting a writing class with a substantive course were realized through writing assignments in the advocacy course that were based on the substance of the Public Health Law seminar. In this instance, I had my students write a motion memo and an appellate brief and present an oral argument on issues surrounding compulsory HPV vaccination for school-age girls. The problem was a natural fit for a seminar whose topics included public health versus private rights; the role of the government in protecting the public's health; state police powers and the constitutional limits on such powers; and specific examples of public health initiatives, including compulsory vaccination, testing,

97. See Oates, *supra* n. 66, at 3 (explaining that the writing-to-learn movement prompted teachers to use expressive writing as a way to have students develop their own opinions and ideas).

98. In this way, the seminar discussion became, in effect, a way to practice oral advocacy skills in a less formal setting, and thus an additional way to analyze legal issues. See Lisa T. McElroy, *From Grimm to Glory: Simulated Oral Argument as a Component of Legal Education's Signature Pedagogy*, 84 *Ind. L.J.* 589, 589 (2009) (suggesting that simulated oral exercises should be regularly incorporated into the law school curriculum because oral advocacy is one "starting point" for understanding legal analysis).

screening, and mandatory treatment.⁹⁹ The assigned problem raised two challenging constitutional issues: (1) whether the requirement that all sixth-grade girls be immunized against a sexually transmitted virus violated a parent's due process right to direct the upbringing of her child;¹⁰⁰ and (2) whether requiring girls, but not boys, to receive the vaccine violated the Equal Protection Clause.¹⁰¹

While the practical work in this course was a simulation and not an actual case, my aim was to make the legal problem as realistic as possible within the pedagogical goals of the course. These goals included a problem that fit within the context of the seminar, raised challenging but manageable issues, allowed the students to find some authority they could use to argue for a position, and contained sufficient balance that each side had arguments to make.¹⁰² And while I did not need to know in advance what all of those arguments might be, I did want to create a problem that "worked"—not in the sense of being neatly pre-packaged with answers I knew the students would reach,¹⁰³ but rather in the sense that I knew the problem would present interesting issues and that enterprising students would realize some fruitful results from their research and analysis which they could use to write a persuasive brief. I tried to make the simulation more realistic in other ways as well, using interviews and litigation documents to present the assignment¹⁰⁴ and requiring students to research both the relevant law and the factual background.¹⁰⁵

99. See generally Gostin, *supra* n. 94, at 376–395.

100. See generally *Wis. v. Yoder*, 406 U.S. 205 (1972); *Boone v. Boozman*, 217 F. Supp. 2d 938 (E.D. Ark. 2002).

101. See generally *U.S. v. Virginia*, 518 U.S. 515, 533 (1996); *Michael M. v. Super. Ct.*, 450 U.S. 464, 471 (1981).

102. For a discussion of important considerations in designing legal writing problems, see generally Grace Tonner & Diana Pratt, *Selecting and Designing Effective Legal Writing Problems*, 3 Leg. Writing 163 (1997). See also Cara Cunningham & Michelle Streicher, *The Methodology of Persuasion: A Process-Based Approach to Persuasive Writing*, 13 Leg. Writing 159, 182–197 (2007) (describing how an advocacy class's use of a process-based approach to persuasive writing enabled students to transfer persuasive writing skills to legal problems outside of the classroom, think creatively, effectively communicate a case theme, present facts persuasively, appropriately address counter-arguments, and substantively revise their legal writing).

103. See Schwinn, *supra* n. 89, at 40 (criticizing problems that are so "well vetted" that students perceive them as "objective and determined and outside of themselves.").

104. For a discussion of the value of increasing the realism of writing problems through simulated client interviews and various court documents, see e.g. Cunningham & Streicher, *supra* n. 102, at 164 n. 16 (utilizing "a commercially published case file that contains

C. *What Worked Well About This Combination: Some Observations*

My sense, after teaching this course combination for two years, was that many of the pedagogical synergies of our first-semester program were indeed reproduced in this experimental venture, particularly in the results I saw in the legal writing class. The Public Health Law seminar benefited too, of course. Students engaged deeply with a public health law problem in their motion memo and appellate brief writing projects, and this level of engagement certainly heightened their awareness of related issues we were addressing within the seminar. Indeed, the depth of their understanding of the legal issues surrounding compulsory vaccination no doubt aided their ability to see how these issues played out in other exercises of public health authority and helped them to see connections among different areas of public health law. Additionally, as discussed above, the “thought paper” writing that the students did for the seminar enhanced their understanding of the issues we were addressing, and helped them to express their own thoughts and ideas about those issues. But I was most struck by what I saw my students achieve in their work in written and oral advocacy in the LAWR II class.

In LAWR II, the added context that came from the attached substantive seminar opened up the opportunity to challenge the students in a variety of ways beyond what would likely have succeeded in a stand-alone legal research and writing class. The overall quality of both the written products and the oral arguments was uniformly strong, and several students produced work

individual court documents, including pleadings, deposition transcripts, motions, briefs, court orders, etc.” for a more realistic appellate record); Glannon et al., *supra* n. 36, at 250, 252 (conducting in-class client interviews and depositions where students had opportunities to obtain facts relevant to the legal issues in their writing assignments by preparing questions for the clients and witnesses); Simon, *supra* n. 50, at 627–628 (noting that the record for the appellate brief assignment in an integrated Criminal Law class contained factual disparities in a trial witness’s testimony). To recreate an authentic appellate litigation experience for law students, one author suggests forming a year-long advocacy course, where students conduct a trial during the first semester that produces a realistic appellate record to work from in the second semester. Frank Tuerkheimer, *A More Realistic Approach to Teaching Appellate Advocacy*, 45 J. Leg. Educ. 113 (1995).

105. See Jay M. Feinman, *Simulations: An Introduction*, 45 J. Leg. Educ. 469, 473, 476–477 (1995) (explaining that simulations involving legal research and fact investigation are often highly valuable, in part because they provide students with the opportunity to develop professional legal judgment).

that tremendously exceeded my expectations. Students in the combined class were able to rise to this high level while they were working with challenging and novel legal issues, dynamic factual issues, and a complex interplay between the law and facts. Moreover, they were able to work together cooperatively throughout the process and to discover arguments together as they researched and analyzed their motion memo and brief problems. The achievements were likely enhanced by the context provided through the connected seminar, as well as the luxury of working in a small, seminar-sized class of only eleven or twelve students.

Studying the substantive law in the seminar allowed the students to tackle successfully some very sophisticated legal issues, especially for first-year students. To effectively research, analyze, and write about compulsory HPV vaccination, the students needed to work through two complicated constitutional issues—substantive due process and equal protection—before they had taken the constitutional law course where they study these issues. At first glance, such an assignment seems to go against my argument in Part I that writing classes need to be connected to a sufficient body of doctrine. In this case, however, we did study these issues within the Public Health Law seminar, in the context of compulsory vaccination and other topics. And I spent more time on this background material than I had when teaching the seminar to upper-level students who had already taken Constitutional Law II. From what I saw, the introduction to these constitutional issues that the seminar provided gave the students sufficient context for them to learn what they needed about substantive due process and equal protection through their research on the compulsory vaccination problem. As a result, as compared to students in stand-alone classes whom I have seen struggle when presented with challenging constitutional issues, this group of students was able to rise to the occasion, learn more through their research, and ultimately write and argue at a very sophisticated level.

Another aspect of the combined seminar and legal writing class that worked well came from the advantages of students working cooperatively in a small, seminar-sized class. After each student had been assigned a side to represent,¹⁰⁶ we would spend

106. After the students received their problem through the client interview, before I divided them into sides, I allowed each student to submit a preference as to which side she

some of our class meeting time dividing into plaintiff and defendant groups, with each side working on their research strategy, analysis, and arguments together. Much more than I expected, I observed a great deal of cooperative work happening in these groups: students often spent time teaching each other the substantive law they had learned through their research, explaining to each other some of the more challenging concepts, and sharing strategies and ideas for arguments in support of their client's position.¹⁰⁷

Both the seminar context and this cooperative spirit helped the students to discover arguments together as they worked through a legal problem in a relatively new territory.¹⁰⁸ The question that their brief problem presented was recent enough and novel enough that there were no cases directly on point. Students instead had to make credible analogies and distinctions to cases involving compulsory Hepatitis B vaccination,¹⁰⁹ public school condom distribution programs,¹¹⁰ and screening of newborns for metabolic disease.¹¹¹ Even the secondary sources addressing compulsory HPV vaccination were only marginally helpful. The first year I used this problem, the issue was so new that virtually nothing had been written discussing the *constitutionality* of compulsory HPV vaccination; articles on the subject mostly

wanted to represent in her advocacy work. In both of the years that I taught the course, the numbers worked out so that each student was able to represent her requested side. I was often quite surprised at which side some students would choose—some went against their own values in order to give themselves an added challenge, and many opted for the challenge of representing the side that had the harder case to win.

107. Compare with Hornstein & Deise, *supra* n. 5, at 92–93 (discussing how a small twenty-student class facilitated cooperation among students and the authors' discovery that "students deliberately engaged themselves in assisting their classmates with learning the doctrine . . .").

108. The students were able to discover together many of the arguments that they would make in their memos and briefs, rather than being able to rely on finding existing "answers." To a large degree, my comfort level in assigning a problem where the issues were indeterminate enough that I could not predict all of the arguments the students might make was inspired by the work of my then-colleague, Steve Schwinn, who convinced me that this was a pedagogically superior choice. See Schwinn, *supra* n. 89 (arguing in favor of problems where the legal issues are indeterminate). I will admit, however, that some of the supplemental readings that I chose for the seminar were deliberately meant to plant seeds for potential arguments that the students *might* make in their briefs; in this way, I was able to use the context of the seminar to guide the students' discovery.

109. See *Boone v. Boozman*, 217 F. Supp. 2d 938 (E.D. Ark. 2002).

110. See *Alfonso v. Fernandez*, 606 N.Y.S.2d 259 (App. Div. 2d Dept. 1993).

111. See *Spiering v. Heineman*, 448 F. Supp. 2d 1129 (D. Neb. 2006).

focused on ethical and policy issues.¹¹² By 2009, the second year I taught the problem, there were several law review articles that did address the constitutional issues of due process and equal protection.¹¹³ However, because our case involved a unique set of facts in a particular jurisdiction, even these articles did not provide students with “answers” to their legal questions.

The course context also helped students to see connections among different “topics” we were studying in the seminar that they might use to make arguments in their memos and briefs. So, for example, several weeks after we covered compulsory vaccination, the seminar addressed the topic of testing and screening programs for infectious and congenital diseases. When we read this group of cases, students discovered that many policy arguments that supported the use of state police power to enact laws requiring screening of newborns might be used to argue for mandatory vaccination laws.¹¹⁴ The students also discovered that some of the same parental due process challenges had arisen in this other context.¹¹⁵

Finally, the added context of the seminar helped the students to work with more complicated facts, which in turn led to a better understanding of the interplay between the law and facts of a legal problem. The students received the basic background facts—the parent’s objection to the mandated HPV vaccination of her ten-year-old daughter—from a simulated client interview. Many of the additional facts needed to make the legal arguments, however, needed to come from factual research¹¹⁶ about HPV infection, transmission, and prevention.¹¹⁷ Much of this research came

112. See e.g. James Colgrove, *The Ethics and Politics of Compulsory HPV Vaccination*, 355 *New Eng. J. Med.* 2389 (2006); Rebecca E. Skov, *Examining Mandatory HPV Vaccination for All School-Aged Children*, 62 *Food & Drug L.J.* 805 (2007).

113. See e.g. Gail Javitt et al., *Assessing Mandatory HPV Vaccination: Who Should Call the Shots?* 36 *J.L. Med. & Ethics* 384 (2008); Sylvia Law, *Human Papillomavirus Vaccination, Private Choice, and Public Health*, 41 *U.C. Davis L. Rev.* 1731 (2008).

114. See *Spiering*, 448 F. Supp. 2d at 1140–41; see also *Douglas County v. Anaya*, 694 N.W.2d 601, 607–608 (Neb. 2001).

115. *Id.*

116. I was comfortable requiring my students to do this research in part because the information they were finding was so closely connected to what we were studying in the Public Health Law seminar.

117. For example, to support their due process analysis, the students needed to research the safety and efficacy of the HPV vaccine, and the nature of HPV transmission. Understanding the sexually transmitted nature of this virus is crucial to understanding how compulsory vaccination might infringe on the due process rights of a parent to direct the upbringing of her child, particularly when that parent believes in abstinence-only

from web-based sources, thus providing an opportunity to teach about reliable versus not-so-reliable online sources.¹¹⁸ Students on each side of this case had to make different use of both the facts and the law, and understanding the interplay between the two allowed for a good deal of creativity in their arguments. The students thus came to understand the recursive nature of research and analysis as well as the role of both the law and the facts in making legal arguments.

The combination of an elective Public Health Law seminar with the required second-semester legal writing class thus replicated many of the same synergies that I had seen in the integrated first-semester offerings. The additional writing enhanced the students' learning of the substantive area of law. The substantive law, in turn, provided a context that enabled the students to work with relatively complicated legal issues, to write persuasively about those issues in a motion memo and brief, and to present effective oral arguments on their briefs.

III. Translating the Integrated Model into Other Settings

The many benefits of integrating writing, analysis, theory, and doctrine present a powerful argument for incorporating such integration into the law school experience of as many students as possible. There are, of course, numerous ways to achieve such integration. Some of these options for course integration require broader curricular changes, while others can happen through changes to individual courses.¹¹⁹

One of the lessons I learned from the evolution of Maryland's program was the importance of making curricular choices that fit best with a particular institution. As noted in Part I, the effort to teach a Legal Analysis and Writing course with chosen doctrinal material, but disconnected from a core course, was not an approach that worked well at Maryland. Similar courses have,

education. Similarly, the equal protection arguments depend on understanding the different ways that HPV infection affects girls and boys, as well as how the virus can and cannot be spread.

118. For a reliable web-based source on facts about HPV, see Ctrs. for Disease Control and Prevention, *Human Papillomavirus*, <http://www.cdc.gov/hpv/> (accessed May 23, 2011).

119. See Cooper, *supra* n. 50, at 53 (setting out three ways to integrate theory, doctrine, and practice in the law school curriculum: "within a course, through coordinated courses, or across structured course sequencing").

however, been very effective at other law schools.¹²⁰ The primary reasons why this approach has not been embraced at Maryland may center on some features that are specific to our law school: our first-year Legal Analysis and Writing classes are primarily taught by casebook faculty, there is a strong institutional history of connecting the legal writing class to a casebook course, and the faculty has maintained a commitment to accommodating the teaching of connected legal writing and casebook courses in small sections. And after teaching in an integrated fashion for a number of years, I have to admit that I, like my colleagues at Maryland, have become sold on the effectiveness of this model. I would therefore encourage, where possible, curricular structuring that allows for similar opportunities for integration.

Indeed, Maryland is not the only law school that uses a connected or integrated course structure; similar approaches have been or are currently in place at other law schools as well. For eighteen years (until the program was abandoned in 2009), first-year students at Pace University School of Law took a year-long required course that integrated Criminal Law with Legal Analysis and Writing.¹²¹ Similarly, the University of Baltimore School of Law offers its students an Introduction to Lawyering Skills course that is combined with Civil Procedure, Contracts, Criminal Law, or Torts.¹²² Of course, not all law schools will embrace the kinds of curricular changes that will enable a full integration. Nonetheless, many benefits of integration can be realized in a course-by-course fashion: by pairing legal writing classes with other required or elective classes, by incorporating more doctrine into traditional legal writing classes, by importing legal writing pedagogy into other courses in the curriculum, and by bringing more instrumental writing into subject-matter seminars.

120. See e.g. Thrower, *supra* n. 58 (describing the first-year Legal Writing Program at DePaul University College of Law, where some sections are offered with subject-matter specialties); Kadoch, *supra* n. 50.

121. See Simon, *supra* n. 50, at 619 (discussing an early version of this course that integrated Criminal Law, legislative process, and legal analysis and writing); see Eric B. Easton, *LRW Program Design: A Manifesto for the Future*, 16 *Leg. Writing* 591, 599 n. 48 (2010) (discussing reasons for the demise of this model at Pace).

122. See Easton, *supra* n. 121, at 592 n. 12; see also Univ. of Baltimore School of Law, *First and Second Year Curriculum*, <http://law.ubalt.edu/template.cfm?page=226#firstday> (accessed May 23, 2011).

A. *Pairing Legal Writing Classes with Other Required or Elective Classes*

The option of combining a legal writing course with another required or elective class does not depend on any large-scale curricular reform. Rather, this type of integration could be available anywhere, provided that both the faculty and the institution are willing. Faculty members must be willing to take on what may amount to an increased course load (if the same professor will be teaching both courses),¹²³ and the institution must be willing to allow, say, a professor who primarily teaches legal writing classes to teach a second course or seminar in a substantive area that can be connected to the work in the legal writing class.

A successful combination can also be achieved when two professors work together to either co-teach an integrated course¹²⁴ or to coordinate closely to collaboratively teach two courses.¹²⁵ This type of coordination works best when both faculty members are willing to work very closely together, attend each other's classes at times, and sometimes make compromises in their individual courses by reorganizing their syllabi and altering deadlines.¹²⁶ It may also require a willingness to borrow (and have borrowed) class time from the connected course to address additional substantive material that may be needed to make the coordinated classes and writing assignments work together.¹²⁷

Another way two professors can work together to integrate the curriculum is by adding a writing practicum taught by one professor to an upper-level course taught by another.¹²⁸ One such example is described by Elizabeth Fajans, a professor at Brooklyn Law School, who taught an upper-level writing practicum to ten of the students taking an Administrative Law class taught by her colleague, Claire Kelly.¹²⁹ To make the integration

123. See e.g. Schwinn, *supra* n. 89 (describing a semester in which he taught and combined courses in Appellate Advocacy and Constitutional Law).

124. See Hornstein & Deise, *supra* n. 5.

125. One example of such close collaboration is discussed in Glannon et al.'s 1997 *Journal of Legal Education* article, reporting on a pairing of Civil Procedure with Legal Research and Writing. See *supra* nn. 71–75 and accompanying text.

126. See *supra* n. 72.

127. See Glannon et al., *supra* n. 36, at 258.

128. Elizabeth Fajans, *Learning from Experience: Adding a Practicum to a Doctrinal Course*, 12 Leg. Writing 215 (2006).

129. *Id.*

work, the two professors worked very closely with one another, including auditing each other's classes.¹³⁰ They planned the two courses together so that the Administrative Law class provided the context for the writing that was done in the practicum.¹³¹ One of the interesting aspects of Professors Fajans's and Kelly's model was that while only ten students from the large substantive class participated in the practicum, even those who did not take the practicum were able to get some benefit from the collaboration. This occurred because all of the Administrative Law students were involved in critiquing the documents that the practicum students drafted.¹³²

While making two courses taught by different faculty members work together effectively typically takes very close coordination and planning, this amount of effort may not always be necessary. In fact, I had the opportunity to pull off such a successful coordination in the fall 2010 semester without needing to work this closely with the other professor. Since I taught an evening section in fall 2010, my Legal Analysis and Writing class was a stand-alone course. However, my students were concurrently taking Torts, the course I have taught together with LA&W for many years. As I had hoped, I was able to draw from my experience teaching Torts (and luckily their professor was using the same casebook that I used) to coordinate my legal writing class with their Torts class with little more than a copy of their Torts syllabus. Of course, had I not previously taught Torts from the same book, I would have needed to work much more closely with their Torts professor and likely would have needed to attend a number of his classes.

B. Incorporating More Doctrine into Traditional Legal Writing Classes

Integration of writing and doctrine can also happen through legal writing classes that incorporate sufficient doctrinal material. Some of the choices made in the development of Maryland's legal writing program can be grouped into this category, and it remains the best description of our current evening-division

130. *Id.* at 217–218.

131. *See id.* at 218.

132. *See id.* at 217.

course, a stand-alone Legal Analysis and Writing class taught in the doctrinal area of the professor's choice. In this sense, our institution has always been committed to incorporating doctrine into its writing course, even as we went through our various iterations of deciding how much doctrine was enough. Similar integration of doctrine into legal writing classes can, but need not, happen at program level; the inclusion of doctrine can also come through the initiative of an individual legal writing professor.

Legal writing programs at several other law schools have integrated writing and substance through the required legal writing classes. For example, Professor Kadoch describes a model at Vermont Law School that brings together doctrine, writing, theory, and practice by setting each section of Legal Writing II "in a distinct area of the law, which permits students to choose an area of doctrinal interest and learn about substance while honing their research, analysis, and writing skills."¹³³ Similarly, Professor Thrower has written on DePaul's approach to offering specialized sections of its first-year legal writing course in family law, health law, public interest law, and intellectual property law, which "export[s] discipline-specific work to the legal writing classes."¹³⁴ Both professors report that using specific subject areas and focusing on doctrinal content within those areas provides a context that enhances the learning that can be achieved through the writing assignments.¹³⁵

Even where the integration does not occur at a programmatic level, there is much that an individual legal writing professor can do to teach writing through a doctrinal context, provided, of course, that the professor is able to create her own syllabus and choose her own legal writing assignments. Rather than creating assignments based in a variety of different subject areas, as seems to be the norm in many programs,¹³⁶ the course can be fo-

133. Kadoch, *supra* n. 50, at 70.

134. See Thrower, *supra* n. 58, at 37.

135. See also Diane Penneys Edelman, *It Began at Brooklyn: Expanding Boundaries for First-Year Law Students by Internationalizing the Legal Writing Curriculum*, 27 *Brook. J. Intl. L.* 415, 439 (2002) (describing an experimental first-year legal writing course at Villanova that incorporated international law, and concluding that "the course has provided the students with a unique and challenging educational experience that broadens their world view while expanding the traditional first-year law school curriculum").

136. See Thrower, *supra* n. 58, at 4 ("Without a designated subject matter, most legal writing courses involve assignments from many subject areas. Students may start out the school year working on a torts problem; their second assignment might be a criminal mat-

cused on a single doctrinal area—in Maryland’s parlance, “the doctrinal area of the professor’s choice.” In choosing this doctrinal area, the writing professor could either introduce new material to the students that they would not otherwise be getting in their first-year curriculum or, alternatively, could opt for a more familiar doctrinal area that the students are concurrently studying with another professor.¹³⁷ There are pros and cons to both approaches, and either choice can work well as long as it provides the students with sufficient context.

Based on my own experience of teaching a legal writing course within a chosen doctrinal area, the primary piece of advice I would give would be to make sure to choose a sufficiently broad area of doctrine. The first time I taught a “stand-alone” course at Maryland, I based all of the assignments on property law, a broad doctrinal area that the students were then studying. In a subsequent year, however, I chose a rather narrow area of employment law: statutory and common law that limits the reasons that employers can fire “at-will” employees.¹³⁸ Because I approached the doctrinal area more as a vehicle for teaching process and legal reasoning, I chose this particular area of law because I liked the legal methods and process points that some of the cases taught and the way in which the law had evolved differently in different jurisdictions.¹³⁹ What I later discovered, however, was that this choice worked less well than the property context, not because it was unrelated to what the students were learning in other first-year courses, but rather because it was simply too narrow an area of doctrine. While the students were able to use the employment law material to learn about legal methods and process and to write effective memos, and they likely learned a good deal about this narrow area of law, they did not gain the benefit of being able to situate this learning into a broader doctrinal context. As much as I liked teaching these cases and using these writing assignments,

ter; and their final assignment might involve constitutional law.”).

137. As discussed above, this latter option may or may not require fairly close coordination with the professor teaching in that subject area.

138. One assignment was based on Virginia’s Rights for Persons with Disabilities Act, and the others were based on claims of wrongful discharge.

139. So, for example, through a conflicts-of-law sleight of hand, I was able to have the students analyze the same wrongful discharge problem in two different jurisdictions, with two very different results. Through this exercise, the students learned how the law worked differently in different states, the complex interactions between common law and statutory law, and how an advocate might use conflicts of law to advocate for a client.

I have learned it works better to connect the classroom teaching and the writing assignments to a broader area of doctrine.

Incorporating doctrine into legal writing classes is not limited, of course, to first-year or required courses. Another way to integrate writing and doctrine is through upper-level elective writing courses that focus on instrumental legal writing within a specific substantive context. At Maryland, for example, we are developing a line of upper-level elective courses called Writing in Law Practice, where students concentrate on analysis and writing in the law practice context. Some of our current offerings include Writing in Law Practice: Drafting Negotiated Agreements and Writing in Law Practice: Advanced Appellate Advocacy. We soon plan to add to the curriculum additional Writing in Law Practice courses that are based within specialized areas of law that reflect the practice interests and expertise of the professor. So, for example, a professor who has practiced in the area of commercial law would use this area as a context and as a basis for all of the writing assignments. The part of the course name following the colon would then identify the course by its subject area. Thus, in this example, the course would be called Writing in Law Practice: Commercial Law. Similar courses at other law schools have been found to be very effective. Professor Susan DeJarnatt developed an advanced legal writing course at Temple set in the context of her own area of expertise, consumer bankruptcy.¹⁴⁰ In describing the positive outcomes of her course, DeJarnatt notes the importance of teaching writing within a doctrinal context:

Teaching upper-level writing in a single substantive context gives students a richer opportunity to develop their analytical and other skills while learning the fine points of a specific area of law. The effect is synergistic: students learn doctrine by using it practically and learn practical skills through an increasingly familiar branch of doctrine.¹⁴¹

This description rings very familiar. Not surprisingly, the exact synergies that occur when doctrine is incorporated into legal writing classes in the required first-year curriculum can be realized through similar integration in upper-level elective courses.

140. See DeJarnatt, *supra* n. 52.

141. *Id.* at 56.

C. *Importing Legal Writing into Other Courses in the Curriculum*

There are a number of ways to achieve integration by bringing legal writing pedagogy and writing assignments into other courses in the curriculum, and many of these ideas have been championed in the Writing-Across-the-Curriculum literature.¹⁴² Few question the value of importing more writing into other courses in the curriculum—writing reinforces learning and teaches student to write and think like lawyers,¹⁴³ and exposure to a wider variety of legal documents better prepares our students for practice.¹⁴⁴ Unfortunately, time and resource challenges can often be a barrier to convincing more faculty members to add writing components to their courses.¹⁴⁵ One non-legal-writing professor who has been willing to take this plunge by including drafting assignments in a four-credit Contracts course cites the “unique pedagogical opportunity to use drafting skills-building to reinforce doctrine.”¹⁴⁶ While acknowledging the time and resource challenges of integrating contract doctrine with drafting skills, this professor concludes that “the pedagogical payoffs are worth it!”¹⁴⁷ Other successful examples of importing writing assignments into non-legal-writing courses include a legislative drafting assignment in a Criminal Law course¹⁴⁸ and a combined Trust and Estates and Professional Responsibility course that incorporates a number of drafting assignments.¹⁴⁹

While there are few arguments against this approach in theory, it is less often implemented in practice because of the additional time needed to teach, review, and critique additional stu-

142. See e.g. Parker, *supra* n. 53; Lysaght & Lockwood, *supra* n. 53.

143. See Lysaght & Lockwood, *supra* n. 53, at 74–75; Beazley, *supra* n. 1, at 27.

144. See Pamela Lysaght, *Writing Across the Law School Curriculum: Considerations for Casebook Faculty*, 12 *Leg. Writing* 191, 192–193 (2006).

145. See Goldman, *supra* n. 65, at 209–210 (noting class time scarcity); Beazley, *supra* n. 1, at 27 n. 20 (noting the resource demands of individual critiques of student writing).

146. Goldman, *supra* n. 65, at 210.

147. *Id.* at 214.

148. See Lysaght, *supra* n. 144, at 197–202 (offering examples of legislative drafting assignments she has used in a Criminal Law course and proposing a process for creating effective writing assignments in casebook courses).

149. See DeJarnatt, *supra* n. 52, at 54 n. 24 (citing Eleanor W. Myers, *Teaching Good and Teaching Well: Integrating Values with Theory and Practice*, 47 *J. Leg. Educ.* 401 (1997) (describing an upper-level course at Temple that integrates Trusts and Estates with Professional Responsibility and includes numerous writing assignments)).

dent writing. As one way of responding to these concerns, Professor Beazley has proposed a number of ways to incorporate legal writing pedagogy into casebook classes that do not involve adding writing or drafting exercises that require individual feedback.¹⁵⁰ Her suggestions include teaching more explicitly by labeling steps in the analytical process and teaching legal writing by teaching exam-taking skills in these non-resource-intensive ways: articulating standards; giving annotated sample exams to students; having students write practice exams together with memos that articulate their thinking processes; providing a rubric that students can use to “self-grade” their practice exams; and projecting sample practice exams and critiquing them for the whole class.¹⁵¹ Yet another approach, one that involves incorporating practice-based legal writing into a type of course that already has a significant writing component—albeit a different *type* of legal writing—is described in the next section.

D. *Bringing Instrumental Writing into Upper-Level Seminars*

Elective subject-matter seminars with writing requirements are components of the law school curriculum that already integrate analysis, writing, doctrine, and theory. This integration typically occurs when students write scholarly papers for the seminar. The substantive focus of the seminar gives students a doctrinal and theoretical context for researching, analyzing, and writing on the particular topics they choose for their papers. But scholarly seminar papers need not be the only type of writing that is offered in a subject-matter seminar. For students who could benefit from more experience with writing for law practice, the integrated approach can be taken a step further by allowing the student to do substantial *instrumental* writing for the seminar instead of a typical seminar paper. Thus a practical component can be integrated into almost any law school seminar by giving the students the option of a brief-writing assignment in lieu of a scholarly paper. And a great advantage of this approach is its flexibility: students can choose which type of writing they would most benefit from doing.

150. See Beazley, *supra* n. 1, at 62.

151. See *id.* at 66–78.

I recently experimented with this idea when I taught a seminar in Animal Law in the spring 2010 semester. Inspired in part by my experience teaching a first-year elective seminar together with the required advocacy writing course,¹⁵² I decided to give my upper-level seminar students the option of either writing a seminar paper that met the law school's Advanced Writing Requirement¹⁵³ or gaining more practice-writing experience by writing an appellate brief. Whichever option the students chose, they were required to come up with their own topics. I therefore did not need to create a brief-writing assignment for any of my students; rather, I maintained my practice of meeting with all of my students individually to help them choose and refine their paper topics. For students who wanted to write appellate briefs, I would help them to identify pending or recently decided cases that were good starting points for developing an appellate brief-writing project.¹⁵⁴

One student in the Animal Law Seminar chose the brief-writing option. The topic area she most was most interested in—recovery of non-economic damages for negligent harm to a companion animal—had been the subject of a recent decision by the Vermont Supreme Court.¹⁵⁵ In order to use this case as the subject of a meaningful appellate brief, we created one fiction: we pretended that the case had actually been decided by the (non-existent) intermediate appellate court in Vermont; the student's appellate brief was therefore written as an appeal of this decision to the highest state court. She was thus able to use both Vermont precedent and persuasive authority in a realistic manner.

There are many reasons to include the option of writing briefs or other instrumental documents in a subject-matter seminar. It gives the students additional opportunities to practice a type of writing they will do as lawyers, while using that writing to reinforce their learning of substantive content. In the case of briefs,

152. *See supra* pt. II.

153. At Maryland, all students must write a scholarly seminar paper to meet our Advanced Writing Requirement. However, since many students take multiple seminars, students who have already met this requirement can be offered the option of writing an appellate brief instead of a typical seminar paper.

154. Depending on the seminar's subject matter and the timing of potential cases, one exciting option would be to help the students to identify a case in which they might submit an amicus brief.

155. *See Goodby v. Vetpharm, Inc.*, 974 A.2d 1269 (Vt. 2009).

most students have already learned fundamentals of writing briefs, and they can gain some additional experience within the substantive context of the seminar. For other types of documents, students could have the opportunity to be exposed to something new that could add to their practice-writing experience.¹⁵⁶ The type of documents offered would depend, of course, on the seminar's subject matter and the professor's interest and experience in teaching that type of legal writing. But, as the example above makes clear, this option need not be any more demanding of the professor's time than supervising a typical seminar paper, and for many students it would be a more useful learning opportunity than writing a seminar paper would be.

V. Conclusion

The *Carnegie Report's* call to more fully integrate the law school curriculum can be answered in a number of different ways. Many parts of the traditional curriculum can be brought together in such integration, including the teaching of legal writing, analysis, doctrine, and theory. Among the many benefits of this integration are the synergies that occur when analysis and writing are more completely connected to doctrine and theory; the key role that writing plays in the processes of thinking and learning; the deeper and more sophisticated understanding of material that students achieve when they are required to write about that material; and the institutional messages that we send to students about the importance of writing in their legal careers. Ideally, these opportunities for integration will occur at a curricular level, with more connections between and combinations of traditional legal writing courses and traditional casebook courses, with legal writing courses that contain more theoretical and doctrinal content, and with casebook courses that contain more writing. Even where such broad-based curricular changes do not occur, there is much that individual faculty members can do—working either alone or in coordination with like-minded others—to effect such change one course at a time.

156. See Lysaght, *supra* n. 144, at 192.