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REFLECTIONS ON LAW STUDENT MENTAL HEALTH BY A DEAN OF STUDENTS AFTER 25 YEARS¹

Dean David Jaffe²

So I'm fourteen years old. Not today, that'd be really weird.

I'm fourteen years-old, growing up in privilege: South Shore Long Island, New York, really nice house. My father's a radiologist, my mother's splitting time between being a homemaker and a Bloomingdale's sales associate. Life's pretty good.

My older sister's away at college. My second-oldest sister is away at a rehab high school, based in Gestalt therapy. We're not going to spend a lot of time on that. It was a traumatic time in my life, but basically, she had been sent away because my parents couldn't quite figure out what to do with her.

And then there's me and my close cousin, who's sixteen months younger and spends a lot of time at our house. I wake up on a Sunday morning, float downstairs, my cousin is already over, splayed out on the sofa, watching TV. We do the typical fourteen/thirteen thing of ignoring of each other. Sitting there for a couple minutes, and then my cousin points his finger up to the ceiling and says, "OD."

And I'm fourteen, and I know what it means, but I don't know what the heck to do. I run to where he's pointing, upstairs to my parent's dressing room. On the desk is Gelusil (my father's ulcer tablets) and sleeping pills.

So, my cousin has clearly attempted to OD. And I'm the only one in the house. Years later, we're still trying to remember what happened. This is—I know this will shock all of you students, but we didn't have cell phones forty years ago. I went back downstairs. I'm sure I was in a panic, and I think my parents happened to come back from wherever they were, in fortunately the right moment. I explained what happened, they called the EMTs, put him in

¹ This Keynote Speech was given at the University of Louisville Law Review Symposium on Mental Health and the Legal Profession on Saturday, February 26, 2022. Available to watch at <https://youtu.be/F11RcT7mLEw>.

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a car, took him to the hospital, pumped his stomach, and within a week or two, he was “okay”. He ended up at school with my sister: DeSisto at Stockbridge, rehab school up in Massachusetts.

He was struggling, didn’t know what to do. That was his response to it.

Flash-forward forty years. In the fall of 2018, I get a call that a student has passed out in a classroom. The professor, in a panic, runs out into the hallway and says, “I think a student just died in my classroom! What do I do?!” Right? You can imagine. Another professor is passing by in the hallway, and happens to be trained in CPR. Goes in—yeah, imagine the luck. Starts providing CPR, calls EMTs.

Student is resuscitated, taken to the hospital. A classmate comes to me that afternoon and says, “I don’t know that I should be reporting this, but I was packing up Tim’s stuff. His computer was open, and he was looking at narcotics that he was presumably trying to buy online. I thought you should know.”

The student came to my office with his mother a couple of days later and said, “I’ve had spinal issues since birth. I’ve had a lot of problems.” This-and-that. “You know, sometimes I take medication that has me pass out.” Doesn’t know that I know a little bit better. We have a heart-to-heart conversation where I share, “Okay, this is what I know.”

Student emails a couple of days later and says, “I need to take a leave of absence. There are some substance use issues I need to be dealing with. Hope to come back healthy in the spring.”

Comes back with his mother at the start of the spring semester. “I’m doing great. Here’s my readiness to return form. Doctor’s note. I’m doing okay.” Looks great. I’m thrilled. You know, give him a hug. “Welcome back!”

Three years ago tomorrow, I’m with my Dean at an event, and I get a call from Public Safety. “One of your students has died. We need to address the protocol.”

Tim was that student. Tim was in his apartment. He had taken opioids again. There was no one there to provide Narcan or to help him out, and he died.

We had a memorial service, perhaps the second-most difficult thing for a dean of students to do, the first being having to inform parents that they've lost a loved one. And I recall the mother—I knew this by now, the mother was an opioid counselor. And I'd gone to her and said, "In preparation of the service, are you comfortable with us talking about this?" Very careful around privacy, compassion for family members, etc. And she said, "Absolutely. If somebody's life can be saved as a result of what happened with Tim, absolutely."

So, we talked about it at the service, and I don't remember exactly what I said, but I said something to the effect of, "None of you here is to blame, or if you are, all of us are because we're not talking about these issues enough. We need to get past this stigma. We need to be okay with what's going on with us. And we need to get the help when we need it."

A lot of people spoke. We had a reception afterwards, and a student came up to me. Clearly a classmate, and clearly had been crying during the service. She took me aside, she said, "Can I speak with you?" I said, "Yeah, of course." I said, "I don't think you want to do it right here. Let's go back to my office." She introduced/reintroduced herself and said, "I'm a second-year student, a classmate of Tim's. School is going great. I've got a summer associate position in New York. I'm in a really, really great place." I'm like, "Terrific! That's wonderful!"

She paused. She said, "Yeah, um, and I've been smoking pot every day for the last three years. And the memorial service really hit me between the eyes."

I said, "Well, you know, I'm glad you're here." Shared a tear or two together, talked about resources, what I thought she could do and needed to do. We stayed in touch. I remember seeing her, probably about sixty days later, we passed each other in the hallway, and she just stopped and she showed me her 60-day chip, being in recovery.

And we've been in touch. She's doing wonderfully. She's had to go through the "What do you drink when you're a summer associate at an event, and what do you do in the law firm?" And this-and-that, but she's doing well.

Flashback to that same year, back to that fall semester. We have another student who also passes out in a classroom. Turns out this was a medical issue

that she had, but she passed out, fell over in her chair. The professor did the right thing, vacated the class. I got there a little bit later, helped see to her. A day or two later, I get an email from a student: “I was in the classroom. I had taken off my sweatshirt to make a pillow for Kaitlin, and in the crush of things, my sweatshirt got lost. I don’t care so much about the sweatshirt, but my keys were in it, including the keys to my apartment. I’m down a key; it’s eighty bucks to replace it. Is there any chance you can track it down?” Of course.

So we call the EMTs, we call Public Safety—can’t find it. I email the student, asking her to come in. I purchased a WCL sweatshirt for her. I said, “Unfortunately, we can’t find the key. I don’t know where they are. We can’t find them.” And she says to me, “You know what, Dean Jaffe? I’m in recovery.” (I think I knew this. Maybe she re-reminded me.) “This is the first time in my life that I lost my keys for the right reason.” Right? “I’ve blacked out, didn’t know where I was, threw them somewhere—whatever. Here, I was finally helping somebody.”

And one of my articles, for those of you who have further interest, where I had a chance to reflect on this, is “I Lost My Keys, And It’s Okay...” It was an homage, if you will, to this student.

So, I share these three stories. They may not have an immediate thread to you, but they have, one, been a reflection of my work, and I think my passion in the area. But they also reflect three individuals: One who knows they need help but doesn’t know where to get it. One who doesn’t know what help they need but knows where to look for it. The student who comes and finds us, finally, in a really dark moment but comes and finds us. And then, a student you see on the other side. A student who has figured out, with help, how to take care of themselves, as part of their giving back and catharsis in helping others. And where we want all of our students to be at the end of the day.

So, this is really what has driven my passion, my desire, my goal of ensuring that we have as much as we can for our students, around our students, to help our students. So, Story One.

Story Two. Each of you should have a starfish. Some of you have been wondering why they’re there. Take your starfish if you choose—this is all optional. First thing I would say, if you haven’t done it yet, put the starfish between your fingers. It’s one of the most comfortable stress balls you will

ever find, right? This next part, again, is optional: I'm going to tell a short story. If you're comfortable doing so, feel free to close your eyes.

In this version of the starfish story there's a lawyer walking along the shore of an ocean, littered with thousands of starfish, and he sees a little girl at the edge of the ocean. And the little girl is flipping starfish into the ocean. The attorney goes up to the little girl and says, "What are you doing?" And she says, "I'm saving starfish." The attorney laughs uproariously.

"I've been a lawyer for thirty years. I've built corporations, I've broken corporations. I've created transactional relationships. I've brought families back together. When needed, I have helped with divorces. I've made all these differences in the world over these years.

"There are thousands of starfish littered up-and-down this shore, and you're one little girl. How could you possibly make a difference?"

The little girl takes his hand and, bending down and picking up another starfish and flipping it into the ocean, looks at him and says, "I made a difference to that one."

That's the starfish story. It's very simple. It's been told for a hundred years. I invite you to take the starfish home as a reminder for yourselves that you never know when you're making a difference in the life of another, and the importance that it not only is going to be to that person but the individual you are helping.

It also, parenthetically, and I didn't realize this until just now: Most of you have these branded with a law firm on it: Venable. This was an effort, at WCL, where we try to tout as much as we can building well-being, did not have the money that we needed for well-being events and the programming that we wanted. And so, what did we do? We went to several law firms and said, "I need some money to help provide a smoothie bar, do a breakfast bar, do an oatmeal bar—whatever it was. And provide starfish. Would you give me X amount to have these starfish? Put your name on 'em, we're going to give them out."

So, we are working our way through our first thousand. I gladly distribute them here. I invite you to take a couple. I will tell you that you will break some of these because they are stress balls. And, unlike the real starfish, they

don't grow back. So, take an extra one if you need it. Trust me, I have figured that part out. So, Story Two.

So, the word "brave" comes to mind when I was thinking about the last portion of my remarks.

We touch on this in our article. For those of you who've not had a chance to read it, I hope that you will. The article is loosely broken up into three sections. We have the data, we have the literature review, and we have the discussion or narrative or, as I like to call it, the "so what?"

You have the data. So what? Well, the data—the data supports those who are skeptical, and the "so what" is what we need to be doing. And we're not going to go through all of it. That's what the article is for. But I do hope you read it because as future lawyers and current students, you have the opportunity to have an impact and to effect change in this regard.

But the reason I come to "brave," it strikes me in two ways. Change around mental health is gonna come top-down and bottom-up, okay? Top-down means the Dean of your law school—and your faculty—but really the Dean of your law school. Your Dean is facing financial challenges every day. "I need more money on the admissions side for merit scholarships to draw the best students." "I'm not getting enough from alumni." "The university wants more from the school in their overhead because the budget's thin because we were in COVID and we lost housing and we didn't have . . .", etc. All the demands on their resources.

And the last thing that they typically are going to focus on, not their fault, is mental health. I will submit to you—putting my thumb on the scale—it's the most important investment we can make in our students today, tomorrow, next year, and year-in, and year-out.

There was a comment that made me think about this earlier during the Q&A with Dean Stearns.

I think that the time we invest in professional formation and curriculum is actually not added time for students; it's actually taking it away, because we can impart to you that getting help is going to be okay, and it is going to clear out some of the baggage and the challenges that you're having and allow you to actually focus on what you're in law school for. So, not to be critical of that point, it's a very fair point. I think we need to find the space to do it,

but that the Dean needs to be brave on the one front of finding and dedicating those finances.

What do the finances mean? It's the on-site counselor, if that's what students believe they need, or a counselor who has access. It's to ensure that access is there. It's the occasional, important for what they are, but also symbolic moments throughout the semester. The starfish stress balls being given out alongside well-being literature, the smoothie bar, the whatever-it-is that you need to do, where you need a little bit of money to go that way.

Not easy to do. You may be in a great place as Interim Dean because you can push these things and then say, "All right, I'm out. Let somebody else figure it out." Right? And also the top-down coming not just from the Dean but also with the faculty. Our faculty. Love our faculty. Love the faculty. This is not meant as criticism, but faculty first, second, and third have been hired to what? To teach, to write and produce scholarship, and to provide committee service. Very hard to find in there "and to make sure our students are doing okay." And even the most well-intended faculty, and you have several of them here today around these issues, some are going to be really well-skilled in stepping aside from the "sage on the stage" and offering assistance in that regard. Some are going to say, "I'd love to, but this is not my skill set. I don't know it."

Your faculty need to be educated about how to refer students, how to speak with students who pop into their office. Your Dean, writ-large nationally, Deans need to have the willingness, and again, the bravado, the willingness to go to the faculty and say, "You need to be part of this movement." Whatever that may mean. I would love to see every faculty member taking 30 seconds at the beginning of every class for students to breathe. Thirty seconds of breathing. If you've never done it, do it at home today, deep breaths, and see what it feels like. I would like our faculty to make sure that the syllabi are available to the students before the semester begins. Not a big deal at the end of the day. It gets our students crazy! Should be able to do that, particularly if you've been teaching for twenty years, right? And you may not be changing it a ton. And again, I don't mean to be critical. Small steps, right?

Just checking in with your students, okay? Your legal writing memo is due. Your faculty should know that, one, and should be saying to the students, "I know this is a tough week. I'd like to be able to kinda pump the brakes a little bit. We have to get through the material, but I acknowledge what you're

going through, so let's, maybe not call on anybody right now." Whatever it might be.

Top-down: Dean, faculty, being active in these issues, some of them resource-laden, some of them just being more thoughtful, more mindful about how we approach our students.

Bottom-up. All of you—and I don't say bottom in a negative way, just think about the hierarchy in law schools. Students need to be brave. Some of you have been through this already, and so maybe it's a little bit too late, but you're going to have these opportunities. The bravest student, to me, around mental health is the student who in their next interview when the Q&A comes up asks that law firm or agency, "What are you doing around mental health? What are you doing around well-being?"

Why is that brave? "I'm not asking that question! Prospective employers at the end of the interview are going to say, 'Wow, that applicant must have a problem. Why would they be asking about that unless they're concerned about their mental health?'"

We are not gonna turn the tide in the profession until every law student applicant is asking that question in every interview, and the law firms are then looking at themselves and saying, "We're now behind the eight-ball. This isn't on our website. We're not doing anything about it."

You're the agent for change in that regard. You're going to have those opportunities, and it's not easy, don't get me wrong, but it has to start somewhere, okay? Within your law schools, absolutely agitate for change. I don't think you need to storm the Dean's office. Have some sense of where your Dean is and what they're looking to do. Be educated about it, but if you've been made promises—and again, I'm speaking writ-large, to any law student anywhere who's thinking about this—if you've been given lip service and change hasn't come, you have a right to pound your fist on the table and say, "We talked about this six months ago. Nothing has happened."

You also need to be part of that change yourselves, and we went back-and-forth on whether to include this in the article. I had my own kind of misgivings on this, but we need our students also to take responsibility for where you are. Why is saying this risky? Because when we put it in writing or say it to our students, we all of a sudden are suggesting the issue isn't the law school, right? This isn't our issue. This is your issue. It is our issue, but

if you're going to start to find the elements you need to become the attorneys, the professionals, taking care of others and yourself, you need to be thinking about that as well. So, you need to agitate, you need to advocate, but you also need to take advantage of the resources that are there.

And that's why you've heard threads of this a couple of times, this character and fitness and questions coming back, "Well, am I going to get hit with the honor code?" Well, no. If you're taking care of yourself, we're going to help take care of you, but you have to be the agent for that change. You have to be taking care of yourself. Otherwise, we're doing no good at all.

So, that bravery, that bravado, goes top-down and bottom-up. There are a lot of ways you can be effective: mental health alliance, student organizations within school, talking to each other, keeping that conversation alive so we can get the stigma off the table, keep the conversations moving.

Again, as we said earlier, this is a relatively young movement. A lot of you are graduating this May. You're now going to have the legal profession and these same issues to deal with. You are going to be among the early classes of self-aware students who can bring this into the profession. And if you have jobs already, then you can still ask the questions. "What are we doing from within?" Join the mental health committee. Make sure there's a wellness or mental health committee. Form it, be part of it, and make sure you can help make a difference.

I'm going to close with a final observation. I invite you to join me in applause if you or someone close to you has struggled with a mental health or substance use issue.

Now, I invite you to listen to what it sounds like for the individual who's going through it.

This is why we do what we do. Thank you.

